

104
THE CONGRESSIONAL GLOBE:

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1630
Part 1

CONTAINING ,

THE DEBATES AND PROCEEDINGS

OF THE

FIRST SESSION OF THE THIRTY-FIFTH CONGRESS;

ALSO, OF THE

SPECIAL SESSION OF THE SENATE.

BY JOHN C. RIVES.

CITY OF WASHINGTON:
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THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, DECEMBER 10, 1857.

NEW SERIES...No. 1.

THIS is the first number of the CONGRESSIONAL GLOBE for this session—the first of the Thirty-Fifth Congress. It is stereotyped, and, therefore, the back numbers can be supplied at any time. Missing numbers will be sent to subscribers for three cents a number, containing sixteen pages.

The price for the CONGRESSIONAL GLOBE and APPENDIX, which includes all the laws which may be passed during the session, is \$5 00 for a long session, and \$3 00 for a short one. This will be a long session.

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THIRTY-FIFTH CONGRESS. FIRST SESSION.

SENATE OF THE UNITED STATES.

MONDAY, December 7, 1857.

THIS being the day prescribed by the Constitution of the United States for the meeting of Congress, the Senators assembled in the Senate Chamber, at twelve o'clock, m. The Senate is thus constituted:

Names of Senators, with the expiration of the term of service of each. Democrats (37) in Roman, Republicans (20) in Italic, and Native Americans (5) in Small Capitals.—Total 62.

JOHN C. BRECKINRIDGE, Vice President of the United States and President of the Senate.

Secretary—ASBURY DICKINS.

MAINE.		CALIFORNIA.	
William P. Fessenden.....1859		William M. Gwin.....1861	
Hannibal Hamlin.....1863		David C. Broderick.....1863	
NEW HAMPSHIRE.		ALABAMA.	
John P. Hale.....1859		Clement C. Clay, jr.....1859	
Daniel Clark.....1861		Benjamin Fitzpatrick.....1861	
VERMONT.		MISSISSIPPI.	
Jacob Collamer.....1861		Albert G. Brown.....1859	
Solomon Foot.....1863		Jefferson Davis.....1863	
MASSACHUSETTS.		LOUISIANA.	
Henry Wilson.....1859		Judah P. Benjamin.....1859	
Charles Sumner.....1863		John Slidell.....1861	
CONNECTICUT.		OHIO.	
Lafayette S. Foster.....1861		George E. Pugh.....1861	
James Dixon.....1863		Benjamin F. Wade.....1863	
RHODE ISLAND.		KENTUCKY.	
Philip Allen.....1859		John B. Thompson.....1859	
James F. Simmons.....1863		John J. Crittenden.....1861	
NEW YORK.		TENNESSEE.	
William H. Seward.....1861		John Bell.....1859	
Preston King.....1863		Andrew Johnson.....1863	
NEW JERSEY.		INDIANA.	
William Wright.....1859		Graham N. Fitch.....1861	
John R. Thomson.....1863		Jesse D. Bright.....1863	
PENNSYLVANIA.		ILLINOIS.	
William Bigler.....1861		Stephen A. Douglas.....1859	
Simon Cameron.....1863		Lyman Trumbull.....1861	
DELAWARE.		MISSOURI.	
Martin W. Bates.....1859		James S. Green.....1861	
James A. Bayard.....1863		Truettin Polk.....1863	
MARYLAND.		ARKANSAS.	
James A. Pearce.....1861		William K. Sebastian.....1859	
ANTHONY KENNEDY.....1863		Robert W. Johnson.....1861	
VIRGINIA.		MICHIGAN.	
Robert M. T. Hunter.....1859		Charles E. Stuart.....1859	
James M. Mason.....1863		Zachariah Chandler.....1863	
NORTH CAROLINA.		FLORIDA.	
David S. Reid.....1859		David L. Yulee.....1861	
Asa Biggs.....1861		Stephen R. Mallory.....1863	
SOUTH CAROLINA.		TEXAS.	
Josiah J. Evans.....1859		SAM HOUSTON.....1859	
James H. Hammond.....1861		J. Pinckney Henderson.....1863	
GEORGIA.		WISCONSIN.	
Robert Toombs.....1859		Charles Durkee.....1861	
Alfred Iverson.....1861		James R. Doolittle.....1863	
IOWA.		MISSOURI.	
George W. Jones.....1859		James Harlan.....1861	

All the Senators were present except Mr. BATES, Mr. BAYARD, Mr. HOUSTON, Mr. JOHNSON, of Arkansas, Mr. MALLORY, Mr. REID, Mr. TOOMBS, and Mr. YULEE. Mr. HENDERSON, the successor to Mr. Rusk, and Mr. HAMMOND, the successor to Mr. Butler, were also absent.

The Rev. STEPHEN P. HILL, the Chaplain of the Senate during the third session of the Thirty-Fourth Congress, opened the session with an impressive prayer.

ABSENCE OF THE VICE PRESIDENT.

The SECRETARY. The Vice President being

absent, I will, with the permission of the Senate, read a letter which he has addressed to me on the subject of his absence:

LOUISVILLE, KENTUCKY, November 28, 1857.

DEAR SIR: It will be impossible for me to be in attendance during the first week of the approaching Congress, and I beg of you to communicate the fact to the Senate in the mode customary upon such occasions.

Yours, very respectfully,

JOHN C. BRECKINRIDGE.

ASBURY DICKINS, Esq.,

Secretary of the Senate, Washington City, D. C.

NEW SENATORS.

Mr. BENJAMIN. Mr. Secretary, I offer a resolution:

Resolved, That the oath prescribed by the Constitution be administered to the new Senators by the Hon. JESSE D. BRIGHT, the oldest member of the Senate present.

The resolution was adopted.

Mr. BIGGS presented the credentials of Hon. ANDREW JOHNSON, chosen by the Legislature of Tennessee a Senator from that State for the term of six years, commencing March 4, 1857.

The credentials were read; and the oath prescribed by law having been administered to Mr. JOHNSON by Mr. BRIGHT, he took his seat in the Senate.

Mr. HALE presented the credentials of Hon. DANIEL CLARK, chosen by the Legislature of New Hampshire a Senator from that State, to fill the vacancy occasioned by the death of Hon. James Bell, for the term ending on the 3d of March, 1861, which were read; and, the affirmation prescribed by law having been administered to Mr. CLARK, he took his seat in the Senate.

ELECTION OF PRESIDENT PRO TEMPORE.

Mr. ALLEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, [The Vice President being absent.] That the Senate proceed to choose, by ballot, a President of the Senate *pro tempore*.

The SECRETARY. Senators will please prepare their ballots.

The ballots being counted, resulted as follows: Whole number of votes cast, 48; necessary to a choice, 25; of which—

Mr. Fitzpatrick received.....	23
Mr. Hamlin.....	19
Mr. Seward.....	1

The SECRETARY. Mr. FITZPATRICK, having received a majority of the whole number of votes given, is elected President of the Senate *pro tempore*.

Mr. FITZPATRICK, having been conducted to the chair by Messrs. ALLEN and JONES, said: GENTLEMEN OF THE SENATE: I acknowledge with feelings of lively sensibility the confidence you have reposed in me. The situation is new to me, and it could doubtless have been more appropriately assigned to a more experienced and older member of the body. You may rest assured, however, that I shall, to the extent of my ability, impartially and faithfully discharge the duties incident to the station, relying at all times upon the uniform courtesy and forbearance which have characterized the deliberations of the Senate.

On motion of Mr. CLAY, it was

Ordered, That the Secretary inform the House of Representatives that, in the absence of the Vice President, the Senate has chosen the Hon. BENJAMIN FITZPATRICK President of the Senate *pro tempore*.

On motion of Mr. BRIGHT, it was

Ordered, That the Secretary wait on the President of the United States and inform him that, in the absence of the Vice President, the Senate has chosen the Hon. BENJAMIN FITZPATRICK President of the Senate *pro tempore*.

ORGANIZATION.

On motion of Mr. BRIGHT, it was

Ordered, That the Secretary notify the House of Representatives that a quorum of the Senate has assembled, and that the Senate is ready to proceed to business.

HOUR OF MEETING.

On motion of Mr. HALE, it was

Ordered, That the daily hour of meeting of the Senate be twelve o'clock, m., until otherwise ordered.

CHAPLAIN TO THE SENATE.

Mr. MASON. I offer the following resolution:

Resolved, That the President of the Senate be authorized and requested to invite such clergymen as the office may be acceptable to, to officiate as Chaplain to the Senate during the present session, and in such alternation as may be agreeable to them.

This resolution will be printed of course. I wish it to lie on the table for the consideration of Senators, with an intimation that I shall call it up at an early day.

The PRESIDENT *pro tempore*. The resolution will lie over for consideration.

EXECUTIVE SESSION.

A message in writing was received from the President of the United States, by J. B. HENRY, Esq., his Private Secretary.

The PRESIDENT *pro tempore*. The message is of an executive character.

On motion of Mr. GWIN, the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened.

On motion of Mr. SEWARD, the Senate took a recess for half an hour; at the expiration of which time the President *pro tempore* resumed the chair.

Mr. STUART. It is very obvious that the other House will not organize in time to enable us to appoint a committee to wait on the President and hear from him to-day; and, therefore, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 7, 1857.

The House consists of two hundred and thirty-four Members and seven Territorial Delegates. The Delegates have no vote. Democrats (128) in Roman, Republicans (92) in Italic, and Native Americans (14) in Small Capitals; as follows:

MAINE.		Dist.	
1. John M. Wood,		4. Freeman H. Morse,	
2. Charles J. Gilman,		5. Israel Washburn, jr.,	
3. Nehemiah Abbott,		6. Stephen C. Foster.	
NEW HAMPSHIRE.		Dist.	
1. James Pike,		3. Aaron H. Cragin.	
2. Mason W. Tappan,			
VERMONT.		Dist.	
1. E. P. Walton,		3. Homer E. Royce.	
2. Justin S. Morrill,			
MASSACHUSETTS.		Dist.	
1. Robert B. Hall,		7. Nathaniel P. Banks, jr.,	
2. James Buffinton,		8. Chauncey L. Knapp,	
3. William B. Damrell,		9. Eli Thayer,	
4. Linus B. Comins,		10. Calvin C. Chaffee,	
5. Anson Burlingame,		11. Henry L. Dawes.	
6. Timothy Davis,			
RHODE ISLAND.		Dist.	
1. Nathaniel B. Duxfee,		2. William D. Brayton.	
CONNECTICUT.		Dist.	
1. Ezra Clark, jr.,		3. Sidney Dean,	
2. Samuel Arnold,		4. William D. Bishop.	
NEW YORK.		Dist.	
1. John A. Searing,		18. Clark B. Cochrane,	
2. George Taylor,		19. Oliver A. Morse,	
3. Daniel E. Sickles,		20. Orsamus B. Matteson,	
4. John Kelly,		21. Henry Bennett,	
5. William B. Maelay,		22. Henry C. Goodwin,	
6. John Cochrane,		23. Charles B. Hoard,	
7. Elijah Ward,		24. Amos P. Granger,	
8. Horace F. Clark,		25. Edwin B. Morgan,	
9. John B. Haskin,		26. Emory B. Pottle,	
10. Ambrose S. Murray,		27. John M. Parker,	
11. William F. Russell,		28. William H. Kelsey,	
12. John Thompson,		29. Samuel G. Andrews,	
13. Abran B. Olin,		30. Judson W. Sherman,	
14. Erastus Corning,		31. Silas M. Burroughs,	
15. Edward Dodd,		32. Israel T. Hatch,	
16. George W. Palmer,		33. Reuben E. Fenton.	
17. Francis E. Spinner,			

NEW JERSEY.

1. Isaiah D. Clawson,
2. George R. Robbins,
3. Garnett B. Adrain,
4. John Huyler,
5. Jacob R. Wortendyke.

PENNSYLVANIA.

1. Thomas B. Florence,
2. Edward Joy Morris,
3. James Landy,
4. Henry M. Phillips,
5. Owen Jones,
6. John Hickman,
7. Henry Chapman,
8. J. Glancy Jones,
9. Anthony E. Roberts,
10. John C. Kunkel,
11. William L. Dewart,
12. Paul Leidy,
13. William H. Dimmick,
14. Galusha A. Grow,
15. Allison White,
16. John A. Ahl,
17. Wilson Reilly,
18. John R. Elie,
19. John Covode,
20. William Montgomery,
21. David Ritchie,
22. Samuel A. Purviance,
23. William Stewart,
24. James L. Gillis,
25. John Dick.

DELAWARE.

1. William G. Whitely.

MARYLAND.

1. James A. Stewart,
2. JAMES B. RICAUD,
3. J. MORRISON HARRIS,
4. HENRY WINTER DAVIS,
5. Jacob M. Kunkel,
6. Thomas F. Bowie.

VIRGINIA.

1. Muscoe R. H. Garnett,
2. John S. Millson,
3. John S. Caskie,
4. William O. Goode,
5. Thomas S. Bocock,
6. Paulus Powell,
7. William Smith,
8. Charles J. Faulkner,
9. John Letcher,
10. Sherrard Clemens,
11. Albert G. Jenkins,
12. Henry A. Edmundson,
13. George W. Hopkins.

NORTH CAROLINA.

1. Henry M. Shaw,
2. Thomas Ruffin,
3. Warren Winslow,
4. Lawrence O'B. Branch,
5. JOHN A. GILMER,
6. Alfred M. Seales,
7. Burton Craige,
8. Thomas L. Clingman.

SOUTH CAROLINA.

1. John McQueen,
2. William P. Miles,
3. Lawrence M. Keitt,
4. Milledge L. Bonham,
5. James L. Orr,
6. William W. Boyce.

GEORGIA.

1. James L. Seward,
2. Martin J. Crawford,
3. ROBERT P. TRIPPE,
4. Lucius T. Gartrell,
5. Augustus R. Wright,
6. James Jackson,
7. JOSHUA HILL,
8. Alexander H. Stephens.

ALABAMA.

1. James A. Stallworth,
2. Eli S. Shorter,
3. James F. Dowdell,
4. Sydenham Moore,
5. George S. Houston,
6. Williamson R. W. Cobb,
7. J. L. M. Curry.

MISSISSIPPI.

1. Lucius Q. C. Lamar,
2. Reuben Davis,
3. William Barksdale,
4. Otto R. Singleton,
5. John A. Quitman.

LOUISIANA.

1. GEORGE EUSTIS, jr.,
2. Miles Taylor,
3. Thomas G. Davidson,
4. John M. Sandidge.

OHIO.

1. George H. Pendleton,
2. William S. Groesbeck,
3. Lewis D. Campbell,
4. Matthias H. Nichols,
5. Richard Mott,
6. Joseph R. Cockerill,
7. Avon Harlan,
8. Benjamin Stanton,
9. Lawrence W. Hall,
10. Joseph Miller,
11. Valentine B. Horton,
12. Samuel S. Cox,
13. John Sherman,
14. Philemon Bliss,
15. Joseph Burns,
16. Cydnor B. Tompkins,
17. William Lawrence,
18. Benjamin F. Leiter,
19. Edward Wade,
20. Joshua R. Giddings,
21. John A. Bingham.

KENTUCKY.

1. Henry C. Burnett,
2. Samuel O. Peyton,
3. WARNER L. UNDERWOOD,
4. Albert G. Talbott,
5. Joshua H. Jewett,
6. John M. Elliott,
7. HUMPHREY MARSHALL,
8. James B. Clay,
9. John C. Mason,
10. John W. Stevenson.

TENNESSEE.

1. Albert G. Watkins,
2. HORACE MAYNARD,
3. Samuel A. Smith,
4. John H. Savage,
5. CHARLES READY,
6. George W. Jones,
7. John V. Wright,
8. FELIX K. ZOLLICOFFER,
9. J. C. D. Atkins,
10. William T. Avery.

INDIANA.

1. William E. Niblack,
2. William H. English,
3. James Hughes,
4. James B. Foley,
5. David Kilgore,
6. James M. Gregg,
7. John G. Davis,
8. James Wilson,
9. Schuyler Colfax,
10. Charles Case,
11. John U. Pettit.

* Contested.

ILLINOIS.

1. Ellihu B. Washburne,
2. John F. Farnsworth,
3. Owen Lovejoy,
4. William Kellogg,
5. Isaac N. Morris,
6. Thomas L. Harris,
7. Aaron Shaw,
8. Robert Smith,
9. Samuel S. Marshall.

MISSOURI.

1. Francis P. Blair, jr.,
2. THOMAS L. ANDERSON,
3. John B. Clark,
4. James A. Craig,
5. SAMUEL H. WOODSON,
6. John S. Phelps,
7. Samuel Caruthers.

ARKANSAS.

1. Alfred B. Greenwood,
2. Edward A. Warren.

MICHIGAN.

1. William A. Howard,
2. Henry Waldron,
3. David S. Walbridge,
4. De Witt C. Leech.

FLORIDA.

1. George S. Hawkins.

TEXAS.

1. Guy M. Bryan,
2. John H. Reagan.

IOWA.

1. Samuel R. Curtis,
2. Timothy Davis.

WISCONSIN.

1. John F. Potter,
2. C. C. Washburne,
3. Charles Billingshurst.

CALIFORNIA.

1. Charles L. Scott,
2. Joseph C. McKibben.

MINNESOTA.

- W. W. Kingsbury.

OREGON.

- Joseph Lane.

NEW MEXICO.

- Miguel A. Otero.

UTAH.

- John M. Bernhisel.

WASHINGTON.

- Isaac I. Stevens.

KANSAS.

- Marcus J. Parrott, (F. S.)

NEBRASKA.

- Fenner Ferguson.*

At twelve o'clock, m., Hon. WILLIAM CULLOM, Clerk of the House of Representatives for the Thirty-Fourth Congress, called the House to order, and said:

The time fixed by the Constitution of the United States for the assembling of Congress having arrived, the Clerk will proceed to call the roll of members elect to the Thirty-Fifth Congress, made out from the *prima facie* evidence before him; and he respectfully requests that each member, as his name is called, will indicate his presence by an audible response.

The roll was called; and two hundred and twenty-four gentlemen answered to their names.

The following members failed to appear:

Messrs. ARNOLD, of Connecticut; KUNKEL, of Pennsylvania; DAVIS, of Maryland; TRIPPE, of Georgia; MARSHALL, of Kentucky; FARNSWORTH, of Illinois; WOODSON and CARUTHERS, of Missouri; HAWKINS, of Florida; and BRYAN, of Texas.

Pending the call of the roll—

Mr. PHELPS stated that his colleague, Mr. CARUTHERS, was detained by severe illness from attendance on the House.

ELECTION OF SPEAKER.

Mr. PHELPS. I move that the House do now proceed to the election of a Speaker for the Thirty-Fifth Congress by a *viva voce* vote.

The motion was agreed to.

Mr. JONES, of Tennessee. I nominate for Speaker of the House of Representatives of the Thirty-Fifth Congress of the United States, JAMES L. ORR, a Representative from the State of South Carolina.

Mr. BANKS. I nominate as a candidate for the office of Speaker, GALUSHA A. GROW, a Representative from the State of Pennsylvania.

Mr. MORRIS, of Pennsylvania. I nominate HENRY WINTER DAVIS, a Representative from the State of Maryland, as a candidate for the office of Speaker of this House.

The CLERK appointed the following members as tellers to superintend the election of Speaker: Messrs. JONES of Tennessee, BANKS, MORRIS of Pennsylvania, and CLINGMAN.

Mr. MORRIS, of Pennsylvania. I withdraw the name of HENRY WINTER DAVIS.

No further nominations being made, the House proceeded to vote *viva voce* for Speaker, with the following result: Whole number of votes cast, 225; necessary to a choice, 113; of which—

James L. Orr received.....	128
Galusha A. Grow.....	84
Felix K. Zollicofer.....	3

* Contested.

- | | |
|---------------------------|---|
| Lewis D. Campbell..... | 3 |
| H. Winter Davis..... | 2 |
| James B. Ricard..... | 2 |
| Humphrey Marshall..... | 1 |
| Francis P. Blair, jr..... | 1 |
| Valentine B. Horton..... | 1 |

The following is the vote in detail:

For James L. Orr—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hickman, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Ward, Warren, Watkins, White, Whitely, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—128.

For Galusha A. Grow—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Burlingame, Burroughs, Chase, Chaffee, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Darnell, Davis of Iowa, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Goodwin, Grainger, Robert B. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leech, Leiter, Lovejoy, Matteson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottier, Purviance, Ritchie, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood—84.

For Felix K. Zollicofer—Messrs. Humphrey Marshall, Maynard, and Ready.

For Lewis D. Campbell—Messrs. Ezra Clark, Clawson, and Robbins.

For Henry Winter Davis—Messrs. Hill and Edward J. Morris.

For James B. Ricard—Messrs. J. Morrison Harris and Zollicofer.

For Humphrey Marshall—Mr. Ricard.

For Francis P. Blair, jr—Mr. Grow.

For Valentine B. Horton—Mr. Campbell.

The CLERK then announced that JAMES L. ORR, a Representative from the State of South Carolina, having received a majority of all the votes cast, was duly elected Speaker of the House for the Thirty-Fifth Congress.

The SPEAKER elect, having been conducted to the chair by Messrs. STEPHENS and BANKS, a committee appointed by the Clerk for that purpose, addressed the House as follows:

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES: I thank you for the honor you have conferred in selecting me to preside over your deliberations.

The delicate and responsible duties of the Chair will be comparatively light if I shall be so fortunate as to secure, as doubtless I shall, your co-operation in maintaining the dignity and preserving the decorum of this body. The rules you may adopt to regulate your proceedings I shall seek most earnestly to administer firmly, faithfully, and impartially.

The great interests confided to our charge by the people of this Confederacy admonish us to cultivate a patriotism as expansive as the Republic itself.

I cherish the ardent hope that our public duties here may be discharged in such manner as to uphold the Constitution, preserve the union of these States, quicken their prosperity, and build up the greatness and glory of our common country.

Mr. GIDDINGS, the oldest member of the House, then administered to the Speaker the oath to support the Constitution of the United States.

SWEARING IN OF MEMBERS.

The members were then called by States, and, approaching the Chair, were severally qualified by taking the usual oath to support the Constitution of the United States.

MESSAGE TO THE SENATE.

Mr. HARRIS, of Illinois, offered the following resolution; which was read, considered, and agreed to:

Resolved, That a message be sent to the Senate to inform that body that a quorum of the House of Representatives

has assembled; that JAMES L. ORR, one of the Representatives of the State of South Carolina, has been chosen Speaker; and that the House is now ready to proceed to business; and that the Clerk do go with the said message.

RULES OF THE HOUSE.

Mr. CLINGMAN offered the following resolution:

Resolved, That the rules of the last House of Representatives be adopted as the rules of this House until otherwise ordered, with an amendment as follows, viz: that there be added to the 23d rule the following words: "Provided, That whenever any committee shall have occupied the morning hour on two days, it shall not be in order for such committee to report further until the other committees shall have been called in their turn."

Mr. WASHBURNE, of Illinois.* I call for the reading of the 23d rule, that we may see what it is.

Mr. CLINGMAN. While the Clerk is looking for it, I will take the opportunity of saying this, so that gentlemen who are not conversant with the rules may see the object of my proposition: By the existing rule a committee is called in the morning hour. If it does not get through its business that day it is entitled to be called a second day, and a third, and so on; it is entitled to the floor until it voluntarily resigns it. The consequence is, that, at the long session of 1852, one of the committees—the Committee on Public Lands, of which I believe the gentleman from Illinois [Mr. WASHBURNE] has been some time a member—got the floor and held it during the whole of the long session, and during the whole of the next short session; and no other committee got an opportunity to report, in order, during that Congress. At the next Congress, in 1854, that same committee attempted the same thing. They held the floor for two or three months, till finally we succeeded in laying on the table several of their bills, and then they abandoned it. At the last Congress the same committee got the floor, at an early stage of the long session, and held it throughout the whole of that session and throughout the whole of the short session. Any other committees that accidentally got in their reports, only succeeded in doing so by the courtesy of the Committee on Public Lands.

If my proposition be adopted, the result will be that, if a committee be called to-day, and do not get through with their reports, they can continue them to-morrow; but after that they must give way, and allow other committees to report in their turn. By this means every committee of the House will have an opportunity of reporting once or twice in each month, instead of having the business blocked up in the way it has been. I hope the resolution will be adopted. I call the previous question.

Mr. CAMPBELL. I ask the gentleman from North Carolina to withdraw the call for the previous question, that I may offer a suggestion with a view of having his proposition modified.

Mr. CLINGMAN. With pleasure.

Mr. CAMPBELL. I would suggest to the gentleman to append to his resolution, instead of the proviso he proposes, a proviso raising a special committee to revise the rules, with power to report whenever they get ready to do so—

Mr. CLINGMAN. I will hear the gentleman's suggestion with great pleasure, but I would remind the gentleman that we had such a committee raised, but they never reported.

Mr. SEWARD. I rise to a point of order. I object now, in the beginning of the session, to gentlemen farming out the floor in this way.

Mr. CLINGMAN. There are no rules which the gentleman can call me to order for violating. I was about to say that we have had a committee on rules at every Congress of which I have been a member, and that that committee has never altered the rules. The gentleman himself, [Mr. CAMPBELL,] at the last Congress, or the Congress before, had such a committee raised on his own motion, and that committee never reported. I made many appeals to it to come forward and report; but it never did so, and the rules have not been amended.

I have no doubt that we could get a committee on rules, and that that committee would, as its predecessors did, give some attention to the subject; but it would either not report, or the House would not act.

I desire to get this amendment adopted at this time, for unless it is done now, a single objection will defeat the motion throughout the whole Con-

gress. I hope, therefore, that gentlemen will be content to take this amendment at this time; and then, if there be a motion made to give us a committee on rules, I will support that likewise. I now move the previous question.

Mr. HOUSTON. Will the gentleman from North Carolina allow me to suggest an amendment to his proviso?

Mr. CLINGMAN. I will, if I do not lose the floor by it.

Mr. HOUSTON. My suggestion is this: the proviso which the gentleman proposes—

Mr. SEWARD. If there are no rules, I should like to know how the gentleman can put the previous question on his resolution.

The SPEAKER. We are acting under general parliamentary law.

Mr. SEWARD. That is what I understand.

Mr. CLINGMAN. The previous question is in order under parliamentary law.

Mr. HOUSTON. The amendment I would suggest is this, and the gentleman will see the force of it at once. It is to omit his proviso, and instead thereof, insert a proviso that all bills reported by the committees of the House shall be referred to the Committee of the Whole on the state of the Union, or to the Committee of the Whole House, unless the rules be suspended.

Mr. CLINGMAN. I have thought of that; but it sometimes happens that committees report bills and matters of such importance that they ought to be acted on at once. My proposition will answer every purpose, while the other would produce embarrassment.

Mr. HOUSTON. Two thirds can always suspend the rules.

Mr. CLINGMAN. Yes; but the motion to suspend the rules is in order only on Mondays. I move the previous question.

Mr. HOUSTON. Let us vote down the previous question.

Mr. SEWARD. I move to lay the resolution on the table.

The motion was not agreed to.

The previous question was seconded.

Mr. STANTON called for the yeas and nays on ordering the main question.

The yeas and nays were not ordered; only six members voting in favor thereof.

The main question was then ordered; and, under the operation thereof, the resolution was adopted.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. FLORENCE offered the following resolution; which was considered and agreed to:

Resolved, That a committee be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait upon the President of the United States, and inform him that a quorum of the two Houses of Congress has assembled, and that Congress is ready to receive any communication he may be pleased to make.

Messrs. FLORENCE, QUITMAN, and CAMPBELL were appointed such committee on the part of the House.

ELECTION OF CLERK.

Mr. STEPHENS. I move that the House now proceed to vote for Clerk *viva voce*.

The motion was agreed to.

Mr. JONES, of Tennessee. I nominate for Clerk of the House of Representatives, James C. Allen, of the State of Illinois.

Mr. STANTON. I nominate for Clerk of the House of Representatives, B. Gratz Brown, of St. Louis, Missouri.

The SPEAKER appointed Messrs. JONES of Tennessee, STANTON, BENNETT, and RUFFIN tellers to count the votes for Clerk.

The House then proceeded to vote *viva voce* for Clerk, with the following result: Whole number of votes cast, 219; necessary to a choice, 110; of which—

James C. Allen received.....	128
B. Gratz Brown.....	85
William Cullom.....	4
J. M. Sullivan.....	2

JAMES C. ALLEN having received a majority of all the votes cast, was declared duly elected Clerk of the House.

The following is the vote in detail:

For James C. Allen—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskey, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Leitcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Milson, Montgomery, Moore, Isaac N. Morris, Niblack, Orr, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whitley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright.

For B. Gratz Brown—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Darnell, Davis of Iowa, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leech, Leiter, Lovejoy, Matteson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Fottle, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Wood.

For William Cullom—Messrs. Campbell, Ezra Clark, Gilmer, and Maynard.

For J. M. Sullivan—Messrs. Edie and Purviance.

Mr. ALLEN then presented himself at the Speaker's desk, and was duly qualified by taking the oath of office.

ELECTION OF SERGEANT-AT-ARMS.

Mr. SMITH, of Tennessee. In order to facilitate business, I submit the following resolution, to which I presume there will be no objection:

Resolved, That Adam J. Glossbrenner be, and he is hereby, appointed Sergeant-at-Arms for the House of Representatives of the Thirty-Fifth Congress.

It is in order, Mr. Speaker, under the 67th rule.

Mr. WASHBURNE, of Illinois. I object to the resolution, and trust that the ordinary course in such cases will be pursued.

Mr. SMITH, of Tennessee. I withdraw the resolution.

Mr. WARREN. I move that the House proceed to the election of a Sergeant-at-Arms of the House, for the present Congress.

The question was taken; and the motion was agreed to.

Mr. JONES, of Tennessee. I nominate Adam J. Glossbrenner, of Pennsylvania.

Mr. WALDRON. I nominate Charles B. Babcock, of Michigan.

The House then proceeded to vote *viva voce* for Sergeant-at-Arms, with the following result: Whole number of votes, 213; necessary to a choice, 107; of which—

Adam J. Glossbrenner received.....	133
Charles B. Babcock.....	80

The following is the vote in detail:

For Adam J. Glossbrenner—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoock, Bowie, Boyce, Branch, Burnett, Burns, Caskey, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Enstis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Leitcher, Maclay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Milson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Ward, Warren, Watkins, White, Whitley, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, Zollieoffer, and Mr. Speaker.

For Charles B. Babcock—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Cur-

tis, Dremell, Davis of Iowa, Davis of Massachusetts, Dawes, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leech, Leiter, Lovejoy, Matteson, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Thayer, Thompson, Tompkins, Wade, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Wood.

ADAM J. GLOSSBRENNER having received a majority of the votes cast, was declared duly elected as Sergeant-at-Arms of the House for the Thirty-Fifth Congress; and was accordingly sworn in.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that a quorum of that body had assembled, and were ready to proceed to business; also that it had, in the absence of the Vice President, elected Hon. BENJAMIN FITZPATRICK, of Alabama, President *pro tempore*.

MEMBER SWORN IN.

GEORGE S. HAWKINS, Representative from the State of Florida, appeared, and qualified by taking the oath to support the Constitution of the United States.

BINDING OF THE ESTIMATES.

MR. HOUSTON. The estimates of the Secretary of the Treasury have been printed, and are ready to be laid on the desks of members. I desire to move that before they are so disposed of, the Clerk be directed to have one copy bound for each member. I submit that motion.

The SPEAKER. The Chair has no information to the effect that the estimates have been delivered.

MR. HOUSTON. They have not been laid upon our desks yet; but they are in print. I have a copy myself. I propose, for the convenience of members, that before they are laid upon our desks, one copy for each member shall be bound.

The motion was agreed to.

ELECTION OF DOORKEEPER.

MR. FAULKNER. I move that the House do now proceed to the election for Doorkeeper of the House for the Thirty-Fifth Congress by a *viva voce* vote.

The motion was agreed to.

MR. JONES, of Tennessee. I nominate for that office Robert B. Hackney, of Virginia.

MR. FAULKNER. If there be no opposition to Mr. Hackney's election, I move that he be declared Doorkeeper.

MR. MORGAN. I shall have no objection to the motion of the gentleman from Virginia if he will make a very slight modification in it—a change of a word only. If the gentleman will substitute the name of Mr. Darling for that of Mr. Hackney, I shall be perfectly satisfied. [Laughter.]

MR. FAULKNER. If the gentleman wishes to nominate any one, I will not press the motion.

MR. MORGAN. I nominate Nathan Darling, of New York.

The SPEAKER appointed the following named gentlemen as tellers to count the votes: Messrs. FAULKNER, COX, MORGAN, and GROW.

The House then proceeded to vote *viva voce* for Doorkeeper, with the following result: Whole number of votes cast, 206; necessary to a choice, 104; of which—

Robert B. Hackney received.....128

Nathan Darling.....78

R. B. HACKNEY having received a majority of all the votes cast, was declared duly elected Doorkeeper of the House for the Thirty-Fifth Congress, and appeared and took the oath of office.

The following is the vote in detail:

For R. B. Hackney.—Messrs. Admin, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocock, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskey, Chapman, Horace P. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewar, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garrett, Cartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hopkins, Houston, Hughes, Hoyer, Jackson, Jenkins, Jewett, George W. Jones, J. Clancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Maynard,

Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Warren, Watkins, White, Whitely, Winslow, Wortendyke, Ward, Augustus R. Wright, John V. Wright, and Mr. Speaker.

For Mr. Darling.—Messrs. Abbott, Andrews, Banks, Bennett, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Dremell, Davis of Iowa, Davis of Massachusetts, Dean, Dick, Dodd, Durfee, Fenton, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Horton, Howard, Kellogg, Kilgore, Knapp, Leech, Leiter, Lovejoy, Matteson, Morgan, Edward Joy Morris, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Potter, Pottle, Purviance, Robbins, Roberts, Royce, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Waldron, Walton, Elihu B. Washburne, Wilson, and Wood.

APPOINTMENT OF POSTMASTER.

MR. STEPHENS. I offer the following resolution:

Resolved, That Michael W. Cluskey be, and is hereby, appointed Postmaster to the House of Representatives for the Thirty-Fifth Congress.

My object in offering the resolution is to save time. I want to get through the organization of the House, and then to adjourn.

The question was put; and the resolution was agreed to.

The Speaker administered the oath of office to Mr. Cluskey.

MR. STEPHENS. I now move that the House adjourn till to-morrow at twelve o'clock.

MR. JONES, of Tennessee. I wish to suggest, before that motion is put, the propriety of adopting a resolution that twelve o'clock be the hour of meeting of the House daily till it be otherwise ordered. The rules do not specify any hour of meeting.

MR. STEPHENS. The motion I made was to adjourn till to-morrow at twelve o'clock.

MR. WARREN. I would suggest to the gentleman from Georgia to withdraw his motion till we draw for seats.

MR. STEPHENS declined to withdraw his motion.

The motion was agreed to; and thereupon, at thirty-five minutes past three o'clock, p. m., the House adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, December 8, 1857.

The Journal of yesterday was read and approved.

Hon. DAVID S. REID, of North Carolina, appeared in his seat to-day.

ORGANIZATION OF CONGRESS.

The following message was received from the House of Representatives, by Mr. JAMES C. ALLEN, its Clerk:

MR. PRESIDENT: I am directed, by the House of Representatives, to inform the Senate that a quorum of the House has assembled, that JAMES L. ORR, one of the Representatives from the State of South Carolina, has been chosen Speaker, and that the House is ready to proceed to business.

The House of Representatives has passed an order for the appointment of a committee, on its part, to join such committee as may be appointed by the Senate, to wait on the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make, and has appointed Messrs. FLORENCE of Pennsylvania, QUITMAN of Mississippi, and LEWIS D. CAMPBELL of Ohio, the committee on its part.

MR. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee consisting of three members be appointed, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

On motion of Mr. BRIGHT, it was

Ordered, That the committee be appointed by the President *pro tempore*.

Messrs. BRIGHT, BIGLER, and COLLAMER, were appointed.

WITHDRAWAL OF PAPERS.

MR. PEARCE. I have been requested to ask leave to withdraw from the files of the Senate the papers relating to the claim of Carlisle and Coxe, administrators of C. P. Van Ness.

The PRESIDENT *pro tempore*. The Chair will inquire whether there has been an adverse report in that case.

MR. PEARCE. The papers are asked to be withdrawn for the purpose of reference to the Court of Claims. I do not know whether there has been an adverse report or not.

The PRESIDENT *pro tempore*. Under the rule, if there has been an adverse report in the case, some explanation must be made, or some additional testimony presented, before the papers can be withdrawn.

MR. PEARCE. I do not know whether that rule relates to the withdrawal of papers for the purpose of presentation to the Court of Claims. I am aware of such a rule where the purpose is to have them re-referred to a committee of the Senate.

The PRESIDENT *pro tempore*. The Chair is inclined to think the establishment of the Court of Claims varies the rule to that extent. The Chair will regard the sense of the Senate as in favor of withdrawing the papers, unless objected to.

There being no objection, the papers were withdrawn.

On motion of Mr. SEWARD, it was

Ordered, That leave be granted to withdraw the documents in relation to the claims of Charles Reeder, Walter R. Johnson, and the legal representatives of Thomas P. Jones.

On motion of Mr. BELL, it was

Ordered, That leave be granted to withdraw the memorial and papers of Nathan Towson and others, members of "Towson's artillery," in the war of 1812.

On motion of Mr. CAMERON, it was

Ordered, That Mary Petery, widow of Peter Petery, have leave to withdraw her petition and papers.

COAST SURVEY.

MR. EVANS presented resolutions of the Chamber of Commerce of Charleston, South Carolina, in favor of the vigorous prosecution of the coast survey; which were laid upon the table until the standing committees shall have been appointed.

BINDING OF A REPORT.

MR. HALE. Estimates of the appropriations required for the next fiscal year have been laid upon the tables of Senators. The book will be frequently required for use, and it is not now in a condition to be used. I therefore move that the Secretary of the Senate be directed to procure one copy of it to be bound for each member of the Senate.

The motion was agreed to.

NOTICES OF BILLS.

MR. CLAY gave notice of his intention to ask leave to introduce the following bills:

A bill to detach the port of Selma, Alabama, from the collection district of New Orleans, and attach it to the collection district of Mobile, Alabama.

A bill repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries.

MR. REID gave notice of his intention to ask leave to introduce a bill making an appropriation for the removal of obstructions at the mouth of Cape Fear river, near Wilmington, North Carolina.

RECESS.

MR. MASON. It has been suggested by one or two Senators that no business will or can be done until we hear from the committee that has gone to wait on the President of the United States. In the mean time I suggest, at their instance, that the chair be informally vacated, to allow Senators to leave the Chamber.

The PRESIDENT *pro tempore*. The Chair will regard that as the sense of the Senate, unless objected to. The Chair hears no objection.

On the return of the committee, the President *pro tempore* resumed the chair.

PRESIDENT'S MESSAGE.

MR. BRIGHT, from the committee appointed to wait upon the President of the United States, appeared and said: Mr. President, the committee appointed on the part of the Senate to meet a similar committee on the part of the House of Representatives, for the purpose of informing the President of the United States that the two Houses were organized and ready to receive any commu-

nication it might be his pleasure to make, have performed that duty, and received for answer that he would immediately make a communication to each House in writing.

Mr. J. B. HENRY, the President's Private Secretary, shortly afterwards appeared below the bar, and said:

I am directed by the President of the United States to deliver to the Senate his annual message in writing, with the accompanying documents.

The Secretary read the message. [See the Appendix for it.]

Mr. DOUGLAS. I offer the following:

Ordered, That the usual number of copies of the message and accompanying documents be printed, and fifteen thousand additional copies of the message and accompanying documents be printed for the use of the Senate.

Before I yield the floor, I desire simply to state that I have listened to the message with great pleasure, and concur cordially in much the greater part of it, and in most of the views expressed; but in regard to one topic—that of Kansas—I totally dissent from all that portion of the message which may fairly be construed as approving of the proceedings of the Lecompton convention. At an early period I shall avail myself of an opportunity to state my reasons for this dissent, and also to vindicate the right of the people of the Territory of Kansas to be left perfectly free to form and regulate their domestic institutions in their own way according to the organic act.

Mr. GWIN. I offer this as a substitute for the resolution of the Senator from Illinois. I think it covers more ground:

Ordered, That the usual number of the message and documents be printed, and that fifteen thousand copies of the message and accompanying documents, in addition to the usual number, be printed for the use of the Senate, by the Printer of the Senate for the last Congress, at rates not exceeding those established by existing laws, and that all other orders for printing made, until a Printer shall be chosen, be executed by the late Printer on the same terms.

This is a resolution simply to point out the manner in which the work shall be printed, and by whom.

Mr. STUART. I do not propose to say anything on the subject of this last proposition; but I deem it my duty to say a word in concurrence with what has been said by the Senator from Illinois. The principal topics of the President's message have been treated in a manner which not only meets my entire approbation, but I think I may safely add, in as able a manner as was within the power of any man.

In respect to that portion of the message relating to the constitutional convention of Kansas, if I could agree with the President in his reasoning, in so far as he seeks to show that the principles of the organic act of that Territory have been complied with, I might agree with his conclusions; but believing that the principles of the organic act have been violated by the action of that convention, and that in no event can the people of the Territory be left as that act declared they should be—"perfectly free to form and regulate their domestic institutions in their own way"—unless there shall be some future light which will show me that the action of this convention has been misrepresented and is not correctly understood either by the President or by myself, I never can give it my support.

At a future day I shall deem it my duty to go into this subject at length. I shall now conclude by saying that in my action upon this subject hereafter, as heretofore, I will insist to the extent of my ability that the people of Kansas shall be treated like all other people, and shall have the fullest, the freest opportunity to form and regulate such institutions as they may see fit to live under; and whether they are in accordance with my tastes or against them, will not at all affect my action on the question.

Mr. DAVIS. Mr. President, I think it is premature to discuss the message. I do not propose to do so. The remarks of the two honorable Senators on my right seem to be directed entirely to the action of the convention, and to the phrase about the people being left free to form their institutions in their own way. I could scarcely institute an argument on a proposition so plain as that the people may act either by popular vote or through their delegates; and it is a denial of sovereignty to the people to say they have not the power to elect their delegates and to invest them with authority to form an instrument which shall

be binding on the body-politic. They might, if they chose, by popular vote settle the whole question. They did choose to have delegates in convention. They might, if they had so chosen, have directed those delegates to refer the question back to them; and so might the body-politic direct the Legislature to submit every act to a popular vote. It rests on them to decide one way or the other. I do not understand the doctrine to the extent of the remarks that are made.

Mr. BIGLER. I shall certainly not engage in any discussion of the main question at this time; but as two distinguished Senators from the northern part of the Union, of my own party, have declared an emphatic difference with the President on so much of his message as relates to the affairs of Kansas, I desire simply to say, that I just as emphatically concur in these views. I cannot agree with my friend from Illinois as to the construction he has given to the rights of the people of Kansas. Nor can I see that any right of theirs under the organic act, or that their liberty to any extent, is to be impaired by the doctrines of the message. Of course it would be unbecoming to go into the details of the argument at present. I do not intend to do so. I simply rose for the purpose of declaring that when we shall have heard the extended remarks of the Senator from Illinois, with all deference to his admitted intelligence and ability on this subject, I shall make the best reply I can, unless he convinces me that the President is mistaken as to the facts and theory of this case; of which I have no apprehension.

Mr. BROWN. I think that a discussion of this question now is altogether premature. Intimations are thrown out first on one side and then on the other, which I think, in the present aspect of the subject, can lead to no good result; and that we may all sleep to-night on the message before we undertake to discuss it, I move that the Senate adjourn.

Several SENATORS. Oh, no. Withdraw the motion.

Mr. BROWN. If the vote on the order for printing can be taken without further discussion, I will not press the motion.

Mr. HUNTER. If there is to be a debate on this question, I ask to be allowed, by general consent, to move that the report of the Secretary of the Treasury be taken up, with a view to its printing.

Mr. GWIN. There is no objection to printing the message.

Mr. FESSENDEN. There is something to be said in regard to that.

Mr. PUGH. I wish to ask the Senator from California a question in reference to his amendment. Does the motion to print the ordinary number of copies of the message include the documents? The journal of the convention, the constitution, the census which was taken, the apportionment, and some other documents relating to Kansas, I should like to have printed, at as early a day as practicable; for my own opinion will depend, in a great degree, on what is contained in them. I hope the Senator will make his motion so that not only the message, but those documents which relate to the affairs of Kansas, may be printed in advance of any others, that we may have copies within a few days, especially if there is to be a debate on the subject.

Mr. COLLAMER. The two resolutions before us, as I understand them, involve very different subjects. That of the Senator from Illinois is merely for printing the President's message, and extra numbers of that message; the other is a proposition for printing extra numbers of the message and accompanying documents, and regulating the manner of their printing. This is a subject which ought to be discussed and considered. For one, I have no objection at all to printing the President's message, but I have an objection to printing extra numbers of that message. My objection is simply that it is utterly useless. Formerly, in the early stages of our Government, these extra numbers were printed for purposes of distribution. Now, before we can get a copy of the message printed here and sent off, it will be in all the papers of the Union, and in every house in the country. I have no objection to printing the message for the use of members, but I have an objection to printing extra numbers of it, because to do so is utterly useless; and I trust that this usage of the Senate, which originated early,

may cease. As to printing extra numbers of the accompanying documents, I take it that is a subject which should go to the Committee on Printing. In due time we can consider it, but it should not be passed on at the present moment.

Mr. GWIN. My proposition is in almost the same words as the resolution adopted two years ago.

The PRESIDENT *pro tempore*. The Chair will remark to the Senate that, under the rule, the usual number can be printed, by a vote of a majority of the Senate, at once. A motion to print extra numbers must go to the Committee on Printing, when such a committee shall be organized, unless by unanimous consent the reference be dispensed with.

Mr. HAMLIN and others. The usual number is enough.

Mr. DOUGLAS. I will accept the amendment of the Senator from California, in order to expedite the question.

Mr. FESSENDEN. I ask that the resolution as now amended may be read.

The Secretary read it, as follows:

Ordered, That the usual number of the message and documents be printed, and that fifteen thousand copies of the message and accompanying documents, in addition to the usual number, be printed for the use of the Senate, by the Printer of the Senate for the last Congress, at rates not exceeding those established by existing laws; and that all other orders for printing, made until a Printer to the Senate shall be chosen, be executed by the late Printer on the same terms.

Mr. FESSENDEN. With regard to the last part of the proposition, as to who shall do this work, I have no interest in that matter, and desire to say nothing about it. Most of the Senators who were members of the last Congress, will undoubtedly recollect that we had a slight discussion on the question of printing at the beginning of the last session. I do not know that it would do any good to allude to the point, but there is a little question of economy in reference to it, which you, sir, and I, are familiar with from having considered the subject in the Committee on Printing of which we were then members. It is useless, as stated by my friend from Vermont, to print extra copies of the message proper. It was urged very strongly then that it was perfectly useless; but certain Senators desired and perhaps thought it was important to send this matter to their constituents in the form of a printed sheet, and therefore it passed. The expense of that alone is not great; but the resolution as it stands involves the printing of all the documents, and printing them immediately. The Printing Committee last year came to the conclusion, as many others did, and as must be obvious to everybody, that there is a vast deal of matter communicated to Congress in the annual message and accompanying documents that is not of the slightest service in the world to anybody. Nobody ever reads it, and it would be of no consequence if it were read. I allude to the tables and bids for contracts, and all sorts of things, that only go to lumber up the books, and make them unwieldy and unprofitable in every particular to us and their readers, and yet which involve a large expense in printing.

Now, what I am about to suggest is, that before we adopt the order for printing the usual number of copies, the whole matter, with regard to the documents, should be sent to the Committee on Printing. Let us have that matter investigated and reported upon before making the order, because the moment you print the usual number of copies, that involves the printing of the whole; and, when the whole is printed, or put in type ready to be struck off, the argument is, that it is a very slight expense to print the extra number, and therefore we may as well print the whole, now that we have begun to print a portion. I ask whether the motion to print cannot be divided so that we may take the question in the first place on the motion to print the message alone, which is of immediate interest, with extra numbers, if members desire that extra numbers be printed; and that the question with regard to printing the documents accompanying the President's message may first go to the Committee on Printing in order to ascertain how much of the matter that is communicated it is advisable to print. If it is in order, I ask for a division of the question, so that we may vote first on printing the message alone.

The PRESIDENT *pro tempore*. A division of the motion is in order.

Mr. HALE. Mr. President, I have nothing to say on the particular branch of the motion under consideration; but I wish to address a word or two to the general question. Perhaps I owe an apology to the Senate for saying a word, because the question that has arisen seems to be a sort of family matter in which an outsider ought not to interfere. If it were not that I supposed there was some responsibility attached to all of us here, I should not say a word.

When I address myself to this subject, I am not at all embarrassed by having to say that I approve of any part of the message, or that I was one of the friends of the Kansas-Nebraska act, and am very desirous to see the principles of that act carried out. I do not exactly understand what the principles of that act were; but I believe the President is carrying them out pretty fairly. I do not mean to say that he is carrying out the intention that existed in the heart of the patriotic gentleman who framed it and brought it in here; but as a matter of public policy, and as a matter of the politics of the country, I believe that the act has been pretty fairly carried out ever since it was adopted, and that it is proposed to be so carried out now.

But there is a single assertion made by the President of the United States in his message, upon which I wish to make an issue—not an issue of veracity, of course—but of history, and of fair construction of language. As I understand his message from the hurried reading I have given it, the President labors very hard to explain away some little inadvertencies which he may have committed in deference to this principle of popular sovereignty in his instructions to Governor Walker. He says—honest, simple-hearted man as he is!—he never had a doubt that this question was to be fairly submitted to the people of that Territory. It was in the exercise of this comfortable assurance, this Christian faith, that it would be so carried out that he penned those lines in Governor Walker's instructions. After having done this, he goes on to argue that on the whole it has been carried out, and at last comes to the conclusion, that—

"In the schedule providing for the transition from a territorial to a State government, the question has been fairly and explicitly referred to the people, whether they will have a constitution with or without slavery."

Now, sir, I deny this entirely; and when I deny it I do so in the manner I have stated. I make no question of veracity with any one, but I base the denial upon the construction of words, the meaning of language. I have read a paper which purports to be the constitution and the schedule, and I take it for granted, until the contrary appears, that it is a true copy. Instead of that constitution and schedule submitting to the people of Kansas the question whether they will have a constitution with or without slavery, it submits to them the question whether they will have the constitution—the difference between the definite and indefinite article—with slavery in the constitution, and in the schedule too, or whether they will simply have slavery in the schedule so tied up that it can never be abolished. That is the question submitted; because, if I have read the constitution aright, if the people vote to have the constitution without slavery, then the article providing for slavery in the constitution is to be stricken out, but the schedule remains, which makes slavery perpetual, and gives a monopoly to those who own slaves now in the Territory, keeping off outsiders, and thus enhancing their price. The people of Kansas go to the polls, the President says, to vote upon what has been "fairly and explicitly" submitted to them. Suppose they vote for the constitution without slavery. What then? They only get the latter clause of slavery: the article in the constitution tolerating slavery is stricken out, but the schedule, which goes into detail, which makes it binding, which ties up the hands of the Legislature, and attempts to tie up the hands of all future conventions, so that slavery can never be touched there, remains. This is the perfect liberty which the people of Kansas have.

I was rejoiced when I heard the distinguished Senator from Illinois, who was the author of the Kansas-Nebraska bill, intimate that at some time he would give his views upon the subject. I

should like to know whether this is the perfect freedom which he understood the people of Kansas were to have; but I believe he has indicated that he does not think so. Now, I wish to tell you what the President says. He declares that

"The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject."

That struggle, that great struggle of which the President speaks, occurred at the time when he was a candidate for the Presidency of the United States. He says that on that occasion "everywhere throughout the Union," the friends of that bill—he means those who supported James Buchanan—

"Everywhere throughout the Union they publicly pledged their faith and their honor that they would cheerfully submit the question of slavery to the decision of the *bona fide* people of Kansas, without any restriction or qualification whatever."

Well, sir, the President says they have done this. He says they have submitted the question, "without any restriction or qualification whatever," to the people of Kansas. Upon that point I desire to speak. I am not embarrassed by any of the other questions which have been referred to, but upon this question I desire, at some suitable time, when it will be most convenient to the Senate, to be heard; and I give notice now to those who care anything about what I may say upon this question, I take issue with the President. I deny in whole and in part, in general and in detail, that the pledge spoken of by the President has, in any manner, been redeemed; but, on the contrary, I assert that, in no sense, general or special, have the people of Kansas, by this constitution, the right of deciding upon the institutions under which they may live. It is no apology for the President to say that after they come into the Union as a State they may amend the constitution, and blot out whatever is obnoxious; because, by the constitution which he recommends, and desires us to adopt, the men who have framed it have done everything they could to tie up the hands of the *bona fide* people of Kansas. If they have this liberty left, if a liberty of any sort remains to them to judge and determine as to their institutions, they will not have it in virtue of this constitution, nor in virtue of the proceedings of the Lecompton convention; but they will have it in spite and in defiance of this constitution, by riding over it, and trampling its authority under foot, in virtue of the great principle of popular sovereignty, of which this is but a mockery. Having said this much, I do not wish any longer to detain the Senate.

Mr. SEWARD. If I thought it was expedient, Mr. President, that this day should close upon a debate on the President's message—a document which surveys the condition of the whole country, and presents to mankind the state of every interest in it—or is intended to do so, while only one question, and that the question concerning Kansas and slavery in Kansas, was examined or considered or reflected upon by the Senate of the United States, I should not think it necessary to say anything. In regard to that, I agree that the debate which has been indicated is well postponed. I see that it enlists an affirmative and a negative side. We have been promised, on the part of the friends of the President of the United States who approve of this message and the principles contained in it, an explanation, a defense of it. I am sure I feel for one that the message is very lame and impotent in its argument in this respect; and that something more will be necessary to satisfy me with the position assumed by the President than is contained in the document itself. I am willing to wait until we shall hear, as I think the country will require to hear, the argument which is promised in support of this part of the message.

On the other hand, as the President and those who differ from him stand on a common ground in the beginning of this debate, that of the acceptance of the Kansas-Nebraska bill, I feel that it is due to those members of the Senate who, standing upon that ground, differ from the President in the exposition he now gives of those principles at this stage in the progress of Kansas from a territorial to a State government, that they should have an opportunity to be heard first. I believe that their argument, standing upon that

ground, will have a greater effect than even an argument of the same merit proceeding upon the same ground from those who have always opposed the policy and principles of that bill. I shall, therefore, cheerfully wait for that debate, only saying that the circumstances of Kansas and of the cause of freedom in Kansas are imminent, and that I hope the debate will not be procrastinated or delayed. Before we are aware of it there may be civil war in Kansas, and I pray that the debate, while it is conducted so as to give every person an opportunity to be heard, will be brought on and closed here as early as possible.

I will take this occasion to say that I congratulate the Senate and the country, and I thank the President of the United States for the improved spirit in which this difficult, in some respects painful, and yet most important subject is presented—the great improvement on the messages which have been received by Congress from his predecessors, in the exalted station which he fills.

Now, in order that all the parts of this message may be known to have had some consideration here, I wish to notice that portion of the message which relates to the commercial and financial troubles of the country, and to say, that if the President and his Administration shall be able to suggest any measures which shall tend to fortify the currency of the country and to save its industrial interests from the periodical convulsions to which they are subject, I hope those measures will be communicated to Congress at an early day. I apprehend there will be found a cheerful response on the part of the representatives of the States and people to any judicious and safe measures that may be adopted for that purpose; but mere declamation on the subject will do little or nothing. I must take occasion to add, that while I think I shall make no objection, as at present advised, to a general bankrupt law which shall exercise a salutary control over the fiscal institutions of the several States, yet I do not understand a bankrupt law which is confined merely to fiscal operations to be a "uniform" bankrupt law within the meaning of the Constitution of the United States. I regret to see that there is not only no intimation of a desire on the part of the Administration to extend the provisions of any bankrupt law which may be passed to debtors other than corporations, but that such purpose seems to be excluded from the view of the Administration in the message which has been presented to us.

The message treats of our foreign relations. I think it may be regarded as a subject on which we can congratulate the people of the country that the disposition of the Administration is pacific at the same time that it is firm and national; and I am happy to be able to add, for myself, the expression of great satisfaction with the course which the Administration indicates, in regard especially to the subject of our relations with Great Britain and the States on this continent, involving Central America; I have felt mortified and humiliated to learn—after the pains which had been taken, and the concessions which had been made, by the President and Senate of the United States—that the just and liberal treaty offered them at the last session has been rejected.

There is another disturbance, perhaps more seriously painful and more immediately dangerous than any to which I have alluded, and that is the troubles in the Territory of Utah. On that subject I hope it may be understood that the opinion of the American Congress is substantially unanimous, and that the world may be assured that the Government of the United States will not suffer its name to be tarnished, its power to be insulted, the lives of its citizens to be destroyed by an enemy, intrenched although he be in the Rocky Mountains under the forms of the constitution of a Territory of the United States. I do not immediately commit myself to the project of increasing the Army by the addition of four regiments; but I do say that every measure which shall be proposed, and be best calculated to establish peace and order in that Territory, shall have my most cheerful support. I beg leave to suggest to that portion of the Senate who may constitute hereafter a Committee on Military Affairs, and may have charge of this subject, whether it will not be worth their while to consider whether the Pacific coast will not furnish the proper scene for the enlistment of men, and for the dispatch of

soldiers to quell this rebellion, and whether the operations necessary cannot be more advantageously instituted in California than on this side of the mountains.

Mr. DOUGLAS. As there seems to be a disposition to debate this question before we can have a vote on the motion to print, and as there have been intimations on both sides of the Chamber (for I seem to stand between the parties) that they are waiting to hear what I may have to say upon this point, if it be agreeable to the Senate I will very briefly state my reasons of dissent tomorrow when the Senate shall meet, in order not to delay the vote on the motion to print the message.

Mr. HALE. I would suggest the course that was taken last year in this very case. A debate then arose on the President's message, and I think, by a suggestion either of the Senator from Virginia, [Mr. HUNTER,] or the late Senator from Texas, [Mr. Rusk,] the vote on printing the message was taken, and then a motion was made to reconsider it, and the debate went on upon the motion to reconsider, while the documents were being printed.

Mr. GWIN. I hope that course will be pursued now.

Mr. HUNTER. The documents would have to be printed by general consent while the debate went on upon the motion to reconsider, because a motion to reconsider suspends the operation of the resolution which has been passed and is proposed to be reconsidered.

Mr. HALE. I wish to propose that.

Mr. HUNTER. Very well.

Mr. FESSENDEN. If the Senate is to act now, I think it would be better to submit a motion of another description, because my objection is to voting to print these documents as they stand, entire. I submit (and I think it will not lead to delay) a motion to commit the whole subject of printing the message and documents to the Committee on Printing. They can readily consider what ought to be done, and the debate can go on in the mean time.

Mr. GWIN. There is no such committee. If there was, I would agree to the suggestion.

Mr. FESSENDEN. The committees will probably be appointed within a day or two.

Mr. GWIN. Not until Monday.

Mr. FESSENDEN. It will take much longer than Monday to print these documents. We shall not get them for many weeks at any rate. In the mean time, much expense will be saved (if that is of any consequence in these days) by having the matter properly investigated and reported on. I therefore make a motion, if it is in order, that the whole subject of printing the message and documents be referred to the Committee on Printing. Perhaps the Senators on the other side can tell me when the committee will be appointed.

Mr. MASON. I submit to the Senator that such a motion either cannot be in order, or will be of no avail, as there is no such committee. I do not know how it is with other Senators, but before this debate is gone into, I should be very much gratified to have an opportunity of examining those documents upon which the President rests his judgment in the communication he has sent us. Kansas is a very distant place from us; and for one, I am free to declare that all the information I have been enabled to obtain from there for the last six months has come through very questionable sources, upon every subject, whether of incidents occurring there, or of their laws or their action. We are to take it for granted that the President has sent to us a body of information derived officially, on which he has rested the judgment he has given in his message. I submit to honorable Senators, therefore, whether we should not, for the propriety of the occasion, as well as for our own information, allow these documents to be printed as speedily as possible?

Being on my feet, I will take the occasion to declare that, if I understand by the President's message he means that the action of the Kansas convention, being a legitimate convention, be the action of the convention what it may, is to be respected by the Congress of the United States, I not only agree with him, but I here aver that there is no jurist in the land who could not demonstrate, as a question of law, that the Federal Government was bound to respect it under the

existing law—I mean the Kansas-Nebraska act. That act gave to those people the whole political power, without any reservation, submitting it only in its exercise to the Constitution of the United States. If we are now to criticize what they have done, provided they pursued the forms of their own laws—and I presume they did—far less if we are to abrogate it, we cannot do so unless we take back all that we have done, repeal the existing law organizing that Territory, and bring those people back to a state of pupilage by declaring to them, "we have trusted you with political power; you have shown yourselves incapable of exercising it; and, therefore, we, as your masters, will now govern you." I say such are the impressions I derive from all the information I have in relation to this subject. If I construe the President's message correctly, his position is entirely impregnable on that subject; but I should be exceedingly sorry to be obliged to go into this debate—and I should be very sorry if the honorable Senator from Illinois, who has given the challenge—I mean a challenge to public opinion—at the very first hop of the ball, should find himself constrained to go into this debate without having the benefit of all the information upon which the President's message rests. I hope, therefore, that the honorable Senator from Maine will not persist in his motion to refer the proposition to print; but that, as has been suggested for mutual convenience, the vote to print will be taken, and that the printing may go on while the debate continues, for it will take a long while, I presume, to print the voluminous mass of documents before us.

Mr. FESSENDEN. I had but a single object, and I do not feel disposed to urge it against the wish and feelings of Senators. My only desire was to call the attention of the Senate to what has been considered heretofore a matter of some consequence. I have no interest in it other than as one of the Senators.

Mr. PUGH. Allow me to make a suggestion which will, I think, obviate the difficulty. I suppose we do not care about seeing very soon the documents relative to foreign affairs. The Senator from Maine does not doubt that it will be important to print in full all the documents relative to Kansas. I suggest, therefore, that we make simply an order to print the ordinary number of the President's message and the documents relating to Kansas. The rest of it we can look after when we have a committee and printer.

Mr. DOUGLAS. I accept the amendment.

Mr. FESSENDEN. I have no objection to that.

Mr. TRUMBULL. Before the message passes from the consideration of the Senate at this time, I desire to say a word in regard to an assumption which is made in it, which I think is not founded in fact, and upon which the whole argument of the President in regard to Kansas is based. I believe it right and proper to combat error upon all occasions, and to meet it at the threshold.

The President, in treating upon this Kansas question, speaks of the convention which met at Leecompton, and framed a constitution, as if it were a legitimate convention. The honorable Senator from Virginia has just spoken of it as a legitimate convention. Now, sir, I deny *in toto* that that convention possessed any authority whatever; and I do not place my denial on the ground that the Territorial Legislature of Kansas was a fraudulent Legislature. I believe that to be so. I believe that the Legislature had no authority to act upon any subject; but, conceding that it was the legitimate Legislature of the Territory of Kansas, properly convened under the organic act, I deny that it had any authority whatever to initiate a convention to form a constitution for the people of Kansas, and destroy the territorial government.

The Congress of the United States, at its last session, refused repeatedly to authorize the people of Kansas to form a State constitution. Bill after bill was presented to give authority to the people to hold a convention and form a constitution, preparatory to admission into the Union; but all failed. Such an act was passed in regard to Minnesota, and such has been the usual course in regard to all the Territories. Now, I do not undertake to say that Congress may not take up and ratify the proceedings of a convention which is called without legal authority. They have done

so in several instances, as in Michigan and California. Congress has not always passed an enabling act in the first instance, but usually it has. I do say, however, that the convention which met to form a constitution in Kansas, under the authority of the Territorial Legislature, was not a convention convened in pursuance of law; because a Territorial Legislature has no authority to do any act destructive of the territorial organization, and the authority granted in the Kansas act authorizing the Territorial Legislature to legislate on all rightful subjects, not inconsistent with the Constitution of the United States and the organic act, is not different from the authority which was granted to Territories in previous instances. In looking at the act for the organization of the Territory of Minnesota, I find that its sixth section declares, "that the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of the" organic act. So, also, the territorial act establishing the Territory of Arkansas provided that its Legislature should have authority "to pass any law for the administration of justice in said Territory," which should not be repugnant to the organic act, or inconsistent with the Constitution of the United States. In regard to Michigan, the organic act gave authority to the Legislature to make laws in all cases for the good government of the district, not repugnant to the ordinance of 1787, under which it was organized.

Now, sir, I wish to call attention to a precedent on this subject, for it is no new question. Some years ago an attempt was about being made in the then Territory of Arkansas to get up a convention under the territorial act. The Governor of Arkansas addressed the President of the United States, at that time General Jackson, to know what course he should pursue, in case the Territorial Legislature attempted to call a convention to form a State constitution. General Jackson referred the communication to the Attorney General of the United States, and here is his opinion:

"The Legislative power is vested in a General Assembly, composed of two branches—the Legislative Council and the House of Representatives; both of which are elected by the people. The act providing for the government of the Territory of Missouri, approved June 4, 1812, and which is adopted in the laws relating to Arkansas, as defining the powers of the legislative department, declares 'that the General Assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of said Territory, not repugnant to, or inconsistent with, the Constitution and laws of the United States.' This part of the law is to be taken in connection with the other provisions contained in it; and when so considered, it will be seen that the whole law was designed to accomplish the single purpose of organizing a temporary territorial government, which was intended to remain subject at all times to the control of Congress, under the authority conferred upon it by the Constitution of the United States. In the exercise of this authority, Congress may, at pleasure, repeal or modify the laws passed by the Territorial Legislature, and may, at any time, abrogate and remodel the Legislature itself, and all the other departments of the territorial government.

"To suppose that the legislative powers granted to the General Assembly include the authority to abrogate, alter, or modify the territorial government established by the act of Congress, and of which the Assembly is a constituent part, would be manifestly absurd. The act of Congress, so far as it is consistent with the Constitution of the United States, and with the treaty by which the territory, as a part of Louisiana, was ceded to the United States, is the supreme law of the Territory; it is paramount to the power of the Territorial Legislature, and can only be revoked or altered by the authority from which it emanated. The General Assembly and the people of the Territory are as much bound by its provisions, and as incapable of abrogating them, as the Legislatures and people of the American States are bound by and incapable of abrogating the Constitution of the United States. It is also a maxim of universal law, that when a particular thing is prohibited by law, all means, attempts, or contrivances to effect such thing are also prohibited. Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a constitution and State government, nor to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

This was the ground taken by the administration of General Jackson in regard to Arkansas; and the position is an unanswerable one. Any law passed by the Territorial Legislature of Kansas—which possessed no greater authority than the Territorial Legislature of Arkansas—initiating a convention, is utterly null and void.

The Attorney General then goes on to discuss the right of the people to petition, and to get up a Government and present it to Congress, asking

to be admitted as a State into the Union. He argues that they have no power to put into operation a constitution emanating from the people, without congressional authority, but they have the right to assemble and petition for a redress of grievances, and, if they think proper, to present their petition in the form of a constitution, as the people of Kansas did the Topeka constitution, leaving it to Congress to determine whether to admit them or not. But this convention which met at Lecompton originated in a call of the Territorial Legislature, and is entitled to just as much respect, and no more than would be a call emanating from the same number of persons who are equally respectable, and not members of that Legislature.

But, sir, there is other authority than the Administration of General Jackson and the opinion of the Attorney General in 1835. We have authority which I apprehend will be satisfactory even to the Senator from Pennsylvania, [Mr. BAKER,] who indorsed this message in full. In the debate which took place upon the admission of Michigan into the Union, an objection was raised that the convention which assembled in the Territory of Michigan had not been authorized by the Territorial Legislature, but emanated from spontaneous meetings got up in the Territory—a sort of voluntary convention. Mr. Buchanan answered that objection.

Mr. HALE. What Buchanan was that?

Mr. TRUMBULL. Mr. James Buchanan, now President of the United States. I will read what he said from the Congressional Globe of that day:

"We ought not to apply the rigid rules of abstract political science too rigorously to such cases. It has been our practice heretofore to treat our infant Territories with parental care, to nurse them with kindness, and when they had attained the age of manhood, to admit them into the family without requiring from them a rigid adherence to forms. The great questions to be decided are: Do they contain a sufficient population? Have they adopted a republican constitution? And are they willing to enter the Union upon the terms which we propose? If so, all the preliminary proceedings have been considered but mere forms, which we have waived in repeated instances. They are but the scaffolding of the building, which is of no further use after the edifice is complete. We have pursued this course in regard to Tennessee, to Arkansas, and even to Michigan. No Senator will pretend that their Territorial Legislatures had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

That was the language of James Buchanan, now President of the United States, who encamped his army round about this Lecompton convention, declared it legal, and now talks about it as a legitimate convention, and speaks in his message here of an election which is to be held under its authority as legitimate. It was an act of usurpation on the part of the Legislature, to use his own language, ever to have passed an act calling into being a convention to form a State constitution. How idle is it then to talk of this Lecompton convention as a legitimate one, emanating from competent authority! In the same speech, from which I before read, Mr. Buchanan remarked:

"The Senator from Ohio [Mr. Ewing] has contended that the second Michigan convention had no power to assent, because the first convention which was held had refused."

"Mr. Ewing said he had asked whether, if the first convention had assented to the condition proposed by the act of Congress, there would have been any objection to this assent because it had been called by virtue of an act of the Legislature?"

"Mr. BUCHANAN said certainly not. It never could have been contended that this act of the Legislature had vitiated the subsequent proceedings of the convention. Although it was not necessary to give them validity, yet it would not destroy them. It could neither make the case better nor worse."

That was the opinion of Mr. Buchanan in regard to the authority of a Territorial Legislature possessing all the powers under the organic act which the Kansas Territorial Legislature possessed to call a convention to form a constitution. Now, sir, I undertake to say that this Lecompton convention was not a legitimate convention; that it possessed no authority whatever, and that all its enactments which it has undertaken to carry into effect, such as ordering an election to be supervised by its president, are void; that every act which it has attempted to establish over the people of Kansas without their subsequent ratification is, in the language of Mr. Buchanan, a *usurpation*, and no man is bound to

submit to it. If the convention submit their proceedings to the action of the people, and the people indorse them, that might give them validity; but without such indorsement they can have no binding force, because they do not emanate from a legitimate source.

There is one other point in regard to this Kansas matter to which I desire to allude. The President speaks of the submission of the slavery question to the people of Kansas in the manner in which it is submitted—but imperfectly at the most—as a fair carrying out of the principle of the Kansas-Nebraska bill. That bill has been held up before the country as establishing the great principle of self-government; as establishing the principle for which our fathers fought to secure our independence—the principle of allowing the people to regulate their own domestic institutions in their own way; and what does it amount to, according to Mr. Buchanan? It amounts simply to giving the free white people of Kansas a right to determine the condition of a few negroes hereafter to be brought into the State—and nothing more. The condition of those now there cannot be touched. To this has the great principle of self-government now come, according to the recognized exponent of the party which inaugurated the Kansas act! The free people of Kansas have no right, under the Lecompton constitution, to determine on the organic law under which they shall live. They have no right to determine the institutions for the government of white men—not at all. They cannot determine what sort of a Legislature they shall have, of how many members it shall consist, what the qualifications for membership shall be. They cannot pass on the right of suffrage. They cannot determine as to the creation of banks, other corporations, and a thousand other things which are put into the constitutions by the people in all our States, for the government of free white men; but they may determine what shall be the condition of a few negroes, hereafter to be introduced; and that is the great principle of popular sovereignty according to the message!

I shall have occasion at some future time, to speak more at length in regard to this document. My only object in rising now was to meet the assumption, not founded as I conceive in correct law, that the convention which assembled under the authority of the Territorial Legislature was a legitimate convention. It was not as good a convention as the one which met at Topeka, because that convention did emanate from a portion of the people at least, whereas the Lecompton convention emanated, as I insist, from a set of usurpers.

Mr. BROWN. An hour and a half since, I moved an adjournment; because I then saw, and stated, that we were about to be hurried prematurely into a discussion of the merits of this message. A document of so much importance needs, I think—so far as I myself am concerned I know—to be deeply studied before Senators can express opinions upon it which are to bind them, and, to a very great extent, give direction to public opinion throughout the Union, and, I may say, throughout the world.

There seems to me, sir, to be an eagerness to enter upon this discussion; an anxiety to find fault on the one side, and to applaud on the other, but more especially it seems to find fault with the message imperfectly heard from the Secretary's desk, and perhaps more imperfectly understood. Among the junior members of the Senate, the appeal perhaps comes badly from me to ask a day, that Senators may sleep a night on this document before they insist on embracing opinions, and sending them in newspapers and upon telegraphic wires throughout all the country, to give direction to public opinion upon great questions, particularly upon one question which the Senator from New York has indicated, may yet give rise to civil war. I cannot follow the logic of that Senator, when he says that he is anxious, impatient for the debate; but yet, as I understood him, he said that, before we reached the coming in of the next year, we might have civil war in Kansas. Sir, if there be civil war lying in our path, and not a month off, how vastly important must it be to this deliberative body that every Senator who speaks shall speak upon deliberation.

Have Senators well considered the importance which the country will attach to words spoken here to-day, perhaps lightly thrown off, the im-

pulses of the moment, the feelings of the instant produced by the reading of the important paper? Yet, sir, at the very moment while I address this august body, words already spoken here are being carried to the remotest part of the Republic to produce their impression. Possibly, before this body shall have met again to-morrow, these words will be in print and be read in Kansas to inflame public feeling there. I implore Senators to consider well before they take positions and utter sentiments which I am sure cannot be well-matured on fifteen minutes' reflection, or rather upon no reflection at all. To test the sense of the Senate on this question, I renew my motion to adjourn; and I will not withdraw it at the instance of any Senator.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 8, 1857.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

QUALIFICATION OF A MEMBER.

Mr. JOHN C. KUNKEL, a member from the State of Pennsylvania, appeared and took the oath to support the Constitution of the United States.

ELECTION OF PRINTER—PERSONAL EXPLANATION.

Mr. CLEMENS obtained the floor.

Mr. HOUSTON. I arise to what I suppose to be a privileged question—that is, to complete the organization of the House.

The SPEAKER. The gentleman from Alabama cannot take the floor from the gentleman from Virginia, on a motion to proceed to complete the organization of the House.

Mr. HOUSTON. Well, I hope the gentleman from Virginia will allow us to complete the organization of the House before he proceeds to other matters.

Mr. CLEMENS. I will do so with great pleasure, if the Speaker will assign the floor to me when the organization is complete. I beg the unanimous consent of the House for the purpose of making a personal explanation.

Mr. HOUSTON. I hope the gentleman will allow us to complete the organization of the House, and then he can make his personal explanation.

Several MEMBERS. That is right.

Mr. SMITH, of Virginia. I would suggest to the gentleman from Alabama that perhaps there would be some objection to my colleague going on after the organization of the House.

The SPEAKER. Does the Chair understand the gentleman from Alabama as objecting?

Mr. HOUSTON. I do object for the present. And now I move that the House proceed to the election of a Printer to the Thirty-Fifth Congress; and on that I ask the previous question.

Mr. SMITH, of Virginia. I would be very glad—and I would state that it is important it should be done—that this resolution which I send up should be first acted on.

Mr. CLINGMAN. I understood the gentleman from Alabama [Mr. HOUSTON] to object to the explanation of the gentleman from Virginia, [Mr. CLEMENS,] and to offer his motion. Then, I object to the proposition of the gentleman from Virginia, and insist on the regular order.

Mr. SMITH, of Virginia. Will it be in order to move to lay the motion of the gentleman from Alabama on the table?

Mr. CLEMENS. I appeal to the gentleman from Virginia to let me make my statement.

Mr. SMITH, of Virginia. The gentleman from Alabama [Mr. HOUSTON] is the gentleman to be appealed to.

Mr. CLINGMAN. I raise the question of order that this discussion is out of order.

The SPEAKER. Debate is entirely out of order if objection be made, the previous question having been demanded.

Mr. CLEMENS. I desire simply to state that my personal explanation relates to the election of Public Printer.

Mr. CLINGMAN. I insist on my point of order.

The SPEAKER. Debate is not in order.

Mr. STEPHENS. All of us who want to hear the explanation of the gentleman from Virginia

[Mr. CLEMENS] should vote down the previous question, and then he can speak.

Several MEMBERS. That is right.

Mr. SMITH, of Virginia. I stated that I had a resolution to offer in connection with this question. Is it in order to make a motion of this description—to lay the motion of the gentleman from Alabama on the table? On that motion I desire to make some remarks, if it is in order.

The SPEAKER. The motion is not debatable.

Mr. SMITH, of Virginia. Then I ask that my resolution, which is very brief, shall be read.

Several MEMBERS objected.

Mr. SMITH, of Virginia. I move to lay the motion of the gentleman from Alabama on the table; and on that I call for the yeas and nays.

Mr. CLEMENS. I appeal to the friends of Mr. Wendell to permit me—

The SPEAKER. The gentleman from Virginia [Mr. CLEMENS] is not in order.

Mr. SMITH, of Virginia. At the suggestion of gentlemen around me, I will agree to withdraw my motion, and will concur in voting down the previous question.

Mr. CAMPBELL. I rise to make an inquiry. If the demand for the previous question be voted down, I presume that the proposition of the gentleman from Alabama will be then debatable, and that the gentleman from Virginia [Mr. CLEMENS] will have the opportunity of making his personal explanation.

Several MEMBERS. Certainly; we understand it.

Mr. CAMPBELL. And, as I am in favor of free discussion, I am in favor of voting down the previous question.

Mr. HOUSTON. I object to this debate in the shape of an inquiry.

The SPEAKER. It is not in order.

Mr. HOUSTON demanded tellers upon seconding the demand for the previous question.

Tellers were ordered; and Messrs. HOUSTON, and SMITH of Virginia, were appointed.

The question was taken; and the tellers reported—ayes forty-eight, noes not counted.

So the previous question was not seconded.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had appointed a committee to join a committee appointed by this House to wait upon the President of the United States to inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make.

PERSONAL EXPLANATION RESUMED.

Mr. CLEMENS. I beg leave now to submit the following correspondence, which sufficiently explains itself:

WASHINGTON CITY, December 6, 1857.

DEAR SIR: I had left the caucus last night a few moments before the incident occurred to which I now take the liberty of inviting your attention. I learn that in the course of your remarks upon the proposition to postpone the nomination of a Public Printer, you were understood very broadly and distinctly to intimate that you were possessed of some facts calculated to impeach the integrity of Mr. Wendell, the present incumbent of that office, and although several times interrogated, that you declined to disclose to the meeting the facts upon which you based your conclusions as to his character. As the caucus will resemble to-morrow night for the purpose of acting upon the only unfinished business, the nomination of a Public Printer, allow me, as one of your colleagues, to inquire what are the facts upon which you have made this attack upon Mr. Wendell? I wish them for the guidance of my conduct in the choice which I shall be called upon to make between the competing candidates. And permit me further to suggest the propriety of your authorizing me to submit your reply to Mr. Wendell, that he may have an opportunity of making such explanations or defense as the case may require. In making this last suggestion, I am not acting at the instance nor as the friend of Mr. Wendell, for I have had no conversation with him on the subject, nor have I as yet at any time decided to give to him my support as Public Printer. But I think some such course on your part would be fair, manly, and just—due to your own character, due to your associates in Congress, and especially due to an individual who, whatever may be his errors, did, to my certain knowledge, in the presidential canvass of 1856, signalize his zeal for the success of the Democratic party by acts of extraordinary liberality and public spirit.

Yours, truly,

CH. JAS. FAULKNER.

Hon. SHERRARD CLEMENS.

Mr. KEITT. I rise to a question of order, I wish to know what connection this matter has with the motion before the House, which I understand to be the election of Printer to the House?

I do not wish to throw any obstacle in the way of the gentleman from Virginia, but if the character of the Democratic party is arraigned and upon trial, or if the character of Mr. Wendell as an officer of this House is arraigned and upon trial, I can see some pertinency in this course; but if neither the character of the Democratic party nor of Mr. Wendell is on trial, I beg to know what pertinency there is in this matter to the question before the House?

The SPEAKER. The Chair does not like to rule the remarks of the gentleman from Virginia out of order, for he does not know the application he proposes to make of the correspondence he has read.

Mr. KEITT. I then take the ground that it requires unanimous consent to proceed.

Several VOICES. He has it.

The SPEAKER. The Chair does not so understand it. The motion of the gentleman from Alabama [Mr. HOUSTON] was to proceed to the election of a Printer. The previous question was demanded, but not seconded. The gentleman from Virginia sought the floor—and was recognized by the Chair—to speak upon the pending proposition, "Shall the House proceed to the election of a Public Printer?" He has the floor upon that question. The Chair thinks that the remarks of the gentleman from Virginia, if objection is made to them, are out of order, because of their irrelevancy.

Mr. STEPHENS. It seems to me that anything which the gentleman from Virginia may say relating to the public printing, or the candidates before the House, would be relevant. The letter which the gentleman is reading relates to the public printing; and it may be that the gentleman will follow it with some remarks upon that correspondence directly pertinent to the question before us.

The SPEAKER. That is true; and the Chair regretted that the point of order was pressed, inasmuch as the gentleman from Virginia might make the discussion entirely relevant and legitimate.

Mr. STEPHENS. I trust the gentleman from South Carolina will withdraw the objection, and let us hear the gentleman from Virginia.

Mr. CLEMENS. I trust my friend from South Carolina, as an act of justice to myself, will withdraw his point of order.

Mr. KEITT. I withdraw it.

Mr. CLEMENS, (resuming.) To this letter of my colleague I gave the following reply:

WASHINGTON CITY, December 7, 1857.

DEAR SIR: Your letter of yesterday was left, in my absence, in my room.

After a night's deliberation upon the only suggestion in it which it is requisite for me now to notice, I have concluded that, under the circumstances, it is more manly to apprise the Printer of the House of the nature of the accusation which I shall bring against him.

As you have voluntarily proposed to be the medium to accomplish this object, I empower you to submit the inclosed statement, in writing, (which I shall lay before the Democratic caucus to-night) to him, and, under no circumstances, to any other person.

I shall be obliged to you to return to me the said statement, with this letter, in time for the meeting this evening.

Very truly, yours,

SHERRARD CLEMENS.

Hon. CHARLES JAMES FAULKNER.

The statement inclosed in this letter was as follows:

Statement prepared to be submitted to the Democratic caucus of members of the House of Representatives, for the Thirty-Fifth Congress, at the adjourned meeting, December 7, 1857.

After what occurred in the Democratic caucus on Saturday night last, I had a right to expect that I should be called on, in some authoritative form, for the facts upon which the statement I then orally made was predicated. I proceed, therefore, to detail them in writing. I have hitherto systematically refused to answer any personal interrogatories upon the subject, for the simple reason that I had the right to place the whole affair in written language, beyond misconstruction or misrepresentation.

It may be well to state, in the outset, that I am not acquainted with the present Printer of the House, and do not even know him by sight.

On Saturday last, the 5th day of this month, I was accosted by a person with whom I have had an acquaintance of some years' standing. At the close of a somewhat protracted conversation, he informed me that he was interested in procuring the House printing, during the present Congress, for Cornelius Wendell, of New York, at present Printer of the House.

He suggested that a specific consideration could be secured to my mother, dependent upon one of two contingencies: First, That I should cast my vote for said Cornelius Wendell, in the election for House Printer at the present session; Second, That I should abstain from voting

by absenting myself from the House at the time of the vote.

Without dilating upon my emotions at such an overture, it is sufficient to say, that I referred him to the sixth section of the act of Congress of February 26, 1853, by which the proposed crime was punishable; I told him that he had put himself in my power; that he had mistaken his man; that the intimation of such a thing was a gross personal insult to myself; and that I should exact from him the amplest reparation.

He became deeply agitated; supplicated my pardon in the most impassioned terms; said that he had been mistaken and misled; that he knew I had the power to ruin him, and all connected with him, and beseeched me to spare him the infamy which would attach to the exposure of his name. At present, I have nothing further to say, except that he never has been, to my knowledge, a citizen of Virginia; and that in this whole affair, I have acted on my individual responsibility alone, and that the course I have taken has been prompted entirely by the duty I owe the Government, whose officer I am.

This statement I am ready to verify in the most solemn of all forms.

SHERRARD CLEMENS.

My colleague then addressed the following letter to Mr. Wendell himself:

WASHINGTON, December 7, 1857.

SIR: I herewith inclose to you a letter and statement received this morning from Hon. SHERRARD CLEMENS, which, in fairness and justice, should be promptly laid before you for such explanations as you may deem proper. I should be pleased to have your reply in time to lay it before the Democratic caucus, which meets this evening at 7 o'clock. You will perceive, from the letter of Mr. CLEMENS, that he does not wish his statement shown to any other person than yourself. This, in my judgment, does not preclude you from showing it to some few confidential friends with whom you might choose to consult on the subject.

I am, truly, yours,

CH. J. FAULKNER.

CORNELIUS WENDELL, Esq.

Subsequently, Mr. Wendell addressed the following letter to my colleague:

WASHINGTON, D. C., December 7, 1857.

SIR: Herewith I inclose you my reply to the statement of the Hon. SHERRARD CLEMENS.

You will very much oblige me by laying the same before the Democratic caucus this evening.

With sentiments of the highest regard, I remain your obedient servant,

C. WENDELL.

Hon. C. J. FAULKNER.

This is the statement to which reference is made in Mr. Wendell's letter:

To the Honorable the Democratic Members of the House of Representatives:

GENTLEMEN: The Hon. SHERRARD CLEMENS having, at the earnest solicitation of my friends, submitted to me a copy of a statement, indirectly affecting my character, which statement he intends to lay before you this evening, I reply:

First.—I have no knowledge of the facts alluded to, other than that contained in his paper.

Second.—So far as the inference is sought to be drawn from his statement that any person approached him in an improper manner, with my authority or knowledge and in my behalf, I hereby most solemnly deny, and earnestly protest against any such inference on the part of any gentleman, based as it is, thus far, on a nameless author; and am utterly at a loss to imagine who the individual is to whom he alludes.

If the Hon. SHERRARD CLEMENS, or any other member, has any charge to make against me, touching the public printing or otherwise, and which shall be made to assume a tangible form, susceptible of disproof, I hold myself ready to disprove it to the satisfaction of every unprejudiced and honorable man.

I do most solemnly assert that I have never directly or indirectly, either in person or by any agent, offered any pecuniary or other consideration to any member of Congress, to secure their vote for me for the office of Public Printer. This declaration I wish to be understood as full, clear, and explicit, without any mental or other reservation, denying and defying the proof in any manner or shape whatsoever.

Relative to other charges of plunder and corruption—emanating, as they heretofore have, from the hungry leeches who infest the lobbies of the House, too lazy to work, too proud to beg, and too cowardly to steal openly—I have not heretofore deemed them worthy my notice. But finding their assertions have produced an impression upon some members who are personally unacquainted with me, I now challenge and defy any and every one of them to substantiate even the least of their allegations against me.

In conclusion, as I am not personally acquainted with Mr. CLEMENS, I would take this occasion to state that I should take it as a great personal favor if he would communicate to me privately, if he does not wish to do so publicly, the name of the individual who thus dared to approach him in my behalf.

With great respect,

C. WENDELL.

Now, Mr. Speaker, up to this moment, I do not know Cornelius Wendell. I have had no conscious conversation with him at any period of my life. I do not know him even by sight; and in this whole affair, from its commencement to its close, I aver here, on my responsibility in the dread hereafter, that I have had no purpose to accomplish—that I have had no end to subserve—except the duty which I conceived was due to myself and to my country. Acting on this line of duty, and on this alone, I have conceived it incumbent on me, in the position in which I have been placed, to eliminate this question of all

matters touching myself personally; and to that end, since last evening when I retired from the Democratic caucus, I have made it my purpose to prosecute the necessary inquiries with reference to the person referred to in the paper that has been read. It will be remembered that the occurrence took place on Saturday last. I intimated it to a colleague, who is now in my eye, and to him alone. I came to the Democratic caucus that evening, fretting under the emotions which the proposition itself produced; and, actuated by the convictions of my heart, when the name of Mr. Wendell was presented, I stated in the hearing of every one who was then present, that Mr. Wendell was at least most unfortunate in his friends; for, however it might be with him, corruption at least attached to them. Is or is not that the statement in substance which I made, at the time to which I refer? I call on the gentleman from Virginia—my colleague—who sat by my side, to say whether that is not the substance of what I said?

Mr. HOPKINS. I recollect that that was the substance.

Mr. CLEMENS. After Saturday the events are sufficiently explained in the correspondence. I have conceived it my duty, acting in the path to which I have referred, to see whether the person referred to in the inclosed statement would, or would not, stand up to what he said. I am satisfied that there is a disposition on his part to skulk behind my body from the disgrace in which he has voluntarily involved himself; and, although he has forfeited all claim at my hands, there is something due to his family and to his connections; and—unprincipled scoundrel as he is—I profess that I am not here to stand as his protector, but to act as a shield for those who are innocent, and to protect them from the effects of his acts.

Under these circumstances, then, I conceive it to be nothing more than a public duty to say, weighing calmly and impartially everything connected with this, the most disagreeable subject of my life, I take this occasion to avow that, under all the circumstances, and as my mind is at present inclined, I take the statement of Mr. Wendell in preference to that of the person referred to in so far as Mr. Wendell denies all complicity in, or knowledge of, the proposition which was made to me.

I shall go no further than that; I conceive it to be an act of simple duty; and I do this act of justice to a man whom I never saw in my life, simply because I do not desire hereafter, come what may, to let the reflection rest on my conscience of having, either knowingly or unknowingly, done an act of injustice to a man who may possibly be innocent.

Mr. SMITH, of Virginia. The question is on proceeding to the election of Printer. I move to amend the motion, by substituting the following resolutions:

Resolved, That a committee be appointed by the Speaker to examine into the laws in relation to the printing for the House of Representatives, the prices paid therefor, and the duties of the Public Printer, whose duty it shall be to report thereon with the least practicable delay, together with such change or improvement therein as they may deem advisable.

Resolved, further, That until such report and action thereon by this House, the election of Public Printer shall be postponed.

Mr. HOUSTON. I rise to a question of order. Is the resolution now before the House? If not, then I object to it, because there is a pending proposition, to which it cannot be offered, either as an amendment by way of substitute, or otherwise.

The SPEAKER. The resolution can only be received as a substitute for the motion of the gentleman from Alabama. The Chair thinks it is in order as a substitute.

Mr. SMITH, of Virginia. I beg to assure you, sir, and this House, that I have no purpose to subserve, no interest to promote, no object to effect, except that which is in harmony with the duty that I owe to myself and to the country. It is known to this House—for we are from the people—that there is a very profound complaint existing in the public mind as to the enormous expense to the Treasury of this branch of the public service. It is known, also, I presume, to every member of the House, that it is believed this enormous expenditure is connected more or less with very large corruption. Under such cir-

cumstances as these, it is our duty as representatives of the people, and as the guardians of the public interests, to institute an investigation into a subject connected so gravely and so seriously with the well-being of the country. It is represented, and believed, that there was a profit realized of forty per cent. upon the public printing of this House for the last session. It is believed, sir, that the printing ordered during the last Congress, amounting to \$2,000,000, will pay a profit of \$800,000. It is believed that the Public Printer elected to-day could sell his rights and privileges for a quarter of a million of dollars, the money to be paid within thirty days after those rights are vested.

Is it possible, under such circumstances, that this House will hesitate to institute an inquiry by which the truth of these allegations and representations are to be ascertained? Is it possible that this House can pause for an instant in their course in relation to a subject which involves so heavy an expenditure, and one which pays so heavy a profit to the person performing the duty of Public Printer?

Mr. CLINGMAN. I think, if the gentleman will make one modification of his resolution, it will not meet with opposition from any quarter. Let us go on and elect a Printer, and then raise a committee to investigate the matter.

Mr. SMITH, of Virginia. I understand that suggestion, and I think that the gentleman who makes the suggestion, and his friends, must know that a suggestion of that sort amounts to nothing as a measure of reform. We know perfectly well that the Public Printer is not only an officer, but an officer who acquires vested rights which cannot be disturbed. Anticipating that this suggestion would be made, I came here, not only with the general principles familiar to every lawyer in this Hall, but with the act providing for the appointment of a Public Printer, and prescribing his rights and duties, in which this very point is provided for.

Mr. CLINGMAN. Is not the gentleman's proposition a proposition to keep in the present Public Printer?

Mr. SMITH, of Virginia. Now, see how the cat jumps! I will read the thirteenth section of the act passed in 1852:

"And be it further enacted, That all acts or joint resolutions conflicting with the provisions of this act are hereby repealed; and nothing herein contained shall be construed to authorize the cancellation of any contract now or heretofore entered into with any printer under the law heretofore in force, or to abrogate his rights in any way, without his consent."

So, you observe, that the very question involved—the vested rights of the Public Printer—is guarded in the act passed in 1852. If, then, we go into the election of a Public Printer now, the Printer we may elect will acquire rights beyond our reach during the present Congress. He will be able to reap this rich harvest, which has been reaped heretofore by every man who has filled the office of Public Printer. Every man, within my recollection, who has occupied that office, has grown suddenly rich. I say suddenly rich, because he has realized a fortune in a year, which is seldom acquired only by the labors of a life time.

It is not my purpose to discuss this subject at large, and I propose now only to answer a single objection. The gentleman from North Carolina [Mr. CLINGMAN] says that the effect of the adoption of this resolution will be to keep in office the present Printer. Somebody must do the work. The resolution I have had the honor to submit, provides for the appointment of a committee whose duty it shall be to make a report without unnecessary delay. All parties will be interested to bring the matter to a termination at the earliest possible moment. In view of the heavy expenditure in printing, it becomes the duty of the majority of this House, as also it is the duty of the minority, to concur in a reform by which this burden is to be taken, to some extent, from a Treasury now almost exhausted.

I have submitted this view of the subject because I deemed it my duty. I shall be perfectly content with the decision of the House. Each member will give his vote upon his own responsibility, and to that decision I am perfectly willing to leave the subject. Thank God I have no personal feeling, and no purpose to subserve in the matter.

Mr. KEITT. I suppose it is proper that I should say I have no purpose to subserve; and I may add, from the manifestations around me, that the country will be admirably taken care of. It seems that we are all for the country, and not for ourselves, or the "rest of mankind."

The proposition now before the House is not Mr. Wendell or anybody else. It is whether we shall proceed to the election of a Public Printer in the usual and ordinary way. My friend from Virginia [Mr. SMITH] says: "I care nothing about this matter; I rise to a question of public importance, and I shall be satisfied with the decision of the House." Very good. I understand, then, that he cares nothing about Mr. Wendell or anybody else, and that he knows no one in the matter. But my friend from North Carolina [Mr. CLINGMAN] said to him, "modify your resolution, and provide for the election of a Public Printer, and the appointment of a committee to inquire afterwards." "Ay," says my friend from Virginia, "your party is now in power, and you want your man."

Mr. SMITH, of Virginia. I beg leave to say that I have no recollection of having referred to "your party." You may say "your party."

Mr. KEITT. He referred to our friends upon this side. "Well," said the gentleman from North Carolina, "do not you want to keep in the present Public Printer?" "Now, see how it jumps," replied the gentleman from Virginia. The other side wants—what? Not the present Public Printer. What does the gentleman from Virginia want? He wants the present Public Printer—at least that is the inference from what he says.

But my friend from Virginia says he would not have voted for Wendell until after this attack. What does this attack mean? What does the gentleman say? That men in two years have grown suddenly rich. Did he not say that we had run up our printing bill most extravagantly, and that corruption stains it? If, then, corruption stains it, I ask whether corruption does not stain the Public Printer?

Mr. SMITH, of Virginia. Will the gentleman be good enough to remember what I said?

Mr. KEITT. I will try.

Mr. SMITH, of Virginia. I said it was a known fact that the expenses of the public printing, for the last two years, were of the most onerous and enormous character; and I said that the impression on the public mind is, that this expenditure is the cover of large corruption. That is what I said. I expressed no opinion upon the subject, for I know nothing about it.

Mr. KEITT. Exactly; but the gentleman from Virginia, in embodying the rumors and impressions of the community, gives his sanction to them, more or less; and I say that by any expression, upon his part, of rumors of corruption, he more or less discolors and stains the character of the Printer. These charges of corruption, by implication, come now from those who are defending Mr. Wendell—not from those said to have made the charges. The gentleman says he would not have voted for Mr. Wendell until the charges were made. If the charges for the public printing have been onerous—the gentleman did not say unjust, but that is a necessary inference—or if there has been an unusual and unnecessary quantity of printing done, and in this way the bill has been run up, then the error lies somewhere; it lies either in this House, in the Committee on Printing, or in the Public Printer. Bring it down as you may, it must come to a charge against the House, the Public Printer, or the Committee on Printing. Well, sir, I am willing to investigate the matter; but while we are investigating charges here of extraordinary extravagance on the part of the Printer, shall we continue him in office? We are asked to postpone the election in order that we may examine into this matter. If it be of sufficient magnitude to make us hold our hand, is it not of sufficient magnitude for us to get somebody else to carry on the printing *ad interim*?

Mr. SMITH, of Tennessee. I wish to make a statement to the gentleman just at this point; and I desire to do it because it is known to all the members of the House that I was one of the warm friends of Mr. Wendell. I did not do him much good, but I did all I could for him, because I believe him to be an honest man, and a good printer. I state here, by his authority, that he

adheres to, and feels himself honorably bound by, the action of the Democratic caucus, and that he supports the nominee of that caucus.

Mr. KEITT. Oh, I suppose so. I am only arguing against the suggestions of the gentleman from Virginia. I have no doubt the Democratic party will stick to their nominee. Those who know as well as I do what good disciplinarians they are, will have no doubt about that. I do not belong to that party myself. I am a sort of outsider. I did not go into the caucus. I am not bound by its decision. I shall vote for its nominee because he suits me: if he had not done so, I should have voted against him. I am arguing now only against the proposition of the gentleman from Virginia for a postponement of the election. I say that if there is any necessity at all for a postponement upon the ground which has been stated by him, then we should at once get rid of the present Printer, and elect some one to fill his place *ad interim*. Why not then accept the proposition of the gentleman from North Carolina, [Mr. CLINGMAN]—go on now and elect a Printer *ad interim*, and then raise a committee of investigation afterwards. I believe, sir, I will move the previous question.

Mr. SMITH, of Virginia. I hope the gentleman will let me say a word or two. I am very glad of the remark made by the gentleman from Tennessee, [Mr. SMITH], because it shows that I have no connection with Mr. Wendell.

Mr. KEITT. Oh, I did not charge that you had any.

Mr. SMITH, of Virginia. It shows that I had no purpose to subvert his interests. Now I shall be perfectly satisfied if gentlemen will agree to elect a Printer *pro tempore*, and not for the Congress. I do not care who he may be. But my object is to prevent an election for the entire Congress, giving vested rights, and placing any reform beyond the power of the House. Can any gentleman who really desires the good of the country, and sound, healthy reform in the public expenditures, object to that? Can the gentleman from South Carolina object to it?

I have already read a section from the act creating the existing establishment, to show that Congress itself has guarded the rights that may vest in this officer at his election, and provided that they shall not be taken away from him. I say again, that I have no personal interest in the world in this matter. Gentlemen can see, from the statement made by the gentleman from Tennessee, [Mr. SMITH], that I am in connection with nobody. I did not even consult a colleague or brother member upon this question. It is my own movement, and, thank God! I am very much in the habit of acting just as I please.

Mr. SMITH, of Tennessee. I desire to say a word, because I am very anxious that we shall not get into a wrangle at this time in reference to the organization of the House. I am satisfied that it will do harm and no good. I think that all these imputations of corruption that go out in every direction against both sides are only bringing discredit upon Congress, are doing no good to the country, and are stopping up and clogging the business of the House. As a friend of Mr. Wendell, I state that he stands by the action of the caucus, and will not inquire into the means by which the nomination was obtained. I do not know Mr. Steadman. I was very much mortified at Mr. Wendell's defeat. But the best way, in my judgment, is to go on and elect a Printer. Let us have no distraction in the House as we had two years ago. And then, if an investigation is needed, let a committee be raised; and, as a friend of Mr. Wendell, I say that he bids defiance to all who charge him with corruption. I am for Mr. Steadman, and I am in favor of going on with the election of a Public Printer now, and having no wrangle here, which can have the effect only to bring discredit upon the House of Representatives.

Mr. KEITT. I will now yield the floor to the gentleman from Alabama, [Mr. HOUSTON], to enable him to modify his resolution.

COMMITTEE TO WAIT ON THE PRESIDENT.

The Committee on the part of the House, appointed yesterday to wait upon the President of the United States and inform him of the assembling and organization of Congress, and that the House was prepared to receive any communication he desired to make, appeared at the bar; when

Mr. FLORENCE, the chairman of the committee, reported that the committee had performed the duty assigned to them, and that the President had replied that he would immediately communicate to the House a message in writing.

ELECTION OF PUBLIC PRINTER—AGAIN.

Mr. HOUSTON. I propose to modify my motion, and put it in the form of a resolution; not that I believe in the correctness of the conclusions of the gentleman from Virginia, [Mr. SMITH], for I do not. I have no doubt we have the power at any time to reduce or in any way change the rates of pay or any other part of the law regulating that subject, but I do not wish to argue the question with him at this time, because I do not want to consume the time of the House in useless debate; nor do I want to see those with whom I act seem to be placed in opposition to ample and proper reforms in the public printing. I am willing that the matter shall be investigated. If abuses exist, let them be exposed, and let the law be so modified as to secure the public interests, and to secure, as far as we can, the fidelity and good conduct of the officer we may elect. I do not desire to comment at all upon the very extraordinary zeal of the gentleman from Virginia, [Mr. SMITH]. New lights seem to have broken in upon the vision of my distinguished friend, who, notwithstanding he has been for many years a member of the House of Representatives, has until now remained perfectly quiet, and even silent, upon the subject of the enormous profits of the Public Printer. I will pass that by for the present. I propose to modify my resolution, so as to put it in a shape to which there can, I think, be no objection, and I will accept, as an addition to it, the first part of the resolution offered by the gentleman from Virginia.

Mr. HOUSTON's resolutions, as modified, are as follows:

Resolved, That the House now proceed to the election of a Printer for the House of Representatives during the Thirty-Fifth Congress, with the proviso that the House retains the right in Congress to modify the existing law on the subject of public printing, as it may see proper, the Printer who may be elected under this resolution receiving said appointment or election with and upon the condition above set forth.

Resolved, That a committee be appointed by the Speaker to examine into the laws in relation to the printing for the House of Representatives, the prices paid therefor, and the duties of the Public Printer, whose duty it shall be to report thereon, with the least practicable delay, together with such change or improvement therein as they may deem advisable.

Mr. KEITT. I now call the previous question.

Mr. SMITH, of Virginia. I am willing to withdraw the last resolution; but I take this occasion, while I am on the floor—

The SPEAKER. Debate is not in order. The gentleman from South Carolina has moved the previous question.

Mr. MARSHALL, of Kentucky. I rise to a question of order. It is, that this last resolution which was offered as an amendment, is not in order, as it proposes a modification on the part of the House which would dispense with the law of the land.

Mr. HOUSTON. That is a matter of construction for the House, and not for the Speaker.

Mr. MARSHALL, of Kentucky. I wish to discuss the question of order.

Mr. CLINGMAN. I suggest that debate cannot exist on the previous question.

The SPEAKER. The Chair is very well aware of that. The gentleman from Kentucky cannot discuss the question of order.

Mr. MARSHALL, of Kentucky. I can draw attention, I suppose, to the question of order, so as to make it understood.

The SPEAKER. The gentleman can state his point of order.

Mr. MARSHALL, of Kentucky. I hope the gentleman will indulge me so far as not to call the previous question, and let me state my question of order, that the House may understand it. I do not raise it from captious motives, or from any other desire than that the House may not do what in my opinion would be a vain act.

Mr. KEITT withdrew the call for the previous question.

Mr. MARSHALL, of Kentucky. The gentleman from South Carolina having withdrawn the call for the previous question, I wish to call the attention of the House—

Mr. GROW. I object to the gentleman withdrawing it with the condition that he shall have the floor again. I object to gentlemen farming out the floor.

The SPEAKER. Before the gentleman from Kentucky proceeds, the Chair desires to understand whether the previous question has been withdrawn?

Mr. KEITT. It is withdrawn for the time being; but I hold the floor.

Mr. SEWARD. Then I object.

Mr. MARSHALL, of Kentucky. It is a matter of construction whether the gentleman holds the floor or not.

The SPEAKER. The Chair would notify the gentleman from South Carolina that he cannot hold the floor, objection being made to it, if he withdraws the previous question.

Mr. KEITT, (to Mr. MARSHALL.) Will you renew it?

Mr. MARSHALL, of Kentucky. The eighth section of the law as it stands is this:

"There shall be elected a Public Printer for each House of Congress, to do the public printing for the Congress for which he or they may be chosen."

MESSAGE FROM THE PRESIDENT.

The annual message, in writing, of the President of the United States, was here received by the hands of his Private Secretary.

Mr. CLINGMAN. I hope the message will be read at once by consent of the House.

Mr. GROW. I desire to ask whether, if the message be read now, it will be open to discussion while this question stands pending?

The SPEAKER. When the question arises the Chair will decide it.

Mr. GROW. Then I will object to the reading of the message. I desire to state my point. Here is a question pending before the House. Now, if the message come in and be read by unanimous consent—

The SPEAKER. No debate is in order.

Mr. GROW. I want to state my point of order.

The SPEAKER. There is no point of order before the House, except that of the gentleman from Kentucky, [Mr. MARSHALL].

Mr. GROW. I make a point of order on the reading of the message.

The SPEAKER. There can be no point of order raised, inasmuch as the House is already entertaining one point of order raised by the gentleman from Kentucky. The message can only be read by unanimous consent. If objection be made, it cannot be read.

Mr. GROW. I would state my objection to be because the message cannot be open to be acted upon till this other question is disposed of. If there be unanimous consent that it should be, then I make no objection. I do not object to having it read if it be left open for debate.

The SPEAKER. The Chair understands the gentleman from Pennsylvania to object to the message being read.

Mr. GROW. The Chair does not understand the gentleman from Pennsylvania. I made no objection to the reading, if it be read by unanimous consent, and left open for action.

The SPEAKER. But if not, you do object.

Mr. GROW. Yes.

The SPEAKER. Exactly. That is what the Chair understood.

Several MEMBERS. There is no objection made.

The SPEAKER. Very well. The Clerk will report the message.

The message was then read. It will be found in the Appendix.

Mr. JONES, of Tennessee. I move that the message be referred to the Committee of the Whole on the state of the Union, and be printed; and on that I ask the previous question.

Mr. BANKS. I wish the gentleman from Tennessee to so far modify his motion as to provide that one copy of the message and reports of the Secretaries be printed for each member of the House, so that we shall have them in two or three days, at furthest.

Mr. JONES, of Tennessee. We could not have them so early, I suppose.

Mr. BANKS. I mean only copies of the message and of the reports of the heads of the Departments. We could have them in two or three days. Otherwise we may have to wait for eight

or ten weeks. The expense would be very slight indeed.

Mr. JONES, of Tennessee. That is a departure from the general rule, and I do not wish it.

Mr. BANKS. I ask the House to vote down the call for the previous question till the amendment I have suggested be put in.

Mr. BOYCE. I move that twenty thousand extra copies be printed.

The SPEAKER. That motion would of necessity go to the Committee on Printing.

Mr. BOYCE. No, not necessarily; not in reference to the President's message.

Mr. BANKS. I ask leave to present an amendment, providing that the message and reports of the Secretaries shall be printed, one copy for each member of the House, so that we can have them in two or three days.

Mr. JONES, of Tennessee. As the gentleman from Massachusetts seems to have some interest in it, I have no objection to his proposition. I accept it.

Mr. BANKS's proposition, as accepted by Mr. JONES, was read as follows:

That the President's message and the reports of the Secretaries of the Departments be printed together—one copy for each member of the House.

The previous question was seconded, and the main question ordered; and, under its operation, Mr. JONES's motion, as modified, was agreed to.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the motion was agreed to, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. BOYCE. I move that twenty thousand extra copies of the President's message and accompanying documents be printed.

The SPEAKER. The motion will be referred to the Committee on Printing.

EXECUTIVE COMMUNICATIONS.

Mr. JONES, of Tennessee. The annual report of the Secretary of the Treasury on the state of the finances, equally important with any other document we shall have, I understand is upon the Speaker's table. It is not necessary that it should be read, and I ask that it be ordered to be printed.

The SPEAKER. If it is the pleasure of the House, the Chair will present the annual report of the Secretary of the Treasury upon the state of the finances.

Mr. JONES, of Tennessee. I move that it be laid on the table, and ordered to be printed.

The motion was agreed to.

Mr. FLORENCE. It has been the practice to order an extra number of the President's message and accompanying documents to be printed. There is no Committee, as yet, upon Printing. I desire to expedite this work, and by a resolution of the House it can go immediately to the Public Printer.

The SPEAKER. The Chair will remark that the law requires that a motion to print an extra number of any document shall go to the Committee on Printing. As soon as the committee is organized it must be taken up by them.

Mr. FLORENCE. It has been the practice to print the message and accompanying documents without referring the matter to the committee.

The SPEAKER. An order to print the usual number has already been made.

Mr. FLORENCE. But not for extra numbers.

Mr. JONES, of Tennessee. I move that twenty thousand copies of the report of the Secretary of the Treasury upon the finances be printed for the use of the House, and one thousand copies for the use of the Secretary.

The motion was referred, under the rule, to the Committee on Printing.

Mr. SMITH, of Virginia. I suppose it is the duty of that committee to report a resolution for printing extra numbers.

The SPEAKER. The subject-matter is brought to the attention of the committee by motions made in the House, which motions will be referred to the Committee on Printing as soon as organized.

Mr. SMITH, of Virginia. I suppose when the report comes in it will be time to make objection in reference to printing extra numbers. I desire to break up the habit of printing extravagant numbers of public documents.

Mr. JONES, of Tennessee. I believe it is the law, and not the rule of this House, which requires all motions to print extra numbers to go to the Committee on Printing. When the committee reports, the subject is open for discussion, and the House can determine what they will have.

The SPEAKER then, by unanimous consent, laid before the House the following communications; which were severally laid upon the table, and ordered to be printed:

A communication from the Department of State, showing the expenditure of the contingent fund of that Department, and other contingent expenses;

A letter from the Secretary of State, transmitting an abstract of returns of registered American seamen for the year ending September 30, 1857; and

A communication from the Secretary of the Interior, transmitting a statement of the contingent expenses of that Department.

THE PUBLIC PRINTER.

The SPEAKER. The message and accompanying documents being disposed of, the gentleman from Kentucky [Mr. MARSHALL] is entitled to the floor.

Mr. KEITT. I wish it understood that I yield the floor to the gentleman from Kentucky upon one condition—that he renews the call for the previous question after he closes his remarks. Otherwise I do not yield the floor. The gentleman from Kentucky wants this discussion to go on; I do not want it to proceed.

Mr. MARSHALL, of Kentucky. I do not want any question with the gentleman as to whether I am upon the floor; nor do I understand that it is competent for him to say whether I have the floor or not.

The SPEAKER. The Chair asked the question of the gentleman from South Carolina, whether he yielded the floor? The Chair understood that he did, and upon that understanding recognized the gentleman from Kentucky. The objection of the gentleman from South Carolina comes too late, the gentleman from Kentucky being upon the floor unconditionally.

Mr. MARSHALL, of Kentucky. I obtained the floor for the purpose of making a point of order, and, therefore, I shall not discuss the propriety of electing a Public Printer at this time. The only object I have in view is to bring the House to a proper conclusion on the amendment. My point of order is framed upon the proposition contained in the eighth section of the law of 1852, which reads as follows:

"There shall be elected a Public Printer for each House of Congress to do the public printing for Congress for which he or they may be chosen, and such printing for the Executive Departments and bureaus of the Government of the United States as may be delivered to him or them, to be printed by the Superintendent of the Public Printing. The following rates of compensation shall be paid," &c.

The modification of the original proposition of the gentleman from Virginia, and which the gentleman from Alabama appears to have accepted, proposes that this House shall go into the election of a Public Printer, and that he shall take an office, created by law, with a condition put upon it by the House—all of which is clearly illegal and improper; and, although it might sound one way to the country, it will mean a different thing under the construction which will be put upon it by the courts. In other words, if the Chair shall rule it in order, and the House adopt the proposition of the gentleman from Virginia, as modified, it will be no more nor less than going into the election of a Public Printer now; and I suggest to the party having the power of the House, that the resolution will read more gracefully and more properly, if they will say that they intend to elect a Public Printer, and that he shall have what by law belongs to him.

Mr. BOCKOCK obtained the floor.

Mr. SMITH, of Virginia. My desire is to get before the House the proposition as I designed to modify it.

Mr. HOUSTON. It is my proposition.

Mr. SMITH, of Virginia. I modify my own proposition. I propose to retain my proposition as it originally stood.

Mr. HOUSTON. I rise to a point of order. The gentleman from Virginia withdrew his proposition after I modified mine; and the previous question having been called, he has no right to renew it now.

Mr. SMITH, of Virginia. I only agreed to withdraw one branch of it; and the previous question has not been sustained, nor is it pending. I ask, in all justice, to be allowed to modify my own proposition. I believe members have that right.

The SPEAKER. The Chair, upon inquiring of the Clerk, is informed that the gentleman from Virginia was not understood to withdraw his amendment.

Mr. SMITH, of Virginia. Certainly not. Upon reflection, I conclude to modify my first proposition. That is done every day. I hope there will be no objection.

Mr. KEITT. I object.

Mr. SMITH, of Virginia. I contend that I have the right to do so.

The SPEAKER. The Chair desires to know whether the gentleman did withdraw his proposition or not? If he did, of course there can be no modification. If he did not, he can modify his proposition.

Mr. SMITH, of Virginia. I did not withdraw my proposition, sir. I only agreed to a partial modification of one of the resolutions which I offered, and it was accepted by the gentleman from Alabama. I propose now to modify my resolution. My main resolution—the first one—is still before the House. I never gave it up at all, nor did I undertake to do it.

Mr. BOCKOCK. I must claim the floor now; but if, at the conclusion of my remarks, my colleague appeals to me to yield him the floor, I will do so. I want to go on now and say what I have to say.

And, in the first place, in relation to the position taken by the gentleman from Kentucky, [Mr. MARSHALL,] I wish to say that it is a question of legal construction, and not a point of order. I do not contend for a single moment, Mr. Speaker, that a resolution of this House can repeal a law; but the fact that a resolution of this House cannot repeal a law of the land does not deprive us of the parliamentary power to pass the resolution. I say, then, it is not a question of order, but it is a question of construction.

Having thus disposed of that matter, I wish to state furthermore, that in relation to many of the positions taken by my colleague [Mr. SMITH] in the remarks which he made this morning, and in the objects to the accomplishment of which his resolutions look, I entirely and cordially sympathize. But I must confess that I have my doubts if the extraordinary amounts are paid for the public printing which my colleague says. I have my doubts whether my colleague could find a man willing, as soon as the election of a Printer is made, to pay \$250,000 for the contract for printing. He may think so; he may have been told so; but when the money came to be raised he would find that he was mistaken.

But what I wish to say in relation to this matter is, that I do not understand the law to which my colleague has referred, and to which the gentleman from Kentucky has referred, as depriving this House of the power, at any time it chooses, of altering, modifying, and reducing the rates paid to the Public Printer. Mr. Speaker, I ask the attention of gentlemen to the language of the law. The law provides that a Public Printer shall be elected for the Congress, but it does not say that the rates of pay for the Congress shall be so and so. The law provides that a Public Printer shall be elected for the Congress, but it declares in general terms that the prices of printing shall be so and so, all the time leaving it at the power of Congress. Suppose, sir, an office is created which is to be held for life, and the rates of pay of that office are fixed at a certain amount: does that, I ask you, preclude the legislative authorities of the country forever from reducing those rates of pay? Not at all, sir; not at all. We, Mr. Speaker, are elected to the Congress of the United States for two years. We come here at a certain rate of pay. By our own action during the last Congress we increased that rate of pay. I submit it to my colleague, and to gentlemen upon this floor, if we had a right to increase our regular pay, had not we a right also to reduce that pay? The law says, in general terms, that the rates of pay shall be so and so, and such and such, but it does not say how long they shall be so; it does not say that they shall remain the rates of pay during the Congress, or even during a session. The law

merely provides that the pay shall be so and so until otherwise provided by law.

And not only so, Mr. Speaker, but I stand here authorized to say in behalf of the gentleman who has been nominated by the Democratic party as its candidate for Public Printer, that that is his construction of the law, and that he will interpose no objection to any modification that may hereafter be made.

Now, sir, if these things be so, why, I ask, should not we proceed at once to an organization of this House? Why should we keep the House agitated in relation to the subject? Why not conclude our organization and go to work? And, as gentlemen have said frequently, why not show to the country the great contrast between the executive power of the party to which we belong, and that which controlled this House in the last Congress of the United States? Instead of taking weeks and weeks to organize, let us complete our organization here on the second day of the session, and then I pledge to my colleague my cordial cooperation to ferret out corruption and extravagance and everything hostile, as far as we can find it out, to the public interests. I promised to yield him the floor at the conclusion of my remarks, if he desired it.

Messrs. SMITH of Virginia, and GROW, simultaneously addressed the Speaker, who assigned the floor to the latter.

Mr. BOCKOCK. I have not yet yielded the floor.

The SPEAKER. The Chair understood that the gentleman had done so.

Mr. BOCKOCK. No, sir; but I will yield it now for a moment or two to my colleague, [Mr. SMITH.]

Mr. GROW. I object to this farming out of the floor on one side of the House all day. It is not fair.

Mr. SMITH, of Virginia. I do not want to make a speech. Just let me get my resolutions before the House in the form in which I desire them to stand. My proposition, the House will recollect, involved the postponement of this election until a certain examination could be made. The second resolution, partially carrying out that design, was, at the suggestion made by the gentleman from Alabama, [Mr. Housen], withdrawn by me, or rather, I submitted to his modification; but, upon reflection, I am satisfied that my views cannot be carried out without the adoption of that second resolution in a somewhat modified shape, and I ask that it be now read as I have modified it.

Mr. BOCKOCK. With the understanding that my colleague's proposition shall be read, I now call the previous question.

Mr. GROW. I ask the gentleman from Virginia to withdraw the call. I do not propose to enter into a discussion with reference to the candidates for Printer, but I desire to say a word or two upon the subject of the public printing.

Mr. BOCKOCK. I am willing to withdraw the call, if the gentleman from Pennsylvania will renew it when he has concluded his remarks.

Mr. GROW. I do not like to do that. I shall not take five minutes.

Several MEMBERS, (to Mr. Bockock.) Insist on the previous question.

Mr. GROW. I will consent to do it, if it is necessary to make a bargain to obtain the floor of the House.

Mr. BOCKOCK. I withdraw the demand for the previous question.

The resolutions offered by Mr. SMITH, of Virginia, as modified by him, were then read, as follows:

Resolved, That a committee of — be appointed by the Speaker to examine into the laws in relation to the printing for the House of Representatives, the prices paid therefor, and the duties of the Public Printer, whose duty it shall be to report thereon with the least practicable delay, together with such change or improvement therein as they may deem advisable.

And be it further resolved, That until such report and action thereon by this House, the election of Public Printer shall be postponed; and that, in the mean time, the Clerk of the House shall have such printing executed on the best terms practicable as may be required by the House.

Mr. MARSHALL, of Kentucky. I withdraw my point of order to the resolutions as modified.

Mr. GROW. It is not my purpose, Mr. Speaker, to prolong this debate, nor to enter into any discussion in regard to the person who should be selected as Printer of this House. I have only sought the floor to say one word on the abuse

of public printing that has been commented on to-day. The abuse begins with the orders of this House. You have brought up your cost of printing—as has been alleged to-day by the gentleman from Virginia—to \$2,000,000. And how is the reform to begin? Not by making charges of corruption and malfeasance against your officer acting under your orders. A person wants a book printed; he comes to this House, and a majority of this House order one, two, or three hundred thousand copies of it printed. Thus the Government printing office is converted into a great book manufactory; and to-day we send over this country book after book that is hardly worth the paper on which it is printed.

It is the order of the House of Representatives, and your Printer is entitled to his pay for the books which you order. Then let the reform begin here by curtailing this enormous expenditure, by ceasing your orders for publishing books, and by discontinuing the plan of converting the Government printing office into a rival establishment of the book manufactories of the country. I am against all printing that is not in the direct legitimate line of the Government business.

Mr. SAVAGE. I rise to a point of order. I do not think that this discussion is at all pertinent to the question that we have got before us. I have submitted to it a good while. I would rather have the execution of the order than have this discussion. I think the gentleman from Pennsylvania [Mr. GROW] has said enough to meet what has been said on this side. My point of order is, that the discussion is irrelevant to the question before the House.

The SPEAKER. The Chair is of opinion that the remarks of the gentleman from Pennsylvania are in order. He thinks they are directly pertinent to the subject before the House.

Mr. GROW. I have no more remarks to make. I have been seeking the floor to-day simply to call the attention of members to the origin of the abuses they are complaining of. I promised the gentleman from Virginia, [Mr. Bockock,] as the only way by which I could obtain the floor, after trying for it all day, that I would call the previous question. I therefore do so, and leave it with the House to vote it down if they like.

Mr. RITCHIE. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at three o'clock and fifteen minutes, p. m.) the House adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, December 9, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the annual report of the Secretary of the Treasury on the state of the finances; which was, on motion of Mr. BIGGS, ordered to lie on the table, and be printed.

He also laid before the Senate, a letter of the Secretary of State, communicating, in obedience to law, an abstract of returns of American seamen; which was, on motion of Mr. SEWARD, ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of State, made in obedience to law, showing the disbursements of that Department during the fiscal year ending June 30, 1857, including disbursements for contingent expenses of foreign intercourse; which was, on motion of Mr. HAMLIN, ordered to lie on the table, and be printed.

WITHDRAWAL OF PAPERS.

On motion of Mr. SEWARD, it was

Ordered, That W. G. Bucknor, executor of John J. Bulow, jr., have leave to withdraw his petition and papers.

RESOLUTIONS OF CALIFORNIA.

Mr. GWIN presented a resolution of the Legislature of California in favor of the payment of the claim of A. M. Winn, for money expended by him for charitable purposes in the city of Sacramento, California, in 1849 and 1850; which was ordered to lie on the table, and be printed.

He also presented a resolution of the Legislature of California in favor of the speedy construction of a national railroad from the valley of the Mississippi to some point in California; which was ordered to lie on the table, and be printed.

He also presented a resolution of the Legislature of California in favor of the establishment of certain mail routes in that State; which was ordered to lie on the table, and be printed.

NOTICES OF BILLS.

Mr. PUGH gave notice of his intention to ask leave to introduce a bill for the improvement of navigation at the falls of the Ohio river.

Also, a bill to provide for the survey of the Ohio river, and its principal tributaries.

Also, a bill to authorize writs of error in all cases prosecuted by indictment.

Mr. GWIN gave notice of his intention to ask leave to introduce a bill to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad and magnetic telegraph through the Territories of the United States.

Also, a bill to organize the Territory of Arizona, and to create the office of surveyor general therein, to provide for the examination of certain land claims, to grant donations to actual settlers, to survey the public and private lands, and for other purposes.

CHAPLAINS TO THE SENATE.

Mr. MASON. I submitted a resolution the other day upon the subject of Chaplains to the Senate, which, unless any gentleman wishes further time to consider the subject, I ask to have taken up for action.

There being no objection, the Senate proceeded to consider the following resolution, submitted by Mr. Mason on Monday last:

Resolved, That the President of the Senate be authorized and requested to invite such clergymen as the office may be acceptable to, to officiate as Chaplains to the Senate during the present session, and in such alternation as may be agreeable to them.

Mr. COLLAMER. This resolution requests the President to invite all clergymen to whom the office may be acceptable to officiate as Chaplains. It seems to me that it will be somewhat impracticable to carry it out, and that it will give a great deal of trouble to our President. The office might be acceptable to clergymen from every part of the Union visiting friends here, and that would be constantly interfering with any arrangement which might be made with the clergymen of the city on whom we could rely. If we relied on the clergymen of the city, they could arrange among themselves the order in which they should officiate; whereas, if the invitation be extended to all clergymen, we never can know when they are to attend and when not. I therefore move that the words "of the city of Washington" be inserted after the word "clergymen."

Mr. MASON. It would be better to insert the words "of the District of Columbia."

Mr. COLLAMER. I have no objection to that.

Mr. MASON. I accept the modification. I have no choice in the matter one way or the other. I offered the resolution in order that we might dispose, in this general way, of the subject of a Chaplain to the Senate. Every Senator, I have no doubt, has had some experience (I think it is very unfortunate, but perhaps it is incident to the subject-matter) that a sort of competition has grown up by the usage of the Senate in electing a Chaplain, which I have thought is not altogether consistent with the office of a clergyman or a pastor. I will not say, by any means, a competition so much among the clergymen themselves, perhaps, as amongst Senators, who desire to prefer particular persons; but the fact is that it has become a matter of that kind, and it is not entirely agreeable to me, certainly, and I dare say is not to other Senators, to have that state of things existing.

My idea of the practice that will arise under this resolution, especially now, since it is confined to the clergymen of the District of Columbia, is that the President of the Senate, at the commencement of each session of Congress, will submit to the clergymen of the District that those to whom the office may be agreeable shall arrange among themselves and prescribe the mode in which they shall alternate, in order that we may have their services every morning as usual, and that the

service so proffered shall be gratuitous—which is the true footing, I have always understood, of a clergyman's position. Whether there may not be a proper acknowledgment of the services of these gentlemen at the end of the session, every Senator will decide for himself. My own opinion is fixed on that point.

Mr. BIGGS. Mr. President, I understand, from the remarks of the honorable Senator from Virginia, that the design and object of this resolution is substantially to abolish the office of Chaplain as it has heretofore existed under the practice of the Senate, and to invite the clergymen of this District to open the daily sessions of this House with prayer. I am apprehensive, however, that there may be some difficulty in attaining this object, on account of the wording of the resolution. I am glad that the Senator from Virginia has introduced this resolution. It seems to me a very appropriate one, in view of all the circumstances that surround the Senate and the practice that has heretofore obtained on the subject. I would suggest, however, in order to avoid any difficulty hereafter, that the resolution be amended so as to attain, beyond all doubt, what is desired by myself, as well as, I believe, by the Senator from Virginia, by adding to it the words: "And that the office of Chaplain of the Senate is hereby abolished."

Mr. MASON. I do not understand that there is any such office as Chaplain to the Senate. I do not remember whether there is a rule on the subject; but the usage of the Senate has been (in conformity, I suppose, to the general public opinion of the land) that our duties here should be commenced by a proper appeal to the Almighty every morning; but I do not look upon it as an office. I certainly do not at all contemplate interfering with the usage of opening our deliberations in the morning with Divine services; but on the contrary, to continue it and to place it on what seems to me a more reputable and more proper footing. If the honorable Senator were to offer a proposition to abolish the office, it would perhaps engender some difference of opinion among Senators, which I would rather avoid.

Mr. BIGGS. My object is precisely the same as that of the Senator from Virginia. I am decidedly with him as to the manner of opening the daily sessions with prayer. I think it is entirely proper. But if I understand the usage of the Senate, connected with the rules of this body and some joint resolutions that have been passed by both Houses, the office of Chaplain is recognized. So far as I am concerned, my object will be attained if the effect of this resolution be to rid us of the office without introducing any amendment at all—and I understand the Senator from Virginia in the resolution designs that. That being the design and effect of the resolution, my object is accomplished.

Mr. MASON. If there be any rule in relation to the Chaplain, I ask that the Chair direct it to be read; and if it be inconsistent with this resolution, I propose to repeal it.

Mr. HAMLIN. There is a joint rule on the subject between the two Houses.

The SECRETARY. It is a provision passed at each session.

The PRESIDENT *pro tempore*. The Chair is not aware of any rule for the joint action of both Houses on this subject.

Mr. MASON. I was not.

Mr. CLAY. I am opposed to the adoption of this resolution, believing, as I do, that it will prove both unwise and inexpedient in practice. The Senator from North Carolina, as I understand him, contemplates procuring the services of a Chaplain, without any remuneration whatever. I do not so understand the Senator from Virginia. I think we should not "muzzle the ox that treadeth out the corn." I believe that "the laborer is worthy of his hire." I think we shall find, if we adopt this resolution, and it shall be construed as it is understood by the Senator from North Carolina, that patriotism will fail, that even religion will fail, to induce men to come here every morning gratuitously to pray for this body. I think, if we intend and desire to have the sessions of this body opened with daily prayer, we can only achieve that desire by employing and paying a man for the purpose. I do not myself see any serious objection to that. In these degenerate days, I know none of the clergy who live purely

by charity, who take their staff and walk abroad, getting their daily meals and their clothing, as wayfaring men, from every good Samaritan they may meet. I know, in my own State, that all the stationed clergy receive regular salaries or compensation for their services. I understand that it is so in this city. What right have we to expect that the clergymen of this city, purely for the honor of the thing, or purely for the sake of serving God, will come here and open our sessions with service without any compensation whatever? There is an old adage, and a very true one, that "what is everybody's business is nobody's business;" and, if we adopt the resolution of the gentleman from Virginia, and empower you, sir, or the Vice President, to invite the clergymen of the city generally to officiate, we shall find that oftentimes we shall have to go to work without prayers. I trust that the resolution will not be adopted.

Mr. SEWARD. Mr. President, I hope the honorable Senator who last addressed the Senate will reconsider the opinion he has formed on this subject, and suffer this resolution to pass. I have felt, ever since I have been here, that it brought scandal on the cause of the Christian religion to have an active canvass here for Chaplain; and I am very glad that there is a mode proposed by which that scandal can be hereafter removed.

The form which is suggested by the Senator from Virginia commends itself entirely to my approbation; and the more so because to me it is not new. So long as I have been acquainted with public affairs in the State of New York, or for nearly all that period—certainly for fifteen or twenty years—there has been no single appointment of a chaplain by the Legislature of New York; but each House of the Legislature, either severally or the two Houses together, pass a resolution substantially like this, intimating their desire that the clergymen of the city of Albany, the State capital, to be designated by the presiding officer or officers, shall alternately perform this religious service for the two Houses, at such times and under such arrangement as may be agreeable to them.

The difficulty which is suggested by the honorable Senator from Alabama does not exist there, because their resolution always closes with a provision that the usual amount of per diem shall be distributed amongst the clergymen who perform the service, in proportion to the number of days they attend. Such an amendment to this resolution would remove from it all objection, and would be perfectly proper. For one, I should have no objection to it; but, at the same time, I am quite willing that that part of the subject shall be postponed until we have made an experiment of the new mode; and then, at the close of the session, an appeal can be made to the Senate in regard to the Chaplains. I have no doubt it will be responded to as well at the end of the session as at the commencement. My desire is that the old system shall be changed, and I am quite willing to adopt the one now proposed.

Mr. MASON. Perhaps it is becoming, having offered the resolution, that I should say a single word in reply to the honorable Senator from Alabama. I have not conferred with the clergymen of the city of Washington or the District at all. I did show what I proposed to do, to the reverend and excellent gentleman who was Chaplain at the last session, [Rev. Mr. Hill,] who happened to be present, who is one of the clergymen of this city, and he said that he was satisfied it would be considered a compliment, and a very grateful one, to the clergy of the District. I have just learned, what I am told is an undoubted fact, that the first clergyman who officiated in the Continental Congress, was the late Bishop White, of Pennsylvania, and that he did it on the express condition that no compensation should be offered. I think, appreciating as I do the office of a clergyman—although they are a class of our fellow-citizens with whom it has not been my fortune to be much connected in any way, but I do appreciate their office—it will be peculiarly acceptable to the clergymen if presented in this form.

The PRESIDENT *pro tempore* put the question on the resolution; and it was adopted.

THE PRESIDENT'S MESSAGE.

On motion of Mr. DOUGLAS, the Senate resumed the consideration of the motion made by

him yesterday, to print the President's message and accompanying documents, with fifteen thousand extra copies.

Mr. DOUGLAS. Mr. President, when yesterday the President's message was read at the Clerk's desk, I heard it but imperfectly, and I was of the impression that the President of the United States had approved and indorsed the action of the Lecompton convention in Kansas. Under that impression, I felt it my duty to state that, while I concurred in the general views of the message, yet, so far as it approved or indorsed the action of that convention, I entirely dissented from it, and would avail myself of an early opportunity to state my reasons for my dissent. Upon a more careful and critical examination of the message, I am rejoiced to find that the President of the United States has not recommended that Congress shall pass a law to receive Kansas into the Union under the constitution formed at Lecompton. It is true that the tone of the message indicates a willingness on the part of the President to sign a bill if we shall see proper to pass one receiving Kansas into the Union under that constitution. But, sir, it is a fact of great significance, and worthy of consideration, that the President has refrained from any indorsement of the convention and from any recommendation as to the course Congress should pursue with regard to the constitution there formed.

The message of the President has made an argument—an unanswerable argument in my opinion—against that constitution, which shows clearly, whether intended to arrive at that result or not, that, consistently with his views and his principles, he cannot accept that constitution. He has expressed his deep mortification and disappointment that the constitution itself has not been submitted to the people of Kansas for their acceptance or rejection. He informs us that he has unqualifiedly expressed his opinions on that subject in his instructions to Governor Walker, assuming, as a matter of course, that the constitution was to be submitted to the people before it could have any vitality or validity. He goes further, and tells us that the example set by Congress in the Minnesota case, by inserting a clause in the enabling act requiring the constitution to be submitted to the people, ought to become a uniform rule, not to be departed from hereafter in any case. On these various propositions I agree entirely with the President of the United States, and I am prepared now to sustain that uniform rule which he asks us to pursue, in all other cases, by taking the Minnesota provision as our example.

I rejoice, on a careful perusal of the message, to find so much less to dissent from than I was under the impression there was, from the hasty reading and the imperfect hearing of the message in the first instance. In effect, he refers that document to the Congress of the United States—as the Constitution of the United States refers it—for us to decide upon it under our responsibility. It is proper that he should have thus referred it to us as a matter for congressional action, and not as an Administration or Executive measure, for the reason that the Constitution of the United States says that "Congress may admit new States into the Union." Hence we find the Kansas question before us now, not as an Administration measure, not as an Executive measure, but as a measure coming before us for our free action, without any recommendation or interference, directly or indirectly, by the Administration now in possession of the Federal Government. Sir, I propose to examine this question calmly and fairly, to see whether or not we can properly receive Kansas into the Union with the constitution formed at Lecompton.

The President, after expressing his regret and mortification and disappointment, that the constitution had not been submitted to the people in pursuance of his instructions to Governor Walker, and in pursuance of Governor Walker's assurances to the people, says, however, that by the Kansas-Nebraska act the slavery question only was required to be referred to the people, and the remainder of the constitution was not thus required to be submitted. He acknowledges that, as a general rule, on general principles, the whole constitution should be submitted; but according to his understanding of the organic act of Kansas, there was an imperative obligation to submit the slavery question for their approval or

disapproval, but no obligation to submit the entire constitution. In other words, he regards the organic act, the Nebraska bill, as having made an exception of the slavery clause, and provided for the disposition of that question in a mode different from that in which other domestic or local, as contradistinguished from Federal questions, should be decided. Sir, permit me to say, with profound respect for the President of the United States, that I conceive that on this point he has committed a fundamental error, an error which lies at the foundation of his whole argument on this matter. I can well understand how that distinguished statesman came to fall into this error. He was not in the country at the time the Nebraska bill was passed; he was not a party to the controversy, and the discussion that took place during its passage. He was then representing the honor and the dignity of the country with great wisdom and distinction at a foreign court. Thus deeply engrossed, his whole energies were absorbed in conducting great diplomatic questions that diverted his attention from the mere territorial questions and discussions then going on in the Senate and the House of Representatives, and before the people at home. Under these circumstances, he may well have fallen into an error, radical and fundamental as it is, in regard to the object of the Nebraska bill and the principle asserted in it.

Now, sir, what was the principle enunciated by the authors and supporters of that bill when it was brought forward? Did we not come before the country and say that we repealed the Missouri restriction for the purpose of substituting and carrying out as a general rule the great principle of self-government, which left the people of each State and each Territory free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States? In support of that proposition, it was argued here, and I have argued it wherever I have spoken in various States of the Union, at home and abroad, everywhere I have endeavored to prove that there was no reason why an exception should be made in regard to the slavery question. I have appealed to the people if we did not all agree, men of all parties, that all other local and domestic questions, should be submitted to the people. I said to them "We agree that the people shall decide for themselves what kind of a judiciary system they will have; we agree that the people shall decide what kind of a school system they will establish; we agree that the people shall determine for themselves what kind of a banking system they will have, or whether they will have any banks at all; we agree that the people may decide for themselves what shall be the elective franchise in their respective States; they shall decide for themselves what shall be the rule of taxation and the principles upon which their finance shall be regulated; we agree that they may decide for themselves the relations between husband and wife, parent and child, guardian and ward; and why should we not then allow them to decide for themselves the relations between master and servant? Why make an exception of the slavery question by taking it out of that great rule of self-government which applies to all the other relations of life?" The very first proposition in the Nebraska bill was to show that the Missouri restriction, prohibiting the people from deciding the slavery question for themselves, constituted an exception to a general rule, in violation of the principle of self-government, and hence that that exception should be repealed, and the slavery question, like all other questions, submitted to the people to be decided for themselves.

Sir, that was the principle on which the Nebraska bill was defended by its friends. Instead of making the slavery question an exception, it removed an odious exception which before existed. Its whole object was to abolish that odious exception, and make the rule general, universal, in its application to all matters which were local and domestic, and not national or Federal. For this reason was the language employed which the President has quoted: that the eighth section of the Missouri act, commonly called the Missouri compromise, was repealed because it was repugnant to the principle of non-intervention established by the compromise measures of 1850, "it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people

thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." We repealed the Missouri restriction because that was confined to slavery. That was the only exception there was to the general principle of self-government. That exception was taken away for the avowed and express purpose of making the rule of self-government general and universal, so that the people should form and regulate all their domestic institutions in their own way.

Sir, what would this boasted principle of popular sovereignty have been worth, if it applied only to the negro, and did not extend to the white man? Do you think we could have aroused the sympathies and the patriotism of this broad Republic, and have carried the presidential election last year in the face of a tremendous opposition, on the principle of extending the right of self-government to the negro question, but denying it as to all the relations affecting white men? No, sir. We aroused the patriotism of the country and carried the election in defense of that great principle, which allowed all white men to form and regulate their domestic institutions to suit themselves—institutions applicable to white men as well as to black men—institutions applicable to freemen as well as to slaves—institutions concerning all the relations of life, and not the mere paltry exception of the slavery question. Sir, I have spent too much strength and breath, and health, too, to establish this great principle in the popular heart, now to see it frittered away by bringing it down to an exception that applies to the negro, and does not extend to the benefit of the white man. As I said before, I can well imagine how the distinguished and eminent patriot and statesman now at the head of the Government fell into the error—for error it is, radical, fundamental, and, if persevered in, subversive of that platform upon which he was elevated to the Presidency of the United States.

Then, if the President be right in saying that, by the Nebraska bill, the slavery question must be submitted to the people, it follows inevitably that every other clause of the constitution must also be submitted to the people. The Nebraska bill said that the people should be left "perfectly free to form and regulate their domestic institutions in their own way"—not the slavery question, not the Maine liquor-law question, not the banking question, not the school question, not the railroad question, but "their domestic institutions," meaning each and all the questions which are local, not national, State, not Federal. I arrive at the conclusion that the principles enunciated so boldly, and enforced with so much ability by the President of the United States, require us, out of respect to him and the platform on which he was elected, to send this whole question back to the people of Kansas, and enable them to say whether or not the constitution which has been framed, each and every clause of it, meets their approbation.

The President, in his message, has made an unanswerable argument in favor of the principle which requires this question to be sent back. It is stated in the message, with more clearness and force than any language which I can command; but I can draw your attention to it and refer you to the argument in the message, hoping that you will take it as a part of my speech—as expressing my idea more forcibly than I am able to express it. The President says that a question of great interest, like the slavery question, cannot be fairly decided by a convention of delegates, for the reason that the delegates are elected in districts, and in some districts a delegate is elected by a small majority; in others by an overwhelming majority; so that it often happens that a majority of the delegates are one way, while a majority of the people are the other way; and therefore it would be unfair, and inconsistent with the great principle of popular sovereignty, to allow a body of delegates, not representing the popular voice, to establish domestic institutions for the mass of the people. This is the President's argument to show that you cannot have a fair and honest decision without submitting it to the popular vote. The same argument is conclusive with regard to every other question as well as with regard to slavery.

But, Mr. President, it is intimated in the mes-

sage that although it was an unfortunate circumstance, much to be regretted, that the Lecompton convention did not submit the constitution to the people, yet perhaps it may be treated as regular, because the convention was called by a Territorial Legislature which had been repeatedly recognized by the Congress of the United States as a legal body. I beg Senators not to fall into an error as to the President's meaning on this point. He does not say, he does not mean, that this convention had ever been recognized by the Congress of the United States as legal or valid. On the contrary, he knows, as we here know, that during the last Congress I reported a bill from the Committee on Territories to authorize the people of Kansas to assemble and form a constitution for themselves. Subsequently, the Senator from Georgia [Mr. TOOMBS] brought forward a substitute for my bill, which, after having been modified by him and myself in consultation, was passed by the Senate. It is known in the country as "the Toombs bill." It authorized the people of Kansas Territory to assemble in convention and form a constitution preparatory to their admission into the Union as a State. That bill, it is well known, was defeated in the House of Representatives. It matters not, for the purpose of this argument, what was the reason of its defeat. Whether the reason was a political one; whether it had reference to the then existing contest for the Presidency; whether it was to keep open the slavery question; whether it was a conviction that the bill would not be fairly carried out; whether it was because there were not people enough in Kansas to justify the formation of a State;—no matter what the reason was, the House of Representatives refused to pass that bill, and thus denied to the people of Kansas the right to form a constitution and State government at this time. So far from the Congress of the United States having sanctioned or legalized the convention which assembled at Lecompton, it expressly withheld its assent. The assent has not been given, either in express terms or by implication; and being withheld, this Kansas constitution has just such validity and just such authority as the Territorial Legislature of Kansas could impart to it without the assent, and in opposition to the known will, of Congress.

Now, sir, let me ask what is the extent of the authority of a Territorial Legislature as to calling a constitutional convention without the assent of Congress? Fortunately this is not a new question; it does not now arise for the first time. When the Topeka constitution was presented to the Senate nearly two years ago, it was referred to the Committee on Territories, with a variety of measures relating to Kansas. The committee made a full report upon the whole subject. That report reviewed all the irregular cases which had occurred in our history in the admission of new States. The committee acted on the supposition that whenever Congress had passed an enabling act authorizing the people of a Territory to form a State constitution, the convention was regular, and possessed all the authority which Congress had delegated to it; but whenever Congress had failed or refused to pass an enabling act, the proceeding was irregular and void, unless vitality was imparted to it by a subsequent act of Congress adopting and confirming it. The friends of the Topeka constitution insisted that although their proceedings were irregular, they were not so irregular but that Congress could cure the error by admitting Kansas with that constitution. They cited a variety of cases, amongst others the Arkansas case. In my report, sanctioned by every member of the Committee on Territories, except the Senator from Vermont, [Mr. COLLAMER,] I reviewed the Arkansas case as well as the others, and affirmed the doctrine established by General Jackson's administration and enunciated in the opinion of Mr. Attorney General Butler, a part of which opinion was copied into the report and published to the country at the time.

Now, sir, in order to ascertain what we understood on the 12th of March, 1856—little more than a year and a half ago—to be the true doctrine on this point, let me call your attention to the opinion of Mr. Butler in the Arkansas case. The Governor of the Territory of Arkansas sent a printed address to President Jackson, in which he stated that he had been urged to call together the Legislature of the Territory of Arkansas, for

the purpose of allowing them to call a convention to form a constitution, preparatory to their admission into the Union as a State. The Governor stated that, in his opinion, the Legislature had no power to call such a convention without the assent of Congress first had and obtained; but he asked instructions on that point. The President referred the case to the Secretary of State, and he asked for the advice of the Attorney General, whose opinion was given, and adopted as the plan of action, and communicated to the Governor of Arkansas for his instruction. I will read some extracts from that opinion:

"Consequently, it is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a constitution and State government, or to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void.

"If I am right in the foregoing opinion, it will then follow that the course of the Governor, in declining to call together the Territorial Legislature for the purpose in question, was such as his legal duties required; and that the views he has expressed in his public address, and also in his official communication to yourself, so far as they indicate an intention not to sanction or concur in any legislative or other proceedings towards the formation of a State government until Congress shall have authorized it, are also correct."

That is what I have understood to be the settled doctrine as to the authority of a Territorial Legislature to call a convention without the consent of Congress first had and obtained. The reasoning is very clear and palpable. A Territorial Legislature possesses whatever power its organic act gives it, and no more. The organic act of Arkansas provided that the legislative power should be vested in the Territorial Legislature, the same as the organic act of Kansas provides that the legislative power and authority shall be vested in the Legislature. But what is the extent of that legislative power? It is to legislate for that Territory under the organic act, and in obedience to it. It does not include any power to subvert the organic act under which it was brought into existence. It has the power to protect it, the power to execute it, the power to carry it into effect; but it has no power to subvert, none to destroy; and hence that power can only be obtained by applying to Congress, the same authority which created the Territory itself. But while the Attorney General decided, with the approbation of the administration of General Jackson, that the Territorial Legislature had no power to call a convention, and that its action was void if it did, he went further:

"No law has yet been passed by Congress which either expressly or impliedly gives to the people of Arkansas the authority to form a State government."

Nor has there been any in regard to Kansas. The two cases are alike thus far. They are alike in all particulars so far as the question involving the legality and the validity of the Lecompton convention is concerned. The opinion goes on to say:

"For the reasons above stated, I am, therefore, of opinion that the inhabitants of that Territory have not at present, and that they cannot acquire otherwise than by an act of Congress, the right to form such a government."

General Jackson's administration took the ground that the people of Arkansas, by the authority of the Territorial Legislature, had not the power to hold a convention to form a constitution, and could not acquire it from any source whatever except from Congress. While, therefore, the legislative act of Arkansas was held to be void, so far as it assumed authority to authorize the calling of a convention to form a constitution, yet they did not hold, in those days, that the people could not assemble and frame a constitution in the form of a petition. I will read the rest of the opinion, in order that the Senate may understand precisely what was the doctrine on this subject at that day, and what the Committee on Territories understood to be the doctrine on this subject in March, 1856, when we put forth the Kansas report as embodying what we Nebraska men understood to be our doctrine at that time. Here it is. This was copied into that report:

"But I am not prepared to say that all proceedings on this subject, on the part of the citizens of Arkansas, will be illegal. They undoubtedly possess the ordinary privileges and immunities of citizens of the United States. Among these is the right to assemble and to petition the

Government for the redress of grievances. In the exercise of this right, the inhabitants of Arkansas may peaceably meet together in primary assemblies, or in conventions chosen by such assemblies, for the purpose of petitioning Congress to abrogate the territorial government, and to admit them into the Union as an independent State. The particular form which they may give to their petition cannot be material, so long as they confine themselves to the mere right of petitioning, and conduct all their proceedings in a peaceable manner. And as the power of Congress over the whole subject is plenary and unlimited, THEY MAY ACCEPT ANY CONSTITUTION, HOWEVER FRAMED, WHICH IN THEIR JUDGMENT MEETS THE SENSE OF THE PEOPLE TO BE AFFECTED BY IT. If, therefore, the citizens of Arkansas think proper to accompany their petition with a written constitution, framed and agreed on by their primary assemblies, or by a convention of delegates chosen by such assemblies, I perceive no legal objection to their power to do so, nor to any measures which may be taken to collect the sense of the people in respect to it; provided, always, that such measures be commenced and prosecuted in a peaceable manner, in strict subordination to the existing territorial government, AND IN ENTIRE SUBSERVIENCY TO THE POWER OF CONGRESS TO ADOPT, REJECT, OR DISREGARD THEM, AT THEIR PLEASURE."

While the Legislature of Arkansas had no power to create a convention to frame a constitution, as a legal constitutional body, yet, if the people chose to assemble under such an act of the Legislature for the purpose of petitioning for redress of grievances, the assemblage was not illegal; it was not an unlawful assemblage; it was not such an assemblage as the military power could be used to disperse, for they had a right under the Constitution thus to assemble and petition. But if they assumed to themselves the right or the power to make a government, that assumption was an act of rebellion which General Jackson said it was his duty to put down with the military force of the country.

If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find that the Legislature could confer no power whatever on the convention. That convention was simply an assemblage of peaceable citizens, under the Constitution of the United States, petitioning for the redress of grievances, and, thus assembled, had the right to put their petition in the form of a constitution if they chose; but still it was only a petition—having the force of a petition—which Congress could accept or reject, or dispose of as it saw proper. That is what I understand to be just the extent of the power and authority of this convention assembled at Lecompton. It was not an unlawful assemblage like that held at Topeka; for the Topeka constitution was made in opposition to the territorial law, and, as I thought, intended to subvert the government without the consent of Congress, but, as contended by their friends, not intended. If their object was to subvert it without the consent of Congress, it was an act of rebellion, which ought to have been put down by force. If it was a peaceable assemblage simply to petition and abide the decision of Congress on the petition, it was not an unlawful assemblage. I hold, however, that it was an unlawful assemblage. I hold that this Lecompton convention was not an unlawful assemblage; but, on the other hand, I hold that they had no legal power and authority to establish a government. They had a right to petition for a redress of grievances. They had a right in that petition to ask for the change of government from a territorial to a State government. They had a right to ask Congress to adopt the instrument which they sent to us as their constitution; and Congress, if it thought that paper embodied the will of the people of the Territory, fairly expressed, might, in its discretion, accept it as a constitution, and admit them into the Union as a State; or if Congress thought it did not embody the will of the people of Kansas, it might reject it; or if Congress thought it was doubtful whether it did embody the will of the people or not, then it should send it back and submit it to the people to have that doubt removed, in order that the popular voice, whatever it might be, should prevail in the constitution under which that people were to live.

So far as the act of the Territorial Legislature of Kansas calling this convention was concerned, I have always been under the impression that it was fair and just in its provisions. I have always thought the people should have gone together *en masse* and voted for delegates, so that the voice expressed by the convention should have been the

unquestioned and united voice of the people of Kansas. I have always thought that those who staid away from that election stood in their own light, and should have gone and voted, and should have furnished their names to be put on the registered list, so as to be voters. I have always held that it was their own fault that they did not thus go and vote; but yet, if they chose, they had a right to stay away. They had a right to say that that convention, although not an unlawful assemblage, is not a legal convention to make a government, and hence we are under no obligation to go and express any opinion about it. They had a right to say, if they chose, "We will stay away until we see the constitution they shall frame, the petition they shall send to Congress; and when they submit it to us for ratification we will vote for it if we like it, or vote it down if we do not like it." I say they had a right to do either, though I thought, and think yet, as good citizens, they ought to have gone and voted; but that was their business and not mine.

Having thus shown that the convention at Lecompton had no power, no authority, to form and establish a government, but had power to draft a petition, and that petition, if it embodied the will of the people of Kansas, ought to be taken as such an exposition of their will, yet, if it did not embody their will, ought to be rejected—having shown these facts, let me proceed and inquire what was the understanding of the people of Kansas, when the delegates were elected? I understand, from the history of the transaction, that the people who voted for delegates to the Lecompton convention, and those who refused to vote—both parties—understood the territorial act to mean that they were to be elected only to frame a constitution, and submit it to the people for their ratification or rejection. I say that both parties in that Territory, at the time of the election of delegates, so understood the object of the convention. Those who voted for delegates did so with the understanding that they had no power to make a government, but only to frame one for submission; and those who staid away did so with the same understanding.

Now for the evidence. The President of the United States tells us, in his message, that he had unequivocally expressed his opinions, in the form of instructions to Governor Walker, assuming that the constitution was to be submitted to the people for ratification. When we look into Governor Walker's letter of acceptance of the office of Governor, we find that he stated expressly that he accepted it with the understanding that the President and his whole Cabinet concurred with him that the constitution, when formed, was to be submitted to the people for ratification. Then look into the instructions given by the President of the United States, through General Cass, the Secretary of State, to Governor Walker, and you there find that the Governor is instructed to use the military power to protect the polls when the constitution shall be submitted to the people of Kansas for their free acceptance or rejection. Trace the history a little further, and you will find that Governor Walker went to Kansas and proclaimed, in his inaugural and in his speeches at Topeka and elsewhere, that it was the distinct understanding, not only of himself, but of those higher in power than himself—meaning the President and his Cabinet—that the constitution was to be submitted to the people for their free acceptance or rejection, and that he would use all the power at his command to defeat its acceptance by Congress, if it were not thus submitted to the vote of the people.

Mr. President, I am not going to stop and inquire how far the Nebraska bill, which said the people should be left perfectly free to form their constitution for themselves, authorized the President, or the Cabinet, or Governor Walker, or any other territorial officer, to interfere and tell the convention of Kansas whether they should or should not submit the question to the people. I am not going to stop to inquire how far they were authorized to do that, it being my opinion that the spirit of the Nebraska bill required it to be done. It is sufficient for my purpose that the Administration of the Federal Government unanimously, that the administration of the territorial government, in all its parts, unanimously understood the territorial law under which the convention was assembled to mean that the constitution to be

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formed by that convention should be submitted to the people for ratification or rejection, and, if not confirmed by a majority of the people, should be null and void, without coming to Congress for approval.

Not only did the National Government and the territorial government so understand the law at the time, but, as I have already stated, the people of the Territory so understood it. As a further evidence on that point, a large number, if not a majority, of the delegates were instructed in the nominating conventions to submit the constitution to the people for ratification. I know that the delegates from Douglas county, eight in number, Mr. Calhoun, president of the convention, being among them, were not only instructed thus to submit the question, but they signed and published, while candidates, a written pledge that they would submit it to the people for ratification. I know that men, high in authority and in the confidence of the territorial and National Government, canvassed every part of Kansas during the election of delegates, and each one of them pledged himself to the people that no snap judgment was to be taken; that the constitution was to be submitted to the people for acceptance or rejection; that it would be void unless that was done; that the Administration would spurn and scorn it as a violation of the principles on which it came into power, and that a Democratic Congress would hurl it from their presence as an insult to Democrats who stood pledged to see the people left free to form their domestic institutions for themselves.

Not only that, sir, but up to the time when the convention assembled, on the 1st of September, so far as I can learn, it was understood everywhere that the constitution was to be submitted for ratification or rejection. They met, however, on the 1st of September, and adjourned until after the October election. I think it was wise and prudent that they should thus have adjourned. They did not wish to bring any question into that election which would divide the Democratic party, and weaken our chances of success in the election. I was rejoiced when I saw that they did adjourn, so as not to show their hand on any question that would divide and distract the party until after the election. During that recess, while the convention was adjourned, Governor Ransom, the Democratic candidate for Congress, running against the present Delegate from that Territory, was canvassing every part of Kansas in favor of the doctrine of submitting the constitution to the people, declaring that the Democratic party were in favor of such submission, and that it was a slander of the Black Republicans to intimate the charge that the Democratic party did not intend to carry out that pledge in good faith. Thus, up to the time of the meeting of the convention, in October last, the pretense was kept up, the profession was openly made, and believed by me, and I thought believed by them, that the convention intended to submit a constitution to the people, and not to attempt to put a government in operation without such submission. The election being over, the Democratic party being defeated by an overwhelming vote, the Opposition having triumphed, and got possession of both branches of the Legislature, and having elected their territorial Delegate, the convention assembled, and then proceeded to complete their work.

Now let us stop to inquire how they redeemed the pledge to submit the constitution to the people. They first go on and make a constitution. Then they make a schedule, in which they provide that the constitution, on the 21st of December—the present month—shall be submitted to all the *bona fide* inhabitants of the Territory on that day, for their free acceptance or rejection, in the following manner, to wit:—thus acknowledging that they were bound to submit it to the will of the people, conceding that they had no right to put it into operation without submitting it to the people, providing in the instrument that it should take effect from and after the date of its ratification, and not before; showing that the constitu-

tion derives its vitality, in their estimation, not from the authority of the convention, but from that vote of the people to which it was to be submitted for their free acceptance or rejection. How is it to be submitted? It shall be submitted in this form: "Constitution with slavery or constitution with no slavery." All men must vote for the constitution, whether they like it or not, in order to be permitted to vote for or against slavery. Thus a constitution made by a convention that had authority to assemble and petition for a redress of grievances, but not to establish a government—a constitution made under a pledge of honor that it should be submitted to the people before it took effect; a constitution which provides, on its face, that it shall have no validity except what it derives from such submission—is submitted to the people at an election where all men are at liberty to come forward freely without hindrance and vote for it, but no man is permitted to record a vote against it.

That would be as fair an election as some of the enemies of Napoleon attributed to him when he was elected First Consul. He is said to have called out his troops and had them reviewed by his officers with a speech, patriotic and fair in its professions, in which he said to them: "Now, my soldiers, you are to go to the election and vote freely just as you please. If you vote for Napoleon, all is well; vote against him, and you are to be instantly shot." That was a fair election. [Laughter.] This election is to be equally fair. All men in favor of the constitution may vote for it—all men against it shall not vote at all. Why not let them vote against it? I presume you have asked many a man this question. I have asked a very large number of the gentlemen who framed the constitution, quite a number of delegates, and a still larger number of persons who are their friends, and I have received the same answer from every one of them. I never received any other answer, and I presume we never shall get any other answer. What is that? They say if they allowed a negative vote the constitution would have been voted down by an overwhelming majority, and hence the fellows shall not be allowed to vote at all. [Laughter.]

Mr. President, that may be true. It is no part of my purpose to deny the proposition, that that constitution would have been voted down if submitted to the people. I believe it would have been voted down by a majority of four to one. I am informed by men well posted there—Democrats—that it would be voted down by ten to one; some say by twenty to one.

But is it a good reason why you should declare it in force, without being submitted to the people, merely because it would have been voted down by five to one if you had submitted it? What does that fact prove? Does it not show undeniably that an overwhelming majority of the people of Kansas are unalterably opposed to that constitution? Will you force it on them against their will simply because they would have voted it down if you had consulted them? If you will, are you going to force it upon them under the plea of leaving them perfectly free to form and regulate their domestic institutions in their own way? Is that the mode in which I am called upon to carry out the principle of self-government and popular sovereignty in the Territories—to force a constitution on the people against their will, in opposition to their protest, with a knowledge of the fact, and then to assign, as a reason for my tyranny, that they would be so obstinate and so perverse as to vote down the constitution if I had given them an opportunity to be consulted about it?

Sir, I deny your right or mine to inquire of these people what their objections to that constitution are. They have a right to judge for themselves whether they like or dislike it. It is no answer to tell me that the constitution is a good one and unobjectionable. It is not satisfactory to me to have the President say in his message that that constitution is an admirable one, like all the constitutions of the new States that have been

recently formed. Whether good or bad, whether obnoxious or not, is none of my business and none of yours. It is their business and not ours. I care not what they have in their constitution, so that it suits them and does not violate the Constitution of the United States and the fundamental principles of liberty upon which our institutions rest. I am not going to argue the question whether the banking system established in that constitution is wise or unwise. It says there shall be no monopolies, but there shall be one bank of issue in the State, with two branches. All I have to say on that point is, if they want a banking system let them have it; if they do not want it let them prohibit it. If they want a bank with two branches, be it so; if they want twenty it is none of my business, and it matters not to me whether one of them shall be on the north side and the other on the south side of the Kaw river, or where they shall be.

While I have no right to expect to be consulted on that point, I do hold that the people of Kansas have the right to be consulted and to decide it, and you have no rightful authority to deprive them of that privilege. It is no justification, in my mind, to say that the provisions for the eligibility for the offices of Governor and Lieutenant Governor require twenty years' citizenship in the United States. If men think that no person should vote or hold office until he has been here twenty years they have a right to think so; and if a majority of the people of Kansas think that no man of foreign birth should vote or hold office unless he has lived there twenty years, it is their right to say so, and I have no right to interfere with them; it is their business, not mine; but if I lived there I should not be willing to have that provision in the constitution without being heard upon the subject, and allowed to record my protest against it.

I have nothing to say about their system of taxation, in which they have gone back and resorted to the old exploded system that we tried in Illinois, but abandoned because we did not like it. If they wish to try it and get tired of it and abandon it, be it so; but if I were a citizen of Kansas I would profit by the experience of Illinois on that subject, and defeat it if I could. Yet I have no objection to their having it if they want it; it is their business, not mine.

So it is in regard to the free negroes. They provide that no free negro shall be permitted to live in Kansas. I suppose they have a right to say so if they choose; but if I lived there I should want to vote on that question. We, in Illinois, provide that no more shall come there. We say to the other States, "Take care of your own free negroes and we will take care of ours." But we do not say that the negroes now there shall not be permitted to live in Illinois; and I think the people of Kansas ought to have the right to say whether they will allow them to live there, and if they are not going to do so, how they are to dispose of them.

So you may go on with all the different clauses of the constitution. They may be all right; they may be all wrong. That is a question on which my opinion is worth nothing. The opinion of the wise and patriotic Chief Magistrate of the United States is not worth anything as against that of the people of Kansas, for they have a right to judge for themselves; and neither Presidents, nor Senates, nor Houses of Representatives, nor any other power outside of Kansas, has a right to judge for them. Hence it is no justification, in my mind, for the violation of a great principle of self-government, to say that the constitution you are forcing on them is not particularly obnoxious, or is excellent in its provisions.

Perhaps, sir, the same thing might be said of the celebrated Topeka constitution. I do not recollect its peculiar provisions. I know one thing: we Democrats, we Nebraska men, would not even look into it to see what its provisions were. Why? Because we said it was made by a political party, and not by the people; that it was made in defiance of the authority of Congress; that if it was as pure as the Bible, as holy as the

ten commandments, yet we would not touch it until it was submitted to and ratified by the people of Kansas, in pursuance of the forms of law. Perhaps that Topeka constitution, but for the mode of making it, would have been unexceptionable. I do not know; I do not care. You have no right to force an unexceptionable constitution on a people. It does not mitigate the evil, it does not diminish the insult, it does not ameliorate the wrong, that you are forcing a good thing on them. I am not willing to be forced to do that which I would do if I were left free to judge and act for myself. Hence I assert that there is no justification to be made for this flagrant violation of popular rights in Kansas, on the plea that the constitution which they have made is not particularly obnoxious.

But, sir, the President of the United States is really and sincerely of the opinion that the slavery clause has been fairly and impartially submitted to the free acceptance or rejection of the people of Kansas, and that, inasmuch as that was the exciting and paramount question, if they get the right to vote as they please on that subject they ought to be satisfied; and possibly it might be better if we would accept it, and put an end to the question. Let me ask, sir, is the slavery clause fairly submitted, so that the people can vote for or against it? Suppose I were a citizen of Kansas, and should go up to the polls and say, "I desire to vote to make Kansas a slave State; here is my ballot." They reply to me, "Mr. Douglas, just vote for that constitution first, if you please." "Oh, no!" I answer, "I cannot vote for that constitution conscientiously. I am opposed to the clause by which you locate certain railroads in such a way as to sacrifice my county and my part of the State. I am opposed to that banking system. I am opposed to this Know Nothing or American clause in the constitution about the qualification for office. I cannot vote for it." Then they answer, "You shall not vote on making it a slave State." I then say, "I want to make it a free State." They reply, "Vote for that constitution first, and then you can vote to make it a free State; otherwise you cannot." Thus they disqualify every free-State man who will not first vote for the constitution; they disqualify every slave-State man who will not first vote for the constitution. No matter whether or not the voters state that they cannot conscientiously vote for those provisions, they reply, "You cannot vote for or against slavery here. Take the constitution as we have made it, take the elective franchise as we have established it, take the banking system as we have dictated it, take the railroad lines as we have located them, take the judiciary system as we have formed it, take it all as we have fixed it to suit ourselves, and ask no questions, but vote for it, or you shall not vote either for a slave or free State." In other words, the legal effect of the schedule is this: all those who are in favor of this constitution may vote for or against slavery, as they please; but all those who are against this constitution are disfranchised, and shall not vote at all. That is the mode in which the slavery proposition is submitted. Every man opposed to the constitution is disfranchised on the slavery clause. How many are they? They tell you there is a majority, for they say the constitution will be voted down instantly, by an overwhelming majority, if you allow a negative vote. This shows that a majority are against it. They disqualify and disfranchise every man who is against it, thus referring the slavery clause to a minority of the people of Kansas, and leaving that minority free to vote for or against the slavery clause, as they choose.

Let me ask you if that is a fair mode of submitting the slavery clause? Does that mode of submitting that particular clause leave the people perfectly free to vote for or against slavery as they choose? Am I free to vote as I choose on the slavery question, if you tell me I shall not vote on it until I vote for the Maine liquor law? Am I free to vote on the slavery question, if you tell me that I shall not vote either way until I vote for a bank? Is it freedom of election to make your right to vote upon one question depend upon the mode in which you are going to vote on some other question which has no connection with it? Is that freedom of election? Is that the great fundamental principle of self-government, for which we combined and struggled, in this body and

throughout the country, to establish as the rule of action in all time to come?

The President of the United States has made some remarks in his message which it strikes me it would be very appropriate to read in this connection. He says:

"The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject. Everywhere throughout the Union they publicly pledged their faith and honor that they would cheerfully submit the question of slavery to the decision of the *bona fide* people of Kansas, without any restriction or qualification whatever. All were cordially united upon the great doctrine of popular sovereignty, which is the vital principle of our free institutions."

Mark this:

"Had it then been insinuated, from any quarter, that it would have been a sufficient compliance with the requisitions of the organic law for the members of a convention, thereafter to be elected, to withhold the question of slavery from the people, and to substitute their own will for that of a legally ascertained majority of their constituents, this would have been instantly rejected."

Yes, sir, and I will add further, had it been then intimated from any quarter, and believed by the American people, that we would have submitted the slavery clause in such a manner as to compel a man to vote for that which his conscience did not approve, in order to vote on the slavery clause, not only would the idea have been rejected, but the Democratic candidate for the Presidency would have been rejected; and every man who backed him would have been rejected too.

The President tells us in his message that the whole party pledged our faith and our honor that the slavery question should be submitted to the people, without any restriction or qualification whatever. Does this schedule submit it without qualification? It qualifies it by saying, "You may vote on slavery if you will vote for the constitution; but you shall not do so without doing that." That is a very important qualification—a qualification that controls a man's vote and his action and his conscience, if he is an honest man—a qualification confessedly in violation of our platform. We are told by the President that our faith and our honor are pledged that the slavery clause should be submitted without qualification of any kind whatever; and now am I to be called upon to forfeit my faith and my honor in order to enable a small minority of the people of Kansas to defraud the majority of that people out of their elective franchise? Sir, my honor is pledged; and before it shall be tarnished, I will take whatever consequences personal to myself may come; but never ask me to do an act which the President, in his message, has said is a forfeiture of faith, a violation of honor, and that merely for the expediency of saving the party. I will go as far as any of you to save the party. I have as much heart in the great cause that binds us together as a party as any man living. I will sacrifice anything short of principle and honor for the peace of the party; but if the party will not stand by its principles, its faith, its pledges, I will stand there, and abide whatever consequences may result from the position.

Let me ask you, why force this constitution down the throats of the people of Kansas, in opposition to their wishes and in violation of our pledges. What great object is to be attained? *Cui bono*? What are you to gain by it? Will you sustain the party by violating its principles? Do you propose to keep the party united by forcing a division? Stand by the doctrine that leaves the people perfectly free to form and regulate their institutions for themselves in their own way, and your party will be united and irresistible in power. Abandon that great principle, and the party is not worth saving, and cannot be saved, after it shall be violated. I trust we are not to be rushed upon this question. Why shall it be done? Who is to be benefited? Is the South to be the gainer? Is the North to be the gainer? Neither the North nor the South has the right to gain a sectional advantage by trickery or fraud.

But I am beseeched to wait until I hear from the election on the 21st of December. I am told that perhaps that will put it all right, and will save the whole difficulty. How can it? Perhaps there may be a large vote. There may be a large vote returned. [Laughter.] But I deny that it is possible to have a fair vote on the slavery

clause; and I say that it is not possible to have any vote on the constitution. Why wait for the mockery of an election, when it is provided unalterably that the people cannot vote—when the majority are disfranchised?

But I am told on all sides, "Oh, just wait; the pro-slavery clause will be voted down." That does not obviate any of my objections; it does not diminish any of them. You have no more right to force a free-State constitution on Kansas than a slave-State constitution. If Kansas wants a slave-State constitution she has a right to it; if she wants a free-State constitution she has a right to it. It is none of my business which way the slavery clause is decided. I care not whether it is voted down or voted up. Do you suppose, after the pledges of my honor that I would go for that principle and leave the people to vote as they choose, that I would now degrade myself by voting one way if the slavery clause be voted down, and another way if it be voted up? I care not how that vote may stand. I take it for granted that it will be voted out. I think I have seen enough in the last three days to make it certain that it will be returned out, no matter how the vote may stand. [Laughter.]

Sir, I am opposed to that concern because it looks to me like a system of trickery and jugglery to defeat the fair expression of the will of the people. There is no necessity for crowding this measure, so unfair, so unjust as it is in all its aspects, upon us. Why can we not now do what we proposed to do in the last Congress? We then voted through the Senate an enabling act, called "the Toombs bill," believed to be just and fair in all its provisions, pronounced to be almost perfect by the Senator from New Hampshire, [Mr. Hale,] only he did not like the man, then President of the United States, who would have to make the appointments. Why can we not take that bill, and, out of compliment to the President, add to it a clause taken from the Minnesota act, which he thinks should be a general rule, requiring the constitution to be submitted to the people, and pass that? That unites the party. You all voted, with me, for that bill, at the last Congress. Why not stand by the same bill now? Ignore Lecompton, ignore Topeka, treat both those party movements as irregular and void; pass a fair bill—the one that we framed ourselves when we were acting as a unit; have a fair election, and you will have peace in the Democratic party, and peace throughout the country, in ninety days. The people want a fair vote. They will never be satisfied without it. They never should be satisfied without a fair vote on their constitution.

If the Toombs bill does not suit my friends, take the Minnesota bill of the last session—the one so much commended by the President in his message as a model. Let us pass that as an enabling act, and allow the people of all parties to come together and have a fair vote, and I will go for it. Frame any other bill that secures a fair, honest vote to men of all parties, and carries out the pledge that the people shall be left free to decide on their domestic institutions for themselves, and I will go with you with pleasure, and with all the energy I may possess. But if this constitution is to be forced down our throats, in violation of the fundamental principle of free government, under a mode of submission that is a mockery and insult, I will resist it to the last. I have no fear of any party associations being severed. I should regret any social or political estrangement, even temporarily, but if it must be, if I cannot act with you and preserve my faith and my honor, I will stand on the great principle of popular sovereignty, which declares the right of all people to be left perfectly free to form and regulate their domestic institutions in their own way. I will follow that principle wherever its logical consequences may take me, and I will endeavor to defend it against assault from any and all quarters. No mortal man shall be responsible for my action but myself. By my action I will compromise no man.

At the conclusion of the honorable gentleman's speech loud applause and clapping of hands resounded through the crowded galleries.

MR. MASON. I ask that the galleries may be cleared. The offenders against the peace and decorum of the Senate should be expelled. I move that the galleries be cleared.

Mr. PUGH. I think the Senator spoke rather too fast. There were but few applauders in the galleries.

Mr. BIGLER. I hope the Senator from Virginia will withdraw his motion.

Mr. MASON. I cannot withdraw the motion. This is not the first instance of an offense of this kind. The peace and decorum of the Senate must be preserved. I move that the galleries be cleared.

Mr. PUGH. I shall ask for the yeas and nays.

Mr. HAMLIN. I hope the Senate will not entertain the motion. While I have no commendation to bestow on the applause which has been witnessed here on this occasion, it is true, as the Senator from Virginia says, that we have witnessed it on other occasions, and on other occasions differing much from the present—much indeed. I have often heard southern Senators on this floor applauded—not that I approved it then, not that I approve it now; but this is only the outburst of that feeling which shows how deep it is in the human heart. Even if it be an indiscretion which has been before as well as now committed, I hardly think it appropriate for the Senators to exclude from the gallery this audience. I hope it will not be done.

Mr. CLAY. I trust the Senator from Virginia will withdraw the motion. I disapprove this violation of the decorum of the Senate, but I think the offense commenced on the floor of this Chamber; and on the other side of it; and I do not think we should punish persons in the gallery and rebuke them for the example which was set them from the floor.

Mr. BIGLER. I concur most heartily with what the Senator from Alabama has said on this occasion, and I unite with him in urging my friend from Virginia to withdraw the motion. But a very small proportion participated in this demonstration, and it would be exceedingly harsh to force from the gallery the large number who had no part in it. Besides, this is the first demonstration at the present session.

There are, doubtless, very many people in the gallery just now who have never been there before, who do not know that they have not this privilege. This is the first notice to them; and admitting the impropriety, it would be certainly very severe to expel them from the gallery. There are many considerations which might be urged. Our people are impulsive, and whether they agree or disagree with the sentiments which the orator presents, if he is earnest in manner and feels deeply what he says, they are very likely to break out in applause. Whether this demonstration was intended as an indorsement of the sentiments uttered or not, as it was the first demonstration in a new Congress, I think the rule ought not to be rigidly enforced. I most solemnly object to it, and I hope the Senator from Virginia will withdraw the motion.

Mr. SEWARD. I entirely agree with the Senator from Virginia in the principle upon which this motion proceeds. I concur also with all the Senators who have appealed to him to withdraw the motion on the present occasion. It is, of course, an unpremeditated offense, and I am sure that it requires only a manifestation of the determination of the Senate to protect itself against offenses of this kind, to prevent their occurrence hereafter. I rose, however, more particularly to correct a mistake into which the honorable Senator from Alabama fell, which might possibly mislead the public, when he intimates that the applauses which were heard came from this side of the Chamber, and emanated from the floor. I am sure the honorable Senator did not mean to imply that among the persons occupying seats as Senators here, there was any offense against the proprieties of the Senate.

Mr. CLAY. I did not mean to say so, because my ear could not distinguish whether the applause proceeded from the floor or the backers, but I presume it came from the backers on that side.

Mr. SEWARD. Nothing of that kind has occurred on the part of those who are here responsible for their conduct as Senators.

Mr. MASON. I did not make the motion because the applause was evidence of a manifestation of the approbation of those who applauded; nor should I have made it if there had been given on the other hand any evidence of disapproba-

tion. I made the motion in order to preserve the decorum and the propriety of the Senate, and solely for that purpose. I am perfectly aware that you cannot get at the offenders unless you clear the Chamber of all who are present except Senators; but it is the misfortune of those who are here properly, who respect the decorum of the Senate, and who respect their country, that there may be occasions when they should be accommodated in order that offenders may be reached.

Now, sir, I should persist in the motion, but that I see evidence around me, from the requests of Senators that, in their judgment, it should be foreborne on the present occasion. I trust that hereafter, if a like manifestation should be exhibited at any sentiments of any kind which may be promulgated on this floor, the Senate will preserve its dignity and decorum by clearing the Chamber. I withdraw the motion.

Mr. GWIN. I hope the vote will now be taken on printing the message.

Mr. HALE. Let the proposition be read as it now stands.

The PRESIDENT *pro tempore*. The question is on adopting the following order:

Ordered, That the usual number of the message and documents be printed, and that fifteen thousand copies of the message and accompanying documents; in addition to the usual number, be printed for the use of the Senate, by the Printer of the Senate for the last Congress, at rates not exceeding those established by existing laws, and that all other orders for printing made, until a Printer shall be chosen, be executed by the late Printer on the same terms.

Mr. GWIN. It is proposed to strike out the provision for extra numbers.

Mr. COLLAMER. That does not remove the difficulty. At the last session, when we revised the rules, an arrangement was made in order to provide for just such a contingency as this. The difficulty, as stated by the Senator from Maine, [Mr. FESSENDEN,] is, that when the usual number of a document is ordered to be printed, the type having been set up, and the work commenced, the order for the extra numbers is considered as comparatively of little cost, because the great body of the expense has been already incurred. Before the last session, it was the practice to refer to the Committee on Printing the simple question of printing extra numbers. If, however, reference be had to the rule, as revised at the last session, it will be ascertained that in all cases, with certain enumerated exceptions—and this is not one of them—all questions of printing are to be referred to the committee in the first instance. I say, therefore, that this motion to print even the ordinary number of the President's message and accompanying documents, must, by the rule, go to the Committee on Printing. If the Chair will read the rule, he will find it entirely explicit on this subject.

The PRESIDENT *pro tempore*. The 34th rule provides for

"A Committee on Printing, to consist of three members; to whom shall be referred every question on the printing of documents, reports, or other matter transmitted by either of the Executive Departments, and all memorials, petitions, accompanying documents, together with all other matter, the printing of which shall be moved, excepting bills originating in Congress, resolutions offered by any Senator, communications from the Legislatures, or conventions lawfully called, of the respective States, and motions to print by order of the standing committees of the Senate; and excepting, also, messages and other communications from the President of the United States, and such reports and communications from the heads of Departments, as may be made to Congress, or to the Senate, in obedience to law, or in answer to calls from the Senate; motions to print additional numbers shall likewise be referred to said committee; and when the report shall be in favor of printing additional numbers, it shall be accompanied by an estimate of the probable cost."

It is the opinion of the Chair that, as we have no committees at present, it is not in order to refer the question.

Mr. BIGLER. It is not my intention, Mr. President, to speak to the mere proposition to print the message and documents; nor do I intend to-day, to attempt to address the Senate at length on the grave and difficult subject which has been unhappily precipitated upon this body. I never felt so much responsibility in my life. I never felt a greater anxiety to do my duty. Never since I have been connected with public affairs have I desired in my whole soul so much to do what would just be best for this great country. I feel my weakness, and how much I regret the suggestion I made yesterday evening, that I concurred with the President of the United States in the

views he had taken and should endeavor to defend those views, for I now feel how much I am unprepared. But while I shall not make a speech to-day, I desire very briefly to notice some of the propositions of my friend from Illinois, which have fallen on my ears as most extraordinary.

It would be necessary, Mr. President, to a fair understanding of this question, to trace its history; and nothing have I regretted so much as that the Senator from Illinois did not stop in the first instance to look at this question in its true character. Still more am I pained with the remembrance that his feelings were not such as I had hoped they would be on a question so delicate and so dangerous, which he has labored so long and so ardently to allay.

Sir, I do not think it is entirely the part of a statesman to handle this question as though each particular view which he may hold can be distinctly carried out. The question should occur to his mind, what is best for the country under all the circumstances? It will not do to show to me that the constitutional convention of Kansas has been guilty of sins of omission or commission on the one hand, or that the Topeka movement was without authority of law and in derogation of the authority of the United States Government on the other. I look at this question as it is before us, in a spirit of concession and compromise, and, I trust, that measure of patriotism which will embrace all the States of this Union and the interests and rights of all the people, and inquire what shall we do? Has my friend from Illinois persuaded himself that, with the present state of feeling in the Territory of Kansas it is possible to have any measure carried out with precision and order? Are there no reasons to apprehend strife, and confusion, and violation of principle there? Has he any guarantee that whatever action Congress may take will secure a peaceful exercise of the elective franchise there to the entire inhabitants of that Territory? What is there in the history of Kansas to bring him to the conclusion that either party in power there will wield that power with moderation? I have long since abandoned that idea, and I have persuaded myself that patriotism and duty would require that Kansas should be admitted into the Union on the first allowable opportunity, for the sake of Kansas and the Union. From the day that Senator offered his bill in this Hall in 1854, to this hour, he has never witnessed the same measure of complication in the affairs of that Territory, or the same menacing aspect to the country.

The extraordinary things in the Senator's remarks that occurred to my mind are these: the importance that he attached to so much of the Kansas-Nebraska bill as declares that the people shall be left perfectly free to select their own domestic institutions. Will the Senator from Illinois contend that the people of Kansas are to look to that act for their right to form their ordinary institutions? Will he tell me that the Missouri line interposed against any of those rights, or that the repeal of it enlarged them or affected them in any possible way? Certainly not. The Missouri line had reference to slavery alone. His act of 1854 had reference to the institution of slavery only. It is that, and that alone, which has agitated the country. It is that to which we have reference mainly when speaking of the rights of the people of that Territory. That dangerous and agitating question it was which constrained the wisest men who have ever assembled in this Chamber, in 1850, to agree that this dangerous issue should be taken from Congress and given to the people. However that great fact may be obscured by logic, however it may be beclouded by a mass of—I shall not say subterfuge or technicality, but I may say special pleading—the great truth is before the people of the United States that that is the only question to which we have had reference in all this long struggle. What I have desired, and what I have thought would be conclusive, was that we should have from the people of Kansas such an embodied expression as would give us their will on that subject.

I certainly concur with the President of the United States in that part of his message in which he says he would have preferred that the whole constitution should be submitted to the people; but the convention—exercising what he has conceded to be their right, to make a constitution and send it to Congress—submitted only the slavery

question. I do not say that the whole of that constitution would have been adopted or rejected, but I can say to the Senator from Illinois that I was in the Territory before the delegates were elected, and for nearly a month afterwards, and I think I know some circumstances which influenced the action of the people. I know what was said on the one side and on the other from the rostrum, for I heard it. I heard the advocates of the Topeka movement say to the men who proposed to form a constitution under the laws of the Territory, "We will not judge of any instrument you may submit; we will not consider its merits at all." Why? "Because we are determined that the laws, which the President of the United States has said shall be carried out, shall be rendered null and void. Governor Walker has told us that these laws are binding, and that the convention has been legally convened; we do not subscribe to that doctrine; we will therefore accept no form of government from a bogus convention." I heard more than one of them say that even if the convention should give to them the Topeka constitution, word for word, and letter for letter, they would trample it in the dust, because they denied the authority of the law which the President of the United States was administering there. However unwisely members of the convention may have acted—and I do not intend to defend the details of their action by any means—it will not do to say that there were no surrounding circumstances to impel them to such action. Probably if the Republicans had the power at that hour, they would have wielded it quite as unwarrantably. The declarations to which I have referred naturally begot retaliation. The answer was, "If you will not judge of this instrument why should it be submitted to you?"

Now, sir, I will say to the Senator from Illinois, in defense of his friend, the president of the convention, whose idol he has almost been, that in all my intercourse with him I never heard from him an unreasonable or an unfair suggestion on the subject. He did say, and he did write, that he would agree to a submission of the constitution to the people; but when he was told, "we will not judge of this," his views were different. He told me to say to the President of the United States that if this spirit was persisted in, if they were to be broken down simply to give the power to their enemies and not because the constitution was a bad one, he would not be bound to submit it. He held that under the organic act and according to the common understanding of the country, they were under an obligation to submit the slavery clause. That they did not submit it in a proper form I agree. It ought to have been, one way or the other, distinctly. They might have withheld the constitution entirely, and avoided the difficulty which the Senator raises as to forcing a seeming assent to the constitution. That, however, is somewhat of a theoretical difficulty, for I never heard any issue in Kansas, nor will the Senator hear any serious issue there, as to the main features of the constitution. The virtue of the submission is that it withholds the constitution except that portion which relates to slavery.

The Senator is perfectly aware that as late as 1848, when a constitution was formed for Illinois, the same monstrous outrage upon popular sovereignty was practiced, for a portion of that constitution was put into operation without being submitted to the people.

He was the able advocate of Mr. Toombs's bill, which did not emanate from the people of Kansas. They did not delegate their sovereignty in the first instance; they were not consulted at all; they had not petitioned for it; and yet the Senator advocated and voted for that bill. It provided for an election of delegates, named the times and places, and called together a convention to whom the people of Kansas were to delegate their sovereignty. It did more, sir. It put that constitution into operation without ever consulting the people of Kansas. If the Senator's feelings had been awakened at that time as to the peculiar rights of the people of Kansas, he never could have voted for Mr. Toombs's bill. That was non-intervention—very peculiar, however. I was unwilling, as I remember, in the first instance, to go for a measure of that kind, because I thought it contravened the principle of non-intervention.

Now, if I understand rightly the position of

the Senator from Illinois, it comes down to this: although the constitution of Kansas, when presented here, may be republican; though there may be in it no insurmountable objection; though it may be a reasonable instrument, made by competent authority, in accordance with law and in the proper form, Kansas shall not come into the Union because this right thing was not done through a particular process. Is that consistent with the doctrine of non-intervention? I deny the right of Congress to go behind the organic act, and inquire into all the details of how the people of Kansas have proceeded; but when Kansas presents herself for admission at the doors of Congress with a republican constitution, formed in order, according to law, the Senator from Illinois is about to say to those people, you shall not come into the Union because you did not do this right thing in the proper way. Sir, when the question involves the peace of the whole country, and, as I know, the prosperity of Kansas, I will not be pledged to say any such thing; but if the measure is right in itself, and if I can see that it imposes no great future wrong on the people of Kansas, in view of the peculiar circumstances which surround the case, the difficulty of getting any law properly administered there, the danger of leaving the question open, I will, so far as I have the power, assist to throw wide open the portals of the Union and welcome Kansas as a State, thus settling this bitter family feud forever.

Sir, I do not intend to follow the subject further to-day. I thought, however, that some of the positions of the Senator from Illinois were so peculiarly forced that, though entirely unprepared, I should not, after the intimation I had given, do justice to myself if I allowed those remarks to pass unnoticed.

Mr. MASON. Mr. President, I do not mean to go into this debate, because it is now entirely upon questions purely abstract; but I think it due to the honorable Senator from Illinois, to whose remarks I have listened with great attention, to point out to him one, at least, of the fallacies contained in his argument. I use that term with entire respect; and I should be unjust to myself if I did not use it with entire respect to him, because all will admit that his speech was one of great strength and great power, but, in my conception, with great diffidence I say it, was of little moment in its legal positions, and in its political conclusions, a series of monstrous fallacies. I only desire to point out one now.

The honorable Senator said that the effect produced of necessity from the mode of submitting this subject to the people of Kansas was to disfranchise all who did not come to the polls prepared to vote for the constitution; and thus, he said, all who did vote, whether for or against slavery, were compelled to vote for the constitution, and those of either class who were not prepared to vote for the constitution, must necessarily refrain from voting at all; and yet the honorable Senator complained—and it was the great staple of that part of his argument—that the constitution was not submitted to be voted on. At one time he declared that it was withheld from the people; and again he declared that all who came to vote were necessarily obliged to vote for it. Now, I submit to the honorable Senator, how could a man be compelled to vote for that which was not submitted to him to be voted on at all?

Mr. DOUGLAS. Did the Senator understand me to say that it was withheld?

Mr. MASON. So I understood.

Mr. DOUGLAS. I said just the reverse.

Mr. MASON. The Senator certainly said they withheld everything from the people except the question of slavery; and yet the Senator declared that whoever voted on the question of slavery, whether for or against it, was obliged to vote for the constitution; and the Senator drew the logical consequence that, of necessity, those who did not choose to vote for the constitution were obliged to stay away and refuse to vote at all. That was his argument. Now, the fallacy I meant to point out was this: look at that constitution and you will find that the convention withheld the constitution; it was not submitted to the people at all. Whether that was well done or ill done is another question; but the constitution was withheld from the people, and the only question submitted to them was, whether they would estab-

lish or interdict slavery? They might go there and vote upon that, and not vote or express any opinion whatever on anything else contained in the constitution.

Mr. DOUGLAS. I am sorry I was misapprehended by the Senator from Virginia. I certainly took the ground, first, that the convention had no power to frame a government, and put it in operation without submitting it to the people; secondly, that the convention showed a consciousness of that fact, by providing that it should be submitted to the people, and should take effect from and after the date of ratification. Hence, from that action of the convention, whatever vitality the constitution was ever to have, resulted, not from the convention, but from a vote of the people. I then showed that while they acknowledged it would be void but for the ratification of the people, it provided that it should be submitted for free acceptance or rejection in the following form, and the form was such as to cut off all negative votes, and only count the affirmative. That was my position—a position sustained by the constitution itself. The Senator is entirely mistaken if he supposes that by the remotest inference he is authorized by that constitution and schedule in saying they withheld it from the people. The schedule says, in so many words, "this constitution shall be submitted to all the inhabitants in the Territory, on the day of election, for their acceptance or rejection, in the following form." This shows that they provide, not that it shall go into operation without submission, but that it shall be submitted, and they profess to submit it. They then cut off the negative votes, which, of course, makes a sure thing of it. That is my position. If the Senator from Virginia had understood it, I apprehend he would not have discovered any fallacy.

One word in reply to the gentleman from Pennsylvania—

Mr. BIGLER. If the Senator will allow me at this point, I wish to give some authority I have on the subject.

Mr. DOUGLAS. I yield the floor.

Mr. BIGLER. I desire simply to say that I was exceedingly anxious to understand the precise position of that question. It was difficult to tell, from the language of the schedule. Yesterday I asked Colonel Henderson, of Kansas, who was an active member of the convention, what it meant. "Why," said he, "it means this: that there are two entire constitutions, and the people vote separately for the constitution without slavery—the constitution the convention has formed—or the constitution with slavery." I understood him to say that there were two constitutions precisely similar.

Mr. DOUGLAS. If there are two constitutions, as we have but one, I should like to see the other; and I want to know which one of the two the Senator from Pennsylvania is for, when he says he agrees with the President in going for this.

Mr. BIGLER. I said they were precisely similar.

Mr. DOUGLAS. If there are two copies of the same constitution I can understand it, but that the convention made two constitutions precisely similar, I do not understand. But if they did, what difference does it make? You may vote for this constitution or the other one; but they are just alike, and you must take one or the other.

Mr. BIGLER. One will make Kansas a free State, and the other will make it a slave State. That is the difference.

Mr. DOUGLAS. You may vote for this or the other constitution; and if you vote for either, you may vote on the slavery question; but unless you do vote for one or the other of these constitutions, you cannot vote on that subject. It makes no difference how many copies they made; the simple question is, do they allow the people to vote on the slavery question without casting a vote on any other subject? By that constitution you cannot vote on the slavery question by itself. You are compelled to write on the ballot, "for the constitution," as preliminary to voting. Your right to vote is then conditional, not free.

But I did not rise for the purpose of controverting these questions. I was going to say a word or two to the Senator from Pennsylvania. He assumed an air in the opening of this discus-

sion that I thought was entirely uncalled for, as if he wished rather to intimate to the Senator from Illinois that his bearing was not exactly right—an intimation of speaking by authority not authorized and not respected.

Mr. BIGLER. Mr. President, I beg to say to the Senator from Illinois that in not one word that I uttered did I intend the slightest disrespect of that sort, nor do I wish the Senator from Illinois to mark me as speaking here except for myself. I express on this subject the views which I have deliberately made up. They concur generally, if not entirely, with those expressed by the President of the United States.

Mr. DOUGLAS. I have not another word to say on the point on which I was speaking. The explanation of the Senator from Pennsylvania is conclusive on that point. It may be that I misunderstood the manner in which he treated the subject; but, whether I did or not, his statement is conclusive with me. I was certain he did not speak for the President of the United States. I knew that; for the President had just spoken for himself, in language which condemned that convention for not submitting the constitution to the people, and he refuses to recommend that we should receive this constitution. The absence of a recommendation clearly shows that it is not an Administration measure. Certainly the President is not going to have, as an Administration measure here, one to which he has not committed himself and his Cabinet. The President of the United States is a bold, frank, man, and if he intends to give us an Administration measure, he will say so in so many words. He has not said so. It is not respectful to him to assume that he wants us to do that which he was not willing to recommend us to do in his annual message, when acting under the authority of the Constitution, which makes it his duty to recommend the measures which the public good requires. Hence, of course, I knew the Senator did not speak by authority, and I was going to deny his right to do so; but inasmuch as I misunderstood him, I have no comments to make.

Mr. BIGLER. Will the Senator permit me a moment?

Mr. DOUGLAS. Certainly.

Mr. BIGLER. I think I am very safe in saying—and I believe that the Senator from Illinois will agree with me—that the President of the United States upholds the doctrine in his message that that convention had a right to form a constitution; it had a right to submit it to the people of the Territory for their approval or send it here for the approbation of Congress and the admission of the State into the Union. I think it is very clearly deducible from the message in addition, that the President of the United States does not think that the circumstance of not submitting the entire constitution to a vote of the people should keep Kansas out of the Union if her constitution is republican and right in all other respects. On that point we will agree. With that I understand the Senator from Illinois to take issue.

Mr. DOUGLAS. I infer from the message that the President of the United States does hold that that convention had a right to frame a constitution and send it up here; but that was under the right to petition for the redress of grievances under the Constitution of the United States, and not because the Legislature of the Territory had the power to constitute that a legal constitutional convention.

Mr. BIGLER. Where do you find that?

Mr. DOUGLAS. Yesterday a speech was read to this body, showing that the President had held that doctrine twenty years ago, and he has never disavowed it since. In that speech the President declared that a Territorial Legislature had no power to create a convention to form a constitution; and that, if they attempted to exercise such a power, it would be an act of usurpation—a high crime—a crime subject to impeachment. The President has held these doctrines for twenty years. He held them at the same time that General Jackson's administration held them in regard to the Arkansas case. The Democratic party has held them ever since. I have proved to-day that the Democratic party, so far as it is bound by our action one year and a half ago, asserted the same doctrine in the Kansas report which I made from the Committee on the Territories. I firmly be-

lieved then, that that committee was a faithful exponent of the views of the Kansas-Nebraska party. In that report we set forth that doctrine, and, as the Senator well knows, we published and circulated during the campaign, in order to elect Mr. Buchanan, three hundred thousand copies of that report as a party document. I paid for one hundred thousand copies of it myself. I never heard it intimated that the doctrine then expounded, and on which the President was elected, was repudiated by any portion of the party, and therefore I said that the President of the United States was with me on this question, so far as his record shows.

Mr. BIGLER. I must enter my protest and claim the benefit of the statute of limitations, which is applicable to a shorter period than twenty years. I cannot consent that the Senator from Illinois shall hold the President to principles which he may have laid down twenty years ago, under entirely different circumstances from those which now exist. It is not half so long since the President of the United States declared that the Missouri line would be the best compromise of the slavery difficulty that could be made. In 1848, the Senator from Illinois advocated the extension of the Missouri line to the Pacific ocean, yet he was the man who proposed and insisted that it ought to be repealed. He was at one time in favor of extending it, and therefore made his principle acceptable to him under the circumstances then existing; he was willing then to take it. Now, would it not be very ungenerous in me to hold to-day that the Senator's argument was a fallacy, because he at one time advocated the extension of the Missouri line?

Mr. DOUGLAS. I deny the right of the Senator from Pennsylvania to interpose the statute of limitations upon this occasion, on the well-known principle that no one but the authorized attorney of the party can interpose that plea. [Laughter.] As the Senator has disavowed the authority to act and speak for the President, he has no right to file the plea. If the President of the United States himself will interpose the plea, I shall admit it. I believe in a statute of limitations in regard to political opinions. I need one very much myself, on many points. I am not one of those who boast that they have never changed an opinion. Sir, it is a matter of gratification to me that I feel each year that I am a little wiser than I was the year before; and I do not know that a month has ever passed over my head in which I have not modified some opinion in some degree, but I am always frank enough to avow it. Still, it is fair for any man to hold me to a former opinion until I have expressed a contrary one.

Has the President of the United States ever withdrawn the opinion of which I have spoken, expressed twenty years ago, in regard to the power of the Territorial Legislatures? I show that the Democratic party stood by it last year. Is not that rather a short period for the application of the statute of limitations? I hope you are not going to cut off the Cincinnati Convention by that statute. I deny your right to plead the statute against the Cincinnati Convention, until after the meeting of the Charleston Convention. The Cincinnati platform is the fundamental, unalterable law of the Democratic party until the meeting of the Charleston Convention. Congressmen have no right to change it. Senators have no right to change it. Cabinets cannot alter it; and the President, I know, will not attempt to do so. I deny the Senator's right to come in with this plea for the President, implying thereby that he has changed his opinion, when that same opinion was last year the doctrine of the Democratic party, and cannot be changed for four years to come by the party organization. I am perfectly at home when you come to the discussion of the question whether a man is inside the party or not. I have been in the habit of discussing these platforms and helping to make them. I stand now where I stood last year; not because I am unwilling to change, but because I believed I was right then, and I believe I am right now.

The Senator from Pennsylvania has told me that I actually voted for the Toombs bill last year. That is true; and, as I said to-day, I am ready to vote for it again. He voted for it last year, and so did the gentlemen around me. Let us vote for it again, and have no quarrels among

ourselves. It will not do to taunt me with having voted for a measure last year which I am for now, but which you are not for.

Mr. BIGLER. I certainly did not present the case in that spirit at all; nor did I look at it in that point of view. I gave it no such aspect whatever. I presented it in this point of view: the Senator, in his speech to-day, had held that it was a great wrong upon the people of Kansas to put a government in operation through the agency of their territorial laws and a territorial convention, the whole of which had not been submitted for their approbation; and yet only a short year ago he voted for an enabling act which put a State government into operation without submitting any part of it to the people. That is what I said.

Mr. DOUGLAS. My explanation of that is to be given in the precise language of the explanation of the President of the United States in his message, in which he says that, in his instructions to Governor Walker, he took it for granted that the constitution was to be submitted to the people under a law that was silent on the subject. The Toombs bill being silent, I took it for granted too, and I supposed every other man did, that it was to be submitted. I merely adopted the same process of reasoning that the President himself says he adopted, and which he was amazed to find was not carried out. If the President was right in taking that for granted, I do not know why I was not right in taking the same thing for granted.

Again, I will ask the Senator to show me an intimation from any one member of the Senate, in the whole debate on the Toombs bill, and in the Union from any quarter, that the constitution was not to be submitted to the people. I will venture to say, that on all sides of the Chamber it was so understood at the time. If the opponents of the bill had understood it was not, they would have made the point on it; and if they had made it, we should certainly have yielded to it and put in the clause. That is a discovery made since the President found out that it was not safe to take it for granted that that would be done which ought in fairness to have been done.

Mr. BIGLER. I do not pretend to know anything on this subject which may not appear in the Journal of Debates. I shall not hold the Senator to anything that does not appear there; but this I will say, that I was present when that subject was discussed by Senators before the bill was introduced, and the question was raised and discussed whether the constitution, when formed, should be submitted to a vote of the people. It was held by those most intelligent on the subject, that in view of all the difficulties surrounding that Territory, the danger of any experiment at that time of a popular vote, it would be better that there should be no such provision in the Toombs bill; and it was my understanding, in all the intercourse I had, that that convention would make a constitution and send it here without submitting it to the popular vote.

Mr. DOUGLAS. The Senator says he will not undertake to state anything that did not occur here in debate and appear in the published debates, intimating that he has no right, as an honorable man, to do it. I will not undertake to intimate and insinuate that which, as an honorable man, I am not at liberty to express in the body. If he means to insinuate that I was present at such a debate and sanctioned that doctrine, let him say so. If he is not willing to say it, let him not insinuate that I was present, privately sanctioning a measure that I now publicly am not willing to avow.

Mr. BIGLER. If I am constantly at fault in matters of courtesy, it is painful to me. I never have so failed to observe propriety before. Perhaps I have spoken wrongfully on this subject. I have told the Senator from Illinois before that I should not in any way attempt to reflect upon him.

Mr. DOUGLAS. I will bring this to a close. I will release the Senator from all secrecy, if there is any, and ask if he knows that, directly or indirectly, publicly or privately, anywhere on the face of the earth, I was ever present at such a consultation, where it was called to my attention, and I agreed to pass it without submission to the people? I now ask him that question, with all secrecy removed.

Mr. BIGLER. I shall say distinctly what my recollection is clear about, regardless of any consequences. I remember very well that that question was discussed in the house of the Senator. I am not certain that he participated in that discussion; but I know that I did. It was urged—I think more especially by the Senator from Georgia, [Mr. Toombs,] not now in his seat—that, under all the circumstances, there ought not to be a provision inserted requiring that constitution to be submitted to the people. I do not say that the Senator from Illinois participated in the discussion. My recollection is not clear on that point; but it is clear that, in an interview with some three or four members, who were talking about the introduction of that bill, that subject was talked over. I have said that it was always my understanding that that convention would have a right to make a constitution, and send it here, without submitting it to the people.

Mr. DOUGLAS. I never have insisted that there was a clause in that bill expressly requiring the constitution to be submitted to the people. The point I have made was, that being silent, it was understood as a matter of course that it was to be submitted. Such a clause was unnecessary. That was the President's construction of the act of the Kansas Legislature. That was my construction of the Toombs bill. That I may have known there was no such clause, is unquestionably true; but that I was a party, either by private conferences at my own house, or otherwise, to a plan to force a constitution on the people of Kansas without submission, is not true. That the bill was silent on the subject is true, and my attention was called to that about the time it was passed; and I took the fair construction to be, that powers not delegated were reserved, and, that of course the constitution would be submitted to the people. The point I made on the Senator was that he insinuated that I was a party to such an arrangement privately, which he was not at liberty to tell, and yet he insinuated the very fact that he, as an honorable man, could not tell. If a point of honor has restrained him from telling it, a point of honor should restrain him from insinuating it.

Mr. BIGLER. In my anxiety to relieve the feelings of the Senator from Illinois, I fear I may have done injustice to myself. Now, sir, I wish to account for the impression which was on my mind, and to make no imputation on him. I had called his attention to the Toombs bill because it was in derogation of the doctrine he has laid down here to-day. When he says there was no sentiment of that kind declared in the Senate, I say I hold that Senator only to the record here—only to the Journal of Debates. What next, sir? I justified myself in what I had said by an allusion to a discussion of that precise question with members of this body. My purpose was to show the Senator that I should not have made this allegation without some clear impression on my mind. That impression, I tell the Senator from Illinois, was strengthened by other things. It was strengthened by the fact that when he made the preparatory bill for the admission of Minnesota, he provided, in express words, that the constitution should be submitted. If it is an inference irresistible, that a constitution must be submitted when the enabling act is silent, why insert it in the Minnesota bill? There it is inserted, and I thought it reasonable—I always believed it. I believed it was wise to put it in that shape, in view of the surroundings in the Territory of Kansas. I do not impugn the Senator's integrity, or his patriotism, or his high motive, or his courage, or anything that pertains to him personally. He has had no more constant admirer than myself—none who has defended him oftener. I thought I was doing justice to myself. On account of what I heard in regard to the Minnesota bill, I got the impression that unless Congress required the submission of the constitution to a vote of the people, that course need not be pursued.

Mr. HALE. I rise simply for the purpose of making an inquiry. This matter has been pretty tolerably well elucidated; but the honorable Senator from Pennsylvania, if I did not misunderstand him, said that, at a private meeting at the house of the honorable Senator from Illinois, there was a talk that owing to some peculiar circumstances it was not prudent to submit the constitution to the people of Kansas. I desire him to state what

some of those peculiar circumstances were which rendered it inexpedient and unpatriotic. I have not the slightest controversy with the Senator from Illinois on that subject.

Mr. BIGLER. The Senator from New Hampshire is much more familiar with the surroundings in Kansas than he affects to be to-day.

Mr. HALE. I did not know what you talked of over there.

Mr. BIGLER. I had reference (and I think I made that very clear) to the condition of the Territory, the bitter feud that divided the people there, the strifes and violence that were likely to interfere with a fair election. I said distinctly that the circumstances rendered a fair exercise of the elective franchise exceedingly difficult. Who has said more on that point than the Senator from New Hampshire? Who has talked more about usurpation and violence there, and keeping free-State people from the polls? I had the same impressions then that I have now. In all the votes I gave I was controlled and impelled by nearly the same motive as now, and that was to get Kansas into the Union, whenever she came up in an allowable shape, in order to settle the controversy.

Mr. DOUGLAS. I must ask the Senator from Pennsylvania whether he means to intimate that in my house, or any other, these considerations were urged why we should pass the bill without a provision to submit the constitution to the people? Does he mean to say that I ever was, privately or publicly, in my own house or any other, in favor of a constitution without its being submitted to the people?

Mr. BIGLER. I have made no such allegation.

Mr. DOUGLAS. You have allowed it to be inferred. I do not want a false impression to be inferred because the scene is located in my private parlor. Of what importance is it whether in my house or yours, unless I was a party to an agreement of that kind? If I was, let it be said; if I was not, acquit me of it.

Mr. BIGLER. I stated that I had no recollection of the Senator participating in that conversation.

Mr. DOUGLAS. Well, if I had nothing to do with it, and was not there, I do not know what my house had to do with it.

Mr. BIGLER. What I said was the truth, and that is the only defense I have to make before the Senate, and the country, and my God.

Mr. GREEN. Mr. President, I regard the questions raised in this discussion as of the very highest importance, looking to the structure of our Federal Government, the extent of the agency of Congress, and the extent of the agency of the people in the formation of States, and in the admission of States into the Confederacy. As such I am not willing to see the subject pass off without a more elaborate investigation. I do not feel prepared this evening, but I desire to be heard on it myself. With the consent of the Senate, therefore, I will move to postpone the further consideration of the subject until to-morrow.

Several SENATORS. Say Monday.

Mr. GREEN. If it be the wish of the Senate, I will move to postpone it until Monday.

The motion was agreed to.

EXECUTIVE SESSION.

Several messages, in writing, were received from the President of the United States, by J. B. HENRY, Esq., his Private Secretary.

On motion of Mr. BENJAMIN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 9, 1857.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

QUALIFICATION OF A MEMBER.

Hon. HENRY WINTER DAVIS, a member from the State of Maryland, appeared and took the oath to support the Constitution of the United States.

ELECTION OF PRINTER.

Mr. CLINGMAN. I call for the regular order of business.

Mr. WASHBURN, of Illinois. I desire to

know what the question is before the House this morning?

The SPEAKER. The regular order of business is the resolution and substitute offered by the gentlemen from Alabama and Virginia, [Messrs. Houstons and Smith.] The pending question is on seconding the demand for the previous question, which was called by the gentleman from Pennsylvania, [Mr. Grow.]

Mr. WASHBURN, of Illinois. Is the question before the House connected with the organization of the House?

The SPEAKER. The Chair thinks it is.

Mr. WASHBURN, of Illinois. Then I hope that by unanimous consent we shall proceed to the drawing of seats.

Several MEMBERS. Finish the election of Printer first.

The SPEAKER. Objection is made.

Mr. FAULKNER. I ask the unanimous consent of the House to introduce and put upon its passage a bill, the reading of which will satisfy every member of this House that it ought to pass without objection.

Mr. CLINGMAN. I notify the gentleman that I object to everything until the pending matter is disposed of.

Mr. FAULKNER. The bill is to supply an omission in the enrollment of the act for the support of the Army for the year ending the 30th of June, 1858.

Mr. CLINGMAN. I object.

Mr. FAULKNER. The bill would have passed almost by this time, had there been no objection. It is a matter of public consequence.

The SPEAKER. The Clerk will read the resolutions offered by the gentleman from Alabama, [Mr. Houston,] and the substitute offered by the gentleman from Virginia, [Mr. Smith.]

The original resolutions were read, and are as follows:

Resolved, That the House now proceed to the election of a Printer for the House of Representatives during the Thirty-Fifth Congress, with the proviso that the House retains the right in Congress to modify the existing law on the subject of public printing, as it may see proper, the Printer who may be elected under this resolution receiving said appointment or election with and upon the condition above set forth.

Resolved, That a committee of — be appointed by the Speaker to examine into the laws in relation to the printing for the House of Representatives, the prices paid therefor, and the duties of the Public Printer, whose duty it shall be to report thereon, with the least practicable delay, together with such change or improvement therein as they may deem advisable.

The substitute was read, and is as follows:

Resolved, That a committee of — be appointed by the Speaker to examine into the laws in relation to the printing for the House of Representatives, the prices paid therefor, and the duties of the Public Printer, whose duty it shall be to report thereon with the least practicable delay, together with such change or improvement therein as they may deem advisable.

And be it further resolved, That until such report and action thereon by this House, the election of Public Printer shall be postponed; and that, in the mean time, the Clerk of the House shall have such printing executed, on the best terms practicable, as may be required by the House.

Mr. HOUSTON. I suppose the blank ought to be filled with the number of the committee. I would propose "seven."

No objection being made, the blank was filled with "seven."

The SPEAKER. The question is upon seconding the demand for the previous question.

Mr. BANKS. I call for tellers.

Tellers were ordered; and Messrs. BANKS and BARKSDALE were appointed.

The question was taken; and the tellers reported—ayes 95, noes 95.

The SPEAKER voting in the affirmative, the previous question was seconded.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on ordering the main question to be put.

Mr. HUGHES. Is it in order to move to lay the substitute upon the table?

The SPEAKER. That motion is in order, but its effect will be to carry the original proposition with it.

Mr. HUGHES. Is it in order, then, to demand a division of the question?

The SPEAKER. The question will be first put upon agreeing to the substitute. The question now is on ordering the main question to be put.

Mr. MARSHALL, of Kentucky. As I understand the rules, if we refuse to order the main

question to be put, the effect will be to bring up this question to-morrow as the unfinished business of the morning hour.

The SPEAKER. That is the understanding of the Chair.

Mr. JONES, of Tennessee. I will inquire whether it has not been the practice of the House, when the main question is not ordered to be put, to proceed with the disposal of that question?

The SPEAKER. The Chair is not aware of such a practice.

Mr. CLINGMAN. Under our practice, the refusal to order the main question brings up the matter before the House next morning, when the question again recurs, "Shall the main question be now put?"

Mr. STANTON. If the main question be not ordered, will not the House be in a condition to proceed to discuss or vote upon the propositions before it?

The SPEAKER. In that case, the proposition, by the usages of parliamentary law, passes from the House to again come up to-morrow morning.

Mr. STANTON. Will it not be in order to discuss it?

The SPEAKER. It will not. The previous question has been seconded.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 94; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Branch, Burnett, Burns, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Devart, Dimmick, Dowdell, Elliott, English, Eastis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Miles, Miller, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Quitman, Ready, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sikes, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—116.

NAYS—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leech, Leiter, Lovejoy, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Potte, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, William Smith, Spinner, Stanton, James A. Stewart, William Stewart, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollicoffer—94.

So the main question was ordered to be put.

Pending the above call—

Mr. HICKMAN said, that if he had been within the bar when his name was called, he would have voted in the affirmative.

Mr. BANKS. What is the main question?

The SPEAKER. The resolution of the gentleman from Virginia.

Mr. BANKS moved to lay that resolution on the table, and demanded tellers on his motion.

Tellers were ordered; and Messrs. BANKS and LAMAR were appointed.

Mr. JONES, of Tennessee, demanded the yeas and nays; which were ordered.

The question was taken; and it was decided in the negative—yeas 82, nays 126; as follows:

YEAS—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Howard, Kellogg, Kelsey, Knapp, John C. Kunkel, Leech, Leiter, Lovejoy, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Potte, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, William Smith, Spinner, Stanton, James A. Stewart, William Stewart, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, Wood—82.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery,

Barksdale, Bishop, Bocoek, Bonham, Boyce, Branch, Burnett, Burns, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Crawford, Curry, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Ready, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sikes, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—126.

So the motion was disagreed to.

The substitute was read.

Mr. GOODE. Is it in order to amend by moving to strike out the second resolution?

The SPEAKER. The main question has been ordered, and amendments are not in order.

Mr. BURNETT. Is the question divisible?

The SPEAKER. It is an entire proposition, one part necessary to the understanding of the other, and is not divisible.

Mr. HOUSTON. My proposition, as modified, embraces all the good parts of the substitute, and I ask that it be read.

The original resolutions, as modified, were again read.

Mr. BOCOCK. I desire to inquire of the Chair, for the information of the new members of the House, whether, if the proposition of my colleague be voted down, the House will not be brought at once to a vote upon the resolutions offered by the gentleman from Alabama, which have just been read?

The SPEAKER. That will be the effect of voting down the substitute.

Mr. MARSHALL, of Kentucky. I ask for the yeas and nays upon the substitute.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 91, nays 118; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leech, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Parker, Pettit, Pike, Potter, Potte, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, William Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Zollicoffer—91.

NAYS—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bocoek, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Campbell, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Lawrence, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sikes, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—118.

So the substitute was not agreed to.

The question recurred upon the resolutions offered by Mr. Houston.

Mr. MARSHALL, of Kentucky, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative, yeas 121, nays 81; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Campbell, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Crawford, Curry, Davidson, Davis of Maryland, Davis of Indiana, Davis of Missis-

siippi, Dewart, Dimmick, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Mott, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sikes, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—121.

NAYS—Messrs. Abbott, Andrews, Banks, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Comins, Covode, Cragin, Damrell, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leech, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Parker, Pettit, Pike, Potter, Potte, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—81.

So the resolutions were agreed to.

Pending the call of the roll—

Mr. AVERY said: I was not within the bar when my name was called, and I am not certain whether I came in before the next name was called. I ask the privilege of recording my vote.

Mr. RITCHIE. I must object. I objected this morning to the same privilege being accorded to one of my colleagues.

Mr. CURTIS. I was not within the bar when my name was called, but I ask permission to vote.

Several MEMBERS objected.

Mr. CURTIS. I should have voted in the negative.

Mr. HATCH. I was not within the bar when my name was called, but I desire to say that if I had been, I should have voted in the affirmative.

Mr. HOUSTON moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. BOCOCK. I nominate for Printer of the House, James B. Steadman, of the State of Ohio.

Mr. WASHBURN, of Maine. I nominate George M. Weston, of the District of Columbia.

The SPEAKER appointed Messrs. Bocoek, Washburn of Maine, Zollicoffer, and Huyler, tellers to count the votes.

Mr. JONES, of Tennessee. I believe that in elections of this kind members can vote at any time before the result is announced. They differ from votes by yeas and nays in this respect.

The SPEAKER. That has been the practice of the House.

The House, in the execution of its order, then proceeded to vote for Printer, with the following result: Whole number of votes cast, 214; necessary to a choice, 108; of which—

James B. Steadman received.....	121
George M. Weston.....	93
Gales & Seaton.....	3
Robert Cawthon.....	1

The following is the vote in detail:

For James B. Steadman—Messrs. Adrain, Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bonham, Bowie, Boyce, Branch, Burnett, Burns, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sikes, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, John V. Wright, and Mr. Speaker.

For George M. Weston—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leech, Leiter, Lovejoy, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Potte, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, William Smith, Spinner, Stanton, James A. Stewart, William Stewart, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—81.

sachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leech, Leiter, Lovejoy, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Wood.

For Gales & Seaton—Messrs. Gilmer, Maynard, and Edward Joy Morris.

For Robert Cawthon—Mr. Powell.

James B. Steadman having received a majority of all the votes cast, was declared duly elected as Printer of the House for the Thirty-Fifth Congress.

DRAWING FOR SEATS.

Mr. WASHBURN, of Illinois. I offer the following resolution in regard to the organization of the House; and upon it I demand the previous question:

Resolved, That the Clerk of the House, immediately after the passage of this resolution, place in a box the names of each member and delegate of the House of Representatives, written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the member or Delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence, the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order, and that each seat, after having been selected, shall be deemed vacant if left unoccupied before the calling of the roll is finished.

Mr. CAMPBELL. I ask the gentleman from Illinois to withdraw his resolution for a moment, in order that I may offer one providing means to pay the clerks, pages, and other employes of the House, who have been dismissed. Many of them live in distant States, and of course it costs them more to remain here until next week than their pay amounts to.

Mr. WASHBURN, of Illinois. I will hear the resolution read.

The resolution was read, and is as follows:

Resolved, That the Clerk be, and he is hereby, authorized to pay to the officers, clerks, messengers, pages, and others, employes of the House of Representatives since the commencement of the present session, such sums as may be due to them for attendance and services under the existing laws, resolutions, and regulations of the House.

Mr. WASHBURN, of Illinois. If there is no objection to the resolution, and it can be adopted without debate, I will withdraw mine.

Mr. SMITH, of Virginia. I should like to be informed as to the necessity of the resolution. If services have been rendered, of course the Clerk will pay for them. I object to the resolution.

Mr. WASHBURN, of Illinois. Then I adhere to my resolution, and call the previous question on it.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

Mr. PHELPS. Before the drawing commences, I desire to say that on Monday last I informed the House that my colleague [Mr. CARPENTERS] was unable to be present in consequence of severe illness. I now ask that some member of the Missouri delegation be permitted to draw for him.

Several MEMBERS objected.

Mr. HATCH. My colleague [Mr. CORNING] is unavoidably absent to-day. I hope one of the New York delegation will be allowed to select a seat for him. [Loud cries of "Object."]

The House then proceeded to execute its order. The seats were all vacated, the members crowding outside the bar, and occupying the reporters' desks, eagerly waiting the chances of the lottery. Each member, as his name was drawn from the box and announced by the Clerk, selected his seat for the session. The process occupied more than an hour, and was the occasion of much merriment.

HOMESTEAD BILL.

Mr. GROW, as soon as the members were all seated, gave notice that he would to-morrow, or on some subsequent day, introduce a bill to secure homesteads to actual settlers on the public lands.

THE NEW HALL.

Mr. WARREN. I desire to move that a committee be appointed to ascertain and report when it will be prudent for the House to remove into

the new Hall. [Cries of "No, no, you've got a bad seat!" and laughter.] I am serious. I believe that the new Hall is now ready for occupancy.

Mr. KEITT. Provide, then, that the present draw shall hold good in the new Hall. [Laughter.]

Mr. FLORENCE. Oh, no; I object to that.

Mr. BOCOCK. I move that the House do now adjourn.

Mr. JONES, of Tennessee. I hope that the gentleman will waive that motion to enable me to move that, until otherwise ordered, the daily hour of meeting shall be twelve o'clock, m.

Mr. BOCOCK. I withdraw the motion for that purpose.

Mr. JONES's motion was agreed to.

And then, on motion of Mr. BOCOCK, the House (at half past three o'clock, p. m.) adjourned until to-morrow.

IN SENATE.

THURSDAY, December 10, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

Hon. JAMES A. BAYARD, of Delaware, appeared in his seat to-day.

COURT OF CLAIMS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Court of Claims, made in pursuance of law, transmitting the opinions of that court adverse to the claim of Frederick Griffing; the claim of Francis Picard, administrator of Pierre Ayott; the claim of George W. Dow and John H. Ditmas; the claim of Daniel Van Winkle; the claim of Joseph Loranger; the claim of Michel Musy and Andre Galtier; the claim of Henry G. Carson, administrator of Curtis Grubb, deceased, surviving partner of Curtiss and Peter Grubb; the claim of Philip Lamoy; the claim of Ezra T. Marnay, administrator of Lewis Marnay; the claim of Henry Miller; the claim of Stephen C. Hayden; the claim of David Noble; the claim of Joseph Stokely and others; the claim of Jeremiah M. Williams and others; the claim of Arnold Harris, administrator of Robert Armstrong; the claim of E. B. Chamberlain and others; the claim of Joshua Chamberlain; the claim of Eliza Shaffer; the claim of Augusta Demers and others, administrators of Francis Chandolet, deceased; the claim of Alexander H. Cook; the claim of Joshua R. Jewett; the claim of John M. Thorne; the claim of J. C. Buckles; the claim of James Thompson; the claim of J. H. King, administrator of James Greer; the claim of T. S. J. Johnson; the claim of Abraham King, administrator of John Moudeville; the claim of Llewellyn Jones; the claim of Robert S. Garnett; the claim of Robert C. Thompson, administrator of William Thompson; the claim of Ann W. Butler, administratrix of Richard Butler, deceased; the claim of Christiana Dener; the claim of Stephen C. Phillips; the claim of Ellen Martin; the claim of Francis Nadeau; the claim of Abraham R. Woolley; the claim of Ralph Richardson; the claim of Nathaniel Williams; the claim of Hugh Hughes; the claim of R. L. Page, administrator of William B. Page; and the claim of Robert Harrison; and also the opinions of the judges in the case of Letitia Humphreys.

Also, decisions of the court in favor of the claim of Jane Martin; the claim of Melinda Durkee; the claim of Sarah Weed; the claim of Mary Pierce; the claim of Ann B. Johnson; the claim of Hannah Menzies; the claim of Benjamin L. McAtee and J. N. Eastham; the claim of Rebecca P. Nourse; the claim of Anna Hill; the claim of Polly Booth; the claim of Sarah Eaton; the claim of Temperance Childress; the claim of Elizabeth King; the claim of Lydia Clapp; the claim of Elizabeth Morgan; the claim of Phebe Polly; the claim of Nancy Ittig; the claim of Mary Ann Hooper; the claim of Almira Reniff; the claim of Sarah Loomis; the claim of Mary Grant; the claim of James Mc. McIntosh; the claim of Neal Smith, administrator of William Turvin; the claim of Charner T. Scaife, administrator of Gilbert Stalker, deceased; the claim of William H. Russell; and the claim of Ferdinand Cox.

Accompanied by the following bills:

A bill for the relief of Jane Martin, of the county of Harrison, State of Virginia;

- A bill for the relief of Melinda Durkee, of the State of Georgia;

A bill for the relief of Sarah Weed, of the county of Albany, State of New York;

A bill for the relief of Mary Pierce, of the county of Courtland, State of New York;

A bill for the relief of Ann B. Johnson, of the county of Henrico, State of Virginia;

A bill for the relief of Hannah Menzies, of the State of Kentucky;

A bill for the relief of Benjamin L. McAtee and J. N. Eastham, of Louisville, Kentucky;

A bill for the relief of Rebecca P. Nourse, of the State of Kentucky;

A bill for the relief of Anna Hill, of the county of Monroe and State of New York;

A bill for the relief of Polly Booth, of the county of Madison, State of New York;

A bill for the relief of Sarah Eaton, of the county of Worcester, State of Massachusetts;

A bill for the relief of Temperance Childress, of the State of Virginia;

A bill for the relief of Elizabeth King, of the State of Virginia;

A bill for the relief of Lydia Clapp, of the county of Washington, State of New York;

A bill for the relief of Elizabeth Morgan, of the county of Rensselaer, State of New York;

A bill for the relief of Phebe Polly, of the county of Otsego, State of New York;

A bill for the relief of Nancy Ittig, of the county of Herkimer, State of New York;

A bill for the relief of Mary Ann Hooper, of the State of Virginia;

A bill for the relief of Almira Reniff, of the State of Virginia;

A bill for the relief of Sarah Loomis, of the county of New London, State of Connecticut;

A bill for the relief of Mary Grant, of the State of South Carolina;

A bill for the relief of Captain James Mc. McIntosh, of the United States Navy;

A bill for the relief of the heirs of William Turvin, deceased;

A bill for the relief of Charner T. Scaife, administrator of Gilbert Stalker;

A bill for the relief of William H. Russell; and

A bill for the relief of Ferdinand Cox.

AGRICULTURAL COLLEGE OF MICHIGAN.

Mr. STUART. I desire to present to the Senate a memorial of the board of education of the State of Michigan and of the faculty of the Agricultural College of that State, praying for a donation of land for the Agricultural College. As it is upon an important subject, I ask the consent of the Senate to have it laid on the table, and printed. When the committees shall be formed, I shall ask its reference to a committee; but as it is very short, I desire to have it printed. I make that motion.

The motion was agreed to.

RESOLUTIONS OF CALIFORNIA.

Mr. BRODERICK presented a resolution of the Legislature of California, in favor of an additional allowance to the officers and men of the Army who served in the Pacific division, and also to the officers connected with the Light House Board of that coast; which was ordered to lie on the table, and be printed.

He also presented a resolution of the Legislature of California, in favor of a uniform rate of postage, the payment by the Government for all free postage matter, and the abolition of the franking privilege; which was ordered to lie on the table, and be printed.

He also presented resolutions of the Legislature of California, in behalf of William Grove Deal, for relief given by him to the indigent sick at Sacramento City, California, in 1849 and 1850; which were ordered to lie on the table, and be printed.

NOTICES OF BILLS.

Mr. DOUGLAS gave notice of his intention to ask leave to introduce a bill to enable the people of the Territory of Kansas to hold a convention to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States.

Mr. FOOT gave notice of his intention to ask leave to introduce a bill making grants of public land to actual settlers.

Also, a bill for the relief of George P. Marsh.

Mr. GREEN gave notice of his intention to

ask leave to introduce a bill to amend an act entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849.

REPORTING OF THE DEBATES.

Mr. SEWARD submitted the following resolution for consideration; which lies over under the rule:

Resolved, That the Joint Committee on Printing inquire and report whether any new provisions of law are necessary to secure a faithful performance, on the part of Congress, of the existing contracts which provide for accurate reports of the debates of the two Houses.

ADJOURNMENT TO MONDAY.

On motion of Mr. HALE, it was

Ordered, That when the Senate adjourn to-day, it be to meet on Monday next.

EXECUTIVE SESSION.

On motion of Mr. SLIDELL, the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 10, 1857.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

QUALIFICATION OF A MEMBER.

Hon. GUY M. BRYAN, a Representative from the State of Texas, appeared, and was duly qualified by taking the usual oath to support the Constitution.

OMISSION IN ENROLLMENT.

The SPEAKER laid before the House a communication from the War Department, to the effect that, in the Army appropriation act of the last Congress, approved 3d March, 1857, the usual appropriation of \$360,000, for the manufacture of arms at the national armories, although regularly estimated for by his Department, and passed by both Houses, by a clerical error was omitted in enrolling the bill; that attention was called to this omission as soon as it was discovered, and that it was acknowledged by the Clerk of the House of Representatives to have occurred through mistake, as stated. The Secretary of War respectfully requests that it may be brought to the notice of the House of Representatives at the present session, and that a bill may be passed to correct the omission as early as practicable.

Mr. FAULKNER. I ask the unanimous consent of the House to permit me to introduce a bill for the correction of the error to which attention is called.

Mr. MORGAN. I object.

The communication was laid upon the table, and ordered to be printed.

APPOINTMENT OF STANDING COMMITTEES.

Mr. BANKS. I offer the following resolution:

Resolved, That the Speaker be authorized and requested to appoint the standing committees of this House.

The resolution was adopted.

ADJOURNMENT OVER.

Mr. BANKS. In order that the Speaker may have time to discharge the duty imposed upon him, under the resolution just adopted, I move that when the House adjourns to-day, it adjourn to meet on Monday next.

The motion was agreed to.

THE NEW HALL.

The SPEAKER. The question in order is on the following resolution submitted yesterday by the gentleman from Arkansas, [Mr. WARREN:]

Resolved, That a committee of — be appointed to examine the new Hall, and report when it can be occupied with safety.

Mr. WARREN. I will perfect the resolution by filling the blank with the word "five." I will call attention to the object I had in view in submitting this resolution. I do not move that we adjourn immediately to the new Hall, but simply that we appoint a committee to inquire into the condition of that Hall, and report when, in their opinion, it will be prudent for us to adjourn into it. Almost every member feels the inconvenience of the Hall in which we are now sitting, and certainly it is desirable that we should remove from

it into the new Hall as soon as practicable. I should be as far from insisting that we shall go into the new Hall when the health of myself or any other gentleman upon this floor would be endangered, as any other member; but it strikes me that no danger can result to any member by the passage of a resolution for an investigation into the condition of the new Hall, for the purpose of ascertaining when it is probable we can go there. This is all I ask, and I hope it will not be objected to.

Mr. STANTON. I move to amend by adding, "that the committee shall have power to report at any time."

Mr. WARREN. I accept the amendment as a modification of my resolution.

Mr. STEPHENS, of Georgia. I object. The committee can report in a few days, and I do not wish it to be privileged to override all other business.

The SPEAKER. The gentleman has a right to modify his resolution.

Mr. STANTON. I call for the previous question.

The call for the previous question was seconded; and the main question was ordered to be put.

The resolution was adopted.

Mr. WARREN moved to reconsider the vote by which the resolution was adopted; and also moved that that motion be laid upon the table.

The latter motion was agreed to.

PAYMENT OF DISMISSED EMPLOYEES.

Mr. CAMPBELL. Mr. Speaker, I again submit the resolution which I presented yesterday. It authorizes the Clerk of the House to pay the clerks and other employes, who have been employed during the present session, and are dismissed, the amount to which they are entitled.

Mr. LETCHER. Does the resolution, if adopted, provide also for the payment of the extra compensation voted at the last session by a resolution of the House?

Mr. CAMPBELL. It certainly does not.

Mr. LETCHER. I wish that distinctly understood.

Mr. HUGHES. I insist on the regular order of business, and object to the resolution.

INVITATION TO CLERGYMEN.

Mr. DOWDELL. I submit the following resolutions:

Whereas, the people of these United States, from their earliest history to the present time, have been led by the hand of a kind Providence, and are indebted for all the countless blessings of the past and the present, and dependent for continued prosperity in the future, upon Almighty God; and whereas, the great vital and conservative element in our system is the belief of our people in the pure doctrines and divine truths of the Gospel of Jesus Christ, it accordingly becomes the Representatives of a people so highly favored to acknowledge in the most public manner their reverence for God: Therefore,

Be it resolved, That the daily sessions of this body be opened with prayer.

Resolved, That the ministers of the Gospel in this city are hereby requested to attend, and alternately perform this solemn duty.

I do not desire to make any remarks, Mr. Speaker, upon these resolutions. They speak for themselves. The plan was tried for two months during the last Congress, and operated well. It is no new plan. It avoids many objections to the old system. I call the previous question.

Mr. MORRIS, of Illinois. I would suggest to the gentleman that he amend his resolutions so as to provide that no compensation shall be paid to these gentlemen.

Mr. JONES, of Tennessee. I wish the gentleman from Alabama would withdraw the demand for the previous question. I have had a good many remonstrances sent to me from different States against the old practice of electing Chaplains to the House. I wish to have one of them read.

Mr. DOWDELL. My resolutions do not propose to elect a Chaplain. They carry out the gentleman's plan.

Mr. JONES, of Tennessee. I wish to have one of the remonstrances read. That is all.

Mr. DOWDELL. Will the gentleman renew the demand for the previous question?

Mr. JONES, of Tennessee. I will.

Mr. DOWDELL. Then I withdraw it.

Mr. HUGHES. I desire to be understood as insisting upon the regular order of business. I do not know but that this question belongs to the

organization of the House. I insist, however, upon the regular order of business, and if that would exclude these resolutions, I object to them.

Mr. JONES, of Tennessee. It is too late to object now; the resolutions have been received.

Mr. HUGHES. The objection was made before the resolutions were received, but was not heard by the Chair.

Mr. JONES, of Tennessee. The resolutions have been received. A call for the previous question was entertained, and has been withdrawn at my request.

The SPEAKER. The Chair is of opinion that the resolutions are properly before the House.

Mr. JONES, of Tennessee. I do not wish to detain the House for more than a few moments.

I have various remonstrances in my possession from different States—from the States of Indiana, Pennsylvania, Arkansas, Texas, Missouri, Maine, Ohio, Virginia, Iowa, Connecticut, and Illinois—remonstrating against the employment of Chaplains by the United States, either for Congress or for the Army and Navy. I believe they are all of the same purport, and I ask that one of them may be read, in order that the House may see what are the grounds of these people's objections.

The SPEAKER. If there be no objection, the paper will be read.

Mr. SHORTER. I object.

Mr. JONES, of Tennessee. Then I will read it myself. I have a right to read it as a part of my remarks. It is as follows:

To the Honorable Senate and House of Representatives of the United States:

The undersigned, citizens of the State of Arkansas, deeming the employment of a large number of chaplains or national clergy by Congress and through its authority, at the expense of the Government, a serious violation of our rights of conscience, and of those principles of religious and civil equality and freedom sought to be protected by the provisions of our national Constitution, respectfully call your attention to some of their reasons for asking the immediate abolition of the office of national Chaplain, in Congress, in the Army and Navy, and elsewhere.

First.—By article ten of amendments, the Constitution provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;" and the right of employing clergymen to preach or pray for the people, or any portion of them, not being delegated to Congress, either directly or constructively, we claim as a reserved right, which we deem sacred, inalienable, and absolutely essential to our civil and religious freedom.

Second.—By article one of amendments, the Constitution provides that "Congress shall make no law respecting an establishment of religion;" and we deem the employment of a clergyman of any sect an establishment, to a certain extent, of the religion of that sect. Inasmuch as he is thereby made an officer of Government, the doctrines preached by him in his official capacity must be considered those of the Government, whose acknowledged agent he is, and by whom he is paid for promulgating his sectarian views, with money drawn from the whole people, nine tenths of whom, perhaps, hold sentiments entirely at variance with those they are thus by law compelled to support.

Third.—By article six, section three, the Constitution declares that "No religious test shall ever be required as a qualification to any office or public trust under the United States;" and from the very nature of the office of Chaplain a religious test is an indispensable prerequisite to determine the qualification of a candidate therefor, as the employment of a non-professor of religion, or an avowed infidel, to such office, would be an inevitable absurdity. Such an office or public trust is most clearly unconstitutional. It is an office to which all citizens are not equally eligible without a religious test, as contemplated by that instrument from which alone Congress derives all its rightful powers.

Fourth.—The immense increase of the number of chaplains employed by the Government within the past few years, has alarmed us to apprehend that an extension of the system may ultimately subject us to all the onerous and oppressive features of the unholy union of Church and State, with which the world has been so grievously burdened in all ages, and from which we had hoped we were forever delivered by the glorious epoch of the American Revolution. The report of the Judiciary Committee of the House of Representatives, to the Thirty-Third Congress, at its first session, on the subject of the numerous petitions for the abolition of the chaplaincy, shows that the number of national clergy which the citizens of our country are annually forced to support, by direct taxation, is as follows: *Thirty* in the Army, *twenty-four* in the Navy, and *two* in Congress! besides a large number at the various naval and military schools, stations, and outposts; and at various missionary stations, ostensibly as teachers of Indian schools. The aggregate amount which we are annually compelled to pay for the support of clergymen, as officers which the Constitution gives Congress no power to create or impose upon us, but on the contrary positively prohibits, cannot, therefore, vary far from a *quarter of a million dollars annually!* Should the number of national chaplains continue to increase in the ratio of the past few years, it will soon equal that of the national clergy in the despots of the Old World, where the Church and State are allies in corruption and oppression. Indeed, we know of no stopping place or limit that can be set to arrest its progress, when precedent has overthrown the protective barriers of the Constitution.

Fifth.—We cannot perceive why clergymen should be sustained by Government in either House of Congress, at our military and naval stations, on board our vessels of war, and in each regiment of our Army, any more than in each township, district, parish or village throughout the land; and to sanction the former, could not be regarded otherwise than as an assent to the extension of the same system, that would place us upon a level with the priest ridden despotisms of the Old World. Our members of Congress, military and naval officers, soldiery and seamen, are, or should be, paid a just compensation for their services, and be left, like all other citizens, to support any clergyman, or none, as their conscience may direct them, without legal agency or coercion. Neither Christianity nor the genius of our institutions contemplates any aristocracy predicated upon the clerical profession, and no special provision, therefore, is necessary by the Government to admit clergymen to our Army and Navy, as they may enlist like other men, and labor like Jesus himself and his Apostles among the poor fishermen, on the sea-side. If it be objected that few clergymen would serve among the troops and marines upon such terms, we can only say, that if actuated by correct religious motives, no minister would wait for Government gold to lead him to his labors of love among them, and that none but hypocrites would be debared by the want of it. We think the Government should not evince more religious zeal than professed ministers of the gospel themselves, by bribing them to perform religious service. If the clergy in the Army and Navy look for other compensation than the voluntary contributions of those among whom they labor, the various religious societies of the country might be more appropriately appealed to, as their funds are voluntarily contributed for such purposes, while those of the Government are taken for State purposes, by authority of law, equally from all classes of citizens, of whatever sects, and whether professors or non-professors of religion.

Sixth.—Believing that religion is a matter entirely between man and his Maker, with which no human government has a right to meddle, and that its true exercise must be voluntary, it is equally humiliating and painful to us, as Christians and as citizens, to find the barbarous system of persecution, which characterized the dark ages, employed at this day in our Army and Navy, to compel attendance upon the religious services of our national clergy. Among the many cases of the kind, may be instanced the recent one of the private Duggan, who was sentenced by court-martial, at Fort Columbus, New York harbor, for neglecting to attend the chaplain's religious services, after having been frequently punished for the same offense, to a FINE of five dollars per month for six months, the torture of the ball and chain for four months, and partial starvation upon bread and water during the remaining two months of solitary imprisonment. We rejoice that a portion of this sentence was remitted by the clemency of the Department, but deeply regret that any religious persecution whatever is authorized by the Government, or rendered necessary to military discipline, by the employment of clergymen as Government officers to perform religious services in the Army and Navy.

Seventh.—While we reverence religion as a Divine institution, only claiming the free exercise of our own consciences concerning it, we firmly believe that all attempts of human governments to foster it will result similarly to that of Constantine, in its corruption and great detriment, and in rearing an ecclesiastical aristocracy of hireling hypocrites who will assume the clerical character from unholy motives, and ultimately lead to all the oppressive propinquity, impositions, and persecutions which have resulted from the same policy in the Roman and all other European Governments.

We therefore earnestly pray your honorable bodies to carefully consider the unconstitutionality, injustice, and oppression of the national chaplaincy system, and to abolish the office of chaplain wherever it may exist by your authority, thereby restoring us the liberty of contributing our own money for such religious and charitable purposes only as our consciences may approve.

During the reading of the foregoing remonstrance—

Mr. ELLIOTT said: The reading of that paper is objected to.

Mr. JONES, of Tennessee. I have the floor, and have a right to speak for an hour. I am reading the paper as a part of my remarks.

Mr. ELLIOTT. I would like to know who is the author of it.

The SPEAKER. The Chair must refer the gentleman to the gentleman from Tennessee.

Mr. JONES, of Tennessee. I am making it my own; I am appropriating it.

Mr. JONES then resumed the reading of the paper, but was again interrupted by

Mr. HUGHES, who said: I rise to a question of order. The resolutions offered by the gentleman from Alabama [Mr. DOWDELL] propose to invite the clergy of this city alternately to open the sessions of this House with prayer, without compensation.

Mr. KEITT. The resolutions do not say that. Mr. HUGHES. Yes; the gentleman agreed to modify his resolutions. Now, my point of order is this: that the gentleman from Tennessee is arguing—because he reads this remonstrance as a part of his argument—against the election of a Chaplain, and against the enormous expenses which are entailed upon the public Treasury by compensation to Chaplains regularly elected. I think the gentleman is out of order.

The SPEAKER. The Chair must overrule the question of order raised by the gentleman from Indiana. The Chair does not perceive but what

the remarks of the gentleman from Tennessee are pertinent to the resolutions before the House.

At a subsequent point in the reading of the resolutions—

Mr. HALL, of Massachusetts, (interrupting,) said: It appears to me that the reading of this remonstrance in regard to the election of chaplains generally for the Government service, and the Chaplain of this House in particular, is not in order on these resolutions, inasmuch as they are resolutions proposing that the meetings of this House shall be opened by prayer by the various clergymen of the city. They do not propose the election of a Chaplain, properly so called.

The SPEAKER. The resolutions make provision for the selection of officers in lieu of a Chaplain.

Mr. HALL, of Massachusetts. But it is not in order to discuss the question of chaplaincy.

Mr. JONES, of Tennessee. If that question of order is debatable, I would suggest to the gentleman from Massachusetts that it has been the practice heretofore to elect a Chaplain. This is a proposition to obtain the services in a different way. My argument may be in favor of these resolutions.

Mr. HALL, of Massachusetts. It appears to me that this is altogether a different question—that it is not a proposition to select certain persons in lieu of a Chaplain, but a distinctive proposition that the session shall be opened by prayer, and that certain persons should perform that service. I think there is not a word in reference to the chaplaincy in the resolutions.

The SPEAKER. The resolutions of the gentleman from Alabama were intended to provide for the opening of the daily sessions of the House with prayer by clergymen of the city, in lieu of a Chaplain, who has heretofore been elected. They are a substitute for the policy heretofore pursued by the House, and the Chair thinks that the remarks the gentleman is making are in order.

Mr. EDIE. I would inquire if the point raised by the gentleman from Massachusetts has not already been decided by the Chair?

Mr. HALL, of Massachusetts. Well, I object to the further reading of that memorial, because it relates to subjects other than the chaplaincy of this House. It discusses the chaplaincy of the Army and Navy and the constitutionality of all religious services in this House.

Mr. EDIE. I call the gentleman to order. He is not stating his question of order, but arguing it.

Mr. HALL, of Massachusetts. I am making a statement to show what my point of order is. The question before the House relates to opening our daily sessions with prayer, but the gentleman is reading a remonstrance which discusses the question of chaplaincy in the Army and Navy, and the propriety of any such officer under the General Government. Such discussion is not pertinent to this question.

The SPEAKER. The Chair would sustain the gentleman from Massachusetts upon the latter question of order which he raises, but the Chair's attention was not called to any remark bearing upon the particular point to which the gentleman has referred. The Chair will observe the remarks of the gentleman from Tennessee a little more attentively, and will enforce the rule when he perceives any remarks out of order.

Mr. HALL, of Massachusetts. The gentleman has already violated the rules.

Mr. JONES, of Tennessee, then concluded the reading of the remonstrance, and proceeded to remark: All I have to say is, that the memorial which I have read to the House is but a copy of remonstrances sent to me from the States of Illinois, Connecticut, Iowa, Virginia, Ohio, Maine, Missouri, Georgia, Texas, Arkansas, Pennsylvania, and Indiana, signed in all by upwards of three thousand five hundred citizens.

The remonstrances received from the several States, and the number of signatures to each respectively, are as follows:

Illinois—Abram Highland and 31 others, and William Hixon and 202 others.

Connecticut—D. P. Coon and 70 others. Iowa—Joseph Armstrong and 102 others; T. Miller and 32 others; and E. C. Boag and 23 others.

Virginia—James D. Craft and 263 others. Ohio—David Gander and 104 others; Samuel

Cleavinger and 34 others; Jonathan G. Ford and 5 others; John Snoddy and 50 others; George W. Gander and 37 others; and John Gander, jr., and 50 others.

Maine—Joshua C. Hatch and 102 others. Missouri—Davis S. Woody and 247 others; and A. M. Keele and 170 others.

Georgia—John W. Bowdoin and 149 others. Texas—Charles H. Kinnard and 173 others.

Arkansas—J. M. Cartwright and 35 others; Thomas J. Bates and 49 others; and William H. Bates and 169 others.

Louisiana—Thomas Price and 50 others; and H. L. Martin and 114 others.

Pennsylvania—Reuben Card and 49 others; and Burnell Lyman and 47 others.

Indiana—A. M. Westfall and 292 others; Joseph Allen and 56 others; James T. Drake and 83 others; William Abner and 149 others; Abram Chambers and 201 others; J. E. M. Swan and 136 others; W. A. Long and 124 others; R. M. Beem and 55 others; and Charles Back and 24 others.

I believe that those who signed these memorials, in the main belong to that denomination of Christians who concur in my opinions, and come nearer to primitive Christianity than any other. I believe they are honest in their remonstrance against what they consider an abuse, and that they are entitled to be heard.

In accordance with my promise to the gentleman from Alabama, I renew the demand for the previous question.

Mr. LETCHER. I hope the gentleman from Tennessee, with the consent of the gentleman from Alabama, will withdraw his demand for the previous question, and allow me to suggest an addition to the last resolution.

Mr. JONES, of Tennessee. If the gentleman from Alabama consents, I have no objection.

Mr. DOWDELL. I will withdraw it for a moment.

Mr. LETCHER. I suggest that the gentleman add, at the end of the second resolution, the words "without compensation."

Mr. DOWDELL. I accept the modification. Mr. FLORENCE. Is it in order to move that the resolutions be laid upon the table?

The SPEAKER. It is. Mr. FLORENCE. Is that motion debatable?

The SPEAKER. It is not.

Mr. FLORENCE. I am for the old-fashioned practice, and move that the resolutions be laid upon the table. On that motion I demand the yeas and nays.

The yeas and nays were not ordered. The motion to lay upon the table was disagreed to.

Mr. EDIE moved that the House adjourn; which motion was disagreed to.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. SHERMAN, of Ohio. I ask for a division of the question. I desire to vote for the resolutions, but not for the preamble.

The SPEAKER. The question will be first on the resolutions and then on the preamble.

Mr. STANTON. There are two resolutions, and I want a separate vote on the one which asks the clergy of this city to perform service here every day for nothing.

The SPEAKER. The Chair thinks that the proposition is not divisible.

Mr. AVERY. I suggest that the second resolution be modified, so as to read, "without compensation out of the national Treasury."

The SPEAKER. Amendment is not in order, the main question having been ordered to be put.

Mr. DEAN. I demand the yeas and nays. The yeas and nays were not ordered.

Mr. LEITER. I move that the resolutions be laid upon the table.

The question was taken; and the motion was not agreed to.

Mr. KELSEY. Does the Chair decide that a separate vote cannot be taken on each resolution?

The SPEAKER. The call for the previous question being sustained, it would hardly be in order to take a separate vote on each. A division might operate as an amendment.

Mr. BOCKO. I have not heard any gentleman say that he was authorized to pledge the

clergy of this city to open the proceedings of this House every day, without compensation; and I would inquire whether, if we pass these resolutions, and the clergy will not act under them, it will not, nevertheless, be in order to proceed to the election of a Chaplain for this House, for the Thirty-Fifth Congress? I think that it will, and shall therefore vote for the resolutions, and give the plan a trial.

Mr. STEPHENS, of Georgia. I think that we ought to pay the ministers who officiate for us; and I move to reconsider the vote by which the main question was ordered. If that motion be agreed to, I shall then move to strike out the words suggested by the gentleman from Virginia, [Mr. LETCHER.]

Mr. DOWDELL. I move that the motion to reconsider be laid upon the table.

The question was taken, and the motion was disagreed to—sixty-eight members only voting in the affirmative.

Mr. JONES, of Tennessee. If the motion to reconsider be agreed to, in what condition will it place the resolutions?

The SPEAKER. The Chair is of the opinion that it would bring the main question before the House. That is according to the former practice of the House.

Mr. HUGHES. The object of the motion to reconsider, if I understand it, is to get at the original proposition, so as to strike out that portion which proposes to withhold compensation from the clergy who may officiate for us. The gentleman from Virginia [Mr. BOCKO] has asked if there is any one here who is authorized to pledge the clergy of this city to render this service without compensation.

Mr. FLORENCE. I am compelled to rise to a point of order.

The SPEAKER. The question is not debatable.

Mr. HUGHES. Is the motion to reconsider not debatable?

The SPEAKER. It is not while the House is acting under the operation of the previous question.

Mr. HUGHES. I hope I shall be permitted to answer the interrogatory of the gentleman from Virginia.

Mr. FLORENCE. I must object to debate, unless it is to be general.

The question being on the motion to reconsider the vote by which the main question was ordered,

Mr. LETCHER demanded the yeas and nays. The yeas and nays were not ordered.

The vote was reconsidered; and the question recurred on the demand for the previous question.

Mr. STEPHENS, of Georgia. I move now that the words "without compensation" be stricken out. "The laborer is worthy of his hire."

The SPEAKER. The pending question, upon which the House must act before any amendment will be in order, is upon the demand for the previous question.

Mr. STEPHENS, of Georgia. I hope the House will not second it.

The SPEAKER. If the House vote down the demand for the previous question, the amendment of the gentleman from Georgia will then be in order.

The previous question was not seconded.

Mr. STEPHENS, of Georgia. I now move to strike out the words "without compensation;" and I ask the previous question.

Mr. MORRIS, of Illinois. I intend, before resuming my seat, to submit a motion to lay the amendment of the gentleman from Georgia upon the table. But before doing so, I desire to reply to the interrogatory of the gentleman from Virginia, [Mr. BOCKO.] He asked whether the clergy of this city would be willing to officiate without compensation.

Mr. STANTON. I rise to a question of order. Is debate in order?

The SPEAKER. The Chair thinks not.

Mr. STANTON. Then I object to it.

Mr. HUGHES. I hope the gentleman will permit the proposition of the clergymen of this city to be read to the House. They propose themselves to perform this service without compensation.

The SPEAKER. The previous question hav-

ing been demanded, it is not in order to debate the pending question.

Mr. MORRIS, of Illinois. I believe I had the floor before the previous question was demanded.

The SPEAKER. The Chair does not so understand it.

Mr. MORRIS, of Illinois. I ask the gentleman from Georgia, then, to withdraw the demand for the previous question, that I may read a proposition which was made to the last Congress by the clergy of this city. I will renew the demand.

Mr. STEPHENS, of Georgia. On that condition I withdraw it.

Mr. MORRIS, of Illinois. The proposition is as follows:

"GENTLEMEN: The undersigned, ministers of the different denominations of Christians in Washington, respectfully submit to you the following statements and consequent proposal:

"During the long delay in the organization of the present House of Representatives, several of our number were invited to officiate in prayer at the opening of the daily sessions. The suggestion was then made that the various clergymen of the city might discharge this duty permanently, in the place of a single Chaplain; but doubt was expressed as to the readiness of the ministers of Washington to render such service.

"An expression on our part seeming, therefore, to be called for, we beg leave to state to your conviction, that the established election of a Chaplain from abroad, by your honorable bodies, had its origin in a necessity now no longer existing; that the plan adopted by many of our State Legislatures, of inviting neighboring pastors to act as their chaplains, thus removing all objection to the associating religious devotion with their deliberations, would reflect more credit on Christian ministers, would conduce more to their individual acceptableness and general usefulness among members of Congress and their families, and would in every way promote the end had in view in the election of Chaplains.

"We therefore respectfully tender our services, offering to alternate in the weekly service of opening the two Houses with morning prayer, and in conducting Divine service on Sabbath morning, with the distinct understanding that we decline receiving any remuneration for these services.

GEORGE W. SAMSON,

Pastor of E street Baptist Church.

BYRON SUNDERLAND,

Pastor of First Presbyterian Church.

JAS. R. ECKARD,

Pastor of Second Presbyterian Church.

T. A. HASKELL,

Pastor of Western Presbyterian Church.

P. D. GURLEY,

Pastor of F street Presbyterian Church.

GEO. HILDT,

Pastor of McKendree Chapel, M. E. Church.

GEO. D. CUMMINS,

Rector Trinity Church.

J. GEORGE BUTLER,

St. Paul's Lutheran Church.

J. MORSELL,

Rector Christ Church.

SAMUEL D. FINKEL,

Pastor German E. Church.

P. LIGHT WILSON,

Pastor Methodist Protestant Church.

"The above names represent eight denominations of Christians."

As I remarked before, that proposition was made at the last Congress, and doubtless those clergymen would be equally willing to do the same for this Congress. Indeed, I am just now informed that such a proposition has been made to the present Congress. The manner in which Chaplains have heretofore been employed in this House has not only attracted the attention of its members, but that of the country at large. The office has been sought for, and, indeed, I may say it has been sought for for the money. It has assumed a semi-political cast. The services performed under such circumstances will lose their effect not only upon us, but upon the country generally. I am, therefore, in favor of the proposition of the gentleman from Alabama. I think his the best mode. Let us try the plan. If it fails to work well we can resort to the old plan again.

I will not now stop to discuss the question. I have merely said what I have to justify my position. Having done so, and having pledged myself to the honorable member from Georgia to renew the demand for the previous question upon his amendment, I will do so, avowing at the same time that I shall vote against the amendment.

Mr. CURTIS. Fearing that, from the remarks of the gentleman from Indiana, the amendment may be defeated, I ask the gentleman from Georgia to give me an opportunity to express my views.

Mr. STEPHENS, of Georgia. I do not wish to prolong the discussion. I trust the amendment will be adopted, and that if these gentlemen tender their services they will be received, and the question of compensation be determined after-

wards. I adhere to the demand for the previous question.

Mr. LEITER. I have a substitute I desire to offer, and I ask the gentleman from Georgia to withdraw the demand for the previous question, that I may offer it, and then the call can be renewed.

Mr. STEPHENS, of Georgia. I will hear the substitute read.

The substitute was read as follows:

Resolved, That this House proceed to the election of a Chaplain for the Thirty-Fifth Congress.

Mr. SEWARD. I object to this applying the gag law, and then withdrawing it in favor of particular members.

Mr. LEITER. I offer the substitute for the purpose of having the sense of the House upon the question. I do not propose to discuss it, but I deem it worthy the notice of the House.

The SPEAKER. The motion of the gentleman from Ohio cannot be entertained unless the previous question be withdrawn.

Mr. MORRIS, of Illinois. I do not withdraw it. I move to lay the amendment of the gentleman from Georgia upon the table.

Mr. HUGHES. I demand the yeas and nays.

Mr. STEPHENS, of Georgia. I rise to a question of order. Will not the motion to lay upon the table the amendment, carry with it the original proposition?

The SPEAKER. That is the opinion of the Chair, unquestionably, if the motion prevails.

Mr. HUGHES. I will then withdraw the motion to lay upon the table, and allow a vote to be taken upon it directly.

Mr. FLORENCE. I move to lay the amendment upon the table.

Mr. HUGHES. Upon that I demand the yeas and nays.

The yeas and nays were refused.

Mr. JONES, of Tennessee. I desire to know, Mr. Speaker, what the particular question is?

The SPEAKER. It is the motion of the gentleman from Pennsylvania to lay upon the table the amendment proposed by the gentleman from Georgia to the original proposition of the gentleman from Alabama.

Mr. JONES, of Tennessee. Did the Chair entertain that proposition?

The SPEAKER. He did.

Mr. JONES, of Tennessee. My recollection is, that I have never heard that motion made and entertained by the House. I think it carries the whole question with it, and that it is impossible to lay the amendment upon the table without carrying the original proposition with it.

The SPEAKER. Of course.

Mr. JONES, of Tennessee. Then I think it is not competent for the Chair to entertain the motion.

The SPEAKER. The Chair thinks that parliamentary law will justify it, and there is no special rule to prohibit the Chair from entertaining the motion. If it prevails, it carries the original proposition with it.

The motion to lay on the table was lost.

The previous question was then seconded, and the main question ordered to be put.

The question being first upon the adoption of the amendment offered by the gentleman from Georgia—

Mr. LEITER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative—yeas 119, nays 94; as follows:

YEAS—Messrs. Adrain, Andrews, Banks, Barksdale, Bingham, Blair, Bliss, Bockoc, Bonham, Bowie, Branch, Brayton, Bryan, Budington, Burlingame, Burns, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clingman, Clark B. Cochrane, Cockerill, Coffax, Comins, Covode, Cragin, James Craig, Curtis, Darnell, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edie, Edmundson, Eustis, Fenton, Florence, Foster, Gillis, Gilman, Gilmer, Goode, Goodwin, Granger, Groesbeck, Robert B. Hall, J. G. Harris, Hatch, Hawkins, Hill, Hopkins, Horton, Morrison Harris, Huyler, J. Glancy Jones, Kellogg, Kelsey, Knapp, Leech, Leidy, Lovejoy, Maclay, McKibbin, Maynard, Miller, Milson, Morgan, Morrill, Edward Joy Morris, Freeman H. Murray, Olin, Palmer, Parker, Pendleton, Pike, H. Potter, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, Sandridge, Scales, Scott, Seward, John Sherman, Samuel A. Smith, Stanton, Stephens, James A. Stewart, George Taylor, Thayer, Thompson, Tompkins, Walbridge, Walton, Ward, Warren, Elliott B. Washburne, Israel Washburn, Watkins, Whiteley, Wilson, Wood, and Wortendyke—119.

NAYS—Messrs. Abbott, Anderson, Arnold, Atkins,

Avery, Bennett, Bishop, Boyce, Burnett, Caskie, Chapman, Clemens, Cobb, John Cochrane, Cox, Crawford, Curry, Davidson, Davis of Indiana, Davis of Iowa, Dimmick, Dowdell, English, Faulkner, Foley, Garnett, Gartrell, Giddings, Greenwood, Gregg, Grow, Lawrence V. Hall, Haylan, Thomas L. Harris, Hickman, Hoard, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Owen Jones, Keitt, Kelly, Kilgore, Jacob M. Kunkel, Lamar, Landy, Leiter, Letcher, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Miles, Montgomery, Moore, Isaac N. Morris, Oliver A. Morse, Mott, Niblack, Nichols, Peyton, Phelps, Quitman, Reagan, Reilly, Ruffin, Russell, Savage, Searing, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Shorter, Sickles, Robert Smith, William Smith, Spinner, Stallworth, Stevenson, William Stewart, Talbot, Tappan, Miles Taylor, Wade, Waldron, Cadwalader C. Washburne, White, Winslow, Augustus R. Wright, John V. Wright, and Zollicoffer—94.

So the amendment was agreed to.

Mr. FLORENCE. I move that the entire proposition be laid upon the table. The propriety of this motion will strike every gentleman. The striking out of the words "without compensation," will impose on this House an expense probably of \$10,000 per annum. I am not, for one, disposed to encourage such extravagance.

The question was taken; and the motion was disagreed to.

Mr. HUGHES. I desire to submit one or two remarks.

The SPEAKER. Debate is not in order.

Mr. FLORENCE demanded the yeas and nays upon the adoption of the resolutions.

Mr. DAVIS, of Indiana, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. DAVIS of Indiana, and COMINS were appointed.

The yeas and nays were not ordered, the tellers having reported only twenty-five in the affirmative.

The resolutions were adopted.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. SHERMAN. I move that the preamble be laid upon the table. It is totally unnecessary.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion was not agreed to.

The preamble was agreed to.

DISTRIBUTION OF PUBLIC DOCUMENTS.

Mr. STEPHENS, of Georgia. I offer the following resolution in relation to the new members of the House:

Resolved, That all public documents, of which extra copies were ordered to be printed for distribution, and which have not been delivered to the members then representing the respective districts under resolution of the last House of Representatives, shall now be delivered, by the officer having possession of the same, to the Representatives of the respective districts in this House entitled to the same according to the rates of distribution established.

Mr. QUITMAN. I suggest to my friend from Georgia that that resolution needs amendment. In some cases public documents consist of various numbers or volumes, and it is possible they would in some instances be divided, and that new members would receive the latter volumes of a document of which the old members had distributed the earlier volumes. It seems to me that that ought, if possible, to be avoided.

Mr. STEPHENS, of Georgia. The old members have no franking privilege, and an arrangement is generally made between them and the new members.

Mr. QUITMAN. Suppose a document consists of several volumes, some of which have been published and distributed: the resolution of the gentleman from Georgia, in its present shape, would provide that the volumes not yet delivered should go to the new members, thus separating the parts of the same document from each other.

The SPEAKER. Does the gentleman from Mississippi propose an amendment?

Mr. QUITMAN. No, sir; I merely throw out the suggestion. I do not care about the matter. I am not interested in it.

Mr. MARSHALL, of Kentucky. The franking privilege of the old member being exhausted, although he may have received, say the first and third volumes of Commodore Perry's report, of which extra numbers were ordered, still, the second volume being issued, it will lie over here; it

will not be sent to him; and if he was to receive it, he could not frank it to those who have received the other volumes. This is the most convenient arrangement, and the new members of the House, I presume, will carry out the views of the old members in this respect, and distribute whatever odd volumes there may be here, to those to whom the other volumes have been distributed. But they will not be forwarded to the old members, and even if they were, the old members could not frank them. This is exactly what was done at the last Congress.

Mr. FLORENCE. This same difficulty occurred two years ago. There were instances—and there probably may be now—in which members of the last House had died; and what would have become of the documents that had been voted to them unless some such provision as this had been made? A resolution, I believe, precisely similar to this, was adopted at the commencement of the last Congress, and it seems to me to be due to the new members of the House that they should have the distribution of the documents that are now down in the document room.

As has been forcibly said, the old members have no franking privilege and they cannot distribute these documents. I regard myself, and I believe members generally so regard themselves, as a mere trustee for the proper distribution of these documents; and those of our constituents who have incomplete sets of any documents will in all probability write to their Representatives and get the odd volumes, and that difficulty will thus be avoided. It seems to me that, inasmuch as it has been the practice, this resolution ought in all fairness to be adopted.

Mr. LETCHER. I do not propose to make any opposition to the adoption of this resolution. I believe that it is necessary, under the circumstances, to have these books distributed. All that I propose to do is to call attention somewhat to the manner in which books are ordered to be printed, in order that some of the difficulties under which members now labor may be avoided in future. It is notorious that at this time books ordered four, five, and six years ago, and which it was supposed at the time would make one volume, or two at the outside, are being written at this very hour in the city of Washington, and are prepared year after year for publication. I understand, in regard to one work ordered two or three sessions ago, and of which three volumes have already been printed, that there are plates now preserved by the Secretary of the Interior upon which he is waiting the action of Congress, and that it is proposed to color or stain them, and adopt other measures in connection with the printing of an additional volume of the work, that will run up the cost of a single volume to \$200,000!

That is the way in which this thing of book printing is going on. We order a book to be printed, without knowing what it is; and the employes of the Government go on writing it from year to year, making up a complete book according to their own fancy of what it ought to be. My idea is, that it is the duty of the House, before they order the printing of any work, to have the work presented here, that it may be examined by a committee and its value ascertained; that it may have the sanction of this body before it is allowed to go to the Printer; and that the country may be relieved from the immense expense, now the subject of complaint, imposed upon it by the enormous bills for printing.

We hear gentlemen talking all around about the immense amount of the printing for the last Congress—that the bill amounts to some two million dollars. Well, who is to blame for it? It has grown out of our action. It is not the fault of the Printer, who was merely employed to execute our orders.

I throw out these suggestions now, thus early in the session, in order that the question may receive consideration; and that we may, as it is proposed we should, and as we ought to do, reduce the expenditures of this branch of the public service.

Mr. TAYLOR, of New York. On comparing the resolution of the gentleman from Georgia with that adopted at the commencement of the last Congress, for the distribution of the documents then in the folding-room, and which had not been

distributed to the members of the Thirty-Third Congress, I find that it is precisely the same. I am informed by gentlemen upon my right, that have they been directed by their predecessors to distribute the documents to which their districts are entitled; and yet, because a resolution like this has not been adopted, the superintendent who has charge of the documents declines to deliver them to the new members, although they have been requested to distribute them to their constituents by their predecessors. This resolution appears to me to be, therefore, necessary, and I hope it will be agreed to. I call the previous question.

The previous question was seconded, and the main question ordered; and under the operation thereof, the resolution was agreed to.

Mr. STEPHENS, of Georgia, moved that the vote by which the resolution was adopted be reconsidered; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

THE NEW HALL.

The SPEAKER laid before the House the following communication from the Secretary of War:

WAR DEPARTMENT,
WASHINGTON, December 9, 1857.

SIR: I have the honor to state that the engineer now in charge of the work, has reported to me that the Hall of the House of Representatives, and the rooms for the offices of the Clerk of the House, in the extension of the Capitol of the United States, are ready for occupation.

In communicating this information, I beg leave to say, that the rooms aforesaid are now at the disposal of the House.

I have the honor to be, your obedient servant,
JOHN B. FLOYD.

Hon. JAMES L. ORR, Speaker House of Representatives.

The communication was referred to the select committee raised this morning.

MISSION TO CHINA.

The SPEAKER also laid before the House the annual statement of fees for judicial services, receipts and expenditures for 1856, of the United States Commissioner to China; which was ordered to lie upon the table, and be printed.

And then, on motion of Mr. BISHOP, the House (at half past two o'clock, p. m.) adjourned until Monday next.

IN SENATE.

MONDAY, December 14, 1857.

Hon. R. W. JOHNSON, of Arkansas, appeared in his seat to-day.

Prayer by Rev. STEPHEN P. HILL.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

Several messages of an executive character were received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

The PRESIDENT *pro tempore* laid before the Senate the fifth annual report of the Superintendent of the Public Printing; which was, on motion of Mr. JOHNSON, ordered to lie on the table, and be printed.

STANDING COMMITTEES.

Mr. ALLEN. I submit the following resolution, and ask for its immediate consideration:

Resolved, That the Senate will, on Wednesday next, at one o'clock, proceed to the appointment of the standing committees.

Mr. WILSON. As it is understood that Senators are making up the list of committees, I am requested by my colleague [Mr. SUMNER] to state that, owing to the condition of his health, he desires that he shall not be placed on any of the committees of the Senate.

The resolution was considered by unanimous consent, and agreed to.

DEATH OF SENATOR BUTLER.

Mr. EVANS. Mr. President, when I entered this Hall, on the first day of this session, and looked around for the familiar faces of those from whom I had parted at the close of the last, I was painfully impressed with the uncertainty of human life, and the vanity of all human hopes and expectations.

Little did I imagine, when I parted from my friend and colleague, that in the short space of two months he would be numbered with the dead;

or that I, who was ten years older than himself, should stand here to-day to announce the melancholy event.

My deceased friend and colleague, the late ANDREW P. BUTLER, was born in Edgefield district, in the State of South Carolina, on the 18th day of November, 1796, and was, at the time of his death, on the 25th of May last, in his sixty-first year.

The cheerfulness of his temper and the buoyancy of his spirits might have indicated a more youthful age; but the extreme and premature whiteness of his locks might well have passed him an older man.

His family came from Virginia, and settled in South Carolina before the Revolution. Few families have been more distinguished in the annals of the State, or suffered more in the service of the country. General William Butler, the father of Judge BUTLER, served with distinction, as a captain, in the troops of the State, and in that bloody conflict and war of extermination waged between Whig and Tory toward the close of the Revolution, the history of which, with all its bloody incidents, has never been written. He was subsequently a major general of militia, and a member of Congress from 1801 to 1814. He left a large family, of which my deceased colleague was the last survivor.

Judge BUTLER received the rudiments of his education in the best school in the upper part of his native State, and was graduated at the South Carolina College in 1817, with more than ordinary distinction. He devoted himself to the study of the law; and, in a very short time after he was called to the bar, his reputation for sound legal learning and forensic eloquence was such that his professional business was large and lucrative, not only in his circuit, but he was on several occasions called to distant districts to argue cases of great interest to the parties, and requiring the best legal talents of the State.

When a very young man, he was elected a member of the State Legislature, where his talents, his diligence, but, above all, the uprightness of his character, soon gave him a high position. Whilst a member of the State Senate he was, in 1833, elected a circuit judge; and two years afterwards, on a change of the system, he became a judge of the court of appeals, the highest court of judicature in the State. In this court I sat side by side with him for ten years, and until he was elected to this honorable body. It was as a judge I knew him best, and in that character I feel that I can speak with confidence of his merits. To say of a judge that he was incorruptible, is but common praise. The breath of suspicion has never breathed on the character of a judge in my own State, nor elsewhere in this broad land, so far as I know. It was in the administration of the law that he illustrated that love of justice, the highest attribute of a good man, which separates the case from the parties, and dispenses justice to all equally, to friend or to foe, without favor or partiality. Many of his legal opinions will be read with instruction in all time to come, and show very conclusively that his professional acquirements were of no ordinary character.

In 1846, he took his seat in the Senate of the United States, and has since been twice reelected without opposition. In politics he belonged to the old Republican or State-Rights party, and was what has been called a strict constructionist. He was loyal to the Constitution in all its express grants of power, and what was necessary to their execution; but he resisted that latitude of construction which he feared would, in the end, make this a Government of unlimited instead of limited powers. During all the time he was a member of the Senate, he acted a conspicuous part in all its deliberations. For a large part of it he was the head of the Judiciary Committee, in all respects, perhaps, the most important of your committees, except that of Finance. In the discharge of this important duty, he bore himself with great dignity and uprightness. In the decision of those exciting questions which grow out of contested elections, where party feelings are so apt to mislead honest minds, I think I may say that the love of right, because it was right, was the pillar of light by which he was guided. The triumph of party was of no consideration with him, where truth and the Constitution were on the other side.

Those with whom he lived in social intercourse

best understood the excellence of his character. It was there that the kindness of his feelings, the benevolence of his heart, and the hilarity of his temper, shone out in all their beauty.

As a parliamentary speaker his style was plain, logical, and unadorned; his manner temperate but earnest, showing the deep convictions of his understanding, and occasionally, when excited, rose to a high order of eloquence.

As a scholar his attainments were respectable; as much so as was compatible with a life spent in the laborious duties of an attorney, a judge, and a statesman. Such, sir, was ANDREW P. BUTLER. Surely the death of such a man is a public loss. When the news of his death went abroad, there was one universal wail from the center to the utmost border of his State; and I have reason to believe that the feeling of regret was not less intense throughout the broad expanse of these United States.

I therefore beg leave, Mr. President, to submit the following resolutions:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. ANDREW P. BUTLER, deceased, late a Senator from the State of South Carolina, will go into mourning by wearing crape on the left arm for thirty days.

Resolved, That as an additional mark of respect for the memory of the Hon. ANDREW P. BUTLER, the Senate do now adjourn.

Ordered, That the Secretary communicate these resolutions to the House of Representatives.

Mr. MASON. In rising to second the resolutions, I can add nothing, Mr. President, to the eloquent and able tribute just rendered by the venerable Senator from South Carolina to the memory of his late colleague. It is more to indulge my own feelings of deep and sincere sympathy with those who survive than from any hope that I may contribute even one poor leaf to the garlands around his tomb, that I ask the indulgence of the Senate for a brief moment in these sad ceremonials.

It was my good fortune to have known our deceased colleague, ANDREW PICKENS BUTLER, on terms of more intimate association than most Senators now around me. He took his seat in the Senate in December, 1846, and I followed him in January, 1847. Educated in the same political school, and thus drawn together in political circles here, habits of association were formed which, for the ten years that followed our entrance into the Senate, and until his death, found us under a common roof, at a common hearth, and sharing a common board. Our intercourse and association were in every sense fraternal. And you, Senators, who knew him best, will best appreciate the loss I am called to mourn in common with you.

Pickens and Butler united in him, mark the noble and gallant race from which he sprung; and he sealed in death a duty to his descendants, by transmitting both names to them without spot or blemish, as he had received them. Bayard like, he bore them through life "without fear, and without reproach." With that hardy morality which fears no contact, he mingled gracefully and graciously in the walks of life, alike with the most humble and the most exalted; honored and caressed by the one, loved and trusted by all. Thus, while the genial flow of a generous and sympathizing spirit attracted to him all classes in life, his lofty and unbending integrity, manly purpose, and unswerving honor, assured to him the respect and unstinted confidence of all coming within his sphere. Distrust and suspicion were at once disarmed at his presence. Wherever else they might be found, there was no such atmosphere around him.

In forensic warfare, whether as friend or foe, all will bear witness alike to the true nobility of his nature. Bold, ardent, daring, and at times almost merciless when he joined in battle, yet there was no venom in any shaft that sped from his bow; and when the fight was done, his ready hand was equally extended, on whichever side victory might declare itself.

He was an efficient debater; more prone to, and perhaps more skilled in, attack than defense.

The rich and fertile resources of a well-stored mind proved that he was habitually a student; and their skillful and sagacious use evinced that nothing rusted in his intellectual armory, but, by thought and meditation, was kept polished and on edge.

Indeed, with him, the faculties of observation and meditation seemed more happily combined than it has been my lot to witness with other men. And then, nature, in its bounties, had added that great CREATIVE POWER which is the unerring mark, as it is the first instinct, of genius. His mind, in debate, seemed almost to overflow in the rapidity of its suggestions; and yet there was realized in him that rare faculty of excellence which the ancients ascribed to the Grecian painter, Timanthes, of whom it was said: "*Intelligitur plus semper, quam pingitur.*"

As a Senator, you will all bear witness that, whatever differences arose amongst us in the rivalries and contentions of political life, whatever part he bore in them, was always distinguished by candor, loyalty, and good faith.

In the organization of this body, he held for many years, and until death closed forever the scenes of this world, the chair of that committee which stands as the law adviser of the Senate, but the duties of which are frequently complicated with political questions, involving the success or defeat of political parties. Who can forget how confidently and freely a minority was ever ready to commit all such questions to that committee, and how well that confidence was justified by its able, upright, and impartial decisions? The scales were held even, by a firm and resolute hand, however bitterness, prejudice, or distrust, might seek to disturb the balance.

Born, nurtured, and reared, in one of the most gallant States of the "Old Thirteen," he loved and venerated her fame with instincts that were truly filial; and as a child would defend a parent from insult or wrong, you have marked his form dilate, and his eye kindle and flash defiance, whenever called to vindicate the fame or honor of his State. His devotion and his first duty were to South Carolina; yet, on the broader theater of a common country, embracing all the States, his views were liberal, catholic, and fair; giving to each section its just and full share in whatever benefits or advantages flowed from a common Government. There his public service was directed with a single eye to the public good.

I have thus attempted, Mr. President, feebly to portray the Senator and the statesman as he stood confessed before the country. But it was in the social and domestic circle—in paths not opened to the common view, that the richest gifts of nature to man, the latent virtues of the heart, shone with a luster all their own. There was not an impulse there that was not generous, genial, and confiding. He sympathized with his race, and his whole race. If it was his fortune at some time "*debellare superbos*," that more grateful emotion was ever his, "*parcere victis.*"

But I should not detain you longer with this poor memorial of the gallant dead. He sleeps beneath the soil of his own loved Carolina, amidst those who loved and honored him in life, and who received his last sigh in death.

Mr. PUGH. Mr. President and Senators, in the utterance of a few and simple words, appropriate on this occasion, I shall not admonish you with reference to the public services, or the public character of our departed and illustrious associate. He was, in truth,

—"a man from whose example,
As from a compass, we may steer our fortunes,
Our action, and our age, and safe arrive at
A memory that shall become our ashes."

But this all know: this would seem to be the share which all have, alike, in the memorial of his life and achievements. I shall speak of him as he was known to us, and to those whom he honored with his acquaintance.

When the Senate assembled one week ago, pursuant to the requirements of the Constitution, three vacant places were found in our midst. The experienced and venerable Senator [Mr. RUSK] whom we selected to fill the chair at the last hour of the preceding session, and whose many accents pronounced our separation; the modest, amiable, and accomplished Senator from New Hampshire, [Mr. BELL] with whom several of us had just concluded the first stage of our allotted service here—the virtues of these, many as their virtues were, will be celebrated by other and more eloquent voices than mine. But the third place—oh, sir, that hardly seems vacant. He has not come as yet to our session; but so

vivid are his countenance and his image in our recollection—so familiar the tones of his voice to the ear—so close in our hearts the pressure of his genial, bright, noble affection—that we rather expect him, upon the instant, again to enter those portals, once more to be with us and of us, than assure ourselves that he has gone, forever, to the portals of death.

Whatever the vacancy here, Mr. President and Senators, there is none in our memories, or in our love. Where only pure remembrance dwells; where the holiest of our affections, our sympathies, our hopes, are gathered; where the controversies and mean ambitions of the hour cannot intrude;—in that sacred chamber, with all the freshness of his life, an expressive figure still abides, the benignant eyes are beaming on us, and the tender voice is almost heard. He has gone from the bitterness which often, too often, distracts our counsels, which causes us to forget the kind words of another time, the constant and indispensable acts of courtesy, forbearance, and personal regard, even the tried friendships and the experience of troubles and danger in common. He is beyond all that could alienate him from us. The past will never be obliterated. He is our friend, and we are his friends, until together (as I hope) in happier circumstances, in a blessed sphere, spirit with spirit unobstructed can everlasting communion hold.

Let us not mourn for him. The measure of daily cares and toils, of continual annoyance, of perplexity, misfortune, and sorrow—he has filled that, and with that, has filled the measure of his fame. He has obtained at length, as well as earned, a discharge from the service of his grateful country; and now retires, silently, in the ripeness of age, to its enjoyment. In the fragrance of that grove of laurels through which, from on high, the ancient Eridanus rolls its copious flood—in the company of those who, in all past time, by wounds sustained in the public defense, by lives of purity and just example, by genius devoted to pious ends, by the invention of useful arts and other deeds worthy to be remembered, have won the snow-white fillet—his temples are crowned with eternal felicity and honor.

*"Conspicit, ecce, alios dextra, livaque per herban,
Vescentes, latumque choro Pæan canentes,
Inter odoratum lauri nemus: unde superne
Plurimus Eridani per sylvam volvitur amnis.
Hic manus, ob patriam pugnando vulnera passi,
Quique sacerdotes casti, dum vita manebat,
Quique pii vates, et Phœbo digna locuti:
Inventas aut qui vitam excoluere per artes,
Quique sui memores alios fecere merendo,
Omnibus his nivea cinguntur tempora vitta."*

For ourselves, Mr. President and Senators, to have been his associates, to have learned the beauty of his character and his disposition—such an advantage does not happen to all, nor oftentimes to any man. It is for us to make the most of this; and, by this, to improve the tenor of our conduct and conversation—exalting to more lofty purpose the actions, the endeavors, the hopes of a lifetime. We shall thus derive from the inspiration of our departed associate that lesson he would most have desired to teach; and thus, like him, finish our days on earth with the glory of a complete example to our children and our countrymen.

Mr. CLAY. Mr. President, four years ago this day, immediately after taking the official oath and my seat on this floor, I was approached by a man whose silvery locks contrasted strangely with his youthful gait and manner, who, introducing himself, saluted me with cordiality and kindness, as prepossessing as it was generous. That man was ANDREW PICKENS BUTLER, then a Senator from South Carolina. The pleasant impressions of his first salutation were deepened by intimate intercourse during the two last Congresses, and can never be effaced from my memory. He was my pleasant companion, my cherished friend, my respected counselor! I feel it due to our relations while he lived, to publicly tender to his memory the homage of my esteem and affection now that he is dead! His surviving colleague, who knew him longer and better, has rehearsed the story of his life, and portrayed him in public and private relations, in which I knew him only by reputation. I shall endeavor to sketch a few salient points of his character, as they appeared to me in this Chamber and in private circles.

Judge BUTLER was gifted with a rare genius. He exhibited, in debate, the independence and freedom, the originality and eccentricity of a mind not fettered by rules, or addicted to following straight or beaten paths, but indulging in modes of thought and expression both peculiar and extraordinary. He seemed to labor less in conceiving than in expressing his ideas. His thoughts outran his words, causing him sometimes to halt and stammer in his articulation, notwithstanding his copiousness of imagery and vivacity of diction. His occasional and extemporaneous efforts were more felicitous and pleasing than those which were carefully prepared—if, indeed, he ever made careful preparation.

His style of oratory was rarely logical or argumentative, but often brilliant and eloquent. Although his mind was disciplined by a collegiate education and the severe studies of the legal profession—which he is reputed to have adorned both as a lawyer and a judge—yet I do not think he excelled in parliamentary dialectics. He was not a methodical thinker or syllogistic reasoner. He did not develop his conclusions by systematic gradations of analysis or synthesis. He did not elaborate them by regular concatenations of facts or of arguments. He did not persuade or convince the judgment by the judicious marshaling of his facts, or by the concerted and concentrated progression of his argument; but he enchained the attention and captivated the judgment by sudden sallies of wit, by humorous railery, by striking metaphors, by apposite aphorisms, by bold denunciations, and by soul-stirring eloquence. "He spoke what he thought, and as he thought it," in a rambling manner; now pausing in parenthesis; now abruptly rising from the level of narration to the higher flights of oratory, and again suddenly descending; now dashing off into a brilliant episode, and then hastily returning to his subject. Though swift in pursuit of his object, he was quick in turning from it. Like those animals that seize their prey by a single leap, instead of after a long chase, he often achieved his triumphs by one stroke of trenchant satire or a single volley of ridicule; by one arrow from his exhaustless armory, barbed with an epigram or an aphorism, or a single burst of burning words or vehement indignation. His manner, on such occasions, sharpened the point and added to the force of his projectiles. It was peculiar, inimitable, and indescribable.

Good sense, sincerity, and wit, were the prominent traits of his addresses. He seized on leading facts or great truths and urged them with energy and brevity. He quickly detected the fallacies of his adversary, and exposed them by concise criticism instead of elaborate argument. His efforts, generally, evinced but little labor and less art. They were the spontaneous effusions of his ardent nature. They came native from his heart and impelled the hearts of others with communicated power. His hearers were impressed with his thorough conviction, his intense interest, and his strong passion of his subject.

His wit was ready and versatile, playful and pungent, happy and harmless, and never produced a painful or rankling wound. It generally delighted even its victims, and was often most salutary when most sharp. Who does not remember more than one occasion when it burst like grateful sunshine through the angry clouds of sectional or party strife that enshrouded this Chamber, irradiating it with the genial light of joyousness and peace!

But it was in the private circles of society that the qualities of the man were most attractive and fascinating. It was in the midst of his friends, around the festive board, or the family hearthstone, that the wealth of his thoughts and his affections was freely lavished. There he best displayed his genial humor, his sparkling wit, his luxuriant imagination, his strong common sense, his exquisite sensibilities, his tender pathos, his generous and benevolent spirit. He there exhibited, in striking antithesis, the cool wisdom of age with the fresh and fervid feelings of youth, so singularly typified in his hoary head and impassioned manner—like Hecla, crowned with snow, while undying fires burn within its bosom.

"When I was a boy" was the poetry of his life. He loved to repeat the reminiscences of "the morn and liquid dew of life," especially of the period of our last war with Great Britain, of

which (though too young to participate) he had a lively recollection, particularly of the scenes in South Carolina, and of the valorous and patriotic deeds of her sons and daughters. He spoke of them with a just pride of family and of State, dwelling with enthusiastic admiration upon what he termed "the hardy virtues of our ancestors."

He often rehearsed with tearful eyes and mournful words the admonitions of his noble and gentle mother, who had impressed his mind with religious truths which neither time nor secular pursuits had effaced. He had gathered up and treasured the golden sentiments of that pious woman with a sort of idolatry like that with which certain religionists regard their holy relics. Indeed, he revered her as something more than mortal—as "the connecting link between woman and angel."

His manhood was marked by many and unusual domestic afflictions—in the loss of all his near lineal and collateral relations save an only daughter—which cast a shadow on his pathway and tinged with sadness the usual current of his reflections. In familiar conversations he often alluded to these bereavements with the touching tenderness of an elegiac poet, or with the impressive seriousness of a philosopher, who had experienced the sad vicissitudes of human life and the utter emptiness of human enjoyments. The struggle between the native buoyancy and supervenient heaviness of his heart was like that between the sunshine and the cloud. His mind seemed perpetually oscillating between joy and sadness—from "grave to gay, from lively to severe."

Judge BUTLER was a man of "high thoughts seated in a heart of courtesy," although he sometimes had an odd, blunt way that might have been mistaken for ill-nature or rudeness by strangers. He scorned everything mean, or unworthy the true nobility of manhood. He was incapable of the selfish intrigues of the mere politician, or the vile traffic of the placeman. His mind revolved upon the axis of Truth, and he was what he seemed to be. His manners were marked by simplicity; his language, in his serious moods, by directness; his intercourse with the world by frankness and sincerity.

He was, I believe, universally esteemed a true friend and magnanimous foe, a zealous patriot and sagacious statesman. He loved the gallant State which he represented with the devotion of filial piety, and was ever ready to advocate her rights or defend her honor, and to pledge his fortune or peril his life in their support. He loved the union of the Constitution only less than South Carolina, notwithstanding he often dwelt with bitterness upon the wrongs which he believed had been done his own section, in violation of rights reserved or guaranteed by that sacred instrument.

That he had faults and committed errors, none will deny; but they were such as commonly belong to men of warm imaginations or strong social sympathies, and were like mists exhaling from summer streams, which obscure their beauties without defiling their waters. In contemplating such a character, every generous mind is inclined to excuse some defects, in consideration of the general symmetry of its imposing proportions.

It is no exaggeration of his merits, or disparagement of his successors, to say that his vacant chair can never be filled. No learning, however extensive; no talents, however superior; no genius, however great; no social virtues, however amiable, will ever be found in combination so strange and striking, so felicitous and fascinating, as in our late beloved and gifted friend—rare Judge BUTLER!

Mr. CAMERON. I cannot permit the present melancholy occasion to pass without adding my earnest tribute to the memory of the deceased, and attempting to express the profound sorrow I feel, in common with all who knew him, at the providential dispensation by which he has been removed from our midst, never to return.

During my former senatorial term, circumstances brought me into intimate relations with Judge BUTLER, which continued down to the close of his earthly career. I admired him for the high qualities of his mind, and loved him for the simple, childlike purity of his heart.

His fearless sincerity, his noble bearing, his purity of character, his surpassing eloquence, and his exalted patriotism, were the theme of admiring friends; while his rich store of humor, his fine imagination, and his wide range of legal and constitutional knowledge, made him both a commanding Senator and a universal favorite in the social circle.

His mind was lifted far above the level of sectional prejudice or local sentiment. Deeply imbued with the spirit of law and justice, his impartial judgment was swayed only by the dictates of honor and duty.

Whilst his great mental powers were naturally devoted to his own native State, he loved the whole Union, and was emphatically a Senator belonging and endeared to the whole country, anxiously watching every opportunity to promote its welfare and to exalt its position among the nations of the world.

He has left us in the strength of his manhood, and in the midst of his usefulness; but—

"Is it not better to die willingly
Than linger till the glass be all outrun?"

The resolutions were unanimously adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 14, 1857.

The House met at twelve o'clock, m.

The Journal of Thursday last was read and approved.

QUALIFICATION OF A MEMBER.

HON. SAMUEL H. WOODSON, a Representative from the State of Missouri, appeared and took the oath to support the Constitution of the United States.

STANDING COMMITTEES.

The Speaker announced the following standing committees of the House for the first session of the Thirty-Fifth Congress:

Committee of Elections—Thomas L. Harris of Illinois, William W. Boyce of South Carolina, Israel Washburn of Maine, John W. Stevenson of Kentucky, Ezra Clark of Connecticut, Henry M. Phillips of Pennsylvania, John A. Gilmer of North Carolina, Lucius Q. C. Lamar of Mississippi, and James Wilson of Indiana.

Of Ways and Means—J. Glancy Jones of Pennsylvania, John S. Phelps of Missouri, Nathaniel P. Banks of Massachusetts, John Letcher of Virginia, Lewis D. Campbell of Ohio, H. Winter Davis of Maryland, John Kelly of New York, William A. Howard of Michigan, and James F. Dowdell of Alabama.

On Claims—Samuel S. Marshall of Illinois, Muscoe R. H. Garnett of Virginia, Joshua R. Giddings of Ohio, Thomas G. Davidson of Louisiana, John C. Kunkel of Pennsylvania, Sydenham Moore of Alabama, Henry C. Goodwin of New York, Samuel Arnold of Connecticut, and Horace Maynard of Tennessee.

On Commerce—John Cochrane of New York, John S. Millson of Virginia, Elihu B. Washburne of Illinois, W. Porcher Miles of South Carolina, Edward Wade of Ohio, James A. Stallworth of Alabama, George Eustis of Louisiana, James Landy of Pennsylvania, and Linus B. Comins of Massachusetts.

On Public Lands—Williamson R. W. Cobb of Alabama, John McQueen of South Carolina, Henry Bennett of New York, John G. Davis of Indiana, David S. Walbridge of Michigan, Thomas Ruffin of North Carolina, Joshua Hill of Georgia, William Montgomery of Pennsylvania, and Joseph C. McKibbin of California.

On the Post Office and Post Roads—William H. English of Indiana, Paulus Powell of Virginia, John M. Wood of Maine, Charles L. Scott of California, Valentine B. Horton of Ohio, Timothy Davis of Iowa, James Craig of Missouri, Reuben Davis of Mississippi, and John D. C. Atkins of Tennessee.

For the District of Columbia—William O. Goode of Virginia, Thomas F. Bowie of Maryland, Edward Dodd of New York, Henry C. Burnett of Kentucky, Edward Joy Morris of Pennsylvania, Augustus R. Wright of Georgia, Sidney Dean of Connecticut, Alfred M. Scales of North Carolina, and Elijah Ward of New York.

On the Judiciary—George S. Houston of Ala-

bama, John S. Caskie of Virginia, Mason W. Tappan of New Hampshire, Burton Craige of North Carolina, Charles Billingshurst of Wisconsin, Miles Taylor of Louisiana, Charles Ready of Tennessee, Henry Chapman of Pennsylvania, and Horace F. Clark of New York.

On Revolutionary Claims—Samuel S. Cox of Ohio, George Taylor of New York, Isaiah D. Clawson of New Jersey, Aaron H. Cragin of New Hampshire, James Jackson of Georgia, Owen Lovejoy of Illinois, Jabez L. M. Curry of Alabama, Henry L. Dawes of Massachusetts, and Jacob M. Kunkel of Maryland.

On Public Expenditures—John M. Elliott of Kentucky, Henry A. Edmundson of Virginia, John Covode of Pennsylvania, Jacob R. Wortendyke of New Jersey, John M. Parker of New York, Joseph R. Cockerill of Ohio, William Kellogg of Illinois, James M. Gregg of Indiana, and E. P. Walton of Vermont.

On Private Land Claims—John M. Sandidge of Louisiana, Joseph C. McKibbin of California, Aaron Harlan of Ohio, George S. Hawkins of Florida, Cadwalader C. Washburne of Wisconsin, Francis P. Blair of Missouri, Reuben E. Fenton of New York, Charles J. Gilman of Maine, and William T. Avery of Tennessee.

On Manufactures—William D. Bishop of Connecticut, Albert G. Watkins of Tennessee, Philemon Bliss of Ohio, Sherrard Clemens of Virginia, Nathaniel B. Durfee of Rhode Island, John A. Ahl of Pennsylvania, James B. Ricard of Maryland, Henry M. Shaw of North Carolina, and Stephen C. Foster of Maine.

Committee on Agriculture—William G. Whiteley of Delaware, Lawrence W. Hall of Ohio, William H. Kelsey of New York, Guy M. Bryan of Texas, Justin S. Morrill of Vermont, John Huyler of New Jersey, Richard Mott of Ohio, James B. Foley of Indiana, and James S. Gillis of Pennsylvania.

Committee on Indian Affairs—Alfred B. Greenwood of Arkansas, Charles S. Scott of California, Benjamin F. Leiter of Ohio, John H. Reagan of Texas, Samuel H. Woodson of Missouri, Eli S. Shorter of Alabama, Silas M. Burroughs of New York, Schuyler Colfax of Indiana, and William F. Russell of New York.

On Military Affairs—John A. Quitman of Mississippi, Charles J. Faulkner of Virginia, Humphrey Marshall of Kentucky, John H. Savage of Tennessee, Benjamin Stanton of Ohio, Milledge L. Bonham of South Carolina, Samuel R. Curtis of Iowa, George H. Pendleton of Ohio, and James Buffinton of Massachusetts.

On the Militia—Israel T. Hatch of New York, Albert G. Watkins of Tennessee, Anthony E. Roberts of Pennsylvania, Thomas F. Bowie of Maryland, Cyndor B. Tompkins of Ohio, Edward A. Warren of Arkansas, Aaron Shaw of Illinois, Albert G. Jenkins of Virginia, and Eli Thayer of Massachusetts.

On Naval Affairs—Thomas S. Bocoock of Virginia, Thomas B. Florence of Pennsylvania, Timothy Davis of Massachusetts, Warren Winslow of North Carolina, Erastus Corning of New York, John Sherman of Ohio, James L. Seward of Georgia, Freeman H. Morse of New York, and George S. Hawkins of Florida.

On Foreign Affairs—Thomas L. Clingman of North Carolina, George W. Hopkins of Virginia, Anson Burlingame of Massachusetts, James B. Clay of Kentucky, David Ritchie of Pennsylvania, William Barksdale of Mississippi, Daniel E. Sickles of New York, Homer E. Royce of Vermont, and William S. Groesbeck of Ohio.

On Territories—Alexander H. Stephens of Georgia, William Smith of Virginia, Galusha A. Grow of Pennsylvania, Lawrence O'B. Branch of North Carolina, Amos P. Granger of New York, James Hughes of Indiana, Felix K. Zollicoffer of Tennessee, Chauncey L. Knapp of Massachusetts, and John B. Clark of Missouri.

On Revolutionary Pensions—John Hickman of Pennsylvania, John A. Searing of New York, Robert B. Hall of Massachusetts, John V. Wright of Tennessee, John M. Parker of New York, Henry M. Shaw of North Carolina, Nehemiah Abbott of Maine, Sherrard Clemens of Virginia, and John F. Potter of Wisconsin.

On Invalid Pensions—Joshua H. Jewett of Kentucky, Thomas B. Florence of Pennsylvania, George R. Robbins of New Jersey, John H. Savage of Tennessee, Calvin C. Chaffee of Mas-

sachusetts, Joseph Burns of Ohio, Thomas L. Anderson of Missouri, Oliver A. Morse of New York, and Charles Case of Indiana.

On Roads and Canals—George W. Jones of Tennessee, Albert G. Talbot of Kentucky, William S. Damrell of Massachusetts, Martin J. Crawford of Georgia, Samuel G. Andrews of New York, Edward A. Warren of Arkansas, Isaac N. Morris of Illinois, John Thompson of New York, and Paul Leidy of Pennsylvania.

On Patents—James A. Stewart of Maryland, William B. Maclay of New York, Wilson Reilly of Pennsylvania, John R. Edie of Pennsylvania, and William D. Brayton of Rhode Island.

On Public Buildings and Grounds—Lawrence M. Keitt of South Carolina, Samuel O. Peyton of Kentucky, Edwin B. Morgan of New York, Lawrence W. Hall of Ohio, and Samuel A. Purviance of Pennsylvania.

On Revisal and Unfinished Business—William L. Dewatt of Pennsylvania, Joseph Miller of Ohio, De Witt C. Leech of Michigan, Guy M. Bryan of Texas, and Judson W. Sherman of New York.

On Accounts—John C. Mason of Kentucky, John Dick of Pennsylvania, Thomas Ruffin of North Carolina, John A. Searing of New York, and Francis E. Spinner of New York.

On Mileage—Robert Smith of Illinois, Ambrose S. Murray of New York, William E. Niblack of Indiana, J. Morrison Harris of Maryland, and Henry Waldron of Michigan.

On Engraving—Garnett B. Adrain of New Jersey, Israel T. Hatch of New York, and Warner L. Underwood of Kentucky.

On Expenditures in the State Department—Owen Jones of Pennsylvania, Jabez L. M. Curry of Alabama, John A. Bingham of Ohio, William T. Avery of Tennessee, and Charles B. Hoard of New York.

On Expenditures in the Treasury Department—William Lawrence of Ohio, Allison White of Pennsylvania, David Kilgore of Indiana, Jacob M. Kunkel of Maryland, and Lucius J. Gartrell of Georgia.

On Expenditures in the War Department—Wilson Reilly of Pennsylvania, Clark B. Cochrane of New York, Joseph R. Cockerill of Ohio, William Stewart of Pennsylvania, and John V. Wright of Tennessee.

On Expenditures in the Navy Department—John B. Haskin of New York, Joseph Miller of Ohio, Emory B. Pottle of New York, Paulus Powell of Virginia, and Reuben Davis of Mississippi.

On Expenditures in the Post Office Department—Albert G. Talbot of Kentucky, John H. Reagan of Texas, George W. Palmer of New York, Joseph Burns of Ohio, and James B. Foley of Indiana.

On Expenditures on the Public Buildings—Allison White of Pennsylvania, George Taylor of New York, Cadwalader C. Washburne of Wisconsin, Joseph Miller of Ohio, and Abram B. Olim of New York.

Joint Committee on the Library—William H. Dimmick of Pennsylvania, Warren Winslow of North Carolina, and John U. Pettit of Indiana.

Joint Committee on Printing—Samuel A. Smith of Tennessee, Otho R. Singleton of Mississippi, and Mathias H. Nichols of Ohio.

Joint Committee on Enrolled Bills—Thomas G. Davidson of Louisiana, and James Pike of New Hampshire.

Regents of the Smithsonian Institution—William H. English of Indiana, Benjamin Stanton of Ohio, and Lucius J. Gartrell of Georgia.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States through Mr. JAMES B. HENRY, his Private Secretary.

THE NEW HALL.

Mr. WARREN. The committee appointed on Thursday last to examine the new Hall for the House of Representatives, have directed me to render the report which I hold in my hand. I ask that the report may be read; after which I propose to submit some additional reasons why the report should be adopted.

The report was read, as follows:

The special committee to examine into and report on the condition of the new Hall of Representatives in the south wing of the Capitol, and when it will be safe to occupy it, respectfully report:

That they visited and inspected the Hall on the morning of the 12th instant. Some of the members of the committee had supposed that, the room having been lately finished, the walls must necessarily be damp. But on consulting with the Superintendent, Captain M. C. Meigs, of the corps of engineers, they were informed that the walls of the chamber had been built for two or three years, and the interior walls supporting the galleries, and the walls under the floor for several months; that they were all laid in brick and cement, which dries much more rapidly than common lime mortar. There was no appearance of dampness about the room or walls, excepting where the first plastering, having been injured in putting up the door-frames, had been removed and replaced, to a small extent, by fresh plaster, which, of itself, had been upon the walls for some two weeks.

A hygrometer above the Speaker's desk indicated a dry atmosphere; and, so far as the committee could judge from their own sensations, the air in the room was as dry as that of any ordinary apartment. They found the room warm, well lighted, and ventilated by a supply of air, which, they are assured by Captain Meigs, the superintendent, was flowing through the room at the rate of not less than eleven thousand five hundred feet per minute, as determined by observations at the inlet passages by a delicate anemometer. The temperature had been designedly raised rather higher than was agreeable, in order, by driving through the room a large quantity of air at a high temperature, to raise that of the large body of masonry in the flues under the floor, which had been chilled by the cold weather immediately preceding the meeting of Congress and the completion of the heating apparatus.

The two fans—one of which is intended to drive air through the large coil of steam pipes provided for heating the House of Representatives, and the other through the numerous coils arranged in different parts of the cellars to supply heat to the committee rooms, lobbies, and corridors of the building—are not yet completed. But as the air, warmed by the steam coils, rises into the rooms in sufficient quantity, in consequence of the difference in specific gravity of heated and cold air, the heating and ventilation of these rooms were found to be in a very satisfactory state, the only fault to be found with them being that they were, perhaps, too warm. This heat, however, is under perfect control, and can be increased or diminished at pleasure.

The supply of air to the Representatives' chamber, at the time of the committee's visit, has already been stated at eleven thousand five hundred feet per minute, by actual measurement. They were informed that the fan which is being built for the supply of the Hall, will be capable of supplying one hundred thousand cubic feet per minute—a quantity sufficient to change entirely the air contained in the Hall every five minutes, the cubic contents of the Hall and galleries being four hundred and sixty-five thousand cubic feet.

The members' retiring room, the Speaker's room, the Clerk's rooms, the room for the Sergeant-at-Arms, the current document rooms, the cloak and hat, and wash rooms, are conveniently arranged near the Hall, and are ready to be furnished and occupied.

The south lobby and the private stairs are so arranged as to admit of cutting off all the above rooms from the admission of strangers, and reserving them for the sole use of the House; and this the committee recommend to be done by order of the House.

For the official reporters of the House, a convenient desk, immediately under the clerk's desk, is provided; and for the accommodation of the reporters of the public press, there is ample room in the gallery, immediately over the Speaker's chair, and east of the railing. The committee recommend that this part of the gallery, and the room immediately behind it, in the third story, be set apart for their use, and provided with desks and conveniences for taking and writing out their notes. The telegraphic wires should also be introduced into this room, so as to permit the transmission of intelligence direct from the reporters to the distant press. By this means, the report of an hour's speech might be completely set up in New York within fifteen minutes after its delivery.

The corridors leading to the Hall are dry and comfortable. In some of them the tile floors are not yet laid; but there is no reason for waiting until this is done. The floors are of brick, and can remain in their present condition until the termination of the session, the tiles in the mean time being stored in the cellar.

For the present, the committees and the officers of Congress whom it may not be convenient to accommodate, can remain in the old building, to which there will be convenient access through a covered passage leading from the new directly to the old Hall, which it will enter by the window-door behind the Speaker's chair.

The committee made some trial of the acoustic qualities of the room. They found very little reverberation; so little as not to interfere with distinctness of hearing; and ascertained by trial that not only could all that was said at the Speaker's desk be heard on all parts of the floor and galleries, but that the voice from each member's desk or from any part of the galleries could be easily made audible in all parts of the room, without raising it above the tone required in speaking across a table.

There may be some little inconvenience and interruption of work upon unfinished parts of the building outside of the Hall; but the Hall itself is completely ready for the use of the House; and, in view of the great advantages in the comfort, convenience, and health of the members—the great improvement in the transaction of the legislative business, from the perfect acoustic qualities of the room, insuring to every member, wherever his seat may be, the ability to be heard and understood when he may address the House—and, in view of the fact that the immense expenditure of the Capitol extension has been incurred solely for the purpose of providing such rooms for the deliberations of Congress—they cannot hesitate to recommend that the House avail themselves of the use of this room as soon as possible.

Some furniture and books for current use it will be necessary to remove; and some lumber and rubbish yet incumbent the approaches. These can all, in their opinion, be removed by Wednesday morning; and they therefore recommend the adoption of the following resolution:

Resolved, That, when this House adjourns to-morrow, it

will adjourn to meet in the new Hall of Representatives, in the south wing of the extension of the Capitol, on Wednesday at noon.

Mr. DAVIDSON. If the gentleman from Arkansas intends to make a speech in favor of adopting this resolution, I desire to make a statement to the House, so that we may understand the question to be discussed. Mr. Speaker, as chairman of the Committee on Enrolled Bills, I have, in some measure, the responsibility of the Clerk's office; and I have to say to the gentleman from Arkansas and this House, that, since the proposition for removal has been mooted, being aware of the responsibility which would be incurred if the Clerk's office could not be prepared for the papers which must be removed there, I have investigated the facts, and I will say to the House that the papers in the Clerk's offices could not be removed there in three weeks, if they were to commence to-day. And even then, when they were removed, it would be only temporary; for the designs of the iron castings, which are permanently to hold the papers, have not yet been made.

I have no objection to the House removing there whenever it shall see fit, if the public interest is not jeopardized thereby. But, if the House intends removing there, the day ought to be put far enough in the prospective to enable the clerks to remove their papers.

Mr. WARREN. I strikes me with considerable force that it is time that the members of this House should have some regard to their own convenience and comfort, and not look so much to that of those outside the House. I would be as anxious as any other gentleman to accommodate the clerks, but I am perfectly certain that the longer this is deferred the longer they will defer removing their papers.

I desire to state, in addition to the facts contained in the report, that this committee have taken no little trouble in investigating the condition of the new Hall. We were there for four hours on Saturday, and examined the capacities of the Hall, not only in respect to acoustics, but in reference to the matter of temperature, and the convenience and comfort of members. They had it lighted on Saturday night. It was again tested yesterday, when there was a large concourse—not less than fifteen hundred people assembled. The Hall was full, and the galleries were filled to overflowing; but no gentleman experienced any inconvenience in consequence of the temperature of the Hall, or difficulty in hearing.

Now, I say again, that the longer we defer our removal, the longer the officers of the House will delay the removal of their papers. They have no wish to remove. They are comfortably located where they are; they have all the conveniences to make them comfortable. But we are not comfortably situated. Every gentleman knows the difficulty of hearing in this Hall. No gentleman can either understand himself or make others understand him. The most remote seat in that Hall is far preferable to the choicest one in this.

Other gentlemen are unwilling to remove because they do not wish to be annoyed by the workmen outside of the Hall; but the Superintendent informed the committee that the House should not hear the sound of a hammer while they were in session. The workmen could be employed there during the forenoon, and employed on the other wing of the Capitol the remaining portion of the day.

I believe the resolution should be adopted, and I demand the previous question.

The call for the previous question was seconded; there being, on a division—ayes one hundred and forty-one, noes not counted.

Mr. MORGAN demanded tellers on ordering the main question to be put.

Tellers were ordered.

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. KEITT. Mr. Speaker, I wish to vote understandingly on this matter, and I should therefore like to ask the gentleman from Arkansas a question.

The SPEAKER. Debate is not in order.

Mr. KEITT. I am not going to debate the question. I presume the House desires the information I seek as much as I do. I would inquire

of the chairman of the committee whether the approaches to the new Hall are in a condition to fit it for occupation by the members?

Mr. WARREN. They will be in such condition at the time fixed in the resolution.

The question was taken; and it was decided in the affirmative—yeas 149, nays 61; as follows:

YEAS—Messrs. Abbott, Ahl, Anderson, Andrews, Atkins, Avery, Banks, Barksdale, Bingham, Blair, Bliss, Bowie, Boyce, Branch, Bratton, Bryan, Buffinton, Burlingame, Burnett, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clemens, Clingman, Cobb, Clark B. Cochrane, Cockerill, Comins, Cox, Crawford, Curtis, Darnell, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Davis of Massachusetts, Dawes, Dean, Dick, Dimmick, Dowdell, Durfee, Elliott, English, Fenton, Foster, Giddings, Gillis, Gilmer, Granger, Greenwood, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hawkins, Hoard, Hopkins, Horton, Howard, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Kellogg, Kelly, John C. Kunkel, Lamar, Leiter, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Moore, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Peyton, Phelps, Potter, Purviance, Quitman, Ready, Reilly, Ricand, Ritchie, Robbins, Roberts, Royce, Sandidge, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Shorter, Singleton, Robert Smith, William Smith, Spinner, Stanton, Stevenson, William Stewart, Talbot, Tappan, George Taylor, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Walton, Ward, Warren, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—149.

NAYS—Messrs. Adrain, Billingshurst, Boeck, Bonham, Burns, Chapman, Colfax, Covode, Cragin, James Craig, Burton, Craig, Curry, Davidson, Dewar, Dodd, Edmundson, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Goode, Godwin, Thomas L. Harris, Haskin, Hickman, Hill, Houston, Hughes, George W. Jones, J. Glancy Jones, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Landy, Leech, Leidy, Leitcher, Miller, Millson, Montgomery, Edward Joy Morris, Isaac N. Morris, Niblack, Pettit, Phillips, Pike, Pottle, Ruffin, Savage, John Sherman, Samuel A. Smith, Stallworth, Stephens, James A. Stewart, Miles Taylor, Waldron, Wilson, and Zollcofer—61.

So the resolution was adopted.

Mr. WARREN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. LANE, by unanimous consent, previous notice having been given, introduced a bill making an appropriation for the payment of the expenditures incurred by the Territories of Oregon and Washington for the suppression of Indian hostilities therein; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

Mr. LANE. I ask leave to introduce another bill—a bill making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory.

Mr. BLISS. What is the regular order of business?

The SPEAKER. A call of the States for resolutions.

Mr. BLISS. I insist on the regular order.

The SPEAKER proceeded with the call of the States for resolutions, beginning with Maine.

Mr. MORRILL. I ask leave to introduce a bill donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, of which previous notice has been given; and shall ask that it be referred to the Committee on Agriculture, and ordered to be printed.

Mr. COBB. It is unusual to order the printing of a bill on its introduction and reference. It is as well, probably, that the practice should be adhered to at the beginning of the session as at any other time. I have no particular objection to this bill.

Mr. MORRILL. I withdraw that portion of my motion for the printing of the bill.

There were, on a division of the House, eighty votes in favor of the reference of the bill as indicated, and sixty-six opposed to it.

Mr. LETCHER. I demand the yeas and nays. Let us start right, Mr. Speaker, and we will continue in the right. I understand that the proposition before us is to refer this bill to the Committee on Agriculture instead of the Committee on Public Lands. A bill relating to an appropriation of the public lands ought unquestionably to go to the Committee on Public Lands, if it go anywhere. What has the Committee on Agriculture to do with it? What does it know about the disposition of the public lands? Noth-

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ing; and it seems to me we had better start right than to get right afterwards; and that each proposition, as it is introduced, should be referred to its appropriate committee. The probability is, that if this bill goes to the Committee on Agriculture, it will be reported back with leave to have it referred to the Committee on Public Lands.

Mr. MORRILL. I call for the reading of the bill.

The bill was read *in extenso*. It provides that there shall be granted to the several States and Territories, for the purposes specified in the title, six million three hundred and forty thousand acres of the public land, to be apportioned according to representation in Congress, and with other conditions which are named in detail.

DEATH OF SENATOR BUTLER.

Before the reading was concluded, a message was received from the Senate, by ASBURY DICKENS, its Secretary, communicating to the House of Representatives the proceedings of the Senate of respect to the memory of the Hon. Andrew P. BUTLER, deceased, late a Senator from the State of South Carolina.

The message having been read,

Mr. BOYCE said: Mr. Speaker, the resolutions before the House announce the death of ANDREW PICKENS BUTLER, late Senator from the State of South Carolina. It is my melancholy privilege to add my feeble tribute of respect to the more imposing proceedings of the Senate.

Judge BUTLER departed this life on the 25th day of May, A. D. 1857, at Stonelands, his residence, in Edgefield district, South Carolina. He died in the midst of his friends and kindred, receiving from them every kindness the most devoted affection could suggest, and his last visions of earth were of those scenes most endeared to him by the memories of his past life.

Judge BUTLER's health was somewhat impaired at the close of the last Congress, but no serious consequences were apprehended, so that the rapid and fatal termination of his disease was in a great degree unexpected.

Judge BUTLER was born on the 18th day of November, 1796, in Edgefield district, South Carolina. His father rendered distinguished services to the Whig cause in the great war of our Revolution, and his mother was a woman of great strength of mind and unusual force of character.

The subject of my remarks, after receiving a course of intellectual training under the best instructors, was entered as a student of the South Carolina College, where he soon gave evidence of great promise, and where he subsequently graduated with distinction. Upon completing his collegiate course, he devoted himself with ardor to the study of the law, choosing the same path so many great minds have taken to distinction. Upon his admission to the bar, his success was rapid and brilliant; his vigorous mind and impulsive energy soon placing him in the front rank of the profession.

In 1833 he was called by the Legislature of South Carolina to a seat on the bench of the supreme court, which position he held until his election to the United States Senate in 1846, as the colleague of Mr. Calhoun. It was from this period he became known to the people of the United States, his reputation previously having been confined to his own State. His services in the Senate were active and important. His position as chairman of the Judiciary Committee required him to take cognizance of a class of cases of great delicacy and interest—contested elections—for the proper consideration of which he was peculiarly fitted, by his freedom from party bias. During his senatorial career some of the most agitating questions arose which have ever convulsed the public mind, in the consideration of which he bore his full share of responsibility. Indeed, during his long term of service in the Senate, there was hardly an important debate in which he did not take a prominent part.

Upon all questions in our foreign relations he was firm, yet discreet; and upon sectional questions, while steadfastly insisting upon the constitutional rights of the South, he was eminently conservative. It is not my purpose, however, to refer with minuteness to his senatorial history. He has made his own record upon the pages of our congressional annals, to which the student of political philosophy may turn with interest and advantage.

Judge BUTLER's intellectual gifts were remarkable. His mind was strong, fertile, acute, quick, and suggestive. He did not arrive at his conclusions by slow gradations of reasoning, but he bounded to them with impetuosity. His discourses were not regular chains of ratiocination; his mind was too ardent for this slow process. He came at once to his strong points, and stated them in graphic language. He did not pursue his subject by the dim twilight of a cold logic; he seized it promptly and bore it with him, illuminating the flight of his genius with perpetual flashes.

In him mind and body were in more remarkable accord than any orator to whom I have ever listened. You could almost hear the beatings of his heart in the tones of his voice. He had all the attributes of the orator—mind, body, soul, all gave their assurance and their aid. His eloquence was not the cloquence of art; it was the eloquence of nature. Nothing could be more simple than his style of speaking. It was nature—pure nature—sublimated, indeed, by a poetic temperament, and chastened by the study of the great masters. A strong mind, imagination all compact, words that burn, a noble heart, a commanding person, a bold and fiery spirit, all wreaking themselves upon expression, were the secrets of his power. Besides this occult spell and mystery of eloquence, Judge BUTLER also had, in a remarkable degree, what Cicero so much commends: *boni senatoris prudentia*—the prudence of a good Senator; and herein consisted a striking and distinctive trait in his intellectual organization—in his emotions all impulse; in his actions he was all prudence.

But in his moral attributes he towered still more proudly eminent. He was a man of an exquisite sense of honor. His soul was full of authentic fire. He was just, generous, kind, and forgiving. He contemplated human life from the stand-point of an elevated moral grandeur. He was the material out of which heroes are made; and if fate had so willed it, like Bayard or Russell, or his heroic brother, Pierce Butler, who fell at the head of the Palmetto regiment, he would have sublimely died under the most malignant star.

Such was ANDREW PICKENS BUTLER, no common-place man, dwarfed by materialism, but a real man. His majestic form, his noble head silvered o'er with the frosts of age, rise even now before me, and I think of a Roman Senator in the best days of the great Republic, when Pyrrhus and the unwonted elephant were despised. I never went into the Senate Chamber, and looked upon that august body, in the midst of which, near his approved friends, the Senators from Virginia, sat this venerable man, but that I felt proud to see my State so worthily represented. But he is no more; he sleeps in the bosom of his native State, which he loved so well; the somber pine forests of the land of the sun, unheeded, sigh their unceasing requiem over his grave.

Peace and honor to his memory. He is one of the last of a constellation of great men, which South Carolina, with a singular prodigality, gave to the service of the Federal Government. His name will shortly be but a memory. We, too, will soon tread the dark passage of the tomb, through which he has passed, and other representatives, strangers to him and to us, will walk these Halls.

The paths of glory have no exit but the grave. Life is but a brief episode in the great drama of immortality, and death but an event in that episode. Let us, then, so act our parts as to meet

that inevitable event with fortitude, and justify, if not a place in the pantheon of history, at least a place for some short space in the recollections of good men.

I offer the following:

Resolved, That this House has heard with deep sensibility the announcement of the death of ANDREW PICKENS BUTLER, late a Senator in Congress from the State of South Carolina.

Resolved, That as a testimony of respect for the memory of the deceased, the members and officers of this House wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House in relation to the death of ANDREW PICKENS BUTLER be communicated to the family of the deceased by the Clerk.

Resolved, That as a further mark of respect for the memory of the deceased this House do now adjourn.

Mr. STEPHENS, of Georgia. I rise, sir, to second the motion for the adoption of those resolutions. But before the question is put, I wish to add a few words to what has been said by the gentleman from South Carolina, in honor of the memory of the distinguished Senator whose death has been announced. Judge BUTLER was known to me personally. His immediate constituents and mine are neighbors. Nothing but the broad and beautiful Savannah separates them. Identified in interests, identified in habits, in sentiments, and in feelings, their sympathies naturally commingle on a common loss and bereavement, and such this is considered.

Judge BUTLER possessed, in an eminent degree, those qualities that not only secure the esteem and the admiration always due to genius and learning and talent of a high order, but those other qualities that win the love and the affection of all who come within their range. He was emphatically a man cast in an original mold, of most marked characteristics, physical as well as intellectual. As the honorable gentleman spoke of his silvery locks and majestic form and stately person and Roman countenance, I could almost imagine him again standing in our midst. Those of us who knew that form and knew that gallant bearing, with the sense of age and the fire of youth, can never forget him. He was mercurial in his temperament, more pointed in conversation, as well as in argument, than he was logical. But he was, nevertheless, firm and stable.

In the social circle he shone to great advantage. Wit and humor, drawn from classical sources, were his delight. He was chaste in thought and classical in expression. In the busy pursuits of life, the abstruse studies of the law, or the labors that devolved on him in public life, he did not forget the cultivation of letters. He scorned to wrangle, yet he had a zeal for truth. In manner he was easy and agreeable—in intercourse with mankind, warm-hearted, brave, chivalrous. None was more liberal; none more unoffending; none more generous, noble, or magnanimous.

He was firm, though versatile. Decision was one of his marked characteristics. As a judge and as a legislator, he came up to the ideal of one of his favorite poets:

*"Justum et tenacem propositi virum
Non civium ardor prava jubentium;
Non vultus instantis Tyranni
Mente quatit solida."*

Few men were more amiable and mild in disposition, none more resolute in purpose.

Sir, eulogy is not my object; that may be left for his biographer or historian. He that was a few months ago with us, is gone. Those places that knew him so well, will know him no more. We, too, are passing away. How brief the time since the voices of Lowndes, of McDuffie, of Calhoun, and of Hamilton, were heard within these walls! The cold sod covers them to-day. The voice of BUTLER is silent in the grave with theirs. These were men that stirred, in their day, empires—a proud galaxy, of which the gallant Palmetto State, which they almost adored, may well be proud. As a mother, she may well boast of such jewels.

But, the thought, how suggestive, when we see men of such character in their day and generation, passing away, receding from the existing

generation—how suggestive the thought—the truth that—

"When fame's loud trumpet hath blown its noblest blast,
Though loud the sound, the echo sleeps at last;
And glory, like the phoenix 'midst the fires,
Exhales her odors, blazes and expires."

"What shadows we are, and what shadows we pursue!" How transitory pleasures! How unsubstantial honors! The only hope to the wise and the good—the virtuous good—on this earth, with all their aspirations for honorable place—and such aspirations are to be great only so far as they are good—is the hope, the day-star of promise, that hereafter the dust of these bodies, like the ashes of that same fabled phoenix, is to be quickened into newness of life in a future existence, where to each shall be measured out according to the deeds done here in the body; where there shall be no more strife, no more pain, no more death, but never-ending immortality. I second the resolutions.

Mr. HARRIS, of Illinois. Mr. Speaker, I rise to express my cordial concurrence in the resolutions which have been reported from your table. They announce to us the sad intelligence of the decease of the venerable and distinguished Senator from South Carolina, whom to know was to admire—whom to hear was to learn wisdom.

It is no part of my purpose to refer to those minute characteristics of the deceased, or those amiable and affectionate traits in domestic life which give such completeness to human character. I speak only of what I know. My acquaintance with the deceased Senator commenced some eight years ago, when upon entering this body I found him in the other branch of the Legislature, associated with his preëminently distinguished colleague, Mr. Calhoun. The mournful obsequies attending the death of that illustrious man are still deeply impressed upon my recollection, and hardly less so the fact that in the short space of two months the successor of Mr. Calhoun, the lamented Elmore, followed him to the world of spirits. And now another Senator from the same State has responded to the all-compelling summons, and has joined those his illustrious compeers, in the chambers of the dead. Yet not among the Senators only of South Carolina has the hand of death been at work—it has stricken down also numbers of her sons in this House. Fortunate, indeed, though bereaved, are that people who have such wealth of eminent citizens to lose!

In the death of Judge BUTLER, not his constituents alone, but the whole country has sustained a heavy loss. He was, in the best and fullest sense of the word, a patriot. No man possessed of so many generous and noble qualities could be other than a patriot. To a nice and intuitive sense of justice, he added upon all occasions a matured judgment, formed upon careful examination and reflection. Unaffected and unostentatious as he entirely was, he possessed an originating mind, cultivated and adorned by the most extensive reading and classical study. His amiability of temper and large conversational powers made him a most agreeable companion and favorite in every circle in which he moved. To the artless simplicity of a child, was joined in him a firmness of purpose far above the reach of flattery or intimidation. His motives were always right, his actions magnanimous, and his heart beat full with manly emotions and sensibilities. He attained great influence, not by lengthy and elaborate speeches, but by addressing himself with clearness, force, and earnestness directly to the point. He never sought advantages by indirection, but relied upon the justness of his opinions and the force of legitimate argument for success. In all the qualities and qualifications which constitute a pure and able statesman, and an honorable and virtuous citizen, the deceased Senator might be safely taken as a model; and with such a model, how few, how very few, will equal—how many, how very many, will fall below it.

The great American statesmen who, for a generation, have, like faithful sentinels, been guarding the lines of the Republic, and protecting it from dangers without and within, are fast passing away. While each successive year adds to the moral and material wealth, and to the power and renown of our extended and happy country, those great

lights, who have watched over, guided and advanced these developments through the dark and trying hours of our political night, disappear like the twinkling jewels from God's firmament, before the coming brightness of day.

"Oh! 'tis sad, in that moment of glory and song,
To see, while the hill-tops are waiting the sun,
The glittering band that kept watch all night long
O'er love and o'er slumber, go out one by one.

Thus, oblivion, from midst of whose shadow we came,
Steals o'er us again when life's twilight is gone,
And the crowd of bright names, in the heaven of fame,
Grow pale and are quenched as the years hasten on."

But, sir, while we thus bear tribute to the virtues of the illustrious dead we are admonished, by these constantly recurring events, that we too are mortal. But a few months or years, at most, and we shall leave these stirring scenes of life, to be seen no more on earth forever. How vain, how foolish, then, are all our strifes and struggles here if prompted by love of power, or low, personal ambition. Let us learn wisdom from the contemplation of these things, and, following the example of him whose death we now deplore, look only to the welfare of our common country and our race. Let us be true to ourselves, and we cannot be unjust to any man. Let us seek only for that honorable and honest fame which results from a faithful discharge of all our duties, both public and private. We shall thus leave a record and a character of which our children will never be ashamed, and of which our country may well be proud:

"So live, that when thy summons comes to join
The innumerable caravan which moves
To that mysterious realm where each shall take
His chamber in the silent halls of death,
Thou go not, like the quarry slave at night,
Scourged to his dungeon, but, sustained and soothed
By an unfaltering trust, approach thy grave
Like one who wraps the drapery of his couch
About him, and lies down to pleasant dreams."

Mr. GOODE. Mr. Speaker, in coming forward to mingle in these solemn ceremonies—these funeral rites—it is not my purpose to sketch the history of the distinguished man whose virtues we commemorate, whose death we mourn. I shall not direct attention even to the prominent incidents in his useful life—this has been done by one from whom it appropriately came. I shall not attempt to pronounce his eulogy; that eulogy is indelibly inscribed on the heart of every man who knew him. I come to perform the last sad, solemn offices of friendship; I come to express my sorrow for the dead, my admiration of his virtues, my affection for his person while yet he lived—my reverence for his memory now that he is gone.

Four years have passed since I assumed towards Judge BUTLER the relation of an intimate friend. Before that time I knew him only as he was known to the world. We then became inmates of the same household, members of the same domestic circle. We lived together to the close of the last Congress, when we parted to meet on earth no more; and throughout that long term, and in that most intimate relation, I saw everything to admire and to love.

His social and convivial qualities, his powers of conversation, his cheerful disposition, his humor, wit, learning, taste, and inexhaustible fund of anecdote, charmed and fascinated in all his public intercourse with men; but it was in the privacy of domestic life—it was in the sanctity of his home, that he revealed the noble nature and those high, endearing qualities which seized upon the heart and captivated the affections.

I speak not of the powers of his mind; the brilliancy of his intellect; his successes in the political arena; nor his aptitude for the great theater of life. On these the world will pass its judgment. I speak not of the extent of his learning; the character of his attainments; his elegant accomplishments; nor the delicacy and refinement of his tastes. These, too, were open to public criticism. I follow him to the seclusion of domestic life. I follow him to his inmost home, where the real nature stood revealed, to offer my homage to his heart; that ever kind and generous heart; that ever pure and noble nature; ever kind to friends, ever generous to foes.

The point of honor and the standard of benevolence never ranged higher in the human soul. In private intercourse, he was painfully sensitive to the sufferings of others, regardful of their feelings,

and cautiously avoided every topic which by possibility could pain. And if, perchance, he ever wounded, he felt what he inflicted, and was prompt to extract the barb.

He was ever true and truthful—trustworthy and faithful; kind to the dependent, liberal to the poor, condescending to the humble; frank, manly, respectful, and courteous to equals; sincere and cordial with his friends—kind, generous, and magnanimous to all; his life was a beautiful illustration of the aphorism, that pleasure consists in giving pleasure.

In the stern contests and sharp conflicts of life, the instinct of mind and the incentive of patriotism called out the inherent energies of his being. In defense of his beloved State, in defense of his native South, in defense of his country and the Constitution, he struck boldly and with all his might. But victory achieved, his sympathies responded to the groan of the vanquished; he was eager to bind up the wounds of the fallen, and minister relief to the distressed.

Sir, I have seen him in the relations of civil and social life, in prosperity and adversity, in the fulness of joy, and the bitterness of grief. I have seen him in the Senate Chamber pouring out the volume of native eloquence, with listening throngs hanging on the accents of his manly voice. I have seen him in the brilliant social circle "the observed of all observers"—charming all with the beauties and graces of conversation. I have gone with him to his home, to witness there his expansive benevolence—softening the cares, soothing the sorrows, cheering the gloom, or lighting up the joys of those whom he loved. I have seen him bending over the bed of sickness, tenderly ministering to its painful wants, and whispering consolation to the sufferer. And, sir, I have seen him in the gloomy chamber of death, gazing on the cold corpse of the friend who was dearest to his heart, writhing in his own agony, till, clasping to his bosom the lifeless form, he sobbed forth the wail of unutterable woe. In every varying circumstance of life I saw him a noble specimen of his race.

Sir, I forbear—I have gone too far. You will pardon the enthusiasm of friendship. I but feebly express what I forcibly feel. Knowing the goodness of his heart, and the nobleness of his nature—loving the man and revering his memory, I stand a sincere and sorrowing mourner at the grave of ANDREW PICKENS BUTLER.

The resolutions were then unanimously agreed to; and the House accordingly adjourned.

IN SENATE.

TUESDAY, December 15, 1857.

Prayer by Rev. D. P. GURLEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter dated May 30, 1857, from Peter Parker, United States Commissioner to China, transmitting regulations for the consular courts of the United States in China, in pursuance of the act of Congress of August 11, 1848, for such revision as Congress may deem expedient; which was, on motion of Mr. Mason, ordered to lie on the table, and be printed.

Also, a letter of the Secretary of the Interior, transmitting the annual statement required by the act of May 1, 1820, showing balances of appropriations standing upon the books of the Second Comptroller's office, to the credit of the Interior Department, on July 1, 1856; the amounts appropriated by Congress for the fiscal year ending June 30, 1857; and the aggregate amounts applicable to the service of that fiscal year; also, the amounts drawn from these appropriations or carried to the surplus fund July 1, 1856, to June 30, 1857, and the balances remaining in the Treasury at the last named date; which, on motion of Mr. Mason, was ordered to lie on the table, and be printed.

Also, the laws passed at the third session of the Legislative Assembly of Nebraska Territory, which was held at Omaha City, January 5, 1857; together with the Journals of the Legislative Assembly; which, on motion of Mr. Mason, were ordered to lie on the table.

DEATH OF MR. BELL, OF NEW HAMPSHIRE.

Mr. HALE. Mr. President, it is my duty, in obedience to a long-established, and, in my judgment, peculiarly appropriate custom of the Senate, to announce to the body the decease of my late colleague, Hon. JAMES BELL, which occurred at his residence in Gilford, New Hampshire, on the 26th of May last.

Mr. BELL was the son of the late Samuel Bell, of our State, who, for a time, was one of the justices of our highest judicial court; subsequently, for several years, Governor of the State, and for twelve years a member of this body. My late colleague was born in Francestown, in the county of Hillsborough, on the 13th of November, 1804; finished his studies, preparatory to entering college, at Phillips's Academy, in Andover, Massachusetts; and in September, 1819, before he had completed his fifteenth year, he entered the sophomore class in Bowdoin College. He was graduated in 1822, and immediately commenced the study of the law with his brother, Hon. Samuel D. Bell, who is at this time a justice of our supreme court. He finished his course of study to qualify him for admission to the bar, at the celebrated law school at Litchfield, Connecticut, and, in the fall of 1825, before he was quite twenty-one years of age, he was admitted to the bar, and immediately commenced the practice in Gilmanton, then in the county of Strafford, in his native State. He remained at Gilmanton about six years, when he married a daughter of the late Hon. Nathaniel Upham, of New Hampshire, and removed to Exeter, in the county of Rockingham, where he remained, constantly and sedulously engaged in the practice of his profession, till the year 1846, when he removed to Gilford, and continued to reside there till his death.

In the year 1846, he was elected a member of the Legislature of New Hampshire, by the town of Exeter, and in 1850, by the town of Gilford, a member of the convention to revise the constitution of the State. These two offices are believed to be the only political stations occupied by him till 1855; when he was elected by the Legislature to the Senate for six years from the preceding 4th of March. He served during the whole of the Thirty-Fourth Congress, and during the executive session of the Senate commencing the 4th of March last.

Of Mr. BELL's success at the bar, it may be sufficient for those conversant with the character of the men practicing in the counties of Rockingham and Strafford, at the time he came to the bar—viz., Jeremiah Mason, of whom Judge Story said, in the dedication of one of his volumes to him, that he "long held the first rank in the profession, supported by an ability and depth and variety of learning which have had few equals;" George Sullivan, whose mellifluous eloquence and captivating tones carried the hearts, while his logical argumentation convinced the understanding of his audience; Ichabod Bartlett, second to no man who ever addressed a New Hampshire jury, and second to no man to whom I have ever listened; and Levi Woodbury, too well known to the Senate and to the country to need any eulogium from me; that, with such men for competitors, he very soon, by the common consent of the bar and the community, was ranked among the leading advocates of those two counties.

In private life, in the community in which he lived, he was respected, confided in, and beloved to a very remarkable degree; and I have never witnessed a community apparently more deeply impressed by the death of one of their members, than was that of which our deceased associate was one.

The integrity of his character, the soundness of his judgment, and the kindness of his heart, were well attested by the confidence and affection bestowed upon him in his life, and the intense sorrow with which his untimely death was deplored.

While Mr. BELL was with us, he was but the wreck of what he had been: months before he took his seat here the hand of an incurable and inexorable disease had fastened itself upon him. Beneath its grasp his strength decayed, his vigor wasted, and he gradually sank till he went home to die in his rural and romantic retreat on the banks of the Winnipiseogee, which his own taste had selected and his own hand decorated. He leaves a widow and five children, all of whom were with him in his last sickness—whose privilege it was to minister to his wants, alleviate his

sufferings, and, by their affectionate assiduity, smooth his pathway to the grave.

No man more clearly understood, or more faithfully and affectionately discharged, all the duties of a husband and a father than my deceased colleague, and to his family, his loss is indeed irreparable; but I shall not invoke the public gaze upon the grief of that stricken circle, but leave them to the tender mercies of Him who has smitten them, but not in anger, and who alone can heal the wound His hand has made.

The propriety of such a simple recognition by the American Senate, of the death of one of their members, has often been questioned by that calculating spirit which recognizes the utility and propriety of no observance, the value of which cannot be immediately estimated in dollars and cents; but, it seems to me meet that we should occasionally pause and turn aside from the contention of parties and the pursuits of ambition, to listen to that voice of God which comes to us in the death of a brother, to remind us how vain are the honors, how transient the pleasures, and how fleeting the years of human life.

I desire to offer the following resolutions:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. JAMES BELL, deceased, late a Senator from the State of New Hampshire, will go into mourning by wearing crape on the left arm for thirty days.

Resolved, That, as an additional mark of respect for the memory of the Hon. JAMES BELL, the Senate do now adjourn.

Ordered, That the Secretary communicate these resolutions to the House of Representatives.

Mr. FESSENDEN. Mr. President, I have listened, with emotion, to the eloquent remarks of the Senator from New Hampshire, in announcing the death of his late colleague. That colleague was one of my early associates and friends; I hope to be excused, therefore, for rendering, in a few words, my public tribute to his many virtues.

It was my good fortune, Mr. President, to spend some years with him at the same collegiate institution, and to be associated with him in one of those literary fraternities which often add much to the interest and value of college life. There I learned to respect and love him, as did all equally fortunate in his companionship. There, too, were developed the many rare traits of character which distinguished him through life, giving unmistakable promise of that worldly eminence which he soon attained. His was a youth of promise well performed in after years, securing for him in life hosts of admiring friends, and a memory among men, which, like

"The actions of the just,
Smell sweet, and blossom in the dust."

Our late associate was gifted with a high order of intellect, which was carefully and assiduously cultivated. But excellent as were his intellectual powers, he was equally distinguished by great firmness of purpose, united with singular modesty, and remarkable moral purity. It was these last characteristics which invested his youth with a peculiar charm, and won for him universal admiration and regard; for while, as a scholar, he might have been surpassed by some, as a conscientious and high-bred gentleman he was a model for all his fellows, and was so regarded by all. Of a sensitive and refined nature, he shrank, instinctively, from the slightest approach to vulgarity, either of language or demeanor. Adding to all these a loving heart, with manners frank and cordial, it is not remarkable that associates became friends.

I have said, Mr. President, that Mr. BELL was a man of singular modesty. Indeed, he exhibited this trait of his character in excess; and in such excess as to excite apprehension that it would seriously impair his prospects of future usefulness, by obstructing the avenues to distinction, broadly open, in our country, to abilities and acquirements like his. But those who thus reasoned did not sufficiently appreciate his great firmness of character. With him, duty was paramount; and while this controlled his actions, it impelled him onwards with equal force. This was, in fact, his great motive power—ministering to, and aiding, that personal ambition which is inseparable from a noble nature, and sweeping away all those difficulties arising from mere temperament which would have daunted and discouraged one cast in a weaker mold.

Though, not an eye-witness of his eminent career in after life, yet, knowing him as I did, it occasioned me no surprise. Such men seldom fail. With qualities like his, eminent usefulness is almost a certainty. It came early, and remained with him to the last. When such a man places his foot upon the ladder, he is sure to ascend. Fate only can cast him down. With him life is success. Our lamented associate verified this truth. And I am well assured that the high moral qualities which distinguished his boyhood illustrated and adorned his riper years. As was the youth, so was the man—a lover of virtue, a friend and champion of truth.

Mr. BELL's career in the Senate was checked and oppressed, from the beginning, by the malady which terminated his life. But he was with us long enough to secure the respect and regard of all his associates. His efforts in the Senate, though few, evinced an accuracy of judgment, a power of analysis, and a clearness of statement, which marked him for an accomplished debater. Those who best knew him were confident that, if he lived, the whole country would become familiar with his name. His qualities were such as could not but have placed him high in the rank of American statesmen. Bold, independent in thought and action, scorning the arts of the demagogue, he would have striven to deserve popular favor by a fearless and assiduous discharge of duty in his high station. Men like him, pure in heart, single in purpose, seeking honor only by honorable means, devoting all their energies to the public good, and forgetting themselves in the pursuit, are none too numerous. And the early death of one such man is always a public calamity.

It is a trite remark, Mr. President, that there may be a wide distance between what men seem to be and what they are. Of no class is this more true than of those engaged in public life. The popular idol of to-day is cast from his false eminence to-morrow, and forgotten. Death, the great leveler of human distinctions, makes sad havoc with reputations not founded upon public usefulness and private worth. It was not such a reputation that my lamented friend would have sought to win. His aspirations were those of a gentleman and a Christian. Dignified, yet courteous; firm, but quiet; brave, but unpretending; respecting himself, but deferential to others; able to instruct, but ever seeking instruction; never loud, never dogmatical, his was an example which could not but be felt in the daily intercourse of the Senate; while his thorough comprehension of, and devotion to, his duties as a Senator, marked him for a future, alike honorable to himself and the State of which he was a champion and a child. Many sons have been born to her whose names are high upon the rolls of fame; and if among them are found some written in more brilliant characters, there are none, I am well assured, which fall more pleasantly on her ear, or which she better loves to remember and repeat.

Mr. SEWARD. Mr. President, the time which JAMES BELL was permitted to remain among us was so short, and his ability for active duty during even that small period was so much impaired by ill-health, that the materials of which elaborate panegyrics are usually woven to grace the obsequies of those who have attained, through protracted years of honorable service, the position of fathers of the Senate, are not found on this occasion in our records, or in our more faithful memories. Still, it is due to his fame, and to the generous sympathies of those who, from their nearer relation to him, especially cherish it, that the measure of his actual success here be made known, and that it be understood that the life of eminent usefulness which he had led in his own State was crowned by the achievement of real distinction in this more conspicuous theater. His bearing, his address, his speech, his social intercourse, were uniformly marked with the decision and vigor, the dignity and serenity, the gravity and courtesy, which, when blended together, impart irresistible weight to the opinions of a Senator, while they never fail to secure universal respect and affection toward his person. Few of us, I fear, will be able, at the close of our own periods of service, however long they may be drawn out, to lay claim to higher praise than this; and I am sure that to no one, living or dead, whom I have

met here, can it be accorded with more unanimity than it is now awarded to him.

Mr. President, a stranger at this capital naturally seeks, in his earlier walks, a view of the congressional burying-ground. He finds there rectangular streets, bordered by monuments erected under our authority in honor of those who have passed away from life while engaged in this department of administration. All these structures stand in parallel lines, at uniform distances, and are built on one model, of one material, and of exactly equal dimensions. They differ only in the names and ages inscribed on them. While the design of these monuments is to manifest profound sensibility, the manner in which it is executed awakens a painful suspicion of insincerity, and even of indifference, to the so frequent visitations of the angel of Death. So a careless observer might imagine that the renewal, to-day, in honor of the departed Senator from New Hampshire, of ceremonies performed only yesterday in commemoration of the late eminent Senator from South Carolina, and to be followed soon, perhaps to-morrow, by the renewal of the same tribute to the just fame of a Senator from Texas, who was so dearly beloved by us all, is merely an affectation of sorrow. Let it not be so regarded. The discrimination of the eulogists draws out vividly the traits which individualize the characters of their subjects, and present jointly their several claims to the homage of a grateful country. It must be remembered, moreover, that although these official expressions of grief are periodical, yet they are so only because they are necessarily distinct responses of dependent men to reiterated utterances of the voice of the Supreme God. They are due acknowledgments of submission to the Divine will, and acceptances of Divine reproofs and admonitions. Alas! that there is need of such frequent reiteration of the reproof, in this fearful manner, of our mutual alienations and aversions. Alas! that there is always need of the monition, so impressively conveyed by every death that occurs among us, "Be ye also ready."

The resolutions were unanimously adopted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 15, 1857.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

The SPEAKER stated that the business first in order was the motion of the gentleman from Vermont, [Mr. MORRILL], to refer the bill introduced by him yesterday to the Committee on Agriculture.

CORRECTION OF THE JOURNAL.

Mr. LETCHER. I rise to a privileged question. I desire to have the Journal corrected. I submitted a motion yesterday to refer the bill introduced by the gentleman from Vermont to the Committee on Public Lands. That motion has not been entered on the Journal.

The SPEAKER. It was inadvertently omitted. The motion will be considered as entertained, and the Journal will be corrected accordingly.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a copy of a letter of 30th May last, from the Commissioner of the United States in China, and of the decree and regulations which accompanied it, for such revision thereof as Congress might deem expedient.

The message and accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the annual statement showing the balances standing to the credit of the Interior Department; which was laid upon the table, and ordered to be printed.

SUPERINTENDENT OF PUBLIC PRINTING.

The SPEAKER also laid before the House the annual report of the Superintendent of Public Printing; which was laid upon the table, and ordered to be printed.

REPORTS FROM COURT OF CLAIMS.

The SPEAKER likewise laid before the House

reports, bills, and adverse reports, from the Court of Claims numbered from 82 to 148.

The bills were referred, *en masse*, to the Committee of Claims, and the adverse reports were ordered to be placed upon the Calendar.

TERRITORIAL LAWS.

The SPEAKER also laid before the House the laws of the Territories of Washington and Kansas, and stated that, if no objection was made, they would be referred to the Committee on Territories.

Mr. HOUSTON. I desire to ask the Chair whether it has been usual for the territorial laws to be referred to the Committee on Territories? I do not remember what the practice has been. It seems to me they should be referred to the Committee on the Judiciary.

Mr. GROW. I believe that, with few exceptions, it has been the usual course to refer the laws of the Territories to the Committee on Territories. At the opening of the last Congress, the laws of two Territories were referred to the Committee on the Judiciary, but the laws of the other Territories were referred to the Committee on Territories.

The SPEAKER. Does the gentleman from Alabama submit any motion?

Mr. HOUSTON. I do not, sir. All I desire is that they shall take the usual course.

The laws were then referred to the Committee on Territories.

Mr. JONES, of Tennessee. I wish to inquire if the Clerk of the last House has made his report of the contingent expenses of the House?

The SPEAKER. It is not in the possession of the Chair.

Mr. JONES, of Tennessee. It is time it was.

CONTESTED-ELECTION CASES.

The SPEAKER also laid before the House certain depositions in the contested elections from Ohio and Nebraska; which were referred to the Committee of Elections, and ordered to be printed.

DISTRIBUTION OF PUBLIC LANDS.

The House then proceeded to the regular order of business, the pending question being upon Mr. LETCHER's motion to refer to the Committee on Public Lands the bill introduced yesterday by Mr. MORRILL, donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts.

Mr. MORRILL. It will be recollected by the House that the condition of this motion is this: tellers had been ordered on my motion to refer the bill to the Committee on Agriculture, the vote had been announced, and then the gentleman from Virginia called for the yeas and nays. I submit that, in that stage of the business, the motion of the gentleman could not be entertained. But if it were in order, I submit that the proper course will be for the House to take the vote first on a reference to the Committee on Agriculture; and if that be voted down, it will then be time enough to give it some other reference.

Mr. GREENWOOD. Before the gentleman proceeds, I ask that the bill may be read.

Mr. MORRILL. I will yield the floor for that purpose.

The bill was then read.

Mr. MORRILL. It will be seen, by reference to the rules, that the duties of the Committee on Agriculture are not defined. It is therefore left to the discretion of the House as to which of the committees this bill should be referred; and if a subject like this, relating as it does particularly to agriculture, is not a fit subject for that committee to consider, I am very much at a loss to know what subject would be fit. It will be seen by the provisions of the bill that it is for the purpose of granting lands to those States and Territories which shall provide colleges for the benefit of agriculture and the mechanic arts, where a liberal education for those engaged in the industrial pursuits and professions of life may be obtained.

Well, now, I have no jealousy of the Committee on Public Lands; but it seems to me that that committee has been, and will be, burdened with a sufficient amount of business, and its duties are thus defined in the rules of the House:

"It shall be the duty of the Committee on Public Lands to take into consideration all such petitions and matters or

things respecting the lands of the United States as shall be presented, or shall or may come in question, and be referred to by the House; and to report their opinion thereon, together with such propositions for relief therein as to them shall seem expedient."

The bill is not to take charge of the public lands. It is not to reduce their price. It is not for the purpose of surveying them in any manner. It is not to grant preemptions. It only appropriates a small pittance of the millions of our public lands; and the only reason that I can conceive why it would be proper to refer this bill to the Committee on Public Lands is to ascertain whether or not we have the lands on hand. But in regard to that, we have the assurance of the President in his message that we have millions of acres.

I do not think, Mr. Speaker, that it would be any more appropriate to send to the Committee on Public Lands an invalid pension petition for bounty lands, than it would be to send this bill to it. I appeal to the common fairness of the House, to allow this subject to go to a committee where it shall not be strangled—to a committee that will be likely to mature and perfect the bill—a committee of its friends. Then, if it should not find favor with the House, it will, of course, be voted down.

We have such a committee, and that committee has, I am told, a very beautiful room. I hope that the House will allow that committee and that room to be devoted to some useful purpose.

Mr. LETCHER. The only interest I feel in the matter is, that these petitions and bills shall take the proper course at the start. By what authority the gentleman over the way [Mr. MORRILL] announces his desire that this bill shall go to a committee that will not strangle it, I know not. I do not know what the purposes of the Committee on Public Lands are. I do not know whether that committee is in favor of strangling the bill, or whether it is in favor of reporting it. I know nothing about that, and I imagine that it is utterly impossible, as yet, to ascertain what the views of that committee may be, until its members shall have had a meeting, and exchanged sentiments with one another.

The gentleman says that this bill ought not to go to the Committee on Public Lands, because he conceives that propositions relating to the reduction of price and other matters of that sort alone legitimately belong to it, and he says that this proposes nothing of that kind. But what does it propose? It proposes to take away a portion of the public lands, and apply them to a particular purpose. It seems to me that if any committee ought to have charge of that subject, and of all questions connected with the public lands, it is the committee that is organized and specially charged with action on that business.

Now, sir, I do think that this bill comes precisely within the terms of the 84th rule of the House, which prescribes the duties of the Committee on Public Lands. So it strikes me. There is no duty prescribed as to the Committee on Agriculture. But it does not seem to me that because the duties of the Committee on Agriculture are not prescribed, therefore, they have charge of lands relating to schools and colleges, and every other purpose of education to which they may be applied.

Mr. MARSHALL, of Kentucky. I rise to a question of order. The previous question has been called on the resolution, and debate is out of order.

The SPEAKER. The Chair is not aware that the previous question has been called.

Mr. MARSHALL, of Kentucky. It has been.

Mr. LETCHER. I am not aware of it.

The SPEAKER. It is not in possession of the Chair, or of the Clerk.

Mr. MORRILL. I called it at the time I introduced the motion.

The SPEAKER. This morning, or yesterday? Mr. MORRILL. Yesterday.

The SPEAKER. The motion is not in possession of the Chair, or of the Clerk; and the Chair would suppose that the previous question is not called, inasmuch as the gentleman from Vermont has discussed the question himself this morning.

Mr. LETCHER. I do not desire to occupy the time of the House about it. I have no particular interest in the matter, one way or the other. The only interest I feel in it, as I said before, is, that these bills take the proper refer-

ence at the start, so that the House shall not be embarrassed by a return and re-reference of them to some other committee.

The question being on the motion of Mr. LETCHER to refer to the Committee on Public Lands, the yeas and nays were demanded, and ordered.

The question was then taken; and it was decided in the affirmative—yeas 105, nays 89; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Avery, Barksdale, Bocoock, Bowie, Boyce, Branch, Burnett, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, Cockrell, Cox, James Craig, Burton Craigie, Crawford, Curry, Davis of Indiana, Dewart, Dimmick, Dowdell, Edmundson, English, Eustis, Faulkner, Florence, Foley, Garnett, Garrett, Gillis, Goode, Greenwood, Gregg, Groesbeck, Harlan, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Leidy, Letcher, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Miller, Milson, Montgomery, Moore, Isaac N. Morris, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Savage, Seales, Scott, Aaron Shaw, Shorter, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whitley, Winslow, Woodson, Wortendyke, and John V. Wright—105.

NAYS—Messrs. Abbott, Andrews, Banks, Bennett, Billinghurst, Bingham, Bishop, Blair, Bliss, Brayton, Bufinton, Burns, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Conins, Covode, Cragin, Curtis, Davis of Maryland, Daves, Dean, Dodd, Durfee, Edie, Fenton, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Hill, Hoard, Horton, Howard, Huyler, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ricard, Ritchie, Robbins, Royce, Seward, John Sherman, Judson W. Sherman, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Wilson, Augustus R. Wright, and Zollicoffer—89.

DEATH OF SENATOR BELL.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, announcing the proceedings of the Senate in respect to the death of the late Hon. JAMES BELL, a Senator from the State of New Hampshire.

The message was read, as follows:

IN SENATE OF THE UNITED STATES,

December 15, 1857.

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. JAMES BELL, deceased, late a Senator from the State of New Hampshire, will go into mourning by wearing crape on the left arm for thirty days.

Resolved, unanimously, That, as an additional mark of respect for the memory of the Hon. JAMES BELL, the Senate will now adjourn.

Mr. TAPPAN. Mr. Speaker, it was only yesterday that we were called upon to pass the usual resolutions of respect on the announcement of the decease of the Senator from South Carolina, Judge Butler; and to-day we are again reminded, by the message which has just been received from the Senate, of the death of another member of that body—the Hon. JAMES BELL, of New Hampshire.

And, with the indulgence of the House, I avail myself of the melancholy occasion to pay a passing tribute of respect to the memory and the virtues of the deceased.

Although Mr. BELL had been in feeble health from about the time of taking his seat in the Senate—suffering, as it proved, from a lingering and incurable disease—he yet seemed so far convalescent, that, when I took my leave of him in this city near the close of the last Congress, I little thought that the next time I should behold his manly form, it would be cold and still in the embrace of death; or that it would so soon devolve upon his colleagues in Congress to refer to his decease in these Halls. But so it is. Mr. BELL died at his residence in Gilford, New Hampshire, on the morning of the 26th day of May last; and notwithstanding the failing state of his health was generally known, the announcement of his decease fell with startling suddenness upon the people of his native State.

It seemed that a few days only had elapsed since, in the full enjoyment of his health and mental vigor, they had witnessed his triumphant election to the Senate of the United States, before the lightning flashed the sad intelligence that he was dead!

The death of such a man as Mr. BELL is not the loss merely of the State of which he was the

immediate representative. It is a national loss, when, from its councils, a good and true man, in the height of his usefulness and in the vigor of manhood, is suddenly cut off.

And such was JAMES BELL. Kind, affable, and unobtrusive in his intercourse with his fellow Senators, and with all who enjoyed his acquaintance, he was admirably fitted to assist in allaying the asperities of political and partisan warfare, and to do something, through the amenities of social life, towards drawing closer the bonds of national brotherhood between the different portions of our extended Confederacy. And, from his known integrity and ability, his sound common sense and discriminating judgment, had his life and health been spared, he would, undoubtedly, have taken a high position in the deliberations of the Senate, and exerted a favorable influence upon the legislation of the country.

The family from whence Mr. BELL had his origin is among the most distinguished in the history of New Hampshire. He was one of the sons of the late Hon. Samuel Bell, who long sustained a prominent position in our State at the bar, upon the bench, and as Governor; and who was, during a period of twelve years—from 1823 to 1835—also a Senator in the Congress of the United States. The deceased was a native of New Hampshire, and was born at Francestown, on the 13th of November, 1804. He graduated at Bowdoin College, in the class of 1822. In college with him, though not in the same class, were ex-President Pierce, the late Hon. Jonathan Cilley, Hon. William Pitt Fessenden, Nathaniel Hawthorn, and Henry W. Longfellow. Mr. BELL studied law with his brother, Hon. Samuel Dana Bell, for many years and at present one of the judges of the supreme court of New Hampshire, and at the celebrated law school of Judge Gould, in Litchfield, Connecticut.

He commenced practice in Gilmanston, New Hampshire, in 1825, where he remained until 1831, when he removed to Exeter, and continued the practice of the law there—most of the time in partnership with Hon. Amos Tuck—until 1846. At Exeter his practice became extensive, and he at once took prominent rank with the best lawyers in the State. In 1846 he received the appointment of agent of the Winnipisaukee Lake Company, and removed to his late residence in Gilford. Besides performing the duties of this office, which were arduous and responsible, he still continued practice as a lawyer, maintaining a position at the head of his profession. In 1850 he was chosen a member of the convention to revise the constitution of his State, in the deliberations of which he bore a conspicuous part. In 1853 and 1854 he was the Whig candidate for Governor, and in June, 1855, he was chosen to the position of United States Senator, so long and so honorably filled by his father, and from which he has been so suddenly removed.

I am aware that sometimes on occasions like this, terms of extravagant and indiscriminate eulogy are indulged in, which the characters of the deceased, while living, would hardly warrant; and that often, in speaking of the most gifted, it is necessary to draw the veil of charity over prominent faults, and to regard the maxim that nothing but good should be spoken of the dead. But there is no necessity for this in speaking of JAMES BELL. He was as exemplary in private life as he was honest, conscientious, and high-minded in his public relations. As a lawyer, as a citizen, and as a man, among those who knew him longest and best, he was universally esteemed; and it is not too much to say that, in the wide range of his acquaintance, and among all those with whom his varied business relations brought him in contact, I do not believe he has left a single enemy.

As a lawyer, I think no man in New Hampshire stood higher in the confidence of the people than Mr. BELL. Never descending to any of those low acts which too often bring reproach upon an honorable profession, he was earnest and zealous in whatever business was committed to his charge, and exhibited a devotion to his profession, and an unwearied industry in the cause of his clients, such as is rarely equaled. If he was not what may be termed a popular orator, yet, as an advocate at the bar, he was strong, clear, and convincing, never failing to impress upon those who heard him the conviction of his own sincerity in

the cause he advocated. He was not a mere politician in the narrow sense of that term; and it has fallen to the lot of but few men, so prominent as Mr. BELL in his own State, to share so largely in the confidence and respect of those who differed widely from him in their political views. In matters of principle, though always courteous, he was firm and unyielding; and while faithfully representing the wishes and reflecting the sentiments of his own people, his patriotism was yet broad enough to embrace the entire country, with all its varied interests and conflicting opinions.

It is not, however, as a lawyer or a politician that the loss of Mr. BELL will be most keenly felt or most deeply deplored. In private life an obliging neighbor, a warm and sincere friend, an agreeable companion, and an honest, upright man, his death, in the community where he dwelt, has created a void which cannot soon be filled.

But it is upon the sanctuary of his own home that this blow has fallen with most crushing weight. On the banks of the charming Winnepisaukee—not inaptly named the "Smile of the Great Spirit"—the cultivated taste of Mr. BELL had reared and adorned his beautiful New England home. And it was here, in the midst of warm and devoted friends, and surrounded by his intelligent and interesting family, that he was best known, best appreciated, and most fondly loved. No words of mine can carry consolation to the hearth made desolate, or help to alleviate the sorrow of hearts stricken with anguish. I can only mingle a tear of sympathy with theirs, and assure them how deeply, in common with his numerous friends, I condole with them in their great bereavement.

This afflictive event is brought home with peculiar significance and impressiveness to the people of New Hampshire and her delegation in Congress. Within the short space of four years, three Senators of the United States from that State—ATHERTON, NORRIS, BELL—have, while yet in office, passed to "that undiscovered country from whose bourn no traveler returns." The death of Mr. BELL, at a moment when "his desires were as warm, and his hopes as eager as ours, has feelingly told us what shadows we are and what shadows we pursue." It should remind us how little there is which men toil and struggle for here, that can afford any lasting enjoyment. The wealth, the honors, the hopes, and ambitions of this life, are all hastening to one common goal, and will soon be buried in a common receptacle.

"Our lives are rivers, gliding free,
To that unfathomed, boundless sea,
The silent grave.
Thither all earthly pomp and boast
Roll, to be swallowed up and lost
In one dark wave."

I offer the following resolutions:

Resolved, unanimously, That, as a testimonial of respect to the memory of JAMES BELL, late a member of the United States Senate, now deceased, the members and officers of this House will go into mourning and wear crape on the left arm for thirty days.

Resolved, That the Clerk be directed to communicate a copy of these resolutions to the widow of the deceased.

Resolved, As a further mark of respect, that the House do now adjourn.

Mr. COLFAX. I rise, Mr. Speaker, to second the resolutions offered by my friend from New Hampshire, and to entwine my humble offering with the funeral wreath which he has placed upon the grave of the deceased.

It was my fortune, during the long session of the last Congress, to reside in the same house with him; to see him daily; to enjoy his counsel; to learn his worth; and to prize his friendship. He was a gentleman so unassuming in his demeanor, and so unobtrusive in his intimacies, that but few who did not belong to the same household fully appreciated his sterling merits. But, though naturally of a reserved manner, neither the snow of autumn nor the ice of winter had frozen up the well-spring of his affections. Always kind and considerate in the expression of his opinions, always charitable in his judgments, always tolerant in his discussions, he participated in the stormy scenes of an exciting session without sharing in its acerbities; he moved in a heated atmosphere without inflaming his own judgment; he adhered faithfully to his own convictions without denunciation of his opponents; and while others, on all sides, warmed as the sharp rivalry of contending sentiments

progressed, he remained calm and serene. He was, indeed, one amongst a thousand.

"His daily prayer, far better understood
In acts than words, was simply doing good.
So calm, so constant, was his rectitude,
That by his loss alone we know its worth,
And feel how true a man has walked with us on earth."

My acquaintance with Senator BELL was limited to the two years he spent in the public service here; but, besides what I learned of his character from that association, I have heard much of him from citizens of his native State. Without exception, all have spoken of him in terms of admiration and esteem. His popularity was of that kind which Mansfield declared was alone valuable—which ran after instead of being run after by its recipient. He was always a friend to the poor—their frequent counselor, their voluntary and unpaid attorney, their generous contributor. He had no enemies, for he trespassed on no man's rights, and warred with no man's preferences; but performing his own duties in private life, and bearing his own testimony in public life, as he felt that his conscience and his judgment required him to do, he left all others equally free to be guided by the same monitors. Indeed, his character seemed to have been formed in exquisite unison with that model laid down by the Apostle James: "First pure, then peaceable; gentle and easy to be entreated; full of mercy and good fruits; without partiality and without hypocrisy."

I will not enter with any poor words of formal sympathy into that bereaved circle,

"Where, in the shadow of this great affliction,
The soul sits dumb."

But I know, by the patient care and never-ceasing attention which I saw his daughter give to her invalid father, whose incurable disease was slowly but steadily undermining all the bulwarks of life, that the blow which has fallen has been one of no ordinary sadness, and that human sympathy would be unavailing to alleviate its rigor, or to lighten its weight.

But, sir, these occasions are utterly profitless unless we use them for our own improvement. The dead are beyond our eulogy or our censure. But the frequency with which, as Senators and Representatives, as well as citizens and friends, we crowd around the open grave or the gloomy coffin, admonishes the living that even now the last sands of our own hour-glass may be falling, and the veil between us and the happy future we are looking to on earth, already descending. Yesterday the Palmetto State mourned, in these Halls, the loss of her venerable Senator. To-day the Granite State follows her example. And, with these notes of sorrow from the South and the North, how fitly can the West sympathize, where, in a single State, three members of the last and present Congress have been called to the last home appointed for all the living. Soon all of us shall be with them.

Let it be our earnest endeavor so to act that, when the gates of life, after creaking awhile on their hinges, have closed behind us forever, we shall not be gladly forgotten by our friends and associates before this frail tenement has mouldered into its kindred dust, or the funeral flowers of the churchyard have blossomed over our graves; but rather leave behind us histories embalmed in their memories, and worthy of their approval and imitation. Then, when we join, as each one of us in turn must join, "that innumerable caravan which moves on to the pale realms of shade," we may, as did the Senator from New Hampshire, when he turned his face to the wall, and his back on the world, go down to the valley of the shadow of Death with that calm and unshaken confidence and faith which robs its untried pathways of their terror, while it consoles so inexpressibly the sorrowing kindred whom we leave behind.

Mr. WASHBURN, of Maine. Seldom has a more pervading sense of sorrow and loss been apparent in our New England towns and villages than was manifested when the telegraph bore to them the intelligence of the death of JAMES BELL of New Hampshire. Although Mr. BELL had been in public life but for a brief period, he had come to be regarded, particularly in the section of country where he resided, as one of the truest and ablest men in the public service. A genuine patriot and truly good man, however quiet he

may be in his tastes and retiring in his manners, is sure to be recognized and appreciated. He does not live to himself alone; and, while assuming nothing, exerts a known and lasting influence upon his time, and wins for himself the respect and homage of his fellow-men. And so it was that the streets of the sequestered village which had been honored as the residence of the departed statesman, on that placid summer day, set apart for his funeral, were filled with stricken and mourning friends—the great and the distinguished joining hand in hand with the poor and lowly—from near and far, who had come, self-summoned, to lay a garland on the bier of one who had been respected, honored, trusted, and loved as none but the noble and generous ever can be. And so it was, too, that those who had never seen him, but who had moved within the range of his influence—as who in our northern country had not?—were affected when they learnt that God's finger had touched him, as if a long-tried and valued friend had passed from their midst.

Senator BELL ranked among the leading minds of his native State. His perceptions were clear and exact, and his reflective faculties, vigorous and reliable; and, if life and health had been continued to him, it cannot be doubted that he would have well maintained the position in the Senate of the United States which his associates had assigned him, among the ablest and most useful members of that body. With the high order of intellect which he unquestionably possessed, and his large and varied acquirements; with his firmness and his gentleness; his candor and his prudence; his perfect honesty, so unassailable and so unpretending; his all-embracing charity; his courtesy and geniality, he was at once the statesman, the patriot, and the gentleman. To no man whom it has been my good fortune to know could be more fittingly applied the words of the author of "In Memoriam;" he

"Best seemed the thing he was, and joined
Each office of the social hour
To noble manners, as the flower
And native growth of noble mind.

"Nor ever narrowness or spite,
Or villain fancy fleeing by,
Drew in the expression of an eye,
Where God and Nature met in light.

"And thus he bore, without abuse,
The grand old name of gentleman,
Defamed by every charlatan,
And soiled with all ignoble use."

The resolutions were then adopted; and the House accordingly adjourned.

IN SENATE.

WEDNESDAY, December 16, 1857.

Prayer by Rev. D. P. GURLEY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Treasurer of the United States, communicating copies of his accounts for the third and fourth quarters of the year 1856, and the first and second quarters of the year 1857; which was, on motion of Mr. HUNTER, ordered to lie on the table.

ELECTION OF PUBLIC PRINTER.

Mr. ALLEN submitted the following; which was considered by unanimous consent, and agreed to:

Ordered, That the Senate will, to-morrow, at one o'clock, proceed to the election of a Public Printer, to do the public printing for the Thirty-Fifth Congress, in accordance with the eighth section of the "Act to provide for executing the public printing, and establishing the prices thereof, and for other purposes," approved the 26th of August, 1852.

KANSAS AFFAIRS.

Mr. DAVIS. I offer a resolution which I desire to have considered at once:

Resolved, That the President be requested to communicate to the Senate all correspondence between the Executive department and the present Governor of Kansas, together with such orders and instructions as have been issued to said Governor, in relation to the affairs of said Territory.

Mr. DOUGLAS. I wish to suggest an amendment, which I presume the Senator from Mississippi will accept. It is to add the words "together with the constitution and schedule referred to in the annual message."

Mr. DAVIS. I accept the amendment.

The resolution, as amended, was adopted.

RECESS FOR THE HOLIDAYS.

Mr. BIGGS submitted the following resolution; and asked for its immediate consideration:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That when the two Houses adjourn on the 23d instant, they adjourn to meet on Monday, the 4th of January next.

Objection being made, the resolution lies over for future consideration.

STANDING COMMITTEES.

Mr. ALLEN. I suppose that to-day, at one o'clock, we proceed to the election of the standing committees, in pursuance of the resolution adopted on Monday.

The PRESIDENT *pro tempore*. That order has already been made.

Mr. ALLEN. Yes, sir. I wish Senators to understand it.

Mr. DOUGLAS. We had better elect them now.

Mr. HUNTER. Had we not better proceed to select the standing committees now, as the Senator from Missouri [Mr. GREEN] wishes to be heard at one o'clock, for which hour he has the floor?

The PRESIDENT *pro tempore*. The hour of one o'clock having been fixed as the time for choosing the committees, it can be done now only by unanimous consent.

Mr. DOUGLAS. I suppose there will be no objection.

The PRESIDENT *pro tempore*. There being no objection, the Senate will proceed now to the election of the standing committees of the body.

Mr. ALLEN. I offer this resolution:

Resolved, That the members of the standing committees be arranged as follows:

On Foreign Relations—Messrs. Mason, (chairman,) Douglas, Sidel, Polk, Crittenden, Seward, and Foot.

On Finance—Messrs. Hunter, (chairman,) Pearce, Gwin, Bright, Biggs, Fessenden, and Cameron.

On Commerce—Messrs. Clay, (chairman,) Benjamin, Bigler, Toombs, Reid, Allen, and Hamlin.

On Military Affairs and Militia—Messrs. Davis, (chairman,) Fitzpatrick, Johnson of Arkansas, Iverson, Broderick, Wilson, and King.

On Naval Affairs—Messrs. Mallory, (chairman,) Thompson of New Jersey, Sidel, Allen, Evans, Bell, and Hale.

On the Judiciary—Messrs. Bayard, (chairman,) Toombs, Fugh, Benjamin, Green, Collamer, and Trumbull.

On the Post Office and Post Roads—Messrs. Yulee, (chairman,) Bigler, Gwin, Fitch, Thompson of New Jersey, Hale, and Dixon.

On Public Lands—Messrs. Stuart, (chairman,) Johnson of Arkansas, Fugh, Broderick, Johnson of Tennessee, Foster, and Hamlin.

On Private Land Claims—Messrs. Benjamin, (chairman,) Biggs, Thompson of Kentucky, Kennedy, and Durkee.

On Indian Affairs—Messrs. Sebastian, (chairman,) Brown, Reid, Fitch, Bell, Houston, and Doolittle.

On Pensions—Messrs. Jones, (chairman,) Thompson of New Jersey, Clay, Bates, Thompson of Kentucky, Foster, and King.

On Revolutionary Claims—Messrs. Evans, (chairman,) Bates, Crittenden, Wilson, and Durkee.

On Claims—Messrs. Iverson, (chairman,) Mallory, Polk, Simmons, and Clark.

On the District of Columbia—Messrs. Brown, (chairman,) Mason, Johnson of Tennessee, Bigler, Kennedy, Hamlin, and Chandler.

On Patents and the Patent Office—Messrs. Reid, (chairman,) Evans, Yulee, Simmons, and Trumbull.

On Public Buildings and Grounds—Messrs. Bright, (chairman,) Davis, Douglas, Bayard, and Clark.

On Territories—Messrs. Douglas, (chairman,) Jones, Sebastian, Fitzpatrick, Green, Collamer, and Wade.

To Audit and Control Contingent Expenses—Messrs. Evans, (chairman,) Wright, and Dixon.

On Printing—Messrs. Johnson of Arkansas, (chairman,) Fitzpatrick, and Cameron.

On Engrossed Bills—Messrs. Wright, (chairman,) Bigler, and Hamlin.

On Enrolled Bills—Messrs. Jones, (chairman,) Brown, and Doolittle.

On the Library—Messrs. Pearce, (chairman,) Bayard, and Hunter.

Mr. HAMLIN. Mr. President, I propose to state briefly, the reasons which will control the vote I shall give, and why I shall not vote for the resolution which has been submitted by the Senator from Rhode Island. I object to the cast of the committees because they are unjust, disproportionate, and sectional; and I intend to show, as briefly as I can, the truth of each of these propositions.

In a time like the present, when the slave power has seized upon the judicial department of the Government, and when that branch has already undertaken to decide political questions upon a record which shows that a decision was attempted on an issue not before them, and at a period of time when the Executive of the country is tied up and bound down by that power, and a great

party, called Democratic, has no other standard by which to measure its men—no other alembic through which all its principles are distilled—it is a time when every good man should carefully examine the mode and manner in which each branch of the Government is administered, and, in so far as he may be able, aid in bringing it back to what our fathers made it and intended it should be.

On the organization of the committees of the Senate every Senator knows the form and direction of the business of the Senate is mainly dependent. It is through these committees, to a very great extent—to much the greatest extent—that the business of the Senate is prepared and presented to the Senate for its action. Now, sir, as one of a minority in this body, personally I can say—and I think I may truly say that I believe I represent the whole minority personally—we might have no objection to any cast that the majority of the Senate might see fit to impose upon us. We do not seek responsibility personally. We do not ask for position for the purpose of position. But as the representatives of equal States, we have obligations imposed upon us from which we cannot and ought not to shrink. As the representatives of equal States, we are entitled to an equal representation in the organization of this body, and are under obligations to our constituencies to discharge, so far as we may be able, the duties that are incumbent upon us here.

I have affirmed that these committees, as cast under this resolution, are unequal, unjust, and sectional. What are the facts? We have sixty-two members of the Senate—thirty-two are from the non-slaveholding States, thirty are from the slaveholding States. The whole number of places upon committees is one hundred and twenty-six. Numerically, upon an equal representation, there should be assigned to Senators from the slave States sixty-one places, and to Senators from the free States sixty-five. The cast, although it has been slightly modified this morning, I think is not substantially changed. As it was made and presented to the minority, I suppose the changes will not exceed one. By that cast there were assigned to the slave States sixty-seven, and to the free States fifty-nine, showing a disproportion of ten. The whole number of committees of the Senate is twenty-two. Of these committees there are from the slave States to be found majorities on thirteen, and majorities of but nine from the free States; and of these nine where majorities are composed of Senators from the free States, three are wholly unimportant—the Committees on Enrolled Bills, Engrossed Bills, and to Audit and Control the Contingent Expenses of the Senate—leaving, therefore, in fact, the proportion of thirteen to six.

Tracing the matter along still further, I find that the party with whom I act on this floor consists of twenty, being within a fraction of one third of the Senate. They are entitled, upon terms of equality, to thirty-nine places upon the committees; they have thirty-three assigned to them. Seven of those thirty-three are on the unimportant committees to which I have alluded, leaving them actually but twenty-six on committees of any considerable importance. I find that on sixteen committees of the Senate the chairmen are selected from the slave States, and on six from the free States. I find, to guard the succession, (for I can come to no other conclusion,) precisely an equal number of men from the slave States stand second upon the committees to insure the succession, when, by declination, resignation, or the expiration of their term, they shall withdraw from the Senate.

But numerically, although important, it is a matter of much less importance than the particular manner in which the individual committees are cast. With only two exceptions, (and compared with the others they are somewhat unimportant,) the great, the principal committees, that reflect the Government, that establish its policy abroad and at home, are all cast with majorities of southern men. It is a significant fact; it is a fact pregnant with mischief; it is a fact of which the country will not fail to take notice. I say, sir, that the executive and judicial departments of the Government are now at the foot of the slave power. Here we have the Committee on Foreign Relations, that shapes and directs the

foreign policy of the Government; we have the Committee on Military Affairs, that looks to its Army; we have the Committee on Naval Affairs, that has charge of its Navy; we have a Committee on the Judiciary, which gives constructions to laws and shapes the policy (so far as the Legislature may) of the Government; we find them all constituted of a majority of men who represent the slaveholding States. I make no objection personally. I want these facts to go to the country, that they may know the mode and manner in which the legislative business is prepared and shaped, and how it is that it is perverted to the behests, and to subserve the purpose of the slave interest in the country. Who cannot see the objects to be accomplished plainly foreshadowed? The majority of the Senate, it is frankly conceded, are entitled to a control in the organization of the committees. But it is this sectional manner of which we have right to complain, and to which we enter a protest; and from such an organization we have a right to infer the object to be effected.

Another fact: I find that the Committee on Commerce, with a majority of southern men, is entirely without a representative in all the far Northwest, including the great lakes and rivers. With four of its members from the South, there is not one man to represent the internal commerce of the lakes, that is counted by its hundred millions. More, sir, I would like very well; indeed, to know why the usual rule was departed from in this case, and why the Senator from Michigan, [Mr. STUART,] who so ably and faithfully has represented the commercial interests of the Northwest, was made to give place, if it be not for the purpose of shaping the legislation of the country to prostrate the commerce of that section of the Union? I think we have a right—all Senators have a right to their opinions—to come to the conclusion that the committee was formed and instituted for that purpose, from the known public opinions that a majority of that committee, I think, have uniformly expressed against internal improvements of all kinds. But a single position on that committee has been assigned to this side of the Chamber, and none for the large section embraced in the northwestern lakes, and the commerce of the lakes and rivers.

Again, sir, I look at the Committee on Patents and the Patent Office, and I find a majority of that committee constituted of southern Senators. They are worthy men—I make no complaint of the Senators who occupy the positions on these committees; but it is to their sectional cast that I object, and the purposes which we have a right to believe are designed to flow from that organization. That committee is composed of three gentlemen from the southern States and two from the North, giving to that section the control of all its action. While I know that, if there is an honest man in this body who will devote his energies honestly to its purpose, I say cheerfully it is the worthy Senator from South Carolina [Mr. EVANS,] still, when we look at the fact, that of the inventive genius and enterprise of the country, more than four fifths, if not nine tenths, comes from another section of the Union, I ask if it were not right that they might reasonably have expected men who feel a local and personal as well as a national interest in that department of our Government in what relates to arts and inventive genius?

Again, sir, I look to the Committee on the Library, and I find there no representative whatever from the North. Is it because the North are not qualified for the position? Is it because they have not as deep, as broad an interest in whatever may relate to the affairs of our library, to the literature and learning of our country, as southern Senators? Why is it, unless it be for the purpose of taking care of your library so that it be not tainted with those doctrines of the fathers who formed the Constitution of our country?

I say that the whole form and shape of these committees mark and stamp them with a sectionalism which I had hoped never to have witnessed in this body. They come to me in that way and in such circumstances that cannot command my approbation or my vote. But I do not propose to take up the time of the Senate in discussing them in detail. I have only risen for the purpose of stating these objections to the committees, and presenting these facts as the reason why I shall with-

hold my vote from the resolution, and shall vote against it on the question of its adoption.

Mr. WILSON. I ask for the yeas and nays on the adoption of the resolution.

The PRESIDENT *pro tempore*. There is a question preliminary to that. Under the rules, this resolution can only be received by unanimous consent. The Chair hears no objection. The resolution is before the Senate for action.

Mr. DOOLITTLE. I do not rise, sir, to object to any of the individuals who have been named as the persons to fill the various committees of this body; nor do I rise to question in the slightest degree the right, as it is undoubtedly the power, of the majority to appoint committees for whose action they are to be held responsible to the Senate and to the country. I confess, sir, that I am embarrassed in rising to make any suggestion whatever. The deference which I owe to this body, and the apprehension lest I might go beyond the proprieties which are due to my position, press hard upon me to remain silent altogether; but there is one of the committees about to be constructed, in which the State that I have the honor in part to represent is most deeply interested; and I should be false to my position here, if I did not rise, if but to say a single word, and address myself to the majority of this body in relation to the construction of that committee. I refer to the Committee on Commerce.

In looking over the honorable names which have been suggested to fill that committee, I find that all those persons reside in States where it is to be supposed their interests and their sympathies would be confined almost entirely to the commerce of the Atlantic and the Gulf. I speak not of the formation of this committee, either in its sectional aspect as between the North and the South, or between the Democratic and the Republican parties in this body. I look upon the construction of this committee in a very different light. With the exception of the honorable Senator from Louisiana, [Mr. BENJAMIN,] who is named, and who of course must feel an interest in the commerce of the great rivers to a certain extent, and the Senator from Pennsylvania, [Mr. BIGLER,] who may be said in a certain degree to represent the interests of river commerce, and in a very slight degree the interests of the lakes—with these exceptions, the whole commerce of the lakes and the rivers, as well as the commerce of the Pacific coast, is utterly ignored.

Sir, I have been looking into this subject. A book is before me which refers to the amount of the commerce of the lakes in 1851. I beg leave to state the amount of that commerce, as estimated in that year. The number of tons by measurement was two hundred and fifteen thousand nine hundred and seventy-five, and the value of the commerce transported in those vessels was \$314,472,458. The value of the river commerce was estimated at \$339,502,724. By looking into the book on Commerce and Navigation, which has been laid before us, I find that the amount of tonnage upon the lakes is now four hundred and fourteen thousand tons, and the tonnage upon the rivers is two hundred and fifty-five thousand tons.

If the estimate which was made in 1851 of the value of the commerce be correct, and if it may be assumed as a basis upon which to estimate the value of the present commerce of the lakes passing in those vessels, it exceeds \$600,000,000—an amount almost equal to the entire imports and exports of the United States to-day. Add to this the commerce upon the rivers, and all this vast commerce upon these inland seas and rivers, as well as the commerce of the Pacific coast, is ignored almost altogether in the construction of this committee.

I beg to appeal to the majority of this body, to ask if it is right, if it be just, to ignore this vast commercial interest? I appeal to them, before it be too late, to reconstruct this committee in such a form that the commerce of the Pacific, as well as that of the lakes and rivers, may be represented upon this committee, as well as the commerce of the Atlantic and the Gulf.

Let me remind you, Mr. President, that our relative positions may change on this subject. When Oregon, and Kansas, and Nebraska, and Minnesota, as well as California, Wisconsin, Iowa, Illinois, and all the other States which are interested in the commerce of the lakes and rivers, shall be represented on this floor, they may

be prepared to speak in a voice too potential here to use the language of appeal. Yes, sir, as certain as the revolutions of the earth, the scepter of dominion, even here, will pass into the hands of Young America. When that day comes, I hope and trust that it will be in the hands of those who will know no North, no South, no East, no West, but the country and the whole country, the commerce of the Atlantic and of the Gulf, of the Pacific, of the rivers, and of the great lakes of the continent. I trust that when the power passes into their hands, if an appeal should be made to their magnanimity, that appeal will not be made in vain.

Mr. CHANDLER. Mr. President, I find in the Globe of yesterday, the following announcement:

"The caucus of all parties in the Senate has agreed to constitute the committees as follows:"

And then follows a list in detail. This announcement, as I understand it, is incorrect. I believe that no such caucus has been held. I am informed that a Democratic caucus was held, and the committees made up, leaving certain blanks to be submitted to the Republicans for them to fill. They saw fit to fill those blanks, under protest. No such caucus as is announced in the statement which I have read, was ever held. No assent has ever been given by the Republicans of this Senate to any such formation of committees as is there announced.

I rise, sir, to protest against this list of committees as presented here. Never before, in the whole course of my observation, have I seen a large minority virtually ignored in a legislative body upon important committees. This is the first time that I have ever witnessed such a total, or almost total, ignoring of a large and influential minority. But, sir, whom and what does this minority represent? It represents—I believe I am correct in saying more than half—certainly nearly one half—of all the free white inhabitants of these United States; it represents two thirds of all the commerce of the United States; and more than two thirds of the revenues of the United States; and yet this minority, representing the commerce and revenues of the nation, is expected to be satisfied with one place upon the tail end of a committee of seven on commerce. I may almost say that that committee is of more importance to the Northwest than all the other committees of this body; but the great Northwest is totally ignored upon a committee in which they take so deep an interest. Not a solitary member of this body from that portion of the country is honored with a position on that committee, and yet you have been told of the hundreds of millions of dollars' worth of commerce which is there looking for protection to this body.

Sir, we are not satisfied, and we desire to enter our protest against any such formation of committees as is here presented. But we would say to the gentlemen on the other side of the Chamber, you have the power to-day; you can elect your committees as you see fit; you can give us one representative on a committee of five, or one on a committee of seven, or none on any of the committees, if you think proper. Exercise that power in your own discretion; but, gentlemen, beware! for the day is not far distant when the measure you mete to us to-day shall be meted to you again.

The yeas and nays were ordered.

Mr. PUGH. As the yeas and nays are to be taken on this motion, I wish to say a single word. I shall vote for these committees, because they have been framed in the caucus of Democratic Senators; but I concur—not in any of the threats which have been uttered—but in the opinion that the committees are not fairly constituted. I have said so in the proper place, and at the proper time; and I feel bound to say so again, if my vote is to be put upon the record, to be the subject of misconception by my constituents, and others who may choose to look at it. During the last Congress, I concurred in the suggestions that were made in this body, that it was not usual to alter the committees at that stage; but I did understand, and I have stated it in other places, that there was a promise of reconstructing the committees at a new Congress. I may have erred in that belief, but that was my understanding; and I expected a change in the committees at this ses-

sion. For myself, individually, I do not care a shilling about it. My own place on the committees is the same as it was when I came here; it has never been changed. If there is any change to be made, I hope it will be to relieve me from all the committees, for I do not wish to do the work.

Mr. STUART. I do not propose to discuss this question at all; but as allusion has been made to me by name by the Senator from Maine, [Mr. HAMLIN,] I deem it due to myself to say that I declined, unqualifiedly, having a place upon the Committee on Commerce.

Mr. BAYARD. Mr. President, I presume that there is no member of the Senate who cares less for, or interferes less with, the organization of committees, than I do; but I cannot sit still and hear the remarks of the honorable Senator from Maine, [Mr. HAMLIN,] imputing to the Democratic party that in the organization of these committees their disposition has been to wield the powers of this Government for the benefit of what he chooses to call "the slave power." That is the only proposition of his which I propose to notice.

It is a very easy matter to find fault with the organization of committees; but what is the first principle that enters into the organization of committees, and always must, in every political body? The political party having the majority will necessarily control all the committees of the body, because they are responsible, as a party, for the business of the body. I presume that principle has always been acted upon. They will always give to themselves the control of the body. Now, sir, if it has so happened that a great sectional party has sprung up in this country, and the result of the action of that sectional party has been that two thirds of the Democratic party in the Senate is composed of members from the slave holding States, does it follow that their object is sectional because they will not give the majority on the committees to those who are opposed to them.

Sir, I know no way in which they could act with reference to the organization of the committees other than that in which they have acted. I do not mean that, in every individual instance, the selection made has been exactly the best, or that it can meet the approbation of every Senator on this floor, either in the ranks of the Democratic party or of the Opposition. There are too many considerations which must necessarily enter into the organization of committees, even in one's own party, to make it possible to reduce them to strict and tangible rules. Personal considerations enter into it; the duration of service enters into it. Since the Senate have been organized, they have always looked to the importance of securing that degree of knowledge which is possessed by those who have remained permanently in the body, and occupied positions in it; and they have never displaced members from important positions as long as they remained in the Senate, unless there was some reason for doing so. That consideration must control the organization of committees, and it has necessarily had its bearing in the construction of the committees as now presented to the Senate.

Independent of these personal and political considerations, which must be the great controlling influences in the formation of committees, it is always the desire of the predominant party, of course, as far as is in their power, to distribute among the different quarters of the Union—I will not say sections—and the members from all parties, positions on the committees. But I know of no principle of parliamentary law, of no principle of fairness or justice, that entitles a minority to ask more than that they shall be heard and represented. The question of numbers does not enter into it. The majority always must, as a party, protect themselves against the chance of the control of the business of the body going into the hands of their opponents. If it so happens that in the divisions of the country, as I stated before, a great sectional party has arisen, and that the effect of the existence of that party has been, that from certain portions of the country hardly any Democratic Senators are to be found, is it to be wondered at that, in order to control such sectional results, and maintain their own ascendancy in the business of the Senate, the majority are driven from the course they might otherwise have taken in the organization of the committees?

It is on these grounds that I think (without meaning to say for one moment that there may not have been individual mistakes, and that there may not have been individual errors) there are so many combined causes which enter into the organization of committees, that no man can possibly construct them so that there may not be something pointed out by those who only stand up to object, which perhaps might have been arranged otherwise, so as to suit their views, or otherwise apparently for the purposes of justice.

In the main, the construction of these committees has been governed by the two considerations I have mentioned. It has been intended, in the formation of the committees, to preserve the control of the Democratic party over the business of the Senate. That I hold to be fair and right. They have necessarily looked to the personal considerations connected with the duration of the service of each Senator, and the fact that he was known to those who were obliged to select members to be qualified for certain duties. The principle of displacing experience to take the chance of inexperience, never ought to obtain in a deliberative body; and that consideration also has been involved. Apart from this, I am perfectly satisfied that no desire existed on the part of the Democratic caucus, and that no desire existed on the part of any portion of its members, to arrange the committees with reference to upholding or sustaining any sectional interest in this country whatever. But, sir, I admit at the same time, that the desire did exist to have the control, through Democrats, of the organization of the committees of the Senate, so that we might here, as we have done in the country, beat down a party, the object of which I do not profess to say, but whose success, if it ever comes, can only come with destruction to the Federal Union.

Mr. GWIN. I shall detain the Senate but a few moments. I will state that, on the organization of the Committee on Commerce, originally, the Senator from Michigan [Mr. STUART] was placed on it, and he voluntarily declined to serve on that Committee. Having by his own voluntary act declined to serve on it, the Senator from Louisiana [Mr. BENJAMIN] was placed in his stead. It was the wish of the Democratic members of this body that the Senator from Michigan should remain on that committee.

There is another fact in connection with this question. As the Senator from Delaware has stated, and for the reasons which he has given, a large majority of the members of the dominant party in this body are composed of Senators from the southern States; and the members of the American party are also representatives of southern States. We may say that there are thirty of the Senators provided for by the majority from the southern States, and but twelve from the free States; and, therefore, to give the majority the control of the committees, being responsible to the country for the action of this body, it was absolutely necessary to give the Senators from the southern States a preponderance, and to place more of them on the committees than otherwise would have been placed there if there was an equality in the Democratic party; that is to say, if there were a similar number of Democratic Senators from the free and the slave States.

But, sir, I am very much astonished at the complaint from the other side of the Chamber, because it is but recently in the history of the country that the party to which those gentlemen belong obtained control of the other House of Congress, though in a minority there; and how did they arrange its committees? There never was a more flagrant partisan character given to the committees of a legislative body, and they were never more sectional. There never was a time in the history of the country when a minority, coming by chance into the control of one of the legislative bodies of the Government, exercised with more severity the iron hand of power in their possession.

We have received threats from the other side. Let them throw down the gauntlet; we are ready to take it up. If they ever get control of this body, we know how they will rule not only us, but the country. We have had a specimen of it in the lower House already. When they were in a minority in that body, and obtained their Speaker by chance, never, in any legislative body in this country, were committees formed with more

utter determination even to block the wheels of the Government—as they did for the first time in the history of the Government, by refusing to pass an appropriation bill because that minority, thus organized and controlling the committees of that House, had their way in framing that appropriation bill.

In regard to one of the committees that has been specifically referred to—the Committee on Patents and the Patent Office—what is more just than that it should be composed of men of legal attainments, who, in examining important questions connected with patents, will be disinterested, so far as their constituents are concerned, in passing impartially on those great questions? We had reference to that in putting gentlemen on that committee from whose States inventions rarely come up, that they may be impartial judges of the questions under consideration. So it is in regard to a number of the other committees.

I take it for granted that all that has been said to-day has been intended for its effect on the country; not that these gentlemen really object to their localities on the committees. In the other House, we know, that when there was but one or two majority, when parties were so close that it was almost impossible to say which could command a majority, in the organization of the committees they always gave six of the same side with the Speaker to three Opposition, the majority taking two thirds of each committee. Of the members of this body, there are forty-two opposed to the Republican party, and twenty of that party. When there was but one or two majority, that majority always took two thirds of the committees in the lower House of Congress. That has been the plan of organizing the committees there for many years.

Mr. WILSON. Mr. President, the remark of the Senator from California, that when the Republicans obtained the organization of the other House last year, the committees were so constructed as to do injustice to the minority; that they were constructed of six Republicans to three of the Opposition, is a remark that cannot be sustained by an examination of the record.

Mr. GWIN. The Senator is mistaken. I did not say that was done in the last Congress. I say that has been the practice of the Government. I was not here during the last Congress until the close of the last session, and I cannot say how the committees were constructed in that House then, because there were three parties there. I say the practice of the Government for many years has been, (the last Congress may have been an exception,) to give the majority six members to three of the minority, on each committee of the House of Representatives.

Mr. WILSON. I believe the honorable Senator from California said the committees were never more unfairly constituted, than at the last Congress, when the Republicans obtained possession of the House by an accident. Now, sir, I hold in my hand an analysis of the committees of the House of last year. There were upon those thirty-seven committees one hundred and thirty-one Republicans and one hundred and thirty-three of the Opposition. The committees were constituted almost invariably of five Republicans to four Opposition. The chairmanship of several of these committees was given to the supporters of the Administration. The chairmanship of the Committee on Military Affairs, certainly one of the most important committees in either House, was given to General QUITMAN, of Mississippi. No man has a right to complain of the organization of the committees of the House of Representatives by the Speaker, last year. He was not only just but liberal towards the Opposition. He gave four Opposition members to five Republicans on the Committee of Ways and Means. The Committee on Commerce was constituted of a majority of the Opposition, the numbers being four Republicans to five Opposition. The Committee on Public Lands had five Republicans to four Opposition; and the Committees on the Post Office, the District of Columbia, the Judiciary, Indian Affairs, the Military, and Foreign Affairs, were constituted, in the same proportions. The Committee on Territories was the only one constituted, as the Senator from California says is the usual Democratic practice, six to three. The Committee on Patents stood three to two; while the Committee on the Library had a majority of the Opposition, having

consisted of one Republican to two Opposition. The record will bear, to all time, the evidence of the fairness and liberality of Speaker BANKS and of the Republican party.

My friend from Michigan [Mr. CHANDLER] has said that the time may come when the Republicans may have a majority on this floor, and what you mete out to us shall be meted out to you. I cannot concur with my friend in that remark. I trust, sir, that we shall have a majority on the floor of this Senate. I have no doubt the time is to come when the men who oppose slavery and its power will have it, but when that time comes I trust the committees of this body will be liberal, just, and national in every respect, and that we shall not only be just, but liberal towards those who are now unjust and illiberal towards us.

I do not complain that the Democratic party has organized this Chamber so as to procure working majorities on the important committees. We complain of the sectional character of these committees. The Senator from Delaware [Mr. BAYARD] tells us that a sectional party has sprung up in the country. Sir, a sectional party has long existed, and now exists in the country, and controls every department of the Federal Government—executive, legislative, and judicial. This sectional party has seized the organization of every department of this Government, and it holds to that organization with relentless tenacity. A party has sprung up in the country that protests against this sectional organization and policy of our Government. A party has sprung up that insists on restoring the Government to the ancient policy, and to have a national Government that comprehends the whole country, including the seventeen millions of northern freemen.

The Senator says that they have organized the committees here so as to secure the ascendancy of the Democratic party. But they have so organized the committees as to secure, on nearly every one of the important committees, the complete ascendancy of the southern portion of that party which now leads, directs, and controls the party and its policy. We want the country to understand this, and we mean that the country shall understand this sectional policy.

An analysis of these committees has been made by the Senator from Maine, [Mr. HAMLIN.] Reference has been made to the Committee on Commerce by the Senator from Wisconsin, [Mr. DOOLITTLE.] Sir, it is well known that the protest was made last March, in this Chamber, against the organization of the Committee on Commerce. It was believed, and declared on this floor, that the Committee on Commerce was organized so as to prevent river and harbor improvement bills from being reported. I have no objection to the Senators who compose that committee. The Senator from Alabama, [Mr. CLAY,] the chairman of it, comes from a State largely, almost wholly, engaged in agricultural pursuits, having but thirty-six thousand tons of the five million tons of shipping of the United States. The Senator from Georgia, [Mr. TOOMBS,] coming from a State that has twenty-nine thousand tons of shipping out of the five millions, is on that committee. The Senator from North Carolina, [Mr. REID,] coming from a State that has sixty thousand tons of shipping out of five million tons, is also a member of the committee. These three agricultural States, having only one hundred and twenty-five thousand tons of shipping, have three members of this committee, while the great State of New York, with one million five hundred thousand tons of shipping, and the northwestern States bordering on the great lakes, are not represented on it at all. The Senator from Louisiana [Mr. BENJAMIN] is upon the committee, and I think fitly there, representing, as he does, a State located at the mouth of the Mississippi river, and largely interested in commerce. We were given to understand last year that these errors should be corrected, and yet the correction has not been made. Four of the members of the Naval Committee are from the southern States—States which have neither commerce, ships, nor seamen.

We are told that it is not customary to change men when they are on a committee. It so happens that upon this Committee on the Library there were, at the last session, three southern men and no northern man upon it. Judge Butler has

passed away. There was a vacancy on that committee. It was well known that there was objection on our part to the organization of that committee at the last session, and yet, although there was an opportunity to place one of the Opposition or some northern man on that committee, it is this year again made up wholly of southern men. Everybody knows that nine tenths of the authors of this country are in the free States; that nine tenths of all the books that have been produced in this country have been produced in the free States, that nineteen twentieths of the publications of the country are in that section; that there are in that section of the Union fifteen thousand public libraries, against less than seven hundred public libraries in the slave States, and the private libraries, I venture to say, are in about the same proportion; and yet that great section of the country, containing almost three fourths of the white population of the country, is not represented at all in the Committee on the Library. Sir, I believe there is a purpose in all this; that there is an intention in it. The object is to preserve a control, a censorship over the library, so that the works thrown off by the authors of modern Europe and the northern States which breathe the spirit of liberty, are to pass under rigid scrutiny before they are allowed a place in the national library.

For one, I do not complain of our positions on these committees. I take it we are all satisfied—that we care very little about these positions. We complain of the sectional character of the committees. That they are sectional, everybody must admit. Why is not some chairmanship assigned the Senator from Ohio, [Mr. PUGH,] certainly one of the ablest supporters here of the Administration—of the majority of this Chamber? Take the twelve or thirteen important committees of this body, the only committees that are of any importance in the body, and but two are presided over by northern men. The organization of this Chamber, the organization of the Government in each and every department, is pro-slavery. But I do not know that we should complain, for the fact now stands clearly revealed to the gaze of mankind, that the present Democratic party, and the pro-slavery party of this country are the same. The history of the one, during the past twenty years, must ever be the history of the other. When the Democratic party ceases to be the instrument of the slave propaganda, or when the Democratic party shall go down under the odium of its present affiliation with the slave power, then the country may cease to see what we now see, the Committees on Foreign Relations, Finance, Commerce, Military Affairs, Naval Affairs, Judiciary, Post Office, District of Columbia, Indian Affairs, Printing, and Library all presided over by slave State Senators.

Mr. BROWN. I do not propose, Mr. President, to take any part in this discussion. If the Republican members of the Senate can make sectional or party capital out of a little matter of this sort, they are perfectly welcome to it so far as I am concerned. It will be recollected that last week the subject then under consideration, the President's message, was postponed until last Monday. It was understood that the Senator from Missouri [Mr. GREEN] would then occupy the floor. He has been postponed from day to day until now. This morning it was proposed that this question should be taken up an hour in advance of the period fixed by the resolution, that after that he might go on with his speech. It is perfectly apparent, I think, that we are to have no vote on this question to-day. Already the Senate has fixed an order for to-morrow, which is to postpone the Senator again. I protest against this sort of injustice to a Senator, for we all know how disagreeable it is to be postponed from day to day, and from day to day after a Senator is prepared to deliver his opinions. With a view of giving the Senator from Missouri an opportunity to make his speech, I move the postponement of this question until to-morrow at one o'clock.

Mr. GWIN. I hope the Senator will say to-morrow, at half past twelve o'clock. I think we can dispose of this subject very soon.

Mr. BROWN. If my motion prevails I understand that, after we shall have elected a Printer to-morrow, this will be the next question in order, we having already made a special order for to-

morrow. I move to postpone the further consideration of this question until to-morrow at one o'clock, with a view of allowing the Senator from Missouri to go on with his speech.

Mr. TRUMBULL. I hope we may take the vote on the committees at once.

Mr. BROWN. If there is to be no further debate, I shall not object to it.

Mr. HALE. I want to speak, but I shall not occupy more than five minutes; and then I think we can take the vote.

Mr. BROWN. Then somebody else will want to speak.

Mr. HALE. No, I think I shall be so satisfactory that nobody will wish to follow me. [Laughter.]

Mr. BROWN. I think the Senator from New Hampshire never made a speech that did not elicit one in reply, [laughter;] but I will hear him for five minutes.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor.

Mr. HALE. No, sir. I do not wish to speak to so unwilling an audience. [Laughter.]

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution offered by the Senator from Rhode Island, in regard to the formation of the committees of the Senate.

The question being taken by yeas and nays, resulted—yeas 30, nays 19; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Clay, Davis, Douglas, Evans, Fitch, Fitzpatrick, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mason, Polk, Pugh, Reid, Sebastian, Sidel, Thomson of New Jersey, and Wright—30.

NAYS—Messrs. Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Hamlin, Harlan, King, Seward, Simmons, Sumner, Trumbull, Wade, and Wilson—19.

So the resolution was adopted.

PRESIDENT'S MESSAGE.

On motion of Mr. Brown, the Senate resumed the consideration of the motion to print the President's message and accompanying documents.

Mr. GREEN. Mr. President, when, on Wednesday last, the honorable Senator from Illinois [Mr. Douglas] addressed the Senate, I was taken completely by surprise. I was surprised not only that he should have made his remarks at that time, but I was still more surprised at the manner and the matter of the speech. He himself stated, if I recollect correctly, that the President had made no recommendation on the subject of Kansas. It is a fact known by us all that no application on the part of Kansas was before Congress in any shape. If, therefore, there was neither an executive recommendation nor an application upon the part of Kansas, wherefore should the subject have been thrust on the attention of the country? When practical action is required on the part of Senators, the views of Senators are expected to be elicited; but when neither an executive recommendation required any practical action, nor any application on the part of Kansas had been made, it seemed to me most extraordinary that we should be compelled to engage in an abstract discussion with no reference to practical results. It is not my purpose to inquire into the motive of the honorable Senator. I am willing to concede, as I do, that it was patriotic; but I must think it very improper. It was well calculated to prejudice the question now pending before the people of Kansas. An election is to be held on the 21st of this month, and the public mind was prepared to see the people go forward and express their preferences for and against, as the question may be presented to them; but his speech, going as a counter manifesto to the just and fair message of the Executive of this Government, is well calculated, though no doubt not designed, to prejudice that question before the people of Kansas, as well as before the people of the country.

But, sir, whether the question has been rightfully or wrongfully brought up for consideration, it is now before us; and justice to the Executive, justice to the question itself, justice to the people of Kansas, and justice to my own State, which cannot fail to feel a deep interest in the proper adjustment and final settlement of the question, require that I should meet, and, as far as I may be able, counteract the positions assumed by the honorable Senator from Illinois.

The honorable Senator from Illinois sets out

with imputing to the President a "fundamental error." Before we can discuss we must have the issue presented. Before our arguments can have a practical bearing on the question before the Senate, it is necessary that we should understand what that question is. In what, according to the positions assumed by the Senator from Illinois, does this "fundamental error" consist? I understand him to say that the "fundamental error" into which he charged the President with having fallen, is that the President says there was no law either in the Kansas-Nebraska act, in the Constitution of the country, or in the common usages of the Government, that made it obligatory on the convention of Kansas to submit their constitution to a subsequent vote of the people. This is the imputed "fundamental error." To that point I shall direct the attention of the Senate.

It is not for me to say whether the propriety of the submission of the slave branch of that constitution to a separate vote, ought to have been considered by the Executive or not. I choose not to trace him in the course of his reasoning on the subject. I choose rather to notice the conclusion at which he has arrived—a conclusion that promises a full adjustment of this whole question; that promises peace to the country; that promises satisfaction to the North and to the South; and that promises to remove a bone of contention over which the public mind has been too much harassed for the last several years.

The real practical question, then, which we have to consider is this: ought Kansas, when her constitution shall be presented, be admitted into the Union? or ought the consideration of what the honorable Senator from Illinois calls a "fundamental error" of the President, to be deemed a sufficient reason to keep Kansas out of the Union, and to keep this most unfortunate subject still agitating the public attention? *This is the real issue.* It is not whether we approve of parts of the constitution of Kansas; it is not whether we think the qualification required by the convention in framing the constitution of Kansas, of twenty years' citizenship of the United States in order to be Governor, is right. That is a subject upon which the people of Kansas alone have the right to decide.

It is true the honorable Senator does not say that we have a right to supervise the action of the convention of Kansas in that regard. But he seems to bring up what he regards as objectionable parts of their constitution, and traces them in such a manner that the public might be prejudiced against the result of the labors of the convention. In his great anxiety to so present that feature in regard to the qualification which the Governor of Kansas is required to possess, he even misstates and misconstrues the constitution of Kansas as presented before us. He says "twenty years' citizenship is required." That is true; but is that a cause of objection? The Senator's own State of Illinois, when she was admitted into the Union, required as a qualification of the Governor that he should have been THIRTY YEARS a citizen of the United States; and surely he will not invoke the application of a rule to Kansas which, under the peculiar circumstances of the case, requires rather a relaxation for the sake of peace and quietude. Surely he will not object to the application of the same liberality to Kansas, so as to leave that question unprejudiced; for if Illinois could come into the Union with a constitution requiring the Governor to be a citizen for the space of thirty years, surely it is no insuperable objection to Kansas that she requires only a twenty years' citizenship. So with the State of Missouri—my own State. Her constitution requires the Governor to be a native-born citizen of the United States; and so it is with various other States. The constitution of the State of Mississippi requires twenty years' citizenship of the United States on the part of the Governor; and a large number of the constitutions of the States require them to be native born. The Constitution of the United States requires the President to be a native-born citizen of the United States.

I refer to these facts for the purpose of showing that, in all times past, such a matter has never been urged on the Senate as any reason why the application of a State for admission into the Union ought to be rejected. Perhaps the Senator will

say, however, that he did not urge it in that view, and that he only stated that the people should have a right to pass on that question. I shall advert to that point after a while. In the same connection, however, he uses this language, which an examination of the constitution does not warrant:

"If men think no person should vote or hold office until he has been here twenty years, he has a right to think so."

The employment of this language on the part of the Senator induces those who have not examined the constitution of Kansas, to believe that it requires twenty years' citizenship before the right of voting can attach. The Senator has fallen into an error. The constitution simply requires for the exercise of the right of suffrage in Kansas, that a person shall be a citizen of the United States, and a free white male inhabitant of the State. If this were to go broadcast through the land, those who object to the stringent rules which the party to which he referred sometimes have been held to advocate, would feel greatly prejudiced against the Kansas constitution; while, if they examine it, and see what its provisions are, they will find that the Senator has misstated its provisions.

So on other questions—the subject of banks, and the mode of taxation. He animadverted on all these points with pleasure, and with a view, as it would seem, (though doubtless for no such purpose,) at least to point out objections in the Kansas constitution, on the subject of banks, as well as on the subject of taxation. Now if he concedes, as I know he will concede, that Congress has no right to consider any of the features of the constitution of a State save whether it be republican, why need he dwell on anything else? It would, if he regarded it as obnoxious, connected with the powerful influence of that distinguished character which he possesses, spread a prejudicial influence abroad on a subject which he admits he has no right to consider in the Senate of the United States.

So with regard to one other branch of his argument. The ordinance that accompanies the constitution is held by some to be extravagant in its demands on the Federal Government. It may or may not be so. Whether it be right to accede to the proposition submitted in the shape of an ordinance or not, I shall not now stop to discuss; for I hold that it is no part of the constitution of Kansas. It is a separate proposition presented by the convention of Kansas, and it is matter of contract with the Federal Government whether we accede to it or not. We may disaffirm that contract. In other words, it is a *proposition*, and we may make a counter-proposition. It is a matter for consideration, for adjustment; and it is no branch or part of the constitution of the State. The question which we have to consider is, not the qualification required in the Kansas constitution for Governor; not the mode in which the elective franchise is to be exercised; not the provisions in regard to banks; not the provisions with regard to the mode of taxation. These are all subjects with which we have nothing to do. They exclusively pertain to the people of Kansas. This they have, through their convention, decided for themselves.

There is but one single legal question to which our attention can be directed; is it a "republican" form of government? As it respects the numbers requisite to entitle the people of Kansas to admission into the Union, I believe it has never been called in question. Certainly the Senator from Illinois has not called it in question, and I have not heard it called in question by any other Senator. I do not understand the Senator from Illinois to say that the constitution of Kansas is not "republican." On the contrary, I have no doubt of the fact that all will admit it to be as republican as the constitution of any State in the United States; as consonant with the principles of republicanism as any constitution that has ever been presented to the American people. If it comes before us in that shape—admitted to be republican—admitted to have a sufficient population to entitle them to admission—admitted that the peculiar features of the constitution are questions with which we have no concern, wherefore is it that the admission of the State into the Union is to be resisted and opposed? For what purpose? What reason is to be assigned?

The first reason that is assigned is, that there

is no "enabling act." Mr. President, there seems to be a want of clear understanding of the relation which the Federal Government sustains to the Territories. What is an "enabling act?" Is it to impart power to the people of a Territory? for we must remember that a Territory, organized, constitutes a people. Individuals may live on the lands belonging to the United States, and yet not be a people. They are individuals scattered over the land; but in a technical and appropriate and governmental sense, whenever they are organized into a political community, they constitute a people. Kansas is a political community and a people. What "enabling act" was required to impart to them the power to propose a change in their form of government? What enabling act can give them more political and inalienable rights than they already possess? It would be a solecism, a contradiction. Among the inalienable rights are "life, liberty, and the pursuit of happiness, to secure which governments are instituted, deriving their just powers from the consent of the governed." Who are the "governed?" The people of Kansas. From whom, then, will the government of the State of Kansas derive its just powers? From the "governed," and not from your "enabling act." Their power was inherent, and all the action of the Federal Government can give them no additional political power. That inherent power is incapable of transfer; it is unchangeable; it is indefeasible; it is original. What then? Does it follow that the people in an organized or unorganized shape, living in a Territory, can set up an independent government when they please? No; I answer most emphatically, no. They may propose their form of government; they may shape its features; they may parcel out its powers; they may guard the rights and interests of the people under the newly proposed government; but they cannot become an absolute sovereignty; they cannot become an absolute independent State. Why? Because the Territory belongs to the Federal Government for the use of all the States. Nothing but the assent of the Federal Government in some manner, shape, or form, will ever impart to them independence and sovereignty. The only purpose of an "enabling act" to an organized Territory ought simply to be a law of assent. If it is but an unorganized Territory, and not a "people," Congress then ought to throw them into an organic shape, as well as give its assent. This will be found to be the true principle, and ought to be the rule to regulate the steps of this Government in its dealings with the Territories. States come into the Union by their own will, and with the assent of the United States.

All the power of the Federal Government cannot create an independent sovereign State. The power of this Federal Government is not to create, but to admit. To "admit" a State, implies its existence prior to admission. Thus, what is now ordinarily called an "enabling act," is, to all intents and purposes, nothing but a law of assent. The great Federal Government, in which is vested the sovereignty of the Territory, may give that assent before or after the organization of the proposed new government; it is perfectly optional with the Federal Government to give it before or after such organization, with this single difference: when that assent is in the shape of what is now called an "enabling act," and when the people of the Territory have proceeded according to the principles of that enabling act, and created a government, the assent being given, the whole sovereignty becomes vested, the independent State exists, and then if Congress do not admit it, it is a foreign State in spite of all our powers. The danger, therefore, is in passing an enabling act, not in withholding one.

Who is it that does not remember the unfortunate Missouri controversy of 1820? An "enabling act," as latterly called, had been passed for the State of Missouri, in pursuance of which Missouri formed its constitution and asked for admission. Some quibbles were raised and some non-essential points were alleged against its admission, and Missouri was well-nigh rejected. All the Republican Senators and members of the House of Representatives at that day—I use the term in its old signification, not the new—said, "the assent of the Federal Government has been given to the act of Missouri. Missouri had created its government in pursuance of an enabling

act, and was, therefore, sovereign and independent; and if Congress had not admitted Missouri, that State would have been a legally recognized foreign government on the west bank of the Mississippi river."

It is true that the physical power of the Federal Government might have sent armies and coerced Missouri into submission, but that would have converted it into a subjugated State; Missouri would not have been, in that case, a free and independent State; it would have made it an inferior, dependent vassal, subservient, and a subordinate member of the Confederacy. According to the true principles of the theory of our Government, whenever congressional assent to sovereignty and independence are conceded, the people of a Territory may act as they please, and it is an independent State thereafter. Now, when assent is not given prior to the time of admission, there is no danger of that kind of difficulty.

But, Mr. President, is it so important that an "enabling act" should be passed? The Senator thinks so, and refers to instances when such acts were passed. Why, sir, Tennessee, Arkansas, Michigan, Florida, Iowa, California, Maine, and Vermont, eight States—new States, not in the original Confederacy—came into the Union without any enabling act on the part of Congress. Was Tennessee improperly admitted? It was recommended by George Washington. The proceedings that were instituted under Governor Blount in the then Territory of Tennessee, met the sanction of the Republicans of that State. Among the members of the convention, that revolutionary—no, the Senator does not give it that name—that "irregular" convention, is found the name of Andrew Jackson, of Tennessee. He was one of that "irregular convention;" and that "irregular convention," formed in part of General Jackson, made a constitution which was never submitted to the people, but was sent up to General Washington, then President of the United States; and here is the letter that he sent to Congress at the time he submitted the constitution of Tennessee for their consideration. It will be seen that it harmonizes well with what President Buchanan has said with regard to the constitution of Kansas:

UNITED STATES, April 8, 1796.

Gentlemen of the Senate

and of the House of Representatives:

By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the territory of the United States south of the river Ohio should enjoy all the privileges, benefits, and advantages set forth in the ordinance of Congress for the government of the territory of the United States northwest of the river Ohio, and that the government of the said territory south of the Ohio should be similar to that which was then exercised in the territory northwest of the Ohio, except so far as was otherwise provided in the conditions expressed in an act of Congress passed the 2d of April, 1790, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory."

Among the privileges, benefits, and advantages thus secured to the inhabitants of the territory south of the river Ohio, appear to be the right of forming a permanent constitution and State government, and of admission, as a State, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: provided the constitution and government so to be formed should be republican, and in conformity to the principles contained in the articles of the said ordinance.

As proofs of the several requisites to entitle the territory south of the river Ohio to be admitted, as a State, into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the constitution and form of government on which they have agreed, which, with his letters accompanying the same, are herewith laid before Congress.

GEO. WASHINGTON.

It contained no special executive recommendation; and, in that respect, harmonizes most beautifully with the position taken by President Buchanan. The Territory thus had an organic form; it was a people. Without any enabling act they met, formed a constitution, which was presented to Congress and approved; and the State admitted into the Union with as much regularity, with as much system, with as much order, as has accompanied the movements of any Territory and of any people within the compass of our whole republic.

How is it with Arkansas? The Senator from Illinois would have us understand that the movements in Arkansas seemed to meet the disapprobation of President Jackson. President Jackson, who had himself participated in the convention in Tennessee, is to be presented to us as though he

condemned the proceedings in Arkansas. An examination of the opinion of the Attorney General in that case, will show the distinction; and make it clear as the noonday sun, unless I am greatly deceived in regard to the purport of that opinion:

"In the exercise of this right, the inhabitants of Arkansas may peaceably meet together in primary assemblies, or in conventions chosen by such assemblies; for the purpose of petitioning Congress to abrogate the territorial government, and to admit them into the Union as an independent State. The particular form which they may give to their petition cannot be material, so long as they confine themselves to the mere right of petitioning, and conduct all their proceedings in a peaceable manner. And as the power of Congress over the whole subject is plenary and unlimited, they may accept any constitution, however framed, which in their judgment meets the sense of the people to be affected by it. If, therefore, the citizens of Arkansas think proper to accompany their petition with a written constitution, framed and agreed on by their primary assemblies, or by a convention of delegates chosen by such assemblies, I perceive no legal objection to their power to do so, nor to any measures which may be taken to collect the sense of the people in respect to it; provided always, that such measures be commenced and prosecuted in a peaceable manner, in strict subordination to the existing territorial government, and in entire subservience to the power of Congress to adopt, reject, or disregard them, at pleasure. It is, however, very obvious that all measures commenced and prosecuted with a design to subvert the territorial government, and to establish and put in force, in its place, a new government, without the consent of Congress, will be unlawful."

Kansas has never proposed to put in operation a State government without the consent of Congress. They have formed it in subordination to the powers of the territorial government. It is but an emanation of the territorial government. It is to be submitted to Congress. If admitted into the Union, the constitution takes effect as the supreme law of that State in subordination to the Federal Constitution only; but, if not admitted, they do not propose to set up a separate State government. This, it will be seen, harmonizes with what I said on the subject of the assent of Congress, to wit: wherever any Territory undertakes to set up a territorial or State government, in opposition to Federal authority, it is rebellion. If the present acting, or claiming to act, Governor of Utah should undertake to set up a separate government, we have the undoubted right to refuse our assent, and to subjugate him to our authority by the force of the military arm of this Government. If the people of Kansas were to undertake to set up a government in opposition to the Federal authority, the same power could be exercised there. But while they do not propose to interfere with the Federal Government, nor to interfere with the territorial government until the assent of Congress is received, it makes no kind of difference whatever. This, too, harmonizes with the opinion of the Attorney General, which the honorable Senator from Illinois introduced and read.

There are, therefore, eight States in the Union that have formed their constitutions without an enabling act; for two of those States the Senator from Illinois voted. California had no enabling act. But the Senator undertakes to show that though there was no enabling act, yet all the steps taken by the authorities of California were in subordination to the local government established there; in other words, under General Riley. Whether that be right or wrong, whether his reference be correct or incorrect, I shall not stop to inquire; but this much is true: the action of the convention in the Territory of Kansas is as much in subordination to the Federal authority as was the action in the Territory of California; and if he could vote for the admission of California, there can be no reason why he may not vote for Kansas with the same propriety. If he could vote for the admission of Florida, there can be no reason assigned why he may not vote for that of Kansas. If he could vote for Iowa, there can be no good reason why he should not vote, under the same circumstances, for the admission of Kansas. By his own deed he is estopped; by his own act he is forever estopped from alleging, as a necessary prerequisite, an enabling act. The assent of Congress may be given at any time; either before or after the formation of a constitution.

There is a peculiar reason for it in the case of Kansas. The Louisiana treaty defines and guarantees the rights of the people living in that Territory. The law of Congress, subsequently passed, made an additional pledge that the people should have a right to admission at the proper time. The authors and advocates of the great

Kansas-Nebraska act thought it had added to the rights, or reclaimed the rights, of the people living in organized Territories. Its framers thought they had conferred some principles heretofore denied to them. If so, under the treaty of Louisiana, under the law of Congress, under the Kansas act, the right of the people, whenever their numbers are sufficient to take preparatory steps for the formation of a constitution, and present it for admission into the Union, is conceded. They do not present it for approval; they do not present it in order to have it indorsed. They present it, if at all, for the sake of being admitted into the Union. If the constitution is republican, we may admit them; if it is not republican, we cannot admit them.

In strict conformity with this doctrine stands the Democratic platform to which the Senator referred. It says, in emphatic terms, that the people of a Territory should, whenever they had numbers sufficient, proceed to form their State constitution, and to adopt such institutions as they should think proper.

But the main objection which the Senator has presented is, that while we may forego these objections, there are other reasons why we should not forego either them or any others. My position is, that the mere want of an enabling act is not an objection; that lawful proceedings in an organized Territory, to form a constitution, are regular, in conformity to law, in conformity to usage, and I have presented cases just such as the Senator has heretofore indorsed and approved; and, consequently, they ought not to be considered in the list of objections that he raises against the admission of Kansas.

His chief objection, however, seems to be, that the constitution is not submitted to the people. On that he dwells; and wherefore? Why, that the principle of popular sovereignty required the constitution to be submitted to the people! In other words, he says that a subsequent vote ought to have been had in addition to what the convention has done, so that the people by subsequent vote might decide this question of constitution or no constitution. Mr. President, if, as the Senator from Illinois says, the Kansas-Nebraska act puts the slave question where all other questions before were, then, in order to see what the rights of the people were under the Kansas act, we have but to ascertain what their rights were on all other questions before the Kansas act was passed.

How were they? Is it true that the people do not act, in any case, unless they meet in mass meeting?—in a tumultuous assemblage?—or is it not in harmony with the genius of republican institutions—is it not in strict conformity with the Americanism of government that we act through delegates, through agents, through representatives? The constitution of the Senator's own State was not submitted to the people of Illinois. The constitution of his native State, Vermont, was not submitted to the people of that State; and yet it is worthy of remark that the constitution of Vermont uses this language: "We, the people of the State of Vermont do ordain and establish." Yet they ordain and establish by their delegates, by their representatives. So with Illinois. In its constitution the words, "we, the people," are used; and yet the people never acted upon it, save through their agents, their delegates in convention assembled. In the State of Illinois the constitution says, "all prosecutions shall be in the name of the people of the State of Illinois," not in the name of the State. The people stand as prosecutors. I believe the first time I ever had the honor to make the acquaintance of the very distinguished gentleman was while he presided on the bench in the city of Quincy. There was a prosecution conducted in the name of the people of the State of Illinois. Was that prosecution by the people, in their own proper person? No; the people were ably and well represented on the bench by the distinguished Senator from Illinois; the people were represented in the grand jury room by selections made for their purpose; the people were represented by the prosecuting attorney, a distinguished gentleman selected for that purpose. It was all done in the name of the people, in behalf of the people, for the people, but done by the people's agents and representatives.

Mr. President, it is not only so in these instances, but, as I before remarked, it is the great Americanism of government more peculiar in the

United States than anywhere else. The people act through agents; and I believe it to be a universal rule of agency, that where there is a general power given, the principal is bound by all the acts of the agent, unless there be a reservation of a right of submission to the principal for his approbation.

How was it with the convention in the Territory of California? I have before me a list of States, showing that Kansas was not peculiar in this respect. *A majority of the constitutions of the States forming this Union were adopted by conventions, and never submitted to the people!* More than this; the very opinion of the Attorney General, read by the Senator from Illinois, with reference to the Arkansas case, (his own authority,) says the people may, in primary assemblies, or through delegates chosen by them for that purpose, form a constitution and send it to Congress for their consideration.

We have, then, the gentleman's own State, native and adopted; we have a large majority—the exact number I will not state—of all the States of this Union, whose constitutions were formed by the people, through their agents, and without a submission of them to a vote of the people; and in a minority of instances only, have the constitutions of States been submitted to the people for their approbation or rejection. More than that; we have the Senator's own commitment in his support of the Toombs bill at the last Congress. The Toombs bill was taken by the honorable Senator, who was then chairman of the Committee on Territories, pressed by him, and passed through the Senate. That bill did not contain any clause requiring the constitution to be submitted to a vote of the people. The bill which he had first introduced did contain such a requirement; and yet, when the two were put side by side and he was called on to choose between them, he took that which had no such provision in it, thus leaving it for the convention of the Territory to decide as they might deem proper.

If the Senate of the United States, and if the father of the Kansas-Nebraska act—if the great advocate of popular sovereignty could introduce, support, and cause to be passed, an enabling act permitting the convention of Kansas to make their constitution, and to make it final, to ordain and establish it without submitting it to the people, surely, when the people of Kansas, through their territorial government, came to act on the same subject, if they imitated the honorable Senator, and passed a similar bill, they ought not to be held up to public scorn and indignation. They had an "illustrious predecessor;" they had a very distinguished example in the person of the Senator from Illinois, and if they but followed that example, they ought not to be held up to public scorn and indignation. I think they acted wisely in submitting the matter to the convention which represented the people. It is better for the people of Kansas to be heard through their representatives than for the people of Illinois to interfere in Kansas matters through the able Senator from that State, or the people of Missouri through myself or my colleague.

We have heard much of popular sovereignty and popular rights, but they seem to be frittered away and cut down, limb after limb. First you cut off one, and then another, until you leave nothing whatever to boast of when you go before the people of the country and speak of the great merits of the Kansas-Nebraska act. If you can tie up the people's hands, and say to them, "You shall do this," are you carrying out the principles of the Kansas act? The act says they may do it in any manner they please. They did please to adopt a constitution finally in convention, as did Tennessee, Illinois, and Vermont. Now it is gravely proposed that the Senate and House of Representatives shall say the people of Kansas did not please to do it in a way which Congress is pleased to consider right, and, therefore, it shall be undone, thus trampling under foot the very principle which the Senator said had been sanctioned in the bill, that they might do as they please; that they might adopt a constitution in any manner and form they thought proper; that they might establish their domestic institutions in their own way. The express language of the bill is, "in their own way"—not the way I might advocate, not the way the Senator from Illinois might advocate, not the way the North, or the

South, might like, but the language, the spirit, the principle, the essence of the bill, is "in their own way." The people of Kansas have adopted their own way, and that "way" is in strict conformity with the example set when the Senator from Illinois supported the Toombs bill. It was to let the convention, as the representatives of the people, do as they pleased on the subject presented to them. That convention did as they pleased on the subject, and now it is formally proposed to revise, reform, remodel, and recast, all the action that has taken place, although the people of Kansas, through their convention, have done their work only "in their own way." I can see no consistency in this. But I do see in it a principle set up in opposition to what we have been told was the principle of the Kansas-Nebraska act.

It has, however, been intimated by the honorable Senator from Illinois that the Kansas-Nebraska act itself required the constitution to be submitted to the people of Kansas after its completion by the convention. On that point, I join issue. The act makes no such requirement. It contains no such obligation. On one point, I confess I did not distinctly understand the position of the Senator, and I hope, therefore, he will not consider me intrusive if I ask him how I am to understand him on the subject of the Governor's interference in regard to submission or non-submission of the constitution?

Mr. DOUGLAS. I declined to discuss that, because the Governor had acted under the instructions of the President.

Mr. GREEN. Then I understand the Senator as taking no position on the point, whether the executive of the Territory did right or wrong when he proposed that the whole constitution should be submitted. My view is, that, if he says the Governor did right, it conflicts with the principles of the Kansas-Nebraska act, and lets the agent of the Federal Government interfere to do what he said the people of the Territory might, uninfluenced, and of right, do "in their own way." If the Senator says the Governor did wrong; if the Senator says the Governor of the Territory had no right to advise on this point, that is an admission that the Governor's conduct is not justified by the provisions of the Kansas-Nebraska act. Because, if that act required the submission of the constitution to a fair and uninfluenced popular vote, it was the official duty of the Executive to see that part of the bill, like every other, executed and carried out. Here is a dilemma, and I leave the Senator to take either horn. If he says the Governor did right, he permits a Federal functionary to dictate to the people, when the language of the act is, that they may act in their own way. If he says the Governor did wrong, it is an admission that the act did not require the submission of the constitution.

But we are told that the people have been deceived in this matter; that pledges and promises were made to the people of Kansas which have been broken and violated. On questions of fact, about which there is great controversy, and upon which we have no evidence, I do not deem it proper to dwell at all. Who made the pledges alluded to, and to what extent were they made? I apprehend it will be found that the Senator from Illinois is mistaken on this point. That an individual pledge in favor of submission may have been made I do not pretend to controvert; but that it was general, or very extended, I wholly deny. We have no evidence of it. It is true that Mr. Stanton, who was acting Governor of the Territory before Mr. Walker arrived, made use of this language.

Mr. DOUGLAS. From what book is the Senator about to read?

Mr. GREEN. From the "Political Text-Book," a compilation by Mr. Cluskey.

Mr. DOUGLAS. It is a private book.

Mr. GREEN. Yes; it is not a public document. The correspondence and proclamations have not yet been officially printed; but I suppose the genuineness of what I am about to read will not be controverted.

Mr. DOUGLAS. I presume not.

Mr. GREEN. Mr. Stanton, before the people had voted for delegates to the convention, used this language, in speaking of the act providing for the convention:

"In this light the act must be allowed to have provided

for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention."

Here, before the members of the convention were elected, the idea of the acting Governor is promulgated to the people, that they have a full and fair opportunity to speak through the convention. What else?

"I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law"—

Not because there is any obligation to do so, but to avoid all pretext for complaint—

"the convention itself will, in some form, provide for submitting the great distracting question regarding their social institution, which has so long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people"—

That is, if the slavery question be submitted to the people—

"I believe that Kansas will be admitted by Congress with out delay as one of the sovereign States of the American Union; and the territorial authorities will be immediately withdrawn."

Now we see what was the understanding of the people before the election of the convention. It was this: the people can be heard through delegates if they choose; now is the time for them to exert their power; if you have any preferences on the subject, come up and vote; "but," says the acting Governor, "as a mere question of policy, to avoid all pretext of complaint, let the slavery question be submitted to a separate vote." Governor Walker is a little broader in his language, but he substantially takes the same position. There seems to be in the mind of Governor Walker a confusion of ideas. He does not seem to apprehend that they could have a separation of the slave question from the body of the constitution. The policy or propriety of this separation is not a matter for me to consider. It is a matter for the consideration of the people of Kansas, who have the power to settle all these questions "*in their own way*," and I am the last who would trample under foot that principle which has been so much lauded by the honorable Senator from Illinois. While the Governor has the confusion of ideas of which I have spoken, it is very manifest that his whole attention was directed to the slavery question as the proper matter for submission to the people. Before the election of delegates took place he arrived in the Territory, and published his inaugural address, in which, talking to the whole people of Kansas, he said:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right"—

He does not say it is a legal right emanating from the Kansas-Nebraska act, but a constitutional right. I should like to have him, or any other man, show me the clause of any constitution, State or Federal, that requires the people of a new Territory, in forming the first constitution under which they act, to submit it, or even any part of it, to a subsequent vote of the people—

"and believing that the convention is the servant and not the master of the people, yet I have no power to dictate the proceedings of that body."

They were acting under a law which said the people might settle all these questions in their own way. The Governor adds:

"I cannot doubt, however, the course they will adopt on this subject. But *why incur the hazard* of the preliminary formation of a constitution by a minority, as alleged by you, when a majority, by their own votes, could control the forming of that instrument?"

This shows that he did not regard it as a fixed fact that the law, or any other power, could induce the convention, necessarily, to submit the constitution to a popular vote. His argument was advisory. Addressing those who were disposed to keep aloof, he says to them, "If you have the majority why not go to the polls, secure the convention, and have a constitution made in the manner you prefer?" May I not say that they refused to participate in the election from one of two considerations; either they knew that they were a minority of the Territory, or they were standing out in open rebellion to the legal authorities, defying both the territorial and the Federal Government?

The honorable Senator's speech conforms to

precisely this position. He admits that the convention was regularly called, in pursuance of law, acting in conformity both to Federal and local authority. Why was it opposed? Was it for any wise purpose? Was it in order to accomplish any good end? The opposition was in order to keep the subject open. It was a captious, a factious opposition. It was an opposition from a party composed of two elements which have been dangerous to the peace of our western country, uniting, on the one hand, fanaticism, with a hope of pecuniary reward on the other, Fanaticism is sterile. Fanaticism is barren. Fanaticism is unproductive. Fanaticism will die out of itself when the sober reflection of the people comes round. To keep up that fanaticism they unite with it another element—the element of wild speculation, the hope of pecuniary gain. The union of these two elements has fanned the flame, endangered the Government, hazarded our peace, rendered insecure our property, alienating the feelings of brother from brother, because they happen to live on different sides of an imaginary line. I hope to see this union of elements broken down. I hope to see the Kansas *embroglio* ended; ended in conformity with law; ended in conformity with the action of the legal convention of the people; ended by giving force and effect to a constitution that has been as regularly, as honestly, as fairly agreed on, as any constitution that this Government finds within the range of the thirty-one States. Should Kansas be admitted; should the peace of the country be reestablished; should this bone of contention be taken away forever; town lots, land investments and the other means of pecuniary profit broken down, the fanatical excitement will cease and determine. It is the hope of some to keep up the excitement, and I am sorry to see the course of the honorable Senator from Illinois who has fought for us so long—not for "the slave power," but for justice, for equality north and south, for equality without reference to locality, for great principles. Knowing that he is still wedded to these principles, I am sorry to see his course calculated to give that fanatical element the benefit of his powerful talents. This is the real cause of my regret.

It is said—and I throw in the expression here to let my view be known, and not as material to the matter under consideration—that the law of climate has dedicated Kansas to freedom, meaning thereby that it is not adapted to African slavery. That may be so or not. I am not a very good judge of climate, and I do not believe the Senators present are very good judges of the climate of Kansas. I do not think many of them have seen it, or have had very accurate reports of the range of the barometer and thermometer there for the last few years. What I say is, that if the law of climate is to determine the question of slavery in any Territory within the limits of the United States, where the two races are thrown together, I am content to trust it to that law of climate without any coercive law, without any law of Congress, without any territorial law, without any State law. Let me appeal to my northern friends who believe there is so much potency in the law of climate, the law of production, the law of vocation, the law of pursuit; if these be sufficient, open your northern States and see whether you will not soon have a few of our slaves there performing menial services. Whether that be true or not, is it not well to leave Kansas to the people of Kansas, to the voters of Kansas? If they are willing to trust this matter to the law of climate they are settling it in their own way. If they are determined to have a positive prohibition of slavery in their constitution they are settling it in their own way, in conformity with the law which gave them an organic form. Those of us who boasted of the rights they had under the law, should be the last to complain of the manner in which they exercise those rights.

I know, however, that there is one thing greatly complained of by various persons, and which is regarded by some as a sufficient reason why Kansas ought to be kept out of the Union; while others, who do not go to that extreme, express much regret on the subject—I allude to the fact that the whole constitution has not been submitted to the popular vote. I hold that there was no necessity for any such submission. If after the convention expressed their judgment, it was proper, as a mere matter of policy or prudence,

to submit any question to a separate vote of the people, they ought to submit the real bone of contention. I hold further, that the submission of the slavery question in the manner in which it has been submitted, is fairer, better calculated to collect the real will and judgment of the people, than if the whole constitution had been submitted. Suppose the convention had adopted a constitution prohibiting slavery, and had submitted it to the people as the Senator from Illinois thinks the law required. If this had been done, and my friend from Mississippi [Mr. Brown] lived there, he would have been compelled to vote against slavery or against the constitution. Whenever many questions are mixed up together, and they are all presented as an entirety, neither one of them has a fair expression of the people who thus pass judgment on them. So far is this principle known to be correct, that the constitution of Louisiana requires that every law shall embrace but one subject, which shall be stated in its title.

Mr. BIGLER. That feature is in the new constitution of Kansas.

Mr. GREEN. It is in the constitution of Kansas.

Mr. GWIN. And of California.

Mr. GREEN. If the matter were investigated, I think it would be found that the same provision exists in many other States. The object is to prevent "log rolling," and to insure a fair, honest expression of the people or their representatives when they pass judgment on any subject. You may put together in an improvement appropriation bill many items, neither one of which has sufficient intrinsic merit to receive the assent of Congress; but tie them together, and perhaps you can pass all. If the slave question had been tied to the suffrage question; the governor's qualification question; the taxation question; the bank question; and if I had been a citizen of Kansas I should have been compelled, in order to vote for holding negroes in Kansas, to swallow all the objectionable features in every other branch of the constitution. To submit a single question is the only fair way, the only just way, the only simple, certain method of collecting the public will. There is uncertainty in all human proceedings. The people may not come to the polls; the representatives may not do their duty; but we proceed on the idea that there is a just principle involved; and if the principle be just, and the people have an opportunity to carry it out, and do not carry it out, but forfeit their rights, it is their misfortune, not ours; and our sympathies are blunted when we consider that their passions were the sole cause of the grievances of which they complain.

The constitution is not submitted to the people of Kansas. I know the Senator undertook to prove that the people were placed under coercion, that they were compelled to go to the polls and vote, and that before they could vote on the slave question they were compelled to vote for the constitution. If the whole constitution had been submitted before they could vote for or against slavery, they would have been compelled to vote in the manner which the Senator represented as objectionable, which he animadverted upon, which he censured and condemned. If the whole constitution had been submitted, the voter, in order to vote for slavery, would have been compelled to indorse every feature of the constitution; and, in order to vote against it, would have been compelled to vote against the other features of the constitution, and thus leave him without a State government. The anxiety to get a State government might be strong enough to induce him to forego his objections to other branches of the constitution, and hence, as I before remarked, the mode of submission adopted by the convention was the only simple, fair, and just method of collecting the popular will upon the slavery question. In the convention of California, a proposition was made to submit the slavery question to a separate vote of the people. The convention was anxious not to endanger the admission of the State into the Union. They did not believe a majority of their people desired slavery, and therefore they did not submit it as a separate question, but they submitted the whole constitution to a vote of the people of California. It came up here, and we all know there was a great deal of complaint on the part of northern as well

assouthern Senators and members in consequence of the non-submission of the slavery question.

By an examination of the schedule, framed by the Kansas convention, it will be seen that the constitution itself is not submitted. The Senator is mistaken when he says that the constitution is submitted, and that the people are required to vote for it. He says the constitution receives its vitality and takes effect from its ratification. The Senator is entirely mistaken. It never does take effect until Kansas shall be admitted into the Union by Congress. "But," says the Senator, "the schedule says the constitution is to be submitted to the people." Yes. For what purpose? For ratification. What is the meaning of "to ratify?" It is to settle, to fix. There is a part of the constitution not settled, not fixed, and that must be ratified. That question is to be passed upon by the people, when they say at the polls whether they will retain a provision sanctioning African slavery, or will strike it out. They are to settle, fix, ratify that unsettled, unfixed, unratified part. That is all the article provides for. We are not to take a *mere expression*, but must take the purport of the whole article. If a logician, or a judge, or a statesman, undertakes to construe the meaning of that article, he takes the whole of it together, and so taking it, what does he find? That nothing is to be ratified, fixed, settled; but the unratified, unfixed, unsettled part, which is whether slavery shall be retained in the constitution or not. There is to be no decision on any part of the constitution, except that which relates to slavery.

The Senator from Illinois, however, seems to think that each voter must first vote for the constitution, before he can vote for or against slavery. That is another mistake. The voter does not vote for or against the constitution. He simply votes a ballot which is to be counted for or against slavery. If he votes the ballot containing the words "constitution with slavery," it is to be counted in favor of slavery; but if he votes "constitution with no slavery," it is to be counted in favor of striking out the article in the constitution providing for slavery. The only question submitted is, Will you, or will you not, have in the constitution of Kansas a clause sanctioning slavery? Is the writing of the word "constitution" on the ballot to be construed as making the voter vote for the constitution? Then I can show that, if a man in Louisiana voted on the adoption of their new constitution, he was involved in this seeming contradiction. The constitution of Louisiana was submitted to the people, under a schedule which required, "each ballot shall be indorsed 'the constitution accepted,' or 'the constitution rejected.' " There would be just about as much plausibility in saying that a voter in Louisiana was compelled to vote first for the constitution and then for its rejection, or first for the constitution and then for its acceptance, as in saying here that a man in Kansas is to vote first for the constitution and then for or against slavery. The question submitted in Louisiana was the acceptance or rejection of the constitution. The question submitted in Kansas is the insertion or striking out of an article sanctioning slavery. That is the sole question to be decided.

The opposition party in Kansas—I do not know what title they assume to themselves—deny that the constitution is submitted, and the Senator makes an issue with them. Those who live on the ground, who know what has been done, say that the whole constitution is *not* submitted. I say there was no more necessity for its submission than there was for the submission of the constitution of Illinois. The people of Kansas acted through their representatives. Those representatives had power either to adopt a constitution *finally*, or simply to make a proposition, and submit it for the consideration of the people.

There is nothing novel in the positions which I have stated. They are in conformity with the past action of the Government. I have before me statements showing what States have been admitted with an enabling act, and those admitted without any such act having been previously passed.

The following States were authorized to form constitutions by acts of Congress *previous* to their admission: Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, Missouri, and Wisconsin. The States for which no enabling act was

previously passed, authorizing the formation of a constitution, were Vermont, Tennessee, Maine, Arkansas, Michigan, Florida, Texas, and Iowa. I have also a list of all the new States admitted since the Federal Constitution went into operation in 1789, showing what States were organized without the previous authority of Congress, and what States submitted their constitutions to a vote of the people, after being framed by their conventions. This throws important light on the past history of the Government, and that past history is in strict accordance with the views I have advanced.

For Vermont, the constitution was formed by a convention, in July, 1777. It was revised by a convention December 25, 1777, without authority of Congress. "The constitution was not ratified by the people." I quote from Thompson's "Vermont," part 2, page 105. The application for admission, was made February 9, 1791, and the State was admitted March 4, 1791, as I find from the Statutes at Large, vol. 1, page 191.

Kentucky applied for admission through the delegates of a convention, December 9, 1790; her constitution was not then formed. My authority is the appendix to the House Journal, vol. 1, pages 411-12. She was admitted June 1, 1792; her constitution was laid before Congress, November 7, 1792, as I learn from the House Journal, vol. 1, page 614. There is no evidence that the constitution was submitted to a vote of the people.

For Tennessee, the constitution was formed by a convention without authority of Congress, February 6, 1796, as I learn from American State Papers, "miscellaneous," vol. 1, pages 146-7. She applied for admission, April 8, 1796, as is shown by Senate Journal, April 11, and House Journal April 8, 1796. She was admitted June 1, 1796. The constitution was not submitted to the people, but it was forwarded to the Secretary of State, as I learn from the annals of Tennessee, pages 656-7, and the history of Tennessee, page 471.

For Ohio, the constitution was formed by a convention, under authority of Congress, November 29, 1802, as is shown by the Statutes at Large, vol. 2, pages 173, 201. She applied for admission January 7, 1803, as is shown by Senate Journal, vol. 3, page 251. She was admitted February 19, 1803, as I find in the Statutes at Large, vol. 2, page 201. The constitution was not submitted to the people, as I learn from Howe's Historical Collections of Ohio, page 16.

In Louisiana, the constitution was formed by a convention January 22, 1812, under authority of Congress of the date of February 10, 1811. I refer to the Statutes at Large, vol. 2, page 641. She was admitted April 8, 1812, and there is no evidence that the constitution was submitted to a vote of the people.

The constitution of Indiana was formed by a convention June 29, 1816, under authority of Congress as I find in the Statutes at Large, vol. 3, page 289. She was admitted December 11, 1816. I quote from the Statutes at Large, vol. 3, page 399. Her constitution was submitted to Congress June 10, 1817, as is shown by the House Journal, second session, Twenty-Fourth Congress, page 180. There is no evidence that the constitution was submitted to a vote of the people.

The constitution of Mississippi was formed by a convention August 15, 1817—I again refer to the Statutes at Large, vol. 3, page 472—under authority of Congress. (Statutes, vol. 3, page 348.) Her constitution was submitted to Congress December 4, 1817. She was admitted December 10, 1817, (Statutes at Large, vol. 3, page 472,) and there is no evidence that the constitution was submitted to a vote of the people.

The Constitution of Illinois was formed by a convention August 26, 1818, under authority of Congress—(see Statutes at Large, vol. 3, page 428;) submitted to the House of Representatives November 7, 1818, and admitted December 3, 1818. (Statutes, vol. 3, page 536.) There is no evidence that the constitution was submitted to a vote of the people.

The constitution of Alabama was formed by a convention, August 2, 1819, under authority of Congress, (Statutes at Large, vol. 3, page 489;) her constitution was submitted to the House of Representatives, December 6, 1819; and she was admitted, December 14, 1819, (Statutes at Large,

vol. 3, page 608.) There is no evidence that the constitution was submitted to the people.

The constitution of Maine was formed by a convention without authority of Congress, October 29, 1819. Her constitution was submitted to Congress, December 8, 1819, (see House Journal, first session Sixteenth Congress, pages 18-60,) and she was admitted, March 15, 1820. The constitution was submitted to a vote of the people, as I learn from Williamsen's History of Maine, vol. 2, page 674.

The constitution of Missouri was formed by a convention, 19th July, 1820, under authority of Congress, (Statutes at Large, vol. 3, page 545.) Her constitution was submitted November 16, 1820. One of my authorities is Mr. Lowndes's report, November 23, 1820, (American State Papers, "Miscellaneous," vol. 2, page 625.) The joint resolution admitting the State on a "certain condition," was approved March 2, 1821. The condition was accepted, and the State admitted by proclamation of the President, of August 10, 1821. There is no evidence that the constitution was submitted to a vote of the people.

The constitution of Michigan was formed by a convention under the authority of the ordinance of 1787, and without the authority of Congress. It was submitted to and ratified by the people, (see Lammon's History of Michigan, pages 241-243; also, Senate Documents 5 and 211, Twenty-Fourth Congress, first session, and Reports of Committees of House of Representatives, first session Twenty-Fourth Congress, 380.) She was admitted on the condition that she should amend her constitution so as to change her boundary, (Statutes at Large, vol. 5, page 49.)

The constitution of Arkansas was formed by a convention without authority of Congress. I refer to House Documents, Twenty-Fourth Congress, first session, No. 164; Niles's Register, vol. 49, page 243, for Attorney General's opinion; and for debates, to "Congressional Debates," vol. 12, parts 1 and 2. She was admitted with a constitution, by joint resolution, June 15, 1836. The constitution was not submitted to the people.

The constitution of Florida was formed by a convention without authority of Congress, and submitted to the people. (See House Doc. 208, Twenty-Fifth Congress, third session, and Statutes at Large, vol. 5, page 742.) She was admitted with a constitution, March 3, 1845.

The constitution of Wisconsin was formed by a convention under authority of Congress. (Statutes, vol. 9, page 56; and House Doc. 49, Twenty-Ninth Congress, second session.) She was admitted on certain conditions. (Statutes, vol. 9, page 178.) The constitution had not been submitted to the people previous to her application with a constitution. For debates see Congressional Globe and Appendix, Twenty-Ninth Congress, first and second sessions.

The constitution of Iowa was formed by a convention on the 18th May, 1846, without authority of Congress, and was submitted to the people. (See House Doc. 16, Twenty-Ninth Congress, second session, page 17.) She was admitted with her constitution, March 3, 1845.

The constitution of California was formed by a convention without authority of Congress, and it was submitted to and ratified by the people. (See Senate Mis. Doc. 68, page 14, Thirty-First Congress, first session.) She was admitted September 9, 1850.

I have thus, as briefly as I could, undertaken to show, first, that Kansas is, under the Louisiana treaty, under the law of Congress, under the Kansas-Nebraska act, under the special pledge of the Democratic party in the Cincinnati convention entitled to admission, having now a republican form of government; second, that the convention was legally and fairly called, sanctioned by the Federal authorities, acting in conformity with the territorial government, not in conflict, not in antagonism, not in opposition. Third, I have shown that the presumption is that the convention fairly and truly represented the people and reflected their will. On this point we have heard of broken pledges and violated promises. We have heard of vows that have not been fulfilled, but we have no evidence on the subject.

I heard the Senator from Illinois also make remarks here touching what would be the final result of the submission of the slave question; that he had no doubt "returns" would come in, inti-

mating that he believed frauds would be perpetrated. But eight months ago, who so loud, so forcible, and so eloquent as the Senator from Illinois in denouncing the party that had insinuated fraud! On what evidence is it that he would insinuate that frauds will be committed in the returns that are to come in when the question of slavery shall be submitted. I have no right to impute fraud. I never will impute fraud. Fraud is to be *proved*, not *presumed*. When the honorable gentleman occupied a place on the bench, if an attorney had made an argument like that, he would be ready almost to strike his name from the roll of attorneys. Is there any evidence, or are there any facts developed in this case which would justify him in inferring or presuming fraud? None that I have seen, and he does us injustice if he has it in his possession and retains it as a secret; it ought to be developed; it ought to come before the country in a tangible shape, for we are as much responsible for our action when that action depends on facts as the honorable Senator himself.

The legal presumption is, that the representative reflects the will of the represented. There is no evidence before us conflicting with that legal presumption. The election has not yet taken place. Is there any preparation for fraud? Have schemes been concocted, have plans been devised by which fraud is to be perpetrated in the voting upon that question? I will not believe it in advance of the fact itself. Is it for that reason the honorable Senator thinks this whole matter should be reversed, the whole subject thrown back, and a complete revival of the complication of difficulties that have beset us on our western border? Is it because of this *anticipated* fraud? I have shown it cannot be because of the want of an enabling act, for he has voted the other way in several instances. I have shown that it cannot be for the want of submitting the whole question to the people, because he has voted the other way in several other instances. I have shown that this convention was legally and constitutionally called. That he admits. I have shown that the legal presumption is, that they reflect the will of the people. Is there then any rebutting evidence? There is nothing else in the preceding part of the argument to justify his now separating from us, and, when we come to this bifurcated road, his taking the left hand. Is there any reason why he should do it on this simple, *anticipated* idea of fraud, on which there is no particle of evidence before us? No; the legal presumption still stands unassailed. The legal presumption is still potent enough to justify our action on it, and we must act on it.

In the next place, I have shown that the convention was under no obligation, imposed either by law or usage, to submit the constitution to a vote of the people. Further, I have shown, I think, that a majority of the States entered the Union with constitutions not previously submitted to the people. If Kansas has copied the example set by a majority of its elder sisters, surely nothing will be urged in complaint against Kansas because it did not follow the *minority*. It is true, I heard the Senator commending the rule, which he says is found in the Minnesota bill.

Here I will remark that, as far as I have examined the law—and I have examined every case I could—I find, from the beginning of the Government, in 1789, down to the present day, there never was a prerequisite, even where Congress passed an enabling act, that the result of the convention should be submitted to the people, save in the Minnesota bill. It was not in the Ohio bill; it was not in the Indiana bill, it was not in the Illinois bill; it was not in the Alabama bill; it was not in the Mississippi bill. The other States were formed on their own responsibility, without an enabling act. In none of those enabling acts—not even in the Wisconsin bill—was there a provision requiring the constitution to be submitted to the people. In no bill, save one, that ever passed Congress was any such provision contained. If the convention of the Territory of Kansas deemed it proper to copy the example which Congress had set, which a majority of sister States had set, I can see in this no cause of objection to Kansas at our hands.

Again, I have shown that the only question about which there is any controversy is separately submitted to a fair vote of the people. About this I have no doubt or controversy. The only

question that has been a bone of contention, that has been the cause of stirring up strife, that has been made the pretext for assaults on different sections of this Union—that one single, important question, is submitted to a fair vote of the people. What the result of that vote will be it is impossible for me to foretell. This much, however, I can with propriety say: If a majority of the people there are determined not to have African slaves, it would be folly, by any scheme, by any trick, to get up a constitution adverse to the will of the majority; and hence I am glad this slavery question is fairly submitted. Although I greatly prefer having no constitutional and no legal barriers, though I subscribe most heartily to the doctrine of climate, of production, and of vocation, and think it the only sound solution of this question within the limits of the Federal Union, still my opinion is not to be set up as dictatorial to influence others. It is but my individual property; I shall act upon it so far as I am able. As it is thus submitted, it is the only question of controversy. Who is it that complains of any provision in the Kansas constitution? and who is it that could complain of a provision in that constitution who did not have a fair opportunity to make it otherwise, if he is in the majority? and if he is in the minority, let him complain and gnash his teeth in vain. Minorities are expected to complain; but it is the duty of minorities to submit as gracefully as their feelings will permit. If they were the majority, they had the opportunity to make it otherwise. If they did not choose to exercise their right, it is their fault and their misfortune. If the majority have exercised their legal rights in an honorable, upright, and fair manner, they are not to be forced to give way to a factious minority.

I have also shown there is no legal objection, and no prudential consideration, to prevent the admission of Kansas. How, then, are we to act on this subject? Are we to go back and travel over the detail of circumstances that occurred in Kansas, so far as presented in the President's message? It is unnecessary, except so far as they bear on the fairness of this convention, the fair opportunity for the free expression of the will of the people. Whether the President's reasoning be right or wrong, let it pass. It ought to commend him for his patriotism, for his disinterested view, and for the sound conclusion at which he arrives. With this commendation, and with this support, whether he is right or wrong in saying the law requires the slave branch of this controverted matter to be submitted to a vote of the people, I shall not utter one word of complaint.

There is a still greater object in view than to look back at the past, and find fault with this or that proceeding which occurred in Kansas. This is the President's view. Practical men must take hold of subjects and act in a practical manner, to effectuate the most good in a constitutional and legal way. From all the investigation I have given to this subject, I am satisfied that the good of Kansas, the good, the peace, the prosperity of the whole Union will be affected more or less by the decision that we make on this Kansas question. If Congress keeps it open, if excitement is still to spread through the land, if a system of warfare is to be gotten up plunging the land in gloom, and perhaps reaching to the extreme of shedding human blood, the consequences will be on those who reopen the slave question, the Kansas question, the squatter sovereignty question, or any other question connected with the well-being of Kansas. If there be any question that can be fairly decided in Kansas, it is the slave question. I believe that it will be fairly decided there. I believe the constitution meets the approbation of a majority of the people of Kansas. In regard to that, I have no question or doubt, and my belief, founded on the slight sources of information I possess, is at least to be treated as a set-off to the fear of fraud, and the allegation of improper influences, on the part of the people of Kansas, as alleged by the Senator from Illinois.

Mr. President, I have thus given my views of this subject. I have elaborated no single point. It has been my purpose simply to show that there is no obstacle in the way, and that there are considerations why, in conformity with the past action of the country, we should admit Kansas at once. I believe she has acted as fairly as any

other Territory. I have stated the reason why I have given my view of the case. Whether the constitution will come up in the one shape or the other, is a subject about which I have no right to express an opinion. Whether it will come up at all, or not, I am not able to say, though I apprehend it will. I have only felt bound to meet the objections urged by the Senator, because I thought they would have a prejudicial effect upon the country, and an exceedingly prejudicial effect in Kansas, where an election is to be held on the 21st of this month. It is true little that I can say or little that others can say, will reach Kansas before the election; but, at least, both sides ought to be partially heard—heard enough, at least, to compare them together and see which is in conformity with the Federal Constitution, and which is in conformity with the law, which is in conformity with the practice of the Government. Whether I have succeeded in showing that the position I take is correct, is, of course, for others to determine.

Mr. BIGLER obtained the floor.

Mr. DOUGLAS. I trust I shall be permitted to say a few words in explanation.

Mr. BIGLER. I shall most cheerfully yield the floor to the Senator from Illinois, after a very few remarks. My object is to take the floor—not to speak to-day, but to move the postponement of this subject until Monday, unless some other Senator desires to speak to-morrow.

Mr. DOUGLAS. I will make the motion in the Senator's name, with that understanding.

Mr. BIGLER. That is satisfactory.

Mr. DOUGLAS. Mr. President, I have listened to the Senator from Missouri [Mr. GREEN] with unfeigned pleasure. There has been a fairness in his tone and in his line of argument which shows that he has been arguing from his convictions, with the view of stating what he conceives to be the true, sound aspect of this question. It is gratifying to me to hear the subject discussed in that spirit and tone before the Senate. I but do the Senator justice when I say that he has presented the question with marked ability and clearness; and I am inclined to think that the best view of the subject has been presented to-day which we shall have from the Senator's side.

I should not utter a word, but for the fact that the Senator has misapprehended my meaning and my position on one or two points, and I deem it due to myself to restate my views on those points, in order that he, the Senate, and the country, may see what the true position is. I acquit him of any intention to misstate; there was only a misconception. This may have been occasioned by my own fault, as I spoke rapidly, without preparation, and had no opportunity to revise the report of my speech. The Senator is under a misapprehension in supposing that I have assumed it to be a fatal objection to the admission of a State into this Union that there was no enabling act giving the consent of Congress in advance to the formation of a constitution. I took no such position.

The Senator is also mistaken in supposing that I took the ground that it was a fatal objection that the constitution was not submitted to the people before being sent to Congress for acceptance. I did not assume that position. My ground was this: the regular mode of proceeding is by an enabling act, and if the Territorial Legislature proceed to call a convention without first having the assent of Congress to do so, it is irregular, but not so irregular that it necessarily follows their constitution cannot be accepted. I argued and cited the opinion of the Attorney General in the Arkansas case, to show that, although a convention called by a Territorial Legislature without the previous assent of Congress, was irregular, yet it was not an unlawful assemblage, but was a body of men having a right to petition under the Constitution of the United States, and that having been assembled in convention, more force ought to be given to the mode of assemblage, but that it was not a constitutional body, authorized to institute government. In other words, I contended that a convention, constituted in obedience to an enabling act of Congress previously giving assent, is a constitutional body of men, with power and authority to institute government; but that a convention assembled under an act of the Territorial Legislature, without the assent of Congress previously given, has no authority to

institute government. It has power to petition; it may put its petition in the form of a constitution; and when it comes here we are at liberty to accept or reject that petition.

This was my position in regard to the effect of an enabling act. I then went on to show that, there having been no enabling act passed for Kansas, the Lecompton convention was irregular. I argued that it was not an unlawful assemblage, but might present a petition to us in the shape of a constitution, which we should be at liberty to accept or reject, as we pleased. It was a convention authorized to petition, but not to establish or institute government.

I was aware that in the history of this Government some new States had been admitted without the passage of an enabling act by Congress in the first instance. I must be permitted, however, to spoil the effect of one or two of the Senator's cases—those upon which he dwelt with the greatest pleasure and most satisfaction to himself. He tells us there was no enabling act for Michigan. If the Senator will look back into the history of Michigan, he will find that the authority existed under the old ordinance of 1787. That ordinance, which was the organic act of Michigan, provided that the Northwestern Territory should be divided into not less than three nor more than five States, and each of those States was, by the ordinance, authorized to be formed and admitted into the Union when it should have sixty thousand inhabitants. Thus an enabling act was incorporated into the ordinance of 1787 for the five northwestern States. This is the reason why it was not necessary that there should be an enabling act for Michigan, nor for Ohio, nor for Indiana, nor for Illinois, nor for Wisconsin.

Next, with regard to Tennessee. The Senator quotes the names of Washington and Jackson—names that raise a thrill of patriotic feeling in the bosom of every American when they are mentioned, and to whose example we should, of course, yield the tribute of our approbation. How was it with Tennessee? The Senator says it was the first new State admitted without an enabling act. Tennessee, when cut off from North Carolina and formed into a Territory known as the Southwestern Territory, was organized into a territorial government by an act of Congress, which extended to it all the provisions of the ordinance of 1787, except the slavery clause. Thus, the territorial organic act of Tennessee contained within itself an enabling act, declaring that the people of Tennessee should have authority to form a constitution and State government whenever the Territory should have sixty thousand inhabitants. Being thus authorized, the Legislature of Tennessee took steps to find out when they had the sixty thousand inhabitants. When they ascertained that fact by a census, they called a convention to form a constitution. When they applied to Congress for admission, President Washington, in that beautiful letter which the Senator read, referred to the fact that in the act organizing the Territory of Tennessee there was an enabling clause, guarantying to that Territory the right to come into the Union whenever it should have sixty thousand inhabitants. The Governor of the Territory having furnished the evidence showing that there were then sixty thousand inhabitants in Tennessee, according to the census, that people had a right to come into the Union on an equal footing with the original States. These facts dispose of the alleged example of Washington and Jackson, for they show that in the very case in which both acted, the assent of Congress had been previously given.

I am aware that in the Florida case and in other cases there was not an enabling act in the first instance. The rule upon which we acted was, that, although this was an irregularity, it might be waived or insisted upon according as we thought public policy and public duty required. I took that ground in my speech last week. I said further that, where an enabling act had been passed and a convention had been organized in the manner therein provided for, it was a constitutional convention empowered to institute government; and hence stood on a different footing. That distinction has been clearly taken, elaborated, and established by the Senator from Missouri in his speech. If he is right and I am right in this argument, it follows that the convention which met

at Lecompton and formed a constitution was not a body properly constituted and empowered to institute a government, for the reason that it had not the previous authority of Congress, but was merely an assemblage of citizens regularly collected for the purpose of petitioning for a change of government from a territorial to a State government, and when that petition comes here we shall be at liberty to accept it or to reject it—to dispose of it as we may see fit.

Again, sir; the action of the convention shows, in my judgment, clearly, that they took the same view of the subject; for I must still insist that the convention did not assume that they had a right to institute government by virtue of the power which they possessed, but only to frame a constitution to be submitted to the people, and go into operation when ratified. The Senator thought I was mistaken in this. Let us refer to the record and see which of us is mistaken. The sixteenth section of the schedule provides:

"This constitution shall take effect, and be in force, from and after its ratification by the people, as herein before provided."

If not ratified it is to be void; if ratified it is to take effect from that time, and by virtue of that ratification. This clearly shows that the convention did not claim to be a body empowered to institute government, but simply a body authorized to frame a constitution in the shape of a petition, and to pray for its acceptance by Congress. That was the distinction.

Again, in the seventh section of the schedule we find:

"Before this constitution shall be sent to Congress for admission into the Union, as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval as follows:

It then goes on to give the form of the vote, "constitution with slavery," or "constitution with no slavery;" but before it can be sent to Congress the schedule says it shall be submitted for approval or disapproval. Can it be said, in the face of this language, that the convention declared the constitution in force without submitting it to the people? Can it be said that the constitution can ever take effect, unless ratified by a vote of the people? If I can understand the plain meaning of language which appears to be unequivocal, it is not susceptible of doubt that the constitution is referred to the people for acceptance or rejection, and that whatever validity or vitality it is to have, will be received from the people's ratification. If I am right in this position it brings me back to the old point, that the submission is such as not to give an opportunity for a fair vote on the slavery or any other question.

I come next to the position which I assumed with reference to the submission of a constitution for ratification. I did not contend that a constitution might not, under any circumstances, be put in operation unless submitted to the people for ratification. I said before, and I say now, that the constitution must be the act and deed of the people of Kansas; it must embody the will of the people of Kansas; no constitution should be received by Congress, and none can fairly be considered republican which does not embody the will of the people who are to be governed by it, and is not formed by their act. Having assumed, as an essential fundamental principle, that the constitution must embody the will of the people, the next question is, what is the best and most appropriate mode of ascertaining that will? Upon that point I concur with the President of the United States in his message, that the best mode is to refer it to the people for their acceptance or rejection by a fair vote. The principle being that it shall embody the will of the people, its submission to a popular vote is only a means of ascertaining a fact, which fact, namely, that it embodies the will of the people, gives it vitality, and makes it an appropriate constitution. I regard the argument of the President of the United States in favor of that mode of ascertaining the people's will as conclusive. The President's argument is, that delegates represent districts, and a majority of the delegates may represent a minority of the people, in consequence of some being elected by large majorities and others by small majorities; hence the President says a delegate election is not a fair test, but you must refer it to a vote of the whole people in order to

ascertain the vital, the fundamental, the cardinal point whether or not the constitution is the embodiment of the will of the people. I advocate submission, as a means of ascertaining an end, not as a principle. I do not say that there could be no possible case in which I would not accept a constitution without its having been thus submitted. Suppose, for instance, a constitution had been formed by delegates, and there was not a murmur against it, not a protest, not the slightest reason to believe that anybody dissented from it, and the only question in dispute was the sufficiency of the population, I am not certain but that I should waive the irregularity, and take it for granted that such a constitution did embody the will of the people. If I should accept it on such terms, it would be because there was satisfactory evidence that it was the will of the people. That will embodied in the constitution is the cardinal principle which is, or should be, a *me qua non* in the establishment of governments for the admission of a new State.

This is the point of difference between the Senator from Missouri and myself. As he evidently misconceived my meaning on the matters to which I have referred, it has seemed to me to be due to him to restate my views, especially as he has treated the subject with a candor and courtesy that deserve to be followed and imitated. Certainly they will leave their impression on me in conducting discussions with him. I shall endeavor to profit by the example he has set this day in the mode of debate.

Mr. GREEN. I am somewhat surprised at the position taken by the honorable Senator from Illinois. He undertakes to prove that the State of Michigan was authorized to form a constitution by an enabling act, and this by a process of reasoning which I had not expected from him. He undertakes to prove it by the ordinance of 1787, which contained a provision that the Territory should be divided into not less than three and not more than five States. So far as this division is concerned, he is well aware of the fact that it has been violated. The Territory is made into more than five States; but does the ordinance give authority to the people of a Territory to form a constitution? Does it convey from Congress to the people authority to create a government? He says yes. Congress did not so consider when they passed an enabling act for Ohio. Congress did not so consider when they passed an enabling act for Indiana. Congress did not so consider when they passed an enabling act for Illinois, the gentleman's own State. Four out of the five States in the Northwest Territory formed their constitutions only after enabling acts had been passed by Congress.

But I propose to show that, if that process of reasoning be submitted to prove the existence of an enabling power to create a State government for Michigan, it exists in Kansas in all the perfection it ever possessed in Michigan. There was, says the Senator, an enabling act in the case of Michigan, because the ordinance of 1787 said the people, when they numbered sixty thousand, should be entitled to form a State government. Now the Louisiana treaty, by which the United States acquired Kansas, contains similar provisions, and the law of Congress, passed to give effect to that treaty when the United States took possession of the Territory, contains an express stipulation to that effect. The opinion of the Attorney General in relation to Arkansas, which the Senator read, is as follows:

"The treaty by which Louisiana was ceded to the United States, though undoubtedly, for many important purposes, a part of the supreme law, must, therefore, be laid out of the present question. It is true that the third article 'imposes on the United States, as a nation, the duty of incorporating the inhabitants of the ceded territory into the Union of the United States,' and of admitting them as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they are to be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess. And it must also be admitted that Congress, by the seventh section of the act of the 2d March, 1805, 'providing for the government of the Territory of Orleans,' have construed this article as pledging the faith of the United States to admit the inhabitants of Louisiana into the Union of the American States as an independent State, or States, and on the footing of the original States, whenever the proper number of free inhabitants shall be found therein."

Now, we have a treaty stipulation, which is the supreme law of the land, providing, prospect-

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ively, for the people of Kansas to form their constitution. We have a legislative construction by the Congress of the United States, guarantying that right to them. If the mere ordinance of 1787 conferred on the people of Michigan the power, (which is disproved by the acts of Congress in four cases out of the five in the Northwest Territory to which the ordinance of 1787 applied,) the same argument proves that an enabling act does exist for Kansas.

That is not all. The Senator said he referred to it for the purpose of taking away one of the instances to which I referred with so much gusto. I did refer to it with pleasure; but he fails to take it away; or, if he does, he supplies an enabling act for Kansas; and he may take his choice of the positions. If he does not take it away, the argument I before made stands unanswered. If he does take it away, he proves the existence of an enabling act for Kansas, which is the very question we are talking about. He may take either horn of the dilemma.

He says I misconstrued him; that he did not mean to say this, that, or the other, was conclusive why we should not admit Kansas. I did not, I hope, represent him as saying that either one of those objections was conclusive why we should not; but he urged them as objections to the admission of Kansas, and I answered his objections. He did not say in his chain of argument that the want of an enabling act was conclusive why Kansas must be rejected, but it was one of the links of the chain, and I thought it best to break each link, one at a time. I broke the link of an enabling act, or tried to do so. I broke the link of previous submission of the constitution to the people, or tried to do it, and, as a conclusive example, I instanced his own State, the constitution of which was not submitted to the people. I have shown by examples in the Government that a large majority of the State constitutions were never submitted to the people before they were admitted as States, and, hence, I am urging no new doctrine, I am propagating no new theories. We stand upon the practices of our republican fathers, and but follow in the footsteps of George Washington and Andrew Jackson.

But the Senator says, when Territories have no enabling act, and the constitution has not been submitted to the people, Congress may, or may not, admit them into the Union as States. I understand him as taking that position. Very well. There is no physical compulsion that can be brought to bear in any case to compel Congress to admit any State. There is a moral obligation, and that appeals to us. I hold that that moral obligation exists not only as strongly, but, perhaps, forty thousand times stronger, in regard to Kansas, than any State which has ever presented itself at our doors for admission. No armies could march to this Capitol, and compel Congress to admit Texas, California, Illinois, Missouri, or any other State. There is no physical compulsion on us to admit Kansas into this Union. There is no legal objection, there is no prudential consideration, why it should not be done. Is there not a moral obligation to do it? That is the question. That moral obligation exists as strongly in regard to Kansas, as it ever did in regard to Illinois; and if the constitution of Kansas has not been submitted, neither was the constitution of Illinois, neither was the constitution of Missouri; and I would be very unfair to Kansas if I sought to apply a rule and a principle to it that were not applied to my own State when it was admitted.

Missouri came and asked admission into this Union, having formed a State government in compliance with what gentlemen are pleased to call, in this latter day, an enabling act, which imparts, as I before remarked, no new power to the people. All it does is to give, in advance, the assent of Congress, which may be given subsequent to the formation of a constitution for admission. The one is as regular as the other; the one is as legal as the other, and the latter is the safer of the two; for, as the Senator admits,

and as I contended, if Congress give the assent in advance, that State stands as an independent State, in spite of the Federal Union, and nothing but physical power can ever bring her into the Union, except her voluntary action in conjunction with your voluntary action.

But again: the Senator thinks I misapprehended him in regard to the submission of the constitution. If I make any blunders, I will take great pleasure in correcting them. I undertook to show that the mere technical phraseology of this instrument was not the subject to be determined. It was its legal construction, and that we, as judges or statesmen, must pass sentence on its purport and meaning. What is its purport and meaning? That but one single subject is submitted for the consideration of the voters; that the whole subject was before them when they voted for the members of the convention; that if they stayed away, they stayed away in their own wrong; that they did their duty when they voted for members of the convention; that that convention was as legal and regular as any that ever sat in the whole limits of this Confederacy; and that this one question submitted to them is presented to them from a mere consideration of propriety and policy, and not from any legal compulsion whatsoever. This was my position.

Now, is the fair construction of this clause of the schedule in accordance with the position I take; or is it in accordance with the position assumed by the Senator from Illinois? The seventh section of the schedule says:

"That this constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission."

For that is the only *approving* they have to do—"of the State of Kansas as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State Legislature at the seat of government within thirty-one days after publication. Should any vacancy occur by death, resignation, or otherwise, in the Legislature or other office, he shall order an election to fill such vacancy: *Provided, however*, in case of refusal, absence, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties; and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention."

Then comes the section marked "eleven," which has reference to the mode of submitting to the people of Kansas whether they will have slavery in the constitution, or whether slavery shall be stricken out of the constitution. It is in this language:

"Before this constitution shall be sent to Congress."

It never takes effect until the admission of the State by Congress. Before it shall be sent to Congress certain things shall be done. The question on which I intended to correct the Senator was, that the constitution, as the constitution of a State government, never is to take effect unless Kansas be admitted by Congress into the Union.

"Before this constitution shall be sent to Congress for admission into the Union as a State, it shall be submitted."

What is to be passed upon? Let us see.

"—to all the white male inhabitants of this Territory for approval or disapproval, as follows:"

What is to be approved? It is submitted to them to be approved or not approved, on what point? Why, "as follows." What does follow:

"—The president of this convention shall, by proclamation, declare that on the 21st day of December, 1857, at the different election precincts now established by law, or which may be established, as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The president of this convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened at such places as they may deem proper in their respective counties, at which election the constitution framed by this convention shall be submitted."

How?

"To all the white male inhabitants of the Territory of

Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form."

The term "ratification" and the term "rejection" are both used, but to what had they reference? "For ratification or rejection in the following manner and form." It has reference to the only one thing submitted to them. What is that?

"The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks by them appointed. The ballots cast at said election shall be indorsed, 'constitution with slavery'."

Not "for constitution" and "for slavery." There is but one vote cast—not for two things. It is for one thing; the vote is cast "constitution with slavery," or on the other side, "constitution with no slavery." So that there is but one single point submitted to the people on which they can vote, or were intended to vote, by the mode in which this question was submitted. I remarked on the word "ratified," that it did not mean the whole constitution should be ratified and fixed and determined, but that the people were to fix, settle, and determine that which had not been fixed, settled, and determined, to wit; whether there should be a clause sanctioning slavery in the constitution or not. The last section is as follows:

"Sec. 16. This constitution shall take effect and be in force from and after its ratification by the people, as hereinbefore provided."

Its ratification means settling and determining, as before remarked; but it is to take effect "as hereinbefore provided." It is provided that it shall not take effect until Kansas has been admitted by Congress as one of the sovereign States of the Union. The people of Kansas have never proposed, and do not propose, in this constitution to erect a government in opposition to Federal authority. They have been pursuing Federal authority from the inception of their movements down to the present period of time. It met the sanction of the local government; it met the sanction of the executive power, and they have thus been acting in conformity with the Federal Government. When thus finished, it says it shall not go into operation until admitted as a sovereign State. Do they propose to elect Governors and judges, who are to be sworn into office and administer the government in opposition to the Federal Government? Do they assume the sovereignty of the Territory embraced within their boundaries? Nothing like that, whatever. We must not stop on a simple phrase or a single sentence, but take the whole scope of it together, and give it a fair construction; not the construction of a critic who is hunting for something to which to find objection, but a fair, reasonable construction; and that construction is in strict conformity with what I have before stated it to be.

When the Senator says he wants a constitution that will reflect the will of the people, I respond to him as heartily, and say I want no other kind of constitution. I must say, however, that when his bill says to the people of the Territory they may fix this constitution in their own way, and they have seen proper to take a way he did not approve, he has no power to supervise them; unless, indeed, he is prepared to trample under foot the very principles asserted in that bill.

I have also asserted, and again repeat, that the people can act as effectually, and completely, through delegates representing them in convention, as in any other way. Who in this Government would rise and say that the presumption is, not that the laws passed by Congress are approved by the States and the people? Who would rise and say the presumption is that the laws of the State Legislatures afford no intentment that they emanate from the people? It is subversive of the whole representative principle; it strikes at the foundation of republican government in this great Confederacy. Even if another way be preferred and be believed to be most in accordance with what Democracy requires, still it is for the Territory and not for the Federal Government to decide.

Mr. DOUGLAS. The Senator from Missouri

will not find an enabling act in the treaty with France. True, the treaty provides that the inhabitants of the territory ceded by France to the United States shall be admitted into the Union as soon as possible, according to the principles of the Federal Constitution—not when there shall be sixty thousand inhabitants, not when there shall be any particular number of inhabitants, but as soon as may be consistent with the principles of the Federal Constitution. Nor does it provide with what boundaries they should be admitted. We admitted the inhabitants of Louisiana, then those of Missouri, then those of Arkansas, then those of Iowa, until we had thus admitted all the inhabitants there were in the country acquired from France. There was waste country still left, but there was no time fixed by the treaty, no data laid down by which it could be determined when or how they should be admitted into the Union. Thus it has been reserved to Congress to determine when they may have the requisite population. It is for Congress to determine what shall be the boundaries. It is not for the people of a Territory to say authoritatively what boundaries they shall take. On the contrary, Congress has always reserved and insisted on the right of establishing the boundaries, and such is undoubtedly the case in the Kansas-Nebraska act.

Congress never intended that Kansas should necessarily have a right to come into the Union with her present boundaries; for the organic act expressly reserves to Congress the right to alter and divide the Territory, and attach parts of it to other Territories. In the enabling act which the Senate passed last year, we cut off about one third of the present Territory of Kansas, and provided for the admission of the remainder as a State. We never contemplated bringing her into the Union with the boundaries fixed by the organic act, and by the Lecompton constitution. Will it be contended that the Kansas-Nebraska bill contemplated bringing the whole of Nebraska into the Union as one State? Does that act authorize the people of Nebraska to form a constitution when they please, and to come into the Union with a territory eight times as large as New York? Certainly it was never the intention of that organic act to confer on the people of a Territory the authority of saying that they will come in when they please, with as few or as many inhabitants as they please, with such boundaries as they choose, absorbing the whole waste country of the United States, and making an empire instead of a State.

The meaning of the Kansas-Nebraska act was, that when the time should come for them to form a State government, they should be admitted into the Union with or without slavery, as their constitution might prescribe, and that they should be left perfectly free to decide on their local and domestic institutions for themselves; but there was no pledge, no authority given to them to form a State with the extended limits included within the Territory, nor to form a State at all until Congress should determine that they were authorized to form a State. It was for the very reason that the Kansas-Nebraska act did not contain an enabling provision that President Pierce, in his message at the first session of the last Congress, recommended to Congress to pass an enabling act authorizing the people of Kansas to form a constitution when they should have the requisite population. The President said:

"This, it seems to me, can be best accomplished by providing that, when the inhabitants of Kansas may desire it, and shall be of sufficient number to constitute a State, a convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution, and thus prepare, through regular and lawful means, for its admission into the Union as a State. I respectfully recommend the enactment of a law to that effect."

This message proves that, in the estimation of President Pierce and his administration, in the beginning of 1856, the time had not then arrived for the admission of Kansas, because she had not the requisite population, and also that an enabling act was necessary to give her authority to proceed to form a constitution and State government. Now, sir, let us see how the Committee on Territories of the Senate that year understood it. Here is the response of the committee to the President's message:

"In compliance with the first recommendation, your committee ask leave to report a bill authorizing the Legis-

lature of the Territory to provide by law for the election of delegates by the people, and the assembling of a convention to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States, so soon as it shall appear, by a census to be taken under the direction of the Governor, by the authority of the Legislature, that the Territory contains ninety-three thousand four hundred and twenty inhabitants—that being the number required by the present ratio of representation for a member of Congress."

Thus, the Committee on Territories in 1856 responded to the recommendation of President Pierce, and the Senate responded to the report by passing through the body a bill authorizing the people of Kansas to form a constitution and State government. This shows that I am not the only man who construes the Nebraska bill to mean that an enabling act is necessary before the right of admission into the Union becomes complete. I show you that the President of the United States, who approved the bill, the President who made it an administration measure, so understood it at the time, and so declared in his message. I show you that the Committee on Territories which drafted the Nebraska bill, so understood it at that time. I show you that the same Senate which passed the Nebraska bill by the votes of the identical Senators who passed that bill, thus construed it at the time.

It is too late now to say that neither the President who signed the Nebraska bill, nor the committee who reported it, nor the Democratic Senate who passed it, understood it. The evidence can be accumulated mountain high, that it was the true intent and meaning of the act, as we expounded it at the time, that the people should be left free to form their institutions in their own way up to the last moment of admission—not slavery only, but all local and domestic institutions in contradistinction to Federal or national institutions. They have as much right to vote on the banking system, the judiciary system, the taxation system, the school system, as they have to vote on the slavery question.

The Senator tells us that the Nebraska bill meant only the slavery question, because we here felt no interest in anything else. It may be that the people of Missouri felt no interest in anything else. It may be that the people of Illinois felt no special interest about the banking system or school system of Kansas. It may be that the people of Virginia did not care what sort of a taxing system Kansas might have; but does it follow that the people of Kansas did not care? The people of Kansas had an interest in the taxation system, in the school system, in the banking system, in the judiciary system, in the elective franchise. These local and domestic institutions were everything to them. We did not care about them. Why? Because they were none of our business.

The Senator says that I ought not to refer to these questions, because I have no right to a voice in them. True, I have no right to a voice in their local institutions, but the people of Kansas have; and it is my duty to see that they have a free and untrammelled expression of that voice upon all their institutions. I deny that you have a republican constitution unless that is done. A constitution forced on a people against their will is not a republican constitution within the spirit of our institutions. It is no argument to say that this constitution is an excellent one. You have no right to cram a good thing down the throats of the people of Kansas against their will. It strikes at the fundamental principles of liberty. This question between us is radical. It is whether that people shall be permitted to form their own constitution, and whether the constitution under which they are to live shall embody their will or not. It is not a matter of form whether the constitution shall be submitted to them. That is but one mode of obtaining the evidence of the fact of their will. The President says it is the best mode, and I agree with him, the principle being that their will is the great essential *sine qua non* before you can bring them into the Union as a State.

Then, Mr. President, the simple question comes back, shall that people have the authority to form and regulate their institutions to suit themselves? The Senator says we may admit them if we see proper, and ought to do so, in order to terminate the controversy. Sir, I will do anything that is right, anything that is just, in order to terminate this controversy. No man living is so anxious for its termination as I am. I will sacrifice everything but principle and honor, and my country,

in order to close this controversy. But how are you to close it? You must close it on principles of eternal justice and truth, or it will not stay closed. You must terminate it on the principle of self-government, or the constitution under which the people are to live is not republican. No patching up, no system of trickery by which the majority are cheated by the minority, will settle this question. Instead of producing peace, that will only be the beginning of undue controversy. When the broad fact stands admitted before the world that this constitution is the act of a minority, and not of the majority, the injustice becomes the more manifest and the more monstrous. The only reason for not submitting the constitution fairly is, that it would be voted down if it were submitted. This is an admission that it is the act of a minority, not of a majority. Do you expect that you will restore peace and quiet to the country by forcing upon a people a constitution which does not embody their will? I tell you that you will have to avail yourselves of the recommendations of the message to increase the Army, and to use the military power of this country if the majority is to be subjected to the oppression of a minority. I trust there will be no outbreak, no violence. I will use every influence, by counsel and exertion, to insure submission; but I fear the result if you shall use power to coerce a majority of four fifths into subjection to a minority of one fifth.

But, sir, we are told that they ought to submit, because they can easily get rid of this constitution. The President says they may change it immediately after their admission. Ah! how is that? The constitution formed at Lecompton, provides that it may be changed after the year 1864, by a convention called by two thirds of the Legislature. I hold it to be a principle of law, that when a constitution provides for its own change at a particular time and in a particular manner, that excludes all other times and all other modes. I undertake to say that any court in Christendom would thus construe this constitution. When it says that it may be amended at one time, it excludes all other times. When it says it may be amended in one mode, it excludes all other modes. Will you tell me that the Constitution of the United States can be changed by a town meeting, or a mass meeting, or in any other mode than that pointed out in the instrument itself? No, sir! There is no constitutional mode by which this constitution of Kansas, if once in force, can be changed before 1864. There is another mode—a revolutionary mode. It is by the Legislature first coming together, taking an oath to support the constitution, and then proceed to call a convention to change it, in violation of the constitution and of the oath. Suppose they should do this, and the convention thus called should make a constitution and establish a new government, and the old government should refuse to surrender the possession, who would be Governor—the one elected under the old constitution or the new? You would have two governments in operation at the same time, one under the old and the other under the new constitution, and you would call on the Army to decide between them.

The scheme is a scheme of civil war. It leads directly to war. If I ever voted for it, I should expect to vote also for an increase of the Army, and for supplies to the Army, to enforce it at the point of the bayonet. It means violence, or it means the subjection of the majority to the minority. I beseech Senators to pause before they commit themselves to so fatal a step. I beseech all to pause and see whether this is right or wrong, for on this matter we are free from party ties. The Senator from Missouri and myself agree that the President has not made it an Administration measure. We agree that he has not recommended it in his message. We agree, therefore, that every man on this floor is at liberty to go for or against it without changing his party ties or affecting his party relations. Why, then, can we not stop and pause before we rush on to a step that not only rends asunder the Democratic party, but threatens the peace and perpetuity of the Union itself.

It will not do to tell me that the President is in favor of it. Sir, I believe the President to be a frank, a bold, an honest man. I will not believe that he will make any measure a party one which he does not recommend in his message. I will not believe that he would ask his party to go for

a measure to which he would not commit himself on paper. I will not believe that he wishes us to run our necks into the halter of disunion and civil war before he takes the lead and points the way. The absence of a recommendation in the message shows that no man can, consistently with the President's dignity of character, assert that he is in favor of this measure. Then I say, let us restore peace to the country by ignoring the irregular convention at Lecompton, by ignoring that irregular convention at Topeka, by passing an enabling act in proper form, authorizing the people to form a constitution and State government for themselves. Such an act will restore peace to the country in ninety days. In fact, the day you pass it everything will be quiet in Kansas.

The people of Kansas will then see that Congress is going to carry out in good faith the principle of self-government. They will see that Congress is going to allow them to have slavery, if they want it, and to prohibit it if they do not want it. They will see that Congress is going to allow them to make their own constitution and laws in their own way. The moment they discover that impartiality is to prevail, and justice is to be carried out, they will be content; all will be quiet; there will be peace at the North, peace at the South, peace in the Democratic party, peace throughout the whole country. I trust that we shall discuss this question in calmness, in good humor, and in a kind and respectful spirit, as we have discussed it to-day.

Mr. GREEN. I do not propose to notice the exhortation of the honorable Senator. It is only his argument and the points of difference between us that deserve investigation, and to them I shall direct my attention. He mistakes entirely when he assumes that I admitted that the slavery branch of this controversy must, of necessity, under the law, be submitted to the people. I said just the contrary. I said it was a question with the convention of the people of Kansas Territory. They were under no responsibility or obligation, legal or otherwise, to submit any branch of the result of their labors to a subsequent vote of the people at the polls; but I remarked that if they saw proper, if they deemed it a matter of propriety to submit that question, as it had been a matter of controversy, there was more propriety in submitting it as a separate question, for that was the only way to submit it in order to get a fair decision of that question and nothing else. That was my position.

But the Senator says that four fifths of the people there are against the constitution. He assumes this; he has no evidence of it; and I doubt his right to make the charge in the Senate. He says that the only reason why the convention did not submit the constitution to the people, was because they said it would be voted down. Some individual may have said so. I do not believe it myself. I believe that it meets the approbation of a large majority of the people of Kansas Territory. All these charges are only so many pretexts gotten up for ulterior purposes, to keep up that speculation and that fanaticism to which the Senator, with his influence, makes himself an unwilling coadjutor; for I know he does not aim at that.

When he says that no people ought to have a constitution forced down their throats, and that when a majority are not in favor of it, that it is not republican, he utters a truism that nobody denies; and he must not expect to lead me from the real points between us, by any such assertions. If the non-submission of the constitution to the people of Kansas is forcing down their throats a constitution which they do not want, and if it be anti-republican, then Illinois came into the Union anti-republican, with a constitution forced down the throats of her people.

I refer to that for the purpose of proving the fallacy of his argument. It does not follow because the people have not voted on a question forty times that they have not been heard. They voted on it when they elected members to represent them in convention. How often would you have them repeat it? If this constitution was submitted to them now, perhaps they would raise the same objection again, and we should hear the Senator say, "do not force this down the throats of the people of Kansas;" and so it would go on *ad infinitum*, with no limit. The true

policy of this Government has been, as I hold, to adhere to the legal presumptions. The legal presumptions are that the people speak and act on all such questions when they form their convention and shape the constitution; and the people may instruct their convention as they deem best; and even if they violate their instructions, the Senator from Illinois cannot step in between a representative and his constituents. It is still a question between them. We cannot interpose.

I had thought that non-intervention was to be the principle of action on the part of Congress, and that the Senate would not intervene. Will the Senator set himself up as a judge whether Mr. Calhoun, or any other member of the convention, did right or wrong? To his own masters he is responsible, and by their verdict he stands or falls. His constituency constitute the master, and not the Senate of the United States. Why shall we therefore review it? Why shall we call it in question? They have had every submission of the question that a majority of the States of the Union have had, and now to say, that, because they have not had more, it is anti-republican, coercive, forcing it down their throats, is to say that a majority of the States have been thus tyrannically dealt with—one of which States the Senator represents, another I represent, and another, the honorable Senator from Vermont [Mr. COLLAMER] represents, and another of them is the State of Florida.

So I might name more than seventeen out of the thirty-one States which never had a vote on their constitutions before they were admitted into the Union. Are they republican? Yes. Were they submitted to the people? Yes; but the people in those cases spoke through their representatives. Had the people of Kansas the same opportunity to speak through their representatives? Yes. Was the convention in Kansas as legal as it was in Illinois? Yes. Was it as regular—as it was fair? Was the qualification of voters as just and as reasonable? Yes. Wherefore, then, will Congress apply a rule in the one case that was not applied in the other? Wherefore will you assume that one is anti-republican and the other republican? that the one is a coerced measure, forced down the throats of the people, and the other perfectly fair, and just, and popular? No, Mr. President, it is a mere assumption.

More than that, when the gentleman says that the people ought to rule, there is not a Senator in this Chamber who dissents; but it is of no use to dwell on points of perfect agreement. Let us come to the points of difference. Do the people act through the convention, or is it possible that the people can act in no way except by mass meeting? It may be that the people of Kansas did not wish to undergo the expense, and excitement, and danger, and tumult, of an election. Ten thousand considerations may have entered into it, and we have every presumption that the people were as fairly heard and as fairly represented as in any other convention that ever sat in this Federal Union.

Such being the case, I hold that I have more legal evidence that this is the people's work, that this is the people's constitution, than he has to assume that four fifths of the people would vote it down. His is a mere assertion; mine is a legal presumption. Mine is in accordance with the principles of law, with the usage of constitutional representative government; his is the opposite in every particular. Judge ye, then, between us, whether I defend the people, constitutionally, justly, fairly, or whether I seek to trample down the voice of the people. The Governor of Kansas Territory told them "you ought to vote; if you have got the numbers, control it." If they had the numbers, is it not reasonable to suppose they would have voted? Knowing they did not have the numbers, they wanted to keep up a pretext for a revolutionary and insurrectionary measure, and that insurrectionary, rebellious portion of Kansas is to be reckoned as four fifths of the people of that Territory.

More than that, sir, the people of Kansas have this question submitted to them as a matter of propriety, not a matter of necessity, not a matter of compulsion. Kansas can come into the Union as a majority of the States have come in. Kansas has a republican form of government. As to the questions of boundary and of numbers, why bring them up at this late period of the discussion?

On Wednesday last, when I thought the ingenious mind of the Senator had scanned the whole question from the beginning to the end, and had hunted up all the objections he deemed tangible and worthy of consideration, he said not one word as to the boundary of Kansas; he said not one word as to the numbers of Kansas. Wherefore, then, refer to it now? To lead me from the point under consideration? No; but because, I suppose, he wished to name certain matters which Congress might consider if they deemed it proper to consider them. Nobody controverts that. This is not an attempt on the part of the Administration or of its friends to coerce the people. It is, however, an attempt on our part to sustain the will of the people. That will has been fairly and legally expressed. We have all the presumptions in that way, and we have none whatever against it.

But the honorable Senator brings out another objection. True, he does not claim the right to supervise the proceedings of the convention; but he is very fond of naming defects that the people ought to have an opportunity to pass upon; and, amongst others that he names, is the mode of amending the constitution. All I have to say is, that the Senator is mistaken. In all the sovereign, independent States in this Government, the people being organized—the people being political communities—there are two ways for the State to make a change. One is for the State, as a government, to make a change of its form of government. Its government is composed of its officers—a Senate, House of Representatives, Governor, and so on. The constitution generally points out a method by which the government may effect a change in the constitution. There is also an original power of change behind, superior to and overtowering that by which the people may call a convention, and this convention, acting in conformity with the constituted authorities, may be called regularly, as was that of Kansas, and form a constitution and adopt it themselves, or submit it as they please to the people.

Now, let us take the case of Kansas and exemplify. Four fifths of the people, says the Senator, are on his side. In other words, four fifths of them are opposed to the constitution. In the very first Legislature that meets there will be four fifths of the Senate and House, and the whole of the Governor, in favor of a convention. Four fifths of both Houses, and the whole Governor—because we cannot parcel him out—will pass a law calling a convention. They will make just such a constitution as they please, and four fifths of the people will ratify it, if you will have it submitted for a vote; and after that, those four fifths will elect another Governor, another House of Representatives, another Senate, and fill all the offices of State. I do not apprehend any conflict of authority. This thing has been done ten thousand times, to speak by mere way of hyperbole; it has been done an indefinite number of times. The question in the Rhode Island case was entirely different from this. It was there the people acting in opposition to the government. The initiative steps for a change of government were not taken by the government itself, and of that there was complaint. I do not pretend to go into the question whether that was rightful or wrongful. I have about enough points to consider now without lugging in unnecessary ones. I do say, however, that it has never been held, and will not be held by the Senator himself when he reflects on it, that if four fifths of the people of Kansas desire to change their constitution they cannot do it in three months if they please.

Mr. DOUGLAS. By revolution.

Mr. GREEN. A revolution instituted by the government itself, conducted by the government itself, a change effected in such a manner as does not conflict with the government. It was done in the Senator's own State. Was that revolution?

Mr. DOUGLAS. It was done in conformity with the constitution there, not in opposition to it.

Mr. GREEN. There is one part of the constitution of Kansas which is worthy of being considered, for it bears on this subject.

"All political power"—

Say the people of Kansas, speaking through their convention—

"is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and

indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

That is a part of the constitution of Kansas. Surely, therefore, the regular government of Kansas can institute a proceeding which will result in the exercise of those inalienable and indefeasible rights in perfect and entire reformation of the constitution. There is no question on this point; there is no difficulty in it. It is a very little thing brought in as a makeweight.

Mr. DOUGLAS. At the desire of the Senator from Pennsylvania, [Mr. BIGLER,] I renew the motion to postpone the further consideration of this question until Monday next.

The motion was agreed to.

On motion of Mr. JONES, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 16, 1857.

The House met at twelve o'clock, m., in the new Hall of Representatives in the south wing of the Capitol extension.

Rev. ANDREW G. CAROTHERS, pastor of the Assembly's Church of Washington City, offered up the following prayer:

Glorious and Eternal Jehovah! The Supreme Governor of the Universe, we bow before thy throne. We most humbly beseech thee to regard with thy favor all who are in authority, the President and the Vice President of the United States, the Senators and Representatives in Congress assembled, the Presiding Officer of this House, and all who are intrusted with executive, legislative, and judicial responsibilities. May this Hall, now dedicated by thy servants, the Representatives of the people, as the place wherein the political and constitutional rights of our countrymen shall ever be maintained and defended, be a temple of honor and glory to this land. Let the deliberations and decisions of this Congress advance the best interests of our Government, and make our nation the praise of the whole earth, for Christ's sake. The grace of the Lord Jesus Christ, and the love of God and the communion of the Holy Spirit be with you all. Amen.

The Journal of yesterday was read and approved.

REFERENCE OF A BILL.

The SPEAKER stated that the business first in order was the reference of the bill introduced by the gentleman from Vermont, [Mr. MORRILL,] donating public land to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts. The amendment of the gentleman from Virginia [Mr. LETCHER] to refer said bill to the Committee on Public Lands was agreed to yesterday, and the question now recurred on the motion to refer as amended.

The motion as amended was agreed to; and the bill was accordingly referred to the Committee on Public Lands.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the accounts of the Treasurer of the United States for the third and fourth quarters of 1856, and the first and second quarters of 1857; which were laid upon the table, and ordered to be printed.

Also, a report from the Comptroller of the Treasury, showing the balances which were due for more than three years prior to the 1st of July last upon the books of the Second, Third, Fourth, and Fifth Auditors of the Treasury; which was laid upon the table, and ordered to be printed.

CHAPLAINS TO CONGRESS.

The SPEAKER, also by unanimous consent, laid before the House the following communications from the clergy of the District of Columbia:

WASHINGTON, December 15, 1857.

SIR: The paper herewith inclosed contains a list of the names of clergymen present at a meeting called to-day, to consider the resolutions passed by the Senate and House of Representatives regarding the chaplaincy. In pursuance of a resolution passed at that meeting, other names may be reported to the undersigned to be added to this list.

I have the honor to be, respectfully, your obedient servant,
GEORGE W. SAMSON.

To the Hon. the Speaker of the House of Representatives.

WASHINGTON, December 15, 1857.

The undersigned, clergymen of the District of Columbia, in response to the resolutions recently passed by the House,

inviting them to open with prayer the daily sessions of the House of Representatives, hereby respectfully tender their services for that purpose.

Rev. D. BALL, Methodist Episcopal.

" R. T. BITTINGER, Presbyterian.

" T. H. BOGOCK, D. D., Presbyterian.

" B. N. BROWN, Methodist Episcopal.

" J. G. BUTLER, English Lutheran.

" A. G. CAROTHERS, Presbyterian.

" W. H. CHAPMAN, Methodist Episcopal.

" G. D. CUMMINS, D. D., Protestant Episcopal.

" G. S. DEAL, Methodist Episcopal.

" S. D. FINCKEL, German Lutheran.

" JABEZ FOX, New Jerusalem Church.

" J. C. GRANBERY, Methodist Episcopal.

" P. D. GURLEY, D. D., Presbyterian.

" C. H. HALL, Protestant Episcopal.

" W. A. HARRIS, Protestant Episcopal.

" J. A. HARROLD, Protestant Episcopal.

" T. N. HASKELL, Presbyterian.

" S. P. HILL, D. D., Baptist.

" A. HOLMEAD, Protestant Episcopal.

" E. KINGSFORD, D. D., Baptist.

" WILLIAM KREBS, Methodist Episcopal.

" JOHN LANAHAN, Methodist Episcopal.

" J. MORSELL, Protestant Episcopal.

" J. J. MURRAY, D. D., Methodist Protestant.

" SMITH PYNE, D. D., Protestant Episcopal.

" SAMUEL REGISTER, Methodist Episcopal.

" SAMUEL ROGERS, Methodist Episcopal.

" G. W. SAMSON, Baptist.

" H. N. SIPES, Methodist Episcopal.

" B. SUNDERLAND, D. D., Presbyterian.

" F. SWENTZEL, M. D., Methodist Protestant.

" SEPTIMUS TUSTIN, Presbyterian.

The SPEAKER then stated that resolutions were in order from the State of Vermont.

NEBRASKA CONTESTED ELECTION.

Mr. QUITMAN. On yesterday an order was made for the printing of some documents relating to the contested election from Nebraska. I now ask leave to have referred to the Committee of Elections, and printed, together with the accompanying documents, the memorial of Bird B. Chapman, contesting the seat of FENNER FERGUSON, the sitting Delegate from the Territory of Nebraska.

There being no objection, the papers were referred to the Committee of Elections, and ordered to be printed.

DRAWING FOR SEATS.

Mr. CLEMENS obtained the floor.

Mr. WARREN. I rise to what I believe to be a privileged question. The House having moved into the new Hall, it strikes me that the first thing that ought to be attended to is the passage of a resolution similar to the one adopted in the old Hall, providing for the drawing for seats.

Mr. CLEMENS. I have obtained the floor for that purpose. I offer the following resolution, and demand the previous question upon it:

Resolved, That the Clerk of the House immediately after the passage of this resolution, place in a box, the name of each Member and Delegate of the House of Representatives, written on a separate slip of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said slips of paper, and as each is drawn he shall announce the name of the Member or Delegate upon it, who shall choose his seat for the present session: *Provided*, That before said drawing shall commence, the Speaker shall cause every seat to be vacated and shall see that every seat continues vacant until it is selected under this order; and that every seat after having been selected shall be deemed to be vacant, if left unoccupied before the calling of the roll is finished.

Mr. SMITH, of Virginia. I ask my colleague to allow me to offer an amendment. We have nowhere to retire to.

Mr. CLEMENS. I withdraw the demand for the previous question, for the purpose of hearing what the amendment is.

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. CLEMENS. I will hear the amendment read.

The SPEAKER. If there be no objection the amendment will be read.

Mr. BURNETT. I object to the gentleman withdrawing the previous question to hear an amendment. I desire that it shall be withdrawn entirely, so that we may all offer amendments.

Mr. RUFFIN. I feel it to be my duty to object to the reading of the amendment. The usual resolution has been offered, and I think it is quite sufficient.

Mr. SMITH, of Virginia. I ask my colleague to withdraw the call for the previous question. I will renew it.

Mr. CLEMENS. I am disposed to extend every courtesy to my colleague, but I must insist on the demand for the previous question.

Mr. SMITH, of Virginia. My amendment is really an improvement.

Mr. CLEMENS. I must insist on the demand for the previous question.

Mr. SMITH, of Virginia. We are in a new Hall, and although I have no right to make any remarks—

[Loud cries of "Order!"]

The SPEAKER. Debate is not in order, and the Chair is required on the right, and on the left, to enforce order. The gentleman cannot debate the question so long as the previous question is pending.

Mr. SMITH, of Virginia. I rise for information. If there be a second, what will then be the condition of the question?

The SPEAKER. If the main question be ordered, the question will be on agreeing to the resolution.

Mr. SMITH, of Virginia. Well, sir, can I call the yeas and nays upon the second?

The SPEAKER. Not upon seconding the demand for the previous question.

Mr. JONES, of Tennessee. I would inquire if the resolution is before the House?

The SPEAKER. It is, properly, before the House.

Mr. JONES, of Tennessee. Then I move to lay it upon the table.

The motion was not agreed to.

The previous question was then seconded, and the main question ordered.

Mr. SMITH, of Virginia, demanded the yeas and nays on agreeing to the resolution.

The yeas and nays were not ordered.

The resolution was agreed to.

Mr. CLEMENS moved that the vote by which the resolution was adopted be reconsidered; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The House then proceeded to execute the order of the resolution. The members retired from their seats to the open spaces in the Hall, and the names of all being placed in a box, they were drawn singly by a page, and the members, as their names were thus drawn, selected their seats.

PRIVILEGES OF CHAPLAINS.

Mr. CAMPBELL. I ask the unanimous consent of the House to submit the following joint resolution, to which, I presume, there will be no objection:

Resolved by the Senate and House of Representatives of the United States, That the clergymen of the city of Washington who may officiate as Chaplains to the Senate and House of Representatives, shall be admitted to the library of Congress, with the same privileges that are allowed to the members of the two Houses.

The joint resolution was read a first and second time. It was then ordered to be engrossed and read a third time.

Mr. SEWARD. Is the resolution amendable?

The SPEAKER. No, sir; the House has ordered the resolution to be engrossed and read a third time.

Mr. SEWARD. I wanted to have the resolution amended so as to extend the same privilege to all the ministers of the United States.

The joint resolution being engrossed, was read the third time.

Mr. BURNETT. I want, if it be in order, to move to refer this resolution to the Committee on the Library.

The SPEAKER. It is not in order at this stage of the proceedings. It might have been in order before the resolution was ordered to be engrossed.

The question was taken; and the joint resolution was adopted.

Mr. CAMPBELL moved to reconsider the vote by which the joint resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

REGULAR ORDER OF BUSINESS.

Mr. TAYLOR, of New York, asked the unanimous consent of the House to introduce a joint resolution.

Mr. LETCHER. I object, and call for the regular order of business. Let us take things in order, and we will get along faster.

REPORT OF BILLS AND ESTIMATES.

Mr. J. GLANCY JONES, by unanimous consent, reported from the Committee of Ways and Means a bill making appropriations for the payment of invalid and other pensions of the United

States for the year ending 30th June, 1859; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. J. GLANCY JONES also asked and obtained the unanimous consent of the House to have the estimates and the report of the Secretary of the Treasury taken from the table and referred to the Committee of Ways and Means.

ADDITIONAL PAGES.

Mr. SAVAGE asked the unanimous consent of the House to introduce a resolution for the appointment of additional pages.

Objection was made.

CONTESTED ELECTIONS.

Mr. STEWART, of Maryland. I rise to a question of privilege. I have been requested by Mr. Henry P. Brooks, of the city of Baltimore, to present to this House a memorial, contesting the right to a seat of the Hon. HENRY WINTER DAVIS, from the fourth district of the State of Maryland. I have thought proper to apprise my colleague [Mr. DAVIS] of my intention to avail myself of the first opportunity, this morning, to present the memorial. I take the occasion, further, to state that Mr. Brooks charges that there was not a fair opportunity at Baltimore to exercise the right of suffrage. Whenever any of these contested-election cases come up I shall be prepared judicially to take such action as the merits of the case may deserve, without regard at all to the political affinities or sentiments of those who may be involved. I ask that the memorial may be referred to the Committee of Elections, and be printed.

It was so ordered.

Mr. BOWIE. I rise for a similar purpose. I rise for the purpose of presenting the petition of William Pinckney Whyte to vacate the seat of J. MORRISON HARRIS, and to ask that it may be referred to the Committee of Elections, and ordered to be printed.

It was so ordered.

PRINTING OF THE PRESIDENT'S MESSAGE.

Mr. SMITH, of Tennessee, from the Committee on Printing, to which was referred the resolution in reference to printing an extra number of copies of the President's message and accompanying documents, presented the following report:

The Joint Committee on Printing on the part of the House, to which it was referred to inquire into the expediency of printing twenty thousand extra copies of the President's message and accompanying documents, report: first, that the number proposed is in accordance with the usage of the House in printing the said document. Your committee therefore report the following resolution:

Resolved, That there be printed for the use of the members of the House of Representatives, twenty thousand extra copies of the President's annual message and accompanying documents.

Mr. SMITH, of Tennessee. I move the previous question on the adoption of the resolution.

Mr. COX. I ask the gentleman from Tennessee to withdraw the call for the previous question, that I may have the privilege of addressing the House for a few moments on this matter of the President's message.

Mr. SMITH, of Tennessee. Very well; if it be only for a moment I have no objection.

Mr. COX. I do not wish, on the present occasion, to detain the House with regard to the general business of the country; but there are some matters connected with the President's message about which I would like to say a few words on the motion which is before the House.

Mr. BOCOCK. I rise to a question of order. The gentleman has no right to go into a general discussion upon the motion which has been submitted by the gentleman from Tennessee.

The SPEAKER. It is not in order for the gentleman to discuss the President's message.

Mr. COX. I think I can bring my remarks within the rule of order.

Mr. MARSHALL, of Kentucky. Do I understand the Chair to decide that a motion to print is not debatable?

The SPEAKER. The Chair is of opinion, upon further consideration, that the motion opens up the whole question to debate.

Mr. COX. Then I wish to say that, while I concur most heartily in the message of the President in almost every particular—

Mr. HUGHES. I rise to a question of order.

I shall, for one, object to this general farming out of the floor in this House by the withdrawal of the demand for the previous question, upon condition that it shall be renewed by the member for whose benefit it is withdrawn. But if the practice is to be kept up, if such bargains are to be tolerated, then I insist that the contract shall be strictly executed. Now, the gentleman from Ohio [Mr. Cox] appealed to the gentleman from Tennessee [Mr. Smith] to withdraw the demand for the previous question. The gentleman from Tennessee, if I understood him correctly, consented to do so on the condition that the gentleman from Ohio should renew the demand after occupying the floor for a moment. Now, if that is the contract between the two parties, and the House intend to tolerate such contracts, my point of order is, that these contracts shall be strictly executed; and that, under the contract entered into by the gentleman from Ohio, he shall not be permitted to enter into a general discussion upon the merits of the President's message.

The SPEAKER. The Chair can recognize no contracts between members of the House in respect to the occupation of the floor.

Mr. COX. Mr. Speaker, I need not say how heartily I concur with the message of the President, in almost every regard. Upon the questions of finance he shows a far-sighted economy, which will find its ready approbation in the judgment of the country. In relation to that "twin relic of barbarism"—Utah—he deals with its enormities in such a way as to give earnest of a policy which will assert the supremacy of decency and civilization, while the supreme power of the Republic will be vindicated. In our foreign affairs, in which his tact and statesmanship have been so conspicuously exercised at home and abroad, he may still be proclaimed the great pacificator. That policy of peace under which our nation has thriven beyond all the marvels of time, is still uppermost in his desires.

Mr. QUITMAN. I call the gentleman to order. My point of order is, that the gentleman cannot discuss the merits of the message on a motion to print.

The SPEAKER. The Chair is of opinion that the motion to print opens the merits of the President's message.

Mr. JONES, of Tennessee. I would suggest another point of order. This is not a motion to print the message. The House has heretofore made the order to print. This is merely a question to print extra copies. It is true that a simple motion to print opens up the merits of the document itself, but a motion to print extra copies of a message which has already been ordered to be printed, does not open to debate the merits of the message itself. The message is not before the House. It has been referred to the Committee of the Whole on the state of the Union, and is not in the possession of the House.

The SPEAKER. The Chair overrules the question of order made by the gentleman from Tennessee. The Chair is of opinion that the motion to print extra copies opens the whole message for debate. The House may be governed by the sentiments which the message contains in the number of copies, whether larger or smaller, which it may order to be printed. Debate is in order.

Mr. COX. So dear to his heart is the peace of the country that the President is ready to make great sacrifices to preserve it, not alone abroad, but in our home relations—not alone between the States, but between the people of the States and between the pioneers upon our borders. Herein is to be found the solution of that part of his message with reference to Kansas.

While the President lays down his general principle of submitting the whole constitution to the people, he subordinates the question to that of peace. He thinks it right to stand by the principle, but inexpedient to do so in the present aspect of affairs in Kansas.

But in my judgment, there will be no peace from this admission of Kansas under the Lecompton constitution. Expediency is a dangerous doctrine, when in collision with principles. There can be no peace to that people while their rights are jeopardized. Certainly none in that ill-starred Territory, if the attempt to gain partisan ascendancy there be founded in stratagem and fraud. If every question of difference be not honestly sub-

mitted to the whole people and decided without restraint or hinderance—no other device can be framed which will insure quiet. If there be treachery, there will be civil war. If there be a Judas, there will be an Aceldama. Kansas will be that field of blood.

But whether there be peace or not, I would not sacrifice the principle involved herein for any peace that can be purchased.

That principle is stated by Mr. Buchanan, in his message, thus:

"Under the earlier practice of the Government, no constitution framed by the convention of a Territory, preparatory to its admission into the Union as a State, had been submitted to the people. I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State, may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded, as it is, on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms."

It receives his sanction as a principle, though he cannot now recommend its application, *ex post facto*, with reference to Kansas. He hopes it may be hereafter adopted universally. I agree with him—and the whole Democracy of the nation agree with him on this last proposition. Because I may insist on its application to Kansas even yet, it does not follow that I am indifferent, much less unfriendly, to the success of his Administration.

True, the President, in his message, has expressed his opinion that the "question has been fairly and explicitly referred to the people whether they will have a constitution with or without slavery." He has instituted an argument in favor of the legality of the Lecompton constitution; while he also expresses his unabated faith in the wisdom of the general principle of submitting the whole constitution. But he takes care to avoid any recommendation to Congress. Our action is unimpeded by party fealty. If it were thus impeded, if the President had recommended a different course, I should not hesitate to say that, as Congress has the exclusive right to admit States, I should pursue the obligations of my sworn duty. The Administration is the trustee of the party, within its own sphere of duty. In this sphere it is entitled to our confidence. It shall receive my whole-hearted support. But as to the question in my own sphere, I may be allowed to represent my people. I am not of the opinion of the old theologians, that a man must be willing to be eternally damned for an imputed sin, before he can be saved. In thus deciding, conscience, honor, pledges, and constituency, all compel me to stand to the Democratic policy—which is the submission of the whole constitution to the whole people.

This Administration was called into being by virtue of this principle.

This Democratic majority is due to the ascendancy of this principle.

You, Mr. Speaker, owe your high place to the fidelity of those who sustained that principle.

That principle has a history, written in an agitation unsurpassed by any bloodless political contest of the world—at least since the repeal of the corn laws in 1846, or the French revolution of 1848. It began in 1850, when the wisest of our statesmen framed the compromises of that year. It had its precedents before that year. But it was not based on precedents. It was above all precedents, settlements, or compromises. With its virtue, the Kansas and Nebraska act was inspired. That act struck down the Missouri restriction; which was as odious to the South as it was antagonistic to the Constitution. Minnesota has since received an enabling act upon this same principle. It was framed by the same Senator who framed the act of Kansas and Nebraska; and whose authority, next to the act itself, is more binding as to its true intent and meaning than that of any other man in the land.

When the unreasoning crusade was made against it in 1854—when it was denounced as a swindle by those who seem now so anxious for its establishment—when its author was made the synonym for traitor in the Republican lexicon—then it was that the Democratic party pledged themselves to abide by the decision of the people as to all their domestic institutions when they sought to become States.

This is the right line of policy, for it is the

right line of principle. "As in geometry, so in government—the shortest, easiest, and best way from point to point is the right line."

I mean, in this argument, to pursue that line. Any policy that does not stand squarely to it comes in "such a questionable shape that I will speak to it."

In pursuance of that line, I claim the right now to place myself and my constituency unequivocally in the position of protestants against any doctrine which would seem to approve of the conduct of the constitutional convention in Kansas.

I do not propose now to argue at length. I propose now only to nail against the door, at the threshold of this Congress, my theses. When the proper time comes, I will defend them, whether from the assaults of political friend or foe. I would fain be silent, sir, here and now. But silence, which is said to be as "harmless as a rose's breath," may be as perilous as the pestilence. This peril comes from the attempt to forego the capital principle of Democratic policy, which I think has been done by the constitutional convention of Kansas.

I maintain:

1. That the highest refinement and greatest utility of Democratic policy—the genius of our institutions—is the right of self-government.
2. That this self-government meant the will of the majority, legally—if you please, legally expressed.
3. That this self-government and majority rule were sacredly guaranteed in the organic act of Kansas.
4. That it was guaranteed upon the question of slavery in terms; and generally with respect to all the domestic institutions of the people.
5. That domestic institutions meant all which are "local, not national—State, not Federal." It means that and that only—that always.
6. That the people were to be left perfectly free to establish or abolish slavery, as well as to form and regulate their other institutions.
7. That the doctrine was recognized in every part of the Confederacy by the Democracy; fixed in their national platform; asserted by their speakers and presses; reiterated by their candidates; incorporated in messages and instructions; and formed the feature which distinguished the Democracy from its opponents, who maintained the doctrine of congressional intervention.

The proof of this seventh proposition is everywhere of record.

1. Cincinnati platform.

At the Democratic National Convention, held in June, 1856, when Mr. Buchanan was nominated for the Presidency, the following solemn declaration was unanimously made:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the fairly expressed (not implied) will of the majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

2. The President's inaugural.

Mr. Buchanan, in accepting the nomination, unequivocally pledged himself to a faithful execution of the act of Congress of 1854, and to be guided in his administration by the resolve of the Cincinnati Convention. In his inaugural address he referred to this matter, and thus expressed himself:

"What a conception, then, was it for Congress to apply this simple rule—that the will of the majority shall govern—to the settlement of the question of domestic slavery in the Territories!"

And in the same address, the President, after referring to the question of the time of admission of a State as unimportant, uses this emphatic language:

"This is, happily, a matter of but little practical importance. Besides, it is a judicial question which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood, be speedily and finally settled. To their decision, in common with all good citizens, I shall cheerfully submit, whatever this may be, though it has ever been my individual opinion that, under the Nebraska-Kansas act, the appropriate period will be when the number of actual residents in the Territory shall justify the formation of a constitution with a view to its admission as a State into the Union. But be this as it may, it is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved!"

3. Governor Walker's acceptance and address.

Mr. Buchanan, shortly after coming into power, found Kansas without a Governor; he took time to select a good man for the post. He tendered it to Hon. Robert J. Walker, who declined it. He again and again tendered the office to the same gentleman, who at last, on the 30th March, after frequent conversations with the President, accepted the post. In accepting the office, he did so after thus addressing the President in writing:

"I understand that you and your Cabinet cordially concur in the opinion expressed by me, that the actual *bona fide* residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions. This is the great fundamental principle of the act of Congress organizing that Territory, affirmed by the Supreme Court of the United States, and is in accordance with the views uniformly expressed by me throughout my public career. I contemplate a peaceful solution of this question by an appeal to the intelligence and patriotism of the people of Kansas, who should all participate freely and fully in this decision, and by a majority of whose votes the decision must be made, as the only and constitutional mode of adjustment.

"I will go, then, and endeavor to adjust these difficulties, in the full confidence, as strongly expressed by you, that I will be sustained by all your own high authority, with the cordial cooperation of all your Cabinet."

Was there any complaint when Governor Walker thus accepted this post of trouble and responsibility? Who thought the conditions of his acceptance illegal, or in violation of usage or principle? Was the President's action hailed with denunciations, or with acclamation?

Meanwhile, the President addressed the clergy of Connecticut to the same purport.

4. Mr. Buchanan's to the clergy.

In Mr. Buchanan's letter to the Connecticut clergymen he thus defines his motives, and justifies his action in sending troops to Kansas:

"The convention will soon assemble to perform the solemn duty of framing a constitution for themselves and their posterity; and, in the state of incipient rebellion which still exists in Kansas, it is my imperative duty to employ the troops of the United States, should this become necessary in defending the convention against violence while framing the constitution, and in protecting the *'bona fide* inhabitants,' qualified to vote under the provisions of this instrument, in the free exercise of the right of suffrage, when it shall be submitted to them for approbation or rejection."

Still, anxious and fearful, the President sent after the Governor written instructions, which leave no doubt as to his integrity and determination to make good his inaugural, his instructions given personally, and his letter to the clergy. Here is the most pointed part of those instructions.

5. Instructions to Governor Walker:

"The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force and fraud.

"The regular Legislature of the Territory having authorized the assembling of a convention to frame a constitution, to be accepted or rejected by Congress, under the provisions of the Federal Constitution, the people of Kansas have the right to be protected in the peaceful election of delegates for such a purpose, under such authority; and the convention itself has a right to similar protection in the opportunity for tranquil and undisturbed deliberations. When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right to vote for or against the instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

This was what the country, including the people of Kansas, had a right to expect. But, as if to put it beyond all doubt, Governor Walker gave to those most nearly interested—the people of Kansas—his renewed assurance of the mode in which their constitution should be adopted.

6. Governor Walker's inaugural.

How did Governor Walker and the country understand these expressions of the President and the official act of the Administration? Governor Walker, upon his arrival in the Territory, in his inaugural address, thus expressed his views and the views of those who sent him there. The language is absolutely prophetic. He said:

"Is it not infinitely better that slavery should be abolished or established in Kansas, rather than that we should become slaves, and not be permitted to govern ourselves? Is the absence or existence of slavery in Kansas paramount to the great question of State sovereignty, self-government, and of the Union?"

"If patriotism, if devotion to the Constitution, and love of the Union, should not induce the minority to yield to the majority on this question, let them reflect that, in no event, can the minority successfully determine the question permanently; and in no contingency will Congress admit Kansas as a slave or as a free State, unless a majority of the people of Kansas shall first have fairly and freely decided the question for themselves by a direct vote on the adoption of the constitution, excluding all fraud or violence."

"The minority, in resisting the will of the majority, may involve Kansas again in civil war; they may bring upon

her reproach and obloquy, and destroy her progress and prosperity: they may keep her for years out of the Union, and, in the whirlwind of agitation, sweep away the Government itself; but Kansas never can be brought into the Union, with or without slavery, except by a previous solemn decision, *fully, freely, and fairly made by a majority of her people, in voting for or against the adoption of the State constitution.*"

Now, it must not be forgotten that, under these repeated assurances—indorsed by the press of this city, of Virginia, of the North, the West, and the East—the constitutional convention was called into being in February. In June, delegates were voted for. The leading spirits in that convention were the delegates from Douglas county, led by Calhoun, whose tactics and chicanery seem to give character to the proceedings. These delegates were questioned by the Democracy as to this policy. They gave this reply:

7. Calhoun's pledges.

"To the Democratic voters of Douglas County:

"It having been stated by that Abolition newspaper, the *Herald of Freedom*, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolutions, which were adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse as a complete refutation of the slanders above referred to.

JOHN CALHOUN,	A. W. JONES,
W. S. WELLS,	H. BUTCHER,
L. S. BOLING,	JOHN M. WALLACE,
WM. T. SPICELY,	L. A. PRATHER,

"LECOMPTON, KANSAS TERRITORY, June 13, 1857."

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas and to mold the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every *bona fide* actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

Now it must not be forgotten again, that, by this time, the slavery question was virtually settled in Kansas. The remaining question was that of self-government. It was white, not black Republicanism. It was the complete subjugation of all interests to the popular will.

What, then, can equal in treachery the conduct of these Catlines of Kansas, who, under all these obligations of principle and honor, attempt to subjugate the popular will to theirs? Were these delegates angels, that they should intervene to despoil the people of their expected boon of free expression as to the institutions under whose protection their homes, their lands, their children, were to be panopied? Better, far better, than this, the intervention of this distant Congress, than that of the traitors within the very citadel of their rights!

Having thus shown the pledges of the Democracy to the people of Kansas, I affirm—

8. That to be found recreant to them now, when the practical test is upon us, would be a gross breach of faith, and a disgraceful desertion of duty, for which there is no escape from public condemnation.

9. That the approval of the Lecompton constitution, however the result of the election of the 21st of December next may eventuate, whether there be a slave State or a free State, involves this breach of faith and desertion of duty; because,

First. That constitution, while it is asserted that it is submitted to the people in the essential point, thus recognizing an obligation to submit it in some mode, cannot, in any event, be rejected by the people of Kansas. The vote must be for its approval, whether the voter votes one way or another. The people may be unwilling to take either of the propositions, and yet must vote one or the other of them. They have to vote "constitution with slavery," or "constitution without slavery;" but the constitution they must take. They have no business with the constitution; slavery they may dabble in. With that they are graciously permitted to meddle. But as for their organic law, "hands off, ye plebeians; your touch is unholy!" They come to exercise their will at the polls. They find a clenched fist on either hand. No open palm, unless first they give up their franchise as to the constitution. Then, oh! then, they may be permitted to vote on one subject only. Is there a Democrat here who would stand that? If there is, he ought to go west and

learn a little of the character of these independent men of the border.

A scheme like this, to submit a part of the constitution, while it pretends to submit all, is a device so thin as to have no upper nor under side. It is so transparent that its statement is its badge of fraud. It is an attempt to carry out a salutary principle, in part, which was established in its entirety. It is worse. It compels the voter to swear to support a constitution before he can vote to kill it; and then he is not allowed to strangle it. It is an attempt, by a pretended submission in part, to carry the idea of a total submission; and thus force an *unsubmitted constitution on an unwilling people*.

If that convention could legally submit one question, and withhold all others, they can reserve that one question, or all! The submission of one clause, be it slavery or banks, judiciary or taxation, liquor or legislature, is an argument against the reservation of any other; and of course, against all others. This juggle will not do. It is too nice to be honest.

Again: take this slavery question, and observe how the mystagogue and demagogue have combined to cheat the people. The constitution has a slavery article, (VII.) It recognizes in its first section the right of property in slaves and their increase. In the second section, it permits emancipation by the Legislature on payment to the owners of "a full equivalent in money for the slaves so emancipated." The emancipation and slavery clause are bound together in the same article.

Now turn to the schedule! Suppose the constitution with slavery is voted; then slavery and emancipation remain as in the seventh article. But suppose "constitution with no slavery" is carried: what then? The seventh article shall be stricken out; slavery and emancipation go out together; but the right of property in slaves now in the territory shall not be interfered with! In other words, if Kansas be made a slave State, slaves can be introduced from abroad; and as fast as they come, the Legislature may emancipate. That is your slave State. If it be a free State, there can be no emancipation of slaves or their increase forever.

Now, will gentlemen tell me which would be the free State, which the slave? This beautiful specimen of a constitution is not unlike certain animalculæ found by naturalists, where the two polypi may be made to change heads; for the head of one may be ingrafted on the body of another by placing the tail of the one in the mouth of the other. The two heterogeneous extremities will readily unite so as to confound all our notions of identity.

How can you expect freemen to vote for such a schedule of chicanery? "Oh! if the free-State men would vote," say the politicians, "how it would release the Democracy from its dangerous dilemma." For my part, I will never beggar Republicans to sustain the standing and character of the party to which I am devoted. Follow the right line, and that party need not coax or wheedle to sustain its dignity and supremacy.

Second: There is not, *a priori*, by the election of delegates, a legal approval of the constitution. Although there were fifteen counties entitled to vote for delegates, for which there was no census or registry, which could not participate in the election, as Governor Walker proclaimed on September 16, 1857, yet it does not follow that the constitutional convention was an unlawful assemblage; nor does it follow, if it were lawful, that their constitution is to be valid, without the popular suffrage in its favor.

This the people had here expressly reserved to them in the organic act—the confirming or dispensing power. The Territorial Legislature could not affect that organic act. The sovereignty in this case never departed from the people. It was not lodged in the convention. It was clearly understood, and universally expected, that it would be exercised by the people. The President expected it. He regrets the failure to submit it. Any attempt to abridge or take away this popular sovereignty is a fraud of so hideous a character, that language has no term of reproach, nor the mind any idea of detestation, adequate to express or conceive its iniquity.

If that sovereignty was lodged in the convention, who lodged it there? 1st. Did Congress? No; for the act does not provide for the calling

of a convention, or the formation of a constitution. There has been no legislation by Congress on the subject.

On the contrary, Congress, by rejecting Mr. Toombs's bill, refused thus to initiate such proceedings.

2d. Did the Territorial Legislature? If Congress could not do it, it could not. It was the creature of Congress—of the organic act. It could not do what the organic act, under which it lived, did not authorize. The creature could not do what the creator refused to permit to be done. What authority had this convention? If it had none from Congress, could it be claimed that the Territorial Legislature had an authority from the people to call this convention? Unless that be expressly shown, it will not be implied. If it be not expressly shown, that sovereignty was reserved to the people. The Territorial Legislature derived its powers from the act creating it. Those powers are defined, and but generally defined, in the twenty-fourth section:

"That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act."

In no part of the act is there any express power to call a convention to frame a constitution. Who will say that such a power can be implied? Such a power dissolves the territorial government. Its own death by suicide cannot be within the purview of the Territorial Legislature. If it can compass its own death, it can kill the power of Congress which called it into being.

This is in accordance with right reason. It is in accordance, too, with precedent. I am not one of those who swear in the words of any master. Precedents depend for their force on their intrinsic worth. Precedents serve only to illustrate principles, and to give them a fixed authority. Principles are the result of reason. "Authority is a long bow, the effect of which depends upon the strength of the arm which draws it, and reason is a cross-bow of equal efficacy (if well directed) in the hands of a dwarf or a giant."

Authority and reason unite to declare that no Territorial Legislature has the power to call a constitutional convention. It cannot override the organic law, any more than it can destroy the Constitution of the Union. This is reasonable. It does not depend on the strength of him who utters it; but authority does. We have that authority from statesmen of such conspicuous greatness that no one will question them—Thomas Jefferson, Andrew Jackson, and James Buchanan.

Jefferson always spoke of the first constitution of Virginia, adopted in 1776, as wanting the popular sanction. In 1824 he regarded the acquiescence of the people even as no supply for the want of original power from them. Here are his words:

"To our convention no special authority had been delegated by the people to form a permanent constitution, over which their successors in legislation should have no power of alteration. They had been elected for the ordinary purposes of legislation only, and at a time when the establishment of a new government had not been proposed nor contemplated. Although, therefore, they gave to this act the title of a constitution, yet it could be no more than an act of legislation, subject, as their other acts were, to alteration by their successors. It has been said, indeed, that the acquiescence of the people has supplied the want of original power. But it is a dangerous lesson to say to them, 'Whenever your functionaries exercise unlawful authority over you, if you did not go into actual resistance it will be deemed acquiescence and conformation.' Besides, no authority has yet decided whether the resistance must be instantaneous; when the right to resist ceases; or whether it has yet ceased. Of the twenty-four States now organized, twenty-three have disapproved our doctrine and example, and have deemed the formal authority of their people a necessary foundation for their constitution."

In the Arkansas case the question was fairly met by General Jackson's Attorney General, who decided that the Legislature could not act in the formation of a State government. In the Michigan case, Mr. Buchanan held, in 1835, that Legislatures "had no right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

If Jefferson, Jackson, and Buchanan were right, if reason is right, then where is the authority of this Lecompton convention?

It is said that precedents are found in Michigan and California. Ah! but in those cases there was no doubt as to the popular approbation. Irregularities and formalities may be disregarded when the popular voice gives the substance to the

application. But in a case like this of Kansas, form is substance. When the voice of the people is ambiguous, or in doubt, or against the constitution, it is clear Congress should require a popular verdict before it should pass judgment. Even in Wisconsin, where Congress provided for a convention in March, 1847, it sent the constitution back to be submitted to the people. This was wise and constitutional. The people rejected the first constitution, made a second, and were admitted under it in May, 1848.

I need not here refer to the case of Minnesota, where, in the enabling act, provision is made for submission. I only refer to it now to show that the policy of this country is becoming fixed in that way. Our earlier constitutions were not submitted, as the President remarks; but lately the people are taking a deep interest in constitutional questions. They not only like to pass upon them, but it is their privilege to do so by that surest of all modes—the silent ballot. Wherever this is possible, no agent shall intervene between them and their will. That is Democracy? Its progress may be marked in the fact that twenty-one out of thirty-one of the present constitutions of these States have been submitted to the people. Here is the list:

States whose constitutions have been submitted to the people for ratification.*

States.	Date.	
California.....	November 13,	1849
Connecticut.....	October 5,	1818
Georgia.....	First Monday in October,	1839
Illinois.....	March 7,	1848
Indiana.....	August 4,	1851
Iowa.....	August 3,	1846
Kentucky.....		1850
Louisiana.....	November 2,	1852
Maine.....		1820
Maryland.....	June 4,	1851
Massachusetts.....		1799
Michigan.....	November 5,	1850
New Jersey.....	August 13,	1844
New York.....	November 2,	1846
North Carolina.....	November 9,	1835
Ohio.....	June 17,	1851
Rhode Island.....	November 21, 22, 23,	1842
Tennessee.....	March,	1835
Texas.....	October 13,	1855
Virginia.....	October 23, 24, 25,	1851
Wisconsin.....	April,	1848

States whose constitutions are not known to have been submitted to the people for ratification.

States.	Date.	
Alabama.....		1819
Arkansas.....	January 4,	1836
Delaware.....	December 2,	1831
Florida.....		1839
Mississippi.....	October,	1832
Missouri.....	July 19,	1820
New Hampshire.....	September,	1792
Pennsylvania.....		1838
South Carolina.....		1790
Vermont.....		1850

So much for precedents. The weight of them is in favor of the principle of submission.

It has been argued that the Lecompton convention was a legal body; but legal only as a petitioning body praying for a certain object. I cannot say that I have seen anything of a prayerful character about that body. Their ordinance about the public lands—as impudent as it is startling—does not look to be in a prayerful mood. But, be that as it may, suppose they are legal petitioners, I contend that that is not the proper mode for the formation of States. It might do if there were a popular sanction; otherwise, most certainly not.

But I will go further. I will admit just now, for the argument, that the convention had an authoritative existence; that the Territorial Legislature had power to convoke it; nay, more, that it has prepared a legal constitution; and yet I say it has no power to adopt it. That lies with the people, under the organic law. Oh, yes, gentlemen may say, is not the convention legal? If that, why not its product? If that be legal, is it not intervention to do aught save admit Kansas, under this contrivance, as an equal State? The convention may be legal. It may have all the forms of law. It may even be authorized by the organic act; and its action may be in accordance with authority and precedent; but still I say it lacks the life-giving spirit by which it can be made a State coequal with my own—Ohio. It may be legal—may seem so. Its forms may be skillfully drawn. It may be as good in its general provisions as the President says it is. So you may see

* The work of the latest constitutional convention in each State.

a languishing body have all its parts, and yet be useless for many purposes of life; you may reckon all the joints of a dead man; but the heart is cold, the joints stiff, the pulses still, and it is only fit for the grave. So with this constitution; it may be legal and formal, but until the popular breath is breathed into it, it is of no validity or force. It is worse: it is not only pulseless—heartless—but it is, through trickery and fraud, a mass of detestable putrescence! Without that popular confirmation, it will never, never be suffered to appear above ground. No scientific galvanism contained in that schedule can inform or vivify its decaying members. Divine power worked a miracle to bring forth Lazarus. There is no power in this land to do that office for this unwholesome thing. If it be dragged into this Hall for "admission," with a rope round its neck, in defiance of the popular will of Kansas, there will be scalpels used with a keen readiness, never before illustrated in political surgery!

Third. I deny, therefore, that it is congressional intervention in domestic affairs to question the form and mode of this application for the admission of Kansas. I do not affirm that Congress should say for Kansas whether she should have a bank, or not; (though if a bank becomes "vested" how are the people to get rid of it?) should have a Governor of twenty years' residence in the Union, or not; should pass on the taxing power of the State, as to the public lands, or not; should have slavery, or not.

In domestic affairs the constitution may have all the excellences of Plato's Ideal, More's Utopia, and Harrington's Oceana; it may be the transcript of angels from the tablets of the Omniscient Law-Giver; yet, if unsubmitted to the people, I would not vote for its admission. We have no right to force on men what is best for them in our own opinion. This has been the plea of despotism for ages. It is the hard dogma that sustains the perjured dynasties of Europe on their thrones. It is founded in the petrification of the human heart.

Neither, in domestic matters, do I care how bad the constitution may be, ethically or politically. If submitted, my approbation follows that of the people. This is non-intervention.

But when Congress undertakes to protect the people, in judging of these matters of domestic concernment, let it be done thoroughly and well. Let not Congress give the protection which the wolf gives the lamb. Let Congress, when it guarantees self-government, see to it that it is not a mockery, or a phantom, but a real, living, glowing reality—an opportunity for public volition, informed by conscience, and irradiate with intelligence—to decide for themselves, under the constitution, as to the laws under which they are to live.

For myself, I but repeat the expression of the Democracy of the capital district of Ohio, when I say that, however we may dislike slavery, we are utterly indifferent, as a political question, whether slavery goes to Kansas or not; provided the people pass on it honestly and fairly. Let it be a slave State; let it, on the other hand, be a free State; but let it be a State which is self-governing, for otherwise it is not republican.

When the bill of Mr. Dunn was presented to this body, for the pacification of Kansas, it made provision for the slaves in Kansas to remain there. The Democracy opposed that bill, because Congress, by it, undertook to intervene on the subject. Let the people pass such a provision in their constitution, and it shall be no objection to me that it is right or wrong. My answer is, it is the people's will! Congress, by Dunn's bill, was wrong in thus attempting to fix the status of any person in the Territory. The people can fix it as they please. It is their business. Far better let African slavery be established than an irresponsible tyranny. It matters not, that it may be changed the next day, or the next year. Anglo-Saxon independence will not brook this organized despotism. The English language has not servile syllables enough to spell out the presumptuous audacity of those delegates of Kansas, who have dared thus to steal the livery of sovereignty in the face of the thirty millions of thinking freemen of America! It is no question of African slavery, no maudlin sentimentality about the black race; but it is the right of the white man that is attempted to be filched from him by a pack of land-hucksters and political jobbers.

I have pledged myself to vote for the admission of Kansas as a slave State, if fairly made so. I am here to redeem that pledge; and now, to-day, would rather have Kansas a slave State, than to have its self-government beaten down under the heels of an irresponsible cabal. Fill Kansas with negroes as compactly as the district of my friend from South Carolina, where there are one hundred and ten thousand negroes to five thousand voters; am I right? (to Mr. KEITT.) [Mr. KEITT, (in his seat.) Yes, that's right. I wish there were more of them.]—but, in the name of Democratic fealty and Democratic sense, let us stand like men of trust and men of honor, to the sovereignty of the people, in whose will constitutions are but wisps of straw, and whose breath can make and unmake law, as it can make and unmake congressmen.

I said I was utterly indifferent as to the character of the domestic institutions formed and regulated in the constitution, provided they were all approved by that perfect freedom of action guaranteed to the people by the Kansas and Nebraska bill.

First. I would limit this only as the United States Constitution limits it. In the third section of the tenth article, it says: "New States may be admitted by the Congress into this Union;" and in the subsequent section, it "guaranties to every State in this Union a republican form of government."

Coupled with this naked power to admit—a discretion to be used as other discretionary powers are used—is the limitation that the government must be republican. I hold that a constitution like that made at Lecompton cannot be republican; where it has no authority from Congress; no *imprimatur* from the people; and is no reflection of the popular will. The form may be republican in one sense; but that higher form, that essence, that fifth essence of republicanism, its *sine qua non*, the popular sense, is not expressed in it; and, therefore, as Mr. Buchanan said of Arkansas, it is a usurpation.

Second. Not only is there no substantial submission of the constitution to the people, but even the formal mode of submitting the propositions of the schedule do not insure fairness in voting or in the record of the voting. The agents to supervise the election have no check from, and no responsibility to, any other than the appointing power, which is the president of the convention. The commissioners are appointed by the president. They appoint the judges; the judges appoint the clerks. The poll books are returned to the president of the convention. No check by other officers, territorial or Federal. All is subordinate to the presiding genius whose constitution this is. Can such an election command confidence in the present condition of Kansas? The President hopes for peace by the acceptance of a constitution thus ratified. He says that if this opportunity of settling the question in Kansas should be rejected, "she may be involved for years in domestic discord, and possibly in civil war, before she can again make up the issue now so fortunately rendered, and again reach the point she has already attained." It seems to me that such a state of anarchy will follow, if this election goes on, and is to be sustained by the strong Federal arm. Germany stood for thirty years with her hand upon her sword; the rustle of a leaf disturbed her. Kansas is in similar suspense. Never was there more need of heed, caution abundant, and beyond cavil or question, as to the popular expression.

Third. In the ninth section of the schedule, the voter, if challenged, is required to swear to support the constitution, under the pains of perjury. Is this republicanism? Is this miserable mode of making a constitution to be countenanced by this Congress?

Fourth. There is another ground for the rejection of this constitution. There is a fraud recognized in it, which we are bound, while inquiring into its republican form, to notice. The basis of popular will is the basis of representation. This is violated. In the creation of representative and council districts, the Oxford city fraud has been made the basis of estimating the population of Johnson county. The entire official vote of that county did not exceed four hundred. Fraud swelled it to eighteen hundred by the return of sixteen hundred fictitious names from Oxford city,

a hamlet of three dwelling houses. Shawnee, with eight hundred voters—*bona fide* voters—gets only half the representation of Johnson. Well might Judge Elmore protest against this fraud. Well might Governor Walker complain of it, after having set it aside solemnly. Other frauds are to be found of a similar character. If we are to judge of the republicanism of the State to be inaugurated, we should discard this constitution.

This convention sanctioned this fraud, not only by making it the basis of representation, but by electing one of the creatures who signed the forgeries as their clerk. And I have it from the best authority, that the president of the convention himself is believed by the body of the people of Kansas to be implicated in this same fraud. Who that admits this fraud can sustain a constitution founded upon it?

Fifth. I hold, lastly, that that constitution is not republican in form; because, in the fourteenth section of the schedule, it prohibits—ay, that is the effect—amendment, alteration, or change until after 1864. It is utterly idle to say it meant to provide for alteration, amendment, and change meanwhile, *ad libitum*. When a constitution provides a mode and time to amend, *all other ways and times are excluded*. After implying no change till 1864, then it proceeds to hamper the "perfectly free" action of the people of 1864, by requiring two thirds of the Legislature to concur, before they will allow a majority of the people to call for an amendment. And, as if to clinch the whole of this absurdity with another more glaring, it provided that even then "no alteration shall be made to affect the rights of property in the ownership of slaves."

Now, I do not seek to intervene in domestic affairs, when I declare that whatever may be the precedents in this respect, I will never vote for a State to come in under such impossible, absurd, and tyrannical conditions. Congress guarantees a republican form; and this constitution fetters every limb of that form.

"But," it is said, "these conditions are void. The State may turn around to-morrow and discard them all." So it may. New York did; so did Louisiana. But it was revolution. We have no right to force people into revolution against the established order. It may not be that revolution which, like a tempest, overturns the public authority by "wild sword law" or popular frenzy. It is not that inimitable thunder which aroused America in 1775, France in 1787, or England in 1630. It is rather like a machine, which, having a principle of compensation, corrects irregularities without breaking the machine or retarding its motion. Still, it is revolution; whether it be a perilous one or not, it is the only way to get rid of the restrictions placed on the popular will by this constitution. To those who say the State may, after admission, alter the constitution at once before 1864, I ask this question: Were the delegates in earnest when they forbade amendment till 1864? If so, they will attempt to carry out their ideas; and, in doing so, they must resist innovation. If they resist, there can be no assurance of a peaceful, harmless revolution. Those who attempt to amend provoke resistance; and they who vote for this constitution must resist that resistance. The consequences must be revolution and civil war. If the delegates were *not* in earnest in prohibiting amendment till 1864, what a mockery in us to approve of such wild work, especially when bloody work must or may follow. The tracks of blood ever follow the wrongdoer, and follow him to the bitter, bitter end.

This constitution is made, in most respects, irrevocable until after 1864. The machinery for amendment begins to run then. Still it is an irrevocable law; and it is not only absurd, impossible, tyrannical, but anti-Democratic. Democracy, as taught in Ohio, believes in the repeatability of everything by the popular voice. My State has no power to-day to tax certain banks; because the Supreme Court of the United States, under the plea of "vested rights," has taken away our sovereignty in that respect. "Governments," said Burke, "without the means of change, are without the means of their own conservation." Who, that remembers the scorching logic of Jeremy Bentham and Sydney Smith, on the "fallacy of an irrevocable law," can fail to feel the utter silliness of those who propose to bind down the freemen of Kansas for ten years in most re-

spects, and in one respect forever. I refer to Bentham, vol. 2, page 402; and to Sydney Smith, vol. 2, page 391.

"A law," says Mr. Bentham, (no matter to what effect,) "is proposed to a legislative assembly, who are called upon to reject it, upon the single ground, that by those who, in some former period, exercised the same power, a regulation was made having for its object to preclude forever, or to the end of an unexpired period, all succeeding legislators from enacting a law to any such effect as that now proposed."

Now, it appears quite evident that, at every period of time, every Legislature must be endowed with all those powers which the exigency of the times may require; and any attempt to infringe on this power is inadmissible and absurd. The sovereign power, at any one period, can only form a blind guess at the measures which may be necessary for any future period; but by this principle of irrevocable laws, the government is transferred from those who are necessarily the best judges of what they want, to others who can know little or nothing about the matter.

If it be right that the conduct of the nineteenth century should be determined, not by its own judgment, but by that of the eighteenth, it will be equally right that the conduct of the twentieth century should be determined, not by its own judgment, but by that of the nineteenth. And if the same principle were still pursued, what, at length, would be the consequence? That in process of time the practice of legislation would be at an end. The conduct and fate of all men would be determined by those who neither knew nor cared anything about the matter; and the aggregate body of the living would remain forever in subjection to an inexorable tyranny, exercised as it were by the aggregate body of the dead!

"The despotism," as Mr. Bentham well observes, "of Nero or Caligula, would be more tolerable than an irrevocable law. The despot, through fear or favor, or in a lucid interval, might relent; but how are the Parliament who made the Scotch union, for example, to be awakened from that dust in which they repose—the jobber and the patriot, the Speaker and the doorkeeper, the silent voters and the men of rich allusions—Cannings and cultivators, Barings and beggars—making irrevocable laws for men who toss their remains about with spades, and use the relics of these legislators to give breadth to broccoli, and to aid the vernal eruption of asparagus?"

Long after Calhoun and his confederates shall have moldered and have been forgotten, the men of Kansas will look back with pity and contempt on this futile and foolish attempt to bind them by the decrees of 1857. The men of 1864—if not the men of 1858—will laugh to scorn this attempt. The border States of this country are not the places for such despotic experiments.

"If the law be good," says Bentham, "it will support itself; if bad, it should not be supported by the irrevocable theory, which is never resorted to but as the veil of abuses. All living men must possess the supreme power over their own happiness at every particular period. To suppose that there is anything which a whole nation cannot do, which they deem to be essential to their happiness, and that they cannot do it, because another generation, long ago dead and gone, said it must be done, is mere nonsense. While you are captain of the vessel, do what you please; but the moment you quit the ship, I become as omnipotent as you. You may leave me as much advice as you please, but you cannot leave me commands; though, in fact, this is the only meaning which can be applied to what are called irrevocable laws. It appeared to the Legislature for the time being to be of immense importance to make such and such a law. Great good was gained, or great evil avoided, by enacting it. Pause before you alter an institution which has been deemed to be of so much importance. This is prudence and common sense; the rest is the exaggeration of fools, or the artifice of knaves, who eat up fools."

"When a law is considered as immutable, and the immutable law happens at the same time to be too foolish and mischievous to be endured, instead of being repealed, it is clandestinely evaded, or openly violated, and thus the authority of all law is weakened."

If this irrevocable law be so absurd, tyrannical, and knavish in England, as it seems to be under

this analysis, how utterly and abominably absurd, tyrannical, and knavish, is it in a nation like our own? There, laggard conservatism is so loth to change, that abuses are canonized and ancestry receives apotheosis! Here, change is the essential condition of social and political existence: here, States are formed in the twinkling of an eye; cities grow up in a night, as if under the magic of Aladdin's lamp: here, economical ideas, more powerful than political tenets, are ever permeating the body politic, to change its form and substance: here, the border men are students of politics, and seek popularity and wealth by ameliorating institutions: here, the telegraph throws its thought from the very Capitol in which we speak to the borders of our territory; and the "goblin of steam," under the aid of congressional land grants, is doing the work of years in a week, and the work of a hundred years in one. Behind its power, the dwarf removes mountains and bridges rivers; civilization follows in the train. Here, in America, more than anywhere else, the poet's verse is appropriate:

"Beneath our starry arch
Nought resteth or is still,
But all things hold their march
As if by one great will.
Move one—move all!
Hark to the foot fall!
On—on—ever!"

Here in America, where the changes of a year are equal to the changes of a century in Europe, and where the changes of a lustrum only herald greater changes, and all through change, working out that secular magnificence which is the destiny of our land, we are to have irrevocable laws for our border States!

An irrevocable law in such a land! Enact that frost shall cease in the north and blooms in the south—fix the figure of Proteus or the air, by law; but let us not do such impossible tyranny for ten years, or one year. Why, California sprang into Statehood—the golden rigol of independence on her brow—in less than a twelvemonth! And Minnesota and Oregon, within the year, stand waiting to knock for admission. Washington, New Mexico, Arizona, Dakota, are pushing on toward the goal of independent sovereignty, and two years may see them where their sisters are now. An irrevocable law for such a land! Take Kansas; read the Indian treaties made by Colonel Marypenny, of 1834; and now visit Leavenworth, and ask if such a land is to be irrevocably bound by the edicts of an irresponsible convention? In the name of republicanism, I trust it will never be pressed in this House.

It would be bad enough to accept a constitution, made under popular sanction, with irrevocable clauses; but made irrevocable, without such sanction, it is monstrous and impossible. "Governments are republican," says Jefferson, "only as they embody the popular will and execute it."

In conclusion, I protest against this constitution, because it is against the principle of self-government—against the organic act—is not the authorized or legal expression of the people; because it is anti-republican in form and substance; because it is absurd, tyrannical, fraudulent, and impossible; because it undertakes to bind down the sovereignty of the people by irrevocable laws, which are opposed to the genius of our institutions.

But beyond all other objections is that implacable one, that cannot be appeased—the demand for its submission to the people, in whole and in part. Whatever may be the legality of the constitutional convention—whatever may be its work, and how irrevocable soever they have sought to make it, why has it not been submitted? Come to this question! Away with rubbish! Let us dig down to this primitive rock. "Ah," say its friends, "it will be voted down; the people will not have it." True, they do not want it. If the press of the Territory be any indication of the popular wish, that is true. But one out of the twenty-one presses of all parties in the Territory sustains it. Democrats and Republicans unite to condemn it. True, very true, it would have been voted down, and therefore it is not to be submitted to a vote. This is Democracy, is it? Let us, then, rewrite our lexicons. Democracy means, does it, to withhold the right of suffrage to all who may vote against you? Wise beyond Jefferson are the sages who thus teach! But the people of Kansas have acted wrong, are

culpable, have not acted right in voting heretofore. But are they, for that, to be disfranchised? Away with such puerility. It reminds me of the gracious Sultan under the old Turkish constitution, who gave to the Ulemats the privilege of questioning his firmans; but if they exercised it, they were to be pounded to death in a mortar by the janizaries.

This is no sectional question. The North has everything to gain by standing by its pledges and principles as enunciated in the Kansas bill. What has the South to gain by an opposite course? Does she expect to make Kansas a slave State? No. Would she, if she could, against the wish of the people? I say no! Does she wish to resuscitate the waning fortunes of a sectional party? If yea, then let her place the northern Democracy in the wrong, where it can be reproached and insulted, taunted and despised; where our opponents, wagging their heads, may say: "You meant the South, you meant slavery, you meant everything else but popular sovereignty, when you mouthed of popular sovereignty."

Nor will it do for us to answer: "We adhere to the general principle of submitting the whole constitution, but cannot now apply it to Kansas." Such a reply will place us of the North in the position of the French fleet at Aboukir, which Nelson destroyed—it was neither at sea nor afloat. Give me the open sea, with a small craft, and the flag of popular sovereignty, in its integrity, at the mast-head, and I will not ask any favors that our opponents can bestow. I will trust my humble bark on the open sea without fear, nay, with confidence and joy! There is plain sailing for us, without tacking and filling, if we pursue the course proposed in the case of Wisconsin, where the condition of admission was the ratification by the people of the constitution. We can pursue that course in this instance without dishonor; or we can pass the Toombs bill with the amendment proposed by my colleague [Mr. SHEARMAN] last session. It is as follows:

"And the said constitution shall be submitted to the people for acceptance or rejection, under such regulations as said convention shall prescribe."

Who can object to such a course? Will the North—the South—the President—the people of Kansas? Will the Democracy of the Union? My vote shall be ready for such a solution of this difficulty. But it cannot be made ready to sanction the Lecompton contrivance. If it be the only record I have to make here, it will be a "no" that shall echo the voice of my constituency. Let Kansas come as Minnesota, in daylight, to the front door, in honest purpose, and manly bearing; and not as a burglar, in the dark, with the appliances of artifice and a record of shame! Her people had a right to expect from this Government, if not from that convention, a full submission of her organic law. This right is denied. Being denied, her people can say, with a bitterness too well warranted by the history,

"—be these juggling fiends no more believ'd
That palter with us in a double sense;
That keep the word of promise to our ear,
And break it to our hope."

The events of the next month may alter the position of this question in this House and before the country; but for myself, nothing can change my determination to stand by the principles of Democracy, as we have pledged ourselves before the country. In this contest, I adopt as my motto the words of one who has sacrificed much for liberty in another land: "NOTHING FOR THE PEOPLE, BUT BY THE PEOPLE; NOTHING ABOUT THE PEOPLE, WITHOUT THE PEOPLE!"

I, therefore, give notice of my intention to introduce an act to enable Kansas to form a constitution, with the amendment above suggested.

Mr. HUGHES. I do not propose, Mr. Speaker, to follow the example of the gentleman from Ohio, and to enter into an extended discussion at this time of the merits of the President's message. I rise to express my surprise, and my regret also, that the gentleman has chosen this occasion to precipitate upon this House the discussion of the principles and measures recommended in that message.

There are those, sir, who conceive that the Administration is in trouble; that clouds are gathering about the Democratic party. In this condition of things, I humbly conceive that the friends of the Administration and of the principles of the Democratic party, should not be the first to sound

the alarm. There is something in the time and circumstances attending a speech which enter quite as largely into the question, whether it is a good or a bad speech, whether it is right or wrong, as the abstract sentiments contained in it. I say that it is not my intention to attempt any reply to the positions assumed by the gentleman from Ohio, but I do say that so far as time is concerned, so far as circumstances are concerned under which he has chosen to make his speech, they are all against him.

What is the question before this House? A motion to print twenty thousand extra copies of the President's message for the information of the people. That message contains some ideas and some recommendations in reference to Kansas affairs. There is no question before this House as to what shall be done with Kansas, whether she shall be admitted into this Union as a free State or as a slave State. If that question is to come, it is to come in the future. If the Lecompton constitution, which the gentleman has discussed, is to come to this House, it is to come hereafter. Upon this question, thus presented, the gentleman, as he will permit me to say, startled this House, or at least his political friends here, by entering into a discussion of the merits of the President's message on this motion. His written speech, elaborately prepared and delivered on this question, was unexpected to me, because I knew, or at least believed, that we had no presidential candidates in this body. Allusion has been made to a distinguished Senator and to his position. It may be well, perhaps, for that Senator to look to his laurels and his presidential prospects. He may learn that discussions on the merits of a message, precipitated upon a deliberative body on a motion to print, can be raised in the House of Representatives as well as in the Senate.

I wish to correct one position that the gentleman from Ohio has assumed in regard to the questions which were decided by the people of the Northwest in the last presidential election. I understand him to say in substance and with emphasis, that the people of Ohio, in the last presidential election, did decide that the constitution of Kansas, whatever it might happen to be, should be submitted to a vote of the people. Sir, I apprehend that there was no material difference between the issues presented in that canvass in the State of Indiana and those presented in Ohio; and if the gentleman from Ohio will travel back with me for a short space of time he will recollect that the term "popular sovereignty," upon which he has dwelt with so much emphasis, was not understood until after the presidential election was over, [laughter,] and after the decision in the Dred Scott case by the Supreme Court of the United States. Until then the question was not understood in all sections of the Union alike, and was not understood in the sense in which he seems to understand it.

The gentleman will recollect that the Missouri compromise was a prohibition which could only obtain over Kansas while it remained in a territorial condition. That compromise was repealed by the Nebraska bill. I ask the gentleman what was the doctrine which he advocated in the State of Ohio? Why, sir, it was that much-abused doctrine of "squatter sovereignty;" it was that the people in a territorial condition, speaking through the Territorial Legislature, constituted under the organic act of the Territory of Kansas, had the power to decide the slavery question for themselves; and, sir, if the gentleman will refer to the debates in this House during the last session, he will find that my colleague from the New Albany district, [Mr. ENGLISH,] in discussing this question, stated that that was the understanding of the Democracy of the Northwest upon that question; and it was frankly admitted here, by gentlemen from the North and by gentlemen from the South, that upon this question there was a difference of opinion—but not a material one, or one of any importance—between the party in the North and the party in the South. But now, sir, we have a construction by a judicial decision, and it has always been the doctrine of the Democratic party to conform to the judicial decisions of the country, although it is not the doctrine of that party which seems to be amused on this floor by the mere recital of the truths of history.

But the gentleman from Ohio [Mr. Cox] is the advocate of popular sovereignty. He proposes

not to stand by the President, in his message, upon this question. Well, sir, if such were my conviction, I should hold it back to the last moment. If I found myself compelled to separate from the Democratic party and from the Administration, I should go reluctantly; I should go at the last moment; I would not be the first to leave the ship. Where will the gentleman go to carry out this favorite idea of popular sovereignty?

Mr. COX. Will the gentleman allow me to answer his question?

Mr. HUGHES. I will yield to the gentleman for that purpose.

Mr. COX. I will go to the Cincinnati platform; to the pledges of Mr. Buchanan; to the instructions given to Governor Walker; and to the message of the President himself, and stand by the general principle he lays down there, although he says for the present he cannot carry that principle out; and, standing on that rock, the gentleman cannot drive me out of the Democratic party by any little scornful indignation from Indiana. [Laughter.]

Mr. HUGHES. It was very far from my purpose to attempt to treat the gentleman or his argument with scorn. It was an able argument. I think it was a mischievous one. I look upon it with sorrow and regret. But I will repeat the inquiry, where will the gentleman go in search of that popular sovereignty which he says means that the people, and the whole people, shall have the privilege of voting upon their constitution, and upon the whole of their constitution? Will he go to those men and to that party who are attempting to force upon the people of Kansas the Topeka constitution? Will he go to the party which made that constitution a plank in their platform in the presidential canvass?

Mr. COX. Does the gentleman want an answer?

Mr. HUGHES. I would rather not be interrupted.

Mr. COX. Well, I will not go there.

Mr. HUGHES. Where will the gentleman go, then? Why, he says he will take the Cincinnati platform under one arm and the President's message under the other, and Governor Walker's proclamation in one pocket and the President's instructions in another, and will go off and form a party by himself. That was the idea. Well, sir, it is to be regretted that some gentlemen are not either of sufficient importance in the country to build up a new party, or sufficiently humble to follow faithfully in the ranks of one already organized.

Now, sir, I said that I did not propose to follow the gentleman in this discussion. I am not prepared to do so. I deprecate the discussion. I think that, in point of time and in point of circumstances, it is a discussion which all the friends of order, of peace, and of harmony in this country ought to deprecate. Who has yet asked the gentleman in this House to vote for the Lecompton constitution? Who is it that is complaining against the supposed tyranny that is to be exercised upon the people of Kansas? Wait until that constitution is presented here, and wait then until complaints come from the people of Kansas, and be not in haste to go to the great State of Illinois to violate the principle of popular sovereignty, and find out what the State of Illinois thinks ought to be done in Kansas.

Sir, the question before the House is on a motion to print. In its present form, it does not admit of any test. I think it due to the message, and due to the President, that since his sentiments and his recommendations and his policy have been thus prematurely assailed, the question should be presented to this House in such form that gentlemen can distinctly vote their approbation or their disapprobation of that message. I want to see gentlemen from the North as well as gentlemen from the South show their hands upon this question. I, for one, would have been glad to see this matter postponed; perhaps the cloud would have passed away; but since the assault has been made, I am called upon to choose whether I will remain with the Administration and with the Democratic party, or go to the opposite party, or stand neutral, giving aid and comfort to the enemies of popular sovereignty, and to those whose uniform course it is to denounce the judicial tribunals of the country, if, in the discharge of a sworn duty, they happen to cross their ideas of political policy.

Since we are brought to that, let us choose, and let each member have an opportunity to say where he will stand upon this question. I therefore offer the following as a substitute for the resolution reported by the Committee on Printing; and upon it I demand the previous question:

Whereas, the principles declared and the measures recommended in the annual message of the President of the United States meet with the approbation of this House, and ought to be embodied in the legislation of the present session of Congress, wherever legislative action is necessary to give them effect: Therefore,

Resolved, That twenty thousand extra copies of the message and accompanying documents be printed for the use of the members of the House.

Mr. WASHBURN, of Illinois. I hope the previous question will not be seconded.

Mr. KEITT. I call for tellers on the second.

Tellers were ordered; and Messrs. KEITT and BILLINGHURST were appointed.

Mr. JONES, of Tennessee. Is that amendment in order? I do not think it is.

The SPEAKER. Upon what ground?

Mr. JONES, of Tennessee. Because it is irrelevant. We have not got the message under consideration, but merely the question whether we will print extra copies of it or not. The amendment is out of order, in my opinion, because it is irrelevant.

Mr. PHELPS. I appeal to the gentleman from Indiana to withdraw the demand for the previous question, and then to withdraw his amendment. If that be done, I desire to appeal to the House to sustain the previous question, and take a vote on the resolution reported by the Committee on Printing. [Loud cries of "Order!"] We can then go into the Committee of the Whole on the state of the Union and discuss this question. [Renewed cries of "Order!"]

The SPEAKER. Debate is not in order.

Mr. SHORTER. I desire to make an inquiry. Is it in order to move to strike out the preamble to the amendment?

The SPEAKER. It is not in order, as the previous question is demanded.

Mr. BARKSDALE, (at five minutes of three o'clock.) I move that the House do now adjourn. The motion was not agreed to.

Mr. HOUSTON. I desire to ask the Chair whether, in voting on that amendment, we do not vote first on the resolution, and then on the preamble?

Mr. STANTON. I rise to a question of order. I object to debate on the pretense of asking a question.

Mr. HOUSTON. The gentleman had better know what he objects to before he does object.

Mr. STANTON. What I object to is the gentleman making an argument under the pretense of asking a question.

Mr. HOUSTON. The gentleman is mistaken. I asked, in good faith, a question of the Chair. I desire to know of the Chair, whether, in voting, we do not vote first on the resolution, and then on the preamble in the amendment? I asked it in good faith, and the gentleman went off at half-cock.

Mr. STANTON. I should like to know whether the gentleman from Alabama did not know that before he asked the question?

Mr. HOUSTON. I doubt very much whether the gentleman from Ohio [Mr. STANTON] understands the point involved in my question even now.

Mr. SMITH, of Tennessee. I hope the gentleman from Indiana will withdraw his call for the previous question.

It was not withdrawn.

The SPEAKER. The Chair thinks that the gentleman is in order, and overrules the question of order of the gentleman from Tennessee, [Mr. JONES.]

The tellers took their places, and the House proceeded to vote on seconding the demand for the previous question.

Pending the vote—
Mr. HUGHES said: I am disposed to yield to the solicitations of my friends, and, with the advice of older heads, I propose to withdraw the substitute, but I adhere to the demand for the previous question on the proposition.

The tellers reported—ayes, one hundred.

The SPEAKER. The gentleman from Indiana withdraws his amendment, and renews the demand for the previous question.

Mr. GIDDINGS. Can he withdraw it after the vote has been taken on the previous question?

The SPEAKER. He can withdraw it at any time before the result of a vote is announced. It is the uniform practice of the House, as the gentleman from Ohio knows.

Mr. GIDDINGS. I suggest, however, that it is beyond his power to withdraw before the vote is taken.

The SPEAKER. The gentleman from Indiana has the right—as the gentleman knows—to withdraw his amendment at any time before the result is announced.

Mr. GIDDINGS. I interpose this question: When the House is dividing, is it in order for any man to interpose any motion, or any other business, till that vote be completed? That is the question I make.

The SPEAKER. The motion of the gentleman from Indiana was not entertained by the Chair till after the House had divided in the affirmative.

Mr. GIDDINGS. Can he withdraw it, then, until this vote be taken and announced? Can he interpose any business whatever?

The SPEAKER. The Chair thinks he can. The gentleman from Indiana withdraws his amendment. The question now recurs on seconding the demand for the previous question on the original resolution submitted by the Committee on Printing.

Mr. DEAN called for tellers.

Tellers were ordered; and Messrs. DEAN and CASKIE were appointed.

The question was taken; and the tellers reported—ayes 101, noes 89.

So the previous question was seconded.

The main question was ordered to be put; and under the operation thereof the resolution was adopted.

Mr. SMITH, of Tennessee, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXTRA COPIES OF FINANCE REPORT.

Mr. SMITH, of Tennessee, from the same committee, reported the following resolution:

Resolved, That there be printed sixteen thousand extra copies of the annual report of the Secretary of the Treasury on the state of the finances—fifteen thousand copies thereof for the use of the House of Representatives and one thousand copies for the use of the Secretary of the Treasury.

Mr. SMITH, of Tennessee, demanded the previous question on the adoption of the resolution.

Mr. LETCHER. Is that the usual number of extra copies?

Mr. SMITH, of Tennessee. It is the usual number.

Mr. SMITH, of Virginia. I ask the gentleman from Tennessee to withdraw the demand for the previous question for a single moment.

Mr. SMITH, of Tennessee. No, sir; I shall not withdraw the demand this time.

The previous question was seconded, and the main question ordered to be put.

The resolution was then adopted.

Mr. SMITH, of Tennessee, moved to reconsider the vote by which the resolution was adopted, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMPENSATION OF MEMBERS.

Mr. TAYLOR, of New York. I ask the consent of the House to offer a joint resolution, which I send up to the Clerk's desk, and ask to have read.

Mr. RUFFIN. I object to the reading, except for information.

The resolution was read for information, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the compensation allowed to members of Congress, by the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, be paid in the following manner, to wit: On the first day of the first session of each Congress, or as soon thereafter as he may apply, each Senator, Representative, and Delegate, shall receive his mileage as now provided by law, and all his compensation from the beginning of his term, to be computed at the rate of \$250 per month, and during the session compensation at the same rate. And on the first day of the second, or any subsequent session, he shall receive his mileage as now allowed by law, and all compensation which has accrued during the

adjournment, at the rate aforesaid, and during said session compensation per month at the same rate.

And be it further resolved, That so much of the said act, approved August 15, 1856, as conflicts with this joint resolution, and postpones the payment of said compensation until the close of each session, be, and the same is hereby, repealed.

Mr. STANTON. I object.

Mr. TAYLOR, of New York. I hope the gentleman will withdraw his objection. If it is in order, I move to suspend the rules.

The SPEAKER. The motion is not in order.

REGULATIONS FOR THE NEW HALL.

Mr. FAULKNER. I rise to a question in reference to the organization of the House. I have received a communication from the Doorkeeper of the House, stating that with the present force with which he is provided, it is impossible to preserve the order of the House and to extend the requisite accommodations to members. I therefore offer the following resolution:

Resolved, That a select committee be appointed to inquire into and report to this House the number of additional messengers, pages, and other officers, if any, required for the use of the new Hall; and that said committee have leave to report at any time.

Mr. BANKS. If the resolution is received, I ask the gentleman from Virginia to accept an amendment, that the same committee have authority to consider and report to the House what accommodations should be made for reporters not already provided for.

Mr. JONES, of Tennessee. I would suggest, also, that the committee shall have authority to inquire as to what persons should be admitted to the floor of the House during its sessions.

Mr. HOUSTON. I would suggest to my friend from Tennessee that a committee be specially raised upon that subject. It is important to the business of legislation that we should be protected from those who are not entitled to the privileges of this Hall. I think a special committee should be raised to ascertain and report who should be entitled to come in here, and who not.

Mr. JONES, of Tennessee. If the gentleman will propose such a committee, I will go with him.

Mr. HOUSTON. I do not want to do it myself; I only throw out the suggestion for the action of the House.

Mr. STEPHENS, of Georgia. There are now, as the rules stand, certain persons who are entitled to the privileges of the floor; and, in order to see what it is that is now proposed, I ask for the reading of the 17th rule.

Mr. HOUSTON. I think, sir, there ought to be a committee raised to investigate into and report to this House on the subject. If the privilege of the Hall is extended in this, as it was in the old Hall, we will not, I think, be able to legislate at all.

Mr. STEPHENS, of Georgia. This is a much larger Hall than the old one.

Mr. HOUSTON. That is true; but we have not here the same protection we had there; there is no railing.

Mr. STEPHENS, of Georgia. When we get the additional officers asked for, we will.

Mr. HOUSTON. No, sir; not if these persons are allowed to come inside of this Hall. There is nothing, then, to keep them out of the seats of members, whenever they may choose to occupy them.

Mr. STEPHENS, of Georgia. I ask for the reading of the rule.

The Clerk read the rule, as follows:

"17. No person except members of the Senate, their Secretary, heads of Departments, Treasurer, Comptrollers, Registers, Auditors, President's Secretary, Chaplains to Congress, Judges of the United States, Foreign Ministers and their Secretaries, officers who by name have received or shall hereafter receive the thanks of Congress for their gallantry and good conduct displayed in the service of their country, the Governor, for the time being, of any State or Territory in the Union, such gentlemen as have been heads of Departments or members of either branch of the National Legislature, the members of the Legislatures, for the time being, of the States and Territories—January 14, 1850—and, at the discretion of the Speaker, persons who belong to such legislatures of foreign Governments as are in amity with the United States, shall be admitted within the Hall of the House of Representatives; and no person not known to the Doorkeeper to be entitled to the privilege of the floor shall enter the Hall, unless the Doorkeeper shall be informed by a member that the individual is entitled to admission under this rule, and in what capacity.—January 14, 1850. And a book shall be provided by the Doorkeeper, in which shall be registered the names of all persons, other than members of Con-

gress, who may apply for admission upon the floor of the House, setting forth by virtue of what position such privilege is claimed."

Mr. WASHBURN, of Illinois. What is the present state of the question?

The SPEAKER. The Chair does not understand that the gentleman from Alabama moves any amendment.

Mr. HOUSTON. I do not move an amendment; I have merely thrown out a suggestion to the House.

The SPEAKER. The question is, then, on the amendment of the gentleman from Massachusetts.

Mr. FLORENCE. I hope the gentleman from Massachusetts will add to his amendment the words, "reporters for the press generally."

Mr. WARREN. My understanding is, that not only the official reporters of the House have been provided for, but that the reporters for the press generally have been amply provided for in the gallery over and back of the Speaker's chair.

The SPEAKER. With the permission of the House, the Chair will make a statement. He found no arrangements had been made for the accommodation of the reporters and correspondents of the press, except for the reporters for the Globe, and therefore instructed the superintendent to provide accommodations for them in the gallery, immediately above the Speaker's chair. The Chair directed that ten seats should be provided there for that purpose. The Chair is informed by the superintendent that those seats can be elevated so that the reporters sitting there can see and hear everything going on in the House, probably better than anywhere else.

The Chair would also say that he received, previous to the removal into this Hall, between fifty and one hundred applications for the privileges of the House, from gentlemen connected with the press in different sections of the country.

Mr. BANKS. I was not aware of the fact stated by the Chair—that he had taken order in the matter—and supposed some such amendment as the one I offered was necessary. With the leave of the House, therefore, I withdraw my amendment.

The SPEAKER. The Chair would be happy to have his action indorsed by the House.

Mr. WARREN. I am perfectly willing that the action of the Speaker should be indorsed by the House. The only reason I had for making any suggestion at all was, that the committee appointed to examine this Hall, and report on its condition, determined that it would be the better policy to place the reporters for the press generally where they have been assigned places by the Speaker's order. If they be permitted to occupy these places, this course will meet the views of that committee. I hope, therefore, that the House will indorse the action of the Speaker.

Mr. FLORENCE. I renew the amendment of the gentleman from Massachusetts. The committee to which this subject is to be referred should especially inquire what accommodations, under the circumstances, are necessary for the reporters and correspondents of the public press generally. I think the Speaker has done, so far, just as well as he could. Look at the reporters and correspondents up in the gallery over the Speaker's chair. They have now very limited accommodations. There they all sit in a row, reminding me very much of musicians. They are *organists*, my facetious friend from Tennessee whispers to me. If the arrangements for the correspondents of the press, in the judgment of the House, are to be made in that gallery, so be it. I am of a different opinion; but if they are to be put there, in my opinion there is great propriety, on the part of this committee, in inquiring what sort of accommodations should be afforded to them there. During exciting debates upon the floor of this House, great as are the capacities of the galleries for the accommodation of spectators, these gentlemen would be especially incommoded. If, then, they are to occupy places in the gallery where they are now, I desire that they may have a place especially set apart and railed off for them, into which they, and none others, shall have the *entree*.

I trust that the amendment of the gentleman from Massachusetts, which I have renewed, with these words added to it, "reporters for the press generally," may be agreed to. The good sense

of the amendment—I do not speak egotistically, for the proposition belongs to the gentleman from Massachusetts—will, I presume, forcibly impress every member in its favor.

Mr. CLINGMAN. I have no doubt that the Chair has done the best that, under existing circumstances, could be done for the representatives of the press. But suppose there are ten or a dozen very convenient desks provided for them: they are not sufficient, if we have heretofore had fifty or sixty gentlemen enjoying these privileges. It seems to me, therefore, that there ought to be some further accommodations provided for the press. I am not prepared to say whether these gentlemen are now in the best position or not. But, sir, there are persons who have had this privilege, well known to members as gentlemen of intelligence, and whose reports are of great interest to the country; and as the Hall is capacious enough to accommodate at least a part of them, it would be well enough to authorize the Chair—I merely throw out the suggestion—to give the privilege to such a number of these gentlemen as might be admitted to the lobbies back of our seats, without incommencing members and other privileged persons.

I hope, therefore, that the amendment of the gentleman from Pennsylvania [Mr. FLORENCE] will be adopted; that this matter will be referred to a committee; and I have no doubt they will be able, in their report, to suggest some mode of affording additional facilities to the representatives of the press. I have in my eye a gentleman whom I know very well, and who assures me that the accommodations in the gallery are not sufficient. I second, therefore, the suggestion of the gentleman from Pennsylvania, and hope it will be adopted.

Mr. GARNETT. I heartily concur in the object proposed by the gentleman from Pennsylvania to furnish proper accommodations for the representatives of the press; but I think, at the same time, that we should pay some regard to ourselves, and empower the committee to furnish proper accommodations for the members of the House. The amendment suggested by the gentleman from Alabama [Mr. Houston] should, I think, be adopted, and the rule which has been read from the Clerk's desk be revised; for it is notorious that this Hall is not of sufficient size to accommodate the large number of strangers who have the privilege of the floor. We are not protected, as in the other Hall, by a barrier. There is an open space behind our seats; and I know, by my experience in another hall of legislation, arranged as this is in that regard, how impossible it will be for members in the outer circle to have even the privilege of their own chairs, unless the rule is revised, and the number of persons who have admission to this floor is materially restricted.

But that is not all, Mr. Speaker. I wish to empower the committee to provide other accommodations for members. Sir, those of us who occupy seats in the outer circle are now experiencing not only serious inconvenience, but inconvenience which I really believe is dangerous to our health. Cold air is continually flowing in upon us from these doors. There is no protection from double doors, as in the other Hall. Torrents of cold air are pouring in all around us, as any member can feel, and the whole atmosphere of this Hall is the atmosphere, not of a comfortable chamber for gentlemen to transact business in, but of a subterranean vault. Look at the panels round the Hall! Every one of them is discolored by blotches and blurs caused by dampness. I move, therefore, the following as an amendment to the amendment:

And that they also inquire what additional accommodations are required for the health and comfort of the members.

Mr. WINSLOW. I presume another amendment would not now be in order. I believe there is already an amendment to an amendment pending. I wish, therefore, to suggest to the gentleman from Virginia that he add to his amendment the words, "And what amendment, if any, shall be made to the 17th rule of the House?" The 17th rule is the one which has been read, relating to the privileges of the floor.

Mr. GARNETT. I accept the suggestion, and modify my amendment by adding to it those words.

Mr. PHILLIPS. I demand the previous question.

Mr. JONES, of Tennessee. I would suggest that the committee have power to report from time to time. It is not necessary that they should embrace all these matters in one report.

The SPEAKER. Debate is not in order; the previous question is demanded.

The previous question was seconded, and the main question ordered.

The amendment to the amendment was adopted. Mr. FLORENCE's amendment, as amended, was agreed to.

The original resolution, as amended, was then adopted.

Mr. FLORENCE moved that the vote by which the resolution was adopted be reconsidered, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

Mr. TAYLOR, of New York. I hope the gentleman from Georgia will waive that motion for a single moment.

The SPEAKER. The Chair desires to call the attention of the House to the fact that the number of which the committee shall consist has been omitted.

Mr. KEITT. Make it fifteen.

Mr. WASHBURNE, of Illinois. No; seven.

Mr. FLORENCE and several other members suggested five.

The SPEAKER. There is a blank in the resolution which has been adopted, and it will require unanimous consent to have the blank filled.

Mr. HASKIN. I move that the blank be filled with "five."

There being no objection, the motion was entertained, and agreed to.

Mr. STEPHENS, of Georgia. At the earnest solicitation of the gentleman from New York, [Mr. TAYLOR,] I withdraw the motion to adjourn.

MODE OF PAYING MEMBERS.

Mr. TAYLOR, of New York. I now ask the unanimous consent of the House to introduce the joint resolution which I offered this morning.

Mr. STANTON. I misunderstood the resolution this morning when it was read. I have since examined it carefully, and am satisfied that there should be no objection to it. I therefore withdraw my objection.

There being no other objection, the joint resolution to amend the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, was read by the Clerk.

Mr. TAYLOR, of New York, moved the previous question.

Mr. JONES, of Tennessee. If that resolution be referred to the Committee on Mileage, I shall not object to it; otherwise, I shall.

Mr. TAYLOR, of New York. I am perfectly willing to have it go to that committee.

The SPEAKER. Does the gentleman from Tennessee withdraw his objection?

Mr. JONES, of Tennessee. I will not withdraw it unless the resolution goes to the Committee on Mileage.

The SPEAKER. The Chair cannot determine that.

The objection was not withdrawn.

PROPOSITIONS FOR ADJOURNMENT.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

Mr. ELLIOTT. I move to amend that motion, so that, when the House adjourns, it adjourn to meet in the old Hall.

The SPEAKER. The amendment is hardly in order.

Mr. FLORENCE. I desire to offer an amendment to the motion, as follows:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses, for the present session, on Monday, the 2d day of June next ensuing, at twelve o'clock, m.

Mr. KEITT and several other members objected.

The SPEAKER. The Chair thinks that the proposition of the gentleman from Pennsylvania does not take precedence of the motion to adjourn.

Mr. FLORENCE. It struck me that it did. I offer it as an amendment or substitute to the proposition.

The SPEAKER. The Chair rules it out of order.

Mr. FLORENCE. I raise the point of order, that my proposition fixes a period remote beyond that suggested by the gentleman from Georgia for adjournment, and is in order. Gentlemen who do not like this Hall may vote my substitute, and leave it on the first Monday in June.

The SPEAKER. The Chair overrules the point of order.

The question was taken on Mr. STEPHENS's motion, and it was decided in the affirmative; and thereupon, at three o'clock and forty minutes, the House adjourned.

IN SENATE.

THURSDAY, December 17, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

Hon. STEPHEN R. MALLORY, of Florida, and Hon. SAM HOUSTON, of Texas, appeared in their seats to-day.

PETITIONS AND MEMORIALS.

Mr. GWIN presented the memorial of George Kippen and others, residents of southern New Mexico, praying for a separate territorial organization, under the name of Arizona; which was referred to the Committee on Territories.

He also presented the petition of Daniel Draper and William P. Draper, praying that a register may be granted to the bark Jehu, a Dominican vessel, lately called the Naiad Queen, bought by the Dominican Government and repaired in the United States; which was referred to the Committee on Commerce.

Mr. FOOT presented the petition of Catharine Lydia McLeod, only surviving child of Ebenezer Markham, a Canadian refugee, praying remuneration for the losses and sufferings of her father in aiding the cause of the American Revolution; which was referred to the Committee on Revolutionary Claims.

He also presented the memorial of Brevet Lieutenant Colonel B. S. Roberts, asking the Senate to reconsider its report in regard to the first American flag raised on the National Palace of Mexico; which was referred to the Committee on Military Affairs.

He also presented the petition of Mary D. Hayes and B. S. Fassett, praying to be allowed a pension on account of the services of John Durham Alvey, deputy postmaster at the headquarters of the army during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of Asa Arkens, praying Congress to grant relief by pensions or otherwise, to the surviving officers and soldiers of the war of 1812; which was referred to the Committee on Pensions.

Mr. BROWN presented the petition of John A. Ragan, for himself and others, praying that they may be allowed to purchase from the Government Lake Washington, in Mississippi, and Lake Point Coupee, in Louisiana, for the purpose of improving the breed of fish; which was referred to the Committee on Public Lands.

He also presented the petition of Amos Kendall and others, praying an annual appropriation of \$3,000 for the support of the Deaf and Dumb Asylum in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented additional papers in relation to the claim of William B. Trotter; which, with his petition on file, were referred to the Committee on Indian Affairs.

He also presented additional papers in relation to the claim of Nannie Denman, widow of F. J. Denman; which, with her papers on file, were referred to the Committee on Military Affairs.

Mr. SEWARD presented the memorial of William H. Kennon, late a purser in the United States Navy, praying to be allowed the same compensation that was received by his predecessor and successor on board the United States steam-frigate Mississippi; which was referred to the Committee on Naval Affairs.

Mr. BENJAMIN presented the petition and papers of S. DeVisser & Co., praying for the

passage of an act abandoning on the part of the Government all claims arising out of frauds of which they were innocent; which was referred to the Committee on Commerce.

Mr. WILSON presented resolutions of the Legislature of Massachusetts in relation to the claim of that State against the United States for militia services during the last war with Great Britain; which were referred to the Committee on Claims, and ordered to be printed.

Mr. STUART presented a petition of citizens of Michigan praying for the abolition of the office of Chaplain in the public service; which was ordered to lie on the table.

Mr. STUART. I presented, last week, a memorial of the Board of Education of the State of Michigan, and of the Faculty of the Agricultural College of the State, praying for a grant of land. As the committees had not then been formed, it was laid on the table. I move that it be taken up, and referred to the Committee on Public Lands.

The motion was agreed to.

Mr. PUGH presented a petition of soldiers of the last war with Great Britain, praying that pensions may be allowed the soldiers of that war or to their widows; which was referred to the Committee on Pensions.

Mr. MASON presented the memorial of Richard Randolph in behalf of John Slaughter, protesting against the adjudication of the claims of citizens of Virginia by the Commissioner of the General Land Office; which was referred to the Committee on Revolutionary Claims.

Mr. IVERSON presented the petition of William D. Elam, asking for the passage of an act to regulate pleadings in the district courts of the United States; which was referred to the Committee on the Judiciary.

He also presented the petition of James Hudgins, son and administrator of Ruth Murphy, formerly widow of John Hudgins, a brigade quartermaster in the revolutionary army, praying to be allowed a pension; which was referred to the Committee on Military Affairs.

He also presented the memorial of Jonas P. Keller, praying compensation for services as general supervisor and watchman of the Winder building in 1849 and 1850; which was referred to the Committee on Claims.

He also presented the memorial of the heirs and representatives of Getano Carusi, praying for the fulfillment of a contract made with him by Captain Hall, late of the marine corps of the United States; which was referred to the Committee on Claims.

Mr. DURKEE presented the memorial of Anson Dart, late superintendent of Indian affairs in Oregon, praying for the passage of an act authorizing the Commissioner of Indian Affairs to settle his account with the Government on principles of equity and justice; which was referred to the Committee on Indian Affairs.

Mr. POLK presented a memorial of the Legislature of Missouri, praying that the unsurveyed swamp lands may be patented to that State without being surveyed; which was referred to the Committee on Public Lands.

He also presented a memorial of the Legislature of Missouri, praying for an appropriation for public lands to build a railroad from Springfield to Gibb's Bluff, in that State; which was referred to the Committee on Public Lands.

Mr. EVANS presented a presentment of the grand jury of the United States for the district of South Carolina, in session at Charleston, recommending an appropriation for a new court-house at that place, and that provision be made for arranging the records of that court, and increasing the allowance for the maintenance of prisoners; which was referred to the Committee on the Judiciary.

He also presented a presentment of the grand jury of the United States district court at Greenville, South Carolina, recommending an appropriation for a new court-house, and the appointment of commissioners, at suitable places, within the jurisdiction of that court; which was referred to the Committee on the Judiciary.

Mr. EVANS. I ask for the reference to the Committee on Commerce of the memorial of the Chamber of Commerce of Charleston, in regard to the coast survey, which I presented before the committees were organized.

It was so ordered.

Mr. GWIN presented a memorial of a large number of the citizens residing in the western portion of the Territory of Utah, praying for the organization of a new Territory east of the Sierra Nevada mountains; which was referred to the Committee on Territories.

INDIANA SENATORIAL ELECTION.

On motion of Mr. TRUMBULL, it was

Ordered, That the credentials of the sitting members of this body from the State of Indiana, together with all the papers on file protesting against their right to seats, or relating to their election as Senators in Congress by the Legislature of Indiana, be referred to the Committee on the Judiciary.

FINANCE REPORT.

On motion of Mr. HUNTER, it was

Ordered, That the annual report of the Secretary of the Treasury on the state of the finances be referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SLIDELL, it was

Ordered, That John W. Chevis and others, have leave to withdraw their petition and papers.

On motion of Mr. HUNTER, it was

Ordered, That the petition of the Orange and Alexandria Railroad Company, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. HUNTER, it was

Ordered, That the petition of the legal representatives of Charles Porterfield, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. SEWARD, it was

Ordered, That Hiram Paulding have leave to withdraw his petition and papers.

On motion of Mr. SEWARD, it was

Ordered, That Hall Neilson have leave to withdraw his petition and papers.

On motion of Mr. BENJAMIN, it was

Ordered, That the petition of Trench Tilghman, on the files of the Senate, be referred to the Committee on Commerce.

On motion of Mr. BENJAMIN, it was

Ordered, That the petition of Charles McCormack, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion of Mr. BENJAMIN, it was

Ordered, That the memorial of John Temple and the memorial of Henry Volcker, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. FOOT, it was

Ordered, That the petition and papers in relation to the case of Elias Hall, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BENJAMIN, it was

Ordered, That the memorial of A. J. Atocha, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. STUART, it was

Ordered, That the petition of Joseph Loranger, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. PUGH, it was

Ordered, That the petition of Augustus Moor, on the files of the Senate, be referred to the Committee on Military Affairs and the Militia.

On motion of Mr. THOMSON, of New Jersey, it was

Ordered, That the petition of Pamela Preswick and the other heirs of William Wigton, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. SLIDELL, it was

Ordered, That John Temple have leave to withdraw his petition and papers.

On motion of Mr. MASON, it was

Ordered, That the memorial of Thomas Ap Catesby Jones, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. HALE, it was

Ordered, That the memorial of Nancy Read, widow of Levi Read, a soldier of the Revolution, be withdrawn from the files of the Senate, and referred to the Committee on Pensions.

On motion of Mr. BAYARD, it was

Ordered, That Mary Bennett have leave to withdraw her petition and papers.

On motion of Mr. IVERSON, it was

Ordered, That the memorial and papers in the case of Mrs. Christine Barnard, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion of Mr. IVERSON, it was

Ordered, That the memorial of George A. O'Brien, and the memorial of Eleazer Williams, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. EVANS, it was

Ordered, That the memorial of the surviving children of Samuel Hammond, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. JONES, it was

Ordered, That the resolution of the Legislature of Iowa, on the files of the Senate, in favor of a grant of land for a railroad from McGregor's Landing to the Missouri river, be referred to the Committee on Public Lands.

On motion of Mr. JONES, it was

Ordered, That the petition of John R. Nourse, on the files of the Senate, be referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. J. C. ALLEN, their Clerk, announced that the House of Representatives had passed a joint resolution (H. R. No. 1) in relation to the clergymen of the city of Washington who may officiate as Chaplains of the Senate and House of Representatives.

BOMBARDMENT OF GREYTOWN.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if compatible with the public interest, to communicate to the Senate copies of any correspondence which may have taken place between the Department of State and the British and French Ministers on the subject of claims for losses alleged to have been sustained by subjects of Great Britain and France at the bombardment of Greytown.

RAILROAD TO THE PACIFIC.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That so much of the President's message and accompanying documents as refers to the subject of a national railroad from the Mississippi valley to the Pacific ocean, be referred to a select committee of nine members, to be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Messrs. GWIN, DOUGLAS, BRIGHT, DAVIS, HUNTER, SEWARD, BELL, FOOT, and IVERSON, as the committee.

THE DISTRICT BANKS.

Mr. SLIDELL. I offer the following resolution:

Resolved, That a select committee of five be appointed by the President *pro tempore* to examine into the condition of the corporations or associations acting as banks of deposit, discount, and issue, in the District of Columbia, and the authority under which said corporations or associations assume to transact the business of banking, with power to send for persons and papers, and to examine witnesses under oath. Also to inquire whether any, and what further legislation, is necessary to regulate and control banks of deposit, circulation, and issue, in the District of Columbia, and to report by bill or otherwise.

I have conferred with the chairman of the Committee on Finance and the chairman of the Committee on the District of Columbia, the only two committees to whom the subject-matter of this resolution could, with propriety, be referred. They both think they have sufficient occupation, and that the subject is one worthy of investigation by a special committee. I hope the resolution will now be considered.

The resolution was considered by unanimous consent, and agreed to.

The committee consists of Messrs. SLIDELL, POLK, BRODERICK, THOMSON of New Jersey, and HALE.

KANSAS AFFAIRS.

Mr. TRUMBULL. A resolution was adopted yesterday, requesting the President "to communicate to the Senate all correspondence between the Executive Department and the present Governor of Kansas, together with such orders and instructions as have been issued to said Governor in relation to the affairs of said Territory."

It will be observed that this resolution is limited to the communications and instructions which have been made to the present Governor of Kansas. I think it very important that we should have all the correspondence, whether with the Governor or other officers. It is known that the Governor has not been there for some time, and it is important to have the whole of the instructions and communications which have been made. I have drawn up the following resolution with that view, which I hope will be adopted:

Resolved, That the President be requested to communicate to the Senate all correspondence between himself or any of the Departments, and any Governor or other officer or person in the employment of the Government in Kansas Territory, not heretofore communicated, together with all orders and instructions which have been issued to the Governor of the said Territory, or any other officer or person in said Territory, in relation to Kansas affairs.

Mr. MASON. Let it lie over until we can look at it.

Mr. PUGH. I was about to offer an amendment to the resolution calling for documents which have not been embraced in any previous call; but if the resolution offered by the Senator from Illinois is to lie over, I ask that the following resolution may lie over with it:

Resolved, That the President be requested to communicate to the Senate copies of the following documents:

1. Return of the votes taken in Kansas Territory at the October election, 1856, upon the question of calling a convention to frame a constitution and State government.
2. Act of the Territorial Legislature (in obedience to that vote) calling such a convention, and providing for the apportionment and election of delegates to the same.
3. The census and registration of voters, by counties and precincts, as taken under that act.
4. The apportionment of delegates made upon the returns of such census and registration.
5. Returns of the election by counties for delegates to the convention.
6. Returns of the last election, by counties, for members of the Territorial Legislature and a Delegate to Congress.
7. Proclamations of the Governor or acting Governor upon the subject of the census, registration of voters, and the several elections heretofore specified.
8. Journal of the convention held at LeCompton to frame a constitution and State government.

The PRESIDENT *pro tempore*. The resolutions will lie over, under the rule.

NOTICES OF BILLS.

Mr. WILSON gave notice of his intention to ask leave to introduce a bill to grant to the cities of Washington and Georgetown one million acres of the public lands for the support of common schools.

Mr. BAYARD gave notice of his intention to ask leave to introduce a bill to provide for the public printing, binding, and engraving.

Mr. BRODERICK gave notice of his intention to ask leave to introduce a bill to authorize and direct the payment of certain moneys into the treasury of the State of California, which were collected in the ports of said State as a revenue upon imports since the ratification of the treaty of peace between the United States and the Republic of Mexico, and prior to the admission of said State into the Union.

BILLS INTRODUCED.

Mr. FOOT, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 1) for the relief of George P. Marsh; which was read twice by its title, and referred to the Committee on Foreign Relations.

Also, a bill (S. No. 2) to grant a homestead of one hundred and sixty acres of the public land to actual settlers; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 1) as to the constitutional power of the Executive in the removal of commissioned officers of the Army and Navy; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BROWN asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 3) to authorize notaries public to take and certify oaths, affirmations, and acknowledgments, in certain cases; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PUGH, in pursuance of previous notice, asked and obtained leave to introduce the following bills; which were read twice by their titles, and referred as indicated below:

A bill (S. No. 4) to authorize writs of error in all cases prosecuted by indictment—to the Committee on the Judiciary;

A bill (S. No. 6) to provide for a survey of the Ohio river and its principal tributaries—to the Committee on Commerce; and

A bill (S. No. 7) for the improvement of navigation at the falls of the Ohio river—to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 5) to continue the pension heretofore granted to Katherine M. Hamer; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GWIN, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 8) to organize the Territory of Arizona, and to create the office of surveyor general therein; to provide for the examination of private land claims; to grant donations to actual settlers; to

survey the public and private lands, and for other purposes; which was read twice by its title, and referred to the Committee on Territories, and ordered to be printed.

Also, a bill (S. No. 9) to authorize and facilitate the construction of a northern, a southern, and a central Pacific railroad and magnetic telegraph through the Territories of the United States; which was read twice by its title, and referred to the select committee on the subject, and ordered to be printed.

Mr. CLAY, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 10) repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries; which was read twice by its title, and referred to the Committee on Commerce.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 12) making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of a railroad from McGregor's Landing to the western boundary of said State; which was read twice by its title, and referred to the Committee on Public Lands.

Also, a bill (S. No. 11) making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of a railroad from Keokuk to Fort Madison, through the southern tier of counties in said State, to the Missouri river; which was read twice by its title, and referred to the Committee on Public Lands.

TREASURY NOTES.

Mr. HUNTER. I am directed by the Committee on Finance, to whom was referred the annual report of the Secretary of the Treasury, to report a bill (S. No. 13) to authorize the issue of Treasury notes. I ask the Senate, by unanimous consent, to proceed to the consideration of this bill now. There is great necessity for its prompt passage. If any Senator doubts the propriety of having it considered at once, I should like to have a letter which has been addressed to me by the Secretary of the Treasury read.

The Secretary read the following letter:

TREASURY DEPARTMENT, December 15, 1857.

SIR: In my annual report to Congress of the 8th instant, an explanation of the causes which would lead to the necessity of supplying the Treasury with the means of promptly meeting the lawful claims upon it was given. I stated that "such provision should be made at the earliest practicable period, as a failure of sufficient means in the Treasury may occur at an early day."

At the time I prepared that statement, the weekly expenditures were exceeding the receipts to an extent that induced the opinion thus given. While the estimated amount of importations justified the conclusion that the revenue for the present year might be sufficient to meet the wants of the Government, yet the actual receipts into the Treasury in time to provide for the wants of the public service were dependent, not on the amount of merchandise imported, but the portion entered for consumption. At this time there is held in warehouse, in the city of New York alone, merchandise subject to duty exceeding twenty-eight million dollars in value, on which, when entered for consumption, duties must be paid to the amount of more than six million dollars.

The period when such payment of duty will be made may be influenced by so many circumstances, that the public credit should not be hazarded upon the contingency of its happening in time to meet the liabilities which we know must be provided for at an early day.

The amount now in the Treasury subject to draft is considerably less than six million dollars. When we reflect that balances must be kept in the hands of public officers in every part of the United States, by whom drafts are required to be paid, it will be readily perceived that the fiscal operations of the Government cannot be carried on with convenience and security with a less sum in the Treasury. The excess of the expenditures over the receipts is daily reducing this balance. I have been compelled to withdraw from the Mint and its branches the amount usually kept there for the purpose of facilitating the conversion of bullion into coin for the benefit of depositors. Such withdrawal necessarily occasions an inconvenience to the commercial community which should be obviated whenever it shall become practicable to do so.

It is proper to state that, in addition to the ordinary current demands on the Treasury, the sum of \$722,652 29 must be paid on the 1st of January next for interest on the public debt.

In view of this state of things, I have the honor to ask your attention to the recommendation in my annual report that authority be given by law to issue Treasury notes. I think it important that Congress should act at once on the subject, that the necessary arrangements may be made by the 1st day of January to meet such public liabilities as become payable at and before that time, and which cannot be longer postponed.

Though the amount of \$20,000,000 will not, in all probability, be needed at an early day, if at all, yet it is deemed best that the Department be authorized to issue and keep out that sum, should it be required by the public service. The rate of interest, for manifest reasons, should be left

discretionary with the Department, subject to the approval of the President; but not to exceed six per centum per annum.

Very respectfully, your obedient servant,
HOWELL COBB,
Secretary of the Treasury.

Hon. R. M. T. HUNTER, Chairman of Committee on Finance,
Senate of the United States.

Mr. ALLEN. Yesterday the Senate determined that they would, at one o'clock to-day, proceed to the election of a Public Printer. I hope that will be done previous to the consideration of this bill.

Mr. HUNTER. I suggest to my friend from Rhode Island that, if we take up this bill, we can, at one o'clock, suspend its consideration, in order to execute that order; but I should like, if it be the pleasure of the Senate, to get the bill before them, because we must have action on it before Monday. I hope we may act on it to-day; but certainly we should do so before Monday.

Mr. SIMMONS. Has the bill been printed?

Mr. HUNTER. No, sir; it was only reported to-day.

Mr. SIMMONS. I hope it will be printed before being acted upon. I think it is a very important bill.

Mr. HUNTER. I admit it is a very important bill. Of course, if any Senator insists on its going over, for the purpose of being printed, it must lie over and be printed. I will only say that, if we postpone it, in order to have it printed, we must sit to-morrow or the next day, so as to pass it, because it is indispensable that it should be acted on at an early day.

Mr. SEWARD. I hope we shall hear the bill read, and then we can judge of it.

Mr. HUNTER. It corresponds with the bill of 1847, with the exception of two provisions, which I can state briefly.

Mr. SEWARD. Then I can see no necessity for printing it.

Mr. KING. It would be better to have it printed.

Mr. SIMMONS. I should like to see it printed. I do not want to vote for the issue of \$20,000,000 of Treasury notes, to be kept in circulation as long as the Executive may think proper, without knowing exactly what I am doing. I should like to have the bill printed, so that we can read and understand it.

Mr. HUNTER. Of course, if the Senator insists on having it printed, it must go over.

Mr. SIMMONS. I have no objection to hearing it read.

Mr. HUNTER. Let it be read; but before the Secretary reads it, I will state the two points of difference between this bill and that of 1847. In the act of 1847 there was a provision for funding the Treasury notes. That provision is not in this bill. The impression is, that if it were put there they would be funded, and not perform the office desired. The other difference is as to the mode of putting them out. With the exception of \$6,000,000, which will probably be wanted between now and the 1st of January, it is proposed that the residue shall be put out on public advertisement to the bidder, who will agree to take them at specie at the lowest rate of interest, so as to preserve the precise specie par between the notes and specie. These are the only two points of difference between this bill and the act of 1847. Perhaps the bill had better be read for the information of Senators.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. TRUMBULL. Do I understand the bill to be taken up for consideration?

The PRESIDENT *pro tempore*. No, sir. It is only on its first reading.

Mr. TRUMBULL. Is it before the Senate?

The PRESIDENT *pro tempore*. It is not.

Mr. TRUMBULL. I have no objection to hearing the bill read; but I shall certainly object to taking up for action a measure authorizing a debt of \$20,000,000 to be incurred without any consideration. I think it altogether too important a matter to be treated in that way.

Mr. HUNTER. I do not desire to consume time. Any Senator, if he chooses, can have it laid over. Will the Senate agree to make it the special order for to-morrow, at one o'clock, and let us come here and dispose of it then? Of course it will be printed, under the rules of the Senate. Can we take it up for the purpose of making it

the special order to-morrow, at one o'clock, and have it printed in the mean time?

Mr. SIMMONS. I hope no order will be made in regard to the bill until we have had an opportunity to read it. I think it very singular that when, on the 8th day of the month, there was a report from the Secretary of the Treasury, telling us that he had sufficient means within his control to last until the 30th of June next, and leave a balance of half a million at that time, he should, in seven days after, come in, without anything intervening that I know of, and ask for a loan of \$20,000,000.

Mr. HUNTER. If the Senator from Rhode Island will look at the annual report of the Secretary of the Treasury, he will find that the Secretary said he should ask for the issue of \$20,000,000 of Treasury notes.

Mr. SIMMONS. I have not read the report all through, and that is the reason why I desire to read it and this bill before I act; but I have read the report as far as the figures go. I know that the Secretary of the Treasury reports that he had a balance in his hands, on the 1st of October, of about fourteen or fifteen million dollars. I know, also, that two thirds, or nearly three fourths, of the quarter in which he estimated that he should receive \$12,250,000, had already passed before this report came in; and the amount received in that time, with the \$15,000,000 he had on hand, would reach \$27,000,000. I do not know how much he has expended: I do not profess to know, because I have not read the report. But he estimated the expenditures for the last nine months at fifty-one million dollars—about seventeen millions for three months. If the estimates that he made last week are right, he must have \$10,000,000 to-day; but there may have been some extraordinary demands upon the Treasury. I know, from what I see in the newspapers, that he has purchased some two or three millions of the funded debt—I should think nearly three millions. That would leave six or seven millions. Now, I should like to make some inquiries; but I do not wish to be forced to place myself before the Senate in the position of catechising the chairman of the Committee on Finance on a subject of this kind until I have read the bill. I want to know what it is.

Mr. HUNTER. I am not asking the Senator to act on it now. I merely propose that we make it the special order for to-morrow at one o'clock, and have it printed. We can take it into consideration then. If the Senator from Rhode Island should think it proper to oppose the bill he can be heard, and the Senate can, if they choose, refuse to pass it.

Mr. SIMMONS. I am not willing to consent to anything until I can read the bill. I am ready to hear the bill read now for the information of Senators, but I do not like to have what a worthy Senator from Missouri [Mr. Benton] used to say was a "snap judgment," in the Senate. I desire a little time to read a bill of this magnitude. I want to know what is meant by continuing the issue of these \$20,000,000 of Treasury notes. I do not know what that is yet.

Mr. SEWARD. I suppose that, unless by unanimous consent it be waived, every bill which is introduced must be read when it is first presented. I desire to hear this bill before we decide whether to take it up or otherwise.

The PRESIDENT *pro tempore*. Of course any Senator has a right to call for the reading of the bill. It will be read.

The Secretary read the bill; and it was ordered to a second reading.

Mr. HUNTER. If the Senator from Rhode Island objects to the bill being read a second time to-day, it must be laid over until to-morrow. I do not know that it is necessary to make it the special order, as, I presume, if I make a motion to-morrow to take it up, a majority of the Senate can take it up.

The PRESIDENT *pro tempore*. Certainly.
Mr. HUNTER. That being the rule, I give notice that I shall move at one o'clock to-morrow, or as soon as the morning business may be disposed of, to take up this bill for consideration. In the mean time, it will be printed under the rule.

ELECTION OF PUBLIC PRINTER.

The PRESIDENT *pro tempore*. The hour of

one o'clock having arrived, the Senate will proceed, in pursuance of the order adopted yesterday, to elect a Public Printer.

Mr. JOHNSON, of Arkansas. Is it possible to amend the original resolution providing for the election of a Printer?

The PRESIDENT *pro tempore*. That cannot be done without a reconsideration of the original resolution.

Mr. JOHNSON, of Arkansas. The amendment which I desire to have made is the addition of this proviso to the resolution:

Provided, however, That this election of a Public Printer is made on the express condition that the right is reserved in Congress to modify or repeal any or all existing laws on the subject of public printing if it shall be deemed proper, and that no loss or damage to the person or parties elected as Public Printer which may be alleged to have been sustained by reason of such modification or repeal shall be allowed as constituting any claim for indemnity against Congress.

The House of Representatives, I understand, attached a proviso of this kind to their resolution providing for the election of a Public Printer on their part; and this suggested to me the propriety of our pursuing the same course. It is quite possible that during the present session Congress may deem it proper to repeal or modify the existing printing laws.

The PRESIDENT *pro tempore*. The Chair will suggest to the Senator from Arkansas that the only way for him to reach his object is by a reconsideration of the resolution adopted yesterday providing for the election of a Public Printer to-day at one o'clock.

Mr. JOHNSON, of Arkansas. I move to reconsider the vote by which that resolution was adopted, with a view of offering my amendment. The amendment is, I think, proper, if not absolutely necessary. I regard it as probable, though of course not certain, that our printing laws will be changed before the close of the present session of Congress. If we now elect a Public Printer, without reserving to ourselves the right to change the prices or make any other modification of the law, we may be precluded from making such changes hereafter; or at any rate it may be contended that we have entered into a contract which we cannot modify without the consent of the other party to it.

Mr. ALLEN. I offered the resolution which was adopted yesterday, and I second the motion for a reconsideration.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The resolution submitted yesterday by the Senator from Rhode Island [Mr. ALLEN] is now before the Senate.

Mr. JOHNSON, of Arkansas. I offer the amendment which I read a few minutes ago. Perhaps the Senator from Rhode Island will accept it.

Mr. ALLEN. I accept the amendment.

Mr. STUART. I only desire to save what I think are the rights of Congress. So far as any inference may be drawn from this amendment that Congress without it would not have a full and unquestioned right to do what the amendment reserves, I entertain no doubt whatever. We have that right under the law as it stands. I have, however, no objection to the amendment. Hereafter if any question should arise as to printing that has been done heretofore, some argument might be drawn from the fact of our having taken this precaution. Against that I wish to protest.

Mr. TRUMBULL. The Senator from Michigan has expressed precisely my views on this question. I think the power of Congress over the prices to be paid for the public printing is complete without any such proviso as that presented by the Senator from Arkansas. I have no objection to the proviso as a matter of precaution and to prevent our being troubled with claims hereafter; but the idea that because Congress appoints a Public Printer, and the rates for printing are established by law at the time of his election, Congress cannot by a subsequent law regulate those rates, is as unsound to my mind as it would be to say that Congress cannot regulate the fees of public officers of the United States throughout the country. So far as the salaries of the United States judges are concerned, I am aware that there is a constitutional provision preventing their diminution; but as to the fees of all other Federal officers, I suppose they are entirely within the power of Congress to be regulated as in its judgment may be deemed best at any time. We have

entire control over the prices paid for public printing without this proviso.

Mr. JOHNSON, of Arkansas. I believe the proviso will do no harm. No doubt the protest entered, by the gentlemen will have great effect hereafter, and I think it is well they have put it in; but for greater caution, this proviso should be inserted. It is certain that the members of the House of Representatives have already adopted this course. I believe that it will leave us free without any room being left for the allegation that our hands are bound in the opinion of those who differ from the views of the gentlemen who have spoken. I wish to propose a further amendment to the resolution of the Senator from Rhode Island, by striking out the words "to-morrow at one o'clock," and inserting "now."

Mr. ALLEN. I accept that.

The resolution, as amended, was adopted, as follows:

Ordered, That the Senate will now proceed to the election of a Public Printer, to do the public printing for the Thirty-Fifth Congress, in accordance with the eighth section of the "Act to provide for executing the public printing, and establishing the prices thereof, and for other purposes," approved the 29th of August, 1852: *Provided, however,* That this election of a Public Printer is made on the express condition that the right is reserved in Congress to modify or repeal any or all existing laws on the subject of public printing, if it shall be deemed proper; and that no loss or damage to the person or parties elected as Public Printer, which may be alleged to have been sustained by reason of such modification or repeal, shall be allowed as constituting any claim for indemnity against Congress.

The PRESIDENT *pro tempore*. Senators will please prepare their ballots for Public Printer.

The ballots were collected and canvassed, and the result about to be announced, when—

Mr. HAMLIN. I was out at the time of the balloting, but I suppose I have a right to vote. I rise for the purpose of inquiring whether I have that right?

The PRESIDENT *pro tempore*. Under the rule, there is ground for presuming that a Senator is entitled to vote at any time before the result is announced; but the Chair thinks that after all the ballots have been deposited and counted it is not in order for any Senator to vote. The Chair, however, is not very conversant with the rules, and will be entirely under the control of the Senate.

Mr. HAMLIN. The vote has not been declared.

Mr. STUART. The Senator has a right to vote at any time before the result is announced.

The PRESIDENT *pro tempore*. The Chair thinks otherwise; but he will submit the question to the Senate. Shall the Senator from Maine be permitted to vote?

The question was decided in the affirmative.

Mr. DOUGLAS. I desire to state that I have not voted at all, and do not intend to vote on this question for reasons satisfactory to myself, but which I presume it is not necessary to state here.

The PRESIDENT *pro tempore* announced the result, as follows:

Whole number of votes cast, 49; necessary to a choice, 25; of which

William A. Harris received.....	28
George M. Weston.....	18
John C. Rives.....	1
Cornelius Wendell.....	1
Blank.....	1

William A. Harris having received a majority of the votes cast, was declared to be duly elected Printer to the Senate for the Thirty-Fifth Congress.

EXECUTIVE SESSION.

On motion of Mr. HUNTER, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 17, 1857.

The House met at twelve o'clock, m. Prayer by Rev. A. G. CAROTHERS, of the Assembly's church.

DEATH OF HON. JOHN G. MONTGOMERY.

Mr. LEIDY. Mr. Speaker, it has become my duty to-day to announce to you and to this House the death of my immediate predecessor, the Hon. JOHN G. MONTGOMERY, a member elect of the Thirty-Fifth Congress for the twelfth district of the State of Pennsylvania. Mr. MONTGOMERY

was born in Paradise, then in Northumberland county, in the State of Pennsylvania, in the year 1805. When he had attained a proper age—having pursued his preparatory studies in the vicinity of his home—he entered Washington College, in Washington county, at which institution he graduated with honor in 1824, I believe a member of the same class with Governor Wise, of Virginia.

Having completed his collegiate course, he immediately commenced the study of the law under the direction and instruction of the Hon. Alem Marr, formerly a member of this House, and a gentleman of deservedly high reputation as well for his legal learning and talents as for general intelligence. In the year 1826, he was admitted to practice in the several courts of Columbia county, and soon rose to an honorable standing in his profession. Shortly after his admission to the bar, he was appointed district attorney for the county of Columbia, and for several years continued to discharge the duties of that office with credit to himself and to the entire satisfaction of the public. He continued the practice of the law successfully, until the year 1855, when he reluctantly consented to become a candidate for member of the State Legislature; was nominated and elected; and so well did he discharge the duties of that office, so ably acquit himself as a legislator, that before the expiration of his first term, the public mind had fixed upon him as the next Representative for the district on this floor.

Immediately after his return from the Legislature, he was appointed a delegate to the Cincinnati Convention, in which he zealously labored for, and aided in, the nomination of our present Chief Magistrate, having been one of his earliest and firmest friends.

When the time for making a congressional nomination in the district arrived, he was nominated as the Democratic candidate for Congress for the twelfth district; and, at the ensuing election in October, 1856, was triumphantly elected by a majority exceeding 2,000; the largest majority which any candidate for Congress had received in the district for many years.

About the 1st of March, 1857, he visited Washington for the purpose of witnessing the ceremonies of the inauguration, and also of attending to the interests of his constituents at the organization of the new Administration; and while here, stopping at the National Hotel, contracted that mysterious disease which has proved fatal to so many of the sojourners in this city on that occasion. He remained here a few days after the first symptoms of the disease manifested themselves, and finding that he was still growing worse, he returned to his home in Danville, to avail himself of the kind attentions of his family, and the services of his family physician in whose skill he had the most unbounded confidence, in the hope of a speedy restoration to health. But in this he was disappointed; and after lingering for nearly two months, his disease baffling all medical skill, he departed this life on the 24th of April, 1857.

Mr. MONTGOMERY was a sound lawyer and able advocate, and well versed in all the general political questions of his day. He was fearless and free in the expression of his opinions, firm in his adherence to, and defense of, what he believed to be truth, and bold and uncompromising in combating error. He was a kind husband and father, a true friend, an estimable citizen, an honest man. I have thus briefly sketched so much of the history of his life and character as is proper for this time and place.

I may, however, be permitted to add, that, in the death of Mr. MONTGOMERY, not only have his family and friends suffered a most melancholy bereavement, but the people of his district, his constituents, who had so recently given him a most flattering testimonial of their confidence, have sustained a loss which they deeply feel and sincerely deplore. They have been deprived of the services of one whose eminent talents would have soon gained for him an honorable position on this floor, and whose integrity and social qualities would have secured for him the confidence and esteem of his fellow-members.

I stand not here to pronounce his eulogy; but, having known him intimately for many years, in all the relations of life, civil, social, and professional, I would here bear testimony to his worth as a citizen, his virtues as a man.

Mr. MONTGOMERY, at the time of his death, was about fifty-two years of age. He had entered upon public life with a mind well disciplined, and a judgment well matured, and with a constitution, physical and mental, which gave fair promise of many years of usefulness and honor. But, alas! how vain are all human expectations! How uncertain all human hopes! With the brightest prospects, and the highest hopes, in a day when he looked not for it, and in an hour when he thought not, he was stricken down by an unseen hand. The grave, which never saith "it is enough," claimed him as a victim. The dust has returned to dust, and the spirit has gone to God, who gave it. He is dead! How solemnly this brief sentence falls upon the ear! How great, how fearful the change which it indicates in the condition of its subject! Yet only a few more days, or a few more years, at most, shall have passed away, and other lips will pronounce, concerning each of us: "He is dead!"

Twice already, since our assembling here, have we been called upon in this solemn manner to remember that we are mortal; and to-day, for the third time, our thoughts are arrested and turned to the contemplation of death, the grave, and the future that lies beyond. May we all continually heed the solemn admonition, so oft repeated, "Be ye also ready."

I offer the following resolutions:

Resolved, That the House have heard with deep and unfeigned regret of the death of the Hon. JOHN G. MONTGOMERY, a member elect of the Thirty-Fifth Congress, from the twelfth congressional district of Pennsylvania.

Resolved, That, as a testimony of respect for the memory of the deceased, the officers and members of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk forward to the family of the deceased a copy of these proceedings.

Resolved, That, as a further mark of respect to the memory of the deceased, this House do now adjourn.

Mr. FLORENCE. The very limited acquaintance that I had with my deceased colleague, the Representative from the Luzerne district, hardly justifies me in rising at this time to say a word in seconding the resolutions. That short acquaintance, however, impressed me with the belief that, in the performance of the duties of a Representative of the people of his district, he would prove to have been a good selection—prove to be entirely competent and equal to the fulfillment of those important duties.

The suddenness of his decease, and the cause which produced it, made him almost a martyr, in political position, to the cause which he had espoused; coming here, as he did, to witness, to himself and to the whole people of Pennsylvania, an event in their history, to whatever party they may belong—the inauguration of a Pennsylvania President—he contracted during that joyous tribute to the distinguished gentleman who fills the President's chair, a disease which was the cause of his death. Sir, it warns us that in the midst of life, in the midst of health, surrounded though we may be with all the comforts of life, the unerring shafts of death may pierce us next. It admonishes us, "Be ye also ready, for in such an hour as ye think not, the Son of man cometh."

I second the resolutions. I concur entirely in the tribute which has been paid to the memory of this distinguished gentleman, and regretting his decease, trust that the resolutions may pass.

Previously, however, without desiring to interfere improperly on this mournful occasion, I would propose, that when this House adjourns, it adjourn to meet on Monday next.

Mr. MARSHALL, of Kentucky. I have no doubt at all that this gentleman deserved all the eulogies pronounced upon him by those who have addressed the House this morning; but, sir, I am impressed with the idea that to adjourn the House on account of the decease of a member elect to Congress who has never taken his seat, with whom none of us have ever associated here, and whom few, if any of us, residing out of Pennsylvania, or perhaps out of his district, have ever known, is certainly a wrong parliamentary precedent. It is the first time, during my congressional services, that the attempt has been made to fix the precedent of an adjournment of the House on account of the death of one who has never been sworn in as a member of Congress; and I throw out the suggestion that if the precedent has at any time been fixed, it ought not to have been so fixed. I know of no such instance within my recollection, but it may, nevertheless,

have been done. I think, sir, with all due respect to the memory of the person who has died, that we ought to fix some limit. Gentlemen who were in the last Congress have departed this life. I can now call to mind two with whom I have served; and who, having been elected to this Congress, have departed this life before they came here. Now, sir, are we to adjourn from day to day, and from time to time, upon notice being given of the death of each of these gentlemen who have died? If so, we shall be upon the Christmas holidays before we shall get at the public business at all.

I desire the gentleman from Pennsylvania distinctly to understand that in making these suggestions, they do not spring from any indisposition to show all proper respect to the memory of the dead; but they do spring from a desire to get at the work for which we are convened, and for which we have left our homes and our families, and for the purpose of setting a proper parliamentary practice.

Mr. STEPHENS, of Georgia. The proceedings now proposed are in conformity with the precedents of the House and of the Senate, ever since I have been a member of Congress. The gentleman from Kentucky is in error in respect to the precedents upon the subject. If the House should refuse to adjourn to-day, it would be the adoption of a new precedent. I think the old precedents were good; that it is due to the memory of the deceased, even if we never saw him; that it is due to the constituency who elected him, that we should adopt the resolutions. I hope that the House will conform to the precedents heretofore established, and honor the memory of the deceased by an adjournment.

Mr. ADRAIN. I concur in the remarks made by the honorable gentleman from Georgia. I have never had an acquaintance with the honorable gentleman whose decease has been announced this morning by his colleagues, and who ask, out of respect to his memory, that we shall adjourn. After that motion has been made, it is due to his memory, it is due to his colleagues, it is due to the great State of Pennsylvania, which he would have represented upon this floor, it is due to ourselves, out of respect to our own feelings and the occasion, that we should adjourn.

As I am a new member here, I know nothing in regard to the precedents upon the subject. It is not the time now to establish precedents. If it is proposed to adopt any other practice we may do it after we have passed these resolutions, and paid a proper tribute of respect to the memory of the deceased. We may then adopt some rule as to whether this House should adjourn or not, out of respect to the memory of a deceased member who has never taken his seat upon this floor. But, sir, this is not the time. I therefore heartily concur in the resolutions which have been offered, and shall sustain them by my vote.

Several MEMBERS. Withdraw the motion to adjourn over.

Mr. FLORENCE. I will withdraw the motion. Indeed, I made it from no want of respect to the memory of my deceased colleague. But, sir, aware it is the general practice to adjourn from Thursday until Monday, at this period of the session, I made the motion. It is known there is considerable dissatisfaction with the arrangements in this Hall, and I understand that, by Monday, other accommodations will be provided. I will have the candor to confess that I was actuated in making the motion partly by a desire to give members an opportunity to transact business at the Departments. As it seems to be the wish of gentlemen, however, that it should be withdrawn, I am willing to withdraw the motion to adjourn over.

Mr. LETCHER. I desire to have it done for this reason: I understand that there are several more deaths to be announced to the House, and it seems to me that if we adjourn over until Monday, two or three, and possibly four days, may be occupied next week with these announcements. I desire that we shall get to the business of the House; and it seems to me that there is no propriety in adjourning over if we have business to occupy our time to-morrow.

Mr. FLORENCE. I withdraw my motion. The resolutions were then unanimously adopted; and the House accordingly (at half past twelve o'clock, m.) adjourned until to-morrow, at twelve, m.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1st Session.

SATURDAY, DECEMBER 19, 1857.

NEW SERIES....No. 5.

IN SENATE.

FRIDAY, December 18, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented a petition of the surviving soldiers of the third regiment, second brigade, of the eleventh division of Massachusetts militia in the last war with Great Britain, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

He also presented the petition of John Wentworth, of Maine, praying that the pension he now receives may be made to commence from the time of his discharge; which was referred to the Committee on Pensions.

Mr. FESSENDEN presented the memorial of Rufus Dwinel, assignee of James Thomas, deceased, praying to be allowed interest on the amount of his claim; which was referred to the Committee on Claims.

He also presented resolutions of the Legislature of Maine, in relation to the decision of the Supreme Court of the United States in the case of Dred Scott; which were ordered to lie on the table, and be printed.

He also presented a resolution of the Legislature of Maine, in favor of a law imposing severe penalties against the introduction or importation into this country of foreign paupers and criminals; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented the petition of John Pope, a captain in the Navy, praying to be allowed the difference between the pay he received and that allowed to the commander of a squadron, during the time he performed the duties of that station; which was referred to the Committee on Naval Affairs.

He also presented a resolution of the Legislature of Maine, in relation to the bounty on cod fisheries; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a resolution of the Legislature of Maine, in relation to the claims of citizens of the United States to indemnity for French spoiliations; which was ordered to lie on the table, and be printed.

Mr. KING presented the memorial of the legal representatives of Seth Belknap, praying for payment for work done on the fortification on Dauphin Island, in Mobile bay; which was referred to the Committee on Claims.

Mr. WILSON presented resolutions of the Legislature of Massachusetts, in favor of the recognition of Hayti and Liberia as sovereign and independent States; which were referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. BIGLER presented the petition of Ann W. Butler, administratrix of General Richard Butler, complaining of what she thinks an unjust decision of the Court of Claims, on the claim of her intestate for money loaned and services rendered the United States, during the revolutionary war; which was referred to the Committee on Claims.

Mr. BRIGHT presented the petition of Mary B. Renner, executrix of Daniel Renner, late of the firm of Renner & Heath, praying for compensation for property destroyed by the British in 1814; which was referred to the Committee on Claims.

Mr. HALE presented the petition of Eliphalet Brown, jr., a master's mate in the Japan expedition, praying for compensation for services rendered by him, as an artist, in that expedition; which was referred to the Committee on Naval Affairs.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HAMLIN, it was

Ordered, That the petition of Lemuel Worster, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of Antoin L. C. Portman, on

the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of David Ogden, on the files of the Senate, be referred to the Committee on Finance.

On motion of Mr. GWIN, it was

Ordered, That the petition of Charles D. Maxwell, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. GWIN, it was

Ordered, That the memorial of Joseph K. Boyd, and the memorial of Susan Decatur, with the papers on the files of the Senate, relating to the claims of the captors of the frigate Philadelphia, be referred to the Committee on Claims.

On motion of Mr. BIGLER, it was

Ordered, That the memorial of Franklin Peale, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BIGLER, it was

Ordered, That the petition of John Hughes, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. BROWN, it was

Ordered, That the memorial of the board of trustees of public schools in the city of Washington, on the files of the Senate, be referred to the Committee on the District of Columbia.

On motion of Mr. BROWN, it was

Ordered, That the memorial of Michael Nash, on the files of the Senate, be referred to the Committee on the District of Columbia.

On motion of Mr. POLK, it was

Ordered, That the memorial of Anthony S. Robinson, heir of John H. Robinson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. WILSON, it was

Ordered, That the papers in the case of Michael Hanson, of Massachusetts, on the files of the Senate, be referred to the Committee on Pensions.

MOTIONS TO PRINT.

On motion of Mr. POLK, the memorials of the Legislature of Missouri, yesterday presented by him, were ordered to be printed.

On motion of Mr. BRIGHT, the bill yesterday introduced by Mr. PUGH, to provide for the improvement of navigation at the falls of the river Ohio, was ordered to be printed.

NOTICE OF A BILL.

Mr. DAVIS gave notice of his intention to ask leave to introduce a bill for the establishment of a navy-yard at the harbor of Ship Island, in the Gulf of Mexico.

Mr. WRIGHT gave notice of his intention to ask leave to introduce a bill to continue the improvement of the harbor of Newark, New Jersey.

BILLS INTRODUCED.

Mr. GREEN asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 14) to confirm the title in a certain tract of land in the State of Missouri to the heirs and legal representatives of Thomas Maddin, deceased; which was read twice by its title, and referred (with the papers now on file relative to the case) to the Committee on Private Land Claims.

Mr. DOUGLAS, in pursuance of previous notice, asked and obtained leave to bring in a bill (S. No. 15) to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States; which was read twice by its title, referred to the Committee on Territories, and ordered to be printed.

Mr. GREEN, in pursuance of previous notice, asked and obtained leave to bring in a bill (S. No. 16) to amend an act entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BRIGHT asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 17) to divide the State of Indiana into two judicial districts; and to provide for holding the district and circuit courts of the United States therein; which was read twice by its title and referred to the Committee on the Judiciary.

REPORTS OF THE COURT OF CLAIMS.

Mr. IVERSON submitted the following motion; which was considered by unanimous consent, and agreed to:

Ordered, That the reports and bills, together with the adverse reports, heretofore received from the Court of Claims and not finally acted upon; and the reports and bills, together with the adverse reports received from the Court of Claims on the 10th instant, be referred to the Committee on Claims, to consider and report thereon, and that said reports and bills be printed.

ISSUE OF A REGISTER.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of issuing a register to the steamer Fearless.

BOOMBARDMENT OF GREYTOWN.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if compatible with the public interest, to communicate to the Senate copies of any correspondence which may have taken place between the Department of State and the Minister of Bremen, on the subject of claims for losses alleged to have been sustained by subjects of the Hanse-Towns at the bombardment of Greytown.

KANSAS AFFAIRS.

On motion of Mr. TRUMBULL, the Senate proceeded to consider the following resolution, submitted by him yesterday:

Resolved, That the President be requested to communicate to the Senate all correspondence between himself or any of the Departments, and any Governor or other officer or person in the employment of the Government in Kansas Territory, not heretofore communicated, together with all orders and instructions which have been issued to the Governor of the said Territory, or any other officer or person in said Territory, in relation to Kansas affairs.

Mr. HUNTER. I shall not object to considering that resolution now, provided that at one o'clock the Senator will agree to lay it down in order to take up the Treasury note bill.

Mr. TRUMBULL. It is a mere resolution of inquiry. I suppose there will be no debate upon it.

Mr. HUNTER. I have no objection to it.

The resolution was agreed to.

Mr. PUGH. I intended, when the resolution of the Senator from Illinois was called up, to offer mine as an amendment; but it does not make any difference, if the Senate will oblige me by taking up the resolution which I submitted, directing the attention of the President to some documents connected with the Kansas question, which I deem important. I move to take up the resolution which I submitted yesterday.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the President be requested to communicate to the Senate copies of the following documents:

1. Returns of the votes taken in Kansas Territory at the October election, 1856, upon the question of calling a convention to frame a constitution and State government.
2. Act of the Territorial Legislature (in obedience to that vote) calling such a convention, and providing for the apportionment and election of delegates to the same.
3. The census and registration of voters, by counties and precincts, as taken under that act.
4. The apportionment of delegates made upon the returns of such census and registration.
5. Returns of the election, by counties, for delegates to the convention.
6. Returns of the last election, by counties, for members of the Territorial Legislature and a Delegate to Congress.
7. Proclamations of the Governor or acting Governor upon the subject of the census, registration of voters, and the several elections heretofore specified.
8. Journal of the convention held at Leecompton to frame a constitution and State government.

Mr. PUGH. This resolution merely specifies what I want—the census, journal of the convention, &c. If there is no objection, I hope it will be passed.

Mr. BIGLER. I have no objection to the passage of the resolution itself, but it is proper to state that it calls for information which is not in the possession of the Departments. The resolution of the Senator from Illinois covers quite all there is, and even more. No parts of these

records have been communicated to the Department here, except the executive minutes, and I believe the constitution of the State and the schedule, by the president of the constitutional convention. Whether the whole constitution has been communicated or not, I am not absolutely certain. The only difficulty about the resolution is, that we are asking in three resolutions for information which is not in the Department, when one resolution could obtain all there is.

Mr. PUGH. I shall not press the resolution after that suggestion.

Mr. BIGLER. Will the Senator permit it to lie over?

Mr. PUGH. Let it lie on the table for the present.

Mr. SEWARD. I suggest to the honorable Senator from Ohio, and also to the honorable Senator from Pennsylvania, that if the resolution already passed covers all the papers there are, there can be no harm, no prejudice, resulting from passing the supplemental resolution calling for them in another form. If it should not cover all the papers, this will bring them out. I suppose the object on all sides is to have them. I suggest to the Senator from Ohio to persist in his resolution.

Mr. BIGLER. I have not the slightest objection to the passage of the resolution.

Mr. PUGH. If the Senator from Pennsylvania will give me his ear, I can let him understand what I want to find out. The resolution of the Senator from Illinois calls for the communications between the President and the executive authority of Kansas. That I wish to see. But I understand that the election for delegates was held in pursuance of a census and registration of voters, and an apportionment of delegates to the counties. It has been asserted, whether truly or not I am not able to say, that in nineteen counties of Kansas there was no census taken—not from the refusal of the inhabitants to be registered, but from the neglect of the Territorial Legislature to elect any sheriffs for those counties. If that be true, the convention was not a full representation of the people. If it be not true, it is important to those who are disposed to sustain the constitution that the falsity of such an accusation should be made apparent. That is what I wish to learn. It seems to me a vital fact worthy to be ascertained in some form. If the information is not here, I hope the President will direct the Governor or the Secretary of Kansas to get it for him. I have been loath to state the accusation, because I did not wish to give it before the proof; but that is the reason why I wish these papers.

Mr. BIGLER. I beg to say to the Senator from Ohio that I have no objection whatever to the passage of his resolution. I had occasion to call at the Department this morning, and in conversation discovered that no such information was on file; that no communication had been made by the late Governor on the subject at all, except so far as related to his own action. The documents for which the Senator calls are not there; but still I am in favor of the passage of the resolution.

Mr. DAVIS. When, a few days since, I offered a resolution calling for the correspondence, orders, and instructions, in relation to the affairs of Kansas, I supposed everything was covered by that resolution which would aid us to appreciate the conduct of the Federal officers, and to understand the facts bearing upon the question now under discussion in relation to Kansas. If I thought there was anything in the Executive Departments which would add to the comprehension, the just understanding of the subject, and which had not been called for, I certainly should not hesitate to extend the call on the least intimation that it might be productive of such result. I do not, however, believe that anything has been omitted. I think, if the President communicates fairly and fully, as I confidently believe he will, all that is called for in the resolution offered by me, and adopted by the Senate, that he will give us whatever the Governor of Kansas has communicated to him, whether in relation to the census, the election of officers, the returns, and all else which bears on the question of the legitimacy of this convention. But I desire that every Senator shall take that read which will satisfy his own mind that he has reached all the information attainable upon the subject. I trust we are to treat this question as just men, as men

who have a duty to the country and to the Constitution. I wish nothing to be withheld or evaded, and trust that those Senators who act with me will allow any Senator to propose every inquiry which he thinks proper to suggest, and urges as conducive to a more thorough comprehension of the merits of the issues presented in connection with the Territory of Kansas.

Mr. PUGH. My attention has not been called to the resolution of the Senator from Mississippi, [Mr. Davis,] although I heard him offer it, and intended, at the time, to make inquiry of him on the subject. Yesterday, when the Senator from Illinois introduced his resolution, I intended to offer mine as an amendment. I should have moved it this morning, but I was engaged at the moment in conversation with another Senator. If my friend from Mississippi thinks his resolution covers the ground, I have no desire to press it or embarrass the matter in any way.

Mr. DAVIS. I think my resolution covers it; but if it does, this resolution will do no harm; and if it does not, this may bring out something which mine does not reach.

The resolution was agreed to.

DEATH OF HON. J. G. MONTGOMERY.

This message was received from the House of Representatives by Mr. J. C. ALLEN, their Clerk:

Mr. President: I am directed by the House of Representatives to communicate to the Senate information of the death of the Hon. JOHN G. MONTGOMERY, late a member of the House of Representatives from the State of Pennsylvania, and the proceedings of the House thereon.

Mr. BIGLER. I submit the following resolution:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. JOHN G. MONTGOMERY, deceased, late a Representative from the State of Pennsylvania, will go into mourning by wearing crape on the left arm for thirty days.

The people of the twelfth congressional district of Pennsylvania had chosen JOHN G. MONTGOMERY to represent them in the Thirty-Fifth Congress of the United States; but death interposed to prevent the execution of their will.

Mr. MONTGOMERY died at his residence, in Danville, in the county of Montour, Pennsylvania, on the 23d of April last, in the fifty-second year of his age. He was one of the victims of that singular and destructive epidemic which appeared at the National Hotel during the months of February and March last. He had left his home, in full health and with a cheerful spirit, to witness the consummation of his most cherished political desires in the inauguration of a President to whose promotion he had devoted his most ardent efforts. But the fatal epidemic soon drove him from the scene of his enjoyment, and he returned to his home, depressed in mind and afflicted in body, where he endured an incessant agony, only terminated by death.

He has left an amiable family, with a large circle of relatives and friends to lament his untimely end, and to unite their regrets with that of the intelligent and excellent constituency which had committed their interests to his protection.

Mr. MONTGOMERY was born in the county of Northumberland, Pennsylvania, in the year 1805, of highly respectable parents, whose virtuous examples and wise precepts he followed in after life. He graduated at Washington College, in his native State, about the year 1824, with more than ordinary distinction; and subsequently studied the law in the office, and under the tuition, of ALEM MARR, then a distinguished lawyer of the Northumberland bar. He commenced the practice of the law in 1827, and devoted himself exclusively to that profession until 1855, when he was induced by his friends to accept an election to the State Legislature, where, in a single session, he distinguished himself for ability, integrity, industry, and zeal in promoting the welfare of his constituency. In the line of his profession he had acquired an eminent reputation for candor and honor and sound judgment, and especially for counsels which looked more to the establishment of justice than to the increase of litigation. Plain and unpretending in his style of oratory, yet the peculiar directness with which he reached his point, with the correctness and sincerity of his manner, never failed to make a strong impression upon the tribunal and the auditory to which he addressed himself. As a private citizen, his life

was such as to gain for him the affection and the honors of which I have spoken, as was fitting testified by the weeping circle which stood around his grave.

I will be pardoned for having thus spoken of one who was my cherished friend. Had he taken his place in the national councils, your own knowledge would have supplied these comments; his worth and virtues would have been reflected amongst you, and his loss would have enhanced the grief with which recent bereavements have afflicted this body.

But the distress of his friends was the more poignant, and their resignation the more reluctant, because of the terrible and mysterious nature of the disease which caused his death. Whether it arose from a miasmatic exhalation, or was the studied plot of some fiend to cut off, by mineral poison, the highest and most honored citizens of the land, involved the question whether his loss should be mourned as the victim of a natural and inevitable cause, or whether it should be vindicated by investigation at the hands of justice.

Public judgment remains still in suspense as to the character and origin of this disease. It seems to have baffled the speculations of science and the testimony of experience, and will, probably, remain forever a mystery. But it was no ordinary visitation, originating in the habits or localities of the filthy and vicious, and spending its wrath upon misery and wretchedness. It came like "a thief in the night," like the destroyer "that walketh in darkness and wasteth at noonday," or like the special mission of the "destroying angel," as if intended, indeed, to teach more emphatically the great lesson that neither wealth, nor genius, nor station, can exempt man from the common incident of mortality. It seized and prostrated the most gifted and loved in the land, and many now mingle their tears for worth, genius, beauty, and excellence stricken down by this fell and malignant destroyer. Happy all if as well fitted to meet their doom as that friend whose loss we now deplore.

But the career of my lamented friend was consistent to its close. In all the duties and relations of life he was without reproach. He had established a good reputation as a pure and estimable citizen, and was about to enter upon a new sphere of action, the labor and responsibilities of which those who hear me will bear witness are more than equal to its dubious honors, or its fleeting joys. That he has been summoned from the trials and vexations of representative life to the peace appointed for the just, is a loss to his country, but none to himself.

To those whose grief is yet inconsolable—to the people who had committed their rights and interests to his trust, I offer the sincere sympathy of one who loved him, and looked forward with pleasure to his counsels and to his support, through the labors and trials of the Congress just begun.

The resolution was unanimously agreed to.

TREASURY NOTES.

On motion of Mr. HUNTER, the bill (S. No. 13) to authorize the issue of Treasury notes was read a second time, and considered as in Committee of the Whole.

Mr. HUNTER. I remarked yesterday that this bill corresponded with the bill of 1847, which is similar in its main provisions with all the Treasury note bills passed since 1837, with two exceptions: One exception consists in striking out the funding provision which existed in the bill of 1847. That is not to be found in this bill for the reason that if put in, it was apprehended the notes would be funded and converted into a loan, and for the further reason that an inconvenience was found lately when we were redeeming the public stock from that clause which existed in the bill of 1847. The holder of the note, instead of claiming what the law designed only to give him—what was due on its face—first funded it into stock under that provision, and then claimed a premium on the stock.

There is yet another difference. According to the laws which have been heretofore passed, the Secretary of the Treasury, with the approbation of the President, has been allowed to fix, at his own discretion, a rate of interest not exceeding six per cent., thus leaving it to his sagacity to determine whether the note, when issued, should

be equivalent to specie at par. This bill provides that he may raise \$6,000,000 in the old method, because about that sum will probably be wanted between now and the 1st of January; but, in regard to the residue, he is to advertise, upon notice of not less than thirty days, for bidders, who will agree to exchange specie at par for these notes at the lowest rate of interest—thus taking the most certain method within his power to ascertain precisely what will be the specie par of the note, and thus accomplish exactly the purpose which he has in view—that is, not to make the interest so high that the notes will be hoarded as an investment, and not to make it so low that they will be below their par value as specie, and thus come into the Treasury in payment of the revenue.

These are the only points of essential difference between this bill and the bill of 1847. The bill of 1837, as well as I can recollect, did not contain a funding provision. I think the bill of 1847 was peculiar in that regard. However, I will not be positive as to that matter.

In regard to the necessity for this measure, we know that the Secretary of the Treasury in his annual report informed us that he should require \$20,000,000; and although he estimated that in addition to the balance in the Treasury, he might receive money enough from the existing sources of revenue to meet the demands on him, yet he did not believe we should receive that money in time to meet those demands. Experience is showing us daily that we shall not do so. It seems to be supposed that if there should be a revival of trade, the full tide and flow will not come in until the last of April or the first of May. Although his estimates may be right in the whole, when we reach the commencement of the next fiscal year, yet experience shows that we shall be probably in want of this money to relieve the Treasury before that time. In other words, it is enabling him to use those means which the British Treasury have found so useful, by issuing notes called exchequer notes, which enable them to anticipate their revenue. If, on the other hand, it should turn out that he is mistaken, and will not receive as much revenue as he supposes, still greater will be the necessity for an issue of something like this amount; that is, for using the credit of the Government for a limited amount, for the purpose of supplying its temporary wants. If, however, it should turn out that the want is not temporary but permanent, then will be the time, if ever, to discuss whether there should be other means used in order to replenish the Treasury.

Mr. SEWARD. Mr. President, that, owing to the derangement of commercial affairs and the collection of the revenues consequent upon it, there is a necessity for an issue of Treasury notes to relieve the Treasury, I think is clear enough; that it is commercially desirable that such an issue of Treasury notes should be made in this conjuncture, I believe is also true; but, on looking over this bill, during what little time I have had to bestow on it this morning, it strikes me that it ought to be guarded in two or three particulars, to which I wish to call the attention of the Committee on Finance.

In the first place, it is not proposed, and it is not necessary to create a permanent debt. If it were, this mode of issuing Treasury notes is not the way to create such a debt. The way to do that is to raise a loan. I assume, therefore, that it is the expectation of the Treasury, and the intention of the committee, and will be the purpose of Congress, merely to make a temporary issue of these notes for this immediate occasion only. Now, this bill has no limitation as to time, if I read it correctly. It will stand forever when it is passed, or until the whole amount of twenty millions shall have been issued by the Secretary of the Treasury, though the period of ten years should have elapsed. In other words, if the Treasury should be filled up in April, or May, or June, with the proceeds of the revenues, still this act will stand in force on the statute-book. It seems to me, therefore, that it ought to have a limitation of time. The question then is, what time? For myself, as well as I can understand the present signs of the times, I expect that the revenues to be collected during the present year will meet all the demands of the year; and, therefore, I should think it expedient to limit the bill to that period; but this may be a mistake. No one can make

any sure calculation on that subject. But it is very certain that there will be a Congress here next year as there is now, and it would seem to me, therefore, that there is no necessity for anticipating the continuance of the present difficulty beyond the beginning of the next session of Congress. I would suggest, therefore, that this bill be limited, so far as relates to the issue of the Treasury notes, until the beginning of the next session of Congress, when Congress will be here, and can decide on it, and continue it in force if it shall be necessary.

In the second place, in regard to the amount: we want \$6,000,000 now, but we are unable to say that we shall want \$20,000,000 in all. We shall be here for a period of four or five months, and can test the extent of this want. I should think it would be quite sufficient to authorize an issue of \$10,000,000 instead of \$20,000,000. I suppose all will agree that the smallest issue ought to be made which can be made, because it is to inaugurate a feature in the fiscal system of the country which must not be permanent, and ought to be indulged in as sparingly as possible.

I am not so tenacious about the amount as I am about another matter, and that is, that this bill contemplates allowing too high a rate of interest. It contemplates that the Treasury notes, in order to raise the money, may require to bear an interest of six per cent. I do not think the credit of the United States will, at any time within the next year, be any less strong than it is now. The United States six per cent. stocks payable in 1867 sell at \$112 in the market to-day. The interest is six per cent. for one year, and it sells for \$112. If I understand it, you may take off the six per cent. interest, and then sell the note at par. The stock is redeemable in 1867, but that makes no difference, because the notes would enter more readily into exchange than stock redeemable in ten years. It is very certain that if the rate of interest shall be such as to render it at all desirable for investment, this money will immediately go into investments, instead of going into commercial circulation, and the great object which the commercial world has in the issue of the notes at all now is that they may be used for the purpose of exchange, while the exchanges of the country are deranged, owing to the fact that the resumption of specie payments is not yet universally and firmly established.

I suggest, therefore, that it would be safe to limit this rate of interest to four per cent. I have no doubt that that rate would command all the money of which the Government has need. Although it is true that the bill contemplates in both cases that the rate shall be fixed at less in the first instance by the decision of the President of the United States or the Secretary of the Treasury on examination of the market, and as regards the subsequent issues by sale in market overt, yet the offering of a loan of six per cent. when a four per cent. loan would answer the same purpose, will have a tendency to increase the prices which will be determined on in either case. I am not aware that I am right in these suggestions, but I throw them out for the consideration of the chairman of the Committee on Finance, and the Senate.

Mr. HUNTER. I shall say but a few words as to the objections of the Senator from New York. First, he objects because there is not some limitation of time as to when the notes shall be called in.

Mr. SEWARD. No, sir; what I spoke of was the time in which they may be issued. The bill has no limitation in that respect.

Mr. HUNTER. If all he wishes to attain is to limit the time within which they shall be issued, and he will give until the next meeting of Congress, I will agree to it. I will only say that no such limitation has ever been imposed in a Treasury note bill before; because if they were not issued Congress could at any time stop the issue, and if they were issued it has the privilege, within one year, of redeeming them. But still I have no objection to limiting the time within which they shall be issued, if that is what the Senator desires.

Mr. SEWARD. Yes, sir.

Mr. HUNTER. Next in regard to the amount: the Senator thinks the amount is too large, and that \$10,000,000 will be enough. I will suggest to him—experience has shown—that in the operations of our Treasury we require a surplus of at

least \$6,000,000. We require also, as a Mint fund, \$6,000,000; making altogether \$12,000,000. The difference between \$12,000,000 and \$20,000,000, is only \$8,000,000, which sum is to be used in the payment of our debts. We have already exhausted the surplus usually kept to work the Treasury Department, and are now operating on the Mint fund, very much to the detriment of the coinage operations and some of the great interests of the country. It inconveniences the Mint very much.

We have, in addition to this, the experience of the Secretary of the Treasury—who I am sure would not desire to issue a dollar more than was necessary, and who will not use his power beyond what is needful, to the extent of a dollar—to justify us in the belief that it will be safe to issue this amount. We know that the surplus has been rapidly diminishing. Ever since the suspension of specie payments by the banks, the expenditures have exceeded the receipts so largely as to diminish the surplus to a sum I believe now not much exceeding \$5,000,000. We have large payments to meet by the 1st of January. It will require, we are inclined to think, something like \$6,000,000 to meet the payments which will fall due between now and the 1st of January. We have, then, to replace the fund required for the operation of the Mint, and also the surplus that is necessary to enable us to work the Treasury Department safely and easily. It is not a creditable state of things for the Treasury to be forced to have the requisitions delayed; to delay the time of payment to those employed by it, on account of its being cramped by the want of means. By the use of our credit, to a limited extent, which will enable us to anticipate receipts that are to come into the Treasury, we may be enabled to avoid all these inconveniences.

Next as to the rate of interest. This bill corresponds in that respect with all the bills which have been passed since 1837. I have no idea that the Secretary of the Treasury will find it necessary to issue any note at the rate of six per cent. I think, according to the best information which he has received, he will try the market with the notes at three per cent. But, sir, in regard to the first \$6,000,000, we have, as I said before, to depend on the sagacity of the Secretary of the Treasury to ascertain what interest will make the notes equal with specie. With regard to the residue, we have a more certain and sure means: we try the market, and we give each note to the man who will give specie for it at the lowest rate of interest. We thus give the note precisely that character which the Senator from New York desires—we place it in a condition in which it will probably be equal to specie. We place it in a position in which, at the same time that we obtain the money for the Government at the lowest rate of interest, we offer incidentally to the merchant and to the banks a great advantage in Treasury paper of this sort, which is equivalent to specie. Especially is it an advantage at this time, when the banks are engaged in the laudable effort to resume specie payments; because, if any fluctuation of commercial affairs should take place, so as to make the exchanges play on the specie fund of the country, they will be enabled to resort, to a certain extent, to this paper, and, so far as the Treasury is concerned, to pay the dues, and thus have an easier and a speedier use of the specie resources of the country.

This mode, which ascertains as precisely and accurately as is within our power the precise rate of interest which will keep the note at a par with specie, commends itself to our consideration for two reasons: first, that it is the cheapest mode by which the Government can raise the money; that is, it raises it at the lowest rate of interest; and in the next place, while we thus benefit the Government, we afford incidentally the best aid we can afford to commerce, and to those banks which are attempting to resume specie payments; because, if you adopt such a rate of interest as will keep these notes at par with specie, they will circulate along with specie, having the same value. They will neither be hoarded for investment, nor paid, in preference to specie, into the Treasury of the United States, except in certain cases where it may be found to afford great relief. As I said before, if the exchanges shall play on the specie fund of this country, and cause its exportation, it will be then that these notes will be used in

payment of the revenue. I learn that there have been at least three instances in which six per cent. Treasury notes have been paid into the Treasury in payment of Government revenue, showing the assistance and advantage which a measure like this afforded to commerce in times of trouble. I say, therefore, that, when the banks are engaged in a laudable effort to resume specie payment, this form of Treasury note is that which will be more likely to aid them, at the same time that it is best for the United States, looking only to the interest of the Treasury itself.

In regard to the rate of interest, I have thought it better to follow the old precedents. It is exactly the mode prescribed in all the Treasury note bills since 1837. I find, in reference to the practical operation of the law, that, since that period, double as many notes have been issued at six per cent. as at any other rate, and that they have been at par at all rates of interest from six per cent. down to a mill, at various times. It seems to me, then, that it is better, in this instance, to stand by the precedents—not that I believe it will be necessary to put on them a larger rate of interest than three per cent., nor that any larger rate will be put on the first \$6,000,000; and in regard to the rest, the bill itself affords the best means of ascertaining the precise rate of interest which should be put on them, that is by advertising and putting them out to the lowest bidder.

Mr. SEWARD. I am very happy indeed to find that there is no substantial disagreement between the honorable Senator from Virginia and myself in regard to the questions which have been discussed between us, and that our views of the operation of the bill are precisely alike. Now, in regard to the question of time to which this issue of Treasury notes shall be limited, the honorable Senator certainly agrees that it ought to be limited to the exigency of the case. There is no reason for anticipating a necessity for the continued issue of these notes beyond the meeting of the next session of Congress. Some time must be limited, for it will not do, I think, to place on the statute-book an authority which the Secretary of the Treasury may use hereafter to issue Treasury notes at his pleasure, without the knowledge and consent of Congress. I will, therefore, adhere to the suggestion I made to limit the time for issuing notes until the next meeting of Congress.

Mr. HUNTER. Say the 1st of January, 1859.

Mr. SEWARD. Very well. We do not substantially differ in principle in regard to the amount, though the Senator thinks my suggestion of limiting the amount to \$10,000,000 will be inexpedient. We shall certainly know during the present session of Congress whether we are to require an issue of \$20,000,000, and I incline to think it is enough to limit the issue to the amount of \$10,000,000, which will probably cover all the wants of the Treasury during the present session of Congress, about which, however, I am willing to be further advised.

In regard to the rate of interest, I think these Treasury notes might be sold at par in the market, if they bear an interest of four per cent. The honorable Senator thinks (and his information is more likely to be accurate than mine) that they will sell at par with an interest of only three per cent. I still think, with deference to him, that placing them at an interest so much above what is probable will be the rate at which they can be sold, will have a tendency to increase the rate of interest which will be exacted by the purchaser. I therefore incline to think that it will be as well to limit the rate of interest to four per cent., and to give notice to the financiers of the country, and to the public at large, that the United States will not pay more than four per cent. per annum for money which is to be repayable in notes of fifty dollars each, and within one year from the date of issue.

To all these amendments the honorable Senator interposes a general objection that this is a departure from the bills which have been previously passed on similar occasions; but then the honorable Senator will agree at once that there has never been a time when the Government of the United States has resorted to these measures under circumstances so peculiar as this. It has resorted to the measure heretofore as a measure of revenue.

Mr. HUNTER. Will the Senator allow me

to give him the fact? I adverted to the history of the issue of Treasury notes. I have here a list of all the Treasury note issues made since 1837, and the rate of interest. I find that since that time the amount of Treasury notes at six per cent. is upwards of fifty million dollars. Of the issue of five per cent. Treasury notes, the amount has been \$5,000,000. Next to that are the notes issued at an interest of one mill. I find, therefore, that, in point of fact, experience has shown that much the larger quantity of notes issued have borne the rate of six per cent. For that reason it seems to me safe to keep within the limit heretofore prescribed, although I do not believe that there will be a note issued now for more than three per cent.

Mr. SEWARD. I do not think, on reflection, that there will be a note issued at three per cent. It is my impression that the notes will go off at the rate of one or two per cent. interest, and I should not be surprised if they were to go at half of one per cent.

But why shall we conform our practice now to precedents set on former occasions? Those were times when the whole commercial business of the country, as well as the revenues of the Government were disordered and deranged, and these measures were resorted to, not to anticipate collections expected to bring money immediately into the Treasury, but for the purposes of revenue; they were in fact, if not in form, permanent loans. But this is a convulsion in the commercial business of the country that is without precedent. Here we have had the banks within the United States suspend specie payment, according to the general conviction of this country and of Europe, without any necessity whatever, except the occurrence of a panic, unreasonable and blind. We have had, during the time of the entire period of the suspension of specie payments, not a day when specie was worth more than one half of one per cent. above the depreciated and dishonored notes of the suspended banks themselves, and we have had that suspension of specie payment limited and wound up and payments resumed again within sixty days from the time of the suspension. This is but a temporary interruption in the business of the Government. It is but a temporary shock to the credit of the country. Let us frame our bill, then, according to the actual exigencies of the case. I do not know that it will be very material on this occasion, but what we do to-day will be referred to as a precedent on future occasions, just as we are to-day consulting the forms in which the same relief was given on former occasions.

Since, then, we agree in the first place, that there is no necessity for anticipating a continuance of this system beyond the next session of Congress, I will adhere to my motion to limit the time for the issue of Treasury notes to the 1st day of January, 1859; and in the second place to the proposition to reduce the amount to \$10,000,000; and in the third place to reduce the highest rate of interest payable, to four per cent. I am of opinion that the honorable Senator will find that with these amendments his bill will more readily pass, and that it will answer all the exigencies of the Treasury, and satisfy the public mind. I make the motion, in the first place, on the proposition as to time. My amendment is to add to the first section:

Provided, That no such Treasury notes shall be issued after the 1st day of January, 1859.

Mr. HUNTER. It ought to contain a further provision, "that nothing herein contained shall prevent the reissue of those notes already issued."

Mr. SEWARD. I accept that.

Mr. FESSENDEN. I hope the Senator from New York will not accept that amendment, because it will defeat the very object which I understand him to have in view. If there is power remaining to issue the Treasury notes as fast as may be found convenient by the Government, they may keep the \$20,000,000 out for an indefinite period of time. I take it for granted that the object of the Senator from New York in moving the amendment, about which we conversed early this morning, was to prevent both the issue and the reissue after a given length of time. If in fact this measure is to meet a temporary want of the Government, and if it is true that the necessity is to cease by the ordinary course of revenue, in a certain period, there can surely be no necessity

for retaining in the bill a power to reissue these notes for an indefinite time.

The Senator from Virginia, the chairman of the Committee on Finance, will observe that in the bill which was passed in 1847, and which was strictly a loan bill to meet the then exigencies of the Government, the power of the President to issue the notes was limited to six months after the close of the Mexican war. That met my attention after this bill was read; and I saw at once, as I thought, that unless it was designed to make this a permanent system, and to give power to the Government to have a permanent loan of \$20,000,000, and keep it out just as long as might suit its convenience and to meet all contingencies, it would be necessary to fix some limitation. The only question in my mind was, what ought that limitation to be? That depends upon the necessity of the case, on the principle assumed. The Secretary of the Treasury calls for the power to issue these notes on the ground that this is a temporary expedient, and he says the revenues of the Government will be sufficient to meet all the wants of the Government in a very short time.

Mr. HUNTER. I do not wish a permanent authority given; I am willing to limit it. I will agree that it shall be limited to the 1st of January, provided the reissue of the notes is not to be prevented within that time.

Mr. FESSENDEN. I have no objection to that. I prepared an amendment to meet this object, and wished to add it to the tenth section of the bill. That section now reads:

That in place of such Treasury notes as may have been paid and redeemed, other Treasury notes to the same amount may be issued: *Provided, That the aggregate sum outstanding, under the authority of this act, shall at no time exceed \$20,000,000.*

My amendment is to add the words:

And provided further, That the power to issue Treasury notes, conferred on the President of the United States by this act, shall cease and determine on the 1st day of January, 1859.

The first section provides for the redemption within the year, and this section, the tenth, gives express power to reissue; and, consequently, as the amendment only provides against the power to issue them after a given period, the power to reissue exists during that period, and there will be no need of the modification which the Senator from Virginia suggests.

Mr. HUNTER. I think that would be the best place to put it.

Mr. SEWARD. Very well; I withdraw my amendment, and accept the substitute offered by the Senator from Maine.

Mr. SIMMONS. Before the question is taken on the amendment, I should like, as I intimated yesterday, to state some of the objections I have to this form of relieving the Treasury. I said yesterday, that I felt great reluctance in addressing the Senate on a subject of this importance without preparation. It necessarily involves a review of the suggestions and recommendations of the President's message, and of the Treasury report—two documents prepared with great care, written in an admirable spirit, and for which I hold both parties in profound respect. But I think they contain provisions and recommendations unsound in their nature, and ill adapted to the business of this country; recommendations that I believe will lead to further complications and embarrassments instead of relief; and therefore I propose, and am obliged to examine these recommendations, in order to present to the Senate any tolerable view of my own opinions upon them.

I know of no questions that can be presented to the consideration of a body like this more delicate in their nature and more extensive in their consequences than the relations of men as debtor and creditor. These relations extend throughout civilized society, and they are various in their character, and require extreme caution in their examination. The President of the United States has suggested with great propriety, and brought our attention to the consideration of, the state of the times; he laments, as we all do, the embarrassments of business, the prostration of labor in the departments of mechanics and manufactures, and their utter destitution and want; and he says, for the first time that I have ever heard so great a catastrophe attributed to such a cause, that it is solely occasioned by our vicious system of paper

currency. Well, now, sir, I have lived in the walks of business, in an humble sphere, for a great many years; I have seen many revulsions; but I have seen none so wide sweeping and destructive as that through which we are now passing. In this I entirely disagree with the honorable Senator from New York. This results from no foolish, unfounded notion—it lies at the foundation of wealth and prosperity among men. I know that the English journals attribute the disaster and distress in this country to a mere idle panic; I know they considered themselves altogether beyond its reach and influence; and they said the Americans would soon be over it; but in a very few days I found that our "cousins" abroad began to share of the same cup of which we had been drinking.

Mr. President, as I understand the condition of our Government, it is similar to the condition of individuals and States and communities. We have bought more than we have been able to pay for. Now, I am going to examine with the utmost attention that I am able to bestow in the short space of time allowed me, the foundations on which the President of the United States has, in his message, based the opinion that the present disastrous revulsion has been caused by the vicious expansion and contraction of the currency of this country by the banks. If he has been misled or mistaken as to the cause of the evil, we are bound to believe that he would not have suggested the remedy which is proposed. If we find that the causes are to be found in elements entirely opposite to those suggested by him, we are bound in fairness to conclude that an entirely opposite remedy from that which he has proposed should be applied. I shall not now examine the immediate operation of this bill; for I will say to the Senator from Virginia that I do not believe in holding public officers too strictly to their estimates. If the state of the Treasury, no matter from what cause, requires something of this kind, and if the Senator will so arrange the bill as to make it a temporary measure, to carry us over a hard place, I have no objection to it; but if it is to be made part and parcel of a system of measures, such as have been suggested, ignoring all the means of improvement and redress to which, during the whole history of this Government, we have been in the habit of looking, I must object to it at the outset.

I have adverted to the great importance of the relation of debtor and creditor. I shall say nothing as to the delicate relations of debtor and creditor existing between private individuals, and I suppose the President did not mean to allude to them. There are other instances of this relation which it is for us to consider—the relation of debtor and creditor between communities, between States, and between nations. I would here suggest to Senators an old, unanswered maxim, said to have been given by the wisest man of our race, that the borrower is always the servant of the lender. In my experience, having generally been the servant of the capitalist in this respect, so far as I know, a creditor is a hard master. I believe that this nation is now suffering under the lash of such a master by reason of a vicious policy. We have bought more than we have sold, and the action of the Government has tended to produce this result.

When we come to consider the sources of wealth, the means of extricating ourselves from difficulty, every statesman looks to labor—productive labor. No ingenuity in framing Treasury notes or bank notes will liquidate our debts. We must look to that exhaustless source of wealth, the labor of the people, extracting it from the bowels of the earth, and fabricating it into forms essential for society. What we save over and above that which is consumed by this labor is aggregated from century to century, and forms the wealth of the world. There is no other means of wealth. Commerce is not a source of wealth. It is an instrument to transmit the productions of one country to others, for consumption. Trade is not a source of wealth. Look at our society, and you find that three fourths of the population of the United States is engaged in productive labor. The other fourth is engaged in exchanging the products of this labor, in keeping the accounts of these exchanges, and in foreign commerce, which, so far as navigation is concerned, adds to our wealth by the freights earned, by

carrying the productions to the consumer. The statistics show, in the aggregate, that three fourths of our people are engaged in agriculture, manufactures, and the mechanic arts—in fact, in providing food and clothing and shelter for man. These are necessities, and these are all the employments that make a man's labor more productive to himself and to the world. The others are employed in exchanges, in keeping accounts, and instructing men in the ordinary branches of education and in piety and morals—all useful. You must, however, look for your source of wealth only to those engaged in productive labor. The others promote the comfort and happiness of the world in matters not necessary. I do not mean to exclude them from the benefits they enjoy, but I wish to speak in behalf of the laboring men of this country. In a time like this I dislike to see these expedients about paper resorted to for the purpose of relieving us from a calamity that makes honest, willing labor seek your tables for bread. I have a right to ask Senators to consider the condition of this labor, and to consider what it has done for the other classes of society, and what it would now do if the opportunity were afforded. If you look to the consumption of all that is produced by the efforts of men in the United States of America, I venture to assert that the one fourth of the people engaged in active pursuits, who do not produce anything for the sustenance of society, consume more annually than the whole three fourths of the people engaged in producing the means of subsistence.

I think, then, that the people who do the labor of the country have a right to claim our deliberate attention when we are providing measures to escape from the present condition of things; and I am sure they will have this attention on the part of the Senate. I make no appeal to what is called the popular current of public sentiment. I mean to speak candidly and frankly what I believe; and whether it be popular or unpopular, I care not the weight of one feather; but I wish to have imputed to me nothing but an honest purpose in what I say.

Sir, I do not believe there is any great mystery in political economy. I never did believe there was any great mystery in the affairs of human government. I have been in the habit of reading from one of the fathers of the Republic, Mr. Jefferson. In the first movements of this people to be rid of the dominion of the British Crown, an address was drawn up by Mr. Jefferson to be presented to George III., and in the body of that petition, as it was called, this sentence was found:

"The true art of governing is the art of being honest, and to acquire that does not need the advice of many counselors."

That is my notion. I do not wish to read a great many books about government, or to take much counsel as to how men shall get their living. I have been in the habit of getting my living by the plow, which is as honest a way as any I know; and I have done something in other pursuits.

The President of the United States, as I have said, attributes the present financial distress to the action of the banks. I have before me the bank returns so far as they are to be found in the archives of the Senate, and I ask the attention of Senators to what these returns disclose; for I suppose they are precisely those on which the President has formed his opinion. I am astonished that, on such data, any officer of the United States Government should propose to change the policy of the country, and to overturn a system of measures which I regard as more essential to our advancement to wealth and distinction now, than at any period of our history. The President has also alluded to the operation of the Bank of England in 1825, to illustrate his position that national banks cannot regulate the currency. When I come to that point I shall call attention to a little piece of English history to show how England acted when she undertook to review her system; but I wish now to see whether there has, within the last year, been any alarming increase of the paper currency of our fourteen hundred "irresponsible" banks, as they are called by the President.

He tells us that this calamity has come upon us because the currency of the country is in the control of fourteen hundred "irresponsible" banks. I should like to know in what sense the President

uses this term. If he means that the banks chartered by the States are "irresponsible" to this Government, I admit it; for they were not created by this Government, and have nothing to do with it. If he means that the fourteen thousand persons who control them—there being, on an average, ten directors to each bank—are irresponsible men, I take issue with him. In my deliberate judgment, these fourteen thousand directors, controlling the affairs of these fourteen hundred institutions, are as responsible and reliable as any fourteen thousand men who can be found in the country, so far as their pecuniary condition or their position in society is concerned.

In the first place, I desire the Senate to understand what I suppose to be the relation of the banks to society. So far as they are banks of issue, they are responsible to the public; they are public institutions affecting the interests and business of the country. Every Legislature in the land holds them to a strict account for the manner in which they exercise this public function of furnishing a currency for the community in which they are located, and I believe they generally exercise this power with a view to the general good of the community for whose benefit they have been created. The aggregate number of banks in the several States, according to the returns before us, was, in 1856, thirteen hundred and ninety-eight—near enough, for all practical purposes, to the President's fourteen hundred. The aggregate circulation of our banks in 1854, was \$204,689,207; in 1855, \$186,952,223; in 1856, \$195,747,950. The circulation last year was less than it was three years ago. Surely there is no inflation here. The circulation in each of these years was so nearly uniform that it can hardly be considered that any change has taken place since 1854. A deduction, however, must be made from the figures that I have given, for bank notes held by the banks themselves. This leaves the actual amount of currency furnished by the banks to the people in 1854, \$182,030,141; in 1855, \$163,522,705; in 1856, \$170,968,903. This was the actual amount of currency furnished by these fourteen hundred institutions for the transfer of the products of labor from the producer to the consumer. The President suggests that the banks should be required to have in their vaults specie to the amount of one third their circulation to make the currency reliable. The returns show that the actual coin held by the banks was, in 1854, \$59,410,253; in 1855, \$53,944,546; in 1856, \$59,314,063. Add to these sums the amount of specie funds held by the banks, consisting of drafts on the sub-Treasury and other assets equivalent to specie, and we have the actual quantity of specie and specie funds held by the banks to be, in 1854, \$84,989,506; in 1855, \$75,880,984; in 1856, \$79,250,773; showing that they had specie to the amount of nearly half their currency all the time on hand for the redemption of their bills.

I know that it is an easy matter to excite a feeling of aversion to the banking institutions, because, as banks of issue, they sustain the relation of debtors to the community; they owe the people more than they have the immediate means of paying, but their operations in another capacity—as banks of discount, where the community is debtor to them—present another aspect.

The amount due to the banks, by their individual debtors, including the stocks held by them, was, in 1854, \$601,748,109; in 1855, \$628,871,840; in 1856, \$683,668,495. During the same period, all the indebtedness of the banks, including their deposits and the remainder of their circulation, amounted, in 1854, to \$285,229,379; in 1855, to \$278,042,763; in 1856, to \$304,422,790. This shows that the community owe to the banks more than the banks owe to them. In considering the conduct of the banks, the question is, whether they have pursued their debtors far enough to make their circulation sound? They can only redeem their circulation by calling in their debts, and this they have done. By calling in their debts, and thus contracting their accommodations, they create ill feeling among those who are their debtors. It is easy for any one operating on public sentiment, to give force to this ill feeling towards these institutions. The President speaks of them only as banks of issue; but he must know, and every man must know, that they can only pay coin for the demands on them by further contracting their accommodations to the community.

But I shall not dwell longer on this point. I know that there is nothing in the figures which will justify anybody in concluding that the banks have improperly inflated or contracted the currency, except, perhaps, during the present troubles, and in regard to them we have no returns. Then this particular feature, to which the President has attributed the present revulsion, fails him.

It is a question which has much exercised the attention of men, how far the issues of banks and the currency of a country affect its general business and the prices of productions. In 1832, the charter of the Bank of England being about to expire, a committee of secrecy was appointed to examine the affairs of that institution, with a view of making any new provisions that might be necessary in the constitution of the bank. The committee consisted of Lord Viscount Althorp, Sir Robert Peel, Baronet, Lord John Russell, Mr. Goulburn, Sir James Graham, Baronet, Mr. Herries, Mr. Poulett Thomson, Mr. Courtenay, Colonel Maberly, Sir Henry Parnell, Baronet, Mr. Vernon Smith, Mr. John Smith, Mr. Roberts, Sir Matthew Ridley, Baronet, Mr. Attwood, Sir John Newport, Baronet, Mr. Baring, Mr. Irving, Mr. Warburton, Mr. George Phillips, Mr. James Morrison, Lord Viscount Morpeth, Mr. Lawley, Sir John Wrottesley, Baronet, Lord Cavendish, Mr. Alderman Wood, Mr. Strutt, Mr. Bonham Carter, Mr. Edward John Stanley, and Mr. Alderman Thompson. The committee examined the officers of the Bank of England, and the presidents of the local banks, and the private bankers, and the whole examination is contained in a folio volume of six hundred and seventy pages. This volume contains information as to the effect of the currency on the prices of every leading article of produce, and the effect of the Bank of England on all the relations of society, so far as could be ascertained. The result was the recharter of the bank, without any material alteration in its former constitution or charter, I believe.

The President tells us that a national bank can do nothing towards regulating the currency and keeping it uniform, because we had two such national institutions and they did not do it. Everybody must recollect, however, that for the forty years we had a national institution, with a view of regulating the currency, we had no suspension of specie payments. He further says, that the Bank of England, in 1825, in its effort to contract the paper circulation of the country banks, utterly failed, and that as fast as the Bank of England contracted its own issues, the country banks issued their own notes to supply the vacuum. When this part of the message was read, it struck me as one of the most singular statements I had ever heard. I happened to be in business that year, and profess to be acquainted with some of the causes which led to the revulsion in England then, and they are precisely the causes which have led to the present revulsion here. The difference between the cases is, that England was then our debtor, now we are debtors to her. The English speculated to a large extent in our great staples. I recollect that at that time I bought on speculation, the only cotton which I ever bought to sell. Knowing that I was engaged in purchasing sea island cotton for my own use, a cautious merchant, knowing the effect of appearing in the market as a speculator, offered me half the profits of the transaction if I would go into the market in Providence, and buy all the sea island cotton there. I bought in the month of December, 1824, on his statement to me that it was lower than he had ever known it to be, in comparison with the short cotton, and there was news that the sea island crop was cut off by storms. I paid twenty-seven cents a pound for the best of that cotton, and it was sold to a Savannah cotton factor to go back to Savannah, at seventy cents a pound, and he resold it to English speculators. We made more than one hundred and thirty dollars a bale on it, and it went to England with a further profit added to that. If anybody can find wilder speculation than this, I should like to see the instance. England then bought more than she could pay for, and was in debt to us, but we did not experience any great trouble from that revulsion. There is no trouble in any revulsion, except that you may lose part of your profits, if you are yourself out of debt.

I have examined the condition of the Bank of

England in 1825, to see whether the President was not misled as to the efforts of that bank during those troubles. I was surprised to hear the assertion that an institution like the Bank of England, under a charter, and with powers from the English nation from the foundation of their constitutional Government, was not able to regulate the currency. The constitutional privileges and powers of the British Government were embodied into form in the reign of William III., in 1688, and the charter of the Bank of England was granted in 1693. I suppose that to be one of the reasons why our forefathers, being descended from England, soon after making our Constitution, established a national bank, in conformity with the usages of their ancestors. That is my notion; but, whatever may be its origin, every man who has read the history of the last sixty or seventy years knows, that in the struggle through which England went from 1797 (when she ordered the issue of pound notes, passed a restriction act to prevent her bank from paying coin, and resolved on a paper currency to carry on her internal trade and sustain her finances, in conjunction with her policy of protection for her national industry—a system of measures which excited the jealousy of nearly all Europe) to 1815—the end of this struggle—her system of banking and currency, and her system of protection to labor, carried her successfully through a war with an embattled continent, an achievement the world had never seen for magnitude. He will not talk about the Bank of England being unable, in time of peace, to control the circulation of the country banks. With a system of currency, and finance, and protection, such as no other nation had then enjoyed, England triumphed, although her enemies were led by a captain such as the world had never seen. I do not say he was the greatest general, for I believe we have had one greater, but, as a captain, the world never witnessed a man like Napoleon Bonaparte; yet the British, from their little island—but a speck, as it were, in the ocean—went through this war, against the combined Powers of the continent, and carried their commercial system as triumphantly as they did their arms. It appears to me singular that a man who has read her history can say that an institution which has accomplished wonders like these was not able to control the issues of the country banks of England.

Mr. President, I have no great partiality for England, but if there is anything that makes me proud of being descended from Englishmen, it is the spirit they manifested in this apparently unequal contest. Sir, I glory in being descended from Old England. Those who fought at Agincourt and Cressy, at Trafalgar and the Nile—not this modern kind of England, not this shop-keeping, cent-per-cent kind of England, that they have now-a-days. Look at the recent orders of the First Lord of the Treasury—Lord Palmerston. He says to the Bank of England, “you may transcend the law, you may issue more than you have a right to do under the charter, and we will bring in an act of indemnity; but do not issue at less than ten per cent., and the Government and bank will agree on a division of the spoils.” That is the kind of England that I do not like—not-shaving England. I shall not, however, comment on England. I suppose we are no way concerned about them, except to pay what we owe them and avoid getting in their debt again. That is my doctrine.

If I am not mistaken, any man who will read the book to which I have alluded, containing the testimony obtained by the English committee of secrecy, will have an utter detestation of these little modern notions about regulating currency and trade by exacting usurious rates of interest. The Bank of England year commences on the 1st of March, and ends on the 28th of February. The returns are made up semi-annually, on the 28th of February and 31st of August; but in 1825, there being an unusual condition of things, there were three returns during the year. On the 28th of February, 1825, the circulation of the bank was £20,753,760, and the deposits £10,168,780. The securities held by the bank, or, as we call them, the loans and discounts, were, to the Government, £19,447,588; and to individuals, £5,503,742; and the amount of coin, £8,779,100. Multiply these figures by five and you reduce them to our currency. The bank had

about forty million dollars of coin and over one hundred million of notes in circulation, and it held the paper of private individuals to the amount of \$25,000,000, and of Government to the amount of \$100,000,000. The President, on another point, has fallen into as great an error in regard to the present law as he has in regard to the conduct of the bank in 1825; but, perhaps, it is of no consequence for me to advert to it. He says there is a prevailing sentiment in England that the bank must have coin to the amount at least of one third its immediate liabilities, including deposits. That is a mistake. There never was any such restriction on banking institutions that I ever heard of, except those in Louisiana, and I never heard of that until the President alluded to it in his message.

On the 31st of August, 1825, the circulation of the Bank of England was £19,398,840, very nearly the same as it was six months before. The loans were to the Government, £17,414,566; and to individuals, £7,691,464. The Bank of England disposed of its government stock and loaned the money to the people. That is the way they help the people.

In December, 1825, the revulsion had almost attained its culminating point. In the beginning of the year, the immediate liabilities of the bank were £30,922,540, and the coin on hand to meet them was £8,779,100. In August, the immediate liabilities were £25,809,400, and the coin on hand £3,634,320. These figures are plain enough, and they show how the bank was acting. You will see by examining this book that the country banks were pressed for coin, and the Bank of England sent it to them, and asked them to send the bills home, and they would pay them with coin. By and by, a severer pressure came. In August, as I have said, the liabilities were over £25,000,000, and the coin between £3,000,000 and £4,000,000. In December, 1825, the liabilities increased to £32,403,000, and the coin had been reduced to £1,027,000. Thus, instead of having one pound in specie for three pounds in liabilities, they had but one pound for thirty-two pounds.

When the crisis came to such a pass that England was experiencing pretty much the revulsion which we have had for the last three months, the Government interposed. At no period during that revulsion did the Bank of England ask more than five per cent.; but the Government interposed because credit had become so prostrated that the people could find no merchants to give them acceptances on their produce. You will see how the Government applied to the bank to relieve the public, and you will see the replies of the directors when the Secretary reads from the appendix of this book what I have marked.

The Secretary read:

APPENDIX No. 4.

The following are the only communications received from Government in 1825-6, proposing any guarantee for advances made by the bank upon any securities whatever:

AT A COURT OF DIRECTORS AT THE BANK,
Tuesday, December 13, 1825.

The Governor laid before the court the following note from the First Lord of the Treasury and the Chancellor of the Exchequer, viz:

In order to relieve the present distress in the money market, the First Lord of the Treasury and Chancellor of the Exchequer are prepared to give immediate directions for the purchase of £300,000 Exchequer bills, in addition to the £200,000 which, they understand, the bank directed to be purchased yesterday.

If it should be thought, however, more advisable that the whole £500,000 should be purchased by the bank on their own account, the First Lord of the Treasury and the Chancellor of the Exchequer will be prepared, if the bank should require it, immediately to redeem the same.

LIVERPOOL,
FREDERICK JOHN ROBINSON.

TREASURY CHAMBERS, December 13, 1825.

Resolved, That the Governor be authorized to order the purchase of Exchequer bills to the amount of £500,000 upon the conditions specified therein.

AT A COURT OF DIRECTORS AT THE BANK,
Thursday, February 16, 1826.

The Governor laid before the court the following letter from the First Lord of the Treasury and the Chancellor of the Exchequer, viz:

FIVE HOUSE, February 14, 1826.

GENTLEMEN: Under all the circumstances of the present distress in the city and country, it appears to us that it would be advantageous, with a view to public and private credit, if the bank were to give directions for the purchase of Exchequer bills to the amount of £2,000,000.

If the bank shall agree to this proposal, we engage to submit to Parliament the necessary measures for the repay-

ment of the same between this period and the 14th of June next.

We have the honor to be, gentlemen, your most obedient servants,
LIVERPOOL,
FREDERICK JOHN ROBINSON.
To the GOVERNOR and DEPUTY GOVERNOR of the Bank of England.

Resolved, That the Governor be authorized to purchase Exchequer bills to an amount not exceeding £2,000,000, on condition that the repayment be made within four months.

At a COURT OF DIRECTORS AT THE BANK,
Tuesday, February 28, 1826.

The Governor laid before the court the following letter and memorandum from Lord Liverpool and the Chancellor of the Exchequer, viz:

FIFE HOUSE, February 28, 1826.

GENTLEMEN: In order to prevent any misapprehension upon the subject of our discussion yesterday, we think it right to transmit to you the inclosed memorandum, explanatory of the several points which we then brought under your consideration.

We have the honor to be, gentlemen, your most obedient, humble servants,
LIVERPOOL,
F. J. ROBINSON.

The GOVERNOR and DEPUTY GOVERNOR of the Bank.

MEMORANDUM.

1. In the event of the bank consenting to advance money upon the security of goods, under the present circumstances of the country, it is understood that these advances should not exceed the sum of three millions in the whole.

2. That, assimilating the principle of these advances to advances made in the ordinary course of discount upon bills of exchange, they shall be subject to repayment in three months.

3. The Government to propose to Parliament that the provisions of the act respecting merchant and factor, which will be in force in October next, shall be brought into immediate operation, in respect to any goods which may be pledged to the bank under the proposed arrangement.

4. If the bank should think proper to make advances in conformity to these suggestions, the Government engage to submit to Parliament the necessary measures for enabling them to reduce the present amount of the advances of the bank to the Government, by a repayment of six millions; such repayment to be made as soon as may be practicable, and, at all events, before the close of the present session of Parliament.

Resolved, That this court, having distinctly understood the determination of his Majesty's Government not to make any advances for the relief of the commercial distress now prevailing, reluctantly consent to undertake the measure proposed, to an extent not exceeding three millions, upon the terms and conditions expressed in the communication of the First Lord of the Treasury and the Chancellor of the Exchequer.

NOTE.—All other advances made by the bank, either upon purchase of Exchequer bills, or by discount of commercial bills, were exclusively upon the responsibility of the bank.
JOHN KNIGHT, Secretary.

BANK OF ENGLAND, June 9, 1832.

Mr. SIMMONS. During the whole time when the President says the Bank of England was trying to contract the issues of the country banks, and was not able to do it, you will find that the issues of the country banks did not exceed their circulation in 1818—seven years before this time—by the amount of more than two per cent. It will thus be seen that the only effort of the Bank of England was to relieve the community from impending distress. The returns show that on the 28th of February, 1826, the loans by the bank to the Government were £20,573,258, and to private individuals, £12,345,322; while a year before that time the loans to the public were £19,447,588, and to private individuals, £5,503,742. Here, during that year, was an increase to private borrowers of nearly £7,000,000, or \$35,000,000 for their relief during this pressure, and at the end of that year their coin was only £2,459,510, while their whole liabilities were £32,403,850.

I say that the President has been misled in supposing that any such effort as that of which he speaks was made by the Bank of England. He has been misled, also, in supposing that the catastrophe here has been caused by any expansion or contraction of our banks. It is as clear as the noonday sun, if the papers which I have presented prove anything, that a national bank is entirely efficient to correct those disasters and get over them in the best possible manner. I am bound to believe, that if the President of the United States had supposed the cause of the present revulsion was not a diseased condition of the monetary system of the country, he would have looked somewhere else for it.

Let me ask the distinguished Senator from Virginia [Mr. HUNTER] what change has taken place in our relations to foreign countries within the past year, except the change in the tariff made in March last? Did we not then take off on an average one fourth of the duties that operated as a barrier against excessive importations? It was believed then, and urged in the debates at

the time, that if we did not reduce the duties, the accumulations in the sub-Treasury would be so great as to produce a monetary revulsion. When a proposition is presented to me for action I desire to know what is intended to be relieved by it, and what is intended to be produced by it, and then, if I find it adapted to the purpose, I most cordially approve it. This is no party question; no platform is interfered with by regulating the business and exchanges of the country, to get them into the best shape we can. I say, that on the plea of preventing a monetary revulsion, the Government of the United States changed its commercial system in a night. The change was hurried through without examination. The consequences were not considered. That was the addition of the last feather which breaks the camel's back. To avoid a revulsion, we opened the flood-gates to importations, and in sixty or ninety days afterwards we were bankrupt, and now the Treasury is bankrupt, according to its own showing. I thought yesterday the Secretary of the Treasury had made out a pretty good showing, but it seems that he is not going to come out right, and I shall not criticise his figures.

Mr. President, the only way to correct the evils under which we are laboring, so far as this Government is concerned, is to put your commercial system on such a basis that it shall be reciprocal between this and other countries. I am so much a free trader as to agree to any system that will produce reciprocal commerce and exchanges of products, but when we import a hundred millions a year more than we export we are in a bad condition. You may, by issuing Treasury notes and railroad bonds and State bonds and Government stocks, postpone the day of payment, but the result is inevitable, and it is your destruction, and subservience to the power to which you are indebted.

England has given up the notion of obtaining an ascendancy over us by arms. She tried that for some time, but we have some trophies at the navy-yard here, which I looked at twenty-five years ago, that satisfied me then that she would change her course. The British lion, with his paw on the globe, is a trophy to the frigate United States and to the Government and people of the United States. I thought, when I first saw this, England would take some other course than fighting with us. She means to have the commercial ascendancy in the world, and every effort we have made since she has undertaken that policy has been playing into her hands so as to give her the advantage over us. I hope we are not to persist forever in this fatal course.

The Secretary of the Treasury, in a letter which was read yesterday, says, as a sort of excuse for this issuing of Treasury notes, that he has funds in abeyance, duties to be received from goods now in warehouse. Twenty-six or thirty million dollars' worth of goods are now in warehouse, on which six millions or more of duties ought to be paid. Then why not say at once, in a joint resolution, that foreign goods in warehouse shall be entered and the duties paid, or else the goods shall be shipped abroad within sixty days. Is not that the simple way of meeting the case? Why should we go to borrow money in order to give credit to those foreign producers? When the tariff was altered last March, you were very careful to insert a provision, that although goods might have been imported and warehoused under the former tariff, they could be entered at the reduced rates after July 1.

Every provision you have made during the last ten years has had the effect of throwing your gates wide open for the sale of foreign goods to embarrass your own producers. I have not seen one of your tariff bills passed in that time which has not contained such provisions. You value the goods abroad; you will not value them at home. There is some constitutional difficulty in the way of valuing them where you can see them; and in order to value them you must go where you cannot see them. [Laughter.] That is the doctrine preached here as if it were holy writ. How do you value the goods abroad? For that purpose you fix the legal value of the pound sterling at \$4 80. If you look at any of the prices current for years past you will find that an eagle brings in England thirty-nine shillings and six pence, or about that.

In England a half eagle will bring within three

pence, or six cents, of a pound sterling. Why not say that the goods shall be valued at what they cost in American coin? Your valuation is five or six per cent. below that, but it would not be altered if it were forty per cent. below; but if it were made one per cent. too high, you would have all the German Jews in the country memorializing you to interpose and alter it.

During the last ten years, you have made no effort to counteract the policy of England, which is, to obtain the commercial ascendancy of the world. People think now that we are going to get coin from England, and they withhold their crops. England has been distressed the last three years about staples for textile fabrics. They have tried to colonize Africa, and have been looking for cotton all over the world. It is my judgment that a portion of this effort on their part has been with a view of commanding that great staple cotton, for it had got too high, as everybody knows. Our planters have become rich, and have held their cotton, and they are holding it now, for coin to come from England to buy it; but you cannot get a remittance of gold from England to this country, but they will turn the screws, and take twice as much back within three weeks. I venture to say there is not an American merchant doing business in London or Liverpool who can negotiate a bill at their banks, if there is a probability, or even a possibility, of coin being sent to the United States. Every return says there is no difficulty in getting money, except, perhaps, for the purpose of sending it to America. France has had more wisdom than the United States, and she has been reaping a harvest the last five years. She has not gone into free trade; and if there were no other recommendation for Louis Napoleon, this would go far towards covering up some defects that I do not think it proper to mention in the Senate.

Now, Mr. President, I say, in all soberness and earnestness, that I think we ought to make a temporary measure of this bill. I dislike the manner in which it has originated. If it be a loan, it ought to contain a provision for the redemption of the loan. If I were now to offer an amendment that would look first to raising a sinking fund for the redemption of these notes, and next to keeping out some of these gewgaws that have got us into debt, gentlemen would say that it was unconstitutional, for such a measure could not originate in the Senate. You cannot amend this bill as it ought to be amended, if it originates here. This is another objection.

Then I have doubts as to the propriety of issuing Government paper as a currency. I do not pretend to say that it is clearly unconstitutional; but, if any faith is to be placed in the reasoning of the President, it is one of the most objectionable forms of providing a currency—much more objectionable than that which he proposes to correct, and which he intimates is not constitutional, on account of that provision which prohibits a State from emitting bills of credit. I think anybody who has read the history of our country may know what the fathers of the Republic meant when they prohibited the States from issuing bills of credit, or making anything but gold and silver coin a tender for the payment of debts. We know that during the revolutionary war, and the period anterior to the formation of the Constitution, this country was cursed with an irredeemable paper currency, issued by the States and by Congress, called continental money, and made a tender for the payment of debts. Why did the framers of the Constitution mean to prevent this? They did not mean that anything should circulate as money, the payment of which could not be enforced by the individual holding it in the legal tribunals of the country. Can you enforce the payment of one of these Treasury notes? No more than you could enforce the payment of a bond from this Government. You cannot enforce the payment of a note issued by a State. You cannot sue a State. Rhode Island, which was one of the last States to adopt the Constitution, and one of the most lavish in paper money, because she used it to pay her soldiers, and had more soldiers, in proportion to territory, than any other State, adopted the Constitution in 1790 or 1791; and one of the first acts of the General Assembly, immediately afterwards, was to create a bank to issue paper money. That bank is in existence to-day. It is one of those "irresponsible" institutions of which the President speaks.

its first board of directors contained three or four men who spilled the first blood of the Revolution; for, say what you will, the beginning of the Revolution was the capture and burning of the Gaspee, and the contest in which Lieutenant Dudgeon was wounded.

What do we mean when we say anything is unconstitutional? We construe the Constitution in two ways. We do not say that this Government must be prohibited from doing a thing in order to make it unconstitutional, because we construe the Constitution as a delegation of power, and we are bound by what it delegates to us. If it does not delegate the power to issue paper money, we have not that power. The Constitution restricts the States because they act in an independent capacity. It is clear to me that this measure is hardly constitutional. But suppose it is not so; what then?

The President and Secretary of the Treasury tell us they are going to correct this paper money evil by having a bankrupt law applied to these corporations. I should like to see them frame such an act, consistently with the Constitution of the United States. I agree you have a general power to make a uniform system of bankruptcy; but I desire to know whether gentlemen here, who construe the Constitution as I have been in the habit of hearing it construed in this Chamber by those who profess to understand it, mean to put institutions created by your State and by my State within the power and under the control of this General Government. I believe that when the head of this Government addresses Kentucky on that subject, and says, "take care, Kentucky!" she will say, in the quaint language of her early settler, "Let those take care who are afraid." If she should rise, as I believe old Daniel Boone is represented, with a rifle on his arm, and if this Government should say, "lay down your arms," she would reply, "come and take them." Much of a Union man as I am, I would sympathize with the States that had thus replied to such menacing orders, and not with those who gave them.

Mr. President, you may talk as you choose about new fashioned modes of construing the Constitution and the doctrines which it contains; but I think the old rule, laid down by that brilliant light in the judiciary, Judge Marshall, will never be bettered. He says that "the jurisdiction of a State" (meaning the jurisdiction of individual States, and of the United States, as a nation,) "extends over everything within its limits, that exists by its authority, or is introduced by its permission." Whether this be controverted in the Dred Scott decision or in a bank decision, I say that whatever exists within the limits of the United States, from the Arrostook to the Rio Grande, and from the Atlantic to the Pacific, if it exists by the authority of the United States, under the Constitution of the United States, it is under the jurisdiction of the Government of the United States, and I do not care whether it be slavery or a bank. In my deliberate judgment, when you undertake to say that slavery goes anywhere by virtue of this Government or its Constitution, you inevitably place it within the jurisdiction of this Government. My notion is, that slavery exists, wherever it exists at all, not by the authority of the Constitution or Government of the United States, and that it is not introduced, wherever it exists, by permission of that Constitution; and for that reason I can conscientiously say to those States who do establish it, and within whose jurisdiction it is, "Take care of it yourselves. If you do anything else you will complicate the question, and it will get to be worse than the web which Penelope undertook to unravel every night, and nobody will know where or when it will end."

When the President undertakes to put any of the institutions of South Carolina under his order of bankruptcy, he will find himself brought up with a short turn. A bankrupt law has no more to do with an institution of a State than it has to do with anything in Venice. It can act upon persons, and it may possibly act upon legal persons; but it cannot be made special; it must be uniform in its operation. I believe that I read in 1841 the sentence of Judge Marshall to which I have referred, and I have never seen the book since. It occurred in a decision on a conflict of jurisdiction between the State of Maryland and the Bank of the United States. All I read of it was that single

sentence, and I shall never forget it. That is the only decision, or part of one, that I ever read in my life, except the recent Dred Scott decision. I satisfied myself how the case was decided, without reading the whole opinion of Judge Marshall. I knew the result would be that the Bank of the United States, established in Maryland, did not exist there by the authority of Maryland; was not introduced there by the permission of Maryland; and that, therefore, Maryland had nothing to do with it. So it ought to be in regard to the complicated questions we are discussing at this time. If slavery exists in Kansas, or anywhere else, by virtue of the Constitution of the United States, we can control it; but I say it does not exist anywhere by the proper vigor of that instrument. It existed in some of the States when that instrument was made, and it has been extended under the jurisdiction of different States, and we have nothing to do with it.

I say that the bankrupt law suggested by the President, and the other measures which he has intimated as the means of extricating us from our present difficulties, are entirely inadequate, and rather calculated to do evil than good. I have no kind of doubt that a bank funded as the Bank of England is, and as many banks in this country are—a national institution, with Government securities as the basis of the circulation, to a certain extent, and coin for the remainder—could be made without any constitutional objection, and without affecting anybody's feelings, or his past opinions.

As reference has been made to the new charter of the Bank of England, it may not be improper for me to say that the new feature of that charter, requiring a certain proportion of coin, came from a distinguished American statesman who has often graced the halls of the Senate, and who prepared a plan of currency while he was in another department of the Government.

When I was told this feature would be ingrafted, I expressed the opinion, and it has turned out since to be true, that the first time England lacked corn the bank would break, for hunger will go through a stone wall; no matter how many regulations you may have in bank charters, you cannot stop it. That was the cause of the bank suspension here in 1837. It is a remarkable fact, which I suppose will hardly be believed twenty years hence, that in 1837 our wheat crop failed, and we imported ten million dollars worth of wheat to feed us. That, with other causes of drain on the bank vaults, produced the suspension. There were other reasons for it. The Government that year had forty-five or fifty million dollars deposited in the deposit banks. After allowing any bank to take the deposits on giving a little interest for them, a law was passed distributing the money of the Treasury among the States. Both these measures were operating together; and just before, we were importing grain. If this was not enough to break the banks, I do not know what could do it. It was not the tariff, as my friend from New York might suppose; but the cause was over importation. I know that the compromise tariff of 1833 created great division of sentiment among friends; but from the time of its inception and passage here until it expired, I was always its advocate. I never believed we wanted very high rates of duty. The revulsion which took place in 1834 had no more to do with the tariff of 1832 than the Doge has to do with what is going on in Venice to-day. That revulsion was produced by a quarrel between the Bank of the United States and the Government. The adjustment created by the compromise tariff of 1833 did not take effect till January 1, 1834, and it did not cause the revulsion of 1834. I have known a great many of the tariff presses and speakers of the country attribute all our disasters to that abominable bill which reduced the duties so low; but I have never yet seen the man who could tell me what were the duties on the leading articles of imports protected by the tariff of 1832 and reduced by the compromise in the years when we had the revulsions.

I know that the Senator from New York will not imagine that I am saying anything against him, for I do not believe there is any man living who has done more than he to exalt the just fame of the author of that tariff, [Henry Clay.] He loved him as I did. When this Administration shall have wasted all these husks of party, which

can give no relief to the country, I hope they will do as the prodigal did of old when he had spent all—return to the house of their fathers. Let them do this, and we will welcome them. Let us go back to the point whence we started when we commenced the contest for the preservation of our own industry against the pauper labor of Europe. I do not ask that you shall do this by high duties. I will say to the Chancellor of the Exchequer, (if the distinguished Senator from Virginia is entitled to that appellation here,) that, if he will ascertain the probable amount of exports and imports of the United States for the next five or six years, and tell us the amount of revenue he desires to raise, and if he will spread the duties uniformly over such articles as compete with our own productions, I will go for such a bill, provided it has a clause in it to prevent frauds on the revenue. I believe that since the author of the tariff of 1846 left the Treasury Department, no man has filled it who has not called the attention of Congress to the almost invariable practice of fraud in the importations. Mr. Guthrie, in every report of his, I believe, called the attention of Congress to the necessity of some measure to prevent fraudulent undervaluations of imports. This is an important matter for honest merchants, and every patriotic man ought to desire some improvement for the sake of the morals of the country. Do we not know that the business of importing textile fabrics, in the valuation of which the most fraud can be practiced upon the Government, is now in the hands of foreigners, who have driven from the trade the honest American importer?

If the Senator from Virginia had, two years ago, devoted as much industry to the perfection of measures to protect this Government from fraud, as he devotes now to getting us over this hard place in the finances, he would never have had any revulsion; there would have been no suspension of specie payment; he would have had no cause to call on us to resort to this doubtful mode of replenishing the Treasury. I am told that the last Secretary of the Treasury said that the English and German manufacturers of the fooleries which our people buy to such an extent, import them at about half the legal rate of duties. We now export about \$300,000,000 worth of produce, and import \$400,000,000. They get \$300,000,000 worth of raw materials from us, such as they want. They send us \$400,000,000 worth of goods, and we must pay them the difference. They take \$50,000,000 in gold and silver, the products of our mines. They take \$25,000,000 in pretty good State stocks, and they take the further \$25,000,000 in anything we may have to offer—railroad bonds, mortgages, or anything else. For they defraud the Government to about the amount of this last \$25,000,000. I lament this condition of things.

If I had time I would illustrate my views as to the relation of debtor and creditor, to which I have already alluded. The principal importing city in the country is the center of its monetary system. That is the place where the exchanges are carried on between this country and foreign countries. Necessarily, in its ambition to be the sole point for exchanges, it is always tending to increase the facilities for importation and exportation. Railroads are built, from New York, Philadelphia, Baltimore, and Boston, as rivals for the foreign trade. The people of these cities pay a good deal of money towards making the roads, the western people pay a little, and the rest is obtained by making a parcel of paper kites for Wall street to buffet about and make money out of. There are fifty-eight banks in New York city, and they are called upon to furnish the means necessary to carry on the importations. If I were a manufacturer in England or Germany, and shipped \$1,000,000 worth of goods to New York in the year, I would take in return \$750,000 in produce, as much as I could get in coin, which would be about one eighth, as much as I could get in State stocks, and then I would take the balance in shinplasters. I would not break down the market, because I should wish to make a profit. The only reason why an honest man cannot be an importer now is, that he will be cut under in the valuation by the German Jews.

During this revulsion, I have seen some very patronizing letters from the President of the Bank of Commerce, in New York, to a Boston banker, trying to get the Boston banks to shorten the time

which the securities have to run on which they make their loans. The true secret of the ability of banks to meet their engagements, is to have everything which they hold as securities of a marketable value. If their loans are based on securities having a market value, they are sure to meet their engagements. Coin always has a market value. Railroad stocks and State bonds have a market value as remittances. If they loan to a broker \$500,000 on call, with railroad stocks as collateral, as soon as a demand comes from England they give him notice that the stocks are to be sold if he does not pay, or the banks will make a bargain for them with the foreign merchant. This often results in the bank and the broker fixing a price, and letting them go across the water to pay for importations. These call loans are no loans at all for business. A man cannot sail a ship with them. They would not enable him to carry on any kind of business that required any considerable time in waiting for the return of his labor. This making call loans is one reason why the banks of New York city have had such great control over the entire currency of the country. They make a scarcity of money that puts everybody else tributary to them. It is their interest to do so. It is the interest of the city of New York to continue its commercial ascendancy in this country. If you want institutions to regulate your currency, you must have an institution under the government of men having no such local rivalry or jealousy, but would as soon discount in Wisconsin to get a crop to market, as in New York to pay for a cargo of British goods. It should be the purpose of a bank to aid in carrying the products of labor from the place of production to the place of consumption; and the banks would do that if they had no local interest to sustain, and there was no rivalry between different cities. I would prefer to have forty cities than one to do the commercial business of the country, because I believe it is a great vice to have very large cities.

I would make an institution into which I should allow the producing classes to put their small mites, and become mutual aiders and helpers of each, leaving your commercial men and traders to manage as they may. I would have what is now called in the States, a saving's institution, connected with the Treasury of the United States, and let the business of the Government be kept in the channel of the business of the producers, widening and deepening them, and increasing your facilities, and I would let anybody who pleased, deposit fifty dollars, and make the permanent depositors retire from the institution when they had been in fifteen years. I was familiar with the origin of the last Bank of the United States, and it was the most popular institution in the world, while it was open to everybody to subscribe. But when you have let in the present generation to an institution whose benefits are large, and shut the door against their successors, it will become unpopular from that day, and by the time it has run twenty years it will have no sympathies with the public, and the public will have no feeling for it but hatred. You should have an institution into which you would let people come, as they grow into active business life, and make their deposits and share in the benefits of the institution. Then you will have no monopolies. When a man has been there the period of his common business life, let him retire; he has no further use for a bank; he may as well put his money in stocks, as a permanent investment. The advantages of such an institution should be for the active business men engaged in the transport of the products of the country, and should be for the benefit of the producers, to enable them to wait for the distant return of the rewards of their labor.

Make such an institution as this, and in less than one year you will have \$50,000,000, now in old stockings and pocket-books, doing nobody any good. Such an institution would furnish a good currency to the country, and could let money out at six per cent., and make large dividends. Your national finances would be conducted without producing these revulsions, without abstracting coin from the banks, and undermining the currency. Your people would know what they were about. There would be no risk in exchanges. The expenses of doing business would be lessened fourfold. I have read, within a week, an

extract from the money article of a New Orleans paper, the Delta, I believe, which stated that the first week of this month was a week of promise, as compared with the former condition of the money market in that city—a week of ease and improvement. It said there was a considerable stir of merchandise, and money was comparatively easy. It was stated that some transactions had been made at one and a half per cent. a month, but the major part at two and a half per cent. Thirty per cent. a year was a relief to the money market! Sir, business cannot be carried on at such a rate of interest. A man had better put his securities in the fire, than to undertake to carry on business when paying such rates of interest.

It is wonderful how our people will bear a pressure. Extortion by usurers is one of the most powerful means of extracting the bread from the laborer's mouth and putting it where it will do no good to society. Some people talk about the natural instincts of men for money; but, sir, nature never formed a man with any instinct for extortion. Men never get such a feeling until the natural heart is gone, and a horse leech put in its stead, that cries "Give, give." That is the way with money lenders. I have known one of them carry it on until he would steal oats from his own horse. [Laughter.] I wish to take society away from the grasp of these men, let them be where they will, acting as individuals or in banks; and I am afraid some of our banks want a little castigation for bad practices. I have heard some rather bad stories in regard to a few of our banks. I have read the returns of the banks of the city of New York, which are the controlling banks of the country as to business. They have generally, in ordinary times, from twelve to seventeen million dollars of coin, and about six or eight millions of circulation. The business of the clearing house, which is a place for exchanging notes and checks, and paying balances, is, in ordinary times, more than twenty million dollars a day. All this great operation of business is to be performed on a currency in bills of \$3,000,000 in those fifty-eight banks. They have more than two dollars of coin for one dollar of paper, and yet it is called inflation! It seems to me to be about the nearest approach to hard money I ever saw. This clearing house is a good thing for misers; but it clears out effectually every feature of legitimate banking. Banking is founded on confidence and credit. The clearing house system is founded on this idea: "we will go to bed, with an institution owing us a dollar." They settle their balances in coin every day. There is not a bank officer in New York who has gone to bed on any night during the last three years trusting another institution with a paper dollar. Everything is settled nightly. If you want anything faster than that you ought to pay coin in advance. If that is not hard money, what is? I want a bank that will trust not only the Government but the people.

The President says that the credit of the United States is so high that this is an admirable time for the Government to negotiate. I admit that the banks will jump at this offer. They will not trust anybody who labors; they have bled them so long that they are unworthy of credit. The banks in New York, since their suspension, have greatly increased their stock of coin. Nobody who produces a dollar's worth can go there and negotiate a bill of exchange so as to bring a cargo of wheat from Chicago. I saw in the Journal of Commerce, which is pretty good authority on some sides of this Chamber, a statement that it was remarkable that when there was a clear margin of thirty cents a bushel on wheat, there was not money enough to buy and ship a cargo. That was six weeks ago. I saw letters from merchants in England to merchants in Providence, asking them to unite with them in shipping wheat; and no doubt a large profit would be realized. I asked them why they did not engage in it. They said they had their money out, and that between breaking their neighbors and making twenty or thirty cents a bushel on wheat, they had no doubt which to choose; and they did not want to see anybody breaking. These men were bank directors; those "irresponsible" men who would not turn the screws on a debtor in order to make thirty cents a bushel by shipping wheat.

Mr. President, I think I have demonstrated the propriety of the request which I yesterday made to the Senator from Virginia, to wait before

he pressed this bill, until I could have time to read it and concentrate my thoughts somewhat. I am ashamed to address a body like the Senate of the United States without first thinking over every question that I mean to present to them, and marshaling my points in my own mind by a little reflection. I was certain when the message was read, that the President was totally mistaken in regard to the Bank of England, although the subject had not been on my mind for thirty years; and I am sure of it now, when I have looked at the book to which I have already called the attention of the Senate. I know something about our own banks, and I have been in favor of granting banking facilities ever since I have been acquainted with private money-lenders and usurers. When I see a proposition to establish a bank coming from responsible men, who have been in the habit of lending under the modern free-trade notions about money, I am glad to take their capital, and put it together under a charter which will enable the Legislature to watch them and fix the rate of interest they shall charge, and have some control over them. I say that under the *Magna Charta* of this Government, you have no right to investigate the affairs of private individuals, and therefore you cannot put State banks under the operation of a bankrupt law which you may pass. But get money into a bank under the authority of a law of your own, and you can control its issues; you can control the rate of interest at which it shall make loans, and there will be some sort of a fair chance between debtor and creditor. The debtor will be enough of a servant any way, in the most benignant position you can place him.

I have alluded to the movement in England as to cotton. They expect to bring down the price of cotton. I have known that experiment to be tried in England before, and I never knew it tried that it did not succeed. Once, when cotton was very high, there was a current rumor, and I have no doubt a true one, that the banks of England would not discount paper for any man who dealt in cotton, and it was not many weeks before cotton was offered at a less price. There was a combination on this side to exact an enormous price; and a combination on the other side to prevent it. I do not believe in these combinations on either side. I believe in letting trade take a fair, natural, and honest course; and I desire to see the productions of labor, and the wages of labor, at a high price. If you undertake to give large wages, and to sell the products low, it is easy to see where the end will be.

Now, sir, I hope the Senator from Virginia will permit me, and those who think with me, to have this bill put in such a form as to enable us to make an amendment fixing some mode of redeeming this money, or that he will give us assurances that he himself will introduce a bill to prevent frauds on the revenue. If he will do that, I can guaranty him that as soon as we dispose of the goods in his warehouses, that stand between the producer and the market, as the great dragon in the Apocalypse, ready to devour the first dawns of a remunerative market, as soon as we can see a market in which to sell our own products, the industry of this country will shake off its lethargy and gloom, and you will see it bound forward in its ordinary march to success. It is impossible to get credit on such a market as we have now; and a man would be a fool to take it if he could get it, and produce for a market that is in the hands and under the control of foreigners. I tell our friends of the cotton-growing region that they will rue the day when they established this free-trade system, as it is called; but it is not truly so called. It is a one-sided system, that brings us in debt all the time, and prostrates the consumers of their staples within the limits of the United States, and gives them Europe as their only customer. The result will be the same to them as if they were in the hands of a private money lender. There is no end to their exactions. You want competitors in the market for purchasing your goods, and the best competitors are those nearest to you. I have never been in the Senate when a treaty came here that would take off a halfpenny a pound from tobacco, but persons were ready to overturn the Constitution and make a tariff under a treaty, though it was never designed that we should have a revenue law which did not originate in the other

House. So it was when any new market was opened for cotton. Does not everybody hail the news when it comes, that Russia is beginning to manufacture, and make a market for our staples? Our own country, ten years ago, furnished a market for six hundred thousand bales of cotton annually, and it has not increased a bale since. If you had allowed a tariff which protected your revenues from fraud to stand, the consumption in this country, to-day, would have been one million two hundred thousand bales annually.

There is not an honest importer who can live by the side of these Germans. It is a national degradation to see the quotation of exchanges in this country. Three weeks ago, I saw it stated that there were in New York some bills on the market, drawn by a factor in Charleston, and indorsed by the Bank of Charleston or the Bank of the State of South Carolina, I forget which, with bills of lading annexed, predicated on a purchase of cotton at about twelve cents a pound, when cotton in England was quoted at eighteen cents, were offered at one hundred and two, and there were no buyers; but a bill drawn by a German on an English banker sold for one hundred and ten. A German drawing on an English banker has decided preference in our market over an American bank, whose draft is based on produce that will bring fifty per cent. advance on its cost.

A short time ago the English papers said we were laboring under a panic for which there was no reason, and that it would not reach England, for they were doing a profitable business. I admit they have done a business which has taken all the gold we got from California, and they boast that they have a hundred millions sterling in our State stocks and railroad bonds. When the tariff of 1846 went into operation we had taken from them near every dollar of stocks. Under the act which gave our industry protection they retained scarce any of our stocks but old Massachusetts fives, which was always above par there. Adopt a system that will make England ship coin, and they will send back our stocks which they hold. England is the hardest country to get coin out of, and the easiest to get it into, that I ever heard of.

I began by endeavoring to induce the members of the Senate to consider the condition of the labor of this country, of the active business men, and to try to do something at this session that shall give them relief and vigor. This Treasury note business is directly against them. If you want only a few millions of Treasury notes, I shall not object to their issue; but now the Senator from Virginia says they will be a good thing for the banks because they can be paid out in the place of coin. The Senator from Virginia told us that the law required six millions of coin to be in the Mint, and that it was impossible to carry on the Government without six millions in the sub-Treasury, making twelve millions required for these two purposes. He said the Government was now reduced to five millions, but still these notes would be used as a currency and would relieve the banks from paying coin. If there is a necessity for these notes, it is to supply this deficiency of coin, and it will all come from the vaults of the banks which are trying to resume.

I would not object to a limited issue, but see no reason for twenty millions.

I would prefer that this should take the form of a loan, and then I think it would get into the hands of the savings banks, or some where else, where it would not disturb the currency. Tell us just what you want, and I am willing to vote it. I only ask that you will not make a bank out of this. That is the worst and the most unconstitutional form of paper money ever devised by the wit of man; it will corrupt the Government and corrupt the people.

I do not believe we should have had any suspension this fall if there had not been a rivalry between New York and Boston, which should hold out the longest and be regarded in England as the best city for the foreign trade.

I hope the Senator from Virginia will let this matter lie over until we can think more about it. I will not detain the Senate longer. I am greatly obliged to Senators for having listened to these rambling remarks; and I promise, if they will give me reasonable time, never to trouble them again. I am opposed to borrowing money in order to enable importers to delay the payment of duties as a system of permanent relief.

Mr. HUNTER. It is not my purpose, Mr. President, to follow the Senator from Rhode Island into the field of inquiry to which he has invited us. These are interesting subjects, and he certainly manages them ably, and in an interesting manner; but the immediate necessities of the Government press us to action. He said, if I understood him, that if I would agree to make this a temporary measure he would go for it. I have agreed to accept the amendment of the Senator from New York.

Mr. SIMMONS. But I want the whole issue reduced to about six or eight million dollars in amount.

Mr. HUNTER. I will go as far as I can to accommodate gentlemen. I have agreed to make it a temporary measure.

Mr. SIMMONS. I am willing to say ten million dollars.

Mr. HUNTER. I cannot agree to a reduction of the amount. I am willing to make some concession on the point of interest. The Senator from New York wishes it not to exceed four per cent. If he will say four and a half per cent., I will agree to it.

Mr. SEWARD. I agree to that.

Mr. HUNTER. I believe if we were to restrict the issue to \$10,000,000, we should in January be called on for another bill. I think that is the impression of the Department; and under these circumstances I believe we had better give this authority now. I am no more in favor of a permanent issue of Treasury notes than the Senator from Rhode Island. I design only to provide for the present exigency—provide for the temporary wants of the Government until the times shall become easier, and the machinery of commerce shall be once more restored, and we shall be able to derive from the ordinary sources, as I believe we can, revenue enough to carry on this Government economically.

In the mean time there is a pressing necessity for money, and I believe (I confess I defer very much to the judgment of the Secretary of the Treasury in regard to the amount) he will require the amount he has asked for; and I believe further, that if he does not require it, he will not issue one dollar's worth beyond what is necessary to carry on the Government. He can have no interest to do so. His reputation as a financier would induce him to carry on the Government with the emission of as small an amount of Treasury notes as possible. I think I can see how it is that he will require this amount. We all know that our surplus is diminishing not merely weekly, but daily. We know, as I said before—not that the law requires it, but that practice shows—that about \$6,000,000 surplus is necessary to administer the affairs of the Treasury. We know, too, that about \$6,000,000 has been considered necessary as a Mint fund—not so necessary, I admit, as the \$6,000,000 surplus to carry on the affairs of the Treasury. I believe these two funds ought to be made good. I believe the additional \$8,000,000 will not prove to be more than necessary to meet the temporary wants of the Government. It will be necessary, even though the estimates of the Secretary of the Treasury in regard to our probable revenue turn out to be correct; because, no one supposes, even if there should be a revival of trade and business, that there will be a large increase on the present receipts into the Treasury from imposts until the month of April or May. It may be, and probably will be, that towards the close of the fiscal year, money will flow into the Treasury more rapidly; and, if it shall do so, in that way it may make good the estimate of the Secretary of the Treasury, which estimate, by the way, allow me to observe here, was not merely conjectural. He said he calculated for a diminution of one fourth on the dutiable imports for the remaining three quarters of a year. On reference to the leading port—New York, the only one from which we have returns—if you take the goods that went into warehouse and those which went into consumption together, the imports have diminished one fourth. But a larger proportion have gone into warehouse than have been entered for consumption. His presumption is legitimate, that when the times are easier the goods will come out of warehouse and enter into consumption; and should they do so, they may, in that way, make up his estimates; but that there

will be a temporary deficiency which will have to be met in this way, I have no doubt. I believe he will want \$6,000,000 by the 1st of January, or very soon after; and I think it very probable that the rest will be called for to make good the Mint and surplus funds by the 1st of March.

I have no idea that before that time we can draw much more from the Treasury than we are now drawing. I know that we are paying out more than we are receiving. I think, inasmuch as the appropriations have been made and requisitions have been issued, we ought to prepare and provide the means for meeting those requisitions, and not have to resort to the expedient of having them held up here and there until we can manage to get the means. It is better to provide the Secretary with what will be sufficient, with what will make it certain that he can administer this Department safely and creditably to the Government, than to cut him down so closely that it may be necessary to pass a bill in haste again in the month of January.

It will be observed, too, that if money shall be wanted by the 1st of March, and we require him to advertise and put the Treasury notes out on a notice of thirty days, the bill ought to be passed now. I believe it is a very important thing to advertise them in the manner proposed in this bill. I believe that it offers the best and most practicable method of putting them out for their par value in specie, which is the mode in which, in my opinion, they ought to be issued.

For these reasons, I hope very much that we may be able to get action on this bill to-day or to-morrow, at the pleasure of the Senate; but I hope that by to-morrow night we shall act on it in some way, for I believe there is a pressing necessity for part of it at any rate.

Mr. CRITTENDEN. I do not rise to continue this debate. I shall vote, with whatever reluctance, for this bill. I think these expedients of such a character that they ought to be resorted to with the utmost degree of caution and jealousy on the part of Congress. It is so easy a mode of supplying necessities, it is so easy to make necessities, that it is an extremely dangerous mode of supplying the public Treasury. It has always been regarded so, I believe, in this Hall, and always ought to be so regarded. I suppose, however, in the present instance, we have no alternative. The pressing necessities and the exigencies of the moment are such as to leave us scarcely any option.

Whether the interest is not to exceed six per cent., or four and a half per cent., seems to me a matter of very little consequence. Of course, the Secretary of the Treasury will use these notes to the greatest advantage and greatest interest of the country; but I should not anticipate that any interest would be necessary to give a perfect currency to these notes. I am certain that one very great and large portion of this country—one whose trade is now suffering very much by the great inequality of exchange under which it is laboring—would give a premium for them. When I left home, a few weeks ago, I obtained exchange at one of our banks paying specie—now paying specie, always paying specie—upon a bank of New York that was not paying specie, and I had to pay two per cent. for the exchange. With such a currency as that now proposed distributed in that country, all this expense would have been saved. It should be worth a premium. My calculation is that the Secretary will not have to pay anything as interest. Indeed, it seems to me that, to incur these notes with any appreciable rate of interest will be to check, in some degree, their utility. What farmer, what man in the country, with a Treasury note for fifty or one hundred dollars, will stop to make a calculation of two or three months' interest at four and a half per cent.? It will go from his hands without such a calculation on his part, assimilated in his thoughts and dealings to bank notes; and the interest, when paid, will be paid to some more calculating man, into whose hands it has fallen, and who has hoarded it up for the purpose of presenting it in large sums and making money by it. I wish we were agreed that no interest is necessary. I do not believe that it will be necessary; but yet, as it seems to be contemplated that this money shall not be used by the Government as an immediate currency to the whole extent of it, but that they shall give it out as

securities for gold and silver, and use that, then it may be necessary for them, when bargaining for money, for all I know, to give a little interest. I will say nothing at all, therefore, about the interest; but express my hope that the Secretary of the Treasury will put a mere nominal rate of interest, if any, on these notes.

As I said, I shall vote for this bill, and for the whole amount of it. We are told it may all be necessary. As I said before, I think it a very delusive and dangerous and tempting sort of supply. It presents a very singular spectacle, that after the great commercial and monetary crisis through which we have passed, just at the moment when the banks every where are resuming specie payment, the Government is suspending specie payment. But, sir, there is no arguing with the necessities of the case. The Government must go on, and we must supply the means. It is under this sense of obligation and necessity that I shall give my vote for this bill and for the whole amount asked. They will not use it if they have revenue derived from the regular sources sufficient to meet the expenses of the Government. It would be a criminal abuse of the confidence of the public to have money lying in the Treasury, and yet use Treasury notes in the place of the money. I do not fear the abuse of the trust, for there can be no motive and no inducement to abuse it. I therefore vote without question for the whole issue now proposed.

I give this vote in the further confidence—and I was prepared to offer an amendment to that effect to this bill, but of course the amendment would be objectionable, as originating measures for raising revenue in the Senate, and therefore I cannot offer it—that, at a suitable and proper time, this measure will be followed up by a proposition to increase the revenue so as to meet, under all contingencies, the demand these notes will create on the Government, and to supply a fund for their payment. When we go into debt, let us make, simultaneously, provision for the redemption of the debt. We can only excuse ourselves for not doing so upon the supposition that the ordinary revenue, when this little moment of obstruction is passed, will supply ample means. I do not believe any such thing; it is a dream. Nothing can recall the past; and in the past, according to your showing, millions have been lost by the diminution of the revenue. Does anybody promise himself that, in the balance of the present fiscal year, or from March next, more than enough will be received, or even that enough will be received, to pay all the expenses of the year ending the 30th of June? I think it will be an over-sanguine calculation altogether; and provision will have to be made for the payment of these notes hereafter by some increase of revenue, or by a loan, or funding this debt, as certain as we sit here; at least, such is my anticipation. It is a safe course; it guards against the accumulation of debt, that we should now at once impose whatever duties or taxes are necessary in order to supply the fund for the extinction of this paper currency which we are to issue.

It seems to me the time is altogether propitious for it. One of the circumstances which invite, at this time, to the issue of a paper currency by the Government, is the ease and alleviation it may give to the commercial and pecuniary distresses and wants of the country. I confess that that has its reconciling effect on me. If, at the same time, you can provide for the payment of it by a measure that will press on no American citizen, but, by a proper adjustment of the increased duties on articles of foreign commerce which enter into competition with the industry of our own country, we not only can aid the man who wants money, but aid the man who wants labor, then indeed we shall be doing something that is benignant, and something that is to alleviate the condition of the country. I desire to see both. While I supply the Government with money, I want, at the same time, by a corresponding measure, to pay that money, by a duty which shall give the laborer labor. That, as the Senator from Rhode Island has said, is the source of all wealth; but now, in the present condition of the country, we are not required so much to look at it as a source of wealth; we are obliged to bring down our calculations; we are obliged to calculate what is a necessary provision for the poor, now out of employment by thousands?—a fact which we know.

If these laborers can be brought to work and made comfortable during this long winter, or made comfortable more permanently than they have been, and the means of subsistence supplied, will not that be a great recommendation to a measure which shall afford them some protection and some encouragement to their labor? We want it for revenue. It would not be a measure for protection, but a measure essentially for revenue. No gentleman here, on any constitutional ground, can have any objection so to apply and adjust the duties, as to afford to the suffering manufacturers and mechanics of our country all the protection which a proper adjustment of the tariff on the articles that ought to be protected, would give them.

These are my views, Mr. President. I mean to vote for the bill, and shall not protract the debate further.

Mr. BELL. Mr. President, if I had the confidence of the honorable Senator from Kentucky, in what he supposes will, almost as a matter of course, follow after the granting of this relief, I would express the same sentiment he has done, and give my support cheerfully to this bill; but I have not the smallest confidence that, if we pass this bill, allowing this amount of notes to be issued by the Treasury, any such thing will follow. As far as I can gather anything from the expression of the Executive, (and I fear very much that it is responded to fully by a majority in this body,) there is no other measure of relief to be proposed except that adverted to by the honorable Senator from Rhode Island—an act of bankruptcy to operate on the fourteen hundred banks of the various States. No, sir; it is not contemplated by those in whose power we are, to relieve the people. If I could anticipate or suppose that, when we authorize the issue of these \$20,000,000 of Treasury notes, they will be thrown into circulation and afford a temporary relief to the distresses in every section of the country, and particularly in that section which is now most suffering perhaps, that would be an inducement to me to support this bill, and I should be willing to forego, to some extent, my apprehensions as to the policy of the Executive, backed, as I presume it to be, by a majority in both Houses of Congress. I am not as well versed in these subjects as the Senator from Rhode Island, and have scarcely a tittle of the knowledge he has on these questions; but I fear very much that very little relief to the country will come from authority to issue these \$20,000,000 of Treasury notes, now, or in the course of a year.

I have already heard it suggested (and it had struck my mind) that one of the means by which the Treasury is to be aided in its ordinary, natural, legitimate way, is by obtaining the duties on the \$26,000,000 or \$28,000,000 worth of foreign goods now in warehouse at New York. These notes, however, are to go in some direction to facilitate the operation of keeping them in warehouse until a rise in the market takes place. These Treasury notes, as I understand and anticipate, from what I have heard from both sides of the Chamber, as to the rate of interest, will go into the New York city banks, which have had no sympathy with the condition of the country. I am sure they have not had any for the condition of the interior and West. The major part of these notes, I apprehend, will find their lodgment there. Some small modicum of relief may find its way to the West. In regard to the state of exchanges which is now grinding down the South and Southwest, I, too, could tell a tale, as well as my honorable friend from Kentucky; but I will not detain the Senate by doing so. I apprehend there will be very little relief on that point.

What is the proposition? To relieve the Government from bankruptcy; to provide for the Government in the true spirit, and according to the original theory of that sublime invention, the sub-Treasury! It is to take care of the Government at all hazards. In the execution of that policy, and the favorite doctrine of free trade avowed by the honorable Senator from Virginia on the night of the passage of the last tariff bill, that bill was pressed through this House when we scarcely had time, and, indeed, did not have time, to comprehend fully the nature of the amendments which were adopted. That bill was not wholly to the taste of the honorable Senator from Virginia, even in the shape in which it finally

passed and received the sanction of a majority of both Houses. It was not satisfactory to him; but he said that he took it because it was the furthest advance to free trade that he hoped to get on that occasion. I consider that that idea lies at the bottom of the policy of the Government on this occasion, in asking for \$20,000,000 of Treasury notes.

The honorable Senator from New York [Mr. SEWARD] supposes he has sufficiently limited the bill in its extent to prevent a deleterious operation on interests that he would desire, and perhaps does desire, to maintain and advocate. He has got a provision inserted that this bill shall be limited in its operation to the 1st of January, 1859, when Congress will be again in session, and can then act upon the subject. Perhaps I misunderstand the effect of that provision, and I should like the honorable Senator from Virginia to instruct me if I am in error on that point; but as I construe the provision, the bill, as proposed to be amended, will authorize an issue of \$20,000,000 within the closing month of next year, so that there will be \$20,000,000 of debt redeemable, according to the other provisions of this bill, in twelve months from that time. The Government will thus be able to get along smoothly, easily, and without any embarrassment, until the 1st of January, 1859, and then it will be in the power of the Government to apply to Congress, and state an exigency in the future, precisely like the present, as a reason for giving them further authority to issue notes, or to continue the \$20,000,000 outstanding for another twelve months, extending to the 1st January, 1860.

I state these facts to show that even with that limitation, up to the 1st of January, 1859, the Government will be in a condition to meet all its responsibilities, whatever may be the income derived from the ordinary revenues between this and that time, even if they should fall short one third or one half of what they are now estimated at. The Government is making provision, in asking for these \$20,000,000, that will leave them perfectly free from all embarrassment, or apprehension of embarrassment, for one year; and they will smile at the application of that portion of Congress who think that something more permanent ought to be done for the relief of the industry of the country, or for providing a legitimate and proper revenue for the support of the Government. They can smile and disregard, as they will disregard, in my opinion, the applications of those gentlemen, who, like my friend from Kentucky, anticipate, with confidence, that they surely will not fail within that time to offer some provision for the permanent relief of the country.

Sir, the honorable Senator from Rhode Island has given us information on another point; and the statement comes from a source for which I think no member of the Senate can fail to have due respect who has heard his sentiments, and who has noticed the experience and the knowledge evinced by that Senator to-day on all questions connected with this subject. Every Senator must have due respect for the probable truth of the announcement of that Senator on that point. What is it? That the Government is defrauded out of one half the amount of revenue provided by the existing tariff, by foreign traders and their agents in this country, on all textile fabrics. As that honorable Senator stated, Congress have been advised, since 1846, again and again, by each successive Secretary of the Treasury, that these frauds were enormous, and called for correction. Has the honorable Senator from Virginia, or any gentleman holding his opinions on the subject of free trade, ever made a proposition for the correction of these abuses, that promised to be adequate, or to have any decided effect, one way or the other? Not one of them. They have gone unheeded from session to session, and from Congress to Congress, to this day. The honorable Senator from Rhode Island announces to you that not more than one half of the revenue provided for by that act has ever been collected; the Government has been defrauded of it. That honorable Senator also tells you that every honest American importer has been driven out of the trade by these frauds, and that it is in the hands of foreigners, or the factors and agents of foreigners. I have had no reason to doubt it.

Some three or four years ago (I do not know upon what impulse, or how it was brought about)

a committee was appointed to go to the principal cities and investigate the truth or falsehood of the allegations made on this subject, for the protection of the honest American importing merchant, and as a means of affording information on which these abuses could be corrected. The Senate saw proper to appoint me—certainly I had nothing to do with it—as one member of that committee. I was deputed, by a sub-committee of that committee, to go to New Orleans. I did go there, and gave as much time to the investigation of the subject as I could. I found the fact there to be, that some men, who were reputed to be honest, engaged in the foreign trade, had been driven from it by the grossness of the frauds practiced by the importers in that city. By comparing notes with gentlemen who went to other cities, I was informed of, and I believe I have the papers yet in my possession showing, enormous frauds of a similar description. I ascertained that a very extraordinary state of things existed in New York, and that it became its interest, or was supposed to be its interest, to encourage the frauds that were practiced on the custom-house in that city, for the purpose of concentrating the foreign trade of the country there. I found the astonishing fact to exist, that some few of the honest importing merchants of New Orleans continued in the trade who were unwilling to make the sacrifice of personal honor and character by making importations under circumstances which would justify them in fair and honorable competition, and they found it cheaper and more reconcilable to their conscience to import their goods into New York, have them valued there, and then reshipped to New Orleans, at the additional cost of transportation and insurance and commissions to New York, rather than import them into the city of New Orleans directly, where they would have to give a statement of the true invoice price abroad. Even such a fact as that came within my knowledge by the statements of others, but it had no effect here.

The honorable Senator from Rhode Island thinks that, at all events, we ought to have a pledge that such gross enormity, such a slur, such a stain on the national honor, or, at least, on the character of our importing merchants, ought to be wiped out. He thinks that something of that kind ought to be provided for by this bill. I do not think it would be very incongruous; but I do not suppose it is practicable to have such a thing effected under the present state of the sentiment which exists on this subject. I shall not, therefore, offer any such proposition. I have no hope, no expectation, that any such effort will be made, because I have seen attempts to make this correction before; I have seen too many sessions pass without any attention being given to it on the part of those who had the power in the Senate and in the Executive Department. Then, sir, I cannot, on any ground that has been alleged here, vote with the honorable Senator from Kentucky for this bill as it stands, and I will not. I think no sufficient pretext has been urged why we should give authority to issue the entire \$20,000,000. I am willing to vote whatever amount is supposed to be necessary at the present moment to answer the present exigency. It is said by the honorable Senator from Virginia that we must have six or eight million dollars to make our payments in January. Give it. And he wants this bill passed to-day, or to-morrow. Pass it for that sum to-day, or to-morrow if you please. I will vote for it this moment. Or, if you choose to say that \$10,000,000 may be required in January, let it be \$10,000,000.

As for the argument that we ought to have a surplus in the Treasury, I admit, as a general rule, and as a measure of general policy, it is proper; but we can suffer one or two months to elapse before we resort to keeping that much surplus in the Treasury. In regard to the \$6,000,000 kept for the use of the Mint, according to our policy, we can wait a month or two before we return that to the Mint. What I mean to say is, let us pass what is necessary for the present moment. We cannot wait another week; we cannot wait two weeks before we ought to have the means of paying the debts of the Government, or what may be demanded of the Government within the present month. Let us vote it at once, freely; but let us keep a hold on the Government for the benefit of the country, not

for ourselves. Let us keep some hold on the Government until we can see whether they mean to make any permanent change for deriving the revenue legitimately and safely for the country. Then, when they come in the middle or end of the month of January, for example, and say, "those \$8,000,000 or \$10,000,000 you have given are about to be exhausted; we want authority to issue \$20,000,000, or any other amount in addition," we may have more time to consider the subject. I do not object so much to the amount as to the avoidance of responsibility for doing that for the permanent relief and benefit of the country which they ought to do now.

I think we ought to limit them to the amount they now need. If they say it is necessary to have \$10,000,000, I will vote it at four and a half, or six, or seven per cent., or whatever rate may be necessary. But I do not wish the Government to escape from the necessity of applying again to Congress during the present session, when the necessity will not be so exigent or so pressing, but that a few days may be allowed to provide for the correction of the abuse to which I have alluded, if nothing further, so that we may extend that protection to the domestic interests of this country which the law now prescribes, by collecting duties honestly and fairly; and protect the character and employment of the American importer against the fraudulent conduct of foreign manufacturers, and the agents and brokers of foreign houses.

I cannot vote for this bill as it now stands, and for the simple reason I have stated. I do not deny that this is a proper means to support the Government. It has been resorted to heretofore. We should resort to it with caution; but we are sufficiently advised that there is a necessity for something to be done at present. We have a knowledge of the causes which have led to this state of affairs, in some part. Let us go now to the extent that is necessary, and no further; and when they want more, let us apply some remedy that will provide effectually for a sufficient supply to the Treasury of the means of carrying on the Government—not by Treasury notes or bills of credit, but by a revenue derived in the ordinary way, by duties, or direct taxes, if you please. Let us know how it is to be raised.

I shall not detain the Senate longer. I meant merely to express the grounds on which I could not give my vote for the issue of \$20,000,000 of Treasury notes now, though I may go even further, if it be found to be necessary, hereafter. But now, in this hurried manner, when we have no opportunity of attaching any provision to this bill that might be constitutionally in our power, to produce some permanent relief to the country, I want to go no further than to do just what is expedient at the present moment; and when the Administration come to make an application for more, let them come under circumstances which will enable us to devote more time to the subject.

Mr. WILSON. I move that the Senate adjourn.

Mr. HUNTER. I hope it will be with the understanding that to-morrow we shall finish the bill. ["Certainly."]

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, December 18, 1857.

The House met at twelve o'clock, m. Prayer by Rev. F. SWENTZEL.

The Journal of yesterday was read and approved.

APPOINTMENT OF A COMMITTEE.

The SPEAKER announced as the committee under the resolution of the House of Wednesday last to provide accommodations in the new Hall for the press generally, as well as other accommodations that may be necessary, Messrs. FAULKNER, JONES of Tennessee, HASKIN, HARLAN, and UNDERWOOD.

EXECUTIVE COMMUNICATIONS, ETC.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting an account of the receipts and expenditures for the fiscal year ending 30th of June, 1857; which was laid upon the table and ordered to be printed.

Also, a letter from the Secretary of State transmitting extracts from a letter of John C. Rives, and other letters, on the subject of an appropriation for the purchase of five hundred copies of the stereotyped edition of the Diplomatic Correspondence; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, the report of the late Clerk of the House of Representatives, of his disbursement of the contingent fund of the House of Representatives during the last year.

Mr. CLINGMAN. Mr. Speaker, I move the reference of that report to the Committee on Accounts, with the following resolution, which I think is germane to its subject-matter:

Resolved, That the Committee on Accounts be instructed to examine the stationery provided for the use of members of the House, to report as to its real value, and also what it has cost, and to make such recommendations as may be proper in the premises.

Mr. Speaker, I beg leave to say—and I think that the experience of other gentlemen will bear me out in the remark—that the stationery provided at the beginning of the last Congress I found to be very inferior in quality, and that, on complaining to the Postmaster, he said that it was purchased by the Clerk of the House, and he was obliged to receive it. The result was that, during the last session, I had to go down into the city and obtain such stationery as I was in the habit of using. At the present session, I went into the House post office to get some things, and I found them altogether inferior to what has been furnished to members of Congress in former times.

But what I desire to know is this: If the stationery is a cheap article, and any money is to be saved to the Government thereby, I have no objection to it. I am perfectly willing, as the times are a little hard, that we members shall feel it. If, on the other hand, the price paid is such as used to be paid, then there is a great mistake somewhere or other. I do not know whether it is the fault of the Clerk, or whether these articles have risen in the market or not. I think it is worth while to make the investigation.

I have been induced to do this, in part, because at an early period of the session charges of a serious character were made against individuals concerning their investments of the public money. I do not say that there is any truth in them, but I do say that, if there is no law now to prevent these things, there ought to be an efficient one provided. I say that, if any officer of this House is in combination with outsiders to manage in that way to get money improperly—buying articles at a low rate and charging the Government a high rate—it ought to be a penitentiary offense. I hope, therefore, that the Committee on Accounts, or some other, will look into it. It may be that great injustice is done to the Clerk in these publications to which I have referred. I make no allegation that they are true or not, but I am satisfied that the present stationery is not such as we have been in the habit of using. Therefore, it is worthy of the consideration of the House, and I hope that we will have such a law as will prevent any officer of the House, in future, doing anything of this kind, (supposing the charges to be true,) unless at the risk of a location in the penitentiary for a reasonable period of time. This matter has got to be a crying evil. I know nothing against the conduct of the late Clerk. He may be a very meritorious and exemplary man. This subject needs investigation, and I hope this committee will look into it at once.

Mr. HOUSTON. Mr. Speaker, I think that the Committee on Accounts, if I understand the duties they have to perform, have as much to do, without this examination, as they can very well get along with. If the gentleman desires an investigation of the character to which he has alluded, it ought to be done through the instrumentality of a select committee, appointed to look into that matter and nothing else. I do not know what has been the custom when one Clerk goes out and another comes in. I do not know whether inventories properly left by an outgoing Clerk are taken by an incoming one. If such a course has not been pursued heretofore it ought to be pursued now, and a law should be enacted requiring a thorough and rigid examination into the condition of the Clerk's office when a new Clerk comes in.

Mr. CLINGMAN. I hope the gentleman will allow me to say a word.

Mr. SEWARD. Is the resolution in order?

The SPEAKER. The Chair thinks that it is.

Mr. SEWARD. Has it not reference to the expenditures of the last session under the Clerk?

The SPEAKER. The motion of the gentleman from North Carolina, is to refer the report to the Committee on Accounts, with instructions.

Mr. SEWARD. It is an investigation about money already expended.

The SPEAKER. The resolution contemplates money already spent.

Mr. SEWARD. What action does the House propose under the resolution?

The SPEAKER. It is not for the Chair to say. The gentleman from North Carolina proposes to refer the subject to the Committee on Accounts, with instructions.

Mr. CLINGMAN. With the permission of my friend, I will answer his question by saying that I was informed that the late Clerk had made the purchases for the incoming year. If that be true, it is important for us to ascertain whether they have been made properly and judiciously. If he has acted in the wrong, there ought to be a remedy provided; and if in the right, we, of course, must submit. So far as the suggestion of the gentleman from Alabama is concerned, if he thinks proper to move the raising of a select committee, I shall make no objection to it. It struck me, however, that the Committee on Accounts would properly look into this subject. If anybody moves for a select committee, I hope that the committee will also be instructed to look into the book business, of which we have heard so much. If that is done, I shall vote for the motion.

Mr. HOUSTON. I do not propose myself to move for the appointment of a select committee, but as the gentleman from North Carolina has moved in this matter, it seems to me that it devolves upon him, to some extent, to do so. I only proposed, when I rose, to second the investigation which he seemed to believe ought to be made, and in which opinion I concur with him most heartily, and to add a few suggestions to those which he has submitted to our consideration.

We cannot be ignorant of the fact, Mr. Speaker, that grave charges have been made against the outgoing Clerk of this House, in connection with the administration of the duties of his office; and that being so, it seems to me that the committee that is to take charge of this subject, so far as stationery is concerned, ought also to be required to examine into the matter of the books for distribution, and of all the books that have been distributed; how the books have been purchased; at what price; what has been paid for them by the Clerk, and what has been paid for them by the Government; so that we may have the entire subject before the House, and may examine into it, and see whether the thousand rumors that are afloat are true, or whether they are false. I think that it is the duty of the House to provide for such an investigation; that we owe it to the outgoing Clerk; and I am only astonished that his friends upon this floor have allowed so much of the present session to elapse without calling for an investigation when these charges have been made in the public newspapers of the city, over responsible signatures. I say I confess that I am astonished that the friends of the outgoing Clerk have not seen fit to ask, themselves, for a committee to examine into and investigate these matters.

Now, I do not propose to make a motion for a committee of investigation. I do not desire to serve on a committee connected with that subject. I desire to ask my friend from North Carolina—for I wish to be informed upon that point—whether it is usual for the outgoing Clerk to supply stationery for a Congress that is to come after him?

Mr. CLINGMAN. I was told in the post office that it has been the custom, or, at all events, that it has been done in this instance.

Mr. HOUSTON. I do not know whether it has been the custom or not, but it seems to me to be a subject which requires to be looked into, and to undergo scrutiny and rigid examination; and I hope my friend from North Carolina will prosecute the matter until it produces its proper result.

Mr. SAVAGE. Mr. Speaker, my peculiar position imposes upon me a duty in regard to this

matter. A question has been raised before the people of Tennessee, and before my immediate constituents, in regard to the charges which have been adverted to by the gentleman from North Carolina. It was, to some extent, a matter discussed in the canvass between my competitor and myself, but it was more largely discussed in the canvass for representative in the Legislature from the county of Jackson, owing to the fact that one of the candidates, Mr. Stanton, now a member of the Tennessee Legislature, a particular friend of the outgoing Clerk, and one of his appointees—one of his pets, so to speak—made charges before his constituency of the grossest enormities on the part of the outgoing Clerk, in relation to actual frauds perpetrated against the Government, and others, more dangerous and alarming, intended to be perpetrated, but frustrated and defeated, as was claimed, by the now Know Nothing member of the Legislature of Tennessee, a particular friend of the outgoing Clerk, who was elected to the Legislature by the people of the county of Jackson, as it is supposed, principally because he made these charges against his particular political friend, Mr. Cullom. The matter came up, also, between my competitor and myself during the canvass. I was very solicitous to know of my competitor whether, if he should be elected, he would vote for the outgoing Clerk to be Clerk of the present House of Representatives. My competitor avoided any declaration upon that subject. He evaded it. I frequently pressed it upon him, both in view of the charges which had gone abroad in the country, and also of the peculiar political record of the outgoing Clerk, in regard to Kansas, and other matters. My competitor said, one day, that he was very glad that Mr. Cullom had been elected Clerk by the Black Republicans, and glad that he had got about \$40,000. I told my competitor that if it was true that the outgoing Clerk had got that much money, and if he would convince me of it, I should feel it to be my duty, if elected, to bring the matter before the House of Representatives.

After the election was over, Mr. Stanton, the friend of Mr. Cullom, and now a Know-Nothing member of the Tennessee Legislature, came to me and exhibited to me a variety of documents, saying that he thought I was pledged to introduce a resolution into the House of Representatives to examine into Mr. Cullom's conduct. I told him what had occurred between my competitor and myself, and that I did not consider myself as pledged to introduce such a resolution. I told him further, that the peculiar relations existing between myself and Mr. Cullom, it being known throughout the State that we were not friends—(perhaps that is a strong enough term to use on the present occasion)—I did not feel that I was the proper man to introduce such a resolution, because it might look like malice or persecution against one whom I had defeated in a political contest, and that while I would not shrink from the duty, if it was necessary for me to assume it, I would prefer that it should devolve upon another; but that, if he would satisfy me that he could substantiate the charges made in the documents he presented, however unpleasant the duty might be, I would not shrink from it. He then showed me a large number of documents, and promised to return again and show me others, saying, at the same time, that he could prove, by members upon this floor, political friends of Mr. Cullom, that he had stated to them that he had made these large sums of money. In the last interview I had with Mr. Stanton, he told me that he had considered my suggestion, and believed it to be weighty; and would, therefore, get some one of Mr. Cullom's political friends upon this floor to offer a resolution to investigate his conduct. I told him I thought that was the best and fairest course. I have not spoken to any of Mr. Cullom's political friends on this subject, because it is a delicate matter, and I considered myself released from any obligation to move in it, and should, perhaps, be an intruder if I stepped between him and his friends here. But, if nothing is done by them, I shall, after waiting a reasonable time, take what course I may think proper in the matter.

Mr. MASON. Mr. Speaker, as chairman of the Committee on Accounts, to which it is proposed to refer this subject, it will perhaps be proper for me to give the House such information

as I am in possession of upon this subject. The Committee on Accounts have been in session for two or three hours every day since their appointment. There is a good deal of labor involved in the performance of their duties. I agree with the gentleman from Alabama [Mr. Houston] that if these charges of corruption against the outgoing Clerk are to be investigated, a special committee should be raised for that purpose.

With regard to the contract for stationery, which seems to be a grievance, I do not know what that contract is. It seems, however, either to have been a bad contract, or that it was made for an inferior quality of material. The Committee on Accounts has not gone into that matter.

For myself, sir, I have no personal hostility to the late Clerk of the House. I do not wish to figure in the prosecution of any of the late, or of any of the present, officers of the House. I do not know that there has been anything improper in the conduct of the late Clerk. So far as any examination has been made by the Committee on Accounts into the business of the late Clerk, we have found no corruption, or no improper conduct as yet, and I hope we may not.

I may cite to the House one single instance in reference to the contingent fund. The Committee on Accounts had before them, this morning, a bill for a quarter of a million dollars for engraving. It had passed the Clerk, and the Committee on Accounts indorsed it; and yet we find that by law this work is received by the superintendent of the particular branch of business, who, under the law of Congress, is the sole person to receive it. It is a mere nominal duty for the Committee on Accounts to examine the accounts. They are examined at the Treasury. The Clerk has no right to add to or diminish the bill one cent; and yet this quarter of a million dollars is paid out of the contingent fund of the House, no one having anything to do with it except this individual, Mr. Seaman, who receives the work. The House orders all these pictorial illustrations to be executed, and it is the duty of the Clerk to have the work executed, but he cannot save anything to himself or to the House. If it is a costly and a useful work for which these illustrations are ordered, then the action of the House in ordering them is proper enough. But if these books are useless lumber, as most of them appear to be, (for there are three or four hundred thousand dollars' worth lying in the library,) then it is the House and not the Clerk that is responsible for the extravagance. I am not the defender nor the accuser of Mr. Cullom, but the Committee on Accounts has performed a good deal of labor in examining his accounts, and, thus far, have found nothing wrong.

Now there is another thing—the furnishing of this Hall. The superintendent of construction here, as I understand, claims the right of furnishing the Hall; and the Clerk, also, as I understand, claims the same right, under the regular resolution of the House of Representatives. I believe the Clerk and the superintendent have compromised the matter, and that one supplies the upholstery and the other the furniture.

Mr. LETCHER. What was the cost of the furniture?

Mr. MASON. I have heard what it cost, but I do not now recollect. The matter belongs to the War Department. The Superintendent of Public Buildings here is appointed by that Department; and I am disposed to turn all the accounts for the building over to the Secretary of War.

There is another large item—for furnishing the new committee rooms in this wing of the Capitol. The superintendent of construction claims that he has the right to furnish them. Some members are of opinion that his ideas are rather extravagant. It is a matter for the House to determine whether they will furnish these rooms themselves or allow the Secretary of War to have them furnished in an elegant style by the superintendent.

The Speaker very well recollects that in years gone by I made frequent attempts to arrest this state of things; but it has grown worse and worse. I trust that the suggestion of the President in regard to the financial revulsion in the country will have the effect of turning members' attention to the subject, to see whether they cannot economize and reduce greatly the expenses of the

House. Millions are placed in the appropriation bills at the last hour; and it is the House, and not the Clerk, that is responsible.

I merely got up to second the suggestion of the gentleman from Alabama, [Mr. Housron,] and to say that, if the House wish to investigate this matter further than lies within the province of the Committee on Accounts, a resolution should be adopted appointing a special committee for that special purpose. Perhaps some friend of the late Clerk will offer such a resolution. The Committee on Accounts has no charge to make against him. We have discharged our duty, and given evidence of punctuality and attendance to it. I would like to have a resolution before the House in relation to the charges for upholstering and furnishing this Hall, and to other such matters. Perhaps I may offer such a resolution at the proper time. But at present I am disposed to let all these accounts be settled by the Secretary of War, as he has commenced the business. It is the same thing, after all, whether the Hall and the committee rooms be furnished by the House or under the superintendence of the Secretary of War.

Mr. MAYNARD. I believe the question before the House at this time—if I understand the reading of the resolution—is on an inquiry into the character and cost of the stationery purchased for the use of the House. The discussion upon that resolution seems to have taken a wider range, and to have gone into the general conduct of the outgoing Clerk. Although a personal friend of that gentleman, I shall not, here in my place or elsewhere, by any word or vote or act of mine, attempt to screen him from any full, thorough, sifting investigation into his conduct, if any member of this House believes that such an investigation will prove either proper or profitable. I am now instructed by the outgoing Clerk to say that he demands it. Thus instructed, I shall—contrary to what was my original intention when I rose, to leave to some one else to move the investigation—before concluding my remarks, move, myself, that the investigation shall be made by a special and select committee of the House.

I know nothing of the accusations that are made against that officer. I have not taken the trouble even to wade through the pages of matter that have been piled up here. I do not deem it necessary to go out into the columns of the newspaper press to see whether their utterance is for or against this or that particular officer in the discharge of his official duty; for, if that were to be done, it would leave us but little else to do. It is time enough, I suppose, for us to inquire into the conduct of any particular officer of this House when that conduct has been made the subject of remark in the House. I supposed that he would be called upon, at the proper time, by the proper committee, to present his vouchers, and account for the funds which have come into his hands. I supposed they would make a full investigation, and report to us whether there was anything wrong in his official conduct. But it seems—I know not for what reason, I know not what may be the facts in the case—that, in justice to ourselves and in justice to the outgoing Clerk, this work should be performed by a special committee upon the subject. I am perfectly willing that it should be done; and if the honorable member from North Carolina [Mr. CLINGMAN] will so modify his motion as to provide for the appointment of a special committee, with powers to extend their investigation to the extent which I have intimated, I shall be very much obliged to him for so doing.

Mr. CLINGMAN. I hope the gentleman from Tennessee will make the motion himself. I have my own reasons for wishing not to serve upon any such committee. I prefer that the matter should originate with him; and if he will make the motion I will vote for it very cheerfully. I beg leave to say, that not being politically of the same party with the late Clerk, I do not wish to initiate any movement against him, but I will cheerfully join any movement the gentleman thinks proper to undertake.

Mr. MAYNARD. I beg to say that I hope this will not be made a political matter.

Mr. CLINGMAN. Certainly not. I have not intended to say anything impugning the conduct of the outgoing Clerk. I should much prefer to follow the lead of some other member upon that

side in the matter. I made the motion originally very reluctantly. I threatened to do it in the last Congress; but I failed to do it because I know that it is a thankless thing for gentlemen to make these motions which create ill feeling in certain quarters. I preferred not to do it; but I thought it was necessary that the attention of the House should be called to the subject.

Mr. MAYNARD. For reasons personal to myself, I ask, as an especial favor, that the honorable member from North Carolina will so modify his motion as to adopt my suggestion, for the reason that, being a new member of the House, and entirely inexperienced in its usages—being entirely unacquainted with its practices—I prefer that a gentleman who is known to be, if not the oldest, the noblest "Roman of them all," should occupy that position. I again make the request. I ask it as a personal favor, that the gentleman from North Carolina will modify his resolution so as to meet the suggestions I have advanced.

Mr. CLINGMAN. If the gentleman will move such a proposition as suits him, I will accept it as a modification of my own motion with pleasure.

Mr. MAYNARD. I had not submitted my proposition in writing. It was, that a special committee shall be appointed, to whom the accounts of the outgoing Clerk shall be submitted for investigation, with instructions to report upon them to the House, and that they have leave to report at any time.

And, Mr. Speaker, as we sometimes hear of cleansing these Augean stables, it may be possible—I know not how it is—that it would be profitable to extend our inquiry beyond the action of the outgoing incumbent. I would, therefore, leave them at liberty to inquire into and report the practice and conduct of his predecessors in office.

Mr. CLINGMAN. If the gentleman will allow me, a gentleman has handed me a resolution which I suppose will answer his purpose. I have added to it a clause to meet the suggestion last made by him, giving the committee authority to investigate the conduct of previous Clerks. I propose, therefore, if it shall meet the views of the gentleman to submit the resolution in this form:

Resolved, That the accounts of William Cullom, the late Clerk, be referred to a select committee of five, with instructions to inquire into the various items of his accounts, and report thereon at any time; and shall have power to send for persons and papers; and that they shall likewise have authority to look into the conduct of any previous Clerk.

If the gentleman from Tennessee will move that resolution as an amendment to my motion, I shall vote for it, and I have no doubt the House will adopt it. I think it is proper that they should do it.

Mr. MAYNARD. I will accept the resolution, asking that the committee shall have authority to inquire into the accounts as well as conduct of previous Clerks.

I was about to remark when interrupted, that this was not the time nor was I prepared to discuss the conduct of the outgoing Clerk or any officer of this House; but I have this confidence in the character and in the integrity of that gentleman, that I express here a feeling, amounting to a conviction, that when the investigation is made he will have no occasion to regret it or to be ashamed of the result, as it may affect him or any of his subordinates. I propose the following amendment:

Resolved, That the accounts of William Cullom, the late Clerk, be referred to a select committee of five, with instructions to inquire into the various items of his accounts, and to report thereon at any time; and shall have power to send for persons and papers; and that they likewise have authority to look into the accounts and conduct of any previous clerk, and to report thereon.

Mr. NICHOLS. I ask that the 152d rule of the House be read.

The rule was read, as follows:

"152. The following resolution was passed by the House of Representatives, January 30, 1846.—(Journal of the House of Representatives, first session Twenty-Ninth Congress, page 323:—)

"Whereas the Clerk of this House is by law made the responsible officer for the proper disbursement of the contingent fund, and is required to give bond for the faithful disbursement thereof: Therefore,

"*Resolved*, That from and after the passage of this resolution, all contracts, bargains, or agreements, relative to the furnishing any matter or thing, or for the performance of any labor for the House of Representatives, be made with the Clerk, or approved by him, before any allowance shall be made therefor by the Committee on Accounts."

Mr. NICHOLS. Mr. Speaker, I have only to say in regard to the question before us that I hope that the investigation asked for the Clerk may take place. If I understand the rules of the House, the accounts of the Clerk are referred directly to the Committee on Accounts, which is one of our regular standing committees. I submit, then, that the resolution proposed by the gentleman from Tennessee cannot take the duty of auditing these accounts from a regular committee of the House; that it requires a vote of two thirds before that can be accomplished, because it suspends one of the regular rules of the House. I make that point of order. Let his accounts take their regular course of reference to one of the standing committees.

The SPEAKER. The Chair does not understand that the resolution proposes to take these accounts from the Committee on Accounts.

Mr. MAYNARD. It does not. It merely proposes to inquire with reference to his accounts, and to extend the inquiry to an investigation of the accounts of previous officers.

Mr. NICHOLS. I do not think that I misapprehend the terms of the gentleman's resolution. I understand it to propose a reference of the accounts and the conduct of the Clerk for investigation to a select committee. I have confidence in the Committee on Accounts. I want the accounts of the Clerk to take their natural course, and to let the select committee only have in charge the conduct of the Clerk. I hope that investigation will be had.

Mr. KELLOGG. Mr. Speaker, I am anxious that the greatest and widest latitude should be given to an investigation into the doings and accounts of every officer of this House and of the General Government, whenever an intimation is made that such a course is necessary. When a Clerk of this House demands an investigation into his accounts, it is wholly immaterial to me whether he be of my political faith or not. I will vote for it in a resolution embracing the greatest and the most liberal power, merely to know, sir, whether there has been anything wrong in the execution of the duties of his office, and his deportment as an officer of this House. Personally, I would prefer that the resolution should not be made in the language in which it is, for I would not screen this Clerk under the action of any other Clerk of this House, whether his immediate predecessor or not. If gentlemen desire an investigation into the doings of a prior Clerk, let a resolution for that purpose be moved in ample and proper form.

I will vote for this resolution with a view to the rights, and to sustain the honor and dignity of the outgoing Clerk, if he is worthy to be sustained. There is no way, in my opinion, that we can more fully and properly get at the conduct and the manner of the discharge of the duties of an officer, than by this kind of direct investigation—this calling upon the committee, and making it imperative upon them to investigate it. I favor investigation in any matter, if there be cause for it; and I will favor it whether the party involved be of my faith in politics or opposed to me. When it shall become necessary to cover his case by a comparison with the acts of his predecessors, then it may be time to move that too; but if the party were a personal friend of mine, I would rather, for his own honor and position, that he stood alone in the investigation, that his case might be fully and completely known to the House and to the country. This is the reason why I will vote now, and at any time where a motion is made, for an investigation into the doings of an officer of this House, or of any officer of the General Government. I shall vote for the resolution in its present shape; but I hope that the gentleman from Tennessee will withdraw the latter portion of it, or couch it in such terms as shall make it imperative upon the committee to go into a full and complete investigation. I would prefer that the gentleman should either omit that part of his resolution, or so modify it as to make it imperative upon the committee to investigate the accounts of the predecessors of the outgoing Clerk as fully and perfectly as his own.

Mr. MAYNARD. Since this view of the case has been taken, and in order to prevent any misconstruction or misinterpretation here or elsewhere, I will withdraw the latter part of my amendment, and let it refer to the late Clerk only, and let him stand or fall by himself.

Mr. KELLOGG. Then, sir, I shall most cordially vote for the resolution as it now stands before the House.

Mr. BURNETT. There seems to be a general feeling upon the part of the House that we should order this investigation; and I think it is due to the outgoing Clerk, as there have been charges made against him of a grave and serious character over responsible signatures, that we should do so. I suppose the House fully understands the subject, and that there is no necessity for any further debate. I therefore now move the previous question.

Mr. HOUSTON. I desire to propose a modification of the amendment which will obviate the objection of the gentleman from Ohio, [Mr. Nichols,] if the gentleman from Kentucky will allow me to do so, and then the previous question can be called. I understood the objection of the gentleman from Ohio to be that the effect of the adoption of this resolution, as amended, would be to withdraw from the Committee on Accounts their proper duty of auditing and settling the accounts of the Clerk. I would suggest to the gentleman from Tennessee that he add the following proviso to his amendment:

Provided, That this shall not withdraw from the Committee on Accounts their legitimate jurisdiction in the auditing and settling the accounts of the Clerk.

If the gentleman from Kentucky will withdraw the demand for the previous question, I will myself propose that modification, and I suppose it will obviate the difficulty of the gentleman from Ohio.

Mr. BURNETT. I do not feel disposed to withdraw the previous question, for I do not understand that this resolution confers upon the special committee any authority to settle the accounts of the Clerk. The object is to provide for an investigation of the conduct of the outgoing Clerk, to ascertain whether his action has been in accordance with law, or whether he has violated his duty and his responsibility to the House; I insist on the demand for the previous question.

Mr. STANTON. I wish to inquire whether the gentleman from Tennessee has withdrawn his amendment?

The SPEAKER. The gentleman from Tennessee has not withdrawn his amendment. He modified it by striking out the latter clause.

Mr. STANTON. I desire, with the consent of the gentleman from Kentucky, to make a single suggestion.

Mr. BURNETT. I insist on the demand for the previous question, and debate is not in order.

Mr. MASON. I hope my colleague will allow me to make a single remark.

Mr. BURNETT. The appeal of my colleague places me in an embarrassing position. If it be the pleasure of the House that I should withdraw the demand for the previous question, I will do so if my colleague will renew it. [Loud cries of "No, no!"] Well, then, sir, I insist upon the previous question.

The previous question was seconded, and the main question ordered.

Mr. JONES, of Tennessee. I wish to inquire whether, under that resolution, the committee will have authority to examine witnesses under oath?

The SPEAKER. The Chair cannot answer that question.

Mr. JONES, of Tennessee. I believe they will not.

Mr. CLINGMAN. They can do it under the law of the last Congress.

The SPEAKER. Debate is not in order.

Mr. MAYNARD's amendment was agreed to. The resolution, as amended, was then adopted.

Mr. J. GLANCY JONES obtained the floor.

Mr. GROW. I desire to appeal to my colleague to allow me to offer a resolution of inquiry. I desire to do it now, in order to give the Executive Departments time to furnish the information.

Mr. DAVIS, of Indiana. I insist upon the regular order of business.

The SPEAKER. Reports are in order from the Committee of Ways and Means.

BILLS REPORTED AND REFERRED.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, reported a bill to authorize the issue of Treasury notes; which was

read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. J. GLANCY JONES, from the same committee, reported bills of the following titles; which were severally read twice, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859; and

A bill making appropriations for the consular and diplomatic expenses of the Government, for the year ending June 30, 1859.

On motion of Mr. J. GLANCY JONES, a communication from the Secretary of the Treasury was referred to the Committee of Ways and Means, and ordered to be printed.

OHIO CONTESTED-ELECTION CASE.

Mr. HARRIS, of Illinois. I rise to a question of privilege. The memorial of Clement L. Vandaligham, contesting the right of Lewis D. CAMPBELL to his seat as Representative from the third congressional district of Ohio in this Congress, was presented under the rule, and referred to the Committee of Elections. An order to print it was not taken at the time it was presented, and I now move that it be printed.

The motion was agreed to.

PACIFIC RAILROAD.

Mr. PHELPS. I ask leave to introduce the following resolution:

Resolved, That a select committee, composed of thirteen members, be appointed by the Speaker, to which shall be referred so much of the President's annual message as relates to a railroad from the valley of the Mississippi river to the Pacific ocean.

Mr. JONES, of Tennessee. I object to that.

Mr. CAMPBELL. Has the morning hour expired?

The SPEAKER. It has not yet expired.

Mr. TAYLOR, of New York. I call for the regular order of business.

The SPEAKER. Reports are in order from the Committee of Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. GIDDINGS, it was

Ordered, That leave be given for the withdrawal from the files of the House of the papers in the case of the heirs of Dr. Frederick Seigle, and that they be referred to the Court of Claims.

Mr. WRIGHT, of Georgia, also asked and obtained leave for the withdrawal of certain papers for reference—some to the Committee on Pensions, and some to the Committee of Claims.

ARMY APPROPRIATION BILL.

Mr. FAULKNER. I ask that a communication from the War Department, received the other day, relating to an omission in the Army appropriation bill, be referred to the Committee on Military Affairs.

It was so ordered.

CLERKS TO COMMITTEES.

Mr. QUITMAN, from the Committee on Military Affairs, offered the following resolution:

Resolved, That the Committee on Military Affairs be authorized to employ a clerk at a compensation of four dollars a day during his service.

Mr. WASHBURN, of Illinois. I hope the gentleman will consent to modify his resolution so as to embrace the employment of clerks for other committees.

The SPEAKER. The Chair thinks that it is hardly in order for the gentleman to amend his resolution so as to include other committees, inasmuch as this resolution comes as a report from his committee.

Mr. WASHBURN, of Illinois. It has invariably been the practice to do so.

Mr. QUITMAN. The Committee on Military Affairs would not, of course, report a general resolution, although I should like to favor one giving clerks to those committees that have usually had them. But I can only, at present, report this resolution as adopted by the Committee on Military Affairs.

Mr. HARRIS, of Illinois. That question of order was made two years ago, when it was ruled that it was in order to amend a resolution authorizing the employment of a clerk to one commit-

tee, by authorizing the employment of clerks to other committees. The question was raised, discussed, and decided by the Chair and acquiesced in by the House.

Mr. QUITMAN. I await with pleasure the decision of the Chair on the subject. I desire, however, that this resolution should not be prejudiced by an amendment. If a general resolution of the House be ruled to be in order by the Speaker I shall not resist it.

Mr. BOCKOCK. I do not know why any gentleman should insist on amending the resolution of the gentleman from Mississippi. That gentleman is instructed by the Committee on Military Affairs to ask for the employment of a clerk. That committee occupies a peculiar position. It has its business to do. Other committees of the House may occupy a different position. They may have more business or less business. If the gentleman from Mississippi permits his resolution to be amended by the propositions of other gentlemen who wish to move for clerks to committees, of course his committee must take common fate with all other committees that want clerks. Why do not gentlemen submit independent provisions? The committees will all soon be called, and the chairman, or some member of each that wants a clerk, may submit a resolution to that effect, and the House will vote then on the claim of each committee by itself and for itself. I suggest that the gentleman from Mississippi call the previous question on his resolution, and let it stand or fall on its own merits.

Mr. HARRIS, of Illinois. I have before me the Journal of two years ago. A motion was made at that time by the honorable member from Mississippi, precisely as it is made now, and an honorable gentleman from Kentucky then moved an amendment, to insert:

"That the Committees on Elections, Foreign Affairs, Judiciary, Territories, Commerce, Post Office and Post Roads, and Public Lands, be each authorized to employ the services of clerks to said committees respectively, at a *per diem* compensation of four dollars, so long as said committees deem their services necessary."

That amendment was adopted on a motion then made, as it is made now, by the honorable gentleman from Mississippi. If it be in order, I move now the same amendment that was moved then. It will save a variety of motions, and the consumption of the time of the House.

The SPEAKER. Following the precedent, the Chair will receive the amendment. The Chair doubts very much whether the amendment is strictly in order. But the precedent is established, and the Chair will follow it.

The amendment was reported as above.

Mr. BOCKOCK. I would have preferred that each committee should move for a clerk for itself, and to let the House consider the claim of each committee by itself. But gentlemen have chosen to pursue another course, and therefore, as I have been charged by the Naval Committee to ask a clerk for them, I rise for the purpose of moving an amendment to the amendment of the gentleman from Illinois, [Mr. HARRIS,] by inserting the Committee on Naval Affairs.

Mr. HARRIS, of Illinois. I accept that amendment, and ask the previous question.

Mr. SEWARD. I move to lay the resolution and amendment on the table.

The motion was not agreed to; there being, on division—ayes 22, noes 112.

The previous question was seconded; and the main question ordered to be put.

The question being now upon the adoption of the amendment,

Mr. MARSHALL, of Kentucky, demanded the yeas and nays.

Mr. SEWARD asked for tellers on the yeas and nays.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and BOCKOCK were appointed.

The question was taken; and the tellers reported—ayes 35, noes 91.

So the yeas and nays were ordered, one fifth of the members having voted therefor.

Mr. FLORENCE. I will suggest that this proposition before us is not full. In justice to the Committee on Invalid Pensions, I ask that the amendment may be amended so as to include the Committee on Invalid Pensions. That committee was allowed a clerk during the last Congress. I ask the unanimous consent of the House to amend the amendment as I have suggested.

Mr. SEWARD. Is debate in order?

The SPEAKER. It is not.

Mr. SEWARD. Then I object to it.

Mr. JONES, of Tennessee. I object to the amendment proposed by the gentleman from Pennsylvania.

The question was taken; and it was decided in the affirmative—yeas 115, nays 84; as follows:

YEAS—Messrs. Ahl, Arnold, Atkins, Avery, Banks, Barksdale, Bennett, Bishop, Bococek, Bowie, Branch, Brayton, Bryan, Burlingame, Campbell, Case, Caskie, Chaffee, Ezia Clark, John B. Clark, Clawson, Clay, Clemens, Clingman, Clark B. Cochrane, Cockerill, Colfax, Conins, Cox, James Craig, Curry, Curtis, Dammell, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dewart, Dick, Dimmick, Dodd, Dowdell, Durfee, Edmundson, Elliott, English, Faulkner, Fenton, Florence, Giddings, Gilman, Gilmer, Goodwin, Granger, Greenwood, Grow, Thomas L. Harris, Haskin, Hatch, Hawkins, Hill, Horton, Howard, Jewett, Keitt, Kellogg, Kelly, Knapp, John C. Kunkel, Landy, Samuel S. Marshall, Mason, Milson, Moore, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Niblack, Purviance, Quitman, Reagan, Ritchie, Robbins, Roberts, Royce, Sandidge, Savage, Scott, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stephens, Stevenson, Wade, Walbridge, Walton, Ward, Warren, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Augustus R. Wright, and Zollieoffer—115.

NAYS—Messrs. Abbott, Adrain, Anderson, Andrews, Billingshurst, Blair, Boyce, Buffinton, Burnett, Burns, Burroughs, Cobb, Covode, Cragin, Crawford, Davis of Indiana, Dean, Foley, Foster, Garnett, Gartrell, Goode, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, Harlan, Hoard, Hopkins, Houston, Hughes, Huyler, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Kilgore, Leach, Leiter, Letcher, Lovjoy, McQueen, Humphrey Marshall, Maynard, Miles, Miller, Montgomery, Edward Joy Morris, Isaac N. Morris, Mott, Nichols, Olin, Palmer, Parker, Pettit, Peyton, Phelps, Pike, Potter, Powell, Ready, Reilly, Ricard, Ruffin, Russell, Scales, Seward, Henry M. Shaw, Stanton, James A. Stewart, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Underwood, Waldron, Whiteley, Winslow, Woodson, Wortendyke, and John V. Wright—84.

So the amendment was agreed to.

Mr. JONES, of Tennessee, demanded the yeas and nays on the resolution as amended.

The yeas and nays were not ordered.

The resolution, as amended, was then agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPROPRIATION FOR NATIONAL ARMORIES.

Mr. FAULKNER. I am instructed by the Committee on Military Affairs to report the following resolution:

Resolved, That the communication recently received from the Secretary of War calling the attention of the House to a clerical error, by which the appropriation for the support of the national armories was omitted in enrolling the last Army appropriation bill, which was laid on the table, be taken up, and referred to the Committee on Military Affairs.

The resolution was adopted.

TEXAS RESOLUTIONS.

Mr. REAGAN, by unanimous consent, presented certain joint resolutions of the Legislature of the State of Texas, in relation to the raising of a regiment of mounted volunteers; which was referred to the Committee on Military Affairs, and ordered to be printed.

ARMORY APPROPRIATION—AGAIN.

Mr. MARSHALL, of Kentucky. I move to reconsider the vote by which the resolution was adopted in reference to the Army appropriation bill. I want it reconsidered with a view of amending the resolution so as to make the Committee on Military Affairs call upon the President for the special account, which is required by law, for the appropriations which he has used for this purpose.

I understand that, by the law of 1809, transfers from one source of appropriation to another, in the same Department, during the recess of Congress, can, in this Government, alone be made by the application of the head of that Department to the President, and that then the President, upon his own responsibility, makes the transfer. In such case, too, the President is required, by the law, to send his special account to Congress, within the first week of the session. I desire that the President shall be called upon for a statement of the means by which he has supplied what was neglected to be appropriated at the last session, through a clerical error, with a view that we may legislate understandingly on the subject. I hope

the House will indulge me by a reconsideration of the vote already taken, so that the call upon the President, which I indicate, may be attached to the resolution already adopted. I think it is proper that this should be done.

I trust that I am understood. It is asserted that our Clerk, in enrolling the Army appropriation bill near the close of the last Congress, omitted an appropriation of \$370,000, intended for the manufacture of arms. The national armory, it is said, would have stopped if the President of the United States had not exerted the power which was in his hands to draw, for its use, money from other sources within the reach of the War Department. We are now asked, as Congress has met, to reimburse to this appropriation that which was intended for it last year. Now, the law under which the President acted requires him to send a special account to us, during the first week of the session, of the moneys that he has drawn, from what source, and how he has applied them. I am particular upon this point, Mr. Speaker, for the reason that I am one of that class of men who have occupied seats upon this floor, who have attempted to hold Executive action to its proper responsibility in these matters. I have so acted when my political friends have been in power, and when those to whom I have been opposed have been in power; and if any head of the War Department, or the head of any other Department of this Government, has, without calling on the President, undertaken to appropriate to different objects what Congress has appropriated for other and specific objects, then I want to have the President's attention called to his duty in regard to it, and that he shall be compelled, under the law, to make his account to the representatives of the people within the time fixed.

I do not say anything at all about the matter which has been referred to the Committee on Military Affairs; I only want this other matter to go with it. We cannot legislate intelligently without the information which I seek to obtain; for if we were to appropriate \$370,000 again, for the same object for which we intended the appropriation last year, it must be plain, inasmuch as the President has drawn \$200,000 from other sources, that we will appropriate \$200,000 of a surplus, to that particular object, while we leave the sources from which the President has drawn without a proper supply. Therefore, the President ought to be called upon to render the account which the law requires, within a fixed time. We will then be enabled to see whether the Secretary of War, or those under him, have been applying the public money without the authority of law. I ask, then, that the vote by which the resolution was adopted may be reconsidered, in order that I may move the amendment which I have indicated.

Mr. CURTIS. It seems to me that this matter will go before the Committee on Military Affairs in a rather informal way. It appears that the appropriation for the distribution of arms to the different States was applied to the manufacture of arms in order to supply an omission occasioned, as gentlemen have it, by a clerical error at the last session. The proposition of the gentleman from Kentucky, as I understand it, is made with a view of ascertaining how much money has been thus supplied. The excuse for the misapplication—for it is one in point of fact—is, that it was necessary to keep the manufacture of arms going on. This excuse may have been sufficient. Of course, too, it is coupled with the idea of a clerical error. I do not know that this Congress has the right to correct clerical errors of the last Congress. It would be just as easy, and a great deal more regular, to pass an original bill making an appropriation. I see no reason, therefore, why it should be made a matter of reference to the Committee on Military Affairs, although, when the resolution was up, I voted for it. It seems to me, however, that the President should be called on directly for all the facts, and that the better way for the gentleman from Kentucky to accomplish his purpose, would be to introduce a resolution making such a direct call. I will vote, however, for the reconsideration, if he adheres to that motion, in order that my friend may have an opportunity to ascertain how much of the fund referred to has been misapplied.

Mr. MARSHALL, of Kentucky. As it has been suggested to me that it would be more re-

spectful to make a direct call on the President by a resolution of the House, I withdraw my motion to reconsider, with the view of offering the resolution, on the first opportunity, in proper form.

ISSUE OF TREASURY NOTES.

Mr. CAMPBELL. Has the morning hour expired?

The SPEAKER. It has.

Mr. CAMPBELL. Mr. Speaker, a bill of great importance was reported from the Committee of Ways and Means this morning, and referred to the Committee of the Whole on the state of the Union. It is known to all of us that the Treasury is almost on the verge of bankruptcy, and it is of the utmost consequence that that bill should be taken up and considered at as early a period as possible. I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. GROW. I hope the gentleman will yield until I present a resolution of inquiry.

Mr. CAMPBELL. The gentleman can present his resolution when we come out of committee.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

The CHAIRMAN stated that the first business in order before the committee was the consideration of the annual message of the President of the United States.

Mr. CLINGMAN. I move to postpone the consideration of the message, in order that we may reach the bill to authorize the issue of Treasury notes.

The motion was agreed to.

Mr. HOUSTON. Has the bill referred to by the gentleman from Ohio [Mr. CAMPBELL] been printed?

The CHAIRMAN. The bill was reported this morning from the Committee of Ways and Means, and has not been printed. A bill, of which it is substantially a copy, has, however, been reported in the other branch of Congress, and has been printed.

Mr. HOUSTON. I am very anxious that we should act speedily upon this bill.

Mr. CAMPBELL. I move to dispense with the first reading of the bill, so that it may be read by clauses.

The CHAIRMAN. The bill is not yet before the committee. Certain appropriation bills precede it upon the Calendar.

Mr. CAMPBELL. I move to postpone the consideration of all bills which precede the one to authorize the issue of Treasury notes.

The motion was agreed to; and the committee proceeded to the consideration of the bill to authorize the issue of Treasury notes.

The bill was read *in extenso*; and is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to cause Treasury notes for such sum or sums as the exigencies of the public service may require, but not to exceed, at any time, the amount of twenty millions of dollars, and of denominations not less than fifty dollars for any such note, to be prepared, signed, and issued, in the manner hereinafter provided.

Sec. 2. And be it further enacted, That such Treasury notes shall be paid and redeemed by the United States at the Treasury thereof after the expiration of one year from the dates of said notes; from which dates, until they shall be respectively paid and redeemed, they shall bear such rate of interest as shall be expressed in said notes, which rate of interest upon the first issue, which shall not exceed six millions of dollars of such notes, shall be fixed by the Secretary of the Treasury, with the approval of the President, but shall in no case exceed the rate of six per centum per annum. The residue shall be raised in whole or in part, after public advertisement of not less than thirty days, as the Secretary of the Treasury may direct, by exchanging them at their par value for specie to the bidder or bidders who shall agree to make such exchange at the lowest rate of interest, not exceeding six per centum, upon the said notes: *Provided*, That after the maturity of any of said notes, interest thereon shall cease at the expiration of sixty days' notice of readiness to pay and redeem the same, which may at any time or times be given by the Secretary of the Treasury in one or more newspapers published at the seat of Government. The payment or redemption of said notes herein provided shall be made to the lawful holders thereof, respectively, upon presentation at the Treasury, and shall include the principal of each note and the interest which shall be due thereon. And for such payment and redemption, at the time or times herein specified, the faith of the United States is hereby solemnly pledged.

Sec. 3. And be it further enacted, That such Treasury

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notes shall be prepared under the direction of the Secretary of the Treasury, and shall be signed in behalf of the United States by the Treasurer thereof, and countersigned by the Register of the Treasury. Each of these officers shall keep, in a book or books provided for that purpose, separate, full, and accurate accounts, showing the number, date, amount, and rate of interest, of each Treasury note signed and countersigned by them, respectively; and also, similar accounts showing all such notes as may be paid, redeemed, and canceled, as the same may be returned; all which accounts shall be carefully preserved in the Treasury Department. And the Treasurer shall account quarterly for all such Treasury notes as shall have been countersigned by the Register and delivered to the Treasurer for issue.

Sec. 4. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, with the approbation of the President, to borrow, from time to time, such sums of money upon the credit of such notes as the President may deem expedient: *Provided*, That no Treasury notes shall be pledged, hypothecated, sold, or disposed of in any way, for any purpose whatever, either directly or indirectly, for any sum less than the amount of such notes, including the principal and interest thereof.

Sec. 5. *And be it further enacted*, That said Treasury notes shall be transferable, by assignment indorsed thereon by the person to whose order the same shall be made payable, accompanied together with the delivery of the notes so assigned.

Sec. 6. *And be it further enacted*, That said Treasury notes shall be received by the proper officers in payment of all duties and taxes laid by the authority of the United States, of all public lands sold by said authority, and of all debts to the United States of any character whatever, which may be due and payable at the time when said Treasury notes may be offered in payment thereof; and upon every such payment credit shall be given for the amount of principal and interest due on the note or notes received in payment on the day when the same shall have been received by such officer.

Sec. 7. *And be it further enacted*, That every collector of the customs, receiver of public moneys, or other officer or agent of the United States, who shall receive any Treasury note or notes in payment on account of the United States, shall take from the holder of such note or notes a receipt, upon the back of each, stating distinctly the date of such payment and the amount allowed upon such note; and every such officer or agent shall keep regular and specific entries of all Treasury notes received in payment, showing the person from whom received, the number, date, and amount of principal and interest allowed on each and every Treasury note received in payment; which entries shall be delivered to the Treasury with the Treasury note or notes mentioned therein, and if found correct, such officer or agent shall receive credit for the amount, as provided in the last section of this act.

Sec. 8. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized to make and issue, from time to time, such instructions, rules, and regulations to the several collectors, receivers, depositaries, and all others who may be required to receive such Treasury notes in behalf of, and as agent in any capacity for, the United States, as to the custody, disposal, canceling, and return of any such notes as may be paid to and received by them, respectively, and as to the accounts and returns to be made to the Treasury Department of such receipts, as he shall deem best calculated to promote the public convenience and security, and to protect the United States as well as individuals from fraud and loss.

Sec. 9. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and directed to cause to be paid the principal and interest of such Treasury notes as may be issued under this act at the time and times when, according to its provisions, the same should be paid. And the said Secretary of the Treasury is further authorized to purchase said notes at par for the amount of principal and interest due at the time of the purchase on such notes. And so much of any unappropriated money in the Treasury as may be necessary for the purpose is hereby appropriated to the payment of the principal and interest of said notes.

Sec. 10. *And be it further enacted*, That in place of such Treasury notes as may have been paid and redeemed, other Treasury notes to the same amount may be issued: *Provided*, That the aggregate sum outstanding, under the authority of this act, shall at no time exceed twenty millions of dollars.

Sec. 11. *And be it further enacted*, That to defray the expenses of engraving, printing, preparing, and issuing the Treasury notes herein authorized, the sum of twenty thousand dollars is hereby appropriated, to be paid out of any unappropriated money in the Treasury: *Provided*, That no compensation shall be made to any officer whose salary is fixed by law for preparing, signing, or issuing Treasury notes.

Sec. 12. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willfully aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be, a Treasury note, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any false, forged, or counterfeited note, purporting to be a Treasury note as aforesaid, knowing the same to be falsely forged or counterfeited, or shall pass, utter, or publish as true, any falsely altered Treasury note, issued as aforesaid, knowing the same to be falsely altered, every such person shall be deemed and adjudged guilty of felony; and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years, nor more than ten years, and to be fined in a sum not exceeding five thousand dollars.

Sec. 13. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody and possession any metallic plate engraved after the similitude of any plate from which any notes issued as aforesaid shall have been printed, with intent to use such plate, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a term not less than three nor more than ten years, and fined in a sum not exceeding five thousand dollars.

Sec. 14. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to cause a statement to be published monthly of the amount of Treasury notes issued, and paid and redeemed, under the provisions of this act, showing the balance outstanding each month.

The CHAIRMAN. The bill having been read in *extenso*, it will now be read by sections.

Mr. J. GLANCY JONES. I did not intend to press this bill to-day in the Committee of the Whole on the state of the Union (and it was not on my motion that the House went into committee) in consequence of the bill not having been printed; but if it be the pleasure of the committee, I will go on with the bill and make my explanation now.

Mr. BANKS. The gentleman from Pennsylvania will allow me to say that, inasmuch as the bill is not printed, I hope its consideration will not be pressed at this time. The House does not understand its provisions.

Mr. HOUSTON. I desire to ask a question of the chairman of the Committee of Ways and Means. True, the bill has not been printed, and it is an unusual course to ask the Committee of the Whole on the state of the Union to vote on a bill involving important considerations before it has been put in a condition for the members of the committee to examine it. But, from the reading of the bill, I am myself satisfied that it conforms, in all its substantial parts, to the bills of like character that have heretofore been passed and executed. In that view of the case, and in view of the great exigency of the public service, we may possibly obviate the difficulties ordinarily arising in case of bills not being printed, and act upon it at once. I paid particular attention to the reading of the bill; and I desire to know of the chairman of the Committee of Ways and Means whether I am not correct in saying that this bill conforms in every important and essential particular to the Treasury note bills that have been heretofore passed by Congress, and under which notes have been heretofore issued?

Mr. J. GLANCY JONES. The exigencies of the Government require as prompt and speedy action on this bill as is practicable. The bill was not placed in my hands till this morning, when it was brought before the Committee of Ways and Means. I was instructed to report the bill, and did this morning report it. But inasmuch as it was not printed, and could not possibly be printed in time, I did not intend to ask the House to go into Committee of the Whole on the state of the Union with a view to take up this or any appropriation bill that was not printed so that members could refer to it. I am as anxious for as much expedition as possible. But still, I would be unwilling to ask to have this bill taken up now unless the members have, in some way or other, informed themselves sufficiently as to its merits to allow me to proceed without any objection on the ground of its not being printed and ready for their use. It was not on my motion, therefore, that the House resolved itself into the Committee of the Whole on the state of the Union; and it is proper that I should give this explanation.

In answer to the gentleman from Alabama, [Mr. Houston,] I would say that the bill is very simple in its provisions, and is quite in conformity with,

and very similar to, all the bills of the same character that have been heretofore passed; but still, I will not press it upon the committee unless members are, with a great degree of unanimity, prepared for it. I intend to ask for the privilege of bringing it forward on Monday, by which time it will be printed.

Mr. CAMPBELL. I had understood from the chairman of the Committee of Ways and Means, as well as from other sources, that the Government desired to have this measure acted upon speedily. It was intimated by the honorable chairman that on Monday next he would make an effort to suspend the rules in order to put this measure upon its passage; and in that view of the matter, I ventured to move that the House should resolve itself into the Committee of the Whole on the state of the Union, believing, notwithstanding the bill had not been printed, that its general merits might be discussed; that, in the mean time, the bill might be printed, and that thus the proposition which the chairman intimated he would make on Monday might be facilitated by some discussion; for I apprehend that this House is not yet fully prepared to vote on so important a measure as that of issuing \$20,000,000 of Treasury notes, without some discussion. I beg to make my apology to the honorable chairman if I have committed an error in submitting my motion. If he is not prepared, on this occasion, to defend the merits of the bill, if he is not prepared to explain to the committee its provisions, I will, with very great pleasure, move that the committee rise.

Mr. J. GLANCY JONES. I want to say to the gentleman from Ohio [Mr. CAMPBELL] that the very last inference he should draw from my remarks, is that I am not as well prepared now as I shall be at any time to explain and defend the provisions of this bill. He certainly labors under a misapprehension as to the intention of my remarks.

Mr. CAMPBELL. I beg the gentleman's pardon. I meant to insinuate nothing of the kind.

Mr. J. GLANCY JONES. I hardly consider my colleague upon the committee under any necessity of making an apology, because I did not regard his action in any other light than that of kindness upon his part; but I felt it my duty to state to the committee that, while the exigencies of the Government required expedition, I did not wish the committee to suppose that I would precipitate a measure of such importance as issuing \$20,000,000 of Treasury notes, without giving them an opportunity to read the bill. If it is the pleasure of the committee, however, with a tolerable degree of unanimity, to proceed with the consideration and discussion of the bill now, I am ready to do so.

Mr. BANKS. I have no doubt at all that the gentleman from Pennsylvania is ready to proceed now. He has had a better opportunity of examining its provisions, and of satisfying himself of their correctness, than the rest of us. But, sir, this is an important measure; one which should not be pressed upon us for consideration or discussion in any form until we have had the time and opportunity to examine its provisions in some manner other than from its mere reading at the Clerk's desk. I think this bill for the issuing of Treasury notes is not like the Treasury loan bills which have been heretofore passed by Congress, with perhaps one or two exceptions. If we consider the times in which this measure is asked to be adopted, and the circumstances under which the Government is placed, I think there will be found no precedent—I am not perfectly certain on this point, but I think there will be found no precedent—for the passage of a bill like this. Certainly, sir, there is no such exigency of the Government at the present time as to require the passage of a bill of this important character at once without giving time to understand its provisions and ascertain its merits. The Government are not now, as heretofore when such loans have been negotiated, engaged in war. If there was an immediate demand for money, which

could not be obtained by the Government in the regular manner, I certainly would be the last man to interpose objection to the immediate consideration of the bill. I trust, however, that, under the circumstances, the gentleman from Pennsylvania [Mr. J. GLANCY JONES] will not insist upon the consideration of the bill at this time.

Mr. RITCHIE. If my colleague will allow me, I will suggest another reason why the consideration of this bill should be postponed for some days, until we can have an opportunity of examining it. It has not been more than six weeks since the Secretary of the Treasury was in the market purchasing up claims against the United States, and paying \$130 for every \$100 of debt. Sir, for one, I want some opportunity of examining the facts presented, and ascertaining the reason why we are now called upon to issue Treasury notes within six weeks of the time that debts, not due yet for some years, have been purchased by the Treasury Department at thirty per cent. premium. Some gentleman suggests that the Treasury paid only sixteen per cent. premium. Be that as it may, I know they have paid a large premium. I repeat, that this has been done within six weeks, or two months at furthest, and I can see nothing which has occurred which should precipitate upon us the necessity of the adoption of so extraordinary a measure at this time—on Friday afternoon, at the close of the second week of the session. We have had no such indication in the House previously, during these two weeks of the session which have already elapsed. The President scarcely alluded to the subject in his annual message, and I repeat, again, that it seems most extraordinary to me, that the Secretary of the Treasury should find himself under the necessity of pressing this important measure upon us within six or eight weeks after the purchase of claims against the Government to a large amount, which, under the law, he was not required to redeem for years; and especially when that measure of relief is the issue of paper money, which I had supposed was the horror of the Democratic party.

Mr. GROW. I concur in opinion with my colleague, [Mr. J. GLANCY JONES,] if I understood him correctly in the impropriety of pressing this bill upon the consideration of the committee at this time unless by unanimous consent. I do not regard it as a bill of so little consequence as to warrant us in going on to legislate upon it without knowing what is in it. It is a bill which proposes, in the exigency in which the country is now placed, to issue \$20,000,000 of Treasury notes—of paper currency—the effect of which will be to keep the coin in the vaults of the misers who have hoarded it there, and which have brought these troubles upon the country. Sir, this crisis has not been precipitated upon us because there was not gold and silver enough in the country. It is because the coin has been hoarded up in the vaults of misers, and the country compelled to use paper currency as its circulating medium. Sir, for one I am not prepared further to embarrass the trade of the country by adding to the cause which has produced it, by increasing the circulation of paper currency, and thereby keeping the coin which has been hoarded from general circulation.

Now, sir, I hope my colleague will not press this bill to-day, not even for discussion, for, as suggested by the gentleman from Massachusetts, [Mr. BANKS,] how are we to discuss it without understanding its contents?

Mr. J. GLANCY JONES. I wish to ask my colleague who is upon the floor, as well as my colleague who spoke before him, [Mr. RITCHIE,] whether it is their intention to discuss the merits of the bill, upon a question to postpone its consideration? I do not desire to consider the bill at this time, and have so announced to the committee; but I would suggest to gentlemen, if they desire that the committee shall rise, and that the subject be postponed until some future day for consideration, whether it is fair upon that question to go into a discussion upon the merits of the bill?

Mr. GROW. I will say in answer to my colleague, that it is not my desire to discuss the bill at the present time. My only object was to call the attention of the committee to the importance of the subject before us. I hope my colleague will move that the committee rise, and that we shall not proceed to the consideration of this

subject until we have had time and opportunity of examining and of understanding it.

Mr. LETCHER. I am glad to see any evidence of improvement in the way of legislation; and nothing has afforded me more satisfaction than the remarks of the gentleman who has just taken his seat. I recollect that at the last Congress that gentleman was in the habit of reporting bills, and then, by calling the previous question, forcing us to vote upon them without any opportunity of explanation or debate, even bills of great importance, relating to the organization and general management of the Territories of the United States.

Mr. GROW. Will the gentleman allow me one word?

Mr. LETCHER. Oh certainly, anything the gentleman pleases.

Mr. GROW. The gentleman from Virginia will recollect that I reported no bill during the last Congress, upon which I called upon the House to act, until it had been printed and before us for at least ten days.

Mr. LETCHER. The gentleman from Pennsylvania will recollect, that while he reported his bills and had them printed, he took particular pains to call the previous question, and cut off all opportunity of examination by debate. Now, sir, what was the use of printing a bill if you had no opportunity of expressing an opinion about what was printed? What was the use of printing a bill of twenty sections and then excluding every member from all debate upon every one of those twenty sections? It seems to me that the gentleman over the way is making considerable progress, and I congratulate him, and congratulate the House upon it.

Mr. GROW. I ask the gentleman from Virginia to allow me just a single word, to relieve myself from the charge of inconsistency which he seems disposed to make in reference to my conduct. I ask the gentleman from Virginia to point to a single bill reported by me upon which the House was called to act without discussion, unless it related to a subject which had been discussed more or less in Congress and throughout the country for months. I suppose the gentleman refers to the Kansas bills?

Mr. LETCHER. Yes, sir.

Mr. GROW. Well, sir, the gentleman knows that the subject of those bills had been discussed in the House and in the country for the last four years.

Mr. LETCHER. The gentleman will recollect another thing which occurred in the last Congress. There were bills reported by the Land Committee, at that session, which we were forced to vote upon without their ever having been printed. We had no opportunity to see them, either in manuscript or in print, and we were called upon here to vote upon them; and we actually did vote, under the gag of the previous question, some twenty million acres of the public land. It seems that we shall probably have nothing of this sort in the present Congress; that those gentlemen will unite with us; that we will not only have our bills printed, but we will have them referred to the Committee of the Whole, and that he, and all others who are disposed to assail those bills, will have abundant opportunity to do so, before they are called upon to pass judgment, in the shape of ay or no, upon them. With this view, I move that the committee rise.

The question was taken; and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. PHELPS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 4, to authorize the issue of Treasury notes, and had come to no conclusion thereon.

Mr. WASHBURN, of Illinois. I ask leave to submit a resolution.

Mr. BANKS. I call for the regular order of business.

Mr. RITCHIE moved that when the House adjourns, it adjourn to meet on Monday next.

The question was taken; and the motion was disagreed to, there being on a division—ayes 75, noes 115.

Mr. SAVAGE. I ask leave to introduce a bill granting pensions to the officers and soldiers of

the war with Great Britain, in 1812, and those engaged in Indian wars during that period, of which previous notice has been given; that it may be referred to the Committee on Invalid Pensions.

Mr. BANKS. I insist on the regular order of business.

The SPEAKER. Reports from committees are in order.

CLERKS TO COMMITTEES.

Mr. KEITT. I am instructed, sir, by the Committee on Public Buildings and Grounds, to submit the following resolution:

Resolved, That the Committee on Public Buildings and Grounds be authorized to employ a clerk during the session, or during such portion of it as they may deem his services necessary, at the usual rate of compensation.

I wish to state in this connection, Mr. Speaker, that I have been on that committee for years. We had no clerk; but the increase of business before that committee renders it necessary that we should now have one. I understand from the officers of the Capitol extension that the steps of the new building will be thrown to some considerable distance into the square in the rear of the Capitol, and that it will be necessary for us, in consequence, to enlarge the grounds very considerably. The late chairman of the Committee on Public Buildings and Grounds, in the Senate, informed me that he had given an order, which I believe has not yet been executed, to make proper surveys and explorations for that purpose. We have before us, also, the question of the necessity of new buildings for the Department of State, for the War and for the Navy Departments. We desire to put the House in possession of all the facts. We desire that not only all the estimates shall be spread before the House, but also all the information which can be procured to enable the House to judge properly to what extent it will go. This will throw upon the committee, which consists only of five members, and is one of the smallest of the standing committees, a great deal of work. We want the clerk only for the time that his services may be necessary to facilitate the business before us.

Mr. CRAIGE, of North Carolina. In regard to this committee, for which my friend is so anxious to procure a clerk, I will say that I had the pleasure of serving on it with him, for two years, and that, in my opinion, any clerk in five minutes can do all the business that will come before it during the session. [Laughter.]

Mr. KEITT. In reply, I have only to say, that if the gentleman is correct, the committee will not employ a clerk. I pledge myself that the clerk shall not be employed unless his services be necessary, and no longer than they are necessary.

Mr. FLORENCE. I do not desire to embarrass the resolution of the gentleman from South Carolina, but a sense of duty, sir, to the committee of which I am a member, and indeed of duty to the country, compels me to ask that a clerk for the Committee on Invalid Pensions may also be provided for. It will be impossible for the members of that committee faithfully to discharge their duties unless a clerk is given to them. As a matter of economy it is better that the files of applications which incur the table and cases of that committee should be examined and disposed of at once. There are applications there which, if permitted to remain without investigation and report, will some day come here and draw out of the treasury millions of dollars. They ought all to be examined when the evidence is fresh. It is the desire of the committee that this shall be done, and that all the claims which are groundless shall be brought here promptly, and by the House immediately consigned to the "tomb of the Capulets." I wish that the table of the Committee on Invalid Pensions may be cleared, and kept cleared, and that the Treasury may be saved from the efforts made to plunder it. We want to perform our whole duty and nothing else. I hope to be an active member of that committee, and that in the discharge of our duties we may be assisted by the appointment of a clerk, whose services are necessary to us. Let this committee be treated as other committees are.

Mr. BILLINGHURST. If there is any prospect that this resolution will be adopted, I desire that it shall be amended so as to fix the compensation of these clerks. It provides, now, that they shall receive "the usual compensation." I

move to strike that out, and insert, "at a compensation of four dollars per day."

Mr. FLORENCE. Well, that is the usual compensation. That is the compensation paid to all clerks of committees. They all get four dollars a day.

Mr. KEITT. I accept the modification.

Mr. FLORENCE. Certainly; there is no objection to it.

Mr. LETCHER. Mr. Speaker, I have been listening very patiently to see whether the Committee on Roads and Canals would not want a clerk also, and whether they would not be followed by the Committee on the Militia; and whether the Committee on Agriculture would not be in, in the course of time. I understand that the Agricultural Committee are ready, and that they desire to have an opportunity to offer a proposition for a clerk, too.

Mr. JONES, of Tennessee. Will the gentleman allow me to say a word just here?

Mr. LETCHER. Yes, sir, unless my friend is going to try to embarrass me. [Laughter.]

Mr. JONES, of Tennessee. With the permission of the gentleman from Virginia, I would say to him, that I do not suppose the Committee on Roads and Canals will ask for a clerk. So far as I am concerned, I have been upon various committees in this House, and I have never been upon but one that required a clerk, and that was the Committee of Ways and Means. My experience, unless business has greatly augmented, is that there are but two committees in this House which require permanent clerks, and those committees are the Ways and Means and Claims.

Mr. LETCHER. My friend from Pennsylvania [Mr. FLORENCE] says that this clerk will be a very important addition to this committee; that he applies for one, not only from a sense of duty to himself, but from a sense of duty to the Treasury, and to the country. Now, sir, it strikes me, to push his argument a little further, that if one clerk will save so much to the Treasury, and to the country, if we furnish each of the nine members of that committee with a clerk, they would possibly be enabled to save a good deal more. I am curious to know what this clerk is to do. When papers are referred to the committee, the Clerk of this House sends them to the committee room, and enters them upon a book which is kept there. What is the clerk, whom the gentleman proposes to appoint, to do under these circumstances? What business is he to perform? Is he to write out reports, to make examinations of the cases, and to prepare reports to be presented to this House? It strikes me that that cannot be legitimately the business of a clerk. It is a matter to be committed to the member himself, and he is to be responsible for his work, together with his committee, and for the information which may be presented to the House. Now, I desire to know from the gentleman from Pennsylvania what he proposes to do with his clerk, and how money is to be saved by the appointment of one; and I will give way to hear his answer.

Mr. FLORENCE. I cannot make any bargain for the floor with the gentleman from Virginia. I am just as determined against making bargains for the farming out of this floor as I am against being catechized. [Laughter.] I can only speak for myself. So far as other committees are concerned, I can say, in Bible language, "sufficient unto the hour is the evil thereof." [Renewed laughter.] The gentleman says I am not well versed in Scripture. I wish I was better versed in it; but I think that some gentlemen here are no better off in this respect than I am. I pity them, and can only say to them, that

"While the lamp holds out to burn,
The vilest sinner may return."

[Much laughter.]

Mr. Speaker, that is not exactly from Scripture, but it is from the Methodist hymn book; and they quote it over in Ohio, Dr. Olds once said here, just as familiarly and frequently as they do the Bible, and I suppose it is pretty nearly as good authority.

But, sir, the gentleman from Virginia desires to know what we want a clerk to the Committee on Invalid Pensions for. If the gentleman had listened to my remarks when I was last up, he would have heard. I have no other purpose, as I said, than a desire to facilitate the business

devolved upon that committee. I desire a clerk to assist the members of the committee in making such investigations as it is their duty to make, and as the occupation of their time forbids them to make. I occupy a position upon two committees, for which, perhaps, I am indebted to the Speaker, although I would have preferred to have been left off one of them. But having been assigned to this duty by the Chair, a desire to fulfill all my duties here prompts me to wish to be an active member of the committees; and in order to be an active member, it is necessary that I should be afforded such facilities as ought to be afforded to gentlemen occupying seats upon this floor. I, as an individual member of the committee, want the assistance of a clerk. The chairman of the committee wants the assistance of a clerk. It is necessary that we should have one to make examinations, and communicate to us such information as it is our duty to have, and without which we cannot perform our duties.

The gentleman from Tennessee [Mr. JONES] says that he knows of but two committees of the House that ought to have clerks. Then why did not he and the gentleman from Virginia express their virtuous indignation this morning at the attempt made to rob the Treasury by appointing clerks to other committees?

I do not desire to institute comparisons. But I have served on other committees, and I must say that the Committee on Invalid Pensions—and I have had two years' experience upon it—requires a clerk very much more than did other committees on which I have served, to which the House allowed clerks. I believed at the time they required clerks, and voted to allow them to employ clerks in the performance of the same duty which now prompts me to ask the House to accord to the Committee on Invalid Pensions that to which they are entitled.

The gentleman from Virginia asks how it is going to save the Treasury? Now, he knows as well as I do, and better, that when bundles of papers become covered over with dust, and exhibit a moth-eaten appearance, they are just exactly like bottles of wine packed away in cellars and covered with cobwebs; they are considered to have a much better claim upon the tastes of the epicurean members of this House than if they were fresh with the sand yet thrown over them. I want to clean out these cobwebbed papers. I want to get some of them before the House, in order that they may receive fair and proper action. I desire that claimants upon the Treasury, who apply here for relief for services rendered their country, may not be turned away. There are hundreds of people knocking at the door of the Committee on Invalid Pensions—and there were last year—deserving people, who have performed their duty to the country, but who, because of some mere technical difficulties in the way, cannot get justice done them at the Department. I desire that relief may be given to them—that pity may be extended to

"The sorrows of a poor old man
Whose trembling limbs have borne him to your door."

[Great laughter.] Is the gentleman from Virginia answered?

Mr. LETCHER. Mr. Speaker—

Mr. FLORENCE. Well, then, if the gentleman is answered, I demand the previous question. [Renewed laughter.]

Mr. LETCHER. I hope the gentleman does not want to deprive me of an opportunity of reply.

Mr. FLORENCE. Oh, no; I would do injustice to no man. I would throttle no man. I would stifle no debate. I do not desire to press the demand for the previous question.

Mr. LETCHER. My friend from Pennsylvania says he makes no bargains; but I see that, when he gets an opportunity, he appropriates everything he is entitled to, and then tries to cut off other people from what legitimately belongs to them. Now, I tell him, as he asks if I am answered, that I am not answered yet, and that I have no assurance how he proposes, under his plan, to save money. He has not undertaken to furnish any information that goes to prove that the House is to save one dollar by it. On the contrary, his own argument demonstrates that he is in the precise position which I assigned him before, and that it was under the influence of that position he had asked for his clerk. He comes

out with that candor for which he is distinguished, and tells you that he wants a clerk to make the investigations—to furnish him with his authorities—and to prepare things to his hand, so that he may report them to the House. Well, if the gentleman cannot get the authorities himself, how does he expect the clerk to get them?

Mr. FLORENCE. I have not time.

Mr. LETCHER. How has it been with your predecessors on that committee? Have not they had time to discharge all their duties?

Mr. FLORENCE. I have been here so long that I know nothing about my predecessors. When I came here to Congress there were twenty millions of people in the United States; and now we have an increase of fifty per cent. on that, and with it a proportional increase of business in our committee.

Mr. LETCHER. Well, I believe there has been no war in this country within the last three years to increase the number of invalid pensioners, and yet it has been within the last two years that a clerk has been claimed for that committee. Now, has the business multiplied so much within the last two years as to make this clerk necessary, when he was not needed before? It strikes me that it has not.

A MEMBER. Many soldiers have got lame since.

Mr. LETCHER. Well, I have no doubt that many of them have got lame since, but others have died; and so it goes. But the gentleman says that many of these papers down in the office are covered with dust and cobwebs, and all that sort of thing, and that he wants these papers examined and reported. Has he ever taken the trouble to look and see how many of these cases, covered with dust and cobwebs, have been reported upon, and adversely reported upon? Has he ever examined to see whether they contain merit or not? If they have lain there covered with dust and cobwebs, and if nobody has called them to the attention of the House or of the committee, I take it that that is conclusive evidence that the cases are without merit, or those who knew them to possess merit would be here pressing them on the attention of Congress. It does not seem to me, then, that there is anything in this to operate on the House.

But I believe this is called a Democratic Congress. My friend from Pennsylvania, [Mr. FLORENCE], who has been here for such a great length of time that the memory of man runneth not back to the contrary—[to Mr. FLORENCE]—how long have you been here?

Mr. FLORENCE. Six years.

Mr. LETCHER. He and I have been here the same length of time, according to his own account; and yet, in my six years' experience, I have never seen the evidence that was sufficient to satisfy me that it was important to have all these committees organized with clerks. Now, sir, it may be a very convenient matter for him to have a clerk—

Mr. GIDDINGS. I desire to put an interrogatory to the gentleman. Does the Committee on Invalid Pensions keep a record of its proceedings, its decisions, and its reports?

Mr. FLORENCE. I do not think they do.

Mr. LETCHER. The gentleman from Pennsylvania says he does not think they do.

Mr. FLORENCE. I will answer that. I do not think they do, for the reason that they have no clerk. [Laughter.]

Mr. LETCHER. Why, sir, did they keep no record for the two years that they have had a clerk?

Mr. FLORENCE. They did.

Mr. LETCHER. Then they have a record; and a very clean one, too. I suppose there is not a page of it stained even with a blot.

Now, all jesting aside, it seems to me that we are running this thing too far; and that those of us who come here as Democrats, and who profess to go in for an economical administration of Government, ought to practice some little of that economy in the administration of the House. It is not a week since we heard great talk about extravagance in regard to printing; and to-day we have had the subject of extravagance in regard to engraving, and extravagances of other kinds referred to; and yet, in the face of all this, the very first opportunity that presents itself, we go on here to multiply clerks, and to run through exactly the same grades of extravagance that we

have been complaining of in the administration of the last Congress. Now, let us set an example. Let us try to reduce these expenditures, and then probably we will have less reason to complain of the officers of the House, of one grade or another, who are merely the agents of the House to carry out its will.

Mr. KUNKEL, of Pennsylvania, moved the previous question.

Mr. BISHOP. I move to lay the resolution on the table.

The question was taken; and the motion was agreed to.

CALL OF COMMITTEES.

Mr. WALBRIDGE. I move that the House do now adjourn.

Mr. BANKS. I hope the gentleman will withdraw that motion, so that the States may be called for resolutions. There are many members who want to present resolutions. The list can be called in less than twenty minutes.

The motion to adjourn was withdrawn.

Mr. BANKS. I call for the regular order of business.

The SPEAKER announced that the business in order was the call of committees.

The list of standing committees having been called,

Mr. JONES, of Tennessee, (at two o'clock and fifty-five minutes.) I move that the House do now adjourn.

Mr. SMITH, of Virginia. I have a report to make from a select committee.

The SPEAKER. Reports are in order from select committees.

SELECT COMMITTEE ON PRINTING.

Mr. SMITH, of Virginia. I am instructed to offer the following resolution for the consideration of the House:

Resolved, That the select committee of seven, "to inquire into the laws in relation to the printing for the House of Representatives, the prices paid therefor, and the duties of the Public Printer, and to report upon such changes or improvements therein as they may deem advisable," be also directed to inquire into the prices paid for the binding of Congress, and the laws regulating the same; and that they be also directed to make the same inquiries into the prices paid for engraving and paper for the printing of Congress, and also for the publication, binding, &c., of the Congressional Globe; and that the said committee be directed to report upon all of these subjects in the manner pointed out by the resolution of the House of December 9, 1857.

Mr. SMITH, of Virginia. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The resolution was then adopted.

ENABLING ACT FOR KANSAS.

Mr. BANKS, under the call of States for resolutions, &c., introduced, in pursuance to previous notice, a bill to authorize the people of the Territory of Kansas to form a constitution and State government preparatory to their admission into the Union with all the rights of the original States; which was read a first and second time, and referred to the Committee on Territories, and ordered to be printed.

Mr. BANKS moved to reconsider the vote referring and ordering the bill to be printed, and also moved to lay the motion to reconsider on the table.

Mr. LETCHER. Before the vote is taken on laying the motion to reconsider on the table, I want to know if this bill has been ordered to be printed?

The SPEAKER. It has.

Mr. LETCHER. It seems to me that is very unusual.

Mr. BANKS. I ask that the vote may be taken upon the motion.

Mr. JONES, of Tennessee, demanded the yeas and nays.

Mr. STEPHENS, of Georgia. I hope the gentleman from Tennessee will withdraw his objection to the printing of this bill. The committee want it printed for their own convenience. I see no objection to having it printed, and I hope the gentleman will withdraw all objection to it.

Mr. JONES, of Tennessee. It has never been the practice of the House, and I think it is wrong to do it. The proper time to order a bill to be printed is after the committee have examined it and reported it back to the House. If it is printed now, and the committee report it back with only

one amendment, it will have to be printed again. I do not think it is a proper course to pursue, and I demand the yeas and nays upon laying the motion to reconsider upon the table.

Mr. STEPHENS, of Georgia. The gentleman will recollect that, in the last Congress, several of the Kansas bills were ordered to be printed when they were originally introduced.

Mr. GROW. Every one of them.

Mr. JONES, of Tennessee. That has not been the usual practice; and I think it is a very bad practice.

Mr. GROW. I recollect that at least two of those bills were printed when they were referred to the Committee on Territories during the last Congress; and I think that, where the bills are important, the practice is a good one. It facilitates the action of the committee, and the expense is a mere trifle.

Mr. JONES, of Tennessee. If a single amendment is made, they will have to be printed again when they are reported back to the House.

Mr. BANKS. If the House will allow me a single word: it is perfectly true, as the gentleman says, that it is not customary to print bills at this stage of proceedings; but the House certainly has the power to order it to be printed. The bill is one of sufficient importance, in my judgment, to justify the House in the exercise of its discretion to give the order to print. I trust that the bill will be printed.

The yeas and nays were not ordered.

The motion to reconsider was then laid on the table.

MASSACHUSETTS RESOLUTIONS.

Mr. CHAFFEE presented the joint resolutions of the Legislature of the State of Massachusetts, relative to the claims of that State against the General Government, for militia services during the last war with Great Britain.

Also, joint resolutions of the Legislature of the same State, respecting Hayti and Liberia; which were laid on the table, and ordered to be printed.

ADJOURNMENT OVER.

Mr. WASHBURN, of Maine, moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. CLINGMAN. I rise to a question of order. That motion has been made and rejected once to-day, and I submit that it is not in order to renew it. The question was settled in the last Congress, on my appeal, by the House, that, where a motion had once been made to adjourn over and rejected, it was not in order to renew it during the same day.

The SPEAKER. The Chair believes the question has been settled both ways. He will entertain the motion.

Mr. CLINGMAN. The only decisions ever made by the House are such as I have referred to. Two decisions were made at the same Congress; one upon my motion, and the other, after the Kansas-Nebraska bill was passed, on the motion of the gentleman from Virginia, who hoped that the House would reverse its former decision. But the House adhered to it. I think it is right. I know no decision of the House changing it, though the practice was different before.

The SPEAKER. The Chair thinks that the practice, so far as he remembers, has been uniform and consistent, with perhaps a single exception. The Chair entertains the motion of the gentleman from Maine, that when the House adjourns, it adjourn to meet on Monday next.

Mr. KEIT demanded tellers.

Tellers were ordered; and Messrs. KEIT and BUFFINTON were appointed.

The question was taken; and it was decided in the negative, the tellers having reported—ayes 73, noes 94.

So the House refused to adjourn over.

MEMBERS' COMPENSATION.

Mr. TAYLOR, of New York, introduced the following joint resolution, of which previous notice had been given:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the compensation allowed to members of Congress, by the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, be paid in the following manner, to wit: On the first day of the first session of each Congress, or as soon thereafter as he may apply, each Senator, Representative, and Delegate, shall receive his mileage as now provided by law, and all his compensation,

from the beginning of his term, to be computed at the rate of \$250 per month, and during the session compensation at the same rate. And on the first day of the second, or any subsequent session, he shall receive his mileage, as now allowed by law, and all compensation which has accrued during the adjournment, at the rate aforesaid, and during said session compensation per month at the same rate.

And be it further resolved, That so much of the said act approved August 16, 1856, as conflicts with this joint resolution, and postpones the payment of said compensation until the close of each session, be, and the same is hereby, repealed.

The joint resolution was read a first and second time by its title.

Mr. TAYLOR, of New York. I call for the previous question on ordering the bill to be engrossed and read a third time.

Mr. SHERMAN, of Ohio. Is it in order to move that this resolution be referred to the Committee of Ways and Means?

The SPEAKER. It is not, the previous question having been called.

Mr. HOUSTON. I ask the gentleman from New York to modify his resolution in one particular. It says that, "to each Senator, Representative, and Delegate, shall be paid, on the first day of the first session of each Congress, or as soon as they apply," and I am apprehensive that that would apply to a member who had not made his appearance and discharged his duties at the commencement of a session. Let it be, that members who are in attendance may draw their money.

Mr. TAYLOR. I accept the modification.

Mr. BURNETT. The members' compensation bill already provides for absentees, and this resolution does not interfere with it in that respect. The modification is, therefore, unnecessary.

The call for the previous question was seconded, and the main question ordered to be put.

Mr. SHERMAN, of Ohio, demanded the yeas and nays on ordering the resolution to be engrossed and read a third time.

The yeas and nays were not ordered.

The joint resolution was ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time.

Mr. GROW demanded the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered.

Mr. SHERMAN, of Ohio, demanded the yeas and nays on the passage of the resolution.

Mr. MORGAN called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. MARSHALL, of Kentucky, moved that the vote by which the joint resolution was passed be reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PACIFIC RAILROAD.

Mr. BENNETT. I offer the following resolution, and demand the previous question upon it:

Resolved, That so much of the President's message and accompanying documents as refer to the subject of a national railroad from the Mississippi valley to the Pacific ocean, be referred to a select committee of —, to be appointed by the Speaker, and that it shall be the duty of said committee to take into consideration all such petitions and matters relating to the construction of roads, railroads, or telegraph lines to the Pacific ocean, as shall be referred to them by the House.

Mr. JONES, of Tennessee. I rise to a question of order. That resolution cannot be in order, because the President's message is not in the possession of the House. The message has been referred to the Committee of the Whole on the state of the Union, and there is no way in which we can now get at it, or any part of it, except by having it reported back, or by discharging the Committee of the Whole on the state of the Union from so much of it as relates to this subject.

The SPEAKER. The Chair thinks the question of order is well taken by the gentleman from Tennessee.

Mr. BENNETT. I will then modify my resolution by striking out that part of it which relates to the President's message, and will simply provide for the appointment of a committee on this subject. My resolution will then read:

Resolved, That a select committee of — be appointed by the Speaker to take into consideration all such petitions and matters relating to the construction of roads, railroads, or telegraph lines to the Pacific ocean, as shall be referred to them by the House.

Mr. JONES, of Tennessee. I thought the Chair decided the gentleman's resolution to be out of order.

The SPEAKER. The gentleman from New York has a right to modify his resolution.

Mr. JONES, of Tennessee. The rule is, that no gentleman shall offer more than one resolution on a call of the States for resolutions.

The SPEAKER. The gentleman from New York has not offered one, because the point of order of the gentleman from Tennessee prevented him from offering it.

Mr. BENNETT. Desiring only to test the sense of the House, I demand the previous question on my resolution.

Mr. COBB. I ask my colleague on the Committee on Public Lands to withdraw the demand for the previous question to enable me to submit a motion to refer this subject to the Committee on Public Lands, which I think is the proper committee. He can then call the previous question, and let the sense of the House be tested.

Mr. BENNETT. I decline to withdraw the previous question.

Mr. JONES, of Tennessee. I rise to another question of order. There have been no petitions presented here, that I am aware of, upon this subject. The resolution proposes to change the rules of the House by raising a committee not provided for by those rules, to take charge of a subject which is not before the House, and which has not been brought here by any petitions—there is nothing to refer to the committee. It requires one day's notice to change the rules so as to raise any such committee.

Mr. CURTIS. I desire to offer an amendment which will obviate the difficulty which the gentleman suggests.

The SPEAKER. The Chair thinks the resolution is in order, and calls the attention of the gentleman from Tennessee to the phraseology of the resolution.

Mr. BARKSDALE. I move that the resolution be laid upon the table.

Mr. JONES, of Tennessee. If the Chair decides the resolution to be in order, I move that the House adjourn.

Mr. GROW. I appeal to the gentleman from Tennessee to allow me to offer a resolution calling for information merely, which is for the advantage of every member.

Mr. FLORENCE. I move that when the House adjourns, it adjourn to meet on Monday next.

Pending the count,

Mr. MARSHALL, of Kentucky. I rise to a question of order.

The SPEAKER. The Chair cannot entertain a question of order while the House is dividing.

Mr. MORGAN. I call for the yeas and nays on the motion to adjourn over.

The yeas and nays were ordered, thirty-six members seconding the call.

Mr. FLORENCE. I desire to withdraw my motion.

The motion was withdrawn.

The question was then taken on the motion of Mr. JONES, of Tennessee, and it was agreed to; and thereupon, at half past three o'clock, p. m., the House adjourned till to-morrow, at twelve o'clock, m.

IN SENATE.

SATURDAY, December 19, 1857.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Secretary of War, communicating, in compliance with a resolution of the Senate, an estimate of the necessary appropriation to erect a fort at New Inlet, North Carolina; which was, on motion of Mr. REID, referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. THOMSON, of New Jersey, presented the petition of the heirs of Isaac and Sarah Blauvelt praying to be allowed a pension for the services of Isaac Blauvelt in the revolutionary war; which was referred to the Committee on Pensions.

He also presented the petition of the heirs of Mary Hopper, widow of John A. Hopper, a

revolutionary officer, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. SEWARD presented the petition of Lucetta Bell, heir of Abram Van Buskirk, a soldier in the revolutionary war, praying to be allowed a pension; which was referred to the Committee on Revolutionary Claims.

He also presented a petition of citizens of New York, praying that the territory recently purchased from Mexico may be separated from the Territory of New Mexico, and erected into a new Territory, under the name of Arizona; which was referred to the Committee on Territories.

Mr. MALLORY presented the petition of Fanny Tyler, widow of Lieutenant William H. Tyler, of the Army, praying to be allowed half pay for five years from the death of her husband; which was referred to the Committee on Pensions.

He also presented the memorial of William Heine, praying for compensation for services as an artist in the Japan expedition; which, with the papers on file relative to the case, was referred to the Committee on Naval Affairs.

Mr. FESSENDEN presented additional papers in relation to the claim of Miles Devine; which, with his petition on file, were referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FESSENDEN, it was Ordered, That the petition of Ephraim Hunt, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. DAVIS, it was Ordered, That the memorial of Benjamin Alvord, on the files of the Senate, be referred to the Committee on Military Affairs.

CONGRESSIONAL CHAPLAINS.

The joint resolution (H. R. No. 1) in relation to the clergymen of the city of Washington who may officiate as Chaplains of the Senate and House of Representatives, was read twice by its title, and referred to the Committee on the Library.

DUTIES ON IMPORTS.

Mr. CRITTENDEN. I submit the following resolutions:

Resolved by the Senate, That in consideration of the financial condition of the country and its industrial interests, as well as of the wants and embarrassments of the Treasury of the United States, the rates of duty levied under the tariff act of the 3d of March, 1857, ought to be materially increased.

Resolved, further, That experience having demonstrated that the present mode of ascertaining the dutiable value of imported goods is productive of monstrous frauds, injurious alike to the Government and the honest importer, a system of home valuation ought to be immediately substituted therefor.

Mr. President, yesterday I declared it to be my purpose to vote for the bill for the issue of Treasury notes to the amount of \$20,000,000, in the confident expectation that the measure of incurring that debt would be accompanied by some provision for an increase of revenue. These resolutions propose that; and contain the further proposition, that, having experience of frauds practiced under the present system of ascertaining the dutiable value of the goods imported, we should now immediately substitute a home valuation for it. These are propositions of a financial character which have been long considered by this House; I shall therefore be content to have a vote of the Senate upon them now.

Mr. HUNTER. I hope they will lie over. They are important resolutions, and I am not willing to consider them to-day.

The PRESIDENT *pro tempore*. Objection being made, the resolutions must lie over under the rule.

Mr. SEWARD. I move that the resolutions be printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. J. C. ALLEN, its Clerk, announced that the House had passed a joint resolution (H. R. No. 2) to amend an act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856; in which the concurrence of the Senate was requested.

TREASURY NOTES.

On motion of Mr. HUNTER, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 13) to authorize the

issue of Treasury notes; the pending question being on the amendment offered by Mr. FESSENDEN, to add to the tenth section of the bill:

And provided further, That the power to issue and reissue Treasury notes, conferred on the President of the United States by this act, shall cease and determine on the 1st day of January, 1859.

Mr. HUNTER. There is a verbal amendment which I should like to make, which can be done by general consent. It is in the eleventh line of the first section. The term "raised" is applied to Treasury notes. I move to strike out the word "raised," and insert "issued."

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is now on the amendment of the Senator from Maine, [Mr. FESSENDEN.]

Mr. WILSON. Mr. President, the closing hours of the Thirty-Fourth Congress were consumed by efforts to deplete an overflowing Treasury; the early days of the Thirty-Fifth Congress are consumed in efforts to fill an empty Treasury. Then, the Secretary of the Treasury invoked Congress to reduce the accumulating coin in the Treasury by a revision of the revenue laws; now, the Secretary of the Treasury asks Congress to fill an empty Treasury by the issue of \$20,000,000 of Treasury notes. Then, the far-seeing business men of the country hoped to ward off the impending commercial revulsion by the depletion of the Treasury; now, that Treasury has been emptied by the most sweeping commercial revulsion which ever came upon the country.

The Finance Committee, in compliance with the recommendation of the executive department, proposes to issue \$20,000,000 of Treasury notes, as a temporary expedient. The Senator from New York [Mr. SEWARD] proposes to restrict this issue to \$10,000,000. I shall vote for this amendment, although I have no doubt we shall be called upon, within sixty days, to grant the entire amount. I regard the proposed mode of supplying the temporary wants of the Government preferable to a loan. These Treasury notes, if the interest is low enough, will not be taken or held by the capitalists, but will be used by the banks and the merchants, as remittances. They will be, in fact, equivalent to specie funds. I am willing to vote to supply the temporary wants of the Treasury by this mode, but I am not willing to begin, by this system, a national debt. I am opposed to increasing the national debt without providing the means to liquidate that debt at the earliest practicable moment, by increasing the duties on iron, cotton, and woolen manufactures. The issue of these notes is limited to the 1st of January, 1859. It is, so far, temporary, in its form; but I believe that, on the 1st of January, 1859, the Treasury will be more than \$20,000,000 in debt. Sir, I make the prediction, and I am willing to put it upon record, that on the opening of the year 1859 we shall be from \$20,000,000 to \$30,000,000 short of the means to meet the current expenses of the Government.

On the 1st of July, the beginning of the fiscal year, the amount in the Treasury was nearly \$18,000,000. The receipts of the first quarter, ending on 30th of September, amounted to nearly \$21,000,000, making \$39,000,000. The receipts of the present quarter, ending on the 1st of January next, of course are not yet known; they must, however, be somewhere between five and ten million dollars. The expenditures of the Government from the 1st of July last to the 1st of January next, must be somewhere about forty-five million dollars for the first half of the fiscal year.

Now, sir, we are to commence the year 1859 with an empty Treasury, and the Secretary of the Treasury comes here for \$20,000,000 of Treasury notes. He estimates the receipts from the 30th of September last to the 1st of July next, at \$33,000,000. Although it is a very difficult thing to speak with accuracy on a subject of this character—for if we turn back and read the debates from the foundation of the Government in regard to the working of the tariffs and the finances, we shall find that the most eminent men of the country have been greatly mistaken in their estimates of the operation of revenue laws—I believe that we shall commence one year from this time with the Treasury short by more than the \$20,000,000 we now propose to issue in the shape of Treasury notes. I think that the Secretary of

the Treasury has overestimated largely the receipts for the remainder of the current fiscal year. He makes a deduction of twenty-five per cent. for diminished importations into the country, but he makes no deduction whatever for the diminished value of the goods imported. Now, sir, I venture to say that the reduction of value of the importations of the country is at least thirty or thirty-three per cent. The Secretary of the Treasury makes no allowance whatever for this reduction in value of our importations. I do not believe that the importations, during the coming six months, in quantity, will be anything like the importations of the same months last year, and the reduction in the value of those importations will be from twenty-five to thirty-three per cent. I think the Secretary has overestimated the receipts for the last three quarters of this fiscal year by from eight to ten millions of dollars, and that we shall find this to be the case when Congress assembles in December next.

The President and the Secretary of the Treasury both commit themselves against any revision of the revenue laws of the country at the present session. They propose no mode to increase the revenues of the Government. They come here and say that the expenditures of the Government must be nearly seventy-five million dollars. They show us, on their own estimates, which I believe to be overdrawn by ten or twelve million dollars, that the Treasury will fall short by eighteen million dollars. I believe, therefore, that their own estimated expenditures will exceed the receipts of the Government by from twenty-five to thirty million dollars. They do not propose to reduce the expenditures of the Government, but they recommend an increase of expenditures. They estimate that, according to the standing laws, according to the requirements of the Departments, an expenditure of \$75,000,000 will be required for the next fiscal year. The Secretary of the Treasury recommends the repeal of the law of 1849, limiting the expenditures for the collection of the revenue to \$2,500,000 on the Atlantic coast. He tells us that the expenses of collection, instead of being limited as they now are to \$2,500,000 on the Atlantic coast, and \$500,000 on the Pacific coast, will be \$4,000,000. No proposition is made to reduce the expenditures in the collection of the revenue. The Secretary tells us that the revenue has been largely diminished, while the expenses of collection have increased. The labor necessary in the collection of the revenue ought to be diminished; yet the Secretary asks us to repeal a law which restricts those expenditures; tells us that those expenditures will go up to \$4,000,000 to collect \$50,000,000 of revenue. We all know that there has been a pressure in all the offices for the collection of the revenues of the country to provide places for men who are warm and earnest supporters of the past and present Administrations. I believe that the force employed in the collection of the revenue of the country is larger than is necessary, and that that force ought to be reduced, and that the proposed increase of the expenditures ought not to receive the sanction of Congress.

Well, then, sir, we have the Secretary of War, backed by the President of the United States, proposing to raise four or five additional regiments, at an expense of four or five million dollars annually, so long as that force shall exist, for every regiment will cost \$1,000,000 annually. Then the Secretary of the Navy, although we last year ordered five vessels to be built, asks us to build ten steam vessels this year, at an expense of \$2,500,000; probably, if they are ordered to be built, they will cost from three to four millions. We are told that this additional naval force is wanted to go up the rivers of China; but I believe that instead of going up the rivers of China, it is intended to operate in the Gulf of Mexico, on the coast of the coveted Island of Cuba. Here is a proposed additional expenditure of \$1,000,000 for the collection of the revenue; of from four to five millions for the Army; of from three to four millions for the Navy; being a recommendation to add a permanent expense of the Government of nearly ten million dollars annually. These propositions to increase the expenses of the country are recommended by the President, and by the Secretary of the Treasury, the Secretary of War, and the Secretary of the Navy. They come here and ask for a loan of \$20,000,000 in this

shape. They overestimated, I believe—and I think I shall be borne out in this by the facts to be developed in future—their receipts for the next year eight or ten million dollars. By their own showing, their ordinary necessary expenses, without the additional ones recommended, will exceed their receipts eighteen or twenty million dollars; then we have a recommendation to increase the amount of expenditures some ten millions more annually. The expenditures of the last Administration exceeded, by about eighteen millions annually, the expenditures of the preceding Administration, and we seem now to be entering on another Administration with an increase of expenditures of the Government, over the last Administration, of from ten to twenty millions more.

Sir, I think that the President should have recommended—I think that Congress at any rate should enter upon—a revision of the tariff. In my opinion, the duties on iron, on cotton, on woolen goods, should be restored to what they were in the tariff of 1846. This will increase the revenues of the Government some few million dollars. I agree with the Senator from Rhode Island, and with the Senator from Kentucky who has just introduced a resolution bearing on this subject, that we should have a home valuation. That frauds exist in the collection of the revenues of the country has been proved, and is admitted by all who have any knowledge of the manner in which the revenue laws are executed. If we are to make a temporary loan to fill the exhausted Treasury, I prefer this issue of Treasury notes. The Senator from Rhode Island [Mr. SIMMONS] objected to this mode of replenishing the Treasury yesterday.

Mr. SIMMONS. The Senator will allow me to correct him. That objection of mine to this form of raising money was made when the bill permitted the notes to be reissued without limit; but when it was limited to a year, I had no such objection to it, but preferred it to the other mode.

Mr. WILSON. I now understand the position of the Senator. These Treasury notes will, if the interest is not too high, be used as specie funds by the banks and merchants. I shall vote, however, for the amendment suggested by the Senator from New York, to reduce the amount to \$10,000,000. We shall be called upon, I doubt not, for \$10,000,000 more within the course of sixty days; but by that time we can have an opportunity to reflect, to see if something cannot be done to increase the necessary revenue; for I believe that on the 1st of January, 1859, we shall find ourselves from twenty to twenty-five million dollars short of funds to pay the current expenses of the Government.

Mr. HUNTER. Mr. President, it seems to me that the argument of the Senator from Massachusetts would go to show the necessity of voting the \$20,000,000, instead of diminishing the sum, because he is of opinion that the estimates of the Secretary of the Treasury as to the revenue likely to accrue during this year, are extravagant. I will not enter into that question now. All estimates are conjectural, and in times like these they must be exceedingly so; they can only be based on probabilities. I will merely say, however, as I said yesterday, that so far as we can form some approximate estimate from the receipts at the port of New York, the accounts would seem to show that the amount of dutiable imports received during the year will be reduced about one fourth, as the Secretary has estimated in his annual report. What is a little more remarkable, and what would seem to show that his estimate possibly may be correct, is that the whole amount of imports, if we add those that go into warehouse to those that enter into consumption through the custom-house, is not very much below the imports for the corresponding two months of last year at that port alone.

However, I do not propose to go into this matter. I confine myself simply to this issue of Treasury notes; to this money, which, as I said before, we must have; for I believe the Senator from Massachusetts is right in saying that if we confine the present issue to \$10,000,000 we shall have to come forward, in January, with another demand for perhaps \$10,000,000 more. If we are to issue \$20,000,000 we had better provide for it all in one bill, for the reason that, by so doing, we can issue most of the Treasury notes, after adver-

tisement, to the bidder who will agree to take them at par for specie at the lowest rate of interest. I believe that mode of issuing the Treasury notes is a great improvement on the past practice. I think we should lose the advantage of that mode of issue if we passed the bills authorizing the emission of Treasury notes at separate times, and in more limited amounts. If we wait till January we shall probably be then in the condition we are now in relation to the \$6,000,000 proposed to be issued immediately; the wants of the Treasury may be so pressing that we may not be able to wait long enough to advertise for thirty days, in order to enable the lowest bidder to take them, and I see no other way to make the Treasury note precisely and exactly equal to specie, which is the great desideratum in regard to that form of credit.

The Senator from Massachusetts expresses his surprise and regret that we should be asking for Treasury notes, and that this demand should be accompanied with such extravagant estimates as are made by the Administration. I would call his attention to the fact that the Treasury notes are asked for to meet the demand created by the appropriations of the last session of Congress, not of this. In regard to the estimates, I will say to him that when the proper time comes, when the bills which relate to them are presented, if he will show me any one item wherein they can be lessened or diminished, I will not only go heart and hand with him, but I will thank him for doing so. "Sufficient," however, "unto the day is the evil thereof." I confine myself now to the demand for means to meet the existing appropriations, and I believe that demand is fully equal to the \$20,000,000 which we propose to issue.

I will advert but for a moment to his criticism on the demand for \$4,000,000 in order to pay the expenses for collecting the revenue. I say "but for a moment," because I do not wish, as I am anxious to get the bill through to-day, to enter into a debate on any subject not immediately connected with this issue of Treasury notes. As the law formerly stood, (and it was passed, I believe, during the administration of Mr. Polk, some ten years ago,) there was a permanent and indefinite appropriation for defraying the expenses of the collection of the revenue on the Atlantic coast, which were regulated by law, but the expenses of collecting the revenue on the Pacific coast were entirely undefined, and left to the discretion of the Secretary of the Treasury. He now asks that both services may be brought under one law, that his discretion may be taken away in regard to the collection of the revenue on the California coast, and that a fixed and limited amount may be appropriated for the purpose of paying those expenses. The amount which he has asked is based on past practice. It seems that when this appropriation was first made, it was rather more than enough, and balances accrued; but as we have gone on, the demand for money to defray the expenses of the collection of revenue has increased, and we have been paying that increased expenditure out of balances that accrued seven or eight years ago; so that the estimate which the Secretary has made for that object is not founded on any desire to increase the annual expenditures for the last two or three years, but is made with reference to those expenditures as they actually occurred. It is to be remembered, too, that he proposes to include within this expenditure of \$4,000,000 the expenses of collection on the Pacific coast, which have heretofore been indefinite and left to his discretion merely.

But, sir, I pass away from that subject, and come to the point in regard to the \$20,000,000 proposed to be issued. If the Senator from Massachusetts be right (and most of the Senators on the other side of the Chamber seem to agree with him) in supposing that the estimate of receipts made by the Secretary of the Treasury is excessive, then so much the more reason for agreeing to this application for the issue of \$20,000,000 of Treasury notes. By passing a bill for the whole amount at this time, we shall be able to issue these notes on the best terms for the Government and the country. I believe I stated yesterday, that probably \$6,000,000 would be required by the 1st of January. In addition to that, we have to provide a surplus, as we all know, to administer the affairs of the Treasury; and besides that,

a Mint fund has been considered necessary heretofore.

Mr. FESSENDEN. I shall be obliged to the Senator if he will allow me to ask him a question for information, in reference to the point he is now discussing.

Mr. HUNTER. Certainly.

Mr. FESSENDEN. I have had no time to make any particular examination of the subject; but on looking to the law, I find that there is a provision that \$1,000,000 shall be kept in the Mint for the purpose of making advances to depositors. I am not able to discover that there is any provision of law requiring any larger amount to be kept there at any time. If there is any such provision, the Senator from Virginia is undoubtedly familiar with it, and can inform the Senate how the facts. The Mints, both at Philadelphia and New Orleans, are made sub-Treasuries, and as sub-Treasuries they receive a certain amount of the public money. Now, I desire to know the idea on which the Senator predicates his statement that it is necessary to keep \$6,000,000 in the Mint. Is any amount necessary to be kept there for the purposes of the Mint; and, if so, what amount? If it is not required for the Mint purposes, the amount kept there is a part of the general balance in the Treasury. I understand that \$6,000,000 has been considered the surplus necessary to be kept in the Treasury. Is not the excess of coin at the Mint over and above the \$1,000,000 required by law to be kept on hand there; in fact, an increase of the surplus deemed necessary for Treasury purposes? Is not that surplus thereby increased from \$6,000,000 to \$10,000,000 or \$11,000,000? I should like, as one of the members of this body, an explanation on this point; because the two subjects were presented by the chairman of the Committee on Finance in different aspects—one as peculiarly relating to the balance proper to be kept in the Treasury, and the other as relating to the amount necessary to be held in the Mint, as I suppose, for the purposes of the Mint from year to year. I should like to know whether that is so or not?

Mr. HUNTER. In reply to the Senator from Maine, I will state that they are separate funds. I am not able to say whether it is by law or by Treasury regulation that \$6,000,000 are kept in the Mint. I rather incline to think it is by law, and I think it was a measure introduced by a distinguished Senator from Massachusetts, [Mr. Webster.] I remember his moving in this subject. However, whether it be by statute or departmental regulation, that amount has usually been kept there.

Mr. BENJAMIN. There is a statute. I mean to say a few words in relation to the Mint fund in a few moments. I can inform the Senator that there is a statute on the subject.

Mr. HUNTER. This fund is kept for the purpose of exchanging coin with those who have bullion, in order to save the interest on it which would be lost by the delay in coining, for it frequently happens that the Mint cannot coin bullion as fast as it is presented. This was found to occasion inconvenience, not only to dealers in bullion, but to the merchants in the large cities—so much so that Mr. Webster's attention was called to it; and I recollect the time the provision was made: but whether that precise amount was provided for by law, I did not remember until the Senator from Louisiana reminded me of it. In practice, however, it is considered necessary to keep that amount in the Mint, besides the \$6,000,000 surplus required to work the Treasury. It is doubtful whether \$6,000,000 surplus are enough to work the Treasury, because, in a country so extensive as this, we cannot always know when drafts will be drawn on the Treasury. As I stated yesterday, we have already been obliged, where those who held these drafts were within reach, to have them held up, where it could be conveniently done, until means were provided for filling the Treasury. I hope, therefore, it will not be the pleasure of the Senator to reduce the amount which is proposed in this bill.

I do not propose to say anything more on this subject. I have stated what are said to be the necessities of the Government by the Secretary of the Treasury. They seem to be admitted by gentlemen on the other side. Indeed, they seem to think they will be even greater than the Secretary of the Treasury has supposed. If so, I hope

they will join with me in keeping in this provision, and passing the bill to-day.

Mr. WILSON. A single word in reply to the Senator from Virginia. I have no doubt that we shall be called upon for these \$20,000,000 during the session. I should not be surprised if, before the session closed, we should even have a call for more. By the estimates of the Secretary of the Treasury, our receipts will fall short nearly twenty million dollars beyond the expenditures of the current year; and I believed these were overestimates, and we shall fall short eight or ten million dollars more. The executive department of the Government recommend increased expenditures to the amount of eight or ten million dollars. All this is proposed without any proposition to increase the sources of revenue; but, on the contrary, a recommendation of the President and Secretary of the Treasury that the revenue laws shall not be revised by this Congress. When we meet in December next, I think we shall find the Treasury empty, and more than empty, by the amount of these \$20,000,000 of Treasury notes.

I understand the feeling of Senators on this side of the Chamber to be this: that we shall supply the wants of the Government now; that we shall do nothing to embarrass the Government, but give them what they desire now, but that we shall limit this sum to \$10,000,000, and then take a little time, and see if something cannot be done to furnish the means to meet and redeem these Treasury notes on the 1st of January, 1859. The business interests of the country require this. This is the part of wisdom, and I think the suggestions made on this side of the Chamber are reasonable and fair.

The Senator says that the receipts in New York for the months of October and November were nearly equal in amount to the receipts of the corresponding months last year.

Mr. HUNTER. Not the receipts at the custom-house. I said the receipts of goods were about twenty-five per cent. less.

Mr. WILSON. So I understood the Senator. There is no doubt of the truth of that statement; but the most of those goods were ordered before the revulsion, and at the high prices which existed before this commercial revulsion. I think he will find that, for the months of December, January, February, March, and April, the receipts will be greatly reduced in quantity from the receipts of last year, and that in value they will be reduced from twenty-five to thirty-three per cent., and that there will be an immense reduction for the next four or five months in the importations of the country.

I think we ought to take some means to provide for these expenditures which are recommended by the Government; for I tell the Senator from Virginia that I am opposed to the increase of a national debt, to a loan, or any permanent issue of Treasury notes, and I believe the people of the country are opposed to both. I readily consent to either as a temporary measure for the relief of the Government.

But, sir, in addition to the expenditures recommended by the different Secretaries of eight or ten million dollars, we have a claim coming in from Oregon and Washington Territories of nearly six million dollars, for the butchery of the Indians on the Pacific coast. We have removed two regiments from Florida to Kansas or Utah; but volunteers are hunting Billy Bowlegs, one or two squaws, and three or four papooses, through the everglades, and we shall have a large bill coming in from that quarter. We have, it is said, nearly half a million dollars of a claim on the Government for the property destroyed by the invasions of the Territory of Kansas. Then, sir, a portion of the army, with immense supplies, have been sent to Utah. These are now in the snows of the mountains. Their freight trains have been captured, many of them have been burned, and great losses of property have taken place. We may be involved in a war that may cost us during the coming year several million dollars. The army, instead of being sent last May or June to Utah, as it ought to have been, was kept in the Territory of Kansas, when no military force whatever was needed; and now the army on its way to the Great Salt Lake, is involved in the storms and snows of winter. This course of the Administration in regard to the Army may involve us in an expensive war. Therefore, sir,

while we are willing to supply the immediate wants of the Government, I think we, on this side of the Chamber, have a right to ask that we shall not adopt a policy increasing the public debt; that we shall provide means by the revision of the laws, by an increase of duties that will be favorable to the laboring interest of this country now depressed—that great interest to which the Senator from Rhode Island so forcibly referred yesterday. We have a right to ask that Congress shall not regard the recommendation of the President and the Secretary of the Treasury, but that we shall meet the demands of the country and the exigencies of the Treasury, and so legislate as to provide ample means to meet these \$20,000,000 of Treasury notes, or any additional expenditures which we are called upon to incur.

I know, sir, that the expenditures of the past six months have been in accordance with the laws of the last session. I know that the Senator from Virginia stands almost alone on his side of the Chamber in his efforts to keep down the expenditures of the Government. I will bear that testimony to him here or elsewhere. But we have been increasing the expenditures of the Government. We increased them nearly eighteen million dollars annually during the last Administration over the preceding one. Now, I think, we are in a fair way of having the expenditures of this Administration exceed those of the last by fifteen or twenty millions annually. We shall, if we adopt the recommendations of the executive department, and pay the claims pressed on us. With these recommendations, with the necessities of the Treasury for immediate relief, with the claims that will be pressed upon us, I think we have a right to ask, I think the country has a right to ask, that, before we give all that is demanded, we shall take some measures to provide the money for the support of the Government, to pay its current expenses, and to meet all the legitimate demands on it. In making these suggestions, I do not think the Senator from Virginia, or any other Senator on that side of the Chamber, can complain of us, or say that we are disposed to be either captious or factious on the measure now pending.

Mr. BENJAMIN. Mr. President, I do not wish to enter into any debate upon the general financial condition of the country. I suppose that this is not the time for so doing. The exigencies of the Treasury are represented to us as being so imperative, that the executive officers of the Government require immediate relief in order to enable them to sustain the credit of the Government by the payment of its debts incurred under appropriations made by us, not by them. The proposition now is to sustain the credit of the Government.

Upon some other occasion I think we may more appropriately enter into the cause of the financial distress, and into the question of the proper mode of providing a regular and established revenue for the Government. I propose to say a few words upon a single point. It has been suggested here by several Senators that the Mint fund, which has already been encroached upon for the daily needs of the Government, may continue to be so appropriated, and that it is not required for the business of the country. That impression I wish to dissipate, so far as it may be in my power to do so; and first, in relation to the law. I will satisfy the Senator from Maine, who made an inquiry on that subject, what the present exact state of the law is. He is right in stating that, upon one occasion, there was an express appropriation made for a bullion fund of \$1,000,000. That, however, was found to be entirely inadequate, and, in the year 1850, a law was passed with a single section, which I will now read to him:

"That for the purpose of enabling the Mint and branch mints of the United States to make returns to depositors with as little delay as possible, it shall be lawful for the President of the United States, when the State of the Treasury shall admit thereof, to direct transfers to be made from time to time, to the Mint and branch mints, of such sums of public money as he shall judge convenient and necessary, out of which those who bring bullion to the mints may be paid the value thereof as soon as practicable after this value ascertained."

Under this authority vested in the President in the year 1850, soon after heavy imports of gold began to come into the Atlantic States from California, sums of money have been from time

to time transferred to the different mints, branch mints, and assay offices of the country, and the practical operation of the Treasury has demonstrated the necessity of a fund of about six million dollars for that purpose. Anything short of that creates distress and confusion. I desire to refer a little to the experience of the last six months on this subject of a bullion fund for branch mints. I will refer to the experience which we have had in my own State, and will relate to gentlemen what occurred there during the recent panic, on this subject of a bullion fund.

In the spring of last year, for the first time in the history of our Government, we deviated from a principle established at the very first Congress that ever assembled. We repealed all laws authorizing foreign gold and silver to be received at their values as a legal tender. Up to that period, foreign coin of gold and of silver was received at the different custom-houses of the United States at fixed rates, and was also received as a legal tender between man and man, under the acts of Congress, in payment of debts. Our Treasury was so full last spring, the bullion fund was so ample, that it was deemed by the Committee on Finance that they might, without imprudence, report a bill repealing all former laws on that subject, and making foreign coin in this country mere bullion—bullion which it was requisite to carry to the Mint, and have recoined into our currency in order to render it useful or serviceable in the business of the country.

I believe, sir, all writers on finance agree in relation to the exceeding importance of silver as a basis of national currency; and, indeed, up to a very recent period, several of the most important nations of the world had silver as the only legal tender, convinced as their Governments were of the absolute necessity of that metal as a basis of the currency. Its qualities are obvious. Its value is always about the same. Its bulk, somewhat larger than that of gold, enables that subdivision to be carried out which brings this silver coin into the pockets of the lower classes, spreads this currency throughout the entire country, and creates and sustains a metallic basis which is of itself a considerable check on the over inflation and over circulation of paper money by the banks. In the year 1853, our silver coin was depreciated—deliberately depreciated, and, in my judgment, wisely depreciated—just to a sufficient extent to make it more for the interest of those who held our silver coin to retain it in the country than to export it. It became a losing operation to export it. It remained in the country, and it has gradually increased, and now forms an important element in the metallic basis upon which our banks operate. It would be the part of wise legislation to encourage the increase of that metallic basis in the country.

Now, whence do we derive our supplies of bullion? The gold bullion from California, almost exclusively, and the silver bullion from Mexico. When in October and November last this financial crisis occurred, efforts were made in all parts of the country, by those who had control of our monetary institutions, to introduce into the country a sufficient quantity of metal to form a basis for the bank circulation, and to put our monetary institutions beyond the reach of a panic. The managers of the banks in New Orleans, in pursuance of this wise and judicious system, endeavored to provide and fortify themselves by the importation of heavy sums of money from Mexico and from Cuba, these being the nearest points from which we could receive any metal. We received millions of dollars in silver from Mexico; we received millions of dollars in doubloons from Cuba; and we received them in the best possible manner for the public interests—we received them in exchange for produce. The Mexicans sent their silver dollars, and the Spaniards sent their gold doubloons to New Orleans for the purchase of cotton and flour at the specie rates then prevalent. We had plenty of bullion therefore in the city; but what was the condition of the banks? In a moment of panic, exposed at every instant to a run on them for the redemption of their deposits and circulation, with millions of dollars of bullion in the city, it was impossible for the banks to afford the slightest relief to the commercial community, because that bullion was not a legal tender and there was no bullion fund in the Mint.

Mr. FESSENDEN. Why could not the State pass a law making it a legal tender?

Mr. BENJAMIN. Pass a law of our State (and at a time when the Legislature was not in session) in contravention of the act of Congress of the last session! The gentleman's suggestion takes me by surprise. I have not examined into the power of the States to make foreign coin a legal tender. It may be that the States have that right; but at all events, no State, I think, has yet exercised it. That matter has been left to the exclusive legislation of Congress.

Mr. FESSENDEN. The suggestion I meant to make was this: The Constitution of the United States provides that "no State shall make anything but gold and silver a legal tender in payment of debts;" but it does not specify what kind of gold and silver.

Mr. BENJAMIN. I have not examined that question, and it does not now come into the line of argument. I do not know that there was a Legislature of a solitary State in session in October. It was not supposed, at the time, that it was possible to obviate this state of things at the moment. But I was going on to explain the necessity of a bullion fund in the Mint, under the legislation of Congress.

At that time, with this large quantity of bullion in our city, our banks were compelled to distress the commercial community by constant contraction. They were compelled to refuse the deposits of all Mexican dollars, worth \$1 04 or \$1 05, because they were not a legal tender. They knew that people would be willing to take them at a dollar, but they could not get them unless they bought them at \$1 04 or \$1 05. The Mint was paying \$1 06 for them whenever there was a fund with which to do so; but there was then no fund in the Mint to buy them. The Mint was being repaired; we could not get this foreign bullion coined; and there, with millions of dollars in the hands of our people, and deposited in the vaults of the banks in special deposits, in boxes, the banks were compelled to press on the commercial community by a merciless contraction of their facilities, in order to save themselves from the penalties of the law, the Treasury of the United States being unable to give us any assistance by furnishing us the coin of the Federal Government in exchange for foreign coin, which had been converted, by your law of the last session, into bullion, and was no longer serviceable in the affairs of commerce. We applied again and again; I myself sent repeated telegraphic dispatches to the Secretary of the Treasury. He was very anxious to assist us. It was his duty to do so; it was his interest, and the interest of the Government to do so; but the Treasury had no means. The bullion fund had been appropriated to the general service of the Government. The President of the United States had been authorized to appropriate so much of it as the other necessities of the Treasury would admit, and only so much, to the service of the Mint. The result was that, for want of a proper Mint fund, all this bullion was there unserviceable for the demands of commerce at the moment when the greatest necessity existed for its application to these purposes.

Now, gentlemen say they are willing to allow an issue of Treasury notes at this time, when we are informed by the Department that they will be immediately absorbed by the necessities of the Treasury, and that it will have to come back next month for \$10,000,000 more. The result will be that we shall be just where we are now; that the assay office in New York, the Mint in Philadelphia, the branch mint in New Orleans, will be unable to supply to the merchants of the country on the deposit of bullion, that current coin which is required to relieve them from their necessities. Under these circumstances, I can see no warrant for our declining to make an issue which we know will be wanted in a few days further. I see no propriety in refusing to the Government this aid, so as to allow it to furnish to the mints of the country the sum necessary for the redemption of bullion as it is deposited. The other day we had \$2,500,000 of gold dust from San Francisco, sent to the assay office in New York. They have no means to buy it. Men send remittances of what we most desire for the relief of commercial distress—gold and silver; but by reason of the needs of the Treasury, they are kept out of public

circulation, and the merchants of the country are to suffer for the want of it.

Sir, if we know that this money will be wanted; if, according to every argument that we have heard on this side of the Chamber, it is satisfactorily established that the Secretary of the Treasury, so far from having overestimated the wants of the Treasury, has underrated them, what motive can we have for going through this legislation and this discussion twice? If \$20,000,000 must be wanted within the next thirty or forty days, why not vote them now? Why keep the commercial community in distress, by withholding that Mint fund which is essential for their convenience, and to relieve the pressure of the necessities which are now weighing them down? I do hope, as it is admitted on all sides that the entire sum will be wanted, that it will be voted now, and that the bullion fund will be kept separate for the service to which it was intended to be appropriated. I know that, at my own home, that fund is wanted; we have never had enough there. We have never been able to buy the Mexican dollars as fast as they came in; we have never been able to buy the Spanish doubloons as fast as they came in; but our merchants have been compelled to wait weeks, and sometimes months; for the return of their coin from deposits of bullion in the public mints. The money is required there; I am satisfied it is required in New York; and I trust the Senate will agree to provide the means which the public interests demonstrate are so urgently necessary to be now provided.

Mr. FESSENDEN. I have but a single suggestion to make. I made an inquiry of the honorable chairman of the Committee on Finance in order to get the facts before the Senate, that it might be distinctly understood whether this Mint fund was required at the present time, and to what extent it was required. The honorable Senator from Louisiana has given us a statement, from which it is very easy to see that it may be convenient for the several communities where the Mint and branch mints are established that there should be a sum of money on hand, not for the purposes of the Government, but for the purpose of aiding the commercial community in obtaining specie. That may be a very good consideration to address to gentlemen who hold certain notions in regard to the powers and duties of the Government in relation to the currency; but it is hardly one that can be consistently urged by those who call for this bill.

I do not understand that it is urged by the chairman of the Committee on Finance that there must be a certain amount of money—\$6,000,000—kept on hand for the purposes of the Mint, to accomplish the object which has been dwelt upon by my honorable friend from Louisiana. If the Government is now applying to us to authorize it to issue a certain amount of Treasury notes for the purpose of aiding and relieving the different commercial centers, the large commercial places, that is one thing, and we shall understand the argument. It does not meet the objection which has been suggested on this side of the Chamber at all, and it does not show that, for the purpose of the operations of the Mint, it is absolutely necessary that this Government should become a borrower of money, or put out its notes to such an amount as this.

I do not say that under no circumstances would I consent that the Government should aid, so far as it consistently could, the distresses which exist in the general commercial community of the country; but that is not the ground on which this proposition is brought before the Senate. The honorable Senator from Louisiana explains to us that when the Government withdraws its surplus, or a large portion of its surplus, from the several branch mints of the United States, it by that means takes away from itself the power of relieving the community by purchasing bullion under certain circumstances. If the object be to provide for that, the question arises whether the Senate is prepared to adopt that as a principle; whether it will permit the Government to issue a large amount of Treasury notes for the purpose of getting coin to aid the operations of the Mint—not the operations proper of the Mint—but the operations of the Mint in purchasing bullion to relieve the commercial community of distress brought on it under a certain state of things. That is presenting the question in altogether a new aspect;

and I should like to know of the honorable chairman of the Committee on Finance if that be the aspect in which he presents this measure to the Senate?

Mr. HUNTER. The aspect in which that question presents itself to me, I think, is a very simple one. It is the exclusive business of this Government to coin money; and, in order that it may carry on that business to the greatest advantage to the public, it ought to be enabled to coin it rapidly. If it has not the necessary machinery to coin money as rapidly as the wants of the community require, the next best thing it can do is to keep on hand an amount of coin to exchange with the depositor, so as to save him from the loss of interest which would accrue if he had to await the tedious operation of coining the money. It is well known that since the discovery of California gold, our mints have not been adequate to the coinage of the money that has been demanded of them, with sufficient rapidity for the wants of the community. It is the business of this Government to furnish coin to the community as rapidly as its wants demand, if it can do so. The object of the Mint fund, as I understand it, is not for the relief of this or that class; but it is for the purpose of discharging a duty which the Constitution has devolved on this Government, and which no one but this Government can discharge—and that is to coin money with sufficient rapidity to meet the demands of the country for it.

Mr. FESSENDEN. That is the idea which I had, when the proposition was presented to have on hand a certain amount of money—\$6,000,000—in the Mint; but the honorable Senator from Louisiana puts it on entirely different ground. Now, I revert to my original proposition when I put the question this morning to the chairman of the Committee on Finance, that there is no law which requires more than a single million dollars to be kept in the Mint. Under the powers conferred on the President in 1850, as read to us this morning, he may keep a certain other amount at the Mint for that purpose; but I do not know of any law requiring it to be done.

What I desired to have explained was simply this: how does it become necessary that at all times, under all circumstances, the large amount of \$6,000,000 should be kept at the Mint? In times of distress, and great scarcity of money, especially when the Government is hard pushed, is it compelled, in order to meet the demands of the country for a circulating medium, to keep the whole \$6,000,000 there? Is it not rather the design of this bill, that instead of \$6,000,000 surplus, there shall be ten or eleven million dollars surplus for the purposes of the Treasury itself? If that amount is necessary, if a surplus of \$6,000,000 is not large enough for the operations of the Government, and if the honorable chairman will make that evident to my mind, I shall withdraw my objection; because I am free to say that, in the exigency presented, I am for giving the Government power to move, to pay the requisitions on it. If \$6,000,000 surplus is not large enough, I am willing to grant power to raise a surplus that is large enough to meet the necessary expenditures at the present time, in advance of any arrangements which may be made by law to raise revenue enough to meet the ordinary demands of the Government with relation to its expenditures. But I wish it to be put on a proper basis in order that Senators may understand that this really provides a larger surplus than is required. Instead of so large an amount being necessary for mint purposes, I believe that surplus can be dispensed with without any great injury to the public service, for a short period of time.

Mr. SEWARD. I should not think it necessary to say a word more in this debate if it were not to correct an impression which may be made by some of the remarks made yesterday by the honorable and venerable Senator from Rhode Island, [Mr. SIMMONS.] He seemed to labor under the idea that I had advanced the proposition that the commercial revulsion through which we are passing is causeless. The honorable Senator quite misunderstood me. What I said, or what I intended to say, was that the suspension of specie payments was, in my belief and according to the general conviction of this country and of Europe, not necessary, and might have been avoided. The honorable Senator, in the course of

his very able and interesting speech, finally arrived at the same conclusion with myself in this respect, because he maintained that the suspension of specie payments resulted from a rivalry between the banks of the city of New York and banks of the city of Boston to see which could hold out the longest. I think this is true. In that rivalry they attempted to press the depositors, who were the owners of their capital, and the depositors in retaliation drew out their deposits, and that broke the banks.

Now, that there was a cause, and a sufficient cause, for a commercial revulsion, I have always known, and always said. I do not consider the causes for it altogether the same with those to which the honorable Senator alluded, though I agree with him in part, and indeed to a very considerable extent. I think that the opening of California and the Pacific coast to cultivation so rapidly, the establishing of mining operations, commercial operations, and agricultural operations there, together with the opening of the great mediterranean country lying between us and the Rocky Mountains, tended to cause a rapid and sudden diversion of capital from the eastern to the western portions of the continent; and that the policy of constructing railroads, fostered and stimulated by the laws of the States, which relieved them from the penalties of usury, caused a diversion of capital from the centers of manufactures and commerce to the great western regions, where those roads were being constructed; and that all this was accompanied by an existing unreasonable preference for the manufactures of other countries to the manufactures of our own, producing excessive importations; and that the excessive importations thus incurred here, were causes enough to produce a commercial revulsion, which I am sure did not take me by surprise. My only wonder was that it took anybody by surprise. That it came, was only what ought to have been anticipated. When it should come, it was also foreseen that it would be modified by the very extraordinary circumstances of the development of the mineral wealth of California and the mineral wealth of Australia, just at the proper moment to supply such an excessive mass of bullion as the world had never before seen, contributed to sustain the commercial currency of the world. It came, and it was modified by these causes. This is my explanation, in reply to the honorable Senator, on that point.

I wish now barely to state the position I take in regard to this bill. I see nothing extraordinary, I see nothing peculiar, I see nothing singular in the condition to which the Government is brought to need this measure of relief—the issuing of some amount of Treasury notes. There is no secrecy in it, there is no mystery about it. What is it? The farmer produced last year more than he has produced in a great many years before. The agriculture of the country has contributed more to its wealth than in any previous year; but the products of the farmer, although thus increased and accumulated, remain in his barn, in his granaries, for the want of purchasers; so that the agriculturist is unable to pay his debts, and he gives a note where he was to pay the cash, and if you consider him to have a treasury he begins with giving a treasury note as a matter of temporary relief. The farmer failing to bring his produce to the merchant, the merchant is unable to pay the bank the discounts he has heretofore obtained; and to obtain new discounts in order to carry on exchanges, the merchant gives the bank his note out of his treasury. He gives a treasury note. Finding that the merchants fail to pay their debts in cash, but pay them in treasury notes, the banks, instead of being able to pay in cash resort to the same measure temporarily and pay in their treasury notes. The operation went on up to the State governments. The State of New York, which is certainly a very independent and strong and rich one—one of the richest communities in the world, and one of the best administered governments in the world—suspended, but gave its promise to pay in thirty, sixty, or ninety days, until this derangement should cease. We come to Washington, and we find that not only the agriculturist, the manufacturer, the merchant, the banks, and the States have suspended, but the Federal Government, richer than them all, richer than any other Government on earth, scarcely owing a dollar except what is necessary to pay its average

daily expenses, is without funds, and it also proposes to pay temporarily in Treasury notes.

That is the long and short of the whole case. This condition of things is inevitable. What struck me with surprise, when I came here, was that the Administration, instead of admitting this to be a mere temporary derangement—a derangement resulting in the way I have described—an accidental one—took occasion to lecture us and the country on the demoralization of the banks; as if the banks were to blame; exclusively or chiefly, for the universal derangement, and threatened to denounce bankrupt laws, for the purpose of winding up banks for issuing treasury notes, at the very same moment that they come to Congress and ask us to enable the Administration to commit the same crime against the commercial morals of the country. Still I did not think this was an occasion on which it was necessary to reply to these suggestions, because I considered this a mere practical question. The Government must pay its debts. If it has not the money to-day, it must borrow money until to-morrow. Then there are two questions, how shall it borrow and how much shall it borrow? We all agree that it is to borrow in that way which will meet the occasion and leave no evil consequences beyond it; that is, to make these Treasury notes for just the amount which is necessary, if we can ascertain it, and payable at the shortest possible day and not again be reissued. The issue of Treasury notes for an unnecessary amount is indefensible, for that would be to constitute the Government of the United States a national bank.

Then the question is, how much shall it borrow? We differ in our estimates about the amount, because we differ about the operation of the revenue laws. My honorable friend from Massachusetts [Mr. WILSON] thinks the revenues will be much less than is anticipated by the Secretary of the Treasury, and therefore he thinks and expects that there will be need for a repetition of this loan. His admission that the revenues will thus be deficient is taken on the other side of the Chamber as an admission against those of us here who desire to limit the amount to \$10,000,000. In that, it is my misfortune to differ from my honorable friend from Massachusetts, and from those who take his view of the subject. This has been a sudden prostration—a prostration of unexampled suddenness and severity. Forty days—so many days and nights as constitute the season of Lent—constituted the whole period of the pressure in the country, and produced the crisis. There was no panic or pressure before the 1st of September, and the banks had suspended specie payments; and so the country found relief on the 16th or 17th of October, and on the 15th of December the banks were again paying specie.

Now, a large amount (nearly all) of the produce of the country is on its passage to the commercial centers for exchange. A large amount of the fabrics which are to be paid in exchange for them are already in the Government storehouses, and deposited there waiting for the exchange to be made. In my judgment, the acceleration of business is going to be rapid just in proportion to the rapidity with which business has declined; and I expect to see every day, and every hour of every day, marked by a rise in the prosperity of the country, graduated just exactly by the suddenness of the depression. The causes of the disaster are gone. I think there is nothing before us but a great revival of business and plethora of money to revive it in all departments. I may be mistaken in this, but I am willing to stand by it. I do not, therefore, agree with those who think that there is to be, for a long period, a deficiency of the importations, and that the duties must necessarily be revived for this purpose. My objection to the last tariff act which we passed was, that the duties were so low that it would increase importations to such an amount as to produce a needless and injurious surplus of revenue. I expect to see a surplus in the Treasury of the United States within the next two or three years, because I think the tariff is too low instead of too high.

Having these opinions, my simple object is to have this measure made substantially in its forms and in all its features just what the occasion requires—a measure of temporary and exactly adjusted relief. I think that one year is time enough to allow for the issue of these notes. I think that \$10,000,000 is large enough an amount for which

to issue them. Feeling a strong desire to benefit the commercial interests of the country, in its resuscitation from embarrassment, I feel a very strong desire that the notes which shall be issued by the country shall not take the character and meet the fate of a permanent loan, but that they shall go into the circulation of the country immediately as an equivalent of gold and silver, and for that reason I want as low a rate of interest as possible. These are my views. They were at first submitted with deference, but they remain unchanged.

Mr. WILSON. Mr. President, the Senator from New York [Mr. SEWARD] seems to think that the commercial revulsion through which we are now passing, was brought upon us by the suspension of specie payments by the banks, and that the revulsion is now over because the banks have resumed specie payments. If this is the idea of the Senator, I must differ from him altogether. The suspension of the banks did not cause the revulsion—the revulsion caused the suspension of the banks. This sudden commercial revulsion which swept over the country with appalling force, carrying down monetary institutions, business corporations, and commercial houses, and turning out of employment tens of thousands of toiling men, was not brought upon the country by the suspension of the banks of New York and Boston, which were the last to bend before the storm, and are now the first to right up when the violence of the storm has somewhat spent its force. The banks of New York were the first to feel the approaching revulsion; they undertook to breast the storm, to save themselves by a sudden and violent contraction of their loans, but after a vain struggle they were compelled to yield—to go down—under the pressure their own short-sighted and selfish policy had increased. The Boston banks, which had adopted a policy far more liberal, followed the New York banks in the suspension as they have now promptly followed them in the resumption of specie payments. This early resumption of specie payments is a gratifying evidence of the resources and strength of the resuming banks, but it is not an evidence that the effects of the revulsion have passed away. Light is dawning. The violence of the pressure has ceased—the panic—which did not, as the Senator from New York suggests, cause the revulsion, although it greatly increased its force—has partially subsided, and the country is slowly recovering from the effects of this sudden and sweeping commercial storm.

But this revulsion was brought upon the country by causes far too great, and its effects have been far too general and destructive, to pass away at once. The country possesses vast resources, and the energies of the people are so great, that we shall recover from the effects of the pressure, and bound forward in the race of prosperity. But weeks and months must pass away before we shall fully recover from the effects of the pressure under which the interests, business, and labor of the nation now suffer. The rates of interest continue to rule high; money, to the masses of business men and the people, continues exceedingly scarce; merchandise of most descriptions has depreciated in value at least thirty per cent., to almost ruinous rates; hundreds of manufacturing and mechanical establishments are closed, or work on short time, and at greatly reduced rates for labor, and tens of thousands of mechanics and laboring men are out of employment, or laboring for wages which will hardly afford to themselves and families even the absolute necessities of life. Sir, I live in a commonwealth largely engaged in commerce, manufactures, and the various mechanic arts, and I know that the business of that State is but slowly recovering; that many manufacturing establishments and mechanic shops are yet closed; that thousands of intelligent, skilled, and industrious men are still seeking of their fellow-men leave to toil.

Sir, this monetary crisis, this wide-spread commercial revulsion, came upon the country at a time of apparent prosperity, at a season when the earth bore upon its bosom the largest harvest the farmers of the country were ever summoned to gather. Years of great prosperity have followed each other in succession. During these years of prosperity, the various causes have sprung up which have this year precipitated upon us a commercial crisis of unexampled severity. Revenue laws which were not wisely adjusted to protect the productive

industry and capital of the country; a banking system not wisely guarded by law or prudently directed; a vast expenditure of capital in unproductive railroads; an undue expansion of credits by States, cities, corporations, banks, and business men, resulting in enhanced prices, excessive importations, over-trading, wild speculations in western lands, and public and private extravagance, have precipitated upon the nation this sweeping and far-reaching revulsion, the effects of which are everywhere seen and felt. The wave which has swept over us has reached the Old World, and the monetary institutions, the commercial houses, and all classes of people in England, France, Germany, and, indeed, all western Europe, are shaken by its force. Governments have been compelled to interpose their powers to break the force of this pressure. American stocks, mercantile credits, and staple products have fallen, and all is distrust concerning the future.

Now, sir, if Senators believe that we are at once to recover from the effects of this crisis now upon us, which we see by the news just received from Europe is now producing bankruptcy and distress, they are greatly mistaken. If they believe that the importations during the coming six months, for the remainder of the present fiscal year, are to equal either in quantity or value the importations of the corresponding months for 1856 or 1857, they are, in my judgment, altogether mistaken. While millions of merchandise are held in your warehouses—while millions of merchandise of most kinds remain on hand at depreciated prices which are almost ruinous—while the merchants of the sea-board hold millions of dollars of renewed or protested paper, they will be in no haste to go into foreign markets for goods. European merchants and manufacturers, smarting under losses already incurred, and the ruinous depreciation of stocks and goods, will be in no haste to crowd their goods upon a losing market. The money market will soon become comparatively easy; but the immense sacrifices which the merchants have made to sustain their credit, the losses they will incur on renewed notes which will not be met at maturity, the ruinous depreciation of merchandise now unsold, and the great lesson of economy taught the people by this disastrous revulsion, will tend to check importations during the remainder of the present fiscal year.

The Secretary of the Treasury estimates the balance in the Treasury on the 1st of July, the close of the present fiscal year, at less than half a million of dollars. I believe when that day dawns upon us we shall find no balance at all. We shall commence the next fiscal year with an empty Treasury. The Secretary estimates the expenditures for the year at \$75,000,000. The Secretaries of War and the Navy ask for new regiments and new ships, which will call for several millions more; several millions of claims are pressing upon us for payment; and we have a Mormon war impending over us. When the year 1859 opens upon us, these Treasury notes must be paid. On that day I think we shall find no money in the Treasury to meet their payment. We shall find, if I am not mistaken in my estimates of the effects of the present revulsion upon the revenues of the next twelve months, both upon the lands and the customs, that we shall have to borrow millions of money to meet the obligations of the Government.

Now, sir, I am willing to vote for this bill as a temporary expedient. I am not willing to increase the national debt, or to commence a system of expedients to supply the ordinary wants of the Government. While I shall vote to give the Government the means to meet its immediate wants, I demand that Congress shall reduce the expenditures, or so revise the revenue system as to enable the Government to promptly meet its obligations.

Mr. DAVIS. I look on the proposition that is submitted to us as simply a proposition to borrow money for the immediate use of the Government. If the Government is censurable for the fact that the Treasury is empty, or about to become so, then I can perceive the point of the inquiry as to the cause which has produced the financial distress and thus prevented the receipt of revenue into the Treasury. I would say, however, that I have heard not yet assigned what I believe to be the true reason for the diminished revenue of the United States. Among the remarks which have been made, there have been

some directed to that interest and to that section of the country which I, in part, represent. The honorable Senator from Rhode Island [Mr. SIMMONS] yesterday gave warning and advice to those who represent the cotton-growing region. To-day, time after time, we have heard one cause and another assigned, and among them, chiefly, the great imports of the country.

Now, sir, that, as the country increases in its wealth and population, imports should increase, should excite the surprise of no man. I am sorry that it should excite the regret of any one. It is a fact that the imports of last year did not exceed those of the preceding year as much as those of the preceding year exceeded those of the one before it. There is a steady progress, owing to the very great prosperity of the country, and something is also due to that excitement which over banking produced.

The sale of cotton is usually transacted by bills of exchange. That is the ordinary commercial course; and the whole embarrassment which fell on the southwest and the lower Mississippi, was due to the fact that the goods were imported into the city of New York which were consumed in that section, and the cotton was bought with bills which were to pay for the goods imported into New York. When New York, by extravagance, by her speculation in railroad stocks and western lands, became bankrupt, and was no longer able to pay for the goods she imported, not because there were not consumers in the country, but because they had proceeded on credit alone in their importations, and could not, therefore, buy the bills of exchange which were to move the cotton—then it was, and for that reason entirely, that commercial distress came upon the southwest.

We are told, also, of the great increasing expenditures of the Government. Sir, I have no respect for that sort of economy which adds up long columns of figures, and announces this to be economical and that extravagant. This year one may spend a large amount and next year a small amount; but, if the fruits of that expenditure of this year remain to posterity, and are worth more than the money disbursed, that is good economy.

Then again, sir, how are administrations, this or the past one, to be held responsible? It comes badly from the other side of the Chamber, where so many criticisms, and even denunciations, were heaped on the last Executive for his vetoes, to now point to the aggregate sum expended, and arraign that as an accusation against him. The estimates of this Administration are sent to Congress in accordance mainly with the acts of Congress. Change the service if you wish to reduce the expenditure. It is idle to call on the public officer to reduce the estimates, and yet require him to perform the particular service. The President and his Secretary recommend measures in advance of legislation, because in their belief they are necessary for the good of the country. It is for the Senate and House of Representatives to decide whether they will adopt the recommendation or not; but if they adopt the recommendation—if they impose the execution of the duty on the Executive, they have no right to turn around then and add up how much has been expended, and charge it to the Executive.

As to the advice which was given to the cotton planters, (which, if I understood it correctly, was that they were to encourage an increased consumption of the raw staple in the United States,) I will merely say that if that encouragement is to be given by paying additional duties on imported goods, that is to say, if we are to get our neighbor to use our corn by sending him a mill to grind it, we have a right to add up the dollars and cents there, also, and ascertain whether it is to our interest or not. My impression is that it is not—that it matters not to us where our customer comes from. We have an article to sell, and it is for sale to him who will give the most for it. New markets are an advantage, but encouragement to a particular buyer is none. We want markets in every quarter of the world, so that the consumption of that staple which we produce may keep pace with its increased production, or, if it exceed it, may enhance the value of it to those who produce it. So far as this is made into the form of an appeal to our support to a protective tariff, I imagine there is not one among us who will ever yield to it.

Looking upon this bill, however, as a mere

proposition to borrow money, I will not say it is the form which I would prefer. Fearing the temptation to extravagance, not in the Administration, but in the Congress which directs the objects of its expenditure, I am sorry to see adopted a plan which so easily exceeds the just revenues of the country. If we may run on increasing our debts from year to year, meeting every extravagant scheme by an appropriation which will cover it in this easy manner of furnishing the means, no one feeling the pressure, no representative responsible to his constituency for a tax which is imposed, I fear that abuse may come, and therefore I say this is not with me a favorite method of raising money.

But I am glad to find that instead of these notes being issued, as has been recommended in some of the commercial portions of our country, merely to throw specie into circulation, to become a safe deposit, they are to bear interest. That interest, and the necessity of assignment from hand to hand as each note passes, will perhaps prevent these notes from going into general circulation, and assuming, as has been asserted, the character of bank notes. Then, according to the limitation which I think has been wisely proposed by the Senator from New York, to confine the bill to one year, if our hopes are realized of returning prosperity to the country, and the equalization, by exchange, of that which we have to give for that which we have to buy, thus restoring to us the ordinary revenue of the Government, I trust when these notes are redeemed, the day will be far distant when we shall have to issue another.

I say this especially to those who have arraigned the last and the present Administrations for their extravagant view, because it depends on the Congress and not on the Administration to keep down the expenditures of the Government. The Executive can alone see that the money is honestly disbursed, and properly applied to the objects indicated by Congress, and in such sums as Congress may grant. If we are going to make harbors where nature has made none, to build up cities where commerce has to be drawn, by heavy appropriations from the United States, then we shall want increased means of supplying the Treasury, and probably shall have to extend the credit of the United States also.

Nor am I at all opposed to the suggestion of the honorable Senator from Kentucky, [Mr. CRITTENDEN,] to connect with every use of the credit of this Government, whether in the form now proposed or in any other, some direct and special mode of supplying the money which is to redeem the debt created. On this occasion I should be glad to see every article now on the free list put on the dutiable list. Those articles of general consumption which, by the popular cry, have been put on the free list, and which are the most fit subjects of taxation, ought to be restored to the dutiable list and thus contribute to fill the Treasury. All that long list of articles which my honorable friend from Virginia added at the last year to the free list, which, however advantageous they may be to the manufacturers of the country, enter into the increased value of their article, are as fit subjects for duty as the article itself. Everything that will bear a duty, according to my ideas of a revenue tariff, should have the duty imposed on it which it can pay, and then we should scale down to the lowest duty that will furnish a sufficient revenue to the Government. That would be my mode of answering the proposition of a just distribution of duty—a distribution which should cover everything which is imported, and which should be the lowest on each thing that the necessary revenue of the country would permit—approximate free trade; I wish it were absolute. I wish that no Secretary of the Treasury ever had again to send in an estimate of the cost of collecting the duties from imports, that the custom-houses were abandoned, and the army of retainers of the Federal Government employed to collect the taxes through impost duties, dispersed among the people. I should like to see free trade existing throughout this Union, with all its fraternizing effect on the nations, with all its beneficial results to the laboring masses, each receiving that which can be made elsewhere cheaper than he could produce it himself, and each exchanging that which nature and the industrial habits of his country enable him to produce more cheaply

than others. Then we should at once be rid of all frauds upon the Government.

But as I do not hope to attain that desired object, I will say one word on the oft-repeated charges of fraud upon the Government by false invoices. That invoices may be so skillfully framed as to deceive the best appraiser, I do not doubt; that labels may be put upon things for export to the United States, that will deceive even a practiced eye, whilst there will be that slight difference that will shield the parties and protect them from the charge of forgery, I have had occasion to observe; but I think the fault is not in the law, or if in the law, it is less there than it is in the want of capacity in the appraisers. I think the duty properly discharged by the custom-house officers will leave but little to complain of in the way of fraud, by invoices or otherwise.

It has been with me, from my earliest manhood, a matter of gratification, that my own countrymen, alone of all the world, constituted a race that looked upon smuggling as a crime—who, parts of a Government that belonged to themselves, paid the duties which their laws imposed, and aided the Administration in collecting those duties by voluntary efforts of their own. To what other land shall we go to find a people who would discredit a man because he smuggled in foreign goods? The evil may exist in our country; but if so, I believe it to exist in a very small degree. I believe there is no public tone in the country that would countenance it for a moment, and I am sorry that Senators should dwell upon frauds which are but incident to the imperfection of those who are to execute the laws, and thus send us forth to the world in a character not our own; for I claim for the American people the credit of having such a respect for the laws of their own land that they are willing to maintain the revenue laws, even in those sections where they most oppose them.

Mr. SIMMONS. I do not propose to protract this discussion, but I did not exactly comprehend the remarks of the honorable Senator from Mississippi, in regard to what I said yesterday about the great staple of his section of country—cotton. He said that I had proffered some advice or suggestion. I hope he did not understand me as proffering any advice in an offensive manner.

Mr. DAVIS. Certainly not, sir. I would say to the gentleman that I considered him as presenting a set of sentiments that belong to one end of the fiber of cotton, and that I represented the opinions that belonged to the other end of the fiber.

Mr. SIMMONS. I should like to bring both ends together, if I could, [laughter,] and I believe that was the spirit of my remarks. I said that the nearer the consumer was to the producer the better for them both, and that, when you prevented an increased consumption of cotton in the United States, the South lost the best customer it had for its great staple. I shall not, however, go into that subject now. I mean to confine myself to the provisions of the bill before me.

Yesterday, I examined the President's message in order, if I could, to call the attention of the Senate to the fact that the President had mistaken the causes of our distress, on the supposition that if he had understood the causes to be different from those stated by him, he would have proposed a different remedy. I made myself hoarse in doing that, and I shall not advert to it again.

Now, I desire to inquire of the Senator from Virginia whether the Treasury notes to be issued under this bill are to pass from hand to hand by mere delivery, or whether the indorsement of the holder will be required?

Mr. HUNTER. They are to pass by indorsement and delivery.

Mr. SIMMONS. After the first indorsement, are they to pass from hand to hand without reindorsement?

Mr. HUNTER. Yes, sir.

Mr. SIMMONS. Then this measure proposes to make the Treasury a bank of issue. I do not object to furnishing money for the purposes of the Government; and if Treasury notes are to be issued, my desire is that they shall be put in such a shape as to be a medium of exchange between the different parts of the country, and not used as a medium of circulation, passing from hand to hand. If these notes are to be issued, let them be in such a form as to remedy the evil of which my friend from Kentucky, [Mr. CARR-

TENDEN] spoke yesterday. He gave us an instance where a bill of exchange, drawn by a specie-paying bank in Kentucky on a non-specie-paying bank in some other part of the country, cost two per cent. I think that is a dead loss to the men who have occasion for exchange—the producers of the country.

I have no desire to embarrass the operations of the Government, and if the Senate are satisfied that Treasury notes ought to be issued, be it so; but let them be issued in such a form that they may answer the purposes of the Government, facilitate the business of the country, and alleviate the existing distress about the causes of which we shall probably never agree. I think we should allow no Treasury note to be issued for less than \$100; and we should require them to pass only with the indorsement of the holder. If this were done, if I desired to remit a Treasury note to Wisconsin, I could indorse it to the order of the man whom I wished to receive it, and then, if the mail were robbed, he would be safe, because the money could not be collected, without his order. If, however, these notes may pass from hand to hand by mere delivery, a man might rob the mail of an envelop containing a thousand dollar note, and get the money for it.

Mr. BAYARD. Will the Senator from Rhode Island allow me to put a question to the Senator from Virginia?

Mr. SIMMONS. Yes, sir.

Mr. BAYARD. I understand the Senator from Virginia to say, that as the bill now stands, the Treasury note is, in the first instance, to be made payable to the order of the person to whom it is issued, and after that it may pass by delivery without indorsement. If I view the provisions of the bill aright, when a note of this kind is made payable to the order of any person, there is nothing here taking away the right of that person to restrict the payment to the individual to whom he indorses it. In other words, he may make a special indorsement, and then there can be no legal title to the note, unless by the authority of the person to whom it was first issued. Whether that is right or wrong I do not pretend to say. I think these notes ought to pass by delivery alone, in the first instance, because you compel your receiving officers to receive them in payment of customs, and lands, and debts due to the United States, and if a note comes to him with six or eight indorsements on it, in hand-writings of which he can have no knowledge, you subject him to great hazard. Again, when the Government comes to redeem the notes, if any indorsement were not genuine, the payment would not be good against a person who was a special indorsee. If you issue a note payable to order, and the party to whom it was issued chooses to indorse it to a third person, how can you, by paying the note, destroy the title of that third person, unless he himself has indorsed it? If the note were payable to bearer, you would be free from responsibility by payment to any one presenting it, but not so in the case of a special indorsement, unless the special indorsement is broken in upon by an indorsement in blank by the special indorsee. As long, however, as special indorsements may be continued on notes in the form authorized by this bill, the last indorsee may restrict payment of the note to whom he pleases, and the title cannot pass without his indorsement, so that if it were lost or stolen, the Government would pay at its own risk.

Mr. SIMMONS. I am sorry that I asked any question on this point, because it raises a debate about the title to notes after indorsement and before indorsement. I thought that perhaps there was some settled principle about the indorsement of all kinds of notes. I have seen a great many Treasury notes which were issued by the United States, and indorsed by the first holder "to bearer," and I supposed they passed by delivery. If I take a note payable on its face to a particular man, or order, and he, by his indorsement, orders it to be paid "to bearer," I do not see how it can afterwards be restricted; but I am no lawyer. If it is indorsed in blank I suppose the man who holds it can get the money; but I do not understand law, and I do not find anybody here who can tell me what the law is. [Laughter.] I called attention to this point because I did not see any more difficulty in the way of the Treasury issuing these notes so as to answer

the purpose of exchange than in drawing from one sub-Treasury on another.

Mr. HUNTER. I will say to the Senator from Rhode Island, as he has asked the question, that I believe the practice has been to indorse Treasury notes in blank, and they have generally passed by delivery; but I suppose there could be a special assignment of them. I see nothing in the law to prevent a special assignment of them.

Mr. SIMMONS. I asked the question not for the purpose of raising discussion, but because I thought the Senator from Virginia had probably examined the matter.

I understood the Senator from Mississippi to advert to the remarks which I made yesterday as if I were a protectionist. What I said was, that if the Senator from Virginia would intelligently prepare a statement of our probable exports and imports for the next five years, and would tell me how much revenue the Government would need, he might lay his duties on that amount of trade, making the articles free that he considered it best to make free, according to the plan of last year, and I would go with him whether his rate of duty was twenty, or twenty-five, or any other rate per cent.; providing only that the revenue should be fairly and fully collected without fraud on the Government. That is all I ask. Fix your rates to suit yourselves, but have a fair and honest home valuation. I would as soon let the foreign producer fix the rate of duty as fix the value on which the duty shall be assessed. It seems to me nonsensical to say that we should fix the rates of duty and the foreign producers fix the value. I want this Government to fix the value and fix the rate of duty. Then you may fix the rate as low as you can get along with, and on that system I will trust the industry of this country in competition with that of foreign nations.

I observe that this bill provides against frauds on the Treasury, which may be attempted in counterfeiting these Treasury notes. Will not the Senator from Virginia agree to insert a provision to prevent the much larger frauds occasioned by fraudulent undervaluations of imported goods? When the bill was introduced I was sorry that it did not come from the House of Representatives, because I thought it would be improper to insert in it such a provision as I propose to incorporate into it; but on consultation with one of the members of the Judiciary Committee, I find that it is competent for us on any bill to introduce provisions for the prevention of fraud; and as the bill already provides against some frauds, it has appeared to me that the provision which I am about to suggest is entirely germane. The imported goods are now valued at the principal market of the country from which they are imported. The proposition which I have drawn up provides that upon the entry of the goods in the United States they shall be valued at the prices prevailing at the principal place of importation in the United States, to wit, the city of New York, and that the duty shall be assessed upon the market value of the goods in New York.

I propose this in order to avoid the complications resulting from the different currencies of the world. Does not the Senator from Virginia know it to be a fact that more labor has been spent in the last three years in finding out what is the relative value of the currency of the United States as compared with the currency of the nations from whom we import, than on any other single branch of the public service in the Treasury Department?

They have not settled it yet, and they will not settle it until this country gets to be as old as any civilized nation that ever existed. It cannot be settled. Does not the Senator from Virginia also know that the Treasury instructions to our officers on this point have embroiled the executive department in vexatious disputes with our foreign ministers and consuls? I know what would be the result of such disputes if I were officiating in any department of this Government. If a man presented to me a claim based on the state of the law twenty years ago, when he was appointed to a mission or a consulate abroad, and said that he sustained a loss on account of the currency in which he was paid, I should not hoggle with him about ten per cent., but I would pay him at once. I noticed on this point a somewhat remarkable statement in a book this morning. I do not send for information because I adopt the maxim of Dr. Franklin—when I want information I go myself;

if I send for it I am not very apt to get it in season, especially within the short time we are allowed here for debating such bills as this. I understand that on account of the alterations in our currency since the organization of this Government we are losing from ten to fifteen per cent. as exchange on every payment of salaries we make to our officers abroad. I regret, and I am astonished at the fact, that the intrinsic value of our coin has been diminishing ever since the establishment of the Government. The plentier gold is, the more dross we put into the currency. I do not like that. I want the coin of the United States to be as good as the coin of any other country. I am astonished to see the discrepancy in the relative values of the currency of the different nations of the world. It is a study of itself. A man who undertakes to administer our revenue laws under the present system of foreign valuation ought to have such a mind that he could extract the cube root of any given sum of numbers in his head without going through the figures.

I think there is no difficulty in the way of establishing a system by which you shall value the goods in this country in the currency in which the duties are paid; and for that reason the amendment which I have drawn up, provides for valuing them in the city of New York, our principal port of importation. Of course I anticipate that there will be some objection to this. I read in the debates of last spring, a statement by some Senator that the home valuation had been exploded long ago, on account of its unconstitutionality. Now, sir, I cannot perceive why it is not as constitutional to value the goods imported into this country at the principal market of such importations, as it is to value them at the principal market of the country where they are purchased. I was struck with the statement made yesterday by the honorable Senator from Tennessee, [Mr. BELL,] that the honest merchants at New Orleans imported their goods through New York in order to get them cheaper. Why should they be compelled to do this? No intelligent merchant in New Orleans orders foreign goods without looking to the principal market of this country to ascertain whether the importation will be profitable or not. With the present opportunities for the transmission of intelligence throughout the country, you can, in the course of an hour or two, ascertain the value of any article in any of our ports. I say, you might as well value the imports at our principal port of importation, and then the valuation will be uniform throughout the United States.

Then there are two provisions in the act of 1842, in reference to the valuation of merchandise, which I should like to see adopted. That act also contains some provisions in regard to specific duties, to which I intend, at the proper time, to call the attention of the Committee on Finance. The law of 1842 provides that, after valuing the goods at the fair market price, and there is any dispute as to it, the collector, if he thinks there is any attempt to defraud the revenue, may take the duties in kind. For example, a man imports five cases of goods into New York, and makes his valuation, under oath, of the fair wholesale market value of those goods, but the collector thinks there is an intention to defraud the Government; then, if the duties are twenty per cent., he takes one case of the goods, sells them within twenty days, and puts the proceeds in the Treasury. Thus the Government gets its twenty per cent., let the rates of exchange or the relative values of different currencies be what they may, and the importer pays no more than twenty per cent. The seventeenth section of the act of 1842, provides a feasible mode of valuation; and then the eighteenth section, which I should like to see inserted here, provides:

"That the several collectors be, and they are hereby, authorized, under such regulations as may be prescribed by the Secretary of the Treasury, whenever they shall deem it necessary to protect and secure the revenue of the United States against frauds or undervaluation, and the same is practicable, to take the amount of duties chargeable on any article bearing an *ad valorem* rate of duty in the article itself according to the proportion or rate *per centum* of the duty on such article, and such goods so taken the collector shall cause to be sold at public auction within twenty days from the time of taking the same in the manner prescribed in this act, and place the proceeds arising from such sale in the Treasury of the United States: *Provided*, That the collector or appraiser shall not be allowed any fees or commissions for taking and disposing of said goods and paying the proceeds thereof into the Treasury other than are now allowed by law."

The Senator from Virginia will see that this avoids all the old-fashioned discussion about the accumulation of duties on the article itself. Suppose a merchant imports into New York five cases of goods that cost \$100 a case in Germany, but which are said to be worth \$120 a case in New York; there is a duty of twenty per cent. on them, and the collector takes one case and sells it to pay the duty: although it may bring \$120, it costs the importer but \$100, so that he does not pay more than his twenty per cent. There is now a percentage for freights and a great many incidental charges. Thus Government has been trying for the last six years to make little contrivances against fraudulent importations, when there were provisions on the statute-book that I think would have prevented the whole difficulty; but whether this be so or not, I think we should avoid the complication resulting from the different values of the various currencies of the nations of the earth. We ought to value the goods in the currency in which we take the duties. I suppose the Senator from Virginia knows the fact that there is a dispute between the Department and one of our ministers abroad as to an item of \$500 a year in his salary—not that he is not paid as much as the law allows, but because of our variations of currency. His salary formerly was predicated on the dollar unit of our currency, which was originally a silver coin; but when we made a gold dollar coin, it was insisted that that was the legal standard, and the Treasury paid by that standard, and that is not worth as much as the silver coin by the amount of \$500 per annum on the salary of the officer to whom I have alluded. I am told that the Government is put to an annual expense of more than forty thousand dollars a year in the way of exchange on the salaries of our ministers and consuls abroad.

I wish now to say a few words as to the home-valuation system and the old tariff, and to this point I desire to invite the attention of the Senators from Louisiana. I happened to be here as a spectator during a portion of the last session, and I perceived that there was very great solicitude on the part of the Senators from Louisiana about the rates of duty on sugars. In 1842, the Senate appointed a Committee on Manufactures, consisting of myself, Mr. Archer, of Virginia, Mr. Miller, of New Jersey, Mr. Buchanan, of Pennsylvania, and Mr. Morehead, of Kentucky; and that committee made a unanimous report in favor of the home-valuation system. I hold that report in my hand. Since it was made, the subject has undergone great discussion in the country. This is the point to which I adverted yesterday, and in regard to which I supposed the honorable Senator from New York [Mr. SEWARD] had got somewhat informed. Perhaps I owe him an apology for not alluding to the remarks he made this morning, as to the difference between him and me yesterday. I did not happen to catch all that he said this morning, because I did not know that he was applying his remarks to me; I thought he was addressing himself to what had been said by the Senator from Massachusetts, or I would have tried to reconcile our differences, for I consider it one of the glories of human life that men should always reconcile their differences.

Mr. SEWARD. The honorable Senator will find, when he comes to read my remarks, that I did precisely the thing which he says he would have done, if he heard me—reconcile our differences.

Mr. SIMMONS. If I ever get time to read my own speech I will try to do it, and, after that, endeavor to read the honorable Senator's speech; but I have no idea that I shall be able to do so this session. [Laughter.] I have no notion of reviewing this matter when it is once out of my hands.

I was about to call the attention of the Senators from Louisiana to the report made by the Committee on Manufactures in 1842, with respect to the article in which they feel interested, to show how admirably the home-valuation system embodied in that denounced act of 1833, called the compromise act, would have answered all the practical purposes of this Government. This report proceeded on the idea of having a fixed valuation for every article of importation which entered into competition with the productions of our own labor, requiring the Secretary of the Treasury to report to every new Congress the actual

value in the market, so that the legal valuations might be revised, if there was any necessity for it. We fixed the value of molasses at twenty-four cents a gallon, and there was a duty of twenty-five per cent. on it. I ask the Senators from Louisiana whether there has been a time, within the last fifteen years, when the Louisiana planters would not have preferred this to any duty that has been laid? It is not too high to-day. Last year, when molasses was fifty cents a gallon, the Senators from Louisiana would have been perfectly satisfied with a duty of six cents a gallon, because they were well enough off without any duty at all; and if the price should come down to ten cents a gallon, they would want as much as six cents duty to prevent the foreign article driving them out of the market. Such a system would keep the revenue steady; but it did not happen to take with the political notions of the day, and it went by the board.

Then, as to sugar, that report contained this scale of valuation:

"Brown or raw sugar produced at, and imported directly from, places beyond the Cape of Good Hope, at six cents per pound; from all other places, and sirup of sugar-cane, in casks or otherwise, at seven cents per pound; white-clayed sugar, and all sugar in advance of brown or raw sugar, and not refined, in whole or in part, at ten and one half cents per pound."

Now, I wish to invite the attention of Senators from Pennsylvania to the valuations imposed by this report on iron, to see if it would not have furnished, during the last fifteen years, a good rule for estimating the duties on iron:

"Iron, and manufactures of iron, shall be valued as follows—that is to say: iron cast into pigs or kentledge shall be valued at thirty-two dollars per ton; fluens, or run-out iron, being iron in advance of pig iron, at forty dollars per ton; cast into vessels, at five cents per pound; glazed castings, sad irons, hatters' and tailors' irons, and all castings and vessels of cast iron not in the rough, as from the mold, or having any addition of wrought iron attached, at ten cents per pound; statutory castings, at twenty-five cents per pound; castings of all other kinds, at ninety-five dollars per ton; all old and scrap iron, fit only to be remanufactured, at twenty-eight dollars per ton; hammered iron, in bars or bolt, not manufactured in whole or in part by rolling, at eighty dollars per ton; anchors and anvils, and parts thereof, at eight cents per pound; chain cables, or parts thereof, in links or otherwise, manufactured in whole or in part, at one hundred and forty dollars per ton; chains of iron of all other kinds, or parts thereof, at two hundred dollars per ton; cannon, at six cents per pound; screws weighing twenty-five pounds and upward, at ten cents per pound; iron in blooms, loops, slabs, or other forms less finished than iron in bars or bolts, shall be valued the same as iron in bars or bolts.

"*Railroad Iron.*—Iron prepared to be laid upon railways or inclined planes, without further manufacture, shall be valued at sixty-five dollars per ton, subject to the proviso in the fifth section of the act approved the 11th day of September, 1841, entitled 'An act relating to duties and drawbacks.' *Provided,* That this act shall not be construed to include chains, pins, or spikes, as railroad iron."

I do not believe there could have been a valuation of iron which would have given more encouragement to the manufacture of iron than this valuation of it, had it stood without alteration for the last fifteen years; and you would have avoided all the quarrels we have had about protection and valuation. The Committee on Manufactures, in 1842, recommended a duty of twenty-five per cent. upon the principal articles of importation. The only exceptions to this rule were sugars and the finer manufactures of iron, which were put at thirty per cent. This was done after consultation with the iron masters of Pennsylvania, who had made heavy outlays for machinery to enable them to make a finer species of iron, and they thought they ought to have an additional duty of five per cent. for a time at least. The sugar planters of Louisiana were also consulted. I was introduced by Mr. Preston, then a Senator from South Carolina, to his brother, who was a large sugar planter in Louisiana. He stated, with frankness, that a duty of twenty-five per cent. would afford ample protection to the large sugar makers, but it was doubtful whether men of limited means, who had to hire the capital necessary to enable them to carry on the business, in a State where the legal rate of interest was ten per cent., could sustain the competition. As this was a new business, and the small planters had to make nearly as expensive an outlay for machinery as those who produced ten times as much, it was feared that the effect of a twenty-five per cent. duty would be to break down the small planters. The committee, therefore, unanimously recommended putting sugar at thirty per cent. duty as an exception.

I make this statement to relieve myself from the charge of ever having undertaken to make a

high tariff in this country, which I understood to be the intimation of the Senator from Mississippi. After a few years' discussion in the country, these modern reformers came in and fixed different rates of duty, from five to one hundred per cent. That they called leveling! That is your tariff of 1846.

Now I desire to know whether the Senator from Virginia objects to adding to this bill a provision against frauds on the revenue? I will go with him as far as I can, in supplying the temporary wants of the Government. I only ask him to provide that the Government shall not continue to be the victim of outrageous frauds. I shall take pleasure in voting for the resolutions of the Senator from Kentucky, [Mr. CRITTENDEN,] because I think the rates of duty were changed last spring without a proper understanding of what was done. It was done in the night, and pretty much in the same hurried manner that we were precipitated into the consideration of this bill a day or two ago. I think, however, that point ought to be considered by itself; but here and now is the proper place and time to provide against those frauds to which I have alluded. If the Senator from Virginia will agree to do it, I shall take it as an earnest, on his part, that he wishes to relieve the distresses of the country—the laboring men of the country.

I stated, yesterday, that there had not been an occupant of the Treasury Department since the framer of the act of 1846 retired from it, who had not recommended to Congress to change the system in some way, so as to prevent frauds; and allusion was made this morning to the views of Mr. Guthrie, the last occupant of the Treasury Department. The existence of these frauds is admitted. The Senator from Mississippi admits it. It is evident that you cannot properly value a thing when you do not see it; but let us bring the valuation under the eye of our officers, let us value the goods in the city of New York, and you cannot fail to get at the correct valuation. I submit to the Senator from Virginia that a home-valuation system, with a provision allowing the duties to be taken in kind where fraud was suspected, would do away with all disposition to fraud. Then a man would know that a fraudulent entry and appraisal of his merchandise would be detected; and this, after all, is the surest preventive of fraud. That is all I ask. Hereafter, when the subject comes up, I shall be willing to fix the duties at such an amount as the friends of the Administration think will give us an adequate revenue, provided they be kept on the articles on which they are now imposed, and be laid uniformly on them. I cannot see why the manufactures of cotton should be put at nineteen per cent. in the bill of the last session, while all other manufactures are at twenty-four per cent. If anybody can give me any sort of reason for that, I should like to hear it. That branch of manufacture in this country reaches \$80,000,000 or \$100,000,000 a year; it consumes six hundred thousand bales of cotton per annum; it did that ten years ago; and but for your ruinous discrimination against it as a marked interest for the disapprobation of the Government, it would have consumed one million two hundred thousand bales of cotton this year. I never could conceive why this distinction was made against that great interest of the country. If there is any reason for the distinction, let it remain where it is; but wherever it is put, whether at five or at thirty per cent., let whatever is stipulated for our security in our own market be fairly and honestly carried out. That is all I ask, and I think it will be accomplished by the amendment which I have drawn up in the most simple form.

At some other time I may speak about the conduct of the present Administration; I do not mean to go back. I should not say a word in regard to it now, but that, since I spoke yesterday, I have read more of the report of the Secretary of the Treasury. The Senator from Mississippi tells us that Congress is to blame for the appropriations; that the Executive has nothing to do but fairly and effectually to carry out the laws which Congress may pass. Did I understand him correctly?

Mr. DAVIS. Not quite.

Mr. SIMMONS. I would not misrepresent the Senator for the world.

Mr. DAVIS. I do not say the gentleman misrepresented me, but I do not think he quite understood me. The Executive is responsible for his

recommendations; but if Congress adopts them, and makes appropriations to carry them out, I say it is not fair then for Congress to turn round, and arraign the Executive for the expenditure which has resulted; and when Congress adopts measures without the recommendation of the Executive, and, perhaps, against his known will, it is still less fair for Congress then to arraign the aggregate of expenditures against him.

Mr. SIMMONS. That is not exactly the point, but it comes near it. Now, I wish to ask the Senator from Mississippi whether he thinks it the duty of the Executive to carry out the measures of Congress, if adopted without his recommendation?

Mr. DAVIS. I should say so. If the President signs an act of Congress, it becomes a law, and he cannot fail to carry it out.

Mr. SIMMONS. Now, then, I wish to ask the friends of the Administration by what authority they carry \$17,000,000 of the appropriations of the last year to the current expenses of the present year? If your rule be as stated by the Senator from Mississippi, and you go upon strict construction, I desire an explanation of that; and I desire to know, too, how the Executive can put himself in the place of Congress, and refuse to carry out one fourth of its appropriations. I noticed in the President's message a statement that he would withhold certain appropriations, but he assured us that they would be of such a character that no harm would be done to the country by suspending the execution of the law. As I understand my rights here, if I vote for an appropriation and it receives the sanction of both Houses of Congress and the approval of the Executive, it is not then to be as he says, but as we say. I hope Senators will explain this matter. No doubt it will be excused, for we want money, and everybody would be glad that there was so much unexpended if it was only in the Treasury; but it is all gone, and the law has been violated. I shall not go into that, however; I merely give notice that I shall want to have an explanation of it. I am glad that I now know what the law is on this point. If there is any excuse for not carrying it out, let the excuse be given; and if it be at all reasonable, I shall accept it with pleasure, for I do not mean to arraign the Executive.

Mr. President, I have stated the proposition which I desire to add to this bill as an amendment. Let the Senator from Virginia fix a reasonable time when it shall take effect, and I will not disagree with him as to that. I desire to accomplish the object in a reasonable and proper way. I trust he will accede to my proposition.

Mr. DAVIS. I think it due to myself, and due to the Senator from Rhode Island, that I should say to him—and I have waited for that purpose until the close of his speech—that, in referring to the advice he gave to the cotton-planting interest, I did not do so, as I supposed, in a manner to induce the belief that any offense had been taken because advice was given, or that he was considered unfit to give advice. Certainly no offense was felt. I did not intend so to express myself; and recognizing him as one who had long been at the head of the manufacturers of cotton, I was quite ready to listen, and I did listen, attentively and respectfully; but we view the matter in different lights, and may arrive at different conclusions. Whilst I receive his proposition that the two ends of the fiber should be brought together, as a very good figure of fraternization, he will of course allow me to say it was a very bad proposition for the cotton spinner, as by that means he would never make a cotton thread, [laughter;] and it is somewhat encouraging to the cotton planter, because it offers a hope that our nap cotton will receive from him a better seed in future, where the fiber is only bent, not the two ends brought together.

But we will let that pass. I will now say that I hope always to receive any suggestions which the Senator may make for a common interest, in that spirit in which I am sure it will be offered, and with that respect which is due to his information and judgment. In any reply that I may hereafter make, I wish to assure him in advance that if my manner should be earnest, he is not therefore to infer that I have become offended, or suppose he has assumed more than I was willing to grant.

Mr. SIMMONS. I have not the slightest ap-

prehension of being offended at any remarks the Senator may make. My solicitude is not to give offense.

Mr. DAVIS. I take none.

Mr. SIMMONS. I have no fear of receiving any. I know the character of the Senate. I have been here before, though not lately, and I have never seen a disposition to give offense to anybody agreeing with me in sentiment. I may speak earnestly. I only seek to get out the truth without any embellishments. As to the figure we have wrought, we will not dispute about that. It is rather too fine spun for me when you go into fibers. [Laughter.]

Mr. HUNTER. I will say to the Senator from Rhode Island that, at the proper time and proper place, I will agree to any fair proposition for the purpose of preventing frauds on the revenue. I will go as far as he who goes furthest for any proposition which has that object simply, and which is calculated, in my opinion, to effect it; but I wish to appeal to him, and other Senators, whether this is the proper time, and whether, on this bill, when there is a necessity for urgent action, we can be expected to ingraft legislation which is of a character to affect our whole system of revenue laws? Is this a bill on which we can make amendments to the tariff, amendments to the system of appraisement, amendments, I believe, in the monetary system of the country, and in the warehousing system? If he were to succeed in ingrafting amendments of that sort, the only effect would be to kill the bill.

What we want is to know whether the Senate of the United States will vote for an issue of Treasury notes to supply the wants of the Government? If they think the bill is insufficient as it stands, they will amend it as to them seems good. If they think the amount asked for is not the proper amount, they will fix that according to their own views of propriety and necessity. If the bill, in their opinion, should require further guards, they will affix those guards; and when that is done, I hope they will either vote the necessary supplies for the country, or let us know that they cannot be afforded in this shape. It is important that we should ascertain this soon, for the Government is in want of this money. Now, it is perfectly obvious, that if we depart from the simple question, whether we will supply the wants of the Government in this form and shape, to enter into debates on the tariff, or the warehousing system, or the monetary system of the country, there will be no end to them. The discussion will go on beyond the Christmas holidays, and the time will come when the Treasury will run out for the want of means.

I hope that I may be allowed to urge these considerations on the Senate. I do it with the utmost respect. I have no disposition to restrain the utmost latitude of debate. At the proper time, and on the proper occasion, I shall listen with great pleasure to the Senator, when he may choose to present his views on these great questions. Whenever the resolutions of the Senator from Kentucky come up for consideration, then will be the time for him to present these views, and to present whatever amendments or propositions of law he may have to offer in regard to the revenue system of the country. But, until then, may I not ask gentlemen to suspend, and confine their amendments to the Treasury note bill itself, to what pertains to the character of that bill, and to say, and to say soon, whether they will pass the bill or not?

Mr. DIXON. I have not risen, Mr. President, with the view of opposing this bill. Certainly I should not, at this time, and in this body, interpose any factious objection to it. I believe, as the Senator from Virginia has just said, that the Treasury wants money, and must have it; and, for one, I am disposed that the majority of the Senate here should obtain the supplies necessary in the manner that seems to them fit and proper. I desire to take no responsibility with regard to it, except so far as may be involved in my own vote.

Nor, sir, do I intend at this time to go into any discussion with regard to the particular merits or demerits of the bill itself. That has been done, as I think, effectually, ably, and thoroughly, by the Senator from Rhode Island, and by other Senators who have spoken on this side of the Chamber. In the main, I agree with all that has been

said by my political friends on that subject. All I desire to do at this time, (and it seems to me eminently proper,) is to call the attention of the Senate, and of the country, so far as anything which may fall from me is worthy to arrest the attention of the country, to the present condition of the nation in view of, and in connection with, this particular measure as offered at the present time.

What do we see? What is the condition of the country? We see in the first place the business of the country paralyzed, and its commerce, both foreign and domestic, almost entirely destroyed. We see its industry unemployed. We see that sad spectacle alluded to yesterday by the Senator from Rhode Island—willing industry reposing in involuntary idleness. We see willing hands waiting for employment and unable to obtain the privilege of labor. We see, further, the banks of the country compelled for sixty days to suspend specie payment; and now, at last, only enabled, as I believe, with due deference to the distinguished Senator from New York, [Mr. SEWARD,] to resume specie payments by the very plethora of money to which he has alluded, which is occasioned by a total stagnation of business, a total absence and cessation of new engagements.

In addition to all this, we behold in Europe the reaction of what has taken place here. We see England herself, and every commercial nation of Europe which has had any dealings with us, feeling the effect of our troubles. We find that the excess of trade, the over-importation stimulated by our own legislation, has at last wrought its effects in every country which has traded with us; and that now, through our inability to consume and pay for what we have purchased from them, they are suffering themselves; showing that our system is not only injurious to us, but is also injurious to those nations in Europe who have been supposed to reap benefit from it.

Furthermore, at last we see a bankrupt Government. Only ten months ago when I came here to take my seat, I found the Senate discussing the question how they might deplete the Treasury, how they might reduce the sum of our revenues; and now this proud nation, by its representatives here, is attempting to borrow money, and proposes to do it by the issue of paper money.

This is what we see about us; and I beg leave to say to the distinguished chairman of the Committee on Finance, who, I believe, was in one or the other House of Congress ten years ago, that we have now passed through a decade, a period of ten years, since the financial system inaugurated and established at that time by the Senator from Virginia and his political friends, on the ruins of another and very different system, has been in effect; and we see, as I think, the fruits, the consequences, or at least the sequences. That the Senator himself will admit. I believe these fruits and consequences belong to him and his political friends; and that he is entitled to the benefit of them all. I lay them at his feet as the trophies of the victories of the last ten years; and he is at liberty, if he pleases, to hang them as high as he chooses, with festive vows and offerings, in the temple of the party. If not the result of, they have followed those measures; and that is the point to which I wish to call the attention of the Senate.

Now, sir, the Secretary of the Treasury comes in with his report, stating that "a revulsion in the monetary affairs of the country always occasions more or less of distress among the people." I think we may agree on that point. "The consequence is, that the public mind is directed to the Government for relief;" and he goes on to say that no relief can be furnished by the Government. What does he offer? What is his measure? He proposes (I do not say that it is not at this time a necessary measure; perhaps it is, in the present state of the country) the issue of \$20,000,000 of paper money, in the strictest sense of that term; money which is to be paid out by the Government for debts due by the Government; money which is to pass by delivery; which is to circulate from hand to hand; which is inconvertible into specie; which will not anywhere command specie, except by the voluntary exchange of it for specie. In every sense of the term, by every definition, it is paper money in the old sense. That is what the Government now proposes to issue.

I wish it to be understood by the people of this

country what this issue is. I wish it, furthermore, to be understood that this issue of paper money is to be locked up, as I suppose, in the sub-Treasury. I take it that this paper money, which is to be engraved and adorned so as to bear the semblance of bank bills, the semblance of currency, and act the part of a currency, is to be locked up in the sub-Treasury, or it is to be exchanged for specie which is to be locked up there. This and the sub-Treasury are to act hand in hand; the two are to go together. Is not that an abandonment, at least temporarily, of the entire sub-Treasury system?

I do not propose now to go into a discussion of the sub-Treasury. I do not even propose to say that I am opposed to it as a financial measure. I barely wish to call the attention of the Senate to this peculiar circumstance. We were told that the sub-Treasury was to prevent all contraction or expansions; that it was a great conservative power; that it was to prevent over-importations; that it was to protect our country; that it was to save the banks, or at least, to save the Government. This much at least I may say in regard to the sub-Treasury without contradiction; it will be admitted by its warmest friends that it has shown itself powerless for the good which was predicted in regard to it. It has shown itself unable to prevent expansions, unable to prevent contractions, unable to prevent over-importations, unable to prevent the ruin and distress which have been spread far and wide throughout the country. Furthermore, it has failed in that last benefit which it was said it would at last confer; it has been unable to save the Government; and we now find, under this sub-Treasury system, the Government unable to collect its duties and in a bankrupt condition. We see, in the great ports of the country, the warehouses filled with foreign importations which an impoverished people at this very time are unable to consume.

I wish I could believe, with the distinguished Senator from New York, [Mr. SEWARD,] that this evil was entirely temporary, and that the recovery would be as rapid as the fall. That I understand to be his statement. Why, sir, I read not long since, in an extract from a speech of that distinguished Senator—and I always read everything he utters with deference and respect and admiration—a prediction of the very state of things now existing, even to the specification of the suspension of specie payments; and that prediction was founded entirely upon the system of financial government pursued by the gentleman from Virginia and his political friends. His prediction has been fulfilled. I trust that his prediction now will be equally true, but I cannot believe it. Although he showed himself then a prophet indeed, I cannot believe that his present prediction will be equally true. I hope it is true of the State of New York, which he represents here; but in that part of New England from which I come, in the State of Connecticut, the troubles of the day are by no means over. Indeed, sir, if not at their height and intensity, there is at this time no symptom of recovery. The only want of money is for liquidation for the payment of debts. The banks have money. They can loan money to-day; but the difficulty with them is to find paper of a business character on which they think it safe to make their loans. There is no apparent relief thus far from what we have already suffered. I am in hopes that the brilliant prospect pointed out by the Senator from New York will prove to be true; but I think that when we stand here one year hence, we shall find that then the recovery has only commenced.

The Secretary of the Treasury says that no relief can be furnished; that the people, although they suffer more or less in a revulsion, must not look to the Government for relief. That is the old story; it is not new. He only offers to us a bankrupt law for the banks. That is the only measure of relief, with the exception of this issue of paper money, which, to say the least of it, is as inconvertible as any money issued by the banks during the suspension. My belief is that there is a relief which can be offered by this Government. I think it was pointed out by the honorable Senator from Rhode Island yesterday. I believe that the distinguished Senator from Virginia, the chairman of the Committee on Finance, has the talent and the ability, if he had the will, (and I know he wishes to do all he can for the country,)

to devise a scheme by which confidence and credit shall be restored in a single day, and prosperity restored to the country in three months. I believe Congress has full power to restore the business of the country as rapidly as it can be possibly restored after such a fall. I believe it can be done, without shocking any constitutional scruples, and without any high protective duties. I ask no more for high protective duties than does the Senator from Rhode Island. I believe that if you will discriminate in favor of American industry, as you discriminate against it by your present measures, it is all that will be required. I believe that, if you will only consent to give the American laborer the poor privilege of doing American work, you will at once restore this country to prosperity.

Sir, I am very glad that the minds of men are turned to this subject. They are looking on with anxiety. It is a subject in which they feel an interest, more or less. As they suffer more or less, as the Secretary of the Treasury says, they feel interested more or less, and I trust the end will be that through much tribulation and suffering and sorrow, sooner or later—it may not be in my day, nor in the day of any member of the Senate—we shall, at last, reach another and different policy of Government, by which the country can be restored to permanent prosperity.

Mr. COLLAMER. I shall not detain the Senate long, because it is not likely that the remarks which I may make will operate on any man's mind but my own; yet, perhaps, it is due to myself to explain the reasons for the vote I shall give. As I differ from the views expressed by many of the gentlemen on this side of the Chamber, I feel the more bound very briefly to state the views I entertain.

In the first place, I cannot regard the law of 1847, which is cited as a precedent for the bill before us, as furnishing any precedent at all. This bill seems to have been carefully copied after that law, with very few variations. I say no precedent is to be found in that law for this bill. That was a war measure. It was adopted while we were at war with Mexico. It was so adopted as to have effect only while the war continued. I need say no more to show that that can furnish no precedent for a measure like this in a time of peace.

In the next place, if that law is to be taken as a precedent, it should be taken as a whole. The act of 1847 authorized the borrowing of \$23,000,000 as a loan, and the provision for Treasury notes was interwoven with the other provisions for a reason then given, and which I well remember. I think it was stated by Mr. Cave Johnson, of Tennessee, who was then chairman of the Committee of Ways and Means, that if you advertised for a loan you would get bids only from great money proprietors, on such terms as they might choose to offer, and the ordinary people would get nothing; but if you permitted the Government to issue Treasury notes bearing a moderate interest, they would be taken by the people who might have \$50, or \$100, or \$200, which they were willing to deposit in this savings bank, and thus aid their country and benefit themselves. The Treasury note system was shaped with a view of enabling the common people to get hold of a portion of the loan; for it was provided in the law that whoever held Treasury notes might fund them in the general loan. That was the reason given at the time, for allowing these notes to be issued. How far it practically operated it is not for me to say, but I know it did operate to some extent.

I say, then, that that law furnishes no precedent for this, because the object now is avowedly to issue these Treasury notes to circulate from hand to hand, and they are to be put at a very small rate of interest for that purpose. I am sensible that some gentlemen suppose—and the Senator from Rhode Island seems to have that view—that these notes, especially the larger ones, will be valuable for remittances through the mails, because the bill provides that they shall issue payable to some person or order, and be by him indorsed. Clearly, the man to whom the note is first made payable may, instead of indorsing it in blank, indorse it to A B, or order, and A B may indorse it to C D, or order, and so on until it comes to the man who presents it at the Treasury. In that way, to be sure, if the payee in-

dorses it to A B, or order, he may transmit it through the mail to A B, with safety, because, if it be stolen from the mail, nobody can obtain the money except A B, or somebody to whom he has ordered it to be paid. If an indorsement is forged, the drawer pays at his own hazard, and will afterwards have to pay the true owner. Do gentlemen really intend that this Government, or its officers, shall be put in this condition; that they shall take up the notes at their own hazard; and if it afterwards is ascertained that there was a forged indorsement, be compelled to repay the true owner? Is it intended to take such a burden on us? I presume not. The provision of the bill is that the notes shall be payable at the Treasury to the "lawful holder;" but you may strike out the word "lawful," and it will mean the same thing; for a man is not the owner of a note which is payable to a certain person or order, unless it has been indorsed to him. In truth, there is no way to secure the Government in the payment of these notes with safety, if they are to go into circulation, unless by striking out the provision that they are to be made payable to a particular person, or order, and make them payable to bearer. It is possible that they may all be made payable to some clerk in the Treasury, who will put his name on the back of each one in blank, and after that they would pass by delivery, and could not afterwards receive a restricted indorsement. To do that, however, is to go through forms for no practical purpose. You may as well make the notes payable, in the first instance, to bearer, as to go through that form of indorsement.

Probably that provision of the bill will be stricken out; but how came it here? Undoubtedly it is copied from the statute of 1847, and it was inserted there after the sub-Treasury system was adopted in 1846. The object was, that the Treasury notes should not be regarded as a circulating medium, but as bills payable to order and indorsed by the payee, and to be used in that way in order to escape the charge of having in any way overridden the provisions of the sub-Treasury system. You may possibly preserve the form now, but you will have to destroy the life of the form. If you make the notes payable to a particular clerk in the Treasury, to be by him indorsed in blank and then paid out, you might as well make them payable to the bearer at once; this form of indorsement is resorted to for the purpose of evasion.

Then, let us look at this bill in its true character. What is it? We must bear in mind that we have a sub-Treasury system. I do not propose to enter into its merits now. I will simply say that, in my opinion, it was rather commending itself to public acceptance than otherwise, by the lapse of time. How far, in point of fact, it has been practically observed, is another consideration; I suppose, in truth, it has been generally vetoed; but no matter, it had, at least, the plausible claim of conducting the dealings of this Government in a constitutional currency. What do we see now? The moment there is difficulty, the moment there is any pecuniary pressure which is felt by the Treasury, however slight its pulse may be, immediately the bottom is knocked out of your system by this bill; the whole of it is utterly disregarded and broken down. What is substituted in its place? To begin with: the bill provides for the issue of \$20,000,000—I will not use any vulgar names, but I will say \$20,000,000 of irredeemable paper; that is, paper which no man who holds it can get the money for by any legal demand he may have, short of one year; and as the Treasury receives these notes in the payment of revenue, they are to be reissued, with a provision that no more than \$20,000,000 shall be out at one time. Will not this afford the means of paying your incoming duties? Undoubtedly; and probably \$10,000,000 would do that. I suppose \$40,000,000 is probably as much revenue as you will derive this year from the present tariff. Now, if you issue \$20,000,000 of Treasury notes, they will go into the hands of those that have duties to pay, and be used by them in the payment of duties. As soon as the Treasury gets in \$5,000,000 of them, they will be reissued, and they will go around in the same circle again. If you issue \$20,000,000, and they come back in six months and are reissued, they will have paid during the year your \$40,000,000 of duties, and what will be your condition at the end of the year? You will have these

notes in the Treasury, but no hard money, no constitutional currency.

It seems to me that it is hardly worth while for us, at this particular juncture, in a crisis like this, to abandon and prostrate altogether the Independent Treasury system, as it is called. You will find it impossible to escape the charge; every man in the community will know from this bill, if you pass it, that your much-boasted system of constitutional currency has failed the Government. Is it not worth while to retain it, at least for a time? What says the President in relation to the circulation of paper money—convertible paper—bank notes that you can cash every day and every hour? Because there have been fifty or sixty days during which the banks declined to pay specie for their notes, he says they should all be put into bankruptcy, and wound up. Then what are you to do with your sub-Treasury? It has failed; it proposes to issue a large body of paper which is actually irredeemable for a year, and incontrovertible altogether. Would the President have it put into bankruptcy and wound up? Would he have a commission issue on the Treasury, and force it into liquidation?

The President argues in his message that the States ought to adopt the same system; they ought to deal only in hard money; they ought to follow out the example of this, the mother Government! Let us see how they would follow it if they were to make the attempt. They would take nothing but hard money for taxes, and pay out nothing but hard money. By-and-by a pinch comes, and they cannot get hard money. Suppose they follow the example of the General Government, and issue bills; what are they? Nothing but bills of credit, which the States are forbidden to issue. If you give a man a Treasury note, payable in a year, what is it? It is a bill on the credit of the Government, for which the faith of the Government is pledged. When the States come to this point, the Constitution interposes; they cannot follow the President any further; he leads them into a slough; he gets himself out of it by asking Congress to exercise its power of issuing bills of credit, which the States are forbidden to do. I do not make these remarks with a view of finding fault with the Independent Treasury system or a hard-money currency; I am merely endeavoring to show how palpably and grossly that system is violated by this bill.

But, sir, there seems to me to be something dishonest and discreditable in it. Suppose a man is my debtor to a small amount; he owes me \$100. I go to him, and say that I want my \$100 paid. He tells me he has stopped payment, and has not got any money. He admits that he has means enough to pay me, but he has not the cash. He can borrow the cash and I cannot, but he says he will have to give something for borrowing it. I claim that he ought to borrow the money and pay me what he owes me. He will not do it, but proposes to give me a note for \$100 at a small rate of interest—two or three per cent.—something that he knows will not enable me to get my full debt, and he takes advantage of his power to force me to receive his note or get nothing. Is that the part of an honest debtor? Is there any better morality in the Government doing the same thing? Is a different system of ethics to be applied to the dealings of the Government with its creditors from that which is applied between man and man? Certainly not. You may say the people are not obliged to take these Treasury notes. They have Hobson's choice. I say the necessities of the Government's creditor compel him to take the notes, and thus you force him to get the cash for them. Is that the way to treat your creditor, to give him a piece of paper for which you think he can get cash? Why do you not give him the cash? You engaged to pay him so many dollars for his property that he sold to you, or the services that he rendered to you. It is your business, not his, to get the dollars with which to pay him.

I say, then, that this whole proceeding is unprecedented in its nature, unfair in its principles, a violation of the whole idea of the sub-Treasury, an abandonment of the great constitutional currency. I have still another reason for objecting to the bill. If the necessities of the Government crowd on the Treasury, I am not disposed to find fault with the Administration, or with the Secretary of the Treasury. If he has drawn money

out of the Treasury and applied it to the redemption of the public debt, he acted, no doubt, with a view to relieve the country. It did that, in some measure. He supposed, perhaps, that by anticipating the debt due in 1868, and paying it now at a premium, he might possibly so far relieve the commercial community as to enable the importations to go on, and thus keep up the revenue. In that object he has failed. I do not find fault with him for not having had more foresight than anybody else in the country. This result has come upon us unexpectedly; but I say that, when it has come, there should be fair dealing, and consistent conduct.

Now, what is proposed? It is said that the object is to pay debts which we now owe. We have not the money. Then borrow the money like an honest debtor and pay interest for it. Go and buy gold, put it into your Treasury, keep up your sub-Treasury, do not abandon your constitutional currency. You can to-day obtain a premium for six per cent. stocks of the United States having any reasonable length of time to run. You will make money by borrowing gold for your stocks. Why this shrinking back from the borrowing of money when you owe a debt, and ought to pay it? Why not honestly and squarely say "we will preserve the constitutional currency; we will preserve our sub-Treasury; we will not thrust our paper on people against their consent and oblige them to get it cashed; but we will as honest men use our credit to borrow hard money, and use it as we have agreed to do, in paying our debts." There is no other honest way of acting on this occasion; all other modes are evasions, inconsistent with your previous principles. The issuing of these notes is an abandonment of the constitutional currency, and the more you make them circulate the greater is the abandonment. You deny that we have power to establish a national bank. We once had such a bank, with a capital of \$30,000,000, and you said it was a great monster. Here you are making a national bank without checks, without any hypothecation of securities, based on nothing except the public credit. You are creating a bank with power to issue \$20,000,000 in one day, and to reissue it from time to time; and at the end of the year, after you shall have issued this paper three or four times, your Treasury will be in the same condition as now.

I think it would be infinitely better to borrow money when you need it; not only because that is honest and right and consistent with your previous assurances to the public, but because I think it will be some relief to the community. There is undoubtedly in this country a very large body of unemployed money—I do not allude to the money in the bank vaults; but there is a great quantity of money sequestered, or, as the common expression is, hoarded; that is, held by people who do not choose to shave notes or lend their money for short periods. My own State has had a little experience on a small scale in regard to this matter, which will illustrate my meaning. The little State to which I belong holds that it is best not to be in debt at all. The State keeps out of debt; but almost every year, in order to meet the expenses of the session of the Legislature and the annual payments to our officers, we have occasion to anticipate the taxes, and, therefore, we annually pass a law authorizing the treasurer to borrow a small sum—generally \$50,000. He borrows it for a short time from some of our banks, and when the taxes come in he pays them, and the matter is ended in a few months. This year he called on the banks for some money to anticipate the taxes. The banks told him: "We cannot lend the money; with the other banks of the country we have stopped redeeming, and we hold it to be dishonest to lend money which cannot be redeemed; our notes will pass current, and people will take them; but honesty requires that we should not lend you paper which we do not redeem, and we will not lend you anything." The treasurer then went to Boston, and stated his desire to borrow money for short periods. After several days' trial, he could not get it, and came back. The Legislature being in session, he informed them of the facts. It happened that our State House was providentially burned last year, and we were rebuilding it, and therefore had occasion to use some money.

On the whole, but with a great great deal of re-

luctance, the Legislature passed an act authorizing him to borrow \$100,000 for five years, at six per cent. interest. He went to Boston, and came back with what he wanted, and informed us that he could have ten times as much any day on one hour's notice without any discount at all. That is to say, there is money enough, and people are glad to get a chance to lend it, provided they have a security which is known to be reliable, and especially if the money is not to come back on them immediately.

I have no doubt that, if you should endeavor to borrow money, you would get a premium on a six per cent. loan to any amount you might ask. I do not think that premium would be as much as the Secretary of the Treasury has paid on the redemptions he has made. I do not blame him for making those advances, which he did, no doubt, with a good purpose, and in all fairness; but I say that if we borrow four or five millions of dollars, we shall be no more in debt than we were a year ago; we shall draw the money from places where it is now hoarded, and by being put in circulation in payment of demands against us, it will go to relieve the people by putting in circulation money that is now sequestered from use. These Treasury notes, however, give no relief; they do nothing but run round and round in the circle of the Treasury business; they destroy your system of constitutional currency, and leave your creditors, to whom you pay these notes, to get them cashed as well as they can. To such a system, I am utterly opposed.

Mr. HUNTER. I am very reluctant to say a word; I know it does not become me to do so, when I am begging the Senate to vote; yet it is very hard to pass by such charges as the Senator from Vermont has made against the measure we are proposing. It seems to me that I can show, in a very few words, that they result from an entire misapprehension of our position.

Because we bring forward a proposition to borrow money on Treasury notes, the Senator from Vermont charges us with abandoning the doctrine in regard to hard money, and abandoning our principle with reference to the Independent Treasury. Now, sir, what is it that was ever proposed or promised by the Independent Treasury? Simply this: that the Government would be able to conduct its operations without being embarrassed by a suspension of the banks; that is to say, whenever a suspension occurred, the Government would have its Treasury in such a form as would be available to it, and could be used all over the world. Have we admitted that experience has not proved that this is the best currency in which we can collect our revenues? Have we admitted that there is not specie enough in the country to enable us to conduct the operations of the country? By no means. It is not as a monetary measure that the Treasury note is resorted to, but because it is the cheapest mode by which we can borrow money; and it is not only the cheapest mode by which we can borrow money, but, incidentally, it will relieve the community more, or, to speak more properly, it will operate less onerously on trade and commerce than any other mode in which we can borrow money.

We do not propose it because we confess that there is not specie enough to carry on the operations of the country, or because specie is not the best currency, but we propose it because this is the cheapest mode in which we can borrow money. Can anybody deny that? Is it fair to say, in relation to it, that the mode which we propose will not draw out the specie resources now hoarded in regard to all except the \$6,000,000 to be issued at once, just as much as a loan would draw them out? We are to advertise that we will exchange the note for specie at the lowest rate of interest at which specie will be given for it. Nor do we propose to force it on any one. Is it not specially provided that it shall not be paid to any creditor of the United States except at his option. And is it likely that there will be any necessity for the Government to force it on its creditors? If we provide the means, is it not probable that the Government will always be in funds to enable it to give the creditor his option to take either the specie or the note; and, what is more, if we issue the note to the bidder who will give specie for it at the lowest rate of interest, will it not, in all probability, command specie at any time and in any place?

Then, sir, I deny that, in proposing this issue of Treasury notes, we are either abandoning our policy or our professions, or are attempting to force on the public creditor, if he does not choose it, anything but gold or silver. In point of fact, I apprehend it will turn out that, in many places, many persons will prefer these Treasury notes to gold and silver, and if you give them the option they will take the notes. When you trace the history of the previous issues, you will find that they were very nearly at par with specie during the whole time they were issued. There may have been short periods when they fell below the value of specie; but generally, in our past experience, Treasury notes have been equal to specie.

Mr. COLLAMER. The Treasury notes issued under the act of 1847, were fundable at six per cent., and for that reason they were of course equal to specie.

Mr. HUNTER. There have been various acts for issuing Treasury notes besides the act of 1847—all modeled on the act of 1837. To show that there is nothing inconsistent in this bill with our professions, let me refer to the fact that at the very time when the sub-Treasury was proposed, provision was made for an issue of Treasury notes—in 1837. This is one form of using the Government credit; it is the cheapest form; and if it follows, as an incidental consequence, that we relieve the community more by using the Government credit in this form than in any other, are we to be accused of a departure from principle, because we do not suffer that consideration to drive us from what, in other respects, looking only to the good of the Treasury itself, is the best mode to which we can resort? Surely not.

The Senator from Vermont says that I referred to the act of 1847 as a precedent. I referred to it only as a precedent for the form of the bill, and I offered that argument in reply to the various propositions suggested for amending the form of this bill. I believe I might go back and say that it comes within the act of 1837, though I have not examined that so critically—I mean in regard to the provisions as to the form of the Treasury note, the mode of assignment, and other matters of detail. These are all taken from old precedents, which have worked well as far as we know, and led to none of the objections that have been suggested.

Mr. COLLAMER. I have but a word to say in reply. It has been put forth all the while that we were to issue these Treasury notes, and even place them at a low rate of interest, so as to enable them to pass as a currency. Now the gentleman talks of raising money by them as a loan. Why disguise that loan? Why not have an actual loan at once? Again, in view of the illustration which I gave before, how can any man suppose that we can get a loan of money on as good terms upon notes payable in one year, with three or four per cent. interest, as we could upon a six per cent. stock payable in five or ten years?

Mr. HUNTER. Allow me to refer the Senator to the fact that the average rate of interest on our Treasury notes has been much less than the average rate on our loans.

Mr. COLLAMER. I suppose you can get a premium for a six per cent. loan having five or ten years to run; but the impracticability of getting money on favorable terms, upon short paper, I endeavored to illustrate by the instance in my own State to which I alluded. There we could not raise money at all, on short paper, but could get as much as we wanted on a six per cent. stock having some time to run. The notion that it is better to raise this money on short paper is perfectly ideal—there is nothing in it.

Mr. DAVIS. I think the advantage of a loan for a short time is, that we are very soon to be out of debt. I hope that, with returning prosperity, we shall soon have revenue enough to support the Government.

Mr. COLLAMER. Does the gentleman propose to borrow himself out of debt?

Mr. DAVIS. No, sir; but I expect, with returning prosperity, to have revenue enough to pay the loan, and the current expenses also, particularly if we shall get all your free articles on the duty list.

As the Senator from Virginia has truly said, this is a cheap mode of making a loan. I do not say it is the best. It is not the form I myself prefer. When I addressed the Senate before, I

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was under the impression that these notes, like the notes issued under the act of 1837, must be assigned from hand to hand as long as they traveled; that they were never to pass as money—never to be in the nature of bank notes passing by delivery. It is exactly in that view that I think it is to relieve the country. Money has been locked up on account of a want of confidence between man and man. Deposits have been withdrawn from the banks and other places where deposits are usually made, and locked up, and are now guarded with constant apprehensions lest house-breakers shall carry them away. All the gold and silver thus secured by the owners will very gladly be exchanged for Government securities bearing a very low rate of interest; those Government securities not being subject to the same hazard, either of arson or of theft, as the gold and silver which they are now hoarding on account of a want of confidence in the incorporated institutions or in the individuals of the country.

Then, sir, as to the probability of controlling the circulation and constituting a sort of regulator of the business of the country: to my mind there is no mode better adapted to that than that the Government should constantly exhaust its Treasury. In periods of prosperity money will flow in; when the people can spare it it will be collected; and in periods of commercial revulsion, when the receipts at the custom-houses cease, the Treasury will be depleted; and when the Treasury is exhausted the Government steps in and makes its loan during just such periods as this; and the like has occurred about every twenty years, running back. When confidence has been lost, when there has been a failure of the incorporated institutions to answer the purpose of furnishing money on the credit of individuals, then the Government credit comes and draws the money from those places in which it has been locked up, throws it into circulation again, and thus, in the ordinary transaction of its own functions, brings relief to the community. This is the only mode in which the Government can properly interpose, and it is an effective mode at a time like this, when specie enough is locked up in the country to answer all our wants, and it merely requires some hand sufficiently strong to draw it out and throw it into circulation.

Mr. TRUMBULL. I understand that the House of Representatives has already adjourned, and I suppose nothing can be gained by forcing this bill through the Senate to-night, if it were practicable to do so. It is undoubtedly true that a number of Senators desire to speak on it. If we sit longer, we shall probably be forced into a night session. As I can see nothing to be gained by that, and as it will not advance the measure particularly, I will, in accordance with the desire of several gentlemen around me, move that the Senate do now adjourn.

Mr. HUNTER. Will the Senator withdraw that motion for a moment, in order to allow me to make an appeal to him?

Mr. TRUMBULL. Certainly.

Mr. HUNTER. When we adjourned yesterday, I thought it was with the understanding that we were to have a decision on it to-day. The Senate is aware that there is urgent necessity for speedy action on it. We know that a Senator [Mr. BIGLER] has the floor for Monday for the discussion of another subject; and if we do not dispose of this bill to-day, we shall probably have a contest with him on Monday. We know, too, that the Christmas holidays are approaching, and it would very much facilitate the transaction of the public business if we were to minister to the necessities of the Government by passing this bill soon. If we are going to pass it, let us say so at once. If we will not pass it in this form, let that be known. I hope I shall not be considered unreasonable in asking the Senate not to adjourn now, but to take the question on the bill to-day or to-night.

Mr. TRUMBULL. I do not see what is to be gained by pressing the bill to-night. If we pass it to-night, that will not make it law. If we

delay it until Monday, our action will, probably, be soon enough for the House of Representatives. I am ready to express my views on the bill now, but this is a very important measure, which ought not to be hurried through; and, as a number of Senators will probably speak on it, I renew my motion that the Senate do now adjourn.

Mr. HUNTER called for the yeas and nays, which were ordered; and being taken, resulted—yeas 18, nays 27; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Hale, Harlan, King, Pugh, Seward, Simmons, Trumbull, Wade, and Wilson—18.

NAYS—Messrs. Allen, Bell, Benjamin, Biggs, Bigler, Broderick, Brown, Clay, Davis, Evans, Fitch, Fitzpatrick, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Sebastian, Thomson of New Jersey, and Wright—27.

So the Senate refused to adjourn.

Mr. TRUMBULL. In his annual message, which was sent to the Senate only eleven days ago, the President of the United States, after reviewing the condition of the country, and attributing our commercial disasters to the circulation of bank paper, congratulated the country on the condition of the United States Treasury, in this language:

"Thanks to the Independent Treasury, the Government has not suspended payment, as it was compelled to do by the failure of the banks in 1837. It will continue to discharge its liabilities to the people in gold and silver. Its disbursements in coin will pass into circulation, and materially assist in restoring a sound currency."

This was the language of the President only eleven days ago. At the same time, we received a report from the Secretary of the Treasury showing that the revenues of the country for the next fiscal year would be sufficient to defray all its contemplated expenses. Now, sir, in less than two weeks, what do we see? A bill is brought in proposing the issue of \$20,000,000 in Treasury notes. After reading a lecture to the States about the impropriety of banks of issue, founded upon specie, and the paper of which is intended to be convertible at all times into specie; and after professing to pay out nothing except gold and silver from the United States Treasury, we find, coming from the same source, this proposition to issue \$20,000,000 of paper money. This shows how professions and practices sometimes run counter to each other. The President, boasting of the credit of the Government, told us in his message that—

"From its high credit, should we be compelled to make a temporary loan, it can be effected on advantageous terms. This, however, shall, if possible, be avoided; but, if not, then the amount shall be limited to the lowest practicable sum."

What has occurred in the last eleven days to change this entire programme? This is a most extraordinary proposition. In a time of peace, without any extraordinary expenses having been incurred in the last ten days, here is an actual proposition brought before the Senate to raise \$20,000,000; in a form, too, directly at war with the professed policy of the Administration.

I have had occasion, at different times, to attempt to show that this Administration, and the one that preceded it, although professing to entertain certain principles, had in practice departed very widely from them. I think this is an instance. The preceding and the present Administrations, calling themselves Democratic, professed to advocate Democratic measures. One of the cardinal principles in the creed is economy—to carry on the Government in an economical way, and to raise no more revenue than is absolutely necessary for an economical administration of its affairs. This is the principle. How have they carried it out? For the four years expiring on the 30th day of June last, there were expended more than two hundred and eighty-five million dollars, more than two hundred and forty millions of which were exclusive of money paid on account of the public debt—a sum larger by millions than any other Administration ever expended during the same period, even in time of war. On the 1st day of July last, as shown by the report of the Secretary of the Treasury, there

were nearly eighteen million dollars in the Treasury. His report further shows that, for the three months ending the 30th of September last, he received into the Treasury more than twenty millions, making upwards of thirty-eight million dollars; and he estimates the receipts for the next three quarters at more than thirty-six millions, which is over twelve millions a quarter. Here were nearly eighteen millions on hand on the 1st of July, an addition of twenty millions by the end of September, and twelve millions more before January is to commence—making altogether fifty million dollars expended in six months; and that is your economy! Now, the Secretary asks for \$20,000,000 more; and this bill is brought in to be urged through in hot haste the second week of the session, within eleven days after we have been told by the President that the Government of the United States is able to discharge all its obligations in gold and silver! He wants \$70,000,000 to administer this Government for six months!

Sir, I am in favor of raising the necessary means to carry on this Government, not by increasing the tariff, not by increasing the revenues in any form; but I am for bringing down the expenses of the Government, and you never can do that when you have a full Treasury. In order to show how inconsistent the professions and the practice of the Administration are in this respect, I desire to read another extract from the report of the Secretary of the Treasury. He says:

"When the public revenue happens to be abundant, many projects are listened to and adopted by Congress without careful regard to the burdens they may permanently impose. The building new revenue cutters, not needed for the enforcement of the revenue laws; the multiplication of ports of entry and ports of delivery, for local and temporary convenience, at points not required for the collection of the revenue; and the erection of expensive buildings for officers of the customs and other public officers, are of this class."

The Secretary of the Treasury deprecates a large revenue. This was but eleven days ago, when he told us he had money enough to carry on the Government for a year; but it was possible, as the President said, that a loan might be required; but it should be for a small amount, and no more than was absolutely necessary should be called for. What has brought about this change? If it is the intention of the Secretary of the Treasury, in good faith, to reduce the expenses of the Government, and to prevent the establishing of ports of entry and delivery, and building custom-houses and appointing officers where they are not wanted, why this attempt to raise \$20,000,000, thereby making the revenue "abundant," and leading to the very legislation which he deprecates?

Mr. CHANDLER. Will the Senator yield the floor? I wish to move an adjournment, as it is now the dinner hour. I move that the Senate adjourn.

Mr. HUNTER. I hope not. I desire to get action on the bill. I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 13, nays 26; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, King, Pugh, Seward, Simmons, Trumbull, Wade, and Wilson—13.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Broderick, Brown, Clay, Davis, Evans, Fitch, Fitzpatrick, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Sebastian, and Thomson of New Jersey—26.

So the Senate refused to adjourn.

Mr. TRUMBULL. It was to have been hoped that after this warning of the Secretary of the Treasury, showing that a large amount of money in the Treasury led to increased expenses, there would have been no attempt to raise, especially by an issue of shipplasters, a surplus revenue, so as to have more money on hand than was actually wanted for the expenses of the Government. One good effect which I had thought would arise from the revulsion in commercial affairs, and depleting the Treasury, was that it would lead to less extravagance in the administration of the Government. I know that various appropriations are passed through this body

under the impression that we have a large amount of money on hand, and that we may as well disburse it to relieve the Treasury, which could never pass under other circumstances. I myself have voted for appropriations because there was an amount of money lying idle in the Treasury which I would not have voted for if it had been necessary to raise the money in order to meet the appropriations.

It has been assumed, on the other side, and conceded by some on this side of the Chamber, I am sorry to say, that there is a necessity for raising \$20,000,000; but there is no evidence of such necessity before the Senate. It is a bare assumption, and I ask Senators to look at the facts. If you vote for this bill, you are voting to raise \$20,000,000 without a particle of evidence before you to show that such an amount, or anything like it, is necessary. This is a very large sum of money. It has been assumed, and seems to have been taken for granted, that it was necessary for the Treasury to have \$12,000,000 on hand in order to meet the necessary expenses of the Government as they occur. This is a false assumption; it is erroneous in point of fact. The Government requires no such amount, as is evidenced from its previous action. At a time when the Treasury was full, and when Congress did not know what to do with the money, they made a provision for purchasing the indebtedness of the United States not then due, and inserted this clause in the law:

"That the Secretary of the Treasury be, and he is hereby, authorized to purchase, at the current price, any of the outstanding stocks of the United States as he may think most advisable, from any surplus funds in the Treasury: *Provided*, That the balance in the Treasury shall not at any time be reduced below \$6,000,000."

Congress authorized the reduction of the balance in the Treasury down to \$6,000,000 on the idea that that sum was abundantly sufficient to be kept on hand for the convenient operations of the Mint and all other purposes. This act was passed in 1853, three years after the act which was referred to by the Senator from Louisiana. Congress thought it unwise to have more than \$6,000,000 in the Treasury, and authorized the Secretary of the Treasury to purchase bonds so as to reduce the sum on hand to that amount.

Now, what is the condition of your Treasury? The Senator from Virginia sent to the desk the other day a letter from the Secretary of the Treasury, and that letter was read, for the purpose of showing the necessity for the passage of this bill. It is to be presumed, inasmuch as the Secretary is favorable to the bill, that he stated the case as strongly as the facts would warrant. What does he say? He does not state that \$12,000,000, or any other sum, is necessary to be kept on hand. That has been assumed on the other side of the Chamber in the same manner as some Senators have assumed that no one objected to the necessity of raising this amount of money. We do object. There is no necessity whatever shown for it. The Secretary of the Treasury shows, simply, that the disbursements are weekly exceeding the income, and that the amount on hand is now reduced below \$6,000,000, having reference, no doubt, to the act of 1853, which was predicated upon the idea that it was necessary at all times to have \$6,000,000 in the Treasury, for the convenience of the business of the Treasury Department and the Mint; but he does not state how much it is below that amount. He states further, as a reason why money should be raised, that on the 1st of January it will be necessary to pay our interest on the public debt, amounting to \$722,629 29. The best case that the Secretary of the Treasury can make out is, that the amount in the Treasury has been reduced something below \$6,000,000, the sum which the act of 1853 assumed to be the proper amount to be kept on hand, and that we have \$722,629 29 interest to pay in January. Does that make out a case showing the necessity for \$20,000,000? The Secretary does not say in this letter that \$20,000,000 are necessary, or that \$5,000,000 are necessary. He does not undertake at all to say how much may be necessary; but he thinks it advisable that \$20,000,000 should be borrowed, or notes to that amount authorized to be issued; and he says they will not be used unless they are wanted. Does not the Senator from Virginia see that that runs into the very difficulty which the Secretary of the Treasury says we have been in all along by having

so much revenue, that we have incurred unnecessary expenses?

I wish to call attention for a moment to some of the expenses which are alluded to by the Secretary of the Treasury by the improper establishment of custom-houses where they ought not to be. Before I proceed to name the cases—I shall call attention to only two or three of them—I will make a general remark, that the action of this Government for the last few years has been just as inconsistent with its professions in regard to centralizing power here in the Federal Government, as it is now inconsistent after the message of the President and the report of the Secretary of the Treasury in asking, at the expiration of eleven days, for \$20,000,000. It used to be the good old Democratic creed not to have any more officers than were necessary for the administration of the Government, to preserve the rights of the States, and not to consolidate power in the hands of the Federal Government. Sir, that is the kind of Democracy in which I believe. But this Government has been going on, not only increasing its expenses, but increasing its patronage and multiplying its officers, at a fearful rate, for the last few years.

By reference to the report of receipts and expenditures made at the last session of Congress, I find that there is established at Perth Amboy, New Jersey, a custom-house, with a collector. The whole amount, according to the report which I hold in my hand, of the receipts from the collection of customs in that district for the year, was \$1,701 18. What was the expense of keeping up that office? On referring to the expenditures for collecting the revenue from customs at Perth Amboy, New Jersey, I find the amount to be \$3,796—more than double the amount of revenue collected at that point. At Edenton, North Carolina, the amount collected was \$171; the expenses were \$204. At Pensacola, Florida, the amount collected was \$351 49, and the amount expended was \$2,892—nearly nine times as much was expended in order to keep up the custom-house and pay the officers as was collected on goods entered at that port. I have not had time to follow this inquiry out; but I have no doubt if I were to look to some of the offices established away up in the mountains, thousands of miles from the sea-board, I should find that the salaries paid to collectors and to watchmen, and for the rent of buildings, exceeded frequently ten times the whole amount of revenue collected at these places.

What has led to the establishment of these useless offices, and the increase of Executive patronage? An overflowing Treasury, and a desire to furnish places for some hungry office-seekers.

This is not only the case in regard to the collection of the revenue, but it is so in reference to the judiciary. Almost every session of late some State having but one judicial district is divided into two, and a new judge, district attorney, and marshal have to be appointed, and all the expenses of another court incurred. Last session, I remember, a bill was introduced to divide the State of Missouri into two judicial districts, and it passed. Upon what ground? Why, that some other State had been divided the year previous; and it was just as necessary to have two districts in Missouri as somewhere else. Within a few days the Senator from Indiana [Mr. BACCHUS] has offered a bill to divide the State of Indiana into two judicial districts; and probably the reason for the passage of that bill will be, that Illinois and Missouri have been divided. Iowa will come next, and so on until you get two judicial districts in every State of the Union, with judges, marshals, district attorneys, and all the expenses attending those courts. I find, on looking into the report of the estimated expenses, that \$1,000,000 is estimated for the expenses of the judiciary for the next year.

We certainly ought to have courts enough to do the business that legitimately and properly comes before the United States tribunals; but it never was the intention in the foundation of this Government, that the Federal judiciary should be so arranged as to afford an opportunity for all classes of cases, including those between citizens of the same State, to be brought before it for adjudication. We know that many cases find their way into the United States courts, of late, of which it was never intended they should have jurisdiction. The law does not authorize citizens of the

same State to bring private suits against each other in the Federal courts; but we know how that is evaded. The suit is brought in the name of a citizen of some other State. By this multiplication of courts, and holding them in small localities, you draw within the vortex of the Federal Government thousands of cases which were never intended to be litigated elsewhere than in the State courts, and which ought not to be litigated elsewhere. It is only as to that class of cases where there is some reason to suppose that justice would not be properly administered by the State courts, that the United States courts should have jurisdiction. Now, they are swallowing up the whole law business of the country by bringing them down, as it were, to every little neighborhood. When we shall have established two districts in every State, the proposition, I suppose, will be made for a third in some State; and that will be followed by having three judges, and all the paraphernalia connected with the administration of three Federal courts in every State of the Union.

I am opposed to this system of legislation; and I hope my Democratic friends who profess, at any rate, to be opposed to consolidating power in the hands of the Federal Government, and to be in favor of an economical administration of its affairs, will begin now to lay the foundation for curtailing expenses and the rapid increase of Executive patronage, by preventing this large surplus from getting into the Treasury. I repeat that there is nothing shown—the Senator from Virginia has not shown anything—requiring the issue of \$20,000,000. It is a mere request of the Secretary of the Treasury. He has not shown \$6,000,000 to be necessary. The acts of Congress themselves show that \$6,000,000 is all that is required to be on hand. All that the Secretary has shown is that the amount of surplus has been reduced below \$6,000,000; and that a little over seven hundred thousand dollars will be necessary as an extraordinary expense on the 1st of January next. Does that showing call for \$20,000,000? If you raise the \$20,000,000, shall we not then be beset by all sorts of applications to get the money out of the Treasury? Do we not know by experience that when the income is large, the expenses will be proportionably large? Let us keep the amount in the Treasury down to the lowest point. I would say never let it get above the \$6,000,000. If I had my way, so far from increasing the tariff in order to get a surplus in the Treasury, I would reduce it, if necessary, so that there never should be over \$6,000,000 there, if that is the proper sum; and I assume that it is, because Congress, in its action heretofore, has directed any surplus exceeding that amount to be used in the purchase of the outstanding debt of the United States.

Under such circumstances as these, I think it most extraordinary that a call like this should be made by the Administration. It may be said, be and has been said, that the Administration is not responsible for large expenditures; but what is the fact? It is said Congress votes the appropriations; but we vote them upon the estimates of the Departments. Here comes in an estimate for this year of \$20,000,000 for the support of the Army, and matters connected with it. Do we look into and examine it? I will not undertake to say that a portion of these \$20,000,000 is expended just as uselessly as other portions of the public moneys are expended in paying useless officers. I will not say that there are in the Army, as there are connected with the Treasury Department, hundreds of officers not needed for the public service; but I do not know that it may not be so. I think it quite as likely that there are abuses there as in the civil service.

Then, I am opposed to this bill. In the first place, I am opposed to issuing this paper currency. I was in favor of the Independent Treasury; am in favor now of collecting the revenues of the country, and disbursing them in gold and silver, and I do not wish to see that policy departed from. The Government must go on, and I am prepared to vote the amount necessary to keep it moving, but I am not prepared to vote such a sum as \$20,000,000, or anything like it. Congress is in session, and if, at the end of sixty or ninety days, it shall be necessary that we should raise a further sum than is now provided, a bill can be passed in a very short time. We see this bill about to be forced through this body in two or three days,

and the Senate is kept in session on Saturday, and through the night, if necessary, in order to pass it. If this can be passed now, in such hot haste, an additional one can be passed three months from now, if necessary. But, sir, I am utterly astonished that a call for \$20,000,000 should emanate from an Administration professing economy, depreciating a surplus in the Treasury, and especially when the Secretary tells us that this surplus leads to unnecessary expenditures. He says he will not use it unless it be necessary; but it will be ready to be used. The necessity, I fear, will arise if the money be raised.

I prefer, in the first place, that we should borrow the money, rather than issue a paper circulation; and, in the next place, I want to see the amount reduced. I am not willing to vote for more than the one fourth part of \$20,000,000, and the Secretary has not asked us to do so, except in general terms. He thinks it advisable to issue \$20,000,000; but he says he will use no more of that amount than is necessary. I prefer not to issue it, and then he will certainly not use it. I believe the policy of the Government, for the last few years, has been such as, if continued, will soon concentrate all power in the hands of the Federal Government. Its officers have been multiplied; its patronage has been greatly enlarged; its expenditures have been increased; and I think it high time that we should stop in this career of consolidating power in the hands of the Executive, and of the Federal Government. I know no better place to begin than here; and if I am in order—I do not know what the precise condition of the motion now pending is—I move to strike out "twenty millions," and insert "five millions."

The PRESIDENT *pro tempore*. There is an amendment pending which has not been disposed of, and no other is now in order.

Mr. TRUMBULL. At the proper time I shall move the amendment which I have indicated.

The PRESIDENT *pro tempore*. The amendment pending is that offered by the Senator from Maine, [Mr. FESSENDEN,] to insert at the end of the tenth section:

And provided further, That the power to issue and reissue Treasury notes conferred on the President of the United States by this act, shall cease and determine on the 1st day of January, 1859.

Mr. HUNTER. I thought that amendment was accepted.

The PRESIDENT *pro tempore*. It must be voted on by the Senate, however.

The amendment was agreed to.

Mr. TRUMBULL. Is it in order now to offer my amendment?

Mr. SEWARD. There was an amendment offered by me.

The PRESIDENT *pro tempore*. The Senator from New York has offered an amendment.

Mr. FESSENDEN. There cannot be two amendments offered at the same time.

The PRESIDENT *pro tempore*. The amendment of the Senator from New York is in section one, line six, to strike out "\$20,000,000" and insert "\$10,000,000."

Mr. COLLAMER. I take it that, in making grants of money, the largest sum is first in order; but in raising money the smallest sum is first in order. I think the motion of the Senator from Illinois is first in order.

The PRESIDENT *pro tempore*. That rule applies only to filling blanks, and does not apply to this case. The question now is on striking out "\$20,000,000" and inserting "\$10,000,000."

Mr. HUNTER. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 24; as follows:

YEAS—Messrs. Bell, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Hamlin, King, Pugh, Seward, Simmons, Trumbull, Wade, and Wilson—15.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Broderick, Brown, Clay, Davis, Fitch, Fitzpatrick, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mason, Pearce, Polk, Reid, Thomson of New Jersey, and Wright—24.

So the amendment was rejected.

Mr. SEWARD. I now move to strike out the word "six" in the tenth line of the second section, and insert "four." That is in regard to the rate of interest.

Mr. HUNTER. Yesterday I too hastily, and perhaps incautiously, assented to the proposition that the interest should be four and a half per

cent., when that was suggested by the Senator from New York. I have reason to believe that we had better adhere to six per cent. I hope the Senator will not press his amendment. If he does, I cannot vote for it. I think six per cent. is better.

Mr. SEWARD. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 17, nays 24; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Fessenden, Foot, Hale, Hamlin, King, Pugh, Seward, Simmons, Trumbull, Wade, and Wilson—17.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bigler, Broderick, Clay, Davis, Fitch, Fitzpatrick, Green, Gwin, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mason, Pearce, Polk, Reid, Thomson of New Jersey, and Wright—24.

So the amendment was rejected.

Mr. WILSON. We have heard a great deal said in the country against small bills. I do not see the necessity of issuing these Treasury notes in such small sums as fifty dollars. I think they should not be less than one hundred dollars, at any rate. With that view, I move to strike out "fifty" and insert "one hundred."

Mr. HUNTER. To provide for Treasury notes of the denomination of fifty dollars is conformable to the practice of the country since 1837. It enables the small dealer with the Government to obtain the facilities of these Treasury notes, as well as other people. That is all that I have to say about it. That has been the denomination of notes ever since 1837, in all the bills ever passed.

Mr. PUGH. I hope this amendment will be agreed to. I have thus far voted in favor of all the amendments offered to this bill, though I have been very loath to separate on the various questions from my political friends. It does seem to me that this bill, as it now stands before the Senate, affords a very serious ground of indictment against those of us who profess the principles of the Democratic party. Here is a proposition to issue \$20,000,000 of shiplasters. It is nothing else in the world, according to my understanding of the bill. It is to issue notes of the denomination of fifty dollars, to circulate by delivery. After the first indorsement of the payee, they are then to circulate from hand to hand by delivery, like a bank note. They are to bear six per cent. interest; for I am satisfied, after the remark of the Senator from Virginia to-day, that every dollar of them will bear six per cent. interest. He read us from a list yesterday, showing that of the Treasury notes issued, more than fifty million dollars of them bore six per cent. interest, and only \$5,000,000 five per cent, and none of them, I presume, were at any less rate, at least he read none.

Mr. HUNTER. I stated that there were all rates of interest, from six per cent. down to one mill.

Mr. PUGH. I understood the Senator to stop with stating the amount of five per cent. notes. How many were there issued at less than five per cent.?

Mr. HUNTER. I suppose some twenty or thirty million dollars.

Mr. PUGH. All told?

Mr. HUNTER. Yes, sir.

Mr. PUGH. And \$50,000,000 at six per cent. Now, let us see what this currency is to be. In the first place, being an obligation of the Government, it is receivable for public dues in Washington, in New York, in New Orleans, in San Francisco, and all over the Union. It is better than a bill of exchange to the holder; and, for the sake of borrowing money, you propose to give six per cent. interest, and exchange from San Francisco and New York, or from any of the inland States to New York.

The Senator from Rhode Island, who told us about the money lenders yesterday, will now see that the Government is going into the hands of a species of usurers such as we have never seen before. We have had a little experience in the State which I have the honor, in part, to represent. At the instance of the merchants, the Legislature of Ohio passed a bill, five or six years ago, and I was the author of it—I take the shame on myself to say so—to authorize parties to stipulate for any rate of interest not exceeding ten per cent.; and forthwith three fourths of the people seemed to think it was illegal to take less than

ten per cent. Leave the limit of six per cent. in this bill, and you will pay six per cent. on these notes; because the man who finds that the Secretary of the Treasury is authorized to give six per cent. will stick, in the bargain with him, until he gets it; and this will be the dearest loan this Government has ever made. You give a piece of paper, as I say, which is better than any bill of exchange, and you pay interest on it besides.

I do not see how it is to relieve the Government. I am frank on that point. If the note is to be paid out here by the Secretary of the Treasury, and to be taken back at the custom-house at New York, I do not see how the Government is relieved, if that is the whole effect. If it is to become a circulating medium, it is worse than any bank note—which the President has denounced in his message—for there is no provision for its redemption. And yet, sir, what is the issue which is thrust on the Senate? At the last session we were called upon, in a great hurry, to reduce the tariff. I was in favor of a reduction of the tariff, and I believe nearly every Senator was in favor of it. A bill was produced here that had been put through the House of Representatives under the operation of "the previous question." When my friend from Vermont [Mr. COLLAMER] addressed the Senate at some length, I made a motion to adjourn; it was voted down, and we were pressed into a night session, and toward daylight we passed a tariff bill. What was the argument for that haste? That if we did not reduce the tariff in double quick time, there would be a surplus of \$60,000,000 of coin in the sub-Treasury, and it would break everybody! We have passed a tariff bill; but we have not only broken everybody, but we have no money in the Treasury. Is this the way the financial affairs of this Government are to be conducted? You begin at one session to press through a bill to drive money out of the Treasury, and then come here and press us into the night hours to get another bill to put money into the Treasury. I think it is a serious impeachment on the financial abilities of the Democratic party; and, without meaning to be unkind to individuals, I am a little ashamed of it.

I do not see any proposition to reduce the expenses of the Government. The Senator from Illinois [Mr. TRUMBULL] has very truly said that we are an extravagant Congress and an extravagant people; and he might have taken a great deal of it to himself, for I do not recollect that he ever voted against any proposition to expend money, not even submarine telegraph. Every one of us has voted for improper appropriations. We shall be asked at this session to give a million of money for the Washington aqueduct; we shall be asked to give a million of money for the dome that is to be put here; but instead of doing like a man who is in trouble, calling in his debts and reducing his expenses, we propose to make up the deficit by an issue of paper money which we shall never redeem, or will redeem at a higher rate of expenditure than we have been called upon to do.

If this bill can be so amended as to reduce it in amount to the immediate pressing demands of the Treasury, that are to be passed over within the next thirty, or sixty, or even ninety days, I shall consent to it. If it can be reduced in the amount of this circulation so that it will do as little mischief as possible, I consent. If the rate of interest is struck out or reduced lower, I consent. Or even, these amendments having all failed, if the gentleman from Virginia will put in his bill an amendment that these notes shall circulate only by special indorsement, I shall vote for it; but if the payee is to indorse them in blank, and then let them pass by delivery, they are nothing but bank notes, and they are not bank notes with any three dollars in coin for one of paper to redeem them. There is no fund to redeem them. Thus we are precipitating the Government of the United States, in a time of peace, without any excuse for it, into a system of continental paper money. I can make nothing else out of it.

If the Senator from Virginia can remove these objections, I assure him it will give me the utmost pleasure to vote with him, as I have nearly always done on financial questions, and with my fellow-Senators of the Democratic party. My apprehension is, that this measure is a fatal departure from the whole policy of the party.

Mr. TRUMBULL. I wish to correct the Senator from Ohio. I admit that I have voted, though

with great reluctance, for many appropriations when our Treasury was full, which I would not have voted for but for the very reason that we had an overflowing Treasury, and I thought it important to deplete the Treasury; but the submarine telegraph bill was one that I did not vote for.

Mr. PUGH. I beg the Senator's pardon. I thought he did vote for it.

Mr. HUNTER. I will simply state that there have been Treasury note bills of October 12, 1837; of March 31, 1840; of February, 1841; of January, 1842; of August, 1842; of March, 1843; of July, 1846; of January, 1847; and they will all be found to conform, so far as the matter of form is concerned, with this. We have adhered to the old forms, because they seemed to have answered well in experience. I was afraid to depart from them; for that which has been proved by the experience of so many years to work well we ought to adhere to.

Mr. PUGH. I ask whether those notes were not, in point of fact, only circulated by special indorsements?

Mr. HUNTER. The notes could either be specially or generally indorsed. I believe, in point of fact, the indorsement was generally in blank.

Mr. PUGH. Why not require it to be special?

Mr. HUNTER. It was not required heretofore, because it was supposed that it might lead to embarrassment.

Mr. PUGH. The fact that our predecessors omitted to put in that safeguard is no reason why we should not put it in when we see its necessity.

Mr. KING. I shall vote for this amendment. I regard it as one of the best tests which have been presented here to determine whether this is a bill to bring money into the Treasury as a loan, or whether it is a bill to make a Treasury bank, and authorize the Treasury to issue paper for circulation. The first section of the bill authorizes the issue of notes of the denomination of fifty dollars. Now, there is nobody in the country who is going to come here with fifty dollars and lend it to the Government and take the Government's note for it. The moneys lent to the Government will be lent in larger sums. Fifty dollars is a convenient sum for paper for circulation. In my judgment, it would have been better for this country if there never had been a note under that denomination in circulation as money; but I think, of all the paper which is to circulate in this country as money, the worst is paper based on the credit and faith of the Government, and not upon coin. I would rather have the responsibility of individuals than that of the Government, because they are limited by the courts, and by their liability to be brought up by a stronger power than themselves, and when they become insolvent there is an end of them; but the Government has no end to its credit except an utter prostration like that which resulted from the issue of continental bills. The issue of Government paper does not require means; by a simple determination of the representative body, the Legislature, to increase the amount of their circulation, the capital of the bank can be doubled. It depends on the judgment and opinion of the legislative body; and I think that the most dangerous mode in which paper may be issued for circulation. It has been tried by most of the Governments of the world, and has failed.

The bill itself (if it were not that that is disclaimed on the part of the committee who brought it in) looks to me as if it had been framed for the purpose of establishing permanently a Treasury bank. That, at any rate, would be the result as I read the bill originally. The first section authorizes the issue of these notes in denominations of not less than fifty dollars, and pledges the faith of the Government for their redemption; and the tenth section authorizes them, as they are taken in by the Government, to be reissued constantly; and thus, as the bill was originally presented, there was permanent authority on the part of the Treasury to keep out this amount of \$20,000,000 in all time.

Mr. HUNTER. I will say to the Senator from New York, that there was no intention to make it permanent, and it was supposed that this privilege would stop at the end of the year; but the moment it was suggested that it should be limited, we agreed to a limitation.

Mr. KING. That undoubtedly improves it; but I speak of the bill originally presented, and then the readiness of the gentleman to accept the

proposition to limit it in time, confirmed the impression on my mind. What is this limitation in time? If the emergency which exists now shall exist at the end of the year, the breath of the majority can withdraw it, and they have the bill again in perpetuity.

My objections to this bill are the bank features of it; and I shall therefore, as I think I should under any circumstances with these provisions remaining in it, vote against this bill; but I will vote for this amendment, as I would for any other that I think would improve the measure. I was opposed to the old Bank of the United States, although it was in the hands of individuals; and yet I am free to say that if we are to have a bank, I doubt very much whether it would not be better that it were in the hands of individuals, and not have the credit of the Government complicated with it in any way. But I am opposed to any Bank of the United States, in any shape or form that issues paper. I am in favor of the Mint.

Mr. HUNTER. The Senator from New York will find that this bill was framed on the model of the act of 1837, which was introduced by his distinguished predecessor and friend, Mr. Silas Wright; and he will find that this denomination of note was then introduced and has been adhered to since. However, I am not strenuous about it. If the Senate think the denomination of \$100 better, let them strike out the \$50.

Mr. KING. I will mention another difference between this bill and those formerly passed. I think most of the Treasury notes we have heretofore had were fundable, were convertible into stock. These are not. There may have been such notes heretofore; but I know those of 1847 were fundable into permanent stock, which was another feature that looked to the creation of a loan instead of the issue of paper for circulation.

The PRESIDING OFFICER. (Mr. Briggs in the chair.) The question is on the amendment of the Senator from Massachusetts, [Mr. Wilson].

Several SENATORS, (to Mr. HUNTER.) Accept the amendment.

Mr. HUNTER. I am willing to accede to the amendment.

The amendment was agreed to.

Mr. PUGH. I now offer an amendment which will relieve the bill of difficulty. In the fourth line of the first section, after the word "notes," I move to insert "payable to order;" and in the second line of the fifth section, to strike out the words "assignment indorsed," and insert "special indorsement thereon;" and after the third line, to insert "and by subsequent special indorsement of each holder." The object is to prevent the circulation of this paper as currency, and to make it an investment. My amendment will require it to pass only by special indorsement.

Mr. HALE. I have been prepared, sir, throughout the whole of this debate, to vote for the bill, and to vote for it very much in the shape in which the chairman of the Committee on Finance might present it—not intending thereby to indorse the financial policy of the Government, nor to give pledges that I mean to vote for the estimates submitted; but as I have not believed that this was an appropriate time and place for discussions of that sort, I was going to take this remedy which had been presented by the chairman of the Committee on Finance very much as I used to take medicine when I was a sick boy. I opened my mouth and shut my eyes, and took just what the doctor said I wanted; and I look on the chairman of the Finance Committee (if he will excuse me) as the doctor. [Laughter.] The body-politic, no doubt, is sick, and this is the remedy he proposes. I am willing to take it, and I shall take it whether he puts the rate of interest at four or six per cent., and whether the amount be \$10,000,000 or \$20,000,000. I shall probably vote for it if this amendment be adopted; but I am free to say that this, to my mind, is an exceedingly objectionable amendment; and if any amendment could induce me to vote against the bill, this would induce me to do so, because I think it separates the measure entirely from that character of relief to the commercial community which may incidentally be given to it by a loan in the form in which the chairman of the Committee on Finance has presented it. It is the fact that, while it has a tendency to relieve the necessities of the

Government in the shape in which he has presented it to us, it has also a tendency to relieve the necessities of the commercial community, which commends it to my judgment. If you strip the bill of this feature, you make it simply a relief for a distressed Government, ignoring entirely the fact that there are distresses in the commercial community.

Having said thus much simply in explanation of the vote which I shall give, which will probably be for the bill, I yield the floor.

Mr. HUNTER. If we adopt this amendment, it seems to me that it would be better to resort to a regular loan at once, for it destroys the whole theory of the Treasury note. If I understand it, the Treasury note is issued as a temporary expedient, as a means of making a temporary loan, because we can in this way borrow money at the lowest rate of interest, and on the cheapest terms to the Government. We can borrow money in this way on the cheapest terms to the Government, because, at the same time that the Government is bound to redeem the note with whatever interest is specified on its face, there is a demand for it in the way of exchange, and it circulates from hand to hand. If it be designed to prevent that, there is no difference between this and a regular loan, except that this is a loan for a short time, and the other would be for a longer term of years, perhaps. If we adopt the amendment, it seems to me it would be better to provide for a loan at once, because we destroy that which enables us to raise money more cheaply by Treasury notes than by a loan.

Mr. BAYARD. I think there is another objection to the amendment offered by the honorable Senator from Ohio. It strikes me that it would work great injustice. By the sixth section of the bill, these Treasury notes are required to be received by the proper officers of the Government, in payment of all duties and taxes laid by the authority of the United States, and in payment of public lands, and all debts of the United States, of any character whatever.

If this proposition prevails, of necessity the title to one of these notes cannot pass except by special indorsement. A note is issued here, and it is tendered in California for the payment of duties, or in Illinois for the payment of lands, and the officer is bound to receive it if it is genuine. There may be a dozen special indorsements on it. He must take the hazard of the genuineness of every signature on the note. Will you put your officer in that situation? What means has he of ascertaining whether the indorsements are genuine? He can know and ought to know whether the signatures of the Register and Treasurer of the United States are genuine; but how is he to know the signatures of eight, ten, or twelve persons who may put special indorsements on the note? Yet, if this amendment be adopted, and he accepts a note with an indorsement that is not genuine, the result is that he is the loser; the party entitled to the note will have a right to demand payment; and the Government would not allow the amount of the second payment to the officer.

I do not think you ought to place your officers in that position. It is impossible for them to test the genuineness of the signatures presented to them. If you are to borrow money in this mode, the only true course is to suffer the note to pass by delivery, and I think it would be better to let it pass by delivery in the first instance by making it payable to bearer.

It is no sound objection to this bill that it proposes to issue a paper currency, as gentlemen allege. The object is to obtain a loan for a temporary purpose, based on the fact that we cannot yet ascertain whether the commercial convulsion which has reached this country and is now going through Europe, will so react that, in the course of the next six months or the next year, the Government will have from its ordinary revenues all the money it wants for current expenses and to redeem these notes without the necessity of a permanent loan. This is a temporary loan, and of course we should make it in that shape which will be most acceptable to the community and least embarrassing to the Government. You may, if you choose, call these Treasury notes "shin-plasters," in the language of the honorable Senator from Ohio; I care not. If we found it better to raise coupon bonds, payable in one year, surely

that would be a perfectly appropriate mode of raising money. The question is whether the Government, in consequence of the commercial convulsion, is not in such a condition that it ought to have more funds in the Treasury to meet what is certainly not a permanent state of things. If we find that there is no reaction to increase the revenues of the country, of course we shall be obliged to resort to some other mode of filling the Treasury, either by direct taxation or by increased duties; and we shall be obliged also to cut down our expenditures; but we cannot do this on the instant.

I have said that as this money is wanted by the Government, we ought to borrow it on such terms as will be most acceptable to the community and cost us the least. That, I think, is accomplished by this bill. This is no adoption of the principle of a paper currency. We do not make these Treasury notes a tender in the payment of debts. We only say, that on account of the emergency, we will, for a temporary period, as we have often done before, issue promissory notes of the Government, payable in one year, at such a rate of interest as the community will take them at. Surely it is wisdom to put them in that form which will give them their highest value. Much as I am opposed, and I think I am quite as much opposed as the Senator from Ohio to a paper currency, strongly as I believe it would be better for us if no bank note, or Treasury note, or any other kind of note which could pass as money, were ever issued for a sum less than \$100; yet, in this emergency, with a view to raising a loan, not looking at it as a permanent mode of raising revenue or contracting loans for this Government, I am willing to vote for this issue of Treasury notes. The power to issue them is limited to a single year. If, when Congress next assembles, or if during the present session, we find that there is no prospect of such a reaction in commercial affairs that the revenues of the country will, under our present laws, flow in to a sufficient amount to meet the engagements of the Government, we may then have to resort to a permanent loan; but we must have time to ascertain that. This convulsion, it seems to me, has come upon this country and upon Europe most unexpectedly, and there are now wide differences of opinion as to its causes, and as to its probable duration.

Under these circumstances, as the Government, by reason of this convulsion, has had its revenues cut short at once, what possible objection can there be to a temporary loan, when it is proposed to borrow the money which we need in the mode most acceptable to the community, and most likely to get us the money at the least cost? If you attach the amendment of the Senator from Ohio to this bill, the result will be, not only that your Treasury notes will not be so likely to command as high a value in the market; but further, you commit gross injustice in this respect: in order to give them increased value, you prescribe that the notes shall be receivable in payment of all debts due to the United States, and you place the receiving officer in such a position that you hold him bound to know the signature of every special indorsee, and you make him bear the burden of the loss, if any signature turns out not to be genuine; and yet it is morally impossible, in the transactions of business, that he can ascertain that fact with any certainty.

Mr. PUGH. I think the Senator from Delaware has furnished me with two or three additional, and, as it seems to my judgment, conclusive arguments in favor of the amendment. He says that the Government is now to issue paper money, or notes payable to order, indorsed in blank, and they might just as well be payable to bearer, for a note payable to order, and indorsed in blank, is payable to bearer.

Mr. BAYARD. Certainly.

Mr. PUGH. He says that we may issue them because we have not made them a legal tender. In strictness of phraseology among lawyers, we have not; but we have made them more nearly a legal tender than any bank note in the United States. You have on your statute-book a provision that a bank note shall not be received for a debt to the Government, but this shall. And yet does the mere fact that a bank note is not a legal tender prevent it from displacing the gold and silver coins of the country? It has displaced them, and the

President urges us to suppress, by all the means in our power, the circulation of that denomination of bank paper which conflicts with the gold and silver coins of the denomination of twenty dollars and under. You have given them a significance which bank paper does not have, and yet you are now suffering, if the President be correct, under the evils of bank paper, and in eleven days from his recommendation, as the Senator from Illinois has said, you plunge headlong into a worse system than that which he condemns.

The Senator from Delaware tells us it will be necessary for the public officers to know the signatures of the indorsers; and, therefore, lest we should inconvenience them a little, lest we should put them to trouble, we should inconvenience all the people of the United States. Sir, I have been strongly impressed with the fact since I have been a member of Congress, that the convenience of the officers of this Government governs at the expense of the convenience of the people. There is no more danger of forgery of indorsement, if there are three or four indorsers, than if there is one. The bill already provides that there shall be one indorsement—the indorsement of the payee. Does not the public officer have to look to the genuineness of that? The argument against the amendment is of no more importance than if addressed to the original bill. Have you not provided safeguards, whereby the accounting officer can know from whom he takes the note? If there is a forged indorsement on it there is no payment; the remedy of the Government is just as good against the man who delivered it as before. You have required every man who pays one of these notes to put his name on the back of it, and if there is a forged indorsement behind him he continues liable on his own indorsement to the Government. There is not half so much danger if you require the indorsement of every holder, as there is if you require the simple indorsement of the payee alone.

But the Senator from Delaware has inaugurated a new feature in this debate. We are to enter on this system of paper money, because we do not know what is next to come. That is his proposition, in my humble judgment. I hardly think the honorable Senator saw the consequences to which it would lead. I understood my friend from Rhode Island, when he pronounced his panegyric on bank directors yesterday, to state that they were men responsible in substance and means, and when they put out a promissory note, they had some dim expectation of being compelled to pay it, and of providing the means of payment; but we are to issue our notes because we do not know whether we shall be able to pay them or not. That is the reason why we are to put them out. We are to put them out in the hope and expectation that in the course of the next twelve calendar months we shall find out whether we are able to pay them or not. Suppose we are not able to pay them; what then? Issue more? The same argument will be good then, and thus, at the end of the administration of Mr. Buchanan, we shall be where our continental fathers were when they put into the Constitution of the United States the provision for a gold and silver currency.

Having disposed of that, I propose to answer the argument of the Senator from Virginia, that it will not accommodate the Government, and that we might as well have a loan. So we might. We had better have a loan if we only had time to negotiate it; but the proposition is that we are in a hurry, and that we do not want to make this debt for a long time, not beyond a year, and therefore we take this form of security. We do not go to the expense and trouble of issuing bonds, but we make a short loan of twelve months. I understand that is what the bill is for. The Government wants to borrow money for twelve months, and instead of issuing a bond, which generally runs from ten to twenty or thirty years, we adopt this form of security as more readily available; but it will be just as good a loan, payable to order, as if the notes are payable to bearer. If you want it as a loan, it is your best form. The Senator from New York [Mr. KINC] has well said, that you will not find a man who wants to lend the Government fifty or one hundred dollars. Such a man does not come to your Government to lend money; but the man with a million comes. What does he want? He wants the investment; he wants the interest you are to

pay; or he wants the note that he may sell it in the market as a bill of exchange, and realize a profit. He does not want to circulate it. The man who is ready to lend you money on fair terms wants your security as an investment, for the interest that is due on it, and for the fact that it can be used for the purposes of exchange. The Senator from Mississippi [Mr. DAVIS] told us we wanted to get the money out of the stockings, to which the Senator from Rhode Island [Mr. SIMMONS] alluded yesterday, where the old farmers' wives had put it; that there was lack of confidence, and that this confidence was to be all restored in twelve months, if you would give them something equivalent to a deposit, not something that they are to pass off from hand to hand.

Then the Senator from Virginia said these notes, if required to be indorsed specially, could not be available for the purposes of exchange. Does not the Senator know that every bill of exchange is indorsed? Certainly it is. The man who takes it wants the security of the indorser on it. For all the purposes of exchange, these notes, if indorsed, will answer as well as if they were payable to bearer; but there is one purpose which they will not answer, and that is the substance of the whole amendment. They will not answer the purpose of bank notes, and that is what I want to prevent. They will answer the purpose of a loan; they will answer the purpose of bills of exchange; but they will not answer for bank notes. If they are required to be indorsed, they will not go into circulation, because a bank note passes by delivery, being payable to bearer, or payable to order, and indorsed in blank.

The Senator from New Hampshire [Mr. HALE] says he will vote against my amendment because it will not relieve the community. What relief does the community want? What relief can this Government give the community by issuing a parcel of irredeemable paper dollars? Will that relieve the community? It never yet relieved any community; it simply prolonged for the time the present unnatural state of affairs, when men who have exhausted their means are endeavoring to keep up their expenses without having resources sufficient to pay their debts. If you put this paper into circulation, and it goes into circulation as bank paper, instead of relieving the community it will make tenfold the distress through which we have lately passed.

I should like to know what the banks that are trying to resume specie payments are doing? They are trying to get the community to keep their paper out; for if the community do not keep their paper out the banks can never resume. If they come in every day with notes and demand specie, the banks might as well close. Yet we are to relieve the banks by putting into circulation that which every man will prefer to the bank note; and in order to get it he will run every bank note home and get specie on it, so as to invest it in Treasury notes. Why should he not? The bank note circulates within a certain number of miles of the place of payment; it circulates on the credit of the bank; it carries no interest. Your note carries interest; your note passes from the Atlantic to the Pacific. Will any man keep a bank note in his possession when he can demand specie for it, and with the specie can buy one of your \$20,000,000 of Treasury notes? It seems to me the community would be relieved with a vengeance by such a system; that is, if the community intends to take bank paper. If you wish to drive all the bank paper out of existence—and I, for one, shall not complain of that at all—you will drive it out to the extent of your \$20,000,000 of notes, or else you will make it a depreciated currency that will pass, not because of its solvency, but because men can get nothing else.

The old proposition comes back. The Senator from Virginia wants it, though he does not avow it, because he wishes it to make a circulating medium. The Senator from New Hampshire wants it because he wishes a circulating medium. Then I say it is worse than bank paper. There is no provision for its payment. It is a post note. Bank notes are payable on demand; these are payable twelve months after date. In all the history of banking—and I think I can appeal with confidence to the Senator from Rhode Island, for he gave us the benefit of his experience yesterday—have not our Legislatures been trying to prevent

the issue of post notes by banks, and to compel them to issue paper payable on demand? But here is a post note, and no means for its payment.

I am among the youngest members of the Senate, and I do not profess any great amount of financial skill. All my pecuniary transactions unfortunately have been small; but it does appear to me as a most amazing proposition. If you want to issue paper money, call it paper money; issue it payable to bearer, and either levy a tax or provide a fund of some sort by which it can be kept in good credit, and let it be payable on demand.

Mr. SIMMONS. This morning, with the view of ascertaining the purposes contemplated by the Department and by the committee that introduced this bill, I inquired whether the notes were to pass from hand to hand by delivery, or by indorsement from holder to holder. It was suggested to me by the provisions of the bill that there was a difference between the \$6,000,000 to be issued at once and the \$14,000,000 to be issued on advertisement. I supposed that the \$6,000,000 were to pass from hand to hand by delivery. I know there is a little delicacy on this point; I appreciate the "pinch" of those who make professions about hard money and want to evade the honest truth; I do not wish to expose them.

In striking out the provision for fifty dollar notes, you have destroyed the benefit of this issue as a currency to pass from hand to hand. If you restrict it to \$100 notes, they will be a capital medium of exchange; and under the doctrine professed by those who propose this issue, that is the only legitimate use for which such a piece of paper ever ought to circulate. The Senator from Delaware [Mr. BAYARD] sought to correct the positions assumed by the Senator from Ohio, [Mr. PUGH.] On his ground, he ought to have gone back of the bill itself, and required the notes to be drawn payable to bearer in the first place. If you mean to circulate this species of paper as a currency, holding the original holder as an indorser, when you know that the principal cannot be sued, it is a fraud on the public. If I indorse one of these Treasury notes, may I not be sued on that indorsement? But the principal, the Government that issues the notes, cannot be sued. If you mean to make this paper a currency, do not, in God's name, do so by committing a fraud on the man who first takes it and indorses it; but if you mean to make it a medium of exchange, let every man who holds it be able to trace its course through the country, and be holden as every man is who takes an ordinary bill of exchange. If, however, you are to allow six per cent. interest, it is inconsistent with any notion of currency or exchange, and then you ought to have a regular loan. If you mean to pay six per cent. why not offer it in the shape of a loan, and then you can get a premium for it? The Senator from Ohio says I made a panegyric on bank directors. Thank God, I never made a panegyric on note shavers; and this is the worst species of note shaving I ever heard of—holding the innocent indorser liable, and letting the principal go free.

I have no disposition to throw the least embarrassment in the way of the Treasury. All I ask is that the Senator from Virginia will state frankly to us what he wants, and let us put it in a form that will be consistent, if not with Democratic doctrines, at least with commercial doctrines, with the notions of mankind, with honest doctrines, and then I will vote for your bill. But you have insisted, by a vote on the yeas and nays, upon having six per cent. interest on these notes. Then require them to be indorsed, and let them pass as a medium of exchange. In that way, they may do some good. I must say, however, that I do not see how any man in the western country is to use them for purposes of remittance. They will be paid out here at the Treasury; and how are they going to get west of the mountains? That is my trouble. I want to get them over there, so that our western friends can remit them here and relieve themselves of the premium on exchange.

I say, that for this Government to offer to a man a Treasury note payable a year ahead, and oblige him to indorse it in order to give it currency, when they know that the holder has no legal remedy against them, is a fraud on the public, provided the notes are to be used as a circulating medium; but if you are to use these notes

for purposes of exchange, the case is somewhat different. If the Senator from Virginia will agree to restrict the bill to the issuing of \$5,000,000 Treasury notes, payable to bearer, I shall not object to it. I must confess that that appears to me to be what is really intended, and I am sorry to see that scarcely any man has the courage to avow it except the honorable Senator from Ohio. I do not care anything about law; but when a man rises here and makes an honest proposition, I will go with him to the death.

If these notes are to be useful to the community, such of them as are intended to circulate from hand to hand ought to be made payable to bearer, resting on the naked promise of the Government; and such of them as would be more convenient to the community, and no less available to the Treasury, as a medium of exchange, ought to be indorsed by each holder; and when they come back to the Treasury, let them be treated as the Bank of England treats her notes when she gets them—let them be stamped and never issued again, and a record kept of each issue and reissue. I shall not go into the accounts as to how much may be wanted for this hand-to-hand circulation; if only five or six million dollars are asked for that purpose, temporarily, I shall not object to it. I am astonished that gentlemen should be so much alarmed as to the probable result of this experiment that they will do nothing for the relief of the community, holding themselves as much aloof from the people as if this Government was wielded by the Autocrat of the Russias. I do not say that the Government of the United States has lost its honest heart, but it acts very much like those money lenders of whom I spoke yesterday.

I am so desirous to accommodate, that I am willing, on this occasion, to forego a little sound doctrine about currency, especially Government currency; but the Senator from Virginia insists on having six per cent. for these notes, and leaving large discretionary power in the hands of a Government that has changed its policy twice in a week. I do not believe in any such discretion. Let the House of Representatives and the Senate prescribe the mode of issuing this paper. I will not throw a straw in the way of making it as useful to the public as possible; but do not hold the individual indorsers when the Government is not held responsible. If these notes are to be used as a medium of exchange, I do not see any inconvenience that is to result from holding the receiving officers responsible for paying the notes to the right parties.

There is always great propriety in conforming our action to the public sentiment of the country. The President of this Republic, recently elected, undertakes to denounce the currency which the people are obliged to use, and which they were very glad to get when it was irredeemable, and he proposes in its place a worse one. This is a woeful blow not only at consistency, but at moral honesty. The people now have not a currency which is really payable in coin, but they have the legal means of enforcing payment. No State in the Union has interposed a solitary obstacle between the debtor and the creditor on bank paper. You can sue a bank for a dollar note in a justice's court any day, and recover a dollar in silver or gold, and half a dollar for costs besides.

Mr. PUGH. They beat us on executions generally.

Mr. SIMMONS. The banks?

Mr. PUGH. Yes, sir.

Mr. SIMMONS. I wish you would hand me an execution against one of them. If I happened to owe them anything, I could use it as a set-off.

I want the Senator from Virginia to make this bill such as will suit the Administration. I am sorry that he insists on having it so large. I have proposed, with the greatest disposition to accommodate, a means for the relief of the community, to travel side by side with this relief to the Government; but I have not yet drawn from him any public expression on the subject. Every man with whom I have spoken admits the existence of frauds on the revenue; and I have proposed to insert in this bill a provision to guard against them, to go alongside his penal enactments, for the man who may undertake to counterfeit one of these notes. The Senator says my proposition will involve a great many questions; and he does not wish to be embarrassed with anything but getting money into the Government's hands.

I know that those who expect to derive benefit from a measure, do not wish anything else to be connected with it.

I shall vote for this amendment, because it will make this paper better for purposes of exchange than currency, especially now that the notes are restricted to \$100. Then, I think we ought to insert a provision that, when one of these notes returns to the Treasury, it shall never be reissued in that specific piece of paper; but a substitute may be issued. I do not mean to embarrass the Treasury; but I have no idea of holding all the world as indorsers, and having forty suits on a single piece of paper.

Mr. DAVIS. I shall vote for the amendment of the Senator from Ohio, for the simple reason that I concur in the propriety of meeting that which has been treated as objectionable. I wish to prevent these notes from circulating as money; to strip them, as far as possible, of the character of bank notes; to make them investments which will be sought for by those persons who now hold specie, and, from want of confidence, hoard it and guard it as treasure; and to have them circulate, as bills of exchange do, by special assignment.

I do not fear that there will be any special difficulty in the public officers determining whether the successive indorsements are valid or not, because, in the first place, I believe the indorsements will be few, and the best custodian of the validity of the indorsement will be him who holds the note; but occasionally it may occur that this Treasury note will fall into hands surreptitiously, and may be presented and paid when fraudulently presented; but that will be an extraordinary case for which we can provide after it occurs. I prefer to encounter that hazard rather than make this Government the issuer of a paper currency. I believe there is money enough in the country—and when I say money, I mean gold and silver—to answer all the wants of commerce. It only requires to be thrown into circulation, and, as I said before, it only requires something which will command the confidence of those who are now hoarding it, to bring it out and give the public the advantage of it. The Government needs this money, I take it for granted, from the report of the Secretary of the Treasury, and from the estimates of the able chairman of the Committee on Finance, and therefore I am willing to vote it in the form of a loan; otherwise I cannot vote for the bill.

I hold this broad distinction between Government banking and banking by individuals; every individual within a State, but for statutory provision, might issue his promissory note; any two individuals associated together as a firm, might use their promissory note, and those notes might circulate with everybody who would receive them. They might have them engraved, and assume the form of bank notes. The only objection or difficulty to this, is constituted by the statutory provisions against individuals issuing such promissory notes. All that exists in a bank charter is merely relieving the individual or corporation from that statutory prohibition; and hence it is not, as so often asserted, a State issuing bills of credit, or authorizing another to do that which it cannot perform itself. It is merely permitting an individual or corporation to use that credit which he or it may enjoy among the community where he lives.

Against paper money issued by the Federal Government, I would raise my protest in every form. It was not contemplated by our fathers, who were a hard-money race. The men who instituted this Government, gave to Congress power to borrow money. This is one form of borrowing money, or otherwise I would not vote for it. Make it in any degree an issuance of paper money by the Federal Government to circulate throughout the country, and I would vote against it.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Ohio, [Mr. PUGH.]

Mr. TRUMBULL called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 14, nays 30; as follows:

YEAS—Messrs. Brown, Clay, Collamer, Davis, Evans, Fitch, Fitzpatrick, Hamlin, Johnson of Tennessee, King, Pugh, Simmons, Trumbull, and Wade—14.

NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Biggs, Bigler, Broderick, Clark, Crittenden, Dixon, Doolittle, Fessenden, Green, Hale, Harlan, Hunter, Iverson, Johnson of

Arkansas, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Seward, Stuart, Thomson of New Jersey, Wilson, and Wright—30.

So the amendment was rejected.

Mr. PUGH. After this vote I ask the Senator from Virginia to accept the suggestion of the Senator from Rhode Island, to strike out the fourth section of the bill, and thus make the notes payable to the bearers. It is a manifest injustice to hold the bearer responsible for the indorser, for if the Government will not pay, he is liable for the amount. I cannot make the motion myself, because I cannot vote for the bill; but I hope the Senator will strike out that section.

Mr. HUNTER. I prefer to keep the bill in the same form in which it has been since 1837 to this time—the form approved by experience. I have not heard of any injustice being occasioned by it.

Mr. BENJAMIN. If there are no other amendments to be offered by the opponents of the bill, I will offer one or two as a friend of the bill, and by way of perfecting it.

The PRESIDENT *pro tempore*. The Senator from Rhode Island [Mr. SIMMONS] laid upon the table certain amendments, which he said he would call up at the proper time.

Mr. HALE. I do not believe that time has come yet. [Laughter.]

Mr. BENJAMIN. Section twelve of the bill is intended to punish counterfeiting. After the word "counterfeited," in the ninth line of that section, I move to insert the following words:

Or shall falsely alter or cause, or procure to be falsely altered, or willingly aid, or assist in falsely altering any Treasury note issued as aforesaid.

The amendment was agreed to.

Mr. BENJAMIN. In line ten of the same section, after the word "publish," I move to insert the words "or attempt to pass, utter, or publish." The amendment was agreed to.

Mr. BENJAMIN. In the ninth line of the twelfth section, after the word "falsely," the word "made" is left out in the printed bill. I move that it be inserted.

The amendment was agreed to.

Mr. SIMMONS. I ask the Senator from Virginia whether he intends to have these notes re-issued?

Mr. HUNTER. Under the bill, the operation of which is limited to a year, it is provided that when these notes come in they shall not be re-issued, but new ones may be put out in their places.

Mr. SIMMONS. That is what I wanted to know.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The bill was ordered to be engrossed, and read a third time. It was read the third time; and on the question, "Shall the bill pass?"

Mr. TRUMBULL called for the yeas and nays; and they were ordered.

The Secretary proceeded to call the roll. When his name was called,

Mr. BRODERICK said: I have voted steadily with the friends of this bill against all amendments offered by Senators on the other side of the Chamber, and I regret that I cannot now vote for it. Considering it to be in direct violation of the sub-Treasury act, I must record my vote against it.

Mr. IVERSON. I desire to give notice that as soon as this bill is disposed of I shall ask that the joint resolution regulating the pay of members of Congress be taken up and passed to-night. I trust Senators will not leave the Hall, therefore, before the passage of that resolution.

The result of the vote was then announced—yeas 31, nays 18; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Crittenden, Douglas, Evans, Fitch, Fitzpatrick, Foot, Green, Hale, Hunter, Iverson, Johnson of Arkansas, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Reid, Sebastian, Seward, Stuart, Thomson of New Jersey, Wilson, and Wright—31.

NAYS—Messrs. Bell, Broderick, Chandler, Clark, Collamer, Davis, Dixon, Doolittle, Durkee, Fessenden, Hamlin, Harlan, Johnson of Tennessee, King, Pugh, Simmons, Trumbull, and Wade—18.

So the bill was passed.

PAY OF MEMBERS OF CONGRESS.

On motion of Mr. IVERSON, the joint resolution (No. 2) from the House of Representatives to amend an act entitled "An act to regulate the compensation of members of Congress,"

approved August 16, 1856, was read a first time, and ordered to a second reading.

Mr. IVERSON. I do not propose to make any remarks on this joint resolution. I presume it is not necessary to refer it, as it will not require the action of any committee whatever. Senators are all familiar with the defect which this joint resolution proposes to remedy. I propose, therefore, that it be, at once, put on its passage.

Mr. BAYARD. I move the reference of the joint resolution. If my single objection will prevent its passage to-night, I object.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution will be read a second time with a view to reference.

The joint resolution was read a second time.

Mr. BAYARD. I move its reference to the Committee on Finance.

Mr. IVERSON. I hope that motion will not prevail.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The joint resolution lies on the table, the Senate having refused to refer, and objection being made to its passage.

Mr. STUART. No, sir; the Chair is mistaken. It is in the power of the Senate to take up any bill or joint resolution, and act upon it at any time.

Mr. DAVIS. By unanimous consent.

Mr. STUART. No; a majority of the Senate can do it.

The PRESIDENT *pro tempore*. The joint resolution has been read twice, and it requires unanimous consent to read it a third time on the same day.

Mr. BROWN. If it has been read twice, it is under consideration, of course.

The PRESIDENT *pro tempore*. Does the Senator from Delaware object to the consideration of the bill?

Mr. BAYARD. I do.

The PRESIDENT *pro tempore*. Then, under the rules, it cannot be considered.

Mr. BROWN. I suggest to the Chair that, after its first reading, the Senator may object to its second reading; but if it is passed to a second reading, then the question is upon its reference; and if the Senate refuses to refer it, the joint resolution comes before the Senate for action.

Mr. BAYARD. I do not see how that can be. The joint resolution cannot be read three times on the same day, except by unanimous consent.

The PRESIDENT *pro tempore*. The only question is, whether it can be ordered to be read a third time after an objection has been made. A bill or joint resolution cannot be read three times in one day, under the rule, except by unanimous consent.

Mr. BROWN. The Senate can order it to be engrossed and read a third time.

Mr. PUGH. I move that the Senate adjourn. Senators will debate this matter until Monday morning.

Mr. IVERSON. I hope the Senator will withdraw that motion, so as to allow me an opportunity of giving the reason why it is necessary to act on this resolution this evening.

Mr. PUGH. I am not prepared to vote on it.

Mr. IVERSON. The reason is simply this: I am informed that several members of the other House desire to leave here on Monday for their homes, and they wish to get this money before they leave. It is important for them to get it; and for their convenience I urge the passage of this joint resolution to-night.

The PRESIDENT *pro tempore*. Does the Senator from Ohio withdraw his motion to adjourn?

Mr. PUGH. I do not care to press it, but I do not believe we shall have a vote on this question to-night.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole, and open to amendment.

Mr. FESSENDEN. I should like to hear it read. I have not heard it read yet.

Mr. BENJAMIN. It is evident that this resolution cannot pass this evening; I therefore renew the motion to adjourn.

The motion was not agreed to; there being, on a division—ayes 16, noes 24.

Mr. STUART. I hope we shall now order the bill to a third reading.

Mr. DOOLITTLE. I understand that this is a joint resolution to alter the law passed at the last

Congress, in relation to the compensation of members of Congress. There are certain facts which should not be overlooked in connection with this measure. During the recess of Congress several members of the Senate, and also of the House of Representatives, have died, and I understand that no provision is made as to their compensation. When this measure comes up for consideration it should be perfected, so that it will be perfect in its form and be made to reach those cases which have arisen. I am not prepared with an amendment to offer, nor do I insist upon taking up time by speaking on it. If a majority of the Senate are in favor of its passage, I do not desire to delay action.

The PRESIDENT *pro tempore*. The bill will be read.

The Secretary read it. It directs that the compensation allowed to members of Congress, by the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856, be paid in the following manner: On the first day of the first session of Congress, or as soon afterward as he may be in attendance and apply, each Senator, Representative, and Delegate is to receive mileage as now provided by law; and all his compensation from the beginning of his term, to be computed at the rate of \$250 a month, and during the session, compensation at the same rate; and, on the first day of the second, or any subsequent session, he is to receive his mileage as now allowed by law; and all compensation which has accrued during the adjournment at the same rate.

Mr. BAYARD. I will state as briefly as I can the effect of this resolution. The convictions on my mind are clear that we ought not to pass such a bill or resolution under any circumstances, and I will give one objection, at least, which I think it will be difficult to answer.

Under the former compensation law, we received eight dollars per day, and the increased compensation, by the act of last year, speaking in general terms, doubled that pay; but Congress provided that the increased compensation should only be paid at the end of each session. That is the provision of the bill, as it stands. The effect of the present resolution is to make the pay come at the beginning of the session. Now, I want to show where I think it will work great injustice and corruption, if I may use the term. I think no milder word would apply to the case. The object for which the law was framed, of giving to each member his pay, on the same footing, no matter whether he was elected or not at the commencement of the term, is all perfectly right; to that I do not object; that is, whether a member was elected before his term commenced, or in the months of November or August last. You may, if you please, say he is entitled to pay from the month of March, 1857; though in point of fact, if a session of Congress had been called into existence, he would not have been able to perform the duties. I do not object to that. In the form of our Confederacy it is necessary to equalize pay in that respect.

What is the effect of this joint resolution? That in many cases you give pay to a person who was not in existence, to perform the duty, and to others who were never called on to perform the duty; you put them in the position that on the first day of the session they are to receive pay for arrears, as they are called, that have accrued; when, in point of fact, there may have been no valid election. In case of a contested election, there cannot be two persons entitled to the same seat. Where two persons claim to be entitled to a seat, and one presents himself with the credentials, that is *prima facie* evidence that he is entitled to a seat. If this amendment to the compensation law be made, he is entitled to get his full pay when sworn in, and then, if he is unseated, his successor can do the same thing. That is not right. I know the old usage of Congress was—and that practice was fair and right enough—that the member should be paid until he was unseated. Of course, he was fairly entitled to his per diem from the day he attended until the day he was unseated; and in courtesy (I suppose under some sort of a notion that it was right to give an opportunity to contestants, without too great an expense to them, to contest seats) both the House of Representatives and the Senate used to vote that the contestant should be paid mileage and per diem out of the contingent fund during

the period of time he was in attendance. The operation of this joint resolution would be to give to a member whose seat is contested not a certain amount for the time he was a member of Congress, if he was unseated, and therefore never validly elected, but to give to each member who gets returned a bonus of some nine months' pay to which he was never entitled, for he has not been a member; and then you have to pay the same money over again to the person validly elected to the seat. That is the necessary result. I cannot pause now to say whether that could be obviated by a different language. The suggestion was made to me when I spoke of that objection to a gentleman, that we could provide, in the case of a contested seat, that the parties should not receive pay. That would be unjust, for if a member's seat is contested, and he is entitled to it, he ought to stand upon the same footing as every other member of Congress.

Again, there is no particular time limited. This resolution is to operate on the first day of the session. It would be almost impossible to find then whether a seat was contested or not. Under this resolution, as proposed to be passed, you give to a man who was never a member of the Senate or House of Representatives by any valid election, pay, not for the time he is in attendance, but you give him under the name of arrears, which cannot accrue if he never was a member, nine months' pay. I cannot vote for such a bill on any such ground. I like to have my pay, perhaps, as soon as any man, but that is a question which I do not think I am at liberty to look at. The individual conveniences of myself and others should not be consulted.

I think this measure will lead to corruption if it be passed; and I hope, if it should be passed, that the President will veto it, for it is intrinsically wrong in itself. The effect will be to pay double to one person who is entitled, because whenever he is sworn in he will be entitled beyond all question; and if the contestant succeeds, you pay a man who was never validly elected to the seat, for a period of time during which he never could render service, or be called on to render service. I am opposed to the joint resolution entirely, and I have given my reason for it. All I shall insist on is that the yeas and nays be taken on its passage. I wish to record my vote against it.

Mr. MASON. The Senator from Delaware speaks with a very confident opinion. No man is better entitled, from his general intelligence and his ability as a lawyer, to do so; but I suppose Senators may be allowed to differ with him in his construction of the law.

Now, sir, I could not vote for that resolution at this time of the evening if I were not satisfied, in my own judgment, that the Senator from Delaware is utterly wrong in his construction of the compensation act. He assumes that the compensation law of last session prescribed that this arrearage of compensation should not be paid until the end of the session. I differ with him. I do not mean to say that the first section of it is clear, by any means. None can read that bill without seeing that it was either drawn with a very hurried pen, or by an unskillful penman. But, as far as my judgment is involved, while I think that that first section admits of no clear construction, the best construction I can place upon it is that, under the law, the compensation is payable on the first day of the session.

What is this joint resolution? Why, if that construction of the compensation law be right, it is a mere declaratory statute, nothing more. If it were to introduce a new principle into this compensation law, I would be ready, as suggested by the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] to review the whole ground, and see if any cases have been omitted. I am satisfied cases have been omitted, and that cases have not been acted on which ought to have been entertained and received, and which will be no doubt in a proposition for a general revision of that law. The reason why I rose, was merely to say that the confident opinion expressed by the honorable Senator from Delaware, that the first section of that bill admits of no other construction than that this money is payable only at the end of the session, is not participated in by at least one Senator.

Now I mean to say further, as I read that first section, that the compensation is due on the first

day of the session. I submit it to the intelligence of Senators, whether lawyers or not, whether, in common sense, it is not payable on that day; and although it may be that a debt that is due is not payable, yet it devolves upon those who say it is not payable to show clearly where it is deferred and the time to which it is deferred. I say that upon the construction of that first section there is no contingency that can happen in human affairs which would divest the right of payment of the debt. Death will not, resignation will not do it.

The honorable Senator says there is a contingency, and that that contingency is where there may be a contested seat. Suppose there is a contested seat: the sitting member is the member, and is so admitted in all parliamentary law. Can he not vote? Can he not govern the legislation of the country by his vote? And yet, says the honorable Senator, a member whose seat is contested ought not to be entitled to the payment which the law prescribes, lest his seat should be vacated. I say that that is no contingency. The sitting member, although his seat is contested, is a member *de jure et de facto*, invested with all the rights, privileges, and emoluments, that belong to the place; and none can doubt it. It may be, for all I know, after a sitting member has been ousted in any case, that the Senate or House of Representatives, in its liberality or justice, may compensate him for the loss of his time, and also the member who was not sitting at the time, until it was decided.

I have thought it due to myself to say what I have said, because, when I first read that law I agreed with the opinions of the honorable Senator from Delaware, and told gentlemen around me that that was my construction; but I found a different opinion prevailed, and I felt called upon to look at the law closely, and I am satisfied, as far as my judgment goes—I do not speak with confidence—that the best construction which can be placed on that first section, although it is not clear, is that the money is payable now. I am perfectly indifferent whether it is paid or not.

Mr. DOUGLAS. I wish to offer an amendment to this joint resolution different from any which has yet been proposed, and I know it is one that will lead to debate. I am certain that we are to have a long debate if we attempt to go on with this subject now. There are amendments which I think justice requires should be made to this bill, and as we have not time to consider them now, having been so ardently engaged all day, I move that the Senate adjourn.

Mr. BAYARD. I ask the Senator to withdraw the motion for a moment.

Mr. DOUGLAS. I withdraw it for the present.

Mr. BAYARD. I only wish to say that the honorable Senator from Virginia is perfectly at liberty to lecture me. I want to state the reason why I assumed that to be the construction of the law. I supposed the House of Representatives would not think it necessary to legislate in order to enable them to do that which they could do under the law. I therefore assumed that the House of Representatives, in passing such a bill, necessarily supposed that that legislation was requisite, and that, agreeing with my own construction, I stated it confidently. If we come to the construction of the other law, I shall not be quite so confident when I find the opinion of the honorable Senator from Virginia opposed to mine, though my convictions are strong, and I shall endeavor to sustain them, in order to show that he is in error in the construction of that law.

Mr. BROWN. The Senator from Illinois gives us notice that he has amendments to offer which are going to give rise to a long debate. I think that is taking the advantage of the rest of us. He has his amendments fixed in his own mind, and his speech prepared. If we are going to adjourn over on these amendments, he should let us know what they are, in order that we may prepare our speeches. Can he not give us a little inkling of them?

Mr. DOUGLAS. With the greatest pleasure. The amendment that I suggested would lead to debate is this: the special session was convened on the 4th of March for the purpose of confirming the Cabinet, and other executive business. Of the new members summoned to that session, some came from California, and from the different parts and extremes of the country, and traveled here

and back without any pay for that service. I think the law should be changed so that the new members who came on here especially for that session should receive their mileage for coming and returning. This provision is not to apply to old members of the Senate, or to give double pay, but will only allow pay to those who came here from their homes for the purpose of attending that session and returned after the adjournment. It was with that view that I wished to move an amendment. I have no speech to make on it, but I am certain it will lead to debate; and for that reason I move the Senate do now adjourn.

The motion was agreed to; and at six and a half o'clock, p. m., the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

SATURDAY, December 19, 1857.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

CALL OF COMMITTEES.

The SPEAKER stated the business first in order to be the call of committees for reports:

Mr. BENNETT. Does not the resolution which I introduced yesterday come up first this morning?

The SPEAKER. The Chair thinks not.

The call of committees was continued.

Mr. GROW. I would suggest to the House that we commence the call for States where it was left off yesterday, and that we finish that call, in order that we may get business before the committees.

Mr. CRAIGE, of North Carolina. I call for the regular order of business.

The SPEAKER. Reports are in order from the Committee of Ways and Means.

CHAPLAINS TO CONGRESS.

Mr. STEWART, of Maryland. I desire to offer a resolution in reference to the execution of the order passed the other day relating to the clergymen of this city opening the House by prayer. I observe that the House was opened to-day without prayer. I suppose there will be no objection to the resolution. I understand the clergymen are laboring under some embarrassment, which I desire to remove.

Mr. GROW. I call for the regular order of business.

Mr. STEWART, of Maryland. Let the resolution be reported, and I think the gentleman will withdraw his objection.

Objection was not withdrawn, and the call of committees was continued.

Mr. JONES, of Tennessee. I suppose that there are very few committees ready to report. I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was not agreed to.

JOHN HAMILTON.

Mr. STANTON, from the Committee on Military Affairs, reported a bill for the relief of John Hamilton; which was read a first and second time, referred to the Committee of the Whole House, and ordered to be printed.

Mr. LETCHER. Is there a report accompanying that bill?

Mr. STANTON. A report was made last Congress.

Mr. LETCHER. Well, I hope that that report will be printed with the bill, so that when the bill comes up we may have an opportunity of knowing something about it.

Mr. STANTON. Add to the motion, that the report from the Committee of Claims of last session be printed.

It was so ordered.

PACIFIC RAILROAD.

The call of committees being concluded—

The SPEAKER announced the call of States for resolutions next in order; and that the question recurred on the following resolution, offered yesterday by Mr. BENNETT, when his State was called for resolutions:

Resolved, That a select committee of — be appointed by the Speaker to take into consideration all such petitions and matters relating to the construction of roads, railroads, or telegraph lines to the Pacific ocean, as shall be referred to them by the House.

The pending question being on the motion of Mr. BARKSDALE to lay the resolution on the table, Mr. BOCKOCK called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 94, nays 96; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Barksdale, Bishop, Bockock, Bowie, Boyce, Branch, Bryan, Burnett, Caskey, Chapman, Clay, Clemens, Clingman, Cobb, John Cochrane, Cox, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, English, Faulkner, Florence, Foley, Garnett, Gillis, Gilmer, Goode, Greenwood, Thomas L. Harris, Haskin, Hatch, Hawkins, Hopkins, Horton, Houston, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Letcher, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Peyton, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Savage, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, James A. Stewart, Talbot, Miles Taylor, Underwood, Ward, Warren, Whiteley, Winslow, Woodson, Wortendyke, John V. Wright, and Zolliecoffer—94.

NAYS—Messrs. Abbott, Arnold, Avery, Banks, Bennett, Billingham, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, James Craig, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Howard, Hughes, Kellogg, Kelsey, Knapp, John C. Kunkel, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Phelps, Pike, Potter, Ricard, Ritchie, Robbins, Roberts, Royce, Sandidge, Scott, Seward, John Sherman, Judson W. Sherman, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, and Augustus R. Wright—96.

So the House refused to lay the resolution on the table.

Pending the vote—

Mr. FLORENCE stated that his colleague, Mr. PHILLIPS, was still detained from the House by sickness.

The question recurred on the adoption of the resolution.

Mr. COBB. I desire to appeal to my colleague on the Committee on Public Lands to withdraw the call for the previous question, in order that I may offer an amendment.

Mr. BENNETT. The gentleman appeals to me to withdraw the call for the previous question, his object being, as I understand, to amend the resolution so as to have the subject referred to the Committee on Public Lands. Now, I have no objection to withdraw—

Mr. BRANCH. Is debate in order?

The SPEAKER. Debate is not in order.

Mr. COBB. The gentleman from New York, as I understand it, withdraws his demand for the previous question.

Mr. BENNETT. My friends around me say I had better not withdraw the demand. It will involve the necessity of taking two votes instead of one.

Mr. FLORENCE. I rise to a privileged motion. I move that the House do now adjourn.

The motion was disagreed to—yeas 47, nays 113.

Mr. HUGHES. I move to reconsider the vote by which the House refused to lay the resolution on the table. I voted with the majority, and have therefore the right to make the motion.

Mr. JONES, of Tennessee. Is that motion in order?

The SPEAKER. The Chair thinks it is in order.

Mr. MILLSON. I would suggest that the motion is not in order, for this reason: It is competent for the gentleman from Indiana again to move to lay the resolution on the table; and to reconsider a vote already taken on the motion would involve the necessity of two votes of the House instead of one.

The SPEAKER. The Chair would hold that a second motion to lay on the table while the resolution was in the same legislative condition, could not be entertained.

Mr. MILLSON. A vote on the motion to adjourn has intervened.

The SPEAKER. But the legislative condition of the resolution remains the same.

Mr. STANTON. Can a motion to reconsider be entertained while a demand for the previous question is pending?

The SPEAKER. The motion to reconsider may be entertained and put while the previous

question is pending, but of course it is not debatable. Indeed, a motion to reconsider a motion to lay on the table would not at any time be debatable.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair. If the House refuses to second the demand for the previous question, will not the resolution then be open to amendment and debate; and if any gentleman proposes to debate it, will it not then go over indefinitely?

Mr. WASHBURN, of Illinois. Is debate in order?

The SPEAKER. It is not. The Chair has heard the inquiry of the gentleman from Tennessee, with a view of answering it in good faith.

Mr. WASHBURN, of Illinois. Do I understand the Chair to entertain the motion to reconsider?

The SPEAKER. The Chair does entertain the motion.

Mr. WASHBURN, of Illinois. Then I move to lay the motion to reconsider on the table.

Mr. MARSHALL, of Kentucky. Does not the motion to lay the motion to reconsider on the table carry the resolution with it?

The SPEAKER. It does not, in the opinion of the Chair.

Mr. HARRIS, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 95, nays 105; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Banks, Bennett, Billingham, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Eustis, Fenton, Foster, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Howard, Hughes, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Ricard, Ritchie, Robbins, Roberts, Royce, Scott, Seward, John Sherman, Judson W. Sherman, Samuel A. Smith, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, and Wilson—95.

NAYS—Messrs. Ahl, Arnold, Atkins, Avery, Barksdale, Bishop, Bockock, Boyce, Branch, Bryan, Burnett, Caskey, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Elliott, English, Dewart, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hill, Hopkins, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Letcher, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Purviance, Quitman, Ready, Reagan, Reilly, Raiffa, Russell, Sandidge, Savage, Seales, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Underwood, Ward, Warren, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliecoffer—105.

So the motion to reconsider was not laid on the table.

Mr. DAVIS, of Indiana. I rise to appeal to the gentleman from New York [Mr. BENNETT] to withdraw the demand for the previous question, and allow me to offer a substitute for his resolution, which, I think, will be satisfactory to the House.

The SPEAKER. The pending question is the motion to reconsider the vote refusing to lay the resolution upon the table.

Mr. DAVIS, of Indiana. Is it not in order, at this stage of proceedings, for the gentleman from New York to withdraw his demand for the previous question, and allow me to offer a substitute?

The SPEAKER. It is not. The motion to lay on the table would intervene and prevent the gentleman from offering his substitute.

Mr. HARRIS, of Illinois. I demand the yeas and nays upon the motion to lay on the table.

Mr. J. GLANCY JONES. Has the morning hour expired?

The SPEAKER. It has expired.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to—yeas 102, nays 86. So the rules were suspended, and the House

resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHILLIPS in the chair,) and resumed the consideration of

THE TREASURY NOTE BILL.

The CHAIRMAN. When the committee was last in session it had before it for consideration House bill No. 4, to authorize the issue of Treasury notes. The bill has been read through, and is now open for amendment and discussion.

Mr. J. GLANCY JONES. Mr. Chairman, I do not intend to detain the committee at any length. This bill proposes to authorize the Secretary of the Treasury to issue notes to the amount of \$20,000,000—

Mr. BARKSDALE. Does the gentleman from Pennsylvania design to press the bill to a vote to-day?

Mr. J. GLANCY JONES. I shall be glad if the House will take a vote on the bill to-day. I will occupy only a few moments, for the bill requires only a word or two of explanation. It is similar in its provisions to bills which were passed by Congress at different periods of time, beginning with the year 1833. It is similar to the bill of 1847, with perhaps two exceptions. That bill provided for the funding of the Treasury notes. This bill omits that provision; so that the Treasury notes issued under this bill cannot at any time be funded. They are made payable in one year.

It is proposed by this bill, that \$6,000,000 of these notes may be issued immediately by the Secretary of the Treasury at a rate of interest to be fixed by himself, limiting him not to exceed, however, six per cent. per annum. The balance of the \$20,000,000 is to be advertised for bids, and is to be given to the bidders of the lowest rate of interest, the maximum here being also fixed at six per centum. These are the only features of this bill that contradistinguish it from the acts of 1833, 1837, 1847, and others, which I do not just now recollect. These, then, being its only peculiarities, I am not required to make any lengthy explanation. The act of 1837, if my memory serves me, was passed when the Whig party was in power, and the act of 1847 when the Democratic party was in power. I alluded to this merely to show the committee that this bill is a mere transcript of the bills passed by these parties when they were in power, and resorted to this mode of raising a loan.

The Secretary of the Treasury has addressed a letter to the Committee of Ways and Means, which will explain the bill, perhaps, much better than I could, and in fewer words.

It has been said that it is strange this issue of Treasury notes should be asked when the report of the Secretary of the Treasury shows an estimate of a balance of half a million in the Treasury at the expiration of the fiscal year ending the 30th of June, 1858; but it must be remembered that the estimates of that report are made on the ground that the receipts, from customs, will be the same as in ordinary years. Nothing has occurred to change the estimate referred to, unless it be the diminished consumption of the country. One fact is apparent, that there is now \$28,000,000 of goods in the bonded warehouses; and if those goods be brought into market, they will pay into the Treasury some six million dollars. But the anticipation now is, that these goods may remain in the Government's bonded warehouses for some years. The necessity for this measure does not arise so much from an empty Treasury, for there is in its vaults an available balance of \$6,000,000; but we are in such condition that there is no telling at what day the Treasury may be exhausted by some sudden change, some contingency or other, like a cutting off of imports, or bonding those which do arrive in the country. The Secretary of the Treasury must not be understood as saying that the Treasury is exhausted, and that this money is wanted for the ordinary expenditures of the Government; but as wishing that \$20,000,000 of Treasury notes, at the lowest rate of interest, may be placed at his disposal, to be used when circumstances may require them.

The bill, as reported from the Committee of Ways and Means, omits a portion of the fourth section; and as I consider that portion important to make this bill efficient and available when it becomes a law, I shall ask for its restoration. A portion of a clause in the fourth section of the Senate bill has been stricken out by the Commit-

tee of Ways and Means, and I will explain to the committee what it is. In the first place, it is to be found in every Treasury note bill that has ever been passed by Congress, so far as I have been able to ascertain. I will read the clause, and then the committee will understand what it is. It is in section four, which reads:

The Secretary of the Treasury is hereby authorized, with the approbation of the President, [then comes the clause which has been stricken out,] to cause such portion of said Treasury notes as may be deemed expedient to be issued by the Treasurer in payment of warrants in favor of public creditors, or other persons lawfully entitled to such payment who may choose to receive such notes in payment at par; and the Secretary of the Treasury is further authorized, with the approbation of the President, &c.

That clause, sir, has been stricken out by the Committee of Ways and Means, or by the majority of the committee. I desire to have it restored. It has always been in all former bills. The Department is authorized by this bill, if it becomes a law, to avail itself of \$6,000,000 immediately, and this clause enables them to use these Treasury notes for the payment of the creditors of the Government. It does not become necessary to negotiate their loan. The clause merely authorizes the Secretary of the Treasury to issue these notes to its disbursing officers for the payment of the debts of the Government; and that would facilitate, at this particular crisis, very much the movements of the Treasury Department in the issue of this money.

In conclusion, Mr. Chairman, I will ask the Clerk to read a letter which has been addressed by the Secretary of the Treasury to the Committee of Ways and Means, and which sufficiently explains itself.

The letter was read, and is as follows:

TREASURY DEPARTMENT, December 15, 1857.

SIR: In my annual report to Congress of the 8th instant, an explanation of the causes which would lead to the necessity of supplying the Treasury with the means of promptly meeting the lawful claims upon it was given. I stated that "such provision should be made at the earliest practicable period, as a failure of sufficient means in the Treasury may occur at an early day."

At the time I prepared that statement, the weekly expenditures were exceeding the receipts to an extent that induced the opinion thus given. While the estimated amount of importations justified the conclusion that the revenue for the present year might be sufficient to meet the wants of the Government, yet the actual receipts into the Treasury in time to provide for the wants of the public service were dependent, not on the amount of merchandise imported, but the portion entered for consumption. At this time there is held in warehouse, in the city of New York alone, merchandise subject to duty exceeding twenty-eight million dollars in value, on which, when entered for consumption, duties must be paid to the amount of more than six million dollars.

The period when such payment of duty will be made may be influenced by so many circumstances, that the public credit should not be hazarded upon the contingency of its happening in time to meet the liabilities which we know must be provided for at an early day.

The amount now in the Treasury subject to draft is considerably less than six million dollars. When we reflect that balances must be kept in the hands of public officers in every part of the United States, by whom drafts are required to be paid, it will be readily perceived that the fiscal operations of the Government cannot be carried on with convenience and security with a less sum in the Treasury. The excess of the expenditures over the receipts is daily reducing this balance. I have been compelled to withdraw from the Mint and its branches the amount usually kept there for the purpose of facilitating the conversion of bullion into coin for the benefit of depositors. Such withdrawal necessarily occasions an inconvenience to the commercial community which should be obviated whenever it shall become practicable to do so.

It is proper to state that, in addition to the ordinary current demands on the Treasury, the sum of \$723,632 29 must be paid on the 1st of January next for interest on the public debt.

In view of this state of things, I have the honor to ask your attention to the recommendation in my annual report that authority be given by law to issue Treasury notes. I think it important that Congress should act at once on the subject, that the necessary arrangements may be made by the 1st day of January to meet such public liabilities as become payable at and before that time, and which cannot be longer postponed.

Though the amount of \$20,000,000 will not, in all probability, be needed at an early day, if at all, yet it is deemed best that the Department be authorized to issue and keep out that sum, should it be required by the public service. The rate of interest, for manifest reasons, should be left discretionary with the Department, subject to the approval of the President, but not to exceed six per centum per annum.

Very respectfully, your obedient servant,

HOWELL COBB,
Secretary of the Treasury.

Hon. J. GLANCY JONES, Chairman of Committee of Ways and Means, House of Representatives.

MR. RITCHIE. I desire to call the attention of the committee to a circumstance which seems to me to make it rather doubtful whether the

Administration desires, after all, to have this bill passed. In the message of the President of the United States, dated the 8th of December, I find this remark on the first page:

"Under these circumstances, a loan may be required before the close of your present session."

On the seventh page, I find this remark:

"Thanks to the Independent Treasury, the Government has not suspended payment, as it was compelled to do by the failure of the banks in 1837. It will continue to discharge its liabilities to the people in gold and silver. Its disbursements in coin will pass into circulation, and materially assist in restoring a sound currency. From its high credit, should we be compelled to make a temporary loan, it can be effected on advantageous terms."

So says the President. He contemplates nothing but the use of gold and silver; and if he has not enough of that in the Treasury, he intends to borrow it. This message of the President—and I suppose he speaks for the whole Administration—is dated on the 8th day of December. But here is the report of the Secretary of the Treasury, bearing date on the same day as the message of the President, in which he says that he is going to use nothing but gold and silver, and that it is going to assist materially in restoring a sound currency to the country; and what does the Secretary of the Treasury say? I wish to point out to the honorable chairman of the Committee of Ways and Means this discrepancy. There is certainly something wrong here in regard to the views of some part of the Administration. I cannot make out which is the real turtle and which is the mock one. The President says he will have nothing but gold and silver. Now hear what the Secretary of the Treasury says:

"In the mean time, adequate means for meeting lawful demands on the Treasury should be provided.

Such provisions should be made at the earliest practicable period, as a failure of sufficient means in the Treasury may occur at an early day. The exigency being regarded as temporary, the mode of providing for it should be of a temporary character. It is, therefore, recommended that authority be given to this Department by law to issue Treasury notes for an amount not to exceed \$20,000,000, payable within a limited time, and carrying a specified rate of interest, whenever the immediate demands of the public service may call for a greater amount of money than shall happen to be in the Treasury, subject to the Treasurer's drafts in payment of warrants.

The fact that such temporary exigency may arise from circumstances beyond the foresight or control of this Department, makes some adequate provision to meet it indispensable to the public security."

So says the Secretary of the Treasury.

Now, Mr. Chairman, I can explain this discrepancy upon no ground but this: that we have here two kinds of Democracy—theoretical Democracy and practical Democracy. Theoretical Democracy disdains Treasury notes; it would touch nothing but gold and silver; practical Democracy will use whatever it can get to answer its purpose. If it has no gold and silver, it will issue Treasury notes; or, perhaps, speaking more properly, I should say that there are two Democratic dresses: one is a parade dress, for State occasions, and one a working dress, for working days. The gentlemen in the parade dress, who represent part of the Democracy, will have nothing but gold and silver; will touch nothing else than that. But the other class of gentlemen come slipping in behind, making very little noise, in their working day dress, and will take what they get; whether gold and silver, or Treasury notes. But, as the chairman of the Committee of Ways and Means has just remarked, that committee has taken out of the bill that feature of it which alone gave it the character of a loan bill. The original bill proposed that these notes should go to increase the debt of the nation, thus giving it somewhat the character of a loan. But now, the President and the Secretary of the Treasury fall back from gold and silver upon notes; and they come into the House here and propose that these notes are to be kept in circulation as bank notes, and nothing else.

MR. J. GLANCY JONES. I do not rise to address the committee, but merely to state that it is impossible for me to hear what is said on the other side of the Hall, and to inquire whether my colleague propounded any interrogatories to me?

MR. RITCHIE. No, sir; I said nothing requiring explanation, so far as my understanding of it is concerned. I see that the gentleman is in a dilemma. He must have these notes. I know that perfectly well. I do not desire to throw obstacles in the way of the operations of the Treasury Department. I desired merely to call the

attention of the House and of the country to the fact that the theoretical Democracy and the practical Democracy are two entirely distinct things; and I desired to illustrate that by examples drawn from messages of the President of the United States and of the Secretary of the Treasury—both messages dated on the same day, and brought to the House at the same hour.

MR. J. GLANCY JONES. I have no response to make to that, because it is perfectly understood.

MR. BANKS. I desire to know whether the bill has been read by sections, or whether it is hereafter to be read by sections?

THE CHAIRMAN. The bill will hereafter be read by sections. It was read in *extenso* yesterday; and, so soon as the progress of the debate will permit, it will be read by sections, subject to amendment.

MR. BANKS. I have an amendment which I desire to offer at a proper stage of the bill. I desire now to make a suggestion on the subject, to which the chairman of the Committee of Ways and Means has referred—that is, as to the relative bearing of this bill, and of those that have been passed by Congress in previous years. He has stated that this bill differs from that of 1847, and from the bills passed in previous years, in one or two particulars only. In my judgment, it differs materially in more respects than those which he has suggested. It differs from those other Treasury note bills in the matter of principle, as well as in the matter of details. I have no reflections to make on the character of the Administration as it regards its Democracy. I do not know whether, as my friend from Pennsylvania [Mr. RITCHIE] says, there are on the other side of the House two classes of Democracy, or but one class. I only want to say, for myself and friends on this side of the House, that what he says in reference to Democracy has no reference to the Democracy on this side of the House.

The question of issuing Treasury notes has been one regarded by all parties in this country, from the beginning of the Government, as a matter of doubtful expediency, and dangerous in principle; and the plan has never been adopted, under any circumstances, when any other measure of relief could be immediately obtained by the Government of the country. There is nothing better established, upon the opinions of statesmen of all parties and of all times, than that the resort to a loan, in the form of Treasury notes, is a matter of doubtful expediency and of dangerous character. It has been so characterized by every man connected with the Government of the country who has had occasion to pass judgment on this question; but I know perfectly well that, at different periods of the Government, Treasury notes have been issued, and loans obtained in this way for the use of the Government. But I think that this will be found to be the truth in regard to every single case of this kind—that it has been a measure of necessity, and only adopted after the Government had ascertained that the relief which was necessary could be obtained in no other manner, and in no other form. This is as true in reference to the Treasury note bill of 1847 or 1846 as it is to those of 1841 and 1842, and to the Treasury note bill of 1837. In each case the Government had ascertained that it was impossible to obtain the relief that it desired to obtain in any other manner or form (so far as I can recollect the history of this question) than in the form of Treasury notes.

Now, whatever doubt we may have in regard to the expediency of this measure, as it concerns principle or its details, if the Government of the United States is, at this time, in such condition that it can obtain no relief for its immediate necessities and wants, except through the issue of Treasury notes, I, for one, am entirely willing to give my vote for the issue, on that statement being made. But it is not true, in my judgment. I think there never was a time when a loan for a small amount, or for a large amount, for a short time, or for a long time, could be obtained by the Government of the United States better than it can be at this day. I believe that the country is richer to-day than it ever has been before. There is more gold and silver coin in the country, by a hundred million dollars, than whenever the Treasury note question has been presented before. The banking institutions of the country are in a

better condition to-day than they were at any period when the Treasury note question was presented by Congress to the country. Therefore, if there could be a loan by the Government of the United States, at this time, for a large sum or for a small sum, for a short time or for a long time, there is no apology for the resort to the issue of Treasury notes on the principle of the Treasury note bills of past times.

In 1837, it will be recollected by every gentleman on this floor, the Treasury note bill was introduced by the Administration, and sustained on the declaration that a loan could not be obtained at par for the use of the Government. It was passed on that ground. Gentlemen who then supported the Administration in this House took that ground. If I recollect right, the gentleman who was then chairman of the Committee of Ways and Means, and the gentleman from Virginia who sustained the measure at that time, put it upon the ground, expressly and exclusively, that the Government could not obtain the relief that it demanded by the usual and proper course of a loan.

The same thing is true of the bills of 1841 and 1842. The Government of the United States had applied for loans. The Administration of 1841 proposed a loan bill, but found it was impossible to obtain a loan by selling the stock of the United States at par; and therefore, and on that ground, the Treasury note bill was passed, and not—as this bill is now presented by the chairman of the Committee of Ways and Means—as an ordinary expedient for an ordinary relief of the Government.

And the same thing is true of the bill of 1847. The country was then at war with a foreign nation. The armies of this country had then, for the first time, undertaken to fight a battle upon territory exclusively of a foreign nation. The Administration had determined in their own judgment that the relief which was necessary for the Government at that time could not be obtained by the proper manner of a loan upon the stocks of the United States soon enough for the relief of the Government. It was so stated, and Congress therefore passed a Treasury note bill for that reason, for the relief of the Government at that time. But, sir, in that bill was incorporated the principle of a loan. They provided that the President of the United States should have authority to issue the stocks of the United States for the whole amount, or for as much of the \$23,000,000 as should become necessary for the Government, in order, if it were possible, to obtain a loan upon the stocks of the United States—the stocks at six per cent. selling at par, that the President should have no reason for issuing Treasury notes, which had been declared by the eminent men of all parties from the beginning of the Government as inexpedient and dangerous in character, and false in principle.

Now, sir, if there be an exigency of this kind at this time, for one, I am ready cheerfully to afford relief to the Government to the extent it may desire, or the Administration recommend. But, sir, I ask that this House shall, in the first place, include, by inference at least, by a provision in this bill declaring that, unless it shall be found necessary—unless it shall be impossible and impracticable to obtain a loan upon the stocks of the United States, there shall be no issuance of Treasury notes to meet the wants of the Government. If it shall be found impracticable to obtain a loan, then I am willing that authority shall be given to issue Treasury notes.

Therefore, I ask the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] and gentlemen on the other side of the House, when they set up the precedent of 1847 to sustain them in this measure, that they will incorporate into the measure the provision of the act of 1847, giving the President authority to make a loan, if a loan can be had upon fair terms, and throw upon him the responsibility of issuing Treasury notes if he shall choose to issue them without taking measures for first obtaining a loan. I ask, both upon principle and upon precedent, that that provision be incorporated into this act. It will relieve us Democrats on this side of the House [laughter] of some of the difficulties in our way in voting for this bill, standing as we do upon the principles and the practice of the Government in all past time.

But it is not in this respect only that this bill

differs from the act of 1847 to which we have been referred. There is another, an essential and important difference, to which I wish to call the attention of the House. The bill of 1847 was introduced as a war measure. We were then, as I have said, engaged in a war with Mexico. It was not known to the Government, first, whether a loan could be negotiated in time to answer their purposes; and, second, what would be the duration of the contest. The chairman of the Committee of Ways and Means, who presented the bill of 1847 some time in July, 1846 or 1847, (I do not recollect precisely the date,) stated that if the war should not be brought to a conclusion and a treaty of peace established by the 1st of December following—not more than six months ahead—then they should take the initiative of presenting a bill for the issue of a loan upon the stocks of the United States in the ordinary manner. It was therefore a mere temporary measure to meet the exigencies of the Government in time of war. That bill, as I have said, provided first for the issue of a loan upon the stocks of the United States; but it went beyond that, and provided that the authority to issue Treasury notes should cease and determine upon a contingency named in the bill—that six months after the close of the war with Mexico the authority to issue Treasury notes should cease and determine.

Sir, if there was ever an occasion where unlimited authority for the issue of Treasury notes was warranted, it was under circumstances such as then existed. We knew not what would be the condition of the American army in Mexico. It had been declared by distinguished statesmen at the South, that it was impossible for American troops to meet the Mexicans in their own territory, to which our troops were unaccustomed, with even chances of success; and great doubt was felt everywhere in the country, as gentlemen well know, not only as to the issue, but as to the time of the issue. We were then without funds, and without a surplus in the Treasury to any very great amount. And therefore, having war upon our hands with a foreign nation, prosecuted for the first time upon the territory of that foreign nation, the duration of which we could not anticipate or determine, I say, that if there was ever a time when it would be proper to give the Administration full sweep, it was under circumstances like these. But even in that case, and under circumstances like these, a limitation was placed in the bill fixing the period when the power to issue Treasury notes should cease and determine.

But, sir, if I have read the bill, which has this moment been handed me by a page, there is no such provision in it. It provides for issuing Treasury notes to the amount of \$20,000,000, and that there shall not be more than \$20,000,000 of such notes outstanding at any one time. But they are to be issued and reissued as they are called in, for aught that is contained in this bill, as long as the Government shall continue. There is no limitation of time.

Now, sir, no man in this House can say, looking to the condition of the country, and looking to the prospects in regard to the continuance of the present difficulties, that this unusual and extraordinary source should be continued for more than three, two, or even one year after the passage of this bill, if the authority is given to the Administration at all. Under the circumstances in which we are placed, if we create this authority we should not extend the limit of its exercise beyond the meeting of the next Congress. There is no reason why such a power should be given to the Administration to extend beyond one year. The next Congress should be allowed to say for itself whether it is necessary to continue or repeat this act. In these respects I say, Mr. Chairman, this bill differs materially from the Treasury loan bill of 1847.

Mr. COBB. I understand the gentleman to say that these Treasury notes are asked at a time when we are in a profound peace, and I rise now to take exception to this, for, as I understand the President's message, we will soon be at war with the Mormons of Utah.

Mr. BANKS. That is impossible. We have upon this floor a Delegate from the Territory of Utah, in just as good standing, and with the same rights, as the gentleman from Alabama. No member here can say that we are at war with Utah, because we have a representative from that

Territory upon this floor, who has been recognized by the House. There is a speak of war; but I will say to my friend that it is in another direction and for the future, and that the Government will not be relieved in that difficulty by any Treasury notes.

There are other points of difference between the bill of 1847 and the bill proposed by the Committee of Ways and Means beside those named by the gentleman from Pennsylvania and those I have suggested. In the first place, the bill of 1847 gave the privilege to the holders of Treasury notes to fund them if they chose. It gave to the President of the United States the authority to issue stocks of the United States in lieu of Treasury notes, if he thought proper. It also required—an important provision in the then condition of public affairs, but still more important in regard to the provisions of this bill—the President of the United States, at the beginning of each session of Congress, to make a deliberate statement of the issue of notes, of the redemption of notes, by whom paid, how paid, when paid, and every circumstance connected both with the payment and redemption of these notes. This information is important to the House and the country. It is certainly not included in this bill, and I think the gentleman from Pennsylvania will admit that such a provision ought to be in it.

I do not touch the question of the character of the issue, whether it affects the hard-money currency of the country or the paper-money currency. I call the attention of the gentleman from Pennsylvania and the gentlemen of this House to the difference simply between the bill of 1847 and this bill. At the proper place, I shall move the following amendment:

And be it further enacted, That the President, if in his opinion it shall be the interest of the United States so to do, instead of issuing the whole amount of Treasury notes authorized by the first section of this act, may borrow, on the credit of the United States, such an amount of money as he may deem proper, and issue therefor the stock of the United States, bearing interest at a rate not exceeding six per centum, for the sum thus borrowed, redeemable after the 30th June: *Provided, however*, That the sum so borrowed, together with the Treasury notes issued by authority of this act, shall not, in the aggregate, exceed the sum of \$20,000,000: *And provided further*, That no stock shall be issued at a less rate than its par value: *And provided further*, That the power to issue Treasury notes conferred on the President of the United States by this act shall cease and determine on the 1st day of January, 1859.

Mr. MILLSON. Mr. Chairman, I agree with much that the gentleman from Massachusetts has said, and it is for that very reason that I have risen to express my surprise that he has indulged in the complaints which he has just made. The gentleman has said, and truly said, that the country was never in a more prosperous condition than now, and he seems to doubt the necessity for continuing the issue of these Treasury notes. It is for that reason, sir, that I think that Congress ought at this time to prefer to supply the public necessities by the issue of these Treasury notes, rather than by resorting to loans on a long period of credit. It may be, sir, that the Treasury will have little or no occasion for such aid. It may be that the imports into the country will continue to be as large as they have been for some years past, and the revenue will be so abundant as to obviate any necessity for a resort to a loan. My own opinion on that subject, Mr. Chairman, is that there will be but a slight falling off in the public revenues. I do not know the relation between the exports and the imports of the last fiscal year; but I do know that for the two preceding years there was, what never has been before in the history of the Government, an excess of exports over the imports, of about \$25,000,000. And when you take into consideration the fact that these exports are rated at the domestic valuation, while the imports come to us with the addition of profit, insurance, freight, and other charges, I do not think I make an extravagant declaration when I say that the public reports from the Treasury will show that, upon the transactions of these two years alone, the United States stand before the world as the creditor nation to the amount, perhaps, of \$100,000,000.

This large indebtedness must be paid. It must be paid either in specie or in merchandise; and when we recollect that we are the great producers of specie, and reflect upon the general derangement of the business transactions of the country, if we continue to import specie in addition to the domestic supply, we must come to the conclusion

that this debt will be paid to us in merchandise, thus filling the Treasury again, and providing for all the possible wants of the Government. I say, therefore, that there may be, for aught we know, no necessity whatever for any loan. I trust that it may be so; but at this time, sir, we are threatened with a deficiency of revenues. It is important that the public credit shall be maintained; it is necessary that the public wants shall be provided for; and it is proper, therefore, that discretion should be given to the agents of the Government, who, if they are trusted with the custody of the large sums belonging to the United States, may be very safely trusted also with the exercise of this discretion of issuing Treasury notes, in order, if necessary, to provide by this means for the public wants.

If you resort to loans at a long period, what will or what may be the consequence? Why, after having borrowed the money, it may appear that there was no necessity for it, and that it can be applied to no proper use, and the Government will then be placed in the condition, where it was only a few months ago, of purchasing its own paper at a very heavy appreciation, in order to save the unnecessary payment of interest. It may be compelled to do again what it was but recently obliged to do—that is, redeem its notes at a premium of some fifteen or sixteen per cent. You avoid this danger by the issue of Treasury notes. You have the advantage, too, of issuing these notes in sums adapted to the exigency of the moment. If you want them of small amount, why you will issue but a small amount of notes. It is not to be supposed that the Secretary of the Treasury, upon his responsibility as a public officer, will unnecessarily plunge the Government in debt by issuing a larger amount of Treasury notes than the wants of the country require.

The honorable gentleman from Pennsylvania, [Mr. RITCHIE,] who spoke a few minutes ago, seemed disposed to taunt the Democratic members with seeming or imputed inconsistency—for it was rather an imputed inconsistency than even a seeming one—in protesting in their theoretical expostulations against a paper currency, while practically they are found voting for the issue of Treasury notes, which he described as a new form, or another form of a paper currency. I am inclined to suspect, Mr. Chairman, that the argument thus used by the gentleman from Pennsylvania was intended by him to have more weight on this side of the House than that gentleman would be willing to attribute to it himself. Does he object to a paper currency? Is he an advocate of the hard-money system? I do not think he is. But the gentleman, perhaps, supposed that his chanting the virtues of a hard-money currency would, at least, have an effect here which it had not on his own mind. But, allow me to ask, Mr. Chairman, what sort of resemblance is there between Treasury notes bearing interest and a paper currency? Does not the gentleman know that there is scarcely a single feature of resemblance between these Treasury notes of the Government and what he calls a paper currency? I think, sir, it would be difficult to find a member in this Hall more desirous to destroy, or, at least, to diminish the circulation of paper money than I am; and yet it never occurred to me that there was the slightest inconsistency between my wishes upon that subject and my practice in the case now before the committee.

Why, sir, the most earnest and eager opponent of a paper-money currency has never questioned the propriety and the necessity of going into debt whenever debt becomes unavoidable; and when you go into debt, it is not only proper, but honest that some acknowledgment of the debt should be given, and some promise to pay interest for the withholding of the debt. What more do the Government do, sir, in the issue of Treasury notes? Is this a paper currency? It is but the borrowing of money; it is but the payment of the public creditor by giving him an acknowledgment of his debt, and promising to pay him interest for the delay of payment.

Mr. BANKS. We know that it is borrowing money, but it is the form of borrowing to which we object.

Mr. MILLSON. But the gentleman has not stated what there is objectionable in this form of borrowing, except that he supposes these Treasury notes will be used as currency. Now, I will

undertake to show that if we are to judge of the future by the experience of the past, these Treasury notes will not be used as currency—will not go into the general circulation; and for the simple reason that State bonds and the evidences of ownership in the stock of your banking institutions are not used as a general currency, because they are bearing interest, and are worth more to-day than yesterday, and will be worth more to-morrow than to-day; they have no certain ascertained value; their value is perpetually changing; they are not fitted for the purposes of currency at all. We know very well, Mr. Chairman, that when Treasury notes were issued some years ago they were not used as a currency; they were purchased as other public stocks were purchased; they were generally sought after as means of profitable investment of money. And so it will be again.

When the gentleman from Massachusetts [Mr. BANKS] interrupted me, I was proceeding to say that the Government paid to its creditors, or to such as were willing to receive them, these Treasury notes. There is no obligation implied in this bill for the reception of these notes. The public creditors may refuse to receive them. We know, Mr. Chairman, that in times past—and the very bill before you contemplates the possibility of a similar state of things existing hereafter—the Government has been wholly without means of paying those who are in the public employment; they prefer to continue in the public employment, even though they receive no money and not even an acknowledgment of the debt due them. What does this bill propose to do, sir, but to give to those persons evidences of the public indebtedness and to discharge the obligations of honesty and morality by promising to pay them interest upon the debts due them? That is all.

I therefore think, sir, that there is a peculiar propriety, for the very reasons assigned by the gentleman from Massachusetts himself, in raising this loan in the form of Treasury notes; and, sir, if I could have heard the statement of the gentleman's premises before he anticipated his conclusion, I should have come to the belief that he would have urged the issue of Treasury notes as a means of raising the required sum of money rather than a resort to a loan. But the gentleman, as I conceive, with all respect to him, with a perfect disregard of the obligations of logic, arrived at a conclusion which, as I conceive, is wholly and irreconcilably at war with his premises.

Mr. STEPHENS, of Georgia. What is the question before the committee?

The CHAIRMAN *pro tempore*, (Mr. BOCOCK occupying the chair.) The bill has been read.

Mr. STEPHENS, of Georgia. There is no motion pending, then. I hope we shall take up the bill by sections, and go to work regularly, and have no more of this desultory discussion.

The CHAIRMAN *pro tempore*. Debate has not been closed upon the bill, but the first section will be reported to the committee.

Mr. WASHBURN, of Maine, obtained the floor.

Mr. STEPHENS, of Georgia. Before we proceed further, I move that the committee rise for the purpose of closing debate.

The CHAIRMAN *pro tempore*. If the gentleman from Maine will yield the floor for that purpose, the gentleman from Georgia can submit the motion; but otherwise, the floor cannot be taken from the gentleman from Maine.

Mr. WASHBURN, of Maine. I decline to yield.

Mr. STEPHENS, of Georgia. I did not know the gentleman from Maine had the floor.

Mr. DAVIS, of Maryland. I desire, with the leave of the gentleman from Maine, to inquire of the Chair whether, if the bill be now read by sections, the debate will be confined to the sections which have been read?

The CHAIRMAN *pro tempore*. By no means. Debate has not been closed upon the bill, and any subject embraced in the bill is open to discussion. The first section of the bill was then read.

Mr. BANKS. I move to amend the first section of the bill, by adding to it the following proviso:

Provided, That the power to issue Treasury notes, conferred on the President of the United States by this act, shall cease and determine on the 1st day of January, 1859.

Mr. WASHBURN, of Maine. I think that

the effect of the answer made by the gentleman from Virginia [Mr. MILLSON] to the gentleman from Massachusetts, [Mr. BANKS,] is somewhat broken by the consideration that he ignored entirely the terms of the amendment. By that amendment, as I understand it, it was to be left to the discretion of the President of the United States to say whether a loan should be substituted for the issue of Treasury notes. Is not the gentleman from Virginia willing to indorse that discretion to the President of his choice? The gentleman from Virginia assumed that any loan which might be authorized, or made under the authority of the Administration, would be a loan for a long period of time; whereas, by the amendment, the time was not fixed, and, as I understand it, no time was contemplated by the amendment. If there was a blank in it, it might have been filled up by the House hereafter, or discretion might have been given to the Administration which, it seems to me, would remove entirely the objection of the gentleman from Virginia. Sir, in all times past, gentlemen of the school to which my friend from Virginia belongs, have opposed this principle of issuing paper promises by the Government, or by any of the agents or instrumentalities of the Government. No political party in this country has been so ready at all times to oppose any measure resembling in principle that now before the committee.

Why is this change—this signal and marked change? Why is it that these men who have been always heretofore opposed to paper currency, paper money, and paper promises in any form and in all forms, are now in favor of it, and are unwilling to leave any alternative to the Administration that they have put in power? Why is it? There must be some reason, and perhaps some reason that cannot meet the eye. There would have been no necessity at all for the measure, had the Administration of the gentleman's choice in past times been as prudent and as economical, and as just to all sections of the country as they should have been. We recollect, a few years ago, when ten millions were voted by this House, (and we were told that we had no right to inquire into the reasons of it,) for the purchase of a little strip of land, a few miles wide, worth not \$10,000, as Colonel Benton told us; for the purpose of making the only connection that some gentlemen think it is possible to make between the Atlantic and Pacific, through the region of Arizona. May it not be that there are some other such operations in prospect—one out here in the ocean and others in the southwest—and that gentlemen desire not to be embarrassed by being told, when they come here with their propositions for an appropriation for such purpose, that not only is the Treasury empty, but that the Government has been contracting loans, permanent loans it may be, to get along with its ordinary expenditures.

I wish to know if there is anything of the nature of these reasons in this matter; or, if not, what the reasons are that have produced this wonderful and marked change in the opinions of the gentleman from Virginia, [Mr. MILLSON,] and of those who agree with him on this floor.

Mr. DAVIS, of Mississippi. I wish to inquire why members have not been furnished with copies of this bill? I understood that it was ordered to be printed yesterday, and supposed that the object was, that each member should have an opportunity of examining the bill for himself, so that he might be prepared to vote on the question when it came up. I find that there are copies of the bill on the desks of some members; but I, as well as many other members, have been unable to get a copy. I simply desire to know if the rule is that a few members are to have printed copies of the bill, and that the rest of the members are simply to take their votes as the rule by which they are to be governed? I want a copy of the bill for my own information.

The CHAIRMAN *pro tempore*, (Mr. BOCOCK.) Of course, the present occupant of the chair had no control over the printing of the bill; but he has been informed that the usual order to print has not been executed, in consequence of want of time. The rules of the House require that a sufficient number of copies be printed to furnish each member with one. The order to print was only made yesterday, and sufficient time has not elapsed, perhaps, to have the requisite number of

copies printed; so that some gentlemen may have got copies, while others have not.

Mr. JONES, of Tennessee. I presume there are copies enough in the document room for all the members of the House.

Mr. SMITH, of Virginia. There are none there. I have sent, and have not been able to get one.

Mr. JONES, of Tennessee. It only requires some two hundred and fifty copies to supply the House.

Mr. J. GLANCY JONES. I may state that I took the pains myself to see that this bill should be printed; and I was informed that copies would be here for distribution at half past twelve. One was laid on my table at one o'clock, and others circulated around me; and, therefore, I supposed that all the members were supplied.

Mr. FLORENCE. Whose duty is it to see to this? Is it the duty of the Clerk of the House to have bills printed and put in possession of members?

The CHAIRMAN *pro tempore*. The Door-keeper has just informed the Chair, that a new supply has been brought in, and is in the hands of the pages, for distribution.

Mr. FLORENCE. I heard it said that they had not been sent to the Clerk's office. The Clerk is only an amateur, and I want to keep him to his duty. I want to set an example on this side of the House.

Mr. BISHOP. I have thus far, Mr. Chairman, heard no man deny that the resources of the Government were about exhausted; that the Treasury of the United States was nearly empty; and that there was a necessity, by some means or other, of raising funds to carry on the Government. The only question that has been discussed has been, whether this loan should be secured through an issue of Treasury notes, or by a loan, founded on Government stock.

It has been suggested, why not leave the question to the President of the United States, to decide whether he wishes this money raised by loan or by the issue of Treasury notes? Why, Mr. Chairman, if I understand correctly, the President wishes for no such privilege. He comes here, through the Secretary of the Treasury, and asks the Senate and House of Representatives to grant him the privilege of issuing Treasury notes. He does not ask for power to negotiate a loan upon the security of United States stocks. So far, then, as the opinions of the President are concerned, we are acting in conformity with those opinions; we are only carrying out the views of the President, in doing exactly what he recommends us to do.

It was suggested by the gentleman from Pennsylvania [Mr. Grow] the other day that it was a very extraordinary state of affairs to see this Government, only sixty days ago purchasing up their stocks at a premium of twenty or thirty per cent., now coming forward and asking for the issue of Treasury notes to meet their immediate necessities. Mr. Chairman, it is an extraordinary state of affairs, but no more extraordinary connected with the Government than connected with the affairs of individuals throughout the country. Where can there be found a man engaged largely in business who was not buying State stocks, railroad bonds, and railroad stocks, at a high premium, sixty and ninety days ago? And yet how many of these men have since become bankrupt, and have been compelled to place their effects in the hands of their creditors for settlement? It is true that this is an extraordinary state of affairs, but it is this very state of affairs which has brought about the necessity which exists for issuing these Treasury notes.

Now, the gentleman from Virginia [Mr. MILLSON] suggests that these Treasury notes will not go into circulation. I cannot concur with the gentleman in that respect; I believe that they will go into circulation, and that they will be made a medium of exchange throughout the country, and that the business of the country will be greatly benefited in consequence; and it is for that reason, as much as any other, that I prefer the issue of Treasury notes to the issue of the United States stocks, as a measure of relief.

When the gentleman says that State or United States stocks and bonds have never been used as a medium of exchange it is very true, for the Government has never proposed to receive State

or Government bonds in payment of the debts due the Government of the United States. But, sir, it is provided in this bill that these notes shall be received by the Government in payment of debts due the Government, and hence it arises, from the necessity of the case, that these Treasury notes will be made a medium of exchange. I know that, in my section of the country, they are looking for these Treasury notes, for the very purpose of making them a medium of exchange. If they bear no more than one per cent. interest, they will be taken into the banks as the equivalent for gold, just as much as though they bore six per cent. interest.

Another objection to the issue of United States stocks is that, in order that they may bring a large premium, they must have a long time to run. The exigencies of the Government may require that this money shall be needed only for a short time, perhaps only for a few months; and when that time has past, if you issue your Government stocks they may run on for twenty years, and you are obliged to pay interest upon them for the whole time, and then perhaps you bring about the same state of affairs spoken of by the gentleman from Pennsylvania, in which the Government will again be found purchasing up its own stocks at a premium of twenty or thirty per cent. For that reason it is more economical for the Government, and better for the business of the country, that Treasury notes should be issued rather than Government stocks.

We have been referred to the issue of United States stocks in 1847, and it has been suggested that, as that plan was adopted then, why not adopt it now? Why, Mr. Chairman, there is no prospect of the Government wanting the same amount of money now which it wanted then. It may be, that before these very Treasury notes are executed by the Secretary of the Treasury, the necessities of the Government will have passed, and that the importations will have increased, and that there will be sufficient money in the Treasury to meet the exigencies of the Government before the time arrives for the issue of the first note. But I hope, Mr. Chairman, that if these notes are to be issued, the passage of the bill may not be delayed in this House. If they are to be issued at all, they should be issued in the most speedy manner. For, while the issue of these notes will be an advantage to the Government, I know that so far as my section of the country is concerned, they will be of wonderful advantage to the business of the State. Business there is prostrated. The country is not, as the gentleman from Massachusetts [Mr. BANKS] said, in a prosperous condition. It may be true that there is more money in the country than ever before, but if such is the fact, I should like to have the gentleman from Massachusetts point out where it is to be found. The manufacturers and the business men of Connecticut cannot find it. It is hoarded up; confidence is lost; and though there may be money in the country, it cannot be made available for the benefit of the business men of the country, except at a high rate of interest.

Mr. COVODE. I wish to ask the gentleman from Connecticut a question, with his permission. I wish to ask whether the simple reason why this gold is not in circulation is not that paper money has taken the place of it? Then, if you put more paper money into circulation by the issue of Treasury notes, do not you drive more gold out of circulation? and not only out of circulation, but out of the country? That is the cause of the difficulty under which the country is laboring. The more paper you introduce as a circulating medium, the more gold you drive out of circulation.

Mr. BISHOP. In answer to the gentleman from Pennsylvania I have to say, if he admits that these Treasury notes are the same description of currency as the paper issued by the banks throughout the Union, perhaps his argument may amount to something; or, if he believes that the issue by the Government of a few Treasury notes for a few months, or for a year or two, in order to make up a small deficiency in the Treasury, is the same as the establishing of a bank authorized to issue notes of the denomination of five dollars, three dollars, two dollars, and one dollar, almost without limit, with scarcely a dollar of specie upon which that paper money is based, I admit, then, that his argument may amount to some-

thing. I am no more in favor than the gentleman from Pennsylvania of making the United States Government a machine for the manufacture of paper money. I regret that so much paper money has been sent into circulation throughout the country. I believe that it has been the great cause of the present unfortunate condition of the country.

Mr. COVODE. I say to the gentleman from Connecticut, that he started with the admission that the money in the Treasury is nearly exhausted, and therefore there is nothing upon which to base this circulation of paper money. [Laughter.]

Mr. BISHOP. I ask the gentleman whether this bill does not provide that these Treasury notes shall be sold to the highest bidder, and that gold shall be paid for them? If this is true, I then ask him whether, when these Treasury notes are out, there is not a dollar of gold for every dollar of notes?

I do not wish to dwell upon this subject. I am no advocate of paper money. I should like to see a law passed, if it were possible and constitutional, forbidding any banks in the Union from issuing a bill under the denomination of fifty dollars. But, sir, that cannot be done. I trust that this measure will pass. It will meet the necessities of the country and benefit the business of the country.

Mr. J. GLANCY JONES. I am anxious to bring the House to a vote upon this bill to-day, and I therefore move that the committee rise, with a view to fix a time for closing debate on it.

Mr. DAVIS, of Maryland. I desire to submit a few remarks, and I hope the gentleman will not make his motion now.

The CHAIRMAN. The motion is not debatable.

Mr. CLINGMAN demanded tellers.

Tellers were ordered; and Messrs. SAVAGE and WINSLOW were appointed.

The question was taken; and it was decided in the negative, the tellers having reported—ayes 80, noes 92.

So the committee refused to rise.

Mr. DAVIS, of Maryland. Mr. Chairman, the gentleman who last addressed the committee threw some light on a subject which has removed some doubt which previously rested upon it, if not as to the purposes intended to be accomplished, at least as to the purposes which will be accomplished by this bill, if passed in its present form. It was stated yesterday by the honorable gentleman from Alabama, [Mr. HORTON], who for a long time presided over the Committee of Ways and Means, that this bill, he believed, followed, with considerable accuracy, the precedents of former bills for issuing Treasury notes. The honorable chairman of the present Committee of Ways and Means started out this morning with the same statement, which, however, he qualified, by saying that they were the same, with the exception of two or three particulars, which he specified, still leaving the impression upon the House that this bill was no novelty, but was in the line of former precedents, if they were not the same.

I was very much struck by both forms of expression at the time they were used; and on investigating the former laws which have been passed, I find that they are alike in the formal parts of the bill, but in those portions which touch the material qualities of it, they greatly differ. I can scarcely add, on this point, to the observations already made so well by the gentleman from Massachusetts, [Mr. BANKS], nor have I any further suggestions to make with reference to the amendment which he has moved, for the purpose of bringing this bill within the line of early precedents.

In the first place, with reference to a matter of detail—and I address myself especially to my friend at the head of the Committee of Ways and Means—the clause of the fourth section which he has moved to add to the bill, cannot stand in the bill without coming in direct conflict with the second provision of the bill as originally drawn; and that conflict existed in the bill when drawn, and when yesterday presented to the Committee of Ways and Means for their consideration. I make the suggestion because the gentleman can obviate the difficulty by an amendment. The second section provides that the first \$6,000,000 issued shall be issued at such rate of interest as

the Secretary of the Treasury shall see fit to prescribe; and it directs that the residue shall issue at such rate of interest as shall be bid for by the lowest bidder.

The fourth section, as amended by the honorable gentleman, provides that these Treasury notes shall be exchanged in the payment of the duties of the Government to persons bearing warrants on the Treasury. But as they are to bear interest, and as only \$6,000,000 can have the rate of interest fixed by the Secretary of the Treasury, and as the rate of interest on the residue is to be fixed by bidding, it is plain that it is impossible to apply any beyond the \$6,000,000 to the payment of the creditor of the Government, unless he and the Secretary of the Treasury are themselves to bid, according to the language of the act. It is plain, therefore, that my honorable friend must modify the bill in that particular. When that shall have been done, then the bill will be in the position in which the President of the United States desires it; and, judging by the gentleman who spoke last on the other side of the House, that apparently is an all-sufficient reason for accepting it in this shape. On this side of the House, Mr. Chairman, we, perhaps, are not so docile with reference to the executive recommendations, and we venture to *specer* a question as to the purposes which may be subserved by the bill, although it may be very true that the Secretary of the Treasury does not mean to accomplish those purposes.

When we reach this point, then light falls upon the bill from the gentleman who last spoke, [Mr. BISHOP.] I take his speech in connection with the remark of the honorable gentleman from Virginia, [Mr. MILLSON,] that this is no paper currency. The last gentleman who spoke said, "Oh, but it is needed in my region of country, where there is scarcely any currency; it will accomplish the purpose of regulating the exchanges of the country." I submit that there, at once, are two distinct admissions that this paper is put forth upon the country as a paper currency, for these are the two purposes which a paper currency is intended chiefly to subserve. With reference to the exchanges between different portions of this country, Mr. Chairman, you know very well—much better than I do—that ever since the destruction of the Bank of the United States in 1836, there has been always the greatest difficulty in finding any paper medium that would transfer funds from one portion of the country to another, except at a ruinous rate of discount. And gentlemen know, and the honorable gentleman who spoke last knows—for he comes from that portion of the country where, of all others, the operations of exchange and paper money are most perfectly understood—that the very moment the Government casts upon the country their \$20,000,000 of Treasury notes, split up into sums of fifty dollars, they form the best medium of exchange existing in the country—one of the chief purposes of paper currency—and one of the greatest necessities of modern commerce. There is no time provided at which any man can be coerced to present any one of these notes at the Treasury. They may, if presented, be redeemed at or after the expiration of one year, within sixty days after the Treasury may be in a condition to redeem them, and shall have published that fact; then the interest is to cease. But, suppose the Treasury is ready within two months after a large proportion of them shall have been issued, there is still no law to coerce the return of the bills. The holder may very well be content to lose the interest upon the amount of a bill which can be used as the cheapest and best method of exchange for the next twenty years to come; and there is no provision of the bill that can at any time prevent the circulation of this medium for the purposes of exchange. I say, therefore, whether the gentlemen who drew this bill intended it or not, that they have accomplished exactly what the notes of the Bank of the United States accomplished, and exactly what Mr. Webster designed to accomplish by his scheme of a fiscal agent; that is, the issue of notes on the faith of the Government without being guarded, as Mr. Webster's scheme was guarded, by having five or ten million dollars of specie dedicated to meet the notes. It is an irredeemable currency; a currency, however, that will circulate upon the faith of the Government. So that the honorable gentlemen on the other side, intentionally or unintentionally, have themselves

proposed a measure which they cannot limit, if it is adopted in the shape in which they have proposed it; making a perpetual irredeemable currency, the very material of exchange, and which, for that purpose, will always continue in circulation until they, by some mode or other, coerce its return.

Mr. UNDERWOOD. How can they coerce it?

Mr. DAVIS, of Maryland. The gentleman from Kentucky asks how can they coerce it, and it is for gentlemen on the other side, who have now the responsibility of the Government, and who have been reading us divers lectures on the evils of a paper currency, to respond. Under the provisions of this bill, I say it cannot be controlled, for there is no provision saying that it shall be returned to the Government within any period of time whatever.

Well, Mr. Chairman, I do not care now to discuss what will be the effect upon the country of throwing upon it \$20,000,000 of Government paper, which is really currency. Sir, it is a significant fact that the amount of the notes is limited to that precise point which the Secretary of the Treasury and the President of the United States recommend should be the limit of bank bills. That is a significant feature in connection with the fact that they are now prepared by the policy they have indicated, both in the report of the Secretary of the Treasury and in the message of the President to strike down the banks of the country by a bankrupt law, and then to have \$20,000,000 of Government paper floating in currency, which it is beyond their power to call back, and which will instantly fill the void which they make, if they do what they say in the President's message.

I mean to cast no imputations. I am merely developing the legal results of the bill that has been, and is being, pressed here earnestly to a passage before gentlemen have had an opportunity of considering it. I appealed to the courtesy of my honorable friend at the head of the Committee of Ways and Means to allow me to ascertain and develop the legal consequences of this bill; yet, in his opinion, the public exigencies would not justify the indulgence. I say I am merely developing the legal consequences of that which, in its existing shape, gentlemen wanted to force to a final vote of the House. I am entitled, therefore, to cast upon them the responsibility of all difficulties connected with it.

Mr. J. GLANCY JONES. Will the gentleman allow me to say that I did not want to cut off his speech, but merely to fix the hour at which the debate should close?

Mr. DAVIS, of Maryland. Then, Mr. Chairman, for the present, and until the bankrupt law shall have been passed, striking down all the banks of the country that have seen fit—in the exercise of a wise discretion, and following the best precedents of the greatest financial minds of this country and of England—to relieve the country by suspending their specie payments, what is proposed? Ere they shall have reached that point, and shall have stricken down the banks because, in a wise discretion, supported, almost without exception, by the business men of the country, (the most marked instance of it being in New York, where suspension was brought about deliberately by the merchants themselves, the great money masters of the country, who caused the very banks in which they themselves had their deposits to suspend, while the banks themselves, on a factitious idea of commercial honor, tried to avoid suspension,) they took the course to preserve the credit of the country and its whole commerce from being prostrated, they come in with this measure. The banks of the country suspended less than three months ago, and now they have more specie in their vaults than they ever had before, and have resumed specie payments. The operation of the general bankrupt law, had it then been in existence, would have been to have stricken down, at one blow, the half currency of the country; and I leave to gentlemen who know anything of commercial affairs, to say what condition we would have been in had this favorite plan been in operation.

But I do not mean now to discuss that. We have now a perfectly sound paper currency throughout the country, because the banks have not broken. Merchants have broken; but the banks have not broken. Their paper has not been

returned on them. It is still in circulation. In New York it is now exchangeable in gold or silver at their counters, and therefore they are still in existence. At this point, the financial gentleman at the head of the Treasury Department of the Government desires to increase the amount of paper currency to the extent of \$20,000,000 at his will. I leave to gentlemen, conversant with mercantile affairs, to say what the operation of that will be.

Mr. BISHOP. I want to ask the gentleman a question.

Mr. DAVIS, of Maryland. I prefer that the gentleman will allow me to proceed in the course of observation that I am making.

The effect, therefore, we cannot now, perhaps, entirely determine. If this measure add \$20,000,000 to the existing paper currency of the country, then, I suppose, it makes paper currency so much the more in excess. If it drive out \$20,000,000 of that which is now in circulation, it substitutes the credit of the Government and the paper of the Government for the credit and the paper of the banks—the paper of the banks being now redeemable in gold at their counters, and the paper of the Government not being redeemable at any time, so far as is indicated in the bill that they are attempting to pass. So that, in one breath, the honorable gentleman at the head of the Treasury Department talks about the danger of an inflated currency, and of an inflated credit, and in the very same breath desires to throw on the country \$20,000,000 excess of material, which, he says, ought now to be condemned by the operation of a bankrupt law, and by the operation of every measure of legislation that can be obtained to limit the issue of paper currency. I submit that there is a grave inconsistency between the direct intents of this bill and the policy of the Government with respect to its financial matters.

But, Mr. Chairman, we ought, I think, to inquire as to the effect of this measure. No one doubts—I certainly do not doubt—that there is a grave necessity now, for the credit of the country, to come to the rescue of its depleted Treasury; and whenever the form of so assisting it shall be adjusted in a manner that I consider to be proper, I will then most cheerfully give it my sanction; and if it shall appear that money cannot now be raised by a loan, but may be raised by Treasury notes, then, with additional limitations of this bill, I will be ready to favor it.

But it is proper, when a loan is asked for on the part of the Government—and that is the substance of this bill—that at least Congress should be heard to put the question, "Why the necessity of a loan?" While I am willing and free to vote all the means that Government may want for its purposes, I must be allowed to ask, Why is the Government going out again as a borrower? There was money in the Treasury three months ago; why has not that money been kept there? It was paid out, we are told, to relieve the necessities of the country. I presume that it has relieved the necessities of the country by transferring the necessities to the Government. I suppose that, if there was a necessity for specie in the country at that time, it scarcely comports with the theories of the other side of the House, or the relations of the Government to the country in its financial matters, to supply that currency. It is altogether a factitious necessity. They were driven to supply the currency because they had it locked up in the vaults. They had locked it up in the vaults because, owing to the system of tariff in the country, they had accumulated there more specie than the necessities of the Government demanded. Was it that people wanted money in the country, and that therefore the Government let it go? If so, then I say that the Government is responsible, to the extent of the money in the Treasury under the sub-Treasury scheme, for the necessities of the country. I suppose that that responsibility lies likewise on the side of the House that now proposes this loan.

Was there any necessity, or any justification on the part of the Secretary of the Treasury for purchasing United States stocks at fifteen or sixteen per cent. premium? It has been stated by a gentleman on that side of the House—though I am inclined to think he was perhaps in error—that it was purchased at nineteen, twenty, and even twenty-three per cent. premium. Was there

any justification or necessity for that course of financial policy? Was not the Treasury Department responsible to know the condition of affairs in the country? Are they to be allowed to be so blind in financial matters as that, within three months, they can pass from a state where they can spend to relieve the country's necessities into a state of bankruptcy where they require a loan? Was there any justification for purchasing in the stocks of the United States at this great loss to the Government? Was specie wanted in the country? Then those who had the stocks of the United States could have brought it elsewhere. It was unnecessary that the loss should fall upon the Government of the United States. Men could have sent these stocks abroad and brought into the country the specie for them at a premium far less burdensome to the affairs of the country.

It strikes me, therefore, that the course pursued by them has brought upon the country that which is now its necessity. It may be that, if the Secretary of the Treasury had pursued a different course, hereafter, a loan would have become necessary. It certainly would not have been necessary now. I do not think that this storm is so rapidly passing away as the Secretary of the Treasury seems to suppose. I do not regard it as a mere temporary disorder in the country. I apprehend that it has affected the business of the country to its very foundations. I apprehend that it has prostrated not merely the credit, but in a great measure the resources of those who have conducted the business of the country. I apprehend that the fall of prices of every species of produce indicates something more than a mere temporary derangement of the currency of the country. I apprehend, from the recent fall in the prices of cotton, that the cotton of the South will not, as the Secretary of the Treasury thinks, afford sufficient material for the exchanges of the foreign trade. I apprehend that prices will, in all probability, remain low; that business will continue dull; that imports will be small, and consumption smaller than the imports; and that the revenue will be less rather than greater.

We shall, in my judgment, be called on to pass more than one bill of relief for the Government.

The Secretary of the Treasury has, in my opinion, been guilty of a great financial error; because he has taken the money which was in the Treasury, for the purpose of buying the Government securities at an enormous premium; when, if the money was wanted, it could have been obtained, on these securities, from abroad, which would have strengthened the hands of the business men, and added to the amount of specie in the country.

I hold that one cause of our necessity is our sub-Treasury scheme. It was that which brought, in part, upon the country the necessities which now trouble it, by withdrawing from the circulation of the country more gold than was required for the wants of the Government.

And another element which I suppose has contributed to the result at which we have arrived, is the speculative tendencies of the country, which have been pushed on by the tariff policy of the Government for the last four, five, or six years, until finally we are brought to another revulsion, analogous in cause, and to be cured in the same way, as the revulsion of 1837.

These are the observations, Mr. Chairman, which I desired to submit upon this bill. In closing, I have only to say, that I recognize the necessities of the Government, and I am not illiberal, I trust, nor have I ever been at any time, in my votes, to aid the Government in carrying out a most liberal policy in all its departments. And therefore, when this bill shall have been placed in a condition which I think will render it safe for the interests of the country, I shall most cheerfully give it my assent.

Mr. FLORENCE. As it is now three o'clock, I do not desire, at this hour, to make any remarks upon the measure before us. I therefore move that the committee do now rise.

The motion was agreed to. The committee accordingly rose, and the Speaker having resumed the chair, Mr. Phelps reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 4) to authorize the issue of Treasury notes, and had come to no resolution thereon.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the War Department, transmitting, in compliance with a resolution of the House of Representatives, a list of officers against whom there is an unadjusted balance standing over for more than twelve months; which was laid on the table and ordered to be printed.

Mr. FLORENCE moved that the House adjourn.

Mr. GROW. I appeal to my colleague to withdraw that motion for a moment to enable me to offer a resolution of inquiry, which I have been trying to get an opportunity to do for several days.

Mr. JONES, of Tennessee. I shall object to any resolution being offered if the motion is withdrawn.

Mr. FLORENCE. I would very cheerfully withdraw my motion, if my colleague could accomplish his purpose by it; but as the gentleman from Tennessee says, in advance, that he will object to his resolution, it would be of no avail.

Mr. GROW. I know the kindness of heart of my colleague, and will not ask him to withdraw the motion under the circumstances.

The motion was agreed to; and the House accordingly, at seven minutes past three o'clock, adjourned until Monday next, at twelve o'clock, m.

IN SENATE.

MONDAY, December 21, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Vice President appeared and took the chair. The Journal of Saturday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of Washington Territory, communicating copies of the laws passed at the session of the Legislative Assembly of the Territory of Washington, begun and held at Olympia, December 1, 1856; which was ordered to lie on the table.

PETITIONS AND MEMORIALS.

Mr. KENNEDY presented the petition of Henrietta Carroll, widow of William Carroll, praying to be allowed bounty land for the services of her husband during the last war with Great Britain; which was referred to the Committee on Public Lands.

Mr. STUART presented the petition of Sarah Lovejoy, widow of Joshua Lovejoy, praying for remuneration for property destroyed by the enemy during the last war with Great Britain; which was referred to the Committee on Claims.

He also presented the petition of citizens of Copper Harbor, Lake Superior, praying for the establishment of a separate Indian agency for the Indians of Lake Superior; which was referred to the Committee on Indian Affairs.

Mr. MASON presented the petition of the Alexandria, Loudoun, and Hampshire Railroad Company, praying for the erection of a bridge on the piers of the Potomac aqueduct, and that the company may be allowed to extend a branch of their road into the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the petition of members of the bar of the circuit and criminal courts of the District of Columbia, praying that the salary of the judges of the criminal court may be increased; which was referred to the Committee on the Judiciary.

Mr. SEWARD presented the petition of R. S. Hamilton and J. E. L. Hamilton, heirs of Josiah Locke, an officer in the revolutionary war, praying to be allowed a pension; which was referred to the Committee on Revolutionary Claims.

Mr. THOMSON, of New Jersey, presented the petition of Albert G. Hopper and Nancy Baldwin, heirs of Garrett A. Hopper, a soldier in the revolutionary war, praying for the payment of a pension due to them; which was referred to the Committee on Pensions.

Mr. FITCH presented a memorial of citizens of Allen county, Indiana, praying for the construction of a ship canal around the Falls of Niagara; which was referred to the Committee on Commerce.

Mr. HUNTER presented a memorial of heirs

of revolutionary officers of the continental line, praying for the repeal of the acts of limitation of 1792 and 1793, in order that the Court of Claims may pass upon their claims; which was referred to the Committee on Revolutionary Claims.

Mr. GWIN presented the petition of Isaac Swain, praying for the payment of a balance of his claim for damages, in consequence of the loss of the ship Ellen Brooks and cargo, rejected by the Court of Claims; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the petition of Joseph Morrow, a soldier in the last war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. JONES presented a petition of citizens of Sioux City, Iowa, praying for the passage of an act authorizing the entry of a portion of the lands on which that city is situated; which was referred to the Committee on Public Lands.

Mr. HARLAN presented the petition of Richard E. Randolph, praying to be allowed bounty land for services in the Florida war, in the year 1836; which was referred to the Committee on Pensions.

Mr. SLIDELL presented the memorial of the National Institution for the Promotion of Science, at Washington city, asking for the aid of Government to enable that institution to retain and support in a suitable manner the collections in its keeping; which was referred to the Committee on the District of Columbia.

Mr. FOSTER. I present the petition of Nathan Scofield, praying for the renewal of a patent. The petitioner states that some years since he invented an instrument called a "governor," or regulator used for the purpose of governing or equalizing the motion of machinery driven by water or steam power, but, for certain reasons stated in the petition, he has not derived from it that amount of compensation which is just and proper; and he therefore asks for a renewal and extension of his patent. I move that the petition be referred to the Committee on Patents and the Patent Office. It was so referred.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KENNEDY, it was

Ordered, That the heirs of Andrew Leitch have leave to withdraw their petition and papers.

On motion of Mr. IVERSON, it was

Ordered, That the petition of Charles F. Buckner, administrator of William White, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. DAVIS, it was

Ordered, That the petition of Major E. B. Babbitt, the petition of Lieutenant James G. Benton, and the petition of Brevet Major James Longstreet, on the files of the Senate, be referred to the Committee on Military Affairs.

THE PRESIDENT'S MESSAGE.

Mr. JOHNSON, of Arkansas. A resolution was offered some days since by the Senator from Illinois [Mr. DOUGLAS] to provide for the printing of the President's message and the accompanying documents. That resolution is now the basis of the Kansas debate, and a Senator has the floor upon it to-day. I wish some arrangement to be made by which that printing can be proceeded with. The resolution offered by the Senator from Illinois will not now answer. It is not in proper form since the election of a Public Printer by the Senate. I propose to offer now the usual resolution, and, in accordance with our rules, to refer it to the Committee on Printing. This cannot be done without superseding the right to the floor, which is held by the Senator from Pennsylvania [Mr. BIGLER] for to-day at one o'clock; but it is necessary for the public service that the matter should be referred at once to the Committee on Printing, in order that a report may be made to the Senate under our rules, and that we may have these documents printed. The Senator from Illinois proposes to solve the difficulty by a motion which he will make, and then I shall ask leave to offer the usual resolution as a substitute for the proposition he has submitted.

Mr. DOUGLAS. Being desirous of expediting the printing of these documents, so that we can have them as soon as possible, I have consented to accept whatever amendment to my original resolution the chairman of the Committee on Printing may deem proper; but, inasmuch as that would take the subject on which the dis-

cussion has progressed from the presence of the Senate, I suggested that I would make a motion to refer so much of the message as relates to territorial affairs to the Committee on Territories. The Senator from Pennsylvania may proceed with his speech on that motion, the same as on the pending question. If that change will expedite business; I cheerfully accede to it.

Mr. JOHNSON, of Arkansas. With the understanding that the Senator from Pennsylvania shall have the floor on that motion, as he now has on the motion to print.

Mr. DOUGLAS. Of course.

Mr. BIGLER. That will be satisfactory to me.

Mr. JOHNSON, of Arkansas. Then I will now offer my substitute for the proposition of the Senator from Illinois, in regard to the printing of the message.

Mr. DOUGLAS. After the resolution of the Senator from Arkansas is disposed of, I will make my motion, in order that the Senator from Pennsylvania may make his speech on it.

Mr. JOHNSON, of Arkansas. The Senator from Illinois accepts my resolution as a substitute for the one he offered.

Mr. DOUGLAS. I withdraw the original resolution, in order that the Senator from Arkansas may make a new motion.

The VICE PRESIDENT. It can be withdrawn by unanimous consent. The Chair hears no objection.

Mr. JOHNSON, of Arkansas. I offer the following resolution:

Resolved, That the usual number of copies, and fifteen thousand additional copies, of the annual message of the President of the United States and accompanying documents, be printed for the use of the Senate.

I move that it be referred to the Committee on Printing.

Mr. FESSENDEN. It must be referred, under the rule.

Mr. FITZPATRICK. The standing rule requires it to be referred to the Committee on Printing.

The VICE PRESIDENT. Yes, sir.

It was so referred.

Mr. DOUGLAS. I now move to refer so much of the President's message as relates to the Territories to the Committee on Territories, in order that the Senator from Pennsylvania may have the floor on that motion.

Mr. BIGGS. I understand that that motion will lie over until one o'clock.

Mr. DOUGLAS. The Senator from Pennsylvania can call it up whenever he desires to do so.

The VICE PRESIDENT. The motion will be entered.

CHRISTMAS HOLIDAYS.

Mr. BIGGS. In the mean time I wish to call up a resolution I had the honor to introduce some days ago in relation to a recess. I believe it is conceded on all hands to be the former practice of both Houses of Congress not to do any business during the holidays. I think it, therefore, proper, particularly since the operation of the new compensation act, that we shall now set a precedent for adjourning over during the holidays. I can see no propriety in meeting here merely as a matter of form, for the purpose of adjourning. If the former practice obtained in consequence of the former mode of compensation, that reason is disposed of by the new compensation bill. Indeed, if that reason operated at all, the new compensation bill shows the propriety of the present resolution to adjourn over during the holidays, when we do not expect to transact any business. The resolution is well understood by the Senate, and therefore I shall not consume time on it. I hope the resolution will be taken up, considered, and adopted.

Mr. IVERSON. I rise to a point of order. On Saturday evening the Senate had under consideration a joint resolution from the House of Representatives making some change in the compensation law. We adjourned while that subject was under consideration. My point is, that that is the first subject in order this morning, and it cannot be superseded except by a vote of the Senate. I desire to have that measure taken up this morning, and disposed of. I think we can dispose of it before the hour of one o'clock arrives; and it is quite as important, perhaps more so to members generally, than the proposition of the

Senator from North Carolina. If it comes first in order, I shall insist upon its being taken up.

The VICE PRESIDENT. The Chair thinks the point made by the Senator from Georgia is well taken; but the Senate may change the order of business.

Mr. IVERSON. I now ask that the Senate proceed to the consideration of that joint resolution.

Mr. BIGGS. I will suggest to the Senator from Georgia that the point he makes, so far as the unfinished business is concerned, in my opinion does not obtain until one o'clock. It seems to me that one o'clock is the proper time, according to the rules, when the unfinished business undisposed of at the last sitting comes up regularly. Petitions, reports, and resolutions are the morning business for one hour, unless the Senate thinks proper to take up and dispose of other business. The joint resolution named by the Senator from Georgia was the business undisposed of at the last adjournment, and does not come up regularly until one o'clock. Then I admit it will come up regularly as the first special order, being the unfinished business undisposed of at the last sitting. That is my impression of the rules, with due deference to the opinion of the Chair.

Mr. IVERSON. I am willing to accommodate gentlemen in this matter. The Senator from Pennsylvania is anxious to proceed with his speech on the Kansas question; and if we take up either of these measures, we shall probably go beyond the hour allotted to him. I therefore suggest to the Senator from North Carolina that we lay both our propositions aside for the present, and that we allow the motion of the Senator from Illinois to be taken up, on which the Senator from Pennsylvania can proceed with his speech. After that, we can take up either one or the other of these propositions.

Mr. BIGGS. I would adopt the suggestion of the honorable Senator from Georgia at once, were it not that it is important, if this resolution is to pass at all, that it should pass immediately, in order that the House of Representatives may act on it. It has been postponed now for three or four days. The proposition is, that, when the two Houses adjourn on Wednesday next, they shall adjourn until after New Year's day. We must give time to the House of Representatives to act on it.

Mr. IVERSON. I will be amiable, and yield to the gentleman.

The VICE PRESIDENT. The question is on the motion of the Senator from North Carolina, to take up the resolution indicated by him.

The motion was agreed to; and the Senate proceeded to consider the resolution, which directs that when the two Houses adjourn on the 23d instant, they adjourn to meet on the 4th of January.

Mr. GREEN called for the yeas and nays on the adoption of the resolution, and they were ordered; and being taken, resulted—yeas 34, nays 12; as follows:

YEAS—Messrs. Bayard, Bell, Benjamin, Biggs, Bigler, Bright, Broderick, Chandler, Clay, Davis, Dixon, Doolittle, Durkee, Evans, Fitch, Fitzpatrick, Foot, Foster, Hale, Houston, Hunter, Iverson, Johnson of Arkansas, Jones, Kentucky, King, Mason, Pugh, Reid, Seward, Thomson of New Jersey, Trumbull, Wilson, and Wright—34.

NAYS—Messrs. Allen, Brown, Clark, Collamer, Fessenden, Green, Gwin, Hamlin, Johnson of Tennessee, Polk, Stuart, and Wade—12.

So the resolution was adopted; and the Secretary was directed to ask for the concurrence of the House of Representatives.

PRINTING OF THE TREASURY REPORT.

Mr. JOHNSON, of Arkansas, submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the annual report of the Secretary of the Treasury on the finances, with the documents communicated therewith, be printed; and that ten thousand additional copies of the same be printed for the use of the Senate, and five hundred additional copies for the use of the Treasury Department.

NEW CUSTOM-HOUSES.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for the construction of a custom-house at Keokuk, in the State of Iowa. Also, as to the propriety of making Sioux City a port of delivery; and of making an appropriation for the construction of a custom-house at the latter place.

COMMITTEE CLERKS.

Mr. GWIN. I have been instructed by the select committee on the Pacific railroad, to present the following resolution; and ask for its immediate consideration:

Resolved, That the select committee on the Pacific railroad be authorized to employ a clerk at the usual compensation.

The resolution was considered by unanimous consent, and agreed to.

Mr. BENJAMIN. I offer the following resolution; and ask for its present consideration:

Resolved, That each of the standing committees of the Senate, enumerated in the 34th rule, be authorized to employ a clerk, with the exception of the four following committees, which shall not be entitled to a clerk; to wit:

1. The Committee on the Library.
2. The Committee on Engrossed Bills.
3. The Committee on Enrolled Bills.
4. The Committee to Audit and Control the Contingent Expenses of the Senate; and that the clerks so employed, shall receive a compensation of six dollars per diem during the time of their actual service.

Mr. PUGH. I think this proposition had better be amended, so as to supersede former special resolutions in relation to several committees, and then it will be general. There are now, I think, standing resolutions of the Senate, authorizing the Committees on Finance, Printing, and Claims, to employ clerks at a higher rate of compensation than this resolution allows. If it is intended to reduce those compensations, it would be better to have a repealing clause. I am in favor of the resolution, but I do not wish to have the difficulty arise hereafter of a conflict between the orders of the Senate.

Mr. HUNTER. I think this resolution conforms to the practice. I do not think it enlarges it at all.

Mr. PUGH. Is it understood to repeal the resolution offered by the Senator from Virginia, at the last Congress, making the clerkship to the Committee on Finance permanent?

Mr. HUNTER. If it does, I ask that it may lie over.

The VICE PRESIDENT. The resolution will lie over if objected to.

Mr. EVANS. I will offer an amendment, which will obviate the difficulty, to add:

Except the Committees on Finance, Claims, and Printing, whose clerks shall receive an annual compensation of \$1,850.

That covers the whole ground.

Mr. HUNTER. With that amendment I shall not object to the resolution.

Mr. BRIGHT. If I understand the proposition now, the object is to give to the three clerks just named by the Senator from South Carolina, an annual salary of \$1,850.

Mr. HUNTER. It keeps up the old practice. It does give to these three clerks a permanent salary.

Mr. BRIGHT. I am opposed to making part of the clerks permanent, and not the whole. I think it would be much better to give the clerks to committees \$1,500 a year each, than to give part of them a per diem and make a portion of them salaried officers. I prefer that the matter should lie over, at any rate, for the present. I object to the consideration of the resolution.

The VICE PRESIDENT. Objection being made, the resolution will lie over under the rules.

NOTICE OF A BILL.

Mr. FOSTER gave notice of his intention to ask leave to introduce a bill to continue the improvement of the navigation of the river Thames, in the State of Connecticut.

BILLS INTRODUCED.

Mr. WILSON, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 18) to appropriate one million acres of the public lands of the United States for the benefit of free public schools in the District of Columbia; which was read the first time, laid on the table, and ordered to be printed.

Mr. WRIGHT, in pursuance of previous notice, asked and obtained leave to bring in a bill (S. No. 19) to continue the improvements in the harbor of Newark, New Jersey; which was read twice by its title, and referred to the Committee on Commerce.

Mr. GWIN asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 20) to amend an act entitled "An act to provide for

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, DECEMBER 23, 1857.

NEW SERIES....No. 8.

holding the courts of the United States, in the case of sickness or other disability of the judges of the district courts," passed July 29, 1856; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. JONES, in pursuance of previous notice, asked and obtained leave to introduce the following bills; which were read twice by their titles, and referred as indicated below:

A bill (S. No. 21) to divide the State of Iowa into two judicial districts—to the Committee on the Judiciary.

A bill (S. No. 22) for the relief of certain citizens of Sioux City, in the State of Iowa—to the Committee on Public Lands.

KANSAS AFFAIRS.

On motion of Mr. BIGLER, the Senate proceeded to the consideration of the motion of Mr. DOUGLAS, to refer so much of the President's message as relates to territorial affairs to the Committee on Territories.

Mr. BIGLER. Mr. President, no one has regretted more than myself that the discussion on the Kansas policy of the Administration has been precipitated upon the Senate and the country. I preferred to avoid discussion until the result of the election on the slavery clause had transpired, and until Kansas should present herself for admission as a State; but the Senator from Illinois [Mr. DOUGLAS] deemed a different policy necessary and proper, and no alternative was left to the friends of the Administration but to respond.

I think I am duly sensible of the important and delicate character of the subject to be discussed, and I am sure I never was more anxious to do my duty; never more willing to sacrifice pride of opinion, or to restrain passion and prejudice, in order to see clearly the public good. That other Senators are actuated by motives equally proper, I have no doubt.

The Senator from Illinois has delivered what may be termed a great speech against the Kansas policy of the Administration. No man who knows him will doubt his ability to make the most out of any state of facts and circumstances before him. Few men can equal him in this particular. For myself, I make no such pretension; but, as to our rights, privileges, and responsibilities, on this floor we are equals. Fortunately in our present difference, I think my cause the stronger of the two, and on it I can rely with safety.

Now, sir, it would be idle to attempt to answer the Senator's arguments, and controvert his conclusions, were I to concede the correctness of all his premises. This I cannot do, and I shall show why I cannot, at different points as I proceed. This great speech of the Senator, with all due respect, was, in my humble estimation, after all, only a huge structure, resting on a very unsound and insufficient foundation. He has applied the facts and circumstances with great skill in maintaining his case; but he will pardon me for the expression of the opinion that, in tone and temper, in enlarged and sound theory, in practical and useful suggestion, in generous tolerance of differences with others, it will not, in my judgment, command so much of public favor as any one of the many former efforts of that gifted Senator. It was his right—and no one will call in question his motives—but I do not believe it was wise in the Senator to precipitate the slavery agitation in this body and in the country; nor can I understand why he should have shown so much willingness to weaken public confidence in the policy of the men of his own party, whom he assisted to place in power, and who, at this critical moment, wield the only functions of Government capable of maintaining the public peace in Kansas; nor why he should have indulged in sarcastic ridicule when dealing with the views of the President. The allegation that that able and accomplished statesman had fallen into "fundamental error," as to the meaning of the Kansas-Nebraska law, and the purposes of its authors, because he was not in the country at the time of its passage, can be estimated in no other light, and can subserve

no useful purpose for the Senator or the country. True, it answered to excite momentary gratification on the other side of the Chamber, and chagrin on this; but on neither side, nor in the country, will the sentiment meet even a respectful response, when the impulses of the hour shall have yielded to sober reflection. The honorable Senator from Illinois was not in the country when the Declaration of Independence was enunciated, nor when the Constitution was made; and yet he claims to understand both these instruments, and the purposes in view by their authors. Is this Kansas law more difficult of comprehension? Perhaps it is. At all events, it has certainly required more explanation at the hands of its author; and it might seem that, so long as he finds it necessary to explain what he meant every month in the year, he could afford to pardon the President for the commission of even "fundamental error." But enough on this point. When the Senator shall have persuaded the people of the United States that the President does not understand the subject, I shall recur to it again.

But what will the honorable Senator say as to the views of the late President, who was *not* out of the country when the law passed, but participated in every step of the struggle that gave it existence? He certainly understands the question; and I have sufficient authority for saying that he agrees with his successor on his Kansas policy, and consequently differs with the Senator from Illinois.

The most harmless part of the Senator's speech is that in which, whilst making a broad issue with the Administration, he has attempted to show that the President's views sustain those expressed by himself. He is certainly entitled to all he can make for his cause in this way; but if there was no great difference between the President and himself, there was then the less reason for making the issue. The President's character for candor and fairness forbade that he should withhold or give the slightest coloring to any fact in the case, with a view even of sustaining the conclusions at which he felt required to arrive. Nor could he approach the subject in a partisan spirit. He has not cared to deal with the follies, wrongs, and bitter feelings which have been manifested on either side of the question, in or out of Kansas; but he has preferred to consider the present and the future, and to determine what is best for the country. I do not claim for him infallibility of judgment, for that does not belong to humanity; but I do claim for him the highest degree of patriotism and disinterestedness in all he has said and done on this dangerous question. The idea that he would seek to oppress any class of the people of Kansas, or desire to impose upon them an odious Government, should not be, and I trust is not, entertained in any quarter; that he will not trifle with this, or any other great question; and that, having recognized the validity of the laws in Kansas, and the right of the convention to make a constitution and State government one day, he does not discard that view the next, is but consistent with his character for integrity of purpose, and clearness of perception.

But what does the Senator mean by assuming that the Kansas policy of the message is not an Administration measure? Does he mean that the Cabinet do not agree with the President? I understand differently. Or does he mean that the Administration, having laid down its policy, will hold that those who assail and denounce that policy do not oppose the Administration? There is surely no room for misunderstanding on this point, and it is certainly not difficult to discover from the message of the President what that policy is. The Administration recognizes the legality of the proceedings in Kansas, so far as they have progressed in the matter of making a constitution and State government preparatory to admission into the Union as a State. They hold that the Legislature of the Territory had the right to call a convention of delegates to be elected by the people to form a State constitution; that the convention, when so formed, had the legal right to form a con-

stitution and submit their doings to the test of a popular vote, or send them to Congress and ask admission for the State under them; that the organic act having special reference to a controversy about slavery, which involved the whole country, the convention was morally bound to ascertain the sense of the people on this feature of their domestic policy, otherwise the spirit of the compromise on this angry feud would have failed of its true purpose so far as Kansas is concerned. They hold, further, that when the State shall ask admission, the constitution being republican in form, it will not be a sufficient reason to deny her admission, and thereby perpetuate the contest about slavery, that the ordinary forms of State government, about which there is seldom much controversy, and which can be changed at any time, had not first received the sanction of a popular vote; that this process is safest as a general principle, but that, under the clear terms of the organic law, it is a question for the people and their representatives in convention, with which the Federal Government has now no right to deal; that, if the delegates have acted in bad faith, they are accountable to the people who elected them, and not to Congress or to the Administration. So much for the views of the Administration.

Now I understand the Senator from Illinois not only to deny nearly all these positions of the Administration, and especially the right of the Legislature to call a convention—for he has said the law for that purpose was "null and void from the beginning;" but he goes further, and maintains that to admit the soundness of all the positions of the Administration, the State must not be admitted until the question of courts, corporations, banks, and railroads shall be settled by a vote of the people, and herein is the issue. As to the power of the Legislature to call a convention, it will be seen that the Senator comes in direct conflict with the views of Governor Walker, who, in his inaugural address, held that the Legislature was "the power ordained for that purpose." But the most startling doctrine involved in this position of the honorable Senator is the assumption that it is the *right and duty of the Federal Government to interpose between the people of a Territory and their own local representatives*. This never could have been a sound or safe practice as to any State or Territory; but it is utterly out of the question under the organic act for Kansas, which has committed all domestic and internal affairs to the people to be regulated "in their own way."

It is no matter of pleasure to me to recur to the unpleasant difference between the honorable Senator and myself, the other day, touching the consultation of Senators at his residence, in July, 1856, on the policy of the Toombs bill; but, however disagreeable the task, justice to myself requires that I should do so, especially since the character of that conference has been misunderstood in certain quarters. Nothing was further from my mind than to allude to any social or confidential interview. The meeting was not of that character. Indeed it was semi-official, and called to promote the public good. My recollection was clear that I left the conference under the impression that it had been deemed best to adopt measures to admit Kansas as a State through the agency of one popular election, and that for delegates to the convention. This impression was the stronger, because I thought the spirit of the bill infringed upon the doctrine of non-intervention, to which I had great aversion; but with the hope of accomplishing a great good, and as no movement had been made in that direction in the Territory, I waived this objection, and concluded to support the measure. I have a few items of testimony as to the correctness of these impressions, and with their submission I shall be content.

I have before me the bill reported by the Senator from Illinois, on the 7th of March, 1856, providing for the admission of Kansas as a State, the third section of which reads as follows:

"That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection; which, if accepted by the convention, and ratified by the

people at the election for the adoption of the constitution, shall be obligatory upon the United States and the said State of Kansas."

The bill read in place by the Senator from Georgia, on the 25th of June, and referred to the Committee on Territories, contained the same section, word for word. Both these bills were under consideration at the conference referred to; but, sir, when the Senator from Illinois reported the Toombs bill to the Senate, with amendments, the next morning it did not contain that portion of the third section which indicated to the convention that the constitution should be approved by the people. The words, "*and ratified by the people at the election for the adoption of the constitution,*" had been stricken out. Who struck these words out, or for what purpose they were omitted, is not for me to answer. But, sir, I cannot be persuaded that it was intended thereby to secure to the people of Kansas the right to vote on the constitution. I know the Senator assumed the other day, that wherever the law is silent on the subject, the inference is in favor of submission; but, sir, a full examination of the precedents bearing on that point has shown me that the converse of the proposition has the weight of authority, and that which he has laid down as the rule of precedent, has seldom, if ever, happened. Indeed, I failed to discover a single instance in which the people have voted on the preparatory constitution where the act of Congress was silent on the subject. But, yielding this point, how is the Senator to reconcile this position with the understanding of the subject he has so clearly indicated on other occasions? For instance, if it be an allowable conclusion, that where the law is silent on the subject, the constitution must be submitted to a vote of the people, why did the Senator insert the clause which I have already quoted in his bill of the 7th of March; and why did he insert a similar provision in the law for the admission of Minnesota? Then, again, if by striking these words out of the bill of the Senator from Georgia, its import was in no wise affected, why were they stricken out?

Such, sir, were the facts and circumstances which led me to believe that the Toombs bill was to bring Kansas into the Union without a vote on the constitution. Possibly my impressions are not warranted; but be that as it may, I cannot be persuaded that the Senator intended to secure to the people the right to vote on the constitution, by striking from the bill the words making that policy necessary, or that the convention would have been bound to extend that opportunity to the people, simply because the act of Congress said no such thing. But enough on this point. Now let me proceed to a more important branch of my remarks.

In order to a proper understanding of the subject under discussion, it is necessary to start with a clear view of the relations existing between the Territory of Kansas and the Federal Government. The organic law declares that "the legislative authority of the Territory shall extend to all rightful subjects of legislation;" and also that the people shall be left "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

I hold that the extension to the people of the opportunity of so forming and regulating their institutions, by designating the times and places where they may meet and elect delegates, and where the delegates shall assemble when elected, and how they should proceed, is a rightful subject of legislation; and that the Legislature of Kansas was bound, as a matter of duty, to respond to the almost clamorous demand of the people for a change from their territorial to a State government, as manifested for two years past, a portion of whom had attempted to erect the Territory into a State in the most irregular and even unlawful manner; as they had also a right to take notice of the manifestations of willingness on the part of Congress, expressed in 1856, to receive the Territory into the Union even with her then meager population.

I hold also that there are but two sources of governmental authority for the people of a Territory—the one is Congress, the other is the people themselves; and that when Congress, as in the case of Kansas, has conferred upon the people all the legislative authority with which they were invested, the people are entirely unrestrained

in the matter of institutions of government, except by the Constitution of the United States. It needs no argument, then, to show that the people of Kansas have a right, under the organic law, to adopt any measures they may deem proper to change their form of government; that in doing this they have a right to delegate their sovereign authority to representatives to any extent they please—to the extent only of preparing forms of government for their supervision, acceptance, and ratification, or to the extent of making and adopting a constitution and State government for admission into the Union; that where there is no limitation in the original grant of authority, the latter measure of power may be exercised; that the sovereignty of the people is inalienable, and must revert to them after having performed the functions for which it was delegated, and that therefore the people are at all times clothed with authority to alter and amend their forms of government; but to hold that the people cannot delegate their sovereign authority to make laws for their own use and enjoyment, is to discard our whole representative system, and the practice under it since the Government began. And to say that laws so made, unless the popular sense is taken upon them, are oppressive or wanting in authority, is to lay down a rule which would require the submission of all the statutes to the popular vote. Indeed, on this principle, the Declaration of Independence, the Bill of Rights, the Constitution of the United States, might be called acts of oppression, for neither received the sanction of a popular vote.

I maintain that the people of Kansas have the right to make a constitution and State government; that Congress cannot participate in that work, either as to its substance or form; that whilst Congress might attempt to prescribe how the people should do this, it would be optional with them whether they adopted that way or pursued some form of their own. Congress may invite the people to make their government in a prescribed mode, but cannot require compliance, except that Congress could refuse the Territory admission as a State; but this proceeding of the people must be in accordance with and under the direction of the laws of the Territory; it must be the offspring of law, and not of a spirit of rebellion, as in the case of the Topeka convention.

I do not understand the honorable Senator from Illinois to hold an enabling act to be indispensable in all cases. He cannot hold this in the face of the numerous precedents to the contrary; but he certainly does maintain that in the case of Kansas, all that the people have done shall be disregarded, not because they have not done it according to law, but for the reason that, in his opinion, they have not done it in the right way. Waiving for the present the question as to whether their way was right or not, the first question that suggests itself to the mind is, what has become of the great Kansas-Nebraska law; that new charter of rights to the people of the Territories, which declares that it is "not intended to legislate slavery into any Territory, or exclude it therefrom, but to leave the people perfectly free to make their domestic institutions in their own way?" Is it to be abandoned, and thus summarily pronounced a failure? Be that as it may, he cannot convince me that the people have not the right to make their domestic institutions in their own way, until he repeals so much of the organic act as says they shall do this precise thing.

It has conferred upon the people not only all the powers Congress possessed under the Constitution, as to the kind of institutions which should be made, but also, and just as expressly, as to the mode, manner, and way of making them. The Senator proposes to reject what the people have done, and confer upon them new grants of power; and yet, if there is any one thing clear in all this Kansas question, it is, that as to the kind of institutions the people shall have, and the way in which they shall be made, they already have complete authority. It is true that Congress still has the power to say that Kansas shall not come into the Union; but I cannot see how that body can confer any additional authority as to the way in which she shall be prepared to come in. I will not be contradicted when I say that the question between the friends and enemies of the Kansas bill, was, whether the people of the whole Union, acting through

their representatives in Congress, should legislate on slavery in the Territory—no one ever claiming the right to legislate on any other domestic institution—or whether the question should be dealt with by the people of the Territory, in their own way, through local representatives of their own selection. This question was settled as no other question had ever been settled before—by the concurrence of all the departments of Government, by Congress, by the executive, by the judiciary, and by the people at the polls. And, Mr. President, I must confess to great amazement when I heard the honorable Senator assume, the other day, that the people of Kansas, acting under his boasted grant of "perfect freedom," could not, in the matter of making a government for themselves, rise above the dignity of suppliants to Congress to ratify their irregular and unauthorized proceedings; not on the ground, even, that what they had done was itself entirely inadmissible, but because it had not been done in the right way. The organic act says they shall do this thing "in their own way." Will the Senator say the way they have embraced was not the way of the people? Will he contend, in the face of his Springfield speech—to which I shall allude more particularly hereafter—that the people have not had a fair opportunity to reflect their will through the ballot-box; or, if a portion of them refuse to do this when invited, because they are determined to disregard their own local laws, that the responsibility is not their own? Certainly not.

Wherein, then, is the case of the convention defective? I deny *in toto* the Senator's right to go behind the legal and authorized aspect of the case. Congress is not hereafter to deal with the question of making institutions in Kansas, either as to their character or mode of formation. The rights of the people as to this matter are circumscribed by the Constitution only; and when an issue between their action and that instrument shall arise, it must be a question for the judiciary, and not for Congress; and so the Senator from Illinois has often held, especially on the question of squatter sovereignty. When, therefore, the people apply to Congress for admission as a State, through the agency of a convention of delegates selected by themselves in a legal and orderly manner, under the broad terms of the organic act, and in these days of non-intervention, having decided the slavery question by popular vote, the only proper inquiry for Congress will be: Is the constitution republican? Mr. Madison's discussion of the obligations of the Federal Government to guaranty to every State in the Union a republican form of government, to be found in the "Federalist," but which is too voluminous for use on the present occasion, is, to my mind, clear on this point.

The honorable Senator has resorted to musty authorities to sustain his new positions; but I am not disposed to resort to means of that kind to controvert them. Indeed, it would hardly be fair in these days of non-intervention. I had supposed that, after the era of this new doctrine, old relics would be forgotten, and that we were to have a simple, plain system for the Territories, to wit: that the people from all the States should go into the Territories with all their property, including slaves, and legislate for themselves up to the full measure allowable by the Constitution of the United States, without revision or interference by Congress; and that, in their own time and in their own way, they should be allowed to prepare for and ask admission as States. Besides, it is extremely difficult to tell exactly what the precedents of Congress, States, and statesmen, would teach on this subject. I have taxed my brain to the utmost to make a fair deduction from this complicated contest, and find it exceedingly difficult to show decisive authority for any of the points involved. I discover that the States of Maine, Michigan, Vermont, Arkansas, Tennessee, Texas, Iowa, Florida, and California, were admitted into the Union without what is called enabling acts; Ohio, Indiana, Mississippi, Louisiana, Illinois, Alabama, Missouri, and Arkansas, came in under acts of Congress; and that Vermont, Ohio, Kentucky, Tennessee, Alabama, Missouri, Arkansas, and Wisconsin, according to the best authority I can find, came into the Union under constitutions which had not been submitted to the popular vote. Certain States, under enabling acts,

may have submitted their constitutions to a vote of the people, and others have not. There seems to have been no uniformity of action on the part of the new States or of Congress. The precedents established by statesmen are still more dubious.

Even the honorable Senator from Illinois does not seem to have held the same views at all times on the questions under consideration. At present, he doubts the policy of admitting Kansas, because her entire constitution was not submitted to a vote of the people; yet he voted for an enabling act for Kansas, which did not require that any part of the constitution should be submitted. He denies the authority of a convention of the people of the Territory of Kansas to make a State government, even under the enlarged powers conferred by his own favorite law of 1854; and yet he voted to admit California as a State, she having made a constitution and State government without even the color of authority from Congress, the incipient steps of which had their origin in the orders of a military commander. I make no charge of inconsistency against the honorable Senator, and surely none as to the purity of his motives. I state these things to show the difficulty of the subject; but I do say, that when the Senator picked up the charge of inconsistency made against the President the other day, by his colleague, on the Michigan and Arkansas cases, and when afterwards, replying to a similar allegation against himself, he said: "I am not one of those who boast that they have never changed their opinion," "I do not know that a month has ever passed over my head in which I have not modified some opinion to some degree," he ought to have extended the same charitable rule to the President.

But he holds that when the people of Kansas move in the matter of establishing their government, that movement, though it may not be illegal, is irregular, and does not rise above the importance of a petition for redress of grievances. How will this sentiment be relished by the proud men who have gone to Kansas from all parts of the Union, believing they had been vested with the "great principle of self-government?" They will scarcely realize their new attitude.

But it is said they can petition Congress for redress of grievances. When was it pretended that individuals or communities could not petition Congress for redress of grievances? In God's name, who ever denied that right? Is that all the people have gained by non-intervention? Is that the full fruits of perfect freedom in Kansas? Is that what we have gained in this long struggle? If it be, then I must confess I have never understood the question; nor do I believe the people have understood it. If the right to make institutions in such a way as Congress prescribes, and send them to Congress in the shape of a petition for redress of grievances, is all the people have gained by non-intervention, with the moral and legal right in Congress to send that petition back for alteration, though the constitution be republican in form, then the Senator's law of 1854 is a bald imposture, a delusion, and a deception—"the word of promise to the ear to be broken to the hope"—"the thorn beneath the rose."

But let us pass to a more practical view of the subject. My own reflections on the dangerous controversy in Kansas, considering the sources and the character of the strife, satisfied my mind, even before I became a member of this body, that the surest, if not the only way of ending this bitter sectional struggle, and quieting the country, was to admit Kansas as a State at the earliest period practicable, thereby circumscribing all concern about her affairs within her own limits, where the differences, whatever they might be, could not fail of prompt and legitimate adjustment. Entertaining these impressions and views, I was rejoiced to perceive that the people of Kansas had determined to call a convention to form a constitution and State government preparatory to admission into the Union as a State. The propriety and validity of this movement for a convention, under direction of the territorial laws, had been promptly recognized by the President in his instructions to Governor Walker, and then again in his Connecticut letter. Governor Walker did the same thing in his first address, and urged the people to the performance of their duty under the law, in the following emphatic terms:

"The people of Kansas, then, are invited by the highest

authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage, authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as although all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant and not the master of the people, yet I have no power to dictate the proceedings of that body. I cannot doubt, however, the course they will adopt on this subject. But why incur the hazard of the preliminary formation of a constitution by a minority, as alleged by you, when a majority, by their own votes, could control the forming of that instrument?"

"But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation. It is recognized by the present Chief Magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the Constitution; and I have no other alternative under my oath, but to see that all constitutional laws are fully and fairly executed."

Mr. Secretary Stanton, under the instructions of the President and Governor, addressed the people as follows:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution, with a view of making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light, the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institutions, which has so long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

These quotations are full of striking ideas, which invite special attention at this time. The first is the full recognition, by both the Governor and Secretary, of the validity of the law calling the convention; another is, that the convention, when formed, would have a right to make a constitution and submit it to a vote or not; and this is one of the reasons of the Governor for urging the people to attend the polls and vote. "Those who abstain from the right of suffrage," says the Governor, "authorize those who do vote to act for them." He says "the convention is legally called," "because the Territorial Legislature is the power ordained for this purpose." But what is most remarkable, and most to the point, is, that Mr. Stanton indicated, at that early day, that the submission of "the great distracting question" (slavery) was all that would be necessary to give Kansas peace and the dignity of a State. He even then indicated, most pointedly, the policy afterwards adopted by the convention.

The Senator from Illinois, in a speech delivered at Springfield, in his State, on the 12th of June last, said:

"Kansas is about to speak for herself through her delegates assembled in convention to form a constitution preparatory to her admission into the Union." "The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions."

With all this mass of authority to sustain them, the people of the Territory, or those of them who were willing to sustain the laws which the President, Governor Walker, and the Senator from Illinois held to be proper and binding, proceeded to make a constitution and State government. But those who said the laws should not be obeyed refused to participate in this work, and from this spirit of insubordination, in my judgment, all the subsequent mischief has arisen. They would not attend at the polls, and vote for delegates to carry out their will in the convention; not because they

did not wish to have a State government—for the same men had attempted to erect Kansas into a State in the most irregular and unauthorized mode—but for the reason that they had commenced rebellion against the laws, and were determined to persist in it! And it is, in the main, these very men who at this moment are clamoring most about oppression and usurpation, and about sacred rights, which they indignantly refused to exercise. Governor Walker labored zealously to bring these men to the performance of their duty, as is shown in the extract I have given from his address. But they were joined to their idol—the Topeka farce. The consequence was, that there was virtually no contest for delegates, and only about twenty-two hundred votes were polled. But still the convention, on the theory of Governor Walker, had been invested with the authority of nearly the whole population to make a constitution and State government.

This large class of the people who neglected to vote for delegates became clamorous against the convention, and even assembled at Topeka for the avowed purpose of putting their own bogus government into operation. I was in the Territory for some time prior to and after the election, and speak from personal observation as to the spirit of insubordination manifested by some, expending itself in bitter denunciations of the President and Governor Walker for attempting to administer what, in the chaste phrase of the malcontents, were the "bogus laws of a bogus Legislature," averring that they would have no form of government from the convention gotten up under these laws no matter how perfect it might be; that though that "bogus convention" should submit for their approval their own Topeka constitution, they would spurn it with contempt. This spirit was persisted in to the end. Governor Walker, as must be obvious to all, was not and could not be vested with any authority over the subject of making a State government. His functions were to administer the laws, and perform the executive duties generally, which he did discharge with great ability. But beyond this, he could not go. He had no connection with, agency in, or responsibility for the work of making a constitution. In the exercise of his discretion, and with the intention of doing what was best, he had at first advised the people to vote, but all would not do so. He also urged the delegates composing the convention to submit their work to the approval of the people, holding this to be right as a general principle, and especially necessary in view of the small vote cast for delegates. But the convention submitted only the article relating to slavery. That it ought to have submitted the constitution in some form to give the people the right to judge of its several parts, I agree; and as a citizen of Kansas I should have insisted on this policy, but I should certainly have desired a vote on the question of slavery as proposed by the late convention, disconnected from all other subjects, in preference to a vote on the constitution as a whole.

For its action, the convention has been most roundly abused; and I do not intend to come to its defense, for from many of the details of its proceedings I dissent. But it would not be candid to contend that there was nothing in the bearing of the enemies of the convention to impel it to fully exhaust, if not to abuse, the authority with which it had been clothed. The incessant menaces of the violent leaders of the Republican party, who, in my judgment, never desired to have the controversy settled, was calculated to do this. The declaration that they would not judge of the merits of any form of government it might make; but would reject it, if possible, at the polls, for reasons mischievous and rebellious, was also calculated to produce such action. Nor is it candid to contend that this class of politicians in the Territory, and others out of it, when they dwelt on the importance of submitting the constitution to the test of popular favor, had reference to disputes about railroads, banks, corporations, courts, or legislative functions. The question—the all-absorbing, and the only question—was, shall Kansas be a free or slave State? I believe Governor Walker went much further; and yet the very men who threatened to rebel on his hands at Topeka, and who put him through the shorter catechism of Kansas politics, never would have met him there, nor mentioned the

name of constitution, had it not been for the question of slavery. They said "constitution," it is true; for the idea of a separate submission had not then been raised; but even they had no other question on their minds than that of whether Kansas should be a free or a slave State. Throughout this broad land, this has been treated as the question, and the only one.

That question the people of Kansas had an opportunity to settle in June last, by electing delegates to carry out their will. They are to have another to-day, by voting on so much of the constitution as relates to that subject. After all that has been said about fraud and trickery, touching this issue, the great overshadowing fact cannot be denied, that the people of Kansas have had two opportunities to make her a free State. I am aware, sir, that the registry of voters at the election in June was very defective; but that was no reason why those who were registered should not vote. That complaint, however, cannot be made as to the vote on the slavery article, for no registry is required, and every white citizen above twenty-one years of age can vote. I regard the registry as very imperfect, but I cannot understand the picture presented by Governor Walker, in a recent letter, addressed to the President. He undertakes to show that less than one half of the voters were registered when the delegates were elected, and yet the records show that over nine thousand names were registered in June, and that the whole vote for the congressional delegate, in October last, after an exciting contest, and a large increase of population, was only a little over twelve thousand. How this mystery is to be solved I cannot tell, but the statements are singularly contradictory.

What my action may be on the question of admission, should the new constitution be presented, I cannot precisely foresee. The case is not yet fully developed. No man can tell what a day may bring forth in Kansas. Those who are to conduct the election upon the slavery article have been vested with large and dangerous powers, the use of which they may, if they choose, abuse to such an extent as to forbid the recognition of the result whatever it may be. But if that election be fairly conducted, I shall feel required to vote for the admission of the State either with or without slavery. I should do this under the firm belief that it is the best mode possible of putting an end to the existing strife; for, after all, when we look at this question practically, it does not involve half so much as some would make us believe. When the State shall have been admitted, not only slavery, but all other institutions, will be subject to be changed and remodeled by the people. They can, if they please, do this within six months after Kansas becomes a State, and enjoy the same opportunity, whenever they desire it, forever thereafter. Why then contest the question as though the institutions under which the State may be admitted were to be, like the laws of the Medes and Persians, unchangeable? I know it is alleged that the constitution cannot be changed prior to 1864; but that view cannot be maintained. Without discussing the terms of the schedule, which simply prescribes the mode in which the constitution shall be amended after 1864, the bill of rights is conclusive on this point. It declares that:

"All political power is inherent in the people, [of Kansas,] and all free governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

The mode of voting has also been a subject of criticism. The honorable Senator maintains that the elector must give his sanction to all the other provisions of the constitution before he can enjoy the opportunity of voting for or against slavery. This is clearly a mistake. The ballot, "constitution with slavery," or "constitution without slavery," involves only the slavery clause. It is simply the question of whether Kansas shall be a free or a slave State, under the general forms agreed upon by the constitution. That this was intended by the convention, is made clear by its proceedings, if they have been given to me accurately by a gentleman from Leecompton. His information is, that before the adoption of the form of voting, the sense of the convention was taken on the proposition to submit the whole constitution to a vote of the people, which was de-

cided in the negative, and never reconsidered. Subsequently, a motion to submit the slavery article was agreed to by a majority of two votes. This view is clearly sustained by the proclamation of the president of the convention, in which he says the vote shall be for or against the introduction of slavery into the State of Kansas.

The voting shall be by ballot, and those voting for Kansas as a *slave State* shall vote a ballot with the words "constitution with slavery," and those voting for Kansas to be a *free State* shall vote a ballot with the words "constitution with no slavery." It must be evident that if it had been intended to take the sanction of the elector on the whole constitution, the ballot would have been "for" the constitution. The honorable Senator, and others who take his view, will be the first to deny, when the constitution is presented to Congress, that it has the sanction of the people.

But the honorable Senator has labored to maintain his position by confounding the slavery question with the ordinary institutions of a civilized community. Notice the extraordinary character of the following extract from his late speech:

"Sir, what would this boasted principle of popular sovereignty have been worth, if it applied only to the negro, and did not extend to the white man? Do you think we could have aroused the sympathies and the patriotism of this broad Republic, and have carried the presidential election last year in the face of a tremendous opposition, on the principle of extending the right of self-government to the negro question, but denying it as to all the relations affecting white men?" * * * "Sir, I have spent too much strength and breath and money, too, to establish this great principle in the popular heart, now to see it frittered away by bringing it down to an exception that applies to the negro, and does not extend to the benefit of the white man."

Now, Mr. President, can it be possible that the Senator from Illinois expected to make the Senate and the country believe that the people of Kansas are indebted to the famous organic act for their right to the enjoyment of life, liberty, and property, and the ordinary institutions of a civilized community? He scouts the idea that the great principle of popular sovereignty should be "frittered away by bringing it down to an exception that applies to the negro, and not to the white man." Whatever he may mean, his language is certainly calculated to make the impression that the Kansas-Nebraska bill settled some dispute about the ordinary institutions of government in the Territories. I cannot agree, sir, that that view is either candid or allowable. Who ever denied the right of the people to make their ordinary institutions? When was that a question which divided parties, or shook the Union to its foundation? The simple truth is, that the question of slavery, and that only, was involved and considered in passing the Kansas-Nebraska bill. It was to settle that dangerous sectional feud that the doctrine of non-intervention was adopted. The repeal of the Missouri line has in no way affected the right of the people to have all other domestic institutions either north or south of that line; and when the Senator asks what the boasted principles of popular sovereignty would have been worth if applied only to the negro, and "not to the white man," he utters a sentiment which is unworthy of the subject. What part are negroes to have in the government of Kansas, or who is proposing to restrict any of the rights of the white man, unless it be himself, when he denies them the right to make a government without the consent of Congress? I know how presumptuous it is in me to differ with that Senator; but I cannot forbear to deny that the question of railroads, courts, banks, legislative functions, &c., were in any way involved in the repeal of the Missouri line, and the inauguration of the doctrine of non-intervention; and yet, sir, the Senator has confounded the question of slavery, and that of the natural, inalienable, and undisputed rights of the people, in such a way as to make the impression, if possible, that all these had been granted, guaranteed, and protected by a new bill of rights, adopted in 1854, in the shape of the Kansas-Nebraska law.

Then, again, as to the vote on the slavery clause, he says:

"Let me ask, sir, is the slavery clause fairly submitted, so that the people can vote for or against it? Suppose I were a citizen of Kansas, and should go up to the polls and say, 'I desire to vote to make Kansas a slave State; here is my ballot.' They reply to me, 'Mr. Douglas, just vote for that constitution first, if you please.' 'Oh, no!' I answer, 'I cannot, conscientiously.'"

This, Mr. President, is hardly plausible; for I

have already shown the fallacy of the Senator's assumption, that the elector is to be required to approve the constitution entire, before he can vote for or against slavery. I now propose to show that the Senator's plan would be liable to nearly the same objections.

He insists that the constitution, as a whole, should be submitted. Now suppose this had been done with the slavery article in it, and he had made his appearance at the polls as a pro-slavery man. Looking at the constitution, he finds that he cannot approve of the other provisions. He says, "I wish to vote for slavery, but it is not possible that I can swallow the bank and railroad scheme, and the plan for courts and corporations in this constitution. I cannot conscientiously do this; and I must be deprived of the right to establish slavery in the Territory." Then suppose he appeared again as a free State man; the constitution in the main is very acceptable to him, and he is exceedingly anxious to approve it, but it contains the provisions recognizing slavery, which he cannot approve; and again he is driven from the polls. It will thus be seen how easy it is to complain; but how will the Senator guard against the repetition of similar hardships, under any law Congress may pass? Certainly, he will not propose to prescribe all the action of the people in convention. This has never been done, and never can be done. The truth is, that the Senator in his ardor to maintain what he conceives to be a just position, has been driven into the use of abstruse technicalities, and, in more instances than one in this discussion, has dwelt upon alleged wrongs in the proceedings of the Leecompton convention, against the repetition of which he can in no way protect the people.

In another part of his speech the honorable Senator remarks:

"But I am beseeched to wait until I hear from the election on the 21st of December. I am told that perhaps that will put it all right, and will save the whole difficulty. How can it? Perhaps there may be a large vote. There may be a large vote returned." [Laughter.]

Here, again, it is difficult to determine what he means to allege. He says "there may be a large vote returned." His language would seem to imply an imputation upon somebody or power connected with the election. Upon whom is it to fall? Not upon his friend, John Calhoun, whom he has indorsed to one of the Departments in this city as a worthy and competent man for Surveyor-General. From whence, then, is the fraud to come? No department of the Government here will have an opportunity to do this, and none would embrace it. Then, where is it to be practiced? By those who conduct the election in the Territory? How they may act, I cannot say; but if there are no honest men in Kansas to hold the election, then the Senator cannot have a fair election under his proposed remedy; unless, indeed, he has concluded that the Republicans out there have more honesty than his own party friends. He will be slow to say, however, that men who have resisted the laws from the beginning, and so often incurred his just indignation for their folly, are more reliable than the Democratic party. I can only say that, if he thinks this, he has changed his estimate of the character of both parties within a brief period. But, be this as it may, the Senator has lamented an evil which he cannot remedy. Then, again, he says:

"I care not how that vote may stand. I take it for granted that it will be voted out. I think I have seen enough in the last three days to make it certain that it will be returned out, no matter how the vote may stand." [Laughter.]

Here is a second edition of anticipated fraud. I heard with pain and regret these words as they fell from the Senator's lips. How does he know that the slavery article will be "returned out," no matter how the vote may stand? What had the Senator seen within three days to force this conclusion upon his mind? If he has knowledge of a scheme of base fraud to cheat the people, or to impose on Congress, I know he is the man to develop it; and when so developed, no man will go further than myself to punish the offenders. If he cannot do this, then why allude to it at all? Why, in this unhappy manner and offensive spirit, cast imputation upon those who have been, and are still, his friends? I can readily perceive—and it is that which I most regret—how such a sentiment from so high a source is calculated to produce discontents and clamor about real or imagi-

nary wrongs, when the result shall have been ascertained. It is virtually an invitation to malcontents to continue the strife.

The honorable Senator, in his diligent efforts to render the doings of the Lecompton convention odious, has even dwelt on that clause of the proposed constitution interdicting the migration of free negroes to Kansas. He was candid enough to admit that the constitution of his own State contained the same inhibition; and we all know that the Topeka party, by a popular vote, have instructed the Legislature to pass a law to the same effect. But the Senator should have done "the Lecompton concern," as he is pleased to term it, the justice to say, that on this point, at least, it had conformed to the popular will, for both parties have spoken against the admission of free negroes. Nor has he even told us that his native State, Vermont, practiced that great measure of wrong upon the people, if wrong it be, of asking admission for the State before the people had voted on the constitution; nor that his adopted State came into the Union without an enabling act half so good as the Kansas-Nebraska law; and that this same State, no longer since than 1848, set the example for the late action of Kansas, by submitting a part and withholding a part of the constitution from a vote of the people.

The Senator will pardon me for looking a little further into his views. In an address delivered at Springfield on the 12th of June last, touching Kansas affairs, he says:

"Kansas is about to speak for herself through her delegates assembled in convention to form a State constitution, preparatory to admission into the Union." "The law under which her delegates are about to be elected, is believed to be just and fair in all its objects and purposes." * * * "There is every reason to believe the law will be fairly interpreted and impartially executed." * * * "The election law is acknowledged to be fair and just, and the rights of the voters are clearly defined, and the exercise of those rights will be efficiently and scrupulously protected."

Then, again, he says:

"The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject only to the Constitution of the United States."

He denounces all neglect of, or resistance to, the movement for a convention, and says, that if any portion of the people refuse to vote for delegates, and Kansas should become a slave State through their neglect, upon them the responsibility should fall. I should prefer to give the entire speech, but I do not wish to extend my remarks to so great a length. Now let us turn to what he said in the Senate the other day:

"If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find that the Legislature could confer no power whatever on the convention. That convention was simply an assemblage of peaceable citizens, under the Constitution of the United States, petitioning for the redress of grievances, and, thus assembled, had the right to put their petition in the form of a constitution if they chose; but still it was only a petition, having the force of a petition, which Congress could accept or reject, or dispose of as it saw proper. That is what I understand to be just the extent of the power and authority of this convention assembled at Lecompton."

How to reconcile these sentiments I cannot see. In the Springfield speech, he says, "Kansas is about to speak for herself through delegates assembled in convention to form a State constitution," and that the law under which her delegates were about to be elected is believed to be just and fair in all its objects and purposes. In the Senate, he says:

"You find that the act calling it [the convention] was null and void from the beginning; you find the Legislature could confer no power whatever on the convention."

Then, again, at Springfield, he says:

"The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject only to the Constitution of the United States."

In the Senate, he says that the convention, which was, from its very nature, an assemblage of the people, through their representatives, "was simply an assemblage of peaceable citizens, under the Constitution of the United States to petition for the redress of grievances;" which petition Congress could accept, or reject, or dispose of as it saw proper. Comment is scarcely necessary. If the right of the people in the matter of making a government for themselves be limited only by the Constitution, as claimed by the Senator in his Springfield speech, I should like to know where he finds the authority for congressional interference. Nor

can I see how he could designate a law as just and fair in all its purposes, which he at the same time held to be "null and void from the beginning;" or what he could mean by saying that Kansas is about to speak for herself, holding at the same time that she cannot speak at all without the permission of Congress.

But this is not all, sir. I want to call attention to another view of this Springfield speech, which I have before me. The honorable Senator has maintained in this body that the failure on the part of the convention to submit the constitution to the approval of the people, is a reason why the State should not be admitted; and yet, in this Springfield address, though made after the appearance of the inaugurals of Governor Walker and Secretary Stanton, no reference whatever is made to a vote on the constitution. He made special note of the election for delegates, but nowhere hinted that there was to be an election on the constitution after it was formed by that convention. If he knew the law calling the convention to be "null and void," and that the convention would not be vested with authority to make a constitution and State government, I can hardly see how he could fail to say so. I may be mistaken; but it seems to me that, as the statesman above all others who has had this subject in charge, and the people of Kansas in keeping, he might have admonished them of the mistake they were about to make, or at least hinted to them that their proceedings, though not against law, were irregular, and could be of no avail. I can hardly imagine how the Senator could have refrained from doing this. Nor can I see how he could say to the free-State men that, if they neglected to vote for delegates, Kansas would become a slave State through their neglect, if he at the same time held that the delegates which were to be elected would have no right to make a constitution of any kind. Holding now that the question of railroads, banks, and corporations must be voted upon by the people before the State can come into the Union, is it not a little singular that, at the opportune date of his Springfield speech, he failed to drop the remotest hint that it was necessary that the people should vote on these questions, or on even the all-absorbing question of domestic slavery—the only question that ever was involved in the affairs of Kansas? Whilst the Senator was notifying the free-State men of Kansas of their rights and privileges, and the mode by which they could prevent Kansas from becoming a slave State, is it not strange that he failed to inform them that they would have an opportunity of voting down the slave constitution, when submitted to them for ratification, if at that time he held that such a submission was essential to its validity?

But where are our friends on the other side to be found on this new issue? They cannot object to the informalities and irregularities at Lecompton; for they have contended for nothing else at Topeka. They have urged the admission of Kansas as a State on the proceedings of a party convention gotten up without the color of law, and in derogation of the authority of the territorial and the United States Government. Nor, indeed, can they complain that all the people have not had an opportunity to participate in the decision on the slavery question; for it was an article in their faith, declared in the Fremont convention, that not only a portion, but all the citizens should be deprived of this right. They claimed the right for the people of the States, acting through Congress, which was virtually saying that those who did not go to Kansas should influence that decision, and that those who did go should have no representation on the subject.

Mr. President, I am nearly done with this subject. I have mainly followed the Senator from Illinois. Without sitting down to systematize my views, I have pursued the several topics pretty much as he presented them. On some points I may have fallen into error; on others perhaps I may have manifested too much feeling; but I beg to say to the Senate, and especially to the Senator from Illinois, that I have in this matter but performed what I conceive to be simply a right and a duty on my part as a Senator.

Whilst laying down those rules and principles which are the result of my humble judgment after all the reflection I could give the subject, I shall, above all things, be controlled by a desire to give

peace to the country, and to silence forever a dangerous feud that at times menaces the stability of our great Government. What I mean to say is, that if the exigency arises, there shall be on my part no want of concession or compromise that will secure the adjustment of this unhappy controversy; nor will I agree to be placed in a wrong attitude upon the great question which is the leading idea in this discussion. No man shall say, because of the remarks I have made, that I am against giving the people the right to make their own laws, or that I would circumscribe the use of those great inalienable and fundamental rights which lie at the foundation of our republican system. I intend no such thing; but considering this question in all its bearings, I have been impressed with the belief that it was an exigency which should be disposed of at the first reasonable opportunity, by admitting Kansas as a State.

Sir, it is painful to reflect on the aspect of this question. I do not know what may be in progress in Kansas at this moment. If anything I have said on any occasion, has ministered to the agitation which exists there to-day, and which some fear may approximate to civil war, I pray forgiveness. I stand pledged to unite with the Senator from Illinois in the patriotic sentiments which he uttered when he declared his desire to secure to the country peace on the slavery agitation. It has been magnified at every step; it has been aggravated every hour; and now, after a struggle of four years, the aspect is worse than ever. How are we to settle it? One party in Kansas is acting in a rebellious spirit, without authority of law; another has attempted to make a constitution by authority of law, and under the supervision of the Federal Government. We are to have, perhaps in a very few days, a contest between these propositions. When that contest shall come, I know where the Senator from Illinois will be. He will go with those who have acted according to law. I think I know him well enough to know that he estimates the recognition of resistance to law or rebellion, as one of the most unhappy incidents that could be connected with legislation at Washington.

I have said all that I desire to say, except, simply, that whatever is to come out of this unhappy *embroglio* in future, I feel authorized to pledge myself first to the maintenance of justice and principle, and then to every reasonable concession to give peace to the country.

Mr. STUART. I propose to submit some views to the Senate on this subject, when it shall be agreeable to the body to hear them. If it will suit their convenience, I will say to-morrow.

Mr. DOUGLAS. I will ask the Senator to yield the floor to me for a few moments.

Mr. STUART. Certainly.

Mr. DOUGLAS. I have listened attentively to the reading of the well-prepared speech of the Senator from Pennsylvania, and find but one or two points which I deem it necessary for me to notice.

I do not intend to be drawn into a reply to each speech that shall be made, even if it does appear to be the object to make a series of attacks on my consistency, and on the whole history of my public course, in order to avoid thereby the arguments which have been submitted on my side of this question. I shall not offer to repel those attacks. I am willing to leave my public record to speak for itself. I may sometimes be induced, on the spur of the moment, to repel them, but I do not choose to recriminate. I could have amused the Senate and the Senator from Pennsylvania with passages in his speeches and votes, if I chose. Some of his constituents, persons unknown to me, have been liberal in furnishing me with his votes for the Wilmot proviso, his movements to defeat the approval of the Kansas-Nebraska bill when it was pending, his speeches through Pennsylvania against the measure, and I do not know what various things, in order to show up his inconsistency. I know not whether they are true or false; I have thrown them aside. It matters not, in this argument, whether he has been consistent or inconsistent. That is a question between him and his constituents, and I leave it to them. Two members of Congress, who heard his speeches in Kansas last spring, have come to me and told me of his pledges there, that, if the constitution was not submitted to the people, he would resist it. Whether that be true or not, I know not; I care

not. I do not think that enters into the question whether this constitution should be submitted to the people or not. I hardly understand the motive for ransacking the newspapers, the journals, and every scrap of information, to see what my course for twelve years has been on the slavery question.

Suppose it to be true, as it is, as stated by the Senator from Pennsylvania, that in 1848 I was desirous of abiding by the Missouri compromise, and extending it to the Pacific ocean, as recommended by Mr. Buchanan in his letter of the year previous; and suppose it to be true, as it is, that in 1854 I brought in a bill to repeal that Missouri compromise, which the President of the United States now approves of. When he establishes these two facts, he only shows that Mr. Buchanan and myself stood together in that inconsistency; but I do not think that is a material argument on the question whether popular sovereignty, to which he and I are both pledged, shall now be violated in Kansas. I am not going into a discussion of the point whether the President and myself were both right in 1848, in being for the extension of the Missouri line to the Pacific, or whether we were both right in its subsequent repeal; I have discussed those questions heretofore. I am willing that my record shall stand, and let the public judge whether I was right or wrong, on either or both those occasions.

The Senator has taken pains to hunt up a speech which I made at Springfield, Illinois, on the 12th of June last, and to read passages from that speech bearing on one part of the subject, and then to read paragraphs from my speech here on another branch of the subject, and hold them both up as if there was an apparent inconsistency between them. It may be so. What does it prove, if it be so? Does it prove that I am wrong now? I ask the gentleman to answer the argument I have presented now, whether or not the people of Kansas ought to be permitted to vote upon the adoption of their constitution. The quotation which the Senator has made from my Springfield speech goes to this extent: that in my opinion the Kansas law providing for a convention, was fair and just in its provisions; that I had faith that it would be fairly executed; that I thought it was the duty of the citizens to vote, and if they stayed away, it would be their own fault. That is the substance of what he quoted. If he had quoted what I said in my speech the other day, on the same subject, no explanation from me would have been necessary. Here is what I said in the Senate a few days ago:

"So far as the act of the Territorial Legislature of Kansas calling this convention was concerned, I have always been under the impression that it was fair and just in its provisions. I have always thought the people should have gone together *en masse* and voted for delegates, so that the voice expressed by the convention should have been the unquestioned and united voice of the people of Kansas. I have always thought that those who stayed away from that election stood in their own wrong, and should have gone and voted, and should have furnished their names to be put on the registered list, so as to be voters. I have always held that it was their own fault that they did not this go and vote; but yet, if they chose, they had a right to stay away. They had a right to say that that convention, although not an unlawful assemblage, is not a legal convention to make a government, and hence we are under no obligation to go and express any opinion about it. They had a right to say, if they chose, 'We will stay away until we see the constitution they shall frame, the petition they shall send to Congress; and when they submit it to us for ratification we will vote for it if we like it, or vote it down if we do not like it.' I say they had a right to do either, though I thought, and think yet, as good citizens, they ought to have gone and voted; but that was their business and not mine."

If, when the Senator quoted my Springfield speech as to the fairness of the law, he had quoted what I said the other day on the same point, he would have found that they were in perfect harmony, instead of being in antagonism. I confess it struck me that there was a want of fairness, a want of candor in bringing in from one speech remarks on one point of the subject and then bringing them in antagonism with remarks in another speech on a different branch, and applying the extracts as if they related to the same subject.

If the law was fair in its terms, as I supposed it was, what was my objection? I will tell you. At that time it was understood that the convention was to assemble for the purpose of framing a constitution to be submitted to the people for acceptance or ratification; hence I said I believed it was fair, not only in its provisions, but in its objects; for its avowed object was to frame a constitution,

to be submitted to the people for ratification. I had seen at that time the inaugural address of Governor Walker, in which he said the constitution was to be submitted, in which, in substance, he said that he was instructed by the President and Cabinet to insist upon its submission, and in which he said that if the constitution were not submitted he would use every effort to cause it to be rejected by Congress, and that he spoke for one higher than himself when he made that pledge. Thus I had been informed that the executive Administration, including the President and every member of the Cabinet, had given a pledge to the people of Kansas that this constitution should be treated as null and void unless it was submitted to them for ratification. That being the object, the provisions of the law being fair on their face, I did not doubt that the President intended to redeem his pledge. I did not doubt that Mr. Walker was instructed to do what he had done. I did not doubt that Mr. Walker was acting in good faith. I did not doubt that the President was acting in entire good faith in giving the instructions. I therefore believed that the pledge was to be redeemed, and that the constitution was to be submitted to the people for acceptance or rejection. Under that belief, I did not hesitate to say that not only the provisions of the law were fair, but its objects were fair, and that I believed it was to be carried out in good faith. That was my opinion, and under that state of the case I expressed that opinion.

I am not going into a discussion of the question of how far the President has redeemed the pledges given through his instructions to Governor Walker, and repeated by Governor Walker in his inaugural. I hear men here denouncing Governor Walker for his interference in the local affairs of Kansas. I am not aware that Governor Walker has interfered in the slightest degree, except in pursuance of instructions given by the President of the United States, and admitted and acknowledged by the President in his message. I have never supposed that the agent was to be denounced for obeying instructions, and the principals to be applauded for giving the instructions. I admire the manliness of the President of the United States in stating that he did give those instructions to Governor Walker, and assuming the responsibility of them now. I only regret that he considers that perhaps it is wise, from motives of expediency, to accept this constitution without ratification, when he says he thinks it ought to have been submitted, and expresses his disappointment that it was not submitted. The Senator from Pennsylvania tells us it ought to have been submitted. Then let us do what ought to have been done. If it was right to submit the constitution to the people, why not let us do right, and let the policy and expediency of the measure take care of itself?

But the Senator from Pennsylvania takes pains to repeat what my friend from Missouri [Mr. GREEN] so well said in his speech in regard to the number of States which had been admitted into the Union without enabling acts, and the number which had been admitted into the Union without their constitutions having been submitted to the people for ratification. The Senator from Missouri had reason for stating those cases, for he understood me to make it a point, a *sine qua non*, that there should be an enabling act in each case, and that the constitution should be submitted to the people. But after the explanation I then gave, correcting the Senator from Missouri for the error into which he had unintentionally fallen, I did not expect to hear the Senator from Pennsylvania repeating the same argument, and assigning me the same position as if I had not disavowed it. I said before, and I say now, that the great cardinal point is, that the constitution must be the act of the people, and embody the will of the people of the proposed State. If it has been formed, and there is no dispute as to its embodying their will, if it is received by unanimous consent, as a fair expression of the popular will, it may be received in the same way as a court enters judgment by default, or judgment by confession, where the parties have had an opportunity of being heard, and nobody objects. I admit there have been cases where a State has been received into the Union without submitting its constitution to the people, because there was no dispute as to the constitution being

the popular voice. As I said before, the true test is, is the constitution an embodiment of the popular will? If it is not, it must be rejected. If it is, it may be received, although the proceedings have been irregular.

I repeat that the best mode of ascertaining the disputed fact of its being the expression of the popular will, is submission to the people at a fair election, where the voice of every *bona fide* voter may be heard. The President of the United States agrees with me in his message that that is the fairest and best mode of ascertaining the popular voice. Then why not adopt that mode of ascertainment in this case, it being denied that this convention does reflect the popular will, or that the constitution embodies the popular sentiment? The principle is that the constitution must be the embodiment of the popular will. Submission is a means and the fairest and best means of ascertaining that fact, and hence that general rule ought to be adhered to in all cases whatsoever. I did not doubt that it would be adhered to in regard to Kansas, when this convention was called.

The Senator quotes that part of my speech in which I referred to the opinion of the Attorney General, and of General Jackson's administration in the Arkansas case, to show that a convention called without authority of Congress was null and void, so far as it assumed to be a body having authority to institute a government. The Senator does not deny that such was the opinion of the Attorney General in that case. The Senator does not deny that such was the opinion of the President of the United States at that time. He pleads the statute of limitations as to the President; and I said the other day that if he would show me the authority of the President for saying that the President had changed his mind since, I would never repeat that authority upon him; for a wise man will change his mind if he thinks he is wrong. But I deny the right of the Senator to come in and quote the President of the United States as against me on this point, if he stands on the record saying, with me, that a Territorial Legislature has no power, no authority, to call a convention having a right to institute government, without a previous act of Congress. Does the Senator now say, will he say, that he is authorized expressly or impliedly by the President to state that he has changed his opinion on that question? I apprehend not. I referred to that record because it stood uncontradicted and unchanged. There is nothing in the message, so far as I have seen, which now reverses that opinion of the President. The President has a right to recommend that the constitution formed at Lecompton shall be received, and Kansas admitted under it into the Union as a State; but he has not done so. The President has refused to say that the Kansas convention was a legal convention authorized to institute government. The President may have used words which may have misled the Senator from Pennsylvania. The President has said that convention was called by a Legislature which had been repeatedly recognized by Congress. True, the Legislature has been recognized, but the convention has not been; and the President does not say that the Legislature had the legal authority to call a convention which was authorized to institute government. The Senator is determined that he will not understand the distinction between a convention having authority to petition, as in the Arkansas case, and a convention authorized to institute government, as in the cases under enabling acts.

Mr. BIGLER. Will the Senator allow me to say a word?

Mr. DOUGLAS. Certainly.

Mr. BIGLER. I maintained throughout the whole of my speech that the people of Kansas have an enabling act; that the law of 1854 has conferred on the people of Kansas legislative power on all rightful subjects of legislation. I went on further, to say that, in my opinion, to make provision for the preparatory steps to a convention for the formation of a constitution by the election of delegates by the people, was a rightful subject of legislation. Furthermore, that bill expressly clothed the people of Kansas with full authority to make their domestic institutions, and to make them in their own way. It is because of this language, that I hold, that in the case of Kansas, there is an enabling act.

One point more. The honorable Senator from

Illinois must have omitted to catch a remark or two which I made. I said, expressly, that the Senator did not hold an enabling act to be indispensable in all cases; but he does so hold as to Kansas, and he proposes to send back to the people all they have done, and to institute proceedings here which they must carry out. I have said that, in my judgment, under his law, the people there can adopt their own mode. They can do that, because the law of Congress says they can do it. I said further, that the Senator could not convert me to his views until he repealed that part of the act of 1854 which said they might do this precise thing.

Mr. DOUGLAS. Then the Senator holds, as I understand, that under the Kansas-Nebraska act the people of Kansas have a right to form a government whenever they please, in whatever mode they please, and to demand admission into the Union as a State. He says that because the law provides that they are to establish their own institutions in their own way, they may adopt just such way as they please; and as they have power to legislate on all rightful subjects of legislation, they may legislate on just such subjects as they please. I do not so understand it. Under his doctrine of allowing them to come in in their own way, I suppose the Topeka people would come in very easily, that being their way. I hold that the Kansas-Nebraska act was not intended as an enabling act; and I hold that no man in this body ever dreamed, a year ago, that it was so intended.

The Senator has told a long story which I do not intend ever to discuss, about his consultation with me at my house, to get up an enabling act to authorize the people of Kansas to form a constitution. What was that grave consultation of which he speaks for, if no enabling act was necessary? Why were we meeting in these consultations to get up an enabling act, if there was already one in the organic law? Why did President Pierce recommend in his message an enabling act if he understood the organic law to contain one? Why did the Committee on Territories report an enabling act if they understood the organic law to contain one? Why did we sit here day and night to weary out the Republican members on the other side, and pass an enabling act so as to get Kansas into the Union, if it was unnecessary? We made it a party measure; we concerted upon it as a party measure; we passed it by a strict Democratic vote; with every vote on the other side of the Chamber against it; we were then struggling for an enabling act; and I undertake to say that it was not hinted, so far as I know or believe, from any quarter, at that time, and never dreamed that the Kansas-Nebraska bill was an enabling act giving a right to the people to come into the Union when they pleased.

Mr. BIGLER. If the Senator will allow me I will answer that point for myself. I was inclined to do it in my regular speech. I have given the motives which impelled me to action on that occasion. I have said that I disliked the proposition, because it was, to some extent, an infringement upon the doctrine of non-intervention. I said so on this floor, when a Senator from Delaware, not now with us, [Mr. Clayton,] submitted a bill in reference to Kansas. I supported the Toombs bill, not as an ordinary enabling act, but in view of the peculiar circumstances which surrounded the case. There had then been no regular movement made in that direction in Kansas; the population was far below what anybody would deem proper for the admission of a State; but I was impressed with the idea then, as I am now, that Congress would do the country and Kansas a service by getting that Territory into the Union as a State at the earliest hour possible. I went for the measure, because it was an invitation to those people which they might not have anticipated under all the circumstances. There was one portion of the people, it is true, attempting to get into the Union in some form or other. I thought in view of the excited state of the public mind there, such a measure might be justified. It was a peculiar measure; the Senator will agree with me that it was no ordinary enabling act. It furnished even the officers to execute the law. But, sir, what views the Senator may have had in reference to it, is not for me to say. I have only given the impressions that were on my mind. I think I intimated very clearly, that it should not be my purpose to sacrifice anything to the mere

idea of consistency, in an exigency so critical as that which surrounds us.

Mr. DOUGLAS. I did not refer to that measure for the purpose of arraigning the Senator's consistency. I have nothing to do with the gentleman's consistency. I do not attach so much importance to that, as others do. I only referred to it for the purpose of showing the understanding of the Executive branch, evinced by a special recommendation; the understanding of the Committee on Territories, shown by a special report to this body; and the understanding of the Senate, as evinced by the extraordinary exertions used to carry through an enabling act for Kansas, in order that a State might be legally formed. The fact was, that a movement had then been made to form a State in Kansas irregularly. We thought it was better to have it done regularly than irregularly; and as there was no authority of law by which the Legislature could call a convention without our interposition, we reported a bill, in pursuance of the President's special recommendation to pass such a law; and the Senate made it a party measure. What is more, it was specially made a party measure on which to fight the presidential election. We were not satisfied to go before the people fighting the Topeka movement, without ourselves authorizing the people to form a State government legally. This was got up as a party measure upon which to elect Mr. Buchanan; and when we forced it through the Senate as a party measure, we said to the Republicans on the other side of the Chamber, "If you do not take it this year, you will have to take it the next." But I find there is not much disposition to stand by the measure for twelve months, and have them take it now. I only ask my friend from Pennsylvania now to stand by the same measure after the election, that we did before the election. I only ask my Democratic friends here to help me to carry out now, the same identical bill to which we stood pledged before the election, and which we formed as the basis on which the presidential election should be fought.

Mr. BIGLER. The Senator is clearly insisting that I shall be consistent in all that I do on this subject. That is a very unreasonable request. The Senator has disposed of that subject for himself, by frankly saying that he does not claim to be, nor pride himself on being, always consistent; that not a month passes over that he does not change some impression upon his mind. Now, he should give me the benefit of that charitable rule; but I do not want it. In this case, I do not think I need it. I have stated the peculiar circumstances which impelled me to favor that measure, although at the same time believing that, if the people acted according to law, and by authority of their own Legislature, in an orderly way, they would have a perfect right to make a State constitution, and come here and ask for admission under it. The people who made the Topeka constitution had not done that. They had proceeded without the color of law, in disregard of the territorial law and the law of Congress. If they had had the law and the order of the Leecompton convention, as much as I dissented from its details, I think I should have differed then with the Senator from Illinois.

Mr. DOUGLAS. The Senator from Pennsylvania falls into the mistake of supposing that I was alluding to him rather than to the whole party of the Senate, when I was urging the acceptance of the measure which we supported in 1856. I was speaking of the united Democratic party of last year having, as one man, come together on the bill called the Toombs bill.

Mr. MASON. The Senator will indulge me for a moment. There was one member of the Democratic party who did not vote for that bill.

Mr. DOUGLAS. If the Senator had waited a second, he would have heard me finish the sentence by saying that the Democratic party had united as one man on this Toombs bill, only two or three voting in the negative, not because an enabling act was not necessary, but because it contained a bill of rights which was supposed to repeal what were called the odious laws of Kansas, and that was regarded by some as an interference with their domestic institutions. The negative votes therefore were predicated on the express ground that the bill of rights contained in the Toombs bill was inconsistent with the organic act in annulling some of the "bogus" laws; but

I undertake to say that no man voted against it on the ground that an enabling act was not proper and necessary.

Mr. MASON. Will the Senator indulge me for a moment?

Mr. DOUGLAS. Certainly.

Mr. MASON. I speak for none but myself. I did not vote against the bill; I did not vote at all. I refrained from voting because I found from the current of debate that it was believed on the part of those with whom I acted politically that such a law was necessary to extricate the Territory of Kansas from the condition in which it was, by forming it into a State. That was the current of the debate as I understood. I should have voted for the bill in order to carry out this policy of extricating the Territory from the condition in which it was by giving to it a law to create a State, but that I believed the passage of such a law by Congress, was in derogation of the whole principle and policy of the Kansas act; and therefore I did not choose to separate myself from my friends by voting against it, but I refrained from voting. That is my recollection.

Mr. DOUGLAS. When the Senator says such a law was in derogation of the Kansas act, does he mean that part of it which authorized the convention, or that which annulled the "bogus" laws?

Mr. MASON. I mean the whole of it. I considered that the intervention of Congress, in passing a law authorizing the people of Kansas to form a State constitution, was taking from them, by implication, the power granted to them in the Kansas act. I am free to admit, that the other provision to which the Senator has alluded was even more obnoxious, because it interfered with their domestic legislation.

Mr. DOUGLAS. Then I understand the Senator from Virginia to occupy the position that the Kansas-Nebraska bill itself was a sufficient enabling act. By it, the people were authorized to form their institutions in their own way; and, therefore, they were authorized by that act, whenever they pleased, to call a convention and form a constitution, no matter whether they were five thousand or ten thousand people, with such boundaries as they saw proper, and fix it all in their own way, and come here and demand admission into the Union as a State!

Mr. MASON. That may be the Senator's construction, but it is not mine, by any means.

Mr. DOUGLAS. Let us see. The Senator understood that the Kansas-Nebraska bill contained an enabling act. If it did, it gave the authority to the people of Kansas to form a State constitution and come into the Union then, when there were not two hundred inhabitants in the Territory, or at any subsequent time when there should be five thousand, or ten thousand, or fifteen thousand, or twenty thousand inhabitants in the Territory. The same construction would authorize the people of Nebraska to-day to call a convention and demand admission into the Union, either with their whole empire, or with curtailed boundaries, as might suit their convenience. I did not understand, and I never supposed that anybody who voted for the Nebraska bill understood, that we were giving our consent that a few people rushing in there, without numbers sufficient for a community, without organization, had a right to come and demand admission into the Union, until Congress should first authorize it.

Mr. MASON. I suppose not.

Mr. DOUGLAS. Well, I will not carry on the discussion with the Senator from Virginia. My object is not to place any man in an inconsistent position, or to criminate any one. My object is to defend the right.

Mr. MASON. I did not interrupt the Senator from any fear in the world of any position in which he would place me by his argument. I did it only because the Senator said the whole Democratic party in the Senate had united in the policy of passing the bill designated as the Toombs bill; each member being governed, as I presume, by his own reasons. He said, amongst other reasons, that one great object was to make use of that measure in the presidential election, and he assigned other reasons. I wanted only to put in a disclaimer for myself, and for myself alone, that I refrained from voting for the bill, and had various reasons for doing it, the chief of which was the one I have mentioned.

Mr. DOUGLAS. I had no idea that the Senator would be afraid of my putting him in a false position. He is not a gentleman who is governed by any fears or apprehensions on that score. But he has furnished me with confirmatory evidence of the truth of my declarations that the Toombs bill was passed as a party measure by the friends of the Nebraska bill, by the same men who passed that measure, for the purpose of bringing Kansas into the Union as a State under that bill. There were two or three Senators who did not vote at all. The Senator from Virginia says he was one, and the reason he did not vote at all was this: he was not willing to depart from the policy of his party in passing it, and would not vote against it; but he could not, with his views, vote for it, and hence, would not vote at all. This shows that he sympathized deeply in that party movement which required the Toombs bill to be passed last year as a party measure, to bring Kansas into the Union as a State. Now, what I ask is, why can we not, as a party, stand this year where we stood last year, and pass that bill?

Gentlemen complain that I am dividing the party. How? Because I will not change and oppose now a measure upon which we stood when we adjourned last year; because I will not now abandon the measure that we strenuously advocated before the election. I am called upon now to abandon that position. Why? Not that there is any party obligation. If so, where is it? In the first place, as I have said, the President has not recommended it in his message. Of course he would not have recommended it in his message. The President did not intend, I apprehend, to change the party issue, and if he did, he had no authority from the party to do so. The Senator from Pennsylvania says that the admission of Kansas, under the Lecompton constitution, is an Administration measure. What is his authority for that statement? The message does not say so. Has he any higher source of information than the message?

Mr. BIGLER. I have no doubt on that subject. The Senator from Illinois, it seems to me, can scarcely entertain a doubt as to the views of the Administration on that question. I endeavored to give them distinctly, as I understood them.

Mr. DOUGLAS. The point is, whether he understands them from the message, or from higher sources.

Mr. BIGLER. I make the deduction from the message, and from what I know in addition. I did not say it was an Administration measure in words. The Senator is mistaken. What I did say was this: he assumed to be in some doubt as to its being an Administration measure in his former speech, and I said I could hardly understand what he meant; and asked him whether he meant to say that the Cabinet did not unite with the President, or that the Administration having adopted and indicated its policy, those who differed from and denounced that policy were not against the Administration on that question? It seemed perfectly simple. What else could I say? I have not said that it concerned anything else. I have not said it involved any question of party fidelity. What I did say was, that the Administration held the Lecompton movement to be legal so far as it has progressed; and that when Kansas asks for admission, it will not be a sufficient reason to deny her admission into the Union because the constitution was not entirely voted on.

Now as to the recommendation of the President: I heard the Senator's statement on that point before; and I have heard it now with some surprise. The Senator from Illinois understands the relations of the Executive to this question better than I do. How could the President, with any propriety, recommend to Congress to admit a State that had not made any such application? Furthermore, how could the President ask for the admission of Kansas as a State prior to the result of the vote which he said, in the message, he held ought to be taken? These things had not transpired, and therefore there was no recommendation on the subject.

Mr. DOUGLAS. The Senator from Pennsylvania deduces from the message that this is an Administration measure, and also from other sources of information within his knowledge. Now, sir, I should like to know what are those

other sources of information, as he has, to that extent, the advantage of me?

Mr. BIGLER. If the Senator will take my definition of that policy, the question is clearly settled; but I am not at liberty to say that it is an Administration measure, and allow him to define what it is.

Mr. DOUGLAS. I want to know what those "other sources of information" are that have satisfied him, and authorized him to say that it is an Administration measure. He says in the same breath that inasmuch as the constitution has not been sent here, inasmuch as it has not been voted on in Kansas, inasmuch as there was nothing before the President, how could it be an Administration measure?

Mr. BIGLER. No, sir. I asked how could the President recommend the admission of a State that had never applied? I said the Administration held that the proceedings were legal as far as they had progressed, and so far it is an Administration measure. What has not occurred cannot be treated of.

Mr. DOUGLAS. We are now told that no question being before the President, no constitution having been sent to him from Kansas, the President could not have made a recommendation in regard to it. I can understand that very well. Under these facts, he ought not to have made any recommendation. I admire his wisdom and prudence, in refraining from committing himself when he had not the facts before him, and hence it was that I desired to know from my friend from Pennsylvania what those "other sources of information" were, [laughter,] that authorized him to read men out of the party for not supporting the measure.

Mr. BIGLER. Now, Mr. President, an experienced and skillful debater like the Senator from Illinois will not claim the advantage of an unpracticed debater like myself, by putting words in my mouth. I said not one word about reading any man out of the party.

Mr. DOUGLAS. That is true.

Mr. BIGLER. I laid down no such rule. That being true, why did the Senator say I read men out of the party? Sir, does the Senator make no issue with the Administration? When he has made an issue, can he not tell what that issue is? Whatever it may be, is not that the point of difference between him and the Administration? Is not that point about which there is difference, an Administration measure? There is the whole of my answer.

Mr. DOUGLAS. The Senator says he made no remark about reading persons out of the party. It is true he did not use these words, but he did insinuate very distinctly that the Black Republican side of the House rather congratulated me, and that certain gentlemen on this side were not so well pleased. In other words, he carried out the same system that has been carried out here for the last two weeks, of requiring every pensioned letter-writer to intimate that Mr. DOUGLAS had deserted the Democratic party and gone over to the Black Republicans!

Mr. BIGLER. Does the Senator intend to make that imputation against myself, that I have encouraged or sought letter-writers to make a charge against him?

Mr. DOUGLAS. When the Senator gets through, I will answer.

Mr. BIGLER. I shall distinctly deny any such allegation. I have not proceeded in that spirit. I alluded to what I regarded on his part as uncalled-for criticism of the President's views. Long ago, when I was a boy, and before anybody talked of non-intervention, the President expressed views which the Senator undertakes to show are in conflict with his present opinions. I said that excited a momentary gratification on the other side of the Chamber, and regret here. If, in all I have said with regard to the Senator, I have not, from the other side, the same measure of response, the fault is not mine.

Mr. DOUGLAS. I certainly did not intend to intimate, and I do not think my language could possibly bear that construction, that the Senator had suborned letter-writers to assault me. I said that he was insinuating here what those letter-writers were charging me in the country with doing.

Mr. BIGLER. I made no such insinuation.

Mr. DOUGLAS. There are men here personal

enemies of mine—men who would be willing to sink an Administration if they could kill off northern men, and get them out of the way in the future; such men are getting their tools to denounce me as having abandoned the party. Why? Because I do not desert my principles as freely as the masters of these editors desert theirs. I have seen this attempt—not sanctioned by the President; he scorns it; but there are men under him busy at work to convince every one that I have betrayed my party and my principles, in order to see if they cannot crush me among my Democratic friends. That every press which can be controlled, is thus controlled, is beyond denial or dispute. Nineteen twentieths of all the independent Democratic presses—those who do not depend on certain departments of the Government for support—are with me in sustaining the credit of the Democratic party, and the Democratic platform, as adopted at Cincinnati; but the few who are not allowed to speak for themselves are endeavoring to drive me where they cannot drive me—to desert the principles affirmed and proclaimed by the Democratic party at Cincinnati.

Mr. BIGLER. The Senator is very denunciatory of those few who he says dare not speak for themselves. I presume he does not intend to intimate that there are any such holding seats on this floor. I dare express my views.

Mr. DOUGLAS. I spoke of editors. I do not understand the Senator to be an editor of one of those papers that I spoke of.

Mr. BIGLER. No, sir; but the Senator sees me clearer than he sees himself, as he runs in this discussion. Only a moment ago, he said that I insinuated just what these editors said. I do not intend to insinuate anything. What I know, if I know it, I shall speak in the best language I can command. If I believed the Senator from Illinois was talking or thinking about breaking down his party, or leaving any principle he ever embraced, I should bemean myself, and despise myself, if I did not so state. I have neither said that here nor elsewhere.

The Senator has, I think, been unnecessarily severe upon me, as to those matters where I quoted him as authority at one time, for what would not answer at another. I made the application and the analogy not between him and me; but I dignified him, and made the analogy between him and the acts of Congress and of States. What I said was, that in all this, I experienced a difficulty in finding conclusive authority on any proposition at all. It was in that spirit that I referred to his Springfield speech, and for that opinion in its whole weight I must be accountable, simply because I had taken the impression, that if the Senator at that time thought the law calling the convention was null and void, he could not have said what he must have known would have gone to these people in the terms in which he said it; nor could he have held that a vote of the people on their constitution, was indispensable to the admission of a State. Whoever else have understood the Senator from Illinois, this I say, that I always put the construction on it that I put on it to-day.

Mr. DOUGLAS. I do not mean to procrastinate this debate; but I must say a word or two more on this point as to party measures. We are left to understand that a measure, not recommended by the President—one which it is said he could not recommend, because he did not know what the facts were—is a party measure, or that if I do not stand up to it there is a doubt whether I am not leaving the party. Now I wish to go further, and inquire whether every man is ranked out of the party who does not stand up to the distinct recommendations of the President?

Mr. BIGLER. I deny such a rule.

Mr. DOUGLAS. Is every man to be driven out because he does not coincide with the President exactly on the Pacific railroad bill?

Mr. BIGLER. Certainly not.

Mr. DOUGLAS. Is a man to be driven out because he may not agree with the President on the subject of banks? The Senator shakes his head. Is a man to be read out of the party if he does not agree with the President as to a bankrupt law applicable to the banks? I am told, "certainly not." Is he to be read out of the party if he does not agree with the President on any and every other question in the message, except the slavery question?

Then, if each one of the gentlemen around me is at liberty to dissent from the President on the bankrupt law, or the tariff law, or the bank issue, or the Pacific railroad issue, and on each other measure, am I not permitted to judge for myself as to the admission of Kansas on the Lecompton constitution? I do not understand the extraordinary desire to strike a blow that shall either cripple me, or drive me from the party, or make the country press believe that I have left the party. I see men all around me here, who do not agree with the President in all his recommendations. I doubt whether there is a man on this side of the House who will rise in his place and say that he agrees with the President in each of the recommendations of his message. If there is, I should like to see him. I should like to know from the Senator from Pennsylvania whether he indorses each recommendation, and is prepared to carry it out.

Mr. BIGLER. It is not probable that I agree with every sentiment in the message.

Mr. DOUGLAS. I said every recommendation.

Mr. BIGLER. But I must interpose my protest, at this point, against the Senator's argument. He assumes to be answering something which I have said, and as though I were to be held accountable for some rule which the Administration had laid down. Now, sir, I have not used the terms "reading anybody out of the party," unless it was to explain what the Senator had said. I said that his difference with the President on this one point was all the difference between them. I did not say it was to be a party difference. The Administration has nothing to do with that. It is doing what it believes to be right in this exigency. The Senator from Illinois is doing what he believes to be right. I have not claimed that either should be read out of the party. I lay down no such rule. I have no authority to impose such a rule. Such a rule must come from the mass of the party in convention, or speaking through some organ.

Mr. DOUGLAS. Then I understand the Senator to express the opinion that the Administration does not make any issue, as far as gentlemen differ from them on this question.

Mr. BIGLER. Of course they make an issue as far as they go on this question.

Mr. DOUGLAS. But they do not regard it as involving party fidelity?

Mr. BIGLER. It is a proposition too simple for argument, that wherever the party may be found on any question, if a Senator makes an issue on that question, of course he is not in the party; but the Senator cannot get me now to go any further on this subject; I have said all that the English language, I think, is capable of expressing fairly and justly, so as to state my meaning. If he will have it his own way; if he will announce to the country that it is a party measure, and that there is an effort making to put him out of the party because he differs with the Administration on this subject, it is his own business; I cannot help it. I lay down no such rule, and do not recognize it.

Mr. DOUGLAS. I certainly should not have put these questions to my friend from Pennsylvania, but for the fact that he told the Senate he had "other sources of information" in regard to party measures, from those which I possessed.

Mr. BIGLER. Not with regard to party measures.

Mr. DOUGLAS. Then in regard to the purpose of the Administration on this question.

Mr. BIGLER. I must insist that the Senator shall not put language in my mouth which I did not use.

Mr. DOUGLAS. If the Senator will state what he did say, I will accept it exactly as he said it.

Mr. BIGLER. I say, distinctly, that I never referred to a party issue in anything that I said.

Mr. DOUGLAS. But the Senator said he had other sources of information in regard to the purposes of the Administration as to making this an Administration measure; and as he had sources of information not open to me, I desired to know whether those outgivings in the country were authorized, that I was to be read out of the Democratic party, and denounced as a Black Republican, because I was in favor of leaving the people of Kansas free to form their own institutions to

suit themselves. I desired information on that point. I did not believe these gross charges that had been made were authorized. I believe they are made by men under the influence of others—men hostile to me, and equally hostile to the Administration now in power. I believe there are persons who desire to get me into a false position with my party, for their ulterior purposes. I do not intend that men whose claims to the support of the Democratic party, or its confidence, I do not recognize above my own, shall read me out of the Democratic party.

My object was to elicit from the Senator from Pennsylvania, through his "other sources of information," the authority to deny that the President and Cabinet intended to make an issue with their patronage, with their favors, against any man, merely because he opposed the Lecompton constitution. I desired to extract from him a denial of that fact. He cannot but be aware that the report is being circulated everywhere that the President intends to put the knife to the throat of every man who dares to think for himself on this question, and carry out his principles in good faith.

Mr. BIGLER. I will guaranty the President will touch no man's throat. [Laughter.]

Mr. DOUGLAS. No, sir; but I am not satisfied with that mode of trifling with such a question. If the Senator had no peculiar sources of information, I should not press for an answer. I believe that those who use the President's name, as threatening to proscribe with his patronage every man who is in favor of giving the people of Kansas the right to vote on their constitution—those who represent the President in that light, slander him. I believe they are his enemies. I wish to give his friends an opportunity of denying the charge.

Mr. BIGLER. Who makes the charge? Let us have that. That is the proposition—who has made the charge? I simply ask the Senator to state distinctly who makes that charge, and how it comes to be the subject of discussion here?

Mr. DOUGLAS. I will tell you. The newspapers throughout the country are full of it.

Mr. BIGLER. I am not accountable for that.

Mr. DOUGLAS. It comes to me the subject of discussion here, because the Senator was following a line of argument which seemed to intimate that I was outside of a healthy Democratic organization. I do not recognize the right of that Senator—I do not recognize the right of any body of men to expel me from the Democratic party.

Mr. BIGLER. I do not intend that the Senator shall either put language into my mouth, or assign positions for me. In no manner or form have I been laboring to show that he was outside the pale of the party. It is true I did show, and in order to do justice to my subject, it was necessary to show, that on this particular question of slavery in the Territories, the Senator had not always held the same opinions. I did say that so far as he differed with the Administration on this one point, there was a difference between him and the Administration; but at the very same moment I discarded the idea that it was to assume a permanent shape, or that I had any authority for saying that every man who did not think with the Administration on this particular fleeting issue was not a Democrat. I certainly made no such proposition, and have not warranted an answer to it.

Mr. DOUGLAS. I am aware that the Senator's effort was to show that I had changed my opinions on the slavery question. I have answered that already by showing that I changed just when Mr. Buchanan did, and was with him in regard to those alleged changes. If that fact turns me out of the party, I am in very good company with the President. I think that ought to be a sufficient answer to this point.

Now, sir, I do not wish to pursue this debate; it is unpleasant to me. I am sorry that there is an attempt to apply here, on these occasions, a tyranny not consistent with free Democratic action. The slightest variance of opinion with the President upon this question is deemed a cause for suspicion at least; when open variance as to the Pacific railroad, or the tariff, or the proposed bankrupt law for the banks, is no cause of disagreement here at all. I do not understand who it is that puts up this test. I do not understand the motive for it.

It has been intimated frequently that I acted rashly in entering into the debate and expressing my opinions at so early a period. It is said that I should have waited; that I should not have thrust this question on Congress; that I should not have forced an issue. Sir, who has thrust this question upon us? We have been told by the Senator from Pennsylvania that the President had nothing before him on which to base a recommendation in regard to Kansas, because the constitution had not been sent to him, not having been finally disposed of by the election in Kansas. If the President could not make any recommendation on the subject, why the necessity of putting in his message a clause differing totally from every speech and report I had ever made on the Kansas question? Why the necessity for devoting two columns of the message to the subject? If the President had seen proper to wait until he received the constitution from Kansas, I too should have waited; but when he forces on the Nebraska bill a construction in contradiction of all my speeches and reports, I am bound respectfully to dissent. If there is any fault in thrusting this question before Congress prior to the vote in Kansas, the President is responsible; but I do not arraign him for it. It was his right to express his opinions, and it was proper and right for him to determine when and how he would exercise that right. When he presented those opinions to us, I was forced in self-defense to speak against the assault made on my Kansas reports and speeches. I did this in a manner respectful to the President. I believe he had no unkind feeling towards me; I had none towards him. There were no private grievances, no causes of irritation between the President and myself, but simply a difference of opinion on this one question.

If gentlemen can tolerate differences of opinion, we can act in harmony; but I shall maintain my views of right, whether there be harmony or not. I shall avail myself of all proper opportunities to vindicate the great principle with which my public life is identified—the right of the people of each State, old and new, to form and regulate their domestic institutions in their own way. If, in doing so, I shall happen to come in collision with any of my friends on this floor, I shall deeply regret it; but still, if they cannot tolerate differences of opinion—and I am glad to say that I have seen very little disposition here to be intolerant on this subject—then I must maintain my independent course of action inside of the Democratic party, standing by its organization and its principles until the party shall reassert its true and original principles. I have no fears of the party being divided. Gentlemen will see that they cannot perpetrate what I believe to be a great wrong, by forcing a constitution upon Kansas against the will of her people; and when gentlemen come to understand the facts as I understand them to be, I have faith that they will be frank and candid enough to act on the facts as developed before them.

I should have been delighted if this whole discussion could have been postponed. I should have rejoiced if it had not been necessary for me to participate in the discussion until all the facts were before us. I believe there would have been none of these unpleasant exhibitions for our opponents to smile at, or for others to frown at, as the Senator from Pennsylvania has intimated, if there had been no attempt from any quarter to force tests on men. I trust that there is no authority for any such efforts, and that it will be shown in the end that they have been totally unauthorized.

Mr. President, it is with extreme regret that I have felt myself constrained to engage in this debate. I hope we shall discuss this question hereafter on its merits, without reference to my consistency, or to the consistency of any other gentleman. Instead of speculating on my political position in the future, I hope people will leave time to work out the problem and answer the question. Time will give a more satisfactory answer than any protestations, or pledges, or promises, from me. If gentlemen can discuss this question and let me alone, certainly I shall have no controversy with any one; and I am not sure that I shall answer them often, even if they think it wise to keep up these constant assaults on me and my political course, instead of discussing the question on its merits.

Mr. BIGLER. Mr. President—

The VICE PRESIDENT. The Senator from Michigan had the floor, and he yielded to the Senator from Illinois. Does the Senator from Michigan yield to the Senator from Pennsylvania?

Mr. STUART. I will yield to the Senator from Pennsylvania; but I wish to suggest that there is a common desire in the Senate to take up the measure alluded to this morning by the Senator from Georgia, [Mr. IVERSON,] as soon as this matter shall be disposed of. I move to postpone the further consideration of the subject before the Senate till to-morrow.

Mr. BIGLER. I shall not complain of that. I do not feel that this is an occasion when I have, perhaps, all the right to claim the indulgence of the Senate that I might have under other circumstances.

Mr. DOUGLAS. Will the Senator from Pennsylvania allow me to say a word?

Mr. BIGLER. Certainly.

Mr. DOUGLAS. I desire to say distinctly, that when I referred to attempts to strike at me through the press, I alluded to nothing that had occurred in the Senate, or emanated from the Senate. I say this, lest there should be any doubt as to my meaning.

Mr. BIGLER. I unite with the expression of regret made by the Senator from Illinois, so far as the consequences of any arraignment of the consistency of any of our public men may be concerned; but the Senator himself unhappily invited it. I think he was the first to make reference to the consistency of any statesman in the country on this question.

A word, now, as to the message, and I shall have done. When I ask the Senator from Illinois whether it was not the President's duty to discuss the Kansas question in his message, he will undoubtedly answer in the affirmative. It being his duty to discuss it, will the Senator say that the President ought not to discuss it in his own way and give us his own doctrines. The President is under a constitutional obligation to communicate to Congress information concerning the state of the Union. What Senator will say that these matters in Kansas did not, above all other matters, concern the state of the Union? When the President communicated it he was bound to say what he thought.

Mr. DOUGLAS. The Senator misunderstands me. I acknowledge that the President was bound to communicate so soon as he had anything to communicate to us; but the Senator said he had nothing to communicate as to Kansas.

Mr. BIGLER. If the President did not communicate anything, why did the Senator make an issue with him?

Mr. DOUGLAS. The Senator said the President had no information on which to base a recommendation as to Kansas, and I objected to the enunciation of opinions without information on which to base them.

Mr. BIGLER. That is a much narrower proposition than the Senator laid down before; that is not a platform large enough to build his speech on. Now I make this proposition in reference to the President and the Senator, for both of whom I have the highest respect; and above all for their ability to comprehend and dissect such questions. The President was bound to send his message to Congress; but I cannot agree that the Senator from Illinois was required instantly, as soon as the last words of the message dropped from the lips of the clerk who read it, to make this issue and inaugurate this discussion. I regretted this, and I am frank enough to say so. As to the Senator's views on the subject, nobody will deny him the ability to comprehend and elucidate it; I am the last man to cast an imputation on his motives.

The VICE PRESIDENT. The question before the Senate is the motion to postpone the further consideration of this subject until to-morrow. The motion was agreed to.

PAY OF MEMBERS OF CONGRESS.

Mr. IVERSON. I move to take up the House joint resolution (No. 2) to amend the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856.

The VICE PRESIDENT. The Chair regards that as now in order without any motion, it being the unfinished business of Saturday. The joint

resolution is before the Senate, as in Committee of the Whole.

Mr. IVERSON. When I moved on Saturday, at a late hour, to take up this resolution, I supposed there would be no difficulty in its passage; and as there were considerations of expediency calling for its immediate passage, I asked the Senate at that late hour to dispose of it. The Senator from Delaware [Mr. BAYARD] made objections to the principle of the resolution, and other considerations urged the Senate to adjourn at that time without final action. I do not propose now to go into a discussion of the merits of this proposition. The Senator from Delaware presented objections to the resolution itself upon principle. I think he was very well answered by the Senator from Virginia, [Mr. MASON,] and I am not disposed now to occupy the time of the Senate, in presenting other considerations in reply to the Senator from Delaware. I will barely say, however, that, if he carries out his principle to its legitimate conclusion, the law is wrong in allowing mileage to sitting members whose seats are contested.

His argument, I understand, is that this pay ought not to be given to members at the commencement of a session, because a seat may be contested, and, finally, a sitting member be ejected, either by one House or the other; and, therefore, he not being legitimately entitled to compensation, the compensation will have been improperly and illegally paid to him. That argument would exclude a member from taking mileage; and yet the law gives to every member his mileage on the first day of the session. It has been the invariable practice of both Houses, ever since the formation of the Government to the present time, to pay the sitting member, who comes with a certificate of election, all the amount of salary and mileage to which the law entitles him; and also to pay to the contestant, if he succeeds in obtaining the seat, the same amount of mileage and compensation. The House of Representatives have gone even further than this. They have not only paid the sitting member the mileage and compensation, but they have actually paid to a contestant the mileage and compensation, although he has not obtained the seat for which he made a contest. To carry out the proposition of the Senator from Delaware, you must repeal the law in relation to mileage, and take away from every man the mileage, because he may finally be decided not to be entitled to a seat; but I will not press that point any further.

I merely wish to throw out a suggestion or two as to amendments which have been notified are to be proposed to this joint resolution. The resolution does not change the features of the original compensation law. It does not enlarge or diminish it in any way. It simply changes the time at which a portion of the compensation which is admitted to be due to members shall be paid. It merely stipulates that it shall be paid on the first, instead of the last day of the session, as the compensation law required. Now, if you introduce an amendment such as has been suggested by the Senator from Illinois, [Mr. DOUGLAS,] to pay members of the Senate their mileage when they are called upon to attend a special executive session, under a proclamation or summons of the President, that is an entirely new and distinct feature. Any attempt to introduce it as an amendment to this resolution will necessarily open the door for discussion and difference of opinion, not only in this Chamber, but in the House of Representatives. That is an extension, an enlargement of the compensation law. It is the introduction of a new principle, a new feature altogether, which would probably give rise to a protracted debate.

Now, sir, I say to Senators that any amendment of this sort on this resolution must necessarily endanger the passage of the resolution in the other House, or at least must postpone it until a subsequent day. This is the only day during the week, under the rules of the House of Representatives, when a proposition can be taken up by a suspension of the rules of that body. If we amend the resolution in this body and send it back to the House of Representatives, it will require a vote of two thirds to take it up. Such a motion can be made only on this very day, and we all know that at this late period of the day it would be impracticable to have such a motion as

that entertained and carried in the House of Representatives; and another motion to suspend the rules and take up cannot be made until next Monday. Thus it will be seen that any amendment of this resolution will necessarily postpone its consideration in the House of Representatives until next Monday, because after to-day a single objection in the House will prevent the resolution from being taken up, and will prevent any motion to suspend the rules, in order to take it up and consider it.

Now, so far as regards the proposition to pay mileage to new Senators who are called here to a special session, at the incoming of an Administration, I yield to the propriety, justice, and policy of such a provision. I admit that provision ought to be made for such cases; but so far as regards those Senators who were called here at the executive session, in last March, their mileage can be provided for in one of the appropriation bills. So far as their case is concerned, there is no necessity for incumbering this resolution with an amendment. It may be put on one of the appropriation bills. That is a more appropriate place for it than this proposition. Let us wait, therefore, until one of the appropriation bills comes from the House of Representatives, and then we can do justice to those Senators. I do not say that I will vote for the whole mileage. On that subject there seems to be a difference of opinion; but I would certainly go for compensating them to an extent commensurate with the time and trouble and risk and expense of their journey to the seat of Government. That can be done on an appropriation bill. Justice can be done to them in this way at the appropriate time. I have consulted with several of those gentlemen, and they are contented to leave the subject until it can be arranged in an appropriation bill. I think that is the best policy.

If we incumber this proposition with any amendment we endanger its passage; we open up the whole question in relation to the compensation bill and the new elements which may be introduced by the amendments that may be offered; we open up a discussion in the House of Representatives and endanger the whole proposition, or at least postpone it to a time when it may be seriously inconvenient to members. If the resolution we passed here to-day, adjourning Congress from the day after to-morrow until the 4th of January, should meet the concurrence of the House of Representatives, then necessarily this proposition must go over until Congress meets after the adjournment. I hope that no amendment will be presented, and if any should be presented, I suggest respectfully to Senators, that it is best to vote them down and let the original proposition be concurred in as it came from the House of Representatives.

Mr. BAYARD. I confess myself unable to appreciate the force of the remarks of the honorable Senator from Georgia. There is no public interest connected with the passage of this resolution now, or a month or two months hence. The whole exigency or emergency connected with it, must be purely personal, in which the country at large has no interest whatever. This resolution came to us but on Saturday last, and the attempt was made to pass it then, even almost before it could be read for the information of Senators. Being myself opposed in principle to the change sought to be made by the resolution, I opposed it then. I am perfectly satisfied, from what occurred at that time, that the change will be made; but if I can by an amendment prevent that change from working what is an abuse in my judgment, I hold myself bound to do it.

It is true that the honorable Senator from Virginia [Mr. MASON] differed with me as to the construction of the existing law which this resolution seeks to amend. He thought I was too confident in my manner of asserting that, under the existing law, no member was entitled to any portion of his pay but the \$250 a month, until the end of the session. Sir, I asserted that so positively simply because the House of Representatives had judged legislation necessary in order to make the change. If it were not so clear, we should not have had this resolution before us. I assumed, therefore, what agreed with my own conviction, what, until I heard the honorable Senator from Virginia, I supposed no one doubted, that, under the language of the existing law, no Senator or

Representative is entitled to receive any pay other than the \$250 per month, and his mileage, until the end of the session.

When I looked at the character and object of the compensation law, as I understood it, hurriedly as it was passed, I supposed that was a necessary and proper provision, and I am sorry to see that a change is to be made now. There was, as I presumed, a double object to be attained; at least, according to the current of the debate I had that conclusion, and I know it operated in my own mind. The change was twofold. It was generally admitted that the compensation of members of Congress was too small, and therefore it was to be increased. The other question of changing it from a per diem to a salary depended upon a different principle. The idea connected with that was that the effect would be to prevent the unnecessary prolongation of the sessions of Congress; and the very object with which the compensation is made payable in the mode in which it is made payable would be defeated by repealing that part of the law which postpones the payment until the end of the session. I considered, and I think others did, that the principle of a salaried compensation was desirable with a view to shorten the duration of what is called the long session. I thought it would hold out an inducement if the increased compensation was not payable until the end of the session. Take that away, and you withdraw in part the inducement, and I think alter one of the intents of the original law as to the benefits to be derived by the country from this mode of compensation.

Now, sir, it is very indifferent to me whether an amendment changes the features of a bill, in the language of the honorable Senator from Georgia, entirely, or not, or whether it changes the general scope and character of the provisions of a bill, or whether it only makes a slight change apparently even in the time and mode of payment. I consider that material, for I think it relates to the right and propriety of the matter.

With these convictions in my mind, that the change had better not be made at all, and also with the further conviction that a change will be made as to the time of payment, though I think that may in part tend to frustrate one of the objects of the law, I intend to move two amendments. The first divides itself into three separate branches, though all depend on the same fact. The idea in my mind is, that a Representative or Senator who has taken his seat in Congress, which is claimed by a contesting party, ought not to receive compensation for a period of time when he rendered no service, if he has not been validly elected. I am perfectly aware, and I so stated the other day, that beyond all question the member of Congress who is returned *prima facie* in either body as a member, and takes his seat, is entitled to his mileage. He has performed his travel, and the mileage is based on that.

I am aware, also, that it has been the habit of Congress, where a contest has been made in good faith, to allow to the contestant, out of the contingent fund, mileage and compensation during the progress of the contest. It seems to me that, under the change of the law now proposed, this will grow into an abuse. By making the whole amount of arrears, as they are called, payable on the first day of the session, you enable the man who has obtained the first return to receive, not only the mileage, to which he has some shadow of right, having performed the travel, but pay for nine months, when no service has been rendered, and when he was not entitled to a seat. My first amendment is to prevent this being carried into an abuse.

There are many defects in the present law, but I do not desire to go any further now than I think mere justice to the body of which I am a member demands. I cannot suppose that the House of Representatives will refuse to yield to the second amendment I mean to propose. It is not to give mileage to Senators for attending at a special called session, but it is to provide that when a Senator has attended such a session and dies before the next regular session, his representatives shall receive his compensation up to the time of his death; and, also, that where a new Senator attends at a special session and dies before the next session, his representatives shall be entitled to mileage. I propose to apply this to those Senators who died since the last session. Though

they would not be entitled to mileage for the special session, I think their representatives ought to receive the amount of their compensation.

My first amendment is to insert after the word "and" in the twelfth line of the first section, "on the third Monday in December thereafter;" and in line eighteen, after the word "and," to insert "at the expiration of fifteen days after the commencement of such session;" and to add to the first section this proviso:

Provided, That this resolution shall not be held to apply to any Senator or Representative whose right to his seat is contested by another person claiming the same, when the claim is made within twenty days after the commencement of the first session, and remains undecided.

The Senate will observe the effect of this amendment. I am satisfied that this change in the mode of compensation will be made; but if it is to be made, I wish to exclude the impropriety of paying for services never rendered, and making payment for a period of time, in many cases, when the person was not in official existence. If you do not adopt this amendment, you will be frequently paying two members from the same district. The amendment only postpones the right of a member whose seat is contested by another to receive pay for the recess until the contest is decided. It only excludes cases where the claim is made within twenty days from the commencement of the first session of a Congress. I propose to leave such cases to the operation of the law, as it now stands. I do not think there is anything unreasonable in that. If we choose to alter the time of payment as to those members whose seats are uncontested, and I think that is a material alteration of the law, we ought certainly to do it in such a manner as not to make double payment for services never rendered during a period of time when no one was in existence to perform the service. I desire to avoid what I think will be an abuse.

Mr. STUART. I am very anxious to have a vote on this resolution, and but for the very great respect I have for the opinions of the honorable Senator from Delaware, I should not say a word in reply to what he has stated; and certainly I shall not be supposed to entertain anything but the highest respect for him, in the remarks I shall now submit. I beg, however, to submit to him that his argument must be unsound. It may be that the practice of Congress has had something to do with producing his impressions. The practice has been almost universal in cases of contested seats, to pay both parties. But I propose to say a word as to the true construction of this act. Under the Constitution of the United States, each State has a right to two representatives on this floor—and I shall confine my remarks to the Senate, because the illustration is a fair one. An election is held, and the State authorities certify that a certain citizen of that State is regularly elected a Senator. He comes here and takes his seat; he performs the duties and receives the emoluments incident to a Senator of the United States. If another individual comes to contest his seat, the Constitution has conferred on this body the right to review the question, and say whether the State authorities have decided properly or not. If the Senate declare that the State authorities made a wrong decision, they oust the man holding the certificate, and seat his competitor. From the time he is thus placed in his seat as a Senator of the United States, he has power to act and power to receive the pay. He has no power to act before that time; he has no authority to receive the pay which accrued before that time.

I think an examination of the law will render this clear; and if it were a new question that had never been embarrassed by the former custom of both Houses in paying member and contestant, I hardly think there would have been another opinion expressed on the subject. To say that a man has the right to receive pay during a time when he was not a member, is not only to advance an anomaly, but it is to advance a doctrine against which the Judiciary Committee of the Senate decided at the last session. The question was solemnly referred to them by the Presiding Officer of this body, and they reported that a man could not receive pay for a time when he was not a member. No such retroactive effect is given to the action of the Senate in ousting one Senator and seating another.

Mr. BAYARD. I cannot agree with the hon-

orable Senator from Michigan as to the view he takes of this law. To me it seems clear that if a man takes a seat in Congress on the faith of the *prima facie* return, and his right is contested by another person, who is finally decided to have been validly elected, the person who received the return ought not to be paid for a period of time when he rendered no service. Gentlemen ask how you can deprive him of the arrears? It is not arrears in the proper sense of the word. It is paying him \$3,000 for a whole year during a part of which he was not even a sitting member. The object of the present law is to put the representatives of all the States on the same footing, no matter at what period of the year they may have been elected. If a member takes his seat on the usual *prima facie* evidence, but, a contest being made, it turns out that he was not duly elected, but that the contestant was, I do not conceive it possible that the contestant could be deprived of the compensation which the law meant to give to the person really elected. The argument of the Senator from Michigan is that the member who succeeds in the contest and shows that he was validly elected, shall be cut short in the compensation to which he is entitled, and that the person who has been unseated shall be entitled to the compensation though he may not remain here long enough to perform any service. I cannot understand that. The compensation is given not in reference to the period of absence, but it looks to the whole year. To give to the law a construction which would enable a person who was never validly elected to take a great portion of the pay from the person really elected, does not seem to me to be rational.

I think the amendment I have offered will prevent difficulty. It does not interfere with the general idea of advancing the time of payment. It simply prevents an abuse which will grow up under the resolution if adopted without the restriction which I propose.

Mr. PUGH. I will suggest to my friend from Delaware, that there are now two Senators whose seats are contested, and it would seem to be rather an unkind thing to vote ourselves this amount of money and cut them out.

Mr. BAYARD. If the honorable Senator will look at the amendment he will find that it does not touch such a case. It applies to a case where one person claims the seat of another within fifteen days after the commencement of the first session of a Congress. There is no Senator in this body in that position. It refers to the case of a double claim.

Mr. PUGH. I apprehend no difficulty about the claimant. We have never paid a contestant out of the appropriation for paying members of Congress. We have always paid him out of the contingent fund. It is not done by joint resolution, but by order of the Senate. If we think the contestor has not presented a frivolous claim, but a fair ground of contest, we order him to be paid out of the contingent fund of the Senate.

The difficulty in my mind was in the case of a contestee. All the rest of us come here on the first day of the session and draw our pay, but if anybody presents a frivolous or causeless petition against any member, he is to be prevented from receiving his compensation, and he will never get it until the Senate disposes of the case. They may dispose of it or not. They may postpone it for other matters. All this time you make the gentleman attend as a Senator. If he does not attend you dock him of his pay. If he does attend you do not pay him. If this resolution is to construe the salary law of the last Congress, it seems to me the less you put in it the better; I was not in favor of the salary bill, because I anticipated exactly some of these troubles. I was for an increase of the per diem; but Congress having taken the opposite course, I see no difficulty in this joint resolution, as a construction of the law, except that I am apprehensive that it will give us mileage for every session.

Mr. BAYARD. The honorable Senator certainly misunderstands the effect of my amendment. It does not deprive the sitting member of his pay. It leaves him under the operation of the existing law. He will get his \$250 a month and his mileage; but it prevents the law from being so altered that he can claim as of right, when his seat is contested within the first twenty days of the first session, pay for nine months of recess.

Mr. PUGH. Yes. We get \$2,250, and he does not. If I presented a petition to contest the Senator's seat, I would prevent him getting \$2,250, although every other Senator got it.

Mr. BAYARD. I concede that, as to that portion, it has that effect; but are we to assume that a seat will be frivolously contested, and remain undecided? The claim must be made within twenty days after the commencement of the first session. It is not to be presumed that Congress will entertain, in either body, a frivolous claim on the part of a contesting party, and leave it undecided for twenty days. It is not a rational presumption. There must be ground to go on, or they would not do it. This amendment deprives the party of no ultimate right; because if it remain undecided, the man who is the sitting member at the end of the session would then get his whole pay under the existing law. It leaves him, under the existing law, as the Senator would stand, and I would stand, in a contest as to our seats. There would be no hardship, if you left the existing law standing. You get as much pay under the existing law, during the progress of the session, as you got under the old compensation law. The only difference is, that the additional sum we have voted to ourselves is not payable to us until the end of the session. Is it any great hardship, in a case where a member's seat is contested, to say, that if it is contested within twenty days, the original sum shall not come into his hands until the end of the session? That is all. It only prevents that anticipation, which it is the object of this bill to provide for with reference to members of Congress. I ask for the yeas and nays on the amendment.

Mr. JOHNSON, of Arkansas. I believe there is really but one question before the Senate, and that is whether we shall pass the bill without amendment, or go on and perfect the whole law in regard to compensation. I have no doubt, and I have not met a single person who has a doubt, that the minds of Senators are made up on that subject. The hour is very late. I hope that we may have a vote and dispose of it. Gentlemen will vote as they please, but let us decide whether we shall take the resolution as it is or amend it. If the intention is to amend it, we may as well adjourn now and take time to perfect the law; for if we are to go into it, it will certainly require time.

Mr. FESSENDEN. I desire to suggest to the Senate that there may possibly be a mistake in the resolution as it stands now. I understand that it is not the intention to change the law with regard to the mileage; but as it stands now it is clear to my mind that the resolution gives to each Senator and Representative mileage for every session, no matter how many sessions there may be during a Congress. The law now allows mileage for only two sessions of each Congress; but this resolution will, I think, allow mileage for every session, whether there be three, four, or five during a Congress. I do not suppose that is the intention, but I think that is the effect. It now reads, "on the first day of the second or any subsequent session, he shall receive his mileage as now allowed by law." I propose to obviate the difficulty by striking out the words "or any subsequent," and inserting "regular."

Mr. IVERSON. I do not understand that this resolution will have the effect which the Senator from Maine apprehends.

Mr. FESSENDEN. I do; and I think I can satisfy the Senator that it is so.

Mr. IVERSON. The resolution says mileage shall be paid as now provided by law, and the present law prohibits mileage for more than two sessions of a Congress.

Mr. FESSENDEN. The Senate will observe that the act of 1856, fixing the compensation of members, said that each should receive a salary of \$6,000 for a Congress, and mileage as then provided by law; and it went on to make provision that mileage should be received but twice during a Congress. This resolution either unwittingly or cunningly adopts the old language. In the first place, it provides that, at the beginning of the first session of a Congress, each member shall receive the amount of compensation due for attendance, and his mileage, as now provided by law. It goes back behind the law of the last Congress, because that made no provision for mileage. The provision by law for mileage was made

long ago. The act passed last year allows the mileage provided by law, with a proviso that it shall only be received at two sessions of a Congress. This resolution provides that, at the beginning of the first session of a Congress, each member shall receive mileage, as now provided by law; and then it further says, that on the first day of the second or any subsequent session, he shall receive mileage as now provided by law. So you see it gives mileage, as provided by law, for every session, no matter how many there may be during a Congress. This brings us back to the old law.

Mr. PUGH. The old law was that mileage should not be given for a session called within ten days of the adjournment of another session.

Mr. IVERSON. The amendment suggested by the Senator from Maine will postpone the bill just as effectually as any other.

Mr. FESSENDEN. I cannot help that.

Mr. HALE. The last act we passed on this subject, reads:

"The compensation of each Senator, Representative, and Delegate in Congress, shall be \$6,000 for each Congress, and mileage as now provided by law, for two sessions only."

Then, when that act of 1856 became a law, the mileage was paid for two sessions only; and when this subsequent bill refers to mileage as now provided by law, it takes the existing law and it takes this law too; so that the old law is modified by this law, and when this resolution says "mileage as now provided by law," it means mileage for two sessions only; and, therefore, the objection of the Senator from Maine, begging his pardon, is without any foundation.

Mr. FESSENDEN. I think the Senator is mistaken. I know that when this matter first met my notice, I had some doubt about it; but I examined it carefully, and I suggested it to Senators around me, particularly to the Senator from Vermont, [Mr. COLLAMER.] He has no doubt about it, and I think there can be none. At any rate, it certainly is a doubtful matter, and if it is doubtful we ought to exclude the conclusion, because, at this time to pass an act which is possibly increasing our compensation, would, in my judgment, be very unwise. The Senator will allow me to say, with all respect, that if he will look at the joint resolution carefully he will see he cannot be right, because the last section of it repeals everything passed before inconsistent with this resolution.

Mr. STUART. It is precisely the point last mentioned by the Senator to which I wish to call the attention of the Senate. I agree entirely with what was said by the Senator from New Hampshire. The present compensation law is in force, except in so far as it is repealed by this resolution. The language of the present compensation law is, "mileage as now provided by law for two sessions only." The language of this resolution is, "mileage as now allowed by law," these words, "for two sessions only," remaining in the law, and remaining in force. That called my attention to the repealing clause of this resolution. It is not a general repealing clause; it is only a repealing clause in regard to the postponement of pay and no further. It is in this language:

And be it further resolved, That so much of said act, approved August 16, 1856, as conflicts with this joint resolution, and postpones the payment of said compensation until the close of each session, be, and the same is hereby, repealed.

There is no other part of it affected, and none other intended to be affected. The sole object of this resolution is to cure a single difficulty, and that object is rendered definite and explicit by the peculiar words of the repealing clause. After providing a new manner by which the members should receive the pay that had accrued up to the first day of the session, it then repeals all parts of the former act which exclude that. That is the sole effect of the repealing clause.

Mr. BROWN. I feel no especial interest in the passage or non-passage of this bill; but it seems to me we are discussing here a question which has very little in it. Beyond all dispute, at the close of the present session of Congress the members of both Houses will be entitled to the pay accruing from the 4th of March up to the commencement of this session. About that there will be no dispute. On that day they will be entitled to come forward and demand their pay, and receive it. If there be any difficulty, growing not of the pay due to deceased members, to mem-

bers whose seats have been disputed, or disputes of other kinds arising, they will exist then. This resolution, as I understand it, does not profess to take cognizance of any such disputes, but simply to pay now what the officers of the Government will be required to pay at that time. Whatever would be the right of a member at the close of a session, the bill proposes to give him now. That is all, as I understand, that there is in it.

If, then, a member would be entitled to come forward and get his pay at the close of the session, the bill simply proposes to give him the right to come forward and receive it now. If he would not be entitled to receive it at the close of the session, he will not be entitled to receive it under this bill, if it passes. So that, notwithstanding all the Senator from Delaware has said, this bill does not profess to settle any matter of dispute as to whether the deceased member or his estate shall receive pay, or whether his successor shall receive it; or, in the case of a contest, as to whether the sitting member or the contestant, if he succeeds, shall receive pay. It settles no such dispute, but leaves everything of that kind where we find it, and proposes to pay now what we can undoubtedly receive at the end of the session.

The question is simply whether we shall take our pay at the close of the session or receive it immediately. Other questions, which I admit to be matters of dispute, must become the subject of legislation hereafter; and in their proper time, and in their proper place, they ought to receive consideration. I can see no possible difficulty to the Government or to ourselves, or to anybody else, arising out of the passage of this measure. If the Senate think proper to pass it, very well; if not, I am quite content, so far as I am concerned; but as to the difficulties raised in the way of its passage, they seem to me to amount literally to nothing.

Mr. BAYARD. It seems to me that a great deal of confusion is thrown into the case by passing from one amendment to another, without disposing of any of them. The honorable Senator from Maine suggests an amendment, with a view to prevent what would be very improper on the part of either House, if his construction of the language used be the legitimate one. Certainly we ought not to allow mileage to a greater extent than the original law contemplated. I confess that the remarks which he has made leave me in doubt. I do not say my convictions are strong on this point; but I think it at least doubtful whether mileage may not be claimed for more than two sessions under this provision.

I do not read the repealing clause of this resolution as it is read by the honorable Senator from Michigan. It repeals all that is in conflict with this resolution, and postpones the payment of the compensation. You may give to that the meaning that anything in the law proposed to be amended, which is in conflict with this resolution, is repealed. Now, the very thing in conflict is as to the mileage, which, by the law proposed to be amended, is restricted to two sessions. The resolution provides for mileage at the first, and at every subsequent session of a Congress. Here, then, is a conflict. Without speaking positively on the subject, I think it at least doubtful whether this does not allow mileage for more than two sessions of a Congress. If it does, it certainly ought to be amended.

But I pass from that to my own amendment and the remarks of the honorable Senator from Mississippi in regard to it. It is true, the only difference this resolution makes in the law is to provide that the sum which is now to be paid at the end of the session shall be paid at the commencement; but in that very difference consists the danger of abuse. If you pay the whole sum at the commencement of a session, you are holding out inducements to obtain improper *prima facie* returns, because the moment a man takes his seat he is enabled to draw back pay on the first day of the session, before it is possible for Congress to decide on the validity of the returns. If he is not paid till the end of the session of course it will be decided during the session, whether the *prima facie* returns are sufficient to entitle the person to a seat or not.

The danger of abuse arises from the time of payment, and it becomes material for that reason. I think that if you put the law in the position in which it is sought to be put, you will find the

abuses under it will become so great that you will have to adopt a provision like that which I suggest, to put a check on fraudulent returns which may be made in order to get \$2,000 at the commencement of a session. Such things have occurred in this country, and I am sorry to say that I think there is a strong tendency to increase in matters of that kind. At all events, the legislation of Congress ought to hold out no inducement to them.

Mr. FOSTER. If this were a bill to provide for the payment of any other class of public servants than members of Congress, I should be quite willing to sit here and hear it discussed as long as gentlemen were disposed to discuss it, and to vote, I hope, on the liberal side of the question; but as it concerns ourselves only, and as it seems to me we are suffering more than we are gaining, I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. BAYARD called for the yeas and nays on his amendment; and they were ordered.

Mr. BROWN. I shall vote against this amendment, because I think it is improper to this bill, for the reason I assigned before. This bill only proposes to pay now, what every member as a matter of course could draw at the close of the session. I recognize the principle embodied in the amendment as a proper subject for legislation. At a proper time and place I shall vote for it, but I shall not vote for it here.

Mr. DOOLITTLE. Under the circumstances which have transpired in the Senate, I shall feel constrained to vote against the amendment; but I do so with the confident expectation that a bill will be presented by which the law in relation to the compensation of members will be perfected. I know of no case now pending, to which this particular amendment might apply; of course, when a bill is presented and perfected, it can apply to any case which may arise hereafter.

The question being taken by yeas and nays, resulted—yeas 13, nays 25; as follows:

YEAS—Messrs. Bayard, Benjamin, Clay, Davis, Fessenden, Fitzpatrick, Foster, Harlan, Pearce, Polk, Seward, Trumbull, and Wilson—13.

NAYS—Messrs. Allen, Biggs, Brown, Chandler, Clark, Dixon, Doolittle, Durkee, Foot, Green, Hale, Houston, Hunter, Iverson, Kennedy, King, Mason, Pugh, Reid, Sebastian, Simmons, Slidell, Stuart, Thomson of New Jersey, and Wright—25.

So the amendment was rejected.

Mr. BAYARD. I have another amendment to offer:

And be it further resolved, That where a Senator who has attended a special session of the Senate convened by the President during the recess of Congress, shall die before the commencement of the next regular session, his representatives shall be entitled to receive the compensation which may have accrued from the end of the last preceding session of Congress to the time of his death; and if such Senator so dying shall not have been a member of either House of Congress at such preceding session, his representatives shall also be entitled to receive the mileage to which he would have been entitled if he had attended the next succeeding regular session; and the provisions of this section shall be extended so as to embrace the representatives of those Senators who attended the last special session of the Senate convened by the President, who have since died before the commencement of this session.

The object of this amendment is to remedy a clear and decided defect in the present law which affects its justice. I am perfectly aware the objection will be made that this is not the time and place to do it, and that it will be done hereafter. If there is no time to do it on this proposition, where is the necessity of the passage of this resolution now. What wonderful necessity is there? We shall get our pay. Why is it rushed now, as it was on Saturday, and pressed so eagerly? What object is there of national moment, of national importance, or any real interest, whether we are to pass this resolution now, or pass it ten days or two weeks hence? If a resolution comes from the House of Representatives, in reference to a bill that contains manifest error, and manifest injustice to others, ought we not to amend it? Why wait, in order to have some other bill gotten up for this purpose? Is not the exigency of justice as great as the exigency of hastening time, where money is to be put into our own pockets?

This amendment has a double aspect. First, it provides for what is defective in the bill. A Senator elect of the United States, attending at the special session in his seat, and dying before the first Monday of December following, is entitled

to nothing under the law, as it now stands. That certainly is wrong—wrong on every principle. All the amendment provides is, that when he so dies, his representatives shall be entitled to the pay up to the period of his death.

The amendment then goes on to remedy another defect in the law. There is no mileage allowed, except at the regular session; but if at a called session, where it is the duty of a Senator elect to attend, he being not a member of either House, he must necessarily travel to come here; and if he travels and comes here, he not only gets no pay under the existing law, but he gets no mileage; and if he dies before the next session, his representatives can claim no mileage. That is neither just nor right. The truth is, the bill was framed in a hurry, and passed amidst the confusion and excitement of appropriation bills. Its general object is good enough, but it is very defective in many of its provisions.

Many other amendments might well be offered to the original law, but I have forborne to press or offer any of them, though I know of several that might well be offered. I have only offered those which I thought justice to others (and in which I have no possible interest myself) demanded should be passed. I think this is one imperatively calling on the Senate and House of Representatives for its passage. It goes a step further to provide that, as to three of our deceased colleagues, who died much to the misfortune of the country and to the regret of the Senate, since the last regular session, they should be entitled to their compensation up to the time of their death, because, by the terms of this law, their representatives would not be entitled to anything, though they were all here in attendance with us, and performed their duties at the special session.

Mr. HALE. I stand in the relation of a colleague to one of those deceased members, and one of the last things on earth I would be guilty of, would be withholding from the family of my deceased colleague anything to which he might be legally, equitably, or honorably entitled; but I am free to confess that I do not look on this resolution as the place for that sort of legislation. I am not entirely certain that it is required. Indeed, I have the opinion of gentlemen as well conversant with the construction of these laws as anybody, that this money can now be paid to the representatives of those deceased Senators, without any additional legislation. But, whether necessary or not, I do not think this is the place for it. I believe a great many amendments ought to be made to that law; but as this is a mere resolution fixing and altering the time of payment, I do not think this is the place for them. I have simply made these very few remarks to relieve my colleague and myself, who, I think, concurs with me in the propriety of the vote I shall give, from the imputation or suspicion of withholding justice from the family of his deceased predecessor.

Mr. CLARK. Mr. President, my predecessor, Mr. Bell, died on the 26th day of May. I was elected to fill his place in the following June. I do not propose, nor do I understand that I shall be entitled to take pay for any time before I was elected. I propose to leave what he would be entitled to where it is now. Any future law may dispose of it as Congress thinks fit. I do not understand that that would make any difference in regard to this resolution.

The amendment was rejected.

Mr. FESSENDEN. I now move the amendment I suggested in the seventeenth line, to strike out the words "or any subsequent," and insert "regular," so that the clause will read, "and on the first day of the second regular session he shall receive his mileage as now allowed by law."

The amendment was rejected.

The joint resolution was reported to the Senate without amendment.

The VICE PRESIDENT. The question is, shall the joint resolution be read a third time?

Mr. BAYARD. I ask for the yeas and nays on that question.

Mr. MASON. I hope the yeas and nays will be granted.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 13; as follows:

YEAS—Messrs. Allen, Biggs, Broderick, Brown, Chandler, Clark, Doolittle, Durkee, Fitch, Foot, Green, Hale, Harlan, Houston, Hunter, Iverson, Kennedy, King, Mason, Polk, Pugh, Sebastian, Simmons, Stuart, Thomson of New Jersey, and Wright—26.

NAYS—Messrs. Bayard, Benjamin, Clay, Davis, Dixon, Fessenden, Fitzpatrick, Foster, Reid, Seward, Slidell, Trumbull, and Wilson—13.

So the joint resolution was ordered to be read a third time. It was read the third time, and passed.

On motion of Mr. BIGGS, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, December 21, 1857.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY.

The Journal of Saturday was read and approved.

CLERICAL INVESTIGATION.

The SPEAKER appointed Messrs. MAYNARD, DAVIS of Indiana, RICAUD, CURRY, and HORTON, as the committee, authorized on Friday last, to investigate into the accounts and conduct of Hon. William Cullom, late Clerk of the House.

TREASURY NOTE BILL.

Mr. J. GLANCY JONES moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the Treasury note bill. Mr. J. also moved the usual resolution for closing debate in Committee of the Whole in one hour after it shall again resume the consideration of said bill, and demanded the previous question upon the latter motion.

Mr. GROW. What is the regular order of business?

The SPEAKER. The call of States for resolutions.

Mr. GROW. I call for the regular order.

The SPEAKER. Both motions of the gentleman from Pennsylvania [Mr. J. GLANCY JONES] are in order.

Mr. GROW. Do they take precedence of the regular order of business?

The SPEAKER. They are privileged motions, and will take precedence.

Mr. J. GLANCY JONES. As it seems to be the wish of gentlemen around me, I will fix the time for closing debate two hours after its consideration shall be resumed, instead of one. I demand the previous question upon the motion.

The house divided upon seconding the demand for the previous question, and there were—ayes 89, noes 72.

Mr. BILLINGHURST demanded tellers.

Tellers were ordered; and Messrs. BILLINGHURST and HAWKINS were appointed.

The question was taken; and the tellers reported—ayes 80, noes 83.

So the previous question was not seconded.

RESOLUTIONS OF THE STATE OF MAINE.

Mr. WASHBURN, of Maine. I ask the unanimous consent of the House to present joint resolutions of the Legislature of the State of Maine, that they may be laid upon the table, and printed.

The SPEAKER. The question is upon agreeing to the resolution offered by the gentleman from Pennsylvania.

Mr. FLORENCE. I ask my colleague to withdraw his motion a moment, to allow me to introduce a bill of which previous notice has been given.

Mr. J. GLANCY JONES declined to withdraw.

Mr. WASHBURN, of Maine. I trust there will be no objection to my presenting the joint resolutions of the Legislature of the State of Maine.

No objection being made, the joint resolutions of the Legislature of Maine, in relation to indemnity for French spoiliations, were presented, laid upon the table, and ordered to be printed.

Mr. FLORENCE. I now ask unanimous consent to introduce a bill of which previous notice has been given.

Mr. PHELPS. I object to anything but the regular order of business.

Mr. FLORENCE. Is it not a privileged motion?

The SPEAKER. Certainly not.

Mr. FLORENCE. I will say to the gentleman from Missouri that it will take but a moment.

Mr. PHELPS. I insist upon the regular order.

The SPEAKER. Objection is made. The question is upon the motion that the debate on the Treasury note bill in the Committee of the Whole

on the state of the Union be closed within two hours after the committee shall again resume its consideration.

The motion was not agreed to.

The rules were then suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of the

TREASURY NOTE BILL.

The CHAIRMAN stated that the question was upon the following amendment, offered by the gentleman from Massachusetts, [Mr. BANKS,] to the first section of the bill:

Provided, That the power to issue Treasury notes, conferred upon the President of the United States by this act, shall cease and determine on the 1st day of January, 1859—

Upon which the gentleman from Pennsylvania [Mr. FLORENCE] was entitled to the floor.

Mr. LETCHER. Will the gentleman allow me the floor?

Mr. ABBOTT. I desire the floor, if the gentleman from Pennsylvania does not occupy it.

Mr. FLORENCE. I have no particular anxiety to occupy the floor at this time, and I will yield it to the gentleman from Virginia.

Mr. MORRIS, of Pennsylvania. I object to the gentleman farming out the floor to any one.

The CHAIRMAN. Does the gentleman from Pennsylvania yield the floor?

Mr. FLORENCE. I do not desire to occupy it at this time.

Mr. ABBOTT obtained the floor and said: I have waited, Mr. Chairman, since this discussion commenced, for the purpose of hearing some gentleman of this House express the views which I entertain, in reference to the bill now before the committee. No gentleman has yet expressed the views I entertain, and I deem it my duty to express them myself.

Gentlemen on the other side of the House, and the Secretary of the Treasury, demand the passage of this important measure upon the ground, as I understand it, of relief to the Treasury—a mere relief bill. Gentlemen on this side of the Hall—my friend from Massachusetts, [Mr. BANKS] and my friend from Maryland, [Mr. DAVIS]—have expressed their assent, as I understand it, to the provisions of this bill, provided they can be qualified and limited in a certain manner.

Now, sir, I am opposed to this bill *in toto*; I am opposed to it upon principle, and I am opposed to it, also, because I believe it is not necessary, at the present time, as a relief bill. I am not in favor of converting the General Government of this country into a great national bank for the purpose of circulating a paper medium to the extent of \$20,000,000; neither do I believe that this measure is necessary as a measure of relief. If this Government is at the present time destitute of means for the purpose of carrying on the Government, I am in favor of furnishing the necessary means, whether the Government is destitute from its own folly and extravagance or from any other cause. I would endeavor to protect the national honor and the national credit; but I would protect it in that way which I consider the least injurious to the public.

[Here the committee rose informally, and a message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill entitled "An act to authorize the issue of Treasury notes," in which he was directed to ask the concurrence of the House. The committee then resumed its session.]

Mr. ABBOTT. What, sir, does this bill propose? It proposes, in the first place, to increase the national debt \$20,000,000. It proposes, in the second place, to flood the country with \$20,000,000 of circulating medium, which, if the President is right in what he says in his message in reference to banks, will tend to aggravate and prolong the present commercial embarrassment.

Now, sir, I propose as a relief to the Treasury at the present time, that we curtail the expenses of the General Government by lopping off some of the unnecessary expenditures to which the Government is now subjected, or, in other words, by abolishing, or, at least, suspending, some of the sinecures of the country. If we can relieve the Treasury \$20,000,000 by lopping off some of the expenditures of the Government which are unnecessary, it will be far better, in my humble

judgment, than to issue \$20,000,000 of Treasury notes. Well, sir, how can it be done? I will say to gentlemen of this House, on the one side and the other, that if there has been the same creation of unnecessary offices all over the country as there has been in the town in which I reside, and you will lop off those unnecessary expenditures, you will relieve the Treasury from more than twenty million dollars per annum. In the little town where I reside there is a population of only five thousand inhabitants. In that little town, since President Pierce's administration came into power, in 1852, there have been two offices created, at an expense to the General Government of \$4,100 per annum. One of these offices was named aid to the revenue for the towns of Northport and Lincolnville, and the officer was appointed from Belfast, at a cost of \$1,100 per annum. The other of these sinecures—I will not call it an office—was given to a gentleman in California, at an expense to the General Government of \$3,000, or more, per annum; making in all \$4,100.

Now, sir, what are the duties of those officers? The aid to the revenue has no duties whatever to perform. Before the collection district was divided, only three officers were required to discharge the duties of the customs—a collector, a deputy, and a tide-waiter. After that district was divided, the same number of officers, at the same expense, was retained. The duties involved in the collection of the customs at that port are only about half as much as they were before the division of the collection district, and yet the same number of officers has been retained. Shortly after the inauguration of President Pierce, in 1852, the Democratic paper in my town came out, because of certain circumstances and of certain positions which the Chief Magistrate then took against the renomination and reelection of Franklin Pierce. It was then thought necessary to establish another paper, and another paper was established, and it was necessary that the paper thus established, to sustain the views of Franklin Pierce and his fallen fortunes, should be maintained. But, in order to support it, it was necessary to create a new office, and that office has followed the publication of the paper to this day. There have been several changes in the publishers of that paper, but at every change this office has descended to the incumbent. It is a sort of heir-loom, going with that paper, and the incumbent has nothing to do with the duties of the customs. Now, sir, in relation to this appointment of the Californian, I do not know that that office has any name; I know of none. I do not know that it is worthy of a name. But, at any rate, the office was created, and as I understand it, the incumbent is a sort of general political agent for all California. Now, sir, what are his duties? He has duties to perform, I suppose, but I know of none. I have heard of no duties which that gentleman has to perform in California, except to act as an agent to superintend everything in general and nothing in particular.

Strike off these sinecures, if they exist all over the country as they do in this little locality, and you will relieve the revenue of more than \$20,000,000—all that is required, according to the report of the Secretary of the Treasury. Take the question thus, which is the fair way of stating it: If there be expended in a territory which contains only five thousand inhabitants, \$4,100 per annum, how much will be expended in a territory which has thirty millions? You will have, Mr. Chairman, \$24,600,000, or \$4,600,000 more than is wanted to meet the estimated deficiency in the Treasury for the present fiscal year.

This, Mr. Chairman, is the proper, legitimate mode of relieving the Treasury. I would not have the Treasury embarrassed; I would not have the national credit dishonored; but I would have this deficiency in the national Treasury furnished in some better way than by converting this Government into a great national bank, and flooding this country with \$20,000,000 of paper currency, in addition to what is now in circulation, to inflate the currency and aggravate the present commercial embarrassment.

Sir, with what propriety can gentlemen ask us on this side of the House to vote for this bill, when, by lopping off these sinecures, they can relieve the Treasury from all the estimated or contemplated deficiencies? I do not know, Mr. Chairman, that the appointment or creation of

these sinecures—to be paid out of the national Treasury—is a fraud upon the people of the country; but I say this much, that, in my humble judgment, it comes so near a fraud, that I should like to see some gentleman point out to me the slightest difference between it and a fraud. I can see none. And yet we are asked to vote for a bill which I think, to say the least of it, is inexpedient and improper under the circumstances. If it is necessary to raise money to meet the immediate wants of the Government, let us resort to a small temporary loan, instead of resorting to this measure.

Mr. Chairman, I wish to allude to one other matter in connection with this subject. The President, in his annual message, as I understand it, charges the whole difficulty now existing in the monetary affairs of this country, wholly and unqualifiedly on the banks of this country. Now, so far as that is concerned, the banks are no more chargeable with the present financial condition of the country, than they are chargeable with the extravagance that has depleted the Treasury of the United States. The banks are no more chargeable with these embarrassments that now exist, than they are chargeable with having corrupted the national Government. Have the banks excited the national Government to this extravagance that we see everywhere existing? I am no friend of banks or of paper money, but still I do not wish to hear the banking institutions of this country branded, if I may use the term, without saying a word in their favor. I have never been the friend of banking institutions, or of paper money, and I have been especially opposed to the extravagant issue of paper money; but I do not wish to see the banks of the country placed in a position by the Executive to which they are not entitled. The President, in his message, says:

"In all former revulsions, the blame might have been fairly attributed to a variety of cooperating causes; but not so upon the present occasion. It is apparent that our existing misfortunes have proceeded solely from our extravagant and vicious system of paper currency and bank credits, exciting the people to wild speculations and gambling in stocks. These revulsions must continue to recur at successive intervals, so long as the amount of the paper currency and bank loans and discounts of the country shall be left to the discretion of fourteen hundred irresponsible banking institutions."

That paragraph contains two distinct errors. In the first place, the banks are not irresponsible. They may be irresponsible to the national Government, and I am glad, Mr. Chairman, that they are; for if they were not, I should be afraid that they would be corrupted. They are responsible directly to their own State governments. Their charters limit and qualify and regulate all their actions. Neither are they responsible for this embarrassment that has come on the commercial interests at the present time. What, Mr. Chairman, is the true cause of this commercial revulsion, under which we are now laboring? It is, in my judgment, simply this: the community has traded with foreign Governments more than the amount of their exports. The present revulsion is an ordinary one, common to all commercial countries that trade with foreign communities beyond the amount of their exports. In other words, when the imports of a country exceed the exports, then that country is going behindhand—precisely the same as when the expenditure of an individual exceeds his income, he sinks deeper and deeper into embarrassment. If a country imports more than it exports, then it is sinking; and, by-and-by, comes pay day; and when pay day comes the specie is drawn from the country, and then comes the revulsion. This is the true cause, and the only true cause of the commercial revulsion in all commercial countries. It is here as everywhere else.

One word further. This message, as I understand it, charges on the banks all these commercial troubles; thus making the banks exceedingly potent for evil. And turning over a few pages more of the message, we find the President, in that portion of the message that relates to Kansas, intimating that banking institutions are of no consequence whatever, that none of the local or domestic institutions of the North are of the slightest consequence whatever, and that the only institution which is of any sort of consequence to the people of the country is the slavery institution. The banking institutions, literary institutions, common schools, and all the other institutions of the North, are of no sort of consequence

when the President comes to discuss the Kansas question; but when he discusses commercial revulsion he shoulders the responsibility from the national Government to the banks, and then it is that the institutions of the North are of some importance, then it is that the banking institutions are potent for evil.

I would say one word more in relation to the banking institutions of the country. I know but little about those of the West. I know but little about those of the South. But I know that the banking institutions of New England, and the banking institutions of the middle States have been, for the last four or five years, as solvent and as prudent in their operations as any banks ever were in any country.

And I will say further, that the banking institutions and the people of this country have not been half so extravagant as the national Government have been. I have here a few statistics, for it may be said that the national Government has not run into this extravagance. Figures sometimes give us some light on these questions. In 1831, the expenditures of the Government, I find from the Treasurer's report, were \$25,044,358 40. The expenditures of the Government for the year 1830 were about the same. In 1852, they were \$46,007,896 20. Then, in twenty-one years the expenditures of the Government were increased from a little over twenty-five millions to more than forty-six million dollars per annum.

Again, as I have stated, the expenses of the Government, in 1852, were \$46,007,896 20; but for the fiscal year of 1857, the expenses ran up to \$70,822,724 85. Here, then, in a period of only five years, we have an increase in the Government expenses of \$24,814,828 65.

Sir, how did this happen? I have shown to you that this enormous increase has taken place in consequence of the extravagance of the national Government. I have shown you, by reference to my own little town, that in that town have been expended, in purely sinecure offices, more than four thousand one hundred dollars per annum. If there have been expenditures in the same ratio for the same useless purposes all over the Union, the amount would reach \$24,600,000—more than the estimated deficiency of the Treasury. It would have paid the \$20,000,000 now asked for, and have left a surplus of \$4,600,000 in the Treasury.

Mr. Chairman, I am not going to ask gentlemen on the other side of the House to abolish these sinecure offices, if they wish to keep them up; but I am going to ask them, if they will not abolish them, to at least suspend them for one year, that the Treasury may be relieved. I do not know but gentlemen may find it necessary to keep up these sinecures, which began shortly after the commencement of the administration of Franklin Pierce, and have continued to the present time. There may have been a necessity for these sinecures, an absolute necessity, in order that the national Government might sustain its political power. It is well known that politicians want place, and that they will have place or abandon the Administration. Place they must have, and places they have had, until, within the last five years, they have increased the expenses of the national Government from \$46,000,000 to over \$70,000,000.

Now, sir, I do not know how gentlemen who have the control and responsibility of the Government—for they will not allow us on this side of the House to have any control in the matter—I do not know how they can ask us to go into the passage of this bill, and thus increase the national debt \$20,000,000. Sir, I would have this House begin the work of retrenchment here; I would have this House set the example of reform to the other branches of the Government. Instead of providing additional messengers and additional pages; instead of creating additional clerkships for all your standing committees to do the work proper for members themselves to do; instead of increasing our expenses by these various means, I would commence by lopping off our expenses, or, at least, suspend their increase, at any rate, until the Treasury has been relieved from its necessities. When these necessities have been relieved, then there may be some excuse for these sinecures. Then the gentlemen who wish to sustain power and to ingraft upon this country a policy which is obnoxious to a great portion of the people of the country, may,

if they choose, continue these sinecures. I care not for them.

[A message was here received from the Senate, by ASBURY DICKINS, its Secretary—the Speaker having temporarily resumed the chair for that purpose—informing the House that the Senate had passed a resolution for the adjournment of the two Houses of Congress, in which he asked the concurrence of the House.]

But, sir, it may be asserted that, owing to the troubles in Utah, more money may be necessary to meet the expenses of the present current year than has been required for preceding years. We are now, at the present moment, at peace with all the world—at any rate, we are at peace with all foreign Powers, and might be at peace with ourselves, if we would take the army now stationed in Kansas for the purpose of crushing out freedom in that Territory, and transfer it to Utah. If we put that army to work in Utah, we might not only be at peace with all foreign Powers, but we would be at peace with ourselves.

Mr. Chairman, I have made these few remarks not with any design of going into all the details of the question. I wished only to state these few points to the committee. While I shall vote against the bill without the amendment of my friend from Massachusetts, [Mr. BANKS,] I am not opposed to it *in toto*. I am opposed to it in its present condition; but I shall not be opposed to it if it shall be so amended as to bring it to what I believe to be judicious and necessary. I am ready to meet the wants of the President; and if they cannot be met in any other proper manner, then I may be induced to agree to this bill. But, sir, for the present, I deem this bill injudicious and unnecessary; and I hope, therefore, that this House will look into it, and carefully consider its features before they take the responsibility of passing it.

Mr. LETCHER. I am very glad to learn that the somewhat distinguished firm—HOUSTON, JONES & Co.—is likely to receive some important accessions. We have heretofore been charged with being very illiberal in our votes, and whenever any proposition has been brought in here which we thought proper to oppose, gentlemen on the other side have regarded our opposition as a sufficient ground for voting in favor of it. I find now that the gentleman from Maine [Mr. ABBOTT] has come upon our platform, and that he has commenced to lecture Government upon the subject of extravagance. But there were one or two things in connection with that lecture which struck me as a little remarkable. The gentleman tells us that in his town, in Maine, the Government has expended a vast deal of money unnecessarily, and that it has somehow or other been connected with a newspaper establishment existing at that place. Now, sir, if the officers are unnecessary; if their salaries ought not to be paid; if it is profligacy and extravagance to have the officers, why does not the gentleman signalize his advent here by introducing a bill to abolish those offices which he knows to be useless?

Mr. ABBOTT. I will state to the gentleman that I have an amendment to that effect, which I shall offer to this bill.

Mr. LETCHER. Such an amendment to this bill! An amendment to reduce the number of officers to be added to a Treasury note bill! [Laughter.] I apprehend the gentleman will find, after he has been here a short time, that he will never get a man in that chair who will not rule such an amendment out of order, under such circumstances. Let him bring in a bill, so as to repeal not only the law which gives officers there, but repeal all other laws which establish useless offices elsewhere—

Mr. ABBOTT. I have it in my hand.

Mr. LETCHER. A bill?

Mr. ABBOTT. No; an amendment.

Mr. LETCHER. But I do not think the gentleman's amendment will fit this bill. That is all. If he can get it in, and the officers are useless, I will vote with him.

But we had a little chance for economy the other day, when it was proposed to allow clerks to various committees of this House. It seems to me that there was a chance where the gentleman might have shown a regard to economy by voting with us, who voted against them.

Mr. ABBOTT. I voted against all those propositions.

Mr. LETCHER. I am glad to hear it, for it is still better evidence that he is coming to our side. Now, sir, the gentleman tells us that the Government expenditures for the last year have reached upwards of \$70,000,000, and intimates that that expenditure is chargeable upon the present Administration. How can that be? Who had the majority in this House in the last Congress?

Several VOICES. Nobody.

Mr. LETCHER. Nobody! ah, I thought the *Know Nothings* had it. [Laughter.] At any rate, the majority was not a Democratic majority. That is plain and clear; and if anybody is responsible for the expenditures voted in this House, it is not the Democratic party, which were in a minority in this Hall at that time.

Mr. WASHBURN, of Illinois. You had possession of the Senate.

Mr. LETCHER. We had possession of the Senate! I will attend to that soon. By the way, what has become of that court-house of yours in Galena? [Laughter.]

Mr. WASHBURN, of Illinois. All right.

Mr. LETCHER. He was for the expense of building a court-house where no court was held, yet he holds the Democratic party responsible for profligacy in spending the public money.

And, then besides, if I recollect right, my friend from Illinois not only was not content to take his own, but in order to get it was willing to go into partnership with fifteen or twenty others for similar purposes.

It seems to me, then, that we are not exactly the persons, nor is the President exactly the person, to be taunted with this course of expenditure. Does not the gentleman from Maine [Mr. ABBOTT] know the fact that not a dollar of the public money can be drawn from the Treasury unless an appropriation by Congress is first made? Does he not know that a bill for that purpose must originate in Congress, pass both Houses, and be sent to the President for his approval, before it becomes the law of the land?

Enough for that. I have no doubt the gentleman will find the Democratic party of this House ready at any time to vote with him—I can answer for one, at least—upon every proposition that proposes to reduce the expenditures of the Government without prejudice to the public service and interest, and without in any manner affecting the power and responsibility of the Government itself.

But let me come to the consideration of this bill. Gentlemen say that they do not see any necessity for the introduction of this bill at this time, and the gentleman from Pennsylvania over the way, [Mr. RICHIE,] who addressed the House last Saturday, read certain portions of the President's message referring to the Treasury note bill, which is the subject of consideration now. He stated that the President did not seem to be exactly certain that these Treasury notes were needed at the present time—that he supposed they might be needed at some period of the present session, but not at a period so early. Now, I understand the President to refer to that matter in the extract correctly reported as the gentleman quoted it; but I understand, at the same time, that the President calls the attention of this House to the report of the Secretary of the Treasury, as presenting his views upon this and other questions connected with the Treasury Department. Well, let us see what the Secretary of the Treasury says in his report upon this subject; and we will see there, perhaps, the necessity for it, and I shall endeavor to adduce some reasons to show why the necessity exists.

On the seventh page of the Secretary's report he says:

"The efficiency of the public service, as well as the security of the public credit, requires that this Department shall be provided with means to meet lawful demands without delay. During the remainder of the present fiscal year, it is estimated, as before stated, that sufficient revenue will be received in the course of the year to meet the ordinary outstanding appropriations. But the great bulk of the revenue being derived from duties on merchandise, payable only when it is entered for consumption, the period when such duties will be realized is entirely uncertain, being left by law to the option of the importers during three years. The present revulsion has caused a very large portion of the dutiable merchandise imported since it commenced to be warehoused without payment of duty. To what extent this practice will be pursued during the present fiscal year is too much a matter of conjecture at present to risk the public service and the public credit upon the probability of an immediate change in this respect. It may be safely estimated that, in the course of the present fiscal year, a large

portion of the merchandise now in warehouse will be withdrawn and duties paid thereon; but, in the mean time, adequate means for meeting lawful demands on the Treasury should be provided. Such provision should be made at the earliest practicable period, as a failure of sufficient means in the Treasury may occur at an early day. The exigency being regarded as temporary, the mode of providing for it should be of a temporary character. It is, therefore, recommended that authority be given to this Department, by law, to issue Treasury notes for an amount not to exceed twenty million dollars, payable within a limited time, and carrying a specified rate of interest, whenever the immediate demands of the public service may call for a greater amount of money than shall happen to be in the Treasury, subject to the Treasurer's drafts in payment of warrants."

There, sir, is the recommendation of the Secretary of the Treasury, and there are the reasons upon which the recommendation is founded.

Now, let us look at the state of trade, and see whether those reasons are not justified by the facts which are upon the records of the Treasury Department, and that establish clearly and conclusively that, at this moment, there is a large amount of dutiable goods in the warehouses of the United States, and that those goods are lying uncalled for because this commercial revulsion has cut off the parties from the means of withdrawing them at present, and turning them into the channels of trade.

I have here a comparative statement showing the amount of importations into the district of New York, during the months of October and November, of the years 1856 and 1857, classified respectively under the following heads: "Specie and bullion;" "free, (exclusive of specie and bullion);" "dutiable, entered for consumption, and warehoused." In the month of October, 1856, within that district, there were imported \$13,825,592, and in November of the same year, \$14,468,545. Now, sir, let us compare that with the importations in the months of October and November, in the present year. We shall discover that the importations are very nearly the same for the two months in each year; and yet we will find, when we come to examine the quantity of goods retained in warehouses during the two periods, that there is an essential and a very wide difference. In October of this year, \$14,439,867 worth of goods were imported, and in November, \$13,417,960. Of the \$13,825,592 worth of goods which were imported in the month of October, 1856, \$12,768,782 worth were withdrawn during that month, and went into the consumption of the country; in the month of November, of the \$14,468,545 worth imported, \$13,049,271 worth were withdrawn, and went into consumption. Now, sir, we come down to the same period of time in this year, after this commercial revulsion took place, and we find that out of the \$14,439,867 worth of goods imported in October, \$10,148,324 worth were withdrawn for consumption, and the balance remains in warehouse, a large portion of it even up to this time. In the month of November, the disparity was still greater; for of the \$13,417,960 worth of goods imported in that month, but \$8,613,777 worth were withdrawn for consumption. Then, sir, is it not palpable that this commercial revulsion has produced an effect, and a very great effect, upon the commercial intercourse of the country; and that, owing to this fact, the amount received from duties has been essentially diminished, and that there are now, of the importations of those two months, something like nine million dollars worth of goods uncalled for on this 21st day of December.

But let me go still further. Do gentlemen know what amount of dutiable goods was warehoused within the district of New York, up to the 30th day of November last? The returns to the Treasury Department show that there were upwards of \$28,000,000 there, then under bond; and since that time additions have been made to it, so that it is fair to estimate that there is at the present time not less, in that district alone, than \$30,000,000 under the warehousing act—which allows goods to remain for a period of three years—uncalled for, and that will not be called for until later in the winter, or possibly in the spring. If that is the case in New York, how is it if you take all the importing districts of the United States? There are a multitude of these districts—at New Orleans, Charleston, and elsewhere—and it would be fair, I suppose, if there are \$30,000,000 in New York at this time, to estimate the amount under bond in the various other collection districts, at from ten to fifteen million dollars. So that here would be, of dutiable goods uncalled for, and upon which

the duties will not be paid until called for for consumption, between forty and forty-five million dollars, which will pay into the Treasury duties to the amount of about ten or twelve millions. Is not the Secretary of the Treasury right, then, when he says that this is only a temporary deficiency, and that, in consequence of the temporary character of this deficiency, it would be advisable to issue Treasury notes instead of negotiating a permanent loan? But gentlemen say in this connection, and the gentleman from Maine [Mr. ABBOTT] indicated it, as well as other gentlemen on the other side of the House, that the Secretary of the Treasury has managed these affairs very badly; that he has undertaken to redeem public stocks; and that, using the money for that purpose, he has squandered the means which would have deprived him of the necessity, at the present time, of recommending the issue of Treasury notes.

Now, let us see how that is; under the act passed in 1853—for which I voted, and, I doubt not, most of the gentlemen here, who were then upon this floor, voted—the Secretary of the Treasury was authorized to purchase, at the current market prices, any of the outstanding stocks of the United States, as he might think most advisable, from any surplus funds in the Treasury, provided that the balance in the Treasury should not be at any time reduced below \$6,000,000. There was the instruction of Congress to the Secretary of the Treasury, given in the month of March, 1853, directing him, if there should be any surplus money in the Treasury, to apply that surplus money to the purchase of stocks.

And, sir, does it not come with a bad grace from any gentleman on the other side of the House now to arraign the Secretary of the Treasury upon this floor, when he voted for House bill of the last session of Congress (No. 816) to deposit the entire surplus in the Treasury on the 1st day of July last, with the exception of \$2,000,000, with the States? When that bill was up here, it received the strength—almost the entire strength—of the then Opposition to the Democratic party; it was passed through the House, but failed to be successful in the Senate; and that bill proposed, as I have said, to take all the funds in the Treasury on the 1st day of July, with the exception of \$2,000,000, and to distribute them (or deposit them, if you please) with the States upon the conditions therein specified. Now, suppose your proposition had been successful, that your bill had become a law, and that all the money in the Treasury on the 1st of July last, had been taken and deposited with the States; in how much worse a position would the Government have been than it is at present? But that bill failed, and now the Secretary is arraigned, for doing what? For taking the \$16,000,000 and applying it to the purchase of stocks, which would have been taken from the Treasury under that law? No, sir. He has applied in the purchase of stock, including principal and interest, from the 13th of July, 1857, to the 17th of October, 1857, \$4,520,104 47. I complain of no gentleman for voting for that bill, but I do complain that gentlemen who voted for it should arraign the Secretary now for applying to the purchase of stock only one fourth of the amount which would have been taken from the Treasury, under that bill, in the way of deposits to the States.

Well, sir, the banks suspended, I believe, somewhere between the 12th and 20th of October, and the amount of stocks redeemed, after the 12th day of October, was only \$212,513 31; an amount that was then on its way to the office of the Secretary of the Treasury for redemption. What was the condition of the Treasury after this redemption had taken place? The Secretary had left in the Treasury \$12,258,531 01, after all the stocks had been redeemed that had been presented, and that he chose to redeem. You will observe that the ninth section of the act of 1853 provided, that the Secretary should reserve \$6,000,000 in the Treasury; but, instead of reserving \$6,000,000, he reserved upwards of \$12,000,000; and he reserved it upon the principle that \$6,000,000 was necessary to carry on the current operations of the Government, and that a like sum of \$6,000,000 was necessary for carrying on the coining operations at the Mint, to meet the charges upon the Mint in the way of returns for the bullion deposited there for coinage. The Secretary, not content with sticking to the letter of the law requiring him to hold

\$6,000,000, out of abundant caution had in the Treasury of the United States a sum beyond \$12,000,000, to meet the contingencies that might arise.

Now, sir, with this statement of the case, can it be pretended that the Secretary of the Treasury has gone beyond the line of his duty? Here is the law laying down that line of duty for him. He followed that law except in regard to the amount to be retained in the Treasury, and in that regard he protected the Treasury to the extent of \$6,000,000 beyond what Congress, in 1853, regarded as a sum sufficient for its protection. It seems to me, then, that he ought not to be complained of; but, on the contrary, that he ought to be regarded as having performed his duty, and performed it faithfully, under the law given to him for his guidance. If you take the receipts and expenditures for the period of time commencing in July last, and running down to the present time, you will find how the revenue has fallen off, and you will find that it confirms the tables which I have heretofore presented in regard to the amount of goods on bond in three warehouses, as one of the causes that have cut off this revenue. For the week ending July 13, the receipts in the Treasury were \$3,761,553 11, while the expenditures were \$2,700,942 48. It runs on through the month of July, never getting below \$2,059,000. In the month of August the average receipts per week were \$1,500,000. In the month of September the revenue for the first week was \$1,041,765 74, and on the 28th it had run down to \$660,257 14. In that descending scale you will find the revenue reduced in proportion as the market became more stagnant from the suspension of specie payment, and at one time it ran down as low as \$441,192 78.

There is another fact that appears from this table, that for the last week the receipts of the Treasury, from revenues, have increased upwards of \$100,000. The receipts for the week ending 7th December, were \$562,473 81, and for the week ending 14th December, \$676,903 67. I account for that increase in this way. Here were articles that were imported to be consumed in the approaching holidays. These articles were required to be taken out of bond for the purpose of bringing them into market, and it is the demand thus created that has run up the revenue at New York from \$562,473 to \$676,903 in the week that closed the 14th of the present month. So much, then, for these statistics!

But, say gentlemen on the other side, "We are opposed to Government paper money. We dislike the idea of making the Government a great bank, and investing it with the power and authority to circulate notes throughout the country, while the President himself is denouncing the banking institutions of the States." Now, I maintain, in the first place, that this bill does not create a bank. I think there is one fact which clearly and conclusively settles that point. How many of our friends on the other side, who have engaged in this discussion, are in favor of a bank of the United States? Are they not all for it?

Mr. LOVEJOY. No, sir.

Mr. LETCHER. How many of you are opposed to it?

Mr. LOVEJOY. Three fourths.

Mr. FOSTER. It is an obsolete idea.

Mr. LETCHER. The gentleman says it is an obsolete idea. Then, I suppose, the gentlemen have embraced a new idea, and that they are now for a hard-money currency.

Mr. FOSTER. Yes, sir.

Mr. LETCHER. And yet, strange to tell, the gentleman who just closed his remarks [Mr. ABBOTT] wound up with a eulogy on stock banks; and my friend from Maryland, [Mr. DAVIS], who spoke on Saturday, arraigned the President and Secretary of the Treasury for the suggestion of a bankrupt law intended to be applied to the banks that have suspended, or failed to redeem their obligations! Now I cannot exactly understand how it is that while gentlemen are in favor of hard money, they are yet disposed, whenever the question comes up as a State measure, to rally to the standard of the paper-money banks in the several States of the Union, and insist that every man shall stand with hands off so far as they are concerned, although these banks may be at the time in a state of suspension, refusing to pay their debts, while they are coercing payment from

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every man that has had the misfortune to borrow a dollar from them.

Now, I profess to be as much a hard-money man as any one; and if gentlemen can convince me that the issue of these Treasury notes—which I regard as nothing more than a means of effecting a loan—leads to the establishment of a Government bank of any kind whatever, I pledge myself to go against it. I do not go exactly so far against banks as a distinguished politician of my State—John Randolph—did when he pronounced all banks “houses of ill-fame.”

But while I do this, I think that the banking system has been carried to a very ruinous extent; and I have no hesitation in saying now, that if I was in the Legislature of my State at this crisis, I should go for a divorce between bank and State, for selling every dollar of stock that the State of Virginia has in banking institutions, and for the collection of revenue in gold and silver.

What is the issue of Treasury notes but a mere loan? What else is it? The money is to be raised. It is to be raised in some way, either by a permanent loan, or by this temporary expedient—the issue of Treasury notes. Gentlemen say, give us a loan. What do you want with a loan? Do you want this to be a permanent debt? Do you want the Secretary of the Treasury to say that what he has regarded as a temporary necessity shall require the permanent medicine of a loan for years? Do you want to couple with this not only the loan itself and its permanent establishment on the Government for years, but do you want also to create the necessity for revising the tariff, and for increasing the rates of duty? Now, sir, if a loan is to be established, if it is to go in as part and parcel of the national debt, what will be the next cry? Do gentlemen want any further indication than has been furnished on this floor here by some gentlemen who have addressed the House, and alluded to the tariff act of last session? I take it that this is, perhaps, one of the causes of dissatisfaction with the President of the United States on the part of some of the gentlemen who are known to favor the doctrine of protection for protection's sake.

The President, on the thirteenth page of his message, says:

“As stated in the report of the Secretary, the tariff of March 3, 1857, has been in operation for so short a period of time, and under circumstances so unfavorable to a just development of its results as a revenue measure, that I should regard it as inexpedient, at least for the present, to undertake its revision.”

Now, I take it that it is that position, taken by the Secretary of the Treasury, and sustained by the President, that has aroused a vast deal of the opposition of those known to be protective-tariff men in this House, against the introduction and adoption of this measure. If the Secretary of the Treasury would come forward and propose a loan to run for eight, or ten, or fifteen years, I doubt not that that would be more agreeable to the gentlemen on the other side of the House than the temporary issue of Treasury notes, as proposed. It is not so to me. I think this recommendation is preferable to theirs. It is temporary only, and is intended for nothing more. It is not to extend beyond the year. It is intended to serve until the goods are withdrawn from the warehouses and the duties received. But, said the distinguished gentleman from Massachusetts, [Mr. Banks,] I am opposed to your proposition, because you have no provision there for funding this debt. Why does he want it funded, unless he wants to make it permanent? What other reason can there be for providing that it shall be funded, than to give it the character of permanency and settled stability as the policy of the Government with regard to the debt itself.

But let us see how the gentleman's idea is going to work out. The gentleman has referred to the act of 1847, authorizing the issue of Treasury notes. Let us call his attention to the fact that the House was at that time presided over by the distinguished gentleman, Mr. Winthrop, of Massachusetts, and that the House was an Opposition House. But, sir, under the act of 1847

Treasury notes were issued, some of which are unredeemed to this day, and are supposed to be lost. There are something like \$100,000 of them outstanding still. During the past summer some of those Treasury notes have been presented at the Treasury, and, instead of being redeemed, under the operation of that law, they were funded; and in some instances, in less than one week they were sent back to the Treasury, and the Government was compelled to pay the premium of sixteen dollars on the \$100.

Now, sir, if there had been no law for funding the debt, the Government would not have been compelled to pay this premium of sixteen dollars. But under the operation of that provision, which the gentleman wants to have incorporated into the present bill, they had the right to come in there and have them funded, and then take the premium. I know the gentleman from Massachusetts does not desire to adopt a policy which shall impose upon the Government an additional burden of sixteen dollars on the \$100, but I call his attention to the fact that he may have the opportunity of meeting the point in regard to this feature which he seeks to ingraft upon the bill now before us.

Mr. BANKS. If the gentleman from Virginia desires an answer now, I will give it.

Mr. LETCHER. If the gentleman will not take too much of my time, I will yield to him certainly.

Mr. BANKS. The proposition which I made, Mr. Chairman, with regard to this bill, and the objections which I made to the bill as reported by the Committee of Ways and Means, are not answered by the suggestions of the gentleman from Virginia. There is no necessity, under the proposition I have made, that the Government shall go into the market for the purpose of buying up stock at fifteen, twenty, or twenty-one per cent. premium. That is the objection which the gentleman makes, as I understand it. You may limit the issue of stock to one, two, or three, years—for as short a time as you please—and the Government will never be under the necessity of purchasing stock at a premium. There are plenty of people who desire nothing so much as a safe investment for their funds, whether they be much or little; and therefore, if the stock of the United States be issued at six per cent. interest, it will be taken up for one year, two years, or three years, just as gentlemen choose. There will then be no necessity for purchasing this stock at a premium, as heretofore.

If the gentleman asks whether the Secretary of the Treasury was justified in paying a premium for the stock purchased in the three years past, I answer that I think he was justified. But I say to the gentleman from Virginia that the Government of this country ought never to have placed the Secretary of the Treasury in a position which obliged him to purchase stock at a high premium. It was the fault of Congress in not adopting the recommendations of the late Administration. The adoption of the course of policy recommended by the Administration which has recently expired would have relieved the Secretary of the Treasury from the necessity of such purchases.

That Administration commenced with a recommendation by Mr. Guthrie for the revision of the tariff, for two purposes: first, to reduce the surplus money in the Treasury, and, second, to relieve the industrial interests of the country from burdens imposed by the previous policy of the Government. Congress did not act upon that recommendation. I am willing to relieve the gentleman from Virginia from any responsibility for the course pursued. The gentleman advocated measures which, if successful, would have relieved, three years since, the Treasury of its surplus. But, sir, the Government did not adopt that policy. Instead of revising the tariff laws, as recommended by Mr. Guthrie in 1853 and 1854, it devoted its entire energies to the settlement of those questions in which the country has been involved, ever since the repeal of the Missouri compromise. It was for that reason, because the energies of the coun-

try have, for the last four or five years, been devoted exclusively to sectional questions, that the industrial interests of the country have suffered. It was for that reason that the surplus in the Treasury was permitted to accumulate as it did.

Now, sir, I say to the gentleman, leave the question to us and we will relieve his friends of their difficulty. We will take the negro out of the Government and allow it to give its attention to this matter. Let gentlemen give some attention to the industrial interests of the country for a few years. Give us a little legislation for the benefit of white men, and there will not again a surplus accumulate in the Treasury, such as has been there for the last four or five years.

And let me say another word to the gentleman from Virginia. He declaims against the issue of paper money upon the part of the States, reechoing the sentiment of the President upon this question. Now, sir, I do not stand here to defend the paper money system of the country as carried on by the States. On the contrary, I desire as earnestly as any man in this country, to see a proper and judicious reform. But I take issue with the President and with the gentleman from Virginia, if he follows the lead of the President in this matter, in the assertion that the issue of paper money by the States is the sole cause of those commercial revulsions which have swept over the country with so terrible an effect. But I have to say that we cannot go to the people of the States and ask them to forego their privilege of issuing paper money when the same Government which he defends in the denunciation of that system have taken up the business of issuing inconvertible paper money, as proposed by this bill. I ask the gentleman from Virginia to allow us to appeal to the people of the States to restrict their issues of paper money upon some sound and judicious plan, by refusing to the Government the power which they now ask of issuing inconvertible paper money, without any limit in respect to the time of redemption, or when its authority shall cease.

Mr. LETCHER. Mr. Chairman, the gentleman will soon be in the gubernatorial chair of the State of Massachusetts, and I shall look with some interest to his first message, to see what reforms he will recommend for the banking system of that State. I trust he will recommend an alteration, as far as the banking system of his own State is concerned, and that that alteration will be radical—that his reforms will go to the bottom of the system.

Mr. BANKS. If the gentleman desires me to answer, I will answer now. Wherever I am, I shall advocate, and, as far as I have the power, sustain, every judicious—or, if the gentleman pleases—radical reform, in the banking system. But, I repeat again, that if I go to Massachusetts and ask them to restrict their issues, I shall be met by every banker in the State with the declaration that the gentleman from Virginia, and the hard-money men here, propose that the Government of the United States shall resume the business of issuing paper money. If the Government will not forego the advantage of issuing paper money, why should individual bankers forego that privilege? And I think it will be very difficult for the gentleman from Virginia, to answer their argument.

Mr. LETCHER. I do not see the slightest difficulty in answering it. What are these Treasury notes but an acknowledgment in writing, upon the part of the Government, that it owes so much? As I understand it, the gentlemen upon the other side, for the purpose of making these Treasury notes a currency, propose to provide indorsements, by which they are to pass from hand to hand, and in this way make the national Treasury responsible for every indorsement in the chain of indorsement, from the issuing of the notes down to the time of payment. Now that is one of my very reasons for going for it—that it neither establishes a debt, nor does it make the Government paper currency. But if it did, is not it remarkable that, under the issue of Treasury notes in 1837, 1840, 1843, 1846, and 1847, a regular

paper currency was not then established, and when, in that latter year, Treasury notes to the amount of \$36,263,000 were issued? Was that a currency? Did it go into the ordinary channels of circulation, and pass from hand to hand as ordinary bank bills did?

Again, these Treasury notes provide for the payment of interest. Do your bank notes provide for the payment of interest? Not at all. You cannot get the principal even upon a bank note, a large portion of the time, to say nothing about the interest.

Mr. BANKS. I beg leave of the gentleman from Virginia to say that the very feature which he states as the distinguishing characteristic between a Treasury note and a bank bill has been taken from bank bills, by special enactment. Banks in this country have been prohibited from allowing interest on their notes.

Mr. LETCHER. So much the worse.

Mr. BANKS. So much the better. Interest gives them legs by which they walk off to the distant parts of the country. The difficulty with banks is to get their bills out. They would be glad to pay interest upon bank bills so that they might walk off, and perhaps never come back. But the United States gives to its paper money that characteristic power to walk off so that under this bill they may never come back again.

Between the paper money he proposes to issue, and the paper money issued by the banks of the country, there will be no difference, except as to the degree of credit attached to the one and the other. First, this Government money is inconvertible on demand; it is receivable for public dues; the creditors of the Government are required to take it for their dues—at their option I admit, as to creditors. It is the same as to bank bills. Creditors in no case are required by the law of any State to accept bank bills in discharge of their dues. It is left to the option of the creditors to take this Government paper, it is true; but the option comes to a man under such circumstances, that it results in little less than that he may take that or nothing. The creditor may have the right to refuse the paper money; but if he does refuse, he runs the risk of losing the favor of the Government. So he has the right to refuse a bank note, and if he does, he incurs the risk of losing the favor of those who issue it.

Mr. LETCHER. When the gentleman talks about bank paper in the States not being a legal tender, he knows that the Legislatures of the States have made it a virtual tender, by declaring that it shall be received in payment of State dues, and paid out accordingly. There is not a State in this Union, that has a bank system ingrafted upon it, that does not receive these identical bank notes, created under these State laws, in payment of taxes, save the States of Arkansas and Mississippi, which have no banks.

Now, sir, if this is a convertible currency, how does it happen, when the Congresses which I have specified undertook to issue those notes from 1837 to 1847, a period of ten years, to the amount of \$80,732,000, they never became a part of the currency of the country? Does he believe, at that time, that these notes went into the country as a circulating medium, and passed from hand to hand?

Then, sir, so far as the gentlemen on the other side are concerned, their past practice, and the practice of the past party friends with whom they are connected, and the Administrations they have sustained, conclude them from this objection. My own belief is, that if it were a bank, we should hear a very different note from that sung on this occasion. The very fact of its being a bank would recommend it to their consideration, while it would array against it those upon this side. It is the very fact that it is not a bank; that it does not possess the features of a bank; that it does not issue the currency of a bank, that makes it objectionable to them.

But I was glad to hear the gentleman say that so far as the Secretary of the Treasury was concerned in regard to this stock matter, he believes he has acted properly, and in accordance with the requirements of the law. That was not his complaint; but his complaint was against those who passed the law under which he acted. I was astonished to hear the Secretary of the Treasury arraigned here upon that ground. At the time when ruin seemed inevitable to all from the pres-

sure of the crisis, the Secretary, with the noble spirit that became him, undertook, so far as lay within his power, to relieve the distresses of the country by an act which was within the range of his constitutional authority—by the payment of these stocks. Then it was that the whole country, from the North to the South, rang with his praises; and the press upon all sides, even the party press, proclaimed that he had done a great duty, and an act of kindness to the country; and even just now, upon the 18th of this present month, the National Intelligencer, the organ of the Whig party in this city, came out in praise of his efforts. Why is it, then, that he is arraigned here now? Is party feeling so strong, is party prejudice so overwhelming, that what was proper and right two months ago is not proper and right now? No, sir; if it was right then, it is right now; and I am glad to hear the gentleman from Massachusetts come out and accord to the Secretary the meed of praise for what he has done.

Mr. Chairman, I believe I have concluded what I have to say upon this subject. There were other thoughts that I intended to have presented to the House; but in this running discussion between the gentleman from Massachusetts and myself, my order of discussion has been somewhat deranged; and I now yield the floor.

Mr. LOVEJOY. I have, Mr. Chairman, several objections to this bill, which I propose to present to the committee; but, lest I should forget it, as I have taken no notes of what the gentleman from Virginia [Mr. LETCHER] has said, I want to allude, in the first place, to his remarks in regard to the Secretary of the Treasury deserving the praise of the country for stepping in so benevolently to relieve the distresses of the land. I suppose, sir, that people must have been sorely distressed when they had to be induced to sell their Government obligations at a premium of twenty per centum! If they were in distress, why were they not willing to bring in their notes and receive their par value for them? That is the question; and I would like the gentleman to answer it. The Secretary of the Treasury had to present an inducement of from sixteen to twenty per cent. premium to get the notes in to relieve the distresses of these men, and, therefore, he is to be made President for his benevolence.

I object, Mr. Chairman, in the first place, to the movements in regard to this bill, that it is pressed with such hot and indecent haste. An attempt has been made three or four times, if I remember rightly, by the chairman of the Committee of Ways and Means to screw us up to a vote upon it under the previous question, without scrutiny and without analyzing and sifting this measure—the most important measure, probably, that will come before the House during the present session.

A MEMBER. Except Kansas.

Mr. LOVEJOY. Yes; of course. I always except the "peculiar institution" and its expansion. That is the one paramount thing.

Now, sir, it looks a little suspicious that the friends of this bill should be so urgent to bring it to a vote under the party drill, with which I have no doubt they will secure its final passage. They cannot let us discuss it. Will not they let us have time to study and understand and present the subject? I am glad that there is a little searoom to-day.

Mr. J. GLANCY JONES. Will the gentleman allow me to ask him a question?

Mr. LOVEJOY. Yes, sir.

Mr. J. GLANCY JONES. Has the Secretary of the Treasury paid out a single dollar at a premium, except in accordance with the law passed by Congress?

Mr. LOVEJOY. I have no doubt that the action of the Secretary was legal. I did not deny that, Mr. Chairman. I simply met the eulogistic assertion of the gentleman from Virginia, that it was a beneficent movement towards those who were in distress. I did not deny that it was in accordance with law.

Mr. J. GLANCY JONES. I understand the gentleman to say, then, that all the Secretary has done in this matter, has clearly been in obedience to law.

Mr. LOVEJOY. I do not remember the particular terms of the law. I was not here when it was passed. But I judge from hearing it read,

that his action was not contrary to law. The matter was left optional with him, and, as I understand, the Presidency dazzled him a little, and he said to himself "Now, I will bless the country;" and he blessed it. I would like to be blessed in that way too.

My first objection, Mr. Chairman, to this bill is, that it is a deceptive bill. I do not say that it is fraudulent, in the legal sense of the term, but I do say that it is a deceptive bill. It proposes to do a certain thing, under concealment and disguise. It professes to be one thing, when it is really another thing. It will be called a loan, but in reality it is converting the Government into a great shipplaster machine, to flood the country with an irredeemable currency, which has, as I supposed, always been as the broth of abominable things to the Democratic party, and which is so to me now.

The gentleman from Virginia seemed surprised that there were any members on this side of the House in favor of a hard currency and against banks. I will tell him how it has happened. I presume he has read the *Metamorphoses* of Ovid, and is familiar with them, and he will remember there a great many transmogrifications and changes and transmutations. Now, I will tell him how this has happened. The real, genuine soul of Democracy has left the party that bears the name, and has come to animate the Republican party. It has left a soulless carcass in the one place, and a youthful giant, animated with the spirit of Jeffersonian Democracy, in the other.

I was saying, sir, that this measure is a deceptive measure. It proposes to convert the Government into a great banking concern. And, sir, I venture to say that the engravings for these notes are already made. I venture to say that the head of the venerable President is at one end of the notes, and that the Secretary of the Treasury will ornament and beautify the other end; and as a motto, there will be traced on it in legible characters, "Thanks to the sub-Treasury, the Government has not failed; we have not become bankrupt; we pay specie."

Sir, if this Government has become bankrupt, contrary to the declaration of the President, then I say let us stand right up before the nation and the world and own it; let us say we have failed; and then if you want a loan to the extent of your necessities, I will vote a loan; though while I have my senses I never will vote for this bill. If you want a loan, I will vote you a loan. Just let the Secretary of the Treasury, if he needs a loan, ask for a loan. Do the honest, plain, frank, above-board thing; say the Government has failed, and we must borrow money, and go into New York and pledge the faith of the Government. If that will not do, mortgage the Capitol, and the other public buildings; and if that does not bring the coin, pledge the immaculate and inviolate faith of the Democratic party, and the gold will begin to move towards you. [Laughter.] That would be the honest thing, sir. And what will be the result? The result will be that you can borrow this money, whether it be five, ten, fifteen, or twenty million dollars that you need. You can obtain it in New York. It is lying there unused in the vaults. The credit of the nation will bring it out. Go and advertise for it; and you will get it. If you can get it for one per cent., do not give six per cent. to save the country and bless the poor people in distress. If it requires two per cent., give two, and so on up to six per cent. Make the best bargain you can, and agree to pay at a certain date, and then take that money and put it into circulation through the country. That is Democracy—genuine Democracy, I mean, which is Republicanism now—and I will vote for it.

I object again because I do not perceive, at present, the necessity for this loan. Why, even the friends of the measure say that they do not know that they will be obliged to issue the amount. It is a kind of contingency that they are contemplating. Gentlemen have said on this floor, and I want the House to take notice of it, that they did not know that there should be a single dollar of this loan needed. Well, then, how can we perceive the necessity of it, if its friends cannot? Why do they not come forward and make a frank statement here, and tell us why they want the money, and for what they want the money, and just how

much they want, so that we can vote understandingly on the subject?

But suppose the money is actually necessary, which perhaps we must admit, is this the only mode of raising it? Go sell half of the custom-houses of the land, where the income does not meet the expenses. Go to Pensacola, and all along the coast, and do it. Go to the interior, where officers were appointed to receive railroad iron, away out on your inland rivers and lakes, so as to save the importers from paying the duty for a few months, till the iron was actually delivered to them. These officials swarm over the country. The railroads are now built, and the necessity for these offices has ceased; but the officers are there, and the salaries are there. Why not retrench? Mr. Cobb's report struck me as if it was enough to excite a smile upon a grave stone almost. Says he, "the Government ought to practice retrenchment. The Government ought to economize." Yes; I think so too.

Now, supposing the Government do retrench, do economize; suppose we call in nine tenths or ninety-nine hundredths of our foreign diplomatic corps. Are they doing anything now? Have they any business to negotiate? As the gentleman who represents this Government at Madrid is to be removed, that place, for one, can be left vacant. We will save something there. The probability is that our Minister and Envoy Extraordinary there, (and he was certainly a very extraordinary envoy,) will be recalled, for I suppose there is nothing to be done there, inasmuch as the depleted state of the Treasury will prevent the purchase of Cuba for the present. I do not know what our Minister to St. Petersburg has to do either. Rather than borrow, I think an individual ought to retrench. Rather than borrow, I think a Government ought to retrench. I do not know of any foreign nation where we require a minister now, but one, and that is Great Britain. Let us have consuls to look after the commercial interests of the country, and after the interests of our citizens who may be abroad; and let us cut off all these ministers plenipotentiary. We will save something in that way. I hope that my friend from Virginia [Mr. LETCHER] is as radical on retrenchment as I am.

I say, therefore, I do not see the necessity of this loan. I am not convinced yet that the amount might not be saved by retrenchment. I understood the report of the Secretary of the Treasury to state that he had, on the 1st of July, \$17,710,000, and that the collections for the quarter ending September 30, were over twenty millions; making in all \$38,500,000. Now, if he collect \$12,000,000 for the current quarter, which is his estimate, he will have had \$50,000,000 to cover the expenses of six months. Is not that enough? The income of the present fiscal year, for six months, according to the estimates of the Secretary of the Treasury himself, will amount to about fifty million of dollars—and this has actually come into the Treasury. Are we going to push the expenditures of the Government to \$100,000,000? I should like to know that. That is a new way of retrenchment and economy.

Mr. J. GLANCY JONES. The necessity for this measure arises from the fact that, instead of dutiable goods being withdrawn from the bonded warehouses and the duties paid, they are still kept in the warehouses. In consequence of consumption having ceased, the Secretary has called on Congress to give him the power to issue these Treasury notes in the contingency of a continuation of this state of things. Does the gentleman not know that although estimates may be correct, yet, in case goods are not withdrawn from the warehouses, the duties are not paid into the Treasury? And does he not know that there is danger of a deficiency in less than a month from this time?

Mr. LOVEJOY. I take the estimate of the Secretary of the Treasury, as to what has already accrued and come into the Treasury; and it amounts to \$38,500,000 up to the 30th of last September, and now he wants to pile \$20,000,000 more on that.

Another objection that I urge is to the amount proposed to be raised. I would like to call the attention of the House to this fact, that I have not heard any gentleman urge anything that squinted towards the necessity of this \$20,000,000. They do not know that a dollar will be wanted. And

yet they want to give the Secretary of the Treasury the privilege of drawing for \$20,000,000, more than half enough to support the Government, economically administered, during the entire fiscal year. I object, therefore, to the amount. I want to propose an amendment to insert "six," in lieu of "twenty," in this first section. If I understood the Secretary aright, he proposes to issue \$6,000,000 right off, on these plates that are already waiting to have the stamp, and then he proposes to borrow the rest if he can. I move to amend the first section of the bill, by striking out the word "twenty," and inserting in lieu thereof the word "six."

The CHAIRMAN. That amendment will take precedence of the amendment of the gentleman from Massachusetts, [Mr. BANKS.]

Mr. LOVEJOY. I object to the bill in the fifth place, Mr. Chairman, because there is no mode provided to repay this loan. It seems to be a matter of common economy, that when a man runs in debt he shall have some idea of how he is to pay it, if he means to be honest. There is no provision here, and no allusion to any mode of repaying this indebtedness. How is it going to be done? The Secretary of the Treasury says that this state of things is temporary; that this revolution will pass away, and money will flow into the Treasury, so that he can repay the debt. He wants some seventy or eighty millions to carry on the Government. Add to that this \$20,000,000, and you have \$100,000,000. Does any sane man believe that \$50,000,000 will come into the Treasury during the year? And how is the Government to be carried on at the expense of \$80,000,000, and then this \$20,000,000 additional to be paid? I should like to know that. There is no way of doing it. There is nothing more certain—and I venture to predict it—than that the Secretary of the Treasury will be here next winter asking a loan of \$40,000,000 at the close of that year. And soon the Government will get used to it, and the people will get used to it, and by-and-by it will slide into a monster bank, compared with which, the United States Bank was a mere pigmy. The little finger of this movement will be thicker than the loins of the United States Bank, although I rejoice at the destruction of that institution.

Now, Mr. Chairman, I ask what are the estimates of the Secretary of the Treasury worth? Not three months ago he was in the market, with a surplus in the Treasury, purchasing United States stocks at a premium of fifteen or twenty per cent. And what was his opinion then? That the affairs of the Treasury would go on prosperously and securely, as his own actions show in the readiness with which he was prepared to purchase the stocks of the Government at this high rate of premium. What, I say, then, are the estimates of the Secretary of the Treasury worth, looking at his conjectures for the future by those in the past? I tell you that there will be nothing in the Treasury with which to redeem these \$20,000,000 of Treasury notes, and to enable the Treasury to meet its current obligations, which you now propose to authorize it to incur. I propose to further amend by adding, at the end of the first section, the following:

And that there shall be a tax levied, in the mode prescribed in the Constitution, for the redemption of the loan herein provided for.

The CHAIRMAN. The amendment is not in order at this time.

Mr. LOVEJOY. Then I merely read it as a part of my speech.

Mr. BISHOP. I merely wish to ask a single question. The gentleman states, as the ground for offering his amendment to strike out \$20,000,000 and insert \$6,000,000, that there is really no necessity for a loan—that the Government will have ample funds on hand to meet all its expenses. But now, in his second proposition, he says there will be no money in the Treasury with which to pay this loan, and he proposes to resort to direct taxation to meet the deficit. I should like to know how he will go to work to reconcile these conflicting statements.

Mr. LOVEJOY. I reckon about as easily as the gentleman from Connecticut and the gentleman from Virginia [Mr. LETCHER] will reconcile their views in reference to these notes. One says they will be currency; the other, that they will be a funded debt, and not pass into the currency. I stated that there was no necessity of a loan if

a proper system of retrenchment were pursued by the Government. But, sir, do you suppose I ever dreamed that the Democrats of the present Administration would practice retrenchment? No, sir. I said there was no need of a loan if proper retrenchment were carried out; but not that I thought there was any probability it would be done. But, mark you, it is my honest conviction, that so far from being able to pay this loan when it becomes due, we shall be asked for another loan before the close of the present year. And I might as well say, just here, that though I would be ready to relieve the Government, and to restore to its former prosperity the whole country, and myself in particular, still I do not believe that any system of partial relief—any measure of empiricism, will do it. We shall go to the bottom, and we may as well sink and sink until we reach the bottom, as to grasp and swim to try to save ourselves before we touch the rock.

Sir, what is paper currency—irredeemable paper currency? It is a falsehood. When a bank-bill goes abroad in the country and says, "I am twenty dollars, or I am fifty dollars; I represent so much specie," it is a falsehood upon its face. It does not represent what it purports to represent. It often represents nothing. And when we put forth paper currency or Treasury notes to the world, purporting to represent so much specie in the Treasury, or other places of deposit, when the specie is not there, it is deceptive. It is like the *Credit Mobilier* of France. It represents not specie, but the credit of the country. And, if the present Administration follows in the footsteps of the last Administration for the next four years, I do not think the credit of the country will be worth much. Sir, all these attempts to relieve these commercial disasters, or to prevent them, by new issues of irredeemable paper, are like the policy of the man in Scripture, who built his house upon the sand; and when the rains descended and the floods came, and the winds blew and beat upon that house, it fell. I tell you that all the cobweb attempts to keep off the storm will be unavailing. Your bark may sit calm and beautiful upon the lake while its waters remain unruffled, but when the storm comes it will be capsized and will sink. And so, when you undertake to build up national prosperity, by means of a paper currency, which does not represent dollar for dollar, and is not convertible into specie, it will not stand. But, sir, when you build it upon hard money, upon a metallic currency, you have built your house upon a rock, and it will stand the test of all the storms that may beat upon it. Sir, I repeat that this system of putting in circulation mere promises to pay instead of the money itself, is always unsafe and unsatisfactory. This kind of a currency is always found wanting when we need the cash.

But I go further. I cannot vote for this bill because I do not know what is to be done with the money. I do not know where it is to go, or for what it is to be paid out. I do not know what you are going to do with it, Mr. Secretary Cobb. Are you going to pay your four regiments which you propose to raise as a matter of retrenchment? Are you going to pay for your ten war steamers which you propose to have built as a measure of economy?

Mr. J. GLANCY JONES. I will respond to the gentleman with a great deal of pleasure. We do not propose to pay any of this money except in pursuance of existing law, and in pursuance of appropriations made by Congress. If the Secretary of the Treasury wishes to appropriate any money in the way the gentleman mentions, he will first have to get Congress to legislate upon the subject. The Executive Departments of Government are only called upon to pay your debts, and not theirs. They can only pay debts created by Congress. They have no legislative power in this Government. Congress contracts the debts, and the Executive, in accordance with his oath of office, must execute the laws with fidelity. The Secretary of the Treasury, therefore, only asks you to give him money to pay your debts, and not to pay one dollar that you have not ordered him to pay. I say to the gentleman, therefore, that the President asks you to give him money to pay your debts with, not one dollar of which will be paid except in accordance with the existing laws of this Government.

Mr. LOVEJOY. I do not wish to be understood as intimating that any appropriation will

be made contrary to law. I am not driving at that. I do not speak of the Secretary of the Treasury as an individual; but in his official capacity. He asks this House to vote him the money, and he, and his friends in this House, vote to spend it as they please, and then they come back and taunt us with having voted for all these objects. Sir, I want to know what the money is voted for.

Mr. J. GLANCY JONES. I thought I had sufficiently explained it. The requisition is for the authority to use \$20,000,000, if necessary, to pay the debts of this Government, in accordance with existing law. Not a dollar will be paid out by the Secretary, except in accordance with the appropriation bills of the last Congress.

Mr. LOVEJOY. I do not suppose he will. I was asking, Mr. Chairman, why this money was needed, and whether it is to be employed in sustaining those four regiments which are proposed in the President's message, or, more properly, in the report of the Secretary of the Treasury? Is there not a recommendation that ten war steamers be built; and that, too, at the same time that they are asking authority to issue \$20,000,000 of Treasury notes. Now, I want to know if these \$20,000,000 are going to sustain those four regiments? I should like to know whether it is necessary to have these four regiments raised, in order to have captains, ensigns, corporals, and sergeants enough to give them strength enough to carry through the Lecompton constitution without submission to the people, and whether we are to pay them with this money? That is what I desire to know. I have no doubt they want money; but I should like to know how much of it is going to be used, as has been the case heretofore, in sustaining usurpation in Kansas. How much is to be used to force, at the point of the bayonet, upon the people of Kansas a government for which every person in the United States knows they never voted and never will, and that, too, right in the face of the declaration that "government derives all its just powers from the consent of the governed." Let my right arm wither first, and my tongue cleave to the roof of my mouth, before I will vote a cent to uphold the infamy which the past and present Administrations have attempted, and are now attempting, to impose upon an unwilling people. I have the right to inquire, and I want to know, whether that policy is still to be pursued; and whether the United States troops are to be employed to force upon a people institutions they do not want? I know tyrants always want money. Philip II. wanted money. It was the urgency of his reign to want money. He wanted to send the troops of Spain, under the Duke of Alva, to the Netherlands, to enforce the inquisition upon the people of the Lower Countries. President Buchanan wants money, I believe, to force the Lecompton constitution upon the people of Kansas.

Mr. LETCHER. Is the gentleman aware of the fact that the vote is being taken in Kansas upon the Lecompton constitution to-day, so that the President cannot want money for that purpose.

Mr. LOVEJOY. I knew that the party in power can play such "fantastic tricks" as make Heaven blush, and that other place smile with joy. [Laughter.] I say they want money always; and that they are always borrowing; and I say I know no parallel to the course of this Administration; I know nothing so much like it as the reign of Philip II.

I object, finally, to this bill, because it is unconstitutional. Now, it is said to be out of taste, and to be unpatriotic, to say anything about conscience here. I do not know but it is unpatriotic to say anything about the Constitution; but I hope not, because we have sworn to support the Constitution. I want the chairman of the Committee of Ways and Means, or any other friend of this bill, to point me to that clause of the Constitution which authorizes the issue of Treasury notes. There is the power to borrow money upon the credit of the United States; it is true; but what is the use of whipping the Devil around the stump? Why not come out frankly like men, and say they want to borrow money for the purposes of the Government, and not ask for authority to issue Treasury notes.

The truth is, there is no constitutional power to issue Treasury notes. I know that it will be

brought up as a plea—the precedents; that we did it in 1837, in 1842, and in 1847; and now cannot we do it in 1857? In the language of Young, with a slight variation,

"Once more the fatal precedent will peal."

We have done it three times, and why not do it a fourth? Every repetition of an unconstitutional act endangers the country by making a subsequent violation more easy, and soon you will find the good national ship unmoored, and floating away, in a very ocean of precedents, with the Constitution almost submerged, and hardly able to keep above the angry billows. And here, from my place, and upon my responsibility as a member of this House, I want especially to warn those who live in the country—for

"God made the country, and man made the town,"

and I like man's workmanship the best—I want to warn the mechanics and laborers, and the industrial classes of the country, that this Administration, which I said was but an elongation of the preceding one, is endeavoring to convert this Government, in the name of Democracy, to a despotism, and the Treasury Department, under the guise of Treasury notes, into one grand banking system.

The President has passed under the power of the old Whigs of the country, and now he is attempting to slide in their principles; he dare not do it all at once; he dare not start up the ghost of the old prophet at once into full life; but he is creeping on, and by-and-by the Democracy will get used to it, and will swear that it was always Democracy, and that they were always for banks. Sir, I plant myself on the Constitution and call the country back to it. You, gentlemen, opposite, are strict constructionists—are you not? Will you point to the place where the Constitution says that Congress shall have power to issue \$20,000,000—more or less—of Treasury notes? You cannot find it. It is not there. It is an implied and dangerous power. It would bring you back to the old depreciated Continental currency. Governmental currency that is not convertible always depreciates. I therefore call upon the people and upon the House to come back to the Constitution, to know no money that the Constitution does not know, and it knows none but gold and silver; God intended that for money, and so long as you attempt to thwart His arrangement, you will experience the inevitable retribution that sooner or later must follow.

Mr. CAMPBELL. Mr. Chairman, a very extensive field of debate is legitimately thrown open by the proposition now under consideration. The character of the expenditures of the general Government, the tariff, the currency, propositions for reform—are all intimately interwoven with this proposition to replenish an empty Treasury. I think my friend from Virginia [Mr. LETCHER] is not very just in the face of the facts, and remembering, as he must remember, the circumstances under which the appropriation bills of last year were acted on, in charging the responsibility of extravagant expenditures upon this side of the House.

Now, sir, I am not the accredited organ upon this floor, of the Republican party; and if the sentiments which I have heard avowed here by leading members of that party, in favor of an exclusively metallic currency, are to be regarded as a part of its platform, I never shall be its organ, here or elsewhere, until I shall have changed the well-settled convictions of my own judgment.

What are the facts in regard to the appropriations made last year? I chance to know something in regard to them; and having reported most of them, voted for them, fought for them, and defended them on this floor, I feel that the responsibility of meeting the charge of the gentleman from Virginia, devolves upon me. The gentleman attempts to screen the last Administration from the responsibility of the public expenditures. I charge upon them all the responsibility of the large appropriations which were made. My friend from Virginia knows full well that there never was a single item of appropriation passed by the Committee of Ways and Means, which was not predicated upon estimates recommended by the Executive Departments, and that many of their demands were rejected. If he knows of a solitary item that was put into either of the appropriation bills which were passed by that committee and

this House and went into the law, that was not recommended by the Executive, I call upon him to point it out. [A pause.] Then if he does not, I must take judgment against him by default. I demand that he either take back the charge or point out to us the item in either of the bills that was not predicated upon Executive recommendation.

Mr. Chairman, I remember well how the appropriation bills were passed in the closing hours of the last Congress. At two o'clock in the morning of the 4th of March last, there came back from the Senate the bill of appropriations for certain civil expenses, commonly called the "omnibus bill," with eighty-five manuscript amendments, amounting to millions of dollars. It was then too late in the session to have them printed, or even to have them read in the House, and the whole matter went speedily to a committee of conference, of which I had the honor of being chairman on the part of this House. That committee was in session during the balance of the night. I struggled in that committee for a reduction of the expenditures, and yielded only to some of the larger amounts—for instance, the appropriation of \$1,000,000 for the water-works of this city—because every other legitimate mode which had been resorted to by the House to take the surplus of \$22,000,000 out of the Treasury, which Mr. Guthrie had informed us was not needed there, had failed in the Senate. Believing that the appropriation was proper in itself, and knowing that the Treasury was overflowing, and that the wants of commerce demanded that the vaults should be unlocked, and that the coin should go out into circulation, I supported the bill, as agreed on in conference, and the House carried it with extraordinary unanimity. How was that—the most objectionable of all the appropriation bills—carried? It was carried by the almost unanimous voice of the House. I think my colleague, [Mr. STANTON,] or the gentleman from Tennessee, [Mr. JONES,] demanded the yeas and nays on the adoption of the report of the committee of conference; and had that demand been sustained, the bill would have been defeated, for there would not have been time for it to become a law before the hour fixed by the Constitution for adjournment. But not more than seven members rose on that morning to sustain the demand for the yeas and nays; and I think the gentleman from Virginia was not one of the seven. I hold, therefore, that he and his party sustained that bill.

Mr. Chairman, I did not rise for the purpose of inquiring into the details of the reasons that have forced the Executive to call on Congress for a loan, or for the power to issue Treasury notes. When the house is on fire, the true way is to extinguish the blaze and afterwards inquire into the cause of it. We know, sir, that there is a pressing necessity; and the only question is as to the character of the means that should be furnished the Administration in the present state of affairs, to afford relief. I shall not follow gentlemen through this discussion as to the relative merits of a loan, and of the issuance of Treasury notes, not stopping to inquire whether the distinctions they draw are without a difference. I intend to sustain a measure with such modifications and guards as may be thrown around it, whether it be in the form of a loan or in the form of Treasury notes, on the principle that it is our solemn duty to sustain our national credit.

But, sir, while we are creating in the form of notes or bonds, a debt of \$20,000,000, it strikes me as the part of wisdom, to provide the means by which we are to make payment when they become due. The gentleman from Illinois [Mr. LOVEJOY] has suggested an amendment, providing that the amount should be raised by direct taxation on the people. That gentleman, it seems to me, is appropriating the thunder of my friend from South Carolina, [Mr. BOYCE,] and my friend from Mississippi, [Mr. QUITMAN,] At the last session of Congress, while the tariff laws were being considered, my friend from South Carolina announced his design to propose a bill to sell all the custom-houses belonging to the General Government, and dismiss the thousands and tens of thousands of employes of the Government connected with them, by way of reducing the expenditures, and of resorting to free trade and direct taxation. The gentleman from Mississippi intimated a purpose of a similar character.

I think both of them gave me a promise that they would introduce such a proposition; and I have been waiting patiently ever since that time, and am waiting still, for the action of those gentlemen to ascertain when it is that they intend to force their party up to the responsibility of that issue.

Mr. QUITMAN. I will briefly answer the question by saying, that I will be ready to aid the friends of direct taxation in presenting the subject so soon as that gentleman and his friends on the other side of the House shall cease to occupy the whole time of Congress in discussing southern affairs. I am ready at all times to aid in bringing back the country to a system of direct taxation, as the best, if not only means of promoting that economy which will save us from the corrupting influence of a Treasury sometimes bursting with plethora, and at other times entirely exhausted.

Mr. CAMPBELL. I wish to say to the gentleman from Mississippi, that he knows I tendered him all the facilities in my power to bring about a test on that subject before the House, during the last Congress; yet his project has never been reported.

Mr. BOYCE. Mr. Chairman, in reply to the distinguished gentleman from Ohio, I would say that the subject to which he refers is one very near to my heart; that we have it under consideration, and intend to press it at a proper time; and we hope to continue to press it, and trust that the day will come when we will have the great blessing of free trade in this country; the great privilege of selling where you can sell dearest, and of buying where you can buy cheapest; in order to accomplish which, we must have no duties on imports, and must have direct taxation exclusively.

Mr. CAMPBELL. The gentlemen both promise well, and I hope will soon perform, in order that we may split parties, and secure either stable protection or free trade and direct taxation upon the people in proportion to their representation in the Federal Congress.

In reference to this question of raising the means to defray the expenses of the Government, I occupy the position occupied by the fathers of old, and which, I believe, the present Chief Executive has not yet repudiated, of raising the necessary means of defraying the economical expenditures of the Government by discriminating duties on imports, discriminating for protection to our own industry; but, if this system cannot prevail, that of the gentlemen from South Carolina and Mississippi will be my next choice.

Mr. Chairman, with a view of progressing toward the point I desire to reach, I propose the following amendment to the amendment of the honorable gentleman from Massachusetts, [Mr. BANKS:]

And provided further, That from and after the 1st day of July next, a duty of thirty per centum *ad valorem* shall be imposed, in lieu of those now imposed, upon the following goods, wares, and merchandise, imported from abroad into the United States, to wit: Carpets, carpeting, hearth rugs, bedslides, and other portions of carpeting, being either Aubusson, Brussels, ingrain, Saxony, Turkey, Venetian, Wilton, or any other similar fabric; cutlery of all kinds; delaines; iron in bars, blooms, bolts, loops, pigs, rods, slabs, or other form, not otherwise provided for; castings of iron, old or scrap iron, and vessels of cast iron; manufactures of cotton, linen, silk, wool, or worsted, if embroidered or tamboURED in the loom or otherwise, by machinery or with the needle or other process; manufactures, articles, vessels, and wares not otherwise provided for, of brass, copper, gold, iron, lead, pewter, platinum, silver, tin, or other metal, or of which either of those metals, or any other metal, shall be a component material of chief value; manufactures of wool, or of which wool shall be the component material, not otherwise provided for; and that a duty of twenty-four per centum *ad valorem* shall be imposed in lieu of those now imposed upon the following goods, wares, and merchandise imported into the United States, to wit: baizes, bookings, flannels, and floor cloths, of whatever material composed, not otherwise provided for; manufactures composed wholly of cotton, not otherwise provided for; manufactures of silk, or of which silk shall be a component material, not otherwise provided for; manufactures of worsted, or of which worsted shall be a component material, not otherwise provided for.

My purpose in offering this amendment for the consideration of the House, is to provide, first, for raising the revenue necessary for meeting the Treasury notes or bond which may be issued, and secondly, to provide the necessary protection for the industrial interests of the country. It will be remembered that during the last session of Congress, this House passed a bill extending the free list alone, and leaving all the other articles of the manufacturer to enjoy the protection afforded them by the Democratic tariff of 1846.

The Senate, with a view of still further reducing the revenue, amended the bill by scaling down the schedules twenty per cent. This amendment proposes to bring the articles named back to the position which they occupied in the bill, as it originally passed the House, during the last session.

The gentleman from Virginia, [Mr. LETCHER,] it seems to me, has been blowing hot and cold upon this subject of the tariff. In one breath he denounces the principle of protection, and in another he advocates it. He is in favor of both free trade and protection. At the last session he supported the tariff bill which was passed, knowing and acknowledging that it contained the principle of protection, and that it discriminated for that purpose; and he has but one step more to take in the same direction in supporting this amendment, which, in my judgment, will be necessary to meet the demands upon the Treasury, which he now proposes to make when these notes shall become due. If he takes that step he will be sustained by his party and by the President of the United States. One of the most material parts of the amendment is that which gives protection to the iron interests of Pennsylvania. I have no doubt that the honorable chairman of the Committee of Ways and Means [Mr. J. GLANCY JONES] and his Democratic colleagues from Pennsylvania will all give this amendment their support. I think he was in favor of the bill of the last session as it passed the House, and this amendment restores the iron and coal interest to the position which it then occupied.

Mr. Chairman, I regard it as of the utmost consequence that this loan should be furnished, and the Government relieved from its embarrassment and threatened bankruptcy. The gentleman from Illinois [Mr. LOVEJOY] asks what is to be done with the money, and desires to know whether it is to be used to construct war steamers. I think not. The President has recommended to the serious attention of Congress one of the greatest works which is to characterize the present age. He has proposed the construction of a railroad to the Pacific ocean. Of course the means must be provided to take the preliminary steps for that undertaking. He has made this proposition, and in good faith the gentleman from Virginia will certainly second his efforts in that behalf. The gentleman from Virginia has been proclaiming that we, on this side of the House, were rapidly going over to the Democratic platform. I claim, upon the other hand, that the gentleman's President, and the gentleman himself, have come upon our platform, and are transferring the whole Democratic party to it. The gentleman does not assert that the President favors free trade. No! no! he is a protectionist. His votes in both branches of Congress show that he is a protectionist.

Mr. Buchanan voted for the tariff of 1828; which was the highest protective tariff known in the history of the Government, and he has never repudiated the principle. In 1832 I first commenced my career in political life, under the banner of the gallant Harry of the West, upon which was inscribed the great American systems of "protection to American industry," "internal improvements of a national character by the national Government," and a sound national currency, at all times convertible into gold and silver at every point in the nation. I followed that banner ardently through the gallant struggles during the lifetime of that great man and his compatriots; and in this hour of commercial distress, I venture again to unfurl it to the breeze. The President of the United States has boldly avowed himself its advocate, in defiance of all the platforms which politicians have erected for him to stand upon. I am quite rejoiced to learn that my friend from Virginia has indorsed his position on these grave questions. Those abstractions which formerly crossed his mind have disappeared as the mists before the wind. He now sees the true path and I trust will pursue it with his well known energy. He indorses the message, and of course stands up and advocates boldly that great measure which is to unite the people of the Atlantic States with the people of the far off Pacific coast. Indeed, the gentleman is a little ahead of the President of the United States; for a year or two ago, I remember well, the gentleman was on the committee of conference, and reported and voted in favor of the appropriation of a large sum of money to run the

line to survey the track for that great work across the Rocky Mountains and over the plains to the Pacific. He found no difficulty in the constitutional power to do that; and if he found power to make an appropriation to run lines and mark them by monuments, he will readily find in the same clause the power which his President claims to appropriate the means of prosecuting and completing the work he so bravely commenced. I welcome the gentleman and his President to the fold of the advocates of protection and internal improvements.

In regard to a national currency, the President and the gentleman from Virginia are following in the footsteps of the illustrious hero of the Hermitage, who said in one of his messages:

"That a Bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our delegated powers or the reserved rights of the States, I do not entertain a doubt. Had the Executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed."

So said Jackson; and in so saying, he but followed in "the footsteps of his illustrious predecessors"—of Washington, who signed the first bill; of Madison, who approved the second. Buchanan, on former occasions, advocated the measure, and Mr. Dallas, his Minister to England, prepared the United States Bank bill of 1832, which was voted for by every Democratic member in this House from the State of Pennsylvania. And now, although Mr. Buchanan has not recommended a national bank, or an exchequer, or fiscal agent, or what not, for—

"What's in a name? that which we call a rose,

By any other name would smell as sweet—"

he has, nevertheless, taken a step in the direction which gives assurance that he is not unfavorable to the creation of a paper currency of uniform value throughout the country. Upon this point, as upon the others, he may return to his first principles.

While I protest that I do not indorse the principle of issuing these promises to pay by the Government for currency purposes, I am willing to furnish means to sustain the public faith. I shall vote for the bill if properly guarded, hoping and believing, that it may be followed by some permanent measure which will provide a paper circulating medium, which will at all times command gold or silver on presentation, whether in California or Massachusetts, in Michigan or in London. I shall vote for the bill, cherishing the hope that Buchanan will perhaps come back to his first love in regard to a national currency. The gentleman from Virginia will no doubt walk in his footsteps, and follow his lights in all these things, and then he and I, and all of us, will be found, I trust, united upon the great measure advocated by the distinguished statesmen of 1816 and of 1832. It will be a joyous time then, sir, when we are all thus united, a political millennium, when that gentleman and I and all of us of contending parties, including what is left of the American party—for there is a considerable sprinkling of that party here yet—shall all be a unit, standing on a common platform.

Mr. LETCHER. I should suppose from what I heard on the other side this morning, that my friend from Ohio was in a small minority, particularly as to a Bank of the United States; for I was interrupted by a sort of simultaneous rising up upon that side of the House in opposition to a United States Bank; and what I supposed was dead and gone, my friend from Ohio is trying to resurrect and get upon its legs again.

Mr. CAMPBELL. I am giving Mr. Buchanan the credit of resuscitation.

Mr. LETCHER. It seems to me a strange way to support a man, by marching under the flag of his opponent. While his language is for him, his hand is against him.

My friend called upon me to know whether I was in favor of a Pacific railroad. I do not mean to discuss that now. Perhaps I shall have an opportunity to do so hereafter. But I tell him now that I am opposed to it.

Mr. CAMPBELL. Then your hands are against the President, and I am defending him against your assaults!

Mr. LETCHER. Well, sir, I am going against that measure. My friend from Ohio calls upon me to say in what solitary instance an item of appropriation was passed by the last Congress

which was not recommended by the President of the United States.

Mr. CAMPBELL. Or by the Departments.

Mr. LETCHER. I have sent after the documents, and while they are coming, I will give him, to begin with, the appropriation of \$10,000 to begin the Kansas investigation, and the incidental expenses growing out of it. Neither the President nor any member of his Cabinet recommended anything of that sort.

Another fact the gentleman will recollect: When the President sent in his veto upon the river and harbor bill, there was no gentleman in the House more absolutely shocked at the enormity of such an outrage upon the part of the President in seeking to control the legislation of the country, than the gentleman himself. In fact, I never saw the gentleman, usually so cool, so much excited. He said there was a revolution going on; and when I suggested that it was "bloodless as yet," I thought he was about to make it a personal matter with me.

Again, there was the bill appropriating \$300,000 for a ship canal at the Southwest Pass. When the veto came in it was overruled by this House, and I am inclined to think that my friend, then chairman of the Committee of Ways and Means, voted for overruling it, too.

Mr. CAMPBELL. I am against vetoes, and on the occasion referred to a Democratic Senate and House was with me.

Mr. LETCHER. Then there was an appropriation for deepening the St. Clair flats in the State of Michigan, which the President vetoed.

Mr. CAMPBELL. Yes; and about the same time he approved another bill of a similar character for the improvement of a creek down South, called the "Cape Fear."

Mr. LETCHER. The gentleman cannot change the issue with me now. He asked me to point to an appropriation of last Congress which was not recommended by the Administration, and said that I, as a member of the Committee of Ways and Means, could not meet the issue successfully. Now, when I meet the issue, what follows? The gentleman turns round and says the President did sign some things. Did not the gentleman vote for those river and harbor bills?

Mr. CAMPBELL. Nearly all of them, I believe.

Mr. LETCHER. The amount of those bills thus vetoed, as handed to me by my friend from Mississippi, is \$785,000.

Mr. CAMPBELL. My friend is mistaken in saying that the river and harbor improvement was not recommended by the Department.

Mr. LETCHER. Who recommended it?

Mr. CAMPBELL. The Secretary of War, I believe, sent in the estimates.

Mr. LETCHER. I should like to see the recommendation. According to my recollection, neither of the improvements was recommended by the Cabinet. There may have been inquiries addressed to the Department by individual members as to the cost of particular improvements, and the Department may have furnished the estimates upon application. But as to recommendations, give us the recommendations, and let us see where they ask the Congress of the United States to pass such a bill, and apply the money of the Government in that way.

I might go on and instance other acts passed over the President's veto, and each of those bills, though bearing the certificates of the Secretary of the Senate and the Clerk of the House, to give them binding force, is destitute of that significant word "approved."

Mr. CAMPBELL. I say to the gentleman again, that every single appropriation that was reported by the Committee of Ways and Means was predicated upon the recommendation of the Executive Departments. With regard to the internal improvement bills, I am not so thoroughly hosted, for the gentleman knows full well that we had enough in our own committee room to keep us busy; but I do know what I witnessed with my own eyes. I know that these river and harbor bills were voted for by the gentleman's own party, in this House.

Mr. LETCHER. Some of them, to be sure, were voted for by gentlemen on this side of the House. I do not pretend to gainsay that. And I take pleasure in saying here now, in regard to

the action of the Ways and Means Committee in the last Congress, that there was harmony in that committee, and that when our bills were reported to the House, they conformed to the estimates; but they were shingled over afterwards by amendments put on here, by one and by another, that we could not control. Some were put on here, but a vast majority were put on in the Senate.

Mr. CAMPBELL. Will the gentleman tell me which party had the power there?

Mr. LETCHER. Yes, sir; the Democrats had the power there.

Mr. CAMPBELL. It had a majority of Democrats of two to one, and carried the bills by a two-thirds vote, over the vetoes. There is another fact in connection with those internal improvement bills, which my friend from Virginia is well advised of, and that is, that every single one of them, I think, without exception, originated in the Senate, where his party had a large majority. And with what kind of consistency, I ask, can the gentleman now rise upon this floor, and charge that we, on this side, are exclusively responsible for the character of the appropriations made last Congress? True, Mr. Chairman, we were disposed to be liberal to the Administration. I speak for myself. Occupying the important position of head of the Ways and Means Committee, I was resolved to make liberal appropriations to the Administration. They were carried through this House, and I have no regrets on the subject. And, notwithstanding these river and harbor bills were vetoed, much to the satisfaction of the gentleman, I suppose, I feel quite inclined to congratulate the country that a new era is about to dawn upon us in regard to that great question. The President has taken his stand in recommending this great work of improvement for the Pacific coast, and I doubt not, that if other works of a national character shall be provided for by Congress—such as the improvement of our sea-board and lake harbors, and the great natural thoroughfares of the country,—and the empty Treasury is replenished, it will be the pleasure of the President to approve them.

Mr. Chairman, I did not rise for the purpose of making a systematic or an elaborate speech upon this great question of finance. It is a subject, sir, which has puzzled the brightest intellects and the greatest statesmen of our country, and the idea that any one of us could grasp it and discuss it in all its bearings, in a single hour, seems to me preposterous. I merely rose with a view of indicating what were my general sentiments in regard to all the points involved, and to express the hope that, in view of the condition of the Treasury, the amendment which I intend to propose, calculated to replenish it and to strengthen the arms of American industry, may, at the proper time, be adopted by the House. And I invoke the aid—the especial aid—of the honorable chairman of the Ways and Means Committee, and of the delegation from that great and noble State from which the President hails, which has always delighted to honor him, whose immediate constituency have a deep and lasting interest in this question of protection to labor.

Mr. GROW. I do not propose to trespass long upon the patience of this committee. The hour is late; but, if it is the wish of the committee, I will go on now; if not, I will yield for a motion that the committee rise.

Mr. READY. With the permission of the gentleman, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, the Chairman [Mr. PHELPS] reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly House bill (No. 4) to authorize the issue of Treasury notes, and had come to no resolution thereon.

Mr. J. GLANCY JONES. There is a Senate bill upon the Speaker's table to authorize the issue of Treasury notes. I ask that it may be taken up and referred to the Committee of the Whole on the state of the Union.

There being no objection, Senate bill (No. 13) to authorize the issue of Treasury notes, was taken from the Speaker's table, read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

CLOSE OF DEBATE ON TREASURY NOTE BILL.

Mr. J. GLANCY JONES. I am very anxious that we should have speedy action on the bill now pending in the Committee of the Whole, and yet I have no desire to stifle debate. I will now renew the motion which I made this morning, to close debate in one hour after the consideration of the bill shall be again resumed in committee.

Mr. BOYCE. I move to amend the motion so as to extend the time to two hours.

Mr. J. GLANCY JONES. I accept the amendment; and demand the previous question.

The previous question was seconded.

Mr. J. GLANCY JONES. I will ask the unanimous consent of the House, in order to save time.

Mr. SEWARD. I object to any debate. The gentleman himself demanded the previous question and it has been seconded.

Mr. J. GLANCY JONES. I ask the consent of the House to modify my motion so as to make the limit to debate apply to the Senate bill. I propose when we go into the Committee of the Whole on the state of the Union to-morrow, to move to take up the Senate bill.

Mr. SEWARD. I object to any debate. The chairman of the Committee of Ways and Means himself moved the previous question.

The main question was then ordered; and under its operation, the motion to close debate was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote by which the motion was agreed to, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

LANDS TO ARKANSAS.

Mr. WARREN, by unanimous consent, previous notice having been given, introduced a bill granting lands in alternate sections to the State of Arkansas, to aid in the construction of the Mississippi, Ouachita, and Red river railroad; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. CRAIGE, of North Carolina. I objected to the introduction of that bill.

The SPEAKER. The Chair inquired whether there was any objection. The objection of the gentleman did not reach the ear of the Chair.

Mr. CRAIGE, of North Carolina. The Speaker asked if there was any objection, and I said I objected.

The SPEAKER. The Chair did not hear the objection, and he would have seen the gentleman if he had risen to object.

Mr. CRAIGE, of North Carolina. I did not rise.

The SPEAKER. The rule and practice is that when a member objects, he must rise in his place, so that there can be no misunderstanding about it.

THE DELEGATE FROM UTAH.

Mr. WARREN. I ask leave to introduce a resolution, the object of which is apparent on its face, and to which I think there will be no objection.

Mr. STANTON. I suppose that at least half the members of the House have propositions which they wish to offer by unanimous consent, and they cannot be accommodated except by adherence to the rule. I insist on the regular order.

Mr. WARREN. I am satisfied that if my friends across the way will hear the resolution read, they will make no objection to its introduction. It is a resolution that ought to have got in at the commencement of the Congress.

The resolution was read for information, as follows:

Whereas, it appears from the proclamation of Brigham Young, late Governor of the Territory of Utah, as also from the message of the President of the United States, that said Territory is in open rebellion against the Government of the United States: Therefore,

Be it resolved, That the Committee on Territories be instructed to report on the facts, and to inquire into the propriety of excluding from a seat upon this floor the Delegate from said Territory.

Mr. BANKS objected.

ADJOURNMENT OVER.

Mr. SMITH, of Virginia. A resolution has been sent in here from the Senate, on the subject of an adjournment. I move that that resolution be taken up and considered.

Mr. HOUSTON. I object.

Mr. SMITH, of Virginia. I move a suspension of the rules.

The joint resolution was reported, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That when the two Houses adjourn on the 23d instant, they adjourn to meet on Monday, the 4th of January next.

Mr. HOUSTON. I move that the House do now adjourn.

The motion was not agreed to.

Mr. STANTON. I call for the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

Mr. SMITH, of Virginia. I withdraw the motion to suspend the rules.

Mr. WASHBURN, of Illinois. I renew it.

Mr. JONES, of Tennessee. As that resolution conflicts with the compensation law, I ask the yeas and nays. I want to see who it is that will vote for it.

The SPEAKER. Debate is not in order.

The yeas and nays were ordered.

Mr. KELSEY. I move that the House do now adjourn.

The motion was not agreed to.

The question was taken on the motion to suspend the rules, for the purpose of considering the joint resolution of the Senate, and resulted—yeas 98, nays 89; as follows:

YEAS—Messrs. Ahl, Anderson, Andrews, Banks, Bennett, Bingham, Bishop, Blair, Boyce, Bryan, Buffinton, Campbell, Caskey, Chaffee, Chapman, Ezra Clark, Clawson, Clingman, Clark B. Cochrane, John Cochrane, Comins, Cragin, Burton Craig, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dewart, Dimmick, Dodd, Durfee, Edmundson, Eustis, Faulkner, Florence, Gillis, Gilman, Gilmer, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Haskin, Hatch, Hawkins, Hill, Hoard, Hopkins, Horton, Huyler, Keitt, Kelly, John C. Kunkel, Lamar, Landy, Leiter, McKibbin, McQueen, Humphrey Marshall, Maynard, Miles, Montgomery, Moore, Morgan, Edward Joy Morris, Oliver A. Morse, Mott, Palmer, Parker, Pendleton, Phillips, Quitman, Reilly, Ricard, Robbins, Roberts, Royce, Russell, Scott, Searing, Seward, Singleton, William Smith, Spinner, Stallworth, William Stewart, Tappan, Miles Taylor, Thayer, Thompson, Underwood, Waldron, Ward, Elihu B. Washburne, Whitley, Wilson, Winslow, Wortendyke, and Augustus R. Wright—98.

NAYS—Messrs. Abbott, Adrain, Atkins, Avery, Barksdale, Billingshurst, Bliss, Boeck, Branch, Brayton, Burns, Burroughs, Case, John B. Clark, Clay, Clemens, Cobb, Cockrell, James Craig, Crawford, Curtis, Damrell, Davidson, Davis of Indiana, Davis of Mississippi, Dowdell, Elliott, English, Fenton, Foley, Foster, Gartrell, Goodwin, Granger, Greenwood, Gregg, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Houston, Howard, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Knapp, Jacob M. Kunkel, Leach, Letcher, Lovejoy, Miller, Millson, Morrill, Niblack, Nichols, Pettit, Peyton, Phelps, Pike, Potter, Purviance, Ready, Reagan, Ruffin, Sandidge, Savage, Seales, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Stanton, Stephens, James A. Stewart, Talbot, Tompkins, Wade, Walbridge, Walton, Warren, Watkins, John V. Wright, and Zollicoffer—89.

So, two thirds not voting in favor thereof, the rules were not suspended.

Mr. READY. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at three o'clock and forty minutes, p. m.) the House adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, December 22, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

LAWS OF KANSAS.

The VICE PRESIDENT laid before the Senate copies of the laws of the Territory of Kansas passed at the second session of the General Legislative Assembly, begun and held at the city of Leecompton, on the second Monday of January, 1857; which, on motion by Mr. COLLAMER, were referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of William B. Davis, praying that the Commissioner of the General Land Office may be required to make a statement showing the Territories acquired since the Revolution, and the number of square miles in each, for publication; which was referred to the Committee on Public Lands.

He also presented a resolution of the Academy of Natural Sciences, at Philadelphia, in favor of the publication of the report of the geological survey of the Territories of Oregon and Washington, made by Dr. John Evans; which was referred to the Committee on Public Lands.

Mr. CHANDLER presented a resolution of the Legislature of Michigan, in favor of the division of that State into two judicial districts; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. TRUMBULL presented the petition of Sarah Bronson, only child and heir of John Bronson, deceased, praying for compensation for property destroyed during the last war with Great Britain; which, with the papers on file relative to the case, was referred to the Committee on Military Affairs.

He also presented the petition of Alexander Miller, one of the heirs of Alexander Miller, deceased, praying for remuneration for property destroyed during the last war with Great Britain; which was referred to the Committee on Military Affairs.

Mr. GWIN presented the petition of A. W. McPherson, praying to be paid for fitting up and furnishing rooms for the United States district court, at San Francisco; which was referred to the Committee on Claims.

Mr. CAMERON presented the memorial of James Page, and others, citizens of Philadelphia, praying that the post office in that city may be located on the site of the present custom-house, and the custom-house transferred to the site selected for the post office; which was referred to the Committee on the Post Office and Post Roads.

Mr. GREEN presented a memorial of the Legislature of Missouri, praying that the land on Wolf Island, in the Mississippi river, may be sold by the United States, to settle the question in dispute between that State and the State of Kentucky, as to the jurisdiction of that island; which was ordered to lie on the table, and be printed.

Mr. JOHNSON, of Tennessee, presented the memorial of W. S. Munday, J. Knox Walker, and others, members of the Tennessee Legislature, praying for protection to the overland mail route through Arizona; which was referred to the Committee on the Post Office and Post Roads.

Mr. HOUSTON presented a resolution of the Legislature of Texas, in favor of the raising and equipment of a regiment of Texas mounted volunteers, for the protection of the western frontier of that State; which was referred to the Committee on Military Affairs.

Mr. DOUGLAS presented the memorial of James M. Wright, and other citizens of Illinois, praying that protection may be extended to the overland mail route to California through Arizona Territory; which was referred to the Committee on Territories.

He also presented the memorial of J. Grimes, C. A. Wright, and other citizens of Illinois, praying that protection may be extended to the overland mail route to California through the Territory of Arizona; which was referred to the Committee on Territories.

Mr. POLK presented the petition of Horace E. Dimick, praying that an appropriation may be made to test his improvement of the rifled cannon, for throwing both solid shot and shells; which was referred to the Committee on Military Affairs.

Mr. FOSTER. I present the petition of George A. Breast, lately employed in the service of the Government at the navy-yard in this city. The petitioner states that in the month of September, 1856, while employed in launching the steamer Water Witch from the marine railway, he was struck by the capstan bars as the vessel took a sudden start into the water, and both his legs were badly broken, in consequence of which he was confined to his bed for nearly a year, and is now crippled for life. The officers of the yard, who have written some letters on the subject and given some certificates, bear testimony to the very excellent character of the man. He has a large family. He has been made a cripple for life in the service of the Government, without any fault on his part. It seems to me a case which is entitled to favorable consideration, and I hope it will receive it. I move the reference of the petition, with the accompanying papers, to the Committee on Pensions.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PEARCE, it was

Ordered, That the petition of Susanna T. Lea, widow and executrix of James Magleman, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion of Mr. JONES, it was

Ordered, That the memorial of William Money, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. GWIN, it was

Ordered, That the petition of Joseph Hill and sons, and the petition of W. M. Ryer, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. THOMSON, of New Jersey; it was

Ordered, That the petition of Mary C. Hamilton, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. THOMSON, of New Jersey; it was

Ordered, That the petition of J. Willcox Jenkins, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. FESSENDEN, it was

Ordered, That the memorial of George N. Weston, Commissioner of the State of Maine appointed to present the claims of that State against the United States under the fourth article of the treaty of Washington, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. DURKEE, it was

Ordered, That the petition of William Blake, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. SEBASTIAN, it was

Ordered, That the petition of Johnson K. Rogers, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BRODERICK, it was

Ordered, That the memorial of Edward D. Reynolds, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. FOSTER, it was

Ordered, That Huldah Butler have leave to withdraw her petition and papers.

NOTICE OF A BILL.

Mr. JOHNSON, of Tennessee, gave notice of his intention to ask leave to introduce a bill to confine all future sales of the public lands to actual settlers, and in limited quantities.

BILLS INTRODUCED.

Mr. CRITTENDEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 23) for the relief of Robert Dickson, of the Kentucky volunteers; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WILSON asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 24) to secure to actual settlers the alternate sections of the public lands reserved in the grants to States for railroads; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. FITZPATRICK asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CLAY, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 27) to detach Selma, in the State of Alabama, from the collection district of New Orleans, and make it a port of delivery within the collection district of Mobile; which was read twice by its title, and referred to the Committee on Commerce.

HOMESTEAD BILL.

Mr. JOHNSON, of Tennessee, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 25) to grant to every person who is the head of a family and a citizen of the United States, a homestead of one hundred and sixty acres of land out of the public domain, on condition of occupancy and cultivation of the same, for the period therein specified; which was read twice by its title.

Mr. JOHNSON, of Tennessee. Mr. President, before the bill is referred, with the indulgence of the Senate I beg leave to make a single remark, for the purpose merely of keeping the history of this great measure right. On the 27th of March, 1846, this bill was first introduced into the House of Representatives; and on the 12th of May, 1852, it passed that House by a majority of two thirds. The House of Representatives passed it six years two months and fifteen days after its first introduction. It then received the indorsement of the other House by a two-thirds vote. In 1853, the same bill, in substance, was introduced by the Hon. John L. Dawson, of the State of Pennsylvania, and it passed again by an overwhelming majority. Thus the bill has twice received the sanction of the popular branch of the Legislature. It was transmitted to this body, and here it failed on both occasions. I merely make these remarks

for the purpose of keeping the history of this great measure right, and with the hope that it will meet its consummation by the sanction of this body in a much shorter period of time than it did in the House of Representatives. I move to refer the bill to the Committee on Public Lands.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred a memorial of Alexander J. Atocha, submitted a report, accompanied by a bill (S. No. 28) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FOOT, from the same committee, to whom was referred a bill (S. No. 1) for the relief of George P. Marsh, reported it without amendment, and submitted a report; which was ordered to be printed.

NEW POST ROUTE.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads, be instructed to inquire into the expediency of establishing a post route from Gainesville, in Arkansas, to Greenville, in Missouri, and report by bill or otherwise.

CLAIM OF A. AND J. E. KENDALL.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Court of Claims be requested to return to the Senate the papers in relation to the claim of Amos and John E. Kendall, referred to that court by an order of the Senate of the 10th of July, 1856.

HARBOR IMPROVEMENTS ON LAKE ERIE.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War communicate to the Senate what estimates, if any, have been made for the improvement of the following harbors on Lake Erie, respectively, to wit: Buffalo, Dunkirk, Erie, Conneaut, Ashtabula, Grand river, Cleveland, Black river, Vermillion, Sandusky bay, La Plaisance bay on river Raisin, and Maumee bay.

ENROLLED RESOLUTION SIGNED.

A message from the House of Representatives, by Mr. J. C. ALLEN, its Clerk, announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 2) to amend the act entitled "An act to regulate the compensation of members of Congress," approved August 16, 1856; which thereupon received the signature of the Vice President.

COMMITTEE ROOMS.

Mr. GWIN. I have been directed by the special committee on the Pacific railroad to offer the following resolution; and I ask for its consideration at this time:

Resolved, That the President of the Senate be authorized to assign a furnished room in the Capitol extension for the sessions of the select committee on the Pacific railroad.

I thought the President of the Senate had this power before. It was so understood yesterday by the select committee; but I have since ascertained that the authority is not possessed by him. I therefore ask that the resolution be acted on now.

The Senate proceeded to consider the resolution.

Mr. IVERSON. I offer an amendment, in the shape of an additional resolution:

Resolved, That the President of the Senate be authorized to assign to each standing committee of the Senate a room in the Senate extension of the Capitol, as rooms in the same may become ready for occupation.

I understand it is not now in the competency of the Presiding Officer to assign these rooms in the extension of the Capitol. I want a general authority of this kind, because some of the rooms are ready for occupation, and I see no reason for allowing them to remain idle until all of them shall be ready for occupation. I make this motion especially with reference to the convenience of the Committee on Claims, of which I have the honor to be the chairman. They occupy a small room, which is exceedingly dark and smoky. The room assigned to them on the programme that I have seen passed from hand to hand among Senators, in the extension, is ready for occupation. It has been in the occupancy of one of the solicitors of the Court of Claims for the past eighteen months or two years. He is ready to surrender it at any moment, as there is another room which

he can occupy; it is, therefore, ready for the Committee on Claims. I propose, as the rooms are got ready for occupation, if the committees desire it, that the President of the Senate may assign them on application.

Mr. GWIN. The Senator's proposition is an additional resolution to the one I offered. I accept it as an amendment.

Mr. COLLAMER. I desire to amend the amendment by providing:

That the Committee on Public Buildings inquire and report to the Senate a plan for assigning the rooms in the addition to the Capitol appropriated to the use of the Senate.

It seems to me that some plan should be adopted in relation to appropriating these rooms to the different committees. As to assigning one to one committee that may be more important than another, and thus obtaining an advantage over another committee in the selection of rooms, is far from anything like a plan, and very far from anything like justice or fairness. I desire that my proposition may be considered with a view to having some plan adopted for making an assignment, either by lot or selection, or in some way.

Mr. IVERSON. I will accept the Senator's amendment as a substitute for mine.

Mr. COLLAMER. Very well.

Mr. GWIN. The first resolution will stand, and then the proposition of the Senator from Vermont is to be added.

Mr. COLLAMER. I have no objection to the gentleman's resolution, but I want this addition put to it.

Mr. GWIN. Yes, sir; that is it.

The VICE PRESIDENT. The Secretary will read the resolution with the proposed amendment.

The Secretary read it, as follows:

Resolved, That the President of the Senate be authorized to assign a furnished room in the Capitol extension for the select committee on the Pacific railroad; and that the Committee on Public Buildings inquire and report to the Senate a plan for assigning the rooms in the addition to the Capitol appropriated to the use of the Senate.

Mr. GWIN. I accept the amendment.

The resolution, as modified, was adopted.

REPORTING OF THE DEBATES.

On motion of Mr. SEWARD, the Senate proceeded to consider the following resolution, submitted by him some time since:

Resolved, That the Joint Committee on Printing inquire and report whether any new provisions of law are necessary to secure a faithful performance on the part of Congress of the existing contracts which provide for accurate reports of the debates of the two Houses.

Mr. SEWARD. I wish to modify the resolution by striking out the words "on the part of Congress."

The resolution, as modified, was agreed to.

DUTIES ON IMPORTS.

The VICE PRESIDENT. If there be no further petitions or reports, the next business in order is the resolutions submitted by the Senator from Kentucky [Mr. CRITTENDEN] in regard to the revision of the rates of duty imposed by the act of March 3, 1857.

Mr. HUNTER. I would suggest to the mover of these resolutions that, as I suppose he wishes to speak to them, and probably there may be a debate upon them, it would be better to postpone them until some day after the holidays.

Mr. CRITTENDEN. Very well.

Mr. HUNTER. Will the Senator indicate some day after the holidays?

Mr. CRITTENDEN. Has the proposition been passed by the Senate to adjourn to the 4th of January?

Mr. HUNTER. We passed such a proposition, and it is now before the House of Representatives. Will the Senator name the 6th of January?

Mr. CRITTENDEN. I will agree to the 6th of January.

The further consideration of the resolutions was postponed until the 6th of January.

COMMITTEE CLERKS.

The VICE PRESIDENT. The next business in order is the resolution offered by the Senator from Louisiana [Mr. BENJAMIN] yesterday, as to the employment of clerks by the standing committees, the pending question being on the amendment of the Senator from South Carolina, [Mr. EVANS,] to add:

Except the Committees on Finance, Claims, and Printing, whose clerks shall receive an annual compensation of \$1,850 each.

Mr. FESSENDEN. In a report which was made to the Senate at the last session by a special committee appointed for the purpose, the privilege of employing a clerk was denied to several committees besides those named in this resolution, and made exceptions to it. I do not now recollect what those exceptions were; but I beg the Secretary to turn to that report and ascertain. I should like to move it as an amendment to the proposition.

Mr. STUART. Those committees have been discontinued.

Mr. FESSENDEN. Not all of them. The Committee on Public Buildings and Grounds was one, and the Committee on Patents and the Patent Office was another of the committees mentioned in that report as not needing a clerk. I move that this resolution be laid on the table for the present. The Senator from Louisiana, who offered it, is not here.

The motion was agreed to.

NAVAL COURTS OF INQUIRY.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate the records of proceedings of the several naval courts of inquiry, organized under the act of Congress approved June 16, 1857, to amend an act entitled "An act to promote the efficiency of the Navy."

Mr. CRITTENDEN subsequently said: I desire to move a reconsideration of a resolution adopted on the motion of the Senator from Louisiana, [Mr. SLIDELL,] requesting the President to furnish us with copies of the proceedings of the several naval courts of inquiry which have been held under the recent act of Congress. I think it is premature to make that call. I shall have no objection to its being made at the proper time; but it seems to me to be premature now. I wish to suspend the operation of the resolution for the present, for a reason which I will state. There are a great many records, of course. There have been over one hundred cases—I do not know exactly how many; it may be one hundred and fifty. This call is made on the President to send all those records here. It does not appear, and it may not be the case, that the President has had time to examine them all; and if he is to send them here previous to examination, it leaves the whole business in a very awkward and incomplete condition. There may be cases of such a character that the President may choose to send them back to the courts for revision. There may be blunders and inaccuracies in the records themselves which deserve correction; and for all these things time and opportunity should be allowed. It will be time enough for us to have these records when we are called upon to act on the subject. I think the adoption of the resolution now is premature, and may do mischief. I hope it will not be adopted.

Mr. SLIDELL. I have no desire to press the immediate consideration of my resolution, but I will state the reasons which induced me to offer it. There is a communication now before the Senate, which will require action in executive session, and it possibly may require some time to prepare the different records. They are voluminous. If the President thinks proper to send the originals here, no time would be lost. If it should be the pleasure of the Senate not to act on any portion of the business to which my resolution refers until final action is had in every case, I have no sort of objection to the postponement of this resolution; but I would suggest to the Senator from Kentucky, that his object can be equally well accomplished at a subsequent stage of the session, by offering a resolution calling for all those proceedings not yet consummated. As I understand from the newspapers—and they are sometimes not altogether without authority in matters of this kind—the President has confirmed the decision of the courts of inquiry in a number of cases which will require the action of the Senate. He has also, as I understand, confirmed the action of the courts, where it has been of an unfavorable character. There are a great many cases—probably nine tenths of them, certainly a very large proportion of them—where the printing of the record would not be required. I have reason to believe that there may be occasion to discuss this matter either here or elsewhere; and it appears to me time would be gained, and no inconvenience could possibly

result from the adoption of the resolution now. However, I have no disposition to press it, but let it stand as it is.

Mr. CRITTENDEN. I hope, then, it will stand as it is.

The VICE PRESIDENT. Does the Senator withdraw the motion to reconsider?

Mr. CRITTENDEN. No, sir. That will keep it in the position in which I desire to have it. Let it stand on the motion to reconsider.

The VICE PRESIDENT. The motion to reconsider will be entered.

KANSAS AFFAIRS.

Mr. STUART. I desire to call up at this time the business before the Senate yesterday, being the motion of the Senator from Illinois to refer certain portions of the President's message to the Committee on Territories. I learn from the honorable Senator from Indiana [Mr. FITCH] that he desires to occupy a short time in giving his views on that subject, and I have consented that he should do so before I enter on my own. I move to take up the proposition of the Senator from Illinois for that purpose.

The motion was agreed to; and the Senate resumed the consideration of the motion of Mr. DOUGLAS, to refer so much of the President's message as relates to affairs in Kansas to the Committee on Territories.

Mr. FITCH. Being indebted to the courtesy of the Senator from Michigan for the floor, I shall ask the indulgence of the Senate during but a brief occupancy of it, for I am anxious, as I know those about me are, to listen to that Senator, and to others who can be heard on this subject with far more pleasure and profit than anything I can say will afford.

Yesterday, sir, was the day fixed for the action of the people of Kansas on that portion of the constitution submitted to the popular vote. We shall soon know the result, and congressional action in the premises will soon be required—assuming, that is, that the election took place, and that no violence, no fraud interfered to prevent it or control it. Whatever my views and opinions of the question of slavery, the unfortunate subject of so much sectional controversy, may be, I am unwilling that the character of the decision yesterday had in Kansas on that subject shall possibly be supposed to control whatever action I may hereafter take on the question of admitting that Territory into the Union as a State; and hence I desire now to state the reasons which will govern my action. I wish to state the reasons in advance of any possible knowledge on our part of the character of that decision, that the latter may not be supposed to color the former.

My friend, the Senator from Illinois, [Mr. DOUGLAS,] who opened the debate, intimated a somewhat novel opinion yesterday during the discussion of this subject, namely: an opinion that the President had descended from his exalted position to devote two columns, more or less, of his annual message, to an assault on him, or at least upon his views, reports, and opinions upon this Kansas controversy; and further, that any allusion, even here by Senators in debate, was an attack upon him, premeditated, and part, perhaps, of a general design to read him out of the Democratic party!

Mr. DOUGLAS. Did I say on the part of the President?

Mr. FITCH. Oh, no.

Mr. DOUGLAS. I expressly exempted the President from that combination.

Mr. FITCH. The Senator misunderstood me, if he understood me as saying that he charged the President with any design to read him out of the party. As I shall necessarily refer to the Senator's argument, at least in the course of my brief remarks, because the honorable Senator has so mixed himself up with Kansas affairs that the latter cannot be discussed without reference to him and his arguments and positions relative thereto, I wish to advertise him and the Senate in advance, that whatever allusion I may make to him, is not designed as an attack on him, or as evidence of any want of respect for him. Nor, sir, must it be said that I have or assert for myself any right or power—not a scintilla—to read him out of the party; nor do I know or care where that power is, if it is possessed anywhere, because I do not believe in the thing. I grant you, sir, that a man may, by his

own voluntary acts, either by promoting discord within a party, or some other equally obnoxious course, place himself beyond the pale of party organization; but I scarce think the Democratic party, as such, cares sufficiently for persons, be they who they may, to put itself to the trouble of reading or resolving them out of its organization.

The Senator's argument, in his opening speech, was based upon the assumption that the Kansas act, repealing the Missouri line, bestowed upon the people of the Territories the right—ay, even imposed upon them the necessity of acting in their primary capacity on every legitimate subject of State legislation, embraced in whatever constitution they might send here, as preliminary to its recognition by Congress. The fallacy, the "fundamental error"—I think that is the term—of this position is manifest from the fact that the right was not prohibited or questioned by the Missouri line, or any other congressional enactment, except upon the single question of slavery. The right was claimed, admitted, and has been exercised, from the organization of our Government, of the people, to act either *en masse* in their primary capacity, or through delegates, as they preferred, upon all other constitutional subjects of legislation. The repeal of the Missouri line was, therefore, for the purpose, and for the purpose only, of placing that one exceptional question upon the same footing with all others, taking it from its exceptional position and placing it under the rule. This is rendered undeniable by the very language of the repeal. It proceeds to say:

"That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void."

It need not be said at this day that "non-intervention" has been construed from the days of the Nicholson letter to mean an acknowledgment of the right of the people of the Territories to decide the question of slavery for themselves, at least when they framed their State constitution, and to decide it untrammelled by any congressional prohibition or interference. Following the compromise of 1850—based upon that compromise—the Kansas act proposed, its supporters proposed, its author proposed, merely to carry out the spirit and principles of the compromise by extending them to Kansas and future Territories. Non-intervention, when first introduced as a term in politics, was applied solely to the slavery question. The compromise of 1850 was upon the slavery question. The Missouri line was only a restriction on the subject of slavery. Its repeal in the Kansas act was only upon the subject of slavery. The whole controversy during the discussion, alike on the compromise and the Kansas act, was on that subject, and that only. The opponents, both of the compromise of 1850 and of the Kansas act, endeavored to have that one question retained as an exception to the general rule, which underlies our Government, permitting the citizens of each State to control their own domestic affairs; and they sought to have it thus retained as an exceptional one, by endeavoring to induce Congress to prohibit to the people of the Territories, or the States formed from those Territories, any control whatever over that question.

Now, sir, we find an effort at this time to so construe those measures as to make them apply to all subjects of domestic legislation—an effort to so construe them as to make it a condition precedent to the admission of any new State that every proposition in its constitution shall have been submitted to a popular vote after the constitution has come from the hands of a regularly organized and legal convention! This is a construction inconsistent with the circumstances which brought those measures into existence. It is a construction not contemplated by their supporters, among whom, as a private citizen, I was early included. It is a construction scarcely compatible with their phraseology. We are said to be a progressive people. Is this new reading of these measures an evidence only of our general progress, a part only of our yearly accruing wisdom? Or lurks there behind it some policy of a personal bearing?

Mr. President, I doubt not that every gentle-

man is governed by the most honorable and patriotic motives in assuming whatever position he may take on this question. I will attribute none other to any man. But if there, unfortunately, be men, high in the Democratic party, who desire to avail themselves of the present phase of this question to take a position outside of that party, with the hope—by throwing fire-brands into its midst, or by directing their artillery against it—to destroy it, in return for some past grievance, real or fancied, I would commend to such the lessons fairly deducible from the result of every such attempt, from Burr's to Van Buren's. The Democratic is the great conservative party of the country—the only national party. It is the only mere political link in the chain which now binds the States in one common country. It is so deemed throughout the world; so known to its own members; so admitted even by the more candid and conservative of its political opponents; and none of these will hold that man guiltless, who abandons it upon a question having in it so little of practical importance as there is in this; and, by seeking its destruction, thereby admits his not unwillingness that a similar fate should be visited on the Union, perhaps, to subserve his selfish purpose.

The measures to which I have alluded—the compromise of 1850 and the Kansas act—as I have said, were designed to take one question; previously, in part at least, an exceptional one, from that position, and apply to it the same rule always previously applied under our Government to all other questions of domestic policy. They were designed, in fact, to subject that one question to the same control and the same usages to which all others were subjected. They did not contemplate either the enlargement or diminution of the powers previously possessed on other questions; neither an expansion nor contraction of those powers. They left all other powers in *statu quo*, to be exercised as they previously had been, only placing this one among them. But now we find an effort being made to so construe them as to make them subversive of the past usages of the Government; to make them limit the power previously possessed by our people, by compelling them to exercise it in one manner, and one only. We find an effort now being made, in fact, to so construe them as to deny to delegated authority the right to form an organic law—a right hitherto often exercised. This denial is explicitly made by Governor Walker in his recent (I am sorry to say somewhat egotistical) manifesto; one in which he sustains his position by quoting from himself only to support it. He makes this denial explicitly. According to his opinion, the constitutions of more than one half the States of this Union, and even the Constitution of the United States itself, are unconstitutional; because in the case of the former they have been formed by conventions called by acts of Territorial Legislatures; and because in the latter, in common with the former, they have become operative without any previous action upon them by a popular vote. Most fortunately for us, his opinion is not the paramount law of the land; otherwise, a majority of the most populous and wealthy States of the Union would be resolved at once into a territorial condition, and even the Old Thirteen would be compelled to fall back either upon their original articles of confederation or their colonial charters.

It was not, to my knowledge, intimated by any person anywhere, during the discussion of the Kansas bill, that it was the intention to construe that bill, as is now declared, so as to initiate an innovation into the past usage of our Government, by requiring the submission of every distinct proposition in a new State constitution to the popular vote after such constitution has been legally framed by an authorized convention, as a necessary condition precedent to the recognition of that constitution here. The Missouri line was a restriction upon the right of self-government, upon the doctrine of popular sovereignty, inasmuch as it denied to the people north of that line any control whatever over the question of slavery. The Kansas act repealed that line, and therefore annulled the denial, placing that question in the same category with others of a domestic character, subject to the same popular will, leaving that will to be exercised as before, in whatever manner it chose, either through delegates or by a direct vote.

The recognition of popular sovereignty by the repeal of the Missouri line, consisted in the fact that it placed the question of slavery where all others previously were. It did not provide, nor did it contemplate, nor did its supporters imagine, nor did its author intimate, that it contemplated the submission of every bank proposition, every internal improvement *projet*, every school system, every election qualification in a new constitution, to the people, before the people by and for whom it was formed should be admitted into the Union. Any attempt at that time to so shape its language as to place that construction on it, would have been resisted—I can venture, for the truth of this assertion, to appeal to those about me who acted with its author at the time of its introduction—not only as an uncalled-for and unnecessary innovation upon the past usage of the Government, but as in conflict with that very popular sovereignty which its author then so ably advocated, and for which he now declaims, by denying to the people their right to delegate their power and authority.

If the constitution of Kansas comes here, as we are told it will, without previous submission to the popular vote, I shall regret the fact as much as any gentleman on this floor, or any citizen throughout the Republic; but yet, if it comes here under such circumstances, it will not be an isolated exception to a general rule. Whence this newborn anxiety as to the manner in which that particular constitution shall come before Congress? The rule, on the contrary, has been quite the reverse; for, as the Senator from Missouri [Mr. GREEN] so ably told us, a few days since, a majority of the new States, Indiana, Ohio, and Illinois, included, have been admitted with constitutions which had not previously received the popular sanction, and no complaint followed, either from the States or Congress. Such manner of submission has heretofore met the sanction of the Senator from Illinois himself. I do not make this allusion to convict him of inconsistency, because I know not and care not whether he has been inconsistent or not. As he well said, yesterday, it has no bearing whatever on this question; and if attempts to convict each other of inconsistencies are to constitute the staple argument on this question, I fancy very few of us will escape unscathed. This manner of submission has before met his sanction, both positive and implied; positive, in his having voted for the admission of States with constitutions similarly formed and similarly presented; implied, in his having, jointly with others, framed a permissive act for Kansas, without providing for the submission of the constitution it contemplated to the people, before that constitution came here. If that permissive act had passed both branches of Congress, and become a law, the result would have been precisely what it now is.

Emanating as it did, from a Democratic source—the Senator from Georgia [Mr. TOOMBS] and the Senator from Illinois—it met the unqualified opposition of the opposite, or Republican party. That opposition would have been manifested in Kansas precisely as has their opposition to every other proposition not emanating from the Topeka faction, precisely as has their opposition to the territorial law calling a convention, namely, by their refusal to vote at the election of delegates to a convention. Such has been the policy and course of the Topeka faction within Kansas, and their abettors and sympathizers without. They have constantly refused to recognize any law in Kansas, except it was the work of the self-constituted law-makers of their own faction. They have refused to obey any law there, or hold it worthy of obedience, except the will of that faction. Their refusal to vote at the election of delegates, under the congressional permissive act, would have resulted precisely as has their refusal to vote under the territorial act. The same kind of constitution would have been formed and presented here in the same manner, without previous submission. The manner then would have been chargeable to Congress, especially the Democratic portion, and particularly the authors of the bill. Now it is chargeable to the people of the Territory, through their Territorial Legislature, and chargeable in the present case, as it would have been in the former, because of the omission to provide for its submission. If the present constitution had come here under the congressional permissive act, as it would if that act had passed, in all probability, it

is scarcely to be believed that it would have met the same reception it has now, from the same source—that a demand would have been made by the Senator from Illinois that it should previously be submitted to the people; that he would have been as prompt to condemn his own work as he now is that of others.

It is objected to this constitution that it was formed by a convention called into existence by a Territorial Legislature—a body, which those making the objection believe not possessed of the right or authority to make the call. In my estimation, this objection might have been well taken in the earlier days of the Republic, but it is too late to take it now, after the oft-repeated recognition of this right by admitting new States, whose constitutions have been similarly framed and presented. Usage, it need not be said, becomes, in legislative matters, law. Moreover, the Kansas organic act itself refutes this objection, giving, as it does, to the people of that Territory, the right to “form and regulate their domestic institutions in their own way.” Then, if they had not previously the right to call a convention by and through the Territorial Legislature, either as a necessary incident to the right to act through delegates or representatives, or as bestowed on them by the past usage of the Government in admitting many States with constitutions framed by conventions thus called into existence, that act explicitly gives them the right.

The case of Arkansas has been cited here. It has very little bearing on this. No Kansas act, no organic law, permitting the people of Arkansas to “form and regulate their domestic institutions in their own way” was enacted for that Territory.

Conscious that this objection has really little valid foundation, some of those making it resort to another, namely, that the Territorial Legislature, which called this convention was, in their parlance, a “bogus” one, an illegal one, and that, being illegal, neither the convention it formed, nor the constitution framed by that convention, can be legal. The Senator from Illinois (and I really feel myself under the necessity of begging his pardon, and that of the Senate, for such frequent reference to him; but it is unavoidable, as I have said, because of his previous connection with Kansas matters, and because his argument has been the only one in the Senate on that side of the case, in opposition to my views)—the Senator from Illinois does not agree with those who affirm the first of these propositions; in other words, he asserts the legality of the Territorial Legislature of Kansas, but he is understood to concur with the Topeka men in affirming the two latter.

Now, sir, Congress (the Senator from Illinois included) having repeatedly acknowledged the legality of the Territorial Legislature, it is very difficult to perceive by what process of special pleading we are to avoid acknowledging the legality of its acts if they do not conflict with the Constitution of the United States or the Kansas organic act. That many, and perhaps a majority of the citizens of Kansas, did not vote either at the election of representatives to the Territorial Legislature, or delegates to the convention, may be true. Where is your remedy? You cannot compel men to vote. They can only be permitted and invited to do so. If a part in any given community, in order to subvert some particular political purpose, to supply pabulum, it may be, for some political party, to promote the purposes of some partisan leader, neglect or reject the invitation, and will not vote, is the machinery of Government hence to stop, and society to resolve itself into anarchy? Because some political party or, perhaps, a sufficiency of them to change a majority, will not vote, are those who will do so to be deprived of any government? Permit such an absurdity, and you deprive New York of any State government during the period for which its officers were recently elected. Admit such an absurdity, and you enable any faction to overturn your Government by keeping away from the polls, especially if they can substantiate a probability that the majority and the laws would have been different if they had voted.

Our Government is one of checks and balances; and some of its checks apply even to the people themselves. Among the objects of our Government, one is to protect the legal rights of the minority against an illegal assumption or denial of those rights by a majority. While the right

of the majority to rule is clearly recognized, it must rule in a legal manner. If a majority resolve itself into a mob, and will neither vote nor observe law or order, the minority who are law-abiding, who form and obey government, cannot be deprived of the benefits and protection of that government by such majority. Is mobocracy to be substituted for democracy? The denial, by the Topeka faction, of the legality of the Territorial Legislature is a part of their plan to subvert a particular purpose. They design thereby to force upon Congress a retrospective recognition of the Topeka constitution, with the officials created under its pretended adoption. Hence their proclaimed determination to receive no constitution, not even that framed at Topeka, from the hands of the late convention. Its acceptance now would imply the necessity of a future election, and the Robinsons and Lanes, and their sympathizers here, are apprehensive they might not be as successful at those elections as they were at such as were ordered and controlled by themselves. Therefore they demand the recognition, and of course the legalization of the Topeka constitution of the past, with all its attendant anarchy, all its attendant defiance of the legal territorial and constitutional authorities, and indeed with all its factional treason. In furtherance of this demand they take exceptions to certain portions of the present constitution other than the slavery clause. To that they do not deem it advisable to object, because being submitted to the popular vote, they know that it will be expected of them by the world outside of that Territory, if they have the majority they claim, that they show their majority by rejecting that clause.

A comparison of the features to which they object in the Lecompton constitution, with similar ones in that of Topeka, which they profess to have adopted, is favorable to the former, showing that their objections are merely factious. Among these objections is, that twenty years' citizenship is required as a qualification for Governor. Their own—the Topeka constitution—permits a semi-barbarous Indian to be Governor! There is a bank clause in both; and if there be any choice where, as in matters of banks, all is evil, that choice is clearly in favor of the Lecompton instrument, because the bank for which that provides cannot go into operation without the previous assent of the people. Both contain a clause prohibiting amendment for a certain number of years in the future. I grant you it is a dead letter in both, because the people will amend or change their constitution in their own good time. In the Topeka instrument this prohibition extends to 1865. The conduct of that Topeka faction, their resistance to legal territorial and national authority, their incipient rebellion, are yet too fresh in the minds of our people to permit a direct proposition to be seriously entertained for one moment, to legalize their acts; yet we are called upon to do so indirectly; we are called upon to trundle to this treasonable faction, to humbly ask it whether this or some other constitution will best subvert its purposes. We are asked to ignore the existence of any law-abiding citizens in Kansas to place such men in power and position.

The compromise of 1850 and the Kansas act of 1854 based upon it; both recognize in the people of the Territories the same right and power possessed by the people of the States, namely: the right and power to govern themselves, subject only to the Constitution of the United States and the laws necessary to enforce it. The recognition of this right and power has resulted, in all except two of our present Territories, in the formation of a legal and orderly government of the character contemplated. The two exceptions are Utah and Kansas. In the former, usurpation, defiance of and opposition to the constitutional authorities of the country have resulted; in the latter, anarchy and faction, and a determination to yield obedience to no law except the offspring of faction. The remedy in the former case is a plain one—it is force. In the latter the only remedy must be the recognition of the acts of such law-abiding citizens as have evinced a willingness to be governed and to govern themselves by yielding obedience to a constitutional and legal government. The interests, the welfare, indeed I may say the safety, not only of the neighboring States and Territories, but of the entire Confederacy, demand that this Kansas controversy, a local one, should be

localized; that it should no longer be permitted to form an irritating element of national politics, disturbing the peace and endangering the unity of our Government, but should be limited to Kansas. The experience of the past, and indeed of this moment, clearly shows that this can only be done by admitting Kansas as a State. The people of Kansas have no right to demand or expect the entire country to be continually agitated, its prosperity interrupted, its unity endangered, because they will not reconcile their contemptible feuds—will not settle their factious quarrels. When admitted as a State, then, and then only, its people will, as they must, govern themselves. Then faction in Kansas will have no apology for calling on its abettors and sympathizers without, or upon Congress. Then no power outside of itself will have any pretext for interfering with its domestic feuds. Then, if one constitution be not pleasing to a majority of its inhabitants, it can be amended, or another substituted whenever that majority so will, even if it be within a few days.

With all deference to those, especially from my own section, who differ with me on this subject, I see no course for Congress to adopt in the present emergency but to admit Kansas with whatever constitution it may present here—assuming always that the election of yesterday was not fraudulent, and was not interrupted by force—after first satisfying ourselves as to the constitutional requirement, is it republican in form? and next, did it emanate from a legal source? was it formed in a legal manner? These are the only questions, in my judgment, that we have any warrant for asking. It is not for us to inquire how many votes were cast at the election of delegates to the convention. It is not for us to ask whether some portion or all of it was submitted to the popular vote, unless indeed, as in the case of the constitution of Wisconsin, the instrument provided for its own submission; or unless, as in the case of Minnesota, a previous act of Congress required such submission. In all other than these two exceptional cases, such questions are for the decision of the people alone. If they choose to enact a law through their Territorial Legislature, calling a constitutional convention, in the absence of any congressional law on the subject, they have a right to do so. If in enacting such law they choose to permit or provide for a submission of the entire constitution, or only a part of it to a popular vote, or to have all of it withheld from such submission, they have a right to do either. They possess the right under their organic law permitting them to form and regulate their institutions in their own way," and they possess it generally under our recognized doctrine of non-intervention, or popular sovereignty. If any domestic differences occur between themselves and their servants, their representatives or delegates, the same doctrine of non-intervention prohibits us from interfering. Their domestic differences, like their "domestic institutions," must be settled by them in "their own way," so that the way be legal. If a portion of the citizens choose to refrain from voting, either for representatives to their Legislature, or for delegates to their convention, or for or against whatever portion of their constitution may be submitted, we have no remedy. We cannot force them to vote. Those who abstain from voting, whether they abstain merely as peaceable citizens or for factious purposes, as has been the case with a vast number in Kansas, permit others to vote for them, and if the decision at the ballot box be adverse to their views they permit that decision to be taken by default. Congress, acting under the Constitution, and the doctrine of popular sovereignty, recognizes their right to vote and their right "to form and regulate their domestic institutions in their own way;" but it is for them, and them alone to say to what extent they will exercise the right of voting, in what manner they will exercise it, or whether they will exercise it at all. It is not for Congress to prescribe the manner and extent, or to dictate a particular way, in which they shall form their "domestic institutions," whether immediately through the ballot box, *en masse*, or by delegating authority to act for them. If they present a constitution here, republican in form, emanating from legal authority, formed in a legal manner, it is not for us to require that a certain number of votes shall have been cast at the election of the delegates who framed it; it is

not for us to require that a portion of it, or all of it, shall have been submitted to a popular vote, unless such submission be required by the instrument itself or by a previous act of Congress; it is not for us to require that it shall contain a bank clause or an anti-bank clause, a slavery clause or an anti-slavery clause. These are all questions for the decision of the party directly interested—the people of Kansas. If these or similar requirements are adhered to, and the constitution returned because it does not fulfill them, such action on our part will be a denial of popular sovereignty, a denial of their right to regulate their domestic institutions in their own way, and a demand that they shall form and regulate them in that way, whatever it may be, prescribed for them and dictated to them by Congress. It would be, in fact, direct intervention with their domestic institutions, their internal affairs.

I should have greatly preferred, especially in the present state of feeling in Kansas and throughout the country, that the entire constitution had been submitted to the people. It would have been, if the people would have exercised the right guaranteed to them. The fault is their own, not ours. We cannot go behind their own legal actions—recognized as legal heretofore by Congress and the Executive. We are bound by that action in my estimation. I say I should have greatly preferred that the entire instrument had been submitted to the people; but, notwithstanding this preference, the legal right of the convention, under the law which called it into existence, to withhold the constitution in part or altogether from submission, is to my mind unquestionable. The convention is responsible to the people of Kansas alone for the exercise of that right.

We are told that if we recognize the present constitution, difficulties will ensue. I believe it; and so they will if we reject it. Indeed, I have heard of no proposition connected with this matter which has not its attendant difficulties. My own sincere desire is to have that course adopted which will be productive of the least evil to the greatest number. Without committing myself for or against any other proposition which may come up, and which may be rendered necessary perhaps by some exigency—either a failure to hold an election yesterday, or a forcible prevention of an election, or interference with it—I shall only select at present between the two which are likely from the present state of facts to come before us. One of these is to recognize this constitution; the other, to reject it.

The first of these propositions is recommended by the President, the chief Executive officer of the nation; the man but recently elected by an overwhelming majority to preside over its destinies for four years; an old man, almost three score and ten; one who has devoted the greater portion of his long life to the service of his country, and has been placed in almost every position in the gift of its citizens, and discharged the duties of all to their satisfaction; one who has no political future, no schemes of personal ambition to subserve, who is no candidate for a future nomination, but will retire from the position he now holds with far more pleasure than he entered upon its duties, desiring only to leave behind him a fair fame and name, and to so administer the Government as will best promote its power, its honor, and its prosperity. The other of these two propositions is supported by the Senator from Illinois. I honor him. I have ever admired him; yet, in some respects, he is the antipodes of the President. Young, of a brilliant intellect, of which all his countrymen might well be proud, but ambitious, and a candidate past, and perhaps future. I do not speak this in any disparagement of him, for ambition, divested of self—a desire to hold place without any selfish motive inciting it; a desire to hold place merely to leave the impress of his policy on the Government of his country and to enhance the prosperity of its people—is an honorable feeling.

In justification for his so ill-timed hurrying this debate upon the Senate, and upon the country, the Senator from Illinois told us that the President, in his message, had assailed him and his previous course. He intimated further, that every allusion to him here, in debate upon the affairs of Kansas, was designed as a continuation of the attack, and that there was some person, or some power, using a suborned press and suborned letter-writers, to likewise assail him. In all this, he

sees more of himself than others do—fancies himself the object of actions which have little reference to him, and with which little thought of him was associated. He did not name or locate this person, or this power, thus suborning the press, leaving full play for our imaginations. It may be some tangible person; it may be some myth, some fog, some shadowy nothing, existing only in his imagination; or it may be that this one of his allegations grew out of a recollection of a similar charge once brought against himself—a charge to which he then very promptly and properly took exception, as I do to this general charge of his against a somebody who is not designated. He was once charged—and it was not in a subdued whisper, but trumpet-toned and hundred-tongued—with at least no unwillingness, that a public journal, thought to be controlled by him, and claiming to be the mouth-piece of the national Democracy, should throw overboard Mr. Buchanan, General Cass, and other fathers of the party, as "old fogies."

I have thus, sir, briefly stated the qualities of the two gentlemen who recommended these opposite propositions. I have the most profound respect for them both. Locality, every consideration of self, if such could enter into my motives of action in this matter, would induce me to go with the Senator from Illinois. We are geographically neighbors. I may almost say that his people and my people are one. He has, perhaps, more influence among my people than I have myself. These considerations, however, have nothing whatever to do with my course, or my opinion on this question. Between these two counselors, thus recommending opposite propositions, I have no hesitation as to whose advice to follow. Of the two propositions, I look upon the one to reject this constitution as far the most mischievous, because it will prolong this controversy as an element of that dangerous sectional agitation, which threatens, and has threatened, the unity of the Republic. Between the two, assuming that one or the other must be acted on here, my choice will unquestionably be for the former.

Mr. DOUGLAS. Mr. President, I ask pardon of the Senator from Michigan for occupying a few moments of the time properly belonging to him. I regret that, as the Senator from Indiana spoke by the courtesy of the Senator from Michigan, he should have deemed it necessary to say anything that demanded a reply from me at the expense of the Senator who is entitled to the floor. I understand the Senator's argument to rest upon the proposition, which he argues at some length, that the object, the only object, of that portion of the Kansas-Nebraska bill which repealed the Missouri restriction, was to place the slavery question on the same footing with each and every other local and domestic question, as had been done from the beginning of the Government. I do not misunderstand him on that point.

Mr. FITCH. No, sir.

Mr. DOUGLAS. I am glad to find that on the very basis of his argument he and I agree. It was the object of repealing the Missouri compromise, to put the slavery question on the same footing with each and every other domestic question in the Territories and new States: that is, to leave the people perfectly free to form and regulate all their domestic institutions, slavery included, to suit themselves. On this point, however, he differs with the President of the United States; for the President tells us that the object was to make slavery an exception and submit that by itself, but not submit the other questions.

I was sorry to see the Senator taking issue with the President of the United States upon a question of that kind, and, at the same time, arraigning me for having done the same thing. The whole head and front of my offending consists in the fact, that I dissented from that part of the President's message which declared that the slavery question was an exception, and argued to prove that the object of the Kansas-Nebraska bill was to exclude that exception and put the slavery question on the same footing with every other question which was local and not national, State and not Federal. The Senator from Indiana now agrees with me that the President was wrong in that part of his message, and that I was right. There is no avoiding this conclusion. He repeated the proposition a dozen times in the course of his speech. I am glad to find that he and I

agree thus far. I hope he will not consider that he is outside the pale of a healthy organization; that he is abandoning the President, and engaging in an ambitious scheme to break down the Administration, because he differs with the President on the same point that I do.

He says I have come out in favor of a general rule, novel in the history of the Government, that, hereafter, every constitution formed by a new State coming into the Union must be submitted to the people before it is sent here. The Senator argues against the general rule as being a novel and revolutionary principle, which ought not to be fastened on the country at this day. Has he read the President's message on that point? In the message, the President of the United States tells us that the example of the Minnesota bill, in requiring the constitution to be submitted to the people, is a noble example; and should be followed in all cases hereafter to arise. The Senator is arraigning the general rule of the President in regard to the submission of constitutions to the people for ratification. I stand with the President in behalf of that general rule.

I am a little at a loss to see upon what ground it is that the Senator utters vague innuendoes about men putting themselves in a factious position towards the party, dividing and distracting its councils to such an extent that they ought to be considered outside of the party. He differs with the President on two points: I on one. The President says the slavery question is treated by the Kansas-Nebraska bill as an exception. The Senator says that by that bill, and by the Cincinnati platform, the slavery question is put on the same footing with all other questions, without any exception. On that point, as I have said, the Senator from Indiana and myself agree, both differing from the President. He differs from the President in regard to the general rule that the constitution ought to be submitted to the people. On that point I agree with the President. If to differ from the President is faction, then the Senator has just double the amount of faction in his position that I have in mine.

Then what is the issue between the Senator from Indiana and myself? Agreeing that the object of the Kansas-Nebraska bill was to place the slavery question on an equal footing with all other local and domestic institutions, and leave the people free to decide the whole, he takes the ground that he will not submit those questions to the people, and I take the ground that they should be submitted to the people. That is the simple point of difference. On that point the reasoning of the President is with me, for he says, that by the terms of the Nebraska bill, it was incumbent upon the Democratic party to insist that the slavery question should be submitted to the people for their decision; and if the Senator from Indiana be right in saying that by the Nebraska bill the slavery question was put on the same footing with all others, then if he agrees with the President, he affirms that the whole constitution should be submitted to the people for their ratification.

Thus we find the gentleman in conflict with the President of the United States at all points, and in conflict with the President upon the very recommendations he makes in regard to the Territories which are about to become States, to wit: the general rule of submission. The Senator from Indiana will not claim, like the Senator from Pennsylvania, that he has "other sources of information" than the message. He will not claim that there are sources of information which authorize him to deny the propositions laid down in the message. If he will, I should like to know who is the friend, and who is the enemy, of the President of the United States?

The Senator from Indiana cannot maintain his position without rebelling against a large portion of the message on the Kansas question. But I hold that he has a right to differ from the President. God forbid that I should ever surrender my right to differ from a President of the United States of my own choice! I have not become the mere servile tool of any President, so that I am bound to take every recommendation he makes, without examining and ascertaining whether it meets the approval of my judgment or not. I know that the President would not respect me if I should thus receive a *dictum* from any authority contrary to my judgment.

Again, yesterday, I tried to ascertain if there

was any one Senator on this floor who was prepared to yield obedience to the President's recommendations in his message, without exception. I instanced the Pacific railroad, the bankrupt law, the tariff, and many other questions, and I could not get a response from any one man who indorses the whole, or is prepared to carry it out. All other men are permitted to dissent but me! It is factious in me to dissent! If I dissent, it disturbs the harmony of the Democratic party! I tell the Senator that if he will stand faithful by the Cincinnati platform, which affirmed the right of the people to decide all their local and domestic institutions for themselves, there will be harmony between him and me; and if each member of the party will stand by that platform, there will be harmony in the whole party. Why not stand there? Oh, it is factious! It is intimated, not charged, that there is something fearful, something terrible in this thing of a man daring to be true and faithful to his principles, when other men do not desire that he should be.

Allusions are made to men whose names are known—to Burr and Van Buren—as if they came from sources that would read me out of the Democratic party. I should like those who are arraigning my course here, to compare records with me in my devotion and service to the party for the fourteen years that I have been in Congress. The assumption is, that I will not bow the knee to power, when that power itself does not recommend it, and the insinuation is that I am factious. Sir, call it faction; call it what you please; I intend to stand by the Nebraska bill, by the Cincinnati platform, by the organization and principles of the party; and I defy opposition from whatever quarter it comes.

I predict that sixty days shall not go over my head before I shall be in harmony with those who are now most relied upon to crush me and the principle of the Nebraska bill, by the admission of the Lecompton constitution. I shall be mistaken if, in sixty days, you come here unanimously demanding the indorsement of the Lecompton constitution, as a test of faith. The pro-slavery clause stricken out may make popular sovereignty look very different in gentlemen's eyes from what it would if it were in. The pro-slavery clause in, with the exception of the Senator from Indiana, the merits of that convention may look very differently to some gentlemen from what they would if it were out. With me it can make no difference. I regard the result of that convention as a trick, a fraud upon the rights of the people, and come with slavery or without slavery, I am opposed to the whole of it.

But we are told we must force the Lecompton constitution down the throats of the people for the sake of peace; for the sake of localizing the quarrel. How is that to be done? By passing an act of Congress forcing a constitution on the people of Kansas against the will of that people. What next? When you find the stubborn, factious majority resisting the government that you have imposed on them, the President will be called upon to use the Army and the Navy to put down insurrection; and inasmuch as this Lecompton faction is only composed of perhaps one tenth or one twentieth of the whole people, and there is not a man of them who dares stay there a day without the United States army to protect him, we should have a special message from the President recommending an increase of the Army, and the calling out of volunteers to march to Kansas to put down the insurrection, and maintain the government which you force on them at the point of the bayonet. That is the mode in which you are going to localize the Kansas quarrel—by calling troops from Virginia and from Wisconsin, from Illinois and from South Carolina, from Massachusetts and from Mississippi, and stationing those volunteers around the city of Lecompton to protect the Governor whom you impose upon that people against their will! Then I suppose there will be perfect peace and harmony among them all. You will restore peace in that way, and localize the Kansas difficulty! No, sir. The moment you impose a constitution on that people against their remonstrance and protest, you have nationalized this difficulty, and pledged yourselves to maintain that government at the point of the bayonet, and with all the power at your command. You have legalized civil war instead of localizing the Kansas quarrel. These are my

convictions. I believe that such will be the consequences, if we proceed in this mad career of forcing a constitution on a people against their will. I hope I may be mistaken, and that such consequences will not result; but, while such are my convictions, I must be permitted to express them. If my doing so brings down assaults on me, from whatever quarter, high or low, from my own section or an opposite section, I must repel those assaults; but I do not choose to go into any crimination or recrimination in regard to consistency on former phases of this question. I am willing that my consistency shall be judged of by the public. I think my course is pretty well known, and I am willing that the people shall judge of it. If the course of the Senator from Indiana is equally well known, let the people judge of it by that knowledge. If it is not as well known, I have no desire, no disposition, to hunt up old speeches and old records and old letters to show his inconsistency. Consistency has very little to do with this question. The great point is, is it right to force a constitution upon a people against their will? Am I not right in my opposition to that act of power and oppression? I would rather argue that question than go into any controversies with political friends or even political opponents. I would prefer that they should consider me so humble an individual that my history of fifteen years is not necessary to be discussed, inasmuch as during the whole fifteen years, I have found them loud in praise of my course as to the political iniquities which they now propose to bring in judgment against me.

But, sir, I ask no mercy in relation to this matter. I will not provoke controversy with anybody. I shall not shrink from the avowal of my opinions and the vindication of my character whenever I choose to do it. I may not reply to all. It may be an object to worry out my strength by these constant attacks from day to day. Whenever I find it failing I will reserve myself, and then come back and take a raking fire at the whole group. [Laughter.] But whenever I shall feel inclined I will repel the blow at the time it is struck.

Mr. FITCH. Mr. President—
The VICE PRESIDENT. The Senator from Michigan is entitled to the floor.

Mr. FITCH. I should not ask the indulgence of the Senator from Michigan, but for the fact that the Senator from Illinois, for reasons best known to himself, attributed to me language which I did not utter, and sentiments which I have not expressed or entertained. I must, therefore, appeal to the courtesy of the Senator from Michigan to allow me to answer.

Mr. STUART. Inasmuch as I commenced the day by acts of courtesy, it would hardly be graceful now for me to refuse to extend the courtesy. I yield to the Senator.

Mr. FITCH. At first, the Senator from Illinois assumed that his own and my argument were based on the same idea—the idea that the slavery question, from being an exceptional one, was, by the compromises of 1850 and by the Kansas bill, placed under the general rule, and subjected to the popular will, in precisely the same manner with other domestic questions. Whatever his views now may be, he did not express that view in his opening speech. Here it is, in the pamphlet form, as ordered by the Senator:

"Now, sir, what was the principle enunciated by the authors and supporters of that bill, when it was brought forward? Did we not come before the country, and say that we repealed the Missouri restriction for the purpose of substituting and carrying out, as a general rule, the great principle of self-government, which left the people of each State and each Territory free to form and regulate their domestic institutions in their own way?"

"Repealed the Missouri restriction for the purpose of substituting" a something else—a new "general rule;" self-government in lieu of the rule of government previously enforced. Why, sir, that paragraph implies that the Senator from Illinois wrested the right of self-government from some tyranny, and bestowed it on the people; that he gave them a "general rule"—a power which they did not previously possess. Now he claims merely to have taken one question from an exceptional position and placed it under a "general rule" previously in force. I grant that, subsequently, in the course of his remarks, he spoke of the slavery question as an exceptional one, which his Kansas bill proposed to place upon the

same footing with the other domestic questions; but not so in the opening remarks of his speech—its foundation. He tells me, I differ with the President. I stop not to ask whether I differ with him or the Senator from Illinois. Neither the President nor any other gentleman is responsible for my course, but myself. I would differ with the one as soon as with the other, if I thought his reasoning, or the conclusions at which he arrived, were not correct. I do not read the message as the Senator from Illinois reads it, and his reading is not justified by its language. I nowhere find the President saying that the slavery question was made an exceptional one by the Kansas bill. He says, in substance, that it was the prominent question, the one which had been discussed, the one which had been agitated; and, therefore, that it was highly proper that it should be submitted to the people as a distinct proposition. The Senator from Illinois asserted—not in terms, but that was the purport—that I denied the propriety of submitting a State constitution—including that of Kansas—to the people. I distinctly asserted my regret that it was not thus submitted; but declared that, in my opinion, we had no right to go behind the authority we had recognized as legal, and demand its submission, when that authority had omitted to demand it. The Senator from Illinois must confine himself to the record—to what I have said—when he pretends to quote me or my sentiments.

The Senator asks me, as he asked the Senator from Pennsylvania yesterday, why these innuendoes about faction and a division of the party. He was the first Senator to introduce here what he calls innuendoes and intimations upon that subject. He was the first to allude to any possible division of the party; the first to allude to any faction in connection with this question. I merely answered his allusion, and am not to be taken to task for it.

I did not quote the message, as he says. I scarcely made allusion to it, except as to the conclusions at which the President arrived. Has the Senator no other defense than attributing language to me I did not utter—attributing sentiments to me I did not express? He says he agrees with the President in some points, and differs with him on others; and that I disagree with him on some, and coincide with him in others. The difference between the Senator and myself is simply this: he denies the President's conclusion, but pretends to coincide with him in his reasoning; while I concur both in his reasoning and conclusion.

Mr. DOUGLAS. What conclusion do you refer to?

Mr. FITCH. The conclusion that the constitution of Kansas, if it comes before us, as it is supposed it will, from the convention directly, without previous submission, will nevertheless be a constitution which we can legally accept, and perhaps, under the circumstances, ought to accept.

The Cincinnati platform is lugged again and again into this controversy by the Senator. I have some little, but not much, faith in political platforms. You know, sir, how they are framed. A committee is appointed to draft resolutions; they bring them forward, and because they do not happen to expressly conflict with the sentiments of the wise gentlemen then and there-assembled for another purpose than to build a political platform to guide all posterity, namely, to nominate candidates for President and Vice President, forsooth they are to control Government and its policy from thence henceforth forever. I have no objection to the Cincinnati platform; on the contrary, I believe it to be an admirable one. It recognizes, in almost the language of the Kansas bill, the right of the people to regulate their domestic institutions in their own way. The people of Kansas have exercised that right in their own way, a way deemed legal; a way the President deems legal. True, there is opposition to that way, and some demand that their institutions shall be regulated in another way, namely, by the submission of the constitution, emanating from what we deem a legal source, to the popular vote; when the source from which it emanated was not compelled by the people in enacting the law, calling that source into existence, to thus submit it. I should be pleased to have it submitted; but it is not my will, but the will of the people of Kansas, legally expressed, which is to control the matter. The people of Kansas frame their own laws

through a Legislature. I look at those laws, and find one calling a convention to frame a constitution, without requiring its submission to the people. The people, in fact, were willing to part with control over it, and leave the whole matter in the hands of the convention. I can only know their will through their laws, and I know no right, except it be an arbitrary one, authorizing me or Congress to set aside or go behind their laws.

The Senator takes exception to what he calls insinuations. Mr. President, much of his first speech was devoted to insinuation, and hence it ill becomes him to charge insinuations to others, when simply alluding to his own. It is well known that he insinuated, in his opening remarks, that improper influences were at work upon the affairs of Kansas, either outside or within the Territory, of which he possessed a knowledge, and yet he would not give that knowledge to the Senate. He insinuated, as is within the recollection of every gentleman who heard him, that some kind of influence was at work, an improper and unauthorized influence, to compel the slavery clause to be struck out of the constitution. He insinuated some sort of knowledge on his part that the "returns"—emphasizing the word—would show a great majority for striking out that clause, as though there was to be a second edition of the Oxford frauds, though in an opposite direction; and he had knowledge of this fact, but would not communicate it. This was a mere insinuation. Upon what was it based?

Now, again, he indulges in the same strain. He insinuates that within sixty days those now agreeing with the President in his views in relation to this matter, particularly southern Senators, will stand side by side with him, because the slavery clause will, in all probability, be stricken out.

Mr. DOUGLAS. I did not say northern or southern.

Mr. FITCH. Then those who agree with the President. This is an insinuation that gentlemen—he says he did not indicate southern gentlemen—who have avowed, in public and private, their views and their determination to vote for this constitution, if it comes here with a fair election yesterday, not interrupted by force, whether the slavery clause be left in or voted out, leaving that question for the decision of the people, will change their determination if that clause be stricken out.

Mr. President, it was to avoid just such an insinuation in relation to myself, because I knew it would come, that I determined, if an opportunity offered, to state the reasons for my action in advance of any possible knowledge of the character of the decision yesterday. I was determined that neither that Senator, or others, should be able to say to me, you would have voted differently if that clause were in, or differently if it were out.

Other insinuations are also made. One is that some power or person, some vague shadowy something, which he would not name or locate, was suborning and buying editors and letter-writers to assail him. I have not the money, if I had the inclination, if it was intended in part for me.

Another insinuation which I did not think proper to answer, and an uncalled for one, was, if I did not misunderstand his language yesterday, that those who were opposed to him were, in a great measure, governed by Executive patronage and favor. I have nothing to ask of the Executive, present or future, for myself, and scorn any such imputation, come from where it may. When imputations like that are thrown abroad to influence and prejudice the people against their representatives here, it only indicates what kind of motive can govern the man who makes them.

Mr. DOUGLAS. Mr. President, I have a word to say in regard to what the gentleman designates insinuation. It is true I did intimate by some form of expression, (the precise form I cannot now call to mind,) that I had not the most implicit faith in the returns that will come from Kansas, as to the election held yesterday, and I will tell you why I intimated that doubt. In the first place, I saw that the convention took that election out from under the existing laws of the Territory, and placed it under the direction of three commissioners to be appointed by the president of the convention, who should appoint the judges, and they the clerks, and hold the election

without law. It is the first time in the history of this Government, so far as I know, that a convention has ever taken the election from under the existing laws of the land in the Territory. In the other cases the president of the convention has issued the writs of election to the sheriffs and the other county officers who were authorized by law to conduct elections; and it was provided that they should be conducted and returned according to law. Here they expressly took it away from the law, and thus gave an opportunity to the judges and clerks to make as many false returns as they pleased, without violating any law of the land. I thought it was very extraordinary that a convention desirous of a fair election and honest returns should have taken it out from under the law, thus to give unfaithful clerks and judges an opportunity, if they chose, to make false and fraudulent returns. That was the reason why I had my doubts.

I looked into the constitution of that convention and I found my doubts strengthened by that examination, for I found that the Oxford frauds were legalized in the constitution. I found that Johnson county, which had only about four hundred legal voters, was assigned four representatives and two senators; while Shawnee county, with nine hundred voters, was assigned two representatives and one senator. The county having double the number of legal voters had but half the representation. I am informed that, when that fact was called to the attention of the convention by Judge Elmore, who represented Shawnee, and asked why it was, the answer given was: "The gentleman forgets that Oxford city is in Johnson county." The adding of the one thousand six hundred fraudulent votes of Oxford city swelled the number from four hundred to two thousand, and thus enabled them to give four representatives and two senators to Johnson county, based on that fraud; when, without the fraud, it would not have been entitled to more than one senator and one representative.

It appearing on the face of the constitution that the Oxford fraud was thus legalized—it being ascertained that the fact of its being legalized was called to the attention of the convention at the time they did it—that Oxford fraud being alluded to as a justification for doing it; and then it being known that the members of the convention almost unanimously denounced Governor Walker for having set aside that fraud, furnished a presumption that there must have been a reason why they provided, by that schedule, that the returns hereafter should not be trammelled by any law which would authorize anybody to set aside frauds. With these facts before me, I did entertain a doubt as to whether it was intended that there should be honest returns; and I say now, frankly, I have not the slightest idea that those returns will be entitled to any credit whatever.

Mr. FITCH. Will the Senator allow me to interrupt him, because I cannot ask the Senator from Michigan to yield the floor again? The Senator from Illinois says that he based his insinuation that improper motives were at work, either within or without Kansas, to insure the striking out of the slavery clause yesterday, on a knowledge of the fact that fraudulent returns had been previously made, and that the manner of election for the constitution was unusual. I have before me his language—the language of the insinuation. The facts to which he now refers had been long known to him. The Oxford fraud was long known to him, for it was a matter of public notoriety for weeks before Congress assembled. The manner in which the election of yesterday would be conducted was known. The schedule of their constitution and the report that their election would be conducted in that manner and by certain officers created by the constitutional convention was well known for weeks. But the knowledge which was in his possession, and upon which he insinuated improper motives were at work in Kansas to secure the striking out of the slavery clause, was something altogether different, if we are to believe the honorable Senator's words at the time of the delivery of his speech. He said:

"I think I have seen enough in the last three days to make it certain that it will be returned out no matter how the vote may stand."

Mr. DOUGLAS. I am much obliged to the Senator for calling my attention, and that of the Senate, to the express language. The facts which

I have detailed warranted me in the supposition that there was an opportunity to return the slavery clause in or return it out, just as should be thought best, and that the convention intended to give that opportunity by providing, in effect, that the laws of the Territory, with their penalties, should not be brought to bear on the offenders, if they did perpetrate fraud. I thought I saw such a design.

Now, what I alluded to having seen within the last three days, was this: there were rumors current—I did not know whether true or false, and I do not know now whether they are true or false—that several gentlemen had started from here to go by express to Kansas to use all their power and influence to get the pro-slavery clause stricken out, so that northern men could vote for the constitution, whereas it was supposed they could not if it was not stricken out.

Mr. FITCH. Does the Senator wish to be understood as intimating that any northern Senator sent such a message? If so, in the spirit of his language to the Senator from Pennsylvania [Mr. BIGLER] yesterday, from what source does he derive his knowledge? Who is his authority, and who sent the message?

Mr. DOUGLAS. I made no insinuation that any northern Senators or any southern Senators had anything to do with it. I stated that the rumors existed. I saw one gentleman, a warm pro-slavery man, who was hurrying off to Kansas for the purpose of inducing them to strike out the clause, in order that a vote of Congress should be received in favor of the constitution. He did not say that anybody sent him. I heard that others had gone. Who sent them? Whether they were sent by anybody, I do not know; but I confess, taking that in connection with the fact that there was no penalty for fraud, no penalty for false returns—that the laws of the land which punished frauds had been set aside by the convention—led me to doubt whether I ought to have much confidence in the returns; and hence it was not worth while for me to wait before I defined my position until those returns should come in. I did not intend to mention the mere rumor; but let it go for what it is worth. It may be true, or it may be false.

A word now as to the action of the convention which justified the supposition, as I believed, that frauds might be accomplished without the violation of law. The frauds at Oxford were indorsed by the convention when their attention was called to them. The same members of the convention who did that, denounced Governor Walker for having set aside those frauds. A further fact, which is stated to me by an officer of the Army who was present, is, that the clerk who was understood to have perpetrated the Oxford frauds, was chosen clerk of the convention by acclamation, on the suggestion that his services in Johnson county entitled him to that election. These facts, taken together, led me to suspect that much confidence was not due to the returns which should be made there. I merely, by a sort of *lapsus linguae*, expressed that doubt at the time. Since my attention has been called to it, I give the Senate the foundations on which those doubts existed, and I leave the country to judge whether they are right or not. I have no desire to excite prejudice on this question.

Mr. CLAY. Will the Senator permit me to interrupt him?

Mr. DOUGLAS. With pleasure.

Mr. CLAY. I ask the Senator whether the twelfth section of the schedule does not expressly provide for the enforcement at this election of all the laws of the Territory regulating other elections, and thereby provide against the commission of fraud and impose the penalties attached to fraud in other elections?

Mr. DOUGLAS. I do not think it does.

Mr. CLAY. That is my recollection.

Mr. DOUGLAS. Can the Senator from Michigan inform me as to this point? Has he a copy of the schedule at hand?

Mr. STUART. Allow me to say to the Senator from Illinois and to the Senate, that one great disadvantage I am receiving from this discussion is that gentlemen are using a great deal of my argument, [Laughter.]

Mr. DOUGLAS. Under that view of the case, I will take my seat and allow the Senator from Michigan to proceed.

Mr. STUART. It has been suggested by sev-

eral Senators around me that it is not the pleasure of the Senate that I should proceed to-day. I submit myself entirely to their pleasure.

Several SENATORS. Go on to-morrow.

Mr. STUART. It is also suggested by the Senator from Delaware [Mr. BAYARD] that he desires to have an executive session. With that view, I move to postpone this subject till to-morrow, and I shall ask the indulgence of the Senate to express my views then.

Mr. DAVIS. I have a word to say before the postponement. The Senator from Illinois closed his remarks by saying that he did not wish to prejudice—

Mr. DOUGLAS. I did not close my remarks, but I yielded the floor to the Senator from Michigan. If the Senate is not going into executive session, I have a few words more to say.

Mr. CLAY. With the permission of the Senator from Illinois, I beg to read the twelfth section of the schedule, because I think he has done gross injustice to the convention, and his remarks are calculated to produce a false impression, and a very baneful influence, if permitted to go uncontradicted. I shall simply read the twelfth section, and say nothing more, at this time, in reply to the Senator. The twelfth section of the schedule is in these words:

"All officers appointed to carry into execution the provisions of the foregoing sections, shall, before entering upon their duties, be sworn to faithfully perform the duties of their offices; and, in failure thereof, be subject to the same charges and penalties as are provided, in like cases, under the territorial laws."

Mr. STUART. It is true the schedule makes that provision; but it is equally true that the acting Governor of the Territory, in his opening message to the Legislature, has said there is no law in Kansas punishing fraudulent returns.

Mr. CLAY. In reply, I simply ask the Senator whether the *ipse dixit* of the Governor is to prevail over the law?

Mr. STUART. No, sir; but there is no such law.

Mr. CLAY. If what the Governor says does not override the law, it is of no moment whatever.

Mr. DOUGLAS. I am aware that the clause which has been read was in the copy of the constitution published in the National Intelligencer; but it was not in the copy published in the Union, which was said—I do not know how the fact may be—to have been furnished by the President. How to account for the variance I do not know, unless in this way: it was said in Kansas that the convention adjourned without having put the constitution in form, but appointed a committee to do that; and it may be that the copy published in the Intelligencer was the revised copy, while the Union published the constitution as made by the convention. Whether that be so or not, however, I say the clause as read does not put the matter under the territorial laws, as it would have been if left to the regular officers, who were subject to penalties for making fraudulent returns. As I said before, I shall not continue the argument further to-day, although there are many other things that I should like to say.

Mr. CLAY. I simply say to the Senator he is mistaken. I hold in my hand what purports to be, and what I am assured is, a copy of the Union containing the schedule.

Mr. DOUGLAS. I will say to the Senator from Alabama, that I shall look into the matter, and if I find that I have been mistaken I shall take great pleasure in saying so in open Senate.

Mr. STUART. My motion is to postpone the further consideration of this subject until to-morrow.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. BAYARD, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 22, 1857.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER announced the business first in order to be the call of committees for reports,

and that reports were in order from the Committee of Elections.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, its Secretary, notifying the House that that body had passed a resolution of the House, entitled "A joint resolution to amend the act entitled an 'Act to regulate the compensation of members of Congress,' approved August 16, 1856."

EXCUSED FROM SERVING ON COMMITTEE.

Mr. GIDDINGS. I desire to be excused by the House from further service on the committee of Claims, in consequence of physical disability to perform my duties on that committee. I make that motion.

The motion was agreed to.

NEW JUDICIAL DISTRICT IN MICHIGAN.

Mr. WALBRIDGE, by unanimous consent, presented joint resolutions of the Legislature of the State of Michigan in relation to a new judicial district in said State; which were referred to the Committee on the Judiciary, and ordered to be printed.

TREASURY NOTE BILL.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the Treasury note bill.

Mr. HOUSTON. Before the question is taken on the motion of the gentleman from Pennsylvania, I desire, unless he intends to submit the motion himself, to move that the debate on the Senate bill be closed in the same time prescribed by the House for the House bill—in two hours after the committee shall proceed to its consideration. I submit that motion, and demand the previous question on it.

Mr. CAMPBELL. I wish to inquire whether the Senate bill has been printed? If it has not, I do not think the House is prepared to take up and debate that bill.

Mr. BOGOCOCK. I would also suggest a question of order upon the motion submitted by the gentleman from Alabama, [Mr. HOUSTON.] I do not think it is competent for the House to close debate upon a bill which has never been taken up in committee. I think that the rule requires that the bill shall, at some time previous, have been considered in committee, before the House can pass a resolution for closing debate. I do not wish to insist upon the point of order. I merely suggest it for the consideration of the Chair.

Mr. HOUSTON. I hope the gentleman will not insist upon the question of order.

Mr. BOGOCOCK. I will withdraw it.

Mr. BANKS. I make the question of order that the House cannot close debate upon a bill which has never been considered in committee. I do not do it for the purpose of defeating the action of the House upon the bill. I am willing that the House shall come to a vote to-day upon one bill or the other; but I desire that our business shall be taken up in its regular order.

Mr. HOUSTON. I understand that the Senate bill has been printed, and will be laid upon our desks immediately.

The SPEAKER. The Chair sustains the question of order raised by the gentleman from Massachusetts. It is not in order to close debate upon a bill which has not been considered in committee. The Chair, therefore, decides that the resolution of the gentleman from Alabama [Mr. HOUSTON] is not in order.

Mr. TAYLOR, of Louisiana. I wish to make a suggestion, before the question is put, upon going into Committee of the Whole on the state of the Union. The House has passed an order that all debate in Committee of the Whole on the House Treasury note bill shall be closed in two hours after we shall go into committee. Now I wish to suggest that, by unanimous consent, it shall be agreed that each individual who speaks shall be limited to fifteen minutes. There are a number of gentlemen who desire to make some expression of their views upon this bill. By limiting the speeches to fifteen minutes each a considerable number of gentlemen may be heard, while the number must necessarily be very limited without such limitation.

The SPEAKER. The proposition may be entertained by unanimous consent.

Mr. GROW. I will not object if the gentleman will put it at twenty minutes.

Mr. TAYLOR, of Louisiana. Very well; then I will put it at twenty minutes.

Mr. HOUSTON. I object to twenty minutes. I have no idea that any gentleman can discuss this question as he wishes to in twenty minutes. I do not know that I shall have anything to say myself upon the bill; but I do not think it would be good policy to make such a limitation as the gentleman suggests. If he will put it at half an hour I will not object.

Mr. FLORENCE. I hope the gentleman will put it at ten minutes. I think I could myself answer all the objections which have been made against this bill from the other side of the House in five minutes. [Laughter.]

The SPEAKER. Does the gentleman from Alabama object to the proposition of the gentleman from Louisiana?

Mr. HOUSTON. No, sir, I will not interpose objection.

No further objection being made, the proposition was assented to, by general consent; and the question recurred on the motion to go into Committee of the Whole on the state of the Union.

Mr. J. GLANCY JONES. Before the question is put upon the motion to go into Committee of the Whole on the state of the Union, I wish to state that the reason why I did not myself make the motion to close debate on the Senate bill, was that the same question of order was made yesterday, and I supposed the motion would not be entertained. I will say, however, that when the House shall go into committee, I shall move to lay aside the House bill and take up the Senate bill. I shall then move that the committee rise, for the purpose of closing debate upon it.

Mr. SEWARD. Is debate in order?

The SPEAKER. It is not.

Mr. SEWARD. Then I object to all debate.

The question was put upon Mr. Jones's motion; and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of House bill (No. 4) to authorize the issue of Treasury notes, upon which the gentleman from Pennsylvania [Mr. GROW] was entitled to the floor.

Mr. J. GLANCY JONES. I move to lay aside the House bill, and take up the Senate bill upon the same subject.

Mr. STANTON. I hope the House will not adopt the motion of the gentleman from Pennsylvania. I do not think the committee has the power to consider, at this time, the Senate bill. The Constitution provides that all bills for raising revenue shall originate in the House of Representatives. That is the effect of this bill, and we have no right, therefore, to take the Senate bill into consideration.

The CHAIRMAN. In the opinion of the Chair, the motion is in order.

Mr. BANKS. The gentleman from Pennsylvania [Mr. GROW] is entitled to the floor, and the chairman of the Committee of Ways and Means certainly cannot submit his motion until he has the floor for that purpose.

Mr. J. GLANCY JONES. I made the motion, as I understood it, with the assent of my colleague, [Mr. GROW.]

The CHAIRMAN. The Chair understood the motion to be offered with the consent of the gentleman from Pennsylvania, who is entitled to the floor. If not, the gentleman is entitled to the floor, and the motion will not be received.

Mr. GROW. It is immaterial to me which I speak on. I only desire the privilege of submitting some remarks upon the question. Shall I be entitled to the floor on the other bill?

The CHAIRMAN. If the gentleman from Pennsylvania yields the floor for the purpose of allowing the motion to be made, the Chair will again assign him the floor.

Mr. SEWARD. I should like to know how the Senate bill came in the possession of this committee at all?

The CHAIRMAN. The Chair will state to the gentleman from Georgia that the bill was referred by the House to the Committee of the Whole on the state of the Union.

Mr. STANTON. I suppose the motion is debatable.

The CHAIRMAN. It is not.

Mr. STANTON. Well, sir, I trust the committee will not take up the Senate bill. [Cries of "Order!"]

The CHAIRMAN. The question is one relating to the priority of business, and no debate is in order.

Mr. SEWARD. If the motion to take up the Senate bill is in order, I want to know how many bills intervene on the Calendar between the House bill and the Senate bill?

Mr. CLINGMAN. I object to all debate.

Mr. JONES, of Tennessee. Is it in order to set aside this House bill under the resolution of the House, closing debate and requiring that the committee shall proceed to vote upon it?

The CHAIRMAN. The resolution adopted by the House yesterday, requires the committee to close debate upon the House bill in two hours after its consideration shall be resumed. In the opinion of the Chair, the consideration of that bill has not been resumed, and the motion is therefore in order.

Mr. FLORENCE. I rise to a question of order.

The CHAIRMAN. One question of order is already pending, raised by the gentleman from Tennessee. The Chair overrules the question of order.

Mr. SEWARD. I want to know the condition of these bills; whether the Senate bill comes up next in order on the Calendar, if this bill is laid aside?

The CHAIRMAN. The gentleman from Georgia is not in order, as he has not risen to a point of order.

Mr. COLFAX. Well, I have risen to a point of order three several times, but have not been recognized by the Chair. The Constitution of the United States declares that all bills for raising revenue shall originate in the House of Representatives; and the Senate bill declares, in the fourth section, that,

"The Secretary of the Treasury is further authorized, with the approbation of the President, to borrow, from time to time, such sums of money upon the credit of such notes as the President may deem expedient."

This explicitly declares that he shall raise revenue upon the hypothecation of these notes. I raise, then, the point of order that it is a revenue bill, and should have originated in this House.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from Indiana. That is a question for the determination of each member, as he is called to vote upon the bill, and not for the Chair.

Mr. FLORENCE. I submit a point of order, with a view to avoid this difficulty. Would it not be in order to move to strike out all after the enacting clause, and to insert this bill?

The CHAIRMAN. That question cannot be raised at this moment, as there is a motion now pending, made by the gentleman from Pennsylvania, [Mr. J. GLANCY JONES.]

Mr. SEWARD. I understand that there are several bills on the Calendar before the Senate bill. Now, these bills cannot be postponed to take up this bill.

Mr. CLINGMAN. That question does not rise now. It will be time enough to decide it when it comes up in order.

Mr. GROW. I desire to understand my rights. [Laughter.]

The CHAIRMAN. The Chair will decide the question raised by the gentleman from Georgia in its proper place.

The question was taken on the motion to postpone the consideration of the bill, (H. R. No. 4;) and it was decided in the affirmative; there being, on a division—ayes 95, noes 73

The CHAIRMAN. The Chair would state to the House that the Calendar has not been printed. The Chair was not aware of what appropriation bills intervened between the bill which has just been laid aside and the Senate bill; but he is now informed by the Clerk that two appropriation bills—the bill making appropriations for the consular and diplomatic expenses of the Government, and the Indian appropriation bill—are before the Senate bill.

Mr. GROW. I desire to inquire whether the postponement of the bill postponed me with it?

The CHAIRMAN. Of course it does.

On motion of Mr. J. GLANCY JONES, the two appropriation bills on the Calendar prior to the Senate bill were severally postponed.

The next bill in order for consideration was "An act (S. No. 13) to authorize the issue of Treasury notes."

Mr. GROW obtained the floor.

The bill was read *in extenso*.

The CHAIRMAN. The bill will now be read by sections, and will be subject to amendment.

The Clerk then reported the first section of the bill, as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized to cause Treasury notes for such sum or sums as the exigencies of the public service may require, but not to exceed, at any time, the amount of \$20,000,000, and of denominations not less than \$100 for any such note, to be prepared, signed, and issued in the manner hereinafter provided."

Mr. GROW. I move to strike out the first section of the bill.

Mr. J. GLANCY JONES. I ask my colleague to give way for a moment.

Mr. GROW. I hope my colleague will not ask me to give way again. I have been postponed and laid aside once already.

Mr. J. GLANCY JONES. It will not come out of my colleague's time. My object is merely to have a limit put to the debate. The debate on the House bill was ordered to be closed in two hours; and I desire, with the consent of my colleague to move that the committee rise, in order that the same limit may be placed upon the debate on this bill.

Mr. GROW. My colleague will not, I hope, ask me to yield further, as I desire to continue my remarks now. I think I have been very accommodating this morning, and ought now to be allowed to proceed.

Mr. Chairman, before addressing myself directly to the merits of the bill, I desire to say a word in reply to the gentleman from Virginia, [Mr. LETCHER,] who yesterday claimed that the Administration and the so-called Democratic party were not responsible for the expenditures of the Government increasing within five years from forty-six million dollars to over seventy million dollars. The gentleman's practical economy in legislation is proverbial, and I trust it will not be considered egotistic for me to say that since I have been a member of Congress, upon almost all questions affecting the expenditures of the Government, I have voted with him. He will, therefore, receive my remarks as being made in no spirit of cavil, but with an earnest and sincere desire to see a reform in this Government that shall bring back its expenditures to the economy and simplicity of its days of early virtue. That gentleman has been too long in the public service not to know that no reform in the expenditures of this Government can be effectual unless it commence in the heads of the Government. It must begin with the Departments. The gentleman claimed that the so-called Democratic party was not responsible for any appropriations for the last two years, because they were in a minority in this House. Then no party was responsible for any of those appropriations, for no party had a majority in the House of Representatives in the last Congress. The gentleman knows that a proper economy in the expenditures of the Government can only be regulated by your Departments; for they make their estimates and then ask Congress to make appropriations accordingly, and if withheld, as we did in a few cases in the last Congress, you are charged—and I think the gentleman from Virginia was one of those who echoed the charge against us—with being factionists and desiring to block the wheels of Government and inaugurate revolution.

The Departments first create the necessity for appropriations, by enlarging their forces and increasing the expenditures of the Government, and then ask Congress to appropriate the money; and if Congress fails to do it, they divert the appropriations made for other purposes to the payment of those they desire to see paid, or they come in with a deficiency bill, and you are then asked to pass it, because, if you do not, the citizen will suffer who has relied on the faith of the Government, and furnished either labor or supplies. Sir, the enormous expenditures of to-day are chargeable upon the Administration that has con-

trolled the Government during the six years in which those expenditures have doubled. Let them commence retrenchment and reform by limiting the estimates, and then you will limit the appropriations; for, as I said before, you cannot stop these vast expenditures in the legislative department of the Government, unless you are ready to meet the charge that you are trying to inaugurate revolution, and block the wheels of the Government. We met that charge in the last Congress, when we refused to appropriate the money for some of the estimates, and because we did so, the so-called Democratic party endeavored to make the country believe, during the last presidential canvass, that we were revolutionizing, and that we desired to block the wheels of the Government by refusing to grant the appropriations asked for to carry on the Government, though we believed the appropriation wrong. And, sir, unless you have the cooperation of the heads of Departments of the Government, such would be the result in every case.

The expenses of the Army and Navy have been doubled within a few years, and so have been those of almost every department of the Government. How are you to bring the Government back to the economy of the early days of the Republic, and the simplicity that characterized its administration? The men who have charge of the public Departments know what branches of the public service can be curtailed without injury to the public service; but it is impossible that we should know all the details of the different Departments of the Government. No law can be passed that would not have a discretionary power, to some extent, in the head of a Department in its expenditures and the number of its employes, which have been gradually increased and converted by this Government into a secret police force, to stand guard at the ballot-boxes in the local elections of the country, in order to control, if possible, the action of the people. The Administration has swelled the expenses of the Government from forty-six to seventy million dollars, much of it in this way; and to-day, if a subordinate of the Government dares to exercise the right of an American freeman in one of the local and municipal elections of the country, his head falls under the guillotine, worked by the headsman in Washington. Places must be provided by the Administration for the Representatives who, upon this floor and in the other wing of the Capitol, have been discarded by their constituents because they betrayed their solemn trust in order to uphold the policy resolved on by the Administration as a party test. In this way the patronage has been greatly increased, and to it is to be attributed much of the enormous increase in the expenditures of the Government.

But, as I said before, the gentleman from Virginia will understand that I make these remarks in no spirit of cavil, but merely to show that the needed reform must begin in the Departments. They are responsible for the enormous expenditures of this Government; and they are responsible, in the most obnoxious way, by converting the Government officials into a secret police to interfere with the elections of the country. They send into the conventions of the people of the States their chosen minions from the post offices and the custom-houses to lay down their political platforms and, so far as lies in their power, to control their nominations; and then whatever official of the Government dares to oppose the nominee of the party—even though the “devil incarnate”—loses his place, and is no longer fit to discharge the duties of the office. The manly exercise of the inalienable rights of an American citizen to act on his own judgment in the local elections of the country, if against the wishes of the Administration, disqualifies him for holding any office of profit or trust under the Government of his country.

But, sir, I now turn to the consideration of this bill and its features. While it is true that a Government, in the exercise of its legitimate functions, should not attempt to shape and control the business of the country, nor to convert itself into an almshouse to distribute charity to the needy and distressed of its citizens, yet it is its duty—its first and paramount duty—so to legislate, confining itself to its proper and legitimate functions, as not to enhance any existing derangement of business in the country; but, if possible,

to add to the prosperity and development of its great interests and resources.

To-day, we are asked by the Government to provide means to pay its debts. That is a legitimate object of legislation. The ordinary sources of revenue, in the present state of the business of the country, are dried up, and the Government is unable to meet its liabilities. While it is a proper, legitimate duty of the Government to raise the revenue necessary to defray its expenses, a sound statesmanship requires you to do so in the way that will least embarrass the business of the country, and will add, if possible, to the development of its great and material resources.

The question presented is, whether the Government should go into the money market and make a loan of money to pay its debts, or whether it will issue paper promises to pay when there is nothing in its vaults to redeem these promises. It is only the mode and manner of relieving the Treasury that is in controversy; for there is no man on either side of this Hall who would refuse to furnish relief to the Government and save its plighted honor by voting the necessary supplies to pay its honest debts. The manner of doing it is the only question. And to answer that question properly, it is necessary to consider the condition of the country, and how your proposed law is likely to affect it in its business relations.

What, then, is the condition of the country? In a day we have seen the most far-seeing and sagacious of our business men reduced from affluence to penury and want, and honest, willing labor wandering a famished beggar in the streets. What has produced this unprecedented convulsion of the country? for it becomes a wise legislator to inquire into the probable influence of the laws he proposes upon the business relations of life.

Mr. FENTON. I wish the gentleman from Pennsylvania [Mr. Grow] to state, if he is in possession of the information, the relative amount of the specie, and of the paper money in the country at the date of the late monetary disaster, and then I would inquire whether, in his judgment, the banks are directly responsible for the late financial revulsion that has come upon us; or whether other causes, growing out of the speculative spirit of the times, not immediately marked by the facilities afforded by the banks in obtaining money, have aided to swell and hasten this commercial and financial crisis?

Mr. GROW. I will answer the question of the gentleman from New York, though I may not be able to furnish conclusive or very satisfactory proof of the real cause of the present financial revulsion. Many things may have combined to produce it, and it might be difficult to specify any one thing as its cause. Without stopping to inquire, except so far as is necessary to notice the question propounded by the gentleman from New York, whether it was caused by a redundant paper currency, or is the result of the financial policy pursued by this Government for a few years, or what influence either or both of these causes have had in producing it, it is in my judgment to be attributed more to an expanded credit than any other one thing. What influence the financial policy of the country for the last few years has had in producing that expansion, I do not propose here to inquire; but will merely say that, in my judgment, the changes made in the tariff policy of the country during the last Congress, forced upon the House of Representatives by the Senate, were injudicious, and calculated to stimulate this overgrown and expanded credit, and add largely to our foreign indebtedness, which has augmented the evil of the day.

The present crisis is likened to that of 1837, when there is no similarity in the apparent causes that have produced them. In 1837 there was an expanded paper currency, with a very insufficient metallic basis. The banks had a circulation of \$150,000,000, while they had in their vaults but \$50,000,000 in specie, and outside the banks, there was but \$30,000,000 in the hands of the people. There was in the country at that time, according to the most reliable statistics, but \$80,000,000 in specie, so that the bank issue was in excess of the whole specie of the country, \$70,000,000. When the crash came, therefore, there was no circulating medium. Gold and silver could not take the place of paper money, for there was not sufficient of it.

The Government then issued Treasury drafts, because paper was the only thing that could be substituted to fill up the void.

That state of things does not exist to-day, and this brings me directly to the inquiry of the gentleman from New York, [Mr. FENTON.] Whether an excessive paper currency was the cause of this expanded credit will be determined by the statistics of the banks. In 1837 there was a necessity for some circulating medium, there not being metallic currency enough for the business of the country. Its whole amount then was about eighty million dollars, while now there are over three hundred millions. The coinage of the Mint, from the formation of the Government down to the 30th of September, 1856, amounts to \$549,000,000. The imports of coin into the country since 1820, (for previous to that time there were no separate statements kept by the custom-house,) amount to \$293,000,000; which makes an aggregate of \$842,000,000. That does not include the amount of specie brought into the country by immigrants, who seek homes on our shores. Deduct from this \$842,000,000 the entire exports of coin from the country since 1820—\$436,000,000—and it leaves somewhere in the country \$406,000,000. The circulation of the banks in September last was about one hundred and eighty-seven millions, while they had in their vaults in specie \$60,000,000. Take the amount of specie in the banks from the whole amount in the country, and it will be found that in September last there was, in the country, in the hands of the people, not far from \$200,000,000 in specie. The bank issue in September last, by these figures, was over one hundred million dollars less than the metallic currency of the country, after allowing a dollar of specie for every dollar of paper. In 1837 the paper circulation was \$70,000,000 in excess of the coin in the country. To-day the coin is \$100,000,000 in excess of the paper.

Why, then, this revulsion? It certainly has not resulted from an excessive expansion and contraction of bank issues, as in 1837; for the bank issues for the last four years have been quite uniform: in 1854, \$182,030,141; in 1855, \$163,522,705; in 1856, \$170,968,903; and in 1857, \$187,000,000. During this period the banks have had in their vaults about sixty million dollars, while there have been over two hundred million dollars in the hands of the people. The first failure, however, in the beginning of this crisis, created a panic, by reason of the expanded credit of the country, which ended in almost entire want of confidence in moneyed circles. Hence, the specie in general circulation was hoarded, and the banks compelled to refuse further discounts, and finally to suspend specie payments.

Under such circumstances, what is the duty of a wise Legislature? Is it to send forth an irredeemable paper currency, to augment the pressing evils of the times? What is the duty of a wise legislator in the present condition of the business of the country? Is it to adopt such legislation as will tend to keep out of circulation a metallic currency, by substituting a paper currency in its place which has no metallic basis, and for which there is no provision for its redemption in gold? Will not the paper currency which is proposed by this bill tend to keep from circulation the hoarded specie of the country? No man even on the other side of the House will deny that the tendency of paper, in any form, as a currency, is to exclude specie from circulation. The worst currency always circulates. If a man has two bank notes, one at ten per cent. discount, and the other at two per cent., he will, as a matter of course, pay out the one at ten per cent. first; and retain in his possession the one of the most value. So, if you bring the paper currency provided for in this bill into circulation, you will keep out of circulation a like amount of hard money, because that is the best and safest currency.

While the paper currency is sent abroad to furnish the means on which the business of the country is to be transacted, the specie will continue to be locked up in vaults and chests, and withdrawn from circulation. You issue these Treasury notes, as provided by the bill, and they can be immediately converted into a currency that will pass from hand to hand. All that would be needed is an indorsement in blank. It would go out representing the credit of the Government, the same as a bank note represents the credit of the bank.

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

SATURDAY, DECEMBER 26, 1857.

NEW SERIES...No. 10.

There is neither gold or silver in the Treasury, nor have you provided one dollar for the redemption of these notes.

Mr. HUGHES. I wish to call the attention of the gentleman to one point. I wish to ask him whether the stocks which he is in favor of issuing have not coupons attached to them, which may go into circulation as a currency?

Mr. GROW. I have not examined this bill as it came from the Senate; and I know not what provisions it may have on that point. I can only say, therefore, to the gentleman that I have never known of the coupons attached to bonds going into circulation as a currency. I do not think they would ever enter into circulation. But, sir, when one of these notes has an indorsement upon its back, as the gentleman from Massachusetts [Mr. BANKS] yesterday remarked, it is upon its legs and it may go forth to the country to return whenever it pleases. But by this bill you cannot force it to come at any time. But, sir, authorize a loan and you draw specie forth from the vaults and hoarded closets, and put it into circulation.

This crash has come upon the business interest not because the country is bankrupt. The country was never richer than at the present moment. It is true the country owes \$400,000,000 abroad, for the building of railroads, but the railroads are constructed, and form part of the real wealth of the country. In nine cases out of ten, where failures or suspensions have occurred, it has not been in consequence of want of means, for it has been shown that their assets far exceeded their liabilities.

How can the Government assist in bringing back the business of the country to its ordinary course? It cannot be done by legislation, I admit. But when you are providing for raising the revenue with which to pay your debts, if you can aid in accomplishing that result, it is your duty to do it. It is the duty of the Government, under the circumstances, to take such steps, so far as may be in its power, as shall draw out of its hiding places some part of the \$100,000,000 which is thus withdrawn from circulation. The Government has but to advertise for a loan, to obtain in three days all it wants. Wall street is as full of specie as it ever was. You then secure to the circulation the amount borrowed, and thus aid in relieving the business of the country. Expansion of currency tends to increase prices of property. But, for the last six years there has been an expansion of our currency by the working of the mines of California, by which \$200,000,000 have been added to the coin of our country. That of itself would have enhanced the price.

[The committee here informally rose and received a message from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the joint resolution of the House, amending an act entitled "An act to regulate the compensation of members of Congress, approved August 16, 1856." The committee again resumed its session.]

Mr. GROW. I shall trespass but a short time longer on the patience of the committee. I have thrown out the suggestions I desired to make upon this bill, to shadow the reasons which will control my action on the final vote of the House upon the bill.

In my judgment, it is an unwise policy for this Government to pursue in any case, to issue paper promises to pay, when, by the statistics of the country, you have an abundance of hard money, which only needs to be drawn into circulation for the business purposes of the country. Let not the Government, then, add to the ills of the country by adding what represses the circulation of coin. The Government should, when the wants of the country demand a loan, borrow from those who have hoarded up the coin, and infuse it into the veins and arteries of the business of the country. The life-blood of trade is a currency resting upon a metallic basis, convertible, at all times, into specie.

I propose, in the proper place, to offer the following amendment:

That the President of the United States be authorized to borrow, on the credit of the United States, not to exceed \$10,000,000, in such sum or sums as the exigencies of the public service may require, and issue therefor the stock of the United States, bearing interest at such rate as may be fixed by the Secretary of the Treasury, subject to the approval of the President, but not to exceed six per cent. per annum, for the sum so borrowed, redeemable within one year from the date of issue: *Provided*, That no stock shall be issued at a less rate than its par value: *Provided, also*, That the authority herein granted shall expire on 30th of June, A. D. 1859.

I propose to limit the amount to \$10,000,000, instead of \$20,000,000; and that the Government shall borrow the money instead of issuing Treasury notes. For I think the Secretary of the Treasury has fallen into an error in proposing to throw out these Treasury notes, and I have limited the amount to \$10,000,000, because the Secretary of the Treasury says that he does not know that \$20,000,000 will be needed. He says:

"Though the amount of \$20,000,000 will not, in all probability, be needed at an early day, if at all, yet it is deemed best that the Department be authorized to issue and keep out that sum."

I am opposed to putting out any of this paper. It is to keep it in, that I ask that it be borrowed. This scheme seems to provide what the gentleman from Connecticut [Mr. BISHOP] claimed the other day to be the effect of these notes—the supply of a currency, the issuing of paper to be used as such. Pay your debts, like an honest man in the business transactions of life. You go to your debtor, and ask him to pay \$100. He says, "No, I cannot do it." "Have you not the means to pay?" "Yes, I have property enough to pay, but I have no money. I will give you my note, payable a year hence, with such interest as I choose to fix." Would you not consider that a dishonest transaction? Your debtor having the ability to borrow, it is his business to go into the market and borrow to pay you. It would be dishonest thus to pass off paper, while he could borrow and pay. Equally open to objection, in my opinion, is the system proposed by the Administration, while at the same time they inflict a great wrong upon the business transactions of the country by adding to its paper circulation.

Mr. SMITH, of Virginia, obtained the floor.

Mr. J. GLANCY JONES. I ask the gentleman from Virginia to yield me the floor, that I may submit a motion that the committee rise, with a view to move, in the House, to limit the debate.

Mr. SMITH, of Virginia. I yield, if I do not lose the floor thereby.

Mr. ADRAIN. I believe that I am entitled to the floor.

The CHAIR. The Chair did recognize the gentleman from New Jersey a short time since; but it was while the gentleman from Pennsylvania [Mr. GROW] was upon the floor. The Chair subsequently recognized the gentleman from Virginia, and he is entitled to the floor.

Mr. J. GLANCY JONES. As the gentleman has yielded to me, I move that the committee rise.

The motion was agreed to.

So the committee rose, and Mr. PHELPS reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly Senate bill (No. 13) to authorize the issue of Treasury notes, and had come to no conclusion thereon.

Mr. J. GLANCY JONES. I move the usual resolution to close debate upon Senate bill (No. 13) within one hour after the committee shall again resume the consideration of the same.

Several VOICES. Say two hours.

Mr. J. GLANCY JONES. I will make it two hours.

Mr. CLINGMAN. I move to amend by substituting one hour:

The amendment was agreed to.

The resolution, as amended, was then adopted.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted; and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. There seems to be some misunderstanding in reference to the agreement of the House, this morning, as regards limiting speeches to twenty minutes. The question is, whether that agreement is applicable to this bill?

The SPEAKER. The understanding of the Chair is that the consent of the House, to which the gentleman refers, was given to House bill No. 4.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to extend that arrangement to this bill.

Mr. SMITH, of Virginia. I object.

Mr. J. GLANCY JONES. Then I move that all debate be limited to twenty minutes in Committee of the Whole.

The SPEAKER. The Chair cannot entertain the motion.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House then.

Mr. SMITH, of Virginia. I object.

Mr. PHILLIPS. Cannot the gentleman move to suspend the rules?

The SPEAKER. Not to-day.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House that speeches on Senate bill No. 13, in Committee of the Whole on the state of the Union, shall be limited to twenty minutes.

Mr. SMITH, of Virginia. I object, sir.

Mr. J. GLANCY JONES. I move, then, that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of Senate bill (No. 13) to authorize the issue of Treasury notes.

Mr. SMITH, of Virginia. I will say to the gentleman from New Jersey, [Mr. ADRAIN,] that I shall not occupy more than thirty minutes.

Mr. ADRAIN. I ask the gentleman to yield me the floor for twenty minutes.

Mr. SMITH, of Virginia. I will give the gentleman a portion of my time, if I do not lose the floor by so doing.

Mr. STANTON. I object to any farming out of the floor in that manner.

Mr. SMITH, of Virginia. I will not occupy more than twenty minutes, so that the gentleman from New Jersey will have an extra chance of getting the floor.

Mr. ADRAIN. I certainly understood that I was recognized by the Chair, and entitled to the floor.

The CHAIRMAN. The Chair recognized the gentleman from New Jersey at a time when the gentleman from Pennsylvania [Mr. GROW] had not concluded his remarks; and the gentleman from Virginia [Mr. SMITH] was recognized at the close of the remarks of the gentleman from Pennsylvania.

Mr. ADRAIN. I had a conversation with the gentleman from Virginia, and he agreed that if I would occupy only a few minutes, he would yield me the floor.

Mr. KEITT. Certainly; but the House objects to that arrangement.

Mr. SMITH, of Virginia. The gentleman will have a chance after I have concluded.

The CHAIRMAN. Is there any objection to the gentleman from New Jersey proceeding now? Several MEMBERS objected.

Mr. SMITH, of Virginia. It would have afforded me sincere pleasure to yield to the gentleman from New Jersey; but, under the circumstances, objection being made, I trust he will not consider me as wanting in courtesy, as it is not in my power to oblige him.

I desire, Mr. Chairman, to submit very briefly my views upon this subject, and, in passing, to

pay my respects to gentlemen on the other side of the House who have spoken on this subject. I confess my surprise—my very great surprise—at the course of remark in which those gentlemen, without one exception, have indulged, and, of course, as I propose to confine myself to a very brief period, I shall have to make a rapid reference to what has fallen from them.

If I understand the condition of the country, and the necessity for this measure, it is founded upon this state of things: At former sessions, heavy appropriations have been ordered by Congress, and the public charges and expenditures have been increased, and now we find ourselves short of means to meet the engagements thus created and authorized by the action of Congress. Well, sir, in this state of things, with outstanding liabilities—liabilities imposed on the country by the last Congress—I say the last Congress, and have no reference to either branch of it in particular—the question is whether ways and means shall be provided for the purpose of meeting those liabilities. That is really the state of the question, and I must express my surprise that gentlemen should get up here, and talk censoriously about the condition of this or that branch of the public service. Will the House provide means to meet the engagements of the Government? That is the question. Will they place reasonable confidence in those familiar with these subjects? That is the question. Will they afford the facilities requisite to meet those engagements? That is the question. Gentlemen seem to manifest some reluctance to do this; and we have witnessed most remarkable displays from gentlemen who I should not have expected would have undertaken to enlighten us upon this question. What is the proposition, sir? I shall read from the bill sufficient to present the real issue to the committee. The second section is as follows:

"SEC. 2. *And he it further enacted*, That such Treasury notes shall be paid and redeemed by the United States, at the Treasury thereof, after the expiration of one year from the dates of said notes, from which dates, until they shall be respectively paid and redeemed, they shall bear such rate of interest as shall be expressed in said notes, which rate of interest upon the first issue, which shall not exceed \$6,000,000 of such notes, shall be fixed by the Secretary of the Treasury, with the approbation of the President, but shall in no case exceed the rate of six per centum per annum. The residue shall be raised, in whole or in part, after public advertisement of not less than thirty days, as the Secretary of the Treasury may direct, by exchanging them at their par value for specie to the bidder or bidders who shall agree to make such exchange at the lowest rate of interest, not exceeding six per centum, upon the said notes: *Provided*, That after the maturity of any of said notes, interest thereon shall cease at the expiration of sixty days' notice of readiness to pay and redeem the same, which may at any time or times be given by the Secretary of the Treasury, in one or more newspapers published at the seat of Government," &c.

Here then, sir, is a distinct proposition to borrow money from the country. Here is a distinct proposition to invite, by advertisement, bidders for these Government obligations, payable in a year.

Now, sir, I ask whether or not the amount is unreasonable? Who has undertaken to show that the amount is unreasonable?—I put the question to the committee—who, of all the gentlemen who have participated in this debate, has undertaken to demonstrate to the House that the amount sought by the Secretary of the Treasury is not reasonable, and not requisite to meet the public engagements? Sir, if there be one, I have not heard him. The Secretary of the Treasury, an enlightened officer, anxious, of course, in reference to his own public character, submits his estimates, and proves clearly, by those estimates, the necessity of this provision. Shall that provision be allowed?

But that is not all. These Treasury notes must be paid within one year. They terminate, *ex rei termini*, on the 1st of January, 1859. They can go no further. There is no power to issue them beyond that period. And why, sir, is that provision made? I suppose, sir, that the Government of the United States is entitled, as individuals are, to look to their resources, and to the opportunities that may exist in reference to their engagements. If an individual, in an unexpected embarrassment, finds it necessary to resort to a loan for the purpose of meeting his engagements, he will contemplate his resources, and shape his new liabilities with reference to them. The officer presiding over this particular department of the Government believes that the resources of

his country will enable him to meet these engagements within the period specified. I ask every gentleman upon this floor if it would be good sense for us to make a loan, as proposed by several gentlemen, and especially by the gentleman from Pennsylvania, [Mr. GROW,] for a period of five, ten, or fifteen years, when a loan for a single year will be sufficient?

Mr. GROW. My proposition is for a loan, merely for one year, and not for any longer period.

Mr. SMITH, of Virginia. Now, sir, the gentleman gets by this bill just what he proposes. We propose to borrow for a year. The only difference that I know of between the gentleman and ourselves is, that he proposes to do it in one form, and we in another. What objection is there to the form proposed in the bill? These notes are to be issued only when necessary. It is believed that \$6,000,000 will meet the present exigency, and it is provided by the bill that no more shall be issued at present.

The gentleman says it is thought that the whole amount may not be necessary for some time yet. Would the gentleman make a loan of \$20,000,000 or of \$10,000,000 in a lump, at the present moment, when the Government may not need it for some time to come? The Secretary of the Treasury is authorized, by the section to which I refer, to issue a thirty days' notice inviting bids for the requisite amount. Is it not, then, a matter of practical good sense and economy to permit this thing to be left to the Secretary in this shape, rather than in the manner proposed by the gentleman? But is it not a distinction without a difference? Is there any substantial difference between the two propositions? I must insist that there is not; with the advantage that this proposition is infinitely preferable to his suggestion.

But, sir, that is not all. Far from it. The gentleman insists on it at one breath that this is to be used as paper money, and then he goes into a hard-money argument to demonstrate that the Treasury notes will supersede so much specie; that the worse will exclude the better currency. I know that principle well; and I am happy to hear the doctrine recognized in certain quarters where I did not expect it. It is one of the cherished relics of the past political history of the honorable member from Pennsylvania, [Mr. GROW.] He was once a Democrat; but now, the so-called Democratic party, as he terms it, with which he once affiliated and acted, but with which he affiliates and acts no longer, has lost its character; and so he left it, and carried off the Democratic sentiment and principle. He but illustrates the old adage that a renegade Christian is worse than ten Turks. I suppose that no man in this House is so inveterate against Democratic principles and against the Democratic party, as is this gentleman, who was once a brother in full fellowship in the church.

Mr. GROW. I ask the gentleman whether he considers the views that I have advanced in relation to the currency as not being Democratic?

Mr. SMITH, of Virginia. I congratulated the gentleman that there was one single remnant of his past political creed left with him.

Mr. GROW. I believe that, in the sentiment of the gentleman, I will be considered as a sound, reliable Democrat, excepting as to the question who shall occupy the Territories of the Union—whether white men or black; and that as to that I am not sound.

Mr. SMITH, of Virginia. I judge the gentleman by the company he keeps. I judge a man's Democracy by his associations. I judge him as hostile to Democracy when I see him doing the work of those who are esteemed as hostile to Democratic rule and Democratic ascendancy. What is the object of the gentleman's labors? It is to break down the Democratic party and the principles they cherish, and which they struggle to maintain in fair weather and in foul.

The gentleman gets up and talks about his Democracy, with the single exception of the Territories. He is a thorough Democrat except as to that. He is not Democratic enough to allow the American people to go to any portion of the American territory at their will and pleasure. I was much struck with the fact that the gentleman, in this as in the past Congress, finds himself utterly unable to deliver a speech on this floor without "still harping on my daughter." It is Kansas, Kansas, Kansas. That fertile and exciting subject dances through all the mazes of metaphor-

ical confusion in the imagination of the gentleman; and I suppose that, when he sinks into the grave, (and I trust he will be spared a thousand years,) the cry will be still "Kansas!"

I confess, Mr. Chairman, that I was greatly surprised by the speech of the gentleman from Pennsylvania, [Mr. RITCHIE,] who first addressed the committee, and by the course of remarks in which he indulged. I know that gentleman well. I have had the honor of acting with him, and of having with him those relations on committees that have taught me to appreciate highly his character. I have been inclined to think him a statesman; and I must be permitted to say that I was sorry to see that he, acting in regard to the great interests of the country, should not have forgotten that he was a partisan. On this proposition to provide ways and means for the support of the Government, that gentleman commenced on the subject of Democracy, and undertook to demonstrate that there were hard-money and rag-paper Democrats on the floor.

Mr. RITCHIE. Mr. Chairman, the remarks that I then made were for the purpose of calling the attention of the committee and of the country to the fact that the President of the United States, in his message, intimated no desire to have an issue of Treasury notes. On the contrary, the whole drift of the message is the other way. He spoke, to be sure, of the possibility of a small loan before the close of the session. The report of the Secretary of the Treasury, sent in here on the same day and at the same hour, demands an issue of Treasury notes instantly, to the amount of \$20,000,000. I desired to call the attention of the committee and of the country to that fact—to that palpable contradiction between the message of the President and the report of the Secretary of the Treasury, sent here at the same moment, both of them differing in principle and differing in fact: the President of the United States basing his remarks on the fact that we did not want a loan, and the Secretary of the Treasury basing his on the fact that we did want a loan—

Mr. HOUSTON. I object to this interruption. We have but an hour to debate this bill, and we want to hear its merits discussed.

Mr. RITCHIE. If the gentleman from Alabama calls me to order, I call him to order.

Mr. HOUSTON. I have not been able to hear the remark of the gentleman from Pennsylvania.

Mr. RITCHIE. I say that I was not out of order, but that the gentleman is out of order; he interrupts me when I am making an explanation by the indulgence of the gentleman from Virginia.

Mr. HOUSTON. Well, if that is all you said, it amounts to nothing.

Mr. SMITH, of Virginia. The gentleman says nothing more now than he said before. I know what he desired to state. It was a hit at the Democratic party, and a purpose to show that there was a hard-money and a rag-money Democracy on this floor.

Mr. RITCHIE. And I want to know from the gentleman from Virginia whether he will not admit that it was a fair hit?

Mr. SMITH, of Virginia. No, sir. I say it was a hit that I had not expected from the statesman of Pennsylvania who made it. I was not surprised at much that fell from members on this floor in the debate that went on, but I was surprised that such a thing should come from that gentleman, of whom the country had a right to expect better things.

Mr. Chairman, is there any inconsistency between the President of the United States and his Secretary of the Treasury? No, sir, not the slightest. The President went into the causes that produced this drying-up of the resources of the country, and the sudden arrest of the income of the Government; and he traced it rightfully—I maintain in the face of the country—to the existence of fourteen hundred banks, all manufacturing paper money, with which the people have been stimulated into wild extravagance. The President recommended a return to the good times, contemplated by those who framed the Federal Constitution. In that state of things, with these sentiments, with that recommendation—which I trust in God will be carried out—the Secretary of the Treasury, to provide present means, comes forward and recommends the issue of notes bearing interest. Is that the character of bank paper? No, sir. Nor is that all. When these notes have

been paid in, the debt which they represent is bound to be extinguished. When a note for one hundred dollars or five hundred dollars is paid into the Land Office for the purchase of a tract of land in the public domain, the receiver indorses its receipt upon its back, and it is bound to be extinguished and cannot go into circulation again. Is that a characteristic of bank paper? Is that an element of rascality?

And yet the gentleman talks about two classes of Democracy into which this House is divided. But, sir, the gentleman did not apprehend into how many divisions the House is separated. The gentleman from Massachusetts [Mr. BANKS] gravely speaks of the Democracy on that side of the House. I would like very much to know what Democracy that is.

Mr. BANKS. The Democracy of the Constitution, sir.

Mr. SMITH, of Virginia. Exactly. The Democracy which thinks it is right to "let the Union slide," I suppose. [Laughter.] That Democracy which seeks the safety of the white and black races in the "principle of absorption." If that is Democracy, I loathe it from my very soul. That is a Democracy of which I know nothing. But may be the gentleman cleaves to some of the lessons of wisdom which were taught him when he was in the bosom of the great Democratic party. We can, however, only refer to the history of the country to ascertain the characteristics of this pretended Democracy.

Now, sir, this proposition is necessary to supply the immediate wants of the Government, to meet existing emergencies. It is requisite to have \$6,000,000. Nobody is bound to receive these Treasury notes except at par—except as gold and silver.

But the gentleman from Maine [Mr. ABBOTT] over the way, who, though fresh in this Hall, sets up for a teacher, gravely undertakes to lecture the Democracy on the subject of retrenchment, for something that has taken place in the little town where he lives, away down east, where it is so cold that they have to cut a hole through the ice to allow the sun to rise. [Laughter.] He says, that there has been great extravagance there, and expects that we are to recover the means for meeting the present crisis by retrenchment in that little town of his. Does not the gentleman know that these reforms cannot be effected at once? Does he not know that the relief now asked for is to meet an exigency which now exists, and that any measure of retrenchment which might be inaugurated could not accomplish its desired effect before the Treasury notes, which it is proposed to issue, were needed? Yet, sir, the gentleman gets up here and gravely tells us that he wants us to retrench to the amount of \$20,000,000. I rejoice from my very heart that we are getting new recruits. I do not care for the gentleman's change of position. I rejoice that we have new recruits in the great work of retrenchment. I will go with him who goes furthest in that work. I will go for cutting down the sinecure offices in the gentleman's town and elsewhere; and I shall hold the gentleman to his obligation. I will test his sincerity in his desire to carry out these works of retrenchment.

But that is not all. Without dwelling longer upon these subjects, because I am anxious to conclude my remarks, and give others an opportunity, I beg leave for a moment to refer to a remark made by the gentleman from Illinois, [Mr. LOVEJOY.] That gentleman got up here, and, from his manner, gave us assurance that the House was about to be enlightened. But the gentleman had not gone far before we were satisfied that a "second Daniel had come to judgment." He went on to tell the House and the country what reforms he would make. He would strike down our whole diplomatic staff at "one fell swoop." He then went on to present his views to the House, and said that he would allow us to retain a representative in one foreign court. I expected to hear him announce that the only representative which this country should be permitted to maintain abroad should be at the great imperial Government of Hayti or St. Domingo. I expected to hear him proclaim, in this assembly, that that was the only foreign nation where we should be permitted to retain a vestige of representation. But to my

surprise the gentleman told us that we occupied so intimate relations with Great Britain, with the mother country, that we should maintain a representative there.

Mr. Chairman, I will not dwell upon this subject, but I submit to the gentleman from Illinois that he has no right, as a Representative here—as one seeking to perform his duties in that spirit of justice and charity which covers a multitude of sins—ay, sir, covers a multitude of sins—to present his surmises and insinuations against a public officer, for no cause known whatsoever. He has no right to expect this House to follow such suggestions as these, founded in suspicion and surmises, when we have the official records of the conduct of these officers before us.

I had intended to have made more extended remark upon this subject, but I do not deem it necessary, and I cannot do it in courtesy to those around me who desire to address the committee upon this bill. I shall therefore close, by calling the attention of the committee to a single view which I shall present; and what is that view? It is to ask gentlemen to come up here in the spirit of that Constitution which I reverence, whether the gentleman from Illinois does or not; and, although the gentleman from Illinois yesterday invoked it in a solemn manner, and called upon us to rally under its broad folds, yet I have heard that that gentleman regarded it only as a rotten rag, which ought to be trampled under foot.

Mr. LOVEJOY. I thought the gentleman was just now saying that I ought not to insinuate anything against a public officer. Ought the gentleman to insinuate against members of this House because of what he has heard?

Mr. SMITH, of Virginia. From what I have heard? Certainly; how else can we know facts but from what we hear?

Mr. LOVEJOY. How else can I know that the Government has been corrupted, except from what I hear?

Mr. SMITH, of Virginia. Oh! that has nothing to do with the question. Did the gentleman ever say that the Constitution was as worthless as a rotten rag, which ought to be trampled under foot?

Mr. LOVEJOY. No, sir.

Mr. SMITH, of Virginia. Or anything like it?

Mr. LOVEJOY. Nor anything like it.

Mr. SMITH, of Virginia. Then I acknowledge that I have done the gentleman wrong. I am here to make no unjust aspersions. I am glad to hear that the gentleman is sitting here under our glorious flag, now floating over the Capitol, and is prepared to stand by the Constitution in its true and genuine spirit. I am glad of it from my very soul; and if the gentleman will only continue to do that, there will be less of that distraction which now exists, and which has existed heretofore.

What, then, is the question? We propose to issue these bills for \$20,000,000 for the purpose of raising money; and although the minimum amount is too small, in my judgment; and although I shall move, at the proper time, to increase the minimum from \$100 to \$500, yet it is a loan rendered necessary by the exigencies of the country, and only intended to relieve its distresses. What brought these exigencies upon the country? Not the executive branch of the Government, certainly. It is the duty of that branch of the Government to submit annual estimates of those sums requisite for the support of the Government, and they are responsible for those estimates, and they are responsible no further. When those estimates are overruled and disregarded, and appropriations are made exceeding them, Congress takes the responsibility. And even the estimates of the Departments are frequently submitted upon a call of those who make these appropriations. Congress makes appropriations to commence works which are abhorrent to the sense of the Executive, and they become law by riding over the veto. They are works of policy, and not of the Constitution. Subsequent officials are bound, after the commencement of such works, to submit estimates for their completion; and these estimates made by the executive branch are in no measure to be regarded as measures recommended by them, for it is only carrying out existing laws—laws which they have disapproved, or even vetoed, as was

the case in the instances referred to by my colleague, [Mr. LETCHER.]

I have said nothing in reference to the remarks of the gentleman from Ohio, [Mr. CAMPBELL,] and the gentleman from Maryland, [Mr. DAVIS.] I should like to do it, but it is unnecessary. My colleague [Mr. LETCHER] caught the wily gentleman from Ohio, [Mr. CAMPBELL]—I say it in no spirit of disparagement; but he caught that gentleman, yesterday, upon that very question, and held him to it notwithstanding his writhings and efforts.

I have made these remarks in no spirit of unkindness. We want this money, and this bill is framed in the best manner to raise it.

Mr. ADRAIN. I propose to say but a few words upon the bill now under consideration. This bill has given rise to a wide range of discussion. Almost every question has been dragged in—the bank, the tariff, the Pacific railroad, Utah with her Mormons, and almost every conceivable subject, which I apprehend has very little to do with the merits of the bill under consideration. I have been accustomed to discuss points in legal tribunals; and when I came here and discovered the wide range of debate, it struck me that gentlemen try to get as wide apart from the real question before the House as possible, and that it was not expected that gentlemen would speak to the question, but rather upon any other question upon which they can speak most easily and most agreeably to themselves.

I shall not follow that range of debate, but confine myself, if possible, to the merits of this bill. It is a bill, sir, that is demanded by the exigencies of the Government, and the President of the United States intimates that it will be necessary for Congress to provide the necessary means to carry on the operations of the Government. The Secretary of the Treasury, in his report, intimates the same views; and, in fact, he recommends that a bill should be passed for the issuing of Treasury notes to the amount of \$20,000,000; and in the letter which he has sent to this House, he reiterates the same thing, and says it is necessary that a bill for that purpose should be passed, and passed at once. And it is for this House to determine, and to determine to-day, whether we will meet the difficulties of the Government, or whether we will permit the credit or efficiency of the Government to be destroyed.

The first consideration is in regard to the necessity of this measure. Can any gentleman deny it? Can any gentleman, who looks into the real facts of the case, dispute that such a bill as this is necessary, either in the shape of a loan, or in the issue of Treasury notes? I was very happy to hear the gentleman from Massachusetts, [Mr. BANKS,] who addressed the House yesterday, admit that such a bill is necessary, and that he is perfectly willing to vote for it, if it can be made to concur with his views. There is no need, therefore, in wasting time in this committee in discussing the question whether there is a necessity to pass this bill to supply the Government with the necessary means of carrying on its operation.

Now, sir, what are the objections to this bill? It is objected that the sum is too large; that \$20,000,000 are unnecessary to be raised. The honorable gentleman from Pennsylvania [Mr. GROW] moved to reduce the sum to \$10,000,000. Who is the better able to judge of the real necessities of the Government, the gentleman from Pennsylvania or the Secretary of the Treasury? I am willing to defer to the judgment of the Secretary rather than to any gentleman who occupies a seat upon this floor. The Secretary asks us that \$20,000,000 of Treasury notes be issued, as the exigencies of the Government require. It is proposed to give authority to the Secretary to issue them at once; but he proposes, when that power is given him, only to issue such an amount of notes as may be absolutely needed. In his letter he says it may be necessary that the whole amount, \$20,000,000, should be issued, but he wishes sufficient placed in his hands, so that if the exigency requires it, he may have the whole amount for the purpose of carrying on the operations of the Government.

Another objection raised to the House bill was that there was no time limited as to the issue of these Treasury notes; and an amendment was offered to the House bill by the gentleman from

Massachusetts to limit the time. It was a proper amendment; and although I have confidence in the Secretary of the Treasury and the President, we ought not to confer upon any man unlimited power, where it is not necessary; and it is not necessary in this case, because, after January, 1859, if it is necessary to continue the issue, Congress will be in session, and they can authorize it to be done.

Again, it is objected to this bill that it would be preferable to make a loan than to issue Treasury notes. That was another suggestion thrown out by the honorable gentleman from Massachusetts, [Mr. BANKS.]

Mr. BANKS. The gentleman from New Jersey will allow me to correct him in the statement which he makes. My amendment only proposes that the President shall have authority to make a loan, if he thinks proper, and just to the extent that he thinks proper; and, at the same time, that he shall have authority to issue Treasury notes just to the extent that he shall think proper within \$20,000,000. It proposes to give the President authority to do either, as did the bill of 1847.

Mr. ADRAIN. I understood the gentleman perfectly, and I believe that I was stating just precisely what he has now stated, that he proposes to give authority to the President of the United States to make a loan or to issue Treasury notes, and I have no objection to that.

Mr. BANKS. That is all I ask.

Mr. ADRAIN. The gentleman misunderstands me. I have no objection to leaving it optional with the President, either to make a loan or to issue Treasury notes, and I am very glad that the gentleman from Massachusetts has as much confidence in the President as I have. It is a very happy admission, and I trust, that as long as he occupies a seat upon this floor—and I am sorry that his service here will be shortly terminated—he will continue to repose the same confidence in the President of the United States as he exhibits in relation to this bill.

But, Mr. Chairman, although it is proposed by the gentleman from Massachusetts to leave it discretionary with the President either to make a loan or to issue Treasury notes, yet I apprehend that the President, although he speaks in his message of a loan, intends that it shall be in the nature of Treasury notes; and as a bill to authorize the issue of such notes has been introduced here by the chairman of the Committee of Ways and Means, I presume it has been done with the approbation of the President.

Now, it is said that a loan would be preferred to the issue of Treasury notes. Mr. Chairman, is a loan necessary? Would it be wise for this Government to go into the market and make a loan for ten or twenty millions of dollars, when perhaps it may not actually be needed? There is no certainty that the issue of these Treasury notes to the full amount will be needed. Is it not, therefore, better, as the Secretary of the Treasury suggests in his letter, that this bill should pass as it is—a mere temporary measure to meet a temporary deficiency in the Treasury?

Mr. GROW. The gentleman is mistaken in one point, and I wish to correct him. The amendment which I had read proposes that the loan shall be made only as the exigencies of the Government require.

Mr. ADRAIN. I certainly do not suppose that the loan would be made unless it was necessary to meet the wants of the Government. Nobody, of course, proposes that. But I say it is wiser to have these Treasury notes issued than for the Government to go into the market and make a loan for a certain number of years, when, perhaps, the money loaned may not really be necessary to carry on the operations of the Government. This is a mere temporary measure, as I said before, to meet a temporary deficiency in the national Treasury.

But, Mr. Chairman, do not let us confound ideas about what constitutes a loan. I apprehend that these Treasury notes are a loan. They are, in fact, as much a loan of money to the Government as if the Government were to borrow from individuals, ten or twenty millions of dollars, and issue stock for that amount. Suppose, for instance, that the Government owes an individual \$1,000. It has not gold and silver on hand to pay that \$1,000, and, instead of gold and silver, gives to that individual Treasury notes to that

amount. Now, if that individual chooses to take these Treasury notes, and leave that amount of gold and silver with the Government, is it not loaning so much to the Government? Is it not really, and in fact, a *bona fide* loan, just as if the Government actually borrowed \$1,000 from the individual? I cannot, therefore, see how gentlemen can object to the issue of Treasury notes on the ground that it is not a loan.

But, sir, the chief objection that has been raised by gentlemen upon the other side is, that if these Treasury notes are allowed to issue they will add to the paper currency of the country. It may be that they will do so. Now, sir, I am in favor of having as much gold and silver in the country as possible. I desire that the banking institutions of the country shall have a sufficient supply of the precious metals, to prevent them from producing these suspensions that are continually occurring to the injury of the business of the country. Perhaps these notes will circulate as a medium, and if there is a small interest attached to them, I have no doubt they will circulate as a medium of exchange. But why should gentlemen object to that? It will be a relief to the business community, and also to the banking institutions of the land. It is proposed by the bill that these notes shall be received in payment of duties due to the Government, and hence gold and silver will not be called for to pay the duties of the Government, but these Treasury notes will be received, and, therefore, it will benefit the business community, and the banking institutions of the country.

Gentlemen upon the other side must not suppose that the Democratic party is opposed to banking institutions. It is not true. They are only opposed to those institutions when they do not confine themselves to the legitimate objects of banking. One would suppose, from the speeches which have been made upon this floor, that the President of the United States had made a violent and denunciatory attack upon the banking institutions of the country. Has he done it? Is there a line in his message showing that he is unfavorable to those institutions? No, sir; but, on the contrary, he expressly declares that they are so interwoven with the business of the country, and that business men are so dependent upon them that it would be unwise and impolitic to do anything to strike down these institutions. It is true, sir, that the President of the United States comes out most emphatically against the establishment of a United States Bank. We are opposed to such an institution as that, and are opposed to it upon good and substantial grounds. Such an institution has existed before in this country; it was put down by that great and glorious man who then stood at the helm of this Government—Andrew Jackson; and I am glad to see that the present President is following in the footsteps of that great and illustrious man, and that we shall not have that noxious institution making the people and the Government the slaves of its imperious will.

It has been said, Mr. Chairman, that, instead of passing this bill, we should diminish the expenses of the country. I fully concur in the remarks which have been made by gentlemen upon the other side of the House upon the subject of retrenchment in the expenditures of the Government. Let the greatest economy be exercised. The President of the United States, in his message, says that economy will be observed, so far as he is concerned, in all the branches of the Government; he inculcates economy upon both Houses of Congress, and he tells us he is determined that all public works shall be suspended which are not absolutely necessary to be carried on for the public interests and the public defense. We find, Mr. Chairman, that a committee has been appointed by this House, for the purpose of inquiring into the printing, and engraving, and other matters pertaining to the subject, for the purpose of saving expense to the Government; and I was very happy to learn this morning from the gentleman who is chairman of the Committee of Elections that that committee does not intend to employ a clerk. I hope that other committees which have been authorized to employ clerks will not employ them, if they can possibly transact the business themselves. I voted against the resolution to authorize the employment of clerks. I hardly think it necessary in all cases; it may be in some; but wherever it can be dispensed with

it ought to be, for the purpose of saving money to the Government.

Some allusion has been made, Mr. Chairman, to the appropriations of the last Congress. I was not here, and know very little about them, except what I saw in the reports of the proceedings. I care not who is to blame for the appropriations; I care not whether the Democratic party, or the Know-Nothing party, or the Republican party, is to blame for it. It is wholly immaterial to the question before the House. Suppose there has been the greatest extravagance; suppose appropriations have been made that ought not to have been made, and for objects that were unwise and uncalled for; is that any reason why we should not supply the Government with the necessary means to carry on its operations?

Mr. Chairman, I said when I rose that I only intended to occupy the time of the committee with a few remarks, and therefore I will bring them to a close. But I cannot sit down without expressing my trust that gentlemen on this floor will not raise captious objections to the passage of this bill, but that they will come up magnanimously and patriotically to its support. It may be that, on some great political question, we may differ and not yield; but on a question of finance, such as is here presented before the House—a question which is to save the credit of the Government—will gentlemen stand out, and place themselves on mere party ground? Is it not better for them to come up and support a bill of this character?

I regretted very much to hear the gentleman from Illinois, [Mr. LOVEJOY,] who addressed the committee yesterday, say that he would rather his right arm should wither than vote for this bill to carry on the operations of the Government and to sustain its credit. It was a remark which he ought not to have made.

Mr. LOVEJOY. I beg leave to correct the gentleman from Pennsylvania. I made no such remark. I said that I would sooner my right hand should wither, and my tongue cleave to the roof of my mouth, than vote the Government money to force an infamous despotism—the Lecompton constitution—on the people of Kansas.

Mr. ADRAIN. That was the remark? That was worse than the other.

Mr. LOVEJOY. Very well; I stick to that.

Mr. ADRAIN. The gentleman says he would not appropriate a single cent to force the Lecompton constitution on the people of Kansas. Why, who proposes to do it? The gentleman has lost sight of the object before the House.

Mr. LOVEJOY. The Administration proposes it.

Mr. ADRAIN. The gentleman's remarks might do very well on the stump, but they are not of the right stamp for a house of legislation of this kind. There is no attempt, on the part of the Administration, to cram the Lecompton constitution down the throats of the people of Kansas. The vote on that subject was taken yesterday. How it has resulted I do not know. I hope that the election has passed off fairly and honestly, and that a fair opportunity has been given to the people there to express their will.

But, Mr. Chairman, I will not occupy the time of the House further. It is necessary that this bill should be passed. The Secretary of the Treasury calls on us to pass it, and I trust there will be no further delay in giving the necessary means to the Government to sustain its credit and its character.

Mr. MORRIS, of Pennsylvania. I am in favor of this bill, Mr. Chairman, because I recognize in it the first step toward the return to a system which, as long as it existed, was adequate to all parts of the nation. It is the first step to the return to that policy with which the Government commenced—the policy of providing by the Federal Government a national currency.

For one, however widely I may differ with others, I avow it frankly that I am in favor of a national bank, with proper restrictions and proper guards, such as General Jackson said might have been framed. I rejoice to see that the present Administration recognizes its duty to supply a national currency; for notwithstanding the fact that the Treasury notes proposed to be issued are not to be of a lower denomination than \$100, yet so far they will supply a national currency. We have now a full sense of the mischiefs entailed on the country, according to the President's message, by the currency issued by fourteen hundred local

banks. I rejoice, then, to see that the Administration, adopting at least one principle of the Whig platform, when it was in existence, comes to the rescue of the country, and, overruling these fourteen hundred banks of issue, with all their conflicting currency, gives us, for the time that these Treasury notes will be in existence, a national currency. For, sir, disguise it as you may, one of the great arguments in favor of this bill is that these Treasury notes will constitute a convenient form of remittance, and will supply a medium of exchange that can be furnished from no other source whatsoever.

I rejoice, then, that the policy of the founders of the Republic is recognized as a rightful one; and that we are returning, step by step, to the wisdom and the sound virtues of the past.

But, Mr. Chairman, while the Secretary of the Treasury directs this application to us to supply the deficiency in the Treasury, the President of the United States ascribes all the financial evils of the country to bank expansion and to bank credits. Sir, I take issue with the President on that point. The evils under which the country now labors are to be ascribed to the policy of the Democratic party, inaugurated with the administration of General Jackson, and resolutely persisted and persevered in to the present day. Overbanking! When did it take its rise? When the Bank of the United States fell there were little more than five hundred banking institutions in the United States; now there are fourteen hundred. When it fell, the banking capital of the country was little more than eighty million dollars; now the circulation of the banks is over two hundred million dollars. While the Bank of the United States existed there was a national currency, equally good abroad and at home; now we have a currency that is of no particular value beyond the point where it is issued, and the value of which is constantly fluctuating.

Beyond that, it is the system of low tariff that is advocated by the Democratic party. Take up the statistical tables of the Secretary of the Treasury, and you will find that, concomitant with the establishment of low tariff, are bank expansions. Why, sir, it is well known that the foreign importers of the country, to a great extent, live on bank capital. You offer stimulants for speculation which is taken advantage of by importers for the purpose of obtaining funds with which to import foreign goods. The banks, eager to share in the profits of trade, lend their capital to the importers and speculators.

But, sir, I call the House to some facts showing the workings of the different tariffs adopted by the Government. In the first three years, under the tariff of 1816, the imports of the country rose to \$368,000,000, and were greater by \$120,000,000 than during the three following years. The imports were greater than under the high protective tariff of 1824-25. The consequences of the overtrading superinduced by that tariff were, first expansion, and then contraction, which continued until the adoption of the protective tariff of 1824, when the circulation of the banks again fell. And, sir, the circulation of the banks again rose under the low tariff enacted under the compromise of 1832, when the importations rose \$120,000,000, and the average bank circulation to \$149,000,000.

Again, after the enactment of the tariff of 1846, we find that the imports for the three years following, from 1846 to 1849, reached \$127,000,000, and the bank circulation \$113,000,000; going on up, until, in 1856, the imports reached \$270,000,000, and the bank circulation \$195,000,000.

I say, Mr. Chairman, that figures prove that as you encourage importation by low tariffs you will necessarily encourage bank expansion. Now, sir, we see the Government stimulating an expansion of currency, extending credit to an enormous extent, stimulating an overtrading and speculating mania in every department of business, and especially in the public lands, by exposing valuable lands for sale at a mere nominal price, and by disposing of valuable tracts of land at private sale for almost nothing—what is the consequence of such a course of policy? The consequence is to keep the country continually at a fever heat, to bring on excessive importations, bank expansions, and speculations in the public lands. Then, sir, by your warehouse system, you now have bonded in your warehouses goods to the value of \$40,000,000, which may be poured upon the coun-

try at any moment, overwhelming the rising manufacturers of the country, when they are once again upon their feet.

[Here the hammer fell, the time fixed by the House for closing debate having arrived.]

The CHAIRMAN stated that the chairman of the Committee of Ways and Means was, under the rules of the House, entitled to one hour to close the debate upon the bill.

Mr. J. GLANCY JONES. The Secretary of the Treasury has made a report to this Congress, at the opening of the session, upon the state of the finances of the country; in which, he tells us that, in consequence of the peculiar condition of the country, and in consequence of the extreme difficulty in estimating the exports and the imports of the country, and the revenue which will be likely to come into the Treasury for the current fiscal year, it may become necessary for the Government to resort to a loan—not to issue Treasury notes for the purpose of a currency, not to facilitate the exchanges of the country, certainly not to furnish a circulating medium. He did not even assert that the money asked for would be wanted; but he asked that Congress should furnish him with the power to negotiate a loan, and nothing more or less than a loan. I bear upon this point particularly, because the discussion upon this question has taken a very wide range. While I do not intend to occupy the time of the committee for more than fifteen or twenty minutes, I certainly do not intend to follow the range of that discussion.

My colleague over the way, [Mr. Grow,] challenges the consistency of the Secretary of the Treasury, and talks about the Democratic party, which he says now are calling upon Congress to furnish them with a paper currency. The honorable gentleman from Massachusetts [Mr. Banks] dwelt somewhat at length upon the point, and centers his main objections to the bill upon the ground that it is a currency bill. He told the House that he was in favor of a loan; that he was in favor of a hard-money currency, and he could not possibly vote for this bill, because it was to furnish a paper circulating medium.

Mr. BANKS. If the gentleman from Pennsylvania will allow me to correct him, my objection to the bill was that there was no precedent for it in the form in which it is now presented in this House; and, therefore, I desired that authority should be given to issue a loan, instead of issuing Treasury notes. I also objected that, whether the gentleman from Pennsylvania and the friends of this bill intended it or no, these Treasury notes would become a paper currency.

Mr. J. GLANCY JONES. I so understood the gentleman. I ask him whether the opinion he has expressed is not founded upon the single fact, not that this act contemplates making these notes a currency, but that the credit of the Government at this particular time, and in the condition of things in the country, may convert it into currency? I might say to the gentleman from Massachusetts that his own negotiable note might be convertible into currency. Will the gentleman say of an individual negotiable note drawn at twelve months, with interest, that because the credit of the drawer is so great the country will use it as currency, and that that constitutes it a currency?

Why, what is this Treasury note bill? I confine myself to points of objection. The gentleman from Massachusetts will search in vain all the books to find a single instance in which a negotiable note is declared to be currency. He will find that promises to pay upon paper, especially if interest be added at the end of one year, though good and assignable, are nowhere regarded as currency, either in books of law or political economy.

I do not wish to pay any attention to the discursive range of political discussion which has taken place upon this bill. The subject of the tariff has been brought into this discussion. What has that to do with the business before the House? An Administration, which was inaugurated but a few months ago, finds itself without money in the Treasury. It wants no money for its own use. It does not come to Congress and ask it to appropriate money to pay its expenses. But your Congress passed a series of laws which the President is bound, under his oath of office, to execute. These acts require a very large expend-

iture of money, and then a revulsion comes over the country before he is four months in office. The revenue falls off in an extraordinary degree. In addition to that, just before the adjournment of the last Congress, you reduced the duties by your tariff act of March 3d, 1857. So you had the effect of the tariff in reducing the revenue one quarter of what it was under the act of 1846; and in addition to that, you had the entire prostration of the commerce of the country. Now, notwithstanding all this, the Secretary of the Treasury tells you in his report that he believes that the revenue will come up by the close of the year ending the 3d of June, 1859. He estimates that at the end of the year there will be a balance of \$429,000 in the Treasury, provided the imports are not suspended and the goods not warehoused.

But, in addition to this, another startling fact exhibits itself. Twenty-eight million dollars of imports are in the warehouses of New York alone, under bond. How long that state of things will continue, no mortal man can tell. And the gentleman over the way, who was yesterday captious enough to find fault with the Secretary of the Treasury, will find that the Secretary himself has submitted the basis of all his estimates. Who could have foretold the present state of things one month before the bank suspension occurred? What man in the country could then have formed any idea of the state of things now existing? The Secretary states the basis upon which he makes his estimates. He informs the country that according to the ordinary imports of the last few years, we may calculate upon an importation of \$370,000,000 of goods in the next fiscal year. But he says that in consequence of the warehousing of goods, and that in consequence of the tariff act of March, 1857, reducing the duties at least twenty-five per cent. there is a possibility of what? Not that the imports of the fiscal year ending the 30th of June, 1857, will not be sufficient to pay the expenses of the Government, but that there may be such a suspension during that time that the Treasury may be found without funds; and that is the particular reason, Mr. Chairman, why this loan is asked for in this form. It may not be used at all. Certainly no gentleman here supposes that the President or Secretary will issue one dollar of these Treasury notes, unless there is a necessity for it.

I find upon all sides of the House different opinions in regard to its relation to the currency, judging from the effect it will produce, and not from the character of the bill upon its face. I find that some gentlemen object to the bill because the notes are to draw interest. Gentlemen upon this floor take the ground that the Treasury notes will not be currency. So I think. On the other hand, gentlemen who object to these notes drawing interest, say that they will be hoarded, and not become a currency. So objections are raised to them on one side because they will be currency, and upon the other side because they will not be currency. The interest upon their face, destroying their convertibility, is a formidable objection to some men.

The peculiarity of the bill, referred to by the gentleman from Massachusetts, [Mr. Banks,] consists in the simple fact that the Treasury Department is anxious to get this money at the lowest possible rate of interest; and I am surprised that gentlemen should suffer themselves to fall into the delusive idea that this bill creates a currency, when, upon its very face, it is declared to be a loan.

I am anxious to bring the committee to a vote at the earliest possible moment. Hence, while it would be a very easy matter for me to occupy the time of the committee for an hour in the discussion of the subject of Treasury notes, and their relation to the business of the country, I prefer to confine myself to the practical question before the House. We want the money. We do not want to furnish currency. We want money at the cheapest possible rate it can be had for the Government. We do not propose to issue Treasury notes as a circulating medium. We want to borrow gold and silver, and the currency of the country is to be confined to gold and silver, except where the creditor may prefer to have Treasury notes instead of gold and silver. The bill proposes to borrow gold and silver; to convert those evidences of debt into hard coin, but not to circulate as a medium of currency.

Mr. HOUSTON. I propose to call the attention of the chairman of the Committee of Ways and Means to a point in this investigation which has not been presented, and which I think has a direct and important bearing upon the very point upon which he is now speaking. I understand that a portion of the stocks of the Government now outstanding is what are called coupon bonds, and that the coupons for the half-yearly interest may be detached by the holders of the bonds, and used in the payment of debts or in circulation, without any limitation or restriction whatever.

And again, sir, under the existing law—and it is to be found in the Independent Treasury law itself—the Government of the United States have power to use at any point where there is a demand for their transfer drafts—such drafts as are paid out every day by the Sergeant-at-Arms of this House to the members, which transfer drafts pass from hand to hand, like promissory notes or Treasury notes.

Now, sir, I desire to call the gentleman's attention to this point, in order to show that, under the existing law, and in the very body of the Independent Treasury act itself, is to be found a principle by which we sanction, to a much greater extent, the circulation of paper as a currency, than is proposed in the bill now under discussion. These coupons may be detached from the bond, held by the party in whose name the bond is issued, and pass from him without assignment, and they may be kept out to the end of the Government, if it shall ever have the misfortune to terminate. These transfer drafts, furnished by the Government, and which are paid to us by the Sergeant-at-Arms, when we draw money, and desire to remit it, are of the same character, and much more likely to enter into the circulation of the country than Treasury notes bearing interest; because a Treasury note, bearing interest, is necessarily clogged in its transfer, and prevented from entering into the ordinary channels of circulation, for the reason that a calculation of interest is necessary at each and every transfer of it.

Mr. HUGHES. I desire to ask the gentleman a question.

Mr. STANTON. I rise to a question of order. I think one farming out of the floor at a time is sufficient. I object to anybody speaking except the gentleman from Pennsylvania [Mr. J. GLANCY JONES] during his hour.

The CHAIRMAN. The gentleman from Pennsylvania is entitled to the floor.

Mr. HOUSTON. The gentleman from Indiana proposes to ask me a question.

Mr. STANTON. The gentleman from Alabama is making one speech during the hour allotted to the gentleman from Pennsylvania, and I object to another being made inside of that.

Mr. HUGHES. I merely desired to ask the gentleman from Alabama his opinion in reference to the point made by the gentleman from Ohio, [Mr. STANTON,] as to the want of constitutional power on the part of the Senate to originate this bill.

Mr. HOUSTON. My reply to the gentleman's question is, that in the contemplation of the Constitution, a revenue bill means a bill to lay taxes in some of the modes recognized by the Constitution upon the people, by which money is raised. It does not mean a loan in any shape. A loan not being a tax, in the sense of the Constitution, but only the use by the Government of its credit by which it anticipates the receipt of its revenue raised under proper revenue laws—

Mr. STANTON. I rise to a question of order. My point of order is, that the gentleman from Alabama is not entitled to the floor to answer any question while it is in the possession of the gentleman from Pennsylvania, [Mr. J. GLANCY JONES.]

Mr. HOUSTON. The question was propounded to me without objection, and I supposed I had a right to reply to it.

Mr. LOVEJOY. The question of order is not debatable.

Mr. HOUSTON. I went on to show that the objection urged by the gentleman from Ohio is not valid, in my judgment.

Mr. SEWARD. I call the gentleman to order.

Mr. J. GLANCY JONES. I did not propose to go into the discussion of the objection referred to by the gentleman from Alabama, because it has been debated at great length in this House,

and also, during the last Congress, in the Senate. The question was decided some twenty years ago in this House. I had supposed that it was settled, almost by the unanimous consent of the members of both Houses, that the right to originate revenue bills, from which the Senate is excluded, is confined to bills for taxation; and the reason for it is very obvious. The right of taxation is the highest power the people can confer upon the Legislature; it comes home to every man; and the Constitution intended to impose a restriction upon the other branch of the legislative department of the Government, and to give to the popular branch alone the power to originate measures imposing taxes upon the people.

Mr. HOUSTON. I desire to ask the gentleman a question.

Mr. STANTON. I insist on the point of order. The gentleman from Alabama made it himself on the gentleman from Pennsylvania [Mr. RITCHIE] half an hour ago.

Mr. HOUSTON. I propose to ask a question, and a very short one, and I suppose I have a right to do so.

Mr. STANTON. I object, if it is not strictly in order.

The CHAIRMAN. Does the gentleman from Pennsylvania yield the floor to the gentleman from Alabama?

Mr. J. GLANCY JONES. I will yield to allow the gentleman to ask me a question. I believe I have a right to do so.

Mr. HOUSTON. I wish to ask the gentleman another question; whether the Treasury note law of 1837 did not originate in the Senate, drawn up by Mr. Silas Wright, who was then a Senator from the State of New York?

Mr. J. GLANCY JONES. The gentleman has answered his own question, and it is not necessary that I should reply to it. I believe the facts are as the gentleman has stated; but I understand the question to be settled, that, except bills to tax the people, appropriation bills, or bills of this kind, may originate in either House.

Now, Mr. Chairman, I believe that I have passed over pretty nearly all the objections that have been raised, so far as I can understand them; but I hope, if any gentleman present has any objections to the bill, as it stands now, that he will put any question to me whilst I am now upon the floor. I shall only reiterate that the Treasury Department want this loan in this shape and form, in order that they may be able to obtain the money at the lowest rate of interest; and that, in the second place, the loan is limited to one year, with power, after advertising for sixty days, to stop the interest, so that they may be able at any time, by stopping the interest, to bring them back to the Treasury for redemption.

The gentleman from Massachusetts [Mr. BANKS] made a point as to the peculiarity of this bill. I am giving the reason why the bill was drawn up in that form. It was for the purpose of enabling the Government, with an exhausted Treasury, to obtain gold and silver at the lowest rate of interest, that the limitation of one year was fixed so as to prevent the debt being funded into a permanent debt, and so as to allow these notes to be recalled into the Treasury at the earliest possible time.

Gentlemen object that these notes may become currency. Anything may be converted into currency. A piece of bullion, with a stamp of value placed on it, may pass for currency. The negotiable note of any gentleman in the House, whose credit is good, payable at the end of one year with interest, may be used for currency.

Gentlemen also object to what they suppose will be the effects of this bill. I hope they will not hold us responsible for effects which they may anticipate. But let them take our own reasons, and our own views, and let the Government have relief in this shape in order that it may obtain money at the lowest possible rate of interest, and may be able to withdraw its notes in the shortest period of time.

Mr. ZOLLICOFFER. I would ask the chairman of the Committee of Ways and Means if there ever has been an instance in which this Government has resorted to an issuance of Treasury notes, that before it was enabled to command or control the redemption of the notes, it did not have to resort to a funding act? I would ask him if when, in 1812, 1813, 1814, Treasury notes were issued, we were not under the necessity of pass-

ing, in 1815, an act by which their holders were authorized to convert them into Government stock? And again, in 1837, 1838, 1839, 1840, 1841, 1842, did not the notes remain in circulation till the act of 1843 was passed, authorizing the holders to present them to the Treasury and exchange them for Government stocks? Again, in 1847, when \$23,000,000 were authorized to be issued, did not the act itself embrace the funding clause, by which the Government was enabled to recover them again from general circulation? And again—

Mr. J. GLANCY JONES. I yielded the floor to the honorable gentleman that he might ask me a question, but not to propound a long string of propositions. I had just closed my remarks; but I am willing to answer any one proposition of the gentleman, or as many of them as I can think of. The gentleman asks me if the Government was not under the necessity, in all former acts for the issue of Treasury notes, to resort to the system of funding? Well, that may be so. It is in the former Treasury note bill; but I am not aware of its having been put there for that purpose. Nearly all the cases to which the gentleman refers occurred in times of war. Though the exigency might be a very sudden one, and money might be wanted badly, yet no one could tell whether it might or might not be necessary to convert the temporary loan into a permanent debt. In every instance where the funding provision was inserted in the bill, it was because Congress could not tell whether that which was said to be temporary might not necessarily become, in a very short period of time, a permanent debt.

Now, the peculiarity of this bill arises from the fact of our living in peculiar times. We are not asking for a war loan. It is not intended to be a permanent loan. The Secretary of the Treasury is authorized to issue \$6,000,000 in notes, and, in addition, to make a loan of \$14,000,000. We may not want to use it at all; and if we do, we may be able, at the end of the year, to redeem every dollar issued. These are times of peace; but they are times of financial revulsion, and no man can foresee what is to happen. The reason, therefore, why this bill is made peculiar, or is contradistinguished from other Treasury note bills, is that, so far as the Government is concerned, we want to avoid the appearance of making it a permanent debt, in funding it at all.

Now, if it shall be necessary to issue these notes, and if they cannot be recalled, then it will be time for the Government to resort to a funding system. I cannot, I confess, foresee the contingencies that may arise. It may possibly be that this temporary loan shall become a permanent one. It may possibly be that we will have to resort to the funding system for the purpose of bringing in these loans. But I say that the bill has been drawn under circumstances that are very peculiar, and to meet the exigencies of the case; and while it lays itself open to objections of various kinds, on all sides of the House, it is the least exceptionable form in which this Government can avail itself of a loan to meet the exigencies of the Treasury that may arise, to furnish to the Government gold and silver at the lowest possible cost, and to place within the hands of the Government the power to redeem them at the earliest possible period of time. With these remarks, Mr. Chairman, I close.

Mr. GROW. I propose to modify my motion. I move to strike out all after the enacting clause, and insert—

The CHAIRMAN. The bill must be first considered by sections. Amendments are now in order to the first section of the bill.

Mr. STANTON. I move to amend the first section of the bill by striking out the words "Treasury notes," and inserting the words "Government stocks," so that it will read—

That the President of the United States is hereby authorized to cause Government stocks for such sum or sums as the exigencies of the public service may require, but not to exceed, at any time, the amount of \$20,000,000, and of denominations not less than \$100 for any such note, to be prepared, signed, and issued in the manner hereinafter provided.

If I had been so fortunate, Mr. Chairman, as to have obtained the floor before the debate closed, I had intended to have made some reply to the gentleman from the Norfolk district of Virginia, [Mr. MILLSON.] The floor, however, was not

assigned to me. Whatever I might have done if the House bill had continued before the committee, after the action of the House in substituting the Senate bill, and the fact that we are now acting upon a Senate bill, must forever preclude me from giving the bill, in any form, my assent.

The Chairman of the Committee of Ways and Means [Mr. J. GLANCY JONES] tells the House—and it seems to me he made the announcement *ex cathedra*—that the Senate has a perfect right and full power to originate a Treasury note bill. Sir, I know of no authority in any department of the Government to settle this question for me. I know that the Constitution provides that all bills for raising revenue shall originate in the House.

Mr. LETCHER. I rise to a question of order. The gentleman is not debating his amendment.

Mr. STANTON. I beg the gentleman's pardon. The gentleman is debating his amendment.

The CHAIRMAN. The gentleman must confine himself to giving reasons why the amendment should be adopted.

Mr. STANTON. I am showing that these words should be stricken out, because it is a revenue bill, and I want to amend it so that it shall not be a revenue bill. Now, Mr. Chairman, it is settled by the uniform practice of the House, from the foundation of the Government to the present day, that an appropriation bill, if it involves only \$100, cannot originate in the Senate. That is not a taxing bill. It does not exercise the taxing power; and who does not know that one of the most usual modes of raising revenue in all Governments, and especially in other Governments like our own, is by raising loans and by the issue of Treasury notes in every possible form? If there was any reason for making any such constitutional provision, it applies with as much force to this bill as it can to any other form of raising the revenue; just as much as it does to a tariff, and just as much as it does to a bill for direct taxation. Any bill which imposes a pecuniary liability on the Government, or a charge upon the people, is, in common sense and in all reason, a revenue bill.

Now, sir, the clause providing that these bills shall originate in the House, is not a mere matter of form. Why, sir, the Senators from Texas, the Senators from Delaware, and the Senators from Florida, have just as much force in the passage of a Treasury note bill, or in originating it, if it is to be originated in the Senate, as have the Senators from the State of Pennsylvania or New York. It matters not whether the debt is to be liquidated by taxation, or by pledging the credit of the Government in a loan; it involves a charge upon the people, and all such bills should originate with the immediate representatives of the people.

Now, sir, I object to this bill, not only because it is a Senate bill, but because it does not provide a proper mode for raising revenue. If, instead of issuing Treasury notes, the bill provided for raising a loan, I would care less about it. But, sir, taken in connection with an involuntary bankrupt law, which I suppose is to follow it, and it looks like an attempt, upon the part of the Government, to establish a national paper currency, to take the place of the banking institutions of the States. The President recommends the Legislatures of the several States, for the first time in the history of the recommendations of Presidents, to adopt laws for the limitation of the paper issues of the banking institutions of the States. He follows it up by the recommendation of the passage of an involuntary bankrupt law for corporations, for the purpose of sweeping them out of existence, and then recommends the raising of the loan, which I suppose is to take the place of the paper currency of the banks of the several States. We are to commence by an issue of \$20,000,000; and, in my opinion, it will be followed up until it may reach \$100,000,000, and supply all the avenues of commerce.

Mr. HOUSTON. I oppose the amendment of the gentleman from Ohio, [Mr. STANTON,] and I desire to correct the impression under which I was when I propounded the last question to the chairman of the Committee of Ways and Means. Upon a reference to the Journals, I find that the Treasury note bill of 1837 originated in the House. The Senate originated a bill at the same session, and for the same purpose, but acted upon the

House bill. I was under a slight misapprehension. Now, I propose to give one or two reasons why the Senate had the right to originate this bill. I think the gentleman from Ohio [Mr. STANTON] entirely destroys the force of his own argument, when he maintains that this bill must originate in the House, but admits that the Senate might originate a loan bill.

Mr. STANTON. I did not admit that.

Mr. HOUSTON. Then I misunderstood the gentleman. But, sir, I ask why the Senate could not originate a loan bill, and this is but a loan bill? Is it a revenue bill? It is true that it furnishes money to the Treasury, but it is merely a means of anticipating the revenue, which is expected to come into the Treasury through the channels provided by existing laws of Congress for raising revenue. This is not a revenue bill any more than a bill which might be originated in the Senate, for the sale of one of the ships of war floating on the ocean, or for the sale of any other property belonging to the Government. If the Senate originate a bill for the sale of a certain piece of public property, by which you put money into the Treasury, is it for that reason a revenue bill? I understand the clause of the Constitution to which reference has been made, was intended to apply to bills for imposing taxes upon the people. It does not apply to a bill which proposes to borrow money, or to obtain money by a sale of property which may be useless to the Government; as, for instance, by the sale of the Fort Snelling reservation of the public lands.

Mr. STANTON. Is an appropriation bill a taxation bill?

Mr. HOUSTON. I think the gentleman is mistaken about the power of the Senate to originate appropriation bills. There is no such doctrine settled now, and no such doctrine has ever been settled. It is true that the Senate are not in the habit of originating the general appropriation bills; but if I am not mistaken, they did originate two or three appropriation bills during the last Congress. I am not certain whether the House acted on them.

Mr. CAMPBELL. They were received by the House, and all laid on the table.

Mr. HOUSTON. I repeat, sir, that the rule is not as the gentleman from Ohio has asserted it to be, that the Senate has no power to originate appropriation bills. There is no such rule contended for outside the Committee of Ways and Means of this House, who do not want to have their authority disputed by the Committee on Finance in the Senate. That is the reason of the doctrine, and that is how it grew up.

I therefore say, in illustration of what I have said, that the Senate has the same power to originate an appropriation bill that the House has; it has the same power to originate a loan bill that this House has; it has the same power as that claimed by the House of Representatives to sell any of the reservations of the public lands for military or naval purposes, or to sell any of the property of the United States that we may, by law, dispose of.

Mr. STANTON, by general consent, withdrew his amendment.

Mr. TAYLOR, of Louisiana. I move to amend this section by striking out the last two lines.

Mr. Chairman, I have listened with some little surprise to the ground taken by the gentleman from Ohio, [Mr. STANTON.] It seems to me that it shows a singular misapprehension of the character of our Government, and of the functions of the two Houses of Congress. The Constitution of the United States establishes the two Houses of Congress, and gives to them legislative power. In its grant of power to the two Houses of Congress it particularizes the subjects.

Mr. HOWARD. What is the question now before the committee?

Mr. TAYLOR, of Louisiana. It is to strike out the last two lines.

The CHAIRMAN. The gentleman from Louisiana must confine his remarks to the amendment—striking out the last two lines. [Laughter.]

Mr. TAYLOR, of Louisiana. Well, then, I withdraw my amendment, and renew the amendment of the gentleman from Ohio.

The grant of power to the Congress of the United States is first to lay and collect taxes, duties, imposts, and excises, &c. The second is to borrow money on the credit of the United

States. The second ground was separate and distinct. There is but one prohibition imposed upon the Senate of the United States; but one limitation of power in regard to the action of that branch of the Government, and it is to be found in the seventh section of the same article. That section declares that all bills for raising revenue shall originate in the House. That relates to the power given in the first clause of the seventh section, and has no relation whatever to the second specification of power delegated to Congress as a legislative body. There is no other prohibition.

Now, the amendment proposed is, that stocks of the United States shall be issued instead of Treasury notes. The notion of that being proper grows out of the assumption that the issuing of Treasury notes is unusual. Mr. Chairman, if one reverts to the history of this Government, he will find that it is in strict accordance with the settled principle that has prevailed ever since its establishment. On all occasions when there has been a need of a temporary supply of money, it has been the practice of the Government of the United States to issue Treasury notes. It took advantage of that means during the war of 1812. There were no less than six several acts passed during that period for the issue of notes. It was not until the close of the war, and when it became necessary to provide a permanent mode of proceeding, that it funded Treasury notes. In 1837 there were repeated acts passed for the issue of Treasury notes to supply what was supposed to be the temporary necessities of the Government. That policy continued during several years; and it was only when it was ascertained that there was a necessity of making a permanent provision that there was any act passed for—

[Here the hammer fell.]

Mr. QUITMAN. I move the following amendment in good faith, and not for the purpose of making a speech:

In section one, line seven, strike out the words "one hundred," and insert "one thousand."

I offer the amendment in the confident belief that it will remove the objection of some members of the House who are opposed to this mode of raising or borrowing money, on account of the fear that these notes will enter into the circulation of the country, and thus direct it to purposes not intended by the Constitution, and not intended by the Treasury system which now fortunately prevails—a system which disconnected the Treasury entirely from the banking business of the country. There are objections to throwing into circulation Treasury notes of small amount. They will take the place, to some extent, of the circulation of the country, and, to that extent, they will expel specie from circulation. I understand that they require only the indorsement of the person to whose order they are filled, and after that they are thrown upon the country, will pass from hand to hand, and will perform the functions of exchange. They will constitute a very good medium of exchange, passing from one point of the country to another, between which there are varying rates of interest, and cutting off premiums, which, otherwise, will have to be paid. I believe the amendment which I offer will remedy that evil, and that it will keep these notes, as they ought to be kept, out of circulation.

Another evil they will correct. If gentlemen will make a calculation of the labor thrown upon the Treasury by the circulation of ten, fifteen, or twenty millions of Treasury notes, they will find that a large force of clerks will be necessary to be employed to keep this intricate system under the full and perfect control of the Department. That will be in a great degree corrected by not allowing the issue of Treasury notes under the sum of \$1,000. I have offered the amendment in good faith, because I desire to aid the Government in acquiring the means of carrying on its affairs. It is true, as said by the gentleman from Massachusetts, [Mr. BANKS,] I prefer the old-fashioned way of borrowing money, and not by means of issuing Treasury notes; because I believe that the Treasury of the United States, unless watched by the people, will be corrupted. I am ready to supply the necessary means to pay the expenses of the Government, and will vote for it in any shape that may be necessary to accomplish that object; but I think this amendment will tend, in a great degree, to remove the objections which

may exist upon the part of some of the members of the House.

Mr. ZOLLICOFFER. Mr. Chairman, I do not believe that the amendment proposed by the honorable member from Mississippi, [Mr. QUITMAN,] will accomplish the purpose that he and I both wish to attain. I believe that a paper issue, destined to go into circulation, founded upon anything else than gold or silver, will be liable to occasional and great depreciation. Should the Government credit at any time be affected to the extent of reducing this paper the slightest shade of depreciation below par, it might all be precipitated at one time, and at the most inopportune time, upon the Treasury for redemption. Sir, there never has existed an instance in this Government, in which Treasury notes have been issued under circumstances like these, that the Government has not been reduced to the necessity of passing a funding act to return them again to the Treasury.

This bill proposes, it is true, that these notes shall bear interest for twelve months, and for sixty days after the Secretary of the Treasury shall give notice that he is prepared to redeem them. But what takes place then? The bill provides that then the interest shall cease. What will be the condition of the thousand dollar Treasury note under these circumstances? It will have accumulated interest to the amount of seventy dollars, and it will pass for all purposes of exchange as \$1,070. If a New York capitalist, holding this paper, wishes to go into the cotton market at New Orleans and purchase cotton, he will have the option to return the notes to the Treasury for redemption, or remit them for the purchase of the cotton. Will he demand the gold for them, and pay the freight upon the gold to New Orleans? or will he send his thousand dollar Treasury note to New Orleans, and make his payment free from charge of freight? Raising the denomination of these notes to \$1,000 will not prevent them from passing into circulation. Whenever the Treasury note ceases to bear interest, it will then pass, as long as the credit of the Government is good, as freely into circulation as any other paper of like denomination; and, as has heretofore been proven by the history of the Treasury operations of the country, you will never recover this paper so long as the credit of the Government is maintained, until you pass a funding act authorizing the holders of these notes to present them at the Treasury and convert them into Government stock bearing six per cent. interest, running for a period of time—say not less than five or ten years. You must hold out this inducement to the owners of large masses of capital, seeking permanent investment, to tempt them to gather up these notes and return them to the Treasury.

This, sir, will be the case so long as the Government credit is good; but if exigencies shall arise impairing the Government credit to the slightest extent, the whole mass of this paper may return, as the old continental money used to return, to the Treasury for redemption. This may occur at the most inopportune time, and when the condition of the Treasury may cause them to be greatly depreciated. It will be the worst description of paper ever established by the Government. You have an illustration of what may occur with this issue of \$20,000,000 in the history of the old continental money. Though I think the gentleman's amendment is a step in the right direction—though I think Treasury notes ought not, perhaps, to be issued of a less denomination than \$1,000—yet, I think that the amendment of the gentleman from Mississippi would fall far short of averting the evil which the gentleman and myself both desire to avert. I would prefer to insert in the bill the funding clause embraced in the Treasury note act of 1847.

Mr. SMITH, of Virginia. I move to amend the amendment by substituting "five hundred" for "one thousand." The committee will understand, Mr. Chairman, that the question is simply an issue between \$1,000 and \$500. Whichever is preferable of the two, in the judgment of the committee, will, of course, receive its assent, if either of them does.

I think myself, sir, that these Treasury notes, which it is proposed to issue, will not be a worse currency than gold and silver. I believe they will be better. These Treasury notes will not appear in the ordinary circulation of the country. They

will be used in the payment of duties; they will go West, and be invested in the purchase of lands. And when they are thus invested, what will be their condition? They will not only be unfitted for the duties or functions of currency, but they will be directly withdrawn. What says the seventh section of this bill?

"Sec. 7. And be it further enacted, That every collector of the customs, receiver of public moneys, or other officer or agent of the United States who shall receive any Treasury note or notes in payment on account of the United States, shall take from the holder of such note or notes a receipt, upon the back of each, stating distinctly the date of such payment, and the amount allowed upon such note; and every such officer or agent shall keep regular and specific entries of all Treasury notes received in payment, showing the person from whom received, the number, date, and amount of principal and interest allowed on each, and every Treasury note received in payment; which entries shall be delivered to the Treasury with the Treasury note or notes mentioned therein, and if found correct, such officer or agent shall receive credit for the amount, as provided in the last section of this act."

Now, Mr. Chairman, you will see, and the committee will see, that the function these notes will perform will be to pay the public dues, and when those dues are discharged, the notes are by their use extinguished; they are receipted upon; there is an end of them. I propose to reduce the amount of the notes to \$500, instead of fixing it at \$1,000, as the amendment of the honorable gentleman from Mississippi provides, because it will afford greater conveniences to those having to deal with the Government. A thousand dollars is too large an amount for many of those, for instance, who want to make investments in western lands. Five hundred dollars is a much more convenient amount, and if they are employed in the manner I have stated, they will not perform the functions of a means of exchange. How many functions do the bonds of the Government perform in that way? We know very well that the savings institutions have derived their capital from investments in bonds of the Government.

Mr. QUITMAN. I desire to ask my honorable friend from Virginia, whether a bank of the United States or a fiscal agency would not answer the purpose better?

Mr. SMITH, of Virginia. Mr. Chairman, I think that my remarks do not justify any such criticism. A bank of the United States would issue notes that would not be extinguished by circulation, as Treasury notes are extinguished by circulation and use.

A MEMBER. They can be reissued.

Mr. SMITH, of Virginia. That is true; but nevertheless they are extinguished. So you can reissue bonds. But when the Government desires it, they may be extinguished. I insist upon it, sir, that there is no similitude whatever between this transaction and a Government bank. I think my amendment would be for the public convenience; for the convenience of remittance, if you choose; for the convenience of paying duties at your different sea-ports, and for the purchase of land at your land offices.

Mr. J. GLANCY JONES. I hope the amendment of the gentleman from Virginia [Mr. SMITH] will not prevail. The amendment, and the speech based upon it, as also the amendment offered by the honorable gentleman from Mississippi, [Mr. QUITMAN,] contemplate no change in the principle or character of the bill. The Treasury note, as to all its characteristics, will be just the same, whether it be \$500, or \$100, or \$1,000. It is still a Treasury note, payable in one year, with interest. The modification proposed by either of the gentlemen will not alter the character of the bill in any single particular. There is no principle involved. It is a mere question of expediency. Now, I would suggest to these honorable gentlemen that the bill does not provide that the Secretary shall issue Treasury notes of the denomination of \$100, but it simply provides that he shall not issue Treasury notes of a less denomination than \$100. It certainly can do no harm to leave this discretionary power in the hands of the Secretary. I am convinced that he is just as much opposed to making these notes current as any gentleman here can possibly be. It is not his desire to do so. He wants to have the power to issue, if necessary, notes as low as \$100. I am willing to confide in the Secretary of the Treasury. I know that he will do anything in his power to prevent their becoming currency.

Another reason why I do not wish the amendment to prevail is, that we are now acting on the

Senate bill. If we pass it as it is, there is the end of it, and it only needs the President's approval to become a law. If any amendments be made to it, it will be necessary for it to go back to the Senate. At the same time, there is a pending resolution for both Houses to take a recess. I am very anxious to have a vote on this bill, and that we may either pass it or reject it to-day. I hope, therefore, that the amendment to the amendment will not prevail.

The question was taken on Mr. SMITH's amendment to the amendment, offered by Mr. QUITMAN, and it was not agreed to.

Mr. PHILLIPS. I move to amend the first section, by striking out the words "not less than \$100 for any such note," and inserting in lieu thereof the words, "of \$100, \$500, and \$1,000 respectively." I offer this amendment, Mr. Chairman, in good faith.

Mr. QUITMAN. I submit the question to the Chair whether that amendment is in order?

The CHAIRMAN. The amendment of the gentleman from Pennsylvania [Mr. PHILLIPS] is not, at this time, in order.

Mr. SEWARD. I move to amend the amendment offered by the gentleman from Mississippi, by striking out the words "one thousand," and inserting the word "fifty." Either this bill is authorized by the Constitution of the United States or it is not. The amount of the Treasury drafts cannot affect the power of the Government under the Constitution—

Mr. QUITMAN. I would submit the question whether the gentleman is in order?

The CHAIRMAN. The gentleman from Georgia [Mr. SEWARD] submits an amendment to the amendment, and is in order, discussing it.

Mr. QUITMAN. I wish to ask the gentleman, in courtesy, not to embarrass an amendment which I proposed in good faith. He will have an opportunity of voting directly on his own proposition afterwards.

Mr. SEWARD. I offer my amendment in just as good faith; and the House will determine between the gentleman and myself. If this bill is unconstitutional, then you cannot issue the Treasury note for any amount. The difficulty cannot be removed by the proposition of the gentleman from Mississippi to enlarge the amount, because, if \$1,000 notes are issued, the wrong would be ten times greater than if \$100 notes were issued. But I am opposed to issuing large Treasury notes, and I prefer to see them all in \$50 notes, because I want them to go into circulation as money, in the present financial condition of the country. The uses that the people may make of these Treasury notes, if issued, cannot affect the constitutional power of Government to issue them. They are not bank bills, because they are paper payable twelve months ahead, and drawing interest. If the people think proper to use these bills as money to control and regulate exchanges, and for the transmission of money, so much the better; and that is one reason why I am in favor of the bill.

I am not afraid of being charged with favoring a Bank of the United States, because I think that that is an entirely different thing from this bill, in any aspect in which you can view it. A Treasury note would be no more a bank bill than the Government stock which gentlemen talk about, because these Treasury notes are payable at twelve months, drawing interest. Every man knows that stocks are put in the market every day and sold. They are exchanged every hour in Wall street, and are used, if not for the purpose of circulation, at least for the purpose of raising money on, just as these Treasury notes can be used. So that in any shape you can put it, the Treasury securities will become, to some extent, a circulating medium. You cannot avoid it. Therefore, I think it much better to have small notes than large ones. I am in favor of that for another reason. I want some of these notes to go down South. If they are issued of the denomination of \$1,000 and \$5,000 and \$10,000 and \$50,000, the notes will stay in the northern States, and give relief there to the detriment of the South, and will produce the same mischief as the United States Bank. Therefore I want them to be issued of small denominations.

Mr. PHILLIPS. Mr. Chairman, if I understand the amendment proposed, it is to insert "fifty" instead of "one hundred." I am opposed

to the amendment, though I am in favor of an alteration of the section. I also am in favor of so altering it that the sums for which these Treasury notes shall be issued shall be fixed by law, and not left to the discretion of the Secretary of the Treasury; not that I doubt that a wise use will be made of that discretion, but because I think that such an alteration will be the means of saving the Secretary of the Treasury from much annoyance, and at the same time make these Treasury notes much more valuable for all the proper purposes for which they ought to be issued. I propose, sir, to move, at the proper time, that these notes shall be issued in sums of \$100, \$500, and \$1,000. The bill itself provides that they shall not be issued in sums of less than \$100; but it does not prohibit their issue in fractional sums over \$100. If they can have any valuable effect upon the community, though they may not be legitimately issued for that direct purpose, let us put them into a shape by which that effect may be realized.

I take this occasion to say, Mr. Chairman, because I think it is germane to the subject, that these Treasury notes, in my judgment, are the very things which ought to be issued. The President of the United States, in his annual message, commends to the attention of Congress the report of the Secretary of the Treasury which recommends them; and my colleague, [Mr. RITCHIE,] in stating that the President did not recommend them while they were recommended by the Secretary of the Treasury, has fallen into a mistake; not intentionally, of course. His view, as I understand it, is that the President, in the body of his message, speaks of a loan, and, with respect to Treasury notes, merely indorses the action of the Secretary of the Treasury. If my colleague will look further he will see that the President in his message speaks of a temporary loan in case the exigency of the public service should require it; and certainly he will admit that in commending the recommendation of the Secretary of the Treasury to the notice of Congress, the President intends to refer to what he had stated previously—that, whenever the exigency of the public service requires that which he has called a temporary loan, it shall be realized in this manner.

But why should this loan be made? Why should these Treasury notes be issued? My colleague from Pennsylvania [Mr. GROW] tells this House that it had better begin to retrench. Does he recollect that every dollar now asked for is asked for to pay the debts of a Congress in which he was one of the majority? Does he not know that the appropriations to be made by this Congress will be made at a late period, and for the fiscal year to commence in July next? Does the gentleman forget that an appropriation bill, demanded by the real wants of the country, the Army appropriation bill, was, during the last Congress, three times rejected? Why is it, Mr. Chairman, that this side of the House is reproached with advocating measures of extravagant appropriation, when we only ask for means to replenish the Treasury in order that the debts contracted by the gentleman and his friends may be paid. We do not say to the creditor of the Government that he must accept these notes; but the bill very wisely provides that unless he chooses to accept them he need not do so.

I shall take the opportunity again of saying a few words on this subject, unless by doing so I shall embarrass the action of the committee on this bill. I prefer that the amount of these Treasury notes shall be fixed, and for that reason I shall vote against the amendment of the gentleman from Georgia, [Mr. SEWARD.]

Mr. CLINGMAN. I think the debate has gone far enough on this bill. I move to strike out the enacting clause.

Mr. QUITMAN. I ask the gentleman that he will not apply the previous question upon this bill in committee, which will have the effect, if I understand it, of cutting off a vote upon the amendments which are pending.

Mr. WASHBURN, of Maine. I am disposed to make a question of order upon the motion of the gentleman from North Carolina. I know it has been the practice established during the Congress before the last to entertain such a motion in committee; but I did not believe it was in order then, nor do I believe that it is in order now. I believe it is trampling down the rights of this House to permit a majority, by striking out the enacting

clause of a bill, to cut off all debate upon any question whatever, no matter how important. If the motion can be applied to this bill, it can be applied to any bill. If it can be applied at this stage of the proceedings, it can be applied in any stage of the proceedings in committee. No matter how important the measure, the gag may be applied in Committee of the Whole at any time, if the Chair rules the motion in order.

The CHAIRMAN. The Chair overrules the point of order submitted by the gentleman from Maine, and decides that the motion of the gentleman from North Carolina is in order.

Mr. WASHBURN, of Maine. I take an appeal from the decision of the Chair.

Mr. CLINGMAN. At the request of the gentleman from Massachusetts [Mr. BANKS] I will withdraw the motion for the present.

The amendment to the amendment was not agreed to; and the question recurring upon the amendment offered by Mr. QUITMAN.

Mr. WARREN. I move to amend the amendment of the gentleman from Mississippi, by striking out "\$1,000" and inserting "\$1,500." The object which I have in view in offering this amendment, is simply, in a few words, to give my opinions in reference to this bill. I dislike very much to oppose the bill in any shape in which it can possibly be presented, but unless some amendment of this character is made, I shall feel myself bound to oppose it.

My object and that which my friend from Mississippi seeks to accomplish, are precisely the same. It is to provide that these Treasury notes shall not, by any possible contingency, be made a circulating medium in this country. It has been the policy of the party to which I belong, as I have understood it—it has been my policy at any rate—to oppose any proposition upon the part of this Government, by virtue of which any thing other than gold and silver shall become a circulating medium. I propose, therefore, by the amendment which I have introduced, to make the lowest limit for these Treasury notes so large as to prevent the possibility of such an occurrence.

I desire not to oppose this measure, and I have very reluctantly taken the position which I have in objecting in good faith to this feature of the bill. I hope the amendment will be adopted, because I desire to aid, by my vote, the Government in carrying on its affairs. But, sir, I will not do it in opposition to the firm and fixed principles for which I have contended all the preceding days of my life. If this amendment be adopted, the desire I have will be accomplished; otherwise I shall vote against the bill.

Mr. WASHBURN, of Illinois. I am opposed to the amendment of the gentleman from Arkansas. I am opposed to the issue of any of these notes, and I ask a vote upon the question.

Mr. EUSTIS. When the gentleman from North Carolina [Mr. CLINGMAN] withdrew his motion, I renewed it. The Chair did not hear me; but I now renew the motion to strike out the enacting clause of the bill. I made the motion before, distinctly to the hearing of gentlemen around me.

Mr. STANTON. I submit that the motion is not in order, pending the amendment of the gentleman from Arkansas.

The CHAIRMAN. The Chair rules that the motion is in order. "A motion to strike out the enacting words of a bill shall have precedence of a motion to amend."

Mr. BANKS. I trust the gentleman from Louisiana will withdraw the motion, in order that we may take one or two votes upon propositions we propose to offer in good faith. There is no desire to defeat the bill by procrastination.

The CHAIRMAN. The Chair did not hear the motion submitted by the gentleman from Louisiana at the time he submitted it, otherwise the Chair would have entertained the motion.

Mr. EUSTIS. I made it distinctly at the time, but inasmuch as gentlemen desire to take some votes in good faith, I withdraw my motion.

The amendment of Mr. WARREN to the amendment was not agreed to.

The question recurring on the amendment offered by Mr. QUITMAN,

Mr. QUITMAN demanded tellers.

Tellers were ordered; and Messrs. QUITMAN, and SMITH of Tennessee, were appointed.

The question was taken; and the tellers reported—ayes 76, noes 105.

So the amendment was rejected.

Mr. BANKS. I offer the following amendment, to come in after the first section of the bill:

And be it further enacted, That the President, if in his opinion it shall be the interest of the United States so to do, instead of issuing the whole amount of Treasury notes authorized by the first section of this act, may borrow, on the credit of the United States, such an amount of money as he may deem proper, and issue therefor stock of the United States, bearing interest at a rate not exceeding six per centum per annum for the sum thus borrowed, redeemable after the 31st day of December, 1859: *Provided*, That the sum so borrowed, together with the Treasury notes, issued under the authority of this act, outstanding, and the stock created under the authority of this act, shall not in the whole exceed \$20,000,000: *And provided further*, That no stock shall be issued at a less rate than par.

I will not, sir, detain an impatient House by any extended remarks. The amendment gives to the President all the authority that his friends claim for him under the bill to issue Treasury notes. But it superadds also the authority, that if he shall deem it for the interest of the United States, he shall also have authority to issue United States stock for any part of this amount of \$20,000,000; that both the stock and the Treasury notes issued shall not together exceed \$20,000,000; and that no stock shall be issued below par.

This will be a precedent for the Government in future time, and stand upon the authority of the Democratic Administration of this year. There has been no bill passed of this character, under a similar condition of the country; and every previous bill, giving the President authority to issue Treasury notes, has proceeded and been defended upon the admitted fact that a loan was impracticable at the time of the issue of the notes. Now this will be as a precedent, that if the Treasury notes be issued, a loan will, at the same time, be authorized; and, if the act shall be temporary in its character, that it may extend two years instead of one.

As for the authority upon which the Democrats upon this side of the House stand, to which the gentleman from Virginia [Mr. SMITH] alluded, I ask leave to read to him the words of one standing in the position of authority to that gentleman and his friends. I read an extract from a letter of Andrew Jackson, to the editor of the Globe, dated July 23, 1837. He says:

"I hope no Treasury notes will be issued. The Treasury drafts upon actual deposits are constitutional, and do not partake of paper credits, as Treasury notes, which are subject to depreciation by merchants and banks, and shavers and brokers, and will be, if issued; and the Government cannot avoid it."

Mr. CLINGMAN. I am opposed to the amendment of the gentleman from Massachusetts. I think, however, that it presents to the committee the real point in controversy. There are certain gentlemen here who advocate a loan in preference to the issue of Treasury notes. Well, if the amendment really has the effect of providing for a loan, redeemable in twelve months, it will be identically the same as if you carry out the policy proposed in the bill. It is the same as the bill, except that the matter is to be left at the discretion of the Secretary of the Treasury; but if you were to adopt the bill in the shape proposed by the gentleman from Massachusetts, I take it that capitalists would hesitate to take the notes, because they would prefer a loan for a long time.

Now, let us see how it will operate. The times are hard, and I have no doubt that those who have money with which to make investments desire a movement of this kind. If the Secretary of the Treasury shall be compelled to take a loan for ten or twenty years, capitalists will come forward and take the stock, perhaps at par or a little more. In six or twelve months, when money matters get easier, these stocks will go up ten, fifteen, and perhaps twenty per cent., and will be sold in England and elsewhere, and several millions of dollars will be realized by these capitalists. Well, your debt is then outstanding, and some two, three, or four years hence, when we have a surplus in the Treasury, the Secretary of the Treasury will be authorized to buy in the stock, and he will have to give a premium of twenty per cent. for it, and the men who hold it will derive a further advantage from it. The effect of the amendment, therefore, would be to enable capitalists to make large sums of money at the expense of the Government. I do not say that that is the

intention of the gentleman from Massachusetts, for I believe it is not; but the effect would be to enable them to make large profits without the Government or the country deriving any corresponding advantage. I am, therefore, opposed to the amendment. Let us make these Treasury notes redeemable in twelve months. By that time the Government will probably have means to redeem them, and in a year or two probably they will all be brought in. But if you provide for a loan, or the issue of Treasury notes, the capitalists will not take the notes. They will hold back and tell the Secretary that his notes will not go, and that he must have a loan for ten or twenty years.

Gentlemen have said, during this discussion, that the Secretary of the Treasury has made a very great mistake. Well, if that be so, I am not willing to trust him with this discretion, for he may make another mistake. I do not say that he has made a mistake; but gentlemen say he committed a blunder by buying up Government stocks at a premium, and they ought not, therefore, to desire to trust him. I am opposed to the amendment, therefore, for the reason that, if you put in the alternative, you cripple the proposition for the issue of Treasury notes. I hope we shall stand by the bill as we have now got it, and that we shall have a vote at once upon the pending amendment.

Mr. TAYLOR, of New York. I move to strike out the enacting clause of the bill.

Mr. CLINGMAN. Let us vote on this amendment first.

Mr. TAYLOR, of New York. As it is desired to take a vote on this amendment, I withdraw the motion for the present.

Mr. WASHBURN, of Illinois. I ask for tellers on the amendment of the gentleman from Massachusetts.

Tellers were ordered; and Messrs. TAYLOR of New York, and WASHBURN of Illinois, were appointed.

The question was taken; and the tellers reported—ayes 78, noes 103.

So the amendment was not agreed to.

Mr. BARKSDALE. I move to strike out the enacting clause of the bill.

Mr. WASHBURN, of Maine. I request the gentleman from Mississippi to withdraw his motion till I offer an amendment to the second section; I wish to offer it in good faith and have it voted on. It will take but a few moments.

Mr. BOCOCK. If any gentleman on the other side has a *bona fide* amendment to offer, I think he will be allowed to offer it, and have a test vote upon it. And, then, when these test amendments are offered and decided, we can come to a vote on the bill.

Mr. BARKSDALE. I would like to accommodate the gentleman from Maine, but I think that the best course for the House to pursue would be to strike out the enacting clause, and put the bill on its passage.

Mr. CAMPBELL. I understand the gentleman from Mississippi refuses to withdraw his motion to strike out the enacting clause. Does the gentleman propose to speak his five minutes on the proposition to amend?

Mr. BARKSDALE. I do not.

Mr. CAMPBELL. Then I have a word or two to say against the amendment.

The CHAIRMAN. It is not an amendment. It is a motion to strike out the enacting clause, and, in the opinion of the Chair, is not debatable.

Mr. CAMPBELL. I submit that it is a proposition to amend the bill by striking out the enacting clause.

The CHAIRMAN. The motion to strike out the enacting clause takes precedence of an amendment, and is not of the nature of an amendment, for it is for the purpose of withdrawing the bill. The Chair therefore rules that the motion is not debatable.

Mr. CAMPBELL. I think that the rule referred to by the Chair is not applicable at all to proceedings in Committee of the Whole on the state of the Union. It certainly never was designed that the previous question should prevail practically in Committee of the Whole on the state of the Union.

Mr. BARKSDALE. I submit that discussion is out of order.

The CHAIRMAN. The Chair has so ruled.

Mr. BARKSDALE. This plan has been repeatedly pursued during the last two Congresses.

Mr. WASHBURN, of Maine. I desire to appeal to the gentleman from Mississippi to withdraw that motion but for a single moment. I have an amendment which I wish to offer in good faith, and have it voted on.

Mr. BARKSDALE. The committee can vote down my motion if it choose to do so, but I refuse to withdraw it.

Mr. WASHBURN, of Maine. The Chair has decided that a motion to strike out is in order. From that decision of the Chair I respectfully take an appeal, and I will state the grounds of my appeal. The Chair, if I understand him, decides that the motion is in order, under the 119th rule. This rule is:

"A motion to strike out the enacting words of a bill shall have precedence of a motion to amend; and, if carried, shall be considered equivalent to its rejection."

That rule was adopted in 1822. Now, I understand that any subsequent rule or law that is inconsistent with this rule must modify and change, or abrogate it. I call the attention of the Chair to the 34th rule, adopted in 1847, and which, I submit, in view of its inconsistency with the 119th rule, adopted in 1822, changes or repeals that rule.

"34. No member shall occupy more than one hour in debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee, may open and close the debate: *Provided*, That where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer, after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege on debate shall be allowed in favor of and against any amendment that may be offered to the amendment."

Now, I desire, under the rule that I have read, to offer an amendment to this bill. The rule provides that I shall have an opportunity to offer it, and shall have an opportunity to speak five minutes to it. The gentleman from Mississippi, [Mr. BARKSDALE,] invoking the aid of a rule established twenty years before that, says that I shall be prevented from offering my amendment. It is a right granted to me by the rule of the House, established in 1847.

Mr. STEPHENS, of Georgia. Is it in order for me to say anything in reply to the gentleman from Maine?

The CHAIRMAN. The question is not debatable.

Mr. STEPHENS, of Georgia. Does the Chair say that the question is not debatable?

The CHAIRMAN. The Chair says that under the rules it is not debatable.

Mr. STEPHENS, of Georgia. Then I desire to inquire why the gentleman from Maine was allowed to make a speech, while I am not allowed to reply to it. I know the question is not debatable; but, as he made a speech, I desired to make one too.

The CHAIRMAN. The 119th rule provides that a motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and if carried, shall be considered equivalent to its rejection.

Mr. STANTON. I move that the committee do now rise.

Mr. LOVEJOY demanded tellers.

Tellers were not ordered.

The motion was not agreed to.

Mr. WASHBURN, of Maine. What has become of my appeal?

The CHAIRMAN. The Chair did not understand the gentleman as appealing.

Mr. WASHBURN, of Maine. I did appeal.

The CHAIRMAN. Very well; the appeal will be entertained. From the decision of the Chair on the point of order made by the gentleman from Maine, that gentleman takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. WASHBURN, of Maine, demanded tellers.

Tellers were ordered; and Messrs. LETCHER and LOVEJOY were appointed.

The question was taken; and the tellers reported—ayes one hundred and eight, noes not counted.

So the decision of the Chair was sustained.

The question then recurred on Mr. BARKSDALE's motion, and it was agreed to.

Mr. J. GLANCY JONES moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly Senate bill (No. 13) to authorize the issue of Treasury notes; and had directed him to report the same back to the House, with the recommendation that the enacting clause be stricken out.

Mr. J. GLANCY JONES. I suppose the question before the House will be upon concurring in the recommendation of the Committee of the Whole in striking out the enacting clause.

The SPEAKER. That will be the first question.

Mr. J. GLANCY JONES. I hope that motion will not prevail. I call the previous question upon it.

The previous question was seconded; and the main question ordered to be put.

The House then refused to strike out the enacting clause of the bill.

Mr. J. GLANCY JONES moved the previous question upon ordering the bill to a third reading.

The previous question was seconded; and the main question ordered to be put.

The bill was then ordered to a third reading.

Mr. J. GLANCY JONES moved the previous question upon the passage of the bill.

The previous question was seconded; and the main question ordered to be put.

Mr. BILLINGHURST demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 118, nays 86; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Boccock, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Chapman, Ezra Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochran, Cockerill, Comins, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Dean, Dewart, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Foley, Gartrell, Gillis, Giltner, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Haskin, Hatch, Hawkins, Hill, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Lamar, Landy, Letcher, McKibbin, McQueen, Samuel S. Marshall, Maynard, Miles, Miller, Millson, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Phillips, Ready, Reagan, Reilly, Ricaud, Rufin, Russell, Sandidge, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Robert Smith, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Tabbot, George Taylor, Miles Taylor, Thayer, Ward, Watkins, White, Whiteley, Wilson, Winslow, Woodson, Wortendyke, Augustus K. Wright, and John V. Wright—118.

NAYS—Messrs. Abbott, Andrews, Banks, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Clawson, Clark B. Cochrane, Colfax, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dick, Dodd, Durfee, Fenton, Foster, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hoard, Horton, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Quinman, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Underwood, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburne, Ellihu B. Washburne, Israel Washburn, and Zollcoffer—86.

So the bill was passed.

Mr. J. GLANCY JONES moved that the vote by which the bill passed be reconsidered; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ADJOURNMENT OVER THE HOLIDAYS.

Mr. WASHBURN, of Illinois. I move that the House proceed to the business on the Speaker's table. My purpose is to take up the Senate resolution for a recess.

Mr. STANTON. Is that motion in order?

The SPEAKER. The Chair thinks it is.

Mr. STANTON. I submit that the House has had no morning hour. The motion to go to the business on the Speaker's table is not in order until the House has spent one hour in the regular business of the morning hour.

The SPEAKER. The Chair announced in the morning that the first business in order was the call of committees for reports, and called the Committee of Elections. After that call by the Chair, the House proceeded to other business; but it was impossible for the Chair to stop the morning

hour from running. The Chair, therefore, decides that the morning hour has expired, and that the motion of the gentleman from Illinois is in order.

Mr. STANTON. I submit that the call of committees for reports is in order; and I insist on the regular order of business.

The SPEAKER. The Chair must refer the gentleman from Ohio to the 27th rule.

Mr. WARREN. I move that the House do now adjourn.

Mr. JONES, of Tennessee. I demand the yeas and nays upon the motion.

The yeas and nays were not ordered.

The motion was not agreed to; and the question recurred on the motion to go to the business on the Speaker's table.

The motion was agreed to.

The joint resolution from the Senate providing for a recess from the 23d of December instant till the 4th of January next, was taken up.

Mr. WASHBURN, of Illinois, demanded the previous question.

Mr. WARREN moved to lay the resolution on the table.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee. I demand tellers.

Tellers were refused.

Mr. WARREN. My object is to get the yeas and nays upon the passage of the resolution; and if I can get that, I am willing to withdraw my motion.

Mr. COBB. I ask the yeas and nays upon the passage of the resolution.

Mr. HOUSTON. If the gentleman will withdraw the call for the previous question, I will offer an amendment.

Mr. BRANCH. I object to debate.

The SPEAKER. Debate is not in order.

The previous question was seconded; and the main question ordered to be put.

Mr. JONES, of Tennessee. I want to move that this House adjourn; and I want to move that when the House adjourns, it adjourn to meet on Friday next.

Mr. REILLY. I move to amend by substituting "Monday" for "Friday."

Mr. SEWARD. That motion is not in order. The first in time is first in order.

The question was taken on the motion that, when the House adjourns it adjourn to meet on Friday next; and it was decided in the negative.

The question was next taken on the motion to adjourn; and it was lost.

Mr. WARREN. I call for the yeas and nays upon the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 97, nays 88; as follows:

YEAS—Messrs. Ahl, Anderson, Andrews, Arnold, Banks, Bennett, Bingham, Bishop, Blair, Bowie, Boyce, Branch, Brayton, Bryan, Buffinton, Burlingame, Campbell, Caskie, Chaffee, Chapman, Clark B. Cochrane, John Cochrane, Comins, Cox, Burton, Craige, Crawford, Damrell, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dewar, Dimmick, Dodd, Edmundson, Faulkner, Florence, Gibbs, Gilman, Gilmer, Groesbeck, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Haskin, Hawkins, Hill, Hoard, Hopkins, Horton, Huyler, Jackson, Jenkins, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leiter, McKibbin, McQueen, Maynard, Miles, Moore, Morgan, Edward Joy Morris, Mort, Palmer, Parker, Pendleton, Phillips, Pottle, Reagan, Ricard, Roberts, Russell, Sandidge, Scott, Seward, Henry M. Shaw, William Smith, Spinner, Stallworth, William Stewart, Miles Taylor, Thayer, Thompson, Underwood, Waldron, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Whiteley, Winslow, Woodson, Wortendyke, and Augustus R. Wright—97.

NAYS—Messrs. Abbott, Adrain, Atkins, Avery, Barksdale, Billingham, Bliss, Bocock, Burnett, Buras, Burroughs, Case, Ezra Clark, John B. Clark, Clay, Cobb, Cocke, Colfax, James Craig, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dean, Dick, Dowdell, Elliott, Fenton, Foley, Foster, Gartrell, Goodwin, Granger, Greenwood, Gregg, Grow, Harlan, Thomas L. Harris, Houston, Howard, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Leach, Letcher, Lovejoy, Humphrey Marshall, Miller, Mills, Morrill, Isaac N. Morris, Freeman H. Morse, Niblack, Nichols, Pettit, Phelps, Pike, Potter, Quitman, Ready, Reilly, Robt. bins, Royce, Ruffin, Scales, James W. Sherman, Samuel A. Smith, Stanton, Stevenson, James A. Stewart, Talbot, Tappan, George Taylor, Tompkins, Wade, Walbridge, Walton, Warren, White, Wilson, John W. Wright, and Zoll-coffer—88.

So the resolution was passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was

passed, and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. FLORENCE. I ask unanimous consent to introduce a bill, of which previous notice has been given, merely for the purpose of reference.

Mr. DEAN. I object; and move that the House adjourn.

The motion was agreed to.

And thereupon (at five minutes past five o'clock) the House adjourned until to-morrow at twelve, m.

IN SENATE.

WEDNESDAY, December 23, 1857.

Prayer by Rev. STEPHEN P. HILL.

The Journal of yesterday was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. J. C. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (No. 13) to authorize the issue of Treasury notes; and that the House concurred in the resolution of the Senate for a temporary adjournment of the two Houses of Congress.

PETITIONS AND MEMORIALS.

Mr. STUART presented a petition of citizens of St. Louis county, Minnesota, praying for the establishment of an Indian agency for the Indian bands of Lake Superior; which was referred to the Committee on Indian Affairs.

He also presented a resolution of the Legislature of Michigan in favor of a division of that State into two judicial districts; which was ordered to lie on the table, and be printed.

Mr. KING presented a petition of the New York State Agricultural College, praying for an appropriation of public lands for an agricultural college in each of the States of the Union; which was referred to the Committee on Public Lands.

Mr. GWIN presented papers in support of the claim of C. Homer to compensation for work on the United States marine hospital at San Francisco, not required by his contract; which were referred to the Committee on Claims.

The VICE PRESIDENT laid before the Senate a letter from the Court of Claims, returning, in compliance with a resolution of the Senate, the petition and papers of Amos and John E. Kendall; and, on motion of Mr. HAMLIN, they were referred to the Committee on Indian Affairs.

Mr. MASON presented a petition of the operative bookbinders of the city of Washington, praying for the enactment of a law requiring the public binding, in all its parts, to be done in the city of Washington; which was referred to the Committee on Printing.

Mr. CAMERON presented the petition of Craton W. Brant, praying to be allowed bounty land for services in the Mexican war as a mechanic; which was referred to the Committee on Public Lands.

He also presented papers in relation to the claim of William Smith, a teamster in the Mexican war, to bounty land; which were referred to the Committee on Public Lands.

He also presented the petition of Andrew Chapman, son of George Chapman, a soldier in the Revolution, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

He also presented a memorial of the religious society of Progressive Friends, adopted at a quarterly meeting held at Longwood, Chester county, Pennsylvania, in relation to slavery; which was laid on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MASON, it was

Ordered, That the petition of William K. Jennings and A. W. Jennings, legal representatives of William Bean; the petition of the heirs of Edward Rudd; the petition of Ann Robinson; the petition of Henry A. Wise; and the petition of Mary Martin, late widow of Robert Lindsay, on the files of the Senate, be referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Mr. MASON asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 29) for the relief of William K. Jennings and others; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. BAYARD asked, and by unanimous con-

sent obtained, leave to introduce a bill (S. No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery; which was read twice by its title, and, with her petition and papers on file, referred to the Committee on Revolutionary Claims.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 2) to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California; which was read twice by its title, and referred to the Committee on Claims.

Mr. DAVIS asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 31) authorizing the establishment of a navy-yard and depot at the harbor of Ship Island, in the Gulf of Mexico; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved 5th March, 1856; which was read twice by its title, and referred to the Committee on Commerce.

REPORT ON INDIAN AFFAIRS.

Mr. SEBASTIAN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That two thousand copies of the last annual report of the Commissioner of Indian Affairs, with the accompanying documents, be printed and bound for the use of the Indian Office.

RIVER AND HARBOR IMPROVEMENTS.

Mr. SEWARD. I offer the following resolution; and as it is merely one of inquiry, I ask for its consideration now:

Resolved, That the Secretary of War communicate to the Senate the estimates which have at any time been made for the improvement of rivers and harbors within the State of New York.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. STUART. If the Senator has no objection, I should like to have the resolution amended so as to cover the lakes.

Mr. SEWARD. The estimates for improvements on Lake Erie have already been called for by a resolution offered by the Senator from Ohio, [Mr. WADE.] The Senator can offer a separate resolution for Michigan and the upper lakes.

Mr. STUART. I will not offer any amendment.

The resolution was agreed to.

NOTICES OF BILLS.

Mr. SIMMONS gave notice of his intention to ask leave to bring in a bill to provide a uniform mode of ascertaining the value of foreign imports in the legal currency of the United States, and to prevent frauds upon the revenue by undervaluations of merchandise subject to duties.

Mr. SLIDELL gave notice of his intention to ask leave to bring in a bill for the purpose of extending the amount for which the silver coinage of the United States may be offered as a legal tender in payment of debts.

REFERENCE OF THE PRESIDENT'S MESSAGE.

On motion of Mr. MASON, it was

Ordered, That so much of the President's message as refers to the relations between the United States and foreign Powers be referred to the Committee on Foreign Relations.

On motion of Mr. BAYARD, it was

Ordered, That so much of the President's message as relates to the judiciary of the United States, be referred to the Committee on the Judiciary.

On motion of Mr. DAVIS, it was

Ordered, That so much of the President's message as relates to the military affairs, be referred to the Committee on Military Affairs.

On motion of Mr. STUART, it was

Ordered, That so much of the President's message as relates to the Public Lands, be referred to the Committee on Public Lands.

EMANCIPATION OF SLAVES.

Mr. FOSTER presented a petition from citizens of Berlin, Connecticut, praying for the adoption of measures for the peaceful extinction of slavery by a fair and ample compensation to the owners of slaves for their manumission; which was referred to the Committee on the Judiciary.

Mr. MASON subsequently said: A few minutes since a petition was introduced by the honorable Senator from Connecticut, which escaped my attention at the time. It has been called to it since. It is from certain citizens of Connecticut, asking that a law may be passed for the peaceable extinction of slavery, by a fair and ample compensation to the slaveholders; and, on his motion, it was referred to the Committee on the Judiciary. I have said to that honorable Senator that my present impressions are very strong, for reasons that I do not wish to detain the Senate now with assigning, against such reference; and I move, therefore, that the order to refer be reconsidered, and I shall ask that, for the present, the petition lie on the table.

Mr. FOSTER. I have no objection, certainly, to the petition lying on the table until any examination may be made. The petition, I am certain, is not obnoxious to any section of the Union. It is not sectional in its character, and will not meet any other opposition except that which arises to any kind of measure for the same object.

The VICE PRESIDENT. The Senator from Virginia moves to reconsider the vote by which the petition was referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. MASON. I now move that the petition be laid on the table.

The motion was agreed to.

COMMITTEE CLERKS.

Mr. BENJAMIN. I ask the Senate to take up the resolution in regard to clerks of committees. We have begun our labors in the committee rooms, but there is no provision for the aid of our clerks.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. BENJAMIN on Monday last:

Resolved, That each of the standing committees of the Senate, enumerated in the 34th rule, be authorized to employ a clerk, with the exception of the four following committees, which shall not be entitled to a clerk, to wit:

1. The Committee on the Library.
2. The Committee on Engrossed Bills.
3. The Committee on Enrolled Bills.
4. The Committee to Audit and Control the Contingent Expenses of the Senate; and that the clerks so employed shall receive a compensation of six dollars per diem during the time of their actual service.

The pending question being on the amendment offered by Mr. EVANS, to add, "except the Committees on Finance, Claims, and Printing, whose clerks shall receive an annual compensation of \$1,850 each."

Mr. BENJAMIN. So far as I am authorized, if I have the authority to do so, I will accept the amendment of the Senator from South Carolina, and make it a part of my resolution.

The VICE PRESIDENT. The question is on the resolution as modified.

Mr. BRIGHT. I have an amendment to offer as a substitute for the resolution. It is to strike out all after the word "Resolved" and insert:

That the clerks of all the standing committees shall be permanent; and the clerks of the Committees on Finance, Printing, and Claims shall receive an annual salary of \$1,800. The clerks of all the other committees shall receive an annual salary of \$1,500; and all clerks of committees shall, during the adjournment of the Senate, have charge of all books and papers of the committees, and be responsible for the safe keeping of the same, and it shall be their duty to reply to all communications relating to business before the committees of which they are clerks respectively.

I have no disposition to debate this question. It has been open for some time past, and the Senate have been unable to agree about it. I will merely state that my object is to make the clerks who may be employed by the committees permanent, thereby avoiding the necessity at the opening of each Congress of appointing a clerk; and thus getting rid of that impotency which is so unpleasant to Senators in reference to making selections among clerks. I think if a committee is entitled to a clerk he should be permanent, and be responsible for the business and papers referred to it. That is my object in offering the amendment.

I have no objection to giving the clerks of the three committees, who really have the most work to perform, \$1,800 a year; and I think \$1,500 is as small a sum as we really can offer to those who perform these duties for the other committees. If any Senator thinks \$1,500 is too much, let him name a less sum. I believe the business of the

body would be greatly promoted by making the clerks permanent.

Mr. FESSENDEN. I will inquire of the Senator from Indiana whether he designs to make no exception? His amendment gives clerks to all the committees. There are four committees which, by the resolution offered by the Senator from Louisiana, are to have no clerks, and ought to have none.

Mr. BRIGHT. My resolution does not contemplate that they shall have them. It provides that such as are entitled to clerks now shall have them.

Mr. FESSENDEN. Let the amendment be read again. I think it makes no exception.

The Secretary read the amendment.

Mr. FESSENDEN. Last session a select committee of the members of this body was appointed to revise the rule with reference to standing committees and their clerks, and they reported a resolution on the subject. That resolution provided that no clerks should be allowed to two committees not named in the resolution of the Senator from Louisiana—the Committee on Public Buildings and Grounds, and the Committee on Patents and the Patent Office. That matter was discussed at considerable length during the special session of the Senate, and a vote was taken on allowing a clerk to one of those committees—the Committee on Public Buildings and Grounds—and the Senate decided that that committee did not need a clerk. I do not feel disposed to renew the discussion on that point unless others should do so; but I propose to make a motion that those committees be struck out, simply because it was so decided by the Senate, and because I became perfectly convinced that those committees did not need a clerk.

With regard to the proposition now offered by the Senator from Indiana, I think it must be obvious to most of the members of the Senate who have been on committees, that there can be no possible necessity for permanent clerks, except for the committees that are excepted by the amendment proposed by the Senator from South Carolina, which has been adopted by the Senator from Louisiana. The select committee rather came to the conclusion that there were several other standing committees which did not need a clerk; that the custom of employing a clerk had grown into an abuse, but it is an abuse to which we have become so familiarized that it is almost impossible now to prevent it. Every chairman of a committee (if it is a committee of any importance at all) likes very well to have the privilege of appointing a clerk, whose principal duties are, as I understand from my observation, to wait upon the chairman and other members of the committee more or less, with regard to franking documents, and all those things which it is very convenient to have a clerk to do. A suggestion that was made here at the last Congress, I think by the Senator from South Carolina, [Mr. Butler,] was, that it would be better and more consistent for each member of the Senate to have a clerk, and then we should be carrying out the system. There is no particular reason why these clerks should be appropriated particularly to the chairmen of the committees, but that is pretty much the result now. However, I dare say if our side of the Senate should get into power, they would like to have the same privilege, and I am not disposed to quarrel on that subject. I know it is considered invidious to attempt to change a well-established custom, and I feel rather disposed to yield to what has been the ordinary course of the Senate in that particular, although I think it is a great abuse. But I see no reason in the world why we should now go further, and make permanent offices of the clerkships to the committees. There are many committees here which, as I said before, hardly need a clerk, and certainly there can be nothing for them to do during the recess.

The amendment says it shall be their duty to take care of the papers. Why, sir, the papers will take care of themselves when they are locked up in a drawer. They are to answer all letters they may receive on the business of the committees. It is not probable that there will be half a dozen during the recess. That is, if I may be allowed to say so, merely giving color to the object of making permanent clerks of all these gentlemen.

But it has been suggested to me, and I have no doubt it is true, that the gentlemen who come

here as clerks to the committees generally come from a distance. They are friends of the chairmen, who are brought to stay here during the session, and there is no sort of difficulty in finding them. There are applications numerous enough for these posts. I presume you could find forty for each clerkship to exist merely during the sessions of the Senate. There can be nothing of necessity, and, in my judgment, nothing of propriety, in making fifteen or twenty permanent officers, at a salary of \$1,500 a year each, when during one year the Senate is in session but three months, and there is, in reality, nothing for a clerk to do in the recess. It is making so many sinecures, and I do not think the Senate can excuse itself for passing a resolution of that description, which is certainly a new feature in the whole business of the Senate's proceedings.

I happened to be a member of Congress some dozen years ago, and at that time there were but three or four committees, either in the House of Representatives or the Senate, that were allowed clerks at all. The effort was made frequently, and it was very often rejected, to allow a committee to have a clerk. It was not considered necessary except in two or three cases. A clerk then was allowed to the Committee of Ways and Means, and the Committee of Claims in the other House, and, perhaps, to one or two others. It has kept growing until now every committee which has anything at all to do, has a clerk during the whole of the session; and the latest move is to have fifteen or twenty officers saddled on the Government for the whole year, with really nothing to do. I dislike as much as any one to appear in this case to object to what may seem to be agreeable to other gentlemen of the Senate; but I consider it my duty to call the attention of members of the Senate to it, and having done that, I have no more to say on the subject. I claim the privilege of voting against it.

Mr. BAYARD. I do not propose to discuss the question. I incline to adopt the amendment of the honorable Senator from Indiana, with a change, naming such committees as, in the judgment of the Senate, ought to be entitled to clerks. Perhaps I might differ as to the amount of compensation, either as to some of those to whom the highest compensation is allowed, as some of those to whom he proposes to allow \$1,500 only. As to the relative labor of clerks of committees, we might all differ. In my judgment it facilitates the business of the Senate though there may be something of abuse in it, to have clerks to committees. I would allow clerks to all the committees except three, the Committees on Engrossed Bills and Enrolled Bills, for whom clerks are clearly unnecessary; and I think the Committee on the Library does not require a clerk. I am a member of that committee. With these exceptions, I think there is sufficient business for the clerks to the other committees, and the appointment of clerks for them would facilitate the transaction of business.

I will not enter into the question as to the propriety of allowing a clerk to the Committee on Public Buildings and Grounds. I am no longer chairman of that committee, and feel now no delicacy in relation to the matter. I can only state, as the result of my own experience, that that committee ought to be entitled to a clerk, if you give one to any committee at all. I do not pretend to say its duties are as laborious as those of the Committee on Finance, or some other committees of the Senate; but I think the business of the Senate would be facilitated by allowing a clerk to that committee, as well as to the Committee on Patents and the Patent Office, and every other committee, except the three which I have named. I shall be satisfied, however, with any judgment of the Senate. I hope my friend from Indiana will alter his amendment so as to name such committees as he purposes to allow clerks to, with a salary of \$1,500.

I do not see any great objection to making these clerks permanent. Whether you appoint them for the session or permanently, you must allow a sufficient sum to secure the services of persons who are trustworthy and competent to perform the duties. Whether you could expect to have them under the sum named in the amendment, is not for me to say: it is for the Senate to determine. I should have preferred rather a lower amount; but I am perfectly satisfied with any sum the Senate thinks right.

Mr. BRIGHT. I will adopt the suggestion of the Senator from Delaware; and the shortest mode of doing it, will be to except the four committees referred to in the original resolution—the Committee to Audit and Control the Contingent Expenses of the Senate, and the Committees on Enrolled Bills, on Engrossed Bills, and on the Library.

Mr. FITZPATRICK. The closing feature of the amendment which constitutes the clerks agents to keep the records, I think will involve the Senate and the country in some difficulty. There are numerous committees; and in the first place, perhaps not one man in ten thousand will know to whom or where to apply for information if he wants any, in the recess of Congress in connection with the custody of those records. But I can imagine, and I venture to say many Senators can imagine, many things that might result injuriously to the public service. Suppose, as is sometimes the case, that we employ a clerk who does not pay that attention which is necessary to the keeping of the records, or suppose a clerk happens to die during the recess, leaving his records where they are inaccessible to anybody else; I ask the Senate what would be the consequence if the numerous valuable papers, especially to the parties interested, could not be found? I can imagine many other cases where serious difficulty might grow out of the fact of constituting them the keepers of the records and papers of the various committees.

I will suggest to the Senator from Indiana that it would perhaps be safer to require the records to be kept as heretofore, giving the committee clerks at all times access to them. Then we should have a head who would have the control, and no difficulty could occur. Many of these papers are essential to parties who have claims pending before Congress. Some of these clerks, as has been remarked before, live remote from here, and if you constitute them keepers of the records, some of them will deposit them with some friend. They will not remain here all the time, but will necessarily be absent. I suggest to the Senate and to the Senator from Indiana, if it would not be safer to say that the records shall be deposited with the Secretary of the Senate, but shall be at all times accessible to the committee clerks. It appears to me that would be more in accordance with prudence and propriety. I take it for granted that the records would be safely kept; but we can all imagine a state of affairs where they would not be, as owing to a providential event such as the death of a clerk leaving no one acquainted with the place where he deposited his records. That difficulty might occur. It seems to me it would be safer to deposit the records as heretofore, but at the same time give the clerks access to them.

Mr. MASON. I have been generally opposed to making these clerkships permanent. I think the only exception should be the Committee on Finance. But Senators know that we are really harassed at every session about some adjustment being made in reference to these clerkships. I think we had better end it. I am willing to concede my objection, and more especially as there does seem to be a propriety when the Senate is a continuous body that these officers should have charge of the books, papers, &c., of the committees, and be ready to act. I submit to the Senate that it is really a desideratum to get rid of this branch of the public service, for we are harassed by it at every session in various forms.

Mr. BENJAMIN. I did not think I could be provoked to say another word on this question, of which I am heartily sick; but what has just fallen from the Senator from Virginia, I think, makes it incumbent on me to submit a few remarks to the Senate.

The very evil of which he complains had become so intolerable in this body, that at the last session a special committee was raised on my motion, which was composed of several of the oldest and most experienced Senators of the body, who took this whole subject into consideration, and submitted to the Senate a report by which the evil was nipped in the bud. We proposed a standing rule of the Senate which provided for this whole subject and which would control it in all future time, enabling us to get rid of this constant and harassing solicitation from the clerks of our committees. It pleased the Senate to lay a portion of that report—the portion which re-

garded the compensation of the clerks—on the table, and we adjourned without acting. The resolution now before the Senate is nothing more than that portion of the 34th rule of the Senate, as suggested by that special committee, which was laid upon the table at the last session.

The Senate's special committee at that time came unanimously to the conclusion that there was great abuse in this matter, and as liberal a report was brought in as its members could be induced to frame. It was considered by many members of the Senate too liberal.

In relation to taking care of the records and papers of the committees, why, sir, I am astonished to hear gentlemen make such suggestions. We all know that, at the close of every session, all the papers in the committee rooms are returned to the Secretary of the Senate, who takes charge of them until the next session; and why we should want a clerk in every little room about the building, to take charge of a few bundles of papers, passes my comprehension. It is clear this is a mere pretext for making the clerks permanent. There is no necessity for it. This body of permanent officers that is to be added to the Senate must, in the conscience and conviction of every member, be known to be unnecessary. If the object is to provide for friends and dependents, let us say so openly; and let us pass a resolution to provide for the friends of the chairmen of the different committees of the body, by allowing them a permanent salary. That is the object, and must be the only object, of any such proposition. We have ample means to have all the work of the body done by competent clerks, paying them for their service during the session when they are wanted. During the vacation they are no more wanted here than they are wanted at the residence of any Senator. They have nothing to do, and can have nothing whatever to do, then, with the exception of the two or three committees specially excepted by the amendment of the Senator from South Carolina.

I hope we shall not do this thing. I think we are increasing the contingent expenses of this body greatly too much, and it is time we should satisfy the just expectations of the country in the mode of conducting our business here, and not be constantly increasing the number of our officers and increasing their salaries, for no other purpose than favoritism—certainly not for doing the business of the Senate. It is impossible that any member can entertain the conviction that these officers are necessary for the business of the Senate. The Senator from Virginia himself, in sustaining the proposition, gives us to understand that he does it to get rid of importunities and annoyances. I am not willing to put my vote on any such ground as that. Let us do our duty as public men regardless of these petty annoyances. Let us give a vote at once that will settle this matter on its proper footing and put an end to this debate that occurs at every session of the Senate.

Mr. FITZPATRICK. Is the question before the Senate on the substitute of the Senator from Indiana?

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana, to strike out all after the word "Resolved," and insert what has been read.

Mr. FITZPATRICK. I concur very much in the argument of the Senator from Louisiana. I am sure that, during the session of Congress, clerks to the committees are very essential, and I am willing to conform my vote to this belief. The resolution offered by the Senator from Louisiana embodies my views more fully than that offered by the Senator from Indiana. During the session of Congress, I believe that nearly all of the committees should be entitled to a clerk; but after we leave here and go home, do we not all know there are sufficient officers here to attend to public business? Are not our documents forwarded to us during the long recess? Where, then, is the necessity for entailing on the public service the heavy expense of paying permanent salaries to this class of officers?

I cannot agree with my friend from Indiana in sustaining the proposition he has submitted. I see no earthly necessity, at the long or short session, for having these permanent clerks. There are two or three committees which should be entitled to permanent clerks; but those are excepted in the resolution of the Senator from Louisiana.

It is proposed here that, for nine months, when we have all the agents necessary to attend to the public business and forward our documents, we shall have fifteen or sixteen clerks; and not only that, but we are to take from the Secretary of the Senate, during the recess, the responsibility now devolved upon him, and to commit to the custody of these clerks the records of the country. This is an innovation which I am unwilling to make.

I am willing to vote for the resolution offered by the Senator from Louisiana, because every one conversant with the routine of business knows that it is physically impossible for a large number of us, with the vast amount of business required at our hands during the session of Congress, to transmit all the public documents that come to us, and which should be scattered throughout the country. They perform valuable and essential service in doing that. Those documents are published by Congress; they are designed to be disseminated throughout the country; and it is imposing too much labor on any Senator to require him to attend to that, and do all the duties incident to his station in the Senate. I am, therefore, in favor of allowing to the respective committees, contemplated by the resolution, the clerks necessary; but I am unwilling to create salaried officers, and more unwilling to commit to them the custody and keeping of all our records, and taking the responsibility from the officer who has had the custody of them since the formation of the Government. In my opinion, it is an unsafe and dangerous precedent.

Mr. SEWARD. I ask for the yeas and nays on the amendment of the Senator from Indiana.

The yeas and nays were ordered.

Mr. PEARCE. Several Senators have anticipated what I proposed to say when I first rose. I only desire, now, to call the attention of the Senate to the last clause of the amendment, as, if I read it aright, it proposes that all memorials and other papers, which have been referred to committees, shall be left in the custody of the clerks during the recess of the Senate. Is not that the object of the amendment?

Mr. BRIGHT. If the Senator will allow me, I will state that the amendment I offered this morning is precisely the resolution offered by the Senator from Texas, [Mr. Rusk,] since deceased, which passed the Senate at the last Congress, but subsequently was reconsidered and left among the unfinished business. At that time the Senate seemed disposed to adopt the resolution, and I supposed, when I offered it this morning, there would be really no objection to it. I am very willing to withdraw so much of it as provides for committing the papers to the keeping of the clerks during the recess.

Mr. PEARCE. If the Senator will so modify the amendment it will obviate the necessity of my saying a word more.

Mr. BRIGHT. I will strike that out. I submit now the simple proposition, whether the Senate will employ permanent clerks for the committees, which the Senator from Louisiana, as chairman of the special committee, reported were entitled to clerks; or whether at the opening of each Congress we shall be importuned by persons who desire these places. The amendment, as modified, will read:

That the clerks of all the standing committees shall be permanent; and the clerks of the Committees on Finance, Printing, and Claims, shall receive an annual salary of \$1,500; the clerks of all the other committees, except the Committees on the Library, on Engrossed Bills, on Enrolled Bills, and to Audit and Control the Contingent Expenses of the Senate, shall receive an annual salary of \$1,500.

The question being taken by yeas and nays, resulted—yeas 7, nays 35; as follows:

YEAS—Messrs. Bayard, Bright, Davis, Douglas, Mason, Pugh, and Sebastian—7.

NAYS—Messrs. Bell, Benjamin, Biggs, Broderick, Chandler, Clark, Clay, Collamer, Crittenden, Dixon, Doolittle, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Hale, Hamilton, Harlan, Houston, Johnson of Tennessee, Kennedy, Pearce, Polk, Reid, Seward, Simmons, Slidell, Thomson of New Jersey, Trumbull, Wade, and Wilson—35.

So the amendment was not agreed to.

The VICE PRESIDENT. The question recurs on the adoption of the resolution of the Senator from Louisiana, as modified.

Mr. COLLAMER. I have an amendment to offer. The resolution provides that these clerks shall be paid a per diem during their actual service. I have an idea that the committees may

direct the clerk to be employed during the vacation, and so make them permanent after all. I wish to have their pay confined to the time of their employment during the sessions of Congress. My amendment is to strike out the words "during the time of their actual service," and insert "during the sessions of Congress."

Mr. BENJAMIN. I accept that.

The VICE PRESIDENT. The question is on the resolution as modified.

Mr. FITZPATRICK. Let it be read.

The Secretary read it, as follows:

Resolved, That each of the standing committees of the Senate enumerated in the 34th rule, be authorized to employ a clerk, with the exception of the four following committees, which shall not be entitled to a clerk, to wit:

1. The Committee on the Library;
2. The Committee on Engrossed Bills;
3. The Committee on Enrolled Bills;
4. And the Committee to Audit and Control the Continuing Expenses of the Senate;

And that the clerks so employed shall receive a compensation of six dollars per diem, during the sessions of Congress, except the Committees on Finance, Claims, and Printing, whose clerks shall receive an annual compensation of \$1,850 each.

The resolution was adopted.

TREASURY NOTE BILL.

A message was received from the House of Representatives, by Mr. J. C. ALLEN, its Clerk, announcing that the Speaker of the House had signed an enrolled bill (S. No. 13) to authorize the issue of Treasury notes; and it was, therefore, signed by the Vice President.

Afterwards, a message from the President of the United States, by Mr. J. B. HENRY, his Secretary, announced that he had approved and signed the bill.

KANSAS AFFAIRS.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, being the motion of the Senator from Illinois [Mr. DOUGLAS] to refer so much of the President's message as relates to the affairs of Kansas Territory to the Committee on Territories.

Mr. STUART. Mr. President, as stated by the Chair, the subject immediately before the Senate is the motion of the Senator from Illinois to refer that portion of the President's message which relates to the affairs of Kansas Territory to the Committee on Territories; but the subject which is before the Senate for discussion, is the question of admitting Kansas as an independent and sovereign State into this confederacy of States, under and by virtue of a constitution recently formed at Leecompton. Those who have preceded me in the debate, or at least some of them, felt embarrassed by the magnitude and importance of this question. I freely confess that it is one of the most important questions that can engage the attention of Congress. It is neither more nor less than the exercise of that power of Congress under the Constitution, which creates a new sovereignty, brings it into being, and adopts it as one of the States of this Confederacy. And when we reflect how many men, distinguished in the public service for their great abilities, have expressed themselves against the extension of the number of States in this Union, and have warned their fellow-citizens against its consequences, lest the fabric itself should fall by its own weight, we may well consider this the most important function that the Constitution has clothed Congress with the power of exercising. In discussing a subject of such a character, I certainly shall bring to it all the consideration that I have been able to bestow. I shall do it with that respect which is due to the subject, and especially the respect due to those who differ from me in this body. If, in the course of this debate, I shall say anything which can offend the most sensitive of those who may differ from me, I shall regret it vastly more than he.

The power of Congress to admit States into the Union is the question which, in my judgment, lies at the very foundation of this discussion. The Constitution of the United States, in the third section of the fourth article, provides that "new States may be admitted by the Congress into this Union." The only limitations to the exercise of the power are found in the language that follows: "but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress." It was well

said by Mr. Attorney General Butler, in the Arkansas case, that the power of Congress over this question is plenary. From the very nature of the question, it must be. It is subject only to the limitations provided in that article; and whenever a question is presented as to the admission of a State into this Union, it must necessarily be determined by the circumstances which surround and govern that particular case. Why, sir, it is a power which authorizes the admission of foreign States, as well as those carved out of our own dominion; and this single statement will show to the mind of any gentleman, at a glance, that precedents, former laws of Congress, never can, and never ought to be, resorted to for the purpose of determining the power or the propriety in a particular case. I use the term "propriety" with a purpose. The power to admit a State necessarily carries with it the power to decline to admit; and when I hear gentlemen talking about the necessity, the imperious obligation that rests upon Congress to admit a State under a particular specified set of circumstances, I confess, sir, it is a doctrine that is not in accordance with my views of the Constitution. It may be very proper, for instance, to refuse to admit a State to-day, and it may be quite the reverse one year from to-day. Congress, and Congress alone, under the power conferred upon it by the Constitution, is to determine, not only the question whether a State shall be admitted at all, but it is equally clothed with authority to determine when it shall be admitted.

In connection with this subject, enabling acts have been discussed. They have an importance in a respect to which, by-and-by, I shall allude; but that an enabling act is necessary, indispensably necessary, in order to the admission of a State into this Union, I never heard any man pretend. It is not made necessary by the Constitution itself; it has not been held necessary in any case that I know of, by the Congress of the United States; and when you come to consider the fact to which I have alluded, that the power exists to admit foreign as well as domestic States, you are forced to the conclusion at once, that no enabling act can be regarded as of indispensable necessity.

Sir, perhaps one of the most unfortunate results flowing from party discussions of great constitutional questions, is the engendering of opinions and the enunciation of doctrines not only novel in their character, but many of them dangerous in their tendency to the permanency of our institutions. When I heard the honorable Senator from Missouri [Mr. GREEN] giving his views of the effect of an enabling act, I confess I was forcibly struck with the consideration to which I have just referred. He said that an enabling act, giving the assent of Congress to the formation of a new State, conferred on that State the authority, if Congress refused to admit it, to set up an independent sovereignty on its own account, out of the Union. Can that be true? Can it be true that the Constitution of the United States has conferred on Congress the power to do an act under the Constitution which shall overturn the instrument and destroy the Government? In other words, and more concisely, is it true that the Constitution confers upon Congress the power to commit suicide and destroy the Government? The idea of an independent State formed under the Constitution, and yet out of the Union, is an idea which cannot bear the light of investigation.

This makes it necessary to consider for a moment what is the purpose and character of an enabling act. The character of an enabling act is simply to authorize the people of a Territory to form a constitution and State government, for the purpose of being admitted into the Union, and for no other purpose. It is useful and safe, and, I think, ought to be adopted as a general rule; because it enables Congress to define the boundaries of the new State, to require that the constitution, when formed, shall be submitted to the people, and generally to exercise a proper control over the whole subject. What is its language? Entirely consonant with its character—to form a constitution in obedience to the law of Congress, and submit it to Congress for the purposes of admission as a member of the Confederacy, and to abide by the result. If Congress refuses the admission, that is an end of the effect of the enabling act. The Senator from Missouri suggested that there was danger, permanent and paramount

danger, to the interests of this country, by adopting the policy of passing enabling acts; and that it was better to give the assent after the constitution was formed, than to give it before. Whether given before or afterwards, it is but the assent of Congress that the Territory may be admitted as an independent sovereignty into the Union, but not made a State out of the Union.

What, then, is the great leading and fundamental principle which should control the action of Congress in the admission of a State into the Union? It is simply that the constitution of the new State shall be of a character not dangerous to our institutions; and that the people of the new State shall be satisfied with it, and ask for admission under it: that is all. The power of Congress is to "admit" a State into the Union, not to coerce it. Congress would be but the veriest tyrant that ever existed on the face of the globe, if it had a power to coerce a State into the Union contrary to the will of the people composing that State. It lies, then, at the foundation of the question, as it does at the foundation of personal liberty, that Congress shall be satisfied—satisfied beyond a reasonable dispute—that the people composing the State ask to be admitted. It should never be forgotten that it is a mere consent on our part—nothing more. The State proposes admission and Congress gives its consent.

Now, sir, all that I have to do on this question to-day is to apply the principles I have thus laid down, to the question of admitting Kansas into the Union under the Leecompton constitution. This renders it necessary that I should briefly advert to the past history and the present condition of the most unfortunate people of that Territory, politically considered. And first, in regard to the Kansas act. The country, for years, had been agitated in respect to the power of Congress to legislate on slavery in the Territories. Various opinions had been entertained and expressed. A portion of the people, and of the members of Congress, held that Congress possessed unlimited power over that question while the Territory remained in a territorial condition—that Congress possessed the power to exclude slavery or to adopt it. Others contended that Congress possessed the power to exclude but not to adopt. Others held, like my late distinguished colleague, now the Secretary of State, [Mr. CASS], that Congress possessed no power over that subject whatever, but that the people of the Territories possessed full power over it during their territorial condition. Others, again, contended that neither Congress nor the people, while the Territory remained such, possessed any power whatever over the question, except to protect such property in slaves as should be carried into it.

With this diversity of opinion, entering, as it did, into the political discussions throughout the country and in Congress; endangering, as many good men thought, not only the peace and happiness of the people, but the safety and permanency of our institutions, and with a view, so far as the Democratic party was concerned, of settling it on some fair basis, the Kansas-Nebraska act was introduced. What was done by it? Language was employed that should confer on the people of the Territory the sole and exclusive control over this question while they remained a Territory, subject only to the Constitution of the United States. I never heard any gentleman pretend that the use of those words, "subject only to the Constitution of the United States," changed the law in any respect; but this was the intention: whatever power Congress possessed should be conferred upon the Territory. Whatever power the people of the Territory possessed, of course they retained. If the power to legislate in respect to slavery rested in either place, the Kansas-Nebraska act conferred it on or left it with the people of the Territory. If it did not rest in either, then, of course, nothing was carried to the people by virtue of the act.

But, Mr. President, did anybody ever dream, while the Kansas-Nebraska act was under consideration here, that we were conferring any power on the people of the Territory when they came to form a constitution and ask admission into the Union? Was there a word uttered in debate, and has there been any considerable amount of opinion since the great Missouri question was agitated, that Congress possesses any power to control the action of a Territory in forming a constitution, and asking admission into the Union, as to what

institutions it would establish? I think not. I should like to know if there is an honorable Senator here to-day who believes that if the Kansas-Nebraska act had been repealed before the constitutional convention at Leecompton sat, the people of Kansas Territory, in framing their constitution, would not have had the entire right to have said whether slavery should have existed within its borders or not?

If this be true, and I humbly submit to the consideration of Senators that it is true, what then becomes of all these wire-drawn arguments out of the Kansas-Nebraska act—seeking at one instant to show that it is an enabling act, and at another instant that it has conferred on that people a right they never had before—to adopt their own mode in framing a constitution? Why, sir, they had it without the act. If that section of the Nebraska act had been repealed a year ago, so long as that people were left in an organized form of government, they had the right to ask to be admitted into the Union, and it was for Congress to say whether they should be admitted or not.

Again, sir, the Senator from Missouri, with that skill in debate which gratified all of us who were attentive observers, in a sort of hand-to-hand scuffle with my friend from Illinois, said to him, this mode of getting up a constitutional convention, and this mode of submitting it, is, on the part of the people of Kansas, *their own way*. I regretted to see that the honorable Senator from Pennsylvania, [Mr. BIGLER,] and the honorable Senator from Indiana, [Mr. FITCH,] had taken what my friend from Missouri considered a mere skillful weapon in debate, and laid it down as a fundamental principle. Had the Kansas-Nebraska act, in using that language, any reference to the *mode and manner of executing it*? None at all. It related to the *character* of the institutions, and not to the mode and manner of exercising their right in forming their institutions. The language of the act was, that Congress would neither legislate slavery into any Territory or any State, nor exclude it therefrom; but would leave the people perfectly free to form and regulate their domestic institutions in their own way. Does that mean anything more—did anybody before ever dream that it meant anything more—than to say what should be the *character* of the institutions? Never.

Yet, it is urged that it is an enabling act, and that, forsooth, they have got some power in virtue of that act which was never conferred on a Territory before. It has been found out, too, that there is language in that act giving to the Legislature the power to legislate on all *rightful subjects*. But both are unfounded. Why, sir, we began as far back as 1804, when we organized the Louisiana Territory, to tell the people of that Territory that they might legislate on all *rightful subjects* of legislation. You will find it in the Wisconsin act; you will find it in the Iowa act, and doubtless in many others. But is it a rightful subject of territorial legislation to destroy itself? I have undertaken to show that Congress has no power to destroy this Confederacy by giving its consent to an independent State out of the Union; and I repeat now, that no territorial legislative body can have any right or authority to adopt a species of legislation which shall destroy itself.

But again, suppose Congress simply authorizes a legislative body to be formed in a Territory; does anybody pretend that it may not legislate on all rightful subjects of legislation without any specification of powers? Is it not true, legally and logically, that the effect of an enumeration of powers is to limit that enumeration? The largest powers that can be conferred are conferred in general terms. To establish a territorial government, authorize the election of a Legislature, and clothe them with power to legislate for the Territory, is a much larger authority than is conferred by a legislative grant enumerating the powers granted, because the enumeration of certain powers excludes the right to exercise any other. It will be found, on looking into the history of the legislation of Congress on this subject of Territories, that enumerated powers have been used for that purpose, and for that purpose alone. They have been prohibited from interfering with the lands of the United States within their borders. They have been prohibited from taxing non-residents at a greater rate than residents, and in some

other particulars. The enumerations have been to restrict, and not to enlarge their powers.

I have stated what was the purpose, object, and effect of the Kansas-Nebraska act. Was that act without an effect and without a meaning? Has it no legitimate operation on this question? Certainly it has, and it was for that very reason that I felt myself bound to say, on the reading of the President's message here, and to say it not only with respect to the position that Mr. Buchanan occupies, but with a respect for him equal to that entertained by any gentleman in this body, that if I could agree with the reasoning of the President I might agree with his conclusions. Let me now state some of the grounds why I found myself and still find myself unable to agree with him.

The present history of Kansas is perhaps better stated by the President than it could be stated by myself. He says:

"It is unnecessary to state in detail the alarming condition of the Territory of Kansas at the time of my inauguration. The opposing parties then stood in hostile array against each other, and any accident might have relighted the flames of civil war. Besides, at this critical moment, Kansas was left without a Governor by the resignation of Governor Geary."

"On the 19th of February previous, the Territorial Legislature had passed a law providing for the election of delegates, on the third Monday of June, to a convention to meet on the first Monday of September, for the purpose of framing a constitution preparatory to admission into the Union. This law was in the main fair and just; and it is to be regretted that all the qualified electors had not registered themselves, and voted under its provisions."

"At the time of election for delegates, an extensive organization existed in the Territory, whose avowed object it was, if need be, to put down the lawful government by force, and to establish a government of their own under the so-called Topeka constitution. The persons attached to this revolutionary organization abstained from taking any part in the election."

"The act of the Territorial Legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention; and in the excited state of public feeling throughout Kansas an apprehension extensively prevailed that a design existed to force upon them a constitution in relation to slavery against their will. In this emergency it became my duty, as it was my unquestionable right, having in view the union of all good citizens in support of the territorial laws, to express an opinion on the true construction of the provisions concerning slavery contained in the organic act of Congress of the 30th May, 1854. Congress declared it to be 'the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way.' Under it Kansas, 'when admitted as a State,' was to 'be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.'"

"Did Congress mean by this language that the delegates elected to frame a constitution should have authority finally to decide the question of slavery, or did they intend by leaving it to the people that the people of Kansas themselves should decide this question by a direct vote? On this subject I confess I had never entertained a serious doubt, and, therefore, in my instructions to Governor Walker of the 28th March last, I merely said that when 'a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.'"

"In expressing this opinion it was far from my intention to interfere with the decision of the people of Kansas, either for or against slavery. From this I have always carefully abstained. Intrusted with the duty of taking care that the laws be faithfully executed, my only desire was, that the people of Kansas should furnish to Congress the evidence required by the organic act, whether for or against slavery; and in this manner smooth their passage into the Union. In emerging from the condition of territorial dependence into that of a sovereign State, it was their duty, in my opinion, to make known their will by the votes of the majority, on the direct question whether this important domestic institution should or should not continue to exist. Indeed, this was the only possible mode in which their will could be authentically ascertained."

"The election of delegates to a convention must necessarily take place in separate districts. From this cause it may readily happen, as has often been the case, that a majority of the people of a State or Territory are on one side of a question, whilst a majority of the representatives from the several districts into which it is divided may be upon the other side. This arises from the fact that in some districts delegates may be elected by small majorities, whilst in others those of different sentiments may receive majorities sufficiently great not only to overcome the votes given for the former, but to leave a large majority of the whole people in direct opposition to a majority of the delegates. Besides, our history proves that influences may be brought to bear on the representative sufficiently powerful to induce him to disregard the will of his constituents. The truth is, that no other authentic and satisfactory mode exists of ascertaining the will of a majority of the people of any State or Territory on an important and exciting question, like that of slavery in Kansas, except by leaving it to a direct vote. How wise, then, was it for Congress to pass over all subordinate and intermediate agencies, and proceed directly to the source of all legitimate power under our institutions?"

For four years, ever since the Territory of Kansas was organized, the greatest amount of strife, of violence, of bloodshed, of murder, has been continuously rife there. Under these circum-

stances, what was to be expected of an irregular convention, one got up by the legislative authority of the Territory—a legislative authority which was set at defiance by a large portion of the people—one which they had resolved they would not recognize, and scarcely acquiesce in? But, as it was done, how was it done? It turns out, on examination, that in half the Territory no opportunity was afforded to the people to vote for delegates to the convention at all. The people in half the Territory have never been heard on this question. Can it be expected, then, that they will abide by the decision of the convention? Can it be expected that a people who have never been heard on the question of whether they will be admitted into this Union or not, shall submit to be forced into the Union? Sir, it never can be expected. In regard to this point, the President, in his message, says:

"The convention to frame a constitution for Kansas met on the first Monday of September last. They were called together by virtue of an act of the Territorial Legislature, whose lawful existence had been recognized by Congress in different forms and by different enactments. A large proportion of the citizens of Kansas did not think proper to register their names and to vote at the election for delegates; but an opportunity to do this having been fairly afforded, their refusal to avail themselves of their right could in no manner affect the legality of the convention."

I admit the truth of the President's proposition that if a full and fair opportunity had been given to the people of the Territory to vote for delegates to the convention, their refusal to do so could, in no manner, be taken advantage of by them; but what is the fact in reference to that point? Governor Walker in his recent address, in treating of this point, uses the language which I will read, and Mr. Stanton, the acting Governor of the Territory, in communicating with the Territorial Legislature at its present session, says the same thing. Governor Walker says:

"I have heretofore discussed this subject mainly on the question that conventions are not sovereign, and cannot rightfully make a State constitution without submission to the vote of the people for ratification or rejection; yet surely even those who differ with me on this point must concede, especially under the Kansas-Nebraska bill, it is only such conventions can be called sovereign as have been truly elected by the people and represent their will. On reference, however, to my address of the 16th September last, on the tax-qualification question—a copy of which was immediately transmitted to you for the information of the President and Cabinet—it is evident that the Leecompton convention was not such a body. That convention had vital, not technical defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by the submission of the constitution for ratification or rejection by the people."

"On reference to the Territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention."

And here I wish to call attention to the distinction, which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties, where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry, and no vote was given or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced, for wherever they endeavored, by a subsequent census or registry of their own, to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention. I repeat, that in nineteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention, in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census constituted a majority of the

counties of the Territory, and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th of November last. If, then, sovereignty can be delegated, and conventions, as such, are sovereign—which I deny—surely it must be only in such cases as when such conventions are chosen by the people, which we have seen was not the case as regards the late Lecompton convention. It was for this, among other reasons, that in my inaugural, and other addresses, I insisted that the constitution should be submitted to the people by the convention, as the only means of curing this vital defect in its organization."

It seems, then, that the President of the United States has based his views in favor of the authority of the convention on the fact that the people of the Territory in electing it had a full and a fair opportunity to vote; but an examination of the facts and the history of the transaction shows they had no opportunity whatever to vote; and the further fact appears that when the people, with an honest desire to participate in this election, had a registry and census of their own made, and voted for and elected delegates, and those delegates asked for admission into the constitutional convention, the members of that body rejected them because they were not elected in accordance with the territorial law.

Sir, how does it appear, how can it appear, that the people of the Territory of Kansas have been properly heard through the delegates to the convention, when one half of the people have had no opportunity to vote at all? This, I think, may well be considered by Congress a vital defect. On this point I beg leave to submit an argument, published in the Washington Union, on the 7th of July last, to prove that no such authority as is now claimed for it could exist on the part of the convention, and that it would be unsafe and unjust to allow Kansas to be admitted into the Union under the action of that convention without a submission of the constitution to the people. The Union, on the 7th of July, said:

"We repeat that the constitution of Kansas must come from the people of Kansas. Other power to make such an instrument there is not under heaven.

"But the Georgia convention, without denying this great principle, seems to think that the constitution of Kansas ought not to be submitted to a direct vote of the people in their primary capacity. We admit that this is not in all cases a *sine qua non*. It is a fair presumption (if there be no circumstances to repel it) that a convention of delegates chosen by the people will act in accordance with the will of their constituents. When, therefore, there is no serious dispute upon the constitution, either in the convention or among the people, the power of the delegates alone may put it in operation. But such is not the case in Kansas. The most violent struggle this country ever saw upon the most important issue which the constitution is to determine, has been going on there for several years between parties so evenly balanced that both claim the majority, and so hostile to one another that numerous lives have been lost in the contest. Under these circumstances, there can be no such thing as ascertaining clearly, and without doubt, the will of the people in any way, except by their own direct expression of it at the polls. A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents to be anything but a fraud. A plausible color might be given to this assertion by the argument that members of the convention could have no motive for refusing to submit their work to their constituents, except a consciousness that the majority would condemn it. We confess that we should find some difficulty in answering this. What other motive could they have?

"We do most devoutly believe, that unless the constitution of Kansas be submitted to the direct vote of the people, the unhappy controversy which has heretofore raged in that Territory, will be prolonged for an indefinite time to come. We are equally well convinced that the will of the majority, whether it be for or against slavery, will finally triumph, though it may be after years of strife, disastrous to the best interests of the country, and dangerous, it may be, to the peace and safety of the whole Union.

"Again: This movement of the territorial authorities to form a constitution is made, not in the regular way, in pursuance of an enabling and authorizing act of Congress, but in the mere motion of the Territorial Legislature itself. Nay, it has been begun and carried on in the teeth of a refusal by Congress to pass such an act. This irregularity is not fatal. There are other cases in which it was overlooked. But it can be waived only in consideration of the fact that the people have expressed their will in unmistakable language. If we dispense with the legal forms of proceedings, we must have the substance.

"We think, for these reasons, that Governor Walker, in advocating a submission of the constitution to a vote of the people, acted with wisdom and justice, and followed the only line of policy which promises to settle this vexed question either rightly or satisfactorily. In this respect, at least, he has done nothing worthy of death or bonds.

"But who are the people? What shall be the qualifications of a voter on the constitution, when it comes to be submitted? We answer that this is for the convention to settle. Those who think that the convention might declare the constitution in full force by virtue of their own will, can hardly deny that they might appeal to it a condition requiring it to be first approved by the people. If they can do this, they can also say what classes of persons shall be counted as being a part of the people. The convention that formed

the Federal Constitution exercised this power when they referred it to their constituents [the States] and prescribed that their approbation should be given or withheld by State conventions. The constitution of Virginia was submitted to the votes of men enfranchised by the convention for the first time. Of course, the Kansas convention will see that every proper guard is thrown around the legal voter, and that his *bona fide* intention to remain in the Territory is tested by a previous residence of sufficient length. We should say that the qualifications required to make a legal voter under the constitution ought to entitle an inhabitant to vote upon it—for or against its adoption."

I propose, next, Mr. President, to consider a suggestion which was made by the Senator from Missouri, that, as a legal proposition, fraud is not to be presumed—it must always be proved. As a legal proposition, that is true; but it is equally certain that fraud, like every other fact, is to be proved by any legitimate evidence that bears upon the question. I propose, now, to examine the character and the conduct of the convention. I have already said something as to the mode in which it was elected and organized. I propose, now, to take up its own conduct as found, first, in the constitution it has prepared; and second, in the declarations of its members. I intend to show, what I am thoroughly convinced of myself, that the convention intended a trick and a fraud upon the people of Kansas. First let me speak of the mode of submission.

While the constitution framed at Lecompton declares, on its face, that it shall be submitted to the people on a particular day for adoption or rejection it provides that it shall be submitted in a manner which puts it out of the power of the people to reject it. Every man who votes upon that constitution at all must vote for it. Not a vote at the election in regard to the constitution can be given against it.

More, sir; the constitution framed at Lecompton lays down the qualification of voters at the election which was to have been held on Monday last. It provides that every free white male inhabitant, of the age of twenty-one years, on the day of the election, shall have the right to vote; but suppose a man is challenged, what then? Is it provided that he shall swear that he is an inhabitant of the Territory, on that day, and that he is a free white male citizen, twenty-one years old? No, sir; not a word is to be asked him on that point; not a single question is to be addressed to him to ascertain whether he possesses the qualifications of a voter which the constitution has laid down, but he is to "take an oath to support the Constitution of the United States, and to support this constitution, if adopted, under the penalties of perjury under the territorial laws." Is any man prepared to say that this provision is not inserted to deter every one from voting who will not swear to support the Lecompton constitution? It is presented to the voter as a whole; and although, after inspection of it, he may say that it contains provisions exceedingly repugnant to his judgment; yet, for the purpose of voting upon the question that is submitted, whether slavery shall hereafter be introduced into Kansas or not, he makes up his mind to shut his eyes to those provisions that are obnoxious, and avail himself of the privilege of voting, but he is stopped at the door of the place where he is to deposit his vote and challenged. Then he has to swear that he will support every provision of that constitution if it shall be adopted; and it cannot fail to be adopted. It must be adopted, if no more than fifteen votes shall have been given for it, because no man can vote against it; and every man who takes the oath and votes is subjected to the pains and penalties of perjury, if, at any time afterwards, he shall exercise the privilege of a freeman by seeking to overthrow it. For what purpose was this provision inserted if it was not to deter any white male inhabitant in Kansas, of the age of twenty-one years, from voting for or against the introduction of slavery unless he swears to support every provision of the instrument?

I object to the manner of submission. The schedule provides that the constitution shall be submitted to all the people of the Territory on the day of election, for acceptance or rejection, and that they shall vote, "constitution with slavery," or "constitution with no slavery;" and if the votes headed "constitution with no slavery" prevail, "slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with." What is the right of property in the

slaves now there? It is the right to their service and the service of their increase as time goes forward. They may multiply by tens, by hundreds, and by thousands, and this constitution provides that the right to them shall in no manner be affected. Is that in accordance with the provision of the constitution that slavery shall not thereafter exist in Kansas? Is that a fair submission of the question of slavery or no slavery to the people of Kansas?

If the convention, in submitting that question, had said, "If the ballots 'constitution with slavery' shall be found to be in the majority, slavery shall exist in Kansas, except that all children hereafter born shall be free, and every person in Kansas shall be free after the 4th day of July, 1864," would any pro-slavery man in Kansas, would any one, say that was a fair submission of the question of slavery? Would it, in the language of the Nebraska bill, "leave the people perfectly free to form and regulate their domestic institutions in their own way?" Yet, would not that be equivalent to the present form of submission, simply changing sides? Is it the number of slaves in a State that determines its character as a slave State, or is it the tenure by which they are held?

To show that the same opinion which I entertain as to the result of the submission of the slavery clause, in the mode in which it is submitted, is entertained in other quarters, I will read an extract from a letter published in the Jackson Mississippian of November 27, written from Lecompton on the 7th of November:

"And then they united upon the plan of submission presented in the majority report of the committee on the schedule, and, after some immaterial amendments, 'put it through.' It is this: the constitution shall be submitted to all the white male inhabitants of the Territory over the age of twenty-one years on the 21st of December next, for ratification or rejection, in the following manner: the voting shall be by ballot, and the ballots cast at said election shall be indorsed 'constitution with slavery,' or 'constitution without slavery;' and if it shall appear upon examination of the returns by the president of the convention, to whom they are to be made, that a majority of the votes cast be in favor of the constitution with slavery, he shall have the constitution, so ratified, transmitted to Congress. But if a majority shall be in favor of the constitution without slavery, then the article in the constitution providing for slavery shall, by the president of the convention, be stricken out, and slavery shall no longer exist in the State of Kansas, (except that the right of property in slaves now in the Territory shall in no manner be interfered with.) And the constitution, so ratified, shall be sent to Congress. Provision is also made requiring that any one proposing to vote at said election shall, on being challenged, take an oath to support the Constitution of the United States and this constitution, if ratified.

"Thus you see that whilst, by submitting the question in this form, they are bound to have a ratification of the one or the other, and that while it seems to be an election between a free-State and pro-slavery constitution, it is in fact but a question of the future introduction of slavery that is in controversy; and yet it furnishes our friends in Congress a basis on which to rest their vindication of the admission of Kansas as a State under it into the Union; while they would not have it, sent directly from the convention.

"It is the very best proposition for making Kansas a slave State that was submitted for the consideration of the convention. In addition to what I have stated, it embraces a provision continuing in force all existing laws of the Territory until repealed by the Legislature of the State to be elected under the provisions of this constitution."

The Lecompton National Democrat, of November 19th, published on the spot, says:

"THE CONSTITUTION.—We publish this instrument today in full. It occupies almost the whole of our available space, and precludes the possibility of any extended remarks.

"Our opinion of the final action of the convention, as briefly given in our last issue, has not been changed by such an examination of the constitution as we have been able to give it. We still think that the whole subject should have been submitted to the people. But, at all events, the slavery question should have been fully and fairly put to the people for their decision. This, as we understand it, has not been done. No matter how the people may vote, if this constitution should prevail, Kansas will be a slave State. We would not object to this result if the people should so will it; but we think they should have a full opportunity to determine the character of the institutions of the new State."

A recent number of the Charleston Mercury substantiates this view in these words:

"We lay before our readers this morning the message of the President of the United States. It is, as was to be expected, an able document, sound in almost all of its positions, and worthy of the Chief Magistrate of our great confederated Republic. The main point of difficulty and delicacy is in the affairs of Kansas. He thinks that the convention of Kansas, in submitting only the clause in the constitution relating to slavery, has fulfilled what he supposes to be the requisition of the Kansas Nebraska act. We are equally satisfied with the action of the convention. We differ, too, with the President as to what is submitted to the vote of the people. We do not think that the question of slavery or no slavery is submitted to the vote of the

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people. Whether the clause in the constitution is voted out or voted in, slavery exists and has a guarantee in the constitution that it shall not be interfered with; whilst, if the slavery party in Kansas can keep or get the majority of the Legislature, they may open wide the door for the immigration of slaves. But this, also, is a small matter of difference with the President. It is enough for us that he goes with the South in the policy of admitting Kansas into the Union, with the constitution she shall present, whether with or without the slavery clause. We heartily support his policy, although we may not agree in all his reasoning. And, above all, we rejoice for the sake of our old partiality, and our advocacy of him before he reached the illustrious dignity of the Presidency, that he has not soiled his fame by identifying it with Walker."

My view of the effect of the submission of the slavery clause in the mode in which it is submitted, is strengthened by the proclamation of the president of the convention, in which he proclaims:

"Now, therefore, be it known to the people of Kansas Territory, that on the said 21st day of December, 1857, polls will be opened in the several election districts of said Territory, at which the actual *bona fide* white male inhabitants, resident in said Territory, on said day aforesaid, shall vote for or against the future introduction of slavery into said State of Kansas, in the manner following, as required by said constitution:

"The voting shall be by ballot, and those voting for Kansas as a slave State shall vote a ballot with the words, 'Constitution with slavery,' and those voting for Kansas to be a free State shall vote a ballot with the words, 'Constitution with no slavery.'"

In the bill of rights, this Lecompton constitution declares that all elections shall be free and equal; and yet, as I have shown, by the schedule which follows it, a test oath is put into the constitution expressly to prevent the voting of any man who is not willing to support all its provisions. Further, the bill of rights declares that it is an inalienable and indefeasible right of the people to amend or alter the constitution whenever they please; but the schedule which follows says, that whenever the constitution may be amended, they shall not be permitted to make any amendment affecting the right of property in slaves. Thus while this convention lay down certain fundamental principles in the bill of rights, in the schedule they themselves violate every one of them. Honorable Senators who have argued the question on the other side have cited the provision that it is an inalienable and indefeasible right of the people to alter or amend the constitution at any time; yet the schedule provides that no amendment which may be made shall affect the right of property in slaves.

Sir, it may be necessary for me to say—if it is, I beg the attention of the Senate while I say it—that I am not discussing this question with reference to my own opinions upon slavery; I am not discussing it with regard to my own opinions on any provision contained in the constitution; but I am discussing it for the purpose of proving that the action of the convention is, and was intended to be, a trick and a fraud upon the people of Kansas.

What else have they done in the submission of this question to the people of Kansas? They have done what, so far as my research goes, never was done, or attempted to be done, by any other Territory in the history of this Government. They have ignored the territorial condition, the territorial laws, the territorial organization. Every other State formed from a Territory whose history I have been able to examine, has provided that the president of the convention should issue his proclamation to the sheriffs or other proper officers of the Territory to hold an election on a certain day, the people at that election voting upon the constitution. What has this convention done? It has provided that the president of the convention shall appoint commissioners in each county; that those commissioners shall appoint the inspectors of election; that they shall establish the precincts, hold the election, and make the returns eventually to him. If he is absent or dead, or for any other reason does not choose to attend to it, the president *pro tempore* of the convention is clothed with the authority; and if he is out of the way, seven men of the convention do it.

I was not at all surprised when the Senator

from Pennsylvania and the Senator from Indiana stopped at this point, and said they should be glad to see what was done under such provisions, in regard to an election, before committing themselves to vote for the admission of Kansas under this constitution. What do you expect they will do? What does their history show you they have already done? They have set the will of the people at defiance. They have told you in their published debates that the very reason why they will not submit this constitution to a vote of the people is that the people will vote it down if they have a chance. The Washington Union, in the article to which I have referred, asks what earthly reason there is for withholding the constitution from a vote of the people, "except a consciousness that the majority would condemn it?" and the editor adds, "we confess that we should find some difficulty in answering that." Sir, these men have not left you to inference; they have proclaimed, in their own debates, that they will not allow the factious people of Kansas to vote down their work. One must admire them for their courage, if he cannot for their honesty. Theirs is a bold position. It is this: here we are, forty or fifty men assembled in convention, in the Territory of Kansas, about to perform the great act of bringing a new sovereignty into existence, about to fix the fundamental law to govern the people; and we know that we have so fixed it that, if it be submitted to their vote, they will reject it by an immense majority; therefore, they shall not have the opportunity. It is bold, but it is not ingenious. It is what any desperado can do; but it is not honest, it is not just.

What, then, I ask, are you to expect from a convention whose conduct is thus marked with dishonesty, with fraud, with trickery, from the time they commenced their work down to its close? Why wait to see the result of the election of the 21st of December, when you have the best evidence in the world, the light of the past conduct of these men, to enable you to say what they will do? They will do whatever they shall deem necessary to effect and perfect their act of oppression upon the people of Kansas.

I have already referred to the peculiar provisions under which the election of the 21st was to be held. I will now, in addition, mention the fact that I have examined the laws of Kansas, and find there is no law to prevent fraudulent returns at that election. This view is taken by acting Governor Stanton, in his recent message to the Territorial Legislature:

"The laws now prevailing in this Territory provide for the proper punishment of illegal and fraudulent voting, but there is no provision which will reach the case of fraudulent returns. The case of the late Oxford precinct, in Johnson county, was an enormity so great that it has nowhere been defended or justified. Yet the evil consequences of it are seen in the fact that even the late convention has been so far imposed upon that, in its apportionment for the State Legislature under the constitution, it has assigned to Johnson county four representatives, which must necessarily be based on the notoriously false returns from that county. In order to meet the apprehensions naturally growing out of these circumstances, I recommend the adoption of a provision making it felony, with suitable punishment, for any judge or clerk of election knowingly to place on the poll-books the names of persons not actually present and voting, or otherwise corruptly to make false returns, either of the election held by order of the convention, or of any other election to be held in this Territory."

Let me ask any Senator here this question: If there were an election in his own State upon a matter of great political importance, when the people were excited, and the subject itself one of vital character, would he consent to go into an election when the prime man of his opponents was to appoint the inspectors, receive the returns, and count the votes? Would you, sir, submit your liberties to any such election as that? I speak not of a State where law, order, and honesty of purpose have characterized its history. But, in Kansas, where fraud and violence, rapine and murder, have characterized the extreme men of both parties, would you submit to an election held in that way? Is there a Senator here from the South who would say, "I am willing, to-day, that General Lane, if he be alive, shall appoint

the commissioners, and these commissioners appoint the inspectors to hold the election; that they shall make the returns to Lane, and that he shall count the votes, and declare the result of the election?" If there is a southern Senator here who would do it, I would not; nor would I trust any extreme man upon the other side; nor would I trust anybody but the constituted authorities of Kansas. Why pass over the legislative authorities; why ignore the inspectors, who hold their office by virtue of territorial law; unless it be for the purpose of deceiving and defrauding the people? "Wait," says the Senator from Indiana; "wait," says the Senator from Pennsylvania. "I will not commit myself," says each of them. "Here," says the Senator from Pennsylvania, "are large and dangerous powers given to, the president of the convention; I want to see what he will do, before I determine what I will do." Well, now, sir, for my part, I do not wish to wait for that purpose. When I see a man who, during his canvass for the position of delegate to the convention, published over his own signature the resolutions of the convention that nominated him, declaring that they would support no man for delegate who did not pledge himself to submit the constitution to a free and fair vote of the people for ratification or rejection, after the election disavow, ignore, and trample under foot that avowal which was to get the people's votes, I do not wish to wait any longer to know what he will do. That there may be no mistake as to the pledge of the president of the convention to submit the constitution to the popular vote, I submit his pledge, signed by himself, and other candidates:

To the Democratic voters of Douglas county:

It having been stated by that abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats who have got up an independent ticket for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolution, which was adopted by the Democratic convention which placed us in nomination, and which we fully and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN,	A. W. JONES,
W. S. WELLS,	H. BUTCHER,
L. S. BOLING,	JOHN M. WALLACE,
W. T. SPIGELY,	L. A. PRATHER.

LECOMPTON, KANSAS TERRITORY, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas, and to mold the political institutions under which we, as a people, are to live, unless he pledges himself, fully, freely, and without reservation, to use every honorable means to submit the same to every *bona fide* actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers of this Territory, as the majority of voters shall decide."

A man who, after such a pledge before the election, turns round and tramples it under foot, will do anything that God has given him the power to do to defraud the people; or if he should happen to be intimidated, he can turn it over to the president *pro tempore*; and if he should not happen to be bold enough to carry it out, he can find seven men of the convention who will; for all history proves that seven men will do, together, what no one of them would dare do alone. I may mention here that the convention which nominated Governor Ransom for Congress voted down, by a majority of forty to one, a proposition to accept the constitution whether it should be submitted to the people or not, thus showing the clear understanding of the Democratic party of Kansas that the constitution should be submitted to the people.

Mr. President, if the action of this convention was to be limited to the people of Kansas, there might, by possibility, be some other view of it presented, that might affect my course, but when I am asked to give my vote to consummate this fraud, I answer—never. It will be seen that I have not attached that importance to preliminary action which some men have. I have said that the Kansas-Nebraska act embodies the great principle that lies at the foundation of our Government. It cannot be better expressed than it has been by the

President himself, in his letter accepting the Cincinnati nomination:

"The recent legislation of Congress respecting domestic slavery, derived as it has been from the original and pure fountain of legitimate political power, the will of the majority, promises ere long to allay the dangerous excitement. The legislation is founded upon principles as ancient as free government itself."

Upon every occasion on which I have addressed the people of my own State and others, I have pledged myself to abide faithfully and unqualifiedly by the provisions of that act. I have pledged myself everywhere to stand by this principle "as ancient as free government itself," and to assure to the people of every State and Territory—and Kansas in particular—the full, free, and unqualified right to exercise their opinions in regard to the institutions they will have. The Democratic party has planted itself, in terms as plain as human language is capable of specifying it, on the same platform, in the convention which nominated Mr. Buchanan. Not a Senator has spoken here but has expressed his regret, his deep regret, and the President himself has expressed his, in the strongest terms, that this constitution was not submitted to the people of Kansas by the direction of that convention. The policy adopted by the President, and carried out in Kansas, was wisely founded on this principle of free government; and had the convention adopted it, all would now be peaceful and quiet there. The resolution passed at Cincinnati, to which I have alluded, is in these words:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and, whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

These principles, I have said, are embodied in the Kansas act; and they must be carried out by Congress, if it is intended to maintain this Government. They must be carried out, if it is intended to maintain a national Democratic organization in the country; but more, I say they must be carried out, if it is intended to maintain the union of these States. Why, sir, look at it; look at the present condition of things in Kansas—the people there protesting against the action of the convention, and asking the Governor to convene, as he has convened, an extraordinary session of the Legislature to meet the contingency. They are arming; they are determined to resist an admission under this constitution, by any and every power with which God has clothed them; and yet we are to sit here, and say, "we admit you into the Union of the United States." As well might you take a prisoner, under the sentence of a court of justice, handcuffed, with your officers surrounding him, by force to the prison, and say to him, "there is no coercion, we admit you into the penitentiary." [Laughter.]

I repeat, sir, the people stand there in open arms, and the telegraphic wires have but this day brought us the information that insurrections are springing up throughout that Territory against this attempt to coerce them into the Union, and cram this constitution down their throats. To call that an admission of a State is to falsify the use of language—and for what? There is the substance of this inquiry when you have done—for what? Is there any impending necessity for admitting Kansas under the present constitution? Is there anything in the public condition of the country that makes it an imperious necessity that Kansas shall be admitted now, under this constitution? Will it not do in April? Will it not do in May? Will it not do next year? Was there not an election in Kansas in October last, under the judicious, prudent, cautious, and well-timed policy of the President of the United States, which was peaceful, at which the people voted and had a right to vote? Was it not quiet then? Did not order reign there, and would it not reign there now but for the operations of this convention? Why this haste to admit Kansas under this Lecompton fraud? Why not wait? Why may not Congress wait? What is to be gained? Why, say some gentlemen, we want to localize this dispute; we want to fence it in within the bounds of Kansas; we have had enough of it in Congress, and more than enough of it throughout the Union. Well, sir, if there be one man in all these United States, who more than another feels that desire, I would claim to be that man.

From the commencement of my public life down to to-day, it has seemed to me as if there never was anything before my vision but a woolly-headed negro. [Laughter.] You can scarcely meet a gentleman here in private conversation, you cannot meet him in debate, but that on one side or the other this eternal and interminable question of slavery is ever before your eyes.

But, sir, will this sort of measure localize it? The great Patrick Henry said that he knew of no light by which to guide his footsteps, except the lamp of experience. What is our experience on this matter? From the time the Kansas-Nebraska act was passed, have not the northern and southern States been engaged in a strife in regard to the settlement of Kansas and the establishment or rejection of slavery therein? Not only have law and order been violated, but, as I have said before, lives have been taken, and rapine and murder have grown out of it; and the President tells us that when he came into power, the condition of things in that Territory was alarming; civil war was impending. You find the Territory alive now, and bad men exercising their power. Hand to hand they are about to take each other's blood.

Do you suppose that by simply changing this from a territorial to a State government you are going to produce quiet and peace throughout the other States of this Union, and localize the difficulty in Kansas? Why, sir, as well might you believe that, having fired the foundation of your building, the flame would never reach its roof. A people there resisting a monstrous fraud by hundreds and by thousands, and Congress consummate the fraud and expect that people to submit! We have no right to expect it. But what of these Lecompton gentlemen—these gentlemen who have not only taken care to provide an election which shall fix a constitution to suit them, but have taken care to provide an election which shall elect a Legislature and Governor and State officers also to suit them? Will they not hold the power, and, holding it, will they not exercise it as they have exercised it? When these people undertake to rise and exercise the inalienable and indefeasible right which this constitution says they have got, will not these constituted authorities say to them as the constituted authorities of Rhode Island did, "you are in insurrection; you are undertaking to overthrow the constitution; I, as Governor of the State, call out the military to put you down; and if your movement becomes too formidable, I will call upon the President of the United States to aid me?" The law provides that when the Legislature, or, in the absence of their being in session, the Governor, calls upon the President, he must respond. What says the Supreme Court upon principles like these? In the case of Luther, the Supreme Court says it will recognize, in executing the laws of the country, the government that the Executive authority of the United States has recognized. The laws of the United States prescribe the duty of the President. It is to respond to the Governor and Legislature of Kansas. They, I say, are taken care of, and secured by this same convention. These are the men who will be in power, and you expect to localize the difficulty.

I have said that one of the most unfortunate results of these political discussions is the engendering of erroneous opinions, many of them fraught with danger to this Confederacy; and not among the least of these is that idea got up in certain States that when any of your citizens go to another State or Territory you have some right or authority to take care of them after they are there. We are not without history on that point. It has been done in the States of this Union. They have passed legislative acts and authorized men and means, and weapons in some instances, to be carried to Kansas to take care of somebody's liberties who before was a citizen of that State. Do you suppose that civil war can exist in Kansas, and that that people will not be sympathized with by the people of the other States? Have you any power to control them? Can Missouri or Iowa keep its citizens within its own borders when their brothers and fathers and other relatives are fighting a hand-to-hand fight in Kansas? It is impossible. Can any State do it? It is not to be expected; and it was for that reason, prominent among all others, that compelled me to say, as I did on the reading of the message, that, if I could agree with the rea-

soning of the President, I might possibly agree with his conclusions. Sir, I believe that just so sure as you undertake to consummate this Lecompton fraud, and force this constitution upon the people of Kansas against their will, as firmly I believe it as I believe I am a living man to-day, you will light the torch of civil discord throughout this Union. Gentlemen may then cry "peace! peace!" but there will be no peace.

Sir, if you desire peace, it is easily attained; attained without the expense of violating any principle; attained simply by the plainest process in the world—by adopting that principle which lies at the foundation of our institutions, and, in the language of the President, "is as ancient as free government itself," the principle of the Kansas organic law. Take such means and such measures as will secure to the people of Kansas the right to settle this question by a majority of their votes, and all will be peace. Is it not easy? Cannot the people of Kansas wait? Cannot Congress wait?

I have said that the power of admitting States into this Union necessarily forces upon Congress the paramount duty of seeing that the State asks its admission in accordance with the will of a majority of the people. Show me that, and I will never inquire one instant as to what their domestic institutions are or what other provision is contained in their constitution, so that it secures a republican government, which is no more nor less than a representative government, based upon the will of the people. As I said, I am pledged to that by every speech I have ever made in my State. I am pledged to that upon the principles of the strictest honor and justice among men. Higher, higher yet, I am pledged to it by my oath to support the Constitution of the United States, which empowers me by my vote to admit States into the Union—never to coerce them in.

You will see, therefore, Mr. President, that whatever consequences may result from entertaining these views, I could not if I would, and I am bound to say I would not if I could, give my vote to consummate what I believe to be the most enormous fraud that was ever undertaken to be practiced upon any people under the forms of law. And I submit that the only oppressions under our institutions that can be practiced upon a people, must be practiced under the forms of law. If you undertake, in violation of law, to strip the people of their liberties, they can resist you. Then the law of power prevails, and if they be the strongest they can put you down. But when you undertake oppression, within the forms of law, you can grind them to the dust, and they can never resist without being rebels according to law.

If you desire peace, as I know we all do, take the path of wisdom and justice; regard the Constitution of the United States like a great indestructible rock, taking nothing by accretion, losing nothing by disintegration; within the bounds of its provisions act upon and abide by the will of the majority, fully, freely, and fairly expressed. Although you may see in communities, as you have seen at every heated partisan election, the people excited to the highest pitch of human animosity, even blood shed like rivers in the streets, yet, when the will of the majority is announced, all is peace. Pursue the paths of wisdom, of justice, and you will find the ways are all "ways of pleasantness, and all the paths are peace." I submit to the consideration of Senators that it is a duty we owe to the people of every Territory to see that they are protected in the enjoyment of this right. As Mr. Buchanan in his inaugural address says:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved."

There never was a greater truth uttered; there never was one more fundamental in our institutions; there never was one that could be violated with more danger, and none which could be followed with more security.

Mr. President, there is only one point further that I wish to notice, and I would not do that if it were not for the enormity of one proposition presented by this convention. I refer to it as showing their intention. I am not going to discuss, in opposition to the honorable Senator from Missouri, the effect of the ordinance contained

in the constitution. I shall not discuss whether, if we admit them under this constitution, we accept their terms and give them all the lands in Kansas or not. It is not material to decide that. They assert that they have an unquestioned right to tax all your lands in Kansas, as soon as they become a State? Are you prepared to admit it? Is the Congress of the United States at this day prepared to admit that, when we organize a new State out of a Territory, that State has a right to tax and legislate over the lands of the United States within its borders equally with the lands of individual citizens? If so, you must make a contract with them, in order to get them

to release that right. Inasmuch as it takes two to make a bargain, you must get their agreement to the contract, or they will retain and exercise the right. What sort of demand have they made to begin with? They demand one ninth of all the land in Kansas, for school purposes; they demand seventy-two sections for a university; they demand all the salt springs, and all the mineral lands, and all the lands adjoining, necessary to use them; and also alternate sections for twenty-four miles wide through Kansas, east and west, and north and south. This is their demand for relinquishing the right to tax the Government land within the borders of Kansas. Before

I make this bargain, I desire time for consideration. Before I vote to give Kansas four times as much school land as Michigan has had, I shall want to know the reason. Before I give them twice as much land in width, for railroad purposes, as I have voted to any other State, I shall want to know why. Before I shall vote to give them all the mineral lands, and all the salt spring lands, and all the adjoining lands necessary to their use, I shall want to ascertain the boundaries, and see whether anything will be left to the United States. I have had prepared a table showing the number of acres which an agreement to the terms of the convention will require us to give.

Estimated area of the Territory of Kansas, and number of acres of land for Railroads, Schools, and Universities, in said Territory.

	Degrees.	Miles.	Sq. miles.	Sections.	Acres.	Total acres for railroads.	Total acres for schools and universities.	Total for railroads, schools, and universities.	Total acres in Territory.	Residue of acres in Territory.
Extreme length from east to west.....	11½ of 66 stat. miles.	736	-	-	-	-	-	-	-	-
Average length from east to west.....	10½ of 64 stat. miles.	672	-	-	-	-	-	-	-	-
Average length from north to south.....	3 of 66 stat. miles.	198	-	-	-	-	-	-	-	-
Area of territory.....	-	-	133,056	-	85,155,840	-	-	-	85,155,840	-
Lands for railroads, viz:	-	-	-	-	-	-	-	-	-	-
Length of railroad from east to west.....	-	736	-	-	-	-	-	-	-	-
Alternate sections twelve miles on each side..	-	-	-	8,832	5,652,480	-	-	-	-	-
Length of railroad north and south.....	-	198	-	-	-	-	-	-	-	-
Alternate sections twelve miles on each side..	-	-	-	2,376	1,520,640	7,173,120	-	-	-	-
Lands for schools, viz:	-	-	-	-	-	-	-	-	-	-
Four sections in each township, or one ninth of whole number.....	-	-	-	-	9,461,760	-	-	-	-	-
Lands for universities.....	-	-	-	72	46,080	-	9,507,840	*16,680,960	-	68,474,880
	-	-	133,056	-	-	7,173,120	9,507,840	16,680,960	85,155,840	68,474,880

* This number does not include mineral and salt spring lands. In addition to this, the State of Kansas will be entitled to five per cent. of the proceeds of the sales of the public lands in the State.

I have not mentioned this matter to discuss the effect of admitting Kansas under this constitution, but to show the enormity of the proposition—the intention that seems to have been in the heads of these Lecompton conventionists. My opinion is that they have undertaken a larger work than they can accomplish. In the first place, they not only undertake to violate the rights of the people of Kansas, and put them under their feet; but, in the next place, they undertake to coerce Congress into a bargain that is monstrous in its character. If it is the duty, as I have endeavored to show, of Congress to protect the people of Kansas in the enjoyment of their rights, it is no less the duty of Congress to protect the rights of the United States. Congress will be liberal, as it always has been liberal with the new States, in grants of land for educational and internal improvement purposes; but it will not admit, it never can admit, that lands which belong to the United States, which it has been so often said were acquired by the common blood and common treasure of all the States, are transferred, with the right and title, to a new State, on its being admitted into the Union.

Mr. President, I have thus, briefly as I could, though not so connectedly as I could wish, presented the reasons which are operating on my mind against the admission of Kansas upon the Lecompton constitution. I have sought to show, and I hope I have shown, that it cannot thus be admitted without violating the rights of the people of Kansas, without conceding rights that belong to the Congress and people of the United States, without violating the Constitution of the United States itself. I agree that the power to admit new States, like any other power under the Constitution, is liable to abuse; but like every other power under the Constitution and within the Constitution, it must be exercised according to the best discretion of Congress. I agree that a refusal to admit a State upon insufficient grounds would be a palpable violation of our duty. We have the power to do it, but that would be an abuse of the power; just as having the power to raise and support armies, if we were to raise and support an army of twenty thousand when only one thousand was necessary, it would be an abuse of the authority. That we have the power to admit or to refuse to admit a State according to our sound discretion, cannot be denied. Having that power, if there be a doubt as to whether you are proposing to admit a State into the Union or to coerce it into the Union, nothing can be lost by taking time to ask the people in a plain, safe, unmistakable manner whether they desired it or not. The people of a Territory which is about to be formed into a State, have a right—and so far

as my examination has gone, Congress has never violated this right—to say, in the first place, whether they desire to form a State constitution now, or not. They have a right to say whether they will take upon themselves the burdens and expenses of a State government. Where Congress has passed enabling acts, as in the cases of Ohio, Indiana, and other States, and in the celebrated Toombs bill, which has been so much talked of, an express provision was incorporated, that when the convention was assembled, it should vote, in the first instance, whether it is expedient and proper to proceed to form a State constitution at this time. The people of Kansas have never had a chance to say this, although they might say “we are willing to live under this Lecompton constitution when we get ready to be a State; we are not ready to become a State now.” That is a right, a sacred and inviolable right, which belongs to the people of a Territory when they are invited to become a State.

There are other considerations which occur to me, but it is not necessary that I should detain the Senate now by stating them. I have shown, or sought to show, conclusive reasons, founded upon constitutional authority and political propriety, why I cannot vote for this Lecompton movement. I leave cheerfully, freely, and fully, every one of my associates on this floor, and in Congress, to exercise his judgment on the same state of facts. It is a right they have; it is a right I have; more, it is a duty—a paramount duty; it is the highest exercise of our power, perhaps, that is conferred on us by the Constitution of the United States; and no principle should be allowed to govern us in regard to it, except the principle of eternal truth and justice.

I conclude with the statement which I made when the President's message was read; that, so far as in me lies, the people of Kansas, like the people of every other State coming into this Union, shall, in the language of the Kansas act, be left “perfectly free to form and regulate their domestic institutions in their own way.” I will hear them; I will do as Congress has done heretofore—I will pass over forms, ceremonies, organizations, down deep to the will of the people; but, in the history of this country, there never yet has been a time, and I cannot believe there ever will be a time, when Congress will admit a State on forms and ceremonies contrary to the will of the people. The example of Mr. Buchanan, in regard to my own State, has been cited, and properly cited, in this debate. He passed over forms and ceremonies to get at the will of the people. He contended that the organization was irregular; but the people ask for admission, and the people were to be

admitted upon their demand. Conform your action, in such cases, to the will of the people, and you will always be right.

Thanking the Senate for the attention they have paid to me—and I find it necessary to apologize for the incomplete manner in which my views have been presented—I leave the subject, contented to perform my duty when this constitution shall be presented here, according to the principles which I have laid down to-day. In the language of the honorable Senator from Illinois, I intend to follow the principles of the Kansas act, and all its logical and legal consequences, take me where they may; for I believe, with the President, that that act has simply put into shape and legislative enactment a principle as ancient as free government itself, and without whose exercise there can be no free government.

Mr. BRODERICK. As I am the only Senator, I believe, on this side of the House who feels disposed, with the Senator from Illinois and the Senator from Michigan, to oppose the Lecompton constitution, I should like, before the adjournment of the Senate to-day, to be heard for a very few minutes on this question.

I have listened to the debate very attentively; and while I agree with the Senator from Illinois and the Senator from Michigan in most of what they have said, I disagree with them in regard to the President's connection with the question. When the President of the United States sent Governor Walker and Secretary Stanton to Kansas, they found the people there in a state of insurrection, and, after a great deal of labor on the part of those gentlemen, they restored peace and quiet to Kansas. I think the President of the United States and his Cabinet are alone responsible for the present outbreak in Kansas. Governor Walker had returned to Washington before the President of the United States issued his message. He conversed with the President of the United States on the subject of Kansas. I understand that he told him that fifteen out of the thirty-four counties in Kansas were deprived of a voice in the election of delegates to the Lecompton convention. If I understand this subject, and I hope I do, I think that the President of the United States is alone responsible for the present state of affairs in Kansas. It is the first time, I believe, in the history of this country, that a President of the United States ever stepped down from the exalted position he held, to attempt to coerce the people into a base submission to the will of an illegal body of men.

I have heard a great deal said about the question of slavery being submitted to the people of Kansas. Why, sir, I consider that the question

of slavery was submitted to the people of Kansas at the October election in a more favorable aspect than it will ever be presented to them again. Mr. Ransom was nominated by the Democratic party for Congress, and if I had been a citizen of Kansas I should have voted for him. The pro-slavery men of Kansas had the advantage of presenting a man from a free State for Congress; for I understand from very good authority, that Mr. Ransom is not a pro-slavery man. What was the result of that election? We find that Mr. Parrott, the Republican candidate for Congress, was returned by a majority of some three thousand. I consider that since the people of Kansas had a chance to deliberate on the question of slavery, and to express their views on it at the election in October last, the question of slavery was settled. I have been informed by two pro-slavery gentlemen from Kansas that the slavery question was not discussed at all about the time this convention was called to make a constitution. They considered that it had been disposed of at the October election, and for that reason that it would never be agitated in the Territory again.

I am very sorry that I am placed in the unfortunate position of disagreeing with my party on this question, for I believe that I rendered as much service in my way in the election of Mr. Buchanan as any gentleman on this floor. He was my choice before the convention at Cincinnati met. I considered him the most available and the most conservative candidate that could be presented to the American people for election to the Presidency, and for that reason I supported him. I regret very much that I am compelled to differ with him on this question; but, sir, I intend to hold him responsible for it. I do not intend, because I am a member of the Democratic party, to permit the President of the United States, who has been elected by that party, to create civil war in Kansas. The only thing that has astonished me in this whole matter is the forbearance of the people of Kansas. If they had taken the delegates to the Lecompton convention and flogged them, or cut their ears off, and driven them out of the country, I would have applauded them for the act.

I have spoken for the purpose of placing myself right upon this question. It would be idle in me to attempt to discuss it after it has been so ably discussed by the Senator from Illinois and the Senator from Michigan; but as the Senate is about to adjourn to-day until after the holidays, I thought it would be well for me to place myself right on the record at least, and I have spoken for that purpose. I may have something to say upon this Lecompton constitution if it shall ever be presented to the Senate for their action.

Yesterday I listened to the remark made by the Senator from Indiana, [Mr. FISCUS], that we all knew how party platforms were made. I have been in the habit of submitting to the rule of my party. I am not like a great many other gentlemen on this floor, even tainted with Free-Soilism or Republicanism. I divided the great Democratic party in New York in 1847 on this question. There are two gentlemen now holding seats on this floor—the Senator from New York [Mr. KING] and the Senator from Wisconsin [Mr. DOOLITTLE]—who were members of a convention held in that State at that time. They will both bear witness that in that convention they made the proposition to the party to which I was attached, that if we would consent to the passage of a series of resolutions indorsing the Wilmot proviso, our wing of the party should have all the State offices. [Laughter.] It was indignantly spurned, and the party were defeated by a very large majority. I cannot, therefore, even be suspected of being in any way connected with Free-Soilism. I would say further, that my most bitter and malignant opponents in the State which I have now the honor in part to represent, belong to the Republican party. I have thus stated my views for the purpose of setting myself right on the record. I feel embarrassed—very much embarrassed in doing so, because this is the first time I have ever attempted to address the Senate of the United States.

Mr. BAYARD. I move that the Senate proceed to the consideration of executive business.

Mr. DOOLITTLE. I desire to make a single remark in answer to what fell from the Senator from California.

Mr. BAYARD. I withdraw the motion for the present, if the Senator will renew it.

Mr. DOOLITTLE. Yes, sir; I will renew the motion. Mr. President, it is true, as stated by the Senator from California, that he, and the Senator from New York, [Mr. KING], and myself, were members of the convention in the State of New York when what was termed the Democratic party of that day was divided on this very issue. It is true that at that time in the history of the affairs of this country, a resolution was introduced into the Democratic convention of the State of New York, declaring the uncompromising hostility of the Democracy of New York to the extension of slavery into any Territory now free, by any action of the General Government. It is true that the honorable Senator from California, then being a delegate to the convention from the city of New York, and myself a delegate to the convention from the western portion of that State, disagreed in relation to the introduction of that resolution; but I hope the honorable Senator will bear witness, that as far as I am concerned, at least, no proposition ever came from me, directly or indirectly, that in consideration of that resolution being passed in the convention, offices should be bestowed on the other side.

Mr. BRODERICK. The Senator from Wisconsin will allow me to explain. I may have spoken too hastily on this question. I had not much conversation at that time with the Senator from Wisconsin; the conversation took place between the Senator from New York and myself. It is true that he did not make the proposition, and if he had made it it would not have been accepted; but he called upon me for the purpose of getting the Democratic party in New York to present an unbroken front to the Whig party. We should have been in a large majority in the election if we had been united. I am sure the Democratic party would have succeeded by some forty or fifty thousand votes. I did not wish to be understood as saying that the Senator made it a condition precedent that I should go for their resolution. On the contrary, I meant quite the reverse.

Mr. KING. I have no reason or disposition to doubt the accuracy of the recollection of the Senator from California, though I have myself no special recollection of a conversation on that subject. But I will say, frankly, that I have always considered that there could be no other motive on the part of a citizen residing in the free States to favor the extension of slavery than the hope of obtaining office from a majority made up by votes from the southern people. That was my opinion then, and it is my opinion now. [Laughter.] Those with whom I have acted have never been, in my judgment, so anxious for office as to be controlled by that consideration. [Laughter.]

Mr. BRODERICK. I did not hear the first remark made by the Senator from New York, but I would call to his recollection a circumstance connected with it; and I think I shall be able to jog his memory. The gentleman may recollect that, when the vote on the resolution was taken, it was about half past two or three o'clock on a Sunday morning. [Laughter.] He was in a state of great excitement. He had the resolution in his hand, and he had it in his hand, I believe, for an hour or two before, in readiness to present it to the convention for their action. He told me that his friends were not anxious to get any of the offices; that it was a matter of principle entirely with him and his friends; and that, if the portion of the party I represented were anxious to secure the offices, as a matter of course, if we would only pass his resolution they would make no opposition to the wing of the party I represented making their nominations. [Laughter.] The gentleman must have a very treacherous memory if he cannot recollect an event of that kind, because it did take place; and I think, if he will reflect a moment, he will recollect speaking to me at the door of the convention while the convention was in session.

Mr. KING. The special conversation to which the Senator alludes does not recur to me; but, as I stated to the Senator, that has always been my opinion, and I do not at all question the accuracy of his recollection. When I was appealed to I could not sustain it on special recollection, because such conversations have been so frequent with

me that they may have occurred at that time. [Laughter.]

Mr. DOOLITTLE. So far as the action of the Senator from California is concerned, while a member of the Democratic party in the State of New York, at the time when I was myself a resident of that State, I acquit him fully of any charge of being even tainted with Free-Soilism, or any inclination to support the movement which was made by what was then denominated the radical Democracy of the State of New York. It is true that in that convention in 1847, when this question, which for the last ten years has been the question that, like Aaron's rod, has swallowed up all the rest, was first broached in the United States, the radical Democracy of New York met it at the threshold. The Government of the United States, through all its branches, its judiciary, its Congress, its executive departments, had from the beginning always exercised the unquestioned, and, in my judgment, the unquestionable power to restrict the extension of slavery into the Territories of the United States.

In 1846, the other House of Congress passed an act for that purpose. It came into this body, and but for the unfortunate speech of Mr. Davis, of Massachusetts, who talked out the last hours of the session, it would have passed here. I do not speak on my own authority. I refer to the correspondence of Mr. Clay, who, writing to a friend from the Senate Chamber, declared, "the Wilmot proviso is about to pass the Senate." It was also well understood that General Cass, himself a member of this body, expressed his anxiety again and again to be permitted to record his vote in its favor. But on his way home, and shortly after he arrived there, it was well understood that the convention of the Democratic party was about to assemble at Baltimore; and that the delegates from some of the southern States were then being elected; and that they were elected under instructions that no man should receive the nomination for the Presidency, unless he was opposed to the Wilmot proviso. The Nicholson letter then made its appearance. Here, sir, in the history of events, and for the first time in this country, by any public man of any standing, was the heresy ever broached that Congress had no power to govern its own Territories, or to restrict the extension of slavery into them.

It was in reply to the declaration that no man should receive a nomination at the Democratic convention to be held at Baltimore, unless he was openly opposed to the Wilmot proviso, that the radical Democracy of New York, under the lead of the friends of the late Silas Wright, took their position. Yes, sir, they introduced the "cornerstone"—the resolution on which the true and radical Democracy have stood, and stand to-day—and when they came to Baltimore with their delegates, though it was thrown in their faces that they stood on that resolution, they did not shrink in that hour from declaring it.

Mr. BAYARD. I would appeal to the honorable Senator from Wisconsin. I withdrew my motion for an executive session, to give him an opportunity for a personal explanation in a matter with reference to himself.

Mr. DOOLITTLE. One single word further and I have done. In that convention this resolution was referred to. They stood upon it, and the declaration they then made is true to-day—whosoever falls on that stone will be broken in pieces, but on whomsoever it shall fall it will grind him to powder. General Cass fell on that stone and was broken, and woe be to the man, North or South, on whom it shall fall.

I beg pardon of the Senate and of the Senator who made the motion for an executive session, for occupying their time. It was no intention of mine to be called into a debate at this time, and perhaps I owe an apology to the Senate for speaking with as much warmth and earnestness as I have; but the allusion which the honorable Senator from California made, that I might have made such a proposition for the purpose of obtaining votes to the resolution—that I had promised offices to his party to produce that result—as it was a matter that had never entered into my mind, was one which I thought proper to say something about. I renew the motion for an executive session.

Mr. SLIDELL. I will state that there are two very important communications from the Presi-

dent on the table, which it is proper should be opened.

Mr. BROWN. I propose to dispose of this question.

The PRESIDING OFFICER, (Mr. Foot in the chair.) The Chair was about to suggest that according to usage and parliamentary rule, the pending question should be first disposed of before another motion intervenes.

Mr. BROWN. I rise for the purpose of moving a postponement of this question, and I avail myself of the courtesy of the Senator from Delaware to say that when the Senate shall meet again I shall have some views of my own to express on the matters involved in this debate. I desire simply to say now, on a single point, that I stand where I stood at the last session of Congress, and that nothing which transpired in Kansas on Monday last is to change my position. If the election on Monday was a fair one, as I hope it was, in which all parties were allowed freely and without hindrance to take part, and Kansas asks admission as a free State, I stand upon the record in favor of her admission. If, on the other hand, she asks admission as a slave State, I shall expect those who entered into the compact with us during the last session of Congress to abide by their pledges and vote for her admission.

As I intend to speak on the question, I feel it due to myself to say this in advance of any intelligence from Kansas. Of what may have transpired there on Monday, of course I know nothing, and no one else knows anything; but whatever it may have been, I am prepared to stand by it, if the election has been fair; that is, if a fair opportunity was offered to all parties to vote. If my friends have thought proper to retire voluntarily from the polls and allow the election to go by default, that is their business and it shall not change my policy here. If, on the other hand, the friends of other gentlemen have absented themselves from the polls and allowed the election to go by default, they ought not, in my judgment, to change their policy. What I wish to be understood as distinctly saying is, that so far as those who had the management of the election are concerned, they should have held the scales of justice in equal balance between the parties, and if all who desired to cast their ballots according to law had an opportunity to do so, whether they exercise the right or not, is a question which shall not weigh a feather on my mind.

Waiving that point, simply indicating that I have some purpose to express my views on the main questions, if no other Senator desires to ask the courtesy of the Senator from Delaware, I move the further postponement of this question until the 4th day of January, when the Senate will again be in session.

Mr. DOUGLAS. I wish to make a correction of an error into which I fell yesterday, in regard to the constitution and schedule made at Leecompton. I find in the schedule, that the officers to carry the law into execution are required to be sworn, and are subject in the penalties provided in the territorial laws; but still I do not find that the returns are to be made in obedience to territorial laws. That part of my argument stands good as before; but so far as requiring them to be sworn, I find it is as stated by the Senator from Alabama.

Mr. CLAY. In reply, I will state, that if the Senator will read the section through, he will see that he is in error still.

The motion to postpone the further consideration of the subject until the 4th of January was agreed to.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a letter of the Secretary of State, in compliance with a resolution of the 17th instant, calling for copies of any correspondence which may have taken place between the Department of State and the British and French Ministers on the subject of claims for losses alleged to have been sustained by subjects of Great Britain at the bombardment of Greytown; which, on motion of Mr. SEWARD, was laid on the table, and ordered to be printed.

He also laid before the Senate a communication from the President of the United States, transmitting a letter from the Secretary of State, in answer to the resolutions of the Senate of the 16th

and 18th instant, requesting correspondence and documents relative to the Territory of Kansas; which, on motion of Mr. DAVIS, was ordered to lie on the table, and be printed.

EXECUTIVE SESSION.

On motion of Mr. BAYARD, the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned to Monday, the 4th of January, 1858.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, December 23, 1857.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY.

The Journal of yesterday was read and approved.

QUALIFICATION OF A MEMBER.

Mr. HILL announced that his colleague, [Mr. TRIPPE,] who had been detained from the House by sickness in his family, was now present, and ready to be qualified.

Mr. ROBERT P. TRIPPE was then qualified, by taking the usual oath of office to support the Constitution of the United States.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act to authorize the issue of Treasury notes; which was thereupon signed by the Speaker.

DELEGATE FROM UTAH.

Mr. WARREN. I rise to a question of privilege; and I will state the reason why I deem it a question of privilege. I desire to renew substantially the resolution attempted by me to be brought before this House some days since, in reference to the Delegate from Utah. I hold, and I believe the Chair will sustain me, that any resolution or proposition touching the right of any member or Delegate to a seat upon this floor, is at all times a question of privilege, and ought at all times to be received by this House.

Mr. BANKS. What is the question before the House?

The SPEAKER. The gentleman has not yet presented the resolution.

Mr. WARREN. I had hoped that no gentleman would object to the offering of a resolution such as I have indicated, even though it could not be regarded as a question of privilege. No man ought to object to it, for it is a matter every honest man ought to desire to be taken up by this House. It is an investigation which ought to be had. I send up the resolution, and while it is going up I will state that it is a proposition to investigate the right of the Delegate from Utah to occupy a seat upon this floor. It is abhorrent to every member of this House, that we should be sitting with the Delegate of a Territory in open rebellion, not only against the moral sentiment, but the legal Government of the country.

The resolution was reported, as follows:

Whereas, it appears from the proclamation of Brigham Young, late Governor of the Territory of Utah, from the President's message, and from later developments, that said Territory is now in a state of open rebellion against the Government of the United States: Therefore, be it

Resolved, That the Committee on Territories be instructed to report the facts, and to inquire into the expediency of the immediate exclusion, from this floor, of the Delegate from said Territory.

Mr. CAMPBELL. I would observe that the Delegate from Utah is not in his seat, and I think it proper that the resolution should be postponed until he is present.

The SPEAKER. The Chair thinks the resolution is a privileged one.

Mr. WARREN. But a moment before I rose the Delegate from Utah was in his seat, and if he chooses to vacate it, it is not my fault. But I will press my resolution upon the House regardless of the Delegate from Utah or anybody else. It is a course which the Delegate expects; which every man in the country expects; and it is a subject which every member of this House should desire to have investigated.

Mr. BANKS. Is the resolution in order?

The SPEAKER. The Chair thinks it is.

Mr. BANKS. Upon what ground?

The SPEAKER. It pertains to the right of a member to his seat.

Mr. BANKS. Upon what ground, Mr. Speak-

er, is it made the privilege of a member of this House to declare, by resolution, that a state of war exists in any part of this Union, or that there is insurrection in any Territory? That certainly does not bring the matter before the House as a question of privilege.

The SPEAKER. The subject-matter of the resolution, which is submitted to the consideration of the House, affects the right of a person who now occupies a seat upon this floor, to continue to occupy that seat.

Mr. BANKS. That is very true; but the facts upon which the gentleman predicates his resolution, do not affect the rights of that person. If the gentleman from Arkansas states as a fact, that the Delegate from Utah, as was stated by a gentleman from Alabama in the last Congress, in reference to the members from Massachusetts, is not entitled to his seat as a member of this House, and therefore ought to be expelled, I would admit that it would be a matter of privilege. But here the facts upon which he bases his conclusion do not affect the rights of the Delegate at all.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Massachusetts, upon the ground that the preamble may or may not be adopted by the House, while the resolution proposes an investigation of the right of a member to his seat, whether that right rests upon the facts stated in the preamble or not.

Mr. BANKS. I supposed the facts stated were embraced in the resolution itself.

Mr. BOGOCOCK. I have but a word or two to say in relation to this matter. I agree both with the Chair and with the gentleman from Massachusetts [Mr. BANKS] over the way. I think that inasmuch as the resolution, affects the right of a member of this House to a seat upon this floor, it is a question of personal privilege. Any member on this floor has a right to move a resolution to eject another member from the floor whenever he pleases, and that is a question of privilege. But it will be for the House afterwards to say whether the reason given for the action is a sufficient reason or not. Now, it may be that there is no sufficient reason given by the gentleman from Arkansas for ejecting the Delegate from Utah, and that he ought not to be ejected; but inasmuch as the resolution declares that the Delegate ought to be ejected from his seat upon this floor, that makes it a question of privilege.

I have no particular objection to the reference of this question to the Committee on Territories—and it was to that point that I rose to speak at this time—because I am willing that the Committee on Territories shall inquire into and report these facts to the House; and that is all the resolution asks. I am not prepared now, to say, and the House is not required to say, by voting to refer this matter to the Committee on Territories, either that the facts charged by the gentleman from Arkansas are correct, or that, being correct, they constitute a sufficient ground for the ejection of the Delegate from Utah. Sir, I am not prepared to say that because a member of the House rises and says that a Territory or a State is in a condition of moral rebellion against this Union, that, therefore, it ought not to be entitled to representation upon this floor. I am not prepared to say, even if the fact were true, that the moral sentiment of any State or of any Territory differed from the moral sentiment of my State, or the moral sentiment of this House, that such a fact would constitute a sufficient reason for ejecting its Representatives from this floor. I do not believe that this House can set itself up as a grand inquisition in regard to the religion or morals of any part of this country. We are not here for any such purpose. We cannot constitutionally declare that any State or Territory is in a condition of moral rebellion; and, therefore, not entitled to be heard upon this floor. But, sir, I do not see that any harm can result from leaving the matter with the Committee on Territories, to be inquired into and reported upon to the House.

The other proposition contained in the resolution is somewhat different. The gentleman charges in his preamble, or in the remarks which he made—I believe it is set forth in the preamble—that the Territory of Utah is in a condition of legal rebellion, of rebellion against the laws of the land. Well, whether, even if that were so, it would con-

stitute a reason for ejecting its representative from this floor, is a question well worthy of inquiry by the lawyers and statesmen of this House. Sir, a large majority of the people of a State or Territory might be in rebellion; and yet, under the Constitution and laws of the country, are not those who are true and loyal entitled to be heard upon this floor? I am willing that the Committee on Territories shall take that question and inquire into it. But, sir, I deny that we have any facts before us now that would justify us in declaring that the Territory of Utah is in a condition of legal rebellion against this Government? Where is the authority for the declaration? Where is the message from the President or from any of the Executive Departments coming down to this House and declaring that the Territory of Utah is already in a condition of actual rebellion? What have we, I ask, to justify us in making any such declaration?

I merely rose, Mr. Speaker, to state that I am not prepared to say now that I concur in the facts stated by the gentleman from Arkansas, or that, even if those facts were verified, they would constitute a sufficient reason for the ejection of the Delegate from Utah from his seat upon this floor. I take it that it is a fair subject for inquiry; and all the gentleman from Arkansas asks is, that the Committee on Territories shall inquire into and report the facts to the House, with their recommendation for action. I am willing that that shall be done. And now, sir, if no other gentleman desires to address the House, I will move the previous question.

Mr. MARSHALL, of Kentucky. I desire to say a few words.

Mr. BOCKOCK. Then I will not call the previous question.

Mr. MARSHALL, of Kentucky. I regard this movement as a very important one; and I think, under all the aspects of the case, that the time has not arrived even for the question of reference. I do not think that it is prudent, upon the part of the House, under all the circumstances of the case, to entertain this subject at all. It will be observed by the House that everything that Brigham Young has done thus far, he says that he has done in his capacity of civil Governor of Utah. The proclamation of which complaint is made appears as the proclamation of the Governor of Utah. While I am free to say that there is no probability that Mr. Young is deceived in the fact, and while I doubt not he knows that he is no longer Governor of Utah, there is a strong plausibility in the supposition, or a probability, that the people of the Territory of Utah may be deceived in the extent to which Brigham Young, as Governor, had a right to go. I have frequently thought that it would have been much more prudent upon the part of the new Governor to have met the proclamation of Brigham Young with a counter-proclamation to the people of Utah, showing the fact of his own appointment, of the deposition of Brigham Young by the President of the United States, and of his (Governor Cummins's) qualification in his new civic capacity, so as to have stripped from the shoulders of Brigham Young the cloak under which he is now acting, and to have thus placed the people who reside in the Territory of Utah, either in a position to have legally resisted Brigham Young, or in the undisguised attitude of rebellion. And I am free to say, also, that I think the distinguished Executive head of this country would have exhibited a greater degree of prudence if he had himself made this proclamation of which I speak to the people of Utah, so soon as he heard of the proclamation of Brigham Young.

We must notice the fact that what Young has done thus far, he has done under the cloak of his civil capacity. Nor am I advised, except by newspaper reports, that his successor has yet been qualified, or that that successor has yet officially communicated to Brigham Young the fact of his deposition from the office of Governor.

I agree entirely with the gentleman from Virginia, [Mr. Bockock,] that we are not to look for the tenure of our seats in this Hall to the moral sentiment of the States or of the districts we represent. There are a large class of men in this country who believe in the doctrine of secession: now, suppose that a State of this Confederacy, carrying out that doctrine, had declared its intent to disobey and to resist a law which it deemed

unconstitutional: would you concede the right, or would any gentleman from your latitude concede the right, to a reference of a resolution to a Committee of Elections, to a special committee, or to any other committee of the House, to ascertain whether, in view of this fact, and of the attitude assumed by such State, its Representatives should be expelled from this House? I recollect that, last year, the tables of the committee of which I am a member were burdened down with any number of memorials, coming from a large portion of the country, declaring slavery a violation of the Constitution.

Suppose that this Hall should exhibit such a disproportion in representation that there would be a majority of Representatives entertaining that opinion: would you concede the right to expel from this floor the Representatives of States where slavery exists, because it might be assumed that this was a violation of the Constitution?

Mr. CLINGMAN. I do not understand the resolution. I want to ask the gentleman from Kentucky [Mr. MARSHALL] whether it makes any allegation against the Delegate here? If people in Utah violate the law, that is no reason why the Delegate should be held to be false to his allegiance, or why he should be expelled from this House.

Mr. MARSHALL, of Kentucky. As I understand the resolution, it is a proposition for reference, on the ground that the people of Utah are in rebellion.

Mr. BANKS. As I understand it, the resolution before the House is received on the ground that it states no facts.

Mr. MARSHALL, of Kentucky. No; I understand it differently from the gentleman from Massachusetts, [Mr. BANKS.]

The SPEAKER. The Clerk will report the resolution for the information of the gentleman from Kentucky.

The resolution was again read, the preamble being omitted.

Mr. CLINGMAN. There is no ground stated at all.

Mr. MARSHALL, of Kentucky. Read the preamble. I understand this to be the state of facts: I understand the gentleman from Arkansas [Mr. WARREN] to offer the preamble and resolution. The Chair decides that the proposition is in order, because the House retains the liberty to reject the preamble and to pass the resolution; so that, for all the purposes of the reference, both are here. The preamble shows the rationale—the reason why the House is invited to adopt the resolution. Both, I suppose, will be referred together, because the resolution by itself has no meaning. It states no gravamen, suggests no hypothesis, recites no fact. It is the mere question, whether the Delegate from Utah shall be expelled? If you cut off the preamble, the committee would be, most certainly, awkwardly situated, as, without the suggestion of any ground, it would merely have the question referred as to the exclusion of the Delegate from Utah from his seat in this Hall.

Mr. CLINGMAN. I ask leave of the gentleman from Kentucky to have the preamble read. Does it make any allegation against the Delegate from Utah? If not, it seems to me there is nothing before the House at all.

The preamble was read.

Mr. CLINGMAN. I submit that that does not make any point. If it charged that the Delegate from Utah was false to the oath of allegiance which he has taken, that might be a reason for expelling him. But if these other people violate their obligations, I do not see that that raises any ground of expulsion against him.

Mr. MARSHALL, of Kentucky. I certainly agree with the gentleman from North Carolina in the matter of his suggestion, and I was exactly in the amplification of that idea when he interrupted me.

Mr. MORRIS, of Illinois. With the permission of the gentleman from Kentucky, I will offer an amendment which will change somewhat the issue:

That the Committee on Territories be, and they are hereby, instructed to report a bill for the repeal of the organic act of the Territory of Utah, and to attach said Territory to other Territory or Territories, for judicial purposes.

The SPEAKER. The Chair rules the amendment out of order.

Mr. MARSHALL, of Kentucky. As the Chair has ruled that amendment out of order, I will not fatigue the ear of the House by discussing it. It has no relation to the subject-matter. Nor will I longer stand in the way of gentlemen who seem to be so anxious about the proposition.

I want merely, in concluding, to remark that I do not think it will be prudent in the House, by acting against the Delegate from Utah, to take a step which may be the recognition of a state of rebellion in Utah; for, mark me, the gentlemen who are attached to this Administration, and the gentlemen who favor this Administration, will assume a very high responsibility whenever they adopt the fact that there is rebellion in Utah, and recognize the fact that the expedition sent to Utah was intended as a military expedition against Utah. I warn gentlemen not to fall into that error, by passing a resolution of this description. I understand the Administration to hold that the expedition which was sent to Utah in September, was designed merely to accompany the incoming civil officer, to escort him in safety, and to afford strength to him after his arrival, in the discharge of his proper civic functions. And I warn gentlemen that it will be necessary for them to take that position in regard to this expedition before the session closes. I do not want the House, by rushing into a precipitate conclusion, bearing on the Delegate from Utah, to either recognize rebellion as the status of the Territory of Utah, or to prejudice the question, that must come before it appropriately hereafter, in reference to the army of this country marching against Utah. I do not myself believe that the House ought now to entertain the subject at all. We have not heard, this session, from the Delegate from Utah. He has not opened his mouth here during the session. He has no suggestion from Utah to make to the General Government. He is doing us no harm.

I think, in fact, Mr. Speaker, that as time wears on, we may want the Delegate from Utah here. He may have a good deal of information we shall want. If he is a true man to his country he will communicate it. I confess that for one, as a member of the Military Committee of this House, I would rather he were here than not; and at all events, I am not willing, under all the circumstances, to ignore by this movement the rights of those of his constituents who may be true, or to recognize a state of war with Utah.

Mr. WHITELEY. I understood the gentleman from Illinois [Mr. MORRIS] to propose to instruct the Committee on Territories absolutely to report a bill to abolish the territorial government of Utah.

The SPEAKER. The amendment of the gentleman from Illinois was ruled to be out of order.

Mr. WHITELEY. I desire to offer an amendment relating to the point. I move to amend the resolution by adding the following:

And that they also be instructed to inquire into the propriety of reporting a bill for abolishing the territorial government of Utah.

The SPEAKER. The amendment of the gentleman is not in order, in the opinion of the Chair.

Mr. DAVIS, of Maryland. Mr. Speaker, I think this resolution ought not to be adopted, even for the purpose of inquiry. I think, under the law of this country and the view that our Constitution takes, that we are not here entitled to assume that any Territory is in a state of rebellion, or that any State is making resistance to the General Government. If there is resistance in either a Territory or State, it is not in the eye of the law, and cannot be a resistance of the legal authorities of the Territory, and therefore cannot be regarded as the resistance of the Territory itself; but certain evil-disposed persons within the limits of the Territory, under the guise of its authority, are resisting the laws that bind them.

The preamble and resolution not only ignore that first principle of American government, but they assume the fact that the representative of the Territory of Utah on this floor is the representative of that rebellious government, and not the representative of the citizens of the United States who elected him and sent him here; and, consequently, unless gentlemen are ready to abandon the American views of the relations of citizens to the Government, and of the organized Territories to the Government, they cannot vote for that resolution.

It may, at another stage of our proceeding, be an appropriate subject of inquiry, whether there be an illegal and organized combination of evil disposed citizens, who have banded themselves together to resist the authority of the United States, as well as the local authority of the Territory. But when we shall have come to the conclusion that there is such an evil-disposed combination, it leaves still every single local officer of the United States in full possession of his authority. But, if it shall be ascertained that any of these officers have so far departed from the line of their duty as to take any part in that rebellion, it will afford sufficient ground for removal on the part of the President, and for filling the office so vacated. That, sir, is the only legal view which can be taken of the matter; and it was in that point of view that the President of the United States, having ascertained that Brigham Young had failed in his allegiance to the Government of the United States has removed him and appointed another in his place.

When he has reached there what will he do? Will there be any Territory of Utah over which Mr. Cummins can act as Governor? Will there be any people there over which the laws of the United States should extend their protection? Will he go there with military power to rule as a satrap rules over an eastern kingdom? Or does he not go there under the laws of the United States, for the purpose of executing the laws of the United States, by sheriff and constable—carrying, it is true, a military force at his back; but only to act as a *posse comitatus*; having no power except to aid the civil authorities in the execution of the laws of the United States? I say that is the legal and American view of the resolution. Any force that the President of the United States may send there, is under the authority of the law of Congress which gives him the power to use the military and militia of the United States to enforce the execution of the laws, and to maintain the local authorities there. And even though the citizens there should refuse to obey the laws of the United States and of the Territory, still they are not to be dealt with by military violence. They are to be arrested and brought before the judicial tribunals of the country, and not tried before a court-martial. I say, therefore, that there can be no such thing as war against the United States by a Territory of the United States; and I say that to adopt this preamble and resolution is directly in the face of the legal facts, and without any precedent in our history—one that ought not to be entertained, even for the purpose of investigation.

Mr. Speaker, let us go one step further: This is brought before us as a matter of privilege, as affecting the seat of the Delegate from Utah. Sir, if that gentleman has directly or indirectly countenanced or aided any illegal combination against the laws of the United States, then he is unworthy of a seat here, and should be expelled. But if he himself has not taken part in any rebellion, then, though that rebellion should include every citizen in the Territory except one, still he stands here as the representative of the legal rights of that one man in that Territory. Nay, sir, he stands here as the representative of the rebellious children of the Republic. He stands here to see that those who have committed treason shall be tried fairly under the Constitution and laws of the United States. He stands here to see that the laws are carried out which protect the man who has been guilty of treason from the outrage and violence which military authorities visit upon political offenders. I say, therefore, that, although every man in that Territory should be a rebel and in arms against the United States, they are entitled to their representative upon this floor; for, although they are rebels, they have not ceased to be citizens of the Republic. Though there may be rebellion in the Territory of Utah, no gentleman has charged that the gentleman from Utah has aided in any manner, directly or indirectly, the rebellious proceeding in that Territory. I think the proposition is one which should not, at this time, be entertained, and I therefore move that it be laid on the table.

Mr. WARREN. I appeal to the gentleman from Maryland to withdraw the motion to lay on he table for a moment.

Mr. BANKS. I ask the gentleman from Maryland to withdraw his motion for a moment, and I will renew it.

Mr. DAVIS, of Maryland. I withdraw the motion.

Mr. BANKS. I desire to say—

Mr. WARREN. I desire to know whether the gentleman from Maryland heard the proposition I made to him? I asked the gentleman, having made the motion to lay upon the table this proposition, to indulge me for a moment, and then I would yield the floor to the gentleman from Maryland, and he could withdraw his motion in favor of the gentleman from Massachusetts.

Mr. BANKS. I have the floor, assigned me by the Chair, and I will yield to the gentleman from Arkansas, by the leave of the House, in a moment or two.

As an objector to the reception of the resolution, I desire to say that there is no member of this House that will more cheerfully enter into any inquiry into the condition of the Territory, its government, or its people, that is proper and within the powers of Congress. Congress has authority to declare war; it has authority to inquire into the condition of Utah, or any other Territory, upon the facts stated in the President's message. It has power to enlarge the Army, to raise additional regiments, as recommended by the President. Now, sir, there is no proposition which the gentleman from Arkansas, or any other member of this House can make, which relates to the legitimate course of the Government in relation to the alleged rebellion in that Territory, to which I will not most cheerfully assent. But I object to this resolution upon the ground that there is not a sufficient statement of fact to justify our proceeding against a member or Delegate in regard to his right to a seat. There is nothing more sacred to the people of a State, or to the people of a Territory, than their right of representation; and it should be the very last thing upon which we should make an assault. We ought to exhaust every other remedy, and pursue every other means, before we assail the rights of the people of a State or Territory through their representation on this floor. The question has been raised before, and will be raised again.

Now, sir, we have nothing to fear from the influence or power of the Delegate from Utah. He has no vote. He can exert no moral influence. The people he represents are weak, and distant. The opinion of the civilized world is against them.

And beyond that, sir, if we adopt the resolution, and agree to the expulsion, it results in nothing. The people, in the course of a month or two, may send another Delegate to occupy his place. We ought, therefore, to consider, upon the President's message, what course should be taken by the Government of this country in regard to the action of that Territory; and any measure which may be proposed by the gentleman from Arkansas upon this matter, I will cheerfully agree to.

I ask the attention of the gentleman from Arkansas to this declaration in the message of the President. He says:

"Governor Young has, by proclamation, declared his determination to maintain his power by force, and has already committed acts of hostility against the United States. Unless he should retrace his steps the Territory of Utah will be in open rebellion."

He does not charge that open rebellion exists. He says that Governor Young has threatened rebellion, and intimates that these threats may be idle boasting, but that we should not pass them by in silence. He therefore recommends that additional regiments should be raised, in view of the state of affairs in that Territory. Now, if the gentleman from Arkansas will confine his resolution to the recommendation of the President, or take any other legitimate course, in regard to the people of Utah, I will cheerfully give him all the aid in my power. But, for one, I protest against any assault upon the rights of a Delegate from a Territory, or a member from a State, except it be upon the statement of facts touching him directly in his acts here, as a member of the House.

I have finished all I desired to say, and will yield the floor, with the consent of the House, to the gentleman from Arkansas.

Mr. WARREN. In order to meet the views of gentlemen upon the other side of the House, and as all I desire is an investigation of this matter, I propose a substitute for the resolution I offered. I think it will cover the objections of gentlemen upon the other side.

The resolution was read, and is as follows:

Resolved, That the Committee on Territories be instructed to inquire into the difficulties now existing between the United States Government and the territorial government of Utah; and the said committee will further inquire whether, under existing circumstances, the said Territory shall be allowed to have a Delegate in this House.

The SPEAKER. The Chair feels constrained to rule the amendment out of order.

Mr. BANKS. I had finished what I had to say, and, according to my promise to the gentleman from Maryland, I submit the motion to lay the original resolution upon the table.

Mr. WARREN. I appeal to the gentleman from Massachusetts not to make that motion. I understood him to say that the motion was not to be submitted until I had made some remarks.

Mr. BANKS. With the consent of the gentleman from Maryland, [Mr. DAVIS,] I withdraw the motion.

Mr. WARREN. Notwithstanding the objections on the other side of the House, I am still desirous of pressing it. Not that I am wedded to the resolution I have introduced—not at all. My object is to get an investigation of this House on the matter presented in that resolution, whether in that shape or another.

It strikes me, sir, with some force, that the gentlemen across the way are attaching too much importance to this resolution, and though the subject of this resolution is important in itself, yet gentlemen talk as though the resolution proposed to expel the Delegate from Utah, without giving him any showing. Such a proposition was never contemplated by my resolution. It simply proposes to investigate the facts alluded to in the preamble. It simply proposes to investigate the right of the party in question upon this floor. Now, sir, is it true, in point of fact, that before a committee of investigation of this character should be raised, the facts upon which it is proposed to be raised should be submitted to the House? No, sir. I apprehend that this investigation is to be had before the committee, and upon the facts which may appear the committee are required to report. Again, I say, gentlemen talk as though the adoption of this resolution would be the expulsion of the gentleman from Utah without a hearing. If gentlemen will look to the resolution they will see that it simply refers the matter to a committee whose duty it is to investigate the subject, and it is the province of the House to judge whether he is entitled to his seat or not.

Now, it is known to you that the present position of Utah is exciting the whole country, and the whole country is perfectly amazed that gentlemen from the North, South, East, and West, will sit with the Delegate as an equal upon this floor. That is the prime reason that induces me, at this stage of the proceedings, to introduce this resolution. It is an attempt, say gentlemen, to strike at the moral depravity that prevails in that Territory. Would to God I had the power to do so, and I would have done it when a member of the Thirty-Third Congress. It is true, from the proclamation of Brigham Young, and from the message of the President, that that country is in open rebellion against the Government of the United States; and yet gentlemen say we are too soon; that we are hasty, and are not proceeding rightly. Let gentlemen suggest a better mode of procedure, and I will be with them, for I am not wedded to this resolution. But, sir, I do insist on the proposition to investigate the right of this Delegate to a seat, as my equal, upon this floor.

Mr. CURTIS. I wish to say to the gentleman that I have been trying to get the floor for the purpose of suggesting a substitute, which will accomplish the object he desires. I will say to the gentleman that my constituents are deeply interested in this matter. There are a great many Mormons in the district that I represent; some of them belong to the party with which the gentleman is connected, and are the publishers of a newspaper on the frontier. I ask the gentleman to allow me to submit a substitute for his resolution, which will remove the legal objection, and bring down upon the Mormons the justice they require.

Mr. WARREN. No, sir; I decline to yield.

Several MEMBERS. Let it be read for information.

Mr. WARREN. Very well, sir; I yield for that purpose.

The substitute was then read for information, and is as follows:

That the Committee on Territories be instructed to examine and report on the expediency of repealing the law organizing the Territory of Utah, and the passage of a bill organizing the Territory of Nevada and the Territory of Columbus.

Mr. WARREN. I will say to the gentleman from Iowa that the reason why I was disposed to object to the reading of that substitute for information, was in consequence of the remark that he saw fit to let fall in reference to the party to which I belong, and with which I act. The gentleman need not tell me that Mormons edit a Democratic newspaper with a view of driving me from what I believe to be my duty in this behalf. If a Mormon edits a Democratic newspaper, or a paper called a Democratic paper, I will say to the gentleman that he does not belong to that school of Democracy that has so long governed and controlled this country, and brought it to its present state of prosperity.

But, sir, I was going on to say that I objected seriously to a postponement of this matter, and that I believed it was the duty of each member upon this floor, regardless of political sentiment, to vote for this inquiry. I do not put this in as a great political question; I put it in as a great constitutional right reserved to this people. Whoever heard of a Delegate being received from a Territory or from a State that is in open rebellion against the Government? I do not introduce this particularly as a Democratic measure, or an American measure, or a Republican measure, but I have introduced it because I believe it to be the duty of every good citizen, whether in Congress or out of Congress, to raise his voice in opposition to any such proceedings as are now going on, and as have been carried on in Utah for many months.

But I go further. I say to gentlemen that I believe there has been too much want of investigation of the right of members to seats upon this floor. I say that I stand here prepared to vote not only to exclude the Delegate from Utah, if, upon an investigation, it shall turn out that his Territory is, and was at the time of his election, in rebellion against this Government, but I am here prepared to vote to exclude any gentleman who occupies a seat upon this floor, where the free white voters of his district were not permitted to go to the polls untrammelled and cast their votes, as white men and freemen under our Constitution and laws ought ever to have a right to do. I believe, sir, in a full and fair investigation of matters of this kind; and so long as I occupy a position upon this floor, I will advocate it whether in reference to the Delegate from Utah, or whether in reference to a Representative from any State in the Union. I therefore press this resolution; but if gentlemen can suggest any amendment that will put it in a better shape, and still accomplish the purpose I have in view, I shall be satisfied.

Mr. BOYCE. I sympathize, Mr. Speaker, in the zeal which the honorable member from Arkansas has manifested. No person, perhaps, has less sympathy with the Mormons than I have. I look upon them as a blot upon the civilization of the age. But, at the same time, in the spirit of Lord Chatham, whose remark I think it was, "I would not violate the smallest principle of law to oppress the meanest man in England." Though I have no respect for that peculiar people, yet, in my opinion, we cannot take the course indicated by this resolution, without violating great principles of law, which are of more importance to the public good than any supposed advantage to be gained by depriving the Delegate from Utah of his seat.

Sir, how does the Delegate from Utah have a right to his seat? It is not under a resolution of this House. It is under a law of the land, passed by both Houses, and signed by the President, and then by a legal election in pursuance of that law. It was by that election, then, under that law, that he acquired a right to a seat upon this floor. Admit, then, for the sake of argument, that Utah is in a state of rebellion: does the lawless conduct of the people of Utah deprive that Delegate of his right to a seat here, acquired previously, in due course of law? Why, certainly not. Nothing they could do would divest him of that right—that right having been acquired by a legal election held under the law of the land, and which could not be revoked by any lawful

action on the part of the people of Utah, much less forfeited by their lawless proceedings.

It seems to me that this proceeding gives an undue importance to Brigham Young. It seems to acknowledge that Brigham Young is Utah. I am not willing to assign him any such position. I do not know that Brigham Young is Utah. There may be many people in Utah who do not believe in Brigham Young. He is a bad man. He has, doubtless, by various pretenses, imposed upon a large majority of the people of that Territory; but is his *ipse dixit* to be received as the voice of Utah? I apprehend not.

It seems to me that this question of Utah is one of the gravest questions that can possibly come before us. This Government is a Government of internal peace and law and order, and not of violence. We are going to have before us, in this question of Utah, a question which will demand the most serious consideration of both Houses of Congress.

I think we should, at a proper time, take up this whole question of Utah, in all its relations, and not now upon the isolated point of the expulsion of the Delegate. My idea is, that when the question comes up properly, we are not to assume that Utah is in a state of war, and to make war upon the whole Territory. We are rather to ignore the action of Brigham Young, to deal as if peace existed there, to carry out the laws, to carry them out by force, if it becomes absolutely necessary, but not to dignify Brigham Young and his self-proclaimed government into the importance of a hostile State by declaring war upon them. I hope that by prudence this question may lose some of its gigantic proportions, because I should look upon it as one of the most unfortunate steps the country could be obliged to take, if we should be compelled, at this day, to shed fraternal blood upon our soil. I trust that prudent, though firm, counsels may prevail. I expect much from the wisdom of the President. And I trust that the good genius of the Republic may avert the sad spectacle of American blood shed American hands. It would be the beginning, indeed, of a sad chapter in our history. With these remarks I leave the question for the present.

Mr. COLFAX. I dislike, Mr. Speaker, to dissent from the views which have been so ably presented by distinguished gentlemen, who are emphatically leaders of this House, the gentleman from Massachusetts, [Mr. BANKS,] the gentleman from Maryland, [Mr. DAVIS,] the gentleman from Virginia, [Mr. BOGOCCK,] and the gentleman from Kentucky, [Mr. MARSHALL,] but I think that the self-respect of the American Congress, the representatives of twenty-five millions of American freemen, demands at least that this investigation should be had.

Gentlemen say that this resolution is extraordinary in its character. If so, sir, it is introduced for the purpose of meeting an extraordinary state of affairs, anomalous in its character, and without precedent in the history of this nation. I say nothing in regard to the immoral practices which prevail in the Territory of Utah, and have made that Territory a byword and reproach in all Christendom. But I desire to speak of the civil state of affairs there, and of her relations towards the General Government. What are they? Do we not know, sir—is it not a fact that has been proclaimed throughout this broad land, officially, and in every other way in which it could reach the public ear—that the authority of the United States has been openly defied and trampled under foot there, that your United States courts have been broken up, and that the United States officers have been compelled to leave the Territory, some of them fleeing from it for their lives? Is it not known that the people of the Territory are in hostile array against the army of the United States, cutting off the Government trains, and warning, officially, through their treasonable Governor, the Army of the United States not to set foot in the Territory, except upon condition of laying down their arms? While they throw off entirely, as a whole body, their allegiance to the General Government, they, at the same time, have the presumption to come here and demand that they shall be represented upon the floor of the council-hall of the nation against which they have stretched forth the gauntleted hand of defiance, and whose authority they have openly defied and scorned.

The President's message tells us the condition of affairs in the Territory of Utah. He says:

"Without entering upon a minute history of occurrences, it is sufficient to say that all the officers of the United States, judicial and executive, with the single exception of two Indian agents, have found it necessary, for their own personal safety, to withdraw from the Territory, and there no longer remains any government in Utah but the despotism of Brigham Young."

And yet, with this condition of affairs, officially proclaimed to us by the chief Executive of the nation, we are hesitating here, whether we shall pass a mere resolution of inquiry on the subject, which, it seems to me, the self-respect of Congress demands.

Mr. BANKS. Will the gentleman from Indiana have the kindness to read the conclusion of the President's remarks, referring to the restoration of the government under the Constitution and laws?

Mr. COLFAX. I will, with pleasure.

"Governor Young has, by proclamation, declared his determination to maintain his power by force, and has already commenced acts of hostility against the United States. Unless he should retrace his steps, the Territory of Utah will be in a state of open rebellion."

Now, I desire to read something more:

"He has, therefore, for several years, in order to maintain his independence, been industriously employed in collecting and fabricating arms and munitions of war, and in disciplining the Mormons for military service. As superintendent of Indian affairs, he has had an opportunity of tampering with the Indian tribes, and exciting their hostile feelings against the United States; this, according to our information, he has accomplished, in regard to some of these tribes, while others have remained true to their allegiance, and have communicated his intrigues to our Indian agents. He has laid in a store of provisions for three years, which, in case of necessity, as he informed Major Van Vliet, he will conceal, 'and then take to the mountains, and bid defiance to all the powers of the Government.'"

And sir, since that message was written the news has come from the Territory of Utah that the military equipage, and arms and munitions of war, accompanying the force on that frontier, were cut off by these Mormons, openly and insultingly.

Now there has not been a mere declared intent to oppose the Government of the United States; but it has been actually carried into effect. And we are to say here whether a people like this, having openly and defiantly and insultingly thrown off all allegiance to the General Government; having sent a message through their Legislative Assembly, to the President, that they will have such and such men as officers and no others; having thus disrobed themselves of their allegiance to the Government, shall be allowed to send their representatives here with equal rights, as to his speaking, with ourselves, to occupy a seat on this floor as our peer, and to draw his salary and per diem from the Treasury of the United States? The matter has been trifled with too long. This Brigham Young has been making treasonable threats against the General Government from the days of the administration of Mr. Fillmore to the present day; and he has over and over again declared publicly in the face of the assembled people, that he will be the Governor of Utah, not so long as the Government of the United States may see fit, but so long as God says he shall be Governor, declaring that he derives his commission from God instead of from the President. He has gone on fostering rebellion, till it has broken out into open war. And yet he sends, with credentials signed by the same hand which penned his proclamation of defiance to our Government, a representative here; and we are not to be allowed, because, forsooth, there has been no precedent for it, to have a committee of inquiry to ascertain if we cannot purge ourselves from the presence of a Delegate from such a Territory! I trust the resolution will be adopted.

Mr. STEPHENS, of Georgia. I have no objection to the passage of the resolution, as it has been entertained by the Chair as a question of privilege. I did not raise the question, although I do not think it involves any question of privilege. But as the Chair entertained it, I have no objection to the resolution being passed by this House, as the Committee on Territories will certainly inquire into all these subjects, whether the resolution pass or not. I take occasion to state distinctly that I do not think that any fact embraced in the preamble or the resolution involves a question of privilege. I move the previous question, thinking that we have had discussion enough.

The previous question was seconded.

Mr. KEITT. I move that the resolution be laid on the table.

Mr. BANKS. I desire to ask what was done with the last proposition of the gentleman from Arkansas, [Mr. WARREN?]

The SPEAKER. The Chair ruled it out of order.

Mr. BANKS. It seems to me that that resolution could be received after the first was admitted before the House. I think that it was competent—the House being already in possession of the subject—to admit the last resolution of the gentleman from Arkansas, and I thought that that was to be done. I cheerfully assent to that resolution.

The SPEAKER. The Chair ruled the last resolution out of order, because its reading shows, in the estimation of the Chair, that it would not be a question of privilege at all.

Mr. BANKS. It was not a question of privilege; but I think it might have been admitted as an amendment, after the subject was legitimately before the House.

The SPEAKER. The Chair ruled it out, and it is too late now to make a question about it.

Mr. BANKS. I do not make a question about it.

The main question was ordered to be put. The question being on the motion to lay the resolution on the table—

Mr. MILLSON called for the yeas and nays.

The yeas and nays were ordered.

Mr. KEITT. I wish to make an inquiry for information. It is this: if this Delegate should be turned out, would not, under the law organizing the Territory of Utah, another election necessarily follow, and another Delegate be sent here from the same Territory?

The SPEAKER. The Chair cannot answer that question.

The question was taken; and it was decided in the negative—yeas 72, nays 118; as follows:

YEAS—Messrs. Banks, Barksdale, Billingshurst, Bliss, Boyce, Brayton, Bryan, Burlingame, Campbell, Case, Clawson, Glingman, Cobb, John Cochrane, Comins, Burton Craige, Curry, Davis of Maryland, Davis of Iowa, Dawes, Dowdell, Florence, Foster, Giddings, Gilman, Granger, Grow, Lawrence W. Hall, Robert B. Hall, J. Morrison Harris, Haskin, Hawkins, Horton, Howard, Keitt, Kilgore, Lamar, Leiter, Lovejoy, McQueen, Humphrey Marshall, Maynard, Miles, Millson, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Nichols, Palmer, Pendleton, Potter, Pottle, Quitman, Robbins, Roberts, Sandidge, Judson W. Sherman, Samuel A. Smith, Spinner, Stanton, Tappan, Miles Taylor, Thompson, Tompkins, Trippie, Underwood, Walbridge, Walton, Ward, Cadwalader C. Washburne, and Israel Washburne—72.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Bennett, Bingham, Bishop, Blair, Bowie, Buffinton, Burnett, Burroughs, Caskie, Chapman, Ezra Clark, John B. Clark, Clay, Clemens, Cobb, Colfax, Cox, Cragin, James Craig, Crawford, Curtis, Darnell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dean, Dewart, Dick, Elliott, Eustis, Faley, Garret, Giddings, Guntrell, Gillis, Greenwood, Gregg, Groesbeck, Harlan, Hatch, Hoard, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Knapp, Jacob M. Kunkel, John C. Kunkel, Leach, Letcher, McKibbin, Samuel S. Marshall, Mason, Miller, Moore, Morgan, Isaac N. Morris, Freeman H. Morse, Niblack, Parker, Peyton, Phelps, Powell, Purviance, Ready, Reagan, Reilly, Ritchie, Royce, Rufin, Russell, Savage, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Robert Smith, William Smith, Stallworth, Stevenson, James A. Stewart, William Stewart, Talbot, Thayer, Wade, Waldron, Warren, Ellihu B. Washburne, Watkins, White, Whiteley, Wilson, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—118.

So the resolution was not laid on the table.

Pending the vote—

Mr. FLORENCE said: Condemning Brigham Young's course as much as any man does, I do not think that this is quite the way to punish him. I vote "ay."

Mr. ENGLISH said that he was not present when his name was called. If he had been, he would have voted in the negative.

Mr. WHITELEY said: I wish to know, Mr. Speaker, whether, if the Delegate from Utah be removed, there will not be time to break up the government of that Territory before a new election can be held, and another Delegate can be sent here? Without waiting for an answer, I vote "no."

The question recurred on the adoption of the resolution.

Mr. HOUSTON. Is it competent for me to ask a division of the resolution from the preamble?

The SPEAKER. The question will be stated separately on each; first on the resolution, and afterwards on the preamble.

The question was taken on the resolution; and it was adopted.

Mr. WARREN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

The question recurred on agreeing to the preamble.

Mr. WARREN. I suppose I have said enough in regard to the preamble. My object was to get up the investigation. Although the preamble gives more sense to the resolution, I care nothing about it. I move the previous question on the preamble.

Mr. JONES, of Tennessee. I did not hear the resolution very distinctly; and I would ask, if the House now reject the preamble, to what Territory or to what Delegate will the resolution refer?

The SPEAKER. That is not a matter for the Chair to determine.

Mr. JONES, of Tennessee. I want to understand it before I vote.

The preamble was again read.

Mr. JONES, of Tennessee. I want to know what Delegate or Territory the resolution will have reference to, if the House does not adopt the preamble.

The SPEAKER. If there be no objection, the resolution will be again read.

Mr. GROW. What is it to be read for, when it is adopted?

The SPEAKER. If objection be made it cannot be read.

Mr. WARREN. It is immaterial whether it be read or not. I can state it.

The SPEAKER. Debate is not in order. The gentleman from Arkansas has called the previous question.

Mr. JONES, of Tennessee. I suggest that the gentleman from Arkansas withdraw the previous question, and amend his preamble.

Mr. WARREN. I was going to say that, to satisfy the gentleman, I will withdraw the previous question till I can state the fact in regard to the resolution.

Mr. STANTON. I rise to a question of order.

Was not the previous question seconded on the preamble as well as on the resolution?

The SPEAKER. According to the practice of the House, as pursued last Congress and before, the previous question does not apply to the preamble. The Chair will follow the precedent set in that case.

Mr. WARREN. I hope I will be permitted to say to gentlemen that it is true that the term "Territory of Utah" does not occur in the resolution, and therefore it may be necessary to pass the preamble. I cannot, however, for the life of me, see any objection to the passage of the preamble. It is a mere reiteration of facts known to every gentleman on this floor. It simply states, almost *verbatim*, what is stated by the proclamation of Brigham Young, and *verbatim* what is stated in the message of the President—nothing more nor less. And, if gentlemen were disposed to vote for the resolution to make this investigation, I cannot see that it will do them or the committee any harm for the preamble to go with it. This would be a new way of defeating a resolution. It is true, the resolution, without the preamble, would appear foolish, the Territory of Utah not being designated in it by name. If it had been, I would not care a groat for the preamble, because, as I have often said before, I say again, my only object was to get up an investigation of this matter.

But, sir, if gentlemen intend to send this thing to the committee, they may as well send it in an intelligible form, so that the committee may understand it. I therefore hope the House will sustain and pass the preamble, and let it go to the committee. It can do the committee no harm; it can do the House no harm, and it can do the country no harm. I demand the previous question.

Mr. MILLSON. I ask the gentleman from Arkansas to withdraw the demand for the previous question, and allow me to suggest an amendment or substitute for the preamble, which, I think, will be satisfactory to all.

Mr. WARREN. I do not withdraw the demand.

Mr. MILLSON. I ask the gentleman at least to withdraw the call, that he may hear the suggestion which I have to make.

Mr. WARREN. There are forty gentlemen around me who also desire to make suggestions, and if I withdraw for one I must for others. However, I will hear the gentleman's proposition.

Mr. MILLSON. I suggest to the gentleman that he modify his preamble, so as to make it read something like this:

Whereas, it appears from the message of the President of the United States that many persons in the Territory of Utah are in a state of open rebellion; and, whereas, it may be that John M. Bernhisel, the Delegate from that Territory, has been connected with that rebellion—

Mr. WARREN. The gentleman need not proceed further. I will say to him that I cannot accept such a modification. It would defeat my whole object. I insist on my demand for the previous question.

Mr. CURTIS. I ask the gentleman from Arkansas to withdraw his demand for a moment.

Mr. WARREN. I decline to withdraw further. The previous question was seconded, and the main question ordered to be put.

Mr. MARSHALL, of Kentucky, demanded the yeas and nays on the preamble.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 76; as follows:

YEAS—Messrs. Abbott, Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Bennett, Bishop, Blair, Bowie, Buffinton, Burnett, Burns, Chapman, Ezra Clark, John B. Clark, Clay, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockrell, Colfax, Cox, Cragin, James Craig, Crawford, Curtis, Darnell, Davidson, Davis of Indiana, Davis of Mississippi, Dean, Dewart, Dick, Elliott, English, Eustis, Faley, Garret, Gillis, Greenwood, Gregg, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelsey, Kilgore, John C. Kunkel, Letcher, Samuel S. Marshall, Mason, Maynard, Miller, Moore, Morgan, Isaac N. Morris, Niblack, Parker, Peyton, Phelps, Phillips, Purviance, Ready, Reagan, Reilly, Ritchie, Roberts, Royce, Rufin, Russell, Scales, Scott, Seward, Henry M. Shaw, Robert Smith, William Smith, Stallworth, Stevenson, James A. Stewart, William Stewart, Talbot, Thayer, Trippie, Wade, Ward, Warren, Ellihu B. Washburne, Watkins, White, Whiteley, Wilson, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—107.

NAYS—Messrs. Andrews, Banks, Barksdale, Bliss, Boock, Boyce, Branch, Bryan, Burlingame, Burroughs, Campbell, Case, Caskie, Chaffee, Clawson, Comins, Burton Craige, Curry, Davis of Maryland, Davis of Massachusetts, Dawes, Dodd, Dowdell, Edmundson, Florence, Foster, Giddings, Gilman, Goodie, Granger, Groesbeck, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Horton, Howard, Jewett, Knapp, Leiter, Lovejoy, McQueen, Humphrey Marshall, Miles, Millson, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Nichols, Pendleton, Pettit, Potter, Powell, Quitman, Robbins, Sandidge, Savage, John Sherman, Judson W. Sherman, Spinner, Stanton, Miles Taylor, Thompson, Tompkins, Underwood, Walbridge, Waldron, Walton, and Cadwalader C. Washburne—76.

So the preamble was adopted.

Pending the call of the roll—

Mr. ENGLISH stated that he had misunderstood the question when taken on the adoption of the resolution. He would have voted against the motion to lay on the table and in favor of the resolution.

A message was received from the President of the United States, by Mr. J. B. Henry, his Private Secretary, announcing that he had approved and signed the members' compensation bill.

Mr. KEITT. I voted in the affirmative, Mr. Speaker, with a view of moving that the vote by which the resolution was adopted be reconsidered. But, sir, in deference to my friend from Arkansas, [Mr. WARREN,] who by courtesy had the right to make the motion, at the close of some remarks which I propose to make I will move that the motion to reconsider be laid on the table.

My objection to the preamble arises out of a want of conformity to the facts existing in Utah which are taken as the basis upon which the preamble is founded. It charges that, from the proclamation of Brigham Young, from the message of the President of the United States, and from some subsequent developments, it is shown there is rebellion in the Territory of Utah. Of the proclamation of Governor Young I have no official information. I may have seen it or I may not. I do remember to have seen some fugitive commentaries in the newspapers upon this proclamation; but I apprehend there is no member of this House who has an authenticated copy of it. But, sir, this House has no right to say, upon the authority of mere fugitive newspaper rumors, that such a proclamation has been issued by Governor Young. So much for the proclamation.

Now about the message of the President of the United States. He says their actions are in violation of the Constitution and laws of the United States, and are the proper subjects for the jurisdiction of the civil magistrate. What actions? Actions amounting to rebellion? When committed? and by what authority? The President says that Governor Young in his proclamation declared his intention to maintain his power by force, and that the people of Utah have already committed acts of hostility against the United States. Acts amounting to rebellion? The President himself has pronounced his decision upon the matter that unless Brigham Young retrace his steps, the Territory of Utah will be in open rebellion. But no act, according to the message of the President of the United States, has yet been committed which amounts to rebellion. Well, sir, what subsequent developments—what authentic official documents have you had of any rebellion in Utah? None. And I ask again whether, upon mere fugitive accounts of a proclamation by Brigham Young, we are to assume that there is a rebellion in that Territory? Are you going to assume upon a state of facts which the President himself says do not amount to rebellion? If you cannot do that, I ask upon what authority do you adopt this preamble, asserting that there is rebellion there?

Mr. WARREN. I wish to ask the gentleman from South Carolina a single question. He tells us that the only evidence we have of this proclamation of Governor Young is a mere rumor floating about in the newspapers. I refer the gentleman to the message of the President of the United States, and ask him if the President does not state that Governor Young has issued a proclamation declaring his intention to maintain his power by force?

Mr. KEITT. I saw it here, and I attach all the importance to it which legitimately belongs to it. But to what extent does this declaration go? Has not the President of the United States sent a regiment or two to Utah? If he believed that Brigham Young intended to maintain his authority by force—if he believed that he intended to commit acts of hostility against the Federal authority—would he have sent a single regiment or two under the circumstances? Does not he come to us now, and ask us for an increase of the military force of the country, in order to test whether Brigham Young does mean to maintain his authority by force? If he believed this declaration was a declaration of war, why did not he say so, and why did he not send a force adequate to meet the exigency? I take the practical commentary which the President makes upon his own declaration; and as I do not find the proclamation spread out in the message, I say that I do not yet know what that proclamation is.

I go a step further. Suppose there is rebellion there. Rebellion against what? Against the constituted authorities? Who are the constituted authorities? The Federal officers. What have they called upon you for? If they have called upon you for anything, it has been for troops to repress this rebellion. If there could be rebellion, what could you do? Why, crush it out, and then make those who committed the act amenable to the laws. You should enforce the laws; but this is not the way to do it. What, sir, is the very character of this Government? A representative polity. Sir, the idea of representation is essential to the very structure and organization of the Government. Whom do you represent?

Mr. SEWARD. Will the gentleman allow me one question?

Mr. KEITT. Certainly.

Mr. SEWARD. I should like the gentleman from South Carolina to inform me by what authority of the Constitution of the United States the Delegate of a Territory holds his seat upon this floor, and is equal to the gentleman from South Carolina under the Constitution?

Mr. KEITT. Whenever I raise that question, I will answer it.

Mr. SEWARD. A very convenient way to dodge the question. The gentleman raised that point, and a number of others.

Mr. KEITT. I was saying this: that representation was essential to the very polity and structure of the Government; and I asked you whom you, or any gentleman upon this floor, represent? and I was about to say, not a few scattered

and disbanded individuals. You represent a system. You represent a political organization, and not mere individuals; and I meant then to say that, if that Territory was in rebellion—if it was our Territory and within our jurisdiction, and the Delegate from Utah was the only true man upon all the soil, and not in rebellion, under your laws and in conformity to the structure of your Government, he has a right to a seat on this floor. He neither represents a mere man in rebellion, or out of rebellion. He represents a political system; and while that political system exists, he has a right to a seat upon this floor.

Now, sir, I come to the question of the gentleman from Georgia. Politically he is not my equal. He cannot vote. He represents a system inferior, one which revolves within the circle of the States. He is not here by the Constitution of the United States, but he is here by the organic act of your Territory and through the courtesy of a statute law.

Mr. SEWARD. He is then but an agent of the Territory of Utah?

Mr. KEITT. Unquestionably.

Mr. SEWARD. If, then, a mischievous agent is hurtful to this Government, cannot we dispose of him?

Mr. KEITT. He is here, in the first place, by the law of the land; and in the second place there is no charge against him. That is the answer.

I mean to say that this House, with the consent of the Senate, may repeal the organic act of that Territory. But, sir, in the country there are three schools upon the question. One thinks that, by some geological property in the dirt, or some pneumatic essence in the air, the people of a Territory are vested with indefeasible sovereignty. That school cannot consistently vote to repeal or abolish the territorial act.

There is another school which believes that Congress is sovereign; that it can establish what form of government it pleases in a Territory; that it can build up classes and distribute titles to anybody. It believes in the omnipotence of the Federal Government.

There is another class who pretermit the question of the origin of our right over the Territories; and who believe that its exercise is restricted by the very structure of the Government. That class believes that the Federal Government is the agent of the States.

I do not mean to discuss this question at large. I merely wish to put myself right. I really think this House has involved itself in something of a contradiction. Yesterday we declared that the House should adjourn for ten days; and to-day, under a resolution offered by the gentleman from Arkansas, we declare that war exists. We say that Utah is in a state of rebellion; that that Territory should be subjected; and we adjourn for ten days, and thus cut the very sinews of war. If it is true that a war does exist, should we adjourn for ten days? and if we do not believe that it exists, should we declare in a resolution that it does?

I intended, at one time, to discuss this measure more at large; but as I understand that other business of grave importance, which will carry us to other scenes, will be before the House when this matter is disposed of, I do not choose, both from considerations of its nature, and because of delay, to discuss the matter further. Therefore I move, though opposed to the whole thing, to lay the motion to reconsider on the table.

The question was taken; and the motion to reconsider was laid on the table.

Mr. PETTIT obtained the floor.

PRIVILEGES OF THE HALL, ETC.

Mr. FAULKNER. As I understand that the purpose for which the gentleman has arisen involves an adjournment of the House, I ask him to permit me, before he proceeds, to make a report from the select committee, concerning some matters affecting the organization of the House and the arrangement of the Hall.

Mr. PETTIT. I will yield the floor for that purpose.

Mr. FAULKNER. I have been instructed by the select committee to make a partial report at this time. I ask that it may be read.

The report was read, and is as follows:

1. Resolved, That the Speaker assign portions of the galleries for the use of the press, for the foreign ministers, and for a ladies' gallery.
2. Resolved, That the south lobby, and the east and west

lobbies, south of the principal staircases, be reserved for the use of members and persons admitted to the floor of the Hall.

3. Resolved, That the superintendent cause the reporters' gallery to be properly fitted up with desks and seats, and conveniences for writing and taking notes.

4. Resolved, That the telegraph and reporters' room be reserved for the use of the telegraphic companies and reporters.

5. Resolved, That the superintendent cause the shelves to be removed from the rooms now occupied as document rooms, and cause the rooms to be fitted up as coat and cloak rooms.

6. Resolved, That the Doorkeeper be authorized to appoint six additional assistant doorkeepers, or messengers, at the lowest rate of compensation now provided for such officers, and also to appoint six additional laborers at a compensation of \$1 50 a day.

7. Resolved, That the 17th, 18th, and 19th rules of the House be rescinded, and that the following be adopted as additional rules in lieu thereof:

Rule 17. That no person except members of the Senate, their Secretary, heads of Departments, the President's Private Secretary, the Governor for the time being of any State, and the judges of the Supreme Court of the United States, shall be admitted within the Hall of the House of Representatives.

Rule 18. Stenographers and reporters, other than the official reporters of the House, wishing to take down the debates, may be admitted by the Speaker to the reporters' gallery over the Speaker's chair, but not on the floor of the House; but no person shall be allowed the privileges of said gallery under the character of stenographer or reporter, without a written permission of the Speaker, specifying the part of the said gallery assigned to him; nor shall said stenographer or reporter be admitted to said gallery unless he shall state in writing for what paper or papers he is employed to report; nor shall he be admitted, or, if admitted, be suffered to retain his seat, if he shall be or become an agent to prosecute any claim pending before Congress, and the Speaker shall give his written permission with this condition.

8. Resolved, That the committee be allowed further time to report upon such other matters as have been referred to their consideration, and which are not embraced in this report.

Mr. FAULKNER. The committee, as the House will perceive, have reported only in part. They hastened this morning to prepare their report to the extent they have done, affecting the arrangement of the Hall, and the organization of the House, in order that, if it shall be approved by the House, the arrangements may all be made during the recess, and before the reassembling of Congress on the 4th of January next. Most of the matters embraced in the resolutions are as familiar to the members of the House as they are to the committee, and will require no explanation or remark.

The first portion of the resolution adopted by the House instructed us to inquire what additional messengers or other officers would be required for the preservation of the order of the House. The committee have given that subject a very careful examination and consideration.

Mr. BURNETT. I desire to ask the gentleman a question.

Mr. FAULKNER. I will hear it.

Mr. BURNETT. I desire that the gentleman shall tell the House how many employes the Doorkeeper of the House now has by the authority of the House?

Mr. FAULKNER. The instructions under which we acted required us to ascertain what additional force is required. Under the old regulations there were nine messengers or doorkeepers. The committee unanimously arrived at the conclusion that, in consequence of the larger area of this Hall, its extended corridors and lobbies, and the general arrangement of the Hall and building, the Doorkeeper could not discharge his duties and preserve the order of this House unless an additional force of six doorkeepers or messengers was allowed him. That was the unanimous opinion of the committee, after a most careful examination of the whole subject. Upon that point there was no difference of opinion whatever.

The only departure which this report proposes to make from the arrangement of the Hall and galleries as they have heretofore been arranged in the old building, is the proposal to set apart a portion of the galleries for the accommodation of foreign ministers. It will be seen, sir, by reference to the historical notes which are appended to the rules of the House, that, from the earliest period of the Government, in the very first resolution introduced into this House upon the subject, foreign ministers were regarded as entitled to the privileges of the floor, and amidst all the mutations that have occurred in these rules, sometimes limiting and sometimes extending them, this privilege has uniformly been accorded to foreign ministers; not, sir, as any personal compliment to

them, but as a just act of international courtesy; as a reciprocation by us of a courtesy which is uniformly extended by all the countries, in Europe and elsewhere, with which we have diplomatic relations, to our ministers abroad. Inasmuch, therefore, as we design to exclude foreign ministers from the privilege of the floor, which they have enjoyed for half a century, we have provided that a gallery shall be arranged for their use.

With reference to the rules of the House, upon the fullest reflection that the committee could give to the subject, they thought it was essentially necessary to curtail the privileges of the floor. It is obvious that there are no arrangements in this Hall, as there were in the old one, for the accommodation of the large number of persons who were admitted as privileged persons upon the floor. We have here galleries capable of accommodating fifteen hundred persons. In the old building the galleries were comparatively small, while the accommodations on the floor of the Hall were large. The committee, therefore, propose to limit the privileges of the floor to the persons mentioned.

With regard to that portion of the resolution in which we were instructed to inquire into the arrangements necessary for the comfort and health of the members, I will say that the Superintendent is now engaged in remedying the inconveniences which have been the subject of complaint. The arrangements are not completed; and it is for that reason, more than anything else, that we have requested a continuance of the power conferred on us by the House, in order that we may have all these arrangements completed to promote the comfort and health of the members of the body.

Mr. Speaker, I think there is nothing in the report to give rise to debate. It was agreed to unanimously on the part of the committee; and, therefore, I move the previous question.

Mr. JOHN COCHRANE. I would ask the gentleman from Virginia if his resolutions exclude from the floor the clerks of the various standing committees of the House?

Mr. FAULKNER. I will remark that the clerks of committees have never been allowed the privilege of this Hall under any rule ever adopted by the House.

Mr. SEWARD. I object to debate—the previous question having been called.

Mr. MASON. The gentleman from Virginia says that there are nine messengers of the House. There are forty-nine, and I want the House to understand it.

The question being on seconding the call for the previous question,

Mr. FLORENCE called for tellers.

Tellers were not ordered.

The question was taken by division; when there were—ayes 83, noes 49.

So the previous question was seconded.

The main question was then ordered.

Mr. FLORENCE. I move to lay the whole matter on the table.

Mr. CLEMENS. On that motion I call for the yeas and nays.

Mr. FLORENCE called for tellers on the yeas and nays, but subsequently withdrew the call.

The yeas and nays were not ordered.

Mr. MORRIS, of Illinois. I move to postpone the whole subject indefinitely.

The SPEAKER. That motion is not in order, the previous question having been seconded, and the main question ordered.

Mr. PHILLIPS. I move that the House do now adjourn.

The motion was not agreed to.

The question recurred on the adoption of the report.

Mr. REAGAN. I move that the vote be taken on the resolutions separately.

Mr. STANTON. I suppose that the report of the committee is an entire thing, not capable of division, and that there can be no division of it.

The SPEAKER. That has been the practice of the House uniformly—that after the previous question is seconded, and the main question ordered, there cannot be a division of the question.

Mr. BOWIE. If the proposition be susceptible of division by its sense there should be a division. These are distinct propositions. Some of them I am in favor of, and some of them I am opposed to.

Mr. JONES, of Tennessee. I submit to the Chair whether a bill can be divided and voted on

by sections, after the previous question is seconded?

The SPEAKER. The practice of the House, so far as the Chair can remember, has been uniform, that where a series of resolutions have been introduced, and the previous question seconded, and the main question ordered, there can be no division, but the vote must be taken on them as a whole. That has been the consistent practice of the House, without exception, so far as the Chair remembers. It might have been different if there had been a demand for a separate vote before the previous question was seconded.

Mr. SEWARD. I wish to reconsider the vote by which the main question was ordered, that we may change that.

Mr. LETCHER. Did not the gentleman vote in the negative?

The SPEAKER. There was no division.

Mr. BANKS. I move to lay the motion to reconsider on the table.

The question was taken; and the motion was agreed to.

Mr. SEWARD. I will withdraw my motion, and call the attention of the Chair to the 53d rule; and I think the Chair will reverse his decision, and hold, with me, that the proposition may be divided. It says:

“53. Any member may call for the division of a question, which shall be divided, if it comprehend propositions in substance so distinct that, one being taken away, a substantive proposition shall remain for the decision of the House.—September 15, 1837. A motion to strike out and insert shall be deemed indivisible—December 23, 1811; but a motion to strike out being lost, shall preclude neither amendment nor a motion to strike out and insert.—March 13, 1832.”

The SPEAKER. The Chair will say to the gentleman from Georgia that, to reverse his decision upon his point of order, would be to reverse the uniform decisions of the House ever since the Chair has been a member of the House—for the last eight years.

Mr. SEWARD. I think the Chair is mistaken.

The SPEAKER. The Chair would be very happy to have the gentleman refer him to a single instance where the practice has been different.

Mr. FLORENCE. I rise to a question of order. I refer the Chair to the 136th rule, which says:

“No standing rule or order of the House shall be rescinded or changed without one day's notice being given of the motion therefor—November 13, 1794; nor shall any rule be suspended, except by a vote of at least two thirds of the members present—March 13, 1832; nor shall the order of business, as established by the rules, be postponed or changed, except by a vote of at least two thirds of the members present—April 26, 1828. The House may, at any time, by a vote of the majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also for providing for the discharge of the Committee of the Whole House, and the Committee of the Whole House on the state of the Union—January 25, 1848—from the further consideration of any bill referred to it, after acting without debate on all amendments pending, and that may be offered.—March 11, 1844.”

I submit, therefore, that this resolution changing the rules of this House cannot be entertained without previous notice.

Mr. BANKS. The rules of the House have been referred to this committee.

The SPEAKER. Expressly referred and express authority given to the committee to report at any time. The Chair overrules the question of order.

Mr. SPINNER. I desire to know if it is too late to offer an amendment excluding the judges of the Supreme Court?

The SPEAKER. It is too late to move an amendment.

Mr. BURNETT. I thought the gentleman from Georgia offered a motion to reconsider the vote by which the main question was ordered.

Mr. SEWARD. I withdrew it.

Mr. BURNETT. I wish to vote for a part of the report made by the committee, but not for the whole. I hope therefore the vote by which the main question was ordered will be reconsidered, and the report divided. I submit that motion.

Mr. BANKS. I move to lay the motion to reconsider on the table.

The motion was agreed to.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, announcing that the President of the United States had informed the Senate that he had approved and signed an act to authorize the issue of Treasury notes.

Mr. SEWARD. I think we have done mischief enough. I move that the House do now adjourn.

The motion was not agreed to.

The question then recurred on agreeing to the report of the committee.

Mr. BURNETT. I demand the yeas and nays.

The SPEAKER. The yeas and nays have been refused.

Mr. FLORENCE. I think not. I demand tellers upon the yeas and nays.

The SPEAKER. The gentleman from Pennsylvania demanded tellers, but afterwards withdrew the demand.

Mr. FLORENCE. I did not understand the question. I move to reconsider the vote by which the yeas and nays were refused. I believe it has been the practice of the House to entertain such a motion.

The SPEAKER. If the yeas and nays had been ordered, the probability is that the Chair would have ruled the gentleman's motion in order, but as they were refused, the Chair is disposed to overrule it.

Mr. FLORENCE. I think gentlemen cannot refuse to give us an opportunity to put ourselves upon the record.

Mr. LETCHER. The gentleman is upon the record now, and the trouble is saved.

Mr. DEWART. I move that the House do now adjourn.

The motion was not agreed to.

The question recurred upon agreeing to the report—

Mr. FLORENCE called for tellers.

Tellers were ordered, and Messrs. FLORENCE and DEAN were appointed.

The question was taken; and the tellers reported—ayes 89, noes 52.

So the report was adopted.

Mr. FAULKNER moved to reconsider the vote by which the report was adopted, and also moved to lay the motion to reconsider upon the table.

Mr. FLORENCE demanded the yeas and nays upon the latter motion.

The yeas and nays were refused.

The motion to reconsider was then laid on the table.

UTAH AFFAIRS.

Mr. BANKS. I ask the unanimous consent of the House that the Committee of the Whole on the state of the Union be discharged from the further consideration of that part of the President's message which relates to the Territory of Utah, and that the same be referred to the Committee on Territories.

The SPEAKER. There being no objection, it will be so ordered.

Mr. KEITT. I desire to state to the House that I yesterday paired off with the gentleman from Indiana [Mr. HUGHES] on the resolution to adjourn over. He would have voted against the resolution while I should have voted for it.

Mr. MORRIS, of Illinois. I objected to the motion of the gentleman from Massachusetts.

The SPEAKER. The Chair did not hear the objection. The Chair begs leave to say to the gentleman from Illinois—as he said to a gentleman a day or two since—that when a gentleman desires to object to anything, if he will rise in his place and make the objection, there can be no misunderstanding. But, when gentlemen retain their seats, it is impossible for the Chair to determine whether objection is made or not. The Chair did not hear the objection of the gentleman from Illinois, and thinks it now comes too late.

Mr. MORRIS, of Illinois. I will state that I rose from my seat twice and made the objection.

Mr. GROW. Did the gentleman make it when he rose?

Mr. MORRIS, of Illinois. I did.

The SPEAKER. Then the objection was in time.

DEATH OF HON. SAMUEL BRENTON.

Mr. PETTIT. It becomes my duty to bring to the notice of the House the death of the Hon. SAMUEL BRENTON, elected to it from the tenth congressional district of Indiana. This event occurred at his home, in Fort Wayne, in the midst of his family, on the evening of Sunday, March 29 last, the sequel of a fatal malady that became first manifest in the midst of the trying labors that closed the last Congress.

In the brief interval since that adjournment death has been busy in these chambers. Its tidings, always eloquent of instruction and admonition, now fall on us with uncommon frequency. But Indiana is twice a mourner. Besides the death of Mr. BRENTON, which I have just now communicated, the Hon. JAMES LOCKHART, elected to a seat here from the first congressional district of that State, is absent because he, too, has submitted to the same mighty summons. And in the same short season, another, the late Hon. George G. Dunn—if, in this apt connection, I may be pardoned this allusion—whose various talent, rare and copious eloquence, independence, and judgment, social virtues, nice sense of honor, inflexible integrity, and fiery scorn and indignation of everything wrong, are yet so well remembered here, has been lost from the roll of the living sons of that young commonwealth. The death of such men is much more than a private calamity.

Mr. BRENTON was born November 22, 1810, in Gallatin county, Kentucky. In 1830, at the age of twenty, he entered the ministry of the Methodist Episcopal Church. Henceforth, this was his calling—the chosen and darling calling and business of his life. In a country then new and but thinly peopled, it demanded much toil and sacrifice; but his zealous and active service in this ministry was only remitted at the end of a score of years, when a partial paralysis, in 1848, left him unequal to its tasks, and he then relinquished the office. During this period, he was successively stationed at Paoli, Crawfordville, Bloomington, Lafayette, and Fort Wayne. In 1849, the year following his disability, he was appointed register of the land office at Fort Wayne, and discharged its duties until the summer of 1851, when he was elected a member of the Thirty-Second Congress. Retiring from Congress at the end of his first term, he accepted the presidency of the Fort Wayne Female Seminary, which, under his superintendence, grew into quick and extraordinary prosperity. He was again elected to Congress in 1854, and again, last year, to the present Congress.

This quick recital of the principal facts of his history evince the public estimation and confidence in which he was universally held. But such public events fail to commemorate the better qualities of heart, which, with individual force, are impressed on those brought more immediately into contact. Mr. BRENTON was even more honored and loved, and will be best remembered in the social and private relations of life—in the varied character of counselor, neighbor, friend, husband, and father, where full scope was given for the play of the manly and gentle virtues of his heart.

The qualities of Mr. BRENTON were not brilliant. Such qualities are usually allied to an impetuosity and enthusiasm of character, at some expense of deliberation and judgment. But he had other qualities, which were more durable and useful. He was frank, sincere, genial, sagacious, sensible, practical. His friendship was unreserved, unstinted, steadfast. He was distinguished for a ready, abundant, vigorous sense, and was bold and enterprising in maintaining whatever he deemed right. Here he was firm; and between wrong and right nothing was ever yielded to calculations of expediency. He was vigorous and comprehensive in argument. His sincerity won confidence; and so much gained, his impressions, well told, were implanted and rooted in the hearts of those who heard him. Without being showy, all his qualities were sterling.

The profession to which his life had been dedicated, and to which his best years had been applied, made the religious element the dominant one in his character. A strong religious sentiment was natural to him, but he deemed piety valuable only as its maxims were practical, and not speculative. In such a school of religious belief, a good life was a primary and essential condition; and he lived, wherever he was known, as its faithful and illustrious example. Its influence was not capricious and occasional. Nor was it ever concealed. It was transparent at all times, everywhere. It was woven, as a part of the texture, into all his motives and conduct. He studied to measure his actions by its Divine authority, and seemed to "dwell ever in the great Task-master's eye." Such qualities of mind, earnest, sincere, sagacious, united to qualities of heart,

charitable, gentle, and affectionate, all penetrated and mellowed by the influence of an unaffected piety, endeared him, wherever his acquaintance reached. Only the good we do survives the grave. The graces and virtues of the good man are remembered when his body "sleeps well" in this, its last appointment, and so, outliving him,

"Smell sweet and blossom in the dust."

What Mr. BRENTON was in performing the grave duties of this Hall, and the considerable influence exerted by him in the legislation at the Thirty-Second and Thirty-Fourth Congresses, is public history. I shall not allude to it further. Many of us are the witnesses of the accuracy of the lineaments I have attempted to portray, and, in the midst of such scenes as these we mingle in now, of his constancy to his post of duty. He suffered much from impaired health during the last days of the last Congress. But the importunity of friends could not persuade him from his place; and it was only at the final adjournment that he gladly turned away, like a soldier relieved from duty, to find solace, and, if Providence should allow it, rebuild his shattered health, among the friends whose confidence he represented, and in the bosom of his family. His longings for home were mixed with a prophetic sense that he should not long survive that meeting. His anxious wish to reach home was realized; but it was only to be stretched on a bed of fatal sickness, to be comforted, as his disease proceeded to its fatal termination, by the devoted love and ministrations of his family and friends. The melancholy event I have communicated followed soon after. There is a moral beauty and heroism in a good man's life, and such a life Mr. BRENTON crowned with the heroism and triumph of a Christian soldier's death.

It is profane to attempt to enter the sanctuary of recent domestic grief. Though we may feel this dispensation as a personal sorrow, and yield our sympathies to those who stand in nearer relations to the dead, and though time may heal the wounds of so severe affliction, the home made desolate by the death of the husband and father is without a human comforter. But the Providence that does all things right tempers the wind to the shorn lamb; we each, in time, shall take the same mysterious journey. Some go before, some follow after. And though prone to upbraid the particular providences by which death separates our friends from us, yet, in a larger economy, and seen with eyes of faith and hope, such events loosen our hold here; and those who go before us are the links of the chain that draws us on, and kindly unites us to the life to come.

The thickening news of death that comes home to us so presently, has its serious lessons for the living—of faithful duty to be done here, and the hope of happiness to crown it hereafter.

With reference to this event, I offer for adoption, the resolutions which I shall send to the Clerk's table. It is, I understand, the purpose of my colleague from the first district, intimately acquainted with the character and services of the late Judge LOCKHART, to call the attention of the House to his death. For this reason I shall not now move the usual resolution for an adjournment.

The resolutions were read, as follows:

Resolved, That this House has heard with sorrow the announcement of the death of the Hon. SAMUEL BRENTON, elected to this body from the tenth congressional district of Indiana.

Resolved, That this House tenders its sympathy to the widow and family of the deceased in this bereavement, and that, as a testimonial of respect, its members and officers will go into mourning, and wear crape on the left arm for thirty days.

Resolved, That a copy of the foregoing resolutions be communicated to the widow of the deceased.

Mr. BENNETT. Mr. Speaker, before this resolution is adopted, I desire to add a few words to the just and eloquent tribute the gentleman from Indiana [Mr. PETTIT] has paid to the memory of his late colleague, Mr. BRENTON.

He entered Congress as a Representative from the State of Indiana, seven years ago. During all the time he was a member of this House we were on terms of intimacy, and for the last two years, upon the same committee. And thus we became better acquainted than members from different and distant States usually are. He honored me with his confidence and regard. And I bade him farewell at the close of the last Congress as an esteemed and valued friend. To-day his

death has been announced, and we are called upon to accord the last token of respect to his memory, required by usage, and which is due from the living to the dead.

Mr. BRENTON was modest and retiring, almost to a fault; unaffected and unpretending. It was only after becoming well acquainted with him that one could properly estimate his sound, good sense, or justly appreciate his unbending integrity. And amidst all the divisions of party, and differences of opinion, all who knew him, friends and opponents, knew that he ever acted in accordance with his honest convictions, with a frankness and directness worthy of the highest praise. It was this trait in his character that challenged universal regard, and entitled him to the respect of all—his evident sincerity and honesty of purpose. He had no enemies; but, as is ever the case with men of sterling qualities, those who knew him best esteemed him most.

Always acting upon his own convictions and judgment, he was yet charitable and courteous toward those with whom he differed. The bitterness of party strife never soured his temper or overcame the kindness of his nature. He passed that ordeal unharmed. Few of those possessed of more varied acquirements, or even higher abilities, had a sounder judgment or greater decision of character; and none could be more upright in the discharge of all his duties. Strictly moral and exemplary in his conduct, he was emphatically an honest man—true to his principles, faithful to his friends, and just to all; and his highest eulogy is contained in that brief and simple statement. No words of mine can lessen the grief his family and relatives must feel for their great loss. But it may be some consolation for them to know, hereafter, how truly he was respected, and how sincerely regretted, by those who knew him here. That will appear by the proceedings of to-day. It is all that we can offer.

It is remarkable that during the short period since the adjournment of the last Congress, four members of the Senate of the United States, [ADAMS of Mississippi, BELL of New Hampshire, BUTLER of South Carolina, and RUSK of Texas,] and three members of the present House of Representatives [BRENTON and LOCKHART of Indiana, and MONTGOMERY of Pennsylvania,] have been numbered with the dead. They have passed onward before us to that dread hereafter, towards which all human footsteps tend, to that dim eternity to which, in a few years, we must all be consigned; where all is cold and silent, and from which no voice comes back to the living. What a startling commentary upon the uncertainty of human life, and the vanity of all human greatness! All our great projects, our ambitious aims, our fierce rivalries, our high designs, cannot stay the angel of death for a single moment. Perhaps never before, in so short a space, were so many members of the same Congress stricken down. May these repeated admonitions, as day after day, the death of another member is announced, be heard and heeded, and may the living pause and remember how soon they, too, must pass away forever; how soon they, too, must die and be buried, and become like those we mourn.

The question was taken, and the resolution was agreed to.

PERSONAL EXPLANATION.

Mr. DOWDELL. I rise to a personal explanation. My attention has been called this morning to a copy of the Globe, wherein I am made to appear as having voted for both Mr. Allen and his opponent, Mr. Brown, for Clerk. I apprehend that it is an error of the printer; and I call the attention of the House to it from the fact that my notice was called to it at so late a day that I have not been able to correct it in the Congressional Globe, and the error will therefore go into the pages of the Congressional Globe. I learn that the Journal of the House is correct in that respect. I voted only for Mr. Allen, not for both.

UTAH AFFAIRS—AGAIN.

Mr. MORRIS, of Illinois. I desire to withdraw the objection that I made to the motion of the gentleman from Massachusetts, [Mr. BANKS,] to refer to the Committee on Territories so much of the President's message as relates to Utah, so that the committee may have an opportunity of acting on it during the holidays.

There being no objection, Mr. BANKS's motion was agreed to.

DEATH OF HON. JAMES LOCKHART.

Mr. NIBLACK. Mr. Speaker, I rise for the purpose of making an announcement similar to the one you have just heard—to announce the death of the Hon. JAMES LOCKHART, also a member elect to the present Congress from the State of Indiana. He died at his residence in the city of Evansville, in that State, on the 7th day of September last, after a severe and protracted illness.

It will thus be seen that the hand of affliction has fallen heavily upon Indiana; that of the eleven members elected to the present Congress from that State, in October, 1856, two have already gone to the tomb.

Judge LOCKHART was born at the village of Auburn, in the State of New York, on the 13th day of February, 1806. In the fall of 1832 he emigrated to the State of Indiana, and located in the then village, but now city, of Evansville, in which he continued to reside until the time of his death. Not long after his location in Indiana, he commenced the practice of the law as a profession, in which he continued, except at brief intervals, up to the time of his death.

In the winter of 1841-42 he was elected by the Legislature of his State prosecuting attorney of his judicial circuit. Two years afterwards he was reelected for another term. In the winter of 1845-46, after the close of his second term as prosecuting attorney, he was elected presiding judge of the same judicial circuit. In the summer of 1850, while still in commission as judge of his circuit, he was elected a member of the constitutional convention which assembled in that year to revise and amend the constitution of his State. Of that talented and influential body of men he was one of the most active and efficient members.

In August, 1851, he was elected a member of the Thirty-Second Congress, and in the month following he resigned the office of circuit judge to enable him to take his seat in that body. He served as a member of that Congress for the full term. In the spring of 1853, after the expiration of that Congress, he resumed the practice of his profession.

In the fall of 1856, after one of the bitterest contests ever known within our State, he was elected a member of the present Congress by a largely increased and overwhelming majority.

At the time of his last election he was in feeble and failing health. It was obvious that, without a speedy restoration, his span of life was short. Notwithstanding the feeble condition of his health, he continued in the active discharge of the duties of his profession, and of those public duties which his position devolved upon him, until utter prostration bid him cease. Never was that iron will and indomitable energy, which so much distinguished him through life, so clearly manifest as during the last trying months of his most distressing illness. He died as the strong man dieth; he literally fell with the harness upon him. In matters political, Judge LOCKHART was devotedly attached to the organization and the creed of the party with which he affiliated. As a political leader, he was bold and indefatigable. During the last fifteen years of his life I enjoyed much of his personal friendship and confidence. But few persons, outside of his immediate family friends, knew him more intimately than I have known him. Having been elected to fill the place made vacant by his death, and occupying his seat in this House to-day, it affords me pleasure to bear willing testimony to his energy, ability, and integrity as a public officer, and to the fidelity with which he discharged the many important trusts confided to him as a public man.

Here, as in the ranks of the Army, when one falls another takes his place, and everything moves on as before; but not so in the private relations of life. When a near and tried friend is stricken down, there is no one to take his place. When the protecting arm of a husband is withered into dust, there is no adequate earthly consolation.

I submit the following resolutions for adoption:

Resolved, That the members of this House have heard with deep regret the announcement of the death of the

Hon. JAMES LOCKHART, a member elect from the first congressional district of the State of Indiana.

Resolved, That in token of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of this House forward a copy of these resolutions to the widow of the deceased.

Mr. DAVIS, of Indiana. Mr. Speaker, I rise to second the resolutions just offered by my colleague, [Mr. NIBLACK.] I do not propose on this occasion to pronounce a lengthened eulogy on the life, character, and public services of the deceased. Were I disposed to do so, I would fail, I am sure, to improve on what has already been so well and so impressively said by my colleague; but, being the only member of this House from the State which I have the honor, in part, to represent, who served with the deceased during the Thirty-Third Congress, I cannot find it in my heart to remain silent, or to refuse, on this solemn occasion, to give utterance to a few words of sincere respect for the memory of the deceased, and of condolence with his sorrow-stricken family in their bereavement.

That I have known Judge LOCKHART long and intimately, will remain among my most cherished remembrances. I knew him in the walks of private life and in the social circle, where he was respected by all who had the pleasure of his society. I knew him as the efficient prosecuting attorney of his judicial circuit. I knew him as the able, upright, and impartial judge. I knew him as the representative of the people of the first congressional district of his adopted State, on the floor of this House; in all of which positions he discharged his duties with ability and fidelity; with entire satisfaction to his constituents and to the country.

Judge LOCKHART, though naturally retiring and unobtrusive, was no ordinary man. He was a sound jurist and a sagacious politician, possessing a clear, logical, and discriminating mind. He was kind and benevolent to a fault; ardent in his friendship; firm and decided in his opinions, yet charitable towards those with whom he differed. Although always a firm and decided Democrat, often participating in the exciting and angry political contests through which the country has been passing for the last twenty years, his high bearing and manly deportment gained, as their meed, the applause and admiration of his political adversaries.

I saw Judge LOCKHART in this city in March last, which was the last occasion of our meeting. The disease which finally proved fatal, was then progressing, and rapidly approaching the citadel of life. His physical powers were fast declining; but, though feeble, his spirit was buoyant with the hope that he would ultimately recover. He spoke feelingly of our long acquaintance and former service here together, of many pleasant anticipations for our mutual interests during the approaching session; but, alas! these fond hopes have been blighted, and he is gone from among us forever.

Mr. Speaker, why should I say more? Judge LOCKHART is dead! How fresh in my remembrance is the occasion of the sad announcement! what a thrill of sorrow it brought with it, as it first fell upon my ear! How the memories of the past clustered thick and fast around me, and how instinctively, how deeply my mind yielded to the impress of the truth of the uncertainty of human life, and the utter futility of human fame and ambition! Sir, before we shall have discharged our duties, and finished our labors here, the shaft of Death may make vacant the chairs which you and I occupy, and the ever-startling announcement again and again be flashed on the wings of lightning to the remotest portions of the Republic. I say, such, sir, may be among the inscrutable decrees of Providence; then, we should let this sad announcement of to-day affect our inner hearts, and admonish us that the inexorable hour awaits us all. Let it impress upon us all the necessity for the exercise of a spirit of kindness and forbearance for and toward each other, and let it soften the asperities which too often appear in our unguarded moments in the heat and excitement of debate.

In conclusion, sir, from a sincere heart I invoke the blessings of Heaven upon the bereaved widow, and pray that the wind may be tempered to the shorn lamb.

The resolutions were adopted.

Mr. PETTIT. I now offer the following resolution:

Resolved, As a further mark of respect to the Hon. SAMUEL BRENTON, elected to this Congress from the tenth congressional district of Indiana; and to the memory of the Hon. JAMES LOCKHART, elected to this Congress from the first congressional district of the same State, whose death has now been announced to this House, that this body do now adjourn.

The resolution was adopted; and the House accordingly (at half past three o'clock, p. m.) adjourned to Monday, the 4th day of January next.

IN SENATE.

MONDAY, January 4, 1858.

Hon. ROBERT TOOMBS, of Georgia, appeared in his seat.

Prayer by Rev. D. BALL.

The Journal of Wednesday, December 23, the last day on which the Senate was in session, was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting a report of the Secretary of State, in response to a resolution of December 18, calling for information in regard to losses alleged to have been sustained by subjects of the Hanse Towns, at the bombardment of Greytown; which, on motion of Mr. SEWARD, was ordered to lie on the table, and be printed.

He also laid before the Senate a report of the Secretary of the Navy, communicating an abstract of offers received for furnishing articles falling under the cognizance of the Bureau of Yards and Docks, during the fiscal year ending the 30th of June, 1858; which was ordered to lie on the table. A motion by Mr. MALLORY, to print the report, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. WADE presented a petition of citizens of Ashtabula, Ohio, praying for the improvement of the harbor of Ashtabula; which was referred to the Committee on Commerce.

Mr. SEWARD presented the petition of Nicholas D. P. Maillard, a citizen of the United States, residing in Liverpool, England, praying for redress for wrongs and violence committed upon him by a mob in Ireland; which was referred to the Committee on Foreign Relations.

He also presented the memorial of fifty American ship-masters in the port of Havana, Cuba, praying for a revision of the laws in relation to the shipment, discipline, and discharge of seamen in the merchant service; which was referred to the Committee on Commerce.

He also presented the memorial of Mrs. Mary Okill, praying for the payment of a balance due to her father, the late Sir James Jay, of money advanced to the United States in the revolutionary war; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of citizens of the United States, residing in New York, praying that the public lands may be laid out in farms and granted to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

He also presented the petition of Salmon G. Grover and others, who were engaged in procuring seaworthy craft to be employed on the lakes during the last war with Great Britain, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

Mr. MALLORY presented a presentment of the grand jury of the United States district court for the northern district of Florida, relative to the amendment of the pilot act of August 30, 1852, and the erection of a marine hospital and custom-house at Apalachicola; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Franklin county, Florida, praying for the amendment of the pilot law of August 30, 1852; which was referred to the Committee on Commerce.

Mr. HAMLIN presented the petition of J. M. Morrill, in behalf of the Bangor City Greys, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

Mr. JONES presented a petition of citizens of Dubuque, Iowa, praying for a grant of public land to the Territory of Nebraska to aid in the

construction of a railroad from some point on the Missouri river to the western boundary of that Territory in the direction of the South Pass, with a branch to the Territories of Oregon and Washington; which was referred to the select committee on the Pacific railroad.

He also presented the petition of Ann Mathieson, praying for remuneration for the destruction of the property of her husband, who was murdered by the Indians; which was referred to the Committee on Indian Affairs.

Mr. DAVIS presented the petition of Mary Walbach, widow of the late Brevet Brigadier General J. B. Walbach, praying to be placed upon the pension roll; which was referred to the Committee on Pensions.

Mr. KENNEDY presented the memorial of Captain John Pickrell, praying to be allowed a pension, for injuries received at the battle of Fort Drane, in the Florida war of 1836; which was referred to the Committee on Pensions.

Mr. BIGLER presented the petition of the widow and children of Andrew Knox, of the firm of Knox & Pope, praying for indemnity for the capture and condemnation of the ship Eleanor by the British Government, under the Berlin and Milan decrees, in 1810; which was referred to the Committee on Claims.

He also presented the petition of Joseph Plummer, guardian of the minor children of the late Captain Samuel Plummer of the Army, praying that the pension heretofore granted to them may be continued; which was referred to the Committee on Pensions.

He also presented the petition of Robert Morris, praying for the payment of wages due him, and remuneration for clothing improperly confiscated, while a seaman on board the United States ship Vandalia; which was referred to the Committee on Naval Affairs.

He also presented the memorial of A. L. Pennock and George Pennock, survivors of the firm of Sellers & Pennock, praying for remuneration for damages caused by the failure of the Post Office Department to carry out a contract with them for supplying mail-bags; which was referred to the Committee on Claims.

Mr. CHANDLER presented the petition of E. P. Hastings, praying that his accounts for services and disbursements, together with an amount stolen from him while pension agent for the State of Michigan, may be allowed; which was referred to the Committee on Claims.

He also presented the memorial of Nathaniel Champe, in behalf of the heirs of John Champe, a sergeant-major in Lee's Legion in the revolutionary army, praying for remuneration for services rendered in undertaking, by order of General Washington, the capture of Arnold, after the discovery of his treason; which was referred to the Committee on Military Affairs and Militia.

He also presented the petition of Elijah Roath, praying for a pension for services in the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. FOOT presented additional papers in support of the claim of Mrs. Catharine L. McLeod; which were referred to the Committee on Revolutionary Claims.

Mr. BENJAMIN presented a memorial of W. C. Barney, H. T. Livingston, and others, praying for the establishment of an ocean mail route between New Orleans, Santander, in Spain, and Bordeaux, in France, via Havana and Fayal, and making proposals to carry the mails; which was referred to the Committee on the Post Office and Post Roads.

Mr. FESSENDEN presented a petition of J. D. Dutton and others, of New Sharon, Maine, praying for the enactment of a law more effectually to enforce the provisions of the Constitution in relation to the recovery of fugitive slaves; which was referred to the Committee on the Judiciary.

Mr. STUART presented the memorial of the register and receiver of the land office at Huntsville, Alabama, praying for an increase of compensation; which was referred to the Committee on Public Lands.

He also presented the petition of Joseph Haynes, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a memorial of the register and receiver of the land office at Detroit, Michigan,

praying for an increase of compensation; which was referred to the Committee on Public Lands.

Mr. CLAY presented the petition of Benjamin S. Pope, of the firm of Knox & Pope, praying for indemnity for losses sustained by the capture and condemnation of the ship Eleanor and cargo; which was referred to the Committee on Claims.

Mr. TRUMBULL presented the petition of John Post, praying that Congress will cause an investigation to be made of a method invented by him for the transmission of mail matter by means of atmospheric pressure; which was referred to the Committee on the Post Office and Post Roads.

Mr. CAMERON presented the petition of Jane H. Foster and Julia B. Stewart, children and heirs of William Baird, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

Mr. MALLORY presented additional papers in support of the claim of the widow of William H. Tyler to a pension; which were referred to the Committee on Pensions.

Mr. GREEN presented a memorial of the Legislature of Missouri praying for the reimbursement of the costs incurred by Jervis M. Barker in defending a prosecution against him by the United States, in which he was acquitted; which was referred to the Committee on the Judiciary.

Mr. SEBASTIAN presented a petition of the judge and other officers of the district court of the United States, for the western district of Arkansas, praying for the erection of a jail at Van Buren, in that State; which was referred to the Committee on the Judiciary.

Mr. TRUMBULL. I have been requested to present a petition from inhabitants of the town of Belvidere, Illinois, asking the Senate to bring forward some measure for the peaceful extinction of slavery by a fair compensation out of the national Treasury to the slaveholding States for the manumission of their slaves, whenever they shall be disposed to perform that act. I move that the petition be referred to the Committee on the Judiciary.

Mr. EVANS. It is proper that petitions on the same subject should take the same course. A petition similar to this was presented the other day by the Senator from Connecticut, [Mr. Foster,] and it was ordered to lie on the table. I move that the same course be pursued with regard to this.

Mr. TRUMBULL. I have no objection to its taking the same course.

The petition was ordered to lie on the table.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WADE, it was

Ordered, That the petition of Henry Hubbard, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. HAMLIN, it was

Ordered, That the petition of William Allen, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. MALLORY, it was

Ordered, That the memorial of William F. Carrington, the petition of Joshua D. Todd, and the petition of Fabius Stanley, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. MALLORY, it was

Ordered, That the memorial of John Scott, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. MALLORY, it was

Ordered, That the memorial of Agatha O'Brien, widow of Major J. P. J. O'Brien, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. MALLORY, it was

Ordered, That the petition of Dempsey Pittman, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. MALLORY, it was

Ordered, That the petition of George S. Seton, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. SLIDELL, it was

Ordered, That the petition of William L. S. Dearing, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. CHANDLER, it was

Ordered, That the petition of Aaron Weeks, on the files of the Senate, be referred to the Court of Claims.

On motion of Mr. JONES, it was

Ordered, That the petition of Sarah Foy, widow of John Foy, on the files of the Senate, be referred to the Committee on Public Buildings and Grounds.

On motion of Mr. GWIN, it was

Ordered, That leave be granted to withdraw the petition of George Knippen and other residents of southern New Mexico, presented on the 17th of December.

On motion of Mr. BENJAMIN, it was

Ordered, That the petition of the heirs of Jean Antoine Bernard d'Auterive, the petition of the heirs of Louis Pelierin, and the petition of Laurent Millaudon, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. BENJAMIN, it was

Ordered, That the memorial of Miles Judson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BENJAMIN, it was

Ordered, That the administrator of Fulwar Skipwith have leave to withdraw his petition and papers.

On motion of Mr. FOOT, it was

Ordered, That the petition of Ann E. T. Partridge, widow of Captain Alden Partridge, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of George Jewett, executor of Luther Jewett, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. STUART, it was

Ordered, That the memorial of Thomas Henderson, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. STUART, it was

Ordered, That the petition of citizens of Michigan in behalf of the children of Thomas Fitzgerald, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. BRODERICK, it was

Ordered, That the petition of Santiago E. Arguello, on the files of the Senate, be referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred a memorial of John R. Temple, submitted a report, accompanied by a bill (S. No. 38) for the relief of John R. Temple, of Louisiana. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Henry Volcker, submitted a report, accompanied by a bill, to confirm the title of Henry Volcker to a certain tract of land in the Territory of New Mexico. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a resolution for the printing of the usual number of, and fifteen thousand additional, copies of the President's message and accompanying documents, and a resolution for the printing of the annual report of the Secretary of the Treasury and ten thousand additional copies, reported in favor of the resolutions, and they were adopted. The report was accompanied by an estimate of the Superintendent of Public Printing, stating that the cost of the proposed number of the message and accompanying documents would be \$47,194, and of the Treasury report, \$8,704, including the cost of paper and binding.

HARBOR IMPROVEMENTS.

Mr. STUART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate such surveys of harbors on Lakes Superior, Michigan, Huron, St. Clair, and Erie, in the State of Michigan, as have not been hitherto communicated, together with such estimates as may have been made for the improvement of said harbors.

NEW MAIL ROUTE.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be required to examine into the expediency of establishing a mail between Montgomery, Alabama, and Pensacola, Florida, via Greenville and Sparta, Alabama.

ARREST OF WILLIAM WALKER.

Mr. FITZPATRICK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, as far as may be compatible with the public interest, to communicate to the Senate the correspondence, instructions, and orders to the United States naval forces on the coast of Central America connected with the arrest of William Walker and his associates, at or near the port of San Juan, in Nicaragua, and that he transmit such further information as he may possess in relation to that event.

PRINTING OF DRED SCOTT DECISION.

Mr. BENJAMIN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate, twenty thousand copies of the opinion of the Judges of the Supreme Court in the case of *Dred Scott vs. John A. F. Sanford*.

LAND OFFICE REPORT.

Mr. STUART submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed five hundred copies of the report of the Commissioner of the General Land Office and accompanying documents, for the use of the office.

NOTICES OF BILLS.

Mr. BENJAMIN gave notice of his intention to ask leave to introduce a bill to authorize the improvement of the Mississippi, Missouri, Arkansas and Ohio rivers by contract, and making appropriations for the same.

Mr. MALLORY gave notice of his intention to ask leave to introduce a bill for the establishment of a court-house at Apalachicola; also a bill to repeal certain laws relative to pilots.

Mr. FESSENDEN gave notice of his intention to ask leave to introduce a bill for the ascertainment and satisfaction of claims of American citizens, for spoiliations committed by the French prior to the 31st day of July, 1801.

Mr. POLK gave notice of his intention to ask leave to introduce the following bills:

A bill to settle doubts in relation to the title of certain common field lots in the State of Missouri, heretofore granted to the inhabitants of St. Louis for the support of schools.

A bill for the relief of Marie Lisa, and Joachim Lisa and others; and to provide for the location of certain confirmed private land claims.

BILLS INTRODUCED.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce the following bills; which were read twice by their titles, and referred to the Committee on Public Lands:

A bill (S. No. 33) to authorize the State of Iowa to apply the unsold lands heretofore granted for the improvement of the navigation of the Des Moines river, to the construction of a railroad in the valley of said river.

A bill (S. No. 34) explanatory of an act entitled "An act to settle certain accounts between the United States and the State of Mississippi and other States," approved the 3d of March, 1857.

Mr. HOUSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 35) for the relief of Michael Kiunev, late a private in company I., eighth infantry, United States Army; which was read twice by its title, and referred to the Committee on Pensions.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 36) further to amend an act "to divide the State of Illinois into two judicial districts," approved February 13, 1855; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 3) to extend and define the authority of the President, under the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" in respect to dropped and retired naval officers; which was read twice by its title.

Mr. DAVIS. The subject has been so fully discussed in the Senate that I hardly suppose it will be required that the joint resolution should be referred to the Committee on Naval Affairs. If, however, the chairman desires it—

Mr. MALLORY. Certainly; I ask for that reference.

Mr. DAVIS. Of course, then, I cannot object to the reference.

The joint resolution was referred to the Committee on Naval Affairs.

Mr. GWIN. I move that it be printed. The subject is one on which we ought to act immediately.

The motion was agreed to.

ADMISSION OF KANSAS.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 37) to provide for the admission of Kansas into the

Union; which was read twice by its title, and ordered to be printed.

Mr. PUGH. With the indulgence of the Senate I wish to give a brief explanation of the bill.

Mr. DOUGLAS. I suggest that it ought to be referred to the Committee on Territories.

Mr. PUGH. I have no objection to its reference, but I wished to have a printed copy of the bill, with the view that probably other Senators might suggest amendments before sending it to the committee; but I have no objection to its being referred to the Committee on Territories at once.

I was about to state, as it would delay the Senate some time to read the bill, and as it is an act of some importance to myself, the substance of this bill which I offer as a compromise for the settlement of the present difficulties in Kansas.

The bill provides for the admission of Kansas into the Union as a State, under the constitution adopted at Lecompton, November 7, 1857, with the boundaries defined in the pacification bill of the last Congress, and upon two fundamental conditions.

The first condition is that the seventh article of the constitution, relative to slavery, shall be submitted to a separate and direct vote, "Yes" or "No," of the qualified electors, on the 7th of April, 1858, at which time the State officers, the Legislature, and the Congressmen shall be chosen. The returns of this election to be made to the Governor of the Territory instead of the president of the convention, and the election conducted in obedience to the laws in force on the 7th of November.

The second fundamental condition is that the constitution shall not be so construed as to limit or impair the right of the people, through their Legislature, at any time, to call a convention for the purpose of altering, amending, or abolishing their form of government, subject only to the Constitution of the United States.

The President is required to admit the State by proclamation as soon as the election of April 7th shall have transpired.

The ordinance of the Lecompton convention, relative to the grants of public lands, is rejected, and, in its stead, the usual articles of compact are offered to the first Legislature of Kansas, for acceptance or rejection, as in the case of other new States.

I shall not ask the attention of the Senate to any further exposition of the bill at this time; but I hope that after the Senator from Mississippi has spoken on the subject, I may be allowed to explain somewhat more fully the reasons on which I base these various provisions.

The VICE PRESIDENT. The bill will be referred to the Committee on Territories.

NAVAL COURTS OF INQUIRY.

The Senate proceeded to consider the motion of Mr. CRITTENDEN, to reconsider the following resolution, submitted by Mr. SLIDELL on the 22d December last:

Resolved, That the President be requested to communicate to the Senate the records of proceedings of the several naval courts of inquiry, organized under the act of Congress approved January 16, 1857, to amend an act entitled "An act to promote the efficiency of the Navy."

Mr. SLIDELL. I understood that the Senator from Kentucky (whose attention I beg leave to call to this matter) desired that this resolution should not be acted upon until the courts had finally adjourned, and closed their proceedings. I have no disposition to press it now, unless it be agreeable to the Senator from Kentucky to pass the resolution at this time.

Mr. CRITTENDEN. I think, perhaps, it had better lie over, but I am willing to consult the wishes of Senators. If the Senator from Louisiana prefers to have it acted on now, very well.

Mr. SLIDELL. I suggest that it will be very easy to make a supplemental motion, if all the documents should not come in. Anticipating an objection that probably will be made, and I think has already been made, as to the great expense which would necessarily attend the printing of these documents, I will say that the natural course would be a reference of them to the Committee on Naval Affairs of the Senate; the printing of such documents only as may become matters of discussion, will probably be asked for hereafter. I cannot see any objection to the adoption of the resolution at present.

Mr. CRITTENDEN. The gentleman's aim,

I presume, is to extend the call as well to cases hereafter to be decided as to those already decided.

Mr. SLIDELL. I have no objection to that modification of the resolution.

Mr. CRITTENDEN. I do not know that I have any objection to that. If the Senator desires to give that form to his resolution, very well. I presume the gentleman intends that we shall have the original records.

Mr. SLIDELL. That is my intention.

Mr. CRITTENDEN. To make copies would be laborious.

Mr. SLIDELL. I understand so.

Mr. BELL. To have the originals would be contrary to our usage.

Mr. SLIDELL. On reading this resolution, I will state that it appears to me it will cover the whole ground up to the time the President makes his communication, and then the courts will have finished their business and adjourned.

Mr. BELL. I would suggest to my colleague on the committee that unless he has examined the subject, and finds that these records are less voluminous than I apprehend they are, we shall have to make some room for their admission here. But I do not see what we can do with them when they do come. If all the records that have been accumulated in these inquiries are to be transmitted, and I presume they include all the previous examinations and decisions of courts of inquiry and courts-martial in reference to the character of these individuals, they will be exceedingly voluminous and ponderous. I take it that, according to no custom or usage that I know of, can we expect that they will transmit the original records here, to be in our custody. I presume they will have to employ an extra clerical force to furnish us copies of them all. I had supposed that in any case which may become the subject of inquiry before the Committee on Naval Affairs, it would be competent for the committee to request a copy of the record of the proceedings of the courts in that particular case. Perhaps they might give us the original papers, if it became necessary to see them. So if any case became the subject of investigation in the Senate, it would be competent for the Senate to call for the record in that case; but I think it would lead to great inconvenience to the Department, unless, as I stated before, they employ extra clerical force to furnish us with copies of the whole proceedings. I merely make this suggestion.

Mr. SLIDELL. As to the first difficulty suggested by the Senator from Tennessee, my colleague on the Committee on Naval Affairs, that there will not be room in this wing of the Capitol to receive the papers; that, perhaps, may be left to the discretion of the Secretary and the Sergeant-at-Arms. I presume some arrangement can be made. I have no idea that the Secretary of the Navy will think it necessary to have these papers copied. I think he may venture to trust these records to the safe-keeping of the Senate during a reasonable time.

As I before said, so far as I am concerned, I do not anticipate that I shall ask for the printing of these records except in some very few cases indeed; but I should like to have an opportunity of examining them, and I do not know of any other means of doing it, except by going to the Navy Department at hours that would not be convenient to myself or the Department. When they are before our committee, some examination may be made of them; and those cases selected, the records in relation to which it may be necessary to print. I really do not see all the objections which present themselves to the fertile imagination of my colleague on the Committee on Naval Affairs. I hope the resolution will be allowed to pass.

Mr. CRITTENDEN. I am entirely content that the Senator from Louisiana shall take his own course in relation to this subject; but I wish to make one suggestion, or rather to repeat the suggestion made by the Senator from Tennessee, if it would not be better to call for such records as any Senator may desire to have before the Senate from time to time. In this resolution we call for all these records, and many of them may be entirely useless. They may be cases in which the party is content with the decision that has been made. We do not want those records here, certainly. They would be but an incumbrance.

But where it is supposed that justice requires any revision of the decision, it may be proper for us to call for the records of trial then; and that would limit the call, perhaps, to comparatively few of the records, for all I know, or it may be a greater number; at any rate it would not incurr us with those that nobody wants. With this suggestion, I am ready to acquiesce in any course that is desired. I think the resolution ought to be express, that we desire the original records, and that they shall be returned by us when we have ceased to use them; for they are necessary records of the Department, and I suppose it may be inferred that that would be the course.

There is one other remark I wish to make, and that is, whether it is supposed the calling for these papers is to have the effect of delaying our action in those cases which have been favorably decided on and in obedience to which the President has made his nominations to the Senate. I hope no such delay as that is contemplated, and shall resist any such use being made of this call for records. I think they are entitled, by law, to a confirmation at the hands of the Senate. All we have to do is to inquire, as we do generally, as to the fitness of these parties. With these remarks, I am content that the Senator shall take the course which he pleases in regard to this subject.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order.

Mr. SLIDELL. I think we can dispose of this matter in a few minutes, if the Senator from Mississippi [Mr. Brown] will allow us to go on.

Mr. BROWN. Very well.

The VICE PRESIDENT. It requires unanimous consent to postpone the special order so as to continue the consideration of this subject. The Chair hears no objection.

Mr. JOHNSON, of Arkansas. I shall be compelled to oppose this proposition, until we shall have had some investigation as to the probable cost of printing these records. I have no remarks to make on the propriety of this call in itself, but I believe the resolution has not been referred to any committee.

Mr. SLIDELL. It is not in contemplation to call for the printing of these documents. This is a preliminary step.

Mr. JOHNSON, of Arkansas. I am aware that the Senator from Louisiana does not intend to have them printed, but when these documents shall be presented here for purposes of examination, the printing will be ordered on the request of any two or three gentlemen. The practice of the Senate assures me of this. Though the Senator from Louisiana will not ask for this printing, others may; and the consequences will be that the printing of the usual number—fourteen hundred and twenty copies—will be ordered, and then you might as well print five thousand, for it costs very little more to print five thousand than fourteen hundred and twenty. I believe some investigation ought to be had so that we may know the cost of this printing. As to the propriety of calling for these documents, I believe it to be exceedingly questionable. It will lead to the publication of many things that ought never to go to the world. It will cause unpleasantness to many parties, and will be productive of nothing but confusion and bitterness. I hope that at least the matter will be referred to a committee, and a report made before the Senate adopts the resolution.

Mr. SLIDELL. I am sure that if the chairman of the Committee on Printing makes any objection to a motion of any Senator on the ground of the absence of any necessity for printing these records, or because of the cost, he would be listened to with that attention which the Senate is always accustomed to pay to him. I do not anticipate that trouble.

A remark fell from the Senator from Kentucky to the effect that perhaps this movement was intended for purposes of delay. I hope he does not include me in that imputation. I entertain an earnest desire to have this very disagreeable matter settled. I think the sooner we pass this resolution, and obtain possession of the information we desire to govern us in our action, the sooner we shall arrive at a consummation of this business. For myself, I disavow altogether any intention to delay the settlement of this question, either here or elsewhere. I have nothing more to say than that I hope the resolution will pass.

Mr. DAVIS. I should think it very unfortu-

nate, indeed, to draw the original records out of the Department at this time. I hope there are cases which, under the revision of the President, may call for his action by nomination to the Senate, where the courts have not recommended such nomination. If it be desirable that the Senate should have the proceedings of the courts in all these cases, I think they must be copied, and the originals left in the Department for the revision of the President, and his action upon them. I do not perceive why the Senate should call for the records, unless it is for the exact purpose of printing them. If the Committee on Naval Affairs require information, such as is to be gathered from the record, in each case where they need that aid, it is in their power to call for the original papers. In all other cases where the records are not needed for the use of the committee, I think it far better that they should remain in the Department. I am not answered by saying that the records need only be sent to accompany nominations which may be made, because the President may wish to make a comparison between a case which he has submitted on a recommendation of the court to the Senate and some other case which has not been submitted, because not recommended by the court. For these reasons, I think, to enable the President to discharge his duty properly, the originals should remain in his possession.

Mr. SLIDELL. A suggestion has just been made to me which, perhaps, may obviate all the difficulty in this case. I understand from one of my colleagues on the Committee on Naval Affairs, that an abstract of the record and testimony in all these cases has been made very carefully by the Department. For all preliminary purposes, that will be quite sufficient for me, and, with the assent of the Senate, I propose to amend the resolution so as to make it read:

Resolved, That the President be requested to communicate to the Senate an abstract of the records of proceedings of the several naval courts of inquiry, organized under the act of Congress approved January 16, 1857, to amend an act entitled, "An act to promote the efficiency of the Navy."

Mr. BAYARD. As I can see, in my own judgment, much evil that may flow from the adoption of this resolution without any possible good on the action of the Senate, I shall be necessarily compelled to vote against it. I do not see how we are to constitute ourselves, in open session, a tribunal for the purpose of revising the action of these courts of inquiry. I think the whole proceeding, from the enactment of the original law down to the present time, has done nothing but demoralize the Navy. If this testimony be submitted to the Senate, in open session, either in full or in abstract, I think the necessary result will be its publication. It will only lead to disputes, to crimination and recrimination, among officers of the Navy; it will increase heartburnings and jealousies, and will tend to demoralize the Navy far more than it is now. I am unable to perceive any possible ground or reason on which we ought to call for this testimony for any beneficial purpose. If a nomination should come before the Senate in executive session, I can conceive that a Senator might desire that the record in that particular case should be submitted to the Senate, though I should doubt the policy of the measure even then; but, certainly, I can see no propriety in a general publication of what is called an abstract of this testimony. If it is to be truthful, and give proper information, it must be an entire abstract; it must omit nothing material. Here you are delegating to others the power of saying what is and what is not relevant testimony, in each of these cases. I think it wiser that the matter should be suffered to sleep in the Departments, reserving the right to any Senator, in any individual case where he thinks it necessary for purposes of individual justice, to call, in executive session, for the proceedings in that case. I am opposed to the resolution as it stands.

Mr. COLLAMER. I have never entered into the subject of this naval investigation, nor have I made any remarks in the Senate with regard to it. Very much time was occupied during the last Congress in endeavoring to put an end to the difficulties that had grown out of the execution of a law of a previous session, and after a great deal of time and labor and attention to the subject, a plan was devised which it was supposed would put an end to them. Other boards were provided, and modes of carrying the question for revision

before those boards pointed out. They were to report to the President, and he was to examine the cases, and nominate to the Senate such officers as he thought proper for reappointment. It was hoped, at least, that this would put an end to any more investigations of particular cases here, in the Senate, unless, indeed, in a particular case of a nomination—like any other nomination to office—a Senator objecting to it would be at liberty, in executive session, to call for any information the Department might have; but that should be in executive session, and be confined to the particular case in hand. I presume we are not here to take upon ourselves a revision of the decisions of the courts of inquiry, and of the decisions of the President in all these cases, and make provision for that by a call of this kind. It strikes me as exceedingly ill advised. Gentlemen may differ in opinion from me on this point; but, to my mind, the movement is entirely out of place, entirely out of time, and altogether inconsistent with the views entertained by this body at the last session. We can never put an end to these proceedings if we now lay the foundation for a reexamination of the whole matter. I am opposed to any call of this kind, and to any publication of the sort now indicated.

Mr. STUART. I think it is due to the Senator from Mississippi that he should proceed with his remarks to-day; and I therefore move to postpone the further consideration of this subject until to-morrow.

The motion was agreed to.

KANSAS AFFAIRS.

The Senate resumed the consideration of the motion of Mr. DOUGLAS, to refer so much of the President's message as relates to the Territory of Kansas to the Committee on Territories.

Mr. BROWN. Mr. President, I have sought an opportunity to address the Senate on this subject now, because I think the season more auspicious for a calm and unimpassioned consideration of it than any we shall have for weeks, or perhaps for months, to come. Not feeling disposed to take part in any scene of undue excitement which may be produced by the discussion of this question, I have preferred to deliver my views in reference to it at a time when the Senate and, to some extent, the whole country, is sufficiently calm to give to them whatever consideration may be justly theirs. To understand the subject fully, it seems to me proper that we should go back to the beginning and examine the starting point.

When, in 1854, the Senator from Illinois [Mr. DOUGLAS] brought forward his bill to organize the Territory of Kansas, he incorporated into it this language:

"The said Territory, when admitted as a State, shall be received into the Union with or without slavery, as its constitution may prescribe at the time of its admission."

Whoever voted for that bill, voted to indorse this sentiment. The friends of the Kansas-Nebraska bill, in both Houses of Congress, stand to-day upon the record solemnly pledged to admit the State with or without slavery, as its constitution may prescribe at the time of admission, and the friends of the measure throughout the country stand similarly committed. At a later period, the national Democratic party assembled in convention at Cincinnati, and in laying down a platform of principles they resolved—

"That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

After the adoption of that resolution, the convention of national Democrats nominated the present Chief Magistrate of the nation, and you, sir, for the first and second offices in the gift of the Republic. You were elected. By this proceeding, the members of that convention, its nominees for President and Vice President, and the electors, so far as the national Democratic party were concerned, stood solemnly pledged to the admission of Kansas into the Union with or without slavery, as her constitution should determine. As an humble member of the party, supposing that all these proceedings were sincere—that they were to be carried out in good faith—I, so early as the 22d of December, 1856, addressing the

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Senate on one branch of this subject, employed this language:

"If Kansas comes here with a constitution made by her *bona fide* people, free from all outside influences, excluding slavery, there is not a Democrat in either House of Congress who will not vote for her admission; and if, on the other hand, she comes with a constitution, similarly made, tolerating slavery, there is not a Democrat who will not vote for her admission."

I supposed, sir, that the passage of the original Kansas bill, the adoption of the resolution which I have read by the national Democratic party, the nomination of gentlemen committed to the support of the doctrines contained in the resolution, and their subsequent triumphant election through the agency of the national Democratic party, had committed all of us to the doctrine that Kansas was to be admitted with or without slavery, as her people should determine. Some question having been raised as to whether we meant that precisely, or, if we did, as to whether we were not disposed to avoid the force of the commitment by a resort to technicalities, I, on the 23d of December last, just before the last adjournment of the Senate, this question being under consideration, used this language:

"I desire simply to say that I stand where I stood at the last session of Congress, and that nothing which transpired in Kansas on Monday last is to change my position. If the election on Monday was a fair one, as I hope it was, in which all parties were allowed freely and without hindrance to take part, and Kansas asks admission as a free State, I stand upon the record in favor of her admission. If, on the other hand, she asks admission as a slave State, I shall expect those who entered into the compact with us during the last session of Congress to abide by their pledges and vote for her admission."

Kansas has voted. If telegraphic and other rumors from that country may be relied upon, she is likely to ask for admission as a slave State. The question now arises, are these pledges to be redeemed; and, if not, why? Is the compact into which we entered to be kept in good faith; and, if not, why? Is Kansas, upon her own demand, to be admitted as a slave State; and, if not, why? I mean to address myself to these inquiries. I have shown you, sir, that the friends of the Kansas bill stood committed to the admission of Kansas as a slave State, if she should ask to be thus admitted. I have shown you, sir, that the national Democratic party in convention, and by its vote at the ballot-box, stands solemnly committed to the same doctrine. I have shown you at the same time that I, and those who think with me, who prefer the admission of Kansas as a slave State, stood solemnly committed to her admission as a free State, if she came and asked for admission as a free State. We never dreamed of avoiding the force of this commitment by a resort to miserable technicalities. It was a pledge made in good faith; and, whenever the opportunity has offered, we have renewed the pledge to stand by it in good faith. As I said in the few remarks made by me on the 23d of December last—thus standing pledged ourselves, we expect those who stand pledged on the other side to act in equal faith to their obligation.

Beyond all question, Mr. President, slavery lies at the bottom of our difficulties in Kansas. We may differ in reference to her banking policy, her railroad policy, her school policy, her laws regulating marriage and divorce, the relation between master and servant, and parent and child, and all that. That we may differ on these points is certainly most true; but it is just as true, that if slavery were out of the way, we should not waste one hour of our precious time in considering one or all of these points combined.

Nor, sir, is this difference on the subject of slavery of recent origin. It dates back almost to the foundation of the Government; but it was not until 1819 or 1820 that it became so intense as to threaten not only the peace but the very perpetuity of the Government. Though the men of that day entered into a sort of compromise which was kept, as such compromises are apt to be, with Punic faith, the feeling has become still more intense with each succeeding year from that day until now; each attempt to compromise it has

but resulted in still further disaster to the country. Perhaps in all the conflicts and all the contests which we have had in reference to slavery, nothing is more worthy of note than this: that whenever a Territory has been about to be organized over that portion of our domain where slavery had neither gone nor was likely to go, Congress has acted without difficulty. Whenever a new State has been introduced into the sisterhood from that region of country where slavery does not exist, we have found the same state of feeling; she has been introduced as a matter of course. On the other hand, whenever you have been about to organize a Territory in that portion of the public domain into which slavery had either penetrated or was likely to penetrate, there has been a revival of this sectional controversy. Whenever a State has been introduced from that portion of the country, you have had a still more intensified state of feeling on this subject.

Thus, sir, you have seen States in the Northwest introduced one after another. Michigan, the State from which my honorable friend before me [Mr. STUART] comes, Iowa, and Wisconsin present notable examples—organized, sustained, and admitted into the Union, with scarcely a word of controversy from the South. When you go South, you find that the introduction of Arkansas and Florida and Texas, was stoutly resisted, and chiefly on the ground of slavery. These things have brought my mind to the conclusion, as they have doubtless brought the minds of other gentlemen, that slavery is regarded, as I stated at the outset, as the great bone of contention between the two sections of the Union.

Mr. President, I find that I am, as I am sometimes apt to be in moments of excitement, taken suddenly with vertigo. I yield the floor.

Mr. CLAY. I move the postponement of this question until Wednesday.

Mr. DAVIS. When will my colleague be able to go on?

Mr. BROWN. To-morrow.

Mr. DAVIS. I hope the Senator from Alabama will modify his motion so as to postpone the question until to-morrow.

Mr. CLAY. I move to postpone the further consideration of this subject until to-morrow at one o'clock.

The motion was agreed to.

ALEXANDER J. ATOTCHA.

The VICE PRESIDENT announced that the first business in order was the bill (S. No. 28) for the relief of Alexander J. Atocha, which was read the second time.

It proposes to direct the proper accounting officers of the Treasury to examine into the claims of Alexander J. Atocha against the Government of Mexico, for losses sustained by him by reason of his expulsion from that Republic in 1845, and to pay the loss or damage so ascertained. It is provided, however, that the amount so to be paid shall in no event exceed the balance of the \$3,250,000 provided by the fifteenth article of the treaty of Guadalupe Hidalgo for the payment of claims of citizens of the United States against the Government of Mexico, which still remains unapplied to that object.

Mr. STUART. From what committee does that bill come?

The VICE PRESIDENT. It was reported from the Committee on Foreign Relations.

Mr. STUART. I should like to hear the report, so as to see what the facts are.

Mr. SEWARD. The report in this case was made by the chairman of the Committee on Foreign Relations, [Mr. MASON,] and is based on the agreement of the committee to a report made by him at the last session. I apprehend that no member of the committee who is now present is prepared to explain the matter to the Senate or take charge of the bill. With the consent of one of my colleagues on the committee, who takes an interest in the subject, I move that the consideration of the bill be postponed until to-morrow.

The motion was agreed to.

GEORGE P. MARSH.

The Senate, as in Committee of the Whole, next proceeded to the consideration of the bill (S. No. 1) for the relief of George P. Marsh, which contains a direction to the Secretary of the Treasury to audit and settle the accounts of Mr. Marsh, late Minister Resident of the United States to the Ottoman Porte, for additional compensation and expenses incurred by him in the performance of special services not pertaining to his mission, and at a point different from that to which he was accredited, in compliance with instructions from the Department of State, and for judicial services rendered by him under the act of August 11, 1848, entitled "An act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, giving certain judicial powers to the ministers and consuls of the United States in those countries." In settling these accounts, the sum of \$9,000 is to be allowed as compensation for special services in the mission to Greece, and in ascertaining the amount of these expenses the certificate of the party is to be regarded as sufficient, where no regular voucher can be produced; and a further allowance, at the rate of \$1,000 per annum, is to be made to Mr. Marsh for his judicial services during the period of his mission to the Ottoman Porte.

On the 29th of May, 1849, Mr. Marsh was appointed Minister Resident to the Ottoman Porte, and having entered upon the duties of his mission, continued in charge of it until the 19th day of December, 1853, when he had his final audience of leave. By an act of Congress, approved on the 11th of August, 1848, certain judicial duties were imposed on the Commissioner of the United States to China, the Minister Resident of the United States to the Ottoman Porte, and the American consuls in both those countries; and by the eighteenth section of the act it was provided that a compensation of \$1,000 per annum, in addition to his salary, should be paid to the commissioner, in consideration of the duties imposed upon him by the act. Mr. Marsh's predecessor, Hon. Dabney S. Carr, claimed the payment of this sum in addition to his salary, but the Treasury Department refused to allow it, on the ground, that though judicial duties were imposed by the act upon both the Commissioner to China and the Minister to Turkey, yet the compensation was intended to be given to the commissioner alone. Upon his return to the United States, Mr. Carr presented his memorial to Congress praying for the payment of various sums of money claimed by him and disallowed by the accounting officers; and, at the first session of the Thirty-Second Congress, by an amendment to the civil and diplomatic appropriation bill, \$1,000 per year, in addition to the salary, together with other moneys, was allowed to Mr. Carr for the performance of the judicial services from the date of the passage of the act to his final departure from Constantinople. It is conceived that this allowance by Congress is a legislative construction of the true intent and meaning of the act of 1848.

By special instructions, under date of April 29, 1852, the Department of State ordered Mr. Marsh to proceed to Athens, in Greece, on board a vessel of the Mediterranean squadron, to investigate certain complaints preferred by Dr. Jonas King, an American citizen, resident in Greece, against the Government and the judicial tribunals of that country, report thereon, and, "after transmitting his report, to remain at Athens, or in its neighborhood, till he heard from the Department." In pursuance of these instructions, he embarked for Athens, as soon as a ship was ready to receive him, and arrived at that city on the 31st day of July, 1852. He immediately engaged in the intricate and laborious investigations committed to him; and having completed his reports in the month of October following, he transmitted them to the State Department; and, in compliance with his instructions, awaited the further orders of the Department.

Upon the 5th of February, 1853, the President of the United States, through the State Depart-

ment, instructed him to enter into communication with the Government of Greece, and endeavor to obtain redress for the wrongs which Dr. King had suffered at the hands of that Government and its judicial tribunals. He accordingly commenced a negotiation with the Minister of Foreign Affairs, and remained at Athens in the prosecution of the same until the 25th of June, 1853, when the alarming posture of affairs at Constantinople, in his judgment, required his immediate return thither, and he accordingly proceeded to that city; but the correspondence with the Greek minister was continued until his recall.

By the original instructions of the State Department, he was directed to "keep an account of his traveling expenses whilst engaged in carrying out the instructions," and he accordingly presented an account, covering only some trifling disbursements for stationery, copying, &c., and his bare personal expenses, which has been allowed and paid. By the performance of the duties of the special mission intrusted to him, his household expenses were much augmented, and the loss of rent, (his house having remained unoccupied during his absence,) the sacrifice on the sale of horses and stores upon his departure, the expenses of protecting his house and other property, and other contingencies, amounted to more than the entire sum received by him for personal expenses; and he is consequently a loser to a considerable amount by the performance of the arduous duties imposed upon him.

In view of the extra trouble and expense attendant upon the special mission to Greece, the committee are of opinion that Mr. Marsh should be allowed the sum of \$9,000 for extra compensation, together with the expenses incurred by him on account of his mission, the amount of which to be ascertained, in the absence of regular vouchers, by the certificate of the party. Compensation for judicial services having been allowed to his predecessor, by the act of August 31, 1852, making appropriation for the civil and diplomatic expenses of the Government, the committee can perceive no just reason why a similar allowance should not be made to Mr. Marsh during his continuance in the same mission.

Mr. FOOT. I will simply say that this bill is precisely in the form in which it has passed the Senate during the last four years. It was reported before by the honorable chairman of the Committee on Foreign Relations, [Mr. MASON,] and failed of action in the House of Representatives. It was not reached there at the last session.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read the third time and passed.

The VICE PRESIDENT. There is no further business before the Senate.

Mr. SEWARD. Then I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 4, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. G. BUTLER.

The Journal of December 23d last was read and approved.

QUALIFICATION OF A MEMBER.

The Hon. JOHN F. FARNSWORTH, a member from the State of Illinois, appeared in his place, and was qualified by taking the usual oath of office to support the Constitution of the United States.

EXECUTIVE COMMUNICATIONS, ETC.

The SPEAKER, by unanimous consent, laid before the House the following communications:

A communication from the Secretary of State, in relation to the claim of Michael Pappenitza, an Austrian subject, for losses alleged to have been sustained by him during the popular out-break at New Orleans in 1851, and inclosing a copy of a communication upon the subject, addressed to the chairman of the Committee on Foreign Affairs; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

A communication from the Secretary of State, transmitting a statement from the superintendent of statistics of the commercial relations of the United States with foreign nations, for the year

ending 30th September, 1857; which was referred to the Committee on Commerce, and ordered to be printed.

A communication from the Treasury Department, showing the manner in which the contingent fund of that Department has been expended during the year ending 30th June, 1857; which was laid upon the table, and ordered to be printed.

Also, a communication from the Hon. N. P. BANKS, of the date of 24th December last, informing the Speaker that he had placed in the hands of the Governor of the Commonwealth of Massachusetts his resignation of the office of Representative of the seventh congressional district of that State; and that from and after the date thereof, his seat would be vacant; which was laid upon the table.

Also, a communication from the Navy Department, containing an abstract of offers received at the Bureau of Yards and Docks for furnishing articles falling under the cognizance of that bureau during the fiscal year ending 30th June, 1858; which was laid upon the table, and ordered to be printed.

ARREST OF WILLIAM WALKER.

Mr. CLINGMAN. I am instructed by the Committee on Foreign Affairs to ask the adoption of a resolution which I send to the Clerk's table. I hope the House will consider it at once. If there should be objection, I shall move to suspend the rules.

Mr. SAVAGE. I wish to suggest to the gentleman from North Carolina that the resolution which he proposes will lead to discussion—a discussion, perhaps, which will consume the day. There are many members who have bills which they wish to introduce, of which they have given previous notice. They desire to introduce them for reference merely, that the committees may get to work upon them without delay. I suggest that such opportunity may be given before the gentleman introduces his resolution.

The resolution was not withdrawn. It was read, as follows:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interests, all the information in his possession in relation to the late seizure of General William Walker and his followers in Nicaragua, together with such instructions as may have been given to our naval officers and other officials, pertaining to the subject.

Mr. MORGAN. I object.

Mr. CLINGMAN. I move to suspend the rules.

Mr. JONES, of Tennessee. I would like to have the gentleman modify his resolution so as also to call for all information in the President's possession in regard to the fitting-out of the expedition by Mr. Walker in this country.

Mr. CLINGMAN. I would do so with great pleasure had I the power. I suppose the resolution is now broad enough to cover what the gentleman desires. If not, and the resolution is introduced under a suspension of the rules, he can move to amend it, and I will give him an opportunity to make that motion. It being the report of a committee, the gentleman knows that I cannot amend it. If I could, I would do so very cheerfully.

The SPEAKER. Debate is not in order.

The rules were then suspended for the introduction of the resolution; there being, on a division—ayes 117, noes 7.

Mr. CLINGMAN. I did not expect to have said anything upon the resolution, but it seems to me that the opposition of gentlemen around me renders a word necessary. I think one moment's reflection will satisfy the House that it is important that the resolution should be adopted. And in reference to the suggestion of the gentleman from Tennessee, [Mr. JONES,] I will say that if he will offer the amendment to which he referred, I will vote for it.

I ought, perhaps, to say a few words about the form of this resolution, and the reasons why the committee made the call in this mode. I think it is broad enough to cover the ground indicated by the gentleman from Tennessee. It calls for all the information in the President's possession in regard to the seizure. Of course the President will be likely to inform the House what this man has been doing, as a reason why he was seized. It also calls for all instructions given to our officers. Yet if the gentleman from Tennessee is

not satisfied with that, why, let him move an amendment calling for any further information, and opening the doors as wide as possible, and I shall be ready to vote for it. Every gentleman will see, upon a moment's reflection, that this is a question of much importance, and one which the House cannot overlook. It involves three considerations of sufficient importance.

In the first place, there is a question in relation to the rights of Walker and his followers, who have been seized. Whether they have any claim upon us or not, is a question of only minor importance. Then there is a second question, with reference to the rights of Nicaragua, or Costa Rica, or whoever owns the territory which has been invaded. But, sir, there is still a question of far more importance, so far as this House and the country are concerned, which does not depend upon either of these. It appears that one of our officers—whether with the authority of the President or not it is not now necessary to inquire—has, at the head of a large body of armed men, gone into a territory that does not belong to the United States, and carried away by force one or two hundred persons. This will strike everybody as an act of war, and its justification does not depend at all upon either of the other questions. For example, suppose—for mere argument's sake—Walker was as bad a man as you can imagine him to be: this would not justify his seizure in that mode. Why, sir, there are bad men in all the countries of the world; but that does not justify our officers in marching into those countries and arresting them without any authority from Congress. Whether Nicaragua does or does not object to this proceeding, is wholly immaterial. Suppose Nicaragua had been invaded by a foreign army, and one of our officers had assisted her to expel it: she would not have complained of the invasion of her territory. If rebellion or civil war had prevailed there and our officers had gone in to put it down or to take sides in it, why, of course, the triumphant party would not complain. I have no sort of doubt that if, during the revolution in Paris in 1848, American troops had gone there and put down the revolution, Louis Philippe, the monarch, would not have complained of the invasion of his territory.

Mr. RITCHIE. I desire to make a single remark just at this point, to show the light in which I regard the late act of Commodore Paulding. That act, sir, was justifiable on this ground: that Walker was a fugitive from the criminal laws of this country, and the officer of any country dispatched in pursuit of a criminal has a right to arrest him anywhere, with the consent of the Government of the country in which the fugitive has sought an asylum.

Mr. CLINGMAN. I hear the suggestion of my friend from Pennsylvania with great pleasure, although I do not concur with him. I think that on reflection he will see that that does not justify, in any respect, a movement of this kind. Suppose a fugitive from this country were to flee into Canada, or to London, or Paris, and our officers, with troops, were to follow him there and bring him away by force: the gentleman will perceive at once how that would involve us. We have a right to demand from some foreign Governments, in some cases, the extradition of the fugitive, but not to arrest him by force upon a foreign soil.

But, Mr. Speaker, my object in rising was not to enter into a justification or censure of Walker's movements, but to show the House that, whether the man was criminal or not, it does not affect the present question. Congress may authorize an interference in the affairs of a foreign country; they may make a declaration of war; but as the Constitution gives to Congress alone the war-making power, the point must strike every one that our officials have no right to perform acts of war until authorized by a declaration of Congress. Whether Walker was an invader of Nicaragua, or was a rebel, or a party to civil war in that country, in any point of view our officials could not take part in the contest, unless authorized by Congress to do so. It is because the war-making power is one of the most important that Congress is invested with, that I think it our duty to look into this question at once.

Mr. GROW. I would suggest to the gentleman that, when we get the information called for in his resolution, it will then be the proper time to discuss this question.

Mr. CLINGMAN. I am infinitely obliged to the gentleman from Pennsylvania for the suggestion, and I agree with him on that point. I do not now propose to discuss the facts involved in this matter, but to indicate points of view in which it may be important. Another great question must suggest itself to the mind of every gentleman. We have for years had a struggle going on with Great Britain as to the dominion or control of these Central American States, and have often complained of the acts of her officials there; but if we justify this act of Commodore Paulding, may not Great Britain interfere as she pleases in imitation of this precedent? If we can thus interfere, may not Great Britain do the same? And shall we then have any right to complain? This proceeding may, too, be a violation of the Bulwer-Clayton treaty? In this point of view I hold that the Government is bound to disavow this act, or Great Britain may do whatever she thinks proper hereafter.

But again, sir: are we to leave to our naval officers the discretion to do acts of this sort? It may turn out that, in this particular instance, it will give rise to no difficulty; but if our naval officers are to be allowed to go into foreign countries to make seizures, the result will be that Congress will be stripped of the war-making power. Even the President could not have authorized it; and shall we leave the power to subordinate officers? It seems to me that this is a question of sufficient importance to justify its investigation, no matter what gentlemen may think of Walker. They will recollect, doubtless, that when Commodore Porter undertook to seize some pirates, on a foreign territory, he was disgraced for the act. They will remember, too, the excitement produced when certain British subjects seized the steamer *Caroline*. We were nearly involved in a war with Great Britain because that steamer, at the time of the seizure, was on the American side of the Niagara river. I mention these things in order that gentlemen may see the importance of maintaining our claim to the war-making power, and preventing subordinate officers from involving us in difficulty.

Mr. MAYNARD. I desire to ask the gentleman whether the fact stated by the gentleman from Pennsylvania [Mr. RITCHIE] is admitted by him—that General Walker, when last in Nicaragua, was a criminal and a fugitive from justice?

Mr. CLINGMAN. I make no admission on that point. But even if that be true, the matter ought to be inquired into none the less. Whether General Walker be meritorious, or the reverse, does not affect the view I take of the question.

Mr. RITCHIE. I do not intend to make any charge, as the facts are not before the House. My position is taken on the supposition that Walker did violate the neutrality laws of the country, and made himself liable to punishment. I wish to have it understood that I make no charge against anybody until we have the facts before us officially.

Mr. CLINGMAN. The gentleman from Pennsylvania and myself understand each other. My object is to get at the facts.

Mr. WARREN. I rise to a question of order. I object to the discussion of the merits of Nicaraguan affairs upon a resolution calling upon the President for information. I am prepared to vote for the resolution, but I am not prepared to commit myself generally upon this question, and I apprehend that no other gentleman on this floor is prepared to commit himself until we are properly advised of the facts. It seems to me that the investigation of Walker's conduct in Nicaragua, or of the conduct of the Administration, cannot properly be entered into on a resolution of this character.

Mr. CLINGMAN. I merely desire to add to the remarks I have already made, that I have no doubt the House will get the information called for in my resolution very promptly.

Mr. JONES, of Tennessee, obtained the floor. The SPEAKER. The gentleman from Arkansas rose to a question of order.

Mr. WARREN. If the gentleman from North Carolina has concluded his remarks, I merely desire to move the previous question. We can debate this question more sensibly when we have all the facts before us.

Mr. JONES, of Tennessee. I submit that a

gentleman cannot rise to a question of order and then move the previous question.

Mr. WARREN. Well, sir, I will not insist on it. I merely suggest that, in my opinion, that is the proper course for the House to pursue.

Mr. JONES, of Tennessee. I agree, sir, with the gentleman from North Carolina, [Mr. CLINGMAN,] that it is right we should have all the information in the possession of the President touching the recent capture and return to this country of Mr. William Walker. I also think it would be right and proper for the President, in giving that information, at the same time to inform the House and country—

Mr. WARREN. I now rise to the question of order which I made before, and shall press it upon the gentleman from Tennessee. I hold that debate in relation to the conduct of Walker and the Administration is illegitimate and improper upon the resolution before the House.

Mr. JONES, of Tennessee. I submit to the Speaker that I am not discussing that at all; but am speaking as to the character of the information that is wanted.

The SPEAKER. The Chair is of opinion that it is entirely competent for the gentleman to give his views as to the reasons why the information should or should not be furnished.

Mr. STANTON. I rise to another question of order. I wish to inquire of the Chair whether this matter has been referred to the Committee on Foreign Affairs?

Mr. CLINGMAN. Certainly not.

Mr. STANTON. Then I wish to know upon what authority have they made a report on a question not referred to them? I call for the reading of the 94th rule, which prescribes what shall be the duties of that committee.

Mr. CLINGMAN. I submit that it is too late to raise the question of order. The House has suspended the rules to admit the resolution, and it is now regularly before the House.

The SPEAKER. In the opinion of the Chair the question of order comes too late, inasmuch as the House has suspended the rules and admitted the resolution. If the question had been raised before the rules had been suspended, the Chair is inclined to the opinion that the point of order would have been well taken.

Mr. STANTON. I hardly see how the suspension of the rules can affect it. That is merely a matter of priority of business. It would not make the resolution in order.

The SPEAKER. The House has suspended its rules to admit the resolution, and ordered that it shall be considered immediately.

Mr. STANTON. Very well. All I care for is to have it understood that I do not waive the point whenever it is proper to make it.

Mr. TAYLOR, of New York. I rise to a question of order. I wish to know whether this resolution, which calls for information, can be entertained and considered at this time, except by unanimous consent? The 60th rule provides:

"A proposition requesting information from the President of the United States, or directing it to be furnished by the head of either of the Executive Departments, or by the Postmaster General, or to print an extra number of any document or other matter, excepting messages of the President to both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in it, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House."

I submit, therefore, that the resolution must lie over for one day, unless by the unanimous consent of the House.

The SPEAKER. The House has, by a vote of 117 to 7, suspended its rules, that it might consider the resolution immediately.

Mr. JONES, of Tennessee. In addition to the information called for by the resolution of the gentleman from North Carolina, I think it is right and proper that we should have all the information in the possession of the President, touching the fitting out of an expedition in this country by a foreigner who had expatriated himself, to go to a country the Government of which was at peace with this Government. I desire, therefore, that the resolution shall be so amended that the President of the United States be requested to communicate to this House all the information in his possession, touching and relating to the outfit of an expedition by William Walker in the United States, and its leaving our country to go to Nic-

aragua, in which country he was captured and sent back to the United States.

Mr. FAULKNER. If the gentleman will allow me, I have drawn up an additional resolution, which will meet the suggestion he has made.

Mr. JONES, of Tennessee. I will hear it read, and will merely remark that, under the resolution reported from the Committee on Foreign Affairs, the President may communicate the information desired; but he may not do so, and still comply with the requirements of the resolution.

Mr. FAULKNER's amendment was read, as follows:

Resolved, That the President of the United States be, and he is hereby, requested to communicate to this House (if, in his opinion, not incompatible with the public interest) the facts and information which rendered it probable that William Walker was engaged, during the past summer and fall, in preparing, within the limits of the United States, in violation of an act of Congress of the 29th of April, 1813, the means for a military enterprise against the people and territory of Nicaragua; also, copies of all instructions, orders, and letters, addressed by and to the various officers of the Government in relation thereto; together with such other measures as may have been adopted by the Government to arrest such unlawful enterprise, and to execute in good faith the neutrality laws, embracing the instructions, if any, under the authority of which Captain Paulding demanded and enforced, within the territorial limits of Nicaragua, the surrender of Walker and his command; together with any letters, orders, and instructions, since the surrender of Walker, showing how far, and to what extent, the use of our naval force, for this purpose, by Captain Paulding, has been approved or disapproved by the Government of the United States.

Mr. JONES, of Tennessee. I think that resolution will meet my object, and I therefore offer it as an additional resolution, and demand the previous question.

Mr. JOHN COCHRANE. I ask the gentleman from Tennessee to withdraw the demand for the previous question for a moment.

Mr. JONES, of Tennessee. I will, if the gentleman wishes to make any suggestions.

Mr. CLINGMAN. Do I understand that to be offered as an additional resolution?

Mr. JONES, of Tennessee. Yes.

Mr. CLINGMAN. Then I have no objection to it.

Mr. JOHN COCHRANE. There is one view in which I think that this is of much more importance than would really seem to be intended by the resolution as it is at present couched. There is the position of Walker to be contemplated in connection with the information which is sought to be derived from the Executive. The question of what may have been his *status* at the time he took his departure from this country, in respect to the laws of this country, is quite as important as any other question that arises in the matter—whether his position was that of a citizen of the United States, or a citizen of another Government? I hope, therefore, that when this inquiry is made, it will be made with reference to the whole circle of facts and circumstances which in any degree can be made to bear upon this great and important question.

Whatever may have been the position of Mr. Walker in this Union, regarding any attempt, or conspiracy, or confederation, on his part, in connection with his friends, to violate the neutrality laws, it is very material, in that connection, to ask what was his position at the time he left these shores in regard to the laws of this country? It is important to ascertain, when we are inquiring in reference to the acts of the individual, under what atmosphere, legal or otherwise, he was acting, and by what authority he assumed to act. If his authority was an assumption against the laws of the United States, certainly that fact will, in regard to his own individual acts, clear the position that he occupies in regard to the Government against which he erred himself.

I therefore ask that this resolution may be so modified as to inquire what was his relation in respect to the laws of this country, either by overt acts, by indictment, by warrant, or otherwise.

Mr. SAVAGE. Mr. Speaker, my object is to demand the previous question; and, in justification of my course, I will say that I desire to be heard upon this subject at the proper time; but I do not think this debate ought to occur now; for in justice to ourselves and the interests involved, we ought to know accurately the facts of the case and the position of our Government.

In my opinion, this question connects itself with great and vital interests, as well as the peace

and quiet of the country, and demands the most enlightened and deliberate consideration. The acts of General Walker and his followers can have but little weight in determining the policy necessary for this Government to adopt in regard to Central American affairs. My opinions were, to some extent, expressed upon this subject in 1850, in a speech in this House, in opposition to the Clayton and Bulwer treaty, which I then denounced in the strongest terms I could employ. I consider that treaty "the great first cause" of all the troubles that now threaten us. It was a clear abandonment of our rights and the policy of our past history; and I shall rejoice if the Administration shall announce the doctrine that all changes in regard to the people and territory south of us must be made by the consent and for the benefit of the people of the United States.

Mr. MARSHALL, of Kentucky. I should like it if the gentleman will withdraw his call for the previous question, to let me introduce an amendment.

Mr. SAVAGE. I will hear the amendment before I withdraw the call for the previous question.

Mr. MARSHALL, of Kentucky. My amendment merely enlarges the call, so that we may have all the facts before us.

The amendment was read, as follows:

And further to communicate to this House whether, prior to said arrest, the Government of the United States had undertaken, by treaty or other arrangement with the existing Government of Nicaragua, to protect said Government in the peaceable enjoyment of the transit route through Nicaragua between the Caribbean sea and the Pacific ocean, or otherwise to assume the protectorate over the said route by the arms of the United States if necessary.

Mr. SAVAGE. I believe that the amendment is well intended, but I presume that all the information it asks for will be furnished under the resolution, as it is now before the House. I insist on the call for the previous question.

Mr. MARSHALL, of Kentucky. Not at all. Mine is a different branch of inquiry.

Mr. PHILLIPS. I ask the gentleman to withdraw the call for the previous question. I will renew it.

Mr. SAVAGE. If I withdraw it for one, I must for all. I think that the resolution as it is, sufficiently provides for all the information which may be desired.

Mr. MARSHALL, of Kentucky. If the call for the previous question is not seconded, will not my amendment be then in order?

The SPEAKER. It will.

The call for the previous question was not seconded; only thirty-five members voting therefor.

Mr. MARSHALL, of Kentucky. Mr. Speaker, I submit the amendment which has just been read for the information of the House. I do not propose at this time to discuss the question. I merely want to get the call, so that the President of the United States can communicate, not only the facts in reference to the alleged violation of the neutrality laws by Mr. Walker and his associates, but also the extent to which this Government has assumed a protectorate over the transit route, by any arrangement with the government of Martinez. It may operate to shield the officer of the Navy for a violation of the sovereignty of Nicaragua, in one view of the case; and in another, it will serve to enable the representatives of the American people to move with an understanding of the whole case. I call for the previous question.

Mr. KELSEY. I ask the gentleman to withdraw the call for the previous question, in order that I may submit an amendment.

Mr. MARSHALL, of Kentucky. Let the amendment be read.

The amendment was read, as follows:

And that the President be also requested to inform this House whether the Government of Nicaragua has made any complaint against our Government on account of the act of Captain Paulding in arresting Walker and his followers.

Mr. KELSEY. I hope there will be no objection to the amendment, as it simply enlarges the scope of the call for information.

Mr. MARSHALL, of Kentucky, declined to withdraw the call for the previous question.

The SPEAKER. The amendment of the gentleman from New York would not be in order, inasmuch as there is an amendment to an amendment now pending.

Mr. GREENWOOD. Mr. Speaker, I desire

to ask, will members have an opportunity to vote separately on the several propositions pending?

The SPEAKER. If a division be called for before the call for the previous question is seconded, it is in order, according to the practice of the House.

Mr. GREENWOOD. Then I ask for a division of the question.

Mr. JONES, of Tennessee. If I understand the question, there is a resolution, an amendment, and an amendment to an amendment. Of course the House will have an opportunity to vote for or against each of these propositions separately.

Mr. GREENWOOD. That is all I desire.

The call for the previous question was seconded; there being, on a division—yeas 95, noes 28; and the main question was then ordered.

The first question was upon the amendment to the amendment offered by Mr. MARSHALL, of Kentucky.

Mr. CURTIS. I ask if it is in order to extend that resolution to other Central American States?

The SPEAKER. No amendment is in order, the previous question having been seconded, and the main question ordered to be put.

Mr. CURTIS. Because a treaty with Costa Rica may have been made.

Mr. LETCHER. I call for the yeas and nays, as this relates to a treaty which has not yet been made public.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 155, nays 13; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Boccock, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burnett, Burns, Case, Caskie, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cox, James Craig, Curry, Curtis, Darnell, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Edmundson, Elliott, English, Eustis, Farnsworth, Fenton, Florence, Foley, Foster, Gartrell, Gillis, Gilmer, Goode, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hatell, Hickman, Hoard, Houston, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knap, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Olin, Palmer, Pettit, Peyton, Phillips, Potter, Purviance, Quitman, Ready, Reagan, Reilly, Ritchie, Robbins, Ruffin, Sandidge, Savage, Scales, Scott, John Sherman, Judson W. Sherman, Shorter, Singleton, Robert Smith, William Smith, Spinner, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Miles Taylor, Thayer, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Ward, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Watkins, White, Wilson, Winslow, Woodson, John V. Wright, and Zollieffer—155.

NAYS—Messrs. Bliss, Dewart, Faulkner, Greenwood, Gregg, Keitt, Letcher, Phelps, Stephens, George Taylor, Warren, Whiteley, and Augustus R. Wright—13.

So the amendment to the amendment was agreed to.

The amendment as amended was then agreed to, and the resolution as amended was adopted.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

PAPERS FOR MEMBERS.

Mr. STEPHENS, of Georgia. I ask unanimous consent to offer the following resolution.

Mr. WARREN. I rise to what I believe to be a privileged question. It is in relation to my position touching the vote which has just been taken.

Mr. KEITT. That is no question of privilege.

Mr. WARREN. I think it is.

Mr. KELSEY. I object.

Mr. WARREN. I wished to say that while I was in favor of the original resolution of the gentleman from North Carolina, I am opposed to the amendment of the gentleman from Kentucky, because it calls on the President for the exposition of a treaty not yet confirmed and made public.

The resolution offered by Mr. STEPHENS, of Georgia, was read, as follows:

Resolved, That the Clerk of this House furnish the members the same number of daily newspapers furnished the last Congress, and on the same terms.

Mr. JONES, of Tennessee. Was there not a resolution like that adopted some days since?

The SPEAKER. No; this is the first of the kind offered this session.

The resolution was agreed to.

ARREST OF WILLIAM WALKER—AGAIN.

Mr. KELSEY. I ask the unanimous consent of the House to introduce the following resolution:

Resolved, That the President of the United States be requested to inform this House, if not incompatible with the public interest, whether the Government of Nicaragua has made any complaint against our Government on account of the act of Captain Paulding in arresting William Walker and his followers within the territory of Nicaragua.

Mr. LETCHER. I object.

Mr. KELSEY. Then I move to suspend the rules.

The rules were suspended.

Mr. KELSEY demanded the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the resolution was adopted.

Mr. KELSEY moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

BILLS AND RESOLUTIONS.

Mr. BARKSDALE. I ask the unanimous consent of the House to introduce a bill, merely for the purpose of reference.

Mr. WASHBURN, of Illinois. I ask the gentleman to give way to me, to make a motion that the States be called for bills and resolutions to which there shall be no objection.

Mr. BARKSDALE. I yield for that purpose.

Mr. WASHBURN, of Illinois. I then move that the States be called through, and that gentlemen having bills which they wish to report, merely for the purpose of reference to the different committees of the House, may have the privilege of doing so.

Mr. JONES, of Tennessee. Does that cover resolutions?

Mr. WASHBURN, of Illinois. It includes resolutions to which there is no objection.

Mr. JONES, of Tennessee. Let there be inserted a condition that objections are not to be cut off by the previous question. If resolutions are to be put through under the previous question, I will object.

Mr. LETCHER. How far did we progress when the States were called under the former call? I am for beginning at the point where we stopped then.

The SPEAKER. The call had gone as far as the State of New York.

Mr. LETCHER. Well, then, if the call be commenced there, I have no objection.

Mr. WASHBURN, of Illinois. I modify my proposition, so as to provide that the call shall commence where the call last left off.

The resolution was adopted.

The SPEAKER commenced the call of the States, beginning with New York.

HARLEM RIVER.

Mr. HASKIN presented the joint resolutions of the Legislature of the State of New York in favor of the passage of a bill by Congress to remove obstructions in the Harlem river; which were referred to the Committee on Commerce, and ordered to be printed.

WESTERN LAKES AND RIVERS.

Mr. HATCH offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate as early as possible to the House of Representatives, a statement of the present condition of the works of improvement upon the northern and northwestern lakes and western rivers, with such information as he can procure of their commerce.

OSWEGO HARBOR.

Mr. GOODWIN introduced a bill to continue the improvement of the harbor of Oswego, New York; which was read a first and second time, and referred to the Committee on Commerce.

MILEAGE OF MEMBERS.

Mr. KELSEY introduced a bill to reduce and equalize the mileage of members of Congress; which was read a first and second time, and referred to the Committee on Mileage.

DUNKIRK HARBOR.

Mr. FENTON introduced a bill for continuing the improvement of the harbor at Dunkirk, New York, on Lake Erie; which was read a first and second time, and referred to the Committee on Commerce.

Mr. FENTON. I desire to offer a resolution.
Mr. SAVAGE. I rise to a question of order. Under the resolution adopted by the House, the gentleman from New York cannot legitimately offer more than one bill or resolution.

The SPEAKER. Then the gentleman objects to the introduction of the resolution.

Mr. GROW. I thought the understanding was that any resolution might be introduced to which there was no objection.

The SPEAKER. The gentleman from Tennessee objects to the resolution.

WITHDRAWAL OF PAPERS.

Mr. MORGAN. I offer the following resolution:

Resolved, That Lewis Benedict have permission to withdraw his papers from the files of the Clerk's office, for the purpose of filing them in the Indian office.

Mr. SMITH, of Virginia. Is it not customary to leave copies of the papers withdrawn?

The SPEAKER. Not when they are withdrawn for the purpose of reference to the Departments; but only when they are finally withdrawn from the files of the House.

The resolution was agreed to.

COLLECTION DISTRICTS, ETC.

Mr. JOHN COCHRANE introduced a bill establishing the collection districts of the United States, and designating the ports of entry and ports of delivery in the same, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

ISSUE OF A REGISTER.

Mr. HATCH introduced a bill to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called the James McIndoe, now owned by Thomas Coatsworth, James G. Coatsworth, and William Coatsworth, of Buffalo, New York; which was read a first and second time, and referred to the Committee on Commerce.

UTAH AFFAIRS.

Mr. BENNETT. I offer the following resolution:

Resolved, That the President of the United States be respectfully requested, if not incompatible with the public interests, to communicate to this House all the information he may possess of the existing state of things in the Territory of Utah, and whether or not the people of said Territory are in a state of insurrection or rebellion; also, a statement of the number of United States troops ordered to said Territory, with a copy of the orders and instructions given to the officer in command; also, the position and condition of said troops at the latest intelligence; with all such other information relating to the condition of said Territory, and of the military force ordered to the same, as he may deem proper to communicate.

Mr. PHELPS. I would suggest to the gentleman from New York that he modify his resolution so as not to call for the instructions given to the officer commanding the troops sent against the people of Utah.

Mr. SAVAGE. I understand that the resolution under which we are now acting provides that resolutions are to be introduced for reference only.

The SPEAKER. That is the understanding of the Chair. Is the resolution objected to?

Mr. PHELPS. I object to the resolution in its present shape; but, at the same time, I suggest to the gentleman from New York that he modify it by omitting the call for the instructions given to the commanding officer of the Utah expedition. He will thus obviate the objection that I have to it. I desire to have the resolution passed, except so far as to the instructions given to the officer in command.

The SPEAKER. The Chair is of opinion that when a resolution gives rise to debate, that constitutes an objection. Does the gentleman from Missouri object to the resolution?

Mr. PHELPS. I do, sir.

Mr. KEITT. On the ground, I presume, that the House has already decided that the Territory of Utah is in a state of rebellion.

Mr. PHELPS. No, sir. I do not object to that portion of the resolution; but I do object to the portion calling for the instructions given to the commanding officer.

Mr. KEITT. The House has already determined that the Territory of Utah is in a state of rebellion, and now it is proposed to inquire whether it is so or not!

The SPEAKER. Debate is not in order.

Objection being made, the resolution was not received.

BREAKWATER IN DELAWARE BAY.

Mr. CLAWSON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of constructing a breakwater at or near Crow shoal, in the Delaware bay, and that they report by bill or otherwise.

EQUALIZATION OF PENSIONS.

Mr. FLORENCE introduced a bill to equalize the Army, Navy, and marine pensions; which was read a first and second time, and referred to the Committee on Invalid Pensions.

TITLE OF CAPTAIN-IN-CHIEF.

Mr. PHILLIPS. I desire to introduce a joint resolution authorizing the President of the United States to confer the title of captain-in-chief for eminent services.

Mr. KEITT. I object to that.

Mr. SAVAGE. If the resolution is to be referred to a committee, I will not object to its introduction.

Mr. KEITT. I object to it anyhow.

HOMESTEAD BILL.

Mr. GROW introduced a bill to secure homesteads to actual settlers on the public domain; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. GROW. I have another bill which I desire to introduce.

Mr. LETCHER. I object; the gentleman has had his share.

Mr. GROW. I desire to introduce the bill for reference only.

The SPEAKER. The gentleman has introduced one bill.

Mr. GROW. Was there, in the resolution, any limit to the number of bills a member might introduce?

The SPEAKER. There was an implied limit; at least, that is the understanding of the Chair.

Mr. BILLINGHURST. I did not so understand the resolution. I understood that it provided that the States should be called for bills and resolutions for reference only.

The SPEAKER. Bills and resolutions to which there should be no objection.

Mr. GROW. I understand the rule to be, that when the States are regularly called, members are limited to the introduction of one resolution, but are not limited to the introduction of one bill. The resolution of the gentleman from Illinois [Mr. WASHBURN] limits members to no specific number of bills. How, then, does the Chair imply the understanding of which he speaks? The rule of the House points us to one resolution, but not to one bill?

The SPEAKER. The rule of the House is explicit in reference to resolutions.

Mr. GROW. Certainly; but not as to bills.

The SPEAKER. The practice under it has been to allow members to introduce but one bill each.

Mr. GROW. If the Chair will hear me for a moment, I think he will see that he is mistaken. When notices of intention to introduce bills have been given, members have been allowed to introduce such bills when the States are called for resolutions.

The SPEAKER. But only one. That has been the uniform practice of the House. If the gentleman from Pennsylvania can indicate one exception to the practice, the Chair will be glad to have the ruling corrected.

Mr. GROW. I understand differently; but I will not insist upon the question of order. I have a resolution which I desire to offer.

INFORMATION ABOUT KANSAS.

The resolution was read, as follows:

Resolved, That the President be requested to communicate to the House copies of all instructions by himself or any head of Department to the Governor or other executive officer in the Territory of Kansas, and all correspondence with the same, together with a copy of the executive minutes of said Territory, not already communicated to Congress. Also, a copy of the constitution formed at Le-compton, together with a copy of the census and return of the votes in the election of delegates to said convention, and the returns of the election held in said Territory on the 21st of December last, with the number of votes then polled in each election precinct in said Territory, and copies of any other official papers in possession of the Secretary of State relative to Kansas affairs, not already communicated to Congress.

Mr. SAVAGE. I object.

Mr. FLORENCE. I ask leave to introduce a bill.

Mr. SAVAGE. I object. The gentleman has already introduced one.

Mr. FLORENCE. I hope the gentleman will withdraw his objection. I have the authority of my friend from Tennessee, [Mr. JONES,] and of other members around me, that it has been the custom under the call of the States for resolutions to introduce more than one bill for each member.

Mr. SAVAGE. I do not withdraw my objection till after each member has had an opportunity of getting in one bill.

DELAWARE RIVER.

Mr. MORRIS, of Pennsylvania, in pursuance of previous notice, introduced a bill making appropriations for the continuance of the harbor improvements in the river Delaware; which was read a first and second time, and referred to the Committee on Commerce.

BRANCH MINT AT NEW YORK.

Mr. LETCHER. I desire to offer a bill to establish a branch of the Mint of the United States at the city of New York, and have it referred to the Committee of Ways and Means.

Mr. FLORENCE. I object.

TOBACCO MANUFACTURE.

Mr. BOCOCK offered the following resolution:

Resolved, That the proceedings of the late convention of tobacco manufacturers, held at the city of Richmond on the 3d day of December, 1857, together with all memorials of tobacco manufacturers, and others, touching the subjects considered by said convention, be referred to a select committee of five members.

Mr. MORGAN. If the gentleman will refer the subject to the Committee on Agriculture, I will make no objection. That is the proper place for it, and it is probably the only business that committee will have before them the present session.

Mr. BOCOCK. If the gentleman insists on his objection, I will give the subject the reference he desires. My reasons for referring the matter to a special committee are, that the subject is one in which the interests of the constituents of only a few of us are concerned. I wished, therefore, to have it referred to a committee which will take the trouble to consider the subject and report on it.

Mr. MORGAN. I have no doubt the Committee on Agriculture will give the subject all the attention the gentleman desires.

Mr. BOCOCK. Very well; if the gentleman insists on his objection, I will modify the resolution so as to refer the subject to the Committee on Agriculture.

The resolution, as modified, was adopted.

OMISSION IN ENROLLMENT.

Mr. FAULKNER. I desire to introduce a bill to supply an omission in the enrollment of a certain act therein named.

Mr. BENNETT. I object.

WASHINGTON ELECTIONS.

Mr. GOODE, in pursuance of previous notice, introduced a bill regulating the municipal elections in the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. JONES, of Tennessee. I hope that committee will also take into consideration the regulation of the elections in the city of Georgetown.

JOHN V. DOBBIN.

Mr. WINSLOW, in pursuance of previous notice, introduced a bill for the relief of John V. Dobbin, late a purser in the Navy of the United States; which was read a first and second time, and referred to the Committee on Naval Affairs.

NORTH CAROLINA CIRCUIT COURT.

Mr. WINSLOW also, in pursuance of previous notice, introduced a bill to alter the place of holding the fall term of the circuit court for the district of North Carolina; which was read a first and second time, and referred to the Committee on the Judiciary.

NORTH CAROLINA CHEROKEES.

Mr. CLINGMAN introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Indian Affairs inquire into the expediency of amending the fourth and fifth sec-

tions of the act entitled "An act making appropriations for the current and contingent expenses of the Indian department," &c., approved 29th July, 1848, so as to regulate the payment of the interest due the North Carolina Cherokees on funds held in trust for them by the United States, under said act, so as to estimate the interest on what remains due in each year, on the 29th of July, agreeably to a census roll of said Indians; and in case of the death of any of the Indians, to estimate the interest to the time of payment, which, with the principal of \$58 33, to be paid over to the legal representatives of said Indians remaining in the State of North Carolina at the time of payment; and in case of there being no heirs-at-law to receive it, then to pay over the same to the survivors of that portion of the tribe and their legal representatives, in accordance with the laws of the State.

Mr. LETCHER. I desire to inquire whether that is an instruction to the committee to so report, or a mere matter of inquiry?

Mr. CLINGMAN. A mere matter of inquiry. The resolution was adopted.

PUBLIC LANDS.

Mr. GILMER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to this House a statement of the annual amounts of the public lands that have been sold or disposed of by the United States, and of the annual amounts that have been granted to the States and corporations and companies, and to individuals respectively, with the dates of the grants and appropriations, and for what purposes granted; also, the amounts paid to the several States respectively as a percentage on the sums received by the United States upon the sales of the public lands; and that he report also the amount of public lands yet remaining to the United States.

TEXAS MOUNTED VOLUNTEERS.

Mr. KEITT. I introduce a bill, prepared by my friend from Texas, [Mr. BRYAN,] who is of the opinion that the exigency of the moment demands its passage at an early day. It is entitled "A bill to raise and organize for the defense of the frontier of Texas one regiment of mounted volunteers."

The bill was read a first and second time by its title, and referred to the Committee on Military Affairs.

DISTRICT COURTS IN SOUTH CAROLINA.

Mr. MILES introduced a bill to alter the time of holding the United States district courts in South Carolina; which was read a first and second time, and referred to the Committee on the Judiciary.

REVENUE LAWS, ETC.

Mr. BOYCE submitted the following resolution:

Resolved, That a committee of seven be appointed, to which shall be referred to inquire into and report on the following subjects, viz:

- A reduction of the expenditures of the Government;
- The navigation laws of the United States;
- The existing duties on imports; and
- The expediency of a gradual repeal of all duties on imports, and a resort exclusively to internal taxation.

Mr. SAVAGE. I think that this will give rise to debate, and I therefore object.

Mr. BOYCE. I do not think that it will give rise to debate.

Mr. SAVAGE. I withdraw my objection.

Mr. PHILLIPS. I renew the objection.

GEORGIA VOLUNTEERS.

Mr. GARTRELL introduced a bill to grant bounty land to the officers and soldiers of Captains Joseph H. Burk's and Wm. D. Alexander's companies of Meriwether county (Georgia) volunteers; which was read a first and second time, and referred to the Committee on Public Lands.

COURT-HOUSE, ETC., IN ALABAMA.

Mr. DOWDELL introduced a bill authorizing the construction of a building at Montgomery, State of Alabama, for a court-house and post office; which was read a first and second time, and referred to the Committee on the Judiciary.

GRADUATION ACT.

Mr. HOUSTON offered the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so modifying the act approved August 4, 1854, "to graduate and reduce the price of the public lands to actual settlers and cultivators," that any citizen of the United States, for his or her own use, may enter three hundred and twenty acres of the public lands at the prices therein specified.

Mr. SMITH, of Virginia, objected.

FISHERY BOUNTIES.

Mr. CURRY asked leave to introduce a bill

repealing all laws or parts of laws allowing bounties to vessels employed in the bank or other cod fisheries.

Mr. DAVIS, of Massachusetts, objected.

CREEK INDIAN DEPREDACTIONS.

Mr. SHORTER introduced a bill to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

PUBLIC LANDS.

Mr. COBB asked leave to introduce a bill to grant to the State of Alabama, and other States having public lands therein, the unsold and unappropriated public lands that have been in market for thirty years and upwards, for purposes of education and internal improvements.

Mr. LETCHER objected.

TERRITORIAL ACT OF UTAH.

Mr. COBB submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into and report to this House, by bill or otherwise, if in their opinion it would not be expedient to repeal the territorial act of Utah, and attach said Territory to other Territories or States adjoining thereto.

Mr. COBB. I ask leave to offer another resolution.

Mr. SAVAGE. I object.

Mr. COBB. I rise to a question of order. I hold that I have the right to introduce more than one resolution. If the Chair decide against me, I will quote precedents.

Mr. SAVAGE. The Speaker has already decided the point.

Mr. COBB. The same point was raised on me while Mr. Boyd was Speaker. Mr. Boyd first sustained the point of order, but subsequently he sustained me in the ground I took. Old members here are well satisfied that I have a right to introduce more than one resolution.

Mr. SAVAGE. I hold that the gentleman has no right to introduce more than one resolution under the understanding of members when the order was made under which we are now acting.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Alabama, and decides that he has no right to offer the resolution when objected to. He refers him to the 25th rule.

Mr. COBB. If the gentleman objects, I know I have no right to submit it.

Mr. SAVAGE. I object to the gentleman introducing more than one.

NEW ORLEANS RAILROAD.

Mr. BARKSDALE introduced a bill making a grant of land to the States of Louisiana and Mississippi, to aid in the construction of the New Orleans, Jackson, and Great Northern railroad; which was read a first and second time, and referred to the Committee on Public Lands.

AMENDMENT OF THE NEUTRALITY LAW.

Mr. QUITMAN asked unanimous consent to introduce a bill to repeal certain sections of the act passed April 20, 1818, commonly called the neutrality law, and to modify other sections thereof.

Mr. GROW. I object.

The SPEAKER. The Chair thinks the objection hardly in time, as the Clerk had commenced the second reading of the bill.

Mr. GROW. I did not understand what the bill was until after it was read the first time.

Objection being made, the bill was not introduced.

CUSTOM-HOUSE, ETC., AT VICKSBURG.

Mr. SINGLETON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of erecting a custom-house, with suitable post office buildings connected therewith, at the city of Vicksburg, in the State of Mississippi.

MAIL ROUTE IN MISSISSIPPI.

Mr. BARKSDALE introduced a bill to establish a mail route from Granada to Macon, in the State of Mississippi; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. BARKSDALE. I have another bill, of a similar character, which I wish to introduce.

Mr. SAVAGE objected.

PUBLIC LANDS IN LOUISIANA.

Mr. DAVIDSON introduced a bill to amend an act entitled "An act to fix the graduation periods for lands in the Greensburg district, in the State of Louisiana," approved August 18, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

BAYOU LAFOURCHE.

Mr. TAYLOR, of Louisiana, introduced a bill to remove obstructions in the bayou Lafourche, Louisiana; which was read a first and second time, and referred to the Committee on Commerce.

PIERRE BROUSSARD.

Mr. TAYLOR, of Louisiana. I ask unanimous consent to introduce a bill for the relief of the legal representatives of Pierre Broussard, deceased.

Mr. SAVAGE objected.

JOHN W. CHEVIS.

Mr. SANDIDGE introduced a bill for the relief of John W. Chevis, of Louisiana; which was referred to the Committee on Private Land Claims.

LIABILITY OF SHIP-OWNERS.

Mr. WADE introduced a bill to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR OF BLACK RIVER, OHIO.

Mr. BLISS introduced a bill for completing the repairs upon the harbor of Black river, upon Lake Erie, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

JOSEPH QUIGLEY'S MILITIA COMPANY.

Mr. SHERMAN, of Ohio, introduced a bill granting to the officers, musicians, and privates of Captain Joseph Quigley's company of Ohio militia, in the war of 1812, each one hundred and sixty acres of land; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. SHERMAN, of Ohio. I ask leave to introduce a river improvement bill, merely for the purpose of reference.

Mr. SAVAGE objected.

MAUMEE BAY.

Mr. MOTT introduced a bill making an appropriation for the improvement of the navigation of the Maumee bay, upon Lake Erie; which was read a first and second time, and referred to the Committee on Commerce.

W. KINGSBURY.

Mr. LEITER introduced a bill for the relief of W. Kingsbury, of Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. LEITER. I ask leave to introduce another bill.

Mr. SAVAGE objected.

DEFENDANTS' COSTS IN U. S. COURTS.

Mr. STANTON introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the standing Committee on the Judiciary be instructed to inquire into the expediency of so amending the law regulating criminal prosecutions in the courts of the United States that defendants shall be entitled to recover their costs in cases where the Government fails in the prosecution, and the defendants are acquitted.

PORTS OF ENTRY AND DELIVERY, ETC.

Mr. HARLAN offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish this House with a statement of the number of ports of entry and ports of delivery now established by law, which in his opinion are not required for the collection of the revenue, and the points and places where the same are located, and the cost and value of the buildings belonging to each, and the entire annual cost and expense of maintaining each of them. And further, what number of revenue cutters are now equipped and maintained by the Government which are not needed for the enforcement of the revenue laws, and at what points they are located or employed, and the annual cost and expense of maintaining each of them.

POST OFFICE AT COLUMBUS, OHIO.

Mr. COX submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post

Roads be instructed to inquire into the expediency of constructing a post office at the city of Columbus, Ohio.

CLERK TO A COMMITTEE.

Mr. JEWETT. I offer the following resolution:

Resolved, That the Committee on Invalid Pensions employ a competent clerk for the use of said committee, at the rate of four dollars a day.

Mr. SMITH, of Virginia. I object to the resolution.

RICHARD B. ALEXANDER.

Mr. BURNETT introduced a bill for the relief of Richard B. Alexander, late a major in the first Tennessee regiment, Mexican war; which was read a first and second time, and referred to the Committee on Military Affairs.

PENSION BILL.

Mr. MAYNARD introduced a bill granting pensions to the surviving officers, soldiers, and marines engaged in the military and naval service of the United States, prior to the 1st day of July, 1818, and to the widows of such as are deceased; which was read a first and second time.

Mr. SMITH, of Virginia. I object to that bill.

Mr. MAYNARD. Is the objection in time? The SPEAKER. The Chair thinks not. The gentleman did not make the objection until the bill had been twice read. The objection, therefore, comes too late.

Mr. SMITH, of Virginia. I could not understand the nature of the bill until its title had been twice read, and therefore could not make the objection sooner.

Mr. MAYNARD. I move that the bill be referred to the Committee on Invalid Pensions.

The motion was agreed to.

SOLDIERS OF THE WAR OF 1812.

Mr. SAVAGE. I desire to introduce a bill granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in Indian wars during that period.

Mr. FENTON. I object.

NEW POST ROUTE.

Mr. READY introduced a bill to establish a post route from Franklin, in Wilkinson county, Tennessee, to Charlotte, in Dickson county, Tennessee; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

BRANCH MILITARY ACADEMY.

Mr. ZOLLICOFFER introduced a bill for the establishment of a branch military academy at the Hermitage; which was read a first and second time, and referred to the Committee on Military Affairs.

SAMUEL WINN.

Mr. ATKINS introduced a bill for the relief of Samuel Winn, only surviving child of General Richard Winn, a revolutionary officer; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MARY A. M. JONES.

Mr. WRIGHT, of Tennessee, introduced a bill granting a pension to Mary A. M. Jones; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JESSE W. PAIGE, JR.

Mr. AVERY introduced a bill for the relief of Jesse W. Paige, jr., of the State of Tennessee; which was read a first and second time, and referred to the Committee on the Judiciary.

PAY OF CLERKS OF UNITED STATES COURTS.

Mr. MAYNARD. I offer the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency and propriety of increasing the compensation now allowed to the clerks of the circuit and district courts, and to report by bill or otherwise.

Mr. SAVAGE. I object, for the reason that the gentleman has already offered one bill.

Mr. MAYNARD. Is that objection tenable? This is the first resolution I have submitted. I offered a bill when I was last up.

The SPEAKER. The resolution is objected to; and, under the order of the House, it cannot be entertained. The order of the House is that only such resolutions as are not objected to shall be received.

Mr. MAYNARD. I move to suspend the rules. The SPEAKER. The Chair cannot entertain the motion at this time.

LAKE MICHIGAN IMPROVEMENTS.

Mr. COLFAX. I desire to introduce a bill making an appropriation for continuing the improvement of the harbor of refuge at Michigan City, on Lake Michigan, and for the construction of a breakwater thereat.

Mr. SMITH, of Virginia. I object.

BENJAMIN SAYRE.

Mr. PETTIT introduced a bill, in pursuance of previous notice, for the relief of Benjamin Sayre; which was read a first and second time, and referred to the Committee of Claims.

SALE OF FORT SNELLING.

Mr. SMITH, of Illinois. I send up to the Clerk's desk, and ask the House to adopt, the following resolution:

Resolved, That a committee of five members be appointed by the Speaker, to investigate all the facts and circumstances connected with the sale of the military reservation at Fort Snelling, the manner in which said sale was made, to whom made, the consideration paid, the terms of payment, whether the price paid or agreed to be paid was adequate or not, and whether the said reserve, at the time of said sale, was longer wanted for the public service; and that said committee have power to send for persons and papers, and to administer oaths to witnesses.

Mr. PHELPS. I object.

Mr. SMITH, of Illinois. I give notice, then, that I will, as soon as the call of the States for resolutions is completed, move to suspend the rules to enable me to offer the resolution.

Mr. PHELPS. If the gentleman will move to refer the matter to one of the standing committees I will not object.

Mr. LETCHER. I hope the investigation will be made, and that it will be made by one of the standing committees of the House.

Mr. WASHBURN, of Illinois. I hope the gentleman from Missouri will not object.

Mr. PHELPS. I do not object to the investigation. I object to the raising of a select committee.

Mr. FAULKNER. We hope there will be no objection. We demand the investigation, if it is asked for by any man in this House. I hope it will be made in the manner in which the gentleman asks it.

Mr. PHELPS. I withdraw my objection.

Mr. SMITH, of Illinois. I simply wish to say that I do not wish to be a member of that committee, and decline most emphatically being its chairman.

Mr. PHILLIPS. I would suggest to the gentleman from Illinois that he should amend his resolution so as to give the committee the power to report at any time.

Mr. WASHBURN, of Illinois. That is implied.

Mr. FLORENCE. I hope my colleague [Mr. PHILLIPS] will withdraw that suggestion. I do not like to have any lion in the path of business here. We might as well have the Committee on Public Lands making their reports all the time.

Mr. SMITH, of Illinois. I accept the amendment.

The resolution as modified was then adopted.

STEAMBOAT PASSENGER BILL.

Mr. WASHBURN, of Illinois, in pursuance of previous notice, introduced a bill to amend an act entitled "An act for the better security of the lives of passengers on board vessels propelled in whole or in part by steam, and for other purposes;" which was read a first and second time, and referred to the Committee on Commerce.

QUINCY CUSTOM-HOUSE AND POST OFFICE.

Mr. MORRIS, of Illinois, in pursuance of previous notice, introduced a bill to provide for the erection of a building in the city of Quincy, in the State of Illinois, for a custom-house and post office; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois. I think that bill should go to the Committee on Commerce. I make that motion.

Mr. LETCHER. Is there a port of entry or delivery there?

Mr. MORRIS, of Illinois. I hope my colleague will not insist on his motion.

Mr. WASHBURN, of Illinois. Very well, I will withdraw it.

LEONARD LOOMIS.

Mr. HARRIS, of Illinois, in pursuance of previous notice, introduced a bill to amend an act entitled "An act for the relief of Leonard Loomis," approved June 28, 1838; which was read a first and second time, and referred to the Committee on Invalid Pensions.

DEPOSITS IN THE TREASURIES.

Mr. KELLOGG. I desire to introduce a bill to authorize the deposit of gold and silver coin, bullion, and gold dust, in the Treasuries therein named, and the issuance of certificates therefor, convenient for use and circulation.

Mr. LETCHER. I object.

Mr. KELLOGG. I hope the gentleman will withdraw his objection, when I say to him that there is nothing in that bill which points towards a bank, of any character whatever. It merely provides for authority to make deposits and have certificates issued therefor which may go into circulation. I hope the gentleman will withdraw his objection, and allow the bill to go to the committee.

Mr. BURNETT. I rise to a question of order. Debate is not in order.

Mr. LETCHER. I should like to reply to the gentleman, but I shall be called to order if I do so. The SPEAKER. Debate is not in order.

UNITED STATES COURTS AT PEORIA.

Mr. KELLOGG introduced a bill to authorize the holding of terms of the circuit and district courts of the United States at the city of Peoria; which was read a first and second time, and referred to the Committee on the Judiciary.

REBELLION IN UTAH.

Mr. CLARK, of Missouri, asked leave to introduce a bill to suppress rebellion in the Territory of Utah.

Mr. KEITT objected.

PROPERTY LOST IN THE PUBLIC SERVICE.

Mr. PHELPS introduced a bill to amend the act entitled "An act to provide for the payment for horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849; which was read a first and second time, and referred to the Committee on Military Affairs.

POST ROUTES IN MISSOURI.

Mr. PHELPS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be, and are hereby, instructed to inquire into the expediency of establishing a post road from Greenfield and Lamar, in the State of Missouri, to Fort Scott, in Kansas Territory. Also, a post road from Vienna to Tusculumbia, in the State of Missouri.

OVERLAND MAIL TO CALIFORNIA.

Mr. BLAIR. I ask leave to introduce a bill to authorize the contractors for carrying the overland mail from the Mississippi river to San Francisco, under the act of Congress approved the 3d of March, 1857, to adopt any route they may select to carry the same upon; and that it be referred to the Committee of the Whole on the state of the Union.

Mr. BOCKOCK. I move that it be referred to the Committee on the Post Office and Post Roads.

Mr. BLAIR. The only objection I have to that motion is that it will delay action on the bill.

The SPEAKER. The question under the rules will be, first on the motion to refer to the Committee of the Whole on the state of the Union.

Mr. BLAIR. I accept the gentleman's motion as a modification of my own.

The bill was read a first and second time by its title, and referred to the Committee on the Post Office and Post Roads.

REBELLION IN UTAH.

Mr. CLARK, of Missouri. I understand that the gentleman who objected to the introduction of my bill, is willing to withdraw his objection, and let it be referred.

Mr. KEITT. I withdraw my objection for that purpose.

Mr. STANTON. The title of the bill is to suppress rebellion in Utah. That subject has already been properly referred to the Committee on Military Affairs, and they can originate whatever measure they please. I renew the objection.

COURT OF CLAIMS.

Mr. GREENWOOD. I ask leave to introduce a bill to repeal an act entitled, "An act to establish a court for the investigation of claims against the United States," approved February 4, 1855.

Mr. CHAFFEE objected, but subsequently withdrew his objection.

The bill was read a first and second time by its title.

Mr. GREENWOOD. I presume, sir, that the Committee of Claims is the proper committee to which this bill should be referred, as it is to that committee is referred the action of the court upon claims presented and tried before it.

Mr. SMITH, of Virginia. I dislike to make objection; but I move to refer it to the Committee on the Judiciary.

The bill was referred to the Committee on the Judiciary.

GRADUATION ACT.

Mr. WARREN asked leave to submit the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of reporting a bill making the graduation act apply to the lands belonging to the Government, within the six miles on either side of grants of public lands, to aid in the construction of railroads.

Mr. LETCHER objected.

ST. MARY'S FALLS SHIP CANAL.

Mr. LEACH introduced a bill making appropriation for the improvement of St. Mary's Falls ship canal in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

GRAND RIVER, MICHIGAN.

Mr. WALBRIDGE introduced a bill making appropriation for the construction of a harbor at the mouth of Grand river, in the State of Michigan; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. WALBRIDGE. I ask leave to introduce another bill.

Mr. LETCHER. I object.

HARBOR OF MONROE, MICHIGAN.

Mr. WALDRON asked leave to introduce a bill making appropriation for the harbor at Monroe, Michigan.

Mr. SMITH, of Virginia, objected.

DES MOINES LAND GRANT.

Mr. CURTIS asked leave to introduce a bill to amend an act granting land to the Territory of Iowa, to aid in the improvement of the Des Moines river, in said Territory.

Mr. BURNETT objected.

BOUNDARIES OF IOWA.

Mr. CURTIS asked leave to introduce a bill to extend the western boundary of the State of Iowa, to the Missouri river.

Mr. GROW objected.

Mr. CURTIS. I hope the gentleman will withdraw the objection. It is entirely a local matter.

Mr. GROW. I adhere to my objection. We have already had that subject before the Committee on Territories.

CONFIRMATION OF LAND ENTRIES.

Mr. CURTIS introduced a joint resolution to ratify and confirm certain land entries; which was read a first and second time, and referred to the Committee on Public Lands.

Mr. CURTIS. I have another resolution to offer.

Mr. LETCHER. I rise to a point of order. The gentleman tried twice to introduce bills, and failed to get them in. Now, having finally got in a resolution, I think he has had his share, and I object to the gentleman introducing any other bill or resolution.

BRIDGE AT ROCK ISLAND.

Mr. WASHBURN, of Wisconsin, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire if the railroad bridge across the Mississippi river, at Rock Island, Illinois, is a serious obstruction to the navigation of said river; and if so, to report to this House what action, if any, is necessary on the part of the Government to cause such obstruction to be removed.

HARBOR OF RACINE, ETC.

Mr. POTTER asked consent to introduce a bill for continuing the improvement of the harbors of Racine, Kenosha, and Milwaukee, on Lake Michigan, in the State of Wisconsin.

Mr. BARKSDALE objected.

The SPEAKER. The Chair thinks the objection came too late.

Mr. BARKSDALE. I objected before the bill had been read a second time.

The SPEAKER. The Chair thinks the objection did come too late, and rules accordingly.

The bill was read a first and second time, and referred to the Committee on Commerce.

HARBOR OF SHEBOYGAN, ETC.

Mr. BILLINGHURST asked consent to introduce a bill making an appropriation for improving the harbors of Ozaukee, Sheboygan, and Manitowoc, in the State of Wisconsin.

Mr. BARKSDALE objected.

REPORT OF COLONEL J. D. GRAHAM.

Mr. BILLINGHURST introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, requested to report to this House the last annual report of Lieutenant Colonel J. D. Graham on the harbors of Lake Michigan.

FEES, ETC., IN COURTS IN CALIFORNIA.

Mr. SCOTT introduced a bill to regulate the fees and costs to be allowed marshals, district attorneys, clerks of courts, jurors, and witnesses, in the State of California, and the Territories of Oregon and Washington; which was read a first and second time, and referred to the Committee on the Judiciary.

ASAHEL BUSH.

Mr. LANE introduced a joint resolution authorizing the settlement of the accounts of Asahel Bush, public printer of the Territory of Oregon; which was read a first and second time, and referred to the Committee on Territories.

Mr. LETCHER. I wish to inquire of the gentleman from Oregon if that resolution involves a question in regard to any law under which this account accrued?

Mr. LANE. The territorial printer of Oregon, by direction of the Legislature, executed certain printing, for which he has not been paid. An appropriation for that purpose, which has long since been made, has not been expended, and the object of the joint resolution is to provide that out of the money appropriated for that purpose, this man may be paid for the services rendered. We ask for no money.

Mr. LETCHER. If the money has been appropriated for this particular purpose, and this man did the work, I cannot see why he cannot get the money.

The SPEAKER. The bill has been referred.

MILITARY ROAD IN OREGON.

Mr. LANE introduced a bill making an appropriation for the completion of the military road from Astoria to Salem, in Oregon Territory; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. LANE. I have another bill I desire to introduce.

Mr. SHERMAN, of Ohio. I must object, unless there is a general relaxation of the rule. I design, when the Territories have been called, to introduce a resolution that all the States and Territories be called again.

Mr. HOUSTON. Let the Delegates get in their bills.

Mr. SHERMAN, of Ohio. No, sir; I must insist on my objection; but the difficulty will be obviated in a few moments, I trust, by the adoption of the resolution which I design to offer.

PRIVATE LAND CLAIMS IN NEW MEXICO.

Mr. OTERO. I ask leave to introduce a bill to ascertain and settle private land claims in the Territory of New Mexico.

Mr. MARSHALL, of Kentucky. I object.

SURVEYOR GENERAL OF NEW MEXICO, ETC.

Mr. OTERO. I ask leave, then, to introduce a bill supplemental to an act approved July 22, 1854, entitled "An act to establish the office of surveyor general of New Mexico, Kansas, and

Nebraska, to grant donations to actual settlers therein, and for other purposes."

Mr. SHERMAN, of Ohio. I must object, for the same reason that I objected to the bill of the gentleman from Oregon.

The SPEAKER. The gentleman from New Mexico has not yet introduced one bill.

Mr. SHERMAN, of Ohio. Then I withdraw the objection; let him get in one bill.

The bill was then read a first and second time, and referred to the Committee on Public Lands.

Mr. OTERO. I have other bills which I desire to offer.

Mr. SHERMAN, of Ohio. I object.

ROADS IN WASHINGTON TERRITORY.

Mr. STEVENS, of Washington, introduced a bill for the completion of military roads in the Territory of Washington; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. STEVENS, of Washington. I have another bill which I desire to offer.

Mr. SHERMAN, of Ohio. I feel bound to object.

COURTS IN NEBRASKA.

Mr. FERGUSON introduced a bill in relation to courts, and the holding of the terms thereof, in the Territory of Nebraska; which was read a first and second time, and referred to the Committee on the Judiciary.

Mr. FERGUSON. I have also a resolution which I desire to submit.

Mr. SHERMAN, of Ohio. I object.

RESOLUTIONS OF MAINE.

Mr. ABBOTT presented resolutions of the Legislature of the State of Maine, relating to foreign paupers and criminals; which were referred to the Committee on the Judiciary, and ordered to be printed.

SUPPRESSION OF POLYGAMY.

Mr. MORRILL introduced a bill to punish and prevent the practice of polygamy in the Territories of the United States, and other places; which was read a first and second time.

Mr. LETCHER. I ask that the bill may be read. I must know what it proposes before I can tell whether to object to it or not.

The SPEAKER. The bill has been read a second time. What committee does the gentleman from Vermont propose to refer it to?

Mr. MORRILL. I move that it be referred to the Committee on Territories.

Mr. READY. I suppose the Committee on the Judiciary would be the appropriate committee to which to refer it.

Mr. GROW. No, sir. It belongs to the Committee on Territories. The domestic institutions of the Territories are under the control of that committee.

Mr. READY. The bill proposes, as I understand it, to pass a law imposing a penalty for, or providing for the punishment of crime; and I think, therefore, that it comes properly under the jurisdiction of the Committee on the Judiciary.

Mr. MORRILL. I have no objection to the reference of the bill to the Committee on the Judiciary. If the House prefers that it should receive that reference, I have no objection.

Mr. KEITT. I object to that reference; and move that the bill be referred to the Committee on Naval Affairs. [Laughter.]

Mr. MORRILL. I will not press the motion to refer the bill to the Committee on Territories.

Mr. KEITT. I withdraw my motion.

Mr. GROW. I desire to read the rule defining the duties of the Committee on Territories, and the House will then see that this bill properly belongs to that committee. The rule is as follows:

"It shall be the duty of the Committee on Territories to examine into the legislative, civil, and criminal proceedings of the Territories, and to devise and report to the House such means as, in their opinion, may be necessary to secure the rights and privileges of residents and non-residents."

Now, this bill relates to the domestic institutions of one of the Territories. It properly belongs, therefore, to the Committee on Territories, and I hope the House will refer it to that committee.

Mr. SMITH, of Virginia. I suppose it is not in order to debate this question; but I suggest to the House that the Congress of the United States

has no general jurisdiction over this subject; they could not legislate upon it. I think the reference suggested by the gentleman from South Carolina [Mr. KEITT] is the proper one, because I believe that polygamy is practiced more generally in the naval profession than in any other. [Laughter.]

The bill was then referred to the Committee on the Judiciary.

HALF PAY TO WIDOWS AND ORPHANS.

Mr. WALTON, in pursuance of previous notice, introduced a bill to continue in force an act granting half pay to certain widows and orphans; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

MEASUREMENT, ETC., OF VESSELS.

Mr. DAVIS, of Massachusetts, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of amending the laws regulating the admeasurement of American ships and vessels, so as to provide that the number of tons burden, or stowage capacity, of every vessel sailing under an American register, shall be set forth in her regular sailing papers.

PLYMOUTH HARBOR.

Mr. HALL, of Massachusetts. I desire to introduce a bill to continue the public works in the harbor of Plymouth, Massachusetts.

Mr. BARKSDALE. I object.

DISTRIBUTION OF EXECUTIVE DOCUMENTS.

Mr. HALL, of Massachusetts, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Printing inquire into the expediency of providing by law that all reports and other documents emanating from the several Departments, and printed by order of this House, shall be distributed under the direction of said Departments, respectively.

POPULAR SOVEREIGNTY.

Mr. THAYER. I desire to introduce a bill to extend to the inhabitants of the District of Columbia certain rights of popular sovereignty.

Mr. SMITH, of Virginia. I object.

POST OFFICE, ETC., AT HARTFORD.

Mr. CLARK, of Connecticut, introduced a bill for the construction of a suitable building for the accommodation of the circuit and district courts of the United States, and the several offices connected therewith, and the post office, at Hartford, Connecticut.

Mr. SMITH, of Virginia. I object. This is no time to appropriate money for such purposes.

TOBACCO MANUFACTURERS—AGAIN.

Mr. BOCK. I rise to what I suppose to be a question of privilege. I offered a resolution this morning to refer certain papers and proceedings of tobacco manufacturers to the Committee on Agriculture. Upon reflection, I think the Committee on Manufactures would be the proper committee. If there be objection to the change of reference, I shall move a reconsideration. I ask the unanimous consent of the House to make the change.

No objection was made; and the papers were accordingly referred to the Committee on Manufactures.

CALL OF THE STATES—AGAIN.

Mr. SHERMAN, of Ohio. I now desire to introduce a resolution that the States be again called for resolutions, and that members shall not be restricted to the introduction of one bill each.

Mr. J. GLANCY JONES. Has the call been completed?

The SPEAKER. It has.

Mr. STEPHENS, of Georgia. Is it in order now for members who have not introduced resolutions during the call, to introduce them?

The SPEAKER. It is not.

Mr. STEPHENS, of Georgia. Have they not the right under the order of the House?

The SPEAKER. The Chair thinks not. The gentleman from Ohio [Mr. SHERMAN] is entitled to the floor.

Mr. SHERMAN, of Ohio. The resolution which I wish to offer is this:

Resolved, That the States be again called for the introduction of bills and resolutions, to which no objection shall be made; and that, upon such call, it shall be in order for any member to introduce more than one bill or resolution.

Mr. JONES, of Tennessee. I object, and move that the House adjourn.

Mr. J. GLANCY JONES. I ask the gentleman to withdraw the motion, and yield me the floor.

Mr. JONES, of Tennessee. I will withdraw the motion at the request of the chairman of the Committee of Ways and Means.

The SPEAKER. Then the gentleman from Ohio is entitled to the floor.

Mr. SHERMAN, of Ohio. I move that the rules be suspended, to enable me to introduce my resolution.

Mr. J. GLANCY JONES. I think I am entitled to the floor. The gentleman from Tennessee withdrew the motion to adjourn, and yielded the floor to me.

The SPEAKER. The gentleman from Tennessee could withdraw the motion to adjourn, but not hold the floor, or yield it to the gentleman.

Mr. JONES, of Tennessee. I move that the House adjourn.

Mr. SAVAGE demanded tellers.

Tellers were ordered; and Messrs. HARRIS, of Illinois, and BILLINGHURST, were appointed.

The question was taken; and the tellers reported—ayes 65, noes 57.

So the motion was agreed to; and the House (at three o'clock) adjourned.

IN SENATE.

TUESDAY, January 5, 1858.

Prayer by Rev. GEORGE W. BASSETT.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Senate, showing, in obedience to law, the names of persons employed in his office during the year 1857; which was, on motion of Mr. Foor, ordered to lie on the table and be printed.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey, showing the progress of that work during the year ending November 1, 1857, and accompanied by a map prepared in obedience to an act passed March 3, 1853; which was, on motion of Mr. HUNTER, referred to the Committee on Commerce, and a motion to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented the petition of the heirs-at-law of Warren Sadler, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Olivia Field, widow of Phinia A. Field, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Rufus Spaulding, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of the heirs-at-law of John Roop, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Sally Pierce, widow of Gad Pierce, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of the heirs-at-law of Lemuel Cook, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Henry Lovejoy, heir-at-law of Joshua Lovejoy, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of the heirs-at-law of William Miller, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Solomon Gillett, praying for indemnity for property destroyed

by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Sally M. Judson, heir-at-law of Jonathan Haddock, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Martha Dickinson, widow of Ira Dickinson, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Betsey Harrison, widow of Jonas Harrison, deceased, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

Mr. SEBASTIAN presented a petition of William Moss, praying for extra compensation for carrying the mail from Washington, Arkansas, to Clarksville, Texas; which was referred to the Committee on the Post Office and Post-Roads.

Mr. EVANS presented the memorial of James A. Black, special agent of the State of South Carolina, praying for the reimbursement to that State of certain sums of money expended in the "common defense" of the United States of America; which was referred to the Committee on Claims.

He also presented a memorial of the heirs of Colonel William Washington, the heirs of General William Moultrie, the heirs of John Grayson, the heirs of James Hamilton, and the heirs and representatives of other revolutionary officers, praying for the settlement of their claims to half pay; which was referred to the Committee on Revolutionary Claims.

Mr. COLLAMER presented the memorial of Horace B. Sawyer, a captain in the Navy, praying to be allowed the difference between the furlough and leave-of-absence pay for the time he was on furlough; which was referred to the Committee on Naval Affairs.

Mr. FOSTER presented the petition of the heirs of the late Captain Abraham Foot, an officer in the revolutionary army, praying to be allowed the pension due him at the time of his death; which was referred to the Committee on Pensions.

He also presented the petition of the heirs of Thomas Stevens, a revolutionary soldier, praying to be allowed the pension due him during his lifetime; which was referred to the Committee on Pensions.

Mr. CHANDLER presented the memorial of W. P. Wright, Mark Sheppard, and others, members of Captain Samuel Walker's company of Kansas militia, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

He also presented the petition of W. F. M. Army, in behalf of many citizens of South Kansas, protesting against the Lecompton constitution, and praying for its rejection by Congress, and the passage of a law to enable the bona fide citizens of Kansas to form their own constitution; which was referred to the Committee on Territories.

Mr. HOUSTON presented a resolution of the Legislature of Texas, in favor of placing Captain John G. Tod, late of the Texas navy, in the Navy of the United States; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also presented a report of the Committee on Federal Relations of the House of Representatives of Texas, setting forth the claims of Captain John G. Tod, to be placed in the Navy of the United States; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also presented a resolution of the Legislature of Texas, urging upon Congress the reimbursement of the money paid by that State for the defense of its frontier; which was referred to the Committee on Military Affairs and Militia.

Mr. WILSON presented the petition of the heirs of Noah Warriner, an officer of the revolutionary army, praying to be allowed the pension to which he was entitled; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MASON, it was

Ordered, That the petitions of Thomas J. Page, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. EVANS, it was

Ordered, That the memorial of Susanna Hayne Pinkney, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. CHANDLER, it was

Ordered, That the memorial of Aaron Haight Palmer, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. KENNEDY, it was

Ordered, That the memorial of the legal representatives of Rinaldo Johnson and Ann E. Johnson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. JOHNSON, of Arkansas, it was

Ordered, That Lieutenant John C. Cartor, have leave to withdraw his petition and papers.

On motion of Mr. JOHNSON, of Tennessee, it was

Ordered, That Jesse Wyatt have leave to withdraw his petition and papers.

REPORTS FROM COMMITTEES.

Mr. SEWARD, from the Committee on Foreign Relations, to whom was referred the petition of Nicholas D. P. Maillard, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the petition and papers of Nicholas D. P. Maillard be transmitted to the Secretary of State, for the consideration of the President of the United States.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 29) for the relief of William K. Jennings and others, reported it without amendment, and submitted a report; which was ordered to be printed.

NOTICES OF BILLS.

Mr. STUART gave notice of his intention to ask leave to introduce a bill to provide for the improvement of certain harbors on Lakes Superior, Michigan, Huron, St. Clair, and Erie, in the State of Michigan.

Mr. SEBASTIAN gave notice of his intention to ask leave to introduce the following bills:

A bill to extend the present graduation laws to the reserved sections within railroad grants; and

A bill to authorize the building of a jail at Van Buren, in Arkansas, for the use of the district court of the United States.

BILLS INTRODUCED.

Mr. POLK, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 20) to settle doubts in relation to the title of certain common field lots in the State of Missouri, heretofore granted to the inhabitants of the city of St. Louis for the support of schools; which was read twice by its title, and referred to the Committee on Private Land Claims.

He also, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 41) for the relief of Manuel Leisa, Joachim Leisa, and others, and to provide for the location of certain private land claims; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. THOMSON, of New Jersey, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 42) to provide for the construction of a custom-house, court-house, and post office, in Trenton, in the State of New Jersey; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 43) to authorize the improvement of the Mississippi, Missouri, Ohio, and Arkansas rivers by contract, and making appropriations for the same; which was read twice by its title, and referred to the Committee on Commerce.

COAST SURVEY REPORT.

Mr. DAVIS submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for the year 1857, there be printed ten thousand copies; five thousand copies for the use of the Senate, and five thousand copies for distribution from the Coast Survey office, and that the same be printed and bound with the plates in quarto form, and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

MINISTER TO JAPAN.

Mr. GWIN submitted the following resolution for consideration:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of providing by law for the appointment of a Minister Plenipotentiary to the Empire of Japan.

HARBOR IMPROVEMENTS.

Mr. DOOLITTLE. I beg leave to submit the following resolution of inquiry in relation to harbors in the State of Wisconsin:

Resolved, That the Secretary of War be directed to communicate to the Senate such surveys of harbors on Lakes Superior and Michigan, in the State of Wisconsin, as have not been heretofore communicated, together with such estimates as may have been made for the improvement of said harbors.

As this is a mere resolution of inquiry, I hope the Senate will consider it now.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. TRUMBULL. Several resolutions of this character have been adopted in regard to separate States, and it seems to me it would be better to get this information in regard to all the States which border on the lakes. I will, therefore, move to amend the resolution by inserting "Illinois."

Mr. JONES. I would suggest that the Mississippi and Missouri rivers also be included in the resolution. I offer an amendment to that effect.

The VICE PRESIDENT. Does the Senator from Wisconsin accept the proposed modifications?

Mr. DOOLITTLE. Certainly. I have no objections to the inquiry. I do not know what resolutions may have heretofore been passed on this subject, and whether it may not produce some confusion in the report of the Secretary of War; but I have no objection to the amendment.

The VICE PRESIDENT. The Secretary will read the resolution as modified.

The Secretary read it, as follows:

Resolved, That the Secretary of War be directed to communicate to the Senate such surveys of harbors on Lakes Superior and Michigan, in the States of Wisconsin and Illinois, and on the Mississippi and Missouri rivers, as have not been heretofore communicated, together with such estimates as may have been made for the improvement of said harbors and rivers.

The resolution, as modified, was adopted.

FRENCH SPOILIATIONS.

Mr. FESSENDEN, in pursuance of previous notice, asked and obtained leave to introduce a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801; which was read twice by its title.

Mr. FESSENDEN. I ask that this bill may be referred to a select committee. I do so for this reason: during the Thirty-Third Congress, when it was under consideration, it was referred to the Committee on Foreign Relations, and it was reported back by that committee with a recommendation that it be referred to a select committee, which was done; and it seems to be proper, as it is a matter of so much importance, that it should take that course now. I presume there will be no objection to it. It has been decided by the Senate, on former occasions, to be proper. A select committee of seven, I suppose, would be the proper number.

Mr. MASON. According to my recollection that question has most generally been referred to the Committee on Foreign Relations, but I have an impression that there are instances where it has been referred to a select committee.

Mr. FESSENDEN. If the Senator will excuse me, I will state that at the Thirty-Third Congress it was referred to the Committee on Foreign Relations, of which the honorable Senator was chairman, and by directions of that committee he reported it back to this body, with a recommendation that it be referred to a select committee.

Mr. MASON. My recollection was not distinct. I had no recollection of its ever having been reported on by the Committee on Foreign Relations; but it seemed to me *prima facie* to be the proper committee to which to refer it. But if the Senator is right in his recollection, as doubtless he is—

Mr. FESSENDEN. The records have been consulted, and I am informed that it is so. I have not looked at them myself, but I think my colleague will recollect all about it. I am informed that this bill was sent to the Committee on Foreign Relations during the Thirty-Third Congress, and was reported back by that committee, with a recommendation that it be referred to a select committee.

Mr. HAMLIN. I have not a distinct recollection about it. I have, however, this recollection,

that it was referred to the Committee on Foreign Relations at that time, and it came back and was referred to a select committee, of which I was chairman. I do not recollect distinctly how it came back, whether on my motion in the Senate, or by the report of the committee. I am inclined to think it came back on the report of the committee, and on a suggestion I made to the chairman at that time; though I am not clear about that. I am, however, clear that it came back, and went to a select committee. The records of the Senate will show it to be so.

Mr. MASON. I should think the proper disposition of the subject would be to refer it to the Committee on Foreign Relations, and as I understand that motion has precedence, I move to refer the bill to the Committee on Foreign Relations.

Mr. FESSENDEN. I hope that will not be done, for this reason: it is a matter that has attracted considerable attention heretofore, and I am confident that the gentleman who made the statement to me in reference to the disposition made of the bill at that time, could not be mistaken. We can ascertain the fact, however, by reference to the Journal, and I will ask that the discussion may be waived for a moment, in order that I may have time to look at the Journal and see what disposition was made of it at that time.

Mr. SEWARD. I can state, for the information of the honorable Senator from Maine, and of Senators generally, that I recollect distinctly that a memorial on this subject, presented by an ex-Senator from Connecticut, Mr. Truman Smith, was, on his motion, referred to a select committee, and by him favorably reported on, and acted on by the Senate.

Mr. HAMLIN. That occurred during the Congress preceding the Thirty-Third.

Mr. FESSENDEN. I find that, in one particular, I was mistaken. I made the statement on the authority of a person whom I supposed was not in error. I find at the first session of the Thirty-Third Congress this entry:

"Agreeably to notice, Mr. HAMLIN asked and obtained leave to bring in a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801; which was read the first and second time by unanimous consent, and referred, with the memorials on file, to the Committee on Foreign Relations."

Subsequently,

"On motion of Mr. HAMLIN,

"*Ordered*, That the Committee on Foreign Relations be discharged from the further consideration of the bill to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st day of July, 1801."

So that it was done on motion of my colleague, and not on the motion of the chairman of the committee. I am now informed that, at a previous Congress, the same disposition was made of memorials on this subject. On motion of Mr. Smith, of Connecticut, who presented a memorial, the matter was referred to a select committee of this body. Of that I had no previous knowledge, as I had not investigated the matter. The last time the subject was under consideration here, it was withdrawn from the Committee on Foreign Relations, and referred to a select committee, who reported back the bill.

Now, sir, I suppose that properly, in the ordinary course of reference of subjects to committees of this body, this bill should go to the Committee on Foreign Relations. That is the most appropriate of all the standing committees; but there is an objection to it. It is proper, according to parliamentary usage, as a general rule, where it is asked for, as I understand, in a matter of considerable interest, that it should go to a committee which is not known or understood to be unfriendly to the whole object, and committed in relation to it. It so happens, with reference to the constitution of the committees of this body, that that is understood to be the case with reference to that committee, and not only with that committee, but also with some other committees, to which it might be proper, under ordinary circumstances, to refer this bill. It is a matter, also, of very great importance to the individuals interested, and therefore it would seem to be nothing more than right, inasmuch as this bill is one which has passed Congress on several occasions, that, at any rate, it should go to a committee from which we shall have some chance of having the bill reported back to the Senate. I believe it is always a sufficient reason for not sending a bill to a particular

committee, that that committee is unfriendly to its object. I hope, therefore, that this bill, as it is perfectly well known a majority of the Senate (unless it has been very much changed in character by the additions recently made to it) are in favor of its general object, will have a chance to come into the Senate, and be acted upon on its merits.

I have only to add that, in case my motion be granted by the Senate, (and I believe it to be a reasonable one, even as addressed to gentlemen who may be opposed to the measure itself,) I trust I may be excused from serving on the committee. If the motion be carried, it might be considered, as a matter of course, that I should be one of them. I desire to be excused for the simple reason that I have that kind of personal interest in the subject-matter which would, in my judgment, render it improper that I should consider the subject.

Mr. MASON. Although the question involved in the motion of the honorable Senator from Maine affects, to a very great extent, private interests, or rather is based on the petition of private claimants for the payment of money alleged to be due to them, yet the questions on which these claims depend, as is well known to the Senate, are, it seems to me, proper questions to be considered by the standing committee of the Senate appropriate for them. The principal question, according to my recollection, is, whether war did or did not exist between the United States and France at a given time?—a question that seems to me peculiarly appropriate to the Committee on Foreign Relations. I express no opinion at all on the merits of the claim; but as chairman of the Committee on Foreign Relations, I thought it proper to state to the Senate what seemed to me to be the appropriate disposition of this, which is emphatically a public question, though private interests are involved. I felt it my duty, therefore, to move that it be referred to the Committee on Foreign Relations.

Mr. SEWARD. I regret that the chairman of the Committee on Foreign Relations thinks it his duty to claim that this subject properly belongs to that committee. I have heretofore had occasion to examine it with a very great deal of care, and to discuss it at some considerable length, and therefore it is not entirely a stranger to me. It is true that the subject involves an examination of treaties between the United States and France; but those treaties are seventy years past, and all the transactions out of which the claim arose are nearly sixty years old. All these transactions were closed about the year 1810.

These claimants are citizens of the United States, or their heirs or legal representatives. They claim from the Government of the United States payment for the losses which they sustained by French spoiliations, for which they say the Government of the United States received an indemnity from the Government of France in benefits secured by the treaty concluded in or about the year 1803. They received equivalents by the treaty of peace which was made in the year 1802 or 1803. It is, therefore, strictly a matter of claim, and not at all, as it seems to me, a matter requiring any action of the Committee on Foreign Relations. If I were to say to which of the standing committees of the Senate it would be most proper to refer it, I should say the Committee on Claims. I think this bill, which has been before the Congress of the United States nearly every year for fifty years, if I remember right, has at some stages been referred to the Committee on Finance. At all events, the strongest opposition which it has encountered came from the Committee on Finance; and the reason which seemed to move that committee was, that as the claim was a very large one, and threatened to draw a very considerable sum of money from the Treasury, it was proper to submit it as a financial question to that committee. Amongst other reasons which have been given by Presidents of the United States for vetoing the bill when it did pass Congress, was the reason that the finances of the Government were not then in a condition to make the payment at those times, and therefore I should think the Committee on Finance could more properly claim to consider this subject than the Committee on Foreign Relations.

But the Committee on Finance and the Com-

mittee on Claims have each of them business enough to transact which is of immense magnitude; and inasmuch as the whole question is one of great difficulty and great antiquity, as it has been debated here for fifty years, as it has been referred heretofore to select committees, as it is due that a candid, impartial consideration should be bestowed on the subject by Congress, I submit that it would be very right to send it to a committee who would not be expected to strangle it because they had already prejudged the case and formed an opinion against it. A select committee would be so constituted as to give the friends of the claim a majority on the committee, and I think that is according to practice and precedent. It is a great claim. It involves one of the most important questions which has been before the Government since its foundation, and it has been continually before it. It seems to me due to the importance of the subject, due to the venerable character of the claims, due to the great public authorities which have supported this claim, amongst others the late Mr. Webster, of Massachusetts, and I think Mr. Gallatin, Mr. Clay, the late John M. Clayton, and other very eminent statesmen. I do not say it would not obtain that consideration from the Committee on Foreign Relations. It certainly would on my part; but I think that, for the reasons I have stated, it is only just and liberal, and according to parliamentary precedent, to accede to the request made by the Senator from Maine, and give him a select committee on this bill.

Mr. HAMLIN. It is very true that this has come to be a public question. The chairman of the Committee on Foreign Relations so designates it, and for that reason he suggests that it should be committed to the Committee on Foreign Relations. There is no question that comes before us, when carefully criticised, that is not public to some extent. We legislate for no expenditure that does not involve the Treasury, and the Treasury affects the interests of our whole people.

If I am not wrong in my recollection, it would be more appropriate to refer this bill to the Committee on the Judiciary than to the Committee on Foreign Relations at the present time, if it were not still more expedient to refer it to a select committee, as my colleague proposes. A bill was once passed to pay these claims, and it was vetoed by President Polk—a veto which, I confess, was never very satisfactory to my mind, as it was based upon the ground that we were at war with a foreign Government, and the sole reason alleged for that war was, that she had not liquidated the claims we held against her. He vetoed a bill to pay our own citizens, while we were at war with a foreign Government, because it was alleged that they would not pay us. That was the ground of the veto. A second time the bill was passed by Congress; and I believe I am right in saying that President Pierce predicated his veto on the ground that these claims were paid by some convention, subsequent to that period of time, between France and the United States. Then, if President Pierce was right in the view which he took in his veto message, the only practical question for us to determine is, was there ever a convention between the United States and France by which these claims were paid, or under which they were paid? That would be a legal question—a question which the Judiciary Committee of this body would and might more appropriately determine than the Committee on Foreign Relations.

But I affirm, sir, that this is a question which, while public in its character, is one affecting the rights of so many citizens individually, that they make no very particular claim when they come here and ask that it shall be referred to a committee which will insure at least a favorable report for the action of the Senate; and that it shall not at the outset be denied a hearing. That, too, has been the practice of this body twice, three times, and I think more. Indeed, I have never known a refusal to refer this measure to a select committee when that has been asked. I hope it may be granted on the present occasion; and for one other reason: we all know that all the standing committees of this Senate, at least the leading committees, are charged with important matters, which demand all their attention and all their time; and a select committee may bestow on this subject an appropriate consideration without en-

croaching upon the duties of the standing committees when those duties actually demand nearly all the time they have to spare. I hope the bill will be referred to a select committee.

Mr. BAYARD. I hope this bill will be referred to a select committee, because that seems to be the most appropriate for the purposes of investigation, so far as investigation is necessary. On various grounds it might be contended that it would be proper to refer the bill to a variety of committees. Being a claim for spoiliations committed on American commerce, it might well be said that it should go to the Committee on Commerce. I am very sure that when I first came into the Senate it was referred either to the Finance Committee or to the Committee on Commerce; and was reported to the Senate, and passed by this body, as coming from one of these committees—Mr. Bradbury, of Maine, being the gentleman who reported the bill. On that occasion it failed in the House of Representatives for want of time. Subsequently it was referred to the Committee on Foreign Relations; but they were very soon discharged from its consideration, and it was referred to a select committee, who reported it to the Senate. On that occasion it passed both Houses, and was vetoed by the President of the United States. The history of this claim has been one of constant discussion for fifty years. Everything about it was supposed to be known till the veto of President Pierce on the last occasion on which it passed both Houses.

I cannot agree with the honorable Senator from Maine [Mr. HAMLIN] in his views as to the veto of President Polk. Perhaps I should have arrived at a different conclusion myself; but there was reason, in some measure, for the presidential veto in that case. The country being in a state of war with a foreign nation, taxing all her resources, it might be considered an improper time, in reference to the state of the Treasury and the general obligations of the country while carrying on that war, to act on claims of this kind. That I understood to be substantially President Polk's view of the case. It might well be that it was inexpedient at that time to relieve the claimants, whether the claim was just or not.

But, sir, the second veto of this measure introduces a new question—a question, it seems to me, purely of fact. I think the ground of that veto cannot be sustained on investigation. The allegation is that these claimants were actually paid by a convention between France and the United States.

Mr. HAMLIN. I have understood that President Pierce himself subsequently became satisfied that he was mistaken.

Mr. BAYARD. On investigation, I think it will be found that President Pierce was in error as to the main ground on which he vetoed this bill. All the other questions connected with it have been reported upon again and again by different committees composed of some of the ablest men who have ever sat in the two Houses. The subject has been exhausted on the other points.

I differ entirely from the honorable Senator from Virginia [Mr. Mason] as to the materiality of the fact whether this country was in a state of war at the time these spoiliations were committed. In my judgment, there was but a single question originally, apart from that which is raised as a mere matter of fact by President Pierce. The Government of the United States, having previously preferred claims on behalf of its citizens to the Government of France with other claims against France; and France, on her side, making claims against the Government of the United States on other grounds; in the settlement of these mutual claims the United States relinquished all right to make claim on behalf of its citizens to the Government of France. Having used these claims as a consideration for which to procure a relinquishment of the demands of the Government of France, (and whether those demands were valid or invalid is now immaterial,) it is not for this Government to say that the claims of its citizens were not valid as against France. In my judgment, in equity and in morals the Government of the United States is estopped from denying the validity of these claims as against France, when it presented and urged them on the French Government until it found it convenient for the general interests of the country to compromise them by getting rid of the French claims on us. This,

in my belief, is the true ground on which the citizens of this country, who represent these claims, have a right to demand from their own Government that remuneration which they were authorized to claim from France, antecedent to her compromising the matter. Apart from that, comes the question which was raised by President Pierce. If it be true that these claims were adjusted and paid under a subsequent convention made with France, of course the claimants can have no relief; but I think it will be found, on investigation, that that idea is entirely illusory in fact.

Taking it in either view, there are various committees to which it might be contended the subject should be referred. Under these circumstances, it seems to me to be most appropriate that a select committee should have charge of it. There is a further ground stated by the honorable Senator from Maine, that almost all the standing committees to which it could be referred, have appropriate business of their own, sufficient to occupy their attention, and it is more proper that a subject of the magnitude in point of amount which is involved in this bill should go to a select committee. The Senate and House of Representatives have twice passed bills for the payment of this claim, as a legitimate charge on the Government, and each has been vetoed. My memory does not recall the number of times the measure has been passed by the Senate and House of Representatives separately. It is, however, quite sufficient, I think, to have settled the validity of the claim against the Government of the United States.

The VICE PRESIDENT. The question is first on the motion to refer the bill to the standing Committee on Foreign Relations.

The motion was not agreed to.

The VICE PRESIDENT. The question is now on the motion to refer the bill to a select committee of seven members.

The motion was agreed to.

On motion of Mr. FESSENDEN, the VICE PRESIDENT was authorized to appoint the committee; and Messrs. CRITTENDEN, COLLAMER, TOOMBS, HAMLIN, HUNTER, DAVIS, and KING, were appointed.

LEGAL TENDER.

Mr. SLIDELL, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 44) to amend an act entitled "An act amendatory of existing laws relative to the half dollar, dime, and half dime," approved February 21, 1853; which was read twice by its title.

Mr. SLIDELL. I will very briefly state that the object of this bill is to extend the sum for which the silver coins of the United States shall be a legal tender to twenty-five dollars. I have had some correspondence with the treasurer of the Mint on the subject, and he is satisfied that the operation of such a bill will be very beneficial in various ways. The objection may possibly be made that, for a sum so large as twenty-five dollars, it is imposing on the poorer classes of the community a depreciated currency; but I shall be enabled to satisfy the Senate that the actual cost of our silver coins now, at the present price of silver, including the charges for manufacture, makes their intrinsic value, as a manufactured article, at least equal to the current value.

Another motive that I have, and one which, I think, will meet the approbation of a large majority of the members of the Senate, is a desire to exclude, by the increased extension of this currency, the circulation of the smaller bank notes. I think that, by proper concerted action on the part of the Treasury and the different mints, a very large amount of silver could be put into circulation without any cost to the Government. I move that the bill be referred to the Committee on Finance; and I hope that committee will give its attention to the matter at an early day, and at any rate make a report favorable or unfavorable to the bill.

The bill was referred to the Committee on Finance.

KANSAS AFFAIRS.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, which is the motion of the Senator from Illinois [Mr. DOUGLAS] to refer to the Committee on Territories so much of the President's message as relates to the Territory of Kansas.

Mr. DAVIS. My colleague, [Mr. BROWN], who commenced addressing the Senate yesterday, has sent me a note since the meeting of the Senate to-day, informing me that he is too unwell to proceed. In that connection he authorizes me to yield the floor to any Senator who may desire to occupy it; but, if no one desires to occupy it, then, as a matter of courtesy to my colleague, in order that his remarks may be continued from the point where they were arrested, I move to postpone the further consideration of the special order until Monday next.

Mr. GWIN. I hope the Senator will say Monday week. I do not see any practical good to result from this discussion.

Mr. DOUGLAS. Let it go over to Monday. It is a matter of courtesy to the Senator from Mississippi that he should be allowed to finish his remarks on a day which is agreeable to him.

The VICE PRESIDENT. The motion is to postpone the further consideration of the special order until Monday next.

The motion was agreed to.

ALEXANDER J. ATOCHA.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 28) for the relief of Alexander J. Atocha.

Mr. COLLAMER. I should like to hear the report in this case read.

Mr. MASON. I find, from the printed form, that one copy of the report is ascribed to me and the other to the late Senator from Maryland, Governor Pratt. The fact is that Governor Pratt made the report, and I entirely concurred in it.

The Secretary read the report, from which it appeared that Mr. Atocha was a citizen of the United States residing in Mexico, and, on the 26th of February, 1845, he received from that Government an order "to leave the city of Mexico within the period of eight days for Vera Cruz, in order to depart from the Republic."

It appears that he at the time protested, through Mr. Shannon, the American Minister, against this order, as a violation of the treaty of April 5, 1831, between the United States and Mexico, and notified the latter Government that he would hold it responsible for the losses he might sustain by reason thereof.

Forced by this order to retire from the Mexican territory within the period of eight days, he alleges that he sustained great pecuniary loss; and that he filed his claim specifying such loss, with the vouchers sustaining the same, before the board of commissioners appointed pursuant to the treaty of Guadalupe Hidalgo, which he alleges was unjustly rejected by that board, and he therefore petitions Congress for redress.

Believing that it would be dangerous to go behind the decision of the commissioners, unless it should appear that they have erred in the law applied to the case, the committee examined the grounds assigned for an adverse decision, and became satisfied that the commissioners erred in the law upon which they predicated their decision.

The commissioners assume, in their opinion, that the loss of the memorialist, by reason of his expulsion from Mexico, is established by the evidence filed by him, and decide against the validity of his claim exclusively upon the assumption that the order of expulsion was legal and proper; because, as they assume, of the complicity of the memorialist with Santa Anna in his resistance to the Government *de facto* in their efforts to depose him as the President of the Republic.

The commissioners assume that the connection of the memorialist with the political movements of Santa Anna is established—first, by the fact that he remained there with Santa Anna until he was forced to abandon the Government and leave the Mexican territory; and, secondly, because Mr. Shannon, the American Minister, did not reply to a communication of the Secretary for Foreign Affairs of Mexico, in which that officer, in acknowledging the receipt of the protest of the memorialist against the order for his expulsion, says that Mr. Atocha "was one of the principal agents who wrought against the Government, as is notorious, and as his Excellency Mr. Shannon himself well knows."

The error of the first of these assumptions of fact by the commissioners is now established by the certificate of the officer having charge of the archives of the Mexican Government, which as-

serts that Mr. Atocha does not appear to have had any connection with the movements of Santa Anna; and by the letter of Santa Anna himself, who, on the part of Mexico, made the treaty of Guadalupe Hidalgo, stating emphatically that Mr. Atocha never had any political connection with him, and that he remained with him by his invitation, because "in those times of disorder and insubordination, he could not separate himself from him without imminent risk."

The error of the second assumption of fact by the commissioners is established by the letter of our Minister, Mr. Shannon, in which he expresses the conviction that the memorialist was not in any manner connected with the political movements of Santa Anna, and that he did not reply to the communication of the Mexican Minister for Foreign Affairs, (not because he knew the correctness of his charge against Mr. Atocha,) but because the memorialist had left the country before the receipt of that communication.

But, for the purpose of the argument, assume, say the Committee on Foreign Relations, contrary to the fact, that the commissioners were right in saying that Mr. Atocha was connected with the political movements of Santa Anna, will it follow that the Government of Mexico was authorized to issue the order of expulsion against Atocha? The solution of this question will depend upon the construction of the treaty of 1831 between the United States and Mexico.

The twenty-sixth article of that treaty was intended to provide for the protection of the citizens of the two nations, in the event of war between them, and the stipulation is, "that if war should break out between the two contracting parties, there should be allowed the term of six months to the merchants residing on the coast, and one year to those residing in the interior of the States and Territories of each other, respectively, to arrange their business, dispose of their effects, or transport them wheresoever they may please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the States and Territories aforesaid, exercising any other occupation or trade, shall be permitted to remain in the uninterrupted enjoyment of their liberty and property so long as they conduct themselves peaceably and do not commit any offense against the laws; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge or tax other than may be established upon similar goods and effects belonging to the citizens of the State in which they reside, respectively; nor shall the debts between individuals, nor moneys in the public funds, or in public or private banks, nor shares in companies be confiscated, embargoed, or detained."

During the late war with Mexico many citizens of the United States, who were residing as merchants in the territory of that Republic at the period when war was declared to exist between the two countries, were summarily expelled in disregard of this stipulation of the treaty of 1831, and most of the claims presented to and allowed by the board of commissioners appointed under the treaty of 1848 were for damages consequent upon such violation of the treaty of 1831.

The fourteenth article of the treaty of 1831 was designed to secure to the citizens of the two Republics, respectively, protection to their persons and property in time of peace; and, after stipulating for such protection, the two Governments contract and agree "that the citizens of either party shall enjoy, in every respect, the same immunities and privileges, either in prosecuting or defending their rights of person or of property, as the citizens of the country where the cause of action may be tried."

At the date of the order of expulsion of Mr. Atocha, Mexico and the United States were at peace with each other, and it necessarily follows, in the opinion of the committee, that for any offense with which he may have been charged, Mr. Atocha was entitled, under this article of the treaty, to be tried, and to have afforded to him all the means of a fair trial which are provided for in that article.

It seems to the committee to be clear that the Mexican Government, under this treaty stipulation, possessed no other or greater power to punish a citizen of the United States domiciled within

her territory, than she possessed to punish one of her own citizens for a similar offense; and they are advised that the Mexican Government did not possess, under the constitution and laws of that Republic, the power to expel a Mexican citizen without trial for any offense. Indeed, the Minister for Foreign Affairs who issued the order of expulsion against Mr. Atocha, in response to the letter of the American Minister, which had inclosed the protest of Mr. Atocha against the legality of the order, and his notice of intention to claim damages for the losses which it would occasion him, says "that his Government is authorized, by the laws and constitution of the Republic, to expel from its limits non-naturalized foreigners pernicious to the country."

For the reasons assigned, the committee are of opinion that the expulsion of Mr. Atocha from the Mexican territory was a violation of the stipulations of the fourteenth article of the treaty of 1831; and, consequently, that he should have been awarded by the board of commissioners organized under the treaty of Guadalupe Hidalgo, such damages as he could show were sustained by him in consequence of that expulsion.

Of the \$3,250,000 stipulated by the fifteenth article of the treaty of Guadalupe Hidalgo to be appropriated to the payment of claims of citizens of the United States against Mexico, the sum of about a quarter of a million of dollars still remains in the Treasury, and consequently to that extent the fund set apart for that purpose still exists to indemnify Mr. Atocha, if he can establish his claim by satisfactory proofs.

The committee have not deemed it their duty to investigate the quantum of indemnity to which Mr. Atocha may be entitled. As it is conceded that he was and is a citizen of the United States, they have confined themselves to the inquiry whether his claim was intended to be provided for by the treaty of Guadalupe Hidalgo; and the affirmative of this question is, in their opinion, clearly demonstrated by the papers and proofs in the case.

Among the papers filed by Mr. Atocha are the instructions of Santa Anna, then the President of the Republic of Mexico, to the Minister of his Government, charged with the negotiation of the treaty, directing him to have the name of Mr. Atocha inserted in the treaty as one whose claim was to be paid under its provisions; and there are repeated recognitions of its justice as against Mexico, from the obligations of which that Government claims to be released, solely because of the release by the United States, in that treaty, of all claims of its citizens against Mexico. Mr. Almonte, the accredited Minister of that Republic to this Government, was instructed to see that this claim, "the most just of any which had been presented," should be paid from the fund which Mexico had provided by the sale of a part of her territory for the liquidation of claims of citizens of the United States against her.

After the board of commissioners had closed their labors, many citizens of the United States, whose claims had been rejected, petitioned Congress to review the decision of that board; and the Senate of the United States did appoint a special committee, to sit during the recess of Congress, with power to send for persons and papers, and with instructions to examine each case and report such as, in their judgment, were entitled to relief. That committee, in discharge of the duty assigned them, did investigate every claim which had been presented to the Senate for relief, and in every case, except this of Mr. Atocha, reported definitively. In his case no report was made because of an equal division of that committee upon his title to relief, so that this is the only case which has not received the supervision of the Senate.

Mr. SLIDELL. Mr. President, this bill was reported by the Committee on Foreign Relations, and I think it proper to make a few remarks on the subject, inasmuch as I did not agree with the majority of the committee in that report; and I will state very briefly the reasons which governed me in not concurring.

In the first place, I considered that the action of the board of commissioners was in the nature of a judgment, and that unless some new testimony were offered which was not presented to the commissioners, their decision, or rather their failure to report in favor of Mr. Atocha, should stand.

The next objection that I had to the bill was to the form in which it is reported, which, according to my judgment, assumes the fact that Mr. Atocha was illegally expelled from Mexico, and that damages are due to him. On both these points I differ from the majority of the committee. I regret that my position on the committee obliges me to make this explanation, because there are personal relations existing between me and the petitioner, who has once been a constituent of mine, that would rather incline me to look favorably on his case.

Mr. Atocha was a citizen of the United States, resident in New Orleans for many years, and went to Mexico. He remained there for some ten or twelve years. His family was there. He of course did not lose his citizenship of the United States, but he certainly became a denizen of Mexico. He was very closely connected with the Government, and an intimate of Santa Anna. He was in Santa Anna's camp. When the power of Santa Anna was overthrown, Mr. Atocha was obliged to leave Mexico, his presence there being considered dangerous by the existing authorities. He claims not only ordinary damages for illegal expulsion, but, I understand, consequential damages for the loss of a lucrative business in which he was engaged as a broker, or something to that effect. It may be very possible, and I am inclined to believe, that Mr. Atocha has suffered some damage, for which, perhaps, it would have been right for the commissioners to make him some allowance. The amount of his claim I think grossly exaggerated. If I mistake not—my colleague can correct me if I err—it amounts to some \$200,000.

One argument made use of in the committee was, that if the claim were allowed it would really cost the Government nothing; that there was a balance in the Treasury of \$350,000, which, if it did not belong to Mr. Atocha, and other citizens of the United States protected by that article of the treaty, should revert to Mexico. That is not the view I take of the case. Under the treaty with Mexico we agreed to pay a certain sum—I forget how many millions of dollars; the amount is immaterial for the purposes of my argument—and \$3,250,000 was to be reserved out of that fund to pay to that extent such damages as citizens of the United States might claim to have been inflicted on them by Mexico. It seems the whole amount was not expended; but this was a portion of the consideration: "We will take from you \$3,250,000 in full compensation for all damages sustained by our citizens; and if the amount of damages proved exceed that sum, we will either assume the responsibility of paying it, or they must lose it." This sum is now in the Treasury, as emphatically a portion of the money of the people of the United States as money collected for duties. That argument, then, ought to have no weight.

Mr. Atocha's relations with Santa Anna were at least suspicious. He was in his camp, I think, as established by the report of the committee, which I have not read for some time; however, that is not material. I shall make no objection to the passage of this bill, though it cannot receive my concurrence, provided an amendment which I suggested to my colleague, who had the bill in charge heretofore, and to which he assented, be now adopted. The amendment is to this effect, to come in after the tenth line. I may as well read the whole bill, to explain the nature of my amendment:

That the proper accounting officers of the Treasury be, and they are hereby, directed to examine into the claims of Alexander J. Atocha against the Government of Mexico, for losses sustained by him by reason of his expulsion from that Republic in 1845; and that the loss or damage so ascertained be paid to the said Alexander J. Atocha out of any money in the Treasury not otherwise appropriated.

It appears to me very evident from the language of this bill and the manner in which it is worded, that, in the first place, it is assumed that he is entitled to damages, no matter what the cause of his expulsion was, whether it was justifiable under the laws of nations, and under the particular circumstances of the country at the time, or not; and next, it assumes that loss or damage resulted from such expulsion, which should be paid to Mr. Atocha. I move to amend the bill, at the end of the tenth line, by inserting this proviso:

Provided, however, That said accounting officers shall inquire into the causes of said expulsion, and shall make

no award in favor of said Atocha if, in their opinion, said expulsion was justifiable; nor shall any judgment be made under the provisions of this act without the approval of the Secretary of the Treasury.

I am not willing to confide the discretion of disbursing \$200,000 to subordinate accounting officers.

Mr. HUNTER. It seems to me this is evidently a case for the consideration of the Court of Claims; and I move that the bill and papers be referred to that court in order that it may be investigated on both sides. Let the petitioner appear before the court and present whatever arguments and evidence he can in favor of his claim, and let the United States be defended by its own officer. It seems to me from this statement to be a very suspicious claim, to say the least of it; but I do not care to prejudice its merits; I will not. All that I ask is that it be referred to the court which has been established for the consideration of such claims.

Mr. SLIDELL. I would suggest to the Senator from Virginia first to have the vote taken on the amendment which I have offered. I think it strips the bill of its most objectionable features.

The VICE PRESIDENT. Does the Senator from Virginia withdraw his motion?

Mr. HUNTER. I will withdraw it at the request of the Senator from Louisiana; but I will renew it after his amendment shall have been disposed of.

Mr. MASON. This claim was before the Committee on Foreign Relations during the last session, and was very closely and diligently examined by that committee. A report was made on it by an honorable Senator from Maryland, [Mr. Pratt,] who is no longer a member of this body; but I participated with him in the examination of the papers, and I believe I read them every one.

This gentleman, Mr. Atocha, was a citizen of the United States residing for the time in Mexico, for some years before the late war with Mexico. Before the war broke out, or rather before the war was declared, he was expelled violently by the existing Government of Mexico, which at that time was a Government *de facto* rather than a Government *de jure*. The order of expulsion was, that he should leave the city of Mexico within eight days. He made every effort through our Minister, who was then resident in Mexico, and through such other sources as were open to him, to be permitted to remain long enough to adjust his affairs, and to enable him to bring off some portion of his property; but the mandate of the Mexican Executive was peremptory; he was not listened to, but was forced to leave the country on that short notice. He had been long resident in Mexico. He is, I think, (indeed I am pretty sure, for I believe that appears from the papers,) a naturalized citizen of the United States, of Spanish birth. He spoke the Spanish well, was conversant with all Mexican affairs, and was employed by our Government in confidential relations during the war in Mexico. He was sent by our Government to Mexico as an agent in the course of the war, and a very just and proper tribute was paid to him by the then Secretary of State—now the President of the United States—because of the faithful and important services which he rendered to his adopted country, and without compensation.

That history, perhaps, led me to look more closely into his case than I might have done into the case of an ordinary claimant, and, as I have said, really from a desire to see that justice was done to one who was certainly a meritorious citizen, I believe I read every paper in a very voluminous mass that was before the committee. The grounds on which the committee made their report are very lucidly, although succinctly, stated in the report made by the Senator from Maryland, [Mr. Pratt,] in which I, to some extent, participated, although it is truly his report. They were, in substance, these: This gentleman was residing in Mexico as a banker and broker, and carrying on large money transactions in that country. It seems that he had money transactions with the existing Government, the Government of Santa Anna, which was overthrown by that power which expelled him; and because of a supposed connection between Atocha and the Government of Mexico in the hands of Santa Anna, this violent order of expulsion was made. He was remitted in due time to the board who

sat here to decide upon claims that were embraced within the treaty of peace, and his claim was rejected by that board. I agreed at once with the honorable Senator who made the report, and with the majority of the committee, that it would be a very dangerous thing to go behind the action of the board, and to determine that the commissioners had been wrong, and that this claim ought to be allowed; but the Senate will find in looking at the report which is made in the case, that the committee have not found it necessary to do so, and, therefore, have not done it. The report rests entirely on the ground that the board of commissioners erred, and it struck me erred very greatly in their construction of the law under which they were acting.

We did not attempt in the report to decide on the facts; but we found there a subject which had not entered at all (for we had the report of the board of commissioners) into their deliberations; that, by the existing treaty between the United States and Mexico, when the war broke out between the two countries, a citizen of the United States residing in Mexico, or a Mexican residing in the United States, was entitled to a period of six months to wind up his affairs under the direction of the Government, before he should be required to leave the country. That was not only denied to Mr. Atocha, but with all his affairs open, everything unsettled, and covering, as the papers show, a vast number of important pecuniary transactions, not with the Government alone but with the business interests of Mexico, he was expelled in that summary and violent manner, without a hearing, and without being allowed to remain even long enough to sell the furniture in his house.

Mr. COLLAMER. Allow me to ask a question. I understand this was before the declaration of war. The provision of the treaty was, that in case of war, six months should be allowed; but it seems this was before the war.

Mr. MASON. I said it was before the war was declared, but war existed. Blood had been shed and war existed before there was a formal declaration of war by the United States. It was a very peculiar declaration of war. I dare say the Senator has some recollection of the peculiar features attending that declaration.

Mr. COLLAMER. But was not this before any difficulty about that war with us?

Mr. MASON. No, sir; very far from it. The papers show that Santa Anna was in undisputed possession of the Government and had been for some years. He had retired to his plantation for a recess of a month or two, and during his absence there came one of those *pronunciamientos* in the capital which declared him out of power, and his successor in power—I have forgotten the name of his successor. It was because of the hostile relations that the Mexican people believed existed between the United States and the Government of Mexico that this American citizen, supposed to be allied with Santa Anna, was expelled. The committee found that the Senate had already set the precedent, as is recited in the report, in the case of two or three citizens of the United States.

Mr. COLLAMER. The Senator will excuse me for interrupting him. The report says this man fled from there in February, 1845. We had no symptoms of war until 1846. I merely mention this to show that this claim could not have come under the article of the treaty which has been alluded to.

Mr. MASON. To what treaty does the Senator refer.

Mr. COLLAMER. The treaty between us and Mexico; which provided that, in case of war with this country, citizens should have six months to leave.

Mr. MASON. When was that treaty made? Mr. COLLAMER. I think in 1831. This man was expelled before there was any state of war at all with us.

Mr. MASON. That depends entirely on what the Senator's idea of a state of war is. I said just now, that when it assumed the form of a declaration of war, it was rather a recognition of an existing war than a declaration of war. It was a recognition that war existed between the United States and Mexico.

Mr. COLLAMER. That was in 1846.

Mr. MASON. Very well. An examination of the papers shows, that as soon as that revolution-

ary government got possession in Mexico, they assumed, although war had not been declared either to exist, or recognized as existing, that such were the hostile relations between the two countries as to make it prudent and wise on their part to expel this American citizen. It was a *quasi* war, if you will, but the relations which they believed existed were of a character which required them, for their safety, to expel this American citizen because he was an American citizen.

I was going on to say that the Senate had set the precedent in reference to the adjudications of the board of commissioners, by a law raising a committee, to whom were to be referred certain claims, which had been rejected by that board, and amongst them that of Mr. Atocha, and there was no report made in his case, because the committee, one member being absent, was equally divided. If we look at the equity and the merits of the case, it does seem to me that it forms a very strong ground of claim on the part of this gentleman, who rendered meritorious service to the country, although under that disastrous fortune; not against the United States, for that is not pretended; but a claim against this fund, which is not yet exhausted, out of which these claims were to be paid.

The bill provides that it shall be paid, provided there remains a balance unexpended of the money reserved by the treaty for the purpose of paying that character of claims; and that I would give as an answer to the suggestion of my honorable colleague, that it is not a case for the Court of Claims at all. It is not a claim against the United States. The law raising the Court of Claims, as far as I can recollect, provides that there shall be referred to it all claims against the United States. This is a claim against the Government of Mexico, with which the United States would have nothing to do, except that, by the treaty with Mexico, a fund was reserved by the United States for the purpose of paying claims of her citizens against Mexico; and that fund we have been informed—I do not remember its amount—has not yet been exhausted. There is a balance of it in the Treasury which can be applied to the payment of this claim, if the bill passes, a part of which has already been applied by law of the two Houses in payment of those claims I have spoken of, that had been referred to a select committee. They were paid out of that fund, and the balance—I do not know how much it is, I dare say not enough to pay the whole of this claim—remains there unexpended.

Now, in reference to the character of that fund, I understand the honorable Senator from Louisiana to say that whatever remains unexpended of that treaty fund in the Treasury, is the property of the United States. I should take issue with him directly. The treaty with Mexico provided that there should be paid to Mexico a certain sum of money, I think, \$15,000,000; of which \$15,000,000, \$3,250,000 should be reserved by the United States for the purpose of paying claims by citizens of the United States against Mexico. The treaty provided for a sum, in gross, to be paid to Mexico, on the termination of the war, for certain equivalents in land, of which, by agreement between the two countries, \$3,250,000 were set apart for the purpose of paying claims of American citizens against the Government of Mexico. I should say, therefore, that if it should turn out that there does remain a balance of that reserved fund not required to pay these claims, it is the undoubted property of Mexico, and not the property of this country, and it ought to be paid over to her. That is the condition of the fund as I understand it, and as it was understood by the Committee on Foreign Relations.

I will not go into the merits of the case, because perhaps it might not be expedient that we should attempt to revise the judgment of the board of commissioners on the facts; but the bill provides that the accounting officers shall examine whether anything is due, and, if so, pay what is due, provided it shall not exceed the balance of the fund.

Mr. BENJAMIN. I desire to say a single word on this matter, as I have been appealed to by my colleague. I had not, as my colleague supposes, charge of this bill, but I took an interest in the memorialist, and in examining his claim, because he was one of my constituents. I examined it in connection with our late colleague from Maryland, who has recently left the Senate, very carefully at home. But it appears to me

that those who desire to have this matter referred to the Court of Claims are not aware of the precise state of the facts. The report of the Committee on Foreign Relations establishes that this claimant made good this claim, by proof, before the commission which was formed after the last treaty of peace with Mexico, for the purpose of determining the justice of these claims. He established his claim by proof. The commission declined to allow the payment, upon the ground that he had been properly expelled from Mexico, as having interfered in the internal convulsions of that country in the strife for power of the different factions which are constantly raging there. They assumed this upon two grounds; first, because it was proven, that between the date of the order of expulsion and his actual departure from the country, he resided with Santa Anna; and secondly, upon the ground that a communication was made by the Mexican Minister of Foreign Relations, to our diplomatic agent there, asserting the fact that this claimant had been engaged in those political intrigues, to which letter of the Mexican Minister, it was said, our diplomatic agent had made no answer.

When the case came up for trial, and these proofs were offered against the claimant, they took him by surprise. They took him by surprise for the reason that it was utterly impossible for him to imagine that a correspondence of this kind had taken place; and it was not until the case was decided against him on this ground that he went into an investigation of a correspondence which it was asserted had taken place, and compromised his entire right. He went in search of the gentleman who was our minister at the time of the correspondence, Mr. Shannon, and inquired from Mr. Shannon, "How came it, sir, that you, who, as the representative of my country, defended my interests, received such a letter as this from the Mexican Minister of Foreign Relations, and left it unreplyed to?" The answer was prompt and decisive, "It occurred because the Mexican Minister of Foreign Relations did not reply to my remonstrance in your behalf until he had sent you out of the country, and it was then useless to continue a correspondence on the subject of the order." Our minister protested against his silence being construed into an acquiescence in the statements made by the Mexican diplomatist, and no inference, therefore, can fairly be drawn against this claimant.

In relation to the single fact, that for eight or ten days he lived in the house of Santa Anna, he produced the proofs that the country was then in a convulsed state, that his personal safety was endangered, and brought before the Committee on Foreign Relations a letter from Santa Anna, then the President of the Republic, asserting that this claimant never had had any political relations whatever with him, and that he had sought refuge in his house against danger to his person.

Everything else but that particular point was decided by the Mexican commission in favor of the claimant. There remains nothing, therefore, for consideration now except the amount of the claim, and that amount, under the terms of the bill, is to be reexamined, although already once examined, and decided in favor of the claimant, by the officers of the Treasury Department, and no amount is to be paid over except such as the auditor shall find just; and, according to the amendment of my colleague—to which I can offer no opposition—until that decision, so to be made by the auditor, is affirmed by the Secretary of the Treasury. There is nothing for the Court of Claims to act upon. This matter has already been decided contradictorily by the Government; the solitary point on which the claimant found his demand rejected, being that he was engaged in those political intrigues—that point assumed against him by surprise—that particular fact now thoroughly disproven, nothing remaining but an examination into the amount to which he is justly entitled.

I trust, under the circumstances of the case, that this claimant, who has been here ten or twelve years seeking for justice, will not now be turned over to the Court of Claims, where, establishing his case, he will again be brought before Congress for the purpose of having that measure of relief passed in his favor which it is now entirely in our power to grant. I hope the Senate will pass this bill, and trust so far to the officers of the Treasury that they will make a scrupulous examinations of

the items of the claim, and allow no more than is just and proper.

Mr. HUNTER. According to the rules of the Senate, it is provided that:

"Whenever a private bill is under consideration, it shall be in order to move, as a substitute for it, a resolution of the Senate, referring the case to the Court of Claims."

In regard to the jurisdiction of the Court of Claims, if my colleague will look to the law establishing the court, he will find it has most complete jurisdiction. I offer this resolution as a substitute for the bill:

Resolved, That the bill (S. No. 28) for the relief of Alexander J. Atocha, together with the report from the Committee on Foreign Relations and the papers relating to the case, be referred to the Court of Claims.

Mr. CRITTENDEN. I object to the consideration of the resolution, as out of order.

The VICE PRESIDENT. The language of the rule is peculiar; but the Chair is of opinion that the resolution is in order now. He does not think it falls within that class of resolutions which must lie over if objected to. It is in the nature of a motion as a substitute.

Mr. CRITTENDEN. My objection is not on that point. We are considering the amendment of the Senator from Louisiana, and the question is whether another Senator can interrupt that question by offering a resolution. I do not object to the consideration of the resolution because it is just offered. I object to it, because it is out of time and supersedes business, contrary to the rule. The question is on the amendment proposed by the Senator from Louisiana. Before we have taken a vote on that subject, this resolution is offered. Is that in order? I think not.

Mr. HUNTER. This motion is made under the 29th rule, which rule is designed to provide, as I understand, for just such cases. Before we consider the merits of the bill let us decide whether or not we shall refer it to another tribunal, where it can be more properly examined and adjudicated.

Mr. CRITTENDEN. I submit still that that does not authorize this resolution now. After the amendment shall have been disposed of, it may be in order; but it is very extraordinary to me that a Senator can rise in the midst of a debate on a pending amendment, and supersede it by a resolution. He must be in order to make such a motion; and he is not in order to make such a motion while an amendment is pending. That is my judgment.

The VICE PRESIDENT. The Chair will give his impression on the point of order. The 29th rule provides that "whenever a private bill is under consideration, it shall be in order to move, as a substitute for it, a resolution of the Senate referring the case to the Court of Claims." The bill was under consideration, and the immediate question was on an amendment offered by the Senator from Louisiana. The Senator from Virginia, being regularly entitled to the floor, has made this motion in the nature of a resolution. The Chair thinks it is in order.

Mr. CRITTENDEN. Then I hope it will not be adopted. We have already devoted some time to this bill, and I think it would be unjust to refer it now. It has been long delayed, too long if the claimant is entitled to relief. It may be that the Court of Claims may not feel at liberty to exercise the discretion which we may desire. It may be that this gentleman, though he may have a just claim, will be found not to have a claim which the court can recognize according to the laws which regulate its proceedings. It is an appeal, to some extent, to the justice and discretion of Congress. We deprive him entirely of that appeal if we refer him to a tribunal of law, which may say to him—"Your claim is just, but we have not authority to allow it; your claim is not of that legal and sanctioned character which we can alone consider; we cannot consider claims that have no legal sanction against the United States." We might find that the court would turn the party back to Congress with just such a decision as the commissioners under the treaty made. I hope the case will not be referred now, but that we shall be able to consummate the matter in a short time.

Mr. HUNTER. When the Senator from Kentucky interrupted me, I was about to state there could be no doubt as to the jurisdiction of the Court of Claims. The act establishing the court provides:

"The said court shall hear and determine all claims founded upon any law of Congress, or upon any regulation

of an executive department, or upon any contract, express or implied, with the Government of the United States, which may be suggested to it by a petition filed therein; and also all claims which may be referred to said court by either House of Congress."

There can be no doubt, therefore, of the jurisdiction of the court, if this claim should be referred to it. From the statements that have been made on both sides, it seems to me that this is eminently a case for the consideration of the Court of Claims. There is a dispute as to the precise obligation of the United States towards this claimant, under the treaty of Guadalupe Hidalgo—under previous treaties, and under the law of nations. I can conceive of no case which is more suited to be referred to the adjudication of the Court of Claims than the one we are now considering. If we do not refer it to them, there are many points suggested by the Senator from Louisiana [Mr. SLIDELL] which we shall have to consider before we act on the bill. It was designed by the institution of this court to save Congress all that sort of trouble. It was supposed that it would be a much better tribunal for the examination of all such cases than Congress; and under this supposition I propose now that this case shall go to that court for its examination and decision.

Mr. MASON. Although I do not mean to say that my colleague may not be right in his construction of the law, I cannot agree with him that his construction necessarily follows from its language. The law says:

"The said court shall hear and determine all claims founded upon any law of Congress"

These would, of course, be claims against this Government. A law of Congress cannot affect the interests of any people but our own, and I think I may safely infer that claims of this class would be claims against this Government—

"or upon any regulation of an executive department?"

I think I may safely infer that this class would include only claims against this Government—

"or upon any contract express or implied with the Government of the United States?"

necessarily embracing only claims against this Government—

"which may be suggested to it by a petition filed therein; and also all claims which may be referred to said court by either House of Congress."

What I meant to say was, that it was the very essence and spirit of this law to provide a court for the adjudication of claims against this Government. I should think it was not contemplated to refer to the court any claim except a claim against this Government, although it may be that under the general terms of the last clause, making it competent for Congress to refer any claim if they think it expedient or wise, they may do so. The general language employed would seem to import that if Congress refer a claim to the court that fact gives jurisdiction, because Congress so wills. I should doubt, however, whether it would be proper and in conformity to the purpose of the law to refer to the court any claim but such as is strictly a claim against the Government of the United States.

But, sir, there is this objection to referring this claim merely as the voluntary act of Congress; if the claimant is referred to the Court of Claims he will have to go back to Mexico and take his proofs *de novo*. After having been actually stripped, as I am satisfied he has been, of all the property he possessed by this lawless act of Mexican power, and after having, as the honorable Senator from Louisiana [Mr. BENTLEY] has well said, established his claim by proofs taken in conformity with the regulations established by a tribunal before which both sides, debtor and creditor, were heard, he is now to be required to go back and take his proofs *de novo*, when I dare say it is utterly out of his power on account of the lapse of time, even if he had the means to effect it. Even if the Senate should consider it as a matter within their discretion, to refer the case to the Court of Claims, I hope it will not be so referred.

Mr. SEWARD. The object of establishing the Court of Claims, as I understand it, is to facilitate the investigation and payment of just claims against the Government of the United States, but it is not its object to postpone or delay the payment of such claims. There is a discretion exercised by Congress in referring claims to that court. That discretion is wisely exercised when the facts are unknown or the law applicable to the case is uncertain; but all these difficulties seem

to have been surpassed in this case. In the first place, the fund already exists and stands waiting for the payment of this claim, if the claim itself shall be allowed. In the second place, the facts have been established before a tribunal as competent to inquire into and report upon them as the Court of Claims; and, in the third place, the law in the case has been examined by the Committee on Foreign Relations. I should certainly be unwilling to admit that the Court of Claims is better competent to pass, and has more impartiality, or more learning, or ability to settle what are the principles of law applicable to this case, than this committee of our own body. That committee seems to have examined the subject, and so there remains nothing but to ascertain the amount which shall be paid, and we have officers in the Treasury Department for that purpose. The Court of Claims can have no capacity to perform that duty better than the officers to whom this will be referred. Under the circumstances, it seems to me we can only refer this claim to the court on the principle of desiring to delay and embarrass and procrastinate so as to harass the suitor. If the claim is right or just, I think it ought to be passed at once.

Mr. FESSENDEN. I know nothing about this claim, except from hearing the report read; and that, as any one will perceive, gives a member of the Senate very little opportunity to judge of the merits of a claim of this description. I have nothing to say against it. I think it likely that it may be all right; but I differ with my honorable friend from New York in his notions about the propriety of referring claims of this description to the Court of Claims. It is a very large amount, in the first place, and will therefore justify the claimant in prosecuting his claim before the tribunal which we have established for such purposes. I think there is only one class of cases in which we should omit to send a claim against the Government to the Court of Claims, where it is proper, from its nature and character, that it should go there; and that is, that somewhat numerous class where the claims are so small that sending them to the Court of Claims is equivalent to a denial of justice altogether; where the expenses will necessarily be such as, if successful, the complainants, or the people who have claims against the Government, will in reality get nothing.

Here is a claim, amounting, I understand, to some two or three hundred thousand dollars. It has already been once rejected by the board before which it was brought, which was constituted for the purpose of examining claims against Mexico. It has, I understand, been once before a select committee of this body, and rejected. It now comes from the Committee on Foreign Relations. I have as much confidence in the Committee on Foreign Relations as I have in any committee of this body; and it is sufficient to say that, in all these private matters, I believe they endeavor to do what is right; but every man knows, or ought to know, that it is impossible to try a claim, especially a claim of a large amount, involving transactions of a serious and complicated nature, on *ex parte* testimony before a committee of this body. That was established as a fact when the Court of Claims was constituted. If it had not been the conviction of the members of the Senate and the House of Representatives, that it was unjust to the Government, and that the Government suffered by the very fact that these claims were presented to committees of this description and were heard on *ex parte* testimony, we should never have established the Court of Claims; there would have been no necessity for it. We did it for the very reason that we were convinced that in the nature of things it was not possible to have these claims investigated, as they should be investigated, properly, and arrive at correct results, by sending them to committees. That was the great argument used.

Now, I hold that in all cases where the claim is so large that it will justify a pursuit before the Court of Claims; when, in fact, sending it there is not substantially a denial of justice, we ought, if we think anything of our own acts here, to send it there. If there is any good reason for establishing the Court of Claims at all, all such claims as are proper for their consideration, and come within the meaning or language of the statute, ought to go there. To use a common ex-

pression, we ought not to make fish of one and flesh of another, but should put these claims against the Government on one level. We have established a tribunal in such a form that the interests of the Government can be regarded. We have appointed a solicitor to look after the interests of the Government, and a court to hear the cases. Certainly no one can say, from the experience we have had, that that court is too anxious to look out for the interests of the Government at the expense of the claimants. I think some claims have come here from the Court of Claims of very questionable character, and where the decisions at least did not meet my approbation.

Under these circumstances, when there is nothing but an *ex parte* hearing, when there have been reports against this claim on two several occasions, first by the board of commissioners, and next by the select committee, which might be presumed to examine it with as much care as if it had a great deal of other business before it, I see no reason why we should break over the rules we have established in reference to our own act, overthrow substantially our court, and give this man, having a large claim, a privilege we give nobody else; but we should send him to the court we have established for the purpose of deciding claims.

Mr. TOOMBS. There are many public reasons, apart from the claim itself why the course proposed by the Senator from Virginia [Mr. HUNTER] should be pursued on this occasion. This claim is founded on a treaty obligation. It is a claim originally against the Government of Mexico for damages for the expulsion of the claimant. By the treaty of Guadalupe Hidalgo, we assumed to pay claims of our citizens against Mexico to the extent of three and a quarter million dollars, and we created a tribunal to determine the claims. The claimant was before that tribunal, and its decision was against him. It is now affirmed by the Committee on Foreign Relations that this decision was founded upon a mistake of facts, or rather that he has subsequently procured testimony showing that the state of facts on which the board acted was incorrect. That is the present position of the case, and I am called upon to determine that question.

I say it is eminently proper that it should be determined by the tribunal created for the purpose, and not by me, for the reasons that have been so well given by the Senator from Maine, [Mr. FESSENDEN.] The evidence before us is *ex parte*; we do not know that it is correct. Our committees have no means of taking correct testimony, particularly in a case where the greater part of the evidence comes from the city of Mexico. We do not know whether the papers before the committee were genuine or not. When this party has had a fair trial before a tribunal appointed by the highest authorities, and his claim has been rejected, it is going very far to allow him to appear before another tribunal. To grant this, in order to admit after-discovered evidence, is greatly in ease and favor of this claimant; but to go on and determine the case on the idea that we must facilitate and hasten his payment, as urged by the Senator from New York, is, I think, utterly erroneous.

Besides, if we go on in this way, we shall destroy all the benefits which the public service was to receive from the reference of claims to a court. The Court of Claims was established, not merely to facilitate the payment of claimants, but to get at the facts of each case, by presenting them to a tribunal having time to examine the principles, and thus relieve the legislation of the country. Formerly, we gave about one fourth of our time to private claims, and it was impossible for us to do justice. Now, a worse system will be inaugurated, if you allow favored claims, properly falling within the jurisdiction of the court, to be taken from it on account of some peculiar solicitation, or for some special reason. I would refer to the court all cases coming within its jurisdiction, without distinction. I think the Senate ought to make a stand here. If a claim is within the scope of the jurisdiction of the court, that fact ought to be sufficient of itself to insure its reference, and I know of no reason which can override it. Pursue any other course, and you will have a system of favoritism. If one committee reports against a claim, the parties interested will hunt up a committee that is favorable. I speak of what every man knows to be a common usage.

Nobody ever came before Congress that did not get a favorable report from some committee. An examination of the records will show that claims which have been rejected twice, thrice, even fifty times, have finally been favorably reported upon.

Now, sir, we have a judicial tribunal for which we pay a great sum of money, more capable than we are, and having more time than we have, to decide questions of this sort. It ought to be an inflexible rule with this body, whenever a claim is within the jurisdiction of that court, to refer it to them; and therefore I approve the resolution of the Senator from Virginia.

Mr. COLLAMER. I wish to add a few words to the remarks of the two gentlemen who have preceded me. This Mr. Atocha, as appears by the report, was sent out of Mexico by the executive Government of that country; but this was not on account of any difficulty between Mexico and the United States, because it was a year before the war, or anything like *quasi* war, existed. The report quotes an article in a former treaty with Mexico, providing that our citizens should, in the event of a war, have six months' notice to leave the country. This does not apply to Mr. Atocha's case, because there was not a state of war at that time, and he was not sent out of the country as being offensive in consequence of any difficulty arising from his being an American citizen.

The fourteenth article of the old treaty provided that our citizens residing in Mexico should have all the rights which Mexican citizens had in relation to legal trials. Mr. Atocha was sent out of the country in a time of peace; and if there is any objection to his being sent out by the executive Government as an American citizen, it is because of that fourteenth article. That brings us directly to this question: had they a right, under their laws and by their Constitution, to send out of the country at once a person whom they regarded as a dangerous citizen? If they had, they had a right to send Mr. Atocha out, and there is no claim at all. He had no more right there than a Mexican citizen. They sent him away as being a dangerous or offensive inhabitant. If they had the power and right, under their constitution, to send away one of their own people, they had a right to send this man away. The whole question would seem, then, to turn on this: had they a right to send away one of their own citizens? I do not know that they had not. It is said that it was done by people who had, by a sort of *pronunciamiento*, put out Santa Anna. I suppose Santa Anna would have had the same right while he exercised the Government, if the right existed at all.

Mr. SLIDELL. There was a state of siege at the time; martial law prevailed.

Mr. COLLAMER. The actual existing Government in the hands of the then Executive exercised this power, which I suppose is common to Mexico, and, for aught I know, constitutional. If so, it is Mr. Atocha's misfortune, and his claim must be against somebody else. He cannot have a claim against us, or even against Mexico, if he was dealt with by the existing authorities of the country according to law. That is a question which depends entirely on the extent of the constitution and laws of Mexico—I am not prepared to say. I do not know but that the Court of Claims may properly look into that, and say there was no right to expel him in the manner in which it was done. That, however, is presuming that Mexico is a free, just, and liberal country, like ours, and that therefore no such power can exist there. Such a power does exist in many countries, and is considered necessary for their safety.

Mr. SLIDELL. A single word in answer to an argument of the chairman of the Committee on Foreign Relations. I asserted that this money absolutely belonged to the United States; that no argument could be adduced from the fact of there being a balance remaining of the \$3,250,000. By the twelfth article of the treaty with Mexico we paid \$15,000,000 for the extension of boundaries. By the thirteenth, fourteenth, and fifteenth articles, we incurred the following obligations:

"ART. 13. The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican Republic, under the conventions between the two Republics, severally concluded on the 11th day of April, 1839, and on the 30th day of January, 1843; so that the Mexican Re-

public shall be absolutely exempt, for the future, from all expense whatever on account of the said claims.

"ART. 14. The United States do furthermore discharge the Mexican Republic from all claims of citizens of the United States, not heretofore decided against the Mexican Government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

"ART. 15. The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever canceled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding \$3,250,000."

The treaty then goes on to say that all these claims shall be ascertained and passed upon by the board of commissioners; and this Government agree to pay no claims which are not recognized as valid against the Government of Mexico by the board of commissioners. This is not a recognition of the sum of \$3,250,000 being due to Mexico, out of which we should have a right to retain, under certain circumstances, a portion in order to indemnify our own citizens; but it is an absolute obligation on our part to pay to our own citizens \$3,250,000, under certain circumstances, when they have established certain proofs. I think there can be no doubt of this.

Mr. CRITTENDEN. My friend from Vermont assumes that this expulsion of Atocha took place before the war. I think it is a matter of some little question when the war may be said to have commenced. There was no formal declaration of war at any time by Mexico against this country, or by this country against Mexico, unless Mexico can be considered as having made a conditional declaration of war when, before the annexation of Texas to this country, she made a solemn declaration that she would make war if Texas was admitted. Texas was admitted, as well as I remember, in the early part of the year 1845. The event then took place on which the conditional declaration of war by Mexico took effect. From that time, then, we should have had a right, if we pleased, to consider that there existed a state of war. Blows were first struck in the spring of 1846, but the declaration of war, if there was any, was that which I have supposed—a conditional declaration of war by Mexico previous to the admission of Texas; and all the interval between the striking of blows and the annexation of Texas was a state on both sides, particularly on the side of Mexico, of preparation to strike the blow. From her extensive dominions she was marching troops to the Rio Grande; and as soon as she got ready a sufficient force there, she crossed that boundary, and a battle was fought. Now, are we to say that the war commenced only from the time when these blows were struck? If anything justified her in making that war, it was her previous declaration to us that she would make it if we annexed Texas. It seems to me, then, that although the expulsion of Mr. Atocha occurred previous to the first battle, it may have been at a time when there was a state of virtual war existing by the only declaration of war that was made by either party. I think, then, the case is not clear against the claimant on this point.

While I admit the propriety of the general doctrine urged by gentlemen, it seems to me that there are peculiar circumstances in this case which will justify us in now deciding on the claim without referring it to the Court of Claims. A long time has elapsed since the claim was first presented. A portion of it has been occupied in a vain struggle before a tribunal erected by Congress for disposing of the fund reserved to pay private claims against Mexico. In that the party failed. Since then, he has been long collecting such testimony as was appropriate enough before this tribunal. Now you say turn him back and let him go before the court. The remarks which have been made on this subject are generally judicious; but here is a transaction occurring in a foreign country connected with the politics of that country, and, after this lapse of time, it is exceedingly improbable whether the testimony to support this claim can be produced in that precise form which the rules of evidence will demand when it goes before this tribunal. Evidence of a character that would be very satisfactory to us, could not be admitted there, not because it would be disbelieved by the tribunal, but because it was not in that formal and authentic form which alone can render it admis-

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sible in a court of justice. I think, therefore, we should not violate our duty to our country, we should not set a bad example, by now acting and deciding ourselves on this claim. It is one in which I have no peculiar interest, only the desire that justice may be done, and that promptly. I think, sir, the nation will lose but little security in transferring from that court to the accounting officers of the Government this claim, and requiring their decision upon it to be sanctioned by the Secretary of the Treasury. The public interest seems to me to be sufficiently guarded, as well almost as it would be by a reference to the court. Under these circumstances, and the case being ready for decision before us, I see no reason why we should interpose this obstacle to a present decision on this subject, and let the party receive whatever he is entitled to.

The VICE PRESIDENT. The question is on the resolution to refer this case to the Court of Claims.

Mr. SLIDELL. I wish to make a suggestion to the chairman of the Committee on Foreign Relations, which will govern my vote in this case. If the amendment which I have offered is accepted, I shall be willing to send the claim to the accounting officers of the Treasury. If it is not accepted, I shall vote for its reference to the Court of Claims.

Mr. MASON. I see no particular objection to the amendment offered by the Senator from Louisiana, and I would accept it; but I cannot see how he is to effect the object, unless my colleague withdraws the resolution until the bill is perfected; and then we can have a test vote on the reference to the Court of Claims.

Mr. HUNTER. My view in submitting the motion was to carry out one of the objects of the establishment of the Court of Claims, to save the Senate the trouble, and refer the subject to the court, as a body better calculated to do justice in the case than we can be, with our imperfect means of examining testimony. I therefore desire to take the sense of the Senate whether they will refer the subject entirely to the decision of the Court of Claims, or will decide on it themselves. If it be thought to be a case for the Court of Claims, we can save ourselves the trouble of considering all these amendments, and the merits of the bill. I must, therefore, persist in my motion, and ask that the sense of the Senate be taken on it.

Mr. FESSENDEN called for the yeas and nays on the motion to refer the bill to the Court of Claims; and they were ordered; and being taken, resulted—yeas 31, nays 15; as follows:

YEAS—Messrs. Allen, Biggs, Bigler, Broderick, Chandler, Colamer, Davis, Doolittle, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foot, Foster, Green, Hamlin, Harlan, Hunter, Iverson, Johnson of Tennessee, King, Pearce, Pugh, Sebastian, Simmons, Slidell, Stuart, Toombs, Trumbull, and Wade—31.

NAYS—Messrs. Bell, Benjamin, Cameron, Clay, Crittenden, Dixon, Gwin, Hale, Houston, Jones, Kennedy, Mallory, Mason, Seward, and Thomson of New Jersey—15.

So the bill was referred to the Court of Claims.

EXECUTIVE SESSION.

Several messages in writing were received from the President of the United States, by Mr. J. B. HENRY, his Secretary.

On motion of Mr. MASON, the Senate proceeded to the consideration of executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 5, 1858.

The House met at twelve o'clock, m. Prayer by Rev. D. BALL.

The Journal of yesterday was read and approved.

COURT OF CLAIMS BILLS.

The SPEAKER. The Chair desires to call the attention of the House to the condition of the bills from the Court of Claims which were not finally disposed of at the last session of Congress. The law passed in 1855 requires that the reports from the Court of Claims shall be taken up and dis-

posed of the same as if there had been no adjournment. In construing that law, the Chair has felt himself constrained to hold that where a bill had received its first and second reading at a preceding Congress, it would be incompetent to resume the consideration of that bill at the point where it had been left off. He has, therefore, held that it is necessary that these bills shall be resumed, and the proceedings commenced *de novo*. He has given instructions to the Clerk, in making up the Calendar, not to place any of these bills upon it; and if the House concurs with the Chair in the views he has taken, it will proceed to have all the bills undisposed of at the last Congress read a first and second time, and referred to the Committee of Claims, so that they can be taken up in conformity to law. The adverse reports the Chair has directed to be placed upon the Calendar. If, therefore, there be no objection, the Chair will present these bills for a first and second reading.

Mr. BILLINGHURST. If the law be such as it has been stated by the Speaker, I should be glad to have it read before the House acquiesces in the present ruling of the Chair.

The SPEAKER. The law provides—

"That said reports, and the bills reported as aforesaid, shall, if not finally acted upon during the session of Congress to which the said reports are made, be continued from session to session, and from Congress to Congress, until the same shall be finally acted upon; and the consideration of said reports and bills shall, at the subsequent session of Congress, be resumed, and the said reports and bills be proceeded with, in the same manner as though finally acted upon at the session when presented."

Mr. STEPHENS, of Georgia. I do not think that there can be any doubt of the correctness of the views presented by the Speaker in the decision he has just made with regard to these bills. The action of the last Congress upon these bills was inchoate, unfinished, and they stand now just as other bills do, which, passing one House, have not passed the other, from whatever cause, or as bills do which have passed both Houses of Congress, and have been lost before they got to the then President; and their consideration, when resumed, must be resumed *de novo*. The action of the Senate and of this House gives them no validity; we must begin *de novo*.

It has been suggested to me that the Speaker has decided that some of these bills should go upon the Calendar, and that others should not.

The SPEAKER. The Chair has decided that only the adverse reports of the Court of Claims should be placed upon the Calendar. The Chair does not feel that there is any necessity to bring them to the attention of the House.

Mr. STEPHENS, of Georgia. I will sustain the Chair's decision.

Mr. JONES, of Tennessee. I did not hear the remark of the gentleman from Wisconsin, [Mr. BILLINGHURST.] Did he disagree with the views of the Speaker?

The SPEAKER. The Chair did not so understand the gentleman from Wisconsin. He only asked for the reading of the law.

Mr. JONES, of Tennessee. There can be no doubt, I think, of the correctness of the views of the Speaker. No Congress can have the right to pass a law for the purpose of controlling the action of a subsequent Congress. Neither the House nor Congress can pass an act that a bill only partially acted on, shall stand before the succeeding Congress where it stood when that Congress expired. Therefore, I should suppose there will be no disagreement with the Speaker's construction, that the bills reported upon favorably by the Court of Claims should be referred to the Committee of Claims. I am not certain but that the adverse reports from that court should also go there to be reported on by that committee. If there be no objection, these adverse reports might be laid on the table till they are finally disposed of.

The SPEAKER. The law directs in reference to that point:

"The claims reported upon adversely shall be placed upon the Calendar when reported; and if the decision of said court shall be confirmed by Congress, said decision shall be conclusive, and the said court shall not at any subsequent period consider said claims, unless such reasons shall be pre-

sented to said court as, by the rules of common law or chancery, in suits between individuals, would furnish sufficient ground for granting a new trial."

Mr. BOCOCK. Nobody objects to the Speaker's decision, and I shall object to further debate unless there is an appeal taken from that decision; and if an appeal be taken I shall move that it be laid upon the table.

Mr. FLORENCE. I do not desire to debate the question. I wish to know whether, if these adverse reports do not go upon the Calendar, there will be any action of the House on them, and whether they do not require the action of the House to decide the question?

The SPEAKER. The Chair so thinks.

The following bills were then severally read a first and second time, and referred to the Committee of Claims:

- A bill for the relief of Asbury Dickins;
- A bill for the relief of John Robb;
- A bill for the relief of Michael Nourse;
- A bill for the relief of George A. Magruder;
- A bill for the relief of Moses Noble;
- A bill for the relief of Francis A. Gibbons and Francis X. Kelly;
- A bill for the relief of James Beatty's personal representatives;
- A bill for the relief of Ernest Fiedler;
- A bill for the relief of Henry and Frederick W. Meyer, merchants of the city of New York;
- A bill for the relief of Sturgess, Bennett & Co., merchants of the city of New York;
- A bill for the relief of Cornelius Boyle, administrator of John Boyle, deceased;
- A bill for the relief of Otway H. Berryman and others;
- A bill for the relief of Nahum Ward;
- A bill for the relief of David Wood, merchant of the city of New York;
- A bill for the relief of John Michel, merchant of the city of New York;
- A bill for the relief of Atkinson, Rollins & Co., merchants of the city of Boston;
- A bill for the relief of Aymar & Co., merchants of the city of New York;
- A bill for the relief of Wolfe & Co., merchants of the city of New York;
- A bill for the relief of Stanwood & Reed, merchants of the city of Boston;
- A bill for the relief of J. D. & M. Williams, merchants of the city of Boston;
- A bill for the relief of Samuel A. Way, merchant of the city of Boston;
- A bill for the relief of Udolpho Wolfe, merchant of the city of New York;
- A bill for the relief of Alfred Atkins, merchant of the city of New York;
- A bill for the relief of George W. Wales, merchant of the city of Boston;
- A bill for the relief of F. B. Wales, merchant of the city of Boston;
- A bill for the relief of John Ericsson;
- A bill for the relief of George Ashley, administrator, *de bonis non*, of Samuel Holgate, deceased;
- A bill for the relief of Eggleston & Battell, merchants of the city of New York;
- A bill for the relief of Jane Smith, county of Clermont, Ohio;
- A bill for the relief of Lucinda Robinson, county of Orleans, State of Vermont;
- A bill for the relief of Hannah Weaver, of Wayne county, Pennsylvania;
- A bill for the relief of Ann Clark, of Madison county, Tennessee;
- A bill for the relief of Mary Burt, of Sciota county, Ohio;
- A bill for the relief of Esther Stevens, of Van Buren county, Michigan;
- A bill for the relief of Mercy Armstrong, of Gloucester county, Rhode Island;
- A bill for the relief of Nancy Madison, of Fairfield county, Ohio;
- A bill for the relief of Anna Parrot, of Clinton county, Ohio;
- A bill for the relief of Margarette Taylor, of Putnam county, Tennessee.

Mr. JONES, of Tennessee. I would like to know what the nature of that bill is. There are some of these bills, as I understand, which relate to revolutionary pensions. It would, perhaps, be as well for such bills to go to the Committee on Revolutionary Pensions.

The SPEAKER. The Chair would call the attention of the gentleman from Tennessee to the 153d rule, which requires all these reports and bills to go to the Committee of Claims. The rule is as follows:

"The bills and their accompanying reports from the Court of Claims shall be referred by the Clerk of the House to the Committee of Claims; and it shall be in order every Friday morning, immediately after the reading of the Journal, for the Committee of Claims to report with reference to business from the Court of Claims. The bills reported to be printed and placed on the Private Calendar."

Mr. JONES, of Tennessee. There is one character of bills which the court have reported upon under the act of 3d February, 1853, giving compensation to the widows of revolutionary soldiers who have died, and where they had married since 1800. The construction of that law at the Pension Office was, that the pension commenced, when the proof was made out, from the date of the passage of the act. The Court of Claims have decided that the pension under that act goes back to March, 1848—five years prior to its passage. That is a question which should be investigated by the Committee on Revolutionary Pensions. That committee has always had charge of the subject. It is, in my opinion, I will take occasion to say, purely and solely a claim agent business, gotten up by them; and the decision, if sustained by Congress without some particular provision in the law passing it, will inure to their benefit. I want that bill, when it comes up, to be guarded particularly, and it would be better for Congress to pass a general law, covering all that class of cases, than to pass a bill for each individual case.

For that reason I would have preferred that such bills as I have indicated should go to the Committee on Revolutionary Pensions. But as the rule is explicit, they will, of course, have to take the direction given to them by the rule.

Mr. LETCHER. I hope there will be unanimous consent to give them that direction, because the Committee on Revolutionary Pensions are better informed on the subject than the Committee of Claims.

Mr. JONES, of Tennessee. I do not know that this particular bill is one of that character. But I know that there are a great many of them under the act of February 3, 1853.

Mr. LETCHER. Let all of them, by general consent, that relate to that subject, go to the Committee on Revolutionary Pensions.

Mr. JONES, of Tennessee. Exactly the same principle is involved in all of them. If there be unanimous consent, the Clerk will give them all that direction.

No objection being made, all bills from the Court of Claims reported this morning, relating to revolutionary pensions, under the act of February 3, 1853, were ordered to be referred to the Committee on Revolutionary Pensions.

MESSAGE FROM THE SENATE.

A message was here received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill for the relief of George P. Marsh, in which he was directed to ask the concurrence of the House.

COURT OF CLAIMS CASES.

The report of bills from the Court of Claims was again resumed, and referred as before indicated, as follows:

A bill for the relief of Levina Tepton, of White county, Tennessee;

A bill for the relief of Lucretia Wilcox, of Wayne county, Michigan;

A bill for the relief of Mary Robbins, of Westmoreland county, Pennsylvania;

A bill for the relief of Tempy Connelly, of Johnson county, Kentucky; and

A bill for the relief of Rosamond Robinson, of Belknap county, New Hampshire.

Adverse reports from the Court of Claims, in the several cases of Robert Roberts, Samuel M. Puckett, John P. McEldery, Louis G. Thomas and others, Shepherd Knapp, Cyrus H. McCormick, William W. Cox, J. D. Holman, executor of Jesse B. Holman, John C. Hale, Cassius M. Clay, Susan Decatur, William Neill and others,

Thomas Phenix, jr., H. L. Thistle, Abel Gay, J. Boyd, David Myerle, Cortlandt Palmer, and J. K. Rogers, were ordered to be placed upon the Calendar.

EXECUTIVE COMMUNICATION, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a report from the disbursing agent of the Coast Survey, showing the number and names of persons employed, and a statement of all expenditures made, under the direction of the Superintendent of Coast Survey; which was laid on the table, and ordered to be printed.

Also, certain papers in connection with the contested election case from Nebraska; which were referred to the Committee of Elections, and ordered to be printed.

SAMUEL WINN.

Mr. ATKINS. I rise to a privileged question. I introduced a bill yesterday, for the relief of Samuel Winn, which was referred to the Committee on Invalid Pensions. I move to reconsider the vote by which that reference was made. I desire to have that bill referred to the Committee on Revolutionary Pensions.

The motion to reconsider prevailed; and the bill was then referred to the Committee on Revolutionary Pensions.

THE NEUTRALITY LAWS.

Mr. QUITMAN. Mr. Speaker, as I suppose that the honorable chairman of the Committee of Ways and Means will propose very soon to refer the President's message to the appropriate committee, I ask the permission of the House to introduce the following resolution for the purpose of disposing of a portion of that message:

Resolved, That so much of the President's annual message as relates to the duties of an independent State in its relations with the members of the great family of nations to restrain its people from acts of hostile aggression against their citizens or subjects; and so much as relates to the present neutrality act of 20th of April, 1818; to the fitting out, within the limits of our country, of lawless expeditions against some of the Central American States; to the instructions issued to the marshals and district attorneys, and to the appropriate Army and Navy officers, together with the President's recommendation that we should adopt such measures as will be effective in restraining our citizens from committing such outrages, be referred to a select committee, to consist of five members, with power to report by bill or otherwise.

Mr. KELSEY. I object to that.

GEORGE P. MARSH.

Mr. MORRILL. I ask the unanimous consent of the House to have taken up Senate bill (No. 1) for the relief of George P. Marsh, in order that it may be referred to the Committee on Foreign Affairs.

Mr. KEITT. I object.

INFORMATION ABOUT KANSAS.

Mr. GROW. I ask the consent of the House to offer a resolution calling for information which the House needs. I hope there will be no objection to it. It is as follows:

Resolved, That the President be requested to communicate to the House copies of all instructions by himself or any head of Department to the Governor or other executive officer in the Territory of Kansas, and all correspondence with the same, together with a copy of the executive minutes of said Territory, not already communicated to this House. Also, a copy of the constitution formed at Leecompton, together with a copy of the census and return of the votes in the election of delegates to said convention, and the returns of the election held in said Territory on the 21st of December last, with the number of votes then polled in each election precinct in said Territory, and copies of any other official papers in possession of the Secretary of State relative to Kansas affairs, not already communicated to Congress.

Mr. KEITT. I object.

Mr. J. GLANCY JONES moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and proceeded to the consideration of the first business in order, being

THE PRESIDENT'S ANNUAL MESSAGE.

Mr. J. GLANCY JONES. I offer the following resolutions:

1. *Resolved*, That so much of the annual message of the President of the United States, to the two Houses of Con-

gress at the present session, as relates to our foreign affairs, together with the accompanying correspondence in relation thereto, and to the seizure of property of citizens of the United States by the Republic of Paraguay, be referred to the Committee on Foreign Affairs.

2. *Resolved*, That so much of said message and accompanying documents as relates to a loan, the public finances, the revenue, receipts and expenditures, the public debt, the tariff, paper currency and bank credits, be referred to the Committee of Ways and Means.

3. *Resolved*, That so much of said message and accompanying documents as relates to a uniform bankrupt law, and to the neutrality laws, be referred to the Committee on the Judiciary.

4. *Resolved*, That so much of said message and accompanying documents as relates to the Army of the United States, the raising of four additional regiments, and to the construction of a military road through the Territories of the United States, be referred to the Committee on Military Affairs.

5. *Resolved*, That so much of said message and accompanying documents as relates to the Navy of the United States, and to the construction of ten small war steamers, be referred to the Committee on Naval Affairs.

6. *Resolved*, That so much of said message and accompanying documents as relates to the Post Office Department, its operation and condition, be referred to the Committee on the Post Office and Post Roads.

7. *Resolved*, That so much of said message and accompanying documents as relates to the public lands, be referred to the Committee on Public Lands.

8. *Resolved*, That so much of said message and accompanying documents as relates to the commerce of the United States, and to the fitness of the river La Plata and its tributaries for navigation by steam, be referred to the Committee on Commerce.

9. *Resolved*, That so much of said message and accompanying documents as relates to our intercourse with, and relations to, the various Indian tribes, be referred to the Committee on Indian Affairs.

10. *Resolved*, That so much of said message and accompanying documents as relates to the Territories of Kansas, Utah, and of Arizona, be referred to the Committee on Territories.

11. *Resolved*, That so much of said message and accompanying documents as relates to the District of Columbia, be referred to the Committee for the District of Columbia.

12. *Resolved*, That so much of said message and accompanying documents as relates to the subject of a Pacific railroad, be referred to the Committee on Roads and Canals.

The Clerk then proceeded to read the resolutions *seriatim*, for amendment and discussion.

When the third resolution was read, the chairman announced that the gentleman from Mississippi [Mr. QUITMAN] had given notice of his intention to offer an amendment to that resolution. The gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] however, was entitled to the floor.

Mr. J. GLANCY JONES. The remarks which I intend to submit, relate to the entire series of resolutions. The President's message has now been before the country for nearly a month, and the subject-matters of that message have not, as yet, been referred to the appropriate standing committees. Until that distribution is made, it is impossible for the standing committees of the House properly and regularly to take action upon the subjects of the message. I am very anxious to have as speedy action as possible upon the resolutions, in order that the standing committees may take into consideration the respective parts of the message referred to them. That is all I have to say upon the subject of the resolutions.

THE NEUTRALITY LAWS.

Mr. QUITMAN. I propose to amend the third resolution by striking out the words "neutrality laws," and inserting the following:

And further, that so much of the President's annual message as relates to the duties of an independent State in its relations with the great family of nations to restrain its people from acts of hostile aggression against their citizens or subjects; and so much as relates to the present neutrality act of 20th April, 1818; to the fitting out, within the limits of our country, of lawless expeditions against some of the Central American States; to the instructions to the marshals and district attorneys, and to the appropriate Army and Navy officers, together with the President's recommendations that we should adopt such measures as will be effective in restraining our citizens from committing such outrages, be referred to a select committee, to consist of five members, with power to report by bill or otherwise.

I do not propose, sir, to discuss this question at present, at length. My voice, for the condition of my throat, does not permit it. But I cannot permit the resolutions to go to the House without stating the reasons which, I hope, will induce the House to refer those subjects, connected together, to a select committee.

The proposition which I have offered, as gentlemen will perceive, is that these important questions, linked together, shall be referred to a special committee, where they may receive full and entire consideration. There is no committee of this House—no standing committee—to which they would properly and exclusively belong. What, then, shall we do with these subjects? Let me

tell you the country demands that something should be done with them. Ay, sir, we may attempt to get rid of these questions as much as we choose; they are forced upon us by the public sentiment. The country is calling for an expression of this body, and of Congress, upon these important subjects.

At the last Congress, I undertook to introduce a bill calculated to make some important innovations upon our existing neutrality law, and I am aware that it received but little consideration, and that but little attention was drawn to the subject in the Halls of Congress; but gentlemen will do me the justice to say that I am right in the declaration that it has attracted vast attention through the length and breadth of our country. The retired statesman, the philosopher, the men who are, the men who are not, engaged in this scrambling for office—men who look upon the future destiny of our country, and are not afraid to speak boldly upon it—were attracted by the importance of the subject of a modification of our neutrality laws. And this sentiment pervades the people. They have demanded, and they now demand, that Congress shall take some action upon the subject.

I am not opinionative; I do not profess to suppose that my opinions are only right; but, sir, I have come to the conclusion, after much reflection, that the greater part of our laws upon the subject of neutrality should be swept from our statute-books; and I believe that a large proportion of this House, if they will investigate the arguments and the subject, will come to the same conclusion, and will untrammel the citizens of this country from those obligations that the laws have attempted to impose upon their enterprise, their freedom of action, and their relations to other people.

But, Mr. Chairman, I mean simply to impress upon those who hear me that these are questions which we might as well meet. If this intelligent body—if these Representatives of the most intelligent nation on earth—think fit to retain those laws, or think fit to carry out the recommendation of the President, (the first of the kind, I believe, ever made by the Executive of this nation,) and make them more stringent, or think fit to confer upon the Executive more power for the purpose of carrying the existing laws into execution, I must be content; but I will not be content, as a member of this House, until I have in some shape brought this House to a vote upon this important question. Action is demanded, I repeat, by the country; and let us meet the question boldly, and express our sentiments, without resorting to means and subterfuges for the purpose of evading the responsibility of acting upon these important questions.

The proposition of the President, to which I allude in the resolutions I have offered on the subject, involve the most important considerations. They involve the consideration of the duties which independent States owe to each other. Now, sir, I beg to say here, in the face of the nation, that there is no man upon this floor who is more averse than I am to violate any duty, moral or national, that we may owe to the greatest or the weakest Power upon the globe. I seek not to interpolate upon our statute-book, or upon our political system, anything which could disgrace this great country; but I seek to know what are the duties and obligations which we owe to other nations? There seems to be among casuists—I should rather say politicians—a great diversity of opinion on the subject of what does constitute the law of nations, which defines the duties which one nation, as an independent political community, owe to another. Whatever that may be among the enlightened nations of the earth, let us sustain it by our example.

But, sir, what is that law, and what are the obligations that rest upon us as a people? What are the duties we owe to the preservation of our neutral relations with other countries? I differ largely from the view which seems to be taken of these duties and obligations by the President of the United States. I deny that the law of nations requires that each independent State should restrain its citizens from hostile aggressions upon those of another Power. Suppose an American and an Englishman happen to quarrel upon our frontier: the hostility is individual in its character, and not national. Presently I will consider this

point more at large. We are not the subjects of this Government; we are citizens, not subjects. Our Government is a limited one. There are rights which we have reserved to ourselves, which we have never parted with to any Government, and these rights cannot be invaded by our own Government. But of this hereafter.

I say, sir, that no Government, though it may possess the control of its own people, and though it may possess despotic power over them, is bound by the law of nations, or by any principle of that law, to protect its individuals from hostilities between them and the individuals of other countries. The question is, whether those hostilities amount to war? Sir, will it be pretended that, if an American and an Englishman, or other foreigner, should fight either in our own country or in another country, and that one should receive a bloody nose, or a stab, or a pistol-shot, either Government is responsible for having permitted such a thing to take place? And no more is a Government responsible, even though it may have the control of its citizens, as ours has not—and God grant it never may have!—for even more enlarged individual hostilities between its citizens and those of another Government.

I contend, Mr. Chairman, that each independent State, on the contrary, is only bound to restrain its authority—not to lend its authority to any such conflicts between the citizens of friendly Powers. It is not required, it would be impossible, it would be descending to tyranny, for a Government to take up every little controversy or hostility which may arise between its citizens and the individual citizens of other Powers. This question, however, is to be settled by a reference to international law, and to the best writers on the law of nations. It therefore deserves the attention of a special committee.

But, again, Mr. Chairman, those questions submitted in the President's message involve another most important consideration, both in respect to the character and structure of our Government, and the rights and liberties of the citizens. Our Government is a limited one; it possesses no powers except those that are expressly delegated by the Constitution. Its powers are not granted, but delegated. If they are not expressly delegated, they must be so clearly implied from the powers that are delegated as to make it necessary to carry them into execution. This Government has no control of any power not delegated or clearly implied. Where is found, then, the power delegated to this Government to punish crimes generally? There is no such power. No writer on the law of nations, or on the Constitution of the United States, however federal in his opinions, has arrived at the conclusion that any such power is delegated to this Government.

The only foundation for the exercise of the power attempted to be exercised by the act of 1818 is found in that clause of the Constitution which authorizes Congress to define and punish offenses made against the law of nations. The law of nations is treated by the Constitution as a definite thing, a rule of action, and one which we have not the power to alter. Nor has any other nation the power to alter it. The Constitution, when it speaks of the law of nations, means those sets of conventional rules which have been adopted by the civilized nations of the earth, and which constitute the law of the nations. That is the power given to Congress. We admit, it has no power over the matter. It is idle to talk of the moral obligations that we owe to other nations to restrain our citizens: for our Government, as established, has been excluded and shut out from the exercise of any such power. The Government of the United States, therefore, has no control over this subject beyond that of defining and punishing offenses against the law of nations.

Now, sir, for the purpose of illustrating in what respect the act of 1818—that much-lauded law—attempts to punish offenses or crimes that are unknown to the law of nations, let me give a case: and that is the punishment of American citizens, whose art and skill, and whose occupation is to build vessels—and we know that our country has exceeded all other countries in the models and in the operation of their vessels, both of the naval and the merchant service.

Well, sir, here is a great interest, in which a large portion of the country is deeply interested, and that enterprise is to be stopped because two

nations at peace with us may choose to go to war with each other. Is it a rule of the law of nations that two nations, connected with us by friendly ties, should, by their own act, distract and strike down a great enterprise of our country? No, sir; and it is expressly disavowed that any such obligation rests upon neutral nations, by Vattel, Puffendorf, Grotius, and many most distinguished writers upon the public law of nations. Nor do you find, in any work upon this subject, which could be quoted as authority, a single recognition of the principle which goes to show that because two people choose to go to war, they therefore shall stop an enterprise from which they have, perhaps, made their bread. And yet, sir, in the neutrality law of 1818, to which the President has called our attention, and which, from the recommendation he has made, we are to suppose he desires should be made still more stringent, we find those provisions striking a blow at American enterprise and industry. Ay, because it may happen that England and France, or England and Russia, choose to go to war, we are to lose the profitable trade of building vessels of war for them, and for other purposes. There is no such principle.

I have no time now, and do not desire, to enlarge upon the subject. There are numerous provisions of the act of 1818 equally flagrant and violative of the right of citizens of the United States to pursue their occupations of industry as they may desire. Then you have a law which, if I understand it, is recommended to be made still more restrictive in its character—a law which requires you to accommodate yourself to the quarrels of petty despots made in distant Europe, and a large branch of your industry and enterprise is to be stricken down because of the act of some petty despot, or because of some quarrel about succession in distant countries with which we are associated on terms of peace and friendship.

I thus deny that the act of 1818 is a mere carrying out of our neutrality obligations to other States. It goes beyond that. It strikes a blow at the rights and liberty of citizens of the United States. To what extent, Mr. Chairman, is it desired to carry this, and to what extent are we to put it into practice? To the extent, sir, of ordering our subordinates who may chance to command a vessel or fleet, or to the extent of allowing them to sweep over the ocean and enter the harbors of other countries, and there, upon mere suspicion, and upon their own mere suggestion, or even upon the instruction of a Cabinet officer, to seize upon our own citizens or the citizens of other countries, and thus implicate the country in a war, or subject it to the obligation of reparation and indemnity.

It is important, therefore, that the question of the powers which subordinate officers under our Government are permitted to exercise, should be inquired into by this body, especially as we are the direct Representatives of the people. We have the power to declare war. Congress alone has that power. Have we not, therefore, the right to inquire and ascertain how far subordinate officers in this Government shall be permitted perhaps to involve the country either in war, or subject it to claims for damages or reparation?

Then, Mr. Chairman, another important inquiry arises here, which I propose to submit to a select committee; and that is as to the construction of the existing neutrality law of 1818. There are various opinions upon it. What is the proper construction of that law, and what construction will we place upon it? Does that law justify seizure anywhere outside of the marine league—anywhere outside of the actual jurisdiction of the United States? Though I have not time to discuss the matter now, or to present my views fully upon the subject, yet, for one, I deny that, except in cases specified in the Constitution, the Government has any power, unless it is acquired by treaty, to seize the greatest criminal on earth within a foreign jurisdiction, or outside of waters belonging to the United States.

These important considerations, Mr. Chairman, have led us to believe that, although it may be unusual, the House will be impressed with a desire that this great question should be heard, and that we should act and vote upon it. And these considerations have induced me, as there is no appropriate committee exclusively having this subject under its jurisdiction, to ask that this House

will allow the appointment of a special committee to take these matters into consideration, and report upon them. Then every man, who desires, can be heard upon the subject. For myself, I would have much to say in explanation of the views which, I am aware, would innovate much upon the system on which we have heretofore acted. I am well aware that arguments must be adduced before the country, in support of a proposition to change or alter laws which have existed for so long a time; but I think it will be found, upon inquiry into their history, that they do not deserve the respect which has been so long paid them.

Before I sit down, Mr. Chairman, I will merely refer to the fact that this act which it is proposed to refer to a committee, with the recommendation of the President that further powers be granted to him, is an act not to punish offenses against the law of nations, but it is entitled "An act to punish certain crimes against the United States." Offenses of this description are termed "constitutional offenses;" but in these latter days we are not satisfied with that; we must call them "*crimes against the United States.*"

I desire now, sir, to give a brief history of the acts which have been passed of the nature of the one which I propose to repeal, or modify, and which I hope will be taken notice of by the select committee, if it shall be organized. The first law of this character passed by the Congress of the United States, was passed in 1794, and was by no means as severe in its provisions and restrictions as is the law now upon the statute-book; because the fathers of the Revolution had too much respect for the rights as citizens which they had reserved to themselves, and had not given to the Government, to enact such a law as that of 1817 or 1818. That law of 1794 was passed at a very remarkable time, when the great and good Washington, as is known to American history, was exceedingly embarrassed on account of American sympathy for the French Revolution. The act was limited in its operation to a few years, and the object of its enactment was to suppress American sympathy for revolutionary France.

A few years afterwards, in 1797, when that act had expired by its own limitation, the French Revolution had not yet died away; a Napoleon had not yet arisen to assume the supreme control of that country; and, therefore, the law was re-enacted, but it soon became obsolete upon the statute-book of our country. It was revived in 1817; and it is remarkable that it was revived at a period when some disturbances existed on our Canadian frontier. It was revived for one year only, at the solicitation of England; and the object of that arbitrary, and perhaps unconstitutional measure, restrictive of the rights of American citizens, was to prevent American sympathy with the Canadian insurgents from finding vent. But, sir, when that law expired, the revolutionary struggles of the Spanish colonies on this continent had begun to show their heads, and American sympathy turned, as it will always turn, in favor of liberty and independence. The sympathy of the American people was bursting forth in favor of those Spanish colonies, which were then struggling against one of the most odious despotisms on earth, to gain their national independence and their liberty. It was then that Spain and other European powers sought the aid of the Supreme Court of the United States and of the legislation of Congress to check that sympathy; and as Mr. Clay, who was then a warm advocate of the freedom and independence of the Spanish colonies, said, the law of 1818 was obtained by the incessant teasing of foreign ministers, and that law was more severe than any enacted for the prevention and punishment of offenses against our own citizens.

It is a remarkable feature of this case, that every one of these laws that has stood upon our statute-book has resulted from a desire to check the outburst of American sympathy in favor of those engaged in a struggle for liberty; they were enacted to do that which no Government on earth can do—to control the sympathy of our people in favor of those nations which were struggling for their political freedom and independence. It was this spirit which enlisted the sympathy of our people in behalf of those struggling for independence in Hungary. It has been manifested, sir, on several other occasions, and I trust that it will never be restrained by law. Let it have its way. Our people always sympathize with the weak and

the oppressed. They are not going to violate the laws of nations. They are never guilty of cruelty and oppression to the weak. "Ah, but," say some, "we do not hear of these expeditions against the strong powers of Europe, against the Government of England, or of Russia." Why? Because the people of those countries are opposed to revolution and are contented with their modes of government. They are only undertaken to aid those who are struggling against despotic Governments to acquire for themselves the liberty which we enjoy. Is it not right and proper that American sympathy should be extended to those thus situated? Should you punish those who venture to do what Lafayette did—go forward and assist a struggling people?

But, Mr. Chairman, I did not intend to say much at this time. The condition of my voice has not permitted me to do justice to this subject or to myself. I ask the indulgence of the House to say, that I have not offered this amendment for the purpose of distracting public attention, nor for the purpose of creating contests between this party or that party. I have been actuated by no unkind feelings towards the Administration, but simply from a desire that this great struggle, now attracting the attention of, not the South alone, but of thousands in the North, should receive full and ample consideration in this House, and that we should meet the question and act upon it.

If the House is disposed to consider the law of 1818 as proper and right, I will acquiesce; but I give notice to the country, I will not rest satisfied until some action or some vote has been had upon it. I want to see some action upon it; and I hope the vote upon this amendment will be considered a test vote of favor or disfavor towards a modification of the neutrality laws.

Mr. J. GLANCY JONES. I do not rise for the purpose of taking issue with the honorable gentleman from Mississippi, as to the points or merits of his resolution. I understand that the most distinguishing characteristic of our Government is, that it is a Government of law—international law, constitutional law, statute law, or common law. I say that, in the family of nations, the most distinguishing characteristic of our Government is, that it is a Government of law. In drawing, therefore, the resolution to refer that portion of the President's message to the Committee on the Judiciary, I had in my eye the fact that, in a Government of law—in a Government constituted as ours is—the Judiciary Committee was the proper one to which to refer this matter. What other committee in this Government is competent to consider this question? I did not mean, nor does the resolution mean, to imply any pre-judged opinions upon the subject of the neutrality laws. The honorable gentleman from Mississippi, however he may be inclined to restrict the powers of the Federal Government, will never admit that this Government can fall beneath any other Government under the canopy of heaven in its character of a Government of laws. Whatever may be the limitation of its delegated powers by the reserved powers of the States, I am certain the gentleman from Mississippi will never doubt its just power in the family of nations.

Now, I do not know that I differ from the honorable gentleman from Mississippi upon the subject of the neutrality laws. I mean to confine my remarks exclusively to the question of reference. But as the honorable gentleman from Mississippi has chosen, at this stage of the proceedings, to go into the merits of this question, I must set him right on a few points that command my attention. The gentleman says that the President, in his annual message, recommends, instead of the repeal of the neutrality laws, (as my honorable friend would have it,) the enactment of more stringent provisions for their enforcement. Now, my honorable friend is mistaken, or I am, in the construction he puts upon the language of the message. It does not even indorse the present neutrality laws. But, sir, the Executive of this nation tells you that if you want him, in obedience to his oath of office, to execute your laws, you must give him the power to carry them into effect.

Mr. QUITMAN. If the gentleman will allow me I will call his attention to the language of the President in his message. He says:

"I commend the whole subject to the serious attention of Congress, believing that our duty and our interest, as well as our national character, require that we should

adopt such measures as will be effectual in restraining our citizens from committing such outrages."

Now, sir, if the President, in this language, did not intend to recommend the enactment of more stringent laws upon the subject, but simply to ask for additional executive powers, I shall be very happy to learn that I was mistaken in the construction I have placed upon it, and that the recommendation is not so objectionable as I supposed.

Mr. J. GLANCY JONES. Allow me to say to my honorable friend from Mississippi, once for all, that I do not undertake to speak for the President. I speak merely of my construction of the message of the President, as I understand it, speaking as the Executive of the nation to the legislative branch of the Government. I understand the honorable gentleman from Mississippi to take issue with the laws as they now stand upon the statute-book. Well, sir, my point is, that he must not infer that the President of the United States will not concur with him—certainly not that I shall not concur with him in a revision of those laws. I repeat, sir, that the proper construction of the language of the President's message which the gentleman has quoted is this. The President of the United States says to the legislative branch of the Government: "If you wish me to execute your laws, if you want me to carry out the provisions of your statutes, you must clothe me with greater power. I must have more stringent legislation." But it does not follow—it is a *non sequitur* to say—that because the President of the United States says this he is not in favor of the repeal or modification of the neutrality laws. I am not prepared to say how far I shall be willing to go with the gentleman from Mississippi in favor of such repeal or modification when the question comes properly before us.

The honorable gentleman has no personal feeling against the Executive; he can have none other than in so far as he may perhaps differ from the views the Executive has expressed. He has a perfect right to differ from the Executive; but I shall be happy if I can be able to satisfy his judgment that the question as to the merits of the neutrality laws remains an open question. I do not know yet how far I may be prepared to go with the honorable gentleman upon this subject when it legitimately comes before this body.

Mr. Chairman, perhaps there are gentlemen here who wish to discuss the subject of the neutrality law of 1818; but, occupying the position which I do, I feel it to be my duty to hasten the action of the committees of this House upon the appropriate subject-matters of legislation embraced in the President's message. After having made a brief reply to the gentleman from Mississippi, I shall speak to the question simply of reference of these subjects to the appropriate committees. I look upon the Committee on the Judiciary as the legitimate committee for the investigation of the matter alluded to; and, in so believing, I am supported, I am happy to say, by the honorable gentleman from Mississippi himself. I concur with the honorable gentleman in every particular of his speech, and he should concur with me in the question of reference. But the gentleman asks for a special committee; a special committee to pass upon the powers of this Government; a special committee to usurp the jurisdiction of a standing committee which has existed in this House since the foundation of the Government. Special committees have ordinarily been created when special subjects have arisen. They have been created when an emergency, or a particular occasion, had given rise to a matter never before settled by precedent, and which legitimately belonged to none of the regular standing committees. In such cases the Speaker has been authorized to appoint a special committee, to devote its special attention to the particular and special subject referred to it; but there is not a single instance on record where the legitimate jurisdiction of a standing committee of this House has been usurped by, or transferred to, a special committee. On the contrary, it has been the uniform practice of both branches of Congress, since the beginning of the Government, to refer, for investigation and report, all questions pertaining to international law, the constitutional or statute law, and all questions pertaining to the functions and powers of the Government and its officers, to the Committee on the Judiciary.

But, sir, I want my honorable friend from Mis-

Mississippi to understand that, in advocating the reference of the resolution to the Committee on the Judiciary, I do not mean, in the slightest degree, to be understood as taking ground against any modification of the neutrality law. I have strong doubts as to the extent to which this Government has gone in the enactment of that law. I do not wish, therefore, in moving the reference of the gentleman's proposition to the Committee on the Judiciary, to be understood as throwing obstacles in the way of the accomplishment of the object he has in view. I am in favor of investigation into the question, and believe that the Committee on the Judiciary is fully competent for the discharge of that duty. That committee is competent to examine the whole subject, from beginning to end. And when that committee does report its conclusions from an investigation of the facts referred to it, I shall then be prepared, if necessary, to give my views on the subject.

Mr. Chairman, the honorable gentleman from Mississippi, at the last session of Congress, moved the reference of a similar proposition to the Committee on the Judiciary. I find, in the House Journal, 1856-57, page 916, the following:

"Mr. QUITMAN, by unanimous consent, introduced a bill (House bill No. 312) to repeal certain sections of the neutrality law; which was read a first and second time, and referred to the Committee on the Judiciary."

I quote this for the reason that I want the powerful aid of my friend from Mississippi in the enforcement of the position I take on the question of reference.

Mr. QUITMAN. A single remark. I have learned by experience that the Judiciary Committee was not the proper one, for it never reported on the proposition at all. [Laughter.]

Mr. J. GLANCY JONES. I never doubted the gentleman's skill in meeting a point of this kind. While, however, his experience of the last session has been sufficient to enlighten him on that subject, it has not been the case with myself, or with the House or country. I hope that my motion to refer the proposition to the Committee on the Judiciary will prevail.

Mr. KEITT. Mr. Chairman, is this proposition debatable?

The CHAIRMAN. It is.

Mr. KEITT. Well, sir, I propose to say a few words on this subject, and strictly in reply to what I understand to be the positions assumed by the chairman of the Committee of Ways and Means. As to the reference, whether to a select committee or to the Committee on the Judiciary, I am entirely indifferent. I do not see, however, that it should go to the Committee on the Judiciary on the ground stated by the chairman of the Committee of Ways and Means, for that necessarily involves the idea that all the legal talent in the House is upon that committee, which may or may not be true. I take it for granted that a special question like this, involving the public interest and the public feeling to a great extent, may very properly be made the subject of investigation by a select committee, and for the simple reason that the regular committee may be so engrossed with mere matters of detail pertinently belonging to it, that it may not have time to give this subject a proper investigation.

The special committee having more time, and being selected with special reference to the fitness of its members on the particular subject committed to them, may be eminently a proper committee.

But, sir, the object which I have in view is to call the attention of the chairman of the Committee of Ways and Means to what may be an error on his part, in reference to the President's message. I understood him to say that the President had waived the question whether or not he was for a repeal or a modification of the neutrality law, but simply asked to be clothed with new powers in case he was expected to fulfill the provisions of existing law.

Mr. J. GLANCY JONES. My friend has misapprehended me. I did not mean to say, nor do I think I did, that the President had waived the question, or that I spoke for him. I said distinctly that I spoke my own opinions of the message as I had formed them from reading its recommendations. My opinion is that the President has made no waiver, and that he has given no opinion, in one way or the other, on the neutrality law. But he did say that if the existing

statute were carried out as it is commonly understood by the courts of this country, it would be necessary to have further legislation to enable him to do so.

Mr. KEITT. The word *waiver* may not have been technically correct; but substantially, the statement I made is correct. The gentleman says that the President, in his judgment, avoids or forbears making an expression of opinion upon the neutrality law. He asks, then, for what? To be clothed with new powers to carry out existing provisions of the law. What provisions of the law? Let us see what he has asked? He has asked that he should have the Army and Navy of the United States; and for what? To hunt the citizens of the United States upon the high seas, and upon foreign soil. Does he want the Army and Navy of the United States to prevent the sailing of a fleet from your shores? Does he want them to prevent an expedition from going from your own cities? He has already the Army and the Navy, by the very law itself, for that purpose. If he wants new powers, what does he want them for? Why, to follow those men, to follow them upon the water, to arrest them upon the land—upon foreign land—and to do that you must subvert your whole neutrality laws.

Sir, he does not ask for new powers to carry out existing laws, but he asks substantive powers upon a new thing. The neutrality laws forbid capture upon the high seas— forbid capture and seizure upon foreign soil. If the President of the United States is allowed to seize upon water or on a foreign land, then he has the rights of a despot; for he must punish by virtue of his military power as Commander-in-Chief of the Army and Navy. The neutrality laws limit the jurisdiction of the court to offenses committed within three miles—one marine league—from the shore. If, then, you capture these men, you must capture them for an offense. If it be an offense, then your own courts cannot, under the law, take cognizance of the offense; and the offense must be punished by virtue of the military power of the President. I say this in illustration of the fact, that any pursuit of an expedition beyond three miles—one marine league—from land, is unlawful; and any capture upon foreign soil, passing by the rights of the invaded Government, is unlawful, too. Yes, as my friend from Georgia here [Mr. STEPHENS] says, it is robbery to do it.

Sir, I do not know what the position of the Administration in reference to this matter is; but one thing, I believe, is pretty well known, and that is, that Captain Chatard, in sight of Point Arenas, allowed the disembarkation of Walker because he had no power to prevent it; and he was recalled in disgrace; and that Commodore Paulding, from that very spot, sent his men on shore, captured and arrested Walker and his men, and he has not yet been recalled in disgrace. If he is, then Captain Chatard is recalled in disgrace for not doing a thing, and Commodore Paulding is recalled in disgrace for doing it. The process of logic by which this is to be accomplished, it is not for me to adjust. I say the admission of one thing is the exclusion of another; and the exclusion of one is the admission of another. If, then, Captain Chatard is recalled in disgrace for not doing a thing, I may legitimately infer that Commodore Paulding is to be sustained for doing the act.

But I did not rise for the purpose of arguing this question. I rose for the purpose of preventing an unfounded remark, as I believe it to be, of the chairman of the Committee of Ways and Means, going to the country, and producing what I believe to be an improper influence. If the chairman of the Committee of Ways and Means is right, then I believe that the President has the right, under the neutrality laws, to use the Army and Navy to capture these men upon the high seas, or in a foreign land. His remark is founded upon that, or it is founded upon nothing. And it was to prevent the circulation of what I believe to be an erroneous opinion, that I have gone thus far into this discussion, and I do not propose now to pursue the subject further.

Mr. KELSEY. I rise to a question of order. I submit whether the amendment proposed by the gentleman from Mississippi [Mr. QUITMAN] is in order; whether it is competent for the Committee of the Whole on the state of the Union to refer a part of the message to a committee which

has no existence?—the Committee of the Whole on the state of the Union not being competent to appoint a select committee.

The CHAIRMAN. The Chair overrules the point of order made by the gentleman from New York. If the amendment submitted by the gentleman from Mississippi shall be adopted, when it shall have been reported to the House provision will have been made for such a committee.

Mr. J. GLANCY JONES. I do not rise for the purpose of replying to the gentleman from South Carolina, but simply to read that portion of the message referred to. The gentleman intimated that I have thrown out an unfounded opinion. As I do not wish to be misunderstood, I will read a clause of the message:

"The isthmus of Central America, including that of Panama, is the great highway between the Atlantic and Pacific, over which a large portion of the commerce of the world is destined to pass. The United States are more deeply interested than any other nation in preserving the freedom and security of all the communications across this isthmus. It is our duty, therefore, to take care that they shall not be interrupted either by invasions from our own country or by wars between the independent States of Central America. Under our treaty with New Granada of the 12th December, 1846, we are bound to guaranty the neutrality of the Isthmus of Panama, through which the Panama railroad passes, 'as well as the rights of sovereignty and property which New Granada has and possesses over the said Territory.' This obligation is founded upon equivalents granted by the treaty to the Government and people of the United States."

"Under these circumstances, I recommend to Congress the passage of an act authorizing the President, in case of necessity, to employ the land and naval forces of the United States to carry into effect this guarantee of neutrality and protection. I also recommend similar legislation for the security of any other route across the isthmus in which we may acquire an interest by treaty."

And upon this I mean merely to remark that the President asks you for power to execute the laws upon your statute-books, in fulfillment of treaties already made, in which the faith of this Government is pledged in the family of nations; and if you want him, as the Executive of this nation, to carry out our treaty obligations and laws, you must clothe him with sufficient powers. He does not, as my honorable friend understands him, ask for additional powers and additional legislation, but simply that the treaty obligations of the Government, and the legislation upon the statute-books, for which the faith of the Government is pledged, shall be carried out; that you will either repeal those laws now existing, or if you need them, that you shall pass such laws as will enable him to carry out in good faith the obligations of this Government.

Mr. KEITT. I desire to know, from the chairman of the Committee of Ways and Means, whether I understand him correctly, as saying that the President does not ask for any new or fresh powers in relation to the neutrality laws? If he does ask such powers, then the argument holds good, for I have said nothing about treaties or this Isthmus route.

Mr. J. GLANCY JONES. The honorable gentleman from South Carolina quoted the closing portion of this paragraph which I read.

Mr. KEITT. I quoted it from memory.

Mr. J. GLANCY JONES. I am aware of that, and the gentleman's quotation was correct. He quoted the close of the paragraph in which the President of the United States asks Congress to put at his disposal the military and naval power of the Government; but in quoting that clause, he made no reference to the subject-matter upon which the President wishes to exercise that power. I merely quoted the whole paragraph for the purpose of showing that in the particular instance referred to by the President—and it is the only instance in which he asks for that power—he asks for it in order that he may be enabled to carry out the treaties of the Government and the neutrality laws as they exist, or as you will make them, if you please, that he may afford that protection to the transit route across the Isthmus of Panama that this Government has guaranteed in the treaty with New Granada.

Mr. STEPHENS, of Georgia. Mr. Chairman, I agree with much that has been said by the gentleman from Pennsylvania [Mr. J. GLANCY JONES] as to the propriety of referring this subject-matter to the Judiciary Committee. It is only on great occasions, sir, that we should raise select committees. I concur almost entirely with the whole argument that has been made by the honorable member from Mississippi, [Mr. QUITMAN.] I wish this matter inquired into. I wish it inquired

into by some committee that will report. I agree entirely with the gentleman from Pennsylvania that we live under a Government of law. Everything that he has said upon that subject meets my hearty assent. I think that when there is difficulty about laws, either in their construction or in their defects, they had better be looked into by the legislators. That is our business.

I do not intend, now, sir, to go into an argument upon the question which has been sprung upon us to-day. I intend to wait until I can hear from the Executive, in response to the resolution which we passed yesterday. But, I take this occasion to say, in advance of a reply from the Executive, that under my understanding of what are called the neutrality laws—but laws which bear no such name upon their faces or in their titles—under the laws which set forth offenses against the United States, or crimes against the United States, I do not understand that in this case, there has been any offense committed against the United States, or any crime, or, even, any violation of those laws. But, if others think that those laws have been violated, in this particular case, I wish, for one, that those laws should be amended; I wish that some committee should inquire into the matter.

I take occasion, also, to say in advance, sir, that if it be true that a naval officer of the United States has gone upon a foreign soil and arrested citizens of a foreign country, or American citizens, and deprived them of their liberty, deprived them of their property, it was a great outrage, unjustified by law or the semblance of law; and such officer, sir, needs the reprimand of his superior official. As suggested by a gentleman near me, naval officers cannot expound these international laws.

I will give the reasons very briefly—for I did not expect to address the House at all—why I make this assertion, and it is not made without thought and reflection; our international laws, as they are termed, as I read them, give the President, give the naval authorities of this Government, no authority whatever to interfere with any citizen of the United States outside of a marine league from the coast of the United States. If any gentleman will hand me the law I will read it.

Mr. J. GLANCY JONES. I admit that.

Mr. STEPHENS, of Georgia. Very well, sir; I state the law from the book, and it is conceded that I am correct.

Mr. FAULKNER. I do not concede that to be the proper construction of the law.

Mr. STEPHENS, of Georgia. The gentleman from Virginia does not concede that to be a proper construction of the law. It is my construction. Here is the law. The seventh section provides that the district court "shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coast or shore thereof." Now, the eighth section provides that in every case of the capture of a ship or vessel "within the jurisdiction or protection of the United States, as before defined," and in every case in which a process, and so forth, shall issue from any court of the United States, and be disobeyed, and so forth—mark you, sir, "within the jurisdiction and protection of the United States, as before defined,"—the President is authorized to use the land and naval forces. Now, sir, under what other section of the law does the President get the power to use the land and naval forces?

Mr. BOCKOCK. I do not know that I disagree with the gentleman from Georgia, but I desire to hear his opinion or construction of a particular clause in the eighth section, to which he has not yet referred.

Mr. STEPHENS, of Georgia. What is it?

Mr. BOCKOCK. The eighth section goes on to say that the President of the United States shall, for certain specified purposes, have command of the Army and Navy; and then comes in this clause, which is a separate and distinct one:

"And, also, [that is, shall also have the use of the Army and Navy,] for the purpose of preventing the carrying on of any such expedition or enterprise from the territory of the United States, against the territory or dominion of any foreign prince or State, or of any colony, district, or people with whom the United States are at peace."

That is to say, the President shall have the use of the Army and Navy to prevent the carrying on of any such enterprise or expedition from the coast of the United States against any foreign nation

with whom we are at peace. Under that law, I feel myself at liberty to state that vessels have been captured in mid-ocean—not for the purpose of trial—because the jurisdiction of the district court does not extend beyond the distance from shore alluded to by the gentleman from Georgia, [Mr. STEPHENS.] But, sir, vessels have been arrested under these circumstances, and turned back for the purpose of preventing them making a descent upon a nation with which we were at peace.

Mr. STEPHENS, of Georgia. When? When?

Mr. BOCKOCK. A gentleman, whom I consider good authority, has informed me that it has been repeatedly done.

Mr. STEPHENS, of Georgia. I want to know when?

Mr. BOCKOCK. I would say to the gentleman that I am not prepared at this moment to refer to any specific instance. I repeat, however, that I have been informed from good authority that such instances have occurred; and I have no doubt that when the question comes up regularly for consideration, I shall be able to cite the gentleman to instances which have occurred such as I have mentioned.

Mr. CLINGMAN. I would say that, on inquiring of a gentleman who ought to have a knowledge on the point—a very high official—he stated to me that no case of the sort had ever occurred within his knowledge since the act of 1818. But he did remark that it had been construed, ever since 1818, as giving this power to arrest on the high seas. I asked him if a case had ever arisen under that act. There was none that he knew of. If there has been a case of the kind I should like to know it. I do not know of any myself; but I am not prepared to say that there has not been any. This gentleman, however, ought to have known if there was; and he did not seem to have knowledge of any.

Mr. STEPHENS, of Georgia. I have never known any such case, and when the gentleman says there have been such cases, I ask, emphatically, when? I repeat that if there be any authority under any statute of the United States, it must be under this eighth section of the act of 1818, as far as I know. Does this eighth section confer the power? It says that "in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States, as before defined." "As before defined" is within the marine league. Most clearly, therefore, it could not be within any of the instances alluded to. The gentleman from Virginia must admit that. But he cites the latter clause—that the land and naval forces may be employed "for the purpose of preventing the carrying on of any such expedition." That is the way it reads. Why, sir, it is not a new section—it is not a new clause. It goes right on, and I should say that "also" means "within the jurisdiction and protection of the United States, as before defined." That is my reading of the word "also." "Also within the jurisdiction and protection of the United States, as before defined." I cannot make any other sense of it. "For the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States." Where? Does it say in Guatemala or Nicaragua? Does it say upon any island in the sea? Does it say to prevent men upon the high seas, upon any island, or in any ocean? No, sir; but from the territories of the United States and jurisdiction of the United States—from within three miles, if you please, or a marine league of the coast of the United States.

Now, Mr. Chairman, my mind is clear upon this subject. If any such outrage has been committed upon the coast of Nicaragua, as the seizure of either American citizens or others by a naval officer, he has done that for which he had no authority. And when the honorable gentleman from Pennsylvania [Mr. J. GLANCY JONES] stands up for the maintenance of law, I concur with him; but when Commodore Paulding, under the pretense of maintaining law, goes out upon the high seas to make himself the judge of criminals, and calls men pirates who are just as good men as he is, and a good deal better, it does not come from him with a good grace to commend himself as an enforcer of law.

Mr. J. GLANCY JONES. I wish to ask the gentleman from Georgia if he understood me as advocating any such position?

Mr. STEPHENS, of Georgia. I understood the gentleman from Pennsylvania as indicating no such sentiment; for, as I took occasion to state, he expressed no opinion upon the subject. But the conduct of Paulding was no less an outrage, and I am giving my opinion upon that subject. But, sir, I have not the information officially, and, hence, I do not wish to discuss the question before I get it. But, sir, I say the action was without law, as I read the laws of my country; and it will not do for him, or any person, to set himself up as the advocate of law, when he is outraging law and outraging justice, and committing a private injury, which ought to be redressed. Our country would set an example of shame to other nations, if this gross outrage of private rights were permitted against the greatest felon on earth. If we are to set an example to other nations, let us set an example worthy to be followed; and not under the pretense of vindicating law, become the violators of all law.

Now, sir, if this act was committed—I speak in advance of the message—private property has been taken possession of by our naval forces without authority of law, and I say it should be restored. Reparation should be made, restitution should be made, and it will be an outrage upon the part of our Government if it is not done. The men, every one of them, should be sent back where they were taken from, and Walker—felon, as some call him, and fugitive from justice, as a gentleman yesterday spoke of him—should be sent back. Sir, if he is a fugitive from justice, let the courts so determine. I understand that he left this country in a ship with a regular clearance. He gave his bond, and he can answer to his bond; but I think it will tax the ingenuity of an American Representative to show that he was a fugitive from justice. When he was brought back upon his parole he came into the hands of the marshal of the southern district of New York, with whom he went before the Executive, and all they could say to him was, "go in peace, we have got no charge against you."

Sir, I say that if Walker is a felon, he ought to be punished as a felon. If he has violated the law, I am not here to apologize for or excuse him. But if he has committed no offense, it is a national disgrace deeper far than any I have yet heard of. If he has committed any offense, you will not even try him for it after he has been brought back to your shores. I say it is an outrage—a stigma upon the nation. My judgment is, that as the matter now stands, as I understand it, Walker should be put in a national ship, with all his men and all his property, taken back, and put just where he was before the outrage commenced—in *statu quo ante bellum*, I think is the phrase used in international law.

But, as I have said, I do not wish to discuss those questions to-day. I do not know what position the Administration have taken. I have merely risen to give my reasons why, in my judgment, it is a subject which needs investigation. If our laws are as gentlemen construe them, or as some gentlemen do, I think they ought to be taken from the statute-book. I am against them. I hold that no citizen of this country can be punished by this Government, except where there is a violation of such laws as are passed in pursuance of constitutional authority. There is no such thing as common-law offenses against the United States. They have not been recognized since the alien and sedition law was swept from the statute-book, and I trust they never will be again. I agree with the gentleman from Mississippi that there is not a single violation of international law, or the law of nations, by anything that Walker has done, or a violation of anything contemplated by the act of 1818.

Sir, this matter should be inquired into. My object in rising was to propose an amendment to the resolution of the gentleman from Mississippi. I hope he will concur in it. I move to strike out the words "a select committee," and, in their stead, to insert "the Committee on the Judiciary;" and to add the words "who are hereby required to report upon the expediency of a repeal or modification of the act of the 20th of April, 1818."

Mr. QUITMAN. I accept the gentleman's amendment, if it is in my power to do so.

The CHAIRMAN. The Chair will suggest to the gentleman to prepare the amendment as modified.

Mr. J. GLANCY JONES. As I understand the modification, it is to refer the question to the Committee on the Judiciary. I accept it as a modification of my motion.

Mr. HOUSTON. Mr. Chairman, I desire to say a word to the gentleman from Georgia before he takes his seat. It is not a matter of any consequence to me what direction this House may see fit to give to that portion of the President's message.

It is true that I am a member of the Committee on the Judiciary, and it seems to me that the proposition of the gentleman from Georgia amounts to an expression of distrust of the action of that committee, by requiring them to do what they are compelled to do under the rules of this House in the discharge of their ordinary duties.

Mr. STEPHENS, of Georgia. I do not wish the gentleman to understand me in any such way. I do not think that it is disrespect to any committee to require it to report on the expediency of any measure.

Mr. HOUSTON. It is the duty of the committee to report, and as one member of the Committee on the Judiciary, I feel authorized to say that that committee will report on the subjects referred to it, without being required to do so by express resolution of the House. If this subject go to that committee, I am satisfied that it will promptly act on it, and report its action at once to the House without the requirement of the resolution, which I confess seems to me to be a little harsh.

Mr. STEPHENS, of Georgia. The gentleman, I think, is a little sensitive.

Mr. HOUSTON. Not at all.

Mr. STEPHENS, of Georgia. I suppose there is hardly a committee which has not had submitted to them propositions with instructions. The committee of which I am a member, had instructions of a similar character to report, &c. We did not consider it harsh. It is usual. Further than that, it is parliamentary. I do not doubt that the Committee on the Judiciary are inclined to discharge their duties. It is our right to make them do it when they do not do it. It is our privilege, whether the committee likes the harshness of the language used or not. I am for the resolution in the words in which it is at present couched.

Mr. HOUSTON. That is all true, that it is the right of the House to require its committees to do their duty when any inclination is evinced to disregard them. But I ask with what justice and magnanimity, with what propriety, this House requires a committee to discharge its duty before it has shown a disinclination to do it?

The gentleman says that his committee has been instructed. I apprehend he is under a mistake. This is not an instruction to inquire into the expediency of doing or not doing a certain thing, but a requirement that a certain thing shall be done. To do what? That the committee shall report. The instruction goes to the point of report and not to the point of examining the subject. You require that they shall report.

Mr. STEPHENS, of Georgia. Report what?

Mr. HOUSTON. Upon the expediency of a certain proposition submitted to them.

Mr. STEPHENS, of Georgia. Certainly.

Mr. HOUSTON. You do not say in the resolution that the committee be instructed to inquire into the expediency of such a thing, and report thereon, but you refer a matter to them, and require that they "shall report;" your requirement is confined in its present phraseology to the fact that the committee shall report, as if you feared the committee would refuse or neglect to report, notwithstanding your rules require of all committees to make reports of matters submitted to them. Now, sir, with all respect for the gentleman, I believe that that part of the phraseology of the resolution as it now stands is wrong.

The CHAIRMAN. If the Chair understands the question, it is this: The gentleman from Mississippi [Mr. QUITMAN] submitted an amendment. In the subsequent conversation which took place, the Chair understood the gentleman from Pennsylvania [Mr. J. GLANCY JONES] to accept the amendment of the gentleman from Mississippi as a modification of his resolution. Is the Chair correct?

Mr. J. GLANCY JONES. The Chair is correct; but there was a misapprehension on my own part. When the gentleman from Georgia stated that he would offer an amendment to the resolu-

tion, substituting the Committee on the Judiciary for a special committee, accompanied with the provision that that committee should report promptly on the subject, I accepted it as a modification of my resolution. I understand now that the gentleman from Georgia meant to embrace the whole subject-matter of the amendment of the gentleman from Mississippi, and I cannot accept that.

The CHAIRMAN. Then the proposition stands as it did before.

Mr. BOCOCK. At this late hour I do not propose to occupy much of the time of the committee, and it was not until a few moments ago that I thought of saying a word in reference to this subject at this time. A resolution was adopted yesterday, calling upon the President of the United States for information touching this subject, and I felt it proper, as a member of this House, to wait until that information should be before us. The position that, by the favor of the Speaker, I occupy as chairman of one of the committees of this House, which may be supposed properly to have cognizance of the conduct of Commodore Paulding, made it peculiarly desirable to me to wait until the whole case should be spread before us. When the gentleman from Georgia [Mr. STEPHENS] was discussing this question this morning, and was maintaining a particular construction of the neutrality law, in view of one particular section of it, which construction I felt sure that another section contradicts, I rose in my place and called his attention to the last named clause, rather with a view to hear his construction of it, than for the purpose of proclaiming a difference of opinion with him. My interposition, as the House knows, led to some discussion between us. Lest on this account I might possibly be supposed by the House and the country to occupy upon all the questions which have been involved a different position from that of the gentleman from Georgia, I have risen now to deny that such is the fact. Indeed, if I must be required to commit myself upon the question of Commodore Paulding's acts at this early stage of the proceedings, and with such information as we possess, I should say that his conduct was without law, without authority so far as I know, and altogether improper. However, I say that I prefer to wait until all the facts are before the House, and to discuss the matter in view of these facts.

I am in favor of having this question of the neutrality law inquired into. The difference between the construction of the gentleman from Georgia, and my own, does not create any difference of opinion between us in regard to that matter. If, under the neutrality laws, the Army and Navy cannot be used by the President of the United States in arresting an expedition beyond three miles, or a marine league, from shore, as contended for by the gentleman from Georgia, I am in favor of inquiry and action with a view to settle the construction for the country. If, on the contrary, the power is given to the President under the act of 1818, as I contend is the case, to employ the naval power to arrest vessels in mid-ocean, and prevent their progress, when carrying expeditions of this sort, I am still in favor of investigation and inquiry as to the propriety of a change of the law.

Now I may be excused, under these circumstances, in saying a word in justification of the construction I gave to this law when I interrupted the gentleman from Georgia, a few minutes ago. I do not think that the technical and verbal criticism of the gentleman from Georgia is correct. In the eighth section the law points out the cases in which the President of the United States shall have command of the Army and Navy. It says he shall have command of the Army and Navy for the purpose of arresting a vessel which is being fitted out for unlawful purposes. He shall have command of the Army and Navy to take a vessel when it has embarked upon an unlawful expedition, and, process being issued, there is not otherwise force enough to arrest it within the jurisdiction of the courts of the United States. Then, having pointed out several specific cases in which he shall have command of the Army and Navy, the law also says—what? It states another and distinct case in which the President of the United States shall have the right to use the Army and Navy. In enumerating the cases in which the Army and Navy may be employed, it says:

"Also, for the purpose of preventing the carrying on of any such expedition from the territories or jurisdiction of the

United States, against the territories or dominions of any foreign prince or State, or of any colony, district, or people, with which the United States shall be at peace."

I hold that this law gives power to employ the Navy on part of the high seas where it may be needed to defeat and turn back unlawful and predatory expeditions against friendly nations.

I will make a suggestion in passing, though not necessarily connected with the subject, in reference to using the Navy of the United States in enforcing the criminal law. The jurisdiction of the courts may not extend beyond a certain distance at sea. The "high seas" constitute, however, a middle ground, upon which each nation may exercise a protectorate and police over its own people. If an offense be committed within the jurisdiction of our courts, and the criminal escapes by way of the high seas, that being neutral ground, he may there be captured and brought back for trial in the appropriate courts. The gentleman from Georgia asked me for a case in which a vessel had been arrested in mid-ocean, carrying troops to another and a friendly land for the purpose of making an attack upon it.

Mr. QUITMAN. I would inquire if the class of cases to which the gentleman now refers—of vessels seized upon the high seas—is not limited to offenses committed upon the high seas not within the jurisdiction of the United States; and whether this offense, if any, was not committed within the United States?

Mr. BOCOCK. I think the power of arrest at sea has a wider application than that suggested by the gentleman from Mississippi. A case has been mentioned to me by a gentleman learned in the law, and generally well informed upon all these questions. It was the case of the celebrated Lewis Baker, who, after the murder of Bill Poole, in New York, attempted to escape by sea. He was pursued by a vessel of the United States, and was arrested before he entered the port of Payal. And even if my friend from Mississippi was correct in his construction of the law, it would not follow that the President of the United States would not have the right to arrest a vessel in mid-ocean, which was engaged in an unlawful expedition against peaceful territory, because the offense, though commenced on our own soil, is continued upon the ocean.

Mr. CLINGMAN. I would ask for information, whether the case referred to was not one where the man Baker was taken off of one of our own ships by another ship of our own; and whether the jurisdiction which would attach to the ship might not affect that case?

Mr. BOCOCK. I am not definitely informed in reference to it. It may have been so, for aught I know. But as I was saying, it might be very well argued under this law, that the offense was initiated and commenced on our own shores, and is continued upon the ocean up to the time when the expedition is landed upon a foreign shore.

That does not affect the power of prevention given by the latter clause of the eighth section of the neutrality law. I must say, in justice to myself, that when I came into this Hall to-day, I did not expect to enter upon the discussion of this question. It was my design not to do so until after the proper information had been elicited.

Mr. KEITT. The gentleman says that the President of the United States is authorized to use the Army and Navy upon the high seas to capture this vessel. I wish to know from him whether or not these offenders would be amenable to any courts in this country?

Mr. BOCOCK. If the gentleman will look at the law, he will see that a separate power is given to the President of the United States over and above the capture of these men, for the purpose of bringing them to trial. He has the power to employ the Army and Navy to prevent these expeditions from landing upon foreign shores.

Mr. KEITT. I do not see that.

Mr. BOCOCK. The law gives him power to prevent the carrying on of any such expedition or enterprise from the territory or jurisdiction of the United States against the territory or dominion of any foreign prince, State, colony, district, or people, with which the United States shall be at peace.

Mr. KEITT. That does not apply to seizing persons on a foreign soil.

Mr. BOCOCK. I beg the gentleman's pardon; I have not said one single word claiming the power

to the President, or to naval officers, to capture men upon the soil of a foreign nation. On the contrary, my opinion is, judging from the information we possess, that Commodore Paulding acted entirely without authority.

I think, however, Mr. Chairman, that all this discussion is premature. We have called for the facts. Let us get them. Let us examine all the documents that may be produced here, calmly and impartially, and let us give our verdict in relation to the arrest of Walker like men who are conscious of the importance of the question; like judges, and not like advocates.

I will say further, that I rose for the purpose of preventing the idea going further, because of the question I put to the gentleman from Georgia, that I am a defender of Commodore Paulding in the position he has taken in relation to this matter. I am not so. I listened with pleasure to the gentleman from Georgia. I differ with him in his construction of the law in the particular which I have named. But I am not the less willing, because I differ with him in the construction of the law, that the proper committee of this House shall inquire into the propriety of modifying or repealing it. I am in favor of such an inquiry.

As to the particular committee to which the subject should be referred, I deem it a matter of very small importance. I know many of the gentlemen who compose the Committee on the Judiciary. I know several of them to be eminent lawyers—men of business—men of sound, clear, critical, and scrutinizing minds. They have not had an opportunity yet to show whether they intend to discharge their duties diligently and faithfully or not. I believe they will do so. I believe it is improper, at this period of the session, seemingly and indirectly to pass a vote of condemnation upon those gentlemen, either by taking business from them that legitimately belongs to them, or by any other direct or indirect course. I am in favor, therefore, of referring this matter to the Judiciary Committee, believing that they will, with diligence and intelligence, inquire into it and report to the House. When a report shall come from them, it will be time enough to go into the discussion of the neutrality laws. I shall then, probably, ask to be heard on the subject more at length.

Mr. GROW. Mr. Chairman, I have but a few words to say. I agree with the gentleman from Virginia, who has just taken his seat, that until we hear from the executive department, in response to the resolution that we passed yesterday, we are not in possession of such facts as will enable us to discuss this question understandingly.

Sir, I have been pleased to see the manifestations upon the other side of the House, of jealousy of executive encroachments on the rights of the citizens of the country. It is, sir, encouraging; and when indignation was expressed by the honorable member from Georgia, [Mr. STEPHENS,] that the President, without authority of law, should use the Army of the Republic to perpetrate outrages upon justice and right, I responded to the sentiment. But I ask that the rule which gentlemen lay down for the sea shall apply to the land also. Your Army has been used for two years and more as a police force to perpetrate outrages upon justice, and uphold in one of the Territories of the Union violations of the rights guaranteed by the Constitution of your country to every American freeman. That Army has been used by your Executive as a police force to uphold a despotism as odious as any that exists on the face of God's earth, and by the voices, too, of the gentlemen who to-day denounce the Executive for maintaining the laws of the country upon the water. This is all I have to say. I desired only to call attention to the fact that the rule would apply on the land as well as on the sea.

Mr. MAYNARD obtained the floor.

Mr. J. GLANCY JONES. I ask the gentleman from Tennessee to yield me the floor until I can get the resolution in the proper form.

Mr. MAYNARD. I will do so. I was about to ask that the resolution, as it now stands, might be reported.

The CHAIRMAN. The Chair understands that the gentleman from Mississippi [Mr. QUITMAN] withdrew his amendment, and that the gentleman from Pennsylvania [Mr. J. GLANCY JONES] modified the resolution so as to place it in the shape in which it will now be read.

The Clerk then read the resolution, as follows:

Resolved, That so much of said message and accompanying documents as relates to a uniform bankrupt law, and that so much of the President's annual message as relates to the duties of an independent State in its relations with the members of the great family of nations to restrain its people from acts of hostile aggression against their citizens or subjects; and so much as relates to the present neutrality law of 20th of April, 1818; to the fitting out, within the limits of our country, of lawless expeditions against some of the Central American States; to the instructions issued to the marshals, and district attorneys, and to the appropriate Army and Navy officers, together with the President's recommendation that we should adopt such measures as will be effective in restraining our citizens from committing such outrages, be referred to the Committee on the Judiciary, who are hereby required to inquire into and report upon the expediency of the repeal or modification of said act of 20th of April, 1818, with power to report by bill or otherwise.

Mr. J. GLANCY JONES. I accept the modification.

Mr. HOUSTON. I desire, with the permission of the gentleman from Tennessee, [Mr. MAYNARD,] to say but a word; and that is, that the resolution, as now written, obviates the objection that I entertained to it when I addressed the committee before. The Judiciary Committee are required, by the resolution, as it now stands, to "inquire into and report," and that is the usual form.

Mr. STEPHENS, of Georgia. The resolution is exactly in the shape in which I put it before the gentleman made his remarks. [Laughter.]

Mr. HOUSTON. I did not so understand it.

Mr. STEPHENS, of Georgia. Well, it is all right now.

Mr. MAYNARD. I was about to express a hope, sir, when I was interrupted, that as I believed there were no "niggers" in Nicaragua, none would be brought into the discussion of this question in this House.

A MEMBER. They are all niggers there.

Mr. MAYNARD. I am told they are all negroes; but I believe there are no domestic slaves there; or if there are, we certainly have not anything to do with them. I trust that this question, which we must all see and know is one of great and grave import to the country, will be suffered to stand and be discussed upon its own intrinsic merits. The Kansas question and the Utah question will, of course, occupy our attention, and will receive very full and, I am happy to believe, most able and earnest discussion from gentlemen who are very well able to discuss it. But this question, I hope, will be allowed to stand and be discussed by itself, separated from the various other subjects to which I have alluded.

I rose, Mr. Chairman, for the purpose of expressing a hope that the gentleman from Mississippi [Mr. QUITMAN] will adhere to his amendment proposing to refer this subject to a special committee instead of the Committee on the Judiciary. I mean this subject that relates to the recent events that have transpired, as we learn through the public prints, at Punta Arenas. In making this suggestion and expressing this hope, I trust that I shall not be supposed to entertain any disrespect to the Committee on the Judiciary, all of whom are men fully able to discuss and consider and apprehend this or any other subject that we may think proper to submit to them. But this question is one of great importance, not only to us here as the Representatives of the people to inquire into and consider, but to the people themselves.

I trusted that there would be a special committee to which this matter would be referred for a further reason. The distinguished member from Mississippi [Mr. QUITMAN] is a representative man—if I may be permitted to use the expression—representing a large and important portion of the public sentiment of the country. Whether that sentiment be right or wrong, proper or improper, just or unjust, perhaps it is not necessary for us now to consider; certainly it would not be proper for me to express an opinion on that point. I trusted, sir, that this subject might come under the cognizance and supervision of the distinguished gentleman, and that we might have the benefit, and the country might have the benefit of his investigation of a question, which, it strikes me, is of great importance to all the citizens of the country.

I must be permitted, in this connection, to suggest that I am not ready here and now, in this early, hasty, premature way, to stand in my place and express disapprobation of the conduct of the

naval officers of our country. They belong to a most honorable and glorious profession. They have, in times past, done deeds of honor and immortal glory, thrilling with delight our hearts even in childhood, as we read them. I cannot here censure them, at least until we have fully the facts of the case. I believe, from what we have heard and from what we have seen, from the documents, official and unofficial, before us, that when we have all the facts before us, if there is blame to be attached, it will certainly not fall there.

We had submitted to us, the first day of the session, the message of the President of the United States. That distinguished functionary, in the course of his message, makes the following declaration:

"When it was first rendered probable that an attempt would be made to get up another unlawful expedition against Nicaragua, the Secretary of State issued instructions to the marshals and district attorneys, which were directed by the Secretaries of War and Navy to the appropriate Army and Navy officers, requiring them to be vigilant, and to use their best exertions in carrying into effect the provisions of the act of 1818. Notwithstanding these precautions, the expedition has escaped from our shores."

He states this as a matter of fact. What that expedition was which escaped from our shores, there can be no doubt or hesitation in determining.

Then, he says, "the leader of that expedition was arrested at New Orleans, but was discharged," &c. Who that leader was, I suppose, nobody has or ever did have any doubt. This, sir, comes from headquarters; it comes from the chief Executive of the nation himself, and it came to this House on the 7th day of December last.

In looking into the conduct and correspondence of Captains Paulding and Chatard, I take it for granted, from the tone and style which pervades the composition, that they had, or, at least, thought they had, ample instructions to justify them in the course they thought proper to pursue. Well, sir, if they had—if they were acting under instructions of that character from the Government—are gentlemen here now to reproach them, and condemn them for what they have done?

I may be permitted to observe, in passing, that although I have no personal acquaintance with that distinguished commander who has been the subject of these reproaches, citizen of my own State though he was, and though I have never seen him, or had any communication or correspondence with him, directly or indirectly, it does strike me that one of the most noble and glorious acts of his life—one which should entitle him to our highest consideration as a noble and magnanimous man—was that very act in which, when he saw the power of his country arrayed against him—when he saw the stripes no longer the banner of his protection, but the signal for his arrest—he bowed in submission to that power, and yielded himself, ready and willing to go where and when that power might determine or decide. He came and submitted himself at the feet of the chief Executive. For that act, if for no other act of his life, I would look upon him as a man of honor and spirit—as a good citizen, certainly not deserving the reprobation which has been heaped upon him in many quarters.

But, sir, supposing these facts are all so; suppose it be as the Chief Magistrate assumes; suppose instructions were issued, as we can suppose they were issued, to our naval commanders; then the question arises which I understand constitutes the difference between the honorable gentleman from Georgia [Mr. STEPHENS] and some of the other gentlemen who have spoken upon this subject. They say these high functionaries were not protected by the law, as it now stands upon the statute-book; and I am constrained to say, that, according to my humble judgment, from the examination I have been able to give the subject, they were protected by the law of 1818, to which the President makes allusion in his message, if the facts warrant its application.

Section six provides:

"That if any person within the territory or jurisdiction of the United States begin, or provide, or prepare the means, for any military expedition, or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or State, or of any colony, district, or people, with whom the United States are at peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and imprisoned not more than three years."

Such an expedition, we are told by the President, had been actually fitted out, and had escaped from our shores. Then, sir, these being the facts,

what was the duty of the President in the execution of the laws of the country? By the eighth section, which has been referred to by my friend from Virginia, it is provided:

"That, in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel, within the jurisdiction or protection of the United States, as heretofore defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed, or resisted, by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel, of any foreign prince or State, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or State, or of any colony, district, or people, in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or State, or of any colony, district, or people, with whom the United States are at peace."

And then arise the great questions which were argued with so much force by the honorable gentleman from Mississippi, [Mr. QUITMAN,] whether that law should stand as part and parcel of our legislation; whether it ought to remain upon our statute-book; whether our citizens ought to be prevented from carrying on private and personal enterprises, provided they do not involve their country in hostile relations with other nations? With this view of the case, understanding these things as I do, I will renew the motion made by the member from Mississippi, [Mr. QUITMAN,] that this portion of the message be referred to a special select committee. And I will do it for the additional reason that we are obliged, from the nature of the case, to have such a committee.

Yesterday, on motion of the honorable gentleman from North Carolina, [Mr. CLINGMAN,] which was modified by the gentleman from Virginia, [Mr. FAULKNER,] and another gentleman, whom I do not now see in his place, [Mr. MARSHALL, of Kentucky,] the President was called on to communicate to this House complete information on this subject. When that information is communicated to us, it seems to me that we will have a volume of matter peculiarly appropriate to be referred to a select committee to examine and report on it for the action of this House—for action it will unquestionably have. And I would ask the gentleman from Mississippi to adhere to that part of his amendment for a reference of this subject to a special committee instead of the Committee on the Judiciary.

Mr. QUITMAN. I am committed, of course, to the amendment to my amendment suggested by the gentleman from Georgia. I cannot recede from my acceptance of that modification, but I would suggest that the gentleman can take the sense of the House on this question by moving an amendment to my amendment.

The CHAIRMAN. The amendment of the gentleman from Georgia has been accepted by the gentleman from Mississippi, and is a part of his amendment.

Mr. MAYNARD. I move, then, that the subject be referred to a special committee, as it was provided in the original proposition of the gentleman from Mississippi.

Mr. LOVEJOY. Mr. Chairman, I want to protest against the force which it seems to me we are acting in this House. If our neutrality laws need any change, I am willing to vote for that change; but it does strike me that that subject ought to be considered apart from the individual case which is now being discussed. Gentlemen utter their sentiments, they say, in advance. Well, sir, I protest against this attempt to elevate a buccaneer, a marauder, a pirate, who has been disturbing the peace of neighboring nations for years, (for which fact we have in substance the authority of the President himself,) into a martyr. Walker is a fugitive from justice, escaping under bail the penal laws of his country, and we are now to bow in admiration to the heroism, the glory, and the magnanimity of a criminal for yielding himself up to an officer of justice. There is a great deal of this kind of magnanimity when a man cannot help it. It has been done before, and is being done in New York every day under its police arrangements. And, sir, if we have to

admire every such individual, we will entirely exhaust our power of admiration.

Sir, if he shall meet the due reward of his deeds, where shall we find admiration adequate to the occasion when he is tried by our courts, and sentenced and doomed to the felon's death he has so richly merited, and he moves from the criminal's box to the dungeon? Then, sir, you must squeeze up your admiration still higher at the wonderful magnanimity of this robber yielding unresistingly to the power of manacles. But the grand finale is to come; the proudest moment of his career is to come; the climacteric of his glory is now to be attained! And when the act is passed, we shall hear gentlemen, with a pathos that thumps on the heart like a trip-hammer, portraying the scene. We shall hear how gracefully Bill Walker, the pirate, moved towards the gallows; how heroically he met his fate; with what majestic tread he took his stand upon the dead fall! And ah! when the knot shall have been adjusted—our admiration all gone—with an overwhelming emotive power of veneration, we shall have to prostrate ourselves on the very earth, and look up admiringly to the dangling buccaneer! Sir, my admiration will go forth towards the sheriff, and not to the criminal.

If Commodore Paulding had performed this service, and hung him at the yard-arm of his ship after he had arrested him, I would have honored him even more than I do now. That would have been justice, summary to be sure, but such as pirates ought to have dealt out to them.

Now, sir, when this subject comes up on its merits, if it is necessary, I am willing to discuss it; but I am not willing that even this preliminary debate should go out to the people with no voice of protest against this idea of clothing a man with heroism, and making him a martyr, when he is simply a rascal. [Laughter.]

Mr. STANTON. Mr. Chairman, I do not propose to enter into this discussion, but I do desire, if I can, to understand the position occupied by the gentlemen upon the other side. I understand the gentleman from Georgia to argue, that inasmuch as there is no special power, according to his construction of the neutrality act, conferred upon the President to arrest parties on the high seas charged with the violation of that act, therefore no such power exists.

I desire to inquire of the gentleman from Georgia, and of those who agree with him in opinion, whether they hold to the doctrine that any man charged with the violation of the criminal laws of the United States for piracy, murder, or what not, who once escapes beyond the marine league, is therefore exempt from all arrest, prosecution, trial, and conviction? I do not. I have not examined this question; and I do not know that my conception or understanding of it is accurate. I understand the settled rule of international law to be, that every nation has the right to pursue its criminals upon the high seas, and to arrest them wherever found under its flag, or without a violation to the flag of another nation; and I understand further, that if any nation pursues a criminal into the waters, bays, or harbors of any foreign nation, and arrests him there; if criminals are pursued, and arrested upon the shores, or within the jurisdiction of another nation, it is all right, subject only to such acknowledgments and satisfactions as may be due to the nation whose territory was invaded.

Now take a case. I understand that upon the Canada border it is by no means uncommon for an executive officer, in possession of criminal process, to step over the boundary line a rod, or a mile, if you please, and to arrest and bring back fugitives from justice. I learn, too, in the case referred to by the gentleman from Virginia, [Mr. BOCOCK,] that Baker was pursued and arrested on the high seas, under some sort of process, I do not know what, and no complaint has been made about it. There is no want of power in the executive department to arrest fugitives from justice, wherever they may be, subject to any amends which they are bound to make to the nation whose territory is violated. Now, what have we here? Here is a party indicted for a violation of the criminal laws of the United States. He escapes beyond your jurisdiction. He is out of reach of the ordinary process of the courts of the country. The question is whether, in such a case, the executive power of the Government

is not authorized to go upon the high seas and arrest this party, wherever found; or whether the high seas is a great sanctuary where crime is protected, and where it cannot be interfered with without a violation of the rights of the criminal.

Mr. STEPHENS, of Georgia. Will the gentleman tell me by what law the President of the United States has the right to arrest any person charged with crime when he is under bail?

Mr. STANTON. I apprehend that there is no difficulty in the world in arresting a party who has given bail, and the condition of the bail-bond is broken.

Mr. STEPHENS, of Georgia. Do I understand the gentleman to assert the fact that the condition of the bail-bond of General Walker is broken?

Mr. STANTON. I do not know how it is.

Mr. STEPHENS, of Georgia. Then I understand the gentleman to say there is no power to arrest where the individual charged with the offense has given bail. Now, I ask the gentleman if Commodore Paulding, or Captain Chatard, or the President of the United States, or any other man, has any right to assume a man under bail to be guilty of any offense?

Mr. STANTON. I understand the condition of a party who is out on bail, and who is indicted for a criminal charge, to be, that he is, in legal contemplation, in the custody of his bail. The bail has control of his person; but if a party out at bail once forfeits his bail-bond, there is no doubt about the power of the court to issue further process of arrest. And I go even further: If the bail-bond is not technically broken, but the party is found in such a situation, and at a point so distant from the place where he is bound to appear as to render his return, in obedience to his bond, impossible, I apprehend that it will be no invasion of the right of the party to arrest him before a technical breach of the bond, and to bring him within the jurisdiction where he is bound to appear.

Mr. STEPHENS, of Georgia. Has the President any more authority to do it than you have?

Mr. STANTON. As to the question how far the Executive may do a judicial act under process from a judicial tribunal, there may be some little difficulty, perhaps. But I want to go on with the interrogatory. It is the ordinary practice, when fugitives from justice have escaped, and taken refuge in a foreign jurisdiction, where they come within the jurisdiction of foreign treaties, to make a requisition upon the foreign Government for their surrender. Very well; you send your messenger or agent. He is an executive, and not a judicial, agent. He goes under the authority of the President of the United States. By virtue of the treaty, he receives the fugitive from the executive department of the foreign Government, and takes him into the custody of the executive. He is surrendered, say in England, and put on board an American vessel. Now, if the gentleman's theory is sound, when that vessel is a league from the English shore, I want to know by what authority the criminal is held? Sir, it is not true, and cannot be true, under international law, that there is no authority to hold a party who has committed a crime, upon the high seas.

Mr. STEPHENS, of Georgia. Does the gentleman put that as a case analogous to the one under discussion?

Mr. STANTON. I do. Now I wish the gentleman to answer the question, and to answer it now, and that is: Does he hold that there is no power to arrest a fugitive upon the high seas?

Mr. STEPHENS, of Georgia. I say there is power to arrest a fugitive; but I say that there is no evidence in this case we are speaking about, of the party being a fugitive from justice. As to the case which the gentleman puts, of an individual guilty of a breach of criminal law, and charged with its violation, who escapes into another country with which we have an extradition treaty, we have the right to send an agent there and demand, not by the law of nations, but by the treaty, that such individual should be delivered up, and he would be bound outside of the marine league, and would have to come.

But that is not at all analogous to this case. I have been arguing this case upon the ground that there is no criminal offense, no criminal conviction in any court, and no agent sent out to arrest a criminal. It is all suspicion. Now, the law of

1818 authorizes the President, within a marine league, without judicial proceeding, before indictment, upon evidence before an officer of the Government that an expedition is about leaving the coast, to order out the Army and Navy of the United States to suppress such expedition, and to bring it in to answer the charges which may be brought against it. That is my understanding of the law. But, if a party, without the commission of crime gets beyond that limit, the President has no power to issue his letters to arrest and bring him here for trial. Having done such an act, Commodore Paulding acted without law. I cannot believe—I repeat, I do not believe the President ever gave such a power. Such is my confidence in the good sense, in the wisdom, and in the patriotism of the President of the United States, that I cannot entertain even a suspicion of his having given such an order to Commodore Paulding. His past does not allow me to doubt him on such a question as that. Hence, Commodore Paulding acted without authority of law. That is my argument. In other words, when you look at the naked act, it was nothing in the world but kidnapping.

Mr. STANTON. The gentleman from Georgia, as I suppose, does not claim as a legal proposition, that fugitives from justice may not be arrested upon the high seas. He admits it.

Mr. STEPHENS, of Georgia. I admit it under process of law, but not without. The Constitution of the United States—the *magna charta* of our rights, upon which I stand—declares that no man shall be arrested or put in jeopardy, but by due process of law. That is the ground I stand upon. The Constitution has laid down the principle that no man shall be deprived of his life, liberty, or property, but by the law of the land and the judgment of his peers.

Mr. STANTON. Does the gentleman hold that the marshal of the southern district of New York can extend his territorial limits as marshal, all over the high seas? Is it a criminal process issuing from a court in the hands of a municipal officer of the court, with which he may go over the whole of God's footstool upon the high seas? If not so, then an arrest upon the high seas must be made by the Executive Department of the Government.

Now, what says the President? He says that this expedition of Walker has escaped, and it was upon the ground that it had escaped from our shores, that this arrest was made.

Mr. Chairman, I do not propose now, because I think that it would be premature to do so, to go into any question as to whether the President was authorized, or not authorized; or whether Commodore Paulding acted in obedience to his instructions or not. The information upon which this House should act is not now before us. All I desired when I rose was to ascertain distinctly from gentlemen upon the other side whether they did absolutely take the ground that a party who had escaped from our shores, and beyond a marine league, was exempted from further pursuit.

Mr. QUITMAN. I will answer for myself, and my answer is that neither the President of the United States, nor any officer thereof, has a right to make arrests unless there is a law of Congress authorizing it.

Mr. STANTON. I had supposed myself that the executive department of every Government, in its international relations and in the exercise of its sovereignty over the high seas, if you please, had certain general powers recognized by the laws of nations, and that it was not dependent upon special acts of Congress for every exercise of political power.

Mr. QUITMAN. I have but a few words to say upon that subject. The gentleman's position amounts to this, that the Executive of the United States has not only legislative, but judicial powers; for both must be brought into exercise to enable him to strip a citizen or any man of his right to liberty.

Mr. STANTON. Will the gentleman from Mississippi answer a question?

Mr. QUITMAN. Yes, sir.

Mr. SAVAGE. I am disposed to think that this debate has gone far enough.

Mr. STANTON. I believe I am entitled to the floor.

The CHAIRMAN. The gentleman from Ohio is entitled to the floor.

Mr. STANTON. I desire to make an inquiry of the gentleman from Mississippi. I understand him to say that unless there is an act of Congress giving special authority to the President to exercise a certain power, he ought not to exercise it, or has no right to do it. Now, if I understood him in his remarks to-day, and in the resolution which he offered the other day, he seeks, by an act of Congress, to deprive the President of the power that he now has. Does he desire that there shall be no power in any Department of the Government by act of Congress (and he says there is none now) to arrest criminals who have found a refuge on the high seas?

Mr. QUITMAN. I hold to no such opinion, sir, but I hold to this opinion, that the Executive, by virtue of his executive power, cannot arrest, nor can he imprison, a citizen in any case, unless the legislative authority has given him express authority so to do. The gentleman seems to think that there is something in the executive power going beyond the Constitution and the laws. We have divided the departments of this Government distinctly, and have forbidden each to assume the duties and rights of another, and I hold that the Executive has no power of arresting and imprisoning, either upon the high seas or upon the territory of the United States, except that which is vested in him by act of Congress. I seek not to deprive him of any powers that are necessary for the purpose of carrying out our proper obligations of neutrality to other countries. I seek, however, to protect the constitutional rights of the citizen from violation or from invasion, especially from executive power.

Mr. STANTON. I move that the committee do now rise. I think this debate has progressed far enough.

Mr. J. GLANCY JONES. I hope the gentleman will withdraw that motion to allow me to make a statement.

Mr. STANTON. I withdraw it.

Mr. SICKLES, and several other members. No, no; hold on to the motion.

Mr. J. GLANCY JONES obtained the floor.

Mr. STANTON. Very well; I will insist on my motion, as it seems to be the wish of the committee.

Mr. J. GLANCY JONES. The gentleman has already yielded the floor to me, and I have been recognized by the Chair.

The CHAIRMAN. The Chair understood the gentleman from Ohio, in response to the appeal made to him, to withdraw the motion that the committee rise.

Mr. SICKLES. I renew it.

The CHAIRMAN. The Chair has recognized the gentleman from Pennsylvania, and he is entitled to the floor.

Mr. J. GLANCY JONES. I merely wish to suggest, what seems to be the universal sentiment of the committee, that this is not the time nor the place to discuss this question. When the President responds to the resolution of inquiry adopted yesterday, all the facts will then be before the House, and the question will come up regularly for debate. I wish, therefore, that before the committee rise they would pass this resolution, and pass on to some other, as this question will come up in proper order at an early day.

Mr. CLINGMAN. Allow me to suggest, that there are many things in the message that the committees of the House ought to act on, and I do hope that it will be speedily referred to them. This question can then be discussed when the information which we have called for comes in, or it can be discussed upon an appropriation bill, but it is absolutely necessary that the message should be sent to the proper committees, as otherwise they cannot act upon any of the President's recommendations. I hope that, by common consent, the question will now be taken on this resolution.

Mr. STANTON. I think the message ought not to be taken out of committee yet. There are other subjects embraced in it that ought to be discussed.

The CHAIRMAN. The question is on the amendment of the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. SICKLES obtained the floor.

Mr. GROW. Will the gentleman yield for a motion to rise?

Mr. SICKLES. I yield the floor for that purpose.

Mr. GROW. Then, sir, I move that the committee do now rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman [Mr. PHELPS] reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

COAST SURVEY REPORT.

The SPEAKER, by unanimous consent, laid before the House the annual report from the Coast Survey.

Ordered, That said report lie upon the table and be printed.

Mr. MILES. I offer the usual resolution for the printing of extra copies of that report in order that it may be referred to the Committee on Printing.

The resolution, which was referred under the rule, to the Joint Committee on Printing, was read, and is as follows:

Resolved, That ten thousand copies of the letter of the Secretary of the Treasury communicating the report of the Superintendent of the Coast Survey for the year 1857, in addition to the usual number, be printed, six thousand for the use of the House and the remainder for distribution by the Coast Survey Office; and that the same be printed and bound with the plates, in quarto form, and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

On motion of Mr. GROW, the House then (at a quarter before four o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, January 6, 1858.

Prayer by Rev. R. S. BITTINGER.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BENJAMIN presented the petition of Joseph Reynes, praying for the confirmation of his title to certain lands in the State of Louisiana, claimed under a Spanish grant, and to be indemnified for such lands embraced in his claim as may have been sold by the United States as public land; which was referred to the Committee on Private Land Claims.

He also presented the petition of Camille St. Amant and others, praying for the confirmation of entries of land made by them in Louisiana; which was referred to the Committee on Private Land Claims.

Mr. SEWARD presented the petition of the children of Polly Colgrove, praying for authority to locate or assign a land warrant to which their mother was entitled; which was referred to the Committee on Public Lands.

Mr. SEWARD. I also present the petition of Mary Elizabeth Larnard, widow of Major Charles H. Larnard, late of the United States Army, who was drowned while in the actual performance of his duty as an officer of the United States, at Fort Snelling, praying for a pension. It appears that some correspondence has been had with the Department on the subject, and that the laws of the United States do not provide any relief in the case. As it is one of exceeding merit, I beg leave to commend it to the careful attention of the Committee on Pensions. I move that it be referred to that committee.

The motion was agreed to.

Mr. MASON presented the petition of Robert Carter, a passed assistant surgeon in the Navy, praying to be allowed his pay as a passed assistant surgeon from the time he was entitled to his examination to that at which his examination took place; which was referred to the Committee on Naval Affairs.

Mr. MASON. I have received a memorial from Thomas G. Clinton, dated at Washington city, addressed to the Senate and House of Representatives, in which he prays that a law may be passed, at the proper time, to increase the salary of the President of the United States. The memorial is respectful in its terms. I do not know what appropriate interest the memorialist has in the subject, but I have thought it proper to present the paper to the Senate; nor do I know to what committee it should be referred. I move, therefore, that for the present it be laid on the table.

The motion was agreed to.

Mr. TOOMBS presented the petition of William Y. Hansell, William H. Underwood, and the executor of Samuel Rockwell, deceased, praying for compensation for services in negotiating the treaty of 1835, with the Cherokee Indians; which was referred to the Committee on Indian Affairs.

Mr. WILSON presented the petition of Eliza A. Merchant, widow of Charles G. Merchant, late of the Army, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Marblehead, Massachusetts, praying that the provisions of the bounty land law of March 3, 1855, may be extended to the privateersmen of the war of 1812; which was referred to the Committee on Public Lands.

Mr. SIMMONS presented the petition of Edwin M. Chaffee, praying for an extension of his patent for preparing India rubber and applying it without the use of a solvent; which was referred to the Committee on Patents and the Patent Office.

Mr. KING presented the petition of the heirs-at-law of Aaron Childs, deceased; the petition of Emily J. West, widow of Joseph West, deceased; the petition of George Stow; the petition of the heir-at-law of David Reese, deceased; the petition of Silas Hopkins; the petition of Frances E. Lay and Mary Atkins, heirs-at-law of Eli Hart, deceased; the petition of the administrator of John Latta, deceased; the petition of the executor of Isaac Colt, deceased; the petition of the heirs-at-law of Martin Daley, deceased; the petition of the heirs-at-law of Elisha Ensign, deceased; and the petition of Polly Hoyt, widow of Joseph D. Hoyt, deceased; praying indemnity for property destroyed by the enemy on the Niagara frontier in the war of 1812; which were referred to the Committee on Claims.

Mr. BROWN. I present the memorial of A. L. Bleecker and his associates, praying that the Postmaster General may be authorized to contract with them for the conveyance of the mails between Panama and Valparaiso. I present the memorial because I am requested to do so, and not because I approve its object. I move its reference to the Committee on the Post Office and Post Roads.

It was so referred.

Mr. BROWN also presented the petition of Frances Cato, widow of Burrell Cato, a soldier in the revolutionary war, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. IVERSON presented the petition of Thomas E. Williams, praying to be allowed additional compensation for the time he was employed as superintendent of the saw-mill at the Washington navy-yard; which was referred to the Committee on Claims.

Mr. CAMERON. I present a memorial from the Common Council of the city of Philadelphia, remonstrating against the location of the post office in that city in the building purchased from the Bank of Pennsylvania. I am informed that there were fifty-six members of the Common Council present when this memorial was signed, and that fifty-three of them signed it.

I am also requested to present one hundred and six memorials, signed by many thousands of the citizens of Philadelphia, who remonstrate against this location of the post office. Some gentlemen of Philadelphia have desired me to say that more than forty thousand names have been presented to the Post Office Department against the location, and the Postmaster General has consented to withhold operations for the present. It is therefore desirable that this matter should be acted on as soon as possible by the Committee on the Post Office and Post Roads, to which I move that these memorials be referred.

The motion was agreed to.

Mr. JOHNSON, of Arkansas, presented additional papers in support of the claim of William Moss; which were referred to the Committee on the Post Office and Post Roads.

Mr. SEBASTIAN presented a memorial of the register and receiver of the land office at Helena, Arkansas, praying for an increase of compensation; which was referred to the Committee on Public Lands.

Mr. PUGH presented the petition of Hugh Ferguson and James Robb, representing that they have not received the quantity of bounty land to

which they are justly entitled, and praying that it may be allowed to them; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Portsmouth, Ohio, praying that a national bank may be chartered, the revenue laws so adjusted as to raise sufficient for the expenses of the Government and yield protection to labor and capital, and that the proceeds of the sales of the public lands may be divided among the States; which was referred to the Committee on Finance.

Mr. BRODERICK presented the petition of J. W. Sullivan, praying for indemnity for losses caused by the repeated failure of the mail between New Orleans and San Francisco; which was referred to the Committee on Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SIMMONS, it was

Ordered, That the petition of Alexander Keef, and the petition of Joseph Chase, Dartmoor prisoners, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. BIGLER, it was

Ordered, That the petition of Rachel Posey, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. BROWN, it was

Ordered, That Michael R. Clark have leave to withdraw his petition and papers.

On motion of Mr. BROWN, it was

Ordered, That the memorial of Sallie Eola Reneau, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. DURKEE, it was

Ordered, That the memorial of the legal representatives of James Bell, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

REPORT ON PUBLIC BUILDINGS.

Mr. BROWN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five hundred additional copies of the report of the Commissioner of Public Buildings be printed for the use of the Commissioner.

REPORTS FROM COMMITTEES.

Mr. BIGLER, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of W. S. Munday, J. Knox Walker, and others, with reference to the protection of a mail route through Arizona, asked to be discharged from the further consideration of the memorial, and that it be referred to the Committee on Territories; which was agreed to.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Nathaniel Champe, asked to be discharged from its further consideration, and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

He also, from the same committee, to whom was referred the petition of James Hudgins, administrator of Mrs. Ruth Murphy, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

NOTICE OF A BILL.

Mr. SEWARD gave notice of his intention to ask leave to introduce a bill to amend the acts which regulate the registry and license of vessels, so as to relieve the owners of vessels constructed chiefly to navigate canals, but which also enter into tide water.

BILL INTRODUCED.

Mr. PUGH asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of Friends; which was read twice by its title, and referred to the Committee on Public Lands.

SPECIAL COMMITTEE SERVICE.

Mr. HUNTER. I perceive that I have been appointed a member of the select committee on the French spoliation bill. I have so much committee service imposed on me this year that I am constrained to ask the Senate to excuse me from service on that committee. Some one should be put on it who is not very much engaged in committee service.

Mr. TOOMBS. I also wish to put in my own petition to the same effect. I have been connected a good deal with this class of claims, and have voted for them. I think I have examined them

sufficiently. I am much engaged in committee service, and I join in the request of the Senator from Virginia to be excused from service on this special committee.

The VICE PRESIDENT. The Chair must put the questions to the Senate separately. Will the Senate excuse the Senator from Virginia?

Mr. DAVIS. I hope the Senator from Virginia will not be excused, unless all of us who have a good deal of committee work shall be excused also. The end of this motion, if carried, will be that you cannot raise a select committee at all.

Mr. FESSENDEN. I also hope that the Senate will not excuse the honorable Senator from Virginia for the reason given. There has been, as I know from my connection with the matter, very considerable difficulty in getting a select committee on this subject, all the members of the Senate having so much business to attend to. The committee has been carefully made up of honorable gentlemen who are favorable, and those also who are opposed, to the measure. I think that if the Senators who make this request will consider the matter for a moment, they will be induced to withdraw it, for the simple reason that the subject has been so thoroughly investigated, there are so many reports in regard to it, and the minds of Senators, as a general rule, are so thoroughly informed, that no very particular investigation can now be required. All these Senators have examined the subject before, and come to their conclusions upon it. The business of drawing a report, if any is necessary, will devolve on the chairman. The difficulty that will arise, will be that whoever may be appointed to fill the places of the Senators may also request to be excused, and the Senate will find considerable difficulty in filling them. I do not believe it will add to the labors of gentlemen on the committee any further than the slight labor of attending a meeting or two previous to their making a report.

The VICE PRESIDENT. Will the Senate excuse the Senator from Virginia from service on the select committee in reference to the French spoliation claims?

The question was decided in the negative; and the Senator was not excused.

The VICE PRESIDENT. Will the Senate excuse the Senator from Georgia from service on the same committee?

The question was decided in the negative; and he was not excused.

DUTIES ON IMPORTS.

The Senate proceeded to consider the following resolutions, submitted by Mr. CRITTENDEN, on December 19, 1857, and postponed to this day:

Resolved by the Senate, That in consideration of the financial condition of the country and its industrial interests, as well as of the wants and embarrassments of the Treasury of the United States, the rates of duty levied under the tariff act of the 3d of March, 1857, ought to be materially increased.

Resolved further, That experience having demonstrated that the present mode of ascertaining the dutiable value of imported goods is productive of monstrous frauds, injurious alike to the Government and the honest importer, a system of home valuation ought to be immediately substituted therefor.

Mr. CRITTENDEN. Mr. President, I do not propose, upon this occasion, at all to enter into anything like an elaborate discussion of the subjects embraced in these resolutions. They contain propositions of a character so distinct and obvious in their purposes, that but little is necessary to be said to place them fully within the comprehension of the Senate.

Since these resolutions were introduced, we have passed a bill authorizing the issuing of \$20,000,000 of Treasury notes within one year. It strikes me that it is necessary and wise for us, at the same time that we create this demand of \$20,000,000 upon the Treasury, to provide the means of payment. It is a very easy thing to contract debt; it is a very easy thing to supply the Treasury of the United States by such means as these; but if we are not careful always to provide for their redemption in proper time, we are in danger of being seduced before we know it and are sensible of it, to the delay and postponement of measures proper in such an exigency; and we are thus in great danger of finding ourselves involved in debt beyond our means of payment.

The first proposition contained in the resolu-

tions is, that we ought now to increase the revenue of the country in order to be prepared to meet this demand on the Treasury which we are creating in the form of Treasury notes. This depends on another question; and that is whether there is any probability that the revenue of the country, according to law, will furnish the means at the appointed time of paying these debts? It seems to me entirely too sanguine to suppose that the present revenue laws will produce an adequate amount. I see that the Secretary of the Treasury has furnished us with such information as induces the belief that he supposes the loss on this year's revenue will be at least \$30,000,000. That is the opinion of a very distinguished financial gentleman to whom he has applied for information. In other words, he computes that the loss, during the present year, will be one half the ordinary amount of revenue, (which is about sixty or seventy million dollars,) making the loss, according to his estimate, at least \$30,000,000. We have issued \$20,000,000 of Treasury notes. If this fact be assumed, it is a demonstration at once that nothing will be furnished to pay these \$20,000,000; indeed, that these \$20,000,000 will not suffice to pay the expenses of the year, and that we shall be called on in the end either for a loan or for another issue of Treasury notes to defray the expenses of the Government. Instead of accumulating anything beyond current expenses, we shall be falling short in our revenue of current expenses, and a balance will be against us in addition to the \$20,000,000.

Under these circumstances, I cannot suppose that there can be any controversy as to the necessity of our providing the means of payment. The revenue ought to be increased. We congratulate ourselves that, though it has been necessary to issue Treasury notes—a course of supply generally unacceptable to the country and to Congress—yet at this time it may not be without its advantages in forming a currency and aiding the country out of its present financial difficulties—not the Government merely, but the country—and adding so much to its general currency. That I confess has reconciled me much to the measure.

Now, sir, if it be necessary, having created this debt to provide an additional revenue for its payment, how is that to be done? It is by increasing the duties on imports. That is our mode of supply; our mode of taxation. Nobody proposes direct taxation. We must do it by a tax on foreign commerce. How? By what sort of duties is it to be done? My proposition is a general one that it must be done by an increase of duties on foreign commerce; and how are those duties to be imposed? I should fain hope upon such articles as, while they furnish the necessary revenue, will revive to some extent the industry of the country and aid our manufacturers in resuming that business which is fast falling into ruin in every part of the land. If we were to increase by only five per cent. the duties on cotton and woolen goods, this small addition to our revenue would be sufficient, I apprehend, to afford all the protection which is necessary. I do not wish gentlemen to understand that I am now advocating a system of protection. I believe it is necessary to raise the revenue, and I only ask that that revenue may be raised by such a distribution of duties on imported articles as to give a fair and reasonable incidental protection to the labor of our own country.

Surely, sir, the labor of the country never more required encouragement than it does now. We hear of the failure of princely and wealthy merchants and manufacturers throughout the country. They deserve our sympathy; but there is another class far more numerous and far more important to the general welfare of the country, who are suffering more, but whose sufferings are unseen and unheard to a great extent by us. They are that great class of laborers who have been turned out of employment for the want of ability on the part of their former employers longer to engage their services. I had a casual conversation with a gentleman in Philadelphia, as I passed through that city in coming to this place, who told me of a painful scene through which he had just passed. He said he found himself unable to carry on his iron works in Pennsylvania, and had just returned from discharging all his workmen. I asked him how many he had discharged. He replied seventeen hundred—he paid them the last cent

which he owed them and discharged them. They clung around him begging him to retain them in service, saying that they would credit him for their wages if he could pay only enough for them to live on. He told them, "I cannot continue to employ you without ruining myself and without deceiving you; I cannot continue this work and give you any employment or pay you anything; it is better for both that we part; I close my works and will pay you off every cent I owe you." When he went to Philadelphia, he said he sent them sixty barrels of flour for a present subsistence.

Sir, this is but one instance of the thousands that are occurring throughout the North. Thousands upon thousands have been and are being discharged from their only means of subsistence—that labor which constitutes at last the wealth of the country, and is the great producer. We are anxious and endeavoring to improve the currency of the country; but, sir, the labor of the country is of infinitely more importance, of vastly more consequence. This demand presents itself to us in a living form; a form that calls on us not merely to study some system of policy; but requires our sympathies and regards as men. We want the revenue, which, if rightly and judiciously levied, will furnish these men employment, perhaps, and settle them again to their labor. Is it not the interest of the country to do this? I perceive that, in Rhode Island, there has been a discontinuance of manufactures to a great extent, accompanied by the discharge of multitudes of workmen; and I have seen a clear, demonstrative estimate of the actual loss of the productive labor which has been discharged there, and now goes starving and unemployed. It is said that this reduction of labor diminishes the product at the rate of \$278,000 per week. This is a consideration which, it seems to me, demands our attention.

I beg gentlemen not to believe that I am standing here for the purpose of advocating protection in the ancient form, in which it was the subject of so much controversy here. I know that would be in vain. The doctrine of a high tariff with specific duties is abandoned. I intend to revive no controversy about it. The question now presents itself whether we will study to afford an incidental protection, growing out of the revenue which we actually require to be collected for the use of the Government. By the last tariff act, the duties on cottons and woollens were reduced, I believe, to nineteen per cent.

Mr. SIMMONS. Cottons to nineteen and woollens to twenty-four per cent.

Mr. CRITTENDEN. The duty on iron was also largely reduced. But, sir, I will not enter into particulars here on this subject. I make these remarks as general as the resolution itself. It will be time enough to go into details when the principle shall have been adopted.

So much for the first resolution. The second proposes that we shall exchange the present mode of valuation by the foreign market price of the article, for a home valuation of the imported article. On this question experience is our best guide. I have not yet had time to read the report of the present Secretary of the Treasury, but I know that Mr. Guthrie, and that Mr. Guthrie's predecessor, and that the predecessor of that predecessor, have all admonished Congress of the great frauds that were practiced on the revenue by this foreign valuation, and Congress have been appealed to to provide a remedy against it. I do not believe that any adequate or efficient remedy can be provided. As long as the system of foreign valuation is continued, and made the criterion of the amount of duties to be paid, there will be frauds. If there had been any remedy it could have been devised by regulations which the Departments were authorized to make. They have been able to make none. All the regulations which they have made, or can make, are in effect nullified by the custom-house perjury that is used for the purpose of evasion. The foreign market is appealed to; the oath of the importer is appealed to, and you have no test at hand by which it can be controverted. A home valuation will protect the commerce of the country. It will give the honest American merchant a fair competition with the foreign merchant who avails himself of his superior means of evading our revenue laws, by underrating and undervaluing his goods. I believe no country has ever had a body of mercan-

tile men more honorable than the American merchants of this country; and their general integrity, considering the number of those who have been employed in the commerce of the country, has been signal and honorable to their country. But these honorable men who give the value of their goods fairly, and pay the proper legal duties, are placed at great disadvantage with their competitors of a different character, who avail themselves of the multiplied evasions which the present mode of valuation affords them.

I hope, sir, that this general proposition will meet the acceptance of the Senate. I know that there are, or have been supposed to be, great difficulties in adopting a system of home valuation which would preserve equality of duties in all the different ports and places of collection in the United States—an equality required by the Constitution. I think we could, without much difficulty, if there were a general disposition to do so, adopt a system of home valuation which would come much nearer to equality of duties in all the ports of the United States than the system of foreign valuation, admitting of so much evasion and so much fraud. These frauds and evasions constitute inequalities between the different ports of the United States much greater than would arise out of a system of home valuation fairly and judiciously made. It does not seem to me to be very difficult. Though I profess to be practically altogether unacquainted with such subjects, I cannot conceive that there can be any great difficulty, if there be a general disposition to do so, in adopting some system which will not violate this equality between the different harbors and different portions of the Union. It is sufficient now to say this, merely to suggest my ideas on the subject. All the particulars and details which the system may require will be for consideration hereafter, when the resolutions shall have been approved.

I do not intend, sir, to detain the Senate on this subject. I did not come here to make a speech. I came to suggest these measures for the consideration of the Senate, and to take their sense upon them. As I said at first, the resolutions are of a character so distinct and so obvious, that if they are maintainable at all, it requires no argument to sustain them. I think our revenue requires the measure; I think the condition of the labor of the country may be benefited by it, and that labor requires all the encouragement and all the assistance which we can constitutionally and properly afford it, at this time of its great prostration and great distress. I hope that the resolutions will be adopted.

Mr. HUNTER. Mr. President, it is not my purpose to follow the Senator from Kentucky into the very interesting questions of inquiry which he has suggested. The subject to which his resolutions mainly refer—that of altering the existing tariff—is one upon which original legislation can only be had in the House of Representatives. In regard to the other matters—the causes of the present distress, the true means of remedying them, if any can be suggested, or the true species of legislation which Congress shall apply to them—it will be time enough to speak of them when the opinion of Congress begins to develop itself in some practical form. For that reason, sir, (declining to follow him in regard to these various matters which he has suggested with reference to a system of home valuation, which connects itself intimately with the subject of the tariff, until the time when it shall come up, should it come up at all,) I shall content myself simply with moving for the present to lay the resolutions upon the table. If any Senator should desire to speak to them or to call them up, he can do so on a simple motion. A majority can call them up at any time. I now move to lay them on the table.

Mr. FITCH. With the permission of the Senator from Virginia, I should like to move amendments to the resolutions before the question on his motion is taken, with no view to embarrass or defeat the passage of the resolutions offered by the Senator from Kentucky, but for the purpose of placing before the Senate my own views in relation to another manner of raising a revenue.

Mr. HUNTER. I withdraw the motion.

Mr. BELL. I should like to ask the honorable Senator from Virginia if he holds that it would be incompetent for the Senate to initiate any measure for preventing the frauds alleged to have been practiced under our present system of valuation,

at the port whence the goods are exported to this country. Does he think that conflicts with the Constitution in any form?

Mr. HUNTER. I do not.

Mr. BELL. I should like to ask the Senator a further question: whether, as far as he is informed, any plan is likely to be proposed by the Secretary of the Treasury, or whether he himself contemplates bringing forward any measure of that nature; assuming it as a fact that the revenues have been defrauded to a very considerable extent by that feature in our revenue system. I should like, for my own personal gratification, to know whether he contemplates any such measure at an early day.

Mr. HUNTER. I will say to the Senator from Tennessee that I am not aware as to what are the intentions of the Secretary of the Treasury on that subject. I certainly contemplate bringing in no measure to change the present system of *ad valorem* valuations. I believe that, in general, it is the proper system. I do not assume as a fact, as the Senator from Tennessee does, that it is more liable to fraud than a system founded on a home valuation. On the contrary, I think, when the subject comes to be examined, it will be found that the latter would lead to more inequality and injustice than the former, and would be equally open to fraud. If the Senator from Tennessee can show any means by which the present system may be made to act more fairly and justly, and be made more secure against fraud, I shall be happy to coöperate with him; but as to a general change, I differ in opinion with him, and with others. I do not believe that it would tend to suppress frauds to make any such change as that which he seems to prefer.

Mr. FITCH. My amendment is, to add to the first resolution, "and that all notes of banks of issue be taxed;" and to insert at the end of the second resolution, "and experience having demonstrated that the present issue of small notes by banks is injurious to the industrial interests of the country, a tax on bank notes should discriminate against those of small denominations." This may by some be regarded as an entirely distinct subject, and may possibly be considered as conflicting with that clause of the Constitution which prohibits the origination in this body of any revenue measure. That, however, is a matter for the decision of the Senate.

As I have already remarked, I have not offered this proposition with any view to embarrass the Senator from Kentucky; for no gentleman here will go further than I will with him in any proper act for the prevention of frauds upon the revenue; but, agreeing with the President, that the financial embarrassments of the country, from which we have not yet been extricated, have been produced mainly by our vicious system of State banking; I desire, if it be within the power of this Government—and to test the question, whether we have the power—to impose such a tax as shall discriminate against small notes and drive them from circulation. I am willing to go so far, even, as to tax larger notes, to an extent which will prevent their issue almost entirely.

Mr. CLAY. I move to lay the resolutions and amendments on the table.

The motion was agreed to.

SELMA PORT OF DELIVERY.

Mr. CLAY. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 27,) to detach Selma, in the State of Alabama, from the collection district of New Orleans, and make it a port of delivery within the collection district of Mobile, to report it back without amendment, and recommend its passage. I ask the indulgence of the Senate to consider and pass it at this time. It is merely to correct a clerical error in a bill passed at the last session, and is approved by the Secretary of the Treasury.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. TRUMBULL. I do not know that I have any objection to the passage of this bill, unless it proposes to make a new port of entry or delivery. If it is to increase the ports of entry or delivery, I object to it, and should like to hear some explanation showing its necessity. I think we already have entirely too many of these ports.

Mr. CLAY. I will say to the Senator from Illinois that this bill does not create any new port

of entry or delivery; but merely detaches a port of delivery created by an act of the last session of Congress from the district of New Orleans, to which it was improperly attached by a clerical error, and attaches it to the district of Mobile, to which it naturally and properly belongs, being on the Alabama river, immediately above Mobile.

Mr. TRUMBULL. If it does not increase the ports of entry or delivery, and does not create additional officers, or involve additional expense, I have nothing to say about it.

Mr. CLAY. It does not.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read a third time, and passed.

NAVAL COURTS OF INQUIRY.

The motion to reconsider the vote adopting the resolution submitted by Mr. SLIDELL on the 22d of December last, was agreed to; and Mr. SLIDELL modified the resolution to read as follows:

Resolved, That the President be requested to communicate to the Senate an abstract of the records of proceedings of the several naval courts of inquiry, organized under the act of Congress approved January 16, 1857, to amend an act entitled, "An act to promote the efficiency of the Navy."

Mr. BAYARD. I move to lay the resolution on the table, in order to enable me to move that the Senate proceed to the consideration of executive business.

Mr. TOOMBS. I hope it will not be laid on the table.

Mr. SLIDELL. I can probably dispense with the necessity of any further discussion on this subject, by stating that the Naval Committee have now in their possession all these records, and, therefore, the call is unnecessary. If, however, it should be necessary hereafter to call on the President for the purpose of making them known to the Senate generally, the resolution can then be taken up either here or in executive session.

Mr. TOOMBS. Then let this resolution lie over for the present. I desire to have this information, and probably I should prefer to have the call made in the form of this resolution, though I had intended to offer one myself. Let the resolution lie on the table for the present.

The VICE PRESIDENT. If there be no objection, the resolution will be passed over. The Chair hears no objection.

The resolution was accordingly laid on the table.

Mr. MALLORY, by unanimous consent, asked and obtained leave to introduce a joint resolution (S. R. No. 4) to extend the operation of the second section of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy;'" which was read a first time, and ordered to a second reading. It extends the operation of the second section of the act of January 16, 1857, limiting the restoration of naval officers, in certain cases, to the 16th of April, 1858.

Mr. MALLORY. One word in explanation of the resolution. I will call the attention of the Senate to the fact that the last amendatory act on naval reform limits the time of the restoration of officers to one year from the date of the bill then passed, which was the 16th of January last. The Naval Committee of this body, now having these matters under consideration, cannot possibly dispose of them by that time. They therefore ask the Senate to extend the time three months, which will probably be more than sufficient, as the committee will have frequent meetings, and will dispose of the cases as rapidly as possible; but to give the bill its due weight I ask the extension of the time to the 16th of April. I ask for the passage of the resolution now.

Mr. FESSENDEN. Does it come from a committee?

Mr. MALLORY. Yes, sir; it comes from the Committee on Naval Affairs.

Mr. CAMERON. I ask whether the time is not fixed by a law of Congress; and can a mere resolution extend it?

Mr. MALLORY. This is a joint resolution of both Houses.

The joint resolution was read a second time, and considered as in Committee of the Whole.

Mr. FESSENDEN. I should like to inquire of the Senator from Florida whether this is de-

signed to extend at all the performance of any duties, or the opportunity to perform duties by these courts of inquiry, or whether it is simply designed for the purpose of enabling the committee to consider their reports?

Mr. MALLORY. It is designed exclusively to give the committee an opportunity to examine the results of the courts of inquiry. We cannot possibly do it by the 16th of this month.

Mr. FESSENDEN. I do not see the necessity of allowing so long a time. I should like to have this matter out of the way. Will not thirty days be sufficient?

Mr. MALLORY. I have explained the object of the committee. If the words of the resolution do not accomplish it, I am willing to agree to an amendment.

Mr. FESSENDEN. Will this resolution have the effect of giving any further operation to any part of the arrangement except the action of the Senate? Is it for any more courts?

Mr. MALLORY. I infer not. I should object to it if it were. That is not the object.

Mr. FESSENDEN. I should like it to lie over for the present, in order that we may look at the matter.

Mr. MALLORY. Then I will ask that the resolution lie over until to-morrow.

Mr. HAMLIN. And be printed.

The motion to postpone was agreed to; and the joint resolution was ordered to be printed.

EXECUTIVE SESSION.

A message in writing was received from the President of the United States, by J. B. HENRY, Esq., his Secretary.

On motion of Mr. BAYARD, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 6, 1858.

The House met at twelve o'clock, m. Prayer by Rev. GEORGE W. BASSETT.

The Journal of yesterday was read and approved.

The SPEAKER stated that the business first in order was the call of committees for reports.

Mr. BRYAN. I ask the unanimous consent of the House to introduce joint resolutions of the State of Texas.

Mr. GROW. I object, and call for the regular order of business.

The SPEAKER then proceeded to call the committees for reports.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, reported a bill making appropriations for the support of the Military Academy for the year ending 30th of June, 1859; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the accompanying papers, ordered to be printed.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. I hope the gentleman will not make that motion until the morning hour expires.

Mr. CLINGMAN. We can vote down the motion.

Mr. J. GLANCY JONES. I shall ask for a vote on my motion, as I am anxious to have the President's message referred.

Mr. COBB. The gentleman has made his report, and now he seeks to prevent others from having the same privilege.

Mr. HARRIS, of Illinois. I beg the gentleman from Pennsylvania to withdraw his motion, until I can ask an order of the House for the printing of some papers.

Mr. J. GLANCY JONES. I have no desire to press the motion against the wishes of the House. My purpose is to facilitate the public business. As other committees desire to make reports, I withdraw my motion.

CONTESSED-ELECTION CASES.

Mr. HARRIS, of Illinois. I desire to present, from the Committee of Elections, certain papers

referring to the contested-election cases from Ohio and Nebraska, and to move that they be printed.

The motion was agreed to.

The call of committees was then resumed.

STEAMBOAT PASSENGER BILL.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back House bill (No. 45) further to amend an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes, and moved that said bill be printed, and its further consideration postponed until the first Tuesday in February.

The motion was agreed to.

PRINTING OF THE LAND OFFICE REPORT.

Mr. COBB. I desire to offer a resolution; and, in doing so, I will say that I do it at the request of the Commissioner of the General Land Office. Of course it will go to the Committee on Printing. I offer the following resolution:

Resolved, That five hundred copies of the report of the Commissioner on Public Lands be printed for the use of the Land Office.

I will suggest that I suppose this resolution must, as a matter of necessity, go to the Committee on Printing. If it is competent for the House to pass the resolution by unanimous consent at this time, it would save cost to pass it, as the types are all set up.

I ask the Chair if it is indispensable that such reports shall go to the Committee on Printing?

The SPEAKER. The Chair will state to the gentleman that the law and rule of the House both require that such resolutions shall go to the Committee on Printing.

Mr. JONES, of Tennessee. I believe we have printed, or ordered to be printed, twenty thousand extra copies of the President's message with the accompanying documents. This report is included as one of the accompanying documents, and I think that perhaps that is enough. I suppose that, in addition to these, the Land Office have had the report printed for their own use.

Mr. COBB. They have not; and now want it printed for the use of the several land offices throughout the country.

Mr. JONES, of Tennessee. I think it is the usual practice for the several Departments to have their reports printed for their own use.

Mr. COBB. This report has not been printed by the Land Office, and the Commissioner of the General Land Office asks that it may be printed.

Mr. PHELPS. I rise to a question of order. This is a resolution to print extra copies, and must go to the Committee on Printing, without debate.

The SPEAKER. The Chair is of the same opinion. The resolution goes, as a matter of course, to the Committee on Printing, without debate.

Mr. LETCHER. If it is out of order to debate this resolution now, when will it be in order to debate it?

The SPEAKER. When the Committee on Printing reports back the resolution, as a matter of course, it will be open for discussion. The law requires that the subject go at once to the Committee on Printing.

Mr. LETCHER. When the Committee on Printing report back the resolution it will be put through under the previous question, and there will be no opportunity of debating it.

The SPEAKER. That will depend on the action of the House, and not on the rule.

Mr. LETCHER. There is yet \$1,000,000 due on the printing ordered by the last two Congresses. I think we had better pay that off, and stop.

LIABILITY OF SHIP-OWNERS.

Mr. WADE. I desire to report, from the Committee on Commerce, a bill to amend an act entitled "An act to limit the liabilities of ship-owners, and for other purposes," approved 3d March, 1851.

The SPEAKER. The Chair will state that the Committee on Commerce has been passed in the call of committees, and the report of the gentleman is therefore not in order.

Mr. WADE. I ask the unanimous consent of the House to report the bill and put it upon its passage.

Mr. CLINGMAN. I am reluctant to object

to anything out of order. I am willing that the bill should be reported and referred, but if it is to be put on its passage and to take up the morning hour, I prefer that the call of committees should proceed regularly, and I object.

Mr. WADE. If objection is made to putting the bill on its passage, I will not report it at present.

Mr. CLINGMAN. I object.

PRINTING OF PATENT OFFICE REPORT.

Mr. WHITELEY. I am instructed by the Committee on Agriculture to submit a resolution.

Mr. JONES, of Tennessee. Let the resolution be read, and then I will raise a question of order upon it.

The resolution was read, as follows:

Resolved, That there be printed for the use of the members of this House one hundred thousand extra copies of the report of the Commissioner of Patents on agriculture, for the year ending 1856, together with the plates, of which number, six thousand copies shall be for the use of the Patent Office.

Mr. JONES, of Tennessee. The question of order which I raise is, that the report which it is proposed by that resolution to print, is not in the possession of the House, and that the House has no control over it. This report was made to the last Congress, and two hundred thousand extra copies ordered to be printed, eight hundred copies of which went to each congressional district. It is to be presumed that each member discharged his duty, and sent his copies to his constituents, so far as they have been furnished. I believe those which were assigned to me for my constituents have not been delivered or sent by me. I believe they are now in the folding room, and I intend, as soon as I can, to send them out.

But, sir, as my friend from Virginia [Mr. LETCHER] has just informed me and the House, there are now something like a million dollars due for printing ordered by the last Congress and the preceding one. And, sir, as this report is not in the possession of the House, we have nothing to do with it. It is only the documents of the present Congress that we can order to be printed by resolution in this way.

Mr. WHITELEY. Is the point of order debatable?

The SPEAKER. The Chair will hear the gentleman from Delaware.

Mr. WHITELEY. This resolution has been submitted by the Committee on Agriculture for the reason that every member of the Committee on Agriculture, and I suppose every member of the House, receives every day letter upon letter asking for these reports. Now, sir, I have nothing to do with the members of the last Congress, or with the books voted to them. I make no charges. But, sir, there are serious charges made in reference to the sale of books by members of Congress, and their not distributing them in their districts. I have nothing to do with that. But this fact I do know; that the farmers of this land are sending to us letters, I may say by the bushel, for these reports. And if it is not exactly in the charge of this Congress, I think the money will not be misspent by distributing throughout the land the information upon this subject of agriculture contained in this report.

Now, sir, if we do owe a million dollars for public printing, I must submit that I do not think another million for distributing information such as is contained in that report would be misspent. And why is it not in order for this Congress to publish a work which has been stereotyped, or of which the type is all set—a work printed by the order of the last Congress, and which is in such demand by the people of the country? It is for this House to determine, or rather for the Committee on Printing, in the first place, to determine; but I submit it to the Chair that, until the report from the Committee on Printing comes in, the gentleman's point of order is not well taken.

One other suggestion. I have a letter from the Commissioner of Patents, stating that letters upon letters have been received at the Patent Office, day after day, for these documents; and that, by the act of last Congress, the Commissioner is three thousand short of the number usually printed. I send the letter to the Clerk to be read.

The letter was as follows:

UNITED STATES PATENT OFFICE,
December 21, 1857.

Sir: Understanding that it is contemplated by the Committee on Agriculture to offer a resolution providing for the

printing of additional copies of the agricultural report of this office for the year 1853, I beg leave to suggest, in that event, for the consideration of the House, the propriety of placing a few thousand copies at the disposal of the Patent Office.

The number of copies heretofore assigned it by the Senate has been five thousand, but from some cause this number, at the last session, was reduced to two thousand, which reduction will prevent the office from meeting the demands of those who have legitimate claims upon it.

The work is eagerly sought for from all parts of the country, and I am well persuaded that the public interests would be subserved by its further distribution.

Very respectfully, your obedient servant,

T. HOLT, Commissioner.

Hon. W. G. WHITELEY, Chairman of Committee on Agriculture.

Mr. GROW. I was willing to allow the gentleman to reply to the gentleman from Tennessee, but I object to the time being occupied by the reading of letters.

Mr. LETCHER. Has the Chair decided the point of order?

The SPEAKER. The Chair has not decided the point of order, but is about doing so. The Chair overrules the question of order raised by the gentleman from Tennessee.

Mr. LETCHER. Then, sir, I raise another point. Has that subject ever been referred to the Committee on Agriculture to enable them to make a report to this House?

Mr. WHITELEY. Can I not offer a resolution to have the matter referred?

The SPEAKER. The Chair is not in possession of the information asked for by the gentleman from Virginia.

Mr. LETCHER. I raise the point of order that, until the information is before the House, that the subject has been referred to the Committee on Agriculture for their action, that committee cannot report this resolution.

The SPEAKER. The gentleman from Delaware can state whether the Committee on Agriculture, of which he is chairman, has had the subject referred to them.

Mr. JONES, of Tennessee. Mr. Speaker, the gentleman from Delaware remarked that the type was set up, and that this document could be printed easily and economically. We must recollect that the Printer for this Congress is a new one; and that, if we order this printing, Mr. Steadman will have to execute it, and we must pay the expense of composition, and the higher price for press-work upon the first twenty thousand copies. It is the same as though a new document were ordered. We cannot order the printer of the last House, who has these stereotyped plates, or these forms made up, to do this work.

Mr. WHITELEY. I do not see why gentlemen should hold on to the spigot and let it out at the bung-hole. [Laughter.]

The SPEAKER. The Chair is of the opinion that the point of order raised by the gentleman from Virginia is well taken, that a committee cannot report back to the House upon a subject that has not been referred to it.

JOHN HAMILTON.

Mr. STANTON. When committees were last called for reports, I reported a bill for the relief of John Hamilton, of Champaign county, Ohio, without an accompanying report. I ask leave at this time to submit a report, and to move that it be referred to a Committee of the Whole House, and ordered to be printed.

The report was received, and the motion was agreed to.

OMISSION IN AN ENROLLMENT.

Mr. FAULKNER. I am instructed by the Committee on Military Affairs to report back a bill to supply an omission in the enrollment of a certain act therein named; and move that it be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The bill was received, and the motion was agreed to.

Mr. MORRIS, of Illinois. Mr. Speaker, I should like to inquire what has been done with the resolution in reference to the printing of extra numbers of the Patent Office reports?

The SPEAKER. It was ruled out of order.

Mr. MORRIS, of Illinois. I hope there will be no objection to a reference of the subject to the Committee on Printing.

Mr. GROW. I call for the regular order of business.

COURT OF CLAIMS BILLS.

Mr. SHERMAN, of Ohio. I move to reconsider the vote by which, on yesterday, certain bills from the Court of Claims were referred to the Committee on Revolutionary Pensions. That reference is calculated to defeat that class of bills, for the reason that the Committee on Revolutionary Claims cannot report them back again to the House. If a modification be made of the 154th rule, like that which I send up to the Clerk to be read, it will obviate any necessity for a motion to reconsider. If that modification be agreed to, I shall withdraw my motion to reconsider.

The Clerk read the modification, as follows:

When bills and their accompanying reports from the Court of Claims have been or shall be referred to any other committee than the Committee of Claims, it shall be in order for such committee to report thereon at any time when it may be in order for the Committee of Claims to report similar bills; and the bills shall be printed and placed on the Calendar in the same manner as if reported by the Committee of Claims.

The 154th rule was read, as follows:

"The bills and their accompanying reports from the Court of Claims shall be referred by the Clerk of the House to the Committee of Claims; and it shall be in order every Friday morning, immediately after reading the Journal, for the Committee of Claims to report with reference to business from the Court of Claims; the bills reported to be printed and placed on the Private Calendar."

Mr. JONES, of Tennessee. Mr. Speaker, if my recollection serves me, the practice was, during the last session, on Fridays and Saturdays, which are by express rule set apart in each week for the consideration of bills of a private nature, to call upon committees for reports of such bills. This practice I presume will be continued during the present session; and if it is, it will of course supersede the necessity for any change of the rule.

Mr. SHERMAN, of Ohio. The House will have to authorize this to be done.

Mr. JONES, of Tennessee. The practice of the House the last Congress was as I have stated it, if my recollection serves me right.

The SPEAKER. The Chair will state that it is his intention to follow the practice of the last session, which will relieve the House of this difficulty.

Mr. SHERMAN, of Ohio. This modification which I propose will do no harm.

Mr. JONES, of Tennessee. There is no necessity for it, and it will complicate the rules.

The modification was rejected.

Mr. SHERMAN, of Ohio. I insist, then, on my motion to reconsider, and ask that it be entered for future action.

The motion was entered.

FOREIGN RELATIONS.

Mr. CLINGMAN. I am instructed by the Committee on Foreign Affairs to report some resolutions simply calling for information.

The resolutions were read, and are as follows:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, all correspondence between the Department of State and the Government of Paraguay, in any manner relating to our differences with that Government.

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, such correspondence as has passed between the Department of State and our Minister near the Government of Brazil, in relation to the opening of the Amazon river, and the contraction of a reciprocity or other treaty.

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, all correspondence which has passed upon the subject of our relations with Spain, not heretofore made public.

Mr. ZOLLICOFFER. I would suggest to the gentleman from North Carolina the propriety of including New Granada in his resolution—that he insert "and of New Granada" after the word "Paraguay."

Mr. CLINGMAN. I have no objection to that, if the gentleman will move the amendment. Of course I cannot alter the report.

Mr. ZOLLICOFFER. I move that amendment.

The amendment was agreed to, and the resolutions, as amended, were agreed to.

RICHARD H. WIGHTMAN.

Mr. ZOLLICOFFER, from the Committee on Territories, reported a bill for the relief of Richard H. Wightman; which was read a first and second time and referred to the Committee of the Whole House, and, with the report, ordered to be printed.

THOMAS SMITHERS.

Mr. CHAFFEE, from the Committee on Invalid Pensions, reported a bill for the relief of Thomas Smithers; which was read a first and second time, and, with the report, ordered to be printed.

CLERK TO COMMITTEE, ETC.

Mr. MAYNARD. The special committee appointed on the 18th of last month, to investigate the conduct and accounts of the late Clerk, &c., and which, by reason of having no room assigned them in the Capitol for the dispatch of business, have not been able to attend to that business, have instructed me to present the following report:

The committee appointed to investigate the conduct and accounts of the late Clerk, &c., beg leave to report, that in order to expedite their labors, a stenographer, to act as clerk, will be necessary: wherefore, they submit the following resolution:

Resolved, That the special select committee, appointed by resolution of the House of the 18th ultimo, to investigate the conduct and accounts of the late Clerk, &c., and they are hereby, authorized to employ a stenographer, to act as clerk for such length of time as they may deem necessary; and to receive the usual compensation for his services.

The resolution was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to—ayes 93, noes 45.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of the

PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN stated that the pending question was on the amendment offered by the gentleman from Tennessee [Mr. MAYNARD] to the third of the resolutions submitted by the chairman of the Committee of Ways and Means, upon which the gentleman from New York [Mr. SICKLES] was entitled to the floor.

Mr. MAYNARD. With the permission of the gentleman who is entitled to the floor, I desire to withdraw the amendment which I offered yesterday, and in lieu thereof to move that the subject of the neutrality laws be referred to the Committee on Military Affairs.

The CHAIRMAN. The gentleman has a right to modify his amendment, but he had better reduce it to writing, as modified.

Mr. SICKLES. Mr. Chairman, it was not my desire to take any part in this discussion in its present stage, nor should I have allowed myself to be diverted from that purpose, but for the extraordinary turn which the debate took yesterday. Propositions were advanced from distinguished sources, censures were imposed, the Administration condemned, the conduct of eminent officers of the public service denounced—without facts, without a record before us, upon a very imperfect knowledge of the state of the case, and in advance of that requisition which we had made upon the Executive for such information as would enable the House to come to a just conclusion upon a grave public question.

Nor shall I permit myself now, in advance of the information which we all need, and which cannot be long delayed, to imitate the gentlemen who have preceded me in going into a full discussion of the question before the committee upon all its merits. I shall content myself at this time by putting on record my dissent from some of the propositions which have been advanced, to which I cannot accord an approval, and with which I do not believe the House will ever concur.

Why, sir, if we had been listening to a discussion in a House of Representatives convened by Mr. President Walker, in Nicaragua, we could not have heard doctrines more peculiarly in unison with his theories of government, as illustrated there, or more directly in conflict with the policy and history of our Government, than we were forced to listen to on yesterday in this Hall. We were told that the neutrality act of 1818 was unconstitutional, was inconsistent with the theory of our Government, and at war with the principles of our people. As I had read the history of my country, I had taught myself to believe that the policy embodied in the neutrality act of 1818 was the policy handed down to us from General Washington, and perpetuated in our statutes from the Administration of Washington down

to the present day—the cherished policy of the American people, never dissented from by any Administration or by any party. Have we forgotten that, within a very recent period, we have had all the principles embraced in the neutrality act presented to the House and to the country in the enlistment question in which we were involved with the Government of Great Britain? Have we forgotten that Mr. Crampton, her Envoy, was dismissed because he had committed an act in violation of the provisions of the law of 1818? I had supposed that the whole country sustained the wisdom and firmness of the Executive in that enforcement of the traditional policy of the United States not to permit either its own citizens or the citizens or the representatives of any Power, great or small, to compromise the neutrality of the United States with reference to any nation or any people with whom we were at peace.

Nor must we forget that we have made treaties with various Powers, in which we have entered into stipulations based upon this very statute, and on the policy of which it is the exponent. The most recent of these—and I will not detain the committee by reference to others—are the treaty with New Granada, and, as rumor has it—we have no official information on the subject as yet—the treaty with Nicaragua. In the treaty with New Granada we have guaranteed to that Republic the neutrality of the route across the Isthmus of Panama. We have entered into stipulations to guaranty and maintain and protect that neutrality, more especially against any hostile acts perpetrated by our own citizens, or those claiming to be such.

Nor was I less surprised to hear the doctrine promulgated, that the executive authority of the United States was not authorized to send out the naval forces upon the high seas, to capture our citizens who had violated our laws. It was maintained that this authority could not be extended beyond a marine league.

Have gentlemen forgotten the treaty for the suppression of the slave trade on the coast of Africa in which the principle is distinctly recognized? In that treaty we agree to send a squadron of not less than eighty guns upon the coast of Africa for the purpose of exercising a police over those waters; and a police, not limited to those waters, but extending over all seas, for the purpose of suppressing that infamous traffic. I will read the article from the treaty:

"The parties mutually stipulate that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries, for the suppression of the slave trade, the said squadrons to be independent of each other, but the two Governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces as shall enable them most effectually to act in concert and cooperation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each Government to the other, respectively."—*Treaty with Great Britain, 1842, article 8.*

This power has been asserted by all parties and all Administrations. We have never before heard it seriously questioned that the Government of the United States had that power and that right; and such is the general principle of public law. The authorities are all cited by Wheaton, by whom the doctrine is thus stated:

"Both the public and private vessels of every nation, on the high seas, and out of the territorial limits of any other State, are subject to the jurisdiction of the State to which they belong."—*Wheaton's International Law*, part 2, chap. 2, sec. 10.

"This jurisdiction is exclusive only so far as respects offenses against the municipal laws of the State to which the vessel belongs."—*Ibid.*, part 4, chap. 3, sec. 18.

But it seems that distinction is to be drawn with reference to the particular expedition of Walker, because it is claimed that his was a peaceful expedition when it set out from our shores; that it embarked in vessels that were not armed; that the men were not organized into platoons and companies and regiments; that arms had not been furnished to them; and that therefore neither the judicial nor the executive power of the Government could be invoked to arrest the expedition, or punish those who were engaged in it.

I need not remind the House that in every such expedition the question of intent is the one to be considered. With what intent was the expedition

of Walker organized? With what intent did it set out from our shores? With what intent did it land upon the shores of Nicaragua? Sir, it would be an offense against the good sense of the House, to add anything to an argument already so plain, to prove that that expedition set out from our shores with the intent to make war; with the intent to take property and life within the State of Nicaragua, with which we had just made a treaty of amity and friendship. It is a notorious fact, that instantaneously upon the landing of the expedition in Nicaragua, acts of hostility were perpetrated, men were shot down, and property was seized.

But, sir, I have no desire to characterize offensively the conduct of Mr. Walker or his men. I shall merely apply to them the characterization which all writers on public law, and the duties of nations, apply to such acts. Every one of these writers calls such conduct robbery and murder:

"For the citizens of the United States, then, to commit murders and depredations on the members of other nations, or to combine to do it, appeared to the American Government as much against the laws of the land, as to murder or rob, or to combine to murder or rob, their own citizens; and as much to require punishment, if done within their limits, where they had a territorial jurisdiction; or on the high seas, where they had a personal jurisdiction; that is to say, one which reached their own citizens only; this being an appropriate part of each nation, on an element where each has a common jurisdiction."

NOTE.—Mr. Jefferson's letter to Mr. Genet, June 17th, 1793.—American State Papers, volume 1, page 155. Elements of International Law, by Wheaton, third edition.

The expedition set out, it is true—or, at least, I will assume it to be true for the sake of the argument—without the men having arms on their persons. I will assume it to be true that the vessels in which they sailed were unarmed. But, sir, our own judicial records show, that although an expedition may be thus artfully organized, and though attempts may be thus made to evade the neutrality laws and to compromise the good faith of our Government, yet such evasions and such contrivances are not suffered to screen the persons who resort to them from the consequences of their acts. This ground is distinctly taken in a case adjudicated by the Supreme Court of the United States. I refer to the case of the United States *vs.* Quincy, reported in 6 Peters. In that case the defense relied upon the grounds that there were no arms upon the men, and that there were no arms on board the ship. But the Supreme Court held, in that case, that it was a question of intent; that if the whole conduct of the expedition—what it did after it set out as well as what it did before—showed that their intention was to levy war against a people or nation with whom we were at peace, the offense came within the meaning of the act of 1818, and the parties were rendered amenable to its penalties.

No one would go further than myself in maintaining the right of every American citizen to seek for himself a home wherever he may choose. If he desire to pursue his calling, whatever it may be, in another land, let him go. If he desires, either alone, or in company with his fellows, to form an association of colonists, and emigrate peacefully to Central America, or elsewhere, let him or them go. And, so far from punishing such acts as crimes, I would encourage them, because I think the time has arrived when it ought to be the duty and pride of our citizens to disseminate our institutions, and to illustrate practically upon other shores, and among other people, the principles of freedom, of justice, and of liberality which they have learned under our system of government. I would like to see this done in Central America. I would like to see that isthmus Americanized in that sense, because I am not insensible to the fact that it is to be the great highway of commerce. Over that isthmus a very large portion of the commerce of the world is to pass, and it is for the interest of our people, political and commercial, that it should be Americanized as far and as rapidly as possible.

But expeditions like that recently organized, and conduct like that which has been recently seen there, are not calculated to promote the interests of the people of the United States, so far as they are connected with the isthmus of Central America. Sir, there are Republics there. They are our own sister Republics, with which it should be our pride, as it is our duty, to cultivate friendly and affectionate relations. Some of them have already made treaties with us. Others will do so ere long,

provided we pursue towards them a policy fraternal, sympathetic, frank, and just. But let our Government deal with these Republics. Let our Government, animated as it is by a full consciousness of the high interests we have at stake there, and governed by principles of justice, good faith, and integrity, take charge of our interests in Central America and our intercourse with those Republics. Do not let us yield our assent that they be committed to the charge of those incapable of carrying them out, if they had the wish to do so; and who, so far as we have yet seen any proof, are rather bent on the purpose of individual aggrandizement, the pursuit of notoriety, or the acquisition of mere private gain, than animated by any wish to carry out the policy of the United States Government with reference to that isthmus.

It is said, Mr. Chairman, that this expedition was a peaceful one, that its men were artisans and agriculturists, who went there solely as propagandists of American ideas, but to propagandize by the force of their example alone, and not by hostile acts. I have only to say that, if this were the intent with which that expedition set sail, their plow-shares and their pruning-hooks were converted into swords with a suddenness which really throws some suspicion over the sincerity of their professions.

With reference to the conduct of Commodore Paulding, I have always supposed that the presumption, in the absence of facts, or in a very imperfect knowledge of the state of facts, was always in favor of the conduct of officers acting in the discharge of their duty at a remote post. I have also supposed that presumptions, at least, ought to favor our own country. The belief that what it did was right, has always been cherished by our people. If condemnation is to be visited, it is to be done reluctantly, discriminatingly, and only when the whole record forces it upon us as an imperative necessity.

But Commodore Paulding, it seems, is to be made an exception. Every presumption, in his case, is to be against him. Every accusation made by Walker and his followers is to be taken for truth, and nothing is to be assumed in favor of the gallant officer who has always heretofore discharged fully and faithfully every duty confided to him. While Nicaragua is not here to raise a solitary objection against the commander of our gulf squadron; while we are bound to assume, in the absence of any objection, that she welcomed him as a protector against the hostile acts of his own countrymen about to be perpetrated, and being perpetrated, with ruthless violence upon her people; while Nicaragua is silent against the act of our own officer, he is arraigned here in this House, though absent, unheard, and without the facts, without the information which we called for only a few days ago. Here, in the House of his friends, in the House of his own countrymen, he is called a kidnapper, and he is arraigned and denounced as guilty of outrages such as would beset him for any other station than that which he holds.

With reference to the particular act of Commodore Paulding, in going upon the territory of another State and exercising acts of authority there, I have no idea, nor does Commodore Paulding, in the letter which has been published, say that he was authorized to do so by his instructions. Nor would I dream for a moment that such a step should be regarded as a precedent to be followed by officers in command, either upon the land or upon the high seas.

There can be no question that in a technical point of view his act was illegal. There can be no doubt that he exceeded his instructions. It cannot be justified as a proper exercise of authority. But, sir, there is a wide difference between justifying as legal, and as within the line of official duty, an act like that of Commodore Paulding—there is a wide difference between such justification, and the denunciation which has been heaped upon him, and the disgrace which is invoked upon his head. He acted, undoubtedly, in accordance with what he conscientiously believed to be the spirit of his instructions. He had reason to believe that the United States Government regarded that expedition as unlawful; he had reason to believe that the persons composing it had escaped the executive and judicial authorities at home, and were compromising the neutrality of the United States, and that he would conform to

the policy and the wishes and the expectation of his people at home if he prevented what was nothing else than a scheme of aggression and outrage against a nation with which we were at peace, and with which we had just made a treaty of amity and friendship.

Sir, this is not the first instance in which a commander of our forces has exceeded his instructions in accomplishing an object which he knew to be dear to the policy of his Government at home. We can never forget the time when General Jackson passed over into the territory of Spain and seized upon her forts and arrested her citizens, and hung some of them upon the first tree he met with. How was his conduct regarded by the Government of Mr. Monroe? How was it afterwards regarded by the American people? Was he recalled in disgrace? Was he arraigned by those who should not have arraigned him upon the floor of the House of Representatives? No, sir. President Monroe, in communicating that transaction to Congress, in his annual message, drew a careful line of distinction between an act of aggression against the Government and territory of Spain and the act of General Jackson in preventing her citizens and her forces, which were adjacent to our own territory, being employed in acts of hostility against our own people. Every presumption was made in favor of General Jackson, and rightfully made. And that, sir, was a transaction involving principles and involving conduct of an infinitely graver character than anything that we have yet heard imputed to Commodore Paulding.

I will read a brief extract from that portion of President Monroe's message relating to Major General Jackson's movements in Florida during the first Seminole war, and while Florida belonged to Spain:

"In entering Florida to suppress this combination, no idea was entertained of hostility to Spain, and however justifiable the commanding general was, in consequence of the misconduct of the Spanish officers, in entering St. Marks and Pensacola, to determine it by proving to the savages and their associates that they could not be protected even there, yet the amicable relations existing between the United States and Spain could not be altered by that act alone. By ordering the restitution of the posts these relations were preserved."—*Monroe's second annual message—President's Messages: inaugural, annual, and special, from 1789 to 1846, compiled by Edwin Williams.*

While so much has been said in condemnation of Commodore Paulding by those who, I think, ought at least to have waited the exhibition of the whole case before they launched their censure, nothing seems to be said in reference to the conduct and position of Walker himself. It cannot be forgotten that only a few months ago the naval forces of the United States rescued this man Walker from certain death; rescued him from his enemies, by whom he was beleaguered, by whom he had been reduced almost to starvation; rescued by like usurpation of authority, if you please. Inspired by motives of humanity, of generosity, of patriotism, and sympathy with a fellow-countryman, Captain Davis exerted his authority, interposed his good offices, assumed the responsibility of negotiating with the forces which had invested and subdued Walker, and saved him from a doom to which we would all look with horror, and brought him home and restored him to his friends.

Soon after that event, Walker addressed a letter, which was published all over the land, to the President, or to General Cass, the Secretary of State, (I do not remember precisely which,) in which he pledged his honor that he was not engaged, nor would he become engaged, in getting up any expedition against Nicaragua, or in doing any act inconsistent with the laws of the United States, and especially the neutrality act of 1818. He went through the country, to be sure, invoking sympathy as far as it was possible for him to obtain it for himself. But, sir, he left upon that shore of Nicaragua a devoted battalion of deluded followers, for whom no appeal was ever heard from him; and while organizing anew, against his own pledged honor, against the policy of his Government, and against the sound judgment of the American people, another corps of equally misguided partisans to go through the same scenes in Nicaragua, that gallant band which he left there, when so rescued by the humanity of our own Navy, was left to die and rot upon the very shores from which he had been rescued.

Now, sir, I think the country is entirely satis-

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fied, both from the past career of the President of the United States in the councils of the country, as well as from the development of his policy in his annual message, that, with regard to Central America, he is fully alive to all the interests of our people, so far as they are involved or connected with those Republics, and with the isthmus, as the great highway of a large portion of the commerce of the world. The Executive has shown every disposition, by the formation of treaties, by the cultivation of kind and fraternal relations with those people, and those Governments, to aid in Americanizing, as far as it is possible to do so, that isthmus, so as to secure to our commerce and to our people all the various advantages which peace and neutrality and friendship on the part of the Republics of Central America can secure to us. While this is the case, is it anything other than madness, is it anything other than treason to the best interests of the country, for men to organize lawless expeditions for the purpose of going to those territories and making war there upon their own account, embroiling our country in new controversies, setting pernicious precedents to other nations, our rivals with reference to Central America, and to the commerce which is to pass over it?

Sir, our Government has made a pledge before the whole world that it disavows these expeditions; that it regards them as against our own laws, and as against the laws of nations, and it has pledged its faith that it will exert its whole power to arrest them, to put them down, to prevent their consummation. Shall the faith of our Government be maintained? Or shall it be said by other nations, as it has been said, that we are not sincere in this pledge; that we are false in these professions; that these expeditions are connived at; that they are condemned on paper, but that they are encouraged in fact? Sir, let us not court any such dishonor for our Government and our people by censuring the officers of our Navy who act in good faith in carrying out what they believe and know, and what they have reason to know, to be the earnest wish of the Government.

Sir, the Executive is charged with the conduct of our foreign relations. In accordance with the theory of our Government, while the whole responsibility of initiating and conducting to successful issues our intercourse and relations with foreign countries is imposed upon the Executive, it is necessary, it is demanded by constitutional obligations and by comity between one branch of the Government and another, that the Executive responsibility should not be impaired on the one hand, and its power not be destroyed upon the other, by an improper, an unjust, an ungenerous interference with its duty—and with its fair and faithful discharge of that duty—by Congress. We rightfully hold the Executive responsible to see to it that the interests of our people, of our commerce, of our trade, are protected in Central America. We hold it responsible for the making of treaties with the Republics there, by which the various routes on the isthmus shall be maintained and kept open to our commerce and trade. We hold it responsible to see that peace is preserved there, at least so far as any act of foreign aggression may disturb the peace of the isthmus. We hold it responsible for seeing to it that no foreign nation shall interfere, either by filibustering on private account or aggressions on Government account, with the rights of our citizens in Central America. And, sir, while we hold the Executive justly to this large and high responsibility, at least, let us always accord to it our confidence in its wisdom, sincerity, and patriotism; and, also, to the officers of our Navy, who are invested with great official responsibilities upon a distant service, a like correctness of motive and a like loyalty, until the proofs displayed before us inexorably force us to a different conclusion.

Mr. BLISS. Mr. Chairman, it is very evident, and necessarily so, that the committee are not now prepared to go on with the discussion of this question. I do not rise for the purpose of discussing the question that has occupied the attention of

gentlemen here, yesterday and to-day; and if the committee desire to vote upon the pending amendment, and then pass from this resolution to the consideration of the other resolutions relating to the President's message, I will yield the floor for that purpose.

It is intimated to me, sir, that other gentlemen desire to speak upon this question, and knowing the difficulty, under our rules, of getting the floor whenever the most proper time comes, I shall proceed to the consideration of the subject that I design to discuss. My object, Mr. Chairman, is to call the attention of the committee and the country to another question, one that deeply agitates the country—not the froth and outlaws of the cities—but the great hearts of those who love justice and are interested in the preservation of free institutions.

Since the last Congress, the country has been startled by a political opinion of our Supreme Court, known as the Dred Scott decision, that makes it doubtful whether we have not already relapsed into despotism. The President indorses it, and I am informed that the Departments base their official action upon it, and it is for this I now and here arraign it. The irregularity of that opinion; the absurdity of turning a man out of court for want of jurisdiction, and then giving judgment against him on the merits; the anomalous character of its reasoning; its disregard of the rights of the States, the rights of man, and the truth of history; its reckless partisanship and eager malice, form the saddest chapter in modern jurisprudence. I ordinarily feel bound to treat judicial opinions with respect, though they disagree with mine. But, while I remember that the meanest tyrants the world has known have been the sworn expounders of the law, I can have no reverence for men merely as judges; and if they descend from their high calling as protectors of liberty and law, to become their betrayers, their position shall not screen their double treachery from just scrutiny.

This court is itself a democratic anomaly—a solecism, as Jefferson called it. Its conduct has vindicated the democratic principle, so strangely departed from in its organization, and I hope for the coöperation of the Democracy here in support of the bill which I hope to introduce for the curtailment of its overgrown powers. Without a show of reason, in face of all law, all authority, a sectional, irresponsible body, a body blind with prejudice, if no worse, representing nothing but a despotic interest, and gathered together, by long and careful labor and sifting, for the express purpose of serving that interest; trusting to their irresponsibility, and callous to the opinion of mankind, this body, to the extent of its power, has overthrown the law of citizenship, and published pages of gross and illegal *dicta* upon the law of slavery. This decision and this *dicta* have been triumphantly answered by the minority of the court, and by distinguished citizens of the States; yet, I feel impelled, as the Representative of a people burning with a sense of outraged justice, to enter their and my indignant protest.

With the reproduction of the novelties of the propagandists, to digest which, for the future shibboleth of the slave Democracy was this *dicta* uttered, I shall not now muddle. I have before considered these novelties; I may do so again; but my object now is to examine as fully as your oppressive rules will permit, what I understand to be the decision of the court. I feel especially impelled to this course now, because some gentlemen seem fearful of being suspected of concern for the rights of blacks, and the attention of others seem diverted from this insidious and most dangerous attack, by the enemy's fresh attempts to enslave our own territories, and rob, to enslave, those of our neighbors.

And in view of some disclaimers, here and elsewhere, upon one matter I wish to be distinctly understood. Whatever my philosophy in regard to races, it has no business here. However I may deprecate the unwise efforts of some friends of freedom, I reserve my censures for them and in

their own presence. But here, under the shadow of a despotic interest, a corporation compared to which a union of all the banks in America under a single directory, condensed from a thousand Biddles, would be but a gentle monster, where it so often frightens cowards and scourges slaves, I scorn to say or do aught that may imply a doubt of my living sympathy with the crushed subjects of its power, or with any who manfully withstand it. And I pray not to be suspected of that spurious philanthropy, atheistic Christianity, or false Democracy, that is indifferent to the wrongs of any class. As a Christian, I believe that God is our common Father; that "he has made of one blood all nations of men to dwell on all the face of the earth;" that Christ is the elder brother as well of the Ethiopian and Saxon, as his own race, and that as we treat the least of these his brethren, we treat him. As a Democrat, I believe in the equality of all men before the law, and that human rights pertain to human nature. As a legislator, a dispenser of justice, so far from discriminating against the helpless and weak, if I found one man, or class of men, more helpless or more subject to popular prejudice, for his or their benefit alone would I favor class legislation or judicial leaning. The strong can protect themselves; the weak need the prop, and the defenseless the shield. And when men tell me here, or through their co-workers in yonder vault, of the dependence of the Afro-American, or of the rapidly increasing class of Africo-European blood, I would not, hence, forbid him letters, forbid him property, forbid him all opportunity and manly motive, but would more sedulously guard his rights, more patiently develop his manhood. Let the tyrant slander his victim and excuse his tyranny by its own effects, but let no Christian or Democrat thus defile the inner sanctum of his faith.

This court has undertaken to outlaw a large class of free American citizens. By its wicked edict they are, for the first time, turned out of the Federal courts; banished the public domain by denying preëmptions; robbed of their property in inventions by refusing patents; cut off from foreign travel, except as permanent wanderers, without nationality; and deprived of every constitutional guarantee of personal rights. It has hardly been surpassed in atrocity since that celebrated revocation, consigning the Protestants of France to dungeons or exile, or those black enactments outlawing the Catholics of Ireland; and I thank God for putting it into the heads of the weak men who issued it, to attempt to justify their act, to lay bare their nakedness, that the shock given our moral sense by the edict itself may be avenged by our contempt for its patent malice and the weak and far-fetched reasons which sustain it.

We are told in substance, in this opinion, that the descendants of African slaves cannot be citizens of the United States; that though they may be citizens of each State, yet, by some unwritten understanding, they were intended to be excluded from the operation of the Constitution of the United States; were not in that instrument referred to as either people or citizens; and no State can make them general citizens.

Passing for a time the falseness of the assumed fact, I will first inquire into the nature of citizenship, and especially that of the United States, and the power of the States over it.

Confusion in the meaning of the term citizen is often created by referring to its use in the old Republics. The words translated citizen were originally used to designate the privileged inhabitants of the chief city and their immediate descendants. Aristotle, the apostle of conservative democracy, defines a citizen to be one born of citizen parents, who has a right to participate in the judicial and executive part of government. He condemns their engaging in servile employment; "For," says he, "it is impossible for one who lives the life of a mechanic or hired servant, to practice a life of virtue." (Aris. on Gov., b. 3.) The citizens of the Grecian Republics were but a minority of the people of even the ruling city, and though Rome greatly extended citizenship beyond the narrow

bounds of Grecian policy, still, until long after the term ceased to have any practical significance, it was confined to a very limited class of the Roman people, scarcely extending beyond the walls of the city. True, within the city, in the days of her earlier glory, Rome was liberal, conferring citizenship upon the emancipated slave as well as his master, yet the *civis* of the Republic, as with the Greek, *πολιτης*, possessed rather the double signification of burgher in reference to the town, and elector in reference to the State, and is only rendered citizen from our want of a corresponding word.

But we use not the word in its legal sense, as one of aristocratic or municipal distinction, to designate the descendants of the original settlers of Boston, or Jamestown, or any other original city, nor such other inhabitants of the provinces as have acquired the "freedom of the city." It no longer means electors, or those enrolled in the national or city guards, but is a simple transfer of, or substitute for, the word subject. By the Declaration of Independence the subjects of King George became citizens of the several States; so by the inauguration of the French Republic *les sujets* of Louis became *les citoyens* of France. Though in common and loose language we all speak of electors merely as citizens, yet in the most liberal States all citizens—as women and children—are not electors, and sometimes aliens are made electors. The terms are not at all synonymous or convertible, though closely connected.

I speak not now of those native inhabitants subjected to servitude, and upon whose persons may be committed with impunity all the crimes of the decalogue. Upon them, whether of European, Indian, or African descent, society wages eternal war. They are constant prisoners, grinding in the prison-house of bondage, and it matters little, while thus subjected, whether we call them citizens or not.

But, with this exception, if it be an exception, citizenship is opposed simply to alienage. As in monarchies, all persons are either subjects or aliens, so in our Republic all are either citizens or aliens. This idea of citizenship is the only one tangible, the only one that will stand a moment the test of criticism; and I defy gentlemen to give me a definition of the term that shall not embrace all the native and naturalized members of the community. It was the only idea known in our better days. Section two of article three, and section eleven of the amendment to the Federal Constitution speak of citizen and subject as convertible terms. By the Articles of Confederation citizenship in the several States was expressly granted to the "free inhabitants" of each State, and it will hardly be pretended that the boon would be extended to the natives of other States beyond its enjoyment at home.

This idea is clearly stated by Chief Justice Gaston in 5 *Iredell*, page 253. He says:

"According to the laws of this State, all human beings within it who are not slaves fall within one of two classes. Whatever distinctions may have existed in the Roman laws between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution, all free persons born within the dominion of the King of Great Britain, whatever their color or complexion, were native-born British subjects; those born out of his allegiance are aliens." * * * "Upon the Revolution no other change took place in the laws of North Carolina than was consequent on the transition from a colony dependent on a European king to a free and sovereign State." * * * "British subjects in North Carolina became North Carolina freemen. Foreigners, until made members of the State, remained aliens."

I might occupy my whole time in giving authorities and illustrations upon this point. Citizenship, as well as allegiance, is the incident of birth. The few exceptions, as to children of foreign ministers or temporary sojourners, but confirm the doctrine; and, indeed, until the interests of slavery demanded a different position, none other was thought of in modern law.

But except by some act of the sovereign power, none but the native born can be citizens. The immigrant from Connecticut would be an alien in Ohio, and the Massachusetts trader enjoy none of the rights of citizens in Georgia, for the citizens of Ohio and the citizens of Georgia would be those only born therein. How, then, do immigrants from one State, or from foreign countries become citizens? Whence obtain they these "privileges and immunities?" Must each State pass naturalization laws; or is this matter provided for? The Constitution provides for both cases clearly and

distinctly. The exclusive power to make rules for the naturalization of aliens to all the States is granted to Congress, so that so far as the foreign born are concerned, it alone can determine the manner in which they shall become citizens of the States. But though Congress has no jurisdiction over the citizenship of natives, yet for them, too, the provision is equally specific. The citizens of each State are expressly made citizens of all the States, or, which is the same thing, are entitled to all the "privileges and immunities" of citizens within them. Thus the whole ground is covered, and no State naturalization becomes necessary. This would seem so plain that "the way-faring man * * * need not err therein;" yet this strange opinion, as if to keep up its departure from all show of reason and law, gravely pronounces that the clause to which I have referred does not "apply to a person who, being a citizen of a State, migrated to another State," (page 422,) that "the provision is confined to citizens of a State who are temporarily in another State, without taking up their residence therein." If this be its construction, I beg to know, and I am interested in knowing, how a native of Connecticut can become a citizen of Ohio. No other clause in the Constitution can have the effect to make him such, and if this does not, Ohio must act before he can be admitted to the privileges of Ohio citizenship. Supposing—vainly as it would seem—that the Federal Constitution had decided that point, Ohio has made no provision on the subject, so that were the Chief Justice himself to migrate to Ohio, and there commence suit in the Federal court against a citizen of Maryland, the fact that he was a native of Maryland, were his opinion law, would be a good plea to his allegation of Ohio citizenship. If not, I should like to have the error of the plea pointed out, and the process explained by which he became a citizen of Ohio.

But the phrase "citizen of the United States" is no less loosely used than the term itself. It is not only employed to mean a person entitled to all the privileges of citizens in the several States—sometimes called a general citizen—but also to designate one as primarily a citizen of the Union as a single consolidated Government. For the former case we have seen that the Constitution has made ample provision, by making every State citizen a general citizen. But, as we go beyond that, we tread uncertain ground; and I know of no surer indication of our departure from the true idea of this Federation, than the loose habit we all have of speaking of United States citizenship; and I claim no exemption from this indication of the seductive influence of the pervading consolidation tendencies. We sometimes speak of persons as citizens of the United States, residing in a State, or of a double citizenship, held by each, and in the case now under discussion, citizenship of the United States, instead of the State citizenship of the Constitution, is generally spoken of as giving jurisdiction to the Federal courts.

That there is such a thing as citizenship of the United States, in some sense, is clear. The Constitution uses the term, but its meaning must be controlled by the constitutional relation of the States. I can find nothing in the Constitution, or in that relation, that gives color to the idea that there can be any such thing as United States citizenship, in itself considered; that there can be a citizen of the United States who is not a citizen of a State, or a State citizen who is not also a citizen of the United States; or to the idea that the Federation can do anything whatever to constitute, direct, or control citizenship, except as to aliens.

Of course, I speak not now of resident natives of the District of Columbia, or the Territories. They are outside the States, not provided for in the Constitution, which was made for the States, and are citizens of the Union alone, because born within its general and exclusive jurisdiction.

Can it, then, be possible that this grand "national" Government of ours is destitute of so important a power—the power to say who shall be its own citizens, its own people? That this power is left to its constituent parts, so to speak? These are formidable questions to consolidationists, still more so to strangers to our system; but to American Democrats the answer is easy. That the Federal Constitution, so far as it is an instrument of government, is a grant by the people of the States of specific and clearly-defined powers, that

there is no power where there is no grant, that none are given by implication except what are necessary to execute those expressly granted, and that all others are reserved to the States and the people thereof, are the axioms of their creed. We search in vain for any general Federal authority over citizenship, so that, even in the absence of the guarantee to the citizens of each State, we must inevitably find the power over this subject to be one of those reserved. The States, then, determine who are citizens, and we mean by a citizen of the United States, simply a citizen of one of the States; and when we describe a person as a citizen of the United States, residing in a State, we use a phrase liable to misconception; and when we speak of the double relation held by each citizen to his State and the United States, we use language politically loose, unless we mean that the latter relation is held solely through and by virtue of the first.

To the objection that the naturalization powers of Congress authorize a citizenship of the United States without reference to a State, I reply by denying the assumption. The people of the States, that the rule of naturalization might be uniform, authorized Congress to prescribe it, and nothing more. But aliens, naturalized under this rule, immediately became citizens of the State of their domicile; otherwise, how can they avail themselves of the guarantee of general citizenship?

The conclusion, then, is irresistible, this court to the contrary notwithstanding, that all "the citizens of each State" are not only "entitled to the privileges and immunities of citizens in the several States," but are, thereby, citizens of the United States.

The folly of the main assumption of the court, that there exists in the States a class of native inhabitants who are not and cannot become citizens, equally appears, whether we say that a State may make or unmake its citizens, or whether the condition of the native born is fixed. It is clear that if any power can say what natives are citizens, it is the State alone; if no power, then the question must be decided by the general law, the Articles of Confederation, and the Constitution. By the first are included all the native born; by the second the "free inhabitants" of the several States; and by the last, all the citizens of the several States, which last provision must refer back to the first and second. Those naturalized by the Articles of Confederation have all passed away, so that if the States have no control over citizenship, we are driven to the general law, to the inevitable result of nativity.

But the States do possess power over the subject. I will not say that they can unmake, so to speak, a citizen; can change the fact of nativity, or its just effect, for I am no believer in a State's omnipotence, nor will I advocate its power to do wrong; but to confer citizenship upon other than aliens, the States are clearly competent. They are competent, for they have never parted with the power, and all powers not delegated are reserved. They are competent, for from the beginning they have conferred it without dispute; and though bad precedents should be overruled, just ones are law. Slaves, though natives, have not been regarded as citizens; for, by a legal fiction, they are, while their status remains, alien enemies, and prisoners of war; and, by the African code introduced with the ancestors of these prisoners, they and the descendants of their women became slaves. This status and this fiction and this code yield to the breath of sovereignty; and these quasi alien prisoners become native-born free citizens.

The reasoning by which the court arrives at the impotency of the States in the premises is so brilliant, that I cannot refrain from giving it, as a specimen of the logic of this our infallible tribunal. The opinion says that, because the power to naturalize aliens is delegated to Congress, "it is very clear, therefore, that no State can, by any act or law of its own, * * * introduce a new member into the political community created by the Constitution." If the "new member" means alien, the conclusion is very clear indeed, as well as undisputed; but close on the heels of this truism follows a *non sequitur* that puts all dialectics to blush. "And for the same reason," that is, the reason that the power to naturalize aliens is delegated to Congress, "it," the State, "cannot introduce any person or description of persons who were not intended to be embraced in this new

political family," &c. This person or description of persons, by a bold falsification of history, is assumed to be the descendants of African slaves. But admit the libelous assumption of this unwritten and fraudulent intention, how clear the logic! "For the same reason," indeed? Because a State has authorized the Federation to make rules by which aliens may acquire citizenship, *for that reason* it has parted with all power over the subject, not of alienage, but of citizenship. It has, therefore, no power to say whether its native-born inhabitants shall or shall not be general citizens; though, by this same instrument that grants this power over alienage, all powers not delegated are expressly reserved, and all its citizens are expressly made general citizens! I know not what deductions of reason may be clear to eyes filled with slave plantations; to eyes blinded by passion and interest; but if any school-boy, on any other theme, should so boggle in logic, he would be at once promoted from the forum to the dunce-block.

But suppose a State change this intention, if it ever existed: its general power over citizenship is clearly reserved, and under the liberalizing influence of Democracy and Christianity, it may abandon a design it was always ashamed to put on the record. What is to hinder? But it has no power, says the Chief Justice, and *for the reason* that it has delegated to Congress the power to make rules of naturalization. Well, then, we must look to Congress to naturalize these persons. But Congress can only provide for the naturalization of aliens; and these persons are native born. And thus we have a "description of persons" that can never be made citizens; and for the reason that Congress may naturalize another description of persons!

And is this the new phase of the doctrine of State rights? I have looked with anxious attention for the protests of those who annually indorse the resolutions of 1798 against this last and boldest in this court's long series of attacks upon the sovereignty of the States. The power of the States over citizenship, as clearly reserved, with the exception named, as any power can be; and the rights of those citizens to general citizenship, guaranteed as plainly as language can do it, are impudently denied, and by a reasoning that would disgrace a freshman. And yet these guardians of State sovereignty, men boisterous in defense of a State's right to oppress, clamorously echo the denial. The people of some of the States are believed—I wish there were no doubt of the fact—to be as earnestly devoted to justice, to the doctrines of the declaration and the spirit of the Constitution, as others are supposed to be to their opposite. To render fruitless that devotion, State sovereignty, and with it the Constitution, must be overthrown. Well may the colored American view with vengeful joy the madness of his insane tormentors, as he sees them in their eagerness to destroy every refuge from their hate, pull down upon their own heads the fair fabric of their own constitutional freedom!

But the doctrinal heresy of this opinion does not exceed its gross perversions of history. I do not propose now to wade through the mass of those perversions; to trace the garbled facts and false innuendoes; the appeals to low prejudice and despotic fears; the slanders of the great dead, and the miserable reasoning (?) that pervade it. With sorrowful emotions I have been through them all; and I have sometimes imagined the shades of Jay and of Marshall—men with whose national doctrines I have little sympathy, yet men who loved law and revered justice—to be sadly looking o'er with me the dirty page, wondering that they ever should have looked to irresponsible bodies as a check upon popular injustice.

The main historical claim I alone have time to notice. "When the Constitution was adopted," says the syllabus, "they (free negroes) were not regarded in any of the States as members of the community which constituted the State, and were not numbered among its 'people or citizens.'"

If this claim be true, it must be susceptible of the most unequivocal proof. Upon so important a question it will never do to admit a doubt; and the rule excluding these persons must have been clear and explicit; yet such explicit exclusion is not pretended; but the fact is sought to be established by a series of strained inferences and mere guesses. Resort is not had to the law and the

testimony. Statutes, constitutions, records, are passed by as unworthy of attention; and the assumption of the exclusion is founded upon the fact alone that the ancestors of its subjects had been enslaved, and they themselves were sometimes unjustly treated—as though Governments had done anything else, in this world of ours, than oppress, directly or indirectly, one class or another of their citizens or subjects.

This, then, is the proposition: "that no person whose ancestors had been oppressed, and who was himself ill-treated by the colonists, could have been numbered among the people or citizens." I would advise caution to those who propose to accept this proposition, a close examination of the genealogical tree, lest the conclusion might apply where least expected.

But the great birth Act of the Republic is in the way of the court, and the audacious sacrilege with which that act is treated, I confess, surprises me. The great principles of justice and natural law upon which it was founded—those principles that alone redeemed our fathers from the charge of criminal rebellion—are limited to a race, to a mere fraction of the human family; and failing in argument to prove this limitation, the court majestically pronounces it "too clear for dispute." The idea, so sublime yet so simple, that the common Father of mankind has endowed His children with rights which cannot be taken from them—the right to life and the right to liberty—this divine idea, the harmonic chain of human society, before which our fathers bowed in humble contrition for their own inconsistency, yet in fervent hope for its full realization, because of this inconsistency is shorn of its holiness, is made but the precept of tyranny. That sentence that has commanded the homage of mankind, this court would thus sneeringly render: "we hold these truths to be self-evident, that the superior races, if born of free mothers, are created equal; that they are endowed by their Creator with certain inalienable rights; that among them are life, liberty, and the pursuit of happiness; that to secure these rights Governments are instituted, deriving their just powers from the consent of such races, if free and white, among the governed."

But our fathers deserve not this taunt. That they were not wholly consistent, is too true—and what human institutions realize the ideal of those who are leading us onward and upward?—but none were more keenly sensible than they of this inconsistency; none could be more anxious to be redeemed from its charge; and not by apostasy to their sublime faith, but by "works meet for repentance." We accordingly find the great and good among them anxiously laboring to carry out the doctrines of the Declaration, and as understood by them, not by this court. Franklin, Jay, Hamilton, and others, became officers of societies for the abolition of slavery and protection of the free. And to illustrate our own apostasy from these truths, in contrast with their former appreciation, I ask attention to the fact that a recent officer of the same society of which Franklin was president, for pursuing its legitimate work—a work that wove the brightest flowers in the chapel on the brow of the philosopher—was illegally thrown into prison by a Federal judge, while his own State refused him protection, and his own city applauded the outrage. So Washington and Jefferson, and all others whose names posterity holds in reverence, united in condemning slavery, and especially as a glaring inconsistency with the principles of the Declaration.

But to be more specific: This court was forced to admit, and thereby admitted away its whole case, that all who were citizens in the several States at the time of the adoption of the Constitution, became citizens of the United States. (Page 406.) So we have only to inquire whether free blacks were then citizens in any of the States.

I assert that the native born among them were then citizens in all the States, because—

1. They were citizens by the general law, by virtue of their nativity, unless excluded by express and unequivocal enactments; and I have been unable to find such exclusion in any of the States.

2. The Articles of Confederation had made them general citizens. "The free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of free citizens in the

several States." It would seem that nothing could be more plain than this, and especially when an unsuccessful attempt was made to amend it by inserting "white" before "inhabitants," and especially, also, as the article itself contains exceptions not including negroes. And yet, with characteristic effrontery, this court asserts that "free inhabitants" cannot include free negroes, and for the reason—mark the logic—that the southern States, in order to throw the chief burden of the war upon the States best able to bear it, procured the adoption of the provision that the quota of land forces should be proportioned to the "white inhabitants" of the States. Because of this apportionment of troops, therefore—no, "therefore" is not sufficiently positive, and the *sequitur* requires a very strong connective; "it cannot for a moment be supposed," says the court, that "free inhabitants" can mean other than free white inhabitants! This *sequitur* reminds me of the boy's syllogism: "I gave my knife for a ride to Boston; my knife cost fifty cents; it is therefore fifty miles to Boston." If any one doubts the conclusion, it can be at once nailed by some authoritative *pronunciamento* that "none other can for a moment be supposed." What fools composed the delegations that sought to insert "white" as restrictive of general citizenship, and with others actually procured its insertion as restrictive of their obligation to raise troops! They should have known that it was always understood.

3. They were universally recognized as citizens. The elective franchise, till very recently granted to none but citizens, was conferred upon them in nearly all the original States; was within my own recollection enjoyed in North Carolina, Tennessee, and Pennsylvania, and still is in New York and nearly all the New England States. Their citizenship itself was scarcely, if at all, disputed. South Carolina and Delaware alone refused them the rights of electors, but I cannot learn that even there the general law upon the subject was doubted or sought to be changed.

The new-fangled idea of this court was clearly unknown in 1800. In that year Mr. Wain presented to the House an anti-slavery petition from the free men of color of Philadelphia. The petitioners expressly spoke of themselves as citizens of the United States; and although the petition caused two whole days of angry discussion, none disputed the fact of citizenship, or claimed for it any different treatment than though it came from whites.

I can only allude to the complaint of Mr. Jefferson against the attack of a British ship-of-war upon the Chesapeake, and killing and seizing "American citizens"—those citizens being negroes; to the proclamation of General Jackson at New Orleans, calling upon the free colored people, as citizens, to rally in defence of their country; the final resolution of Congress admitting Missouri into the Union, overruling one clause of her constitution against free men of color from other States, because it contravened that clause of the Constitution guaranteeing general citizenship; or to the former practice of granting foreign passports to free colored as well as white citizens; and cannot allude at all to the thousand other similar instances that challenge attention. They all render absurd the assumption that these persons "were not regarded in any of the States as members of the community," &c.

I have no time to go into further detail; but inasmuch as the Chief Justice has asserted that "it cannot be believed that the larger slaveholding States regarded them as included in the word citizens," I will briefly refer to the acts of Virginia on the subject, which I believe was a tolerably large slaveholding State.

The first action of Virginia upon citizenship I find in 10 Henning, p. 129-30, in the act of May 3, 1779, "declaring who shall be deemed citizens of this Commonwealth." By that act it was provided, "that all white persons," &c., and "the free white inhabitants of every one of the States," should be deemed citizens, and should enjoy all the rights, &c., of citizens of Virginia. This restriction to "white persons" within the State was so contrary to the general law, and to the spirit of the day, and the restriction to the "white inhabitants" of the other States was so contrary to the Articles of Confederation, that at the October session, 1783, (11 Henning, 323-4) the act

was expressly repealed, and it was then enacted that "all free persons born within the territory of this Commonwealth * * * shall be deemed citizens of this Commonwealth."

This last act continued in force some forty years, till a race arose that "knew not Joseph"—till after the commencement of that grand defection which has culminated in the Dred Scott decision. "It cannot be believed," indeed! If this court would give more attention to facts, and less to despotic interest and instincts, it might be led to believe many things yet hidden from its sight.

There is another fact in the legislation of Virginia, that may throw a little light upon the inquiry, as to whom this large slaveholding State regarded as included in the word citizen. In 9 Henning, 267-8, I find "an act for regulating and disciplining the militia," passed May 5, 1777, and in force, so far as I find, at the time of the adoption of the Constitution. It begins as follows:

"For forming the citizens of this Commonwealth into a militia, and disciplining the same for defense thereof, be it enacted by the General Assembly, that all free male persons, hired servants and apprentices, between the ages of fifteen and fifty years, (except the Governor, &c.) shall, by the commanding officer of the county in which they reside, be enrolled and formed into companies of not less than thirty-two, nor more than sixty-eight rank and file, and these companies shall again be formed into battalions," &c.

Here we have it on the record, plain and unequivocal, in the first year of our independence. "All free male persons" are expressly recognized as included in the words "citizen of this Commonwealth." "But this 'cannot be believed,'" our court would say. "The large slaveholding States" could not so regard them; and as we have decided that "free inhabitants" means free white inhabitants, so "free male persons" must mean free white male persons." But, as if anticipating modern judicial acumen, the same act goes on to say: "the free mulattoes in said companies or battalions, shall be employed as drummers, fifiers, or pioneers." So it must "be believed" that "free male persons" means free male persons.

Further, on page 280, I find it provided, that the recruiting officers shall not "enlist any negro or mulatto into the service of this or either of the United States, until such negro or mulatto shall produce a certificate from some justice of the peace of the county wherein he resides, that he is a free man."

And in view of the fact that all the States enlisted in the armies of the Revolution their free colored, as well as white citizens, and upon the same terms; that they flocked to their country's standard with the same alacrity as the whites; that they fought and bled on every battle-field—the first blood shed in the contest being that of a negro; that ever since, they have been pensioned under the same laws as white soldiers; how intensely mean the bald assumption that they were not a part of the people of the United States! Great are the necessities of despotism, and humiliating the shifts to which it drives its votaries!

If those who fought through the war to establish our liberties, who were electors in nearly every State, and voted for the delegates that adopted the Constitution, who were embraced under the general law of citizenship, and nowhere excluded—if they formed no part of the people or citizens of the country, I should like to know on what rest the claims of any man, when the necessities of despotism demand his exclusion?

I have, I believe, succeeded in showing that United States citizenship, in respect to natives, is a matter exclusively of State regulation; so that the citizens of each State are citizens of the United States; and I have also negated the assumption that colored natives were nowhere treated and considered as a part of the people, or citizens of the several States, at the adoption of the Federal Constitution. So that, with the undisputed and universal modern law, that makes all native members of the community citizens, which law is nowhere repealed, and is faithfully enforced in many of the States, it plainly appears that a native-born free descendant of African slaves may be a citizen of the United States.

I have thus sought to vindicate the law, the rights of the States, and the rights of an oppressed class. I know that some are disturbed by any allusion to the wrongs of mere blacks. They would get the negro out of politics, not by binding up his wounds, but by passing by on the other

side. To such shallow politicians I have only to say that, if you have not the moral instincts that impel you to withstand injustice wherever exhibited, at least have the sagacity to look to your own future. Tyranny always creeps on apace. Its first precedents pander to the public appetites, or flatter the public prejudice. Power after power has been drawn to this tribunal; till, grown strong by acquiescence, and reckless by strength, at last the very political existence of individuals is assailed. Verdant, indeed, would it have been had its attack not chimed with the vulgar prejudice. But let this become an undisputed precedent, and upon whom will light the next proscriptive edict? and how long before political opinion, rather than complexion, will be cause of outlawry? When will men learn that though justice may for a time sleep, its exactions are inflexible and its penalties sure?

Mr. HASKIN. From the latitude taken in debate upon the resolution of the distinguished gentleman from Mississippi, [Mr. QUITMAN,] from the discursive character of that debate, and especially from the remarks which fell from the distinguished gentleman from Georgia, [Mr. STEPHENS,] attacking Commodore Paulding, who is my immediate constituent, I feel it to be my duty, as his congressional Representative on this floor, to say something, feeble though it may be, in vindication of his gallant conduct in arresting the expedition of Walker against Nicaragua.

I listened, Mr. Chairman, with attention and respect to the remarks submitted by the honorable gentleman from Mississippi, [Mr. QUITMAN,] a gentleman whom, as a New Yorker, as a distinguished civilian as well as general, I am proud that the State of New York gave to Mississippi. With many of the remarks which fell from the lips of that gentleman respecting the repeal of the neutrality laws, I concur. At the proper time, and under proper circumstances, I will perhaps be prepared to go as far as any member of the responsible majority of this House in favor of a suspension of the neutrality laws. But, sir, I will not do it for the reasons assigned by that gentleman.

He said, in the course of his remarks, that it was not the duty of this Government to interfere in a fight between individuals; and upon that he founded his argument in favor of a repeal of the neutrality laws. I concede his proposition; but when you apply his doctrine to an armed expedition, fitted out to invade a nation with which we are at peace, then I will not go with him for such a repeal of the neutrality laws. It was in a case of this kind, and to meet a case of this character, that these identical neutrality laws of 1818 were passed. From an examination of them, it appears to me that they were prepared with a view to this very case of Walker and his men; and it is a singular fact, it is a remarkable coincidence of time, that in this very year 1818, Arbuthnot and Ambrister were hung as high as Haman by General Jackson for doing against this Government that which, in my judgment, was not more reprehensible than what Walker has done towards a country with which we are at peace—towards a weak people, the Nicaraguans.

From an examination of the neutrality laws, I find that the jurisdiction of the United States is specially referred to. The jurisdiction is mentioned in terms—"within the United States," in each of the preceding sections until you come down to section eight. I am disposed to give to that section the interpretation given to it by the gentleman from Virginia, [Mr. BOGOCCK.] We find in that section that there is no language confining the jurisdiction within the limits of the United States; but the President, in the event of an armed invasion being contemplated, in the event of an armed expedition being fitted out, is authorized to call upon the Army and Navy to protect our treaty obligations, and to sustain the honor of our Government. In this section you find other remarkable words, which do not appear in any of the other sections of the law. In this case it gives authority to capture a vessel within the "jurisdiction and protection" of the United States.

Now, sir, I contend on this floor, that, under this law, and under the law of nations, Commodore Paulding had the right to go without the marine league; that he had the right to chase this marauding expedition upon the high seas; had a

right to capture these men and bring them home. Many will doubt whether he had the right to go on land in Nicaragua. I am not here to say that he had the legal right to do that. But, if a treaty—an inchoate treaty if you please—existed between this Government and Nicaragua, by which we are to protect the transit route, the instructions of the Secretary of the Navy and of the President of the United States, in view of carrying out this treaty, warranted Commodore Paulding in going on land and thus preventing, perhaps, a war with England, and certainly an invasion of this weak people. And, sir, I say it behooves the American Congress to sustain our President and to sustain Commodore Paulding.

The only party, on the face of the globe, that has any right to object to this act of Commodore Paulding, is the weak Power of Nicaragua—a Power that commends the act; and it certainly does not behoove the American Congress by any act to justify conduct which was against our treaty stipulations, and against the law of nations.

Now, sir, the distinguished gentleman from Mississippi [Mr. QUITMAN] yesterday, in the course of his remarks, referred to the sympathy manifested in this country for Poland and Hungary. Sir, that was a generous and noble sympathy. It was the sympathy of the American nation in favor of an oppressed people striving to throw off the shackles by which they were bound by the despotic Governments of Austria and Russia; but, sir, I am not aware that there was any attempt in the American Congress to legalize the fitting out and sending off of an expedition from our shores to their assistance. There was no attempt to recognize by acts or deeds any interference upon the part of our people, in obtaining the freedom of Poland or Hungary.

The gentleman also referred to Lafayette. Sir, his was a noble and generous sympathy. It was the same sympathy in our behalf which was enlisted here on behalf of Poland and Hungary. Would either of these instances bear any parallel with this outlawed expedition of General Walker?

But, sir, the immediate cause of my rising to address the House to-day, were the remarks of the gentleman from Georgia, [Mr. STEPHENS,] against Commodore Paulding, who is my constituent, and whom it is my duty, in my feeble way, to defend. He expressed an opinion, and I concede to him the right to do it, and I know he is liberal enough to concede to me the same right of the expression of my opinion in opposition to his. The gentleman from Georgia said on this floor, yesterday, that "General Walker was a better man than Commodore Paulding." It is to that remark I take exception. I deny that he is a better man than Commodore Paulding. Who is General Walker? The first I ever heard of him was that at the head of a few dozen adventurers he descended upon Sonora, where he met with defeat. The next I heard of him he made a descent upon Nicaragua, where he met with a temporary success. At the head of that Government the first thing he did to prove his statesmanship and generalship was to levy upon the steamers belonging to the Transit Company, thus cutting off all communication between his own army and those who might have afforded him supplies in men and ammunition from the States, thus paving the way to his downfall and the downfall of the men who were with him.

The next you hear of General Walker is in the report of the Secretary of the Navy; and I desire to call the attention of the House to the language there used, relative to General Walker, for the purpose of proving that the doctrine of reparation cannot be applied in justice and equity to General Walker. The Secretary of the Navy says:

"The unsatisfactory state of affairs in New Granada and portions of Central America required the increase of this squadron, and the almost constant presence of a considerable force in the neighborhood, both on the Atlantic and the Pacific. * * * * *

"All these men were brought home without previous orders; but such was their deplorable condition, that it was an act of humanity which could not and ought not to be dispensed with; and the Department approved it. The expense of providing for them necessary food, clothing, and medicine, while on shipboard, amounted to \$7,376 16, for which an appropriation is recommended. * * * * *

"It was deemed necessary, as a measure of humanity and policy, to direct Commodore Mervine to give General Walker and such of his men, citizens of the United States, as were willing to embrace it, an opportunity to retreat from Nicaragua. Before these instructions were received,

Commodore Mervine had sent Commander Davis, with the *St. Mary's*, to San Juan del Sur, with instructions to protect the persons and property of American citizens. With this authority only, Commander Davis negotiated with General Walker terms of capitulation, under which he surrendered with his men, and was conveyed to Panama, whence he proceeded to the United States. Commander Davis also received from General Walker the surrender of a small schooner which he had detained, called the *Granada*, and delivered her to the Nicaraguan authorities. The action of Commander Davis, so far as he aided General Walker and his men, by the use of the *St. Mary's*, to retreat from Nicaragua and return to the United States, was approved by the Department; but his interference with the *Granada*, and her transfer to the Nicaraguan authorities, by his intervention, was not approved. The whole number of men surrendered and carried to Panama was about three hundred and sixty-four. Commodore Mervine, finding his squadron suddenly incumbered with these men, in the most wretched condition, suffering for the want of everything, and endangering the health of those under his command, had no mode of relief except by turning them adrift, which was impossible, or sending them by the railway to Aspinwall. Adopting the latter alternative, he was under the necessity of drawing on the Department, in favor of the railway company, for \$7,475, being the amount which would be due for transporting them across the Isthmus at the usual rate of charge. This bill has neither been paid, accepted, nor protested. The company voluntarily relinquished the personal responsibility of Commodore Mervine, and put the bill at the disposal of the Government. I submit it, with an expression of my conviction that Congress should make reasonable provision for it; and also for the expenses of providing these men while on shipboard with necessary food, clothing, and medicine, of which an estimate will hereafter be furnished."

I saw the remnant of Walker's deluded followers, who were landed at the port of New York, in the Park, and a more abject and pitiable sight I never beheld. These poor fellows were without shoes or stockings, without any clothing, indeed, other than their shirts and pantaloons, and covered with lice and the scurvy. Since then many, very many of them, have been delivered from their sufferings, and have gone to

"The undiscover'd country, from whose bourne No traveler returns."

General Walker cannot say of these men, like Macbeth—

"Thou canst not say, I did it: never shake Thy gory locks at me."

Now, sir, who is Commodore Paulding, a constituent of mine of whom I am justly proud? He is the son of that John Paulding, of revolutionary memory, who, with Williams and Van Wirt, captured Major André, at André's Brook, near Sleepy Hollow, Westchester county—a spot with which I am as familiar as with this Hall. These men were penniless soldiers attached to the continental army. It is said that they were playing a friendly game of "old sledge," when they espied André upon horseback, who, though a brave and a courteous gentleman, was nevertheless an English spy. They arrested him, and searched his person.

Sir, John Paulding, the father of Commodore Paulding, had no search-warrant, no special directions from the Government to do what he did. He had nothing from the Continental Congress authorizing him to arrest and search André. André offered these three honest patriots gold enough to make them independent for life, to let him pass; but they spurned the bribe. They took him to the American army, where he was tried, convicted, and hung.

Mr. JOHN COCHRANE. Will my colleague allow me to ask him a question? I ask whether this spirit of committing offenses against the law of nations runs in the family?

Mr. HASKIN. I am now, Mr. Chairman, merely comparing the history of Paulding with that of Walker. Commodore Paulding has a prouder ancestry than any king or kaiser of Europe. He has been in the naval service of the United States for forty years, and, during that time, has worked his way by gallantry and efficient service to the highest rank in it. There is neither blot nor blemish upon his escutcheon. It is then unfair and ungenerous, comparing the records of Paulding with Walker, to say that the latter is the better man.

In reference to this act of Commodore Paulding, I believe that no other act since the inauguration of the existing Administration has reflected more honor and credit upon the country; and I sincerely trust that the responsible majority of this House will not fritter away that honor and credit by any resolution of censure against Commodore Paulding. The act meets with the hearty approval, I am sure, of the conservative men of the

country, and the fair men all over the civilized world. Nay, sir, I would go further than many Democrats in the North on this subject. I recollect that Congress, in 1854, gave a medal to Commander Ingraham, with the thanks of Congress for what he did—protecting an inchoate American citizen (Koszta) in foreign waters and in a foreign land. I am willing now that we shall vote our thanks and a medal to Commodore Paulding. I beg the gentlemen of the South not to believe that I am in the least tainted with any sickly sentimentality on the subject of filibustering. I am a national filibuster, but am against individual filibustering, which retards the consummation of my desire with regard to Central America and other territories which we ought to have. I believe that the time has come when the application of the doctrines promulgated by the Ostend manifesto is necessary for the protection and preservation of our Pacific possessions and the continuance of our commercial rights in that quarter.

Mr. KEITT. If the gentleman will allow me. He says that he is a national filibuster, but against individual ones. I wish to know whether he is for the nation breaking faith, and against individuals so doing?

Mr. HASKIN. I am for the nation keeping its faith. I am for the nation doing as Great Britain has done. I am for the nation seizing upon Cuba, and, for that purpose, suspending the neutrality law. I am a national filibuster, and will go with the gentleman from South Carolina to that extent. And let me say that northern Democrats are right on the subject. They believe that they have come by this feeling naturally from their mother country, the country which gave to the South her cavaliers, and to the North a great many of her puritans and roundheads. We northern Democrats believe that the Government should, by conquest, do certain things; but that this business of Walker was committing petty larceny. We northern Democrats are rather in favor of national grand larceny. [Laughter.] Permit me to say that England has been the greatest filibustering country upon the face of the earth. Look at her recent conduct in China. Look at her conduct in obtaining her East India possessions, and more recently in taking possession of the Island of Perim. England did not act as Walker and his expedition did; but the navy, the Government of England did it. They wanted the island as a national naval depot, and they took the responsibility of taking it. Let our country take the responsibility of raising this same standard, and you will find thousands of the national Democrats of the North with it, because they believe it is the manifest destiny of this Republic. They believe that—

"No pent up Utica contracts our powers;
The whole boundless continent is ours."

In the remarks I have made, I have simply desired to define my position in the defense of my constituent, Commodore Paulding. I have not desired to give offense to any gentleman upon this floor. I desired to put myself upon the record as a pure, hard-shell national Democrat, sustaining right.

Mr. GILMER obtained the floor.

Mr. STEPHENS, of Georgia. Will the gentleman from North Carolina allow me a moment?

Mr. GILMER. Certainly.

Mr. STEPHENS, of Georgia. I merely wish to say, in reply to the gentleman from New York, that in what I said in reference to Commodore Paulding yesterday, I meant no imputation upon his character, further than was warranted from the arrest of Walker—the transaction about which I was then speaking. That act was certainly without law, and without color of law, as I understand it. Upon that ground he is to stand in the public estimation. As to his ancestry, or his honorable life past, I meant to cast no imputation whatever. It may be that he comes from a grandfather who has had the honor of having refused a bribe. Well, sir, if that goes to his credit, let it. I cast no imputation upon Commodore Paulding, further than this act of his was concerned—an act which, in my opinion, was a great outrage.

The gentleman has alluded to the character of Walker and his followers. He spoke of the condition in which he saw some of those followers last spring, who were returned to this country,

when there had been an illegal interference upon the part of Commander Davis. He says they were in want, afflicted with scurvy, and lousy. What put these men in that unfortunate condition in which he saw them, I know not. But, if they were destitute, who made them so? Perhaps they had been robbed. But, if so; who did it? I have heard some say that those now at Norfolk are poor and "lazy and lousy." I believe they were last seen under the command and control of some of the officers of the Navy. Where they got their disease or their vermin, I do not know. I do not know, but suppose that these officers, looking upon their wants and wretchedness, would, in the language of Macbeth, quoted by the gentleman, as readily as Walker, exclaim:

"Thou canst not say we did it!"

I mean, then, no imputation upon the character of Commodore Paulding, further than this act warranted my judgment. It is past, and I stand upon what I say—that this was a great outrage on private rights; and if it appears that the arrest was illegal, as such it ought to be redressed.

Mr. HASKIN. With the permission of the gentleman from North Carolina, [Mr. GILMER,] I desire to say, in reply to the gentleman from Georgia, that even though this act of Commodore Paulding may not have been strictly within the legal purview of his authority, yet there are abundant precedents where the American Congress and the American people have sustained an act which was right morally, though technically and legally wrong. General Jackson, when he declared martial law in New Orleans, was in the commission of, and did commit, an illegal act. He was tried for it, and was fined; but he lived long enough afterwards to become President of the United States, and to have the fine repaid by order of the American Congress. There are many cases where men in our Navy have gone as far as Commodore Paulding went in this case, and where the Government have approved their acts. On this head I will read an extract which I have before me:

"Commodore Paulding, if necessary, will find abundant authentic precedents to sustain him. About the year 1826, Commodore David Porter was dispatched to the Caribbean seas, to suppress acts of piracy that were almost daily perpetrated on the commerce of the world in that quarter. He came across a band of pirates, who, on hot pursuit, abandoned their schooners and shallops, and took to the island of Porto Rico—an island within the jurisdiction of a State of Europe, with which we held friendly relations—and found safety and succor in the town of Foxardo.

"Commodore Porter, deeming himself in pursuit of common freebooters, pirates, and outlaws, did not hesitate to land on the island of Porto Rico, where he pursued the delinquents, and extended to them the full measure of his indignation. For this act he was called home; subjected to a court of inquiry, and honorably acquitted, though warmly and strongly censured. The administration of Mr. Adams was disposed to treat him with severity; but, public opinion, the nation at large, and the subsequent administration of General Jackson, applauded and rewarded him.

"The conduct of Commodore Paulding finds precedent in that of Commodore Downes at Qualla Bartoo, in that of Commodore Porter at the Fejee Islands, in that of the commodore of the frigate *Vincennes*, in the *Borco Tagus*, and, more recently, in that of Commodore Collins, at Greytown.

"The only difficulty connected with this matter consists in the undecided fact of the real character of General Walker and his followers. If Walker is, or ever was, Chief Executive of the Republic of Nicaragua, he holds a position in the embryo State that absolves him from the odium of a pirate and an outlaw, though the fact does not hold him up to the world as a recognized chieftain, civil or military, *de facto*."

Mr. STEPHENS, of Georgia. In the very case cited by the gentleman, the conduct of Commodore Porter at Foxardo cost him his position. He was court-martialed, and dismissed from the Navy.

Mr. HASKIN. That is true, under the Administration of Mr. Adams; but the admiration and approval of the nation was so strong that, under the administration of Jackson, the act was applauded, and he was rewarded for it.

Mr. STEPHENS, of Georgia. He never was restored. Repeated applications were made for his restoration to the Navy, but he never was restored; and that was a case where he pursued pirates and robbers.

Mr. HASKIN. The only difference between us—the conservative national Democrats of the North and the gentleman—is, that the gentleman views Walker as a general, while we view him as a quixotic adventurer and marauder. That is the conservative sentiment among the Democrats of the North.

Mr. GILMER resumed the floor.

Mr. BOCK. I ask the favor of the gentleman from North Carolina to allow me to say two sentences, and only two.

Mr. GILMER. I desire to submit a few remarks only, and I shall speak but fifteen minutes. The gentleman will then have an opportunity to say what he desires.

Mr. BOCK. I do not want to make a speech. I merely wish to reply to a remark made by the gentleman from Georgia in reference to the naval officers.

Mr. GILMER. Very well; one moment.

Mr. BOCK. The gentleman from Georgia [Mr. STEPHENS] said, in the course of his remarks, that it had been stated that these men of Walker's at Norfolk were wretched, naked, lazy, and lousy, and that the last company which he had heard of their being in was the company of certain naval officers. I merely wish to say, in reply to that, that my position in this House and in former Houses, has brought me a good deal into contact with officers of the Navy. I have associated with a great many of them, and I have never found any of them in that condition. If the gentleman from Georgia has found naval officers in that condition, all that I can say is, that I am sorry for his associations among them. [Laughter.]

Mr. GILMER. I rise, sir, not to discuss the Dred Scott decision, for it was remarked by a gentleman at my elbow, that he thought it would be prudent, in order to save time, to alter the rules of this House, and set apart a day in every month to be devoted to the discussion of the negro question; and another gentleman at my elbow remarked that it should be on Friday, and should be called "black Friday." [A laugh.]

I do not rise to discuss or to answer that which I conceive to be a monstrous proposition—that there is that peculiarity in the Constitution of our Government that it does not possess the power, by the legislation of Congress, to enforce the international laws, and to compel the obedience thereto of the citizens of the Union. Mr. Chairman, if that be so, I think the mere statement of the proposition furnishes an answer to it to every reflecting mind; but, if that be so, then it suggests to my mind the great importance of giving this Government more power, and of altering our Constitution.

But, sir, inasmuch as no voice has been raised in this committee from that section of country from which I come, in behalf of Commodore Paulding, I have risen simply to express my sympathy with the two gentlemen from the State of New York, who have spoken to-day in his behalf. I have seen nothing as yet, sir, that I think justifies a course of argument involving so much criticism, casting reflection on a gentleman whose history and character, so far as I know anything of them, show him to be a praiseworthy officer of our Navy; and I conceive that when this whole matter is understood, when we receive from the Executive the information we desire, when we see the instructions under which Commodore Paulding acted in all that he did, it will be found that it does not amount to a case in which any censure can be cast upon him. I have no doubt, from what we learn in the message, from what we learn from other quarters, from the history of a few years past, that he acted under instructions; and I beg leave here to dissent entirely from the intimation of the gentleman from Georgia [Mr. STEPHENS] that there was any impropriety in giving such instructions to the naval officers or any other officers of the nation after Mr. Walker had given bail, as it is called, to answer to a criminal charge.

In my judgment, that increased the necessity for the Executive to give instructions to the officers of the Government to exercise greater vigilance. Why, sir, suppose that a client were to come to me or to the gentleman from Georgia, and state a case of this kind: that he had brought a civil suit and that the party who had become bail in that suit was insolvent; that the defendant was good, but that he had sold his property and was about to depart the country to parts unknown; would the gentleman, or would I, or would any lawyer stand up in this House and say that he could not, under that rule which comes up to supply deficiencies in the law, where, by reason of its universality, it is weak, devise some process, even although bail had been given, to save that client

and keep the defendant in the country? I was astonished that my friend from Ohio [Mr. STANTON] showed some hesitation in answering some of the questions in reference to this point which were gravely thrust at him during the discussion yesterday.

What sort of bail did this man Walker enter into? It was not bail, in the common sense of the term. It was what lawyers understand to be a recognizance to answer the charge of the United States against him. Would my friend from Georgia stand up here, as a lawyer, and say before this committee, that if a man indicted, committed upon inquiry, or upon the finding of a grand jury, were brought before a judge and entered into recognizance, or gave security to answer to the charge, and before he departed the court should be heard to mutter, "I intend to disregard the recognizance; I have got friends to pay the money; I do not intend to be here in obedience to that recognizance when the call is made; I mean to go about my own business;" would my friend say that the judge of that court would not have power to say that the man must be retained, unless he increased the recognizance? But supposing he had departed, and it came to the knowledge of the judge, upon the application of a solicitor, by affidavit or otherwise, that the accused intended to disregard the authority of the court and forfeit his recognizance: would the gentleman from Georgia say that our criminal law, both State and Federal, is so much of a cobweb, and so weak, that a judge has to hold his hand and say that he can do nothing to maintain the law? Why, sir, the very fact that the party accused gives indications of an intention to disregard the recognizance, in my humble judgment, calls for more vigilance, more care, more circumspection and firmness, on the part of the Executive, to issue his orders to all the officers of the Government, whether civil or military, to arrest him who attempts to escape from the jurisdiction in which he has given bonds to answer.

Mr. STANTON. I desire to make one remark. The gentleman from North Carolina has alluded to my hesitation as to what the law is in cases of recognizance. That I care nothing about; but I wish to call the attention of the gentleman and of the House to the fact that since the discussion yesterday I have had occasion to turn to the statute relating to this subject, and I find that the tenth section of this neutrality law directs the court before whom a party is brought who has been arrested for a breach of its provisions, to require him to give bonds, or enter into recognizance, not only for his appearance, but that he will be of good behavior, and not violate the neutrality laws pending the prosecution; and therefore, in this case of Walker, the recognizance was broken the moment he left the shores of the United States, and became a fugitive.

Mr. GILMER. I will merely remark that I have not a word of censure to utter against the act of the Executive in issuing orders to his subordinates to increase their vigilance, after it was ascertained that General Walker had left our shores with an armed body of men, and that, too, in the very direction that it was the object of the Government to keep him from going in. Sir, what does this amount to?

As has been already remarked, the whole matter will turn upon a mere legal technicality. There is such a thing as trespass without damage—*damnum absque injuria*. When a man's cattle escape from him and go upon his neighbor's inclosure, and he sends his servants after them to bring them back, they, entering upon his neighbor's ground, commit a trespass, as the law presumes, by treading down his grass and herbage; and, although the object was to get away the cattle, which were eating the crops, still, if the owner of that field should be querulous enough and litigious enough to bring a suit against his neighbor for trespassing upon his land, you, as judge, would have to charge the jury that he was entitled to his miserable sixpence nominal damages, because the law so implied; but I imagine the jurors, the bystanders, and neighbors, would be very apt to step forward and pay all the costs and damages.

Sir, if there has been any error upon the part of Commodore Paulding in this matter, it has been an over zeal in the discharge of his duties. Had I been in Commodore Paulding's place, after the

criticism that had been made in the United States upon the failure of the commanding officer of the Saratoga to arrest Walker and his men, and after what appears in the message of the Executive, I would have done as he did, and would have thought that I was doing that which would be more acceptable to the Government and people of the United States than could be done by any other man under the circumstances; and I have no doubt he thought so. In doing so, he may have committed this little trespass—for, mark you, there is in the law of nations as in the common law the maxim *de minimis lex non curat*, and I have no doubt the maxim is properly applicable to the case of Commodore Paulding.

Mr. Chairman, suppose Walker had come to North Carolina, and had persuaded off some three or four hundred of the slaves of my constituents; suppose, after he had got them on board the vessel, he had been arrested and held to bail in the sum of \$2,500, but still went on with the three hundred negroes from North Carolina. He is out on the ocean somewhere. The President hears of the circumstances, and tells Commodore Paulding to keep a look out for this man. He gets on his trail and pursues him in hot haste but cannot get his hand upon him until he is within a marine league of Nova Scotia. I venture to say that if Commodore Paulding, under these circumstances, had gone in and grappled Walker and these negroes on the very beach of Nova Scotia and brought them back to North Carolina, our southern politicians would say that he had been doing a good thing for his country. Although under the law of England whatever human being puts his foot upon the soil of her dominions is free, be he white or black; and although these negroes would have come under the operation of that maxim, I imagine that none of our southern politicians would be heard complaining that Paulding was getting this country into trouble, or was not a generous man. No, sir. But I was going to remark that the man who would censure the conduct of Paulding in that instance for going on to the beach of Nova Scotia—when he did not cut down a shrub, when he did not carry off even a log, but only left his modest foot-prints upon the sand—I do not know whether we in North Carolina would speak of that man as the gentleman from Illinois [Mr. LOVEJOY] spoke of Walker, as one who ought to be stretched up and hung, but we would say of him that he was a mighty hot Abolitionist—[Laughter]—and that we consider the worst thing you can say of a man in our country.

Mr. Chairman, I regret that in advance of the information which we want, our friends from the section of the country from which I am proud to be a Representative, have felt themselves at liberty to indulge in a criticism, which, I think, they will, in the end, be generous enough to say was uncalled for.

What a curious idea it is, that this country is bound to carry Walker back under the circumstances, in a national ship, to pay his expenses, to salute his flag! Why, Mr. Chairman, there is a resolution in this celebrated Cincinnati platform, which has created a great deal of difficulty in its construction; but I think that this debate, and the intense anxiety that has been manifested to carry Walker back and pay his expenses, would cast some light upon a point which I have heretofore considered a rather harmless, though somewhat mysterious portion of this Cincinnati platform. [Laughter.] It is the last resolution but two as published among the people where I live. We afterwards understood that there were some others attached about the Pacific railroad, which were never published in the southern country, and denied to be a part of the platform. [Great laughter.] The meaning of it varies with the punctuation and emphasis you give it. The resolution to which I refer is in the following words:

"3. Resolved, That the great highway which nature, as well as the assent of the States most immediately interested in its maintenance, has marked out for the free communication between the Atlantic and Pacific oceans, constitutes one of the most important achievements to be realized by the spirit of moderation in the unconquerable energy of our people, and that result should be secured by a timely and efficient exertion of the control which we have the right to claim over it. And no power on earth should be suffered to impede or clog its progress by any interference with relations that it may suit our policy to establish with the Government of the States within whose dominion it lies; and we can, under no circumstances, surrender our

preponderance in the adjustment of all questions arising out of it."

Now, sir, some words indicate, what we all concur in, that an acquisition of a free transit there is of vast importance, almost indispensable to the true interests of this country; and some portion of it would indicate that it is to be acquired peaceably, at least not by petty larceny, but by grand larceny. But, let Walker be carried back under these circumstances; let him be carried back in a national fleet; and let this apology be made, and then we will have all got a construction given to this resolution of the Cincinnati platform.

I think, sir, that it is time enough for us to complain, as has been remarked with much force, when Nicaragua complains; and if there is anything to be gained by filibustering in that quarter, beneficial to the Union or to the southern States, just let Nicaragua ask us to make the apology indicated by the gentleman from Georgia; then, when they ask us to make that apology, all of us who want any further filibustering will have a good excuse by carrying out this demand for apology and for reparation. That would be to send Walker out there, and not only let the men who went with him, but others who have an inkling that way, go too. [Laughter.]

And unless General Walker can keep up this train of misfortune, which has followed him for the last three or four years, I think he could benefit Nicaragua some. I have no sympathy with him. I have nothing to charge personally or politically against him, but am here to say that, in my humble judgment, taking this whole case as it stands before us, we ought not to pass censure upon an officer who has, according to all accounts, always borne himself well.

Mr. THAYER obtained the floor, but yielded to

Mr. BILLINGHURST, who moved that the committee rise; which motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman (Mr. PHELPS) reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

SECURITY OF STEAMBOAT PASSENGERS.

Mr. WASHBURNE, of Illinois. I move, Mr. Speaker, to reconsider the vote by which the further consideration of the bill for the protection of passengers on vessels propelled in whole or in part by steam, was postponed to the first Tuesday in February; and also move that the House adjourn.

Mr. REILLY. I hope the gentleman will withdraw his latter motion until I can withdraw some papers from the files of the House, that they may be sent in to the Senate.

Mr. WASHBURNE, of Illinois, withdrew his motion to adjourn.

Leave was then granted for the withdrawal of the papers referred to from the files of the House, for the purpose indicated.

Mr. HOUSTON. Mr. Speaker, the motion to reconsider made by the gentleman from Illinois, is one which ought to be disposed of at once, because, if allowed to remain pending, it will put it in the power of those who may be disposed to press this bill before other measures in the morning hour, or at any other time, to call it up. It acts as a special order. My opinion is that the motion ought now to be acted on. I am in favor of reconsidering the vote by which the bill was made a special order, in order to move that it be referred to the Committee of the Whole on the state of the Union. If, however, this is a bill which demands immediate action, let the House so determine, and the bill can be disposed of at once, without reference to a committee.

But to keep the bill pending, as the gentleman proposes, is not treating the House fairly; nor is it just in reference to the other bills which are before the House. The motion of the gentleman from Illinois will give the friends of the bill the control of the entire business of the House, at least for such time as may be consumed in its passage. I move that the motion to reconsider be laid upon the table.

On motion of Mr. WASHBURNE, of Illinois, the House then (at twenty minutes past three o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, January 7, 1858.

Prayer by Rev. T. H. Bockock, D. D.
The Journal of yesterday was read and approved.
Hon. D. L. YULEE, of Florida, appeared in his seat.

PETITIONS AND MEMORIALS.

Mr. DIXON presented the petition of Samuel Colt, praying for an extension of his patent for an improvement in fire-arms; which was referred to the Committee on Patents and the Patent Office.

Mr. KING presented a memorial of citizens of New York, praying that the public lands may be laid out in farms, and granted free of cost to actual settlers who are not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. WILSON presented a petition of Charles Fairbanks and others, praying for an extension of the pension laws; which was referred to the Committee on Pensions.

Mr. IVERSON presented an additional paper in relation to the claim of John W. Phillips; which, with his memorial on file, was referred to the Committee on Claims.

Mr. POLK presented the petition of Henry D. V. Hinman, a soldier in the war of 1812, praying that a pension of eight dollars a month may be granted to him and the other soldiers of that war; which was referred to the Committee on Pensions.

He also presented the petition of Joseph Hardy and Alton Long, praying for the return of rent collected by the agents of the United States for the working of mines not the property of the United States; which was referred to the Committee on Claims.

Mr. SEWARD. I present a petition of citizens of the State of New York, residing in the town of Canandaigua, who pray the Senate to bring forward some practical measure by which the people of the North may cooperate in a generous and brotherly spirit with the people of the South, in gradually extinguishing slavery, by a fair and honorable compensation to the slaveholding States for the manumission of their slaves. As, from the reception which other petitions of this class have met with here, there is probably no committee to which it will be acceptable, I therefore move that it lie on the table.

The motion was agreed to.

CREDENTIALS.

Mr. EVANS presented the credentials of Hon. JAMES H. HAMMOND, chosen by the Legislature of South Carolina, Senator from that State, to fill the vacancy occasioned by the death of Hon. A. P. Butler, for the term ending on the 3d of March, 1861; which were read, and the oath prescribed by law having been administered to Mr. HAMMOND, he took his seat in the Senate.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BELL, it was

Ordered, That the memorial of Otway H. Berryman, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. BELL, it was

Ordered, That John McKinney have leave to withdraw his petition and papers.

On motion of Mr. MALLORY, it was

Ordered, That the petition of George L. Bowne and William Curry, on the files of the Senate, be referred to the Committee on Commerce.

On motion of Mr. FESSENDEN, it was

Ordered, That the petition of Thomas Johnson, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. CAMERON, it was

Ordered, That the petition of Anthony W. Bayard, on the files of the Senate, be referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Public Lands, to whom was referred the memorial of the Academy of Natural Sciences, of Philadelphia, for the printing of Dr. John Evans's report of his geological surveys in Oregon and Washington Territories, asked to be discharged from its further consideration, and that it be referred to the Committee on Printing; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of the United States, praying that the public lands may be laid out in farms, and granted to actual settlers free of

cost, reported that legislation on the subject was not requisite, and therefore asked to be discharged from the further consideration of the petition; which was agreed to.

He also, from the same committee, to whom was referred the petition of William B. Davis, asked to be discharged from its further consideration; which was agreed to.

Mr. HARLAN, from the Committee on Public Lands, asked to be discharged from the further consideration of the petition of Craton W. Brant, and the papers in relation to the claim of William Smith; which was agreed to.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of Daniel and William P. Draper, praying that a register may be granted to the bark Jehu, a Dominican vessel, late called the Naiad Queen, reported a bill (S. No. 50) to authorize the issuing of a register to the bark Jehu; which was read, and passed to a second reading.

He also, from the same committee, who were, by a resolution of the Senate, instructed to inquire into the subject, reported a bill (S. No. 51) to authorize a register to be issued to the steamer Fearless; which was read, and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, reported a joint resolution (S. No. 5) to authorize certain officers and men engaged in the search for Sir John Franklin, to receive certain medals presented to them by the Government of Great Britain; which was read, and passed to a second reading.

ADJOURNMENT TO MONDAY.

On motion of Mr. SLIDELL, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

BILLS INTRODUCED.

Mr. MALLORY, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 49) to provide for the construction of a court-house, post office, and custom-house, in Appalachicola, in the State of Florida; which was read twice by its title, and referred to the Committee on Commerce.

He also, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 48) for the construction of a marine hospital at Appalachicola, in the State of Florida; which was read twice by its title, and referred to the Committee on Commerce.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 47) confirming the location of land warrants under certain circumstances; which was read twice by its title, and referred to the Committee on Public Lands.

EMIGRANT PASSENGER TICKETS.

Mr. KING submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to furnish, if not incompatible with the public interest, copies of the correspondence with, and dispatches from, our Ministers at the Courts of England, France, Switzerland, and other Powers, on the subject of the dangers to emigrants arising from the practice of contracting with irresponsible parties in Europe for American inland passage tickets.

COMMISSIONERS TO CHINA.

Mr. FOOT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, all the official dispatches and correspondence of the Hon. Robert McLane, and of the Hon. Peter Parker, late Commissioners to China, with the State Department.

STEAMER INSPECTORS.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire as to the expediency of providing for the appointment of inspectors of the hulls and boilers of steamers in the collection districts of the State of Florida.

NAVIGATION LAWS.

Mr. TOOMBS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce inquire into the expediency of modifying or repealing the navigation laws, and report by bill or otherwise.

MINISTER TO JAPAN.

The Senate proceeded to consider the following resolution submitted by Mr. GWIN on Tuesday last:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of providing by law for the appointment of a Minister Plenipotentiary to the Empire of Japan.

Mr. MASON. I suggest that the resolution be modified so as simply to instruct the committee to inquire into the expediency of making an appropriation for this object.

Mr. HAMLIN. I suggest to the Senator from Virginia to include in his amendment a proposition to make an appropriation for other American officers in the Japanese Empire. That will bring up for the consideration of the committee the question whether there should not be some compensation allowed to our Commissioner and our consul general who are there. It seems to me the whole subject had better go to the committee together.

Mr. MASON. I have no objection to that modification. I do not see in his seat the Senator who moved the resolution, but I am satisfied he will not object to it. I move to amend the resolution so that it shall read:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of making an appropriation by law for the compensation of a Minister Plenipotentiary to the Empire of Japan.

Mr. HAMLIN. My amendment is to add: "And for other officers of the United States Government in Japan."

The amendment to the amendment was agreed to; and the amendment, as amended, was adopted.

The VICE PRESIDENT. The question is on the adoption of the resolution as amended.

Mr. MASON. My only object in offering the amendment was to make the resolution conform to what I understand to be the relations of the legislative department in reference to missions abroad; we can do no more than make an appropriation for them. I am not at all satisfied either of the expediency or propriety just now of making such an appropriation in this case; but I stated to the honorable Senator who moved the resolution that I would not object to the inquiry.

The resolution, as amended, was agreed to.

ALEXANDER J. ATOTCHA.

Mr. FOOT. I offer the following resolution:

Resolved, That the Secretary request the return to the Senate, from the Court of Claims, of the bill (S. No. 28) for the relief of Alexander J. Atotcha, together with the report of the committee, and the papers relating to the case.

I ask for the consideration of the resolution at this time, as I shall follow it up by a motion to reconsider the action of the Senate in this case.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. MASON. The honorable Senator from Vermont was good enough to make this motion, he having voted in the majority, at the instance of some gentlemen, of whom I am one, who are very desirous that this subject should be again before the Senate. The only mode of doing it, as I am informed, is to pass this resolution, in order to bring the subject in a condition for reconsideration. Whether the Senate will reconsider it or not, is for them to decide; but if the motion be not made to-day, three days will have elapsed since the bill was disposed of, and it cannot be made at all. I hope the Senate will adopt the resolution.

Mr. STUART. The Senator from Virginia is right, as to the effect of this proposition; but if the sense of the Senate is now decidedly against the reconsideration, it can as well be determined on this resolution; so I think the vote had better be taken on it as a test question. If there is no disposition to reconsider the subject at all, let this resolution be voted down, and that will be an end of the matter.

Mr. MASON. If the sense of the Senate is decidedly against entertaining this claim, of course the suggestion of the honorable Senator from Michigan is perfectly sound; but I am not aware of an instance in which the Senate has refused to reconsider, on the request of any Senator who feels himself earnestly desirous that another opportunity should be had for bringing a question before the Senate. There is no commitment by a reconsideration.

Mr. BAYARD. I move to lay the motion for reconsideration on the table.

The VICE PRESIDENT. No motion to reconsider is before the Senate. The question is on the resolution requesting the return of the papers from the Court of Claims.

Mr. HUNTER. I raise a question of order. The papers have been committed to the Court of Claims, and we cannot recall them. We might, within the time limited by the rule, have reconsidered the order sending the case to the Court of Claims, but we cannot now remand the papers.

Mr. JONES. It was often done last year.

Mr. MASON. I can say to my honorable colleague that this has been done by the Senate over and over again, and it is the only means by which the public business can be discharged. It is perfectly competent for the Senate to refuse to recall these papers; but the same thing has been done over and over again in other cases. It is the only means by which the object can be attained.

Mr. HUNTER. I was not aware of the precedent. Is my colleague sure that it was not done in the cases to which he alludes, by way of reconsideration? If we can recall these papers we can recall any other papers. It seems to me that there is but one way in which we can undo the work we have done, and that is by reconsideration. This, however, is an original proceeding, and I do not see why we may not call for other papers as well as these. To end the matter and test the sense of the Senate, I move to lay the resolution on the table.

Mr. ALLEN and Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 22; as follows:

YEAS—Messrs. Allen, Bayard, Biggs, Chandler, Collamer, Davis, Doollittle, Durkee, Evans, Fessenden, Fitzpatrick, Green, Hamlin, Harlan, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, King, Pearce, Polk, Sebastian, Stuart, Toombs, Trumbull, and Wade—27.

NAYS—Messrs. Bell, Benjamin, Broderick, Brown, Clark, Clay, Crittenden, Dixon, Douglas, Fitch, Foster, Gwin, Jones, Kennedy, Mallory, Mason, Pugh, Seward, Simmons, Thomson of New Jersey, and Wilson—22.

So the resolution was ordered to lie on the table.

EXECUTIVE SESSION.

On motion of Mr. BAYARD, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

KANSAS AFFAIRS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, communicating, in compliance with certain resolutions of the Senate, information in relation to affairs in Kansas.

Mr. PUGH. I suggest that it be laid upon the table, and printed.

Mr. DOUGLAS. I move the reference of the report to the Committee on Territories.

Mr. JOHNSON, of Arkansas. I suggest that the proposition to print be referred to the Committee on Printing. I will state that, for the accommodation of all, we can have it printed, and brought before us, by the next meeting of the Senate. The committee are probably able to report on it now.

The message was referred to the Committee on Territories, and the motion to print it was referred to the Committee on Printing.

Mr. JOHNSON, of Arkansas. I ask the consent of the Senate, by the authority of the Committee on Printing, to report in favor of printing the message.

The report was agreed to.

ARREST OF WILLIAM WALKER.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, in response to a resolution calling for copies of all orders, instructions, and correspondence, with reference to the recent arrest of William Walker and his associates, on the coast of Central America.

The message was read, and is as follows:

To the Senate of the United States:

In submitting to the Senate the papers for which they have called, I deem it proper to make a few observations.

In capturing General Walker and his command,

after they had landed on the soil of Nicaragua, Commodore Paulding has, in my opinion, committed a grave error. It is quite evident, however, from the communications herewith transmitted, that this was done from pure and patriotic motives, and in the sincere conviction that he was promoting the interests and vindicating the honor of his country. In regard to Nicaragua, she has sustained no injury by the act of Commodore Paulding. This has inured to her benefit, and relieved her from a dreaded invasion. She alone would have any right to complain of the violation of her territory; and it is quite certain she will never exercise this right. It unquestionably does not lie in the mouth of her invaders to complain in her name that she has been rescued by Commodore Paulding from their assaults. The error of this gallant officer consists in exceeding his instructions, and landing his sailors and marines in Nicaragua, whether with or without her consent, for the purpose of making war upon any military force whatever which he might find in the country, no matter from whence they came. This power certainly did not belong to him. Obedience to law and conformity to instructions are the best and safest guides for all officers, civil and military, and when they transcend these limits, and act upon their own personal responsibility, evil consequences almost inevitably follow.

Under these circumstances, when Marshal Ryn- ders presented himself at the State Department on the 20th ultimo, with General Walker in custody, the Secretary informed him that the executive department of the Government did not recognize General Walker as a prisoner; that it had no directions to give concerning him; and that it is only through the action of the judiciary that he could be lawfully held in custody to answer any charges that might be brought against him.

In thus far disapproving the conduct of Commodore Paulding, no inference must be drawn that I am less determined than I ever have been to execute the neutrality laws of the United States. This is my imperative duty; and I shall continue to perform it by all the means which the Constitution and the laws have placed in my power.

My opinion of the value and importance of these laws corresponds entirely with that expressed by Mr. Monroe, in his message to Congress of December 7, 1819. That wise, prudent, and patriotic statesman says: "It is of the highest importance to our national character and indispensable to the morality of our citizens that all violations of our neutrality should be prevented. No door should be left open for the evasion of our laws, no opportunity afforded to any who may be disposed to take advantage of it to compromise the interest or the honor of the nation."

The crime of setting on foot or providing the means for a military expedition within the United States to make war against a foreign State with which we are at peace, is one of an aggravated and dangerous character, and early engaged the attention of Congress. Whether the executive Government possesses any, or what power, under the Constitution, independently of Congress, to prevent or punish this and similar offenses against the law of nations, was a subject which engaged the attention of our most eminent statesmen in the time of the Administration of General Washington, and on the occasion of the French revolution. The act of Congress of the 5th of June, 1794, fortunately removed all the difficulties on this question which had theretofore existed. The fifth and seventh sections of this act, which relate to the present question, are the same in substance with the sixth and eighth sections of the act of April 20, 1818, and have now been in force for a period of more than sixty years.

The military expedition rendered criminal by the act must have its origin, must "begin," or be "set on foot," in the United States; but the great object of the law was to save foreign States with whom we were at peace from the ravages of these lawless expeditions proceeding from our shores. The seventh section alone, therefore, which simply defines the crime and its punishment, would have been inadequate to accomplish this purpose and enforce our international duties. In order to render the law effectual, it was necessary to prevent "the carrying on" of such expeditions to their consummation after they had succeeded in leaving our shores.

This has been done effectually, and in clear and

explicit language, by the authority given to the President under the eighth section of the act to employ the land and naval forces of the United States "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or domain of any foreign prince or State, or of any colony, district, or people with whom the United States are at peace."

For these reasons, had Commodore Paulding intercepted the steamer "Fashion," with General Walker and his command on board, at any period before they entered the port of San Juan de Nicaragua, and conducted them back to Mobile, this would have prevented them from "carrying on" the expedition, and have been not only a justifiable but a praiseworthy act.

The crime well deserves the severe punishment inflicted upon it by our laws. It violates the principles of Christianity, morality, and humanity, held sacred by all civilized nations, and by none more than by the people of the United States. Disguise it as we may, such a military expedition is an invitation to reckless and lawless men to enlist under the banner of any adventurer to rob, plunder and murder the unoffending citizens of neighboring States who have never done them harm. It is a usurpation of the war-making power, which belongs alone to Congress; and the Government itself, at least in the estimation of the world, becomes an accomplice in the commission of this crime, unless it adopts all the means necessary to prevent and to punish it. It would be far better, and more in accordance with the bold and manly character of our countrymen, for the Government itself to get up such expeditions than to allow them to proceed under the command of irresponsible adventurers. We could then, at least, exercise some control over our own agents, and prevent them from burning down cities and committing other acts of enormity of which we have read.

The avowed principle which lies at the foundation of the law of nations is contained in the Divine command that "All things whatsoever ye would that men should do to you, do ye even so to them." Tried by this unerring rule, we should be severely condemned if we shall not use our best exertions to arrest such expeditions against our feeble sister Republic of Nicaragua. One thing is very certain, that people never existed who would call any other nation to a stricter account than we should ourselves, for tolerating lawless expeditions from their shores to make war upon any portion of our territories.

By tolerating such expeditions, we shall soon lose the high character which we have enjoyed ever since the days of Washington, for the faithful performance of our international obligations and duties, and inspire distrust against us among the members of the great family of civilized nations.

But if motives of duty were not sufficient to restrain us from engaging in such lawless enterprises, our evident interest ought to dictate this policy. These expeditions are the most effectual mode of retarding American progress; although to promote this is the avowed object of the leaders and contributors in such undertakings.

It is beyond question the destiny of our race to spread themselves over the continent of North America, and this at no distant day, should events be permitted to take their natural course. The tide of emigration will flow to the South, and nothing can eventually arrest its progress. If permitted to go there, peacefully, Central America will soon contain an American population, which will confer blessings and benefits as well upon the natives as their respective Governments. Liberty, under the restraint of law, will preserve domestic peace; whilst the different transit routes across the isthmus, in which we are so deeply interested, will have assured protection.

Nothing has retarded this happy condition of affairs so much as the unlawful expeditions which have been fitted out in the United States to make war upon the Central American States. Had one half of the number of American citizens who have miserably perished in the first disastrous expedition of General Walker settled in Nicaragua as peaceful emigrants, the object which we all desire would ere this have been, in a great degree, accomplished. These expeditions have caused

the people of the Central American States to regard us with dread and suspicion. It is our true policy to remove this apprehension, and to convince them that we intend to do them good, and not evil. We desire, as the leading Power on this continent, to open, and, if need be, to protect every transit route across the isthmus, not only for our own benefit, but that of the world, and thus open a free access to Central America, and through it to our Pacific possessions. This policy was commenced under favorable auspices, when the expedition, under the command of General Walker, escaped from our territories and proceeded to Punta Arenas. Should another expedition of a similar character again evade the vigilance of our officers and proceed to Nicaragua, this would be fatal, at least for a season, to the peaceful settlement of these countries and to the policy of American progress. The truth is, that no Administration can successfully conduct the foreign affairs of the country in Central America, or anywhere else, if it is to be interfered with at every step by lawless military expeditions "set on foot" in the United States.

JAMES BUCHANAN.

WASHINGTON, January 7, 1858.

Mr. MASON. I rise only to move that the communication be printed, and referred to the Committee on Foreign Relations, with the accompanying documents.

Mr. DAVIS. Mr. President, I wish to make one or two remarks before this matter passes from the Senate. I must dissent from the conclusion of the President, that the grant of the right to use the Army and Navy enlarged his jurisdiction and conferred upon the Executive powers which he did not possess under the law. He assumes that the neutrality law, which required that these expeditions should be suppressed, when it had added thereto the power that he might use the Army and the Navy in the execution of the law, conferred on him authority to go beyond the jurisdiction of the United States. From that I wholly dissent. This seems to furnish us a key to the policy which sent the navy out to the coast of Central America, there to prevent illegal expeditions sailing from the United States, instead of posting them where they should have been for that purpose, at the mouth of the Mississippi, the mouth of the Alabama, and the harbor of New York. Three cities, it was known by public announcement all over the country, and three alone, contained the elements of such an expedition—New Orleans, Mobile, and New York. If it was necessary to enable the civil authorities to execute the neutrality laws of the United States, the fleet should have been stationed there, and not upon the coast of Central America. If this expedition be all that is described, it was but a misdemeanor, an offense against the laws of the United States. The suspicion that there was a purpose thus illegally to make war upon a country with which we were at peace, would have justified their detention within the waters of the United States, in order that the case might be inquired into, but could not justify their arrest beyond the jurisdiction of the United States. They were not fugitives from justice. They were only men suspected of a misdemeanor. If we had possessed an extradition treaty that enabled us to call on the Government of Nicaragua for the return of a fugitive from justice, it would not have justified the course which has been pursued in this case. If we possess no such treaty—and such is my impression—then, though they had been fugitives from justice, they were safe from our reach as soon as they touched the soil of Nicaragua.

I cannot consent, even by my silence, to give my approbation to this extension of the power of the Federal Government by the use of the Army and Navy to perform acts the performance of which has not been devolved by law on the President. The President has no more right to make an arrest than any of those members of the Senate who are now listening to me. He has no more power to issue process, and his Navy have no more power to serve it. At most, this was but the case of an individual, in violation of the laws of the United States, departing from the United States to enter into the controversies of another country. Whatever may be his character, whatever may be his purpose, is a subject into which I do not choose to inquire. I know nothing of him. I have no sympathy with such expeditions.

I think we should execute our neutrality-law within our own limits; but I hold that the difficulty which has so often occurred, and which has so often permitted expeditions of this kind to leave the United States, is inherent in the nature of the case. Our neighbors are too weak to require that a regular armament should be fitted out, that an army should be organized for their invasion. It is not according to the theory of our Government that we should establish a system of espionage in order that we may stop any six, twenty, one hundred, or two hundred men who may choose to leave the United States, cast off their obligations to our Government, and enter into revolutionary movements elsewhere. If they claim to be emigrants, what right have we to inquire into their future motives? If they claim the right to cross Central America, what authority have we to inquire whether they may not stop upon the isthmus? They are not, in the sense in which the term was used in 1818, a military expedition, but a mere handful of adventurers upon a transport-boat going down to a landing on the coast of Central America. Such an expedition as need be fitted out to go into the harbor of Liverpool, and there make an assault, could not leave our coast without every man in the country knowing it. Such an expedition it would be perfectly within the power of the United States to suppress. But, sir, when my attention was directed to this subject some years ago, at the time of the invasion of Lower California, when we received intelligence of a handful of men, (I believe it was but a dozen,) with side-arms, going and capturing the Governor and proclaiming themselves conquerors of a State, I felt how utterly idle it was for this Government, with our right of expatriation, with the right of each and every citizen to go where he pleases, and to bear arms, to attempt to suppress such expeditions as might be made use of against the southern and Central American States.

I think, sir, we are making a great departure from those principles which have heretofore controlled our Government. We are attempting to enlarge jurisdiction to suit the exigency of the case, instead of turning back to the authority which has been conferred. If it be the will of Congress and of the country to confer on the Executive the power of keeping the police of the high seas; to give him the Army and Navy as a constabulary force to stand at foreign ports and arrest persons suspected of a misdemeanor, let it be conferred before he attempts to exercise it. That power has not been given, and I have felt it necessary thus to express my entire dissent from it.

Mr. MASON. I moved the reference of the message and documents to the Committee on Foreign Relations in order that we might have an opportunity of examining the positions taken in the message, to determine whether any further legislation is necessary to effect the objects of the neutrality laws as they are called, or whether any action on the part of the Senate ought to be recommended, differing, if we should differ, from the policy which the message seems to inculcate. I should doubt the expediency of expressing opinions upon the positions taken in the message without further and more mature deliberation. I have not understood the message correctly if the honorable Senator from Mississippi has given it its true version in this. I have not understood that the President, in his message, has said either expressly or by implication, that the command of the Army and Navy, which is given to him by the Constitution, enlarges any power that is conferred on him.

Mr. DAVIS. The eighth section of the act he speaks of as enlarging his power.

Mr. MASON. Then it may be a construction upon that act. I do not know how that is. The President is required by the Constitution to see that the laws are faithfully executed, and the Constitution gives him the command of the Army and Navy. I presume it would follow, that when the Army and Navy are given to him, he may use them, if necessary, in the execution of the laws.

Mr. DAVIS. He cannot use the Army and Navy in the execution of the law at his discretion. The mode is pointed out in which he may use the Army and Navy—not at his discretion; not where he pleases beyond the jurisdiction of the United States.

Mr. MASON. I certainly do not mean to convey any such impression in any way in the world. I say the Constitution has conferred the command of the Army and Navy upon him, and that the laws have directed how they shall be used. I do not say he has discretion regardless of the law.

Another position of the honorable Senator is, that the President has no power to order an arrest to be made; and yet the honorable Senator states that, under the law, the military power may be used for the purpose of preventing the departure of these expeditions from our ports. How can they be prevented from departing unless by exercising the power of arrest? Whether the President can direct a naval officer to seize a citizen of the United States, or one who has left the United States, not a citizen, upon the high seas, is a question worthy of consideration. It is one of those questions which I presume must be considered upon this reference. I do not mean to go into the general policy, because I do not think this the appropriate time, further than to say thus much: as far as my opinions are concerned I regard it as the incumbent duty of the President to see that the neutrality laws are fully executed, and we never have had a more striking instance of the wisdom and expediency of those laws in preserving the public peace than the extraordinary attempts which have been made by this man, Walker, as I fear, to bring them into jeopardy.

Mr. CRITTENDEN. I wish to make but a single remark. The President imputes to Commodore Paulding a "grave error" in the capture of Walker and his men. I think, sir, that, from the President's own premises, such a conclusion is altogether illegal, and that, on the contrary, his conduct has been as conformable to law as his motives are supposed by the President to have been patriotic. The President says that Nicaragua, as the act was done for her benefit, can have no cause to complain, and will not complain. Then it was no breach of the neutrality of her territory. It was in itself no such breach. It was not one of those entries which constitute a violation of the neutrality of her territory. He says, that Walker and his followers have no right to complain. Of what error, then, has Commodore Paulding been guilty? I rose simply to say, that from the President's own just view of all other parts of this subject, it does most manifestly appear that his conclusion in imputing error of conduct to Commodore Paulding is altogether erroneous and illogical from his own premises.

Mr. BROWN. This question, Mr. President, stands where I have apprehended for the last three or four days it would stand. The President of the United States disapproves of the arrest of Walker, and excuses it. He disapproves of it on the ground that the arrest was in violation of law; and if it was, I hold that he has no right to excuse it. If Commodore Paulding had the right to arrest Walker in Nicaragua, his conduct ought not only to be excused, but it ought to be applauded. If, however, he had no legal right to do that act, the President of the Republic owes it to the people, whose President he is, to condemn it.

If Walker has been guilty of any violation of law, and has been arrested and brought back to our shores as a fugitive from justice, why is he not put in the clutches of the law? Why is he brought to New York, placed in the hands of the marshal, brought here, and offered to the Government, and then set at liberty? Why is he not carried to Louisiana by the same authority which arrested him, and there put upon his trial on this charge of violating the law? Sir, this is a farce being played out before the American people, disreputable to all who are engaged in it. There has been no violation of law. Those who have trumped up the charge against Walker know that there has been no violation of law. If they believe that he has violated the law, then they are grossly derelict in duty in not returning him to Louisiana, that he may be tried under the law and convicted of the offense whereof he stands charged. But he is not sent there, and that is an admission that he is not guilty, and that a conviction cannot be procured. Then he has not been brought here to answer to any indictment; for if he has, I charge again that those who brought him here are not discharging their duty.

Now, sir, I hold this to be true: that the fitting out of an expedition in violation of the neutrality laws, is one thing; that the voluntary expatriation

of a citizen, is altogether another and a different thing. If Walker has fitted out an expedition against Nicaragua, or any other country at peace with the United States, he has violated the law; but if he has girt his arms about him and voluntarily gone aboard a ship going to the coast of Nicaragua, avowing to all the world that he was going there to wage war against the Government, I hold he had the right to do so. In that there is no fitting out of an expedition. I hold it to be my right under the law, to-day, to take my musket upon my shoulder, go and tell the President and his Secretary of War, his district attorneys and his marshals, everywhere, that I mean, thus accoutered, to go and take part against Nicaragua, and they have no power to arrest me. If one has the right to go, two, three, four, five, or even five hundred have the right in the same manner, each going upon his individual account.

I will tell you, sir, where I think the mistake in this whole matter lies. The Government is attempting to punish what the law never contemplated should be punished—the intention to fit out an expedition beyond the limits of the United States made of materials gathered within the limits of the United States. The expedition must be fitted out here; it must be fitted out upon your soil; it must be an entirety before the law takes cognizance of it. I hold that each individual has the right to go away, and that you have no power to arrest him. The intention to go beyond the limits of the United States, there to fit out and equip an expedition, is not a violation of the law. You have in this District a law punishing the intention to go beyond the limits of the District of Columbia to fight a duel; but, until you had that law, parties did go beyond the limits of the District, and did fight duels, without being amenable to your anti-dueling law. It is your last anti-dueling law on the statute-book that has taken cognizance of the intention, and punished it. So, sir, if you had a law to punish the intention to take the material from the United States to fit out an expedition beyond the limits of the Union, you might get hold of Walker—for that is all that he has done. He has gathered his material in New York, New Orleans, and Mobile, and perhaps other points; he has taken them man by man beyond the limits of the Union, and there fitted out his expedition, and gone to Nicaragua. In that, there has been no violation of law, because there is nothing in the law to punish the intention to fit out an expedition, if the expedition was fitted out beyond the Union.

I have a word to say, now, as to the conduct of these naval officers. I have as high a regard for the Navy, I think, as any other citizen; I honor its exploits in every conflict in which we have been engaged; but if anything can bring reproach, eternal disgrace, upon the Navy, it seems to me that it is this precise transaction. First, we have Commander Chatard, who lets Walker pass him; and then, seeming to have a glimmering of an idea that he had mistaken his duty, he undertakes to recover his lost ground by resorting to all the little, petty, low, dirty, mean attempts that could be invented, to insult him in his camp; evidently, by his own letter, trying to provoke Walker into a conflict, that he might have an excuse to fire upon him. Then Commodore Paulding comes up; and he, a man of ripe years, who might be supposed to know something of his duty under the law, does what all the world knows, and what I need not repeat here, and does it in the most ungracious way. He writes to the Government, admitting that he had not instructions to do what he did; but assuming that Walker and his men were pirates and outlaws, he writes such a letter as ought eternally to fix the seal of disgrace and condemnation on him. His letter, in my judgment, is a disgrace to the epaulets which he wears upon his shoulders.

While I am on this point, I may as well say what I feel and think: that it is high time our naval officers should be confined within the discharge of their duties according to law. There is too much disposition to exceed the law, by one and all of them. In my opinion, the President—and no man knows better than he how reluctantly I say so; but I will say what I think, let the consequences be to myself, or anybody else, what they may—would better have discharged his duty to the law, and to the best interests of the country, by pointedly rebuking the lawless act of

Commodore Paulding, than by excusing it. Looking everywhere, I see naval officers disposed to exceed their authority. You cannot send one of them abroad to perform the slightest commission, but he gets beyond his instructions, launches into the open sea of extravagance, and entails upon you any amount of expense and trouble.

I am not going into that question; but I could point out instance after instance where this has been the case. It is high time that naval officers should be restrained within the letter of their instructions, and made to feel and know that they must obey the law. The way to make them do it, is not to follow out the advice of the President, and say that the act of Paulding was in violation of the law and then wink at it. That will but encourage a still further violation of the law. I would prefer seeing it punished—summarily and properly punished. It is one of those offenses against the laws of the country which demand punishment. The President cannot excuse it on the ground that Nicaragua does not complain. It is not for us to violate our laws when Nicaragua does not complain, and to execute them when she does complain. Our duty is to the law. If Paulding has discharged his duty according to the law, let him be applauded; and if he has not, let him be condemned.

It is no excuse, to me, to say that Nicaragua does not complain. That suggestion opens up a wide field for investigation. I might reply that Walker had been invited into that country to take part in a civil war, that the party with whom he acted had triumphed, that he was lawfully elected President of the Republic of Nicaragua, that his Government *de facto* had been recognized by the United States; and that, by the interference of another naval officer, he had been brought out of the country. True, it was said then that it was a matter of grace to him. How that was, I am not now going to inquire. But he was here claiming to be the rightful President of the Republic of Nicaragua. Patriotic men—not lawless and piratical men, as is now charged, but patriotic men—in the southern and southwestern States, in the western and the northern States, said: "We will join you, and go and help you to snatch back again the rights which have been lawlessly taken from you." I might go into all that, and show that Walker, the recognized *de facto* President of Nicaragua, was but pursuing, as he had a legal right to do, the recovery of that which had been lawlessly taken from him when he was thus arrested. But all that is unnecessary in this stage of the investigation, the present point being as to whether the President ought to say that Commodore Paulding had violated the law, and then undertake to excuse him for violating the law.

If this principle is to be carried out, the execution of the law is to depend on the outside opinion of the executors of the law. If the Executive thinks the violation of the law, in that particular instance, was right, he is to wink at it and let it go unwhipped of punishment. He is only to punish the offender when, in his judgment, the thing was wrong intrinsically. I do not understand that to be the proper obedience to law, nor a proper execution of law. If it can be shown that Paulding acted within the law, either written or unwritten, then let him be excused; but if not, then let him be condemned, whether we applaud his conduct or not. I might think it a very good thing to have some fellow killed that I thought better out of the world than in it; but suppose the assassin goes and puts the dagger in his heart; am I, as judge on the bench, to say to him, "My dear fellow, I cannot exactly say you did right in killing him, because you violated the law; but, inasmuch as I think the rascal ought to have been killed, I will let you go." That will not do. Such logic as that brings us to the end of all law.

For these and other reasons which I may take occasion to assign hereafter, I cannot indorse this message. I am exceedingly reluctant to dissent from any views expressed by the President, and especially so in the present condition of our public affairs; but I care not who is President; when doctrines are promulgated in antagonism to what I believe to be right, I will express the conviction of my own mind.

Upon this point I will do the Senator from Illinois [Mr. DOUGLAS] a little justice. While I did not agree with him in anything that he said, I did

admire his spunk in standing up and saying plump out what he thought on the Kansas question.

Mr. HOUSTON. This is a very interesting and important subject. I am anxious to understand it. I desire to have before me all the information that is necessary in order to understand it. I desire to have the vote taken at once upon the motion to print, with that view. I shall not make any remarks now, because I am not in possession of all the facts; but when the subject properly comes before the Senate for discussion, I shall give my views upon it.

Mr. JOHNSON, of Arkansas. I trust the Senate will dispose now of the question of printing this message and the accompanying documents. With that view I ask that the motion for printing them be referred to the Committee on Printing.

The PRESIDING OFFICER. (Mr. Foor in the chair.) The motion to print goes to the Committee on Printing, under the rules.

Mr. MASON. I do not understand that a motion to print the usual number of documents goes to the Committee on Printing as of course. I believe that that reference is required only when there is a motion to print extra numbers.

Mr. SEWARD. There can be no harm in the reference.

Mr. JOHNSON, of Arkansas. The rule provides for a Committee on Printing, "to whom shall be referred every question on the printing of documents, reports, or other matter transmitted by either of the Executive Departments, and all memorials, petitions, and accompanying documents, together with all other matter, the printing of which shall be moved, excepting"—now I call the attention of the Senate to the exceptions, for they do not embrace this case—"excepting bills originating in Congress; resolutions offered by any Senator; communications from the Legislatures, or conventions lawfully called, of the respective States; and motions to print by order of the standing committees of the Senate." In all other cases a motion to print must go to the Committee on Printing. If there be no objection, I presume the reference may be dispensed with; but if it be referred I am authorized to report at once in favor of the printing, as we are not required by the rule to submit any estimates of the cost of printing the usual number, where that only is proposed.

The PRESIDING OFFICER. The Chair has decided that the motion to print goes of course to the Committee on Printing.

Mr. JOHNSON, of Arkansas. Then I am authorized by the Committee on Printing to report in favor of printing this message and the accompanying documents.

The report was agreed to.

The PRESIDING OFFICER. The question now is on the reference of the message and documents to the Committee on Foreign Relations.

Mr. SEWARD. I do not wish to detain the Senate at this late hour of the day on this subject; and I would not, if it were not that I perceive there is a demonstration on the part of many Senators who feel a deep interest on the subject, as it is natural they should, to express their views, and make their positions known before the country. This being so, I will occupy the attention of the Senate for a very few moments in expressing mine.

This is a case in which a naval officer, acting under the command of the Government, has, on foreign waters, arrested a body of late, or present, American citizens, after they had actually landed and began to levy war against a foreign State. It is complained that that act was illegal; and it appears very plainly that we have no laws which authorize a naval officer in command in such a case to arrest fugitives, whatever might be their designs, after they have reached the coast and commenced their operations. Such an act can only be authorized by some law of this national Congress. I suppose there is no doubt about that.

The President has stated the facts in his message to be just exactly as we understand them. He announces that this officer has arrested this body of American citizens, and that the place of arrest was without the jurisdiction of the United States, and of course the transaction was without the authority of a law of the United States. He admits that; but the President proceeds to another question, and that is, whether the officer ought to be punished, by censure or otherwise,

for committing the act; and upon that the President makes a case in palliation and excuse for the officer, and that is, that the party who were arrested had been indicted in the United States for organizing a band of men with the intention of proceeding to levy war against the State of Nicaragua, with which we were at peace; that, in the very act of committing this crime, or this misdemeanor, they have escaped from the vigilance of the police and got upon the high seas; that the naval officer who is to be censured is one whose duty and whose business it was to arrest that band upon the high seas before they landed; failing to do this, the naval officer arrested them in the very act of the war which they had meditated, and arrested them on land in sight of the sea, and sent them back as prisoners of war to the United States.

Here, then, are two parties who are delinquent. In the first place, there is this band of lawless men who had escaped from the vigilance of the police, and had gone abroad to levy war against a State with which we were in amity, in violation of the laws of the United States, and who had reached a place where they were without our jurisdiction, but were engaged in the very act; and here, on the other hand, is the officer who, through excess of vigilance, has surpassed his instructions, and has himself committed a violation of the laws of the United States in arresting the invading party.

It seems to me that the President has balanced this case with exact justice. He has censured the fugitives, or criminals; he designates them as a force that had gone, as marauders and as pirates, to levy war against a peaceful State. He has, at the same time, admitted that the officer who arrested them has violated the laws, and has pronounced his censure in such a marked and distinct manner that it is not to be inferred by any one that the President would sanction or approve such transactions, even although they might be harmless or beneficial, hereafter.

What more can Senators ask than this in relation to either side? Suppose that they should succeed in obtaining a censure and punishment more or less severe against this officer: how would that look? The whole police force of the United States, civil, military, and naval, were instructed to prevent this outrage against Nicaragua. The officer has prevented it, but in doing so has transgressed his instructions. The President admits just this. If he goes further, and punishes the officer, then what is he to do with the offenders that have been arrested? The offenders have been arrested, and have been brought back to be submitted to justice; but the President of the United States has altogether omitted, has neglected to do anything to bring General Walker and his men to trial for the offense for which they stand indicted; on the contrary, he has declared that they are free to go where they please; and he is even now, by this martial chieftain, defied to his teeth in letters which he publishes in the capital, announcing to the President that no matter who may interfere, or what may be the form of interposition, whether it be legal or illegal, whether it be at home or abroad, armed or unarmed, he is determined to renew prosecution of his unlawful design, and continue it to a successful end.

Now I am quite willing, if the honorable Senators shall insist upon it, to have a more severe censure bestowed upon Commodore Paulding, for the violation of the laws which he has committed; but I must ask them, in return, to measure out some punishment for these offenders whose greater crime is to go unpunished. Suppose the President of the United States should punish Commodore Paulding, leaving these offenders to go unpunished: what is the instruction we shall thus give to the country and mankind? "You may go out of the jurisdiction of the United States, and levy war against any nation with which we are at peace, provided you can only escape the vigilance of the police on land; and if you shall be arrested in the execution of the act itself by our power, after you have commenced the very act, although the State itself which is assailed shall be grateful for the protection and defense it has received from us, still, the officer who arrested you shall be punished, while you, who commit this crime against our laws, shall be rewarded and honored."

It seems to me that Senators on the other side ought to go further, and propose a feast to these recaptured fugitives; propose some reward; pro-

pose to restore General Walker to the position and place he held when arrested. Let them bring out their proposition in full. Let us see what it is. It is not enough to punish Commodore Paulding. If the crime which he has committed is so signal a one, then there must be merit on the part of those whom he has brought back here without the authority of law; and that merit ought to be recognized. Some of the Senators seem to recognize some merit in them. They say there is no law against their act; that they have violated no law. They put General Walker and his band on the footing of emigrants going to occupy peacefully, and cultivate a foreign soil.

The process of emigration and settlement, Mr. President, has been well settled on this continent for two hundred years. The only emigration that has ever been made from any part of the world to this, which has resulted in adding to the blessings of civilization without being attended by disasters which rendered it a curse instead of a blessing to the continent, has been the emigration of the agriculturist, the merchant, and the mechanic—the peaceful emigration of peaceful industry with the implements of industry. Disguise the matter as we may, while we are engaged, as the President says, in making railroads across the isthmus, while we are engaged in constructing works there which will invite peaceful emigration and produce a rapid settlement and a new civilization in Central America if we ourselves shall only preserve the peace there, and which will soon bring that country under the jurisdiction of the United States, here is a series of invasions which have been made by armed emigrants for a period now of some seven or eight or ten years, and there is not remaining, I think, in Nicaragua, across the whole extent of the isthmus, a single plantation, a single farm, a single workshop, a single press, a single church, a single school-house—in short, a single monument of any kind of American civilization. How different from the civilization of other parts of the country! On the other hand, the isthmus is blackened with the ashes and the ruins of cities founded by a race which we despise and which we propose to supersede—ruins made by our own marauding citizens.

If it is right to invade Nicaragua, which is a weak State, it is right to invade New Granada. How shall we appear before the world, on the one side, in bringing New Granada only one year ago down into the very dust to indemnify us for an assault made by a lawless mob against American citizens passing over that isthmus, and on the other, excusing or justifying the invasion of Nicaragua committed by this armed force? If it is right to invade New Granada, it is right to invade Brazil. There is hardly a nation or State south of the United States that is self-sustaining, much less one that can resist a serious invasion by the people of the United States, or by such emigrants as might arm themselves and go abroad for that purpose.

If it is right for us to invade these States, or suffer our citizens to do so, then it is right for the States which join us to invade us also. I can see no good reason why we should punish the Pawnees and Apaches for committing depredations on our outposts of civilization, and claim that our citizens may go abroad with impunity, and commit offenses of the same kind against civilized States. If it is right for us to justify or excuse these transactions, it is equally right for citizens of New York, and Ohio, and Michigan, that live on the northern frontier, to go across in armed bands to settle in Canada, first dispossessing the occupants of that country of their farms and their homes, by the sword and by fire, before they begin to apply the plow to the land. If we hold this to be right, then, if such war shall begin on their part, we shall have no cause of complaint against Great Britain when her subjects come across the St. Lawrence and the lakes, and invade and expel our peaceful inhabitants there.

And yet, sir, so different is this rule which is now sought to be established in regard to these southern countries from the principle obtained in regard to the northern waters, that, by unanimous consent of the American people, when one solitary Canadian was found on the frontier of New York who had, at a period of some six months or a year before, been engaged in an act of depredation upon the frontier, and had committed tres-

passes by which property was destroyed, and a single life lost, reclamation was made on the British Government to bring that offender to justice. He underwent a trial from which there was no power in the Federal Government and in the British Government that could discharge him. He would have been held, if he had been convicted, to atone with his life for the crime which he had committed. So, also, on the other hand, General Scott was sent to that frontier, and, I believe, with the unanimous consent of Congress, to prevent just such depredations as these on the part of our citizens against the citizens of Canada; and it is amongst the brightest of his honors, the greenest of the wreaths which encircle his brow, that he kept and preserved the peace between these two great and jealous nations.

The principle is precisely the same here, and I think gentlemen ought to look at the bottom of this matter. If they really think that this principle is wrong, let them introduce their bill to repeal the neutrality laws; but so long as the laws remain, let us not punish the person who, although he transcends his power in bringing the offenders to punishment, still effectually brings them to punishment, especially if, at the same time, we determine to let the offenders who are arrested go unwhipped of justice.

Mr. DAVIS. With the Senator's permission, I should like to ask a question. I do not quite understand his proposition. What principle is that which has been asserted on this side, and which is exactly equal to the principle which justified troops being put along our own border to prevent them from going out of the United States to make war on a neighboring State, and which principle he further asserts requires us to ask the repeal of the neutrality laws?

Mr. SEWARD. It is this: that the crime consists altogether in the offender being caught; that if he can escape from the United States and reach the country against which the war is to be made, then the act is innocent and right, because he is an emigrant!

Mr. DAVIS. Who said that?

Mr. SEWARD. That is the way I understand the position of both the Senators from Mississippi.

Mr. DAVIS. That is your position and nobody else's. There has been no such position taken on this side. We have contended that the law did not authorize the President to arrest people in a foreign country.

Mr. SEWARD. Allow me to remind the honorable Senator that his colleague stated that Walker was guilty of the violation of no law, and he asked us to show what law he had violated. The President shows that he violated the laws of the United States. The President goes further, and quotes a "higher law" which he says the offender violated. [Laughter.]

Mr. DAVIS. I was afraid the President had got into "higher-lawism" when I found myself a little against him. [Laughter.] But, sir, my colleague took, by way of illustration, the position which he exemplified in his own person, as well as that of General Walker, that every American citizen had the right to expatriate himself, and to bear arms when he expatriated himself, and thus expatriating himself, to engage in any revolution in a foreign land. That was not the assertion that the crime consisted in being caught. It was not the assertion of a principle which made it exactly the same, whether the Government within its own limits enforced its laws, or whether it sent its Navy and Army into foreign countries, there to enforce its laws. The illustration which was made, was that of the sacred privilege of an American citizen to bear arms wherever he chooses, and to leave his own country to stake his life and fortune in any other whenever he pleases. It was on this sacred principle that the war of 1812 was fought—a principle dear to every American heart—a principle incorporated into our national history.

Mr. PUGH. With the utmost respect for the President of the United States, both as a magistrate and as an individual, I am not able to indorse the principles avowed in this message. It is not that I have any special sympathy for William Walker, nor for the enterprise in which he has been engaged; but I think the principles which have been avowed by the President in this message are neither warranted by the Constitution of

the United States, nor by any statute law of the United States, nor by any principle of the law of nations.

The question is not whether William Walker was committing a crime against the Government of Nicaragua within her limits. Let her punish him, if she is able to punish him. Who made us the avenger of her wrongs? Was he committing a crime on the high seas? We know what that crime is. It is piracy, for which any nation may arrest him. That is not pretended.

Then what has he done? The Senator from New York said he made war on a foreign nation. That is no crime by any law of the United States. It is a crime to set on foot within the jurisdiction of the United States a military expedition. That is all the offense there is. To go outside of your limits and commit an act of war against any other power, is no offense by your neutrality law or by any other law. If he attacked the peaceable vessels of any other Power on the high seas and committed an act of piracy, arrest him on the high seas; but so soon as he came within the jurisdiction of another Power, the authority of the Army and Navy ceased, and the authority of the President ceased. It is no question about Commodore Paulding. I do not care whether he is punished or not. I do not want to punish any man for an error of judgment; but I agree with the honorable Senator from Kentucky, that the message is not logical. If William Walker deserved punishment at our hands, the mere fact that he was arrested within the jurisdiction of the State of Nicaragua, which does not complain of it, does not detract from the merit of Commodore Paulding, and he ought to be rewarded with a medal just as much as Commander Ingraham was, for violating the neutrality of Turkey in search of a praiseworthy object. He either did right or he did wrong. If he did right, if the occasion were as urgent as the Senator from New York says it was, then reward him; do not turn him out of the Senate of the United States and from the face of the President, with this paltry excuse.

I deal not with him, nor with William Walker. I deal with this proposition. The President says that he has a right to make the Navy of the United States a police force, to go abroad over the seas on all the face of the ocean, and wherever he finds a man who has left the United States to ask him his business, to sit in judgment upon him, and if he is not satisfied with his conduct, to send him home to report himself to the Secretary of State. That is the proposition to which I object. That is a grave question of principle. Where does the President get the power to do this through his agents? Where is the power? He has a right to arrest a pirate. Was this man a pirate? Where is his act of piracy? Did he assault anybody on the high seas? That is not pretended. But he came within the jurisdiction of another Power, and they say he committed an offense there. Let that Power punish him. They say he is a fugitive from our shores. Have you an extradition treaty with Nicaragua? If so, demand him under it. If you have none, then he is beyond your reach.

The proposition is that the end will justify the means; that you have armed the President of the United States with a power as despotic as is asserted by any monarch of Europe. Why, sir, the whole scope of our neutrality laws—and they go far enough—is that you have no right to punish anything but what is done within the jurisdiction of the United States. When a citizen chooses to expatriate himself, to go anywhere to fight, on any side of any question, he has a right to go. That is not the doctrine of a monarchical Government. Why? The Queen of Great Britain claims that the person who is born within her dominion owes her allegiance from the fact of birth; that he never can discharge himself from it; that he may go anywhere on the face of the earth, into any foreign country, and may take ever so many oaths of abjuration, but he is still a subject; and as he is still a subject, everywhere and at all times, that she, as his sovereign, and mistress, and protectress, is bound to be answerable for his conduct. Do we hold that doctrine? Do we not hold that any person born abroad may come here and abjure his allegiance? Why may we not abjure ours? Why not go outside of our own limits—go in our own rights, as American citizens, or as individuals, without any nationality? All the punishment I know of is to take the consequences.

I do not think Mr. Walker would have done much good for himself or anybody else in Central America, the way he was going on. That is not my proposition; but I deny utterly this authority of the President to employ the Navy of the United States to arrest persons upon the high seas, and ask them, "where are you going, and what is your business?" and to return them to the authority of the Secretary of State. Why, sir, what a miserable farce did it turn out to be. Was the man a criminal? He was brought home by the authority of the Navy Department up to the Secretary of State, and the Secretary of State had no business with him. He was turned over to the judiciary, and they had no business with him. Sir, the worst men often, in their persons, become the representatives of great principles; and I say it was a sacred principle—the right of an American citizen to expatriate himself—that was trampled upon in the person of this individual. It was violated by a high-handed act.

Mr. DOOLITTLE. Will the Senator give way for a moment? There are several Senators who desire to speak, and I suggest that the resolution to adjourn over until Monday be reconsidered, and that we adjourn until to-morrow, and then discuss this question.

Several SENATORS. No, no.

Mr. PUGH. I will yield the floor in a moment. I have only one more suggestion to make. The President says, and the Senator from New York repeats, that we are losing our good name among the nations of the world. What good name? We have heard that long; we have been admonished continually by the gentlemen who wear gold and gilt buttons on the 4th of March, every four years, that if we will be very good children, and behave ourselves according to their notions, we shall have a sugar-plum occasionally, and be called good boys. What do we care for their opinion? Their views are not measured by the principles of our Government. They hold that we are bound to follow our citizens all over the face of the earth, and to hold them by the strong hand of allegiance, whereas we tell them that the moment they go forth from us, they cease to be amenable to us, and we cease to be answerable for them. While they preach all this to us, with very sanctimonious faces, while they tell us of the woeful iniquity of the proceedings of some of our people in Central America, they go on deliberately, in violation of the faith of treaties, in violation of the honor of nations and of individuals, to seize it for themselves. When I see them comporting themselves according to their own rule, I will be disposed to stretch the law of nations far enough to restrain any improper interference by our citizens.

But that is not the point which I proposed immediately to expose. I rose simply to deny, for one, the authority to use the Army or the Navy on the high seas, for any other purpose than the Army itself could be used on the land, in execution of the civil authority of this Government, and unless the President has a law to define some offense on the high seas, other than the crime of piracy, he has no right to arrest any American citizen.

Mr. TOOMBS. I do not consider the debate at all premature. The paper, which has been well considered by the President for several days, is to be spread before the country. It is now going on the wings of lightning to the uttermost part of the Republic. I think it contains important errors, to which I wish to enter my dissent.

Within the last few days the country has been astounded with reports that General William Walker, formerly President of Nicaragua, and who held other high offices in that country under a Government acknowledged by this, a citizen of Nicaragua, and one hundred and fifty men under his command, were violently seized at Punta Arenas by an American captain, and forcibly brought to the United States, he was delivered to the marshal of New York, brought before the Secretary of State, and discharged, his men carried to a neighboring port by a ship-of-war, and cast upon the shore to shift for themselves, naked and penniless, their arms, their stores, their property seized. That is the case. We call, then, on the President of the United States to know by what authority these things have been done by an American post captain in our Navy. He does not vindicate them; he does not declare that they were legal; he dares

not defend, while he ventures to palliate, this outrage to an American Senate and an American Congress. I intend to examine some of the grounds on which he has placed this palliation.

The President has assumed a convenient mode of argument to go to the country. He assumes a point which is now before the legal tribunals of his country and mine. He assumes conveniently that the neutrality laws of the United States have been violated, and that it is his business to enforce them. In the first place, this has not been made to appear; it has not been judicially determined; nor do I discover that he has offered to the Senate and the country any evidence of the assumption upon which he builds his argument. That is a question which he is not competent to determine; but I will waive this point, and allow him this convenient, though infelicitous mode of argument, and say that the neutrality laws have been violated by Walker and some of his one hundred and fifty men, though I do not know, and do not concede the fact to be so. The President assumes that on account of this violation of law, this officer had a right to arrest them upon the high seas. Thus the President assumes his right to use the Army and Navy anywhere upon this continent under our jurisdiction, or anywhere upon the high seas throughout the whole earth, and upon every island of the sea, and every part of the land if the country having jurisdiction does not object. He claims that not only on this continent, but throughout the whole world, he can use the Army and Navy of the United States at his discretion, provided the Governments having jurisdiction over those islands and over those lands do not object. I deny it. I say it is a usurpation of authority not granted by the Constitution or laws, but in derogation of both.

Sir, there is no point in regard to which the framers of our Government were more jealous than the use of the Army and Navy of the United States. For many years after the organization of your Government, the regular Army and Navy could not be used even to suppress open insurrection. By your act of 1791, the militia only could be used; but the Army and Navy were not authorized by the fathers of the Republic even to be employed in suppressing open insurrection. Then where does the President get the authority which he claims? He says it is under the eighth section of the neutrality act of 1818, but he does not deign to quote it. I say he has no jurisdiction anywhere for the enforcement of any law of the United States extra-territorially. He never can get such authority except by express law, and how far the law-making power can go on that point will be a question for consideration when he attempts to get the power from us. It is sufficient that he must expressly get the authority of law to exercise any extra-territorial jurisdiction, even for the purpose of enforcing every statute of the United States, and he never can use the Army or the Navy without express authority of law.

These things have been done in a foreign country, and the attempt is made to palliate them on the ground that Nicaragua does not complain. It is well known to the most ignorant man here, that there has been a civil war for years in Nicaragua, that Mr. Walker has been one of the contending parties, that he has been the *de facto* head of that Government. It would be passing strange if those who dispute his authority, and who are contending against him, should complain that the President of the United States had taken sides in this civil war for them and against their enemy. I am told there is a civil war now in Peru; two military chieftains there are contestants for the supreme power. If the President were to order another commodore like Commodore Paulding to go to Peru, catch one of the contending parties, seize his army, and carry them to some desert island, or to some portion of the United States, and cast them adrift, who supposes the opposite party would complain? It amounts to this: that he can make war by engaging in any civil disturbance which may be raging in another country; provided he so completely extinguishes one side that you cannot hear from them, and it being for the benefit of the other side they will not complain. That is to cure the violation of the law of nations, and of the Constitution of his own country! That is one of his pretexts that is defended by the Senator from New York.

The President says that the act of Paulding was

illegal, and he cannot justify it; but it was a good thing. He does not conceal, in his message, that he rejoices in having vindicated one law by the violation of another, in the language of the Senator from New York. The President cannot command any popular respect; he cannot hold the proud attitude of a vindicator of the laws of the country, unless he himself obeys the laws; and in this case he must use *uberrima fides*. The country demands it. When Mr. Walker got beyond the jurisdiction of the United States, it was no reproach to the United States; it was no reproach to our people or our Government, that he went to a country which he claimed to be his own, as legally and as rightfully as the Senator from New York claims to be a citizen of the United States. When he got beyond our jurisdiction, he had a right to use whatever means were according to the laws of war and of nations to get possession of his country, and to be restored to what he claims to be his own rightful office. Let me take the case of Mr. Kossuth—Governor Kossuth—in regard to whom the Senate exhibited to the civilized world the remarkable spectacle of inviting him here to show himself off. Some few years since, he went through the United States begging aid and comfort—"material aid," I think, was his term—to enable him to go back and reinstate himself in the power from which he had been thrust by Russia and Austria. By whom was General Walker driven out of the presidency of Nicaragua? Was it by the people of Nicaragua? It was by a foreign invasion, aided by Commander Davis, of the United States Navy, that he was driven from power. Costa Rica invaded Nicaragua; Honduras and the other Central American States joined in the invasion; and he was thus driven out. Governor Kossuth said a foreign invasion had driven him out; and he got not only sympathy, but, I think, disgraceful sympathy, from this body. I believe the Senator from New York was one of the leading spirits in paying homage and tribute to that distinguished refugee, who was driven from his own country, as I admit, by foreign bayonets.

I say there is no law authorizing the President to make this arrest, and he can have no such authority unless you give him a right to use the Army and Navy for the purpose of engaging in the civil wars on this continent. That is where the case stands; it cannot be evaded or avoided. Senators may vaunt the distinguished Commodore Paulding, whose coarse brutality must be admitted by every human being who has read the correspondence. It shows that he is totally unfit to discharge any duty. The language which he uses shows that he is not only unworthy to be the commander of a ship, but that he is unworthy to be its cabin boy. He violates all the courtesies and decencies of official intercourse in trampling upon an individual who with his men committed miracles of valor, as he himself says. He, in a ship of war, with four hundred men, bears down upon one hundred and fifty vagabonds, runaways, murderers, and pirates, as he politely designates them.

Sir, it will not do to get rid of this question by denouncing General Walker and his men. As has been properly asked on this floor, if the President of the United States was enforcing your own laws, if he had a right to capture these men, why has he not held them amenable to the laws of the United States? Why does your aged and venerable Secretary of State say, when General Walker is brought before him, "take him away; I have nothing to do with him; do not bring him near me?" Why turn loose in one of your ports, without succor, without friends, without means, one hundred and fifty men, who are you do not know what—Americans or Nicaraguans? The Government seems to have found itself in a scrape, and it threw away. I will not say the stolen goods, but the evidence of its wrong; it dropped them at the first port, and then comes to Congress and attempts to vindicate, before the nation and the world, this outrage on our Constitution and on the law of nations, by turning round and vilifying the actors in this scene; and I believe the President attempts to mend the matter by quoting Scripture.

Mr. DOOLITTLE. Mr. President, there is a point in this case that has not yet been elucidated, and upon which I desire information. It is this: by our law, as I understand it, if an expedition is set on foot within the limits of the United

States, it is a violation of our neutrality laws. General Walker is charged with that offense, and the men who were with him are charged to have been guilty of the very act of levying war upon another Government. I understand, without having an opportunity of looking now into the law of nations, that, by the law of nations, the United States would be held responsible for the acts of its own citizens, if they were done in pursuance of an unlawful expedition set on foot within the jurisdiction of the United States. It would be a cause of war against the United States by Nicaragua. It is the duty of the President of the United States, under the treaty of peace between the United States and Nicaragua, to see that that treaty of peace, which is the paramount law of the land, shall be executed as well as every other law of the United States. If an expedition, set on foot within our jurisdiction in violation of our laws, actually invade the territory of a country with which we are at peace, for whose acts we are to be held responsible, for whose acts Nicaragua, if she had the power, would have a right to meet us man for man and gun for gun, and carry the invasion back into the United States; I say, sir, upon my present impression, without now examining it, that it is the duty of the President of the United States to see that the treaty of peace with Nicaragua is faithfully executed; and if this marauding expedition is caught in the very act, before any great depredations have been committed, it is the duty of the President of the United States to arrest them in the act.

I will put this case: Suppose, for instance, in Great Britain an army was raised in violation of the neutrality laws of Great Britain, to invade the United States; they sail to the United States, and they are commencing an attack on the city of New York: what is the duty of Great Britain? What is the duty of the commander of her fleet? If she finds her own citizens in the very act for which we have a right to hold Great Britain responsible, and to declare war against her, what is her duty? It is to arrest her own citizens who are engaged in the commission of an act of war against us, which compromises the Government of Great Britain. So, precisely, is it here. If these men were engaged in an act against the Government of Nicaragua, which compromises the Government of the United States, the result of which may lead to war against us, the President of the United States, in the fulfillment of the treaty of peace, is bound to see that no such war is committed upon them.

Why, sir, the Government of Nicaragua have just as much right to hold us responsible for these unlawful expeditions, fitted out within the jurisdiction of the United States, as they would have if a portion of the Navy should go and commence war on Nicaragua. If one of our vessels had actually entered on a war against Nicaragua, what would be the duty of Commodore Paulding? It would be to arrest them in the act, and save his country from violating the treaty of peace. Without discussing this question now at length, for I am not prepared to go into it, as my judgment may depend on other facts besides those which now appear, I am not willing to say that I acquiesce in the statement which is made by the President, and by gentlemen here, condemning the act of Commodore Paulding as illegal. I hold this to be the true law: that if an expedition is raised within the United States for the purpose of invading a country at peace with the United States, if they actually go and make that invasion, that Government, by the law of nations, has a right to hold the United States responsible, and to make war on us for it.

Mr. PUGH. While the Senator is looking out the facts on which he says his opinion will be based, I think he had better look into that proposition a little, for I do not believe he will find any law for it at all.

Mr. MALLORY. Mr. President, it is not my purpose to enter into this debate at this time. I regard it as premature. I did not hear all of the message read. I have no doubt there are other documents accompanying it by which we can see at least the instructions under which this officer acted. I regard this as a very important debate. The subject is perhaps of as much interest as any that we shall have before us during the present session; for on the one hand it cannot be disguised that the representatives of foreign countries here

are watching with great interest the course we may pursue; while on the other, those who are thirsting for civil and religious liberty are watching us to see what benefit they are to have at our hands. Nor should I say one word but for some remarks which dropped from my friend from Mississippi [Mr. Brown] in relation personally to Commodore Paulding.

It may not be known to the Senate that he is directly the descendant of that man who, in the darkest period of our revolutionary history, when patriotism was on the lips, but treason festered in the hearts of some of the leading men in the country, stepped forth from the humble walks of life to render a service that will redound to his immortal honor. From the moment Commodore Paulding entered the naval service in boyhood, to the present time, he has never uttered a word or committed an act which will not redound to his honor; and I undertake to say, with the little information on the subject that I can glean from partially hearing this debate now, that the manner in which he committed this arrest, wrongful though it may be, was not ungracious; and that in no act or word, to those whom he deemed it his duty to arrest, can he be said to have acted in any ungracious manner; much less has he tarnished his epaulets, and disgraced them as my friend from Mississippi thinks. That has not been the result.

I do not pretend to palliate the act. If our naval officers be permitted to land on the shores of a foreign nation to arrest whom they please in this way, I can foresee that, in a very short time, the country may be embroiled in hostilities from which it may be difficult to extricate ourselves. I can see incalculable evils to result from such a course; and I do not pretend to palliate it, nor do I perceive how it can be squared with any rule of law. But, sir, place the responsibility where it ought to rest. You send out a naval captain to stop filibustering. Let me say I do not look upon filibustering as the worst crime in the world. I do not highly regard the law of 1818. It was wise, no doubt, in our state of weakness, but it is useless to us now. On that subject I may say something hereafter. But when you undertake to send out a naval captain, with loose instructions, to stop filibustering, and refer him generally to an act of Congress about which all your courts differ every day in the year, he interprets them as a seaman, and not as a jurist. He says: "You have sent me to stop filibustering; and the best way to do that is to catch all the filibusters and send them back to you."

Now, sir, the Administration, if I understand it, have detached Captain Chatard from his command because he did not arrest Walker in passing him. That was within the jurisdiction of Nicaragua as much as was the arrest by Paulding. He was within a marine league of the coast; he was within one mile of it; and yet, if I understand the matter, he is to be punished for not doing an act which we are condemning Paulding for having done.

I only rose to relieve Captain Paulding, knowing him personally, knowing that he is one of the brightest ornaments of the service, from the odium attempted to be cast upon him. He has erred, undoubtedly. The President does not pretend to screen him from an error in law; but I mean to say he has not erred in such a way as should, in the language of my friend from Mississippi, cast disgrace upon his epaulets. I mean to say that in no word or act to the gentlemen whom he arrested did he show the slightest want of courtesy, that has ever come to my knowledge.

Mr. BROWN. On the subject of Captain Paulding's ancestry I desire to say a word. He is said to be the son of the Paulding who took part in the arrest of André.

Mr. MALLORY. I did not say he was the son. Mr. BROWN. I have seen it stated elsewhere that he claimed to be the son. I do not know what other illustrious ancestors he may have had to which the Senator alluded.

Mr. MALLORY. He is descended from the Paulding that captured André. What relation he is I do not pretend to say.

Mr. BROWN. Whether he be a son or grandson, a nephew or grand-nephew, has, in my judgment, nothing on earth to do with this inquiry. His ancestor did well, did nobly. The question we have to inquire into now, is as to what Paul-

ding himself has done. Has he acted within the limits of law? I understand the Senator from Florida to admit that he has not; and yet he undertakes to excuse him on the ground of his illustrious ancestry.

Mr. MALLORY. My friend will excuse me for interrupting him. In the few remarks he addressed to the Senate he said that in making the arrest Commodore Paulding had acted in a most ungracious manner, and that he had entailed disgrace on his epaulets in doing so. That he had performed the arrest in an ungracious manner, which I presumed to mean an ungentlemanly, or unhandsome, or rude manner.

Mr. BROWN. I would ask my friend from Florida whether he has carefully read the letter of Commodore Paulding to the Government, in which he charges piracy, lawlessness, buccaneering, and everything else in the whole catalogue of naval offenses against Walker and his men.

Now, sir, I have the same authority for saying that the men who were under General Walker's command had rendered distinguished services to this country, which the Senator has for saying that the ancestors of Paulding had rendered essential service. I undertake to say that there were men in that command who not only risked their lives, but shed their blood in defense of the American flag, in the late war with Mexico; and yet this man Paulding, whose highest claim seems to be that he is descended from illustrious ancestors, has the audacity, in an official communication to the Government, to charge these men with piracy, with buccaneering, with lawlessness, and with all the offenses in the whole catalogue of crimes. Upon what evidence? Where is the authority upon which these charges are based? Is there any indictment against Walker for piracy? Is there any charge against him for piracy? Does it rest upon anything else than the mere declaration of Commodore Paulding, in an official communication which has been sent to Congress by the President, thus to be incorporated into the everlasting archives of the Government, to live through all time to come?

I say that when Commodore Paulding so far forgets his duty as thus lightly to charge piracy, and buccaneering, and lawlessness, and other high offenses, against men who have distinguished themselves in the military service of the country, he does disgrace his epaulets and ought to have them torn from his shoulders. If there be any indictment against Walker or any man under his command, show it, point to the court where it is; but if there be not, upon what authority does this man Paulding dare to arraign him before the American people and the world as a pirate. I know not how far my judgment may weigh against that of the descendant of the Paulding who captured André, but whatever it is worth, I venture it here, that Walker is not only not a pirate, not a buccaneer, but that he is a man that has violated no law. Put him upon his trial before a fair jury of the country, and my life upon it he will be acquitted. He will be acquitted in Louisiana; he will be acquitted in Florida; he will be acquitted in New York; wherever he can get a fair and impartial trial according to the laws of the country, he will be set at liberty. My complaint against Paulding is, that he makes the charge without proof; and my complaint against the President is, that he sends it to the Senate and gives to it the high indorsement of the Chief Magistrate of this great nation.

The Senator from Wisconsin [Mr. DOOLITTLE] says that Walker is charged with levying war against a foreign Government. By whom is he so charged? Where is the evidence of it? Is there an indictment pending? Is there a well-established charge anywhere but by public rumor? I meet the charge by saying that Walker was but endeavoring, as others have done, to recapture his lost rights. After Louis Philippe was expelled from France, if he had undertaken to regain his throne, this Government would have had the same right to interpose and arrest him that it had to interpose and arrest Walker. Louis Philippe was driven out by violence. If he had attempted to go back to France to regain his lost privileges, no one would have pretended that the Government of the United States had a right, by military force, to arrest him; yet, for the life of me, I cannot see the difference between an arrest in that case and the one before us.

But, says the Senator from Wisconsin, Walker was a citizen of the United States. That he was a native of the United States, I grant; but did he claim the protection of your flag—did he claim to be a citizen of the United States? So far from it he was arrested under the flag of Nicaragua. If he had been arrested under the flag of the United States—under the banner of the stars and stripes—there would have been some excuse for it; the excuse might have been based on the ground that he was abusing the flag; but he was under a foreign flag, and claimed its protection. Putting himself under that flag, proclaimed to all the world that he had expatriated himself, as he had a right to do. He was not then a citizen of the United States, nor did he claim to be.

I understand that while I was temporarily absent from the Senate some time ago, the Senator from New York expressed some very erroneous views in reference to the positions I took in the few remarks which I had the honor to submit in the early part of this discussion. What I said, if not with entire distinctness, I had hoped with sufficient clearness to be understood, was, that a citizen of the United States has a right to expatriate himself, that there was no power in the executive Government to prevent his doing so, and that in leaving the country he had the right to bear arms. These propositions being true, I illustrated them in my own person by saying that I had the right to shoulder my musket and shake hands with the President, telling him I was going to Nicaragua, or any other country, to take part in a civil war, and that he had no right to molest me. I said every other citizen of the Republic had precisely the same right.

I have supposed heretofore it was one of the chief glories of this country, that our people did take part in these contests for liberty. The earliest and most brilliant efforts of "the great commoner," the illustrious Clay, were the powerful orations which he pronounced in the House of Representatives in favor of the South American States, then struggling to throw off the despotism of Spain. His speeches in defense of Grecian liberty were no less distinguished for eloquence and intensity of patriotism. What did all those speeches mean if they were not an appeal to the young and ardent patriotism of Americans to go and help to fight those battles for liberty? Who does not recollect the struggle in Texas, when the illustrious sage of the Hermitage, obeying the laws of his country forbidding the fitting-out of expeditions, issued his proclamations? He determined to enforce the law, but he never dreamed, and, with all his heroism, never dared to arrest any citizen who had armed himself with a view to go and join my venerable friend, [Mr. Houston,] then fighting the battle of liberty in Texas. Did Jackson ever dare to usurp power? I appeal to you, sir, and to Senators around me, what would have been thought of the "old usurper," as his enemies called him—Andrew Jackson—if he had dared to send a naval force to arrest Sam Houston, President of Texas, and bring him back to the United States? Would there not have been a universal burst of indignation throughout the Republic? If it might not have been done under Jackson, I want to know by what warrant the same thing is done under the rule of James Buchanan.

Mr. MALLORY. I did not rise to enter into the debate, as I before observed, and expressed no opinion on any question involved, except the remarks of my friend from Mississippi. His remarks now show that I have vindicated Commodore Paulding from his assertion that he did not make this arrest ungraciously, and that he did not, by the arrest or its manner, entail disgrace on his epaulets. I do not defend the assertions of his letter. I concede it is bad taste in any official to use epithets towards others; it will not strengthen his case. But my friend from Mississippi will recollect that there is a high example in the authority of the Commander-in-Chief of the Armies and Navies of the United States, the President himself, a few years ago.

Mr. BROWN. I beg to correct my friend. I hope I was not understood as speaking of the ungracious conduct, in that particular, of Commodore Paulding. I spoke of the ungracious conduct of Commander Chatard, who wrote insulting, taunting, insolent notes to Walker, meaning nothing but to provoke him into a conflict; but I

did not, in that connection, charge like conduct on Commodore Paulding. When I came to speak of his note, or of his official communication to the Government, in which he spoke of Walker and his men as being pirates and outlaws, marauders, buccaneers, and all that, then I characterized him as having done an act, the character of which I mentioned.

Mr. MALLORY. I am glad my friend has made this explanation. I did not so understand him. He will remember but a very few years ago the Commander-in-Chief of the Army and Navy of this country, the President himself, on a similar occasion, pursued a similar course. He not only pronounced them pirates, in an official paper, but he proclaimed it to foreign nations—the most unfortunate proclamation ever sent forth by this Government. American blood flowed freely in consequence of that proclamation; and when American citizens stepped forward to shield them, the proclamation of the President of the United States denouncing them as traitors was held up as authority for their execution. I deplored it at the time; but it will be remembered that this sentiment about these expeditions is broadcast over the land, and that Commodore Paulding, in entertaining the sentiment that there was a military expedition fitted out, and that, by being fitted out, the men made themselves amenable to the laws punishing piracy, does not entertain a singular sentiment. I do not entertain it. I only shield him from the imputation of the Senator from Mississippi, as I understood it.

Mr. DOUGLAS. I do not rise to prolong the debate, but to return the compliment which my friend from Mississippi [Mr. Brown] paid me when he said he admired my pluck in speaking my sentiments freely, without fear, when I differed from the President of the United States. He has shown his pluck, and various others have shown theirs, on the present occasion. According to the doctrine announced the other day, each Senator who has done so has read himself out of the party. I find that I am getting into good company; I have numerous associates; I am beating up recruits a little faster than General Walker is at this time. [Laughter.] I think, however, it will be found after a while that we are all in the party, intending to do our duty, expressing our opinions freely and fearlessly, without any apprehension of being excommunicated, or having any penalties inflicted on us for thinking and speaking as we choose. If my friend from Louisiana [Mr. SLIDELL] were in his seat, I should say to him, inasmuch as he declared in his Tammany Hall letter that he was going to fill by recruits from the Republicans all the vacancies caused by desertions in the Democratic party on account of differences with the President in opinion, that he seems to have been very successful to-day in getting leading Republicans on his side, and recruiting his ranks just about as rapidly as there are desertions on this side of the House. [Laughter.] The Senator from New York, I believe, has the command of the new recruits. Well, sir, strange things occur in these days. Men rapidly find themselves in line and out of line, in the party and out of the party.

Mr. SEWARD. Will the honorable Senator allow me to interrupt him?

Mr. DOUGLAS. Certainly.

Mr. SEWARD. I have an inducement on this occasion which is new and peculiarly gratifying to me, which will excuse me for being found on the side of the Administration. The message announces that, in the judgment of the President, this expedition of Mr. Walker was in violation of the laws of the land, and therefore to be condemned. So far I agree with him; but he goes further, and pronounces it to be in violation of "the higher law;" and I am sure I should be recreant to my sense of "the higher law" itself, if I did not come to his support on such an occasion. [Laughter.]

Mr. DOUGLAS. I perceive the consistency of the Senator from New York in the ground on which he bases his support of this message. Now, sir, so far as the President pronounces this arrest of General Walker to have been a violation of the law of the land, I concur with him. As to the allusion to "the higher law," I think that is well enough in its place, but it is not exactly appropriate in the execution of the neutrality laws of the United States. I would rather look into the

statutes of the United States for the authority of the President to use the Army and Navy in enforcing the neutrality laws. By the statute of 1818 he has ample authority within the jurisdiction of the United States; and that jurisdiction is defined to extend as far as one marine league from the coast. If an arrest be made within that distance, the courts of the United States have jurisdiction, but there is no authority to arrest beyond that distance. The authority given in the eighth section of the act, to which reference is made, but which is not quoted in the message, is confined in terms to cases within the jurisdiction of the United States as defined in the act. How defined? Defined in the previous sections as being within one marine league of the coast. It thus appears that the whole extent of the President's power to use the Army and Navy under the act of 1818 is within our own waters and one marine league from the coast.

I did suppose that the President himself put that construction on his authority, for I understood him to ask for further and additional authority from Congress to enable him to put down filibustering expeditions. What further authority could he want, if the existing laws allowed him to roam over the high seas and sail around the world and go within one marine league of every nation on the earth? It might be supposed that his authority was extensive enough to employ his entire Navy; and that, certainly, he would not ask for power to invade other nations.

For these reasons I supposed that the President, on reflection and examination, had come to the conclusion that his authority was full and ample within one marine league of our coast, and ceased the moment you passed beyond that on the high seas. That has been my construction of the neutrality laws. I believe it is the fair construction. I am in favor of giving those neutrality laws a fair, faithful, and vigorous execution. I believe the laws of the land should be vigorously and faithfully executed. There may be public sentiment in certain localities unfavorable to the operation of the law, but prejudice should not be allowed to deter us from its execution. This is a Government of law. Let us stand by the laws so long as they stand upon the statute-book, and execute them faithfully, whether we like or dislike them.

Sir, I have no fancy for this system of filibustering. I believe its tendency is to defeat the very object they have in view, to wit: the extension of the area of freedom and the American flag. The President avows that his opposition to it is because it prevents him from carrying out a line of policy that would absorb Nicaragua and the countries against which these expeditions are fitted out. I do not know that I should dissent from the President in that object. I would like to see the boundaries of this Republic extended gradually and steadily, as fast as we can Americanize the countries we acquire and make their inhabitants loyal American citizens when we get them. Faster than that I would not desire to go. My opposition to the Clayton-Bulwer treaty, which pledged the faith of this nation never to annex Central America, or colonize it, or exercise dominion over it, was not based on the ground that I desired then to acquire the country; but inasmuch as I saw that the time might come when Nicaragua would not be too far off to be embraced within our Republic, being just half way to California, and on the main road there, I was unwilling to pledge the faith of this nation that in all time we never would do that which I believed our interest and our safety would compel us to do. I have no objection to this gradual and steady expansion as fast as we can Americanize the countries. I believe the interests of commerce, of civilization, every interest which civilized nations hold dear, would be benefited by expansion; but still I desire to see it done regularly and lawfully, and I apprehend that these expeditions have a tendency to check it. To that extent I have sympathized with the reasons which the President has assigned in his message for his opposition to them; but I desire that his opposition shall be conducted lawfully; for I am no more willing to allow him unlawfully to break them up than I am to permit them unlawfully to fit them out. I am not willing to send out naval officers with vague instructions, and set them to filibustering all over the high seas and in the ports of foreign countries

under the pretext of putting down filibustering. Let us hold the Navy clearly within the law. Let the instructions that are given to our officers be clear and specific; and if they do not obey the law, cashier them, or, by other punishment, reduce them to obedience to the law.

But in this case it is a very strange fact that Captain Chatard is degraded and brought home for not arresting Walker on the identical spot where Commodore Paulding did arrest him. Paulding and Chatard are thus placed in a peculiar position. Paulding arrests him, as we are told, in violation of law. Chatard is degraded for not arresting him in violation of law. This shows that the moment we depart from the path of duty, as defined by law, we get into difficulty every step we take. All the difficulties and embarrassments connected with the conduct of Paulding and Chatard arise from the fact that in our anxiety to preserve the good opinion of other nations, by putting a stop to filibustering, we have gone beyond the authority of law. I think it will be better for us to confine ourselves to the faithful execution of the neutrality laws as they stand, and stop these expeditions, if we can, before they are fitted out. If, notwithstanding our efforts, they escape, we are not responsible for them. I do not hold that every three men that leave this country with guns upon their shoulders are necessarily fitting out a military expedition against countries with which we are at peace. Each citizen of the United States has the same right under the Constitution to expatriate himself that a man of foreign birth has to naturalize himself under our laws. When the Constitution of the United States declares that foreigners coming here may be naturalized, it recognizes the universal principle that all men have a right to expatriate themselves and become naturalized in other countries. Walker had a right, under the Constitution of the United States, to become a naturalized citizen of Nicaragua. Nicaragua had the same right to make him a citizen of that country that we have to make a German or an Irishman a citizen of this. When Walker went from California, on his first expedition to Nicaragua, and became naturalized there, he was from that moment a citizen of Nicaragua, and not a citizen of the United States. You have no more right to treat Walker as a citizen of the United States than Great Britain has to follow an Irishman to this country and claim that he is a British subject, after he has been naturalized here. You have no more right to put your hands on Walker, after his naturalization by Nicaragua, than Austria or Prussia has to follow their former subjects here and arrest them on the ground that they were once Germans. Walker is a Nicaraguan, and not an American. Since he has been President of that Republic, recognized as such, it is too late for us to deny that he is a citizen of that country, or to claim that he is an American citizen. We are not responsible for his action when he is once beyond our jurisdiction. If he violated our laws here, we can punish him; but we have no right to punish him for any violation of the laws of Nicaragua. If he invites men to join him, and they get their necks in the halter, they must not call upon us to untie the noose after they have expatriated themselves.

It is a modern doctrine that no citizen can leave our shores to engage in a foreign war. We filled the Russian regiments, during the Crimean war, with American surgeons, and only lately the Emperor of Russia has been delivering medals and acknowledgments of knighthood to these very men. We also allowed our men to go and join the Turks, the English, and the French, and fight against the Russians. American Senators were in the habit of giving to their friends letters to the Russian Minister, in order to enable them to obtain from him commissions in the Russian army during the Crimean war. Did we suppose that we were violating the neutrality laws? We knew that each person that went on that service went on his own responsibility. If he got a leg shot off he could not call upon us to protect him, or to punish the man who shot the gun. So it is with those who choose to go to Nicaragua and try their fortunes there.

I had hoped that the feverish excitement in favor of these expeditions would have ceased long ago, and that we should be enabled to acquire whatever interest we desired in Central America in a regular, lawful manner, through negotiation

rather than through these expeditions. But, sir, when I am called upon to express an opinion in regard to the legality of these movements, I must say that in my judgment the arrest of Walker was an act in violation of the law of nations and unauthorized by our own neutrality laws. To this extent, like the gentlemen around me who have spoken, I dissent from the President of the United States. I do so with deep regret, with great pain. My anxiety to act with that distinguished gentleman, and conform to his recommendations as far as possible, will induce me to give the benefit of all doubts in his favor; but where my judgment is clear, like my friend from Mississippi, [Mr. Brown,] I must take it upon myself to speak my own opinions, and abide the consequences.

Mr. PEARCE. Mr. President, I had no desire to engage in this debate, which seems to me to be premature. We have not read, or heard read, in the Senate, anything except the President's message. We have not heard his instructions to Commodore Paulding, nor any of the other papers, which I presume are voluminous. I acknowledge, that not having made the necessary preparation, which is due to the Senate on an occasion like this, it would, perhaps, be more discreet in me if I were to content myself with saying nothing; but gentlemen here have presented to-night views so far different from those which I entertain that I cannot refrain from expressing, in a few words, my dissent from them.

Sir, I believe the expedition of William Walker from the port of Mobile to Nicaragua to have been a flagrant and outrageous violation of the laws of nations. I believe it to have been just as flagrant and outrageous a violation of the laws of neutrality. I believe that the President did nothing but his duty in authorizing the naval forces of the United States to prevent the carrying on of that hostile and illegal expedition against a people and State with which we were at peace. I know not how far the instructions may have gone; they may perhaps have gone a little too far. Of that I can judge when I shall have seen them. But that the President had the right to send the naval forces of the United States beyond a marine league from our shores for the purpose of arresting Walker's expedition, I have no more doubt than I have of the rights of armed ships of the United States in war to capture an enemy a thousand miles from our coast. I believe it is due to the character of the nation that such steps shall be taken as will put down these marauding expeditions. They bring on us no credit, but the very reverse, and must ever stain the character of the nation that permits them.

Under the law of nations, there are obligations due from one to the other. Every nation at peace has a right to enjoy that peace, unmolested, either by the authority of any other nation or by the unauthorized act of any of its citizens. The nation which sanctions the unauthorized acts of its citizens in waging war against another with which it is at peace, as much violates its duties as if it had authorized that expedition; and as is the obligation of the Government, so is the obligation of its citizens, and all within its jurisdiction. Such is the position laid down by the publicists and recognized for hundreds of years—certainly for more than a century. It is right, because it is founded in natural justice and in sound reason. Every nation at peace with another, has the right to enjoy the undisturbed possession of its territory and the unimpeded exercise of its jurisdiction. That nation which attempts to defeat it for either purpose, violates its rights.

Sir, this is no new doctrine. It is exactly the doctrine which was understood when we passed the neutrality act of 1818. That act created no new offenses. It defined the offenses, provided the penalty for them, and furnished the means to the Executive of preventing them. Now it is defined as clearly as anything can be defined, by the act of 1818, that when any persons shall begin, or set on foot, a military expedition against any people, State, or nation with whom we are on terms of peace, such persons shall be deemed guilty of a misdemeanor, and shall be punished by fine and imprisonment, as provided by the sixth section of the act. The eighth section authorizes the President to employ the land and naval forces for various purposes specified in the act, the last of which is to prevent the carrying on of such expeditions. Where is the language

in the act that limits the President to interfere with such an expedition only at the point of its starting from the United States, or within the limits of a marine league? It is enough that the expedition is begun within the United States, or within that limit which can be commanded by cannon shot. If it is begun within that limit, it is unlawful, and the party is not only unlawful in beginning it but he is violating the law in carrying it on. To "carry on" is the language of the act. That does not mean to start, to begin, to get up, to concert, to conspire together for the purpose; but it means to wage. That is it, and their waging hostilities against Nicaragua was a clear violation of the act.

Mr. TOOMBS. Will the Senator allow me to ask him to state the qualifying clause "within the jurisdiction aforesaid," and that was expressed in the foregoing section as a marine league? You have omitted the qualifying clause in the section.

Mr. PEARCE. In what section is that?

Mr. TOOMBS. The eighth.

Mr. PEARCE. I will read the whole of it to make sure of it. It is:

"Sec. 8. And be it further enacted, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as before defined—"

That does not refer to a case of this sort.

— "and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or State, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or State, or of any colony, district, or people, in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged."

In all that I do not see the qualification of which the Senator has spoken.

Mr. TOOMBS. You have read it.

Mr. PEARCE. The remainder of the section is:

"And also for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or State, or of any colony, district, or people with whom the United States are at peace."

Not within, but "from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or State, or of any colony, district, or people with whom the United States are at peace." Those are the words of the section. I see no such qualification as the Senator states. The only qualification is that an unlawful expedition must have been set on foot within the jurisdiction of the United States; and if it is set on foot within their jurisdiction, it is just as unlawful to carry it on without the jurisdiction of the United States as to begin it within that jurisdiction. I do not know how far the President might not go under that power. I admit, it is a very great discretion—a very large, and, if you choose, a dangerous power, which may be abused; but in a case like this, you must give a discretion to the President, or you cannot enforce your act. When the right or duty to suppress a hostile expedition against a State or people, with whom we are at peace, has arisen by the setting it on foot within the jurisdiction of the United States, it is not limited, either by anything in sound reason, or by any limitation in the act of 1818, to proceedings within the ordinary jurisdiction of the United States. I see nothing to restrain the President from acting without the ordinary bounds of our jurisdiction, or from carrying his repressive measures to any point, so that he shall infringe no rightful jurisdiction of any other State or people.

Mr. DAVIS. Will the Senator allow me to ask him whether it is not the general, and, with one exception, the universal law, that the limit of the jurisdiction is that which he assigns, and that for the very reason he gives—a marine league being taken as the extent of cannon shot; but, in order that the revenue laws of the United States

might be executed, we had specially to provide that within twelve miles of the coast, an arrest for violation of the revenue laws might be made; thus further indicating the fact that we recognized the marine league as the extent of our jurisdiction in all other cases?

Mr. PEARCE. There were special reasons, I apprehend, for that provision in regard to the revenue laws. I can very easily perceive there were special reasons which do not apply to a case like this. This is a case of great exigency. The laws of nations require us to punish and suppress all these offenses. How are we to suppress them, if we are to be confined to the one league?

In the case of this very expedition, some gentleman, I think, has doubted whether it was a military expedition, and he has asked for the proof. Are we blind, that we do not see the proof? Does not everybody know that this affair was concerted at Mobile, that a steamer was cleared in a manner which indicated lawful proceedings, that after she proceeded down the bay, she was met by another steamer, which put on board men and arms? Do we not know, from letters published from members of that expedition, that they were organized and drilled as soon as they got out to sea? Does not everybody know, and does not the fact stare us in the face, that as soon as they reached Nicaragua, having passed by the port of San Juan de Nicaragua, and the mouth of that river, going some twenty miles below, a portion of these men were dispatched by William Walker to attack the fort of Castillo? Do we not likewise know that the moment he landed on Punta Arenas he proceeded to perfect his military organization there, and establish a camp styled by him the "headquarters of the army of Nicaragua?" Can anybody doubt that this was a military expedition, and, therefore, an unlawful one? The very first act he does on reaching Nicaragua is not an act of peace, is not a settlement of persons, expatriating themselves for peaceful purposes. It is hostile on its face and all around. This whole expedition was bristling with military weapons. He assumes the style of General Walker, *instantly*.

Does it make any difference—it does in the opinion of one of the gentlemen from Mississippi—that he had been President of that Republic? Sir, I do not care whether he had been forty times President of that Republic, and President *de jure*, as well as *de facto*; he had no right, after ceasing to be President of that Republic, after his power had been put down by a revolution as legitimate as that which set him up, to come to the United States and get up another expedition here against that country. He professes, indeed, only to seek to recover, what he, in my judgment, strangely enough, calls his lost rights. His rights were those of a conqueror, of a successful military adventurer, and nothing else. They were his when he had power to hold them; but the moment he had not the power to hold them, they were gone to the winds of heaven.

Mr. BROWN. My friend from Maryland seems to assume the whole matter in controversy, that Walker came to the United States to set up an expedition. That I deny. I deny that he set up any expedition within the limits of the United States; and if there be proof of it, I call for the proof from those who charge the fact. What I admit is, that Walker came here, complained, as any foreigner had a right to do—as Kossuth did, and as other men have done—of their wrongs, and that those who sympathized with him, as they had the right to do, joined his standard and went beyond the limits of the United States, without getting out an expedition, each man acting upon his own responsibility, and each one avoiding for himself any infraction of the law. If there was an expedition fitted out in the United States, I admit there was a violation of the laws; but if my friend from Maryland charges it, I ask for the proof—not that I would demand any proof of any charge of his; but, technically, I ask on what ground he bases the charge?

Mr. PEARCE. Why, sir, the proof is patent. Everybody knows that he went on a steamer with men and guns, and when they landed the first thing they did was to commit acts of hostility with organized troops. Surely, I shall be asked, after a while, to prove that the gas is burning above us. It is patent. It does not require any proof. We cannot listen to the narrative given by anybody, whether connected with the expedi-

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tion or otherwise, without understanding that this was an organized military expedition.

I will not deny the right of expatriation, though I must say that I believe that it is not entirely settled as a legal question. I will not deny that a man may not start out with his own musket on his shoulder. I do not believe that is setting on foot an expedition. If there is any nation on the face of the earth that cannot defend itself against a man with a musket on his shoulder, the sooner it is taken possession of the better; but this is not that case; and this is not the case of two hundred men, each starting out on his own hook. We knew by the reports which preceded the sailing of this vessel, that an expedition was being organized. I take it that there are plenty of gentlemen who know that funds have been furnished to General Walker, and that stock is held by persons who advanced those funds. It is not only a hostile expedition, but a sort of commercial speculation to boot; at least I have so heard.

The Senator from Georgia [Mr. Toombs] just now said something about Kossuth. How can we compare the idle and rapid gasconading of Kossuth, the rhodomontade which he preached wherever he went over this country, and his idle and unsuccessful attempts to gather the "material aid" he wanted for the reconquest of Hungary, with a case like this. There was no military expedition set on foot here by him. If one had been set on foot by him, my word for it, he would have been nabbed, and subjected to the penalties of the law of 1818.

The question has been asked why it was that General Jackson did not interfere in the case of Texas. Sir, General Jackson did interfere, and there are many gentlemen here who know it, and who remember the proclamation which he issued when companies were formed for the purpose of marching to Texas. He very properly did not interfere when persons went off by themselves, and really went on their own individual enterprise; but the instant there was any concert or combination he did interfere; he published his proclamation; and I know well the effect it had in some quarters to deter people from joining military expeditions. There were companies got up in Baltimore, and one did slip off in spite of his proclamation; but nobody could doubt the honesty and good faith of General Jackson in publishing that proclamation. He meant what he said; he meant that concerted expeditions for military purposes were unlawful. Nobody can doubt that. I will not restrain the liberty of expatriation or of private enterprise; but it is this concerted military movement which I say is against the law of the land; and it is that of which General William Walker has been guilty.

The Senator from Illinois, I think, said something about the surgeons who went from this country to Russia, and he seems to liken them to this case. Those were really individual cases of private enterprise. A single gentleman of the United States, a doctor of medicine, thinks proper to go abroad to offer his services to the Emperor of Russia as a surgeon in his army. That is not concerting or setting on foot a military enterprise. If there had been any expedition concerted; if there had been two hundred men banded together here, within the knowledge of the Executive, to proceed from this country to Sebastopol, to assist in the defense of that place, this Government could not, consistently with its declared principles and its avowed acts, have refused to suppress it, and indict them for doing that which was unlawful.

What did we do during that very crisis to which the Senator from Illinois, I think rather unfortunately, referred? There was another Power engaged in that controversy which undertook to circumvent this very neutrality act about which we are talking, to invent contrivances by which they might get able-bodied military men to go from this country to assist them in that war. Everybody knows the Power to whom I allude—

England. What was the consequence? You had a controversy with that Government; its Minister was dismissed—a very unusual thing; one calculated, under many circumstances, to give offense, and produce national disagreement and quarrel. Men employed, as was believed by the British Minister, were tried by our courts; the trials were prosecuted vigorously, and one person at least, Hertz I believe, was convicted. We dismissed several British consuls. We would not allow Great Britain even to contrive any indirect mode by which she should obtain men in this country for the purpose of carrying on her war against Russia in the Crimea.

Well, sir, shall we not grant to poor, weak Nicaragua the same measure of justice which we exact of haughty England? What reason is there why we should make war upon the one Power; why we should take offense with the strong and mighty English nation, and indict her officers, her employes, and her agents, for violating our neutrality laws, and yet turn a deaf ear to the complaints of Nicaragua when she points us to bodies of men, armed and equipped, within our limits, and starting in steamboats from one of our ports, organizing their men on board those vessels as soon as they got out of sight of land, proceeding directly to their peaceful territory—that territory which, at least, should have been peaceful as far as we could make it so—and immediately commencing the hostilities which were the original object of their concerted action here?

Sir, I say it is as clear a case as ever the sun of heaven shone upon. I know not whether the instructions of the President have been transcended or not. I do say, however, that I thank him sincerely for having exerted his power to the utmost within lawful limits; and if he has transcended, and if Captain Paulding has transcended, the authority of the Government, I will be to that fault a little blind. I know it has been said of old that we applaud the treason while we hate the traitor. I take the converse, and I say I may condemn a transaction, or I may admit the illegality of a transaction, while I applaud the spirit with which it was conducted, and the motive which prompted it. I will not trouble the Senate more, sir.

Mr. DAVIS. I do not propose to continue the discussion of this subject. I expressed the dissent which I was compelled to feel to the opinion of the President, as to the power which was exercised. I have made no war on the neutrality law, and I do not see that those who agree with me have. I have not attempted to defend any one in the organization of expeditions within the United States to make war upon a foreign country; and I believe, that no one who agrees with me has done so.

Mr. PEARCE. Though I do not agree with him in opinion, it was not the views of the Senator from Mississippi I was combating.

Mr. DAVIS. I am very glad to know it was not, because I have so much respect for the Senator from Maryland that I would regret to find him combating my positions on this question. I now pass to the purpose for which I rose, to protest against being mustered in, by the Senator from Illinois, among the recruits which he is enlisting, and in which he says he is more successful than Mr. Walker. Now, sir, I have not received bounty, and I object to being mustered in. [Laughter.] If the Senator, like the heir-expectant to an ancient throne, has established himself in a cave of Abdallah, and intends to welcome there all the disaffected, I am not in a condition to take refuge; and hope, unlike another cave, that the entrance to his asylum may show returning tracks, to account for many who may go in.

The Senator from Illinois argues as though every one who expresses a dissent from any opinion of the President of the United States had thrown himself outside of the Democratic party. Sir, we have heard more about party discipline than exactly agrees with my feelings. My rela-

tions to the party are those of a common opinion and unity of principle. My opinions are my own. Nobody can take them from me, and therefore nobody can determine whether I am inside or outside of the organization that belongs to those opinions and principles.

This doctrine of reading people out of the party is new to me. A venerable friend of mine, who used to sit in that chair, and who is here no longer—I give offense to no one I feel, when I say, to the injury of the country he is no longer here—used to talk of "old fogies." These new and unwelcome doctrines seem to suggest to me that I have become an old fogy. [Laughter.] Whence sprang this power to issue an excommunicating bull—to pronounce who is in and who is outside of the party? I thought our party's door was broad and square, always open for any one to come in, or go out, whenever he pleased. But when any gentleman chooses, in going out, to raise his standard, and call for recruits to join him in war on an Administration with which we are at peace, that is a violation of the neutrality law—an establishment of recruiting rendezvous to which I must object as an enlistment for a foreign service, and then come in aid of the Administration.

There is one point upon which I think it proper to make a single remark. Objection has been made to the President's suggesting to Congress the propriety of a modification of the neutrality law. I consider the law inefficient against our weak neighbors. It was designed to prevent military expeditions, such as could not secretly or unobserved leave our shores: it does not suffice to restrain such parties as may, though having all the semblance of peaceful emigrants, yet go forth and invade a defenseless State, or a few marauders, who may cross a mere geographical line to disturb the peace of a neighbor. Thus, in the case of Great Britain, during the period of what was called the "Patriot war," we had a special enactment to enable us to preserve the peace on that frontier—a law which terminated within two or three years, and the like of which might, with the proper modifications, be enacted now for the protection of the peace of these weak Central American States.

So far from censuring, I am inclined to applaud the suggestion that the law should be revised, and so far as the act of 1818 will not enable us to perform all our obligations to these weak American States, that we should modify it to that end. I think it should be the policy of the United States to strengthen our relations with the weaker Governments upon the American continent; that we should attempt to exercise the control of a directing hand as an elder brother, steadying the step of a younger. In order to extend our influence over these American States, we must not only discharge our national obligations, but make them feel that we extend the hand of protection over them, and, as far as is consistent with the theory of our Government, prevent our citizens from committing any violence upon them.

Mr. STUART. The questions that are involved in this message which has been sent to us by the President, certainly are very important. They relate to the proper construction and exposition of our own laws and our treaties, as well as the law of nations. It seems to me that it would be wise at this time to refer the subject, agreeably to the motion that has been made, to the Committee on Foreign Relations, that we may have a full report of the facts; that all the documents may be printed and brought before us, so that at a future day this subject may be fairly disposed of; and if the Senate are disposed to vote on the reference now, I shall not make the motion which I intend to make, which is to adjourn; otherwise, I shall insist on the motion to adjourn.

Several SENATORS. We had better adjourn.
Mr. STUART. Then I will make that motion.
The motion was agreed to; and the Senate adjourned to Monday next.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 7, 1858.

The House met at twelve o'clock, m. Prayer by Rev. B. F. BITTINGER.

The Journal of yesterday was read and approved.

SELECT COMMITTEE, ETC.

The SPEAKER announced Messrs. BURNETT, MORRIS of Illinois, MORRILL, FAULKNER, and PETTIT, as the select committee, under the resolution of Mr. SMITH, of Illinois, in reference to the sale of the Fort Snelling reservation; Mr. CRAWFORD to fill the vacancy in the Committee of Ways and Means, occasioned by the resignation of Mr. Banks; and Mr. TAYLOR, of Louisiana, to fill the place on the Committee of Claims, vacated by Mr. GIDDINGS, who was excused from further service on that committee by the House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate have passed a bill entitled, "An act to detach Selma, in the State of Alabama, from the collection district of New Orleans, and to make it a port of delivery within the collection district of Mobile," in which he was directed to ask the concurrence of the House.

SAFETY OF PASSENGERS ON STEAMBOATS.

The SPEAKER announced, as the regular order of business, the motion to lay upon the table the motion made yesterday by the gentleman from Illinois, [Mr. WASHBURN], to reconsider the vote by which the further consideration of the bill for the protection of passengers on vessels propelled in whole or in part by steam, was postponed to the first Tuesday in February.

Mr. HOUSTON. I will withdraw, by consent of the House, my motion to lay upon the table the motion to reconsider the vote by which the bill was postponed to the first Tuesday of February, for the purpose of moving its reference to the Committee of the Whole on the state of the Union; and I will say this to the House, as the reason which induces me to do so: this bill, when it comes up, may prove to be a good bill, and unobjectionable; or it may not be; but it is of such a character, however, as requires investigation, and requires time to understand its various provisions, and the House will consume time before they act upon it. The bill, therefore, when it comes up, either upon the motion to reconsider or when the first Tuesday of February arrives, comes up in the morning hour, and consumes the entire morning hour until it is disposed of, so that every committee of the House, and every member of the House who, as a member of a committee, may desire to make a report to the House, is precluded from doing so until the business now put upon the morning hour—and that clogs up the business of the morning hour—is disposed of. I think that is unfair upon other legislation. I do not charge the gentleman with endeavoring to do anything unfair; yet, so far as all other members are concerned, and so far as all other business is concerned, it acts unfairly, and must do so. I think the motion ought to be reconsidered now, and that the bill ought to be referred to the Committee of the Whole on the state of the Union.

The Calendar in the Committee of the Whole on the state of the Union is now a very short one, and there cannot be much delay or difficulty in progressing down the Calendar, at any time, far enough to reach this bill. This bill being entitled to no advantage over other business, I think it ought to take its luck with other business, and be referred to the Committee of the Whole on the state of the Union, and the morning hour be left free and untrammelled, so that the committees of this House may report, and members be able to bring their business before the House for action, as their turns may come.

Mr. WASHBURN, of Illinois. I only desire to detain the House one moment, to make a statement in reference to this bill. I think there is not a member of this House who will not admit the necessity of some legislation in regard to the better security of the lives of passengers on board of steamboats. I think what we have seen the last few months admonishes us all that there is something still further required at our hands for

the protection of human life on board of steamboats.

The bill which I was ordered to report, and which I did report yesterday morning by the direction of the Committee on Commerce, is the same bill which was perfected with a great deal of care, labor, and attention by both Houses of Congress during the last Congress; and it only fell through for the want of time and by continued postponements. It has been introduced this year, at this session of Congress; and the object of the committee is to have as early action as is practicable. When I reported it, I was ordered by the committee to ask that its further consideration be postponed to a future time, when it will be certain to come up. In the mean time the bill would be printed, so that members of the House would be enabled to examine it, and to suggest any amendment they thought proper.

One word in relation to the object I had in view, that the House may understand the motive I had in moving to reconsider the vote. The bill was postponed until the first Tuesday of February, and it would come up at that time if nothing intervened to prevent it; but if, for instance, there should be no session of the House on that day, or some question of higher privilege should intervene, the bill would go to the Speaker's table, where it could be reached only by a two-third vote; and I made this motion to reconsider, not for the purpose of taking any advantage of this House, not for the purpose of bringing it up before every member of the House had an opportunity to examine the bill; but merely to prevent its going upon the Speaker's table, where it would be measurably out of the control of the House. I am not particular about the reconsideration of this vote. I am not particular about this vote standing over. All that I want is, that this bill, so important to the country, this bill in which so much interest is taken, which is so much demanded, should be in such a situation that the House can act upon it.

The gentleman from Alabama makes the old-fashioned appeal here, which we who have been here some time fully appreciate, to send this bill to the Committee of the Whole on the state of the Union. Now, no man knows better than the gentleman from Alabama, that this sending a bill to the Committee of the Whole on the state of the Union is consigning it "to the tomb of the Capulets."

Mr. HOUSTON. This cry of the gentleman from Illinois is familiar to me and to members who have been here any length of time. But the difference between that gentleman's course heretofore and his course now is, that then the cry was raised towards the close of a session of Congress, while now he commences calling it the tomb of the Capulets during the first weeks of the session, and before we have had time enough to commit to the Committee of the Whole bills enough to clog it up, so as to prevent reaching his bill. I say that if his bill is one that can command the support of a majority of the votes of members of this House, there is not the least difficulty in going down the Calendar so as to reach it, and reach it at any time, and without the least possible trouble. So that the argument, while it may suit, and I may hear it with more favor from him when the session is coming to a close, is one which I cannot consent to hear now, when there is comparatively nothing upon the Calendar of the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Illinois. That, sir, is a continuation of the same old song. I have heard it said before that we can pass over the other bills on the Calendar and get at any particular bill. That, we all know, is impracticable. Why, sir, this bill is No. 45; and there is not a member here, who is familiar with the transaction of business in the House, who does not know that we can never get at it in the regular order in the Committee of the Whole on the state of the Union. We all know that.

I do not wish, however, to detain the House in reference to this matter. I have no particular feeling on the subject. I only desire that this bill, which is, as I have said, of such vast importance, may be kept within the control of the House; and I think we may be able to consider it on the first Tuesday in February, to which day it has been postponed.

One word more, in reply to the gentleman from

Alabama. He spoke of blocking up the morning hour, and depriving other committees of the privilege of making reports. I would remind the honorable member of the amendment which has been made in the rules of the House, which provides that the morning hour shall not be occupied for more than two consecutive days by any committee. Hence this bill only may be able to occupy the morning hour on two days; and I believe it can be disposed of in less than that time. I move, sir, to lay the motion to reconsider upon the table.

Mr. HOUSTON. Will the gentleman allow me to ask the Chair a question?

Mr. DAVIDSON. I object.

Mr. HOUSTON. I desire to ask the Chair and the gentleman whether this bill, coming up during the morning hour would not have to be considered during the morning hour as the unfinished business, until disposed of?

The question was taken on Mr. WASHBURN's motion, and it was agreed to.

So the motion to reconsider was laid upon the table.

EIGHTH OF JANUARY.

Mr. JONES, of Tennessee. To-morrow being the 8th of January, I move that when the House adjourns, it adjourn to meet on Saturday next.

Mr. MORGAN. On that motion I demand the yeas and nays.

Mr. FLORENCE. I move to amend the motion, so as to provide that the House shall meet on Monday. Saturday legislation is mischievous, and I am opposed to it.

Mr. MORGAN. I withdraw the call for the yeas and nays for the present, and ask for a division.

Mr. FLORENCE. I demand tellers.

Tellers were ordered; and Messrs. FLORENCE and MORGAN were appointed.

The House divided; and the tellers reported—ayes 86, noes 62.

Mr. REILLY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken on the amendment; and it was decided in the affirmative—yeas 90, nays 88; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bowie, Boyce, Branch, Bryan, Burlingame, Burns, Burroughs, Caskie, Chapman, John B. Clark, Clay, Clemens, John Cochrane, Colfax, Conins, Coming, Cox, James Craig, Burton, Craig, Curry, Curtis, Davidson, Davis of Massachusetts, Edie, English, Faulkner, Fenton, Florence, Gillis, Goode, Greenwood, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Huyler, Jackson, Jenkins, Jewett, Owen Jones, Keitt, Kellogg, Jacob M. Kunkel, Leidy, Leiter, Letcher, McKibbin, Samuel S. Marshall, Miles, Miller, Moore, Freeman H. Morse, Niblack, Phelps, Phillips, Guitman, Ready, Ricard, Ritchie, Ruffin, Russell, Savage, Scott, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stephens, Stevenson, Talbot, Miles Taylor, Thayer, Elihu B. Washburne, White, Wilson, Woodson, and Wortendyke—90.

NAYS—Messrs. Abbott, Ahl, Andrews, Bingham, Bishop, Bliss, Cocke, Brayton, Buffinton, Case, Chaffee, Ezra Clark, Clingman, Cobb, Cockerill, Covode, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Dowdell, Durfee, Foley, Foster, Gartrell, Giddings, Gilmer, Granger, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Hill, Hoard, Hopkins, Horton, Houston, Howard, George W. Jones, J. Glancy Jones, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Lovejoy, Maynard, Montgomery, Morgan, Morrill, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Pendleton, Pettit, Peyton, Potter, Pottier, Reagan, Reilly, Robbins, Royce, Seales, John Sherman, Judson W. Sherman, Stanton, James A. Stewart, William Stewart, George Taylor, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburne, Israel Washburn, Watkins, and Zollieffer—88.

So the amendment was agreed to.

Pending the call of the roll,

Mr. MORGAN stated that his colleague, Mr. PARKER, had been detained from the House for several days by the severe illness of his wife.

The question recurred on the motion of Mr. JONES, of Tennessee, as amended.

The House divided on the motion; and there were—ayes 98, noes 68.

Mr. MORGAN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. KEITT. I wish to inquire of the Chair whether it does not come under the Jesuit's rule of a reasonable doubt, if the gentleman from Tennessee [Mr. JONES] votes on one side, against the adjournment, and the gentleman from Virginia [Mr. LETCHER] on the other, in favor of it? [Laughter.]

The SPEAKER. Debate is not in order.

The question was taken; and it was decided in the affirmative—yeas 103, nays 84; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Billinghurst, Blair, Bowie, Boyce, Branch, Bryan, Burlingame, Burnett, Burns, Burroughs, Caskie, Chapman, John B. Clark, Clay, Clemens, John Cochrane, Cockerill, Colfax, Corning, Cox, James Craig, Burton Craige, Curry, Curtis, Davidson, Davis of Maryland, Davis of Massachusetts, Dewart, Edie, Edmundson, English, Faulkner, Fenton, Florence, Gillis, Goode, Greenwood, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Thomas L. Harris, Has- kin, Hatch, Hawkins, Hickman, Huyler, Jackson, Jenkins, Owen Jones, Keitt, Kellogg, Kelly, Jacob M. Kunkel, John C. Kunkel, Landy, Leidy, Leiter, Letcher, McKibbin, Samuel S. Marshall, Miles, Miller, Moore, Freeman H. Morse, Niblack, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ritchie, Ruffin, Sandidge, Scott, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stephens, Stevenson, Talbot, Miles Taylor, Thayer, Elihu B. Washburne, White, Whiteley, Wilson, Winslow, Woodson, Wortendyke, John V. Wright, and Zolllicoffer—103.

NAYS—Messrs. Abbott, Andrews, Bingham, Bliss, Bock, Brayton, Buffinton, Case, Chaffee, Ezra Clark, Clingman, Cobb, Comins, Covode, Damrell, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dodd, Dowdell, Farnsworth, Foley, Foster, Garnett, Gartrell, Giddings, Gilmer, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Harlan, Hill, Hoard, Hopkins, Horton, Houston, Howard, Jewett, George W. Jones, J. Glancy Jones, Kelsey, Kilgore, Knapp, Leach, Lovejoy, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Pettit, Peyton, Potter, Pottle, Reilly, Robbins, Royce, Scales, John Sherman, Judson W. Sherman, Stanton, James A. Stewart, William Stewart, George Taylor, Thompson, Tompkins, Trippie, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Israel Washburn, and Watkins—84.

So it was ordered that when the House adjourns, it adjourn to meet on Monday next.

Pending the call of the roll—

Mr. PHILLIPS stated that his colleague, Mr. DIMMICK, was detained from the House by indisposition.

Mr. LETCHER, when his name was called, said: Will it be in order to remove the difficulty my friend from South Carolina [Mr. KEITT] is laboring under?

The SPEAKER. Debate is not in order.

Mr. LETCHER. I vote "ay."

Mr. KEITT stated that his colleague, Mr. BONHAM, had been for some time, and was yet, too unwell to attend the sessions of the House.

PRESIDENT'S MESSAGE.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

Mr. J. GLANCY JONES. Before the House goes into Committee of the Whole, I wish, with the consent of my colleagues on the Committee of Ways and Means, to make a motion.

The SPEAKER. The gentleman from Pennsylvania is informed that the chair is unoccupied.

The House then resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of the President's message, the pending question being on the motion of the gentleman from Tennessee [Mr. MAYNARD] to amend the third resolution submitted by the chairman of the Committee of Ways and Means [Mr. J. GLANCY JONES] to refer the message to the appropriate standing committees of the House, upon which the gentleman from Massachusetts [Mr. THAYER] was entitled to the floor.

Mr. J. GLANCY JONES. I ask the consent of the gentleman from Massachusetts to yield me the floor to make the motion that the committee rise for the purpose of closing debate upon the resolutions before them.

Mr. THAYER. I will yield to the gentleman.

Mr. J. GLANCY JONES. I move that the committee rise.

Mr. STEPHENS, of Georgia. I ask for tellers upon the motion.

Tellers were ordered; and Messrs. BUFFINTON and HAWKINS were appointed.

The committee divided; and the tellers reported—yeas 84, nays 93.

So the motion was disagreed to.

THE NEUTRALITY LAWS.

Mr. THAYER. Mr. Chairman, it is my purpose to offer an amendment to the resolution which is now before the committee, for the purpose of widening the proposed investigation. I do not propose to discuss at all the topics which the committee has been considering during the past three days. I am not here to consider whether

Mr. Walker was legally or illegally arrested, or whether Commodore Paulding is to be censured or applauded for his action. I have no sympathy with the course pursued by the President. I have no intention to discuss his position in relation to this matter, neither is it my purpose to enter the lists with the gentleman from Tennessee [Mr. MAYNARD,] who discussed the heroism of Mr. Walker, who, claiming to be the President of Nicaragua, submitted without a protest and without a blow to a power upon his own soil, which he claimed to be an invading force. If there is any heroism in this, I am not here to discuss that question.

I thrust aside, for the present, all questions of legal technicality in this matter; all the mysteries of the construction of the neutrality laws; all these questions which have engrossed the attention of the House during the last three days, and concerning which everybody has been speaking and nobody caring; and I come to that great paramount, transcendent question, about which everybody is caring and nobody is speaking: "How shall we Americanize Central America?"

It may be a matter of surprise that I pass over two or three questions which, in their natural order, seem to be antecedent to this one. And these questions are, first, Do we wish to Americanize Central America? Secondly, Can we Americanize Central America? Thirdly, Shall we Americanize Central America?

Now, Mr. Chairman, I say that whoever has studied the history of this country, and whoever knows the character of this people, and whoever can infer their destiny from their character and their history, knows that these three preliminary questions are already answered by the American people—that we do wish to Americanize Central America; that we can Americanize Central America; and that we shall Americanize Central America.

And now, Mr. Chairman, in relation to the manner and the agency. How can we Americanize Central America? Shall we do it legally and fairly, or illegally and unfairly? Shall we do it by conferring a benefit on the people of Central America, or shall we do it by conquest, by robbery, and violence? Shall we do it without abandoning national laws, and without violating our treaty stipulations? Shall we do it in accordance with the law of nations and the laws of the United States; or shall we do it by force, blood, and fire?

Now, Mr. Chairman, my position is this: that we will do it legally; that we will do it in accordance with the highest laws, human and Divine. By what agency shall this be accomplished?

By the way, sir, I did agree with the gentleman from New York, [Mr. HASKIN,] who told us yesterday that he was not in favor of petty larceny; but I did not agree with him when he said that he was in favor of grand larceny. I regret that a Representative of the people of the United States in the Council Hall of the nation should say to his constituents, to the nation, and the world, that he and the Democratic party were "rather in favor of grand larceny." Larceny is larceny; and you cannot say a meaner thing about it than to call it by its own name. I am pained that this report has gone forth that any party, or that any individual in this House, or connected with this Government, is in favor of grand larceny or petty larceny. Larceny, grand or petty, is not only disgraceful, but is absolutely and utterly contemptible. We do not go for the acquisition or the Americanization of territory by larceny of any kind whatever, but fairly, openly, and honorably.

Then, sir, by what agency may we thus Americanize Central America? I reply to the question, by the power of organized emigration. That is abundantly able to give us Central America as soon as we want it. We could have Americanized Central America half a dozen times by this power within the last three years if there had been no danger or apprehension of meddling or vexatious executive interference. But if we are to use this mighty power of organized emigration, we want a different kind of neutrality laws from those which we now have; and, therefore, I am desirous that this committee shall recommend something which shall not subject us to the misconception of the President of the United States or to his construction at all. I want these neutrality

laws so plain that every man may know whether he is in the right or in the wrong, whether he is violating those laws or is not violating them. For, Mr. Chairman, with our new-fashioned kind of emigration, with our organized emigration, which goes in colonies, and, therefore, must of necessity to some extent resemble a military organization, there is great danger that a President with a dim intellect may make a mistake, and subject to harassing and vexatious delays, and sometimes to loss and injury, a peaceful, quiet colony going out to settle in a neighboring State.

Mr. Chairman, I can illustrate this position. You, sir, remember that in the year 1856, when it was *bad traveling* across the State of Missouri, on the way to Kansas, that our colonies went through the State of Iowa, and through the Territory of Nebraska. These were peaceful, quiet colonies, going to settle in the Territory of Kansas, by that long and wearisome journey, because it was *bad traveling* through the State of Missouri.

You remember that one of these colonies of organized emigrants, which went from Maine and Massachusetts, and from various other northern States, was arrested just as it was passing over the southern boundary of the Territory of Nebraska, on its way to its future home in Kansas. It was a peaceful, quiet colony, going out with its emigrant wagons all in a row, and therefore looking something like a military organization—going out with their women and their children, with subsoil plows with coulters a yard long, [laughter], with pick-axes, with crowbars, with shovels, and with garden seeds. This beautiful colony was arrested by the officials of the present Executive's predecessor. It was by some mistake, no doubt. Perhaps he took the turnip-seed for powder; and I doubt whether the case would have been better if the President had been there himself. This colony was arrested within our own dominion. It was not an emigration to a foreign country, and there was no danger of interference with the neutrality laws. These quiet, peaceful colonists, because their wagons went in a row, for mutual defense through the wild uncultivated Territory of Nebraska, where there were Indians, they were arrested as a military organization. We do not want hereafter, either within the limits of the United States or without them, any such meddling and vexatious interference by the executive power of this Government. Therefore, I say, let us have some neutrality laws that can be understood. If there had been no apprehensions in the North about the neutrality laws, if we had not expected that whatever emigration we might have fitted out for Central America would have been arrested within the marine league of the harbor of Boston, why we would have colonized Central America a dozen years ago, and had it ready for admission into the Union before this time. We want a modification or an elucidation of the neutrality laws, and I trust that it will be the duty of the committee so to report.

Before I proceed to consider the power and benefits of this system of organized emigration, and the reason why it ought not to be rejected by this House, I will proceed, as briefly as I can, to show the interests which the northern portion of this country has in Americanizing Central America, as contrasted with the interests which the southern portion has in doing the same thing. I come, then, to speak of the immense interests which the northern States have in this proposed enterprise. I am astonished that so far in this debate the advocates for Americanizing Central America seem to be mostly from those States which border on the Gulf of Mexico. As yet, I have heard no man from the northern States advocating the same thing. Let us look at the interests of the northern States in this question, and then at those of the southern States.

These northern States are, as the States of northern Europe were designated by Tacitus, *officina gentium*, "the manufactory of nations." We can make one State a year. In the last three years we have colonized almost wholly the Territory of Kansas. We have furnished settlers to Minnesota and Nebraska, and the Lord knows where, and we have not exhausted one half of our natural increase. We have received accessions to our numbers in that time, from foreign countries, of more than one million souls, and now we have no relief; we are worse off to-day than we were when we began to colonize Kansas. We must have

an outlet somewhere for our surplus population. [Laughter.]

Sir, I have a resolution in my pocket, which I have been carrying about for days, waiting patiently for an opportunity to present it in this House, instructing the Committee on Territories to report a bill organizing and opening for settlement the Indian territory. Mr. Chairman, I came to this conclusion with reluctance, that we must have the Indian territory. But necessity knows no law. We must go somewhere. Something must be opened to the descendants of the Pilgrims. [Laughter.] Why, sir, just look at it. We are cramped in between the Atlantic ocean and the Rocky Mountains! The bounding billows of the western tide of our emigration are dashing fiercely against the base of the Rocky Mountains.

We come now to the obstruction of the great natural barrier. Nothing is more natural than that this tide should flow back. Will it flow over towards Canada? Not at all. It has already begun to flow over the "Old Dominion," [laughter,] and into other States. Missouri is almost inundated with it. We cannot check this tide of flowing emigration. You might as well try to shut out by curtains the light of the aurora borealis. No such thing can be accomplished. This progress must be onward, and we must have territory. We must have territory; and I think it most opportune that the proposition seems to be before the country to Americanize Central America. A better time could not be; for, in addition to the population which we now have, which is immense in the northern States, as I shall show you as I proceed, this financial pressure in the East, and in the different nations of Europe, will send to our shores in the year 1858 not less than half a million of men. In addition to that, we have two hundred and fifty thousand of our population who will change localities in that time. Then, sir, there are seven hundred and fifty thousand men to be prepared for, somewhere in the year 1858—men enough, sir, to make eight States, if we only had Territories in which to put them, and if we only use them economically, [laughter,] as we are sure to do by this system of organized emigration.

Now could anything be more opportune at this time, than to have this project submitted to us, of opening Central America to settlement? I assure you, if the committee will report any bill which will enable the people of the North, without larceny of any kind, without tyranny of any kind, to settle that country, I will postpone my resolution for the opening of the Indian territory, at least until the next session of Congress.

But it is not only for the purpose of furnishing an outlet for our immense population in the North that I now advocate the Americanizing of Central America. The interests of commerce, as well as this great argument of necessity, are on our side. Who has the trade beyond Central America? We have whale fisheries in the Northern ocean which build up great cities upon the eastern shore of Massachusetts. We have trade with Oregon and California, with the Sandwich Islands, and the western coast of South America. We are opening a trade, destined to be an immense trade, with the Empires of China and Japan, and we must of necessity have in Central America certain factors and certain commercial agencies, who, in a very few years, with their families and relatives, will make a dense population in Central America. I say, then, that for the interests of commerce we want Central America Americanized. This commercial interest is, unfortunately, a sectional interest in these States. It is emphatically a northern interest; and, therefore, as a northern man, I advocate especially that Central America should be Americanized.

Now, sir, I said I was astonished that gentlemen who come from States bordering upon the Gulf had advocated this project, and not the Representatives who come from northern States. Let us see the reasons why the North should be more zealous than the South in this movement. In the State of Massachusetts we have one hundred and twenty-seven people to a square mile, by the census of 1850. In the State of Rhode Island we have one hundred and twelve to the square mile, by the same census. In the State of Connecticut we have seventy-nine. In the State of New York we have sixty-five. So, you see, it was not fiction, it was not poetry, not a stretch of the imagin-

ation, when I told you that the descendants of the Pilgrims were in a tight place. [Laughter.]

But how is it with the States which border upon the Gulf? Look at it and see. They have, some of them, eighty-nine hundredths of a man to the square mile. [Laughter.] In another one we have one and the forty-eight hundredth part of a man to the square mile; and, taking them altogether, we have just about three men to the square mile in all those States which border upon the Gulf of Mexico.

Now, sir, it would be folly for me to argue, and there is no kind of reason for supposing, that these States expect to do anything about colonizing Central America. They cannot afford to lose a man. They had better give away \$2,000 than to lose a single honest, industrious citizen. They cannot afford it. I have left out of this calculation, to be sure, the enumeration of the slaves in those States, for the gentleman from Tennessee [Mr. MAYNARD] informed us that the question of slavery did not come into this argument properly, and I agree with him there. I think he may agree with me, that by no possibility can slavery ever be established in Central America. That is my belief. Just fix your neutrality laws, and we will fill up Central America before 1860 sufficiently to be comfortable.

Mr. MAYNARD. With the permission of the gentleman, I desire to ask him whether he will pledge himself for his constituents and for all those he represents, that when they get down there they will not make slaves of the people they find there?

Mr. THAYER. I will speak to that question. Certainly I will do it; and I will say more on that subject hereafter. I will say to the gentlemen upon the other side who have advocated this right of emigration and have no personal interest in this matter, that they can have no pecuniary interest in it, and that they have no men to spare for this enterprise. And especially do I honor the gentleman from Mississippi, [Mr. QUITMAN,] who professed to be moved by arguments of philanthropy in relation to this question, and who maintained that the people of Central America were oppressed, that they needed our assistance, and that it was conferring a benefit upon them to send out colonies among them to aid them to get rid of their oppressors. I am glad that that gentleman is defending the rights of emigration. No man prizes those rights more highly than I do. I think that I understand their power and their value, and I am glad to welcome among the list of political regenerators the gentleman from Mississippi with such large, wide, and noble views upon this question. I do not here indorse his whole speech. I did not hear the whole of it. I do not know what he said about Mr. Walker, whether he defends him, or whether he does not. For myself, I do not say that I defend him, or that I do not, at this time. I wait for the report of our committee, to know what are the facts in this case, and whether he is fit to be defended or not.

Now, sir, I am rejoiced that I have found aid and comfort in a great political missionary movement from a quarter where I least expected it. This argument of philanthropy is sufficiently potent with the South; while I will not deny that that argument is always, more or less, potent with the North, perhaps not so potent with the North as with the South—very likely we are more material and less spiritual—but still, I say it has some power at the North. We do not live so near the sun as do those gentlemen who border on the Gulf; but we live near enough to the sun to have some warmth in our hearts, and the appeals of philanthropy to us are not made in vain.

But, in addition to that, just look at it, sir! In addition to that great argument of philanthropy, we have not only the argument of necessity, but the argument of making money; and when you take those three arguments and combine them, you make a great motive power, which is sufficient, in ordinary cases, to move northern men, though they are not very mobile nor very fickle.

So much, Mr. Chairman, for the comparison of interests between the northern and southern people of these United States in relation to the Americanizing of Central America.

I come now to discuss, briefly, the power and benefits of this new mode of emigration. And, sir, what is its power? I tell you its power is greater than that which is wielded by any poten-

tate or emperor upon the face of God's footstool. If we can form a company, or a number of companies, which can control the emigration of this country—the foreign emigration and native emigration—I tell you, sir, that that company, or those companies, will have more power than any potentate or emperor upon the face of the earth; and that company, or those companies, may laugh at politicians; they may laugh, sir, at the President and his Cabinet: at the Supreme Court, or at Congress; for they cannot do a thing, in accordance with the Constitution of this land, which can in any way interfere with their progress, or prevent their making cities and States and nations wherever they please. Then, sir, there can be no doubt about the power of this agency, which, I tell you, is the right one for us to make use of in getting Central America for us, or in Americanizing Central America, as we are sure to do.

Now, Mr. Chairman, I have said nothing about annexing Central America to the United States. For myself, I care nothing about it, and I do not know whether the people of this country are ready for that proposition yet. I think, however, they would rather annex a thousand square leagues of territory than to lose a single square foot. To be sure, sir, we have a few men in the North who honestly hate this Union. I will not criticise their views. I will not condemn them for their views. They have a right to cherish just what views they please in relation to this question. Sir, there are still a larger number of sour and disappointed politicians who, though they do not profess hatred to this Union, do, to a certain extent, profess indifference as to its continuance. But the great and overwhelming majority of the people of the North, sir, as a unit, are determined that *no force*, internal or external, shall ever wrest from the jurisdiction of the United States a single square foot of our territory, unless it first be baptized in blood and fire. That is the sentiment of the great majority of the people of the North—that no portion of the territory of this Government shall ever be released from our possession. We understand that this Union is a partnership for life, and that the bonds that hold us together cannot by any fatuity be sundered until this great Government is first extinguished and its power annihilated. That, sir, is our sentiment about the Union, and such may be the present sentiment about annexation. But I have no doubt what the future sentiment of the country will be about annexation. I have no doubt we will have Central America in this Government, and all between this and Central America also.

Well, sir, we have now come to the grand missionary age of the world in which we do not send out preachers alone, perplexing people who are in ignorance and barbarism with abstract theological dogmas; but with the preachers, we send the church, we send the school, we send the mechanic and the farmer; we send all that makes up great and flourishing communities; we send the powers that build cities; we send steam-engines, sir, which are the greatest apostles of liberty that this country has ever seen. That is the modern kind of missionary emigration, and it has wonderful power on this continent, and is destined to have on the world, too, for it is just as good against one kind of evil as another; and it can as well be exerted against idol worship in Hindostan and China, as against oppression and despotism in Central America.

But we take the countries that are nearest first; and now we propose to use this mighty power in originating a nation in quick time for Central America. We read of a time when "a nation shall be born in a day." I think it may be done in some such way as this. By this method of emigration, carried on not by the solitary pioneer, "alone, unfriended, melancholy, slow," stealing away from the institutions of religion and education himself and family; but, sir, by this means, Christianity herself goes hand in hand with the pioneer; and not Christianity alone, but the offspring of Christianity, an awakened intelligence, and all the inventions of which she is the mother; creating all the differences between an advanced and enlightened community and one in degradation and ignorance. Sir, in years gone by, our emigration has ever tended toward barbarism. But now, by this method, it is tending to a higher civilization than we have ever witnessed. Why, sir, by this plan, a new community starts on as

high a plane as the old one had ever arrived at; and leaving behind the dead and decayed branches which incumbered the old, with the vigorous energies of youth, it presses on and ascends. Sir, such a State will be the State of Kansas, eclipsing in its progress all the other States of this nation, because it was colonized in this way. The people, in this way, have not to serve half a century of probation in semi-barbarism. They begin with schools and churches, and you will see what the effect is upon communities that are so established.

But I will speak now of that which constitutes the peculiar strength of emigration of this kind, and that is, *the profit of the thing*. I have shown you how efficient it is, and I will now show you how the method works, to some extent. It is profitable for every one connected with it; it is profitable to the people where the colonies go; it is profitable to the people of the colonies; and it is profitable to the company, which is the guiding star and the protecting power of the colonies. It does good everywhere. It does evil nowhere.

Sir, you cannot resist a power like this. A good man often feels regret when he knows that by promoting a good cause he is at the same time sacrificing his own means of doing good, and is becoming weaker and weaker every day. It is a great drawback upon beneficent enterprises, even upon philanthropic and Christian enterprises, that the men who sustain them are lessening their own means of doing good by it. Sir, it is a great mistake to suppose that a good cause can only be sustained by the life-blood of its friends. But when a man can do a magnanimous act, when he can do a decidedly good thing, and at the same time make money by it, all his faculties are in harmony. [Laughter.] You do not need any great argument to induce men to take such a position, if you can only induce them to believe that such is the effect. Well, sir, such is the effect; and now let us apply it to the people of Central America. What reason will they have to complain if we send among them our colonies, organized in this way with their sub-soil plows, their crow-bars, their hoes, their shovels, and their garden-seeds? What reason will they have to complain? Why, the fact is, that unless our civilization is superior to theirs, the effort would, in the beginning, be a failure; it never can make one inch of progress. Then, sir, if we succeed at all, we succeed in planting a civilization there which is superior to theirs; we plant *that* or none. It is impossible for an inferior civilization to supplant a superior civilization except by violence, and it is almost impossible to do it in that way.

Well, sir, if we give them a better civilization, the tendency of that better civilization is to increase the value of real estate; for the value of property, the value of real estate, depends upon the character of the men who live upon the land, as well as upon the number of men who live upon it. Now, sir, we either make an absolute failure in this thing, and do not trouble them at all, or we give them a better civilization, and in addition to that, we give them wealth.

Thus, sir, with bands of steel we bind the people of Central America to us and to our interests, by going among them in this way, and they cannot have reason to complain, nor will they complain. If we had approached them in this way two years ago, without this miserable meddlesome method, induced and warranted, or supposed to be warranted, by the neutrality laws, we would have filled Central America to overflowing by this time, and would have had with us the blessings of every native citizen in that portion of country.

Now, sir, if such is the way, if such is the power, if such is the effect of this method, to the emigrants, and to the people among whom they settle, why should we not now adopt it in reference to Central America? And what is the method? Why, it is as plain and simple as it can be. It is just to form a moneyed corporation which shall have two hundred or five hundred thousand dollars capital; which shall then obtain and spread information through the country, by publications, indicating what are the natural resources of Central America, and the inducements to emigrate thither; showing how it is situated in relation to commerce, and how, of necessity, there must speedily be built upon that soil a flourishing Commonwealth. Then you have to apply a portion of these means to sending out steam-engines, and to building some hotels to accommodate the people who go there, and also

some receiving houses for the emigrants. Establish there and encourage there the establishment of the mechanic arts, and I tell you that every steam-engine you send there will be the seat of a flourishing town; every one will be an argument for people to go there; for they talk louder than individuals a thousand times, and they are more convincing a thousand times, especially to an ignorant and degraded people, than anything men can say, because the argument is addressed to the senses; it makes them feel comfortable; it gives them good clothes; it gives them money. These are the arguments to address to an ignorant people, and not mere abstract dogmas about liberty and theology. Then let this company be organized so soon as you fix these neutrality laws so that we can get off without these vexatious executive interferences. [Laughter.] Then we shall see how the thing will work in Central America.

But, sir, I expect, when the people of the North shall hear that I am taking this view of the question, that the timid will be intensely terrified, and say that we are to have more slave States annexed to the Union. I have not the slightest apprehension of that result. It may be said that Yankees, when they get down into Central America, will, if the climate is suited for it, make use of slave labor. I have heard that argument before; and it has been asserted that the Yankees who go into slave States oftentimes turn slaveholders and outdo the southern men themselves. I have no doubt that they outdo them if they do anything in that line at all. [Laughter.] The Yankee has never become a slaveholder unless he has been forced to it by the social relations of the slave State where he lived; and the Yankee who has become a slaveholder, has, every day of his life thereafter, felt in his very bones the bad economy of the system. It could not be otherwise. Talk about our Yankees, who go to Central America, becoming slaveholders! Why, sir, we can buy a negro power, in a steam-engine, for ten dollars, [laughter,] and we can clothe and feed that power for one year for five dollars; [renewed laughter,] and are we the men to give \$1,000 for an African slave, and \$150 a year to feed and clothe him? No, sir. Setting aside the arguments about sentimentality, and about philanthropy, on this question; setting aside all poetry and fiction, he comes right down to the practical question—is it profitable? The Yankee replies, "not at all." Then there is no danger of men who go from Boston to Central America ever owning slaves, unless they are compelled to by their social relations there. If a man goes from Boston into Louisiana, and nobody will speak to him unless he has a slave; nobody will invite him to a social entertainment unless he owns a negro; and if he cannot get a wife unless he has a negro; then, sir, very likely he may make up his mind to own a negro. [Laughter.] But I tell you that he will repent of it every day while he has him. There is no inducement for the Yankees to spread slavery into Central America, and there is no power in any other part of the country to do it. Therefore, most fearlessly do I advocate the Americanizing of Central America. We must have some outlet for our overwhelming population. Necessity knows no law; and if we cannot have Central America, we must have the Indian territory; we must have something; we are not exhausted in our power of emigration; we are worse off than we were before the opening of Kansas. Not one half of our natural increase has been exhausted in colonizing that Territory, and furnishing people for Oregon and Washington. We might, as I told you, make eight States a year, if we only used our forces economically; and we will use them economically by establishing, not for the present time only, but for all coming time, this system of organized emigration. Just as fast as this has become understood in the country—just as fast as it is known to the people—not a single man who has any sense will emigrate in any other way than by colonies. Just look at the difference between men going in a colony and going alone. Suppose a man goes to Central America, and settles there alone: what is his influence upon real estate by settling there alone? There is no appreciable difference from what it was before; but if he goes there with five hundred men from the city of Boston to establish a town, by that very act he has made himself wealthy. I can point to numerous examples of this kind. Hence this making money by organized emigration is

not going to be speedily relinquished. Depend upon it that we have only begun to use it, and that we have not used it with the efficiency with which it will be used in a year to come.

Now, sir, for these reasons I hope that the committee to which this question shall be referred, will so modify and elucidate the neutrality laws that we shall not hereafter be subjected to this executive interference. And, in accordance with the views I have expressed, I now offer the following amendment:

And also, that said committee report, so far as they may be able, the present social and political condition of the people of Nicaragua, and whether they invite colonies from the United States to settle among them; and also, whether the soil, climate, and other natural advantages of that country are such as to encourage emigration thither from the northern States of this Confederacy.

Now, Mr. Chairman, I will state, briefly, my reasons for submitting that amendment. The gentleman from Mississippi [Mr. QUITMAN] referred to the social and political condition of the people of Central America as a proper basis, I think he said, for our action. For myself, I am willing to take the gentleman's words about the necessity of something being done to aid these people; but in grave matters of legislation like this, the committee having the subject in charge should first fully investigate in reference to the matters suggested by my amendment.

I do not intend any objectionable sectionalism by using the word *northern*; that the committee should inquire whether the natural advantages of soil and climate of Central America were such as to invite emigration thither from the *northern* States. I so phrased the amendment because, as I have shown you, the northern States are the only ones which can furnish emigration that would be of any consequence to Central America. We would be glad to receive whatever help the States on the Gulf could give us, but it is impossible for them to give much help in this work. And because the northern States have the power in this matter, and because the southern States have not the power, I have used the words that the committee shall inquire specially whether the climate and the soil are such as to encourage emigration to Central America from the northern States. If, however, there be objection to it, I will strike out the word "*northern*," and leave the inquiry to be general.

Mr. ADRAIN. It is the interest and policy of this Government to cultivate the most friendly relations with all other Powers. Such has been the policy of our Government from its foundation down to the present period. It is a policy that has preserved our domestic peace; it is a policy which has preserved us from foreign war; a policy which has enabled our citizens to pursue their various avocations in peace; a policy which has given rise to a wide and extensive commerce, until our ships are now floating proudly upon every sea. It is a wise and a judicious policy; a policy adopted by the first President of this great and powerful nation; and it is for this Government to determine whether that policy shall be abandoned, or whether another policy shall be pursued which will interrupt our friendly and peaceful relations with foreign nations. How can those friendly relations be preserved unless our Government takes some effective and stringent measures for the purpose of putting a stop to these military expeditions that are forming in our midst to go out and prey upon the property and lives of those who are at peace with us? And the President of the United States, in his message, calls the attention of the House to this subject, and proposes that we shall give to it our most serious and deliberate consideration.

The neutrality laws which are upon our statute-books are not sufficient to put a stop to this marauding spirit, which is likely to bring us into difficulty with foreign Powers, and which interrupts our peace and excites the hostility of foreign nations against us. As this is the case, I hope that when this matter is referred to the committee, our laws will be so changed and so modified as not to give fuller license to this marauding spirit, but to prevent and check it.

Now, sir, it is proposed by the distinguished gentleman from Mississippi that these neutrality laws should be abolished, or altered in such a way that they shall not infringe what he conceives to be the rights of American citizens. Now, sir, I am not in favor of having the rights of American

citizens interfered with at all by the Government. But what are those rights? What right has any citizen of the United States to band together with others to form these military expeditions to go out to make war upon foreign Powers? I deny the right. Every American citizen has the right of leaving his country, of expatriating himself if he please, and of seeking and receiving protection in another country. But his right does not extend so far as to allow him to get up a military expedition for the purpose of making war upon those Powers that are at peace with us, when those military expeditions interfere with our great national interests.

These neutrality laws, Mr. Chairman, are founded upon the great law of nations. Laws have been passed from the period of Washington's administration to the present time, founded upon this great law. Now what is this law of nations? Although this law, by some nations, has been disregarded, yet it is a law which is founded upon morality, justice, and humanity. Every nation ought to do as much good to another in peace, and as little harm in war, as possible. I have here a standard book upon the law of nations, and I beg leave to call the attention of the House to a few remarks of the late Chancellor Kent, when treating upon this subject. He says:

"The faithful observance of this law is essential to national character, and to the happiness of mankind. According to the observation of Montesquieu, it is founded on the principle, that different nations ought to do each other as much good in peace, and as little harm in war, as possible, without injury to their true interests.

"We ought not, therefore, to separate the science of public law from that of ethics, nor encourage the dangerous suggestion, that Governments are not so strictly bound by the obligations of truth, justice, and humanity, in relation to other Powers, as they are in the management of their own local concerns. States, or bodies-politic, are to be considered as moral persons, having a public will, capable and free to do right and wrong, inasmuch as they are collections of individuals, each of whom carries with him into the service of the community the same binding law of morality and religion which ought to control his conduct in private life. The law of nations is a complex system, composed of various ingredients. It consists of general principles of right and justice, equally suitable to the government of individuals in a state of natural equality, and to the relation and conduct of nations; of a collection of usages and customs, the growth of civilization and commerce; and of a code of conventional or positive law. In the absence of these latter regulations, the intercourse and conduct of nations are to be governed by principles fairly to be deduced from the rights and duties of nations, and the nature of moral obligation; and we have the authority of the lawyers of antiquity, and of some of the first masters in the modern school of public law, for placing the moral obligation of nations and of individuals on similar grounds, and for considering individual and national morality as parts of one and the same science."

Here, sir, are the principles upon which the law of nations is based. They are correct principles, and I maintain that there is a moral obligation resting upon our nation, as well as a moral obligation resting upon every individual, to observe them. What right has any one to deprive another of his property or his life? If he does it, the law punishes him; and if he gives out an indication of his intention to commit a crime, the restraint of the law is put upon him, and he is bound over to keep the peace. If this is so, has not the Government an equal right to prevent its citizens from committing depredations upon others who are at peace with us? Have not they the moral obligation to prevent injury to their neighbors? Is not that just? Is it not morally right? And is it not humane?

Therefore I maintain that the neutrality laws of our country are founded upon the great law of nations, which commends itself to the judgment and conscience of every right-thinking man. This law of nations is of modern growth. The ancient Republics knew nothing about it; they knew nothing of right or wrong, and they paid no regard to the rights and property of others. We all know that the best fleets of Athens went out upon these piratical excursions to deprive others of their property and their lives. It is for us—for this Government—for this great people, to determine whether we will go back to those ancient times and imitate these piratical excursions, or whether we will keep our citizens within the restraints of law and morality and justice.

I am in favor, Mr. Chairman, of putting a stop to this marauding spirit that is afloat in this country. It is a mischievous, dangerous spirit. It is a spirit that has done no good, but a great deal of harm. It is a spirit that has excited the bad passions of the youth of our country. It is a

spirit that has led them to disobey the laws of our country, to disrespect our Government, to disregard the property and lives of others. It is a spirit, sir, which has interfered with the great transit routes between the two oceans; and the President tells us in his message that, in consequence of that interference, our citizens have sustained heavy losses. These are some of the effects of this marauding spirit; and yet the distinguished gentleman from Mississippi, [Mr. QUITMAN,] and other gentlemen here, would have us encourage that spirit instead of restraining it. If our neutrality laws, as they now exist, cannot restrain men in this country from doing what they ought not to do, from committing unlawful acts, in the name of common sense what will they do if the restraints of the existing laws are removed?

Mr. QUITMAN. I challenge the gentleman to refer to a single word that I have ever uttered approving of a marauding spirit, or approving of illegal transactions. And it is a very remarkable fact, Mr. Chairman, in regard to the relations existing between us and the Central American States, that the very State which could complain of marauding expeditions having been sent against it from this country—I refer to Nicaragua—is now upon terms of greater amity with the United States than another State against which such expeditions have never been directed—I refer to Paraguay. The President has informed us that we are upon terms of hostility with that State, against which no expeditions have ever been directed from the United States.

But, sir, I merely rose for the purpose of saying that I have never, here or elsewhere, in any speech, advocated, and that I do not now advocate, a marauding spirit or any violation of the law of nations. But the gentleman from New Jersey has not looked into the law of nations, if he deduces from it a support for the neutrality law of 1818, for that act is in almost every feature violative of the law of nations.

Mr. ADRAIN. It may be that I have not examined the subject with sufficient care, and I may not be as well acquainted with it as the distinguished gentleman from Mississippi; but I am satisfied of one thing—that it is the bounden duty of Government not to annul the neutrality laws of the country, but, if anything, to increase them and make them more stringent. I do not wish, nor do I intend, to misrepresent the gentleman. Far from it. I was merely arguing from the position which he took in regard to the neutrality laws. I certainly understood him to disapprove of them; and the very fact of his moving to refer this subject to a special committee, was an evidence that he did not wish it to go to the Judiciary Committee; that he had some specific purpose, and that that purpose was to have a special committee raised to carry out his peculiar views.

Mr. Chairman, it has been proposed here, upon this floor—and I must say that it struck me with great astonishment—that we should send General Walker and his men back to Nicaragua. It is said that Commodore Paulding did an illegal act when he arrested General Walker, and sent him back to this country. It may be so. That act may have been illegal; the commodore may have gone beyond the line of his instructions. When we have all the facts and the law from the President, as I hope we will have in a few days, we will then fully understand whether he went beyond his instructions or not.

But suppose he did; suppose he had no right to bring General Walker back, under his instructions: are we to send Walker and his men back again, when the President says they went out on an unlawful predatory expedition, and that their acts were acts of murder and robbery? Why, sir, by so doing this Government would indorse those acts of robbery and murder. Are we prepared to do that? Will this Government do that? Because Commodore Paulding, in his zeal for the interests of his country, and his love and respect for our Government, has exceeded the letter of his instructions, are we to sanction or countenance proceedings which the President has condemned in his message?

Suppose, now, that we send Walker and his men back: I say that if this Government should take such a step, it would give the Nicaraguan Government direct cause for war, and it might actually lead to war. Suppose Walker and his men are sent down there in one of our national

ships, under our national flag, and when about to land are met by an opposing force: what then? We have resolved to send them back, and that opposing force refuses to permit them to come back. To fulfill our pledge to Walker, we must carry him and his men through, and plant them in the very position from which they were taken; and do not gentlemen see at once the consequences which would flow from that act?

I am not willing, Mr. Chairman, as a general rule, to allow either our civil or military officers to transcend their duty or go beyond the line of their instructions; but there may be circumstances in a particular case which will palliate if not justify their conduct in doing so. What did Commodore Paulding do? Why, he did the very thing that the Government wanted done. I do not mean to say that the Government wanted Commodore Paulding to lay his hand upon Walker and his men upon a foreign soil, but it wanted this expedition broken up; it wanted to stop the depredations of Walker and his men upon the rights and property of States with which we are at peace. I say, therefore, that Commodore Paulding did the very thing that the Government wanted done, so far as the results were concerned; and in doing that he did an act which will be approved, as I conceive, so far as those results are concerned, by the Government and by a large majority of the people of this country. I am not ready to condemn one of the bravest and most gallant commanders in our Navy for such an act. His motives were good. His intentions were right. He knew what the Government wanted, and he wished to accomplish it. It was accomplished. Walker and his men are back in this country; and I pray God that he may never get away from it again, but that such restraints may be put upon him as will make him obey the neutrality laws, as he pledged himself to do.

Mr. KEITT. I wish to ask the gentleman from New Jersey one question. He says that Commodore Paulding knew what the Government wanted.

Mr. ADRAIN. I beg the gentleman's pardon. That is not what I said. I said that Commodore Paulding knew what the Government wanted, as far as his instructions would indicate.

Mr. KEITT. How did he know what the Government wanted?

Mr. ADRAIN. He knew that the Government wanted a stop put to these marauding expeditions. That he knew.

Mr. KEITT. Did he know that the Government wanted him to arrest Walker and his men on the island of Punta Arenas, and bring them back to this country?

Mr. ADRAIN. No, sir. He did not know it; and he admits in his letter, like a brave, frank man, that he went beyond the line of his instructions. He assumed the whole responsibility himself. But, sir, he is not the first man who has taken the responsibility of going beyond the line of his duty. We have the example of General Jackson, the brave and illustrious old hero, out of respect to whose memory this House has just passed a resolution for an adjournment until Monday next. Sir, that glorious old hero loved to assume responsibilities, and the country admired and rewarded him for it.

I feel, Mr. Chairman, much interest in the progress of free principles. I did not hear very distinctly the gentleman who last addressed the House, [Mr. THAYER,] but I have no doubt he made a very able speech from what I did hear. I am as much interested in the spread of free and liberal principles as that gentleman or any gentleman upon this floor, but it must be done in the right way. Gentlemen may entertain different views as to what is the right way; and according to the theory and genius of our institutions each man has the right to think and act for himself. Other gentlemen claim that privilege, and I trust I shall be allowed to exercise the same privilege for myself. Therefore, I say that if free and liberal principles are to go abroad, are to be disseminated—if free Governments are to be established in other countries where they do not exist now, it is not to be done by fire and sword, but by the peaceful example of our own free and enlightened Government. Our Government is a Government of peace. Our Government is a Government which endeavors to avoid entangling alliances with foreign Powers, and to give them no just cause of

offense. We wish to adopt the great principles of morality and humanity towards other nations, so that they may see that we are a just and an honest people. If we are not, then our Government is not fit to be imitated. Therefore, I am against the spread of free principles—against the Americanization of Central America, in any other way than by peaceful emigration. That is the way which is proposed by the President of the United States, and it is the only legitimate way. It is the only way compatible with the neutrality laws of the Government, founded upon the great law of nations. I care not how many men may emigrate to Central America and settle there, if they please. The gentleman from Massachusetts, who has talked so much about emigration, if he pleases to emigrate there peacefully and quietly, may go; though, from the specimen of a speech which he gave us to-day, I should regret that we would not have another opportunity to hear further from him.

Mr. Chairman, it is a fortunate circumstance that this discussion has arisen in regard to the neutrality laws of this country. I had supposed, at first, when this subject was introduced, that it was premature. I thought it would have been better to wait until the President had given us the necessary information upon the subject, in answer to the resolutions which the House has passed. But, I do not think that it is premature to discuss the neutrality laws, or to meet the great question of raising these military expeditions to go out from our midst and prey upon the lives and property of our neighbors; I am as desirous as the gentleman from Mississippi, or any other gentleman, can be, that these questions should be met, and met soon; and that the voice of this Congress, and the voice of this nation should be heard upon this subject.

I regretted very much to hear the gentleman from New York, [Mr. HASKIN,] who spoke yesterday upon this subject, go, as it seemed to me he did, a little too far in stating the opinions of the northern Democracy in relation to Walker and his followers. That gentleman took the ground, as I understood him, of opposition to all such private enterprises. He was opposed to Walker and his men going out in the way they did; but he countenanced such expeditions upon the part of the Government; in other words, he was opposed to petit larceny, but was in favor of grand larceny. I hold in my hand his reported speech, which represents him as uttering these sentiments. Sir, if they are his sentiments, they are not the sentiments of the Democracy of the North. They are not the sentiments of the people of my district, or of my State. We are an honest people. We believe in morality and justice. We have been brought up to be honest. We do not believe in grand larceny any more than we do in petit larceny, and I know my colleagues will concur with me in the sentiments which I utter. We are opposed to individuals taking the lives or property of others, and we are opposed to the Government doing the same thing. I do not concur with the gentleman in recommending the Government to follow the example of England. England has not furnished us an example which, I think, we should follow. She has not adhered to the great law of nations. She has committed depredations upon the rights of others which have disgraced her in the eyes of all nations, and ought to disgrace her. I am not willing that this Government should copy the example of England, or any example which is not in accordance with the principles of right, justice, and humanity.

Mr. Chairman, I will not trouble the committee further. I have already extended my remarks further than I intended. I feel a deep interest in this subject. It is an interest which every American citizen ought to feel, and it is an interest which is taken by the Government itself. The President of the United States, in his message, says:

"It is one of the first and highest duties of an independent State, in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects. The most eminent writers on public law do not hesitate to denounce such hostile acts as robbery and murder."

Those are the sentiments of the President. They are right sentiments, and I am willing to sustain him in them. I believe that this House and the whole country will sustain him. And when this matter is reported back, as it will be, from

the Committee on the Judiciary, I hope that we will have such laws passed as will define specifically the duties of American citizens, giving them the rights which justly belong to them, and depriving them of the power of committing the mischiefs which, the President in his message says, are great wrongs of robbery and murder.

KANSAS AFFAIRS.

Mr. WASHBURN, of Maine. Mr. Chairman, I have nothing to say at this time about the neutrality laws or William Walker. I shall speak to-day of Kansas and the Lecompton constitution. On the 30th day of May, A. D. 1854, the memorable act, entitled "An act to organize the Territories of Nebraska and Kansas," was passed by the Congress of the United States. Among its provisions was the following:

"That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void: it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery."

The principle involved in this denial to Congress of the power and duty, under the Constitution, to legislate in respect to slavery in the Territories—to its inventor, (for it was a new thing under the sun,) the present Secretary of State, if not to the country, the direful spring of unnumbered woes—was founded upon the assumption that with the people of the Territories resided the right to manage their own affairs, to regulate their social, domestic, and local concerns in their own way; and that this right had been practically conceded to them in reference to all local and domestic questions but one—that of slavery. And it was maintained that the intervention of Congress in respect to this single question of slavery was invidious, unjust, and unconstitutional, and ought to be terminated by a solemn declaration and abnegation by Congress; so that, hereafter, in all sections of the country, it should be distinctly understood that the people of all the Territories are to be left "to form and regulate their domestic institutions"—*all of them*—"in their own way;" that they should be as free to decide in reference to slavery as any other of these questions, and be governed by one and the same rule concerning all of them. To show that I have stated correctly the grounds upon which this provision of the Kansas-Nebraska act was advocated or defended by those who voted for it, I will read some brief extracts from the speeches of leading Democrats, made in Congress while this measure was pending before that body; and I may properly commence with the distinguished chairman of the Committee on Territories in the Senate, the Senator from Illinois. Judge DOUGLAS, repeating what he had said on a previous occasion, spoke as follows:

"The position that I have ever taken has been that this, [the slavery question,] and all other questions relating to the domestic affairs and domestic policy of the Territories, ought to be left to the decision of the people themselves, and that we ought to be content with whatever way they would decide the question, because they have a much deeper interest in these matters than we have; and know much better what institutions suit them than we, who have never been there, can decide for them."

The Secretary of State, General Cass, then a Senator from Michigan, exultingly hailed the triumph of "squatter sovereignty," when the Nebraska bill passed the Senate. He had previously made an elaborate speech in its favor, in which he labored to prove that the people of the Territories, as well as of the States, ought to be permitted to determine for themselves in regard to all their local institutions. He said:

"We know we cannot touch their domestic hearths, nor their domestic altars; their family and social relations; their wives nor their children; their men-servants nor their maid-servants; their houses, their farms, nor their property, without a gross violation of the inalienable rights of man, consecrated by the blood of our fathers, and hallowed by the affections of their sons."

The gentleman from Georgia, [Mr. STEPHENS,]

it will be remembered, took an active and leading part in engineering this bill through the House of Representatives. That you may understand why he desired it might become a law, I will read a short passage from a speech which he made in this House on the 17th of February, 1854:

"And where do you, calling yourselves Democrats from the North, stand upon this great question of popular rights? Do you consider it Democratic to exercise the high prerogative of stifling the voice of the adventurous pioneer, and restricting his suffrage in a matter concerning his own interest, happiness, and government, which he is much more capable of deciding than you are? As for myself and the friends of the Nebraska bill, we think that our fellow-citizens who go to the frontier, penetrate the wilderness, cut down the forests, till the soil, erect school-houses and churches; extend civilization, and lay the foundation of future States and Empires, do not lose, by their change of place in hope of bettering their condition, either their capacity for self-government, or their just rights to exercise it, conformably to the Constitution of the United States."

"We of the South are willing that they should exercise it upon the subject of the condition of the African race among them, AS WELL AS UPON OTHER QUESTIONS OF DOMESTIC POLICY."

Such, sir, were the arguments and considerations upon which the friends of the Nebraska bill urged its adoption by Congress. There were, to be sure, a few gentlemen in both Houses who supported the measure on different grounds; who repudiated and scouted the doctrine of popular sovereignty as advocated by the gentlemen from whose speeches I have quoted; but they were not the active and efficient men upon whose efforts its success depended, although they may have been the parties who compelled its introduction. And I assert, without fear of contradiction from any intelligent quarter, that the avowed purpose for which the Nebraska bill, in the shape which it finally assumed, was enrolled upon the statute-book of the United States, was to assure to the people of the Territories the right to make such rules and regulations, laws and ordinances, affecting their domestic interests and systems, of whatever character, as they should see fit. Were it necessary to fortify this allegation by additional testimony to the same effect with that which I have adduced, it could be found in more than fifty speeches filling the columns of the Appendix to the Congressional Globe for the first session of the Thirty-Third Congress.

Such were the reasons assigned for the enactment of this law by its influential and efficient friends; and to those of their number who, by their subsequent action in attempting in good faith to secure to the people the untrammelled exercise of this right, prove that they were really actuated by the motives which they professed, we may yield our respect, while we must continue to lament that they should have fallen into errors so grave and so vital. The design of the section of the bill which I have read was not, as the President would imply, in giving the people of the Territories of Kansas and Nebraska the power to vote on the question of slavery, to deprive them of the opportunity to vote on other questions of domestic interest; but that the right which it was assumed they already possessed and had long enjoyed, to act on these questions, should be extended to the question of slavery. And from the premises of the Senators and Representatives upon whose labors the incorporation of this section into the Kansas-Nebraska act in the main depended, an argument in its favor of very considerable plausibility was founded; and the only argument that had any influence in reconciling the northern Democracy to the abrogation of the Missouri compromise.

Thus, I think, I have shown, that if the members of Congress who voted for the Nebraska bill knew what they were about, the President is very much in error in asserting that its provisions do not contemplate the same submission to the people of all questions of interest to them, that he says is required in respect to the slavery question.

The opponents of this act denied that the people of the Territories possessed the absolute and exclusive right of legislation in regard to their domestic affairs. They did not yield their assent to the arguments to which I have referred, for they did not understand that the people of the Territories possessed any legislative powers as of unconditional right. They believed that Congress might, if it saw proper, make all the laws and regulations for the Territories of the United States, so long as they should remain Territories. So far as the question of constitutional power to legis-

late for these inchoate political communities was concerned, they never doubted that it was vested in the Congress of the United States; and they knew that this opinion had never been questioned, from the foundation of the Government down to 1847; that it had been expressly affirmed and acted upon by all the departments of the Government—by all Presidents, Cabinets, and Congresses—during a period of sixty years; and had many times and often, and with great earnestness, been propounded as the true doctrine, even by those who were then laboring so zealously for its overthrow; and particularly did they remember that the Supreme Court of the United States, while the great and guiding mind of Marshall presided over its deliberations, had decided specifically, in the leading case of the American and Ocean Insurance Company *vs.* Canter, (1 Pet. s. 11.) that Congress had full, plenary, and exclusive legislative power over the Territories; and let me remark that they will not overlook the fact now—and to it I beg to call the particular attention of the House—that this opinion has recently been sustained by the same tribunal, in the most emphatic manner, in the celebrated case of *Dred Scott vs. Sanford*, in which it is expressly stated that Congress has general power to legislate for the Territories. So that if there were no constitutional inhibition in reference to the exclusion of slavery, its legislation in the passage of the Missouri compromise would have been rightful and valid. The Supreme Court agree with the Republicans in denying the doctrine of popular sovereignty in the Territories, as asserted by the ostensible authors and most active promoters of the Nebraska act, and in affirming the power of Congress to make laws for the government of these incipient States, in all cases and for all purposes, except in so far as it is restrained by the Constitution. That I do not err in this statement, appears from the following extract from the opinion of Chief Justice Taney, in the case of *Scott vs. Sanford*:

"It is thus clear from the whole opinion on this point, that the court [in *Insurance Company vs. Canter*] did not mean to decide whether the power [to govern the Territories] was derived from the clause in the Constitution, or was the necessary consequence of the right to acquire. *They do decide that the power in Congress is unquestionable, and in this we entirely concur, and nothing will be found in this opinion to the contrary.* 'The power stands firmly on the latter alternative put by the Court—that is, as 'the inevitable consequence of the right to acquire territory.'"

So much for the Nicholson letter! So much for "squatter sovereignty!"

It will be seen that the court fully agree with the Republicans in repudiating, root and branch, length and breadth, the dogma of popular sovereignty; but differ from them in holding that the Constitution has forbidden the interference of Congress for the restriction of slavery. The Republicans, maintaining the existence of this general power in Congress, insist that it extends to all proper subjects of legislation in the Territories—the question of slavery included. And they agree with Senator Douglas and General Cass, that it has no more power over slavery than it has over other questions of domestic policy and interest.

Mr. Chairman, the position of the Republicans is this: that the people who voluntarily remove to our Territories, do so with a full knowledge that until the time shall come for the admission of the Territories as States, as provided by the Constitution, they are liable to be governed by such laws and regulations as may be provided for them by Congress; and this liability arises, they hold, as well from the express language of the Constitution as from the direct and unavoidable implication in which it has been discovered by the Supreme Court.

And not only has this view of the powers of Congress been entertained by all branches of the Government down to a recent period, including the Supreme Court from the day of its organization to the present, but it has also been recognized in this very case by the friends of popular sovereignty themselves; for they, and all of them, in their votes on the Nebraska bill, which provided for the organization of the Territories on such conditions and with such powers as Congress saw fit to incorporate and confer, denied to the people, in the most direct and unequivocal manner, that right of self-government which they had so loudly vaunted. They hampered them by restrictions wholly incompatible with the idea that they were to be "perfectly free" "to form their own institu-

tions in their own way," from one end of the bill to the other; by provisions relating to the appointment of the executive, judicial, and ministerial officers of the Territories, defining the scope of the legislative powers of these communities, and subjecting their enactments to the qualified veto of an officer of the Federal Government; and by recognizing an absolute necessity for congressional intervention before any sort of a territorial organization could take place. If the Territories may be, and must be, called into existence by Congress, Congress, the creator, may impose such conditions and restrictions, under the Federal Constitution, as it may deem proper.

But the Republicans hold, that although the legislative power resides, and of necessity must reside, in Congress, it may be committed by the latter, in whole, or in part, into the hands of the people of the Territories; or, in other words, that Congress may govern through the instrumentality of Territorial Legislatures, whose action being subject to its approval or rejection, becomes, in effect, the action of that body. They also believe that it is wise and expedient to delegate to the people of the Territories the power to make, or rather to initiate, the laws and regulations in regard to such matters, systems, and institutions as are purely local, and affect only themselves; but that there are subjects, not of a merely local character, which should be reserved for the exclusive legislation of Congress. Of such was the question of slavery, or no slavery, in Kansas; as it affected, not only the people of that Territory, but also of all the States, the interest and welfare, the peace and prosperity of all.

It was a question in which the people of Maine and the people of Texas were interested. The people of Maine believe that their interests are affected unfavorably by any act which extends slavery and enlarges its power in the country and in Congress, gives to the Representatives of servile labor increased power to protect and promote the particular and special interests of those who live upon such labor at the expense, and it may be to the destruction, of free labor—of labor that owns itself and claims the right to protect itself as vital and sacred. And so they said to their Representatives in 1820, and have said to them ever since, while in all matters affecting the people of the Territories alone, it will be well for you to allow them to make their own laws, in those which concern not only them, but us also, reserve the power to yourselves and to us, whose agents you are, that our rights may be preserved and our interests protected. Grant not the power to the enemies of our institutions—the Mormons for example—to go on to our own territory, purchased by our blood or treasure, or both, and there establish schemes and systems of wrong and immorality and violence, discreditable to the age, and disgraceful to the country, and which, if not checked will undermine the institutions of Christianity and civilization, which are at once the buttments and defenses of republican liberty.

Upon this point I rejoice to be able to bring to my support the opinion of one of the wisest men the Republic has ever known, and whose authority in a question of this character yields to that of no other name. I refer to James Madison, from whose writings I read thus:

"Every addition the States receive to their number of slaves tends to weaken and render them less capable of self-defense. In case of hostilities with foreign nations, they will be the means of inviting attack instead of repelling invasion. It is a necessary duty of the General Government to protect every part of their confines against dangers, as well internal as external. Everything, therefore, which tends to increase danger, though it be a local affair, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the Government."

Mr. Chairman, for these reasons, the representatives from Maine, in both branches of the National Legislature, with a single exception, opposed the passage of the Nebraska bill. Not only were they persuaded that Congress had power to pass the Missouri restriction, and that it was an exercise of authority as wise as it was legitimate, but they were impressed with the conviction that solemn and peculiar obligations and guarantees were attached to it which should have prevented its violation. And they could each of them well say with General Cass, in the speech which he made in favor of its repeal:

"I had no design whatever to take such a step, [to annul the Missouri compromise,] and thus recuscitate from its

quietude a deed of conciliation which had done its work, and done it well, and which was hallowed by patriotism, by success, and by association with great names now transferred to history. It belonged to a past generation; and in the midst of a political tempest, which appalled the wisest and the firmest in the land, it had said to the waves of agitation, 'Peace, be still;' and they became still. It would have been better, in my opinion, never to have disturbed its slumber, as all useful and practical objects could have been obtained without it."

Further, they opposed the bill because they perceived that although it was to be passed for the alleged purpose of according to the people of the Territory the right of self-government, this right—so to call it—was, in fact, withheld and denied, and because they saw clearly that the prime movers (I will not say the skillful engineers) of the bill neither desired nor intended to have this dogma of popular sovereignty established. The enemies of the bill said that these men were, in a very quiet and cautious manner, keeping themselves in position to deny and ridicule this doctrine whenever, in the ripening of events, it should be for their interest to do so; and that, in permitting the bill to pass as it did, they only desired to remove a great practical obstruction to the spread of slavery, with a view to the ultimate nationalizing of the system, and making its security, protection, and prosperity, the one great, central, national idea, in the policy and the politics of the country; and they did not doubt that if these men—those who, since the death of General Jackson, had dictated the policy of the Democratic party of the nation—should be successful in the work then in hand, they would labor with increased vigor and confidence for the consummation of their ulterior purposes. And in this connection I hope I may be permitted, as matter of history and in confirmation, to some extent, of what I have now said, to read from a speech which I had the honor to make in this House while the Nebraska bill was pending before it:

"Well, sir, as I have said, the drama of non-intervention, after this one performance, will be removed from the stage forever. As we sometimes read on the bills, it is 'positively for one night only.' Whether it shall accomplish the abrogation of the Missouri compromise or not, it will have filled its destiny. In the former case, it will be thrown overboard by the South as a thing for which they never had any respect, and now have no further use. Then we shall hear that the time has come for the incineration of the true doctrine: 'The North is sufficiently weakened and humbled; the country is ready for it; let it be proclaimed everywhere, that the Constitution of the United States, *proprio vigore*, carries slavery wherever the flag of the Union flies.' It carries it, we shall be told, into the Territories, and neither Congress nor the local Legislatures, nor both combined, can restrain its march, for the Constitution is above both, is the supreme law of the land. Ay, and carries it into all the States, for neither State laws nor State constitutions can exclude the enjoyment of a right guaranteed by the Constitution of the Federal Government. This, sir, is the doctrine with which we shall be vigorously pressed if this bill is carried. Already has it been more than hinted, and whoever has noticed the advanced ground which slavery occupies now, compared with that on which it rested in 1850, will not be slow to believe it."

"I will here ask your attention to the fact, which I meant to have noticed before, that Senator HUNTER, of Virginia, the gentleman from North Carolina, [Mr. CLAYMAN,] and nearly all southern gentlemen who have spoken on this subject, and have in any manner recognized the doctrine of non-intervention, are careful to limit the right of the people of the Territories to legislate for themselves, by the Constitution of the United States; and that they hold that the Constitution forbids all territorial legislation for the prohibition of slavery."

"And in this connection let me remark, what you must have observed, that in the debate which took place in the Senate a few days ago on the Badger amendment, it was distinctly stated by southern Senators, that in the event of future acquisitions of territory, no implication was to be drawn from this bill that the people of such territory should be allowed to decide for themselves the question of the admission of slavery."

"In view of these facts, northern gentlemen will perceive how transcendently important it is for them to make, while they are yet able, a successful stand against the aggressions of the slave power."

It required no extraordinary degree of foresight to predict what would follow the repeal of the Missouri compromise. The slaveholding oligarchy might use popular sovereignty for a special purpose; but for them, as a principle of general application, it was not entirely safe. They had discovered that their system of servile labor was one which required continual bracing and strengthening. It is in its nature, as all things false and violent are, self-destructive. It must have scope and room for expansion, or it dies; blasting the earth wherever it treads, it must have "fresh woods and pastures new," or it starves. It must be protected from without, and its defenses and supports must be placed beyond the contingencies of public opinion, and out of the reach of ordinary

assault; therefore, it must be guarded by constitutional sanctions. Hence the Dred Scott opinion—interpreted by President Buchanan, in his letter to Professor Silliman and others, as containing the doctrine, as it undoubtedly does, that the Constitution of the United States affixes, in certain cases, to persons of African descent, the character of property—stamps them with the mark of chattels. If this be sound doctrine, it is plain that the Constitution carries slavery, not only into the Territories, but into the States; for whatever it makes property, no State law or constitution can declare shall not be property.

Sir, this is a monstrous doctrine; and that it is necessary to be maintained, only proves the mischievous and desperate character of the system for whose protection it is invoked. If it is the true doctrine, then was the Constitution ordained not to secure the "blessings of liberty" to the people of this country, but to fix upon them forever a system regarded by its framers, and all the early statesmen, as without foundation in natural right or sound policy; then must it be admitted that the great end and object of the Constitution was to establish or protect slavery everywhere within the range of its operations. For if it recognizes, and was intended to recognize, property in slaves to such an extent that it is not within the power of a State (or Territory) by its laws, to forbid the existence of this relation within its own jurisdiction, it does, in regard to property in slaves, what it has never been understood to effect in respect to property in anything else—it makes a fundamental distinction between slave property and all other kinds of property. It has never been held that the Constitution gives to horses, oxen, carriages, or anything else, the character of property, in the sense in which it is understood by the President and by the Supreme Court to affix that character to negroes held to service. The legislative power of a State or Territory may, without doubt, declare that there shall be no property in liquors of domestic manufacture, in bank notes, in horses, in carriages without wheels or with wheels or with wide wheels or narrow wheels, or in oxen, as I am informed the Legislature of Missouri has already done. Nobody, I presume, questions the existence of this power in the States. It is exercised by them every day. Deny it to them, and they are deprived of one of their most important functions. What power but that of the people of the several States can decide what shall be treated as property within their respective jurisdictions? Shall the Federal Government exercise this power? If so, whence is it derived? Does the Constitution declare what is property in New York or Pennsylvania? If so, what becomes of the police powers of the States? No, sir; this right to declare what may be held and recognized as property exists in the several States, each for itself, and nowhere else.

Mr. Chairman, notwithstanding these and other objections on the part of the true friends of self-government and of the Constitution, the Nebraska bill became a law, and the Missouri compromise was abrogated and destroyed. The opponents of slavery extension were beaten, but their responsibilities to the Territories, to the country, and to the cause of human nature, did not cease with this defeat. An opportunity to labor for the preservation of the Territories remained; and duty and consistency alike enjoined upon them the obligation of taking care, so far as they had the power, that the act for organizing the Territories of Nebraska and Kansas should be honestly executed. They could not restore the Missouri compromise—they attempted to do it in the last Congress and failed—but they could say to the Democratic party, you have passed this bill for the avowed purpose of enabling the people of these Territories to decide for themselves in reference to slavery as well as other questions of interest to them; we fear that some of your number are determined that they shall not do so unless they decide in a particular way. To you, therefore, who really believed in what you called popular sovereignty, and who in good faith promoted the passage of this law for the reasons which you urged with so much earnestness and persistency, we look to take care that what you alleged were its genuine objects, shall be faithfully carried out; and as the best, and as all that we can now do, we pledge ourselves to act with you, if you will

permit it, and if not, to act without you, in honest purpose, to secure to the people of these new communities an opportunity to exclude slavery therefrom if they shall so desire. You were pledged to protect them in the exercise of this grant, or right, if you please to call it so—pledged by your speeches, your resolutions, your presses, by the messages of your late, and the inaugural address of your present President. But, sir, in what way have these pledges been kept, and to what extent have you been permitted to keep them?

It is not necessary for my present purpose that I should recall to your notice the operations of the "border ruffians" in Kansas in 1854, when a Delegate was first sent to this House from that Territory, chosen by the votes of some twelve or fourteen hundred non-residents, men who had no better right to vote there than you had; in 1855, when a Legislature was imposed upon that people by citizens of Missouri and other slave States, who, to the number of more than four thousand eight hundred, invaded the Territory of Kansas and claimed and exercised the privilege of voting, and by their votes elected a large majority, if not all, of the members of that body; in 1856, a year stained by the record of crimes and atrocities in that unhappy Territory, so monstrous and so strange that history will set it apart for its bad eminence from all other years in the roll of many centuries. But I will come down to the present year and to what has transpired under the administration of Mr. Buchanan. And, sir, I regret to say that I am compelled to believe that this Administration has never intended that the people of Kansas should be permitted to decide for themselves in respect to the question of slavery. At the same time that I say this, in deepest sorrow and because I must say it if I speak the truth, I rejoice with exceeding joy in the manifestation, in influential quarters, of a fixed and unchangeable purpose to see that what were urged as the true principles of the Nebraska bill shall be respected and carried out at all hazards.

But to return to the Administration. I have said, in effect, that I do not believe that the Administration ever intended that Kansas should be a free State, let the wishes of her people be what they might. And for this belief I am prepared to give my reasons. Men and Governments are to be known by their actions, rather than by their professions. Soon after the inauguration of Mr. Buchanan, the question "who shall hold the offices for and in Kansas?" claimed the attention of the Administration. Governor Geary, who, it was understood, was in favor of popular sovereignty, so called, intimated, it is said, his willingness to continue in office as Governor, if he could be allowed to employ all the proper means necessary to protect the people in the exercise of their rights. But no, this was not to be thought of; and a distinguished gentleman from Mississippi in whom, from his residence in the South, and his known views upon the subject of slavery, it was supposed, no doubt, that full confidence might be reposed by the propagandists, was appointed in the place of Governor Geary. For the subordinate offices in the Territory the most extreme and notorious pro-slavery men were selected—in some instances, men who had been most unscrupulous and violent in their efforts to defeat the popular will; even men who had been the leading spirits in those deeds of inhumanity and blasphemy which made the land shudder, and whose arms were red to the shoulders with the blood of their murdered victims.

It is true, the Administration promised the people of Kansas that they should have an honest vote at their elections. How was this promise fulfilled? To say nothing of the election of members of the constitutional convention, to which I shall have occasion to allude hereafter, let me call your attention to the election of members of the Territorial Legislature. When it had been demonstrated to the satisfaction of the Governor and Secretary of Kansas that the most palpable and stupid frauds had been perpetrated in McGee and Johnson counties, by which the majority of the Legislature would be given to the slave-State men—frauds so patent that the President himself did not doubt their existence, and the Governor and Secretary, as fair men, could not help rejecting the votes returned through these frauds, whereby the free-State men were placed in the majority in the Legislature—what did the President do? Approve

and commend the course of Governor Walker and Secretary Stanton in performing their duty, and seeing that the rights of the people to govern themselves, so far as delegated by the organic act, were not destroyed by fraud? No; but if all rumor be correct, he had for them nothing but frowns and reproaches. Now, if Governor Walker had been more faithful to the Administration, and less true to the people and his own promises, and had given certificates to the pro-slavery claimants in Johnson and McGee, it would not have been difficult, under the forms and pretenses of an adherence to the doctrine of popular sovereignty, to have brought Kansas into the Union as a slave State. But when this election was lost all was lost, and the pretexts even of popular sovereignty were as good as dismissed forever.

Now come to a consideration of the Lecompton constitution and the President's message. The Constitution of the United States provides that Congress may admit new States into the Union. The very language used implies the exercise of a discretion in Congress; it ought to be, no doubt, a wise, honest, just discretion. I do not understand from the Constitution, or from the practice of Congress, that any particular form of application is necessary. Whenever the judgments and consciences of Senators and Representatives are satisfied that the people of a Territory having a sufficient population desire to be admitted into the Union as a State, and they present themselves with a constitution providing for a republican form of government, and which does no injustice to other States, which contains nothing immoral, indecent, or greatly wrong, it is the duty of Congress to grant the prayer of their petition. But if the constitution presented does not provide for a republican form of government; if it contains provisions which are manifestly unjust to other States; if its provisions are indecent and immoral, although they may not be regarded as strictly inconsistent with the idea of a republican form of government; or if the members of Congress believe, and from the evidence must believe, that it is not in accordance with the wishes of a majority of the people; if they know, as well as anything of the kind can be known, that the majority of the people are opposed to it and would vote against it if they had a chance, it is their duty to vote against the admission of a State with such a constitution and under such circumstances. I should do it. I will not vote to drag a people into the Union against their will, if I know their will, and under a constitution which is not theirs. I have no right to do so. In thus voting I would abuse the power vested in me as much as I should if I were to vote against the admission of a State which should present a petition for admission accompanied by a just and republican constitution, and should have the best reason to know that it was the wish of the great majority of the people that she should be admitted.

I shall not look to forms and technicalities, but to the substance, in such cases. I would not consider an enabling act by Congress, or an act of the Territorial Legislature, necessary in any case to authorize the people to ask for admission as a State. Should a Territory having the requisite population desire admission as a State, and a respectable number of her citizens issue a call for an election at which the judgment of the people could be taken whether they would have a State government, and it should be made to appear to my mind that a majority of the people desired the formation of such a government, and should these people provide for an election of delegates to a convention to form a constitution, and elections be held under such call, and the people vote thereat and elect delegates, and these meet in convention and frame a proper and republican constitution, and submit it to the people, by a clear majority of whom it should be ratified, and I should perceive that all things were done honestly and in good faith, can there be the slightest doubt that it would be both my right and duty, under such circumstances, to vote for her admission as a State? On the other hand, if a constitution should be sent here under the authority of forty enabling acts or territorial acts, and the evidence should be of such character as to enforce the conviction that the people had never made that constitution nor asked for admission under it; that it had been carried by fraud and violence over their heads, and was sent here, that a gov-

ernment might be made for them which they would abhor and detest, I would have no right to vote for the admission, and no power on earth should compel me to vote for it. How poor and pitiful is all the talk about records and enabling acts, and territorial acts, and proceedings regular in form, and legal bodies, when you know in your heart what the people want and what they do not want, and are required to act under a constitution which clothes you with a discretion in just such cases, and calls upon you to exercise it wisely and honestly!

And now, sir, how is it with this Lecompton constitution? Let us see whether, in the action of the convention which formed it, and of the President subsequent to its formation, we have no evidence in confirmation of the opinion I have had the honor to express in respect to the designs of the Federal Executive; and also let us observe how sadly the expectations of the real friends of popular sovereignty must have been disappointed in the Administration, which could not have had an existence but for their almost superhuman exertions.

Let us consider, in the first place, as to the constitution of this Lecompton convention. The President and his friends contend that it was fairly constituted, and fairly represents the people, and the whole power residing in the people; and, therefore, that it was unnecessary to submit their work—to wit, the constitution which they had framed—to them for their ratification or rejection. He says the law for its constitution "was, in the main, fair and just; and it is to be regretted that all the qualified electors had not registered themselves, and voted under its provisions."

Sir, what are the facts? In answer to this question I will produce no uncertain testimony; and, in the main, will rely upon witnesses whom the President is estopped from impeaching, and whose testimony was in his possession when he made the statement which I have quoted. Let us see what Governor Walker says upon this point in his recent letter to the President:

"That [the Lecompton] convention had vital, not technical defects, in the very substance of its organization under the territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed, the delegates to the convention should be appointed accordingly. In nineteen of these counties there was no census and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters.

"These fifteen counties, including many of the oldest organized counties in the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention."

"Nor could it be said these counties acquiesced; for, wherever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention."

"I repeat, that in nineteen counties out of thirty-four, there was no census. In fifteen counties out of thirty-four there was no registry; and not a solitary vote was given or could be given for delegates to the convention in any one of these counties." Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters in Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent."

The failure to vote, says Governor Walker, who knows what he says, and proves it, was "no fault of their own." Again, in fifteen counties not a "solitary vote could be given;" yet the President regrets that the qualified voters had not registered themselves and voted!

Upon this point Secretary Stanton, who is no free-State man or Republican, but a pro-slavery Democrat, as he himself has told us, says:

"The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory; while in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceedings; in others, the officers neglected or refused to act; and in some, there was but a small population and no efficient organization, enabling the people to secure a representation in the convention."

There was no remedy whatever for these men who had not been registered, as was proved by actual trial. The case is not left to conjecture, but stands on evidence; and here it is, in the memorial and protest of the people of Anderson

county, Kansas. I beg you will all read it; and when you have done so, turn to the President's message, and examine again the clause which I have just read to you:

MEMORIAL AND PROTEST FROM KANSAS.

To the Senate and House of Representatives, in Congress assembled:

The undersigned, citizens of Anderson county, Territory of Kansas, would most respectfully submit the following preamble and resolutions, which were unanimously adopted at a mass convention of the citizens of our county, held at Hyatt, September 15, 1857:

"Whereas, the example of our forefathers has taught us to resist every attempt which may be made to disfranchise us as citizens; and whereas, the districting and apportionment for members of the Territorial Legislature of Kansas shows an unquestionable determination to deprive us of our rights as citizens, in that it provides no representation in either branch of the Legislature in sixteen counties, containing nearly half the population of the Territory—thus placing us in the position of the patriots of the Revolution, who were taxed and refused representation; and whereas, the course pursued by the constitutional convention, at its session at Lecompton last week, in regard to the members elected to represent this county in that convention, indicates that we are not to be allowed a representation in that body, or a voice in regard to its actions: Therefore,

"Resolved, That we, the citizens of Anderson county, approve of the course pursued by the two delegates from our county, in their demand for the return of their certificates from the constitutional convention; and that we protest against the acts of said convention, which we consider to be a denial of our right to be represented, and illegal, on the ground that this and other counties are not represented."

Your petitioners would also present the following, which was unanimously adopted by a convention of delegates representing nineteen counties of the Territory of Kansas, held at the Sac and Fox agency, in said Territory:

"Whereas the apportionment law of the territorial government of Kansas is unjust and unequal, as it nearly disfranchises one half of the population of the Territory of Kansas, giving to nineteen counties only three representatives; and whereas we, the delegates of the said nineteen counties, feel that we have rights equal to our population, and are therefore entitled to a full representation: Therefore,

"Resolved, That we, in behalf of our constituents, protest against the unequal representation awarded to us."

Your petitioners would most respectfully represent that the law of the Legislature of Kansas, "to provide for the taking of a census and the election of delegates to a convention," required—

"Sec. 1. That it shall be the duty of the sheriff of the several counties in Kansas Territory, and they are hereby required, between the 1st day of March and the 1st day of April, 1857, to make an enumeration of all free male inhabitants, citizens of the United States, over twenty-one years of age, and all other white persons actually residing within their respective counties."

Section two provides: "In the case of any vacancy in the office of sheriff, the duties imposed upon such sheriff by this act shall devolve upon and be performed by the judge of the probate court of the county in which such vacancy may exist." And it further provides: "In case the office of both sheriff and probate judge shall be or become vacant, the Governor shall appoint some competent resident of such county to perform such duty."

Section three provides that "the sheriff, probate judge, or person appointed by the Governor, shall file in the office of the probate judge a full list of the legal voters in the county, previous to the 10th day of April, 1857."

Section seven provides that "it shall be the duty of the Governor and Secretary of the Territory, so soon as the census shall be completed and returns made, to proceed to an apportionment of the members for a convention among the different counties and election districts of the Territory."

Your petitioners would most respectfully represent, that "there was no sheriff in this county, from the time of the passage of the census act until the 10th day of April last, the time specified by the law for making the return; and that there was a judge of the probate court, but, from some cause, this officer made no effort to take the census; and that, after the expiration of the time prescribed by law, in the absence of the judge of the probate court, John McDaniel took the census, and returned the same to the executive office." (See report of the committee of convention.)

Your petitioners would further represent, that (in violation of the laws which provided that the apportionment should be made by the Governor and Secretary of the Territory, "so soon as the census shall be completed and the returns made,") the apportionment was made previous, and that this (the county of Anderson) and other counties of Kansas Territory have thereby been excluded from a representation in that convention.

Your petitioners would further represent, that, by extra-official authority from Governor Walker to the judge of Anderson county, after the appointment for delegates was made, an election was held, and Dr. R. Gilpatrick and J. Y. Campbell were elected to represent our county in said convention; and it will appear, from the facts admitted in both reports of the committee of that convention, that we, "the people of Anderson county, are in no way responsible for the failure of being represented in the convention, under our conformity to the Kansas statutes."

Your petitioners would further represent, that the convention assembled at Lecompton, to frame a State constitution, is not a convention of the representatives of the people of Kansas, in that the representatives of this county have not been allowed a seat in said convention, and also that, by an illegal apportionment, other counties have been entirely disfranchised.

Your petitioners would, therefore, most respectfully protest against the adoption of any constitution or act by Congress which may be framed or enacted by said convention. And your petitioners would most humbly pray the Con-

gress of the United States to reject the acts of said convention, and to adopt such laws and measures as they may deem advisable, in order that every bona fide citizen, and every county in the Territory of Kansas, may have a voice in the creation of the State constitution under which they are to live, and by which they are to be governed. And your petitioners, as in duty bound, will ever pray.

Signed by

W. F. M. ARMY,
R. GILPATRICK,
JAMES Y. CAMPBELL,

And about two hundred other voters of Anderson county, Kansas.

Thus it appears conclusively, and from authority which cannot be disputed, that the people of fifteen of the thirty-four counties in the Territory were not and could not be represented in this convention. Nearly one half of the people of the Territory were deprived of the right of being heard in the choice of delegates who were to exercise the highest powers of sovereignty. In one county, it has been seen, in which there was no registry, the people did all they could to be represented in the convention. They held a meeting at which they voted and elected delegates. That these delegates were the choice of the people of the county, and were elected with as much regularity as the circumstances of the case would permit, and that the county was entitled by its population to two delegates, are facts which do not seem to have been disputed. Yet these delegates were not received. If they had been, the whole action of the convention might have been reversed. The constitution was adopted, if I am not misinformed, by a majority of only two votes. If the Anderson delegates, who would have represented as many of the people of Kansas as any two members of the convention, had been allowed to vote, the constitution would have been rejected. They were not permitted to vote; the constitution was adopted, and is claimed to be the sovereign act of the people! It was no such thing. The Lecompton convention did not represent the sovereignty of the people, for it did not emanate from the people; therefore the constitution should have been submitted to them in such manner that, if they did not want it, they could reject it.

But this has not been done. Let us place ourselves where the people of Kansas were on the 21st day of December, and we shall find that they cannot vote upon the constitution made by that convention at all. Nine out of every ten of them may dislike it; they may object seriously, and upon principle, to many of its provisions; they may not like the power to establish a mammoth bank; or they may wish to reserve to the Legislature the power to grant divorces, although I think they would be unwise to do so; but it is their business, and they have a right to be heard on it; they may object to give to Johnson county, with four hundred voters, as large a representation in the Senate as is allotted to Douglas county, with two thousand; they may desire to be permitted to vote for an adopted citizen for Governor, although he may not have been naturalized for the full term of twenty years. But, under the Lecompton schedule, they have no opportunity to vote on any of these questions, or to say, that rather than have the constitution as it is, they will have none. The convention only permits them to say whether slaves may hereafter be taken into the State or not.

The President and his friends in the Senate, Mr. BIGLER and Mr. FRENCH, admit that it was indispensable that the question of slavery should be submitted to the people. But even this was not done. The people are not to say whether they will have slavery or not, but only in what way they will have it; only in reference to the future sources of supply; or, in other words, they are to be allowed to say whether or not they will give to the business of slave breeding, within the State, the advantage of absolute protection against foreign competition. Men must vote a falsehood if they vote at all; for "constitution with no slavery" is slavery to all intents and purposes. Vote any way the people can, and slavery is fixed in the State, and forever, or until the constitution shall be overthrown by a revolution. The increase of the slaves in Kansas is protected by the "constitution with no slavery," and there is no provision by which, under the constitution, any changes can be made, hereafter, to affect the condition of the slaves now within the Territory, and their descendants. Not only till 1864, but to the end of time, is the existence of slavery secured by this constitution. Though

the "constitution with no slavery" be adopted, it will be with the condition "that the right of property in slaves, now in this Territory, shall in no manner be interfered with;" and as it respects the future, under this constitution, it is provided that, after 1864, when the constitution may be altered in all other respects, "no alteration shall be made to affect the rights of property in the ownership of slaves." Thus the people are to be bound, hand and foot, and a few interlopers and miscreants, assembled at Lecompton, in 1857, will control the millions of people who are to inhabit that broad and beautiful land, for ages and ages.

And this is Democracy; the democracy of slavery! This kind of democracy—not that of Washington and Jefferson—is fast disappearing from our section of the country. Men in the free North cannot stand it. They are so much alarmed by its doctrines that they will not only repudiate it for the present and future, but be anxious to prove that they never had anything to do with it their lives long. This democracy of slavery will hereafter be in use only as a warning or a fright, and will operate as effectually to preserve our public domain against the ravages of slavery as the scare-crow set up last summer by one of our down-east farmers did, to protect his cornfield against the depredations of the crows. It was so hideous and terrible, that it not only kept the crows off this year, but frightened them so badly that they brought back the corn they stole last year.

Sir, the "constitution with no slavery" is held by those who ought to know to be the best form of a pro-slavery constitution. See what is said by a correspondent of the Jackson Mississippian, writing from Lecompton, on the 27th of November last:

"Thus you see that whilst, by submitting the question in this form, they are bound to have a ratification of the one or the other, and that while it seems to be an election between a free-State and pro-slavery constitution, it is in fact but a question of the future introduction of slavery that is in controversy; and yet it furnishes our friends in Congress a basis on which to rest their vindication of the admission of Kansas as a State under it into the Union; while they would not have it, sent directly from the convention.

"It is the very best proposition for making Kansas a slave State that was submitted for the consideration of the convention. In addition to what I have stated, it embraces a provision continuing in force all existing laws of the Territory until repealed by the Legislature of the State to be elected under the provisions of this constitution."

The Charleston Mercury entertains similar opinions, as will be seen by the following:

"We are equally satisfied with the action of the convention. We differ, too, with the President as to what is submitted to the vote of the people. We do not think that the question of slavery or no slavery is submitted to the vote of the people. Whether the clause in the constitution is voted out or voted in, slavery exists and has a guaranty in the constitution that it shall not be interfered with; whilst, if the slavery party in Kansas can keep or get the majority of the Legislature, they may open wide the door for the immigration of slaves. But this, also, is a small matter of difference with the President."

It is said that the constitution, in whatever form it may be adopted, can be changed by the people at any time; but this is a mistake. It cannot be changed in any respect until after 1864, and even then in no way affecting the rights of property in slaves. But were it otherwise, and the people were authorized to change it after 1864 in all respects, what sort of a prospect would there be before them? That you may see what the more conservative of the Kansas people think about it, I will read from a recent article in the Herald of Freedom, a paper friendly to Governor Walker:

"Should we be so unfortunate as to be admitted into the Union under that instrument, what then are our chances for getting out of the dilemma? Can we throw off the yoke by revolution? We can try, and, possibly, can triumph. It is possible, too, that we may be defeated, as Federal bayonets, as was the case in Rhode Island, will be at the service of the government recognized by Congress.

"If we are admitted into the Union under that bogus constitution, and Federal troops are used to sustain it, and the people are defeated, what then are our prospects? Let us examine.

"We have then a pro-slavery constitution, in the hands of pro-slavery officers, with every avenue for the people to change that government closed against us. Every officer of the government is out of our hands, and beyond our reach. The Governor and Lieutenant Governor will hold their office two years; the members of the House of Representatives two years; and of the Senate, four years; the judiciary for six years; and so on to the end. The constitution cannot be amended until after 1864. Then it will require at least three years to amend it, which will carry us forward ten years from this time.

"With the whole thing in the hands of the scoundrels who managed the Oxford and McGee frauds, when have we more hopes of success than now?

"If that constitution is adopted by Congress, and the officers are in the hands of the pro-slavery party, then thou-

sands of that party, with their negroes, will pour into Kansas next spring, and they will completely inundate it, like the frogs and lice of Egypt. It will be a slave State forever, and we have not the power to prevent it. The free-State residents, conscious of the withering effects of slavery, will gradually withdraw from the Territory, and the end is only seen with the accursed institution spreading itself, like a malarial, over the entire West. The arm of slavery, strengthened in the United States Senate, will not relax its efforts. On the contrary, it will grow stronger and stronger as years roll on, and gather strength as new slave States are carved out of that region lying around the base of the Rocky Mountains, and in the basin west of it, extending to the shores of the Pacific."

Not only are the people of the Territory deprived of the right of voting against the constitution and defeating it altogether; not only are they denied the privilege of voting for a constitution which prohibits slavery, but the free-State men, who are admitted to compose an overwhelming majority, have no opportunity allowed them to choose between the two pro-slavery forms which were submitted. Their right even to make this choice is dependent on the performance of a condition which, it must have been well known, they cannot do otherwise than reject.

Section nine of the schedule provides as follows:

"Any person offering to vote at the aforesaid election upon said constitution shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution if adopted, under the penalties of perjury under the territorial laws."

Now, sir, under this schedule, the voter knows, when he offers his ballot, that the constitution with slavery may be adopted. He not only has the right to assume, but he does and must assume, that it will be. In this case *may* is equivalent to *must*. He must be prepared to say and swear that he will support the constitution in whichever of the two forms proposed it may be adopted. Suppose it to be accepted "with slavery"—as in fact it has been—and one of its sections will read in these words:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable, as the right of the owner of any property whatever."

Thus the citizen who offers his ballot may be required, before he can deposit it, to swear that he will support and maintain, as a great fundamental truth, as one of the axioms of government, the proposition that the right to hold human beings in slavery, and treat them as dumb, driven cattle, is before and higher than any constitutional sanction; or, in other words, is founded in absolute and eternal justice. All this he must swear, or he cannot vote. It is not enough that he should make oath that he is of lawful age; that he is an American citizen; that he has been a resident of the Territory the term required by law, and is in all respects a qualified voter; but he is esteemed unfit to vote concerning the institutions under which he is to live, unless he will recognize, by an appeal to the God of truth, the baldest, bitterest lie that ever blistered human lips.

Speaking of this system, General Cass said, in his Nebraska speech:

"Slavery is, in my opinion, as I have said more than once before in the Senate, and I have no doubt unacceptably to many, a great evil, social and political."

Henry Clay declared that it could never be defended "so long as the light of reason and the love of liberty remained among men." To the mind of Daniel Webster it was a thing "accursed." Thomas Jefferson denounced the traffic upon which it was founded as "PIRACY" and "THE OPPROBRIUM OF INFIDEL POWERS." Lord Brougham has characterized its fundamental idea as a "wild and guilty fantasy." John Wesley pronounced it "the sum of all villainies." The great master of the drama, who understood so well all the sides and relations of human life, to whose marvelous insight nothing concerning man was impenetrable, speaks of it as "a curse," and as feeding its victims with "distressful bread;" and our blessed Lord and Savior has condemned it in all the lessons of His life, not less than in the memorable words, "All things whatsoever ye would that men should do unto you, do ye even so to them." But now, in the last half of the nineteenth century, in free democratic America, the people are not to be intrusted with the exercise of one of their dearest rights, until they declare that they will maintain, protect, and uphold this system as founded in natural right, so HELP THEM GOD!

And, sir, the free-State men of Kansas must have foreseen that in any possible event, whether

they should attempt to vote or not, a majority of the votes were to be counted and returned for the pro-slavery side. They knew that the men who had counted twelve hundred votes in Oxford precinct, would be ready to do it again if necessary. They saw that the Army, whose protection had been refused them when they had needed it, would be employed to protect voters from abroad, if required. And the event has justified their anticipations. Thirteen hundred votes were given in Oxford, not one hundred of which can be legal; but they are to be considered legal, and no evidence will be permitted to affect their reception. President Pierce in his special message of January 24, 1856, told the free-State men, "it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections either in a State or Territory. To do so, would be subversive of public freedom." Oh, no! the Army may not be used to protect the actual residents and legal voters in 1855 and 1856, who are for free Kansas; but is to be paraded around the polls and the avenues thereto in 1857, to guard the Missourians, who have come over to the Territory on the neighborly errand of voting a constitution for its people, which establishes slavery as an unchangeable system among them.

Mr. Chairman, the "constitution with slavery" was accepted on the 21st of December, by the vote of a meager minority of the actual residents of Kansas. It is to be the organic, fundamental law of that State, unchangeable forever in respect to slavery, as appears from a provision which I have already cited, and will here read again—it is in the section (fourteen) of the schedule which refers to the future amendment of the constitution, and is as follows: "But no alteration shall be made to affect the rights of property in the ownership of slaves." In no way but by revolution can a change be effected in the slavery provisions of this constitution; and should a movement of this kind be resorted to by four fifths of the people, the President stands ready with the Army of the United States to crush it and those who participate in it.

That the people might have voted on the 21st of December, and prevented the adoption of this constitution, is, as I have shown, a palpable and vital error. But, let me repeat, the free-State men, who are admitted on all hands, even by Calhoun and the border ruffians, to be largely in the majority, were excluded from the ballot-box by the oath which I have read; for they could not take that oath and be free-State men. But if no such oath had been interposed, how would the case have stood? The election was under the entire control of the architects of the Oxford and McGee frauds, and those who had procured or connived at the voting of Missourians in previous elections; and the Administration at Washington had, by its rebuke of Governor Walker and Secretary Stanton, for their rejection of false and fraudulent returns, intimidated, in the most unequivocal manner, that any measures necessary to carry the points of the propagandists would be approved, or, at least, winked at. And besides, even if the election had been committed to the supervision of just and impartial men, who would have received and counted all legal votes and no others, there would, nevertheless, have been no opportunity for a vote against the constitution, nor whether slavery should or should not exist in the new State. The people were only permitted to say from what sources the future supplies of slaves should be derived.

Sir, with this plain and truthful statement, which defies contradiction, what an insult to the intelligence of this country, what a cruel mockery to the abused people of Kansas, for the President and his masters to declare that the responsibility of making Kansas a slave State, rests with the free-State men of that Territory.

Mr. Chairman, God lives and reigns; and the days of this madness of injustice are numbered. Within ten years of the nineteenth century has been crowded a history whose like may never be seen again beneath the sun—every perilous step in which, every fearful middle passage, was necessary to the conducting of this people through the dark valleys and the bitter waters of barbarism and bondage, to the broad table lands of civilization and liberty to which the genius of American Democracy is beckoning them, and will surely lead them. Though they may not be reached this year or the next, let us not despair; but continue

our labors in courage and in faith to the end, which cannot be afar off. Courage and faith, Republicans! Remember the powers that work with you, and that

"Your friends are exultations, agonies,
And love, and man's unconquerable mind."

THE PRESIDENT'S MESSAGE.

Mr. GROESBECK obtained the floor.

Mr. FAULKNER. If the gentleman from Ohio does not wish to go on this afternoon, I desire, with his permission, to occupy the floor for a moment or two.

Mr. GROESBECK yielded the floor.

Mr. FAULKNER. I do not propose to discuss the questions which seem to be relevant to the proposition now before this body; but I desire to avail myself of this occasion to make an appeal to the House in behalf of the interests of the country, or at least, that portion of those interests which is, in part, committed to my care.

The committee must be aware, sir, that all the standing committees of this House have now been organized and ready to proceed with the transaction of business for nearly one month, and that they are unable to proceed with the consideration of a single one of those great measures of national policy which are at this time so urgently demanding the attention of this body.

Now, sir, debate such as we have had for the last two or three days, in the absence of all official information upon the points which have been under discussion, might, under ordinary circumstances, not materially impede the public business of the country; but at this time, as every gentleman must be aware, every hour consumed in this discussion is not only time thrown away, but the waste of that time tends to impede the public business. Take, for example, the Committee on Military Affairs, of which I have the honor to be a member. The committee must be aware that one of our Territories is in a condition of armed rebellion against the Government. The Administration being ignorant of the extent of the hostile and treasonable designs of the people of that Territory, but a comparatively small force was sent out there, and it is now locked up in the mountains, incapable of reaching the seat of the rebellion, or of encountering the legions that those rebels are prepared to pour down upon it. The President of the United States has called upon Congress for an additional force of four regiments. Those regiments ought to be created by law, and organized, if Congress intends to do it at all, in this month of January, otherwise it will be impossible to have them filled and prepared for action by the month of May. And yet, sir, the Committee on Military Affairs has no power or authority to act upon that important measure, thus demanded by the exigencies of the country, because of this debate. This debate stands in the way of the whole business of the country.

Mr. GIDDINGS. Will the gentleman permit me to correct him in one respect?

Mr. FAULKNER. I have but a few more remarks to make.

Mr. GIDDINGS. I merely desire to propound this interrogatory to the gentleman: whether history does not show that in past Congresses the President's message has not always been referred? I can show the gentleman by the history of past Congresses, that I can have the floor to-day upon the President's message of 1838. [Laughter.]

Mr. FAULKNER. Well, I do not know what may have been the case in past Congresses; but it is certainly the rule of this body, with which the gentleman from Ohio is well acquainted, that a committee has no power to originate matters of legislation that have not been referred to it; and unless the reference is made, I ask how the committees can act?

Now, Mr. Chairman, I do not design to arrest discussion. All this discussion can proceed when the President's message comes in on Monday, or at other opportune times. But I say that the effect of prolonging this discussion now, is to impede business, notwithstanding the fact stated by the gentleman from Ohio, that these measures might possibly be got before the committees in some other mode. It is by the reference of the President's message to the various committees of this body that the subjects of legislation are properly placed before those committees for action.

Mr. GIDDINGS. I will explain, if the gentleman will permit me.

Mr. FAULKNER. I do not wish any explanation.

Mr. GIDDINGS. I said what I did to show that the action of the committees cannot be delayed by this discussion. All these subjects are before the committees. It has been the uniform practice for the committees to act on the matters embraced in the message without any special reference of those matters to them.

Mr. FAULKNER. That manifestly cannot be the case, because, by the rules of the House which every gentleman here has read, committees are forbidden to act on any subject which has not been referred to them by the House. How, then, I ask, can the Committee on Military Affairs act upon this important subject of the organization of four additional regiments for Utah in the absence of any reference of the subject to them? We meet regularly twice a week; but we have no business before us, and the other committees are in the same position.

I hope, therefore, that in consideration of the public interests, the House will arrest the debate at this stage of the proceedings and permit the reference of all these subjects to the respective committees, and then, when the President's message comes in, this subject will be legitimately before us for discussion, and will not interfere with and frustrate the necessary legislation. And now, sir, with the consent of the gentleman from Ohio, I move that the committee do now rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, the Chairman [Mr. PHELPS] reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. J. GLANCY JONES. I offer the usual resolution to close debate in Committee of the Whole on the state of the Union on the President's annual message in thirty minutes after the committee shall again resume its consideration.

Mr. HOUSTON. The gentleman from Ohio [Mr. GROESBECK] is entitled to one hour.

Mr. J. GLANCY JONES. I was not aware of that fact. I will modify the resolution so as to make it read in one hour instead of thirty minutes; and I demand the previous question.

Mr. GROW. I move that the House do now adjourn.

Mr. JONES, of Tennessee. If we adjourn now, will the resolution come up the first thing on Monday morning?

Mr. GROW. Certainly it will.

Mr. HICKMAN demanded tellers.

Tellers were ordered; and Messrs. HICKMAN and BLISS were appointed.

The House divided; and the tellers reported—ayes 88, noes 47.

So the motion was agreed to, and the House accordingly (at four o'clock) adjourned until Monday next, at twelve o'clock, m.

IN SENATE.

Monday, January 11, 1858.

Prayer by Rev. A. G. CAROTHERS.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting, in compliance with a resolution of the Senate of the 28th of February last, all the correspondence of John W. Geary, late Governor of the Territory of Kansas, not heretofore communicated to Congress; which, with the accompanying documents, was, on motion of Mr. Wilson, referred to the Committee on Territories; and a motion by him to print it, was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the estimates which have at any time been made for improvements of rivers and harbors within the State of New York; which was, on motion of Mr. Sew-

ARD, order to lie on the table; and a motion to print it was referred to the Committee on Printing.

He also laid before the Senate a letter of the Second Auditor of the Treasury, communicating, in obedience to law, copies of accounts of persons charged with the disbursement or application of moneys, goods, or effects, for the benefit of the Indians during the year ending 30th June, 1857, together with a list of the names of the persons to whom goods, moneys, or effects have been delivered during that period; which was, on motion of Mr. SEWARD, referred to the Committee on Finance.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented resolutions of the Academy of Science of St. Louis, in favor of the publication of Dr. Evans's report of the geological survey of Oregon and Washington Territories, made by him under the authority of the Government; which were referred to the Committee on Printing.

Mr. SEWARD presented the memorial of Christian Hansen, praying for the establishment of an ocean mail route between New York and Gluckstadt, on the Elbe, via Plymouth and Rotterdam, and making proposals for carrying the mails between those places; which was referred to the Committee on the Post Office and Post Roads.

Mr. YULEE presented the memorial of Mrs. McCrabb, widow of John McCrabb, late a quartermaster in the Army, praying for compensation for certain services rendered by her husband in the line of his duty, in the State of Florida; which was referred to the Committee on Claims.

He also presented the memorial of William D. Moseley, praying to be released from a contract for furnishing live-oak for a sloop-of-war, assumed by him as surety, but which he is unable to complete; which was referred to the Committee on Naval Affairs.

He also presented additional papers in relation to the claim of George Phelps; which, with his petition on file, were referred to the Committee on Claims.

He also presented a paper in relation to the establishment of a mail route from Bay Port to Clair Water harbor, in Florida; which was referred to the Committee on the Post Office and Post Roads.

Mr. HAMLIN presented a petition of Ebenezer Higgins, a soldier in the last war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented a petition of the Calhoun County Agricultural Society, in Michigan, praying that a liberal donation of public land may be made to that and other States for the promotion of agricultural education; which was referred to the Committee on Public Lands.

He also presented a petition of the State Agricultural Society of Michigan, praying for a liberal donation of public lands for the promotion of agricultural education in that State; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Michigan, praying that bounty land may be granted to those who did military duty during the disturbance on the Canada frontier, known as "the Patriot War," in the year 1838; which was referred to the Committee on Public Lands.

Mr. FESSENDEN presented the petition of Benjamin Ward, a privateersman in the last war with Great Britain, praying that pensions and land may be granted to him and other Americans who were imprisoned at Dartmoor; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the petition of Samuel James, Ignatius Lucas, and others, praying for compensation for services as day watchmen in the Navy Department; which was referred to the Committee on Naval Affairs.

Mr. GREEN presented a resolution of the Legislature of Missouri in favor of the erection of a building for the use of the United States courts and post office at Jefferson City; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also presented additional papers in relation to the claim of Jervis M. Barker; which were referred to the Committee on the Judiciary.

Mr. DAVIS presented the petition of Edward

P. Vollum, an assistant surgeon in the Army, praying for remuneration for losses in consequence of shipwreck while traveling under orders; which was referred to the Committee on Military Affairs and Militia.

Mr. JONES presented a petition of the register and receiver at the land office at Fort Des Moines, Iowa, praying for an increase of compensation; which was referred to the Committee on Public Lands.

He also presented a memorial of citizens of Waterloo, Iowa, praying for a grant of land for the construction of a railroad from the Missouri river to the western boundary of Nebraska, in the direction of the South Pass, with a branch in the direction of Oregon and Washington Territories; which was referred to the select committee on the Pacific railroad.

Mr. WILSON presented the petition of Bacchus Webster, late a seaman on board of the United States ship Germantown, praying to be allowed additional pay; which was referred to the Committee on Claims.

Mr. BROWN presented a petition of the register and receiver of the land office at Jackson, Mississippi, praying for increased compensation; which was referred to the Committee on Public Lands.

He also presented additional papers in relation to the memorial of Sallie Eola Reneau; which were referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WADE, it was

Ordered, That the petition of the heirs of Jabez B. Rooker, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. WADE, it was

Ordered, That the petition of Samuel V. Niles, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. MASON, it was

Ordered, That the petition of Frederick A. Beelen, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. YULEE, it was

Ordered, That the petition of John Dick, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. MALLORY, it was

Ordered, That the petition and papers of Jane Baker, widow of Thomas Baker, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. MALLORY, it was

Ordered, That the papers on the files of the Senate, relating to the claim of Thomas J. Page, and the other officers of the United States steamer Water Witch, who were engaged in the survey and exploration of the river La Plata, to additional pay, be referred to the Committee on Naval Affairs.

On motion of Mr. MALLORY, it was

Ordered, That the petition of John P. Baldwin, on the files of the Senate, be referred to the Court of Claims.

On motion of Mr. CLAY, it was

Ordered, That the memorial of Harriet Ward, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. IVERSON it, was

Ordered, That the papers relating to the claim of Almanzon Huston, on the files of the Senate, be referred to the Court of Claims.

On motion of Mr. SEBASTIAN, it was

Ordered, That the petition and papers of George Herron, on the files of the Senate, be referred to the Committee on Indian Affairs.

LAND OFFICES IN NEBRASKA.

Mr. JONES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of establishing two additional land offices in the Territory of Nebraska; one in the Platte valley, west of the guide meridian, and one at or near the mouth of the Platte qui Court, or Neobrarah river.

COLLECTION OF THE REVENUE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to report to the Senate the amount of revenue collected in each collection district, for each of the years from 1852 to 1857 inclusive, the amount expended, and the number of persons employed in each district in the collection of the revenue for each of those years.

MAILS TO SOUTH AMERICA.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post

Roads be instructed to inquire into the expediency of establishing mail lines between the United States, the Empire of Brazil, and the Republics of South America; and also into the best mode of establishing and maintaining such mail facilities, if found necessary and expedient.

RED RIVER RAFT.

Mr. JOHNSON, of Arkansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for completing the removal of the raft of Red river, agreeably to the estimates furnished to the War Department by the engineer in charge of the work; and that the committee be further instructed to report as early as practicable, by bill or otherwise.

REPORTS FROM COMMITTEES.

Mr. BROWN, from the Committee on Indian Affairs, to whom were referred papers in relation to the claim of William B. Trotter, submitted a report, accompanied by a bill (S. No. 52) for the relief of William B. Trotter. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SEBASTIAN. I am instructed by the Committee on Indian Affairs, to whom were referred the petition and papers of Amos and John E. Kendall, to ask to be discharged from their further consideration, and that they be referred to the Court of Claims.

The papers have been withdrawn from the Court of Claims and referred to the committee—I think probably under some misapprehension of the facts. I consider that the point involved is one eminently proper for the consideration of the Court of Claims, being simply a legal question as to the liability of the United States on a state of facts which is undisputed. I move that the papers be referred to the Court of Claims.

The motion was agreed to.

CAPITOL EXTENSION.

Mr. DAVIS. The Committee on Public Buildings and Grounds, who were instructed to report a plan of assigning the rooms in the north wing of the Capitol extension, appropriated to the use of the Senate, have instructed me to make a report that they have discharged the duties assigned to them—appropriating the rooms to the committees, and for other public uses, according to the plan annexed, which the committee present with their report. I ask that the report be read.

The Secretary read the report.

Mr. HUNTER. I suppose it is not proposed to take any action on that report as yet. Let it lie on the table for the present.

Mr. DAVIS. The committee felt, in discharging the duty, that it was one in which it would be very difficult, if not impossible, to give entire satisfaction; and therefore of course we do not press it to an adoption now. If the Senate choose to lay it on the table in order that it may be examined, of course we have no objection.

The report was laid on the table.

BILLS INTRODUCED.

Mr. JOHNSON, of Arkansas, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 53) for the relief of John McVey; which was read twice by its title, and referred to the Committee on Pensions.

He also asked and obtained leave to introduce a bill (S. No. 54) to revive an act entitled "An act for the relief of the legal representatives of John Donnelson, Stephen Heard, and others," approved May 24, 1824; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HOUSTON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 6) to extend to the naval retiring board an opportunity of enjoying the same advantages as were enjoyed by officers who have been dropped, furloughed, and retired by said board; which was read, and passed to a second reading, and ordered to be printed.

COMMITTEE SERVICE.

Mr. HUNTER was, on his motion, excused from service on the Committee on the Library.

Mr. EVANS. I ask to be excused from service upon the Committee on Naval Affairs. I am already on three committees, and I believe I was only put on the Naval Committee as a sort of *locum tenens* until my colleague's arrival.

The request was granted; and on motion of Mr. HUNTER, and by unanimous consent, the Vice

President was authorized to fill the vacancies. The vacancy on the Naval Committee was filled by the appointment of Mr. HAMMOND.

KANSAS AFFAIRS.

The VICE PRESIDENT, at one o'clock, announced that the hour had arrived for the consideration of the special order, being the motion of the Senator from Illinois [Mr. DOUGLAS] to refer so much of the President's annual message as relates to the affairs of Kansas, to the Committee on Territories.

Mr. BROWN. I believe I was entitled to the floor on the special order, but I have no disposition to pursue the debate now. It has manifestly lost a great part of its vitality. The question itself is undergoing important changes, presenting new phases every day; and in view of the probability, the almost absolute certainty, that it is to be presented to us in a new, more active, and more vital form in the course of a few days, I shall prefer withholding what I have to say until the question shall be before us in some practical form.

Mr. DAVIS. Let the message be referred, and let remarks be made afterwards, when the Senate has before it some practical issue.

Mr. BROWN. So far as I am concerned, unless some other Senator is desirous of pursuing the debate, I propose to let the matter go off for the present.

Mr. CLAY and others. Let it be referred.

Mr. HALE. I desire to address the Senate on the subject, but I am not prepared to do so at this moment.

Several SENATORS. Postpone it.

Mr. HALE. I move to postpone it until Thursday.

Mr. GWIN. Say Monday.

Mr. HALE. I have no particular objection. I move to postpone the further consideration of the subject until Monday, at one o'clock, and make it the special order for that time.

The motion was agreed to.

NAVAL COURTS OF INQUIRY.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred a joint resolution (S. No. 3) to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to amend an act entitled 'an act to promote the efficiency of the Navy'" in respect to dropped and retired naval officers, reported it with an amendment.

On motion of Mr. DAVIS, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that in any case where the records of the courts of inquiry appointed under the act of January 16, 1857, may render it advisable, in the opinion of the President of the United States, to restore to the active or reserved list of the Navy, or to transfer from furlough to leave of absence on the latter list, any officer who may have been dropped or retired by the operation of the act of February 23, 1855, entitled "An act to promote the efficiency of the Navy," he shall have authority, notwithstanding any existing law to the contrary, to nominate, and by and with the advice and consent of the Senate, to appoint such officer to the active or reserved list; and officers, so nominated and confirmed, are to occupy positions on the active and reserved lists, respectively, according to rank and seniority when dropped or retired, and be entitled to all the benefits conferred by the act of January 16, 1857, on officers restored or transferred to the active or reserved list under that act.

The amendment of the committee is to insert at the end of the joint resolution—

Provided, That the President of the United States may, whenever the public interests may, in his judgment, require it, transfer any officer from the leave list to the furlough list of the Navy.

Mr. DAVIS. I hope that some action will be taken by the Senate on this subject at an early day. The whole scope of the resolution is to give the President power, when in his discretion the records of the courts of inquiry justify a nomination to the Senate, to make it. As the law now stands, if an officer has been retired on leave or on furlough, or if he has been dropped, and the President, on reviewing the record of the court of inquiry, should disapprove the finding of the court, the officer is left in the condition in which the board placed him. In other words, it deprives the President of any power to remedy any injus-

tice or evil which he may find to have been inflicted on an officer, both by the board and by the court. Moreover, it places the President and the Senate in a condition subordinate to the court of inquiry, binding his action and the subject on which the Senate can take action, so as to be controlled by the finding of a court of inquiry. I think this is all wrong, reversing the natural order of things, and I merely propose to enlarge the power of the President to the extent of his constitutional prerogative. I hope there will be no difficulty in passing the resolution.

Mr. STUART. I think that the President of the United States possesses all the power which it is proposed to confer upon him by this resolution; and my objection is to assuming by this species of legislation that he has not the power. I hold that the President can nominate to office any person he chooses, and it is not within the power of Congress to limit that constitutional right. I know, sir, that in the law referred to by the Senator from Mississippi, there is an apparent limitation of the power. That law did not receive my vote. I could not, even by implication, consent to yield the point that the President, in the exercise of his constitutional power to nominate, can be limited by any law of Congress.

While these are my views, and constitute with me a very serious, and, I may say, insurmountable objection to voting for any proposition of this kind, I desire to do no more than express my sentiments. If the Senate choose to pass any proposition of this description, I do not wish to oppose its passage; but I simply suggest that I think the more we legislate on this subject in this way, the greater will be the number of difficulties we shall accumulate.

Mr. DAVIS. I wish merely to say to the Senate, in connection with the question of power, that whatever may be the fact, in the particular case, special legislation seems to have been directed against the exercise of that power by the Executive. I may also say, on the authority of what I find in the report of the Secretary of the Navy, that neither the President nor the Secretary of the Navy considers himself authorized to nominate otherwise than as provided in the special act of the last session. Nor do I concur with the Senator from Michigan, that it is not within the power of legislation to limit the prerogative of the President in nominating to the Senate. We enter into a contract—not in form, but in substance—with every one who enters either branch of the military service. Promotion is his right, with certain reservations; and I hold that the Executive, notwithstanding the general language of the Constitution, has not the power to go over the head of every officer that has won his promotion, up to the rank of commander, for instance, and seek in civil life for some one whom he will nominate to the Senate for a captain of the Navy. It would be a violation of the solemn understanding made with gentlemen who have served the country—a violation of a vested right which they possess.

Mr. COLLAMER. Will the gentleman indulge me for a moment? I think there should be some limitation on the time of exercising this power. The resolution contains no such limitation.

Mr. DAVIS. The limitation of time, I thought, was found in the existing law, which is so narrow that a proposition has been made to extend it. I have no objection, however, to any limitation being put on this proposition which the Senator from Vermont may think proper to suggest. My object is not to extend the time, but merely to extend the power.

I was going to merely add to the remarks which I made, that I do not think the President can, in violation of law, and in violation of an implied contract with the officers of the Navy, nominate from civil life some one who shall outrank those who have by faithful service attained their grade. Promotion attaches to them as a part of the contract; and if the President were to nominate a person from civil life, I trust we shall never have a Senate that will confirm him, in total disregard of the dear-bought rights of officers of the military service, in either of its branches.

I stated, when I was first up, that I looked upon this resolution as merely conferring on the President the power to do that which the law never should have taken from him. I agree with the Sen-

ator from Michigan that this legislation has been unfortunate. I think the whole proceeding has been unfortunate. I wish now, however, to remedy an evil which I think is palpable. Because legislation has been bad heretofore, it does not follow that we should remedy none of the evils growing out of that bad legislation. We must advance; and if that advance be the result of our having previously taken a wrong step, the fact that we have erred in the past surely should not limit our action in the future. I hope that the resolution will be adopted.

Mr. FESSENDEN. I desire to ask a question of the Senator from Mississippi, with reference to a point which was started by the Senator from Michigan. In case an officer has been court-martialed, and dismissed from the Navy under sentence of a court-martial, would it not be competent for the President to reappoint him if he saw fit?

Mr. DAVIS. I should think not. I should suppose that if he had lost his commission in the form provided by law, he thereby lost all those rights which appertained to him when in commission; and it would not be in the power of the President to reappoint him.

Mr. FESSENDEN. I differ with the Senator from Mississippi in relation to that matter. If the particular place which the officer had lost in consequence of the action of a court-martial were once filled, undoubtedly that officer could not be appointed to it.

Mr. DAVIS. In order that we may not misunderstand each other, I will say to the Senator, that the action of the President, in the case which he supposes, would be rather in the character of a revisory process, and that the President has sometimes exercised. I do not question the authority there; but after the place has been filled, then the appointment of the same man is to my mind in the nature of an original appointment, just as if he were taken from civil life.

Mr. FESSENDEN. I have no doubt of that. My question was whether he could not make an original appointment, and again appoint the same officer to a place, perhaps of equal rank, unless they take rank according to their commissions in all cases. There is nothing to prevent the President appointing an officer who has been court-martialed and dismissed, although the particular place which he formerly held may have been filled. I do not know how it can be filled again by the President with the advice and consent of the Senate, or by law, unless you provide that he shall take rank above certain men, or rank from such a date. If that is the object, I can see that it may possibly be accomplished in this way.

But, sir, I have the misfortune to differ in opinion on this matter from the Senator from Mississippi. If the power exists, as suggested by the Senator from Michigan, I should be very unwilling that the President should exercise it; and if it does not exist, I should be very unwilling to confer it. When a man has passed through two ordeals of this kind—in the first place having been tried by a commission appointed by Congress for that purpose, and, in their judgment, found unworthy, or unable to discharge his duties; and then, having demanded a trial, and having been tried and heard, and had another decision by his peers, or by those who were constituted to make that decision—I should be very unwilling indeed to confer upon the President the power of revising the whole proceeding, and overruling the decision thus made.

I am inclined to believe with the Senator from Michigan that the power exists; but if it does not exist, I think there is no good reason for extending it. I do not see why we should place it in possession of the President, who is certainly not as able to judge as those who decided this question on evidence, and knowledge of the capacity of these individuals—for he can have no practical acquaintance with them—to discharge the duties of the offices to which he may be asked to appoint them. I therefore upon that principle oppose it.

With regard to the other branch of the subject—the transfer of individuals from the reserved to the furlough list, and from the furlough to the reserved list—that is a matter of pay, which may be regulated by statute, and does not come within the constitutional provision with reference to the appointment of officers. If it is desirable at all to make any such arrangements, the power can

only be exercised by the President, in consequence of its having been in the first place conferred upon him by a law of Congress; but even in that case you are putting very much into the power of the President. He is as likely to be misled as other men. Why should he have the power to degrade a man from the reserved to the furlough list, when that man is not in active service, but has been retired from active service in the Navy because he is incompetent, for some reason, to exercise its duties? Why should the President have power to deprive him of a portion of his pay, or to increase it? I believe that the law, and the tribunals appointed to judge in these matters, can decide questions of that description much more wisely. At any rate, I should be very unwilling to run the risk of the errors that even the President might be led into on such subjects.

Mr. DAVIS. The Senator from Maine objects to this proposition, as giving the President power to revise that which he assumes the President does not so well understand as a court of inquiry. That is an objection which goes not only to this special law, but to all laws upon such subjects. The President is now authorized to revise, and is required to approve or disapprove, the decisions of the courts of inquiry. The defect I point out is, that if he disapproves, if he does not concur with the court, no remedy is provided. The court, on a certain record, which the President afterwards examines, or is supposed to examine, adjudges that an officer should be left on the furlough list. The President finds in that record evidence that he should be on the active list; he disapproves the proceeding of the court; but the officer is left, by his disapprobation, just where he would have been if the President had concurred in the finding of the court. This is a great defect in the law. It is withholding justice in the manner in which justice is ordinarily bestowed on individuals who appear before courts, either civil or military. It is exactly to remedy that defect that I have introduced this joint resolution.

Mr. HALE. For the first time, sir, since I have had my attention turned to this subject, I feel a little embarrassed how to proceed. I was not in Congress when the law creating the naval board was passed. As it was passed nearly unanimously, it is barely possible that if I had been here I might have voted for it, though I think it is a violent presumption. I am opposed to it—to the whole of it: its beginning, continuing, and ending. I am opposed to everything that has been done under that bill, and to everybody that did it. I think it was a great mistake, a great error, and a great reproach to the country, to the Navy, to Congress, and to the national character; and, believing so, I feel very much inclined to undo everything they did, so far as I can. I was in favor of the bill passed at the last session; and I understand that something like half, or nearly half, of the officers have been restored by the findings of the courts under it.

The embarrassment under which I find myself at this session, is that the Senate, in its wisdom or its folly, has placed me upon the Committee on Naval Affairs; and I do not feel exactly that liberty which I did when I was an outsider. But, sir, this law, as it now stands, is obnoxious to the charge which the Senator from Mississippi brings against it. If the court find that an officer was unjustly and wrongfully displaced from the Navy by the act of the retiring board, and the President agrees with them in that opinion, then there is redress for those to whom the finding is favorable; but if the court find that a man was rightfully dropped or put on the retired list, and they send their records to the President, (for these courts were obliged to keep records; and the old board did not,) and the President is of opinion that they are entirely wrong, and that the man ought to be restored, he cannot exercise his discretion; he cannot do anything. It thus appears to be the law, that the President may do right in half the cases; and if his opinion is that wrong has been done in the other half, he cannot redress it. This resolution proposes to give him power to do right. It is an enabling act, to enable the President to do right. I think it is a good act. I think we could pass such an act with regard to a great many other matters; and if the President would take advantage of it, good would result. The subject before us now stands in this way: gentlemen were once dismissed without a trial,

and without a record; they have since had an open trial before a court authorized to keep a record; and the President is of opinion that, upon that open trial by that record, they ought to be restored, but he cannot restore them. That is all that this resolution proposes to remedy.

An objection is made that the President has this power. The Constitution says that Congress has power "to make rules for the government and regulation of the land and naval forces." Under this constitutional grant we have provided that these men shall be dropped. Have we not, by virtue of the same authority, power to say that if the President finds a man who has been dropped by virtue of the law who ought not to have been dropped, he may be restored? Is not that a fair exercise of the power granted by the Constitution to Congress "to make rules for the government and regulation of the land and naval forces?" For the reasons which I have stated, I am in favor of the resolution; but I confess I do not exactly understand the force of the amendment of the chairman of the Committee on Naval Affairs. I believe that the President has the power without the amendment, but I am not clear about it. I hope this resolution will pass now, because, on the 16th of January, the act of last year expires by its own limitation, and the Naval Committee will have to examine all these cases; and it will be physically impossible for them to examine them before that act expires. Congress—I speak now as a matter of history—have permitted great injustice to be done to these men; and the little measure of justice we can mete out to them can only be meted out by the passage of this joint resolution.

Mr. FESSENDEN. If I agreed with the Senator from New Hampshire in the principle which he assumes as the foundation of all his remarks, perhaps I might come to the same conclusion. I was not opposed to the passage of the act providing for the naval board originally, because I believed that something of the kind was very necessary; and I am not, therefore, opposed to the act itself, and all that has been done under it, and to everybody that has done it. I believe that very much good has been done, because, in my opinion, the Navy needed weeding as much as any other branch of the public service, if not more; and, although it is possible that some injury may have been done under it, Congress has taken care, or has tried to take care, that all the evils thus done shall be remedied.

As I remarked before, there have been two successive trials of these gentlemen. The first was said to be a very imperfect one, and Congress attempted to remedy it. They passed an act by which every man deeming himself aggrieved might apply and have a trial before a tribunal where he could be heard personally, and where he could be heard by counsel; where he could introduce evidence and have the matter decided without favor, or affection, or dislike, or any other feeling which should not enter into the consideration of a question of this description.

Mr. DOOLITTLE. Will the honorable Senator from Maine allow me to ask him a single question: whether, by the law, that court, when organized, would have power to grant a new trial if either of the parties who came before them, for any reason had not a fair trial?

Mr. FESSENDEN. All these courts which have been held have now terminated; the time has gone by. I do not know that there are any complaints that all who applied did not have a perfectly fair opportunity to be heard and to be tried; or that the court, when delay was requested, did not grant it; or that anything else was done, of which any man had a right to complain.

Now, sir, is there never to be an end to this question? These naval gentlemen were before us during the whole of the last Congress demanding redress. Congress took care to give them an opportunity to have their wrongs redressed if they had suffered wrong. We appointed courts of inquiry. There have been no complaints that I have ever heard that these courts were not constituted fairly and honestly, of honorable and impartial men. They have been heard, and the results have been sent to the President. They have restored many; they have changed the positions of others; and they have left some others in the places where the original commission placed them. If the principle upon which Congress acted in the first in-

stance was a correct principle, that such was the situation of the Navy that it was necessary to have a board which should place many of these persons on the retired list or dismiss them, then everything has been fully and fairly done, and consequently there has been at least one fair and impartial trial. What will be the necessary result of passing this resolution? We are to have this matter before us over again; very possibly we are to have it before us on nominations to restore those officers who have been left by the courts, as the commission originally left them, to their old places. What has taken place in the mean time? We have had a large increase of the list of captains of the Navy—larger, I believe, than was allowed by the original law; because the places originally made vacant have been filled, and now many of the officers are restored to their old places, thus increasing the number. If we are to clothe the President with power that he has not at present, the result will be that he will be overborne with applications and remonstrances in regard to the last decisions of the courts; the whole matter will come before him again; influences will be brought to bear on him to procure restorations; and we shall have the two Houses agitated over and over again with the same questions which agitated us during the whole of the last Congress.

Now, sir, I do not believe that because certain officers of the Navy have been retired or placed on what is called the furlough list, and some dismissed, that, therefore, we are to presume that great injustice has been done to those gentlemen. It is very possible that in some individual cases, there may have been an error; but the presumption is in favor of the correctness of the proceeding.

Again, I am indisposed to the increase of Executive power in reference to appointments. As the Constitution is construed and understood, the President has power enough, and I am rather disposed to limit it, if we can limit it, than to increase it. We cannot limit the President's constitutional power, but we can possibly confer more. I am opposed to it, especially in cases where I do not believe he is so well capable of judging as others. Originally he must judge of all nominations to be made. He is the constituted tribunal to settle all these matters in the first place, and must settle them; the responsibility is on him; but after men have been tried by their peers, by individuals acquainted with the duties they have to perform, and necessarily acquainted with their capacity, from evidence and otherwise, to perform those duties, and have decided this question, I do not believe the President is so well able to judge of the testimony, or so competent to overrule their decisions as they are to make them in the first instance. The answer which the honorable Senator from Mississippi made me, though it exhibits very clearly what his design is, he will see does not answer my objection. That objection is, that if this question has been decided and the President has not the power of supervision now, which he has in some cases, I am not disposed to amend what he calls a defect in the law by giving him that power. I would rather leave it as it is at the present time, because I believe that the decision is much more likely to be correct, as made by the constituted tribunal than it would be if made by him; for you must necessarily see that the President will be beset and surrounded by the individuals themselves, and their friends. Influences, not improper influences, but those which address themselves to a man's better feelings, may be brought to bear upon him, and I believe he would be much more likely to do injury to the Navy, in which Congress and the people are interested, than to the individuals who are only interested for themselves, and whose friends are particularly interested for them.

Mr. DAVIS. I believe I have been unfortunate in stating my position, as I perceive the gentleman does not exactly understand it. What I say is, that the President has the power of supervision now, that he has to examine and approve or disapprove the finding of the court; but if he disapproves, he can apply no remedy, however hard the case may be.

Mr. FESSENDEN. I understand that. What would be the power conferred by the passage of this resolution? It would be a power to supervise. By "supervise," I mean to change the decision that has been made. He may not approve it; but if he does not approve it, it does not change the

relative position of the officer. He stands under the decision of the court, as I understand; but this is a proposition to reverse the decision of the court—a power which I am unwilling to confer.

I believe the great mistake which has been made in this business from the beginning, in all the argument that has been had here, and all the excitement which has grown up, and the greater part of the denunciations which have been indulged in with regard to this act, and what was done under the act, arises from the sympathy which has been excited in the minds of men with reference to individuals; leaving too much out of sight the real interests of the country. I do not believe that so much harm has been done to the country by the action of the retiring board. I believe great good has followed from it. I was in favor of the act. I thought it was abused, not intentionally, but accidentally, if I may so express myself. I voted for the bill which was passed to enable these gentlemen to receive justice, if justice had not been done. I believe, and I have heard no complaint to the contrary, that there has been a fair examination; that there has been a most anxious desire to restore all who were deserving of restoration; and that having been done, I see not why we should be so anxious to afflict ourselves, and to bring upon us the revision of the whole matter, and trouble the Senate with investigating cases which ought now to be considered as finally disposed of. I adhere, therefore, to my original impression, and hope the resolution will not be adopted.

Mr. MALLORY. It is quite evident that we are to be led into a debate. A number of other gentlemen desire to speak on this question. I move that the Senate proceed to the consideration of executive business.

Mr. DAVIS. Oh, no; let us pass the resolution.

Mr. MALLORY. If there is any probability of obtaining the vote on this question, I shall not press my motion.

Mr. CLAY and others. Let us take the vote.

Mr. MALLORY. I withdraw the motion.

The VICE PRESIDENT. The question is on the amendment reported by the Senator from Florida.

Mr. BIGGS. I desire to inquire whether the joint resolution has undergone the scrutiny of the Committee on Naval Affairs? My attention has not been particularly directed to it.

The VICE PRESIDENT. It was reported this morning by that committee.

Mr. BIGGS. This is an amendment proposed by the chairman of the Committee on Naval Affairs to the resolution reported by the committee?

Mr. MALLORY. Yes, sir.

Mr. HUNTER. If I understand the amendment, it is proposed to authorize the President to reduce, at pleasure, the rank of those who have been already disposed of by the action of the naval board—to put them down, as well as up.

Mr. MALLORY. I will put my friend from Virginia right. The President has no power, under existing law, to take an officer who is receiving the pay of the reserved list and put him on the furlough list, to receive its pay. I will illustrate it by an example: A lieutenant on the reserved list receives \$1,200, and upon the furlough list, \$600. The Secretary of the Navy, from time immemorial in our service, has exercised this very power of placing an officer on furlough pay at his discretion. It has only been exercised, however, where an officer has rendered himself amenable to censure. I propose to give the President of the United States power, whenever, in his judgment, the service may require it, to take any officer who has subjected himself to censure from the reserved list, and put him on the furlough list, as heretofore has been the practice of the Navy Department.

Mr. HUNTER. Then I understand it has been the practice heretofore, under the general authority given to the Secretary of the Navy, to put any officer, whether in the active service or not, on the furlough list. Whether this resolution passes or not, that general power remains, and that is sufficient.

Mr. MALLORY. It does not remain.

Mr. HUNTER. He may not be able to change the status as fixed by the act of the retiring board, but he can at any time transfer men from active service to the furlough list.

Mr. MALLORY. Yes, from active service.

This only applies to those on the reserved list. He will have no authority under this resolution to take an officer from the active list and put him on either of the others; but he may take him from the reserved list and reduce him to furlough pay. Under existing laws he has no such power; but the Secretary now exercises the power of taking an officer from the active list and putting him on the furlough list.

Mr. HUNTER. I do not perceive any object in giving the President this power, unless to enable him to revise the action of the board in these cases in some other way than that pointed out by law. On what ground is he to transfer an officer from the retired to the furlough list—he is out of the service, doing nothing—unless he commits some fault in the mean time, which ought, perhaps, to be the subject of inquiry by court-martial or court of inquiry? I see no object in granting this power, especially as he has still general authority to transfer any man from the active service, who may be in the way of committing errors, to the furlough list. That is enough, and I should prefer that the amendment should not be adopted.

Mr. MALLORY. I think there will be no danger in conferring this power on the Executive. We have seen by our past experience that the Executive is very tardy in exercising any power in this branch of the service which will reduce the pay of any officer. It is very rarely exercised indeed; but I can very well conceive that officers on the reserved list may sometimes render themselves amenable to such harsh censure as would justify a call for this reduction of pay. It is not permanent. The President has power now to place them up, but not down. I think we may safely confer this power on the commander-in-chief of the Army and Navy. The presumption is, it will always be exercised for the healthfulness of the corps, and not to its injury.

Mr. HUNTER. It might be safe to confer on the President the power to transfer men to the active service list from these various grades; but Congress seems to have thought otherwise in its legislation on this subject. It has fixed the grades under this law. I am not disposed, for the present at least, to disturb that arrangement, or to enlarge the powers the President has under his general authority. That is sufficient. If a man commits any offense, let a court of inquiry be called. If he is not in active service in any way, or connected with the Government in any way, I should prefer that it should be left where it was left by the law. Now, if I understand it, a man in any position, if he commits an offense, is subject to a court-martial, and that is sufficient. I perceive no reason why you should give this limited authority, which would not extend to a general grant of power, to the President, to place any officer of the Navy wherever he chooses on these lists.

Mr. DAVIS. I really think the effect of the amendment would be slight. An officer on the reserved list, never being on duty, would never be under the eye of anybody who would report his irregularities of conduct; and I think that because it would have no effect, it will be harmless. I see no one who would be in a position to take cognizance of an officer who had been retired from active service, unless by some very disgraceful act he should become odious to the community in which he lived, and become unfit to wear the uniform of the United States, and then he ought to be dropped from the rolls altogether.

Mr. BAYARD. I am opposed both to the amendment of the honorable Senator from Florida and to the original resolution in its present form. I confess myself unable to see any reason for confiding the discretion which the amendment would give to the President; and, as a general rule, I am opposed to granting discretion in such cases, unless where it is necessary that it should be yielded. Under the present law, before the passage of the act of 1855, the Secretary of the Navy frequently exercised the power of placing on furlough pay an officer who was in active service or who was on leave pay. That power still remains, and ought to remain. I can see no reason why that discretion should be given either to the President or to the Secretary of the Navy with respect to those on the retired list, which embraces officers upon furlough and upon leave pay. When the law of 1855 was passed, it professed that where an officer was to be retired without default of his

own, he should be retired with leave pay; and that where the cause of retirement arose from his own fault, and that was established to the satisfaction of the board to whom the inquiry was intrusted, and their finding was approved by the President, he should be placed on the reserved list with furlough pay. If these officers are not in active service, I can see no ground for conferring upon the President an arbitrary power to change their condition when there is no opportunity for default on their part. Why confer on the President authority to say that an officer who has performed honorable service, and who has been retired at a certain rate of pay, shall be reduced to furlough pay? It seems to me to be unjust in principle. I can perceive no good object in granting this power, though I can well conceive its necessity with regard to the active service list of the Navy.

Next, as to the resolution itself. My objection is that it confines the proposed relief to those officers who have appeared before the courts of inquiry constituted under the act of the last session. Why confine the relief to them? On the contrary, my judgment would rather incline me to the conclusion that these officers having been heard before courts composed of their fellows and their peers, if they have been unable to obtain a verdict in favor of an alteration of their condition, the matter should be ended as to them, for the good of the service. There may be individual cases of injustice; I have no very strong opinion that courts of inquiry or courts-martial are tribunals in which justice is administered with any remarkable degree of accuracy; but still they are the tribunals which adjust questions of this kind in our service. You have given these officers an opportunity to go before these tribunals. As to those who have availed themselves of it, and have had from a court of inquiry a judgment against a change of their condition, I do not feel disposed to interfere further. If we interfere now, there will be no end to the constant complaints that will be made to us. But as regards many officers who were honorably retired on leave pay by the action of the first board, and did not appear before the courts of inquiry, why should they be precluded from this relief, if you are to give it at all? I can well understand why many of them would not appear, though they might suppose that the court would probably reverse the action of the board in regard to them. I know one instance of this kind, and I think Senators will understand and appreciate the motives of the officer. An officer in your service, one among the most distinguished in it—one among the few who, in the war of 1812, was a lieutenant, engaged in two naval actions—that between the Constitution and the Guerriere, and that between the United States and the Macedonian—has been retired on leave pay, honorably retired. In speaking to me of going before a court of inquiry for the purpose of having the recommendation of the board which placed him on the retired list reversed, he said: "I cannot do it, sir; I have commanded every man who is a member of that court; I feel my own competency; I cannot, consistently with my own personal character and personal pride, agree to submit the question of my ability to perform service, as a matter of opinion, to men who have been under my command."

I appreciate the feeling, and as to that class of men I should be perfectly willing to grant to the President of the United States the power to nominate them to the Senate to fill their old places on the active list, if he thinks the judgment of the first board was an error. I cannot support this resolution, because it excludes entirely from its benefits those officers who have not chosen to appear before the courts of inquiry, and applies only to those who have had a hearing. It may be that this hearing was an imperfect one, but it was such a one as Congress chose to accord. If on that hearing they have not been able to vindicate themselves in the judgment of their peers, I am not disposed further to swell the relative ranks of the Navy for their benefit, and keep up a course of contention which does nothing but demoralize the service.

Mr. CLAY. If any other gentleman wishes to make any remarks on the resolution, I shall move to lay it on the table, as there are other matters which ought to occupy the attention of the Senate. If, however, no one wishes to speak, I am willing to let the vote be taken.

Mr. TOOMBS. I ask the Senator to withdraw his motion, to enable me to say a very few words.

Mr. CLAY. I will do so.

Mr. TOOMBS. I think there ought to be no difference of opinion in the Senate as to the passage of the resolution introduced by the Senator from Mississippi. It only places the officers who have been before these courts of inquiry on the same basis as other officers in the Army and Navy. It allows the President, in cases where he disapproves the sentence of the court of inquiry, to give effect to that disapproval, and send the officers to us for promotion if he thinks proper. Then the whole case will be before us, and we can examine it. It is said that the proceedings of these courts are held by the Committee on Naval Affairs of this body not to be obligatory. It is rumored, at least out of doors, that they dissent from some of the findings of the court and recommendations of the President; and do not, as a universal rule, report for confirmation appointments made by the President, in pursuance of the findings of these courts.

The resolution of the Senator from Mississippi only applies to these men a general law that has obtained since 1789 in our service. They have been before a court of inquiry, and the facts have been submitted to the President. If he disapproves the sentence, let it become null, and let him nominate those men for their old places, if he thinks proper. I repeat, that is exactly the law which has obtained in both the military and the naval service from the beginning of the Government. I think the resolution is eminently just, and I can see no reason for refusing to pass it.

The VICE PRESIDENT. Does the Senator from Alabama renew his motion?

Mr. CLAY. If the Senate is prepared to vote on the resolution I do not urge it.

Mr. STUART. Excuse me for saying to the Senator, that if he designs to have an acquiescence in the suggestion that there shall be no more debate, I shall want to consume a few minutes.

Mr. CLAY. Then I move to lay the resolution on the table. I have not read it myself, and I have not heard it read. If a printed copy has been laid on my desk, it has been removed. I suppose other Senators would like to read it. It can be called up to-morrow.

Mr. CRITTENDEN. We are far advanced now, and nearly ready for the vote. I hope we shall be allowed to vote.

Mr. CLAY. At the instance of several Senators around me, I withdraw my motion.

The VICE PRESIDENT. The question is on the amendment.

Mr. SLIDELL. There is one point in this question which seems to have escaped the attention of Senators, and I think reconciles the objection of the Senator from Michigan. I agree with him perfectly as to the absolute constitutional power of the President to fill any vacant office in the Navy by the nomination of any man who has either been in the Navy before, or who has been taken from private life. It is a power which I take it for granted he would never exercise; and if he did, his action would not receive the approbation of the Senate. There is sufficient guarantee against any such abuse of power. But as the case now stands, the President, although entirely satisfied that injustice may have been done to any particular officer by the finding of either of the courts of inquiry, has no power to remedy it. As has been very properly said by the Senator from Mississippi, the consequence of his disapproval of the action of any one of these courts, in a case in which that action had been unfavorable to the officer whose character and standing had been investigated, would be simply saying "I disapprove it," leaving the officer to stand exactly where he stood before. There might be a remedy for an evil of that sort under ordinary circumstances, but the President really has no discretion at all.

The naval establishment is regulated by law. It is composed of a certain number of captains, commanders, lieutenants, midshipmen, and officers of other grades. When we passed the law authorizing the establishment of a reserved list, and afterwards passed the law by which we instituted certain courts of inquiry for the reconsideration of the cases of the officers who had been set aside, we declared that they might be restored to the active list of the Navy; but we accompanied that privilege with the condition that when these

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men had been so restored, there should be no further appointments until, by death, dismissal, or other causes, the total list of active officers of the Navy had been reduced to that limit which we considered the proper limit for our naval establishment. We may have fourteen or fifteen more officers in each grade of the Navy now, than is authorized by law. There can be and will be no vacancies, probably, for two or three years. Therefore, however satisfied the President may be, on investigation, that justice was not done to an officer, originally, by the board of fifteen, in dismissing him, or by the action of the court reconsidering his case, the President is deprived of power altogether. That is his position now as regards the distinguished officer to whom the Senator from Delaware alludes. There are no vacancies in the naval establishment. I am stating a case of such extreme merit as that of the officer to whom the Senator from Delaware has alluded. Unquestionably the board could have arrived at no other conclusion, notwithstanding his distinguished services. Everybody admitted that he was not qualified for active service. Still, the President of the United States might, perhaps, at this moment be disposed to remedy, not what was injustice to this officer by the board of naval officers, but the undue harshness of the law in its application to him, and might be disposed to place him at the head of the list of the Navy—a position he once filled and adorned. That the President might be disposed to do; yet, under the existing law, he has no such power.

Now, as I understand it, the intention of the resolution introduced by the Senator from Mississippi, and reported back with an amendment by the Naval Committee, is to give the President the power of exercising discretion in certain cases. I am inclined to think that the exercise of that power by him will be very limited. But there is one circumstance attending the whole of this investigation which, perhaps, is not understood by the Senate. I happen to know that the President has never examined a record in any one of these cases. He has either not had the disposition or the time; he certainly has not had the time to examine any one of the records brought before him in cases which it is understood have been sent to the Senate for confirmation. The Senate will be called on, then, to pass on these nominations as if they were original appointments. It is equally the case in regard to the action of the court where the findings have been unfavorable, that the President and Secretary of the Navy have not considered them. In the one case, the President has not examined these records because he has not had time to do so; and in the other, because he was satisfied that, even if he did examine them, no action could result, because, if he were dissatisfied with the proceedings of the board, still he could not remedy the evil which had been done. I think the statement I have made will remove the objection that has been brought forward by the Senator from Michigan.

Mr. STUART. I desire the attention of the Senate for only a few minutes. I agree that the fact which has just been stated by the Senator from Louisiana would be sufficient to induce me to vote for this joint resolution if I could get over the constitutional difficulty to which I have referred; but I regard it as a dilemma in which we have placed ourselves by departing from that species of legislation which is in conformity to the Constitution. If anything were necessary to convince one of the error into which we have fallen, it would be the speech of the honorable Senator from New Hampshire. He asserts that because Congress, at the last session, undertook to impose a limitation on the authority of the President of the United States, after the action of the courts of inquiry, and undertook to provide also the very place to which he should make his nominations, it is necessary to continue the error and pass this resolution. It seems to me that that is not sound reasoning.

It is said by the honorable Senator from Louisiana that the President, under the Constitution,

possesses unlimited authority in regard to the selection of his nominees. If we had never undertaken to trench on that power, we should not have been in any difficulty. I am not going back to review the history of legislation on this subject. I did very briefly, while it was under consideration, express my objections, the chief of which was, that a man might be inefficient, and might be conceded by his best friends to be inefficient for a particular service; yet that inefficiency might not be of a character which one could specify against him, and prove upon charges before a court of inquiry. I instanced, as an illustration, that a gentleman might desire a particular, important service performed, and out of twenty he would select one as being the only one in the twenty fit for the performance of the duties; that then, being called upon by the other nineteen to show why they were not fit, and to prove it before a court of inquiry or a jury, it would not be within his power, and yet he would know it as well as he knew his own existence. Hence, sir, I was in favor of the mode proposed by the law of 1855, to weed out the Navy—to use the language of the Senator from Maine—to constitute a board who would know the qualities and qualifications of the officers; and knowing them, would exercise that duty more properly than anybody else could. But, as I said, I am not going into that subject. It is now proposed to go still further, and to add to the Navy a number of officers who are not needed for the duties incident to that branch of our service; but to add to the number for the purpose of doing justice to particular individuals. If I believed that this was the mode to do justice to them, and at the same time do justice to the public service, it would constitute a strong reason for favorable action by my vote upon this proposition. But, sir, I do not; and I confess I cannot agree with the honorable Senator from Mississippi that we enter into any contract, or quasi contract, with an officer when he receives an appointment in the Navy.

The substance of that appointment is simply this, that so long as he performs his duty properly, and so long as the Government of the United States needs his service, so long is he entitled to the rules of promotion incident to it; but it is reserved to the President of the United States to drop him from the service whenever he chooses. It is reserved to the Congress of the United States, under the authority expressly conferred by the Constitution, to revise the Navy law according to its best discretion, and to affect him in his position, and in his line of promotion, according to their judgment.

Mr. DAVIS. Will the Senator state where the President gets power to drop an officer whenever he chooses?

Mr. STUART. I should be very glad to do that if it would not occupy more time than the honorable Senator would desire me to consume to-day.

Mr. DAVIS. It would require a good while.

Mr. STUART. I have not any excessive confidence in my own ability; yet I have a confident belief that I can establish that proposition by a process of reasoning which the honorable Senator himself may perhaps find it a little difficult to overthrow. It is sufficient to state that that is my conviction, and that I am proceeding on it; however, that is not involved in this question. This is a simple question, whether, for the purpose of doing justice to some individuals who are now out of the active service, it is best to add to the Navy list, and in doing that to exercise a species of legislation not warranted in my opinion—and I give it with all that respect for the opinions of others which I ought—by the Constitution itself. I only wished just time enough to save my own consistency on this subject, and to save what I believe to be an important consistency of the Senate, as it will be found, if we shall proceed hereafter with this character of legislation, believing we have had experience enough already to show that, having varied from constitutional authority, we have got ourselves into deep difficulty, and that the further we travel in the path of error, the

more the number of those difficulties will be increased.

Mr. CRITTENDEN. I wish to make a very few remarks, and shall not occupy the attention of the Senate more than five minutes. We now know, what I suppose must of necessity be the fact, that the President of the United States has not had time to examine these records. If he has examined any, they were those which he was compelled immediately to approve—that is, the reports which were favorable to the officers tried. As to the unfavorable reports, it is impossible that he can have even read them. It would, I suppose, have been competent for the President, if he had had time to examine these records and found that the evidence, instead of convicting a man, tended entirely to his exoneration, to have sent back the record for reexamination by the court, thus affording an opportunity for reconsideration; but that required an examination of the record, and he has not, in point of fact, made that examination, and the law is about to expire.

Under these circumstances, can anything be more just than to say to the President, "when you have time hereafter to examine these records and find that injustice has been done and dishonor unduly inflicted on a meritorious officer, nominate him to us, and we will consider whether we will not restore him to his place?" Can anything be more just? Can anything be more fair? Sir, I think it is not necessary to look any further to justify and warrant this resolution, when it is required by that justice which is due to one of our own officers, wronged in consequence of our own act, dishonored in consequence of our own act, and degraded in the service to which a lifetime had dedicated him. If the President, upon an examination of this record, finds an officer to be of meritorious service, though by some inadvertence, or some lapse, or some other cause, I care not what, he has been unjustly condemned, ought it not to be remedied and rectified? I say it ought; and that is a primary consideration; and that established, all else is naught.

My friend from Michigan is afraid to do this palpable justice; because, he says, we have a consistency to preserve, and he will preserve his. It is a fear of some little inconsistency. Had he not better be guilty of a thousand inconsistencies than one act of injustice? But there is some nicety about a constitutional question which he apprehends may lead to future embarrassment and future difficulty. I say the same as to that—had he not better encounter a thousand little niceties and embarrassments that amount to nothing, than refuse justice, which can only be granted in the form now proposed by the Senator from Mississippi? I think so. For myself, I can easily set aside all these considerations and all these niceties, and all these little inconveniences, for the sake of accomplishing what I believe to be the solemn justice of this case. I hope, therefore, that the resolution of the Senator from Mississippi will be adopted.

I see no great use in the amendment proposed by the chairman of the Committee on Naval Affairs. It seems to me to amount to very little, at best. My friend from Delaware wishes it also to embrace those who have not been tried. That may be another consideration altogether. I agree with him in his appreciation of the character of Commodore Stewart, the officer to whom I suppose he alludes, and in the justice of restoring him; but, for considerations satisfactory to his proud bosom, he declines to go before the court. Why is this power of the President to restore, given in respect to those cases only which have been before the courts? It is because there the President has a record; he does not listen to out-of-door solicitations or representations. Here is a record of sworn testimony. He can refer to that and be guided by it in his action on the subject; and guided by that, there is no danger that the President will give way to any improper considerations or motives. We give him a guide: take this record; examine the testimony, the judgment of the court; and if you say that that judge-

ment is clearly unsustained by the evidence, and that a meritorious officer has been sacrificed, do him justice, or afford the Senate an opportunity of doing it, by nominating him to them. I hope the resolution will be adopted. I think the amendment is useless, and need not be adopted.

The amendment was rejected.

Mr. BIGGS. I have just now, for the first time, had an opportunity to read the resolution which is pending. If it has been laid on my desk, it has escaped my notice entirely; and therefore the inquiry which I made, some time since, of the chairman of the Committee on Naval Affairs, whether it had undergone the scrutiny of that committee? I find that it has been reported by that committee favorably, with an amendment, which has been voted down, the purpose of which was to extend the discretion of the President of the United States in regard to these naval officers. From my experience here on this question, it seems to me the Senators are very much controlled by their feelings and sympathies for individual cases of naval officers. It is perfectly natural that they should be controlled to a considerable extent by their sympathies in behalf of individual officers.

If I understand the effect of this resolution, it is to change the existing laws, and to confide to the President of the United States a discretion, which he does not now possess, to increase the naval establishment. I voted for the bill of last year, authorizing a revision of the action of the original board of inquiry, which was provided for by Congress before I became a member of this body, because of the great clamor which was made in the Senate as to injustice to individual officers. I voted for it under the expectation that full justice would be done under it, and that there the matter would end. But now it seems there is complaint that another revising body of the Navy has done injustice; and that, in consequence of the present state of the law, the President has not discretionary power to revise the action of these courts of inquiry, and do justice to every member of the Navy.

It seems to me, sir, that we are acting on a principle which I cannot approve at all—namely, that the naval establishment is made for officers of the Navy, instead of being made for the benefit of the country. These officers have undergone an investigation before two tribunals of inquiry, and it seems to me that it is wrong to endeavor to extend further favor to them, the consequences of which will be to increase the expenses of the Navy, and to increase the naval establishment to an extent which is totally useless, so far as the country is concerned. I am totally opposed to the passage of the resolution. I can see no necessity for it. The only object which, it appears to me, will be attained by it, will be to extend to the President of the United States a discretion, which he has not a right to exercise under existing laws, to disapprove the action of these courts of inquiry, and place upon the Navy list men who are now retired from the Navy; thus increasing the expenses of the Navy, and enlarging the number of officers, which seems to me not to be desirable.

Mr. HOUSTON. I will not occupy the time of the Senate at the present moment, on the subject of these naval boards and courts. I desire to go into that subject when it may be legitimately presented, and when the leisure of the Senate will be more suited to my design than it is at present. I will not delay the passage of this resolution, because I think it is very important that it should pass. It does not constrain the President to do any improper act. It authorizes him to do within his discretion what is proper—to restore certain officers; not to make original appointment of individuals, but to make such changes as he may deem necessary, judging from all the information before him. For these reasons I will postpone any remarks I intended to make on the general subject, and I hope the vote will be taken on this resolution.

Mr. BAYARD. I desire to move an amendment to the resolution, and if it be adopted I may vote for it, but certainly not without it. It is to strike out all after the word "where," in the third line, to the word "of," inclusive, in the sixth line, and insert "it is deemed advisable by the." The words I propose to strike out are "the records of the courts of inquiry appointed under the act of January 16, 1857, may render it advisable in the opinion of."

It would then read:

"That in any case where it is deemed advisable by the President of the United States to restore to the active or reserved list of the Navy, or to transfer from furlough to leave of absence on the latter list, any officer who may have been dropped or retired by the operation of the act of February 28, 1855, entitled 'An act to promote the efficiency of the Navy,' he shall have authority, any existing law to the contrary notwithstanding, to nominate, and by and with the advice and consent of the Senate to appoint, such officer to the active or reserved list; and officers so nominated and confirmed shall occupy positions on the active and reserved lists, respectively, according to rank and seniority when dropped or retired as aforesaid, and be entitled to all the benefits conferred by the act approved January 16, 1857, on officers restored or transferred to the active or reserved list under that act."

I can conceive no reason in justice why an officer who has applied for this court of inquiry and has been rejected on a hearing before it, should be placed in a better position as regards the discretion confided to the President, with the confirmation of the Senate, than an officer who has not applied. I have stated one case, and I am sure there are numerous others, in which officers on the same high ground were unwilling to go before their juniors for the purpose of having their capacity acted on, as a matter of professional pride. I do not see why we should exclude them from the benefit of the exercise of the discretion of the President any more than the officer who has been heard, and who has not obtained any advantage from his hearing.

Mr. DAVIS. Making no question on the point of rule involved in this amendment—passing that over—I wish to say to the Senate (because my object is rather to present the question upon its merits, and I had hoped to get the entire concurrence of the Senate) that this would devolve on the President the necessity of taking oral testimony in every possible case where an applicant might choose to present himself. By the resolution, as originally prepared, he was protected from this; and the certain basis on which the President acted was to come with his nomination to the Senate, by confining him to those cases which were of record. Thus the Senate would have the power to revise, not only the action of the President in gross, but the basis upon which he made his nominations. It seems to me that this limitation is proper and necessary, and, unless the Senator from Delaware will have a dual President, it is quite clear he cannot have the power to take that amount of oral testimony which would be necessary to hear all the cases that would be brought before him.

Then, sir, I must object to the idea that a senior officer might properly refuse to go before these courts. It may do for the head of the Navy to look down upon the members of such a court as his inferiors, and in him such a sentiment may be excused; but I rather respect that great body of officers who, feeling secure in their own devotion and integrity to the country, have come forward and challenged investigation before a court of record. I am sure that the Senator from Delaware, if he stood arraigned upon any charge whatever, would much prefer that the testimony should be of record, and defy his accusers to meet him face to face. I think that it was mainly pride that brought most of these gentlemen before the courts of inquiry, and I doubt not that in most cases justice has been rendered. I am unwilling, reluctant, to that degree that I will not, unless further pressed, go into particular cases; but it is within my knowledge, and I could prove it in one case, at least, that injustice, gross injustice has been done, and that the individual stands now in the attitude of a man who, for an early fault, is to be held as dropped, never to be forgiven for the offenses of his youth. Six years of faithful service and good conduct, some of it distinguished, too, cannot relieve him from the fact of his having, at an earlier period of his life, as he admitted himself before the court, been guilty of intemperance.

But, sir, it is said that this is a proposition to make a navy for officers, and not for the country. No, sir; no. It is not to establish a navy; it is a proposition to do justice to man—a higher and a holier motive than the number of dollars and cents which may be involved in the expenditure. It is not to make a navy, not to prescribe the number of officers in the Navy, except so far as justice may require, that we shall increase the number in each grade; and as long as there is a dollar in the Treasury, or credit for the Govern-

ment, I am ready and anxious to fulfill that first obligation of a Government to its citizens—to do justice. How far it will increase the expenditure, how many will be nominated, I have not cared to inquire; I have no means of knowing. I should hope, for the honor of the Navy, that but few cases have been passed over where the records will sustain the President in making nominations and the Senate in confirming them. Be they few, or be they many, I repeat, the high obligation of justice impels us to the act, and I am willing to meet it, cost what it may.

Mr. BAYARD. Mr. President, the answer which the honorable Senator from Mississippi gives to my amendment is twofold. First, he says that the President of the United States would have too much labor cast on him if he were to take oral testimony for the purpose of examining the propriety of renominating any officers other than those who appeared before the courts of inquiry, and that he means to limit his investigations simply to the records in those cases. I hardly think that is sufficient, if the question of justice be weighed in the balance. The President may take his own means of inquiry. It is proposed to grant him a mere discretion. It is not necessary that he should go into a hearing, or have any court of inquiry. It is to put in his power, as I think ought to have been put there originally, the reappointment of those officers whom he conceives were placed on the reserved list without cause.

The second objection is, that, in the opinion of the honorable Senator, it is not a proper pride, except in the head of the Navy, for any officer to decline a hearing before the tribunals constituted by the act of 1857, but that he ought to have been willing to place himself there if any charge existed against him. I should agree with the honorable Senator from Mississippi, if the law of 1855—this, as I view it, iniquitous and injurious law—had involved the question of charge against the officers; but we were told, in all the discussions subsequently, that there was no imputation cast on those who were retired with leave pay; that it was simply done because they could not perform their duties as promptly and efficiently, relatively with other officers, as might be desired. It was intimated that it might be because old age had advanced upon them, or because of some temporary disability. In all these cases, especially in a case of age, where an officer had rendered distinguished service to the country, I can perfectly understand that he would be unwilling to leave the question of his promptness and efficiency to the mere opinion of men whom he had commanded twenty years ago. If there had been charges affecting his moral character, or his mental capacity, it might be that the officer would desire to have a court of inquiry, for there would be something tangible in that; but I can readily understand that an officer of advanced life, though he may not have the activity of youth, still feeling in himself full competency for the performance of his duties, would certainly demur to going before his juniors for the purpose of taking their opinion as to whether he was still sufficiently capable to perform his services. That is the class of cases which I wish to embrace, and I do not see any harm or danger in doing so, either because of any labor that would be thrown on the President, or in apprehension of injury to the service. I think it is but sheer justice.

Mr. HUNTER. I have no objection to the resolution, if a limitation be added that nothing which it contains shall authorize an increase in the number of officers in active service as now allowed by law. When vacancies occur, I am willing that the President shall exercise this power, which he would have a right to do, according to the view of his constitutional authority taken by the Senator from Michigan; but I am not willing to allow him, at his pleasure or discretion, to enlarge the number of officers as fixed by law to be employed in the active service of the Navy. That number was fixed after careful consideration of the interests of the country and of the Navy. I am for adhering to that number, and not increasing it. I am willing to allow the President to nominate anybody he chooses to fill any vacancy which may occur in that number hereafter. If the proviso which I have suggested be added to the resolution, I shall vote for it.

Mr. DAVIS. I ask the Senator whether it would cover his objection to say the number should not be

increased by any promotion until it had been reduced, if there was any excess to the standard number? That has usually been done.

Mr. SLIDELL. That is the law now.

Mr. HUNTER. If the proviso be attached so that the operation of this new resolution shall not increase the number the law allows in active service, I will vote for it. If I understand the Senator from Mississippi, that is what he proposes.

Mr. DAVIS. Not exactly. It would be that the number in the established Navy should not be increased; but that if an officer, now retired, should be nominated and put on the active list, then the vacancies which occur until the whole excess has been reduced to the standard number, shall not be filled by further promotions.

Mr. SLIDELL. That is the law now.

Mr. HUNTER. That would not attain my object. I am for confining the numbers to those which are fixed by the law; that is, I am for keeping the *personnel* of the Navy where the law now fixes it. I will vote for a resolution to enable the President to nominate to any vacancy that may occur in any of these classes, if that proviso be appended.

Mr. MALLORY. I am unwilling to vote for the amendment of my friend from Delaware, and I will briefly state the reasons. The courts of inquiry were open to every officer who was affected by the retiring board. I believe about one hundred and nine officers only applied; perhaps there were one hundred and ten. Nine, I think, withdrew; and of the remainder, the courts of inquiry have restored to the active service, if we are to judge by the printed reports in the papers, thirty-three; they have changed from the furlough to the reserved list twenty-nine, and they have left unchanged, where the retiring board placed them, some forty-nine.

Now it is proposed to extend this provision to those officers who refused to go before the courts of inquiry. There is no pretense that they were out of the country and had not the opportunity. We are called upon to vote for the amendment on the ground that it was a matter of pride with some that they would not go before a court of inquiry. If it was a matter of pride in the first instance, will not pride restrain them hereafter, when they shall have an opportunity in the future—for a court of inquiry is the natural and efficient resort to which the President will come, to inquire into their efficiency? Is not a court of inquiry that court to which naval officers always resort? Talk to us of officers, as a matter of pride, refusing to go to that tribunal which the law and the custom of the service to which they belong specially points them! No, sir; they have refused to go before the court, though it has been open for twelve months; and now it is proposed to extend the action of these courts of inquiry—that is all—because the President of the United States will resort to them; he will not undertake to wade through the records of parties applying to him without the aid of scrutinizers.

One of these records, to my knowledge, now amounts to six hundred pages; and you not only entail on the President the labor of examining it, but you entail further on him, for time out of mind, without limitation, for years hence if you please, on the application of any persons who have been retired by the board, although they refused to go before the court, the burden of undertaking their investigation. In view of the labor it might throw on the Executive, after the ample opportunity these parties have had, I would say reject this amendment. If there is any pretense that there has been any case where injustice has been done and an officer has unjustly been withheld from going before the courts of inquiry, that he was out of the country, that he was sick, that any reasonable excuse can be given for failing to avail himself of the provisions the law has pointed out, I will vote for it immediately; but I cannot see the propriety of voting for this amendment as it is.

Mr. BENJAMIN. I dislike, very much, to detain the Senate, but I have one or two remarks to make in opposition to the proposition of my friend from Delaware. I do not desire to refer to the policy of this law, as originally passed by us, any further than to recall to the recollection of the Senate that there was one universal concurrence in the opinion that the Navy required an extensive and radical reform. A difference of opinion ex-

ists as to the wisdom of the measures which we adopted for that reform. Those measures have been very thoroughly discussed in the Senate, and of course it is not now my purpose to recur to the arguments which I used in defending them, or to reply to those which have, on different occasions, been used in opposition.

But, sir, on the representation of those officers whose names had been reported as proper to be put on a leave of absence or furlough list, loud complaint was made that they had been condemned, as it was termed, unheard; that a secret tribunal had passed upon their merits, and that in many cases they had been deprived of rank and office on rumors which they could prove to be unjust. The theory of the law, as I originally understood it, was a simple examination into the efficiency of those officers to perform public duty—not their characters, not their moral standing, but that kind of inquiry which every employer has at all times a right to institute in relation to the capacity of his employé to perform effective duty. Yielding, however, to the complaints of those officers, which in some instances, I must confess, appeared to be well founded, we authorized every person dissatisfied with the result of the inquiry, to ask for a fresh examination—an examination to suit himself, and gave him an opportunity which was all that he said he craved, to introduce the witnesses who could disprove the suggestions made against his efficiency in the service. Many officers availed themselves of these courts of inquiry, and have thus proven that they were sincere in the complaints they originally made. Others by their silence and inaction have evinced, as I am entitled to infer, an entire acquiescence in the position to which they were reduced by the action of the first retiring board. There are over one hundred officers, if I am not mistaken in my recollection, perfectly satisfied, so far as we have reason to know, with their position as retired officers. About one hundred officers asked for an examination. Some thirty or forty have succeeded on that examination in having their *status* in the Navy changed to their benefit, and nominations in relation to those officers are understood to be before us, although the suggestions on that subject have been made, I think rather indiscreetly in open session, where we have no right to refer to the presidential action on appointments. Still it has been taken for granted as a fact publicly known, that a certain number of those officers have been recommended for restoration to their former rank in the Navy.

Now my friend from Delaware ingrafts on the proposition of the Senator from Mississippi, an amendment to throw open the Navy list to all of these one hundred and odd officers, who, by their silence, during the whole time allowed them by law for making complaint, have signified their acquiescence in the position to which they have been reduced, and that it shall be within the discretion of the President to restore the whole of these one hundred and ten retired officers to the active list of the Navy. I understand the amendment of my friend to be that it shall be within the discretion of the President to nominate for restoration to the Navy or for superior *status* to that now occupied by them, all officers who have not chosen to demand courts of inquiry. If this proposition is dictated by a desire to do honor to one distinguished exception, in whose case my friend from Delaware seems to take peculiar interest, if the idea is on account of eminent public service to do honor to Commodore Stewart, and a law is brought forward for his exceptional case, I might be tempted to vote for it, in order to oblige my friend from Delaware, however I might be opposed to exceptional legislation of this kind; but I trust that the Senate will reflect long and well ere it consents to throw within Executive power the restoration to rank and office of over one hundred officers of the Navy, who are now upon the retired and furlough lists, whose pay is inferior to that which they would be entitled to if they were restored to the active list, who are now without the line of promotion, and therefore cannot, for the future, increase the expenses of the Navy, and all that, so far as I can see, with a desire of reaching one or two exceptional cases. The whole work would be undone, the Navy restored to the condition in which it was before the reform took place, and I think with very deleterious effect on the public service.

There is one consideration, Mr. President,

which, it seems to me, ought to strike Senators with some force. It is this: if you look around upon the list of Senators who supported this reform and those who were opposed to it, you will find the singular fact, almost without exception, that every Senator who represents a commercial community, every Senator whose avocation or previous pursuits in life have led him to an intimate acquaintance with the Navy, all those who live on the sea-shore, or in large ports, supported this reform; whilst those gentlemen who lived in the interior, and whose attention had not been brought so directly to a knowledge of those abuses which existed in the Navy, have had their sympathies appealed to by particular friends and the relatives of particular friends to such a point that in almost every instance, with a desire to reach and benefit a particular individual, they have not hesitated to oppose the entire measure of reform. I say that this existed in many cases. I by no means attempt to impute these partial views to every Senator who opposed the reform measure; but I think it is somewhat singular that nearly every gentleman whose former life brought him into active or immediate connection with commercial or naval matters was strenuous in support of this reform. Now the proposition of my friend from Delaware breaks it all up again by giving the opportunity, at the discretion of the Executive, of restoring the whole of these retired officers to the active list of the Navy, wherever they have thought proper not to demand a fresh inquiry. I trust the Senate will vote that down at least. So far as the proposition of the Senator from Mississippi is concerned, I am not in favor of it, but it cannot do much harm, and I shall not be strenuous in my opposition to it.

Mr. BAYARD. The honorable Senator from Louisiana entirely misunderstood me if he supposed it was with reference to any individual interest of mine in any particular case that I moved this amendment. I sought to illustrate the matter by a case within my knowledge, but not one that appealed particularly to me. I think neither the honorable Senator from Louisiana nor any other member of this body, has had less regard to the individuals who might be reached by the operation of the former law or of the present law, than I have had. I think the honorable Senator is under a mistake as to the mode in which he classifies the different interests in opposition to the law for the reform of the Navy, passed in 1855. I do not claim for myself any particular knowledge of the Navy, but I rather think I have perhaps as much knowledge of the naval service and naval officers as many of those who voted for that law.

I thought, however, from the beginning, that it was an iniquitous law. I thought it was a law that struck at the very foundations of the service. I think its effect has been, and will be, never to produce any good to the Navy, under any circumstances comparable to the evil which has flown from it; and I was willing at the last session, as I am now, to give a discretion to the President, with the consent of the Senate, without any courts of inquiry at all, to replace any officer on the list without further action.

I should be perfectly willing to take that course, and I have thought it more advisable than the course which was taken by the law providing for these courts of inquiry. I believe they have only tended to produce heart-burnings and jealousies in the Navy. The results of their findings being mere matters of opinion, and not a judgment upon specific facts, I think they are nearly as likely to have arrived at a wrong result as the naval board, where the hearing was purely *ex parte*. I am not satisfied with the mode of inquiry, and therefore I desire, at any time when it may be within my power, to bring it back to its true principle, and leave the President on his responsibility to nominate any of these officers to us for restoration. I am not willing, however, to let the power be partially exercised, to include some and exclude others.

I think my friend from Louisiana is mistaken in his idea that the officers who did not go before the courts, acquiesced in the findings of the naval board. How did they acquiesce? They could not rebel against your law; they could not alter their position after you had chosen to retire them without a hearing. Numbers of them did not come here to complain, but some did. Many who did not complain felt aggrieved—seriously

aggrieved. In my judgment, that law was destructive to the *morale* of the service. How can the action of those officers who did not go before the courts be an acquiescence? They might have looked to the justice of Congress in remedying them in some other mode than was prescribed in the act of 1857. There is no acquiescence on their part because they refused to go before a tribunal, not to be tried on any specific charges, either affecting their moral character, their mental capacity, or their bodily capacity; but to be tried as a matter of opinion on their whole lives, upon all subjects, on the question of relative capacity or efficiency. I cannot view those officers who did not go before the courts of inquiry as acquiescing in the justice of the position which placed them on the retired list, or dropped them from the Navy. If you are to allow the President to make selections for officers to be renominated to us who were, by the board, under the first law, deprived of their position in the Navy, I wish to extend the same benefit to all officers in the service, and I think the discretion of the President and the Senate will make a proper use of this power.

Mr. IVERSON. I was one of those Senators who believed that the policy of the original law which created the retiring board was highly improper and injudicious. I was opposed to the policy of the law, and I was much more opposed to its execution. I believe the law itself, and the execution of it, was one of the most outrageous and disgraceful proceedings ever put on the records of the country. I expressed my opinions pretty freely on this subject when the question was discussed at the last Congress. Notwithstanding my objection as to the policy of the law, and the manner of its execution by the Secretary of the Navy and the retiring board, and although my sympathies were very strongly excited in favor of the retired officers—all of them and every one of them—I cannot vote for the amendment of the Senator from Delaware, for reasons which I shall proceed to state briefly.

I make these remarks in order that I may preserve my consistency in the matter; because, as I was opposed to the whole proceeding originally, it might be supposed I was acting inconsistently if I did not throw open the door now for the restoration of those officers.

At the last session of Congress we passed a law by which the retired officers who came before us and said they were aggrieved by the action of the retiring board, were afforded an opportunity of a fair and impartial hearing before courts of inquiry. A number of them have gone before those courts. They have gone manfully and met the investigation, and they have done it in open day. The law required that they should prove their professional, moral, mental, and physical capacity for the naval service. Many of them have gone before those courts, and they have proved these things to entitle them to restoration, and I suppose many of them have been restored, or, at least, initiatory steps have been taken for their restoration. It is understood, at any rate, that the courts of inquiry have recommended many of them for restoration.

The Senator from Louisiana [Mr. BENJAMIN] is mistaken somewhat as to the number of the officers who have not applied to the courts. Two hundred and one officers were originally retired and dropped by the retiring board. Out of that number some have died; and I understand one hundred and twenty have gone before the naval courts for examination; so that only sixty or seventy have not gone before these courts, instead of one hundred and ten, as he stated. Over one hundred have gone before the courts, and asked for a review of the proceedings under which they suffered; and decisions have been made in their behalf, or against them. Some sixty or seventy, however, have acquiesced in the original decision of the retiring board. They have either been satisfied with the position which that board assigned them, or they have been afraid of the investigation which the law of the last Congress invited them to make. If that be the case, I think they ought to be, and are estopped, from any further promotion. If they are satisfied with the positions in which the retiring board placed them, of course there is no reason for making provision for their promotion. If they were not satisfied, but were afraid or ashamed to go before the courts of inquiry for the purpose of investigation, then I think they ought equally to be estopped.

Besides, the amendment of the Senator from Delaware would place the gentlemen who have thought proper not to go before these courts on the same footing as to claims for promotion as those who have gone before the courts. Here are sixty or seventy gentlemen who, having undergone the examination, are recommended for restoration; they have met the ordeal which the Senate and House of Representatives thought proper to propose for the trial of their claims. If the amendment be adopted those officers who acquiesced, or were afraid to encounter this investigation, will have the same right and stand precisely in the same position as those who have been before the courts. I think we ought not to put them in the same category. I think they have inferior claims, at least, to those who have gone before the courts and met the investigation manfully and openly.

Besides, if the door be thrown open for the restoration of officers who have acquiesced in the decisions of the retiring board, how is the President to investigate and find out the qualifications of these gentlemen? Mind you, the officers who have gone before the courts of inquiry, and who have been recommended for restoration, have proved their mental, professional, physical, and moral qualifications for service. If the President undertakes to restore any of the other officers, he ought to be satisfied of the mental, moral, physical, and professional capacity of the officer who applies for restoration. How is he to arrive at that conclusion? If he can satisfy himself by a process of inquiry as to the efficiency of these gentlemen, or any applicant who presents his claims to him, how is the Senate to arrive at a conclusion on the subject? Their cases must be presented here for investigation. We have to satisfy ourselves of the mental, moral, physical, and professional capacity of the applicant. How are we to do it except by instituting a process of inquiry and the examination of witnesses? It will involve a degree of responsibility and expense and trouble to the Senate, which I think the Senate will be very unwilling to encounter. For one, I deprecate any such proceeding. I think as these officers have had an opportunity of having their day in court, and have failed or neglected to avail themselves of that opportunity, they ought to be estopped.

For these reasons, I shall vote against the amendment of the Senator from Delaware, although originally I sympathized deeply with all these officers, and if I could have wiped out the whole proceeding by a vote given here, I should have done so; but it is now too late, I think, to amend the original wrong which was done.

The amendment was rejected.

Mr. HUNTER. I now offer this proviso to be added to the resolution:

Provided, That nothing herein contained shall be so construed as to allow the increase of the number of officers in the active-service list, as now authorized by law.

Mr. CRITTENDEN. If I understand it, that amendment defeats the whole resolution.

Mr. HUNTER. It does not. It allows the President to nominate officers from any of these positions whenever there may be a vacancy, but it preserves the policy of the law which limited the number of officers on the active-service list of the Navy. That policy was founded with reference to the interests, not only of the country, but of the Navy. It was believed that it was proper, and indeed, necessary, to fix some limit to the number of officers in that list, in order to make promotions rapid, and in order to confine the number of officers within such limits as might be consistent with what it was politic to expend on that branch of the service. I am merely for keeping up the policy of the law and allowing the President to nominate from any of these lists whenever there shall be a vacancy.

Mr. DAVIS. I think the proviso offered by the Senator from Virginia strikes at the very best class of officers, to whom it is my purpose to extend relief. The whole effect of it, as I understand his proposition, will be to authorize the President to nominate, or to place those persons who are now dropped from the Navy, on the reserved list. But there are officers now placed upon the reserved list whose personal and professional pride has been wounded by the fact of being considered unfit to command under the colors of their country. This is a pride which deserves rather

to be nursed than repressed; and it is the loftier and nobler spirit which is struck at in these cases—the man who does not ask the Government to feed him; but who, after years of honorable service, has attained a rank of which he is reluctant to be deprived. He asks that he shall be put upon the active list in order that whenever the Government chooses to order him into service, he may again walk the deck of a vessel, the proud representative of his nation. If we are merely with eleemosynary sentiment dealing out bread; if we are to take those who have been dropped or put on furlough pay, and for the sake of giving them a pittance, but little more than a pension, make this provision, the proviso is proper; but if, as I believe, in some few instances—and I think they are very few—some of the best officers of the Navy have been put on the reserved list, then, sir, I think the interest of the country and the great demands of justice require that we should open the gate and bring these officers back to the positions which they have heretofore graced.

Nor, sir, if I understand this movement, made with a financial view, will the difference of expense be great. If an officer is not in commission, but on shore, and he is waiting orders, or on leave, or on furlough, the amount of pay he will receive waiting orders on shore will be but little more than leave pay; if he be receiving leave pay, it will be exactly what he would have if on the reserved list. The only effect, then, produced is to wound his pride, and shut him out from the opportunity for active service, and to close against the country the opportunity to avail itself of his efficiency to command, if hereafter it should be required. I would rather have the resolution, I admit, with the proviso, than not to have it at all, because it would be a modicum of justice. Some few who have been dropped, after they had been worn out in the service, would be then left on a pittance to support them the balance of their days; but I think that the proviso, in every sense which goes to the pride of the Navy and to the gratitude of the country, is subject to every objection which attaches to the proposition as it now stands.

I am not one of those, Mr. President—and while I am up I will say so—who look on the proceeding, originally, as so objectionable as to justify any of the harsh terms which have been applied to it. It follows, in the course of years, that every military service requires either reorganization or the retirement of those who have become unfit for the duties of their station. I think that Congress did well to provide for the means of retiring from active service those who were no longer fit for it. I do not think it did well to provide for dropping an officer because his conduct had been disgraceful or unworthy of his profession, because that was the proper function of a court-martial. But it must happen that either despotic power is exercised, and reorganization is provided for by law, or the retirement of those who have become unfit for the service is called for by the best interests of the country. I think, therefore, that the proposition, originally, was a good one. I think it was very badly executed. The board should have heard each officer. They should have made up a separate record in each case. The officer should have been confronted with the board, and with the witnesses who appeared against him. His physical, his mental, and his moral fitness for the Navy should not have been decided upon in a closed room, with secret witnesses, and no record in future time to speak of what was done. That is my great objection to it.

Then this court of inquiry, a remedial measure, summons before it an officer who has been dropped from the rolls of the Navy, or dropped from the active list, by a secret proceeding, but they do not inform him on what charge or for what reason he has been retired or dropped. They summon him there to prove a general negative—that he is neither physically, morally, nor professionally unfit for the service. Every one knows how difficult it is to prove a general negative. Every one sees how unfair the proceeding is towards the officer; first stricken from the roll by a secret proceeding, and then summoned before an open court, to prove a general negative. Now, all that I ask of the Senate is, that when he has appeared before that open court and made a record which, upon fair investigation, justifies

him in asking for restoration, he shall receive that justice at our hands. For the brief period which will elapse when each grade of the Navy may be temporarily in excess, there will be but a small increase of expenditure; but you will save the pride and you will do justice to the individual who has suffered this great wrong at our hands; for, by the form of the law, it was left to the board to see to the manner of its execution.

Mr. HUNTER. The Senator from Mississippi seems to proceed upon the presumption that the board was wrong in its action, and that, therefore, any attempt to adhere to the original policy of the law, would do injustice to those who complain of the action of these courts. It seems to me that, as they acted under our law, it is fairer to presume *prima facie* that they were correct. If it be right to assume that they were not, I do not see why the privilege should not be extended to the class of persons proposed to be relieved by the Senator from Delaware, as well as those whom the Senator from Mississippi proposes to relieve. Nor do I see that it is any particular hardship on the Navy; for, as I understood, it was at their request that a limit was put on the number of officers in the active-service list. It was to make the corps more efficient; and it was to make them more efficient by holding out greater inducements and better opportunities for promotion. It is on their account, as well as that of the public service, that I desire to secure so much of the policy of the old law. I am willing that, when vacancies occur, these gentlemen shall be nominated, if the President should think proper to do so, to fill those vacancies; but I am not willing, unless Senators can show me that the original policy of the law was wrong, to increase the number which that law assigned as the proper number to be placed on the active-service list.

Mr. DAVIS. I will say to the Senator from Virginia that I have been led into error as to his purpose. I will say to him further, with entire deference, that he does not effect his purpose by the proviso. An officer on the reserved list cannot receive promotion. There is no possibility for him ever to get on the active list. The very fact of his being on the reserved list puts him out of promotion.

Mr. HUNTER. It was to relieve that very fact that I was willing to vote for the joint resolution of the Senator from Mississippi. If we pass that, with the proviso, he still is in the line of promotion, because he can be nominated to a vacancy. As the law now stands, on his view, the President cannot nominate a man on the reserved list to fill a vacancy in the active-service list; but if his resolution be passed, the President can nominate a man on the reserved list to fill a vacancy on the active-service list. I say I am willing to do that, provided we keep within the limit originally fixed by the law, and do not increase the number of officers in the active-service list.

Mr. TOOMBS. I hope the proposition of the Senator from Virginia will not be entertained by this body. Its effect will be to defeat entirely that modicum of justice which seems to have been conceded unanimously by the Senate, with one or two exceptions. Before the getting up of the unfortunate retiring board, the number of captains in the Navy was limited to sixty-eight. That board of fifteen, that secret tribunal of which you have heard, struck several captains from the list. The object was to give promotion to gentlemen who were impatient. It was the most infamous tribunal that ever disgraced any nation under the sun. It has no parallel whatever. In order to allow some modicum of justice, the two Houses of Congress agreed that the rule limiting the number of captains to sixty-eight should be relaxed so as to admit those who should be proved, on an open trial, to have been unjustly treated by the secret board. The friends of the board, by a hard struggle in open session and elsewhere, first secured the promotion of those men who had managed adroitly to put other people out and get their places. Congress said that the number should be enlarged *pro tanto*, so as to receive those to whom injustice had been done. This was necessary, because the confirmation of those who were promoted, by virtue of the action of the board, was pressed forward, and if the action of the board were rescinded by a subsequent court, the whole matter would be involved in difficulty. Now the

Senator from Mississippi proposes to carry out this feature of the law of last year. The amendment of the Senator from Virginia, if adopted, will utterly destroy it.

Mr. HUNTER. I do not understand that the proviso which I have offered will affect the action of last session at all. The bill of last session enlarged the number. The Senator from Mississippi proposes to enlarge it further.

Mr. TOOMBS. I am aware of that; but I say the amendment destroys the principle of the resolution of the Senator from Mississippi, which I believe to be correct. It is simply to give these officers, who have been subjected to the disadvantages of which that Senator very correctly spoke, a right which other officers in the military and naval service have. Other officers, when subjected to the action of a court of inquiry or a court-martial, have a right to call for the approval or disapproval by the President of the United States of the action of the court. The President may perceive that the judgment of one of the courts of inquiry is wrong; he may be convinced that the officer is worthy to be returned into the active service of the country, and that he has been badly treated by the first board; and yet the Senator from Virginia says, by his proviso, that the President shall not redress the wrong until vacancies occur in the ordinary course of events.

When a batch of two hundred promotions was presented to us in consequence of the action of the revising board, the Senate took them all in a bunch, but now each case is to be scrutinized. The idea of the law of last year was, that if any man had been served unjustly, you would put him where he was before the wrong action took place, and this resolution only carries out that policy. In order to do this, Congress agreed to relax the rule limiting the number of officers in each grade. If that was just—and there seems to have been very little objection to it—why not give the President a further opportunity to redress the wrong by relaxing the rule still further? The proposition of the Senator from Virginia strikes at the principle of the measure, extorted, I may say, by the general demand of the country and by the iniquity of the original proceeding, from the Senate and House of Representatives at the last session, and almost unanimously acquiesced in by Congress.

No one of the twelve or thirteen hundred officers in our military and naval service can have the slightest censure passed on him without being subjected to this general law, which has obtained from the foundation of the Republic. Oftentimes there is first a court of inquiry, and then a court-martial; but the sentence must be approved by the President of the United States before it can take effect. We are now simply amending a defect in the last law on this subject, and requiring this proceeding to be subject to the approval of the President, as in all other cases, by the general law of the land.

I was opposed to having as many as sixty-eight captains. I was opposed to the promotions made by the action of the naval board, because I thought they gave us twice as many post captains as we ought to have in the service. If those promotions had not been made we should not have had half this difficulty. It was then insisted by the chairman of the Naval Committee that we had not enough officers in any of the grades, but needed a larger number.

He stated that the public service demanded it. I differed from him on that point, and I thought the places should be kept vacant, in order to allow the restoration of those who had been improperly displaced. If any one is to be kept back, let it be the man who has obtained a place from which another has been improperly dismissed. If an officer has been treated with injustice, if he has been wronged by a secret tribunal, if the President and Senate believe his record entitles him to restoration to the active-service list, let him be restored; and if any one is to be displaced, let it be the man who wrongfully holds the position of the officer who has been improperly driven from the service of the country.

Mr. HUNTER. A very few words will, I think, enable me to show that there is nothing in my amendment inconsistent with the principle of the joint resolution. As I understand it, the resolution was introduced because, in the opinion of the Senator from Mississippi and others, the

President cannot nominate from these ranks to the active-service list, for the reason that the law forbids it; and that might very well be the foundation of such a resolution. There is another class of opinion here, which holds that the President can, under his general constitutional power, fill vacancies in the active list by appointments from the reserved list. It is to reconcile these opinions and to effect what all agree may properly be done to enable the President to fill vacancies by appointments from the reserved list, that I am willing to see this resolution introduced and passed. There may be a further purpose on the part of the Senator from Mississippi, with which I do not sympathize, and that is, to allow those who have failed before the second board to get another chance for a trial.

Mr. TOOMBS. Not a trial.

Mr. HUNTER. Yes, sir, it is another chance for a trial. It is a trial before the President. It is an appeal from the second court of inquiry to the President. I voted for the bill under which these second courts of inquiry were held. I thought it was an act of justice due to the officers who had been retired, that they should be heard; but when I voted for that bill, I supposed the findings of these courts of inquiry would be final and conclusive. It seems, however, that there are many here who are still dissatisfied with these findings. I am willing to say that the President may, notwithstanding the law, do what, in the opinion of some gentlemen, he has a right to do, under the Constitution. If he does not increase the number to which the law has limited the officers of the Navy, I see no reason why he may not nominate to vacancies from any of these lists. To that extent I am willing to go, and I will consent to the passage of this resolution because, under the existing laws there are some, among them my friend from Mississippi, who think the President will be restricted from making such nominations unless the existing restrictions be *pro tanto* repealed.

Mr. FESSENDEN. The position of the Senator from Georgia is plausible, but I think it is unsound. He assumes that this proceeding is in the nature of a court-martial or court of inquiry, and that it necessarily involves, not only the examination, but the approval of the President. I differ from him on that point altogether. If the bill which we passed at the last session had provided that, in case the President did not approve the finding of the board in any individual case, he might, nevertheless, nominate the officer to the Senate, the case would have presented a different aspect. The argument of the Senator from Georgia is founded on that idea. He says this is only carrying out the principle of that bill; and he therefore assumes that, when that bill was passed, it was intended that the President should have the power of reappointing such persons as might be recommended by the courts for reappointment to the active list; that he should also have the power, if he did not approve the findings of the courts, to reappoint to active service those whom the courts decided ought to remain in the position in which they were first placed.

Mr. TOOMBS. I think that is the true construction of the act.

Mr. FESSENDEN. I think differently from the Senator from Georgia. If that is the true legal construction of the act the President can do it now, and there is no necessity for passing this resolution to enable him to do it. The bill would have presented itself to my apprehension in a very different shape, with a very different meaning, if it had said what the Senator now assumes that it meant, to wit, that the President should have power to review all the proceedings of these courts. I hold that it was not intended to give him any such power. The board provided for by the original law placed some officers on the reserved list, and some on the furlough list, and some it struck off the rolls of the Navy altogether. The President, then, had power to approve or disapprove its action. Having approved it, the matter was settled so far as the officers were concerned. Then we passed the act of 1857, not to give the President power to replace these gentlemen in the Navy except in case of a certain result. What was that result? It was that a court to be appointed in pursuance of the provisions of that act, should find that they ought to be restored to active service, and their position upon the fur-

lough list or leave-of-absence list changed. Now the Senator assumes that the object of the act was not only to give the President power to act in restoring these officers in pursuance of the finding of a court, but that it was also to give the President power to act in opposition to the finding of the court. No such construction I apprehend can be well founded. If the construction of the Constitution be as is contended, that the President has not power to fill a vacancy by the appointment of an officer on the reserved list in case he should recover from his disability, I might be willing to grant that power; but I am not willing to give him power to override these decisions which have been made consecutively, one after the other, in opposition, as I contend, to the true intent and meaning of the act passed last year.

Mr. HAMLIN called for the yeas and nays on Mr. HUNTER's amendment; and they were ordered.

Mr. MASON. I wish to say a very few words before giving my vote for this amendment. Ever since the action of the board of fifteen was promulgated to the country, the legislation by which we have made attempts to remedy it, I think, has thrown us into still greater difficulties. I was one of those who believed that the action of that board inflicted a vital blow on the character of our Navy. I have never yet seen reason to change that belief. At the last session, it was the pleasure of the two Houses, by the law of 1857, to endeavor to repair some of the mischiefs which resulted; and in that endeavor, it was considered by the friends of that measure, of whom I was not one, that it was necessary to enlarge the number of officers in the Navy, *pro hac vice*, in order to admit the operation of that law. It was a necessary expedient, I dare say, but a very clumsy one; one that had been entailed on us, however, by the action of the board.

Now, as I understand, the proposition of the Senator from Mississippi is to give power to the President to nominate to the Senate for restoration to the active list officers who have gone before these courts, and have been rejected by them. I do not doubt that the President possesses this power without any legislation on our part; but still I should have no objection to vote for the proposition of the Senator from Mississippi, unless it again enlarges the number of the officers of the Navy. Certainly no one who reasons as I do can doubt that the operation of the retiring board was one which the board thought necessary to thin the ranks. There were too many officers for the ships then, and in consequence of that, as far as I could see, they sought every occasion against every officer of the Navy if possible to disable him and put him aside, in order that they might get promotion.

Now, in the endeavor of the last Congress to remedy the evil inflicted on the Navy by that retiring board, they found themselves under the necessity of enlarging the number of officers, already too large; and if the proposition of the Senator from Mississippi carries, without the restraint placed on it by the limitation proposed by my colleague, the effect of it will then be to again enlarge it. For these reasons—although I shall vote for the resolution of the Senator—I cannot agree to enlarge the number of officers.

Mr. JOHNSON, of Arkansas. My colleague [Mr. SEBASTIAN] has paired off with the Senator from Iowa, [Mr. JONES.]

The question being taken by yeas and nays resulted—yeas 24, nays 22; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Clay, Collamer, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foster, Hamlin, Hammond, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mallory, Mason, Stuart, Trumbull, Wade, Wilson, and Yulee—24.

NAYS—Messrs. Bayard, Broderick, Chandler, Clark, Crittenden, Davis, Dixon, Doolittle, Douglas, Foot, Green, Gwin, Hale, Harlan, Houston, Iverson, Kennedy, Polk, Seward, Simmons, Toombs, and Wright—22.

So the amendment was agreed to.

The joint resolution was reported to the Senate, as amended.

The VICE PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. CLAY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 22; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Clay, Collamer, Durkee, Evans, Fessenden, Fitch, Fitzpatrick, Foster,

Hamlin, Hammond, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mallory, Mason, Slidell, Stuart, Trumbull, Wade, Wilson, and Yulee—25.

NAYS—Messrs. Bayard, Broderick, Chandler, Clark, Crittenden, Davis, Dixon, Doolittle, Douglas, Foot, Green, Gwin, Hale, Harlan, Houston, Iverson, Kennedy, Polk, Seward, Simmons, Toombs, and Wright—22.

So the amendment made as in Committee of the Whole was concurred in.

The joint resolution was ordered to be engrossed for a third reading; and was read the third time and passed.

ADMISSION OF MINNESOTA.

A message was received from the President of the United States, by Mr. HENRY, his Secretary, stating that he had received from Samuel Medary, Governor of the Territory of Minnesota, a copy of the constitution of Minnesota, together with an abstract of the votes polled for and against said constitution, at the election held in that Territory on the second Tuesday of October last, certified by the Governor in due form; which, on motion of Mr. DOUGLAS, was referred to the Committee on Territories, and ordered to be printed.

HARBOR IMPROVEMENTS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate of December 22, estimates for the improvement of certain harbors on Lake Erie.

Mr. STUART. I move that the report be referred to the Committee on Commerce, and be printed.

Mr. DAVIS. I wish to say beforehand, as a protection to this Secretary of War, and with some regard for his predecessor, that I hope the fact of his answering a call, and sending in these estimates, will not hereafter be quoted against him as a recommendation for these works. I heard no recommendation in his letter.

The report was referred to the Committee on Commerce; and the motion to print was referred to the Committee on Printing.

REGISTER TO BARK JEHU.

Mr. CLAY. I ask the Senate to take up two little bills, which were reported by me last week from the Committee on Commerce—one to authorize the issue of a register to the bark Jehu, and the other to authorize the issue of a register to the steamer Fearless. I will say that they are reported unanimously by the committee, and they are approved by the Secretary of the Treasury. There is no objection, that I can see, to their passage. I hope the Senate will pass them, as I am told, with respect, at least, to the bark Jehu, that she is waiting in the port of Boston for a register to be granted before she sails.

There being no objection, the bill (S. No. 50) to authorize the issue of a register to the bark Jehu was read a second time, and considered as in Committee of the Whole. Its object is expressed in its title.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

REGISTER TO THE STEAMER FEARLESS.

The bill (S. No. 51) to authorize a register to be issued to the steamer Fearless was read a second time, and considered as in Committee of the Whole. It directs the issue of a register to the steamer Fearless, under that name, a foreign-built vessel, and now owned in part by J. M. Estelle, of San Francisco, on satisfactory proof to the Secretary of the Treasury that the steamer is wholly owned by citizens of the United States, and that the repairs put upon her in the United States, while thus owned, are equal to three fourths of her cost when repaired.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, read the third time, and passed.

ARREST OF WILLIAM WALKER.

Mr. MASON. I wish to say to the Senate that if there be any desire on the part of Senators to debate the motion which I made on Thursday, to refer the President's message in relation to Walker and Nicaragua to the Committee on Foreign Relations, I shall not now insist on the reference; but I move to take up that motion with a view to have it acted upon.

The VICE PRESIDENT. That is the next

business in order. The question is on the motion of the Senator from Virginia that the message of the President of the United States in relation to Nicaragua be referred to the Committee on Foreign Relations.

Mr. MASON. I have no desire whatever to debate that matter, but have refrained from it. I with very great deference and respect submit to the Senate that it would be better perhaps to allow the reference to be made, and let the debate, if one is to arise, be on the principles announced in the report of the committee. If there is to be debate, I will not, of course, insist on the motion at this hour.

The motion to refer was agreed to.

EXECUTIVE SESSION.

On motion of Mr. MASON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, January 11, 1858.

The House met at twelve o'clock, m. Prayer by Rev. B. N. Brown.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House the laws and journals of the Legislature of the Territory of Nebraska; which were referred to the Committee on Territories.

Also, a communication transmitting copies of the accounts of persons charged with the disbursement of goods, moneys, and effects, for the benefit of Indians, from the 1st of July, 1856, to the 30th of June, 1857; which was laid on the table, and ordered to be printed.

Also, a communication from the War Department, in answer to a resolution of the House of 4th of January, 1858, calling for the last report of Lieutenant Colonel J. D. Graham, on the harbors of Lake Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

CHILDREN OF JOHN NEIL.

The SPEAKER presented a bill from the Court of Claims, which had been overlooked in the report of bills presented several days ago, for the relief of the surviving children of John Neil, deceased; which was read a first and second time, and referred to the Committee of Claims.

CALL OF THE STATES.

The SPEAKER stated that the business first in order was on the motion submitted on Monday last by the gentleman from Ohio, [Mr. SHERMAN,] to suspend the rules for the introduction of the following resolution:

Resolved, That the States be again called for the introduction of bills and resolutions to which no objection shall be made; and that upon such call it shall be in order for any member to introduce more than one such bill or resolution.

Mr. SHERMAN, of Ohio. I desire to modify the resolution, so that it shall read as follows; and I move to suspend the rules, to permit me to offer it:

Resolved, That the States and Territories be called, beginning with the State of New York, for the introduction of bills; and that each member be permitted to introduce, on motion for leave, without debate, as many bills as he desires, for reference only, and such resolutions as may not be objected to.

The House divided; and there were—ayes 102, noes 46.

Mr. PHILLIPS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. COBB. I ask whether an objection to a bill introduced under this resolution would not carry it over? I wish to know whether this rule does not apply to bills as well as resolutions?

The SPEAKER. It does not, as the Chair understands it. The Chair understands that, under the resolution as modified by the gentleman from Ohio, if objection is made to the introduction of a bill, the question will be put and decided by a majority of the House, on a motion for leave.

Mr. KEITT. I wish to inquire whether a disposition upon the part of any member to debate a bill would not carry it over?

The SPEAKER. It would not, in the opinion of the Chair, if the resolution should be adopted.

The question was taken; and it was decided in the negative—yeas 96, nays 86; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Blair, Brayton, Bryan, Buffinton, Burroughs, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Comins, Cox, Cragin, Curtis, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Edie, Fenton, Gartrell, Gilman, Gilmer, Goodwin, Greenwood, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hoard, Howard, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Leach, Leiter, Samuel S. Marshall, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Olin, Palmer, Pettit, Pike, Potter, Pottle, Quitman, Reagan, Ritchie, Robbins, Royce, Russell, Sandidge, John Sherman, Judson W. Sherman, Shorter, Singleton, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—96.

NAYS—Messrs. Ahl, Atkins, Avery, Barksdale, Bishop, Bliss, Bocoock, Bowie, Boyce, Branch, Burnett, Caskie, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Covode, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, English, Florence, Foley, Foster, Garnett, Giddings, Gillis, Goode, Granger, Gregg, Hickman, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Lovejoy, Maclay, McQueen, Maynard, Montgomery, Peyton, Phelps, Phillips, Ready, Reilly, Ricard, Rufin, Seales, Scott, Searing, Seward, Henry M. Shaw, Samuel A. Smith, William Smith, Stevenson, Talbot, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—86.

So the rules were not suspended, two thirds not voting in favor thereof.

Pending the call of the roll,

Mr. MARSHALL, of Kentucky, stated that his colleague, Mr. UNDERWOOD, was detained from the House by sickness in his family.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SMITH, of Tennessee. I rise to a privileged question. I wish to submit a report from the Committee on Printing; and I hope the House will receive it, as I am compelled to leave the city this evening.

The SPEAKER. The report the gentleman wishes to make would not, in the opinion of the Chair, be a question of higher privilege than the motion of the gentleman from Pennsylvania to suspend the rules.

Mr. SMITH, of Tennessee. I thought I was recognized by the Chair before the gentleman from Pennsylvania was.

Mr. J. GLANCY JONES. I will yield the floor for the gentleman to introduce his report.

PRINTING OF COAST SURVEY REPORT.

Mr. SMITH, of Tennessee, from the Committee on Printing, then introduced the following report, and upon it demanded the previous question:

The Committee on Printing upon the part of the House, to whom it was referred to inquire into the expediency of printing ten thousand extra copies of the letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey for the year 1857, report the following resolution:

Resolved, That there be printed five thousand extra copies of the letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey for the year 1857; three thousand copies for distribution by the Coast Survey office, and two thousand copies for the use of the members of the House; and that the same be printed and bound with the plates, in quarto form; and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

Mr. PHELPS. I ask the gentleman from Tennessee to withdraw the demand for the previous question for a moment.

Mr. SMITH, of Tennessee. I will withdraw it for a moment, if the gentleman desires.

Mr. PHELPS. There is certain phraseology in that resolution which I do not like. We have a Superintendent of Public Printing, as well as a Committee on Printing, and I am unwilling to devolve the duties of the Superintendent of Public Printing, and of that committee, upon the chief of the Coast Survey. I desire, therefore, to have the words "that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey" stricken out.

Mr. SMITH, of Tennessee. I cannot consent to the modification which the gentleman desires.

Mr. MORGAN. I desire to ask what is the number of extra copies of this document usually printed?

Mr. SMITH, of Tennessee. The usual number of extra copies has been ten thousand. With that number, I have myself been applied to by the Superintendent of the Coast Survey to furnish him with names of parties in my district, to whom he should send a portion of these books. They have been sent there; but they are of no more use to my constituents than so much blank paper. This resolution cuts down the number to one half of what has been printed heretofore. The Committee on Printing thought proper to print that number which is necessary, and to leave out that number which is wholly unnecessary; and of the number ordered, to throw the larger proportion into the hands of the Coast Survey office, in order that they should be properly distributed, and to the greatest good of the country.

And, sir, in answer to the question of the gentleman from Missouri, [Mr. PHELPS,] I have to say that the resolution does not in the least remove the superintendence of this printing from the supervision of the Superintendent of Public Printing. It requires only that the printing of the plates shall be done to the satisfaction of the Superintendent of the Coast Survey, who is the only man who can judge of the work. Moreover, this report is made upon consultation with the Superintendent of Public Printing, and with the Superintendent of the Coast Survey, and is satisfactory to both. I therefore move the previous question.

Mr. PHELPS. I desire to propound another inquiry to the gentleman from Tennessee.

The SPEAKER. Does the gentleman withdraw the call for the previous question for that purpose?

Mr. SMITH, of Tennessee. I do.

Mr. PHELPS. What will be the probable cost for printing this work? The reason for my making the inquiry is this: the Committee of Ways and Means have been called on to provide, in a bill for the appropriation of money to supply the deficiencies for the printing of documents ordered by the Thirty-Third and Thirty-Fourth Congresses. The committee have not been put in possession of the exact amount of money necessary to defray the expenses for paper, printing, engraving, and lithographing; but this much we do know, that there will be due to the Public Printers of the two preceding Congresses, when they shall have executed the work which has been ordered for printing, paper, engraving, and lithographing, a sum little short of one million dollars, in addition to what has been already appropriated for the purposes of printing. The estimates which have been submitted thus far, amount to nearly seven hundred thousand dollars.

I therefore desire to inquire of the gentleman from Tennessee whether he is prepared to state to the House the cost of this work? I am very glad to see that he has reported in favor of a reduction of the number of copies, because at the last Congress we ordered too large an amount of printing. I agree with him in the opinion he has expressed, that this document is of little use to the interior of the country.

Mr. SMITH, of Tennessee. I will answer the gentleman's question, for these facts ought to be known to the House. The printing of the Coast Survey report for the last Congress cost \$3 75 per volume. This was the entire cost for paper, printing, and engraving. It is one of the most expensive works published by Congress. The printing of five thousand copies will cost the Government, according to our estimates, (and they are only approximate,) for material, plates, and printing, the round sum of \$20,000. By this resolution we save to the Government the sum of \$20,000, which would be required in addition, if ten thousand copies were ordered.

So far as the report of the Coast Survey is concerned, I think that it was correctly stated by the gentleman from Missouri, that it was useless to the interior. Therefore, why shall we not cut down the number of extra copies? The proper estimates will be furnished by the Superintendent of Public Printing to the proper quarter, and then provision can be made for appropriations to defray the expenses of the work. It is not part of the business of the Committee on Printing to furnish estimates to the House for this work, unless called upon to do so. We have approximated it as nearly as we can, and estimate that the printing of five thousand copies will cost \$20,000. I call for the previous question, and I must hold on to it.

Mr. SMITH, of Virginia. I hope the gentleman will withdraw it for an inquiry.

Mr. MORGAN. I also have an inquiry to make. Mr. SMITH, of Tennessee. I decline to withdraw the call for the previous question.

Mr. SMITH, of Virginia. Is it in order to move that the resolution be laid upon the table?

The SPEAKER. It is.

Mr. SMITH, of Virginia. Then I submit that motion.

Mr. BURNETT demanded tellers.

Mr. JONES, of Tennessee, called for the yeas and nays.

The yeas and nays were ordered.

Mr. SMITH, of Virginia. I wish for information. Is not the number of this document which is usually ordered to be printed thirteen hundred and seventy-five?

The SPEAKER. The usual number is ten thousand.

Mr. SMITH, of Virginia. No, sir; that is the extra number. It is desirable to have information on this subject.

The SPEAKER. Debate is not in order. The Chair has given all the information he had.

Mr. SMITH, of Virginia. Is it in order to ask a question?

The SPEAKER. Of whom?

Mr. SMITH, of Virginia. Of the Speaker.

The SPEAKER. The Chair will hear the gentleman.

Mr. SMITH, of Virginia. What is the usual number printed anyhow? The extra number we know.

Mr. SMITH, of Tennessee. Fifteen hundred and thirty. They have been ordered already.

Mr. SMITH, of Virginia. We get that number in any event.

The question was taken on the motion of Mr. SMITH, of Virginia; and it was decided in the negative—yeas 84, nays 122; as follows:

YEAS—Messrs. Adrain, Andrews, Avery, Bennett, Boyce, Burnett, Caskie, Clay, Clemens, Cobb, Cockerill, Cragin, Burton Craig, Curry, Curtis, Davis of Mississippi, Dodd, Edmundson, Elliott, English, Faulkner, Garnett, Gillis, Goode, Goodwin, Greenwood, Gregg, Robert B. Hall, Harlan, Thomas L. Harris, Hill, Hopkins, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Kellogg, John C. Kunkel, Leiter, Letcher, Humphrey Marshall, Samuel S. Marshall, Mason, Miller, Montgomery, Moore, Morgan, Isaac N. Morris, Murray, Olin, Pendleton, Pettit, Peyton, Phelps, Potter, Powell, Reagan, Raffin, Sandidge, Savage, Seales, Henry M. Shaw, John Sherman, Shorter, Robert Smith, William Smith, Spinner, Stanton, Stephens, Stevenson, William Stewart, Tripp, Warren, Cadwalader C. Washburne, Elihu B. Washburne, Watkins, Winslow, Wood, Augustus R. Wright, John V. Wright, and Zollicoffer—84.

NAYS—Messrs. Abbott, Ahl, Anderson, Atkins, Barksdale, Billingshurst, Bingham, Bishop, Bliss, Bocoock, Bowie, Branch, Brayton, Bryan, Buffinton, Burlingame, Burns, Burroughs, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clingman, Clark B. Cochrane, John Cochrane, Colfax, Comins, Corning, Covode, Cox, Crawford, Davidson, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dowdell, Durfee, Edie, Farnsworth, Fenton, Florence, Foley, Foster, Gartrell, Giddings, Gilman, Gilmer, Granger, Groesbeck, Grow, Lawrence W. Hall, J. Morrison Harris, Haskin, Hatch, Kelly, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Lamar, Landy, Leach, Leidy, Lovejoy, Maclay, McKibbin, McQueen, Maynard, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Niblack, Nichols, Palmer, Phillips, Pike, Purviance, Quitman, Ready, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Searing, Seward, Aaron Shaw, Judson W. Sherman, Singleton, Samuel A. Smith, James A. Stewart, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Ward, Israel Washburn, White, Whiteley, Wilson, Woodson, and Wortendyke—122.

So the House refused to lay the resolution upon the table.

Pending the above call,

Mr. KEITT stated that his colleague, Mr. MILES, was detained from the House by sickness.

Mr. TALBOT said that if he had been within the bar when his name was called, he would have voted in the affirmative.

The SPEAKER stated that the question recurred on seconding the call for the previous question.

Mr. WASHBURN, of Maine. I would ask the gentleman from Tennessee to withdraw the call for the previous question until I move an amendment to substitute ten thousand for five thousand, and afford the House an opportunity to vote between both numbers.

Mr. SMITH, of Tennessee. I decline to withdraw the call for the previous question.

Mr. WASHBURN, of Maine. Then I hope the House will vote down the proposition.

The SPEAKER. Debate is not in order.

Mr. JONES, of Tennessee. Is it in order to ask for a division of the resolution—that the vote be taken first on that portion ordering extra copies for the use of the House; and next on that part ordering extra copies for the use of the Coast Survey?

The SPEAKER. The Clerk will report the resolution; and the gentleman from Tennessee will indicate where he supposes the division of the question can be made.

The resolution was reported.

Mr. JONES, of Tennessee. The resolution provides for the printing of a certain number of copies for the use of the members of this House, and a certain number for the use of the Superintendent of the Coast Survey, or for the Coast Survey office. I wish to know if the resolution could be divided, so as to take a separate vote upon the part which relates to the members of the House, and a separate vote on the copies for the Coast Survey office?

Mr. FLORENCE. And that is pending the demand for the previous question.

Mr. SMITH, of Tennessee. It is not divisible any way, especially as the previous question has been called.

Mr. FLORENCE. I think the gentleman had better withdraw the demand for the previous question, and get his resolution right.

Mr. JONES, of Tennessee. It is too right now.

Mr. FLORENCE. It does not suit me.

The SPEAKER. The Chair is of opinion that the resolution is not divisible, for the reason that, if the first part be rejected by the vote of the House, there will be nothing upon which the second part can be construed or interpreted.

Mr. BURROUGHS. I move to lay the motion for the previous question upon the table.

The SPEAKER. The Chair cannot entertain the motion.

Mr. SHAW, of North Carolina. Is it in order, before the previous question is seconded, to move to amend the resolution by a motion to strike out?

The SPEAKER. It is not. The question is upon seconding the demand for the previous question.

Mr. FAULKNER called for tellers.

Tellers were ordered; and Messrs. FAULKNER and NICHOLS were appointed.

The House divided; and the tellers reported—ayes 41, noes 70; no quorum voting.

Mr. WASHBURN, of Maine. I hope, by unanimous consent, there will be a recount.

Mr. CLINGMAN. There is obviously a quorum present.

Mr. WASHBURN, of Illinois. I move that the House adjourn. We can test it upon that motion.

The question was taken; and there were, on a division—ayes 4, noes 160; a quorum.

So the motion was not agreed to.

The question then recurred upon seconding the demand for the previous question, and the tellers resumed their places.

Mr. JONES, of Tennessee. Will it be in order to suspend the rules, and to move that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair thinks not, as the House is now considering a privileged matter.

Mr. JONES, of Tennessee. The rule provides that it shall be in order at any time to move to suspend the rules, and for the House to resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks that the motion would not be in order pending the consideration of this report. It is a privileged matter from the Committee on Printing, which committee has the right to report at any time; and the right to report involves, of course, the necessity of disposing of the report.

Mr. HOUSTON. Would it be in order for the gentleman who introduced the resolution to modify it by striking out the last sentence of it, in reference to the Superintendent of the Coast Survey? If he does so, I do not think there will be any difficulty about the matter.

The SPEAKER. The Chair is of opinion that no modification by the gentleman himself would be in order, inasmuch as the resolution is a report from a committee.

Mr. HOUSTON. That is the only thing which gives trouble in adopting the resolution.

Mr. PHELPS. I would ask the gentleman from Tennessee [Mr. SMITH] to withdraw his call for the previous question, in order that I may submit an amendment.

Mr. HOUSTON. And then call the previous question?

Mr. PHELPS. And then I will call the previous question.

Mr. FLORENCE. I object to this debate.

The call for the previous question was not withdrawn.

The tellers resumed their places; and reported—ayes 81, noes 67.

So the previous question was seconded. The main question was then ordered to be put.

Mr. SMITH, of Virginia. I call for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 79, nays 116; as follows:

YEAS—Messrs. Abbott, Ahl, Barksdale, Bliss, Bocock, Brayton, Bryan, Buffinton, Burns, Chaffee, Clawson, Clark B. Cochrane, John Cochrane, Comins, Corning, Cox, Cragin, Davidson, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dinnick, Durfee, Edie, Elliott, Farnsworth, Foster, Gilman, Gilmer, Goodwin, Groesbeck, Lawrence W. Hall, J. Morrison Harris, Hickman, Horton, Keitt, Kelsey, Kilgore, Lamar, Landy, Leach, Lovejoy, Maclay, McQueen, Maynard, Morrill, Oliver A. Morse, Mott, Niblack, Nichols, Phillips, Pike, Potter, Purviance, Quitman, Reagan, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Seward, Aaron Shaw, Singleton, Samuel A. Smith, George Taylor, Miles Taylor, Thayer, Wade, Walton, Ward, Israel Washburn, White, Whiteley, and Wood—79.

NAYS—Messrs. Adrain, Anderson, Andrews, Atkins, Bennett, Bingham, Blair, Bowie, Boyce, Burnett, Burroughs, Case, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingan, Cobb, Cockrell, Colfax, James Craig, Burton Craige, Crawford, Curry, Curtis, Davis of Mississippi, Davis of Iowa, Dodd, Dowdell, English, Eustis, Faulkner, Fenton, Florence, Foley, Gartrell, Giddings, Goode, Granger, Greenwood, Gregg, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hill, Hoard, Hopkins, Howard, Hughes, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Knapp, Jacob M. Kunkel, John C. Kunkel, Leiter, Letcher, Humphrey Marshall, Samuel S. Marshall, Mason, Miller, Montgomery, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Murray, Olin, Palmer, Pendleton, Pettit, Peyton, Phelps, Pottle, Powell, Ready, Rufin, Sandidge, Savage, Seales, Searing, Henry M. Shaw, John Sherman, Shorter, Robert Smith, William Smith, Spinner, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Thompson, Tompkins, Trippie, Waldron, Warren, Cadwalader C. Washburne, Elihu B. Washburne, Watkins, Winslow, Winslow, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer—116.

So the resolution was disagreed to.

Mr. J. GLANCY JONES obtained the floor.

Mr. PHELPS. I rise to a privileged question. I move to reconsider the vote by which the resolution was rejected; and also move to lay the motion to reconsider on the table.

Mr. FLORENCE demanded the yeas and nays on the latter motion.

The yeas and nays were not ordered.

Mr. FLORENCE demanded tellers.

Tellers were not ordered.

The House divided; and the motion to reconsider was laid on the table—ayes 90, noes 75.

Mr. J. GLANCY JONES. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

INCREASE OF THE ARMY.

Mr. FAULKNER. I ask the gentleman to give way to enable me to introduce a bill upon which the public service demands speedy action, for reference only.

Mr. J. GLANCY JONES. If it is for reference only, and will not give rise to debate, I will yield.

Mr. FAULKNER. I ask the unanimous consent of the House to introduce a bill to increase the military establishment of the United States by the addition of five new regiments.

Mr. MORGAN and others objected.

Mr. FAULKNER. I move to suspend the rules. I repeat that I only desire to introduce the bill for reference.

Mr. JONES, of Tennessee, demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 113, nays 95; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Avery, Barksdale, Bishop, Bocock, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingan, Cobb, John Cochrane, Cockrell, Corning, Cox, James Craig, Burton Craige, Cur-

ry, Davidson, Davis of Mississippi, Davis of Massachusetts, Dimmick, Dowdell, Edie, Edmundson, English, Eustis, Faulkner, Florence, Foley, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, John C. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miller, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ricard, Rufin, Russell, Sandidge, Savage, Seales, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Robert Smith, William Smith, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—113.

NAYS—Messrs. Abbott, Andrews, Atkins, Bennett, Bingham, Bingham, Blair, Bliss, Boyce, Branch, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Crawford, Curtis, Davis of Maryland, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Elliott, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Jewett, George W. Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ritchie, Robbins, Roberts, Royce, Seward, John Sherman, Judson W. Sherman, Spinner, Stanton, Stephens, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburne, Wilson, Wood, and John V. Wright—95.

So the rules were not suspended, two thirds not voting in favor thereof.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by J. BUCHANAN HENRY, his Private Secretary.

Mr. J. GLANCY JONES. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. Before the question is taken upon that motion, I hope the gentleman will give way to have the message, just sent in from the President of the United States, taken up, read, and ordered to be printed.

Mr. J. GLANCY JONES. I have twice yielded for other business which has occupied the House for the last two hours, and I cannot yield further. Previous to the vote being taken on my motion, however, I desire to move the previous question upon the resolution submitted by me on Thursday last, to close debate in committee on the President's message.

CLOSE OF DEBATE ON THE MESSAGE.

The SPEAKER. The motion of the gentleman brings up the following resolution for the action of the House:

Resolved, That all debate in the Committee of the Whole House on the state of the Union on the annual message of the President of the United States, shall cease in one hour after its consideration is resumed, (if the committee shall not sooner come to a conclusion upon the same;) and the committee shall then proceed to vote upon such propositions as may be pending, or may be offered in connection therewith, and shall then report it to the House, with such propositions as may have been agreed to by the committee.

Mr. J. GLANCY JONES. Since the adjournment I have been appealed to by gentlemen on all sides to extend the time—

Mr. SEWARD. Is debate in order?

The SPEAKER. Debate is not in order.

Mr. SEWARD. Then I object to the gentleman making any statement.

Mr. J. GLANCY JONES. I propose to modify the resolution so as to make it close debate at three o'clock to-morrow, and now demand the previous question upon the resolution.

Mr. WASHBURN, of Illinois. I think this resolution is offered prematurely.

The SPEAKER. Debate is not in order.

Mr. WASHBURN, of Illinois. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. WASHBURN, of Illinois. Well, sir, I think this resolution has been offered prematurely, and I make that motion.

The House proceeded to divide upon the motion; and there were one hundred and one in the affirmative.

Mr. STANTON. I rise to a question of order. I submit that the demand for the previous question had not been made when the gentleman from Pennsylvania moved to go into the Committee of the Whole on the state of the Union. I submit, therefore, that the resolution is not before the

House, but that it fell pending the motion to go into the Committee of the Whole on the state of the Union.

The SPEAKER. If there was anything in the point of order or suggestion of the gentleman from Ohio, it was obviated by the gentleman from Pennsylvania modifying his resolution, and then demanding the previous question. The modification of the resolution made it the same as if he had offered a new resolution.

Mr. WARREN. I desire to submit a suggestion to the chairman of the Committee of Ways and Means.

Mr. GROW. If debate is not in order, I shall object to the suggestion of the gentleman.

Mr. WARREN. I wished to say that inasmuch as— [Cries of "Order!" "Order!"]

Mr. JONES, of Tennessee. I wish to know if it would be competent for the gentleman from Pennsylvania to modify his resolution, so as to close debate at one o'clock on Thursday next?

The SPEAKER. It would be in order.

Mr. JONES, of Tennessee. Then I hope he will so modify the resolution. That will satisfy gentlemen on all sides.

Mr. WARREN. That is precisely the proposition I was about to make. I hope the chairman of the Committee of Ways and Means will adopt it.

Mr. J. GLANCY JONES. I will so modify my resolution; and again call the previous question.

Mr. WASHBURN, of Illinois. I rise to a question of order. I submit that the gentleman from Pennsylvania had no right to modify his resolution while the vote was being taken to lay on the table.

The SPEAKER. The gentleman has the right to modify his resolution at any time before the vote has been taken.

Mr. WASHBURN, of Illinois. Do I understand the gentleman from Pennsylvania to modify his resolution so as to close debate on Thursday next, at one o'clock?

Mr. J. GLANCY JONES. Yes, sir.

Mr. WASHBURN, of Illinois. With that modification I am satisfied, and will withdraw the motion to lay on the table.

Mr. GROW. I renew the motion.

Mr. WALBRIDGE. I make this point of order: that while the House is dividing the gentleman has no right to modify his resolution, and that no other motion is in order.

The SPEAKER. The gentleman has the right to modify his resolution at any time before the result is announced, according to the uniform practice of the House.

Mr. MARSHALL, of Kentucky. I demand the yeas and nays upon the motion to lay on the table.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 89, nays 118; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Blair, Bratton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Davis of Maryland, Davis of Massachusetts, Davis of Iowa, Daves, Dean, Dick, Dodd, Durfee, Edmundson, Eustis, Farnsworth, Foster, Garnett, Gilman, Gilmer, Goodwin, Granger, Grow, Robert B. Hall, J. Morrison Harris, Hill, Hoard, Horton, Howard, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Thayer, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburne, Israel Washburn, Wilson, and Wood—69.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Boccock, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskey, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Curtis, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Elliott, English, Faulkner, Florence, Foley, Garrett, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hickman, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Kilgore, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Macclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miller, Moore, Montgomery, Isaac N. Morris, Niblack, Pendleton, Peyton, Phelps, Powell, Quitman, Reagan, Reilly, Rufin, Russell, Sandiege, Savage, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Smith, Shorter, Singleton, Robert Smith, William Smith, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Elihu B. Washburne, Watkins, White, Whitey, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zoll-coffer—118.

So the House refused to lay the resolution upon the table.

The previous question was then seconded, and the main question was ordered to be put.

Mr. BLISS called for the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. LETCHER moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table; which latter motion was agreed to.

The question recurring upon the motion that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, it was taken; and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN stated that the pending question was on the amendment of the gentleman from Massachusetts [Mr. THAYER] to the amendment of the gentleman from Tennessee, [Mr. MAYNARD,] moving the reference of a certain portion of the message to a special committee; and that the gentleman from Ohio [Mr. GROESBECK] was entitled to the floor.

Mr. BOCOCK. Mr. Chairman, the gentleman from Ohio does not at this late hour care to go on with his remarks, and appeals to the committee to rise, in order that he may have an opportunity to speak to-morrow. I have risen, with his consent, to move that the committee rise.

Mr. HOUSTON. I hope the gentleman will not press that motion. If the gentleman from Ohio does not wish to proceed this evening, I presume the chairman of the Committee of Ways and Means could call up the pension appropriation bill, or the Indian appropriation bill, which are bills more of form than anything else, and we can probably pass one of those bills this evening.

Mr. GIDDINGS. If it be the pleasure of the committee, by unanimous consent, my colleague can have the floor in the morning, and some one else can speak this evening.

Mr. BOCOCK. That would be satisfactory, and any other gentleman who chose to do so could speak this afternoon. If it be the unanimous agreement that the gentleman from Ohio shall have the floor in the morning, I will withdraw my motion that the committee rise.

The CHAIRMAN. If the motion be withdrawn, the gentleman from Ohio will perhaps be recognized to-morrow.

Mr. WARREN. If the gentleman from Ohio is indisposed to proceed with his remarks this evening, I will, if he will yield to me, consume a few moments of the time of the committee with some remarks which I desire to make.

Mr. BOCOCK. I can make no condition with any particular gentleman. If it is the unanimous consent of the committee that the gentleman from Ohio shall have the floor in the morning, I will then unconditionally withdraw my motion to rise.

Mr. GROESBECK. Mr. Chairman, I will state that if it be the pleasure of the House to hear me this afternoon; I have no doubt that I am quite as well prepared to proceed now as to-morrow.

Several MEMBERS. Go on now.

Mr. BOCOCK. It is proper to state that I made the motion to rise after consultation with the gentleman from Ohio.

The CHAIRMAN. If the gentleman from Ohio yields the floor to the gentleman from Arkansas, or any other gentleman, it is probable that the Chair would recognize him to-morrow. That is as far as the Chair can go.

Mr. BOCOCK. I withdraw the motion that the committee rise.

THE NEUTRALITY LAWS.

Mr. GROESBECK. Mr. Chairman, it seems to be the disposition of the committee to continue its session, and, therefore, I do not know but I should prefer to go on now. I am greatly obliged to the gentleman from Virginia [Mr. BOCOCK] for making the suggestion he did. I was willing he should do it; not on my own account, but because I apprehended that the House had become weary. If it be the pleasure of the House that we shall proceed in the discussion of this question now, I

suppose I am quite as well prepared as I will be to-morrow.

Mr. GIDDINGS. I would suggest that my colleague speak from the Clerk's desk. We can then better hear what he has to say.

Mr. GROESBECK. I am very much obliged to my colleague for that suggestion; but it is rather too conspicuous a position for me to take just now. I prefer to speak from my own desk, in the hope that I may be able to make myself heard.

I do not propose, Mr. Chairman, in the remarks I shall proceed to make, to present my views of the policy of this Government in regard to Central America, or how we should proceed in that direction. I may be permitted to say that I trust that I appreciate the importance of the transit route, and all other legitimate enterprises that have been begun, or have excited inquiry in that direction. I wish to say at the outset, sir, that I agree in the views which have been expressed upon the particular expedition of William Walker, and with the views of the President in regard to his duty to enforce the laws as he finds them. I agree with him heartily and fully—just as fully as he has expressed himself in his annual and the special messages.

And I wish to say further, at the outset, that I concur in the views which have been expressed by the President in regard to his right to break up the expedition of William Walker; if not in the precise manner in which it has been done, certainly to break it up, and to apply all the power of the Government which he did apply, and to go to sea to do so if it were necessary.

I may be allowed to say, according to my judgment, this is no volunteer performance upon the part of this Administration. If I am right in what I have read, if I may rely upon the letters of the Secretary of State, to be found in the information sent to the Senate, the General Government has been called upon to interfere with this expedition; and I think I may venture to say that never, since the time when Aaron Burr meditated a military expedition against Mexico, until this hour, has the Government been so harassed as it has been by this same William Walker. I do not intend, in what I say, to cast any aspersions upon his character. I do not intend to call him a traitor, for that he is not. I do not intend to call him a pirate, for such we do not believe him to be. I intend to call him by no name; but I do intend, Mr. Chairman, if it be in my power, to vindicate the action of the Administration, and to show that it was right in putting down that expedition.

What has the Administration done? They have, upon the coast of Nicaragua, if you please, taken up those men who had departed from the jurisdiction of the United States, and brought them home. There was no cruelty in the performance; it was done in the very best manner in which it could be done; and it was right that the Government should bring the men, from Walker down, back to the jurisdiction from which they went. It would not have been right to have left them there; for that was not consistent with his duty to break up the expedition. It would not have been right to have landed them upon any other shore. He was exactly right in bringing them back, in order to prevent the carrying on of that expedition—exactly right in bringing them back to the territory of the United States.

They are here; and now the question briefly to consider is, had the Government, in the first place, the right to cross the line of the marine league from our own shores, to go out upon the Gulf, if you please, for the purpose of breaking up this expedition? I understand the gentleman from South Carolina, [Mr. KEITT,] and the gentleman from Georgia, [Mr. STEPHENS,] who have addressed themselves to this question, to maintain that, by the law of 1818, there is a limitation of the jurisdiction of the President in the exercise of the power which is confided to him. And, furthermore, I understand that those gentlemen, in making the proposition that the Government had not the right to cross the line of the marine league, do so by virtue of the provisions of that law alone.

Now, Mr. Chairman, a word upon the subject before I proceed to consider the terms of that law. By the law of nations there is no doubt that it is the duty of this Government to keep the peace with all other nations; and that it is the duty of this Government to break up combinations of its own citizens who have actually started upon expedi-

tions to violate the peace of other nations. As far back as 1793, in the first Administration of our Government—that of Washington—we find that, without regard to legislative enactments, before any law upon the subject was passed, our Government acted under the law of nations, and asserted their duty to be just about what is now set forth under the act of 1818. The proclamation of the President, of that time, the correspondence of the Secretary of State, Mr. Jefferson, and all the documents upon that subject, show that the General Government, without legislation, as one of the family of nations, considered herself under obligation to prevent the carrying on of military expeditions from the shores of the United States against countries with which we were at peace.

I furthermore claim—although I cannot in the time allotted to me go into a detailed discussion of the subject—that, without legislation, by the single authority of the law of nations, this Government should have the right, if you please, to go out beyond the marine league for the purpose of preserving its peace, and its own obligations of neutrality. As I understand it, the sea is no sanctuary for crime. What law is it, what principle of the law of nations is it, and where do you find the authority under which a violator of our laws has impunity for his crime, if he can only get beyond a marine league from our shores? If he get into another country, we cannot enter that country to take him without consent; but why may we not take him on the sea, where our jurisdiction, though held in common with other nations, is undoubted? No other nation upon the earth can touch him if he be a citizen of the United States, and committed the crime within her territory. They dare not touch him. The crime must be punished where it is committed; and, according to the doctrine which has been here asserted, as I understand it, it therefore follows that if we cannot cross the line of the marine league in order to lay our hands upon those who have violated our laws, the sea becomes a sanctuary for crime. Mr. Chairman, if there be an American merchant ship in mid-ocean, and a murder should be committed upon that vessel, we would have the right to take the citizen who had committed the murder, and bring him home for trial. Will any one doubt that proposition? Clearly not; and, in doing it, it seems to me we are called upon to cross thousands of miles of ocean not within the exclusive jurisdiction of the United States. We do it daily; and we have the right to do it. But, sir, as I said before, in this stage of the discussion I will not trespass upon the attention of the committee by a discussion of the general subject of the laws of nations.

I come now, Mr. Chairman, to the point in question. General Washington had asserted, and Thomas Jefferson, his Secretary of State, had asserted, the right of the General Government, without legislation upon the subject, to prevent the carrying on of these expeditions. They did, in pursuance of that right, proceed to break up such expeditions, and in some instances inflicted punishment upon those who had embarked in them.

In order to reconcile all doubts upon the subject, however, in order to put it beyond the possibility of a doubt; in order that the duty of the Government might not be the subject of question during his Administration, with his approbation, a law was passed defining the obligations of neutrality of the United States. I do not intend to turn to that law; but I will remark that, in the sections which are now under consideration of the law of 1818, the provisions are precisely the same as those of the law of 1794.

Now, Mr. Chairman, let us proceed to the consideration of some of these provisions. The gentleman from South Carolina, [Mr. KEITT,] and the gentleman from Georgia, [Mr. STEPHENS,] said that the President of the United States, in employing the land and naval forces, cannot pass the line of a marine league from our shores. They claim it by virtue of the seventh section of the act of 1818. I understand these gentlemen to base their proposition upon the rule of interpretation which they apply to that section of the law alone. What are the provisions of that section? In the first place, let us notice section six. It provides:

"That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise to be carried on from thence against the territory or

dominions of any foreign prince or State, or any colony, district, or people with whom the United States are [at] peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding \$3,000, and imprisoned not more than three years."

"That if ANY person" within the territory set on foot the expedition. I refer to the particular language made use of here, in order to obviate any possible objection which may be raised in reference to the fact that William Walker may not be a citizen of the United States. Admit, for the present, that he is a Nicaraguan. It matters not whether he be Nicaraguan, Englishman, Frenchman, or of any other country, if any one within the jurisdiction of the United States get up, or set on foot, a military expedition of this kind, he is just as responsible to the law as if he were a citizen of the United States; and the law will punish him, unless, as in the case of the recent English ambassador, his person is rendered inviolable by the law of nations. In that case we may order or request his recall. But, sir, whether they be Nicaraguans, Englishmen, Frenchmen—no matter whence they may come—they are just as amenable to this law as if they were American citizens; all in our land must respect the law.

I now come to the proposition which I understand to be relied on principally by the gentleman from Georgia, [Mr. STEPHENS.] It is said that, in the exercise of this jurisdiction, to prevent the carrying on of these expeditions, the President cannot empower the naval forces to go outside the line of the marine league. The seventh section provides as follows:

"The district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coast or shores thereof."

I submit to the gentleman from Georgia [Mr. STEPHENS] himself, that he has entirely misapprehended the nature and meaning of that section. What does it mean? It means this and no more: that if any foreign Power come within the jurisdiction of the United States in pursuit of a prize, and make a capture; the district court of the United States will take jurisdiction of that capture. The word is "capture," not "seizure," a word having in law a technical signification, and applied to the taking of a vessel by a belligerent as a prize. Furthermore, "the district court shall take cognizance of complaints, by whomsoever instituted," showing that it is a civil proceeding, for if it were a criminal one it would be conducted in the name only of the United States. Furthermore, I submit to the gentleman from Georgia, that this is made plainer by the next section, under which this authority is to be exercised. After the crimes mentioned in this act have been defined, section eight proceeds to declare in what cases and for what purposes the General Government may call out the land and naval forces. And, sir, it enumerates them case by case, and, among others, it enumerates the one that is referred to in section seven.

Let me call your particular attention to this point. "And in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States, as before defined," he may call out these forces to enforce the neutrality laws of the United States in behalf of those "within her jurisdiction or protection," asserting a well-recognized doctrine, that to the extent of the marine league from the coast the authority and jurisdiction of each nation is exclusive. And, therefore, if a vessel come within the marine league, it is within the protection of the United States. But let us go further:

"In every such case, it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval force for the purpose of taking possession of and detaining such ship or vessel?"

Now notice what follows:—
—"with her prize or prizes."

This shows beyond a doubt the meaning which was intended to be attached to section seven, upon which so much reliance has been placed.

The section proceeds to state other purposes for which he may use such force:

"In order to the execution of the prohibitions and penalties of this act?"

And what further?

"—and for the restoration of the prize or prizes in all cases in which restoration shall have been awarded."

There is no room, with this language before us, to doubt that the meaning of section seven of the

neutrality act is nothing more or less than this: a belligerent shall not invade the exclusive jurisdiction of the United States. If she make a capture within that exclusive jurisdiction the United States will preserve her obligations of neutrality, will take jurisdiction of the capture in her district courts, will award the prize to the person from whom it has been taken within her jurisdiction, or if rightfully taken will allow the captor to proceed on his way with his prize. That is all it means; and I would ask the gentleman from Georgia, [Mr. STEPHENS,] in whose judgment in such matters I have been led to have great confidence, whether he, upon a further consideration of the question, believes that this section seven contains in it any limitation as to the jurisdiction or field which may be occupied by the naval force in the suppression of such expeditions?

Mr. STEPHENS, of Georgia. Does the gentleman wish an answer now?

Mr. GROESBECK. Just as you please.

Mr. STEPHENS, of Georgia. I have not changed any opinions I have expressed on this question. I have never entertained the idea that that section had any other meaning than that which the gentleman gives it; but I stated that in that section there was a definition of the jurisdiction of the United States.

Mr. GROESBECK. It is the impression which the gentleman's argument made that I wish to obviate by dwelling upon this particular section. I understand him now, not to claim that section seven limits the President in the employment of the naval force to the marine league. Very well. I have other authorities to cite; but that particular view of the case seems to be abandoned.

But how does it stand when section seven is out of the way? The line of the marine league, for all purposes of inquiry as to how far the President may go in the exercise of this power confided to him to break up the expedition, is obliterated, and no limit or restriction can be found in the act. Where, then, by what enactment, by what principle of the law of nations, does the gentleman hold the President to the marine league in the exercise of this authority? It is not in this act, that is certain; but the law says do it; break up the expedition; prevent its being carried on. The command is, do it; and no limitations are imposed. Nowhere does it say, "thus far shalt thou go and no further." In the exercise of that authority it therefore seems to me entirely plain that we may go wherever the United States has jurisdiction, and is not a trespasser.

Let us look a little further. What is its language when it comes to enjoin upon the President the breaking up of such an expedition? It does not say to him "You may employ the naval force to prevent the setting the enterprise on foot, or you may employ the naval force to prevent the beginning of it." That is not it. Or, "you may employ the naval force to prevent the providing of means for carrying it on." That is not it; but, as if reserving the exercise of this high power to the last moment, as if not contemplating that it should be used in the beginning of the enterprise, the language of the section is: "You may use this authority to prevent, not the setting on foot, not the mere providing the means for it, but the carrying on." That is the language of the law; the carrying on after it is begun, after it is set on foot, after it is made up. It is in this stage of the expedition we find the direction to the President to come forward with this extraordinary power to prevent the carrying on of the expedition. And is it not being carried on after it gets outside the marine league?

Mr. Chairman, allow me, on this subject, to say that I understand it to be the law in this country that the President may, in these cases, go beyond the marine league for the purpose of preserving our neutrality. In 11 Wheaton, page 42, exactly this language is to be found in a decision of Justice Story in the case of the *Marianna Flora*. Justice Story, in the course of his decision, remarks that—

"It is true that it has been held in the courts of this country that American ships offending against our laws, and foreign ships, in like manner offending within our jurisdiction, may afterwards be pursued and seized upon the ocean rightfully, and brought into our courts for adjudication."

Furthermore, this has been done without any condemnation of the Administration which did it. If my recollection serves me, it was done during

the administration of Mr. Fillmore. At that time they ordered a part of the naval force to the neighborhood of the coast of Cuba to prevent the landing of an expedition supposed to be carried on in violation of the statute under consideration.

We have, if I am right in this, the example of our own country; we have the language of our courts upon it; and we have the law of nations, giving us a common jurisdiction upon the ocean—concurrent, but not suspended—which is as rightly exercised, if it do not interfere with the rights of other nations, as if exercised within our territory. We have all these to authorize our Government to cross the line of the marine league for the preservation of our peace and the protection of our neutrality.

What then, Mr. Chairman? I take it upon myself to say that the President is right in his doctrine that he can go to sea in the performance of this great duty, confided especially to his care. He may go outside of the marine league to enforce the observance of this law. Is it not so? Suppose a case. Suppose adverse winds should blow the marine force from the shore, or that its own safety, because of storm or shoals or otherwise, should keep it more than three miles from shore, can it do nothing? Is it so, that if the expedition can only get a foot beyond three miles from shore, it may sail on in defiance of the Government, and carry on the expedition? Having crossed the line of the marine league, though it started from our shores in violation of our laws, it may now go on with impunity. A moment ago, and a mile nearer the shore, it was an unlawful expedition; but now it is a lawful one, and may not be touched. I would like to dwell at greater length upon this proposition, but I will hasten to another.

I claim this, then, the Government had the right to cross the line of the marine league; that it violated no law of nations, no law of our own enactment; and in doing this for the purpose of preventing the carrying on of this expedition, the President was in the strict line of his official duty.

Now, if you please, we stand at the line of the marine league of the country of Nicaragua. I admit that neither the act of 1818, nor the law of nations authorizes our naval forces to cross that line. Each nation shall be inviolate within its own exclusive territorial jurisdiction; and each nation has exclusive territorial jurisdiction to the distance of the marine league, or three English miles from her shores. We come, then, to this line of Nicaragua. The gate is shut. We cannot enter. But it may open to a friendly knock. If we knock, saying we come to prevent an invasion of the country by an expedition from ours, which intends to come in for an unlawful purpose; which intends to come in for a hostile purpose; if we knock in a friendly manner, and the gate is opened, all is right, and our entrance entirely lawful. I can maintain this proposition by authorities without number. There is no doubt about it.

If before we enter we have the consent of the neutral nation, or if without previous assent, our entrance be afterwards approved, no injury is done and no right violated. *Volenti non fit injuria* is a principle applicable here as everywhere. The ratification of an act after it is done makes it just as lawful as when done under authority previously delegated; and it lies only in the mouth of the neutral nation whose line of territory has been crossed, to make any objection to the entrance in such a case as we have now under consideration.

We have, Mr. Chairman, an abundance of authority for this; and that is not all. We have a case. I like to furnish cases as well as authority. About three years ago, not upon a gulf which washes our shores, but thousands of miles away, without any special instructions, a sloop-of-war of our country, in the eastern Mediterranean, demanded the surrender, by the Austrian authority, of a man who had declared his intention to become a citizen of the United States? It was refused. It was a bold demand. It was an extraordinary exercise of power. The nation that had seized Kosztza was one of the first Powers of Europe. Captain Ingraham had no special instructions from his Government to prevent that wrong; but alone, on his own motion, upon the refusal to surrender the man, he prepared the deck of his sloop for battle. It did not take place, but he succeeded, and Kosztza was rescued from Austrian vengeance.

WHERE did he make the demand? In the port of a neutral nation—the Turkish Empire. That case came up for consideration; and the Austrian Minister at this point made his complaint of the act of Captain Ingraham; and one of the chief grounds of that complaint was that Captain Ingraham had violated the laws of nations by entering into a neutral port to enforce the alleged rights of the person whom he demanded. The reply was that it was no matter of complaint by the Austrian Empire; that it was a matter between the United States and the Turkish Empire, whether it was right or wrong; and if Turkey objected and demanded satisfaction, the United States would make satisfaction to her—to the party which was wronged, and not to Austria which had not been wronged. Such is the law; and such is the illusion; and I might stand here for an hour reading authorities to the point that it is not unlawful to cross the line of a neutral nation by its assent, given previous to or after the act.

As far as the Administration is concerned, therefore, the President had the right to do everything that has been done. He had the right to cross the line of the marine league from our shore; he had the right to pursue this expedition, which was being carried on, across the Gulf; and he had the right, with the consent of Nicaragua, to enter within her jurisdiction. I will speak of the act of Commodore Paulding and his instructions, in another connection, if time is allowed me. We have no statute, and there is no principle of international law; there is nothing which makes the breaking up of this expedition, by entering the jurisdiction of Nicaragua with her consent, an act not perfectly within the power and authority of the President. There is nothing which makes it wrong or unlawful for the President to do what has been done in this instance.

Again, Mr. Chairman, if it be admitted that General Walker was a citizen of the United States, I apprehend that the gentleman from Georgia, the gentleman from South Carolina, and all who have spoken on this question, will concur with me that it was within the power of the United States to take him, and break up the expedition by going out into the midst of the ocean. An American vessel, manned by American sailors, in mid-ocean, is just as much, and all the persons on board are just as much, within the jurisdiction of the Government of the United States, for an infringement of its law, as when lying in one of our ports. The vessel is within the exclusive jurisdiction of this Government; and the men, as citizens of this Government, are responsible to it for a violation of its laws.

Well now, sir, was Walker a citizen of Nicaragua? It is very clear that in reference to his one hundred and fifty men, they were not. You can make no argument in their behalf. We had a right to arrest them and bring them home, beyond the shadow of a doubt, it seems to me. Was William Walker a Nicaraguan or a citizen of the United States? He was born here. When did he throw off his citizenship of this country, and become a citizen of Nicaragua? I admit the right of a man, if he has discharged his duties as a citizen, to cut the ties that bind him to his country. I do not deny, it were foolish and not American to deny that a man cannot throw off his allegiance to any country, where there has been no violation of the law—where he has lived up to the requirements of the society in which he was a member. But I affirm it by the authority of the decisions of the country, that no citizen has the right or has the power to get rid of his criminal responsibility to his country while doing an unlawful act. If a man were to plunder our Treasury, for instance, and then go to England or France, thus leaving the country to avoid the penalty of an unlawful act, he could not get rid of his obligations, as a citizen, for that act in any such way. I cannot expatriate myself by going away on an unlawful expedition—by fitting out a military expedition in violation of the neutrality laws. That very conduct will prevent me from getting rid of my citizenship; my country may bring me back as a fugitive from justice.

Mr. QUITMAN. I wish to ask the gentleman this question. According to the doctrines advanced by the gentleman, no man who happens to live in a country where he has committed an offense against its laws, or is supposed to have committed an offense against its laws, has any

right to expatriate himself, or renounce his allegiance to that country and transfer it to another country. Having set out with that doctrine, as I understood the gentleman, I wish to ask him a practical question: What is the position of Mitchell, and Meagher, and their comrades, who are refugees from Australia, and who claim to have become citizens of the United States; are they still British subjects, or are they citizens of the United States?

Mr. GROESBECK. I will answer the inquiry of the gentleman as well as I am able to. I was taking the position that if a citizen of the United States, in the very act of expatriating himself, committed a crime, he could not claim that his commission of the crime worked his expatriation. That is the proposition I asserted. I asserted it by the authority of decisions of the Supreme Court, to which I will call the attention of the gentleman, one of which, at least, was made in connection with, and in construction of, this identical neutrality law. In 3 Dallas, pages 132, 153, the doctrine is so laid down. In 7 Wheaton, page 348, the same doctrine is laid down. It may be that the citizenship so acquired abroad would be recognized by the country in which it was acquired; but is that an expatriation which will exonerate him from liability to the country from whose justice he fled? The question is difficult. Suppose, for instance, that a man should commit a murder in this District, and should then flee the country to England, with which nation we had an extradition treaty. Suppose he should become there, in England, a constable, or captain, or colonel, or commander-in-chief of some petty fort. Does that exonerate him from the responsibility of the law of homicide committed in our own jurisdiction, and while he was amenable to it?

Mr. STEPHENS, of Georgia. Allow me to inquire whether the gentleman is to be understood as intimating his belief that General Walker, at the time of his expatriation, was in the commission of a crime against the United States?

Mr. GROESBECK. I understand that General Walker claims to be a citizen of Nicaragua by virtue of his first expedition to that country.

Mr. STEPHENS, of Georgia. I ask the gentleman whether he pretends to say that General Walker was not duly naturalized, according to the naturalization laws of Nicaragua?

Mr. GROESBECK. That is a question I intended to ask myself—if he were?

Mr. STEPHENS, of Georgia. Will the gentleman allow me to state my understanding?

Mr. GROESBECK. Certainly.

Mr. STEPHENS, of Georgia. General William Walker was invited to that country. He and other colonists, under a grant, went to that country by invitation. He was naturalized according to the law of Nicaragua, just as foreigners are naturalized here—not in the same terms, but I mean that the process was the same. The end arrived at was the same. After that he was duly elected President of that Republic. His Government was recognized by this Government, and no Government, in opposition to his Government, was recognized by this Government until now.

Mr. GROESBECK. Allow me to speak to the statement which the gentleman has just made. I understand the fact to be that the first expedition fitted out by General Walker to Nicaragua was in violation of the neutrality laws of the United States, as I understand them.

Mr. STEPHENS, of Georgia. Will the gentleman allow me?

Mr. GROESBECK. I would be pleased to, but I do not wish my time consumed.

Mr. MONTGOMERY. I would ask, with the permission of the gentleman from Ohio, whether Walker was invited to Nicaragua by the Government, or only by citizens of that Republic?

Mr. STEPHENS, of Georgia. By the Government itself.

Mr. GROESBECK. Let me proceed. I know that Padre Vijil was recognized as the accredited Minister of Nicaragua during the last Administration. Who was President? Not General Walker. Is that, then, any recognition of the citizenship of General Walker? Take the case I put. Suppose a man should violate the criminal law of the District of Columbia, and then flee to London. Suppose, in course of time, he should become an officer of its police, or a civil officer. Does the fact of our recognition of England as

one of the nations of the earth amount to an individual recognition of his citizenship there?

But, Mr. Chairman, as my time is drawing to a close, I wish to add, lest it may be supposed that I attach some importance to this particular proposition, that it makes not a particle of difference in the responsibility of the expedition to the law, and the obligations of the President to enforce the law—not a particle of difference whether the persons engaged in the expedition be Nicaraguans or of another country. There is no human being, I care not whence he comes, other than an accredited ambassador of a foreign nation, who is protected from the punishment of this law. He who comes within the jurisdiction of the United States must keep the laws of the United States, be he Nicaraguan or a native citizen. I merely alluded to this question, to show that in any aspect of it, even if Mr. Walker were not a citizen of the United States, his one hundred and fifty men were; and if he claimed anything as a Nicaraguan, he would be left in a miserable state of isolation in this particular phase of the argument.

I will now proceed to an examination of the conduct of Commodore Paulding.

[Here the hammer fell.]

Mr. KELLOGG obtained the floor, but yielded it to

Mr. COLFAX, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

USE OF THE HALL.

Mr. WASHBURN, of Maine, asked leave to introduce the following resolution:

Resolved, That the use of the Hall of the House of Representatives be allowed on Friday evening next to the Columbia Institution for the instruction of the Deaf, Dumb, and Blind, incorporated by Congress at its last session, for an exhibition of the progress made by the pupils of that institution.

Mr. MASON and others objected.

Mr. WASHBURN, of Maine, moved to suspend the rules to allow him to introduce the resolution.

Mr. SMITH, of Virginia. I ask the gentleman from Maine to restrict the terms of his resolution to the use of the old Hall, as I propose to do in reference to the Colonization Society.

Mr. WASHBURN, of Maine. I have no objections to that, and make the modification accordingly.

Mr. JONES, of Tennessee. The next thing will be an abolition meeting in the Hall. I object to the resolution, and move that the House adjourn.

The question was put; and decided in the affirmative—ayes 85, noes 80.

The House accordingly (at five minutes to four o'clock) adjourned.

IN SENATE.

TUESDAY, January 12, 1858.

Prayer by Rev. W. H. CHAPMAN.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BIGLER presented the petition of Hannah Stroop, widow of John Stroop, a revolutionary soldier, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. EVANS presented the memorial of Virginia Rose, for herself and others, heirs of Captain Alexander Rose, an officer in the revolutionary army, praying to be allowed half pay; which was referred to the Committee on Revolutionary Claims.

Mr. JOHNSON, of Arkansas, presented the petition of A. S. H. White, praying for compensation for his services in signing land patents, under an appointment for that purpose dated December 12, 1856; which was referred to the Committee on Public Lands.

Mr. BROWN presented a petition of J. B. Hancock and others, soldiers of the war of 1812, praying that pensions may be granted to all the officers and soldiers of that war; which was referred to the Committee on Pensions.

Mr. MALLORY presented papers in favor of the allowance of extra pay to William F. Lovell and others, officers and seamen of the expedition in search of Dr. Kane; which, with his petition on file, were referred to the Committee on Naval Affairs.

TELEGRAPH TO THE PACIFIC.

Mr. DOUGLAS. I have received, and been requested to present to the Senate, a memorial of Henry O'Reilly, concerning military highways, or stockade routes, for protecting travelers and settlers, and facilitating mail and telegraphic communication through the vast interior Territories, and rendering the United States independent of foreign countries for transmitting the mail between the Atlantic and Pacific States. I have also received from Mr. O'Reilly a memorial concerning the completion of a telegraph line to Fort Laramie and Salt Lake. It is addressed to the Senate by the corporators of the St. Louis and Salt Lake Telegraph Company. The two memorials substantially relate to the same subject, which is, the importance of a line of telegraph from the western border of Missouri or Iowa to Fort Laramie or the South Pass of the Rocky Mountains, and to Salt Lake, as soon as the troubles shall be so quieted there as to insure its protection, with a view to reach the Pacific ocean.

The memorialists are under the impression that the present state of difficulties in Utah Territory requires immediately the establishment of this telegraph line. They think it would facilitate the public service, and would save, during the Mormon war, ten times its cost to the United States in the transmission of intelligence from here to the seat of war, and from the seat of war to the capital. They ask that Congress shall take steps to protect the line. Their general plan is to establish a line of stockades, one every ten or twenty miles, and place a small number of soldiers at each stockade, so that the mails can be carried without interruption from the Indians, from one to the other, and so that a line of telegraph can be immediately laid down and kept in constant operation, by means of which telegraphic intelligence can be communicated to and from the Army.

It is due to Mr. O'Reilly to state that this is an old and a favorite project of his. It is now at least ten years since he began to petition Congress in favor of protecting this line so that he could establish his telegraph. I remember that a national convention was held at St. Louis, in 1849, in which this telegraph was recommended in connection with a railroad to the Pacific. The general plan then was substantially the same as that now proposed by Mr. O'Reilly, to wit: to establish these small, cheap stockades, one in every ten or twenty miles; the work to be done by the soldiers of the Army, and then to be protected by them, so as to keep the communication constantly open.

In furtherance of that line of policy, as early as 1846, a new regiment of troops was raised, called, in common parlance, the Oregon regiment, the object of which was to establish a line of stockades from the Missouri river to Oregon Territory, we then not having acquired California. The regiment was created for the purpose of establishing that service. I remember that we passed it just about the time when the war with Mexico broke out on the Rio Grande; and the exigencies of the public service justified the then Administration of the Government in sending that regiment to Mexico, where it was greatly needed, and postponing the construction of the stockades. President Polk having diverted that regiment for that purpose, as I suppose he had a right to do under the law, subsequent Administrations have not felt bound to detach it from the regular Army, and apply it to the service of establishing these stockades.

I trust that the time has now come when that favorite policy, established in 1846, and which has been called for by the public interests ever since, may be carried out. At least, I trust it may be so far carried out that we shall grant the prayer of the petition of Mr. O'Reilly, by establishing a telegraphic communication and protecting it as far as the present state of the country will authorize; penetrating into the Mormon territory, with a view of carrying it forward as soon as peace shall be established. I believe it would be an

economical measure; I think it would be a great military movement which would save a large amount of money in the military operations of the Government; and with that view I commend it to the Senate. I suppose the proper committee to which to refer it is the Committee on Military Affairs and Militia; because, if there is any special emergency for it now, not heretofore existing, independent of the general good it would confer in a time of profound peace, it arises from the necessity of a telegraph to facilitate military communication. I therefore move that the memorials be referred to the Committee on Military Affairs and Militia.

The motion was agreed to.

Mr. DOUGLAS. I ask for an order to print these memorials for the use of the Senate, in order that the committee may read them with more facility.

The VICE PRESIDENT. The motion to print will be referred to the Committee on Printing, under the rules.

EMPLOYMENT OF CHAPLAINS.

Mr. BIGGS. I present the memorial of H. P. Barnes and forty-four others, citizens of Mississippi, praying for the abolition of chaplaincies in Congress and in the Army and Navy. The memorialists will probably be gratified to know that Congress has taken a step in the right direction by abolishing substantially the place or office of Chaplain in Congress. They ask also for the abolition of chaplaincies in the Army and Navy. This involves a grave constitutional question; and I presume the proper committee to which it ought to be referred is the Committee on the Judiciary. I therefore move that the memorial be referred to the Committee on the Judiciary, in the hope that that committee will come to the conclusion to report a bill repealing all laws, practices, or regulations authorizing chaplaincies in the United States service.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FITZPATRICK, it was

Ordered, That the memorial of Jane Smith, on the files of the Senate, be referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. MALLORY, from the Committee on Claims, to whom was referred the memorial of Jane Baker, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred the motion to print the memorials of Henry O'Reilly, reported in favor of printing the usual number; which was agreed to.

He also, from the same committee, to whom was referred a resolution to authorize the printing and binding of two thousand copies of the report of the Commissioner of Indian Affairs, for the use of his office, reported it, with an amendment reducing the number to one thousand. The amendment was agreed to; and the resolution as amended was adopted.

He also, from the same committee, to whom was referred a resolution to print additional copies of the report of the Commissioner of Public Buildings, reported adversely thereon; and the resolution was ordered to lie on the table.

He also, from the same committee, to whom was referred a resolution to print five hundred copies of the report of the Commissioner of the General Land Office, for the use of his office, reported it without amendment; and the resolution was agreed to.

He also, from the same committee, to whom was referred a motion to print the message of the President of the United States, communicating correspondence of John W. Geary, late Governor of Kansas, reported in favor of the printing; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War in relation to certain harbors on Lake Erie, communicated to the Senate on the 11th of January, reported that the same be printed; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War in relation to the improvement

of rivers and harbors in the State of New York, communicated January 11, reported in favor of the printing; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Navy, communicating an abstract of offers for furnishing articles falling under the cognizance of the Bureau of Yards and Docks, submitted an adverse report; which was agreed to.

BILLS INTRODUCED.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 55) granting relief to certain officers and soldiers of the war of 1812, and of certain Indian wars; which was read twice by its title, and referred to the Committee on Pensions, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 56) explanatory of an act entitled "An act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855; which was read twice by its title, and referred to the Committee on Pensions.

CHANGING THE NAMES OF VESSELS.

Mr. BENJAMIN. I have been instructed by the Committee on Commerce, to whom was referred the bill (S. No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved March 5, 1856, to report the bill back to the Senate with a recommendation that it pass; and I ask the unanimous consent of the Senate to put the bill on its passage now. The necessity for it is urgent, as I will explain in a few words.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BENJAMIN. Mr. President, not quite two years ago, an act was passed by Congress, intended to avoid the frequent applications which had been made in special cases for a change of the names of vessels. As these applications had never, in the memory of any of us, been refused, it was deemed proper to pass a general law authorizing the Secretary of the Treasury to change the names of vessels on application, and proper cause being shown. The law has been mischievous in the extreme in its operation. I have before me a list, or alphabetical register, containing a statement of ninety-two vessels whose names have been changed since the passage of that law; thirty-one of which have either been lost or foundered at sea, or have been the cause of injury to life or property.

It appears that so soon as this law was passed, the owner of every vessel which had lost its reputation by reason of accident, shipwreck, age, or any other cause whatever, changed the name of that vessel, for the purpose of deceiving the public into confiding property or life for transportation on board of it. In many of these cases the loss of life has been frightful. I will merely call to the attention of the Senate the case of the Central America. That vessel was the old George Law. If she had been put up for the voyage on which she was lost as the George Law, passengers would not have intrusted their safety to that vessel. Her name, under this law, was changed to the Central America, and the consequence was the deplorable shipwreck which we all remember as resulting in so tremendous a loss of human life. I have before me the report of the committee of captains and inspectors appointed by the New York board of underwriters to examine into the causes of the loss of that vessel; and a single passage of it will suffice to inform the Senate of the causes which led to that shipwreck:

"It cannot, and should not, be concealed, that the testimony before the committee goes to show that the Central America was not found and equipped as she ought to have been; that her crew was not sufficiently numerous; that she was without a carpenter, or suitable carpenter's tools; and what seems to the committee a most serious defect—being common, it is feared, in many of our passenger steamers—there was a want of proper organization in regard to the relative authority and duties of the officers and crew of the vessel."

In another case reported in the volume to which I have alluded, I find that one vessel had her name changed three times in eighteen months, having been repeatedly examined, condemned as rotten, then had her name changed, and finally she pro-

ceeded to sea, after two changes of name, and foundered at sea, as is supposed, she having never been since heard of. This vessel was originally called the Balaklava. She was seized for a violation of law, and condemned. Her name was then changed to the Magnolia, in April, 1856; she was examined, found rotten, and condemned at Key West. Her name was then changed to the Tropic Bird, in August, 1856; she put into Holmes's Hole, leaking badly; was sold at Gloucester; sailed for Surinam, and has never since been heard of.

Out of this list of ninety-two vessels, in the course of eighteen months over thirty have been found to be rotten, and their names changed simply as a deception on the public. The committee communicated with the Secretary of the Treasury on the subject, and he advises the repeal of the law as expedient. Under these circumstances, and in view of these facts, I trust the Senate will allow the bill to be put on its passage at the present time.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

NAVAL COURTS OF INQUIRY.

Mr. MALLORY. There is a resolution on the table, which I presume will not give rise to discussion, which it is deemed highly important should be passed at this time. It is the joint resolution No. 4. I ask the consent of the Senate to take it up and pass it now.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 4) to extend the operation of the second section of the act, approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

It provides that the operation of the second section of the act of January 16, 1857, limiting the restoration of officers in certain cases, shall be extended to April 16, 1858.

Mr. MALLORY. I offer, from the Committee on Naval Affairs, this amendment as a proviso:

Provided, That the time within which examinations by courts of inquiry may be made, as provided by the first section of the said act, shall not be extended.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

Mr. HOUSTON. I should be glad to know from the chairman of the Committee on Naval Affairs what the first section of the act of 1857 was.

Mr. MALLORY. The honorable Senator from Texas will see, by an examination of the act, that its provisions will expire on the 16th of January. He will also take cognizance of the fact that nominations are pending to be confirmed—I suppose I may go so far as to say that. The committee desire to prevent the commission of injustice to any parties, and therefore propose to extend the provisions of the act in this respect from the 16th of January to the 16th of April, which will give three months further. I presume that time will not all be occupied. We do not propose, however, to extend the time for any further examinations by these courts of inquiry.

Mr. HOUSTON. I rose to object to the amendment, because I think the courts should be permitted to remain open, so as to allow officers to go forward who may have been prevented from doing so by various causes. I think all the provisions of the act of last year should be extended so as not to prejudice any officer who may have been hitherto prevented from presenting his case. Many may have refrained from coming forward because of the want of means. Some relying on their salaries for the means of subsistence, may not have been able to bear the expense of the proceeding. Others may have been kept back by bad health. I trust that the rights of such officers will not receive any detriment from our action, and on that ground I should have raised my voice against the amendment, if I could be heard. If we are to extend any portion of the act, let us extend it all, in order to allow the President to convene a court of inquiry in any case where the parties may have refrained, on account of necessity, and not disinclination, from being applicants for the benefits of the law. I think it is right that

all the benefits of the law should be extended, and that none of the officers should be cut off by a proviso of this kind.

Mr. CRITTENDEN. I think the resolution is susceptible of an amendment which I hope the Senator from Florida will accept. By continuing only one section of the act of 1857, the other sections connected with it may be supposed to be repealed, or to have expired, and this may produce some difficulty. I propose, therefore, to strike out the words "the second section of," so as to leave the resolution simply to provide that the act of 1857 shall be extended for the length of time proposed. The proviso which has been inserted, guards against the only consequence that could possibly result, which the gentleman desires to avoid. I move the amendment which I have stated.

Mr. MALLORY. I have not time now to examine the law, but the amendment which the Senator from Kentucky contemplates, may possibly revive provisions in the law which the Senate would not wish to revive.

Mr. CRITTENDEN. I think if the gentleman will take a moment to think of it, he will see that his object will be accomplished by the resolution, as it will stand, if amended as I propose. The act being continued as to only one section, may be embarrassing; but my amendment cannot embarrass the object the Senator from Florida has in view in preventing any further courts of inquiry. I hope the amendment will be adopted.

Mr. MALLORY. I am apprehensive that the amendment, if adopted, may revive provisions in the act which the Senator himself does not contemplate reviving. I have not had time to examine that point. If he is satisfied of that, I will accept the amendment with pleasure. I limited the extension to the second section alone, because it was only contemplated for a specified object.

Mr. CRITTENDEN. I am willing that the proviso shall stand, and with that standing, I do not see what objection there can be to the amendment; while the resolution, in its original shape, may be of an embarrassing character.

Mr. MALLORY. I know that the Senator from Kentucky has the same object that I have; and if he is satisfied, I will accept his amendment.

• The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed for a third reading; and it was read a third time, and passed.

The title was amended, so as to read, "A joint resolution to extend the operation of the act approved January 16, 1857, entitled 'An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

Mr. MASON. I rise to move a reconsideration of the vote of the Senate, taken yesterday, by which the amendment of my colleague was adopted as an amendment to the joint resolution (S. No. 3) proposed by the Senator from Mississippi, [Mr. Davis.] I have been induced to do this, preserving my opinion still on the propriety of that amendment, but I had not sufficient time to give it that consideration which I should desire; and I do it with great pleasure, at the suggestion of the honorable Senator from Mississippi. I move to reconsider that vote.

Mr. HALE. We must first reconsider the vote passing the joint resolution.

Mr. MASON. Yes, sir. I move, first, to reconsider the vote by which it was passed.

The motion was agreed to.

Mr. MASON. I now move to reconsider the vote by which the amendment offered by my colleague was adopted.

Mr. HUNTER. I am not aware that the Senate have agreed to reconsider the bill. Knowing the object for which it is to be reconsidered, I think we may as well take the sense of the Senate on that question as on anything else.

The VICE PRESIDENT. The Senate has agreed to reconsider the vote by which the joint resolution was passed.

Mr. MASON. I move to reconsider the vote on the amendment. I do not ask a vote on the motion to-day unless Senators desire it. At one o'clock I think there is a special order in executive session.

Mr. HUNTER. I hope that vote will not be reconsidered. I have heard no argument urged against it that was not urged yesterday. I know

of no new consideration that has been offered. I should like to hear some reason given to the Senate for changing the decision to which they came yesterday.

Mr. MASON. The Senator is doubtless aware that at one o'clock there is a special order in executive session. I have no desire to trespass on that order. If the vote is reconsidered, then the reasons for the reconsideration I think will more properly be before the Senate. When the question is again on adopting the amendment, I shall be prepared to give my reasons; but I will not now detain the Senate with them.

Mr. HUNTER. I understand the motion to reconsider the vote on the amendment, to be a test vote, and this is the time to give the reasons.

Mr. DAVIS. I submit to the Senator from Virginia, whether a proposition to reconsider is not rather an opportunity to give the reasons why the vote should be changed. We ask an opportunity to give the reasons why the decision of the Senate on the amendment offered by the Senator from Virginia should be reversed. I do not understand that this is a test question. I think there are reasons to be given, and I hope the opportunity will be afforded to the Senate to hear them. If it be desirable to go into the discussion now, I am ready, though I think it proper, if the Senate choose to give us the opportunity, that it should first be done by deciding that they will reconsider the question.

Mr. STUART. It is very obvious that this question cannot be disposed of to-day. The motion to reconsider being entered, of course stands, and will come up at a future day. The hour has arrived for the consideration of the special order in executive session, and I move that the Senate proceed to the consideration of executive business.

The VICE PRESIDENT. The Chair desires to make a suggestion in connection with this motion. On reflection, he supposes it will be proper first to reconsider the vote by which the joint resolution was ordered to be engrossed and read the third time, so as to get back to the point of reconsidering the amendment.

Mr. MASON. I make that motion—to reconsider the vote by which the joint resolution was ordered to be engrossed.

The motion was agreed to.

Mr. MASON. I now move to reconsider the vote by which the amendment was adopted.

Mr. STUART. I move to postpone the further consideration of that motion until to-morrow.

The motion to postpone was agreed to.

EXECUTIVE SESSION.

On motion of Mr. BAYARD, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 12, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. G. BUTLER.

The Journal of yesterday was read and approved.

POST OFFICE AT HARRISBURG.

Mr. KUNKEL, of Pennsylvania. I was not present the other day when the States were called for resolutions, and may not be present when they are called again. I have a resolution of a local character, and desire to introduce it for reference only.

Mr. J. GLANCY JONES. Let it be read for information.

The resolution was read, as follows:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of constructing a post office at Harrisburg, Pennsylvania.

Mr. LETCHER. I object.

Mr. J. GLANCY JONES obtained the floor.

The SPEAKER. The business first in order is the call of committees for reports.

EXECUTIVE MESSAGE.

Mr. CLINGMAN. I ask the unanimous consent of the House to have the message of the President in reply to the resolution which we adopted last week, laid before the House. My object is to move the reference and printing of the message and accompanying papers, and to move the previous question without any debate. I think they

ought to get before the country, and I hope there will be no objection.

No objection being made,

The SPEAKER laid before the House a communication from the President of the United States, transmitting to the House of Representatives a report of the Secretary of State, of the Secretary of the Treasury, of the Secretary of the Navy, and of the Attorney General, with the accompanying documents, containing the information called for by the resolution of the House of the 4th instant, concerning the late seizure of General William Walker and his followers in Nicaragua, &c.

Mr. CLINGMAN. I move the following resolution in reference to those papers:

Resolved, That the President's message and accompanying documents be printed and referred to the Committee on Foreign Affairs, except so much thereof as relates to the conduct of Commodore Paulding, and other officers of the Navy, having reference to the Navy Department, and concerning the construction and obedience of the order of the said Department by the said officers, which is referred to the Committee on Naval Affairs.

My object is to meet the views of the chairman of the Committee on Naval Affairs; and I understand that the resolution in this shape is satisfactory to him. It refers the message generally to the Committee on Foreign Affairs, in which the matter originated; but that part of the message which is specified in the resolution is referred to the Committee on Naval Affairs. I move the previous question.

Mr. JOHN COCHRANE. I hope the gentleman from North Carolina will withdraw that portion of the resolution which refers any portion of that communication to the Committee on Naval Affairs. It strikes me that it is all germane to one subject, and that the report thereon should come from one committee.

Mr. CLINGMAN. I withdraw the demand for the previous question, for the purpose of saying, that as far as the conduct of Commodore Paulding is concerned in obeying the regulations of the Navy Department, and having obeyed them, I think the Naval Committee should take charge of it; and as the members of that committee desire it, I hope it will take that reference.

Mr. J. GLANCY JONES. I beg leave to say to the gentleman from North Carolina that I owe it to the House, a resolution having been adopted to terminate debate on the President's annual message on Thursday next, at one o'clock, to move to go into the Committee of the Whole on the state of the Union. I yielded to my friend with the distinct understanding that he was to demand the previous question. If we open this matter to debate now, and get into debate upon Commodore Paulding and Nicaragua, it will consume the whole day.

Mr. BOCK. I desire the consent of the gentleman from North Carolina to say a word in explanation.

Mr. CLINGMAN. I yield to the gentleman, if I can do so without losing my right to move the previous question.

Mr. BOCK. I wish to say, in reply to a remark made by the gentleman, that the Committee on Naval Affairs took this subject into consideration, and were under the impression that the conduct of Commodore Paulding, and that of other officers of the Navy, is such, and their relations to the Navy Department are such, that the question, whether they obeyed orders, should be examined by a committee cognizant of naval affairs, and prepared to examine it in that point of view. They therefore instructed me—it was not a matter of my own motion—as chairman of the Committee on Naval Affairs, to make a motion to the House to refer so much of this message and the accompanying documents as refers to Nicaragua and other foreign countries, to the Committee on Foreign Affairs; and that so much thereof as relates to Commodore Paulding and other officers of the Navy, and their relations to the Navy Department, and the question of their obedience to instructions, to the Committee on Naval Affairs. But, as the gentleman from North Carolina has kindly consented to make the motion himself, I have discharged the duty imposed upon me by the Committee on Naval Affairs in making this statement, and, therefore, I yield to the motion made by the gentleman from North Carolina.

Mr. CLINGMAN. I made the motion with the distinct purpose of giving gentlemen a full

opportunity to express their views upon a report made upon the subject. At the present time, I think discussion premature, and therefore demand the previous question.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof, the resolution was adopted.

Mr. CLINGMAN moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONSTITUTION OF MINNESOTA.

The SPEAKER laid before the House the following communication from the President of the United States:

To the Senate and House of Representatives of the United States:

I have received from Samuel Medary, Governor of the Territory of Minnesota, a copy of the constitution of Minnesota, together with an abstract of the votes polled for and against said constitution, at the election held in that Territory on the second Tuesday in October last, certified by the Governor in due form, which I now lay before Congress in the manner prescribed by that instrument. Having received but a single copy of the constitution, I transmit it to the Senate.

JAMES BUCHANAN.

Mr. WASHBURNE, of Illinois. I ask to have that communication read again. I wish to learn whether there is any reference made in it in regard to the census of the Territory—and for this reason: It will be recollected by the House that by the enabling act it was provided that Minnesota should have one Representative, and others in proportion to her population, as it should be shown by the census. The constitution provides that there shall be elected three members of Congress; and I understand that three members of Congress have been elected. Now, sir, I desire to know—and that is the reason why I ask for the reading of the communication, not having paid particular attention to it when it was being read—if there is anything said in the letter in regard to the census, so that this House may know how many members that State will be entitled to on its admission.

The communication of the President was again read.

Mr. STEPHENS, of Georgia. I move that the communication be referred to the Committee on Territories, and ordered to be printed.

The motion was agreed to.

ARREST OF WILLIAM WALKER.

The SPEAKER also laid before the House the following communication from the President of the United States:

To the House of Representatives:

I transmit a report from the Secretary of State in answer to a resolution of the House of Representatives of the 4th instant, requiring to be informed if any complaint had been made against our Government by the Government of Nicaragua, on account of the recent arrest of William Walker and his followers by Captain Paulding within the territory of that Republic.

JAMES BUCHANAN.

WASHINGTON, January 7, 1858.

The report from the Secretary of State was read, as follows:

To the President of the United States:

The Secretary of State, to whom was referred the resolution of the House of Representatives, of the 4th instant, requiring the President to inform that House, if not incompatible with the public interest, whether the Government of Nicaragua has made any complaint against our Government on account of the act of Captain Paulding, in arresting William Walker and his followers within the territory of Nicaragua, has the honor to report that no such complaint has reached this Department.

Respectfully submitted, LEWIS CASS.

DEPARTMENT OF STATE, WASHINGTON, January 7, 1858.

On motion of Mr. CLINGMAN, the communication and accompanying report were referred to the Committee on Foreign Affairs, and ordered to be printed.

MISCELLANEOUS CLAIMS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting a statement of the expenditures of the moneys appropriated for the discharge of miscellaneous claims, not otherwise provided for, and paid at the Treasury, for the fiscal year ending June 30, 1857; which was laid on the table, and ordered to be printed.

EMPLOYEES OF THE CLERK.

The SPEAKER also laid before the House a communication from the Clerk of the House of Representatives, containing the annual statement

of the clerks and other persons employed in the office of the Clerk; which was laid on the table, and ordered to be printed.

JEANNETTE M'CALL.

Mr. DAVIS, of Mississippi. I ask the unanimous consent of the House to withdraw the papers in the case of Jeannette McCall, for the purpose of having them sent to the Senate. A bill for her relief was introduced into the House at the last session of Congress, sent to a committee, and reported back. I desire now to have the bill and papers sent to the Senate.

Mr. MORGAN. What is to be done with the papers?

The SPEAKER. They are to be referred to the Senate.

There being no objection, it was so ordered.

COLONIZATION SOCIETY.

Mr. SMITH, of Virginia. I ask leave to introduce the following resolution:

Resolved, That the Colonization Society be allowed the use of the old Hall of the House of Representatives on the 19th instant.

Mr. BARKSDALE, and others, objected.

CLERK'S ACCOUNTS.

Mr. MAYNARD. I rise to what I consider a privileged question. I am directed by the committee which was appointed to investigate the conduct of the late Clerk of the House, to ask the House to make the following order—

The SPEAKER. The Chair does not think that a question of privilege.

Mr. MAYNARD. Then I ask the unanimous consent of the House to report a resolution.

Mr. HUGHES. I object.

POST OFFICE AT BROOKLYN, NEW YORK.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. TAYLOR, of New York. I have the permission of the gentleman from Pennsylvania [Mr. J. GLANCY JONES] to submit a resolution.

Mr. J. GLANCY JONES. I am desirous to go into the Committee of the Whole on the state of the Union; but I have no objection to accommodate gentlemen around me, if the propositions do not lead to any debate.

Mr. TAYLOR, of New York. I desire to introduce a simple resolution for reference.

The resolution was read for information, as follows:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of erecting a post office in the city of Brooklyn, New York, and to report by bill or otherwise.

Mr. LETCHER. I object.

NANCY DE HOLKAR.

Mr. MORRIS, of Pennsylvania, asked and obtained leave to withdraw from the files of the House the papers in the case of Nancy De Holkar, for reference to the Senate.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill to authorize the issue of a register to the bark Jehu. Also, that the Senate had passed a bill to authorize a register to be issued to the steamer Fearless; in which he was directed to ask the concurrence of the House.

CLERK'S ACCOUNTS.

Mr. HUGHES. I ask leave to introduce a resolution giving further directions to the committee appointed to inquire into the accounts of the late Clerk of the House. I desire to have it read.

Mr. MAYNARD. I object.

Mr. J. GLANCY JONES. I now renew my motion to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN stated that the pending ques-

tion was on the amendment of the gentleman from Massachusetts [Mr. THAYER] to the amendment of the gentleman from Tennessee, [Mr. MAYNARD,] moving the reference of a certain portion of the message to a special committee; and that the gentleman from Illinois [Mr. KELLOGG] was entitled to the floor.

Mr. KELLOGG. Mr. Chairman, whether this measure now before the committee is really intended to sustain the honor and character of our country or not, or whether it is intended merely as a pretext to heroize Mr. Walker, or subsequently to subjugate Nicaragua, is hard to determine from the debates which have taken place upon this floor. But one thing is certain: that from the indications here, and from the arguments that have been adduced in this House, it is due to the President of the United States that his proposition relating to this question should be placed in the hands of his friends. Mr. Chairman, if ever a President of the United States needed the supporting hands of his friends, it is now. Who, sir, can tell which is the Administration party on this floor? Who can tell, in this day of Democracy, which and what are the Administration measures? Look you to the Senate. The Warwick of the Administration in that body has refused it his support; and standing aloof, proudly conscious of his strength, like the Warwick of England, he hurls defiance at the Administration. In this House, sir, who are the friends of the Administration? In this House the Iron Duke—the Wellington of the party—has refused his support to the measures of the Administration, now tottering before the end of the first quarter of its existence. It came into power with a national Treasury bursting with plethora. Now, before the end of the first year, the Treasury is empty and the Government bankrupt. The Central American question is pressing hard upon the President. Filibusterism is about to overwhelm him. Then, again, the Kansas outrage, which he seems to be pressing forward with the view of the destruction of freemen's rights, is hurled back upon him from nearly every portion of the country until he is ready to sink under it. Yea, sir, Utah has defied the power of the General Government; and Brigham Young, from his harem, laughs the Government to scorn. This, sir, is the position of the Administration. Sir, methinks I hear the President now exclaiming: "save me from my friends!" May we then not exclaim: "What an immortality of fame awaits the sage of Wheatland!"

In discussing the question before the committee, I propose to base what few remarks I have to make upon record evidence, upon the evidence of the annual message of the President, and upon the evidence of the message received this morning; I propose to base it upon a correspondence between Walker and the officers of the Navy, which is now a part of the history of the country; I propose to base it, sir, upon the arguments which have been adduced in this committee; and then I propose to show that there is abundance of evidence to prove that the Administration was right in the commencement, and right in every position taken by it in relation to Nicaragua up to the time of the return of Walker to this country by the act of Commodore Paulding. I propose to show that its acts were strictly in accordance with the duties which we owe to foreign countries, as well as to the duties we owe to ourselves to sustain our national honor and reputation.

I propose, also, to discuss the right of Paulding to land upon the soil of Nicaragua as a mere matter of right, and also with the further consent of that Government—for that had been given; and, because of that right, to show that it became our duty to cause the arrest of the invading force, and that every step taken by Commodore Paulding, who has been arraigned before this committee, was in strict accordance with the law of nations, and with the instructions of the President. If the President has been derelict in duty at all, it was in not adopting measures sufficiently stringent to have prevented Walker from leaving our shores, and in not arresting and holding him for trial when he was returned within our jurisdiction.

I propose now, for a moment, to call the attention of the committee to the annual message of the President of the United States; and in speaking of the conduct of Walker I shall use no stronger language than has been employed in that

message. I propose to use no epithets in reference to William Walker, or connected with him, except those which I find in the message of the President.

The great question before this House, and before the country, is not a question between Walker and Commodore Paulding. It is not a question between Walker and his friends and the Government of the United States; but it is a question whether this Government has discharged its duty and sustained its honor? That is the question above all others which the people will recognize; that is the question which they will discuss; and it is the question which they will decide when they fix the fate of men in high places. Mere technicalities and forms are trifles when compared with the great principles of national rights and national duties of this great Republic of ours. I read from the President's message:

"It is one of the first and highest duties of any independent State, in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects. The most eminent writers on public law do not hesitate to denounce such hostile acts as robbery and murder.

"Weak and feeble States, like those of Central America, may not feel themselves able to assert and vindicate their rights. The case would be far different if expeditions were set on foot within our own territories to make private war against a powerful nation. If such expeditions were fitted out from abroad against any portion of our own country, to burn down our cities, murder and plunder our people, and usurp our Government, we should call any Power on earth to the strictest account for not preventing such enormities."

And now, sir, when an officer of the General Government, with instructions in his pocket to enforce the laws of the country, has seized the man whom the President denounces as a robber and a murderer; when an expedition is arrested going from this powerful Government to a weak Republic with a view to invasion of its territory and the destruction of its Government—before this great and generous people, in the Hall of the Representatives of the people of this nation, where is supposed to be found the sentiment of America, an officer who, under the banner of his country, did his country's bidding, has to be put on trial whether he or General Walker is the better man. It is made a question whether Walker is the hero, and Paulding the intermeddling official. It is a strange issue, which I will discuss more hereafter than at the present moment. The President in his message says the leader of the recent expedition was arrested at New Orleans, and was discharged on giving bail in the insufficient sum of \$2,000.

Are these principles of the message found only in the enactments of our statute-book? are they to be found first in an act of a Legislature? No, sir, they are found in that portion of the international law which was recognized as soon as governments began. They are the great principles of eternal justice that exist as well between man and man as between nation and nation; they are to be found in the duty which we owe to one another and in the respect which we owe to ourselves. They are to be found in the rights of Nicaragua. The fact is, that when we are just to others we sustain our own character and dignity. Because we are powerful we owe it to Nicaragua to protect her from aggressive invasion from our own territory on the part of lawless adventurers. We ought, with a view to our own character, to discharge that duty fully. I repeat that it is the principle originally found in the law of necessity and the law of right between nation and nation, which the President has recognized in his message to the Senate and the House of Representatives.

Mr. Chairman, I desire to call the attention of the committee to the facts and principles which are presented in this case, with a view to the action which ought to be taken by this Government; this is a principle found, not in our statute-book, but in the law of nations. (This ground has already been taken by gentlemen who have spoken on this question.) I read from an authority that will not, I think, be questioned, which defines the right of Nicaragua, and the duty on our part to be observed. In speaking of sovereigns, Vattel says:

"If a sovereign, who might keep his subjects within the rules of justice and peace, suffers them to injure a foreign nation, either in its body or its members, he does no less an injury to that nation than if he injured them himself. In short, the safety of the State, and that of human society, requires this attention from every sovereign. If you let loose the reins of your subjects against foreign nations, these will behave in the same manner to you; and instead of that friendly intercourse which nature has established between

all men, we should see nothing but one nation robbing another."

Strange as it may seem, there seems to be a portion of the members of this body who are making for Mr. Walker all the excuses and justifications that can be made, regardless of the duty and honor of Government, the rights of Nicaragua, or the justice due Commodore Paulding. If he be in truth the hero, if he be in truth the patriot that they make him by their charges against Commodore Paulding, who has faithfully executed the laws of the Government, then I ask that the charge be made against the President and the Administration. Let them be charged home upon the policy of this Government, and not upon the head of a meritorious and valuable officer of the Navy. Walker was expelled from Nicaragua. Whether he was ever elected its President or not is not important for me to inquire. If he was so elected his election was secured by the force of American arms, and by the votes of invaders from our own soil. By the aid of American depredators he may have kept up for a time a successful rebellion there. But the natives of the country in their strength drove him from their borders, and the broad flag of our country floated at the mast-head of the vessel which in sympathy brought away the wretched and ruined remnant of his followers.

It is said on my left that not one of them was hanged. No, sir, none; who would hang such unfortunate men—men depressed in spirit, diseased, and ruined, who had been seduced from their homes by the hope of plunder? Instead of hanging it would have been better to have sent them where the rights of man are respected, and the rights of Governments held sacred.

He was expelled from the country, and he came to our shores. And, now, mark what is the basis of all this matter before the country. Do you suppose that Commodore Paulding is the originator of that? Do you suppose that it originated outside of the Executive Mansion? No, sir; it originated there, and there is where the fierce artillery should be felt.

The Administration receives some support—however feeble it may be—on the Republican side of the House. But this I have to say, that I believe, in my heart and soul, that when the honor of the country is concerned, when the country is in danger, then you will find rallying round its standard the entire Republican force of the country. We are not fillibusters; we are not hero-makers. We desire our country to move steadily onward, peacefully, justly, but with certain progression, and if she shall reach with her influence Central America, I say—God speed. If it shall reach and embrace the islands of the sea, I say—it is well; but let us move forward peacefully, justly, and progressively; in accordance with the character, spirit, and genius of the age.

Walker was expelled from Nicaragua by its inhabitants; and again fitting out another expedition of invasion, our Government interposed its power to enforce its own laws and protect Nicaragua. And this act of ours is somewhat convulsing the country, and more particularly the Democratic party—though with that I find no particular objection, for if each branch of that party should do justice to the other, and purge it well, it would, I think, be of benefit to the country.

When Walker was about to return to Central America, (I ask gentlemen upon the other side to look at the records of the country,) the official who represented Central America at our Government, demanded that our Government should exercise her rights and discharge her duty to that Republic, and sustain her own reputation. I ask here to read a communication signed by him who is now the Minister from that Republic to this Government, who was then unrecognized, but who was acting in connection with another, in behalf of Central America. I read now a letter signed by A. J. De Yrisarri and Luis Molina, and also the instructions of General Cass, prompted by this complaint. They are as follows:

New York, September 14, 1857.
The undersigned, Minister Plenipotentiary of the Republics of Guatemala and Salvador, and the Chargé d'Affaires of the Republic of Costa Rica, have the honor to make known to the Secretary of State of the United States, that there is no doubt that there is being prepared, in the southern part of this Republic, an expedition, under the orders of the adventurer William Walker, the which, according to the advices published in the public journals, will sail about the middle of the present month, or the beginning of

the next, and will proceed to the Bocas del Toro, where it will receive the armament which has been prepared in this port of New York to be forwarded to said point. It is probable that the uniting of the expeditionists and the aforesaid armament, at the Bocas del Toro, may be for the purpose of these new invaders of Nicaragua entering the port of San Juan del Norte, for they have no other port at which they can enter. The undersigned hope that the Government of the United States, in view that it cannot prevent the debarkation of this expedition, so publicly and shamelessly announced, like all the others, will order that a vessel of war of the United States prevent the landing of these aggressors in the Bocas del Toro, and that positive orders be given to the vessel of war that may be lying in San Juan del Norte, also to prevent the landing of the said fillibusters on that coast, causing them to return to the United States, as transgressors of the laws of this country, and as disturbers of the peace and security of friendly nations.

With the highest consideration, the undersigned have the honor to subscribe themselves, of the Secretary of State of the United States, the attentive and obedient servants,

Hon. LEWIS CASS.

A. J. DE YRISARRI,
LUIS MOLINA.

WASHINGTON, September 18, 1857.

SIR: From information received at this Department, there is reason to believe that lawless persons are now engaged within the limits of the United States in setting on foot and preparing the means for military expeditions to be carried on against the territories of Mexico, Nicaragua, and Costa Rica—Republics with whom the United States are at peace—in direct violation of the sixth section of the act of Congress, approved 20th April, 1819. And, under the eighth section of the said act, it is made lawful for the President, or such person as he shall empower, to employ the land and naval forces of the United States, and the militia thereof, for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States. I am, therefore, directed by the President to call your attention to the subject, and to urge you to use all due diligence, and to avail yourself of all legitimate means at your command to enforce these and other provisions of the said act of 20th April, 1819, against those who may be found to be engaged in setting on foot or preparing military expeditions against the territories of Mexico, Costa Rica, and Nicaragua, so manifestly prejudicial to the national character, and so injurious to the national interest. And you are hereby instructed promptly to communicate to this Department the earliest information you may receive relative to such expeditions.

I am, sir, your obedient servant, LEWIS CASS.

My object in having the papers read was to show the basis of our present state of affairs; to show that Nicaragua herself proposed that that expedition should be arrested, and that Walker and his party should be brought back to the Government of the United States. There is the complaint of the offended country. That country, by her representative—not then recognized, but recognized since and before this aggression, as the minister of that nation—made application that this man Walker and his confederates should be arrested and brought back from the shores of Nicaragua. Now, what was the object of that? Was the object to sustain our law, and to enforce the penalty against Walker? No, sir; there was a broader and a higher necessity; there was a greater and more dangerous evil threatening; and it was to bring back from Nicaragua those men who were carrying on an invasion against that nation. It was to save and protect that State, and to take into custody those who were despoiling that Government. That was the reason, and the only reason. The Secretary of State, in accordance with that request of the representative of that State, issued his order to the Navy, to the Army, to the marshals, and to the civil authorities, to uphold the rights of Nicaragua, and save the laws of our Confederacy from violation.

Do gentlemen suppose that there is no other point in this case than the question whether General Walker should be imprisoned? Do gentlemen suppose the question is between Walker and Paulding? Do gentlemen suppose that the question which agitates this country is whether Walker is a hero, or whether Paulding is an honorable man? No, sir. What then was the object of that order? It was to do what the Government of Nicaragua asked should be done. The object of that order of Secretary Cass was to carry out the request, and to execute the law, for the purpose of the protection of Nicaragua. Now, I desire that gentlemen should meet this question upon this high ground, and to strike home to the very object of the order. If the House cannot see that the object of that application, and of that order, was the security of Nicaragua, then I am much mistaken in the judgment of this House. Now, if this was the order given to Paulding, if it was the heart and soul of the requisition, where was he to execute it? Gentlemen talk of writs and jurisdiction of a marine league—talk of the high seas—talk of the coast, but they must remember that our Navy is the great power by which our

international laws are enforced. It is the ministerial power in the hands of the Executive. Where American commerce is outraged, no writ issues. Where American rights are invaded, no legal order issues—nothing but the general order of the Executive—to enforce our rights and redress our grievances.

I ask gentlemen to turn their attention to the case of Ingraham. What was the order to Ingraham? None on earth. But his mission was to protect American rights; and what did he do? Without the knowledge of the Executive, without an order from the Government, Ingraham went aboard an Austrian vessel of war, and took therefrom Koszta, who had only declared his intention to become an American citizen. What order had he for that act? Nothing but the order of the law; nothing but the order of the genius of our country—an order written on the flag which bears the stars and stripes. That act was sustained by our Government, and shed new luster upon the naval arm of the Government. Where American rights need protection and enforcement, the naval power of the country is present to enforce those rights.

Nicaragua had the right to hold our Government responsible for the protection of her territory from aggressions of American citizens; and if such is the duty of our Government, is it to be said that it has no power to fulfill that duty? If that were true, then it would be the duty of Congress to bestow such power on the Executive as would enable it to carry on the machinery of the Government; justice to other nations, and to our own character, demands it.

In regard to the question whether Commodore Paulding was justified in entering on the soil of Nicaragua and arresting those whom the President denominates murderers and robbers, I propose to consider it in two phases—first as against Walker, and second as against the sovereignty of Nicaragua, with which Republic we are at peace, and a minister of which, to our Government, we recognize in this capital.

Walker was amenable to the laws of the United States. So says the President. He was arrested and held to bail. I was astonished to hear gentlemen of learning in this House say that Walker having given bail should not have been again arrested. Do gentlemen not remember that that bail was taken before an examining court? And do they not remember that the decision of an examining court is never final? But, apart from technicality, do gentlemen not remember that the act for which Walker was arrested by Commodore Paulding, was perpetrated subsequently to the time when he was first arrested and admitted to bail? It will not be said—it cannot be said—that that bail gave him immunity for all time. It cannot be said that the court at New Orleans could grant an immunity and indulgence to him to commit murder and robbery on the soil of another country. And when he and his followers were arrested on the soil of Nicaragua what right has he to complain? What right can his friends show for him here, because of the place of arrest?

I lay it down as a rule of law and a rule of justice, an eternal right—whether on the statute-books or in the mere elements of law—that he who violates the law cannot make to himself a city of refuge. Nowhere on God's earth—on the ocean, on shipboard, on a foreign soil, or in a desolate land—can he make to himself a place or city of refuge. The law follows him, and, as against him, he may be seized wherever he may be found. This is the law recognized everywhere. When a murderer or a robber who commits a crime in one State and flees to another, and is there arrested without the permission of that State, and is returned for trial, and puts in his plea that he was not legally arrested, what then? Why, the judge responds, "You are in court; you have broken the law of the land, and you are liable to punishment." It would be a strange plea for a murderer who escapes from Illinois and is arrested in Indiana, and brought back, to say that he was illegally arrested. Do you suppose that that plea would be heeded? Nay, further! Suppose the State of Indiana demanded the return of such murderer, my opinion is, that the response of the State of Illinois, Virginia, Mississippi, or North Carolina would be, "We will hang him first, and then send him back. He murdered our citizen, and is amenable to our laws!"

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, JANUARY 14, 1838.

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And, sir, if it should now come to this that Nicaragua should so far forget her flag, and her own honor and dignity, as to ask for the return of Walker, my proposition would be to fine and imprison him, and then let Nicaragua do with him just as it may please. That would be just, and would carry out, I think, the policy of the Administration.

And now, Mr. Chairman, I desire to say a few words as to the right of Nicaragua herself to complain.

Speaking of the right of one Government to enter the territory of another, Vattel, a book of authority on the law of nations, says:

"It cannot, then, without doing an injury to the State, enter, sword in hand, into a territory in pursuit of a criminal, and take him from thence. This would be an invasion of territory, and an injury to the sovereignty of such State."

That, sir, is the authority on the other side of the House on this question. And how does it affect the question before us? Why, sir, in this manner: it follows that you have no right to enter the territory of another, sword in hand; because you invade a great principle of independent sovereignty by so doing. But mark you, if you enter that territory for the purpose of sustaining its integrity; if you enter it to preserve its life; if you enter it to preserve it from violation and conquest by an aggressor, a pirate, or robber; then, if you enter the territory of another without its consent, you have violated no principle of justice, sovereignty, or right, because you have done no wrong, but have saved the life of its Government.

That is the doctrine, sir, which I lay down; and now let me apply it to Nicaragua. The principle is the same as in the common affairs of life. Our police officers are bound to keep the peace; but suppose they hear threatenings of murder, or see demonstrations for the destruction of human life, it is then their duty to be on the alert; the dagger is raised to strike; the officer steps on the soil owned by the threatened victim. Has he no right to enter there? Sir, our officers have the right to enter upon the premises of another when they go there, because it is their duty to save the life of the individual.

Sir, we have entered Nicaragua in the discharge of a higher duty,—to protect it from invasion and subjugation, and that by an armed force from this Government. We have done it at the request of that Government, to save it from spoliation and ruin. Will the man over whose head the sword has been suspended, turn round, after his life has been saved, and say, "Why did you enter my grounds? Why did you come upon my premises?" The reply is, "To save your life." "True, you have saved my life. It was your duty; but I will prosecute you for coming on my ground." That is the doctrine in relation to Nicaragua and General Walker. But, sir, I wish to call the attention of the committee to another fact, and then ask them whether they wish this Government to return Walker to Nicaragua or not. The Government of Nicaragua have asked for his expulsion, and now do they ask for his return? No, sir. Our Government has acted precisely in accordance with the request of that Government, and they are estopped by their own act from asking for his return to Nicaragua. They have asked for his expulsion, and this Government has acted precisely in accordance with his request. The President says they have not complained. Who, then, shall complain?

But, again, can they complain? If it was our duty to enter their territory to protect them from aggression, then because of that duty we had a right to enter, and we must have the means of protection. But it is said that Commodore Paulding entered the territory of Nicaragua in violation of his duty. Sir, his duty was to anticipate and prevent the carrying on of such an expedition from our shores. I ask you if it was not in accordance with his instructions to stop and prevent that aggression and that wrong? Sir, it was; and that could not be done by any other means. The act which he performed was simply to prevent an aggression and a wrong against Nicaragua. The

moment the expedition left our shores, he was carrying it on. The moment he reached Nicaragua he was carrying it on. The moment he planted his standard upon Nicaraguan soil, he was carrying on or executing an act which the President denominates robbery and murder.

Sir, Nicaragua cannot complain, and General Walker cannot complain. Nicaragua has not complained. We have not invaded her territory; we have simply taken a criminal which they asked us to take and return to our shores. He was a criminal by law, and we have taken him. There is no man who can say that the act was in violation of any principle of justice or right.

Now, sir, if I am right in my deduction, I wish to call the attention of the friends of the Administration to the position in which they stand. I want to know whether they are vamping or not. I want to know whether James Buchanan, the Chief of the nation, was in earnest, when he boldly declared his intention to arrest these murderers and robbers? I ask those gentlemen who sustain him on this floor to answer that question. Where is Walker, sir? Is he not within your jurisdiction? Where is he?

A MEMBER. In Richmond, Virginia.

Mr. KELLOGG. In Richmond, Virginia. Well, sir, I heard a few days ago that he was in this capital. Now, sir, if Walker was an aggressor, and if the President was right when he issued his instructions to Commodore Paulding, I ask you why they did not arrest him when he was within the jurisdiction and power of the General Government? He was taken by an officer of the Navy. My friend from Tennessee [Mr. MAYNARD] said that he submitted to the flag of his country. I have great respect for the opinions of the honorable gentleman from Tennessee; but I confess that I have not been able to see a great stretch of magnanimous conduct in not running away when he had given his parol of honor, especially as he could not get away if he would.

But, sir, I was proceeding to say that when Walker had been taken by Commodore Paulding, and brought to New York, he came into the hands of the marshal of the southern district of New York. Was this Administration vamping or did it denounce Walker as a robber and murderer? and if not, why did they dismiss him in peace, when he was in their power? Why did the President and Secretary of State let him go when Marshal Rynders had brought him to them? The President has told you that this man had committed dangerous crimes. He was arrested by our authority, and under our jurisdiction. The President has told you this morning that the Government of Nicaragua makes no complaint, and still a great criminal, according to the language of the President, is at large and feasted. He is made a lion of, and if the Administration do not well look to it he will put his paw upon their head.

If the committee will bear with me I will read what perhaps may be a solution of this mystery, that this was but a mere pretense of honesty and determination to maintain the rights of others, which it was never intended to execute. I believe that there were two blunders: the President of the United States mistook the Commodore, and the Commodore mistook the President. The President issued his order to arrest, but supposed the Commodore would bluster, but fail to find Walker; but the Commodore, unlike a politician who could find some ready excuse for not doing it, and like one in the habit of obeying orders, thought the President meant just what he said, and arrested Walker and brought him back. I read from Mr. Walker's letter, which was published in the newspapers, and which has never been contradicted:

"I have the honor to report these facts to you, and to request that you will cause Commander Chataud to cease this unjust and illegal conduct. As a native of the United States, engaged in what your Government admits to be a lawful undertaking, and awaiting rights which cannot but commend themselves to the sense of justice of all civilized nations, I claim as my due that you shall not permit the sovereignty of Nicaragua to be violated by the commander of

the Saratoga, for the purpose of gratifying his opinions or his prejudices. With full confidence, I ask from your hands that justice which it is the proud boast of your Government to award to all.

"I have the honor to be your obedient servant,
"WILLIAM WALKER,
"Commander-in-Chief Army of Nicaragua.
"Commodore H. PAULDING, United States Navy."

I do not know whether Walker intended to bring the Administration into difficulty. He said in his communications to officers of the Navy that the Government admitted the justice of his enterprise, and the lawfulness of his undertaking. If that be so, then the President meant nothing. If it be not true, why then do they not arrest General Walker while he is in the jurisdiction of the United States? The country demands his arrest, and if the Administration be true to itself and the country, the arrest will be made. I suppose the *furor* is all to be in debate and not in action, and that Walker is to pass free.

I want to say another word in reference to Paulding. I have suggested that Paulding was on trial here; and do gentlemen know the character of Paulding? Does he know that he is an able and efficient officer of the Navy, who has fought the battles of the country? He is an honorable man, and from the stock that captured André. He is the son of that John Paulding who captured Major André during the revolutionary struggle. Look now at his case and the one similar to it, which I have referred to. In the one case, Congress, by resolution, voted a medal and its thanks; and in the other, the case of Commodore Paulding, for arresting a man who it has been said was a disgrace to the flag of the country and a depredator upon the rights of man and nations, he is denounced in the Halls of Congress. When the people come to make up a record, when they come to take action on this subject, they will look at the question as one of good faith and justice. They will make the record of Commodore Paulding as clear and bright as that of his father.

I have thus, Mr. Chairman, briefly discussed the points in the case with a view to bring before this committee, the Administration, and the friends of General Walker, the relative positions which they occupy upon the record. I desire nothing more than that the nation's honor shall be maintained, and that we shall be true to ourselves. The United States should respect the rights of weaker nations, as ours, if she were the weaker nation, should like to be respected. This is demanded by the country and the civilized world, and it is demanded in justice to Commodore Paulding and in justice to the Administration itself.

Mr. MOORE obtained the floor.

Mr. HASKIN. I ask the gentleman from Alabama to yield to me a moment for a brief personal explanation.

Mr. MOORE. I will yield if it is not taken out of my time.

The CHAIRMAN. It will be taken out of the gentleman's time.

Mr. HASKIN. I will be brief.

Mr. MOORE. I yield to the gentleman.

Mr. HASKIN. Mr. Chairman, considering the perverted use which was made on Thursday last by the gentleman from Massachusetts, [Mr. THAYER,] and also by some of the newspapers of the country, of the figurative expression indulged in by me, in the course of some remarks in the defense of Commodore Paulding, my constituent, that I was in favor of "national grand larceny," I deem it proper that I should occupy the time of the House for a few minutes, in explanation and reply to the gentleman from Massachusetts.

This expression was made in an argument to illustrate an idea in reference to the Walker expedition. It was an alternative proposition. If this Government did (and I hoped and argued they would not) justify Walker and his expedition, which I characterized as "a petty larceny affair," then it would be far better for the Government to filibuster on a large and grand scale.

The President has ably and most justly elaborated

rated in his recent message the idea which I intended to convey:

"It would be far better, and more in accordance with the bold and manly spirit of our countrymen, for the Government itself to get up such expeditions, than to allow them to proceed under the command of irresponsible adventurers. We could then, at least, exercise some control over our own agents, and prevent them from burning down cities, and committing other acts of enormity of which we have read."

My jocose and figurative expression was in its fair application understood by the House, when it was made, and it excited, as it was calculated to do, a laugh.

I did not at the time entertain the belief that any gentleman on this floor seriously thought that I proposed favoring grand larceny, in a literal sense. This supposition could not have been fairly entertained, because larceny is the stealing of personal property—it is a crime defined and punished by the local laws of the States; and it could not, legitimately, be made referable to the national conquest of the Island of Cuba, or Central America.

If any FELONIOUS HABITS can be fairly imputed to any political party in this country, surely they may be attributed to that one which has hitherto aided and abetted and gloried in the appropriation of their neighbors' goods, and out of which it has made much of its ephemeral capital. They call themselves the Republican party—of which the gentleman from Massachusetts, who stands forth as my accuser, is a representative and a shining light.

Sir, the records of this House, and especially the very able report of the chairman of the corruption committee of the last session—our present impartial and distinguished Speaker—prove that the party of the gentleman from Massachusetts is the "grand larceny" party of the country. I admit, Mr. Chairman, that the crime is a "mean one"—that it is "contemptible," and I reprobate and condemn it. I hope that the members of the Republican party in the present House will do as much to stop plundering as some of their representative men in the last House did to promote it.

I have thus briefly replied to the gentleman from Massachusetts, and, in so doing, have sought to put myself "right on the record" for the satisfaction of my friend from New Jersey, [Mr. ADRIN,] whose criticism in his speech, on Thursday last, upon my use of the words, "national grand larceny," I am glad to know was intended to afford me the opportunity to make this brief explanation. No explanation would have been necessary if my remark had not been perverted from its jocular and figurative sense.

Mr. THAYER. Will the gentleman from Alabama allow me one moment to reply to the gentleman from New York?

Mr. MOORE. I must decline to yield the floor any further.

In the discharge of our legislative duties, we have had suddenly sprung upon us, growing out of recent occurrences, questions of the gravest importance. They, sir, involve great principles of law, not only of international, but of constitutional as well as municipal law. Called, as we are, to review the conduct of a distinguished officer of the American Navy, and in some manner, I confess, to pass in review and sit in judgment upon the conduct of the executive department of the Government, it becomes us to lay aside all passion, all prejudice, and, above all, any party bias.

I listened with pleasure, Mr. Chairman, to the able remarks made by the gentleman from Ohio, [Mr. GROESBECK,] on yesterday; but find myself constrained to dissent from most of the legal opinions announced by him as to the proper construction of the neutrality laws of 1818, and the power of the President to employ the land and naval force to enforce them beyond the jurisdiction of the United States. I shall, therefore, in the course of my remarks, endeavor to answer some of the arguments offered by him, and present, in addition, such views as the occasion and the great importance of these questions seem to demand. I agree with the honorable gentleman from Illinois, [Mr. KELLOGG,] who has just taken his seat, that the question before us is not as to the merits of General Walker, his character, or the lawfulness of his expeditions. I am certainly not here to defend either. I leave that to others. Nor shall I enter upon a discussion of the validity of the title which he claims of being the lawful President of that Republic. Whether we favor fil-

bustering or not, advocate or oppose the repeal of the neutrality laws, approve or condemn his conduct, are not the questions presented here for our consideration; but one far transcending these in dignity and importance, involving, as I believe, the constitutional rights and liberties of the people of this widely-extended Republic. Shall the law and the Constitution be trampled under foot with impunity? Shall American citizens be seized in a foreign nation in defiance of law; made prisoners of, brought back to this country, and then turned loose without any accusation against them? Shall an officer of the American Navy assume to himself the war-making power—a power which a sovereign State of the Union could not exercise, except in cases of rebellion or of imminent danger not admitting of delay; land an armament in a country with which we are at peace; make war upon a military force, composed too of American citizens, by a violation of her territory, and afford just cause of war to a neighboring Republic, and thus act without instructions, and in violation of the Constitution of his country and of the law of nations? These are the questions which we are called upon to decide.

Of Commodore Paulding, prior to this occurrence, I know but little. No doubt he has been a gallant and faithful officer; but speaking in reference to his conduct in Nicaragua, I say a more wanton and willful outrage was never committed by any one clothed with authority in this country; and it becomes us, it seems to me, as the representatives of a free people, to protest against this wanton usurpation of power.

I admit that the President was bound to see that the neutrality laws were faithfully executed. He was bound to exercise vigilance to prevent their violation. Had he not discharged this duty he would have failed to meet the just expectations of the country. I acquit him most cheerfully of all intentional error or improper motives; but I do not concur in the construction which he and gentlemen on this floor have given to those laws, and the extent of the authority claimed to be conferred by them.

Under the law of 1818, the President was authorized to employ the land and naval forces to prevent the carrying on from our shores of any military expeditions, fitted out in our country against a nation with which we were at peace; and also to drive from our coasts any vessels that should presume to violate our laws, and which should refuse to leave when ordered to do so.

The authority conferred to employ the land and naval forces was limited to certain specified and well-defined cases. Their employment was intended, as it seems to me, to be confined only to our own shores, or within one marine league beyond.

The clause of the statute relied upon by those who contend that the President has the authority to send out on the high seas and arrest such expeditions, is that which provides that the President may use the Army and Navy for the purpose of preventing the carrying on of any such expedition or enterprise from the territory or jurisdiction of the United States; but that clause must not be taken and construed by itself, separate and apart from all the rest of the sentence and the other sections of the act. It must be construed in connection with the whole act; and when thus examined, no such powers can be found to have been conferred upon the chief Magistrate of the United States.

If the Executive could send out upon the high seas, and beyond our own jurisdiction, the naval forces to arrest such expeditions, he could, by the same authority, send out the military forces—the regular Army; for the same act which authorized him to employ one gave him equal authority to employ the other of these arms of the service.

The act of March, 1819—to protect our merchant vessels from pirates—gave authority to send our vessels to any part of the ocean to punish offenders against these laws. Not so with the act of 1818, by which, as I contend, the power of the President is limited to our own jurisdiction.

"But," said the honorable gentleman, [Mr. GROESBECK,] "you then proclaim the doctrine that on the seas there is a sanctuary for crime." Not at all, sir. Crime committed on board of any of our public or private vessels at sea, will subject the offenders to punishment in the United States courts. This is by express statute. Wri-

ters on international law lay down the principle that vessels at sea are considered part of the territory of that nation under whose flag they may sail, and all offenses on board may be tried and punished by the laws of that country.

As to piracy, who does not know that the authorities of any nation may try and execute any one who has committed piracy? Pirates are regarded in the law as the enemies of all mankind, and may be arrested and brought to trial wherever they are found. I allude, of course, to those who are guilty of piracy as defined by the law of nations. But there are offenses which are declared piracy by the municipal laws, which cannot be punished except by the nation under whose flag they were committed. The African slave trade is not piracy by the law of nations; but the laws of some nations declare it piracy. If an American citizen be arrested by English authorities on that charge, he finds an agis and protection under our flag, and must be handed over to our authorities for prosecution and punishment.

The gentleman from Ohio [Mr. GROESBECK] referred yesterday to a decision in *U. S. v. Wheaton*, which he claimed as upholding the doctrine that a vessel offending against the laws of a country can be pursued and captured anywhere on the high seas. I must think that the gentleman did not give a very careful reading to that decision. That was a case where a Portuguese vessel fired upon an American man-of-war—the *Alligator*—commanded by Lieutenant Stockton. That gallant lieutenant subdued and captured the Portuguese vessel and brought her into an American port as a prize. The Portuguese vessel claimed that it was by mistake the American vessel was fired at; and in the decision of that case it is acknowledged that on the high seas vessels offending against our laws may be pursued and captured. But this is by special legislation and in pursuance of the act of 1819, before referred to.

But, Mr. Chairman, I go further. I say that until this offense was committed, until this high-handed act of Commodore Paulding had been perpetrated, it was not claimed that the President had any such power under this neutrality law. Lieutenant Almy, like a vigilant, cautious, sensible man, called upon the Secretary of the Navy to explain under what circumstances he was required to act, and whether it was intended to give him instructions to seize a vessel if he had good reason to believe it to be engaged in a filibuster expedition. And how did Secretary Toucey answer the question? By evading a direct response to this plain question. I would not speak disrespectfully of that distinguished functionary, for I have very great respect for him, on account of his sound constitutional sentiments. But I say, nevertheless, that in his reply to the letter of Lieutenant Almy he evaded the question, and the direction to seize a vessel under such circumstances is nowhere to be found in the instructions given to any naval officer. The Constitution of the United States guarantees to every citizen protection from seizure in his person and in his property, unless upon due complaint, made and supported by oath or affirmation.

Then, sir, how can it be claimed that upon the high seas, upon any part of the wide ocean, an American officer is clothed with the authority, upon mere suspicion, to arrest American citizens, seize their property and their vessel, and bring them to this country for trial at his mere discretion? The President himself does not possess any such power to arrest even the humblest citizen of our country.

Well, sir, what was done in this case? Commodore Paulding sends these men to this country as prisoners. Their leader is brought to this city, and the President, through the Secretary of State, tells him that there is no accusation against him that will justify the Government in holding him in custody. The men, too, are set at liberty at Norfolk; their rights have been trampled under foot. They have been incarcerated on board an American ship, carried thousands of miles, and turned adrift in mid-winter, naked and without means to take them to their distant homes. And yet the gentleman from Ohio [Mr. GROESBECK] yesterday said that no cruelty had been practiced towards them. I say, Mr. Chairman, that such treatment does not speak well for this Government. Why, sir, when a few years ago a vessel was wrecked upon our shores, (from Japan, I

believe,) those unfortunate sailors, thus cast on our shores, were returned to their native country, to their homes and friends, at the expense of the Government.

The conduct of Commodore Paulding, Mr. Chairman, cannot be justified by the law of nations; it cannot be justified by the law of the United States, it cannot be justified by the Constitution of the United States, nor can it be justified by his instructions. And, sir, he committed the act deliberately. If he had committed it in ignorance or upon a sudden occasion, without time for deliberation, it would furnish some excuse or palliation for his conduct. I say, sir, that in the history of the Government, from its foundation to the present time, there is not a parallel to this outrage, as I believe.

They refer to Captain Ingraham and General Jackson. I like to see men assume responsibility when the occasion calls for it. I applaud them as much as any man can. Every American applauded the conduct of Captain Ingraham when he took Koszta and defended him from the authorities of Austria. What were the circumstances under which he acted?

Martin Koszta, an humble individual, invested with our nationality, was seized, without law, in a foreign port, by Austrian officials. Captain Ingraham, true to his American heart, prepared his ship for action, and determined to rescue him, even at the cannon's mouth. He did rescue him; and for that I give him credit. But it is said that the territory of another nation was invaded. Not so. The authorities of that nation, in that port, had stood by and refused to throw their protection around Koszta. They stood by and saw the Austrian authorities take him by violence and imprison him. It was right, then, for Captain Ingraham to take the responsibility of rescuing him. The cases do not bear comparison. One was in defense of an American citizen, while the last was in direct violation of the constitutional rights of American citizens.

It is said that General Jackson took the responsibility of marching into Florida: so he did. It was to punish the enemies of his country. He saw at the fort of Barrancas, near Pensacola, floating side by side, the flags of Great Britain and Spain, and saw the authorities there furnishing the Indians with arms and ammunition, and affording a place of refuge for those who were committing outrages upon our territories. He marched his army there and took possession of their fort. He did right. He took the responsibility at New Orleans in declaring martial law, which step every American citizen applauds. That was a case where responsibility ought to have been taken. That, too, was done to protect American citizens, and to protect that city from falling into the hands of the British and being sacked and pillaged.

The Congress of the United States can alone declare war. This arrogant commander, clothed with a little brief authority, takes the war-making power into his own hands. He not only makes war upon William Walker and his followers, not only lands his force in Nicaragua, and in martial array surrounds Walker and compels him to surrender—an offense for which he should be recalled at least, or censured—but he also commits a gross outrage in invading the soil of Nicaragua. Talk to me about the example of Walker, talk to me about the honor of our country, I tell you that viewing the conduct of Walker and that of Paulding, the latter is most deserving of our censure. I speak not of the motives which influenced them. I look upon the act of Commodore Paulding, and the example which he has set, as one fraught with danger to the perpetuation of our liberties. I say, sir, that if this act is sustained in an American Congress by the representatives of the people, and an American officer is permitted with impunity to take the war-making power into his own hands, the consequences will be ruinous. How soon will it be before some other will, like him, take the responsibility to do a like unlawful act?

"'Twill be recorded for a precedent;

And many an error, by the same example,
Will rush into the State."

It becomes us to mark with our signal displeasure and disapprobation the first dawning of an attempt on the part of one branch of the Government to invade the powers delegated to another. My respect for our present Chief Magistrate is too great to allow me to suppose that he would

desire to make any encroachments upon the legislative department of the Government, by himself or by his subordinate officers. If we would preserve from violation the chart of our liberties, we should sternly oppose any officer of the Government, from the highest to the lowest, who attempts to usurp powers not conferred upon him.

Mr. Chairman, the honorable member from Ohio [Mr. GROESBECK] referred to the conduct of Mr. Fillmore towards those unfortunate American prisoners taken in the expedition of Lopez, who were shot by the Spanish authorities in Cuba. It was an unfortunate allusion for him. Who does not remember that when those unfortunate, but brave young men, with the noble Crittenden at their head, were taken, and without the semblance of a trial, shot by the Spanish authorities, what a thrill of horror was felt in the country? The American Consul, Mr. Owens, was condemned for not attempting to save them. Mr. Fillmore was blamed for denouncing them as pirates and outlaws. That consul, though a worthy gentleman, has ever since remained in retirement, with the heavy censures of his countrymen resting upon him, though he claimed to have obeyed the instructions of his Government.

And how is it altered now, Mr. Chairman? A gallant little band of fifty men—the same number that fell with Crittenden in Havana—was left by Commodore Paulding, without reinforcements to succor them, in the Fort of Castillo, which their valor had won; their supplies cut off, and they surrounded by an overwhelming force of the Costa Ricans and Nicaraguans. With the next tidings may come the news that these men may have shared the fate of the gallant Crittenden.

I have just had handed to me by a friend an account that Anderson and his command have been taken prisoners by an American vessel. It is said that the President gave no instructions authorizing Paulding's illegal acts, and that he has since disapproved of his conduct. How disapproved of it? For so violent an outrage how has the displeasure of the President been marked? By a recall? by a trial? by a court-martial? by suspension from command? No, sir; by a simple declaration that he was unauthorized, and acted beyond his instructions in what he has done. Is it not remembered here that when the British Government repudiated the conduct of Mr. Crampton but refused to recall him, how we with one accord sustained the President in demanding his recall? The British Government refused to exercise that power, and our Government dismissed him; and I say that so gross and violent an outrage as that committed by Commodore Paulding demands at least his recall and censure.

Let the President excuse him if he so wills; but I say it becomes us, it seems to me, as the representatives of the people, jealous of our and their rights; having sworn to support the Constitution of the United States which he has wantonly violated, to vote resolutions of censure of Commodore Paulding, not for vengeance, not to dishonor him, but for the example. Honest as he may be as a private citizen, faithful as he may have been in the public service heretofore, we should mark our disapprobation of his act as we would condemn and oppose any unwarranted assumption of power or authority on the part of any officer of the Government. It is for these reasons that I would censure him.

Commodore Paulding, we are told, is the son of that true patriot who arrested André, the British spy, and whose patriotism was proof against the tempting offers of British gold. While it is honorable to be thus descended from so noble a father, yet I hope it will not be contended on this floor, that any man, no matter how honorably descended he may have been, can claim any exemption from punishment when he tramples under foot the laws of his country.

The rights of American citizens ought not to be infringed with impunity. The citizen of the ancient Roman Republic, in whatever land he might be, no matter how the hand of power was sought to be laid upon him, could stand up and proclaim "I am a Roman citizen!" and forthwith he found protection in his rights, and his person was considered inviolate. Shall it not be so with an American citizen? Should he not at least be entitled to the same protection, with such a constitution as we have, guarantying to him his rights in so solemn and so sacred a manner?

By what law, what authority, I ask again, did Commodore Paulding arrest Walker and his men in the Republic of Nicaragua? It was the law of might. It was the law by which Alexander untied the Gordian knot, by severing it with his sword. That was the law by which he endeavored to get over the difficulty which seemed to surround him. Walker had escaped from this country. He had eluded the vigilance of the officers and had landed in Nicaragua. The published correspondence shows that these naval officers sought a quarrel with Walker—sought an excuse for doing what they at last did, without cause and without excuse.

Failing in this attempt, he resolved, in the plenitude of his might, to land upon Nicaraguan soil and capture Walker and his men, and send them home prisoners of war. The decision we may make on his conduct will be referred to long after we shall have passed from the busy stage of action. It will stand as a beacon of warning or as an example to encourage military and naval commanders to violate the law and the constitution of their country. Pass over this gross violation of the law, indicate no censure of Commodore Paulding's conduct, and then we show that prejudice against Walker, against filibustering, submission to party spirit, or some other cause, has blinded our judgments.

Mr. Chairman, I honor the American Navy. Though small in number, I believe no corps of its size in the world is more efficient, or composed of better material. Its officers, for the most part, are intelligent, skillful, brave, and patriotic. Its achievements in the past furnish the brightest pages in our country's history and afford a guarantee of what we may expect from that arm of the service hereafter, should our country be again involved in war. I regret to think, that by such an occurrence as this, the high estimate in which it has been hitherto held may in some degree be abated: for the people of this whole country, who love liberty, who are jealous of their rights, will think with me, that if such lawless usurpations of power are to go unpunished, it had been better that we never had a navy afloat on the ocean—better far that our commerce had never found its way to the distant isles of the sea—than for these dear-bought liberties to be endangered or destroyed.

Mr. THOMPSON. I desire to offer a few observations on the question before the committee. I believe the question arises on the proposed alteration or repeal of the neutrality laws of 1818. If the gentleman who last spoke [Mr. MOORE] is correct in the principles which he lays down on this subject, then these neutrality laws need no repeal, because his whole argument has been exhausted in the attempt to show that Commodore Paulding had no authority, by virtue of instructions from the President or by virtue of the neutrality law, to arrest Walker. Now, in the examination which I propose to make of this case, let me first state the facts, to see if we are agreed upon them, and let us then deduce those principles of law which they are supposed to embody.

I suppose that the facts of the case which have given rise to this debate, may be briefly summed up. William Walker, in 1856, goes to Nicaragua and obtains some foothold there. In a short time (his arms and ammunition are, however, soon wasted, and his men are decimated by the climate and by the evil habits which an army of plunderers always engender) he is brought home, promises good behavior in future, is afterwards arrested and put under bonds to keep the peace, especially in regard to this matter of the invasion of Nicaragua. In a short time, however, he goes south, collects one hundred and fifty-seven or one hundred and fifty-eight men, goes back to the scene of his former exploits, his triumphs, and his defeats; there organizes an army, and appoints his colonels, his captains, his lieutenants, his sergeants, and their assistants, and takes forcible military possession of one or two towns belonging to a neighboring nation, with which we are at peace. And this he does, announcing to the world in the very act of invasion and possession, that he does it as a conqueror, and because, as he maintains, he possesses authority to do it. And he says then, and since, in his letter to the President of the United States, that he will hold that military occupation against all comers.

Now, our Government having, by a friendly

interposition, rescued this man from the peril in which he had formerly placed himself, endeavors honestly, as we will suppose, to restrain him and his comrades, and to prevent them from landing again in Nicaragua; and orders are sent out for that purpose, which I will examine in a moment. They land, however, under the very guns of our ship; and the officer who permitted that landing is censured. Commodore Paulding, supposing that he was thereby carrying out the orders given to him, steps on shore, arrests the commander and his force, and brings him home for trial. He is conveyed to the city of New York; and the United States marshal of that district brings him on, by easy stages, to the seat of Government. He walks with him into the office of the venerable Secretary of State, and says, "Your servant, Mr. Cass! I deliver up to you General William Walker." The bland Secretary bows, and says, "I am not the national jailor! I have nothing to do with Mr. William Walker;" and that individual forthwith walks forth to see what new phase fortune has turned up for him. He finds himself not without sympathizers even here in the Capitol of the nation, and among the sworn friends of the Executive.

Gentlemen, even here in the national councils, offer resolutions implying censure upon the President and the officer by and under whom this man was captured. Suddenly, from a felon, William Walker becomes a hero. From a reckless outlaw, guilty of robbery and murder, he becomes a second Moses leading a nation from a wilderness of difficulties into a land of promise. From a scourge and curse, he becomes a pioneer of civilization, a pattern of good government, and a benefactor of his race. Honorable members declare here, that a great wrong has been done him, and talk openly of giving him indemnity. National vessels are to be employed to carry back these men to the scene of their former perils, and their outraged dignity is to be appeased by indemnity to be received at the hands of the Government.

Sir, what does all this mean? Why all this excitement, so instantaneous and sudden and deep, about an event which, at any other time, would have excited only a smile of derision or contempt? Sir, it indicates that there is a divided sentiment in this House, and in this nation, upon a great principle, as to what shall be the character of the future civilization of this continent; whether it shall be martial or peaceful; whether it shall be by conquest or by colonization; whether it shall bear the olive branch, the plow, the spade and the ax, or whether it shall bear the sword, the rifle and the bayonet; whether it shall hold its empire by the force of armed legions, bringing their wealth from the labors of unrequited toil, or whether it shall spread over hill and valley the school, the college, and the church, with all the elements and agencies of civilization and refinement. In fine, shall we begin now to imitate the despotisms we have defeated and disproved, or shall we pursue the high career of moderation and good faith which has hitherto characterized us? These are questions, sir, which we are bound to settle here and now, upon our responsibility, as wise legislators and honest men.

Now, sir, I regret that I have not the time on this occasion to discuss the merits of these antagonistic systems, and show their influences upon the invader and upon the people invaded, upon the character of their laws, their institutions, their literature, their philosophy, their social life, and their political characteristics and manifestations. All that I can now do is simply to show and attempt to prove that William Walker is not a pioneer of that civilization of which we, as Americans, are proud; but of that coarser, ruder, semi-barbarous civilization which obtains its foothold by force and maintains it in defiance of law, upon plundered liberties of the people it conquers and enslaves.

Now, sir, in the first place, was Walker guilty of the crime of which he stands charged? In order to settle this we have only to ask one question. Did he start to go to Nicaragua with the intent to make a hostile demonstration? Now, sir, in order to obtain a conclusive answer to that question, we have only to take the letter of Walker himself. Walker generously and manfully scorns the apologies which have been offered for him before the nation in this House. He declares, in a

letter addressed to the President of the United States, that he intended, from the very moment when he was taken from the soil of Nicaragua, to go back, and go back as a conqueror. He says:

"Let me remind you of the fact that from the moment we touched our natal soil we protested against the illegality and injustice of the act, and declared our intention to return to the land whence we had been wrongfully brought. Everywhere, before the functionaries of the Government, in the presence of assembled multitudes of the sovereign people, we declared that no effort should be unused in order to regain the rights wrested from us by fraud and illegality."

"With a regular register and clearance we supposed when once on the high seas that we were beyond the possible interference of any United States authority; for even if we were admitted belligerents against a Power with which the United States was at peace, the owners of the neutral vessel had a clear right to carry warlike persons, as well as contraband of war, subject only to the risk of capture by the enemy's cruisers."

"While we were being embarrassed by the action of the Saratoga we had not been idle. Colonel Anderson—who had served his native country throughout the Mexican war—at the head of fifty men, had ascended the river and gained possession of the stronghold which in the last century had for days defied the genius of the proudest naval name in British annals. Not only this, but he had regained possession of valuable American property."

"And as long as our faith in right endures, and our confidence in the God of our fathers remains unshaken, so long shall we use all just and proper means to regain what has been wrongfully wrested from us."

Now, sir, Walker's letter repudiates the excuses which have been made for him. He places his defense upon two grounds. First, that they were citizens of Nicaragua; and secondly, that in going in a neutral vessel they were exempt from seizure upon the high seas, except the danger they might incur of seizure as contraband before regaining the shores of Nicaragua. He does not claim that they went there without arms in their vessel. He does not claim that they went there not intending before they went to set on foot a military expedition. And taking the answer which he furnishes to the question by his own letter, there is no difficulty whatever upon the subject.

It has been pretended here by gentlemen upon this floor that this is a case like that of La Fayette, who came here to aid us in our struggle for independence. Why, sir, General Walker does not put it upon that ground, nor is there any similarity between the two cases. It is admitted by writers on national law, that when the parties have begun a struggle for the possession of a Government, that other persons may go in and aid one or the other as they may please; and if General Walker had gone to Nicaragua for any purpose like this, no one would have the right to oppose him. But he went there—how? To assist a party engaged in such a struggle? No, sir, he went there as a conqueror, to subvert all authorities and to assume the reins of Government. He went there just as Cortez went to Mexico, just as Pizarro went to Peru.

Why, sir, we have aided other territories in the same way frequently. We aided Greece when the spark of liberty again burned in the bosom of the dwellers of that ancient cradle of art and song. We aided Mexico when she was struggling to throw off the yoke of the oppressor. Walker claims to have set his foot upon the soil of Central America, not for the purpose of assisting one or the other of the contending parties, but as a conqueror of all parties. I say that he was guilty by both codes; by the code of international law, which is binding upon him; and he was guilty of also violating the law of 1818, commonly known as the neutrality law of the United States.

Was he a citizen of Nicaragua? and, if so, does that fact excuse him? Or is the other pretense set up by him valid, that having passed into that country, we are to be stopped, by that fact, from arresting him there? In regard to the first proposition, I need only ask this question. Will any gentleman tell me when, where, and in what Nicaraguan court William Walker declared his intention of becoming a citizen? Will any gentleman tell me where his papers were taken out? where his oath to support the constitution of Nicaragua is filed or registered?

Sir, he took an oath in Nicaragua as William the Norman took it when he invaded England. That oath was written with the point of his sword in blood and carnage; and that oath was to subvert, and not to sustain! Talk about William Walker being a citizen of the State of Nicaragua! He never was a citizen of that State, and no record can be produced to show that fact, here or elsewhere.

Mr. MARSHALL, of Kentucky. Does the gentleman mean to assert that any record is necessary for naturalization in Nicaragua?

Mr. THOMPSON. Walker being a citizen of the United States, it is necessary for him to prove here, when he maintains that he subsequently became a citizen of any other State, not only the fact, but the process by which he became such. I call for the proof!

Now, sir, in reference to this fact, I will advert also, to what was mentioned in the very able argument made by the gentleman from Ohio, [Mr. GROESBECK,] upon the floor yesterday—an argument which I consider perfectly unanswerable on the propositions discussed by him. The sixth section of the neutrality act does not confine itself to citizens of the United States. The language of the section is: "Any person who shall set on foot" these military expeditions: be he Turk or Jew, Christian or heathen; no matter from what country he started, no matter to what nation he owes allegiance, any person who sets on foot such an expedition, is amenable to the law. And therefore it can be of no consequence whether William Walker at the time was a citizen of the State of Nicaragua, provided he organized that expedition and intended to carry it on while he was a citizen and within the jurisdiction of the United States. The President says that the great object of this law was to save foreign States with whom we were at peace from the ravages of those lawless expeditions proceeding from our own shores.

Let me dwell a moment on the second proposition. Being a citizen of the United States, and having with him one hundred and fifty-eight men, also citizens of the United States, exposed to the penalties of a breach of this neutrality law, if arrested within the marine league, or if arrested upon the high seas, did the fact that he succeeded in reaching those shores exonerate him from arrest? So far from it, that having to the extent of his power not only "set on foot," but "carried on," this unlawful expedition, he only commits an overt act, the proof incontrovertible of the intention with which he set out; and, if indicted and tried by twelve men, they could not leave the jury-box upon this proof without pronouncing him guilty. Why, sir, if he had been arrested by Captain Chatard in the Gulf of Mexico, before he arrived at the scene of his exploits, or within the marine league, as the gentleman has said, what evidence would the commander of the Saratoga have possessed that he intended to violate the neutrality laws? I wish any gentleman to point out that evidence to me. There they were without arms, without ammunition. The papers were all regular. Everything was fair and right on the face. There would not have been a particle of evidence upon which he could have been punished for a violation of the neutrality law, if he had been arrested before reaching Nicaragua.

But I cannot see, as some gentlemen do, that the President acts consistently in this matter, when he orders that he shall be prevented from landing; and when he actually landed, and was taken by the force of the United States, that he shall be left to go free. I think that the Administration are bound to have this man prosecuted for this invasion of the rights of a neutral Power, one with whom we are at peace. I think we are bound to have him tried by a jury of his country. What I desire to say on this point is, that his criminality does not lie in the place of his arrest, but in that which he did prior to it, and for which he was arrested. Why, sir, the rogue who broke into the house of my colleague [Mr. CLARK, of New York] the other night, and robbed him of his property when he was absent, might as well, when he was arrested and brought to trial for that act, say, "It is true, I did this; but the officer who arrested me had no star upon his bosom; he had no warrant from a magistrate, and no complaint had been made." Why, sir, the fact of his guilt is all that we look for; and the mode of his arrest is a matter of no consequence whatever.

I say, then, that the President is right in asserting that he is criminal, and that the principle is sound; that, provided he be arrested, it is a matter of no consequence whatever that it was within the Nicaraguan sovereignty. In my judgment, under the circumstances of this case, it is of no consequence whatever, while Nicaragua does not complain, whether the technical letter of the law has been conformed with or not; and as the Pres-

ident quotes the golden rule from Scripture to show the foundation of national law, in his letter to the Senate on this matter, I will imitate him so far as to say that sometimes the "letter killeth, while the spirit maketh alive."

Commodore Paulding, therefore, is justified by the higher law, by the spirit of his orders, and by the spirit of national law, in effecting this arrest; and also by the circumstances of this case, which are so peculiar and so anomalous, that if they had no precedent they need none. The President thinks he transcended his instructions; but I think he carried out the spirit of those instructions; nor do I see that he violated the letter. Sir, I honor the common sense of the brave tar who goes right to the mark and accomplishes that for which he was sent, without balancing nice points of national etiquette, and without splitting hairs when he should be delivering a broadside. These delicate lines of conflicting jurisdictions are better left to the adjustment of those who live in the enjoyment of that peace and prosperity which our brave and gallant Navy has earned for us.

But, sir, the gentleman from North Carolina, [Mr. CLINGMAN,] who introduced this subject to our attention, sounded high notes of alarm. He saw impending perils and would hasten to avert them. He says, on this subject:

"There are three important questions which are to be considered; first, in reference to the rights of Walker and his men; secondly, in reference to the rights of Nicaragua; and third, it appears that one of our own officers, whether with or without the authority of the President, has, at the head of a large body of armed men, gone into a territory which does not belong to the United States, and carried away, by force, one or two hundred persons. This will strike everybody as an act of war."

And so said the last gentleman who addressed us. Now, sir, I shall proceed very briefly to pay my respects to each of these propositions in their order.

First, in regard to the rights of Walker. What do they turn out to be? If the President be correct in what he has communicated to us upon this subject, and if history does not lie, the rights of William Walker are, to be arrested and tried by a jury of his peers, if they can be found in this country. His rights are, to be defended by competent counsel, and to be cleared before a jury; otherwise, to suffer the penalties of the law. That is the extent of William Walker's right in this matter.

Now, sir, in regard to the rights of Nicaragua I had taken an extract from the letter of the Minister representing that Republic, which has been adverted to by the gentleman who has addressed us this morning, [Mr. KELLOGG,] requesting Secretary Cass, on the 14th of September last, to give positive orders to our vessels of war, lying at or near the San Juan del Norte, to prevent the landing of the filibusters on that coast, as transgressors of the laws of this country, and as disturbers of the peace and security of friendly nations. The gentleman from Ohio [Mr. GROESBECK] said yesterday, that wherever a country did not complain, wherever we knocked with a friendly intent, there we had the right to enter. By the extract to which I have referred, I show not only that the country does not complain, but that they positively requested the interference of the United States Government for the purpose of protecting their shores from this armed invasion. Why, sir, suppose I see an individual coming towards my premises with hostile intention, and I cry out to my neighbor to prevent him from coming in, and he, pursuing him with hot haste, crosses my threshold before he is able to arrest him: would it not be quibbling with him should I say, "true, I asked you to interfere, but I did not ask you to come into my premises; you crossed my threshold, and have committed a trespass upon my rights!" Is that the kind of reasoning by which we settle great national rights and national principles? By no means. Not only is license to be presumed in this case, but the license is actually given, and is upon the records.

But, sir, in regard to this as an act of war. I have heard of various ways of levying war. I have read in Kent and other authors of the various modes in which war is levied—by a declaration of the war-making power; by giving aid and comfort to an enemy; by commissioning privateering upon the high seas; and by sacking and holding towns and villages belonging to the enemy. But I have never heard, and I think the civilized world is yet

to learn, that when our officers are pursuing a criminal in a foreign territory, and doing it in pursuance of a request of that territory, that act is an act of levying war. War on whom? War on Walker as a man? Why, that is a war which a magistrate always declares against a felon. Not a war upon Walker, surely. War upon Nicaragua? Certainly not, when we step upon her shores for the purpose of protecting her from the power and arms of an invader who escaped from our shores. Did we make war upon any interest of Nicaragua? Did we take her property, or attack her ports? Certainly not. Where is the war, then? Sir, I see no speck of war. Gentlemen's visions may be keener than mine; they may see war painted all over the dim southern sky, but to my eye all is tranquil and serene. That tropical land sleeps by day luxuriously beneath its fervid sun, and by night under its pale southern cross, as if neither war nor rumors of war had ever disturbed its profound quietude.

But the gentleman is troubled with other difficulties. Great Britain will find this out, and then she may do whatever she pleases; and he fears this is a breach of the Clayton-Bulwer treaty. Will gentlemen point me to a section or line of that treaty which this arrest is supposed to violate. Sir, it cannot be done. Why is one nation prohibited from invading another's territory? Simply because it is an invasion of national sovereignty; and also because, in most cases, there exist treaties between different nations for the rendition of fugitives from justice. But, in this case, our criminal might be too strong for their sovereignty, and might become a criminal by his attempted subversion of the very Government; and they therefore owe us gratitude and not censure for our interference in their behalf.

Sir, the course of this debate indicates that there are three parties in the House, and in the country. The first is composed of those who are not afraid to call themselves "national filibusters." The term is expressive, if not classical. They go for conquest, dominion—theft (shall I say? not in an offensive sense) on a grand scale—wholesale robbery. They despise all petit larcenies as mean and mercenary. But, with them, crime becomes virtuous by aggravation; devilry grows angelic by bulk—a single murder is ignominious; but if thousands perish, it is glorious. One marauder is a felon; but five hundred together become patriots. Sir, I am afraid that this doctrine has been learned in the school of the Ostend manifesto. I am afraid, sir, that it is only the efflorescence—the budding out and the fruit—of the doctrine which some gentlemen find in that notable document. If the fathers of the Republic preach heresy of that description, what may be expected from the children, even though they come from my native State? If the fathers eat such sour grapes, why, the children's teeth will be, of course, set on edge. Well, I suppose that His Excellency the President has receded from those doctrines; because, in this last communication that he makes to us, he has gone back from doctrines of national obligation to the moral law and the golden rule!

But, sir, there is a second party which believes in the legitimacy of both public and private plunder. They see nothing wrong in either. They believe that fortune favors the sharpest and the quickest; that if the victim be foreign, and the plunder be land, the laws of good faith and of national morality are inoperative; that the world is one great field of adventure, where the sharpest sword and the boldest front wins the day. They see no distinction between private and public marauding, and nothing reprehensible in either. Of the two schools I respect this last the most, because it has no affectation of a morality which it neither believes in nor respects.

But thank God there is yet a third school which believes in a peaceful and Christian and republican propagandism; which looks to the silent and serene march of commercial, social, industrial, and moral forces for the spread of our civilization and the prevalence of our principles; which is not deceived by the pride and pomp and circumstances of war, but sees its aggravation, its horrors, and its license; whose insight traces through all history and discovers throughout all time the great truth that justice and good faith can alone build up a lasting dominion and give permanence to empire. So far from abolishing our neutrality laws, I would uphold and vindicate them in every

letter and in every line. I would play no farces by keeping the letter and violating the spirit—I would honor and thank, and not reprimand the brave officer who crushed out the sin and the danger without treating very politely the sinner. These laws do not stand in the way of a just, peaceful, and permanent civilization, but are preventive only of rapine, violence, and blood.

Mr. WARREN. Mr. Chairman, I have not sought the floor on this occasion with a view of entering at any great length upon the discussion of these exciting topics which have engaged the attention of the committee since the commencement of this Congress. It is true, sir, that I never refrain from the expression, unqualifiedly, of my opinions when they are properly formed on any subject; and therefore I propose, incidentally as it were, to allude to the questions that have been discussed by gentlemen on this floor since the commencement of this Congress, with a view ultimately to discuss one in which my constituents and my section of the country are directly interested.

In regard to the discussion that has taken place to-day, and for several days past, touching Nicaragua and Walker, and the action of our naval officers, I propose to say simply this: I propose to give my opinion as far as it is formed, and no further. When that matter comes to be acted upon definitely, I will doubtless have my opinion formed; and if so, I will be as prompt in expressing and acting on it as any other gentleman on this floor. That Commodore Paulding—in the language of the Chief Magistrate of the nation, and of distinguished gentlemen who have addressed the committee—acted in the arrest of Walker without authority of law, and that he did wrong in so acting, I have no hesitation in saying unqualifiedly. The President has gone thus far; and I think that, when the President went that far, he went far enough. I would not attempt to dictate to this House; but I think that, when gentlemen go beyond that with the lights before us, they go too far. What ought to be done with Commodore Paulding, I am not now prepared to say. That his action should be commended, I am prepared to deny; for no naval or other officer who goes beyond the authority vested in him by law, should ever be commended by the nation. Never! And why? Because it sets a bad precedent. I care not what may have been the motive of such officer; I care not how pure and honest, patriotic and upright he may be; when he transcends the authority vested in him by law, I think the American Congress should not commend his act. But what should be done with Commodore Paulding? That is a question on which I do not propose to express an opinion on this occasion.

What should be done in regard to Walker, is another question which has been discussed at some length. Gentlemen hold different opinions and have expressed different views in regard to this matter. Mr. Chairman, I am not now prepared to give an opinion touching that subject. I would say this, however, to the Democratic members of the House, because I believe it to be true in point of fact, that it is the duty of every Democrat—I care not whether he hails from the South or from the North—to be extremely cautious how he touches this matter. There is nothing easier than to put a plank in the platform of the Opposition party unless caution is observed. It may be expected, and gentlemen would naturally expect, from the long time that I have lived in Arkansas, that I am an unqualified filibuster. Well, sir, in one sense of the term I am an unqualified filibuster; and yet, when I say that, I will violate no law to accomplish any object. Therefore, I say, I decline expressing my opinion, so far as I may be concerned, as to what should be the action of the South in reference to Walker and his men. When that question comes up legitimately; when a proposition comes up to reinstate Walker, or to indemnify him, I trust I shall be prepared to act upon it. And, sir, when a proposition comes up to modify our neutrality laws, I shall be prepared to act upon that, also. But, sir, it strikes me that it is not only possible, but probable, that statesmen and members of Congress may express opinions upon questions without mature deliberation.

But, sir, I did not design to discuss that question, or any other of the topics that have thus far engaged the attention of the committee. I might

allude to Kansas; I might say to this committee that I was a member of the Thirty-Third Congress, and battled long and faithfully for the passage of the bill by which Kansas and Nebraska were organized as Territories. Why did I do so? Not because I believed that bill was absolutely and imperatively necessary at that time. I did it, sir, because I saw embodied in that bill a principle which I had recognized from my boyhood—the great constitutional doctrine of popular sovereignty. Therefore was it that I did not oppose that bill. I voted for that bill, and advocated it, not because I thought it was necessary to organize that country into Territories at that time, but because it embodied that great principle. And now, sir, I am prepared to act upon all questions relating to Kansas, and to act in accordance with the opinions I then entertained, and in accordance with the great doctrine of popular sovereignty. I am prepared, sir, to dispose of this Kansas question, so far as Congress is concerned, immediately. Sir, expressing the opinions which I candidly entertain, I cannot, for the life of me, say that I sympathize with the people of "bleeding Kansas," as they are sometimes called on both sides of the House. I regret, it is true, the state of affairs now existing in that Territory, and which has existed since it was organized; and yet I do not sympathize with that people, because they have not had the nerve, the boldness, the manliness, to assert and defend their rights as freemen, and to form their own government, as they had the right to do. They have been subjected to an outside pressure, brought to bear by disappointed politicians and ambitious aspirants; and they have failed to do their duty to themselves. They have gotten themselves into a difficulty from which I do not propose to extricate them. I propose, further, in carrying out this doctrine as I understand it to be embraced in the Kansas and Nebraska bill, to vote now to admit the State of Kansas under the Lecompton constitution, and let Kansas fight it out as well as she can. That is my policy in reference to Kansas.

Well, sir, it may be expected that I have sought the floor to speak about Utah, one of the great questions which have excited an interest in this Congress. I do not propose to do so. I have, however, one regret to utter: while I indorse the administration of Mr. Pierce; while I admire that statesman because he had the nerve, hailing as he did from the North, not only to announce, but to carry out, the great constitutional doctrine that men from the South had constitutional rights as well as northern men, I regret that he did not, as soon as he was inaugurated, remove Brigham Young, then Governor of the Territory of Utah. Had he done so, I doubt not that the unfortunate and deluded people of that Territory would have been at this day loyal and peaceable citizens of the country, and Brigham Young would have been assigned to that destiny which I hope to God awaits him at no distant day. But I care not to talk upon that subject.

Neither do I propose, at this time, to give my reasons for having been found, in the earlier part of this session, acting with a glorious minority upon this floor. In my own State I have been proverbial for acting with the majority, although I got gloriously thrashed at one time, but came out all right afterwards. It might be expected that I would have excuses to give for having been found acting with that minority upon that question at that particular time, but I hope to God the exigencies which induced the passage of that bill will not long exist. I allude, of course, to the bill which passed at the commencement of the session to authorize the issue of Treasury notes. I voted against the bill because I believed it violated the great constitutional Treasury system, which provides that all the payments of the Government shall be made in gold and silver, and I was not willing to convert this great Government of ours into a grand banking machine in disguise. But, sir, I do not propose to talk about that either. [Laughter.] I hope the time is not far distant when the necessity for any such measure will cease.

Mr. COBB. What are you going to talk about, then?

Mr. WARREN. I hate to keep the gentleman from Alabama in suspense, because I shall make a personal appeal to him before I have done. He is interested in the measures which I propose to

advocate, and I think I have got him so that he cannot dodge the question. I propose, as I said, to talk about a matter in which my constituents are directly interested. I served, sir, during the Thirty-Third Congress, although I was repudiated during that time, and sent back to my constituents, again to be indorsed by them; and I served here long enough, then, to learn, that although gentlemen sometimes talk here of great national interests, they more frequently talk about home matters for home consumption; and, therefore, I propose to talk about home, about Arkansas. Some gentlemen, I apprehend, will be astonished, that a gentleman should rise in the Capitol of this great nation, and admit the fact that he is from Arkansas. [Laughter.] I am from Arkansas, sir; and I propose to tell the American Congress what Arkansas is, who she is; and I propose to assert her rights, and ask this Congress to enforce them by the passage of the bills which my colleague and myself have introduced; but, before I do so, I desire to make an appeal to two distinguished gentlemen upon this floor—the one from Tennessee [Mr. JONES] and the other from Virginia [Mr. LETCHER]—gentlemen for whom I entertain the highest personal and political regard, and who have justly acquired a national reputation as being the guardians of the Treasury of the nation.

I propose now to talk to those gentlemen, and to show them, if by possibility I can do so, that by the passage of the bills, to which I shall presently allude, the Treasury of this nation will not be impoverished, but will be greatly benefited. If I do that, I apprehend I shall succeed in obtaining the support of those gentlemen for those measures. I am particularly anxious to get their support, for the reason that one of them announced to us that he had been in Congress since the time whereof the memory of man runneth not to the contrary. I have not been here long, as you know; I came here by spells. [Laughter.] It is true that I was here in the Thirty-Third Congress; and it is true that before I made the acquaintance of my distinguished friend from Tennessee, [Mr. JONES],—though I was seeking to make his acquaintance—and that of the other gentlemen then upon this floor, the telegraph announced that my people at home had decided that another man should take my place. I submitted to it, as all good Democrats submit to the action of conventions, national, State and county. I went home and advocated the claims of the gentleman nominated in my stead; and he was sent here, and ably represented that district of the State of Arkansas, as he was well able to do. While home, I was called on to fight a battle, in which I engaged with more pleasure than in any other political combat of my life. I found a formidable foe, such as the Democracy of Arkansas had never before been called to combat. The American party in my district were claiming a majority of five thousand votes, which they had then upon their books. Though repudiated by my constituents, I took the field and proclaimed the doctrines of the Constitution. Ay, sir, I flung to the breeze that good old banner upon which was inscribed, "No proscription—equal rights and equal privileges;" and now you cannot find a Know Nothing in my district. [Laughter.] I am here again, only casually it may be, and I therefore appeal to those gentlemen who have been here so far back that we cannot recollect it, and who will be here in the future, possibly as long as they live, to come to my support, and to see that Arkansas gets a little good, at least as long as I am in Congress.

I propose now to speak of Arkansas. [Laughter.] Arkansas unfortunately, and I may use an Arkansas phrase, when she came into this Union, or about that time, "riz off the wrong foot." There was a set of men there who induced the State to engage in a system of banking which is calculated to ruin either a State or national Government, and to be a curse to any people. By this system she became involved in a debt of millions of dollars. It became necessary for her to appeal to the national Government, and this Government I admit has been generally beneficent to Arkansas. The General Government aided Arkansas, and as one good turn deserves another, I am going to ask the Government to be kind again. [Laughter.] Arkansas appealed to the Government for a loan of several hundred thousand dollars; now she has not paid a red cent of it, [great laughter,] although these liabilities were

contracted by citizens, enterprising, honest, and good citizens, who have since left the State; yet Arkansas is populated by enterprising, honest, and virtuous citizens, who, if they cannot pay, will wind up their affairs, and not repudiate. It is for the reason that her citizens are honest, that they are upright, that they are enterprising and entitled to respect at the hands of this Union, that I am going to attempt to pass the measures about which I propose to speak.

They ought to pass in order that Arkansas may be lifted up to occupy that position which the God of nature designed she should occupy among her sister States.

We have heard a great deal said about the development of the resources of Arkansas. You have been told that northern Arkansas is a great agricultural country. You have been told that there are many minerals there. That is true, and for that reason, a few years ago, the American Congress were kind enough to make a munificent donation of land to aid in the construction of a railroad through that part of the State. But I want to tell you about another part of the State. I happen to come from the southern part of Arkansas, and I wish that gentlemen who know nothing about cotton planting or the management of African slaves would go there and see how we do things. The southern part of Arkansas is the best cotton-planting country within the limits of the United States. I speak advisedly, when I speak of southern Arkansas.

Mr. JONES, of Tennessee. I thought the gentleman was going to talk about railroads.

Mr. WARREN. And so I am; you might have been sure of it. And I hope the gentleman will vote for the bills which I offer. Arkansas ought to have an appropriation. When I was in the Thirty-Third Congress, I proposed bills for a grant of lands to aid in the construction of the Mississippi, Ouachita, and Red River railroad, and a railroad from Napoleon to Little Rock, via Pine Bluff. I intend to give some reasons why these bills should pass. I will speak first of the road immediately in my district, and I want to tell you, Mr. Chairman, its history. It is no new project, concocted and brought up in an hour. The bill about which I now speak was mooted in the Congress of the United States probably before I had the honor of a position upon this floor. In the Thirty-Third Congress I took occasion to introduce it. It was reported promptly from the Committee on Public Lands, and I had hoped the bill would pass. Other States had obtained grants of the public lands for railroad purposes, and I hoped that that bill would pass, but it slept among the unfinished business of the House. My successor at the next Congress introduced the same bill, and it shared the same fate. I have again introduced it at this session, and my colleague has introduced a similar bill to the one he introduced in the Thirty-Third Congress, and which shared the same fate as mine.

I want to talk of these bills, sir; not to show that they will benefit Arkansas so much. It is true that these roads will benefit Arkansas; but it is also true that they will benefit the Government, by granting us the lands which we ask for to aid in the construction of these roads. Let me lay down a proposition, which I challenge those who oppose the bills to controvert. I say that ninety-nine out of every one hundred acres along the line and within the limits prescribed in my bill, and belonging to the Government, that ever can or will be sold, have been entered, unless the road is completed. If the road be built what will be the result? Every foot of land that is now owned by the Government there will be taken up, and taken up speedily; and not only taken up and entered, but taken up and entered at the advanced price proposed by the bill. I apprehend that if I can convince the gentleman from Tennessee that this proposition is true he will certainly vote for the bill.

Mr. JONES, of Tennessee. If the gentleman will permit me, I will make one remark just here. I do not wish this Government to speculate in lands, nor do I wish this Government to realize large profits from the sale of the public lands. I desire that it shall dispose of its lands in limited parcels to those who wish to cultivate them, and if for a price at all, at the lowest possible price which will indemnify the Government in the acquisition of the lands, and the perfection of title

to settlers. And, sir, I now say to him, if my wish could prevail in regard to the public lands of this Government, the United States would never part with another quarter section except to an actual settler, and that at a very low price. Not one cent of profit would I ever ask of the cultivator of the soil for the land purchased of the Government. Sir, your wild lands are worth nothing until they are made valuable by the toil and sweat of the cultivator. It is his labor that gives any higher value to your lands, and I would so dispose of them that the cultivator should reap the entire benefit of that enhanced value. And no corporation should ever reap the benefit of the bounties of this Government.

Mr. WARREN. I apprehend that the best policy I could pursue would be to incorporate the speech of the gentleman from Tennessee into my own. We entertain pretty nearly the same views, only we have a different way of expressing them. [Laughter.] I am very much opposed to, and would oppose as strongly as any gentleman upon this floor, this Government entering into speculation with her land or anything else. I do not believe the Government should be converted into a speculating machine. I demonstrated my opinion upon that subject at an early period of this session; but, sir, in the language of the gentleman from Tennessee, I think the Government, when she owns public lands, ought to put them in a position to be settled by the honest people of the country. That is what I want. As the lands are now situated along the line of the contemplated railroads in Arkansas, it is improbable, if not utterly impossible that they ever will be settled. But let the gentleman from Tennessee come to my relief in this behalf; let us pass these railroad bills, and what will be the result?

Why, sir, the Government will have opened a field to which her citizens may emigrate. Arkansas is called a wild country. It is true, there are some uncultivated lands in that country; and yet, some of the best land within the limit of this Government is to be found in the southern district of the State of Arkansas—land capable of raising from one to three bales of cotton per acre. But they are unsettled. Why? Because the Government will not speculate in lands? No, sir. It is because the Government, while just to other portions of Arkansas—while just to Iowa, Illinois, and other States—and to the gentleman's own State, has withheld an appropriation giving them the means of carrying on what they, by virtue of their labor, might produce. That is the truth about it. That is one of the reasons why I thus early desire to call the attention of the members of this Congress to the bills which have been introduced by my colleague and myself.

Now, sir, I stated that Arkansas was involved in heavy liabilities. I stated that Arkansas was indebted to this Government; and, sir, had I been a member of Congress at that time, had I then been connected with this Government, and had the power to prevent it, neither Arkansas nor any other State of this Union would have been at all indebted to this Government. It is bad policy to allow the States to become indebted to the Union. But so it is. Arkansas, by virtue of an unfortunate, though honestly intended, legislation in her infancy, is involved in heavy liabilities. What shall we do? Do we ask the Government to step in and pay the debt of Arkansas? Not at all. We want the Government to act towards Arkansas as she has acted towards other portions of the country. We want the Government, if she can without loss, if she can by profit at the same time, assist Arkansas in developing her resources. What will be the result of the passage of the bills to which I have alluded?

I have said that this road passes through the best cotton-planting district in the country, and yet thousands of acres of that land are uncultivated because we have no means of getting the cotton to market. What will be the result? Let me tell you that by virtue of the enterprise and industry of the people of south Arkansas, those two roads are already partially graded, the one, the Mississippi, Ouachita, and Red River railroad, ninety miles, and the other, the one from Napoleon to Little Rock, by the way of Pine Bluff, is graded almost throughout its whole length. Now make the grant, and we can buy the iron and astonish the natives by the scream of the whistle and the snort of the iron horse. The result will

be that all this fine land, about which I have spoken, will be reduced to cultivation. The result will be that all the best citizens of the old States of South Carolina, of Virginia, of Georgia, and all those States where slave labor is not now profitable, will flock to Arkansas; her revenue will be increased, and she will be enabled by honest labor to pay her debts.

But, Mr. Chairman, I desire to call the attention of another distinguished gentleman from Alabama, to the proposition which I have been attempting to discuss. I allude to the chairman of the Committee on Public Lands, [Mr. Cobb.] I appeal to him because this is a matter of vital interest to the State of Arkansas. This bill must pass. It is a good State, if you try it. There is a bold, hospitable, generous, clever, and enterprising population throughout the State, and we want to invite there more of the same class. I desire to appeal to the gentleman from Alabama, now the chairman of the Committee on Public Lands; and I say to that gentleman, remember how I fought—I had almost said, bled and died—during the Thirty-Third Congress, in order that the Alabama land grant might be reported and passed, if it could be done. It was then reported, and I apprehend that it has since passed. "As ye would that men should do to you, do ye also to them likewise." I fought for you, to get your bill reported to the House. If it did not pass it was not my fault. I ask you now to report this bill back, and I promise this House that I will, when it comes up, correctly inform them of the length of the roads, the character of the country, and all about it, and I hope sufficiently so to secure the passage of the bill. I will not detain the House longer.

Mr. CURTIS obtained the floor.

Mr. STANTON. With the consent of the gentleman from Iowa, I move that the committee rise.

Mr. FLORENCE. There are a number of gentlemen who desire to speak to-night, and I move that the committee take a recess until seven o'clock this evening, with the understanding that no business shall be transacted. My colleague and others have been trying to get the floor to speak. Is that motion in order?

The CHAIRMAN. It is not. The question is upon the motion to rise.

Mr. FLORENCE. Can I amend the motion?

The CHAIRMAN. You cannot.

The question was put, and the motion was not agreed to.

Mr. CURTIS. I desire to call the attention of the committee to some of the points made in the argument of the honorable gentleman from Mississippi, [Mr. QUITMAN,] in reference to the repeal or modification of the neutrality law. Two points in his argument have not yet been replied to, and I will briefly refer to them before I go into the main question before the committee—that relative to the Americanizing of Central America. I refer first to the point made by the gentleman from Mississippi, to the effect that the neutrality laws of the country interfered with the manufacturing interests of our country, and that, therefore—if I understood his argument—these laws were to be repealed. I have looked over the neutrality law of 1818, and I find that the third section is the only one that the gentleman could have had reference to. That section provides:

"That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, and arming, of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or State, or of any colony, district or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or State" * * * "every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and imprisoned not more than three years."

Now I submit to the gentleman that the fitting out and arming of a vessel means, of course, the preparation of a vessel of war, and has not the construction which he would put upon it, and which would affect our ship-building and other manufacturing interests. I also insist that, although the law does prohibit the fitting out and arming of a vessel in any of our ports against a nation with which we are at peace, it does not preclude the right of our citizens to construct ships of war, to manufacture arms, or otherwise to carry on their usual avocations. In case of war Colt may sell to one or both of the belligerent

Powers his revolvers. Sharpe may manufacture and sell his rifles; and our friends in Massachusetts and elsewhere, who are engaged in the construction of ships, may build vessels for them. I see, therefore, no reason on this ground why the neutrality law should be repealed. Our artisans are free to manufacture and sell; and the only risk or drawback they would encounter would be the danger of such articles being taken in transit as contraband of war.

The other point taken by the gentleman from Mississippi, and not replied to, is, that our people sympathize with other nations in their efforts to secure liberty; and they should participate to the fullest extent in efforts made to secure their political rights; that wherever a people is engaged in asserting that right this feeling manifests itself among our citizens; and the gentleman says that this sympathy ought to have full, unlimited scope. I would be the last person to wish to destroy or impair such a sympathy among our citizens. It is part and parcel of our education. We were taught it in our cradles. It was on this continent that the great rights of man were first inculcated. Here it was that the great principles of personal, social, and civil liberty were first understood, and enunciated to the world. It was on this continent that the principle was established that the sovereign power rested in the people, and not in the prince. It was here that this great principle was first established, and here, I trust, it will be fostered and maintained.

Now, although I agree with the gentleman from Mississippi that this sympathy is worthy of being fostered and cherished, yet, at the same time, like all other principles, it needs the restraint of law. Have we not had evidence of this truth from the earliest history of the country? Have we not had evidence that this sympathy which the gentleman speaks of needs restraint? The very argument of the gentleman seems to me, therefore, to be in favor of a continuation of the neutrality law which he desires to have repealed. It was that disposition of our people—to go and endanger their own lives, and to compromise the peace and safety of this country—that induced and gave rise to the neutrality law.

Mr. QUITMAN. I desire to state distinctly to the committee and to the gentleman from Iowa, in answer to many arguments that have been advanced, that I do not seek the repeal of all the sections of the neutrality law. My bill, which gentlemen refused to have read, does not contemplate the repeal of any sections of the neutrality law but those which I believe are not in accordance with the constitutional powers of the Government. It seems to be a common mistake on this floor, that I seek by my bill to repeal the sixth section of the law forbidding military enterprises or expeditions from departing from our shores. Sir, there is no such proposition in my bill. I merely seek to have the matter so plainly laid down as to place its meaning beyond the reach of doubt; and in that explanation I hold that the enterprise must be a military one, or else it is not punishable by our laws. Another feature of the section is, that the expedition must be intended to depart from one of our own ports and not from a foreign port.

I beg pardon for interrupting the gentleman, but as I do not intend to speak again on this subject on the matter of reference, I desire that I may not be misunderstood. I seek only to repeal those features of the law which I regard as unconstitutional and as tending unnecessarily to trammel American enterprise, American industry, and American progress on this continent. I have not sought to repeal that feature which prevents military organizations from being got up in the United States, but simply to modify it and place it beyond doubt, so that neither the judges of the land, nor the President, nor the executive power of the land, nor Congress, should remain uncertain as to what the meaning of the law is.

Mr. CURTIS. I am glad the gentleman from Mississippi has defined his position, and I am glad to have an opportunity of enabling him to do so. I would be willing myself to see such a modification in the neutrality laws as to define more distinctly the crimes specified in that section of which he speaks, because, as the gentleman states, all the provisions of a criminal law should be clearly defined, so that a man may know how far he may go, and how far he may not go. I

believe that a man has the right to expatriate himself if he chooses.

I believe that men may go to foreign countries; may expatriate themselves singly, or in companies of two, three, or more; but, at the same time, if such movements become general, and the parties are associated together for purposes of foreign aggression, then individual acts, being aggregated and applied, should be regarded as an act of war; and such zeal would then find proper restraint in the application of this sixth section of the act of 1818. I believe the provisions of that section, or similar provisions, should be still in force, because it is necessary for the maintenance of the great principle, that while we will maintain the institutions of our own country, at the same time we will keep on terms of peace and good will with all the other nations of the earth.

This sympathy, therefore, must be restrained by law, and it should, as the gentleman from Mississippi says, be clearly and distinctly defined. General Washington, without any specific law of the United States Government on the subject, found the power, under the law of nations, to restrain the sympathy which was manifested for such expeditions during his administration, and in so doing he gave offense to some of his friends in France, who were engaged in the French Revolution. His Farewell Address was especially earnest in cautioning us against all entangling alliances. When Jefferson came into power he very soon found the same necessity of restraining this sympathy, which had then partaken of a spirit of ambition. He found that it was necessary to control the sympathies of the people of this country in order to prevent them from going on an expedition against Mexico. I refer to the expedition of Aaron Burr, which was attempted to be carried with a high hand. It was restrained and broken up by Jefferson, long before the existence of the neutrality laws. He exercised this power to restrain American citizens in 1807, although the present neutrality act was not passed till 1818.

And so with regard to Monroe when he came to be President of the United States. These sympathies were manifested not in the ranks of our own citizens, but the consequences are of peculiar interest to the people of the sunny South, where the present excitement seems most prevalent.

Citizen Gregor McGregor, calling himself a brigadier general of Venezuela, New Granada, and commander-in-chief of the army of deliverance for the two Floridas, came to our southern shore with these and other high-sounding titles, and landed a force on Amelia Island at the mouth of the St. Mary's river. Although he asserted that he came commissioned by the Supreme Government of Mexico and South America, and although Amelia Island was in the dominion of Spain, President Monroe sent the army and navy and removed him, avowing the act in his message, and making sufficient explanation to Spain by avowing, that in taking possession of Amelia Island, it had not been his purpose to conquer any portion of Spanish soil.

The fictions of law and assumptions of power by McGregor, like those of General William Walker, were too transparent and frail to admit even of animadversion from any of the various Powers that might have espoused the cause of this lawless disturber of the peace of nations. Up to the present day it has not been regarded by Spain, or the States of Mexico and South America, that, in stripping McGregor of his flimsy assumptions, the President committed "a great outrage;" and his officers were not denounced or "discharged" for the part they took in the affair. The President assumed it as his act, the act of the country, and he excused it before the people of Spain by saying that he did not intend to usurp the power of Spain; that he did not intend to make a conquest of her soil, but to prevent this kind of marauding which an individual had set up against Spain, against the law of nations, and against the peace of the world. Such are some of the restraints on sympathy which transpired in this country previous to the enactment of 1818. More recently, and since the enactment of the law of 1818, we have frequently found occasion to exert the wholesome restraints of this neutrality law.

Do you not recollect the excitement that at one time prevailed on our northern frontier, when Canadian patriots assumed the powers and titles

of commanding generals, and commenced marauding and battling for power, under the pretext of delivering the people of Canada from their vassalage to Great Britain?

Do you not recollect that this deluded zeal on our shore provoked an assault by British subjects on our domain? That a band of Canadians, at dead of night, came to our shore, and cut the steamer Caroline from her moorings; set her on fire, and sent her drifting, in flames, down the dreadful cataract of Niagara? And why was not ample and ready reparation granted by England, but because there was some excuse for the zeal of those who committed the act, who knew the Caroline had been engaged in transporting our citizens in their violations of British soil? Thus the peace of two great nations was not only periled, but almost destroyed, by the acts of a few men who claimed a right to use legal fictions, which would escape the penal statutes made to preserve our friendly relations.

To the honor of this country, the Canada difficulty was soon silenced by the energy of Government and discretion of General Scott; and thus the excesses of sympathy and patriotism found a wholesome check by the enforcement of this law, which now seems too stringent for some of the political schools of this eventful age.

Mr. COX. If the gentleman from Iowa will yield for that purpose, I will move that the committee rise.

Mr. CURTIS. If it is the wish of the committee, I would as soon conclude what I have to say to-morrow.

Several MEMBERS. No, no; go on now.

Mr. COX. I move that the committee rise.

The motion was agreed to—ayes 57, noes 30.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

On motion of Mr. PHILLIPS, the House then (at five minutes before four o'clock) adjourned.

IN SENATE.

WEDNESDAY, January 13, 1858.

Prayer by Rev. GEORGE D. COMINGS, D. D.

The Journal of yesterday was read and approved.

LIBRARY COMMITTEE.

The VICE PRESIDENT appointed Mr. FESSENDEN to fill the vacancy in the Committee on the Library, occasioned by the withdrawal of Mr. HUNTER.

PETITIONS AND MEMORIALS.

Mr. BROWN presented the petition of Jeannette H. McCall, widow of James McCall, an officer in the revolutionary army, praying to be allowed a pension and bounty land; which was referred to the Committee on Revolutionary Claims.

Mr. CAMERON presented forty-five petitions of citizens of Philadelphia, remonstrating against the location of the post office of that city, in the building lately occupied by the Bank of Pennsylvania; which were referred to the Committee on the Post Office and Post Roads.

Mr. KENNEDY presented the memorial of A. P. Robinson and others, composing the Washington Iron Pavement Company, praying Congress to authorize a contract with them for laying an iron pavement on Pennsylvania avenue; which was referred to the Committee on the District of Columbia.

He also presented the memorial of Alexander Randall, executor of Daniel Randall, praying for the payment of a balance of the commission claimed by him for collecting and disbursing money in behalf of the Government, during the late war with Mexico; which was referred to the Committee on Military Affairs and Militia.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of Fayette county, Indiana, praying for the enactment of a law granting to each head of a family a homestead of one hundred and sixty acres of land out of the public domain; which was referred to the Committee on Public Lands.

Mr. SLIDELL presented a petition of merchants of New Orleans, praying for an appropriation to build a steam-cutter for the protection of

the revenue and commerce of that port; which was referred to the Committee on Commerce.

Mr. GWIN presented the memorial of Aaron Van Camp and Virginus P. Chapin, praying for an indemnity for the illegal seizure and confiscation of their property at Apia, in the Navigator's Islands, by Jonathan S. Jenkins, United States consul to those islands, under the pretext of authority derived from his office of consul; which was referred to the Committee on Claims.

Mr. SEWARD. Mr. President, I present the petition of Edward N. Kent, of the city of New York, who states to the Senate that he is the inventor of a new and useful apparatus for separating gold from foreign substances, the exclusive right to use which has been secured to him by letters patent, according to the laws of the United States; that, by order of the Director of the Mint, with the approval of the Secretary of the Treasury, this improvement has been introduced into, and is used, and is now in successful operation for washing sweep at the United States Mint in Philadelphia, the United States Assay Office at New York, and the United States branch mints at New Orleans and San Francisco.

He states, too, the very pleasant fact that there is a saving to the Government in the mints, so far as heard from, annually of \$7,000 by the use of this invention, exclusive of the branch mint at San Francisco; that the savings would amount, so far as ascertained, to \$120,400 in fourteen years, the term of his patent, and including the mint at San Francisco, the whole saving to the United States would be \$240,800; and what is unusual in these cases, he proves these facts, so far as they are capable of proof, by the testimony of the officers of all the mints and assay offices of the United States. He submits to Congress a prayer that they will make him a just compensation for the use of his invention, which he estimates at the moderate sum of \$20,000. I commend his application with all my heart to the attention of the proper committee, which I suppose to be the Committee on Finance. I move to refer the petition to that committee.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BIGLER, it was

Ordered, That the petition of Joseph C. G. Kennedy, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. HUNTER, it was

Ordered, That the petition of lieutenants in the United States revenue marine service, who were attached to the naval squadron in the Florida war of 1836, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. KENNEDY, it was

Ordered, That the petition of the executor of Daniel Randall, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. TRUMBULL, it was

Ordered, That leave be granted to withdraw the petition and papers of S. W. Aldrich and other officers of the Tampico Mounted Rangers.

On motion of Mr. SLIDELL, it was

Ordered, That the petition of Joseph Menard, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. CAMERON, it was

Ordered, That the petition of Joshua Shaw, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the petition of the Orange and Alexandria Railroad Company, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred, on the 18th of December, a bill from the Court of Claims, for the relief of James Beatty's personal representative, with the report of the court in favor of the claim, reported the bill (S. No. 57) without amendment; which was read and passed to a second reading.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the petition of James G. Benton, the petition of E. B. Babbitt, and the petition of James Longstreet, submitted a report, accompanied by a bill (S. No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. DAVIS, from the same committee, to whom was referred the petition of John Bronson, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 3) to authorize notaries public to take and certify oaths, affirmations, and acknowledgments in certain cases, reported it without amendment.

BILL INTRODUCED.

Mr. CHANDLER, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 58) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley; which was read twice by its title, and referred to the Committee on the Judiciary.

COMMODORE PAULDING.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding; which was read, and passed to a second reading.

Mr. BROWN subsequently rose and said: The Senator from Wisconsin, this morning, laid upon the table a joint resolution proposing to present a medal, in the name of Congress, to Commodore Paulding for his late extraordinary exploit in Central America. I have looked over the resolution, and feeling that it will require some amendment before it can receive my vote, or, I hope, the vote of a majority of either House of Congress, I have drawn up an amendment which I propose to offer whenever the joint resolution shall be called up. My amendment is to strike out all after the resolving clause, and insert—

That Congress has heard with surprise of the arrest of William Walker and about one hundred and fifty other persons, at Punta Arenas, in Nicaragua, by Hiram Paulding, commanding the United States naval squadron, on the 8th day of December, 1857; and seeing that said act was in violation of the territorial sovereignty of a friendly Power, and not sanctioned by any existing law, Congress disavows it; and being officially notified that the said Paulding acted without instructions from the President, or the Secretary of the Navy, Congress expresses its condemnation of his conduct in this regard.

Mr. SEWARD. Will not the honorable Senator from Mississippi move that his amendment be printed?

Mr. BROWN. The joint resolution of the Senator from Wisconsin was not ordered to be printed.

Mr. SEWARD. Then I move that both be printed. This is the first notice I have had of either.

Mr. BROWN. Very well.

The motion to print was agreed to.

NAVAL COURTS OF INQUIRY.

The Senate resumed the consideration of the joint resolution (S. No. 3) to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,' in respect to dropped and retired naval officers; the pending question being on the motion of Mr. Mason to reconsider the vote by which the Senate adopted the following amendment of Mr. HUNTER:

Provided, That nothing herein contained shall be so construed as to allow the increase of the number of officers in the active-service list, as now authorized by law.

Mr. MASON. I made the motion to reconsider, as I stated yesterday, at the instance of the honorable Senator from Mississippi, [Mr. DAVIS,] and not being entirely satisfied in my own mind of the entire propriety of the vote I had given in the affirmative. Upon subsequent reflection, although I confess with a great deal of reluctance, I am prepared to change that vote. My reason for supporting the amendment originally was that it prevented any increase of the number of officers so as to exceed that provided by existing laws.

We are all aware that by the law of 1857, which made provision for these courts of inquiry, it was the opinion of the Senate that, in order to give effect to the policy of the Senate in doing full justice to officers who had been deranged and placed upon the retired list by the board of fifteen, and who, upon proper judicial inquiry, should be found to have been improperly dealt with, in order to enable them to place those officers where they stood before they had been thus

deranged, we should enlarge the number in the respective ranks to which those officers belonged—a policy to which I was opposed at the time. I saw no necessity, so far as the public service was concerned, for increasing the number of officers; but yet it was very manifest that to such an extent had the naval service been deranged by the action of the board of fifteen, that the only mode then left of doing justice to those officers, was temporarily to enlarge the number.

The joint resolution introduced by the Senator from Mississippi was intended to authorize the President at his discretion to provide for a class of officers who had not been restored by the courts of inquiry—a policy in which I concurred. I believe the President already possesses the power; but we have been legislating very widely, I think, and unfortunately trenching so far on the executive authority as to assume, by implication at least, on the part of Congress, that it was necessary for Congress to supply this power. I am not, however, at all satisfied, if it be a correct policy to pass the joint resolution proposed by the honorable Senator from Mississippi that this amendment will not, in fact, destroy its operation; and reluctant as I have been, and still am, to go into this temporary policy of increasing the number of officers for the purpose of repairing the mischief already done, I do not see any escape from it. I moved the reconsideration without having fully considered the subject; on fuller consideration, I am prepared to change my vote.

Mr. STUART. I must say, sir, that I regret this proceeding. I regret it in several respects. In the first place, the question was fully discussed in the Senate, and a proceeding was had which is unusual. After the vote had been taken upon yeas and nays in the Committee of the Whole, the same vote was demanded in the Senate. There seemed to be, I thought, a tenacity that was unusual. After the Senate had thus expressed its opinion twice, deliberately and advisedly, now to be called upon to reconsider, and express it again, looks a little like a tendency toward a mere caucus—something of that sort which is informal and not of the legislative consequence which should pertain to the action of either House of Congress.

There is a remarkable fact developed in the course of this debate, which ought to weigh, and in my judgment, weigh conclusively, with the Senate. We were told by the honorable Senator from Louisiana, [Mr. SLIDELL,] that not a case which had been passed upon by these courts of inquiry had received the examination of either the Secretary of the Navy or the President of the United States—that those officers had taken the action of the courts of inquiry without any investigation at all. It was said by myself and others, and I think said with propriety, that the first law which organized the board of fifteen was a good law in itself; and that if it had been carried out properly by the executive department, upon whom the duty devolved, there could have been no such ground of complaint as was urged. That law required that the approval of the Secretary of the Navy and of the President should be given to the action of the board before it became final; and the evident intention of that law was, that those officers should be satisfied of the propriety of the action of the board; but it was said that was never done. It was affirmed that in that instance there was no ground upon which it could be done; that no record was kept by the board; and consequently, that neither the Secretary nor the President had anything to inspect. Then they ought not to have approved it. An approval does not mean the action of a mere automaton—a mere machine. It is the exercise of judgment and discretion. That, it will be recollected, was the strong ground of complaint which was urged here by Senators, and I think was the strongest reason why any amended law ever prevailed in the Senate.

What now, sir? An amended law was passed authorizing the organization of courts of inquiry, on the request of any officer, the action of those courts again to have the approval of the Secretary of the Navy and of the President. We are now told that it has not had it. I ask what is the object of any further legislation on this subject, if our former legislation has not been carried out? It requires the action of the executive department. You can have no law which can be supervised by Congress itself with any propriety or accuracy.

The action of the courts was to be supervised and approved by the executive department of the country; but it has not been done. What is the present proposition? It is to amend still further this law; and it is assigned as a reason that the President, approving the action of a court refusing to change the position of an officer, may still be at liberty to change that officer himself, on his own volition, if he thinks the action of the court has not been right. If I could be told, by any gentleman who is advised, that the President is thus examining these cases, there might be some ground for the amendment of the law; but we are told that he is not thus examining them; that he has not the time to do so; and I presume it is true. I presume, considering the mass of cases which have been examined by the courts of inquiry, and the great extent of the testimony, he has not the time, and cannot do it.

Then, what is to be the effect of this amendment of the law? Why, sir, to simply change the point of attack; to take it away from the Senate and from the House of Representatives, from Congress, and turn the whole power of it on the President. What probability is there that the President can possibly, by the exercise of all the power he possesses, do justice to individuals and do justice to the country? I have never been satisfied, I confess to you most frankly, that sympathy for an individual ought to prevail in all cases against the public interests. There is not a member of this body, I presume, who has not all the sympathy of which the human heart ought to be susceptible. It is not feeling alone, however, which ought to govern the Senate in passing upon public questions. Judgment and propriety of action are equally important.

Then I ask, on the facts as they are stated to the Senate, what is the prospect of improvement. I confess I do not see it. I speak now of improvement in regard to individual cases. I do not see how it is in the power of the President to carry out this law by a careful and critical examination of all the cases that are presented, and say in his judgment what ought to be done. We are told he has found himself utterly unable to do it. Then we are to look at the effect; and that was what induced me to vote for the amendment of the honorable Senator from Virginia, [Mr. HUNTER.] Are we in possession of any facts this day, as a senatorial body, that ought to induce us to add to the number of active officers in the Navy for the purpose of doing individual justice? I have not heard any such statement in this body. I have heard Senators say, as I heard it sessions ago, that they were willing to do almost anything that was honorable to protect the character of a man. I think that is a feeling which pervades the whole body. I am very slow to believe that there is a Senator here who is not willing and desirous to do whatever is right and proper to protect the character of an individual, either in the Navy or out of it. But I ask again, is the Senate in possession of such facts—have they been brought to us here by the report of our committee, or in any other mode to arrest our attention—showing that severe hardships do exist in consequence of the courts of inquiry, which ought to induce us to add to the active list of the Navy by passing this joint resolution? I have not heard them.

What may have been said to Senators individually out of session, I know not. I know that I have been somewhat belabored myself, and I presume I have had no more than my share of it; but I confess to you, sir, that I have heard nothing from any individual complainant, or from all of those who have spoken to me on the subject, which presented such a case as ought to induce Congress thus to enlarge the active list of the Navy.

It was said by the honorable Senator from Virginia, [Mr. MASON,] who moved the reconsideration, that the effect of the amendment is to render the joint resolution nugatory. That is not entirely true in point of fact. It simply prevents the increase of the active list of the Navy. As the Senate passed the joint resolution, it would be competent for the President, as often as vacancies occurred, to fill them out of such cases as it refers to, keeping, however, the number upon the active list the same as now authorized by law. It does not, therefore, render the resolution entirely nugatory, but simply prevents the increase of officers upon the active list. If there have been, or if

there are existing, some cases which demand this species of action on the part of the President, I can see no danger on account of the delay which may thus be interposed. It is perfectly clear that the President must necessarily take much time in order to satisfy himself where those cases are, and which they are. During that time, vacancies may occur; at all events the proper cases for his action may be ascertained, and he may place his opinions upon record so that they shall appear to his successor, whoever he may be, and he may examine them—the law is permanent—and whenever a vacancy occurs in the active service, then the effect of the law will remain.

Now, Mr. President, it does seem to me as if there was an effort to enlist the mere sympathy of Congress against its better and maturer judgment. Feeling that, and, as I said, having heard nothing from reports of committees, or otherwise, to satisfy me of the imperious necessity of this action, I have not been able to bring myself to the conclusion that I ought to vote for it.

Mr. HOUSTON. Mr. President, I have no disposition to make any remarks on this subject. I know the embarrassment under which I should labor in doing so; I am laboring under severe hoarseness; but it seems to me that the Senator from Michigan has misapprehended the object of this resolution, and misconceived the effect it will have, if the course which those who favor a reconsideration have in view be adopted. If I understood one remark which he made, he appears to believe that it would operate in such a way as to defeat the more mature judgment that has been expressed in relation to these men. Do I understand the Senator aright?

Mr. STUART. I stated that it seemed to me to be an effort to enlist the sympathy, instead of the maturer judgment, of the Senate.

Mr. HOUSTON. If it is the design of others, it has never been mine, as one of the members of this body, to enlist the sympathy of the Senate, or to endeavor to excite its indignation. I think the injustice done by the retiring board was such as to appeal to the national sympathy, and to excite the most indignant feeling for the wrongs inflicted by that board on individuals; and the partiality, the pandering to the inducements of ambition, the selfishness, which were palpable, ought to have appealed to the whole nation. But, sir, I desire nothing but the deliberate judgment of the Senate to be exercised on this occasion; nor would I, if I were capable, invoke any other agent than the mature judgment of the Senate. Why, sir, we are told that the President has it not in his power to examine into these cases. It is said that after the most elaborate and searching examination by the courts, the result has been reported to the President, and, if we believe the newspapers, he has lent his sanction to it, and sent that sanction to the Senate for their action in most of the cases presented to the courts.

But, sir, there may be cases where prejudice, where perjury, where contrivances of a mischievous character have been employed to prejudice individuals; and, in such extraordinary instances, when an appeal is made to the Executive, he ought to have an opportunity of examining the matter. This resolution will not impose on him the necessity of examining all the records in all the cases; but only in such cases as are of peculiar hardship. We ask that the Executive may, when he has leisure, be allowed to examine thoroughly, and see upon what evidence these officers have been degraded, or upon what testimony justice has been denied to them. Sir, it only gives the President the privilege of examining, in extraordinary cases, and making restorations of officers to the situations from which they were wrongfully driven. That is the object of the joint resolution, if I understand it. Nothing else is sought to be attained in a reversal of the former vote of the Senate. It is not disrespectful to the body to propose that it should reconsider its action, if that action has been premature, or if the subject has not been fairly presented, or if its action was taken hastily, as is the case with many matters in this body, when measures are presented by the chairman of a committee—they are taken upon faith.

I shall not now carefully animadvert upon the circumstances attending this measure from its inception to its terrific consummation, because I have an occasion in reserve when I will lay open to the public eye matters which, when examined,

will invoke the indignation of the whole community; but this is not the occasion on which to do it. The joint resolution merely proposes to extend to the Executive the right to restore officers who have been wrongfully driven from the service, where the President is satisfied that great wrong and injustice have been done to them, and that their restoration will be an act of justice and a reward of merit. That is all it contemplates. It is all that is desired by its friends—that justice should be awarded to such as have suffered injustice, and that right should be done where wrong has been inflicted. There is no other object, so far as I am interested in this matter, than to have sheer justice accorded to individuals in cases where the Executive is satisfied that wrong has been committed. It is the highest duty of the national representatives, in their collective wisdom, to make reparation to individuals who have been wronged. If an insult were offered to the national flag, the nation would then rise in its majesty; but, here, the complaints of an individual who has been stricken down unjustly while in the service of his country, are to be disregarded because of his want of friends, of patronage, or of influential connections! No matter how audibly the appeal may be made in behalf of justice, it is not regarded, because he can be thrown aside unheeded. Influence, power, patronage, contrivance, corruption, and perjury, have all been invoked for his destruction; and yet there is no remedy for the wrong. Are we to submit to such wrongs when it is only necessary to say that the Executive shall have the right, where he is satisfied that injustice has been done, to make reparation and to restore the individual to a position which he has merited, either by long service or by gallant deeds; or, perchance, purchased with his blood in the hour of peril?

Unless you adopt the motion to reconsider, and pass the resolution without the proviso of the Senator from Virginia, [Mr. HUNTER]—unless you accord this privilege to the President, all these wrongs may be inflicted upon individuals without the hope of redress; irreparable injury may be committed, affecting not only them but their families who are dependent on the pittance which they receive from the Government. I sincerely hope, sir, that Senators, considering the importance of this matter to individuals, to the national honor, and to the glory of its flag, will all vote to extend that justice which is asked. We simply propose that where the Executive is satisfied that wrong has been done, and that it is right to repair that wrong, he shall have the power to remedy it.

Mr. DAVIS. Mr. President, I hoped when I attempted to explain this resolution on Monday, and to make my objections to the amendment of the Senator from Virginia, that I had answered some of those points which have been again presented to-day. I stated then, as nearly as I can now recollect, what I am sure is the fact, that the amendment of the Senator from Virginia deprives those persons contemplated by the resolution of the whole of the remedy which it is proposed to give, for it must be apparent that the operation of this proviso is to leave, not only immediately, but for a long time to come, any one who shall receive the benefit of the resolution, upon the reserved list. I hardly supposed it to be necessary to argue to the Senate, after having so fully considered this whole question, that officers retired as disabled or incompetent to command were not afterwards in the line of promotion. The proposition is so self-evident, so startlingly true, that I was utterly at a loss when the Senator from Michigan took up the thread this morning as though it had never been broken.

Why, sir, we have been laboring to very little purpose indeed, if all this examination has resulted in discovering here and there men who were unfit to command, and placing them on a reserved list where they are to stand for promotion—not retired from active service, as was the contemplation of the law—but put aside for promotion. What will be the effect of it? Merely to provide by law that the officer shall hold the place which, if there had been no law, he would have held. An officer waiting orders on shore, applying to command a vessel, but receiving no command, is in the exact condition of an officer on the reserved list with leave pay, except that he has the right of promotion. He has the right to succeed to vacancies in a higher grade when they occur; but

whilst on shore waiting orders on leave, or on furlough, he is in the exact condition in which gentlemen seem to contemplate an officer on the retired list. I am sure the very intelligent chairman of the Committee on Naval Affairs would never have struggled from day to day, and week to week, to get a retired list, if that was all the effect of it.

Mr. STUART. If the Senator understood me as advocating that doctrine, he is entirely mistaken.

Mr. DAVIS. Do you not hold that position?

Mr. STUART. Not at all.

Mr. DAVIS. I am glad I misunderstood the Senator, and I am happy to be corrected. Then I proceed to the next branch of the argument—that if officers of the Navy on the retired list are to be promoted at all, they should be promoted when vacancies occur. Why, sir, that is adding insult to injury. Are you to say that you are to put him on the reserved list, that you are to promote his subordinates over his head, and there to let him stand, though you admit the justice of his claim, until vacancies shall occur, in order that he may slip beneath those whom he formerly outranked? The man who would accept such promotion would not be fit to command in your service. I would not trust him with the honor of the country.

This must be done at the present time, and it must be done in the form of restoration; and in that way alone can you save the honorable pride of the service. To postpone it in order that he may succeed to a vacancy beneath some young gentleman whom he trained when a midshipman, would be to offer the highest indignity that any man worthy to wear the military uniform of his country could receive. Therefore I say the proviso of the Senator from Virginia takes from the resolution all that is valuable in it, saving here and there some individual cases where an officer has been dropped entirely from the Navy, and may come back to the furlough or the leave list, and there receive the poor pittance that the Government may be willing to dole out to him.

As I said on Monday, my sympathy was excited for these men—I plead guilty to the charge which the Senator from Michigan makes that I have sympathy; and I thought, as I listened to him, in his remarks this morning, that however his ears might have been belabored, his judgment was secure. I am not without sympathy, and I trust I shall never live long enough to be without it. I have not been harassed by the importunity of gentlemen who have suffered. I admit, sir, that when I have met those whom I believed to be worthy of better treatment, and deserving of the gratitude of the country, and seeing the pulsations of a heart crushed by a sense of injustice and ingratitude, I have felt wounded, and regretted that I had not the power to redress the wrong. But, sir, the propriety of the law in its beginning is a question which I think it is unnecessary now to discuss. I thought some provision which would place on an honorable list those officers who were no longer fit to command was desirable. I thought a list, which should contain those men who had been distinguished in their country's service, who, from wounds and from old age, had become unfitted for active service longer, and which should there leave them in comfort the balance of their days, was what the country owed, what the good of the country demanded, what the interests of the Navy absolutely required. As to the execution of the law, I do not concur with the Senator from Michigan that a great fault was committed in not examining a record which the law did not require to be made. I think it might have been as well to reject the whole action of the board, because there was not a record; but I cannot conceive how either the Secretary of the Navy or the President could have laid his finger on this or that case, and said this is approved and that is disapproved. It came to them in gross; it came to them without a record and without evidence. The only regret I have, is that they did not reject it in gross as it came, and require in each case a separate record.

Then came the remedial action of Congress. That remedial action provided for an inquiry and a record which had not been provided in the first instance. Under that remedial action you have agreed to increase the numerical strength of the different grades as far as men should be found fit

for active service, who had been put on the reserved list. You suspend promotion until that excess has been absorbed. Now I only ask that where the court has not recommended restoration, but the record proves the individual to be worthy of restoration, the President, by and with the advice and consent of the Senate—both of them having access to the record—shall put the individual on the footing on which he would have stood if the court had recommended his restoration. I say nothing against the courts, and I have no charge to make against them of a want of judgment, or want of integrity, or a want of interest in the Navy; but, sir, it is proceeding very far when such a court is at once invested with infallibility, and the President and Senate denied the power to revise their proceedings, except so far as it may be the hard measure of rejecting nominations. I think it much more probable that that court, having its sympathies with the constituent elements of the board, followed the error of the board, and failed to render justice to some individual against whom a prejudice might have been excited, than that the President, in reviewing the record, would commit the other error, and bring from the obscurity into which they had shrunk, unworthy officers of the Navy, and place them on the active list.

Then, sir, it has been stated that the President has examined none of these records, and it has been argued therefrom that he will examine none of them. Though I should not have said it otherwise, I deem it due to that high officer to say—and it is honorable to him when I say it—that before I presented the resolution to the Senate, I showed it to him, as involving labor on his part; and with the feelings of a man, and the sense of duty of an officer, he said he was willing to incur the labor and meet the responsibility which it would impose. He cannot, under the resolution, nominate, unless his action is based upon the facts contained in the record, and he must examine the case that he submits, under the authority conferred by the resolution. Again, the Senate have access to the record; the Committee on Naval Affairs will first sift it, and it will then come to the Senate for a further examination. I cannot see the danger of inflicting any great injury on any one by opening the door thus far. How many it will add to the grades I do not propose to inquire. I believe they will be very few. They will be added to the excess which has already been provided, and they will have to be absorbed before further promotion occurs; but it would be cruel in the last degree to ask them to stand aside until their subordinates, favorably reported on by the board, had been absorbed by the occurrence of vacancies, and then, and then only, to let them come in to take a place inferior to some one, whom, perhaps, they had instructed in the very first elements of his profession.

As to the change in the point of attack, of which the Senator from Michigan has spoken, I will only say that by the law, as it stands, the President has the power to revise, to approve, or to disapprove, the action of these courts, though, whilst you have conferred that authority on the President, you have stripped him of all remedial power. If he disapproves in a case which may be as clear as light, still he cannot nominate to the Senate, though it be palpably presented in the record evidence that that individual is worthy of such nomination.

I will say, further, that I think the law was wrong in allowing the board, or in recognizing in the court, power to drop any one from the list of the Navy who had attained the first grade. I hold that if an individual has served his country from the grade of midshipman up to that of a post captain—the highest grade in the Navy—nothing but a court-martial, with all the due forms of law, should strip him of his place. Whatever may be his incapacity to command, whatever may be his bad habits at the time, I say he cannot have reached that grade without rendering service to the country which entitles him to its gratitude. After many years exposed to battle and to storm, crushed by wounds, or by time spent honorably in the service of his country, it is a paltry meting out of a very hard measure of justice to turn him out upon the wide common of the world, there to call all eyes to look upon an age of ruin. Incapacitated for command, he ought to have been placed upon some honorable retired list, which

would have given him at the same time a support, and have saved his feelings from the wounds which are inflicted by that species of inquisition which marks every man placed upon the list as having done some act which disgraced the uniform he wore—a moral inquisition which leaves the man who has been crushed by age and wounds received in battle, upon the same footing with him whose vices have rendered him unfit to command. For those vicious habits, for those irregularities, for those crimes, courts-martial were instituted; and to them resort should have been had, and not to a board which, if it intended more, never should have intended more than to ask, "where is he who has been worn out in the service, and for whom we shall provide some safe asylum, where he may rest in quiet during his declining years?" That was the whole scope and intent of that bill which provided a retired list for the Army; and I here take occasion to say, that if that bill had passed, no man should have been retired unless he was confronted with the board; unless he made the application; and unless, in every case, there had been a record of all the testimony.

Mr. TOOMBS. Mr. President, I think there is a misunderstanding among Senators as to the effect of the amendment of the Senator from Virginia. Its effect is to deprive a large class of the officers of the Navy of the United States of those legal securities and guarantees which have been regarded from the beginning of the Government, during the Revolution, and the war of 1812—indeed, in peace and in war, from the foundation of the Government—as essential to their protection. It deprives them of those legal securities which are now accorded to every person in the naval and military service of the United States except themselves. If that be true—and I think I can very readily show it to any one who will look at the matter for an instant—there ought to be some special reasons why this class of persons, now in the service, should be deprived of those legal guarantees now given to every officer inside of that service except themselves, and which have been accorded by the law from the foundation of the Government to this time.

The amendment of the Senator from Virginia defeats the operation of the resolution of the Senator from Mississippi to this extent: the resolution proposes that where the President disapproves of the finding of the court, on examination, and thinks an officer is entitled to be restored to the active list, he shall have the right of sending his name, with the record, to this body; and if they approve it, he shall be restored. The amendment of the Senator from Virginia says this shall not be done until vacancies happen, and shall not be done to the enlargement of the present active list of the service. Therefore, I say, it entirely defeats a security to which I will now advert. When this naval board was established, the President was required to approve its action; but, as you have just heard stated by the Senator from Mississippi, he was required to approve without any evidence before him on which to approve or disapprove. He had to approve or disapprove the whole, because there was no record of each particular case, and he could make no judgment. They were, therefore, effectually deprived in that case of this legal security, which has been given both to Army and Navy officers.

When this proceeding was scrutinized, and the opinion and calm judgment of the Senate and House of Representatives were brought to bear upon it, it was nearly unanimously condemned. To these officers was awarded an open trial, and the record there was subjected to the approval or disapproval of the President, but in such a mode as not only to take away this security, but to absolutely do the greatest injustice. I will state a case for the Senator from Michigan, who is the only person I have heard harp on sympathy. We have argued this subject—certainly I have—for eighteen months on the great question of constitutional rights, without reference to any man, or how he might be treated, in the Navy. Nobody, I believe, but those who have sought to defeat just and legitimate action on this subject, has talked of sympathy. They wish to get out an impression that those of us who are tempted to vindicate the laws, and to protect these great guarantees of individual rights, were operated on by sympathy for the officers. I happened to know very few of them when this proceeding took place;

not half a dozen in the naval service. I was not on terms of personal intimacy with a human being among them, and I was on social terms with only three of them. But I saw a great principle of public right, of constitutional law, stricken down by a proceeding which I am happy to know has been condemned by the judgment of the country, as expressed through its representatives in both branches of Congress.

If the President disapproves the action of a court of inquiry in some cases, under the law of last year, he must do additional injury, or else he must approve the action against his judgment. I will take a case of which I happen to know, from looking at the records. A commander or captain in the Navy was, by the secret board, put on the furlough list. That implied personal fault. Upon an investigation of his case by an open tribunal, a court of inquiry, that sentence was disapproved; and it is recommended that he be placed on the leave-of-absence list—an honorable list—with full-leave pay, as though he were in active service, on leave of absence. The President may believe not only that the first finding was wrong, but that the measure of justice proposed by the court of inquiry is inadequate; that, instead of being placed on the leave-of-absence list, he ought to be put on the active-service list. It will not cost the Government a cent to put him on the active list, because, if he were ordered from the leave list into active service, he would get full pay; and, if he were not ordered into active service, though on the active list, he would only get leave-of-absence pay. If, in the case to which I refer, the President disapproves the finding of the court, the officer is put back on the furlough list; and yet the disapproval is because the President believes the measure of justice proposed to be inadequate. The court have found that the original sentence was unjust, and that the officer ought to be placed on the leave-of-absence roll, the most honorable of the retired list; the President may believe he ought to be placed on the active list, and it will not cost a cent to place him there; therefore the President must put his official approval to what he thinks is not a proper measure of justice, or a valuable officer is lost to the public service. Why should this be?

The law of last year gave the President a right to approve or disapprove the findings of these courts. And yet if he disapproves, the effect is to leave the officer remediless, to keep him under a sentence unjustly pronounced upon him by a secret tribunal. If every member of the Senate believes, on an examination of the record, that the court of inquiry acted from wrong information, from perjury, or any other bad motive, and the President thinks an officer against whom they have reported ought to be restored, he is remediless; whereas twelve hundred officers, his comrades in the active service, cannot be deprived of life, of commission, of pay, or be censured, or in any other manner injured, without the coöperation of a court of inquiry, or court-martial, and the President. These are the guards which the existing military laws of the United States throw around your officers, but these persons are deprived of them. Why should an individual on the leave-of-absence list be cut off from this guarantee? Take the gentleman at the head of your Navy. Suppose a court of inquiry had determined not to restore him to the active list, contrary to the evidence, and the President and Senate were satisfied that he ought to be restored: why should he who has stood on your quarter decks, in battle and in storm, for fifty years, be deprived of those rights which the laws of his country give to the humblest man who bears your commission in the military or naval service? The commission of a lieutenant in the Army or Navy cannot be taken from him except by the judgment of his peers, sanctioned by the commander-in-chief of the Army and Navy of the United States; but men who have lost their places by the proceedings of a secret tribunal, the judgment of which is confirmed by a court of inquiry by a vote of two to one, are to be deprived of these rights, and are to be kept back, although the President and Senate may be unanimously for restoring them to their old places.

But, sir, the Senator from Virginia tells us that he does not wish to enlarge the active-service list. That point was settled at the last session. It was admitted by me; admitted by the whole Senate;

admitted even by many of those gentlemen who were pressing forward others to fill these places, that the service was already too full; but the Senate and House of Representatives said, for the purpose of repairing wrong, for the purpose of restoring men to places from which they have been unjustly ejected—we will enlarge this list. That was the very principle of the act of last session—that, to the extent of doing justice to these men, the list should be enlarged. That I want carried out. The Senator from Mississippi proposes no new scheme, no novelty, for these men. We are not changing the settled policy of this Government, from sympathy. We are endeavoring to give to these officers the same protection which is accorded to others in the public service; no more, no less. I should like to know from my friend from Virginia on what principle one of these men is not entitled to that protection which the practice of the Government and the laws of the land have given to all other officers in the Army and the Navy? This protection is to-day enjoyed by those who have not suffered injustice; you only debar from it the victims of perfidious treachery.

Mr. STUART. Mr. President, it was far from my intention to be drawn into this discussion; but really some arguments have been introduced this morning into the Senate that strike me with some surprise. The argument of the honorable Senator from Mississippi is, that the effect of the amendment, as it now stands upon his resolution, is to place an officer, if a vacancy happens, below those who were previously below him. Precisely the reverse of that is the effect of the Senator's resolution. If one of these officers is brought back into the active list by the effect of the resolution, he is to be brought back in precisely the position he occupied before. That is his resolution.

Mr. DAVIS. Without the amendment.

Mr. STUART. Does the amendment change it? Not at all; but it provides that you cannot bring him back to that position until there is a vacancy in that position.

Mr. DAVIS. I think I can state to the Senator the difference. There never will be a vacancy in that position, whilst navies float, or the earth stands, because every vacancy closes up as rapidly as water succeeds the dipping of a drop out of the ocean. He must come in at the foot, and when he comes in at the foot he comes with a commission of that date and cannot rank those who are senior to him.

Mr. STUART. If the Senator is right in that statement, then it must be equally true that either no man in that position will ever die, or else that, having died, the President will not discharge his duty under this law; because, according to this law, whenever a vacancy does happen in that grade, the President is, by the very terms of the resolution, authorized to fill it with one of these very men. There is no such thing as filling it up by operation of law. Here is the very resolution which the Senator himself has introduced intended to prevent it. There can be no misunderstanding the effect of this resolution. Without the amendment of the Senator from Virginia, the individual is brought back, if the action of the President and Senate be favorable, to precisely the position he occupied before; and the objection is, that thereby the active list is increased and unnecessarily increased. Therefore, in order to sustain the position occupied by him, the Senator from Mississippi assumes, against the effect of his resolution and against the effect of the duty of the President of the United States, that these individuals will come back in a lower grade.

But, sir, there is another and a more serious objection, which I indicated before, and which I was in hopes the Senator from Mississippi, or some other Senator, would remedy. I ask who are these individuals that have had injustice done to them now; and how many are there of them? It is said that it is not necessary to inquire. The Senator from Mississippi says he does not care to inquire. I do. Before I vote for a law which is to authorize the President of the United States to increase the active list at his pleasure, I want to know the instances, and how many there are, that require this extraordinary interposition of Congress. It was the very foundation of my objection that the Senate is called upon now to legislate, to remedy evils when there is no information as to what the evils are.

If there were any gentlemen who had presented their memorials here and had them referred to the Committee on Naval Affairs, or to any other committee, and upon an investigation thus had, that committee had reported to the Senate that there were one, two, three, or a thousand cases where gross injustice had been done by these courts of inquiry, the Senate would then have a ground upon which to act; but now it is destitute of anything but an imaginary case. The Senator from Georgia has instanced the case of Commodore Stewart. I do not understand that he has been before these courts of inquiry, and therefore no injustice has been done to him by the courts of inquiry. It will be seen that the advocates of this measure have sought—I care not whether it is designed or not, but the effect of the argument is—to enlist the sympathies of the Senate to look after imaginary cases. I did not hear the precise remarks of the honorable Senator from Mississippi; but the only objection I made to his expression of his sympathy was that he did not stand alone, that he had no more sympathy than any other Senator, and I hope no less. That was my statement.

Mr. DAVIS. I did not understand the Senator as measuring my sympathy, because I had not said that I had any when he made his remark. I thought he was taking a broad sweep at creation generally, and me as a part of it.

Mr. STUART. The Senator has forgotten his remarks of Monday [Mr. DAVIS. Oh; you are after me for what I said on Monday] when he proclaimed himself, as I thought, the champion of the rights of man.

Mr. DAVIS. Oh, no; not at all. It is very flattering to me that the Senator should mistake me for a champion of the rights of man; but I certainly never so proclaimed myself.

Mr. STUART. Well, sir, there cannot be any ground of misunderstanding certainly between the honorable Senator and myself on this subject; but I did think, and I repeat, and beg pardon for repeating, that it was remarkable that the Senate should be called upon to pass a law, and having passed it, to reconsider it, and revise it, when we are not told of a single case requiring it. The resolution itself proceeds on the ground that there may be such cases. If they shall occur, if the President, in the course of his examination, shall find, or may have found, any such cases, then the resolution is to be operative.

Mr. DAVIS. If the Senator is going to vote with me, which I hope he is, from the course of his argument, I will ask him to permit me to state a case.

Mr. STUART. With pleasure.

Mr. DAVIS. I said the other day that I was very reluctant to go into the individual question of who was wronged. I said that, unless pressed to it, I would not mention any individual case. Being pressed, I am willing to meet the issue. I knew an officer, the son of as gallant a soldier as ever wore the uniform of the United States, and known by you, sir, [Mr. FITZPATRICK in the chair] as once the model soldier. After years of good conduct, he was sent to the coast of Africa as lieutenant of the Navy. The commanding officer of the vessel, on account of sickness in his family, was compelled to return home. He turned over the vessel, with confidence, to that lieutenant, and he commanded it with such skill and good judgment that the officer to whom he surrendered the vessel, complimented him on the condition of his ship and his crew. He appeared before this court and admitted that at an early period of his life he had been intemperate. It was proven that for six years his conduct had been entirely exemplary in that respect, and that his moral conduct had never been called in question. That officer has not been restored. He comes under the very category for which this resolution provides.

Then again, sir, it chanced that when I was in a different department of this Government, an officer in the Navy, a commander, having charge of a small vessel in Puget's sound at a time when the savages were laying waste the country along the coast, landed his command, and cooperated with the troops, and gallantly protected the citizens, drove back the savages, and in such a signal manner manifested his own gallantry and skill that I had to compliment him in a letter addressed to the Navy Department returning the thanks of the Army to the Navy for the service he had ren-

dered. At that very moment this board here had his case under consideration; and at length it came out that he was dropped from the Navy. There is one, gallantly struggling with a savage foe in Puget's sound; there is another, gallantly commanding a vessel on the coast of Africa—both of them on duty and performing their duty well—and they are struck down by a board sitting in secret, on account of ancient transactions of these men. Is that enough? There are two cases.

Mr. HALE. Mr. President—

The PRESIDING OFFICER. (Mr. FITZPATRICK in the chair.) The Senator from Michigan is entitled to the floor.

Mr. HALE. When he gets through I wish to speak.

Mr. STUART. I will say to the honorable Senator that I do not claim any particular monopoly of the floor. I only yielded it to give the honorable Senator from Mississippi an opportunity to make his statement, and it was with no very great degree of pleasure that I occupied it at all. The cases to which the honorable Senator from Mississippi has referred, furnish us two instances, in his opinion, and I do not wish to question the correctness of his opinion.

Mr. DAVIS. I do not want my opinion taken. I want the record these gentlemen have made, after the President has examined it, to come before the Senate, and I want the Senate to decide on the recorded facts.

Mr. STUART. What I was urging to the Senate was, that no case had been presented to the Senate through its legitimate organs, the committees; that there was this remarkable fact, that the Senate was about to pass a law to remedy evils of the existence of which we had no evidence, through our own organs.

Now, sir, I have a word to say on the subject as presented by the honorable Senator from Mississippi. I never yet knew a case where an individual, who, before any judicial tribunal, had been defeated, was satisfied that justice had been done him. But what is the fact here, upon the Senator's argument? He complains, taking his view of this question, and with which I have stated my disagreement, that an individual may find himself superseded, if this amendment prevails, by another individual whom he has ranked in former days. But suppose this law prevails, what then is the condition? An officer, against whom there has never been a single breath of suspicion, finds himself displaced or prevented in promotion by an officer who has been decided against by this secret board, as it is termed, and decided against by a court of inquiry also. That is his position. So there are two sides to this question—a man twice condemned is made to rank a man who has never been suspected at all. Is that right? Is that justice? I think not; and I think it will be hardly considered to be justice by the mature reflection and deliberation of Congress. I ask—and I ask it with as much respect for the opinions and action of the President, I hope, as any other individual—by what rule of propriety is Congress now going to proceed in the enactment of laws assuming that the courts of inquiry, and the board of fifteen, have been wrong, and that the opinion of the President is to correct it?

I must here deny, upon the principles governing humanity, that there was an inclination on the part of these courts of inquiry improperly to reject the applicant. I appeal to the cases which have been tried. Take the list, and see how many have been acted upon favorably by these very courts. Although, like the Senator from Georgia, [Mr. TOOMBS] my acquaintance personally with the officers of the Navy is very small, I know at least two cases in which, in my humble judgment, that court has acted improperly, and I believe the Senate will never confirm that action. I know one case, a very strong one, where a man was got into the Navy by political influence alone without any service and without any merit.

I dislike as much as the Senator to refer to any particular case, but I ask upon what basis is legislation ever to proceed if the action of constituted courts is to be set aside. Did anybody ever hear of a case in a civil or a criminal tribunal, acting upon individuals in civil life, where a portion of the community thought the judgment of the court and jury was improper; and has the Legislature of the State been called upon, or Congress been

called upon to pass a law giving to the President, or anybody else, the power to revise and correct it? He has the right to pardon, and that alone.

One word in regard to one other subject and I have done. The Senator from Mississippi says he thinks the former Secretary of the Navy and the President were right in approving the report of the board of fifteen in a mass, without any record and without any reason. I had occasion to state at the last Congress, and I repeat now, that I think they were wrong. I submit, again, that when Congress, in a law, says that the action of a board is to be approved by the Secretary of the Navy and the President, it is an affirmative act; it is an act, if you please, of judicial discretion; it means no more nor less than that they are to be satisfied of its correctness. That is approval. Approval means what? That it meets your judgment—not a mere form—not, as I before said, as a mere machine, as a matter of course to sign any paper that is presented. I suggested that as a reason why it is worse than useless for Congress to be passing laws requiring the approval of the Secretary of the Navy and President of the United States, if the subject is not to receive their examination. Strike it out of the law; never require an officer to make an approval that he has not the ability to make, by a careful examination of the case. If an approval means anything in a law, it is, that he must say “my judgment sanctions it.” That is an approval. How do we stand here, now, upon this proposition? Simply that there are cases which the courts of inquiry have revised, carefully considered with evidence before them, and determined; and it is proposed to give the President the power notwithstanding, to nominate that individual to a position in the active service which shall interfere with the position now held by an officer against whom no complaint has ever been made at all.

Mr. President, it seems to me that there are not only two sides to this question, but that the side which I present calls imperatively upon Congress to maintain the public interests and at the same time maintain the rights of individuals. I confess my inability to discover by what rule of argument it can be assumed that a man who has been twice tried and each time condemned, is *prima facie* not guilty. That is the assumption—a man twice tried and twice condemned is *prima facie* not guilty, and therefore Congress, upon its own volition, is to pass a law for his relief! That does not meet my judgment.

Mr. HALE. Mr. President, I had hoped never to be under the necessity of speaking on this subject again. I confess I am tired of it, and I confess the Senate are tired of hearing it; but one or two things have fallen in the course of this debate to which I wish to call attention, one of which is in reference to the gallant old man who stands at the head of the Navy. It is my fortune to have a slight acquaintance with him, and to be on kind personal relations with him. My friend from Kentucky [Mr. CARRITTENDEN] says he does not stand at the head of the Navy; but he did. He does stand at the head of the Navy in the estimation of everybody who appreciates what belongs to the Navy—its honor and its renown. This court—no, sir, I will not call it a court; God forgive me if I ever call that old board a court, [laughter]—these fifteen men who sat in secret conclave have not disgraced him, and they cannot do it; and put fifteen more on top of them and they cannot do it. I know that that old man feels, and feels deeply, in his heart of hearts, that the measure of justice which his country has meted out to him has been disgraced.

The honorable Senator from Michigan says that, because he has not come cap in hand, praying to these junior gentlemen to restore him to that high place which he occupies in the affections and the hearts of the American people, and gone down on his knees begging for a boon from the men whom he has a right to command, he does not feel injured and is not injured. Sir, he is injured; and every man who appreciates the honor and renown that belongs to that gallant old man is injured too, and will be injured just exactly as long as he or his fame rests under this cloud which these fifteen men have endeavored to draw between him and the American people.

The honorable Senator from Mississippi has mentioned one or two cases; and I am a little surprised that, knowing as much as he did, he did

mention them. One was a gallant act performed in Puget sound, and the other on the coast of Africa. Does he not know that those places are a great way off, and that the saloons and assembly rooms of Washington are a great deal nearer? Does he not know that the shore duty these gentlemen have performed is not on Puget sound, or on the coast of Africa? I could repeat more cases and make the list longer, and show him and tell him of men who were doing all that belonged to sailors and patriots and brave and honorable men, but they were doing it a great way off; they had not been to an assembly or ball here for years; they have not been doing what I believe is called bureau duty, [laughter;] I believe that is what they call it here in Washington; and, therefore—no, I will not say therefore they have been dropped, but I will say they have been doing it, and they have been dropped. I will let those put in the “therefore” who choose to do so.

Again, sir, I believe the honorable Senator from Michigan is a lawyer. I know he is, and a good lawyer, an eminent lawyer, [Mr. STUART. Thank you;] and yet he talks of the Star Chamber—the secret conclave that undertook to crowd these old men out of the Navy whom God in his providence had let live—as a court. The crime was that they had lived too long. They had been brave, gallant, and temperate men. They had lived too long, and therefore they were crowded off without a knowledge of what it was done for. I knew, but they did not. The honorable Senator from Michigan, lawyer as he is, speaks of that as a trial by which these old men have been condemned. What trial did Commodore Stewart have? I can speak his name, because it is historical. What did he know of what was going on against him? What did that man, who was maintaining the honor of your country at Puget sound, know? What did these men who were facing all the combined dangers which were to be found on the coast of Africa—taking their lives in their hands, and going with your commission in their pockets, and the flag of their country over their heads, doing and daring all that men could do and dare—what did they know of the charges that were being brought up against them, and which were to consign them to infamy and disgrace before the country? Talk of that as a trial! Why, sir, in my country, a man who would whip a dog on such evidence would be put under guardianship. [Laughter.] No, sir; it shall not be called a trial in my hearing without my challenging it. It was not a trial.

Again, the honorable Senator from Michigan speaks of these men as having been twice tried, and twice condemned! What is the second trial? What does this resolution propose? Does it propose to alter the law? Not at all. Does it propose to introduce new evidence? No; but simply to take the record as it is; take the story as it is told; take the facts as they appear; and if, upon that showing, and upon that record, without any further evidence, and without any hearing, the Chief Magistrate of the United States is of opinion that the men are fairly and rightfully entitled to their places, he can say so.

But there is another difficulty suggested by the honorable Senator from Michigan, and I am sorry to differ from him so much; I was in hopes of late he was coming to a ground where he and I could better agree. [Laughter.] He says we must not do this because there are some other gentlemen who have some how or other got into places by the action of these double courts, and it would be unfair to disturb them. I had that same logic played on me the other day, as I came from home to Washington. I had a very comfortable seat. By the rules of the cars I was entitled to it. I happened to step out, and one of these gentlemen (not one of these, but one of that school) got in and obtained my seat. I went along and asked him to give it up to me, and he bristled up and felt injured. He appeared to think I was trying to take that which belonged to him. He had got it, and had read somewhere that possession was the best evidence—nine points of the law, says the Senator from North Carolina, (alluding to Mr. Badger, lately a respected Senator from that State, who happened to occupy the seat of a Senator,) [laughter;] and he was unwilling to give it up. He had the same sort of feelings which the Senator from Michigan has for these gentlemen. I say if these gentlemen have got into these places, they have got into them wrongfully; they have

got into them by some sort of prejudice that exists in some minds that these dismissed officers have had a trial which they never have had.

I need not say to the Senate (because I have said it before, and it will be known by those who care to know what I think) what my opinion is of this whole proceeding. It is that it is disgraceful to the country, that it is a reproach upon our history, and it will stand so. As long as there is a victim of this injustice, I do not care where he comes from, high or low; he may be the gallant old commander of the Ironsides, whose fame cannot be obscured by these men, or he may be the humblest individual smarting under their injustice—so long as such a case exists, and so long as I have a voice in the public councils, or out of them, my voice shall be heard to vindicate that wrong and to do them justice.

Mr. COLLAMER. I do not propose to detain the Senate long, but justice to myself requires that I should make a few remarks. I voted before for the amendment of the Senator from Virginia, to allow the President to nominate officers for restoration to the active list, only in cases of vacancies occurring, when the number of officers should become such as is authorized by law. In that I think I was mistaken; and I intend, when the opportunity arises, to correct it as far as my vote goes; and I wish to give some reason for this change of position.

In the first place, if the President is to examine the reports of the courts of inquiry, and is, on examination, if he approves them, to recommend an officer here, by nomination, for restoration to his rank, I take it that implies that if he, on examination, disapproves them, he will not recommend him here by nomination. In relation to those whose applications the courts have rejected, I understand he does not feel himself at liberty to do anything, and by the law, as it stands, he is not authorized to do anything. I think that should be corrected. If the President has a right to reject those cases which the courts approve, clearly he ought to have the right to recommend cases which the courts reject. It seems to me that this is one of those legal corollaries which every lawyer will well understand. Now, however, you do not leave him the power of examining those cases which the courts reject. That, so far from commending itself to my acceptance, is the very reverse of the ordinary course of legal proceedings. If a man, who is tried for a crime, is acquitted, we let him go; but if he is convicted he has a chance for a new trial. Here you propose to reverse this order. To be sure, if the result is in a man's favor it may stand; but if the man is convicted, if the finding is against him, you do not allow him any relief. This seems to me to be directly contrary to the ordinarily received usages and practices of legal proceedings. The persons against whom the court have found, the persons whose applications have been rejected, are those who need relief. For this reason I have always been of opinion that I should vote for this resolution giving the President power to examine those applications which the court rejected, and to grant relief if, on examining the record, he thinks relief should be granted.

But, sir, in relation to the other feature of the case—whether we shall do this justice by restoring these officers now, or shall wait until the Navy be reduced to the number fixed by law—I must acknowledge that I was rather of the impression that it was desirable we should not increase the Navy; but on more mature reflection I think I was in error on that point. We have already advanced men to appointments in the Navy to fill the vacancies occasioned by the action of the first board. We have agreed to advance others who have been recommended by the new courts, and nominated by the President, if, on examination, we agree with him in opinion. By this means we have already provided for an increase of the number considerably beyond the limitation fixed by law. Now, suppose a man has been rejected by the courts of inquiry, and the President is of opinion that he has been improperly rejected, and wishes to nominate him for restoration. If we oblige him to wait for restoration until a vacancy occurs in his rank, he must wait until the supernumerary officers who have been added, shall all die off, and then if a vacancy happens in that rank, it may not happen in his old place. Suppose he was number eight; the vacancy may

happen in number twenty, or forty, or sixty; and perhaps he may have to wait until there is a vacancy in number eight; and if so, he may never get there; or if a vacancy should happen in number eight, or above that, he could not be nominated to that vacancy until the supernumeraries beyond the number now authorized by law had all died off. At last his time comes; where will you put him? You should make him number eight, in order to restore him to his old place, and if you do that you supersede all those who came upon the list after his displacement. It seems to me that this will necessarily produce a great deal of disarrangement in the order of precedence in the Navy, and that, therefore, it is not desirable to wait until that period. If this justice be done I think it should be done now. When injustice is discovered, it should be corrected as soon as practicable.

I am further induced to this belief from the consideration that the course proposed by the resolution, without the amendment of the Senator from Virginia, will not add to the expense at all, especially in relation to those officers who are now upon the leave-of-absence list; because, if they be put on the active list, they will not receive full pay until they be placed in active service; and if they be in active service, they displace some one below them on the list who then gets but leave pay. Thus it is evident that this does not involve any increased expense to the Government. For these reasons, I entertain the opinion that the limitation, moved by the Senator from Virginia, had better not be inserted.

Mr. DOOLITTLE. I have but little knowledge of military trials; but, from some experience in trials in courts of law, and some experience also in the administration of justice between man and man during the last twenty years, I feel satisfied that there is something in this proposition which does injustice or may do injustice to parties concerned. It must be borne in mind, Mr. President, that in these trials by naval courts of inquiry, or courts-martial, there is no provision for a new trial by the court itself; there is no writ of error; there is no appeal, except the appeal which is to be made to the Commander-in-Chief for his approval or disapproval of the findings of the court. And, sir, I place my vote here on the ground that in those cases where the court of inquiry has found in favor of an individual, there an appeal is given, because the President has the power to nominate that person to the Senate, and it may come before the Senate for consideration, and if the court has erred in restoring the individual to the active list that error may be corrected on examination by the Senate in executive session. But, sir, if an error has been committed for any cause by this court of inquiry by which the individual concerned is deprived of his rank, and, to a certain extent, deprived of his reputation, which may be dearer to him than life, there is no appeal. Is it not an anomaly in the history of the administration of justice between man and man, when, by the Constitution of the United States, if an individual be charged with an offense in a court of law it must be presented by a grand jury, he must be tried by a jury, he must have a fair trial by the court, and a court which is always empowered to grant a new trial; but here, when he is tried before a military or a naval court of inquiry, which has no power to grant a new trial after its finding is once made; and, if the court of inquiry decide against him, it is out of the power of the President to correct the error? Shall he have no mode of redress? It seems to me that it appeals strongly to the common sense, the common judgment, the common conscience of every man.

I shall not take up the time of the Senate; I have simply desired to state the ground on which I shall base my vote: that those persons who, for insufficient evidence, or for any other reason, whatever the influences may be or may have been, who may have been deprived of their rank, and to a certain extent deprived of the reputation which they may have earned in the service of their country, are without remedy, unless the resolution proposed by the Senator from Mississippi shall pass the Senate, and pass without the amendment which is proposed to it by the Senator from Virginia. I know the Senator from Michigan says, that if this resolution shall pass without this amendment, the President may nominate these persons to the Senate, and they may be restored

to their places upon the list, and in the regular line of promotion, just in precisely the same position in which they would have been if they had never been displaced. Is there any injustice in this? If, for any reason, they have been improperly displaced, is there any injustice in restoring them to the position which belongs to them, to the grade and rank, and the opportunity for promotion, which is their right? There is no injustice in that.

But, in replying to a remark of the Senator from Mississippi, the Senator from Michigan puts this question: "Will not these men who hold the places which they once held, and from which they have been displaced, ever die?" Is it an argument to be addressed to this body, that these men, who have been wrongfully deprived of their rank and position, must wait for other men to die before justice is done them—that they must wait for their juniors to die who have been put into their positions? There is, it seems to me, no justice in an appeal like this to the consideration of the Senate.

I shall vote against the amendment introduced by the Senator from Virginia, and shall desire to record my vote for the original resolution as it stood when introduced, in the hope and in the belief that justice may be done in cases where it is urged, and where, from the statements made by honorable Senators on this floor, the most manifest injustice has been done to individuals who have been retired from the Navy.

Mr. CAMERON. Mr. President, I did not intend to say a word on this subject, nor to do more than by a silent vote to endeavor to do justice to these people who, I think, have been wronged; but I cannot help rising for the purpose of thanking the Senator from New Hampshire for the just tribute he has paid to that great man—a native and a citizen of my own State—who is justly the head of the Navy. Sir, without "old Stewart" you would have no naval history at all. He has done more for the renown of the Navy than all the men who lived before him, or in his lifetime; and yet that man has been stricken down and disgraced in his old age. Instead of thus disgracing him we ought to have paid him some such honor as we paid General Scott for his great services in the Army. If we have it not, we ought to have created the rank of Admiral, and conferred it on Commodore Stewart. But, instead, that old man has been disgraced in his old age.

I shall vote for the motion of the Senator from Virginia to reconsider the amendment of his colleague for the purpose, as I hope, of doing justice to all these people; for, when you have once confided this discretion to the hands of the President, there will be no prejudice, and ultimately every man will be restored to his proper place. When these gentlemen entered into the service of their country, we made a contract with them, an implied contract, that so long as they behaved themselves well they should be continued in the service, and be promoted as often as opportunities offered. In place of that, after many of them had spent almost the whole useful part of their lives in the service of the country, we turned them out to pick up their living as best they can. We have treated them as a parcel of old stage-horses; we have turned them out to starve after we have used their manhood.

Mr. WILSON. I intend, Mr. President, to change the vote I gave the other day in favor of the amendment proposed by the Senator from Virginia, [Mr. HUNTER.] I gave that vote because I did not wish to increase the number of officers in the Navy. We have already too many. I apprehend that that is our chief trouble. When the original bill was brought up in 1855, I did not vote for it, although I was present. I believed that we needed reform in the Navy, but I was in doubt in regard to that measure. I have no doubt that mistakes have been committed under that act. Yet I have no doubt that reforms, needed reforms, have been brought about by its execution.

This matter has been before the Senate day after day during the last two or three years. I think the Senate and the country are heartily sick of it. We have been importuned from every quarter. We have passed an act to remedy the action of the old board. Officers have been before these new courts, and they have pronounced upon their cases; but they are not content with this, for they come here and ask for the adoption of the resolu-

tion which is now pending. I thought it was reasonable to adopt the amendment proposed by the Senator from Virginia, to give these persons an opportunity to be restored, if the President should so decide, only when vacancies occurred; but, after listening to the statement of the Senator from Mississippi, whose position and whose experience in regard to the Army and the Navy empower him to speak with some degree of force, I have concluded to change the vote I gave the day before yesterday, and to place the whole matter at the discretion of the President.

Mr. DOOLITTLE. I understand the question before the Senate to be on the motion to reconsider the vote by which the amendment was carried.

The PRESIDING OFFICER. That is the question.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on the adoption of the amendment of the Senator from Virginia.

Mr. STUART called for the yeas and nays, and they were ordered.

Mr. HALE. Let the amendment be read.

The Secretary read it, as follows:

Provided, That nothing herein contained shall be so construed as to allow the increase of the number of officers on the active-service list as now authorized by law.

Mr. BIGGS. The Senator from Virginia [Mr. MASON] being called from the Senate by important public business, I agreed to pair off with him and not to vote.

The question being taken by yeas and nays, resulted—yeas 14, nays 30; as follows:

YEAS—Messrs. Allen, Brown, Fessenden, Foster, Hamlin, Hunter, Johnson of Arkansas, Johnson of Tennessee, King, Mallory, Stuart, Trumbull, Wade, and Yulee—14.

NAYS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Crittenden, Davis, Dixon, Doolittle, Douglas, Durkee, Fitch, Fitzpatrick, Foot, Green, Gwin, Hale, Harlan, Houston, Iverson, Jones, Kennedy, Pearce, Polk, Pugh, Seward, Simmons, Toombs, Wilson, and Wright—30.

So the amendment was rejected.

Mr. COLLAMER. I have an amendment to offer, to add at the end of line twelve the words, "within six months from the passage of this resolution;" so that it will read:

He shall have authority, any existing law to the contrary notwithstanding, within six months from the passage of this resolution, to nominate, &c.

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

EXPLANATIONS.

Mr. FITCH. If there is nothing before the Senate I desire to make an explanation, in part political, in part personal to myself. It is known that at, and immediately subsequent to, the period of the presentation of the President's annual message to this body, an eminent Senator took issue with the President on certain matters contained in that message. It is further known that that issue has excited considerable feeling and discussion throughout the country. On the 8th of this month a State convention of the party to which I belong assembled at the seat of government of my own State—the first State convention, at least in any northern State, of that political party since the delivery of the message. It is known, I presume, that the result of the deliberations of that convention was looked for with no little interest, not only by the immediate representatives of that State, but by others, as the first expression of public opinion which would reach here relative to the merits of the case involved in the issue to which I have alluded. While we were looking with no little anxiety for the result of its action, a general telegraphic dispatch was published by the newspapers, I believe of the East, stating that it had emphatically indorsed the Administration. Before, however, any authentic detail of its proceedings reached here, a special dispatch was published in the *Intelligencer* and *Globe* of this city, in the form of a resolution, purporting to have been adopted by that body, published under such circumstances as to induce the belief, indeed under such circumstances as showed a design to convey the impression, that it was the only resolution passed by the convention on the subject-matter of the issue to which I have referred. A construction, furthermore, has been put on that resolution which has been industriously circulated by the letter-writers for the Republican press in several

of the northern States—a construction which made the resolution condemn the Administration and the Senators from Indiana who were sustaining its policy; and which made it sustain and indorse the Senator who took issue with that policy, although no mention of, or allusion to, the Administration or that Senator is to be found in the resolution.

Sir, I would not remain on this floor a moment if I supposed that in any act or vote I was not reflecting the sentiment of a large majority of my political friends in Indiana. Although the State convention was not a body which could properly give me binding instructions, yet it was an assemblage of my political friends, the representatives of that party to which I belong, and therefore a fair reflex of the opinions of that party; and of course its opinions, if they might not absolutely control, should and would at least color my action here. The impression which it has been industriously sought to create, that the convention adopted resolutions condemnatory of my course, would, if it were a true construction, place me in the attitude of misrepresenting the Democratic party of my State. I will call attention to the resolution as published in the *Intelligencer*, and in the *Globe*, where it appeared by itself, without any accompanying statement of the fact that other resolutions had been adopted by the convention, indorsing the President and the Senators from Indiana, without any accompanying reference as to any other action of the convention, leaving it, as already said, to be inferred that the resolution was the only expression of opinion relative to the present unfortunate issue. Here it is:

Resolved, That we are still in favor of the great doctrine of the Kansas-Nebraska act, and that by a practical application of that doctrine the people of a State or Territory are vested with the right of ratifying or rejecting at the ballot-box any constitution that may be framed for their government; and, therefore, no Territory should be admitted into the Union as a State without a fair expression of the will of the people being first had upon the constitution accompanying the application for admission."

I grant that the language of the resolution, as thus published—especially when accompanied with a positive declaration, as it was when it was exhibited in this city, that it was designed for the purpose—justified the supposition that it was condemnatory of the Administration, and supported the view maintained by the Senator from Illinois, in opposition to the President's opinion that it may be the lesser of evils, in view of all the circumstances, past and present, in Kansas, to admit that Territory as a State, under the constitution which it was supposed was about to be presented.

After reciting the acknowledged and correct Democratic doctrine, that the people of a State or Territory are invested with the right of ratifying or rejecting any constitution framed for their government, it proceeded to say, that "therefore" no State should be admitted without a fair expression of the will of its people on their constitution. Such a "fair expression" has been doubtless had in the case of Kansas, or at least an opportunity offered for it. The word "therefore" would imply that the convention intended to apply the resolution to the present as well as future cases. I am advised such was not their intention. The language of the resolution as it passed is perverted in the pretended copy I have read, by whom, or for what purpose, I know not, and care not. By some sort of telegraphic or other legerdmain, a word is inserted which is not in the original resolution—a word by which its meaning is made quite different from that meaning really attached to it when it was passed by the convention. The resolution, as passed, is a mere reiteration of the doctrine proclaimed in the President's message. It will be remembered that in the message he expressed his regret that the entire constitution of Kansas had not been submitted to the people, and said:

"I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State, may be followed on future occasions."

The resolution as passed by the State convention of Indiana, on the 8th of January, reiterated this doctrine. Here it is, from the official proceedings of the convention:

Resolved, That we are still in favor of the great doctrine of the Kansas-Nebraska act, and that by a practical application of that doctrine, the people of a State are vested with the right of ratifying or rejecting, at the ballot-box, any constitution that may be framed for their government; and that,

hereafter, no Territory should be admitted into the Union as a State without a fair expression of the will of the people being first had upon the constitution accompanying the application for admission."

This is the very doctrine advocated by the President, and there is no justification in the language of the resolution for the attempt to so pervert its meaning and so misrepresent the sentiment of the convention as to make them indorse any gentleman or any party who might choose to take a position in antagonism to the Administration. The construction placed on the resolution as it was published in the papers of this city, and the comments of Republican letter-writers, imply the existence of a faction within the Democratic organization of Indiana. There is no such thing. In that State the Democratic party is now, as it has ever been, a unit, upon all matters of political principle. It recognizes no faction. None exists within it. Its members may differ upon questions of expediency, and relative to men; but there is little, if any, difference upon principle. It was a unit in support of the nomination of the President at Cincinnati, and in support of his election; and it will continue a unit in his support, unless in the very improbable event of his abandonment of its principles. There lies before me a letter from an active and leading delegate to the convention, in which he reiterates, in the language I am about to read, the sentiment that was proclaimed in the published debates of the convention. He says:

"What I wish to call your attention to, is that ***** who appeared to be considered a leader of the Douglas men, stated emphatically several times, and reaffirmed the declaration, when Mr. ***** stated it and appealed to him for its truth, that the resolution was not intended to apply to any measure, men, or locality, but as the statement of a general proposition, applicable to future contingencies. In that view of it alone could it have passed. Had it been regarded as implying any condemnation of the Administration, Mr. BREWER, and yourself, it would not have passed."

This, as I have said, is corroborated by the debate in the convention; for, as published, one delegate known throughout the State for his eloquent advocacy of the principles of the Democracy during the late presidential canvass, and a warm friend of the Senator he mentioned, stated, as reported in the *Sentinel*, "This was a convention of the national Democracy. There were no two parties. There was no Douglas party here." Sir, I am rejoiced that the resolution passed. It is a renewed declaration of a principle endeared to the Democracy—one upon which, I trust, it will always act. There may be an unfortunate difference of opinion as to whether the principle has been properly carried out in Kansas, in consequence of the difficulties in that Territory. But that is a difference only as to the extent of its application in a particular case. It affects not the principle. That remains the governing rule of action of every Democrat—a principle in defense of which we all rally.

Yet, sir, the spurious copy of the resolution has been used in this city, by whomsoever had it in possession, for the purpose of conveying the impression that it was a condemnation of the Administration and a support of a gentleman who has arrayed himself against it, on the extent and manner of the application of this principle, and the kindred one of non-intervention in Kansas, and this impression has been industriously circulated for purposes best known to those who have done it.

Mr. DOUGLAS. Mr. President, I have no desire to interpose—

The PRESIDING OFFICER. (Mr. BIGGS.) The Senator will indulge the Chair a moment. The Senator from Indiana, the Chair understands, has made a personal explanation. There is nothing pending now before the Senate for the decision of the body.

Mr. FITCH. I merely desired to show that I was not acting in antagonism to my political friends at home.

Mr. DOUGLAS. As allusion has been made to me, I ask the same courtesy.

Mr. FITCH. With the permission of the Senator, I will state that I only made the allusion because it was contained in the papers which I have been compelled to read. I have made no intimation as to any part the Senator has taken in it, if he has taken any, and I do not know that he has taken any.

Mr. TOOMBS. I do not wish to make any point of order, but all this is very disagreeable to

me. I think it ought not to be indulged by this body. I do not think it is properly a personal explanation. Party rumors and newspaper remarks, in regard to party conventions, are not properly in order as topics for personal explanations in the Senate. This is not the proper place for them.

The PRESIDING OFFICER. The Senator from Indiana addressed the Chair. The Chair did not know what his purpose was or what he was about to conclude with, but now understands it was for the purpose of making a personal explanation. It was permitted by the Chair—no Senator objecting. Nothing is now pending before the Senate. The Senator from Illinois, the Chair understands, rises for the same purpose—to make a personal explanation—and if there be no objection, he will proceed.

Mr. HALE. I shall want the same privilege to explain the resolutions of the New Hampshire Democratic central committee. [Laughter.]

Mr. DOUGLAS. As I stated before, I have no disposition to interpose one word in a matter between the Senator from Indiana and his constituents. Whatever differences of opinion, if any, exist between that Senator and those whom he represents, they are matters with which I have nothing to do; upon which I have no comment to make; and with which I have no wish to interfere in any way.

Allusion, as I said before, has been made to me in a manner which I thought perhaps required a word from me in reply or explanation. A telegraphic dispatch, of the exact purport of that to which the Senator alludes as having been published in the *Intelligencer* and in the *Globe*—I have not seen the *Globe*, but I understand it was in that paper—was sent to me several days ago. I read it, and laid it on my table in my library. The day afterwards several gentlemen called upon me, and asked if I had received any information from Indiana, and I read the dispatch to them. Two of them asked me if I was willing that they should take copies of it. I said, certainly; and they copied it on my table. It was not confidential. On the other hand, I had no desire to have it published. I had had it one or two days lying open on my table, so that any one could see it. It is probable, though I have not the means of knowing, that the dispatch got into those papers from the one sent to me; but it is possible that a similar one was sent to those papers. On that point I have no information. With regard to the intimation that the dispatch conveyed a false or erroneous impression, I do not think it is well founded. That dispatch, as I recollect it—I give it word for word as nearly as I can—was dated at Indianapolis, and was signed by three gentlemen. It stated that the convention indorsed the Cincinnati platform, and sustained the Administration. It also stated that the convention had adopted the following resolution:

Resolved, That we are still in favor of the great doctrine of the Kansas-Nebraska act, and that by a practical application of that doctrine, the people of a State or Territory are vested with the right of ratifying or rejecting at the ballot-box any constitution that may be framed for their government; and, therefore, no Territory should be admitted into the Union as a State, without a fair expression of the will of the people being first had upon the constitution accompanying the application for admission."

It seems that the telegraph substituted the word "therefore," for "hereafter," and that is the only variation in the dispatch. But is it true that that dispatch conveyed the idea that the Administration had been condemned, when it stated in so many words, "Cincinnati Platform indorsed; Administration sustained; and also the following resolution adopted?" That was the dispatch. There was no possibility of any misconception. Whether the "following resolution" was any reflection on the Administration, every one could judge for himself, but certainly the dispatch did not say so. The only question is, whether the telegrapher in mistaking the word "hereafter" for the word "therefore," has changed its sense at all. The resolution, as passed by the convention, is:

"That we are still in favor of the great doctrine of the Kansas-Nebraska act, and that, by a practical application of that doctrine, the people of a State or Territory are vested with the right of ratifying or rejecting at the ballot-box any constitution that may be framed for their government; and that, hereafter, no Territory should be admitted into the Union as a State without a fair expression of the will of the people being first had upon the constitution accompanying the application for admission."

That resolution declares that the Kansas-Nebraska bill required that the people should have an opportunity of voting for or against their constitution before it was admitted. That resolution declares that, by the Nebraska act, the right to vote for or against was a vested right. Does it propose, then, to take from the people of Kansas a right vested by the organic act; a right guaranteed by the Cincinnati platform; a right indorsed and reaffirmed by the President's inaugural address? No, sir; they declare that the right to vote for or against the constitution being vested by the Kansas-Nebraska act, hereafter no Territory should be admitted as a State unless that fair expression has been had and shall accompany the application for admission.

The people of Kansas have not yet applied for admission. They have not yet sent up their constitution, though it is probable that during the present session they will send it here. It is probable that "hereafter," to wit: during this session, they will send up that constitution; and the Indiana convention say that that constitution should not be accepted unless it be accompanied with evidence that it was adopted by the people on a fair vote, when they had a right to vote for or against that constitution.

Sir, take that resolution as it is; and if I understand it aright, it is a clear and unequivocal expression of opinion that when Kansas shall come with a constitution, if there is not the evidence that it has been submitted to the people at the ballot-box for ratification or rejection, it should not be admitted into the Union. "Hereafter" implies that the application is to be made "hereafter," in contradistinction to the cases cited in debate where, heretofore, when there was no opposition, we have admitted States without their constitution being first submitted to the people; for instance, the Florida case, and perhaps one or two others; but "hereafter" it is not to be done. "Hereafter" applies to the applications to be made hereafter; and to show that it meant Kansas, it says that the right to have it thus submitted for rejection or ratification was guaranteed in the Kansas-Nebraska act; that it is a vested right under that bill; and consequently you cannot take it away from them in this case. Was it the meaning of that convention that you should take from the people of Kansas, in regard to the application which they are about to make, a vested right—a right not only vested by the Kansas-Nebraska act, but indorsed by the Cincinnati platform, and reaffirmed in the President's inaugural? No, sir. It is clearly stated there, that hereafter that thing must not be done. They stand by the President. They approve of his course as they understand it. I have shown you in my speeches that I approve of the President's course on this question as I understand it; but I did not understand him as recommending the Lecompton constitution.

This is all I have to say. I should not have said thus much but for my name being brought into the matter. I have never interfered, directly or indirectly, with Indiana politics, and I do not intend to interfere with them. I was surprised to find that my name was mentioned in the discussions or the letters that have been written. I have no desire at all to influence, directly or indirectly, the proceedings of their convention. Whether the Senator from Indiana has construed their resolutions rightly or not, whether his action will be conformable to their wishes or not, is a matter into which I have no right to inquire, and do not desire to comment upon. It will be between him and his constituents; and whatever they shall say about it I shall take for granted is right. In other words, I propose to let him alone in his State, and propose that everybody shall let me alone in the State that I have the honor to represent.

Mr. HALE. I was going to trespass in the same way as has already been done, to interpose a personal explanation in reference to this matter.

The PRESIDING OFFICER. (Mr. Briggs.) The Chair will repeat, that there is no question now pending before the Senate. Does the Senator from New Hampshire rise to a personal explanation?

Mr. HALE. I cannot exactly call it personal, but it is personal as much as the explanations that have been made are. [Laughter.] I wanted to explain the proceedings of the New Hampshire Democracy on the Lecompton constitution.

[Laughter.] It comes as near personal as the others.

The PRESIDING OFFICER. The Senator from New Hampshire can only proceed by unanimous consent.

Mr. FITCH. If the Senator will allow me to complete the explanation in regard to Indiana, I will not object. I give warning that I will not go off into a discussion of Kansas matters.

The PRESIDING OFFICER. If any Senator objects to this discussion, it must close.

Mr. FITCH. I desire to say a word or two in addition to what I said before.

Mr. HALE. I will sit down.

The PRESIDING OFFICER. The Senator from Indiana desires to make a personal explanation. There is no question now pending before the Senate.

Mr. FITCH. I desire to continue the explanation.

Mr. DOUGLAS. There is no objection, I think.

The PRESIDING OFFICER. If there be no objection, the Senator from Indiana will proceed. The Chair hears none.

Mr. FITCH. The Senator speaks of some dispatch other than the resolution. The dispatch to which I referred was the resolution itself—nothing else. The Senator says he received it, and from his library the copies of it went out. From thence, then, probably, went the construction of it to which I have alluded as an improper one. I dislike to have those whom I represent misrepresented here, either by myself or any one else. The Senator from Illinois places his own construction on the resolution. It is his right to do so. I do not object to that; but I greatly prefer that the explanation of my constituents, the Democrats of Indiana, should be the one received, and not that his should go abroad again as it has done from the Senate heretofore through the press and letter-writers. He places his own construction on the resolution; they put theirs. I think the actors in the scene are far better entitled to have weight given to their testimony than the Senator himself, who is an outsider and directly interested in putting such construction on it as will sustain him. If any construction of the resolution has been given, as it has, which would make it condemn myself and colleague, I think, notwithstanding what was said by the Senator from Georgia, that it is a proper subject for personal explanation; for I do not believe that Senator or any other would desire to sit here misrepresenting his constituents, as would be the case if I were here subsequent to the adoption of a resolution by my party friends at home condemning my course and lauding that of another gentleman who was opposed to that course. If it was the design of the convention to sustain and indorse that gentleman (the Senator from Illinois) against the President and the Senators from Indiana, why did it not adopt the resolution as first introduced? In that shape it would have sustained him; but they amended it in such a manner as to make it sustain the Administration and not him. The resolution as adopted was materially different from the one first introduced. As adopted it is a general declaration of an abstract principle, to which the entire Democratic party was committed, a principle which I have defended with its kindred one of non-intervention for years, and I have admired the courage and talent with which the Senator from Illinois himself defended them. It was a declaration of principle to which no good Democrat would take exception, a declaration affirmed by the President in his message, and it was in part because he had affirmed it that the convention sustained and indorsed him. No exception can be taken to the resolution. It is right, and rightly adopted. It is only the use to which it is sought to be applied here that I except, a use not warranted by its language.

I have no disposition to go off into Kansas matters, or into any discussion or quibbling as to the meaning of the Kansas-Nebraska bill, or anything of that kind. All that will be the subject of discussion when Kansas matters properly come before us. The Senator, however, makes a distinction which does not in fact exist; he says the word "hereafter," in the resolution, applies to the present Kansas matter. You know, sir, and the whole world knows, that we are now deemed to be acting on the Kansas question; that is con-

sidered as before us, and therefore the word "hereafter" does not apply to it. It is now here under discussion. If the constitution is not here, certainly the message and documents on the subject are. The word "hereafter" in the resolution, like the President's language in his message, refers to any "future" case. The present case—Kansas—has difficulties and complications surrounding it which may well create diversity of sentiment as to the proper method of managing it.

I was very glad to hear the Senator from Illinois disclaim any intention, past or future, to interfere with Indiana politics; for I am sorry to say, if such has not been his intention, that he has been sadly misrepresented by his friends. Two of his friends from the city of his residence were, I am well informed, in and about the Indianapolis convention of the 8th, seeking to control its action, and professing to represent his interest. They were charged, or at least one of them, I understand, with being there, and having been sent there for that purpose; and the one thus charged had not the hardihood to deny it. They were not carrying out the doctrine of non-intervention. I am glad he repudiates their agency and their acts. I know that he has thousands of friends in Indiana; and he has had no better friend in that State than myself. I have advocated his policy with pleasure through more than one canvass, and I would do it again with all the more pleasure if that Senator should be our political standard bearer, entertaining now the views of non-intervention which he has entertained in the past.

Mr. HALE. Mr. President, I do not wish to interfere in this matter at all, but I think there is something due to the truth of history. I understand that I am speaking at the mercy of everybody here, and anybody can stop me; but I say that when you come to consider the resolutions of the Democracy of Indiana, and some others which preceded them, they should be tenderly treated; because you have been pushing the Democracy of the North very hard—very hard indeed. You have pushed them so hard that there is no place where they can live in the New England States except the custom-houses and post offices. Those are the only places they have left in which to live. I have no doubt they begin to feel this pressure in Indiana, though they have stood up pretty manfully there, and I have equally as little doubt they have been very badly gored in Illinois; hence when you come to speak of their resolutions, they should be treated with a tender consideration of all these premises.

I said that I would not interfere in this quarrel, and I have not a word to say about the Indiana resolutions, except that they are not original. They are a plagiarism. I have sent for, but I have not been able to obtain, a paper containing the original. The original was adopted at a meeting of the Democratic State central committee of New Hampshire, held about a fortnight ago. We have an election to come off there in about two months; and in that State it is a hard time generally, and especially with the Democracy, in view of what is coming, as well as what is. They met in Concord before the Indiana convention met, and took the matter into consideration, and they labored upon it. It was not a mass convention, but some twenty of the sachems met, and they ciphered out a scheme, a theory, a plan, which the Indiana folks have adopted; but I think it would have been better if they had waited to see how it succeeded in New Hampshire before they took it.

I will tell you what the New Hampshire plan was. They resolved that they were in favor of the Cincinnati platform and the Kansas-Nebraska act, and very much opposed to the Lecompton constitution. Well, sir, that was all well enough; but, considering the localities—the custom-houses and post offices—what was to be done with Mr. Buchanan? That was the hard part of the case, and I will tell you how they got over it. They resolved that they were very much opposed to Mr. Buchanan's measures but very much in favor of him. [Laughter.] They were entirely opposed to this measure of pushing a constitution on a people against their consent, but exceedingly in favor of the man who is doing it. [Laughter.] That is the platform on which they are going into the campaign on the second Tuesday of March. If the Indiana folks were not in a hurry—I do not wish gentlemen to push back *Timeo Danaos* on me—it would have been better had they waited

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until the second Tuesday in March, and seen the result of the plan of indorsing a man and repudiating his measures. They are very much opposed to forcing a constitution on a people, and very much in favor of the man who is doing it! My own impression is that the Democracy of New Hampshire will get one credit by it, and only one. I do not think they will get success, but they will get the credit of originality, and I think Indiana has done them injustice in that particular.

Mr. FITCH. Will the Senator from New Hampshire read the other resolutions adopted in Indiana, and see if they were copied from New Hampshire?

Mr. HALE. I do not think they were.

Mr. FITCH. They emphatically indorse the Administration and its measures too.

Mr. HALE. They have not been pushed so hard there as in New Hampshire. [Laughter.] They can afford to be a little bolder there than they can with us. All they have done with us is to repudiate the measure and praise the man.

Having made this explanation, I thank all the Senators, collectively and individually—because anybody could have stopped me—for the opportunity to interpose this explanation; and having said this, I give notice that I am going to object to anybody else putting in. [Laughter.]

On motion of Mr. BIGLER, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 13, 1858.

The House met at twelve o'clock, m. Prayer by Rev. ANDREW G. CAROTHERS.

The Journal of yesterday was read and approved.

Mr. J. GLANCY JONES. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN stated that the pending question was on the amendment of the gentleman from Massachusetts [Mr. THAYER] to the amendment of the gentleman from Tennessee, [Mr. MAYNARD,] moving the reference of a certain portion of the message to the Committee on Military Affairs; and that the gentleman from Iowa [Mr. CURTIS] was entitled to the floor.

Mr. CURTIS. In the remarks which I made last evening, Mr. Chairman, I undertook to show that it has been the policy of this Government, from its earliest history, to endeavor, in various ways and in different sections of the Union, to restrain its citizens lest they should involve us in difficulty and war with other nations of the earth. I appeal to you, sir, and to the gentleman from Mississippi, [Mr. QUITMAN,] whether, in every instance where this Government has exercised this power, it did not appear necessary and proper, and did not restrain our citizens within due limits without imposing upon them improper restraints; and whether it did not, at the same time, secure to this country its peace and honor among the nations of the earth? Why, sir, what would have become of our relations at the mouth of the Mississippi river, if it had not been for the check given to Burr and his expedition? We would have been involved in war with Spain, so as to have precluded the possibility of a treaty which soon after secured us that country, which would probably have still belonged to Spain. Instead of having representatives here from the State of Louisiana and the State I have the honor in part to represent, that vast territory west of the "Father of Waters" might still have been retained and represented by the hidalgos of Old Spain.

In the instance referred to as the interposition by President Monroe, to prevent incursions into Florida, and the usurpation of power by a law-

less foreign invader of Spanish domain, that also saved to us a change of government which, in all probability, would have long postponed, or perhaps entirely defeated, the treaty which secured to us the two Floridas. And such was the encroachment upon the territory of the gentleman from Georgia that, had it not been for the interposition of the Government, that State might have fallen under the control of the Spanish or the revolutionary authorities, and there would have been no Representatives in this Hall from that State. It has been by the restraint which the neutrality laws have put upon our citizens, that our country has been sustained in its position among the nations of the earth, and that our citizens have been prevented from lawless assaults upon neighboring nations, with whom our country has maintained relations of friendship and peace. Is there any cause now? do recent events—does the history of our country for the last few years, impose new necessities for the repeal of these neutrality laws? I argue that there are none in the past history of the country; and if gentlemen will contemplate the policy of our Government during the last four or five years, they will see how unfortunate it is that these laws have not been executed against various repeated disturbances of neighboring Republics. So far from recent events presenting an argument for repealing these laws, the misfortune is that, either in their form, or because of negligence on the part of the late Administration, these laws have not saved our neighbors from devastation, and our national honor from unfortunate reproach.

Mr. Chairman, the expedition of this man, Walker, which has given occasion to the present debate, is the strongest possible evidence of the necessity of a vigilant execution of the neutrality laws, and their maintenance, or enlargement of their power to restrain wrong. If these laws had been better executed—if the Administration had not, to some extent, permitted these expeditions to have gone on, we would now have no occasion to discuss this matter in this Hall. There would then have been no controversy as to the relative merits of this General Walker and one of the commanders of our Navy, who took and sent him home as a criminal escaped from the justice due him; and the question would not be before us as to which of them was the better man—he who led the expedition, or the man who checked and concluded it.

Why, sir, is this country induced to take up this question of Central American affairs? Why has our attention for years past been called to that particular theater instead of the eyes of the nation being turned to the development of the interior of our own country. I think there is a fundamental error in the assumption upon which all this Central American sympathy is based: that is, that Central America is the especial or only route for the highway of nations; and being such a peculiar locality, it should be controlled by us. Where is Central America? You who live upon the sea-board, and are in the habit of contemplating distances as immaterial when you have connections by sea—you may regard the distance of trifling importance; and because your vessels often float that way, you feel that the distance to Central America is comparatively short; but we who live in the central portion of this Union look at the long line of travel before that territory can be reached. We have to pass all the Mexican States; we have to pass a thousand miles through or round a Republic that is always a political antagonism to our own; we have to pass a dominion where the inhabitants speak a different language, adopt a different religion, and different institutions. Eight millions of Mexican inhabitants lay between this country and Central America. Central America is, therefore, not contiguous; is very remote; and there are intervening all the States of Mexico, all of which are political antagonisms to us. Why, then, do gentlemen turn their eyes so far away from our own country to seek for an opportunity to display our patronage and power? Why do they go beyond the Rio Grande for the purpose of exercising

the functions of this great Republic? Why are our citizens stimulated, by frequent reference to these Central American States, to go to seek for themselves fortunes and fame far beyond their own country? It is because of this fundamental error which exists in this country in regard to Central America being the route for commerce, and, therefore, the key to this continent.

This, Mr. Chairman, brings me to the second proposition in view of this particular point. What is Central America? It is an iron ligament connecting the twin sisters of North and South America. Instead of being a single point, as many imagine looking at the maps in circulation, it is a long range of mountains more than one thousand miles in length; having, therefore, on both sides, at least two thousand miles of sea-shore, equally accessible to all the nations of the earth. It is mountainous, and a wilderness inhabited only by semi-savages, although people of all nations, for years past, have had full knowledge of its advantages, and the utmost facilities to settle and become permanent citizens. It is a sultry and sickly region of the earth, and therefore shunned by all who are not compelled to remain there from demands of most important business or public duty. It was not inhabited by the Spaniards who first conquered it; and, sir, it will not be inhabited by the people of this country as long as our broad savannas, rich prairies, and fertile fields of the West, are open to cultivation. In the face of these physical and local objections to this narrow, inhospitable shore, this Government has been directing its power and its patronage to the settlement and control of these Central American States, to the great neglect and the diversion of settlement and travel from the interior of our own country. The whole effort has been directed to the accumulation of power, and, as the treaty says, to the protection of the neutrality of these Central American routes of commerce.

This affection for Central American channels of trade, which requires to go by sea two thousand miles before attempting to cross this continent, grows out of another error that water communication is better than land. I know that this idea has existed so long, that the great highway of nations will always be by sea, wherever seas can be found, and that land will be disdained for the commerce of the world, that my voice is too feeble to controvert or change its convictions on the public mind. I will not attempt it. Even if I desired to do so, I have not the time; nor would it be considered germane to the subject before the committee. But I will say that the time will come when it will be easy to demonstrate to the people of this country that the highway of nations will be by land, and not by water, wherever land of ordinary topographical features can be found upon which iron rails can be laid and locomotives execute their ordinary functions. If you were going to New York, would you, sir, go by sea or by land? Certainly, by land; for the voyage round by sea is circuitous and much longer. So it is from this point to San Francisco. The discrepancy is greater between the water and land route than it is between this point and New York. Would you travel from this point to Charleston by land or by sea? Unquestionably by land. And when you travel by land, you will transport by land; for most of the value of commerce will find the traveled route the most economical route for transportations. I tell you that the direct route to the Pacific is westward, across this continent; and it is not true that the highway of nations is by water, and by the isthmus of Central America.

These Central American States, as I have said, are comparatively a wilderness, barren, mountainous, sultry, and sickly, and those who have been there look back upon the country with dread or disdain. How many of our citizens have perished there on their way to California and on their return? Why, sir, they have gone down to their watery graves, not in single file, but in great armies, and the route by sea and by land has been strewn with the nation's victims that have perished by the way. The isthmus through

which they passed is covered with the rounded earthy monuments that mark the path of death and desolation at almost every step of this favorite way. Such is the character of the Panama route; and take any of these proposed lines, and you will find the same obstruction and the same forbidding aspect to deter the world from preferring the isthmus when other more congenial countries have lines constructed through. I say, further, that the length of line which you attempt to hold power over is a serious objection to adopting this country as a dominion for us to maintain or protect. I submit, therefore, that it is an error to suppose that Central America is the key of this country, and if it were you have not the power to hold, maintain, and protect it. A thousand miles on either side gives two thousand miles of sea-coast to protect. The President suggests, in his recent message to the Senate:

"We desire, as the leading Power on this continent, to open, and, if need be, to protect every transit route across the isthmus, not only for our own benefit, but that of the world, and thus open a free access to Central America, and through it to our Pacific possessions."

Then he is for opening every route through the isthmus, and then he also proposes "if need be to protect" them. Do you not see that you are undertaking too much? What are you attempting to do? How many routes do you suppose are proposed to be made as transit routes through that isthmus? Commence at Tehuantepec and go down through Nicaragua, Honduras, Costa Rica, and Guatemala, and through all distant territories of that thousand miles of isthmus country, and you will find ten or fifteen routes proposed to be made great highways. Each one of these routes would require a Navy to protect it. How do you protect the Panama route? You have a treaty, which calls upon the President, as you perceive in his annual message, which requires him to keep a squadron of our Navy at each end of that route, "to guaranty the neutrality of the isthmus of Panama, through which the Panama railroad passes, as well as the rights of sovereignty and property which New Granada has possession over the said territory." You recollect the events which have already occurred. You have attempted by treaty and by the presence of your Navy, to take possession and hold this line, and it is now costing you millions every year to sustain that power. If you go on and undertake to possess yourself of these ten or fifteen proposed routes through the isthmus, what kind of an army and navy will you require?

At one time, Commodore Mervin had upon the Pacific shore seven hundred sailors and marines, and at the same time he had three vessels armed with ninety or one hundred guns. Three or four vessels have thus been standing sentry there to guard the shores of a foreign country. And upon this side Commodore Paulding has been required to keep under command a similar force, and that, too, while the country is at peace with all the world. What, then, would be the force required to defend "all the routes" which the President wishes to "open," and, "if need be, to protect?" Not four regiments, or seven vessels; but ten times this force will not guard all the entrances for all these lines. You are undertaking more than this nation can or will perform. Instead of going directly west to find your way to India, or to San Francisco, you start, according to our present isthmus route of travel, directly south, and you go by the ocean instead of by land. If the railroad connection is carried through our continent, you can go to California in five or six days. It will be in a straight line, while you now take a circuitous route—two long sides of a triangle, instead of the short line across the continent. And, should this Government embroil itself in a thousand difficulties and controversies for the purpose of holding this part of the continent, which in reality cannot be possessed and cannot be held? What, then, have we gained? Not the short or natural or safe route for commerce; but an everlasting tax on the people of this country to "protect and control." I say it cannot be held, because the country is too long, too remote, and too sickly; and it is too convenient for other nations to send in their navies, and too poor and mountainous to sustain a sufficient standing army.

There never can be a key to this great continent. There are too many open doors. There are too many passes through our own interior;

there are too many through Mexico; too many through Central America; and too many through South America, for any one Power to control the destinies of this great continent, or the free passage from the Atlantic to the Pacific shores.

The argument which I wish to deduce from these enunciations is, that it is wrong in principle, as well as inexpedient and ruinous, for the Government of this country to set up a filibustering operation to secure the dominion of that country—for such, I aver, has been the policy of this Government for years past. It is no use to blink the action of the late Administration. Time after time have enunciations gone forth to our officers similar to those which went forth from General Cass, calling upon the police of the high-seas to check the adventurers which are going thereon. Yet many expeditions have been got up, in broad day, many times have they announced the calling of the roll and the embarkation of troops from our shores, and they have been permitted to go on without let or hindrance, although our Government could not have been ignorant of their repeated departures.

But, if we had been in doubt as to the indifference or acquiescence of the officers of our Government, the proof has been disclosed in a correspondence between General Wool and the Secretary of War. It appears that when that officer, then in command upon the Pacific coast, expressed a determination to check such an expedition, he was informed, by the Secretary of War, that such an act on his part was deemed unnecessary, and that he had better attend to matters more pertinent to military affairs, and leave the civil authorities to control the filibustering operations of the country. If we add to this act of the Secretary of War the fact that expedition after expedition has escaped the official vigilance, it is clear that it has been the policy of the Government, for years past, to blink or connive at the filibustering operations that have been going on in the country; and I therefore charge this, our present difficulty, as the legitimate result of the policy of a former Administration, which seems to conflict, in some respects, with the conduct of the present. It has been supposed by a former Administration, and by a new party, which now appears in this country, that the operations of private enterprise in the way of filibustering, and a general system by way of national treaty, national mail contracts, and other national expenditures by the public authorities of the country, all tending to the same end—the acquisition of southern dominion—might harmonize and operate successfully together. But now, as you perceive by the President's late message, and also by the argument of gentlemen upon this floor, it is found that the two kinds of filibustering conflict; that the attempt to get dominion by the Government in its action, and the attempt upon the part of Walker, are either inconsistent, or some one has made a mistake in playing the game. However this may be, the plain, blunt manners of Commodore Paulding have brought upon the Administration the necessity of silencing, for the present, the coöperation or interruption of the filibuster Walker.

Is not this the argument you find in the President's late message, and in his annual message for this year? Does not he, over and over again, reiterate the idea that it is necessary for this Government to occupy, to protect, and to maintain by power the various transit routes of that Central American country? And when he says he will take all those routes, comprising the long distance of one thousand miles; and when he speaks of further treaties which are being made between us and the Central American States, am I not right in presuming this Administration is engaged also in a different but efficient way to carry on a national instead of a private species of acquisition, which may properly be defined as national filibustering? I ask you what remains to the dominion of those Central American States? If we can go on and take that protection and guarantee of neutrality upon ourselves, I ask you how much power remains to the feeble States of Central America, when we have control of their lines of travel, and the requisite force which the President thinks should be at his command to sustain their "perfect neutrality?" We then become really the power of Central America; control of their transit lines includes all their lines of industry; for it is upon these lines that all the wealth and settlements

in that country will inevitably congregate. I deprecate the policy of this Government going a thousand miles away from its own soil for the purpose of engaging in this kind of entanglement with other countries. It is against the wise counsels promulgated in the Farewell Address of Washington, against the principles taught by Jefferson, and all the patriots of this country, who have spoken of the policy to be observed towards other nations with whom we have intercourse. Let us therefore leave these Central American States to build their own railroads, open their own ways, take care of their own neutrality; and let us abstain from both national and private filibustering, and turn our attention to the development of our own vast interior, where our enterprise and energies will find ample field, and where the capital expended will remain among our own people. Such a policy will give employment to our people, activity to our industrial pursuits, and tend to preserve the continuance of peace and prosperity among the independent States of this continent.

But, Mr. Chairman, I wish to return to the position of Walker and the conduct of Commodore Paulding, for the purpose of presenting my views on their relative merits, since they seem to be forced into comparison or conflict by members of this House. I am not disposed to denounce Walker while he stands, or should stand, as a criminal at the bar of our courts. Neither do the high-sounding titles with which he is disposed to encircle his preposterous pretensions add anything to his consideration. Such titles have always been assumed by those who have determined to usurp the power which the titles imply. It was done by the patriots who marched to Canada. They were all generals-in-chief. That was done by McGregor when he made a descent upon the Florida coast. And such has been the course of Walker in all his expeditions. When he went to Sonora he assumed the title of commander-in-chief, and assumed the functions of supreme power. All this is only proof of a particular purpose rather than any right entailed by such a claim.

The question has been raised here, what are the rights of Walker in reference to his position in Central America? What right had he there? If in former expeditions he had acquired rights of property, they had been wrested from him, and he therefore had no rights, I contend, but those which proceed from mere assumption. His rights there were a fiction of law, too transparent to stand before this or any other audience; too faint and flimsy for officers of the Navy or of the Army to be deceived by. They could not conceive that he had any; and the accredited authorities of Nicaragua would hardly accord to him on their soil a fraction of domain equal to six feet by three.

What is the attitude of the Government of Nicaragua? That Government had implored you to restrain your citizens from lawless acts against her territory; and that, too, in view of the expedition of Walker himself, which he was then getting up against this unoffending State. Having thus a representation of the Government *de facto*, we are estopped from excusing the acts of Walker on the ground of any rights of sovereignty. If he ever did have rights to domain, they were given for purposes of colonization, like those acquired by Austin in Texas. But any one acquainted with Spanish customs knows that all such grants are dependent on the peaceable settlement and cultivation of the soil, all of which Walker forfeited by his assumptions of power and subsequent repulse by force of war. He must therefore proceed upon fictions; and we are informed that as soon as he landed, he assumed that everything necessary to his convenience belonged to the Government of Nicaragua, and that he was the Government. It is said of some of the blue laws of Connecticut, that the council voted that "the earth and the fullness thereof belong to the saints;" and secondly, "resolved, that we are the saints." This, it is said, eased the consciences of those who were in great need of Indian lands; I suggest a resort of this kind to my friend from Massachusetts, [Mr. THAYER,] who informs us that "the Puritan descendants are in a tight place."

I do not deny that Walker went there boldly and bravely, and usurped a position which he held for a short time. But that position was lost by the efforts of the citizens of Central America, and he has no longer any right there, for he lost what he had by the fortune of war. How,

then, is it that it can be maintained, or held here that he had rights, or that he is entitled to a higher position than that of the officer, who, on being called upon by his Government, arrested and brought him back to these shores, to be punished for offenses against our laws? But I have said more than I intended on the subject of Walker. I desire to say one word in regard to Commodore Paulding. It is not necessary for me to vindicate the Navy of this country. It is the province of other members of this House to do so. The Navy has vindicated its own character in many glorious achievements, and it is hardly necessary for any one to shield them from some reflections which have fallen against them. This Commodore Paulding has borne our flag for forty-five years gloriously on every sea. He comes before the world with honor unimpeached and unimpeachable. And yet, without a hearing, and without a trial, an attempt is made in this House to strip the epaulets from his shoulders, denounce, disgrace, and dismiss him from the service. These are terrible charges to bring against one who has long borne your standard, and now stands sentinel over your honor on a far-off sultry, sickly shore. What has this officer done to bring down such threats upon him? If gentlemen will examine the orders under which he acted, and consider the position which he occupied, they will find abundant cause to justify the act of a true and honest sailor.

It has been argued by gentlemen on this floor that the power of this Government does not extend beyond a marine league from our shores. Admit that. As there are some doubts on that subject, how did Commodore Paulding construe that law? It is admitted by all that the neutrality laws may be regarded as, in some respects, ambiguous. It was the province of this officer to obey orders, and not to cavil about the proper construction of laws. In matters of doubt, his orders should direct his course.

What were his orders? In the first place, they were transmitted to him beyond the reach of the marine league. Why were they sent beyond the league if they were not in operation there? If it be true that the whole power of the Government should have been confined to the marine league, why were these orders sent to him while he was stationed on the shores of Central America, a thousand miles beyond the marine league? The fact of their being sent to him there, shows conclusively that the Government had already construed the law to apply beyond the marine league. What, then, becomes of the argument as to Paulding's exercise of power beyond the marine league? He had the order, then, to apply them; how could he refrain? Instead, therefore, of this argument being applied to Commodore Paulding, let it be applied to the President; for to him, or to his Secretary, belongs the fault, if any exists, for having caused the exercise of that law beyond a marine league. Apply your censures to the principal, not to the agent. Stand by the dictum of law—*facit per alium, facit per se*.

Mr. SMITH, of Virginia. The question is not whether Commodore Paulding had a right to act as he did on the high seas, but whether he had a right to do so on the territory of another nation.

Mr. CURTIS. I will speak to that point now. I am glad that the gentleman reminded me of it. I have cut you off from the position as to the marine league, so far as Paulding is concerned, and have thrown the responsibility upon the Administration of the country, because the orders were sent to Commodore Paulding beyond the marine league. The argument that came from the member from Georgia, [Mr. STEPHENS,] that he should not have acted beyond the marine league, should now be taken back, at least his censures of Commodore Paulding. But the question propounded by the gentleman from Virginia [Mr. SMITH,] now is, should he have acted within the marine league of Nicaragua? I fully concur in the principle that the dominion of Nicaragua and of all other nations extends to the headlands and bays and to a marine league from their shores. But, under treaty stipulations, our vessels are permitted to moor in the harbors of Central America. Why are our vessels there? Why do they hang around the shores and within a marine league of Central America? For the purpose of protecting those avenues of trade, to interpose for the protection of our citizens in the transit over the isth-

mus. For what else are they kept there? They are there by the consent of Nicaragua and at the suggestion of her minister here, for the purpose of protecting the rights of our citizens and maintaining the peace of the country.

I go still further. I hold that Commodore Paulding acted in obedience to his instructions, within the dominion of Nicaragua; and I appeal to the orders under which he acted, and to the position which he occupied. He had first received the orders of General Cass, which amount to nothing more than this: "Be on the alert. Look out for military expeditions. See that the neutrality laws are not violated." Lieutenant Almy, however, was not satisfied with this kind of order, and, being here in the city of Washington when he received them, he applied to the Secretary of the Navy for more explicit instructions. He said, in substance, to the Secretary of the Navy, that the orders of the Secretary of State seemed to apply only to the high seas, and asked what he was to do in port. Look at the response which he received from the Secretary of the Navy!

I do not agree with the gentleman from Alabama, [Mr. MOORE,] who spoke yesterday, who said the orders of the Secretary of the Navy did not authorize Commodore Paulding to take the steps taken by him. I agree with him that the answer of the Secretary of the Navy was ambiguous. It was such as left it an open question to approve or disapprove the conduct of that officer, whatever he might do. I am sorry there was not the courage and boldness displayed by the Secretary of the Navy to take the responsibility of his own act. Yet, sir, if you will read the order and take into consideration the contiguity of the question and answer, I think you will see that the man exercising power under it had the right to strike or not to strike, at his own discretion, or as he might understand this order. He inquired of the Secretary of the Navy what he should do. The answer was, "you have the power, use it." Now, sir, I maintain that an officer of the Army or the Navy, when he receives instructions, unless they are clearly and unquestionably in contradiction to law or reason, cannot go beyond them. Sir, Lieutenant Almy left Washington and went to Mobile. He told the people there that this Administration was determined to execute the law, and to stop these expeditions, and upon that information the United States officers there took active measures to prevent the departure of the expedition.

But, sir, was Commodore Paulding himself to act under the orders given to Lieutenant Almy? Most certainly he was, because Lieutenant Almy was required to report to Commodore Paulding, and the orders given to him by the Secretary of the Navy must then govern the conduct of Commodore Paulding. Now, if any man will read those orders, I do not think he can come to any other conclusion than that, under them, it was his duty to exercise a reasonable discretion; and, if occasion required, act within the port of Nicaragua. I have read the orders carefully, and I think that, for myself, if I had received the orders under which Commodore Paulding was acting, I could not have done otherwise than to have followed the course which he pursued, relying, as the commodore does, on the Secretary of War to bear me out, as it seemed to be his order to act.

Mr. SMITH, of Virginia. I desire, with the consent of the gentleman from Iowa, that he should answer this interrogatory. I wish to ask him whether there is anything in the instructions given to Commodore Paulding which justified him in capturing Walker on the shores of Nicaragua? I am willing to concede that the President did give him orders under which he was justified in going outside the marine league to capture Walker. That is the act of the President, and upon him will rest the responsibility. But I think that, for Commodore Paulding to go within the jurisdiction of Nicaragua for that purpose, was an act of war, and that Commodore Paulding is responsible for that act of war.

Mr. CURTIS. The answer of the Secretary of the Navy to the inquiries of Lieutenant Almy, in my opinion, did give that authority to his discretion, because, what was the order? It was not to take the vessel, but it was to stop the expedition. I think any man who will read the order carefully will come to the conclusion that the act of Commodore Paulding in capturing Walker was

only the exercise of a reasonable discretion in the execution of his orders. His orders were to act, and when the emergency came he was not to stop to cavil about nice distinctions. His orders were to strike. He did strike, and I demand that justice shall be done him. If he exceeded his orders, the responsibility rests upon the President of the United States for not defining his duties more distinctly.

Yes, sir, Commodore Paulding stands before this House charged with a grave offense—in the language of the President, a "grave error." I ask gentlemen to look at the surrounding circumstances, and see whether he was guilty of any error. We have seen that Commander Chatard has been removed, and that the order had gone out for his removal when Walker was taken by Commodore Paulding. It will be remembered that he was removed for not detaining Walker when within the marine league of Nicaragua. The United States officers at Mobile have also been censured by the President. Three of the naval officers of the United States under the command of Commodore Paulding had been insulted, and when in full uniform were prevented from passing the lines of Walker's sentinels, and they demanded justice for their offended honor, which had been thus assailed. It is true that Walker says they were not in uniform, but they have certified that they were fully under arms—thus meaning the distinction which permits them to pass the lines of sentinels of all the countries, except those with which we are at war. This was a special indignity, which must have been pressed upon the commodore, as it seemed to defy the power of self-protection against indignities shown our Navy.

But, sir, there was further inducement for immediate action. There was the voice of woe and lamentation, which came up from the inhabitants of the country; the men, women, and children, saw their friends slain, their houses burned, and their villages left desolate. Murder and arson and robbery, he reports, had been committed, and the country was left to havoc and desolation. There was the cry for justice upon the part of the officers, and there was the cry for mercy from the people on shore. I say that under these circumstances, with the instincts of a man, the heart of a sailor, and the defender of our honor, Commodore Paulding could not have done less than what he did. He is a stranger to me; but it is enough for me to know he is one of our standard-bearers to induce me to render him this tribute of justice.

But, sir, Commodore Paulding needs no defense. If he were here himself he would vindicate his own character. I am merely calling the attention of this House to the circumstances under which he acted. He has been treated roughly and harshly for conduct which should have called for praise, not condemnation; honor, not disgrace; from the representatives of his country.

Mr. Chairman, I have endeavored to argue that it is not the policy of this country to intermeddle in the affairs of foreign nations. The less we have to do with their responsibilities the better. I congratulate the people of this country on the general tone of the President's late message on the subject of filibustering, except so much of it as implies a willingness that the Government itself may proceed by some such means to acquire dominion and power.

I am willing to see our nation grow internally and externally, but I desire to make acquisitions only by fair and honorable means. I wish to see surrounding States attracted by our wisdom and virtue, and not forced in by stratagems or fraud. I desire, for this purpose, that our department towards contiguous countries should be especially conciliatory and generous. I have no doubt of our ultimate extension to the limits of this continent, but I leave that to the destiny of nations and the natural affinities that draw less to greater bodies. I wish to see the rights of the feeblest nation respected and maintained, and I subscribe most heartily to the sentiment quoted by the President, as a rule of national as well as Divine law, that "whatsoever ye would that men should do to you, do ye even so unto them."

Mr. CLAY. Mr. Chairman, in arising for the first time in all my life to address any legislative assembly whatever, I confess that I do so with all that diffidence and embarrassment that might

be expected to surround one under such circumstances. I am gratified, however, that I have the privilege, at this time, of rising to sustain what I believe to be law and order. I have seen the remarkable spectacle presented to this country of an Administration going out before the country apparently unsustained by its own friends. I have seen, sir, that on every message of the President of the United States to this House, or the other, opportunities have been taken to assail and to pick at him and his motives. In the message which the President of the United States has sent to this House, on the subject of our relations with Nicaragua, and in reference to the conduct of "General" William Walker, as his friends choose to call him, I am happy to say that I sustain him in every word that he has written.

What are the facts of the case of General Walker as presented to this House and before the country? He is not citizen of the United States. He has expatriated himself. He has chosen, sir, to say to the world that he will no longer be covered by the glorious stars and stripes of which we are so proud, and that he arrays himself under another flag, and has become the citizen of another country. What have been his acts and his conduct while a citizen of that other country? Brought home because there was a sympathy felt for him in this land of ours; brought home for the purpose of saving his neck—a thing for which he should have been full of gratitude to the Government of the United States—what, sir, is his conduct when he obtains liberty upon this soil once again? Instantly he proceeds to levy war, to enroll men, and to collect arms and all the munitions of war, for the purpose of using them against a country with which we are at peace. I have every sympathy for Walker, and for the gallant spirits who went with him to Nicaragua; nevertheless, while I entertain that sympathy for him, and for them, and while I believe that it is entertained by the whole country, I believe, sir, that it considers him, not as General Walker, not as the President of Nicaragua, but as nothing more or less than a *filibuster*.

Sir, the proceedings of this gentleman in levying war against Nicaragua were so well known to the whole country, that it was necessary that instructions should be given to the district attorneys and the other officers of this country to watch him, and to prevent him from carrying on that war which he was about levying. What does he do? He is brought up before a court in New Orleans and held to bail, a bail very easily given, because among his friends were men at the North and elsewhere who had schemes and designs of their own, and who were able to pay the \$2,000 bail which this gentleman gave. But does that stop his proceedings for a single instant? Does that stop his designs for a moment? No, sir, he proceeds with all his preparations. He carries them on. He puts his men and arms on board a vessel, and he puts one of his own officers in the first instance, as I believe the newspapers stated, on board in command of that vessel. But when it is found that she will not be permitted to sail under the command of that officer and under the flag which he would have been bound to raise, if he raised any, the officer is withdrawn, and the American flag is run up at the fore, and her registry and everything of that sort is passed through the custom-house in proper order.

Sir, the vessel had on board the armed men and the armament of General Walker. Her clearance was obtained in fraud of our laws; and when that vessel left the port of Mobile, as I believe she did, she left in fraud of our laws, and evaded them. It is my opinion that the same law which was meted out to an American vessel which went to the coast of Cuba, should have been meted out to that vessel which was willing to prostitute the flag of the American Union to the purposes of the filibuster, General Walker. I believe that that vessel should have been seized; I believe she should have been tried before our courts; I believe that she subjected herself to forfeiture and confiscation.

Gentlemen have contended that there is no power in this Government of the United States to seize her own citizens even when they are levying war against a foreign country with which we are at peace, and when they are not outside of the marine league. I believe, sir, in no such doctrine. I believe, so far as regards the duty of this Government towards foreign nations, that it is the

duty of the President of these United States and of all the authorities of this Government, under the law of nations, to restrain our citizens from any such act. What would be the consequences if every man who pleased might fit out a vessel, and like the old vikings of the North, sail out for the purpose of acquiring territory, and invading territories with which we are at peace? Would it not be to involve us, in all probability, in war with territories with which we are at peace, and with which we desire to maintain friendly relations? That would be the direct consequences; and the duty incumbent upon the authorities of this Government, under the law of nations, is to restrain such acts, and for the very reason that these consequences would be disastrous to ourselves.

But, sir, it is not the case of a citizen of our own country that we are considering. It is the case of a man who is no citizen of ours; who has no right whatever to appeal to us for any of the rights of citizenship. He has chosen voluntarily to expatriate himself. He has chosen, when this country had saved his life, when this country had thrown our broadegis around him, to save him from death, to come amongst us and levy war in breach of the neutrality laws of this country, if the law of nations did not suffice to prevent him from carrying on such an act. Why, sir, how does the case of this gentleman differ from that of Aaron Burr, with the single, sole exception that Burr was a citizen, and this man was not a citizen? So far as the records of the country show us, there was nothing ever proved against Aaron Burr making his conduct in the slightest degree different from the conduct pursued by General William Walker; and yet the name of Aaron Burr has been handed down to us, as it will be handed down to after times, coupled with the epithet of traitor.

Sir, I maintain that it was the duty of the President of the United States to stop this man in the first instance, from proceeding from our shores, with his armament against Nicaragua. I maintain, sir, that if he had come into this country of ours, had raised a band of a hundred men with whom he might seek to attack any city or any portion of our people, and afterward had gone to the sea-coast and got himself and men on board a vessel and sought to escape from the penalties of the laws of the country—I maintain that under the law of nations, and without the law of 1818, the President of the United States might have directed him to have been followed by our ships of war, and brought back for trial and condemnation, if the facts were proved against him. Well, sir, he breaks not only the law of nations in this case, but the statute law of the country—the law of 1818. He escapes from our shores under false colors, fraudulently escapes from our shores, and I maintain that it was not only within the power and authority, but that it was the duty of the President to send for him over the high seas, and have him brought back to this country. I think that the President stopped at precisely the right point, when he stopped at one marine league from the coast of Nicaragua. I am not in favor, even for any purpose of our own, of invading the territory of another country, even though good may come from so doing wrong; neither do I understand the President to be in favor of doing any such thing.

I do not coincide with my honorable friend from Ohio, [Mr. Grossbeck,] although I agreed with him in almost everything else he said, that the President had the authority to send, or that the force of this country, either the Army or Navy, had the right to go upon the shores of a foreign country to execute our laws. But the President does not go to that extent. He stops at the marine league; and it is my opinion that under the law of nations, as well as under the neutrality laws of 1818, he had the right, and it was his duty, to have gone just to that marine league on the shores of Nicaragua, and no further. There he went, and thus far he upholds his officers; he goes no further.

But, sir, I have been astonished that men in this House, while maintaining the rights of this General Walker; while maintaining his rights, sometimes as a citizen, and at other times as a mere man—I say I am astonished at their casting such censures upon that gallant officer of our Navy, Commodore Paulding. I care not whether

he be descended from the Paulding who seized André, and refused a bribe of British gold; I care not who his father may have been; all I care about is the fact that he is an officer of the United States Government; that he had the epaulets of that Government upon his shoulders; and at the very day he was denounced in this House, by those for whom I entertain the highest respect, as having been guilty of an act of robbery; as having been a kidnapper; as having been guilty of unofficer-like conduct—that at that very day the flag of his country was floating above him; and that, I have no doubt, had occasion arisen for him to have done so, he would have maintained it gallantly and well, as his father, in the early days of the Republic, maintained the honor of his country.

Sir, what has Commodore Paulding done? Up to the very moment he landed upon the shore of Nicaragua, he and those with him were fully borne out to the completest extent by the instructions of the Government whose officer he was. It is not necessary for me to refer to those instructions. It would take more time of this committee than I chose to consume, but there is no man who will read those instructions, as given repeatedly to the officers of that squadron, and other officers of the United States, who will not agree with me in saying that up to the moment of landing upon the shores of Nicaragua, Commodore Paulding was borne out to the fullest extent by the Executive of this country. What, then, has he done? Knowing, sir, the extreme desire of this country to prevent this waging of war by this filibuster Walker against Nicaragua, knowing the extreme desire of the Government to prevent it, this gentleman, Commodore Paulding, perhaps with an excess of zeal, landed his men upon the shore and broke up the expedition.

But, sir, he had some cause to send his men there to hold this General Walker responsible and accountable. Look at the letter of Mr. Cilley, a lieutenant of one of our ships, who went with the other officers upon the shore, with the uniform of the United States upon him. He goes there, as he had a right to go, to the shore of a country with which we were at peace; and how is he met? Before his boat reaches the landing even, he is ordered off. He is told that if he attempts to land he will be fired upon. The epaulets of our country were to be fired upon. Our officer, going to a peaceful shore, was to be fired upon, by the order, as it was said, of General Walker, the commander of filibusters.

Sir, if there had been no other cause for holding these men to accountability, that, in my humble opinion, would have been sufficient cause. I pledge my honor, that if I had been in the position of Commodore Paulding, and if Walker, or the citizen of any country, had dared to direct his men to present their muskets at the bosoms of my officers, I would have held him to such terms as would, perhaps, have saved a good deal of discussion in this House about him.

But, sir, the President has, in his message, censured the conduct of Commodore Paulding. He has said that that officer committed a grave error. I agree with the President fully in that. I think that Commodore Paulding did, perhaps, exceed his instructions in landing on the shores of Nicaragua, and in sending these men home to the United States. But did he do so like a kidnapper? Did he do so like a robber? Did he do so like a man conscious that he was doing a villainous act? I have no acquaintance with that gentleman, and I am not here as his special defender. But I say, sir, that he acted not as a robber, a kidnapper, or as a man who was committing a villainous act. He knew himself fully. He knew well that his zeal had perhaps carried him beyond his instructions, and frankly, and in a manner manly, open, and above-board, he comes out in his letter to the Department and states that he was aware that he had exceeded his instructions, and that he was willing to bear such responsibility as the country—which ought perhaps to be grateful to him—might choose to hold him to.

I think that the censure contained in the President's message is sufficient censure for the conduct of Commodore Paulding. I think that against this little Navy of ours, which ought to be our pride, and which, in old times, was our pride, enough has been said. Enough has been done to destroy it. Naval courts have been instituted for that purpose. A Spanish inquisition, almost, has

been placed over its officers. Many of them, gallant and true, have been degraded from the positions which they held. I am gratified, however, that many of them have been, at last, restored to the positions which they deserved to hold. I am not in favor of attacking any further the *esprit de corps* of this Navy of ours. I am proud of our Navy. I glory in the gallant men who expose their lives to the tempest and to the waves in upholding the flag of their country. I glory in those men. Although I come from the far West, where the plow, not the anchor, is our emblem, they will always find in me a defender.

Sir, I am opposed altogether to this system of private warfare which is now attempted to be initiated in the history of the country. There are three modes of private warfare, to all of which, and to each of which, I am opposed. There is piracy on the high seas, to which every civilized man is opposed. There is buccaneering—a system under which, in that barbarous age, men thought they could prey upon the Spanish Main and rob the Spanish-American towns. They attacked the towns for the purpose of robbery, and not for the purpose of holding them. Then, again, there is this system of filibusterism, which I conceive to be a relic of the dark ages. Under this system, men set out in their own ships, and with their own armaments, to take countries, not merely to rob them, but to hold them as conquerors. I am opposed to all this system. I believe that whenever we shall need Central America, or any portion of it, we have it within our grasp, and can take it. I believe that the proper means of civilizing these semi-barbarous lands is by emigration, peaceful emigration—not that emigration where the musket and bayonet are in the hands of the emigrant. Peaceful emigration is the proper course. When the day shall arrive that any portion of the fair and sunny South, from Cuba to the remotest province of Central America, is necessary to this nation, let the flag of the Union be thrown out, and there will be volunteers enough to march under it and take whatever may be thought necessary for us to have. For my part, I will march under no flag but the flag of the Union. I will keep step to no music but the music of the Union.

Sir, as to the resolutions before the committee, I have no objection to them. I have no objection to the reference of the President's message, or of any part of it, to the appropriate committees. I have not the slightest objection to the reference of the whole subject of the neutrality laws to a proper committee. I care not much whether it be to one of the standing committees of the House, or to a select committee. I am not prepared to say to what extent I would uphold the present neutrality laws of the country. I do not think it necessary now to express any opinion in reference to that, further than I have done. At a proper time and in a proper place I may again ask leave of the House to express the views which I entertain on that subject. I have accomplished all I intended to do now. I have, feebly, I know, but to the best of my humble ability, attempted to sustain the President of the United States in the views he has taken, and I have attempted to vindicate the honor of the epaulets and of the flag of this country. In doing that, I feel that I have only done a duty which I owe to myself, and which I owe to the constituency which I have the honor to represent.

Mr. POTTLE. Mr. Chairman, in the remarks I design submitting in the short time which I shall detain the House, I will not attempt to go into the great questions of national or international law which are involved in this discussion. They have already been ably presented from both sides of this House—I should add, from all sides of the House, for we have already learned that the present House of Representatives has more than two sides upon this and all other questions. Nor do I intend to go over the grounds which have been so ably presented during this debate, as to the technical rights of Commodore Paulding in the arrest of William Walker. I am satisfied to put that question in this discussion upon that high ground where I have no doubt it will be found when the excitement of the hour and the feelings which have been engendered by persons not altogether disinterested in this question shall have passed away, and when Commodore Paulding's acts shall be tried by that great public conscience

which sooner or later must try all these questions, and render a decision by which all of us must sooner or later stand or fall. Sir, I venture the prediction, that with all right-minded men, with all disinterested, right-thinking men, there is at this time but one feeling in regard to this arrest, and that is a feeling of satisfaction that William Walker has been arrested in his career of crime, and that Commodore Paulding in this respect has only done what his country's honor and the laws of nations demanded.

I think that the satisfaction which we all feel in view of that fact will not be damped by any mere technicalities that may be raised in regard to his right to perform this service for the country. I am well aware that such technicalities can be raised. I know that technically I have no right to cast a bucket of water upon the flame which the incendiary has applied to my neighbor's dwelling. But in an instance like that I should hardly stop to inquire what were precisely my technical rights. I should proceed to do what good conscience, good neighborhood, and good citizenship required me to do in the premises, and should trust that my neighbor would not complain of the act. I certainly, sir, should not admit the incendiary to complain of me in his name. So, sir, in regard to Commodore Paulding; whatever technical doubt there may be in regard to the construction of the instructions given him, all practical men will applaud the act, and will certainly deny the right of Walker to complain in the name of Nicaragua, and will say that in this matter the commodore has performed his part to sustain that honor which has been badly damaged by filibustering expeditions within the last few years.

Sir, I heartily concur with the President in the view which he has taken of the honest intention of Commodore Paulding, and of the necessity of maintaining our neutrality laws; and in that view I will endeavor to sustain him as far as I can, even against his own friends, if it shall become necessary.

But, sir, that is not the point upon which I propose to address this committee. There is another point involved in this discussion, which has been but briefly spoken to by any gentleman. It seems to be taken for granted, upon all sides of the House, that we are to proceed with this process of Americanizing Central America; and it is upon that question that I desire to make some remarks. I desire, sir, to enter my protest against any such system of Americanization. It is true that it has been advocated by gentlemen upon all sides of the House, but I shall nevertheless enter my protest against it until I shall learn by what right we propose to Americanize Central America, and what are the precise purposes and objects to be accomplished by this "Americanization."

I wish to know, in the first place, by what right we propose to render this service to our southern neighbors? Have they invited us to Americanize their institutions? I concede fully the importance of the transit route; I concede the value of Central America; I concede that it is a country which it would be exceedingly convenient for us to possess; but I deny that, because it would be advantageous to us to lay hands upon the property of our neighbors, we should, therefore, be justified in so doing. I submit that there are no rights which it is necessary for us to possess in Central America which cannot be obtained by purchase, by treaty, or by some means far enough removed from any of these filibustering projects. I dissent *in toto* from all these projects to Americanize the central or southern portion of this continent.

And then, sir, I desire to know distinctly, from gentlemen advocating these projects, precisely what this Americanization is to be. Sir, if the Americanization of this or any territory is to be to give it the institutions manifestly existing already in fifteen of the States of this Union, and which the executive and judicial departments of this Government have declared to extend by the Constitution over all the Union, then I have to say, as an individual member of this body, I trust in God the last foot of this continent has been Americanized that ever will be!

A MEMBER. Amen!

Mr. POTTLE. This species of Americanization has already produced results which are apparent, and which no gentleman can mistake, if he will but open his eyes to the events that are

transpiring. Sir, before we induce any other country or people to accept this sort of Americanization, it may be well to inform them of the difference between our institutions, theoretically, as contained in the Declaration of Independence and in the Constitution of the United States, and as they are at this time practically illustrated. It would be well to inform them that with us freedom means human bondage; the right of the majority to rule means the right of a conservative minority to control and take care of "factious" majorities, and make for them unalterable constitutions; that guarding the ballot-box means simply to surround it with ruffians and bayonets, driving from it honest and legal votes, and filling the poll-list with names copied from old directories in their stead. These are the things that they should be informed of, as a part of the Americanizing process which we are to give them.

Then, sir, you should go further than this, and inform them that the practical workings of this Americanization in the States where it has been adopted has not only been a curse to the very soil where it had been adopted; that it has exhausted and rendered the most fertile region of the earth almost a barren waste; that its effects have been to degrade labor, to prevent the development of the resources of the country, to deny intelligence not only to the slaves, but, as a necessary consequence, to the laboring whites; that it breaks up social relations, deprives labor of the result of its own toil, and sets at naught not only all laws of political economy, but all laws of justice and morality. Inform them that the practical operation of this peculiar Americanization which gentlemen are seeking, has been to reduce millions, not of slaves, but white men, to a degradation upon which even the slaves look down with contempt. This has been the Americanizing process which has of late been going on in this country; and if this be the process which is intended for Central America, then I repeat again, that for one, though I stand alone, I enter my protest against it.

What are the arguments which have been brought forward by gentlemen on both sides of the House in regard to this matter, and the process by which it is to be accomplished? My colleague [Mr. HASKIN] tells us that it is to be done by a system of grand larceny, carried on by the Government. I do not know that I am justified in saying this, after the gentleman's explanation; but if I understand his explanation made yesterday, in effect that he has looked at the statute and found that larceny relates to personal property, and is not applicable to real estate, and, therefore, he was not in favor of larceny, but was, nevertheless, in favor of putting in operation the principles of the Ostend manifesto; that he was in favor of the acquisition of this territory by the direct action of the Government, and not by such petty-larceny expeditions as this of Walker's; that he was not in favor of that kind of larceny for which he could be indicted, and that in what he said he but spoke the sentiments of the President, put forth in the special message; that the President had but elaborated the gentleman's idea in this matter; with all deference to my colleague, and with no unkind feeling towards him, I must say that when he stated that he spoke for the Democracy of New York when he said he was in favor of putting into operation the doctrines of the Ostend manifesto, and of national grand larceny in relation to Central America, carried on under the auspices of the Government, I doubted that he spoke the sentiments of the Democracy of the North; and I doubted still more when the gentleman from New Jersey [Mr. ADRAM] got up and repudiated that doctrine in behalf of the northern Democracy; and I must doubt that he speaks by authority of the President, or that his plan and the President's are the same—now that we are informed that the honorable member's plan really is. And I regretted that he undertook to shield himself from the remarks which his ingenious plan has provoked; by the common, but hardly commendable plan of charging them with those things which he had volunteered to profess himself in favor of. I dare say no one understood the gentleman as meaning more than that he was in favor of expeditions carried on directly by the Government, to accomplish what Walker was attempting in another way.

But, sir, I do not believe that we have fallen to a point so low as this would seem to indicate. I

do not believe that it is now to be proclaimed upon the floor of Congress, with the sanction of the Executive of this great nation, that because we are strong and our neighbors are weak, therefore we are to take possession of what belongs to them without right, or the pretense of right, for so doing. But, sir, I am opposed to both of those means of aggrandizement. I am opposed to the plan itself, and it does not commend itself any more favorably to me after it has been put forth from another point of view, and painted in the rainbow tints of my honorable friend from Massachusetts, [Mr. THAYER.] But, sir, I should be doing less than justice to the gentleman from Massachusetts if I did not say, that I know that in his scheme of Americanization, this system of human bondage is excluded; and further, that it is intended for the very purpose of breaking the shackles of mankind. While I know this, I dissent entirely from the gentleman's opinions in regard to this matter. I can look forward with him in a fancy sketch to the time when, by the aid of steam-engines, a nation may be born in a day; but before I embark in this organized emigration, I must inquire what is to be the effect of this unlimited territorial aggrandizement which seems to be indicated by the gentleman's scheme and by the President's message.

I recollect full well the beginning of this territorial aggrandizement. I recollect how hard I fought against it when the country was asked to take Texas from the Government to which it belonged, and to annex it to this country. I then predicted, and so did thousands of others, what would be the natural result of all such projects; but we were overborne by public sentiment, and the scheme was successful. Without stopping to detail its progress we know how it led to the Mexican war, how it found us, and how it has left us. It found us a Government at peace with other nations; it found us a nation where, with all our wide-spread interests, a common brotherhood was acknowledged and felt, with political sentiments that found a response in every section of the Union. How has it left us? It has left us with sentiments so entirely at war that no system of policy can satisfy all sections, no platform of principles can harmonize us. It found us, as a nation, safe, tranquil, firm in our integrity; and it has left us not only at war with one another, but in such a state that I am afraid I should be justified in saying that there are those upon this floor who not only look for the downfall of the Union, but who seek it by this very system of territorial aggrandizement. It has already extended our frontier so that no power is adequate to guard it in time of war; no policy which can be devised can harmonize it in time of peace. Yet gentlemen upon all sides seem to agree that this system is to go on until the whole continent shall be absorbed.

My friend from Massachusetts is not willing to wait ordinary operations of these events, but wants to apply to them the accelerating power of steam. He is anxious to have "nations born in a day;" to rise up, as it were, in the twinkling of an eye. I sympathize with him in the condition in which he is placed, "crowded up between the Atlantic ocean and the Rocky Mountains." I know that he needs room and breathing space, and that he is anxious to put in operation this great scheme of colonization, of which I believe he is the author, and which I confess, in a certain direction, has wrought mighty results, as I trust, for good. I can sympathize with the gentleman; but before he rushes out of the country to get breathing space, before he rushes into the territories of nations with which we are at peace, and that, too, without invitation, may we not reasonably ask of him to wait a little, and to see how his scheme works in Americanizing Virginia, and restoring that honored Commonwealth to that prosperity of which her own unwise institutions have deprived her? The work is every way a worthy one, and in its accomplishment the gentleman not only has my warmest wishes, but the hopes and prayers of thousands for his success.

If he shall succeed in Americanizing Virginia, may we not further ask him to try to do the same with the other States of the Union, where it is so much needed; and then, sir, there will yet be left to him all our vast Territories for operation. Is it unreasonable to ask him to do this? And, in relation to this crowded condition, which is suffocating my friend, may I not go further, and ask him at least to wait until he can count the number

of inhabitants on a square mile in any State of the Union, by the whole man, and not be driven to speak of the fractional parts of a man to the square mile, as he was compelled to do the other day. I honor the motives and feelings of my friend, yet I trust he will not be offended when I tell him that his scheme, and the scheme of my colleague over yonder, are, in my mind, but different features of the same filibustering spirit which makes us a terror to our neighbors, and has run this Government upon dangerous rocks, and which will yet run it upon rocks which will utterly wreck it, unless it shall be abandoned. I admit there is a wide difference in these features. Those presented by the honorable gentleman are attractive; those by my colleague hateful; but they accomplish the same subjugation of the country, whether it be by conquest or by organized emigration.

Mr. SMITH, of Virginia. I should be glad if the gentleman from New York will inform the committee if he ever knew a great nation which was not a filibuster?

Mr. POTTLE. I can answer the gentleman in a single word. I never knew a great nation, in the true sense of the word, which was not a just nation, and willing to observe not only the rights of a great nation, but also of the smaller nations around it.

Mr. SMITH, of Virginia. I ask the gentleman, taking his own definition, if he ever knew a just nation?

Mr. POTTLE. I trust we shall now be a just nation in this matter; and it is for the very purpose that my posterity, that the gentleman's posterity, and that those who read the future history of this country, may know us a just nation, that I insist that we shall not wrest power from our neighbors, either by conquest or organized emigration; and I insist that the present generation shall set an example of justice in regard to this matter. Now, I ask the gentleman if he ever knew a nation truly great, in the highest sense of that term, that did not respect with more scrupulousness the rights of a weaker nation than it did the rights of its peers?

But, sir, I obtained the floor to address this committee with the expectation that I should be brief; and I will bring my remarks upon this branch of the subject to a close. I sought nothing more than to enter my protest, that my constituents at home may know that, while gentlemen from all sides appear to be joining in perfect harmony in the opinion that we should have Central America as a matter of course, I at least opposed it, and entered my protest against it, as one of those projects which, if not arrested, will cause our country to fall by its own weight. We have increased in apparent greatness and magnitude; but I believe there is not a gentleman in this Hall who will not acknowledge that every foot of territory that we have acquired has only weakened the strength of this Confederacy, and has engendered an animosity before unknown among us. Were our institutions the same in all parts of the Union, this might not be the result; but we must take these things as they are; we must speak of them as practical questions; we must speak of institutions which we have, and not of theoretical institutions which we proclaim to the world, and have not.

I have but a single word to say upon another subject, and these are scarcely needed after what has already been said upon the same subject by the eloquent gentleman from Kentucky, [Mr. CLAY.] I allude to the aspersions cast upon the Navy of this nation. I listened to those aspersions with pain, and I doubt not that every gentleman in this Hall listened with pain to these uncalled-for remarks. I doubt not, when the report goes out bearing to the country those remarks, which I will not repeat here—for they are of a character I do not choose to repeat—millions of people will blush and feel humbled that such language could be used in the legislative halls of the nation. I do not quite forget that, in the darkest hour of our country's history, under circumstances when we were unable to justify ourselves here at home upon land, our Navy upheld our flag and vindicated our honor; that, even while our Capitol was burned over our heads, covering us with shame, our gallant little Navy was wiping out that dishonor by deeds that cannot die. And when I listened, as I did the other day, to the

gentleman from Ohio, [Mr. GROESBECK,] as he spoke of the conduct of Commander Ingraham in vindicating the honor, not only of this country, but of humanity, I confess my blood boiled, and I felt proud that we had one part of our service uncontaminated; one part that had never been dishonored; one part in which the flag of our country had never been lowered a single inch to perpetrate a wrong, and which had never failed, in a single instance, to vindicate the right.

Sir, when the debates of this hour shall have passed away, when the little squabbles which engage us to-day during the time we have been in committee shall have been forgotten, and the aspersions which were uttered against our Navy shall sleep and be remembered no more, then those who read the history of this country will find emblazoned upon every page of its history the honorable action of this Navy; and not the less honorable, I venture to predict, will be the very act which so many gentlemen on the opposite side of the House have condemned—I mean the act of Commodore Paulding in arresting Walker, and thus maintaining the faith of the nation. When all the technicalities and the doubts which the ingenuity of gentlemen can throw upon it shall have passed away and been forgotten, then, in contrast with the lawless spirit which our country has winked at and failed to rebuke for so many years, will be placed the noble act of this faithful servant of the country; and it may stand side by side with the act of his ancestor, in reference to which gentlemen upon the other side of the House, as I thought ungenerously, and in a sneering spirit, spoke the other day, asking if the son derived honor from the act of his father—if the son was honorable because his father refused a bribe? I will say to that gentleman, that when the act of the son is placed by the side of the act of the father, the judgment to be passed upon the act of the son will need no support from the judgment which has been already passed on the act of the father. They will stand side by side, and will be honored together; and men will say that whatever may have been the corruption of the age, this act, at least, was in vindication of the right and of the honor of the country.

Sir, has any gentleman, in addressing this committee, pretended that Walker obtained a foothold in Nicaragua by other means than by virtue of the American flag? Did he leave our shore by any other authority? Did he cross the ocean under any other protection than that of our flag? Did he effect a landing on the shores of Nicaragua except under that protection? And are we to be told that our flag shall shield and protect a marauder till he steps on the soil of a nation with which we are at peace, and that we shall have no right to prevent his abusing the privileges which he has thus obtained under it—that we have no authority over him, and are under no obligations to restrain him? Entirely dissent from that doctrine. I say that where our flag guarantees the protection of an individual, we are bound to see that that protection is not abused. Sir, I claim that the same protection which gives him the right of landing in Nicaragua, and shields him from the guns of our frigates while that flag covers him, confers upon us not only the right, but makes it our duty, to see that advantages thus gained shall not be used against those with whom we are bound by treaties of friendship and peace.

I go further than the gentlemen who have addressed the committee. I say, that under the laws of nations, construed not by technicalities, but by that high sense of public honor which we must uphold, Commodore Paulding had a right not only to land and prevent this man from abusing the privileges which he had obtained from our flag, but that he had a right to follow him to any portion of Nicaragua, to prevent the abuse of these privileges, and to prevent our being precipitated into war by the criminal acts of this marauder.

Sir, in conclusion, I have to say that I hope the motion of the gentleman from Mississippi [Mr. QUITMAN] to refer the neutrality laws to a select committee, "for the purpose of having them amended, so as not to interfere with emigration," will not prevail. They need no amendment, unless it be to make them more strict. They were intended to interfere with and prevent just this kind of emigration that Walker was engaged in, and should be fairly, faithfully upheld and enforced.

Mr. LAMAR. It is not my purpose to discuss the various questions involved in our Central American relations. Should I avail myself of a future occasion to do so, I may be forced reluctantly to dissent from some of the views so ably presented by my distinguished colleague, [Mr. QUITMAN.] However painful this may be to myself, I nevertheless feel confident of his generous indulgence, especially when he sees in my course only the reflex of his own spirit of independence; a spirit which runs like a stream of fire through all his acts and writings, which enabled him a few years since to light up the ardor of a thousand patriots, to fire his countrymen to the assertion of their rights, and enshrines him in the hearts and affections of the people of his State without distinction of party. Mr. Chairman, any proposition which has for its object the advancement and progress of southern institutions, by equitable means, will always commend itself to my cordial approval. Others may boast of their widely-extended patriotism, and their enlarged and comprehensive love of this Union.

With me, I confess that the promotion of southern institutions is second in importance only to the preservation of southern honor. In reading her history and studying her character, I delight to linger in the contemplation of that stern and unbroken confidence with which she has always clung to the integrity of her principles and the purity of her honor. In that unfortunate division which has separated our country into sections, natural causes beyond our control have assigned to her the weaker section. A numerical minority finds safety and protection alone in the power of truth and the invincibility of right. The South, standing upon this high ground, has ever commanded the respect of her friends and defied the assaults of her enemies. When ruthless majorities have threatened wrong and injustice, their hands have been stayed only by the deference which the worst spirits unconsciously pay to the cause of justice. In the long and bitter contests which have marked our internal struggles, the South has made but one demand—the Constitution of our common country, the claims of justice, and the obligations of States; and it is our boast to-day that we can present a record unstained with a single evidence of violated faith or attempted wrong. The same regard for truth, justice, and honor, which characterizes our intercourse with the various sections of our own country, furnishes the safest rules for our dealings with other countries. As the Constitution is the law of our conduct at home, so let good faith be the rule of our conduct abroad. If I could do so consistently with the honor of my country, I would plant American liberty with southern institutions upon every inch of American soil. I believe that they give to us the highest type of civilization known to modern times, except in those particulars dwelt upon so elaborately and complacently by the gentleman from Massachusetts, [Mr. THAYER.]

In that particular form of civilization which causes the population of a country to emigrate to other lands for the means of subsistence, I concede to the North great superiority over our section. [Laughter.] There can be no doubt that New England, and especially Massachusetts, is a splendid country to emigrate from, and, in this respect, stands unrivaled, with perhaps the single exception of Ireland. [Laughter.] And right here I desire to express my acknowledgments to the gentleman for the very apt and classical comparison which he instituted between his section and the *officina gentium*. It never occurred to me before, but since he has mentioned it, I must confess to the resemblance in many respects between the recent emigration from New England and the irruption of the Goths and Vandals. [Laughter.] It is also due to candor that I should say that the gentleman's vindication of the emigrant aid societies places the objects and motives of that enterprise upon more defensible grounds than we of the South supposed to exist. For one, I am perfectly satisfied that the thing was demanded by necessity, and has resulted in benefit to all the parties concerned; that the country was benefited by getting rid of the population, and the population greatly benefited by leaving the country. [Laughter.]

To return from this digression; while I am a southern man, thoroughly imbued with the spirit

of my section, I will never consent to submit the fate of our noble institutions to the hands of marauding bands, or violate their sanctity by identifying their progress with the success of unlawful expeditions. And most especially, when I see them receiving the countenance and sanction of a distinguished Senator, whose course on the Kansas question is so fresh in our recollection.

Before I consent to any new schemes of territorial acquisition, to be effected, as usual, by the prowess of southern arms, and the contribution of southern blood and treasure, I desire the question of the south's right to extend her institutions into territory already within the Union, practically and satisfactorily settled by the legislation of this Congress. These territorial acquisitions, so far, have been to the South like the far-famed fruit which grows upon the shores of the accursed sea, beautiful to sight but dust and ashes to the lips. We learn from the President's message that the people of Kansas having reached the number that would justify her admission into the Union as a State, she has, by her duly constituted authorities, taken all the steps necessary to the attainment of this object, and will, in a short time, demand the redemption of the pledge of the Government, that she "shall be admitted, with or without slavery, as her constitution may prescribe, at the time of such admission." But in advance of her application, we are informed by the distinguished author of the Kansas bill, and gentlemen upon this floor, that her case has been prejudged, and her claims rejected. This presents a question before whose colossal magnitude the wrongs of Walker, and the criminality of Paulding, sink into insignificance.

I propose to examine into the grounds upon which this violation of plighted faith is attempted to be justified. The ground principally relied upon is, that the constitution which she presents was framed by a convention not called in pursuance of an enabling or authorizing act of Congress, but on the mere motion of the Territorial Legislature. Now, sir, apart from the practice of the Government, which has not been uniform on this subject, I, for one, admit, to the fullest extent, the propriety and importance of such an act of Congress. I have always held that the sovereignty over these Territories was vested in the people of these United States; that the power of legislation in reference to them belonged to Congress, and that this power was limited only by the Constitution and the nature of the trust, and that before the inhabitants of the Territory are competent to form a constitution and a State government, it is necessary that Congress should first withdraw its authority over the Territories. The necessity of an enabling act, I concede to the fullest extent. Whenever individuals in a Territory undertake to form a State government, without the previous assent of Congress, they are, in my opinion, guilty of gross usurpation and flagrant disregard of the rights of the United States and the authority of Congress. Under such circumstances, it becomes a question purely of discretion with Congress, whether to remand them to their territorial condition, or to waive the want of authority, and to ratify the proceedings as regular and lawful.

The question now presents itself, do the circumstances attending the application of Kansas for admission into the Union present such a case? Was the convention at Leecompton an unauthorized and revolutionary assemblage, usurping the sovereignty of the State, and throwing off unlawfully the authority of the United States? I hold that it was a convention of the people, called by the regularly constituted authority, and with the previous assent of Congress. I hold that the Kansas bill was an enabling act, vesting the Territorial Legislature with power to call such a convention. In analyzing the provisions of that noble law, we find that it looks to higher objects and more enduring results than the mere organization of temporary territorial governments for Kansas and Nebraska. It looks beyond the territorial status; it provides for its admission as a State; and in express terms pledges the faith of Government that it shall be received into the Union "with or without slavery, as its constitution may prescribe at the time of such admission." It also declares the "intent and meaning of this act" to be, "not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form

and regulate their institutions in their own way, subject only to the Constitution of the United States and the provisions of this act."

Now, had the bill stopped here—had it gone no further—there might be some ground for the objection that additional legislation by Congress is necessary. For the bill might guaranty to the people admission as a State, and the right of forming their constitution, and yet reserve to Congress the all-important power of determining when the people had attained a sufficient maturity and growth to fit them for the enjoyment and exercise of this highest and most glorious right of self-government. It might reserve to itself the power of determining who should constitute such a people—who should be the qualified voters—and in short, of prescribing all the steps preliminary to a call of the convention of the people. I say Congress might well have reserved all these high and delicate discretionary powers to herself, and there might be some ground for claiming them in behalf of Congress, had the bill stopped with the clause which I have quoted.

But, unfortunately for the enemies of Kansas, the bill does not stop here. It goes on to confer the most ample powers on the Territorial Legislature. In section twenty-two, after providing for the first election, it says:

"But thereafter the times, places, and manner of holding and conducting all elections by the people, shall be prescribed by law."

Again, after providing for qualifications of voters for the first election, it says:

"But the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Territorial Legislature."

In section twenty-four, it is further enacted that the legislative power of the Territory shall extend to *all rightful subjects of legislation* consistent with the Constitution.

These clauses, taken together, embrace the entire subject in dispute, and vest all powers connected therewith in the Territorial Legislature. What can be a more clear and rightful subject of legislation than to determine the time when a people shall emerge from their condition of territorial pupillage into that of State sovereignty, of calling a convention of the people, prescribing the qualification of voters, and arranging the usual details preparatory to the application for admission as a State. Indeed, sir, according to the well settled maxims of civil law, no people can undertake to form or abolish a constitution, except in obedience to the summons or invitation of the existing legislative authority. It was in this view that Congress has delegated these high and important matters of legislative discretion to the territorial government. You may take up any enabling act passed by Congress, and you cannot find a provision in it which is not involved either in the specific grants or general delegation of powers contained in the Kansas bill.

The conclusion which the language of the bill authorizes, is strengthened and sustained by its history. When this bill was first reported, it contained the usual power, which you find in all territorial bills, of congressional veto, revocation, or repeal of the territorial laws; but it was stricken out, and the bill became a law, with no reservation of power to Congress touching this point, limiting the broad grant of jurisdiction to the Territorial Legislature over "all rightful subjects of legislation." If the language of the bill and its history could leave any doubt as to the correctness of this construction, it would at once be removed by a recurrence to the debates when the bill was pending in Congress. The speeches of both friends and foes are replete with the proof of what I say. I could quote from the author of the bill, and from its supporters in this House, to show that their object was to transfer to the people of Kansas the entire control over her internal affairs, including slavery, untrammelled by any congressional legislation. But, sir, it is not necessary.

It may be said that, if this construction be true, the bill embraced two entirely distinct and dissimilar subjects: one organizing a Territory, and the other providing for the admission of a State. Well, sir, if I am not mistaken, this very objection was made, to wit: that the bill was against all regular parliamentary procedure. And a distinguished gentleman from Missouri, after exhausting his powers of invective, like a man in

fight reserving his most potent weapon for the last blow, threw at the bill an immense word, which sent our venerable Secretary of State stunned and reeling to the dictionaries. He said it was "amphibological." But the framers of that bill were not after parliamentary symmetry or harmony of outline. Their object was to settle great questions of strife which threatened the integrity of the Union; to bind in one compact and durable structure the equality of the States, the authority of Congress, and the glorious right of self-government; to build a platform on which the rights of every section in the Union might rise above the turbulent waters of sectional strife, and proudly defy all the attacks of fanaticism. In confirmation of the view I have taken, I desire to invoke the authority of the distinguished publicist and jurist who is now lending his influence to the enemies of the South and of Kansas. Mr. Robert J. Walker, in his inaugural address as Governor of Kansas, speaking of the Lecompton convention, says:

"That convention is now about to be elected by you, under the call of the Territorial Legislature created, and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress."

Again, he says:

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate, freely and fairly, in the election of delegates to frame a constitution and State government. The law has performed its entire function when it extends to the people the right of suffrage; but it cannot compel the performance of that duty. Throughout our whole Union, and wherever free government prevails, those who abstain from the exercise of voting authorize those who do vote to act for them in that contingency; and the absentees are as much bound, under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as though all had participated in the election."

It is true that the distinguished author of the bill denies that it confers any such power. And yet the very ground upon which he rests his opposition to the admission of Kansas seems to break the moral force of this denial. His position is, that the Kansas bill intended that the constitution, when adopted, should be submitted to a direct vote of the people; that this was its intent and meaning. Now, sir, if the bill went so far as to prescribe the mode of adopting the constitution, it certainly contemplated the framing of it. A constitution cannot be submitted to the people until it is formed.

Having demonstrated that this convention, assembled to form the constitution, possessed every attribute heretofore regarded requisite to complete the work effectually, it is objected that before it can present a valid title to this Congress, it should be first submitted, for adoption or rejection, to the people; not to the people whose delegates framed it, but to them and such settlers as may have come into the Territory during its progress to completion! In order to show how empty and ridiculous are the pretexes for rejecting Kansas, I propose to give this argument in the language of its author. Speaking of what the President says of the convention at Lecompton, the distinguished gentleman to whom I refer, [Mr. DOUGLAS], says:

"The President does not say, he does not mean that this convention had ever been recognized by the Congress of the United States as legal or valid. On the contrary, he knows, as we here know, that during the last Congress I reported a bill from the Committee on Territories to authorize the people of Kansas to assemble and form a constitution for themselves. Subsequently, the Senator from Georgia [Mr. TOOMBS] brought forward a substitute for my bill, which, after having been modified by him and myself in consultation, was passed by the Senate. It is known in the country as 'the Toombs bill.' It authorized the people of Kansas Territory to assemble in convention and form a constitution preparatory to their admission into the Union as a State. That bill, it is well known, was defeated in the House of Representatives. It matters not, for the purpose of this argument, what was the reason of its defeat. Whether the reason was a political one; whether it had reference to the then existing contest for the Presidency; whether it was to keep open the slavery question; whether it was a conviction that the bill would not be fairly carried out; whether it was because there were not people enough in Kansas to justify the formation of a State; no matter what the reason was, the House of Representatives refused to pass that bill, and thus denied to the people of Kansas the right to form a constitution and State government at this time."

Proceeding then to discuss the power of the Territorial Legislature to call a convention, he concludes as follows:

"If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was

null and void from the beginning; you find that the Legislature could confer no power whatever on the convention."

Upon a subsequent occasion, defending his position, he says, as follows:

"In other words, I contended that a convention, constituted in obedience to an enabling act of Congress previously giving assent, is a constitutional body of men, with power and authority to institute government; but that a convention assembled under an act of the Territorial Legislature, without the assent of Congress previously given, has no authority to institute government."

"This was my position in regard to the effect of an enabling act. I then went on to show that, there having been no enabling act passed for Kansas, the Lecompton convention was irregular."

It is rather late in the day for this gentleman to begin to rectify such irregularities. We need go no further back than California. She was begotten by a military general, and forced into the family of States by the Casarean operation of an executive *accoucheur*. [Laughter.] Yes, sir, without any previous assent of Congress, without even the authority of a Territorial Legislature; without any census; a land of roaming adventurers was lugged into the Union over all law and precedent, as the coequal of the oldest State of this Union, because it happened to be a free State. What then said this stickler for enabling acts and ratified constitutions? How spoke the putative father of these latter-day doctrines? Mr. DOUGLAS said, in 1850:

"I come now to consider California as a State. The question is now presented, whether we will receive her as one of the States of this Union; and, sir, why should we not do it? The proceedings, it is said, in the formation of her constitution and State government have been irregular. If this be so, whose fault is it? Not the people of California, for you have refused, for the period of two years, to pass a law in pursuance of which the proceedings would have been regular. Surely, you will not punish the people of California for your own sins—sins of omission as well as of commission."

"It will be recollected by every Senator present—I trust the fact will not be forgotten—that more than one year ago, I brought in a bill to authorize the people of California to form a State constitution, and to come into the Union. Had that bill passed, the proceedings would have been regular."

"Well, the bill was defeated, and the people of California, acting upon these suggestions, and relying upon the precedents cited, have formed a constitution and presented themselves for admission. Now they are to be told that they cannot be received, because Congress failed to pass a law, and the proceedings are irregular without it. I do not precisely understand what is meant by the irregularity of these proceedings. I have examined the precedents in all the cases in which new States have been admitted into the Union, from Vermont to Wisconsin. I will not go over them in detail," &c. "Those precedents show that there is no established rule upon the subject. There are several cases in which there have been no previous assent of Congress, no census taken, no qualifications for voters prescribed. There is no rule, and consequently can be no irregularity."

"I hold that the people of California had a right to do what they have done—yes, they had a moral, political, and legal right to do all they have done."

How different is his language to Kansas! The very refusal of Congress to pass an enabling act for California is urged as a justification of her monstrous proceedings, and is presented as her strongest title to admission. But when Kansas applies, the same action by Congress is relied upon as an insurmountable obstacle to her admission. The California convention had the perfect right, moral, legal, and political, to do what they have done. But the Kansas convention, although acting under an act of Congress which pledged the faith of the nation to her admission as a State, acting under a regular and legal call of her people, every safeguard provided, is held to have no power to do any act as a convention forming a government; that the act calling it was null and void from the beginning, and that Congress, in refusing to pass an enabling act, (no matter what the motive,) denied to the people the right to form a constitution and State government.

Sir, how are we to reconcile such glaring inconsistency? There is but one solution, and every day is riveting it in the southern mind; and that is, where a State applies for admission with a constitution excluding slavery, no irregularity can be too enormous, no violation of precedent too marked, no disregard of constitutional procedure too palpable, no outrage can be too enormous for its admission as a State into the Union; but when a State applies for admission with slavery in its constitution, no excuse can be too trivial, no pretense too paltry and ignoble, to keep her out. Sir, the direct tendency, and with some the avowed object, of all this opposition, is to delay the admission of Kansas until she becomes a free State. Why do they pursue this course? It is but an offshoot of that damnable policy which has been preying upon the vitals of the South for the last

forty years—that of buying peace for the turbulent and fanatical at the expense of the quiet and orderly. When Missouri applies for admission, Abolitionism gets up an excitement about slave territory. For peace sake Congress overleaps the Constitution, and marks out a line beyond which slavery shall not go. Abolitionism raves to be heard in Congress about slavery generally, and for the sake of peace Congress allows it to fill the Capitol with Abolition petitions which it has no power on earth to grant. Abolitionism hires armed bands to go and drive slaveholders out of Kansas, and Robert J. Walker, for peace sake, would hand it over to them. To pacify a band of rebels, reeking with the blood of southern men, women, and children, to whom he is indebted for all he is, he turns against his benefactors, he violates his pledge, abuses his trust, disgraces his office, truckles to the vile, tramples on the just, and scatters the firebrand of discord throughout Kansas, the Union, and the Capitol. And STEPHEN A. DOUGLAS, who was for lassoing California and dragging her into the Union over all law and precedent, and the violated rights of fifteen of the sovereign States of this Union, would now subject Kansas to all the rigors of the Inquisition to keep her out of the Union.

But we are told that it is a contempt of the authority of the people of Kansas—that it is an inroad upon popular sovereignty to withhold from them a revision of their constitution. Sir, the authority of the people is fully recognized; popular sovereignty, as a principle, is fully enforced when an opportunity is afforded to the legal voters to deposit their votes for delegates to a convention. Are not those delegates the people's representatives? Is there a lawyer present who would teach his client that the acts of an authorized agent are invalid if not submitted for ratification to the principal? Would he tell them that such acts unsubmitted would be insulting to the principal's dignity, or intrusive upon his prerogatives? Would you say that no respect should be paid to the acts, or to the principal himself, if he suffered them to go forth as his own, unratified? The truth lies just in the opposite direction. "The right of electing delegates to a convention," in the language of the profoundest writer on the philosophy of government, "places the powers of the Government as fully in the mass of the community, as they would be had they assembled, made, and executed the laws themselves without the intervention of agents or representatives."

The people act in their sovereign capacity when they elect delegates; and the delegates thus elected, and convened, are, for all practical purposes, identical with the people. Sir, I take higher grounds. I hold that the highest embodiment of sovereignty, the most imposing political assemblage known to our constitution and laws, is a convention of the people legally assembled, not *en masse*, for such an assemblage is unknown in our representative system, but by their delegates, legally elected. When such a body, with no declared limitation upon their powers, are deputed to form a constitution, and they execute their trust, the constitution, *ipso facto*, becomes the supreme law of the land, unquestionable and unchangeable by any power on earth, save that which ordained it. This is no novel doctrine. It has the sanction of the wisest and greatest men known to American history. Mr. Calhoun, speaking of a convention of the people, says it implied "a meeting of the people, either by themselves or by delegates chosen for the purpose in their high sovereign character. It is, in a word, a meeting of the people in the majesty of their power—in that in which they may rightfully make or abolish constitutions, and put up and down governments, at their pleasure." (Calhoun's Works, vol. 2, page 612.) Our present Chief Magistrate, in standing by the action of the Lecompton constitution, is only acting in accordance with his opinions long since recorded. In the debate on the veto power, he said:

"The Senator [Mr. CLAY] asks, why has not the veto been given to the President on acts of conventions held for the purpose of amending our constitutions? If it be necessary to restrain Congress, it is equally necessary to restrain conventions. The answer to this argument is equally easy. It would be absurd to grant an appeal through the intervention of the veto to the people themselves against their own acts. They create conventions by virtue of their own undelimited and inalienable sovereignty; and when they speak, their servants, whether legislative, judicial, or executive, must be silent."

Such was the convention of Lecompton, and the constitution it presents was established under laws, Federal and territorial, to which every man in Kansas (except rebels) has given his consent. These laws direct the election, prescribe the order of it, the qualification of voters, and the times of holding the meeting, and the duties and qualifications of the presiding officer. In this way the delegates were elected. They met; and upon mature deliberation framed a constitution—a constitution republican in form, and securing to the people of Kansas all those great institutions of freedom which have ever been regarded as the only and surest bulwarks of civil liberty. Violating no law, inconsistent with no principle of the Federal Constitution, it preserves and guarantees to the people of Kansas all the great agencies of freedom, the right of habeas corpus, trial by jury, freedom of the press and speech, and liberty of conscience, as inviolate and pure as when they were first given to us, baptized in the blood of our revolutionary fathers. Now, sir, can a greater insult be offered to the understanding of the American people than to say that a constitution thus established would gain anything of credit or sanctity by a ratification like that contended for? I grant that the people, through the legislature, may reserve to themselves the right of ratification, or the delegates may recognize it in the constitution itself; and in either case a ratification would become necessary to the validity of the instrument; but without those terms it would become absolute as soon as sanctioned by the delegates.

I go further. I boldly maintain that wisdom, prudence, and policy demand that the delegates should be entirely untrammelled in framing the fundamental law. The people in mass cannot deliberate upon a constitution, adopt what is good, and amend what is faulty in it. They must adopt or reject it, in the entire; and thus, on account of objections to a single clause, they might reject the most admirable constitution ever devised by the wisdom of man. The radical error which underlies the whole argument of these gentlemen is this: they assume that there is a general agreement of opinion, a collective sentiment of the people, as a unit, as to what shall be the principles and provisions of their fundamental law, and that this common sentiment is to be ascertained only by a direct vote of the people. And yet, sir, such a course might result in a grave and capital delusion. If a method could be devised for collecting the opinion of each citizen upon each clause of a constitution, the diversities of sentiment would be equal to the number of voters, and, perhaps, greater. The theory of ratification, however, does not allow to the people the right of framing a constitution, or even offering amendments and modifications. They can only, like a witness on cross-examination, answer "yea" or "nay." And I repeat, a constitution which might stand an imperishable monument of human wisdom, could be voted down by an immense majority, of which each individual member might be in an actual minority on the particular subject-matter of his dissent. Such a process, so far from evoking the general pervading sentiment of a people as to what shall be their fundamental law, may signally fail in eliciting the true view of a single individual.

A distinguished Senator has laid down the proposition that, under the power to admit new States Congress is forced by a paramount duty to see that the constitution of a State asking admission into the Union embodies the will of the majority of the people. Sir, I hold that a constitution presented by the regular and legally constituted authority is conclusive upon Congress as to the will of a people. We will not allow any such issue to be presented. We assert the right of the people to form their Government; but we hold, and I think I have already shown, that the highest and purest exhibition of their sovereign will is a people acting by their own chosen delegates in convention assembled. The Federal Government, and half of the States of this Union, were formed in this way, and they need no improvement from the constitutional tinkering of this day.

To object that the convention may have abused its powers, and that the constitution should be submitted to a direct popular vote, in order that it may be ascertained whether it accords with the will of the people, is to beg the question, and to

strike at the very root of all constitutional and legal authority. It is an objection not to the constitution of Kansas alone, but to the very genius and framework of all representative government. Upon the same ground that a constitution framed by delegates should be submitted to the people, it may also be demonstrated that every law enacted by Congress, or by a legislature, and that every verdict by a jury, or decision of a court, should likewise be submitted for the approval of the people. Sir, a delegate may misrepresent the people, a Senator or Representative may misrepresent his constituents, but the remedy does not lie here in this central power of the Republic, (more liable to abuse than any other,) it lies in the hands of the local constituency, to whom the representatives are immediately responsible. And here lies the efficacy and power of our form of Government. The direct responsibility of our rulers to their constituents, the right of suffrage among the people, aided by that great moral engine of freedom, the liberty of the press, are the *vis medicatrix nature* of our political system, sufficient to remedy every disorder and throw off every impurity, without resorting to violent irregularity and revolutionary action.

When a State applies for admission, Congress is bound to subject her to no restrictions except such as Congress may constitutionally impose upon the States already composing the Union. There is but one limitation which you are bound to impose, and that is, that her form of government should be republican. But, under the power to guaranty a republican form of government, you have not the right to range with unlimited discretion through every provision of her constitution, interfere with her internal and local distribution of political power, adjust questions of majority and minority, lay down arbitrary rules of your own as to what constitutes republican government, and, by compelling her to conform to them, substitute the will of Congress for hers as to what shall be her fundamental law. Are not the constitutions of the original thirteen States pretty fair tests as to what constitutes republican government? Can any one say that the Kansas constitution, tried by this test, the only one which you can rightfully apply, is not a republican form of government? Where is the feature in it contrary to our republican institutions, or repugnant to the paramount Constitution of the Union?

We are told by a distinguished gentleman that he would "pass over forms, ceremonies, and organizations, to get down deep to the will of the people." Sir, the will of the people can only be obtained through these forms, ceremonies, and organizations; and the structure of our Government is intended to provide these forms and organizations, through which the people can speak authentically and authoritatively. What can he mean by passing over and disregarding these forms? The Constitution of the United States is a form. Times, places, and manner of holding elections, and qualifications of franchise, are but forms, through which the people exercise their power. This matchless Government, springing from the Constitution and the division of power between the Federal and State Governments, is but an organization. Would he pass over all these to get down to what he sees proper to consider the will of the people? The doctrine is monstrous, dangerous, and disorganizing. It gives to the action of regular government no more authority than belongs to an ordinary, voluntary assemblage of citizens, outside of the Constitution and law. If these views be correct, we had better, at once, tear down this splendid fabric of American architecture, and discard conventions, Legislatures, and Congresses, as inconvenient, cumbrous superfluities, and resort at once to the democratic absolutism of Athens. The doctrine has been in Europe omnipotent for pulling down forms, ceremonies, and organizations, but powerless for reconstruction; like those serpents in the East, which, while they inflict a death-blow, breathe out their own life in the wound of their dying victim.

We were told by the gentleman from Ohio, [Mr. Cox,] that the constitution is not republican in form, because it prohibits amendment, alteration, or change, until after 1864, and then hampers the perfectly free action of the people by requiring a majority of two thirds of the Legislature to concur before they will allow the majority to call for amendment. But the climax of anti-republican-

ism is the provision that "no alteration shall be made to affect the rights of property in the ownership of slaves;" a doctrine that would tumble into irretrievable ruin the Federal Constitution, and the constitutions of half the States in the Union, including that of the gentleman's own State; for there is not one of these which does not contain as stringent and dilatory limitations as are found in this Kansas constitution. The argument by which he supports this view is, that the "Democracy, as taught in Ohio, believes in the repeatability of everything by the popular voice." Do the Democracy of Ohio consider the clauses of the Constitution securing all those great rights, such as freedom of speech, freedom of the press, liberty of conscience, inviolability of property, repealable by the popular will? Do the Democracy of Ohio believe in the repeatability of that clause guarantying the right of a State to equality of representation in the Senate of the United States? This may be Democracy in Ohio; but I hope it is a Democracy confined to Ohio alone. It may be Republicanism, but it is not the constitutional republicanism of America; it is the red republicanism of France. The very tenure by which the gentleman exercises the privilege of uttering these objections against the Kansas constitution, is an oath to support a Constitution liable to them all; a Constitution imposing the heaviest restrictions on the power of amendment; a Constitution whose framers intended it, not as an instrument of power, but as an instrument of protection against power.

It would be well for these gentlemen to consider when, and by whom, this particular mode of adopting a constitution, which they insist is the only true mode, was first established. It was not by the fathers of this Republic—the men of 1776. The Federal Constitution was not submitted for adoption to a direct vote of the people, nor were the constitutions of the Old Thirteen. The first instance in modern times, so far as my researches go, was the constitution of 1799, which was submitted to the people of France, and accepted by a vote of three million to fifteen hundred. This was in accordance with the teachings of Rousseau—the doctrine of unlimited, indivisible, undelimited power of the people—a doctrine almost identical in terms to that upon which the opposition to the admission of Kansas rests. What was the result? The sovereignty of the people was established and recognized, the King was beheaded, the nobility were banished, the religion abolished, property confiscated, and France converted into one moral and political volcano, from the conflict of whose discordant elements arose the demon of centralization and military despotism, the rod of whose power smote down all the valuable rights of the people, and the cherished interests of humanity. It was during the progress of this fanatical and bloody drama, that one of its most conspicuous and sanguinary actors, appalled by the magnitude of the power which he had invoked, exclaimed: "Do you not see the project of appeal to the people tends but to destroy the representative body? It is sporting with the sovereign majesty of the people, to return to it a work which it charges you to terminate promptly."

The next constitution submitted to the people was the consulate constitution, confirming upon Napoleon Bonaparte—[Here the hammer fell.]

Mr. MONTGOMERY. Mr. Chairman, I rise not for the purpose of indulging in declamation, but simply to discuss, in a legal manner, the points which have been in controversy before this committee. The venerable gentleman from Mississippi, [Mr. QUITMAN,] distinguished alike for his military glory and his ability as a statesman, has assumed the position upon this floor, that the law of nations does not prevent our citizens from banding themselves together to invade the territories of other nations with which we are at peace. From that position I entirely dissent. He also contends that the Constitution of the United States does not grant to Congress any power whatever to pass a law to prevent our citizens from these aggressions. From this I also dissent. I enter my protest against both these positions. They are not correct. It is a strange doctrine for a statesman to advocate, that when we have concluded a treaty of peace with another nation, that treaty is binding only on our Government, and not upon our people; that the treaty of peace amounts

only to a compact which binds the powers of this Government, but not the powers of the people. I maintain that the true doctrine is, that when our Government is at peace with a nation, every citizen is also at peace with that nation; that what the nation cannot do, no citizen can do.

The Government of the United States cannot invade the territories of that nation, nor can any citizen of this Government invade them. The treaty of peace is as broad as the nation, and embraces every individual in it; and not only every citizen, but every resident of the country is bound by that treaty of peace. Nobody has any more right to violate it than the nation itself.

The gentleman says that the Government has no right to interfere in the case of individuals who go from one country to attack another nation. I deny it. I say that this nation is bound for every individual in it who attempts acts of hostility against a nation with which we are at peace. If a man in Canada should arm himself, and pass into our border with the intention of attacking our countrymen and violating the peace of the land, it would be as much the duty of the authorities of Canada to interfere as if that man had arrayed around him a thousand men, armed like himself. We are bound for the act of every citizen within our limits. Every individual within our limits is bound by our treaties of peace; and when we are at peace with a nation, every individual under the Government is also at peace with it. No one has rights as an individual which we have not as a nation; and we have none as a nation which do not belong to each one as an individual.

It would be a monstrous and dangerous doctrine, indeed, to promulgate in this Union, that when we are at peace with another nation, our citizens can band themselves together to attack that nation notwithstanding the treaty of peace. It would be a monstrous doctrine to teach that one man, or twenty men, or ten thousand men, or the vast millions who people our extended domains, can arm themselves, with the gentleman as their leader, if you please, and march in a body to attack a neighboring nation with which we have a treaty of peace. I care not, however, whether there is a treaty of peace existing between us and that nation or not; it matters nothing in the argument. Peace is the natural condition of a nation; it is the natural relation which one nation bears to another, and war is the unnatural condition. And whether there is a treaty or not, still our citizens have not the right, unless there is a declaration of war, to march armed bands into another country to violate its laws and make war upon its citizens.

Mr. QUITMAN. Will the gentleman from Pennsylvania permit me for a moment to state that I took no such position. I contend simply for this position: that it is no violation, where there is peace between two nations, for an individual, or for a number of individuals, to commit hostility against the individuals of the other nation—not against the nation itself. And I ask the gentleman if he recognizes the authority of Vattel, one of the ablest writers on the law of nations? He says, book 3, chap. 7, sec. 110:

"The quarrels of another cannot deprive me of the free disposition of my rights in the pursuit of measures which I judge advantageous to my country. Therefore, when it is a custom in a nation, in order for employing and exercising its subjects, to permit levies of troops in favor of a Power in whom it is pleased to confide, the enemy of this Power cannot call these permissions hostilities."

"He cannot even claim, with any right, that the like should be granted him," &c. "The Switzers grant levies of troops to whom they please, and nobody has thought proper to quarrel with them on this head."

Mr. MONTGOMERY. In reply to the gentleman from Mississippi, I beg leave to read further from the same book. The only difference between us is, that the gentleman did not read far enough upon the page. If he had read far enough he would have found the doctrine I was contending for, and that the law of nations does not sustain the position he assumes. He says:

"Sec. 72. But, on the other hand, the nation or the sovereign ought not to suffer the citizens to do an injury to the subjects of another State, much less to offend that State itself; and this, not only because no sovereign ought to permit those who are under his command to violate the precepts of the law of nature, which forbids all injuries,—but also because nations ought mutually to respect each other, to abstain from all offense, from all injury, from all wrong,—in a word, from everything that may be of prejudice to others. If a sovereign, who might keep his subjects within the rules of justice and peace, suffers them to injure a foreign nation, either in its body or its members, he does no less

injury to that nation than if he injured it himself. In short, the safety of the State, and that of human society, requires this attention from every sovereign. If you let loose the reins to your subjects against foreign nations, these will behave in the same manner to you; and, instead of that friendly intercourse which nature has established between all men, we shall see nothing but one vast and dreadful scene of plunder between nation and nation."

I adopt the language of the learned writer of the law of nations as my reply to the gentleman from Mississippi. Now, sir, we have the law of nations upon the subject. That being the position we occupy towards Nicaragua, the question arises, what rights and powers have other nations which are not guaranteed to us by our Constitution? Is it possible, as is contended for, that this mighty nation is an exception to all other nations on the globe, and has not the constitutional power to enforce the law of nations? Is it possible that American citizens can stand upon the floor of Congress, and maintain that we are not compelled to sustain the law of nations, the obligations of good faith, and to enforce our treaty stipulations with other nations? Is that the position which is assumed here; and is that the position occupied by the gentleman from Mississippi? I do not think that is exactly it. I do not think he would go that far. Having established what the law of nations provides for, and guards against, then the question arises, what rights we have, and what obligations we are under. What power have these United States to guard against the infraction of the law of nations? It is hardly worth while to refer members to the Constitution of the United States; but as it was denied that we had any constitutional power upon the subject, perhaps it is best to read from that instrument. One of the provisions of the eighth section of the Constitution of the United States is:

"Congress shall have power to define and punish piracies and felonies committed upon the high seas, and offenses against the law of nations."

Everything that is an offense against the law of nations can be provided for and guarded against by a law of Congress. The power given to Congress is as broad as the law of nations; the whole subject is under their control. Did they exercise it by the passage of the act of 1818? The gentleman from Georgia [Mr. STEPHENS] contended that they did not. He contended that no act had been passed by the Congress of the United States that would authorize us to make an arrest beyond a marine league from our own shores. Mark the extent of it. The law of nations requires that we shall restrain our citizens from committing aggressions against other States. The Constitution of the United States provides that we shall have all the power to enforce the law of nations, and that Congress can enact a law for that purpose. Congress, in obedience to these requirements of the Constitution, and to carry out and enforce the law of nations, passed the act of 1818. One of the plainest rules of interpreting a statute, is to know the object of the law-making power in enacting a particular law. If we know the motives which prompted the legislation, we can easily interpret the law.

The object which the Congress of the United States had in view when they enacted the statute of 1818, was to carry out the law of nations; and yet, according to the argument of the other side, they did not do it. They did not do what they intended. I say that such an interpretation is an unfair and an unnatural one. It would not be the interpretation given by the Congress which passed that law. They intended to guard against every infraction of the law of nations by our citizens; they intended to guard against expeditions being fitted out in the United States for the purpose of carrying war into countries with which we were at peace. I maintain that the interpretations given to these two sections of the law are forced and unnatural. It is not the legitimate construction which should be given to them. The law is divisible into two parts. The first section provides against expeditions being fitted out within our own boundaries. Section six reads:

"That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot or provide or prepare the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or State, or of any colony, district, or people, with whom the United States are [at] peace, every person, so offending, shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding \$3,000, and imprisoned not more than three years."

That was intended by Congress to guard against

expeditions being fitted out within our own country. It was intended to guard against the banding together of a body of men for the purpose of invading the territories of, and waging war against, nations with which we were at peace.

There is a further section. If Congress had stopped at the sixth section there might be some doubt about the matter. I here beg leave, however, to explain what is meant by the marine league about which so much has been said in this debate. In every civilized nation the sea, within a marine league of shore, is recognized in law as land. Offenses committed within a marine league of shore are regarded as offenses, in every sense of the word, committed upon land. If a man commits murder within a marine league, he is tried as though it had been committed upon the shore. An offense committed anywhere, within the marine league, is committed on land, and the offender can be tried according to the provisions of the sixth section of the act of 1818.

Mr. SMITH, of Virginia. I would ask the gentleman this question: If the doctrine which he now maintains be correct, what was the necessity for the sixth section?

Mr. MONTGOMERY. I did not hear the gentleman's question.

Mr. SMITH, of Virginia. You state that the jurisdiction of the United States extends to one marine league, and that offenses committed within that marine league are the same as offenses committed on the land.

Mr. MONTGOMERY. Certainly.

Mr. SMITH, of Virginia. Then, what was the necessity for this sixth section of the act of 1818?

Mr. MONTGOMERY. It is a mere affirmation of the common law—a mere affirmation of what is acknowledged everywhere; inserted, doubtless, to prevent any doubt as to the jurisdiction of our courts.

Mr. SMITH, of Virginia. Will the gentleman allow me to remind him that, according to the principles of statutory construction, the law-maker is never to be presumed as doing an idle or vain thing?

Mr. MONTGOMERY. This was not a vain thing. Here is a provision enacted for the purpose of fixing the jurisdiction of courts, and of punishing certain offenses committed within that jurisdiction. But the jurisdiction itself is another matter. To prevent doubt as to the extent of jurisdiction possessed by the court, the common law is affirmed by the statute. To what offenses does this sixth section of the act extend? Why, it extends to all offenses committed within the limits of our country, or within a marine league of the shore. This was the common law; and this section of the act is but in affirmation of that. It provides, "if any person shall, within the territory or jurisdiction of the United States," &c. Then the question of jurisdiction over offenses arises. This section of the statute settles the question; for the section of the law clearly embraces every offense committed within a marine league of shore. But the next section was made for the specific purpose of going beyond the mere limits of this land jurisdiction—of going somewhere else, and of doing something else. It provides that in every case in which a vessel shall be fitted out and armed, &c., then the President of the United States shall have power to do so and so. In the former case the jurisdiction was in the court, but this eighth section vests the power in the President. It provides, after specifying the offenses embraced in it, as follows:

"In every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of detaining any such ship or vessel, with its prize or prizes. And also, for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominion of any foreign prince or State, or of any colony, district, or people, with which the United States are at peace."

"Carrying on!" The one is to prevent such an expedition from being equipped, armed, and organized, and the other is for the purpose of preventing it from being "carried on." What is the meaning of the phrase "carried on"? Is its application confined to within the marine league? Or does it extend from our shores to the place where the conflict of war is taking place? I ask you whether such an expedition is not being "car-

ried on" when the contending armies are actually in sight of each other and ranged in battle array, and even when they are actually engaged in conflict? I ask whether the Army and Navy of the country cannot just as well arrest the offenders there, for the purpose of preventing them from "carrying on" the expedition as they can within a marine league of the shore? If we cannot prevent the expedition from being carried on wherever we find it, then the language of the act is too broad; and if Commodore Paulding pursued the words of the act, the fault is in the law, and not in that noble American sailor.

The next question that arises is this: Has "General" Walker committed any offense against the law of nations? No man will stand on this floor and deny that he went with an armed force into a country with which this country was at peace; that he went into Nicaragua with a body of soldiers, with arms in their hands. The papers show that he signs his name as commander-in-chief of the army—not as an agricultural emigrant, not as a peaceful man going to settle in the country, to till the soil, and to live there in peace under the laws as they stand. On the contrary, he styles himself commander-in-chief of the army of Nicaragua. He goes in hostile array to wage war against that country. He goes as a military usurper to overturn the civil institutions of the country by the force of arms, and to hold it by conquest. This is his offense against the law of nations, and the laws of our country.

Then the question arises as to the legality of his arrest. I maintain that this is the doctrine of the law, and that no man can controvert it: that the right of a nation to arrest a criminal who has committed an offense against its laws is *always perfect*; that it exists everywhere; and that you can arrest that criminal wherever he is found, any where on the broad earth. But that right of arrest is subject to a limit. What is the limit? In certain cases—mark, I do not say in all cases, but in certain cases—the right of arrest is in subordination to the sovereignty of the country where the arrest is made. A criminal escapes from this country to England. The sovereignty of England may interpose to prevent his arrest; but between the criminal and the country our right to arrest him is as perfect as it ever was—just as perfect as it would be in the streets of Washington, or in the city of New York. It is the same in London. It is the same in Pekin. We never lose that right of arrest; we cannot lose it, in any shape, unless we relinquish it.

But I said that, in certain cases, it was in subordination to the right of the nation where the arrest is made. It is so whenever the sovereignty of that nation will protect the criminal. Our right to arrest a criminal being a perfect right, subsisting everywhere, wherever a criminal is found, whether on the high seas, in the territory of England, or in the territory of Nicaragua, it follows that General Walker can be arrested, unless the sovereignty of the nation where he is found protects him. Let me illustrate; let me prove it beyond peradventure; and I defy gentlemen to disprove my position. On what principle do all our extradition treaties proceed? They proceed upon the principle that the right of arrest is perfect everywhere; that Governments have the right to arrest a criminal wherever he is found, subject only to the limitation of the sovereignty of that nation; and all that is attained by extradition treaties is simply the consent of the nation to lift up that sovereignty, and permit the arrest. That is all. Such treaties are everywhere acknowledged as legal and proper, and this proves most incontestably that the right of arrest exists everywhere. A man escapes from England to this country, and, under the extradition treaty that exists between us, he is arrested and taken back: does that violate any right on the part of the criminal? Not at all. He never had any. The right of England to have a criminal arrested here for an offense committed within her borders, is a perfect right; and the treaty did not make it any more perfect.

It was only for the time being in subordination to the sovereignty of our country; and that sovereignty being withdrawn, the arrest, in such circumstances, is a complete and legal arrest, and no defense could be set up against it in any court. Then the question arises, when does the sovereignty of a nation protect a refugee? When is a criminal shielded from arrest by the sovereignty

of the nation in which he has taken refuge? When he goes into a country to attack the sovereignty of such nation, then the sovereignty of the nation will not protect him. If General Walker committed an offense against the laws of his country, and then went into the territory of Nicaragua in defiance of her laws, there is no man on earth who would pretend to say that the laws of Nicaragua would shield the man who comes to attack and destroy those very laws. That would be a monstrous exercise of sovereignty—a sovereignty throwing the shield of protection around the villain who was stabbing it to the heart! Think of a man setting up as his defense from arrest the protection of a Government which he was laboring to destroy. The man who was aiming to blot out the nationality of Nicaragua claims that this nationality protects him. That is not the object of national sovereignty, and it is a strange perversion of terms to claim such an office for it. No nation ever throws the shield of protection over a man who comes to attack and destroy it.

Let me illustrate further. The law of nations makes it our duty to prevent our citizens from committing acts of hostility against nations with which we are at peace. We are bound to perform that duty, wherever the offenders may be found. The arrest must be made, the warfare must be stopped, whether those who engage in it be found on the high seas, in our own country, or in the country against which the war is being carried on. We are bound to do it, for it is our duty. Let me illustrate by a familiar example. I am passing by the house of a neighbor, when I hear the cry of murder and help from within; I go to the door and find it locked; I seize a sledge and break in the door and arrive just in time to clutch the assassin's arm as he is about to strike my neighbor to the heart: I ask you if there is a man here who would contend that I have violated the right of sovereignty of my neighbor by entering his castle for his protection, or that he could sustain a suit against me for the act? Sir, I broke into his "castle" for the purpose of rendering him the assistance which he requested by his cries for help.

But, sir, our duty under the law of nations is stronger even than that. I was not bound to break into my neighbor's house to save his life. It was my duty to do it, but it was a moral duty which I was not bound to perform; but, under the laws of nations, it is not only proper that we should arrest an expedition fitted out from our shores to invade the territories of a nation with which we are at peace, but it is a duty which we are bound to perform. Under the law of nations, and under our own laws, we have no option in the performance of this duty. We are bound, as a matter of necessity, to arrest the man, and prevent our people from committing outrages upon a neighboring nation. It is a duty of which we cannot divest ourselves unless we violate the law.

Will any one contend that the sovereignty of Nicaragua shielded General Walker whilst he attacked it, or that we invaded that sovereignty in arresting him? Sir, it would be an anomalous, a monstrous proposition, precisely on a par with that of the man who, because I entered his house when I heard the cry of murder, would attempt to make me amenable to the civil law.

I say, sir, that we had a duty to perform under the law of nations, and under the law of 1818; and that in the discharge of that duty, we must prevent the "carrying on" of the expedition of General Walker. In the discharge of this duty, we were bound to follow that expedition and break it up wherever found; and no man can set up a claim upon the part of Nicaragua for an invasion of her soil. If such a claim were presented in this House, it would be scouted by every man upon this floor, because we all know that such a claim would be groundless.

I maintain, sir, that Commodore Paulding has violated no law, committed no offense, but that he simply performed his duty. And I honor him for it. I respect his intentions; I admire his boldness and firmness; and I approve of his conduct, and fearlessly pronounce his interpretation of the law under which he acted as unquestionably correct. I love the noble tar who braved the consequences, and "took the responsibility" of doing his duty.

Gentlemen, to defend General Walker, have dragged in the invasion of the soil of Nicaragua

as an outrage committed by our country. To hear them, one would suppose they were Nicaraguans, and not citizens of our glorious land. From their representations, we would be led to believe that the poor people of Central America were in tears because we rescued them from the ravages of a merciless invader.

But, sir, did Commodore Paulding, by the arrest of General Walker, violate the law of nations? I say that he did simply his duty, and nothing more than his duty; and that if he had done less he would have been censurable. It is the duty of our Government to restrain and prevent its citizens, wherever found, in the language of the act of 1818, from "carrying on" such expeditions. Suppose an army of our people should be organized to cross the imaginary line on the northwestern boundary of our country and attack the people of Nova Scotia; suppose we send our army to arrest the expedition, but just as it reached the boundary line, the expedition, ten thousand strong, crossed over, and in full sight of our army commenced the work of burning houses and robbing and slaughtering the citizens of that country: I ask if there is any man here who would justify a commander-in-chief if he would not pass over the line and put a stop to this work of murder and arson? I think there is no man here who would not say he was right in crossing the line. Yet if the interpretation of the act of 1818 is as contended for by the honorable gentleman from Georgia, he should have allowed the slaughter to have proceeded without interruption, because the act of 1818, although it required us to prevent the carrying on of such expeditions from our own shores, did not permit us to enter the jurisdiction of another Power for that purpose.

Mr. Chairman, I think Commodore Paulding was entirely right in the construction which he gave to the act of 1818, and I think he is entitled to much credit for the interpretation he gave to that act of Congress. I think the Congress of the United States should concur in that interpretation, for it is the correct one. It is a safe doctrine, and the only doctrine under which it is practicable to restrain such expeditions. Under any other construction it would be almost impossible to arrest an expedition fitted out on our southern borders to attack a neighboring country, because you can never find the ship, in one time out of a thousand, until the men and munitions of war are landed. It was so in the case of the expedition fitted out against Cuba. We had a line of ships upon our coast, and Spain had almost covered the ocean with her ships of war. Yet the expedition was not overtaken until it had landed, and the army had gone into the interior, and there fought as Americans will fight, until the last man died, or was taken prisoner.

Under such an interpretation you render your act impotent. You can neither enforce the laws of nations nor carry out the provisions of the act of 1818, unless you sustain the very course which has been taken by Commodore Paulding. We should not give it the cold support that says, "You ought not, perhaps, to have passed the borders; that was technically wrong, but you have acted under an honest mistake, and we will excuse you." Let us on the contrary say, "Commodore, you have done your duty, and we will sustain you." At the time of the Canadian difficulties the authorities there gave this interpretation to the law of nations. General Brady took his position upon the waters which divide the United States and Canada, and there prevented the expedition from our country from going over. Why did not the United States, which is so jealous of her right; why did not these gentlemen who stand up in this Hall in defense of the sovereignty of Nicaragua, call upon England to redress this grievous invasion of our waters? This, sir, is a novel doctrine, one which has sprung up in favor of General Walker; such a doctrine as has had no recognition in the practice of nations; such as has found no place in the pages of the learned writers on international laws.

It is contended gravely that we should send Walker back; that we have committed a gross outrage upon his rights, and that we ought to put him on board one of the vessels of our Navy, with his men and munitions of war, send him back, and put him precisely where Commodore Paulding found him. Yet the men who contend thus, in the same breath allege, that when Com-

modore Paulding landed upon the shores of Nicaragua, he committed an outrage upon the sovereignty of that State; and yet they would send him back, with his men and his arms, and thus commit another outrage upon the sovereignty of that nation. This is to be done; and upon the principle, it is to be supposed, that two wrongs make one right. If it was an invasion for Commodore Paulding to land in Nicaragua to arrest General Walker and his troops, I should like to learn how, when General Walker is taken back, we can avoid again invading the sovereignty of Nicaragua. I hope that some of the honorable gentlemen who desire us to take General Walker back, will explain how, if Nicaraguan sovereignty was invaded in the one instance, they expect to avoid it in the other.

Mr. SMITH, of Virginia. What does the gentleman mean to do with the munitions of war taken from Walker? Does he mean to return them to Walker, to sell them, or to keep them for the purposes of our own Army?

Mr. MONTGOMERY. We do not want any of his plunder or his traps. We will give them back to him. But, Mr. Chairman, I, too, am in favor of sending General Walker back. I maintain that it is our duty to do so; and I think that the President of the United States, in the course he has pursued, committed one mistake, and that is that he did not go far enough. He has done his duty with too much generosity and mildness. He has been too forbearing. The law of nations required more from him. He ought to have done more than he has; he ought to have sent General Walker back; and, for one, I am prepared to vote for a resolution calling upon the President to have him arrested and sent back to Nicaragua. Yes, sir, it is our duty, under the law of nations, to send him back.

I am asked, why send him back? I will explain. It will not do for gentlemen to say that there must be a demand made by Nicaragua; nothing of that kind is required. I will let Mr. Vattel explain for himself the doctrine for which I contend. If General Walker has committed an outrage against the laws and the sovereignty of Nicaragua, he ought to be sent back, and it is the duty of this country to send him back, and there let this restless general be tried. The law of nations on this subject is thus. Vattel says (page 223, side number 75) that—

"If the offended State keeps the guilty in his power, he may, without difficulty, punish him, and oblige him to make satisfaction. If the guilty escape and returns into his own country, justice may be demanded from his sovereign."

"And since this last ought not to suffer his subjects to molest the subjects of others, or to do them an injury, much less should he permit them audaciously to offend foreign powers; he ought to oblige the guilty to repair the damage, if that be possible; to inflict on him an exemplary punishment; or, in short, according to the nature of the case and the circumstances attending it, to deliver him up to the offended State, there to receive justice. This is pretty generally observed with respect to great crimes, or such as are equally contrary to the laws and SAFETY of ALL NATIONS."

It is the duty to deliver up the guilty party, and especially in this case, where the offense has been against the laws of nations. Three times has this General Walker invaded the territories, and waged a war of robbery and plunder upon nations with which we had treaties of peace binding us to restrain him and his followers from acts of aggression. Three times has he committed these outrages, in the face of the world, and in defiance of our treaties and our laws. The second time he was rescued through motives of sympathy and humanity, and brought back to our shores in a national ship. Then he was released upon his solemn parole of honor, by which he pledged himself to the Secretary of State that he would not commit another violation of the law of nations, or disturb the peace of Nicaragua. But again he has violated those laws and that solemn pledge; and in utter disregard of our laws, in contempt of our courts, and in violation of his recognizance, he has embarked with a small army of desperate men, and has invaded the territory of Nicaragua. Once more he has been arrested; and yet gentlemen claim for him our sympathies, and ask us to shield and protect him. Nay, more; that he may be permitted again to set our laws at defiance by another invasion of a country with which we are at peace. This desperate man, who insultingly and boastfully informs our Secretary of State that he intends again to return to conquer Nicaragua by forces assembled in our borders, finds advo-

cates on this floor. I say that it was our duty, and it was the duty of the President, the moment General Walker was brought here, to have him placed in confinement in an American ship, and delivered up to Nicaragua, there to be tried for his violation of the peace of nations.

Mr. SMITH, of Virginia. Let us understand what the gentleman means by the law of nations, and then we can understand his argument.

Mr. MONTGOMERY. I mean by the law of nations, that rule of action which regulates the mutual intercourse of independent States with each other.

Mr. SMITH, of Virginia. How are they to be enforced?

Mr. MONTGOMERY. Each nation must observe the laws of nations for itself, and prevent its citizens from violating them. They are to be enforced in precisely that way. Will the gentlemen on the other side complain of us for returning General Walker to Nicaragua? Why, sir, they have told us, with triumph written upon their countenances, that this man General Walker was the President of Nicaragua; that he was the ruler of that country; and that he has legal rights there. We were told by the gentleman from Georgia, [Mr. STEPHENS,] when I put the question to him, that Walker had been invited there by the Government of Nicaragua. If that be so, then General Walker has nothing to fear; his people will welcome back, with songs of rejoicing, their old friend, the commander of their forces, the President of their nation.

The friends of General Walker should not object to this. If his legal rights are there, he will have legal redress for his wrongs. If he has legal rights there, he can enforce them in the courts of Nicaragua. If, on the other hand, he has committed an outrage against the law of nations, if he has committed aggression upon the Territory of a neighboring nation, with which we are at peace, and the law makes it obligatory upon us, when a violation of the peace of a nation has been committed by any person who embarked from our shores, to deliver up the offender, we cannot escape from it. We have this thing to do, and we ought to do it; and I am ready here to vote for a resolution to have him delivered to the Government of Nicaragua. I trust this course will be taken.

The President of the United States has taken a vigorous stand upon this great question. He is to-day receiving the encomiums of the people of every Government in the civilized world for the course which he has adopted. We must either assume a bold, open, and independent opposition against these aggressions on sister States, or we will ere long be involved in a war for the violation of the peace of nations. It will not be a war with the feeble power of Nicaragua, but a war in which the Governments of the earth will be arrayed on one side and ourselves upon the other. Though I have no fear of the result of a conflict in which American valor is involved, who is willing to say that our glorious country has so lost its honor that the nations of the world are compelled to combine against it?

The aggressive spirit of our people has already been the subject of serious debate in the cabinets of London and Paris. Sustain the conduct of General Walker, and you will give such an impetus to the spirit of aggression and invasion, that no nation will be safe from attack. Mutual safety will require a union of the nations to check our insatiable and rapacious thirst for adventure. All the rest of Christendom on one side, and we on the other, fighting in an unjust cause, defeat is inevitable. It will not do for us to turn round and say to the nations of the Old World, "you have been equally guilty." This is a poor justification. The nations of Europe have had a watchful and guardian eye upon the shores of the Gulf of Mexico; and the day is not distant, unless the act of 1818 and the law of nations are enforced, when forbearance will cease to be a virtue, and resistance will become a duty; and then a fierce, long, and bloody war will be upon us. For what? For the aggrandizement of such men as General Walker. I say that the President of the United States is at the present time receiving eulogiums from every civilized Government upon earth, and his course is approved by the people of this country, almost unanimously. I am glad to see the returning spirit of reason.

Let us each and all be determined that we will stand by the President, that we will stand by the laws, and the dark clouds that now shade the horizon of the future will be entirely dispelled. Let us save our national honor by a manly and determined resistance to this spirit of aggression. Let us be able to turn proudly to the nations of the earth and say: "We respect our treaties; we enforce our laws; there is no blot on our national flag, no stain on our national honor."

Mr. ZOLLICOFFER. This discussion has had a wide range, and the points involved in it have been elaborately discussed. I cannot hope to win and hold the attention of the House under such circumstances, and I will be brief and to the points I propose to make.

There are reasons why I wish to make a record of my position upon some of the points involved in this discussion. In the outset, I am opposed to a repeal of the neutrality laws. I believe that it is our duty to ourselves and the world, and our best policy, if we would perpetuate our power, and preserve the respect and amicable feelings of foreign Powers, to leave the act of 1818, guarding our neutrality, upon the statute-book. I am not a filibuster, and do not rise for the purpose of defending a violation of the neutrality laws of the United States. But I have been made to feel during this debate that justice has not been done to General Walker, and that it is my duty to give briefly my view of his public career—a career which has been so violently denounced here and elsewhere. Epithets of the most exceptionable character have been applied to General Walker by members of this House. He has been denounced by Commodore Paulding, by the President, and through the presses of the country, as a pirate, a robber, a marauder, and as one who has ruthlessly violated the law of nations.

Mr. Chairman, I do not believe that General Walker has violated the neutrality act of 1818. I know he is not a pirate, or a robber. Such epithets are unjust, and discreditable to gentlemen who employ them upon the floor of the House.

May I be indulged in briefly recurring to that action of General Walker which has called upon him such intemperate epithets as these? In 1854, civil war, as is usual in the Central American States, was raging in Nicaragua. General Castellon, the leader of one of those parties, and the one which had taken possession of nearly all the strong points in the country, sent to General Walker, then in California, a military commission to raise three hundred men and join him in the conflict. What did Walker do? He declined this commission, but sent word by the agent of Castellon: "If your Government will place in my hands a commission for colonization, I will accept it." Such a commission having been forwarded to him, (and I call the attention of gentlemen to such facts as these,)—a commission from Castellon, the provisional director of the party which had taken possession of the whole country, with the exception of New Granada, and one or two other unimportant points in the country—what did Walker do? He proceeded at once to lay this paper before the Federal officers of the United States in California, and to ask their opinion of it. He showed this commission to the district attorney of the United States for the northern district of California, and to the officer of the port of San Francisco.

They informed him that they regarded it as legitimate; that they did not see in it a violation of the neutrality laws of the United States; and that they would not interfere with him, but wished success to his enterprise. It is a striking fact that the captain of the revenue cutter lying in the port of San Francisco actually sent his sailors to bend the sails of the ship which carried Walker from California to the shores of Nicaragua.

When Walker landed, some complaint was made that American citizens were interfering in the local disputes of Nicaragua. When he learned this, he proposed that he would return to the United States. The spirit which he evinced on this occasion seems to have satisfied those who had given him the grant, and he was induced to join the provisional director. The first step taken by him and his followers, was to take the oath of allegiance to the Nicaraguan Government. He took the oath, and so did the fifty-six men who went with him, and they thereupon became citizens of the Republic of Nicaragua.

The first result of Walker's emigration (and interposition, if you please) was the reconciliation of the two parties which had divided the country. It is true, he had first captured Granada, but that achievement led to the happy result of bringing about a reconciliation of the two parties, and in establishing a Government which was more permanent than any Government that has existed in Nicaragua for many past years.

It will be recollected that, by the arrangement agreed upon, Rivas, the leader of the Legitimist faction, was made president, and General Walker, the leading spirit of the Liberal party, was made general-in-chief of the Nicaraguan army. The Legitimists themselves asked that General Walker should hold this position, that he might restrain his own followers. The Government thus organized sent a minister to the United States, and that minister was recognized by the United States. It is not unworthy of note that the Government resulting from this interposition of General Walker has been recognized by our own Government. There are a number of facts which, in this cursory view, I must pass over. But it will be recollected that this was a stable Government; that the neighboring Power of Costa Rica made war upon it, invading the territory, but was expelled with great slaughter.

There were followers of General Walker who proposed to go to the relief of a faction in Honduras, which was attempting to gain power; for it will be borne in mind that the people who inhabit the Central American States are a mongrel breed of negroes, Indians, and a few Spaniards, who are always at war with each other. Walker was opposed to interfering in the affairs of Honduras. This produced discontent among some of his supporters, and a league was formed with the other four Central American States to overthrow the Government of Nicaragua. Meantime Walker was made President, and it was in the progress of the struggle which ensued that a United States naval officer landed on the coast of Nicaragua and informed General Henningsen that it was the purpose of the naval power of the United States to seize the schooner Granada, belonging to the Nicaraguan Government, and under the control of General Walker. By that and other representations calculated to deter, Captain Davis, the commander of the *St. Mary's*, influenced General Walker to make a capitulation. He soon after seized this schooner, and thus depriving him of all means of maintaining himself, he detained Walker as a prisoner, and brought him to the United States against his earnest remonstrances. Gentlemen have said that this was a mercy to him. He did not so regard it. Gentlemen have said that when he reached the United States he gave the President a pledge that he would never return to Nicaragua, or that he would not again violate the neutrality laws of the United States. I deny the truth of such statement. I deny that he ever gave such pledge. On the contrary, I affirm that he made it known in the face of the whole country that he meant to reinstate himself as soon as he could; that he everywhere asserted that he was a citizen of Nicaragua, and had been unjustly forced away from the country of his adoption; that he had been detained against his will and against his interest, and he loudly complained of this interference with him.

When Walker was thus removed from Nicaragua, Rivas, who had headed the movement in Nicaragua against him, was himself almost immediately expelled from the country by Martinez, who was made President by military force, with scarcely the form of an election; and Rivas is now a fugitive in England, distrusting all parties at home, and afraid to return to the country of his nativity.

Almost simultaneously with this usurpation on the part of Martinez, the Costa Rican Government attempted to seize the transit route, getting possession of the boats on Lake Nicaragua, all the river boats, and every fort and strong position on the whole line, except the single fort of San Carlos; and from that day to this, war has raged between Nicaragua and Costa Rica.

In the mean time, Walker frankly said to the President of the United States: "I have not violated the neutrality laws of the United States; I have wrongfully been forced from the country of my adoption; and it is my purpose to reinstate myself as soon as I can." He was arraigned

before a court of justice upon a charge of violating the neutrality laws, and was honorably acquitted.

After struggling long and patiently against adverse circumstances, he at length succeeded in returning to Nicaragua, and he has again been seized by the naval forces of the United States, and forced away from the country of his adoption—that country which had made him first commander-in-chief of its army, and then chief Executive. While he has been deprived of his personal liberty, his property has been wrested from him and destroyed. This has been done without warrant of law. The conduct of Commodore Paulding, in this seizure of General Walker and his forces, is indeed "a grave error." The commodore's denunciation of General Walker as a robber and a pirate was a very gross impropriety. If he is a robber or a pirate, why was he liberated as soon as he was brought before the President? Why did the President refuse to recognize him as a prisoner? If he has violated the neutrality laws, why is it that the judicial tribunals have not punished him? If these denunciations are true, why is it that he has been permitted to go at large for ten days in the national capital, addressing a public letter to the President vindicating his course, while no man dared to lay his hand upon him? The truth is, he has not violated the neutrality laws; and these charges against him are most flagrant and unjust. To say the least, the question is judicial, and has not been decided against him. It is unjust to assume it until it is proved.

I know enough of General Walker to believe that he is a modest, quiet, self-reliant man, of bold conceptions and courage to execute them; a man of the very best ability and education; and that he has known he was sustained by the law at every step that he has taken. I believe that he has understood the Constitution and laws of the United States infinitely better than those who have denounced him so grossly and unjustly. I say that the act of Commodore Paulding was a gross outrage, but that he is not alone responsible. I will not stop to discuss the question whether the President has the right to authorize a naval officer to arrest a military expedition within a marine league of our shore or upon the high seas. Such issues are foreign to the particular case in hand. Commodore Paulding seized General Walker within the territorial jurisdiction of Nicaragua. This act, committed within the marine league or upon the shore of Nicaragua, is violative of the law of nations, and is not authorized by the act of 1818, or any other law of the United States. It is a usurpation of power not warranted by the Constitution of the United States.

But so far as Commodore Paulding is censurable, there are extenuating circumstances which ought, in justice to him, to be duly considered. The instructions of the Navy Department, taken in connection with the fact that the similar offense of Commander Davis has never been censured, were calculated to incite him to it. These instructions and this omission, considered with the fact that Captain Chatard, for failing to do what Commodore Paulding has done, has been withdrawn from his command, show what were the intentions of the Department. Then bear in mind the letter of the Secretary to Lieutenant Almy, and other circumstances which might be detailed, and how can it be doubted that Commodore Paulding acted precisely in accordance with the spirit of his instructions? I feel that it is but justice to him to consider those extenuating circumstances; for, sir, if Commodore Paulding has committed "a grave error," so did Commander Davis when he entered within the jurisdiction of Nicaragua and seized the property of Walker in the port of San Juan del Sur, for which he has never been censured. If he has committed "a grave error," Captain Chatard should not have been stricken from command for not doing a similar thing. When Lieutenant Almy received his copy of this very circular, he replied to the Secretary of the Navy:

"These directions to preserve the neutrality of the country are very plain for the government of officers where they are required to act in the ports of, or in the jurisdiction of, the United States; but I must confess that I might find myself embarrassed when required to act in a foreign and neutral port. Therefore, I must be pardoned for soliciting from the honorable Secretary of the Navy answers to certain questions, and more specific instructions in the premises. Suppose, for instance, that, while lying in a port of Central America, an American steamer should enter, having on board a large number of men whom I suspect of being 'filibusters,' &c., must I seize this vessel?"

Now, mark, here is a case supposed to arise within a port of Central America, just as Captain Chatard's did; and Lieutenant Almy asks if he should seize the vessel? What was the reply of the Secretary of the Navy? He said:

"You will be careful not to interfere with lawful commerce. But where you find that an American vessel is manifestly engaged in carrying on an expedition or enterprise from the territories or jurisdiction of the United States against the territories of Mexico, Nicaragua, or Costa Rica, contrary to the sixth section of the act of Congress of April 20, 1818, already referred to, you will use the force under your command to prevent it, and will not permit the men or arms engaged in it, or destined for it, to be landed in any port of Mexico or Central America."

Captain Chatard failed to do this, and for his failure was recalled. Paulding did no more than exercise dominion within Central American jurisdiction, which this would have been.

Now, Mr. Chairman, Commodore Paulding may not have known of those particular instructions, but I advert to them to show the policy of the Administration. The President in his message, sent in to the Senate a few days ago, puts a construction upon the law and that circular, which is in accordance with the view I have taken. He says, in relation to the act of 1818:

"In order to render the law effectual, it was necessary to prevent 'the carrying on' of such expeditions to their consummation after they had succeeded in leaving our shores. This has been done effectually, and in clear and explicit language," &c.

I quote this to show, in connection with the reply to Lieutenant Almy, who was expected to take position in a port of Central America, that the President believed that while a United States war vessel was lying in a port of Central America, if a steamer entered carrying a body of men such as Walker's, it was the duty of the captain to interpose, and exercise the power of this nation to prevent the expedition from landing.

Commodore Paulding, therefore, had reason to believe, from the action of the Government in relation to the conduct of Captain Davis, and from the conduct which caused Captain Chatard to be superseded, that it was the intention to have Walker arrested either within the marine league or upon the territory of Nicaragua, the one being as lawful as the other. The President argues as though the only question is whether the Government of Nicaragua objects to this conduct.

Mr. Chairman, that is not the only question. We have a written Constitution; we have a Government of laws, which it is our highest duty to preserve from infraction. If the President has done that by himself or by his agents which is unauthorized by the Constitution or the law, it is our duty to take cognizance of it. And that is not all. If we set up a justification of Commodore Paulding, and those who gave him instructions to exercise dominion in Central America, why may not the British Government, or any other Government, do the same thing? Why may not the other great naval Powers of the world, in all the civil feuds existing, and which may exist, between the mongrel peoples which inhabit Central America, avail themselves of this very precedent we have set them, and interpose in Central American affairs, assuming, as we have done, that one faction or party is the Government, and the other outlaws; seize and bring out of the country one faction, and set up and treat with the other? Why may not this example lead to an utter breaking down of our Monroe doctrine in relation to Nicaragua and other Central American States? These are points I must merely glance at. I have not time to argue them; and, indeed, it would be unjustifiable to treat them at length, in view of the elaborate debate which has already taken place.

I may state, in this connection, that in the instance of the *Caroline*, which was burned by the British within our jurisdiction, upon the Canada borders, some years ago, our Government did not recognize this doctrine of invading neutral territory; and when, at a later period, the British Government were endeavoring to organize a military force in our territory, it led to a long and bitter diplomatic correspondence between the two Governments. It seems that our Government then comprehended the inviolability of the soil of a neutral Power.

Mr. STANTON. I wish to inquire whether the gentleman would have any cause to complain if Great Britain should capture an expedition starting from Jamaica, with a view of making an inroad into Central America?

Mr. ZOLLICOFFER. Well, sir, that is a question which does not come so immediately home to the American people and the American Congress. We are not empowered with guardianship over the action of other Governments, or its subjects or citizens. But if our President and our naval officers attempt to assert power not authorized by the Constitution and the laws of the Union, it is our right and our duty carefully to scrutinize their conduct.

The President has, in his message, shadowed forth a policy with relation to Central America to which I cannot give my assent. He informs us that the treaty we made with New Granada, in 1846, binds us to make secure the neutrality of the Isthmus of Panama, and to guaranty to that Government the right of dominion over its territory. He intimates, what I have heard elsewhere, that there is now an inchoate treaty existing between Nicaragua and the United States, based upon this same line of policy, and that it is his intention to make similar treaties with all the other Central American Governments; that is, treaties binding us to protect their neutrality and guaranty their dominion over the soil.

If we look to our experiences with New Granada during the eleven years since the treaty was made, we shall find little inducement to pursue this policy further. I cite, for example, the various outbreaks which have occurred within that period in the territory of New Granada, and particularly the massacre of citizens of the United States at Panama, in 1856. It would seem that, unless the President should be authorized to use the military and naval force in Central America, which he has asked for in his message, it would be impossible to secure the stability of the isthmus, and prevent the oft-recurring civil broils and disturbances which have cursed that people. My opinion is, that stability and peace upon the isthmus of Central America, including that of Panama, is all-important to the best interests of the United States, in view of our Pacific and Atlantic possessions. It is more important to the United States than to any other Power. The policy pursued by the treaty of New Granada can never secure us that unless we keep a large military and naval force in Central America, which would be a hazardous stretch of authority. Besides, such a policy would tend merely to set up dominion for those who are unable to secure it for themselves, for the benefit of an ignorant, feeble, miserable people, who are unable to govern themselves. If the United States are to occupy and exercise dominion in Central America, let it be for an American population, with American laws and constitutions. If General Walker, without violating the neutrality laws of the United States—which I do not believe he has done—can build up a stable Government there, and bring about peace and quiet, he will have prepared that country for an American population which will ultimately add to the strength and renown of the American Union.

Mr. STEPHENS, of Georgia, obtained the floor.

Mr. GARTRELL. If my colleague will yield for that purpose, I will move that the committee rise.

Mr. STEPHENS, of Georgia. I do not desire to address the committee this evening.

Mr. BLAIR. I rise to a question of order. I claim the floor, the gentleman from Georgia having already addressed the committee once upon this question.

Mr. STEPHENS, of Georgia. The gentleman from Missouri is mistaken. I have not spoken upon this question. I spoke upon my own amendment to amend the motion of the gentleman from Mississippi, [Mr. QUITMAN,] by striking out "a select committee," and inserting "the Committee on the Judiciary." That amendment was afterwards accepted; and then the gentleman from Tennessee [Mr. MAYNARD] renewed, substantially, the amendment of the gentleman from Mississippi, and it is upon that that this debate has been proceeding. I have not spoken upon that question.

Mr. BLAIR. It is substantially the same question.

The CHAIRMAN. The gentleman from Georgia delivered his remarks upon the resolution offered by the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] the amendment of the gentleman from Mississippi [Mr. QUITMAN] being

then pending. The amendment of the gentleman from Mississippi has since been incorporated into the original resolution. The pending question now is on the amendment subsequently offered by the gentleman from Tennessee, [Mr. MAYNARD,] and the amendment thereto offered by the gentleman from Massachusetts, [Mr. THAYER.] The gentleman from Georgia has not spoken upon that amendment, and is now entitled to the floor. The Chair therefore overrules the point of order.

Mr. LETCHER. Before a vote is taken on the motion that the committee rise, let us have an understanding that the committee take a recess until seven o'clock this evening. There are several gentlemen who desire to speak on this question.

Mr. JONES, of Tennessee. I object to that.

Mr. BLAIR. I appeal from the decision of the Chair. This is substantially the same question as the one upon which the gentleman from Georgia addressed the committee.

Mr. WASHBURN, of Illinois. I call for the reading of the rule upon this subject.

The CHAIRMAN. The first part of the 37th rule is as follows:

"No member shall speak more than once to the same question without leave of the House."

The Chair decides that the pending question is on the amendment submitted by the gentleman from Massachusetts to the amendment of the gentleman from Tennessee, and that upon that question the gentleman from Georgia is entitled to the floor. From this decision the gentleman from Missouri appeals.

Mr. HOUSTON. I desire to hear the amendments read. I do not care about hearing the original resolutions read.

The CHAIRMAN. In order that the committee may understand the whole question, the Clerk will now read the original resolution of the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] as modified; the amendment of the gentleman from Tennessee, [Mr. MAYNARD,] and the amendment to the amendment offered by the gentleman from Massachusetts, [Mr. THAYER.]

Mr. BLAIR. I would ask the Chair if the amendment of the gentleman from Massachusetts was not ruled out of order?

The CHAIRMAN. It was not.

Mr. BLAIR. That was my understanding.

The CHAIRMAN. The gentleman from Missouri is mistaken. No question of order was raised on the amendment of the gentleman from Massachusetts.

Mr. BLAIR. I take the ground that it is substantially the same question as the one upon which the gentleman from Georgia before addressed the committee.

The original resolution was then read, as follows:

Resolved, That so much of said message and accompanying documents as relates to a uniform bankrupt law, and that so much of the President's annual message as relates to the duties of an independent State in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects; and so much as relates to the present neutrality law of the 30th of April, 1818; to the fitting out within the limits of our country of lawless expeditions against some of the Central American States; to the instructions issued to the marshals, and district attorneys, and to the appropriate Army and Navy officers, together with the President's recommendation that we should adopt such measures as will be effective in restraining our citizens from committing such outrages, be referred to the Committee on the Judiciary, who are hereby required to inquire into and report upon the expediency of the repeal or modification of said act of 29th of April, 1818, with power to report by bill or otherwise.

The CHAIRMAN. That is the original resolution as modified. The gentleman from Tennessee [Mr. MAYNARD] moved to amend the resolution by inserting after the words "bankrupt law," the words "be referred to the Committee on the Judiciary," and by striking out all after the word "outrages," and inserting in lieu thereof "be referred to the Committee on Military Affairs." The gentleman from Massachusetts [Mr. THAYER] offered the following as an amendment to the amendment:

And also, that said committee report, so far as they may be able, the present social and political condition of the people of Nicaragua, and whether they invite colonies from the United States to settle among them; and also, whether the soil, climate, and other natural advantages of that country are such as to encourage emigration thither from the northern States of this Confederacy.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair. I understand the Clerk to

have read first the resolution as introduced by the gentleman from Pennsylvania, [Mr. J. GLANCY JONES.]

The CHAIRMAN. No, sir; he read it as modified by the gentleman from Pennsylvania himself. The gentleman from Pennsylvania submitted a resolution to refer certain matters to the Judiciary Committee. The gentleman from Mississippi proposed an amendment, and upon consultation between that gentleman and the gentleman from Pennsylvania, the gentleman modified his amendment in some particulars, and then the gentleman from Pennsylvania incorporated it into the original resolution.

Mr. STEPHENS, of Georgia. Allow me to make a statement. I spoke to an amendment which I offered to an amendment. That was accepted both by the gentleman from Mississippi and the gentleman from Pennsylvania, [Messrs. QUITMAN and J. GLANCY JONES,] and the original proposition was thus modified. That was done immediately after my speech.

Mr. BLAIR. I would inquire of the gentleman from Georgia whether he proposes to confine himself to the discussion of the amendment offered by the gentleman from Massachusetts, or whether he proposes to speak to the whole question?

Mr. STEPHENS, of Georgia. I intend to speak to the whole question.

Mr. BLAIR. Then I insist on my appeal.

Mr. STANTON. I believe this appeal is debatable?

The CHAIRMAN. Certainly it is.

Mr. STANTON. Then, I would say that the rule has a common sense as well as a technical view. This debate is practically on the President's message, and on all subjects included in it. It covers the entire policy of the country; and whatever amendment, or amendment to an amendment may have been offered in the progress of the debate, the character of the debate itself is general. Now, if I understand the meaning and the spirit of the rule, it is, that it shall not be in the power of the occupant of the chair, in a debate confined by the rules to a single hour, to permit any gentleman to occupy more than one hour in debate. If the ruling of the Chair here is correct, it would permit one gentleman to make substantially two speeches in the same debate and on the same question, while a dozen members are seeking the floor to make their first speech upon it. I submit that this ruling is a total subversion of the spirit of the rule, and I shall therefore sustain the point of order made by the gentleman from Missouri, [Mr. BLAIR.] I think that in all fairness, in the execution of the rules of the House, he should be permitted to have the floor.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. WASHBURN, of Illinois, called for tellers.

Mr. DAVIS, of Maryland. I move that the committee do now rise.

Mr. STANTON. Perhaps we might relieve ourselves of this difficulty by taking a recess till seven o'clock this evening.

Mr. JONES, of Tennessee. I do not see any use in having a recess to-night. Heretofore, when we have had recesses, two or three members came with speeches in their pockets, and merely asked leave to have them published. That cannot now be done.

The CHAIRMAN. The gentleman is not in order. The question is, "Shall the committee now rise?"

Mr. JONES, of Tennessee. We may as well rise, for there is not a quorum present.

Mr. STEPHENS, of Georgia. I trust the committee will not rise until this point be settled.

Mr. WASHBURN, of Illinois, called for tellers on the motion.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and JOHN COCHRANE were appointed.

The committee divided; and the motion was agreed to; the tellers having reported—ayes 50, noes 39.

So the committee rose; and the Speaker having resumed the chair, Mr. PHELPS reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate by Mr. DICKINS, its Secretary, informing the House that the Senate had passed the following bill and resolutions; in which he was directed to ask the concurrence of the House:

An act (S. No. 32) to repeal an act entitled "An act authorizing the Secretary of the Treasury to change the names of vessels in certain cases," approved the 5th of March, 1856; and

A resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

Mr. FLORENCE. I move that the House do now adjourn.

Mr. MORRIS, of Pennsylvania. I ask my colleague to withdraw that motion to allow me to introduce a bill.

The motion was withdrawn.

Mr. JONES, of Tennessee. There is no quorum present to do business.

Mr. MORRIS, of Pennsylvania. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given. It is not a bill making an appropriation; it is not a partisan bill, but it is a bill to which there will be no objection.

Mr. LETCHER. I object because there is no quorum here.

Mr. FLORENCE. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at forty minutes past four o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, January 14, 1858.

Prayer by Rev. G. S. DEAL.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating a statement of expenditures for contingent expenses of that Department, its offices and bureaus, during the year ending June 30, 1857; which was ordered to lie on the table; and a motion of Mr. DAVIS to print it, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. SLIDELL presented the petition of the heirs of Daspit St. Arnaud, praying for the enactment of a law to place them in a position fairly and lawfully to maintain their rights of ownership to certain lands; which was referred to the Committee on Private Land Claims.

Mr. BIGLER presented a memorial of the Board of Trustees of the Farmers' High School of Pennsylvania, praying for a grant of land for the endowment of that institution; which was referred to the Committee on Public Lands.

Mr. YULEE presented the petition of William J. Walker and others, messengers in the Post Office Department, praying to be allowed the benefit of the joint resolution of August 18, 1856, increasing the pay of laborers in the executive and legislative departments; which was referred to the Committee on the Post Office and Post Roads.

Mr. EVANS presented the petition of A. H. Abrahams, praying that certain duties illegally exacted may be refunded; which was referred to the Committee on Finance.

Mr. FITCH presented a petition of citizens of Pulaski county, Indiana, praying for the establishment of a mail route from Winamac to Francisville, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. BROWN presented the memorial of David Gordon, complaining of injury which has resulted to himself and others in consequence of the failure of the Secretary of the Treasury to execute an act of Congress of December 22, 1854, and praying that the execution of that act may be transferred to the War Department, with such provisions as will insure its enforcement; which was referred to the Committee on Claims.

He also presented the petition of James M. Hand, in behalf of the heirs of John B. Hand, praying that certain moneys paid for the purchase of Choctaw reservations may be refunded; which was referred to the Committee on Indian Affairs.

Mr. HOUSTON presented the petition of Samuel Stone and Isaac H. Marks, praying for compensation for property taken by an Indian agent, under an agreement of arbitration, for Government purposes; which was referred to the Committee on Indian Affairs.

He also presented the petition of Jane Stoneham, widow of Henry Stoneham, a revolutionary soldier, praying to be allowed the benefits of the law of July 7, 1838, granting pensions to the widows of revolutionary officers and soldiers; which was referred to the Committee on Pensions.

ADJOURNMENT TO MONDAY.

On motion of Mr. SEWARD, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BIGGS, it was

Ordered, That the petition of Martin Hubbard, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. KING, it was

Ordered, That the petition of Nathan Weeks, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion of Mr. YULEE, it was

Ordered, That the petition of Jeremiah Pendergast, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. DAVIS, it was

Ordered, That the memorial of Harriet O. Read, executrix of A. C. W. Fanning, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. KING, it was

Ordered, That the petition of the administrator of Francis Hutinac, and the papers on the files of the Senate relating to the claim of Rachel Morey, be referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. STUART, from the Committee on Public Lands, to whom was referred a petition of citizens of Michigan, presented January 11, praying for bounty land for services in the patriot war of 1834, asked to be discharged from the further consideration of the subject, for the reason that under an act of the last Congress parol proof may be received, which would meet the case of the petitions; which was agreed to.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of Joseph Haynes, asked to be discharged from the further consideration of the same, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom were referred the petition of the children of Polly Colgrove; the memorial of W. P. Wright, Mark Sheppard, and other members of Captain Samuel Walker's company of Kansas militia; the petition of John A. Ragan; the petition of Solomon G. Grover and others; the petition of J. M. Morrill, in behalf of the Bangor City Grays; and a petition of citizens of New York, presented January 7, reported adversely.

Mr. CLAY, from the Committee on Commerce, to whom was referred the petition of Tench Tilghman, reported a bill (S. No. 60) for his relief; which was read, and passed to a second reading.

Mr. FOOT, from the Committee on Foreign Relations, to whom was referred a petition of Frederick A. Beelen, submitted a report, accompanied by a bill (S. No. 61) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

MINNESOTA RAILROAD GRANT.

Mr. BELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior communicate to the Senate an estimate of the quantity of lands which will inure to the grant made by the act approved on the 3d of March, 1857, granting lands to the Territory of Minnesota, for railroad purposes.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate the report of the commission on the war claims of Oregon and Washington Territories.

POTOMAC RIVER.

Mr. SEWARD submitted the following reso-

lution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War transmit to the Senate any surveys or examinations of the Potomac river, in the vicinity of Washington city, made by any officer of the Topographical Bureau, during the last year.

NOTICES OF BILLS.

Mr. HOUSTON gave notice of his intention to ask leave to introduce a bill to provide for the admission of the Territory of Kansas into the Union as a State.

Mr. CHANDLER gave notice of his intention to ask leave to introduce a bill making an additional appropriation for deepening the channel of the St. Clair flats.

COMMODORE PAULDING.

The VICE PRESIDENT announced that the first business in order was the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding; and it was read a second time, and considered as in Committee of the Whole.

It requests the President of the United States to cause to be made a medal, with suitable devices, to be presented to Commodore Paulding as a testimonial of the high sense entertained by Congress of his gallant and judicious conduct on the 8th of December, 1857, in arresting a lawless military expedition, "set on foot" in the United States, under the command of General Walker, and in preventing the same from carrying on actual war against the feeble and almost defenseless Republic of Nicaragua, with which the United States are at peace.

Mr. SLIDELL. I suggest that, in the absence of the Senator from Mississippi, [Mr. Brown,] who has given notice of his intention to offer an amendment to the resolution, its consideration had better be postponed.

Mr. DOOLITTLE. I was about to make the same suggestion which the honorable Senator from Louisiana has made for me, and for the additional reason that some members of the Senate, who may desire to take part in this discussion, prefer that it should be postponed to a subsequent day. I move to postpone the consideration of the resolution until Wednesday of next week, if there be no special order for that day.

The VICE PRESIDENT. At what hour?

Mr. DOOLITTLE. At one o'clock.

The VICE PRESIDENT. And be made the special order for that hour?

Mr. DOOLITTLE. Yes, sir.

The VICE PRESIDENT. The Senator from Wisconsin moves that the further consideration of the resolution be postponed until Wednesday next, at one o'clock, and be made the special order for that hour.

The motion was agreed to.

JOHN R. TEMPLE.

The bill (S. No. 38) for the relief of John R. Temple, of Louisiana, was read a second time, and considered as in Committee of the Whole.

It proposes to confirm Temple's title to six hundred and seventy arpents of land in the "Baron de Bastrop grant," on the east side of bayou Bartholomew; but this confirmation is to operate only as a relinquishment of title on the part of the United States.

The claim of John R. Temple was not filed with the commissioners under the act of 1851, providing for the adjustment of private land claims in the Baron de Bastrop grant, on the ground, as he alleges, that he believed his claim was confirmed with the Bonaventure claim, which it adjoins. The claimant, and the persons under whom he holds, have been in uninterrupted possession of a part of the lands since 1807, and the remainder since 1812 and 1814; and they have been inhabited and cultivated from these dates, respectively, up to this time. Two affidavits, accompanying the papers, show that the lands have been inhabited and cultivated for more than twenty years. The Committee on Private Land Claims are unanimously of the opinion that if this claim had been presented to the commissioners under the act of 1851, with the proofs now before the committee, such commissioners would have recommended this claim for confirmation. The omission of the memorialist to present his claim to the commissioners ought not to defeat the rights of the claimant under the act of 1851.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HENRY VOLCKER.

The bill (S. No. 39) to confirm the title of Henry Volcker, to a certain tract of land in the Territory of New Mexico, was read the second time, and considered as in Committee of the Whole.

It provides for the confirmation of Henry Volcker's title to six hundred and forty acres of land, in the Territory of New Mexico, being the tract located by virtue of a certificate numbered 169, of the second class, issued by the board of land commissioners for the county of Bexar and Republic of Texas, to Simon Prado, and dated January 5, 1846, and more particularly described in the plat and field notes accompanying survey number thirty-eight, in section number fifteen, situated on the table land or plain between the Rio Grande and the Pecos river, now on file in the office of the commissioner of the general land office of the State of Texas. This confirmation, however, is only to be construed into a relinquishment of title on the part of the United States.

Mr. STUART. I perceive that this bill has been reported from the Committee on Private Land Claims, and it refers to land in the Territory of New Mexico, where there are no public surveys. There is a bill before the Senate for organizing the Territory of Arizona, which is to take part of New Mexico. It seems to me that, before proceeding to pass this bill, although it reserves individual rights, we ought to have, either from the committee or from the report, some facts to show the propriety of acting on it. I am entirely ignorant myself of it. If the report is not a lengthy one, I should like to hear it read.

The Secretary proceeded to read the report, but before concluding—

Mr. STUART rose and said: This bill, it is apparent from the report, involves questions connected with the arrangement we made with Texas about her boundary; and, inasmuch as I do not wish to prejudice the case at all, (the chairman of the committee who made the report being absent,) I move to postpone the consideration of the bill until to-morrow.

The motion was agreed to.

WILLIAM K. JENNINGS AND OTHERS.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 29) for the relief of William K. Jennings and others. It is a direction to the Secretary of the Treasury to pay, out of the fund heretofore received from Great Britain, under the first article of the treaty of Ghent, for slaves taken and carried away by the forces of Great Britain during the war of 1812, to William K. Jennings, and Aphia Jennings, his wife, \$1,120 for four slaves carried off by the British forces in June, 1813; to Henry A. Wise, \$280, for one slave taken and carried away in December, 1814; to Ann Robinson, \$280, for one slave, taken and carried away from Virginia in June, 1813; and to Edward Rudd, \$1,680, for six slaves, taken and carried away from Virginia in the spring of 1813; to the legal representatives of Robert Lindsay, deceased, \$390, for one slave, taken and carried away from the possession of his owner in the city of Charleston, South Carolina; and to the legal representatives of Benjamin Hodges, of Maryland, \$280, for one slave conveyed from the United States on board the British fleet, in the year 1814, and not recovered by said Hodges, or his legal representatives.

The bill was reported to the Senate without amendment.

Mr. KING. I should like to hear the report in that case read.

The Secretary read a report from the Committee on Foreign Relations, from which it appeared that, some time during the late war with Great Britain, while the enemy's fleet was lying in the Chesapeake bay, a negro man, Sam, aged about twenty-one years, the property of William Bean, the father of Aphia Jennings, and a negro woman, Esther, the property of Sarah Almond, escaped from the possession of their owners, in the county of Elizabeth City, Virginia, and were carried off by the fleet, and were never afterwards recovered. Sarah Almond was the sister of William Bean, and died, intestate and without issue, in his lifetime, leaving him her only heir-at-law. William Bean has since died, leaving his daughter, Aphia

Jennings, his only heir-at-law. The belief that the fund provided for such cases had all been exhausted, has hitherto prevented an application for relief in this case.

In the case of Henry A. Wise, it is shown by the evidence filed, that, in the fall of 1814, a negro man, Nelson, aged about nineteen years, previously allotted to the petitioner in the division of his father's estate, ran away to the British fleet, then lying near Tangier Island, in the Chesapeake bay, and was carried away on board of the Dragon seventy-four, and in the latter part of January, 1815, landed on Cumberland Island, on the southeastern coast of Georgia, placed in one of the colored regiments, and never returned to his owner. As a reason for the delay in presenting this claim, the petitioner states that he was but eight years of age at the time of the escape; that his first guardian, John Cropper, died in 1821, before any distribution of pay for deported slaves was made by the commissioners under the treaty of Ghent; and that his second guardian, John Custis, was not informed of the loss of the slave until it was too late to have it acted upon by the commissioners.

In the case of Ann Robinson, it is shown by the evidence that on the day of the memorable action at Hampton, Virginia, in June, 1813, a negro man, Hampton, the property of the petitioner's husband, Henry Robinson, was forcibly taken from his possession and carried on board of a British ship then lying in Hampton roads, and has never been returned. Under the will of her husband she is entitled, as residuary legatee, to whatever compensation may be allowed for the slave. The petitioner further states that she was not aware, until recently, that any provision had ever been made for the payment of such claims.

In the case of Edward Rudd, the testimony shows that the petitioner is the son and heir of Edward Rudd, deceased, late of Elizabeth City county, Virginia; that some time during the late war with Great Britain, while the enemy's ships were lying in Hampton Roads, six slaves—a negro man, Stepney, a negro woman, Crinner, and four children—were taken from the possession of the petitioner's father and carried off by the British, and have never been returned.

In the case of Mary Martin, it appears from the testimony that, in the year 1813, during the late war with Great Britain, a negro man named Ned, the property of her former husband, Robert Lindsay, was captured by the enemy and carried away from the possession of his owner, then residing in Charleston, South Carolina, and never afterwards recovered. And in the case of Benjamin Hodges, it appears that the negro man Phil, belonging to the husband of the petitioner, was taken off by the British army on its return from Washington city to the fleet then lying in the Patuxent, and that his owner has never regained him.

It appears from Executive Document No. 122, accompanying a letter from the President of the United States to the House of Representatives, dated March 8, 1826, that the average value of the slaves taken and carried away by the British from the State of Virginia, as agreed upon and fixed by the commission appointed under the award of the Emperor of Russia, was \$280 each; and those taken from the State of South Carolina, \$390 each. It further appears, from a certificate of the Register of the Treasury, dated February 26, 1852, "that the balance unpaid of the fund received from Great Britain under the first article of the treaty of Ghent, amounts to \$4,112 89;" and upon recent inquiry at the Treasury Department, the committee have ascertained that that amount still remains unexpended.

The balance in the Treasury of the fund received from Great Britain as indemnity for slaves carried away by the British in the war of 1812, is \$4,112 89; of which this bill provides the following payments, viz: to William K. Jennings and wife, for four slaves at \$280, \$1,120; to Henry A. Wise, for one slave, \$280; to Ann Robinson, for one slave, \$280; to Edward Rudd, for six slaves at \$280, \$1,680; to Robert Lindsay's representatives, for one slave, \$390—being a total of \$3,750; leaving as a balance of the fund still remaining \$362 89.

From two several letters emanating from the Department of State, one dated February 24, 1852, and the other June 26, 1854, it appears that

none of these petitioners have ever received any compensation for the slaves taken and carried away.

THE VICE PRESIDENT. The question is, "Shall the bill be engrossed and read the third time?"

Mr. HALE. I do not wish to discuss the bill. I simply rise to ask for the yeas and nays upon it, and to express my regret, that when the committee was framing this bill, they did not provide for using up the whole fund. I am sorry that there are \$360 left. I will simply say that I shall vote against the bill, because, as I understand it, (and I think I do not misunderstand it,) it recognizes the doctrine that there may be property in human beings; and I never will, by my vote, or by my silence, admit that there can be such a property, and therefore I want to record my vote against the bill.

The yeas and nays were ordered.

Mr. SEWARD. Before the vote is taken, I think it proper to say that this bill has been very fully discussed in the Committee on Foreign Relations, of which I have the honor to be a member; and in that committee I dissented from the report, and shall vote against the bill, in accordance with the vote I gave in committee.

Mr. HAMLIN. The report just read cites the first article of the treaty of Ghent as the basis on which the claim rests. On a reference to that article, I find not one word in it on this subject.

There is, therefore, some mistake; it is probably a misprint in the report. The reference should, perhaps, be to some other convention; and I should like to have it corrected. I desire to know what treaty or convention is the true one, in order that I may look at it for the purpose of settling in my mind one question—whether the stipulation was to pay for negroes who ran away, or for negroes who were carried away. The report sets forth that these negroes ran over to the British, and then they took them away.

Mr. MASON. Not all of them; some did.

Mr. HAMLIN. It does certainly state that some did so, for I heard it so read. There may be a broad distinction between these cases. I shall not vote for the bill any way; but, assuming that there is a fund remaining, and assuming that our Government is liable to pay for the negroes whom the British forcibly carried away, the owners of those forcibly carried away are entitled to the pay, and we should be misappropriating the fund if we paid it for negroes who ran away. I think there is a broad distinction between the cases. I should like, therefore, to know what article is referred to, so that I can see the language and understand precisely whether the claim comes within the language of the treaty.

Mr. MASON. The report which is made by the Committee on Foreign Relations in this case was a transcript of a report made by the same committee at the last session. I was familiar with the facts at the time the report was drawn up, which was some two years, or probably more, ago. I am not prepared to admit or deny the suggestion of the honorable Senator from Maine, that the report misrecites the article of the treaty under which provision was made to pay for slaves. That to which he refers was a convention to regulate the commerce between the territories of the United States and his Britannic Majesty, nothing more. I have no doubt, with a little time, that I could refer to the specific convention, and probably, as it is so recited in the report, you will find that the first article of the treaty is that properly referred to.

Mr. HAMLIN. I should like to see it.

Mr. MASON. So would I, if we had time to hunt it up. I suppose the Senator does not doubt that there was a convention between the United States and Great Britain, by which provision was made for the payment of slaves that were deported by the British ships during the war. The Senator from Ohio [Mr. PUGH] has been kind enough to find the treaty and place it in my hands. It is the treaty with Great Britain, which was ratified July 12, 1822, and the exchange of ratifications was made January 10, 1823. After the formal introduction, citing the causes which brought the Governments together to treat, the first paragraph, although it is not technically entitled in the body of the treaty as an article, has this provision:

"That the United States of America are entitled to claim from Great Britain a just indemnification for all private

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property which the British forces may have carried away; and as the question relates to slaves more especially, for all the slaves that the British forces may have carried away from places and territories of which the treaty stipulates the restitution, in quitting these same places and territories.

"That the United States are entitled to consider as having been so carried away all such slaves as may have been transferred from the abovementioned territories to British vessels within the waters of the said territories, and who, for this reason, may not have been restored.

"But that if there should be any American slaves who were carried away from territories of which the first article of the treaty of Ghent has not stipulated the restitution to the United States, the United States are not entitled to claim an indemnification for the said slaves.

"Now, for the purpose of carrying into effect this award of his Imperial Majesty, as arbitrator, his good offices have been further invoked to assist in framing such convention or articles of agreement between the United States of America and his Britannic Majesty, as shall provide the mode of ascertaining and determining the value of slaves and of other private property, which may have been carried away in contravention of the treaty of Ghent, and for which indemnification is to be made to the citizens of the United States, in virtue of his Imperial Majesty's said award, and shall secure compensation," &c.

Then the treaty provides for arbitrators and for the proceeding under it. The provision of it seems to have been to pay for all slaves that were carried away, deported, and not subsequently returned to the owners. The report sets out specifically, in each case, the reasons why the claimant did not prefer the claim before the commission which was sitting under the treaty for the purpose of arbitrating these claims. One honorable Senator on the other side of the Chamber, has indicated that he cannot vote for claims of this character, to pay for slaves, under any circumstances. I would submit to honorable Senators, even on that side of the Chamber, that the King of Great Britain, actuated by that good faith which has always obtained in that nation, certainly in reference to indemnity, has submitted to the award of the Emperor of Russia, and has paid all claims of this sort which were adjudicated by the commission or came before them; and I should think that, considering the state of the opinions of Great Britain—opinions which I am gratified to see are rapidly undergoing a change—in relation to the condition of slavery, if the King of Great Britain has agreed to provide this indemnity, Senators of the United States may safely follow that example.

Mr. DOOLITTLE. The question originated by the Senator from Maine is a question which will have an important bearing on my vote upon this bill. If, by the treaty with Great Britain, the money is in our Treasury to pay for slaves that were stolen, or captured, or taken away, I know no reason why I should not vote to pay from that money to the persons who are entitled to receive it from the Treasury. I do not understand that that would be at all liable to the objection which is made by the Senator from New Hampshire, that it would admit that our Constitution itself recognizes property in man. It only recognizes that persons may be held to service by the laws of the States. I confess that, upon the facts presented, I am not now sufficiently advised to record a vote satisfactorily to myself; I should prefer, therefore, that this bill be postponed.

Mr. SEWARD. It is evident, sir, that the proposition to pay money for slaves is presented in this bill in the simplest and most unobjectionable form in which it could be offered. It comes nearest to an exception to the principle stated justly by the honorable Senator from New Hampshire; but, nevertheless, it is a transaction between Great Britain and the United States, in which Great Britain has recognized property in man, and it is presented for my vote—yea or nay. When I shall have given my vote for this bill, I shall have made myself a party to that transaction. There is no necessity, in my view, for doing so. There is no principle, no sentiment, no feeling, no motive in my constitution, that will permit me to acknowledge property by man in man. It does not at all mitigate my opposition that Great Britain has agreed to it. I must take this occasion to differ from the honorable Senator from Virginia as to the conclusion at which he has arrived, namely, that there is a change of public sentiment on this subject in Great Britain.

The best observation that I have made on that point, has brought me to the conclusion that there possibly is a political change in the Government of Great Britain, in favor of slavery to some extent; but while that is the result of commercial and other influences operating on the Government, I am satisfied that the opinion of the people of Great Britain, and of mankind generally, is today more strongly and firmly combined and consolidated in favor of universal freedom than ever before. If I thought, with the honorable Senator from Virginia, that Great Britain was going over to the side of slavery in this great dispute, it would be an additional reason why I should withhold my concurrence, because it would be so much the more necessary to protest, when friends so distinguished, and who have acted so grand a part in this great battle, as the people of Great Britain, had faltered and were falling away from the cause of truth and virtue.

Mr. MASON. I wish, sir, to refer the honorable Senator from Maine to the first article of the treaty of peace made at Ghent, which we were in search of. That article contains this provision:

"All territory, places, and possessions whatsoever, taken by either party from the other during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without causing any destruction, or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this treaty, or any slaves, or other private property."

Mr. PUGH. It seems to me, sir, that this is a very simple question. In the articles of peace, as read by the Senator from Virginia, which were signed at Ghent, it was stipulated that the British forces, in retiring, should restore all the property of every description which had been taken from the people of the United States within their territories, and slaves were specially mentioned in the treaty. That is not a new provision. The identical provision will be found in the preliminary articles of peace signed at Paris, acknowledging the Independence of the United States, and reiterated in the definitive treaty of peace signed, I think, in the spring of the following year. A question, however, arose upon the treaty of Ghent, as read by the Senator from Virginia, which led to negotiations that resulted in the subsequent treaty of 1822, which he also read, and which was more specific on this very point. Although he read that passage, I shall take the liberty of reading it again.

The question, it seems, had been referred to the arbitration of the Emperor of Russia to interpret the treaty of Ghent on this very subject, and he made an award which, if the Senate will pardon me, I shall read. He made it twice. The first award will be found in the eighth volume of the Statutes at Large, page 292, and reiterated on page 294, in which the arbitrator decided the very question which the Senator from Maine now suggests—whether this indemnification was to be for slaves who took refuge with the British commanders, and were carried away, or for those who were taken violently, and against their own will. The Emperor of Russia decided that the British Government should pay us for the slaves who ran away from their masters, and took refuge with the British forces. The British Government has paid the money, and we have it; and now we propose to keep it, and to set up a question of morality against the owner of the slaves after we have received the money!

The British Government, it appears, protested against paying for these slaves, and in response to this objection, Count Nesselrode, in a letter to Mr. Middleton, of April 22, 1822, said:

"In answer to this observation, the undersigned is charged by his Imperial Majesty to communicate what follows to the Minister of the United States of America.

"The Emperor having, by the mutual consent of the two plenipotentiaries, given an opinion, founded solely upon the sense which results from the text of the article in dispute, does not think himself called upon to decide here any question relative to what the laws of war permit or forbid to the belligerents; but, always faithful to the grammatical interpretation of the first article of the treaty of Ghent, his Imperial Majesty declares, a second time, that it appears to him according to this interpretation—

"That, in quitting the places and territories of which the treaty of Ghent stipulates the restitution to the United States, his Britannic Majesty's forces had no right to carry away from these same places and territories, absolutely, any slave, by whatever means he had fallen or come into their power."

That is the decision of the umpire. Then this treaty was made and ratified in July, 1822, by which Great Britain paid us the value of these slaves, and we have the money; but now instead of paying it to the persons to whom it was stipulated it should be paid under the treaty, we propose, as I say, to keep the money, and to plead a sort of gambling plea or something else. It seems to me to be the plainest question that ever was presented to the Senate. We have the money, and it belongs to these people.

As to the question of property in men, I do not think that arises. I find in our books, cases of actions brought by the master for enticing away his apprentice, binding courts and jurors to give a verdict equivalent to the value of the service of the apprentice taken. I do not care whether you call him slave or apprentice, we have recognized the right to the money, and we have the money, and I think we ought to pay it to the man who owned the slaves.

The question being taken by yeas and nays, resulted—yeas 32, nays 15; as follows:

YEAS—Messrs. Allen, Bell, Biggs, Broderick, Brown, Clay, Crittenden, Davis, Doolittle, Douglas, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Sidel, Stuart, Toombs, Wright, and Yulee—32.

NAYS—Messrs. Cameron, Chandler, Clark, Collamer, Dixon, Durkee, Fessenden, Foster, Hale, Hamlin, King, Seward, Trumbull, Wade, and Wilson—15.

So the bill was ordered to be engrossed for a third reading. It was read a third time, and passed.

EXECUTIVE SESSION.

On motion of Mr. MALLORY, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 14, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. H. CHAPMAN.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER announced the business first in order to be the call of committees for reports; and that reports were in order from the Committee of Elections.

Mr. PHILLIPS. I have a report to offer from the Committee of Elections.

PRINTING OF PAPERS.

Mr. J. GLANCY JONES. I would not interfere with my colleague, but there is only one hour left for debate on the President's message. I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

But, prior to that motion being put, I must ask permission to have some papers, relative to the deficiency bill, printed, for the use of the Committee of Ways and Means and of the House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. ASHURY DICKINS, their Secretary, informing the House that the Senate had passed a resolution to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" in respect to dropped and retired naval officers; in which he was directed to ask the concurrence of the House.

QUESTION OF ORDER.

Mr. J. GLANCY JONES. I now renew my motion.

Mr. MORGAN. There was a difference of

opinion yesterday with regard to who was entitled to the floor in committee; and to obviate all difficulty in that respect, I hope that by common consent the time for debate may be extended one hour. That will settle all the difficulty, and be perfectly satisfactory, I presume, to all sides of the House. I therefore ask that by common consent the limit of debate may be extended one hour.

Mr. STEPHENS, of Georgia. I have no objection to the extension of time one hour by common consent. But I wish to call the attention of the House—

The SPEAKER. The Chair desires to suggest to the gentleman from Georgia that the question of order was raised in committee, and that the Chair has no cognizance of the question.

Mr. STEPHENS, of Georgia. I know that. The members present know very well that the question of order was in committee. But I wish to call the attention of the House, before this matter is settled, to a decision in point, made in the Twenty-Eighth Congress; and the ruling in committee, and in the House, has been uniform ever since this decision. I read from the House Journal of March 6, 1844:

"Mr. DUNCAN again obtained the floor, and proceeded to debate the question on said amendment.

"Mr. DICKINSON made a question of order, that Mr. DUNCAN having spoken one hour since this bill was taken up for consideration, it was not in order for him again to speak.

"The SPEAKER (Mr. HORTON being in the chair) decided that inasmuch as an amendment had been offered since Mr. DUNCAN had spoken, and the question was entirely changed, he was entitled to the floor.

"From this decision Mr. DICKINSON appealed; and

"The question was put, 'Shall the decision of the Chair stand as the judgment of the House?'

"And decided in the affirmative."

I have the report of the debate on that very case in which those learned in parliamentary law sustained the decision of the Chair; and that has been the uniform practice of the House since.

Mr. HOUSTON. This question I understand to be debatable in committee.

Mr. STEPHENS, of Georgia. I wished to make this statement, and I call the attention of the House to it.

Mr. MORGAN. I waive the point as to whether the gentleman is right or wrong. Assuming that he is right, I think that time may be saved by the proposition which I have made, and which I presume will be satisfactory to all sides of the House.

Mr. STEPHENS, of Georgia. As I stated, I have no objection to the extension of time, but I wish it distinctly understood that it is not by way of concession of any right on my part, for I am clearly entitled to the floor under the rule and ruling of the House.

Mr. MORGAN. I now ask that by unanimous consent the time for closing debate be extended to two o'clock to-day.

There being no objection, it was so ordered.

REFERENCE OF PAPERS.

Mr. LETCHER. I ask the gentleman from Pennsylvania to withdraw his motion for a moment. I desire to return the papers in the case of John C. Rives, in order to have them referred to the Committee on Printing and Binding. They were erroneously sent to the Committee of Ways and Means.

It was so ordered.

Mr. HOUSTON. I hope the gentleman from Pennsylvania will allow me to have a resolution read, which I desire to introduce. It will consume no time, and it is of some consequence that it should be acted on.

Mr. J. GLANCY JONES. The time for debate having been extended, I have no objection to anything which will not consume too much time.

Mr. MORGAN. I object.

Mr. J. GLANCY JONES. I now renew my motion.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. Phelps in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN. The pending question is on the amendment of the gentleman from Massachusetts [Mr. THAYER] to the amendment of the

gentleman from Tennessee, [Mr. MAYNARD,] moving the reference of a certain portion of the message to the Committee on Military Affairs; upon which the gentleman from Georgia [Mr. STEPHENS] is entitled to the floor. The question immediately pending, however, is on an appeal from the decision of the Chair, taken by the gentleman from Missouri, [Mr. BLAIR.] The gentleman from Missouri raised the question of order that the gentleman from Georgia was not entitled to the floor on the ground that he had spoken once on the pending question. The Chair overruled the question of order, and now desires to state that in 1854 a similar question of order was made upon a distinguished gentleman from Missouri. The ruling of the Chair was then the same as that of the Chair in the present case. The Chair now refers to the Congressional Globe of 1854. After Mr. Benton had consumed an hour, Mr. Wentworth, of Illinois, offered an amendment, and Mr. Benton was assigned the floor again, and went on with the speech which he had commenced. The ruling of the Chair yesterday was in accordance with the universal practice of the House.

Mr. BLAIR. In consequence of the extension of the time allowed for debate, I beg leave to withdraw my appeal from the decision of the Chair.

Mr. STEPHENS, of Georgia. I cannot, in the little time which I have, reply to all that has been said in this debate which does not meet my approval, and which I think founded in error. I shall, however, in the remarks which I make, confine myself to a few principles which govern the whole question.

The proposition before the committee is to refer certain matters to the Committee on the Judiciary, with instructions to report upon the expediency of a repeal or modification of the existing laws upon the subject of the neutrality of the United States. I stated to the committee, when the subject was first mentioned, some reasons why I thought there ought to be a modification of some parts of the act of 1818. The views then presented by me, and by others who spoke on my side of the question, have been commented on at large by gentlemen on both sides of the House.

Now, sir, I wish to state in the outset that I do not intend that gentlemen on the other side of the question shall occupy our ground in this discussion. They shall not stand before the country as the advocates of law and order to the exclusion of myself and those who agree with me in the views which I present. They shall not stand before the country as the exclusive defenders and friends of the faith of treaties and the duties growing out of international law. That, sir, is the ground I stand upon. It is the ground I assumed when I addressed the committee before. I am here to-day as the advocate of law and order, of constitutional and international law. I am not in favor of individuals or nations breaking faith. I am here to defend the Constitution and laws, as I understand them, and the maintenance of the good faith of this nation. It is they who advocate and defend a breach of the law under the pretext of enforcing law.

Gentlemen have argued this question as if they supposed that I were against the maintenance of the neutral relations of this Government, as if I were in favor either of nations or individuals violating the public faith. I disclaim it. I am for the national faith; and, so far as the laws of the United States declare or embody or set forth the law of nations, I would not erase a word or modify a syllable. I am not for repealing or abrogating our neutrality laws, so far as they express the laws of nations. But, if it be so, that a part of the act of 1818 goes further than the law of nations, I am myself in favor of a modification of that act to that extent. And, if there be any part of the law of 1818, which admits of a doubt, I am in favor of removing that doubt. Section eight of the act of 1818 does admit of a doubtful construction. Different Administrations of this Government have put different constructions upon that section of the act of 1818. I say that it should be made clear and distinct, beyond a doubt. As I said the first day, I say now, that is the part of legislators, and that is what I want to have done.

Now, sir, I wish to call the attention of this committee to the eighth section of the act of 1818, and I wish the reporters to publish that section in

full, that those who may read hereafter, may understand as well as those who now hear me, with the law before them, what is the law upon this subject:

"Sec. 8. And be it further enacted, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as before defined, and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or State, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or State, or of any colony, district, or people, in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or State, or of any colony, district, or people, with whom the United States are at peace."

In the first place, I affirm, I challenge contradiction; I defy any man to rise upon this floor and say that, under this act as it stands, the President can use the Army or Navy at all, either inside or outside of the marine league. It is only by construction, it is only by interpolating some words; for the language of the law is that he shall use "such part of the land and naval force." What part? Does it mean such as he may deem necessary? It does not say so. Does it mean such as may be in a certain place? What does it mean? Where is the correlative of such? As the section stands, it is meaningless; words were omitted. Read it for yourselves. There was clearly an omission in copying. But what I mean is, that this section needs revision and amendment. As it now stands, the President cannot, but by implication, but by construction, but by supplying some words not expressed, use any part of the military force anywhere.

Now, sir, I am not opposed to the President using such portion of the naval and land force of the country as may be necessary to enforce the laws. I do not want any gentleman to understand me as maintaining any such doctrine. I think the President should be clothed, and amply clothed, with powers to enforce your laws. But the law, as it stands, is meaningless and senseless.

There is, Mr. Chairman, another matter of doubtful construction in this act besides that. That is whether, under this eighth section, the President can use the land and naval force outside of the marine league, even with the omitted words supplied?—whether the law intended that he should? I stated when up before, and repeat now, that I do not believe that it was the intention of the act ever to confer upon the President any power outside of the marine league. I stated to the committee then, that I did not give the opinion without reflection. It was no new subject to me; and I now maintain all I then said.

I premise by stating this proposition: that all laws, in the legislation of this or any other country, are to be interpreted and understood as intra-territorial, and to apply within the jurisdiction of the law-making power, unless the contrary is expressed. General acts of Parliament do not extend to provinces or colonies without being so expressed. I affirm that, as an indisputable proposition, this act upon its face is intra-territorial. Whenever you give power to your Navy upon the high seas, or express extra-territorial legislative authority, it is so stated in the law, and expressly. Now, if we measure this law by that rule of construction, we are bound to suppose that the Legislature did not intend anything but an intra-territorial law. From the beginning to the end, everything about it shows that that was the intention.

Mr. GROESBECK. If the gentleman will allow me, I will call his attention to section third, which makes it penal for a person or citizen outside of the jurisdiction of the United States, to fit out a vessel to cruise against the citizens or vessels of the United States; and it further provides that,

if that be done outside of the United States, the person who does it shall be tried in the court of the district where he is first brought. That is the language.

Mr. STEPHENS, of Georgia. Certainly.

Mr. GROESBECK. And, furthermore, the eighth section gives the authority to the President to employ the naval force to prevent the commission of this crime outside of the United States.

Mr. STEPHENS, of Georgia. That is your inference. That is the construction the gentleman has put upon it. Now, sir, the section to which the gentleman first alludes does declare, if an individual outside of the United States commits the offense that he states, if he be a citizen of the United States, that he shall be punished. But he is to be taken within the jurisdiction of the United States. In that part of the law which goes to the penalty, he is first to be caught, and caught inside. That is my construction. There is nothing here which commissions the President to go upon the high seas and seize such a citizen. That the gentleman infers; and I say that the inference is by construction, and an erroneous one. He has no authority to do it; moreover, this being a penal statute, it is to be strictly construed.

Mr. Chairman, I state as a second proposition, and I wish gentlemen to attend to it, that the President of the United States cannot use the military force—the militia, the Army, or the Navy, except by permission of the law; and here at the beginning, I differ radically, with almost every gentleman who has been upon the opposite side of this question. The gentleman, himself, who has just interrupted me, asked the other day, where is the limitation in the eighth section? What law does the President or Commodore Paulding violate, in arresting upon the high seas enterprises of this sort? What constitutional feature or clause is violated? Where is the restriction upon the President, or upon the naval officer? There is a fundamental difference between us. He has first got to show the law for it. And, sir, I say, and without the fear of contradiction, that the President of the United States cannot use the Army or the Navy or the militia, but in the enforcement of judicial proceedings, under our intra-territorial laws, with the exceptions I shall allude to. On the high seas, under particular laws, he is empowered to use the Navy. This is as a police; but under intra-territorial laws the President cannot use any of the military forces of this country but in subordination to, and in advancing legal process, and they are then called in as the *posse comitatus* to aid your marshal; and this is done by authority of law. This power was not given to the President, until 1795, and I call the attention of the House to that act. It is as follows:

"Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, and as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress."

That is the act which empowers him to call forth the militia. In 1807 another law was passed, empowering him to use the Army and Navy in the same cases only. Apart from these laws, the President has no power, intra-territorially, to use the Army or the Navy, with two exceptions: that is, to aid in putting down insurrection when called upon by the Legislature, or, in the absence of the Legislature, by the Executive of a State, which is provided in the first section of the act of 1795. These are the only cases under our law.

Now, when the gentleman speaks of any limitation, or when he asks me where is the limitation, I say, show the grant of the authority. The position I take is, that you first have got to show the grant. It is for you to show the authority. Now, then, the only authority the gentleman cited was the latter part of this eighth section, in which it is said, "And also for the purpose of preventing the carrying on," &c.

But, sir, I do not give the construction he does to the word "prevent," or carrying on. What does it mean? The gentleman argues that it means "break up," "to go out upon the high seas and arrest." I say "prevent" does not mean that. "Prevent," from *prevenio*, to come before; to

stand in front. In the marine league, if you please, to prevent; to stay back; stand in front; prevent these excursions or enterprises from going or being carried on from the territorial jurisdiction of the United States. That is my construction.

Now, sir, as to carrying on, let us see if I am carried out and sustained by contemporaneous understanding of this word. In 1794, Congress passed a law, entitled "An act to prohibit the carrying on of the slave trade from the United States to any foreign place or country. 'Carrying on!'" And in this very act the vessels of the United States are not empowered to make any seizure; there is to be no confiscation except intra-territorially. I read from the first section, speaking of those ships which shall thus be engaged. It is as follows:

"And shall be liable to be seized, prosecuted and condemned in any of the circuit courts, or district courts for the district!"

not where the ship shall be found upon the high seas, but in the district—

"where the said ship or vessel may be found and seized."

That is, within the jurisdiction of the United States; and this act was entitled "An act to prevent and prohibit the carrying on," &c. Now, sir, if contemporaneous interpretation of words in laws is allowed, I say I am justified in my inference that the Legislature meant by "carrying on" the same thing in the one case as in the other. The title of the act of 1794 was "to prohibit the carrying on," and there was no extra-territorial power conferred upon the naval officers. I have been asked if the President cannot arrest an offender against our laws upon the high seas. In cases of piracy; in case of the slave trade—for at this time that is declared piracy; in case of murder upon the high seas in American bottoms—all these cases are provided for by law. Hence my proposition, I maintain, is incontrovertible, that the President cannot use the Army and the naval forces of this country, unless by legal authority expressed.

Another reason for my construction is, that the part relied upon, that no extra-territorial authority was contemplated by this latter part of the eighth section of the act of 1818, empowers the President to use the Army and militia just as much as the Navy. Now, sir, I ask this House—I ask the country—if, under that law, the Executive can use the Navy for the purpose of breaking up or preventing the carrying on of expeditions beyond the marine league, why he cannot, for the same purpose, transfer the whole Army and militia of this country into the interior of the foreign country, or wherever the expedition may go? Has not the President as much right to send the Army and the militia to pursue them, as he has the Navy? Has he, then, the right to send our entire military force into the interior of Nicaragua, or England it may be, if he cannot arrest the carrying on short of that point, provided the opposing party in any country consents? Some of Walker's party are in possession of Fort Castillo. Well, has the President a right to send an army up there to dispossess them? If so, the President of the United States may make war, or engage in any foreign war by the consent of one of the parties. All that will be necessary is for some of our people to take sides with one party, and then for the President, with the consent of the other, to send the Army, the Navy, and the militia, to prevent the "carrying on" of such interference. I tell gentlemen this is dangerous doctrine; there is no law for it. I stand on the laws. I am here to defend the Constitution of my country. I am not here the advocate of the breakers of law, in any sense of the word. It is you who would break the law, under pretense of arresting offenders. I say that this eighth section never, in my judgment, contemplated any such power. If the President has the right to send the Navy beyond the marine league, he has got the right to send the Army after the expedition into the interior of the country, consent being given, as I have stated. No gentleman can get out of that.

But, Mr. Chairman, I find that my time is passing. I took occasion, when I addressed the committee before, to express some opinions as to the law of nations. Some gentlemen have replied to them. The gentleman from Ohio [Mr. Groesbeck] cited, the other day, the authority of Judge Story, in the *Mariana Flora* case, in which the *dictum* occurred that the United States ships may seize ships, commanded by American citizens,

that are engaged in violating our law, outside of the marine league. But that was a case of piracy, very unfortunately for the gentleman who has cited that case.

Mr. SMITH, of Virginia. Congress has granted special power in such cases.

Mr. STEPHENS, of Georgia. Yes, Congress has given the power to seize on the high seas any vessel violating our law in such cases; and if Judge Story maintained anything else he has not cited any cases. And I still call for the case. I state, Mr. Chairman, as I said before, that this case of Paulding is, in my recollection, the first case of the kind in the country. I defied the production of a case. We have been here ten days, and no case has yet been produced. This is a new case, and we should settle principles as we go. Constitutional liberty, the rights of the people of this country, demand the settlement of these principles aright.

The gentleman from Pennsylvania [Mr. Montgomery] cited, yesterday, what he called international law, to show that it was the duty of the Government of the United States to restrain its citizens. I wish to say, in passing, that that portion of Vattel which the gentleman from Pennsylvania cited, refers to good neighborhood and to comity between neighboring States. I agree with every word of it. But in no case there cited, is it the duty of this or any other Government to go out into the territory of other nations to arrest its citizens or subjects offending there. The doctrine he cited is applicable to this case. If, on our northern borders, citizens of the United States go over and steal and commit robbery and violence in Canada, and come back here, and if we nourish and protect and guard them, that principle of law requires that we should restore the stolen property and punish the offender. I subscribe to every word of it.

But does that doctrine apply to this case? Now I lay down another position as being consistent with the law of nations, and I say that there is no power in the Government of the United States, nor does the law of nations require us to prevent American citizens, either by one, two, a dozen, or a hundred, from quitting this country, and going to other countries, and there joining the enemy of any party at peace with us.

Now, that covers the case. I am sustained in it by what I recognize to be the highest authority in this country. Would that my time allowed me to go more into detail! But I desire to call the attention of the committee to the opinion of Daniel Webster on this subject. In reply to the position assumed yesterday by the gentleman from Pennsylvania, I will read what Mr. Webster, in his correspondence with Lord Ashburton, in 1842, says:

"Whatever duties or relations that law (the law of nations) creates between the sovereign and his subject, can be enforced and maintained only within the realm, or proper possessions or territory, of the sovereign."

If you catch the offender inside, then you may punish him.

"There may be quite as just a prerogative right to the property of subjects as to their personal services, in an exigency of the State; but no Government thinks of controlling, by its own laws, property of its subjects situated abroad—much less does any Government think of entering the territory of another Power for the purpose of seizing such property, and applying it to its own uses. As laws, the prerogatives of the Crown of England have no obligation on persons or property domiciled or situated abroad."

Now, when citizens of the United States abjure their country, leave it, change their allegiance and domicile, and go to Nicaragua or elsewhere, there is no duty whatever resting on this Government to arrest them or punish them.

Mr. MONTGOMERY. That is certainly true as applicable to property. But would it cover the case of a man who attacks the sovereignty itself? When a man goes into another country to attack its sovereignty, can the sovereignty of that country be set up as shielding and protecting him who is attempting to destroy it?

Mr. STEPHENS, of Georgia. I do not set up the sovereignty of Nicaragua. I do not occupy that ground. I say that this Government has got no right to go there after men who were citizens of this country after they have parted with their allegiance; and Mr. Webster says that it is not incumbent on this country, by the law of nations, to do it. Nicaragua has got no embodied sovereignty at this time. She is the theater of factions. The only legitimately elected President

of that Republic, by the popular vote, is William Walker. I assert that without fear of contradiction. The only legitimately elected President of that country is William Walker. He would, in my judgment, have been there to-day as secure in his place, and in the affections of the people, as our Chief Magistrate is here, if it had not been for the illegal, unconstitutional conduct of Commander Davis. Without the authority of law, Commander Davis compelled him to surrender. Gentlemen say that he was rescued. Walker never gave up the Granada, his own flag-ship, until the United States guns were leveled at her. To-day, but for the interposition of the officers of this Government, Walker would have been, in my judgment, as secure in the affections of the people there as our President is in ours.

Mr. MONTGOMERY. The gentleman will have no objection, I presume, to a resolution for sending Walker back, and allowing him to test the affections of the people of Nicaragua. I will vote for that.

Mr. STEPHENS, of Georgia. Certainly not. I want him sent back, and I stated so in the beginning; but it is what the Government, I am afraid, does not intend to do. It was to prevent this that Commander Davis, last spring, arrested him and brought him to this country; and it was to prevent this that Commodore Paulding has repeated a similar outrage. No, sir. He is first arrested, shorn of his arms, sent to this country, and turned loose, charged as being an offender against our country, and never tried. Can mockery upon outrage be more monstrous?

I said then, and I take occasion to repeat, that the act of Commodore Paulding was robbery and kidnapping. This some gentlemen expressed their regret at having heard. What is robbery? Webster, in his dictionary, among other definitions, says it is "to take by violence and oppression." Did not Commodore Paulding take Walker by violence and oppression? "To strip unlawfully." Did not Paulding strip him of his arms and his property, and send him to this country? Was it not done unlawfully? The President of the United States said, just as I said before I thought he would, that it was unlawfully done. "Unlawfully stripped." By the definition of your great lexicographer, and by the definition of every man, if he was unlawfully stripped, then it was robbery. And I say that restitution should be made. Send him back just as you found him, with all his men, with all his arms, and with all his provisions. That is all I ask you to do. It is all William Walker asks this country to do, and he will show this country whether he has the affections of the people there or not. Sir, for shame's sake, I ask this American Congress not to come here and assert the principle that Walker has committed a violation of our laws, and that he was rescued out of mercy. He feels no obligations for any such mercy. Just as the East Indians said when Hastings offered them the mercy of the British forces, "save us from such friends." I presume Walker would repeat the same. He wants none of your mercy.

Mr. MONTGOMERY. I desire not to interrupt the gentleman, but I wish to know if he defines this to be robbery?

Mr. STEPHENS, of Georgia. I have defined it to be robbery.

Mr. MONTGOMERY. I should like the gentleman to tell me if robbery must not be committed with felonious intent, and whether this act was committed with felonious intent?

Mr. STEPHENS, of Georgia. What the gentleman states is, in one sense, robbery. It is legal robbery. I did not say legal robbery, I said robbery.

Mr. MONTGOMERY. What kind of robbery?

Mr. STEPHENS, of Georgia. Robbery is the unlawful stripping of another. That is robbery; and all the medals that you may grant to Commodore Paulding, if melted and spread out to their utmost capacity, will not make a coating large enough and broad enough to hide the enormity of the deed. The spot will stand there as a stain upon the national escutcheon, unless it be wiped out by that restitution which alone can redress the wrong. You may say "out," but it will not out.

What says Webster is kidnapping? He says, among other definitions, it is "to forcibly carry away any person whatsoever from his own country or State, into another." Did not Commodore

Paulding do that? Walker was legally naturalized; he was the legally elected President of Nicaragua. That is his country. He has been seized and forcibly carried away, and brought into this country. That, by the definition which I have quoted, is kidnapping. You cannot wipe that out. You have got to justify it as being legally done. The President of the United States says it was illegally done.

But I must hasten on. Upon the subject of the law of nations touching the duties of one nation towards another in the restraint of its citizens or subjects, in their conduct towards others, I affirm that it is in no way the duty of any nation to prevent the migration of its people to the other, even if they migrate with the view of joining the enemies of that nation. In other words, it is not the duty of this country, by the law of nations, to prevent its citizens from quitting this country with a view of taking sides in foreign wars, if, in quitting, they renounce their allegiance to this country. This whole doctrine is ably and lucidly set forth in Mr. Webster's letter to M. de Bocanegra, which I have before me. Mr. Bocanegra first addressed Mr. Webster when Secretary of State, on the 12th of May, 1842, upon the subject of the violation of our neutrality towards Mexico, by what he called invasion, from the United States. I read part of what he said, in which he sets forth his complaint:

"The Mexican Government entertained so high an opinion of the force of the Government of the United States, and of its power to restrain those, its subjects, from violating the religious faith of treaties solemnly concluded between it and other nations, and from committing hostilities against such nations in time of peace, that it cannot easily comprehend how those persons have been able to evade the punishment decreed against them by the laws of the United States themselves, and to obtain that quiet impunity which incessantly encourages them to continue their attacks. It is well worthy of remark, that no sooner does the Mexican Government, in the exercise of its rights, which it cannot and does not desire to renounce, prepare means to recover possessions usurped from it, than the whole population of the United States, especially in the southern States, is in commotion; and, in the most public manner, a large portion of them is turned upon Texas, in order to prevent the rebels from being subjected by the Mexican arms, and brought back to proper obedience.

"Could proceedings more hostile on the part of the United States have taken place had that country been at war with the Mexican Republic? Could the insurgents of Texas have obtained a cooperation more effective or more favorable to their interests? Certainly not. The civilized world looks on with amazement, and the Mexican Government is filled with unspeakable regret, as it did hope and had a right to hope, that, living in peace with the United States, your Government would preserve our territory from the invasions of your own subjects."

In a previous part of the same letter he says:

"It is, however, notorious that the insurgent colonists of that integral part of the territory of the Mexican Republic would have been unable to maintain their prolonged rebellion without the aid and the efficient sympathies of citizens of the United States, who have publicly raised forces in their cities and towns; have fitted out vessels in their ports and laden them with munitions of war, and have marched to commit hostilities against a friendly nation under the eyes and with the knowledge of the authorities, to whom are intrusted the fulfillment of the law."

To this, Mr. Webster replied as follows, on the 8th of July, 1842:

"The revolution in Texas, and the events connected with it, and springing out of it, are Mr. De Bocanegra's principal topics; and it is in relation to these that his complaint is founded. His Government, he says, flatters itself that the Government of the United States has not promoted the insurrection in Texas, favored the usurpation of its territory, or supplied the rebels with vessels, ammunition, and money. If Mr. De Bocanegra intends this as a frank admission of the honest and cautious neutrality of the Government of the United States in the contest between Mexico and Texas, he does that Government justice, and no more than justice; but if the language be intended to intimate an opposite and a reproachful meaning, that meaning is only the more offensive for being insinuated rather than distinctly avowed."

Again:

"In the events leading to the actual result of these hostilities, the United States had no agency, and took no part. Its Government had, from the first, abstained from giving aid or succor to either party. It knew its neutral obligations, and fairly endeavored to fulfill them all."

"Mr. De Bocanegra's complaint is twofold. First, that citizens of the United States have supplied the rebels in Texas with ammunition, arms, vessels, money, and recruits; have publicly raised forces in their cities, and fitted out vessels in their ports, loaded them with munitions of war, and marched to commit hostilities against a friendly nation, under the eye, and with a knowledge, of the public authorities. In all this, Mr. De Bocanegra appears to forget that, while the United States are at peace with Mexico, they are also at peace with Texas; that both stand on the same footing of friendly nations; that since 1823, the United States have regarded Texas as an independent sovereignty, as much as Mexico, and that trade and commerce with citizens of a Government at war with Mexico cannot, on that account, be regarded as an intercourse by which assistance and succor are given to Mexican rebels."

"Acknowledging Texas to be an independent nation, the Government of the United States, of course, allows and encourages lawful trade and commerce between the two countries. If articles contraband of war be found mingled with this commerce, while Mexico and Texas are belligerent States, Mexico has the right to intercept the transit of such articles to her enemy. This is the common right of all belligerents, and belongs to Mexico in the same extent as to other nations. But Mr. De Bocanegra is quite well aware that it is not the practice of nations to undertake to prohibit their own subjects, by previous laws, from trafficking in articles contraband of war. Such trade is carried on at the risk of those engaged in it, under the liabilities and penalties prescribed by the law of nations, or by particular treaties. If it be true, therefore, that citizens of the United States have been engaged in a commerce by which Texas, an enemy of Mexico, has been supplied with arms and munitions of war, the Government of the United States, nevertheless, was not bound to prevent it, could not have prevented it, without a manifest departure from the principles of neutrality, and is in no way answerable for the consequences."

"There can be no doubt at all that, for the last six years, the trade in articles contraband of war between the United States and Mexico, has been greater than between the United States and Texas. It is probably greater at this moment. Why has not Texas a right to complain of this? For no reason, certainly, but because the permission to trade, or the actual trading, by the citizens of a Government, in articles contraband of war, is not a breach of neutrality."

"The second part of Mr. De Bocanegra's complaint is thus stated: 'No sooner does the Mexican Government, in the exercise of its rights, which it cannot and does not desire to renounce, prepare means to recover a possession usurped from it, than the whole population of the United States, especially in the southern States, is in commotion; and, in the most public manner, a large portion of them is directed upon Texas.'

"And how does Mr. De Bocanegra suppose that the Government of the United States can prevent, or is bound to undertake to prevent, the people from thus going to Texas? This is emigration—the same emigration, though not under the same circumstances, which Mexico invited to Texas before the revolution. These persons, so far as is known to the Government of the United States, repair to Texas, not as citizens of the United States, but as ceasing to be such citizens, and as changing at the same time, their allegiance and their domicile. Should they return, after having entered into the service of a foreign State, still claiming to be citizens of the United States, it will be for the authorities of the United States Government to determine how far they have violated the municipal laws of the country, and what penalties they have incurred. The Government of the United States does not maintain, and never has maintained, the doctrine of the perpetuity of national allegiance; and surely Mexico maintains no such doctrine; because her actually existing Government, like that of the United States, is founded on the principle that men may throw off the obligations of that allegiance to which they are born. The Government of the United States from its origin has maintained legal provisions for the naturalization of such subjects of foreign States as may choose to come hither, make their home in the country, and renouncing their former allegiance, and complying with certain stated requisitions, to take upon themselves the character of citizens of this Government. Mexico herself, in laws granting equal facilities to the naturalization of foreigners. On the other hand, the United States have not passed any law restraining their own citizens, native or naturalized, from leaving the country, and forming political relations elsewhere. Nor do other Governments, in modern times, attempt any such thing. It is true that there are Governments which assert the principle of perpetual allegiance; yet, even in cases where this is not rather a matter of theory than practice, the duties of this supposed continuing allegiance are left to be demanded of the subject himself, when within the reach of the power of his former Government, and as exigencies may arise, and are not attempted to be enforced by the imposition of previous restraint, preventing men from leaving their country."

Again:

"The chief Executive Magistrate, as well as functionaries in every other department, is restrained and guided by the Constitution and the laws of the land. Neither the Constitution, nor the law of the land, nor principles known to the usages of modern States, authorize him to interdict lawful trade between the United States and Texas, or to prevent, or attempt to prevent, individuals from leaving the United States for Texas, or any other foreign country."

"If such individuals enter the service of Texas, or any other foreign State, the Government of the United States no longer holds over them the shield of its protection. They must stand or fall in their newly-assumed character, and according to the fortunes which may befall it."

Sir, who said that? Daniel Webster, who was as learned in the law, State, constitutional and national, as any man that ever lived upon the face of the earth. He was known, sir, as the Great Constitutional Expounder. I am not here to defend all the opinions he ever uttered; but I believe that he was quite Federal enough in all his constructions. He was a man whose massive intellect, like a huge lens, gathering every passing ray of light, brought the whole to a focal point of intense clearness and brightness upon every subject to which it was directed. Every question to which his attention was directed never passed from his hands without being thoroughly explained and made perfectly clear to any intellect. That is what he says; that neither Congress nor the President has a right to prevent, or attempt to prevent, citizens from migrating from this country, even with a

view of joining the enemies of a party at peace with us. They have a right to abjure their allegiance. Mr. Waddy Thompson, our Minister to Mexico at that time, in a circular letter, uses similar language. I cannot read all of it; but he says, on June 6, 1842:

"Our own laws upon this subject, which embody to the fullest extent the principles of the law of nations, only authorize the prevention of armed and organized expeditions. It is not permitted, nor is it to be expected, that we should forbid emigration; nor is it a violation of the obligations of neutrality, that the country to which our people choose to emigrate, happens to be at war with another, with which we are friendly. The citizens and subjects of all countries have gone to Texas and joined its armies. The only difference is that a larger number of the people of the United States has gone to that country. Does the number alter the principle? If one may go, may not ten? If ten, why not a hundred, or a thousand? The principle is the same. An American citizen, for example, is about to embark from New Orleans, and he has his rifle, bowie-knife, and pistols. Have our authorities any power to stop him? If there are ten or a hundred, the case is the same. I go further. If they admit they are going to Texas, and intend to become citizens, and to join the armies of that country, it cannot be prevented. All that could be said to them would be, 'if you go to Texas and become citizens, you have a right to do so, to change your allegiance, and to discharge all the new duties which such a change of allegiance may exact; but you are no longer a citizen of the United States.' If a regular military expedition is fitted out, then it is not only our right, but our high duty, to prevent it. In all the revolutionary movements of the South American Republics, including Mexico, large numbers of our people joined the insurgents. It has always been so, and always will be."

Again, in the same paper, he says, in relation to the charge of citizens of the United States furnishing arms to the Texans:

"I assert that such trade is no violation of neutrality; that it has never been so regarded by any respectable writer on public law; and that it is a well-settled principle, that to send articles contraband of war to a belligerent, is no violation of neutrality; the only penalty being the forfeiture of the articles themselves."

On the 13th July, 1842, Mr. Webster acknowledges the receipt of a copy of this circular, in a letter to Mr. Thompson. In that letter, the only comment he makes upon the circular is in these words:

"You have not spoken of it (referring to a previous circular of Buchanan's, complaining of what he called a violation of our neutrality toward Mexico) in terms too strong in your circular to the members of the diplomatic corps."

Now, sir, in the opinion of these men, I say that our law, as it now exists, does not prevent citizens of the United States, with arms in their hands, going into any country they please, provided they do not go in military organization. Military expeditions are prevented. Military expeditions are known; there is no mistaking them. Our laws say that they should be prevented, and I say so too, if it can be done within our own jurisdiction. But I say that General Walker had a right to go to Nicaragua. Those one hundred and fifty men had a right to go there. It was no military organization.

Some gentleman has said that General Walker sailed in fraud of our laws. Mr. Chairman, with all due respect, I think that was a mistake. General Walker's expedition was inspected. His ship was inspected. He got a regular clearance. He had a right to it. He went out upon the high seas with just as clear a manifest as any of our ships sailing the ocean. Mr. Webster has affirmed, as just read, that there is no power in the President, in the naval officers, or in the courts, under our laws as they were and still exist, to prevent the emigration of our people to other countries. That is all I affirm. Armed expeditions should be prevented.

I repeat, sir, in conclusion, as I have got but a few minutes left, that I am not here against the neutrality laws, as far as they embody the well-settled laws of nations. I am for having them clearly and distinctly expressed. Armed expeditions, organized against the law of nations, I am against; but when American citizens see fit to change their allegiance, and to go, with rifle and bowie knife in hand, I say that they have a right to do so. Yes, sir, they have a constitutional right to bear arms in this country and to carry them wherever they see fit to go. They cannot use our soil on which to organize military expeditions. If they do so, stop them. If Walker committed a wrong, let him be tried. If his men violated the law, let them be tried, but do not add insult to wrong, mockery to outrage. Do not commit this great wrong upon him if he be not guilty. If you accuse him, try him; and if found not guilty, redress the wrong as you ought. My opinion is, that he is innocent; that he has vio-

lated no law. I am not here as his eulogist. History will take care of him.

Believing that he has violated no law, but that the law has been grossly violated against him, and vindicating, as I do, the constitutional rights of every man in our jurisdiction, whether citizen or not, I say, sir, that if he be guilty, try him; but do not interfere with the rights of any man upon the bare assumption of his being an offender, without a trial. His guilt has to be proved and judicially ascertained before he can be justly assailed as a criminal.

Mr. Chairman, I stated, and repeat now, that Walker's government in Nicaragua was recognized by this. Mr. Wheeler, our minister, recognized the Rivas Government, and recognized Walker as President. The representative of that Government here was recognized by this Government; and this Government did not, sir—and I want this House to know it—recognize any other than the Government under which Walker held office, until after he sailed on this expedition. We were at peace with no authority in Nicaragua but his. Let no man say that I am in favor of violating national faith; let no man put me in the position of speaking lightly of the national faith or the national flag. Gentlemen cannot occupy that ground. I stand upon it myself. The stars and stripes, whenever they wave over a gallant Navy in defense of the rights of our citizens, and in defense of national law, I shall hail with delight, and be ready to respond, from the bottom of my heart, in praise of its chivalrous officers and men.

But, sir, the members of this House have been unfortunate in alluding to General Jackson, and to the case of Captain Ingraham. General Jackson himself took possession of Florida. He was, if you please, a grand filibuster himself. That was illegal. His error was on virtue's side. He erred for the country, and for the people's interests. But it remained to Commander Davis and Commodore Paulding, for the first time in our country's history, to bear that gallant flag, not in defense of men of their own blood, of their own flesh, of their own race, who had changed their allegiance; but it was the honor of these officers to bear the flag of their country against the interests of their country. It is the special honor of Commodore Paulding to have done what he did in anticipation of what a British commodore was about to do. He boasts of the deed, and says if he had not done it the British would have done it. His glory, as I understand it, is, that he stepped in and did the British work. When the American flag is prostituted to perform the work of a British officer, I cannot commend the deed. Why, sir, when Davis took this same man, a British commander was alongside. If it is coming to this, that our Navy in Central America is to do British work and British bidding, I say it is time they were called home. It was not such work as this that our daring commanders did in the last war, when they elevated the American Navy to that height of glory that it has attained, and of which we may all be justly proud. That was achieved by fighting the British, and opposing British policy.

I am for maintaining the same American policy against British policy that our Navy then maintained. I am for maintaining the laws of our country, and against aggressions of all sorts. I stand here to-day upon a general principle which involves the rights of American citizens. I am here also to defend the American flag, whether upon land or upon sea, as long as it is borne aloft in defense of these rights. According to these principles no citizen of the United States, or foreigner, within our jurisdiction, can be deprived of his life, of his liberty, or his property, but by the judgment of his peers and the laws of the land. Upon these principles I stand or I fall.

Mr. BLAIR. Mr. Chairman, whenever it shall be in order, I shall offer to the House the following resolution, which covers the ground that I propose to discuss:

Resolved, That a select committee, to consist of — members, be appointed by the Speaker, with instructions to inquire into the expediency of providing for the acquisition of territory either in the Central or South American States, to be colonized with colored persons from the United States who are now free, or who may hereafter become free, and who may be willing to settle in such territory as a dependency of the United States, with ample guarantees of their personal and political rights.

It was remarked by a gentleman from Tennes-

see [Mr. MAYNARD] the other day, on this floor, that he had hoped and believed that this question would be discussed and disposed of without reference to the subject of slavery, because, he said, there were no slaves in Central America. The inquiry was made immediately, by many around me, "How long will it be before there are slaves there?" This inquiry shows, what is almost universally felt to be true, that the slavery question is at the bottom of this whole movement. There is a party in this country who go for the extension of slavery; and these predatory incursions against our neighbors are the means by which territory is to be seized, planted with slavery, annexed to this Union, and, in combination with the present slaveholding States, made to dominate this Government, and the entire continent; or, failing in the policy of annexation, to unite with the slave States in a southern slaveholding Republic. I believe that there are those who entertain such a purpose. I am opposed to the whole scheme, and to every part of it; and, in order to oppose it successfully, I think we should recur to the plans cherished by the great men who founded this Republic. I think we ought to put it out of the power of any body of men to plant slavery anywhere on this continent, by taking immediate steps to give to all of these countries that require it, and especially to the Central American States, the power to sustain free institutions under stable governments; and, as one method of doing this, we might plant those countries with a class of men who are worse than useless to us, who would prove themselves to be of immense advantage to those countries, who would attract the wealth and energy of our best men to aid and direct them in developing the incredible riches of those regions, and thus open them to our commerce, and the commerce of the whole world. I refer to our enfranchised slaves, all of that class who would willingly embrace the offer to form themselves into a colony under the protection of our flag, and the guarantee of the Republic of every personal and political right necessary to their safety and prosperity.

What I propose is not new; it is bottomed on the reasoning and recommendation of Mr. Jefferson. Speaking of a proposition, similar in many respects, urged by him upon the Legislature of his native State, he says:

"It was, however, found that the public mind would not yet bear the proposition, nor will it bear it even at this day; yet the day is not far distant when it must bear it and adopt it, or worse will follow. Nothing is more certainly written in the book of fate, than that these people (the negroes) are to be free; nor is it less certain that the two races, equally free, cannot live in the same Government. Nature, habit, opinion, have drawn indelible lines of distinction between them. It is still in our power to direct the process of EMANCIPATION and DEPORTATION, and in such slow degree as that the evil will wear off insensibly, and their place be *pari passu* filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up. We should in vain look for an example in the Spanish deportation or deletion of the Moors."

The time has ripened for the execution of Mr. Jefferson's plan. By adopting it, we may relieve ourselves of a people who are a burden to us; give to them an amount of happiness and comfort they can never realize here, where they are treated as a degraded class; reinvigorate the feeble people of the southern Republics, and open up to the enterprise of our merchants the untold wealth of the intertropical region, containing a greater amount of productive land than all the balance of the continent; put a stop to the African slave trade, which is created and kept up by the demand for tropical productions; by supplying that demand by the labor of the only class of freemen capable of exertion in that climate. I make this proposition to meet, oppose, and defeat that which seeks by violence to reestablish slavery, reopen the African slave trade, subject those regions, in Walker's own language, "to military rule," and exclude from them the people of the northern States. I shall discuss and compare these propositions as fully as the time limited will allow me.

Mr. RANDOLPH, in one of his most celebrated speeches in the Senate, addressing himself to Mr. Calhoun, said:

"Sir, I know there are gentlemen, not only from the southern, but the northern States, who think that this unhappy question—for such it is—of negro slavery, which the Constitution has vainly attempted to blink by not using the term, should never be brought into public notice, more especially into that of Congress, and most especially here. Sir, with every due respect for the gentlemen who think so, I differ with them *temo caelo*. Sir, it is a thing which cannot

be hid. It is not a dry rot that you can cover with a carpet until the house tumbles about your ears. You might as well try to hide a volcano in full operation. It cannot be hid; it is a cancer on your face, and must not be tampered with by quacks, who never saw the disease or the patient, and prescribe across the Atlantic. It must be, if you will, let alone.

"But no, sir; the politico-religious quacks, like the quack in medicine and in everything else, will hear of nothing but his nostrum; all is to be forced—nothing can be trusted to time or to nature. The disease has run its course; it has run its course in the northern States, it is beginning to run its course in Maryland. The natural death of slavery is the unprofitableness of its most expensive labor. It is also beginning in the meadow and grain country of Virginia—among those people there who have no staple that can pay for slave labor."

He then points his conclusion in a way to make it stick in the memories of the masters of slaves, to whom he addressed himself:

"The moment the labor of the slave ceases to be profitable to the master, or very soon after it has reached that stage, if the slave will not run away from the master, the master will run away from the slave."

Mr. Chairman, I am Mr. Randolph's proselyte; he was no Abolitionist, although aware that slavery was sapping the very foundations of the free institutions of his country—a cancer on the face, which, unless removed, would eat into the vitals of the Republic. I concur in his opinion, that the master must run away from his slaves, unless they run away from him. Unhappily for the slave States, many of their enterprising young men leave their native land for those States where individual ability and exertion are sufficient to confer wealth and eminence; and all of that oppressed class who are compelled to labor with their naked hands, and struggle for existence in competition with the monopolizing slave power that holds the soil, and bands together, by a common interest, the capital, the intelligence, and influence of the order controlling the government of the Commonwealth to make it paramount, would also fly, if they had the means of flight, or a spot on earth they could call their own to receive them. Although the time has not yet come when the masters are ready to run away from their slaves, it will doubtless come, if ever that great mass of freemen who feel the weight of the institution pressing them to the earth, should have the means of reaching homesteads in happier regions, where their labor might render them independent. Can any condition be more lamentable for a State than that which makes it the obvious interest of the mass of its free population to abandon it? and if poverty prevents this desertion, the cause of detention, constantly increasing, must in the end grow into a frightful calamity.

Every statesman who has looked into the condition of the slave States, has always found it full of difficulties. Mr. Randolph's solution does not end them, unless we go a step further. Where would the slaves go if they could run away? The North may receive an absconding straggler here and there, but what States would receive five million of slaves? or how would the runaways be anywhere provided for? The free States which have put an interdiction, so far away as remote Oregon, upon the admission of free blacks, even in the stunted number which might come from the limited emancipation permitted in the South, would hardly receive millions upon a general jail delivery. Nor can the masters run away from their slaves, unless the North is ready to become a St. Domingo; nor emancipate them *en masse* without making it a St. Domingo.

Mr. Randolph had a grave meaning in the alternatives he suggests for the riddance of slavery, although its strong sense, as usual with him, is pointed with sarcasm. His will shows how the slaves were to run away from their masters. That testament delivers a practical lesson to his State, more pregnant with sage advice than any ever received from his eloquent lips, on which she hung with such rapture.

The first and second bequests read thus:

"1. I give and bequeath to my slaves their freedom, heartily regretting that I have ever been the owner of one.

"2. I give to my executors a sum not exceeding eight thousand dollars, or so much thereof as may be necessary, to transport and settle said slaves to and in some other State or Territory of the United States, giving to all above the age of forty not less than ten acres of land each."

No man ever more thoroughly understood the interest, or more filially studied the heart of Virginia, than John Randolph. The words I have read will one day be embodied in a statute of the State.

Washington had led the way in this mode of deliverance, manumitting all his slaves by will; and this was in pursuance of what long before he said the interests of Maryland and Virginia demanded. In his letter to Sir John Sinclair, in reference to these States, he said: "Gradual abolition," "nothing is more certain, they must have, and at a period not remote." It seems, however, from an earlier letter to La Fayette, that he contemplated, with peculiar pleasure, the idea of their enfranchisement. He says to the Marquis:

"Your late purchase of an estate in Cayenne, with a view of emancipating the slaves on it, is a generous and noble proof of your humanity. Would to God a like spirit might diffuse itself generally into the minds of the people of this country!"

He did not expect this at once, for he adds:

"To set the slaves afloat at once, would, I really believe, be productive of much inconvenience and mischief; but by degrees it might, and assuredly ought, to be effected, and that by legislation."

The legislation resulted differently, as is shown in the closing passage of Mr. Jefferson's will, in relation to the slaves, which his incumbered estate enabled him to dispose of. It is in these words:

"I give them their freedom, and earnestly request of the Legislature of Virginia a confirmation of the bequest of freedom to these servants, with permission to remain in this State, where their families and connections are, as an additional instance of the favor of which I have received so many manifestations in my life, and for which I now give them my last solemn and dutiful thanks."

The "gradual abolition" contemplated by Washington had, before Mr. Jefferson's death, made so large a class of free negroes as to endanger the safety of the white race by inciting formidable insurrections among the slaves, besides producing the lesser inconveniences apprehended. Hence the law prohibiting manumission without the removal of the emancipated slaves from the State. Mr. Randolph's love for his own State was so great that he set an example of an exodus by sending his tribe of freed blacks beyond the confines of Virginia, at the cost of much mischief to another State. By the legislation of many free States the intrusion of such emigration was soon prevented; and it may now be asserted with truth, that the laws of the free and the slave States combine to perpetuate slavery! for where is the freed man to go? A few rich masters provide the means to return their bondsmen to Africa; and recently some small parties embarked to Mexico, to throw themselves upon the humanity of its semi-barbarous people. There is no alternative but to submit to expulsion, or to refuse the boon of freedom. There existed at least a half million manumitted slaves before the proscriptive laws were passed at the North or South. In the latter section, where the intercourse of the enfranchised and enslaved of the same race is pregnant with danger, measures are in progress to reduce all to the condition of slavery. Laws have been passed in some of the slave States providing that the freed may subject themselves again to servitude, if they can find a master. During the summer and fall another step was taken in this direction by large meetings in Virginia, praying the Legislature to authorize a sweeping sale of all free blacks by auction—to reduce the entire race within the State, however slightly tinctured with negro blood, to bondage.

Mr. Chairman, there is nothing in the comparative progress of the slave and free States, since the illustrious patriots of Virginia, in the last and most solemn act of their lives, bore their testimony against the institution which now convulses the Confederacy, tending to condemn their policy. There is much in the aspect now given to our affairs by that fatal element, against which their forecast gave warning, to prove that their solicitude to remove it had its root in that sound judgment and devoted love to the country, which made the strongest features of their characters. One great difficulty obstructed these efforts. Emancipation was easy, but the amalgamation of the white and black races was abhorrent, and their existence as equals, under the same Government, was for that reason impossible. They were, nevertheless, resolved to make the experiment of the gradual abolition of slavery, hoping that time would make some outlet to the degraded caste. I believe the existing circumstances on this continent now justify that hope. The attempt of African colonization, to relieve us of the load, has failed. The immense distance, and the barbarous

state of the mother country, to which we would restore its improved race that has arisen among us, has paralyzed all the efforts of the benevolent society that has labored so long in vain to form a community in Liberia which would draw hence its kindred emancipated population, and establish a nation there to spread civilization and religion over Africa. Time has shown that the causes which have produced races, never to improve Africa, or to be improved there, but to abandon it and give their vigor and derive their advancement in other climes, are not to be reversed by the best efforts of the best of men. "Westward the star of empire takes its way," is a prophecy which will find its accomplishment within the tropics as well as outside of them on this continent. Liberty and security promote enterprise and industry, and so create that intelligence which brings in its train civilization and Christianity. Africa is a desert, in which every effort to propagate the elements which lead to such results have proved failures; and for ages Africa has ever been "the house of bondage."

As Americans, it is our first interest to take care of this continent, and provide for the races on whose faculties and labor its advancement depends. In my opinion, the door is now open in Central America to receive the enfranchised colored race born amongst us, and which has received, with our language and the habits contracted under our institutions, much that adapts it to sustain a part in giving stability to the institutions copied from ours in the Central American Republics.

Mr. Wells, an American gentleman of high talents and attainments, with a view to promote commercial enterprises originating with a merchant of New York, recently traversed Central America under most favorable auspices, in order to explore its resources and obtain certain mining and commercial privileges from the Government of Honduras. His volume, published at the close of the year 1856, and which gives the condition of the country down to the end of Walker's first invasion, is full of information as to the capabilities of the country, and the posture of the parties that distract it. It shows on what the Liberals, who emancipated the country from Spain, rely for the preservation of its freedom. He was intimate with Cabañas, the late enlightened and most liberal President of Honduras, whose policy he indicates in the brief passages I now read from his book:

"Although as a Spanish American, Cabañas was personally opposed, at the commencement of his administration, to the encouragement of enterprises through which strangers would be likely to obtain a dangerous ascendancy in Central America, he was gradually induced, by the influence of Señors Cacho and Mejia, his Ministers, to dismiss these objections. In the midst of his harassing campaign in Gracias, in the month of July, he found time to turn his attention toward the interoceanic railway project; and to Cabañas should be ascribed the double honor of conquering his inborn prejudices against foreigners, and of giving the principal impulse to an enterprise likely to assume an importance second to none in the present age.

"Actuated by the same laudable intentions, and penetrated with the conviction that only through northern industry and enterprise can the Spanish-American races be raised to a permanent grade of prosperity, Señor Barrundia, then far advanced in years, and frequently referred to in this sketch, as a talented and zealous member of the Liberal party, was dispatched to Washington as the first diplomatic agent ever sent to the United States by Honduras, as a distinct Power. His death at New York, on the 6th of August, of the same year, put an untimely end to the negotiations, and frustrated the dawning hopes of the Liberals."

The precise object aimed at in the negotiation proposed to our President, is made conspicuous in the address of the Minister Barrundia, one of the great and learned men of the country, the last of its revolutionary stock, whose eloquence and wisdom in its councils led the way to the achievement of its independence. His presentation speech uttered the sentiments of the President of Honduras, as well as those of the venerable patriot and statesman and all the liberals he led, who founded that Republic on the basis of our North American Confederacy. Every word of it is pregnant with political meaning to which time will give effect; and the House cannot fail to mark these sentences in the address, and give emphasis to the closing words:

"The mission with which I am charged is perhaps more significant than any which has yet originated in Central America, and its objects are such as are seldom confided to an ordinary legation. It relates to the vital interests of an American people struggling against the antagonism of monarchical principles, which, unfortunately, in some parts

of this continent are seeking to change the blessings of liberty and independence for alien protectorates and irresponsible dictatorships."

In a little more than a year afterwards the last words became facts. Carrera, a mestizo, of mixed Spanish and Indian blood, had, years before, by the aid of his Indian allies, made himself Dictator of Guatemala; then turning his force against Cabafias, President of Honduras and chief of the Liberals, he placed Santos Guardiola, another mestizo, in a dictatorship over that State. It is with this latter chieftain that the British Government has negotiated its treaty, resigning the Bay Islands to the so-called Republic, but still holding them under the "alien protectorate" of British institutions. I will read a single page from the lucid sketch given by Mr. Wells's book, which is, in fact, his report to the American merchants who employed him to examine the state of the country, in which they designed to prosecute their commercial enterprises. In this passage he makes an epitome which grasps the whole history.

"It will be seen that the main cause of the devastating wars of Central America, has been the division of the States into irreconcilable parties; one advocating the continuance of the obsolete forms of the Spanish viceroyalty, and the revival of the extinct aristocratical institutions of the colonial period; and the other, envious of the astonishing progress of the United States under a purely republican government, vainly attempting to establish a similar system, and shedding their best blood in the thirty years' struggle to that end.

"Of the patriotic motives of the Liberals, scarcely one among the few native and foreign writers upon the politics of Central America but pay a deserved tribute to their earnest exertions in behalf of their country. An English author includes in the Liberal party some few who had been distinguished men under the monarchy, the greater portions of the legal and medical professions, or, in other words, the elite of the University, who had preferred these studies to that of theology or canons, not so much as a means of support as because they are almost the only careers open to those who reject the ecclesiastical vocation. 'It also numbered many merchants and landed proprietors, supported by a numerous body, composed of the more intelligent artisans and laborers.' Their leaders were men of very decided democratical principles, of unquestionable ability, and, considering the school they were brought up in and the influence that surrounded them, they manifested no small amount of true patriotism and devotedness to their convictions; though, alas! in too many instances, stained with venality and even with deeds of oppression and blood. What they overthrew, and what they accomplished for the State is honorable alike to their talents and their sentiments; and though the limits of a sketch will scarcely admit a due appreciation of it, a cursory view of their achievements, taking into consideration the circumstances of the people, and of the times, will probably excite more wonder, and certainly merits higher praise, than the victories of Alvarado."

"Since Guardiola's usurpation of the supreme power in Honduras, the State has assumed a temporary importance abroad, by the arrangement of a treaty between its Government and that of Great Britain, by which the Central American question was finally settled, the Bay Islands restored to the Republic, and the British protectorate withdrawn from the Mosquito territory. The communication of Señor Alvarado, Honduras's Minister to Great Britain, announcing to his Government the conclusion of the treaty, is dated London, September 15, 1856. The principal feature in the convention was the right accorded to the inhabitants of the Bay Islands to maintain their own municipal government, to be administered by legislative, executive, and judicial officers of their own election; trial by jury in their own courts; freedom of religious belief and worship, public and private; exemption from military service except for their own defense; and from all taxation on real or other property beyond such as may be imposed by their own municipality, and collected for the treasury of the same, and to be applied to the common benefit.

"The stipulations concerning religious freedom and trial by jury are thus forced on Honduras, and furnish the germs from which these eminently Anglo-Saxon ideas must eventually spread to the main land. Under the Federal Republic, the attempt to introduce this gave rise to the sanguinary conflicts between the authorities and the Indians, who then, as now, were incapable of appreciating its benefits. The privileges thus accorded to an integral portion of the State afford the first instance of the establishment in Central America of republican institutions, which are not subject to overthrow at the caprice of temporary rulers."

It seems that our American observer, standing on the spot—however averse to this British obstruction—is obliged to admit that it afforded "the first instance of the establishment in Central America of republican institutions which are not subject to overthrow at the caprice of temporary rulers." But what says our President in reference to this convention? He revolts at it, because, (I read his words:)

"Whilst declaring the Bay Islands to be a free territory, under the sovereignty of Honduras, it deprived that Republic of rights without which its sovereignty over them could scarcely be said to exist. It divided them from the remainder of Honduras, and gave to their inhabitants a separate Government of their own, with legislative, executive, and judicial officers, elected by themselves. It deprived the Government of Honduras of the taxing power in every form, and exempted the people of the islands from the performance of military duty, except for their own exclusive de-

fense. It also prohibited that Republic from erecting fortifications upon them for their protection; thus leaving them open to invasion from every quarter; and, finally, it provided 'that slavery shall not at any time hereafter be permitted to exist therein.'"

This last point is marked by inverted commas in the message, by way of showing that he gives the exact words of the treaty in that clause, which crowns the climax of its obnoxious impositions. It is strange that our President in his enumeration of the shocking guarantees with which England incumbered her surrender of the Bay Islands to the mercy of the dictator, omitted those which were closely associated with, and gave vitality to that interdicting slavery. They were the right of habeas corpus, trial by jury, and freedom of religious belief and worship.

But Mr. Buchanan put his mark on that line of the treaty which excited so much abhorrence in that part of the Senate, which was, and is still laboring to force slavery on Kansas. He "sticks a pin there" and thus tells them, "I join you in making war upon the establishment of Anglo-Saxon institutions in any part of Central America, coupled with the exclusion of slavery, because they will frustrate the design we have formed and sent Walker to execute," and which the latter plainly avows in the following passage of a letter to one of his emissaries embarked with him in the enterprise. In his letter to Goicuria, sent by him as minister to England, he says:

"With your versatility, and, if I may use the term, adaptability, I expect much to be done in England. You can do more than any American could possibly accomplish, because you can make the British Cabinet see that we are not engaged in any scheme for annexation; you can make them see that the only way to cut the expanding and expansive democracy of the North, is by a powerful and compact southern federation based on military principles."

Again he says:

"Tell ——— he must send me the news, and let me know whether 'Cuba must and shall be free' but not for the Yankees, Oh! no! that fine country is not fit for those barbarous Yankees! What would such a psalm-singing set do in the island?"

In his letter to the Hon. C. J. Jenkins, of Georgia, Walker admits that though he did not go to Central America to establish slavery, that measure was the guiding star of his policy after he reached there. He admits, too, that the decree issued with this object in view, was his individual act, and that it was opposed by the whole body of native inhabitants. He asserts, also, that the measure was resorted to by him as part of a system for promoting "the increase of negro slavery on this continent."

Now, whether the President sent his fleet to Nicaragua to protect that State from Walker's attempt, in compliance with the late treaty, or to make a cover for our national honor, and a cover for the enterprise endangered by another fleet hovering on that coast, remains a problem. In one view, the policy contemplated by him is very clear. No man can look at the complexion of the Cabinet with which he is surrounded; at the hardy attempts of every branch of the Government to propagate slavery North and South; at the manifest determination, both of the Senate and the late and the present President, to keep open the Central American dispute with the British Government, making its treaty with Honduras for the exclusion of slavery from the Bay Islands the main difficulty, without seeing that there is a latent purpose of forcing slavery on that region against the will of a majority of the people of the Union, and making the Confederacy submit to a fragment of it, under the threat of flying off.

The purpose of subjecting Central America to slavery has been boldly proclaimed; and the opening of the African slave trade is relied upon to fill up the void in the laboring population which must be made by the war and the expulsion of dangerous classes. Is it not a degradation of the nation which stands on this continent as the first assertor of its freedom and independence, and the great exemplar of popular sovereignty in the world, to have a Chief Magistrate and controlling councils harboring designs which they dare not avow, and seeking by sly intrigues to involve it in a war, to accomplish schemes which the people would spurn with disgust, if promulgated before they became committed in the conflict? I have no doubt my countrymen would regard with just indignation, and resist an attempt by England to turn our flank on the Gulf of Mexico. That she spreads her dominion across this continent, from the Gulf of

the St. Lawrence to Vancouver's Island on the Pacific, bringing its pressure to bear upon our whole northern frontier, is as much constraint as can be endured. The nation would be willing to close this century as it began—in hostility with England—rather than submit to encroachment in our southern quarter. For this reason our Government insisted that Great Britain should abandon the assumed protectorate claimed over the coasts of Central America. She relinquished it; but she stipulated with Honduras that the subjects left by her in the Bay Islands should continue to enjoy the free institutions which she had planted there. Our own citizen, Mr. Wells, looking to the establishment of our influence through our institutions in this quarter, hails this step as "the establishment in Central America of republican institutions, which are not to be overthrown at the caprice of temporary rulers."

Can Mr. Buchanan summon hardihood to involve this country in a war to expel the freedom guaranteed to the Bay Islands by the treaty made with the dictator Guardiola, and subject them to his absolute authority? I would rather hope that our Government, if not now, may yet, under another Presidency, extend its influence over the mainland of Central America, by giving its support to maintain Governments there based upon its own republican principles. To do this, we must, like England in the case of the Bay Islands, send our people into the country, protect our merchants in their enterprises there, and make an honest demonstration of the fixed purpose of our Government to build up the prosperity of Central America for its own and our advantage. What could confer more honor on our national character than the acceptance of the proposal which the illustrious patriot Barrundia, as the last act of his life, submitted to our late President, speaking for Cabafias and the wishes (as Mr. Wells and our diplomatic agent, Mr. Squier, give reason to believe) of the people of Honduras. Barrundia says:

"She offers her commodious ports, her salubrious climate, and her great but undeveloped resources, to the aid of this undertaking, and freely offers her rich and fertile country to the enterprise and industry of the American people. Honduras should be forever the friend and sister of the United States, and she looks hopefully to the latter for the support of her liberty and independence. May the eternal Disposer of events link together the people of both by the unalterable tie of interest and future mutual prosperity."

He concludes by repeating:

"The earnest solicitude of Honduras to establish a true and intimate fraternity with the United States, in such form that both nations may have a single interest for the common cause of liberty, and in such manner that Honduras may proceed to develop her latent elements of prosperity, and to improve the advantages of a position eminently favored by nature, without a fear of disturbance for the future, either from civil discord or exterior aggression, should such a fortunate result be attained, Honduras will yet present, in the center of the commercial world, the glorious spectacle of a free and prosperous people sustained by the generosity of the great American Republic."

To what a glorious and benevolent mission was our country called by this invocation of Barrundia, compared with those vile buccaneering expeditions set on foot by a body of filibustering malcontents among us, enemies alike of both Republics! They want to set up a government "under military rule." They want to be associated with the slave States, and exclude "the psalm-singing Yankees." They want to repeal the edict emancipating the slaves in the Central American States and enslave them again. And can any one doubt whether these rapacious propagandists of slavery would hesitate, in case of success, to make themselves amends for their toils, sufferings, and dangers, somewhat as Cortez turned these conquests to account, acquired and held "by military rule?"

Connected with this overture of Barrundia, on the part of Honduras, freely offering "her rich and fertile country (rich in gold and every species of vegetation) to the enterprise and industry of the American people," in return for security from "civil discord and foreign aggression," was another which addressed itself to the enterprising spirit of our great commercial cities. It was the grant of a charter conferring privileges of immense value to be derived from the construction of an inter-oceanic railroad from the Atlantic bay of Honduras to the bay of Fonseca, on the Pacific. Mr. Wells glances at this when he arrives at Amapala, which he mentions as the projected "terminus of the Honduras inter-oceanic railroad, which, commencing on the Caribbean sea, is designed to pass through the beautiful valley of

Comagua, a distance of one hundred and sixty-eight miles, and with an average grade, as the reports of the surveys of Mr. E. G. Squier state, of only twenty-eight feet to the mile." He continues:

"While Panama and Nicaragua were early made the field of American enterprise for the establishment of an inter-oceanic communication, it is a little singular that speedier attention was not directed to this route to the Pacific, which is shorter than any other, not excepting that of Tehuantepec, and offers facilities for the construction of an inter-oceanic railroad, not exceeded by any other."

He adds:

"Extraordinary inducements are offered for the furthering of this great enterprise; one of the principal of which is the existence of safe and capacious harbors at either terminus, (an advantage not possessed by the Tehuantepec route), and the comparative small amount of grading and bridging to be done."

In the following paragraph he describes the site of the intended terminus on the Pacific side:

"The first impression on landing at Tigre Island (in the bay on the Pacific side) is its splendid facilities for fortification, and the formation of a great central commercial depot from which to command the trade of the three States bordering on the bay of Fonseca. Its resources fully developed, Amapala might be made the most important port on the Pacific coast, south of San Francisco. In 1850, Mr. E. G. Squier, during his chagreship, forwarded a series of dispatches to the United States Government, in which he advocated the advantages of entering into negotiations with Honduras for the establishment of a naval station at Amapala. Should this plan be adopted, the yearly increasing means of communication between California and the eastern States would soon place a United States squadron within seven days of Washington; with the construction of the contemplated Honduras railroad, and the appliances of telegraphs and steamers, Government orders of the most vital importance to the nation could reach our squadron in the Pacific in three and a half days. The town is now the principal, or rather the only real port where large vessels or steamers may anchor and discharge, on the Pacific coast of the three Republics of Honduras, San Salvador, or Nicaragua."

Our Presidents, of late years, have not been able to lift their vision to look beyond a President-nominating convention. Without having rendered service of any sort to recommend them to the favor of the nation, these conventional aspirants rely on their location in the North, the skill in party tactics acquired by them as subalterns at the drill, and the cunning acquired in the intrigues necessary to give prominence to an eager ambition, without the higher faculties to promote it, fitted these men to become the instruments of a section to defeat the sound, settled policy of the nation. Fillmore was too busy in making covert compliances to ingratiate himself with those pressing from the South to extend the area of slavery North and West, to listen to our Chargé in Central America, when urging the expansion of our national greatness in a direction to have its just control over the continent and the oceans that washed its shores. Pierce was so sunk in his submission to the plotters laboring to crush Kansas under slavery, that the overtures of Barrundia, which would have lifted a whole galaxy of independent States, with open bosom to welcome the enterprise and industry of our countrymen and the influence of our Government, were unheeded. The voice of an empire, uttered by its noblest patriot and statesman, its eloquent philosopher, the scholar who modeled its Government after our own, fell upon his ear as "upon the dull, cold ear of death." But "the day of small things," of enslaved Presidents, of buccaneers, will pass away, and the nation of the New World will resume the attitude which the moral grandeur of the great man who directed its affairs for the first half century, gave it. Then the time will come for a new movement on this continent, which will confer prosperity on these races of men.

Mr. Chairman, it is evident to every man of thought that the freed blacks hold a place in this country which cannot be maintained. Those who have fled to the North are most unwelcome visitors. The strong repugnance of the free white laborer to be yoked with the negro refugee breeds an enmity between races, which must end in the expulsion of the latter. Centuries could not reconcile the Spaniards to the Moors, and although the latter were the most useful people in Spain, their expulsion was the only way to peace. In spite of all that reason or religion can urge, nature has put a badge upon the African, making amalgamation revolting to our race. Centuries have shown that even the aboriginal race of this continent, although approaching our species in every respect more nearly, perish from contiguity with the white man. But I will not argue the

point. The law of the North has put its ban upon immigration of negroes into the free States.

In the South, causes more potent still make it impossible that the emancipated blacks can remain there. The multiplication of slaves and freed men of the same caste in the section where the dominant race must become proportionally fewer from emigration, has already compelled the latter to prohibit emancipation within the States, and to seek means of deliverance from the free blacks. The northern States will not receive them; the southern States dare not retain them. What is to be done? What was done with the native population which it was found incompatible with the interests of Georgia and the States southwest of the Ohio, and the States northwest, to indulge with homes within their limits? The United States held it to be a national duty to purchase their lands from them, acquire homes for them in other regions, and to hold out inducements and provide the means for their removal to them. Have not the negroes, born on our soil, who have grown up among us, and although fated to be a burden and obstruction to our progress—yet always in amity and laboring to render service—equal claims upon us with the savages, against whom we have had to fight our way for centuries, resisting all attempts to bring them within the pale of civilization?

The President, in his late message, proposes to gather these savages in colonies, and at an early day raise them to the dignity of forming States, and assuming equality with the States of the Union. The Africans, bred and educated within civilized communities, who speak our language, are listeners at our canvasses, lookers-on at the elections, worshipers in our churches, and constantly witness the processes of improvement in our society, in the field, the work-shop, and every domestic scene—one would think quite as capable of being disciplined in colonies, and fitted to take part in the Government of the Union as the Shawnees, Pottawatomies, Winnebagoes, the Sacs and Foxes, removed from the northwest; or the Cherokees, Choctaws, Creeks, and Seminoles from the southwest; as far as respects the Sioux, Pawnees, Cheyennes, Utahs, Camanches, and Blackfeet, the President might have spared his recommendation until they were caught. I believe the people who constitute this Confederacy will forever scout the idea of blending either Indian or negro States with it. The aboriginal or imported tribes which cannot amalgamate with our race, can never share in its Government in equal sovereignties. In the benevolent design of colonizing the Indians, protecting and aiding their efforts to gain a subsistence by cultivating the soil set apart for them, I most cordially concur; but I think, whatever form of society they may assume, they must always be held as dependencies; not put upon the footing of equality with the States.

And ought not the Government to be equally provident for such portions of the unfortunate race born to slavery, but who, having attained freedom, find that it renders them a burden to those among whom they live—a burden that will not be borne? This is the question which absolute necessity now forces on the consideration of the country—one deeply affecting the interests and feelings of slaveholders and non-slaveholders of the superior race, and of more than half a million already unarmitted inferiors pressed down by their weight.

The apparent evil which now produces so much anxiety and agitation here, I feel a firm conviction wise counsels will overrule for good. I believe that the removal from among us of such of the freed people of color as might be induced willingly to go to such parts of Central America as our Government could open up to them and establish as a secure home, would be fraught with benefits to us, to the emigrants, to the people receiving them, and to all concerned in the commerce of this continent within the tropics. I have already quoted the account of a late visitor and most acute observer, sent to report on the condition of that country. He confirms the general impression in regard to the *effete* state of the Spanish race in Honduras and the other Central American States; the insurrectionary disposition of the Indians and mestizos of mixed Indian and Spanish blood, which produces incessant civil war and revolution; and he shows that the African race constitutes the basis on which some enpr-

getic and intelligent Power must build a stable structure of free government. The negroes and mulattoes in Honduras number one hundred and forty thousand; the Indians one hundred thousand; the whites about fifty thousand; but of this caste he remarks, that—

"Indiscriminate amalgamation has nearly obliterated the former distinction of caste, and few families of pure Spanish descent are known. Some of the wealthiest merchants of the department of Tegucigalpa are blacks, possessing a surprising degree of business tact. Two of the largest commercial houses have negro proprietors, whose mercantile relations extend to Europe, whence they import most of their goods. Though the great majority of the negroes of Honduras are a thoroughly debased and ignorant class, there are numerous exceptions. The Senate and Assembly have contained many highly intelligent blacks and mulattoes, thoroughly educated in the Central American school of politics, and with sufficient discernment to foresee the decline of their own influence, and the power of the negro race, with the introduction of the Teutonic stock. Hence their violent opposition to foreign enterprises, in the national councils and in their private circles. The clergy are mostly negroes or mestizos. Their power for evil has been largely contracted since the independence; but, with a few exceptions, these men exercise rather a favorable influence over the people, and are generally respected."

Mr. Chairman, it is to this country, rich in mines, in every tropical production, and open to our emigrants and to our commerce through two great bays, one on the Pacific and the other on the Atlantic, and within three days' steaming of our own coast, that I would propose to form a settlement for such of our colored race now free, or that may hereafter be freed, as might volunteer to establish it under the auspices of our Government. And touching this most important policy, as calculated to deliver our Republic from the incubus which threatens so much mischief, and to convert it into a means of so much good, I beg leave to take a lesson from the colonial policy of Great Britain, which received as a system its finished and most liberal form under the late administration of Lord John Russell—Earl Grey presiding over the office of Secretary of State for the Colonial Department. The whole system is developed in a masterly series of letters addressed by the Earl to the Premier, which, with the history of the colonization that has girdled the world with Great Britain's dependencies, gives the reforms that make them adhere to the empire without force and from a sense of mutual advantage embraced in a common power and glory. The particular circumstance in that policy to which I would point the eye, is one which has uniformly characterized it: the transplantation of a better informed people, imbued with the traits they wished to impress on the race they sought to subject to their influence. The example I adduce, as applicable to the scheme I would recommend, is in Earl Grey's letter on Trinidad. Speaking of the various transplantations made for the improvement of Trinidad, he says:

"Steps have also been taken, within the last two years, for procuring immigrants of a far more valuable description than those from India. I refer to the free black and colored inhabitants of the United States. These people are regarded as an incumbrance, and their presence is considered a most serious evil in the States which they now inhabit, while there can be no doubt that many of them would be the best possible settlers who could be introduced into Trinidad. Speaking the English, with habits of industry and of civilized life, and well adapted by their constitution to the climate, there seems to be no reason to doubt the success of black and colored immigrants from the United States. Provided a proper selection is made of the individuals to be brought, their introduction could not fail to be of the highest value to the colony, not only from the actual accession of its population, which would be thus obtained, but from the example which they would afford to its present inhabitants. Such an addition to the existing population of Trinidad would have a tendency to raise the whole community in the scale of civilization; whereas, there is precisely the opposite tendency with respect to immigration from almost any other quarter, and this is no slight drawback to the advantage to be obtained from it;" (that is, from the immigration from India.)

Now this element of strength and improvement which English policy would allure to its West India possessions, I would allure to some congenial region on our own continent, with a view to their welfare, and to the extension of the influence and the commerce of their native country, the United States. I propose for imitation the example of the great pioneer nation in colonization. It has exhibited the elastic power of popular representative self-government, by which it has stretched Great Britain—though a mere selvege of the continent of Europe, saved from the grasp of its despots by a channel of the sea—around the world; erecting an empire greater than the Roman by the art of making and managing dependencies. Conquest over barbarous tribes

by naval and military force, was the first step in this great career. But when these tribes became nations, instructed in the arts of civilization and skilled in the use of arms—a progress urged on as necessary to the commerce, aggrandizement, and defense of England—they would no longer be held subjected by force, and the whole system has been changed gradually into that which is in reality a confederacy, with Great Britain for its head, and her crown the symbol, drawing together the united powers of the whole. Earl Grey describes the principle of this great revolution as follows:

"Keeping steadily in view that the welfare and civilization of the inhabitants of the colonies and the advantage which the empire at large may derive from their prosperity, are the only objects for which the extension of these dependencies is desirable, and believing also that there can be no doubt as to the superiority of free governments, to those of an opposite character, as instruments of promoting the advancement of communities, in which they can be made to work with success, I consider it to be the obvious duty and interest of this country to extend representative institutions to every one of its dependencies, where they have not been established, and where this can be done with safety."

The late rebellion in Canada was the immediate cause of putting the colonies upon the footing of the mother country in the freedom of its institutions. The American Revolution had taught a lesson that was not lost. Lord Grey says:

"The system now established in Canada is that of parliamentary government; that is to say, government by means of parties. This form of government is now working well in that and the neighboring provinces, and is probably, on the whole, the best plan hitherto adopted of enabling a colony in an advanced stage of its social progress, to exercise the privilege of self-government. It may therefore be regarded as the form which representative institutions, when they acquire their full development, are likely to take in the British Colonies."

In pursuance of this plan, when Lord Elgin was sent to Canada to give it practical effect, his instructions bore on their face the unqualified declaration, that "it cannot be too distinctly acknowledged that it is neither possible nor desirable to carry on the government of any of the British provinces in North America in opposition to the opinion of the inhabitants." This was a declaration of independence by the Government in advance of that contemplated by the people, and the consequence was that the Reformers came into power in the Canadas, and instead of persisting in the idea of annexation to the United States, they have become our rivals in progress, and hold their association with the renown and power of England as conferring advantages over us, from whom they are content to ask only a fair field for competition on this continent in a reciprocity treaty.

This scheme of securing the allegiance of the nations Great Britain has in her train, by imparting to them the benefit of the free institutions she enjoys, has been carried out, in a greater or less degree, all over the world. In the West Indies, in defiance of the violent opposition of island aristocracies, (the lords of the soil,) the Government consulted the greatest good of the greatest number, and set free all the slaves; and, what was held to be equally disastrous, it struck off the fetters of monopoly, which, by means of differential duties, gave the home market to the sugar-planters without competition. This double act of emancipation, tripled by the repeal of the navigation act, raised the cry of the privileged owners everywhere, that ruin was inevitable. Lord Grey shows the result in figures from the custom-house; and it appears that, both in the West Indies and East Indies, comparing five years before with five years after the act of freedom, the increase of the sugar crops alone, in the last five years, under free labor and free competition, was 635,869 cwts. Mr. D'Israeli, who had been a Tory croaker against these reforms, afterwards, in a speech in Parliament, made the *amende* to Lord John Russell, who was their author. After comparing results in detail, he lumps the matter, and says:

"In other words, British production has increased by 1,250,000 cwts., and foreign production (that is, slave grown sugar) has decreased by about 600,000 cwts. I may be called a traitor, I may be called a renegade; but I want to know whether there is any gentleman in this House, wherever he may sit, who would recommend a differential duty to prop up a prostrate industry which is already commanding the metropolitan market."

The same system of assimilating the provincial institutions to the British has been pursued in the cannibal island of New Zealand, and brought to bear successfully on that warlike and powerful race, said to be superior to our Shawnees, in bravery and intelligence. They have been trained

into stone masons, road builders, farmers, and traders, municipal officers, and legislators, by the elective and representative rights conceded to them under the instruction and assistance of the English authority.

In Australia, once the land of convicts, the experiment works well. There parliamentary tactics are plied, and we hear of debates ending in the expulsion of a ministry who fail to meet the public expectation. It is now a land of gold, of herds, of agriculture, of commerce, of busy cities filled with refinement. Earl Grey tells us that in 1850 a census was taken of one element of this prosperity: "Of persons who had originally been prisoners, who were actually in the enjoyment either of entire freedom or that degree of freedom conferred by conditional pardon—the result of the investigation was to show that of such persons in these colonies there could not have been less than forty-eight thousand; and out of this large number, those who were not, in some way or other, maintaining themselves honestly, either by their labor or the property they had acquired, were so few that they formed a mere fraction of the whole."

The Secretary goes on to account for this by ascribing it to the salutary effect of transplantation; to change of scene, of society and habits, removal from temptation, and being forced by necessity to labor where wages were tempting, in the field or in tending herds, and having the opportunity to form a new character among a new people. Another obvious cause of this reformation, well understood in this country, is found in the ease of acquiring homesteads in the crown lands of Australia. To promote this, regulations were adopted, as Earl Grey expresses it, "with a view of insuring the distribution of land to those by whom it was wanted;" "since," as he adds, "there is no such fatal obstacle to the progress of a colony as having a large proportion of its lands engrossed by persons who make little use of the estates they acquired." This was effected by selling to settlers at the minimum price, and then providing that "the money received for the land may be so laid out that the *bona fide* settler may receive, in the increased value for occupation of the land he buys, full compensation for the price he is required to pay for it;" and he adds that it is "an essential part of the policy which ought to be pursued with regard to the alienation of land, that the proceeds of the land sales should be always so applied as to give this advantage to the purchaser." This is almost a homestead bill; for it gives back the price of the land, received in one hand, by paying it for the improvement of it with the other hand.

I have drawn thus largely on Secretary Grey's explanation of the colonial policy of Lord John Russell's administration, to point the eye of our Government to the causes of that success which is now the wonder of the world. India alone gives trouble; and that, doubtless, is attributable to the fact, that it has always been in the hands of a monopolizing company, which has had the right, and exerted it, to exclude Englishmen and English institutions according to its pleasure, out of the provinces, which have been kept for the company's benefit, in the hands of pensioned Nabobs. Lord Palmerston has already given notice of a bill which probably will place India in the nation's keeping.

The position which things are taking on the shores of Central America indicates a rivalry between England and the United States, as to the Power which is to exert the command over that region; to people it, civilize it, give it peace; in a word, make it in some sort a dependency—the only mode of saving it from barbarism, and from becoming a nuisance. The British Government has sent its subjects—free colored persons, Jamaica negroes—into the logwood and mahogany cuttings in Honduras, and into the Bay Islands, where she claimed a protectorate. She has restored the latter to the Government on the main land, stipulating that all the rights that make freemen of the people of England or in the United States shall be held under a sacred guarantee. Mr. Buchanan says in his late message, that this security taken for the people of the Bay Islands, is the establishment of "a State, at all times subject to British influence and control." And how would he prevent it? By stripping off the civil rights the people enjoy, and subjecting them to a dictator? He especially objects to their having "legislative, executive, and

judicial officers, elected by themselves; of being exempt from the taxing power in every form," against the consent of their representatives; "the performance of military service, except for their own exclusive defense;" but above all, he holds the provision "that slavery shall not at any time hereafter be permitted to exist therein," to be the most obnoxious.

Now I do not believe that the people of the United States will allow Mr. Buchanan to wage a war against Great Britain to establish slavery in the Bay Islands, any more than they will allow him to establish it in Kansas by force of arms. Nor will they countenance his hostility to freedom of religious belief in the Bay Islands; nor to the elective franchise; nor trial by jury; nor the right of *habeas corpus*; nor of voting the taxes to be imposed on them, and providing exclusively for their own military defense. It is a scandal to the age that an American President objects to the guarantee of the American bill of rights, to secure the freedom of any people.

Instead of opposing, I think we should follow the example of England, and carry to the main land of Central America such of our free colored population as may be willing to go, upon the invitation of the Liberal party in that country, and extend our guarantee of freedom over them and the whole section of country which our Government may acquire, by purchase, for their reception. There is a necessity that some great civilized power should step in, to restore order and industry, under the guarantee of free and stable institutions. England tenders the security of her crown, and the best usages that have ever grown up under a crown. We should offer the support of our Constitution, and the earnest of prosperous freedom which it has assured to our northern Republic. Which they would choose, the southern Republics have already evinced, in the forms they have adopted; and the encroachments of our transatlantic brethren would never have been attempted, but for the departures manifested in late movements from the principles of the founders of our Government. While Great Britain has been breaking down slavery and monopoly in the West Indies, the hand that has been felt from this quarter was that of the filibuster. Cuba was ready to fly to the embraces of the United States, when she was repelled by two successive lawless expeditions, unmistakably marked by the features of the buccaners who ravaged that island of old.

And what have been the concomitants of General Walker's invasion? A proclamation revoking the constitutional decree delivering the greatest mass of the people from slavery; and the principle thus manifested was fitly illustrated by military executions, butcheries in the streets of the cities, and, lastly, by the conflagration of one of the oldest. These atrocities had the effect of uniting the people of these distracted States, at last, in one common object—the expulsion of the oppressor. Happily for the fame of our country, the renewal of this horrible enterprise has been thoroughly rebuked by the patriotism, courage, and decision of Commodore Paulding. The name has acquired a new luster to emblazon that which it inherits from the Revolution. If the commodore's act had the sanction of the Administration in advance, or shall receive it now, some proof will be given that it is not altogether degenerate, and much will have been done to remove from us the aversion, the want of confidence in the justice of this Republic, and the fear that it countenances a design to fix a yoke on Central America, instead of rescuing it from usurpation—results to be hailed as tending to fit our Government for the relation it should hold towards the Republics of this continent.

If, on the other hand, the Administration takes part with Walker and the faction in this country that support him, it will show to all the world that the scheme for the propagation of slavery by the sword, of which it has given strong indications in Kansas, is extended to the whole regions of the South. Such a scheme can never succeed unless the principle avowed as the basis of it, by Walker, shall prevail. The triumph of "military rule" over civil institutions in the slave States, and their separation from the free States, North and West, must be won as the first step to conquest; and then, as the next step, the whole power of the free Republics on this side of the Atlantic,

and the hostile feeling, if not the direct force of Europe, must be encountered. The connection of the Atchison-Kansas conspiracy with that of Walker's against Central America is visible in the instruments who put them in motion. The same men, North and South, encourage both. Funds were raised for them in the same quarters; and such men as Colonel Titus are seen to emerge at one time in Kansas, at another in Nicaragua. The masses of the people nor their elevated statesmen, neither of the North nor South, of the East or West, not even the great body of the slave-owners, have any heart in the propagation of slavery. Apart from the politicians who use the question for their own advancement, the design has no support but in the enemies of the Union, who hate free government from the bitterness of their hearts, or from a vanity they would dignify as aristocratic pride.

In my opinion, the propagation of slavery can only be successfully resisted by the propagation of freedom. It is this mission, arrogated by Great Britain as peculiarly hers, which has conferred on her the preponderance she holds in almost every portion of the earth. She has swayed it with an iron hand, but every where of late years Anglo-Saxon justice, civilization, and Christianity, wherever they prevailed, have allowed every man to feel the comfort of laboring for himself, and he has labored all the better for his country.

Great Britain has her hands full in christianizing, civilizing, and improving, for commercial usefulness, the old continents. She must leave to us the regeneration of the new one; and this I find, from a paper in a late Westminster Review, marked by the editor with an unusual notification ascribing it to "an able and distinguished contributor," seems to be the opinion of some of the great men of England. This eloquent writer, describing the missions of what he calls "the four Empires," RUSSIA, FRANCE, GREAT BRITAIN, and the UNITED STATES, assigns its office to the latter in the following passage:

"And it may once for all be assumed that the human race, whatever Cabinets or Parliaments may think of it, will not be driven from their inevitable course. The work which has begun so largely will go forward. The Asiatic independence which survives will narrow down and grow feeble, and at last die. The will and the intellect of the more advanced races will rule in due time over that whole continent. The genius of France will follow the shores of the Mediterranean; the line of kingdoms which divides the empires of England and Russia will grow thinner, till their frontiers touch. In spite of Clayton-Bulwer treaties, and Dallas Clarendon interpretations of them, the United States will stretch their shadow ever further south. Revolution will cease to tear the empire of Montezuma. The falling Republics of Central America will not forever be a temptation, by their weakness, to the attacks of lawless ruffians. The valley of the mighty Amazon, which would grow corn enough to feed a thousand million mouths, must fall at last to those who will force it to yield its treasures. The ships which carry the commerce of America into the Pacific, carry, too, American justice and American cannon as the preachers of it. The Emperor of Japan supposed, that by Divine right, doing as he would with his own, he might close his country against his kind; that when vessels in distress were driven into his port, he might seize their crews as slaves, or kill them as unlicensed trespassers. An armed squadron, with the star-spangled banner flying, found its way into the Japan waters, and his serene Majesty was instructed that in nature's statute-book there is no right conferred on any man to act unrighteously, because it is his pleasure; that, in their own time, and by their own means, the upper powers will compel him, whether he pleases or not, to bring his customs into conformity with wiser usage."

The starting-point in this new career is the resumption of the progress which received its impulse in the revolution tending to the deliverance of the white laboring class of this country from the superincumbent weight of African slavery. This redemption of our own race from its vassalage under slavery has been brought to a standstill, and six millions of our free white kindred endure deprivation, corporeal and intellectual, from the slave occupation of the soil and of the pursuits which would add to their means of living and their sources of mental improvement. Neither the slave owners, nor the slave States, are responsible for the arrest of the enfranchisement which promised blessings to the toilers of both races. For, whether as a slave or free man, the presence of multitudes of the black race is found to be fatal to the interests of our race; their antagonism is as strong as that of oil and water, and so long as no convenient outlet, through which the unumitted slave can reach a congenial climate and country willing to receive him, is afforded, the institution of slavery stands on compulsion. But let me suppose Central America—

tempting in gold and every production of the tropical soil to stimulate exertion, with a climate innoxious only to the black man—were opened up to him, under circumstances to advance him in the scale of humanity, how long before masters in all the temperate slave States would make compositions to liberate them on terms that would indemnify them for transplantation? Hundreds of more benevolent owners would, from a sense of public good and for conscience sake, by wills, or by deeds of emancipation, make this deliverance, if the General Government would take the charge of the deportation to the region it might acquire for them—a gradual and voluntary emancipation by individuals, if not by States, would thus in time be accomplished. I hold that it is the duty of the nation to offer this boon to slaveholders and to the slave States to enable them to have complete control of the subject, which is the source of so much anxiety and mischief to them.

What a change would soon be wrought in the condition of Maryland and Virginia, Tennessee and Kentucky, and in my own State, Missouri, if a smooth way were opened into the heart of the tropics—prodigal of wealth in the soil, in the mines, and in the forests; where the labor of the robust and skillful freedman, assisted by the capital and instruction, and inspired by the energy of enterprising American merchants, miners, or planters, would start everything into life. The mixed condition of the four different classes which, in our grain-growing States, obstruct each other; the masters dependent on the slaves, the slaves on their masters; the free negroes hanging on the skirts of both; while the great mass, the free white laborers, are cast out, in a great measure, from employment and all ownership in the soil, would be succeeded by the most useful of all the tillers of the earth, small frecholders and an independent tenantry. The influx of immigrants from Europe and the North, with moderate capital already running into Maryland and Virginia, would, as these States sloughed the black skin, fill up the rich region around the Chesapeake bay, the noblest bay in the world, fed by the most beautiful rivers, and brooded over by the most genial climate, and make it fulfill the prediction of Washington, who said, slavery abolished, it would become "the garden of America." The wilderness shores of the great inland sea, now almost as silent as in the days of Powhatan, would be alive with population; and the waters, now covered with swans, wild geese, and wild ducks, would be covered with sails and kept in commotion by the rush of steamers over them. The great rivers that run to waste over many latitudes of the healthful temperate zone would thunder with machinery, and the little Merrimac in Massachusetts, which, though frozen half the year, produces ninety millions of manufactures, would find more than a hundred rivals in giant streams which are precipitated in the Chesapeake. The mountains would give to the hand of free labor boundless wealth in coal, salt, and ores, and their surface in pasturing innumerable herds and flocks. The plains and valleys would teem with grain, the lowlands with meadow, and the Old Dominion, instead of being "the lone mother of dead empires," would resume her hereditary crown and nascent strength, imparting new growth to all her offspring States. The noble ambition which once led the way to preëminence in this great Confederacy must again be attained by a love of liberty, by love of justice, by a magnanimous patriotism, prompt to make any sacrifice of temporary convenience for the great moral and political principles, the foundation of free institutions. The attempt to enforce slavery in Kansas and Central America by the sword, and thus make the whole intermediate space on the continent fall under its ascendancy, will fail. There is no Mohammed to establish such a dominion, nor is this age—the age of Christian strength and popular power—one to succumb to slavery propagandist prophets. Indeed, the Moslems all over the world have fallen so low, under the influence of this part of their creed, that they are obliged to surrender, and take the law from the accursed nations they stigmatize as Franks. The civilized world is at war with the propagation of slavery, whether by fraud or by the sword; and those who look to gain political ascendancy on this continent by bringing the weight of this system, like an enormous yoke, not to subject the slaves only, but also their fellow-citizens and

kindred of the same blood, have made false auguries of the signs of the times.

The CHAIRMAN, (Mr. BOGOCCK temporarily in the chair.) The time fixed by the House for close of general debate having arrived, no further debate is in order.

Mr. BLAIR. I ask permission of the Committee to have printed the remainder of my remarks.

The permission was granted.

The resolution offered by Mr. J. GLANCY JONES, as modified by him, was then read, as follows:

Resolved, That so much of said message and accompanying documents as relates to a uniform bankrupt law; and that so much of the President's annual message as relates to the duties of an independent State in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects; and so much as relates to the present neutrality law of the 20th of April, 1818; to the fitting out within the limits of our country of lawless expeditions against some of the Central American States; to the instructions issued to the marshals and district attorneys, and to the appropriate Army and Navy officers, together with the President's recommendation that we should adopt such measures as will be effective in restraining our citizens from committing such outrages, be referred to the Committee on the Judiciary, who are hereby required to inquire into and report upon the expediency of the repeal or modification of said act of 20th of April, 1818, with power to report by bill or otherwise.

The CHAIRMAN *pro tempore*. That is the original resolution as modified. The gentleman from Tennessee [Mr. MAYNARD] moved to amend the resolution by inserting after the words "bankrupt law," the words "be referred to the Committee on the Judiciary," and by striking out all after the word "outrages," and inserting in lieu thereof, "be referred to the Committee on Military Affairs." The gentleman from Massachusetts [Mr. THAYER] offered the following as an amendment to the amendment:

And also, that said committee report, so far as they may be able, the present social and political condition of the people of Nicaragua, and whether they invite colonies from the United States to settle among them; also, whether the soil, climate, and other natural advantages of that country are such as to encourage emigration thither from the northern States of this Confederacy.

Mr. THAYER. I ask leave to modify my amendment by striking out the word "northern."

The CHAIRMAN *pro tempore*. As no vote has been taken on the amendment, the gentleman has the right to modify it.

The amendment was so modified.

The question was then taken on Mr. THAYER's amendment as modified; and, on a division, there were—ayes 72, noes 77.

Mr. GROW called for tellers.

Tellers were ordered; and Messrs. GROW and KEITT were appointed.

The committee divided; and the tellers reported—ayes 82, noes 97.

So the amendment was rejected.

Mr. STANTON. I move to amend the amendment by adding the following:

And that said committee also report to the House a joint resolution tendering the thanks of Congress to Commodore Hiram Paulding for his patriotic and spirited conduct in the capture of William Walker and his followers, on the coast of Nicaragua, and their return to the United States.

Mr. Chairman, I do not offer that amendment as the foundation for a speech.

Mr. LETCHER. I rise to a question of order. That amendment is not germane to the resolutions before the committee.

Mr. STANTON. Certainly it is.

Mr. READY. I hope the gentleman from Virginia will withdraw his question of order. I want a vote upon the amendment.

Mr. LETCHER. No, sir, I do not withdraw the question of order.

The CHAIRMAN *pro tempore*. The Chair must say that the point of order raised by the gentleman from Virginia is well taken. There is nothing in the President's annual message that relates to Commodore Paulding or to General Walker.

Mr. STANTON. I think the Chair is mistaken; and if the Chair will allow me to say a word on the point of order, I will show that the amendment is in order.

Mr. LETCHER. I call the gentleman to order. If he is not satisfied with the ruling of the Chair, let him take an appeal.

Mr. STANTON. Then I will take an appeal if the gentleman desires it.

The CHAIRMAN. The Chair must remind the gentleman that the appeal is not debatable.

He will, however, hear any suggestion the gentleman may have to make if no objection be made.

Mr. STANTON. I only propose to state my point of order. This committee is now maturing matters for the consideration of the standing committees of the House. It is proposing subjects for reference growing out of the President's annual message. Now I submit to the Chair and to the committee, that the Central American question and the capture of Walker are so connected with that message as to make it a proper and legitimate subject of reference to one of the standing committees of the House. I regard it certainly as germane to the amendment of the honorable gentleman from Tennessee, [Mr. MAYNARD,] which has been decided to be in order.

The CHAIRMAN *pro tempore*. The Chair will say to the gentleman from Ohio, that this committee has no right to carve out business for the standing committees of the House. It can act upon no other subjects except such as have been referred to it by the House; that is, in this case, such as are embraced in the annual message of the President of the United States. The Chair recollects nothing in the President's message about the capture of Walker and his men, or the conduct of Commodore Paulding, and therefore he holds that the amendment is out of order. The question is upon the appeal of the gentleman from Ohio.

Mr. STANTON. I insist upon my appeal; and in this connection I desire to call the attention of the Chair and of the committee to the fact that the President in his annual message refers especially to our relations with Central America, and to this expedition of Walker.

Mr. SMITH, of Virginia. That was the special message.

Mr. STANTON. No, sir; the annual message. It refers directly to this expedition, and I submit that there is so much connection between the message and the capture of Walker as to make my amendment properly and legitimately in order.

Mr. SMITH, of Virginia. I should like to have that portion of the annual message read.

Mr. WINSLOW. This question of order is not debatable, and I object to any further discussion.

The CHAIRMAN *pro tempore*. The Chair spoke of the message only from recollection. He does not remember any reference directly to Walker or Paulding.

Mr. LETCHER. Walker had not been captured then.

Mr. SMITH, of Virginia. I hope that portion of the message will be read.

Mr. GREENWOOD. Unless it is strictly in order, I object to any reading.

Mr. STANTON. I will read it myself. It only occupies two or three lines, and is as follows:

"Notwithstanding these precautions, the expedition has escaped from our shores. Such enterprises can do no possible good to the country, but have already inflicted much injury both on its interests and its character. They have prevented peaceful emigration from the United States to the States of Central America, which could not fail to prove highly beneficial to all the parties concerned. In a pecuniary point of view alone, our citizens have sustained heavy losses from the seizure and closing of the transit route by the San Juan between the two oceans."

"The leader of the recent expedition was arrested at New Orleans, but was discharged on giving bail for his appearance in the insufficient sum of \$2,000."

Mr. HOUSTON. I object to all further debate upon this question of order.

Mr. SEWARD. I desire to move that the committee rise for the purpose of reconsidering the resolution closing debate upon the message. Gentlemen have not talked enough upon it. I want to make a speech myself. I move that the committee rise.

The motion was disagreed to—ayes 33, noes 108.

Mr. CLEMENS. I move that the appeal from the decision of the Chair be laid upon the table.

The CHAIRMAN *pro tempore*. It is not in order to move to lay upon the table in committee.

Mr. PHELPS demanded tellers on the appeal. Tellers were ordered; and Messrs. Cox and BILLINGHURST were appointed.

The committee divided; and the tellers reported—ayes one hundred and eleven; noes not counted.

So the decision of the Chair was sustained.

The question recurred on the amendment of Mr. MAYNARD, to insert, after the words "bankrupt law," the words "be referred to the Committee

on the Judiciary," and to strike out all after the word "outrages," and insert in lieu thereof, the words "be referred to the Committee on Military Affairs;" so that the resolution would read:

Resolved, That so much of said message and accompanying documents as relates to a uniform bankrupt law, be referred to the Committee on the Judiciary; and that so much of the President's annual message as relates to the duties of an independent State in its relations with the members of the great family of nations, to restrain its people from acts of hostile aggression against their citizens or subjects; and so much as relates to the present neutrality law of the 20th of April, 1818; to the fitting out within the limits of our country of lawless expeditions against some of the Central American States; to the instructions issued to the marshals and district attorneys, and to the appropriate Army and Navy officers, together with the President's recommendation that we should adopt such measures as will be effective in restraining our citizens from committing such outrages, be referred to the Committee on Military Affairs.

Mr. LEITER. I move to amend the amendment, by adding the following:

And that said committee report whether said General William Walker was induced to enter upon his filibustering expedition by the "Ostend manifesto" and the letters of the Secretary of State to the filibuster meetings in New York city and elsewhere.

[Much laughter.]

Mr. LETCHER. I raise the point that the amendment is not in order.

The CHAIRMAN *pro tempore*. The Chair sustains the point of order, and rules the amendment out of order.

Mr. LEITER. I presume I must submit, as there is a large majority against me, although I believe the amendment is germane.

Mr. LETCHER. It is well to submit when a large majority is against the gentleman.

Mr. MAYNARD's amendment was disagreed to. The question recurred on the original resolution as modified.

Mr. PHILLIPS. I move to strike out these words:

"And also are hereby required to inquire into and report upon the expediency of a repeal or modification of said act of 20th April, 1818, with power to report by bill or otherwise."

Mr. Chairman, I offer that amendment in good faith. I shall not undertake, in the few minutes allotted to me under the rules of the House, to argue the main question. If I rightly understand these resolutions, they propose the usual course of reference of such subjects as are embraced in the President's message. Under the rules of the House, I believe that a committee cannot originate business of itself, and it is, therefore, the custom to instruct them by referring to the appropriate committees the subjects embraced in the President's message. While I do not object to the inquiry contained in the words I propose to strike out, I do object to its incumbering the usual reference. I object to it at this time, particularly, because it may be construed into an expression by this House of some dissatisfaction with that with which a large majority of the House is satisfied. If the matter is referred in the usual way, if the subjects mentioned in that resolution are referred to the Committee on the Judiciary, without instructions, that committee will report according to the line of their prescribed duty.

But if, under these circumstances, in the face of what has just occurred, and more particularly in the face of what has been said here, many gentlemen in this committee having justified the conduct of one who, at any rate, was a fugitive from the justice of his country, if we at this time add to the resolution the instructions that the committee shall inquire into the expediency of repealing the act of 1818, we give to this country the voice of this House, that those circumstances have been such as to make that act of doubtful propriety.

Mr. Chairman, I will not discuss that act here; but I may say that I think that many gentlemen have erred in the views they have taken of it. The act, in itself, enforces no new doctrine. The act is, so to speak, a neutrality act; the act is an act to punish offenses which were recognized as offenses before that act was passed, but which, as the courts of the United States have not common-law jurisdiction, could not be punished without the intervention of that statute. Those offenses were actually prohibited by the law of nations; for that which could not be done is prohibited, and that act was passed mainly for the purpose of conferring jurisdiction. That jurisdiction the courts of the United States could not, before its passage, exercise. I construe that act,

so far from declaring any new law, so far from establishing any new laws of neutrality, simply as recognizing existing laws, and as declaring that any infractions of them shall be punished.

And I may say here to the gentleman from Mississippi, [Mr. QUITMAN,] who originated this matter, that the success of his motion, either to repeal the act or to modify and change it—because to modify and change is, after all, but another word for "repeal"—he will present to the civilized world the spectacle of our country recognizing as a wrong the fitting out of an expedition within its borders against a foreign territory, and at the same time declaring that it is unwilling to punish the perpetrators of that wrong.

It is for these reasons that I am desirous that that portion of the message shall be referred in the usual way.

Mr. KEITT. Mr. Chairman, the position of the member from Pennsylvania [Mr. PHILLIPS] is founded upon the assumption that the reference of a matter to a committee is an approval of it by the House. The assumption is utterly unfounded; for every day matters are thus referred, without the slightest approval or committal on the part of the House.

In my judgment, sir, the whole body of the neutrality laws should be referred to a committee for examination, for great doubt exists in the mind of the country as to their scope and construction. Men of high legal attainments in this House differ in their construction of the provisions of the neutrality laws, and the extent to which they clothe the President with power to use the land and naval forces of the Union in the pursuit and capture of expeditions from our shores, which expeditions are fitted out in violation of our laws. The penalties and prohibitions contained in the neutrality laws are severe and numerous, and there should be as little doubt as the terms of the language will allow, in the provision of all penal statutes. In the House and in the Senate, men of high legal attainments and extensive judicial practice differ upon vital points in these laws; and it is due to ourselves and to the country that this difference should be removed, and all doubts be cleared up.

We all agree as to the good faith and loyalty involved in the discharge of our international obligations; but it is not clear how far Congress has clothed the Executive with authority in pursuance of international or statutory law. The President himself has asked for new powers, and has pronounced the act of Commodore Paulding, in the arrest of Walker, a "grave error." Justice to ourselves, justice to the country, justice to the constituted authorities, require that the whole *corpus* of the neutrality laws should be submitted to a thorough investigation, and should receive such modification or amendment as may be necessary to a clear comprehension of their provisions. In this way we will relieve our citizens from the difficulties of disputed construction, and save our Government from the invasions against each other of the several coordinate departments into which it has been partitioned.

I wish the power of the Executive to use the Army and Navy to be defined. I do not wish to stretch his authority either through cloudy provisions of statutory enactment, or the elastic, I may say indefinite, expansibility of international law. Sir, it is dangerous to regard the executive department of the Government as invested with inherent power to execute international obligations or carry out the principles of public law. Sir, the whole code of international law is founded upon dynastic interests, and is but the public régime of monarchies. How many provisions have we established in it, and by which of its provisions are the rights of a Republic sheltered and protected? Sir, this code is elastic for monarchies, but cramped for republics. As it is not the offspring of such institutions as ours, we should be careful not to extend Executive authority through blind conformity to its indefinite stipulations.

The amendment of Mr. PHILLIPS was then agreed to—ayes 92, noes 67.

Mr. JOHN COCHRANE. I offer the following amendment:

Add at the close of the resolution the following words: "And who are hereby instructed to report on the expediency of making the neutrality laws more rigorous."

It is not my intention, Mr. Chairman, and if it was, I could not carry it out to the necessary ex-

tent, to enter into an argument on this question. There is no argument to be submitted. The position of this country is as plain and visible as is the atmosphere about us when the sun rises. The duties that devolve on us are acknowledged. It requires, sir, no argument to explain our national position. It is a position which is regulated and governed by international laws. It is a position which has never been disturbed by argument or judicial decision; and no argument that has been submitted in the course of this debate has in the slightest degree disturbed the national position of this country toward its sister nations, or the obligations of the citizens of this country toward their own Government. The neutrality laws are but an announcement on the part of the sovereignty of this country as to what are the duties and the obligations devolving upon our citizens in regard to the position which this country holds towards the nations at large.

If these laws have been violated, and if there is no power in our Government to punish the offenders, it follows distinctly that the laws are feeble; that they are weak; and that strength and vigor should be applied to them, instead of a modification that might render them more feeble and more weak. It is not for us, as representatives of the people of this country, to stand here haggling about principles and positions which control or modify our position in the family of nations. Let us maintain the ground on which we are placed by international law. Let us fulfill our obligations; and if there is no power in the executive arm to enforce the obligations of our citizens, why let us perform our duty and strengthen that arm. Therefore it is that I offer my amendment with the view of strengthening the Executive arm and making the laws more rigorous.

Mr. QUITMAN. Mr. Chairman, this remarkable fact must strike the mind of the members of this committee, that gentlemen who profess to understand so well the neutrality laws, as they are called, (although the act is an act for the punishment of crimes against the United States,) are still unwilling to give the subject a thorough investigation, section by section, and clause by clause. They speak of laws to carry out the neutral relations of this country. The honorable gentleman from Georgia [Mr. STEPHENS] and myself entirely concur in the duty and the necessity of carrying out the neutrality obligations of this country. But what are they? Let me say that learned gentlemen and great statesmen have thought differently from the gentleman from New York, [Mr. JOHN COCHRANE.] Let us hear what was said by the great statesman of Kentucky, who descended from the chair and took part in the argument, when the act of 1818 was passed. He was a man not in the habit of uttering sentiments which he did not believe. He had watched the whole course of legislation on the subject of American rights; and what did he say? I read from the history of Congress, published by Gales & Seaton:

"Mr. Clay offered some general remarks on the offensive nature of this bill."

This very act of April 20, 1818.

—(which, he said, instead of an act to enforce neutrality, ought to be entitled an act for the benefit of his Majesty the King of Spain.)"

That was the language of Mr. Clay; and the gentleman from New York, who offers this amendment, to render the neutrality laws more stringent, will see how far he differs from Mr. Clay, who called the act of 1818 an offensive act.

In the same debate, of the 18th of March, Mr. Clay is reported to have said:

"In the threshold of this discussion, he confessed he did not like much the origin of that act. There had been some disclosures—not in an official form, but in such shape as to entitle them to credence—that showed that act to have been the result of a *leaking* on the part of foreign agents in this country, which he regretted to have seen. But from whatever source it sprung, if it was an act necessary to preserve the neutral relations of the country, it ought to be retained; but this he denied."

"In its provisions it went beyond the obligations of the United States to other powers, and that part of it was unprecedented in any nation which compelled citizens of the United States to give bonds not to commit acts without the jurisdiction of the United States, which it is the business of foreign nations, and not of this Government, to guard against."

Again, on the same day, this bill being still under consideration, Mr. Clay, alluding to the Spanish Minister, said:

"He (Mr. Clay) would not treat with disrespect even

the minister of Ferdinand, whose cause this bill was intended to benefit; he is a faithful minister; if, not satisfied with making representations to the Foreign Department, he also attends the proceedings of the Supreme Court, to watch its decisions; he affords but so many proofs of the fidelity for which the representatives of Spain have always been distinguished. And how mortifying is it, sir, to hear of the honorary rewards and titles, and so forth, granted for these services; for, if I am not mistaken, our act of 1817 produced the bestowal of some honor on this faithful representative of his Majesty; and, if this bill passes, which is now before us, I have no doubt he will receive some new honor for his further success."

Now, sir, that act was not induced by a sense of our duty to other countries, but it was the result of the teasing cry, sir, of an influence which surrounds almost every Administration—the influence of stars and garters and crowned heads—an influence which is inconsistent with the true interests of this country; an influence which is hostile to true Americanism, and hostile to the spirit of American liberty. These were the influences which Mr. Clay says brought about the passage of the act of 1818.

Mr. SMITH, of Virginia. If the gentleman will allow me, I will read the closing paragraph of Mr. Clay's speech on the occasion to which he refers. He says:

"Let us put all these statutes out of our way, except that of 1794. When was that passed? At a moment when the enthusiasm of liberty ran through the country with electric rapidity; when the whole country *en masse* was ready to lend a hand and aid the French nation in their struggle. General Washington, revered name, the Father of his country, could hardly arrest this inclination. Yet, under such circumstances, the act of 1794 was found abundantly sufficient. There was, then, no gratuitous assumption of neutral debts. For twenty years that act has been found sufficient. But some keen-sighted, sagacious foreign minister finds out that it is not sufficient, and the act of 1817 is passed. That act we find condemned by the universal sentiment of the country; and I hope it will receive further condemnation by the vote of the House this day."

[Here the hammer fell.]

Mr. PALMER. I move to amend the amendment by striking out the words "more rigorous." I maintain that the neutrality laws of the country are now sufficiently stringent, if they are properly and in good faith enforced. I thank the gentleman from South Carolina [Mr. KERR] for calling the attention of the House to the fact that the President of the United States disagrees with a majority of this Congress in regard to this movement of General Walker in Nicaragua, and in regard to his arrest by Commodore Paulding. The President says, in the message sent in to the Senate a few days ago, that Commodore Paulding has "committed a grave error" in arresting General Walker upon the shores of Nicaragua. He says that he violated the law in that arrest.

Sir, I congratulate the country that in the only two cases in which the President stands pledged before the nation to aid and abet slavery propaganda, which has controlled the country for the last twenty years, he has received the emphatic condemnation of the country and of this House. He has undertaken to enforce upon the people of Kansas a slavery constitution contrary to their will, and in that he has received the emphatic condemnation of Congress. He has undertaken, by trickery, by collusion, by complicity with the filibuster movement of Walker in Central America, to aid and abet that movement, and in that he has received the most emphatic condemnation of the country. He says, contrary to the sentiment of this country, and contrary to the sentiment of a majority of both Houses of Congress, that Commodore Paulding committed a grave error, and was guilty of a violation of law in the arrest of Walker and his men. In that, too, he has not been supported by the country; and he is not supported by the prominent men of his own party in this House.

The arguments which have been adduced in this House by prominent men belonging to the party of the President, upon the legal question of the right and propriety of the action of Commodore Paulding, are, to my mind, conclusive and unanswerable, especially the legal argument of the gentleman from Ohio, [Mr. GROESBECK,] and also that of my colleague from New York, [Mr. SICKLES.] It seems to be conceded on all sides here that Commodore Paulding has done no more than his duty; that he has not been guilty of a violation of the laws of his country, and much less the law of nations, when he has arrested this man, who is charged by the President with committing robbery and murder, and every outrage, and brought him here to be tried by the courts of

the country. And it is conceded that he has done it in the only practicable way that it could be done. He, and his brother officers in the fleet under his command, when they applied to the Secretary of the Navy for more specific instructions, to ascertain what was the intention of the Government in respect to the arrest of Walker and his men, received vague and unsatisfactory instructions in reply. He was left, therefore, to execute the law in accordance with his own understanding of its provisions; and, like a brave and noble man, ready to take the responsibility, and to use the force under his command to accomplish the purpose for which he was sent, Commodore Paulding went there, and, in the only practicable way in which he could obey his instructions, and stop the expedition, he arrested these men, and brought them home, to be tried by the laws of his country.

The only error Commodore Paulding committed was, that he did not bring home the deluded followers of Walker, and leave their buccaneer leader to the retributive justice of the authority of the country whose soil he had violated, whose property he had robbed, and whose people he had murdered.

[Here the hammer fell.]

Mr. PHILLIPS. The object I had in view seems to have been somewhat misunderstood by the gentleman from Mississippi, [Mr. QUITMAN,] and the gentleman from South Carolina, [Mr. KERR.] If the amended proposition was intended merely as an inquiry into the necessity of providing additional punishments for a violation of the neutrality laws, I could not for a moment object. I should object to the appointment of a select committee, but I would vote for the reference of the subject to the Committee on the Judiciary. The experience of the gentleman from Mississippi must have taught him, last year, the danger of referring to a select committee matters which properly belong to one of the standing committees of the House. If I recollect rightly, it was the objection of the gentleman from Mississippi which led the House to discover that a law, which had been reported by a select committee, was so defective, and so radically wrong, that it was almost instantly reconsidered.

Now, Mr. Chairman, I say that, to instruct the Committee on the Judiciary at all, in advance, is to declare the necessity for such instructions. The President, in his annual message to Congress, took occasion to say:

"I commend the whole subject to the attention of Congress, believing that our duty and our interest, as well as our national character, require that we should adopt such measures as will be effectual in restraining our citizens from committing such outrages."

It is that portion of the message which brings the whole subject before the Committee on the Judiciary for inquiry. Now, has not the President of the United States commended to the action of Congress the whole subject. It is because I believe that he has done so; because I believe the neutrality laws, which have been the work of many years, and are recognized as identical in all civilized nations, require no tinkering, and will only suffer by any attempt at their alteration, that I oppose the amendment of the gentleman from New York.

Mr. QUITMAN. I understand the gentleman to put a question to me. Will he permit me to answer it?

Mr. PHILLIPS. Certainly.

Mr. QUITMAN. The gentleman asks me whether my action in moving that this subject should be referred to a special committee did not arise from a wish to make the neutrality laws—

Mr. SEWARD. I rise to a question of order. I insist that the debate shall be confined to the pending amendment.

The CHAIRMAN. Under the rules the debate must be confined to the amendment under consideration.

Mr. PHILLIPS. I have confined myself to the amendment.

Mr. QUITMAN. I do not see that the gentleman from Georgia had a right to interrupt me. I understand the gentleman from Pennsylvania to ask me whether I do not desire to throw obstructions in the way of the punishment of offenses against the neutrality laws. I desire no such thing. I am as willing as he or any other member of this House, to carry out the law of nations; but I stand here to vindicate my belief that a por-

tion of the act of 1818 goes beyond the duties and obligations which we owe to other nations, and that by it, in the language of Mr. Clay, we have assumed a voluntary duty which it is time we should shake off. I wish to correct it upon great national principles.

[Here the hammer fell.]

Mr. PALMER withdrew his amendment.

Mr. MARSHALL, of Kentucky. I move to strike out the word "rigorous," and to insert instead of the word "making" the word "amending," so that the amendment will read, if amended, "and who are hereby instructed to report on the expediency of amending the neutrality laws."

Mr. Chairman, my object is not to engage in the discussion in regard to the reading of the neutrality law, nor to express any opinion in regard to the operation of the neutrality laws at this time; but to send this subject from the Committee of the Whole to the Committee on the Judiciary, with the desire expressed, on the part of this committee, that they shall give us their opinion on the propriety of amending these laws at all. The diversity of opinion that has been expressed here as to the true construction of these laws, as to the force and effect of these laws, affords the most conclusive evidence to my mind that this subject ought to undergo a scrutinizing investigation by the law committee of this House; and that that committee, in response to the general inquiry which agitates the country, should, by their report, put these laws, and the reasons for them, upon a foundation which will vindicate their propriety as they exist at present, or indicate to us what would be the line of sensible legislation if we undertake to amend them. This is all I have to say.

Mr. JOHN COCHRANE. I accept the gentleman's amendment as a modification to my amendment.

Mr. MILLSON. I presume it is in order to oppose the amendment as modified?

The CHAIRMAN. The Chair does not know whether it is exactly in order; but the Chair will hear the gentleman.

Mr. MILLSON. I rise to oppose the amendment. I object to the amendment in the form in which it now stands after the gentleman from New York has accepted the proposition of the gentleman from Kentucky, for to adopt it in that form will be substantially to reinsert the very words which the committee has deliberately stricken out. Now, sir, why did the committee strike out, on motion of the gentleman from Pennsylvania, [Mr. PHILLIPS,] the words requiring the committee to inquire into the expediency of repealing or modifying the neutrality laws? I presume it was because the committee supposed that the giving of this instruction at this period of the history of the country would indicate what I am very sure does not exist, and that is, a desire on the part of this House to repeal these laws so as to give additional facility to these marauding and unlawful expeditions. I think it better, perhaps, that the committee should consider the question without any instructions from the House. The President has asked that additional penalties may be provided, or that additional powers may be granted to the Executive. The committee may very well inquire into the expediency of providing additional penalties, and granting additional powers on the simple reference of the President's message without any instruction; but to adopt the proposition as it now stands would seem to imply what I am very sure the gentleman from New York does not suppose that the House are seriously contemplating, the propriety of removing by amendment some of the penalties inflicted upon the authors of these unlawful expeditions.

Sir, I should not suppose that these neutrality laws were very rigorous; for very few, if any, convictions have taken place under them; and while I objected to the original proposition of the gentleman from New York, when he proposed to direct the committee to inquire whether these laws should be made more rigorous, I still more object to the proposition as it now stands, because it will imply that we have heretofore been executing these neutrality laws when we have executed them, not because it was our duty as a nation to do so, but only because there was a necessity laid upon us which we would willingly avoid or throw off. Sir, I take it for granted that the United

States desire to execute these laws not because they are laws, but because it is right and proper that such laws should be executed.

Mr. COLFAX. I move to amend the amendment of the gentleman from New York.

Mr. MAYNARD. Is not this an amendment to an amendment, which is itself an amendment to an amendment?

The CHAIRMAN *pro tempore*. The amendment of the gentleman from Kentucky was accepted by the gentleman from New York as a modification of his amendment.

Mr. J. GLANCY JONES. I submit whether the amendment of the gentleman from New York [Mr. JOHN COCHRANE] is in order, it having been voted down once before. I did not raise the question before, not caring to prevent the gentleman from New York from making his speech. But, inasmuch as there is another proposition to amend, I raise the question of order now.

Mr. COLFAX. I think the question of order comes too late.

The CHAIRMAN *pro tempore*. The rule of the House is, that when words have been inserted, it is not in order afterwards to move to strike them out; but the Chair is not aware of any rule which would prevent the committee from striking out words and afterwards inserting them. If there be a rule to sustain the gentleman's point of order the Chair would be obliged if he would refer to it.

Mr. CRAIGE, of North Carolina. I wish to say that the gentleman from Pennsylvania is entirely mistaken. The former amendment, which was voted down, required the committee to report upon the propriety of repealing the neutrality laws. This does not do any such thing.

The amendment to the amendment, offered by Mr. COLFAX, was read, as follows:

Strike out the language as modified, and insert after the word "expediency" the words, of "making the neutrality laws more rigorous and effective."

Mr. COLFAX. Mr. Chairman, I concur with the language which fell from the gentleman from New York [Mr. JOHN COCHRANE] when he offered his amendment; and I liked that amendment, because it was clear and decisive. It meant something. It would have called forth an expression of the opinion of the committee upon the question which is now agitating this entire country. But I regret that the gentleman should have afterward modified his amendment so that it would call for no expression of opinion whatever; and I now offer my amendment to the amendment for the purpose of having a test vote in the committee upon the question whether they believe the neutrality laws ought to be made more rigorous and efficient, or not. We owe it to ourselves, and to our country's reputation, that we shall see that these laws shall not be full of loop-holes and escapes whereby expeditions can go from our shores under the disguise of agricultural expeditions and bands of emigrants, and that we shall never allow this country to be made a place where expeditions of a piratical character may be fitted out and precipitated upon other and weaker nations in our vicinity. I, therefore, desire to ascertain the sense of this committee, that a clear expression of their opinion may be sent to the country upon this important question. I desire a test vote upon this question.

Mr. WASHBURN, of Illinois. I desire to inquire of the Chair, what will be the effect of the vote on this amendment? If the amendment of the gentleman from Indiana is voted down, then there can be no vote upon it in the House, as I understand the rules. If, on the other hand, the committee shall vote in the amendment of the gentleman from Indiana, then we can have a separate vote upon that amendment in the House, and Representatives can be placed upon the record upon this great question. That is what I desire.

The CHAIRMAN *pro tempore*. The question is on the amendment of the gentleman from Indiana.

Mr. WASHBURN, of Illinois. I call for tellers.

Tellers were ordered; and Messrs. WASHBURN, of Maine, and TAYLOR, of New York, were appointed.

The committee divided; and the tellers reported—ayes 74, noes 89.

So the amendment to the amendment was not agreed to.

The question now being on Mr. JOHN COCHRANE's amendment as modified—

Mr. DEAN called for tellers.

Tellers were ordered; and Messrs. DEAN and MILLSON were appointed.

The committee divided; and the tellers reported—ayes 89, noes 37.

So the amendment was adopted.

The question then recurred on the resolution as amended; and it was agreed to.

The other resolutions offered by Mr. J. GLANCY JONES, were severally reported as follows—no amendment being offered to any of them save to the last:

4. *Resolved*, That so much of said message and accompanying documents as relates to the Army of the United States, the raising of four additional regiments and to the construction of a military road through the Territories of the United States, be referred to the Committee on Military Affairs.

5. *Resolved*, That so much of said message and accompanying documents as relates to the Navy of the United States, and to the construction of ten small war steamers, be referred to the Committee on Naval Affairs.

6. *Resolved*, That so much of said message and accompanying documents as relates to the Post Office Department, its operations and conditions, be referred to the Committee on the Post Office and Post Roads.

7. *Resolved*, That so much of said message and accompanying documents as relates to the public lands, be referred to the Committee on Public Lands.

8. *Resolved*, That so much of said message and accompanying documents as relates to the commerce of the United States, and to the fitness of the river La Plata and its tributaries for navigation by steam, be referred to the Committee on Commerce.

9. *Resolved*, That so much of said message and accompanying documents as relates to our intercourse with, and relations to, the various Indian tribes, be referred to the Committee on Indian Affairs.

10. *Resolved*, That so much of said message and accompanying documents as relates to the Territories of Kansas, Utah, and Arizona, be referred to the Committee on Territories.

11. *Resolved*, That so much of said message and accompanying documents as relates to the District of Columbia, be referred to the Committee for the District of Columbia.

12. *Resolved*, That so much of said message and accompanying documents as relates to the subject of a Pacific railroad, be referred to the Committee on Roads and Canals.

Mr. PHELPS. I offer the following amendment to the last resolution:

Strike out all after the word "resolved," and insert the following:

That so much of the President's message as relates to a railroad to the Pacific ocean, be referred to a select committee to be composed of thirteen members, to be appointed by the Speaker.

Some days since I obtained the floor, and endeavored to introduce a resolution providing for the raising of a select committee to be charged with the subject-matter now under consideration—the construction of a railroad from the valley of the Mississippi to the Pacific ocean. I was unsuccessful at that time in having the resolution introduced. I have now thought proper to propose it as an amendment to the resolution submitted by my friend from Pennsylvania, [Mr. J. GLANCY JONES.] If this amendment be adopted, it will withdraw the consideration of the subject of the Pacific railroad from the Committee on Roads and Canals. I am aware that my friend from Tennessee, [Mr. JONES,] the chairman of that committee, is opposed to the construction of any railroad to the Pacific ocean. He will undisguisedly tell you that he is unwilling that the Government should aid in this great enterprise in any manner whatever. He will tell you that if such a railroad is to be constructed, its construction ought to be left to individuals and corporations, without the fostering hand of the Government of the United States.

The subject is one of vast importance. It is of vast importance to all the people of this country, and particularly is it of great importance to all the people of the valley of the Mississippi. If this committee be raised it will take into consideration the question of how many roads shall be built, the line to be taken by them, and the different routes proposed by the advocates of this great measure. Moreover, it will be charged with the consideration of the manner in which this great enterprise should be accomplished.

I do not expect, at this time, to say anything on this subject; but I only ask whether it is not proper that this matter should be referred to a select committee, to consist of a greater number than the standing committees of the House. I propose the number thirteen; but I am not particular about that. Each of the standing committees of the House to which it might be proper to refer this subject-matter, is already burdened with

the ordinary business which is and will be referred to them. I desire to see a committee organized that will command the respect and confidence of the country; and when the Speaker of the House shall be called upon to form a committee on this subject-matter, he will have it in his power to consider the propriety of appointment to that committee. As a matter of course, if a select committee be ordered, it will be one favorable to the subject; but on that committee the opponents of the measure are entitled to be represented; and I have no doubt that if my amendment be adopted, a committee fairly reflecting the interests represented on this floor—the interests of those in favor of different routes, and of those opposed to the measure—will be appointed. I only ask the House not to send this subject-matter to a committee, the chairman of which I know is opposed to this measure.

Mr. JONES, of Tennessee. I think, sir, the gentleman from Missouri is too late with his resolution. I think the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] who introduced these resolutions for referring the message, disposed of this subject in one of the resolutions, passed over by this committee to be reported to the House. The fourth resolution is:

"That so much of the said message and accompanying documents as relates to the Army of the United States, the raising of four additional regiments, and the construction of a military road through the territories of the United States, be referred to the Committee on Military Affairs."

Quoting, I believe, the very language used by the President in his message upon this subject. He places the power to construct this road upon the ground that it is one of the military defenses of the country, and in the exact language by which he characterizes it, you have disposed of the subject, and therefore this resolution is, in my opinion, out of order at this time.

But, sir, the gentleman from Missouri said that I was opposed to this project, and I take occasion here to say that I do disagree with the President utterly and entirely upon this subject. I believe that there is no such power as he claims delegated to Congress, either under the war-making power or any other power, to make roads or canals by this Government. The President tells us that former experience has taught him that a strict construction of the Constitution is the only true or safe course for this Government to pursue; but then he comes in with what, in my humble judgment, is one of the most far-fetched and erroneous constructions of the Constitution that ever was adopted or proposed by any man in this country. He places it upon the ground that this road is absolutely necessary to the defense and protection of the nation, and to repel invasion. Sir, if it be absolutely necessary and indispensable, there must be no other way by which we can protect the Pacific coast from invasion. Now, sir, I say that there is another mode. I say that there is a clear constitutional mode by which it may be done. And what is that? It is to raise an army and provide a fleet, and send them round there—to raise an army, if you please, of half a million men, or a million men. That would be constitutional. And there being one way in which this can be done, I say that it is neither absolutely necessary nor indispensable to build such a road for such a purpose; and therefore, in my judgment, the grounds upon which the President places this subject cannot be sustained.

These, sir, are my views, very briefly expressed. I concur with the President, that a strict construction of the delegated powers of this Government is the only safe and true theory of the Government, and I am sorry he has not adhered to it in his recommendation; for I venture the opinion that there is not a man in this House who would claim this power as absolutely necessary to our military defenses.

Mr. COBB. I desire to offer an amendment to the amendment of the gentleman from Missouri, to provide that this subject shall be referred to the Committee on Public Lands; and in the few remarks I have to make, I shall confine myself to the particular subject of the amendment.

If gentlemen will refer to that portion of the President's message which refers to this subject, they will find that he connects the subject of building a railroad to the Pacific with grants of the public lands to such persons as may be engaged in the building of that road; therefore, I contend that the committee which legitimately

has jurisdiction over the public lands is the proper committee to which this portion of the message should be referred.

I shall not on this occasion undertake to defend the President for the view he has taken upon this subject; nor will I commit myself to-day in this House to the particular course I shall pursue. I stand thoroughly committed at home by sixty different speeches which I made to my constituents—in every one of which I took care to commit myself upon this subject. A large portion of my constituents believed, as the gentleman from Tennessee [Mr. JONES] believes, that to adopt the views of the President would be to break down the land-marks of the Democratic party; but, sir, I sustained the sentiments advanced by the President in his inaugural, when he intimated that it might become necessary to grant a portion of the public lands. I submitted the question fully to my constituents, and discussed it in my humble way to my own satisfaction, if not to the satisfaction of all who heard me.

Now, sir, I am not going to make an issue with the distinguished gentleman from Missouri, [Mr. PHELPS,] who thinks it important that this subject should be transferred from the legitimate standing committee, as I hold, to a select committee of thirteen, composed of men of talent, whose opinions shall command the admiration of the country. Sir, there are legitimate standing committees of this House, formed by the Speaker of the House; and whether their reports will be such as to command as much weight as those of the committee which the gentleman from Missouri desires to raise, I will not undertake to say. Sufficient is it for me, on this occasion, to confine myself to the question of reference alone.

Mr. WASHBURN, of Maine. Mr. Chairman, as a friend of the Pacific railroad, and believing that the Government has power under the Constitution to construct such a road for military and other purposes, I desire that this measure shall be referred to a committee so composed that the majority shall be its known friends; and for this reason I am decidedly opposed to the amendment of the gentleman from Alabama, and in favor of the proposition of the gentleman from Missouri. How the Committee on Public Lands is constituted I know not. I have no means of knowing that it is in favor of the measure. I desire that it shall go to a committee known to be in favor of it—at least a majority of the committee understood to be in favor of it. Of course the minority should be represented upon the committee, and ably represented; but it should be such a committee as shall secure a favorable hearing, and a report in favor of some measure for the construction of this great work, one of the greatest enterprises, most necessary for the development of our resources and the preservation of the country, that can come before us at the present session of Congress.

I hope that the friends of the measure will vote down all propositions to refer it to any of the standing committees, and sustain the motion of the gentleman from Missouri. It is not a question particularly appropriate for the Committee on Military Affairs, even when it is granted that the authority to construct this road must rest mainly upon the power, under the Constitution, to construct military roads. It does not follow that because it is under this power it is to be constructed, that we may not appoint a select committee, with a view to the construction of a road for military purposes. It does not follow that the Committee on Military Affairs of this House have a right, under the rules, to control the will of the majority, to consider and to report on all measures touching the military affairs of the country. When a measure of great importance in any particular point of view, in regard to any interest or any arm of the public service, is before the country, it is entirely competent for us to commit it to a select committee; and on this very subject, although we may have no power under the Constitution, except that to build a road for military purposes, yet it is competent and legitimate for us to submit it to a select committee, as has been done heretofore. I hope that the precedent which has been established in two or three preceding Congresses, will be followed by this, and that the House will vote down the proposition to submit this question to any other than a select committee, constituted with special reference to

bringing it before us in such manner as a measure of so much interest and importance to the country deserves.

Mr. COBB's amendment was rejected.

Mr. SMITH, of Illinois. I move to amend by increasing the number of the committee to fifteen.

Mr. Chairman, I have entire confidence in the Committee on Roads and Canals, and in the ability and foresight of the chairman of the Committee on Public Lands; but this is an important question—one in which every western man, and every man who lives in the valley of the Mississippi river feels a deep and an abiding interest, and should have a special reference. I undertake to say that the people of this Union will, whether for a military road or not, vote for direct taxation in order that a road may be constructed from here to the Pacific coast. The people of the North, and in many parts of the Union, have no knowledge of the feeling of the people of the West, and of the valley of the Mississippi, in relation to the construction of this road. In Illinois, and in my district, there is no question in which so much interest is felt as in a direct communication with the Pacific. It is a great national work; and, sir, if gentlemen can find no other power than to build a military road, why, then, let us build a military road. Every day only the more satisfies us that it is important for the protection of our people, who are constantly going to the Pacific coast. It is a matter of duty, of philanthropy; and every man who has a friend in the Far West ought to give his help to devise the ways and means for the construction of such a road.

I am for a strict construction of the Constitution; but, sir, in this question, if there is no other power, there certainly is power to construct a military road between this and the Pacific. And if there ever was a measure requiring the approbation and fostering care of this Government, it is the opening of a safe, speedy, and direct communication between the Atlantic and Pacific seaboards.

I have no desire, Mr. Chairman, to make a speech on this or any other question; but I should feel that I was recreant to my duty, to my constituents, and the interests of the great Mississippi valley, if, on an occasion like this, I did not urge the appointment of a select committee.

Mr. SCOTT. I cannot permit the vote to be taken without saying a few words in favor of the very important amendment submitted by the gentleman from Missouri, [Mr. PHELPS.] I come from a portion of this Union which feels a sincere, a deep, and an abiding interest in this question of a Pacific railroad. It has, in fact, been the idol of their hearts for a long while. The remarks made by the introducer of the amendment are correct; and I do not wish to see this all-important, all-absorbing, dearest object of every citizen of the Pacific slope referred to a committee which may possibly be overrun with other business, and unable to give it the attention which it deserves.

This is no ordinary question. We find that already the officers sent out by this Government have made surveys after surveys, which will occupy ten volumes. Maps upon maps fill these reports. Mr. Stevens, Mr. Gunnison, and many others, have marked out routes and submitted reports, and all these, I honestly believe, ought to have a fair, candid, and thorough investigation. We of the Pacific coast only ask justice from the Government. We are separated from you by a distance of six thousand miles. It takes us now some three or four weeks to reach here. I ask, then, loving you with that feeling which is deep in the bosom of every patriot, that, if this measure be constitutional, as the President believes it is, and the Representatives here are in favor of it, it shall not be put down by referring it to a committee that possibly may be so absorbed by other duties as not to give it the attention which it requires. I, as a representative of that State which is now looking with anxiety and solicitude to the action of this distinguished body upon this subject, ask and entreat you to vote for it, and I ask you, in the name of justice, in the name of right, and in the name of that rising and progressive country, to give us justice, and to give us an investigation, and we are willing to stand or fall upon the merits of the question.

Mr. WASHBURN, of Illinois. I move that the committee rise.

The motion was not agreed to.

Mr. SMITH, of Illinois, by unanimous consent, withdrew his amendment.

Mr. COVODE. I move that the number of the committee be made nine, instead of thirteen. It is well known that a similar committee of thirteen was appointed during the last Congress. A smaller committee may be more efficient in transacting this important business. The President has recommended in his annual message, and has pledged himself to this Pacific railroad policy. In my opinion, the Government cannot do much longer without such a railroad. The Mormon question is to be tested, which will demonstrate to this country the necessity of communication with the interior and with the Pacific ocean by rail. If we had had a Pacific railroad, or roads, by the way of Salt Lake valley, we should have had no difficulty with this Mormon question. It may now cost the Government more to subdue the rebellion in that Territory than would build the entire road.

There is another consideration, sir. We may have difficulties upon the Pacific coast. The time is not very remote when our people upon that coast will be able to better themselves, if we afford them no reasonable accommodations. They have already threatened that unless we carry out our pledges to them, in good faith, we cannot expect to retain connection with them. Suppose, too, the Pacific coast should be invaded: could this Government repel an invasion there at less expense than it would cost to build two or three railroads? Suppose a rebellion should break out upon that coast: could our Government subdue it for what it would cost to build a railroad? And does any person suppose for a moment, that if we were provided with such a communication with the Pacific, there would be any difficulty of that kind.

The President's message has been published in London, and commented upon by the press. The Morning Post notices it in regard to a railroad to the Pacific across our territory. They have taken up the subject in England, and they are in favor of building a railroad to the Pacific through their own territory, north of ours. It is admitted by the writer in the Morning Post, that as soon as the road is constructed, it will be the great highway from England to China, and they do not want us to get the entire control of it. Therefore they are moving in England in favor of a railroad through their own territory. This writer says:

"It must be obvious to the most superficial understanding that the opening of any interoceanic line through the territory of the United States would effect as great a revolution in the trade of the world as that which was brought about by the discovery of the Cape of Good Hope route to India and to other countries in the East. The trade of China, Japan, and of regions comparatively unknown, would be impelled to the Pacific terminus of the railroad, whence it would be carried to the great Atlantic ports, to be afterwards distributed over America and Europe. Hong Kong, Shanghai, Canton, and other marts of Chinese trade, would be brought by steam within a few days' distance of the great American emporium which would spring up on the coast of the Pacific. If a facility of this kind existed, the most important and lucrative trade in the world would fall into the hands of the people of the United States, and the long voyages round the Cape, or the Horn, would rarely be undertaken for any purpose of commercial gain."

I am aware that the report of the minority of the committee appointed by the last Congress upon this measure was unfavorable to it, and it has carried abroad the impression that the route is not practicable. But the surveys made and reported, and recent surveys made which have not been reported, I have been informed, would satisfy any gentleman experienced in building railroads, that a road by the valley of the Platte is perfectly practicable. I am in favor of the southern route, also; but it is by the route of the valley of the Platte that the Government is to be enabled to control this rebellion in the interior.

[Here the hammer fell.]

Mr. TAYLOR, of New York. I think this question is of too much importance to be disposed of by a few minutes debate. But as it is the desire of the chairman of the Committee of Ways and Means to get a vote upon the resolutions, and thus commit the President's message to the various committees, I will not insist upon a more extended debate. I rise, therefore, barely to say that I agree fully with the gentleman from Missouri, in the importance of this matter. I believe we ought to have a select committee, and that that select committee should be composed of the first men in this body; and at the same time, I disagree with the gentleman from Alabama, [Mr. Cobb,] in supposing that it is not necessary, in forming

a committee upon this subject, to distinguish that committee by selecting the ablest men in our body. It has already become a common remark, that when a matter of great importance is committed to some of our committees, it sleeps there—that they have not the time to devote to it. As remarked by the gentleman from California, none of the standing committees of this House could possibly examine the various reports made upon these various routes.

I agree with the President, not only that we have the power, but that it is our duty, to construct the road from our western States to the Pacific Territories. And I further say, that we would save the entire expense of that road in our present conflict with the Mormons in Utah. It is therefore a matter of economy, and not only one within the strict letter of the Constitution, but one which duty to our Territories and to our entire country demands. Without reference to any of the routes, north or south, or to the middle route, I say this is a measure which will do more to check the filibustering spirit of which we have heard so much for two or three days, than anything else. We have already expended vast sums in protecting the isthmus route, while we have been neglecting our own inland route. The subject, therefore, is of vast importance; and I hope the committee will not overlook its importance, and will allow us a committee of thirteen, who may thoroughly investigate and report upon it to the country.

Mr. SEWARD moved that the committee rise.

Mr. J. GLANCY JONES demanded tellers.

Tellers were ordered; and Messrs. SEWARD and J. GLANCY JONES were appointed.

The committee divided; and the tellers reported—ayes 94, noes 36.

So the committee rose; and the Speaker having resumed the Chair, Mr. BOCK reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the President's annual message, and had come to no resolution thereon.

PROPOSITION TO ADJOURN OVER.

Mr. LETCHER. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. COX called for the yeas and nays, but afterwards withdrew the call.

Mr. DEWART. I renew the call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 19, nays 135; as follows:

YEAS—Messrs. Anderson, Burlingame, Caskie, Burton, Craigie, Davis, of Maryland, Edmundson, Faulkner, Florence, Keitt, Landy, Letcher, Macley, Mason, Miles, Phillips, Rutlin, Miles Taylor, Elihu B. Washburne, and White—19.

NAYS—Messrs. Abbott, Adrain, Ahl, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bockock, Bowie, Brayton, Bryan, Buffinton, Burnett, Burns, Burroughs, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clay, Clemons, Cobb, Clark B. Cochrane, John Cochrane, Cockrell, Colfax, Comins, Corning, Covode, Cox, Curry, Curtis, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Dowdell, Durfee, English, Eustis, Farnsworth, Foley, Foster, Garnett, Giddings, Gilman, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Hatch, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Lamar, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Maynard, Milson, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Olin, Palmer, Pendleton, Pettit, Peyton, Phelps, Potter, Pottle, Purviance, Quitman, Ready, Reagan, Reilly, Ricard, Robbins, Roberts, Royce, Russell, Seales, Scott, Henry M. Shaw, Judson W. Sherman, Singleton, William Smith, Stallworth, Stanton, Stevenson, James A. Stewart, George Taylor, Thompson, Tompkins, Trippie, Walton, Ward, Cadwalader C. Washburne, Israel Washburn, Whiteley, Wilson, and Wortendyke—135.

So the House refused to adjourn over.

Pending the call,

Mr. TRIPPE stated that his colleague, Mr. HILL, had been confined to his room by sickness for the last few days.

Mr. MORGAN said: I am requested to announce that my colleague, Mr. SPINNER, was summoned home this morning by the death of a member of his family. I will also state that another colleague, Mr. PARKER, is still confined at home by the severe illness of his wife.

Mr. GROW stated that Mr. FENTON was confined to his room by sickness.

And then, on motion of Mr. J. GLANCY JONES, the House (at twenty minutes past four o'clock) adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 15, 1858.

The House met at twelve o'clock, m. Prayer by Rev. GEORGE D. CUMMINS, D. D.
The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. LETCHER. I desire to have the Journal corrected in regard to the reference of the papers in the case of John C. Rives. They should have been referred to the regular committee of the House, and not to the select committee.

The correction was made.

NAVAL OFFICERS.

Mr. BOCKOCK. I ask the unanimous consent of the House to take up a joint resolution which came here several days ago from the Senate, entitled "A resolution to extend the operation of the act approved January 16, 1857, entitled 'An act to amend an act entitled 'An act to promote the efficiency of the Navy.''" If gentlemen on the other side of the House, or on this side of the House, will allow me a word or two in explanation of the resolution, I think there will not be any objection made to it from any quarter.

I wish to say, Mr. Speaker, that this is not the resolution that was passed by the Senate and sent to the House yesterday, authorizing the President of the United States, without the action of courts of inquiry, to nominate any of these dropped officers for restoration to the active list. That will be considered hereafter; and when I get an opportunity I will make a motion to have it referred to the Committee on Naval Affairs. This is a different resolution. This is one that was passed several days ago, and sent to this House. The whole effect of it is this: an act was passed at the last session of Congress, authorizing officers of the Navy who had been affected by the naval retiring board, to apply within one year to a court of inquiry and have their cases examined on the question of their moral, physical, intellectual, and professional fitness. And the action of such courts of inquiry, when approved by the President, was to be the ground on which the President might nominate any such men for restoration to the active-service list. But all such restorations were to take place within one year, and not after.

Now we do not know what is going on in secret session in the Senate. Not only is it not parliamentary to speak of it here, but it is not admissible that any member of the Senate should inform us of what was going on in secret session. But this we know—that the courts have acted on the cases of a great many officers; the President has made nominations to the Senate; and these nominations have not been acted on by the Senate. Now, it is fair to presume that the Committee on Naval Affairs in the Senate are considering the action of the courts of inquiry in these cases.

This is the last day upon which anything can be done, under the act of last session. Unless this joint resolution be passed, all the cases that have been acted upon by the courts, and have been sent to the Senate, and are under consideration by the Committee on Naval Affairs in the Senate, will be cut off from any chance of restoration. The President will be unable, under the act of last session, to restore any man that may have been recommended for restoration to the active list.

That act was approved the 17th day of January, 1857. Its whole operation was limited to the time of one year. To-morrow the year expires. Therefore I say, that unless this joint resolution be passed to-day, everything that has been done by these courts of inquiry, and that has not been examined by the Senate committee, and acted upon by the Senate itself, will fall utterly ineffective and inoperative. I therefore ask the unanimous consent of the House that this joint resolution be now taken up.

Mr. JONES, of Tennessee. I would inquire if this is before the House?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Virginia [Mr. Bockock] if this is the resolution to which the Senate adopted an amendment, on the motion of the Senator from Virginia?

Mr. BOCKOCK. No, sir; it is not. I am very glad to answer that question; and if anybody else has any difficulty in regard to the subject, I shall be very glad to answer him. This is not that resolution.

Mr. JONES, of Tennessee. I should rather this would take the regular course, and come up at the proper time.

Mr. MILLSON. The gentleman from Tennessee will allow me to say to him that there is a case now before the courts of inquiry which has occupied the attention of that court for one week; and unless this resolution pass to-day, that court of inquiry will be disbanded, and will be prevented from continuing even the consideration of the case which they are now considering and prosecuting.

Mr. JONES, of Tennessee. I understood that the naval officers themselves had asked for a retiring board. They were willing to take their chances to be retired, dropped, furloughed, or anything else, or their chances of promotion; and now, instead of the effect of that board being to decrease the number of officers, we find that its effect is to increase the number.

Mr. WINSLOW. Will the gentleman allow the resolution to be read for information?

Mr. JONES, of Tennessee. Certainly.

The joint resolution was read.

Mr. LOVEJOY. I object to the consideration of the resolution at this time.

The SPEAKER. The business first in order is the call of committees for reports of a private nature.

APPOINTMENT OF STENOGRAPHER.

Mr. BURNETT. I rise to what I suppose to be a question of privilege. I am instructed by the committee appointed to investigate the facts and circumstances attending the sale of the Fort Snelling military reservation, to report a resolution asking the House to authorize them to employ a stenographer.

Mr. BOCOCK. I wish to say that the gentleman over the way [Mr. Lovejoy] did not rise from his seat and object to the joint resolution which I asked to call up; and I submit, therefore, that it was not an objection which the Chair could recognize.

The SPEAKER. The Speaker certainly understood the gentleman from Illinois to rise in his place and object.

Mr. BURNETT. I offer the following resolution:

Resolved, That the select committee appointed to investigate the facts and circumstances attending the sale of the military reservation at Fort Snelling, be, and they are hereby, authorized to employ a competent stenographer, at a reasonable compensation, for such length of time as the committee may require his services.

Mr. SMITH, of Virginia. I think that is introducing a new system of expense.

Mr. BURNETT. With the permission of the House, I will state that, from what we have been informed, we shall find it impossible to take, by the ordinary mode, the evidence that will come before us. We cannot do justice to all parties in this case, I am satisfied, unless the House will give us authority to employ a stenographer, so that we may report all the facts as they are given in evidence by the witnesses.

As a general rule, I have been opposed not only to the employment of stenographers, but to the appointment of clerks for committees; but believing, in this case, that the public interest requires it, I have, in accordance with the unanimous recommendation of the committee, reported this resolution asking the House to give us this authority.

Mr. JONES, of Tennessee. I would inquire if there are not ten or a dozen clerks employed in the Clerk's office—enrolling and engrossing clerks—who have nothing to do? for at this stage of the session there are no bills to be engrossed or enrolled.

Mr. SMITH, of Virginia. I suppose an objection is in order.

The SPEAKER. The recollection of the Chair is, that the committee was authorized to report at any time.

Mr. BURNETT. I will say to the gentleman from Tennessee, that an ordinary clerk would not answer the purpose.

He will at once perceive that it is impossible for any man, unless he is a stenographer, unless he is a regular reporter, to take down the testimony of witnesses correctly and fully. If, therefore, the investigation is to go on, and the House desires to be put in possession of all the facts detailed by the witnesses, they should give us the aid of the services of a stenographer, which are absolutely

necessary. I call for the previous question upon the resolution.

Mr. SMITH, of Virginia. I rise for information. I suppose this committee has power to report at pleasure upon all matters referred to them; but I suppose the committee have no power to report at any moment, as a matter of right, in reference to matters of their convenience, such as the employment of a stenographer or clerk.

The SPEAKER. The Chair is of opinion that the objection of the gentleman from Virginia came too late anyhow. The gentleman from Kentucky [Mr. BURNETT] was heard in favor of the resolution, and the gentleman from Tennessee [Mr. JONES] in opposition to it, before the question was made by the gentleman from Virginia that the committee had not the right to make the report.

Mr. SMITH, of Virginia. I will remark that the gentleman from Tennessee [Mr. JONES] made opposition to the ruling of the Chair, or to the resolution itself, and rather threw me off my guard.

The SPEAKER. The Chair understood the remarks of the gentleman from Tennessee to be addressed as against the merits of the resolution itself, and not to any question of order.

Mr. JONES, of Tennessee. The purpose for which I rose was to suggest that there are clerks in the pay of the House who might be employed for this purpose.

Mr. SMITH, of Virginia. The resolution was first read for information.

The SPEAKER. The gentleman from Kentucky rose in his place and stated that he desired to submit a report, which he supposed was a privileged report.

Mr. SMITH, of Virginia. Exactly. The gentleman stated that it was a privileged report, and I understood the Chair to receive it as a privileged report. I now raise the question that it is not a report privileged in its character.

The SPEAKER. The gentleman raised the question after the gentleman from Kentucky and the gentleman from Tennessee had spoken upon the resolution.

Mr. SMITH, of Virginia. That is very true. The previous question was seconded; and the main question was ordered to be put.

Mr. JONES, of Tennessee, called for the yeas and nays upon the adoption of the resolution.

The yeas and nays were not ordered.

The resolution was then adopted.

Mr. BURNETT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

Mr. SMITH, of Virginia, demanded the yeas and nays upon the latter motion.

The yeas and nays were not ordered.

The motion to reconsider was then laid on the table.

LEAVE OF ABSENCE TO A MEMBER.

On motion of Mr. RICAUD, it was

Ordered, That Mr. HARRIS, of Maryland, have leave to be absent from the sessions of the House from time to time, as may be necessary for him, to attend to the taking of testimony in the matter of his contested election.

CASE OF JUDGE WATROUS.

Mr. HOUSTON, from the Committee on the Judiciary, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be authorized to send for persons and papers, and to examine witnesses on oath in relation to the charges made against John C. Watrous, judge of the United States court for the western district of the State of Texas.

PROPOSITION TO ADJOURN OVER.

Mr. BARKSDALE moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. JONES, of Tennessee, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 71, nays 114; as follows:

YEAS—Messrs. Andrews, Barksdale, Bennett, Blair, Bowie, Boyce, Branch, Burlingame, Burnett, Burroughs, John B. Clark, Clawson, Clay, Clingman, John Cochrane, Burton, Craig, Crawford, Curry, Davis of Maryland, Davis of Massachusetts, Dodd, Elliott, Farnsworth, Faulkner, Goode, Goodwin, Lawrence W. Hall, Hatch, Hawkins, Hoard, Jackson, Owen Jones, Keitt, John C. Kunkel, Lamar, Lawrence, Letcher, Maclay, McQueen, Mason, Miles, Millson, Morrill, Oliver A. Morse, Nichols, Phelps, Powell, Quitman, Ricaud, Ritchie, Ruffin, Sandidge, Savage, Shorter, Stallworth, Stephens, Stevenson, Miles Taylor, Thayer, Trippe, Cadwalader C. Washburne, Ellihu B. Washburne, Israel Washburn, White, Whiteley, Wilson,

Winslow, Wood, Woodson, Wortendyke, and Zollicoffer

71.
NAYS—Messrs. Abbott, Adrain, Ahl, Avery, Billinghurst, Bingham, Bishop, Bliss, Boccock, Brayton, Bryan, Buffinton, Burns, Case, Caffee, Ezra Clark, Clemens, Cobb, Clark B. Cochrane, Cockerill, Colfax, Comins, Conning, Covode, Cox, Cragin, James Craig, Curtis, Davidson, Davis of Mississippi, Daves, Dean, Dewart, Dick, Dowdell, Durfee, English, Foley, Foster, Gartrott, Giddings, Gilmer, Granger, Greenwood, Gregg, Groesbeck, Grow, Robert B. Hall, Italian, Thomas L. Harris, Hickman, Hopkins, Horton, Houston, Howard, Huyler, Jenkins, George W. Jones, J. Glancey Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Maynard, Miller, Montgomery, Moore, Morgan, Freeman H. Morse, Mott, Murray, Niblack, Palmer, Pendleton, Pettit, Peyton, Pike, Potter, Pottle, Purviance, Ready, Reagan, Kelly, Robbins, Roberts, Royce, Scott, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, William Smith, Stanton, James A. Stewart, William Stewart, Talbot, George Taylor, Tompkins, Underwood, Wade, Walbridge, Waidron, Walton, Warren, Watkins, and Augustus R. Wright—114.

So the motion was disagreed to.

Pending the call,

Mr. JONES, of Tennessee, stated that his colleague, Mr. ATKINS, was detained at home by indisposition.

Mr. CRAGIN stated that his colleague, Mr. TAPPAN, was detained at home by the illness of a member of his family.

Mr. HICKMAN stated that his colleague, Mr. PHILLIPS, had been forced this morning to leave the city for his home.

Mr. MORRIS, of Illinois, said that if he had been within the bar when his name was called, he would have voted in the negative.

PASSAGE OF THE TARIFF OF 1857.

Mr. STANTON. I offer the following resolutions:

Whereas a published report of a committee appointed to investigate the affairs of the Middlesex Manufacturing Company, in the State of Massachusetts, alleges that said company paid \$87,000 to secure the passage of the tariff of 1857, and after charging that \$8,000 of this sum was disbursed by the New York house for printing, further alleges that no satisfactory explanation has yet been afforded of the application of the balance; and whereas said charges tend very seriously to prejudice the reputation and character of the members of this House who were members of the last Congress, and participated in the passage of the tariff of 1857: Therefore, be it

Resolved, That a committee of five be appointed by the Speaker to investigate said charge, and to inquire whether any member or officer of this House received any part of said sum; and that said committee shall have power to send for persons and papers.

Resolved, That if said committee shall find that any part of said sum was paid to, or for the use or benefit, either directly or indirectly, of any member or officer of this House, that said committee shall present specific charges against the party so charged.

Resolved, That if any such charges shall be presented by said committee, another committee of five shall be appointed by the Speaker to investigate the charges so presented; and the parties so charged shall have notice of the times and places of the meetings of said committee, and the right to be present at the taking of the evidence against them, and to cross-examine the witnesses against them, and have process to compel the attendance of witnesses in their defense.

Mr. Speaker, I have delayed the offering of these resolutions for some time longer than I should have done, in the expectation that some gentleman who favored the passage of the tariff of 1857 would have asked for this investigation. It has not been done, however. And this information has been presented in such a form as to seem to me to demand the notice of the House. It is not a mere newspaper rumor, but the report of a committee appointed by a moneyed corporation to investigate its affairs and the disbursement of its funds. That report charges that this expenditure was made for the purpose of affecting the legislation of the House. It is not proper for me now to express any opinion as to whether those who make this charge are doing it for the purpose of covering up their own delinquency, or whether it is true in point of fact; and if true, whether the money was paid to members of the House, or whether it was paid in other modes to influence the action of the House. I regard it as being sufficiently authentic to require this investigation.

Mr. Speaker, it will be observed that these resolutions differ somewhat from the ordinary course pursued in inquiries of this description; though, really, inquiries of this description are not very common. In the resolution raising the committee of inquiry, I propose to direct the mode of proceeding upon the coming in of the report of the committee. I do so for this reason: I think, if the committee is to be raised at all, it is indispensable that that committee should know what disposition is to be made of its report, what ac-

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tion is to be had on it for the purpose of governing it in its proceedings. If the House is to act on the testimony given before that committee, then it becomes the imperative duty of the committee, if any member or officer of the House is charged, to give notice to the party so charged of what the evidence is, and to give him an opportunity of bringing evidence for the purpose of exculpating himself from the charge.

Now, sir, I do not believe that any committee of this House can properly combine the functions of a grand and petit jury; for, sir, if the committee charged with the investigation is to inquire generally whether crimes and offenses have been committed, is compelled to give notice to the parties charged, whenever testimony is brought before the committee implicating them, it is at once to give notice to those parties, and to other parties, what line of investigation the committee is pursuing, and to put them upon the *qui vive*, if you please, for the purpose of preventing a successful termination of the labors of the committee. They will operate out of doors to counteract the proceedings of the committee, and use influences to prevent the committee from getting the testimony necessary for the fullest and most effectual investigation. It is indispensable to the successful prosecution of an inquiry of this kind, where no person is specifically charged, that the proceedings of the committee originally instituted to investigate it should be kept secret. The committee ought to have the privilege of going into their room, of locking their door, and preventing the world from knowing who is implicated by the testimony which is submitted to them, so that they may thereby prevent outside influences from operating to prevent them from prosecuting their labors to a successful issue.

I think it is important that this committee should know, before it enters upon the discharge of its duties, whether it is the intention of the House to act upon the testimony taken by it, and to censure, expel, or punish, in whatever manner it may see proper, any person who may be charged; because, upon that would depend, essentially, the course the committee would take in the prosecution of their investigation.

I am perfectly aware that there is no precedent for the course of proceeding I propose, and I am also aware that there is no precedent against it, except in the investigation had before the last House of Representatives. Sir, there has been no other investigation before the American Congress predicated upon a general charge, without naming the person who is to be affected by the charge. In that consists the difference between this and the other charges heretofore made, and tried before the House. Where a resolution charges a member or officer of the House, by name, there is no difficulty in the course of proceeding. There the resolution adopted by the House stands for an indictment, and the committee appointed for the purpose of investigating that charge, performs the functions of a petit jury, and the person charged, of course, has the right to notice of all times and places of meetings of the committee, to be present to hear the testimony against him, and to have process to compel the attendance of witnesses in his favor, and the privilege of cross-examination. There is, therefore, no difficulty in a case where a member is named in the resolution. But there is no instance, except that of the last Congress, where a general resolution was introduced, based upon rumors that affected the whole body without naming any individual, where the member has been dealt with upon the testimony taken before such a committee.

I regard it a matter of very great importance, as a mere matter of precedent, that this question should be settled rightly. I claim that the proceedings of the committee of the last Congress cannot be regarded as setting a precedent, on account of the peculiar circumstances in which they were placed. I have no fault to find with the course they pursued under the circumstances. They were appointed near the close of the Congress. No other course was practicable, without defeating the ends

of the investigation. They therefore were compelled, in their deliberations, to combine the functions of a grand and petit jury, to inquire into the charge, and also to report the testimony, and a resolution of expulsion.

Sir, that investigation, and the matters connected with it, satisfy me that the peculiar circumstances of that case ought not to be brought into a precedent for the future action of Congress. I will advert to some few circumstances to show how it operated. The committee employed a stenographer; they took down the testimony of the witnesses as it was delivered in the committee; it was written out by the stenographer; and when it was written out, the witnesses had the opportunity of reading the testimony, and, of course, of correcting it—it was right that it should be so, and it ought not to be otherwise; but, sir, the party to be affected by this testimony was not present when the oral evidence was given, and never saw that part of the evidence reduced to writing, and which was stricken out before it was submitted to the party charged. He was not furnished with the facilities which oral testimony would have furnished for the contradiction of witnesses. It was a matter of necessity. You recollect difficulties grew up in the progress of the investigation, in consequence of corrections being made in the testimony, it being disclosed that oral testimony had been given before the committee which never was submitted to the party charged with the offense. Now, it is easy to see that a party may be deeply prejudiced—not having the witnesses before him, and the testimony taken in his presence upon which he is to be tried—by an opportunity being given to the witnesses to correct their testimony, the party to be affected by it having no opportunity of knowing what it is until it has been corrected and all contradictions effaced.

Now, sir, I take it for granted that this House will not desire to combine the functions of a grand and petit jury in one committee. If they do not, what is to be done? One of two courses must be pursued: either the party must be tried at the bar of the House, and all the testimony taken *de novo* orally before the whole House; or else the testimony taken by a committee appointed for that purpose must be reported to the House, and the party be tried by the House upon that testimony. I know it was said at the last Congress that the party was tried by the House, that his trial was in the House; but, sir, what lawyer, or what man of ordinary intelligence, does not know that the essential part of a trial is the evidence? How can it be said that a man is tried before the House when no witnesses are examined before the House; when all the testimony is taken elsewhere; when he can know nothing of what transpired in the committee room? I assume, although it may not be impracticable absolutely to try a party and to produce the evidence against him at the bar of the House, yet that it is so exceedingly inconvenient that it could never be extensively resorted to. Any other course is in plain violation of that constitutional provision—a provision in the Constitution of the United States, as well, perhaps, as in the constitution of every State in the Confederacy—that every party charged with an offense shall be entitled to be tried, and to have his accusers and the witnesses brought before him face to face. It will not do for gentlemen to seek to escape this plain provision by saying that the House has no power to inflict any common-law punishment upon the offender. Why, sir, the condemnation which this House pronounces upon one of its members is worse than death. There is no honorable man who would not rather suffer death than a condemnation for bribery at the hands of the House of Representatives of the United States.

I submit, therefore, that it is due to any party who may be charged, that he shall have all the privileges guaranteed to the meanest criminal arraigned for the most trivial offense in the lowest court in any State of the Confederacy. For this reason, and with a view to enlighten the commit-

tee as to what is to be the further action of the House, I offer these resolutions.

Mr. WHITELEY. I wish to ask the gentleman from Ohio if this House has the power to try one of its members, against whom, as a member of the last House, there is a charge of corruption?

Mr. STANTON. I take it for granted that this is one among the numerous questions that may be considered by this House. I should, however, strongly incline to the opinion that if a member of the House were convicted of bribery, he would be rendered ineligible to hold a seat on this floor. That is my present impression, and I should be likely to vote on that impression. Still, I am open to conviction. At all events, the question is certainly not so clearly the other way as to justify this House in refusing any investigation. Now, Mr. Speaker, I have no desire to occupy the attention of the House longer, or to engage in any general debate; nor have I any desire to prevent any gentleman who desires to move an amendment to the resolutions, or to resist the adoption of them altogether from doing so; therefore I do not demand the previous question, but submit the resolutions to the House.

Mr. BURLINGAME. Inasmuch as the firm whose transactions are to be inquired into, under the resolutions that have just been offered by the gentleman from Ohio, had its chief establishment in the State which I, in part, represent, a few words from me may not be deemed inappropriate. As a general rule, Mr. Speaker, I would, as a member of this House, be against taking cognizance of any transaction that did not occur in the presence of the House or in the presence of the Senate, or so near them as to interrupt the deliberations of Congress. I would not, sir, desire to enlarge the powers of this House. I would not have the House take jurisdiction of matters which might more properly be taken charge of and investigated by other tribunals established under law for the purpose of securing to the citizen of the country his rights. But in this case, sir, I would depart from this general rule of the policy which I would establish for my own guidance. So many charges have been made—with what motives and for what purpose I will not undertake to intimate—by individuals and by partisan presses, so many charges of a grave character have been made, that it seems to me that the House will consult its dignity as well as its honor, by adopting those resolutions.

Of the charge found by an investigating committee, on the books of Lawrence, Stone & Co., I know nothing save what I have seen in the newspapers. I do not know by whom that charge was made, or for what purpose it was made. But it seems to have been found on their books by an investigating committee.

I know that that committee made no charge, even by innuendo, against this House, or any member of it; but, I say, charges of a grave character have been made by responsible persons; and because they have been made, I, for one, speaking as one of the representatives of Massachusetts, (and I think I may speak for all of my colleagues,) welcome that resolution of inquiry and investigation, and I do hope that this matter may be probed to the bottom. But I take occasion here to say—and I believe the heart of every member of the House will respond to what I say—that I do not believe that the hands of any member of the House have been stained by the money of Lawrence, Stone & Co. I do not wish to deepen or to darken the cloud that already rests on that house. No, sir; the name of the senior partner of that house is one which has stood, and which stands to-day, because of the noble men who are dead, who have borne it, and because of the noble men who yet live who bear it—has stood as the very synonym of mercantile integrity and honor. That name will live perpetually in the history of the great cities which bear it, east and west, forever and forever. And my hope is, that this investigation will disclose that the senior member of that firm has been more overtaken by misfortune and by folly, than by any

intentional crime; but whatever he may have done, whatever may have been his motive, although I have known him somewhat in other days, although I have been proud to esteem him as a friend, I would not shield him, I would not improperly remove the dark cloud of suspicion that rests upon his name; nor would I attempt to shield any member of this House. I say again, that I am for the resolution. It seems to be of a large scope. It seems to complicate many affairs. I do not know that it might not be improved by amendment; but, after all, I am for the substance of it. I agree with the gentleman from Ohio [Mr. STANTON] in what he said as to the manner in which this investigation should be conducted. It should be conducted in such a way as that no bounty should be paid to informers; no inducements should be offered to outsiders, to malignant, bitter men, who, for the sake of gratifying their malice and malevolence, may seek an opportunity of a committee of investigation and inquiry of this House, to fix upon a man a stain which the gentleman from Ohio says is worse than death.

I say, I trust that the committee will so conduct the investigation as not to permit these men to accomplish their private malevolence and malice. I do not know that it is necessary for me at the present time to say more; and with these remarks and statements of the purposes which induce me to support the resolutions, I take my seat.

Mr. DAVIS, of Maryland. Mr. Speaker, the application for an investigation has been met by a gentleman from the Commonwealth where the occurrences arose, with a proper and becoming spirit. Whether there are adequate grounds presented, upon which this House ought to condescend to investigate the charge against the honor of its members, is a question which I do not now design to discuss. The resolutions of inquiry shall have my vote. The gentleman who proposed them holds upon this subject a position which, perhaps, very few others in the House hold. He is so fortunate as to have secured himself, by his course on the tariff bills of the last session, from the insolent insinuations of a vituperative and lying press—whether here or elsewhere, from which, perhaps, no other member can escape; for I believe no one of the several tariff bills before the House during the last session was so fortunate as to receive his support—neither that which was reported by the Committee of Ways and Means, by my honorable friend from Ohio, [Mr. CAMPBELL,] not now in the House, nor that other bill, reported by my honorable friend from Virginia, [Mr. LETCHER,] who is here upon the other side of the House; nor that third bill, which was passed, and which corresponded with neither of the first bills in its general provisions, but which did correspond with both of those bills in that one provision, in which Lawrence, Stone & Co. were concerned, relative to the duty upon wool, which bill originated neither in any committee in this House, nor with any member of this House, but with a joint committee of conference of the two Houses as the result of their consultation in the last hours of the session, and was passed by this House and the Senate without the opportunity of deliberate discussion in either House. But in all three of these bills, Mr. Speaker, the provision relative to the removal of the duty on wool was more or less in accordance with the views of the gentlemen who are to be the subjects of this investigation. The bill adopted by the House was one which came from the committee of conference, and I have thought it proper, in view of the statements of newspapers, which, under other circumstances, I would never have condescended for an instant to notice, to show how, by suppressing a part of the truth, they can commit as much a libel as if they had affirmatively imputed corruption; for, sir, we have had the paper of the Government here publishing the votes of gentlemen who voted for the bill which passed the House, conveying the insolent and false innuendo, that among them were to be found the men who received the money of Lawrence, Stone & Co., when bills with analogous provisions, equally favorable to the interest of the parties who are supposed to be tempters and betrayers of the honor of the House, emanating from and voted for by other members of the House, are passed over in silence.

But, sir, there is no suggestion in that paper that can throw a suspicion upon any member of

this House demanding investigation. Now, sir, there is no man who holds the comments of the political press of the country in more utter contempt than I do. I stand in terror of no press, nor any combination of them. I hold their shameless libels in such utter contempt that, though they should point at me even personally their imputations, I should take no notice of them except to carry them before a grand jury, on an indictment for the libel which they may have promulgated. Sir, when charges are made simply through the newspaper press, I do not hold it worthy the dignity of this House to make them the ground of an investigation. I hold that my reputation, and the reputation of every member of this House, counting myself the lowest and humblest, is more than enough to look in the face the whole combined press of the country. Sir, there is no press which I recognize anywhere within the limits of the United States, whose unsupported charge within its editorial columns can even put me upon my defense.

But, sir, there is a different case now presented to this House—one which, perhaps, demands the investigation of the House. There is a statement from gentlemen known in the country, of responsible character, who have investigated the books of one of the merchant princes of this country, that these books show \$87,000 to have been used for the purpose of procuring the passage of the last tariff act. That statement, made over responsible names, is the foundation for the application which has been made by the gentleman from Ohio for an investigation.

It is true, Mr. Speaker, that the statement does not say how the money was employed. It does not include the presumption that a jurist sitting on a case would be bound to make a case from; because there are thousands of proper and legitimate modes in which money may be used to secure the passage of measures through Congress. It may be employed to pay the traveling expenses of agents. It may be employed to pay for publications. It may be employed in arguments honorably presented before committees. It may be employed in the way which this House refused, at the last session of Congress, to forbid, and which, therefore, is not illegal; for the last House refused, by a large vote, to pass an eminently honest and necessary measure, which you, Mr. Speaker, had the honor to propose, and which that House has the responsibility of defeating—a bill which made it criminal for any man employed for pay as an agent for any measure, public or private, before Congress, to approach any member upon the subject without first notifying such member that he was a paid agent. But, sir, this House having refused to adopt that wise, conservative measure, this also remains a legal mode of procuring legislation, and the \$87,000 may have been employed in that way. The agents employed may have whispered into the ears of members suggestions under the guise of disinterested advice. It may be that this money may have been employed in some one of these legal, though dangerous modes, without attaching dishonor to any member of the House.

But let the investigation come. And, sir, if it should be found again that peculiar influence has done more than was shown to be the general mode of its operation in the committee on which you were at the last Congress; if it should be found to have done anything more than to have gone into the hands of agents, and those who lyngly boasted their influence over members they dared not approach, and thus got up a reputation in the country of the corruption of Congress; if it should appear that any money has touched the palm of any member, then let him die the death of character.

But the point to which I chiefly rose is the shape of the resolutions of the honorable member from Ohio. He means, doubtless, that this investigation shall be effectual; but his resolutions prevent the possibility of the accomplishment of that result. Why, sir, the gentleman has hampered the great inquest of the country that will be charged to perform a lustration for the purity of this great central seat of its sovereignty with many of the forms and technicalities and delays of the ordinary judicial process of the country. Sir, I would have them saved that. I want it to be a free investigation; I want to have no technical difficulties interposed; I want to have no difficulties inter-

posed which consume the time, weary the patience, prevent the judgment of the House, and fritter it away in minute details of order and precedent. I, sir, am for adopting the precedent and the wise precedent that this House set at the last session, which accomplished results that every man here ought to be grateful for; which instituted an inquiry which oppressed no man's rights, which hurt no man's character unjustly, which dealt with men tenderly and carefully, which brought the guilty to punishment, and drove them to confess their guilt, by resigning their seats in the face of the investigation, the results of which were before the House; and touching the other gentleman, who was not condemned, it shows that investigation fairly presented the merits of the case, that the House dealt as it ought to deal where there is a doubt about the evidence, and gave the party the benefit of the doubt, and let him go free, untarnished. Sir, in behalf of the committee that made that investigation, and in behalf of the House that cast the votes which attained those results, I present my protest against the virtual condemnation which this House is called on to pass upon their proceedings, as well as their results, by the adoption of the complicated machinery of technicality which is sought now to be interposed; not that the gentleman has that purpose, but which must tend directly to trip up the steps of blind justice, as it is attempting to fumble its way in the dark, to the discovery of the fountains of corruption.

Mr. Speaker, one other observation and I have done. The honorable gentleman's form of proceedings, he says, better protects the character of individuals charged, than that adopted at the last Congress. I say no, sir. It leaves it open to a thousand suspicions that no man can ever correct. In that last committee, where witnesses were summoned before them, every member of it had the counsel of the House, and the counsel of the man who was mentioned, and earnestly and honestly probed every witness as to every statement and every fact, rigidly and carefully confining themselves more than they were bound to do within the technical rules of regular evidence; and when the evidence was taken, it was not spread before the country until the party implicated had been notified, until he had appeared before that committee, until he had had the opportunity of calling his own additional witnesses; until he had had an opportunity of recalling the witnesses which the committee had already examined, and of reexamining those witnesses, and that with an advantage that no criminal before any tribunal has ever received; for, sir, we know that the plan which the gentleman wishes to pursue is that of the grand jury, which investigates in secret, keeps no record of the evidence, lays the indictment upon the table of the court, and calls upon the defendant to plead to it. Then the suggestions of the grand jury are whispered into the ear of the prosecuting attorney, and these form the blank unwritten brief for his guidance in the course of the prosecution. They do not hear the sworn testimony before the grand jury; nor have the opportunity to contradict a witness, nor the opportunity of testing the accuracy of the witness's memory; nor the opportunity of bringing into collision his memory at the first examination with his memory of the subsequent examination; nor the opportunity of exposing him to the inevitable contradictions of a false story. I say, sir, that the course pursued by the committee was wise, and threw more guards round character than the methods of the ordinary procedure of the law.

Mr. Speaker, one other word. In regard to the investigating committee, which is to play the part of the grand jury in the scheme proposed by my honorable friend from Ohio, [Mr. STANTON,] what is to become of their record? Is that to remain in their breasts, and are they to be allowed to say, on evidence that the country is never to see, that Mr. A B has been guilty of being bribed, and Mr. C D has received money? And, on the statement of the gentlemen appointed by this House, is that to go before the country, and then, because another committee shall come to a different conclusion, it may be on different evidence, without anything to guide them in going over the same evidence which left the impression upon the first committee, is that man's character to go languishing to a dishonorable grave? Or is there any mode of avoiding that result? Sir,

the only course is, that the evidence shall be taken; when taken, that it shall be submitted to the party implicated, who shall have an opportunity of controverting it by new evidence, and of bringing his own evidence; to re-examine the witnesses already examined, before anything sees the light; before it is even hinted that any man's character is suspected; before the mendacious press shall set its worms to eat it, as if it were already dead and rotten. It is requisite that the most delicate of all things, human character, shall be protected; and while I am for investigation, and while I fear no investigation, either for myself or others in this House, I wish it done, so that the man who is clear shall come forth clear; that the stain shall not rest upon the character that every man ought to bring into this House clean, and which every man ought to carry out with him clean; and, in the shape in which the honorable gentleman moves his investigation, it leaves a man who is charged where every man is left who has had a bill of indictment found against him by the grand jury; ay, sir, and worse, for the law still presumes he is innocent. Nobody knows upon what evidence the indictment is found. Only that against the prisoner is considered by the grand jury. Here it is virtually the judgment of his peers saying that they, after investigating all the evidence on the subject they could find for and against him, have been satisfied that there ought to be inquiry; and there is no mode of disproving the accuracy of their judgment. The same witnesses are not called, the same questions may not be propounded, the same course of investigation may not be pursued; it may appear that the same persons who were examined may have given one statement before the first investigating committee and another before the subsequent one. Their evidence will not be published; yet it is the sworn foundation upon which the investigation has to proceed; and when the witnesses come face to face with the party accused, they may deny it.

Mr. STANTON. The gentleman from Maryland is proceeding upon an entire misapprehension of what is contemplated by my resolutions. I propose, at the suggestion of some friends, to modify the resolutions by inserting in them a provision that the committee shall report the facts if they find any one guilty. But the point to which I wish to call the attention of the gentleman from Maryland is this: I do not propose that no record shall be kept of the testimony given before the committee first appointed. All I propose is that the testimony taken by that committee shall not be used against the party upon his trial before this House, because he had not been present when it was taken. But I do propose that this committee shall keep a full record of all the testimony taken before it, and whenever occasion requires it—if the reputation of the party, or the justification of the committee requires it, or if there is any demand in any quarter for the facts upon which the committee act in either charging or discharging the party—that that testimony shall be exhibited to the public.

Mr. DAVIS, of Maryland. The gentleman takes away from the scheme which he proposes everything which is of advantage, and leaves it cumbered still with the difficulties of a double process. The course pursued by the committee of investigation of the last Congress was to take the evidence, and to have it written down and submitted to the party before the world knew anything about it. The gentleman either does or does not propose that the evidence shall be submitted to the party accused, before the world knows anything about it. If he does not, then the charge comes before the world before the facts and the evidence upon which it is based. And when he says the evidence should not be used against the party, because not taken in the presence of the person charged, I beg to call his attention to the fact that the evidence taken by the committee of investigation of the last Congress was not used, excepting by the assent of the party charged, after he had seen the case already made against him, with the option and the time to call witnesses. The member's own preference was that the evidence should be taken and used against him, and if he preferred that course, it is fair and reasonable that it should be so.

I submit, therefore, that the course proposed by the gentleman from Ohio, accomplishes no purpose, but necessitates a double process; when the

party implicated might prefer not to take that course, but, to save time, might prefer to submit the case, as the gentleman in the last Congress did, upon the evidence taken in writing, in the first instance.

Now, in reference to the analogy quoted here, and quoted in the last Congress, about the same body of gentlemen occupying the double position of grand and petit jury, with all respect to my honorable friend, he is not accurate in his legal analogies. The committee was neither a grand jury nor a petit jury. We put no man upon trial. This House put them upon trial. We were merely commissioners of the House to take evidence for the House and lay it before them, to see whether the House would put the parties upon trial upon that evidence. When the committee came before the House, the House, if it had seen fit not to put the parties upon trial, would have laid the resolutions reported by the committee upon the table. When the House ordered the resolutions to be considered, the House then put them upon their trial upon the evidence already taken, with the parties before the committee. When the gentleman from Ohio speaks about the same body of gentlemen holding the position of grand and petit jury, my honorable friend is still more inaccurate; because it assumes that the committee of the last Congress found some facts conclusively against the party charged. You know, Mr. Speaker, and gentlemen of the House know, and the report shows upon its face that the committee did not claim any power of making even a *prima facie* case; that they executed merely the order of the House, and reported what the House ought to do. It is the shape every measure has to assume before the House can accept it for consideration, or reject it without consideration. It is the ordinary form every bill has to assume before it is laid upon your table. It is the shaping of the measure upon which the House is to determine, when first brought before them, whether they will or will not consider it; and it is in determining whether the House will or will not consider it, that the House determines the great point whether the party shall or shall not be placed upon trial. Before that time the committee has acted as the hand of the House to write the evidence, in order that the House may be enlightened upon two questions at the same time; first, whether they will try; and, second, when they have determined to try, what judgment they will render.

I therefore, as the shortest way to accomplish the purpose intended; as the best way to shield human character; as the best way to facilitate the progress of justice; as the shortest way to sweep away all the stumbling-blocks and difficulties which the progress of the investigation at the hurried close of the session may throw in the way of what we may then wish to do, move to amend the resolutions by striking out the last two resolutions, and to change the first resolution by striking out all after the word "report," and inserting:

All the evidence, and summon before it such persons as it may see fit, and shall report to this House what, in their opinion, this House should do in the premises.

Mr. KUNKEL, of Pennsylvania. I have a very few words to say. I know that this investigation—as all investigations of the kind do—will involve time, trouble, and expense; but I am anxious to have this investigation. The charges set forth in the preamble are made quite extensively over this whole Union; and if there were nothing more than these charges in the newspapers, circulated so extensively as these have been, I would be still for the investigation.

Sir, I cannot agree with the gentleman from Maryland in the opinion he expressed as to the newspaper press of the country. I believe that it has a function to serve in a free Government, and that the newspaper press of this country has not yet ceased to serve that function. I believe, sir, you may put corrupt men in this House; you may put corrupt men in the Senate; corruption may crawl and creep along all the avenues to this Capitol; and yet, with a free, unshackled, faithful press, the interests, rights, and liberties of the people will be preserved. But, sir, this charge is not only made upon the authority of the newspaper press, but, as I understand it, it appears in the report made by a committee of the stockholders of this Middlesex Manufacturing Company

to the stockholders themselves. I know nothing about Lawrence, Stone & Co. The gentleman from Massachusetts says they are among the merchant princes of New England. But this I do know, that these merchant princes and manufacturing princes of New England struck hands with the free-trade interest in the last Congress, and prostrated the industry of my State. I know that the faith of the manufacturing interest of New England, in relation to the other industrial interests of the country, as exhibited last winter, was Punic. Gentlemen get up here, and tell us of the high character of Lawrence, Stone & Co. I ask, are men to be eulogized in the American Congress whose books exhibit—what? The expenditure of \$87,000 to influence and control the legislation of this country.

Mr. BURLINGAME. The gentleman from Pennsylvania is laboring under a misapprehension as to what I said. I did not for a moment attempt to shield the name of the senior member of the firm of Lawrence, Stone & Co. I simply said, touching that name, that I would not deepen the shadow which rested on it. I said that the name—because of the honored dead who bore it and because of the noble and generous living who bear it—had stood, and still stands to-day, as the synonym of mercantile integrity and honor. I do not wish to shield the senior member of that firm from investigation at all. I would shield no man. But when misfortune comes upon a man or upon a name, I am not the person to stand by, or to sit by, without saying whatever I can in favor of that name; without bringing forward what I can that is in its honor. If the gentleman deems that a eulogy on the character of the senior member of that firm, then let him make the most of it. I do not consider it a eulogy.

Mr. KUNKEL, of Pennsylvania. Well, Mr. Speaker, I understood the gentleman to say at first, just what he says now: that he would not deepen the cloud which rests on that house; but I understood him to go into a very considerable eulogy on the character of Lawrence, Stone & Co. If he retracts it all, I am perfectly satisfied. If not, I am satisfied anyhow.

Mr. BURLINGAME. I retract nothing, sir; I never said it.

Mr. KUNKEL, of Pennsylvania. Very well; if the gentleman avers that he did not pronounce anything like a eulogy, I must be mistaken; but other gentlemen heard him as I did. However, it is of no account.

It appears, on the books of these merchant princes of New England, that \$87,000 were expended to influence legislation. The gentleman from Maryland says that it does not appear but this sum may have been spent in some appropriate way. In what appropriate way could that enormous sum be expended in this country to influence legislation in this House? I cannot see. I do not know. Year after year we are constantly assailed with the cry of corruption in regard to the tariff policy. Over and over again we hear men, who have held position in this country, charged with combining together, for mercenary considerations, to affect that policy, to refund duties on railroad iron, to have a revision of the tariff; and thus that great interest in my State is kept in perpetual anxiety and suspense.

These charges have been made over and over again. I heard them here at the close of the last Congress, when the act of last year was pending. I heard them when I went home. They come now in a more authoritative shape, and I am for investigation. I do not know whether they affect any man in this House, or whom they are to affect—nor do I care. They are made; and the legislation of last winter, pressed upon this House by New England merchant princes, and passed by New England votes, was a sacrifice of the industrial interests of my State, and, with other causes, helped to paralyze the arm of honest and willing labor in that State, so that at this day, and at this very hour, were it not for the interposition of a benevolent Providence in this mild and genial winter, there would be distress and starvation in all her borders.

Now, in this state of things, with these charges made and reiterated, and coming before the House in this way, I want this investigation. I do not care in what shape it is had—whether we adopt the course taken last winter, and which was doubtless entirely satisfactory to the public mind; or whether we adopt the resolutions as offered by the

gentleman from Ohio, which I prefer. I want the investigation in the broadest, fullest shape possible. Let all the facts connected with the matter be given to the country. Let it be known if there be a single member in this House influenced by corrupt motives. Let the fact be ascertained whether New England manufacturers operate in this way. If they do, they will be less entitled to the regard of American Representatives than they have been heretofore supposed to be.

Mr. HARRIS, of Illinois, obtained the floor.

Mr. STANTON. Will the gentleman yield to me, to modify the resolution?

Mr. HARRIS, of Illinois. I yield for that purpose.

Mr. STANTON. I desire to modify the first resolution so as to add to the powers of the committee by adding, "and also to report all the facts found by the committee," so that the resolution would read:

Resolved, That a committee of five be appointed by the Speaker to investigate said charge, and to inquire whether any member or officer of this House received any part of said sum, and the facts found by the committee; and that said committee shall have power to send for persons and papers.

Mr. HOUSTON. With the permission of the gentleman from Illinois, I would say to the gentleman from Ohio, that I do not think his modification covers the point he seeks to attain. The original resolution confines the investigation to those who may be members or officers of this House. Now what I suppose the gentleman endeavors to accomplish, and what I think ought to be accomplished is, that the examination of the committee should not be confined to the officers and members of the present House, but that the committee should examine the entire subject and report all the evidence, whether it implicated men now in the House or out of the House.

Mr. STANTON. I suppose that my resolution covers that ground.

Mr. HOUSTON. The gentleman is mistaken. It does not. It is confined in its express terms to members and officers of this House.

Mr. STANTON. It confines only the power to present charges to the members and officers of the present House; but it also directs the committee to report what facts they may find.

The resolution as modified was again read.

Mr. HOUSTON. The gentleman from Ohio will see that my point is well taken. The resolution confines the inquiry to members and officers of this House; so that it may be that members and officers of the last House were implicated in this business of corruption—if corruption there was—and yet this resolution does not authorize the committee to look into their acts. And while I admit that we have no power to punish those who are not members of this House, yet I think we ought to bring the whole facts before the country by the investigation by this committee, and let the country deal with those implicated as public sentiment may require.

Mr. STANTON. If the gentleman from Alabama has any apprehension as to the scope of the resolution, he will oblige me if he will prepare what he thinks will meet his views, and I will accept the modification.

Mr. HARRIS, of Illinois. It is not my purpose, Mr. Speaker, to enter into a discussion of the merits of these resolutions. So far as personal considerations are concerned, they affect neither me nor those who voted with me. I think, however, from what has transpired since the investigation of the last session, and from what is being promulgated every day through the press of the country, it is due to the character of the House that some investigation should be had.

Mr. MORGAN. I want to know by what authority the gentleman says the facts of this investigation cannot affect those who voted with him?

Mr. HARRIS, of Illinois. I will answer that, and also any other questions the gentleman may choose to ask. I have the record before me showing the votes of members upon the proposition at the last session of Congress for a modification of the tariff. There has been nothing which has transpired, or which has met my observation, that goes to show in what direction it may be alleged that this money has gone. But from what transpired at the last session, in the investigations which were then had, we have very little to fear from any investigations that may now be instituted. The respective characters of the two sides

of the House were fully portrayed in the reports which were made on that occasion, and until this side of the House is assailed, it needs no defense; and any assault that it is proposed to make, is here most cordially defied.

There are some questions, however, connected with this matter, which may not inappropriately be considered. The House will very well recollect, and the Journals furnish proof to those who do not recollect, that there were resolutions reported at the last session, by a select committee, which implicated the character of a member of the House, and that person is now a member of the House. Fortunately, he is not upon this side of the House. And, sir, while it is proposed to go to Boston to investigate what has been done there, connected with the corrupt legislation of the House, it may be well enough for us to turn our eyes and see what is actually presented here in our midst—what we know by the record. In order to complete the purification of the House, and the expurgation of offensive members, and that the whole matter may be presented in its proper form, I send to the Chair an amendment, which I propose as an additional resolution. I move to add the following:

Whereas, at the last session of Congress, a select committee of this House reported the following resolutions, to wit:

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, did incite parties deeply interested in the passage of a joint resolution for constraining the Des Moines grant, to have here and to use a large sum of money and other valuable considerations corruptly, for the purpose of procuring the passage of said joint resolution through this House.

"Resolved, That ORSAMUS B. MATTESON, in declaring that a large number of the members of this House had associated themselves together and pledged themselves, each to the other, not to vote for any law or resolution granting money or lands unless they were paid for it, has falsely and wilfully assailed and defamed the character of the House, and has proved himself unworthy to be a member thereof.

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and is hereby, expelled therefrom."

And whereas, the first of said resolutions was adopted by the House of Representatives on the 27th of February last, by a vote of 145 yeas to 17 nays; and the said second resolution was adopted by the House on the same day without a division; and whereas, said MATTESON had, prior to any vote being taken on the last resolution, resigned his seat in the House, and thus avoided the effect of the same; and whereas, the said MATTESON is a member of this House, with the imputations conveyed by the passage of the first two of the foregoing resolutions still upon him, and without having been subsequently indorsed by his constituents; therefore,

Resolved, That said committee take the aforesaid state of facts into consideration and report to this House, if any, and if so, what action may be necessary and proper to maintain and vindicate the character of this House.

Mr. STANTON. I rise to a question of order. I submit that the amendment is not germane to the resolutions under consideration. It relates to an entirely different subject-matter—to an entirely distinct inquiry. I do not want the resolutions which I have presented to the House burdened by the addition of any such proposition.

Mr. HARRIS, of Illinois. The Chair will decide the question of order. I am perfectly willing, however, if the gentleman objects to it, that the matter shall stand as the gentleman has offered it. I do not want my proposition yoked to his unless it is strictly in order. I do not wish to embarrass his resolutions; and if there is any objection upon that side of the House, I withdraw my amendment.

The SPEAKER. The Chair is of the opinion that the amendment is not in order. It is not germane to the original proposition.

Mr. HARRIS, of Illinois. Very well. Then I will present it as an independent proposition whenever I shall have an opportunity.

Mr. STEPHENS, of Georgia. I move the previous question on the resolutions.

Mr. GROW. I ask the gentleman to withdraw the demand for the previous question a moment; I will renew it.

Mr. STEPHENS, of Georgia. I cannot do so. I want to get to the Speaker's table for the purpose of taking up the joint resolution affecting certain naval officers, for if we do not pass it to-day, we need not pass it at all.

Mr. GROW. I do not propose to occupy the time of the House for more than five minutes.

Mr. STEPHENS, of Georgia. I cannot withdraw the demand. I insist on it.

Mr. STANTON. I desire the attention of the gentleman from Georgia. As the mover of the resolutions, I desire five minutes to reply to re-

marks which have been made by the gentleman from Maryland, and I will then move the previous question.

Mr. STEPHENS, of Georgia. I have just now been informed, that, from action taken by the Senate, yesterday, it is not indispensably necessary for us to act upon the joint resolution relative to these naval officers. I will therefore withdraw the demand for the previous question.

Mr. STANTON obtained the floor.

Mr. GROW. I rise to a question of order. The gentleman from Ohio has already spoken on this question, and I insist that he cannot speak again, until other members, who have not spoken, have had an opportunity to do so.

Mr. STANTON. The resolutions have been modified, and there are amendments pending upon which I have not spoken.

The SPEAKER. The gentleman is right, and the Chair overrules the point of order.

Mr. STANTON. I desire to call the attention of the House to the amendment of the gentleman from Maryland, [Mr. DAVIS.] I regret that the gentleman from Illinois should have deemed it proper, upon this occasion, to allude to parties in this House, and the manner in which they may be affected by this or any other investigation. My position in regard to a question of that kind is, that it is the duty of every family and every political party to see to its own household; and if there be a corrupt man upon this side of the House, I would vote to expel him sooner than I would to expel a man of the other side, because it is indispensable to the maintenance of any political party that its integrity should be preserved, and that it shall command the confidence of the country. Now, the gentlemen upon the other side have some family affairs that they have not disposed of, in relation to the sale of Fort Snelling and other matters. Let them get along with that, and then they can talk to us about their character.

I regret exceedingly that anything of a party character should have been brought into this discussion. But when the gentleman said that that side of the House could not be charged, there was another idea which occurred to me. Why, sir, the cardinal object of these Massachusetts manufacturers was to get rid of the duty on wool, and every gentleman on the other side voted to take off the duty on wool under twenty cents per pound. The vote to reduce the duty on wool was a party vote. They, then, are the very men who are implicated in this charge.

Mr. Speaker, I desire now to call the attention of the House for a few moments to the amendment of the gentleman from Maryland. It is claimed that inasmuch as a committee of the last House performed the functions of inquirers and triers of parties charged with corruption, it is therefore a safe rule, a safe practice. It is said that no injustice was done; that these parties had great privileges and facilities extended to them, for the purpose of presenting their defense before the committee. I think, sir, that that is true. I think that it is possible that no injustice was done to any of the parties charged by that committee. I think that they had all fairness extended to them that it was within the power of the committee to extend, without a total defeat of the purposes of the investigation. But the proposition I desire to make is, that gentlemen in this House shall not depend for their rights upon the discretion of a few gentlemen who may happen to compose an investigating committee.

Mr. HARRIS, of Illinois. I wish to ask the gentleman a question before he takes his seat. He alludes to a family quarrel upon this side of the House in reference to the sale of Fort Snelling. I want to know whether he means to intimate that any member here has any connection, immediate or remote, with that sale?

Mr. STANTON. No, no, I do not; but I mean that the Administration which the gentleman helped to bring into power and now supports, made the sale, and a member on that side of the House moved for the investigation, and it seems to be a family affair.

Mr. Speaker, a committee of this House, it is said, in a single instance, performed impartially, without any injustice to the parties charged, the functions of grand and petit jurors.

Now, the inquiry I desire to present, (and I regard it as exceedingly important,) is, whether the House regard it as right and just and safe for

the rights and honor of members to be intrusted to the discretion of five gentlemen selected by the Speaker? It is said that copies of the testimony were furnished to the parties charged. But, if that was so, was it not within the discretion of the committee to withhold them? There was no obligation on the committee to present copies of the testimony. I desire, with the assistance of the House, to set a precedent which, in times of high party excitement, will prevent a prejudiced or corrupt Speaker from placing the rights or the honor of members of this House in the power of a packed committee, with power to inquire, investigate, and condemn in secret. I want some security against the abuse of that unlimited and boundless discretion which was conferred upon the committee of the last House, and which it is now proposed to confer upon this committee.

There is another fact, worthy of consideration. The committee which investigated the charges presented against members of this House, at the last session, accused one of the four persons whose cases were investigated, with an offense for which they presented a resolution of expulsion; and every member of the committee, I believe, voted for that resolution, when it was rejected in the House by a vote of 119 to 42. The House differed with that committee. Such a committee, acting in the capacity of grand jurors, who enter into the spirit of the prosecution, feel that it is their function and their business to purge the body and to expel unworthy members; and they lose sight, to a very considerable extent, of the rights and privileges of individual members.

I am at a loss to comprehend how the resolutions I submitted complicate the proceedings of the House. It is said by the gentleman from Maryland, that perhaps, when a charge is presented against a member, he will not desire to have another committee. Very well. There is no difficulty in the world about a party waiving rights which he is entitled to. I take it that if a gentleman is charged here with an offense, and does not desire an investigation, he has nothing to do but to say so; let him plead guilty or let him elect another mode of trial; let him agree to go before the House upon the testimony reported by the first committee, and these resolutions, providing for his benefit and protection, will not stand in his way.

But there is another difficulty in relation to the testimony to be taken before the first committee. The first committee should take down the testimony in writing, and it should be kept in its possession. It should not be reported, nor made public without the consent of the party charged, until the witnesses have been reexamined in his presence, subject to his cross-examination, and such other testimony has been offered as he chooses to submit in his defense. The testimony should be reduced to writing, and preserved for the purpose of aiding the prosecution before the second committee.

So far as I am personally concerned, Mr. Speaker, if the amendment of the gentleman from Maryland prevails, I shall certainly feel it my duty to transfer this investigation to him. I will not, as a member of this House, undertake to investigate charges against a member, and report to this House testimony taken in his absence, upon which this House is to act in determining the merits of his case. There are two reasons for it: in the first place, I want, when the testimony is taken before the committee, not to be under the necessity of furnishing to the party charged a copy of the evidence during the progress of the investigation. Their right would seem to require that they should have a copy; and yet the furnishing of a copy may be the means of counteracting the object of the examination, and may set them to work to use instrumentalities to prevent further investigation, and prevent the corroborating of testimony already taken.

I do not desire to be embarrassed with an investigation prosecuted in such form as to prevent me from making a full development of the whole case. I do not desire it, acting in that capacity, and charged mainly with the duty of inquiring into abuses, and not of trying anybody. My object would be to hunt up what abuses and what corruptions have been practiced by any member of this House; and therefore I should not feel bound to guard the rights of the party charged, to the same extent that I would if I were taking the testimony upon which the party was to be tried.

The proposition of the gentleman from Maryland [Mr. DAVIS] is seeking to gather to a single committee the united functions of a petit and a grand jury; and commits the honor, the rights, and the privileges of the members of this House to the hands of a body constituted at the pleasure of the Speaker of the House. With all due deference to, and expressing the utmost confidence in, the Presiding Officer of this House, I am not willing to set a precedent which, in future time, may work great prejudice and evil to the members of this House.

I therefore trust that the House, if they intend to have an investigation at all, will suffer it to proceed in the manner indicated in the resolutions which I have offered; and that the committee raised shall be a mere committee to inquire, and not to take the testimony upon which any member of this House shall be charged with bribery or corruption.

Mr. GROW obtained the floor.

Mr. PURVIANCE. I ask my colleague to yield me the floor for one moment. I think I have a resolution which will meet the approbation of the gentleman from Ohio.

Mr. GROW. I will yield to my colleague if thereby I do not lose my right to the floor.

Mr. PURVIANCE. I ask to have my resolution read; and I hope the gentleman from Ohio will accept it as a modification of his own.

The resolution was read, as follows:

Whereas, a committee appointed to investigate the affairs of the company of Lawrence, Stone & Co., of Massachusetts, amongst other things, report: That \$87,000, as appears from papers in possession of said company, were paid to secure the passage, at the last session of Congress, of the law reducing the duty on foreign imports; and whereas, said report has found its way into the public journals, accompanied by severe reflections upon the members of the Thirty-Fourth Congress, some of whom being members of the present, and therefore exposed to suspicions which require immediate investigation: Therefore,

Resolved, That a committee of five members be appointed to inquire into and investigate said charge, and if found to be true, to ascertain whether any member, officer, or employee of the then or present House were, in any way, connected with the receipt or disbursement of said sum of money, or any part thereof, and if so, the names of said parties, and the facts elicited, of which the parties implicated shall be notified by the committee, and shall have an opportunity of appearing before the same, there to be heard fully—the result of which to be communicated to the House for its action.

Mr. STANTON. If the gentleman will omit the last part of it, and leave it as a substitute for my first resolution, I am willing to adopt it. But I am not willing that the committee shall take and report the evidence in the case, upon which the party is to be tried by the House.

Mr. GROW. On the introduction of this resolution, it was not my intention to take part in this discussion. I shall trespass now but a few moments upon the attention of the House, and should have been content to give my vote for the resolution in silence but for the remarks of the gentleman from Maryland [Mr. DAVIS], and those that fell from the lips of the gentleman from Illinois [Mr. HARRIS], who seems to-day to be imitating the example of the gentleman from New York [Mr. HASKIN] the other day, who paid a high compliment to the gentleman from Massachusetts [Mr. THAYER], by admitting in his mode of reply that he was so completely impaled that there was no way for him to extricate himself except by a wholesale charge upon a great party in this country. Instead of meeting the remarks of the gentleman from Massachusetts, he chose to make a charge upon the integrity of one of the great parties of this country, and upon every member of it upon this floor. The gentleman from Illinois [Mr. HARRIS] to-day imitates his example, and instead of replying to the question of the gentleman from New York [Mr. MORGAN], he attempts to cast suspicion upon the integrity of all the members on this side of the House, and like the man of old who stood up and thanked God that he was not like other men, he wraps around himself his cloak of self-righteousness, and hurls anathemas upon the members upon this side of the Hall.

Sir, the attempt to make the course of proceedings of the investigating committee of the last Congress a precedent to be followed hereafter, is an invasion of the privileges guaranteed by the Constitution to every citizen. Why, sir, should the character of members of Congress be placed at the mercy of the abandoned and debased more than that of others? I would throw around them,

as I would throw around the humblest criminal in the courts, the safeguard which the Constitution of the country gives to personal liberty and to personal character. That Constitution permits you to try no man charged with the least offense in a court of justice, without confronting him with his accuser. The committee of the last Congress brought before them profligates from the streets to blacken the characters of members of this House, and allowed them, in secret, to give evidence, solitary and alone, to disgrace the accused forever.

Mr. RITCHIE. I rise to a question of order. It is not in order to discuss the action of the committee of the last Congress, the matter not being properly before the House.

Mr. GROW. It was brought before the House by the remarks of the gentleman from Maryland, [Mr. DAVIS.]

Mr. RITCHIE. Well, the gentleman from Maryland was out of order.

The SPEAKER. The Chair dislikes very much to have that question of order raised, inasmuch as the occupant of the chair was a member of that committee.

Mr. RITCHIE. The matter was fully discussed last session, and the action of the House had upon it.

Mr. GROW. The gentleman [Mr. RITCHIE] was a member of that committee, and if he is unwilling to have its proceedings investigated—

Mr. RITCHIE. If the gentleman [Mr. GROW] moves for a committee to investigate the conduct of that committee, I am perfectly willing it should be done; but I do not wish to have a controversy now on a subject which was fully discussed before, and where the whole matter was investigated from beginning to end.

The SPEAKER. The Chair hopes that the gentleman from Pennsylvania [Mr. GROW] will confine his remarks to the resolution before the House.

Mr. GROW. I stand here, then, to protest against this House raising a committee, at any time, to investigate the conduct of any of its members charged with I care not how small an offense affecting his integrity, without that member being called to confront the witnesses against him. I ask that his character shall not be, because he is a member of Congress, held less sacred than that of a petty thief in courts of justice. That was done in the last Congress, and will be again, if the precedent referred to by the gentleman from Maryland [Mr. DAVIS] becomes the settled practice. Witnesses collected from your streets, with malignity in their hearts, and who can gloat over the ruin of those on whom they desire to avenge their supposed wrongs, will, in the dark, give testimony which, with the eye of their victim flashing full in their face, they dare not give; their tongue would cleave to the roof of their mouth, and they cannot utter the falsehood. Why have the sages of the law built around every man that great bulwark of liberty and personal rights, by requiring his accuser to be confronted with him? It is because such is human nature that guilt and wrong quails before the indignant frown of innocence, truth, and justice. Therefore the perjured witness on the stand confronting him whom he accuses, face to face, does not tell the tale of falsehood that he would utter in the dark.

Now, I am in favor of the resolutions offered by the gentleman from Ohio; and I trust the House will not regard the innovation of the investigating committee of last Congress as affording a precedent to be followed; for never, in the history of the Government, till then, did a committee, appointed to investigate the conduct of members, sit with closed doors, and deprive the member implicated of the right to confront the witnesses face to face. "Oh!" say gentlemen, "no harm can come of it; no man can be hurt by it; is he not to be tried by the House?" If you take the proceedings in last Congress as a precedent, he is not to be tried at all. The House gave no trial to the members impeached. They were tried on the testimony taken in the star chamber—in the dark—and on that alone, when the examination-in-chief of the witnesses was in the absence of the accused. Your grand juries have no record of the testimony taken before them to blast the character of the victim accused. You bring him into court not to try him on the testimony taken before the grand jury, but on testimony of witnesses face to face

with the accused. The men who are to find the verdict that is to affect the character of the accused, know nothing of what took place in the grand jury room. There is, therefore, no similarity between this course of proceeding and that of a grand jury, and especially as this grand jury can do as it did last Congress, suppress a portion of the testimony of witnesses, and then come in and ask the House to pass judgment on these *ex parte* statements.

I sought the floor, sir, not for the purpose of making a speech, but merely to enter my protest against any precedent being established that would deprive a member of Congress of the same protection to liberty and character which the wisest and sagest of your law-makers, from the time that civilized society began, to this hour, have thrown around criminals in courts of justice. Why should a man, because he chanced to occupy a seat on this floor, be left to the mercy of the profligates who surround these Halls, who may go before committees, in the absence of the member implicated, and give testimony to blacken his character and affix disgrace to it for all time?

Mr. LETCHER obtained the floor.

Mr. HARRIS, of Illinois. I ask the gentleman from Virginia to yield to me, that I may reply to a remark of the gentleman from Pennsylvania.

Mr. LETCHER yielded the floor.

Mr. HARRIS, of Illinois. With the consent of the gentleman from Virginia, for one moment, I wish to reply to the remarks of the gentleman from Pennsylvania, [Mr. Grow,] who has just taken his seat. It seems very hard to satisfy that gentleman as to the manner of the investigation. It is very difficult to suit him as to the form of the resolution. About that I am entirely indifferent, provided the facts are got at.

But the gentleman said that we on this side, or perhaps myself, were disposed to be like the man of old, who stood afar off, and thanked God that he was not as other men. If he means to say that myself, or those who act with me, do offer up such thanks as that we are not as some other men, then he is correct. And if the gentleman will also imitate the example of him who was put in contradistinction to the one who stood afar off, he may with some sort of sincerity exclaim, "God be merciful to me, a sinner!" I have no doubt that his exclamation would meet a hearty amen from every gentleman on this floor.

Mr. RITCHIE. Will the gentleman from Virginia allow me to say a word now?

Mr. LETCHER. Yes; I yield to the gentleman.

Mr. RITCHIE. My colleague [Mr. Grow] seems to intimate that the members inculpated by the investigating committee of the last Congress had no opportunity afforded them of knowing the testimony of the witnesses till it was brought before the House. I wish merely to state that we furnished to all the members inculpated copies of the testimony against them, and invited them to come and reexamine the witnesses whose testimony had been furnished to them, and to produce witnesses of their own; and in two cases gentlemen did that.

Mr. GROW. That was after the testimony of the witnesses was taken, that he might cross-examine.

Mr. RITCHIE. Copies of the testimony were furnished in all cases, and an opportunity given to reexamine the witnesses, and to produce witnesses of their own.

Mr. GROW. Was it not twenty days after the time when the testimony was taken, that a copy of it was furnished to Mr. Gilbert?

Mr. RITCHIE. I do not recollect the time; but I think it was nothing like that length of time.

Mr. LETCHER. It seems to me somewhat remarkable, that while two investigating committees have been organized during the present session, my friend from Ohio [Mr. STANTON] and my friend from Pennsylvania [Mr. Grow] should have both remained silent. Why were they not roused up then, to the necessity of protecting congressional and official character? Why did they sit, there in their seats while the resolution in reference to the late Clerk, and the resolution in reference to the Fort Snelling matter, were introduced into this House, without raising their voices against the enormity which they say was practiced at the last session, and which they seek to avoid being practiced at the present?

Mr. GROW. Will the gentleman permit me to answer him?

Mr. LETCHER. Yes, sir.

Mr. GROW. The resolution in reference to the sale of Fort Snelling involves no person by name, nor has it any reference to a member of the House, as I understand it.

Mr. LETCHER. Nor do these proceedings involve the name of any member of this House, or of the other; so that the gentleman's explanation does not meet the case, and he remains hampered by the same difficulty now as he was before he made it. So far as the resolution about the Clerk was concerned, a name was involved there. Why did not the gentleman rise then, and undertake to hamper the proceedings in reference to him, by this cry in behalf of congressional and official character? Not one word about it was said then; but now, when this proposition is introduced, gentlemen rise here and tell us that it is a great outrage; that it is not to be tolerated; that parties ought not to be arraigned in secret, and then brought here to this House for final judgment.

Now I am opposed to the shape in which the resolutions offered by my friend from Ohio have been got up.

Mr. STANTON. Will the gentleman allow me—

Mr. LETCHER. Wait till I state my objections.

Mr. STANTON. I was going to answer the gentleman's inquiry why I did not oppose these other resolutions.

Mr. LETCHER. Very well. I yield for that purpose.

Mr. STANTON. In the resolution in regard to the Clerk of the House, the party charged was named. The resolution in regard to the sale of Fort Snelling was not based on any imputation against any member of the House, or against the body at large. It was not supposed by any man to involve the character of the House, or of any member of the House. It was an inquiry into an act of one of the Executive Departments. We had no power to try, and could not pass censure or sentence on the parties supposed to have been guilty of misconduct in that matter.

Mr. LETCHER. Then the gentleman's explanation is, that he did not raise the question on the one because nobody was named, and that he did not raise it on the other because somebody was named. That is just the amount of his explanation. But I regretted to hear the gentleman from Ohio, who is usually so fair, who may be called upon to pass judgment in regard to this investigation about the Fort Snelling matter, undertake to declare in a breath that there was corruption in that matter, and that it attached to my party friends.

Mr. STANTON. The gentleman from Virginia is mistaken. I did not say that any person was implicated in the Fort Snelling matter.

Mr. LETCHER. Well, the gentleman said it was a family affair, growing out of these charges. Now, sir, let me say to that gentleman, that, so far at least as the officer of the Government supposed to be implicated by that proceeding is concerned, I have no doubt that he will demonstrate to this House, and demonstrate to the country at large, that an assault move unfounded never was made upon any public officer.

So much for the present. I want this investigation to proceed. Let the facts come before the country, and see how nearly my prediction will be verified by the results.

But, sir, that has nothing to do with the proposition before the House; or, at least, it ought to have nothing to do with it. We ought to have none of this crimination and recrimination about facts which have no tendency to throw any light upon the subject, or prepare the minds of members of the House for as deliberate action as we might otherwise have.

Mr. STANTON. I trust the gentleman from Virginia will do me the justice to say that none of the crimination came from me, or from this side of the House. It came from the gentleman's own party.

Mr. LETCHER. Well, sir, I thought there was some of it on both sides.

Mr. SMITH, of Illinois. Will the gentleman allow me for a moment?

Mr. LETCHER. I will, if the gentleman does not take too long.

Mr. SMITH, of Illinois. I introduced the resolution into this House to make inquiry into the circumstances of the sale of the Fort Snelling reservation. But, sir, I did not, and the resolution does not, cast any imputation upon any gentleman. I feel it, perhaps, due to myself to say that I know a good deal about that matter. I have never said, and I do not say now, that the Secretary of War did anything wrong in the matter. But I have felt from the knowledge I have upon the subject that it is a case which requires investigation; that it is due to the Secretary of War, that it is due to the Administration, and that it is due to the Democratic party that an investigation should be had. I may have some feeling in the matter, and for that reason I declined to accept a place upon the committee. But I signified to the chairman of the committee that when they were organized, I would appear before them at any time they might designate, and tell my story. I think there was something wrong in relation to that sale. But, sir, I said, and I repeat, that I do not charge, by implication or otherwise, anything wrong on the Secretary of War. I say again that it is due to that officer, it is due to the Administration, and it is due to the country, that a rigid examination should be made in relation to that sale. For myself, as a civilian, I think it was all wrong, unwise, and imprudent to sell the buildings at Fort Snelling, and I have no doubt at all that this House will concur with me in that opinion when the facts and circumstances come before it. But I protest that it is not a legitimate deduction from the resolution that there is any fraud charged upon any one. That wrong has been done I have no doubt; but it may have been done as innocently as any transaction which ever took place in the country.

Mr. LETCHER resumed the floor.

The SPEAKER. The Chair desires to suggest to the gentleman from Virginia that rather too great latitude of debate has been indulged in upon the proposition before the House.

Mr. LETCHER. I should not have alluded to this Fort Snelling affair at all, but for the allusion of the gentleman from Ohio to it, as a family matter which I thought required a response.

The SPEAKER. The Chair desires the gentleman to confine his remarks to the subject before the House, and he will endeavor to hold other gentlemen who may address the House to the same rule.

Mr. LETCHER. That is what I intend to do. I was about remarking, when I was interrupted by the gentleman from Illinois, that I do not like the shape in which those resolutions are presented by my friend from Ohio. If I understand his resolutions correctly, he proposes, in the first place, to organize a committee who shall be charged with the duty of taking this testimony, and that they shall then report to the House after the testimony has been taken; that the matter shall then undergo a further investigation upon that testimony as a basis, and upon such additional testimony as may be brought forward.

Mr. STANTON. If the gentleman will allow me, I will say that my resolution does not contemplate that any of the testimony taken by this first committee be reported to the House, unless the party implicated claims it as a right.

Mr. LETCHER. Then, it strikes me that it is a very useless operation, if you are to raise a committee to take testimony, and that committee is not to report that testimony to the House unless the party acknowledges his guilt and presents himself here for judgment.

Now, sir, I prefer the mode of proceeding adopted at the last session of Congress. I think it is more simple, that it is more direct, and that it will be more likely to result in something than the plan proposed by the gentleman from Ohio, in the resolutions now under consideration. Let this committee be appointed, let them summon their witnesses, let them have before them the necessary papers, let them have all the records before them and report the facts to the House, with such resolutions as the testimony taken before them may call for. That seems to me to be the most simple mode.

But suppose you institute this grand-jury proceeding, and the parties come forward and demand a trial: are they to be brought before the bar of the House and formally arraigned? Are witnesses to be summoned and examined before the House,

day after day, before you can come to any conclusion? It would seem that such is the purpose. It does seem to me that to adopt such a course, and arraign the parties before the House, would require months, if it did not consume the entire session, before you could bring the examination to a conclusion.

Mr. SHERMAN, of Ohio, addressed the Speaker.

Mr. LETCHER. I have not yielded the floor, but I will hear the gentleman.

Mr. SHERMAN, of Ohio. I only desired, supposing the gentleman was through, to get the floor to call for the previous question; but as an intimation was made by the gentleman from Illinois [Mr. HARRIS] that the tariff bill of the last Congress was the act of the Republican party, I will call the attention of the House to the vote on the passage of that act. Upon examination, I find that but thirty-six Republicans voted for it, and that ninety-eight of those who opposed the Republicans voted for it. Among those who voted against it I find but two Democrats, and seventy Republicans, myself among the number. I think, therefore, if we are to examine into the motives that influenced members in voting for that bill, that the gentleman and his political friends will have to render an account as well as the few Republicans who voted with them.

Mr. LETCHER. So far as that is concerned one good turn deserves another. Now I do not consider the chances are that we are involved, because with the practical illustration of the last session, the gentleman's party—particularly his party *ex nomine* as the Republican—was the only one that was found guilty.

Mr. SHERMAN, of Ohio. The only cases which were investigated were those of one or two Republicans. But here the charge is based upon a vote on a bill, now a law, against which seventy Republicans and two Democrats voted. I desire, as the Union and other party newspapers have tried to cast some reproach upon the party to which I belong, to call the attention of the House and the country to the fact, that if there is any wrong, any fraud, any robbery in anything ingrafted in the legislation of the country by the tariff law, that it was not done by the Republican party, but thirty-six of whom voted for and seventy-two against it.

Mr. LETCHER. I will come to that after a little. I do not mean to indulge in this crimination, that either those who voted for it, or those who voted against it, did it from corrupt motives; but there are one or two things connected with the progress of that tariff measure to which I desire to allude—not for the purpose of criminating this man or that man, or to cast a suspicion upon any one party in this House. I desire to offer a substitute for the resolution of the gentleman from Ohio that embodies my own views, and that, I think, if adopted, will enable us to get to a conclusion in a reasonable time, and with some degree of certainty. It is as follows:

Resolved, That a committee of five members be appointed to investigate the charges preferred against the members of the last and present Congress, growing out of the disbursement of \$87,000 by Lawrence, Stone & Co., of Boston, and to report the facts to the House, with such recommendations as they may deem proper.

Now, sir, as I understand the charge which appeared in the New York Herald, connected with the tariff of 1857, it was that the particular bill to which Lawrence, Stone & Co., and those who were employed in manufactures of the same kind, were wedded, was the bill originally reported by the chairman of the Committee of Ways and Means, and to which I offered a substitute at a subsequent period of the session. The vote was taken on my substitute, and it was rejected; and the original bill, with some modifications, was passed and went to the Senate, where it was substituted by a proposition somewhat similar to, though not entirely the same as the one I had offered in this House. It came back here. It was considered by the House, and it resulted in a call for a committee of conference; and that committee of conference reported a bill, which was subsequently passed. Now, my own belief is that the bill as subsequently passed was in accordance with the peculiar views of Lawrence, Stone & Co. Their *sine qua non*—what they insisted on from the start, as I understood, was that they should have free wool. They complained, and complain still, that free wool was not introduced into this last proposition. They

complained, also, that there was a reduction of duty upon certain qualities of printed and stained goods, which operated to their prejudice as the duty was arranged under the bill which finally passed.

Mr. KUNKEL, of Pennsylvania. I would ask the gentleman whether the bill, as it was finally passed, was not supported by the New England manufacturing interest?

Mr. LETCHER. I believe it was, sir, by nearly the whole of them.

Mr. SHERMAN, of Ohio. I would ask whether the bill reported from the Committee of Ways and Means was any more favorable to woolen manufacturers than the bill as it now stands?

Mr. LETCHER. It was more favorable, because it was free wool.

Mr. SHERMAN, of Ohio. That is not my recollection; but the reverse was the fact.

Mr. SEWARD. I object to the gentleman from Virginia farming out the floor in this way.

Mr. LETCHER. I was not farming out the floor; and it is only civil, when a gentleman wants to ask a question, to give him an opportunity to do so; and it is no sort of inconvenience to me. [Laughter.] While I have high regard for my friend from Georgia over the way, I hope, when he finds I am getting along tolerably well, that he will not put in a word to disturb me.

Mr. STEPHENS, of Georgia. I call for the previous question.

Mr. STANTON. I propose to modify my first resolution by substituting for it the following:

Resolved, That a committee of five be appointed by the Speaker, to investigate said charges, and to inquire whether any member or officer of the present or of the last Congress has received any part of said sum, and to report all the facts to the House; and if any member or officer of the present House shall be found to have received any part of said sum, they shall report specific charges against the party implicated, and shall have power to send for persons and papers, and to report at any time.

Mr. LETCHER. I modify my amendment, so as to make it include officers of the House, and to leave the sum indefinite; "any sum," instead of "\$87,000."

The SPEAKER. The gentleman from Maryland proposes to amend the first resolution of the gentleman from Ohio, by striking out all after the word "report," and inserting "all the evidence, and summon before it such persons as it may see fit; and shall report to this House what, in their opinion, this House should do in the premises." Also, to strike out the second and third resolutions.

The previous question was then seconded, and the main question ordered to be put.

The question being first upon striking out the second and third resolutions,

Mr. STANTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 77; as follows:

YEAS—Messrs. Adair, Ahl, Anderson, Avery, Barksdale, Bishop, Blair, Bocoock, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Ezra Clark, Horace F. Clark, John B. Clark, Clay, Clemens, Chingman, Cobb, John Cochrane, Cockrell, Cox, James Craig, Burton Cragge, Crawford, Curry, Davidson, Davis of Maryland, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, English, Eastis, Faulkner, Florence, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hoard, Hopkins, Horton, Houston, Hughes, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Lawrence, Leidy, Letcher, Macley, McQueen, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Mott, Niblack, Pendleton, Peyton, Phelps, Powell, Ready, Reagan, Reilly, Ricard, Ruffin, Sandidge, Scales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Robert Smith, William Smith, Stallworth, Stevenson, George Taylor, Miles Taylor, Trippie, Underwood, Israel Washburn, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, and Zollicoffer—120.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Bliss, Bowie, Brayton, Buffinton, Burlingame, Case, Chaffee, Clawson, Clark B. Cochrane, Coffax, Conins, Corning, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Foster, Giddings, Gilman, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Morgan, Morrill, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Palmer, Pettit, Potter, Pottier, Purviance, Quitman, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Stanton, James A. Stewart, William Stewart, Thayer, Thompson, Tompkins, Wade, Wadbridge, Waldron, Walton, Cadwalader C. Washburne, Elihu B. Washburne, and Wood—77.

So the second and third resolutions were stricken out.

The question now being upon the amendment of Mr. DAVIS, of Maryland, to the first resolution, to strike out and insert, it was put; and said amendment was agreed to.

The question recurred upon the substitute offered by Mr. LETCHER.

Mr. WASHBURN, of Maine. I would inquire if that substitute provides for the production and procurement of papers?

The SPEAKER. It does not; but if there be no objection, the word "papers" can be inserted.

No objection being made, the substitute was so modified.

The substitute, as modified, was then agreed to.

Mr. STANTON. The substitute, as agreed to, is designed in its phraseology to stand alone without the preamble. The House has seen fit to transfer the whole thing to the other side, and I withdraw the preamble.

Mr. LETCHER moved to reconsider the vote by which the substitute was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, their Secretary, informing the House that the Senate had passed an act for the relief of William K. Jennings and others, and an act for the relief of John R. Temple, of Louisiana; in which he was directed to ask the concurrence of the House.

NAVAL OFFICERS AGAIN.

Mr. BOCOOCK. I now move, as the morning hour has expired, that the House proceed to the business on the Speaker's table, with a view to take up the joint resolution of which I spoke this morning.

Mr. REAGAN. Will the gentleman consent to withdraw that motion for a moment, to allow me to introduce a bill?

Mr. BOCOOCK. I cannot, sir; this is a public matter of much importance, and I am very anxious to get it passed to-day.

ORSAMUS B. MATTESON.

Mr. HARRIS, of Illinois. I rise to present to the consideration of the House a question of privilege. I offer the following resolutions:

Whereas, at the last session of Congress a select committee of the House reported the following resolutions, to wit:

"*Resolved*, That ORSAMUS B. MATTESON, a member of this House from the State of New York, did incite parties deeply interested in the passage of a joint resolution for constraining the Des Moines grant to have here and to use a large sum of money, and other valuable considerations, corruptly, for the purpose of procuring the passage of said joint resolution through this House.

"*Resolved*, That ORSAMUS B. MATTESON, in declaring that a large number of the members of this House had associated themselves together, and pledged themselves, each to the other, not to vote for any law or resolution, granting money or lands, unless they were paid for it, has falsely and willfully assailed and defamed the character of this House, and has proved himself unworthy to be a member thereof.

"*Resolved*, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and is hereby, expelled therefrom."

And whereas, the first of said resolutions was adopted by the House of Representatives on the 27th of February last by a vote of 145 yeas to 17 nays, and the said second resolution was adopted by the House on the same day without a division; and whereas, the said MATTESON had, prior to any vote being taken on the last resolution, resigned his seat in this House, and thus avoided the effect of the same being adopted by this body; and whereas, the said MATTESON is a member of this House, with the imputations conveyed by the passage of the first two of the foregoing resolutions still upon him, and without having been subsequently indorsed by his constituents: Therefore,

Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and is hereby, expelled from this House.

I do not see the member from the Ulrica district [Mr. MATTESON] in his seat, and I simply propose to let the resolution stand, and call it up at some future day.

Mr. BOCOOCK. The gentleman had better move to postpone the future consideration of it to a day certain.

Mr. HARRIS, of Illinois. I move to postpone its further consideration till Monday next. But first I wish to correct the phraseology of the preamble in one word. Instead of the word "indorsed" by his constituents, I ask to insert the word "re-elected."

It was so modified.

Mr. HARRIS, of Illinois. I move to postpone

its further consideration till Monday next; and on that I ask the previous question.

Mr. LETCHER. If the gentleman from Illinois will permit me, I would suggest to him that he had better have it postponed till Monday week, so that the gentleman implicated may have an opportunity to be present.

Mr. HARRIS, of Illinois. I will adopt that suggestion. I move that the further consideration of the resolution be postponed till Monday week.

Mr. BENNETT. I wish to say to the House that the member named in the resolution has been called home on account of sickness in his family; and I would suggest to the gentleman from Illinois that it would be as well to let the matter lie until the gentleman returns.

Mr. HARRIS, of Illinois. When the time arrives to which the consideration of the subject may be postponed, if the gentleman [Mr. MATTESON] be not then in his seat, and if there be good reasons why he is not, it will then be time enough to consider what ought to be done. I call the previous question.

Mr. WASHBURN, of Maine. What will be the effect of seconding the previous question?

The SPEAKER. To cut off the motion to postpone, and bring the House to a vote on the resolution.

Mr. WASHBURN, of Maine. Exactly; I thought so.

Mr. HARRIS, of Illinois. Then I withdraw the call for the previous question.

Mr. BLAIR. I desire to offer an amendment.

The SPEAKER. A motion to amend is not in order, pending a motion to postpone. That motion must first be disposed of.

Mr. BLAIR. Then let the question be taken on the postponement; and I will offer my amendment when the resolution comes up again.

The SPEAKER. The gentleman from Missouri can do that.

The amendment was read for information, as follows:

Resolved, That the testimony taken by the investigation committee and suppressed, said testimony having been left out of the report of the committee, as printed, and appearing in the manuscript record of said committee, with red lines drawn around it, and being thus designated for omission, was of great importance as tending to develop the corrupt practices in procuring legislation by Congress; and said committee, in failing to follow up the matters developed in said suppressed testimony, and in suppressing the testimony, failed in the discharge of their duty.

Mr. SEWARD. I would suggest to the gentleman from Illinois to let his resolution go to the Judiciary Committee, as it involves a question of jurisdiction; and let that committee report on the legal effect of the expulsion of a member from the last Congress. The question has not been settled. Let it therefore go to the Committee on the Judiciary, and let that committee report on it.

Mr. HARRIS, of Illinois. These questions have all been before committees of the House. The facts on which the resolution is predicated, and the entire matter, are of record, and are open to the examination of every gentleman.

Mr. SEWARD. The gentleman does not understand my proposition. The question that occurs to my mind is, has this House of Representatives jurisdiction of a question which was decided at the last Congress? The gentleman from New York [Mr. MATTESON] having been put upon trial and expelled, can we act on the matter a second time, whether he has been reelected before or since that action was taken?

Mr. HARRIS, of Illinois. I do not see the pertinency of the gentleman's remarks.

Mr. SEWARD. That is the gentleman's fault, and not mine. [Laughter.]

The question was taken; and the further consideration of the resolution was postponed till Monday week.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. BOCKOCK. I move that the House do now proceed to the business on the Speaker's table.

The motion was agreed to.

Mr. JONES, of Tennessee, (at half past three o'clock, p. m.) I move that the House do now adjourn.

ADJOURNMENT OVER.

Mr. READY. I move that when the House adjourns, it adjourn to meet on Monday next.

Mr. SMITH, of Virginia. I rise to a question

of order. That subject has been already disposed of to-day.

The SPEAKER. The Chair has been unable to find but two precedents in the last ten or fifteen years where such a motion has not been entertained more than once on the same day. In every other instance the motion has been allowed to be repeated time and again on the same day.

Mr. GARNETT demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 89; as follows:

YEAS—Messrs. Anderson, Andrews, Avery, Barksdale, Bennett, Bishop, Blair, Bowie, Boyce, Branch, Bryan, Burnett, Burroughs, Caskie, Horace F. Clark, John B. Clark, Clawson, Clay, Clingman, Clark B. Cochrane, John Cochrane, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Maryland, Davis of Massachusetts, Dodd, Edmundson, English, Faulkner, Florence, Foley, Gilman, Goode, Goodwin, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hughes, Huyler, Jackson, Owen Jones, Keitt, Kellogg, Kelly, John C. Kunkel, Lamar, Lawrence, Leidy, Letcher, Macley, McQueen, Mason, Maynard, Miles, Milson, Morrill, Edward Joy Morris, Oliver A. Morse, Niblack, Nichols, Payson, Phelps, Powell, Quitman, Ready, Reagan, Rice, Ruffin, Russell, Sandidge, Aaron Shaw, Henry M. Shaw, Slater, Stickle, Singleton, Robert Smith, Stallworth, Stevenson, Miles Taylor, Thayer, Thompson, Underwood, Cadwalader C. Washburne, Elithu B. Washburne, Israel Washburn, Watkins, Wilson, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and Zolligoffer—100.

NAYS—Messrs. Abbott, Adair, Ahl, Billingshurst, Bingham, Bliss, Boeck, Brayton, Butlin, Case, Chaffee, Ezra Clark, Clemens, Cobb, Cockrell, Colfax, Comins, Corning, Covode, Curtis, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Duwart, Dick, Dowdell, Durfee, Elliott, Farnsworth, Foster, Garnett, Garrett, Giddings, Gilmer, Granger, Greenwood, Gregg, Groesbeck, Grow, Robert B. Hall, Harlan, Hopkins, Horton, Houston, George W. Jones, J. Glancy Jones, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Miller, Moore, Morgan, Isaac N. Morris, Mott, Murray, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Scales, Scott, Searing, Seward, John Sherman, Judson W. Sherman, William Smith, Stanton, James A. Stewart, William Stewart, George Taylor, Tompkins, Tripp, Wade, Walton, White, and Whiteley—89.

So the House agreed to adjourn over.

Mr. FLORENCE. I move to reconsider the vote by which the House agreed to adjourn over, and to lay the motion to reconsider on the table.

The SPEAKER. The Chair cannot entertain the motion.

Mr. FLORENCE. Well, sir, I rise to what I suppose to be a privileged question. I desire to state that, had I been here this morning, I should have voted to adjourn over. [Laughter.] I was temporarily absent, and therefore deprived of the privilege of recording my vote upon that motion.

DELEGATE FROM ARIZONA.

Mr. HARRIS, of Illinois. I wish to make a motion to change the reference of some papers. I observe, by the report of the proceedings of the House published in the Globe, that there was presented yesterday, under the rules, the certificate of election of Sylvester Mowry, as Delegate from Arizona, and that it has been referred to the Committee on Territories. Now, sir, I submit, in the first place, that the rules of the House require that such a certificate must be presented in open House; and, in the next place, that if it could be presented under the rule, it should go to the Committee of Elections.

The SPEAKER. By what mode does the gentleman propose to correct the error?

Mr. HARRIS, of Illinois. I propose to reconsider the vote referring the matter to the Committee on Territories.

The SPEAKER. The motion can only be entertained by unanimous consent, inasmuch as the paper was referred more than two days ago.

Mr. SMITH, of Virginia. I want to know what are the facts. Is there any such certificate of the election of a Delegate to this House from Arizona?

Mr. HARRIS, of Illinois. It is so stated.

The SPEAKER. The Chair thinks that if the motion to reconsider could be entertained at all, it is too late, unless by unanimous consent.

Mr. GROW. I object.

Mr. HARRIS, of Illinois. Then I make the question of order, that the certificate could not be presented under the rule, and go to the Committee on Territories. The rule allows petitions and memorials to be presented in this manner, but papers of this character must be presented in open House. You might as well present bills under the rule.

The SPEAKER. The Chair would suggest to

the gentleman, that as the reference has been improperly made, and it is too late to reconsider the vote, if the committee to whom it has been referred report upon it, it will then be competent for the gentleman from Illinois to raise a question of order and send it to the proper committee.

Mr. HARRIS, of Illinois. But it has got into the House in violation of the rules. The rule is expressly limited to memorials and petitions. A certificate of election could not be presented in that way.

The SPEAKER. The Chair has not seen the paper, and had not heard of it before.

Mr. HARRIS, of Illinois. It is stated in the Journal, I believe, that it was presented and referred.

Mr. WASHBURN, of Illinois. By whom was it presented?

Mr. HARRIS, of Illinois. By Mr. OTERO, the Delegate from New Mexico.

Mr. WASHBURN, of Maine. To move that the Journal be corrected by striking out the part referred to, would concede the point that the certificate has been properly presented under the rules. In my judgment, the certificate could not be referred under the rules to any committee.

The SPEAKER. That portion of the Journal in which references of petitions and memorials are noted, is never read to the House at all. It is not reported to the House. The Chair entertains a very grave doubt whether a motion is in order to amend the Journal of three or four days ago, which has been approved.

Mr. WASHBURN, of Maine. This occurred yesterday, I understand.

The SPEAKER. No, it occurred the day before yesterday.

Mr. WASHBURN, of Maine. It is clearly not before the House.

The SPEAKER. So the Chair thinks.

Mr. WASHBURN, of Maine. It has not been referred; and to move to reconsider its reference, would imply that the note of its reference to the Committee on Territories was correct and in order.

Mr. GIDDINGS. I suggest that the correction be made by unanimous consent. I presume the Committee on Territories will report the certificate back.

Mr. HARRIS, of Illinois. It is not before the committee, and cannot be reported back.

Mr. HOUSTON. I presume, Mr. Speaker, that the rules do not permit of any presentation of a certificate of election, unless it be publicly done during the session of the House.

The SPEAKER. The Chair is informed that other papers accompany it; but he has not them before him, and therefore cannot state what they are.

Mr. HOUSTON. I am aware that the Chair's attention has not been called to them. It is a new point. There is nothing tending to reflect upon the action of the Speaker. Though we can present certain papers, under the rules, at the Clerk's desk, bills, resolutions, and certificates of election must be presented in open House by members from their seats. If this be true, then the presentation, under the rules, of this certificate, is a nullity, and the point presented by the gentleman from Illinois is a good one, which the House ought to enforce; for if the rule be enlarged once by acquiescing in this presentation, you acknowledge the right of presentation of such things in that way, and one half or two thirds of the business sent in may be kept from the knowledge of the House. I regard, in my view of the rules, that what has been done is invalid and of no effect, and that, in consequence, the Committee on Territories have no jurisdiction over the subject. It has not gone to them correctly. The paper is not, and has not, been before the House. I suppose it is also within our province, under the circumstances, to order a correction of the Journal.

Mr. SMITH, of Virginia. What then is the use of talking about it, when it can be done by common consent?

Mr. HARRIS, of Illinois. I move that the gentleman from New Mexico have leave to withdraw that paper.

The SPEAKER. No paper is before the House.

Mr. GROW. I made the objection, and I want to state why I did it. I have no desire to complicate this matter. As I understand the paper, it is the memorial of the people of Arizona ask-

ing that a territorial government be granted to them.

Mr. HARRIS, of Illinois. The gentleman is entirely mistaken. It is not a memorial, but a certificate of election.

Mr. GROW. I was coming to that. With this memorial may be a certificate of election of the individual whom the people there desire to be their representative. Of course the election was not held under any law, and no man holds that any legal election has taken place. But this is a memorial of the people of Arizona, asking that they may have extended to them a separate territorial organization, and as such, it belongs to the Committee on Territories; and so far as the question of order touches this memorial, I take the ground that the reference to the Committee on Territories is the proper reference. I say nothing of the election; because we know that no legal election for a Delegate could be held there.

Mr. SMITH, of Virginia. I am not aware of any such papers having been referred to the Committee on Territories. I have not heard of them. I hope this proceeding will receive the attention of the House. I understand that this Delegate elect from Arizona is an officer of the United States Army. This is an extraordinary state of things.

Mr. BOCK. What question is before the House?

The SPEAKER. There is no question before the House.

Mr. HARRIS, of Illinois. I am not disposed to complicate the question by drawing in any other matters connected with it. I look at it as a question of order, whether this paper, purporting to be the certificate of election of a member to a seat upon this floor, was presented as it ought to have been, and whether, having been presented in violation of the rules, as I allege it has been, that presentation ought to be held good. I move that the Committee on Territories be discharged from the further consideration of the paper, and that it be laid upon the table.

Mr. JONES, of Tennessee. I hope the gentleman will change his motion, so as to discharge the Committee on Territories from the consideration of that paper, and that it be returned to the gentleman from New Mexico.

Mr. HARRIS, of Illinois. I accept of that modification.

Mr. WASHBURN, of Maine. That would imply that the paper is in possession of the Committee on Territories. I hold that it cannot be legally there, and what has not been done legally cannot be regarded as done at all.

Mr. JONES, of Tennessee. I call for the previous question.

Mr. HUGHES. I rise to a question of order. The SPEAKER. One question of order is already pending.

Mr. HUGHES. I desire, then, to make a suggestion. I understand that under the rules, where a paper has not been presented in open session and which ought not to be received, it is in the power of the Speaker to direct it to be returned to the person from whom it came. If that be so, the Speaker could make the necessary order upon this subject.

Mr. HARRIS, of Illinois. After the record has been made and signed by the Speaker, it is not in his power to make any such order.

The SPEAKER. The 24th rule is as follows:

"24. Members having petitions and memorials to present may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereof; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker; and if any petition or memorial be so handed in, which, in the judgment of the Speaker, is excluded by the rules, the same shall be returned to the member from whom it was received."

Mr. HOUSTON. Then the Speaker can return the paper to the gentleman who presented it.

Mr. HARRIS, of Illinois. I withdraw my motion.

The SPEAKER. If it be the sense of the House, the Chair will withdraw the paper and return it to the gentleman who presented it.

There was no objection.

INDIAN WARS IN OREGON AND WASHINGTON.

Mr. QUITMAN. I offer the following resolutions for the purpose of procuring some important information for the committee of which I am a member:

Resolved, That the Secretary of War be requested to

transmit to this House a copy of the report of the commissioners appointed under the eleventh section of the act of 18th of August, 1856, to ascertain and report the expenses incurred in the late Indian wars in Oregon and Washington Territories.

Resolved, That the Secretary of the Interior be requested to transmit to this House a copy of the report of J. Ross Browne, special agent of the Indian department, on the late Indian wars in Oregon and Washington Territories.

A single word of explanation. The Committee on Military Affairs have now before them a bill to reimburse to the Territories of Oregon and Washington, the expenses incurred in the prosecution of Indian wars. It is impossible for them to proceed with their examination, without having the report of the commissioners appointed last year, as to the actual expenses which they found and reported to the Secretary of War. This information is necessary, to enable the committee to make their report.

The resolutions were agreed to.

EXECUTIVE COMMUNICATIONS, ETC.

The SPEAKER, by unanimous consent, laid before the House copies of the laws of the Territory of Minnesota, passed at the regular session and at the extra session of the Legislature; which were referred to the Committee on Territories.

Also, a communication from the Secretary of State, requesting an appropriation to compensate R. C. Murphy, late consul at Shanghai, for judicial services, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Department of State, inclosing a letter to the chairman of the Committee of Ways and Means, requesting additional appropriations for the northeast executive building; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Secretary of State, transmitting a list of clerks and other persons employed in the State Department during the year ending June 30, 1857; which was laid upon the table, and ordered to be printed.

Also, a communication from the Secretary of War, inclosing a statement of the expenditure of the appropriations for the contingencies for the Department of War; which was laid upon the table, and ordered to be printed.

Mr. BOCK. I would inquire if the House did not resolve to go to the business upon the Speaker's table? If so, then anything except business upon the table is out of order, except by unanimous consent. I shall have to object to all other business unless the House will let me take up the bill to which I have heretofore referred, and have a vote upon it. If they will allow me to do that, I shall not stand in the way of any one.

Mr. WASHBURN, of Illinois. There are several bills upon the table, and I think we can dispose of all of them.

Mr. REAGAN. I hold in my hand a bill of great importance to my people. It provides for the Government of the United States, in connection with the government of Texas, running the boundary line between the United States and Texas. I wish to introduce it and have it referred.

Mr. BOCK. I want to get a vote upon my bill, and if I yield to the gentleman from Texas, I shall have to yield to others.

Mr. FOSTER. I move that the House adjourn. The motion was not agreed to.

The House then proceeded to take up the business upon the Speaker's table, as follows:

GEORGE P. MARSH.

An act for the relief of George P. Marsh.

The bill was read a first and second time.

Mr. WASHBURN, of Maine. I move that the bill be referred to the Committee on Foreign Affairs.

Mr. JONES, of Tennessee. If there is no objection, I should like to have that bill referred to the Secretary of State to report how much Mr. Marsh has already been paid for the services mentioned in that bill.

Mr. TOMPKINS. I object.

The SPEAKER. The House can hardly refer a bill to a jurisdiction over which they have no control.

Mr. LETCHER. I move to add to the motion to refer to the Committee on Foreign Affairs, the words, "with instructions to procure from

the State Department information in regard to the amount of money already received by Mr. Marsh."

Mr. WASHBURN, of Maine. I accept the amendment.

The motion as amended was agreed to.

SELMA A PORT OF DELIVERY.

The next bill taken from the Speaker's table was an act (S. No. 27) to detach Selma, in the State of Alabama, from the collection district of New Orleans, and make it a port of delivery within the collection district of Mobile.

The bill was read a first and second time, and referred to the Committee on Commerce.

Mr. JONES, of Tennessee. Is it in order to take up any but private bills to-day?

The SPEAKER. Private bills have priority to-day.

Mr. JONES, of Tennessee. Is it in order to take up any others?

The SPEAKER. It is, after the private bills have been disposed of.

Mr. JONES, of Tennessee. Is this not private bill day?

The SPEAKER. It is.

Mr. JONES, of Tennessee. If the Chair had called the committees for reports to-day, would it have been in order to have reported any but private bills?

The SPEAKER. After all the private bills had been reported, the Chair would have received reports of other business. Such was the practice of the House during the last Congress.

Mr. JONES, of Tennessee. I move that the House adjourn, and I ask the yeas and nays.

The yeas and nays were not ordered.

The motion was not agreed to.

WILLIAM K. JENNINGS AND OTHERS.

The next bill taken from the Speaker's table was an act (S. No. 29) for the relief of William K. Jennings and others.

The bill was read a first and second time.

Mr. GIDDINGS. I should like to have the bill read, as I desire to make a remark or two upon the reference.

The bill, which was read *in extenso*, provides for the payment, in a certain manner, and to certain parties, for slaves taken and carried away by force by Great Britain during the war of 1812.

Mr. BLISS. If my colleague will yield the floor, I will move that the House adjourn.

Mr. GIDDINGS. I will yield for that purpose, and only for that purpose.

Mr. BLISS. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at half past four o'clock, p. m.) the House adjourned till Monday.

IN SENATE.

Monday, January 18, 1858.

Prayer by Rev. Jabez Fox.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of State, communicating, in obedience to law, lists of the clerks, messengers, laborers, and packers employed in that Department during the year 1857; which was, on motion of Mr. YULEE, ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The VICEPRESIDENT presented a memorial of the Legislature of the Territory of Nebraska, in relation to the establishment of a new surveying district, and the creating the office of surveyor general for that Territory; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a memorial of the goldbeaters of the city and State of New York, praying for an increase of the duty on gold-leaf; which was referred to the Committee on Finance.

He also presented a petition of citizens of the town of Phelps, New York, praying for the adoption of some measure for the pacific and gradual extinction of slavery; which was ordered to lie on the table.

Mr. WADE presented a petition of citizens of Ashtabula, Ohio, praying for the repair or rebuild-

ing of the light-house and pier at that place; which was referred to the Committee on Commerce.

Mr. FITZPATRICK presented a memorial of the register and receiver of the land office at Montgomery, Alabama, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

He also presented papers in relation to the claims of Daniel S. Ryan and Henry C. Wyley, administrators of R. D. Rowland and James M. Crook, to the reimbursement of an amount paid by them for certain lands purchased of the Government, and of which they have been deprived by the claims of certain Indians thereto; which was referred to the Committee on Indian Affairs.

Mr. HARLAN presented five petitions of citizens of Iowa, praying for the establishment of a mail route from Burlington to Farmington in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. PUGH presented a petition of merchants and others at Toledo, Ohio, praying for the enactment of a law to regulate and establish a system of lights to be carried at night by sailing vessels navigating the lakes; which was referred to the Committee on Commerce.

He also presented a petition of merchants and others at Toledo, Ohio, praying that the act of March 5, 1856, authorizing the Secretary of the Treasury to change the names of vessels in certain cases, be repealed; which was ordered to lie on the table, the Senate having already passed a bill for this object.

Mr. STUART presented a memorial of the Oakland County Agricultural Society, praying that a donation of public land be made to each of the States, for the encouragement and promotion of agricultural education; which was referred to the Committee on Public Lands.

He also presented a memorial of citizens of that portion of the public domain situated on the west side of Lake Pepin and the Mississippi river, in the Territory of Minnesota, praying to be allowed the benefits of the preemption law; which was referred to the Committee on Public Lands.

Mr. JONES presented a memorial of the register and receiver of the land office at Fort Dodge, Iowa, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

Mr. BIGLER presented the memorial of Douglass Ottinger, of the United States revenue service, praying for permission to exhibit before the appropriate committee, his invention of an apparatus for rescuing the passengers and crews of sinking vessels, on the open sea; which was referred to the Committee on Naval Affairs.

Mr. YULEE presented the petition of Bernard M. Byrne, a surgeon in the Army, praying to be allowed compensation for certain special services rendered under contract with the commanding officer at Fort Gillette, Florida; which was referred to the Committee on Claims.

Mr. BRIGHT presented a memorial of the register and receiver of the land office at Indianapolis, Indiana, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

Mr. SLIDELL presented the petition of George Frasier, praying for compensation for losses occasioned by the unauthorized acts of Mexican authorities, in the year 1840; which was referred to the Committee on Foreign Relations.

Mr. FOSTER presented the memorial of Henry Collins Flagg, of New Haven, Connecticut. The memorialist sets forth that he is the oldest and only surviving son of the late Doctor Henry Collins Flagg, of Charleston, South Carolina; that his father served during the war of the Revolution as surgeon, and as apothecary general from the commencement to the close of the war, and died in the city of Charleston, South Carolina, in the month of April, 1801, leaving a widow and three children; the widow has since died, and of the three children the memorialist is one, Mrs. Wigfall, the widow of Thomas Wigfall, of South Carolina, another, and Ebenezer Flagg, since deceased, leaving a widow and children, the third, Doctor Flagg, under the resolves of the Continental Congress, was entitled to half pay for life both as surgeon and as apothecary general from the close of the war to the time of his death. During his life he never received that half pay,

nor any commutation or consideration for it. His descendants since his decease have received nothing.

The memorialist, under these circumstances, presents his memorial, because it is in no other way that he can bring the subject to the attention of the Government. He disclaims, however, altogether, the idea of standing in the attitude of appealing to the generosity or the magnanimity of Congress. He places his claim on the ground that he is a creditor of the Government, and asks pay for an honest debt. He asks, of course, only that proportion which would belong to him as one of the children of the late surgeon general. I move that the memorial be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WILSON, it was

Ordered, That Eliza G. Townsend have leave to withdraw her petition and papers.

On motion of Mr. TRUMBULL, it was

Ordered, That the memorial of Lewis Morris, and the petition of S. W. Aldrick, and other officers of the Tanpico Mounted Rangers, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. BENJAMIN, it was

Ordered, That the petition of Daniel Whitney, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. JONES, it was

Ordered, That the petition of William White, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS FROM COMMITTEES.

Mr. JONES, from the Committee on Pensions, to whom was referred the bill (S. No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment, United States Army, reported it without amendment, and submitted a report; which was ordered to be printed.

Mr. COLLAMER, from the Committee on the Judiciary, to whom was referred the letter of William D. Elam, asked to be discharged from its further consideration; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the memorial of citizens of Mississippi in relation to the office of chaplain in the public service, presented January 12, asked to be discharged from its further consideration; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the petition of members of the bar of the circuit and criminal courts of the District of Columbia, reported a bill (S. No. 64) to equalize the salaries of certain judges of the courts for the District of Columbia, and for other purposes; which was read, and passed to a second reading.

Mr. CLAY, from the Committee on Commerce, to whom was referred the report of the Secretary of War, in relation to the erection of a fort at New Inlet, North Carolina, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

ADVERSE REPORT.

The Senate proceeded to consider the adverse report of the Committee on Public Lands on the petition of the children of Polly Colgrove; the memorial of W. P. Wright, Mark Sheppard, and others; the petition of John A. Ragan; the petition of Salmon G. Grover, and others; the petition of J. M. Morrill; and the petition of citizens of New York, asking a division of the public domain into farms for actual settlers; and the report was concurred in.

BILLS INTRODUCED.

Mr. HUNTER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 8) to provide ice-boats on the Potomac river; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 63) making a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 62)

to establish an additional land district in the State of Iowa; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 9) for the compensation of R. R. Richards, late chaplain to the United States penitentiary, for his salary up to the 30th of June, 1857; which was read twice by its title, and referred to the Committee on the District of Columbia.

TROOPS IN KANSAS.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish the Senate a statement showing the number of troops stationed in Kansas each quarter, since the 1st day of January, 1855, down to the present time.

NATIONAL FOUNDRY.

Mr. BIGGS. I offer the following resolution, and ask that it may be considered now:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing a national foundry on Deep river, in the State of North Carolina; and that they report by bill or otherwise.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. BIGGS. I do not propose to detain the Senate, but simply to call the attention of the Committee on Military Affairs to an important report made on this subject by a very distinguished geologist, now the State geologist of North Carolina, and favorably known throughout the country—Professor Emmons. On this important subject, he has made a special report to the Governor of North Carolina, with which I will, at the proper time, furnish the committee, in which he enumerates the advantages of a foundry at this particular point, as follows:

"Its abundant supply of bituminous and semi-bituminous coals of the best qualities; its vast resources for the manufacture of iron; its materials for construction in wood and stone; ample water power; its soil and productions; and its climate and good water. Besides, it will be out of the reach of any enemy in time of war.

"A railroad is now being constructed from the coal fields to Fayetteville, which would give the United States Arsenal at the latter place easy communication with the foundry."

I hope it will receive the favorable consideration of the Committee on Military Affairs.

The resolution was adopted.

CAPITOL EXTENSION.

The VICE PRESIDENT. The next business in order is the report from the Committee on Public Buildings and Grounds, in reference to assigning the rooms in the north wing of the Capitol.

The Senate proceeded to consider the report.

Mr. DAVIS. I propose to make one change in the assignment, so that the room which was assigned to the Vice President be given to the Committee on Finance, and the room assigned to the Committee on Finance be given to the Vice President.

The amendment was agreed to; and the report as modified was adopted.

HENRY VOLCKER.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 39) to confirm the title of Henry Volcker to a certain tract of land in the Territory of New Mexico.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. Shall the bill pass?

Mr. STUART. When that bill was up the other day, I remarked that I thought it was important that the chairman of the Committee on Private Land Claims should state to the Senate the grounds on which the committee had acted. The honorable Senator was not then in his seat, and the bill was laid over for the purpose of obtaining that information. It seemed to me, from the reading of it, to involve some important questions. It would appear that this land was granted by the State of Texas, it being now in New Mexico; I therefore inferred that it was land which was within a boundary formerly claimed by Texas; but that in adjusting the boundary, when Texas was admitted into the Union, it fell within the limits of New Mexico, and consequently was paid for by the United States, the United States having given \$10,000,000 to Texas to accept of that boundary. Now the case, as presented, so far as I can learn from the bill, proposes that the Uni-

ted States shall confirm the grant which was made by Texas. It may be right; but it seemed to me to be a case which needed some explanation, and I hope the honorable Senator will state what the facts are.

Mr. BENJAMIN. Mr. President, the facts connected with this claim are stated in the report made by the committee. By an act of the Congress of the Republic of Texas, approved the 19th of December, 1836, the western boundary of Texas was declared to extend to the Rio Grande river; and by a map prepared under the direction of the War Office, in 1844, the Rio Grande was also laid down as the western boundary of Texas. After the annexation of Texas to the United States, this Government recognized the boundaries of Texas as defined by the act of Congress of the Republic of Texas, approved the 19th of December, 1836; so at the date of the certificate from the board of commissioners, to a period beyond the time of the location and survey of this land, the land covered by the location and survey was within the territory belonging to Texas, and was subject to location and settlement under the authority of that State. Texas was on the eve of issuing a patent for this land—the survey was completed on the 22d of July, 1850—but by the series of compromise measures which took effect on the 9th of September, 1850, this portion of the Territory of Texas was ceded to the United States.

The question simply is, whether this inchoate title does not vest in the petitioner a right to claim from the Government a patent for his land. That, under the decisions of the Supreme Court of the United States, even in the case of territory acquired from enemies, is beyond question. This man had his survey, his location, his confirmation, and would have had his patent within a month, had not the act of Congress of the 9th of September, 1850, intervened, which deprived the government of Texas of the power of issuing a patent to protect this inchoate title. This bill merely perfects the inchoate title of this man, who has settled on this tract of land by virtue of the authority of the State of Texas, and has a perfect title from that State, with the exception of the issuing of a patent, and had it at the time of the passage of the act of Congress of 1850.

Mr. STUART. From my recollection of the portion of the report which was read on Thursday, this tract of land was received by this individual from the State of Texas by way of donation, the consideration being settlement upon it. Am I right about that?

Mr. BENJAMIN. Yes, sir.

Mr. STUART. So that there was never any thing paid to the State of Texas. He went on the ground and occupied it as a citizen of Texas, and now claims title under that grant.

Mr. BENJAMIN. Yes, sir.

Mr. STUART. Well, Mr. President, I certainly, not being any better informed about this case than I am, cannot undertake to dispute the propriety of it; but it struck me, on the first reading of the report, and does now, that there was no ground on which this individual should receive this land as a mere donation from the Government of the United States. I did not hear any facts in the report which went to show a set of equitable circumstances—

Mr. BENJAMIN. Will the Senator allow me to interrupt him?

Mr. STUART. Certainly.

Mr. BENJAMIN. The original certificate is dated in the year 1846, and shows the settlement, by one Simon Prado, upon this land, by virtue of the laws of Texas, which authorized the settlement, and granted a certain tract of land to the person who had settled. The laws of the State of Texas required a location and survey of the land. The right of this settler was recognized by the State of Texas. The land was located and surveyed. It is the homestead of the grantee.

Mr. STUART. Does he reside on it?

Mr. BENJAMIN. The present petitioner is the assignee of the original settler.

Mr. STUART. Does he reside on it?

Mr. BENJAMIN. That is not stated in the petition. I am not aware that the present petitioner resides on the land, but he purchased it from the settler who did reside on the land, and whose title was perfect with the exception of the paper patent. The location, the survey, the confirmation by the commissioners, everything was complete at the

moment of the passage of the act of Congress. The survey having been completed in July, and the act of Congress passed in September of the same year, there was not time for the issuing of a patent before the annexation of this portion of the territory of Texas to New Mexico. The inchoate title, the equitable title in the man, is complete.

Mr. STUART. Will the Senator allow me to ask him a question in connection with this subject? Does he know the character of this land? Is it agricultural or mineral? Do the papers in the case show?

Mr. BENJAMIN. I understand it to be agricultural land.

Mr. STUART. Do the papers in the case show that?

Mr. BENJAMIN. The papers do not show it, but they show that the grantee settled upon the land and had his homestead there; and this land, thus settled upon, granted by the State of Texas to the settler, was transferred by him to the present petitioner. The original settler was named Simon Prado. I have not the slightest idea that this land is mineral land. It is not in the section of country where mineral lands are found. It is on this side of the Rio Grande.

Mr. STUART. I dislike to interfere with any such case as this which I have not had an opportunity to examine. The proceedings on the bill to-day were had when my attention was drawn away from the business before the Senate; and I would be obliged to the Senator if he would allow me to enter a motion to reconsider the vote ordering the bill to a third reading, and let it stand a day or two, and I will look into the papers and see if I find any objection to it.

I say to the Senator again, that I do not wish to interfere with the business of his committee; but it strikes me there is something in this case which ought to be looked into. If this is mineral land, there is strong reason why the title should not be granted; and also, if it is a grant made on condition of settlement, and there is no settlement on it now, and it is not really the homestead of the person who makes the claim, then I see no reason why it should be done; but if it is not mineral land, and the present claimant is the occupant of the land under the original grant from Texas, I should think the grant ought to be made by the United States. I should be glad to have a little time to look into it, if the Senator has no objection.

Mr. BENJAMIN. I certainly can make no objection to that.

Mr. STUART. Then I make the motion to reconsider the vote ordering the bill to a third reading, and allow it to be passed over.

The motion to reconsider was entered.

PRESENTATION OF MEDALS.

The joint resolution (S. No. 5) to authorize certain officers and men engaged in the search for Sir John Franklin, to receive certain medals presented to them by the Government of Great Britain, was read a second time, and considered as in Committee of the Whole. There being no amendment offered, the joint resolution was reported to the Senate without amendment.

Mr. MALLORY. This joint resolution was introduced at the suggestion of the Secretary of the Navy, who has furnished the Committee on Naval Affairs with a letter, stating that several medals, prepared by the British Government, are ready for presentation to parties who have gone on the expeditions fitted out in the United States for the search of Sir John Franklin. The resolution is simply to enable the officers and men to receive them.

The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

WILLIAM B. TROTTER.

The bill (S. No. 52) for the relief of William B. Trotter, was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Secretary of the Treasury to pay to William B. Trotter, of Clarke county, Mississippi, \$1,680, in full of all demands growing out of the emigration and subsistence of Choctaw Indians in the State of Mississippi, in the year 1831, under a contract with the United States.

The United States obliged itself, by a treaty with the Choctaw Indians, in 1830, to remove the Choctaw people from the lands which they

then occupied in the State of Mississippi, to other lands which had been set apart for them in the West. In pursuance of this obligation, the Government, through its agent, George S. Gaines, Esq., contracted with the petitioner to subsist a party of thirteen hundred and thirty-two Indians while they should be on their way from the rendezvous to Pearl river, at the rate of six cents per ration. The party set out on October 26, and reached its destination on November 12, 1831. It is shown by the official certificate of the assistant emigrating agent, and by the vouchers filed, that the petitioner executed his contract according to its stipulations. The certificate is in these words: "I do certify, on honor, the above rations (23,976) were issued at six cents per ration, and I believe must have cost the contractor twenty-six cents."

The petitioner complains that he was grossly misled by representations made to him as to the quantity and price of provisions in the country through which he was to pass; and of the truth of this declaration, the committee entertain no doubt.

The bill was reported to the Senate without amendment; ordered to be engrossed for a third reading, was read the third time, and passed.

KANSAS AFFAIRS.

The Senate proceeded to the consideration of the motion to refer so much of the President's message as relates to Kansas affairs to the Committee on Territories.

Mr. HALE. Mr. President, in addressing myself to the Senate, on this occasion, permit me to say that I am not one of those who think that the introduction of this subject into the debates of the Senate was either premature or ill-timed. I believe that it was appropriately introduced; that its introduction was expected by the public; and, considering the extraordinary position of the President of the United States, I should think that those who differed from him widely upon the measure which is so prominent would have been derelict in their duty if they had failed to challenge at the very outset the doctrine promulgated in his message. I may excuse myself—and I can only speak for myself, though it is not impossible that some friends who sympathize with me may have been governed by the same motive—when I say that thus far I have refrained from throwing myself prominently before the Senate and before the country on this question, for the reason that I believed there was a greater curiosity in the land to know what other men thought, and what they would say, than there was to know what so humble an individual as myself would say.

Amongst those gentlemen for the expression of whose sentiments the public waited with deep, and earnest and anxious solicitude, prominent stood the Senator from Illinois, and however I may animadvert upon his position in some respects, I must do him the credit to say that in that emergency he fully met the public expectation, and frankly and ably met the issue which the President had tendered to him. So far I accord with him, and as I accord with him on one other point, I may as well mention it at once, and then go on to the divergence. I agree with him in opposing this Lecompton constitution, in opposing the recommendation of the President to force it on the necks of an unwilling people; I agree with him there entirely and fully; but I am not opposed to the Lecompton constitution, I am not opposed to the President's attempt to force it on the necks of that people, I am not opposed to this attempt to substitute force for reason, because it is contrary to the principles and policy of the Nebraska bill, but because it is in exact conformity with them, part of the original programme, carrying it out, if not in letter, in spirit exactly. Sir, if there has been a controversy between that distinguished Senator and the President of the United States, I think the palm of victory must be awarded to the President, and that notwithstanding he was out of the country, away over in England, discharging the high diplomatic duties which his country had devolved on him, I think when he undertakes to bring in the Federal army to force this constitution on the people of Kansas, he shows that he understands the Nebraska bill just exactly as well as if he had been here, part and parcel of it at the time it was passed. That is the reason why I am opposed to this measure. I was opposed to the bill; I have been opposed to it in its

origin, in its progress, in its consummation, and in its effects. I was opposed to the planting of the seed, to its swelling and bursting into life, to its spreading foliage, and I am opposed to the ripe fruit which we are about to gather from it. Having said that, I come back to say what the object of the bill was.

I have but one rule by which to judge of the objects of public acts, and that is, by reading them; and thus seeing what their purport, their meaning, their object, and their intent is, as embodied in the bill itself. I do not go to the motives of individual gentlemen who voted for the bill and ask them what it means; and if I were in a court of law, and the construction of the Kansas-Nebraska act was up, and I could bring the affidavit of every man that voted for it, and that they should swear that it was not their intention to introduce slavery into any Territory or State, that would not be received by the court; it would not begin to raise a presumption as to what the intention of the act was. But, sir, you must look to the act itself, to the history of the times in which it was passed, and to the state of things to which it was made to apply, in order to get at its object.

The Kansas-Nebraska bill on its face professes to be a very harmless affair. The gist of it is comprised in these few lines:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

We begin to understand something of the great popularity of this bill at the South. It is because Congress most graciously condescends to inform the slave States that they do not mean to abolish slavery in those States—"it being the true intent and meaning of this act not to"—"exclude slavery from any State." The representatives of those States must have breathed more freely, as Mr. Webster said on another occasion, when they were assured that Congress did not mean to abolish slavery in their States. We had said so individually, over and over again; but, I take it, the public mind must have been put at rest when it was embodied in a solemn legislative enactment, that the Congress of the United States did not mean to abolish slavery in any State. The act goes further, and assures us of the free States that Congress did not mean to legislate slavery into our States. Sir, this was gracious and gratuitous. I do not know how gentlemen may receive it, but I tell the Congress of the United States that when they declare that they do not mean to legislate slavery into New Hampshire, and when the Supreme Court of the United States say they mean to adjudicate that it is there or is not there, I will fling it in their face with the contempt that such a gratuitous offer deserves. I shall have something to say about the Supreme Court by-and-by; and lest I should shock the sensibilities of some men who look with great reverence on that tribunal, I shall preface my remarks, in regard to it, with some extracts from the writings of Jefferson, as a sort of breaking-up plow, before I come with a sub-soil one. I shall come to that, however, presently.

I aver here that the object of the Nebraska bill was to break down the barrier which separated free territory from slave territory; to let slavery into Kansas and make another slave State, legally and peacefully if you could, but a slave State anyhow. I gather that from the history of the times, from the character of the bill, from the measure, the great measure, the only measure of any consequence in the bill, which was the repeal of the Missouri restriction. I know gentlemen say they did not mean it, but I cannot deal with individuals. I must deal with the act and with the Government; I must deal with the purport of the act, and the policy of the Government in passing it. I know no other rule by which to judge of an act but to examine the natural and legitimate consequences that are to follow from it. In discussing this matter I may say some things that have been said by others, and possibly some that have been said by myself before; but the difficulty is, that these obnoxious doctrines are pushed at us so frequently that in meeting and resisting them it sometimes becomes necessary to travel over ground which has been occupied before.

I say then, sir, that the rule by which to judge of the intent, the object, the purpose of an act is

to see what the act is calculated to do, what its natural tendency is, what will in all human probability be the effect. Before the passage of the Kansas-Nebraska act there stood upon your statute-book a law by which slavery was prohibited from going into any territory north of 36° 30'. The validity and constitutionality of that law had been recognized by repeated decisions of the courts of the several States. If I am not mistaken, I have a memorandum by me showing that it had been recognized by the supreme court of the State of Louisiana. So far as I know, the constitutionality of that enactment was unquestioned, and the country had reposed in peace for more than a generation under its operation. By-and-by, however, it was discovered to be unconstitutional, and it was broken down. The instant it was broken down slavery went into Kansas; but still gentlemen tell us they did not intend to let slavery in; that was not the object! Let me illustrate this. Suppose a farmer has a rich field, and a pasture adjoining, separated by a stone wall which his fathers had erected there thirty years before. The wall keeps out the cattle in the pasture, who are exceedingly anxious to get into the field. Some modern reformer thinks that moral suasion will keep them in the pasture, even if the wall should be taken down, and he proceeds to take it down. The result is that the cattle go right in; the experiment fails. The philosopher says: "Do not blame me—that was not my intention; but it is true, the effect has followed." I retort upon him: "You knew the effect would follow, and knowing that it would follow you intended that it should follow."

But, sir, we are not without the book on this subject, if we are compelled to go to the avowed declarations and sentiments of the gentlemen who advocated the bill. An honorable Senator who usually sits before me, but who is not now in his seat—I mean the Senator from South Carolina, [Mr. EVANS,] and I may say of him, what I would not say if he were present, a man in whose heart and in whose lips there is no guile and no deceit, a man who could not utter a falsehood if he tried—in 1856 delivered a speech on this question, in which he divulged and laid open, as his own character, is the purpose he had in voting for the bill. He was speaking for the South, and no man of all the South controverted him and said nay. I will tell you what he said—I shall not use his very words, but I will state his argument fairly. He referred to a declaration of the honorable Senator from Massachusetts, [Mr. WILSON,] and said the Abolitionists had avowed that it was their intention to abolish slavery in the Territories and in the District of Columbia, and he apprehended that their purpose was to abolish it everywhere when they could, and that they would, when they got the power, abolish slavery, not only in this District and in the Territories, but in the States. He said that that consummation was to be reached by an amendment to the Federal Constitution authorizing Congress to do this, which requires the assent of three fourths of the States, and in this view of the controversy, one slave State was as good as three free States, and therefore as a guarantee against the encroachments of the anti-slavery spirit, they wanted Kansas for a slave State. That is the argument of the honorable Senator from South Carolina. It is the truth—no more true after he said it than it was before; no more palpable to any man who would not see after the avowal, than it was before.

That was the purpose, but the bill itself says its object was to leave the people "perfectly free." It seemed to intimate that we had a kind of freedom in this country before, but it was an imperfect sort. They were mere tyros, those old men of the revolution, those gray-headed sages of the Federal convention, hoary and venerable with age, ripe with experience, honored and venerated for their lives of fidelity and of valor; they had but an imperfect notion of freedom. It was reserved to the new lights of this latter day to discover and proclaim to the world what perfect freedom was, and the illustration was to be made in Kansas. I shall trace the history of it presently. It seemed to be implied that there never had been perfect freedom in the formation of any constitution before. I stand here, sir, amid the representatives of thirty-one States, a majority of whom, I think, have emerged from a territorial condition to one of State sovereignty; and I ask the Senators from

each and every one of them, if, in the formation of your State constitutions, your people did not enjoy perfect liberty? Was any restraint imposed upon you? In the case of California, it was said that her constitution was formed under the prestige of a military proclamation issued by General Riley; but I ask the Senators from California, called as that convention was, whether, when the delegates got together, they did not exercise perfect freedom, and form and submit to Congress just exactly the constitution which the popular sense of that State demanded? I ask the representatives of those States carved out of the Northwestern Territory, where the great ordinance of freedom, which is attempted to be stricken down, was in force, whether, when they came to deliberate upon the high question of the formation of a State constitution, preparatory to their admission into the Federal Union, they were not perfectly free? Was any restraint imposed upon Ohio, that giant State of the West? Did she inscribe freedom upon her constitution, contrary to the wishes of her people, at any one's behest? Was it so in Illinois? Was it so in Indiana? Has any State of this Union, anywhere, formed a constitution and presented it to Congress without the exercise of perfect freedom? If there be any, let them speak. No, sir; it is not true. Our fathers knew what perfect freedom was, and they exercised it. I have inquired as to the new States, and no man gainsays me. Now, let me ask how was it in the old States? Were their constitutions formed under constraint, or were the people of each and every one of these confederated States perfectly free in the formation of their constitutions? No one will deny that they enjoyed perfect freedom.

Having stated what I believe to have been the object of the bill, I propose to inquire how perfect freedom has been carried out in Kansas. Another term became popular about the same time, about which I have a word to say, and I will carry it along with perfect freedom, and that is "popular sovereignty." What has been the history of the application of "perfect freedom" and "popular sovereignty" to Kansas? The people of Kansas were to have the real, the unadulterated, the genuine "perfect freedom." They were to illustrate the great doctrine of popular sovereignty as it never had been illustrated on this continent before. What was the first step? In the first place you made a code of laws for these sovereigns. You would not let them begin under their own laws. To start with, you piled upon them every law that Congress, in its wisdom or folly, had ever made from the beginning of the Government to the passage of that act, except, as Mr. Benton well said on another occasion, a little short act, not as long as your finger, made expressly for them, and the only one in the whole nine volumes that was made for them, and that was one abolishing slavery. That act you excepted; but you piled upon them every other law you had passed without distinction, except those which were locally inapplicable. You made a Governor for them; you appointed their marshals, their attorneys, and all their officers; you made their laws, and sent the men to administer them. Thus you started them on the great career of developing and illustrating popular sovereignty.

What was the next chapter? You left to them on paper the poor privilege of voting; and having been flattered into the idea that they were a community of popular sovereigns, I suppose they came together with high hopes of manifesting that sovereignty at the first opportunity which presented itself, and that was when an election came off for members of the Territorial Legislature. When that came what did they find? Did a mob go over from Missouri? No, sir. I will not do them that discredit. There was not a mob, but an army there—an army with flags flying, drums beating, with tents and all the paraphernalia and equipments of an army. They went over, took possession of the Territory, drove the popular sovereigns from the ballot-box, substituted the cartridge-box for the ballot-box, elected their own men, and then went back over the river singing their songs of triumph, and proclaiming through the columns of the public papers in the State of Missouri, the great victory which they, by their prowess, had achieved. This was the second illustration of popular sovereignty in the history of Kansas.

If I understand the history of the times, I am

not speaking of matters in regard to which there is any dispute or controversy. About some things there may have been some doubt, some cavil, some controversy; but I believe the truth of the statement will not be disputed, that at the first election in Kansas for members of the Territorial Legislature, the legal voters were forcibly expelled, and illegal voters took possession of the ballot-boxes. It is wide of my argument to say in how many election precincts this was done. If it was done in one, that is enough for my argument. I believe it was done in a majority of them; but if it was done in one, all that I endeavor to maintain is maintained by this argument. I believe the fact which I have stated will not be controverted. These men elected a Legislature, and they elected their own friends, as was natural. Having got possession of the ballot-box, they were not going to elect their antagonists. The Legislature came together, and what did they do? How did they carry out "perfect freedom?"

It is said now that the controversy was narrowed down to the question whether they should have domestic slavery in Kansas or not. For the purpose of my argument I am willing to concede that. How was "perfect freedom" illustrated on that question? The first Legislature passed an act making it a penal offense, punishable by imprisonment in the penitentiary, for any man to deny that it was right to hold slaves there. This was a glorious chance for "perfect freedom" and "free discussion"—was it not? I can imagine an assembly of the people called together, and they are about discussing the question of what policy shall be inaugurated there, what policy shall be started in their laws, and the great question, which it is said is the only one that divides them, is brought into consideration, and one man gets up and argues in favor of slavery. He says that it is right; that it is a divine institution; that it is one of those things which can be proved by the Bible, and by the Constitution, and by every other book that is worth quoting. He delivers an eloquent, able, and forcible speech demonstrating the propriety, the expediency, the policy, and the righteousness of slavery. After he has sat down, having electrified the audience and convinced their understanding, some man on the opposite side gets up. He says: "Mr. President, I do not believe that slavery is right." His antagonist gets up and calls on the marshal to arrest him, and put him in custody, for he has committed a State-prison offense the moment he opens his mouth, because he has denied that it is right to hold slaves in Kansas; and that, by your authority, by the Federal authority, is declared to be a penitentiary offense.

This Legislature undertake to regulate the right of suffrage there, and they make the right of suffrage dependant on the taking of a test oath to support acts which I think—as we are now satisfied a majority of the people of that Territory hold to be—wrong and abhorrent. But, sir, they cannot exercise the poor right, not of a sovereign, but of a citizen. They cannot go to the ballot-box and deposit a ballot for any officer there until they have taken these odious test oaths. That is the third chapter of popular sovereignty and perfect freedom in Kansas. I think the people of Kansas, by their experience thus far, have become convinced that they do not want any more perfect freedom; but they would like a little of that imperfect kind which the people used to enjoy before the passage of this act.

The Legislature thus imposed upon them by the people of Missouri against their will, was imposed by force and not by fraud. I exempt them from that. They were no vulgar rascals that went over there. It was a conquering army. Having gone over and thus elected a Legislature, and thus made a code of laws which made the annunciation of the great and eternal principles of liberty a penitentiary offense, the government was set in motion. What was the history of that government? One of lawless violence. Your marshal appointed by the President of the United States, summoned together what he called a *posse*—not from Kansas, but from Missouri, by his written handbills sent over to Missouri—and with that *posse* goes into the city of Lawrence to execute some process. After the process is executed, he turns over his *posse*—he got them together for a very innocent purpose—to Mr. Sheriff Jones, and then the law is executed by rifling the houses of

Kansas; robbing them even of the clothing of females and children; the Lawrence hotel is sacked and plundered, the press taken and thrown into the river, and the town set on fire; the inhabitants driven from their homes, houseless wanderers at midnight, without a place to lay their heads, and the flames of their burning dwellings literally painting hell on the sky. These facts, just as notorious as the sun in the heavens, were perpetrated in Kansas, all known to you, sir; all known to the President of the United States; all known to the friends of popular sovereignty and perfect freedom here, in this body, and not a single one of them has a word of condemnation for them. If there is one that lisps a single syllable of blame, he pours out twice as much condemnation upon the victims as he does upon the perpetrators of this outrage.

Well, sir, we go on. This is but a specimen, and is not the whole history. I have not time to go over the whole of it. A second Legislature is elected under the operation of these test oaths, and all these disqualifications. A second time the farce of an election is gone over, and that Legislature, that is to be elected, is about to take the initiatory steps for forming a State constitution, and still, up to the second election, it is a State-prison offense to deny that it is right to hold slaves in Kansas. A second election is had under all these disqualifications—a second chapter of "perfect freedom," and "popular sovereignty!" That Legislature met. They took measures for calling a convention of the people, and, to their credit be it said, they repealed two of the most obnoxious, the most odious, the most indefensible of their statutes; the one that made it a criminal offense to deny that it was right to hold slaves in Kansas, and the other imposing test oaths. Those, I believe, were all the alterations that were made. They make provision according to law for taking the sense of the people and calling a convention. I must hurry over these particulars. The convention is called. It meets in September to frame a constitution. Was it a constitution that was to be framed, and imposed upon the people of Kansas without their consent, and against their will? There were some factious Abolitionists and Black Republicans that did undertake to intimate such a thing, that this convention might form a constitution embodying slavery in it; and that it might be forced on the necks of the people by Federal power and Federal patronage without their consent. But, sir, when that suggestion was made, how was it met? It was met on the part of these gentlemen by an indignant denial. I had not the pleasure of listening to the speech made by the honorable Senator from Michigan [Mr. STUART] the other day; but I understand that he embodied in his speech a written pledge, which the leading gentlemen on that side of the question published and signed their names to, and sent it out to the country, denying the imputation, and pledging themselves that the constitution they were about to form should be submitted to a popular vote.

Under that pledge they were elected; but there were certain preliminaries which were to be gone through with—a census and a registry to be taken and made in the various counties—before they were qualified to vote. The Territory of Kansas was divided, if I am not mistaken, into thirty-four counties; and we have the authority of Governor Walker for saying—it has never been controverted, and the honorable Senator from Ohio [Mr. PUGH] called upon the President for information on that fact, which was charged by Governor Walker, and I have never heard it denied—that in fifteen out of those thirty-four counties, steps were not taken by the Government by which the people could come to the polls. The census and registry were omitted. So says Governor Walker in his letter.

Such as it was, the convention came together, elected under a pledge of many of its members to submit the constitution to the people. They met in September. They took the initiative; they appointed their committees; they laid out the work; and then they adjourned. I am not disposed to deny that that was proper: I suppose it was; but there are some astonishing and curious coincidences about this convention. They adjourned to a period subsequent to the time when the people of Kansas were to vote for the election of a Territorial Legislature, and a Delegate to this Congress. They adjourned to November. The

election took place in October; and then, for the first time, as the test oaths had been repealed, the people of Kansas, without distinction of parties, went to the polls, and the result was, that your pro-slavery Democracy found themselves in a minority of less than one third. The people spoke, nay, they thundered at the polls; and they returned, by an overwhelming majority, a free-State Legislature and a free-State Delegate to the Congress of the United States.

After this expression of public opinion on behalf of the people of Kansas, in November, this convention, which was pledged to submit their constitution to the people, had ascertained that, if they did submit it to the people, the people would reject it; and, therefore, inasmuch as popular sovereignty and perfect freedom were very good things to talk about, but very inconvenient when you come to submit them to a practical test at the polls, by a people that had already pronounced their opinions, it was thought that the safest and most convenient way was to violate their pledges, break their promises, and not submit it to the people. They did not have the courage or manliness to do that right out, but they adopted a subterfuge. They undertook to adopt a mode by which the forms of a submission should be had, while the substance was wanting. I will read to you an extract from a newspaper, and I think that will show you how it was understood by the friends of slavery at that time. I read an extract from a letter published in the Mississippi of November 27th last, in which the writer says:

"Thus you see that whilst, by submitting the question in this form, they are bound to have a ratification of the one or the other; and that, while it seems to be an election between a free-State and pro-slavery constitution, it is, in fact, but a question of the future introduction of slavery that is in controversy; and yet it furnishes our friends in Congress a basis on which to rest their vindication of the admission of Kansas as a State, under it, into the Union, while they would not have it sent directly from the convention."

"It is the very best proposition for making Kansas a slave State, that was submitted for the consideration of the convention."

Yes, sir, that is what they thought in the slave States; that this convention had adopted the very best mode that could be possibly devised for making a slave State of Kansas, and I agree to his judgment that it was; because there was no legal way left by which a man could vote against slavery. He voted for "the constitution with slavery," or "the constitution without slavery." But there is one remarkable fact, and I call the attention of the Senate to it, and it may explain the vote that was given: if they had adopted the constitution without slavery, it would have been a more stringent pro-slavery constitution than it would if they had voted for the constitution with slavery; and I will tell you why. If they had voted for the constitution with slavery they would have left the seventh article entire; and the seventh article contains a provision for the future emancipation of slaves. This article says, in granting powers to the Legislature, in regard to slavery:

"They shall have power to pass laws to permit the owner of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge."

This seventh article, if that were voted in, gives the Legislature a right to provide for the future emancipation of slaves; but if that were voted out, it left in the schedule the only provision on that subject; and in the schedule the provision is:

"If, upon such examination of said poll-books, it shall appear that a majority of the legal votes cast at said election be in favor of the 'constitution with no slavery,' then the article providing for slavery shall be stricken from this constitution, by the president of this convention, and slavery shall no longer exist in the State of Kansas, (except that the right of property in slaves now in this Territory shall in no manner be interfered with.)"

If they had voted out the slavery clause, this provision that the right of property in slaves should in no manner be interfered with, was left the permanent law. If they voted in the permanent law, they voted a provision by which the Legislature might emancipate slaves; and then further in the schedule they have a provision that in all future alterations of their constitution no alteration shall be made to affect the right of property in slaves. That was the doing of this convention, and that is called by Mr. Buchanan a submission to the people. Somehow, when I come to speak of Buchanan, I almost involuntarily call him Van Buren. [Laughter.] I do not know why. There must be something similar in

their characters. When you come to speak of it as Mr. Buchanan does, it seems to me that you cannot by any possibility vindicate it at all.

But I wish to speak of this provision in the constitution that no amendment shall be made in reference to slaves. I know we are living in a day of new lights. New doctrines are constantly propounded, and some rampant Democrats of the new-light order laugh at such a constitutional provision as that. They say, no matter if it be in there; it is idle; a majority of the people can come together and alter the constitution just as they please, or form a new one notwithstanding that provision. I am not going to controvert that doctrine; but I will say that the State which I have the honor in part to represent used to be considered tolerably good Democratic authority; and in our State we have never believed, and have never acted upon the belief, that a mere majority could come together and amend our State constitution; because our fathers inserted in the old constitution a provision that it should require a vote of two thirds to amend it. The doctrine that a mere majority can alter the constitution, never found favor there. We had, a few years ago, a convention called to revise our constitution, and the late President of the United States presided over it. They submitted a great many amendments, and the people voted on them and rejected them all. They then met together again and submitted two specific amendments. The people came together, and by a two thirds vote agreed to adopt one of those amendments; and thereupon it was adopted, and is part of our constitution. As to the other provision, the people voted by an immense majority, lacking a few hundred only of two thirds, to adopt the amendment; but it was not adopted, and forms no part of the constitution. So, sir, Democratic as we have been, we have never held in our State, and never believed, and we have never had a man there who contended, that a mere democracy of numbers could uproot and overturn and eradicate and destroy the fundamental principle of our constitution.

Let me call your attention to another illustration. We have a provision in the Constitution of the United States, by which an equal vote is secured on this floor to every State. Delaware, with her ninety thousand people, and New Hampshire, with her three hundred thousand, stand here voting equally with New York, with her three millions, and with Ohio and Pennsylvania, with their two millions each. It may be that those little States do not send such able men as those great ones. All the preponderance which Pennsylvania or New York can claim on account of the preëminent talent of the gentlemen whom they send to represent them, they are entitled to; but when we come to the sober matter of voting, our little States, with our handful of men, stand equal with the great Empire State of the Union; and our fathers, in their wisdom, or their folly—I do not know what modern Democracy will call it—have provided that, in that feature, the Constitution never shall be amended. Now, sir, I put it to you, I ask you if a mere democracy of numbers came together, in these United States, and undertook to make a new constitution, and to strike out that great radical, fundamental principle, securing the equality of the States on this floor, if this Union would survive that act a day? No, sir; not a day. This Federal Congress never will assemble after that amendment to the Constitution shall be made. Do not talk to me about what numbers can do. There are some things numbers can do, and some things they cannot do. They cannot amend the Constitution of the United States in that behalf in which its framers said it should never be amended. Our fathers thought the equality of States on this floor was the great fundamental principle on which the Constitution should rest, and therefore they have said that, in that respect, it shall never be amended. The framers of the Lecompton constitution, in their wisdom, have thought that slavery is the great corner-stone on which they can best erect an edifice of republican government, and they have said that, in that respect, it shall never be altered and never be amended. Now, sir, if a mere democracy of numbers may come together and blot out that feature of this State constitution, I stand here in behalf of one of the smallest States of the Union, and I ask you what security, what guarantee have we that that same mad spirit, miscalled

reform, will not undertake to strike down also this great fundamental principle of the Federal Constitution? I profess to be a good deal of a Democrat myself, and I am willing to carry out the Democratic principle as far as anybody; but I believe that even democracy itself, sometimes, on extraordinary occasions, requires a little check. The fathers of the Federal Constitution thought so. They thought equality of States was the great vital point which the hand of amendment should not touch. The framers of the Lecompton constitution thought that their great fundamental corner-stone was slavery, and they said that it should not be touched. With this I leave that point.

Now, sir, what had the people of Kansas—sent into the wilderness to build themselves new homes, to subdue the forest, to carry the arts of civilization, of science, of learning and religion, and found and build there a new empire, under the guarantee of perfect freedom—a right to expect? Had they not a right to expect that when a constitution was formed they were to be heard upon it? Had they not a right to expect it, when the delegates whom they elected had pledged themselves that they should have it; when the President had sent out his Governor with instructions that they should have it; and when, as the President of the United States says, he and all his friends were pledged to it? I will read from his message:

"The act of the Territorial Legislature had omitted to provide for submitting to the people the constitution which might be framed by the convention; and, in the excited state of public feeling throughout Kansas, an apprehension extensively prevailed that a design existed to force upon them a constitution in relation to slavery against their will. In this emergency it became my duty, as it was my unquestionable right—having in view the union of all good citizens in support of the territorial laws—to express an opinion on the true construction of the provisions concerning slavery contained in the organic act of Congress of the 30th May, 1854. Congress declared it to be 'the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way.' Under it, Kansas, when admitted as a State, was to 'be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.'

"Did Congress mean by this language that the delegates elected to frame a constitution should have authority finally to decide the question of slavery; or did they intend, by leaving it to the people, that the people of Kansas themselves should decide this question by a direct vote? On this subject, I confess I had never entertained a serious doubt; and, therefore, in my instructions to Governor Walker, of the 25th of March last, I merely said that when 'a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.'"

I will not read much longer, but I wish to read this extract:

"The friends and supporters of the Nebraska and Kansas act, when struggling on a recent occasion to sustain its wise provisions before the great tribunal of the American people, never differed about its true meaning on this subject. Everywhere throughout the Union, they publicly pledged their faith and their honor that they would cheerfully submit the question of slavery to the decision of the bona fide people of Kansas, without any restriction or qualification whatever."

Then the President, after this avowal, goes on to say that that has been fairly done. Sir, it would be insulting to the intelligence of the Senate and of the country, to argue the question whether it has been fairly done, any longer. This omission to submit the constitution to the people of Kansas is not accidental. I am sorry to find, as I have found out this session, that the omission to put it in the original bill was not accidental. We have a little light on this subject from a gentleman who always sheds light when he speaks to the Senate—I mean the honorable Senator from Pennsylvania, [Mr. BIGLER.] He says that this was not accidental, by any means. He has spoken once or twice about a meeting that was held in the private parlor of a private gentleman. There was a good deal of inquiry and anxiety to know what sort of a meeting that was. The gentleman who owns the house, said he did not know anything about it. That is not strange. The hospitable man let his guests have the use of any room they please. The honorable Senator from Pennsylvania said this meeting was "semi-official." I do not know what kind of a meeting that was. I have heard of a semi-barbarous, a semi-civilized, and a semi-savage people; I have heard of a semi-annual, and semi-weekly; but when you come to semi-official, I declare it bothers me. [Laughter.] What sort of a meeting was it? Was it an official meeting? No. Was it an unofficial meeting? No. What was it? Semi-official. [Laughter.]

I have never met anything analogous to it but once in my life, and that I will mention by way of illustration. A trader in my town, before the day of railroads, had taken a large bank bill, and he was a little doubtful whether it was genuine or not. He concluded to give it to the stage-driver, and send it down to the bank to inquire of the cashier whether it was a genuine bill. The driver took it, and promised to attend to it. He went down the first day, but he had so many other errands that he forgot it, and he said he would certainly attend to it the next day. The next day he forgot it, and the third day he forgot it; but he said, to-morrow I will do it if I do nothing else; I will ascertain whether the bill is genuine or not. He went the fourth day, with a like result—he forgot it; and when he came home he saw the nervous, anxious trader, wanting to know whether it was genuine or not; and he was ashamed to tell him he had forgotten it, and he thought he would lie it through. Said the trader to him, "Did you call at the bank?" "Yes." "Did the cashier say it was a genuine bill?" "No, he did not." "Did he say it was a bad one?" "No." "Well, what did he say?" "He said it was about middling—semi-genuine." [Laughter.] I have never learned to this day whether that was a good or a bad bill. [Laughter.] They used to say, in General Jackson's time, that he had a kitchen cabinet as well as a regular one. This could not be a meeting of the kitchen cabinet, because it sat in a parlor. [Laughter.] It was semi-official in its character also.

Again, sir, there is another thing remarkable about this meeting. The Senator says: "It was semi-official and called"—it was a called meeting; it was not a mere accidental gathering of a few gentlemen coming in to pay their respects to the distinguished Senator in his hospitable mansion; it was "semi-official and called." For what? "Called to promote the public good." Yes, sir; a semi-official meeting called to promote the public good; and what did it do? The honorable Senator from Pennsylvania says:

"My recollection was clear that I left the conference under the impression that it had been deemed best to adopt measures to admit Kansas as a State through the agency of one popular election, and that for delegates to the convention. This impression was the stronger, because I thought the spirit of the bill infringed upon the doctrine of non-interference, to which I had great aversion; but with the hope of accomplishing a great good?"

The meeting was called for the "public good"—and as no movement had been made in that direction in the Territory, I waived this objection, and concluded to support the measure. I have a few items of testimony as to the correctness of these impressions, and with their submission I shall be content."

Then he goes on to say:

"I have before me the bill reported by the Senator from Illinois, on the 7th of March, 1855, providing for the admission of Kansas as a State; the third section of which reads as follows:

"That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection; which, if accepted by the convention, and ratified by the people at the election for the adoption of the constitution, shall be obligatory upon the United States and the said State of Kansas."

"The bill read in place by the Senator from Georgia on the 25th of June, and referred to the Committee on Territories, contained the same section, word for word. Both these bills were under consideration at the conference referred to;—"

Two bills under consideration at this semi-official meeting!

—but, sir, when the Senator from Illinois reported the Toombs bill to the Senate, with amendments, the next morning it did not contain that portion of the third section which indicated to the convention that the constitution should be approved by the people."

The result of this semi-official meeting, called for the public good, was, that the bills came into the Senate the next morning minus the clause submitting the constitution to the people. It was stricken out; but the honorable Senator does not impugn anybody, nor his motives, because he says:

"Who struck the words out, or for what purpose they were omitted, is not for me to answer."

If it is not for him, it is not for me; but I thought he had given a clew to the reason why they were struck out when he said the meeting was called for the public good. Undoubtedly they were struck out for the public good. Who struck them out seems to be a mooted question as uncertain of an answer as that old question, "Who killed

cock-robin?" [Laughter.] It has got out somehow or other. I did not see the Senator when he delivered the speech. If I had I should have watched him closely; and it is possible that by some gesture or some shake of the head he would have determined who that "who" was; but we are left in the dark—we do not know who it was.

You see, then, that this was not accidental. A semi-official set of patriots, friends of popular sovereignty, and disciples of perfect freedom, called for the public good in a private room, met together, and for peculiar reasons—that is what the Senator said—they determined to strike out of their bill the only redeeming feature in it, and that was the submission to the people of the question whether they would have slavery in the constitution or not. In that secret conclave, that semi-official meeting for the public good, these patriots put their heads together to strangle at the birth the only thing there was in their bill which ought to commend it to the real genuine friends of perfect freedom and popular sovereignty. Well, sir, I am learning something every day; but I did not know, till that speech was made, that when we met here in official meeting and matured bills and put them in shape, they were to be committed to the tender mercies of a semi-official meeting to strangle and choke out of them everything that was worth the keeping the breath of life in. They struck down, then, that great principle of popular sovereignty—a principle inestimable to free-men, formidable only to semi-official patriots. [Laughter.] So that this was not accidental; it was purposely done; and this, too, was done in the name of popular sovereignty!

Mr. President, I wish to say a word about that subject. Popular sovereignty, according to the idea of some gentlemen, if it ever existed in this country, had been in a state of catatony until the Nebraska bill brought it into life. I have seen some specimens which I thought were genuine popular sovereignty, and some that I thought were spurious. I will tell you one. In January, 1775, the people of that little State of which I have the honor to be one of the representatives on this floor, met together—not in a private parlor, but in a public hall—and they inaugurated liberty and law in the shape of a written constitution, in which they ignored the existence of the King of Great Britain and his Parliament, and formed a constitution for that State, in defiance of legal authority, eighteen months before the Declaration of American Independence, and before any other State on this continent had a constitution. I have heard that honor claimed for Virginia. I have heard it claimed for North Carolina. Anybody who will read the history of the times, will find that, in January, 1775, eighteen months before the Declaration of Independence, the people of the State of New Hampshire, in the exercise of a real, genuine, unadulterated popular sovereignty, came together, ignored both the King and the Parliament, and spoke out, in the form of a written constitution, the great doctrines of popular liberty regulated by a written constitution. That I call of the genuine kind.

Again, when the delegates of these thirteen old States met together in conclave, and on the 4th of July published their ever memorable and immortal Declaration, in which they avowed that they held the people of Great Britain, as they held the rest of mankind, "enemies in war, and in peace friends," there was popular sovereignty of the genuine and the real kind. It was a popular sovereignty to which those men pledged their lives, their fortunes, and their honor to sustain, and for the sincerity of their convictions and the intensity of their devotion they shed their blood like water, and never gave over until that great doctrine was embodied and made perpetual in the organized form of a written constitution.

There is another instance of popular sovereignty in the history of the country from which we come, that I have always looked upon with admiration the most profound. I refer to the revolution which brought Charles I. to the block. The Commons of England, by a resolution, blotting out the House of Lords, and resolved that the Commons of England had the right of sovereignty in them, Kings and Lords to the contrary notwithstanding; and they determined to bring Charles I. to trial. Passing by all the organized forms of law, ignoring the House of Lords, ignoring all the organized forms in which justice had

been accustomed to speak in that tribunal, the old Commons of England came together and resolved that they, and they only, were the sovereigns of England; that the House of Lords was a useless appendage; that the machinery of their judicial tribunals was not made for such an occasion, nor fitted for such an emergency, and they resolved themselves into a great high court, and they determined in the exercise of that sovereignty thus organized to summon before their bar the King on his throne. Yes, sir, they said that the King on his throne should come down from his high estate, from his elevation of regal sovereignty, and face to face, before the assembled Commons of England, he should plead like a criminal to the popular sovereignty of England. I have here a sketch of the address that the old President read to the King when he came in. They were assembled in the great hall. Old President Bradshaw with his crimson robes sat on his high seat, and around him were the Commons. At last the great doors of the hall were thrown open, and in marched the King of England. No hat was taken from the head; no man rose to do him reverence. There was no indication that anything but a common criminal stood before a high court. The old President rose and said:

"Charles Stuart, King of England, the Commons of England, assembled in Parliament, being deeply sensible of the calamities that have been brought upon this nation, (which is fixed upon you as the principal author of it,) have resolved to make inquisition for blood; and, according to that debt and duty which they owe to justice, to God, the kingdom, and themselves, and according to the fundamental power that rests in themselves, they have resolved to bring you to trial and judgment; and for that purpose have constituted this high court of justice before which you are brought."

Oh, sir, that was judgment; there was nothing semi about that. [Laughter.] The King undertook to cavil with them, and ask them by what authority they tried him; and the president replied, "By the authority of the people of England." The King caviled for several days. He undertook to play the king; he undertook to set off regal sovereignty against popular sovereignty; and anybody that reads Hume's History of England, and takes it for the truth, will read that the King maintained that to the last. It was not so. When regal sovereignty and popular sovereignty thus came in conflict in England, the King endeavored to play the king for a little while, but at last he cowered and quailed, and became a poor suppliant criminal before the Commons of England. They tried him; and at last they came to a conclusion, and pronounced a sentence on him, which I will read, for it is very brief. After reciting the charges that the people of England had brought against him, the president said:

"For all which treasons and crimes this court doth adjudge that he, the said Charles Stuart, as a tyrant, traitor, and murderer, and a public enemy, shall be put to death, by the severing of his head from his body."

And they carried it out. They carried it out right speedily too; for I think in about three days the proud King of England, the successor of the imperious Elizabeth, of the bloody Mary, of the cruel and tyrannical Henry VIII., of the lion-hearted Richard, of the Norman conqueror William, the descendant of that long line of kings, bowed his head upon the scaffold; and it was severed from his body in vindication of the great doctrine of popular sovereignty in England. The shadow of that great event has rested upon the British throne ever since. God bless those old Commons for it. Liberty is safer to-day in the country from which we came, and the country in which we are, on account of the fidelity with which those old Commons maintained, carried out, vindicated, and executed the great doctrine of popular sovereignty. Sir, they wrote it in the blood of kings on the eternal page of history, where all nations may read it; and as long as English history lasts, all time will not efface it.

When I contemplate that sublime exhibition of popular sovereignty, and compare it with your poor, pitiful bantling of the Kansas-Nebraska act, the only object of which was to oppress the weak and hold the humble in subjection to their masters, I confess, sir, Young America notwithstanding, I prefer that old popular sovereignty of the Commons of England, two hundred years old, to the modern specimen which you are to-day illustrating in Kansas. Let me hear no more of this popular sovereignty until we get something of the genuine about it.

It was not my fortune to be in the Senate the other day, when the honorable Senator from California [Mr. BROWDER] spoke. I believe he joins with me in repudiating this attempt. I think that he is in error in one thing, and he will pardon me for telling him so. He lays it to Mr. Buchanan, and he says Mr. Buchanan is the guilty cause of it. Sir, I speak of Mr. Buchanan, as I am going to do, under a sense of duty. I have no unkind feelings towards him, certainly. In the course of my duty, as I performed it according to my convictions, I had occasion, in the last Congress, to say something of General Pierce, not unkindly, I hope. I told him, what he did not believe at the time, but has since found out to be true. I told him that you were using him, and that when you had used him, you would throw him away; that you had no more idea of again making a President of him, than you had of one of those pages. He did not believe me. I think he does now. [Laughter.] I thought you would be a little more generous to him than you were. I thought you would go to the convention, and resolve to have a majority of two thirds to nominate, and that you would pay him the poor compliment of running him up to a majority of one; but the fact was, you felt so awfully doubtful, whether, if you undertook to run him up to a majority, he might not get the requisite vote, and be nominated, that you said, it is a dangerous experiment, and we will not try it; and Pierce went without even that empty compliment. I told him this on the floor of the Senate; and he and his friends had no more sense than to get offended at it.

Now, what I am about to say of Mr. Buchanan, I hope he will not get offended at. I shall be sorry if he does; but I tell you, Mr. Buchanan is not to blame. Mr. Buchanan is not a man to shape events; he is not a man to control the current of public opinion—he nor Pierce either, nor both together. They are not the men to give direction to the current of human events. They are mere vanes placed on high places, showing the direction and the strength of that current which is bearing our national ship to her destiny—that is all. The policy which Mr. Van Buren is carrying out—there it is again, [laughter.] I mean Mr. Buchanan—was indicated in this country long ago. I have before me a document published in 1844, containing the correspondence in relation to the annexation of Texas. Our Secretary of State, Mr. Upshur, in a letter to Mr. Murphy, our Minister in Texas, said:

"The establishment, in the very midst of our slaveholding States, of an independent Government, forbidding the existence of slavery, and by a people born, for the most part, among us, reared up in our habits, and speaking our language, could not fail to produce the most unhappy effects upon both parties."

That is the policy; the establishment of a free State is a calamity; it produces unhappy effects! This was said in reference to Texas. In no sense can Texas be said to be in the midst of our slaveholding States, that will not apply with equal or greater force to Kansas. You have the doctrine, then, that the establishment of a free State, prohibiting the existence of slavery, produces unhappy effects, and to that policy, that the establishment of a free State is an evil, the Government has adhered with a tenacity like death, and with a directness of purpose that is not equalled by the mode in which the needle points to the pole. There is no variation of the needle there to be calculated. The means by which this policy was to be effected was indicated by an article in the Richmond Enquirer, which said that the deserting Democrat who opposed the Administration on this vital measure would have nothing to expect. There is a simple policy and a simple mode of carrying it out. A free State is an evil, and the public patronage is to be used to prevent it! That is it; it is very simple; and anybody who wants to get the true clew to this whole matter; anybody who wants to get hold of the thread to lead him out of the labyrinth in which we are now lost, will find it in this simple avowal of policy, that a free State produces unhappy effects, and that the Federal patronage must be used to prevent it. In other words, the representatives of the people are to be paid with the people's money to prevent the establishment of free States. That is a fair and honest translation of it.

This brings me to another part of my subject, in answer to a question which the honorable Senator from Illinois, [Mr. DOUGLAS,] propounded

when he asked if he was to be read out of the party for a difference on this point. I have great regard for the sagacity of that honorable Senator, but I confess it was a little shaken when he asked that question: is a man to be read out of the party for departing from the President on this great cardinal point? Why, sir, he asks is a man who differs from the President on the Pacific railroad to go out of the party? Oh no, he may stay. If he differs on Central America, very good; take the first seat if you please. You may differ with the President on anything and everything but one, and that is this sentiment, which I shall read; Mr. Buchanan shall speak his own creed. On the 19th of August, 1842, in the Senate, Mr. Buchanan used this language:

"I might here repeat what I have said on a former occasion"—

you see it was so important he must repeat it—"that all Christendom"—

mark the words—

—"is leagued against the South upon this question of domestic slavery."

All Christendom includes a great many people. If that be true, and if you have got any allies, it is manifest they must be outside of Christendom, [laughter,] because Mr. Buchanan says all Christendom is against you; but still he leaves you some allies, and you will see—it is as plain as demonstration can make it—that your allies are not included in Christendom. Where are the allies? I will read the next sentence:

"They have no other allies to sustain their constitutional rights except the Democracy of the North."

There is a fight for you: all Christendom on one side, and the Democracy of the North on the other. [Laughter.] That is not my version; it is Mr. Buchanan's. That is the way he backs his friends; for he went on, after having made this avowal, to claim peculiar consideration from southern gentlemen, and intimated that he might speak a little more freely, having previously indorsed them so highly as this. Well, sir, when all Christendom was on one side, and the Democracy of the North on the other, and the Democracy of the North growing less and less every day—a small minority in the New England States—how could the Senator from Illinois be so unkind, or how could he doubt, if, on this vital question he deserted the Democracy and went over to Christendom, [laughter,] as to how the question would be answered whether he was to be read out of the party? Read out, sir! That question was settled long ago. On this great vital question he is out of the party.

I would not say anything unkind to that Senator, nor would I say anything uncourteous in the world; but my experience in the country life of New England does present to my mind an illustration which I know he will excuse me if I give it. A neighbor of mine had a very valuable horse. The horse was taken sick, and he tried all the ways in the world to cure him, but it was of no avail. The horse grew worse daily. At last one of his neighbors said: "What are you going to do with the horse?" "I do not know," was the reply; "but I think I shall have to kill him." "Well," said the other, "he does not want much killing." [Laughter.] You see, in ordinary times, and on ordinary questions, a little wavering might be indulged; but when it is on one question, and a great vital question, and all Christendom is on one side, and the northern Democracy on the other, to go over from the ranks of the Democracy to swell the swollen ranks of Christendom, and then ask if he is to be read out! I leave that point. [Laughter.]

I have said nearly as much as I propose to say on this part of the subject, and I come now to another branch of it. The tribunal which holds its session under us, seeing the unequal nature of this contest—seeing all Christendom on one side, and the Democracy on the other, with a magnanimity and chivalry which is uncalculating and generous, have thrown themselves into the breach on the side of the Democracy. I mean the Supreme Court of the United States. I believe they have a rule in that court—and my honorable friend from Kentucky [Mr. CRITTENDEN] will correct me if I am wrong in it—by which they will not allow anybody arguing a case before them to speak disrespectfully of any other branch of the Government. That is so. I believe we have not got any such rule here, and I am going to say

of the Supreme Court that which truth and justice demand of me to say. I shall hold them as our fathers held the King of Great Britain—"enemies in war, and in peace friends." I was brought up with a hereditary respect for courts, but I have got rid of it. I began to get rid of it before I came here, but the process has been going on very fast ever since. The Supreme Court of the United States, in a decision which they have recently made, have come down from their place, and thrown themselves into the political arena, and have attempted to throw the sanction of their names in support of doctrines that can neither be sustained by authority nor by history; and I propose to show it. To prove that I do not speak altogether without the book on this subject, I wish to read to you from the opinions of Thomas Jefferson on this very Supreme Court, to show you that I am not the first man who has entertained doubts upon this point. Mr. Jefferson, in a letter to Judge Roane, dated Poplar Forest, September 6, 1819, says:

"In denying the right they usurp of exclusively explaining the Constitution, I go further than you do, if I understand rightly your quotation from the Federalist, of an opinion that 'the judiciary is the last resort in relation to the other departments of the Government, but not in relation to the rights of the parties to the compact under which the judiciary is derived.' If this opinion be sound, then, indeed, is our Constitution a complete *felo de se*. For, intending to establish three departments, coordinate and independent, that they might check and balance one another, it has given, according to this opinion, to one of them alone the right to prescribe rules for the government of the others, and to that one, too, which is unelected by and independent of the nation."

"The Constitution, on this hypothesis, is a mere thing of wax, in the hands of the judiciary, which they may twist and shape into any form they please. It should be remembered, as an axiom of eternal truth in politics, that whatever power in any Government is independent, is absolute also; in theory only at first, while the spirit of the people is up, but in practice as fast as that relaxes. Independence can be trusted nowhere but with the people in mass. They are inherently independent of all but moral law. My construction of the Constitution is very different from that you quote. It is, that each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the Constitution in the cases submitted to its action, and especially where it is to act ultimately and without appeal. I will explain myself by examples, which, having occurred while I was in office, are better known to me, and the principles which governed them."

Again, on the 28th September, 1820, in writing to Mr. Jarvis, from Monticello, he says:

"You seem, in pages 84 and 148, to consider the judges as the ultimate arbiters of all constitutional questions—a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps. Their maxim is—'*boni judicis est ampliare jurisdictionem*,' and their power the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that, to whatever hands confided, with the corruptions of time and party, its members would become despots."

Again, writing to Thomas Ritchie, on the 25th of December, 1820, he says:

"The judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric. They are construing our Constitution from a coordination of a general and special Government to a general and supreme one alone."

Again, in a letter to Archibald Thweat, dated Monticello, January 19, 1821, he says:

"The legislative and executive branches may sometimes err, but elections and dependence will bring them to rights. The judiciary branch is the instrument which, working like gravity, without intermission, is to press us at last into one consolidated mass."

In a letter to Mr. Hammond, dated the 18th of August, 1821, Mr. Jefferson says:

"It has long, however, been my opinion, and I have never shrunk from its expression, (although I do not choose to put it into a newspaper, nor, like a Priam in armor, offer myself its champion,) that the germ of dissolution of our Federal Government is in the constitution of the Federal judiciary—an irresponsible body, (for impeachment is scarcely a scare-crow,) working like gravity by night and by day, gaining a little to day and a little to-morrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the States, and the Government of all be consolidated into one."

I might stand here and read to you for a long time extracts from Jefferson, of the same character. Indeed, I have marked some others, which I may possibly, if I have this speech printed, embody in it.

Mr. BROWN. Will the Senator tell us from what volume of Jefferson's works he is reading?

Mr. HALE. I cannot. I give the dates of the letters.

Mr. BROWN. What is the volume in your hand?

Mr. HALE. This is a little volume I got up for this occasion.

Mr. BROWN. That is an edition of HALE's works. [Laughter.]

Mr. HALE. Yes, sir; this is an edition of HALE's works. I have another authority, which, I have no doubt, will sound with more force to some, as Mr. Jefferson does not belong to Young America. This is in the same book, and the extract is to be found in the Appendix to the Congressional Globe, vol. 29, page 347. Mr. TOOMBS said:

"The only difficulty on this point has arisen from some decisions of the Supreme Court of the United States. It is true, they have talked vaguely about the doctrine of the general sovereignty of the Federal Government. I attach but little importance to the political views of that tribunal. It is a safe depository of personal rights; but I believe there has been no assumption of political power by this Government which it has not vindicated and found somewhere."

It was the opinion of that distinguished Senator that no assumption of political power by this Government had ever occurred which the Supreme Court had not vindicated and found somewhere. I think if that honorable Senator were to review this subject now, with the increasing light of history, he would find, at least, one exercise of power by this Government which the Supreme Court of the United States have not vindicated, and have not found somewhere, though I think almost anybody else can find it everywhere, and that is the power which was exercised prior to the Constitution, and under the Constitution down to the present time, and in force while I speak, on your statute-book to prohibit slavery in the Territories. That is an assumption of political power which the Supreme Court of the United States have not found anywhere. While, as the distinguished Senator from Georgia says, there is no assumption of political power by the Government which that court have not vindicated, I tell him whenever this Government has undertaken to act in the slightest degree in the exercise of its constitutional authority to limit or restrain slavery, the Supreme Court have not found a place anywhere where it could be vindicated or sustained.

Mr. TOOMBS. That was true when uttered, but it is not so now.

Mr. HALE. The honorable Senator says it was historically true when it was uttered, but it is not true now. Well, it was not uttered a great while ago. They must have had a very sudden conversion, for the speech is not three years old.

Mr. TOOMBS. The Dred Scott decision has been made since that.

Mr. HALE. The Senator admits everything I said. I have not put before the Senate the position of these two illustrious names, one dead and the other living—Jefferson and Toombs—because I want to invoke the sanction of their names to cover my opinion; but I want to throw them out, so that those who are not advised upon the matter may not think I am the first man who has ever attempted to lift that silver vail with which this "vailed prophet"—the Supreme Court—hides the hideousness of its features. Having said thus much, I come to the work. It is that very Dred Scott case that I am coming to.

There are two positions, and but two, in this decision which I am going to examine. The Supreme Court of the United States have declared that the right to hold slaves, and to trade in slaves, was universally recognized in England and in this country at the time of the American Revolution and the adoption of the Federal Constitution. That matter is so distinctly set forth that I will send to the Chair an extract, and ask the Secretary to read it.

The Secretary read it, as follows:

"In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument."

"It is difficult at this day to realize the state of public opinion, in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time of the Declaration of Independence, and when the Constitution of the United States was framed and adopted. But the public history of every European nation displays it in a manner too plain to be mistaken."

"They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to asso-

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ciate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals, as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

"And in no nation was this opinion more firmly fixed or more uniformly acted upon than by the English Government and English people. They not only seized them on the coast of Africa, and sold them or held them in slavery for their own use; but they took them as ordinary articles of merchandise to every country where they could make a profit on them, and were far more extensively engaged in this commerce than any other nation in the world.

"The opinion thus entertained and acted upon in England, was naturally impressed upon the colonies they founded on this side of the Atlantic. And, accordingly, a negro of the African race was regarded by them as an article of property, and held and bought and sold as such, in every one of the thirteen colonies which united in the Declaration of Independence, and afterwards formed the Constitution of the United States. The slaves were more or less numerous in the different colonies, as slave labor was found more or less profitable; but no one seems to have doubted the correctness of the prevailing opinion of the time."

Mr. SEWARD. With the leave of the honorable Senator, I perceive that he is not through with his argument, and not likely to be very soon, and yet I suppose he is on a point where it will be convenient to stop; and as the honorable chairman of the Committee on Naval Affairs has expressed a desire to have an executive session to-day, I will, if the honorable Senator from New Hampshire has no objection, or if it is perfectly convenient to him, move that the Senate proceed to the consideration of executive business.

EXECUTIVE SESSION.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, January 18, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. R. Eckard.

The Journal of Friday was read and approved.

CHARGES OF CORRUPTION.

The SPEAKER announced that he had appointed Messrs. STANTON, MOORE, KUNKEL of Pennsylvania, WRIGHT of Georgia, and RUSSELL, a special committee to investigate the matter of the alleged corruption of members or officers of the last Congress, in the disbursement of the item of \$87,000, charged in the books of Lawrence, Stone & Co., of Boston, in connection with the passage of the tariff law of 1857.

COLUMBIA DEAF AND DUMB INSTITUTION.

The SPEAKER announced the business first in order to be the motion of Mr. WASHBURN, of Maine, to suspend the rules for the purpose of his introducing the following resolution:

Resolved, That the use of the old Hall of the House of Representatives be allowed, on Friday evening next, to the Columbia Institution for the instruction of the Deaf and Dumb and the Blind, incorporated by Congress at its last session, for an exhibition of the progress made by the pupils of that institution.

Mr. WASHBURN, of Maine. I desire to modify the resolution by substituting Thursday instead of Friday; and I would say that the Hall has been heretofore granted for similar purposes.

Mr. GRANGER. I hope the House will allow me to present a petition of a very interesting character, and to have it referred. I hope it will be allowed to be read.

Mr. JONES, of Tennessee. Let it go in under the rules.

Mr. GRANGER. It is very brief and very interesting. I presume nobody will object if they will hear it read.

Mr. LETCHER. I object. Let it go in under the rules.

Mr. J. GLANCY JONES. What has become of the resolution of the gentleman from Maine?

The SPEAKER. It is pending before the House.

The question was taken; and there were, on a division, ayes 106, noes 25.

Mr. JONES, of Tennessee, called for the yeas and nays.

The yeas and nays were not ordered; only sixteen members voting therefor.

So the rules were suspended; and the resolution was introduced.

Mr. WASHBURN, of Maine. I call for the previous question on the passage of the resolution.

The previous question was seconded; and the main question ordered.

Mr. JONES, of Tennessee. I move to lay the resolution on the table.

The motion was not agreed to.

The question was taken; and the resolution was adopted.

Mr. WASHBURN, of Maine, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

TEXAS BOUNDARY.

Mr. REAGAN. I ask leave of the House to introduce a bill for reference. I desire to state that it is a bill providing for the running and marking of the boundary line between the State of Texas and the territories of the United States. There is a boundary of some eight hundred miles in length between the territories of the United States and the territory of Texas, which is an open boundary. The people of Texas are locating their land certificates on the territory of Texas, and disputes have arisen among themselves as to whether they may not be encroaching on the territories of the United States. There are other points of view showing the necessity for the passage of this bill; but I think that this of itself is sufficient to show the great importance of having this boundary line run.

Mr. GROW. I do not wish to object to the bill of the gentleman from Texas; but, if we pursue the regular order of business, every gentleman who has bills to introduce can have them introduced. If we allow one or another gentleman to present bills in this way, we will never get to the regular order of business, and one half of the bills cannot be presented. I, therefore, object.

Mr. REAGAN. I move to suspend the rules.

Mr. HOUSTON. I wish to ask a single question. I understand that this is a simple proposition to introduce a bill for reference to a committee?

Mr. REAGAN. It is for reference only.

The Clerk reported the title of the bill as follows:

A bill to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the territories of the United States and the State of Texas.

Mr. MORRIS, of Illinois. I do not know that there is any objection to this bill; but I suppose there is no reason why the rules should be suspended for the purpose of allowing it to be introduced. There are hundreds of other bills in the House, to be introduced, for which there is just as much necessity.

The SPEAKER. The question is not debatable.

Mr. REAGAN. I ask leave to make one additional explanation.

Mr. HARLAN. I object.

The question was taken; and there were—ayes 78, noes 71.

So (two thirds not voting in favor thereof) the rules were not suspended.

BILLS REFERRED.

Mr. SHERMAN, of Ohio. I rise to a question of privilege. I desire to call up a motion made by me on the 5th of January last, to reconsider the

vote by which certain bills from the Court of Claims were referred to the Committee on Revolutionary Pensions.

The SPEAKER. The first question will be on the motion to reconsider the vote by which the Court of Claims bill, No. 44, for the relief of Jane Smith, of the county of Clermont, Ohio, was referred to the Committee on Revolutionary Pensions.

Mr. SHERMAN, of Ohio. I have but a word to say on the subject. I did not understand the matter at the time these bills were referred, on motion of the gentleman from Tennessee, [Mr. Jones,] to the Committee on Revolutionary Pensions, or I should have objected. Under the rules of the House they ought to have been referred to the Committee of Claims. That committee is organized for the express purpose of examining into this class of business. It is composed of lawyers. They have no doubt adopted certain rules by which they will be enabled to give to the reports from the Court of Claims, the speedy, minute, and thorough consideration which they deserve. The rest of the bills from the Court of Claims have gone to that committee, and there is no reason why these bills should not take the usual course. I call for the previous question.

Mr. GREENWOOD. Will the gentleman withdraw the call for the previous question to allow me to put a question to him?

Mr. SHERMAN, of Ohio. I will for that purpose.

Mr. JONES, of Tennessee. I rise to a question of order. The gentleman cannot withdraw the call for the previous question and still retain the floor. The gentleman had concluded his speech when he called the previous question.

The SPEAKER. The Chair is not of the opinion that it is strictly in order, although it has been the practice of the House for gentlemen to withdraw the call for the previous question to answer a question which may be propounded.

Mr. JONES, of Tennessee. The gentleman from Ohio had concluded his remarks before he called for the previous question; and now when he withdraws the call for the previous question, he loses the floor altogether.

Mr. GREENWOOD. In order to relieve the Chair from the difficulty created by the question of order, if the gentleman from Ohio will withdraw the call for the previous question, I will promise to renew it.

Mr. SHERMAN, of Ohio. I withdraw the call for the previous question on condition that the gentleman from Arkansas will renew it before he takes his seat.

Mr. GREENWOOD. I do not desire to interfere with this motion in any shape or any form. I would inquire of the gentleman from Ohio if there is not an express rule of the House requiring all bills from the Court of Claims to be referred to the Committee of Claims?

Mr. SHERMAN, of Ohio. Such is the fact. The 154th rule requires that all these bills shall be referred to the Committee of Claims.

Mr. GREENWOOD. That being the case, I think an improper direction has been given to these bills by the motion of the gentleman from Tennessee, [Mr. Jones,] and that there can be no objection to the motion to reconsider, in order that they may have a proper reference. I call for the previous question.

Mr. JONES, of Tennessee. I move that the motion to reconsider be laid upon the table.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SHERMAN, of Ohio. Is it in order to submit that motion pending a privileged question?

The SPEAKER. The Chair thinks it is. A motion to suspend the rules would have the effect to suspend this rule of privilege, as well as the other rules of the House.

Mr. COMINS. I hope the gentleman from Pennsylvania will withhold his motion for a single moment. The bark Jehu, owned by Daniel

Draper & Son, of Boston, is now lying in New York harbor, waiting only for the passage of a bill upon the Speaker's table authorizing the issue of a register. I hope that bill will be taken up at this time, and passed by unanimous consent.

Mr. J. GLANCY JONES. I insist on my motion.

Mr. WASHBURN, of Maine. Is it in order, pending one motion to suspend the rules, for another similar motion to take precedence?

The SPEAKER. The gentleman is mistaken. The motion of the gentleman from Ohio is to reconsider a vote of the House, and not to suspend the rules.

Mr. J. GLANCY JONES demanded the yeas and nays on the motion to go into committee.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 89, nays 98; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Bishop, Boeck, Branch, Burnett, Caskie, Horace F. Clark, John B. Clark, Clay, Clemens, Cobb, John Cochran, Cockrell, Corning, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dowdell, Edmundson, Edie, English, Faulkner, Florence, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Lawrence W. Hall, Thomas L. Harris, Hickman, Hopkins, Houston, Hughes, Huyler, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lawrence, Leidy, Letcher, McClay, Samuel S. Marshall, Millson, Montgomery, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ruffin, Russell, Seales, Scott, Seating, Aaron Shaw, Henry M. Shaw, Shorter, Singleton, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Ward, Warren, Watkins, Whiteley, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—89.

NAYS—Messrs. Abbott, Andrews, Barksdale, Bennett, Bingham, Bingham, Bliss, Boyce, Brayton, Rufinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochran, Coffax, Comins, Covode, Cragin, Curtis, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Foster, Giddings, Gilman, Gilmer, Goodwin, Granger, Robert B. Hall, Harlan, Hatch, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ricard, Ritchie, Robbins, Royce, Sandidge, John Sherman, Robert Smith, William Smith, Stanton, William Stewart, Tappan, George Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwallader C. Washburne, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Woodson—98.

So the motion was disagreed to.

Pending the call of the roll—

Mr. HICKMAN stated that his colleague, Mr. CHAPMAN, was confined to his room, and had been for a week, by indisposition.

The motion to lay upon the table was disagreed to; and the question recurred on the motion to reconsider, on which the previous question had been demanded.

The previous question was seconded, and the main question ordered; and under the operation thereof the vote referring the bill to the Committee on Revolutionary Pensions was reconsidered.

The question recurring upon the motion to refer to the Committee on Revolutionary Pensions—

Mr. SHERMAN, of Ohio, moved that the bill be referred to the Committee of Claims.

The motion was agreed to; and the bill was accordingly referred to the Committee of Claims.

Mr. JONES, of Tennessee. I now call up the next motion to reconsider upon the Calendar, which is to reconsider a vote by which a bill (C. C. No. 45) for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont, was referred to the Committee on Revolutionary Pensions. It is a case of exactly the same character as the previous one. I will merely remark that this is a matter in which I have no particular feeling. There are a great many cases of this kind—I forget how many, but I suppose a thousand or so, judging from the report of the Commissioner of Pensions, at the present session—and the pensions for the time covered by the decision of the Court of Claims, involve some two million dollars. The question involved is purely a question of pensions, and that of a particular class—the widows of revolutionary soldiers. As it was a question of that character, and as all questions of that sort had heretofore gone to the Committee on Revolutionary Pensions, and as that committee was organized with a view to the investigation of such questions, it did seem to me that it was the proper and the most appropriate committee to investigate the decision which the Court of Claims has made.

And, sir, when I made the proposition in the House to change the reference to the Committee on Revolutionary Pensions from the Committee of Claims, it was unanimously agreed to. Though the rule required them to go to the Committee of Claims, I supposed that unanimous consent, or a suspension of the rules, would leave the House free to give them whatever direction they thought proper. But, if it is the opinion of the House that the Committee of Claims, already, perhaps, burdened with the amount of business referred to it, shall also be charged with the investigation of this subject, I, sir, having, as I said before, no particular feeling on the subject, shall not further resist the action of the House upon the question.

Mr. SHERMAN, of Ohio. I will not reply to the gentleman from Tennessee, but I ask that, by general consent, all the bills upon the Calendar, of the same character, and standing in the same position, may take the same reference.

Mr. JONES, of Tennessee. Let us have them one at a time.

The question was then taken upon the motion to reconsider; and it was decided in the affirmative.

Mr. SHERMAN, of Ohio, moved that the bill be referred to the Committee of Claims.

The motion was agreed to.

The question was next stated upon the motion to reconsider the vote by which the bill (C. C. No. 46) for the relief of Hannah Weaver, of Wayne county, Pennsylvania, was referred to the Committee on Revolutionary Pensions.

Mr. FLORENCE. I ask for a division of the question.

Mr. WARREN. Has the previous question been ordered upon the motion to reconsider?

The SPEAKER. It has not.

Mr. WARREN. I simply desire to say that, feeling an interest, as I always do, in widows, I hope this motion will not prevail.

[A message, in writing, from the President of the United States, was here received, at the hands of JAMES BUCHANAN HENRY, the President's Private Secretary.]

Mr. WARREN. I was induced to make the remark I did by one which fell from the gentleman from Tennessee, [Mr. JONES.] He said that these claims—I know nothing of their character—were in favor of a class of widows, and I am therefore induced to take the same "shute" that the gentleman does in their behalf, because I know he has a very high regard for widows, and I know there is reason why he should appreciate them, as also my friend from Pennsylvania, [Mr. FLORENCE.] I hope, therefore, this motion to reconsider will not prevail, but that they will be permitted to take the course indicated by the gentleman from Pennsylvania, [Mr. FLORENCE,] and the gentleman from Tennessee, [Mr. JONES,] who have a special consideration for widows.

Mr. FLORENCE. Since the remarks made by the gentleman upon the other side, and since I made the demand for a division of the House, I have changed my opinion, and for the reason given by the gentleman from Arkansas. I am kindly disposed to widows, and especially to widows of revolutionary soldiers; and I am willing to assist them to the extent of my power and the influence of my vote in this House. I shall now vote to reconsider the vote by which this bill was referred to the Committee on Revolutionary Pensions, with the view of referring it to the Committee of Claims, for the reason that I think this course will best attain the purpose in view. The Committee of Claims can report at any time, while the Committee on Revolutionary Pensions can report only when the committees are called. These widows will get the earliest hearing by referring the bills to the Committee of Claims, and therefore I am in favor of the motion to reconsider. I desire not to detain the House longer with giving reasons which influence my action, such as those of generosity, humanity, &c., because everybody understands that those are the considerations I have in view in everything I do in this House. [Laughter.]

Mr. LETCHER. Here is a committee that is specially charged with the consideration of revolutionary claims. It is their duty to be familiar with all bills passed in connection with that subject; and if these bills go to that committee, they go to a committee already enlightened, and already prepared to examine and report upon them

at an early day. The proposition now is to take them away from that committee, and refer them to the Committee of Claims—a committee which has never had anything to do with revolutionary claims, and are not familiar with the law. You are undertaking to refer these bills to a committee ignorant upon the subject, and already burdened with business. If these bills go there, the committee will be required to inform themselves upon a branch of business which has never been referred to it.

Now, I have no feeling on the subject. I care nothing about it, further than that I desire to see all these references made to the appropriate committees; and it strikes me that the Committee on Revolutionary Pensions is the appropriate committee to which to refer all such bills as these. But the gentleman from Pennsylvania, [Mr. FLORENCE,] who seems very much interested by profession in widows, and certainly very little interested by practice, undertakes to tell you that he desires to have the bills referred to the Committee of Claims, because that committee can report at any time. Now, the necessity for the relief of these widows is so great, that I imagine, if the legislation is made upon the same principle on which the gentleman from Pennsylvania acts, there would be no difficulty in having a report submitted at any time. He says he legislates upon the principles of humanity, and not upon principles of law. Now, sir, I propose to conform to the law; and if there is a majority of humane men in the House, so far as widows are concerned, there can be no difficulty about it. I hope, therefore, that, as this bill is fully referred now, it will be let alone; and that the committee which already have charge of it will be allowed to continue in charge of it.

Mr. SHERMAN, of Ohio. I have but a word to say in reply to the gentleman from Virginia. I do not propose to prolong this discussion. The question involved in these claims is simply and purely a legal one—one of the construction of a statute. By the rules of the House, and by the law, the Committee of Claims is designated to examine all these claims which have been decided upon by the Court of Claims. The House has, on motion of the honorable gentleman from Tennessee, transferred a particular class of claims, set up by widows, from the Committee of Claims to another committee, that scarcely ever meets, and probably will not consider them. You have transferred them from the committee that has been organized and designated by the House to examine cases coming from the Court of Claims.

Now, sir, I desire, if it be in order, to move to suspend the rules, so that the question may be taken at once upon reconsidering the reference of all these bills.

The SPEAKER. The Chair thinks that would hardly be in order. The bills must be disposed of separately, according to the usage of the House.

Mr. SHERMAN, of Ohio. Then I call the previous question.

The previous question was seconded, and the main question was ordered; and, under the operation thereof, the vote by which the bill was referred to the Committee on Revolutionary Pensions was reconsidered.

Mr. WARREN. Would it be in order now to move to refer the bill to the Committee on Invalid Pensions, in order to give my friend from Pennsylvania, [Mr. FLORENCE,] who is a member of that committee, charge of the widows?

The SPEAKER. It would not. The rules require that these bills should be sent to the Committee of Claims; and they must take that reference, unless, by the unanimous consent of the House, they receive a different reference. It was in that way that this bill was originally sent to the Committee on Revolutionary Pensions.

Mr. WARREN. Well, let it go.

The bill was referred to the Committee of Claims.

Mr. PHELPS. I hope that by unanimous consent all these bills will be disposed of at once.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] objected to that.

The votes referring the following bills to the Committee on Revolutionary Pensions were then severally reconsidered, and the bills were referred to the Committee of Claims:

A bill (C. C. No. 48) for the relief of Mary Burt, Sciota county, Ohio;

A bill (C. C. No. 49) for the relief of Esther Stevens, of Van Buren county, Michigan;

A bill (C. C. No. 50) for the relief of Marcy Armstrong, of Gloucester county, Rhode Island;

A bill (C. C. No. 51) for the relief of Nancy Madison, of Fairfield county, Ohio;

A bill (C. C. No. 52) for the relief of Anna Parrott, of Clinton county, Ohio;

A bill (C. C. No. 53) for the relief of Margaret Taylor, of Putnam county, Tennessee;

A bill (C. C. No. 54) for the relief of Lavina Tepton, of White county, Tennessee;

A bill (C. C. No. 55) for the relief of Lucretia Wilcox, of Wayne county, Michigan;

A bill (C. C. No. 56) for the relief of Mary Robbins, of Westmoreland county, Pennsylvania; and

A bill (C. C. No. 57) for the relief of Tempy Connelly, of Johnson county, Kentucky.

The question was next stated on the motion to reconsider the vote by which a bill (C. C. No. 58) for the relief of Rosamond Robinson, of Belknap county, New Hampshire, was referred to the Committee on Revolutionary Pensions.

Mr. GREENWOOD. I do not rise for the purpose of saying anything in particular in regard to the reference of this bill. I advocated the reconsideration of the reference of these bills this morning, for the reason that the rules require that the Committee of Claims shall consider all such bills. It might be concluded, from the course I pursued, that I was in favor of the construction which the Court of Claims have given to the pension laws. I differ with the court in that construction. I expect to vote against all these bills if the Committee of Claims should report them back; and I hope that before the session closes I shall be able to get a vote upon my bill abolishing the court, and appropriating the \$35,000, now required to keep it in operation, to the payment of just claims against the Government.

The motion to reconsider was agreed to.

Mr. JONES, of Tennessee. I hope that the House will instruct the committee, or, if they do not do so, that the committee will, if they come to the conclusion to report favorably upon these cases, prepare and report a general bill covering them all, so as to save the necessity of passing a separate bill in each individual case. I hope, also, that if the committee come to the conclusion to report favorably on these cases and to sustain the construction of the Court of Claims, they will, in the general bill which they may report, make a provision requiring the different pension agents employed throughout the country to pay these pensions to the widows upon proof of identity, without their coming back here and making application for another certificate.

Mr. SMITH, of Virginia. I rise to a question of order. I desire to know whether the gentleman is in order in proposing to instruct a committee in general terms in this way, on a simple reference of a bill to such committee? The question is the reference of a particular bill to the Committee of Claims.

The SPEAKER. The Chair thinks the motion to refer opens the merits of the question.

Mr. JONES, of Tennessee. Yes; and if there was any doubt about that, I could move to print it, and that would open the whole question.

Now, sir, who was it that got up these claims? Who was it that brought them here to Congress after the Commissioner of Pensions and the Secretary of the Interior had given a construction to this act, that the pension should commence from the day when the act was approved? It was, as I understand, the agents for the prosecution of claims in this city. They got up that scheme and applied to those who, they supposed, were applicants for payment under this law, to get them to induce their Representatives here, the members of Congress from their particular districts, to give to the act a retrospective operation. When the law of 3d of February, 1853, was passed, the pensions were allowed so quickly that there was not enough to pay the agents' fees for prosecuting the claims. These agents, sir, not only sent their circulars to those who are applicants, but they have sent them to those who have no pretense or claim under this act. I saw one just before I left home; it was shown to me by the son of a widow, whose husband had been pensioned under the act of 7th of June, 1832, and who was entitled to a full pension. The marriage took place before the last

term of service, and she would have been entitled to a pension from the 4th of March, 1831, if her husband had died prior to that time, or, if not, she was entitled to it from the time he might die, subsequent to the 4th of March, 1831, as long as she lived. When he died in 1854, she, on her application, was placed on the pension roll, at the full rate of ninety-six dollars a year, which her husband had been receiving from the 4th of March, 1831. She is now receiving it, and is entitled to it for the balance of her life or widowhood. And yet, one of these circulars was sent to her, that the Representative of her district might be applied to and enlisted in this matter.

Now, what I want is a provision inserted in the bill that may be reported from the Committee of Claims, to the effect that the pension agents may pay these widows at their homes, on the production of their certificate and proof of identity, as they make each semi-annual payment now. My object is, that they may not have to be brought back to the Pension Office, to pass through one of the agencies of this city, or somewhere else. The five years' pay amounts, in some cases, to only \$100—twenty dollars a year—the husband having served six months; or perhaps to \$500; or, if the husband was an officer, \$2,000 or more. These agents getting the certificates on their application, will obtain, without rendering any important service, one fifth, one half, or other large proportion of these five years' pension, or whatever pension they may claim.

My own opinion is, that the decision of the court is wrong. I think that they have confounded manner and time together. The act to which they have given this construction fixes two things certain and definite. The one is the time when the pension is to commence; the other is as to the time or date of marriage. The act does not require any particular time for the marriage to have taken place; but if the applicant be the widow of a revolutionary soldier, she is entitled to a pension under this law, without regard to the date of the marriage. All other pension laws, giving pensions to widows, specify in the body of the act when the pension provided for therein shall commence, except this one, on which these bills are founded; and, in my opinion, this one, specifying no time, should and can only take effect from the time it was approved and became a law.

But if it be the intention of Congress to recognize the opinion given by this board of claims, and to provide for the payment of these cases, let us pass a law covering all these cases, and incorporate in it a provision that the Commissioner of Pensions shall issue his instructions to the agents for paying pensions, that they shall pay the amount to the widow, on proof of identity.

Mr. FLORENCE. There is another question immediately connected with this subject, which I think it would be well enough for the Committee of Claims to consider. There are many of these widows of revolutionary soldiers who, to provide themselves with the means of livelihood, have intermarried with some other persons. If I understand the law, these women are deprived of the advantages of their pensions under it. I have received an argument bearing on the case, and as it is couched in better language perhaps than I could put it in, I will send it to the Clerk's desk, to be read as part of my speech.

It was read as follows:

If woman is the equal half, and better half of man, And even ever so to be, in Jehovah's righteous plan; Ever and forever more his comfort and delight, Then, O freemen of America, let her enjoy her right!

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

We, your petitioners, respectfully ask leave to represent, that according to our best understanding of human rights, and more especially "woman's rights," the rights of widows whose husbands have died while in the service of the Government of these United States.

Wherefore, we, in human benevolence, as also in justice, ask your honorable bodies to repeal that unjust clause in the Navy pension act which prohibits the marriage of a widow, entitled by said act to a pension, except at the sacrifice and entire loss of her pension whenever she contracts another marriage. There are poor widows of this class who have souls and hearts to love and desire to be honorably united in the holy bonds of marriage with some congenial soul of the opposite sex; but this unjust clause debars such unions except at the sacrifice of their means of a physical maintenance!

Now, this free people—this free United States of America, the wealthiest nation on the face of the earth, ought not to allow, we opine, such an unjust clause, as the above named, to longer remain in said pension act.

And that your honorable bodies immediately cause the clause to be repealed and stricken out of said benevolent pension act, your aggrieved petitioners, as in duty bound, will ever pray.

MANY WIDOWS.

New York, December 25, 1857.

Mr. FLORENCE. I do not desire to occupy the floor any longer. The petition speaks for itself.

Mr. SHERMAN, of Ohio, called for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

The motion to reconsider was agreed to.

The bill was then, on motion of Mr. SHERMAN, of Ohio, referred to the Committee of Claims.

CALL OF THE STATES.

Mr. TAYLOR, of New York. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the States and Territories be called, beginning at the State of New York, for the introduction of bills; and that each member be permitted to introduce, by motion for leave, without debate, as many bills as he desires, for reference only, and such resolutions as may not be objected to.

Mr. MARSHALL, of Kentucky. I object. These propositions only retard instead of helping along the business of the House.

Mr. TAYLOR, of New York. I move to suspend the rules for the purpose I have indicated.

Mr. JONES, of Tennessee. If a bill were received under that resolution, would it be in order to entertain a motion to reconsider, and thus bring that bill back and put it on its passage.

The SPEAKER. The Chair does not like to anticipate the action of the House.

Mr. JONES, of Tennessee. I should like to have the matter understood before I vote on the resolution.

The SPEAKER. If the answer of the Chair be material, he will state that he would be bound to entertain the motion to reconsider.

Mr. JONES, of Tennessee. Then I am bound to object; for under the resolution, all the bills and resolutions introduced may be brought back by motions to reconsider, and thus take up the remainder of the session without any of them ever having been investigated by any committee, or reported back regularly for the action of the House. If it be understood that neither the bills nor the resolutions introduced under this resolution shall be brought back by reconsideration, I shall not object to it; otherwise I shall object.

Mr. TAYLOR, of New York. I accept, as a modification of my resolution, that the bills and resolutions introduced under it shall not be brought back by motions to reconsider.

Mr. MARSHALL, of Kentucky. I desire to say that I object to the motion of the gentleman, because his resolution takes from the House the privilege of doing what we have a right by the rules this day to do, and this day only.

Mr. TAYLOR, of New York. If I understand the language of the resolution it does not do so. It barely provides that the States and Territories shall be called in their order, beginning with New York, excluding the right to move to reconsider.

Mr. PHILLIPS. I rise to a question of order. I ask whether this resolution does not conflict with one of the rules of the House; and if so, whether it must not lay over for consideration?

The SPEAKER. The gentleman moves to suspend that and all other rules.

Mr. SMITH, of Illinois. I would appeal to the House to let us have an opportunity to introduce bills of interest to our constituents, of which previous notice has been given. I have some bills which I wish to get in.

Mr. BURNETT. I do not want the discussion to proceed when it is clearly out of order.

The SPEAKER. Debate is not in order.

The rules were suspended, two thirds having voted therefor.

The resolution was adopted.

Mr. TAYLOR, of New York, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER stated that under the order just made bills and resolutions were in order from the State of New York.

SODUS HARBOR IMPROVEMENTS.

Mr. MORGAN introduced the following bills;

which were severally read a first and second time, and referred to the Committee on Commerce:

A bill for the improvement of Sodus harbor, Wayne county, New York; and

A bill for the improvement of Sodus harbor, Cayuga county, New York.

PATENT LAW.

Mr. TAYLOR, of New York, introduced a bill to promote the progress of the useful arts, to regulate the granting of patents for inventions, and to repeal all acts and parts of acts heretofore made for that purpose; which was read a first and second time by its title.

Mr. TAYLOR, of New York. I move that the bill be referred to the Committee on Patents and the Patent Office, and ordered to be printed.

The SPEAKER. It cannot be ordered to be printed under the order of the House.

Mr. TAYLOR, of New York. I should like, if it were within the province of the House, to have the bill printed; and for this reason—

The SPEAKER. Debate is not in order, unless by unanimous consent.

Mr. TAYLOR, of New York. I should like to give my reason for asking that this bill be printed. Mr. BURNETT. I object.

The bill was referred to the Committee on Patents and the Patent Office.

POST OFFICE FOR BROOKLYN.

Mr. TAYLOR, of New York. I submit the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of erecting a post office in the city of Brooklyn, in New York; and report by bill or otherwise.

Mr. BURNETT. Is the resolution amendable? The SPEAKER. The Chair thinks it is.

Mr. JONES, of Tennessee. I wish to say—

Mr. BURNETT. I have not yielded the floor. Mr. JONES, of Tennessee. Then I object.

Mr. TAYLOR, of New York. I move to suspend the rules for the introduction of this resolution.

The SPEAKER. The Chair cannot entertain the motion until the order of the House has been executed.

ST. CLAIR FLATS.

Mr. HATCH introduced a bill making an appropriation for continuing the improvement of the channel of the St. Clair Flats, in the State of Michigan; which was read a first and second time, and referred to the Committee on Commerce.

CUSTOM-HOUSE AT BUFFALO.

Mr. HATCH also introduced a bill to authorize the construction of a new custom-house at Buffalo, New York, and changing the uses of a portion of the building now constructing in that city; which was read a first and second time, and referred to the Committee on Commerce.

IMPROVEMENT OF BUFFALO HARBOR.

Mr. HATCH also introduced a bill for the improvement of the harbor of Buffalo, New York; which was read a first and second time, and referred to the Committee on Commerce.

HOMESTEADS TO ACTUAL SETTLERS.

Mr. KELLY introduced a bill to secure homesteads to actual settlers upon the public domain; which was read a first and second time, and referred to the Committee on Agriculture.

Mr. COBB. That subject has been referred to the Committee on Public Lands. We have it now before us, and that bill ought to go to our committee.

The SPEAKER. In the opinion of the Chair, the gentleman from Alabama made his point rather too late.

Mr. COBB. I hallooed at the time with all my voice.

The SPEAKER. It is the gentleman's misfortune that the Chair did not hear him.

HARBOR OF CHARLOTTE.

Mr. ANDREWS introduced a bill for the improvement of the harbor of Charlotte, at the mouth of the Genesee river, New York; which was read a first and second time, and referred to the Committee on Commerce.

MRS. POST.

Mr. ANDREWS offered the following resolution:

Resolved, That Mrs. Post, applicant for a pension at the

last session of Congress, have leave to withdraw her petition and accompanying papers from the files of the House.

Mr. LETCHER. I object.

Mr. ANDREWS. I hope the gentleman will not object. This lady presented a petition to the last Congress for a pension, on which there was no action, and no report made. Among the papers there are some documents of great importance to her in legal or other proceedings, and of no value to anybody else.

Mr. FLORENCE. The practice has been to leave copies of papers on file; and if copies of those papers so valuable are left, so that no change can be made in the character of the claim, I have no objection.

Mr. LETCHER. I want the original saved. Copies can be taken.

Mr. ANDREWS. I beg to say to the gentleman from Virginia that this is a very important matter to this lady in some legal proceedings, and I hope the gentleman will not be so ungallant as to object. Copies can be left with the Clerk. One paper is a marriage certificate, a copy of which will not answer the purpose.

Mr. LETCHER. Then it must be a matter of record somewhere.

Mr. ANDREWS. Not in our State. A refusal may do great injustice to the applicant.

The resolution was then modified, so as to read as follows:

Resolved, That Mrs. Post, an applicant for a pension at the last session of Congress, have leave to withdraw her petition and accompanying papers from the files of this House, provided copies are left on file.

The resolution, as thus modified, was adopted.

JAMES KIPP AND JOSHUA LELAND.

Mr. GOODWIN introduced the following bills; which were severally read a first and second time, and referred to the Committee on Revolutionary Pensions:

A bill for the relief of the children of James Kipp, a revolutionary soldier; and

A bill for the relief of the heirs of Joshua Leland, a revolutionary soldier.

RAILROAD AND TELEGRAPH TO THE PACIFIC.

Mr. BENNETT introduced a bill to establish a communication by railroad and telegraph between the Atlantic States and California, for postal and military purposes; which was read a first and second time, and referred to the Committee on Public Lands.

ENOCH B. TALLCOT.

Mr. JOHN COCHRANE introduced a bill for the relief of Enoch B. Tallcot, late collector of customs at Oswego, New York; which was read a first and second time, and referred to the Committee of Claims.

MEMORIAL OF THE NATIONAL INSTITUTE.

Mr. TAYLOR, of New York. I have a memorial and petition which I desire to refer, and I offer the following resolution in connection therewith:

Resolved, That the memorial and petition of the National Institute for the Promotion of Science, be printed, and referred to the Committee on Public Buildings.

I wish to say, Mr. Speaker, in connection with that resolution, that the memorial of the National Institute is one of great importance. That institute has a large collection of natural history and other curiosities; but they have no place whatever in which to keep it. I desire that the memorial shall be printed and referred to the Committee on Public Buildings, in order that that committee may provide a suitable place for that collection.

AMENDMENT OF BOUNTY LAND LAW.

Mr. CLAWSON introduced a bill to amend an act in addition to certain acts granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, approved March 3d, 1855; which was read a first and second time, and referred to the Committee on Military Affairs.

POST OFFICE AT JERSEY CITY.

Mr. WORTENDYKE. I offer the following resolution:

Resolved, That the Committee on the Post Office and Post Roads, be instructed to inquire into the expediency of erecting a post office at Jersey City, in the State of New Jersey, and that they report by bill or otherwise.

Mr. LETCHER. I object to that.

HALF PAY TO WIDOWS.

Mr. FLORENCE introduced a bill to continue five years half pay to certain widows and orphans; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FRENCH SPOILIATIONS.

Mr. FLORENCE also introduced a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoiliations committed by the French prior to the 31st of July, 1801; which was read a first and second time, and referred to the Committee on Foreign Affairs.

WHITEMARSH B. SEABROOK AND OTHERS.

Mr. DEWART introduced a bill to amend an act for the relief of Whitemarsh B. Seabrook and others; which was read a first and second time, and referred to the Committee on Military Affairs.

INTERNATIONAL COPYRIGHT.

Mr. MORRIS, of Pennsylvania, introduced a bill to provide for an international copyright; which was read a first and second time, and referred to the joint Committee on the Library.

HARBORS IN THE DELAWARE.

Mr. MORRIS, of Pennsylvania, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the House of Representatives, estimates based upon such information as may be in the possession of, or can be obtained by the Department, of the amount necessary to complete the improvement of the harbors at Reedy Island, Chester, and New Castle, Delaware river.

JUDICIAL DISTRICTS OF PENNSYLVANIA.

Mr. DICK introduced a bill to divide the State of Pennsylvania into three judicial districts; which was read a first and second time, and referred to the Committee on the Judiciary.

HARBOR OF ERIE.

Mr. DICK also introduced a bill, making an appropriation for continuing the improvement of the harbor of Erie, in the State of Pennsylvania; which was read a first and second time, and referred to the Committee on Commerce.

COLLECTION OF THE REVENUE.

Mr. COVODE. I offer the following resolution:

Resolved, That the Committee of Ways and Means be instructed to report a bill for the protection of the revenues, to prevent frauds in their collection, by home valuation, cash duties, and that the same be specific on iron and such other articles as is practicable.

Mr. LETCHER. I object to that resolution.

SALE OF PUBLIC LANDS.

Mr. GROW introduced a bill to prevent the future sale of the public lands, under the proclamation of the President, until the same shall have been surveyed for at least fifteen years; which was read a first and second time, and referred to the Committee on Public Lands.

KANSAS AFFAIRS.

Mr. GROW. I offer the following resolution:

Resolved, That the President be requested to communicate to the House copies of all instructions by himself or any head of Department to the Governor or other executive officer in the Territory of Kansas, and all correspondence with the same, together with a copy of the executive minutes of said Territory, not already communicated to the House. Also, a copy of the constitution formed at Le Compton, together with a copy of the census and return of the votes in the election of delegates to said convention, and the returns of the election held in said Territory on the 21st of December last, and 4th of January instant, with the number of votes then polled, respectively, in each election precinct in said Territory, and copies of any other official papers in possession of the Secretary of State relative to Kansas affairs, not already communicated to Congress.

Mr. QUITMAN objected to the resolution.

LOUISA BRINKER.

Mr. PURVIANCE introduced a bill for the relief of Mrs. Louisa Brinker; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

WITNESSES IN UNITED STATES COURTS.

Mr. FLORENCE asked and obtained leave to introduce the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be requested to inquire into the propriety of making provision for witnesses in the courts of the United States, so that they may not be compelled to suffer imprisonment when unable to give recognizance to appear.

DELAWARE BREAKWATER.

Mr. WHITELEY introduced a bill to provide for the continuance of the Delaware breakwater as a coast harbor of refuge; which was read a first and second time, and referred to the Committee on Commerce.

REPORT ON AGRICULTURE.

Mr. WHITELEY asked leave to introduce the following resolution:

Resolved, That there be printed for the use of the members of the House, one hundred thousand extra copies of the report of the Commissioner of Patents on agriculture, for the year 1856, together with the plates; of which number, six thousand copies shall be for the use of the Patent Office.

Mr. JONES, of Tennessee, objected.

WITHDRAWAL OF PAPERS.

Mr. STEWART, of Maryland, offered the following resolution:

Resolved, That Robert C. Wright, the husband of the only surviving daughter and heir of the memorialist, have leave to withdraw the papers in the case of Samuel T. Anderson, in order that the application may be filed before the Court of Claims, copies of the same being retained in the Clerk's office.

Mr. LETCHER. I should like to have that resolution amended so that the Clerk of the House may transfer the papers to the Secretary of the Court of Claims, instead of letting them be withdrawn by the memorialist.

Mr. STEWART, of Maryland. It is discretionary with the representatives of the memorialist whether they will make an application to the Court of Claims. This is a mere proposition to withdraw papers, and they can dispose of them afterward as they may deem proper. It is provided in the resolution that copies be retained. The representatives may not think proper to make the application.

Mr. LETCHER. Very well; but if they do think proper to make it, I want to have the papers regularly transferred, and copies left here.

Mr. STEWART, of Maryland. I have no objection to the modification.

The resolution, as modified by Mr. LETCHER, was adopted.

STATUTE OF LIMITATIONS.

Mr. CLEMENS offered the following resolution; which was read, considered, and agreed to:

Whereas, great difficulty has been experienced in prosecutions for depredations on the mails and for other offenses against the laws of the United States, by reason of the short period now established by law within which they can be punished: Therefore,

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the third-second section of the act of April 30, 1790, entitled "An act for the punishment of certain crimes against the United States," so as to extend the period within which an indictment can be found for offenses not capital, from two to five years.

OMISSION IN AN ENROLLMENT.

Mr. FAULKNER asked leave to offer the following resolution:

Resolved, That the Committee of the Whole on the state of the Union be discharged from the consideration of the bill to correct an omission in the enrollment of an act of the last session, and that the same be referred to the Committee of Ways and Means.

Mr. STANTON. I should like to know the occasion for that resolution. That bill has been considered in the Committee on Military Affairs, and referred to the Committee of the Whole on the state of the Union. I should like to know the reason for its transfer to the Committee of Ways and Means.

Mr. FAULKNER. The bill has been before the Committee on Military Affairs, and that committee authorized me to report it to the House. It was so reported, and referred to the Committee of the Whole on the state of the Union; but it being a bill making an appropriation, I thought it advisable to have it taken from the Committee of the Whole on the state of the Union, and referred to the Committee of Ways and Means.

Mr. MARSHALL, of Kentucky. I do not understand why the bill is to take that direction.

The SPEAKER. Does the gentleman object to it?

Mr. MARSHALL, of Kentucky. Yes, sir; I object to it.

BRANCH MINT AT NEW YORK.

Mr. LETCHER introduced a bill to establish a branch of the Mint of the United States at the

city of New York; which was read a first and second time, and referred to the Committee of Ways and Means.

PUBLIC LANDS.

Mr. GOODE offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to cause to be prepared, for the use of this House, a tabular statement, exhibiting

1. The area of each State and Territory of the United States, expressed in square miles and acres, classifying the States so as to present the land States in a separate table.

2. The extent of the public domain remaining in each State, expressed in acres.

3. The extent of the public domain alienated by the Government of the United States in each State and Territory; distinguishing between that sold for valuable consideration, and that given, granted, ceded, or conveyed for the purposes of education, public buildings, internal improvements, and miscellaneous objects.

4. The aggregate sum received by the Government on account of the sale of the public lands.

5. The aggregate sum paid on account of the debt of the Revolution.

6. The sums paid to foreign Governments on account of the purchase of public lands, and to the several States as a consideration for the cession; and on account of the Yazoo claim, and in extinguishment of Indian titles; also, the aggregate expense of collecting the proceeds of the sales of the public lands; also, the aggregate cost of surveying the public lands.

7. The present annual expense of the Indian bureau; also, the Land bureau; comprehending the officers at the seat of Government and in the States and Territories.

8. The number of acres conveyed to the Territories, under the provisions of the laws organizing the territorial governments, and the number of acres conveyed to the States on account of the terms, and by the provisions of the acts of Congress admitting new States into the Confederacy.

9. The number of acres granted to the States and companies, in alternate sections, for the construction of railroads; and the sums of money received by the Government from the sales of the reserved alternate sections; also, the number of acres now held by the Government in the reserved alternate sections.

Mr. SEWARD. I should like to know how much it will cost to get that information ready, and how much it will cost to have it printed?

Several MEMBERS. It is very important that we should have it.

The resolution was adopted.

NAVAL BOARD, ETC.

Mr. BOCK submitted the following resolution; which was read and agreed to:

Resolved, That Senate resolution No. 3, and also Senate resolution No. 4, be taken from the Speaker's table and referred to the Committee on Naval Affairs.

The resolutions were taken from the Speaker's table, read severally a first and second time by their titles, as follows, and referred to the Committee on Naval Affairs:

A resolution (S. No. 3) to extend and define the authority of the President, under the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy in respect to dropped and retired officers.'"

A resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

COLONIZATION MEETING.

Mr. SMITH, of Virginia, asked the unanimous consent of the House to submit the following resolution:

Resolved, That the Colonization Society be allowed the use of the old Hall of the House of Representatives on the 19th instant.

Mr. KEITT objected.

POST ROUTE AGENTS.

Mr. HOPKINS submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of reporting a bill to increase and equalize the compensation of route agents in the service of the Post Office Department.

CLERK TO A COMMITTEE.

Mr. SMITH, of Virginia. I ask the consent of the House to submit the following resolution:

Resolved, That the select committee to investigate and report upon the cost of the public printing, &c., and the changes in the laws now regulating the same, be authorized to employ a clerk at a compensation not exceeding four dollars per day.

Mr. HOUSTON. Is that resolution debatable?

The SPEAKER. The Chair thinks it is not.

Mr. HOUSTON. I object to it, because I want the report of that committee. I supposed we would have had it before now.

CORRECTION OF AN OMISSION.

Mr. FAULKNER. I offer my resolution again. I understand that the gentleman who made objection will withdraw it.

The resolution was read, as follows:

Resolved, That the Committee of the Whole on the state of the Union be discharged from the consideration of the bill to correct an omission in the enrollment of an act of the last session, and that the same be referred to the Committee of Ways and Means.

Mr. STANTON. I do not understand what is to be gained by the gentleman's proposition, and therefore object to it.

BOUNTY LANDS.

Mr. WINSLOW submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of so amending the bounty land acts as to allow the widow or surviving children or heirs-at-law of applicants for bounty land who have died before receiving certificates entitling them to such bounty land, in all cases where the proof was made perfect before the applicants died, and the warrants not issued in consequence of delay in the Pension Office, to receive such warrants as if no delay had occurred; and that they report by bill or otherwise.

NATIONAL FOUNDRY.

Mr. BRANCH introduced a joint resolution to establish a national foundry in Deep river valley, North Carolina; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

MAP OF THE PUBLIC LANDS.

Mr. BRANCH submitted the following resolution:

Resolved, That the Committee on Public Lands inquire into the expediency of repealing the resolution passed on the 4th of May, 1848, directing the Clerk to procure a map of the public lands in each State, and directing that said maps be revised and extended after each session of Congress.

Mr. HARRIS, of Illinois, objected.

ABOLITION OF PRIVATEERING, ETC.

Mr. KEITT offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interest, to furnish the House with a copy of all correspondence not yet published, between the United States and the Government of France, including that of our Minister at the Court of France, upon the subject of the abolition of privateering, and the exemption of private property from capture upon the high seas.

COAST SURVEY REPORT.

Mr. MILES asked the consent of the House to offer the following resolution:

Resolved, That nine thousand copies of the Coast Survey report be printed for the use of this House, and for distribution by the Coast Survey office.

Mr. BURROUGHS objected.

NAVAL DEPOT AT BLYTHE ISLAND, ETC.

Mr. SEWARD introduced a bill to amend an act authorizing the establishment of a navy depot on Blythe Island, at Brunswick, on the coast of Georgia, and for other purposes, approved January 28, 1857, and to make further appropriations to prosecute said object, and make such improvements as are necessary for the repair and construction of vessels of war; which was read a first and second time, and referred to the Committee on Naval Affairs.

Also, a bill to provide for the erection and construction of suitable fortifications for the protection of the harbor of Brunswick, and to appropriate money therefor; which was read a first and second time, and referred to the Committee on Military Affairs.

NEW POST ROUTES IN GEORGIA.

Mr. GARTRELL introduced a bill to establish certain post routes in the State of Georgia; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

BOUNTY LAND TO OFFICERS AND SOLDIERS.

Mr. TRIPP introduced a bill to add a section to the act entitled "An act in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," approved May 14, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

MAPS OF PUBLIC LANDS.

Mr. CRAWFORD introduced the following resolution:

Resolved, That the Committee on Public Lands inquire

into the expediency of repealing the resolution passed on the 4th of May, 1848, directing the Clerk to procure a map of the public lands in each State, and directing that said maps be revised and extended after each session of Congress.

Mr. HARRIS, of Illinois. If the gentleman will modify that resolution by inserting after the word "repealing" the words "or modifying," I will not object to it.

Mr. CRAWFORD. I accept the modification. The resolution, as modified, was adopted.

MONTGOMERY A PORT OF DELIVERY.

Mr. DOWDELL introduced a bill to constitute Montgomery, in the State of Alabama, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

BOUNTIES ON COD FISHERIES.

Mr. CURRY introduced a bill repealing all laws, or parts of laws, allowing bounties to vessels employed in the bank or other cod fisheries; which was read a first and second time, and referred to the Committee on Commerce.

PACIFIC RAILROAD, ETC.

Mr. COBB asked the consent of the House to offer the following resolution:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of the construction of a Pacific railroad, or roads, for military purposes, and report to the House by bill, or otherwise.

Mr. SMITH, of Virginia, objected.

GRANT OF LAND TO THE STATES.

Mr. COBB introduced a bill to grant to the State of Alabama, and other States having public lands therein, the unsold and unappropriated public lands which have been in market for thirty years and upwards, for the purposes of education and internal improvements.

Mr. LETCHER. I would inquire of the gentleman whether there are any public lands in Alabama?

Mr. COBB. There are some vacant lands, and we want them.

The bill was read a first and second time, and referred to the Committee on Public Lands.

ALABAMA LAND DISTRICTS.

Mr. MOORE introduced a bill to transfer the county of Perry, in the State of Alabama, to the Tuscaloosa land district; which was read a first and second time, and referred to the Committee on Public Lands.

PRICE OF PUBLIC LANDS.

Mr. SINGLETON offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of passing a law making the reserved sections of the public lands under railroad grants, subject to entry by actual settlers, upon the same conditions that other lands of the same quality; and that said committee report by bill or otherwise.

THE NEUTRALITY LAWS.

Mr. QUITMAN introduced a bill to repeal certain sections of the act passed April 20, 1818, commonly called the neutrality law, and to modify other sections thereof; which was read a first and second time, and referred to the Committee on the Judiciary.

NAVAL DEPOT AT SHIP ISLAND.

Mr. QUITMAN offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of establishing a navy-yard and naval depot at or near Ship Island, in the State of Mississippi; and to report thereon by bill or otherwise.

CHILDREN OF JOHN NEAL.

Mr. DAVIS, of Mississippi, introduced a bill for the relief of the surviving children of John Neal, deceased; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

UNOCCUPIED LANDS IN LOUISIANA.

Mr. DAVIDSON introduced a bill entitled "An act surrendering to the State of Louisiana the unoccupied public lands in said State, for the purpose of public education;" which was read a first and second time, and referred to the Committee on Public Lands.

HEIRS OF WILLIAM CONWAY.

Mr. TAYLOR, of Louisiana, introduced a bill to revive an act entitled "An act for the relief of the heirs or legal representatives of William Con-

way, deceased;" which was read a first and second time, and referred to the Committee on Private Land Claims.

UNITED STATES COURTS IN LOUISIANA.

Mr. TAYLOR, of Louisiana, also introduced a bill to amend an act for the better organization of the district court of the United States within the western district of Louisiana; which was read a first and second time, and referred to the Committee on the Judiciary.

ATCHAFALAYA BAY.

Mr. TAYLOR, of Louisiana, also introduced a bill providing for the survey of Atchafalaya bay and approaches; which was read a first and second time, and referred to the Committee on Commerce.

STEAMBOAT PASSENGER BILL.

Mr. TAYLOR, of Louisiana. I do not know whether I can accomplish the object I have in view under the resolution under which we are now acting. A bill was reported, some days since, from the Committee on Commerce for the better providing for the security of the lives of passengers. The consideration of that bill has been postponed until the second Tuesday in February. I have prepared an amendment for the bill which I wish to have received and printed, in order that it may be before the House when the bill comes up.

Mr. WASHBURN, of Illinois. I should prefer that the gentleman's bill should be referred to the Committee on Commerce.

Mr. TAYLOR. That will be perfectly satisfactory to me.

Mr. LETCHER. The Committee on Commerce have not charge of the subject. They have reported upon it to the House.

Mr. HOUSTON. I understand that the bill to which the gentleman desires to offer an amendment is not in Committee of the Whole on the state of the Union, but has been postponed to a day certain. I suppose that, with the consent of the House, the gentleman's amendment can be printed and postponed to the same day to which the bill has been postponed.

Mr. WASHBURN, of Illinois. I prefer that the amendment should go to the Committee on Commerce, who have had the whole subject under consideration.

Mr. HOUSTON. The gentleman will perceive that if the amendment be referred to the Committee on Commerce, that committee may not be able to report it back in time for it to be acted on when the bill comes up.

The bill introduced by Mr. TAYLOR was then read a first and second time by its title, as follows:

A bill further to amend an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes.

On motion of Mr. WASHBURN, of Illinois, the bill was referred to the Committee on Commerce.

RAFT REGION OF RED RIVER.

Mr. SANDIDGE introduced a bill appropriating a sum of money for the continuation of improvements in the raft region of Red river; which was read a first and second time, and referred to the Committee on Commerce.

UNSOLD PUBLIC LANDS.

Mr. SANDIDGE also introduced a bill providing for the gradual transfer to the States in which they are situated of the unsold public lands; which was read a first and second time, and referred to the Committee on Public Lands.

JOHN R. TEMPLE.

Mr. SANDIDGE offered the following resolution; which was read, considered, and agreed to:

Resolved, That Senate bill (No. 38) for the relief of John R. Temple, of Louisiana, now on the Speaker's table, be taken up and referred to the Committee on Private Land Claims.

The bill was thereupon taken up, read a first and second time, and referred to the Committee on Private Land Claims.

SURVEY OF THE OHIO.

Mr. HORTON introduced a bill to provide for the survey of the Ohio river and its principal tributaries; which was read a first and second time.

Mr. HORTON. I move that the bill be referred to the Committee on Commerce.

Mr. LETCHER. Ought not that bill to go to the Committee on Roads and Canals? I propose that reference.

The question was first taken on its reference to the Committee on Roads and Canals; and it was not agreed to.

The question was then taken on its reference to the Committee on Commerce; and it was so referred.

MARY THOMPSON.

Mr. LEITER introduced a bill for the relief of Mary Thompson, of Summit county, Ohio; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HARBOR AT MOUTH OF GRAND RIVER.

Mr. WADE introduced a bill making an appropriation for continuing the improvements on the harbor at the mouth of Grand river, in the county of Lake, State of Ohio; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR AT MOUTH OF CUYAHOGA RIVER.

Mr. WADE also introduced a bill making an appropriation for continuing the improvement, and for the enlargement of the harbor at the mouth of the Cuyahoga river, in the State of Ohio; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR AT MOUTH OF SANDUSKY RIVER.

Mr. SHERMAN, of Ohio, introduced a bill to continue the improvements of the harbor at the mouth of the Sandusky river, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR OF VERMILLION.

Mr. SHERMAN, of Ohio, also introduced a bill to continue the improvements of the harbor of Vermillion, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR OF HURON.

Mr. SHERMAN, of Ohio, also introduced a bill to continue the improvement of the harbor of Huron, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

WILLIAM D. MANN, SR.

Mr. SHERMAN, of Ohio, also introduced a bill for the relief of William D. Mann, sr.; which was read a first and second time, and referred to the Committee on Invalid Pensions.

AMENDMENT OF TWENTY-THIRD RULE.

Mr. SHERMAN, of Ohio, asked leave to introduce the following resolution:

Resolved, That rule 23 be so modified as to insert, at the end thereof, the following proviso:

Provided, That whenever any committee of the House shall at two sessions of Congress adversely report upon a private claim, it shall not be in order again to refer such claim to any committee, except by leave of the House after the fact of such adverse reports be stated.

The 23d rule was read, as follows:

"Members having petitions and memorials to present may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereof; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker; and if any petition or memorial be so handed in, which, in the judgment of the Speaker, is excluded by the rules, the same shall be returned to the member from whom it was received."

Mr. JONES, of Tennessee. I would not object to that resolution if it came up in the right way; but it would be a precedent for changing the rules, against the provision made by the rules for such changes. If this were allowed, propositions for changing the rules would come up every day; therefore, to prevent its being made a precedent here, I shall object.

Mr. SHERMAN, of Ohio. I ask the unanimous consent of the House, to have the matter referred to a committee of say three or five members. It is a very important modification.

Mr. FLORENCE. I see great difficulties in the way of the amendment offered, and therefore I object.

ACQUISITION OF TERRITORY.

Mr. CAMPBELL. I ask leave to introduce the following joint resolution:

Resolved by the Senate and House of Representatives, That the President of the United States be requested to negotiate (through the Department of State) with the respect-

ive Governments possessing or claiming the Canadas, Nova Scotia, and other portions of North America and Cuba, and other islands adjacent thereto, with a view of annexing the same to the United States, on terms compatible with the peace and honor of the nations negotiating. *Provided, however,* That in the event of any annexation, no portion of the territory shall be admitted into the Union until there shall be therein a sufficient population to entitle them to one member of the House of Representatives, nor until the bona fide residents of the same shall have had an opportunity of voting upon their constitution and of "regulating their domestic institutions in their own way, subject only to the Constitution of the United States."

Mr. FLORENCE. The price is not named.

Mr. CAMPBELL. The object is to negotiate the price.

Mr. CLEMENS. I object.

UNITED STATES COURT REGULATIONS.

Mr. STANTON asked leave to submit the following resolution:

Resolved, That the standing Committee on the Judiciary be instructed to inquire into the expediency of so modifying the law regulating the selection of jurors in the circuit and district courts of the United States, as to take the power of selecting regular jurors from the marshals and clerks of the several courts, and confer it upon suitable persons, to be distributed over the several circuits and districts.

Mr. CRAIGE, of North Carolina, objected.

CINCINNATI A PORT OF ENTRY.

Mr. PENDLETON introduced a bill to establish a port of entry at Cincinnati, in the State of Ohio; which was read a first and second time by its title, and referred to the Committee on Commerce.

OHIO JUDICIAL DISTRICTS.

Mr. PENDLETON also introduced a bill to amend an act entitled "An act to divide the State of Ohio into two judicial districts, and providing for holding the courts of the United States therein;" which was read a first and second time by its title, and referred to the Committee on the Judiciary.

THE DRED SCOTT DECISION.

Mr. GIDDINGS asked the consent of the House to submit the following resolution:

Whereas, the Supreme Court of the United States in deciding the recent case of Dred Scott against John F. A. Sandford, departed from the subject before them for the apparent purpose of denying the self-evident truths proclaimed in the Declaration of American Independence, and exerting an influence upon this body and the country in favor of slavery, it has become the imperative duty of the people to express, through their authorized representatives, their firm and unyielding adherence to the essential doctrines avowed by the illustrious founders of our Republic: Therefore

Resolved, That the right to live, the liberty to cherish and protect life, to attain knowledge and happiness, are gifts of God, conferred equally on every member of the human family. That these rights attach to the human soul; lie behind and above all human enactments; coming from the Creator, they must ever be held sacred by all Christian Governments, and their enjoyment can only be invaded by incurring the Divine displeasure. That, as tyrants, despots, usurpers, pirates, and oppressors, have in all ages of the world, sought to deprive their fellow men of liberty, of intelligence, of happiness, and to hold the lives of other persons at their disposal, we fully and unequivocally agree with the eminent statesmen who formed our institutions, that the primeval object and ulterior design of human government is to secure every member of the human family in the enjoyment of those rights which God has conferred on him. That said court, in representing the signers of the Declaration of Independence to have asserted truths which they did not intend to avow, and to have entertained barbarous doctrines which they did not express, unjustly assailed the learning, the intelligence, the patriotism, the Christianity of those distinguished patriots. That, by disregarding the language of said Declaration, the debates at the time of its adoption, the current history of that period, the oft-repeated views of the signers of that great charter of human rights, and seeking for the intention of those sages in the colonial statutes of Maryland and Massachusetts, concerning marriage enacted by obscure men of a previous age, the court have brought discredit upon the judiciary of the United States.

Pending the reading of the resolution,

Mr. HARRIS, of Illinois, said: Mr. Speaker, can a speech be introduced here in the guise of a resolution?

Mr. BOCKOCK. Does the hour rule apply to the reading of resolutions? [Laughter.]

The SPEAKER. When the hour expires, the question will arise for the decision of the Chair.

Mr. WARREN. I have an amendment to offer to the resolution.

Mr. LETCHER. I object to the resolution.

NATIONAL ARMORY.

Mr. MARSHALL, of Kentucky, introduced a bill to establish a national armory and arsenal at the falls of the Ohio river; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

AMENDMENT TO THE CONSTITUTION.

Mr. MARSHALL, of Kentucky. I ask leave

to introduce a joint resolution to amend the Constitution of the United States.

Mr. LETCHER. Let the resolution be read for information.

The joint resolution was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following amendment of the Constitution of the United States is hereby proposed, which, when ratified by the Legislatures of three fourths of the States of the United States, shall be a part of the said Constitution of the United States, to wit: that the second section of the first article of the Constitution of the United States of America be, and it is, amended by adding to the same the following words:

Provided, That only the natural born citizen of the United States of America, or the citizen naturalized according to an act of the Congress of the United States, shall be deemed a qualified elector under this Constitution, to exercise the right to vote for a member of the House of Representatives of the United States of America.

Mr. CLEMENS. I object.

Mr. MARSHALL, of Kentucky. The resolution does not fall by a single objection.

The SPEAKER. If the gentleman has given previous notice it does not.

Mr. MARSHALL, of Kentucky. I have not given previous notice. I intend the resolution for reference to the Committee on the Judiciary, in order that they may consider it.

The SPEAKER. The gentleman from Kentucky not having previously given one day's notice required by the rules to introduce a bill or joint resolution, asks the unanimous consent to waive that requirement.

Mr. HARRIS, of Illinois. I object.

Mr. MARSHALL, of Kentucky. I presume that a majority of the House can give me leave to introduce the resolution.

The SPEAKER. A majority could give leave if previous notice had been given.

POST ROUTES IN KENTUCKY.

Mr. BURNETT. I submit the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing a post route between Murray and Hickman, Kentucky, via Boydsville, Duهدorn, and Feliciana; also, from Providence to Vandeburgh, via Clyde; also, from Paducah to Hickman, Kentucky, via Mayfield and Feliciana; also, from Mayfield to Paris, in Tennessee, via Boydsville.

Mr. TAYLOR, of New York. I offer the following amendment:

And that the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of erecting a post office in the city of Brooklyn, New York, and report by bill or otherwise.

Mr. JONES, of Tennessee. I object to the amendment.

Mr. HARRIS, of Illinois. Can a member, when his State is not called, tack an amendment to another proposition? Is it not in violation of the order?

The SPEAKER. The Chair is of opinion that the resolution would be amendable, but that the amendment must be germane to the original proposition; but the Chair is of opinion that the proposition of the gentleman from New York is not germane to the original proposition submitted by the gentleman from Kentucky.

The resolution was then adopted.

COLONEL CRABB, ETC.

Mr. UNDERWOOD offered the following resolution:

Resolved, That the President of the United States be respectfully requested to communicate, in his opinion not inconsistent with the public interest, all official information and correspondence in possession of any of the Executive Departments of the Government in relation to the execution or massacre of Colonel Crabb and his associates, within or near the limits of the Republic of Mexico, giving the names of the persons whose lives were taken; whether certain citizens of the United States were not so executed or massacred by the Mexican authority within the limit of the United States, upon the pretext that they were connected with said Crabb's expedition; and what steps, if any, have been taken by the Government in reference thereto.

The resolution was adopted.

POST ROUTE IN KENTUCKY.

Mr. STEVENSON offered the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be directed to inquire into the expediency of establishing a post route from Ghent, in Carroll county, to New Liberty, in Owen county, in the Commonwealth of Kentucky.

Mr. COX moved to amend by adding thereto the following resolution:

Resolved, That the Committee on the Post Office and Post

Roads be instructed to inquire into the expediency of establishing a post route from Lancaster, Ohio, by way of Roy-alton, South Bloomfield, Genoa, Harrisburg, and California, to London, Ohio.

The SPEAKER. The Chair thinks the amendment is not in order, and therefore rules it out.

The resolution was then agreed to.

NAVIGATION OF CUMBERLAND RIVER.

Mr. TALBOT introduced a bill for the improvement of the navigation of Cumberland river; which was read a first and second time, and referred to the Committee on Commerce.

PENSIONS TO OFFICERS AND SOLDIERS.

Mr. MASON introduced a bill granting pensions to the officers and soldiers of the war with Great Britain, and those engaged in Indian wars during that period; which was read a first and second time, and referred to the Committee on Military Affairs.

POST OFFICE BUILDING AT PADUCAH.

Mr. BURNETT offered the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety of constructing a suitable building for a post office at Paducah, in the State of Kentucky.

Mr. LETCHER objected.

POST ROUTE IN KENTUCKY.

Mr. UNDERWOOD offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing and creating Barren river, from Bowling Green to its mouth, and Green river, from the mouth of Barren river to its mouth in the Ohio river, and the Ohio river from the mouth of Green river to Evansville, a post route, and to provide that the mails thereon be conveyed by boats propelled by steam.

AUDITING OF CERTAIN ACCOUNTS.

Mr. MASON offered the following resolution:

Resolved, That the Committee on Accounts be authorized to settle, on just and equitable principles, certain accounts now on file in the Clerk's office, for services rendered this House during the last session, and since the adjournment of the last Congress; and that the said committee be further authorized to allow the Clerk of this House to employ such temporary or permanent force, as, on investigation by said committee, may be deemed necessary for extra labor growing out of the removal from the main building of the Capitol to the south wing; and to organize properly the clerks, doorkeepers, and post office of the House of Representatives.

Mr. MASON. I merely wish to say that it is doubtful whether, under the rules of the House, the Committee on Accounts have the power asked for in that resolution. There are a good many obligations growing out of the removal of the House into this building. A select committee was appointed some time ago to take into consideration matters connected with this new Hall. That committee made one report, but have not been discharged. The duties of the two committees may conflict somewhat, and I desire that one committee shall have charge of this whole matter. The Committee on Accounts are industriously inquiring into this business.

Mr. JONES, of Tennessee. I would inquire if those accounts filed in the Clerk's office are the ones for extra pay and increased pay and back pay for the last ten years, voted by the last Congress?

Mr. MASON. They are not. The House acted upon those upon their own responsibility. But there are a great many employees about the Capitol, some of whom were authorized by the old Committee on Accounts to go home and stay during the recess last summer, and at the same time draw their pay. There are others here who did work. We want to do justice between the parties; to pay those who did work, and to strike off those who have been illegally authorized to draw pay for work which has not been performed. The committee has been investigating all these matters, and would have reported on them before now, but the House has appointed two investigating committees to look into the same business, thus implying that the House has not confidence in the Committee on Accounts.

The SPEAKER. The Chair feels it to be its duty to arrest this debate.

Mr. HOUSTON. I desire to say a word only.

The SPEAKER. Debate is not in order.

Mr. FLORENCE. I do not desire to object to the resolution, but I wish to ask a question.

The SPEAKER. It is not in order.

Mr. MORRIS, of Illinois. I object to the resolution.

Mr. RUFFIN. I move to suspend the rules, so that the resolution may be introduced.

The SPEAKER. The Chair cannot entertain that motion until the order of the House shall have been executed in the call of the States and Territories.

Mr. MORRIS, of Illinois. The only objection I have is to the latter part of the resolution. I have nothing to say against the first part.

The SPEAKER. Does the gentleman from Illinois object?

Mr. MORRIS, of Illinois. I do.

Mr. MASON. Would it be in order to offer a resolution to dissolve the Committee on Accounts, and leave the House to settle this business? We need the authority asked, such is the pressure of claimants upon us. I would rather resign my seat in the House than continue to serve on a committee which is treated as we have been heretofore.

RIGHT OF SUFFRAGE IN THE TERRITORIES.

Mr. ZOLLICOFFER introduced a bill to regulate and make uniform the right of suffrage in the Territories of the United States; which was read a first and second time, and referred to the Committee on Territories.

TARRENCE KIRBY.

Mr. READY introduced a bill for the relief of Tarrence Kirby, of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. ATKINS introduced a joint resolution directory to the Secretary of War; which was read a first and second time, and referred to the Committee on Public Lands.

CLERKS OF UNITED STATES COURTS.

Mr. MAYNARD submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency and propriety of increasing the compensation now allowed to the clerks of the circuit and district courts of the United States; and report by bill or otherwise.

Mr. STANTON objected.

IMMIGRATION OF FOREIGN PAUPERS.

Mr. ZOLLICOFFER submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a bill to regulate and restrain the immigration or importation into the United States of foreign paupers and criminals.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 136, nays 37; as follows:

YEA—Messrs. Abbott, Adrain, Anderson, Andrews, Atkins, Avery, Bennett, Bingham, Biscoe, Boyce, Branch, Brayton, Bryan, Buffinton, Burlingame, Burnett, Burns, Burroughs, Campbell, Case, Caskey, Chaffee, Ezra Clark, Clawson, Clemens, Clingman, Colfax, Conins, Covode, Cragin, James Craig, Crawford, Curry, Curtis, Danrell, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Edmundson, English, Eustis, Faulkner, Foley, Foster, Gartrell, Gilman, Gilmer, Goodwin, Granger, Greenwood, Gregg, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hickman, Hopkins, Horton, Houston, Howard, Huyler, Jackson, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leifer, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Milson, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Murray, Olin, Palmer, Parker, Pettit, Peyton, Pike, Pottic, Powell, Purviance, Quitman, Ready, Reagan, Ricard, Robbins, Roberts, Royce, Ruffin, Sandidge, Savage, Scales, Scott, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, William Smith, Stanton, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, Miles Taylor, Thayer, Thompson, Tompkins, Trippe, Underwood, Watke, Waldron, Walton, Warren, Elihu B. Washburne, Watkins, Wilson, Wood, Woodson, Wortendyke, and Zolllicoffer—133.

NAYS—Messrs. Barksdale, Blair, Bowie, Horace F. Clark, John B. Clark, Clark B. Cochrane, John Cochrane, Cockerill, Cox, Davidson, Dowdell, Florence, Giddings, Groesbeck, Lawrence W. Hall, Hatch, Hughes, George W. Jones, J. Glancy Jones, Kelly, Lawrence, Leidy, Letcher, Lovjoy, Maclay, Mason, Montgomery, Isaac N. Morris, Oliver A. Morse, Pendleton, Phelps, Porter, Russell, Stephens, Cadwalader C. Washburne, Augustus R. Wright, and John V. Wright—37.

So the resolution was agreed to.

Pending the vote,

Mr. WARREN said: regarding this as simply a resolution of inquiry, I vote "ay," reserving to myself the right to act on the report of the committee as my judgment may dictate.

Mr. PHELPS said: Congress has no power to prohibit the introduction of immigrants, and I therefore vote "No."

Mr. DEWART stated that if he had been within the bar when his name was called, he would have voted "No."

Mr. WHITELEY stated that if he had been within the bar when his name was called, he would have voted "No."

SALES OF PUBLIC LANDS.

Mr. JONES, of Tennessee, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of repealing all laws requiring the public lands to be offered at public sale; and also all laws subjecting the public lands to sale by general private entry, after having been offered at public sale; and of providing by law for the sale of public lands to actual settlers and cultivators in only limited parcels, and at a price not exceeding the actual cost of the same.

Mr. WINSLOW, (at ten minutes to four, p. m.) I move that the House do now adjourn.

The motion was not agreed to.

LOUISVILLE AND PORTLAND CANAL.

Mr. ENGLISH asked leave to offer the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of providing for a reduction of the tolls upon the Louisville and Portland Canal; and also to inquire what further legislation, if any, is necessary to secure the interest of the United States in said canal.

Mr. MARSHALL, of Kentucky, objected.

POST OFFICE, ETC., AT NEW ALBANY.

Mr. ENGLISH asked leave to offer the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing for the erection of a building for a post office and custom-house at the city of New Albany, in the State of Indiana; and that they report by bill or otherwise.

Mr. SMITH, of Virginia, objected.

DIPLOMATIC AND CONSULAR SYSTEM.

Mr. PETTIT introduced a bill to repeal the twenty-first section of an act entitled "An act to regulate the diplomatic and consular system of the United States," which was read a first and second time, and referred to the Committee on Foreign Affairs.

HARBOR OF REFUGE AT MICHIGAN CITY.

Mr. COLFAX introduced a bill making an appropriation for continuing the improvement of a harbor of refuge and commerce, at Michigan City, on Lake Michigan, and for the construction of a breakwater thereat; which was read a first and second time, and referred to the Committee on Commerce.

CONDUCT OF LATE DOORKEEPER.

Mr. HUGHES offered the following resolution; which was read, considered, and agreed to:

Resolved, That a select committee of five be appointed by the Speaker, to inquire into the acts and official conduct of the late Doorkeeper of the House, with power to send for persons and papers, and to report at any time.

CITIZENSHIP OF THE UNITED STATES.

Mr. HARRIS, of Illinois, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be directed to inquire if any, and what, further legislation, by Congress, may be proper to define what acts shall or shall not be considered expatriation or severance of allegiance on the part of citizens of the United States; and also what provision of law ought to be made for reinvesting with citizenship such persons born in the United States as may have assumed allegiance or citizenship to any foreign Government.

LUCIAN R. ADAMS.

Mr. HARRIS, of Illinois, introduced a bill for the relief of Lucian R. Adams, surviving executor of Jane Adams, deceased; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

CENSUS OF MINNESOTA.

Mr. WASHBURN, of Illinois, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to the House whether the census of the Territory of Minnesota has been taken, in accordance with a provision of the fourth section of the act of Congress providing for the admission of Minnesota as a State, approved February 26,

1857; and if said census has been taken and returned to him or any department of the Government, to communicate the same to this House; and if the said census has not been so taken and returned, to state the reasons, if any exist, to his knowledge, why it has not been done.

HARBOR OF WAUKEGAN.

Mr. WASHBURN, of Illinois, introduced a bill for continuing the improvement of the harbor of Waukegan, Illinois; which was read a first and second time, and referred to the Committee on Commerce.

ROCK ISLAND RAPIDS.

Mr. WASHBURN, of Illinois, also introduced a bill for continuing the improvements in the Rock Island rapids, in the Mississippi river; which was read a first and second time, and referred to the Committee on Commerce.

CUSTOM-HOUSE, ETC., AT ALTON.

Mr. SMITH, of Illinois, introduced a bill to provide for erecting a building in the city of Alton, State of Illinois, for a custom-house and post office; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

APPORTIONMENT OF CLERICAL OFFICERS.

Mr. SMITH, of Illinois, introduced a bill to apportion the clerks and messengers of the several Departments of the United States Government in the city of Washington among the several States and Territories and the District of Columbia; which was read a first and second time.

Mr. SMITH, of Illinois. I would move, as all the committees are loaded with business, to refer this bill to a select committee of five.

Mr. HOUSTON. Are there members enough now to make up any more special committees?

Mr. SMITH, of Illinois. We will find enough, I think.

Mr. SMITH, of Virginia. I would like to amend the resolution so as to include all the executive offices in the States and Territories.

The SPEAKER. The bill is not before the House for amendment—only for reference.

Mr. SMITH, of Illinois. I would inform my friend from Virginia that the bill provides for apportioning the clerks among all the States and Territories of the Union.

The SPEAKER. Debate is not in order.

Mr. STANTON. Is a motion to lay on the table in order?

The SPEAKER. The Chair thinks it is.

Mr. STANTON. Then I move to lay it on the table.

Mr. SMITH, of Illinois. Then I call for the yeas and nays. I would say to the gentleman from Ohio, that I have no preference for a select committee. If there is any committee of the House that will take the bill in charge, and investigate it and report, my object will be accomplished.

The SPEAKER. Debate is not in order.

Mr. STANTON. I withdraw the motion to lay on the table.

Mr. FLORENCE. I ask that the bill be read for information.

Mr. CRAIG, of North Carolina. This is an important bill, and as it is late and the House thin, I move that the House adjourn.

Mr. FLORENCE. I do not desire to interrupt the business, and if no other member wishes the bill read, I withdraw my request.

Mr. JONES, of Tennessee. I should like to have the bill read.

The bill was read *in extenso*. It provides that the clerks and messengers in the public Departments in the city of Washington shall be apportioned amongst the several States and Territories, the District of Columbia taken as one congressional district for that purpose, in proportion to the representation in the House of Representatives.

Mr. SEWARD. Is debate in order?

The SPEAKER. It is not.

Mr. JONES, of Tennessee. I move that the bill be laid upon the table, and on that motion call for the yeas and nays.

Mr. SMITH, of Illinois. I am willing that the bill shall go to the Committee on the Judiciary, in order to see whether it conflicts with the Constitution or not.

Mr. HARRIS, of Illinois, called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. CRAIG of North Carolina, and BUFFINTON were appointed.

Mr. MILLSON. I rise to a question of order. Was the bill which was just now read for information, read a second time?

The SPEAKER. It was, and afterwards read for information.

Mr. MILLSON. I was going to say that if it had not been read a second time it could be objected to.

The SPEAKER. One objection, under the rule adopted this morning, would not have prevented it from coming in.

Mr. J. GLANCY JONES. I understand that the gentleman from Illinois proposes to modify his motion.

Mr. SMITH, of Illinois. I do. I move that the bill be referred to the Committee on the Judiciary.

The tellers reported—ayes 33, noes 100.

So (more than one fifth of the members voting in the affirmative) the yeas and nays were ordered.

The House, on motion of Mr. BISHOP, (at five minutes past four o'clock, p. m.) adjourned until to-morrow at twelve o'clock.

IN SENATE.

TUESDAY, January 19, 1858.

Prayer by Rev. J. C. GRANBERY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter from the President of the United States, transmitting to the Senate a copy of a convention between the United States and his Majesty the King of Denmark, for the discontinuance of the Sound dues, the ratifications of which were exchanged in this city on the 12th instant, and recommending that an appropriation be made to enable the Executive seasonably to carry into effect the stipulations in regard to the sums payable to his Danish Majesty's Government. The letter was, on motion of Mr. SEWARD, referred to the Committee on Finance; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Senate, showing, in obedience to law, the payments from the contingent fund of the Senate during the year ending the 6th of December, 1857; which was, on motion of Mr. BIGGS, ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of Moses Olmstead, an invalid pensioner, praying to be allowed arrears and increase of pension; which, with his petition and papers on file, was referred to the Committee on Pensions.

Mr. PUGH presented a memorial of certain permanent residents of Kansas, praying that the Indian title to certain lands said to belong to the Musnee Indians may be extinguished, and that Congress will grant them such further relief as in justice and equity they are entitled to as *bona fide* settlers; which was referred to the Committee on Indian Affairs.

He also presented the memorial of the register and receiver of the land office at Huntsville, Alabama, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

He also presented the petition of John Caris and others, members of Captain Campbell's company of volunteers in the war of 1812, praying to be allowed pay and rations to the time of their discharge; which was referred to the Committee on Pensions.

Mr. HOUSTON presented the petition of Maurice K. Simons, praying for an increase of pension; which was referred, with his papers on file, to the Committee on Pensions.

Mr. CAMERON presented four petitions of citizens of Philadelphia, remonstrating against the location of the post office in the building lately occupied by the Bank of Pennsylvania; which were referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented a petition of citizens of Taylor county, Iowa, praying that certain settlers on lands in that county may be allowed the right

of preemption to those lands; which was referred to the Committee on Public Lands.

Mr. IVERSON presented the memorial of the heirs of John Forsyth, praying that certain charges, erroneously made against him, in the settlement of his accounts as United States Minister at Madrid, may be adjusted, and the amount refunded; which was referred to the Committee on Foreign Relations.

Mr. POLK presented a memorial of the Legislature of Missouri, praying that William Doty may be remunerated for losses sustained and services rendered in effecting the arrest of certain mail robbers; which was referred to the Committee on Claims.

He also presented a memorial of the Legislature of Missouri against the extension of Woodworth's patent for a planing machine; which was referred to the Committee on Patents and the Patent office.

Mr. BRODERICK presented a petition of citizens of California, praying for the payment of the expenses incurred by that State in suppressing Indian hostilities; which was referred to the Committee on Military Affairs and Militia.

He also presented the petition of Anastacio Caxxillo, praying for remuneration for losses and inconvenience suffered in consequence of the erection of a light-house on a rancho owned by him, and compensation for the ground upon which it was built; which was referred to the Committee on Claims.

He also presented the petition of Thomas Jenkins, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PEARCE, it was

Ordered, That the memorial of Sarah A. Watson, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. DURKEE, it was

Ordered, That the petition of Elsie Van Ness, widow of Gant Van Ness, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. BIGGS, it was

Ordered, That John H. Wheeler have leave to withdraw his petition and papers.

On motion of Mr. COLLAMER, it was

Ordered, That the petition of John Vreeland, on the files of the Senate, be referred to the Committee on Pensions.

KANSAS AFFAIRS.

Mr. SEWARD. Yesterday, before the Senator from New Hampshire [Mr. HALE] had concluded his speech, I moved that the Senate go into executive session, not having first provided for a disposition of the subject on which he was speaking. There is another special order for to-morrow, and I learn that it will be quite agreeable to the Senators interested in that question, as well as to the honorable gentleman from New Hampshire, to have the subject which was under discussion yesterday continued. I move, therefore, to take up that subject, for the purpose of making it the special order for to-morrow at one o'clock.

The motion was agreed to; and the consideration of the motion to refer to the Committee on Territories so much of the President's message as relates to Kansas, was postponed until to-morrow at one o'clock, and made the special order for that hour.

REPORTS OF COMMITTEES.

Mr. FITZPATRICK, from the Committee on Printing, to whom was referred a motion to print the report of the Secretary of State, showing the names of the clerks and other persons employed in that Department during the year 1857, submitted an adverse report; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War, showing the expenditures for contingent expenses of that Department during the year ending June 30, 1857, reported that the usual number be printed; which was agreed to.

He also, from the same committee, to whom was referred a resolution of the Academy of Natural Sciences of Philadelphia; also resolutions of the Academy of Science of St. Louis, in favor of printing Dr. John Evans's geological survey of Oregon Territory, submitted an adverse report; which was agreed to.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Jonas P.

Keller, submitted a report, accompanied by a bill (S. No. 67) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Elias Hall, submitted a report, accompanied by a bill (S. No. 68) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. THOMSON, of New Jersey, from the Committee on Naval Affairs, to whom was referred the petition of Charles D. Maxwell, reported a bill (S. No. 69) for the relief of Dr. Charles D. Maxwell, surgeon in the United States Navy; which was read, and passed to a second reading.

PACIFIC RAILROAD.

Mr. GWIN, from the select committee on the Pacific railroad, to whom the subject was referred, reported a bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad, from the Missouri river to San Francisco, in the State of California; which was read twice by its title.

Mr. GWIN. As this bill is one of some importance, I move that it be made the special order for the first Monday in February, at one o'clock.

Several SENATORS. And printed.

Mr. GWIN. It will be printed, as a matter of course.

The motion was agreed to.

COD FISHERIES.

Mr. CLAY. The Committee on Commerce, to whom was referred a bill (S. No. 10) repealing all laws, or parts of laws, allowing bounties to vessels employed in the bank or other cod fisheries, and a resolution of the Legislature of the State of Maine, relative to the bounty on cod fisheries, have had the same under consideration, and have instructed me to report the bill back, and recommend its passage. I move that the bill and report be printed; and I should like to have it made the special order of the day for Thursday, of next week, at one o'clock.

Mr. HALE. I desire to submit an amendment to that bill, and if it is agreeable to the Senate I shall submit it now, and ask to have it printed with the bill. I desire to offer an amendment to the bill abolishing the law establishing a naval school at Annapolis, and a military school at West Point. I think the amendment is analogous and proper. Looking on the fisheries as a school for seamen, and these other institutions as schools for officers, if the Government patronage is to be withdrawn from the education of the men, I wish it to be withdrawn from the officers; and I will offer that amendment.

The VICE PRESIDENT. Will the Senator reduce his amendment to writing?

Mr. HALE. I will.

Mr. HAMLIN. I do not know that I shall interpose an objection to the consideration of the bill on Thursday of next week, if the Senator from Alabama desires to speak to it on that day. I have not seen the report of the committee, but I suppose I can infer its general scope. I do not know, however, precisely the form in which it is presented. It has not been submitted, I believe, to the committee. I will therefore suggest to the Senator to indicate a later day.

Mr. CLAY. It is a subject with which I had supposed the Senator from Maine was much more familiar than myself. I want the speedy action of the Senate on it. I am willing to put it off until next Monday week, if that would suit the Senator.

Mr. HAMLIN. That would suit me still better.

Mr. CLAY. The report is brief. There are some accompanying documents which I wish to have printed, in elucidation of the subject-matter of the report.

Mr. HAMLIN. We will hear the Senator on that day; and then, I apprehend, the Senate will give me time to investigate the subject as fully as the report may require.

Mr. CLAY. I will inquire whether there be any special order for next Monday week?

Mr. BENJAMIN. I suggest to my friend from Alabama that next Monday week is the first Mon-

day of February, already assigned to the Senator from California.

Mr. CLAY. Then I would say this day two weeks.

Mr. BENJAMIN. If the Pacific railroad bill be taken up on the first Monday of February, a special order for the next succeeding day will be of very little value. The Pacific railroad bill will certainly consume more than a single day.

Mr. CLAY. It is suggested that it had better remain in that position, and be the next special order according to the rules.

The VICEPRESIDENT. The Senator from Alabama moves that the report be printed, and that the bill be made the special order for this day two weeks, at one o'clock. The Senator from New Hampshire, by unanimous consent, offers an amendment, and moves that it be printed with the bill. The Secretary will read the amendment.

The Secretary read it, as follows:

And be it further enacted, That all laws establishing a Naval School at Annapolis, and a Military School at West Point, be, and the same are hereby, repealed.

The VICEPRESIDENT. The question is on printing the report and amendment, and making the bill the special order for this day two weeks, at one o'clock.

The motion was agreed to.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 66) to amend an act, entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FOOT asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 10) directing the Secretary of the Interior to pay certain pension claims therein specified; which was read twice by its title, and referred to the Committee on the Judiciary; Mr. Foot stating that it involved some legal question on which a diversity of opinion had been expressed.

Mr. CAMERON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 11) relating to public printing; which was read twice by its title, and referred to the Committee on Printing.

AFRICAN SLAVE TRADE.

Mr. SEWARD submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the Senate any information in his possession derived from the officers connected with the American squadron on the coast of Africa, or from the British Government, or the French Government, or other official sources, concerning the condition of the African slave trade, and concerning the movements of the French Government to establish a colonization in the possessions of that Government from the coast of Africa.

DIPLOMATIC AND CONSULAR SYSTEMS.

Mr. IVERSON submitted the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of making such changes and modifications of the act entitled "An act to regulate the diplomatic and consular systems," approved August 18, 1856, as may be necessary for the better protection and regulation of our growing and expanding commerce and intercourse with foreign nations.

GOVERNMENT PRINTING.

Mr. CAMERON. I wish to make an inquiry of the Secretary. In March last, I had the honor of offering a resolution, which was adopted by the Senate, calling on the Secretary of the Treasury to send to this body a statement of the cost of the congressional and departmental printing for the preceding ten years. Nearly a year has elapsed since that resolution was offered, and I am anxious to know whether it was ever sent to the Treasury Department. If it has not been sent, I hope it will be.

The VICEPRESIDENT. The Chair will cause the inquiry to be made.

NAVAL RETIRING BOARD.

The VICEPRESIDENT. The next business in order is the joint resolution (S. No. 6) to extend to the naval retiring board an opportunity of enjoying the same advantages of officers who have been dropped, furloughed, and retired by said board.

The joint resolution was read a second time.

Mr. HOUSTON. I move that it lie on the table until called up.

The motion was agreed to.

JAMES BEATTY.

The bill (S. No. 57) for the relief of James Beatty's personal representative, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to James Beatty's personal representative \$1,087 41, in full for duties illegally exacted of him in his lifetime, on crude saltpeter (under the name of partially refined saltpeter) imported by him into the port of Baltimore, in January, 1845.

Mr. PUGH. I should like to inquire of the chairman of the Committee on Claims as to the character of this bill. Is this one of the bills for refunding duties which were paid without protest?

Mr. IVERSON. It is not one of that class of claims. The liquor cases, to which I presume the Senator alludes, are a different class altogether. If the Senator will read the decision of the Court of Claims he will be informed of the merits of the case.

Mr. PUGH. I was under the impression that this bill was before the Senate at the last session, and was one of a large class of cases decided by the Court of Claims, where I thought the decisions palpably erroneous. If so, I could not permit the bill to pass without objection; but if it be not one of that class I have nothing to say.

Mr. IVERSON. There was no protest actually filed in the case; but the Court of Claims, as well as the Committee on Claims, considered the circumstances as exempting the party from making protest.

Mr. STUART. I should like to hear the decision of the Court of Claims in this case, in order to know the grounds on which the bill is based.

The Secretary read as follows:

James Beatty's Executor vs. the United States.

SCARBOROUGH J., delivered the opinion of the court. It is conceded by the solicitor, and the court find, that the allegations of the petition filed in this case are established by the evidence. It is also conceded by the solicitor that the money now sought to be reclaimed having been paid under a mistake of fact, the importer being under the mistaken impression, at the time of the payment, that the saltpeter on which the duty was paid was "partially refined saltpeter," when in fact it was "crude saltpeter," there being no such thing known in commerce as "partially refined saltpeter," the petitioner is entitled to relief. In the opinion heretofore delivered by this court, we came to the conclusion that, if the allegations of the petition should be sustained by the evidence, the petitioner's right to relief would be unquestionable. They are fully sustained; and we shall report to Congress a bill in favor of the petitioner for \$1,087 41.

The reasons for this opinion will be found in the opinion heretofore delivered by this court in this case, in the opinion of this court in the case of Henry and Frederick W. Meyer vs. the United States, and in the opinions thereto appended.

Beatty's Executor vs. the United States.

Judge BLACKFORD's dissenting opinion.

Suit for over paid duties.

I dissent from the final judgment rendered in this case by a majority of the court in favor of the claimant.

The ground of my dissent is, that the duties sued for were paid without any objection, either written or verbal. The payment was therefore voluntary, and cannot be recovered back. That doctrine is settled by the common law, and by the act of Congress of 1845. Indeed, the act of Congress requires a written protest, stating distinctly and specifically the grounds of objection to the payment. (5 Statutes at Large, 727; see Marriott vs. Brune, 9 Howard, 619, 636; Lawrence vs. Caswell, 13 Howard, 488, 496.)

The reasons of my dissent are given at length in the opinion heretofore delivered by me in this case, on the question as to the validity of the petition; which opinion is hereto appended, and made part of this opinion.

The dissenting opinions heretofore delivered by me in the cases of Sturges, Bennett & Co. vs. the United States, Spence and Reid vs. the United States, and Wood vs. the United States, are also hereto appended, as a part of this opinion.

Mr. PUGH. I do not think it is necessary to read the opinions referred to in the decision. I am satisfied.

Mr. IVERSON. I can state very briefly the character of this case and the distinction between it and the claims to which the Senator from Ohio has alluded. The Committee on Claims have had under consideration bills from the Court of Claims granting relief to Meyer and other claimants, who paid excessive duties, as they allege, on certain importations of spirituous liquors into this country, having filed no protest at the time. They were adjudged by the court to be entitled to relief. The committee, however, have decided against them, and a report is now in the course of preparation adverse to the decision of the Court of Claims. This case is different from those. Here

excessive duty was not charged at the time upon the article, but the collector of the customs charged duties erroneously, improperly, on an article which did not in fact exist. The importer paid the duty, of course ignorant but that such was the law, ignorant but that such an article was known in commercial language as "partially refined saltpeter," when in truth and fact, according to commercial language and law, there was nothing but "crude saltpeter." If the duty had been imposed on crude saltpeter, and he had paid more than the law required him to pay without entering a protest, he would not be entitled to relief; but in this case, the collector imposed a duty on an article which really did not exist. He imposed a duty upon partially refined saltpeter, and there was no such thing as partially refined saltpeter. The law did not provide for a duty on such an article, but the importer was ignorant of the fact, as the committee believed from the circumstances stated in his memorial and the testimony, and therefore, we think it just and proper, as the Court of Claims did, to refund this money thus improperly collected; that is to say, to refund the difference between the amount which would have been due on crude saltpeter and the duty which the collector imposed on partially refined saltpeter. That is the whole case.

Mr. BENJAMIN. I make no objection to this bill; but I desire to enter just here a protest against one suggestion that fell from the Senator from Georgia. I am very sorry to hear from that Senator that the Committee on Claims have it in contemplation to report against the refunding of duties overpaid by merchants, because of the absence of a technical protest. I hope that that subject, before the close of the week, will be referred to the Committee on Commerce.

Mr. IVERSON. That is not the decision of the Committee on Claims. I said they determined to report against the claims of Meyer, and others, importers of liquors, not particularly on the ground of no protest having been filed, but on other grounds, stated in the report. The Senator from Rhode Island [Mr. Simmons] has it under consideration, and will report the facts.

Mr. SIMMONS. The committee do not report against the allowance, for want of a protest, but right the other way. If the claim was just, they would make the allowance notwithstanding the lack of a protest. I merely wish to correct one unintentional error into which the Senator from Georgia fell, if I read the facts aright. This was a duty levied upon partially refined saltpeter, and there is no such thing known in commerce as partially refined saltpeter. It is either crude or refined. The duty was paid by mistake both on the part of the collector and the merchant. When it was found out, the petitioner was too late to protest. He thought the duty was payable on it; but he afterwards ascertained that there was no such thing as partially refined saltpeter, and that the imposition of the duty was a sheer mistake.

Mr. PUGH. I shall not object to the passage of this bill on the special grounds stated by the Senator from Georgia and the Senator from Rhode Island; but the court has evidently not decided it on those principles. The court has taken the broad ground that wherever an importer afterwards discovers a mistake of law or of fact, he can come, at any indefinite future period, and recall the money, which is contrary to the law, as I understand it, on the subject of voluntary payments. If this bill stands on the special grounds which have been stated, I make no further objection; but I do object to the cases of Meyer and other parties, which I had occasion to examine at the last session.

Mr. BENJAMIN. I do not desire to pursue this discussion now; this is not the proper occasion; but I will say that I believe the whole of the public law on that ground stands on an improper footing. I think it is beneath the dignity of the Government, as it is beneath the character of an honest man, to retain a person's money overpaid, because his protest against the payment does not happen to be made in due form, or because, at the time of the payment, he was ignorant of the fact that he was overpaying a claim made against him. However, this is not the proper occasion to enter into the discussion; but I desire, to save my right on that point, to enter a dissent to the view of the Senator from Ohio.

Mr. FOSTER. You make your protest now. [Laughter.]

Mr. BENJAMIN. Yes, sir.

The bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

NOTARIES PUBLIC.

The bill (S. No. 3) to authorize notaries public to take and certify oaths, affirmations, and acknowledgments in certain cases, was considered as in Committee of the Whole.

It provides that in all cases in which, under the laws of the United States, oaths, affirmations, or acknowledgments may now be taken or made before any justice or justices of the peace of any State or Territory, or the District of Columbia, they may be hereafter taken or made by or before any notary public duly appointed in any State or Territory, or the District of Columbia, and, when certified under the hand and official seal of a notary, shall have the same force and effect as if taken or made by or before a justice or justices of the peace. All laws, or parts of laws, for punishing perjury, or subornation of perjury, committed in oaths or affirmations when taken before any justice of the peace, are to apply to any such offense committed in any oaths or affirmations which may be taken under the act before a notary public or commissioner; but on any trial for either of these offenses, the seal and signature of the notary are not to be deemed sufficient in themselves to establish his official character, which must be shown by other proper evidence.

The same powers are proposed to be vested in any commissioner appointed, or hereafter to be appointed, by any circuit court of the United States, under any act of Congress authorizing the appointment of commissioners to take bail, affidavits, or depositions, in causes pending in the courts of the United States. Notaries public are further authorized to take depositions and do such other acts in relation to evidence to be used in the courts of the United States, in the same manner and with the same effect, as commissioners to take acknowledgments of bail and affidavits may now lawfully take or do.

The bill was reported to the Senate, and ordered to be engrossed for a third reading. It was read the third time, and passed.

BENTON, BABBITT, AND LONGSTREET.

The bill (S. No. 59) for the relief of James G. Benton, E. B. Babbitt, and James Longstreet, of the United States Army, was read the second time, and considered as in Committee of the Whole. It is a direction to the proper accounting officers, in settling the accounts of Lieutenant James G. Benton, of the Ordnance Department, of Brevet Major E. B. Babbitt, Chief Assistant Quartermaster, and of Brevet Major James Longstreet, Acting Commissary of Subsistence, to allow them as credits the respective amounts of which they were defrauded by Parker H. French, in San Antonio, Texas, in July, 1850, viz: to James G. Benton, \$1,021 04; to E. B. Babbitt, \$519 93½; and to James Longstreet, \$448 98.

It appears that while these officers were stationed at San Antonio, Texas, in July, 1850, application was made to them, respectively, for ordnance stores, quartermaster's stores, and subsistence stores, by Parker H. French, the chief of a body of emigrants, on their journey to California. He bore and exhibited to the petitioners what purported to be a letter of credit from Howland & Aspinwall, of New York, and he possessed the confidence of numerous citizens and merchants of Texas, to some of whom he was personally known. He was the acknowledged chief of an emigrating party, and was, to all appearances, a reliable and responsible man. By authority of the joint resolution of Congress, approved March 2, 1849, officers in these departments are allowed to sell to persons emigrating to California such stores as the state of the public supplies will permit, and, with the concurrence of Brevet Major General Brooke, they sold to French ordnance stores to the value of \$1,021 04; quartermaster's stores, \$519 93½; subsistence stores, \$448 98; for which he gave them separate drafts upon Howland & Aspinwall, of New York, which drafts, having been forwarded for collection, were protested for non-acceptance. It was then discovered

that the letter of credit exhibited by French was a forgery, and all his representations were false. Several of the best merchants of San Antonio were at the same time and in the same manner imposed upon for large amounts of money, and the impostor has fled beyond the reach of law. It is apparent that these officers, in all these transactions, exercised due diligence, acted under the instruction of their commanding general, and that the money was lost without any fault of theirs.

The bill was reported to the Senate; ordered to be engrossed for a third reading; and was read the third time, and passed.

DEATH OF GENERAL RUSK.

Mr. HOUSTON. Mr. President, it has become my painful and melancholy duty to announce to the Senate the death of my recent colleague, General THOMAS J. RUSK. In making this announcement, sir, it is proper for me to remark that its postponement to the present period of the session has been owing to a hope that his successor would arrive. Having ascertained that his indisposition is such that he will be prevented from attending the Senate perhaps during the session, I have thought proper to select this occasion for the announcement.

In speaking of the deceased, I am speaking to his friends. He was known to most of those around me familiarly, and to you, sir, intimately. The tribute that is offered to departed greatness is generally measured by the amount of reputation of the individual who is the subject of it. It is the duty of the historian, not of the eulogist, to go into the details of private life and character, and the minutia which would otherwise be appropriate on this occasion.

The subject of this notice was born in Pendleton district, South Carolina. He did not inherit the advantages of fortune, of family, or of patronage. He was descended from an Irish patriot, who was cast upon our shores in consequence of the troubles of 1791 in Ireland. He inherited a holy love of liberty from his ancestors, and it was matured into patriotism for the benefit of his country. After struggling through the difficulties incident to limited means in youth, he acquired a profession—the law. He removed to the State of Georgia, and there rose rapidly to distinction in his profession. After years of exertion in that State, and after having connected himself with an estimable lady, he removed with his family to Texas in 1834. At that time, sir, the first emotions of revolution began to agitate that distant region. He was loyal to the institutions of the country to which he had migrated, until oppression became intolerable. When the Texans rose as one man in resistance to a despot and usurper, he stepped forward, united with his fellow-citizens, and engaged in the perilous conflict of the revolution. He was not urgent for that event; but like others, he prepared himself to meet the occasion when it was unavoidable. In 1835, when the enemy invaded Texas, and took possession of San Antonio, he immediately marched with a force from eastern Texas, and rendered signal assistance to General Austin, then in command of the Texan forces. Whilst at San Antonio, he was engaged in various conflicts and encounters with the enemy, in which he demeaned himself with that chivalry and valor which characterized him in all his martial scenes. After that he returned to his family, but was soon elected to the convention which, in 1836, asserted the independence of Texas, at Washington on the Brazos. In the organization of a government *ad interim*, he was selected by that body as Secretary of War. He continued in the Cabinet until the enemy were advancing, and the Texan army falling back from the frontiers, and then, unlike others who were fugitives from the limits of the United States, he turned his face to difficulty, and to the army—he identified himself with it, its privations, its sufferings, its difficulties. He continued with it in the confidence of the commander-in-chief, rendering all the aid in his power to the cause of Texas and its independence. He remained with the army until after the capture of General Santa Anna, the imperial ruler of Mexico, when, owing to events which transpired on that day, he was appointed to the command of the army of Texas. It is but just to his memory to say that, on that occasion, he commanded the

left wing of the Texan army, and surrounded the right wing of the enemy, rendering the rout and victory more complete than they would otherwise have been.

He continued in command of the army from April until October of that year, when the first constitutional Government was organized at Columbia, on the Brazos. He was then called from the head of the army to the post of Secretary of War. He remained in that position until the circumstances of his family required his attention, when he resigned his place. He was subsequently called to the office of Secretary of State, which he declined, owing to the same causes. He remained in private life until the close of 1837, when he was elected to the Legislature, and during that session he was advanced to the chief justiceship of the Republic. He adorned that position until 1840, when he again resigned office, and retired to the walks of private life and to the pursuit of his profession. Difficulties, however, soon arose in relation to Indian troubles, in which he was always conspicuous, the most efficient in conflict, the foremost in council, a leader in danger, an adviser with wisdom at all times. In 1843, a provisional force was raised by action of the Legislature, when he was again elected major general. His action under this appointment, however, was rendered unnecessary on account of the proclaiming of an armistice and suspension of hostilities, which continued, though partially interrupted, to be sure, until the time of annexation.

On the consummation of that event, sir, he was unanimously elected by the Legislature of Texas a member of this body; he was thrice elected, I believe, ere his death. Senators, you all know the position he occupied here. You know the relations in which you stood to him. You know his high conservative principles. You know his manly and staunch advocacy of the compromises of 1850. You know how faithfully he adhered to every principle that was conservative. You will recollect that he was elected at the close of the last session temporarily to the Chair by a vote of the body—the very height of distinction in a Senator. In the full enjoyment of these high honors and privileges, he was taken from us. His fame is national, not sectional. His name belongs to history; it is hardly a theme for the eulogist. He stood conspicuous in everything that was good and great. He was a man whose influence was felt throughout the nation; nor was the wound unfelt that inflicted his death.

Sir, we may say of him, and it is but a just tribute to worth, that as a soldier he was gallant, his chivalry spotless, his honor clear; as a statesman, he was wise, considerate, and patriotic; as a friend, he had all the high qualities that ennoble the heart; as a father, affectionate almost to infirmity; as a husband, manly, noble, and erect; as a man, he had all the qualities that adorn human nature; and if he had infirmities, they were few in proportion to those which fall to the lot of man. He will be remembered here; he will be remembered throughout the nation; he will be unforgotten in Texas whilst either history or tradition lives. Texas has lost one of the bright and staunch pillars of her edifice; and she has no material to replace him in this body. Mr. President, I offer the following resolutions:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. THOMAS J. RUSK, deceased, late a Senator from the State of Texas, will go into mourning, by wearing crape on the left arm, for thirty days.

Resolved, That, as an additional mark of respect for the memory of the Hon. THOMAS J. RUSK, the Senate do now adjourn.

Mr. COLLAMER. The expression of eulogy is generally expected from the intimate friends, or political associates of the deceased, and my apology, if any might seem necessary, for my few remarks on this occasion, will, I think, be found in the facts I am about to state.

It was my fortune to be in charge of the Post Office Department in an unusual condition of political affairs. A majority of Congress, in both branches, differed in political sentiment with the President and Cabinet. The chairmen of the different committees, the ordinary organs of intercommunication between the Departments and Congress, were not entertaining congenial political views with the heads of the Departments, and it

was not to be expected they would yield any very cheerful assistance to promote their views, and advance their popularity; but would confine themselves strictly to matters of duty to the public service.

In this condition of affairs I found General Rusk, chairman of the Post Office Committee of the Senate, technically called "the Committee on the Post Office and Post Roads." It was the first of my personal acquaintance with him. In our official intercourse I presented to him, frankly and fully, all my objects, purposes, and designs for the improvement and efficiency of the Department, and took consultation with him as to all legislative action to effect it. This was by him as frankly reciprocated, and all necessary aid and service in this body, to effect these purposes, was, by him, at all times, most cheerfully, and generally successfully, accorded. No hesitation or neglect, for sinister or party effect, was by him ever manifested. By this he became entitled not only to my confidence and respect, but to my admiration, and even my personal gratitude, which I regard it as my high privilege here to acknowledge, as due to his memory.

During the two sessions of the last Congress I served with and under him on that same committee, and witnessed his services there and in this body, presenting at all times the same traits in his character. As seen by me, he was a man of great clearness of apprehension, soundness of practical judgment, and inflexible integrity of purpose. Untrained and unspoiled in scholastic refinements, he was never the dupe of the sophistry of himself or others. Unskilled in devices and expedients, he presented his objects and his propositions here with the frankness and clearness with which he entertained them, in honest Saxon words, despising all attempts at display and all meretricious ornament. His arguments, like his propositions, the result of an unsophisticated perception, were direct and undisguised, avoiding alike all insinuation and all the crooked paths of oblique approach and disguised indirection. By this he secured not only the confidence he desired, but the admiration which he never sought. It was voluntarily accorded as due to an able and an honest man.

He was the true type of the American statesman, as contradistinguished from the public man of Europe; less remarkable for extensive learning and clerical accomplishments, but more for the utilitarian powers of practical judgment and inflexible integrity and resolution.

Less I could not say, in justice to my own feelings of obligation, though much more I might say in justice to his worth, as a tribute to the memory of General Rusk.

Mr. GWIN. Mr. President, it is twenty-three years since I first met General Rusk, on the borders of Texas. He was full of hope, and of enterprise, and in the vigor of manhood. I shall never forget the impression he then made upon my mind. He seemed to me like one who was starting upon some great career, and destined to win the highest honors. I was struck with the simplicity and sincerity of his manners, the kindness of his social spirit, and that general tone of character which exhibited virtue, wisdom, and courage, in their mildest, most natural, and least repellant forms. To me, sir, that period is full of interesting reminiscences, which awaken my heart, as well as my memory; and I cannot permit this melancholy occasion to pass without expressing my deep regret for the loss of a friend so true, and a statesman so eminently wise and just.

Our intimacy began with our first interview, and lasted until the close of his life. I feel his death more than I can express in words, and I am sure that the nation feels it profoundly. It is deeply impressed upon the hearts and memories of all who knew him—of all who had reason to seek his counsel—of the injured who had need to apply for redress, to the unerring precision of his justice, and, upon none more sincerely than the members of this body who have long borne with him the cares of State. Sir, it may be said of him that his good deeds, his noble virtues, his unsurpassed judgment, and far-seeing sagacity in public affairs, were indelibly impressed in illuminated characters throughout the political pathway of his life. To speak of him as he truly was, is almost

to excite suspicion in the stranger that this portrait is sketched by too partial a hand; but, sir, it is not so; whether we speak of him as a public man or a private citizen, the least we can say is, that it will be long before we look upon his like again. He was a very rare character, and possessed in an eminent degree exceedingly rare qualities. It was not merely that he was wise in counsel and great in action; but political difficulties ever animated him, and public calamities did not unnerve him; and he stood ever ready to act, never being in the way where he ought not to be, nor out of the way when needed, at all times and in all things. It was the combination of those distinguished qualities that attracted towards him men of merit and high excellence, of whatever political cast or opinion, and which no less equally inclined him to esteem and respect many of his opponents. Not to speak of the living, it will be remembered by some—and it must be a pleasant reminiscence to every liberal-minded statesman—that the most friendly relations, and the kindest intercourse, existed, for many years prior to his death, between him and the great Webster. It was rarely they ever opposed each other, except in measures of the strictest party character, where they separated upon a difference of opinion as to great principles. That, sir, was as it should be between enlightened statesmen. They were men eminently fitted to keep this great Union together, and to stand forth, in this respect, as an example to the living and to posterity.

General Rusk was truly a statesman in the highest sense of the term. He had neither a single sectional line in his heart, nor one solitary, sinister, nor cross purpose in his mind; and I deeply deplore that he is not this day in our midst; in the full fruition of all his experience and all his powers, for he was truly a man not only to be admired and beloved, but to be followed in council. He was never disturbed by the lust of power. Its grandeur had no seductive charms for him. He more nearly resembled the great patriot, John Hampden, of England, than any public man who has lived since that time. He had all his virtues and all his talents. They were alike in their habits of mind, of action, and of debate. They were cautious, but energetic; moderate, but decisive; and never lost an inch of ground once gained. Their power was always progressive. They never surrendered, and in a final struggle were sure to be irresistible. Neither of them was given to long, set speeches. They listened patiently to others, and watched with careful precision the direction and force of the discussion. Both were equally ready, and when they did speak, they saw intuitively the pivot upon which the question turned, and dealt with that, and nothing else. They never started except from a vantage ground, because they made it a point to understand the whole subject under consideration, and that which is of equal importance, the true temper of the Houses they addressed. The manners of both were kind and courteous. They were neither of them abject to the highest man who held position above them, nor did they manifest the slightest arrogance towards those beneath them. The personal influence of each was great, and their moral power still greater. Their common sense and indomitable perseverance were unsurpassed, and they were equally fitted for the Senate, or the Cabinet; for war, or peace; for revolution, or the happier destinies of a quiet, safe, and orderly Government. They were both heroes and wise statesmen; alike consummate actors, and skillful and practical reasoners. Hampden excelled in a classical education, and passed at the full meridian of age into the first British conflict with the house of Stuart. Our lamented Senator was taught earlier in life, in the more vivid school of a fiercer revolution, which created a nation and constructed a new Government, where the mind being tasked to greater invention for practical experiments to be adapted to a mixed and untried people, might learn more and treasure more. The one studied Homer with superior advantages, and was for the last years of his life a great actor himself; but the other, from the first, even in his political rudiments, was like one of Homer's heroes in the full tide of successful advancement. He who reads the classical historian may doubtless learn much, and would have before him the faint pictorial of the deeds of others, traced by the pen of a lucid writer, but,

if an actor himself in like great events, he would be part of them and see the living picture itself, and become more profoundly instructed in the actions and the characters of men. With that difference in the means for the early mental development of these two distinguished statesmen, it is probable that the schooling of our great American Senator was the more profound, instructive, and practical, and that this far more than counterbalanced the earlier advantages of his remarkable and patriotic prototype.

At any rate, in distant countries, and at remote periods in history, these two statesmen have presented a similitude of character equally curious, striking, and attractive. They both passed from life at an early period. The revolutionary services of the patriotic Briton were the last of his history; but the wars of the American Senator began with his entrance into public life, and it was amidst such trying scenes that he first received in his early manhood the lessons of State. He was already a hero and a statesman before he was introduced to the acquaintance of his countrymen in this Chamber. He had passed through the revolution of Texas with distinguished and unblemished honor. Indeed, throughout all his campaigns, triumphs attended him wherever the Lone Star of his country guided. When in the Cabinet his wisdom was her shield and her strength. To crown the full measure of his glory in that infant Republic, his skillful and equal hand, as the chief justice of her highest court, fashioned and gave practical direction to her new jurisprudence.

Thus, sir, he came before us, although a young man, a practical statesman, full of all the honors which men delight to win and wear, and which history records in her brightest pages as the chief distinction and glory of our race.

How he grew in his proportions here we have all witnessed. What he would have been had he lived no man can tell; but the hearts of his countrymen will attest, that they have lost one of their greatest and most valued statesmen; one whom they had hoped to place in a higher and more responsible position.

What Junius has said of Lord Chatham will apply to him:

"Recorded honors shall gather around his monument and thicken over him. It is a solid fabric, and will support the laurels that adorn it."

Mr. SEWARD. Mr. President, in funeral ceremonies it is not any of those who were the companions at the hearthstone of the dead, but some one who sustained only public relations to him that is expected to pronounce the customary panegyric. On this ground, I should claim the privilege of being silent on this occasion if I thought that my connection with the late Mr. Rusk was rightly understood. It is true that I was not his kinsman, nor his neighbor, nor even his political associate. I was, nevertheless, attached to him by bonds strong as the charity that consecrates even those relations. But they were peculiar bonds. I was his captive, an adversary overpowered, overcome, and conquered by his generosity in my first encounter with him here in this field of sectional strife, released on parole, a prisoner at large, but devoted to him by gratitude for the period of my whole life. In that character I follow the hearse which is bearing him away from our sight. Since I must speak, nature shall have its way, and my utterances, proceeding not from study but from feeling, shall tell less of his great worth than of my own great loss.

All the world knows that THOMAS J. RUSK was brave and heroic, and yet prudent and patient in the camp and in the field. These were the virtues which distinguished him here, and they were chiefly the means of his success in the Senate. He knew no fear of opposition, raised by either prejudice or passion. He undertook nothing without first balancing all the chances of success, and gathering in and combining all the available agencies necessary to secure it; and he maintained perfect equanimity until all resistance was overcome. As he was without fear, so he was also free from jealousy and from envy. Thus happily constituted, he tolerated in all others the same fidelity to their own characters and the same loyalty to the interests they represented which he bore to his own instincts and to the interests confided to his care. He despised art, trick, and

cunning, and advanced always directly towards his appointed end. If he was sometimes irritated at seeming injustice, or misapprehension, he corrected his error without even waiting for complaint or explanation. I doubt whether any setting sun, during his whole life, ever witnessed his anger.

As he was manifestly unassuming and unaffected, so, for aught that I could ever see or hear, he was altogether unambitious. He practiced no flattery. I am sure that no sensible man ever offered him adulation. He was not, in any degree, sectional in his policy; but he aimed always at the advancement and aggrandizement of his whole country. Hence, fortifications, improvement of roads, rivers, and lake navigation, everywhere within our national jurisdiction, and explorations and extended navigation, and telegraph communication with all accessible regions without it, in every part of the globe—these were the achievements he made, these are the monuments of wisdom and patriotism which he has left among us. It was in the studies connected with these measures that my acquaintance with him ripened into an ardent friendship. Each of us deplored his ignorance of the regions concerning which we were legislating, and as they seemed to us to be growing world-wide, we spoke, half seriously and half imaginatively, of going together to enlarge our knowledge, in a voyage around the world. But it was a thing easier to conceive than to execute; and though it might never be executed, it was still pleasant to contemplate.

I saw him last at the late special session of the Senate, called to inaugurate a new Administration. I demanded of him that he should cause one personal and political friend of mine, but who was inoffensive, and a competent and faithful officer, to be retained in a subordinate post under the new Administration. He promptly responded, pleasantly adding, that he would make the granting of my request a condition of his own loyalty to the new powers. We separated. He went to his own sunny land, and I to my home under the genial north star.

On the last day of August, I was reëntering the port of Quebec, after a voyage of thirty days, in search of health along the inhospitable coasts of Labrador. The sympathies of home and country, so long suppressed, were revived within me, and I was even meditating new labors and studies here, when the pilot, who came on board, handed me a newspaper which announced the death of the Senator from Texas. My first emotions were those of sadness and sorrow over this bereavement of a personal friend. When these had had their time, I tried to divine why it was, that he, among all the associates whom I honored, esteemed, and loved here, was thus suddenly and prematurely withdrawn from the scene of our common labors; he, for whom I thought higher honors were preparing, and a fuller wreath was being woven; he, who seemed to me to stand a monument against which the waves of faction must break, if ever they should be stirred up from their lowest depths; he, in short, with whom I thought I might do so much, and without whom I could do almost nothing, to magnify and honor the Republic. That question I could not solve. I cannot solve it now. It is only another occasion in which I am required to trust, where I am not permitted to know, the ways of the Great Disposer.

Mr. President, the teeming thoughts of this solemn hour bring up once more before me the manly form and beaming countenance of my friend, though it is but for that formal parting which has, until now, been denied me. Farewell noble patriot; heroic soldier, faithful statesman, generous friend; loved by no means the least, although among the last of friends secured. I little thought that our whisperings about travels over earth's fairest lands and broadest seas, were only the suggestions of our inward natures to prepare for the sad journey that leads through the gates of death. I do not doubt that for yourself, death is gain, since the event was appointed by Him who doeth all things well. It is best for me also, for it loosens another one of the bonds that bind me to the earth, divests the common fate of one more of its terrors, and creates, through the hope of reunion, another aspiration for a better life beyond the grave.

The resolutions were unanimously agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 19, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved.

SPECIAL COMMITTEE.

The SPEAKER announced, as the committee to investigate the conduct and accounts of the late Doorkeeper, Messrs. HUGHES, JENKINS, PURVANCE, BRYAN, and THOMPSON.

PERSONAL EXPLANATION.

Mr. BARKSDALE. I desire to state that I voted against the resolution moved by the gentleman from Tennessee [Mr. ZOLICOFFER] to instruct the Committee on the Judiciary to inquire into the expediency of reporting a bill to regulate and restrain the immigration or importation into the United States of foreign paupers and criminals, under a misapprehension. I supposed the vote was upon a motion to lay the resolution upon the table. I should have voted for the resolution if I had understood the question.

APPORTIONMENT OF CLERICAL OFFICES.

The SPEAKER stated that the first business in order was the completion of the order of yesterday, directing the call of the States and Territories for bills and resolutions; the pending question being upon the motion of the gentleman from Tennessee [Mr. JONES] to lay upon the table the bill introduced by the gentleman from Illinois, [Mr. SMITH], to apportion the clerks and messengers of the several Departments of the United States Government, in the city of Washington, among the several States and Territories and the District of Columbia.

Mr. J. GLANCY JONES. I ask the unanimous consent of the House to allow me to report two bills, in order that they may be referred and printed.

Mr. HARLAN. I object.

The SPEAKER. Upon the motion of the gentleman from Tennessee, which is the pending question, the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 142; as follows:

YEAS—Messrs. Boccock, Bowie, Boyce, Burnett, Caskie, Clay, Cobb, John Cochrane, Corning, Davidson, Davis of Maryland, Dowdell, Faulkner, Florence, Goode, Groesbeck, Hawkins, Houston, Hughes, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Jacob M. Kunkel, Landy, Letcher, Macley, McQueen, Miles, Millson, Mott, Nichols, Pendleton, Phillips, Seward, Henry M. Shaw, William Smith, Stephens, Stevenson, Miles Taylor, Trippe, Whiteley, and Zollicoffer—43.

NAYS—Messrs. Adams, Anderson, Andrews, Atkins, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Branch, Bratton, Buffinton, Burlingame, Burns, Burroughs, Case, Chaffee, Ezra Clark, Horace F. Clark, John B. Clark, Clawson, Clemens, Clingman, Clark B. Cochrane, Cockrell, Colfax, Comins, Covode, Cox, Cragin, James Craig, Burton Craig, Crawford, Curry, Curtis, Danrell, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edmundson, English, Farnsworth, Foley, Foster, Garnett, Garrett, Giddings, Gilman, Goodwin, Granger, Greenwood, Gregg, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hickman, Hoard, Horton, Howard, Huyler, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leidy, Leiter, Lovejoy, Humphrey Marshall, Mason, Maynard, Miller, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Murray, Niblack, Olin, Palmer, Parker, Pettit, Peyton, Phelps, Pike, Potter, Pottle, Powell, Purvance, Quitman, Ready, Reagan, Reaud, Robbins, Roberts, Ruffin, Russell, Sandage, Seales, Searing, Aaron Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Stanton, James A. Stewart, William Stewart, Talbot, Tappan, Thayer, Thompson, Underwood, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—142.

So the bill was not laid on the table.

The question recurred upon the motion to refer the bill to the Committee on the Judiciary.

Mr. HOUSTON. I want to propose an amendment to the bill, if it is in order.

The SPEAKER. It is not in order.

Mr. HOUSTON. Would it be in order to strike out "States," and insert "congressional districts?"

The SPEAKER. The bill is not before the House for amendment. The motion is to refer.

Mr. HOUSTON. I hope the gentleman will modify his motion, so as to send the bill to a select committee.

Mr. SMITH, of Illinois. I have had some conversation with the honorable chairman of the Committee on the Judiciary, and with other mem-

bers of the House, since this bill has been introduced, and I wish to say that I withdraw my motion for reference to the Committee on the Judiciary, and move to refer it to a select committee. I would name "seven" as the number of that committee, but would accept the modification of any gentleman in the House proposing to make it a larger number; and I would say, that if a select committee is ordered, and I should be upon the committee, the views and wishes of the gentlemen of the House would be consulted in reference to—

Mr. BURNETT. Is this question debatable?

The SPEAKER. It is not.

Mr. BURNETT. Then I object.

Mr. SMITH, of Illinois. I do not want to debate it.

Mr. LOVEJOY. I wish to move to add instructions to this motion of reference.

The SPEAKER. The Chair thinks it is not competent to do so, under the order of the House. The order contemplates nothing but the reading of bills and their reference. The order is, that each member may introduce, by leave, without debate, as many bills as he may desire, for reference only.

Mr. GIDDINGS. Is it not in order to instruct the committee?

The SPEAKER. The Chair thinks it is not in order.

Mr. GIDDINGS. As the Chair decides that instructions cannot be given, I would inquire if an objection would defeat its introduction?

The SPEAKER. Objection will not defeat the bill. Bills introduced under the order of the House yesterday are under the control of a majority of the House, as far as the first and second reading and the referring of the bills are concerned. A single objection does not defeat it.

Mr. WARREN. I ask to have the bill reported, in order to see whether it includes the chief clerks and heads of bureaus. I would like to have this bill complete.

The SPEAKER. No amendment is in order.

Mr. WARREN. If the bill is reported, and I find that those officers are not included, I want to appeal to the gentleman to modify it.

The SPEAKER. The gentleman cannot modify it. It has been read twice.

Mr. WARREN. Then I hope the committee will modify it.

Mr. BRANCH. I move to refer the bill to the Committee on the Judiciary.

Mr. SMITH, of Virginia. Is it in order to say anything in favor of that reference?

The SPEAKER. It is not.

Mr. GIDDINGS. I would suggest the propriety of so amending the bill as to make the apportionment according to the free population. I think under that the Democrats of the gentleman's district would fare better.

The question was then put upon the motion to refer to the Committee on the Judiciary; and it was decided in the negative—yeas 50, nays 114.

The bill was then ordered to be referred to a select committee of seven.

The SPEAKER announced that the presentation of bills and resolutions was still in order, and called for bills and resolutions from the State of Illinois.

DEPOSITS IN UNITED STATES TREASURIES.

Mr. KELLOGG introduced a bill to authorize the deposit of gold and silver coin, bullion, and gold dust, in the treasuries therein named, and the issuance of certificates therefor, convenient for use and circulation; which was read a first and second time; and he asked that it be referred to the Committee on Commerce.

Mr. HOUSTON. I think that that bill should go to the Committee of Ways and Means, which committee has charge of such matters of legislation.

Mr. KELLOGG. I have no objection to its taking that direction.

It was so referred.

PURCHASE AND ENTRY OF PUBLIC LANDS.

Mr. KELLOGG submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of preventing, by law, the entry or purchase, at public sale, of more than three hundred and twenty acres of public lands by any one person, within any single period of five years, and that no pat-

ent issue for such lands, until some portion thereof, to be determined by law, shall be in actual cultivation by the person purchasing or entering the same, or his heirs.

BAYLISS'S BATTALION OF ILLINOIS MILITIA.

Mr. FARNSWORTH introduced a bill for the relief of the officers and soldiers of Major Bayliss's battalion of the Illinois militia; which was read a first and second time, and referred to the Committee on Military Affairs.

IMPROVEMENT OF CHICAGO HARBOR.

Mr. FARNSWORTH also introduced a bill to continue the improvement of the harbor at Chicago, on Lake Michigan; which was read a first and second time, and referred to the Committee on Commerce.

PACIFIC RAILROAD.

Mr. FARNSWORTH submitted the following resolution:

Resolved, That a select committee of fifteen members be appointed by the Speaker of this House, whose duty it shall be to take into consideration, and report to this House by bill or otherwise, the propriety and expediency of constructing a railroad from the Atlantic States to the Pacific, and that so much of the President's message as refers to a Pacific railroad be referred to such committee.

Several members objected.

POST ROUTES IN ILLINOIS.

Mr. SHAW, of Illinois, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from the town of Matoon, in Coles county, Illinois, by way of the towns of Paradise and Greenland, to Vandalia, in Fayette county, in said State.

Mr. SHAW, of Illinois, also introduced a bill to establish a mail route from Olney, Illinois, by way of St. Marie and Newton, in Jasper county, to a point on the eastern branch of the central railroad of that State; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

AUDITING OF CERTAIN ACCOUNTS.

Mr. MORRIS, of Illinois. I objected yesterday to a resolution offered by the gentleman from Kentucky, [Mr. MASON.] Since that time I have made myself more familiar with its merits, and am satisfied of the propriety of its passing. I am willing to intrust the gentleman from Kentucky with any interest of this Government without bond or security. I therefore now offer it. It is as follows:

Resolved, That the Committee on Accounts be authorized to settle, on just and equitable principles, certain accounts now on file in the Clerk's office, for services rendered this House during the last session, and since the adjournment of the last Congress; and that the said committee be further authorized to allow the Clerk of this House to employ such temporary or permanent force, as, on investigation by said committee, may be deemed necessary for extra labor growing out of the removal from the main building of the Capitol to the south wing; and to organize properly the clerks, doorkeepers, and post office of the House of Representatives.

Mr. MORGAN. What is that about increase of force?

Mr. MASON. I will explain. This Hall is larger than the old one, and more permanent force will consequently be required of some kinds, while we may be able to do with less of other kinds.

Mr. MORGAN. Let me ask if it is designed by this resolution to employ any additional permanent force?

Mr. MASON. If gentlemen do not choose to trust the committee, let them move to amend the resolution so as to require the committee to report to the House. But there are a great many small matters which hardly need to be brought before the House.

Mr. MORGAN. Let the committee report to the House, so that we may have something to say about the matter.

Mr. MASON. The committee have no objection to any kind of scrutiny which the House may deem necessary.

Mr. MORGAN. The resolution is altogether too broad. I object to it.

Mr. STEPHENS, of Georgia. I ask for a division of the question. It is only to the latter portion of the resolution that the gentleman from New York objects. It is very important that the first part of the resolution, which relates to the settlement of accounts now on file, should pass. The other is a distinct proposition.

The SPEAKER. The Chair would suggest that, under the order of the House, it would be

better for the resolution to be modified, so as to strike out the last clause.

Mr. STEPHENS, of Georgia. Let us have a vote on the first part.

Mr. MORRIS, of Illinois. I will modify the resolution as suggested, and offer the latter portion of it afterwards as a separate proposition.

Mr. JONES, of Tennessee. Is this the resolution which the gentleman from Kentucky [Mr. MASON] offered yesterday from the Committee on Accounts?

Mr. MASON. It is.

Mr. JONES, of Tennessee. I hope it will not be divided. If it is objected to now, the gentleman can present it whenever his committee is called for reports. I think the latter part of it is more important, perhaps, than the first part of it.

The SPEAKER. The Chair understands that objection is made to the latter part.

Mr. MORGAN. Yes, sir; but I should be very glad to see the first part of the resolution adopted.

Mr. MORRIS, of Illinois. I modify the resolution so as to read as follows:

Resolved, That the Committee on Accounts be authorized to settle, on just and equitable principles, certain accounts now on file in the Clerk's office, for services rendered this House during the last session, and since the adjournment of the last Congress.

The resolution was agreed to.

Mr. MORRIS, of Illinois. I now offer the following resolution:

Resolved, That the Committee on Accounts be authorized to allow the Clerk of this House to employ such temporary or permanent force, as, on investigation by said committee, may be deemed necessary for extra labor growing out of the removal from the main building of the Capitol to the south wing; and to organize properly the clerks, doorkeepers, and post office of the House of Representatives.

Mr. MORGAN. I object to that.

Mr. MASON. If the House will allow me, I will make one statement. The committee have been investigating, very laboriously, what it is necessary to do with regard to these officers, and have pretty much come to a conclusion on the subject. The House need not fear that the committee will countenance any extravagance. They only desire to provide the necessary accommodation for members. There has been a great deal of disorganization about this House. It would save us a great deal of labor, and would save the House a great deal of trouble, if these departments were organized for the future. I do not care a great deal about the past. Gentlemen may investigate as much as they choose about corruptions in the past. It is a business which I do not care to go into. But we want to put them now on what we consider a permanent and fair basis for the future. That is all.

The SPEAKER. The resolution is objected to. Mr. MORRIS, of Illinois. I would further modify the resolution, as follows:

Resolved, That the Committee on Accounts inquire and report to the House as to the expediency of allowing the Clerk of this House to employ such temporary or permanent force, as, on investigation by said committee, may be deemed necessary for extra labor growing out of the removal from the main building of the Capitol to the south wing, and to organize properly the clerks, doorkeepers, and post office of the House of Representatives, with leave to report at any time.

Mr. MORGAN. That is satisfactory to me.

Mr. JONES, of Tennessee. If there be no objection, I would propose, as an amendment, to discharge the other select committee on the subject.

Mr. MORRIS, of Illinois. I accept that as an amendment.

The resolution as thus modified was adopted.

LOWER RAPIDS OF THE MISSISSIPPI.

Mr. MORRIS, of Illinois, asked leave to offer the following resolutions:

Resolved, That the Secretary of War be, and he is hereby, respectfully requested to furnish to this House, at the earliest practicable moment, the following information:

1. The gross amount expended on the improvement of the lower rapids of the Mississippi river.
2. The amount of appropriations for the improvement of said rapids still unexpended.
3. The amount expended upon them in each year.
4. The amount, nature, and kind of work done, and the estimate thereof.
5. What amount of the appropriations for the improvement of said rapids has been expended for machinery, boats, &c., and what has been done with the same.
6. The name or names of the person or persons to whom the contract or contracts for improving said rapids were let.

Resolved, That the Committee on the Judiciary be, and they are hereby, respectfully requested to report to this House, in writing, whether, in their opinion, the bridge con-

structed across the Mississippi river, at Rock Island, in the State of Illinois, is a serious obstruction to the free and successful navigation of said river, and that, if they deem it necessary, they have power to send for persons and papers.

Mr. KELSEY. I believe that something like the second resolution has been offered before.

Mr. LETCHER. I object.

EXECUTIVE PUBLIC PRINTING.

Mr. MORRIS, of Illinois, offered the following resolution:

Resolved, That a select committee of five be appointed to examine into and report to this House, whether, in their opinion, any change is required in the existing laws providing for and governing the public printing connected with any of the Executive Departments or bureaus.

Mr. LETCHER. I object to this resolution, unless it goes to one of the regular committees. Everything is being sent to special committees, and nothing to the regular committees of the House.

Mr. MORRIS, of Illinois. I am well aware that it is not in order to discuss the resolution at this time; but I ask permission of the House to say a word or two in regard to it.

Mr. BILLINGHURST. I object.

Mr. MORRIS, of Illinois. I will modify the resolution so as to refer it to the select committee already raised.

Mr. LETCHER. Here we have a select committee organized for a particular purpose; and now it is proposed to refer other matter to it.

The SPEAKER. The Chair sees no difficulty in referring this resolution to the select committee on printing already raised. It is perfectly competent for the House to so refer it.

The resolution was referred to the select committee on printing.

ADDITIONAL POST ROUTES IN MISSOURI.

Mr. CLARK, of Missouri, submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a mail route from Canton, in Lewis county, Missouri, by the way of Monticello, Newark, Edina, Kirksville, Milan, and Trenton, to Gallatin, in Davis county; also from Booneville, in Cooper county, by the way of Boonsboro and Glasgow, in Howard county, Missouri; also from Huntsville, by the way of Fort Clay, Breckinridge, and McGee College, and Bloomington, in Macon county, Missouri; and that they report by bill or otherwise.

MILITARY POSTS.

Mr. PHELPS introduced a bill to establish certain military posts on or near to the road made by Lieutenant Colonel J. E. Johnston, leading from Missouri to the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Military Affairs.

ADDITIONAL POST ROUTES.

Mr. PHELPS submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post road from Marshfield to St. Luke, in the State of Missouri.

BOUNTY LAND TO TEAMSTERS.

Mr. CRAIG, of Missouri. I submit the following resolution:

Whereas, many applications for bounty land, made by teamsters, who served during the war with Mexico, in the Indian country, with troops who were mustered into the service for and during said war, have been rejected upon the technical ground that the applicant had "not been marched to the seat of war;" Therefore

Resolved, That the Committee on Public Lands inquire into the justice and expediency of so amending the existing law as to provide for such teamsters and wagon-masters as may have served a sufficient length of time, whether they were marched to Mexico or not.

Mr. SMITH, of Virginia. I object.

ADDITIONAL POST ROUTES.

Mr. CRAIG, of Missouri, submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on the Post Office and Post Roads inquire into the necessity of establishing a post road from Fort Des Moines, Iowa, via St. Joseph and Weston, Missouri, to Topeka, in Kansas Territory; and that they report by bill or otherwise.

MARINE HOSPITAL AT ST. JOSEPH.

Mr. CRAIG, of Missouri, asked leave to submit the following resolution:

Resolved, That the Committee on Commerce inquire into the necessity and expediency of erecting a marine hospital at the city of St. Joseph, in the State of Missouri; and that they report by bill or otherwise.

Mr. CLEMENS objected.

CARONDELET.

Mr. BLAIR introduced a bill for the relief of the city of Carondelet; which was read a first and second time by its title, and referred to the Committee on Private Land Claims.

COURT-HOUSE, ETC., AT JEFFERSON CITY.

Mr. WOODSON presented joint resolutions of the Legislature of Missouri, instructing her Senators and requesting her Representatives to ask for an appropriation to build a court-house and post office in Jefferson city, Missouri; which were referred to the Committee on the Judiciary.

PORT OF ENTRY AT KANSAS CITY.

Mr. WOODSON submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing a port of entry at Kansas City, in the State of Missouri, and that they report by bill or otherwise.

RAILROAD GRANTS.

Mr. GREENWOOD introduced the following bills; which were severally read a first and second time by their titles, and referred to the Committee on Public Lands:

A bill granting to the States of Missouri, Arkansas, and Louisiana, public lands in alternate sections to aid in the construction of a railroad from Springfield, Missouri, via Bentonville, Fayetteville, Van Buren, Fort Smith, and Fulton, in the State of Arkansas, to Shreveport, Louisiana.

A bill granting lands in alternate sections to the States of Arkansas and Missouri to aid in the construction of a railroad from the city of Batesville, Independence county, via Springfield to Independence, in the State of Missouri, with a branch from Batesville to the crossing of the Cairo and Fulton railroad, on White river.

STEALING NEGROES.

Mr. GREENWOOD. I submit the following resolution:

Resolved, That the Committee on the Judiciary be requested to inquire into the propriety of providing, by law, for the punishment of the crime of negro stealing in the Indian country.

Mr. BLISS. I object.

AMOS AND J. E. KENDALL.

Mr. GREENWOOD submitted the following resolution; which was read and agreed to:

Resolved, That the papers in the case of Amos and J. E. Kendall be withdrawn from the files of the House, and be referred to the Court of Claims, the Senate having given their claims that direction.

J. ROSS BROWNE'S REPORT.

Mr. GREENWOOD submitted the following resolution; which was read and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the House the report of J. Ross Browne, special agent of the Indian department, on the Indian affairs of Oregon and Washington Territories.

GRADUATION ACT.

Mr. GREENWOOD submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of reporting a bill applying the provisions of the act known as the graduation act, to such lands as lie within the six miles on either side of railroads, to which grants of public lands have been made, to aid in their construction.

KANSAS HALF-BREED INDIANS.

Mr. GREENWOOD submitted the following resolution; which was read and agreed to:

Resolved, That the Secretary of the Interior be requested to report to this House, at as early a day as practicable, any information that may be in his possession, as to the condition of the reserves secured to the Kansas half-breed Indians, under treaty of 1825; and whether said Indians, or their heirs, or any part of them, are in possession of said reservations, together with his opinion as to the policy and propriety of taking the necessary steps to extinguish the Indian title to the reserves, under any treaty with said Indians, in said Territory of Kansas, protecting the rights of the Indians, and giving to the said Indians the fee in said reserves.

HOT SPRINGS OF THE OUACHITA, ARKANSAS.

Mr. WARREN introduced a bill to authorize the investigation and determination of asserted titles to the hot springs of the Ouachita, in the State of Arkansas; which was read a first and second time, and referred to the Committee on the Judiciary.

HARBOR OF MONROE, MICHIGAN.

Mr. WALDRON introduced a bill making an

appropriation for the improvement of the harbor of Monroe, Michigan; which was read a first and second time, and referred to the Committee on Commerce.

HENRY TRIPP.

Mr. WALDRON also introduced a bill authorizing the grant of bounty land to Henry Tripp; which was read a first and second time, and referred to the Committee on Invalid Pensions.

STACY LAMPHERE.

Mr. WALDRON also introduced a bill for the relief of Stacy Lamphere; which was read a first and second time, and referred to the Committee on Invalid Pensions.

MALACHI F. RANDOLPH.

Mr. WALDRON also introduced a bill for the relief of the widow of Malachi F. Randolph; which was read a first and second time, and referred to the Committee on Invalid Pensions.

HARBORS OF MICHIGAN.

Mr. WALBRIDGE introduced the following bills; which were severally read a first and second time, and referred to the Committee on Commerce, viz:

A bill making an appropriation for the construction of a harbor at the mouth of the Muskegon river, in the State of Michigan;

A bill making an appropriation for the construction of a harbor at Black Lake, in the State of Michigan;

A bill making an appropriation for completing the harbor at St. Joseph, in the State of Michigan;

A bill making an appropriation for the construction of a harbor at New Buffalo, in the State of Michigan;

A bill making an appropriation for the construction of a harbor at the mouth of the Kalamazoo river, in the State of Michigan; and

A bill making an appropriation for the construction of a harbor at South Black river, in the State of Michigan.

NUMBER OF TROOPS IN KANSAS.

Mr. WALBRIDGE also asked leave to introduce the following resolution:

Resolved, That the Secretary of War be directed to furnish this House with a statement showing the number of United States troops now stationed in the Territory of Kansas, together with the number of such troops stationed and being in said Territory on the first day of each month since the 1st day of January, 1855.

Mr. CLEMENS objected.

REPORT OF COLONEL J. D. GRAHAM.

Mr. LEACH asked leave to offer the following resolution:

Resolved, That the Secretary of War be requested to communicate to this House the last annual report of Lieutenant Colonel J. D. Graham, touching the commerce and harbors in his district, not included in the report heretofore made to this House.

Mr. STEPHENS, of Georgia. I object.

Mr. LEACH. If the House will indulge me in one word of explanation, I think the gentleman will withdraw the objection. A few days since the gentleman from Wisconsin [Mr. BILLINGHURST] introduced a resolution, calling for similar information in regard to the harbors and commerce of Lake Michigan. That resolution was adopted by the House, and the Secretary of War has responded to it. It is equally important that we should have information with reference to Lakes Erie, St. Clair, and Superior, and particularly in reference to Lake Superior, where the copper and iron business is of importance to the whole nation, and is a growing one upon the shores of that lake. It is important that this House should understand the condition of the commerce and of the harbors on that lake.

I hope the gentleman will withdraw his objection.

The objection was not withdrawn.

HARBORS ON LAKE MICHIGAN.

Mr. LEACH introduced the following bills; which were severally read a first and second time, and referred to the Committee on Commerce:

A bill making an appropriation for the improvement of the Saginaw river, in the State of Michigan;

A bill making an appropriation for the improve-

ment of the harbor of Marquette, in the State of Michigan;

A bill making an appropriation for the improvement of the harbor of Ontonagon, in the State of Michigan; and

A bill making an appropriation for the improvement of the harbor at the mouth of the Manistee, in the State of Michigan.

DEATH OF HON. THOMAS J. RUSK.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, communicating the proceedings of the Senate upon the death of the Hon. THOMAS J. RUSK, late Senator from Texas.

The resolutions of the Senate were read, and are as follows:

IN THE SENATE OF THE UNITED STATES,
January 19, 1858.

Resolved unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. THOMAS J. RUSK, deceased, late a Senator from the State of Texas, will go into mourning, by wearing crape on the left arm for thirty days.

Resolved unanimously, That, as an additional mark of respect for the memory of the Hon. THOMAS J. RUSK, the Senate do now adjourn.

Ordered, That the Secretary communicate these resolutions to the House of Representatives.

Mr. REAGAN. Mr. Speaker, the announcement just made of the death of General THOMAS J. RUSK, late a Senator from the State of Texas, calls for another pause in the ordinary business of this House, and for the performance of our last solemn duty, as a body, to the memory of a great and good man.

General Rusk was a native of the State of South Carolina, where he studied law, and commenced, in comparative obscurity, the great business of life. He subsequently removed to the State of Georgia, and, in 1835, to Texas. The struggle for the independence and separate national existence of Texas, had then begun, and that love of justice and of right—that manly courage and lofty patriotism which so distinguished his after years, induced him at once to identify his fortunes with those of the brave spirits there, who had learned the value of freedom and equality, and had determined to meet the perils of war rather than submit to the loss of their civil and religious liberty.

It is not my purpose now to notice in detail the many historic events in the life of General Rusk. This will be the pleasing duty of the historian. Nor is it my object to pronounce a formal eulogy upon his life and services. But I come to offer the grateful tribute of the brave and generous people he has so often commanded in battle, and so long, so ably, so faithfully served in the councils of the State and nation.

As commander of a volunteer company; as aid to General Stephen A. Austin; as the first Secretary of War of the Republic of Texas; as the first chief justice of the Republic of Texas; as major general of the militia of the Republic of Texas, charged with important duties, and clothed with large powers; as a member of the convention which formed the constitution of the Republic of Texas; as a member of the Congress of the Republic of Texas; as president of the convention which formed the constitution of the State of Texas; as a Senator in the Congress of the United States; as an eminent and successful lawyer; as an unostentatious and loyal citizen, ever respecting the laws, the religion, the institutions, and the Government of his country; as a devoted husband and affectionate father—though he has fallen in the meridian of his manhood—he has filled the full measure of a citizen, a soldier, a patriot, a statesman and hero, to whom the citizens of Texas will continue to point with pleasure and with pride as long as their hearts shall continue to beat with the pride of chivalry, and the love of pure and unspotted integrity, and exalted and unselfish patriotism.

General Rusk possessed a mind of uncommon clearness and strength; and a constitution and physical vigor capable of great labor and endurance; a commanding and noble person; a pleasant and vivacious temperament; was fond of anecdote, and full of kindness and sympathy for the unfortunate of all grades and conditions. Indeed his love of justice, and candor, and truth, and his sympathy for, and readiness to espouse the cause of the unfortunate, or weak, or oppressed, might be said to have been his most prominent charac-

teristics. Always courteous and respectful to his equals; he was kind and condescending to his inferiors; often recognizing them, and hearing their suit, and contributing to their wants, under circumstances which showed that he regarded the true dignity of man as consisting rather in acts of justice and mercy than in holding himself bound by the chains of ceremonial coldness which too often separate man from his fellow.

He fought gallantly the battles of his adopted country, and, while Secretary of War, beyond the ordinary duties of that station, he bore a most distinguished part on the glorious field of San Jacinto, and aided to add another to the roll of nations of free republican States, and to gild the southern horizon with the star of liberty, which once floated in lone and solitary grandeur over the broad and beautiful plains of Texas; but which now, invreathed with the oak and the olive, beams with undiminished luster amid the grand armorial constellation in the dome above us, representing at once the separate sovereignty and the national unity of the American States.

Though he occupied many important stations, and though much of his life was spent in the discharge of official duty, he was fond of the retirement and quietude of private life, and generally shunned rather than sought office. This was illustrated on several occasions in his life. He was urged on more than one occasion to accept the presidency of the Republic of Texas, but uniformly declined. And at the time of the last presidential election there, I was informed that both of the distinguished men who were candidates for that office, before their announcement, urged General Rusk to accept the position; and neither of them would have opposed him. But, when the presidency was thus at his command, without opposition, he declined to accept it. He refused the use of his name for the Vice Presidency of the United States, and has repeatedly discouraged the mention of his name for the Presidency.

As a soldier, he was brave and self-reliant; as an officer, he was cautious and calculating; always ready to expose his own person to danger, but never rashly exposing his men.

As a statesman, he looked to a strict construction of the Federal Constitution and the preservation of the rights of the States, as the surest, yea, the only means of maintaining the permanency of the Union, the equality of the States, and the liberties of the people, in the spirit in which these blessings were secured to us by our revolutionary fathers. And while he looked proudly on our past history, and on the extraordinary growth and progress of our common country, in physical science, the arts, agriculture, and commerce; our advancement in moral science, in religion, in laws, in good government, and in all that tends to the civilization and improvement of his country and his race; yet, as I learned from him but a few weeks before his death, he looked with fearful apprehension to the continued and alarming agitation of the question of slavery, as tending to weaken his high hopes of the future destiny of the Republic.

At the time of which I speak, he was considering with great anxiety whether any means could be adopted which would avert these dangers, and secure, if possible, on a permanent basis, that fraternal good feeling, and mutual respect for the rights of each other, which should ever characterize the people of a nation so blessed with all the elements of happiness and prosperity as our own. He also condemned, with much earnestness, the new social theories and religious fanaticisms which have obtained a limited foothold in parts of our country, as being full of delusion and of danger; and, as an evidence that he had rightly estimated their importance, some of their bitter fruits are now upon the country.

But, alas! with all his wisdom, with all his usefulness, with all his goodness, with all his honors, with all the devotion of a confiding constituency, he is gone—gone from the family hearth-stone, from the domestic and social circles; no more to wave his proud plume in advance of his comrades in arms; no more to draw his keen sword in defense of liberty; no more to offer his wise counsels for the good of the nation; no more to offer the willing hand of charity to the needy; no more to offer consolation to the distressed; no more to offer kind and encouraging counsel to the young and deserving. The scenes of earth have closed upon

him. And while we mourn his death, we doubly mourn its manner. It is true, he fell by his own hand; but that hand was not moved by the natural impulses of his upright, generous heart, or guided by that reason and consciousness which had so long distinguished him for his prudence and moderation.

A severe domestic bereavement—the loss of the wife who was the cherished idol of his early manhood, and the guiding star of his after life; who, in prosperity and in adversity, in sickness and in health, under all the varied fortunes of his life, had clung to him with a constant and unvarying devotion, had, by the inscrutable hand of Providence, been taken from him. To this was added the many cares and perplexities his position had drawn upon him. And to these were added a disease which, it was thought, may have affected his spine and brain. And these combined causes, operating upon his keenly sensitive mental organization, it is believed, caused his reason to give way, and his struggling soul, unguided by consciousness, sought peace in death.

As the purity of his heart, the prudence and moderation of his life, the extraordinary inducements he had to desire a continuance of life, and the absence of any known inducement to desire his own destruction, exclude the idea that he could have been conscious of the manner of his death, so they leave us room to hope and believe he will not be held accountable for it before the Eternal Judge.

I will conclude what I have to say, by adding that the Legislature of Texas, responding to the general sentiment of sincere admiration, entertained by the people of that State, for the worth and services of General Rusk, has already made provision for the erection of his statue, at the capital of the State. And a nation's sorrow bears testimony that his fame and his usefulness were the property of the whole country.

I speak here, not only as the representative of the district in which General Rusk has lived, ever since his immigration to Texas; but, as one who has seen him at his home, with his family, around his own fireside, amongst his neighbors, in the court-house, on the tented field, and in the blazing front of battle; the same pure, and just, and generous, and noble man, at all times and everywhere, more worthy of imitation, in his leading characteristics, than any other it has been my fortune to know.

I move the adoption of the resolutions which I send to the Clerk's table.

The Clerk read the resolutions, as follows:

Resolved, That this House has heard with deep sorrow the announcement of the death of General THOMAS J. RUSK, late a Senator from the State of Texas.

Resolved, That as a testimonial of respect for the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House in relation to the death of General THOMAS J. RUSK, be communicated to the family of the deceased by the Clerk.

Resolved, That as a further mark of respect for the memory of the deceased, this House do now adjourn.

Mr. KEITT. Mr. Chairman, the resolutions before us communicate only official intelligence of the death of the distinguished Senator from Texas. The public voice has already been broken into sobs over his bier; and it is fitting that we now, in our high estate, should celebrate a funeral tribute to his memory. On behalf, then, of the Commonwealth of South Carolina, on whose soil he was born, I lay a glove upon his freshly-closed grave.

Sir, the symbols of mourning are thickening around us. At the very threshold of our legislative career we have been summoned away from the passions and strifes of political warfare, and carried to those last scenes of life, in which ambitions are hushed and rivalries forever stilled. In the brief tract of time lying between the close of the last and the beginning of the present Congress, around how many of the trusted of the land have the curtains of time been closely drawn? Men fresh from the Cabinet, and with the prestige of renown upon their brows; Senators covered with august and revered trophies; Representatives upholding the fasces of popular authority; all of these, coming from every portion of the Union, and drawing nearer and nearer, as they advanced, have mingled in that "dark and narrow house where all human glories enter" and disappear forever.

Over the loss of no one of these rose there a deeper cry of grief than over that of the lamented Rusk. With that intuitive sagacity which detects genuine merit, and that prescient forecast which goes forth fearlessly to meet the future, and anticipates events ere yet they are formed, the big heart of the people felt that a great man had fallen; one whose step was upon the "round and top" of the republican ladder. General Rusk gravitated to superiority by the laws of his mental and moral nature. These carried him to distinction, as the instincts of the eagle carry him above the mountains, up to the very sun. Certainly it is a noble thing to bear, like a banner, a historical name for a thousand years; and in turning to the past to see, looming through the night of ages, a series of figures, barded with iron, draped with ermine, who resemble you, and bear the same name that you do; but it is a shallow philosophy that undervalues the efforts of him who starts a noble line.

Born of humble parentage and to a narrow fortune, young Rusk went forth to begin the warfare of life. Reared upon soil still wet with the blood of patriots; educated by stirring themes of heroic daring; and with a heart chastened by the sacrifices and dowered with the wealth of our historic struggle, he followed in the trackway of those great men who had hung our political heavens in light and glory. The splendid courage and magnanimous sacrifices through which our independence had been won and established, he displayed on behalf of that people whose cause he had espoused, and on whose soil he lived. In the very front of the foremost men of Texas, he kept "watch and ward," while the "lone star" was blending its scattered rays into unity ere it wheeled upward to mingle its brightness with the blaze of the Federal constellation.

As Secretary of War, he organized the resources of Texas; as military leader, he conducted her armies to victory; as legislator, he aided to establish her civil polity; and as chief justice, he systematized her jurisprudence.

In walking back softly over the path he trod, we may well ask what high qualities of head and heart he had to win such signal success. As an orator it was not given him to utter those burning words which sometimes electrify a whole people; those words which strike like a flash of lightning; which penetrate; which do not stay to be scanned, "probed, vexed, and criticised;" which illuminate and are gone; but with intuitive sagacity he cut to the heart of every measure, and realizing it and stripping it of extrinsic appliances, he presented it in a few short, sharp, abrupt sentences. As a statesman, it was not his excellence to elaborate theories of civic economy, or expound the rudiments of government; but with a ready insight into the needs of society, he appreciated and administered the living principles upon which each phase of it rests and is founded. The eminent feature in General Rusk's statesmanship was its practicality. The power of his mind lay in the perfect equilibrium of all its forces. With equal facility he unwound the threads of delusion with which an opponent had encoiled his subject, and presented the construction and accumulation of proofs necessary to its elucidation.

Truth is a ray shot from Divinity itself. He who seeks it, must seek it reverent and afraid; must seek it in the attitude ascribed by the great epic poet of England, to the "brightest cherubim at the footstool of the Omnipotent throne," who

"Approach not, but with both wings vail their eyes." Yet, when possessed, when realized, he who would apply it to human affairs without reference to the atmosphere of modifying circumstances, only mars and betrays it. Wise statesmanship consists in the judicious application of abstract truth to the imperfect and progressive conditions of humanity. It was this statesmanship that made General Rusk a representative man.

But his claim to our homage lies not alone in the pure and magnanimous victories of mind. His was a genial and gentle spirit. One of his last acts was to secure a few homely comforts to his aged mother, who yet lives upon her native soil in the Palmetto State. Of this, however, I need not speak; for how many homes in the land of his adoption have been relieved of want by the hand of him now pillowed and covered up in his bed of imperturbable slumber? Taken all in all, General Rusk was one of the men who may be ever

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regretted but never supplied. Ardent minds like his keep their first enthusiasm, but pent up like the central fires of the earth. Generous hearts like his give up the affections of life, but worship their memories in the inner recesses of the shrine. How sad, too, the bereavement! For if ever any man had a right, he certainly had, not to consent to death. It was a hard thing for him to fall in the midst of the torch race of fame, with the light still brightly burning; to fall when he had shaken off the dust raised by his lagging competitor; to fall when he had shaken off the very weariness of the course, and his hand was just outstretched for the golden reward of his many strivings and toils.

But he is gone. Gone are the aspirations of a generous and noble intellect; gone, too, are the precious hopes of admiring friends; but radiant and flashing through night and darkness, still lives the example of a life well and virtuously spent. The captain who has carried his country's flag around the world, may drawn away out of sight; but the monuments he has reared will speak for themselves, and the surviving crew will tell what storms he rode out. High deeds and noble names go not down to silence, for history embalms them with Pantheonic honors, and bard and minstrel catch up the glorious theme and send it echoing along the archways of time. The children of genius are bound together by household ties, and the great of earth make but a single family. From earliest to latest of those who wear the glories of mind there rolls a river of ancestral blood; it rolls through priest and warrior; through bard and king; through generations and empires, and history with all her wealth. There are kings of action, as well as kings of thought; and both are blazoned in the heraldry of this immortal descent. Among the first of these General Rusk has his appointed place.

At how critical a period, too, in our history, did he pass from the stage of being? There are in the life of every people, certain hours which tell in an appointed day, and then depart, never to return—decisive hours, in which a people hold in their hand the secrets of their future; in which, masters of their coming destinies, they pronounce upon themselves a judgment without appeal. Human freedom never manifests itself with more evident tokens than in such crises. It would seem as if God stands aside; holds off his divine hand from the circles of the earth, and waits for the action of the creature of his breath. Man stands alone with his good and his evil instincts, with his conscience, and his reason: a noble impulse may save, an unmanly wavering may lose everything. Sometimes, from the bosom of this people, thus hesitating and doubting, and looking for the pathway in the darkness, there comes an inspired man—a man of action. He speaks, and all acknowledge the power of his voice; he moves, and few but follow in the measure of his steps.

These hours, in such an appointed day, may now be coming swiftly upon us. A grand cloud of witnesses testify that great events are happening around us. Government is to society what the ship is to the ocean; it heaves and tosses with every surge of the mighty billows. Abroad, revolution mutters, and it may yet engulf both ducal crown and royal throne in its fiery sweep. At home, the public heart is stirred; and it will not much longer be awed by the frowns of authority, or bound by the threads of a parasite legislation. Our mission will be fulfilled. The progress of society is southward, and thither our Anglo-Norman population is moving with the firm tread of a Roman legion. It will yet carry its banner and spread its laws over all this continent; celebrate, in fit time, the union of the two oceans that wash its boundaries; and, under the ministries of Providence, work out the final development of the human intellect in its most gorgeous and farthest-reaching forms.

The wheel of events usually rolls with something of leisure and measure; but roll it slowly, or roll it swiftly, this end will yet be accomplished. It was this mission that fired the imagination and

nerved the heart of the patriot Senator from Texas. Along this track he moved with feet of fire; and no perils of the march, and no weariness of the road, deterred him; for upon him, as upon the patriarch, burst visions of glory; and in them he saw his country leading the Panathenian procession of the nations, while the ascending races of her children crowded up the mystic ladder, the topmost rounds of which are lost in the enduring splendors of eternal mind.

Mr. JACKSON. If it be true that the dead can experience the emotion of gratification at what transpires in honor of their memory here, the immortal spirit of the late Senator from Texas must be gratified to-day. Texas weeps here over his remains, because he was eminent among those heroes who achieved her sovereignty by the sword, and because after her incorporation into our Union he ably and fitly represented that sovereignty in the council chamber of sovereigns—the Senate of the United States.

South Carolina bows sorrowing by the side of her younger sister, because he was born beneath her hot sun; and that sun fired his heart with much of that impetuous chivalry which characterizes all her excellent children.

Georgia also approaches his bier as a mourner, because General Rusk lived for a brief period among those beautiful mountains that skirt her northern frontier, and imbibed, perhaps, from their wholesome atmosphere, something of that hardihood of character which characterized the soldier, and that robust judgment and sound practical sense which marked the Senator.

The entire South follows this procession to the grave with melancholy, yet proud, step, because he was her son—true and loyal to that institution which was fastened upon her unwilling infancy, which has grown with her growth, which has now become interwoven with every fiber of her being, and by which, under Providence, she this day clothes the nakedness of mankind.

The North, too, and the mighty and still growing Northwest, all pay a willing tribute of unfeigned sorrow to the memory of this great man; because, whilst his heart was thus true to the instincts of his birth and the fealty of his boyhood, it was big enough to embrace in its patriotic love all the States of the Union, and his eye keen enough to see that the true interests of each is really the interest of all. Well may we all mourn. A hero has left the battle-field forever; a Roman has departed from the Senate Chamber never more to return.

I repeat, if it be possible that the dead can experience joy over what transpires here, the spirit of the departed Senator must be gratified to-day. But, sir, this cannot be; "for there is no work, nor device, nor knowledge, nor wisdom, in the grave whither thou goest," and these sad ceremonies are only useful to the living. Their office is twofold; first, that of the good Samaritan, to pour oil into the bleeding hearts of the surviving relatives and friends; and secondly, to draw from the character of the deceased some moral by which we may all profit.

In that district of Georgia which I have the honor to represent here, and among those mountains of which I have spoken, there live to-day an aged couple. Almost fourscore winters have furrowed their faces with wrinkles, and covered their heads with frost. They are, sir, the father and mother of the deceased wife of the late Senator from Texas; and however heavily the blow of his death may have fallen in other places, nowhere has it descended with more crushing severity than upon the already aching bosoms of my venerable constituents. Indeed, sir, the young heart, like the flesh of youth, recovers rapidly from wounds inflicted upon it; but the affections of old people become, like their physical organization, rigid and fixed; and time, the great restorer, rarely and slowly, if at all, heals up wounds inflicted upon them. The young sapling will bend instantly to the sweep of the tempest as it passes, but so soon as it is gone, erects itself again. The

old tree, with trunk almost decayed, and sap flowing but feebly beneath its all but withered bark, relies alone upon the vine which has grown around it for years as its only prop against the storm.

The relation borne by the late Senator from Texas to my old constituents was not unlike that of this vine to that tree. The last prop that held them up has been sundered; and soon they, too, must totter and fall. And, sir, it is simply because I thought it might be grateful to their feelings that their immediate representative here should bear some open part in this solemn drama, that I yielded to the suggestion of my most distinguished colleague, [Mr. STEPHENS,] and agreed to speak for Georgia to the resolutions upon your table.

Sir, I well remember the conversation I had with my old friend but a few weeks before I left home; the subject of which was the death of his own family, and among them, the death of his daughter—I believe, the last surviving child—the wife of the distinguished Senator, and the death of his distinguished son-in-law, of whom he was justly so proud. And I see before me now, Mr. Speaker, the convulsed face and trembling lips of the old man as he expressed to me the conviction that the death of his daughter, the wife of the Senator, might possibly have precipitated his own.

Sir, I will not speak of the manner of his death. Let that charity which hopeth all things cast her mantle of love over his dead body, and, pointing to the noble and beautiful and self-sacrificing virtue which led him to follow the departed spirit of her he loved, hide forever the vice to which unhappily that love may have led.

But we should be unjust to ourselves, Mr. Speaker, if we allowed this occasion to pass without drawing from it some moral by which we may all profit. The late Senator from Texas was possessed of wisdom in a high degree—wisdom as distinguished from genius; that wisdom which is made up of sound judgment, accurate and extensive observation of men and of things, and an enlarged experience. He possessed courage in the true sense of that word—physical and moral courage, displayed upon the battle-field, and exemplified in the Senate Chamber. More than these, Mr. Speaker, and better than these, his heart was a well-spring of deep and pure affection, whose current ran unceasingly towards the object of his early attachment, her who had been the companion of his manhood, and whom he hoped to keep by his side as the solace of his declining years.

Sir, an instinct of our nature, Heaven-born, a faint trace of that image of purity which God stamped upon the heart of Adam, leads us all irresistibly to love those noble qualities wherever we find them. They are golden qualities; but alas! sir, like everything else of earth, even gold is ever found mixed with baser metal. It requires, Mr. Speaker, the fire of the Great Refiner, the power of the Almighty Alchemist to remove all the dross and leave the precious metal perfectly pure. Sir, without such purification from on high, wisdom, however exalted; courage, however true; even love itself, however pure and constant, will lead us often into error, and sometimes into vice. Let us deduce from this a great moral, and let us all try, under Providence, to practice it. To know the will of God, in Christ, concerning us, is the most exalted wisdom; to do that will in the face of every obstacle, the loftiest heroism; to suffer that will under its most afflicting dispensations in unobtrusive privacy, the noblest martyrdom.

Mr. QUITMAN. For more than twenty years I had been upon terms of personal friendship, and, at times, of intimate intercourse, with the late General THOMAS J. RUSK. I first met him in the spring of 1836, fresh from the victorious field of San Jacinto, when the war-cry of "Remember the Alamo" had scarcely ceased to reverberate from the hills of Texas. The distinguished leader in that important and decisive battle, now a member of the Senate, having been severely wounded, relinquished the command of the army, and General Rusk, then Secretary of War, was appointed

to that high and responsible station. About the middle of May he set out, with the army under his command, to follow up the retreating columns of the Mexican general, Filisola, and to see that the latter faithfully performed the stipulations entered into with the Government of Texas, of thoroughly evacuating the country. On a portion of that march, I had the honor of sharing the hospitable tent of my distinguished friend. Subsequently, in 1840, when Texas, with no resources but the patriotism and indomitable spirit of her inhabitants, was threatened with another formidable invasion from Mexico, I had free correspondence with the lamented deceased. From our first acquaintance to the melancholy termination of his earthly career, every day but added to my respect for his public character, and my warm regard for his private virtues.

I do not propose, Mr. Speaker, to attempt even a sketch of the public services, or private life and character of the deceased. That has already been ably done, as far as the limits of a eulogy on this floor will admit, by the gentlemen who have preceded me. I desire only to add a leaf to the garland which we are about to deposit on the cold tomb of the hero, statesman, and friend. His name will ever occupy a prominent place in the brief, but eventful history of the Republic of the Lone Star. He was one of those noble spirits who, looking forward into the future destiny of America with a soul conscious of right, and disregarding the denunciations of the selfish and narrow-minded, dared to join the people of Texas in their infant struggles for political independence. He stood by her in the hour of her trials. He watched over her when her borders were threatened Indian hordes, by and Mexican squadrons. From first to last, he was the efficient friend of the annexation of that splendid country to the United States; and when, in spite of all the efforts of foreign nations, and of short-sighted politicians in our own country, the Lone Star was added to the bright American constellation, the grateful State of Texas sent him as one of her representatives to the Senate of the United States. From that time the name of THOMAS J. RUSK has become a part of our own history.

Among the "conscript fathers" of the land, his strong intellect, his clear judgment, his manifest integrity of purpose, and his devotion to the duties of his station, soon secured for him not only the respect of his associates, but an elevated standing in that august body. Before the close of his second term, he was elected their temporary presiding officer.

His private character was without a stain. To stern integrity, fearless candor, and a high sense of honor, he united the positive virtues of benevolence, charity, and hospitality. The poor, the unprotected, and the distressed, never appealed to him without receiving succor and consolation. But I will say no more. The name and fame of THOMAS J. RUSK belong to history, and to it his friends consign them.

Mr. CLARK, of New York. It is my privilege, Mr. Speaker, upon this occasion of national sorrow, to add a few words expressive of the sentiments of that portion of the people of the Union I have the honor in part to represent.

You have heard from one of the Representatives of that State whose early liberties he aided in achieving; from a Representative of that other State which added to her ancient renown by giving him birth; and from the friends of his youth and his manhood, the tribute of praise, clad in the language of eloquence and affection.

But, sir, there are scenes when the geographical lines which permit us at times to address each other as northern men and southern men vanish from view; and it is one of them when, discarding the prejudices of birth and education and unmindful of the particular place in this now silent Hall where party lines may locate us, we gather as common mourners around the grave of an American statesman. We forget, in the sadness of the hour, the especial measures of public policy which, in his lifetime, he advocated, or the particular section of the country with which his personal sympathies were allied, and mourn together because of the public loss inflicted, and the national glory eclipsed.

Mr. Speaker, when the intelligence first came upon the North that General Rusk was no longer

in existence, but had passed from earth mid the gloom which occasionally settled upon his life, a thrill of sorrow ran through the heart of every man you met. We bethought ourselves of his place in the councils of the nation, and of the long years of honorable service by which that place had been won. We remembered how that eventful period in American history, which witnessed the early struggles of the people of Texas for constitutional freedom, found him dwelling among them. We reflected how natural it was that his young affections should have allied themselves with those of a people many of whom had, like himself, wandered from the land of Washington; and how impossible it was that chains of governmental tyranny, such as those their fathers had broken, should be forged anew upon men who had breathed the air of America, and had listened in their cradles to the wonderful story of her Revolution.

We fancied, Mr. Speaker, that we saw again the future Senator of Texas standing strong and undismayed before the walls of San Antonio, with the freshness of youth upon his brow, and the fire of a truer courage than the days of ancient chivalry had witnessed gleaming in his eye.

We also remembered the *Alamo*; and, as it were, heard again the shouts which heralded the birth of an empire. We followed the little band of brave men from the field in which their victory had been won, and saw them gather the charred remains of the heroes of Goliad; and, with pious sympathy and tears, deposit them beneath the stained earth, whose humblest sod, with nothing but the dew-drops of the morning to gild it, is a grander monument than that which to-day tells the story of Austerlitz; and we listened again to the strains of eloquence which flowed from the lips of the weeping soldier.

While, Mr. Speaker, the scenes of that extraordinary conflict were, one by one, again flashing back upon our vision, we remembered how, when the last victory had been secured, and Texas had earned her place among the nations of the earth, one of the noble men who had founded her empire was willing to bestow that empire upon the nation of his birth.

We were reminded of that immortal man in whose gentle footsteps he had chosen to tread; and lamented almost that the opportunity had been denied us to bestow equal honors upon one of the heroes of a revolution second only to that from which our liberties sprung.

Such, Mr. Speaker, were some of the reflections of the people among whom I live, when we were told of the death of the man whose loss to his family and to his country the Representatives of the nation deplore. He was a southern man; but, as other northern and southern men have done, he employed the labors of his life to give strength and honor to the American Union.

Like other statesmen of America, while representing in our Senate the special interests of a southern State, his comprehension was large enough, and his patriotism was warm enough, to enable him to uphold and strengthen the pillars of the Republic.

The measure of his fame was full; for he was fortunate enough to have been enabled, by the aid of that Providence which superintends the affairs of men, to write his name imperishably upon the history of his country. He was fortunate, sir, to have been, during the bright years of his manhood, the compeer, in the Senate, of those remarkable men whose names, as I speak, crowd upon your memory, while the sounds of their voices seem still to linger in the arches of yonder Hall. With them, he will live in the grateful remembrance of our people till the language which they spoke shall be lost to mankind, or the Republic whose genius they illustrated shall have perished from oblivion of the lessons they taught.

Mr. Speaker, I had not an intimate personal acquaintance with General Rusk, but he was known to me as he is known to thousands of my fellow-citizens of the North, by the record of his life, and by his able and honest performance of the public trusts he bore.

But I may be permitted to say here, in the presence of witnesses of his daily life, that in the discharge of those trusts he acquired a fame for integrity of purpose and conduct and character, unsurpassed in a body of men by no means undistinguished in the estimation of the country for their unyielding resistance to those temptations

which beset our public men in the Halls of Congress.

I may be further permitted to say—and I can utter no higher praise—that no man who knew him even for a moment doubted that every promise which he made would be implicitly and specifically performed, and that every word which he spoke was true.

His great marked characteristics were courage, honesty, and truth; and without intending to diminish the honors of the dead, or to detract from the just fame of living men, I may say that no man has appeared in public life during the past half century (teeming as it does with remembrances of truly great and good men) in whom those particular features of individual character which the general sentiment of mankind pronounces essential to the fame that can live, were more strongly and strikingly exhibited.

We cannot forget, Mr. Speaker, that simplicity of demeanor which marked his intercourse with his fellow-men, and which developed the highest degree of personal dignity.

When he addressed his fellow-men, he practiced that directness of statement which rises superior to the learning of the schools, and convinces by the force of an infallible geometry—and that unswerving truth, which in a public or private man, accomplishes more than the combined fascinations of genius and of art. He was eloquent because he was true.

His mind was cast in that fortunate mold which exhibits the harmonious blending of quickness of perception with a slow and careful judgment. His will was so strong and firm, that he could adhere fixedly to the purpose to which that judgment impelled him.

His temper was replete with a spirit of kindness which shed a sweet fragrance over his path in life.

I must be allowed, Mr. Speaker, to advert to him as a husband and father; for great as he was in those traits of character which distinguish the soldier and the statesman, he was almost without a peer in those kindlier elements and forms which make a man the idol of his home. The indulgences of personal ambition, the unbroken labors of long personal service, and all the varied and engrossing cases of a life of unusual action and unusual honor, were unable to render him for a single hour cold or indifferent to those who now cluster around his desolate hearth, and upon whose sorrow I will not intrude.

The language of eulogy has no grateful sounds for them. All that remains is to associate with us in the adoration with sympathy and affection of the public and private virtues of their father. He has already been welcomed to the phalanx of the great and good men of America, where, in a clearer and purer light than was vouchsafed to them on earth, they read the future destiny of the country.

The resolutions were then unanimously adopted; and the House (at fifteen minutes after three o'clock, p. m.) adjourned.

IN SENATE.

WEDNESDAY, January 20, 1858.

Prayer by Rev. P. D. GURLEY, D. D.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of War, accompanied by seventy-five copies of the official Army Register, for the year 1858; which was read.

PATENT OFFICE REPORT.

The VICE PRESIDENT laid before the Senate a report from the Commissioner of Patents, showing the operations of the Patent Office during the year ending the 31st of December, 1857; and a motion of Mr. STUART to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. SEWARD presented resolutions passed at the annual meeting of the Oneida County Agricultural Society, of New York, in favor of the endowment and maintenance of a college in each State and Territory of the United States, for instruction in agriculture and the mechanic arts; which was referred to the Committee on Public Lands.

He also presented the petition of Walter Nex-

san, praying that the accounting officers may be directed to allow the pay received by him as an assistant to the purser at the navy-yard at New York; which was referred to the Committee on Naval Affairs.

He also presented a petition of citizens of Seneca, New York, praying the adoption of measures for the gradual and peaceful extinction of slavery; which was ordered to lie on the table.

Mr. BROWN presented the memorial of the trustees of the public schools of the city of Washington, District of Columbia, praying a grant of land or appropriation of money to aid in the support of the public schools in that city; which was referred to the Committee on the District of Columbia.

He also presented a memorial of H. Addison and R. Ould, in behalf of the citizens and corporation of Georgetown, praying the removal of the Potomac Bridge at Washington, and the construction of a bridge above Georgetown; which was referred to the Committee on the District of Columbia.

Mr. KING presented the petition of masters of steamers and sailing vessels and ship-owners at Oswego, New York, praying the enactment of a law to establish a system of lights to be carried by vessels navigating the lakes; which was referred to the Committee on Commerce.

He also presented a petition of ship-masters and ship-owners at Oswego, New York, praying the repeal of the law authorizing the Secretary of the Treasury to change the names of vessels in certain cases; which was ordered to lie on the table.

Mr. SEBASTIAN presented the petition of M. C. Gritzner, praying compensation for damages sustained in consequence of the non-fulfillment of a contract entered into by him with the Commissioner of Patents for preparing and executing descriptions of patents; which was referred to the Committee on Patents and the Patent Office.

Mr. CAMERON presented the petition of Elizabeth Uber, heir-at-law of Philip Wirt, an ensign in the revolutionary army, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of George Walters, son and heir-at-law of Michael Walters, praying to be allowed the pension to which his father was entitled; which was referred to the Committee on Pensions.

Mr. KENNEDY presented resolutions adopted at a monthly meeting of the Maryland Historical Society, held at Baltimore on the 5th November, 1857, in favor of the establishment of a medal department in the United States Mint at Philadelphia; which were referred to the Committee on the Library.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of Marshall O. Roberts and others, trustees of A. G. Sloan, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. PUGH, it was

Ordered, That the petition of George M. Gordon, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. BROWN, it was

Ordered, That the memorials of the corporation of Georgetown, on the files of the Senate, in relation to deepening the harbor of that place; the memorial of the corporation of Georgetown, on the files of the Senate, relating to the erection of a permanent bridge across the Potomac, at that place; the proceedings of the criminal court of the District of Columbia, and petition of citizens of Washington, on the files of the Senate, relative to a new jail in that city; and the report of the Secretary of the Interior, communicating drawings and estimates for an iron suspension bridge, and a stone arched bridge, across the Potomac, be referred to the Committee on the District of Columbia.

NOTICE OF A BILL.

Mr. IVERSON gave notice of his intention to ask leave to introduce a bill to change and regulate the mode of appointing cadets to the Military Academy at West Point, and to modify the laws in relation to said Academy.

BILL INTRODUCED.

Mr. IVERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 75) to increase the efficiency of the Army and marine corps, by retiring disabled officers; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

REPORTS FROM COMMITTEES.

Mr. BIGGS, from the Committee on Private Land Claims, to whom was referred the petition of Jane Smith, submitted a report, accompanied by a bill (S. No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of John Dick, submitted a report, accompanied by a bill (S. No. 70) for the relief of John Dick, of Florida. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. KENNEDY, from the Committee on Private Land Claims, to whom was referred the memorial of Joseph Menard, submitted a report, accompanied by a bill (S. No. 71) to amend an act entitled "An act to authorize a relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Daniel Whitney, submitted a report, accompanied by a bill for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. THOMSON, of New Jersey, from the Committee on Naval Affairs, to whom was referred the petition of J. Wilcox Jenkins, reported a bill (S. No. 74) for the relief of J. Wilcox Jenkins; which was read and passed to a second reading.

Mr. CHANDLER, from the Committee on the District of Columbia, to whom was referred the joint resolution (S. No. 9) for the compensation of R. R. Richards, late Chaplain to the United States penitentiary, for his salary up to 30th of June, 1857, reported it without amendment.

PRINTING OF DOCUMENTS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the usual number of copies of the Treasurer's annual accounts, sent to the Senate December 15, 1857, and the letter from the Second Auditor, sent to the Senate January 11, 1858, be printed for the use of this body.

INDIAN HOSTILITIES IN OREGON.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate the report of J. Ross Browne, special agent of the Indian department, on the late Indian war in Oregon and Washington Territories.

MEDAL DEPARTMENT.

Mr. KENNEDY submitted the following resolutions; which were referred to the Committee on the Library:

Resolved, That Congress shall authorize the establishment of a medal department in the United States Mint, at Philadelphia, which shall be directed to make copies, in appropriate metals, from the medal dies preserved in the Mint, as well as from those which may hereafter be recovered or ordered by the Government.

Resolved, That Congress shall supply, through the Director of the Mint, the cabinets of each State, of each historical society, and of such other permanent associations as it may name, with complete series of all the United States medals, as gifts, perpetuating the memory of the individuals or of the actions they were intended to celebrate; and further, that the Director of the Mint be authorized to dispose of copies of said medals in gold, silver, or bronze, to individuals or societies, under such regulations and at such rates as he, with the approbation of the Secretary of the Treasury, may prescribe.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed the bill of the Senate (S. No. 50) to authorize the issuing of a register to the bark Jehu.

HENRY VOLCKER.

The Senate proceeded to consider the motion of Mr. STUART to reconsider the vote by which the bill (S. No. 39) to confirm the title of Henry Volcker to a certain tract of land in New Mexico, was ordered to a third reading.

Mr. STUART. After the adjournment of the Senate yesterday, I took occasion to examine the papers in his case, and I shall submit to the Senate, in a very few words, the result of that examination, from which I think it will appear that the

applicant has no right whatever to the relief which he asks. The substance of the case is this: a man by the name of Simon Prado claimed a head-right under a law of Texas, passed in 1836, for a residence in the Territory of three years, he being a single man. The law provided that a man residing there three years with a family, and performing certain citizen's services, should have twelve hundred and eighty acres of land, and that a single man residing there the same length of time, should have six hundred and forty acres. This Simon Prado went before the proper authorities there, as the papers show, and proved his residence under that law, and received a certificate for six hundred and forty acres of land. That certificate was issued to him in 1846. The same day, or the next day, he sold it to George Voss; on the following day George Voss sold it to another, and some time after, that other person sold it to Henckel, and Henckel to Schumann, and Schumann to the present applicant.

It seems that the certificate could be located on any public land belonging to the Republic of Texas within her territory. There was no attempt to make any location of the certificate until 1850. The papers show that in July, 1850, a survey was made for a man by the name of Paschal. There is set up here what seems to be a chain of title, but it nowhere appears that Paschal had any right or interest whatever in the certificate. The papers show a transcript from the records of Texas. They show a chain of title from Prado to this man Volcker, but nowhere in that chain of title does Paschal ever appear to have been an owner. This is fatal. No man who ever held any interest in the certificate has had any survey made, or has located it. The object of this bill seems to give to the present holder of the certificate, as he claims, a patent for the land thus surveyed.

There are other difficulties, and they will be deemed fatal, I think, by the mind of any gentleman who will examine these papers. The papers certified here are peculiar. The officer certifying them says, that he certifies the transcript from the record with the erasures and interlineations. I beg the attention of the Senate to that point, because it appears that this man Paschal, and a person by the name of Pruder, owned the survey; that it was made for them jointly; but Pruder's name is stricken out, erased, and the plural which was in the original is changed to the singular, to correspond with Paschal.

Again, there was never any attempt made to place these papers on record, according to the laws of Texas, until 1851. This certificate was given in 1846, but never until 1851 was there any attempt to place the papers on the record. Then it appears that Volcker writes a note to the register of the proper county, notifying him that he holds a certificate, and not to have a patent issued to anybody else. Upon that the register certifies that up to that time there has been no record whatever of that certificate, or any proceedings under it made. Up to 1851, there was no attempt to put it on record agreeably to the laws of Texas; but in that year, after Texas had become a State in this Confederacy, after the boundary had been adjusted by which this land belonged to the United States, and fell within the Territory of New Mexico, then this present holder seeks to patch up a title.

It is somewhat curious to look at this title. One of the deeds is signed by a man making his mark, and it has two witnesses. This was done in 1846; and in 1851 there is an attempt to prove the execution of that deed. A witness is called before the chief justice, who undertakes to swear to the execution. He is not of the same name as the witness who signed the deed. The witness who signed the deed is named Blumberg, or some such name, and the witness that is sworn is named Blumenberg. What does he swear to? Not that he saw the man execute the deed; he does not swear that he saw him sign the papers, but he swears that he heard the man expressing himself that he had signed that paper; and what is a little more remarkable, he swears twice. There is nothing appearing in the record to show why it was done; but this same witness is examined twice, and he swears upon two different occasions, and upon two different occasions it is certified, for the purpose of having that paper recorded.

The consideration stated to have been given for the land is a little peculiar. One, or perhaps two, of these conveyances is stated to be upon the con-

sideration of fifty dollars. I think the first two conveyances were for fifty dollars. The next one was for fifty-five dollars, and another one is for the past consideration of two mules. Those are the considerations specified in the deeds.

I must say that I presume my honorable friend from Louisiana, in the great press of business he has here, being upon three or four committees, has not had time to give this case that attention which otherwise he would have given to it; but I submit that a careful inspection of these papers will show most clearly that the present claimant, as late as 1851, long after Texas had ceased to make any pretension of claim to this land, has sought to patch up a case—and badly done, too—for the purpose of getting six hundred and forty acres of saline land. That is the character of the land. If it were necessary, I think it could be shown very clearly that the object of the law of Texas was to give agricultural land to agriculturists who came and lived there three years and performed certain citizen duties. But it is not necessary in this case. I consider the very first statement I made as perfectly fatal; that no man connected with the title to this certificate has ever had any survey made under it. There is nothing to identify this certificate except the name of Prado and the number of the certificate, 169. It is conveyed all the while from one to another by a description of the certificate, No. 169.

Now, sir, when you see such evident forgeries as these are, clear forgeries in the papers, and all that done at one time, in 1851, and see that to make out this survey to be a survey by Mr. Paschal, the name of Mr. Pruder is stricken out; and when it will also be seen by examination that he claims to have a title to this same certificate under a man by the name of Houston, who does not appear at all in these papers—Houston's name is stricken out—it must be obvious that it is a clear case of undertaking to patch up a claim that has no foundation in fact or equity. This case appeals to the Government of the United States on the principles of equity. It is not a case of fee-simple title, which under the law of nations is not affected by a transfer of the jurisdiction; but it is a case of equitable claim to some land somewhere addressed to the United States as being the successors of Texas in the jurisdiction over what is now New Mexico.

I could, if it were not for detaining the Senate, refer to these papers *seriatim*, and show conclusively all the facts I have stated. They are palpable on the face of the papers. But as I have said, I think it is perfectly sufficient to show, as a reason why the United States should not order a patent for this land, that no man has had a survey made of the land and a location of the land, who is shown to have any connection with the title whatever.

Mr. BENJAMIN. Mr. President, I have listened to my friend from Michigan with very great surprise, indeed. One would suppose that the question now before the Senate was a question involving the rights of individuals, each claiming this tract of land; and the Senator has made an argument as though he were before a court or jury, establishing the title of his client to the tract.

The proposition before the Senate is not the establishment of the title of A or B to a particular tract of land, but it is the relinquishment of any apparent Government title to the land. I am surprised at some of the assertions made by the honorable Senator. The papers which he has before him, and which he says he himself has examined, show conclusively these facts, at all events, and they are not contested by the honorable Senator, that a head-right was issued by the Republic of Texas, granting to the party under whom the present claimant derives his title, six hundred and forty acres of land. The Senator comments on the fact of this title passing from hand to hand, as if it were not a matter of daily occurrence with us, that the land warrants which we have issued for bounty to the soldiers, in the different wars of the Republic, also pass from hand to hand, as merchandise, day by day. These head-rights gave power to the different parties who might establish their claim to them, either to sell the certificates themselves, or to make locations of the land and sell the land. The different persons settled in Texas at that time, for the greater part, took possession of the head-rights,

and sold them out. The gentleman is astonished at six hundred and forty acres being first sold for fifty, and afterwards for fifty-five dollars, and then for two mules. I can assure the honorable Senator that he can get many and many a similar tract now, on the western frontier, for just such considerations; that with fifty dollars, or fifty-five dollars, or two mules, it will be in his power to purchase head-rights on the western frontier; but that does not at all touch the right in the party.

There is nothing suspicious, nothing unusual in this. The whole case before the Senate is simply this, and I cannot divine whence arises the opposition. Texas issued a head-right in favor of an individual. That head-right is not contested at all by the honorable Senator; that it is genuine is not disputed. This head-right was located before that former portion of Texas, which is now a part of New Mexico, was transferred to the United States. At the time of the transfer to the United States, nothing was wanting but the simple issue of a patent. The land had been located; it had been surveyed; the survey had been approved and recorded. But the gentleman says that, in 1851, after the transfer to the United States, an attempt is made to fabricate some title to this particular tract. If there is any party claiming that his rights, by papers subsequent to the date of this survey, have been imperiled or invaded, the gentleman's argument would be perfectly unanswerable; but there is nobody claiming this tract except the present petitioner. If there be any other private claimant, his rights are reserved by the very terms of the bill itself. The bill does not purport to convey the land to this individual irrespective of the rights of any other private claimant. It is a relinquishment of the title of the Government of the United States.

The Senator says that we appeal to the equity of Congress in asking the passage of this bill. Now, sir, I undertake to say that, according to the adjudications of the Supreme Court of the United States, this patent would issue in a suit at law—not simply in a case in chancery, but in a suit at law. The Supreme Court of the United States have held, over and over again, in decisions which have been referred to by the committee in this report, that the private title to property in individuals is not divested by the change of allegiance to sovereigns. In this case, the Republic of Texas had parted with this land. It belonged to a private individual before the transfer of allegiance of that part of Texas to the Government of the United States. It now happens to be included within the limit of New Mexico, and by chance became so included before the issue of the paper title from Texas. Nothing was wanting before we acquired that part of Texas, to the perfection of the title, but the issuing of the paper patent, the mere evidence of title; and this individual comes forward and asks Congress to issue the paper, his title being complete before, but requiring something which will operate as evidence of title. All that created the title occurred prior to the cession of this portion of the Republic of Texas to the United States. There is nothing for Congress to do in the matter, but simply to authorize the Land Office to issue the paper title. If this Mr. Volcker, who now claims the land, shall turn out not to be in possession by a legal chain of title, then the patent which will issue to him will inure to the benefit of the true proprietor, according to well established rules of law. If he be not the true proprietor; if any of these conveyances of the original certificate to him should turn out to be fraudulent, and to be insufficient in law to divest the parties who, upon the face of the papers, appear to have sold it, the patent will then inure to their benefit. All that is now desired from the Government is, that it abandon its apparent legal title to the land, which in point of law does not exist. This is a claim for six hundred and forty acres of land. There is no doubt at all that, if you refuse to confirm this location, the party will have a right to locate elsewhere. I cannot conceive any interest in this Government to dispute a matter like this with one of its citizens.

The gentleman says there are salines on the land. It may be so. It may be for that very reason that the party, instead of applying for a different location in Texas, asks us to confirm his right. I know nothing of that fact. This man's title was placed in my hands by a Representative of the

State of Texas in the other House; and on examination it appeared to me perfectly clear on the face of the papers that the Government of the United States had no right to refuse a relinquishment of its legal title, the equitable title certainly, at all events being out of the Government of the United States, and the bill upon its face not pretending to determine the rights of the proprietors, but merely purporting to be a relinquishment of the title of the Government. I take no interest in the bill, but it appears to me to be eminently just and proper; and having been reported by my committee, I have made these few observations to the Senate, and shall leave it without further remark.

Mr. PEARCE. My attention was called to this bill the other day, and I gave it some little examination. It struck me that the difficulty in the case of the applicant was this: there was undoubtedly a head-right issued to this Simon Prado, as mentioned by the Senator from Michigan, and there are successive alienations of his certificate; but there is a want of proof that this head-right was located on the lands which he claims to be his under an alleged location. There is no proof that these lands were ever located within that part of the territory claimed by Texas, which, under the compromise acts of 1850, belonged to the United States, under the boundary arrangement with Texas. There is no proof that this head-right was ever located on that spot for the benefit of Simon Prado or any of his assignees. The location is very poorly proved by anybody, or for anybody. There is a certificate by two gentlemen who appear to be chain-carriers; not the proper parties, I should think, to prove the location of a tract of land. Then there is a certificate from a deputy surveyor; but it does not appear that he was the one who made the survey and location, but he says it was made according to law. There is the certificate of another, who says he has examined the plat and field-notes, and finds them correct; but when we come to look at other papers, which are not included in the printed report, we find that the location was made for certain other parties, having no manner of connection with Simon Prado, or any of his assignees.

If Simon Prado or his assignees did not locate this particular tract by virtue of the head-right, which had been passed from him to them, neither he nor they have any claim to this land. The head-right may be very good, but the claim to the land must depend on the location of that head-right on the particular land claimed by them; and that location must either have been by them or for them, by some person authorized to locate for them. That is not the case here. It seems to me that is a fatal defect.

Other questions might arise if this had been located by Simon Prado, or by any of his assignees; but I will not go into them. I understand there are a great many other claims of the same sort that may come before the Senate, and I think it is very well to ascertain what is the validity of this, which is the first one, so far as I know, that has been presented for our consideration. I cannot, for my life, see how it is possible that any claim can be set up by Simon Prado or his assignees, unless it be proved that he or they, or some one of them, have caused this location to be made for them. That is not shown by the papers; and therefore I think the case utterly fails.

Mr. BENJAMIN. I will simply read the certificate to the Senate. It appears to me that if we are going into these technicalities in the proceedings of the location of land on the western frontier, we might as well pass a general law confiscating the homesteads and titles to property of all our frontier citizens. It amounts simply to that—nothing more nor less. Here we have—

"Field-notes of a survey of six hundred and forty acres of land made for George H. Paschal, it being the land to which he is entitled by virtue of land certificate No. 169, second class, issued by the board of land commissioners for Bexar county, to Simon Prado, on the 5th day of January, anno Domini 1846."

"Said survey is No. 38, in section No. 15, situated on the table-lands or plain between the Rio Grande and the Pecos river. Beginning at a mound of earth raised for the north-west corner of this survey, twenty-five miles and nine hundred varas east, and two hundred and nine miles and sixteen hundred and twenty-five varas north, from the southwest corner of survey No. 1, made by Robert B. Hays, at the crossing of the Rio Grande at El Paso, from which another mound of earth bears east ten varas; thence east twelve hundred and fifty-five varas, entered the valley of the Salt Lake, known as 'La Salina,' nineteen hundred varas to a mound of earth on the bank of said lake, raised for the north-

east corner of this survey, from which another mound of earth bears south ten varas; thence south nineteen hundred varas, crossing the eastern projection of said valley to a mound of earth raised for the southeast corner of this survey, from which another mound of earth bears north ten varas; thence west nineteen hundred varas, to a mound of earth raised for the southwest corner of this survey; thence north nineteen hundred varas, to the place of beginning; so as to cover and include said Salt Lake. Surveyed July 22, 1850.

"Bearings marked. No timber near.

BERNARDO MCGUIRE,
TENAS NASH,

Chain-Carriers.

"I, Joel L. Ankrim, deputy surveyor for Bexar district, do hereby certify that the survey designated by the foregoing plat and field-notes was made according to law, and that the limits, boundaries, and corners of the same, together with the marks, natural and artificial, are truly described therein.

"JOEL L. ANKRIM,
"Deputy Surveyor, Bexar District."

Then comes the surveyor himself:

"I, J. S. McDonald, district surveyor for Bexar district, do hereby certify that I have examined the foregoing plat and field-notes, and find them correct, and that they are recorded in my office in book A, No. 5, page 367.

"J. S. McDONALD,
"District Surveyor, Bexar District."

"SAN ANTONIO, November 16, 1850."

Now, sir, the objection made is, that amongst the title papers filed by this party who claims the confirmation, the Senators who have examined these papers have not found by what authority George H. Paschal had this location made. To that I answer that if there be an absence in the papers of proof of such authority, the question is not one between George H. Paschal and Volcker, because the rights of all private individuals are saved by the bill, and it would be a violent presumption for us to say that George H. Paschal, without any interest whatever in this certificate, took the trouble to go upon the land and have it surveyed. He must have had an interest in the title at the time. After all, it was not so very valuable a matter, according to the statement of the Senator from Michigan. A tract of land which was sold twice for fifty dollars, and the third time for fifty-five dollars, and the fourth time for a pair of mules, probably would not justify them in incurring any very extraordinary expense in proving up their chain of title here, it not being dreamed by anybody that, after the title had reached this point, when, under the authority of the Republic of Texas itself, nothing more was required than to apply to the State office to get a patent, that objection would be made here.

It may be that other claims of this kind are pending; but I have not heard of them. This is the only one I have come across in my service on the Committee on Private Land Claims. It really appears to me that the objections are such as would be fatal in point of law, if this man were proving up a title against adverse claimants; but they have nothing whatever to do with the question whether the Government of the United States ought justly to relinquish its legal title in the land.

Mr. STUART. The Senator from Louisiana expresses a great deal of surprise at the views I have submitted here; but I am inclined to believe that if his surprise is well-founded, I have been so unfortunate as not to make myself at all understood; because, if I have, I should be no less surprised at the reply of the Senator from Louisiana. You may illustrate this case by one of our own land warrants. Suppose a man comes to Congress, and asks for a patent to be granted to him in virtue of a land warrant located upon one hundred and sixty acres of land: must he not show that either he, or some other former holder of the land warrant, has located it upon the particular quarter section he claims? That is the point in this case.

The Senator says this is a simple question of whether the United States will relinquish its title to six hundred and forty acres of land. Relinquish it to whom? To some man who has a right to claim it? I should find no difficulty at all in this case, if it clearly appeared that this man had a right, under his certificate from the Republic of Texas, to this land; but the point is, that he never located it on this land at all. It appears that a survey was made of this land for Mr. Paschal and Mr. Pruder, and that Mr. Paschal and Mr. Pruder received their right from A. W. Houston; but neither A. W. Houston, nor Paschal, nor Pruder, appears to have ever had any interest in this head-right whatever. I have here the law of the Repub-

lic of Texas, which requires these things to be recorded. The very law under which this head-right was issued requires that it shall be recorded. The papers in this case sent up to the Senate contain a full and complete transcript of the record, and that transcript shows conclusively that no holder of this certificate ever located it at all.

I am not denying, for the purpose of presenting this case, that this is a good certificate, but I am denying that the certificate was ever located on this land. That is the difficulty. I come back to the case I took for illustration.

Mr. BENJAMIN. Will the Senator permit me to interrupt him?

Mr. STUART. Certainly.

Mr. BENJAMIN. I understand he does not deny that Paschal located it on the land.

Mr. STUART. I do not deny that these papers show that Paschal had this land surveyed. I deny that he ever located the certificate on it.

Mr. BENJAMIN. Surveyed under this certificate, under the head-right?

Mr. STUART. Precisely.

Mr. BENJAMIN. Does the Senator pretend that there is any other location required than to call on the surveyor to survey the land under the particular head-right?

Mr. STUART. Mr. President, I take this ground: as I have just said, the laws of Texas required a record of all these proceedings, of the transfer of ownership; a transcript of that record is here, and that transcript does not show that Paschal ever had any interest in the certificate. On the contrary, it shows a chain of title down to this claimant, Volcker, from other persons.

Mr. BENJAMIN. I want to get at the point at which we differ. I asked him if he denied that Paschal located? Does he admit that Paschal located? If he does, then the only point in the whole argument is that there has not yet been sufficient evidence that Paschal was once an owner. That is the whole point.

Mr. STUART. I was about to state it, if the Senator had not interrupted me. This claim must be founded on one line of argument or another. The Senator cannot found this claim upon a chain of title to the certificate which he says passed from hand to hand; but that is not so. By the laws of Texas, the transfers of that certificate were to become a part of the records of the proper county in the Republic of Texas. This man, Paschal, never having appeared as owner, of course we must conclude he never was an owner. Now, suppose any stranger had gone and had a survey made of that land, and said he made it under this certificate: what would that show? Nothing. He must show that he had a right to do it.

Mr. BENJAMIN. I dislike very much to interrupt the Senator. If he will permit me, however, I will make one further suggestion, and say nothing more in the matter. These certificates are, to be sure, transferable by indorsement, which ought to be recorded; but the fact is well known, that in order to avoid the necessity of constant indorsements upon the certificate, the holder at any particular time was in the habit of making an assignment on the back of the certificate, leaving the name of the assignee in blank, which any holder might fill up at his pleasure; and, consequently, Paschal might very well have been the owner of this certificate at a particular time, without having filled in his name, and, after the location, passed it to Volcker or any other person, and then the name would be filled in; so that the location would be made by the party actually in possession of the certificate, although the fact of that possession might not appear upon the record.

Mr. STUART. Mr. President—

The VICE PRESIDENT. The hour has arrived for the consideration of the special order.

KANSAS AFFAIRS.

The Senate resumed the consideration of the motion of Mr. DOUGLAS, to refer so much of the annual message of the President of the United States as relates to the affairs of Kansas, to the Committee on Territories.

Mr. HALE. Mr. President, in the remaining remarks which I propose to submit to the Senate, I shall confine myself to two points or positions assumed in a paper which I hold in my hand, called "A report of the decision of the Supreme Court of the United States, and the opinions of the Judges thereof, in the case of Dred Scott versus

John F. A. Sandford," protesting, however, that I refrain from an examination of any more at this period, solely for the want of time. The first of these points is the affirmation by the Supreme Court of the United States that property in slaves is of the same right as all other property. The other is, that the right to hold and to traffic in this property, at the time of the American Revolution, and at the time of the adoption of the Federal Constitution, was so universally acknowledged and recognized in the country from which we came, and in this country, that no man thought of disputing it. An extract to that effect, from the opinion of the court, has already been read from the desk by the clerk. To these two points I shall confine my remarks, contending, in the first place, that the legal proposition asserted by the court is unsound and untrue, and not supported by principle or authority, and that what purports to be a statement of facts is not supported by the truth of history.

The first proposition to which I have alluded is more distinctly and more fully expressed in the constitution which has been framed by the Lecompton convention, and I will read the statement as it is there expressed:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase, is the same and as inviolable as the right of the owner of any property whatever."

I think the Lecompton convention have the advantage of the Supreme Court in one respect: they are a little more explicit. I have a higher respect for the Lecompton convention than I have for the Supreme Court; because the Lecompton convention have placed this principle distinctly on paper, and there is no mistaking what they mean, while the Supreme Court have decided the same thing, but have not quite so explicitly expressed it to the apprehension of the common ear. Now, sir, I undertake to maintain that the principle thus asserted is not true; and on this point I shall ask the attention of the Senate to some authorities; but before coming to the authorities, let me state what I believe on this subject.

I do not stand here to deny that legally there is such a thing as property in slaves. I am not discussing the moral question, but the legal one; and I do not stand here to deny that there is, in the States tolerating slavery, legal property in slaves; for, in the free States, we have a qualified property in the labor of human beings. In the State in which I live, criminals, if tried and found guilty, are sent to the penitentiary for the public good, and any individual may contract with the warden having the custody of the prisoners for their labor; and, if the Legislature see fit, he may take the prisoners anywhere within the jurisdiction of the State, and his right in the labor of those convicts is recognized, and will be protected by the State and by its authorities. But, if the man thus using the labor of convicts in the State of New Hampshire, should cross over the Connecticut river and undertake to quarry marble in the Green Mountains of Vermont, he would find that his property ceased the moment he got over the river, and that the right which he had acquired in New Hampshire, would not extend beyond the territorial limits of the State imposing the servitude. Just exactly and precisely that is the right which the owner of a slave has to his property. He has a right to the property within the jurisdiction which imposes the servitude; but the moment the slave goes beyond that, he is free. I do not rest this on my own assertion.

There is another right of property—a general property—and that is a property in inanimate things, and in the brute creation. A man has a property in a horse—a horse in Maryland, for instance—he goes with that horse from Maryland to Virginia, to Delaware, to any and to every State in the Union, traversing the Confederacy from one end to the other, and wherever and whenever he arrives in any one of the States his right to property in the horse is recognized universally. More than that, sir, he may go outside the limits of the Union, he may go into the British, the Mexican, or the Spanish possessions on this continent; he may go into the possessions of the savage tribes; and wherever he finds a community of men, civilized or savage, there his right of property in the horse will be recognized. Nay, sir, he may take that horse across the Atlantic, he may traverse all the kingdoms of Europe, civilized and

savage and semi-savage, and every where he will find his right of property recognized. He may go, if he pleases, to the frozen regions of the north pole, and may come down from there till he pants beneath the vertical rays of the tropical sun, and the horse is his; and the tribunals of the countries where he goes will vindicate his right. Why? Is it because each and every of these States has a statute declaring that a man shall have property in a horse? No, sir. I apprehend there is no such statute in any one of them. The reason is because, by the universal consent of mankind, a horse is the subject of property; and when the horse was made, he was made to be property, and man was made to own him. It rests upon no statute and upon no speculation of philosophy. It goes back to the earliest period of recorded time. When the Almighty created this broad earth and gave it to man for a home, He gave it to him to cultivate; He filled the land with cattle and the sea with fish and the air with fowls; then He made man and He gave him this commission: "have thou dominion over the fish of the sea and the fowls of the air and the cattle and over every creeping thing that creeps on the earth." But man, sir, immortal man—made in the image of God—He never said, "have thou dominion over him." No; He reserved that last great work, man, for His own peculiar worship.

That is the distinction. It is a distinction that has been recognized by every writer who has ever written upon the subject. It has been acknowledged by every court where civilization has instituted courts. It has been acknowledged by no States more freely, more readily, more decisively, than by the slaveholding States of this Union, as I shall show by a reference to decisions in Virginia, Maryland, and Louisiana. More, sir; the doctrines of the locality of slavery, and the distinction between slave property and other property, has been recognized, without a dissenting voice, by the unanimous, uncontradicted concurrence of every member of that court called the Supreme Court of the United States.

The first authority to which I ask the attention of the Senate on this point, is the opinion of the Supreme Court of the United States, in the somewhat famous case of *Prigg vs. the Commonwealth of Pennsylvania*, to be found in 16 Peters, 594; 14 Curtis, 421. The court say:

"By the general law of nations, no nation is bound to recognize the state of slavery as found within its territorial dominions, where it is in opposition to its own policy and institutions, in favor of the subjects of other nations where slavery is organized. If it does it, it is as a matter of comity, and not as a matter of international right. The state of slavery is deemed to be a mere municipal regulation, founded upon and limited to the range of the territorial laws."

The court then proceed to quote several cases recognizing this principle. Judge McLean, in his opinion in the *Dred Scott* case, 19 Howard, 140, after quoting that authority, proceeds to say:

"There was some contrariety of opinion among the judges on certain points ruled in *Prigg's* case, but there was none in regard to the great principle, that slavery is limited to the range of the laws under which it is sanctioned."

That, then, was the deliberate, solemn opinion of the court, collectively and individually. The same doctrine is recognized in *Jones vs. Vanzandt*, 2 McLean, circuit court reports, page 596, where the learned judge says:

"Slavery is local in its character. It depends upon the municipal law of the States where it is established; and if a person held to slavery go beyond the jurisdiction where he is so held, and into another sovereignty where slavery is not tolerated, he becomes free; and this would be the law of these States, had the Constitution of the United States adopted no regulation upon the subject."

This would have been the law of the States, had there been no regulation in the Constitution of the United States to the contrary; and more than that, the framers of the Constitution, each and every one of them, so understood the law. They understood the law to be, at the time of the adoption of the Federal Constitution, that a person held to service or labor by virtue of the local law of the State in which he was held, and going into another State, became free; and to prevent the operation of that general principle, they inserted this provision:

"That no person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor is due."

Why this negative introduced into the Constitution, declaring that a man should not be free by

going from one State to another, if the men who framed that instrument had not understood that the law was so? Then, here is the decision of the Supreme Court of the United States, and the decision of the circuit court over which Judge McLean presides. I will now read a decision from Martin's Louisiana Reports. In *Lunsford vs. Coquillon*, 2 Martin, new series, 401, the supreme court of Louisiana decided, according to the head note:

"If the owner of a slave remove her from Kentucky to Ohio, *animo morandi*, she becomes free, *ipso facto*."

In the course of the opinion, the court say:

"We conclude that the constitution of the State of Ohio emancipates, *ipso facto*, such slaves whose owners remove them into that State with the intention of residing there; that the plaintiff having been voluntarily removed into that State by her then owner, the latter submitted himself, with every member of his family, white and black, and every part of the property brought with him, to the operations of the constitution and laws of the State; and that, as according to them, slavery could not exist in his house—slavery did not exist there, and the plaintiff was accordingly as effectually emancipated, by the operation of the constitution, as if by the act and deed of her former owner."

The same doctrine is also found in another opinion of that same court—the supreme court of the State of Louisiana—only that this case is a great deal stronger. I read the case of *Marie Louise vs. William C. Marot et al.* The abstract of the case is:

"The fact of a slave being taken to the kingdom of France, or other country, by the owner, where slavery or involuntary servitude is not tolerated, operates on the condition of the slave, and produces immediate emancipation."

The court held in that decision, that, by taking a slave from Louisiana to France, where slavery was prohibited by law, the slave, *ipso facto*, became free; and when he came back into Louisiana, the master could not reduce the slave again to slavery. In another part of a recent decision, the Supreme Court of the United States have undertaken to say that the condition of slavery was only in a state of catalepsy while the slave was in a state of liberty; and that when he came back to a slave State, he could be again reduced to slavery; but such is not the doctrine of the court of Louisiana, and such has not been the doctrine of other courts.

I have also a case from the court of appeals of the State of Maryland, (4 Harris & McHenry, 418) where it appears that the petitioner stated his claim to freedom to arise under the laws of the State of Pennsylvania for the abolition of slavery; and in that case the court of Maryland held, that by taking a slave out of Maryland, and carrying him into Pennsylvania, he became free. He came back and resided in Maryland, but the court gave validity to the abolition of slavery by the fact of his master carrying him into Pennsylvania, and he became free. All these decisions proceed on the assumption that slavery is local in its character.

Now, sir, I have a case from the State of Virginia, which I think is stronger than any of those which I have read. In *Hunter vs. Fulcher*, 1 Leigh, 172, I find this decision:

"By statute of Maryland of 1796, all slaves brought into that State to reside are declared free. A Virginia-born slave is carried by his master to Maryland; the master settles there, and keeps the slave there in bondage for twelve months, the statute in force all the time; then he brings him as a slave to Virginia, and sells him there. Adjudged in an action brought by the man against the purchaser, that he is free."

So that you will see it is not the free States who alone have offended in this matter by abolishing your title to slaves when they come into their territory; but as long ago as 1796, the State of Maryland manumitted the slave of every man who came to reside there with his master. A planter went from Virginia into Maryland, and resided there with his slave until the slave became free; and then went back into Virginia, and undertook to reduce the slave to his possession again; but the highest court in Virginia held that by going into Maryland, the slave became free, and by going back to Virginia he did not again return to a state of servitude. That is the doctrine of Virginia.

Let me state one other authority. I have a still stronger case. It is *Fulton vs. Lewis*, 3 Harris & Johnson, a case in the court of appeals in Maryland:

"At the trial the following facts were admitted in evidence: John Levant, a married man, being a native and resident of the Island of Saint Domingo, removed from that place in July, 1793, flying from disturbances which then existed there, endangering the lives and property of the inhabitants, and brought with him into this State three negroes, of whom the petitioner (now appellee) is one, whom he then and before owned as a slave. That in May, 1794, he sold the petitioner, as a slave, to William Clemm, who sold him as such to the

defendant, (the appellant.) That said Levant arrived at Baltimore in August, 1793, and continued to reside there until sometime in 1796, when he returned to the West Indies. The defendant thereupon prayed the direction of the court to the jury, that, if they believed the facts, the petitioner was not entitled to his freedom. This opinion the court, [Scott, Chief Justice,] refused to give, but directed the jury that upon these facts the petitioner was free. The defendant excepted; and the verdict and judgment being against him, he appealed to this court, where the case was argued before Chase, Chief Justice, and Buchanan, Nicholson, Earle, Johnson, and Martin, Justices.

Glenn, for the appellant, contended that the act of 1783, chapter 23, under which the petitioner claimed his freedom, meant only a voluntary importation of slaves, and not an importation arising from absolute necessity, produced by causes over which the owner, as in this case, had and could have no control."

But the judgment was affirmed, and the slave went free. Notwithstanding he came into Maryland by a tempest, by the act of Providence, and not by the voluntary act of his master, so stringently did the State of Maryland construe this right of property in slaves as a local right, that they determined that even when the act of God, contrary to the consent of his master, brought the slave there, he became free; and so they gave him his freedom.

In the opinion delivered by Judge Curtis, in the *Dred Scott* case, he read a dissenting opinion from the late ruling in the State of Missouri. That dissenting opinion was pronounced by Judge Gamble, who said:

"In this State [Missouri] it has been recognized, from the beginning of the Government, as a correct position in law, that the master who takes his slave to reside in a State or Territory where slavery is prohibited, thereby emancipates his slave."

Judge Curtis goes on to say:

"Chief Justice Gamble has also examined the decisions of the courts of other States in which slavery is established, and finds them in accordance with these preceding decisions of the supreme court of Missouri to which he refers."

"It would be a useless parade of learning for me to go over the ground which he has so fully and ably occupied."

In the opinion delivered by Judge McLean, in the *Dred Scott* case, he declares:

"There is no nation in Europe which considers itself bound to return to his master a fugitive slave, under the civil law or the law of nations. On the contrary, the slave is held to be free where there is no treaty obligation, or compact in some other form, to return him to his master. The Roman law did not allow freedom to be sold. An ambassador, or any other public functionary, could not take a slave to France, Spain, or any other country of Europe, without emancipating him. A number of slaves escaped from a Florida plantation, and were received on board of ship by Admiral Cochrane; by the King's Bench they were held to be free."

He mentions, also, a case that was decided as late, I think, as 1823, in the Court of King's Bench, which is found in 3 Dowling & Ryland, page 679—*Forbes vs. Cochrane*. Lord Chief Justice Best, in delivering the opinion in that case, says:

"The right of slavery is not a general right; it is a local right; it is spoken of by every writer that has ever written upon the subject as a local right."

Judge Best had not read the *Lecompton* constitution, nor the *Dred Scott* decision. He could not say now what he said then, that every writer that had ever written on this subject had treated it as a local right. In the same opinion, says the learned judge:

"Slavery is a local law; and if a man wishes to preserve his slaves, let him attach them to himself by ties of affection, or make fast the bars of their prison; for the moment they get beyond his local limits, they have broken their chains and have recovered their liberty."

That same judge goes further, and says:

"I go further; if a slave, acting upon his newly-acquired rights of a free man, had determined to vindicate the rights of his nature, and had said, 'I will not be forced back into a state of slavery,' and his death had ensued upon his resistance, it would have been murder in every individual who had contributed to that death."

The same judge, speaking of the slave, says:

"Whatever he may owe to the local law is got rid of the moment he gets beyond the local limit."

Speaking of an assertion that Mansfield was said to have made, that an action might be maintained on a contract for the sale of a slave in England, Chief Justice Best says:

"I can only say that I have searched with all the industry of which I am master, and that I can find no such decision."

This was a suit brought for the recovery of certain slaves that escaped from Florida to Admiral Cochrane, and the judge expressed some doubts, or, at least, said it was not proved that slavery existed in Florida; but he says:

"If it did prevail there it is a local law; it is an anti-Christian law, and it cannot be extended beyond the limits

of its own State, nor be recognized in a country like this, where the courts of justice are regulated according to the law of nature and the revealed law of God."

That was the opinion of the Court of King's Bench, in England, as late as 1822. I have shown you, by these quotations and these opinions, that up to the rendering of the opinion in the *Dred Scott* case, it was the law of these States severally; it was the law of the Supreme Court of the United States; it was the law of the highest judicial tribunal in England, that the moment a slave escapes from the territorial limits of the jurisdiction which imposes the state of servitude upon him, that moment he becomes free; and that in the exercise of the rights of freedom which he acquires by stepping out from beyond the local limits of the jurisdiction which impose slavery upon him, he is a man—to all intents and purposes a man; and if an attempt is made by anybody claiming the right to reduce him to slavery, to take him, and he resists and dies, the death of that slave is murder in every man who contributed to bring about that result.

Sir, these are the great settled principles of the law, and they are not to be shaken to-day by any judicial assumption, or any legal quackery on this subject. They stand immovable and immutable as the eternal foundations of truth. While civilized society maintains its tribunals and its organization, these principles will stand, and the Supreme Court of the United States will find that, like the waves of the ocean, they toss themselves against the rock-bound shores; but they toss themselves in vain, only to fall back whence they came. These are positions which cannot be shaken. They rest not only upon law, but upon humanity; upon reason; upon every conviction which belongs to human nature, and to a common manhood.

Having disposed of that part of the case—and I think I have gone far enough, so that any school-boy in the free States, who has been to our common schools long enough to read, may confute and refute, and confound forever the gross assumption of this court—I now proceed to the other point to which I proposed to address a few remarks, and that was, that at the time of the adoption of the Federal Constitution slavery was so universally acknowledged and practiced upon, that nobody thought of questioning it. The Supreme Court say:

"It was regarded as an axiom in morals, as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion."

The "opinion" here alluded to was "that the negro might justly and lawfully be reduced to slavery for his benefit;" and they add:

"And in no nation was this opinion more firmly fixed or more uniformly acted upon than by the English Government and English people."

How is that? I believe the Supreme Court have not decided that the Revolution did not take place in 1776; or that the Declaration of Independence was not made about that time; but at the commencement of the eighteenth century, about the year 1704, this opinion was rendered by Lord Holt, in the case of *Smith vs. Gould*, reported in 2 Lord Raymond's Reports, 1274, which was an action of trover for a negro. Lord Holt, speaking for the whole court, says:

"This action does not lie for a negro no more than for any other man, for the common law takes no notice of negroes being different from other men."

And in Salkeld's report of the same case, (2 Salkeld, 666,) the same learned judge says:

"Men may be the owners of property, and therefore cannot themselves be the subject of property."

That was one hundred and fifty years ago. Then we come down to 1772, and we find Lord Chief Justice Mansfield deciding the *Somerset* case. I will read that decision:

"The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reason, occasion, and time itself, from whence it was created, is erased from the memory. It is so odious that nothing can be suffered to support it but positive law. Whatever inconveniences, therefore, may follow from the decision, I cannot say this case is allowed or approved by the laws of England, and therefore the black must be discharged."

That was the law of England in 1772. Going back to the commencement of the century, and

coming down to 1772, we find the same doctrine held. In the opinion I have already read of Chief Justice Best, he says, that with the best industry he could give to the subject, he had never found that a contract for the sale of a slave was allowed in England. These were the doctrines of the courts. I have another authority, which I do not propose to put in as a judicial authority, but I propose to put it in to answer that part of the opinion of the Supreme Court in which they say this doctrine had never been questioned by anybody. I show you that it had been questioned by the judicial tribunals; it had been questioned by Lord Holt; it had been questioned by Lord Mansfield; and, in 1790, immediately after the adoption of the Federal Constitution, the great orator of Ireland, [John Philpot Curran,] speaking before a British court, said:

"I speak in the spirit of the British law, which makes liberty commensurate with, and inseparable from, the British soil—which proclaims even to the stranger and the sojourner, the moment he sets his foot upon British earth, that the ground on which he treads is holy, and consecrated by the genius of universal emancipation. No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burnt upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted upon the altar of slavery; the first moment he touches the sacred soil of Britain, the altar and the god sink together in the dust; his soul walks abroad in her own majesty; his body swells beyond the measure of his chains that burst from around him; and he stands redeemed, regenerated, and disenthralled, by the irresistible Genius of Universal Emancipation."

And yet, sir, in the face of these glowing declarations, of these sublime enunciations, of these eloquent tributes to the great principle of liberty, your Supreme Court have come down from their bench, gone into the political arena, and commenced their career by declaring that the right to hold and to trade in slaves, at the time of the adoption of our Constitution, was so universally recognized and practiced upon, that no man thought of questioning it. I have shown you that it was questioned in England; that there were men high in position there, occupying exalted places in the kingdom of Great Britain, who had questioned the rightfulness of the traffic in slaves, and the right to hold slaves. I beg Senators to bear in mind the exact question which I am arguing. I am not introducing these instances here for idle declamation. I am not introducing them as part of an anti-slavery discourse; but I am introducing them to prove to the Senate, to the country, and to the world, that when they undertake to say that the right to hold and to traffic in slaves was unquestioned, they state that which cannot be sustained by history.

Now, sir, how was it in this country? The Supreme Court say that this right was so well understood in this country, so universally acceded to, that even the great and sublime truths which are embodied in the Declaration of Independence, which, if they were uttered to-day, would be held to embrace all mankind, did not embrace them at that time, because the opposite sentiment, that it was right to hold slaves, was so universal, so unquestioned, and so unquestionable, that nobody thought of questioning it. I have been at some little pains to ascertain what the views of some of the men in this country about the time of the Revolution, and about the time of the adoption of the Federal Constitution, were. I begin with North Carolina. I took that State first, because a distinguished Senator from that State [Mr. Briggs] was in the chair yesterday, and I did not know but that he would be to-day; and I wanted to compliment him by putting his own State first. The first Provincial Congress of North Carolina, held at Newbern on the 24th of August, 1774, resolved—

"That we will not import any slave or slaves, or purchase any slave or slaves imported or brought into this Province by others, from any part of the world, after the 1st day of November next."

That authority is to be found in the American Archives, fourth series, first volume, page 735. Again, the Continental Congress of the United States, October 20, 1774, formed an association or agreement, consisting of fourteen articles; the second article of which is:

"That we will neither import nor purchase any slave imported after the 1st day of December next, after which time we will wholly discontinue the slave trade, and will neither be concerned in it ourselves, nor will we hire our vessels, nor sell our commodities nor manufactures, to those who are concerned in it."

By the fourteenth article, they resolved:

"And we do further agree and resolve, that we will have no trade, commerce, dealings, or intercourse whatsoever with any colony or province in North America which shall not accede to, or which shall hereafter violate this association, but will hold them as unworthy of the rights of freemen, and as inimical to the liberties of this country."

That is to be found in the same volume, on page 915. Those men who would not agree that they would neither import nor purchase any slave after the 1st day of December, were not worthy of social or business intercourse, and unworthy of the rights of freemen, and inimical to the liberties of the country. That agreement, or convention, as it is called, of the Continental Congress, made in 1774, was signed by all the members, including George Washington and Patrick Henry, from Virginia, and the two Rutledges from South Carolina.

I come now to another State, Georgia. The Provincial Congress of Georgia, held at Savannah, on the 18th of January, 1775, resolved:

"That we will neither import nor purchase any slave imported from Africa, or elsewhere, after the 15th day of March next."

George Washington, in a letter to Charles Pinckney, Governor of South Carolina, on the 17th of March, 1792, says:

"I must say that I lament the decision of your Legislature upon the question of importing slaves after March, 1793. I was in hopes that motives of policy, as well as other good reasons, supported by the direful effects of slavery, which at this moment are presented, would have operated to produce a total prohibition of the importation of slaves, whenever the question came to be agitated in any State that might be interested in the measure."

In a letter to John F. Mercer, dated September 9, 1786, George Washington says:

"I never mean, unless some particular circumstances should compel me to it, to possess another slave by purchase, it being among my first wishes to see some plan adopted by which slavery in this country may be abolished by law."—*Sparks's Life of Washington*, vol. 9, p. 159.—Note.

In a letter to Robert Morris, dated April 12, 1786, he says:

"I hope it will not be conceived from these observations that it is my wish to hold the unhappy people, who are the subject of this letter, in slavery. I can only say, that there is not a man living, who wishes more sincerely than I do, to see a plan adopted for the abolition of it; but there is only one proper and effectual mode by which it can be accomplished, and that is by legislative authority; and this, as far as my suffrage will go, shall never be wanted."—*Sparks's Writings of Washington*, vol. 9, page 159.

In a letter to the Marquis de la Fayette, of the date of April 5, 1783, he says:

"The scheme, my dear Marquis, which you propose as a precedent, to encourage the emancipation of the black people in this country from the state of bondage in which they are held, is a striking evidence of the benevolence of your heart. I shall be happy to join you in so laudable a work; but will defer going into a detail of the business until I have the pleasure of seeing you."—*Sparks's Writings of Washington*, vol. 8, p. 414, 415."

I have some other authorities. In the convention which framed the Constitution of the United States, Colonel Mason, of Virginia, an illustrious name in an illustrious Commonwealth, then and now, said:

"Slavery discourages arts and manufactures. The poor despise labor when performed by slaves. They prevent the emigration of whites, who really enrich and strengthen a country. They produce the most pernicious effect on manners."

I am not going to criticise that. I am not here to speak on a question of manners. I leave that where Mr. Mason left it.

"Every master of slaves is born a petty tyrant."

I am only quoting, sir.

"They bring the judgment of Heaven on a country."

Again, Mr. Mason is reported to have said:

"He held it essential, in every point of view, that the General Government should have power to prevent the increase of slavery."

That is to be found in the third volume of the Madison Papers, page 1391. Again, Mr. Gerry, of Massachusetts, afterwards Vice President of the United States, (page 1394 of the same volume,) said:

"He thought we had nothing to do with the conduct of the States as to slaves, but ought to be careful not to give any sanction to it."

Mr. Madison (page 1429) "thought it wrong to admit in the Constitution the idea that there could be property in men."

But there is another very important fact in the history of that convention. They finally adjourned on the 17th day of September, 1787. On the 13th day of September, 1787, after the discus-

sions in the convention had been listened to, after the suggestions of Colonel Mason, of Virginia, of Madison, and of other men of that day, who thought slavery ought not to be countenanced and allowed in the Constitution, there came up the clause fixing the enumeration that was to be made to establish the ratio on which Representatives were to be chosen. As it read then, it fixed the number, and said, "including those bound to servitude." You will find on page 1569 of the third volume of the Madison Papers, that Mr. Randolph, of Virginia, moved to strike out the word "servitude," and insert "service" in its stead; and it was done unanimously, said Mr. Madison, because the word "servitude" implied the condition of slaves, and "service" described the obligations of free persons. So you find that those held to service are described in the Constitution, because the convention unanimously thought that did not describe the condition of slavery; and, therefore, they put "service" instead of "servitude." These were the opinions of some of the men who were in the convention that framed the Constitution.

At the risk of being tedious, for I am not here to-day to make myself popular, but instructive, [laughter.] I will read a somewhat lengthy extract from another southern author. I would send it to the Secretary to read, but I am afraid he would not emphasize it properly, [laughter.] and I will read it myself. I read from Jefferson's Notes on Virginia, in which he treats on slavery. It is a very curious coincidence, that when Jefferson comes to speak of slavery, he speaks of it in the same relation that Colonel Mason did; and the whole article on slavery is put in under the head of "manners." I am not going to be drawn off into that field. Mr. Jefferson says:

"There must, doubtless, be an unhappy influence on the manners of our people, produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other. Our children see this, and learn to imitate it; for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child was present. But generally it is not sufficient. The parent storms; the child looks on; catches the lineaments of wrath; puts on the same airs in the circle of smaller slaves; gives a loose rein to his worst of passions; and thus nursed, educated, and daily exercised in tyranny, cannot but be stamped by it, with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances. And with what execration should the statesman be loaded, who, permitting one half the citizens to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the *amor patriæ* of the other. For, if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labor for another; in which he must look up the faculties of his nature, contribute as far as depends on his individual endeavors to the evanishment of the human race, or entail his own miserable condition on the endless generations proceeding from him.

"With the morals of the people their industry also is destroyed; for, in a warm climate, no man will labor for himself who can make another labor for him. This is so true, that of the proprietors of slaves a very small proportion indeed are ever seen to labor. And can the liberties of a nation be thought secure when we have removed their only firm basis—a conviction in the minds of the people that these liberties are the gift of God?—that they are not to be violated but with his wrath? Indeed, I tremble for my country, when I reflect that God is just; that his justice cannot sleep forever; that, considering numbers, nature, and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events; that it may become probable by supernatural interference. The Almighty has no attribute which can take side with us in such a contest."

So says Mr. Jefferson; and yet the Supreme Court say that it was unquestioned, and nobody thought of questioning it at the time of the American Revolution, and of the adoption of the Federal Constitution. These Notes of Jefferson on Virginia, by the way, were first published, I think, in 1780 or 1782, during the Revolution, and before the adoption of the Federal Constitution. The record does not stop there. Mr. Jefferson was not the only man who entertained these sentiments on this subject at that time and subsequently. I will read an extract from the preamble of the act of the Legislature of Pennsylvania which abolished slavery in 1780, and you will find that that is not "semi" on the subject. The Legislature of Pennsylvania, in 1780, declare:

"And whereas the condition of those persons who have heretofore been denominated negro and mulatto slaves has

been attended with circumstances which not only deprived them of the common blessing they were by nature entitled to, but has cast them into the deepest afflictions, by an unnatural separation and sale of husband and wife from each other and from their children; an injury, the greatness of which can only be conceived by supposing that we were in the same unhappy case. In justice, therefore, to persons so unhappily circumstanced, and who, having no prospect before them wherein they may rest their sorrows and their hopes, have no reasonable inducement to render the service to society which they otherwise might, and also in grateful commemoration of our own happy deliverance from that state of unconditional subjection to which we were doomed by the tyranny of Britain: *Be it enacted*, That no child hereafter born shall be a slave," &c.

Patrick Henry, in a letter to Robert Pleasants, dated January 18, 1773, says:

"I believe a time will come, when an opportunity will be offered to abolish this lamentable evil. Everything we can do, is to improve it, if it happens in our day; if not, let us transmit to our descendants, together with our slaves, a pity for their unhappy lot, and our abhorrence for slavery. If we cannot reduce this wished-for reformation to practice, let us treat the unhappy victims with lenity. It is the furthestmost advance we can make towards justice; it is a debt we owe to the purity of our religion, to show that it is at variance with that law which warrants slavery. I know not where to stop. I could say many things on the subject, a serious view of which gives a gloomy perspective to future times."

Again, John Jay—(of whom Webster said that when the ermine fell on him it touched nothing less pure than itself,) whose name and whose principles live to-day, in the second and third generations, son and grandson, and, I believe, even to the fourth also, maintaining, in their purity, the same principles which illustrated the life of their illustrious ancestor; individuals, whom it is my pride to number amongst my personal and dearest friends—said:

"The State of New York is rarely out of my mind or heart, and I am often disposed to write much respecting its affairs; but I have so little information as to its present political objects and operations, that I am afraid to attempt it. An excellent law might be made out of the Pennsylvania one, for the gradual abolition of slavery. Till America comes into this measure, her prayers to Heaven will be impious. This is a strong expression, but it is just."

John Jay said, in 1789, that until America comes into this measure for the abolition of slavery, she cannot in the penitence of her stricken soul look up to Heaven and say, "Our Father," without being guilty of impiety. Such was the opinion of John Jay.

The record does not stop there. William Pinckney, of Maryland, in 1789, the very year of the adoption of the Federal Constitution, when the Supreme Court say there was such a perfect Dead sea in the public heart and public morals on this subject, in a speech in the Maryland House of Delegates, said:

"Sir, iniquitous and most dishonorable to Maryland is that dreary system of partial bondage which her laws have hitherto supported with a solicitude worthy of a better object, and her citizens by their practice countenanced."

"Founded in a disgraceful traffic, to which the parent country lent her fostering aid, from motives of interest, but which even she would have disdained to encourage, had England been the destined mart of such inhuman merchandise, its continuance is as shameful as its origin."

"Wherefore should we confine the edge of censure to our ancestors, or those from whom they purchased? Are not we equally guilty? They sowed around the seeds of slavery; we cherish and sustain the growth. They introduced the system; we enlarge, invigorate, and confirm it."

I shall not detain the Senate longer by reading from the records and from our history what were the opinions of the men of that day; and yet this Supreme Court have solemnly decided all this history out of being; have judicially declared—no, sir, not judicially, this was politically. They have decided that slavery and the slave trade, in the very day and time that Pinckney, and Jay, and Jefferson, and Madison, and all the great men who illustrate and adorn and embellish our history, were pouring forth imprecations and denunciations against the system, was so unquestioned and unquestionable that nobody thought of questioning it. The Supreme Court go further—I could forgive them almost anything else—and, as I understand it, they heap reproach on our revolutionary history and our revolutionary men. The Chief Justice, speaking of the Declaration of Independence, says:

"It then proceeds to say: 'We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among them is life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted, deriving their just powers from the consent of the governed.'"

"The general words above quoted would seem to embrace the whole human family; and if they were used in a similar instrument at this day would be so understood. But it is too clear for dispute, that the enslaved African race

were not intended to be included, and formed no part of the people who framed and adopted this declaration."

Sir, the men who framed the Declaration of Independence; the men who fought the battles of liberty; and the men who wrote our Constitution, understood the meaning of language quite as well as the Supreme Court, and if I were put on oath, I should say a little better. They knew the circumstances in which they were placed; they knew the crisis in which they were called to live and to act; they knew that the experiment which had been made from the beginning of time up to that day, of free government, had been a failure; they knew that every effort and every attempt that oppressed man had made had failed; and they felt that to them, at that time, and at that day, was committed, by the Arbitrator of national destiny, the great question to solve for themselves, for their posterity, for all coming time, the great problem whether man was capable of free government. They went into that contest fully understanding the character of the strife by which their position was to be maintained; fully sensible of the character of the contest upon which they had entered. They went into it, as has been well said on another occasion, poor in everything but faith and courage. They were without arms, without wealth, without even a name amongst the nations of the earth, rebel provinces; but they were strong in faith, strong in hope, strong in patriotic impulse, and strong in their reliance on the Most High; and they went, taking their lives, their fortunes, and their honors in their hand. They threw themselves into the world's Thermopylae of that day, and they declared that they held certain great truths to be self-evident, and that among these truths was, that all men were entitled to life, liberty, and the pursuit of happiness. Why? Not because it was written in the musty folios of speculating philosophers; not because it was found in the writings of patriots of other days; not because their fathers had vindicated on the field of battle their right to be free; not because the old British Commons had brought King Charles to the block; not because their old Puritan ancestry, on the battle-fields of Naseby and of Marston Moor, had written in their own blood, on their own country's soil, their determination to be free. No, sir, none of all these; but they said that man was entitled to be free, because he was endowed by his Creator with that right. They stopped nothing short of the throne of eternity. They ignored all human reasons, all human platforms, and all human authority, and with unclouded eye fixed their gaze upon the eternal throne, and laid the foundation of the institutions which they were to build upon the eternal justice of God.

That, sir, is what the revolutionary fathers did; and when the contest was over, when the dust and the blood of battle had disappeared, and victory stood upon the flagstaff of their banner, these old men issued a declaration to the world. It was issued in 1783, the very year the war was over. "Let it be remembered," say they, "finally, that it has ever been the pride and boast of America that the rights for which she contended were the rights of human nature." They contended for no class, no condition. They contended for humanity. No matter, in the language of the Irish orator, what complexion, incompatible with liberty, an Indian or an African sun may have burned upon him, when he stands erect in the image of his Maker, a man, then say the fathers of the Revolution, "There stands one for whom we have fought; there stands a man who was involved in the great issues which led to the revolutionary war, and which we have vindicated with our blood." They continue further:

"If justice, good faith, honor, gratitude, and all the other qualities which enoble the character of a nation and fulfill the ends of government, be the fruits of our establishments; the cause of liberty will acquire a dignity and luster which it has never yet enjoyed, and an example will be set which cannot but have the most favorable influence on the rights of mankind."

There is the idea; true to their principles, true to the avowals of public sentiment, with which they went into that contest. Peace came in 1783; and in 1784, Thomas Jefferson, the immortal author of that immortal Declaration, began his labors in the Continental Congress, moving that all the territory we then owned, and all the territory that we might thereafter acquire, should be forever free from what he considered the contaminating and blighting influences of human slavery.

Those who are laboring with me in this great contest, may take courage from the perseverance with which Jefferson adhered to his policy. In 1783-84-85 and 86, the measure failed, but finally, in 1787, it partially succeeded, and the ordinance was passed prohibiting slavery from all the territory which we then owned. Yet, sir, in view of all this history, written as with a sunbeam upon the very walls of the room in which this tribunal assemble, they stand up in 1857, to declare to the world that the slave trade and slavery were so universally recognized and acknowledged that nobody questioned the rightfulness of the traffic, and nobody supposed it capable of being questioned. Not content with overturning the whole line of judicial authority to be found in every nation of Europe, and in every State of this Union, and of their own solemn recorded decision, they go on to make the avowal; and then go further, and undertake to tear from that chaplet which adorns the brows of the men of the Revolution the proudest and fairest of their ornaments; and that was the sincerity of the professions which they made in regard to the rights of human nature. It is true, the court in their charity undertake to throw the mantle of ignorance over these men, and say they did not understand what they meant. Sir, they did understand it; and the country understood it. There was a jealousy on the subject of liberty and slavery, at that time, of which we are little prepared to judge at the present day. It is found beaming out on the pages of the writings of all these men.

If the opinions of the Supreme Court are true, they put these men in the worst position of any men who are to be found on the pages of our history. If the opinion of the Supreme Court be true, it makes the immortal authors of the Declaration of Independence liars before God and hypocrites before the world; for they lay down their sentiments broad, full, and explicit, and then they say that they appeal to the Supreme Ruler of the universe for the rectitude of their intentions; but, if you believe the Supreme Court, they were merely quibbling on words. They went into the courts of the Most High, and pledged fidelity to their principles as the price they would pay for success; and now it is attempted to cheat them out of the poor boon of integrity; and it is said that they did not mean so, and that when they said all men they meant all white men, and when they said that the contest they waged was for the right of mankind, the Supreme Court of the United States would have you believe that they meant it was to establish slavery. Against that I protest, here, now, and everywhere, and I tell the Supreme Court that these things are so impregnably fixed in the hearts of the people, on the page of history, in the recollections and traditions of men, that it will require mightier efforts than they have made or can make to overturn or to shake these settled convictions of the popular understanding and of the popular heart.

Sir, you are now proposing to carry out this Dred Scott decision by forcing upon the people of Kansas a constitution against which they have remonstrated, and to which there can be no shadow of doubt a very large portion of them are opposed. Will it succeed? I do not know; it is not for me to say; but I will say this: if you force that—if you persevere in that attempt—I think, I hope the men of Kansas will fight. I hope they will resist to blood and to death the attempt to force them to a submission against which their fathers contended, and to which they never would have submitted. Let me tell you, sir, I stand not here to use the language of intimidation or of menace; but you kindle the fires of civil war in that country by an attempt to force that constitution on the necks of an unwilling people; and you will light a fire that all Democracy cannot quench—ay, sir, there will come up other Peters the Hermit, that will go through the length and the breadth of this land, telling the story of your wrongs and your outrages; and they will stir the public heart; they will raise a feeling in this country such as has never yet been raised; they will awaken another great crusade; and the men of this country, *en masse*, will go as they did of olden time, in another crusade; but it will not be a crusade to redeem the dead sepulcher where the body of the Crucified had lain, but to redeem this fair land, which God has given to be the abode of freemen, from the desecration of a despotism sought to be

imposed upon them in the name of "perfect freedom" and "popular sovereignty."

The VICE PRESIDENT. Is the Senate ready for the question?

Mr. HARLAN. I move the postponement of this question until to-morrow, and that it be made the special order for one o'clock.

Mr. SEWARD. There is a special order for to-morrow, on which the Senator from Wisconsin has the floor.

Mr. HARLAN. I will say Monday next.

Mr. DOOLITTLE. The special order which was set for to-day has not been taken up, for the reason that the special order upon which the honorable Senator from New Hampshire had the floor has been taken up, and occupied the greater part of the session. If it be proper, I will move that the special order which was fixed for to-day go over until to-morrow.

The VICE PRESIDENT. There is a motion now pending, which is to postpone the consideration of this subject until Monday next, at one o'clock, and make it the special order for that hour.

The motion was agreed to.

COMMODORE PAULDING.

Mr. DOOLITTLE. I move that the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding, which was the special order fixed for to-day, be postponed to and made the special order for to-morrow at one o'clock.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. IVERSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 20, 1858.

The House met at twelve o'clock, m. Prayer by Rev. L. D. FINCKEL.

The Journal of yesterday was read and approved.

SPECIAL COMMITTEE.

The SPEAKER announced as members of the special committee to which was referred House bill No. 127, providing for the apportionment of clerks and messengers in the Government offices in Washington, Messrs. SMITH of Illinois, SEWARD, KELSEY, PENDLETON, GILMAN, CLEMENS, and ANDERSON.

The SPEAKER stated the first business in order to be the further carrying out of the order of the House calling the States and Territories for bills and resolutions; and that bills and resolutions were in order from Florida.

COURT-HOUSE, ETC., AT APPALACHICOLA.

Mr. HAWKINS introduced a bill for the construction of a court-house, post office, and custom-house at Appalachicola, in the State of Florida; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

RESOLUTIONS OF THE TEXAS LEGISLATURE.

Mr. BRYAN presented a joint resolution of the Legislature of Texas, calling on the United States Government to refund the money heretofore paid out by the State of Texas, for the defense of her frontier, since the 28th day of February, 1855; which was referred to the Committee on Military Affairs, and ordered to be printed.

Also, a joint resolution of the Legislature of Texas, recognizing the rank of Captain John G. Todd, late of the Texan navy; which was referred to the Committee on Naval Affairs, and ordered to be printed.

TEXAS LIGHT-HOUSES.

Mr. BRYAN submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the necessity of establishing light-houses and placing buoys at the entrances and in the bays of Galveston, Matagorda, Aransas, and Corpus Christi; also, at the mouths of the Rio Grande and Brazos rivers, and San Luis Pass, and that the committee report by bill or otherwise.

BOUNDARIES OF TEXAS.

Mr. REAGAN introduced a bill to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the

boundary lines between the territories of the United States and the State of Texas; which was read a first and second time by its title, and referred to the Committee on Territories.

LAND GRANT TO IOWA.

Mr. CURTIS introduced a bill to amend an act granting land to the Territory of Iowa to aid in the improvement of the Des Moines river, in said Territory; which was read a first and second time by its title, and referred to the Committee on Public Lands.

PORT OF DELIVERY AT COUNCIL BLUFFS.

Mr. CURTIS also introduced a bill to establish a port of delivery at the city of Council Bluffs; which was read a first and second time by its title, and referred to the Committee on Commerce.

MARINE HOSPITAL AT KEOKUK.

Mr. CURTIS also introduced a bill to provide for the erection of a marine hospital in the city of Keokuk; which was read a first and second time by its title, and referred to the Committee on Commerce.

CUSTOM-HOUSE AT KEOKUK.

Mr. CURTIS also introduced a bill to provide for the construction of a custom-house and post office building at the city of Keokuk; which was read a first and second time by its title, and referred to the Committee on Commerce.

WESTERN BOUNDARY OF IOWA.

Mr. CURTIS also introduced a bill to extend the western boundary of the State of Iowa, to the Missouri river; which was read a first and second time by its title, and referred to the Committee on Territories.

DES MOINES RAPIDS.

Mr. CURTIS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to inform this House of the amount of money remaining unexpended and applicable to the improvement of the lower or Des Moines rapids of the Mississippi river, and the amount heretofore expended thereon. Also—

First. The number of yards of rock excavation required to carry out the plan of that improvement;

Second. The number of yards removed each year since the work commenced;

Third. The advantages of further delay and ultimate inadequacy and hazard which will attend the navigation of the proposed channel, when completed;

Fourth. The expediency of adopting a slack-water canal, with suitable locks, along the Iowa shore, as a substitute for the plan at present pursued, and that this matter be at the discretion of the Secretary, be referred to the topographical engineers, and such civil engineers as he may deem proper.

FEES OF MARSHALS, ETC.

Mr. DAVIS, of Iowa, introduced a bill to regulate the fees of the marshals of the States and Territories of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

SALE OF PUBLIC LANDS.

Mr. DAVIS, of Iowa, also presented the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of restricting the sale of the public arable lands belonging to the Government to actual settlers, in limited quantities, and report by bill or otherwise.

HARBOR OF OZAUKEE.

Mr. BILLINGHURST introduced a bill making an appropriation for the improvement of the harbor of Ozaukee, Wisconsin; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR OF MANITOWOC.

Mr. BILLINGHURST also introduced a bill making an appropriation for the improvement of the harbor of Manitowoc, Wisconsin; which was read a first and second time, and referred to the Committee on Commerce.

HARBOR OF SHEBOYGAN.

Mr. BILLINGHURST also introduced a bill for continuing the improvement of the harbor of Sheboygan, Wisconsin; which was read a first and second time, and referred to the Committee on Commerce.

MISSISSIPPI RIVER IMPROVEMENTS.

Mr. WASHBURN, of Wisconsin, offered the

following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the practicability of improving the Des Moines and Rock Island rivers, and the navigation generally of the upper Mississippi river, by means of dams and reservoirs upon the head-waters of the Wisconsin, Black, Chippewa, and St. Croix rivers, and other tributaries of said Mississippi river, according to the plan for the improvement of the Ohio river, by Charles Ellet, Esq., Civil Engineer, and report the result of their inquiries to this House.

STEAMBOAT PASSENGER BILL.

Mr. SCOTT offered a bill for the better security of the lives of passengers on board of vessels navigating the ocean, propelled in whole or in part by steam; which was read a first and second time.

Mr. SCOTT. I ask that the bill be referred to the Committee on Commerce, and be ordered to be printed.

Mr. LETCHER. I would make a suggestion to the gentleman from California. The Committee on Commerce, I understand, have reported back a bill in regard to the preservation of lives on those same vessels, and it will come up on the day set down for it by special order of the House. I understand that my friend from California designs to offer his proposition, hereafter, as an amendment to that bill. I would suggest, therefore, that it be printed, and that it be left before the House, so that the gentleman may offer it at any time. If referred, it may not be reported back by that time.

Mr. SCOTT. I am much obliged for the suggestion made by the gentleman from Virginia. This bill I intend to offer as an amendment to the bill introduced by the Committee on Commerce; but I now propose to have it printed, and that it be referred to the Committee on Commerce. The bill has been carefully prepared on the basis of the report made by a committee of underwriters of the city of New York, and I desire that it may be printed, and referred to the committee I have indicated.

The bill was referred to the Committee on Commerce, and ordered to be printed.

REFUNDING OF DUTIES.

Mr. McKIBBIN introduced a bill to remit and refund duties upon goods, wares, and merchandise destroyed by fire; which was read a first and second time.

Mr. LETCHER. I move its reference to the Committee of Ways and Means. It is usual to give that reference to a bill of this kind.

Mr. McKIBBIN. I think the gentleman is mistaken.

The bill was referred to the Committee of Ways and Means.

GRANT OF PUBLIC LANDS TO CALIFORNIA.

Mr. McKIBBIN introduced a bill making a grant of lands to the State of California, in alternate sections, to aid in the construction of certain railroads in said State; which was read a first and second time, and referred to the Committee on Public Lands.

ADDITIONAL LAND OFFICES IN CALIFORNIA.

Mr. McKIBBIN also introduced a bill to create two additional land offices in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

ADDITIONAL INDIAN AGENTS.

Mr. SCOTT introduced a bill to authorize the appointment of two additional Indian agents for the State of California; which was read a first and second time, and referred to the Committee on Indian Affairs.

IMPROVEMENT OF RIVERS IN CALIFORNIA.

Mr. SCOTT also introduced a bill for the improvement of the Sacramento and San Joaquin rivers, below the cities of Sacramento and Stockton; which was read a first and second time, and referred to the Committee on Commerce.

LIGHT-HOUSE ON LAKE SUPERIOR.

Mr. KINGSBURY introduced a bill for the erection of a light-house on Lake Superior; which was read a first and second time, and referred to the Committee on Commerce.

POST ROUTES IN MINNESOTA.

Mr. KINGSBURY offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post

Roads be instructed to inquire into the propriety of establishing a post route from Albert Lea, Freeborn county, Minnesota, via Bristol, Worth county, Iowa, to Mason City, Cerro Gordo county, Iowa; also, from Albert Lea to Chain Lakes, via Blue Earth City, Faribault county, with a branch to Winnebago City, in Minnesota.

PAYMENT OF CLERKS IN OREGON.

Mr. LANE introduced a bill making an appropriation for the payment of clerks employed in the offices of the registers of the land offices at Oregon City and Winchester, in the Territory of Oregon; which was read a first and second time, and referred to the Committee on Public Lands.

EXTENSION OF LAND LAWS.

Mr. LANE also introduced a bill for extending the land laws east of the Cascade Mountains, in Oregon and Washington Territories; which was read a first and second time, and referred to the Committee on Public Lands.

MAJOR ALVORD.

Mr. LANE also introduced a bill for the relief of Major Benjamin Alvord, paymaster United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

THE GADSDEN PURCHASE.

Mr. OTERO introduced a bill to establish a separate judicial district south of the Gila, and to provide for the representation of the inhabitants of the Gadsden purchase in the Territorial Legislature of New Mexico, and for other purposes; which was read a first and second time, and referred to the Committee on Territories.

PENITENTIARY OF NEW MEXICO.

Mr. OTERO also introduced a bill making appropriation for the completion of the penitentiary buildings of the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Territories.

CAPITOL BUILDINGS, NEW MEXICO.

Mr. OTERO also introduced a bill making appropriation for the completion of the capitol buildings of the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Territories.

INDIAN DEPREDATIONS IN NEW MEXICO.

Mr. OTERO also introduced a bill providing for the examination of claims for Indian depredations in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on Indian Affairs.

SURVEYOR GENERAL OF NEW MEXICO.

Mr. OTERO also introduced a bill to amend an act entitled "An act to establish the offices of surveyor general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes," approved July 22, 1854; which was read a first and second time, and referred to the Committee on Public Lands.

LAND DISTRICTS IN WASHINGTON.

Mr. STEVENS, of Washington, introduced a bill to divide the Territory of Washington into four land districts; which was read a first and second time, and referred to the Committee on Public Lands.

MILITARY ROADS IN WASHINGTON.

Mr. STEVENS, of Washington, also introduced a bill for the construction of military roads in the Territory of Washington; which was read a first and second time, and referred to the Committee on Military Affairs.

CLERKS OF THE UNITED STATES COURTS.

Mr. STEVENS, of Washington, also introduced a bill authorizing the settlement of the accounts of the clerks of the United States courts in Oregon and Washington Territories; which was read a first and second time, and referred to the Committee on the Judiciary.

PUBLIC BUILDINGS IN WASHINGTON.

Mr. STEVENS, of Washington, also introduced a bill making additional appropriations for the erection of the public buildings of Washington Territory; which was read a first and second time, and referred to the Committee on Territories.

SURVEY OF THE COLUMBIA RIVER.

Mr. STEVENS, of Washington, also intro-

duced a bill to provide for a survey of the Columbia river, in the Territories of Washington and Oregon; which was read a first and second time.

Mr. STEVENS, of Washington, moved that the bill be referred to the Committee on Military Affairs.

Mr. WASHBURN, of Illinois, moved that it be referred to the Committee on Commerce.

Mr. SMITH, of Virginia. I would suggest (not that we particularly desire to have jurisdiction of this subject) that all bills affecting the Territories ought to go to the Committee on Territories. I move that the bill be referred to the Committee on Territories.

The question was taken on the reference to the Committee on Territories; and it was not agreed to.

The question was then taken on the reference to the Committee on Commerce; and it was so referred.

RAILROAD IN KANSAS.

Mr. PARROTT introduced a bill to aid the Territory of Kansas in the construction of a railroad therein; which was read a first and second time, and referred to the Committee on Public Lands.

ADDITIONAL LAND DISTRICT IN KANSAS.

Mr. PARROTT also introduced a bill to establish an additional land district in Kansas Territory, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

POST ROUTES IN KANSAS.

Mr. PARROTT also introduced a bill to establish certain post routes in the Territory of Kansas; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

LANDS OF NEW YORK INDIANS.

Mr. PARROTT also offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the condition of the lands set apart in the Territory of Kansas as a reservation to the New York Indians, and to report by bill or otherwise.

RAILROADS IN NEBRASKA.

Mr. FERGUSON introduced a bill making a grant of alternate sections of the public lands to the Territory of Nebraska, to aid in the construction of certain railroads in said Territory, and for other purposes; which was read a first and second time, and referred to the Committee on Public Lands.

SURVEYOR GENERAL OF NEBRASKA.

Mr. FERGUSON also introduced a bill to establish the office of surveyor general in the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

PENITENTIARY IN NEBRASKA.

Mr. FERGUSON also introduced a bill to provide for building a penitentiary in the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

BRIDGE ACROSS THE PLATTE RIVER.

Mr. FERGUSON also introduced a bill to provide for building a bridge across the Platte river, in the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

ROAD IN NEBRASKA.

Mr. FERGUSON also introduced a bill for the construction of a road in the Territory of Nebraska, from the Platte river to the Kansas line; which was read a first and second time, and referred to the Committee on Territories.

COAST SURVEY REPORT.

Mr. WASHBURN, of Maine, asked leave to offer the following resolution:

Resolved, That there be printed seven thousand extra copies of the letter of the Secretary of the Treasury, communicating the report of the Superintendent of the Coast Survey for the year 1857; three thousand copies for distribution by the Coast Survey office, and four thousand copies for the use of the members of the House; and that the same be printed and bound with the plates, in quarto form; and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

Mr. UNDERWOOD objected.

RESOLUTIONS OF MAINE LEGISLATURE.

Mr. MORSE, of Maine, presented joint resolutions of the Legislature of the State of Maine, in reference to the fishery bounties; which were laid on the table, and ordered to be printed.

Mr. FOSTER presented joint resolutions of the Legislature of the State of Maine in reference to French spoliations, to the fishery bounties, to the introduction of foreign paupers and criminals, and to the decision of the Supreme Court of the United States in the case of Dred Scott; which were severally laid on the table, and ordered to be printed.

COMMITTEE ON ENROLLED BILLS.

Mr. PIKE asked leave to offer the following resolution:

Resolved, That the members of the Committee on Enrolled Bills of this House shall have the power to vote on all questions at any time before the result of any vote shall be announced.

Mr. LETCHER. I object to that.

Mr. PHELPS. Let it be modified so as to make it read, "when absent from the House in the discharge of their duty."

The resolution was so modified.

Mr. SMITH, of Virginia. I understand that the committee have no right to be absent during the sittings of the House, except by leave of the House.

The SPEAKER. That is true; and yet the Committee on Enrolled Bills are compelled to hold nearly all their sessions when the House is in session.

Mr. CAMPBELL. I would suggest the propriety of amending that resolution so as to include committees of conference, who are usually engaged at the close of a session in the discussion and settlement of important questions. They ought to have a right to record their votes under the same regulations.

Mr. BURNETT. I object to the resolution.

INDIAN RESERVATIONS.

Mr. WALTON submitted the following resolution; which was read and agreed to:

Resolved, That the President of the United States be requested to cause to be prepared for the use of the House, in addition to the statements on the public lands named in the resolution of this House adopted on the 18th instant, a tabular statement exhibiting the area, expressed in square miles and acres, of lands assigned or reserved to Indian tribes, the tribes to which are assigned a reserve, geographical locations of such lands, and the date of the assignment or reservation in each case.

POST OFFICE BUILDINGS IN STATE CAPITALS.

Mr. WALTON. I submit the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of erecting a post office at each of the capitals of the several States in the Union, where a post office has not already been erected or provided for in connection with United States courts or custom-houses.

Mr. LETCHER. I object.

AMENDMENT OF PATENT LAWS.

Mr. CHAFFEE introduced a bill to amend the several acts now in force in relation to the Patent Office; which was read a first and second time, and referred to the Committee on Patents and the Patent Office.

Mr. DAVIS, of Massachusetts, introduced a bill to repeal so much of the several acts relating to American seamen as relates to the issuing of certificates of citizenship or protections by collectors of the several ports of entry; which was read a first and second time by its title, and referred to the Committee on Commerce.

FRENCH SPOILIATION BILL.

Mr. DAVIS, of Massachusetts, also introduced a bill to provide for the ascertainment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st of July, 1801; which was read a first and second time by its title, and referred to the Committee on Foreign Affairs.

CAPE COD HARBOR.

Mr. HALL, of Massachusetts, introduced a bill making an appropriation for the preservation of Cape Cod harbor, in the State of Massachusetts; which was read a first and second time by its title, and referred to the Committee on Commerce.

PLYMOUTH HARBOR.

Mr. HALL, of Massachusetts, also introduced

a bill making an appropriation to repair the works for the preservation of the harbor of Plymouth, Massachusetts; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. HALL, of Massachusetts, also submitted the following resolution; which was read and agreed to:

Resolved, That the Secretary of War be requested to communicate to this House the estimates for the repair of the works in Plymouth harbor, Massachusetts, for the preservation of the same; and his opinion of the necessity of any immediate action in the prosecution of said works.

TAUNTON RIVER.

Mr. BUFFINTON introduced a bill for the improvement of Taunton river, in the State of Massachusetts; which was read a first and second time by its title, and referred to the Committee on Commerce.

BARK JEHU.

Mr. COMINS. Mr. Speaker, I have no resolution or bill to introduce, but rise to make a motion of a purely business character, and which in no way affects the political rights of individuals or States. There is upon the Speaker's table Senate bill No. 50, to authorize the issuing of a register to the bark Jehu. This was a Dominican vessel, called the Naiad Queen, which was sold to Daniel Draper & Son, of Boston, for repairs and other expenses incurred in the United States. I ask that it be taken up and put on its passage.

There was no objection.

The bill was read a first and second time by its title, and then read *in extenso*.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. COMINS. I move to reconsider the vote by which the bill was passed; and also move that the motion to reconsider be laid upon the table.

Mr. SMITH, of Virginia. It is clear that this bill is being passed without inquiry and without explanation. It is rather a singular proceeding, and I must take exception to it. There is no reason why we should, without explanation, blindly order the Secretary of the Treasury to issue this register.

The motion to reconsider was laid upon the table.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the following bills and joint resolution, in which he was directed to ask the concurrence of the House:

An act for the relief of William B. Trotter;

An act to authorize notaries public to take and certify oaths, affirmations, and acknowledgments in certain cases;

An act for the relief of James G. Benton, E. B. Rabbitt, and James Longstreet, of the United States Army;

An act for the relief of James Beatty's personal representatives; and

A resolution to authorize certain officers and men engaged in the search for Sir John Franklin to receive certain medals presented to them by the Government of Great Britain.

PAPERS WITHDRAWN.

On motion of Mr. KNAPP, it was

Ordered, That leave be granted to withdraw the petition in the case of Thomas Houghton from the files of the House, for the purpose of reference in the Senate.

PUBLIC BUILDINGS IN HARTFORD.

Mr. CLARK, of Connecticut, introduced a bill for the construction of a suitable building for the accommodation of the circuit and district courts of the United States, and the several offices connected therewith, and the post office, at Hartford, Connecticut; which was read a first and second time, and referred to the Committee on the Judiciary.

CUSTOM-HOUSE AT BRIDGEPORT.

Mr. BISHOP asked leave to offer the following resolution:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the necessity of the construction of a custom-house and post office building in the city of Bridgeport, State of Connecticut, and to report by bill or otherwise.

Mr. SMITH, of Virginia, objected.

HARBOR OF BRIDGEPORT, ETC.

Mr. BISHOP also asked leave to offer the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire into the condition of the harbors of Bridgeport and Norwalk, in the State of Connecticut, and to report by bill or otherwise, what appropriations are necessary to place said harbors in suitable and proper condition.

Mr. SMITH, of Virginia, objected.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, presented a communication from the War Department, transmitting, for the consideration and action of the House of Representatives, an estimate of the funds required for subsistence of troops in the Utah expedition, based upon the requirements of a circular of the Commanding-General, dated January 11, 1858; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a message from the President of the United States, transmitting to Congress a copy of a convention between the United States and his Majesty the King of Denmark, for the discontinuance of the Sound dues, the ratifications of which were exchanged in this city, on the 12th instant, and recommending that an appropriation be made to enable the Executive seasonably to carry into effect the stipulations in regard to the sums payable to his Danish Majesty's Government; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Secretary of War, transmitting two hundred and seventy-five copies of the official Army Register for 1858, for the use of the House of Representatives, as required by their resolution of the 1st of February, 1830; which was laid upon the table, and ordered to be printed.

NEBRASKA CONTESTED ELECTION.

The SPEAKER laid before the House the following joint resolutions of the Legislature of Nebraska, with the accompanying note:

OMAHA CITY, NEBRASKA TERRITORY,
HALL OF THE HOUSE OF REPRESENTATIVES,
January, A. D. 1858.

SIR: Inclosed please find copy of joint resolutions which have passed the Council and House of Representatives of the Territory of Nebraska, which copy we were directed by the resolutions to forward yourself.

S. M. CURRAN, *Chief Clerk of the House.*
W. SAFFORD, *Chief Clerk of the Council.*
To Honorable Speaker of the House of Representatives,
Washington, D. C.

JOINT RESOLUTION.

To the House of Representatives of the United States in Congress assembled:

Whereas, Hon. B. B. Chapman is contesting the right of Hon. Fenner Ferguson to his seat in your body, as Delegate elect from the Territory of Nebraska, and believing it to be a duty devolving upon us as representatives of the people, to advise your honorable body of their wishes and sympathies in the premises: Therefore,

Be it resolved by the Council and House of Representatives of the Territory of Nebraska—

First. That a very large majority of the people of the Territory of Nebraska believe that Hon. Fenner Ferguson was fairly and legally elected Delegate from the Territory of Nebraska. Consequently, they will be slow to believe that efforts from any source will avail anything to deprive them of the representative of their choice, and of a representative in whose capacity, integrity, fidelity, and incorruptibility they have the fullest confidence.

Second. That the whole people of the Territory indignantly repel the foul aspersions attempted to be cast upon the character of the late Chief Justice of the Territory, the present Delegate elect, charging in effect perjury, under the preemption laws of the United States; knowing, as they do, that such charges and aspersions are maliciously false, and entirely unfounded, coming from what source they may, and they cannot but believe that such slanderous and libelous charges have been made in the hope or expectation that the right of the Delegate elect, to his seat, would be prejudiced thereby.

Third. That the foregoing preamble and resolutions shall be signed by the President of the Council and the Speaker of the House of Representatives; certified to by the Clerks of each body, and a copy of the same be forwarded by said Clerks to the Speaker of the House of Representatives of the United States, Hon. Fenner Ferguson, and Hon. B. B. Chapman.

J. H. DECKER,
Speaker of the House.
S. M. CURRAN, *Chief Clerk of the House.*
GEO. L. MILLER,
President of the Council.

Attest: WASHBURN SAFFORD, *Chief Clerk of the Council.*

Mr. JONES, of Tennessee. I do not see that those resolutions state any facts in regard to the election in Nebraska, and I cannot conceive who the opinion of that Legislature can have any effect

upon the question to be decided by this House. I therefore move, sir, to lay the resolutions upon the table without printing.

The motion was agreed to.

SURVEYOR GENERAL OF NEBRASKA, ETC.

The SPEAKER laid before the House the memorial and resolutions of the Legislative Assembly of Nebraska relative to the establishment of a new surveying district and the office of surveyor general for the Territory of Nebraska; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. J. GLANCY JONES. I now insist on my motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

CLERK TO SPECIAL COMMITTEE.

Mr. SMITH, of Virginia. I rise to a privileged question. The special committee on printing have instructed me to make a report.

The SPEAKER. The Chair is of opinion that that is not a question of such privilege as to take precedence of a motion to suspend the rules to go into committee.

Mr. SMITH, of Virginia. I hope the House will receive the report and act upon it. It will not take a minute, and the committee are at a standstill for want of the authority asked for.

The report was read as follows:

In SPECIAL COMMITTEE, January 20, 1858, it was Resolved, That a clerk is necessary to the dispatch of the business of the committee.

Resolved, That the chairman report to the House said resolution, and ask for authority to employ a clerk at a sum not exceeding four dollars per day.

No objection being made, the committee were authorized to employ a clerk.

Mr. BARKSDALE. I ask the gentleman from Pennsylvania [Mr. J. GLANCY JONES] to waive his motion for a moment, to allow me to introduce a bill for reference only.

Mr. J. GLANCY JONES. I will do so if there be no objection; but if a single objection be made I shall insist on my motion.

Mr. BILLINGHURST. I object.

Mr. CLINGMAN. I was not in my seat when my State was called, and I now desire to present a bill for reference only. It is a bill to extinguish the Indian titles to reservations in Georgia, and other adjacent States. It is the same bill which was reported last session, and I merely desire to have it referred to the Committee on Indian Affairs.

Mr. J. GLANCY JONES. I must object, and insist on my motion.

Mr. PALMER. I hope the gentleman will allow me to introduce a bill for reference. I was absent on necessary business in the Clerk's office when my State was called.

Mr. J. GLANCY JONES. I must decline to yield. All the States have been called. I am sorry that I cannot accommodate the gentleman.

The question was then taken on Mr. JONES's motion; and it was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOGOC in the chair,) and resumed the consideration of

THE PRESIDENT'S ANNUAL MESSAGE.

The CHAIRMAN. When the committee last rose, it had under consideration the annual message of the President of the United States, and certain resolutions submitted by the gentleman from Pennsylvania [Mr. J. GLANCY JONES] for the reference of that message. The committee had progressed in the consideration of those resolutions to the last resolution, which related to the subject of a Pacific railroad. To that resolution the gentleman from Missouri [Mr. PHELPS] had offered an amendment, proposing to refer so much of the message as relates to that subject to a select committee of thirteen. To that amendment the gentleman from Pennsylvania [Mr. COVODE] had submitted an amendment, to strike out "thirteen" and insert "nine." The question is upon that amendment of the gentleman from Pennsylvania, which has been debated on both sides, and, therefore, no further debate is in order.

The amendment to the amendment was disagreed to.

The question then recurred upon Mr. PHELPS's amendment.

Mr. MAYNARD. I move to amend the amendment by adding thereto the following:

And that the committee be required to designate and report the best practicable route for the construction of the said road.

Mr. Chairman, I wish to submit to the committee a few remarks by way of reason for altering the resolution. I regard the construction of the Pacific railroad as a fact that is settled and determined. I am aware that in the convention which assembled at Cincinnati in June, 1856, a platform was constructed, in the foundation of which were placed a few fossiliferous rocks, on one of which appears an inscription to the effect that "the Constitution does not confer on Congress the power to commence and carry on a general system of internal improvements." But the obsolescence of that idea was demonstrated in a very few weeks thereafter, in Congress, by the passage of five separate internal improvement bills, over the head of the President's veto, appropriating nearly a million dollars to various internal improvement purposes.

The President of the United States in his inaugural address, and in his recent annual message to Congress, uses language which I have not time, in the five minutes allotted me, to read, but which the reporters will please to incorporate in their report of my remarks.

The following occurs in the President's inaugural:

"The Federal Constitution is a grant from the States to Congress of certain specific powers; and the question whether this grant should be liberally or strictly construed has more or less divided political parties from the beginning. Without entering into the argument, I desire to state, at the commencement of my administration, that long experience and observation have convinced me that a strict construction of the powers of the Government is the only true, as well as the only safe theory of the Constitution. Whenever, in our past history, doubtful powers have been exercised by Congress, these have never failed to produce injurious and unhappy consequences. Many such instances might be adduced, if this were the proper occasion. Neither is it necessary for the public service to strain the language of the Constitution; because all the great and useful powers required for a successful administration of the Government, both in peace and in war, have been granted either in express terms, or by the plainest implication.

"Whilst deeply convinced of these truths, I yet consider it clear that, under the war-making power, Congress may appropriate money towards the construction of a military road, when this is absolutely necessary for the defense of any State or Territory of the Union against foreign invasion. Under the Constitution, Congress has power 'to declare war,' 'to raise and support armies,' 'to provide and maintain a navy,' and to call forth the militia 'to repel invasions.' Thus endowed, in an ample manner, with the war-making power, the corresponding duty is required that 'the United States shall protect each of them [the States] against invasion.'

"Now, how is it possible to afford this protection to California and our Pacific possessions, except by means of a military road through the Territories of the United States, over which men and munitions of war may be speedily transported from the Atlantic States to meet and to repel the invader? In the event of a war with a naval Power much stronger than our own, we should then have no other available access to the Pacific coast, because such a Power would instantly close the route across the isthmus of Central America.

"It is impossible to conceive that, whilst the Constitution has expressly required Congress to defend all the States, it should yet deny to them, by any fair construction, the only possible means by which one of these States can be defended. Besides, the Government, ever since its origin, has been in the constant practice of constructing military roads. It might also be wise to consider whether the love for the Union which now animates our fellow-citizens on the Pacific coast may not be impaired by our neglect or refusal to provide for them, in their remote and isolated condition, the only means by which the power of the States on this side of the Rocky Mountains can reach them in sufficient time to 'protect' them 'against invasion.' I forbear for the present from expressing an opinion as to the wisest and most economical mode in which the Government can lend its aid in accomplishing this great and necessary work. I believe that many of the difficulties in the way which now appear formidable will, in a great degree, vanish as soon as the nearest and best route shall have been satisfactorily ascertained."

The President, in his late annual message, treats the subject as follows:

"Long experience has deeply convinced me that a strict construction of the powers granted to Congress is the only true, as well as the only safe, theory of the Constitution. Whilst this principle shall guide my public conduct, I consider it clear that under the war-making power Congress may appropriate money for the construction of a military road through the Territories of the United States, when this is absolutely necessary for the defense of any of the States against foreign invasion. The Constitution has conferred upon Congress power 'to declare war,' 'to raise and support armies,' 'to provide and maintain a navy,' and to call forth the militia 'to repel invasions.' These high sovereign powers necessarily involve important and responsible public duties; and among them there is none so sacred and so imperative as that of preserving our soil from the invasion of a foreign enemy. The Constitution has, therefore, left notli-

ing on this point to construction, but expressly requires that 'the United States shall protect each of them [the States] against invasion.' Now, if a military road over our own territories is indispensably necessary to enable us to meet and repel the invader, it follows as a necessary consequence, not only that we possess the power, but it is our imperative duty to construct such a road. It would be an absurdity to invest a Government with the unlimited power to make and conduct war, and at the same time deny to it the only means of reaching and defeating the enemy at the frontier. Without such a road it is quite evident we cannot 'protect' California and our Pacific possessions 'against invasion.' We cannot by any other means transport men and munitions of war from the Atlantic States in sufficient time successfully to defend these remote and distant portions of the Republic.

"Experience has proved that the routes across the isthmus of Central America are, at best, but a very uncertain and unreliable mode of communication. But, even if this were not the case, they would at once be closed against us in the event of war with a naval Power so much stronger than our own as to enable it to blockade the ports at either end of these routes. After all, therefore, we can only rely upon a military road through our own territories; and ever since the origin of the Government Congress has been in the practice of appropriating money from the public Treasury for the construction of such roads.

"The difficulties and the expense of constructing a military railroad to connect our Atlantic and Pacific States have been greatly exaggerated. The distance on the Arizona route, near the thirty-second parallel of north latitude, between the western boundary of Texas, on the Rio Grande, and the eastern boundary of California, on the Colorado, from the best explorations now within our knowledge, does not exceed four hundred and seventy miles, and the face of the country is, in the main, favorable. For obvious reasons, the Government ought not to undertake the work itself by means of its own agents. This ought to be committed to other agencies, which Congress might assist, either by grants of land or money, or by both, upon such terms and conditions as they may deem most beneficial for the country. Provision might thus be made not only for the safe, rapid, and economical transportation of troops and munitions of war, but also of the public mails. The commercial interests of the whole country, both east and west, would be greatly promoted by such a road; and, above all, it would be a powerful additional bond of union. And although advantages of this kind, whether postal, commercial, or political, cannot confer constitutional power, yet they may furnish auxiliary arguments in favor of expediting a work which, in my judgment, is clearly embraced within the war-making power.

"For these reasons, I commend to the friendly consideration of Congress the subject of the Pacific railroad, without finally committing myself to any particular route."

By reference to these passages, it will be seen that the President honors this subject with a constitutional argument, in which he derives, from the war-making power reposed by the Constitution in Congress, the power to construct this great and important public work; but I think that he might have derived it more plausibly from other parts of the Constitution. It is manifest, from these passages in the inaugural address and in the annual message, that this is one important part of the programme of the Administration; as much so as the acquisition of Cuba or the protectorate of Central America. And when we know that the friends of the Administration have large majorities in both branches of Congress—and when we observe the singular unanimity and harmony with which all suggestions from that quarter are acted upon, and adopted by them—we can have no doubt that the execution of this great work will be effected; and that, too, in a very short period.

As the President has expressly left the question open, it becomes important to settle and determine, in the first instance, by what route this work should be constructed. We know that there are four great rival routes, each of which has many able and earnest advocates. One is to terminate at Nisqually, near Puget Sound; two at San Francisco; and one at San Diego, on the west coast. Of the eastern termini, one is to be at Chicago, one at St. Louis, one at Memphis, and one at New Orleans. To settle the rival claims of these several routes, and to determine the great geographical and topographical questions which necessarily arise in deciding their respective claims, will require the labor of a committee selected and set apart for that especial purpose—selected it ought to be, from those portions of the country more immediately interested in the construction of the work.

It is important to settle, the first thing we do, where we shall have this road built—this great trans-continental road; this "military road;" this great highway and thoroughfare, as I believe it will be, for the traffic, the trade, and the commerce of the world—bringing to us, from the "gorgeous East," by the West, that trade which we have hitherto received by the East. I say that it is very important that we settle and decide, in the first place, where we shall have that road located, and then—[Here the hammer fell.]

Mr. BILLINGHURST. I am opposed to the proposition, as I think the best practicable route is known. To show that it is, I ask to have read, as part of my remarks, an extract from the message of Governor Randall, of Wisconsin.

It was read, as follows:

"The necessity of a thoroughfare by wagon or by railroad, or by both, in our own latitude, to the Pacific, for the convenience of trade and emigration, is so apparent that I suggest that the Legislature join in the efforts now being made for that purpose, and memorialize Congress on the subject. From the head of Lake Superior to Puget Sound, the distance in a direct line is about fourteen hundred miles, and by the railroad route lately explored by Governor Stevens, about eighteen hundred miles. The explorations and surveys of the several routes—northern, middle, and southern—have resulted in establishing the fact that the northern route possesses advantages over all the others yet explored, in these particulars: It requires, by connecting with present roads, less railroad to be built, to make a railroad communication between the Atlantic and Pacific, by several hundred miles. It is through a better district of country—one capable of sustaining an agricultural population—nearly the entire way. The gradients are less and the general altitude much lower. It furnishes a greater supply, with more general distribution of wood, timber, coal, water, and building stone, and facilities for supplying workmen and material in the progress of the work. Between the navigable waters of the Missouri at Fort Benton, and the navigable waters of the Columbia at the mouth of the Peluse river, fifty miles above Fort Wallah Wallah, the distance is four hundred and fifty miles. With these and other facilities for furnishing supplies, the work of constructing this railroad can be simultaneously commenced, and carried forward at Lake Superior, Puget Sound, Fort Benton, and Fort Wallah Wallah, thus requiring less time for its completion than other routes where the work must be continuous from either terminus. The climate, too, of the northern route, is better adapted to labor, and a greater amount can be performed in a given length of time by the same force. In a commercial point of view, this line is the most direct between the great shipping ports of Asia and India, and the great commercial cities, New York and Liverpool; and for North American produce it avoids the tropical regions. It is of the greatest importance that Congress should make an appropriation for a wagon road from Fort Benton to Wallah Wallah. It is believed that \$200,000 will be sufficient for this purpose."

The question was taken on Mr. MAYNARD'S amendment; and it was agreed to.

Mr. WASHBURN, of Illinois. I move to amend the resolution, by adding, after the word "construction," the following words: "of a road, railroads, and telegraphic lines to the Pacific ocean; and all petitions and matters relating thereto, be referred to a committee of fifteen, to be appointed by the Speaker, with leave to report at any time."

Mr. JONES, of Tennessee. I submit a question of order on this amendment. It proposes to change the rules by permitting this committee to report at any time. That may not be done, except there be one day's notice, or except the rules be suspended; and this committee cannot suspend the rules.

The CHAIRMAN. The Chair sustains the point of order.

Mr. WASHBURN, of Illinois. I will modify my amendment, by striking out that portion of it which authorizes the committee to report at any time.

I desire to call the attention of the committee to the proceedings which took place on the 19th day of December last. I think, sir, that it is well for us to look at this matter a little, to see its present position as compared with what took place on this subject a few weeks since. The amendment which I offer is very nearly in the language of the resolution submitted by the honorable gentleman from New York, [Mr. BENNETT.] Immediately upon that resolution being offered, the gentleman from Mississippi [Mr. BARKSDALE] moved that it be laid upon the table. That resolution provided for the appointment of a special committee to take this Pacific railroad question into consideration. I want the committee to understand what was the action on the resolution at that time. I find, by referring to the proceedings of the House, which I hold in my hand, that on the vote to lay the resolution on the table, the yeas were—94, and the nays 96; the proposition only failing of being tabled by two majority. And, sir, I was astonished on looking at this record, to find that my Democratic colleagues, or, perhaps, I might say, in view of recent events, my late Democratic colleagues, every one of them voted that the resolution should be laid upon the table. Even among them I find the name of my colleague and friend from the Alton district, [Mr. SMITH,] who, the other day, made such a glowing and eloquent appeal to us to appoint this special committee, and who went so far as to suggest the extreme measure of direct taxation, in order to accomplish and complete this great work. Well,

the House refused to lay the resolution upon the table by a close vote. Immediately, the gentleman from Indiana, [Mr. HUGHES,] on the other side of the House, made the rather unusual motion to reconsider that vote. A point of order was made upon the motion, but the Chair decided that the motion was in order.

Then, sir, what do we find further? When the motion to reconsider was entertained, in order to settle the matter and get at a direct vote, I moved to lay the motion to reconsider upon the table. Let us look still further; though the House refused to table the resolution of the gentleman from New York, [Mr. BENNETT,] by two votes, yet it refused to lay on the table the motion to reconsider that vote by ten majority, all my Democratic colleagues, and, I believe, all the Democrats from Indiana, except one, [Mr. DAVIS,] voting with the majority. And also, among the number who voted against laying the motion of the gentleman from Indiana upon the table, and thus leaving the matter open, I find the gentleman from Missouri, [Mr. PHELPS,] who is the author of the resolution before the committee. I will not undertake to say that these gentlemen were not then, as they profess to be now, friends of this measure; but it seems strange, indeed, that we find them now so zealous for the appointment of a committee to be headed by the gentleman from Missouri, while they were opposed to the committee proposed to be raised by the resolution of the gentleman from New York.

Mr. GREENWOOD. Mr. Chairman, I am opposed to the amendment of the gentleman from Illinois. I take no part in the question between him and his colleagues; but I desire, on this occasion, to put myself right in relation to the vote I saw proper to cast on the resolution of the gentleman from New York, [Mr. BENNETT,] a few days ago. I was one of the number that the gentleman from Illinois thinks proper to refer to who voted against that proposition. My position has always been favorable to the construction of a railroad from the Atlantic to the Pacific. I believe that the project is proper and constitutional. I will state, to prevent my position being misunderstood, that I voted against the resolution of the gentleman from New York for the reason that there was nothing upon which to predicate such a resolution. No bill had been introduced and presented for the consideration of the House. The question had been presented by the President's annual message, but no steps had been taken for its reference; and this is the ground which is occupied by many gentlemen who favor the construction of a Pacific railroad, and who voted against the resolution of the gentleman from New York. There was nothing upon which to base it. The usual number, sir, was thirteen. That was the number of the committee which acted on this great and important question at the last Congress. So far as my recollection serves me, that was the number of that committee, and I believe that it is sufficient. The larger you make the committee, the more difficult will it be to get a majority together to act.

My impression is, Mr. Chairman, that we have talked about this question long enough, and that we ought to act, and act at once. It is to be hoped that this resolution of the gentleman from Missouri will be agreed to; that the committee will be raised; and that they will engage industriously in the discharge of their duties, and report such a bill as will insure its passage through this body.

For myself, sir, I have a particular route in view, which I believe is the most practicable; and when the question comes up, I shall be ready to express my views as to the practicability of the routes suggested. Notwithstanding I may believe that a certain route is more practicable than another, I stand here pledged to-day to vote for almost any route rather than have none at all. I am opposed to the proposition of the gentleman from Illinois, and think the resolution of the gentleman from Missouri, as originally presented, a good one.

Mr. BRANCH. I rise to a question of order. I understand the proposition of the gentleman from Illinois to be to strike out certain words just now inserted by the gentleman from Tennessee. I make the point of order, that when the House, by a vote, has inserted words, it is not in order to move to strike those words out. I make the point, because I believe the words inserted on

motion of the gentleman from Tennessee, to be the best we can adopt.

The CHAIRMAN. The Chair will state to the gentleman that he understands the rule to be this: when certain words are inserted by the committee or the House, it is not in order to strike those words out; but a motion to strike out another part of the resolution carrying those words with it, is in order, because it is a different proposition. The Chair will read a short extract from the Manual. "After 'a' is inserted"—the amendment of the gentleman from Tennessee is comprehended under the term "a," and remembering that, the gentleman from North Carolina will understand the decision of the Chair—"it may be moved to strike out a portion of the original paragraph comprehending 'a.'" It is true, that a motion to strike out certain words, and no other words, would not be in order; but a motion to strike out a portion of the original paragraph, carrying with it the words inserted, would be in order, because it is a different proposition. The Chair overrules the point of order.

Mr. BRANCH. I believe the decision of the Chair is correct, and therefore withdraw my point of order.

Mr. HARRIS, of Illinois. I wish to offer an amendment.

The CHAIRMAN. Amendment is not in order.

The question was then taken on the amendment; and it was not agreed to.

Mr. BENNETT offered the following as a substitute for the pending resolution:

Resolved, That so much of said message and accompanying documents as relates to the subject of a Pacific railroad be referred to a select committee of thirteen, to be appointed by the Speaker. And in order fairly to represent the various sections of the Union, said committee shall be appointed from the different States, as follows:

From the New England States, New York, Michigan, Wisconsin, Iowa, and Illinois, (80 members).....	4
From New Jersey, Pennsylvania, Ohio, and Indiana, (62 members).....	3
From Maryland and Virginia, (19 members).....	1
From Delaware, Florida, North Carolina, and Georgia, (18 members).....	1
From Tennessee, South Carolina, and Arkansas, (18 members).....	1
From Kentucky, Missouri, and Texas, (19 members)....	1
From Alabama, Mississippi, and Louisiana, (16 members).....	1
From California.....	1

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Mr. BENNETT. If the friends of a Pacific railroad in this House are willing to treat the various routes fairly, I am willing to vote for the select committee moved by the gentleman from Missouri. But if there is to be a favorite route, and it is to be a southern route at all events, and no other—a route that is to be urged as an executive measure and which Democrats are to favor, and if everything is to be drifted in that direction, I am opposed to it from the beginning. That resolution gives to the South a large proportion of the committee. It will place upon that committee five members who are, from location, in favor of a southern route; while the northern route has but four, and the central route only three, classifying them according to location.

It is not strange that a gentleman who occupies the position of the gentleman from Missouri should be wedded to a particular route. Its real starting point is from the capital of his State, and it runs through his own district. I say it is not strange that gentlemen occupying a position like his should be in favor of a particular route. But what I want in the organization of this committee, if we are to have any, is that the committee shall fairly represent all the routes, and the business of the country; and that, coming from every section of the Union, their report should have some credit with the House as being a conclusion arrived at from a conviction that it was the best route, and not because it was a favorite route with the Executive, or because certain distinguished gentlemen desired to have it adopted. I do not believe the southern route is practicable, but I may be wrong in that opinion. I do not believe that \$500,000,000 in gold would build a railroad upon the southern route. I think it is utterly impracticable. Others, no doubt, think differently; but if they will give us a fair committee I am willing to vote for raising it.

I presume the city of New York has more business with California than all the southern States

in the Union. The States of Pennsylvania, Ohio, and all the New England States, have a large amount of business with California; and three fourths of all the railroads and business of the Union with California is north of Virginia. Then why is it that this southern route should be insisted upon, to the exclusion of all others? As a military road, it will be useless. There is nobody in that direction to fight, and probably never will be. I do not want the southern route to be a foregone conclusion in the organization of the committee. For one, I shall go against any committee, whether standing or select, unless it is understood that all the routes are to have fair play. My proposition embraces a fair committee, and nothing else. The northern and central States were given one member of this committee for twenty members or over in this House, while the southern States have been allowed one member for from nineteen to sixteen members. The southern route has five friends upon the committee, while the northern route has only four, and the central route three, leaving California to decide between them; so that a committee organized in this way cannot possibly bring in a bill here for any one route, unless it is upon a conviction that it is the best one—

[Here the hammer fell.]

Mr. LETCHER. There seems to be a great deal of anxiety as to who shall have the nursing of this particular bantling. Now, I prefer myself that it shall go to the Committee on Roads and Canals, for some two or three very important reasons. The first is, that the chairman of that committee [Mr. JONES, of Tennessee] has nothing else in the world to nurse, unless you give him this. He will have abundant opportunity, and abundant leisure, to take care of this scheme; to give it all proper attention, and to introduce it into the House—if he should think it a proper scheme for introduction here—in such shape as would be likely, at least, to meet my approbation. I hardly think, though, it would meet the approbation of a majority of this House, which seems to be clearly in favor of a railroad upon some line north, south, or middle, but without knowing very well which line is to be taken.

Now, the gentleman from New York [Mr. BENNETT] is ready to go for any line, but he does not know which is the best line. And he proposes the constitution of a committee here of so many from one section, and so many from another section, an so many from a third section; and he says the result will be that these sections will be brought into harmony, and that the best line will necessarily be adopted. Now I do not think that follows by any means. But whether it will or will not, I avow very frankly, so far as I am concerned, that my purpose is to defeat any railroad, whether it is a presidential railroad or anybody else's railroad. I am opposed to the recommendation of the President upon this subject—decidedly and unalterably opposed to it; and I trust, when the occasion offers, I shall have an opportunity to give the reasons in detail for that opposition.

While I am opposed to his scheme, I am opposed to any scheme that will involve this Government in any way whatever in internal improvements upon the magnificent scale which such a scheme as this proposes. I do not believe the money is here now to build one line of road; but I believe, in order to get one, some gentlemen upon this floor would be willing to involve the country in the expense of constructing three.

And, sir, besides all this, it seems to me to be a most remarkable doctrine, that you can commence the construction at the western border of the States, and run it to the eastern border of California, and be within the Constitution; and yet you cannot make a foot of railroad from the capital here to the point where you begin on the western border, without violating the Constitution, by going through the States. Now, sir, if it is a military road; if it is indispensable for military purposes; if it is necessary to carry troops; and if the Government has the power to construct that military road, where is the limitation in the Constitution to regulate the point at which it shall begin, and declare that it shall begin in the Territories, and shall not go through the States?

[Here the hammer fell.]

The question now being upon Mr. BENNETT's amendment,

Mr. BENNETT demanded tellers.

Tellers were ordered; and Messrs. BOYCE and BINGHAM were appointed.

The committee divided; and the tellers reported—ayes 61, noes 76.

So the amendment to the amendment was rejected.

Mr. HARRIS, of Illinois. Mr. Chairman, what is the question now pending?

The CHAIRMAN. The question is upon the amendment of the gentleman from Missouri [Mr. PHELPS] to refer the subject of the Pacific railroad to a select committee.

Mr. HARRIS, of Illinois. Of how many?

The CHAIRMAN. Thirteen.

Mr. HARRIS, of Illinois. I move to amend the amendment, by striking out "thirteen" and inserting "ten."

Mr. Chairman, I was not aware, until a few moments ago, that the votes of myself and my colleagues with whom I am associated upon this side of the Chamber, were called in question in the manner in which they have been this morning, and I was a little surprised to hear the remarks made by my colleague over the way, [Mr. WASHBURN.] I did not hear the commencement of those remarks. My mind was occupied with other subjects. I see he has taken the pains to procure a copy of the Daily Globe of December 21.

Mr. OLIN. I rise to a point of order. My point is, that it is wholly immaterial to the question now before the committee how the gentleman voted on a former occasion.

The CHAIRMAN. The Chair will state what the gentleman from Illinois is aware of already, that the rule requires that his remarks should be in opposition to the amendment.

Mr. HARRIS, of Illinois. I am not going to oppose my own amendment.

The CHAIRMAN. In explanation of the amendment then.

Mr. HARRIS, of Illinois. Certainly; I am going to explain it, and I hope I shall be able to do so to the satisfaction of the gentleman from New York, [Mr. OLIN,] who has not been so particular during the harangues that have been made upon his side of the House to confine those speaking to the question.

Mr. J. GLANCY JONES. Do I understand the gentleman to offer an amendment?

Mr. HARRIS, of Illinois. I have offered an amendment, and I hope I shall be allowed to say what I have to say without further interruption. I was remarking, sir, that in the Globe of the 21st of December, which I hold in my hand, the names of my colleagues, Mr. MARSHALL, Mr. SMITH, Mr. MORRIS, Mr. SHAW, and myself, have been underscored with black lines by my colleague over the way, [Mr. WASHBURN,] for some purpose known to himself. He, it seems, calls in question the propriety of our votes in opposing the resolution introduced by the gentleman from New York, [Mr. BENNETT,] who addressed the committee a few moments ago. My colleague did not, in his remarks, undertake to say what he infers from that vote; but I can tell him very distinctly what he may infer from it. And, in the first place, I need only call his attention to the remarks made the other day by a gentleman who sits on the right hand of the gentleman from New York, who said that this was an Administration measure, and he preferred to let members upon this side of the House have control of it. When the gentleman from New York introduced a resolution, the adoption of which would, according to parliamentary practice, have placed him at the head of the committee which is to report upon this subject, I was very well aware of the source from which the proposition emanated.

I am not unmindful, sir, of the bills which were reported by that gentleman during the last Congress, to absorb and consume and gormandize the public lands for the benefit of the thousand plundering schemes which seemed to meet with such distinguished favor from him. I had a very decided objection to the source from which the proposition came. The gentleman from Missouri [Mr. PHELPS] had, long prior to that, introduced a resolution of a similar character, proposing to raise a select committee; but his resolution was objected to. He stood ready, however, to renew the proposition, and I was disposed to give him a chance of doing so rather than to indorse the proposition of the gentleman from New York,

who was in such great haste to take charge of the matter, and place himself at the head of the committee.

In regard to my action about the Pacific railroad, I shall not now enter into any explanation for the satisfaction of my colleague or anybody else. I am willing that the question should go to a select committee; and I think that such committee can be raised without dividing the Union into patchwork, as was proposed a little while ago by the gentleman from New York, [Mr. BENNETT.] I do not go as far as my friend from Virginia, [Mr. LETCHER,] who intimates that he is utterly opposed to the Pacific railroad, whether it be a presidential railroad or not. I suppose, however, that the gentleman, in thus placing himself in antagonism to the Administration on this question, will hardly be read out of the party, because he is not yet, I believe, considered a distinguished aspirant for the Presidency. If he was, we should perhaps find the Washington Union, and other papers, stabbing at him as it does at others who chance to differ with the Administration on some questions.

Mr. WASHBURN, of Illinois. I am opposed to the amendment of my colleague, and I will state briefly some of the reasons why. I am glad that my colleague has had the opportunity of offering his amendment, because it shows to us and to the country how he regards this proposition. He says that he voted against the proposition of the honorable gentleman from New York, [Mr. BENNETT,] because he does not like the quarter from whence it came.

Mr. J. GLANCY JONES. I rise to a point of order. I insist that the debate shall be confined to the question pending before the House.

The CHAIRMAN. The Chair wishes to state that the rule requires that the members who speak under the five-minutes' rule shall speak either in support of, or opposition to, the amendment. It is true that a good deal of indulgence is often allowed by the Chair, because, as some gentleman has said, it is difficult to tell, at once, what direction a gentleman intends to give his remarks. But the Chair must say that he thinks the privilege has been too much extended. The Chair cannot see what reference the remarks originally made by the gentleman from Illinois, [Mr. WASHBURN,] those subsequently made by his colleague, [Mr. HARRIS,] or those now being made by the gentleman from Illinois, [Mr. WASHBURN,] have to do with the amendment offered.

Mr. WASHBURN, of Illinois. My colleague was opposed to the number of the committee proposed to be raised by the amendment of the gentleman from Missouri, and he was allowed to state his reasons. I wish to state my reasons why I am in favor of the number, and take my own mode of doing so. And allow me to say to him and to the committee, that I differ with him *in toto* in regard to this question. I am for a Pacific railroad, earnestly, sincerely, and in good faith. I do not care from what side of the House the proposition comes; whether it be from the Republican side, (from which nearly the whole number of votes that are to carry the measure are to come,) or whether it be from the Democratic side. I care not what party or what individual shall have the credit of the measure, provided the credit belongs to such party or such individual. But there were some things in the vote the other day, to which I referred—

Mr. HARRIS, of Illinois. Will my colleague allow me to ask him if his side of the House will vote for a southern route?

Mr. WASHBURN, of Illinois. I presume that will depend on circumstances; but I will not undertake to speak for anybody but myself. But let me say here, that, as far as I am concerned, I will vote for no route except it be fixed by law. I voted during the last session of Congress for a certain mail road to the Pacific ocean, and I hope my friend from Missouri [Mr. PHELPS] will explain something about that matter. Congress left it to the contractors to determine the route; but that power of the contractors to fix their own route seems to have been construed away by the Government; and instead of a mail line over a route which would be of some service to the country, we have seen it crowded away down south to the thirty-second parallel of latitude, running through an unknown land. So far as I am concerned, I shall vote for no bill which shall give any discre-

tion to this Administration to fix the route. I believe that the northern route is the only practicable one; and I shall hope to see it adopted by the committee.

Mr. HOUSTON. I rise to a point of order. I want to get the President's message into the House, so that we may get at the regular business of the session. I therefore ask the Chair to confine members, in their remarks, to the explaining or opposing of amendments.

The CHAIRMAN. The gentleman's [Mr. WASHBURN's] time has expired.

The question was then taken on the amendment of Mr. HARRIS, of Illinois; and it was not agreed to.

The question recurred on Mr. PHELPS's amendment.

The CHAIRMAN. The Chair takes occasion to say that the rule will be more rigidly enforced in future, and gentlemen will be required to confine themselves to explaining or opposing amendments.

Mr. FLORENCE. That will not bother me a bit. I am never out of order. But, Mr. Chairman, I want to make an inquiry, to know whether I am in order or not. [Laughter.] I desire to move to strike out all after the words "referred," and insert the words "to the Committee on Roads and Canals."

Mr. PHELPS. I rise to a question of order. The original proposition was to refer to the Committee on Roads and Canals.

Mr. FLORENCE. Let me hear the original resolution, because I want to stick to the rules of order, and want to discuss only what is clearly in order.

The original resolution was read.

Mr. FLORENCE. Then my amendment is not in order. I move to strike out the entire proposition made by the gentleman from Missouri, [Mr. PHELPS.] That is in order?

The CHAIRMAN. The Chair thinks it is not.

Mr. FLORENCE. I am for the original proposition, and want to speak to it; and I want to know how I can speak to it.

The CHAIRMAN. The gentleman from Pennsylvania has submitted no amendment that is in order.

Mr. FLORENCE. Then I move to strike out the words "a special committee of thirteen," and I will state the reason why I do so.

The CHAIRMAN. And insert what in place of it?

Mr. FLORENCE. "The Committee on Roads and Canals."

The CHAIRMAN. Inasmuch as that was the original proposition it will not be in order.

Mr. FLORENCE. Will the Chair have the resolution reported, and I will get at it.

Mr. POTTLE. I want to know if the gentleman's five minutes have not expired?

The CHAIRMAN. The gentleman has not submitted an amendment yet. He will have five minutes after he submits his amendment.

The original resolution was again read.

Mr. FLORENCE. I move to strike out all after the word "referred," and insert the words, "to the standing committee having power to control its disposition." I can tell you the committee which I think ought to have it. I am for referring it to the Committee on Roads and Canals. I believe that that is the committee which has the power to control the disposition of that part of the President's message.

I have confidence in that committee. I believe that it is one to which we may with great propriety intrust this subject. It does not follow because the chairman of that committee is known to be opposed to any appropriation for the construction of this road, that all the members of the committee are likewise opposed to it. Nor does it follow that because that committee, as stated by the gentleman from California the other day, is intrusted with important business referred to them by the House, they cannot make provision to relieve themselves from the burden; and, as the gentleman sympathized with the burden that that committee had imposed on it, it occurred to me that we could very easily relieve them by giving them two clerks, so that the objection of the gentleman from California to referring this subject to that committee, can have no weight.

Now, sir, the gentleman from New York makes

a subdivision or equalization, or a graduation, or, as the gentleman from Illinois [Mr. HARRIS] very properly termed it, a patchwork of the reference. I think that a committee constituted as the Committee on Roads and Canals is, will meet even the purpose which the gentleman had in view by making the suggestion which he did. I am surprised that there should be any objection to referring this subject to the Committee on Roads and Canals, which is composed of gentlemen of strict integrity, and to which a subject of this kind may well be referred. I will state frankly that it is a matter of surprise to me that there should be any objection to referring it to those gentlemen, headed as they are by the honorable gentleman from Tennessee, [Mr. JONES], because they are men of clear heads and strict integrity. There can be no doubt but they will report fairly. If the chairman has constitutional scruples, and does not believe that there is power in the Constitution to construct such a road, it does not follow, I will repeat, that every other gentleman of the committee believes as he does. In the last Congress we had proof that the chairman of a committee did not exercise any too much influence over the minds of the other members of the committee. The committee of investigation was a proof of that fact. I believe that the chairman agreed with the committee in but a single instance, and that may be cited as a precedent.

Mr. PHELPS. I have sought the floor, not for the purpose of making a speech, but to oppose the amendment of my friend from Pennsylvania, and to make this remark to the committee: that if we are to come to any result in relation to this matter, we ought to confine ourselves to voting instead of talking. The proposition is a simple one. Shall a select committee be raised to which the subject of a Pacific railroad shall be referred? My desire in asking for a select committee was that the committee might be constituted so as to be favorable to the proposition; for by the parliamentary law, a select committee should be constituted of those favorable to the subject referred to it. Let us vote on the proposition, and dispose of the President's message, that we may go on with the other business of the House. I oppose the amendment.

The amendment was rejected.

Mr. MILLSON. I offer the following amendment:

And be further instructed to report to this House in what part or parts of the Constitution authority has been granted to Congress by the States to undertake the construction of a railroad, or other works of a similar nature, through any State or Territory of the United States.

I think, Mr. Chairman, that it is probable the committee will adopt the amendment proposed by the gentleman from Missouri, and create a special committee. I would myself much prefer that it should be submitted to a standing committee properly having charge of the subject, because we all know, as the gentleman from Missouri has just now said, that according to parliamentary usage the committee will be so constituted as to contain a majority of members in favor of the scheme. Therefore, sir, and because it will contain this majority, and because that majority may believe the power, which I notice in my amendment, to be so plain and clear that they may not even recognize the possibility of a doubt in any other mind, that I wish to instruct them to inform such of us as are skeptical on the subject, where the power is to be found.

Now, sir, I shall be very glad to be informed on that subject. I am in favor of internal improvement and external improvement and everything to which the name of improvement properly belongs; and if I can be convinced, without any violation of the faith pledged by the States to each other, when they adopted the Constitution, that any work of public necessity or great public advantage can be constructed by our agency, I should be willing to give it my confidence.

But I confess, Mr. Chairman, to so much obtuseness in my examination of the Constitution, that my political curiosity is piqued to know in what part of the Constitution the authority in question has been delegated to Congress. I am sure that this would be a labor of love to the committee. I am sure, with a majority of the committee honestly desiring the completion of what they call this great work, they will gladly undertake this task. Perhaps they will perform it suc-

cessfully, and they may find aid in quarters where they now little expect it. I have not yet been able to see the authority in question in that part of the Constitution so frequently referred to in the power to declare war. This is sometimes referred to as a military road; but if so, I have not the faculty to comprehend what a military road is. If it be a road useful in war, then every turnpike, every by way is a military road. If it be a road useful in war, why then a road from Vera Cruz to the city of Mexico is a military road, and may be undertaken by the Government.

[Here the hammer fell.]

Mr. JONES, of Tennessee, demanded tellers. Tellers were not ordered.

Mr. JONES, of Tennessee, moved that the committee rise.

The motion was disagreed to, there being, on a division, ayes 11, noes 119.

So the amendment to the amendment was not agreed to—ayes 47, noes 87.

The question then recurred upon the amendment of Mr. PHELPS.

Mr. SEWARD. I move to strike out the words "select committee of thirteen," and insert, "Committee on Revisal and Unfinished Business."

This Pacific railroad question has been here ever since I have been a member of Congress. It has been before us some five or six years; and yet members who favor the project seem to differ with each other. The whole question, therefore, I think, ought to be revised and examined; and I do not know of any committee having more time to attend to it than the Committee on Revisal and Unfinished Business. I think when the session terminates, the Pacific railroad question will still be unfinished business; and therefore ought to be referred to that committee.

The amendment was not agreed to; seven members only voting in favor thereof.

Mr. SHERMAN, of Ohio. I have an amendment which I desire to submit in good faith. It is to strike out the word "route," and insert "routes." I will not detain the House by any lengthy remarks. I am in favor of the appointment of a select committee, and think one should be raised to examine this question. It is a very important one. A select committee to investigate it has been appointed in the Senate; and it is right and proper that a similar committee should be appointed by the House. At the same time, I think the resolution ought not to be confined to one route, whether a northern, a southern, or a central one; neither of which alone would probably get a majority of the votes of this House. I desire, therefore, to leave the way open and free to the committee that shall be appointed, to recommend as many routes as they think proper. I hope the amendment will be adopted.

Mr. DAVIS, of Maryland. The gentleman from Virginia, a few moments ago, asked where the authority was to be found in the Constitution for this proceeding.

The CHAIRMAN. The question is between the words "route" and "routes."

Mr. DAVIS, of Maryland. If there is no authority to make one route, there is no authority to make two or more; and I submit that the argument is pertinent. I rose merely to respond to that question briefly. The authority is found, sir, where Mr. Jefferson found authority to begin the national road; where Mr. Monroe, Mr. Madison, Mr. John Quincy Adams, and General Jackson found authority to approve bills for that and other improvements.

Mr. J. GLANCY JONES. I must insist upon it that my friend from Maryland shall confine himself to the question—the distinction between routes and route—and not argue the question of constitutionality.

Mr. DAVIS, of Maryland. I hope the gentleman will not object to my remarks.

Mr. J. GLANCY JONES. I cannot withdraw the objection.

The CHAIRMAN. The Chair is obliged to say, as the gentleman from Pennsylvania insists on his question of order, that the Chair is unable to perceive that the argument being made by the gentleman from Maryland goes to prove that the word "route" ought not to be stricken out and the word "routes" inserted in place of it. That is the question to which the gentleman is required by the rule to confine himself.

Mr. DAVIS, of Maryland. I will not trouble

the committee with an appeal from the decision of the Chair, but will wait for another opportunity to continue my remarks.

Mr. WASHBURN, of Maine, demanded tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. WASHBURN, of Maine, and HATCH were appointed.

The committee divided; and the tellers reported—ayes 70, noes 74.

So the amendment to the amendment was rejected.

Mr. LEITER. I move to amend the amendment by adding thereto the following:

And that said committee report whether there is any constitutional authority for making such railroad; and if so, that they specify in their report the provision of the Constitution under which such authority is claimed.

Mr. Chairman, without committing myself, either for or against this proposition, I say to this committee that, in my judgment, the question of building a Pacific railroad is one that should be considered, not only as to the practicability of making such a road, but that we should go behind all that, and look to the Constitution and see whether there be any authority in that instrument for the construction of such a work.

If, sir, that construction of the Constitution which has always been contended for by the dominant party in this House, is to prevail, why, then, there is an end of the Pacific railroad, in my judgment. If, on the other hand, the construction which has been contended for by the opponents of that party is to prevail, then there is authority, though not expressed, perhaps, in the Constitution itself, for the construction of the road.

Mr. JOHN COCHRANE. I rise to a question of order. I would inquire if this amendment is not the same as the one offered by the gentleman from Virginia, [Mr. MILLSON,] and voted upon a while ago?

The CHAIRMAN. The Chair believes it is substantially the same; but thinks the point of order comes too late.

Mr. LEITER. Does the Chair rule me out of order?

The CHAIRMAN. No, sir; the gentleman will proceed.

Mr. LEITER. I say, then, that if the principle which has prevailed in the Democratic party for the last quarter of a century is to be applied to this measure, then there is an end of your Pacific railroad, and I now congratulate my friends upon the opposite side of the House that their Democratic President has recommended a measure, the principle of which has, in my judgment, received the brand of arrant Federalism for twenty-five years.

Now, sir, I do not claim to belong to the same stripe of Democracy as the gentlemen on the other side of the House, to all intents and purposes. Yet I claim to be a Democrat, and as such, I claim still for the Constitution of my country a strict construction; and especially do I require it in a case of the magnitude of this mighty project, which has been agitated in this country for years. I probably differ, on this question, with the gentlemen on this side of the House; yet I am not willing now in a five-minute speech to say wherein I differ with them. I offered this amendment specially for the purpose of permitting my friend from Maryland [Mr. DAVIS] to give us his views in regard to it.

Mr. DAVIS, of Maryland. I wish to indicate where I think this power is to be found. The argument from precedent is found in more than one instance in the President's message applicable to other topics: I propose to apply it to this. The power is found where Mr. Jefferson found authority to commence the national road; where Mr. Monroe, Mr. John Quincy Adams, and General Jackson found the authority to continue it; where the present President of the United States found the authority to vote for the making of the Chesapeake and Delaware canal; where the last Congress found the authority to enter on the soil of Maryland to make the Washington aqueduct; where the Congress of the United States has repeatedly found the authority to declare the great navigable waters of the western country perpetual channels of commerce; where Congress found the authority to declare the Wheeling bridge a post road; where the last Congress found authority to overrule the President's veto of the improvement

bill; where this Congress has found authority to build post offices under that clause of the Constitution which says that Congress shall have power to establish post offices and post roads. Having the power to establish the post office by building it, I suppose they have the equal power to establish the post road by building it. I find it in that clause of the Constitution which gives Congress power to carry on war—it gives the power to march soldiers, and it gives the incidental power to provide where they may march. I find it in that clause of the Constitution which says that Congress shall provide for the common defense; and this is for the common defense of the Pacific States. I find it in that clause of the Constitution which authorizes Congress to regulate commerce among the States. In that clause it is that Congress has hitherto found the authority to declare the navigable waters of the western country perpetually open channels of commerce.

There are the places, in three several clauses of the Constitution, in which the power is found to sanction what has been the practice of the Government during the whole period of its existence, with the exception of one or two parts of Administrations; and if it be necessary to make a construction again, I am now ready to make it. It has been sanctioned by the decision of the Supreme Court; and that construction of the power of Congress has been sanctioned by this House, when it passed a law declaring the Wheeling bridge a post road, in order that it might not be torn down, under the judgment of the Supreme Court of the United States. I think, sir, that there is an array of authorities on the construction of the Constitution, and of precedents under the action of the Government, which, if it does not solve the doubts of my ingenious friend from Virginia, [Mr. MILLSON,] will oppose some obstacles to the establishment of a different construction.

Mr. MILLSON. Will the gentleman allow me to ask him a question?

[Here the hammer fell.]

The question was taken on Mr. LEITER's amendment; and it was not agreed to.

Mr. WASHBURN, of Maine. I move to amend by striking out all after the word "resolved," and inserting in lieu thereof:

That so much of the President's message and accompanying documents as relate to the Pacific railroad be referred to a select committee of fifteen, with power to report by bill or otherwise.

I desire to bring back the resolution as near as possible to the original resolution offered by the gentleman from Missouri, [Mr. PHELPS.] I would as lief have a committee of thirteen as a committee of fifteen; but it is necessary to make it a different number, so that the amendment may be in order. I desire to have this subject committed to a committee, with power to inquire fully in regard to the various routes, and to report to this House one or more roads, as they may see fit. If gentlemen desire that that reference should amount to nothing more, let the committee be limited in the manner proposed by the amendment offered by the gentleman from Tennessee, [Mr. MAYNARD.]

I was not present when the amendment was offered, or I should have opposed it. I do not believe that it is possible for a committee to concur in a report on any route whatever. If the committee be limited in the beginning to only one road—if they are to ascertain and inquire, and report a bill for the establishment of only a single line, there will probably be no concurrence among them. But let the matter be left open. Let the committee inquire, and they may finally come to a resolution which will enable them to report a specific route; or they may report two lines or three, and the House, from the report which the committee may make, may select one. But I am sure that that amendment of the gentleman from Tennessee, will tend to defeat the measure altogether. Such is the judgment of the avowed and known opponents of the measure, as was clearly seen at the last division. I presume that every gentleman in the House, who is opposed to the measure, voted against the amendment of the gentleman from Ohio, [Mr. LEITER,] because they knew that by voting down that amendment, they would destroy every prospect of the passage of the Pacific railroad bill by this Congress.

Mr. SMITH, of Virginia. I am opposed to the amendment, because I believe that we have no constitutional power to act on the subject at all.

I was struck very much with the argument of the gentleman from Maryland, [Mr. DAVIS,] on the subject of authority. Among other authorities, the war-making power steps in. Why, if we had a war with any foreign Power, and if it became of interest to us to protect our Pacific frontier, how should we do it? I suppose it would take a hundred years to build this road. Again, I was very much surprised to hear the gentleman refer to the power of building the Washington aqueduct, when we are the express legislators for the District of Columbia.

Mr. DAVIS, of Maryland. I did not allude to the District of Columbia. I spoke of the State of Maryland, through which it is being built.

Mr. SMITH, of Virginia. If that is the point on which the gentleman hangs, he ought not to have connected it with the District of Columbia, as I suppose everybody understands that it was a work for the benefit of this District, to which the gentleman referred.

Mr. DAVIS, of Maryland. I did not connect it with the District of Columbia.

Mr. SMITH, of Virginia. Perhaps the gentleman criticises me properly in that respect. But what struck me as most remarkable was this: that the gentleman referred to authorities for the purpose of deciding this question, which authorities the gentleman is, I presume, in the habit of repudiating.

Mr. DAVIS, of Maryland. I recognize all of them, and join issue with the gentleman as to what is constitutional.

Mr. SMITH, of Virginia. I am very happy to hear it, because they may, perhaps, furnish us with some evidence on this subject before the debate is closed.

But one word more, Mr. Chairman. The people of California are very able to take care of themselves, if you provide them with munitions of war. The finest soldiers under the sun are there in abundance. The same difficulty that we would have to experience in getting there would apply with increased force to any Power with which we may be ever engaged in war; and the idea that it is necessary for the protection of California that we should have this road, is an idea which I repel without hesitation. It is a mistake. California has bone and muscle there to protect herself against any Power that can assail her.

A MEMBER. How about rebellion?

Mr. SMITH, of Virginia. She can go out of this Union, in my opinion, whenever she sees fit; and as to any insurrection among her people, she has the power to put that down, I answer for it, with such assistance as she can find without difficulty.

But the argument has been, "we must get this road, that we may be able to repel the attack of any great naval Power, such as England or France." If that be so, we must, of course, look to that view of the argument. But if it be to put down rebellion, there is nothing to prevent us from marching there with the facilities that we now possess.

But, again, the idea of building a railroad which it will take one hundred years to complete, for the purpose of meeting an enemy on that coast, which enemy would get there around Cape Horn, or across the isthmus, is to my mind a fallacy of argument.

I think, for these reasons, that there is nothing in the project. It will do for gentlemen to talk about and make capital of; but the idea of building a road with the aid of the Federal Government alone, is to me an absurdity—a road preceding population, instead of population preceding the road.

Mr. WASHBURN, of Maine, demanded tellers.

Tellers were ordered; and Messrs. MAYNARD and JOHN COCHRANE were appointed.

The amendment was agreed to; the tellers having reported—ayes 93, noes not counted.

Mr. MILLSON demanded tellers on the amendment as amended.

Tellers were not ordered.

The amendment as amended was adopted.

Mr. PHELPS moved that the committee rise and report the resolutions to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BOCK reported that the Committee of the Whole on the state of the Union

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had, according to order, had the Union generally under consideration, and particularly the President's annual message, and had adopted a series of resolutions which he was directed to report to the House.

Mr. J. GLANCY JONES moved that the resolutions be concurred in; and on that motion called for the previous question.

Mr. JONES, of Tennessee. Are the resolutions divisible?

The SPEAKER. They are, if a division is called for before the previous question is seconded.

Mr. JONES, of Tennessee. I demand a separate vote on the resolutions in relation to the Pacific railroad.

The previous question was seconded; and the main question was ordered to be put.

Mr. STANTON. Was not a resolution, in regard to Nicaragua, amended in committee?

The SPEAKER. The resolutions were reported from the committee as a whole.

Mr. STANTON. Must not the question be taken whether the House will agree to the amendment?

The SPEAKER. The resolutions originated in the committee, and were not sent there from the House. If they had been, then amendments would have been reported. The resolutions are reported as original propositions.

Mr. JONES, of Tennessee. Not as they were introduced in committee by the chairman of the Committee of Ways and Means, but as the committee agreed to them.

The first eleven resolutions were concurred in.

The twelfth resolution was reported as follows:
Resolved, That so much of the President's message and accompanying documents as relates to the Pacific railroad, be referred to a select committee of fifteen, with power to report by bill or otherwise.

Mr. FLORENCE. Is it in order to amend by making the reference to the Committee on Roads and Canals?

The SPEAKER. It is not; the previous question having been ordered.

Mr. FLORENCE demanded the yeas and nays.

Mr. JONES, of Tennessee. Can this House refer the same subject to different committees at the same time?

The SPEAKER. If the House chooses to do so the Chair thinks it can. It is a question for the House and not the Chair.

The yeas and nays were ordered.

Mr. HILL. I have been absent from the House for several days on account of indisposition; and as I do not know what the resolution is, I would be glad if the Clerk would report it.

The resolution was reported.

Mr. FLORENCE. May I ask one question?

Mr. CLINGMAN. I object.

Mr. FLORENCE. I have a right to ask a question, and I do not care whether the gentleman objects or not. [Laughter.] I wish to know whether, if this proposition is lost, it will be in order to move to refer it to the Committee on Roads and Canals?

The SPEAKER. In the opinion of the Chair, if this resolution is not carried, the House will have no control over the matter, inasmuch as the President's message will not be before the House.

The question was then taken, and it was decided in the affirmative—yeas 137, nays 60; as follows:

YEAS—Messrs. Abbott, Adrain, Anderson, Andrews, Avery, Barksdale, Billingshurst, Bingham, Bishop, Blair, Bliss, Bowie, Brayton, Bryan, Buffinton, Buringame, Burns, Burroughs, Campbell, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cox, Cragin, James Craig, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Elliott, English, Farnsworth, Foster, Giddings, Gilman, Granger, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Horton, Howard, Huyler, Kellogg, Kelsey, Kilgore, Knapp, Landy, Leach, Leidy, Lovjoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Maynard, Miller, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nicklack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Phelps, Phillips, Pike, Potter, Pottle,

Purviance, Ready, Reagan, Ricard, Robbins, Roberts, Royce, Russell, Sandidge, Scott, Searing, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Underwood, Wade, Waldron, Walton, Ward, Warren, Cadwalader C. Washburne, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Wood, Woodson, and Wortendyke—137.

NAYS—Messrs. Bennett, Bocoek, Boyce, Branch, Burnett, Caskie, Chapman, Horace F. Clark, Clingman, Cobb, Burton Craige, Crawford, Curry, Davidson, Dowdell, Edmundson, Faulkner, Florence, Foley, Garnett, Garrett, Hawkins, Hickman, Hill, Hoard, Hopkins, Houston, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Leiter, Letcher, McQueen, Mason, Miles, Milson, Moore, Peyton, Powell, Quitman, Reilly, Rufin, Scales, Henry M. Shaw, Shorter, Singleton, William Smith, Stallworth, Stevenson, James A. Stewart, Trippie, Watbridge, Whiteley, Winslow, and John V. Wright—60.

So the resolution was adopted.

Pending the call,

Mr. AVERY stated that his colleague, Mr. ATKINS, was confined to his room by indisposition. Mr. WALDRON stated that Mr. CLEMENS was detained from the House by sickness.

Mr. CRAIGE, of North Carolina, stated that Mr. GILMER had been called home by the severe indisposition of a member of his family.

Mr. PHELPS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES moved to reconsider the vote by which the first resolutions were adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Department of State, inclosing a letter addressed to the chairman of the Committee of Ways and Means, requesting that an appropriation may be made to defray certain expenses in negotiating the reciprocity treaty with Great Britain, and requesting the House to give it the proper direction; which was referred to the Committee of Ways and Means, and ordered to be printed.

Also, a communication from the Commissioner of Patents, transmitting, as required by the fourteenth section of the act approved March 3, 1851, the annual report of his office for the year 1857; which was laid upon the table, and ordered to be printed.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act to authorize the issuing of a register to the bark Jehu; when the Speaker signed the same.

Mr. KEITT. I move that the House adjourn. The motion was agreed to; and the House accordingly (at three o'clock and thirty minutes) adjourned.

IN SENATE.

THURSDAY, January 21, 1858.

Prayer by Rev. C. H. HALL.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HOUSTON presented the petition of Randall Pegg, praying to be allowed the difference between the pay he received and that allowed to the other watchmen who were employed at the public buildings, during the time he served as a watchman at the Patent Office buildings; which was referred to the Committee on Public Buildings and Grounds.

Mr. HAMLIN presented the memorial of Joseph Dowd, who served in the war with Mexico, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. PUGH presented the memorial of the board of trustees of the Protestant University of the United States, at Cincinnati, Ohio, praying that that institution may be endowed by a grant

of public land; which was referred to the Committee on Public Lands.

Mr. JONES presented a petition of citizens of Dubuque, Iowa, praying that a grant of land be made to aid in the construction of a railroad from some point on the Missouri river, westwardly, in the direction of the South Pass in the Rocky Mountains, with a branch in the direction of Oregon and Washington Territories; which was referred to the Committee on Public Lands.

Mr. GWIN presented the memorial of William C. Pease, a captain in the United States revenue service, praying to be reimbursed an amount of public money lost by him while on deposit in bank, and which he has been obliged to pay out of his private funds; which was referred to the Committee on Claims.

Mr. SEWARD. I present the petition of Nancy Hammond, who is a widow woman residing in the county of Fairfax, State of Virginia; whose father, in the year 1775, raised a company of men, proceeded to Bennington, and was engaged in that battle, and continued in the service until he was honorably discharged. From the records of the country, it appears that he received for his patriotism and services, in the whole, the sum of £3 18s. 3d. She is poor, and asks that Congress will award something to her as a means of subsistence, which may benefit her for the very short remainder of her days, and she shows that there is no collision with any other interest. I move that the petition be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HUNTER, it was

Ordered, That the petition of the legal representatives of George Mayo, deceased, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. HUNTER, it was

Ordered, That the petition and papers of G. W. Bluford, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. FESSENDEN, it was

Ordered, That Hope S. Newbold have leave to withdraw her petition and papers.

ADJOURNMENT TO MONDAY NEXT.

On motion of Mr. ALLEN, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

NOTICE OF A BILL

Mr. YULEE gave notice of his intention to ask leave to introduce a bill ceding to the several States lands owned by the United States within their respective limits.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 76) to incorporate Gonzaga College, in the city of Washington, and District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 77) to amend an act entitled "An act to limit the liabilities of ship-owners, and for other purposes," approved March 3, 1851; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 80) for the relief of the heirs and legal representatives of Olivier Landry, of the State of Louisiana; which was read twice by its title, and referred to the Committee on Private Land Claims.

FLORIDA VOLUNTEERS.

Mr. YULEE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to furnish to the Senate estimates for appropriations to pay such part of the volunteer force operating in Florida, during the past year, as may remain unpaid for the want of appropriations applicable to the purpose, including in such estimates all the companies that have been mustered or recognized by the order of the President.

COMPENSATION OF DECEASED SENATORS.

Mr. SEWARD submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That there be paid out of the contingent fund of the Senate to the representatives of the late Senators Bell, Butler, and Rusk, who attended the special session of the Senate convened by the President on the 4th of March last, and who have since died, compensation for the said Senators respectively, at the rate of \$3,000 per annum, from the commencement of said session to the time of their decease.

PUBLIC BUILDINGS.

On motion of Mr. BRIGHT, it was

Ordered, That so much of the report of the Secretary of the Interior, accompanying the President's annual message as relates to the public buildings and grounds, be referred to the Committee on Public Buildings and Grounds.

REPORTS FROM COMMITTEES.

Mr. PUGH, from the Committee on Public Lands, to whom was referred the bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of the Society of Friends, reported it without amendment; and submitted a report, which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the bill (S. No. 2) granting a homestead of one hundred and sixty acres of the public lands to actual settlers, asked to be discharged from its further consideration; which was agreed to.

Mr. FOSTER, from the Committee on Public Lands, to whom were referred the petitions of Joseph Chase, James Young, and Alexander Keef, reported a bill (S. No. 78) to authorize the Secretary of the Interior to issue land warrants to Joseph Chase, James Young, and Alexander Keef; which was read, and passed to a second reading.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the petition of Laurent Millaudon, submitted a report, accompanied by a bill (S. No. 81) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BENJAMIN, from the Committee on Commerce, who were instructed by a resolution of the Senate, to inquire into the expediency of constructing a custom-house at Keokuk, Iowa, and of making Sioux City, in that State, a port of delivery, and constructing a custom-house therein, submitted an adverse report.

Mr. STUART, from the Committee on Public Lands, to whom was referred a memorial of citizens of that portion of the public domain lying east of Lake Pepin, and the Mississippi river, in the Territory of Minnesota, reported a bill (S. No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota, belonging to the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved 17th of July, 1854; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of George M. Gordon, submitted a report, accompanied by a bill (S. No. 83) to vest the title to certain warrants for land in George M. Gordon. The bill was read, and passed to a second reading; and the report was ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House had passed the bill of the Senate (No. 27) to detach Selma, in the State of Alabama, from the collection district of New Orleans, and make it a port of delivery within the collection district of Mobile.

Also, that the House had passed the following bills; in which the concurrence of the Senate was requested:

A bill (H. R. No. 14) to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called James McIndoe, now owned by Thomas Coatsworth, James G. Coatsworth, and William Coatsworth, of Buffalo, New York; and

A bill (H. R. No. 22) to alter the time of holding the courts of the United States for the State of South Carolina.

Also, that the House had passed the Senate joint resolution (S. No. 4) to extend the opera-

tion of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" with an amendment; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (S. No. 50) to authorize a register to be issued to the bark Jehu; which was thereupon signed by the President.

HOMESTEAD BILL.

Mr. JOHNSON, of Tennessee. The Committee on Public Lands, to whom was referred a bill (S. No. 25) to grant to every head of a family one hundred and sixty acres of land, have directed me to report it back without amendment, and recommend its passage. I will simply remark here, that the committee were unanimous in making the recommendation, and I am authorized to move that the bill be made the special order for the second Monday in February, at one o'clock.

The motion was agreed to.

INCREASE OF THE ARMY.

Mr. DAVIS, from the Committee on Military Affairs, to whom was referred so much of the President's message as relates to military affairs, reported a bill to increase the military establishment of the United States; which was read twice by its title.

Mr. DAVIS. I ask that the bill be made the special order of the day for Monday next, at one o'clock.

Mr. CHANDLER. There is already a special order for Monday next, at one o'clock.

Mr. DAVIS. Then I move that it be made the special order for that day, at half past twelve o'clock.

The motion was agreed to.

DRED SCOTT DECISION.

Mr. FITZPATRICK. I am directed by the Committee on Printing, to report the following resolution:

Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay out of the contingent fund of the Senate, to Cornelius Wendell, the sum of fifteen cents per hundred pages for twenty thousand copies of the opinions of the Judges of the Supreme Court of the United States, in the case of Dred Scott vs. John F. A. Sandford.

I ask for the adoption of the resolution now, if it be not objected to.

The VICE PRESIDENT. The Chair does not know what the practice of the Senate has been, but there is a rule which prescribes that all resolutions which create a charge on the contingent fund shall be referred to the Committee to Audit and Control the Contingent Expenses of the Senate; and unless some suggestion be made, I shall direct the reference of this resolution to that committee.

Mr. BENJAMIN. That rule can be dispensed with by unanimous consent.

The VICE PRESIDENT. Yes, sir.

Mr. FESSENDEN. I should like to have some explanation of this matter before I am disposed to waive the privilege of objecting.

Mr. BROWN. That amounts to an objection to the resolution.

Mr. FESSENDEN. I do not interpose an objection now. I only say, that unless some explanation be made of it satisfactory to me, I shall object.

Mr. BENJAMIN. Let it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. It will be referred to that committee.

HENRY VOLCKER.

The Senate resumed the consideration of the motion of Mr. STUART, to reconsider the vote by which the bill (S. No. 39) to confirm the title of Henry Volcker to a certain tract of land in the Territory of New Mexico, was ordered to be engrossed and read a third time.

Mr. STUART. When the Senate passed to the consideration of the special order yesterday, I had nearly concluded all that I proposed to say on this subject. I had shown that, from a careful inspection of the papers, there were many evidences that this was a fraudulent claim, and I had made a suggestion that I thought there was a very important principle involved in the case as to the

liability of the United States, in any event, under existing head laws for Texas head-rights; but I thought that the point which I made was entirely fatal to this case, without considering either of those propositions, and I was about illustrating it. This Texas head-right, if it be a valid one, and has not been located upon any public lands, is now an authority in the hands of the owner to locate it on any lands in the State of Texas; just like our bounty-land warrants. A man who is the *bona fide* holder of a land warrant, may locate it any day, on any public lands of the United States subject to entry. If this individual, Volcker, really owns this head-right, he can go to-day, or any other day when he pleases, and locate it on six hundred and forty acres of land within the limits of the State of Texas. But, sir, he seeks authority from Congress to locate it on six hundred and forty acres of land in the Territory of New Mexico, now belonging to the United States, if there is no private claim to that land. I wish to make this suggestion with some emphasis, because there is nothing in the papers to show that the land at this day is not claimed by some *bona fide* owner, under a preemption or other law of the United States.

It is conceded by the Senator from Louisiana, the chairman of the Committee on Private Land Claims, that the proof of titles which this individual introduces in connection with his application, would be entirely insufficient as against an adverse claimant. That he concedes, and it will be obvious to any gentleman who will take time to examine these papers. Now, should the United States grant a patent for six hundred and forty acres of land, to an individual, who presents, on his own showing, a defective title, or should not Congress, in any case, if it were a land warrant, insist that the applicant should make out *prima facie* a valid title to the land warrant, and to the land that he claimed? I think there would be no denying that. So in this case: the claimant seeks, upon equitable grounds, to procure a warrant from the United States for six hundred and forty acres of land, and yet he does not show anything like a valid title to the certificate under which he claims it. I have referred to the laws of Texas, which require that these matters should be recorded. There is, among the papers, a transcript from the record, sent up by the proper recording officer in the State of Texas—of Bexar county—and that transcript shows one of two things: either a forgery, or an entirely insufficient execution of the papers under which this man claims.

Now, sir, I must deny that it is sufficient for a claimant to ask the United States to grant him a patent for six hundred and forty acres of land because there is no adverse claim interposed here, and because the bill proposes to make the patent only a grant of whatsoever title the United States has. In the first place, I have stated the reason, so far as it is applicable to the United States, that we should grant no man a patent who does not show *prima facie* a clear right to it; but in the next place, there being no proof in the case that there is no adverse claim, and no proof that this is now Government land belonging to the United States, may we not do very great injustice to an individual who is an occupant of this very land to-day? You clothe this claimant with the title of the United States to this land, and if the present occupant should turn out to be a man of limited means, this person, with the patent of the United States in his hand, can crush him. It gives him an advantage, for it gives him the fee-simple to begin with; and upon what right? None at all is presented by the case, except the fact that nobody else appears as a claimant. There is no evidence here that anybody else has notice that this man is a claimant. It is a difficulty that surrounds cases of this kind in Congress, that there is no notice to other men that this particular individual is claiming the land.

I have sent for the papers, for the purpose of stating a little more distinctly than I did yesterday, the evidence of the defect in regard to the certificate. I stated that this certificate of the certifying officer is a peculiar one. He says that he certifies to a correct transcript from the records, "with the interlineations and erasures." Here is the survey under which this man undertakes to claim; and before it was interlined or erased, it read in this way:

"STATE OF TEXAS, DISTRICT OF BEXAR.

"Survey No. 38. Field-notes of a survey of six hundred

and forty acres of land made for George W. Paschal and B. M. Pruder, assignees of J. Houston, it being the land to which they are entitled."

The names of B. M. Pruder and J. Houston are erased. The words "they are" are erased, and "he is" inserted. No explanation of this is given. There is nothing in the transcript from this record which shows that either Paschal or Pruder or Houston ever had any right or title whatever to this certificate. What is the evidence contained in the survey itself? A survey made for these men, who were strangers to the certificate, as owners, showing no connection with the ownership to the certificate at all, but simply reciting that it is a survey for this certificate, No. 169. This certainly ought to be conclusive, because, unless the claimant, Volcker, shows that he, or some man under whom he claimed, has located his head-right upon a particular tract of six hundred and forty acres of land, there is no pretense that Congress should give him a patent for it, any more than the owner of a land warrant could come here and ask Congress to give him a patent for a particular one hundred and sixty acres of land which neither he, nor any one under whom he claimed, had ever sought to locate his land warrant upon. We do not deny the validity of this certificate so far as ownership is concerned, and its right to location in the State of Texas. If it is a valid certificate, it is valid to-day against any lands in the State of Texas.

I shall state one other fact, and then leave this case; for it seems to me too plain for argument. The survey, which it is sought to show applies to this certificate, was made in July, 1850, when the compromise measures, as they are called, were pending before Congress; and the result of which was, that Texas took a limitation of her boundaries narrower than she had before claimed, and left this land in the Territory of New Mexico, and belonging to the United States. The fact appears, that no attempt to record any one of these assignments was ever made, until 1851, after those measures were complete, after the boundary of Texas had been defined, so limiting it that these six hundred and forty acres of land were thrown beyond her jurisdiction. Then this man seeks to patch up a set of certificates, and get them recorded in Texas, under the law of Texas, so that he can fasten on six hundred and forty acres of saline land to which he has no right whatever. I think the Senate will not only reconsider this vote, but they will reject the bill.

Mr. PUGH. I should like to ask the Senator from Michigan a question, with his permission.

Mr. STUART. Certainly.

Mr. PUGH. Do I understand him to say that the survey of this land specifies the number of the certificate?

Mr. STUART. Yes, sir.

Mr. PUGH. The certificate itself is numbered?

Mr. STUART. No. 169.

Mr. PUGH. The survey is upon certificate No. 169?

Mr. STUART. Yes, sir.

Mr. PUGH. Is not that a sufficient identification? The survey may have been made by an agent.

Mr. STUART. If the Senator had looked into the laws of Texas, he would have seen that they authorized a survey to be made by an agent; but required the evidence of each step to be recorded, so as to show that he was an agent acting for the party that had an interest in the certificate. The record shows that neither Paschal, nor Pruder, nor Houston, under whom Volcker purports to claim, ever had any interest in the certificate at all.

Mr. PUGH. That is, the record does not show the assignment.

Mr. STUART. No, sir.

The motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is, shall the bill be engrossed and read a third time?

The Senate refused to order the bill to be engrossed.

TENCH TILGHMAN.

The VICE PRESIDENT. The next business before the Senate is the bill (S. No. 60) for the relief of Tench Tilghman; which will be read a second time.

The bill was read a second time, and considered as in Committee of the Whole. It directs

the Secretary of the Treasury to pay to Tench Tilghman \$1,000 for losses sustained by him in consequence of his appointment to a consulate, which was abolished by the Spanish Government while he was on his way to take charge of it.

Mr. CLAY. I move that the bill be postponed until to-morrow. The Senator from Louisiana is not here.

The motion was agreed to.

FREDERICK A. BELEN.

The bill (S. No. 61) for the relief of Frederick A. Beelen, was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Frederick A. Beelen, Secretary of the United States legation at Santiago, Chili, \$750, being the difference between the salary received by him, from the 1st of July, 1855, to the 1st of January, 1857, and the amount of salary to which he would have been entitled, at the rate of compensation existing when he was first appointed to that office.

Mr. CLAY. I should like to hear the report in that case read.

The Secretary read the report of the Committee on Foreign Relations, by which it appeared that in August, 1854, Mr. Beelen was appointed secretary to the legation in Chili, with a salary of \$2,000 per annum. He repaired to his post at once, and continued in the performance of its duties up to January 1, 1857. In September, 1855, he received a communication from the Department of State, informing him that, under the construction given by the Attorney General to the act of March 1, 1855, "To remodel the diplomatic and consular systems of the United States," his salary as secretary of legation at Santiago would be only at the rate of \$1,500 per annum from the 1st of July of that year. The law reducing his salary thus had the effect of an *ex post facto* law upon him. The lowest cost of reaching his post from the United States is \$500, and the same amount paid in returning home, makes a sum equal to two thirds of the salary for a whole year. He is the only officer in the diplomatic service of the Government whose salary was reduced by the act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JUDGE OF CRIMINAL COURT.

The bill (S. No. 64) to equalize the salaries of certain judges of the courts for the District of Columbia, and for other purposes, was read the second time, and considered as in Committee of the Whole.

It provides that the salary of the judge of the criminal court of the District of Columbia shall, from and after the commencement of the last fiscal year, be the same as the salary of an associate judge of the circuit court of the United States for that District. It proposes to repeal so much of the third section of the act of 7th July, 1838, entitled "An act to establish a criminal court in the District of Columbia," as requires the clerk of the circuit court to attend the criminal court, and to authorize the judge of the criminal court to appoint a clerk to that court.

The bill was reported to the Senate without amendment.

The VICE PRESIDENT. The question is, Shall the bill be engrossed, and read the third time?

Mr. TRUMBULL. I have objection to the form in which this bill is drafted. I do not know that I have any objection to an increase of the salary of the criminal judge of this District. That may be very proper; but I have an objection to the manner in which it is proposed to do it. A petition is sent here, asking to have the salary of the judge of the criminal court increased, and for what reason? Because the judges of the circuit court for the District of Columbia receive a certain salary. That is the only reason. The petition of the members of the bar states, that the duties of the judge of the criminal court are equal to the duties imposed upon the judges of the circuit court; and therefore, they ask that his salary be put on the same footing as that of the judges of the circuit court. And a bill is reported from the Judiciary Committee to make his salary equal to theirs, but not fixing it at any certain sum.

My objection is to this mode of legislation. I would ask the question here of Senators, how

many of you know to-day what the salary of the circuit judges in the District of Columbia is? If Senators do not know, I should like to know how many of the people of the District of Columbia are aware of the amount of salary paid to the judges of the circuit court in this District. I apprehend very few, and this is the way that salaries are being raised. On account of some particular service, which is imposed upon a public officer, his salary is increased. For extraordinary service his salary is raised. Then follows a bill to place the salaries of other officers, whose duties generally correspond with his, upon the same footing; and in that way the increase of the salary of one judge is made the stepping-stone for the increase of the salary of another.

Now, sir, if this bill can be amended so as to say, in so many dollars and cents, how much shall be paid to the judge of the criminal court of the District of Columbia, I am willing to vote him an adequate salary; but if you place it on the ground that his salary shall be the same as that of the judges of the circuit court in the District of Columbia, then, if in aftertimes it should become proper to increase the salaries of the circuit judges in consequence of special duties being imposed upon them, the salary of the criminal judge will go up also. I like to see plain language used in our laws, that can be understood by everybody. I am not prepared at this moment with an amendment which will carry out my object. If I was, I should offer it now; but I am not familiar enough with the wording of the bill to be prepared to offer it without a little consideration. I hope the bill will lie over until I can prepare an amendment fixing the salary of the judge of the criminal court at a certain sum, because he is entitled to it, and not because somebody else has a particular sum for his services. I move to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

INDIANA SENATORIAL ELECTION.

Mr. BAYARD. I am instructed by the Committee on the Judiciary, to whom was referred a protest against the election of the Hon. GRAHAM N. FITCH and the Hon. JESSE D. BRIGHT as Senators from the State of Indiana, to submit a report, accompanied by a resolution. As it is a question of privilege, I ask for its present consideration.

The Secretary read the resolution, as follows:

Resolved, That in the case of the contested election of the Hon. GRAHAM N. FITCH, and the Hon. JESSE D. BRIGHT, Senators returned and admitted to their seats, from the State of Indiana, that the sitting members, and all persons protesting against their election, or any of them, by themselves, or their agents or attorneys, be permitted to take testimony on the allegations of the protestants and the sitting members, touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by first giving ten days' notice of the time and place of such proceedings in some public gazette printed at Indianapolis.

Mr. BAYARD. At the suggestion of the honorable Senator from Vermont, [Mr. COLLAMER,] who says it will be argued, the resolution had better go over until Monday.

The resolution lies over.

MICHAEL KINNY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 35) for the relief of Michael Kinny, late a private in company I, eighth regiment, United States Army.

It directs the Secretary of the Interior to place the name of Michael Kinny on the pension list, at the rate of eight dollars per month, commencing on the 11th of December, 1856, and to continue during his life.

Kinny enlisted at Boston, July 6, 1849, and was honorably discharged July 6, 1854, at Fort Bliss, Texas. Subsequent to his discharge the following remarks were found on a return from Fort Clark, Texas, for the quarter ending September 30, 1854, signed by Basil Norris, assistant surgeon of the United States Army, now on file in the surgeon general's office: "On the first of August I amputated the thigh of a teamster for gunshot wound through the knee-joint; the patient was nursed by our attendants, and recovered with a good stump." It appears that the petitioner was regularly employed in the quartermaster's department, and that while engaged in unloading a wagon, he received the wound referred to. There is in evidence that Michael Kinny was a man of

unexceptionably good character during all the time he was connected with the public service; the committee, therefore, deem the petitioner's case one worthy of the favorable consideration of Congress.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

REFERENCE OF BILLS.

The bill (H. R. No. 14) to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called James McIndoe, now owned by Thomas Coatsworth, James G. Coatsworth, and William Coatsworth, of Buffalo, New York, was read twice, and referred to the Committee on Commerce.

The bill (H. R. No. 22) to alter the time of holding the courts of the United States, for the district of South Carolina, was read twice and referred to the Committee on the Judiciary.

The amendment of the House of Representatives to the joint resolution of the Senate, (No. 4,) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" was referred to the Committee on Naval Affairs.

COMMODORE PAULDING.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding. It requests the President of the United States to cause to be made a medal, with suitable devices, to be presented to Commodore Hiram Paulding, of the Navy of the United States, as a testimonial of the high sense entertained by Congress of his gallant and judicious conduct on the 8th of December, 1857, in arresting a lawless military expedition, "set on foot" in the United States, under the command of General Walker, and in preventing it from carrying on actual war against the feeble and almost defenseless Republic of Nicaragua, with which the United States are at peace.

Mr. DOOLITTLE and Mr. CLAY addressed the Chair.

The VICE PRESIDENT. The Senator from Wisconsin is entitled to the floor.

Mr. CLAY. I was about to move the reference of this resolution to the Committee on Foreign Relations, for it seems to me that it is premature to discuss it at this time, as the action of the Senate would be tantamount to prejudging a question which is now before that committee; and hence, I would suggest to the Senator from Wisconsin that it should be referred to the Committee on Foreign Relations, that they may report on it, as they have the matter at this time under their consideration, under the reference of the President's message.

Mr. DOOLITTLE. Mr. President, what may be the final disposition of this proposition by the Senate I cannot now foresee; but I desire to state the grounds upon which I have deemed it my duty to introduce this resolution. In stating those grounds, it will be my endeavor to address myself calmly and dispassionately, to the judgment, and only to the judgment, of the Senate. By appealing to any partisan prejudice or passion, I should not be able to aid in the accomplishment of any great or good purpose if I would, and I certainly would not if I could. Yet, sir, I may speak earnestly on this question; for, I confess, I feel deeply the importance of this proposition introduced at this juncture of our affairs, involving, as it does, not only the character and conduct of a high, gallant, and veteran officer in the Navy of the United States, but involving, also, the policy of the present Administration, our neutrality laws, the laws of nations, our relations to the feeble Republics of Central America, and, perhaps, more than all, the honor, the integrity, and the good faith of the Government of the United States.

In stating the history of this case, I shall rely mainly upon the messages of the Executive, and other public official documents. Of General Walker as a military adventurer I shall have but little to say, and in what I may have to say, it will not be my purpose to deal in the language of denunciation. We first hear of General Walker as a military adventurer in his expedition into Sonora, when, with a handful of misguided followers, he was completely repulsed and defeated. Of General Walker's second military expedition

from the United States against the republics with which we are at peace, the history is but too well known to the country. He entered into Nicaragua, and there, for a time, he was more successful. He held, or seemed to hold, for a time, the power in the Government of Nicaragua; but that same power by which he acquired it—the power of the sword—was turned against him. Hemmed in at Rivas, on all sides, by an overwhelming force, with inevitable destruction before and behind him; by whom was he rescued? I repeat the question, by whom was he rescued? By the Government of the United States. Sir, in stating this important fact, I do not rely upon my own information. I rely upon the declaration of the Secretary of the Navy, in his annual report, in which he declared that—

"It was deemed necessary, as a measure of humanity and policy, to direct Commodore Mervine to give General Walker and such of his men, citizens of the United States, as were willing to embrace it, an opportunity to retreat from Nicaragua;" and "the action of Commander Davis, so far as he aided General Walker and his men, by the use of the St. Mary's, to retreat from Nicaragua and return to the United States, was approved by the Department."

The expense of transporting them across the isthmus, and the expense which was incurred for "necessary food, clothing, and medicine while on shipboard," amounting to more than fifteen thousand dollars, was recommended by the Department to be borne and paid by the Government of the United States.

I repeat then, sir, that it was the Government of the United States which rescued General Walker and his command at Rivas, from the people of Nicaragua, and snatched him from the very jaws of inevitable death. Commodore Paulding, in speaking of the condition of these men at the time when they surrendered—and I believe there is no one who will question the correctness of this statement—says:

"The remnant of the miserable beings who surrendered at Rivas were conveyed in this ship, (the Wabash,) last summer, to New York, and their sufferings are yet fresh in the memory of all on board."

Two facts are established, in my judgment, beyond all controversy: first, that whatever power General Walker has acquired in Nicaragua, was ended with his surrender at Rivas, whether that power was founded *de jure* or *de facto*; whether that power existed of right, or was a power sustained or acquired by the sword only; and secondly, that but for the interference of the Government and officers of the United States, General Walker and the men in arms with him in Nicaragua, would have come to an ignominious end. And, sir, how has he borne himself towards the Government to whom he is indebted for his life? Is it not a fact but too well known, that for months he was engaged in setting on foot and preparing the means for a military expedition within the United States, to carry on war against Nicaragua? How many public meetings have been held? What public newspapers have not given accounts of them?

But it is not my purpose, sir, to dwell on these facts in detail. I will conclude what I have to say on this point by referring to a paper which brought home to the knowledge of the Government of the United States, in a manner too distinct, too direct, too authoritative, to be overlooked or disregarded, the fact that this military expedition was being set on foot in the United States to carry war into the republics of Central America. As early as the 14th of September last, it was brought home to the knowledge of the Government, by a letter addressed to the Secretary of State, which I beg leave to read:

NEW YORK, September 14, 1857.

The undersigned, Minister Plenipotentiary of the Republics of Guatemala and Salvador, and the Chargé d'Affaires of the Republic of Costa Rica, have the honor to make known to the Secretary of State of the United States, that there is no doubt that there is being prepared, in the southern part of this Republic, an expedition, under the orders of the adventurer William Walker, the which, according to the advices published in the public journals, will sail about the middle of the present month, or the beginning of the next, and will proceed to the Bocas del Toro, where it will receive the armament which has been prepared in this port of New York to be forwarded to said point. It is probable that the uniting of the expeditionists and the aforesaid armament, at the Bocas del Toro, may be for the purpose of these new invaders of Nicaragua entering the port of San Juan del Norte, for they have no other port at which they can enter. The undersigned hope that the Government of the United States, in view that it cannot prevent the debarkation of this expedition, so publicly and shamelessly announced, like all the others, will order that a vessel of war of the United States prevent the landing of these ag-

gressors in the Bocas del Toro, and that positive orders be given to the vessel of war that may be lying in San Juan del Norte, also to prevent the landing of the said filibusters on that coast, causing them to return to the United States, as transgressors of the laws of this country, and as disturbers of the peace and security of friendly nations.

With the highest consideration, the undersigned have the honor to subscribe themselves, of the Secretary of State of the United States, the attentive and obedient servants,
A. J. DE YRISARRI,
LUIS MOLINA.

Hon. LEWIS CASS.

By this letter, two facts are brought home to the knowledge of the Government of the United States. First, that the expedition was in existence and being fitted out; and secondly, that Nicaragua, or the person who was here, not then recognized it is true, but who claimed to represent the powers which had the control of Nicaragua and the harbor of San Juan, in advance, and before any order was given by the Secretary of State, requested the Government of the United States to prevent the landing of this expedition, and to cause them to return to the United States. It was in consequence of this letter addressed to the Secretary of State, no doubt, that four days afterwards, the Secretary of State issued his general circular to the commanders of our fleet; and to that circular, I beg leave also to call the attention of the Senate:

WASHINGTON, September 18, 1857.

Sir: From information received at this Department, there is reason to believe that lawless persons are now engaged within the limits of the United States in setting on foot and preparing the means for military expeditions to be used against the territories of Mexico, Nicaragua, and Costa Rica—Republics with whom the United States are at peace—in direct violation of the sixth section of the act of Congress, approved 20th April, 1818. And, under the eighth section of said act, it is made lawful for the President, or such person as he shall empower, to employ the land and naval forces of the United States, and the militia thereof, "for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States." I am, therefore, directed by the President to call your attention to the subject, and to urge you to use all due diligence, and to avail yourself of all legitimate means at your command to enforce these and other provisions of the said act of 20th April, 1818, against those who may be found to be engaged in setting on foot or preparing military expeditions against the territories of Mexico, Costa Rica, and Nicaragua, so manifestly prejudicial to the national character, and so injurious to the national interest. And you are hereby instructed promptly to communicate to this Department the earliest information you may receive relative to such expeditions.

I am, sir, your obedient servant,

LEWIS CASS.

Before entering upon the discussion of the legal principles involved, and giving what, in my judgment, is the true construction of the language of these instructions, I beg leave to complete briefly the statement of the case. These instructions of General Cass, given in general and somewhat ambiguous terms, as all must concede, were of such a nature, that when Lieutenant John J. Almy had occasion to act under them, he directed a letter to the Navy Department asking for more specific instructions; and in answer to this request of Lieutenant Almy, the Navy Department issued the following instructions:

NAVY DEPARTMENT, October 12, 1857.

Sir: In reply to your letter of the 7th instant, it is true that American citizens have a right to travel and go where they please, when engaged in lawful pursuits, but not to violate the laws of their own or of any other country. They have a right to expatriate themselves and to become citizens of any country which is willing to receive them, but not to make that right a mere cloak and cover for a warlike expedition against it or its Government. Your instructions do not authorize you to act arbitrarily or upon mere suspicion. You will not seize an American vessel, or bring her into port, or use the force under your command to prevent her landing her passengers, upon mere suspicion. You will be careful not to interfere with lawful commerce. But where you find that an American vessel is manifestly engaged in carrying on an expedition or enterprise from the territories or jurisdiction of the United States against the territories of Mexico, Nicaragua, or Costa Rica, contrary to the sixth section of the act of Congress of April 20, 1818, already referred to, you will use the force under your command to prevent it, and will not permit the men or arms engaged in it, or destined for it, to be landed in any port of Mexico or Central America.

En route for Chiriqui you will touch at Mobile and New Orleans, and communicate with the United States district attorney at each of those ports.

I am, respectfully, your obedient servant,

ISAAC TOUCEY.

Lieutenant JOHN J. ALMY, Commanding United States Steamer *Fulton*, Washington, D. C.

In completing my statement of the facts in this case, I shall rely almost altogether upon the messages of the Executive. I understand the President of the United States to assume, as an undisputed fact, that this expedition, of which Walker was the chief, was set on foot within the jurisdiction of the United States to make war

against Nicaragua, a Republic at peace with us; that it was well known to the Government of the United States that this expedition was about to be carried on against Nicaragua; that the leader of this expedition was arrested by officers of the United States, but was discharged upon giving bail in the insufficient sum of \$2,000; that soon after his discharge, Walker, with his command, embarked on board the steamer *Fashion*, a vessel of the United States, and sailing under the flag of the United States, and entered San Juan; and under the very guns of the *Saratoga*, a vessel of war of the United States, lying in the waters of San Juan, he was permitted to land upon the soil of Nicaragua; that immediately after landing, he commenced, and was actually engaged in carrying on, a lawless warfare against the people and the Government of Nicaragua; and that while he was so engaged upon the shores of Nicaragua, Commodore Paulding arrived in the harbor of San Juan, in command of the flag-ship *Wabash*; that after he arrived there, he immediately ordered General Walker and his command to embark on board such vessels as he should designate, and compelled them to embark and return to the United States. This transaction on the part of Commodore Paulding took place on the 8th of December last. On the 30th of December, the Minister of Nicaragua, recognized by the Government of the United States, addressed to the Secretary of State a letter, of which I will read a portion:

"The undersigned, in the name of the three Governments which he represents, returns thanks to the Government of the United States for having taken away the adventurer William Walker, and his invading band, from the point of which they had taken possession on the coast of Nicaragua; thus freeing those friendly countries from the evils with which they would have been visited, had these disturbers of the peace of nations been allowed the possibility of increasing their forces by new recruits. Those who, in the service which the Government of the United States has rendered to its friend, the Republic of Nicaragua, would seek for a warrant to say that the Nicaraguan territory has been violated, will hardly find it, from the moment that the world will have learned that the Government of Nicaragua, far from complaining of a violation of her territory, looks upon that act as an assistance, directed in behalf of its inviolability, which was wounded, in effect, by certain adventurers from the United States; and that it considers such assistance, extended by this Government, as a consequence of the measures which, by his note of the 14th of September last, the undersigned had asked this Government to adopt, giving orders to the Navy of the United States to capture the violators of the laws of neutrality.

"The point from which Commodore Paulding forced away those bandits, the violators of the laws of all nations, and, as such, justly assimilated, by the law of nations, to pirates and foes of mankind, is an almost desert one, on which there exist no Nicaraguan authorities that could have managed the apprehension of those felons. Nicaragua, therefore, considers that the proceedings of Commodore Paulding against Walker and his horde were entirely justifiable; for, as a man-of-war of any nation may take up pirates from a desert island, or one so thinly peopled that they can assert their dominion over it, although that island might belong to another sovereign nation, just so can bandits be apprehended, as enemies of the human race, by the armed vessels of a friendly nation, on a point of a foreign coast, which may be placed under circumstances like to those of the island mentioned by way of illustration.

"Considering it highly important that the tenor of this note—especially the portion touching emigration to Nicaragua—should be made public, the undersigned would entertain the hope that the Secretary of State will find no objection to have its contents published.

"The undersigned, with highest consideration, has the honor of tendering to the Secretary of State the renewed assurance that he is his respectful servant.

"A. J. DE YRISARRI.

"Hon. LEWIS CASS, Secretary of State, &c."

Seven days after this letter was received by the Department of State, the President of the United States communicated his message to the Senate, in which he used the following language:

"It unquestionably does not lie in the mouth of her invaders to complain in her name that she has been rescued by Commodore Paulding from their assaults."

And again:

"In regard to Nicaragua, she has sustained no injury by the act of Commodore Paulding. This has injured to her benefit, and relieved her from a dreaded invasion. She alone would have any right to complain of the violation of her territory; and it is quite certain she will never exercise this right."

I regret, sir, that the President of the United States did not feel called upon, also, to say that the Minister from the State of Nicaragua had expressly returned the thanks of Nicaragua to the Government of the United States for the act of Commodore Paulding, instead of complaining of a violation of her territory.

Upon these facts, which I have endeavored to state as briefly as I was able, I shall maintain that Commodore Paulding neither violated his instruc-

tions, when fairly construed, nor the laws of the United States, nor the territory of Nicaragua, nor the laws of nations; and that he is therefore entitled to the unqualified commendation of the President, of Congress, of the people of the United States, and, I may add, of the civilized world.

As I have already stated, the instructions which were issued by General Cass, as Secretary of State, and by Mr. Toucey, as the Secretary of the Navy, were general in their terms. They were little more, and they were certainly nothing less, than to enjoin on the commanders of the Navy the use of all diligence, and of all legitimate means within their power to enforce the provisions of the act of 1818. In reference to the rule which is to govern instructions issued to military commanders, whether at sea or upon land, I beg leave to refer to a distinguished authority, (Puffendorf,) and, I believe, all other writers on the laws of nations agree with him. Puffendorf lays down the rule, that while a general or admiral, with limited commissions or instructions, may not exercise any powers not given by them, that a paramount necessity arising from new and unexpected circumstances may compel him to go beyond the letter of his instructions to carry out their object. I quote his words:

"An admiral at sea, who is by his orders to be only on the defensive, may yet, notwithstanding such a confinement, upon provocation sufficient break in upon the enemy's fleet, and sink and burn as many of their ships as he can; all that he is forbidden is to challenge the enemy first, when they do not think of fighting. And so a general on land, though his instructions be not to engage the enemy, may yet, if he be attacked in his intrenchments, not only repulse them when they would force his camp, but make a sally and give them battle; and if he be set upon his march, and finds he cannot make a safe and honorable retreat, he may justly venture a fight."—Puffendorf, book 8, chapter 6, section 10.

And it must have been in reference to cases of such overwhelming necessity that Tully lays down the doctrine—

"That in affairs of such unexpected and straightening circumstances, a man should not think of staying for the instructions of the Senate, but be a Senate to himself, and do what he thinks will be best for the advantage of the Commonwealth."

As applied to ordinary circumstances, and in the absence of such overwhelming necessity, I admit that this doctrine would be altogether too broad, and would not receive my sanction; but there are exigencies which no human being can foresee, for which no specific instructions can be given in advance, which throw around a military or naval commander an absolute necessity for instant action—where, to retreat from his position, would be dishonor; and to wait for instructions from a Department a thousand miles away, would be a crime against all the laws of God and man. When charged with the execution, therefore, of a special undertaking, it is always implied in the instructions given, when they do not expressly forbid it, that he may do all in his power which the honor of his country, the laws of nature, and the laws of nations will allow, to effect the purpose of that special undertaking.

It can be pretended by no one that the instructions which were issued by the Secretary of State, or the Secretary of the Navy, forbid Commodore Paulding from touching the soil of Nicaragua. They expressly contemplate his acting in command of vessels within the waters of Nicaragua, and within its jurisdiction. The authority given is to prevent the landing of these persons upon the soil of Nicaragua. The authority given is the power to enforce all the provisions of the act of 1818—among them, "to prevent the carrying on" of this lawless war against Nicaragua. It might become absolutely necessary, in order to prevent the landing of an expedition, that the commodore in command of a fleet should touch the soil itself. If we were to suppose that the expedition consisted of ten thousand men, instead of three hundred or four hundred, that it was embarked on board a dozen ships, instead of one, it might become necessary for the commodore of the fleet to land and take possession and control of a fort on shore, to command the entrance into the harbor, and thus prevent the landing of the remainder of the expedition.

But again, Mr. President, I beg leave to refer to another authority, and I claim the indulgence of the Senate for so doing, for the reason that the honorable Senator from Ohio, [Mr. PUGH,] on a former occasion, speaking in reference to the doc-

trine which I had expressed, advised me very kindly to look into the authorities on the subject, saying that I would find no law to sustain the positions which I have taken. I refer to Vattel, who says that—

"There are occasions when the subject may reasonably suppose the sovereign's will, and act in consequence of his tacit command."

It was this principle which authorized and justified Commodore Dale to commence hostilities against the Tripolitans in 1801, when it was believed that war was intended by them. Neither Commodore Dale nor Captain Sterret, the officer who made the first capture, was censured; but, on the contrary, both were highly applauded, and the latter received the thanks of Congress and a sword, although at the time war had not been declared against Tripoli. It was the same principle which authorized and justified Commodore Rodgers in blockading the port of Tunis, and forcing the Bey to terms; and afterwards drawing his ships up before the batteries of Tangier, and threatening hostilities to the Emperor of Morocco, in the year 1805. It also authorized and justified Commodore Decatur in threatening hostilities to the Bey of Tunis and the Bashaw of Tripoli, in the year 1815, and forcing them to restore large amounts of money taken from our citizens. Neither of these officers was censured for his conduct, which he believed to be in accordance with the wishes of the nation, although the United States had not declared war against those Powers. Sir, it was by virtue of this principle that Captain Ingraham, in the harbor of Smyrna, performed the gallant deed for which he received the thanks of Congress.

Mr. PUGH. Will the Senator allow me to interrupt him, as he has referred to me? The point on which I told the Senator to look into the authorities, he has not alluded to at all. I understood him to state, on a former occasion, that the Government of the United States was liable to foreign nations for any act of private aggression committed by any one of our citizens, and I told the Senator then that I should like to see the law for it, and I should like to hear the law for it now.

Mr. DOOLITTLE. That point in this argument I shall by no means overlook. I shall refer to the authorities on that question. But to return to the point I was considering: in my judgment, the only fair construction to be put upon the language, vague and general as it must be conceded to be, which is used in the circular of General Cass, and in the letter of the Secretary of the Navy, is this: that it was intended to confer on the commander of the fleet all the power which the President of the United States himself could have exercised for the same purpose. If these instructions bear any other construction; if it were intended by the President of the United States to withhold any power which he might lawfully exercise, it would be but equivalent to saying that the Administration of the Government was in collusion with General Walker. Will any friend of the Administration stand up on this floor and say that the President of the United States intended to withhold the exercise of any power with which he was clothed by the law, for the purpose of putting an end to these lawless expeditions? Will any one stand up and say that, underneath the vague and general words contained in those instructions, there is a concealed intention to withhold the exercise of such power? Sir, there is but one alternative in construing the instructions given to Commodore Paulding: either the Administration intended in good faith to give to him all the power which the law would give, or the Administration purposely withheld the power in order to collude with General Walker. For my own part, I prefer to give to those instructions that construction which is consistent with the honor and good faith of the Government of the United States, and which is consistent with the honor and the good faith of the Executive, when he declares, as he does in his message:

"The Government itself, at least in the estimation of the world, becomes an accomplice in the commission of this crime, unless it adopts all the means necessary to prevent and to punish it."

Was it intended by these instructions not to give any power which the President could give to Commodore Paulding? If such was the intention, by the words of the President himself let the Administration be judged. The Administration would become an accomplice in the commis-

sion of the crime, unless it adopted all the means necessary to prevent and punish it.

"This now brings us to the consideration of the important question, 'what powers may the President of the United States lawfully exercise upon this subject?' It must be borne in mind that the people of the United States live under three distinct systems of law. There are the laws of the several States, whose jurisdiction is bounded by the limits of the States themselves; there are the laws of the United States, whose jurisdiction is coextensive with the whole of the United States; there are the laws of nations, whose jurisdiction is coextensive with the civilized world. The laws of nations, as well as the laws of the United States, are to be regarded by the Government of the United States. They are equally binding upon its Government, upon its citizens, and upon every department. The people of the United States therefore owe a triple allegiance to the laws of the States in which they live; to the laws of the United States, and to the laws of nations. In our intercourse with the nations of the world, with all foreign nations, we are governed, not by the statutes of the United States, not by the statutes of the several States, but by the code of laws which is denominated the law of nations, based upon those maxims which are written in adamant upon the common conscience and the common sense of mankind. By our treaty of friendship with the Republics of Central America, as well as by the laws of nations, this Government was bound to keep the peace. Every department of this Government was under that obligation, and the President of the United States, as the chief executive officer of the United States, having charge more especially of our foreign relations, and of our intercourse with foreign States, when he took the oath of office, was sworn to see that the laws of nations, so far as our own Government and our own citizens were concerned, should be faithfully executed, and should not be violated. With great force, therefore, it might be urged that, even independent of the act of 1818, the President of the United States, as the commander-in-chief of the Navy, might interfere if he saw that citizens, sailing upon our ships, under our flag, were committing depredations upon other nations and the citizens of other nations; that he might lawfully interfere to preserve the peace, to arrest them in the act, and prevent the commission of those crimes against the laws of nations and the peace of the world. But, sir, if any doubts existed on that subject, the statute of 1818 has removed them in my judgment entirely; and I beg leave now to call the attention of the Senate to the construction to be given to the language of the act.

I confess that I was greatly surprised by the position which was taken by the honorable Senator from Illinois, [Mr. DOUGLAS,] and other Senators upon this floor, that the President of the United States, by the eighth section of this act, was not authorized to employ the Navy of the United States beyond our territorial jurisdiction outside of one marine league from our coast, or a cannon shot from shore. So clear is the language of this statute, in my judgment, that, had I not heard such an opinion declared upon this floor, I would not have believed there could be any two opinions about it. I beg leave to call your attention to the language of the act. The sixth section is as follows:

"That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for, any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince, or State, or of any colony, district, or people, with whom the United States are [at] peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding \$3,000, and imprisoned not more than three years."

It is the eighth section of the act which clothes the President of the United States with the power to employ the land and naval forces—I now read so much of the section as is applicable to this case. After declaring the power, the purpose for which it may be used is stated in this language:

"For the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States, against the territories or dominions of any foreign prince, or State, or of any colony, district, or people, with whom the United States are at peace."

The crime against the laws of the United States is defined in the sixth section of the act; and it consists in what? "In beginning and setting on foot an expedition, with intent to carry it beyond

their jurisdiction, against the territories of some other State." It is not, I agree with the honorable Senator from Mississippi, [Mr. BROWN,] the intention which constitutes a crime independent of the act itself; and what the statute of the United States assumes to punish is not the carrying on of the expedition against a foreign territory or State, but the beginning and setting on foot of the expedition within the territories of the United States.

But the eighth section of the act gives the President a power to do what? Not to prevent the setting on foot, nor the beginning of an expedition, but to prevent the carrying on of an expedition from the United States against the territories or dominions of a foreign State. So far as the crime of setting on foot or beginning an expedition within the territories of the United States is concerned, the ordinary process of the courts of the United States is sufficient. The courts have jurisdiction; the marshal has the power to arrest; and the President of the United States, if called upon to interfere, may be called upon to aid the marshal in the execution of process; but when so called upon, it is by virtue of other provisions of other statutes of the United States, and this provision of this statute for that purpose would be wholly unnecessary. It is to give to the President power to prevent the carrying on of this expedition, after it leaves the jurisdiction of the United States, against a foreign State, that this power is given at all. It would be utterly impossible to carry on an expedition against the territory of Nicaragua, a thousand miles off, and to carry it on within the jurisdiction of the United States, and it is absurd to suppose it. It is utterly impossible.

Again, sir, to a person of fair ordinary understanding, what is the meaning of this language: "To carry on an expedition from one nation against the territories of another?" Apply it to Governments, and by all the rules of construction it means nothing more nor less than to carry on war, aggressive war, by sea or land, by one Government against another. Applied to individuals, what is it? It is but a lawless incursion, by the citizens of one Government into the territories of another Government, to make lawless war against its citizens. It means nothing more, and it can mean nothing less. With all deference, therefore, to the opinions of honorable Senators, I must beg leave to say that, in my opinion, there is not a shadow of foundation for this construction of the act of 1818.

Allow me to inquire why any such construction should be given to it? Is there any reason for it? Is there any principle involved in it? What is our Navy for, and why do we expend millions in its support, if it is only to act within one marine league of our coast, within cannon shot from shore? Shall I be answered that the object of our Navy is to afford protection to our citizens, wherever they may go, over the sea, throughout the civilized world, and, at the same time, must I be told that that Navy must not be used by the President of the United States, as commander-in-chief, for the purpose of preventing organized bodies of our own citizens from carrying on lawless war against the citizens and territories of our friendly sister Republics? A glorious thing, indeed, it was when Commander Ingraham, in the harbor of Smyrna, threw the flag of the United States over the prostrate form of the poor Hungarian exile, fleeing from the Austrian police to seek its protection! Did he stop to inquire whether it was within the letter of his instructions? Did he stop to inquire, even, whether he was within the jurisdiction of the United States, and within cannon shot of its shore? Did he stop to inquire whether he was not within the waters of a neutral territory? No, sir. He did not point to any act of Congress, to any section of the statute, to any letter in his instructions. He looked, rather, down deep into his own heart, and read that law which the Almighty has stamped upon the conscience and the common sense of mankind. As he stood upon that deck, he remembered the honor, the dignity, and the power of that glorious Republic which he there represented. He looked upon that glorious flag which he bore, and pointed to his guns. It was a glorious thing, indeed, thus to afford protection to all, the humblest of our citizens, and to all who may claim our protection throughout the civilized world. But is it any the less glorious, or less a duty, before high heaven or the

world, to throw the protection of that giant arm over the weak and defenseless citizens of other nations, from lawless invasions by organized bodies of our own citizens? Mr. President, put yourself in his position, in view of all the facts, circumstances, and the exigencies, with which he was surrounded, and what would you have done? Had Commodore Paulding, when he arrived in the harbor of San Juan, quietly folded his arms as he stood upon his deck, and looked on, having full power to prevent it, Nicaragua being in no condition to resist it, but beseeching the Government of the United States to prevent it, and not have interfered, would he not have been an accessory to the crime?

This brings me to the consideration of another important question involved in this case, and that is, did Commodore Paulding, by the act of capturing and arresting Walker and his command on the soil of Nicaragua, violate the territory of Nicaragua, or the rights of Nicaragua? No other Government upon the face of the earth has a right to complain. The President says truly that the invaders of Nicaragua would have no right to complain, in her name, of the invasion of her territory. Put this case in the strongest light against Commodore Paulding, and what is it? He has inflicted no injury upon Nicaragua, no injury upon any human being; he has saved the lives of the citizens of Nicaragua, and perhaps the very existence of the Government itself. It must be conceded on all hands, that if Commodore Paulding has been guilty of any violation of law, it is the merest technical violation in the world, a mere imaginary injury which he has inflicted. Nicaragua not only did not complain, but she has ratified the act. More than a week before the President of the United States assumed to pass his censure upon Commodore Paulding, the letter of the Minister of Nicaragua, addressed to the State Department, had expressly waived any technical right to complain which she might prefer against the Government of the United States. She had expressly declared that she looked upon the act not as a violation of her territory, but as a friendly act, directed to assist her in defending her territory and its inviolability.

But aside from the fact that Nicaragua assented in advance; aside from the fact that Nicaragua has given her sanction and returned her sincere thanks and acknowledgments, since the act was done; I ask, upon the rules which govern the intercourse of nations, whether Nicaragua could have any right to complain, if she would? I will stand with the honorable Senator from Ohio, or any other Senator on this floor, and maintain the sacred inviolability of the territory of all neutral nations against hostile invasions. I admit the general rule of law to be that no State, with its armed forces, may enter the soil, or within the jurisdiction of another State, with hostile purposes. But while I admit this to be the general rule of the law, are there no exceptions? There is one exception, where express consent has been given in advance, as I maintain it was, in substance, in this case. There is another, when the consent may be presumed, from the circumstances and the necessities of the case, and may be subsequently ratified by the Government whose territory has been invaded. It is of the very essence of giving offense that the entry must be with hostile and not with friendly intentions. I go further, and maintain, that in cases of paramount necessity the forces of one nation may enter, not only without the assent, but even against the express refusal of the neutral Power, as in the cases to which I have already referred, of Commodore Dale, Captain Sterret, Commodore Rodgers, Commodore Decatur, and Commander Ingraham. So, too, in pursuing piratical expeditions they may enter upon neutral territory, and why? Because their entry is presumed not to be hostile, but to be friendly to the nation whose territory is entered. Pirates and robbers, by the laws of all nations are outlaws, and it is not to be presumed that any nation intends to afford protection to pirates and outlaws; and you may enter on their soil for the purpose of arresting them. Such were the instructions expressly given by the Government of the United States in the case of Commodore Porter.

"If, in the pursuit of pirates found at sea, they shall retreat into the unsettled parts of the islands, or foreign territory, liberty is given to pursue them so long only as there is reasonable prospect of being able to apprehend them."

As the case of Commodore Porter has been referred to, I may as well state that Commodore Porter, when he was put on his trial for the occurrences at Foxardo, was charged in the specification, not for entering on the soil of a neutral territory, but for capturing the citizens of Spain, and inflicting injury on them, and divers acts of hostility. But again, sir, Vattel, in speaking upon this subject, says:

"When, therefore, an army find themselves exposed to imminent destruction, or unable to return to their own country, unless they pass through neutral territory, they have a right to pass in spite of the sovereign, and to force their way, sword in hand." "Extreme necessity may even authorize the temporary seizure of a neutral town, and the putting a garrison therein, with a view to cover ourselves from the enemy, or to prevent the execution of his designs against that town, when the sovereign is not able to defend it."—*Vattel*, book 3, chapter 7, section 122.

But, Mr. President, if there are, as it is claimed by the friends of General Walker, some circumstances in his history which ought to rescue his name and his command from the odious epithet of being guilty of piracy, still, it must be acknowledged, as is stated by the President, in his message, that he has been guilty of "the crime of setting on foot, or providing the means for a military expedition within the United States, to make war against a foreign State with which we are at peace"—a crime of an "aggravated and dangerous character." It was a crime against Nicaragua; and so far as that is concerned, it was a crime in the nature of treason, for it aimed at the subversion of the Government itself. It was a crime against the Government of the United States also, in usurping the war-making power of the United States, which belongs to Congress alone, and so far it is in its nature of the degree of treason against the Government of the United States.

But, sir, I undertake to justify the act of Commodore Paulding on a still stronger ground; and this brings me to the point to which my honorable friend from Ohio has called my attention. There is no writer upon the law of nations, I believe, who does not maintain that, if one State knowingly suffers its citizens to organize for the purpose of carrying on war against a nation at peace with it, and it has the power to hinder it, it is a just cause of war if it does not hinder and prevent it. Bring this case home to ourselves. The President of the United States is right when he declares "that people never existed who would call any other nation to a stricter account than we should ourselves, for tolerating lawless expeditions from their shores to make war upon any portion of our territories."

Suppose that some General Walker, for months in the British provinces of Canada, should be engaged in setting on foot and preparing the means for a military expedition to sail and take possession of, and burn down, the city of Buffalo, in the State of New York; that these facts are well known to the Government of Canada; that they have the power at their command by which they can prevent it, but they suffer it to set sail, to arrive in the port of Buffalo, and destroy the city: will the honorable Senator from Ohio pretend that that would not be a just cause of war by the United States against Great Britain? Puffendorf, to whom I will again refer, lays down the rule in this language:

"No community, whether civil or otherwise, is obliged by any action of particular members, without some culpable act or omission of its own."—See *Grotius*, l. 2, c. 21, s. 2.

But among the several ways that commonwealths are involved in wars, from the injuries committed by their subjects, he mentions, as first among them, *sufferance*, and uses this language:

"As to the matter of sufferance, it is manifest that the person who knoweth the commission of a crime, and hath power to hinder it, without apparent danger of greater evil by doing it, and is obliged to do it, must be supposed to be guilty of the crime himself. For it is necessary the knowledge of the fact should be attended with the power to hinder it; one of these separately not being sufficient to communicate any share in the guilt, and the governors of commonwealths are presumed to know what their subjects frequently and openly commit; and their power to hinder it is always supposed, unless the want of it be manifestly proved."—See *Grotius*, l. 2, c. 21, s. 3, 4, 5, 6.

Governments, therefore, like individuals, may be held responsible, not only for what they do, but for what they omit to do; not only for what is done by their express authority, but for that which is done by their own citizens to the knowledge of the Government, and when the Govern-

ment has the power to hinder it. Let me take this case: by the Constitution of the United States no one of the States of this Union can declare war. The war-making power is in Congress alone; but suppose the State of New York, notwithstanding the Constitution of the United States, should, in fact, raise a large army for the purpose of taking possession of the provinces of Canada, and should invade its territories, take possession of its towns, and subjugate its people: would it not be a just cause of war by Great Britain against the Government of the United States? Would not war actually exist between the two nations? In vain would the Federal Government disavow the act; in vain would our Minister at St. James hold up the Constitution of the United States, and say that by the Constitution New York has no right to declare war—the war-making power rests with the Government of the United States alone. Sir, the unanswerable, the self-evident, the overwhelming reply, would come: "New York is a part of the United States; the citizens of New York are citizens of the United States, and they did make war. New York is a part of the United States, and it is the business of the Federal Government to see that New York obeys the Federal Constitution; it is the business of the Federal Government, and not the business of Great Britain." It would be in vain to disavow the act; in vain to declare that the State of New York had no power, by the Constitution of the United States, to make war upon the British territory. If this Government may be involved in war by suffering its own citizens to organize illegal expeditions for the purpose of waging war upon a friendly Government—if that be a just cause of war against this Government—then I maintain the doctrine to be inevitable that the Government of the United States is bound to exercise every power that it possesses to arrest that war at the very earliest moment, and to prevent its further progress.

I hold, therefore, that in this case, knowing that this expedition existed; having full power to hinder it; besought by Nicaragua to do so, Nicaragua being in no condition to resist it, we were bound by every principle of the law of nations, every dictate of common sense, every precept of religion and humanity, to arrest it at the earliest stage of its progress. I maintain that if Commodore Paulding, in that exigency, and within the harbor of San Juan, when he had this command of General Walker completely within his power, and within the reach of his guns, had done otherwise, he would have become accessory to the crime. Representing this nation, as he did, there on that ground, if he had refused to arrest him and his command, he would have committed the Government of the United States to the very war which Walker was waging against the Government of Nicaragua. From the hour that he should so refuse, every advance made by General Walker would be an advance by our permission; every blow he struck would be a blow struck by our own citizens, because we did not withhold it. Every shot he made would be fired by our permission; and every drop of blood that he shed would stain our hands.

Sir, in that exigency, Commodore Paulding could not have done otherwise than he did, without bringing dishonor upon the Government of the United States, upon its good faith, and its integrity. Nicaragua might complain, indeed, that we suffered this lawless expedition to violate her territorial jurisdiction; but she not only does not complain, she has no right to complain that we have withdrawn it from her jurisdiction. She might complain, indeed, that these forces from the United States were permitted to burn down the dwellings of her citizens, and to take their lives; but she has no right to complain because we restrained them from making any further progress in this lawless war against her. She might, indeed, complain that we suffered the tiger to be unchained, but not that we chained him up again. She might, indeed, complain that, by our own culpable act, when we had the power to hinder it, we "let slip the dogs of war;" but certainly she has no right to complain that we seized them and called them home again.

Sir, I maintain that this was a case of as imperative necessity as any case of self-defense. It was of vital necessity to save the lives and property of the peaceful citizens of the Republic of Nicaragua; and of vital necessity to save the very

Government itself. It was of equally vital necessity to save the honor, the integrity, and the good faith of the Government of the United States; and, perhaps, to save us from a war with Nicaragua, who, from her very feebleness, might become the most powerful of adversaries, enlisting not only the sympathy, but perhaps the support, of France, Great Britain, and the world, in arms against us for tolerating such expeditions against our peaceful neighbors.

Sir, let me strip this transaction of all its high-sounding titles; let me tear off all the paraphernalia of war; let there be no flags, no armament, no drums beating; bring it home to a simple transaction between individuals, and how does it stand? There is a maxim of the law under which we live, in every State, that a man's home is his castle; no person may trespass upon it; no intruder may enter it; even the officers of the law may be forbidden an entrance. Let me put this case: suppose the head of a family, or the head of a plantation, should be informed that his own sons, or members of his family, or others for whose acts he might deem himself responsible, had begun and set on foot an expedition, for the purpose of carrying it on against the peaceful dwelling on a neighboring farm or plantation, and that their purpose was in the night time to set fire to the dwelling, and burn it to the ground, with its sleeping inmates; suppose the head of this family, informed of these facts, should at once procure a force for the purpose of preventing this expedition from being carried on to its terrible consummation; they escape; he pursues them; he follows them upon the highway; he arrives upon the highway just in front of the premises, when, with their torches all lighted, they are ready to set fire to the dwelling: must he stop at the gate? Is there any law, human or divine, which forbids his entering upon the premises? Could he justify himself by saying: "I did not authorize it; I endeavored to prevent it; but I have no right to trespass upon my neighbor's premises, though I go to save his life, my sons from crime, and myself from infamy; my neighbor's home is his castle; it is sacred from all intrusion?" No, sir; he would become an accessory to the guilt, if he did not enter the premises, and even enter into the house, for the purpose of preventing the commission of the crime. Would any action of trespass lie against him? Is there a judge in Christendom who would not charge the jury, if they were called to try it as a mere question of technical trespass, that, from the circumstances of the case, the jury might presume that he entered with the permission of the owner, and that no action of trespass would lie against him?

Mr. President, I desire the attention of the Senate but a very few moments longer, while I run a parallel between the case of Commodore Paulding and the action of the present Administration in relation to it, and the case of General Jackson and the action of the Administration of Mr. Monroe. General Jackson entered the territory of Spain with an armed force, not only without its consent, but against the express remonstrance of its authorities. The Governor General, writing to General Jackson, says:

"I have solemnly to protest against this proceeding, as an offense against my sovereign; and I do exhort you, and require of you, forthwith to withdraw from the same, in default of which, and in case of a continuance of your aggression, I shall repel force by force."

In this case Nicaragua invites the act. Nicaragua tenders its sincere thanks and acknowledgments to the Government of the United States for what Commodore Paulding has done, as a friendly act towards the Government of Nicaragua. The reasons given by General Jackson, quoting from his own letter, I beg leave to state:

"This is the third time the American troops have been compelled to enter Pensacola from the same causes. Twice had the enemy been expelled, and the place left in quiet possession of those who had permitted the irregular occupancy. This time it must be held until Spain has the power or will to maintain her neutrality. This is justifiable, on the immutable principles of self-defense. The Government of the United States is bound to protect her citizens; but weak would be all her efforts, and ineffectual the best advised measures, if the Floridas are to be free to every enemy, and on the pretext of policy or necessity, Spanish fortresses are to be opened to their use, and every aid and comfort afforded. I have been explicit, to preclude the necessity of a tedious negotiation. My resolution is fixed; and I have strength enough to enforce it."

The reasons assigned by Commodore Paulding

for arresting General Walker and his command are stated by himself, as follows:

"I could not regard Walker and his followers in any other light than as outlaws who had escaped from the vigilance of the officers of the Government, and left our shores for the purpose of rapine and murder; and I saw no other way to vindicate the law, and redeem the honor of our country, than by disarming and sending them home."

"In doing so, I am sensible of the responsibility that I have incurred, and confidently look to the Government for my justification."

"Regarded in its true light, the case appears to me a clear one; the points few and strong."

"Walker came to Point Arenas from the United States, having, in violation of law, set on foot a military organization to make war upon a people with whom we are at peace. He landed there with armed men and munitions of war, in defiance of the guns of a ship-of-war placed there to prevent his landing."

"With nothing to show that he acted by authority, he formed a camp, hoisted the Nicaraguan flag, called it the 'headquarters of the army of Nicaragua,' and signed himself 'commander-in-chief.'"

"With this pretension he claimed the right of a lawful general over all persons and things within sight of his flag. Without right or authority, he landed fifty men at the mouth of the river Colorado, seized the fort of Castillo, on the San Juan, captured steamers and the goods of merchants in transit to the interior, killed men, and made prisoners of the peaceful inhabitants, sending to the harbor of San Juan del Norte some thirty or forty men, women, and children, in the steamer Morgan."

"In doing these things without the show of authority, they were guilty of rapine and murder, and must be regarded as outlaws and pirates. They can have no claim to be regarded in any other light."

"Humanity, as well as law and justice and national honor, demanded the dispersion of these lawless men."

"The remnant of the miserable beings who surrendered at Rivas were conveyed in this ship, last summer, to New York, and their sufferings are yet fresh in the memory of all on board."

"For the above reasons, which appear to my mind quite sufficient, I have disarmed and sent to the United States General William Walker, and his outlawed and piratical followers, for trial, or for whatever action the Government in its wisdom may think proper to pursue."

What was the language of the administration of Mr. Monroe, when the Spanish Government remonstrated with the Government of the United States for this invasion of her territory? Mr. Adams, then Secretary of State, in his letter to the Spanish Minister, says:

"By all the laws of neutrality and of war, as well as of prudence and of humanity, he was warranted in anticipating his enemy by the amicable, and, that being refused, by the forcible occupation of the fort. There will need no citations from printed treatises on international law to prove the correctness of this principle. It is engraved in adamant on the common sense of mankind. No writer upon the law of nations ever pretended to contradict it. None, of any reputation or authority, ever omitted to assert it."

Allow me to inquire, did the administration of President Monroe censure General Jackson? Did the administration of President Monroe send a message to any branch of Congress, filled up with half censure and half apology? No, sir. The language used by that Administration I beg leave to quote:

"The President will neither inflict punishment, nor pass a censure, upon General Jackson, for that conduct, the motives for which were founded in the purest patriotism; of the necessity for which he had the most immediate and effectual means of forming a judgment; and the vindication of which is written in every page of the law of nations, as well as in the first law of nature—self-defense."

The only regret that I feel is, that the present Administration did not stand by Commodore Paulding as the administration of Monroe stood by General Jackson, and instead of apologizing and half censuring the act, did not approve it openly, frankly, firmly, and have done justice to that gallant and veteran officer, who, under these trying circumstances, sustained the honor, the integrity, and the good faith of the Government of the United States.

There is a single remark in the passage I have just quoted, which strikes me with great force:

"Of the necessity for which he had the most immediate and effectual means of forming a judgment."

So it is, and so it ever has been, that in the midst of action upon the field or upon the sea the commander of armies or of fleets has the best means of judging of the necessity which compels instant action, from which he cannot withdraw without dishonoring himself, and where, as I said before, to wait for instructions would be a crime against God and man. It is to my mind no mystery why the popular heart pays its homage to the great military and naval commanders who have displayed this highest quality of the human mind. We all know in our own experience, that there are times when we see with a much clearer conscience and a stronger brain than at others. We know, too, that in the midst of action, in try-

ing emergencies, a military commander is often wrought up to the very highest point of enthusiasm, when all that is manly within him is roused to the point almost of inspiration, and he sees as no other eyes can see, the circumstances, the exigencies, the necessities which are pressing upon him for immediate, instant action. Especially was this true in reference to the great man now departed, to whose course I have referred. He was among the few of those men that occasionally appear upon the stage of human action to give direction to its affairs—one of those gifted, providential men, who are endowed with that which neither wealth can purchase, power monopolize, institutions of learning bestow, nor dying men bequeath; one of those who come into the world, whether in a palace or a manger, with souls lighted with celestial fire and natures stamped with the impress of God's nobility. Sir, the remark which is made by the administration of Mr. Monroe, in speaking of the conduct of General Jackson, that he had the best means of judging of the necessity of the act, is equally true in the case of Commodore Paulding. In my judgment, if he had done otherwise, if he had declined to arrest this expedition of Walker, he himself would have become accessory to it; he would have committed the Government of the United States, and made it responsible for every act that was done after his refusal to interpose.

Mr. President, allusion was made by the honorable Senator from Mississippi [Mr. Brown] to the case of Texas, and to the doctrine which was laid down by Mr. Webster and others, on that subject; but I have occupied the attention of the Senate so long already, that I fear I should do injustice to the Senate, as well as to myself, if I should continue the discussion any longer. I will only say, in conclusion, that I do not object to the doctrine of expatriation, as it is properly understood. I do not deny the right of all citizens of any nation in the world, peacefully to emigrate from one jurisdiction to take up their home within the jurisdiction of another; but I, at the same time, maintain that they have no right to make that the mere pretext or cloak for setting on foot a military expedition to go into the territories of peaceful neighboring republics, not to find a home, but to wage war against the citizens and the Governments of those republics.

Nor do I object to the peaceful expansion of the territories and the jurisdiction of the Government of the United States. When the Government of the United States and the policy of the Administration can be again restored to what I understand to be the true policy of the republican fathers in this Government; when the doctrine can be again enunciated, which I understand to be the true doctrine, that the Constitution of the United States of itself carries slavery nowhere; that the Constitution of the United States of its own force does not carry the law of slavery into any Territory or any State, I shall not object to the peaceful expansion of the territories of the United States. I have looked forward to the time when, in the visions of my youth, and in the hopes of my maturer years, I have expected to see, by peaceful acquisitions and treaty stipulations, the dominion of the United States bounded not only by the Atlantic on the east, and the Pacific on the west, but by the Arctic ocean on the north and the Isthmus of Darien on the south. I have looked forward to the period, and hoped I might see it, when, in the fullness of time and under the operation of the laws of peaceful emigration, all the continent of North America might become embraced within the dominion of the Government of the United States. With something more than a dream of fancy I have looked forward to the time, if the flag of the United States is not to be made the flag of slavery extension instead of the flag of liberty, when it will bear, not thirteen stars, nor thirty-one stars, but be spangled all over with stars, and our glorious mountain bird shall plant it upon the highest peak of the Rocky Mountains and the Sierra Nevada, where it shall bear, and bear forever, the chosen name and the chosen motto of our forefathers: upon the one side "the United States of America," and upon the other "*E Pluribus Unum*,"—though many, we are one—and that it will stand there forever.

Mr. BROWN. I have listened to the speech of the honorable Senator from Wisconsin with some pleasure and some profit. I gave notice the

other day of my purpose to move an amendment to his resolution. That amendment will indicate distinctly to the Senate how far I differ from the Senator who has just resumed his seat. I send it to the table, and ask to have it read.

The Secretary read the proposed amendment, which is to strike out all after the resolving clause, and insert the following:

That Congress has heard with surprise of the arrest of William Walker, and about one hundred and fifty other prisoners, at Punta Arenas, in Nicaragua, by Hiram Paulding, commanding United States naval squadron, on the 8th day of December, 1857; and seeing that said act was in violation of the territorial sovereignty of a friendly Power, and not sanctioned by any existing law, Congress disavows it; and being officially notified that said Paulding acted without instructions from the President or the Secretary of the Navy, Congress expresses its condemnation of his conduct in this regard.

Mr. BROWN. Mr. President, if I had any prepared, set speech to make, I should, of course, prefer making it on some other day than this; but I have not. What I have to say can as well be expressed in five or ten minutes as in as many hours. It will be seen that the proposition which I submit contains very few and very plain suggestions. I first assert, in the amendment, that Congress has heard with surprise of the arrest of William Walker and his associates, about one hundred and fifty in number, without giving to Mr. Walker any style. I do not even call him General Walker. I do not give to the people who were with him a habitation anywhere, but speak of them as they were—as persons. I claim that that is a truism in point of fact, that when the intelligence reached us, Congress was surprised. Is there a man who hears me now that does not respond to that declaration, that he was surprised by the intelligence that this arrest had been made?

When I take the ground that it was done in violation of the territorial sovereignty of Nicaragua, I do not undertake to locate the sovereignty or to give it any particular designation or direction. I simply take the ground that the sovereignty is somewhere; that it does not belong to us; that by invading it we violated it. Nicaragua is, beyond all question, no part of the United States. It is a foreign territory. Commodore Paulding, with an armed force, landed on the shores and made arrests, in violation of the sovereignty of that territory. I care not whether the sovereignty be in William Walker, as its legitimate President, or in the party who now claim it, or anybody else. It is a discovered country; the sovereignty rests somewhere, but beyond all dispute it is not in the United States. When we landed there with an armed force, and made arrests, we violated the sovereignty. I care not in whose person it may exist, or who has the right to control it for the time being.

The next proposition is, that the act was not sanctioned by any existing law. I listened to the speech of the honorable Senator from Wisconsin, to hear under what law this act of Commodore Paulding was to be justified. The President tells us, in the very outset of his message, that it was a "grave error" on the part of Commodore Paulding. He does not pretend, in his message, to justify it on any legal grounds—although he undertakes to palliate the offense, as I conceive it to be, of the commodore. I have listened, but I have listened in vain, for a suggestion from some quarter, which would show that there was lawful authority for this act. The Senator, it is true, has read to us from Vattel and Puffendorf, and other writers on international law, but all his authorities point to cases not at all like this. He has read us no authority from Puffendorf, or Vattel, or any other writer on international law, nor can he, which shows that you have the power to land on the shores of a friendly country and make arrests; to arrest the man who has been recognized as the President of the country by your own Government, and bring him away. William Walker was recognized as the *de facto* President of the Republic of Nicaragua. If there has been a legitimate and fair election in the country, it was in the case of Mr. Walker. At an election fairly conducted he was chosen President of the Republic; but he is arrested by a military force from the United States, violently dragged from his country, brought here, and then set at liberty.

I am glad that the Senator, in his anxiety to give a medal to Commodore Paulding, has not undertaken to justify the use of such violent expressions as that Walker and his men are pirates,

and outlaws, and buccaneers. These expressions interlard the whole of the dispatches from Commodore Paulding; and he puts his own defense on the ground that these men were pirates. He who perhaps understands, and has studied most deeply the ground on which he stands, undertakes to defend himself on the hypothesis that Walker was a pirate, and that his followers were pirates. If they were, I demand to know by what authority the President of the nation turned loose a pirate in the city of Washington? I demand to know by what authority one hundred and fifty pirates were turned loose in the peaceful streets of Norfolk? The defense has failed—wretchedly failed.

The President tells Congress in his message that he had no authority to hold Walker and his associates; that they were amenable, if at all, to the judiciary of the country, and to nobody else. Great God! sir, has the President no power to order a pirate to be held in custody? Shall it be set up here in the Senate that the President can send an armed ship, or an armed fleet, to Nicaragua, arrest a pirate upon a foreign friendly soil, bring him to the United States, and when he gets him here, just at that point his power ceases? This is a wretched, miserable pretext. I am glad to see that the pretext that Walker was a pirate, that his followers were pirates, is not defended in the Senate. The President has rightfully enough ignored the charge. He thinks Walker has violated the law; that he has committed a misdemeanor; that he is responsible to the judiciary of the country, to whom he quietly hands him over. But all this does not come to the point suggested in my amendment, that this arrest was not sanctioned by any existing law.

If it was in violation of the territorial sovereignty of a friendly Power, and was not sanctioned by any existing law, then does not my conclusion follow as a matter of course, that Congress must disavow it? That is all I ask you to do, up to that point; to disavow that which is in violation of the territorial sovereignty of a friendly Power which is not pretended to be sustained by any existing law of your own country. I continue:

And being officially notified that said Paulding acted without instructions from the President or the Secretary of the Navy, Congress expresses its condemnation of his conduct in this regard.

I put the condemnation expressly on the ground that his lawless act is disavowed by the President and the Secretary of the Navy. If they had avowed it, I would have directed my censure to a higher mark. If they had avowed it as an act of the Government, I should have asked Congress to pass a vote of censure against the Secretary or the President, or whoever gave the order.

We have fallen, sir, upon strange times, and, in my judgment, have sadly departed from the lessons taught us in the earlier, and, I might add, better days of the Republic. In 1822, Commodore Porter, who wore his epaulets and bore his sword with distinguished credit, was sent in the command of a squadron to the Gulf of Mexico, and ordered to cruise in the West Indies and the waters of the Gulf, in search of pirates. He was told, as the authority before me shows, clearly and distinctly, that he might pursue the pirates on land; that they were the enemies of the human race; that all civilized men were combined against them; but he was told, at the same time, that he must not pursue them in violation of the local authorities of any country. He might continue the pursuit until he should be bidden to give it up, and then he must cease. In 1824, it was ascertained by Lieutenant Platt, one of the subordinate officers in that squadron, that a large quantity of goods had been stolen from Saint Thomas, and probably carried to Foxardo, in the Island of Porto Rico. Lieutenant Platt pursued, and having accumulated such evidence as satisfied him that the goods were secreted at Foxardo, he landed with a view of finding them. Some persons not authorized to arrest his progress, forbade his pursuing them; but being informed by others that these were not persons in authority, and seeing, therefore, that he was not violating the letter of his instructions, he went forward. He found the officer of the port, who received him cordially, and promised him assistance. While he was actually engaged in a search for the stolen goods—

goods stolen, not by imaginary, but real pirates—the alcalde suddenly changed his mind, seized the lieutenant, thrust him into prison, and heaped divers insults and outrages upon him. Commodore Porter, receiving intelligence of these events, went to Foxardo and landed a military force, with a view of demanding reparation for the insult offered to the American flag, borne by Lieutenant Pratt, under the circumstances which I have named. It became necessary to spike some guns; but no blood was shed, no gun was fired. The alcalde, on a sort of promise from Commodore Porter, that he should be protected in the exercise of his lawful authority, and that there was no purpose to subjugate him, at once came out and said frankly, "I have committed this outrage under compulsion, by orders."

Commodore Porter was acting strictly within the letter of his instructions, as he claimed, and as I believe, from very recent investigations of all the papers; but it suited the Spanish authorities to complain of him. He was at once relieved from his command, and ordered home to be put upon trial. After being detained here for weeks and weeks, the Administration in the mean time having undergone a change, Mr. Monroe having gone out and Mr. John Quincy Adams having come in, Commodore Porter complained of the delay. He filed a letter with the President, and perhaps two or three with the Secretary of the Navy, complaining of the delay which had occurred in his trial. Finally he was put on his trial before a naval court-martial. He was convicted and sentenced to six months' dismissal from the service of the United States. Here was a gallant officer, covered over with scars, entitled to stars, garters, and medals, arrested by the order of his Government because he had landed upon a friendly soil, and undertaken to make arrests, not of imaginary, but real pirates—people who were confessed to be so; not only relieved of his command, but brought back to the United States in disgrace, put upon his trial, convicted, and sentenced.

While I do not stand here to defend the harsh proceedings in that case, I instance it for the purpose of showing what measure of justice was meted out in the earlier days of the Republic in comparison with that which the Senator from Wisconsin proposes to mete out to Commodore Paulding. Here was a man acting within the letter of his instructions; but the Administration had undergone a change. He had been told that these people were the enemies of all mankind. President Monroe had two or three times complained in his communications to Congress of the want of efficiency in the Spanish authorities. He had called on Congress to nerve the arm of the Executive to chastise these depredations on our commerce in the waters of the Gulf of Mexico. Mr. Monroe had declared to Commodore Porter, through Mr. Smith Thompson, then Secretary of the Navy, in express terms, that in pursuing the pirate he might land upon any soil, but that he must not—mark you—continue the pursuit after persons in authority should forbid his doing so.

Lieutenant Platt claimed that he had not violated that instruction; that he had lived up precisely to the very letter of it; that when told by persons not in authority to cease the pursuit, he had determined to do it until he was informed that these people were not authorized to give any such command; that he then proceeded, that he was received cordially by the commander of the port and by the alcalde, persons in authority, who promised him their assistance; and then in the midst of all that he was thrown into prison, charged himself with being a pirate, his flag insulted, and himself derided. Then Commodore Porter landed, as I have said before, for the purpose of chastising this insolence, and was promptly met by an apology. On these general facts, I say again, he was arrested, tried, convicted, and sentenced, and the sentence was carried into execution. Now, with a case before us, where a commodore, according to the Secretary of the Navy and the President, is acting clearly beyond his instructions, without authority, landing upon a foreign soil, without any sort of shadow of authority from the President or Secretary, making important arrests, we are called upon to vote him a medal.

There is another point in this transaction: Commodore Porter was tried, among other things, for insubordination in writing insolent letters to the President and Secretary of the Navy. I have the

letters before me, but do not care to weary the Senate by reading them; but let Senators take the letters of Commodore Porter in 1824 and 1825, and compare them with the insolent productions of Commodore Paulding addressed to the present Secretary of the Navy; and answer me whether, if Porter was tried, convicted, and sentenced for writing such letters as he wrote, what ought to be done with Commodore Paulding for writing such as he has written? I am not here to say that Paulding ought to be punished for writing an insolent letter to the Secretary of the Navy. If the Secretary does not think proper to vindicate himself, he may go unvindicated; I shall not stand here in his defense. What I say is, that we are falling upon strange times, when a commodore—a flag-officer—can write to the Secretary of the Navy, and actually reprimand him. Take his letter and read it. It is an actual reprimand, addressed by a commodore in the service to the Secretary of the Navy, saying, in effect, "Sir, you foggy, you nincompoop, you are meddling with a matter you know nothing about; let me and my command alone." The Secretary of the Navy writes back very complacently that he did not really mean to reprimand him; but, after all, he thinks he has some authority; and he rather thinks he has the right to dispose of the naval force as he pleases. It was not so in other days. If that letter had been addressed by Commodore Porter, or by any of the older commodores, to such a Secretary as Smith Thompson, or Samuel L. Southard, he would have been arrested, he would have been tried, he would have been convicted, and he would have been punished. If the present Secretary of the Navy does not think proper, however, to vindicate his official honor, he can let it alone; it is none of my business.

The question with which we have to deal is, whether we will vote Commodore Paulding a medal for these services. Just think of it. The joint resolution proposes that the President have a medal, with suitable devices, presented "as a testimonial of the high sense entertained by Congress of his gallant conduct." Great God! Commodore Paulding, commanding as many, perhaps, as one hundred guns—I have not made the estimate of it, but there were certainly so many—having disposed of them at his leisure, with five or six hundred men, captures—what? Walker and a handful of filibusters, who laid down their arms at the very first summons, and made no sort of resistance upon paper or anywhere else, and Congress is called upon to vote a falsehood—that in this there was extraordinary gallantry! I know very well that the commodore, writing home to the Government, says that all his men behaved with extraordinary gallantry. Why, sir, I suppose the next thing will be, if our army should approach Salt Lake, and all the Mormon men should be away, and they should make a desperate charge and capture all the women, they must all have medals for their extraordinary gallantry. [Laughter.] It would be a much more gallant act than this act of Paulding, and one much more deserving a medal.

I object to this resolution, because it is not true in point of fact. It is asking Congress to vote a falsehood—I beg the Senator's pardon; I do not mean it in any offensive sense—but it is not true in point of fact that Paulding has displayed any gallantry. There was no occasion to display gallantry. Who does not know that at the very first instant, upon his summons, Walker and his men laid down their arms? They did not even threaten to fire. The gallant heroes, with Commodore Paulding at their head, walked upon the shore and then walked back again; and for that, Congress is to vote a deliberate historical falsehood, that they have displayed extraordinary gallantry! Then their conduct is said to have been "judicious." Judicious in what? Judicious in obeying his instructions? I thought it was the duty of officers, naval and military—nay, sir, I thought it the first duty of a soldier—to obey the letter of his instructions.

Then we are asked to assert that all this was done "in arresting a lawless military expedition set on foot in the United States." That assumes the whole matter in controversy. I undertake to say that the expedition was not lawless, and that no facts have been presented to show that it was so. Even the enthusiastic Senator from Wisconsin admits the right of expatriation. He would claim

for himself at this very moment the right to leave the country, to swear allegiance to any other Government; and in going, to bear arms upon his person, would he not? Is there a Senator here; is there an American citizen who listens to me at this moment, who would not claim for himself the right to leave his country, to expatriate himself, to swear allegiance to any other Government, and in doing so, to bear arms on his person? Did Walker, or any of those supposed to have been under his command, do anything more? They went, and they went with arms in their hands, as they had a right to do, as the President admits, as every Senator that has yet spoken admits, and as the Senator from Wisconsin claims that he would have the right to do. Then, by what authority is it called lawless? Have men acted in a lawless manner in doing that which all of us claim we have a right to do? Is there any lawlessness in doing that which every man insists every American citizen has a right to do, and which you may not hinder under any existing law, and for the hindrance of which you never will pass any law through Congress?

It is assumed that the expedition was set on foot in the United States. Where is the evidence of it, sir? Where is the proof. I deny it? I say the fact is not as stated. I say there was no expedition, lawless or otherwise, set on foot in the United States. I admit that persons who were born under our flag and entitled to the protection of our laws, went voluntarily, every man acting on his own responsibility, with arms in their hands, with a view to assist what they claimed to be the rightful Government of Nicaragua, in the person of William Walker. This, I claim, they had the right to do. It was no expedition set on foot. It was a body of American citizens, each man for himself, acting for himself, and on his own responsibility, doing precisely what, under the law, he had a right to do. When they got beyond the limits of the United States, if they organized an expedition, and placed William Walker, or any other man, at the head of it, I claim that they did only what they had a right to do, and for the doing of which they were in no manner responsible to the laws of our country. If the doctrine can be maintained, that we are overseers of the high seas, that our police jurisdiction extends everywhere—not only on our own soil, and within our own waters, but upon the high seas, even to Nicaragua, and every other country—then I grant you there may have been some violation of law; but I claim that your jurisdiction is confined to the soil and to the single marine league, and for the purposes of the commercial law, three marine leagues; and by no stretch of law, by no stretch of imagination, can you carry it beyond three marine leagues. It being admitted that Walker was not only off our soil, but without the jurisdiction of the waters over which we hold control, not only not upon the water, but actually upon the soil of a foreign country; and there being no evidence that any expedition was fitted out or set on foot on our soil, within our jurisdiction, or on the high seas; and the expedition, if it existed at all, was found on a foreign soil, then I claim that that declaration in the Senator's resolution, is not true in point of fact. It is a simple naked declaration, which Congress is asked to vote, but which is not sustained by any evidence on God's earth.

I said, Mr. President, at the outset, that I had no regular prepared speech to make. In reference to the case of Commodore Porter, to which I have alluded, I have forbore to read the correspondence, the letters, and instructions, because I did not care to consume the time of the Senate; but the facts are as I have stated them, as proven by the volume before me, to which I have turned my attention, and given some study. If we are to vote Commodore Paulding a medal, I hope it will be done for reasons which are at least true in themselves. If we are to vote censure against him, I want it to be done for reasons which are true. If I have not stated the reasons correctly in my amendment, on the suggestion of any Senator I will modify or change them. I think they are rigidly correct, strictly and emphatically correct in every particular. I intended they should be so. If I am mistaken, I shall listen to the suggestion of any Senator, and change it until the facts and the legal positions are stated correctly; but I cannot stand by quietly and see a proposition intro-

duced and gravely urged here, to vote a medal to an officer for violating the laws of his country, for doing that which the President tells us was a "grave error," and which has not been, and cannot be, defended on any grounds, legal or moral.

Mr. PUGH. When the message of the President on this subject was read some days ago, I took occasion to declare that, in my opinion, the arguments of the President were not justified by any law, and that the action which had been taken by the naval commander was contrary to law. I should not have referred to the subject again, not even for the elaborate argument of the Senator from Wisconsin, had I not observed in the reports of remarks made elsewhere, some very confident and very positive assertions on this subject.

What is this transaction as it comes before us? A post-captain in the Navy finds Mr. Walker and one hundred and fifty other persons, some of whom are said to be citizens of the United States, and some have no citizenship at all so far as we know, within the territory of another nation, on a bleak point of land, and he arrests them; the chief-tain he brings here, or rather brings him to the city of New York, and then causes him to be brought before the Secretary of State. When the party arrested asks, "of what am I accused?" the Secretary tells him to go his way; there is no accusation against him. His followers, one hundred and fifty in number, are brought by the Navy to the port of Norfolk, and they are turned loose. There is no accusation against them.

Now, sir, the first question which I put before, I put again: were these men arrested as fugitives from the justice of the United States? If they were, why were they not handed over to the judiciary? Why was not the marshal of the southern district of New York told to take William Walker and hand him over to the marshal of the eastern district of Louisiana, where it is said this offense was committed, if he were a fugitive? Why were not these one hundred and fifty other men delivered over to the custody of the marshal of the southern district of Alabama, where it is said they set on foot their expedition? Sir, it is idle for any man to say that they were arrested as fugitives. I grant the power of the President, under the law, to pursue a fugitive from the justice of the United States. He may pursue him over the whole of the high seas. He may take him by an extradition treaty, or by an oral extradition for the case, from any other country, and the fugitive cannot complain. The pretense that these men were fugitives is an excuse invented after the act. If they were fugitives, why were they not handed over to the power which was capable of trying an accusation of this character? All arguments, therefore, as to the power of the President, as commander-in-chief of the Navy, to pursue a fugitive from the justice of the United States are out of the case.

Were they arrested as pirates? Then I make the same question: what is the law on that subject? It is settled. You can try a pirate at the first port to which you bring him. Why was not William Walker committed to prison in the city of New York? Why were not his followers committed to prison in the State of Virginia? There is no trial, no accusation; they are turned loose; in fact, there is no pretense that they committed any act of piracy. We know what that is. It is an act of violence, of robbery, or of murder, committed on the high seas, beyond the jurisdiction of any nation, upon any peaceful person or any peaceable ship. These men are not accused of that.

Then, sir, for what have they been arrested? Senators say they are arrested by the consent of Nicaragua. Can she give power to the President of the United States, by her consent? Who ever heard before that a foreign nation can consent that our Government, or our executive officer, shall exercise power? He must get it from the laws of his country. He cannot get it by the consent of any other Power; so that the question of the consent of Nicaragua is out of the case.

Then we are told that he gets it by the law of nations. Where? These men, I am told, have committed an offense against the law of nations. Where is it? The Constitution of the United States has a clause, that disposes of all this in a moment. Here is the power conferred on Congress:

"To define and punish piracies, and felonies committed on the high seas, and offenses against the law of nations."

Is the offense defined by Congress? If it is, hold them to a trial. If it is not defined by Congress, the President cannot execute it. Execute an unwritten law of nations against an individual! Why, sir, the power lies with Congress to define the offense and punish it. Let us have done, then, with all arguments arising from the law of nations. The President cannot execute them, unless they have been defined by acts of Congress. Now we come back to the question.

It is suggested that the President, as commander-in-chief of the Navy, has some power. What is his power? It is the same over the Navy and over the Army, and over the militia. It is a power to execute the law of the land; but you must have a law before it can be executed. He has the right to call out the Army, or naval forces, or the militia, to aid civil process to preserve the public peace. These things are defined by law; and we come back at last to the question, where is the act of Congress which authorizes the President of the United States to go to the territory of Nicaragua, or go to the coasts near her, and exercise a police power? Sir, it must be an act of Congress. It cannot be the consent of Nicaragua; it cannot be the unwritten law of nations; it cannot be any of his power as commander of the naval forces. Where is the act? Gentlemen tell me that it is the act of 1818; and it is that or nothing. To begin with, the act of 1818 is a municipal law. It is not a law to define and punish any offense against the law of nations. It is a law to punish offenses against our own municipal sovereignty, and so the Supreme Court has decided, and so its manifest text and interpretation are. Its title is so: "An act in addition to the act for the punishment of certain crimes against the United States." Against our sovereignty, our municipal sovereignty; and so it is in every section. The first section provides—

"That if any citizen of the United States shall, within the territory or jurisdiction thereof, accept and exercise a commission to serve a foreign prince, State, colony, district, or people," &c.

"Sec. 2. If any person shall, within the territory or jurisdiction of the United States, enlist or enter himself," &c.

"Sec. 3. If any person shall, within the limits of the United States, fit out and arm," &c.

"Sec. 5. If any person shall, within the territory or jurisdiction of the United States, increase or augment the force of any ship-of-war, cruiser, or other armed vessel," &c.

"Sec. 6. If any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition," &c.

These are the offenses. There is but one offense in this whole statute, the *locus in quo* of which is outside of the territory and jurisdiction of the United States, and that is defined by the fourth section. What is that?

"Sec. 4. And be it further enacted, That if any citizen or citizens of the United States shall, without the limits thereof, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in the furnishing, fitting out, or arming, any private ship or vessel-of-war, or privateer, with intent that such ship or vessel shall be employed to cruise, or commit hostilities, upon the citizens of the United States or their property," &c.

Not against Nicaragua, but against another citizen of the United States. That is the sole offense provided for from the beginning to the end of this statute, that can be committed out of the territory and jurisdiction of the United States; there is no other.

Now, sir, what is the eighth section of the act? That does not define any crime; it is in furtherance of the other provisions. It is a long section:

"Sec. 8. And be it further enacted, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel-of-war, cruiser, or other armed vessel, shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States, as before defined; and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel-of-war, cruiser, or other armed vessel of any foreign prince or State, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or State, or of any colony, district, or people, in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such ship or vessel, with her prize or prizes, if any, in the order to the execution of the prohibitions and penalties of this act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on of any

such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or State, or of any colony, district, or people, with whom the United States are at peace."

What is the President's power under that? It is to use the land or naval forces, or the militia, to prevent the carrying on of an enterprise from the jurisdiction of the United States. Where is he to exercise it? In Nicaragua? Look at the words of this section. The power given to the President is a power to prevent. It is to prevent an expedition before it starts from the territory of the United States. It is to prevent the carrying on of it, not to stop it after it has been carried on. He is to prevent the carrying on of an expedition, not to arrest the expedition after it has disembarked at the port to which it is destined. He is to prevent its being carried on from the territory of the United States, not to arrest it in the territory of some other Power.

Why, sir, such a collection of words of settled signification in the English language, and according to all the principles of law, cannot be found in any other statute. To give this law the construction that gentlemen claim for it, is to give the President of the United States a power as absolute as that of the Autocrat of Russia. I say his power, under this section, is no greater over the naval forces than over the land forces; and it is no greater over the naval and land forces than it is over the militia of any State of the Union. And now let us see what gentlemen have to say to the consequences of their own argument. William Walker was in Nicaragua. They tell us the President could send the naval forces there to bring him away. To be sure, his expedition was over, as far as it was an expedition. It had reached the destined shore. It was an expedition no longer. It was expedition expedite. It was not being carried on. It was already completed, so far as the expedition was concerned. It is said the President can go to Nicaragua and bring them away, and can take the Navy for that purpose! Can he take the Army? Can he take the militia? If he can take the Navy, he can take the Army and the militia, and when is the power to stop? He found these men at the mouth of the river; he took them away peaceably. Suppose they had refused to come; suppose, when Commodore Paulding summoned the surrender, they had refused to surrender; suppose, when he fired, they had fired again; then, where is the President's power? To make war in a foreign country, to take the Navy, the Army, and the militia, to carry on a war in a foreign country, without any act of Congress! Some of them had gone up the river forty or fifty miles, and had taken possession of a fort.

Does the President's power extend to sending the Army and Navy up the river? He summons the fort to surrender, and the fort does not surrender; has he the power to fire on it? And if he and his troops be beaten and driven off, has he the power to get reinforcements and go again? Suppose, after he has arrived there, General Walker and his men succeed in defeating the forces of the United States: has the President power to make new levies? Is it true that, under this act of Congress, the President, of his own will, without notice to Congress, without leave of Congress, can transport not merely the Navy, but the entire Army of the United States, and the militia of every State of the Union, into Central America to carry on war? That is what it comes to.

I said before, and I say again, that the law is susceptible of no such construction. It violates the plainest rules of English grammar. It violates the plainest principles of constitutional law. The power of the President is to use the Army and the Navy and the militia to prevent the expedition; to prevent its being carried on from our territory; and when he has done that, his power is at an end. If they succeed in escaping him, it is no more than happens with regard to twenty other crimes that are committed every day. If he wants more power, let him come to Congress. But he has not it yet; and that, in my judgment, is the whole of this question.

It is said that William Walker sailed in an American vessel, and that the American vessel belongs to our jurisdiction. True, and for any offense committed whilst on board that vessel he is amenable to our law; but it is not alleged that he committed any, for it is not an offense, under the

act of 1818, to fit out an expedition in foreign ports against citizens of other Powers; but only to fit it out against our own citizens.

The Senator from Wisconsin said the other day, as I understood him, that the Government was responsible for acts of violence committed by its citizens. I said then that I should like to hear the law for that. It is a monstrous proposition. If one of our citizens goes over into Canada and commits a homicide, are we amenable as a nation? Certainly not.

But the Senator was to show me the law for it; and he read, with great self-satisfaction, a paragraph to the effect that if a Government knowingly permits its subjects to commit acts of aggression, and, having the power to prevent them, does not prevent them within its limits, it becomes a *casus belli*. I do not doubt that; I do not deny it. That is not the proposition at all. The proposition is, that these men, according to his own statement, escaped all our just means of prevention, went beyond our limits, and there committed their offense. If they had been arrested by the President, or if they had been delivered up to Commodore Paulding by the authorities of Nicaragua as offenders against our law, and restored here, it would have been a different case; we could have proceeded to a trial; but these men have had no trial. Their property has been taken from them; their enterprise, whether it was good, bad, or indifferent, has been broken up; and when they ask for redress, or ask for attention, or for some sort of hearing; demand to know the nature and cause of the accusation against them, why they have thus been interrupted, we are entertained with a discourse about the evils of filibustering.

I did not, on the former occasion, say a single word in favor of William Walker and his enterprise. I do not know that I understand his enterprise. If he has gone hence to a peaceful country and committed acts of aggression and violence upon unoffending people, he deserves the severest reprehension; but if he has gone to a country that has been distracted by civil war for the last ten or fifteen years, and especially if he has been invited there, and has taken upon himself and his followers all the fate of war, he has done no more than all the conquerors and great soldiers of antiquity and of modern times have done.

We are told of the virtuous indignation of Nicaragua. What is Nicaragua? She is but a name, a myth to-day. Who is this gentleman who assumes to forgive her debts? He is a sort of general agent and attorney for half a dozen of the nations down there. He represents one or another of them in these papers, as he finds it most convenient. If there be any truth in them, Nicaragua is conquered by other and adjacent Powers, and even the conquerors cannot hold possession of the territory; but they assume, in her name, to set up a sort of sovereignty, and to send representatives to our Government.

If this be so, William Walker does not deserve half the reprehension; but it is not a case of his enterprise. It is not a case of Commodore Paulding. I do not care whether Congress vote him a medal or not. I shall vote him no medal; that is very certain. I do not care to pass on the particular question whether he did or did not transcend his instructions. These are questions of an hour; but the great question that lies behind, is a question which touches the right of every American; ay, that touches the integrity and salvation of the Government, if the President of the United States has this mighty power. If, within our limits and jurisdiction, he can do nothing that is not set down in our statute-books; but the moment he goes out on the high seas, or the moment he goes into some foreign country, the consent of that country can arm him with a new and despotic authority, it is high time that we had found some limits to an executive power as extraordinary and as absolute as this. Consent of Nicaragua! Suppose Great Britain consents, to-day, that our President may transport the militia there, will that make it legal? Would that excuse him from impeachment, if the Grand Jury at the other end of the Capitol should bring him to our bar? He has no more power to take the Navy than to take the militia. Suppose Russia consents that the President may take the militia of the State of Wisconsin to the Crimea, for the purpose of bringing

back any American he may find lurking there in suspicious attitude, or suspicious enterprises, will that authorize him to do it?

Sir, this is the answer to it all. The power of the President over the Navy, under that law, and under that section, is the same exactly as his power over the Army and over the militia. If he can take the Navy, he can take the Army and the militia. If he can go to the coast of Nicaragua, he can touch the shore of Nicaragua. If he can touch the shore, he can go into the interior. If he can direct his officer to point his guns, he can direct the officer to fire, and return a fire; and thus you have authorized the President, by this doctrine, to go abroad and make war on his own account, and that under a law which, in the jealous language of our ancestors, was careful in conferring on the President power to use military force.

As the Senator from Georgia [Mr. Toombs] well said, when this subject was under debate before, our ancestors for many reasons would not allow the President to use the Army or Navy even to execute the laws of the United States within our own limits. They would only intrust him with the militia. It was not until 1804, I think, that he was authorized to call in the Army and the Navy; and he is authorized to use them now to the same extent in those places where the writs and warrants of the United States run, in those places which are so peculiarly our own, that if a foreign nation makes a capture there it is a violation of our sovereignty. Within that dominion where we have a right to arrest offenders by civil process, there, as on the land, he can use the land and the naval forces and the militia for the purpose of making arrests, and preserving the public peace. That is the whole of the law. If the President wants more power, if the case requires more law, I am ready to receive the application with the utmost patience, and with the utmost confidence in the President himself; but I say again, when power is to be drawn by construction, it ought to attract the attention of Congress and of the country. That is the insidious approach through which arbitrary power comes on every people. It is generally to be justified by the bad conduct or the bad character of the person to whom it is applied. We are told that anything is justifiable against pirates and filibusters; and having adopted that principle, having relaxed our vigilance as guardians of public liberty, we are then to have the precedent set by which in future time perhaps other Presidents, not like this one, may go on to execute arbitrary authority over his fellow-citizens on the high seas, and in other countries.

Mr. PEARCE. Mr. President—

Mr. CLAY. I will suggest to the Senator from Maryland, if he proposes to continue the discussion at this time, that other Senators on this side of the Chamber desire to say something on it, and that we may be detained here to a very late hour, if we continue the debate now. I ask him if he would prefer speaking this evening? If not, I will move an adjournment.

Mr. PEARCE. I will consent to that.

Mr. MASON. Allow me one instant. I intended, if I could be fortunate enough to get the floor, without the slightest discourtesy to the Senator who introduced this resolution, to have moved that it should be laid on the table, for the reason that this whole subject has very recently, within the last week, been referred to the Committee on Foreign Relations; and I feel a strong assurance that that committee will be prepared to report at the next meeting of the Senate. The whole question will then be before the Senate in a considered form. Unless it is objected to, I will now move to lay the resolution on the table.

The VICE PRESIDENT. The Senator from Maryland is entitled to the floor.

Mr. MASON. Of course I will not interfere with the Senator from Maryland, if he desires to speak on the subject.

Mr. PEARCE. I give way for an adjournment.

Mr. GREEN. I desire an executive session.

EXECUTIVE SESSION.

On motion of Mr. GREEN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 21, 1858.

The House met at twelve o'clock, m. Prayer by Rev. Jabez Fox.

The Journal of yesterday was read and approved.

QUALIFICATION OF A MEMBER.

Hon. DANIEL W. GOOCH, a Representative elect from the seventh congressional district of Massachusetts, in the place of Nathaniel P. Banks, resigned, appeared and was qualified by taking the oath to support the Constitution of the United States.

MEMBERS OF COMMITTEES EXCUSED.

Mr. KUNKEL, of Pennsylvania. I rise, Mr. Speaker, to a matter personal to myself, which will occupy but a minute. I am constrained to ask the House to excuse me from serving upon the special committee raised under the resolution of the gentleman from Ohio [Mr. STANTON] to investigate the disbursement of a New England manufacturing company to influence the legislation of the last Congress on the tariff. I am already on one of the most laborious committees in the House; and for other reasons, of a personal nature, I think it utterly impossible to render any service to that committee at the present time. Therefore, I hope the House will excuse me.

Mr. DURFEE. I hope the gentleman from Pennsylvania will not be excused from service upon that committee. The gentleman will recollect that, in the course of his remarks the other day, in his very earnest manner he accused the gentlemen from New England of having joined hands with the free traders of the South to strike down the interests of Pennsylvania. I will not say, and do not say, that he said they were influenced by the money of Lawrence, Stone & Co., though, from the connection of his remarks, such an inference might be easily inferred. Now, although, after the report of the committee of conference at the last Congress upon the tariff, my vote was recorded against its final passage—

Mr. J. GLANCY JONES. What is the motion before the House?

The SPEAKER. The gentleman from Pennsylvania asks to be excused from service on the committee under the resolution of the gentleman from Ohio.

Mr. J. GLANCY JONES. Is the gentleman talking to that, and objecting to it?

Mr. DURFEE. I do object to it. Although after the report of the committee of conference, at the last session, which emasculated the bill so far as the interest of the cotton manufacturers was concerned, my vote was recorded against its final passage, still, as one of the Representatives of New England, I wish to see this matter thoroughly investigated; and for that reason I hope the gentleman from Pennsylvania will not be excused. I want his mind relieved upon the subject. I cannot, and will not credit the reports of corruption on the part of members of Congress.

Mr. PHELPS. I rise to a question of order. It is that the remarks now being submitted by the gentleman from Rhode Island are not relevant to the question of excusing the gentleman from Pennsylvania from service upon the committee; and I also submit that the question is not debatable.

The SPEAKER. The Chair knows of no rule which prohibits debate upon this proposition.

Mr. STEPHENS, of Georgia. There is a rule which prohibits debate upon a motion to be excused from voting.

The SPEAKER. There is such a rule, but no rule prohibiting debate upon a motion to excuse from service upon a committee; but the Chair is of opinion that the remarks of the gentleman from Rhode Island should be confined directly to assigning reasons why the gentleman from Pennsylvania should or should not be excused from service.

Mr. DURFEE. At the request of friends I withdraw my opposition.

Mr. KUNKEL, of Pennsylvania. I would just like to make this remark to the gentleman from Rhode Island, that if what he supposes to be the case were true, he ought to know that I should be the last man to be on the committee. I want him to have a fair committee.

Mr. PHELPS. The gentleman has addressed

the House once upon this question. I must object. The committees are anxious to make reports.

Mr. KUNKEL, of Pennsylvania. Oh, well, sir, I have no disposition to trespass further upon the time of the House.

The question was then taken; and Mr. KUNKEL was excused.

Mr. PURVIANCE. I ask the House to excuse me from serving on the special committee to investigate the conduct of the Doorkeeper of the last House. I have reasons for making this request of the House which I have communicated to the chairman of the committee, and which I believe are perfectly satisfactory to him. I hope, therefore, that I may be excused.

The question was taken; and Mr. PURVIANCE was excused.

The SPEAKER then proceeded to call the committees for reports.

CHARLES J. INGERSOLL.

Mr. PHILLIPS, from the Committee of Elections, reported a bill for the relief of Charles J. Ingersoll; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

APPROPRIATION BILLS.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, reported the following bills; which were severally read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed:

A bill making appropriations for the preservation and repairs of fortifications and other works of defense, barracks, and quarters, for the year ending 30th June, 1859;

A bill making appropriations for the naval service for the year ending 30th June, 1859;

A bill making appropriations for sundry civil expenses of the Government for the year ending 30th June, 1859; and

A bill making appropriations for the legislative, executive, and judicial expenses of Government for the year ending 30th June, 1859.

DEFICIENCY FOR PUBLIC PRINTING.

Mr. PHELPS, from the Committee of Ways and Means, reported a bill to appropriate money to supply deficiencies in the appropriations for the paper, printing, binding, and engraving ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses; which was read a first and second time.

Mr. SMITH, of Virginia. What is the amount of the deficiency? I would like the bill to be read if it is not very long.

Mr. PHELPS. I do not propose that the bill shall be acted upon at the present time. It cannot be acted on in the House. It must be considered in Committee of the Whole on the state of the Union, and I move that it be referred to that committee, and be printed.

In reply to the inquiry of the gentleman from Virginia, [Mr. SMITH,] I will say, that upon inquiry and examination, the Committee of Ways and Means find that there is a large deficiency for the purpose of paying for paper, printing, binding, and engraving which had been ordered by the Senate and House of Representatives for the last two preceding Congresses—amounting to \$790,000. But, sir, I do not desire to debate the bill now. I shall endeavor, as soon as this bill and the accompanying papers shall have been printed, to call the attention of the Committee of the Whole to its consideration, because there are large amounts now due on account of these expenditures.

Mr. STEPHENS, of Georgia. I would inquire of the gentleman if much of this printing is yet unexecuted?

Mr. PHELPS. I am informed that a portion of it is; but nearly all the works have been printed in part, and the manuscript furnished. At another time I shall be willing to give a full explanation, and to state the reasons that induced the committee, and myself as a member of it, to report this bill. At this time I cannot do it.

The bill was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

GEORGE W. BRISCOE.

Mr. TAYLOR, of Louisiana, from the Com-

mittee of Claims, reported a bill for the relief of George W. Briscoe; which was read a first and second time, referred to a Committee of the Whole House, and, with the report and accompanying papers, ordered to be printed.

JOHN HASTINGS.

Mr. GILLIS. I ask the unanimous consent of the House to introduce a bill for the relief of John Hastings, collector of the port of Pittsburgh.

Mr. HARLAN. I object.

CAPTAIN JAMES M'INTOSH.

Mr. MAYNARD, from the Committee of Claims, reported back a bill for the relief of James McIntosh, captain in the United States Navy; which was referred to a Committee of the Whole House, and, with the accompanying papers, ordered to be printed.

EDWARD D. TIPPETT.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, presented an adverse report in the case of Edward D. Tippet; which was laid on the table and ordered to be printed.

SAFETY OF PASSENGERS ON STEAMERS.

Mr. WASHBURNE, of Illinois. It will be recollect that a few days ago the gentleman from Louisiana [Mr. TAYLOR] introduced a bill as a substitute for House bill No. 45, for the better security of the lives of passengers on board of steamers. It was understood by him, and by the House, that the same was to be printed and referred to the Committee on Commerce. I understand that the Journal does not show that such an order was given. I hope, therefore, that the correction will be made.

The SPEAKER. Perhaps it would be better for the House now to make the order. The Chair was of opinion that the motion to print had prevailed, but the minutes do not show the fact.

Mr. WASHBURNE, of Illinois. Then I move that it be printed.

It was so ordered.

Mr. WASHBURNE, of Illinois. I am also directed by the Committee on Commerce to ask leave to have printed a report to accompany that subject.

It was so ordered.

REFUNDING OF DUTIES.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported a bill to refund to Barclay & Livingston, and others, duties on certain goods, destroyed by fire, in the city of New York, on the 19th day of July, 1845; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MARINE SIGNALS.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported a bill to provide for the general introduction of a uniform national code of marine signals; which was read a first and second time.

Mr. JOHN COCHRANE. I move that the bill be referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for the first Wednesday in February. It is very important that the subject-matter of this bill should be considered by this House. It has reference to the commercial and marine interests of the Union, and not only to them, but it has reference to the lives of our citizens, and of all employed on the ocean. It is of more importance to the commerce of the country, to the reputation of the country, to humanity towards the citizens of the country, than any other bill that can be presented to this House. It can be made to appear within a small compass of time, when the subject shall regularly come up, that the bill ought to be acted upon and passed by this House in preference to any other bill that will be submitted to its attention. It is under these considerations and with these views that I present this request to the House, and ask that, by unanimous consent, it may be made the special order for some day in the future. I trust there will be no objection.

Mr. HARLAN. I object.

Mr. JOHN COCHRANE. Then I move that the bill be referred to the Committee of the Whole on the state of the Union, and, with the report and accompanying papers, ordered to be printed.

The motion was agreed to.

REGISTER OF A VESSEL.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported back a bill (H. R. No. 14) to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called the *James McIndoe*, now owned by Thomas Coatsworth, James G. Coatsworth, and William Coatsworth, of Buffalo, New York, and moved that it be engrossed, and read a third time.

Mr. SMITH, of Virginia. That is just the same case that we had yesterday. There is no evidence to justify this bill.

Mr. JOHN COCHRANE. The facts are very simple.

Mr. SMITH, of Virginia. I must object to such legislation.

Mr. JOHN COCHRANE. I think, with all due respect to the gentleman from Virginia, that this is entirely proper legislation. The facts are simple, and are contained in a nutshell. This vessel was sold during the last spring under mistake. By mistaken representations, a citizen of the United States purchased a Canadian vessel of about one hundred tons burden—scow-built—and paid \$180 duty, supposing he would be then allowed American papers. Such representations were made by an official of the Government. This officer, on discovering his mistake, disclosed it to the purchaser, and the money paid for duty was restored; and now the owners come here to ask that papers may be given.

Mr. SMITH, of Virginia. The House will readily perceive that this special legislation is in derogation of the settled policy of the Government, in refusing papers to ships or vessels of foreign manufacture.

One of the objects of this general legislation is to encourage our own manufactures and our own ship-builders; and I advert to this simply for the purpose of showing that this special legislation, to be secured by the passage of the bill without the usual forms and ceremonies, is full of evil. There may be none in this case, but that is my judgment. I am disposed to gratify the gentleman in this particular case; but the thing is all wrong. We might as well adhere to the general law on the subject, pursue the general policy of the Government, and let the bill undergo the usual inquiries, under the usual precautions which are interposed for the proper legislation of the House. I think the bill is wrong; but as gentlemen wish it, I will withdraw my objection in this case. It will be the last case where I shall withdraw my objection.

Mr. LETCHER. If I recollect rightly, we passed a general law at the last session, giving the Secretary of the Treasury authority to issue these registers.

Mr. JOHN COCHRANE. That was in respect to the names of vessels; and so much injury has grown out of it that the Senate has already passed a repealing bill, which now lies upon the Speaker's table, for the action of this House. This, however, is in respect to granting American papers to a vessel purchased by an American citizen under mistake. It is within the principle of rectifying by legislation an innocent mistake which is beyond the reach of the law. That is simply the reason why I ask that the bill may be passed; we of the committee being entirely satisfied of the rectitude of the intent of the purchaser, and of the propriety of administering this relief.

Mr. WASHBURN, of Illinois. I believe that this bill is properly before us. The gentleman from Virginia erroneously supposes that a single objection would be fatal to its consideration. The bill was introduced by the gentleman from the Buffalo district of New York, [Mr. HATCH,] received its first and second reading, and was referred to the Committee on Commerce, from which it was reported back by the gentleman from New York, [Mr. JOHN COCHRANE,] chairman of that committee. I call for the previous question.

The previous question was seconded; and the main question was ordered to be put.

The bill was ordered to be engrossed and read a third time.

The bill having been engrossed, it was accordingly read a third time and passed.

Mr. JOHN COCHRANE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SELMA.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported back Senate bill No. 27, to detach Selma, in the State of Alabama, from the collection district of New Orleans, and making it a port of delivery within the collection district of Mobile.

The bill was read *in extenso*.

Mr. SMITH, of Virginia. What is the necessity for that bill? I should like to have some information on the subject.

Mr. JOHN COCHRANE. Selma was by mistake attached to the collection district of New Orleans. It should belong to the collection district of Mobile. The Secretary of the Treasury sent the draft of the bill to the Committee on Commerce of the Senate, stating that it was to correct a clerical error.

The bill was ordered to be read the third time; and it was accordingly read the third time, and passed.

Mr. CURRY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ISSUING REGISTERS TO VESSELS.

Mr. JOHN COCHRANE. Mr. Speaker, I ask the unanimous consent of the House to take from the Speaker's table, and put on its passage, Senate bill No. 32, repealing an act of the last session, authorizing the Secretary of the Treasury to change the names of vessels in certain cases. I will state that, under that act the names of ninety-two vessels have been changed, and thirty-five of them have foundered at sea. I ask, therefore, under the circumstances, the unanimous consent of the House to pass the bill at this time.

Mr. PHELPS. After the morning hour has been consumed in the call of committees for reports, it will then be in order for the gentleman to move to go to the business upon the Speaker's table, and the bill may then come up regularly. For this reason, I object to his motion.

LEWIS FEUCHTWANZER.

On motion of Mr. JOHN COCHRANE, it was Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of Lewis Feuchtwanzer, to supply the Government with his composition in place of the new cent, and that it be referred to the Committee of Ways and Means.

HENRY LEEF AND JOHN M'KEE.

Mr. EUSTIS, from the Committee on Commerce, reported a bill to indemnify Henry Leef and John McKee for the illegal seizure of a certain bark; which was read a first and second time, referred to the Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LIABILITY OF SHIP-OWNERS.

Mr. WADE, from the Committee on Commerce, reported back a bill to amend an act entitled "An act to limit the liability of ship-owners and for other purposes," approved March 13, 1851.

Mr. WADE said: Congress, by an act passed on the 13th of March, 1851, limited the liabilities of the owners of vessels navigating the ocean. The policy of that act was the encouragement of ship-building, and consequently of the commerce carried on upon the high seas. The same reasons which actuated Congress in the passage of that act, applies with equal force to vessels navigating the northwestern lakes. In 1856 the merchant tonnage of the lakes constituted one fifteenth of the entire merchant tonnage of the United States; and while the annual increase of the entire tonnage of the United States was, in 1856, but eight and a fraction per cent.; yet, the increase of the lake tonnage, at the same time, was at the rate of eighteen and a fraction per cent. Sir, the tonnage capacity of the shipping of the lakes ranges from fifty to three hundred and fifty, and even as high as five hundred and one thousand tons. As early as 1848, a vessel, built at Cleveland, was laden for San Francisco, passed through the Welland canal, doubled Cape Horn, and arrived safely at San Francisco. So, Mr. Speaker, the extent of the coast-line of the northwestern lakes is nearly as great in extent as the Atlantic coast-line of the United States. Many vessels are now being built on the lakes designed for ocean navigation; and, indeed, every reason which actuated Congress to

encourage ocean navigation and commerce, applies with equal force to the lakes. The act of 1851 has so far worked well upon the ocean, if its being in force more than six years without complaint, is an evidence of the beneficent working of an act of Congress. Many of the liabilities of the ship-owners, by the common law, are very onerous and well calculated to divert capital into other channels, less beneficial to the general prosperity of the country. Congress designed to remedy this defect of the common law; every principle of justice and equity requires that the same rules should apply to the extensive navigation and commerce of the northwestern lakes. I call the previous question.

Mr. HOUSTON called for the reading of the bill.

The bill was read *in extenso*.

Mr. SMITH, of Virginia. Is it in order to move to refer the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. It is not, pending the call for the previous question.

Mr. MORRILL. I ask the gentleman from Ohio to include Lake Champlain.

Mr. WADE. I have no objection, and I will include that.

Mr. SMITH, of Virginia. The gentleman cannot do that.

Mr. WADE. I accept the amendment, and insist upon the previous question.

The SPEAKER. It is not in the power of the gentleman to modify the bill, inasmuch as it is a report from a committee.

Mr. MORRILL. Then I hope the House will vote down the previous question, and we can amend it.

Mr. HATCH. If the gentleman will withdraw the demand for the previous question, I desire to make a few remarks.

Mr. WADE. I withdraw it.

Mr. HATCH. I only desire to say that this bill is one in which all the people engaged in the commerce of the northwestern lakes are deeply interested. The commerce coming to the western lakes is equal to four or five hundred thousand tons. If this matter is of any value to those engaged in foreign commerce, there is no reason or sense why it should not be extended to the inland commerce of the country. The inland commerce of the northwestern lakes is almost equal to all the foreign exports and imports of this country. I desire to say that my constituents, among others who are deeply engaged in the northwestern trade upon those lakes, are anxious for the passage of this bill, and I hope the House will pass it.

Mr. SMITH, of Virginia. I do not know but I would cheerfully support this bill if I understood it; but I have always been taught to believe that general questions should go to the Committee of the Whole on the state of the Union. We are told by the gentleman from New York, and by the gentleman from Ohio, that this bill is to operate upon one half of the commerce of this Union.

Mr. WASHBURN, of Illinois. One fifteenth.

Mr. SMITH, of Virginia. More than one fifteenth, I believe; but be that as it may, it is to operate upon a large portion of the commerce of the Union, and it proposes to make fundamental changes in the existing liabilities of ship-owners.

Now, sir, ought such a bill as that to pass into a law, so far as this House is concerned, without full and proper examination? I ask this House, who is there upon this floor, outside of the immediate interests to be affected by it, that understands this subject. We generally refer bills of this character to the Committee of the Whole on the state of the Union, because they affect a large portion of the Union; and I move, therefore, in order to terminate this discussion, that the bill be referred to the Committee of the Whole on the state of the Union; and upon that motion I demand the previous question.

Mr. MORRILL. I ask the gentleman to withdraw that motion for a moment.

Mr. SMITH, of Virginia. I will do so if the gentleman will renew it.

Mr. MORRILL. I will do so.

Mr. SMITH, of Virginia. Then I withdraw the demand for the previous question.

Mr. MORRILL. I desire to appeal to the House, that whatever shape this bill may take, Lake Champlain shall be included. It is notorious that a very large proportion of the com-

merce upon that lake is foreign commerce, owing to its connection with the St. Lawrence. I hope, therefore, that Lake Champlain will be included in the bill.

The SPEAKER. Does the gentleman desire to move an amendment?

Mr. MORRILL. I desire to move to insert Lake Champlain after the other lakes.

The SPEAKER. That amendment can be offered if the gentleman from Virginia shall withdraw the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. MORRILL. If the gentleman will withdraw that motion, I will renew it after I have submitted my amendment.

Mr. COMINS. I would suggest, that as Lake Champlain was inadvertently omitted by the Committee on Commerce, the omission be supplied by the unanimous consent of the House.

Mr. SMITH, of Virginia. I will withdraw the motion to refer, so as to permit the amendment to be offered. I am willing to afford every facility to gentlemen, but I first want to know what I am doing when I vote or act.

Mr. MORRILL. I move to amend the bill by inserting, after the word "Michigan," the word "Champlain." I now renew the motion to refer the bill to the Committee of the Whole on the state of the Union, and demand the previous question.

Mr. PALMER. I hope that the motion to include Lake Champlain will prevail. Living upon the shores of that lake, I know something of the magnitude of its commerce, and I think it very extraordinary that the committee should have omitted it.

Mr. READY. Is debate in order?

The SPEAKER. Debate is not in order.

Mr. READY. I would inquire whether, if the bill be referred to the Committee of the Whole on the state of the Union, it will not be open to amendment?

The SPEAKER. It will.

Mr. READY. Then the amendment can be made there, as well as here. I hope the question will be taken on the reference, and that there will be an end to this debate.

Mr. WASHBURNE, of Illinois. I ask what is the motion pending?

The SPEAKER. The first question is on the motion of the gentleman from Vermont, [Mr. MORRILL,] made in pursuance of his promise to the gentleman from Virginia, [Mr. SMITH,] that the bill be referred to the Committee of the Whole on the state of the Union. If the previous question be sustained, the House will be brought to vote first on the motion to refer. If that motion does not prevail, the question will be upon the amendment, and then upon ordering the bill to be engrossed and read a third time. The previous question will then be exhausted.

Mr. WASHBURNE, of Illinois. I hope the bill will not be referred to the Committee of the Whole on the state of the Union, as that will be killing it.

The previous question was seconded, and the main question ordered.

The motion to refer the bill to the Committee of the Whole on the state of the Union was not agreed to—ayes 35, noes 84.

Mr. MORRILL's amendment was then agreed to.

Mr. CURTIS. I would ask if it is in order to move to amend the bill by adding the Mississippi river?

The SPEAKER. It is not in order.

Mr. LEACH. I ask the unanimous consent of the House to insert "Lake St. Clair" after Lake Erie.

Mr. WASHBURNE, of Illinois. It is already embraced in the bill.

Mr. MARSHALL, of Kentucky. I want to know if the bill has been engrossed? If not, I object to proceeding with it.

The SPEAKER. The bill has not been ordered to be engrossed yet.

Mr. CURTIS. I would like to vote for the bill, but I certainly think the Mississippi river ought to be included; and as it is not, I shall vote against it.

The bill was ordered to be engrossed and read a third time.

Mr. MARSHALL, of Kentucky. I object to the third reading of the bill until it shall have been engrossed.

The SPEAKER. The gentleman from Kentucky objects to the third reading of the bill. The bill is not engrossed, and it therefore goes over.

POST ROUTES IN OHIO AND PENNSYLVANIA.

Mr. ENGLISH. I am instructed by the Committee on the Post Office and Post Roads to make an adverse report on sundry petitions from Ohio and Pennsylvania, asking for an increase of mail service upon certain routes in those States. The present law authorizes the Post Office Department to grant the relief asked. I understand that the gentleman from Pennsylvania who presented the petitions desires leave to withdraw them for the purpose of reference to the Post Office Department.

I move, sir, that the committee be discharged from the further consideration of the petitions, and that they be laid upon the table.

The motion was agreed to.

Mr. ENGLISH. I also move that the gentleman from Pennsylvania, who presented them, have leave to withdraw the petitions, for the purpose of reference to the Department.

The motion was agreed to.

JOHN F. WILLS.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of John F. Wills, asking pay for certain services as deputy postmaster at Lawrenceburg, Kentucky; which was laid on the table, and ordered to be printed.

POSTMASTERS' QUARTERLY RETURNS.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported a bill to prevent the inconvenient accumulation in the Post Office Department of postmasters' quarterly returns; which was read a first and second time.

Mr. ENGLISH. The object of the bill is simply to prevent the inconvenient accumulation of useless papers in the Post Office Department. It has been drawn up by the head of that Department, and has been considered by the committee. I move that it be engrossed, and read a third time.

The bill enacts that the Postmaster General may, from time to time, dispose of any quarterly returns of mails sent or received, preserving the accounts current, and all vouchers accompanying such accounts; provided that the accounts shall be preserved entire at least two years.

The following letter was read from the Postmaster General:

POST OFFICE DEPARTMENT, January 15, 1858.

SIR: I have the honor to inform you that the accumulation of postmasters' quarterly returns is so great that there is not sufficient room for their proper preservation in the General Post Office building, and that many are consequently exposed in the halls, liable to be injured, if not lost.

Similar exigencies having heretofore occurred, Congress provided relief by authorizing the sale of the older transcripts of accounts of mails sent and received, constituting the bulk of the returns, reserving the accounts current and vouchers; and I would suggest that such authority be now given, not merely with reference to the existing exigency, but that the Postmaster General may, from time to time, dispose of transcripts as may be deemed necessary in future.

I submit, for your consideration, a clause to meet this case, similar to a provision contained in an act of Congress, approved June 22, 1854, entitled "An act regulating the pay of deputy postmasters."—(Statutes at Large, vol. x., p. 259.)

Very respectfully, your obedient servant,

AARON V. BROWN.

Postmaster General.

Hon. W. H. ENGLISH, Chairman Committee on the Post Office and Post Roads, House of Representatives.

Mr. ENGLISH moved the previous question on the engrossment of the bill.

Mr. MORGAN. I object to the passage of the bill. We are erecting buildings large enough to hold all these papers.

The SPEAKER. Debate is not in order.

Mr. ENGLISH called for tellers on the previous question.

Tellers were ordered; and Messrs. WALDRON and CLEMENS were appointed.

The question was taken; and the tellers reported—ayes 97, noes 37.

So the previous question was seconded.

The main question was ordered to be put.

The bill was ordered to be engrossed and read a third time.

Mr. MORGAN. Is the bill engrossed?

The SPEAKER. It is not.

Mr. MORGAN. Then I object to it.

Mr. ENGLISH. What is the effect of an objection?

The SPEAKER. It carries the bill over until to-morrow.

Mr. ENGLISH. What will be the effect of a motion to commit the bill to the Committee on the Post Office and Post Roads?

The SPEAKER. The motion cannot be entertained at this time.

LUCY G. GRAY.

Mr. HOUSTON, from the Committee on the Judiciary, reported back the petition of Lucy G. Gray, and moved that it be referred to the Committee of Claims.

The motion was agreed to.

COURTS IN SOUTH CAROLINA.

Mr. HOUSTON, from the Committee on the Judiciary, reported back House bill No. 22, to alter the time of holding the courts of the United States for the State of South Carolina.

The bill was read *in extenso*.

Mr. HOUSTON. This bill does not propose to increase the terms of the courts of the United States in South Carolina. It only proposes a change of the time for holding them, and nothing more. It is recommended by the judge who presides over the court; by the gentleman who represents the district; and meets with the approbation, I understand, of the bar and the people to be affected by it.

Mr. STANTON. I understand that the bill provides that recognizances for the appearance of parties shall be changed? I would like to know the opinion of the Committee on the Judiciary as to whether Congress has the power to make such a change.

Mr. HOUSTON. The Committee on the Judiciary gave no opinion on the last section of the bill. So far as my own opinion is concerned, I take it for granted that there is no doubt about the authority of Congress to require the return of process issued for the present terms of the court at the terms established by the bill.

Mr. MILES. This bill, Mr. Speaker, is one purely of local concern. It affects the convenience of a portion of my immediate constituents. It meets with the entire approval of the judge of the district, who, in fact, framed the bill, and the entire concurrence of his associate justice. It simply consults the convenience of the bar and the judge, and merely changes the time of holding the courts at places already established. It seems to me to be a bill which can scarcely meet with any opposition from any source.

Mr. STANTON. I beg the gentleman from South Carolina to understand that I do not oppose the bill. I merely made an inquiry as a matter of curiosity to obtain the opinion of the committee on a point involved.

The bill was ordered to be engrossed and read a third time; and having been engrossed, it was accordingly read a third time and passed.

JOHN M'CURDY.

Mr. COX, from the Committee on Revolutionary Claims, reported adversely upon the claim of John McCurdy for a pension for service in the St. Clair war and the war of 1812; which report was laid upon the table, and ordered to be printed.

HEIRS OF ALEXANDER STEVENSON.

Mr. COX, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Alexander Stevenson; which was read a first and second time by its title, and referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. COX, from the Committee on Revolutionary Claims, reported back such of the papers in the case of the heirs of Alexander Stevenson as referred to a pension, and moved that they be referred to the Committee on Revolutionary Pensions.

The motion was agreed to.

ALEXANDER R. BOTELER AND OTHERS.

Mr. COX, from the Committee on Revolutionary Claims, made an adverse report in the case of Alexander R. Boteler and others; which was laid upon the table, and ordered to be printed.

PRIVATE LAND CLAIMS.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported the following bills; which were severally read a first and second time,

referred to a Committee of the Whole House, and the bills and reports ordered to be printed:

A bill for the relief of the representatives of William Smith, deceased, late of Louisiana;

A bill for the relief of the legal representatives or assignees of James Lawrence;

A bill for the relief of the heirs or legal representatives of Pierre Broussard, deceased;

A bill for the relief of N. C. Weems, of Louisiana; and

A bill to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased."

FRANCIS WLODECKI.

Mr. WASHBURN, of Wisconsin, from the Committee on Private Land Claims, reported back a bill for the relief of Francis Wlodecki; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

REGIS LOISEL.

Mr. BLAIR, from the Committee on Private Land Claims, reported a bill for the relief of Regis Loisel, or his legal representatives; which was read a first and second time, and the bill and report ordered to be printed.

SUTLERS OF THE ARMY.

Mr. QUITMAN, from the Committee on Military Affairs, reported a bill for the relief of the sutlers of the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

NAVAL COURT OF INQUIRY.

Mr. BOCOCK, from the Committee on Naval Affairs, reported back a resolution (S. No. 4) to extend the operation of the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy.'"

Mr. BOCOCK said: This is the bill that I asked the unanimous consent of the House to have passed on Friday last. I then made a brief explanation of it, which I suppose is in the memory of most of the members of the House. Lest, however, it should not be, I beg leave now to recapitulate briefly what I said upon that occasion.

On the 17th of January, 1857, a joint resolution was passed, and was signed by the President, the purport of which was to authorize any officer of the Navy, who felt himself aggrieved by the action of the naval board previously assembled under a former act, to come forward within one year and ask to have his case examined by a court required to be appointed by the Secretary of the Navy. Such court was directed to report to the President of the United States; and the report being approved by the President, he was authorized, within a year, to nominate any officer dropped by the action of the former board to be reinstated in the Navy; or if he believed the former board had done injustice to any officer, and this court of inquiry recommended a change in the position of such officer upon the reserved list, the President was authorized to make the change recommended by the court of inquiry.

But the reinstatement provided for in that act of 17th January, 1857, could be made only within one year. That year expired on the 17th of January of the present year—that is, on last Friday. At that time I asked to have this resolution passed, to extend the time to the 16th of April next. The reason why the passage of this resolution is necessary is this: When these courts of inquiry made their reports to the President of the United States, and the President reported to the Senate, the Committee on Naval Affairs in the Senate, I am led to believe—indeed I feel confident that such is the fact—entered into a particular investigation of the finding of the courts of inquiry in each separate case, for the purpose of making intelligent recommendations to the Senate in relation to the confirmation of the nominations made by the President. The committee had not been able, during the present session, to examine all the recommendations of the courts of inquiry, and desired time to make a thorough and sifting examination of the action of the courts in each case.

I did not know, when I made my statement here a few days since, of another act done by the Senate. I find that since that very report of the committee, in order to have time, and fearing that this

resolution might not pass the House, the Senate confirmed, in a batch, all the recommendations made to them, based on the action of the courts, by the President of the United States.

But, sir, those confirmations are not final. In regard to every case, except some two or three, a motion to reconsider was instantly made; and that motion to reconsider is still pending. Now, these gentlemen composing the courts desire that this resolution shall be passed because it will give the confirmation of the Congress of the United States to their acts after a deliberate examination of their reports.

But, sir, there are one or two other points of view in which it is necessary to pass the resolution, especially with an amendment which I intend to read in a few moments. I understand that in regard to some of the cases acted on by the courts, the President of the United States had not made his recommendation to the Senate; and, under the resolution of January 17, 1857, he cannot now make any recommendation on those cases for the action of the Senate. If there be such cases, and I believe there are, it is proper that this resolution should pass in order to allow the President to make the nominations upon the recommendations of those courts of inquiry.

In order to meet those cases, I am directed by the Committee on Naval Affairs to offer an amendment; and I now ask the Speaker to be so kind as to have the joint resolution read, so that I may explain what that amendment is.

The Clerk read the joint resolution, as follows:

Resolved, &c., That that portion of the act entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" limiting the restoration of officers in certain cases, be extended to the 16th day of April, 1858: *Provided, That the time within which examinations by courts of inquiry may be made as prescribed by the first section of said act shall not be extended.*

Mr. BOCOCK. It will be seen, Mr. Speaker, that not only is the time within which officers can ask to have their cases reexamined limited, but the time within which the courts shall act is also limited.

Well, sir, the Secretary of the Navy, in order to dispatch matters, has had three courts in session, acting as diligently as he could bring them to act. All the officers who intended to do so, had doubtless filed petitions to have their cases reexamined, and yet there are one or two cases on which the action of the court had not been had. In one case, sir, which comes within my knowledge, the officer had filed his petition to have his case reexamined; the court had been impaneled, and was actually in process of examining his case at the time of the expiration of the law. The Speaker and the House will see at once that that case had not been completed, it being under examination by the court of inquiry at the time of the expiration of the law; and yet, unless this joint resolution is passed, with the amendment which I am instructed to offer, that case will fall: the court cannot legally complete its examination. The proviso limits the time in which the examinations shall be made. I propose to amend it by adding to it the following:

Except as to any case pending and undetermined before any court of inquiry under the act of 17th June, 1857, at the expiration thereof.

Mr. EDIE. Will the gentleman allow me to ask him a question?

Mr. BOCOCK. With pleasure.

Mr. EDIE. I understand the object of the amendment to be merely to extend the time, so as to enable the courts to finish up cases which have been already commenced?

Mr. BOCOCK. That is all, sir.

Mr. EDIE. Then I am satisfied that it is right, and ought to be adopted.

Mr. BOCOCK. It applies only to a case which was in process of examination by a court of inquiry at the expiration of the law. It does not allow any officer to come forward now, who did not choose to do so in the course of the year, and file his complaint and have his case examined. It does not allow the Secretary of the Navy to impanel any new court whatsoever. It merely authorizes a court of inquiry, which was in session, and in process of examining a case at the time of the expiration of the law, to complete the examination; and it authorizes the President and the Senate to act upon such action of a court of inquiry.

Mr. CURTIS. I desire to ask the gentleman

one question for information. I wish to know if all the officers of the Navy, who were affected by the operation of the first board, have had an opportunity of appearing and demanding a reexamination of their cases in the one year, which was the limit of the law?

Mr. BOCOCK. I presume that every officer who was affected by the action of the first board has had an opportunity to complain. All, certainly, who were within the limits of the United States have had that opportunity. I presume that the purport of the joint resolution of the 17th of January, 1857, has gone wherever we have a sail afloat. I presume that every officer of the Navy who was in any way affected by the action of the former court has had knowledge of that joint resolution, and has had an opportunity to make his complaint known, and to have a court impaneled to examine his case. Why not? If any officer was affected by the action of the former court, he was not in the service of the country; he was here within the limits of the country, or, at least, he had an opportunity to be so; he was not absent by the orders of the Navy Department. This law, like any other law, must have been known by such officer of the Navy. He was allowed a year to make his complaint in, and if he did not make it within that year, it was his fault, and not the fault of the law. I hope the gentleman from Iowa is answered.

Mr. SMITH, of Virginia. Will my colleague allow me to ask him a question?

Mr. BOCOCK. With pleasure. I desire to give gentlemen all the information in my power, as I intend to try and have the joint resolution passed to-day.

Mr. SMITH, of Virginia. The question I desire to propound to my colleague is this: is it true that the courts did not pretend to examine the records in cases, but required the judge advocate to make out a synopsis of the cases?

Mr. BOCOCK. I really do not know about that, and I do not think that it is at all relevant to this joint resolution.

Mr. CURTIS. I interposed no objection to the joint resolution. I only wished to know if all the officers had had an opportunity to be heard.

Mr. BOCOCK. I did not object to the gentleman's question. On the contrary, as I intend to call the previous question, I shall be glad, if the House will allow me, to hear any questions from gentlemen in any part of the House, and to give such answers as I may be able to.

Mr. SMITH, of Virginia. I would say to my colleague, as to the pertinency of my question, that it might very well bear upon the cases unadjusted and unacted on and be a very good reason why the resolution should be amended. I maintain that if the courts have acted in any case upon a synopsis and not on the record of the case, those affected by the decision have been grossly wronged.

Mr. BOCOCK. I know nothing about that, Mr. Speaker. If any officer has been wronged in such a manner, that officer has an opportunity to make his individual complaint to the Congress of the United States, and I for one would be ready to inquire into it. But, sir, I know nothing about that: this resolution has no reference to any such state of facts. It merely extends the time within which the courts, (within certain limits,) the President, and the Senate shall carry out in good faith the act of 17th January, 1857.

Mr. EUSTIS. I wish to inquire of the gentleman from Virginia, whether the object of his amendment is to extend the time so as to admit of an examination of the cases of all officers who have lodged their complaints during the year, or whether the extension of time is confined to those cases in which the examination had been commenced, but had been interrupted by the expiration of the law? In other words, I desire to know whether the amendment introduced by the gentleman from Virginia extends to the cases of all officers who may have lodged their complaints during the year, and who may not have had an opportunity of prosecuting their claims from want of time, or whether it is simply intended to apply to those cases only that were in actual prosecution and pending before the courts at the time the law ceased to operate?

Mr. BOCOCK. I will say to the gentleman, what I have already stated, that a proviso was added to the original resolution refusing to the

courts any further time whatsoever to make any examination. I supposed that to be wrong, and the Committee on Naval Affairs of the House supposed it to be wrong, inasmuch as there was one case before the court and unfinished at the time of the expiration of the act. My amendment would enable the court to continue and complete that examination, and would enable the President to act on its decision. It goes no further. I am not aware—and I dare say that such is not the fact—that any other officer who filed his complaint within the year has not had his case examined.

Mr. EUSTIS. I understand the gentleman from Virginia to have offered an amendment which applies to an individual case. The gentleman states that he does not know that there is or that there is not any officer who has not had an opportunity of preferring his complaint. I wish to vote on the subject understandingly. The Navy of the United States has already suffered too much from being interfered with by the legislation of Congress. I want to vote here on principle. If there be any officer who has not had an opportunity, from want of time or otherwise, of presenting his case to one of these courts, I want that opportunity extended; and not to one man, or not in one particular instance—as the gentleman from Virginia has frankly confessed he had in view—but to every officer of the Navy. I consider all entitled to the protection of the courts; and I shall vote against this amendment unless it be so amended as to include all the cases which, from want of time or other good cause, have not had an opportunity of prosecuting their complaints.

Mr. BOCKOCK. I desire to say, in reply to the remarks of my friend from Louisiana, that it seems to me he falls into a very common error. He says he will vote against my amendment unless it goes a great deal further. That is, he will not take that which he admits is good in itself, unless it gives him all the good he desires. Now, going on the supposition that the idea of the gentleman is correct, and that the position which he takes is a correct position, I ask why should he refuse to get what he can, when he cannot get all that he wants?

By the act of 17th January, 1857, one year was allowed to every officer of the Navy who might feel himself aggrieved, to make complaint. Now I cannot conceive any reason why, if a man intended to make complaint, he should not do so within the year; and I ask my friend from Louisiana to give me even a supposed case, in which a man could have felt himself aggrieved, and yet not had an opportunity of making a complaint in the course of the year? And now, sir, for an imaginary grievance, or rather a grievance which can hardly be imagined, the gentleman opposes the amendment which I offer. The gentleman may say: "Is it certain that no officer did complain within the course of the year, and did not have his case examined?" I say, as I said before, that I have not heard of any such case, and do not believe there is any such case in existence.

I believe that the Secretary of the Navy impaneled a court on each case of complaint made in the course of the year. That is my answer to the gentleman from Louisiana. If any gentleman were able to rise here and to say that he knew of a case in which the officer made complaint within the twelve months, and in which the Secretary of the Navy refused to impanel a court, it would be a different thing.

My friend from Louisiana has chosen to say, in the course of his remarks, that the Navy has been greatly interfered with by the action of the Congress of the United States already. I know, Mr. Speaker, that there are too many in Congress apt to think that the Navy has been interfered with, while they ought to think of the rights and the interests of the country that are being interfered with. I think that the Navy is for the good of the country, and that the regulations of the Navy are not merely for the good of the officers. Talk about the Navy being interfered with! How interfered with? By the action of the retiring board? If that be so, Mr. Speaker, I can only say that the officers brought it about by their own action. The retiring board was organized at their own request. Go back for two years, and look at the condition of the Navy, and you will find coming up from one end of it to the other, wherever the officers were, whether in the country or out of the

country, from any and from every squadron, the cry to the Congress of the United States to do something for the Navy, to relieve it from the imbecility and the rottenness that then existed. Every one, sir, would tell you at that time, that although he was not the man aimed at, although he held himself to be a good and competent officer, yet there were a great many of them who ought to be put out of the way, so that he might have a chance for promotion.

The Congress of the United States yielded to the complaint. It organized a board. Of the construction of that board I shall not undertake to speak here to-day. Indeed, I think that the whole discussion in regard to this matter is out of place. That board, however, I would say, was composed of the loftiest men in the American Navy. If such men as constituted that board cannot be relied upon to do justice to their brother officers, I ask you where is there, in all this sea of corruption, one sound spot in the Navy on which to commence the process of reform? If Shubrick and Perry, and all these men, are not sound; if they are all corrupt men, I ask you where is there, in the American Navy, one sound spot on which you can commence the process of reform? Perhaps some officers were inconsiderately and improperly affected by the action of the board; and perhaps some may have suffered injustice. That may be so. But many did not. And let me call the attention of the House, Mr. Speaker, to the fact that out of two hundred and one men affected by the action of the naval board, a very large number never did complain, but acquiesced in the judgment and finding of the board.

Mr. EUSTIS. I want to make a few remarks.

Mr. BOCKOCK. I do not want to yield to the gentleman to make a speech.

Mr. EUSTIS. The gentleman has made a speech.

Mr. BOCKOCK. It was for that purpose that I took the floor, and I have not got through with it.

My friend from Louisiana said that he did not wish an amendment to the bill looking to a particular case. If it be a particular case, it is only because there is but one case coming in a particular category. The amendment I propose authorizes any court which was in the process of examining a case at the expiration of the act, to complete it. If there was only one case in that condition it is not the fault of the principle, nor any fault of mine. My amendment relates to a class of cases, and does not by name specify any particular case.

Mr. MILLSON. Mr. Speaker, with the permission of my colleague, I simply desire to make a statement of one or two facts in reply to the remarks of the gentleman from Louisiana. Although, sir, I have the same object in view which the gentleman from Louisiana seems to have, yet I fear that the amendment itself may be prejudiced by the remarks of that gentleman. The gentleman says that he desires to provide for all of the unfinished cases, and not one only. I tell the gentleman that that is exactly my desire; and it is with that view that I took the liberty, a day or two ago, to bring to the notice of the Naval Committee the very amendment which is now pending.

I have made inquiry, however, Mr. Speaker, and I learn that there is but one solitary case which has not been acted on and completed by the courts of inquiry. And the reason why that case has not been completed is this: the party before the court was Commander Armstrong, a friend and constituent of mine; his application was filed, and the investigation of the case commenced at a period sufficiently early to enable the court to complete the investigation; but, in the progress of the investigation, a member of the court became ill, and he was afterwards detached from the court, and some delay occurred in the appointment of a successor. This is the reason why the only case unfinished by the courts of inquiry was not completed. Now, the gentleman from Louisiana will perceive that I have had exactly the same object he has had, and that the amendment provides for every case, and not for a solitary case. If there be more than one, it will provide for all.

Mr. EUSTIS. If the gentleman will permit me, I will ask him a question. Does this amendment provide for all the cases which were not investigated? or does it only provide for those which were not investigated, and which were pending

before the three naval courts of inquiry at the expiration of the law? If the latter, then only three cases are provided for.

Mr. MILLSON. I have already stated to the gentleman that I have been informed that all the cases have been completed but this one.

Mr. BOCKOCK. I will state a further fact, to meet the objection of the gentleman from Louisiana, and to show that he is only complaining of an imaginary ill. There were three courts of inquiry impaneled; but because there was no further business for one of them to act on, that is, because every case which had been brought to the attention of the Secretary of the Navy had been committed to these courts, one of them was disbanded weeks ago. Now, sir, if there had been one case of an officer who complained and had not had his case acted on, the Secretary of the Navy would not have disbanded that court. It was disbanded because there was no further business for it, and no further application to be considered by it.

Mr. EUSTIS. If the gentleman will permit me, I will state that, if the evils I complain of are imaginary, it is entirely owing to the want of explanation on the part of the gentleman when I addressed him a question. I did not come here prepared to discuss this question. I had no idea that it was coming up to-day. I asked the gentleman distinctly, after consultation with a gentleman now in my eye, and my question is on record, whether his amendment did not exclude all cases but those before the court at the expiration of the law? I asked whether there were any more cases? I am sure that I do not know whether there are any other cases; and it was with a view to prevent any legislation which might afterwards require correction, that I asked the question. I rose for information. I addressed myself to what I believed to be the proper source of information—the chairman of the Committee on Naval Affairs, who was before the House presenting an amendment to a Senate resolution for their adoption; therefore, if I have fallen into any error, or if I have complained of any imaginary evil, I am certainly not to blame. If this discussion has been an idle one; if we have consumed the time of the House to no purpose, I have only to say that, if my question had been answered in the first place in a satisfactory and full manner, the House would have been spared this idle discussion, of which the gentleman from Virginia complains.

Mr. BOCKOCK. I have not complained of anything. What I stated was only by way of argument, in order to show the gentleman that there was no such case as he imagined. I had not inquired of the Navy Department specially whether there was any such case. I presumed that there was none; and the fact which I have just alluded to, and which has come to my mind since my first answer to the gentleman, goes far to prove that there is no such case. The fact to which I refer is, that although there were three courts of inquiry, one of them was disbanded weeks ago, because there was nothing for it to do.

Mr. SHERMAN, of Ohio. As the gentleman from Virginia says that he will call the previous question, I appeal to him for two or three minutes of his time, merely to make a statement as a member of the Committee on Naval Affairs.

Mr. BOCKOCK. I yield for that purpose.

Mr. SHERMAN, of Ohio. The object of the resolution is simply to give to the President of the United States three months' time to examine the action of these naval courts. It does not provide for anything but that. It enables the President to examine with care the proceedings of these naval courts. Their reports were sent in at so late a day that it was impossible for him to consider them all within the time fixed by the law. Therefore it is indispensably necessary that further time should be given to the President to examine them. It is simply a question of time.

A word as to the amendment offered by the gentleman from Virginia. There may be, as we have been told, one, or two, or three cases which had not been disposed of at the expiration of the time fixed in the law. These cases ought to be completed. The gentlemen who present their complaints ought to have an opportunity to have them heard and investigated. There are only one or two more cases, and the amendment extends the time for the examination of those cases. Then the duties of the courts ought to be at an end. I

THE CONGRESSIONAL GLOBE.

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do not think, with the gentleman from Louisiana, that time should be given to these courts to examine cases which have not been presented within the year. I thank the gentleman from Virginia for permitting me to make these remarks.

Mr. JOHN COCHRANE. I merely wish, in this connection, to suggest to the gentleman from Virginia an improvement upon the amendment which he has offered; and I will point to the amendment I propose by a statement of these facts. At the time this resolution passed the Senate, the act referred to was in full force, and all the proceedings had under that act were valid and legal; and all the proceedings since had under the act would have been valid and legal had this resolution passed at the time proposed by the gentleman from Virginia—last Friday. But since then, the proceedings which have been had have been had without legal authority, the act under which they were had having expired. Now, unless some act be passed by this House, conjointly with the Senate, there will be no validity in those acts had since that time. I hardly think that the amendment proposed by the gentleman from Virginia reaches sufficiently far to reinstate those acts had by the courts; and therefore I suggest, in addition to the amendment already proposed, to follow it with this amendment:

That all the acts of the courts in said act named, after the limitation therein stated, be, and the same are hereby, legalized.

There is one further consideration in reference to this act which we had better dwell upon at this period of time. The resolution proposes, together with the assistance of the amendment, that all proceedings under the act shall, or may be, continued until some day in April next, with the exception of the examination and procedure to be had by these courts of inquiry. Now, sir, there is named in that act certain preliminary acts to be had by the officers who propose an advantage from that examination; and, by the words of this resolution, those preliminary acts are authorized to be had until a certain day in April, while we, by our resolution, affirm that consequent acts thereof, which give vitality and force to those preliminary acts, shall not be had. I suggest to the gentleman from Virginia, that perhaps it would be well to make a provision in this resolution in that respect, so as to limit the extension of these acts, and all proceedings not necessarily connected with preliminaries for examination before these courts, by adopting this amendment: "That all acts had since the limitation of the act, are now hereby authorized as legal."

Mr. BOCOCK. In reference to the amendment suggested by the gentleman from New York, I do not see that there is any particular objection to it; nor do I see that it is particularly necessary. Upon an examination of the joint resolution, and upon a good deal of consideration and advisement, I came to the conclusion that the passage of this joint resolution would itself extend the operation of the act; that the operation of the act would be considered as revised, and everything done under it legalized. Though the law has expired, to extend it to the 16th of April of this year will, in my humble judgment, make legal everything done under it. I do not wish to incur the joint resolution. I am authorized by the committee to report the resolution and the amendment; but I am not authorized to amend the amendment. I have no objection to the amendment of the gentleman from New York; but I am not able to accept it, because the amendment I have proposed is the amendment of the committee, which I am not authorized to modify.

I wish to say, in conclusion, that a great many gentlemen have seemed to misunderstand the purpose of the amendment I have introduced. It does not make the operation of the joint resolution more stringent, or cut off anybody. Whatever effect it has, that effect is to enlarge and liberalize the joint resolution passed by the Senate. It takes away no power, but extends the power to all cases under advisement and consideration at the time of the expiration of the resolution of the

17th of January, 1857. I fear I have already taken up too much of the time of the House.

Mr. SICKLES. I wish to ask the chairman of the Naval Committee whether, in case the President shall deem it right to order a rehearing in one or more of the cases passed upon by the court of inquiry, the resolution about to be passed, taken in connection with the existing laws on the subject, would authorize the court to sit for the purpose of such rehearing?

Mr. WINSLOW. I would say to the gentleman from New York that this resolution does not cover that branch of the subject; but that the Committee on Naval Affairs have before them another joint resolution that would embrace that power.

Mr. BOCOCK. I must say that I do not think this joint resolution will accomplish the purpose which the gentleman from New York has in view. As the gentleman from North Carolina [Mr. WINSLOW] has said, another joint resolution has passed the Senate, come to this House, and been referred to the Committee on Naval Affairs. Whether the committee will report upon it, I am not authorized to say. However, when they report it back, the subject will be before the House, and the gentleman will have an opportunity to accomplish the purpose he has in view.

I was about to say, that if I have taken up too much of the time of the House, it has grown out of a weakness on my part to accommodate gentlemen by giving them such information as was in my power.

I call the previous question.

Mr. SEWARD. I ask the gentleman to withdraw the previous question.

Mr. BOCOCK. I cannot.

Mr. SEWARD. I shall move to lay the resolution on the table, unless the previous question is withdrawn. Will it be in order to move to recommend the resolution to the Committee on Naval Affairs?

The SPEAKER. Not unless the previous question is voted down.

Mr. KEITT demanded tellers.

Tellers were ordered; and Messrs. KEITT and SEWARD were appointed.

The House divided; and the tellers reported—ayes 95, noes 34.

So the previous question was seconded.

Mr. SEWARD. As that joint resolution will not accomplish the object that the gentleman from Virginia professes to desire, I move that it be laid upon the table.

The motion was not agreed to.

Mr. SEWARD. Is it in order to move to postpone the further consideration of the resolution to a day certain?

The SPEAKER. It is not in order, the previous question having been seconded.

Mr. SEWARD. So I supposed, sir.

The main question was then ordered, being first upon the amendment proposed by Mr. BOCOCK, to add to the proviso to the joint resolution the words:

Except as to any case pending and undetermined before any court of inquiry under the act of January 17, 1857, at the expiration thereof.

Mr. LOVEJOY. If that amendment be adopted, will the resolution have to go back to the Senate, and then be returned to this House?

The SPEAKER. If the Senate concur in the amendment, the resolution will not have to be returned to the House.

The amendment was adopted; and the joint resolution was then ordered to a third reading.

Mr. SEWARD. Before the resolution is passed, I would suggest to the gentleman from Virginia that the act he proposes to amend was passed on the 16th of January, 1857, and not on the 17th. He had better correct that error, at least.

Mr. BOCOCK. I was under the impression that the act passed on the 17th. If the date is incorrect, I hope that, by unanimous consent, it will be changed.

Mr. MORGAN. No, sir; I object.

Mr. BOCOCK. Very well, then, let it go as it is.

The joint resolution was then read the third time; and the question being upon its passage—

Mr. HARRIS, of Illinois, demanded the yeas and nays.

The yeas and nays were not ordered.

The joint resolution was passed.

Mr. BOCOCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CHARLES MAXWELL.

Mr. WINSLOW, from the Committee on Naval Affairs, reported a bill for the relief of Dr. Charles Maxwell, a surgeon in the United States Navy; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

ASEL WILKINSON.

Mr. WINSLOW, from the same committee, reported a bill to amend an act entitled "An act granting a pension to Ansel Wilkinson;" which was read a first and second time.

The bill was then read *in extenso*. It provides that the act granting a pension to Ansel Wilkinson, approved August 13, 1856, be so amended that the word "Ansel" shall read "Asel" wherever the same occurs in said act.

Mr. WINSLOW. I ask the permission of the House that that bill be put upon its passage. I will state the facts. The act which it is proposed to amend, passed the House during the last Congress unanimously. It granted a pension in a case of much merit on the part of the petitioner. But either in the Naval Committee of the House or in that of the Senate, a clerical error was made, and the name was printed "Ansel" instead of "Asel." The object of this bill is merely to correct that error, and I hope the House will indulge me by putting it upon its passage.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WINSLOW moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CAPTORS OF THE CALEDONIA.

Mr. SHERMAN, of Ohio, from the Committee on Naval Affairs, reported a bill for the benefit of the captors of the British brig Caledonia, in the war of 1812; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

THOMAS PEMBER.

Mr. SHERMAN, of Ohio, from the same committee, presented an adverse report on the memorial of Thomas Pember, of Washington; which was laid on the table, and ordered to be printed.

WILLIAM HEINE.

Mr. HAWKINS, from the same committee, reported a bill for the relief of William Heine, artist of the Japan expedition; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ELIPHALET BROWN, JR.

Mr. MORSE, of New York, from the same committee, reported a bill for the relief of Eliphalet Brown, jr.; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LOUIS LEPAPE.

Mr. CHAPMAN, from the Committee on Foreign Affairs, presented an adverse report in the case of Louis Lepape; which was laid on the table, and ordered to be printed.

DANIEL MANDIGO AND OTHERS.

Mr. HICKMAN, from the Committee on Revolutionary Pensions, presented adverse reports

in the cases of Daniel Mandigo, Joseph B. Joyal, and Jacob Jero; which were severally laid on the table, and ordered to be printed.

INVALID PENSION BILLS.

Mr. CHAFFEE, from the Committee on Invalid Pensions, reported bills for the relief respectively of Mary Bainbridge, of Elizabeth E. V. Field, of Catherine K. Russell, of Stephen Runnell, of John Richmond, of Charlotte Butler, and of Joseph M. Plummer and Mary R. Plummer, minor children of Captain Sand. M. Plummer; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the reports, ordered to be printed.

Mr. ROBBINS, from the same committee, reported bills for the relief, respectively, of Samuel Goodrich, jr., and of Henry Taylor; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the reports, ordered to be printed.

Mr. CASE, from the same committee, reported bills for the relief, respectively, of Mary Bennett, of Nancy Serena, of Margaret Whitehead, and of Sylvanus Burnham; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the reports, ordered to be printed.

LAND OFFICE REPORT.

Mr. NICHOLS, from the Committee on Printing, reported the following resolution:

Resolved, That five hundred copies of the report of the Commissioner of the General Land Office be printed for the use of said office.

Mr. NICHOLS called for the previous question.

The previous question was seconded; and the main question was ordered to be put.

The resolution was adopted.

Mr. NICHOLS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. RITCHIE (the call on committees for reports having been gone through with) moved that the House adjourn.

The motion was agreed to; and thereupon (at three o'clock) the House adjourned until to-morrow.

HOUSE OF REPRESENTATIVES.

FRIDAY, January 22, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. C. GRANBERY.

The Journal of yesterday was read and approved.

SOUND DUES TREATY.

The SPEAKER laid before the House a communication from the Secretary of State, inclosing letters to the chairmen of the Committees of Ways and Means and on Foreign Affairs, calling attention to the necessity of making appropriations for payment of interest on the sum to be paid to Denmark, as stipulated in article six of the convention with Denmark for the discontinuance of the Sound dues.

The communication was laid upon the table, and ordered to be printed; and the accompanying letters were respectively referred to the Committee on Foreign Affairs and the Committee of Ways and Means.

REPORT OF TOPOGRAPHICAL ENGINEERS.

The SPEAKER also laid before the House the report of the corps of topographical engineers on the northern and northwestern lakes and rivers; which was referred to the Committee on Commerce, and ordered to be printed.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that they had examined, and found truly enrolled, "An act to detach Selma, in the State of Alabama, from the collection district of New Orleans, and making it a port of delivery within the collection district of Mobile;" when the Speaker signed the same.

The SPEAKER stated the business in order to be the call on the Committee of Claims for reports of bills from the Court of Claims.

BATON ROUGE.

Mr. DAVIDSON, by unanimous consent, sub-

mitted the following resolution; which was read and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety of declaring Baton Rouge, on the Mississippi river, a port of entry; and to report a bill therefor if they consider the public interest subserved thereby.

REVOLUTIONARY CLAIMS.

Mr. GROW. Mr. Speaker, I ask the unanimous consent of the House for leave to introduce two bills, which would have been introduced the other day, under the order of the House, by the gentleman from New York, [Mr. FENTON,] whose bills they are, if he had not been detained at home by sickness.

Mr. PHELPS. I do not object, if it is understood that the bills are introduced under the terms of that order—not to be reconsidered.

Mr. GROW. I agree to that.

There being no objection,

Mr. GROW introduced a bill to provide for the settlement of the claims of officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service; which was read a first and second time by its title, and referred to the Committee on Revolutionary Claims.

INVALID PENSIONS.

Mr. GROW also introduced a bill concerning invalid pensions, and regulating the time of their commencement; which was read a first and second time by its title, and referred to the Committee on Invalid Pensions.

UTAH AFFAIRS.

Mr. ZOLLICOFFER. I ask the unanimous consent of the House to submit the following resolution:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the House of Representatives the information which gave rise to the military expeditions ordered to Utah Territory, the instructions to the Army officers leading such expeditions, and all correspondence which has taken place with said Army officers, with Brigham Young and his followers, or with others throwing light upon the question as to how far said Brigham Young and his followers are in a state of rebellion or resistance to the Government of the United States.

Mr. HUGHES. I object.

PRINTING APPROPRIATIONS.

Mr. PHELPS. Mr. Speaker, I reported from the Committee of Ways and Means a bill supplying deficiencies in the appropriations for paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses. I perceive the bill and accompanying papers have been printed, and my purpose in rising is to give notice to the House that early next week I shall press its consideration in the Committee of the Whole on the state of the Union.

SAMUEL BROMBERG.

Mr. TAYLOR, of New York. I ask that the papers of Samuel Bromberg be withdrawn from the files of the House, in order that they may be sent to the Senate for submission to the Committee on Foreign Affairs, who now have the case under consideration.

It was ordered that leave be granted for that purpose.

ADJOURNMENT OVER.

Mr. BISHOP. I move that when the House adjourns to-day, it adjourn to meet on Monday next.

Mr. JONES, of Tennessee. I demand the yeas and nays. I want to get through our business and leave here.

The SPEAKER. The motion to adjourn over is not debatable.

Mr. JONES, of Tennessee. A motion to adjourn is not debatable.

The SPEAKER. Neither is a motion to adjourn over debatable.

Mr. JONES, of Tennessee. All motions are debatable which are not excepted by the rules of the House.

The SPEAKER. The gentleman from Tennessee will perceive that if a motion to adjourn over is debatable the House could never adjourn.

Mr. JONES, of Tennessee. They could adjourn, but they could not adjourn over.

The SPEAKER. They could not adjourn, be-

cause the rules give this motion precedence over the motion to adjourn.

Mr. JONES, of Tennessee. I wish, simply, to remark that if we adjourn over Fridays and Saturdays, we crowd all the private bills into the last few days of the session, plundering the country, as has always been done.

Mr. BISHOP. That is the reason, I suppose, why the gentleman from Tennessee voted last Friday to adjourn over.

The SPEAKER. The Chair would call the attention of the gentleman from Tennessee to the 48th rule:

"A motion to adjourn and a motion to fix the day to which the House shall adjourn, shall be always in order; these motions, and the motion to lie on the table, shall be decided without debate."

The question being on the demand for the yeas and nays,

Mr. GIDDINGS called for tellers.

Tellers were ordered, and Messrs. GIDDINGS and JOHN COCHRANE were appointed.

The House was divided, and the tellers reported—ayes thirty-seven, noes not counted.

So the yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 74, nays 123; as follows:

YEAS—Messrs. Barksdale, Bishop, Boyce, Branch, Burnett, Burroughs, Ezra Clark, John B. Clark, Clay, Clingman, John Cochrane, Covode, Cox, James Craig, Burton Craige, Crawford, Davidson, Davis of Maryland, Davis of Indiana, Dimmick, Edmundson, English, Faulkner, Florence, Gillis, Good, Goodwin, Lawrence W. Hall, Baskin, Hatch, Hawkins, Hickman, Hill, Hopkins, Hughes, Huyler, Jackson, Jenkins, Kelly, Jacob M. Kunkel, Lamar, Letcher, Maclay, McKibbin, McQueen, Miles, Montgomery, Morrill, Edward Joy Morris, Phillips, Powell, Quitman, Reagan, Ritchie, Scott, Searing, Aaron Shaw, Shorter, Sickles, Singleton, Robert Smith, Stephens, Stevenson, Miles Taylor, Thayer, Underwood, Elihu B. Washburne, Israel Washburn, Whiteley, Wilson, Woodson, Wortendyke, Augustus R. Wright, and Zollicooffer—74.

NAYS—Messrs. Abbott, Adrain, Anderson, Atkins, Avery, Bennett, Billingshurst, Bingham, Bliss, Bocoek, Bratton, Bryan, Buffinton, Burlingame, Burns, Case, Chaffee, Chapman, Clawson, Clemens, Cobb, Clark B. Cochrane, Cockerill, Colfax, Comins, Corning, Cragin, Curry, Curtis, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dick, Dowdell, Durfee, Edie, Farnsworth, Foley, Foster, Gartrell, Giddings, Gooch, Granger, Greenwood, Gregg, Grow, Harlan, Hoard, Horton, Houston, Howard, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miller, Millson, Moore, Morgan, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Pike, Potter, Pottle, Ready, Reilly, Robbins, Roberts, Royce, Ruffin, Russell, Sandidge, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Spinner, Stallworth, Stanton, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Thompson, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburne, Watkins, White, and John V. Wright—123.

So the House refused to adjourn over.

Pending the call of the roll,

Mr. CHAFFEE stated that his colleague, Mr. DAVES had been called home on account of sickness in his family.

Mr. CRAIGE, of North Carolina, stated that Mr. SCALES had requested him to state to the House that he was detained in his room by indisposition.

Mr. HUGHES. I withdraw my objection to the introduction of the resolution of the gentleman from Tennessee, [Mr. ZOLLICOFFER.]

Mr. HARLAN. I renew the objection.

WITHDRAWAL OF PAPERS.

Mr. MARSHALL, of Kentucky. I ask the unanimous consent of the House to withdraw the papers in the case of Henry King's heirs from the files of the Court of Claims, for the purpose of reference to the Committee on Revolutionary Claims in this House.

Mr. HARLAN. I suppose there will be applications of this kind all around the House, thus consuming the whole day, and therefore I shall object to this, and all others.

The SPEAKER announced that reports of private bills were in order from the committees of the House, commencing with the Committee of Elections.

JOHN HOPPER.

Mr. CRAGIN, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of John Hopper; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

JOHN A. HOPPER.

Mr. CRAGIN also, from the same committee, reported a bill for the relief of the heirs of John A. Hopper; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

HEIRS OF RICHARD TARRIN.

Mr. SHORTER, from the Committee on Indian Affairs, reported a bill for the relief of the heirs of Richard Tarrin; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

JAMES C. PICKETT.

Mr. CLAY, from the Committee on Foreign Affairs, made an adverse report on the petition of James C. Pickett; which was laid upon the table, and ordered to be printed.

ZINA WILLIAMS.

Mr. ROBBINS, from the Committee on Invalid Pensions, reported a bill for the relief of Zina Williams; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PATENT LAWS.

Mr. EDIE, from the Committee on Patents, made an adverse report upon the petition of citizens of Illinois for a change in the patent laws; which was laid on the table, and ordered to be printed.

WILLIAM B. WILLIS.

Mr. SINGLETON, from the Committee on Printing, made an adverse report on the memorial of William B. Willis and others; which was laid on the table, and ordered to be printed.

THE PRIVATE CALENDAR.

Mr. STANTON moved that the House resolve itself into the Committee of the Whole on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the Private Calendar, (Mr. BRANCH in the chair.)

The CHAIRMAN stated that the business first in order was the consideration of the adverse report of the Court of Claims upon the petition of Frederick Griffing.

Mr. JONES, of Tennessee. This is the fourth Friday of the month, and is, of course, under the rules, "objection day." No bill can be debated to-day. But there are a number of reports from the Court of Claims first upon the Calendar; they are adverse reports, and of course no bills accompany them. I suppose, sir, that it would be in order to call those cases upon which the court has reported adversely, and if there be no objection to reporting any case to the House, with the recommendation that the House concur in the report of the court, that course can be pursued.

Mr. UNDERWOOD. Mr. Chairman, I object to the suggestion of the gentleman from Tennessee, and for the reason that there are to be found among these cases a great many which are presented as though reported upon adversely, when, in point of fact, it will be found that the reports are not adverse, but adverse merely upon some technical proposition of law, with a recommendation from the court that the claims be allowed by Congress. Some of those cases, which I happen to know of, were referred during the last Congress to a committee, and that committee took up the reports of the court, and returned them to the House, with bills. It would be improper, in that state of the case, as I apprehend, that the course suggested by the gentleman from Tennessee, should be taken. I hope, therefore, that the general and sweeping proposition which he has indicated, may not be adopted.

Mr. JONES, of Tennessee. I think that the gentleman from Kentucky does not understand me. I only suggested the propriety of reporting to the House such of these cases as shall not be objected to, with a recommendation to concur with the Court of Claims. But I understand that none of these reports have been printed; and, perhaps, it would be better to pass over all of them, as they are not printed.

The CHAIRMAN. The Chair would state

that he is informed that there are on this Calendar but three reports that have been printed, and these are all adverse reports from last Congress.

Mr. LETCHER. I imagine that that is a mistake. I take it that the Court of Claims, in sending reports here, send them printed. I examined one of them this morning, out of curiosity, and found it to be a fact in regard to that. It was claim No. 11 on the Calendar.

The CHAIRMAN. The Chair is informed that that is one of the cases reported last Congress. The Chair asks permission to state, that this being objection day, when a case is called, and any gentleman objects to confirming the report of the court, the Chair will hold that that case will have to be passed over.

Mr. WARREN. I would suggest to take up the cases as they appear on the Calendar. I object to having them taken up in mass, and hope they will be taken up as they occur.

Mr. STEPHENS, of Georgia. The proper question, when each of these cases is called, is: "Shall the report of the Court of Claims be confirmed?" I ask for the reading of the ninth section of the act organizing that court.

The section was read. It enacts that the claims reported upon adversely shall be placed upon the Calendar when reported; and if the decision of the court shall be confirmed by Congress, said decision shall be conclusive, and said court shall not, at any subsequent period, consider such claims, unless such reasons shall be presented to said court as by the rules of common law and chancery in suits between individuals, would furnish sufficient ground for granting a new trial.

Mr. STEPHENS, of Georgia. Under that section of the act, I take it that the proper question is: "Shall the report of the Court of Claims be confirmed?" If any gentleman objects to that, why, of course, the case goes over—this being objection day. After the committee shall have acted in the confirmation of the reports of the Court of Claims, the cases are reported to the House; and after they are acted on there they have to be sent to the Senate for confirmation. The words of the law are "by Congress;" that is, by both Houses. That, I think, is the proper course to take with these cases. When objection is made, they are passed over as any other case.

The CHAIRMAN. The Chair understood the gentleman from Tennessee to move to confirm the reports of the Court of Claims in the case called. If any gentleman objects to confirming that report, the Chair will hold that all debate is out of order, and will proceed to call the next case on the Calendar.

Mr. WARREN. I understood the gentleman from Tennessee to propose to take up all these cases reported adversely, and to concur with the Court of Claims on all of them in a mass.

Mr. JONES, of Tennessee. The gentleman misunderstood me. My proposition was, that the first case should be called, and if there were no objection, that it should be reported to the House with a recommendation that the House agree with the recommendation of the Court of Claims; but if any gentleman object to its being concurred in, then the case goes over, and can be discussed in future.

Mr. WARREN. I understand the gentleman now; he is right about that. I am in favor of taking up these cases as they occur, and, if no objection be made, let the report of the Court of Claims be confirmed. The gentleman from Georgia [Mr. STEPHENS] is right as to the question to be submitted—whether the report of the Court of Claims shall be confirmed or not. The reason that induced me to seek the floor was because I misunderstood the gentleman from Tennessee. I thought he proposed to take these claims all en masse.

Mr. STANTON. What question is before the committee?

The CHAIRMAN. The question before the committee is: Will the committee confirm the report of the Court of Claims in the case of Frederick Griffing? If any gentleman objects to taking up and confirming that report, it will go over.

Mr. STANTON. Is it debatable?

The CHAIRMAN. It is not debatable.

Mr. STANTON. Then I object to any debate in reference to it.

Mr. MARSHALL, of Kentucky. I will move to postpone all of these cases reported from the

Court of Claims—this one and on, *seriatim*—if I am compelled to take that course. I give as my reason, that I do not think it becomes this House to enter on the question of the confirmation of a series of decisions which, by the law, becomes conclusive on the party, while the House stands confessedly without ever having seen any of the documents connected with the transaction. It is confessed here that the reports have not been printed, and yet we are called upon to confirm decisions which none of us have ever seen.

The CHAIRMAN. Does the Chair understand the gentleman from Kentucky as objecting?

Mr. MARSHALL, of Kentucky. Yes, I object; and move to postpone all of these cases.

Mr. RITCHIE. I would inquire whether the reports of the Court of Claims have not already been before the Committee of Claims, and by that committee reported to the House?

The CHAIRMAN. The Chair understands that these adverse reports from the Court of Claims do not, under the rule of the House, go to the Committee of Claims at all, but are placed on the Calendar of the House.

The case next on the Calendar was an adverse report on the petition of Francis Picard, administrator of Pierre Ayott.

Mr. WARREN. By way of disposing of all of these reports from the Court of Claims, I now, in my place, object to the whole of them, for the reason that I think we are acting very unadvisedly, inasmuch as we have not before us the evidence on which the Court of Claims acted. I object, therefore, to the whole of them, in mass or individually.

Mr. GROW. I desire to appeal to the gentleman from Arkansas. These cases stand on the Calendar, and may as well be disposed of to-day as at any other time. If not, we will have to go through the whole of them on every private bill objection day, and every other private bill day; they will block up the entire business on the Private Calendar. They might as well, therefore, be disposed of to-day. The proper motion would be to lay these aside, with a recommendation that the decision of the Court of Claims be confirmed.

The CHAIRMAN. Does the Chair understand the gentleman from Arkansas as objecting in the case of Francis Picard?

Mr. WARREN. I do object, unqualifiedly; and, if permitted, I will make this remark—

The CHAIRMAN. Debate is out of order; and the Chair holds that objection in mass is out of order.

Mr. WARREN. Well, take them *seriatim*; and I am ready, in my place, to object to them all.

The CHAIRMAN. The next case is an adverse report from the Court of Claims upon the petition of Francis Picard, administrator of Pierre Ayott.

Mr. JONES, of Tennessee. I ask for the reading of the report.

Mr. WARREN. I object to the case.

Mr. JONES, of Tennessee. I presume the gentleman only objects to reporting the case to the House.

The CHAIRMAN. The report has not been printed.

Mr. JONES, of Tennessee. But the manuscript report can be read.

Mr. HOUSTON. I understand that the gentleman from Arkansas wants to hear the papers in this case read, so that he can form an opinion as to the correctness of the judgment of the court. That is what we all want.

The CHAIRMAN. If the gentleman will excuse the Chair, he will state that he understands the gentleman from Arkansas to object to the consideration of the case. The Chair therefore rules that the case cannot be taken up.

Mr. WARREN. I would like the Chairman and the House to indulge me while I state the grounds of my objection.

The CHAIRMAN. Debate is in order only by unanimous consent.

Several MEMBERS objected.

Mr. TAYLOR, of Louisiana. I wish to make a suggestion.

Mr. CLEMENS objected.

The next report on the Calendar was from the Court of Claims upon the petition of George W. Dow and John Ditmas.

Mr. KELSEY objected.

Mr. TAYLOR, of Louisiana. I move that the

committee pass over the adverse reports from the Court of Claims and take up for consideration the bill which immediately follows them. From that bill the committee can then go on with a hope of accomplishing something.

The CHAIRMAN. That can be done only by unanimous consent.

Mr. GREENWOOD objected.

Mr. LEITER. I rise to a point of order. When gentlemen are decided out of order I insist that debate shall not be allowed.

Mr. WARREN. I rise to a point of order. I was not permitted to state the reasons for my objection, and as gentlemen cannot be permitted to debate the reports as they come up, and not caring to vote without understanding the question, I object to the report now before the committee.

The next case was an adverse report from the Court of Claims upon the petition of Daniel Vawinkle.

Mr. WARREN objected.

The next case was an adverse report from the Court of Claims upon the petition of Joseph Lorranger.

Mr. WARREN objected.

The next case was an adverse report from the Court of Claims upon the petition of Michael Musy and Andre Galtier.

Mr. KELSEY. Is it in order to move that that case be referred to the Committee of Claims, with instructions that they report a bill?

The CHAIRMAN. It is not; for it would be in the nature of an objection.

Mr. CLEMENS objected.

The next case was an adverse report from the Court of Claims upon the petition of Henry G. Carson, administrator of Curtis Grubb.

Mr. GROW. As it will take all of the day to go through with these reports from the Court of Claims, I suggest that the Calendar be proceeded with, commencing with the first case immediately after them.

The CHAIRMAN. That can be done only by unanimous consent.

Mr. DAVIS, of Indiana, objected.

Mr. SHERMAN. It is evident that the committee will do nothing; and I therefore move that the committee rise.

The motion was agreed to; there being, on a division, yeas 70, nays 62.

The committee rose; and the Speaker having resumed the chair, Mr. BRANCH reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and had come to no conclusion thereon.

ADJOURNMENT OVER.

Mr. HICKMAN moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. GREENWOOD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON. I rise to a question of order. I submit that this motion to adjourn over cannot be entertained again; and I hope that the House will settle the question for the present Congress, and establish a practice different from that which prevailed at the last Congress. It is perfectly apparent, if this motion to adjourn over can be repeated on the same day, that nothing can be done on Fridays. I raise the question of order with a view to take an appeal from the decision of the Chair, if the Chair entertains the motion.

The SPEAKER. The Chair overrules the objection, and entertains the motion.

Mr. STANTON. I appeal from the decision of the Chair, and ask for the yeas and nays upon sustaining the appeal.

Mr. FLORENCE. I move to lay the appeal upon the table.

Mr. STANTON. I demand the yeas and nays upon that motion.

Mr. FLORENCE. I withdraw the motion. There seems to be a general desire to test the question, and we may as well meet it squarely.

Mr. STEPHENS, of Georgia. I renew the motion to lay upon the table. The decision of the Chair is clearly right.

Mr. FOSTER. I should like to know what the former usage and what the rule is?

The SPEAKER. The Chair will report the rule.

"A motion to adjourn, and a motion to fix the day to which the House shall adjourn, shall be always in order.

These motions, and the motion to lie on the table, shall be decided without debate."

The decision of the Chair is in conformity with the practice of the House certainly for the last ten years, with a single exception during that time, when the Speaker decided that it was in order to repeat the motion, and the House overruled the decision. That has been the uniform practice.

Mr. STANTON. I would ask whether, during the last Congress, it was not decided differently, and that practice adhered to?

The SPEAKER. It was not.

Mr. STANTON. It was at some time, and I supposed it was during the last Congress.

Mr. MORGAN. We have voted once upon this motion to adjourn over, and I ask if it would be in order to move to reconsider that vote and to lay the motion to reconsider on the table?

The SPEAKER. The Chair is of opinion that the motion would not be in order, if the former decision of the Chair be correct.

Mr. CLINGMAN. Does the Chair hold that this question is open to debate? If so, I desire to say a word or two.

The SPEAKER. It is not, because the motion to lay the appeal on the table is not debatable, and if it had not been made, the motion would not be debatable, the rule declaring that it should be decided without debate.

Mr. WARREN. Will it be in order to amend the motion in regard to the time of adjournment? I wish to move that when the House adjourns, it adjourn to meet at ten o'clock on Monday next.

The SPEAKER. The pending motion is to lay the appeal upon the table.

The question was taken; and the motion was agreed to.

The question recurred upon the motion that when the House adjourns, it adjourn until Monday next.

Mr. WARREN. I now move my amendment.

Mr. GROW. I rise to a question of order. The amendment cannot be in order, as it changes the rule of the House as to the hour of meeting, which cannot be done on a motion to adjourn over.

The SPEAKER. The Chair sustains the point of order taken by the gentleman from Pennsylvania, and rules the amendment of the gentleman from Arkansas out of order.

The yeas and nays were then ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 94; as follows:

YEAS—Messrs. Ahl, Andrews, Barksdale, Bishop, Blair, Bowie, Boyce, Branch, Bryan, Burlingame, Burnett, Burroughs, Campbell, Chapman, Ezra Clark, John B. Clark, Clay, Clingman, John Cochrane, Conins, Corning, Covode, Cox, James Craig, Burton Craige, Crawford, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dimmick, Dodd, Edie, Edmundson, Elliott, English, Eastis, Faulkner, Florence, Foley, Gillis, Gilman, Goode, Goodwin, Gregg, Lawrence W. Hall, Has- kin, Hatch, Hawkins, Hickman, Hill, Hopkins, Hughes, Huyler, Jackson, Jenkins, Keitt, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McQueen, Miles, Montgomery, Morrill, Edward Joy Morris, Peyton, Phillips, Powell, Quitman, Reagan, Reilly, Ricard, Ritchie, Russell, Seasing, Aaron Shaw, Shorter, Sickles, Singleton, Robert Smith, William Smith, Stallworth, Stephens, Stevenson, Miles Taylor, Thayer, Thompson, Underwood, Ellihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Woodson, Wortendyke, Augustus R. Wright, and Zollicoffer—101.

NAYS—Messrs. Abbott, Adrain, Anderson, Atkins, Bingham, Bliss, Bockee, Brayton, Bullinton, Burns, Case, Chaffee, Clawson, Clemens, Cobb, Clark B. Cochrane, Cockerill, Colfax, Curry, Curtis, Dean, Dewart, Dick, Dowdell, Durfee, Farnsworth, Foster, Gartrell, Giddings, Granger, Groesbeck, Grow, Harlan, Hoard, Horton, Houston, Howard, Jewett, George W. Jones, J. Glancy Jones, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Miller, Millson, Morgan, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Olin, Palmer, Parker, Pendleton, Phelps, Pike, Potter, Pottle, Purviance, Ready, Robbins, Roberts, Royce, Ruffin, Savage, Edward Henry M. Shaw, John Sherman, Soumer, Stanton, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburne, Watkins, Winslow, and John V. Wright—94.

So the motion was agreed to.

Pending the call of the roll,

Mr. KEITT stated that Mr. GARNETT was detained from the House by sickness.

Mr. KEITT. I move that the House adjourn. Mr. SMITH, of Virginia. I ask the gentleman to withdraw that motion for a moment, that I may make a motion to reconsider.

Mr. KEITT. I withdraw for that purpose.

Mr. SMITH, of Virginia. I wish to make a motion to reconsider, if it be in order; but, before I make the motion, I desire to know—a motion to

reconsider being made yesterday and laid upon the table—whether it would be in order to move to reconsider the vote laying it upon the table?

The SPEAKER. A second reconsideration cannot be obtained.

Mr. SMITH, of Virginia. Then I, of course, will not make my motion.

PATAPSCO RIVER, ETC.

Mr. DAVIS, of Maryland, by unanimous consent, introduced a bill for the improvement of the navigation of the Patapsco river, and to render the port of Baltimore accessible to war vessels and steam frigates of the United States; which was read a first and second time, and referred to the Committee on Commerce.

Mr. WASHBURN, of Maine. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. KEITT. I renew my motion to adjourn. The House refused to adjourn.

The question recurred upon the motion of Mr. WASHBURN, of Maine.

Mr. PHELPS. I ask the gentleman from Maine to withdraw his motion, and let us proceed to the business on the Speaker's table.

Mr. WASHBURN, of Maine. No, sir; I cannot withdraw it.

Mr. STEPHENS, of Georgia, (at two o'clock and five minutes, p. m.) I move that the House do now adjourn.

The SPEAKER. No business has been transacted since that motion was negatived.

Mr. STEPHENS, of Georgia. What became of the motion of the gentleman from Maine?

The SPEAKER. The gentleman from South Carolina [Mr. KEITT] made the motion to adjourn after the motion of the gentleman from Maine had been received.

Mr. KEITT. Well, I call for a division on my motion.

The SPEAKER. The call for a division comes too late. The result of the vote has been announced.

Mr. KEITT. I move, then, that the House proceed to the business on the Speaker's table.

The SPEAKER. The motion of the gentleman from Maine takes precedence of that motion.

Mr. FLORENCE. If the object of the gentleman from Maine is to consider the appropriation bills, I will say to him that my colleague, [Mr. J. GLANCY JONES,] the chairman of the Committee of Ways and Means, is not in the House.

The SPEAKER. Debate is not in order.

Mr. FLORENCE. I know that, sir; I only desired to give the information to the gentleman from Maine and the House.

Mr. KEITT. I move that there be a call of the House.

Mr. GIDDINGS. I appeal to the gentleman from South Carolina to withdraw his motion, for I know that the gentleman from Virginia [Mr. FAULKNER] of the Committee on Military Affairs, is exceedingly anxious to get up his bill for the four new regiments. I call upon that gentleman to come forward now. The country is suffering. He told us so three weeks ago, when he wanted to close debate on the President's message. I hope he will come forward now and bring up his bill.

Mr. STEPHENS, of Georgia. I now move that the House adjourn.

Mr. FLORENCE. I call for tellers on that motion.

Tellers were ordered.

Mr. WARREN. I ask for the yeas and nays. The yeas and nays were not ordered.

Messrs. FLORENCE and BILLINGHURST were appointed as tellers.

The House divided; and the tellers reported—yeas 76, nays 93.

So the House refused to adjourn.

The question recurred on the motion that there be a call of the House.

Mr. FLORENCE demanded the yeas and nays; but subsequently withdrew the demand.

The motion for a call of the House was not agreed to.

The question recurred on the motion to suspend the rules; and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WINSLOW in the

chair,) and proceeded to the consideration of House bill (No. 3) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1859.

Mr. HUGHES. I move that the committee do now rise.

The motion was not agreed to.

PACIFIC RAILROAD.

Mr. BILLINGHURST. Mr. Chairman, the President, in his annual message, recommends to us the favorable consideration of the Pacific railroad. He speaks of the advantages of the southern route, but expressly eschews a commitment to any particular route. The Secretary of War commits himself to the southern route. He says the grades are lower, the climate milder, and the distance across the desert region, common to all the routes, is less upon this. He also says the distance from El Paso to the Colorado, besides being the shortest of all yet surveyed, possesses very decided advantages over others, in several important particulars.

Without being opposed to a southern route, or a middle, I am in favor of the northern route, from the head of Lake Superior to Puget Sound, and take this early occasion to say that, in my opinion, no bill can, or ought to pass this Congress that does not provide for this northern route. I am willing to vote for a bill that shall furnish equal facilities for three roads, leaving to the wisdom of capital the choice of lines for investment.

Does the Secretary of War intend to impress Congress and the country with the idea that the Pacific railroad is complete when the four hundred and seventy-two miles between El Paso and the Colorado, are furnished with a track? Why, sir, that link is less than one quarter of the road necessary, and without the balance this link is useless. Perhaps he assumes that the southern Pacific through Texas, a distance of eight hundred miles, is completed. Sir, a most violent assumption. Five years ago a grant of sixteen square miles, and two years since \$6,000 in money per mile, was given by Texas in aid of this road, and just now, with all this aid, about twelve miles of the road is completed, and most of that has been done by assignees of the company, and but slightly done, and under the great pressure of a forfeiture of charter, if twenty-five miles is not in running order by next month. What guaranty has the General Government that any road in that latitude, which may receive its favors, will be prosecuted with any better success? Without Government aid, by private capital alone, in these five years, the other States of the Union have built over twelve thousand miles of road, the equivalent of more than one per annum, or six lines of railroad to the Pacific. The chief sustenance of a Pacific railroad is to be drawn from the commerce of the Pacific ocean. To secure that commerce, the road must terminate at a good sea-port—a good harbor. Neither San Diego or San Pedro being such harbor, we must look to San Francisco, Astoria, or Puget Sound—the best of these is Puget Sound. In considering the southern route, San Francisco must be regarded as its western terminus. I propose to speak briefly of this southern route, that has been so carefully nursed by the War Department for the past three or four years, and to contrast it with the northern route, and then to appeal to the wisdom of Congress and the country in behalf of the only route that presents anything inviting to the capital of the country.

In all Government calculations it is assumed that Fulton, on the Arkansas, is the eastern terminus of the southern route.

Mr. CURTIS. If you add the distance from Fulton to the navigable waters of the Mississippi, you may give two hundred miles more.

Mr. BILLINGHURST. It is true, that from Fulton to the Mississippi river is over two hundred miles—about two hundred and fifty.

Mr. COBB. I would state to the gentleman from Iowa, [Mr. CURTIS,] that these two hundred miles of road will be completed very soon.

Mr. CURTIS. I am very glad to hear that.

Mr. BILLINGHURST. If it takes five years to build twelve miles in this latitude, as it has in Texas, it is a matter of simple calculation how long it will take to build two hundred and fifty miles.

Passing west we cross the Llano Estacado, an elevated barren table land one hundred and fifty

miles across; one hundred and ten of which is at an altitude of four thousand five hundred feet. This is the plain where the Government is sinking money in Artesian wells. To traverse this and other barren plains on this route, and to supply these wells with water, the Government has been importing camels and dromedaries. From this plain to Independence Springs, the altitude varies from four thousand one hundred and fifty to four thousand five hundred feet; thence through Guadalupe Pass, a distance of twenty-four miles, from four thousand five hundred to five thousand seven hundred and sixteen feet. Passing on at high altitudes, we approach Hueco Pass, the summit of which is four thousand eight hundred and eleven feet; and, for a distance of twenty-eight miles, approaching and leaving this pass, the altitude is above four thousand five hundred feet; from thence to Molino, near El Paso, on the Rio Grande, there is a gradual descent to three thousand eight hundred and thirty feet. Between El Paso and Primas village, on the Gila, two hundred and seventy-two miles of the whole distance, exceeds four thousand five hundred feet in elevation; the greatest altitude being five thousand four hundred and seventy-six feet. I next strike the line one hundred and twenty miles west of the Colorado, approaching the San Geronio Pass, on a grade of forty feet per mile for ten miles; then, with a grade of eighty-nine feet per mile for six miles, to the summit of the pass at an altitude of two thousand eight hundred and eight feet, bordered by mountains nine thousand feet high. It then descends to San Barnardo, a distance of twenty-five miles, at a grade of eighty feet per mile, with one third of a mile at one hundred and twenty-seven feet grade. Thence, seventy-eight miles to San Fernando Pass, which is approached by more than four miles on an ascending grade of one hundred and fifty-five feet to the mile, tunneled one third of a mile at an elevation of one thousand seven hundred and forty-six feet; and descended from at a grade of one hundred and fifteen feet per mile four miles, with heavy and difficult side-cutting; thence seven miles with an ascending grade of fifty-five feet per mile.

The next remarkable feature is the New Pass of Lieutenant Williamson, in the valley of the Santa Clara, the summit of which is three thousand one hundred and sixty-four feet above the sea—requiring a cut in the summit of fifty feet, with grades for a distance of twenty-nine miles, varying between fifty-five and one hundred and five feet; also requiring two or three tunnels through spurs of the mountain. Indeed, the natural slope on the east is two hundred and forty and two hundred and eighteen feet, the distance of one and one third miles. The next is the Tay-ee-chay-pah Pass (in the Sierra Nevada)—elevation of summit, four thousand and twenty feet; ascending to it from the Tulares valley in fifteen and a half miles, with grades varying from one hundred and fifty-three to one hundred and ninety-two feet, and descending nine miles, at eighty feet per mile. Between Tay-ee-chay-pah Pass and Kern river, ten miles of the distance require a grade of seventy-eight feet per mile. From the crossing of Kern river to San Francisco is two hundred and seventy miles. Of this portion of the route I will not speak, as I have no reliable data. The length of the road from Fulton to San Francisco is computed to be two thousand and fifty-eight miles. Of this distance four hundred and thirty-four miles is ascertained to be at an altitude exceeding four thousand five hundred feet. The sum of ascents and descents on this line is forty-two thousand nine hundred and thirty-four feet. The absence of water; the absence of vegetation; in fact, the absence of soil in five or six hundred miles of this route, render it incapable of settlement, and consequently uninviting to that capital, which is indispensable in the construction of railroads.

I have not yet done with the southern route, but shall have more to say of it before I take my seat. What I have said, and shall say, is in no spirit of animosity to it; but that I feel compelled to make some contrasts, in order to do that justice to the northern route which it has failed to receive at the hands of the War Department.

Mr. Chairman, I shall now proceed to a very brief consideration of the northern route.

The great chain of the northern lakes furnish at hand a water communication more than half way across the continent. The head of Lake Superior is the natural starting point for a railroad.

In a straight line to Puget Sound, the distance is thirteen hundred and eighty miles; by the railroad route explored by Governor Stevens, via Fort Vancouver, nineteen hundred and seventy-five miles; and by the Cœur d'Alene route to Fort Vancouver, eighteen hundred miles.

From Fond du Lac Superior as a starting point, at an elevation of six hundred and thirty feet above tide waters, it strikes the Missouri at Fort Union, in latitude 48° north, at an elevation of two thousand feet above the ocean. Guadalupe Pass, on the southern route, is directly south of Fort Union, and in latitude 32°, being eleven hundred and twelve miles south, and is elevated three thousand seven hundred and sixteen feet above Fort Union. Fort Union is seven hundred and twenty-five miles from Lake Superior, and the rise in that distance is thirteen hundred and seventy feet. Extending west, via the valley of the Milk river, to Fort Benton on the Missouri, in latitude 47° north, the elevation is two thousand three hundred and twenty-nine feet, being a further elevation of three hundred and twenty-nine feet in three hundred and seventy-five miles. From thence to the summit of the divide at Lewis and Clark's Pass, Cadotte's Pass, and Lieutenant Mullen's Pass, (sometimes called Hell Gate Pass,) west of what is known as the "Gate of the Mountain," a distance of one hundred and twenty miles, we attain an elevation ranging, according to different measurements, between five thousand five hundred and thirty-seven feet and six thousand two hundred and twenty-three feet. Lewis and Clark's Pass can be passed by a tunnel two and a half miles in length, one thousand feet below the summit; Cadotte's Pass the same; and Mullen's Pass between the sources of the Little Prickly Pear and the Little Blackfoot rivers, with a cut of one hundred feet, not exceeding one half mile in length. It is safe to assume, from a careful examination of all the reports of explorations of this dividing ridge between the head waters of the Missouri and the Columbia, that the railroad track will not be elevated above five thousand feet, and at that elevation not exceeding two and a half miles.

Here is what Lieutenant Mullen says of the Pass I have designated as his:

"On the seventh night from Fort Benton, I encamped at the foot of the mountains on the east, forming the dividing ridge of the Missouri and Columbia waters. The day following (March 25, 1854) I crossed the mountain with no difficulty whatever; found no snow upon its summit, and the mountain itself nothing more than a low prairie ridge. The ascent and descent are so exceedingly gradual, that not only was it not necessary to lock the wheels of the wagon in descending, but it was driven with the animals trotting. (He was traveling with a four mule team.) One could scarcely have believed that there existed such a beautiful and easy pass in the mountains. For a railroad it would involve a cut of one hundred feet deep and half a mile long, which was the measured distance from base to base." *
"From the mountains to the Bitter Root valley you have a gently sloping valley the whole distance."

Of Cadotte's Pass, Lieutenant Saxton thus speaks in his journal:

"September 7, 1853.—Crossed the last dividing ridge of the mountains, and are encamped upon a small creek upon the eastern side, one of the head branches of the Missouri. The ridge which divides the waters flowing into the Atlantic from those flowing into the Pacific, at the place where we crossed, is but a high hill, and it is not more than a mile in a straight line between the sources of the Columbia and the Missouri. Nature seems to have intended it for one of the great highways across the continent.

"The mountains at this point, offer no obstacle to the construction of a railroad from this place to the Flathead village. With the exception of one mountain, easily to be avoided, a finer region through which to build a road can nowhere be found."

It is highly probable that a more thorough examination of this dividing ridge will discover more favorable passes than any yet known. The eastern approaches to the most difficult of these passes does not exceed sixty feet per mile gradients; nor the western, forty feet; and these high grades extend but a few miles from the summit.

Here, in a distance of twelve hundred and twenty miles from the head of Lake Superior to the Rocky Mountain Pass, the rise is only four thousand four hundred feet, or three and one half feet per mile. But in the eleven hundred miles to Fort Benton, the rise is only sixteen hundred and fifty-nine feet, or one foot and a half per mile. From Fort Benton to the summit, one hundred and twenty-three miles, the rise is two thousand six hundred and seventy-one feet, or twenty-two feet per mile.

On the mountain slopes there is an abundance of timber, just where it is most needed.

From Lewis and Clark's Pass, as well as from Cadotte's Pass, the route westward is down the valley of the Blackfoot river, to Hell Gate, in the valley of the Bitter Root river; and the route westward from Mullen's Pass is down the valley of the Little Blackfoot and Hell Gate river, also to Hell Gate, which is in latitude 47°, and longitude 114°; thence down the valley of the Bitter Root to the mouth of the Regis Borgia creek, and up this creek, westward, through the pass in the Cœur d'Alene mountains; thence in a southwesterly direction, through the great basin of the Columbia, between Clark's forks and Snake river, over an open prairie country, to Fort Wallah-Wallah. From this point there are two routes to Seattle, on Puget Sound—one, by way of the Columbia river, to Fort Vancouver, and then north, on the west side of the Cascade range of mountains; the other in a northwest direction, known as the Yakima route. Governor Stevens favors this latter route; saying it will shorten the distance eighty-four miles, and cost \$5,000,000 less than the Columbia valley route, and is practicable.

There are no grades west of the divide exceeding fifty feet per mile. Perhaps a few short tunnels through bluff points projecting to the rivers, similar to those on the Hudson river railroad, may be required. The sum of ascents and descents on this line is nineteen thousand one hundred feet.

If, on a working survey of the line, tunneling shall be found advisable, to shorten distance, this discovery should not be considered a very serious obstacle, as, with the present knowledge in railroad construction, rock tunneling can be pushed forward at the rate of two lineal yards per day, without machinery; and with machinery, at double that rapidity; and by either method, the cost will be within half a million dollars per mile.

Mr. Chairman, I have said enough upon the profile of the northern route. Now, sir, I propose to speak of it with reference to its soil, climate, and capabilities for sustaining a population. As to that part of it which crosses Minnesota, from Lake Superior to the Bois des Sioux, a distance of two hundred and twenty-six miles, let the three hundred thousand inhabitants of Minnesota answer. From the Bois des Sioux, four hundred and seven miles west, to the mouth of White Earth river, the western boundary of the old Territory of Minnesota, where the Missouri makes its great bend from an eastern to a southern direction, the first sixty miles furnishes plenty of wood and timber, and the balance of the way is in the main an open prairie country, good soil for farming, with occasional groves and belts of wood, and the whole way interspersed with creeks, rivulets, and lakes, besides the Rivière à Jacques, Chayenne, and Mouse rivers.

From White Earth river to Fort Union is eighty-four miles, and from thence to Fort Benton three hundred and seventy-five miles. About one hundred and thirty miles above Fort Union, the railroad line leaves the valley of the Missouri, and takes to the valley of Milk river, and keeps in this valley to the Bear's Paw mountains, nearly opposite Fort Benton. Here the land is better than in the valley of the Missouri, which, below Fort Benton, passes through the Mauvaises Terres, a tract of "bad land;" but the district through which the Milk river runs, as well as the country a little way back from the Missouri, abounds in grass—is recognized by all who have seen it as prairie land—a name never applied to any but fertile land. It abounds in grass; is the favorite resort of the buffalo, those engineers by instinct, whose survey lines will never lead us into barren places; to follow which is wiser than to follow the line of the theodolite, when it would take us over desert wastes and impracticable mountain barriers.

"The soil is excellent from the Mississippi river to the Bois des Sioux, in the Mouse river valley, and in the valleys of the several streams flowing into the Missouri. Much of the land is good on Milk river, and on the banks of the Missouri itself. It is excellent in the valleys of the Marias, Teton, Medicine, Dearborn, and the several tributaries at the forks of the Missouri. It is also excellent on the Missouri in the vicinity of Fort Benton, on the Highwood creek, on the Judith river, on the Muscle Shell, and on Smith's river. The valleys of the Hell Gate, Blackfoot, St. Mary's, Jocko, and the several tributaries flowing into the Flathead lake, furnish excellent soil. The soil is good on the several prairies on Clark's fork, in the vicinity of the Cœur d'Alene lake, the several tributaries flowing into that lake, and good for the most part on the banks of the Spokane, and on the western slope of the Cœur d'Alene mountains; and it is

good, also, much of the distance on the railroad route over the Great Plain of the Columbia, and on the Wallah-Wallah river and its tributaries. In the immediate vicinity of Fort Wallah-Wallah the soil is poor. Below Fort Wallah-Wallah, on both banks of the Columbia, the soil for the most part is good, and the grazing excellent. Below the Cascades the soil is rich, and is so for the most part to the mouth of the Cowlitz, and thence to Puget Sound. On the southern shore of Puget Sound a portion of the prairies is gravelly, although the great portion furnishes fair arable land.

"In the Yakima valley there is some good land, and by irrigation a considerable quantity of land could be made available for crops. Crossing the mountains by the Snoqualine Pass, the soil improves, and for some forty miles before reaching the Sound, the quality is excellent. This is especially the case back of Seattle.

"The grazing is good on the whole route, and between the Bois des Sioux and the Mouse River valley, and between this valley and the Big Muddy river. Between the several river valleys from the Big Muddy to the Medicine river, there are many small streams, and valleys furnishing excellent farming locations.

"The timber is abundant as far as the Bois des Sioux, and on the route thence to the Grand Coteau, heading the Mouse river valley, the road can be supplied from the Shayenne, the Minnawaken lake, the coulees, and main valley of the Mouse river, and various lakes not far from the line of the route. From the Grand Coteau to the Big Muddy river, there is little or no timber, and the supply must be furnished from the Missouri and Yellowstone. The same from the Big Muddy to Milk river. From the mouth of Milk river to the mountains, temporary arrangements can be made with the cotton-wood, to be replaced, on a through communication being established, by the excellent pines of the Bear's Paw, the Three Buttes, and the Rocky Mountains, though it will be practicable, from the Missouri, to extend the track along Milk river, by the red cedar and the pines of the Missouri and Yellowstone, and, by the use of a branch road, to open a new section where the route passes between the Bear's Paw and the Three Buttes. The supply from the mountains to beyond the crossing of the Spokane is inexhaustible; thence, for some one hundred miles, to the crossing of the Columbia, there is a scarcity of timber; but inexhaustible supplies can be floated down the Columbia. From the crossing of the Columbia, down its valley to the Cowlitz, and thence to the Sound, the supply is inexhaustible; though from the crossing to the Dalles, the reliance must be on the woods of the Columbia, above the mouth of the Wenatchapan; by the route of the Yakima and the Snoqualine Pass, there will be ample supplies of timber. Not much is found the first ninety-four miles; but the route being in the valley of the Yakima, there will be no difficulty in rafting down to points where timber is wanted, from its head waters.

"In the timbered region are found pine, larch, spruce, cedar, and fir. East of the Bois des Sioux the growth is principally oak, elm, ash, &c.

"There will be no difficulty as to water. It will be deficient at points on the broad plateau between the Milk and Missouri rivers, but by aqueducts it can easily be supplied. The lakes on the Grand Coteau will also furnish the means of supplying any deficiency from the Grand Coteau to a point south of the Minnawaken lake. But our observations go to show that there need be little apprehension of a deficiency here. On the great plain of the Columbia, I apprehend no deficiency in the supply of water; the whole country abounds in lakes and small streams.

"Our observations and inquiries go to show that the average depth of snow cast of the mountains to the Missouri does not exceed one foot. Two feet is an extraordinary depth, and the most experienced voyageurs in that country have never been detained a single day, in traveling, by snow. The most they have been compelled to do was to lie by till the storm was over.

"In the Rocky Mountains, and on the line of Clark's Fork, the snow is hardly ever deep enough to prevent the Indians traveling with their families on horseback all through the winter; one foot is a common depth, and three feet is a very extraordinary depth, in the Rocky Mountains. Last winter the average on the several passes was less than one foot. The winter before—the winter of greatest snow for many years, as shown by the unprecedented rise of the rivers in the following spring—the depth was three feet.

"On the plain of the Columbia, in the lower Columbia valley, and on the route thence to the Sound, the snow is inconsiderable."—Governor Stevens's Summary.

To go more into detail on this subject of snows, as it seems to be one of the great "bugbears" to frighten away support of the northern route, I offer the testimony of Lieutenant Grover, who crossed the mountain range in the winter of 1854. He left Fort Benton on the 2d of January, 1854; up to that date, but little snow had fallen in that section of the country, and that little did not remain. The weather had been generally mild. He started with a dog train, taking with him pack mules, until he should meet the snow. On the 3d it snowed, and on the morning of the 4th three inches of snow was found on the ground. On the 7th the appearances were so favorable for snow that he sent back his mules; but he found he was too hasty, as a southwest breeze sprang up and took off nearly all the snow. He says a southwest wind in that country is sure to bring with it fair mild weather continuously, and that it is the prevailing winter wind. Hence he accounts for the moderate amount of snow. On the 10th, after traveling on bare ground, he encamped on Dearborn river and found snow; on the 12th, he crossed the divide in snow a foot deep and but little drifted. On his further progress west, through the Rocky

Mountain range, this officer found but little or no snow in the valleys or mountain passes.

Two months later, in March, Lieutenant Mullen went from Fort Owen to Fort Benton, a distance of two hundred and ninety-four miles, and back in the same month, and found only ten inches of snow, and this depth but part of the way.

The greatest depth of snow is found in the Cascade range. In January, 1854, Captain McClelland undertook to explore the Snoqualme Pass; but meeting with some Indians, who represented the snow to be twenty-five feet deep on the summit, he gave up the enterprise and returned. I suppose it is upon the strength of this report that the late Secretary of War, in reporting upon Governor Stevens's reconnaissance, says:

"The evidence respecting the amount of snow found on the summit of the pass at the close of winter, makes it probable that it is then twenty feet deep there."

But, fortunately, it so happens that at this very time, January, 1854, while Captain McClelland was attempting the passage from the west, A. W. Tinkham made the passage from the east, crossing the summit of the pass on the 21st of January, and he says:

"For about six miles on the summit snow was found to be six feet deep, with an occasional depth of seven, as also of four." * * * "The whole breadth of snow over twelve inches deep was some sixty miles in extent; of this about forty-five miles were two feet and upwards; about twenty miles were four feet and upwards; and six miles were six feet and upwards."

And he further says:

"The snows present little obstruction to removal in comparison with the compact drifted snows of the Atlantic States." * * * "I see no well-grounded reason to apprehend that the regular running of railway trains would be hindered in the winter from the snow in the Yakima Pass."

He found large camps of Indians in their winter quarters near this pass, grazing large bands of horses and cattle, without the expectation that the snow would drive them thence, or destroy their horses and cattle.

The testimony of Mr. Rice and Mr. Sibley, old settlers in Minnesota, and Mr. Culbertson, of Fort Benton, as to snows in the coteau of the Missouri, do not make it over one foot deep, and that in many winters it will not exceed six inches. To the same result I can add my own testimony as to the snows of Wisconsin, from ten years' residence in that State, except that in the northern portion of my State, where there is more snow in consequence of the evaporation from Lake Superior.

To show that such is not the exception to, but is the general character of, the winter climate, not only of Wisconsin, but of the whole interior portion of the continent, extending to and embracing the Rocky Mountains as high up as the sources of the Missouri, it is only necessary to refer to the laws which govern the fall of snow and rain.

An evaporating surface and a high tension of the atmosphere are essential to the production of rain or snow in large quantities. Hence, in passing from the equatorial to the polar regions, the quantity of rain and snow which annually falls is found to decrease. And the same result follows in respect to places in the same latitude, in passing from the sea-coast to the interior. The density of the atmosphere as well as its temperature, has much to do with its capacity for retaining moisture. In ascending from the level of the ocean towards the interior, both the density and temperature are diminished; the vapors, suspended and condensed, fall near the coast in rains or snows, leaving the winds to pass on to the interior, deprived of moisture sufficient to supply any considerable amount of snow or rain. The greatest amount of our snows in the Northwest fall at the commencement of cold weather and during the month of December. From that time on, the weather is generally clear and cold, with a dry and bracing atmosphere, yielding neither snow nor rain.

Such is the condition of the interior of our continent, the vapors arising from the Atlantic, as they pass over the continent, are condensed and fall in snow or rain before they get beyond the Alleghany range. After winter has fairly set in the evaporating surfaces of the interior are frozen over, excepting the great lakes; hence, in the vicinity of those large bodies of water we find the greatest depth of snow during the winter, but it does not extend to any great distance from them, as the quantity of vapor arising from their sur-

faces is insufficient to furnish a supply to extend over a large tract of country.

It is for these reasons that the interior has less snow than the sea-board and lake shores.

The vapors arising from the Pacific ocean are condensed by the Coast and Cascade ranges of mountains, and fall in snows and rains, and before the winds reach the interior they are deprived of the principal part of their moisture, and may be designated dry winds. Humidity has never been charged upon the atmosphere of the Northwest. Our dry, clear, pure, atmosphere insures health and the greatest amount of physical energy in man. Comfort and business are therefore not so much affected by the cold in our dry northern latitude; and we bear with at least twenty degrees more cold than you can in this latitude, and are less inconvenienced by it, in any possible point of view.

If I have not said enough to dispose of these "bugbears," the *deep snows*, the *intense cold*, and the *barren plains*, let me call the attention of the committee to the railroad experience of Canada, Vermont, New Hampshire and Maine, where the snows are deeper and more compact than they are west of Lake Superior. If still I fail to satisfy railroad gentlemen, let me cite them to the experience of Russia, with her railroad from Moscow in latitude 56°, to St. Petersburg, in latitude 60°.

Will the committee yet believe that this latitude is not capable of sustaining an agricultural population, either on account of cold or sterility? Ask the million of inhabitants in Wisconsin and Minnesota, if their country is too cold or too sterile for agriculture. Why, sir, those States at the present time constitute the granary of the nation. Ask the Selkirk and Saskatchewan settlements in the British provinces, and they will make you as good report per acre, on agriculture, as New York or New England can.

I will take this occasion to speak of a peculiarity in the configuration of the great American plain between the western States and the Rocky Mountains. Between the thirty-second and thirty-third parallel the general altitude is about four thousand three hundred feet; in the upper half of the valley of the Gila, over five thousand feet. Fort Massachusetts, in latitude 37° 30', is eight thousand four hundred feet above the sea. Fort Laramie, in latitude 42° 15', is four thousand five hundred feet. The South Pass, in latitude 42° 30', is seven thousand five hundred feet. Fort Benton two thousand three hundred and twenty-nine feet, and Fort Union two thousand and nineteen feet—both in latitude 48°; and the Saskatchewan country one thousand feet. This declination in the altitude as you go north is the key to unlock the secret of the mild climate and fertile soil along the northern railroad line. Sir, altitude as well as latitude is to be considered in locating railroad lines.

Another marked feature of this northern line, signaling it as the line to be preferred, is the aid it derives from water communication on the Columbia and the Missouri, whether to facilitate construction, or in part to dispense with railroad construction. From the mouth of the Columbia up to the Peluse, its tributary, we have two hundred and sixty-nine miles of navigation; thence, due east, over the divide to Fort Benton, the head of navigation on the Missouri, four hundred and fifty miles of railroad, over a route no more difficult than is the New York and Erie or the Pennsylvania Central; thence down the Missouri, nearly due east, three hundred and seventy-seven miles to Fort Union, we have good navigation at all seasons of the year (except when frozen) for boats drawing from twenty to thirty inches water, or capable of carrying three hundred tons burden. Here, from Fort Benton to the Columbia, in the language of the present Secretary of War, we have a *shorter route* than from "El Paso to the Colorado;" and what is better, the ends of this route are not stuck in the sand, but the rivers give us outlets. From Fort Union to Lake Superior, again, nearly due east, is seven hundred and seventeen miles. So that in reality this northern line of communication is complete when we build one thousand one hundred and sixty-seven miles railroad.

Mr. Chairman, the late Secretary of War, in reporting to this House upon Governor Stevens's explorations, says that these explorations show that the unculivable regions on this route, as in that of the Arkansas, begins with the ninety-ninth

meridian. That point, sir, is about ninety miles west of Minnesota; from thence to the Pacific, he deduces, from these explorations, that the country is one of general sterility, with some exceptions in the mountain valleys. He also reports that the sum of the areas of cultivable soil in the Rocky Mountain region does not exceed, if it equals, one thousand square miles.

Governor Stevens reports ten thousand square miles of arable, tillable land already prepared for occupation and settlement, in the mountain range between Fort Benton and the Bitter Root range of mountains. And, sir, as I read his reports and the reports of his officers, I do not understand that there is any land between Fort Benton and the ninety-ninth meridian, that deserves the term *arid* or *sterile*, but I do understand from his explorations that nearly this entire coteau is capable of sustaining an agricultural population. It is the favorite grazing ground for the buffalo, and, sir, they do not seek their pasturage in arid and sterile places. More careful and extended explorations by Governor Stevens have satisfied him that his estimate of ten thousand square miles was an under-estimate.

In addition to this area of farming land, the Governor says there is a tract of land between the Peluse river and the Bitter Root mountains, in extent equal to the State of Connecticut, of as rich land as the farmer ever put plow into. The Governor's estimate of cost of road, was also materially increased by the War Department.

One cannot read the first volume of the Pacific railroad surveys, without concluding that the War Department has unfairly and unjustly dealt with the labors of Governor Stevens and his party. Here is presented this remarkable spectacle, of a Department of the Government detailing its own officers to conduct explorations, the object of which was to obtain information of unknown and unexplored regions, and then deliberately attempting to discredit, before Congress and the country, the results obtained, by substituting its own judgment, in opposition to ascertained facts. It looks very much as if the War Department had determined in advance, irrespective of the results to be obtained by the surveys and explorations, that this northern route should not be encouraged.

Three hundred and forty thousand dollars have been appropriated directly for explorations of railroad routes to the Pacific. Only \$55,000 of this had been devoted to the northern line, when the War Department stopped further work there, by refusing pay. The balance of these appropriations has been expended South. The one or two hundred thousand dollars for Artesian wells, without water, on the southern line, is to be added, besides the \$10,000,000 for the Gadsden purchase, which was bought for railroad track. The explorations are to make eight large quarto volumes; the number of volumes published, and to be published, is about one hundred and twelve thousand, at a cost to the Government of about five hundred and sixty thousand dollars. The first volume is devoted to the northern route—the other seven to the central and southern. The first volume is without illustration of any kind; does not even contain the report of the geologist attached to Governor Stevens's party, which, as I am informed, the late Secretary of War refused to publish for want of means. Of the remaining seven volumes, four are already published, and are most beautifully illustrated, presenting a complete panorama of the natural scenery, the geology, botany, zoology, ornithology, and everything else that could adorn and help to make the books a center-table ornament; and, it is to be presumed, that the three volumes yet to come, are to be of similar character. Assuming that one eighth of the cost of publication is to be charged to the northern route, it then turns out that, out of \$11,000,000 expended to find a railroad track to the Pacific, \$125,000 is to be put to the account of the northern route.

But this is not the end of these explorations. I am informed, that at the present time Lieutenant Ives is exploring the Colorado, at the expense of this railroad fund.

On the 6th June, 1853, Governor Stevens and his party started their explorations from St. Paul. Not reaching the mountain districts until cold weather had set in, the explorations were vigorously carried on by his efficient aids, Captain McClellan, Lieutenant Donelson, Mr. Tinkham,

Mr. Lander, Lieutenant Mullen, Mr. James Doty, and Lieutenant Grover, through the entire winter season, in an uninhabited region. Of course their labors were attended with great difficulties, and the results obtained were meager, compared with the extensive field of operations before them. The Governor had made every preparation for an extensive and thorough summer reconnaissance, and had made his estimates accordingly, and reported preparations to the War Department, asking the coöperation of that Department; when, just as the season of operations was opening, on the 13th April, 1854, the Secretary of War stops the supplies—says he will *estimate for arrears*, but says nothing of future operations, although well advised how little opportunity had been afforded the party of fulfilling the intentions of Congress. Notwithstanding Congress appropriated \$150,000 August 5, 1854, for continuing the explorations, no orders were sent to Governor Stevens to resume labors.

Mr. Chairman, there never can be but one New York upon the American shore of the Atlantic; and she must ever be none other than New York. She will ever be as she is, the commercial metropolis of America, until rivaled by that queen city of the world, yet to be born, whose seat is to be at Puget Sound, on the eastern shore of the majestic Pacific. How plainly has nature marked out the forty-seventh parallel on the American continent for a great national and international thoroughfare! I say nature has marked it out, first, because, revolving around this imaginary line as a center, as well upon the eastern as the western hemisphere, is to be found the hardiest, most enterprising, most numerous, as well as most highly civilized, of the human family. It is the center of population of the northern temperate zone. Here originate the demands of commerce; and from here commerce derives its vitality. And it is upon this line that nature assures to all the wealth that floats upon the seas a safe and speedy passage. No crossing of the equinoxial; no doubling of the capes; no simoons or trade-wind; but an open sea, with fair sailing, and an equable climate.

I say nature has marked it out, secondly, with the St. Lawrence and its great lakes stretching half-way across the continent, the Columbia and the Missouri striving to complete the connection. The old Rocky Mountain itself, in aid of this great thoroughfare, lowers its crest between the sources of the Columbia and the Missouri, so as to furnish a facile transit. We have but to set the iron-horse at work from Fond du Lac Superior to the Great Bend of the Missouri, a short day's journey of seven hundred miles; and again, from the navigable waters of the Missouri to the head of navigation on the Columbia, a half day's journey of four hundred and fifty miles; and, *presto*, the commerce of the world wheels into line, and America becomes the mistress of the sea, and ruler among the nations.

How degenerate has become the statesmanship of the age! The sagacity of a Jefferson saw, in the sources of the Missouri, in connection with the Oregon, now Columbia, a line of commerce as valuable as that which led into the Gulf of Mexico. It was not alone to control the outlet of the Father of Waters that he desired Louisiana, for no sooner had he made the acquisition than he demanded and obtained of Congress authority to explore the sources of the Missouri and the Columbia, and the mountain passes, and sent out those intrepid men, Lewis and Clarke, the results of whose labors have been published to the world. But Jefferson went out of power, and war came on; and that which was a cynosure to Jefferson was lost sight of by those who followed him.

Benton, though living, is of the generation of statesmen passed away. His public life laps into that of Jefferson, and, with qualities not second to him, he too takes up this grand national idea. It is so directly to my purpose that I will quote what he said in a speech in the Senate, in 1846:

"This is the North American road to India, all ready now for use, except the short link from the Columbia to the Great Falls of the Missouri. This little intervention of dry ground between Canton and New York will prove to be no obstacle either in summer or in winter—all the rest now ready, made ready by nature. Arrived at the Great Falls of the Missouri, the East India merchant may look back and say, 'My voyage is finished!' He may look forward and say, 'A thousand markets lie before me, of all which I may take my choice.' A downward navigation of two thousand five hundred miles carries him to St. Louis, the center of the

valley of the Mississippi, and the focus to which converge all the steamboats, now thousands, hereafter to be myriads, from all the extended circumference of that vast valley. Long before he reaches St. Louis, he is running the double line of American towns and villages, seated on either bank of the river.

"The Missouri river is said to be the best steamboat river upon the face of the earth—the longest, retaining its water best at all seasons, and periodically flooded at a known day—free from rocks, and, for nearly two thousand miles, free from sunken trees; for it is on approaching the heavy forest lands of the lower Missouri that this obstruction occurs; all above is clear of this danger. The river is large from the falls down; the mountain streams, almost innumerable, pouring down such ample contributions. Coal lines its banks; fertile land abounds. A continuous voyage, without shifting an ounce of his cargo, will carry him from the Great Falls to Pittsburg; a single transshipment, and three days will take him to the Atlantic coast—omnipotent steam flying him from Canton to Philadelphia in the marvelous space of some forty-odd days! I only mention one line and one city as a sample of the rest. What is said of Pittsburg and Philadelphia may be equally said of all the western river towns toward the heads of navigation, and of all the Atlantic, Gulf, or lake cities with which they communicate. Some sixty days, the usual run of a bill of exchange, will reach the most remote; so that a merchant may give a sixty-days' bill in his own country, after this route is in operation, and pay it at maturity with silks and teas which were in Canton on the day of its date.

"The North American road to India will be established by the people, if not by the Government. The rich commerce of the East will find a new route to the New World, followed by the wealth and power which has always attended it."

Thus spoke Benton, and much more to the purpose, in 1846. Since then, a faithless Administration has bartered away, for less than a mess of pottage, untold mineral, agricultural, and commercial wealth, just where our nation most needed it for the seat of future empire—Vancouver's Island and other territory, up to 54° 40'. Great Britain knew its value, and firmly insisted upon having it; and it is a shame to be compelled to say that our Government *basely and trucklingly* gave it away. The ripened judgment of the country is yet to be pronounced upon that act.

When Benton advocated the union of the Columbia and the Missouri, and thus the Atlantic and the Pacific, he did not urge, as I now do, the continuance of the route, so as directly to connect with the St. Lawrence, and thence by the Erie canal with New York. Nor was the country checkered over with its net work of railroads, numbering thirty thousand miles, as it now is. For a moment consider only the four hundred and fifty miles of road completed west of Fort Union, and what advantages are instantly presented? Iowa, what are your advantages? Do you border upon the Missouri? Missouri, what are your advantages? Have you a St. Louis, the central emporium of the Union, with railroads and rivers radiating all ways? Kentucky and Tennessee, Arkansas, Louisiana, and Mississippi, have you any interest in this route? With east and west railroads across Iowa, how is it with you, Minnesota and Wisconsin, Illinois and Michigan, can you avail yourselves of this thoroughfare, even without the connection with Lake Superior? New England and New York, Pennsylvania and New Jersey, Indiana and Ohio, will you be benefited by it? Have you railroads pointing westward? Have you interests in common with this line?

How is it with Canada? Can she reach the Pacific this way—will she contribute capital to help to build this great national road, that must and will be international in the very uses and purposes of it. Yes, yes; the North, the enterprise, the industry, the capital of the North are here represented on this floor. All are interested in this northern route, and it will be built. It will be but an extension of the northern line of commerce and system of railroads already stretching half way across the continent. Massachusetts, Pennsylvania, New York, Canada, Michigan, Ohio, Indiana, Illinois, Wisconsin, and Iowa, have railroad interests which would be strengthened and enriched by building this northern road to an extent to warrant their building it. The commercial interests of the great lakes will contribute to it. Let Congress but provide the law and it matters not whether we appropriate land or money, the road will be built. It is inevitable—a part of our manifest destiny—unless this Administration shall give away the mouth of the Columbia, and what little there is remaining to us of Puget Sound, in order to prevent its being built.

I should not omit to mention an objection which the late Secretary of War urged to this northern route, that "its proximity to a powerful foreign sovereignty is a serious objection to it as a mili-

tary road." This objection, Mr. Chairman, comes from a soldier who has borne himself chivalrously in the service of his country. This objection must have had something to do with, must have been conducive to, the purchasing of Arizona, that we might have a military road near a *weak* sovereignty. That such an objection should come from a brave soldier, is indeed surprising. Where would this line of reasoning lead us to? It would keep us from building fortifications upon our frontiers, and at our sea-ports, lest they might be destroyed, or our soldiers exposed to danger. In time of war, it would make us retire our Army to the interior for safety. It would make our citizens timid about investing and settling at Detroit and Buffalo, Sackett's Harbor and Champlain.

Mr. Chairman, it is time to have done with such objections. The best protection to a nation is not in stone and earth; but, sir, in human breast-works. Start this railroad from the head of Lake Superior westward, and push it forward with all possible speed, and then it will not be able to keep pace with the advancing tide of population; and before your road can be completed, there will be ample force in live settlers all the way across our northern frontier, to protect it and the country against that powerful foreign sovereignty. The character of the country even invites this population without railroads; and within the last twelve years it has advanced westward from Lake Michigan, six hundred and fifty miles, pouring into Wisconsin and Minnesota alone, in that time, at the rate of seventy thousand per annum. Iowa has also received her fifty thousand annually. Compare this with the increase of population on the southern line of road, and what results do you arrive at? Not all the golden inducements of California can make her keep pace with the latitude of 47° north. Texas, New Mexico, and California combined, do not equal Wisconsin and Minnesota in population. Nor is the population of Oregon and Washington inconsiderable; besides, the great body of the population of California is in its north half. The interests of the people of California and Oregon are identical; and those hoary sentinels, the Coast and Sierra Nevada Mountains, now, and for ages to come, direct the traveler to and from the valley of the Columbia. The Sacramento, too, by its golden current, lights him the same way.

But, Mr. Chairman, the statesmen of these degenerate days would make us disregard the self-evident laws and bountiful provisions of nature; would make us stultify ourselves to the laws of climate, and ignore the laws of emigration; they would have us neglect natural to construct artificial channels for commerce; they would have us avoid direct and choose indirect lines; they would have us abandon fertility and be content with sterility; to gratify the caprice of the few they would have us sacrifice the interests of the many; and while they would have us doubly fortify ourselves against the weak, would have us totally neglect defenses against the strong. All this is in harmonious keeping with that policy of the ruling dynasty which gives away, without a struggle, at the North, while it deluges the land in blood, and oft and again depletes the Treasury, to make acquisitions at the South.

Sir, it is a most unnatural forcing of things, to undertake to build this southern road. It is bent out of the way of everybody who wants to use it. It is projected through a country where there is no capital to build it; and where, from the lethargic and prostrating influences of the climate, at least three men will be required to perform one man's labor; and when built, from the character of the country, there can be no local business for it, and, for through business, will not accommodate or be convenient to one tenth of those who need the road for use. The climate will be too hot for the transportation of American products; and for international purposes, it will increase the distance from Japan to New York over five hundred miles. In short, it will possess no advantage over the present isthmus route. Fulton is now called its eastern terminus.

Fulton is on the Red river, about ninety miles above the "Raft." How are you to get to or from Fulton eastward? I suppose you intend to build to Memphis, about two hundred and fifty miles. Thence you have a road, I believe, to Charleston, South Carolina. This, then, is to be the great southern road—Charleston, in real-

ity, its Atlantic terminus—Charleston, already designated as the place of holding the next national Democratic convention; South Carolina, the sleepless advocate of State rights; always opposed to internal improvements, steadily and uniformly, in both branches of Congress, voting against all such unconstitutional doctrines; her commercial emporium, Charleston, is to be the happy recipient of the benefits of the great Pacific railroad, herself voting against it, upon constitutional grounds, and northern votes conferring upon her this douceur. Yet, so far as we can glean from the Government reports, that Department of it having the Pacific railroad especially in charge, strongly favors this Charleston route.

The political isothermal of the present and past Administration has been extremely southern; and they have seemed disinclined to depart from it, even in railroad matters. This suggests to me that the real isothermal line of the northern route should not be overlooked. We will take the winter line, from the crossing of the divide of the Rocky Mountains at Mullen's Pass—eastward it extends, through Fort Kearny, Fort Leavenworth, Springfield, Toledo, Dunkirk, and Long Island Sound. The summer line extends through Fort Union, Milwaukee, Detroit, Buffalo, Albany, and Long Island Sound. The line indicating the mean, or average temperature, extends through Fort Des Moines, Chicago, Monroe, Elmira, Poughkeepsie, and Nantucket. These facts being established by scientific observations, let it not be said that the northern road is impracticable on account of the cold.

Thomas Jefferson is the originator of the project of a commercial communication, within our own territory, between the Atlantic and Pacific; but railroads being of modern invention, did not enter into his plan. As early as 1834, Dr. Hartwell Carver, of western New York, spoke and wrote in advocacy of a railroad to the Pacific. After him Asa Whitney became an earnest advocate of the project—devoted to it years of untiring labor; petitioned Congress; went abroad for information; explored routes—but favoring only one, and that the northern, now advocated by me. Committee after committee, in both branches of Congress, reported favorably. A majority of the States of the Union memorialized Congress in behalf of this northern route; and among those States are to be found Georgia, Tennessee, Alabama, Maryland, and Kentucky. Then, sir, we had no settlements upon the Pacific.

Mr. WARREN. Will the gentleman yield the floor, that I may ask him a question?

Mr. BILLINGHURST. I will do so.

Mr. WARREN. No proposition has been or will be submitted to this Congress, in which I feel a more abiding interest, than in this Pacific railroad. I desire, now, to ask the gentleman whether, in the event that the committee raised shall report that the southern route is the most practicable and the cheapest, he would support it as he would support the northern route which he recommends himself? Now, I am prepared to support any Pacific road, believing it to be a great national project; and I ask the gentleman whether he will be equally liberal, and support any route that may be reported by the committee, in the event that it be determined by that committee, and proven to be the cheapest and most practicable?

Mr. BILLINGHURST. No, sir; because it is the most inconvenient, and will accommodate the least number of the inhabitants of the country. It is not in the line of commercial intercourse, and will not accommodate the commercial interests of the nation. One other reason why I would not support a southern route is, that for several years past a great deal of talk has been heard in the Union of a southern confederacy; and I will not, while that talk is rife, cast a vote for a railroad for the benefit of that confederacy, until we know whether it is to be held in the Union or not.

Mr. SMITH, of Virginia. I would also ask the gentleman from Wisconsin whether he would go for any other railroad, or the particular one to which the gentleman from Arkansas [Mr. WARREN] refers, if that route should be found to be the shortest from the great center of population—say the city of New York?

Mr. BILLINGHURST. No; not for that reason. I believe that, as statesmen, we should avail ourselves of the natural channels of commerce. The St. Lawrence has already furnished a chan-

nel half way across the continent. Following that line directly west we strike the Missouri, and have three hundred and seventy miles of direct water communication; and, skipping over a few hundred miles, you have two hundred and sixty miles of communication on the Columbia. And I put it to the gentleman whether railroads can come into competition with water communications, as commercial instrumentalities?

Mr. WARREN. I regret very much that northern gentlemen do not understand the state of politics that exists in the South. There is no such thing as a southern confederacy there. We in the South are national men. I want the gentleman from Wisconsin to understand that I did not mean to defeat his project, but simply to test the fact whether he was of the same school of politics as southern men are. Southern gentlemen are prepared to vote for a Pacific railroad (those who vote for it at all) regardless of the point as to what particular State or town it passes through. And I asked the gentleman whether, in the event of the committee already raised reporting that the southern route is the nearest and most practicable, and the cheapest route, he would vote for it, telling him at the same time that I, as a southern man, born in the South, reared in the South, attached to southern institutions and southern principles, would vote for any Pacific railroad to connect the Atlantic with the Pacific, and to bring the different portions of this great nation directly into a community of feeling. I would do it on this principle: because it would enable northern and southern gentlemen to understand each other, and to understand the peculiar institutions of their different sections, in order that southern and northern gentlemen may appreciate each other and each other's principles. I take this occasion to say that we have no such thing as a southern confederacy, and we would hate to be driven to such an extremity.

Mr. GIDDINGS. Who has the floor, the gentleman from Wisconsin, or the gentleman from Arkansas?

Mr. WARREN. The gentleman from Wisconsin yielded to me the floor.

The CHAIRMAN. The gentleman from Arkansas was upon the floor in order.

Mr. BILLINGHURST. I will answer the gentleman. I do not hold him responsible for these disunion sentiments. Not at all; but when he denies that he is in favor of a southern confederacy, I say that southern gentlemen may not be in favor of a southern confederacy exactly, because I think they intend to have a consolidated Government. There is no confederacy about it, but a regal empire or something resembling it.

When interrupted, I was speaking of the Pacific settlements ten years ago. Now we have a population of six hundred thousand there, and very valuable inhabitants they are, too; for they chiefly supply our coffers. What was then a question of expediency has now become a matter of duty. If we hesitate longer we shall be derelict in that which would confer more wealth and power upon our nation than all else within the power of Congress.

Mr. GARTRELL obtained the floor; but yielded to

Mr. WARREN, who moved that the committee rise.

Mr. J. GLANCY JONES. I appeal to the committee to report this bill to the House. There are other bills on which gentlemen can make their speeches as well as this. This is only the regular appropriation bill for invalid pensions. With the leave of the gentleman from Georgia, I move that the committee rise and report the bill.

Several MEMBERS objected.

Mr. LETCHER. Gentlemen will have plenty of chances next week upon other bills.

Mr. WARREN. I insist on my motion that the committee rise.

The House divided; and there were—ayes 50, noes 52.

Mr. PHILLIPS demanded tellers.

Tellers were ordered; and Messrs. CRAIG, of North Carolina, and DEAN were appointed.

The motion was agreed to; the tellers having reported—ayes 66, noes 58.

The committee rose; and the Speaker having resumed the chair, Mr. WINSLOW reported that the Committee of the Whole on the state of the Union had, according to order, had the Union

generally under consideration, and particularly the invalid pension appropriation bill, and had come to no resolution thereon.

VACANCIES ON COMMITTEES.

The SPEAKER announced Mr. PURVIANCE as a member of the special committee on the alleged disbursements of Lawrence, Stone & Co., for the purpose of influencing legislation, in place of Mr. KUNKEL, of Pennsylvania, excused; and Mr. DAWES as a member of the special committee on the conduct and accounts of the late Doorkeeper, in place of Mr. PURVIANCE, excused.

CLOSING DEBATE.

Mr. J. GLANCY JONES. I move that the debate in the Committee of the Whole on the state of the Union on the invalid pension appropriation bill be closed on Tuesday next, at one o'clock; and on that motion I call for the previous question.

Mr. WASHBURN, of Maine. I call for tellers on seconding the previous question.

Tellers were ordered.

Mr. CLARK B. COCHRANE. I move that the House do now adjourn.

Mr. PARROTT. I ask the unanimous consent of the House to introduce, for reference merely, a bill to ascertain and adjust the titles to certain lands in Kansas Territory.

Mr. PHELPS. The previous question has been demanded, I believe, and a motion to adjourn is pending. I have no objection to the gentleman from Kansas introducing his bill; but I desire to have the question of closing debate on this little pension bill settled.

The House was then divided upon the question of adjournment—68 voting in the affirmative, and 77 in the negative.

Mr. BUFFINTON demanded the yeas and nays. The yeas and nays were ordered.

Mr. BUFFINTON. I withdraw the demand for the yeas and nays.

The SPEAKER. That can only be done by unanimous consent.

Mr. BENNETT. I object.

The question was taken, and it was decided in the negative—yeas 66, nays 69; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingham, Bingham, Blair, Bocock, Brayton, Bryan, Burlingame, Burns, Burroughs, Case, Chaffee, Ezra Clark, Horace F. Clark, Clark B. Cochrane, Colfax, Comins, Covode, Curtis, Dean, Dodd, Durfee, Gilman, Gooch, Goodwin, Granger, Harlan, Hoard, Horton, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, Leach, Lovejoy, Maynard, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Olin, Palmer, Parker, Potter, Pottle, Purviance, Quitman, Robbins, Royce, Judson W. Sherman, William Smith, Spinner, Stanton, Tappan, Thayer, Walbridge, Walton, Cadwalader C. Washburne, Ellihu B. Washburne, and Israel Washburn—66.

NAYS—Messrs. Adrain, Avery, Barksdale, Bowie, Buffinton, Burnett, John B. Clark, Clay, Cockeill, Coming, Cox, James Craig, Burton Craig, Curry, Darnell, Davis of Iowa, Dowdell, Faulkner, Florence, Foster, Garrett, Giddings, Greenwood, Gregg, Groesbeck, Hatch, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Humphrey Marshall, Mason, Miles, Miller, Millson, Montgomery, Moore, Pendleton, Peyton, Phelps, Phillips, Ready, Reagan, Roberts, Ruffin, Russell, Searing, Henry M. Shaw, Singleton, Stallworth, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Tompkins, Underwood, Wade, Warren, White, Wortendyke, and Augustus R. Wright—69.

So the motion was not agreed to.

Mr. STANTON. Has the previous question upon the resolution of the gentleman from Pennsylvania been seconded?

The SPEAKER. It has not.

Mr. STANTON. I move to lay the resolution on the table.

Mr. WASHBURN, of Maine. I call for tellers.

Mr. STANTON. I move that the House do now adjourn.

Mr. HUGHES. I move that when the House adjourns, it adjourn until Tuesday next.

The SPEAKER. The House has already fixed a day, and the motion is not in order.

The motion to adjourn was agreed to.

The House accordingly (at three o'clock and forty minutes) adjourned until Monday next.

IN SENATE.

MONDAY, January 25, 1858.

Prayer by Rev. T. N. HASKELL.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of War, commu-

nicating, in compliance with a resolution of the Senate, a statement showing the number of troops stationed in Kansas at the end of each quarter since the 1st day of January, 1855; which, on motion of Mr. STUART, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. STUART presented a petition of commissioned officers of the Rifle Company of Michigan militia, called into the service of the United States, to aid in maintaining the neutrality laws during the disturbances on the Canadian frontier in 1838, praying to be allowed extra pay and bounty land; which was referred to the Committee on Public Lands.

He also presented the petition of ship-owners, merchants, and others at Detroit, Michigan, praying for the enactment of a law to regulate and establish a system of lights to be carried by sailing vessels navigating the lakes; which was referred to the Committee on Commerce.

Mr. FOOT presented the petition of Sarah W. Halsey, widow of Silas Halsey, an officer of the Army who died of disease contracted in the service, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of Elijah R. Huff and others, praying for the establishment of a mail route between St. Joseph's, Missouri, and Marysville, in Kansas; which was referred to the Committee on the Post Office and Post Roads.

Mr. ALLEN presented seven petitions of officers of the Rhode Island militia, praying that further provisions by law be made for equipping the militia of the United States; which were referred to the Committee on Military Affairs and Militia.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of New York, praying that the public lands may be laid out in farms, or lots of limited size, and granted, free of cost, to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. KENNEDY presented the petition of Major J. L. Donaldson, assistant quartermaster in the Army, praying to be released from liability for public money stolen from his possession; which, with his papers on file, were referred to the Committee on Military Affairs and Militia.

He also presented the petition of Thomas Phoenix, Jr., praying to be allowed extra compensation for the time he was employed as a paymaster's clerk in the Army; which was referred to the Committee on Military Affairs and Militia.

Mr. IVERSON. I present a memorial of officers of the Army, praying that the regiments of cavalry may be consolidated into one corps. I am opposed to the prayer of the memorial; but, out of respect to the officers, I present it; and move that it be referred to the Committee on Military Affairs and Militia.

The motion was agreed to.

Mr. BRODERICK presented a memorial of merchants and importers of San Francisco, California, praying that the duties paid by them on goods destroyed by fire in 1850 and 1851 may be refunded; which was referred to the Committee on Finance.

Mr. BRIGHT presented the petition of Eunice Brown, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. DAVIS. I present a memorial from a number of officers of the United States Army, praying for an amalgamation of all the mounted corps under one name, as cavalry or dragoons. They also annex to their memorial something like a petition for redress of grievances, setting forth the fact that junior officers have been promoted over seniors in new regiments. I think this is a complaint without a grievance, unless the Executive is limited in the filling of original appointments to the rule of seniority. However, I move the reference of the memorial to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. BIGLER. I am requested to present a memorial, and I beg leave to say a few words in explanation of its contents. It comes from certain of our fellow citizens who, during the years 1835 and 1856, emigrated to the county of Richardson, in the Territory of Nebraska, and now find them-

selves involved in serious difficulty there, growing out of the execution of an Indian treaty. In 1830 a treaty was made at Prairie du Chien, with the Iowas, Sacs and Foxes, and certain other tribes of Indians, to the effect that a strip of land on the Missouri river, lying between the Great and Little Omaha, extending back a distance of ten miles, should be reserved for the half-breeds of those several tribes. In 1837 a survey was made, agreeably to the terms of the treaty, and in 1855 the lands adjacent were surveyed by the United States Government and sectioned. These memorialists, as they had a right to do under the laws of Congress, took possession of those lands, filed their certificates, declaring their intention to preempt as prescribed by law. During the last season, it was discovered by the Indians or their agents, that there was an error in the original survey, and that instead of extending back ten miles on the Great Omaha, the survey extended but eight miles. They insisted on a resurvey, which the Department very properly granted. That resurvey has been made, and returned to the office; the effect of which is, that it extends two miles over the public lands now occupied by citizens who went from the States of Kentucky, Ohio, Pennsylvania, and elsewhere. They went there in good faith; they have made valuable improvements. The Government is bound to execute this treaty with the Indians; but by carrying it out, these citizens who have gone there will be deprived of their homes and property. For redress of these grievances, they memorialize Congress. I move that the memorial be referred to the Committee on Public Lands.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FOOT, it was

Ordered, That the memorial of J. E. Martin, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. HAMLIN, it was

Ordered, That the petition of Thomas R. Carman, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. KENNEDY, it was

Ordered, That the memorial of Charles G. Ridgely, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. CRITTENDEN, it was

Ordered, That the petition of Sarah Smith Stafford, daughter of James B. Stafford, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

OBITUARY ADDRESSES.

Mr. ALLEN submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Committee on Printing cause to be printed and bound in pamphlet form, in such manner as may seem to them appropriate, for the use of the Senate, ten thousand copies of the addresses made by the members of the Senate and members of the House of Representatives, on the occasion of the death of the Hon. James Bell, late Senator from New Hampshire; the Hon. A. P. Butler, late Senator from South Carolina; and the Hon. Thomas J. Rusk, late Senator from Texas.

FOLDING ROOM.

Mr. BRIGHT submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Sergeant-at-Arms be authorized to appoint one of the present messengers an assistant to the superintendent of the folding room, at the same salary as the assistant of the postmaster of the Senate, to commence the 1st of July, 1857.

BILLS INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 84) to provide for the better regulation of "night signals" on board "sail vessels" navigating the northwestern lakes and their tributaries, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

Mr. SLIDELL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 12) to authorize the Secretary of War to modify a contract made with Righter & Crain for the removal of obstructions in Southwest Pass and Pass à l'Outre, at the mouth of the Mississippi river; which was read twice by its title, and referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. BENJAMIN, from the Committee on

Commerce, who were instructed by a resolution of the Senate to inquire into the expediency of providing for the appointment of steamboat inspectors in the collection district of Florida, and to whom were referred a petition of citizens of Franklin county, Florida, and the presentment of the grand jury of the United States district court for the northern district of Florida on the subject, reported the following resolution:

Resolved, That for reasons expressed in a communication of the Secretary of the Treasury, it is inexpedient to make the appointments suggested in the resolution.

Mr. CLAY, from the Committee on Pensions, to whom was referred the bill (S. No. 23) for the relief of Robert Dickson, of the Kentucky volunteers, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

Mr. CLAY, from the Committee on Pensions, to whom was referred the memorial of Agatha O'Brien, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

ARREST OF WILLIAM WALKER.

Mr. MASON. I am instructed by the Committee on Foreign Relations, to whom was referred a message of the President, with reference to the arrest of William Walker, and others who were with him, on the coast of Nicaragua, to make a report. It was the wish of the committee that I should ask the Senate to allow me to avail myself of a parliamentary privilege, as I understand, to read the report when it is presented; and it would seem the more proper, as the subject is now pending before the Senate in debate. It will not occupy more than fifteen or twenty minutes. I should think.

The VICE PRESIDENT. It becomes the duty of the Chair to announce that the hour has arrived for the consideration of the special order.

Mr. MASON. I ask to be allowed to read the report. It will not occupy more than fifteen or twenty minutes.

Mr. DAVIS. That is about all the time we have for the consideration of the special order. At one o'clock the special order terminates.

The VICE PRESIDENT. The special order now to be taken up does not terminate at one o'clock. By unanimous consent, the Senator from Virginia will proceed.

Mr. MASON proceeded to read the report of the committee, which concludes with the following resolutions:

Resolved, That no further provisions of law are necessary to confer authority on the President to cause arrests and seizures to be made on the high seas, for offenses committed against the act entitled, "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," approved April 20, 1818.

Resolved, That the place where William Walker and his followers were arrested, being without the jurisdiction of the United States, their arrest was without warrant of law. But, in view of the circumstances attending it, and its results, in taking away from the territory of a State in amity with the United States, American citizens who were there with hostile intent, it may not call for further censure than as it might hereafter be drawn into precedent, if suffered to pass without remark.

The committee also report a bill (S. No. 85) supplementary to the act entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," approved April 20, 1818; which was read twice by its title.

Mr. DOUGLAS. Mr. President, I desire, as one member of the Committee on Foreign Relations, to state that, so far as the report gives a construction to the neutrality laws different from the one which I felt it my duty to express the other day, I do not assent to it.

Mr. FOOT. Mr. President, as a member of the committee from whom, through its able and learned chairman, this report emanates, I desire to express here, as I did in the committee, my concurrence in the general principles and propositions which it lays down. I concur in the accuracy of its recital of the facts and circumstances attending Walker's expedition, and the means used by our executive government in the attempt to prevent the carrying on of that expedition. I concur with the committee in regarding that enterprise as an unlawful one, begun and set on foot within the jurisdiction of the United States, to be

carried on against a foreign, but friendly Power. I also concur with the committee in their report that the President of the United States has ample power, under the eighth section of the law of 1818, to arrest the carrying on of such expeditions upon the high seas. With the committee, I regard this not only as an unlawful expedition on the part of Walker, but in violation of the laws of the United States, and in defiance of the authority of this Government. I further concur with the report of the committee in commending the expressed determination of the President of the United States, by the use of all the power and means at his command, to execute and enforce the neutrality laws of our country, and to suppress these hostile expeditions against foreign and friendly Powers.

But in so far, however, as this report, either in express terms, or by implication, imputes blame to Commodore Paulding, in taking Walker and his men from the barren sand bar called Punta Arenas, within the jurisdiction and territory of Nicaragua, I am constrained to express my entire dissent from it. In so far as, in terms, or by implication, it condemns, or censures, or disapproves the conduct of that officer in that regard, I am unable to give it my concurrence. In so far as it asserts or assumes that Commodore Paulding has violated the neutrality of Nicaragua, or infringed any rule or principle of international law, or any law upon your statute-books, or transcended the instructions of his Government, either in their letter or in their spirit rightly, and fairly construed, I am unable to yield it my assent.

But, sir, I have not risen to enter into the discussion of this subject at the present time. If the debate on this question is to proceed to-day, I am aware that the honorable Senator from Maryland [Mr. PEARCE] is entitled to the floor. I have, however, felt it due to myself, whilst concurring, as I do, in most of the positions of this report, to enter my dissent to it so far forth as it disapproves of the conduct of Commodore Paulding in arresting Walker and his men within the jurisdiction and territory of Nicaragua. Under the circumstances under which it was done, I yield to that act my approval and commendation.

Mr. MASON. I do not recollect the day, but I think there is a day on which the resolution offered by the Senator from Wisconsin to give a medal to Commodore Paulding was fixed as the special order.

The VICE PRESIDENT. It was the special order for to-day at one o'clock, but is superseded by the other special order set apart for half past twelve o'clock.

Mr. MASON. I move that the resolutions and bill accompanying the report be made the special order for to-morrow at one o'clock, and be printed, together with the report.

Mr. GWIN. I hope no special order will be made. There are several now. Will this special order supersede those which have been made heretofore for a day next week; for instance, Monday next?

The VICE PRESIDENT. The Chair thinks not.

Mr. GWIN. If it does, I shall object to it, because an important subject has been made the special order for next Monday. If all these special orders shall supersede that, or come up before it, I shall certainly object.

Mr. MASON. As I understand the rules of the Senate, when the hour for a special order arrives, the Chair will call up that order according to its precedence; but, by a vote of the Senate, they can postpone one special order for the purpose of taking up another. They will not interfere with each other in that way, but they are subject to be controlled by a vote of the Senate.

Mr. GWIN. The Pacific railroad bill was made the special order for the first Monday of February, which is next Monday, and I wish to know whether, by making other special orders for days which intervene between that and this period, they will set that aside when it comes up? If not, I have not a word to say.

Mr. PEARCE. I rise to say that I concur with the motion just made by the Senator from Virginia. I believe that, at the adjournment of the Senate on Thursday, I was entitled to the floor on the resolution of the Senator from Wisconsin, but I would prefer to submit the remarks which I desire to make on that subject to the Senate upon

the consideration of the resolutions and report of the Committee on Foreign Relations, which open up rather a larger field.

The VICE PRESIDENT. The Chair will state to the Senator from Maryland that he would not now be entitled to the floor. That resolution was made the special order for to-day at one o'clock; but subsequently the Senate made another special order for half past twelve o'clock, which the Chair called at that hour, but by unanimous consent of the Senate it was postponed to hear the report of the Committee on Foreign Relations.

Mr. HARLAN. Last Wednesday the motion of the Senator from Illinois to refer a portion of the President's message to the Committee on Territories was made the special order for to-day at one o'clock, and I supposed that no member of the Senate intended to set that aside by having other special orders made for half past twelve o'clock. I therefore ask the Senate that that subject may now be taken up.

The VICE PRESIDENT. There is a motion now before the body.

Mr. MASON. My motion is to print the report, bill, and resolutions, and make them the special order for to-morrow at one o'clock. I do not mean to press it on the Senate, but it has already been prefaced by the resolution of the Senator from Wisconsin.

Mr. GWIN. I hope the Senator will separate his motion in regard to printing, and then move to postpone the further consideration of the subject until to-morrow at one o'clock, and let it come up at that period, but not as a special order.

Mr. MASON. I have no desire to press it at all. I ask that it be made the special order for—

Mr. GWIN. To-morrow week.

Several SENATORS. Oh, no.

Mr. MASON. I will say Tuesday, the 9th of February.

The motion was agreed to.

INDIANA SENATORIAL ELECTION.

Mr. TRUMBULL. Before the special order is taken up, I ask leave to submit a paper and have it printed. At the last meeting of the Senate, the Committee on the Judiciary made a report in regard to the contested seats of the Senators from Indiana. I ask leave to present the views of the minority of the committee, that they may lie on the table and be printed, and taken up when that subject comes before the Senate.

Mr. BAYARD. I have not the slightest objection to the presentation or printing of the views of the minority of the committee, which is always by courtesy admitted, and I cannot object to it. I will state further that this is a question of privilege, and I had intended to call it up to-day, without reference to special orders. The majority of the committee have reported a resolution not affecting at all the right to the seats, but simply giving authority to take testimony, and it is important that it should be disposed of. In the event of the honorable Senator from Vermont, who I understand is not now in his seat, who intends to oppose the resolution of the committee, being well enough to return to the Senate to-morrow, I shall call this resolution up at the first opportunity, as a question of privilege.

The VICE PRESIDENT. The Chair has heard no objection to receiving the report of the minority. It is moved that it be printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 207) to amend an act entitled "An act granting a pension to Ansel Wilkinson," approved August 13, 1856; in which the concurrence of the Senate was requested.

ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed an enrolled bill (S. No. 27) to detach Selma, in the State of Alabama, from the collection district of New Orleans, and make it a port of delivery, within the collection district of Mobile; which thereupon received the signature of the Vice President.

ORDER OF BUSINESS.

Mr. SEWARD. I call for the special order.

The VICE PRESIDENT. The Chair was about to state the special order. The business

before the Senate is the bill (S. No. 79) to increase the military establishment of the United States.

Mr. SEWARD. I ask, as a question of order, whether the one o'clock special order is not the one before the Senate? The motion to refer a portion of the President's message was made the special order for one o'clock to-day.

The VICE PRESIDENT. It was made the special order for one o'clock; but at a subsequent period the bill which has been announced was made the special order for half past twelve o'clock, and superseded the other.

Mr. SEWARD. I beg leave to submit to the consideration of the President that the special order for half past twelve o'clock could not have been intended to supersede an order for one o'clock; and that when the hour of one o'clock arrives, the order assigned for that hour is the proper subject for consideration. So it strikes me.

The VICE PRESIDENT. The Chair is obliged to construe the rule differently, and understands that the practice of the Senate has been different.

Mr. DAVIS. When the hour for the consideration of the special order at half past twelve o'clock arrived, the Senator from New York will recollect that it was allowed to go over, under the supposition that we should afterwards have that amount of time. I think, if no opposition is made to the bill, and I certainly do not wish to make a speech on it, it will not require ten minutes to pass it. I hope the bill will be taken up. It is a measure of public importance.

The VICE PRESIDENT. The Chair called up the special order at half past twelve o'clock, and all subsequent proceedings were by unanimous consent. That special order is still before the Senate.

Mr. HALE. As this is a pretty important matter, if the Chair will indulge me, I wish to state what I understand the practice of the Senate to have been, as far as I recollect. Where there has been a special order for one o'clock, and then somebody else moves a special order in the morning hour, it is always understood that when the morning hour is past, and one o'clock arrives, the general special order is taken up. If the bill of the Senator from Mississippi had been taken up at half past twelve o'clock, and its consideration had been proceeded with until one o'clock, then it would have been the duty of the Chair to call up the special order fixed for one o'clock, on which the Senator from Iowa [Mr. HARLAN] has the floor, it being the oldest and first assigned and having priority. This instead of being an order to supersede was made in subserviency to the first order, just for the morning hour, and if it had been taken up it would only have had thirty minutes' consideration. My impression is, and I think the Chair will find by asking the older members of the Senate, that that has been the uniform practice.

The VICE PRESIDENT. The Chair founds his opinion on the following rule:

"Special orders shall not lose their position on account of intervening adjournments; nor shall they lose their relative position on the Calendar, except by vote of the Senate, until finally disposed of."

This order took its position on the Calendar, according to the hour directed by the Senate.

Mr. HALE. The Chair will indulge me a moment. I think that relates to the dates when the special orders were made, and not to the time for which they were made. The special order made on the first day of the month is not to be superseded by another special order, made on the second or third, and they take precedence according to the dates on which they are made, and not the time.

The VICE PRESIDENT. The Chair will take pleasure in conforming his decision to the expressed wish of the Senate; but was informed that the decision he has given was the practice of the Senate, and was correct.

Mr. STUART. I hope there will not be an attempt to settle this question upon this bill. I intend, with the leave of the Senate, to bring it up when special orders of equal importance stand before the Senate. This decision grows out of what I believe to be an erroneous opinion delivered by a former Presiding Officer of the Senate; but at this time I do not desire to take it up, because there is too much importance attached to the bill of the Senator from Mississippi.

Mr. DAVIS. I hope the Senate will proceed to the consideration of the bill. I will make no further statement than may be required by the Senate to explain it. I do not see why it should consume thirty minutes.

Mr. FESSENDEN. I have no sort of objection, on my own part, to the Senator's proceeding to make an explanation and giving his views with reference to the bill. I know nothing as to the question which is introduced here; for I am not familiar with the rule. I will say to him, however, that he can hardly expect to finish it in the short time he has suggested, because, it being a proposition for an increase of the Army, under existing circumstances he must naturally expect that it will be looked into somewhat before the proposition is acceded to. I will say to him that the bill meets me with entire surprise; for I did not know it was presented until I saw it lying on my table this morning. It has just been printed, and we have nothing as yet, that I have seen, from the Secretary of War, except the message; and I have had no opportunity to look at the accompanying documents, or form any sort of conclusion as to the necessity for the proposed increase. I hope, therefore, that even if the Senator goes on to make his statement, he will hardly insist that the consideration of the subject should be at once followed up, because I am confident that gentlemen on this side of the Chamber must be unprepared to do what they design to do; and that is to look into this matter before it is finally acted upon.

Mr. DAVIS. The Senator has given me a very strong reason for insisting on the bill. It is quite apparent that the Senate are not going to pay any attention to it until it is taken up. The Senator treats it as a bill to be referred. It is on its third reading. The bill has been heretofore in the Senate; it has been reported after a long investigation by the committee, and if the Senator has not read the documents, it is to be feared he is not going to read them in time for this measure. He is certainly aware that both the President and Secretary of War have urged an increase of the Army. They have urged it in a manner different from that which the committee report, but the necessities for an increase remain the same. The mode in which this bill is presented I hoped would have secured an early passage, and would have saved us from that delay which I anticipated from a different proposition. It is so simple in itself; it is so necessary for the public interests of the country, that I not only hope for the most prompt consideration, but that the bill will pass with the least possible opposition.

Mr. FESSENDEN. I am not prepared to say whether, after a proper discussion and investigation, I shall be opposed to the bill or not. In reply, however, to what the honorable Senator has said, he will allow me to say that the bill has been printed and laid upon our tables for the first time this morning.

Mr. DAVIS. The bill has been read through.

Mr. FESSENDEN. Undoubtedly it has been read; but, like other matters of the kind, the reading passed without much examination.

Mr. HALE. It was read by its title.

Mr. FESSENDEN. It has been read by its title alone; and I see it was only reported on the 21st of January. How long has it been before us? It is very easy to say that it is a simple proposition. Any proposition to raise an amount of troops, or to increase the amount of troops, is simple, in one sense of the word; but it involves a great many very important considerations. It is not enough to reply that it is very easy for the Senate to understand that this proposes to increase the Army, and that the President has recommended it, and that the Secretary of War has recommended it. I am not disposed to increase the Army simply for the reason that the President and Secretary of War think it necessary. Recent events—at any rate, the conduct of the expedition which has been organized by the Secretary of War, has not been such, I think, as to impress the country with a very great idea of his military skill, or lead them to attach a very great degree of importance to his recommendations. What I desire is an opportunity to see the documents accompanying the message in relation to the increase of the Army, and in relation to the employment of the Army, and to become acquainted with the facts myself; in order that I may form

some kind of an opinion of my own on the facts and circumstances, whether it is advisable to increase the Army or not. At present, I am not satisfied. I say frankly that my impressions are decidedly against it, and if called upon to vote now, I should vote against it, from anything I have heard, and anything I know.

All I desire is simply time to look into the matter. It is not enough to say that this subject has been before Congress for a certain period of time. The necessary information has not been before Congress, unless we are bound to take the word of the executive government for any proposition to increase the Army, and the word of the honorable chairman of the committee, and on his opinion I should rely as much as on the opinion of any man, but that is not enough for me in acting on a matter of this sort. It is not so much the amount of the proposed increase, as the question whether there should be any increase at all under existing circumstances. I am not prepared to discuss the question, as I said before, but I wish that the matter may not be hurried.

Mr. DAVIS. It is a question of time. I certainly would not press a single Senator to the consideration of a subject unless there was some public reason for it. But if we are to delay the increase until so late a period that the men cannot be recruited and put in the field for the necessary service, it would be as well not to grant it at all. If the increase is not to be granted at all, it is due to the Executive government that they should know it at the earliest moment, and make their disposition accordingly. I say it is a question of time, and that the time is brief enough between this and the period at which these troops ought to take the field. If we are going to increase the Army at all, we ought to grant the increase now.

I will not follow the Senator in his criticism on the Secretary of War. I am not sufficiently informed of the manner in which the details of the expedition to which he referred have been carried out, to enable me to do so; but if there has been a want of capacity, a want of intelligence, or a want of energy, it only adds another to the arguments why this increase should be made. We know, the country knows, that a small body of troops are now lying in the mountains, that they are there bound by winter, and that there they must remain till spring; and we have every reason to believe that extensive combinations among the Indians of the whole mountain country exist at this moment, instigated by evil white persons; and if we are to sit here and discuss this question until the period is past when it is possible to recruit the force, then I say it is far better that we should give notice at this moment, in order that the Executive may understand with what means he will have to act that he may concentrate what forces he has, and dispose of them so as to be used to the best advantage.

Moreover, I would say, as the question of the expedition to Utah has been touched, that I hold that the country is indebted to the Administration for having selected the man who is at the head of the expedition; who, as a soldier, has not his superior in the Army or out of it; and whose judgment, whose art, whose knowledge is equal to this or any other emergency; a man of such decision, such resolution that his country's honor can never be tarnished in his hands; a man of such calmness, such kindness, that a deluded people can never suffer by harshness from him.

The present proposition, after being elaborated long and industriously, was reduced to a form which really seems to me to leave very little room for opposition, unless it be that we have soldiers enough or too many, or unless it be that soldiers shall not be required to perform this service. If that be the opposition, it can be made as well without studying the documents as with. In the voluminous reports which attended the President's message, and the report of the Secretary of War and of the Department of the Interior, the necessities growing out of the exposed condition of our frontier inhabitants will show that additional force is necessary. Now is the time when it must be raised, if it is to operate in the season of the next spring and summer, and it is therefore that I press it.

I will here say that the consideration, the discussion in the committee, has been prolonged for the purpose of giving to it the most perfect form when it should be reported to the Senate. It

would have been easier for me to draw the bill if I chose to adopt the recommendations of the Executive Departments in the beginning. It would then have been before the Senate for that long period during which it has been under consideration and minute examination in the Committee on Military Affairs. I hope that other members of the committee, whose opinion may perhaps weigh more heavily with the Senate, will state the facts in relation to the investigation and the reasons which now exist for the prompt consideration of this measure.

The VICE PRESIDENT. There is a question of order pending before the Senate.

Mr. SEWARD. I wish to call the attention of the Senate back to that point of order. It is very seldom that I speak in this House on a question of time or order; because I have always found that more time is wasted in settling the right time, and more disorder created by endeavoring to bring the Senate to considerations of questions of order than is saved by such efforts.

Now, the simple question is, whether the order which was made at an early day, assigning the subject of the President's message in regard to Kansas for consideration at one o'clock to-day, has been superseded by the order which has been obtained by the honorable Senator from Mississippi? All my recollections of the Senate, and they relate now to a considerable period, supply me with this fact—that when a great public subject, a subject of great public importance, was brought before the Senate, and a debate instituted upon it, it was customary for the Senate to allow the postponement of that subject to a day certain, and to assign the floor to any honorable member who might be so fortunate as to obtain it on a claim made, and that when that day comes, whether the Senator represented one side of the question or the other, whether he rose on one side of the Chamber or the other, the courtesy of the Senate always assigned to him the floor which he asked, unless upon considerations of public importance with regard to the public business addressed to the Senate, the Senate by a deliberate vote overruled that question; which I have never known done, I think, without the consent of the Senator entitled to the floor.

Now what is the case here? On Thursday last, after this order had been made for one o'clock to-day, the honorable Senator from Mississippi asked for a special order for half past twelve o'clock to-day; and when that hour arrived the order was called, and he remained in his seat and waived insisting on his order, because it would interrupt a very interesting report by the Senator from Virginia.

Mr. DAVIS. The Senator mistakes the fact.

Mr. SEWARD. Well, sir, I beg to be corrected, then.

Mr. DAVIS. I gave way on a statement that after the reading of the report, this bill would come up.

Mr. SEWARD. I do not know, if you please, Mr. President, who it was that could have pledged the Senate that this special order should come up and supersede the other special order. Certainly the honorable Senator who was entitled to the floor at one o'clock, did not compromise himself in that way, nor was any such arrangement known or understood on this side of the Chamber.

I see no particular necessity for our being embarrassed by this matter, so as to reverse our former practice. I have no such feelings of opposition towards the policy which is set forth in this bill, as to be prepared to oppose it. On the other hand, all my dispositions incline me to favor and support it, but at the same time I must desire to know whether there is any understanding among us about the rights and privileges we have of obtaining the floor on the day assigned to us. If it be the pleasure of the Senate to take up the question and decide on considerations of public policy that it is so important to consider this bill, that they will postpone the special order, I can have nothing to say; but until that is done, I beg leave to submit for the consideration of the Senate, and ask their advice to the Chair, whether we are insisting on anything that is unreasonable, or anything which has not heretofore always been considered in accordance with the practice of the Senate. If it be so, then I beg leave to ask the honorable Senator from Mississippi to name an early day or an early hour for the consideration

of his bill, and he shall have my hearty support and cooperation in giving it precedence.

Mr. DAVIS. I have no wish to press any measure of mine to a point of discourtesy to any one. I certainly considered, when I was told to allow the reading of that report to progress, and that at the close of it this measure would come up, that there was no opposition to taking it up. I think that discourtesy, to use no other term, is rather towards myself, in the matter of this bill, than from me towards anybody else. I have no objection to a postponement, if such be the pleasure of the Senate. If the discussion of that mighty question, whether so much of the President's message as relates to the Territories shall be referred to the Committee on Territories, be more important than to provide for an increase of our Army at the present time, let it go on; but I venture to say there is not a member of the Senate who is prepared now, or at any future time, to vote against the reference of that portion of the President's message to the Committee on Territories. Then, what is the value of the discussion? If the Senate, for that or any other reason, desire to consider the other question, be it so.

Mr. SEWARD. Postpone the bill until tomorrow, at half past twelve o'clock.

Mr. DAVIS. I really do not know that I shall have any better assurance of fairer treatment tomorrow than to-day. The Senator says it was not understood on his side of the Chamber. It was understood on no side; but it was given from the Chair, which everybody was bound to hear. The Senate can do as it pleases about the matter.

The VICE PRESIDENT. The Chair will state the question of order, and submit it to the sense of the Senate. The special order now under consideration was set for half past twelve o'clock. At a preceding period, another special order had been set for one o'clock, and would have come up to-day regularly at one o'clock, but for the special order assigned for half past twelve o'clock. When the hour of half past twelve o'clock arrived, the Chair called up the special order. By the unanimous consent of the Senate, expressed through the Chair, it was allowed to go over informally for a few minutes, until the report from the Committee on Foreign Relations could be read; but it was in order before the Senate, and those proceedings were by unanimous consent. The Chair called it up as soon as that particular business had been disposed of. In the mean time, the hour of one o'clock had arrived; and the question is made whether the order assigned for one o'clock, having been assigned by the Senate on a day previous to that upon which it assigned this order for half past twelve o'clock, whether, when the hour of one o'clock arrives, the first assigned order must not come up. The Chair will take the sense of the Senate after the reading of two rules:

"When the hour shall have arrived for the consideration of a special order, it shall be the duty of the Chair to take up such special order, and the Senate shall proceed to consider it, unless it be postponed by a vote of the Senate."

"When two or more subjects shall have been specially assigned for consideration, they shall take precedence according to the order of time at which they were severally assigned, and such order shall at no time be lost or changed, except by the direction of the Senate."

"Special orders shall not lose their position on account of intervening adjournments; nor shall they lose their relative position on the Calendar except by vote of the Senate until finally disposed of."

Mr. SEWARD. It gives precedence to the first in date.

The VICE PRESIDENT. The Chair will simply add that the Calendar, as presented to him, gave the special order set for half past twelve o'clock before the other, and he acted as he was told by the Secretary had been the practice of the Senate. As an original question he does not feel sure that his decision is correct.

Mr. TOOMBS. I think it is wholly unnecessary to submit the question to the Senate unless somebody appeals from the decision of the Chair. I believe there is no difficulty about the rule or practice of the Senate. The decision of the Chair is perfectly correct, and I think according to uniform usage.

The VICE PRESIDENT. The Chair, on the suggestions of Senators, will, unless the suggestions be withdrawn, take the sense of the Senate on the question of order.

Mr. IVERSON. This question of order is not without its embarrassments. I will state what is my remembrance of the action of the Senate

during the last Congress. When two orders were set for the same day, one for half past twelve o'clock and one for one o'clock, if the Senate took up the order for half past twelve o'clock, and proceeded to its consideration, when the hour of one arrived, which was set for the other order, if the Senate had not got through the first order, the second order was superseded. The Senate goes on with the discussion and action upon the first order until it gets through, and then the next order at one o'clock comes up in its place. If the half past twelve order be not taken up at the time it is set, and the half hour expires and it runs beyond the time for which the other order was set, then as between the two, the one first set chronologically is the one in order, and then the order for half past twelve o'clock is superseded by the one for one o'clock.

I would, however, suggest whether we may not get rid of this difficulty by a very simple process; and that is, if the Senator from Mississippi will waive his right to go on with the half past twelve o'clock order, and take up the one o'clock order and postpone it to three o'clock, with a view of taking up the military bill. That will give an hour and a half for its consideration, and then at three o'clock the Senator from Iowa can take up the order on which he has the floor, and he can have the whole afternoon to explain his views. I think that will accommodate all parties. I move, with a view to get rid of the difficulty, that we take up the special order assigned for one o'clock, being a motion to refer a portion of the President's message to the Committee on Territories, with a view to postpone it to half past two or three o'clock as may be desired.

Mr. WILSON. When the bill which came from the committee of which I am a member, was presented, it was moved by the chairman that it be assigned for this day at one o'clock. It was then suggested that a special assignment had been made, on which the Senator from Iowa had the floor. The chairman of the committee then moved that it be specially assigned for this day at half past twelve o'clock, not, I suppose, for the purpose of taking the floor from the Senator from Iowa, but for the purpose of giving the half hour of the morning to the consideration of this bill. This has been waived again to-day, and it is now before us. I do not think there is any great necessity for haste in the consideration of this bill. It has been in the committee for weeks; it has been discussed in all forms; it has been reported; and it has been laid upon the tables of Senators to-day in a printed form. Senators tell us they want time for consideration. They ought to have that time. Now, I would suggest, and will make a motion to carry out the suggestion, that this bill be postponed until to-morrow, and that the hour of half past twelve o'clock be assigned for its consideration. The Senator from Iowa can then proceed with his speech to-day, and the bill will go over until to-morrow, and Senators will have time to examine the measure. I move to postpone the bill until to-morrow at half past twelve o'clock.

The VICE PRESIDENT. The Chair considers this special order before the Senate; and, therefore, the motion of the Senator from Massachusetts is in order, and the motion of the Senator from Georgia is not in order.

Mr. DAVIS. I will accept the proposition of the Senator from Massachusetts.

The motion was agreed to.

KANSAS AFFAIRS.

The Senate proceeded to the consideration of the motion made by Mr. DOUGLAS, to refer so much of the President's message as relates to Kansas to the Committee on Territories.

Mr. HARLAN. Mr. President, this preliminary discussion places me in an attitude which is unpleasant to myself. It was fully understood, as I supposed, that the Senator from Mississippi modified his motion to make his bill a special order at one o'clock, so as to read half past twelve o'clock to-day, that the previous special order might not be interfered with. This discussion, however, with the disposition of the Senator to insist on the prior special order, coupled with his sarcastic remark that this subject, "this mighty theme of the reference of the President's message to the Committee on Territories, was not so all-important as to require the attention of the Senate," presents it in another light. I am perfectly willing that

his position, with his own explanation thus made, shall go to the country. I enter on this discussion on my responsibility as a Senator, equal, in point of rights, with the Senator from Mississippi, or any other Senator on this floor; being responsible to the people of Iowa alone for the manner of its use. I felt no special interest in the question of order raised; for I might have submitted the remarks I intend to make on the bill proposed by the honorable Senator from Mississippi with as much pertinency as are a large majority of speeches made in the Senate to the actual question pending; for I suppose that the passage of the bill which he has presented is desired to enable the President of the United States to enforce the Lecompton constitution. The increase of the Army can be called for at this time, as it seems to me, for no other reason; and I may have occasion to elaborate this view before I take my seat.

I listened with some degree of interest, Mr. President, to the discussion of this part of the President's message on the other side of this Chamber, growing out of the fact principally of the harmonious profession of attachment, by both factions of the Democracy, to the principles of the Kansas-Nebraska bill. The President and the southern Democracy, as here represented, profess to be guided by the principles of the Kansas-Nebraska bill—that is, "non-intervention by Congress in the affairs of the Territories;" and the honorable Senator from Illinois [Mr. DOUGLAS] professes equal devotion to this principle—that the people of the Territories, like the States, "shall be left perfectly free to manage their own affairs in their own way." And yet, sir, in practice, there is a vast difference in the result of the measures proposed.

To follow the advice of the President and those who agree with him, will secure the organization of a slave State on free soil; to adopt the policy proposed by the Senator from Illinois, will exclude slavery from this domain as effectually as if Congress should reenact "that neither slavery nor involuntary servitude shall ever exist north of 36° 30' north latitude;" for it is now known to us all that an overwhelming majority of the people of Kansas are opposed to slavery; and there is no practical difference between excluding it directly, by an act of Congress, and excluding it indirectly, by a submission of the question to the people, when we all know, when everybody knows, when the whole world knows, that they will abolish it without ceremony.

The President and his supporters do not deny the right of the people of the Territory to require the submission of their constitution to the electors at the polls for approval or disapproval, or its propriety as a general rule of policy. But they deny its expediency in the present instance, or its possibility, without an infraction of the doctrine of "non-intervention by Congress." They claim that, to require the people to vote for or against their fundamental law, by an act of Congress, would be as distasteful to freemen as would be a denial of that right.

And if we admit the truth of the President's assumptions, his conclusions are irresistible. If his premises are true, his position is impregnable; for it is true, sir, that, if the people of a State or Territory are left perfectly free to give expression to their own will in their own way, they may act in mass convention as a vast deliberative body—may originate and mature measures of public policy, or they may act through their representatives. In this country the latter is the usual practice.

The people of the States, in the modification of their constitutions, and of the Territories in originating them, have uniformly acted through delegates. Sometimes they have reserved the right of approval or disapproval at the polls of the whole instrument when completed. Sometimes, however, they have clothed their delegates with plenary powers. In the latter cases, the conventions have frequently submitted either the whole instrument, or some of its specific features, about which they may have been in doubt in regard to the popular will.

In the enactment of statute laws, the people act through their representatives in the State Legislatures, and also in the Congress of the United States.

In the interpretation and application of the laws, the people act through their representatives on the

tribunals of justice. Writs issued by these courts are, I believe, always in the name and by the authority "of the people," "of the State," or "of the Commonwealth," or of the United States, and not in the name or by the authority of the court itself.

In the administration of the Government—in the enforcement of the laws, State and national, the people act through their representatives, in the presidential office, and through the Governors of the States; all of whom are supposed to be guided by the will of the people, expressed in legal form.

The entire frame-work of our Government rests on the idea of obedience to the will of the people, expressed through their representatives, in all of its departments—legislative, executive and judicial. And the practical departures are very few.

What the people do in mass meeting is usually informal and illegal. Large bodies of men, entertaining similar views, convene for the purpose of adopting resolutions and confirming a platform, the whole purport of which is to indorse the official conduct of their legal representatives, or to instruct them in relation to their future official duty.

It is true also, Mr. President, that many of the most respectable courts of the country have decided that when the Legislature of a State, on its own responsibility, submits a law to a vote of the people for their approval or disapproval, such submission must either be treated as a surplage, or regarded as vitiating the whole act, even though it may have been approved by the people at the polls; and this, on the ground that legislative discretion does not rest in the people at the polls, but that it rests in their representatives in legislative bodies legally convened. Hence, if the people of Kansas did in fact authorize the creation of a constitution for a State government, through a convention of delegates, chosen by them for that purpose, without requiring its submission for approval at the polls, they are bound by its action. The act of the convention is their act. "*Facit per alium, facit per se.*" A convention thus appointed possesses plenary powers. And to suppose the instrument to be void, when thus made, because the convention failed to do that which the people had not required it to do, is an absurdity that would not be maintained by a lawyer of respectability for a single moment.

This leads us to an examination of the supposed act of the people of Kansas authorizing and creating this convention. And this is necessarily preceded by the question of legal authority on the part of the people of the Territory, unauthorized by Congress, to make a constitution for a State government, preparatory to their admission into the Union. I do not inquire by what instrumentality it should be made; whether by the whole people in mass meeting; whether by all the electors in one body, or by delegates of the people appointed by the electors. *Have the people the power to make a constitution by any instrumentality whatever?* This depends, I humbly conceive, on the truth or fallacy of the doctrines of squatter sovereignty itself; for, if you have conferred on the people the right to make all needful laws on all rightful subjects of legislation, or if this right exists uncreated in the people of a Territory, then they may enact a law authorizing the creation of a constitution for a State government, preparatory to their admission into the Union as a member of this Confederacy.

Here is the first point of divergence that I have noticed between the two factions of the Democratic party as represented on this floor, and as they now exist in the country at large. The honorable Senator from Illinois claims, very singularly as it seems to me, that the people of Kansas had no power, no legal right, to initiate measures preparatory to the formation of a State government. That I may do him no injustice, I desire to read from his speech delivered on this floor. In that speech he said:

"A Territorial Legislature possesses whatever power its organic act gives it, and no more. The organic act of Arkansas provided that the legislative power should be vested in the Territorial Legislature, the same as the organic act of Kansas provides that the legislative power and authority shall be vested in the Legislature. But what is the extent of that legislative power? It is to legislate for that Territory under the organic act, and in obedience to it."

He supports this opinion by reference to the official opinion of Attorney General Butler, in which he said, in relation to a similar act, con-

templated on the part of the people of Arkansas:

"It is not in the power of the General Assembly of Arkansas to pass any law for the purpose of electing members to form a constitution and State government, or to do any other act, directly or indirectly, to create such new government. Every such law, even though it were approved by the Governor of the Territory, would be null and void. If passed by them, notwithstanding his veto, by a vote of two thirds of each branch, it would still be equally void."

"For the reasons above stated, I am, therefore, of opinion that the inhabitants of that Territory have not at present, and that they cannot acquire otherwise than by an act of Congress, the right to form such a government."

These quotations doubtless express the opinion of the Attorney General. But they should be coupled with the fact that the people of Arkansas had no power, under their organic act, to pass laws and give them validity, unless approved by Congress; that their legislative enactments were void from the beginning, without this approval. The honorable Senator from Illinois is at fault when he says the people of Arkansas possessed the same power under their organic act claimed for the people of Kansas under the Kansas-Nebraska bill. This will appear by reference to these laws. I read from the Statutes at Large, third volume, page 494:

"Whenever the General Assembly shall be organized, all the legislative power of the Territory shall be vested in, and be exercised by, the said General Assembly."

"That so much of the act of Congress of the 4th June, 1812, entitled, 'An act providing for the government of the Territory of Missouri,' as relates to the organization of a General Assembly therein, prescribes the powers and privileges thereof, the mode of election, and period of service of the members thereof, and defines the qualifications and privileges of the electors and elected, shall be in full force and operation in the Arkansas Territory," &c.

Then, what were the powers and privileges and restrictions conferred on the people of the Territory of Missouri; which act was, by this provision, extended to the Territory of Arkansas? I read from the second volume of the Statutes at Large, page 744:

"The General Assembly shall have power to make laws in all cases, both civil and criminal, for the good government of the people of the said Territory, not repugnant to or inconsistent with the Constitution and laws of the United States."

"All bills passed by a majority in the House of Representatives, and by a majority in the Legislative Council, shall be referred to the Governor for his assent; but no bill or legislative act whatever shall be of any force without his approbation."

Here, then, is a marked distinction between the provision of the organic act for the people of Arkansas and that of the people of Kansas. But this organic law for Missouri proceeds to provide that—

"So much of an act entitled 'An act further providing for the government of the Territory of Louisiana,' approved on the 3d day of March, 1805, and so much of an act entitled 'An act for erecting Louisiana into two Territories, and providing for the temporary government thereof,' approved the 25th of March, 1804, as is repugnant to this act, shall, from and after the first Monday in December next, be repealed."

Those not repugnant, are, it would seem, continued in force.

In the act for the government of Louisiana, approved March 3d, 1805, I find this provision:

"The Governor shall publish throughout the said Territory all the laws which may be made as aforesaid, and shall from time to time report the same to the President of the United States, to be laid before Congress; which, if disapproved by Congress, shall thenceforth cease and be of no effect."

I have not examined the provisions of the organic acts of all the Territories which have hitherto been admitted into the Union as States, and those that now exist, with reference to this discussion; but two years since, I did make a thorough examination of all of them; and except the Kansas-Nebraska act, I found no law for the organization of a single Territory, which did not directly or indirectly reserve in Congress the right of approval or disapproval of all laws passed by the Territorial Legislatures. At the date of the opinion of Attorney General Butler, complete and full power, it was conceded by all, existed in Congress to govern all our Territories. Congress had claimed and exercised it from the beginning. It was so held by commentators on the Constitution. It was so held uniformly by the courts, State and national. The generic principle of plenary power in Congress to control territorial legislation, would include the specific legislation under discussion. With this power conceded in Congress to revise territorial laws, the people of the Territories could not, in the opinion of the Attorney

General, by any act of theirs, originate laws that would substitute a State government for a territorial form of government. But I beg the Senate to remember that in the year 1854, an act of Congress was passed with strangely differing features from previous acts of Congress, for the government of the Territories.

In this act of 1854, in a declaratory clause, it is claimed to be its "true intent and meaning not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject," not to a law of Congress, but "subject only to the Constitution of the United States." If, in that phraseology, "to regulate their domestic institutions in their own way," is embraced the power to make laws, constitutional and statute, then the policy of this Government in relation to its Territories was changed; its original policy was subverted; and I deny the honorable Senator from Illinois the privilege of going back one day behind the passage of the Kansas-Nebraska act for precedents to sustain his present position. The old territorial policy of this Government was then set aside; a new hobby was created; if you please, a new Bucephalus was harnessed; and as he now vaults over his own shadow, the Senator from Illinois, like another Alexander, may be able to mount and rein his head toward the sun. We shall see.

But, sir, if Congress did, in that act, confer on the people of the Territory of Kansas power to make all needful laws on every fit subject of legislation, the power to pass the laws referred to in this part of the President's message was included. The only question that will arise, then, for us to settle, is, whether this be a fit subject for legislation.

That this is a rightful subject of legislation none can deny; for it has been the subject of legislation by Congress "time out of mind." And the ultimate formation of a State government is always contemplated when a Territory is organized. A territorial government is intended to be but a temporary organization of the people within its limits, and is expected to give place to a more perfect and desirable form of government as soon as the people are found to be in a condition to assume its responsibilities, and to bear its burdens. This transition from a territorial to a State government must be effected either by revolution or under the forms of law. If, then, revolution and anarchy are not preferable to a peaceful and legal transition, this is a proper subject of legislation. And if the people of a Territory may legislate on all fit subjects of legislation, they may on this.

But conceding the question of legal power, did the people of Kansas exercise it in the case under discussion? Did they, by their own volition, authorize the creation of the Lecompton constitution.

This, I believe, is conceded by both factions of the Democracy. It is assumed by the President in his message, and not denied by the honorable Senator from Illinois, [Mr. Douglas.] It is said that the people of Kansas, through their Territorial Legislature, enacted a law, authorizing the election of delegates to frame a constitution; that the election was held, and the convention organized, under the provisions of this act; and that the Lecompton constitution is the fruit of their deliberations. This law has been recognized by the authorities in Kansas, and by the President of the United States. It is claimed to be the legal expression of the will of the people; and, it must be confessed, possesses every element of legal vitality common to any and all of the territorial laws of Kansas; and, as such, received the hearty indorsement of the honorable Senator from Illinois, [Mr. Douglas,] in his Springfield speech.

But did the people of Kansas, in the enactment of this territorial law, authorizing the election of delegates to frame a State constitution, or otherwise, reserve the right to ratify or reject it by a vote of electors at the polls?

Here is the principal point of divergence between the supporters of the President's views and those who oppose them on the other side of the Chamber. The first assume that plenary powers were conferred by the people of Kansas on their delegates, in the enactment of this territorial law; that the right to approve or reject the constitution to be framed was not reserved. And hence the people have agreed, in advance, to abide by the

acts of their delegates. Here, however, the Senator from Illinois joins issue; and to his reasoning in support of his position I invite the attention of the Senate and the country.

He does not claim that this right of ratification is reserved by the people in the territorial law authorizing the election of delegates; but that the Kansas-Nebraska bill is susceptible of no other legitimate interpretation; that it provides in a declaratory clause "that it is the true intent and meaning of this act neither to legislate slavery into this Territory, nor to legislate it therefrom; but to leave the people thereof perfectly free to regulate their own domestic institutions in their own way."

This regulation "of their own domestic institutions" is supposed to include the power to create a constitution and enact laws. How else are they to be regulated, if not by constitutional and legal provisions? But I humbly submit that it does not seem to me to require, necessarily, the submission of either to the approval of the electors at the polls. It does not say so in so many words. It does not say that "the people thereof are to be left perfectly free to regulate their own domestic institutions in their own way by a vote at the polls." Nor is such submission necessarily implied; for we have shown that, in a free exercise of their own will, the people may choose to act by representatives—may choose to clothe them with plenary powers. Nor is such a necessity consistent with the language used. The language used is, "but to leave the people perfectly free to regulate their own domestic institutions in their own way." Then they must be left free to choose the means by which this is to be done; and they may choose delegates, and clothe them with plenary powers for this purpose.

But, yielding that the interpretation of the Kansas-Nebraska act claimed by the Senator is the only fair one, it does not even tend to establish the conclusion sought. It would, on that hypothesis, be conclusive as to the will of Congress, and, if you choose, of the will of the people of the organized States, expressed in legal form by their representatives in Congress, but not of the people of a Territory outside of these States. The Kansas-Nebraska bill was enacted into a law on the supposition that the will of Congress might be different from the will of the people of the Territory—that it might be even in conflict with it, and in antagonism with their best interests; and hence the necessity of the Kansas bill to set them free—to emancipate them—to enable them to differ with Congress. Hence we are not to inquire what was the will of Congress as expressed on this or any other fit subject of legislation; but what did the people of Kansas decree? They put forth the creative act when they authorized the election of delegates. What was their decision?

But it is argued again that this power of final ratification must have been reserved by the people, because the President assumed that the constitution would be submitted, as is clearly set forth in his instructions to Governor Walker; because Governor Walker, in his inaugural address, and numerous speeches, pledged himself that it should be submitted; and because Mr. Calhoun, and others, during their candidacy for seats in this convention, were "pledged in writing" to exert their utmost influence to secure this result.

But this "inaugural address" of Governor Walker was not even an official paper. It was not required of him in the discharge of any official duty. It was simply a fugitive letter, written for the newspapers, and of no more validity than his stump speeches.

But clothe this letter, and these stump speeches, and this pledge "in writing" of General Calhoun, with all the pomp and circumstance of official acts, and they will not tend to sustain the conclusion. The President's instructions, the Governor's newspaper correspondence, and stump speeches, and Calhoun's pledges in writing, may be conclusive as to their purposes; but they do not even tend to prove that the people of Kansas had reserved the right to vote for and against the adoption of the Lecompton constitution. You must look for an expression of the will of the people in their own official acts. When impartially considered, these considerations prove the converse. Whence the necessity of promises and pledges to submit the constitution to a vote of the people, if the people had in fact reserved the right to ratify or reject it

at the polls? Pledges to secure this for the people imply that the people had parted with it, or lost the power to exercise it, and that this right was to be created anew.

It is contended, however, that under all of these circumstances, the people of Kansas did expect and had a right to expect, that this instrument would be submitted to them for approval. But this is a mere assumption without the slightest support in facts as they really existed. The people did not expect the submission of the Lecompton constitution to a fair vote of the electors at the polls; and hence these pledges of the President, and of the Governor, and of Calhoun and his accomplices, to delude them into the recognition of its legality, by voting under the territorial law authorizing its formation. And the people had no right to expect its submission, these solemn pledges notwithstanding. For no previous pledges of this Government and its officials in Kansas to secure the free-State men in the enjoyment of their just rights, had ever been redeemed. To confide in the pledges of their officials, they had learned by sad experience, was to lean on a broken reed, by which they had been uniformly pierced; and the result has not disappointed their expectation.

But the honorable Senator from Michigan, [Mr. STUART,] in his able speech made in the Senate a few days since, argued, if I understood him correctly, that the Lecompton constitution should be repudiated by Congress, in consequence of the gross frauds perpetrated in the execution of the census and registry laws preceding the election of delegates, by which a fair expression of the will of the people at that election was defeated. That I may do him no injustice I quote from his speech, his quotation from Governor Walker's letter to the President of the United States:

"That convention had vital, not technical defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment, as set forth in my inaugural and other addresses, by the submission of the constitution for ratification or rejection by the people.

"On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention."

Again:

"Nor could it be said these counties acquiesced; for wherever they endeavored, by a subsequent census or registry of their own, to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention. I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention, in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census constituted a majority of the counties of the Territory, and these fifteen counties in which there was no registry gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th of November last."

From this statement of the Governor, indorsed by the honorable Senator, it appears that in half of the counties no census was taken, and that, in the apportionment of delegates based on the census, the people of these counties were absolutely excluded from a representation, so that the legal right to vote would have been unavailing; that, in fifteen of these counties, the names of voters were not registered, and on that account the electors were incapable of voting; that this legal inability was placed beyond cavil by the unceremonious exclusion of delegates from seats in this convention elected, in a few of these proscribed

districts, in the absence of a census and registry; that a majority of the electors in the Territory were thus deprived of the elective franchise; that this did not result from neglect or indifference on the part of the people, but from the culpable, not to say criminal, refusal of the officers of the Territory to carry out the provisions of the law; and, consequently, that this convention represented a minority only of the people.

And the Senator strongly intimates, what the whole country knows, and what I, in my place here, on my responsibility as a Senator, distinctly charge, that this criminal neglect was by design, and for the purpose of excluding a fair expression of the will of the people; and that the officers of this Government, including the President, with a full knowledge of all the facts, have openly participated in the consummation of this open and flagrant robbing of the people of their dearest rights as American citizens—the right to select their own rulers and to make their own laws; and that the acquiescence of the people has been coerced by the President by the use of Federal bayonets. To suppose the contrary would be to deny the President and his officers ordinary intelligence.

The question then arises, whether the people of that Territory can be robbed of their original, their necessary right in the Territory, under the Kansas-Nebraska bill, to give expression to their will in the election of their delegates by a fraudulent execution of the territorial laws; that which was known at the time to be fraudulent; and which facts were fully known and understood, it is believed, by the President of the United States, when he quartered troops around the room in which these delegates convened, for the purpose of protecting them from the very result so graphically indicated the other day by the honorable Senator from California, [Mr. BRODERICK,] when he said, that if the people of that Territory, being thus intentionally robbed of their rights as American citizens, had risen in their might and flogged these delegates from the Territory, he would have approved the act, and more, he would have applauded them had they maimed them and sent them away in disgrace.

I agree with the honorable Senator from Michigan, and those who act with him, (and there are millions that do in the country at large,) that this Lecompton constitution has not been framed in pursuance of a fair expression of the will of the people; that it is the result of open and palpable robbery and physical coercion that never could have been successfully carried out unaided by this Government. But do they conclude that, on this account, the Lecompton constitution is void? If so, what do they say of the whole body of the Kansas laws?—are they void, or are they valid?

Nothing has transpired in connection with the creation of this Lecompton constitution that more than equals the enormities perpetrated at the first territorial elections. Do you tell me that at the election of delegates to this convention, the majority of the electors were unblushingly robbed of the legal power to vote? I reply that, at the election of the first Territorial Legislature, the legal voters were driven from the polls by intimidation and violence, whenever the success of this legal robbery required it; that a thousand armed strangers surrounded and held the polls at Lawrence alone; and it is now claimed that every precinct, save one, was similarly violated. Do you tell me that this convention has been preserved from violence and dispersion by an outraged people only by the troops of the Federal Government? I reply that the Territorial Legislature was maintained in power by the same means. Do you tell me that this constitution contains provisions repugnant to the will of the people? I reply that the laws of the Territorial Legislature were not only repugnant to the will of the people, but denounced by the present Secretary of State, then a Senator on this floor, and other distinguished Senators, as a disgrace to the age in which we live. Do you tell me that the provisions of this constitution can never be enforced among an unwilling people, only at the cost of violence and bloodshed? I reply that the whole body of the Kansas laws have been enforced at this fearful cost from the beginning up to the present hour. The people of Kansas have been compelled to submit to laws which they never made, and to officers whom they never elected. This grinding tyranny has been open, continuous, unmitigated,

and unblushing, from the commencement to the present. The Lecompton outrage is no more flagrant than those by which it was preceded. The last crop of fruit is no more bitter than the first. If the latter must be treated as void *ab initio*, in consequence of these terrible political wrongs, why not the first? If the Lecompton constitution may be set aside on this account, why not the whole body of the Kansas laws?

The Senator from Illinois [Mr. DOUGLAS] need not repeat his former apology for their continuation, made when he was in doubt as to the violence connected with their origin. He need not tell the country "that, under these laws, contracts had been made, marriages contracted and solemnized, births registered, and estates distributed;" that he would not vitiate all these by the repeal of these laws, and thus produce anarchy and confusion with legal adultery and bastardy; for, when uninfluenced by the heat of debate, and free from party zeal, he will not pretend for a moment that contracts made under a valid law can be vitiated by its repeal; and if these laws were like the Lecompton constitution, void from the beginning, the sooner they are swept from the statute-books the better; for in that case no legal right could accrue under them. Hence I entreat Senators not to spend their precious time in clipping the leaves of this *upus* which is poisoning the whole atmosphere with its malaria; but to heave it out by the roots, and cast it body and branches into the furnace; for the Lecompton constitution cannot be repudiated on any principle not equally applicable to the entire Kansas code. If Congress can intervene now, it could and ought to have intervened then; and thus return to the doctrine of the fathers of the Republic—that it is the duty of Congress, as the representative of the whole country, to guard and protect, by legal enactments, the rights of the people of the United States residing in the Territories.

I agree with the Senator from Illinois and the northern Democracy, that this constitution should be repudiated by Congress; but I regret that this is not asked on the true ground—the constitutional duty of Congress to make all needful rules and regulations for the Territories; because it places the northern Democracy in an attitude of humiliation. The whole burden of their complaint against the President and his southern supporters, is the refusal to submit the Lecompton constitution to a vote of the people. Had this been done, we are told that the Democracy, North and South, would have been a unit. And the President is admonished, in threatening language, that if the harmony of the party is to be destroyed by a refusal to carry out his own instructions and the pledges of the leaders of the party, let the responsibility be on his own head.

But what is the extent of the boon attempted to be wrested from the unwilling hand of the President, for the people of Kansas, by the northern Democracy? A negative right only! The right to withhold their assent from constitutions and laws! The naked right of denial! At the polls the people can do nothing more. They cannot there deliberate, modify, and mature measures of policy.

It is not a bold and manly contest like that of the Commons of England with the Crown for constitutional liberty; but it is a contest with the President and his supporters for the power to veto laws enacted by usurpers and tyrants. By their arguments we are carried back thousands of years in the history of free Governments, to the period when the plebeian orders were engaged in a similar contest with those of senatorial rank, in imperial Rome. In that contest the plebeians did indeed achieve a great triumph when they acquired the right, in the person of their tribunes, to sit at the feet of Senators, and write "veto" on Roman laws. This was certainly one step towards their emancipation. But does this, in the opinion of the northern Democracy, fill the whole measure of the liberty of American freemen? to choose between the law proposed, and no law? to decide between the constitution submitted and no constitution? I had supposed that in this country the people possessed the right, in the persons of their representatives, to march boldly into the "Senate Chamber" itself, and there take seats side by side with the Ciceros and Cæsars of that assembly; that they had the right not only to object to the passage of a bad law, but had the

right boldly to step forward and make their own laws. Yet the whole northern Democracy, led by the honorable Senator from Illinois, the honorable Senator from Michigan, and others, stand here begging the President and Congress to allow the people of Kansas to veto a constitution dictated to her—not the right by their legally constituted delegates, fairly elected, to make a constitution.

Here, then, the Democracy and the Republicans differ. If you have clothed the people of Kansas with power to make all proper laws on all needful subjects of legislation, I for one claim that they shall have the right to make them—not a naked right to veto laws dictated by another body; that they shall not be reduced to the naked and narrow privilege of accepting a constitution proposed by dictation; of accepting laws proposed by an illegal body; of accepting officers nominated by those without the power to nominate. I claim for them all the rights of American citizens, which include the right both to make their laws and to elect their rulers.

But even this pitiful privilege of opposing a law after it had been dictated for their acceptance is denied the people of Kansas on this floor, and is denied them in the President's message; he, as we must all believe, having a full knowledge of all the facts, to which I have attempted to direct the attention of the Senate. They are to be denied that privilege, as I shall now claim, because it comes in direct conflict with the real meaning and original intent of the Kansas bill; that true meaning and intent being, when correctly understood, to compel the people of Kansas, by strategy or by force, to submit to the organization of a slave State; and to that particular feature of the case I ask leave to direct the attention of the Senate and country.

That it was the original design of the southern Democracy to organize a slave State in the Territory of Kansas is clear to my mind, from the facts to which I shall now allude. The first is the organization of two territorial governments by the same act of Congress, and that in the absence of a population requiring it. For it was stated only a few days since, by the honorable gentleman from Illinois, in his great speech on this subject, that at the time of the passage of this bill there were not one hundred American citizens within the limits of both the Territories of Nebraska and Kansas. Then I inquire whence the necessity for the organization of two territorial governments by the same act of Congress? This never had happened previously in the legislative history of this country. No Senator can point me to a precedent. These two governments within the same territory were organized at a time when, in the opinion of the honorable Senator from Texas, [Mr. Houston,] and the honorable Senator from Tennessee, [Mr. Bell,] there was no necessity for one, with the enormous additional expense of about one hundred thousand dollars annually. These Territories are not separated from each other by a range of mountains, not by an impassable desert, not by a morass, not by a lake or by a river, not even by a range of hills. The division of these two Territories was first drawn by your astronomer on the heavens, by the position of the stars, and dropped down on the bosom of that beautiful prairie country. Why was this? Can it be explained on any other hypothesis than a design to favor the organization of a government adapted to the wishes of the people of one part of this Confederacy? This inference is strengthened by the position of that line, south of a projection of the northern line of the State of Missouri, rendering it improbable, as it was then believed, that emigrants would find their way south of that line. This inference is strengthened also by the language of a letter which I ask the Secretary to read, addressed by the honorable Senator from Virginia [Mr. Mason] to the editor of *The South*.

The Secretary read it, as follows:

"At the time the law passed organizing the territorial government, there were few with whom I conversed who did not believe that the future State would take its place with those recognizing and cherishing the condition of African slavery. There was at that time certainly every reason to believe why this should be so, and none why it should not. The State of Missouri, bordering its eastern frontier, was a slaveholding State, holding at that time nearly a hundred thousand slaves, and these were chiefly held in border counties.

"The State of Arkansas, adjacent to the Territory on the south, was likewise a slaveholding State. The soil and

climate of Kansas were well adapted to those valuable products, chiefly hemp and tobacco, which gave value to slave labor in Missouri. The proximity of its population, with the attractions of new, fertile, and cheap land, I believed would lead the slaveholders in Missouri to diffuse themselves speedily over Kansas, and the prohibitory line of 36° 30' being obliterated, there was no reason why they should not. I had no fear of fair competition in such appropriation of the new Territory, from any quarter. Unfair competition I did not look to.

"What may yet be the result as to the condition of Kansas, notwithstanding the extraordinary and unscrupulous efforts of northern Abolitionists to force a population there, I cannot undertake to say. Nor will I allude in this place to the new and unexpected aspect, now exhibited, of affairs in that Territory, with so much propriety reprehended in the columns of the *South*. Whatever may be the information of others, I certainly am not sufficiently informed of the existing state of things in Kansas, to form a clear opinion one way or the other; yet I will venture to say this much, that if African slavery be ultimately excluded from Kansas, it will be effected by the numerical force of organized majorities, operating against the usual laws which govern emigration; and will present a new and most instructive lesson to the southern States."

Mr. HARLAN. We learn, Mr. President, from the letter of the honorable Senator, what were the expectations of the Democratic party in the passage of this bill: that following the natural laws of emigration, the people of the free States would flow down from New England, New York, and the northwestern States, and settle in Nebraska, and that perchance that might become a free State; but that emigration from Delaware, Maryland, North Carolina, Virginia, Kentucky, Tennessee, and Missouri, would flow through the latter State and up the Missouri river and occupy the Territory of Kansas, and thus control its political institutions. This explains the anomalous organization of two territorial governments with their peculiar boundaries at the same time in advance of a population requiring it. This also explains the subsequent acts of the President of the United States, and the inaction of Congress, when that Territory was invaded and overpowered by armed bands of men from the southern States. This explains the persistence of the President and his supporters in maintaining in power these usurpers—the sanction and enforcement of its pretended laws, and the arrest and punishment of many of its best and most patriotic citizens, under a charge of constructive treason.

This explains the appointment to office of the worst men that ever disgraced its soil; and the removal from office of its Governors, whenever they manifested a disposition to show the free-State men even-handed justice. Thus, the first Governor, and the second Governor, and the third Governor, fell by the executive guillotine! As soon as it was understood that Governor Walker, whose official conduct has been criticised here and in the executive mansion, had pledged himself to the people of that Territory that they should be permitted to enjoy the naked right of objecting to a constitution framed by a body of men whom he has since declared to have been illegally chosen, in violation of every principle of justice, for promising to exert the utmost of his influence to secure them at least a hearing at the polls, he was denounced by the Democracy of no less than two of the sovereign States of this Union. When it was known that he had rejected a copy of a Cincinnati Directory, returned as a poll-book from one of the precincts of Johnson county, it was well understood all over the country that his doom was sealed; because the rejection of that pretended return gave the free-State men a majority of the members of the Legislature. Can any one account for the mysterious removal of Secretary Stanton on any other ground? Senators here will not require me to state the reasons assigned on this floor for that removal. Removed for what? What has he done? Does the country at large know why he was removed? There was a reason; and it is known to Senators here, and none others.

Whenever the officials of that Territory have been disposed to show even-handed justice to the free-State men it has uniformly occasioned their official death, without one solitary exception. This can be accounted for only by the admission that it was the original design and intention to organize a slave State in that Territory; to secure it through what is denominated the natural laws of emigration, if it could be thus effected, and if not, then by strategy, and if not in this way, then by open force, to be used by the President in the appointments of the Army. Hence it is that the people of that Territory have been deprived of the right of voting, of exercising this mere negative

power of refusing their assent to the Lecompton constitution. And, although the northern Democracy are now on their knees begging the privilege for their brethren in Kansas to vote for or against their fundamental laws, they are destined to experience the deep humiliation of a denial.

But this is not the end of the humiliation the northern Democracy are destined to suffer—and that right speedily—at the hand of their southern allies. They will be required to yield their interpretation of the Kansas-Nebraska bill, in its whole length and breadth.

The Democracy of the North claim it to be the true intent and meaning of the Kansas bill that the people of the Territories may either exclude or establish slavery at their own discretion. Not so with the Democracy of the South. They claim that the title to slave property must be placed on the same footing with the title to every other species of property. They claim it to have been thus decided by the judges of the Supreme Court in the *Dred Scott* case; in which Justice Daniels says:

"That the only private property which the Constitution has specifically recognized, and has imposed it as a direct obligation, both on the States and the Federal Government, to protect and enforce, is the property of the master in his slave; no other right of property is placed by the Constitution upon the same high grounds, nor shielded by a similar guarantee."

They do not admit that the people of the Territory can at any time vote slavery from its limits, either preceding or at the time of the formation of a State constitution. They claim that the title to slave property is like the title to all other property—that for this the same footing shall be yielded that free-State men claim for their property. Again, they claim that it is a violation of their constitutional right not to allow them an equal enjoyment of the public domain, purchased with the common blood and treasure of the nation. Grant the latter proposition, and slavery will be carried by it into Iowa as readily as into the Territories. By this assumption, you carry slavery into Illinois, you carry it into Minnesota, you carry it into Wisconsin, you take it into every State of this Union in which there is one foot of the public domain. The principle will hold good for an acre that will hold good for fifty million of acres. Hence if it is a violation of the constitutional rights of our southern brethren to deny them the privilege of going with their slaves into the Territories, it is an equal violation of their rights to exclude their property from the States in which may be found public domain which has been procured by the use of the common blood and treasure of the nation. If the reason is good for a Territory it is good for a State.

But again, concede the truth of the second proposition, and slave property may be carried into all the remaining States of the Union with impunity. What then is the nature of the title by which other private property is held?

In this country it is held to be an original right. It is not created by legislative enactments. It is a right that necessarily attaches to our humanity. It has its foundation, we are told by legal casuists, in an intrinsic faculty of the mind, sometimes denominated the possessory principle, or the universal desire to acquire and possess, which is manifested in childhood, in youth, in mature manhood, and old age; among the savage, the civilized, and the enlightened; among heathens and Christians; in every country and every age of the world. Its gratification is admitted, by the common sense of mankind, to be innocent and laudable. Hence the provision in the constitutions of all the States of this Union, and of the United States itself, for the protection of the inviolability of contracts, by which property is acquired and held, and against its subversion even for the public use without just compensation. These provisions are usually found in the bill of rights, and are simply declaratory. They do not assume to originate the right to the enjoyment of private property, but declare it as an original principle existing anterior to the enactment of laws and the establishment of constitutional forms of government. And it was an alleged violation of this right to private property that originated our struggle for independence; it was for its protection that the revolutionary war was fought. The phraseology of the times was, "that taxation and representation were inseparable;" that is, that private property should not be taken from the citizen without his consent.

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If this be the admitted law of title to private property, then my title to my horse cannot be vitiated by the votes of my neighbors and countrymen. It cannot be changed by majorities. If their necessities are sufficient to justify the violence, on the principle of the right of self-preservation, they may take him by coercion; not by any right, but from necessity; and in that case, must return a just compensation.

This principle is clearly announced in the Le-compton constitution. It is declared in that instrument that—

“The right of property is before and higher than any constitutional sanction; and the right of the owner of a slave to such slave and its increase, is the same, and is as inviolable, as the right of the owner of any property whatever.”

Is that assented to by statesmen from the southern States, or do they deny it? The argument is rung in our ears day by day, not only on the floor of Congress, but by the newspaper press throughout the South, that the title to slave property is like the title to all other property—that it is superior to constitutions and laws; because, as they would lead us to believe, it has its foundation in a constitutional principle—not in a constitutional enactment—because it has its foundation in a principle of the human mind itself.

Hence, if the right to property in slaves is placed on the same basis with the title to other property, it cannot be vitiated by votes or by legislation. In that case, slavery is not a question of mere indifference, to be determined by accidental majorities, like different systems of common schools, revenue laws, or banking. The right becomes original, elementary, and inviolable.

If this be true, as claimed by the southern Democracy, by what authority do you discriminate against it in the Kansas-Nebraska bill? Whence your authority for saying that it is the true intent of this bill neither to legislate *slavery* into the Territory, or to exclude it therefrom, but to leave the people perfectly free to do this or that? You do not thus provide in relation to any other kind of property; then why do you assert the right of the people to confiscate or annihilate title to property in slaves, and thus destroy the equality of the States by discriminating against the property of the South? If the law of title to slave property, as claimed by southern statesmen, is correct, then the alleged principles of the Kansas-Nebraska bill are wrong, and its discrimination unjust. If slavery is right, all the votes of all the squatter sovereigns on earth cannot make it wrong; and if wrong, they can never make it right.

This principle of the inviolability of private property has been recognized by the philosopher and the historian, as well as by your constitutional law-makers in every State of this Union, as well as by your revolutionary fathers in the commencement of the struggle for independence; and on which, in fact, the revolutionary war was fought to a successful conclusion. The right of private property attaches to man; it is part of his mind; it is involved in the idea of his personal manhood; it is recognized as a principle that may be protected by laws and constitutions, and which cannot be annihilated by either. If this be true, and the title to slave property must be placed on the same footing with the title to every other species of property, then that title becomes sacred and inviolable everywhere; not only in the slave States, but in the Territories, and in every State of this Union. Admit the truth of the premises and the conclusion is irresistible. If it be true that the title to private property cannot be violated without an act of tyranny practiced by the Government on its people, and that the title to slave property must be placed and maintained on the same basis, then it becomes inviolable, and can be maintained everywhere. This doctrine of the northern Democracy (for they seem to have acceded to it in this discussion) carries slavery with it everywhere with the approval of that party, north and south, and with the dissent only of the Republicans of this country, so far as they seem willing to give expression to an opinion. Here,

then, the northern Democracy and the Republicans of this country differ as widely as the poles. The Republicans maintain that there can be no such thing as property held or enjoyed by a human being so as to vitiate or annihilate the rights of persons, and that the rights of property are valid only so far as they can be held and enjoyed consistently with the enjoyment of the rights of person. Hence they come to the conclusion that no vote, either by large or small communities, can make slavery right or wrong. If slavery is in itself wrong; if the title be a bad title, no number of votes can ever make it good, because its rightfulness or wrongfulness depends on an original principle, a constitutional right, which cannot be thus created or thus annihilated. It thus occupies the same basis side by side with the right of life. Who pretends that if one man sacrifices, without cause, the life of another, and all his neighbors, by their votes, approve the act, it will change the legal character of the murder? It only makes the participants parties to the crime. If they lend their assent in advance, they are *particeps criminis* in advance. If they lend their sanction after its commission, they are parties to the crime after the act. If slavery is right, no people have a right to annihilate it by a vote; if it is wrong, it cannot be made right by a vote. Such an assumption was turned into ridicule three thousand years ago by the Greek general, who, when told by his countrymen that they had just had an election, at which they had created ten generals, responded: “why did not the people at the same time vote their donkeys into horses, and enrich the State?” It involves an absurdity on its very face.

I may be inquired of here whether I admit that there can be such a thing as property in a slave, in a slave State? I answer that it may be asserted and maintained, but not by virtue of any constitutional right, or of any provision within the Constitution of the United States. The majority have the physical power to subject the minority to their control. The stronger race have the physical power to reduce the weaker to subjugation, and they may be organized and existing as a political sovereignty, so that no one outside of that organization can have a right to interfere, and no one within its limits have the power to make a successful resistance. Slavery exists in the slave States by virtue of the law of force, set up and maintained by majorities over minorities, by the dominant race over the weaker, in violation of the rights of person of the weaker race. I dissent, to some extent, from the casual statement made by the Senator from New Hampshire, [Mr. Hale,] that there is even a qualified right of property in man.

You may have a right to his labor. The labor of men may be bought and sold, hence it may be the rightful subject of property. I may rightfully buy the lawyer's learning, the physician's skill, the soldier's courage, the author's genius, the laborer's strength of muscle. I may buy even the wisdom of your statesmen, but it can be held and enjoyed only in harmony with the personal rights of each. Whatever I may buy and hold consistent with the enjoyment of personal rights on the part of the person who sells his labor, is the fit and legal subject of property, and nothing more. The Constitution nowhere recognizes property in man, but everywhere alludes to the African as a person. In the first article you will find the following provision:

“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three fifths of all other persons.”

Here Africans are claimed to be persons. They are claimed even by the authority of the slaveholding States to be persons, for they have representation in the other branch of Congress, based alone on their character as persons. The next provision alluding to this subject is:

“No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in conse-

quence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up, on claim of the party to whom such service or labor may be due.”

To whom the labor may be due; that is, to whom it may be owing; for whom, by a direct or implied contract, the individual has agreed to perform labor. This class of people are alluded to only as persons capable of making contracts for labor, and from whom labor may be due, from whom it may be owing on contract, either express or implied. The only other clause in the Constitution alluding to this class of people, is found in the ninth section of the same article:

“The migration or importation of such persons as any of the States now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each.”—

What? Each individual piece of property? No; for “each person.” Then this class of people, thus held to service in the States tolerating slavery, is alluded to by the Constitution in each and every provision as persons, and not as property; and thus harmonizes completely and fully with the view of the case I have endeavored to present. If they are persons and not simply property, in such a sense as to violate their rights of persons, then to reduce them to the condition of property is a violation of a principle as old and as sacred as the right to property itself. A man's right to the use of himself, to the use of his own will and his own body and his own intellect and his own conscience and his own moral emotions, is as old as the right to property; and by the common consent to mankind even more sacred, because wherever these two come in necessary conflict, the right to property must give way before the right of person.

But the most alarming feature of this claim is that the law of force set up in some of the States of the Union, over which subject the Congress of the United States has no control, thus becomes the law of the land. Yes, if the people within but one State of the Union set up and maintain the law of the stronger, and under it claim the right to hold in subjugation the weaker race, or the minority, it is claimed here that that law of power, without foundation either in the principles or the language of the Constitution, instantly becomes the law of the whole country, or at least the law of the whole country outside of the organized States. If every State of the Union on that principle were to abolish slavery, with the exception of the small State of Florida alone, with a population, I believe, of less than two hundred thousand, and the strong race there should reduce their brethren of the weaker race to the condition of property, the very moment they overturned this constitutional principle within their limits, it is overturned wherever the flag of this Union floats; because the law of force, the law of power, by which Napoleon carries on his Government; the law of power, by which tyrants always rule; has been set up in a Republic and enforced by the strong hand of a majority—of the hand of the dominant race; though but one State of this Union, it thence necessarily becomes the law of the country, the law of the United States within all her territories, to the exclusion of the use of the very same law by the people of these respective localities. Why it is claimed now that the law of force cannot be used in Kansas against slavery. It can be set up in Kansas by being used and established in Florida, or in Maryland, or in Virginia, or in any State of this Union two thousand miles away; but the law of force within the limits of the Territory itself cannot be set up, it is claimed, without a violation of the principles of the Constitution. The law of force has become the law of the land; it attaches to all your soil; it goes everywhere. Wherever the stars and stripes of your flag are seen, there the law of force is seen, because some one State of this Union has set it up and maintains it.

It is to this humiliating position that the northern Democracy are now required to bow. They are not only required to stand on their knees and beg the President for the privilege of casting a

negative vote in relation to the constitution of a new State, but they are required to submit to the law of force in all the Territories of this Union. And, indeed, if that law of power is set up and maintained in any one State of this Union, by an irresistible deduction, it may go into all the States; if it be property, as such, by virtue of constitutional principles anywhere, it is property everywhere, and may be maintained everywhere.

Here, then, is the difference between the freedom of the North and our brethren of the South. There may be a necessity pressing on them to continue the institutions under which they have lived to maintain their rule over the inferior race. That necessity, however, does not exist in Kansas; it does not exist in any of the Territories of this Union. If with them the law of force must be maintained in consequence of the law of necessity growing out of the circumstances by which they are surrounded, it ought not to be claimed by them that we are compelled to receive and sustain the same law when we are not pressed by the same necessity. There is no necessity for the freemen of the North to hold men, women, and children as property. They have been able, thus far, to manage all their domestic affairs without buying and selling their people. If that necessity exists within the limits of one of the States of this Union, let the people thereof be the judge; let them control its destiny; but where that necessity does not exist, we maintain that the law of force shall not be set up and maintained.

This brings me to the final point to which I shall allude in this discussion. I allude to the circumstances by which I am now surrounded. I know that the views I have expressed are distasteful to a majority of the Senate. Their expression is listened to with reluctance when arising out of questions fairly before the Senate, and made the special order for a particular hour. An adverse public opinion has been set up and maintained by our southern brethren—I will, though with respect, give utterance—at a tyranny of public opinion, so that not one of your officers here in this Chamber dare give utterance to an opinion in opposition to the dominant party, without a sacrifice of his station. Not one of them can do so in the other Chamber. To give utterance to his opinions, inborn in the soul and cultivated in the free States of the North, where he has been reared, would be the price of his position in either branch of Congress. The same is true in every one of the Executive Departments of the Government. All the clerks and all the heads of Departments, from the lowest to the Secretary of State himself, know that the price of giving utterance to the opinions and sentiments of the northern people, would be to sacrifice position.

This is not only true in Congress and the Executive Departments, but it is true in your public buildings; it is true in your public gardens; it is true in your aqueduct; it is true in your navy yard; it is true everywhere within the limits of this District. It is true, also, in relation to the learned professions. Not a lawyer in your city dare give utterance, although he entertain them as candidly and honestly as I do, to the opinions I have expressed, without the sacrifice of his professional standing. No physician dare do so. If a physician be called in to tie up the bleeding head of a wounded Senator, stricken down at his desk for a free utterance of his opinions, he must instantly become security in the criminal court for the assailant, in order to preserve his professional interest. It is true, also, in all the walks of life. Your shop-keepers, your merchants, your artisans, your mechanics, all know that their success in their calling here depends on their silence or their acquiescence in the views of the dominant party here. There is no place in this capital, outside of this Chamber and the other House, where a man can speak freely, and even here, at a terrible peril; even here, at the possible sacrifice of his health and his life. Why is this? Because all these men know that title to slave property will not bear analysis; will not bear the scrutiny of enlightened reason; because they all know that it will go down before the force of an enlightened investigation; because they are conscious of the truths to which I have given utterance: that title to slave property is set up and maintained, alone by virtue of the law of force, by virtue of the law of physical power, and can be maintained in no other way.

I had intended to refer to that feature of the decision of the Supreme Court of the United States bearing on this subject, but I have already spoken longer than I intended. Thanking Senators here for their kindness in yielding me the attention I have enjoyed, I yield the floor.

Mr. POLK. I do not rise, Mr. President, for the purpose of making a speech on this subject, but for the purpose of making an explanation, which, I think, is due to the demands of truth and justice. The gentleman who has just addressed the Senate, and at least two or three gentlemen who have spoken on this question, have quoted passages from the letter of resignation of Governor Walker, in regard to the manner in which the Lecompton constitutional convention was selected, with the view of giving the impression that that convention was elected by a minority of the people of Kansas. In order to do this, they referred to that passage of the letter which speaks of nineteen counties out of thirty-four having not had an opportunity of sending delegates to the convention. One gentleman, the Senator from New Hampshire, said that statement had gone without challenge until the present time. Immediately after that letter was written, and as soon as it could travel to the West, there was a statement made of the facts in relation to these nineteen counties, and I have been surprised that that statement has not been copied into any paper, as far as I know, on the sea-board, except one. I think it has been in the Washington Union. I propose to read to the Senate that statement, so that the gentlemen who have spoken on this subject, if they have labored under a wrong impression, may be set right, and especially so that the country may be set right, so far as this statement will go. It was published in the Missouri Republican some weeks ago, and I have it in my hand. It was made under the signature of H. Clay Pate, and it has the concurrence of George W. McKown, ex-member of the Lecompton convention, Francis J. Marshall, Democratic candidate for Governor, William G. Matthias, Democratic candidate for Lieutenant Governor, J. H. Danforth, ex-member of the Lecompton convention, and Blake Little, ex-member of the Lecompton convention. Three of the members of that convention signed the statement, extracts of which I will proceed to read. It is dated the 4th of January, 1858.

"A law was passed taking for its basis the principles of the celebrated Toombs bill, which Senator Douglas, Governor Walker's ally, helped to make, and for which he voted. It provided for the registry of all the legal voters of the Territory by the sheriff of each county and his deputies. The probate judges were required to hold courts or sessions in convenient parts of the counties, and add to the lists returned by the sheriffs any names accidentally or wrongfully omitted. It also provided that, in cases where there was no probate judge, or he would not act, then the sheriff should, and if there was no officer at all to perform the duties specified, then the people might petition the Governor to appoint some one to carry out the law. The Governor says that 'fifteen counties' were entirely disfranchised 'and by no fault of their own.' Let us see: In Franklin county, one of the 'oldest organized,' Esquire Yocum, probate judge, was driven away by the Abolitionists, as was also Richard Coudling, sheriff of said county; each of these officials were threatened with death should they attempt to perform the duties conferred upon them by the registry law. Under the same circumstances, George Wilson, judge of probate for Anderson county, was prevented from executing the law. So with Allen county; Passmore Williams had to leave in order to save his life. J. J. Barker, probate judge of Breckinridge, being a free State man, refused to act. These four were the only organized counties not represented in the convention. Why not represented? It was the fault of those who now claim; and 'on their heads, and theirs alone, will rest the responsibility.'

"It is well to observe that, of the nineteen counties spoken of as not represented, the census was not taken in four, for the reasons stated; the other fifteen were, for civil purposes, attached to organized counties, as follows:

The Senators, especially from the new States, know what is meant by that. Very often a Legislature, as in my own State, will erect a county by statute, and attach it to another county for civil purposes until its population reaches the constitutional limit, that will enable it to come into the State as one of the regular organized counties of the State.

"Two, Richardson and Weller, to Shawnee.
"Three, Madison, Butler, and Wise, to Breckinridge.
"One, Coffee to Anderson.
"One, McGee to Bourbon.
"Six, Greenwood, Hunter, Dorn, Wilson, Woodson, and Gregory, to Allen.
"One, Brown to Doniphan.
"One, Davis to Riley.
"The counties of Brown, Washington, Clay, and Dickinson were organized at the last session of the Legislature; in the last named three, there were no inhabitants.

"The registry law was executed, and voters were registered in the following counties: Johnson, Lykins, Lynn, Bourbon, Douglas, Shawnee, Doniphan, Atchison, Leavenworth, Jefferson, Nemaha, Calhoun, Marshall, and Riley."

In this last category the Senators will recognize the names of the counties to which the others had been attached:

"It will be seen that the only counties really disfranchised were the four in which Abolitionists would permit no registry to be taken; and it is an established fact that many factious people refused to tell their names, and otherwise obstructed the officers—some giving fictitious appellations, and others threatening the lives and property of census takers.

"These officers were 'political partisans,' and they refused or neglected to take any census or make any registry, and, therefore, they were entirely disfranchised, and could not, and did not, give a single vote. Why did they not compel the officers to do their duty? It was possible; but if not, they could have petitioned the Governor for redress. If the people of those counties could and did not vote, it was a 'fault of their own,' and on 'their heads, and theirs alone, will rest the responsibility.'

"The blunders and misstatements of Governor Walker are apparent; it is clear that he might have been better informed than he seems to be, and more cautious than he really was in his letter of resignation.

I present these facts, as I suppose them to be, for the consideration of the Senate, as showing that much is taken for granted in the discussion on the other side in regard to the unfairness of the election for delegates to the Lecompton convention, which the facts do not justify.

Mr. STUART. It is perhaps necessary for me to say a word or two in reply to what has just fallen from the Senator from Missouri, inasmuch as I believe I first brought this point to the attention of the Senate. I stated then, after giving a considerable extract from a letter of Governor Walker, that the same thing, in substance, was stated by Mr. Stanton, then acting-Governor in Kansas, in his message to the extra session of the Legislature. He repeats precisely the same thing in substance. I would be willing to rest the statement of facts there on the statement of Governor Walker, who had been Governor of Kansas since last spring, and whose duty it was to inform himself particularly in regard to the laws and the facts concerning the affairs of that Territory, and the statement of Mr. Secretary Stanton, confirming it in every respect against the stray statement of three or four individuals here published in a newspaper.

But, sir, there is an additional fact stated in that newspaper extract, which goes to show either that those gentlemen did not understand the subject, or did not intend fairly to present it. It is this: That if anybody was aggrieved in that Territory, they could apply to the Governor for redress, in regard to the registration of votes. There is not a single word in the law that authorized the Governor to act at all, and he had no more power to act in that case than I had. Some of the men who signed this paper, are not unknown in the history of this Territory. The man who makes the statement has been a very active partisan in the Territory, and every statement that he makes should be taken with the same allowance that the statement of Jim Lane should, on the other side. They are two men who went to the Territory for mischief, and not for good.

Now, sir, let me ask the question which I asked when the law was passed calling a convention—and I presented the fact to persons high in authority here—why was the law passed requiring a registration of votes for the purpose of electing delegates to a convention? There never was any other registration required at an election in Kansas from the time of its organization down to today. Why was it done? I had not any doubt at the time what it was done for. It was perfectly clear to me that that Legislature had taken the provisions of the Toombs bill, which was to be executed by men appointed by the President and confirmed by the Senate of the United States, whose character should be such as to secure an honest exercise of its provisions, and the provisions of that bill were designed for the purpose of excluding all who were not actual inhabitants and residents of the Territory. It was to exclude immigrant voters from any State in the Union. What object had the Legislature in view in the passage of that law? Why introduce upon the theater of legislation in Kansas a new set of provisions in order to elect delegates to a convention? There was but one reason—that under a show of fairness they might defraud the people, and the result justifies the prediction.

There has been a good deal said on this subject, from time to time, and much that ought to be regretted. It is asserted, day after day, that everybody in the Territory had the fullest opportunity to vote, and the responsibility is on their own heads if they did not vote, when, in addition to the fact which I stated the other day, which is sought to be explained by these individuals in this newspaper extract, it is known that individuals who went into that convention claiming seats as delegates were rejected because they had not complied with the provisions of this law, when the officers whose duty it was to execute the law refused to do it.

I am not going into a general discussion of this question at all. I deemed it my duty, after the reading of the extract, to state to the Senate, simultaneously with this pretended explanation, that it was not to be relied upon. The language of the statement itself shows that it is got up more out of personal feeling against Governor Walker than for the purpose of enlightening the country at large. There are terms and expressions used in it of personal disrespect to him which show that fact; and I may end where I began, with asking if the statements of Governor Walker, whose duty it was to know, and who had the opportunity to know; and if the statements of acting Governor Stanton, in his message to the Legislature, are not to be relied on against the newspaper statements of three or four individuals, and those individuals among those who are implicated in what I charge to be this very fraud—members of this very convention who assigned as a reason, in their published debates; why they would not submit it to the people, that if they did so submit it, they knew it would be rejected?

Now, sir, I am not disposed to regard such explanations against the statement of the sworn officers of this Government, and those, too, gentlemen of the respectability and fame of Governor Walker and acting Governor Stanton. I would rather have their statement. At some future day I intend to look into this matter myself. I intend to look at the laws and see about these attachments of counties; and I intend to see, so far as I can learn from the laws of that Territory, whether attaching five or six counties to one for certain purposes was authorized. I would say to the honorable Senator that, in my State, when it was a Territory, they were not thus attached for voting purposes. They were attached for judicial purposes; but every organized county had township officers, and had voting precincts in every township. It was attached to another county simply for judicial purposes; but I do not understand that when one is attached for voting purposes, you go out of the organized county to vote. You vote in your own county, and in your own township. Your votes are sent to the county to which you are attached, and there they are canvassed, and the result is certified by the officers of that county; but you have your local township officers, your local precincts, and you vote within some convenient distance. If you can attach five or six counties to another for voting purposes, these counties, I presume, being twenty or twenty-four miles square, you may send a man a hundred miles to vote, and you might as well deprive him of the privilege entirely. But, sir, as I said, I did not rise for the purpose of going into any general discussion on this subject.

Mr. POLK. It would be more satisfactory to me if the honorable Senator from Michigan had been able to put against the statement which has been read—the extent of the truth of which I am not advised—the law of Kansas Territory rather than the declaration which he quoted in his first speech, contained in the letter of Governor Walker. It will be found—and that was the reason why I read the extract to the Senate—that Governor Walker represents the facts as they are stated in this paper; that is, they all agree that there were nineteen counties in which no vote was taken, as in organized counties; but this statement undertakes to explain how it was that the vote was not taken; that in four of them, it was not by the fault of those who were in favor of the action of the Lecompton convention, but because the officers were opposed to any constitutional convention being held at all; and then that fifteen of them were attached, for election purposes, to other counties. It has been suggested to me by my colleague, and on his recollection I will state the fact, that

one of the official papers—I think it is one of Secretary Stanton's—bears out the declaration of the persons who have made this statement, to the effect that numbers of persons refused to give their names for the purpose of registration at all.

Mr. STUART. That is undoubtedly true.

Mr. POLK. My colleague refers me to the passage to which I alluded. It is this:

"It is not my purpose to reply to your statement of facts. I cannot do so from any personal knowledge enabling me either to admit or deny them. I may say, however, I have heard statements quite as authentic as your own, and, in some instances, from members of your own party, to the effect that your political friends have very generally, indeed almost universally, refused to participate in the pending proceedings for registering the names of the legal voters. In some instances they have given fictitious names, and in numerous others they have refused to give any names at all. You cannot deny that your party have heretofore resolved not to take part in the registration; and it appears to me that, without indulging ungenerous suspicions of the integrity of officers, you might well attribute any errors and omissions of the sheriffs to the existence of this well-known and controlling fact. I forbear to say anything of the unreasonableness of your requirement that we shall set aside the law in order to accomplish what you have refused to do in obedience to its provisions, but I will be most happy to learn that you, gentlemen, and your party friends generally, have been at work in earnest with a view to enable the probate judges to present a true and perfect list of the legal voters of the Territory. You have had power to correct the lists; if you have failed to do it, the fault will be your own."

That is in the letter of Mr. Secretary Stanton, at that time acting Governor of the Territory, addressed to C. Robinson, William Hutchinson, Edward Clark, and others. I will further add that, whatever may have been true in the State of Michigan, I know it has been true in my own State; and was so no longer ago than the last June election that new counties were organized, and for purposes of voting, voted with the population of another county, not only for State officers, but for the election of a representative to the Legislature. It is a very easy matter to make charges of fraud, and to say that results were produced by fraud and by stratagem; and to base those charges on the declaration of officers if you please, which declarations were not made for the purpose of coming to that result, for it will be found, on looking at the letter of Governor Walker, that he does not state the conclusion directly, as gentlemen infer it, from the facts which he alleges; but he states the facts and says, in stating them, that they constitute not technical, but vital objections to the Lecompton constitution, and the constitution formed by it. I believe that is the utmost strength of language which he uses.

Mr. WILSON. I desire, Mr. President, before this subject passes from the Senate, to say a word or two in explanation of the statements embraced in the paper which the Senator from Missouri has introduced into the Senate. These persons contradict the positive statements of Secretary Stanton, and of Governor Walker, and they contradict, also, the facts which are well known in Kansas, and well known by intelligent men in the country. When the act of the Legislature which was vetoed by Governor Geary, was passed over his head, the friends of free Kansas saw, or thought they saw, in that act, an intention to defraud the people of the Territory. In the first place they saw that the constitution was not to be submitted to the people. Governor Geary had vetoed the bill, because it did not provide for submitting the constitution to the people. A committee of the Legislature in reply to this objection of Governor Geary, told him that they did not intend to submit it to the people, because their southern friends had advised them that by that mode they could secure a slave State. This scheme to cheat the people out of their rights, came from the brains of slave propagandists out of the Territory. Surely we should not be surprised at their support of the swindle now.

The friends of free Kansas saw that they were to be defrauded and cheated out of their rights. They saw that the census was to be taken by men over whom the people had no control; men imposed on them, in whose integrity or honesty they had no confidence; men who were the instruments of the Legislature which had been forced upon them by armed men from western Missouri.

For these reasons they decided that they would not participate in the election of delegates to the convention. Secretary Stanton, who went out before Governor Walker, after he arrived in the Territory, made speeches at Lawrence and sev-

eral other points, in which he invoked the people to go into the election. The free-State men knew that they could not have fairness, but Governor Robinson and other leading free-State men in the Territory drew up a paper, signed it, presented it to Secretary Stanton, and offered to go into the election provided some mode were adopted for an honest taking of the census and an honest enrollment of the voters. Secretary Stanton to this appeal replied that the matter was beyond his control, that he had no power whatever over it. Well, sir, in one or two counties, the people, in their sovereign capacity, came together and elected delegates to the convention. These delegates went to the convention, but they were promptly voted out.

It is said in this paper that the statements of Governor Walker and Secretary Stanton that the census was not taken in half the counties is incorrect. Sir, I was in the Territory during a portion of the months of May and June. I was there when those matters were exciting the deepest and most profound interest among the whole people; and I say here that I know the statements of Secretary Stanton and Governor Walker to be absolutely true. In fifteen counties no census whatever was taken, no enrollment of the votes was had, partly because of the neglect of the officials, and partly because in many of these counties there were no officials to perform this duty. How was it even in the oldest and largest counties? In the town of Topeka, containing nearly four hundred voters, there was no census taken at all. In the town of Lawrence there was a census taken, but only two or three hundred were enrolled, although it contained seven or eight hundred voters. No voting district was opened at Lawrence; and those who wished to vote for delegates had to go to Lecompton, fourteen miles distant, in order to do so. In the city of Leavenworth, the mayor of the city, one of the oldest residents of the place, was not enrolled. Only a very small number of men were enrolled in some of the largest towns of the Territory. In other places, when nobody came to them, some of the active free-State men made up lists for enrollment; but they were not put upon the enrollment by the territorial officials.

Sir, this whole organization, the call of the convention, the studied refusal to provide in advance for submitting the constitution to the people, the mode in which the census was taken, and the enrollment of the voters made, and the basis upon which the delegates were apportioned, were all intended as a fraud upon the people of Kansas. These intentions have been literally carried out. The telegraph to-day, I learn, brings intelligence that the two or three thousand slave-State men in Kansas—there were only seventeen hundred at the election for delegates for the convention, and there are not to-day three thousand of them in the Territory—have carried the Governor and the Legislature. Such towns as Kickapoo, Oxford, Shawnee, Marysville, and the Delaware Crossing, have returned nearly four thousand votes at this election, though they have not, in the aggregate, six hundred voters.

Sir, it is too late in the day to quote this racing hero Pate, or any other of these men, who have, by fraud and violence, aimed to deprive the people of Kansas of their rights. The frauds in that Territory, from March, 1855, to this very hour, have been designed and organized to crush the sentiment of the people, to override the popular judgment, and to force its admission as a slaveholding State into the Union. And now this Lecompton constitution, by the use of executive power and executive patronage, is to be carried through Congress, although the people of Kansas have voted it down by a decisive majority. Congress is now invoked by the Executive to consummate the frauds and trickeries which have been perpetrated by the tools of the slave propagandists.

Mr. PUGH. I wish to say a word or two in connection with this point. At the commencement of this session, I had heard the statement afterwards made by the Senator from Michigan, that, in nineteen of the counties no census was taken; and I think I stated it in the Senate, as the debates will show, as a fatal objection if it were true. When I saw the letter of resignation of Governor Walker I deemed it important for us to be in possession of some definite proof on the subject, for, differing with the Senator from Mas-

sachusetts, I put no faith in the telegraphic dispatches, or private letters, or any sort of stories from Kansas. We have heard enough of them for three years, and they do not produce the least credence at all in my mind. Governor Walker does say, in his letter, in the most unqualified manner, that these nineteen counties were disfranchised; and if it is true, it is a very material point. Speaking of the act, he says:

"On reference to the territorial law, under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention."

That is, thirty-four counties are named in the convention act as election districts.

"In each and all of these counties, it was required by law that a census should be taken and the voters registered; and when this was completed the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates, based upon such census; and in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census, or make any registry in these counties; and, therefore, they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention."

That is Governor Walker's statement. As to the objection of the Senator from Massachusetts, it is clearly without foundation. He says that the friends of free Kansas, as he calls them, when they looked at the convention act, saw that the basis of apportionment favored the counties on the Missouri river. There was no basis fixed in the act at all. The apportionment was to be based on the census, when the census should be taken. The Senator from Michigan says Secretary Stanton confirms this statement. When I read the letter of Governor Walker, the Senate will recollect I pressed my resolution for information, and I pressed it in person on the President after this report came in, and he told me that he had no documents from Kansas; that the executive minutes had not been sent here beyond the first six months of the territorial government. The difficulty I have about the matter is, that Secretary Stanton does not confirm Governor Walker, and that is the reason I want to know now what the truth is on this point. Secretary Stanton says in his message:

"The census therein provided for was imperfectly obtained from an unwilling people in nineteen counties of the Territory; while, in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some there was but a small population, and no efficient organization, enabling the people to secure a representation in the convention. Under the operation of all these causes combined, a census list was obtained of only nine thousand two hundred and fifty-one legal voters, confined to precisely one half the counties of the Territory, though these, undoubtedly, contained much the larger part of the population."

Governor Walker says it was omitted by the officers exclusively because, as they alleged, they had no funds. Secretary Stanton attributes it to a great variety of causes, and among others the very cause to which the Senator from Missouri has alluded—the fact that in many of these counties there was a sparse population, or no population at all. I do not know how true the statement may be; but I say it is a deliberate statement; it is a positive statement; it gives time, and fact, and circumstance, and it is in the power of the Committee on Territories to ascertain it; and that is what I want to know about this Lecompton convention, and wanted to know from the first about it.

As to the convention act, I say what I have always said: I do not think it is in the power of any legislature to pass a fairer law than that. It is a copy of the Toombs bill with the exception of the five commissioners. Did we not all stand here, the Senator from Michigan with us, in July, 1856, averring that that was a fair bill? And when our own bill is brought back to us we are to pick out some objection. As to the five commissioners that were inserted, I do not see the Senator from Georgia [Mr. Toombs] in his seat, but my recollection is that those five commissioners were put

in, not as an essential part of the bill, but simply because the Legislature of Kansas was not in session, and it was supposed the Governor, who had just been engaged in these controversies, would not be perfectly impartial. I never thought the five commissioners an essential part of the bill, but I did suppose the census and registration, and the apportionment of delegates upon the census and registration, was the life of the Toombs bill. If it was not, I shall have to learn that bill over again. That confessedly is in this act; and the act does provide, in spite of what the Senator from Michigan has said, that if the offices of sheriff and probate judge become vacant, and it is the same thing if they go away from the county, then the Governor of the Territory shall appoint somebody else.

I want to learn the truth about the Kansas business. I am not going to give my vote on any *ex parte* statement, one way or the other. The paper read by the Senator from Missouri, though not conclusive as evidence, ought to attract the candid attention of Senators on all sides.

Then the Senator from Michigan objects that the counties stated in the extract were disfranchised from voting at all. They were attached, as I understand that statement, for the purpose of having the census taken, as a portion of the civil purposes of a county organization; that is to say, the sheriff of the old county took the census in all of them, or was called upon to take it; but, for the purposes of election, they are not attached to those counties. They are attached to counties as set forth in the nineteenth section of this act, but the attachment is not the same. I confess that is a material circumstance; and that is the circumstance that has put me in doubt, since I saw the statement to which the Senator from Missouri alludes, that the counties in which the census was alleged to have been taken by the sheriff of another county are not attached to those counties for the purposes of election. I do not know that I could illustrate my meaning, unless I were to see that paper again. I had a copy of it in my possession; but my impression is, that it will be found that a large number of the counties in which the census was taken by the sheriff of an old county, are not attached to that county by the nineteenth section of this act. Then there is a material question; and the sooner we try and get at the real question, and strip it of all these adventitious pretenses, it seems to me the better. It is a question of moment; it is a question which, in my judgment, goes to the whole issue of the legality of the Lecompton convention.

As for those people who had a chance to register themselves and would not do so, but gave false names, I have no sort of compassion for them—none at all. You cannot make men vote, and you cannot make men give their names. It is the old story: "You can lead a horse to the water, but you cannot make him drink." You provide by law that men may vote and be registered; and when they will not do it, I know no remedy in my power. Therefore, as I said on the first day of the session, on the motion to print the President's message, what I have wanted on this subject has been the last thing to be looked at; and that is, to know what truth there is in the assertion that these nineteen counties were disfranchised. If the statement read by the Senator from Missouri should prove to be true, it seems to me that it ends the controversy.

Mr. BIGLER. I shall not go into the details of this discussion. I saw enough of Kansas to satisfy me that it was an easy matter for the most observant man to be mistaken as to the population. Why, sir, if a man were in the upper end of Doniphan and Brown counties during the time of the Iowa land sales, he would have said there was a large population; but a very few days after the sale, the counties were depopulated. I witnessed the same thing in Lykens county, where the people had gone for the purpose of locating the lands, merely to secure their title, and as soon as the sale was over, left the county, and many of them left the Territory.

Now, sir, I have always treated, as I always shall, every statement made by Governor Walker and Mr. Stanton, with that respect to which it is entitled; and, as I said in discussing this question some time since, I would not, because of the conflicting statements, go into a close examination of them; but the pictures cannot be reconciled.

Whilst I estimate one of the signers of that paper very much as the Senator from Michigan has done, I would put him on a footing with Lane, from what I saw of both; yet the facts developed there by the ballot-box show conclusively that the statement with regard to the disfranchisement of nineteen counties must be greatly exaggerated. Of all the extravagant statements I have seen yet, that would be the most extraordinary—that there were inhabitants in all those counties, that it would have been a physical possibility to have had a registry, to have entered voters, and to have held elections in all those nineteen counties.

But to the practical point for which I rose only, and it is this: that whilst we are told that nineteen counties were disfranchised, containing one half the population, we know, by Secretary Stanton's message, that as early as May there were nine thousand two hundred and fifty voters registered; and at the October election, with a greatly increased population, at the end of a bitter partisan contest, and after the Army had voted, and each party charge the other with having polled fraudulent votes, the aggregate little exceeds twelve thousand. How can this be? There was no registry in the way.

Then again, the other day, on a vote for State officers, unembarrassed by any registry, every white male citizen above the age of twenty-one voting, the aggregate vote is about thirteen thousand. How can you reconcile these facts that come to us through the ballot-box, in an official form, with the allegation that more than one half of the people of Kansas have been disfranchised?

The best that can be said with regard to these movements in Kansas, on either side, is bad enough. That the registry was greatly defective, no man doubts. A perfect registry in a country like that would have been a wonder. That in many instances it was not sought to make it right, I have no doubt; but that one half of the people were disfranchised, is clearly and emphatically contradicted by the facts themselves—nine thousand two hundred and fifty votes registered in May, and only a little over twelve thousand voted in October. I was there about that time.

I said, in noticing that peculiar feature of Governor Walker's statement, that I simply was unable to reconcile these facts with his picture. I am the last man to say an unkind thing of him. I never did. I have been his personal friend; but I take this case as it stands, and how am I to conclude that nineteen counties were disfranchised in the face of the facts which I have stated? There is enough to be said about informality and want of authority without coming to that point; but I shall not trouble the Senate further.

Mr. BROWN. Mr. President—

Mr. SEWARD. I have a word to say which I think proper and very pertinent to this question. I like to have fair and square accounts all around, and I think it is proper to say, that on conversing with my friend [Mr. HARLAN] who has addressed the Senate in a very able speech, and who is not here now, he was satisfied he had done injustice in the remarks which he made in regard to the manner in which his coming to the floor was regarded to-day. I know perfectly well how that happened. It was a mistake all around. The Secretary misconceived the rule and misled the President. The President then misled the Senator from Mississippi. The mistake was corrected just about as soon as ever any mistake can be corrected in a body of sixty men, and with courtesy the floor was restored to my friend. I like to have all these difficulties out of the way, and now I give up the floor to my friend from Mississippi.

Mr. STUART. With the consent of the Senator from Mississippi, I do not propose to make any enlarged remarks, but to state two points. I think that what has fallen from the Senator from Pennsylvania is entirely consistent with the facts stated by Governor Walker and by Secretary Stanton. They do not say that half the people were disfranchised. They say the people in one half the counties were not registered, and had no opportunity to vote. Secretary Stanton says expressly in his message that the counties wherein the registry was taken, and that did not vote, were counties comprising more than a majority of the voters of the Territory; so that that is all-consistent. My friend from Ohio, it seems to me,

has made an extraordinary effort to show that I am mistaken.

Mr. PUGH. You did not read the papers, but I read them.

Mr. STUART. I propose to read the papers, to show that it is not myself, but my honorable friend, who is mistaken. I read from Secretary Stanton's message:

"The law passed at the last session of the Legislative Assembly, providing for the organization of a convention to frame a constitution for the government of Kansas, as one of the States of the Union, was adopted at a period when, unfortunately, the people of the Territory were divided by a bitter hostility, resulting from the previous state of commotion and civil war. In consequence of this embittered feeling, and the mutual distrust naturally thereby engendered, one of the parties, constituting a large majority of the people, refrained almost entirely from any participation in the proceedings instituted under the law aforesaid. The census therein provided for was imperfectly obtained from an unwilling people, in nineteen counties of the Territory; while, in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law."

That is the statement of Governor Walker to which I alluded, and which I said was substantially confirmed by Secretary Stanton in his message to the Legislature, which I now read. It is true, he goes on to say—and that I never discussed—that:

"In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some there was but a small population, and no efficient organization enabling the people to secure a representation in the convention. Under the operation of all these causes combined, a census list was obtained of only nine thousand two hundred and fifty-one legal voters, confined to precisely one half of the counties of the Territory, though these, undoubtedly, contained much the larger part of the population."

He says all these causes operated, but he does not know to what extent each cause operated. That they all did operate we knew without his statement. It was matter of public notoriety that there was a portion of that people who refused to recognize this Legislature or anything under it. I have stated more than once that I thought they acted very unwisely. I have stated here and elsewhere, that I knew of no better way for the people to help themselves to remedy legal defects in this country, and no other way, than to resort to the ballot-box and vote; but I never heard until lately that when the people resorted to the ballot-box and voted under a constitution, and at the same time voted against the constitution, they were held to have adopted the constitution. That was an argument that never struck me until within the last few days. It was not made here, but was published in the newspapers.

Another fact is stated in this paper certificate which discredited it with me to a great extent, aside from the character which the Senator from Pennsylvania admits attaches to one of these persons. It is this: it says that one of the judges of probate was a free-State man, and refused to act. I do not believe that, and I will tell you why. I have just sent for the laws of this Territory, and I find my recollection is confirmed that the judges of probate and the sheriffs of the counties were appointed by the first Legislature elected in Kansas to hold their office until 1857, and I do not believe that Legislature appointed any free-State men to office.

Mr. DAVIS. Mr. President, I am surprised at the constant allegations of fraud, and always upon one side. I do not understand the force of such hard terms applied to a people who are so far away, and admitted to have political rights. Then, again, I think it is somewhat like that art which is practiced to prevent exposure by making accusations. Where do these frauds exist? In the organization of societies to violate the first compact that was made in relation to these Territories, when it was agreed that soil and climate should determine their institutions, and that they should be left to the free will of the people themselves; and never was there a baser fraud than to organize, under legislative charters, companies thus to pervert the free will of the people. That stands in the foreground, the first.

Then, sir, in the progress of this discussion we have been told time and again that the reference of the question in relation to slave institutions, was an unimportant one, and yet every speaker who rises hinges on that single point. He divides the people and classifies them into free-State men and pro-slavery men. Every telegraphic dispatch that comes and every report that agitates the public

mind, directs itself to that question alone. Twice to-day I have heard that there was great news just come in from Kansas—once privately communicated to me, and once stated upon the floor of the Senate, as the result of the recent election, and they are opposite. One says the free-State men have swept Kansas; another says the pro-slavery men, contrary to every known fact, have carried the election. What boots it to Senators? Are we to sit here waiting, as the tide may come in and flow out, to determine what our action is to be on a great question? Have we no principle? Is truth sunk so low that our vote is to be as the tide shall ebb and flow in our favor? It matters not to me how the election went; it matters not to me who is elected Governor, or who may be in the Legislature; and I shall hang my head in shame when I believe that an American Senate can be actuated by such motives. I shall feel that we have reached that decadence in our institutions which marks a people unfit for the Government under which they live. For if the government be too high for the moral tone of the people, it is as impracticable, it is as certain to fail as if we were to attempt to fetter this free people by the bonds of despotism.

Like my friend from Ohio, [Mr. PUGH,] I have come to the conclusion that no reliance is to be placed on the rumors that reach us. Like him, I have been anxious to get information, and I have set in wonder when philippics are delivered here on questions which have no connection with the subject, to know why it is that this subject is not referred, and the appropriate committee required to gather that information which we need. I have come to the conclusion, sir, in the words of an ancient school of philosophy, that all we know is that nothing can be known in relation to this question of Kansas.

Nor do I think it devolves on the Senate to enter into these local questions of how precincts were established, how elections were held, whether a free-State man, or a pro-slavery man was justice of the peace and inspector of the election. That subject has come to be like the frogs in Egypt; we can turn to no subject, we can discuss nothing here without having that protruded, placed in the foreground, obscuring everything like calm reflection. Whatever be the facts in relation to this question, it belongs to the truth, to the country, to our duty, and to the Government that we should seek to ascertain them, and that on those ascertained facts we should then proceed to act. Violent speeches for and against slavery delivered on the question whether the Committee on Territories shall investigate this subject or not, will lead to no result that I can suppose any man is willing to accept. I wish the time had come when the Senate would choose to take the question whether or not they will refer the message. If not, I hope my colleague will postpone it to the remotest day, I do not care if it be *dies non*.

Mr. WILSON. I think, Mr. President, that the remarks of the Senator from Mississippi require an immediate and prompt reply. The Senator undertakes to read us lectures, to cast censure upon us because we have been pleased to refer to the frauds which have been perpetrated in the Territory of Kansas during the past three years. The Senator is not pleased with these references. Well, sir, we have referred to these frauds in the past; we will refer to them in the future; and we shall hold the men who have sustained and apologized for them to that moral responsibility before the country to which the people ever hold all men who justify and apologize for unjust deeds. Let me ask the Senator if he does not know that on the 30th of March, 1855, over forty-nine hundred men went from Missouri into Kansas, and voted? That has been proved and spread before the country. There is, there can be, no mistake in regard to the fact. That vote elected the Territorial Legislature, and has controlled for three years the destiny of the Territory. It was one of the most palpable, deliberate, organized frauds ever perpetrated in this or any other land. There is no man here, or elsewhere, hardy enough now to deny that those frauds were perpetrated, and that subsequent frauds have been perpetrated, for the purpose of sustaining and upholding this original fraud. These frauds did not commence on the 30th of March, 1855; they began in October, 1854, within less than five months after the Territory was organized, when several hundred men

went from Missouri, and elected Whitfield as Delegate to Congress. That was followed by the fraud of March 30, 1855, which laid Kansas at the feet of the pro-slavery men—men who were sustained by the last Administration, and who are now upheld by the present Administration.

How was it at the last October election, the only contested election that has been held? Were not one thousand six hundred fraudulent votes returned from the town of Oxford, containing only a few legal voters? Was not the Cincinnati Directory put into that election? Were not one thousand three hundred fraudulent votes returned for McGhee county? Were not several hundred fraudulent votes given under the eye of Governor Walker himself, in the town of Kickapoo? Did not Governor Walker go down to Oxford and throw out that fraudulent vote? Did he not correct the McGhee fraud? Did not the Legislature right the Kickapoo frauds? Did not the States of Mississippi and Alabama "howl"—to use the word Mr. Buchanan is said to have used in a letter written to Governor Walker—over this? Did they not denounce Governor Walker for correcting a palpable fraud upon the people of Kansas? Did not that correction of a fraud begin the downfall of Robert J. Walker? He was destroyed for that act by a weak Executive.

Sir, how was it on the 21st of December last? Look at the votes counted for the Lecompton constitution. Kickapoo, with five hundred inhabitants, gave one thousand and seventeen votes; Oxford gave one thousand two hundred and sixty-six votes; Shawnee seven hundred and twenty-nine; Marysville, with not over thirty voters, gave two hundred and thirty-two votes, and Fort Scott three hundred and eighteen—making in these places more than three thousand five hundred votes out of less than six thousand seven hundred in the whole Territory. Three thousand of these votes were fraudulent votes.

Senators do not like references to these frauds; but every intelligent, well-informed man, in or out of Kansas, who chooses to investigate the subject, or who cares anything about the destinies of that Territory, knows that of the six thousand seven hundred votes returned for the constitution on the 21st of December, not three thousand were legal votes.

Kansas has just had another election; and the evidences are thickening upon us. They are coming to us by telegraph; they are coming to us by men from that Territory—men who have been pro-slavery men from the beginning—that frauds have been again perpetrated. Although the free-State men voted down the constitution by a majority of nearly eleven thousand on the 4th of January, and elected their State ticket and Legislative ticket, the counting officer, dictator Calhoun, it is now said, has counted in a pro-slavery Legislature, and a pro-slavery State government. I do not know that this is so; but I know that the men who are in favor of making Kansas a slave State, and who have declared to-day, in the other branch of Congress, that this Union shall be dissolved if Kansas be not admitted under the Lecompton constitution, have received such information. Unvailed trickery has triumphed; and we are now told, that if Kansas is not admitted under the Lecompton swindle, the Union is to be dissolved. The Union dissolved! The men who perpetrated these frauds, or who uphold them, may go out of the Union when they please; but they must leave the land behind them.

I have no wish to say unkind words here; no wish to refer to these frauds, except for the purpose of showing that the popular voice in Kansas is to be crushed; that the object for which these frauds were perpetrated in the commencement, is to be accomplished by admitting Kansas into the Union under the Lecompton constitution; and that we are to have the whole power and patronage of this Administration, held back until now, to force it through both Houses of Congress, to consummate this iniquity upon the people of that Territory.

Now, sir, when any Senator here, or anybody in the country, can show a fraudulent vote given at any time in the Territory of Kansas, by the free-State men, of any locality, I will denounce it; but I tell you you have never shown it, you have never pretended it. I do not believe any such vote has ever been given; and no record can

prove it. If such a vote has been given, however, I do not defend or apologize for it. That frauds have been committed; that they have been systematically committed; that they have an object, a purpose, namely, to crush the people of Kansas and to overawe them, I have no doubt; and those frauds have been apologized for and sustained here and elsewhere in the country.

Mr. BIGLER. Will the Senator allow me to interrupt him?

Mr. WILSON. Certainly.

Mr. BIGLER. I have no doubt the Senator from Massachusetts is speaking from the best information he has with reference to the recent election. But I beg to say to him that I have seen a copy of the Herald of Freedom, published at Lawrence on the 16th of January. I had supposed the Senator from Massachusetts was a subscriber to that paper, and a reader of it. I read in it to-day a paragraph with reference to the difficulty which Mr. Henderson has got into there, on the charge of changing election returns, in which the editor states distinctly that the returns for the Delaware Crossing precinct, in Leavenworth county, which involved the ascendancy of parties, had been rejected by Mr. Calhoun, and alleged that in that way Mr. Henderson had been saved from the consequences of his alleged mischief or crime. I certainly am not mistaken in the reading of the article, and it is explicit that a disputed precinct was thrown out by Mr. Calhoun in making up the returns. Doubtless the Senator will see the article by referring to it. I do not say that it is correct or incorrect; but I read it, and I suppose it is quite as good authority as any telegraphic news which can have come to-day.

Mr. WILSON. I will only say that I have read the article to which the Senator alludes, but I do not so understand it. I may be mistaken, however.

Mr. BIGLER. Does not the article state distinctly that Mr. Calhoun did set them aside?

Mr. WILSON. It may be so, but I do not now recollect anything of the kind.

Mr. BIGLER. It is in the same brief paragraph.

Mr. WILSON. If he has done so, he has only rejected frauds, and I rose to speak of frauds.

Mr. BIGLER. I will produce the paper, and give it to the Senator.

Mr. WILSON. I do not deny it, but I have not so read it. In a letter received yesterday from Governor Robinson, he states that it is rumored that five hundred votes were returned from Delaware Crossing; that if this be so, and if they should be counted by Calhoun, Leavenworth county will go pro-slavery, and that may change the result in the Legislature. Governor Robinson expresses the opinion that the free-State men have carried the election, but that it is not certain that certificates will be given to the free-State men; that Calhoun has announced that he shall keep the counting open for additional returns, and no one can tell what he may do.

Mr. DAVIS. The Senator from Massachusetts rose, as he announced, to reply to me, and said he would arraign fraud, and that he would hold those who justify and advocate and apologize for fraud to their moral responsibility. As he uses that language in connection with the announcement that he was replying to me, I must ask him what reference that has to me?

Mr. WILSON. I did not understand the Senator to have justified fraud in Kansas, or elsewhere, but to have condemned the reference to those frauds here.

Mr. DAVIS. There the Senator misunderstood me, or did not quite apprehend what I did say. It was not that fraud should not be held to account here and elsewhere; it was that we should not have Senators proceeding from day to day making allegations without proof—and when I do not believe their statements—in advance of the subject, before we have the information, when there is nothing dependent on their allegations, piling it up day by day in mere declamation. That is all I have to say about it. When the time comes, if the Senator will produce fraud which vitiates anything on which I have to vote, I will readily vote with him. When the time comes to examine whether there has been fraud in anything upon which we have to act, very good; I am prepared to make the inquiry. It is to this mere

political declamation that I object, when there is no action.

I stated further that I objected to it, because it did not go back to the foundation; that it took it up just at the point where counteraction commenced. I do not say there is not fraud; but I do say, and it is proper I should say it now, that those persons who went into the Territory and claimed to vote immediately after they got in, were but following the invitation of Congress and acting in accordance with the law which it enacted. When this doctrine of squatter sovereignty (against which, when it was first introduced, I strove with whatever little power I possessed) became the popular theory of the land, legislation received that direction which brought about the exact state of things which justified any number of men to go from any State into a Territory, and vote the hour after they got there; nay, more, it justified them in setting up their claims to take the control of the government, throw off their responsibility to the Federal Government, and assume to dictate the institutions under which they would live.

Something retrograde was made when this Kansas bill was enacted. It is better than some that went before it; but out of that same theory grew, and, I think, legitimately grew, the assertion of this right of everybody to go into the Territory and vote the hour after they got there. There was no time of residence prescribed; there was no proof of intent to remain required. It was the exact carrying out of that thing which we portrayed in 1850, when we argued against it as assuming the right of an emigrant population to halt for the night and establish a government, and declare themselves there sovereign. I do not think that can be alleged as fraud, unless we go back and allege the fraud against Congress, upon the institutions of the country, and the Constitution of the United States.

Mr. BROWN. I design to move the postponement of this question until a day subsequent; and as Friday is a leisure day, I propose, if it suit the Senator, to postpone it to that day. I hope, by that time, we shall have the Lecompton constitution here. If we have not, the question can pass over to a subsequent day. I see no practical utility in discussing a question which is not before us.

Mr. PUGH. Why not say Thursday?

Mr. BROWN. Because we have a special order for that day. I propose Friday, because that is a day past which we have been in the habit of adjourning; and if we get the Lecompton constitution, as I am assured we shall, by that time, we may as well occupy it in discussing the question as adjourning over. If we do not get it we can on Thursday adjourn to some subsequent day. I propose to discuss a practical question. If we have the constitution before us, let us discuss the question of admitting Kansas into the Union, and not go on debating a mere question as to whether we shall refer the papers, looking ahead as to what we shall have directly before the Senate. I do not know that we shall have the question before us on that day; but I am assured that we shall, in all probability, have it. Expecting that the constitution will be here by Friday, I move to postpone the further consideration of this question until Friday, at one o'clock.

The motion was agreed to.

On motion of Mr. STUART, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, JANUARY 25, 1858.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY, D. D.

The Journal of Friday last was read and approved.

SELECT COMMITTEE ON PACIFIC RAILROAD.

The SPEAKER announced the following as the select committee on the Pacific railroad: Messrs. PHELPS, JONES OF TENNESSEE, WASHBURN OF MAINE, MILLSON, CURTIS, CORNING, UNDERWOOD, GROESBECK, GILMER, SINGLETON, FARNSWORTH, PHILLIPS, LEACH, BRYAN, and SCOTT.

HON. O. B. MATTESON.

The SPEAKER stated that the first business in order was the consideration of the preamble and resolution in relation to Hon. O. B. MATTE-

SON, submitted by the gentleman from Illinois, [Mr. HARRIS,] and postponed to this day.

Mr. KEITT. In the absence of the gentleman from Illinois, who offered the resolution, I take the liberty, sir, without any consultation with him, of moving its postponement for one month. I do it in consideration of the fact that I understand from good authority that the member alluded to in the resolution is detained at home by the severe illness of his wife.

The motion was agreed to.

CLOSE OF DEBATE ON THE PENSION BILL.

The SPEAKER stated that the next business in order was the consideration of the resolution of the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] to close debate in the Committee of the Whole on the state of the Union on the invalid pension bill at one o'clock on Tuesday next, the pending question being upon the motion of the gentleman from Ohio [Mr. STANTON] to lay the resolution upon the table.

Mr. J. GLANCY JONES. I hope the gentleman from Ohio will withdraw his motion, and let us vote directly on the main question.

Mr. WASHBURN, of Illinois. The gentleman from Ohio is not in his seat.

Mr. J. GLANCY JONES. I propose to close debate on the pension bill at one o'clock on Tuesday. The deficiency bill for printing will then come up, and there are ten other regular appropriation bills, and another deficiency bill, all of which have been reported or are ready to be reported, so that every gentleman will have ample opportunity of being heard. It is very important that we should pass some of the appropriation bills, and send them to the Senate for action there. I hope, therefore, that the gentleman from Ohio will withdraw his motion to lay the resolution on the table; or, if he declines to do so, that it will be voted down.

Tellers having been ordered on Friday last on the motion to lay the resolution on the table, Messrs. BILLINGHURST and JOHN COCHRANE were appointed.

The House divided; and the tellers reported—ayes 69, noes 84.

Mr. STANTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 77, nays 108; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Coffax, Comins, Curtis, Davis of Maryland, Dean, Dick, Dodd, Durfee, Farnsworth, Foster, Giddings, Gilman, Goodwin, Grainger, Grow, Robert B. Hall, Harlan, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Mason, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Ready, Ricard, Robbins, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thompson, Tompkins, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Elliott W. Washburne, Israel Washburn, and Wilson—77.

NAYS—Messrs. Adrain, Anderson, Atkins, Avery, Barksdale, Bishop, Bowie, Boyce, Branch, Bryan, Burnett, Chapman, John B. Clark, Clay, Clingman, Cobb, John Cochrane, Cockerill, Corning, Cox, James Craig, Burton Craige, Crawford, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dimmick, Dowdell, Edmundson, English, Faulkner, Foley, Garnett, Gartrell, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McKibbin, McQueen, Humphrey Marshall, Maynard, Miles, Millson, Montgomery, Moore, Isaac N. Morris, Niblack, Peyton, Phelps, Phillips, Purviance, Quinlan, Reagan, Reilly, Ritchie, Ruffin, Russell, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Robert Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Thayer, Trippe, Underwood, Warren, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus W. Wright, John V. Wright, and Zollicoffer—108.

So the House refused to lay the resolution upon the table.

Pending the call of the roll,

Mr. DOWDELL stated that his colleague, Mr. CONY, was detained from the House in consequence of the sickness of a member of his family.

Mr. DAVIS, of Mississippi, stated that he had paired off upon this question with Mr. KEITT, who had left the House for a moment, he [Mr. Davis] being in favor of laying the resolution on the table, and the gentleman from South Carolina against it.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr.

DICKINS, their Secretary, notifying the House that the Senate had passed bills of the following titles; in which he was requested to ask the concurrence of the House:

An act (S. No. 35) for the relief of Michael Kinney, late a private in company I, eighth regiment, United States Army; and

An act (S. No. 61) for the relief of Frederick A. Beelen.

The question recurred upon seconding the demand for the previous question, on which tellers had been ordered on Friday.

Messrs. BRYAN and LOVEJOY were appointed tellers.

The House divided; and the tellers reported—ayes 81, noes 65.

So the previous question was seconded.

The main question was then ordered; and, under the operation thereof, the resolution was adopted.

Mr. J. GLANCY JONES moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

INVALID PENSION BILL.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WINSLOW in the chair,) and resumed the consideration of House bill No. 3, making appropriations for the payment of invalid and other pensions of the United States, for the year ending 30th June, 1859.

DOMESTIC SLAVERY IN THE SOUTH.

Mr. GARTRELL. Mr. Chairman, a few days ago I desired to obtain the floor for the purpose of presenting some views on the grave and important questions growing out of the illegal arrest of General William Walker and his men, on the soil of Nicaragua. But the debate on that question having been temporarily suspended, and the matter having passed to the appropriate committee for investigation and report, I proceed to the consideration of a subject of graver importance to my immediate constituents, and fraught with more serious considerations to the nation at large. I allude to the subject of domestic slavery in the South, and the necessity for its expansion and its perpetuation in this country.

I am prompted thus early to this course by the extraordinary speech pronounced on this floor a few days ago by the gentleman from Missouri, [Mr. BLAIR.] The ostensible and avowed object of that speech was the necessity and propriety of acquiring territory in Central America, wherein to colonize the free people of color now residing in the United States, and such as may hereafter become free; and there to maintain them in the enjoyment of their freedom as a dependency of this Government.

In announcing this novel and impracticable policy, the gentleman took occasion, very gratuitously, to denounce the institution of slavery as "a cancer on the face which, unless removed, would eat into the vitals of the body-politic."

This fanatical idea, stereotyped and repeated by a certain class of politicians in this country, from the time of John Randolph to this hour, was as false at its inception as it is erroneous in its conclusion. I deny it emphatically; and I am here to-day, in the presence of this Congress, to maintain the reverse of the proposition. I hold that the institution of domestic slavery in the South is right, both in principle and practice; that it has ever been, and still is, a blessing to the African race; that it has developed the resources of this great country to an untold extent; and that, by its conservative influences, it has elevated us in the scale of morality, wealth, enterprise, and intelligence, to a point never attained by any other people.

As a southern man, proud of the place of my nativity; as the owner of slaves; as conscientious of my moral obligations, I trust, as any gentleman on this floor, I hesitate not, here or elsewhere, to defend this institution as being strictly in accordance with the principles of right, of Chris-

tian duties, and of morality, and as having the highest sanction of laws, both human and divine. I rejoice that the public mind at the South is being awakened to this view of the question. The time for apologies by the South is past. I am here to-day (and the southern people who have this institution in their midst are to-day prepared to do the same) to stand up before the nations of the world and defiantly defend and justify domestic slavery in its greatest length, extent, and breadth.

Sir, the false prophecies of Randolph and others, alluded to by the gentleman, of the evil consequences of this institution on the moral and political interests of the southern people, are fast being obliterated by those unerring teachers, time and experience. Other nations, too, are beginning to see and to acknowledge the error of their misguided philanthropy, and to bow in acknowledgment of not only the justice, but the wisdom of domestic slavery in this country. France and England are beginning to see the error of their misguided philanthropy, and you find them to-day ready to embark in a system of slavery, more barbarous and oppressive than this world has ever seen.

But, Mr. Chairman, I beg the indulgence of the committee while I very briefly discuss the moral aspect of this institution. I intend to do so calmly, dispassionately, deliberately. I intend to make no charges against those who array all their influence and power against this institution that are not sustained by facts and by records. I am here to-day as a southern man; and I proclaim now, that this institution is not only sanctioned by the Constitution of your country, under which we all appear here to-day, but is sanctioned by records of the highest character. That that institution has existed from the earliest periods of history, no man of ordinary intelligence will deny. We learn from the Holy Scriptures that Abraham, and many other wise and good men of that day, not only held slaves, but exercised acts of complete ownership over them; and that God himself, after he had rescued the children of Israel from the house of bondage, sanctioned and recognized slavery, both in principle and in practice. In defining the rules for their government and their moral observance, it was prescribed that—

"Thou shalt not covet thy neighbor's man-servant, nor his maid-servant, nor anything that is thy neighbor's."

Thus, sir, not only sanctioning slavery, but providing for its protection for all time to come. I beg leave most respectfully to commend this commandment to the attention of the gentlemen who sit on the other side of this Hall; and, sir, I trust they will cease to covet our men-servants, and our maid-servants too; and if they do covet them, that at least they will not attempt to deprive us of them by means in violation of the Constitution of our common country.

Besides, this institution is not only recognized by divine authority, but it is perpetuated. I ask the attention of the House to that portion of Holy Writ. I read, sir, from the Bible; from the Book of books. I commend it to the perusal of gentlemen. I have no doubt they are in the habit of reading it; but, upon this question, they seem rather hard of belief. I find in the 25th chapter of Leviticus, a passage which reads as follows:

"44. Both thy bondmen and thy bondmaids, which thou shalt have, shall be of the heathen that are round about you; of them shalt ye buy bondmen and bondmaids."

"45. Moreover, of the children of the strangers that do sojourn among you, of them shall ye buy, and of their families that are with you, which they begat in your land; and they shall be your possession."

"46. And ye shall take them as an inheritance, for your children after you, to inherit them for a possession; they shall be your bondmen forever."

African slaves having been taken from among the heathen, by our ancestors in England and by our forefathers in the North, we, as their descendants, claim them as an inheritance to us and to our children, "to inherit them as a possession," and they shall be our bondmen and bondwomen forever.

Sir, time will not allow me to trace or pursue this branch of the subject further. I desire to read a short extract, which so fully and so truthfully expresses my own sentiments upon this branch of the subject, that I desire to call the attention of the House to it. It is from a speech delivered a few years ago by the distinguished gentleman from Virginia, upon my right, [Mr. SMITH.] I desire to read this extract, and have it incorpo-

rated into my speech. That distinguished gentleman, upon that occasion, remarked as follows:

"I believe that the institution of slavery is a noble one; that it is necessary for the good, the well-being of the negro race. Looking to history, I go further, and I say, in the presence of this assembly, and under all the imposing circumstances surrounding me, that I believe it is God's institution. Yes, sir, if there is anything in the action of the great Author of us all; if there is anything in the conduct of His chosen people; if there is anything in the conduct of Christ himself, who came upon this earth, and yielded up His life as a sacrifice, that all through His death might live; if there is anything in the conduct of His Apostles, who inculcated obedience on the part of slaves towards their masters as a Christian duty, then we must believe that the institution is from God."—Hon. William Smith, of Virginia, in a speech in the House of Representatives.

Every sentiment expressed in that eloquent extract meets my hearty approbation. As a Christian man, believing in the teachings of Holy Writ, I am here to-day before a Christian nation to reaffirm and reannounce the conclusion to which that distinguished gentleman came—that this institution, however much it may have been reviled, is of God.

I desire now to notice another error into which the gentleman from Missouri [Mr. BLAIR] has fallen. He told you and the country that "unhappily for the slave States, many of their enterprising young men leave their native land for those States where individual ability and exertion are sufficient to confer wealth and eminence."

Mr. Chairman, this is a fancy sketch—the offspring of a heated imagination. Why, sir, let me give you the facts as they exist; and I may say to that gentleman that he knows but little of the enterprise, the industry, and the resources of the southern country, and but little of the enterprise of our young men, if he supposes for a moment that they are compelled "to fly to other lands" to obtain wealth and eminence. Sir, the opposite is true. It is admitted that the northern States annually send out hundreds of their young men to the southern States in search of that employment which is denied them at home, and there to receive a living and support, and acquire wealth and eminence, too, in the midst of what gentlemen on the other side of the House call the monopolizing influence of the slave power.

Proceedings upon this floor afford evidence of what I say. A few days ago, the facetious gentleman from Massachusetts [Mr. THAYER] declared that we must and would Americanize Central America; that it was necessary to supply the means of subsistence for the superabundant population of the North. The gentleman told us, in a manner that really excited my sympathies; that the Yankees (I believe he termed them) were in a tight place, and must have the lands of Central America to emigrate to. Well, sir, I am willing that our Yankee friends shall go there. I presume they will go there; but I hope they will have a little better success than they had a few years ago, in their efforts to redeem the barren pine fields and sedge patches of Virginia. I say I think it is very likely that our Yankee friends will go there, and, when there, follow the example of those who have heretofore gone South—become the owners of slaves, aid in developing the resources of the country, and show the world that the institution of domestic slavery is a blessing not only to the master, but to the slave.

But let me say to the gentleman from Missouri, in all kindness, that if he expects to plant a colony of blacks upon our southern borders, he has very much mistaken the spirit of the age. It is a monstrous proposition, to which the South would never submit. Your efforts at colonizing the African race must always, as heretofore, prove abortive, because based upon a wrong principle; you can no more enslave the Anglo-Saxon race on this continent, than you can make freemen of the Africans. You would not dare to attempt the one, nor can you effect the other. Slavery has been written on the brow of the African. The Ethiopian cannot change his skin, nor the leopard his spots; neither can the wisdom of Solon or Lycurgus invent a system of laws by which to elevate the African to political equality and the enjoyment of political sovereignty. Sir, my experience teaches me, confirmed by daily observations, that they are incapable of self-government, and must ever be. You cannot make freemen out of them. They are idle, dissolute, improvident, lazy, unthrifty, who think not of to-morrow, who provide but scantily for to-day. These seem to

be the inherent laws of their nature. You cannot change this law of nature.

Several years ago, Mr. Chairman, a half century, perhaps, the French and English Governments, pursuing what has turned out to be a misguided philanthropy, attempted to colonize the negro, and give him political power and sovereignty. What has been the result? The experiment resulted in a failure, and has been productive of evil instead of benefit to the black race. In 1794 the National Assembly of France enacted a law emancipating Hayti. In order to show the effects and consequences of that ill-advised legislation on that garden spot of the world, the rich Island of Hayti, I desire to direct the attention of the committee to a few statistics. I find, sir, I will repeat, that Hayti was emancipated by the act of the National Assembly of France in 1794. In 1789 the products of that island were as follows: of clarified sugar, 47,516,531 pounds; in 1841, after this system had been fully tested, of clarified sugar not a pound. In 1789, of muscovado sugar, 93,573,300 pounds; in 1841, 1,363 pounds. Of coffee, in 1789, 76,335,219 pounds; in 1841, 34,114,417 pounds. Of cotton, in 1789, 7,400,274 pounds; in 1841, the inconsiderable quantity of 1,591,454 pounds. These statistics, sir, show the effect of that emancipation act upon the Island of Hayti. Following this example of France, Great Britain, in 1833, emancipated the islands of the West Indies, and amongst them the Island of Jamaica and of Guiana. I have statistics to show the effect of that act upon the resources, the wealth, and the products of these places.

Mr. BLAIR. I wish to state to the House, at this point of the gentleman's speech, in reference to the Island of Hayti, that the export commerce of this country to that portion of the Island of Hayti occupied by the free negroes, is \$350,000 greater than the entire trade with Mexico, which has eight millions population. The export to Hayti, not including the Dominican Republic, for 1851, as shown by the book on Commercial Relations printed by this House, was, of flour, eight times more than to Cuba; of pork, six times more; and of dry-goods, about twelve times as much. This is the value of that island which has been destroyed, as it is said, by the emancipation of slaves.

Mr. GARTRELL. Conceding the gentleman's statistics to be true, they but affirm the position I have assumed on this question. It is not how much it takes to feed those negroes there, but what they have made. That is the question—not your exports to that country, but their exports.

Mr. BLAIR. They have been able to pay for what they have got, or else they never would have received it from this country.

Mr. GARTRELL. They are supported by their fostering Governments; and I will show the gentleman that those Governments are tired of the burden. But, sir, I pass on; I desire to show by statistics the effect of this emancipation statute on the Island of Jamaica and of Guiana. That statute was passed in 1833. In 1833, in the Island of Jamaica, they raised 1,140,760 cwt. of sugar; in 1849, fifteen years thereafter, 633,478 cwt. In 1833, 11,154,307 pounds of coffee; and in 1849, 3,399,093 pounds. In 1833, 982 cwt. of molasses; and in 1849, 102 cwt. In 1833, 2,450,272 gallons of rum; and in 1849, 1,778,661 gallons.

The effect on Guiana is more palpable. I will not consume my time in reading the statistics in regard to it. I will simply ask the reporters to incorporate them in my printed remarks. I trust gentlemen of the House will not object.

Guiana—Exports.

Year.	Sugar. cwt.	Coffee. lbs.	Molasses. cwt.	Cotton. bales.	Rum. gallons.
1836	712,800	4,801,350	380,880	3,196	2,955,120
1849	577,569	63,253	155,952		1,882,142

Mr. Chairman, the gentleman from Missouri read from Earl Grey's letters to show that this colonizing scheme of the free blacks had succeeded in the Island of Trinidad. That, sir, was an exceedingly unfortunate example for the case stated by my friend from Missouri. I have an article, which appeared in the London Times of a late date, which disposes very summarily by facts and arguments of the position assumed by that gentleman in reference to Trinidad. It overthrows altogether the predictions, the imaginings, and fancy sketches alluded to by the gentleman as

taken from Earl Grey's correspondence. The London Times, the leading English journal, combats the policy of the English Government in breaking down "the slave system of the West Indies without attempting to replace it with a better," and chronicles the fact that those "colonies are perishing for the want of labor." It says:

"Our attention has been directed to a report of the council on immigration for the Island of Trinidad, which shows how a British colony may decay while all around it is flourishing. If Trinidad had remained under Spanish sway, it might, in spite of tyranny and misrule, be the wealthy island which its position and fertility would naturally make it. But we learn that, although the island contains one million two hundred and fifty thousand acres, yet the extent of all the land now under cultivation is about fifty-two thousand eight hundred and seven acres, and of this area the sugar plantations cover only thirty-four thousand and fifty-nine acres. The entire number of agricultural laborers working for wages in the cultivation of sugar and cocoa is only fourteen thousand, of whom nearly eight thousand are immigrants from India and China, introduced at the public expense."

And then speaking of the immigrants from China and India, and eagerly craving their enslavement, continues thus:

"It is found that these are by far better laborers for wages than the negro, who, it is stated, 'will not be stimulated to greater industry by any increase of wages.' And at the present time the planters would gladly obtain labor by an advance of wages. The high price of sugar and other tropical productions, has stimulated enterprise, a greater extent of land is being brought under cultivation, and all that is wanted for the development of the colony, is a supply of hands. Such are the fertility and the abundance of land, that 'the expense of establishing on virgin land, an estate capable of producing two hundred and fifty hogheads of sugar, including the cost of machinery and buildings, would not exceed £6,000 sterling.' But, with the present supply of labor, even the present production of the colony cannot be kept up."

These significant extracts but foreshadow the disposition of the English Government to return in this, the nineteenth century, to a system of slavery more oppressive than the world has ever seen.

That Government, satisfied that the experiment has failed, is beginning to throw aside these misguided notions of philanthropy. They are coming up to the spirit of the age. They have had time to see the working, the effect, the conservative influence of domestic slavery in this country, not only upon the South, but upon the North; and, sir, I hazard nothing in the assertion here to-day, and I appeal to my northern friends for the truth of it, that slave labor and the products of slave labor have done more to build up your Lowells, to aid in the construction of your railroads, to rear your cities, and make you as you justly are, a proud, intelligent, Christian people, than anything else. I say that the cotton-bag has effected more than all other powers together. That proposition cannot be controverted; it will not be controverted. I have statistics, and can demonstrate it clearly to any one, that the products of slave labor have done more, not only to elevate this country in point of wealth and enterprise, not only to develop its resources, North as well as South, but, sir, they have done more to evangelize and christianize the nation than all other causes combined. I see that some of our friends over the way smile at the remark. It is suggested by a friend behind me that they are displeased with the truth of it.

Mr. LOVEJOY. Will the gentleman allow me to request him to read, in connection with what he has already read from the Bible, the fifteenth and sixteenth verses of the twenty-third chapter of Deuteronomy, or to allow me to read them?

Mr. GARTRELL. I will let the gentleman read them.

Mr. LOVEJOY. They are as follows:

"15. Thou shalt not deliver unto his master the servant which is escaped from his master unto thee.

"16. He shall dwell with thee, even among you, in that place which he shall choose, in one of thy gates where it liketh him best; thou shalt not oppress him."

I would also like the gentleman to quote the eighth commandment in connection with the tenth.

Mr. GARTRELL. I will ask the gentleman a question, and I hope he will answer it categorically. Does the gentleman consider the African equal to the white man?

Mr. LOVEJOY. That depends altogether upon his character, sir. [Laughter.]

Mr. GARTRELL. The gentleman has read from Deuteronomy to show that thou shouldst not deliver up a slave who escapes from his master. I ask the gentleman whether he abides by that

text, or whether he abides by the Constitution of his forefathers and mine, which says that the runaway slave shall be delivered up?

Mr. LOVEJOY. I understood the gentleman to say, in his speech, that the Bible was a "higher law," binding every one; and, in the second place, I abide by the Bible and the Constitution, for the Constitution says no such thing.

Mr. GARTRELL. The gentleman says that he abides by the Bible and the Constitution. Then, sir, he must go South, and settle upon our plantations. We claim you as a slaveholder. We claim you as an advocate of the principle and the practice; for the Bible says—God, in the Bible, Himself says: "Thou shalt not covet thy neighbor's man-servant, nor his maid-servant;" and further on it is expressly inculcated that slaves owe obedience to their masters, and ought to render it; and, furthermore, that they shall be our inheritance, our possession, our bondmen forever.

But, Mr. Chairman, I desire to proceed very briefly in my line of argument. I was apprehensive that these quotations from Holy Writ might occasion a little fluttering over the way. It is well enough, however, to revert occasionally to sound principles—to go to the fountain-head.

Mr. STANTON. Will the gentleman permit me to ask him a question?

Mr. GARTRELL. Certainly.

Mr. SEWARD. I object to farming out the floor in this way.

Mr. STANTON. Does the gentleman [Mr. GARTRELL] understand his quotations from Holy Writ as applying to African slaves?

Mr. GARTRELL. I understand them to apply to all kinds of slavery; while the Africans were, as I understand, the heathen spoken of and alluded to by the Scriptures.

Mr. STANTON. Then, as I understand the gentleman, it is not a question of color or race, but a question of social condition.

Mr. GARTRELL. Having disposed of this branch of the question, and finding my time running short, I deem it unnecessary—

Mr. BURROUGHS. I ask the unanimous consent of the House that the gentleman be allowed to finish his speech, and say all he has to say.

Mr. GARTRELL. I am very much obliged to the gentleman; and I should be very much obliged to the committee if it chose to extend to me this unusual courtesy. I will not, however, claim it. I cannot ask it at its hands.

But I desire to consider another question alluded to by the gentleman from Missouri, [Mr. BLAIR,] and it is but a repetition of the argument that seems to have been current in the northern States for many years. It is said, Mr. Chairman, very exultingly, too, that this institution of slavery at the South has a demoralizing effect on the social position of the people of that section. I deny it. I hold, sir, that the statistics of this country show the reverse to be true. If crime, if pauperism, if indigence, if want, if misery, be evidences of demoralization, then to-day the southern people occupy a proud position as contrasted with that of its accusers. I call the attention of gentlemen to some statistics taken from the census report of 1850. Under the head of "crime," I find that in the northern States the number of native-born persons convicted of crime was ten thousand eight hundred and twenty-three; while in the southern States they were but nineteen hundred and seventeen. The number of foreign-born persons convicted of crime in the northern States, was twelve thousand seven hundred and eighty-nine; in the southern States but eight hundred and ninety-four. The total number in the North being twenty-three thousand six hundred and twelve, and in the slaveholding States but two thousand eight hundred and eleven. Then, sir, under the head of "pauperism," I find that the number of native born paupers in the northern States, in the same year, was fifty thousand and twenty-three; while in the southern States it was but sixteen thousand four hundred and eleven. Of foreign-born paupers there were, in the northern States, sixty-three thousand six hundred and eighty-nine; and in the southern States, four thousand eight hundred and forty-nine. Total number of paupers in the northern States, one hundred and thirteen thousand seven hundred and twelve; in the southern States, twenty-one thousand two hundred and sixty.

It is no pleasure to me to read these statistics;

but I read them not only in defense, but in justification of the system of domestic slavery as it exists in my section, and which I am here to-day ready and prepared to defend against all comers and goers. I say that I regret this state of things. I do not refer to them to the disparagement of the intelligence, morality, enterprise, or industry of our northern brethren. They are exempt from it as much as most people are. I honor them for their intelligence; I honor them as Christian people; I honor them for their enterprise; I honor them when they stand by the Constitution of our fathers. But when they seek, as some have sought on this floor, and as others seek elsewhere, to wage war on the constitutional rights of my people, I may be permitted to tell them of their own faults, and to cite the records of their own misfortunes.

But I will not stop here, sir. I will read to you an extract from a report made by a committee appointed a few years ago by the Legislature of New York, and which report throws a great deal of light on this question. This report shows:

"It seems that a committee was sent by the Legislature of New York to look into the condition of the lower and working classes of the city. They report, April 4, 1856, that in twenty-two districts twelve hundred tenement houses are occupied by ten families each, in some by seventy families, others one hundred, and in one, in particular, one hundred and forty-six families, or more than an average of one family and a half to each room! But let the committee speak:

"In the houses visited by your committee, sights were presented to them alike startling and painful to behold. In many, whites and blacks were living indiscriminately together; negro men with white women, and while men with negro women. Young faces, haggard with want and sickness, and bearing that peculiar look of premature old age imparted by early sin, gazed at them from every corner; misery and vice in their most repulsive features met them at every step. Scarcely an apartment was free from sickness and disease, and the blighting curse of drunkenness had fallen upon almost every family. Here and there might be found, it is true, some attempt at cleanliness, some display of a love of home, some evidences of industry and sobriety, with their natural accompaniments, cheerfulness and good health. But these, your committee found, were in most instances families that had not long been inhabitants of the neighborhoods in which they lived. The demoralization and ruin apparent all around had not had time to do their work on them. It is to be feared that too soon the miasmal air will creep into their systems, undermining the sturdy constitution, and prostrating its victims on a bed of sickness. Health failing them, want will follow; and then must come crowding rapidly upon them, neglect of home, neglect of children, uncleanness, drunkenness, and crime. It is no fancy sketch, no picture of the imagination. It is a stern reality, enacted every day in the midst of luxury and wealth, the natural and fearful result of the rapacity of landlords in an overcrowded city, unrestrained by conscience, and wholly unchecked by legislation."

I will not pursue this report further, but I simply recommend it to the attention of the gentleman and of the committee. I did not cite it for the purpose of displaying the misery, the woe, the destitution, and the want of the poorer classes of the North. God knows they have my sympathy and my commiseration. I would that it were in my power to relieve the poor of the North as well as the poor of the South. I have read this extract, not to bring a blush to the faces of my northern friends; I read it in sorrow. I read it, however, with a hope that I might thereby encourage them to begin the good work at home; that I might thereby assist in relieving the poor and miserable and destitute there, by reminding our friends of that charity which begins at home. Where, in the South, Mr. Chairman, could we find misery and want and wretchedness and destitution like that reported by this able and intelligent committee of the Legislature of New York? Go to the negro plantation, if you please, and what will you find? Health, plenty to eat, good clothes, comfortable beds, and but one family in a house. You will ransack even the pages of Uncle Tom's Cabin, and you will find no picture of misery and destitution which will compare with that portrayed in the extract which I have just read. No, sir; that book, which may be justly characterized as a picture, a libel, painted by the hand of slander, will furnish nothing to compare with it.

But, sir, I will not pursue this branch of the argument further. What I have said has been with a view to modify, and soften down, by bringing about reflection and consideration of this question, rather than to excite. I deprecate excitement. I had hoped that in this Congress at least we should have been exempt from the continual excitement upon the slavery question. I had hoped that it would have been taken from the Halls of Congress and left where the legislation of Congress properly leaves it—to the people of

the Territory, when they come to frame their constitution and apply for admission into the Union. Sir, these were my expectations, and they were reasonable and just, because the legislation of the country, which received the sanction of Congress and the approbation of the people in the last presidential election, had met this question and taken it from the Halls of Congress and put it into the hands of the people of the Territories when they were prepared to lay aside their Territorial condition and assume that of State sovereignty. But hardly had we met within the walls of this Capitol and Congress organized, before the battle-cry was raised, and

"Once more unto the breach, dear friends, once more!" was heard through the ranks of the Black Republican party. Why these continual aggressions? Why deny to us, to-day, our rights under the Constitution of our country? I beg to ask, what have the southern people done to warrant it? When have they ever waged war upon your rights? When have they ever proved recreant to the Constitution of your fathers and ours? When have they ever refused to expend their blood and treasure for the maintenance of the common honor and integrity of the nation? When have they ever failed to stand by their northern brethren in their hour of trial? Sir, the South has always been true and loyal to the Constitution. She is loyal to it now; she is ready to preserve it for your children, and their children—that they, arm in arm, and hand in hand, may perpetuate it to our latest posterity. But, in order to do this, I tell gentlemen plainly, I tell them dispassionately, I tell them coolly and deliberately, that your assaults must cease. Sir, I think I know something of southern loyalty, as well as southern impatience under your encroachments, and I tell gentlemen that the time has come when this question has to be met fairly by your action in this House. Upon the action of this Congress, must depend the union or disunion of this great Confederacy.

Gentlemen need not tell me that I am an extremist, or an alarmist; that the South has threatened disunion before, and, when the hour came, she backed out. Sir, I tell you, this is no idle threat. Indeed, it is not made as a threat, but as a warning. It is my duty to speak thus plainly here, and to announce the deep-seated, unwavering, unalterable determination of the masses of our people at the South, of all parties, to have equality in this Union or independence out of it. It is best that individuals, as well as States, should be plain and candid with each other. I do not speak thus to-day to alarm gentlemen. I am not here to suppose that anything I may say would alarm our friends on the other side of the House. If I speak feelingly it is because I feel deeply on this question of preserving intact the Constitution of the country; of preserving our glorious flag; the sovereignty of the States, and the rights and honor of the South. The Union cannot be preserved unless our rights are protected. I should be recreant to my duty if I did not proclaim this determination no longer to submit to insult and outrage. I have the honor of representing fifteen thousand freemen upon this floor; and I hazard nothing in saying that every man of them will respond "amen" to the sentiments I express here to-day. I hazard nothing when I assert that there will not be found in that constituency one man who is not ready and determined to proclaim as I proclaim to-day, that if you will preserve the Union of these States, you must give us the full measure of our constitutional rights. We ask nothing more; we will take nothing less. Is there anything unreasonable in this?

But, sir, this brings me to the Kansas question, and I understand that I have but five minutes left in which to discuss it.

Mr. BURROUGHS. I renew the request that, by unanimous consent, the gentleman be allowed to go on until he has finished his speech.

Mr. FLORENCE. I object. The gentleman will understand the reason for my objection.

Mr. GARTRELL. I desire to say, for my time is very brief, that what I have said has been directed mainly to the attainment of two objects. These objects are paramount with me to-day. Proud as an American citizen, proud of the country, and the whole country, of the North as well as the South, my object is to demand forbearance at your hands, and preserve, if we can, the Union of our fathers. My second object is to have se-

cured to the people of the South their constitutional rights, fully, entirely, and effectually. You may drive me from my first position; you may force me to abandon the Union; you may tear the stars and stripes under which our fathers fought and won our liberties, and trample it under foot; you may drive me from my advocacy of the Union; but, sir, never, while I have an arm to raise or a tongue to speak, a heart to feel or a hand to strike, can you drive me from the maintenance of southern rights and southern equality.

I tell gentlemen, further, that in order to preserve that Union, you must admit Kansas as a State into this Union with the Lecompton constitution. You must admit her as a slave State, with that constitution. And why? Sir, this whole Kansas question is "in a nut-shell." It depends upon a single principle—it is the doctrine, the principle of non-intervention, sustained by the great Democratic party of the country in the last presidential election. Democrats from New York, Pennsylvania, and other northern States, have gallantly and manfully stood by this principle. I honor them for it. The South honors them for it. They are national Democrats, and, as such, are dear to the people in my section. We honor them for their devotion to principle. But, sir, I said this Kansas question depends upon the great principle of non-intervention. Has that principle been observed? I say it has not. We have had intervention there. It has been the intervention of Walker and Stanton against the South, and in favor of the North, and it does not lie in the mouths of gentlemen to make objection to her admission now. It is true the South has achieved a triumph in Kansas; but it was a victory won over intervention on the part of the officers of the General Government against slavery and against the South.

[Here the hammer fell.]

Mr. WASHBURN, of Wisconsin, obtained the floor.

Mr. J. GLANCY JONES. I ask that this bill be laid aside to be reported to the House. We can take up another bill for discussion.

Mr. BURROUGHS. Mr. Chairman, I move that the gentleman from Georgia be allowed to proceed with his remarks to their conclusion.

Mr. ADRAIN. I hope the gentleman will be allowed that privilege, as I understand that the printer will not publish the conclusion of the gentleman's remarks unless they are delivered in the Hall. I hope the gentleman will have the unanimous consent of the House to finish his remarks.

Mr. FLORENCE. I object. I do not understand that there is any objection to the gentleman from Georgia filing the remaining portion of his speech. He asks only that the portion of his speech which he could not deliver here for want of time, shall be published with what he has delivered. There will be no objection to that. Let him hand it to the reporters, and the privilege will certainly be accorded to him.

Mr. JONES, of Tennessee. The reporters have not the right to publish in the official debates what has not been delivered in the House.

Mr. FLORENCE. With the permission of the committee I will say a word. We have, it seems, the edict of the official printer of the debates of the House, communicated at the beginning of the session, that what has not been delivered in the House will not be published in the debates. Such has not been the practice, for heretofore members have been allowed to publish the remarks which they were cut off from making by the hour rule. We might as well decide on this question now as at any other time.

Mr. MORGAN. I call the gentleman to order.

Mr. FLORENCE. When the Chair decides that I am not in order, I will take my seat.

Mr. MORGAN. What is the question before the House?

The CHAIRMAN. There is no question. The gentleman from Wisconsin is entitled to the floor. There is no question before the House but the bill under consideration.

Mr. JONES, of Tennessee, who has the floor? I took the floor, and was interrupted by the gentleman from Pennsylvania.

Mr. J. GLANCY JONES. The time for general debate on the bill under consideration has been limited, and I trust that it will be laid aside to be reported to the House, and that the committee will proceed to the consideration of the next bill.

Mr. WASHBURN, of Illinois. I object.
Mr. FLORENCE. I move that the committee rise and report the bill.

The CHAIRMAN. The gentleman has not the floor to make that motion.

Mr. JONES, of Tennessee. I understood the Chair to recognize me as being entitled to the floor when the gentleman from Pennsylvania made a motion which could not be entertained.

The CHAIRMAN. No motion in order was made that the Chair heard.

Mr. JONES, of Tennessee. I did not make any motion, and I do not want to. I only want to talk a little. [Laughter.] It was for that purpose I sought the floor.

The CHAIRMAN. Neither the gentleman from Pennsylvania nor his colleague, the chairman of the Committee of Ways and Means, made any motion that was entertained.

Mr. FLORENCE. I made a motion which was ruled out, but I do not relinquish the floor.

Mr. JONES, of Tennessee. The chairman of the Committee of Ways and Means made a motion to lay the bill aside, to be reported to the House, but that was not entertained. His colleague, near me, also made a motion, which was ruled out of order. I understood the Chair then to recognize me as entitled to the floor.

The CHAIRMAN. The Chair gave the floor to the gentleman from Wisconsin, at the expiration of the time of the gentleman from Georgia. He has not yielded it.

Mr. JONES, of Tennessee. Then I am at fault entirely.

Mr. WARREN. I call the gentleman to order; and ask that the gentleman from Wisconsin be allowed to proceed with his speech.

The CHAIRMAN. The gentleman from Tennessee is not in order, unless the gentleman from Wisconsin yields him the floor.

Mr. JONES, of Tennessee. I wish to state my point of order.

The CHAIRMAN. The gentleman from Tennessee is not in order.

Mr. JONES, of Tennessee. I know the Chair will decide so; but he must first hear my point. [Cries of "Order!"]

Mr. FLORENCE. I rise to a personal explanation. [Continued cries of "Order!"] Gentlemen may clamor as much as they please. [Cries of "Order!"]

Mr. TAYLOR, of New York. I rise to a question of order. If gentlemen have not sufficient respect for themselves to keep the order of this House, I hope the Chairman will order the Sergeant-at-Arms to do so.

Mr. JONES, of Tennessee. There is no Sergeant-at-Arms in committee.

Mr. TAYLOR, of New York. I am in favor, then, of a motion that the committee rise and ask for that power.

Mr. FLORENCE. So am I. [Great laughter.]

Mr. BURNETT. I call the gentleman from New York to order. He has only increased the confusion.

Mr. FLORENCE. Yes, sir; I call the gentleman from New York to order.

The CHAIRMAN. Gentlemen will resume their seats and preserve order. The gentleman from Wisconsin is alone entitled to the floor.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, that the assembling of Congress would be signalized by some definite recommendation from the President of the United States, having for its object the relief of the commercial, mercantile, and industrial classes, now bowed down in such deep distress, was, I think, the general expectation of the country. The position heretofore occupied by the President when in Congress, upon the subject of the currency and tariff, gave assurance, to some at least, that he would have the courage to mark out some plan for the action of Congress which would tend to allay existing evils, and prevent their recurrence hereafter. To all such the message has caused bitter disappointment. Instead of any such measure having been brought forward, the country is now as much in the dark in regard to the financial policy of the Administration as on the day we first met. We are now approaching the close of the second month of the session, and what has been done? So far as anything practical or useful to the country is concerned, I may say literally nothing. Over one half of the present month has been given to the

consideration of the outlaw and pirate, William Walker, and his vagabond associates. While the country is crushed beneath a weight of financial calamity such as has been seldom known, and whilst national bankruptcy is staring you in the face, you turn away, and treat with utter neglect all such matters. They are not worthy of the consideration of an American Congress; while a handful of desperadoes command the most distinguished consideration.

The President has discovered, as he thinks, the cause, and sole cause, of our present financial difficulties, but arrives at what I regard as a most lame and impotent conclusion, when he tells us that the Government is powerless to remove or lessen that cause, abate the evil, or in any manner to afford relief.

The President tells you that all our difficulties and financial troubles are to be attributed to our extravagant and vicious system of bank credits and paper currency, and to that alone. I deny the first, and I will proceed to show that this declaration is an artful dodge on the part of the Chief Magistrate, to draw attention from the real causes that have produced such wide-spread financial ruin.

The President is well aware of the prejudice existing in the public mind in regard to banking institutions generally. That prejudice is well grounded, and I do not seek to remove it; but I object to the President availing himself of that prejudice for purposes of concealment of the true causes of the public distress.

It is not my purpose to enter upon a defense of the banking system of this country. I could not defend it. That it has contributed to the present difficulties, I have no manner of doubt; nor have I any doubt but our whole system of banking, as now carried on, is unsafe, dangerous, and corrupt; and I am sure that no gentleman will go further than I will to reform that system, so as to prevent, as far as restraining the banks will prevent, a recurrence of the present condition of affairs.

Our present unfortunate condition may be attributed to numerous causes; but the principal cause is disclosed in the extravagant, corrupt, and corrupting practices of this Government for the past twelve years. That a wise and prudent Administration would have saved us from our present condition, I have no manner of doubt.

In 1841 a bankrupt law was passed, under which a large number of persons who were ruined by the revulsion of 1837 were discharged from their debts, and began the world anew. Of the wisdom of that act I express no opinion. Up to that period every branch of business was prostrate; and, in the opinion of the public men of that day, some action was required on the part of the Government to restore public confidence, put the wheels of our manufacturing establishments in motion, and give employment to the millions then in idleness. The result of that conviction was the tariff act of 1842. Under that enactment business speedily revived; our credit, at home and abroad, rose rapidly; and the effect of the then recent financial disaster was fast passing away; labor, the foundation of all wealth, found ready employment and ample pay, and the whole country was jogging on in a career of happiness and prosperity. There was no unhealthy inflation of prices, or wild spirit of speculation abroad among the people. While all was peace and quietness within our borders, the public mind was startled by the proclamation of President Polk, declaring that our soil had been invaded by a foreign foe. Upon that proclamation, this House, upon a discussion of twenty-five minutes, declared war to exist by the act of Mexico: a declaration, in my opinion, wholly unjustified by the facts then in possession of Congress, or of facts afterwards disclosed.

The effect of that hurried declaration was to precipitate us into a war with a foreign Power, from which we did not emerge until we had sacrificed eighty thousand lives and over two hundred millions of dollars. It is not necessary to my purpose that I should speak of the objects for which that war was prosecuted; and I now only speak of it as it affects our present unfortunate financial condition. The primary effect of that war was to unsettle the public mind. Thousands who were engaged in the quiet walks of life, impelled by patriotism or some other motive, abandoned the plow, the loom, and the anvil, to meet a hos-

tile foe on a foreign soil. While those who went were withdrawn from the condition of producers at home, those who remained behind partook of all the excitement of those who went. "Halls of the Montezúmas" sprang into existence in every hamlet, and our before staid population became revelers therein.

This, then, was the first shock to that stability of the public mind, which has led to such results. To carry on that war required over one hundred million dollars. That vast sum was raised upon the credit of the Government, and was mostly drawn from abroad. That sum was disbursed while the war continued; and though a portion was paid out within the limits of Mexico, it nearly all went into the hands of our own citizens, and was soon nearly all in circulation within the United States. Thus was upwards of two hundred millions added by the Government to our circulation in a short space of time—a sum nearly equal to the entire paper circulation at this time, and far exceeding what it then was.

In addition to this large sum, you, about the same time, commenced the issue of land warrants, which you have kept up since, until an amount representing thirty or forty millions has been thrown upon the market; and as, to some extent, they entered into circulation and took the place of money, they to that extent still further contributed to the inflation.

No person at all familiar with the subject of the currency can doubt what the effect of that large increase of the circulating medium was; and it may safely be set down as a principle in political economy that cannot be controverted, that if you increase the quantity of the circulating medium, you will inflate prices in the same ratio, regardless of the fact whether that medium be coin or something to represent it.

Thus it was that our country first became inflated, and the steady habits of our people were broken up and destroyed.

In 1846 the tariff bill of Mr. Walker was passed, greatly reducing the duty on imports. The high prices caused by the inflation, added to the low rate of duties, invited to most extravagant importations, nearly doubling in the four years, from 1847 to 1851; and there would then have been a general break down, had not extraordinary causes intervened to put off the evil day. Those causes were the discovery of gold in California and Australia, whereby an increase of \$900,000,000 has been added to the currency of the world—an increase unparalleled in the world's history, and which has wrought a revolution in prices throughout the length and breadth of this Republic.

The tendency of this increase of prices consequent on the great increase of currency, whether metallic or paper, most unquestionably has been to stimulate extravagant importations from abroad. The only other instance that I am aware of in the world's history where the metallic currency has been greatly and suddenly inflated, was at the time of the discovery of the mines of Mexico and Peru, in the sixteenth century, by Spain. The tendency of money is to equalize its value in all countries having intercourse with one another; and if brought in extraordinary quantities into one country, quickly spreads itself throughout the rest.

The manner in which this diffusion is brought about is perfectly plain. Take the case of Spain, which was the nation to which came the great influx of gold and silver after the conquest of Peru. This influx of the precious metals, by greatly adding to the money in circulation, at once raised the price of all Spanish commodities, and all articles used in that country, far above the level of prices elsewhere. As soon as this took place, foreign nations found an immediate profit from sending goods into Spain, and selling at the high prices there, bringing back gold and silver received in exchange, and repeating the transaction. Thus the treasures poured into Spain and Portugal soon found their way all over Europe, in the same way and for the same reason that the treasures poured in upon us from California have left us and been distributed among the other nations of the world; and thus it will always be, whenever a country has more than its share of money it is sure to lose it by the excessive import of goods, which the enhancement of prices is sure to occasion, until the value of the circulation and prices are equalized and at par with the money

and prices of neighboring countries. The result of our redundant circulation and high prices, we have seen, has been to enable the foreign manufacturer to drive our own industry from the field of production, to draw from us our coin, and leave us little better than a nation of bankrupts.

The speculations of different minds as to the true causes of our present difficulties, are numerous and discordant.

The President tells you that it is one thing, and that alone; another tells you that it is the fault of our tariff system, inviting to extravagant importations and overtrading; and a third, that it all arises from a spirit of extravagance in the people, the lust of wealth, a desire for show, regardless of the obligations of honor, justice, and truth. The persons who advance these different theories are all more or less right. That the reason assigned by the President is true to some extent, it would be vain to deny; but I have shown, that while that may be one cause, it is far from being the leading cause. That is found in the extravagance, folly, and bad example of the Government; an extravagance that has run up the annual expenses of carrying it on, from \$46,000,000, in 1852, to \$75,000,000 at the present time. If the banks have in the last few years expanded to an alarming extent, it is but the legitimate fruit of your own extravagant expansion. But on looking at the tables that the Secretary of the Treasury has furnished in regard to the banks, I find that their circulation during the last four years has been very uniform, and that their loans and discounts have not increased in proportion to what the Secretary estimates to be the annual natural increase of the commerce of the country.

The second class of persons who trace all our woes to the tariff of 1846, quite overlook, in my opinion, the inflation which has contributed so much to render that tariff so destructive to the best interests of the country. That enactment was bad enough at the best; but had the volume of our currency only increased in proportion to the natural wants of the country, I do not presume that our overtrading would have ever reached to our late pitch of extravagance, and I agree with the President, that if you allow your circulating medium to be inflated to an unlimited extent, your tariff laws are impotent for purposes of protection. What our manufacturers want is not high protecting laws, but laws that shall be stable in their character; laws that will not be rendered inoperative and void by shifting legislation or periodical inflations and depressions in the currency. The third class, who discover the cause of all our misfortunes in the extravagance and folly of society, forget to look back to the causes of that extravagance and folly. That the nature of the men and women of to-day differs from that of those of fifteen years ago, no one believes; but different causes acting at a different time upon the same humanity, produce different results. A plethora of money is one of the greatest evils that can befall the manners and morals of any country, and to that cheapness of money and credit, resulting from the extravagance of Government, and the discovery of California gold, may be safely attributed that wild spirit of extravagance and speculation, which is by some mistaken for the cause of our late disasters.

As the greatest of the evils attendant upon our late system of business, I do not reckon the loss of fortune that has overtaken so many, sweeping them away from the busy haunts of business in a single night. Such as have maintained their integrity will rise again, wiser and better men for having been subjected to the "uses of adversity;" but the greatest of our evils grows out of that debauched state of public and private morals which has grown up side by side with the extravagance of Government.

Were I so inclined, I should be powerless to describe the condition to which society had been brought previous to the late revulsion. It was time for a revolution and revulsion; and I am glad it was delayed no longer. It would have been far better could it have come years ago. Had it not come now, it is fearful to contemplate the lower deep of extravagance, wickedness, and folly to which we were hurrying on. Amidst the artificial rise of every species of property, consequent upon the expenditure of the money borrowed abroad by the Government, and the influx of gold from California, imaginary fortunes were rapidly

accumulated, and an appearance of prosperity created, such as was never before known. Among the worst effects of this state of things, was the complete change wrought by it in the manners and habits of the people. Frugality and economy we have seen followed by a reckless profusion, a disdain of the homely and honest ways of former times, and a disgusting and self-degrading aping of aristocratic manners and ways of life. Forgetting that the great business of life must be carried on by men and women, a rage for display and showy and superficial accomplishments appears to have seized upon all classes. From this condition of things, it is to be hoped that we are about to be delivered; and that some policy may be adopted that will prevent a similar recurrence for a long time to come.

But I have little faith in the adoption of any such policy. It is quite evident that the President and his Cabinet are not a unit in their governmental policy. The President is evidently a protectionist. He has told the country before, and he repeats it now, though in different language, that "if you will reduce the currency from its nominal to its real value, you will cover the country with blessings and benefits." Why? Because the effect of such reduction would be to afford protection to our domestic industry greater than any tariff law can afford, and thus "give us possession not only of the home market, for our manufactures composed of raw materials the production of our own country, such as cotton, iron, and woolen fabrics, but would have created for themselves a foreign market throughout the world."

The Secretary, on the other hand, devotes a number of passages of his report to an attempted explosion of the protective policy, and argues to considerable length, that whatever benefits the manufacturer must necessarily impose a corresponding burden upon the consumer, and that the injury sustained must be in proportion as the consumers exceed the number of manufacturers.

The Secretary congratulates the country upon the growing popularity of free-trade doctrines, as evidenced by the "strong feeling in the public mind for the extension of our territorial limits," which he can account for in no other way than as evincing a desire to increase the "area of free trade." If the free trade here spoken of means free trade in negroes, then I shall decline to dispute the point with him. While the President and Secretary do not appear to be entirely in coincidence upon the subject of protection, they also appear to disagree somewhat as to the cause of our present difficulties. While the President attributes them to one cause only, which cause is declared to be our "extravagant and vicious system of paper money," the Secretary says that "we must look beyond the banks, to the operations of other corporations as well as individuals, to fathom the entire cause of difficulties." But it is not my business to reconcile the differences of this Democratic household. I beg to call the attention of the House to some of the figures and estimates of the honorable Secretary. The other day, when the House was rushing through in such hot haste the shin-plaster or Treasury note bill, my friend from Pennsylvania [Mr. Ritche] pointed out a strange want of consistency between the President and Secretary.

In the message the President boasts in ostentatious language of the sub-Treasury, declared that whatever might become of other folks, the "Government will continue to discharge its liabilities to the people in gold and silver;" speaks of a loan as a thing barely possible; and declares that it shall be avoided if possible. Who could possibly believe from reading this high-sounding language, that at that very moment the Secretary had slipped in at the back door of the Capitol, and was beseeching Congress for authority to issue \$20,000,000 of "wild-cat and red-dog" with which to pay off the public creditors, whose liabilities, the President had just declared, would be discharged in gold and silver only? If all we hear be true, the Secretary did not apply to Congress a whit too soon; for it is currently reported that for some little time past, the public creditors have not been able to obtain either gold, silver, or wild-cat.

The Secretary, in asking for the privilege to issue twenty millions, holds out the idea that they may not all be wanted. I have been looking over his estimates. It will perhaps be deemed presumptuous in me to arraign the figures and estimates

of so experienced a statesman as he; nevertheless, I shall take the liberty of doing so.

The Secretary estimates the receipts for the fiscal year ending June 30, 1858, at the sum of \$75,389,934 08, made up as follows:

Balance in Treasury, July 1, 1857	\$17,710,114 27
Received for quarter ending September 30, 1857	20,929,819 81
Estimated receipts during the three remaining quarters to June 30, 1858, are—	
From customs	33,000,000 00
From public lands	3,000,000 00
From miscellaneous sources	750,000 00

Estimated aggregate for the service of the current year \$75,389,934 08
Expenditures for year ending June 30, 1858: 74,963,058 41

Leaving a balance in the Treasury July 1, 1858, of \$426,875 67

which appears to be sailing pretty close-hauled on the wind.

The estimates by which the above result is arrived at, will not, in my opinion, bear the inspection of impartial scrutiny; but if they are correct, it is pretty evident that we shall be called upon for more aid before the fiscal year closes, because the sum then left in the Treasury will be wholly inadequate to an easy administration of the financial department of the Government; as it was shown during the progress of the Treasury note bill through Congress, that to meet the wants of the Mint and other exigencies, the Government could not get along with less than six millions at all times in the Treasury.

How then are you to get along when that balance is reduced to \$426,875 67, as the Secretary says it will be July 1, 1858?

But that you will not have even that meager balance, I will now proceed to show.

To arrive at that result, and bring the Government to the end of the year with that beggarly sum, he makes the following estimates for the last three quarters, ending June 30, 1858:

From customs	\$33,000,000
From public lands	3,000,000
From miscellaneous sources	750,000

Total receipts for three quarters \$36,750,000

Let us now examine and see how the Secretary arrives at the above figures. He first assumes that our ratio of annual increase in importations for the last few years has been ten per cent., and that they will go on to increase in that ratio for years to come. How a gentleman of the reputed sagacity and judgment of the Secretary, or how any gentleman possessed of ordinary intelligence, could have ventured on that assumption, is quite incomprehensible, and imposes upon me the necessity of an examination into the position thus taken by him.

I think that it may be laid down as a safe principle, that no nation can go along uninterruptedly for a great length of time, increasing her importations much more rapidly than it increases in population and ability to pay. The increased ability to purchase of foreign imports depends principally upon the increase of population and labor to produce the necessary articles for export in exchange for foreign commodities. The invention of labor-saving machinery may have increased the efficiency of labor so as to render our people more able to purchase largely than formerly; though that, when applied to all the people of the United States, is questionable. If, then, this principle is correct, let us see where its application will lead us.

The increase of population for the decade from 1800 to 1810 was thirty-six and forty-five one hundredths per cent., or about three and six tenths per cent. per annum. From 1810 to 1820 it was thirty-three and thirteen one hundredths per cent. From 1820 to 1830 it was thirty-three and forty-nine one hundredths per cent. From 1830 to 1840 it was thirty-two and sixty-seven one hundredths per cent. From 1840 to 1850 it was thirty-five and eighty-seven one hundredths per cent.; showing a remarkable uniformity in the increase of our population, which has averaged about three and one half per cent. per annum. An examination of the table of imports from 1820 to 1850 will disclose the fact that, on an average, our imports just about kept pace with our population. Since 1850, our importations have rapidly increased, by reason of the disturbing causes which I have before alluded to, and not because of the increasing wants or

ability of the country. When we remove that disturbing cause, importations, instead of going on to increase at the rate of ten per cent. per annum, which is about three times as fast as our population increases, will fall back to what they were before these disturbing causes commenced.

To return, then, to the Secretary's figures; he says that for the corresponding three quarters of last year, the amount of merchandise imported subject to duty was \$210,000,000; to which he adds ten per cent. ratio of increase—\$21,000,000—making the total amount that would be imported, were there no disturbing cause, \$231,000,000.

Now, he says, that the derangement in business will probably cause a falling off of twenty-five per cent. in our imports; or in other words, I suppose that he means, that by reason of hard times, we shall get along with twenty-five per cent. less of articles of foreign merchandise than we otherwise should, and makes the account stand thus:

There would have been imported had there been no revulsion.....	\$231,000,000
Deduct, by reason of revulsion, twenty-five per cent.....	57,750,000
Leaves.....	\$173,250,000

Or, as the Secretary calls it, in round numbers, \$174,000,000. Upon that amount of dutiable imports the Secretary estimates that the average duty under the late tariff act will amount to about nineteen per cent., thus giving him, as a revenue from customs for the three quarters ending June 30, 1858, \$33,000,000. That this estimate is erroneous to the extent of \$8,000,000 at least, I believe that I can satisfy every candid mind that will give attention.

The Secretary assumes that by reason of the hard times, our falling off from the corresponding quarters of last year will be fifteen per cent.; that is to say, he first adds ten per cent. for the natural increase in case there was no disturbing cause, to the amount of last year, and then deducts for derangement in business twenty-five per cent.; leaving as his estimate eighty-five per cent. of the imports of the corresponding quarters of last year as the imports for this.

That this estimate is a very liberal one, I think every one will admit. That it is one that we can safely trust, I do not believe. Is there a man in this House who believes that, for the last three quarters of this year, we shall buy eighty-five per cent. in quantity abroad of sugar, molasses, iron, cotton and woolen goods, and other articles, such as we usually buy, as for the corresponding quarters of last year? But, taking the Secretary's figures, and allowing that we do purchase abroad eighty-five per cent. in quantity, will it give the revenue that he supposes? Clearly not. Why? Because that eighty-five per cent. in quantity of merchandise will, by reason of the greatly reduced prices, fall far below the \$174,000,000 that it would have cost last year.

It is well known that this revulsion has not confined itself to this country, but has been felt with equal, or greater, severity in England and on the continent of Europe; and it is a somewhat remarkable fact, that the severity of the pressure has been greatest in those places which had an exclusive metallic currency. The effect of this revulsion has been to reduce the price of nearly every article we import from abroad from twenty-five to fifty per cent. To be on the safe side, I will call it twenty-five per cent.

Suppose, then, that you import eighty-five per cent. in quantity, what will be the cost of that quantity? Certainly not \$174,000,000, but twenty-five per cent. less than that, or only \$130,000,000 in value, on which duties will be collected, allowing that the tariff of 1857 will give an average of duties of nineteen per cent., as claimed, and you have, as the receipts from customs, \$24,700,000, instead of \$33,000,000, being an overestimate from customs alone of the moderate sum of \$8,300,000. It probably may be said that the Secretary, in estimating our imports at eighty-five per cent. of last year, did not refer to quantity of commodities, but their cost. If he means that, it is equivalent to saying that we shall, during this year, import a greater quantity of merchandise than ever before—a statement that everybody knows cannot be true.

To narrow this question down to a point where it will be apparent to the lowest comprehension,

I propose to take up the finance report, and invite your attention to one or two leading articles from which revenue is derived.

I will first call your attention to the articles of sugar and molasses, which are objects of universal consumption. The amount of importations of those two articles for the year ending June 30, 1857, were as follows:

Sugar.....	\$42,614,604
Molasses.....	8,259,175
Total.....	\$50,873,779

On which a duty was paid of over fifteen million dollars, or about one fourth of all the revenue from customs was received from that source for the last year.

Now, I have shown in general terms that the Secretary had over-estimated for this year, \$8,300,000, and now I shall show that that over-estimate may be found in the articles of sugar and molasses alone. The fact is known that there was a short crop of sugar in Louisiana in 1856. From five hundred thousand hogsheds, which it had been, the product fell to less than one hundred thousand hogsheds. Two consequences followed this failure of crop; first, a very large importation to supply the deficiency; and, second, a great enhancement of prices, so that the value of the importation, which was only about thirteen million dollars in 1855, in 1857 reached the enormous sum of over forty-two million dollars! The cause that produced that vast accession to our revenue last year has ceased. The Louisiana crop is a good one; add to that the further fact, that there are now immense stocks of foreign sugar and molasses in the warehouses of the principal cities, and you will say that I am justified in declaring, that the imports of sugar and molasses for the last three quarters of this year, will not reach in quantity one half what they were for the corresponding period last year. The price has fallen off about one half.

For the last three quarters of last year you imported about thirty-eight million dollars of sugar and molasses in value, on which a thirty per cent. duty was paid, of about eleven million five hundred thousand dollars. This year, during that period, you may import one half the quantity, at one fourth the cost of last year's importation; so that your sugar and molasses of the three last quarters of this year, instead of paying duty on \$38,000,000 will pay duty on perhaps \$10,000,000, at twenty-four per cent., instead of thirty per cent., a duty of \$2,400,000. Thus, on these articles alone, you will sustain a falling off in revenue of \$9,100,000, a larger sum than I allowed in my general estimate, as the falling off from all the articles of merchandise that are entered for consumption. To carry out my illustration still further, I might call attention to the article of railroad iron, which has heretofore been a large source of revenue; but, as I have not time to more than advert to it, I pass on.

Having shown a very large over-estimate on the receipts from customs, I now propose to show a much larger over-estimate, in proportion, from the sales of the public lands. The estimate from that source is put down by the Secretary, for the three quarters, as \$3,000,000; an estimate, in my opinion, wholly unjustified by any state of existing facts. It is well known that during the corresponding quarters of last year, there was a great, and, I may say, an unusual desire pervading the entire community, to acquire public land. This desire, the result of easy credit and a redundant circulation, did not confine itself to the new States, as the members of this House from the old States know.

Now, under this condition of great and unnatural activity, what were the receipts into the Treasury for that period from the public lands? Let us see:

For the quarter ending December 31, 1855.....	\$808,252 86
For the quarter ending March 31, 1857.....	1,065,640 11
For the quarter ending June 30, 1857.....	1,063,213 28
Total.....	\$2,937,106 25

With the above figures before him, and with full knowledge in regard to the depression in business that has affected all classes and conditions of men, he tells us that he expects to receive

\$3,000,000, or \$62,893 75 more than for the corresponding period of last year.

This proposition of the Secretary only requires to be stated for its absurdity to be apparent. My judgment is, that the receipts from that source will not exceed one half of what they were for the same period last year, and shall accordingly put down the receipts from sales of the public lands at \$1,500,000; receipts from customs, for the three last quarters, \$24,700,000; miscellaneous sources, \$750,000; total, \$26,950,000; which is \$9,800,000 less than the Secretary estimates, and which, instead of leaving a surplus in the Treasury, at the end of the year, of \$426,875 67, it will be left with a deficiency of \$9,373,123 33.

But, to press our examination a little further, we shall find that, to enable the Secretary to bring the Treasury to the close of the year, with the meager balance of \$426,875 67, he has postponed the payment of existing appropriations for the service of the present fiscal year to the year ending June 30, 1859, to the extent of \$16,586,588 35; so that, if these appropriations were expended within the year for which they were made, there would be a deficiency at the end of the year, taking the Secretary's own high estimates, of \$16,159,712 68; to which add the sum of \$9,800,000, which I have shown should be deducted from these estimates, and you have the real deficiency, on the 1st July next, as \$25,959,712 68.

To enable the Secretary to present the balance he does at the close of the year, he not only postponed the large sum that I have before indicated; but I think has under-estimated the expenditures for the three last quarters of this year at least \$10,000,000. He estimates the expenditures for that period at \$51,248,530 04, but gives no details by which to judge of the correctness of the estimate; and we can only judge them by the preceding quarter ending September 30, 1858. The expenditure for that quarter, exclusive of what was paid to redeem the public debt, was \$21,763,745 81. In view of what is transpiring on our frontier, it cannot be wide of the mark to say that the expenditures cannot fall much short of what they were the first quarter of the year for each of the three last quarters. Here, then, is over ten millions more to add to preceding deficiencies.

But I am not going to leave the Secretary here; but propose briefly to examine his estimates for the fiscal year ending June 30, 1859. The Secretary is evidently a hopeful man. It is a happy characteristic to be possessed of; but I submit to the House that it is not a quality to be sought or desired in the character of the man to whom is intrusted the management of the finances of this Government. The prudent and safe financier always looks at the worst aspect that his affairs present; and guards and protects himself accordingly. Not so our Secretary; but like a bankrupt merchant, who fears to look at his books, and face the state of facts there disclosed as they really are, he blunders on, expecting "something to turn up" to rescue him from impending ruin.

That I do the Secretary no injustice, in declaring him to be of a too hopeful and visionary character to be a safe counselor in the Department which he occupies, I think I have already shown; but if I have not, perhaps may do so before I close. The coolest, best informed, and most calculating men do not regard the late revulsion as a mere passing shower, to be immediately followed by balmy breezes and pleasant sunshine, but rather as a terrible equinoctial storm, producing a great upheaval in the ocean of business from its lowest depths, and sweeping away with its mighty surges that plant of slow growth, confidence—and with it the whole superstructure of mercantile credit. The wisest and most experienced among mercantile men believe that it is a work of time to restore that confidence, and rebuild thereon the structure that has been swept away. I know the courage and recuperative energy of our people, which no calamity has power to subdue. Indeed, like General Taylor, at Buena Vista, who did not know when he was whipped, so a Yankee does not know when he is broke. But with all our will, all our courage, and all our energy to overcome difficulties, we still want a little time. To ask us to believe that in a year's time from now our importations are going to return to what they were one year ago, with twenty per cent. added, is playing the "confidence man" a little too strong.

The Secretary estimates the receipts into the

Treasury for the fiscal year ending June 30, 1859, at \$75,926,875 67, made up as follows:

Estimated balance in Treasury, July 1, 1858,	\$426,875 67
Receipts from customs for the year ending June 30, 1859.....	69,500,000 00
Receipts from sales of public lands for the year ending June 30, 1859.....	5,000,000 00
From miscellaneous sources.....	1,000,000 00

Aggregate for the year ending June 30, 1859, \$75,926,875 67

To obtain the above revenue, the importations of dutiable goods for that period are estimated at \$370,000,000, a sum larger by \$75,000,000 than was ever imported into this country in a single year. It is a safe calculation to say that the average of prices for the next eighteen months will range at twenty per cent. less than for the fiscal year ending June 30, 1857; and looking at the effect of the revulsion of 1837, it would be a liberal allowance for the country to give it the same quantity of foreign merchandise for the year ending June 30, 1859, that it had in the year ending June 30, 1857, the period of our greatest expansion. That quantity under then existing prices, cost \$294,160,835. Under the probable prices for the next eighteen months, it would cost \$235,328,668, which, at the average duty of the new tariff of nineteen per cent., would give a revenue of about \$45,000,000, a falling off from the Secretary's estimates of \$24,500,000, for a single year in the customs alone.

To suppose it possible for our importations of dutiable goods to reach \$370,000,000 for the year ending June 30, 1859, we must first suppose a return to that same "vicious system of bank credits" and expansion from which we have emerged, and which, as the President says, invited to such vast and ruinous importations and speculations, and also to a return of the same condition of reckless extravagance and folly in society; for, in consequence of the latter alone, were we able to make way with such vast quantities of foreign gewgaws as we have heretofore imported. I presume that the Secretary does not expect or desire a return to that condition of things, for he tells us that, "the only efficient remedy for such evils is to be found in a return to the prudent counsels and steady habits which, for a long time, were unhappily laid aside." How then does the Secretary expect importations of \$370,000,000, from which to draw \$69,500,000 of revenue?

The experience of every man tells him that there is a strong feeling pervading the minds of all classes of community, that retrenchment in expenditures is necessary. Heretofore, our people have bought not only liberally, but extravagantly; hereafter, and until the occurrences of the past have been forgotten, they will buy prudently and sparingly. The old coat will be worn a little longer, and wives and daughters will not complain of having "nothing to wear," even though they should not have a new dress for every day in the year.

With the present reduction of our currency from its nominal to its real value, and the habits of economy which it imposes, I am satisfied that our revenue will fall off even more than I have before indicated. It is in vain for the Secretary to draw a different deduction from the supposed value of our exports during that period; for, unless I am quite mistaken, our exports will fall off as much as our imports.

The total exports for the year ending June 30, 1857, exclusive of specie and bullion, were \$278,906,713, made up as follows:

From cotton.....	\$131,575,859
From provisions and breadstuffs.....	74,667,852
From tobacco.....	20,662,772
From rice.....	2,290,400
From other articles.....	49,709,830
Total.....	\$278,906,713

The Secretary admits that our exports of provisions and breadstuffs may fall off some, "but that the increased value of the exportations of cotton will probably make up the deficiency," and that in the worst view our exports will not fall short over ten per cent. I disagree with him. That his high hopes in regard to cotton are doomed to disappointment must be evident to every person who has lately watched the cotton market. From the most reliable sources that I have had access to, I learn that the cotton crop of this year will fall three or four hundred thousand bales short

of last year. That the tendency of the decline in prices will be to decrease the exportation must be apparent. That such has already been the effect is well known. Last year, at a certain period in December, there were one hundred and forty-eight vessels in the United States loading with cotton for Great Britain and France, against one hundred and five vessels at a corresponding period this year, clearly showing that a diminished quantity is going abroad this year. But admitting that the quantity shall be the same, the great falling off in prices must very seriously affect the last year's aggregate. It appears by the finance report that the price of cotton last year was very high, higher by twenty-five per cent. at least than it has been for the past five years, the average price being twelve and fifty-five one hundredths cents per pound. At the present moment it is only worth about nine cents.

The following table will show the relative prices of cotton, January 1, 1857, and January 1, 1858:

	Uplands.	Florida.	Mobile.	New Orleans and Texas.
Ordinary.....	11½	11½	11½	11½
Middling.....	13	13	13½	13½
Middling Fair.....	13½	13½	13½	14
Fair.....	14½	13½	14	14½

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	Uplands.	Florida.	Mobile.	New Orleans and Texas.
Ordinary.....	9	9½	9½	9½
Middling.....	9½	9½	9½	9½
Middling Fair.....	9½	9½	9½	9½
Fair.....	9½	9½	-	-

The falling off in price is twenty-five per cent. from last year. Admitting that it goes no lower than the average of the last five preceding years, and that the same quantity is exported as last year, and your receipts will be, from cotton, \$98,681,895.

The falling off in provisions and breadstuffs will largely exceed, in proportion, the loss on cotton. For the past three or four years our exports of breadstuffs and provisions have been largely in excess of previous years, the result in the main of the Russian war, whereby the ports of the Baltic and Black sea were closed, and that great and principal source of supply cut off, leaving this country to supply the deficiency. That cause is removed; and all the grain ports of Europe are now open, and their productions in free competition with ours. In addition to this, all those European countries that have been purchasers of breadstuffs from us were last year blessed with a most abundant harvest. The result we see, not only in the greatly diminished quantity wanted, but also a decline in price of nearly fifty per cent. If, then, we allow that the quantity exported will reach seventy-five per cent. of last year, and that the price has declined forty per cent., the result will be that we shall export breadstuffs and provisions this year to the amount of \$33,600,333.

The next largest article of export is tobacco. The quantity exported last year was about six million dollars greater than that of any previous year, which had before never exceeded \$14,712,468. How far the quantity exported this year will vary from last, I have had no very good means of judging; but a comparison of last year's prices with the present, at Baltimore, the great tobacco mart, shows a falling off of thirty or forty per cent.; and the greatly reduced price abroad leads to the belief that a diminished quantity will be exported this year; but, allowing that there is not, the falling off in price will reduce the value of our exports of this year twenty-five per cent. from last.

The value of rice exported I shall put down the same as last year; and also all other articles, though it must be apparent that several millions ought to be deducted, and our exports will foot up as follows:

Exports of cotton.....	\$98,681,895
Exports of breadstuffs and provisions.....	33,600,333
Exports of tobacco.....	15,497,079
Exports of rice.....	2,290,400
Exports of all other articles.....	49,709,830
Total exports.....	\$199,779,537

The above will represent our ability to pay for importations for the year ending 30th June next, and all that we buy beyond that we must either run in debt for or still further reduce our limited amount of coin.

I have not time to take up and criticise the estimates from the sales of the public lands for the

year ending June 30, 1859, and will only say here, that, in my opinion, he has over-estimated at least one and a half millions.

There is one other view of the Secretary's figuring that I desire to present, and then I leave the subject. It appears that, under our extravagant importations of last year, the amount consumed *per capita* was \$8 45. The Secretary estimates that our importations will increase at the rate of ten per cent. per annum, and that our importations will reach \$370,000,000 worth of dutiable goods for the year ending June 30, 1859; and as, under the new tariff, the goods not paying duty will reach at least one fourth the amount of those paying duty, the total amount of imported goods for that year, if the Secretary is right, would reach \$462,500,000. If you will add to that the Secretary's estimate of increase for the ten years thereafter, you will find that, in 1869, we shall import about twelve hundred million dollars' worth of merchandise, which, making all due allowance for the increase of our population, would give about thirty dollars for each man, woman, and child in the United States, black or white, or more than three times the present amount consumed. I content myself by stating this without comment.

If, then, my estimates are at all correct, they disclose the fact of a deficiency of over nine millions for this year and twenty-six millions for next year, provided you keep your expenses within the estimates, which, in view of the affairs of Utah, Kansas, and Central America, which you have on your hands, nobody believes you will do. If gentlemen on the other side of the House expect to make up that deficiency by borrowing, let them say so at once. The country is impatient to know what the policy of the Government is to be—whether you intend to pay as you go, or saddle your extravagance upon posterity.

Speaking for myself alone, I have to say that, while I hold a seat here, it must be an extraordinary emergency that can induce me to vote for any scheme to raise money, unless a method for its speedy payment shall be at the same time adopted. If free trade and direct taxation is to be the policy, bring it forward. If you intend to depend upon imposts for revenue, then fix your duties at once at such a rate as will give the required revenue; but do not leave the country groping in its present state of uncertainty.

Upon you, gentlemen of the other side of the House, belongs the responsibility of this question of currency and revenue. The Republican party of this House, though representing a large portion of the business and capital of the country, is nearly lost sight of upon the most important committee of the House—the Ways and Means—and New England is ignored entirely.

If I had time, I should be glad to say a word in regard to the existing tariff law—an act which I believed at the time of its passage, and now believe, was ruinous, unwise, and unjust, and which I voted against; but I cannot dwell upon it at any length. That it will prove inadequate to purposes of revenue must be apparent by this time, and must satisfy all reasonable men that its passage was an error. We cannot correct that error any too soon. In looking at the subject now, it passes my comprehension how grave and experienced statesmen could expect that that tariff, with a largely increased free list, and a reduction of duty on dutiable goods to an average of nineteen per cent., and with a foreign valuation, could produce a revenue adequate to the extravagant wants of the Treasury. It did not require great foresight to predict, a year ago, that a financial revulsion was not far off, that would greatly reduce, even under the old tariff act, the receipts from customs; and I confess that I did not share in the fears entertained by some on this, as well as the other side of the House, that if some legislation was not had speedily, all the coin in the country would soon find its way into the sub-Treasury; and it was for this and other reasons, that when the chairman of the Committee of Ways and Means brought forward his project to distribute the surplus revenue with the States, that I, almost alone on this side of the House, voted against it.

And now one word in regard to banks and the currency. I have already stated what I thought about the system generally. The doctrine is often advanced that a currency composed in part of bank paper is indispensable, and that a specie currency would be attended with such inconveni-

ence as to render its general use very undesirable. I do not agree to this proposition. It has been my fortune to reside in a community which, for a period of about ten years, from 1843 to 1853, had an exclusive metallic currency, and even up to this time has a very large infusion of the precious metals. I suppose that the "lead mines" of Wisconsin and Illinois furnish the only instance in the United States, this side of California, where a paper circulation has been dispensed with; and how that came about was in this wise: prior to 1843 we had, if not the most worthless currency imaginable, it was because Nebraska, Georgia, and Tennessee wild-cat banks had not then come into notice. Then our circulation was composed of the irredeemable issues of the State Bank of Illinois, which, as between that and real money, were at a discount of about twenty per cent. For a long time the miners submitted to this tax upon their labor; but finally rebelled, held meetings, and resolved that, as their staple brought real money in the eastern markets where it was sold, they would not be put off by the middle men with irredeemable rags. The consequence was, that when the producer refused to receive depreciated paper, the purchaser had to find coin. Gold, which before was so scarce as to be a curiosity, now took the place of paper, and completely drove it out of circulation. Exchange, which before was at a premium of fifteen to twenty per cent., went down to about par. That the people were subjected to no inconvenience in having to use coin instead of paper, I can bear testimony. If a man was desirous of traveling from one extreme of the Union to the other, he could readily and easily carry coin upon his person to meet all necessary outlays.

Now, what our miners accomplished in the way of reforming the currency, may, with concert of action, be accomplished by other producers. At the present moment Iowa and portions of Illinois are overrun with paper money purporting to be issued by banks in Nebraska, and other far-off places, which has driven all good money out of circulation. It passes in limited circles, because the people are deluded with the idea that if they do not receive that for their surplus there is nothing for them. They do not seem to understand the fact, that the man who deals out irredeemable paper to them for their flour, wheat, corn, and pork, receives good money for those commodities when he sends them forward to market. The remedy of the producer is plain; and that is, to refuse to receive anything for his surplus but what the United States Government recognizes as money. But as it may be difficult to secure the concert of action which would be necessary to accomplish this object to its fullest extent, it is well worthy of inquiry if the Government has not the power to impose such burdens upon the banks as will result in giving us a currency of coin or its equivalent. Should Congress impose a tax on all bills under twenty dollars, of such an amount as would exclude them from circulation, and thus substitute in their place coin, which would be used in all small daily transactions, the effect would, no doubt, be most salutary. We should then have, at all times, a large infusion of coin in our currency, and should be less liable to fluctuations than we now are.

It is a very common thing for western bankers to issue money that is payable at some remote and difficult point of access. This plan, as appears from a letter of Colonel Benton, recently published, had its origin with a Scotchman of Aberdeen, about the year 1806. Another Scotchman, from the same Aberdeen, is the father of the same system in the West.

Of all the States, democratic Georgia has been most prolific in giving birth to illegitimate banks for foreign circulation; though the Territory of Nebraska appears to have followed along not far behind. From a recent Chicago paper, it would seem as though Nebraska had brought forth wild cat banks by the litter; and Fontenelle, Florence, Platte Valley, Nemaha, Wanbeck, De Soto, and Tekama, are some of the euphonious names appended to the rag-mills of that far-off Territory, all of which would no doubt have received their quietus from Congress long ago, had it not been for the modern heresy of non-intervention.

The State which I in part represent has perhaps as good a banking law as any other; but even there, in some instances, they come the dodge

of practical inconvertibility, by locating their banks in the wilderness, at points existing only in the bankers' imagination; or, if having a real existence, to reach them would be attended with as much difficulty and danger as an exploration of Central Africa.

My friend from Illinois [Mr. Kellogg] has given notice of a bill to allow the sub-Treasury and United States Mint to receive deposits, and to issue for purposes of circulation certificates therefor. At this moment it does not strike me with much favor; and I fear, if once adopted, it would lead to complications on the part of the Government that would be fatal to its well-being; but without prejudging the proposition, I shall wait patiently to hear what may be said in its favor.

Mr. ANDERSON obtained the floor; but he yielded to

Mr. SMITH, of Virginia, who moved that the committee rise.

Mr. PHELPS. If the gentleman will withdraw the motion to rise, I will suggest that, by unanimous consent, other gentlemen who wish to speak this evening can do so without depriving my colleague of the right to the floor in the morning.

Mr. SMITH, of Virginia. I will withdraw the motion, if that be considered the general understanding.

There was no objection to the suggestion of Mr. PHELPS, and the motion to rise was withdrawn.

Mr. GRANGER obtained the floor.

Mr. FLORENCE. Will the gentleman yield to me for a personal explanation?

Mr. GRANGER. I cannot.

Mr. FLORENCE. I am sorry for it.

Mr. GRANGER. The Administration is alarmed at its financial condition. It has reason to be alarmed. By extravagance and folly our expenses have run up to eighty or ninety millions a year, while our revenue has run down to twenty-five or thirty. The President has one part of the Army in the Rocky Mountains, blockaded by snow and the Mormons; another playing second fiddle to slavery in Kansas; and the remainder fighting for glory with Billy Bowlegs. And now, sir, four regiments more are called for. When I vote any more men to such a commander, I reckon my constituents will find it out.

Sir, the Government is in trouble, and so are the people. The President, in his message, says:

"We find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, thousands of useful laborers thrown out of employment and reduced to want, and our financial condition deplorable."

Sir, the country is suffering with great pecuniary distress. Bankruptcy everywhere prevails, and the people are struggling with hard times. At the commencement of the session many an anxious eye sought the President's message for some tokens of relief. The message came and went, and not a ray of hope from that quarter. Pointing to the State banks as though they were the source of all the trouble, the President advises "that no State banks should be chartered unless restricted in their issues of paper to the amount of specie in their vaults," saying:

"All other restrictions are comparatively vain; and nothing else could effectually regulate the currency."

And before he leaves the subject, cautions the sovereign States to compel their banks to keep on hand at least one third of the amount of their issues and deposits in coin—just having told them that "that amount would be vain and entirely inadequate to regulate the currency."

Now, the country looks to us for aid; and shall it look in vain?

There is a cause for all this trouble, and there is a remedy, and that remedy is with the majority of this House.

I ask, then, is there any measure of relief to be proposed? If there is, I trust the minority will find no obstacles in the way, no factious opposition, but will cheerfully cooperate in any measure of relief. The Democratic party, by its mistaken policy, has made the mischief—has caused this financial revulsion and wide-spread misery. It was the repeal of the protective tariff of 1842 and the substitution of the revenue or free-trade tariff of 1846 that did it. It was done without reason, against the light of experience, and in disregard of the voice of the nation as clearly expressed in the election of 1840.

If there was any other cause for the repeal of

the tariff of 1842 than that it was a *Whig* measure, I have it yet to learn. The principle of protection was discarded. Yes, sir, the principle and policy of fostering the industry and labor of the country were denounced and rejected.

With this change of tariff we began to purchase more abroad and manufacture less at home.

The balance scale settled down against us, and the debt to England began to pile up, till it has reached the enormous amount of \$500,000,000, and we are all but vassals to the Bank of England.

It holds the rod over us, and can apply it when it pleases, and will do it as interest or pleasure shall dictate.

Whoever thinks that we can have prosperous times, without a good, safe, mixed paper and specie currency, or can have strong, useful banks, with such a foreign debt hanging over us, is mistaken.

A foreign debt that calls for half the gold we dig to pay the interest, mightily dilutes our independence.

The debt must be canceled, and nothing but a return to a steady, unwavering system of home protection can do it.

Vain of that policy we import \$20,000,000 worth of woollens a year, every yard of which should be made here, and the money kept at home—while it is said we have not a single broadcloth factory in motion.

One hundred and twenty million pounds of imported wool is brought here for us to wear, which our own hill-sides and prairies could as well produce, and our farmers have the pay for it.

Nineteen million dollars in steel, railroad, and other iron, is made for us in foreign lands, by foreign hands, while our own iron-works are still, and our workmen idle and begging for employment.

Sir, our own home-grown cotton must be toted off to England for her to spin and send back for us to pay for at ten times the price she gave us for it; and this is what is falsely called *free trade*.

For this deceptive, starving, wretched policy the laboring man is decoyed to vote the Democratic ticket.

Sir, the single article of iron for a single year, had it been made here, as it might have been, and should have been, and would have been under the tariff of 1842, would not only have kept the money here, but it would have furnished employment for fifty thousand men, and have made comfortable three hundred thousand women and children, and they, in turn, would have made a home market for the farmer equal to the whole amount sold Great Britain.

Sir, it is for the party who, for good or evil, rule the country, to retrace their steps and allow this road to ruin to be trod no longer. What has been already lost cannot be restored. The wounds may be healed, but the scars will remain.

Sir, there is a way to relieve the country, and there is but one way; and that way is plain before you, and truth and experience point you to it.

It is a tariff for protection and revenue incidental.

A protective tariff never lacks revenue.

It was the protective tariffs of 1824 and 1828 that enabled President Jackson to pay off the war debt of the Revolution, principal, and interest, \$100,000,000.

Sir, protection was then a measure of the Democratic party. Then, sir, there was a Democratic party.

The highest of all protective tariffs, that of 1828 was matured and reported by the distinguished Democratic leader, Silas Wright, and sustained by Calhoun and that party, South and North.

Then it was right to look out for number one.

Then it was right to find for ourselves first.

Then it was Democratic to sustain, by legislation, the great industrial interests of the whole country, and to give our own manufactures, mechanics, farmers, and laboring men, a shade of advantage in our own markets over the workmen of foreign countries.

Then it was that Andrew Jackson said: "Place your manufacturers by the side of your farmers, and you cover your country with blessings."

Sir, there was never a more statesmanlike sentiment uttered.

It was as true as the Bible then, and it is as true as the Bible now.

But if you will not do it, give us out and out free trade.

If protection is wrong, free trade is right.

Down with your custom-houses, and save the \$3,000,000 a year, the cost of stealings and collection, and support Government by direct taxation, and let every one pay according to his property.

If protection is not right, and nothing is wanted of a tariff but to raise means to carry on the Government, then clearly there should be no tariff at all; for, as it now is, four fifths of the expense of supporting Government is drawn from the pockets of the poor and middle classes—the laborer and the mechanic—

While the *property* of the rich goes free, and pays nothing at all.

Suppose, then, we have free trade, and try it. If you believe what you say, why do you hesitate?

Don't be afraid to take your own pills.

If they give you the gripes, grin and bear it.

We expect to suffer with you, and misery loves company.

Sir, I tell you nay.

But you have the power, and do as you like.

Ay, and you have the responsibility, also.

Remember, there is a muckle day coming—1860 may be as 1840, and more abundant.

Sir, the party that struck down protection of the labor of our own country legislated for others. Will they not now change their course, and stand by American interests, and

Let Great Britain take care of herself?

When the balance of trade is against us, and of course a drain of specie, our banks are on the lookout, and of course will curtail, and consequently the business of the country must suffer.

They are now doing it, and are forced to do it. It is an act of self-defense and they are doing right.

The policy of protection is as necessary to the health and usefulness of the currency as it is to the prosperity of the people.

Neither the one nor the other can prosper without it, but are mutually dependent on it and on each other.

No Executive homœopathy can do a particle of good. The disease is too deep-seated.

There is but one great grand remedy for our pecuniary and financial troubles, and that is to return to a steady unwavering system of home protection.

Not as a temporary or party measure, but as the settled policy of the country.

A policy that while it makes us prosperous and happy, it secures our independence.

It would amply provide for the expense of Government—render us independent of foreign countries—keep good a basis for the banking system of the States, and thus favorably visit every house and hamlet, and, as Jackson said, “cover the country with blessings.”

We have another source of specie accumulation peculiar to ourselves, one that no other country has.

We receive by immigrants about twenty million dollars a year, and that with the \$50,000,000 dug from our own mines, and a well arranged tariff to keep it here and even add to it, we would at no distant day become the head money country of the world. Then, sir, we would have specie enough for a firm, solid basis for a paper currency, and a public credit throughout the world of higher value than gold itself.

Then, sir, we should use paper money as a matter of convenience only and not of necessity.

The tariff of 1828 in four years increased our specie \$30,000,000, and with the low tariff that followed we lost it again. With the model tariff of 1842, gold again returned. The banks grew strong and useful; the people were never doing better, and the whole country prospered beyond comparison. Unfortunately the tariff of 1842 was repealed, and with it went the balance of trade, the balance of specie, and we have got for it in return *revulsion, great pecuniary distress, a crushing foreign debt, a bankrupt Treasury, and an Administration flourishing its paper money.*

Sir, the so-called Democratic party was in error. They were mistaken. They turned a screw the wrong way and deranged the whole machinery, and everything is out of fix.

They now have the advantage of experience and have the power to correct their error, and they alone can do it.

Sir, if they will do it, and if that party will cease its continued and desperate efforts to force

slavery on Kansas against her will—“withdraw its legions and restore that Commonwealth to liberty”—*agitation* will cease and *peace and prosperity* will be restored to the whole country. Sir, in the name of a suffering country, with all due respect, I ask them to do it.

Mr. BINGHAM. Mr. Chairman, it is not my purpose to say anything of the neutrality act of 1818. Enough has been said in this debate, both on this side of the House and upon that, in vindication of that law. Enough also has been said of General William Walker and his raid upon Nicaragua. Enough, and more than enough, sir, has been said in denunciation of the gallant Paulding for his fidelity to duty in arresting this culprit and refugee from justice, and sending him back to answer to the violated laws of his country. The President, sir, has pressed upon the consideration of this House a question of graver significance, of mightier import, a question which concerns the honor and the life of the nation—a question which to-day challenges the profound attention of the whole people of this country—a question upon which, if the official organ of the President is to be credited, this House will soon be required to pronounce its final decision. It is useless to waste the time of the House in demonstrating the position of the President upon this great question. The President and his party not only indorse the Lecompton constitution, but by argument, by entreaty, and by threat, seek to induce Congress to indorse it, and thereby give to it the sanction and the force of law. That journal which is said to be in the favor of the Executive and to reflect his opinions, has told us recently that the question of the adoption or rejection of this Lecompton constitution will be a question between *law and faction*. I think, sir, it would have been more accurate to have said it is a question between Executive despotism and popular liberty.

I do not recognize the right of the Executive to dictate to this House the manner in which it shall discharge its official duty. It is his province to give to Congress information of the state of the Union, and to recommend to its consideration such measures of public policy as he may deem just and proper, but not to control its legislation.

I trust that no member of this body will be influenced in the discharge of his official duties here, and more especially in the discharge of that duty which he owes to himself and his country in the settlement of this great question, by any consideration other than his sense of right and justice. For myself, I am free to say, that notwithstanding the President's solicitude in this behalf; notwithstanding the reported announcement by a distinguished Senator that if Congress reject this slave constitution, his State will secede from the Union; notwithstanding the clamor of the party of the President here and elsewhere; I cannot and will not give my sanction to this Lecompton constitution. This instrument does not emanate from the people of Kansas. It is not their will. Its provisions are in direct conflict with the Constitution of the United States, and with the principles of eternal justice.

It is conceded, it cannot be denied, that the reason why the convention which framed this instrument refused to submit it to the people for their approval or rejection, was that the people would have voted it down. The proposition, the monstrous proposition, is now made by the President, and by gentlemen on this floor, to establish this instrument as the constitution of Kansas by act of Congress, and against the will of the people of that Territory. Sir, it is the first time in the history of the Republic that the attempt has been made to establish, by Federal authority, a State constitution and government against the will of the people, and without their consent. State constitutions have been formed, and sent to Congress for ratification, without any formal submission thereof to the popular vote; but it was only in cases where the people, beyond all question, made the constitution, by their legally-appointed delegates. This has not been done in Kansas. No delegates have been legally chosen there; nor have any delegates been chosen there at all by the great body of the people.

The delegates who framed this instrument were chosen by a body of men not equal in number to one fourth the whole number of qualified voters in Kansas; and by virtue of an election law passed

by usurpers. The constitution thus framed is the joint product of local and Federal usurpation. Let him deny this who can, or who dare. But for Federal intervention the Missouri invasion of Kansas would not have resulted in the election of the first Legislature in that Territory, and in the enactment by that body of a code of laws, so atrocious and unjust, that no man can, or dare approve it. But for Federal intervention the delegates to the Lecompton convention would not have been chosen! But for Federal intervention and the presence of Federal bayonets at Lecompton those delegates would not have thus conspired against the liberties, and insulted the majesty of the people. Now that this act of infamy has been done; now that the rights of the people have been cloven down; now that popular sovereignty in that Territory has been strangled; or, as a distinguished Administration Senator is reported to have said, *throttled* by the hands of the Federal Executive; we are blandly told to affirm this great crime against popular rights for the sake of the Union, or to use the President's very expressive words, “for the peace and quiet of the whole country.” Sir, it is not the first time that acts of tyranny have been dignified with the title of peace measures. The invader has before now destroyed the vintage, enslaved the people, plundered and burned their habitations, and called the desolation which followed in the train of his conquest, *peace*!

We were assured the other day by the Court Journal, that “all is quiet in Kansas.” Sir, if there be quiet in that distant Territory, it is not the quiet of contentment, it is not the calm repose of a people secure in their rights and happy in the enjoyment of them; it is the fitful lull which precedes the storm. Look to it, ye wardens of the Union and the Constitution, that by your act the freemen of Kansas are not driven to that point at which forbearance ceases to be a virtue, nay, becomes a crime, and submission the basest cowardice and treason. I was pained, sir, to hear the gentleman from Arkansas [Mr. WARNER] say in this debate “that the people of Kansas had not the manliness to assert and defend their rights as freemen, and to form their own government,” and yet he was ready “to vote now to admit the State of Kansas under the Lecompton constitution.” The first of these assertions, sir, whether so intended or not, is, in my judgment, a calumny upon that injured people, and the last is a concession that the constitution which that gentleman is ready to vote for and sanction was not formed by the people of Kansas.

While I thank the gentleman for this honest concession that the Lecompton constitution was not framed by the people, I beg leave to say to him, and to all who think with him upon this floor, that, notwithstanding his assertion of their want of manliness; notwithstanding he questions their valor, Kansas is peopled with freemen who know their rights, and knowing, dare maintain them. They have the fortitude to endure; they have the courage to dare; they have learned wisdom in the lair of oppression; and to-day, by their defiant attitude, bear witness, that the fires of persecution through which they have walked, are not wholly impotent for good, but may elevate and purify as well as consume. I say, as did the gentleman from Georgia, [Mr. GARTRELL,] who addressed the House this morning, “I am no alarmist.” I would scorn to invoke any man's fears; I would scorn to appeal to any man's prejudices; I would scorn to anticipate consequences, however imminent or perilous, by way of apology, or colorable apology, for infidelity to duty. I say it deliberately, as the conviction of my mind, that our oaths and our honor, and the peace and prosperity of our whole country, alike demand that, as Representatives of the American people, we should, careless of all consequences, spurn this Lecompton constitution from us. An honest man fears no act of his life so much as duty unperformed, or wrong purposely committed. I repeat it: look to it, ye Representatives of the people, ye men who keep ward and watch over the Constitution and the Union, that the freemen of Kansas are not, by your act, driven to the dread election of submission and dishonor, or resistance unto blood. I tell you, notwithstanding their alleged want of manliness, Kansas has hosts of citizens, good men and true, who will never stoop to be your abject slaves—

“While heaven has light or earth has graves!”

Sanction this constitution, conceived in sin and brought forth in iniquity, and you can only maintain it by the Federal arm and the Federal bayonet; it can never receive the voluntary support of a free people. Sanction this constitution, and with it sanction, as it sanctions, that code of abominations which the invaders of Kansas enacted, and you compel resistance. Resistance to such legislation would be duty, not crime; patriotism, not treason. The resisters, or insurgents, or REBELS if you please, could point you, in vindication of their rebellion, to the fact that the history of Federal intervention in Kansas, ever since the day of its organization, is but a history of repeated injuries and usurpations.

In vindication of their rebellion, they could point you to the fact, that by your organic act you solemnly pledged the nation's faith that the people of Kansas "should be perfectly free to FORM and REGULATE their domestic institutions in their own way, subject only to the Constitution of the United States." In vindication of that rebellion they could point you to the glowing words of the great Declaration, that "all men are created equal, and endowed by their Creator with the rights of life and liberty;" and that to secure these rights, "governments are instituted amongst men, deriving their just powers FROM THE CONSENT OF THE GOVERNED." These words of the Declaration still live; like the words of Luther, they are half battles; they possess vitality; they were accredited in the day of our nation's peril as the law and the voice of God; to-day they announce the great right of self-government, upon which rests the beautiful fabric of our free institutions. Let the wronged men of Kansas, in protest against your proposed act of tyranny—your violation of their natural and guaranteed right of self-government—but appeal to the whole people of America in the living and immortal words of the Declaration, and their appeal will not be made in vain; it will stir the American heart like the blast of a trumpet.

Mr. CLEMENS. Will the gentleman from Ohio allow me to ask him a question?

Mr. BINGHAM. Yes, sir.

Mr. CLEMENS. You have cited the language of the Declaration of Independence, that all Governments derive their just power from the consent of the governed. Will you be kind enough to tell me whether, according to the popular system of government, the people can act except under law and by law, or whether there is any such thing, so far as the sovereignty of the people is concerned, as acting except in consonance and conformity with the existing law?

Mr. BINGHAM. I have not claimed anything else than that; therefore the gentleman might as well have saved himself the trouble of presenting such a question for my consideration. But I would like to ask the gentleman from Virginia if he undertakes to say that this Kansas code, called a code of laws, and which this Lecompton constitution expressly indorses, is law? Will the gentleman be so good as to answer that?

Mr. CLEMENS. Who is to decide that question? Is it the people of Kansas?

Mr. BINGHAM. I will tell the gentleman who is to decide that question. We are to decide it, sir; and that gentleman, in common with all of us, is bound by his oath to decide it.

Mr. CLEMENS. Very well. I admit that. I come to another question.

Mr. BINGHAM. I only gave way to the gentleman to ask me one question, and not to occupy my time. He will please excuse me. When I get through I will, if the committee please, answer him till sundown.

Sir, the great right of self-government cannot now be set aside by the puerile conceits of demagogues, whether embodied in a President's message or an instrument framed by conspirators. The Lecompton constitution directly contravenes this right of self-government, and proposes to legalize forever the violation of life and liberty and property, and to establish a government, armed with this fatal power, against the consent of the governed. What colorable apology can be made for this criminal conspiracy against the rights of mankind—for this attempt to repudiate the vital element of American institutions? Surely none can be found in the assertion of the President, that "the requirement to submit the whole constitution to the people was not inserted in the Kansas-Nebraska act;" and "the convention was not

bound by its terms to submit any other portion of the instrument to an election except that which relates to the domestic institution of slavery." This is most remarkable language for the Chief Magistrate of the American Republic. The requirement to submit the whole constitution to the people was not inserted in the organic act of Kansas; therefore the convention of delegates, the people's servants, are not bound to submit the constitution which they have framed to their masters for their approval or disapproval! Is the servant greater than his lord—the creature greater than his creator? What are these delegates but the servants of the people? What powers or rights have they not delegated by the people? The right to frame a State constitution is inherent in the people, and is inalienable. It was well said, on a memorable occasion, by a distinguished Senator, then representing, with preëminent ability, the State of Missouri:

"Conventions [to form State constitutions] were original acts of the people. They depended upon inherent and inalienable rights. The people of any State may, at any time, meet in convention, without a law of their Legislature, and without any provision or against any provision of their constitution, and may alter or abolish their whole frame of government. The sovereign power to govern themselves was in the majority, and they could not be divested of it."—*Congressional Debates*, volume 12, p. 1635.

Mr. CLEMENS. Who said that?

Mr. BINGHAM. Mr. Benton.

Mr. GROW. President Buchanan held the same.

Mr. BINGHAM. That is true; and I shall notice that hereafter. That was Democratic doctrine in 1836, when Michigan applied to be admitted into the Union. Then, sir, the people might make a State constitution without a territorial law, or against a territorial law, because the validity of the act depended not upon any existing statute, but upon the inherent right of the people—their great right of self-government, of which they could not be divested. If the words of the message, just cited, mean anything, they do mean that the people have not the inherent right of self-government; that their right to reject a constitution, framed by their delegates, depends upon a requirement in the organic act binding their delegates to submit the whole constitution to the people, and that all their rights in the premises exist only by virtue of Federal grant. This surely repeals the very words of the organic act of Kansas, which declares that "the people of the Territory shall be left perfectly free to form and regulate their domestic institutions in their own way." They shall be left to form all their domestic institutions, not merely the "institution of slavery," as the President says, but all their local and State institutions. The organic act, by its words, simply affirms the right of self-government to be in the people; it does not profess to confer any such right. A man not yet out of the horn-book upon the law of construction, ought to know that this organic Kansas act does not profess to, and does not, in fact, grant the people the power to form their own domestic institutions, when its language is that it leaves the people, as it found the people, perfectly free, by virtue of their own inherent right, to form their domestic institutions in their own way, subject only to the Constitution of the United States.

The gentleman from Mississippi [Mr. LAMAR] following the assumption of the President, insisted that the organic act of Kansas was an enabling act. With all due respect for that gentleman, and with as much respect for the President as he permits me to entertain for him, I beg leave to say that the assertion, that the organic act of Kansas is an enabling act, is an after-thought. The President's party was not of that mind during the Thirty-Fourth Congress, when they clamored, from the Penobscot to the Pacific, for the passage by the House of their enabling Kansas act, which passed the Senate, known as the Toombs bill. No, sir, the organic act of Kansas is not, nor was it intended to be, an enabling act. Nor do I deem it necessary that there should be an enabling act. The Twenty-Fourth Congress, by a most decisive vote, so decided; and amongst those of that Congress who so declared, both by speech and vote, the present Chief Magistrate Mr. Buchanan, was conspicuous. Pending the question for the admission of Michigan upon a constitution made by the people, without any act

of Congress or territorial act authorizing it, Mr. Buchanan spoke as follows:

"The precedent in the case of Tennessee has completely silenced all opposition in regard to the necessity of a previous act of Congress to enable the people of Michigan to form a State constitution. It now seems to be conceded that our subsequent approbation is equivalent to our previous action. This can no longer be doubted. We have the unquestionable power of waiving any irregularities in the mode of framing the constitution, had any such existed."

"He did hope that by this bill all objections would be removed; and that this State, so ready to rush into our arms, would not be repulsed, because of the absence of some formalities which perhaps were very proper, but certainly not indispensable."—*12 Congressional Debates*, pp. 1041, 1042.

It is no answer to say that the question in the case of Michigan was not, as in the case of Kansas, whether the people had the right to pass upon the constitution before Congress should approve it, and admit the State under it. The question in the case of Michigan included this and more; the question there was, whether the people, of their own motion, and without the aid of a statute, national or territorial, could make a constitution preparatory to admission into the Union, which Congress could receive and approve; and it was solemnly, and by the votes of more than three fourths of the Twenty-Fourth Congress, decided they could—that the action of the people without an enabling act was an informality which Congress could waive, and in that case did waive. It is indisputably true that the people of the Territory may themselves waive the formal ratification of the constitution, after their delegates shall have framed it; and in such case may well be held bound by the acts of their agents. But in this instance, the people of Kansas have not so waived their right. I know that it has been assumed in debate here by the gentleman from Mississippi, [Mr. LAMAR], and that the message of the President proceeds upon the same assumption, that the Lecompton convention was a legally constituted body, and that the legal presumption is, that what they have done has been lawfully done, and is the will and act of the people of Kansas, whose agents they were.

Sir, nothing can be clearer than that the Lecompton convention was not a legally constituted body; that the Legislature which enacted the statute by which the members of said convention were elected, was itself an illegal body, fraudulently chosen; and that their statute was not so executed, even if it had been valid, as to give legal effect to the election held under it.

But, admitting the assumption of the President and his especial advocates on this floor to be true, that the Lecompton convention was a lawfully constituted body: the legal presumption that their act is the act of the people of Kansas, cannot stand before the admitted and known fact, that a very large majority of the people of Kansas wholly repudiate the convention and the constitution presented by it, and are to-day ready to take up arms in resistance of it, and of any government which may be established under it.

There is, there can be, no presumption, either legal or natural, contrary to known and admitted facts. I say, therefore, admitting the President to be right in assuming the legality of the Lecompton convention, his asserted legal presumption against known facts cannot be gravely entertained, and must be scouted by every well informed man, as the veriest quibble, in aid of the most desperate cause. Despite this quibble and the force of this legal presumption, it must be conceded, it cannot be gainsayed, that the delegates who formed the Lecompton constitution, were not chosen by the majority, but, on the contrary, by a very small minority of the people of Kansas; and that it is as well known as the fact that this constitution was made by the delegates thus chosen, that it has been, and is now, emphatically repudiated and condemned by an overwhelming majority of all the people of Kansas. And yet, in the face of this fact, patent to all men, the President and his party on this floor demand that Congress shall fasten this repudiated instrument upon the people of Kansas as their legitimate act, and thereby coerce them to acquiesce in it and accept it as the expression of their will. You call this popular sovereignty; I call it Federal usurpation and Federal despotism; and before I give this proposed act of Federal tyranny my voluntary sanction, either by word or vote, may my right hand forget its cunning and my tongue cleave to the roof of my mouth.

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But, sir, it is asserted by the President that "the question has been fairly and explicitly referred, (by the schedule of this instrument,) to the people, whether they will have a constitution with or without slavery." With all due deference I submit that the very contrary of this is the truth, and is so clearly expressed on the face of the constitution as to silence all controversy. The seventh section of the schedule contains the provision for the submission of the question of slavery, and the only provision; it is as follows:

"[7.] Sec. 7. That this constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State Legislature at the seat of government within thirty-one days after publication. Should any vacancy occur by death, resignation, or otherwise, in the Legislature or other office, he shall order an election to fill such vacancy: *Provided, however,* In case of refusal, absence, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties; and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention. [11.] Before this constitution shall be sent to Congress for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory for approval or disapproval, as follows: The president of this convention shall, by proclamation, declare that on the 21st day of December, 1857, at the different election precincts now established by law, or which may be established as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The president of this convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened at such places as they may deem proper in their respective counties; at which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks by them appointed. The ballots cast at said election shall be indorsed, 'Constitution with slavery,' or 'Constitution with no slavery.' One of said poll-books shall be returned within eight days to the president of this convention, and the other shall be retained by the judges of election, and kept open for inspection. The president, with two or more members of this convention, shall examine said poll-books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the 'constitution with slavery,' he shall immediately have the same transmitted to the Congress of the United States as hereinbefore provided. But if, upon such examination of said poll-books it shall appear that a majority of the legal votes cast at said election be in favor of the 'constitution with no slavery,' then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, (except that the right of property in slaves now in this Territory shall in no manner be interfered with,) and shall have transmitted the constitution so ratified to the Congress of the United States as hereinbefore provided. In case of the failure of the president of this convention to perform the duties imposed upon him in the foregoing section by reason of death, resignation, or otherwise, the same duties shall devolve upon the president *pro tempore*."

Can it be said that this is a fair submission to the people whether they will have a constitution with or without slavery? I do no more than call attention to the extraordinary and *unfair* provision that the president of the Lecompton convention, Mr. Calhoun, is to appoint three commissioners in each county; which three commissioners shall appoint three judges of election in the several precincts of their respective counties; and shall also establish precincts for voting, and cause polls to be opened at *such places* as they may deem proper in their respective counties; the result to be determined by Mr. Calhoun and two other members of the convention. A marvelously fair provision for an election, to provide that one of fifty usurpers shall, by his agents, open the polls and conduct the election in such manner and at such places as he shall deem proper! and, finally, with two of his co-conspirators, determine the result. A complete device this for the successful reenactment of election frauds, without a parallel save in the recent elections in Kansas, held under the same bogus laws which sanctioned this convention. Still more clearly does it appear that the

question is not fairly referred to the people, whether they will have a constitution with or without slavery, by the last clause of the seventh section, which is, that although the majority shall vote "constitution with no slavery," "the right of property in slaves now in the Territory shall in no manner be interfered with." And to make sure of this, the ninth section of the schedule provides:

"Sec. 9. Any person offering to vote at the aforesaid election upon said constitution shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution, if adopted, under the penalties of perjury under the territorial laws."

And to the same effect is the fourteenth section, which provides:

"Sec. 14. That after the year one thousand eight hundred and sixty-four, whenever the Legislature shall think it necessary to amend, alter, and change this constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each House concurring, to vote for or against calling a convention; and if it appears that a majority of all the citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors, that chose the representatives. Said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

A fair submission of the question whether they will have a constitution with or without slavery! It is no submission of the constitution at all. In no event are the people, or any one of them, permitted to vote against the constitution; they can only vote for the constitution with slavery. This is plain; for it is provided if the people should all vote for the constitution with no slavery, yet the right of property in slaves now in the Territory shall in no manner be interfered with; and the only effect, therefore, of such a vote, would be to cut off that provision of the instrument which provides for the further importation of slaves into the State. The only question, then, that is submitted to the people is, whether they will prohibit the increase of their slave population by future importations; and before they are permitted to exercise even this privilege, they must, if challenged, submit to the humiliating requirement of taking an oath—a test oath of fealty to their masters and to their masters' work, to wit: that they will support this constitution, if adopted. As I have said, its adoption is made sure, for no one can vote against it; all must vote for it, or not vote at all. And as if to add to the humiliation and sharpen the sting of the indignities thus heaped upon this invaded province of Kansas, the President, with "smooth dissimulation," speaking of the election provided for in the seventh section of the schedule, to be held 21st of last December, says:

"At this election every citizen will have an opportunity of expressing his opinion by his vote 'whether Kansas shall be received into the Union, with or without slavery.' The election will be held under legitimate authority; and if any portion of the inhabitants shall refuse to vote, a fair opportunity to do so having been presented, this will be their own voluntary act, and they alone will be responsible for the consequences."

Is it mere partisan heat and partisan zeal, or is it the reckless arrogance of power that prompts the President thus to speak; thus to falsify the record; thus to insult an outraged people? A legitimate election and a fair opportunity to vote! A dictator determines and chooses the places and the officers of the election, and, with two of his co-conspirators, the result of the election; the people can vote only for the constitution, framed and presented to them by these conspirators. They must, if required, swear, upon the pains and penalties of perjury, to support that constitution when adopted, and by its terms are restricted, and shall in no event be permitted, by alteration or amendment of their fundamental law, "to affect the rights of property in the ownership of slaves." With the shadow of this great calamity upon them, shedding its dubious twilight over all their habitations, threatening the inauguration in their midst of that anarchy which is fearful in energy and atheistical in creed, frightening their pale-faced villages with war, and profaning their temples and

shrines with the blood of murder; they are mocked with the infamous and gratuitous counsel of submission. Submit, submit, says the President, and vote, now that you have a fair opportunity, for this constitution, framed by usurpers and tyrants, or be yourselves "alone responsible for the consequences."

Responsible, sir, for what consequences? For the consequences of refusing to submit to Federal dictation and Federal usurpation—the consequences of provoking, by this act of disobedience, the power of that vengeance which slumbers in the arm of the Federal Executive. The threat is as weak as it is wicked. The millions of the populous North would revolt against the attempt of the Federal Government to arrogate to itself the power expressly reserved to the people—the power to form their own local and State institutions. The President himself confesses, that the people of Kansas are allowed only to vote for this constitution; and that, although they should all vote for it with no slavery, they must, nevertheless, have it *with* slavery, and must support it with slavery; and to excuse this atrocious invasion of the people's rights, the President says:

"Should the constitution without slavery be adopted by the votes of the majority, the rights of property in slaves now in the Territory are reserved. The number of these is very small; but if it were greater, the provision would be equally just and reasonable. These slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country; and this upon the plain principle that when a confederacy of sovereign States acquire a new Territory at their joint expense, both equality and justice demand that the citizens of one and all of them shall have the right to take into it whatsoever is recognized as property by the common Constitution."

A most humiliating confession, should the people adopt the constitution without slavery, the rights of property in slaves now in the Territory are reserved, and therefore they have a constitution with slavery; and this we are told by the President "is just and reasonable," because "these slaves were brought into the Territory under the Constitution of the United States," and "are now the property of their masters." It only remains for the President to say that the people of Kansas are now the property of their masters. In another communication the President has told the country "that slavery existed in Kansas under the Constitution of the United States;" and now he says "this point has been decided by the highest judicial tribunal;" and yet he says, as if he were demoted, "the question has been fairly and expressly referred to the people whether they will have a constitution with or without slavery," and every citizen may express, by his vote, whether Kansas shall be received into the Union with or without slavery. Surely this cannot be if slavery is in Kansas under and by virtue of the Constitution of the United States. Why talk of submitting it to the people when slavery is there, not by force of their will, but by force of the Constitution of the United States? Why talk of the people of a Territory excluding that which the Constitution of the United States sanctions and upholds? Can the people of Kansas repeal, by a vote, or otherwise, the Constitution of the United States?

Is it not written on the face of that instrument, "this Constitution shall be the supreme law of the land, the constitution and laws of any State to the contrary notwithstanding?" If, therefore, men are *property* under the Constitution of the United States, and by virtue thereof held as property in the Territory of Kansas, it is in vain, and a mockery, to talk of the right of the people of that Territory to exclude slavery therefrom, or to establish a State constitution without slavery; and hence the conclusion of the President upon this hypothesis is logically and severely true—that although the majority of the people of Kansas adopt a constitution without slavery, slavery nevertheless continues in their Territory, and under their constitution so adopted. And to this complexion has it come at last—that in Kansas it is just and reasonable that the people thereof shall

be permitted to vote only for the constitution framed and submitted to them by usurpers, and only for a constitution with slavery. And this is popular sovereignty under Democratic rule! I shall not join in this libel upon the Constitution of my country, that slavery exists in Kansas or anywhere else under, or by virtue of, that sacred instrument. I know that one of its immortal authors, sometimes called the Father of the Constitution, said "that it would be wrong to admit in the Constitution that there could be property in men." I know that he who sleeps in his quiet tomb on the banks of the beautiful Potomac—sometimes called the Father of his Country—has said that the Constitution "is perfectly free in its principles." I know that it declares upon its face that no person, whether white or black, shall be deprived of life, liberty, or property, but by due process of law; and that it was ordained by the people to establish justice! I know that by a law made under and pursuant to that Constitution, the traffic in men upon the high seas, under our flag, is a crime, and punishable with death. Can it be that this traffic, which, upon the seas, by the law of the Constitution, is a crime worthy of death, and punished with death, is upon land a right, a sacred right, sanctioned by the Constitution, and not to be restricted or interfered with by the fundamental law of any State in this Union? If this be so, tyrants may call the roll of their slaves on Bunker Hill, and upon the very grave which holds the hallowed dust of the first great martyr in the cause of our own American liberty.

Such, sir, is not the Constitution of the United States. That instrument guarantees liberty, not slavery; justice, not injustice; a republican Government resting upon the consent and upholding the inborn rights of the governed, not a despotism or an oligarchy fastened upon the people by brute force and upheld by brute force. The Constitution of the United States limits the sovereignty of the people in the formation of State constitutions to this extent, that their constitution must be republican, that it must not impair but sustain and secure the universal and inalienable rights of life, and liberty, and property. When the people of the Territories frame such constitutions, Congress may admit them into the Union. That Congress is the final arbiter on the question of the formation of new States within our Territories is clear, for unless the constitution framed by the people of a Territory be affirmed and approved by Congress, no State is organized, and the constitution so framed does not become law. Your Kansas-Nebraska act recognizes this principle to the fullest extent. It declares that the people of the Territory are left "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Who is to judge whether the institutions formed by the people of a Territory conform to the Constitution of the United States? Manifestly Congress, inasmuch as Congress alone can admit or reject the proposed State. It is the right of the people of a Territory to form a republican constitution, which in its provisions does not contravene natural justice or the supreme law of the land; and when they, having sufficient numbers to sustain a State government, do frame such a constitution, it is the duty of Congress to admit them under it into the Union. No higher or more important duty than the admission of new States into the Union is imposed upon the Congress of the United States. If, therefore, the Lecompton constitution had emanated from the people of Kansas; if it had been the expression of their will; if it had been republican and not inconsistent with or repugnant to the Constitution of the United States, it would have been clearly our duty to have approved it, and to have given to it the authority of law by admitting Kansas under it into the Union as a State.

I have already said, and it has been conceded on this floor, that this constitution does not emanate from the people of Kansas, and does not express their will. For that reason it is our duty to reject it; but if the whole people of Kansas had solemnly ratified and adopted this instrument, at either of their recent elections, I affirm that it would still be our duty to reject it. It would be our duty to reject it, because it contravenes the plainest principles of the Constitution of the United States; because it legalizes the wanton and contin-

ued violation of the rights of life and liberty and property; because it is a constitution not fit to be made, and such as no people or State can, of right, make; and because it is a constitution which could only originate in a base conspiracy against the liberties of the country, and the sacred rights of human nature. Consider this! What do we sanction by affirming this Lecompton constitution? First, the wild and guilty fantasy of property in man; the coarse and brutal atrocity of merchandise in human souls. The first section of the seventh article contains these words: "The right of property" * * * * "to a slave and its increase is" * * * * "before and higher than any constitutional sanction;" and, although the article itself had been rejected by the people at the election, yet its provision would still stand, and the right of property in slaves is held irrevocable.

The American Congress to sanction this! The American Congress to declare that the right to hold men, and women, and children, as property, and to sell them as chattels, is inviolable, and before and higher than any constitutional sanction!

I submit, if by any fiction you can convert a child into property, it is a fact before and higher than any human law or constitution that the property of the child is in its parents to the exclusion of the stranger. By enacting this Lecompton constitution, you would reverse this great fact of nature, or rather violate this right of nature, and declare it lawful to steal from the parent his child. If you will by law degrade one portion of the human family into chattels, for God's sake do not by law reduce another portion to the still lower level of thieves. After you shall have enacted your statute, will not the law of the stone table still stand, "Thou shalt not steal?" After you shall have enacted your statute declaring it lawful to send little children to the auction block for sale, will they not still be as sacred, whether an African or an Indian, a European or an American sun first burned upon them, as they were in that day when the Nazarene, whose intense holiness shed majesty over the manger and the straw, said: "Suffer little children to come unto me, and forbid them not, for of such is the kingdom of heaven?"

In keeping, sir, with the atrocious provision of the Lecompton constitution declaring property in man, is the further provision, which declares "that all FREEMEN, when they form a social compact, are equal in rights." By adopting this we are asked to say, that the self-evident truth of the Declaration that "ALL MEN ARE CREATED EQUAL," is a self-evident lie; a glittering generality; a rhetorical flourish, unconstitutional and undemocratic; that the self-evident truth now in these latter days is, that men are not created, but, like Topsy, they grow; and THEY are equal in rights only "when they are free and form a social compact." Allow me to ask the advocates and supporters of this Lecompton bill of rights—this new declaration of self-evident truths—what rights men have before they are free and form a social compact? Are they then, by endowment of their Creator, possessed of the rights of life and liberty? Or, outside of your social compact, is there an inferior class of human beings, "who," as the majority of the Supreme Court said in the Dred Scott decision, "have no RIGHTS or privileges but such as those who hold the power and Government, may choose to grant them?" This is the precise principle and avowal of this Lecompton constitution; and we, by affirming it, are only to become the avowed upholders of the stupendous lie, that one class of men have no rights which another are bound to respect; and hence, the partial and exclusive provision of the ninth section of the bill of rights of this instrument, which is—

"9th. That no freeman shall be taken, or imprisoned, or dispossessed of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land."

"NO FREEMAN:" the words of necessity import that any person not a freeman, any slave, any human chattel, may be taken and imprisoned, dispossessed of his freehold, liberties, and privileges, outlawed, exiled, and murdered, without the judgment of his peers, and without the protection of law. That this instrument may want in no provision of horrid cruelty, it is further therein provided, that "free negroes shall not be permitted to live in this State under any circumstances." Sir,

they are mere "visionary theorists" who suppose that this world was not made for Caesar, but for man—that it belongs only to the common Father of all, and is for the use and sustenance of all his children. We are to say, by our act of affirmance of this instrument, to certain human beings in the Territory of Kansas, though you were born in this Territory, and born of free parents, though you are a human being and no chattel, yet you are not free to live here upon your native heath; you must be dispossessed of your freehold liberties and privileges, without the judgment of your peers and without the protection of law. Though born here, you shall not, under any circumstances, be permitted to live here. You must suffer exile or death—you cannot and shall not live here. That sky which you first saw, and to which weary men look up for hope and consolation—that beautiful sky which bends above your humble home like the arms of beneficence clasping in its embrace the evil and the good, the just and the unjust—that sky was not made for you; you shall not live under it. This land, this goodly land, with its fertile fields, and quiet waters, and rustic homes, where you first learned to lisp the hallowed name of father, sister, brother, and where sleeps in humble hope the sacred dust of your poor dead mother—this land was not made for you; you shall not, under any circumstances, be permitted to live upon it; go hence, never more to return: that is our law. Representatives! will you give to this proposed atrocity your official sanction? Answer upon your oaths, to your conscience, to your country, and to your God!

[Here the hammer fell.]

Mr. DAVIS, of Mississippi, obtained the floor, but gave way to

Mr. BOCOCK, who moved that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WINSTON reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill making appropriations for the invalid and other pensions of the United States for the year ending June 30, 1859, and had come to no resolution thereon.

OMISSION IN ENROLLMENT.

Mr. FAULKNER. I ask the consent of the House to offer the following resolution:

Resolved, That the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill to supply the omission in the enrollment of a certain act therein named, with a view to put the same on its immediate passage.

Mr. JONES, of Tennessee. I object.

Mr. FAULKNER. I move to suspend the rules.

Mr. JONES, of Tennessee. I move that the House do now adjourn.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Patent Office, transmitting certain additional papers to be appended to the mechanical part of the Patent Office report; which was laid on the table, and ordered to be printed.

Also, a communication from the Secretary of the Interior, transmitting a copy of the report of J. Ross Browne on the Indian affairs of Washington and Oregon Territories.

Mr. QUITMAN. I move that the communication be referred to the Committee on Military Affairs, and be printed.

Mr. GREENWOOD. This communication, I suppose, is in response to a resolution emanating from the Committee on Indian Affairs. I suppose it should be referred to that committee.

Mr. QUITMAN. It is in response, I presume, to a resolution which came from the Committee on Military affairs.

Mr. GREENWOOD. The Committee on Indian Affairs presented a resolution calling for the information which is there communicated.

The SPEAKER. Will the gentleman from Arkansas inform the Chair on what day the resolution offered at the instance of the Committee on Indian Affairs was passed.

Mr. GREENWOOD. It was passed during the execution of the order of the House calling the States for bills and resolutions.

The SPEAKER. The Chair is informed by the Clerk that the resolution to which this is a response was adopted on the 15th, at the instance of the Committee on Indian Affairs.

The communication was thereupon referred to the Committee on Indian Affairs, and ordered to be printed.

The SPEAKER laid before the House a communication of like character, in response to a resolution of the House of the 19th instant; which was referred to the Committee on Military Affairs, and ordered to be printed.

The SPEAKER also laid before the House the following communications; which were disposed of as indicated below:

A communication from the Secretary of the Interior, communicating a letter from the Commissioner of Public Buildings, transmitting copies of all contracts entered into by him for the year 1857, as required by the House resolution of April, 1838. Laid on the table, and ordered to be printed.

A communication from the Treasury Department, asking an appropriation for deficiencies for surveying the public lands, in connection with the private land claims in California. Referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the Treasury Department, asking an appropriation for the deficiencies in the appropriations made at the last session of Congress for the erection of stables and a conservatory for the President's House. Referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the Treasury Department, asking an appropriation for deficiencies in the appropriations for the Post Office Department. Referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the Treasury Department, in answer to the resolution of the House of the 18th instant, transmitting the information called for, relative to the estimates necessary to complete the harbors of Delaware river. Referred to the Committee on Commerce, and ordered to be printed.

A communication from the War Department, in answer to the resolution of the House of 15th January, 1858, calling for the report of the commissioners appointed to ascertain and report upon the war claims in Washington and Oregon Territories. Referred to the Committee on Military Affairs, and ordered to be printed.

A communication from the War Department, containing statements of the appropriations applicable to the War Department, during the years 1856 and 1857, the amount drawn by requisition, the balance due on the 1st of July, 1857, and such of the appropriations as have been carried to the surplus fund. Laid on the table, and ordered to be printed.

A communication from the First Assistant Postmaster General, transmitting copies of contracts for the transportation of the United States mail to foreign countries; also, tabular statements of the accounts of postages derived from the mail transported as aforesaid. Referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

STENOGRAPHER TO SELECT COMMITTEE.

The question then recurred on the motion to adjourn.

Mr. STANTON. I ask the gentleman from Tennessee to withdraw the motion to adjourn, to permit me to offer a resolution authorizing the select committee of investigation into charges connected with disbursement of money of Lawrence, Stone & Co., to appoint a stenographer.

Mr. JONES, of Tennessee. I cannot withdraw the motion; if I do the motion of the gentleman from Virginia [Mr. FAULKNER] first comes up.

Mr. STANTON. Then I hope the House will vote down the motion. I cannot present the resolution, except by unanimous consent, on any other day.

The motion to adjourn was not agreed to.

OMISSION IN ENROLLMENT.

The question recurred on the motion of Mr. FAULKNER to suspend the rules.

Mr. STANTON. I now ask unanimous consent to offer my resolution.

Mr. JONES, of Tennessee. I wish to know what is the first business in order?

The SPEAKER. The motion of the gentleman from Virginia to suspend the rules.

Mr. HUGHES. I desire to offer an amendment to the resolution of the gentleman from Ohio authorizing the select committee of investigation into the conduct of the late Doorkeeper, to employ a stenographer.

Mr. JONES, of Tennessee. I demand the regular order of business.

Mr. STANTON. I understand the gentleman from Virginia does not desire a vote upon his bill to-day, if it can come up next Monday.

Mr. FAULKNER. If I can be assured that it will come up next Monday, that will be perfectly satisfactory to me.

Mr. STANTON. Then I hope the gentleman will withdraw his motion to suspend the rules.

Mr. FAULKNER. I will if I can have any assurance that the motion will come up next Monday.

Mr. HOUSTON. No bargains.

Mr. STANTON. That bill cannot pass without discussion. The gentleman from Virginia certainly does not contemplate pressing it to a vote to-day.

Mr. FAULKNER. When I submitted the motion to suspend the rules, I supposed the House would adjourn, and the motion go over until Monday next. I am perfectly willing that the resolution of the gentleman from Ohio shall come up for consideration now, if my motion can go over until next Monday.

Mr. STANTON. It is perfectly obvious that our committee can do nothing during the coming week unless this resolution is passed to-day.

Mr. BURNETT. I move that the House do now adjourn.

The SPEAKER. That motion cannot be entertained, because nothing has intervened since the vote was taken on a motion to adjourn.

Mr. BOCOCK. I will make the motion that there be a call of the House.

Mr. BURNETT. I now move that the House adjourn.

Mr. RUFFIN demanded tellers.

Tellers were ordered; and Messrs. Bliss and Russell were appointed.

Mr. SMITH, of Virginia. I appeal to the gentleman to withdraw the call for tellers. I would be glad if he would do so. I think that the gentleman ought to have an opportunity to have the House pass on his resolution.

Mr. BURNETT. I would withdraw it, but for the fact that if I do so, the gentleman from Virginia would lose his motion.

The House refused to adjourn; the tellers having reported—ayes 43, noes 70.

The SPEAKER stated that the question recurred on the motion that there be a call of the House.

Mr. WASHBURNE, of Illinois, demanded tellers.

Mr. HUGHES demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. STANTON. If the gentleman will permit me for a single moment, by withdrawing his motion that there be a call of the House, I would say I think there is an arrangement between the gentleman from Virginia and myself, by which we both can accomplish our purposes without further trouble.

Mr. JONES, of Tennessee. There was no quorum on the last vote. I do not want to do anything without a quorum.

Tellers were ordered; and Messrs. Boccock and Waldron were appointed.

The question was taken; and the tellers reported—ayes 45, noes 72.

The Chair voted in the negative, making a quorum.

So the House refused to order a call of the House.

Mr. FAULKNER. Mr. Speaker, if the House will indulge me for a moment, I will indicate the course I propose to adopt with regard to the bill from the consideration of which I propose to discharge the Committee of the Whole, and which will accomplish my purpose, and at the same time give an opportunity to the gentleman from Ohio to accomplish what I think ought to be done.

The bill to which I have called the attention of the House is a bill to correct an error of the enrolling clerk, by which he omitted from the Army

appropriation bill of last session one of the regular annual appropriations recommended by the Executive, and which, for a series of years, has been annually appropriated, according to the military policy of the country, for the national armories.

It was simply an omission, and it is imperatively necessary that it shall now be supplied or your national armories will be closed. I propose now merely to ask to have the rules suspended, and the bill taken from the Committee of the Whole on the state of the Union, and when that has been done, I will move to postpone its consideration until Monday next.

Mr. GROW. I desire to understand exactly what the bill is. Does it embrace only that item for the armories?

Mr. FAULKNER. That is all, sir. It is one of the regular annual appropriations.

Mr. JONES, of Tennessee. Can a motion to suspend the rules be postponed?

The SPEAKER. The Chair understands that the gentleman from Virginia merely proposes to postpone the consideration of the bill itself in case the rules shall be suspended, and the Committee of the Whole on the state of the Union discharged from its consideration.

The bill to supply an omission in a certain act, therein named, was then read. It proposes to appropriate \$360,000 for the manufacture of arms at the national armories; that item having been accidentally omitted in the enrollment of the Army appropriation bill of the last session of Congress.

Mr. JONES, of Tennessee. I wish to inquire if this is a motion to suspend the rules merely to get the bill before the House, or does it include that the bill shall be first considered in the House?

The SPEAKER. The motion is to suspend the rules so that the bill shall be considered in the House.

The question was taken, and the rules were suspended, two thirds voting in favor thereof.

Mr. FAULKNER. I now move that the further consideration of the bill be postponed until Monday next.

Mr. JONES, of Tennessee. I ask for a division on the motion to suspend the rules.

The SPEAKER. The call for a division comes too late, the Chair had announced the result of the vote.

Mr. JONES, of Tennessee. I asked for a division as soon as I could. And I submit to you, sir, this question. You had to vote a moment ago to make a quorum here, and is it right for us to legislate without a quorum? [Cries of "Order!" "Order!"]

The SPEAKER. The last vote of the House showed that there was a quorum present.

Mr. JONES, of Tennessee. By the vote of the Speaker, a bare quorum was obtained.

The SPEAKER. The question is on the motion to postpone.

Mr. JONES, of Tennessee. Well, sir, I ask for a division upon that.

Mr. PHELPS. I ask for tellers.

Tellers were ordered; and Messrs. Thompson and Barksdale were appointed.

The House divided; and the tellers reported—ayes 110, noes 8.

So the motion to postpone was agreed to.

EMPLOYMENT OF A STENOGRAPHER.

Mr. STANTON. I now ask leave to offer the following resolution:

Resolved, That the select committee appointed to investigate the charges against members and officers of the last Congress, growing out of the disbursement of any sum of money by Lawrence, Stone & Co., be authorized to employ a stenographer, at the usual rate of compensation.

Mr. JONES, of Tennessee. I object to that resolution.

Mr. STANTON. I move to suspend the rules so as to enable me to offer it.

The question was taken; and, on a division, there were—ayes 113, noes 10.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. STANTON. I move the previous question on the passage of the resolution.

Mr. HUGHES. I offered an amendment to the resolution. I sent it to the Clerk.

The SPEAKER. It was not in order, pending the demand for the previous question.

Mr. HUGHES. I sent it up before the previous question was demanded.

The SPEAKER. That is immaterial.

Mr. JEWETT. I presented an amendment before the call for the previous question.

The SPEAKER. The Chair could not entertain the amendment of the gentleman from Kentucky, for the reason that the proposition then pending was a proposition to suspend the rules to enable the gentleman from Ohio [Mr. STANTON] to introduce his resolution.

Mr. HUGHES, (at a quarter to five, p. m.) I move that the House do now adjourn; and on that motion I call for the yeas and nays.

The yeas and nays were not ordered, only ten members voting therefor.

The question was then taken, and the motion was not agreed to; there being, on a division, ayes 17, noes 101.

Mr. HUGHES. I rise to a question of order. I wish to put an inquiry to the Chair. When the resolution of the gentleman from Ohio was first read, I rose to my feet and announced that I desired to offer an amendment, which I immediately sent to the Clerk's desk, before the motion to suspend the rules was made; and I wish to know of the Chair if that amendment came too late?

The SPEAKER. The gentleman was not in order in moving his amendment; first, because the rules had not been suspended to permit the gentleman from Ohio to introduce his resolution; and, second, because, so soon as the rules were suspended, the floor, according to universal parliamentary courtesy and propriety, was assigned to the gentleman from Ohio, who demanded the previous question; so that the gentleman from Indiana [Mr. HUGHES] has not had an opportunity of presenting his amendment in such form as that it could be recognized by the Chair.

Mr. HUGHES. I appeal to the House to vote down the previous question.

Mr. FLORENCE. I ask the gentleman from Ohio what the usual compensation to a stenographer is?

Mr. STANTON. I will answer the gentleman with great pleasure. I understand he is paid by the folio; so that the pay depends upon the amount of work. It is impossible to say what the amount would be.

Mr. FLORENCE. That was the only difficulty with me. I do not know what the usual compensation is. How much is it a folio?

Mr. HUGHES, (at ten minutes to five o'clock, p. m.) I move that the House do now adjourn.

The motion was not agreed to; there being, on a division, ayes 22, noes 105.

The question recurred on the call for the previous question.

Mr. WASHBURN, of Maine, demanded tellers.

Tellers were ordered; and Messrs. BOCOCK and CHAFFEE were appointed.

The House divided; and the tellers reported-- ayes 102, noes 15.

The SPEAKER voted in the affirmative.

So the previous question was seconded.

Mr. BOCOCK. If the House adjourn now, does not the question come up to-morrow morning the first thing?

The SPEAKER. Yes.

Mr. BOCOCK. Then I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock, p. m.) the House adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, January 26, 1858.

Prayer by Rev. S. P. HILL, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, a copy of the report of J. Ross Browne, special agent of the Indian department, on the late Indian war in Oregon and Washington Territories; which was, on motion of Mr. GWIN, referred to the Committee on Indian Affairs; and a motion by him to print it was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution

of the Senate, an estimate of the quantity of lands which will inure to Minnesota, for railroad purposes, under the act of March 3, 1857; which was, on motion of Mr. STUART, ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a report of the commission on the war claims of Oregon and Washington Territories; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and Militia; and a motion by him to print it was referred to the Committee on Printing.

The VICE PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of the appropriations applicable to the Department during the fiscal year ending 1856-57, the amount drawn by requisitions, the balances on the 1st of July, 1857, and such appropriations as have been carried to the surplus fund; which, on motion of Mr. HUNTER, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. GREEN presented a petition of citizens of La Grange, Missouri, praying for the establishment of a mail route from that place to Quincy, Illinois; which was referred to the Committee on the Post Office and Post Roads.

He also presented the memorial of the register and receiver of the land office at Fayette, Missouri, praying that the compensation of the registers and receivers be increased; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a petition of citizens of New York, praying that the public lands may be granted in limited quantities, free of cost, to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Waterloo, New York, praying that provision be made by law for compensating the southern States out of the public Treasury, or public domain, for the manumission of their slaves; which was ordered to lie on the table.

Mr. THOMSON, of New Jersey, presented the memorial of Reynell Coates, praying compensation for losses sustained and services rendered, while connected with the scientific corps of the South Sea Exploring Expedition; which was referred to the Committee on Naval Affairs.

Mr. MALLORY presented the petition of F. M. Gunnell, passed assistant surgeon in the Navy, praying for compensation for extraordinary expenses incurred in the discharge of his duty in California; which was referred to the Committee on Naval Affairs.

He also presented the petition of J. H. Carter, for himself, J. W. Bennett, and R. B. Lowry, lieutenants in the Navy, praying to be allowed the difference of pay between the grades of master and lieutenant, during the time they served as lieutenants in the East India squadron; which was referred to the Committee on Naval Affairs.

Mr. BIGLER presented the memorial of Jane M. Kean, Mary A. Reynolds, and Catharine E. Kean, praying Congress to pass a law granting them compensation for the services of their parents in the Revolutionary war; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of George H. Howell, a passed assistant surgeon in the Navy, praying to be allowed certain back pay; which was referred to the Committee on Claims.

He also presented the memorial of Bishop, Simons & Co., praying permission to make an experiment before a committee of Congress, to exhibit the merits of Holmes's patent self-righting and self-bailing surf and life boat; which was referred to the Committee on Naval Affairs.

Mr. PUGH presented a petition of Mary Walsh and others, pensioners under the act of February 13, 1853, praying that their pensions may be continued; which was referred to the Committee on Pensions.

He also presented the petition of William Sawyer and others, citizens of Auglaize county, Ohio, praying for the confirmation of their titles to lands in section twenty-seven, the east half of section twenty-eight, and the west half of section twenty-

six, in township five, of range east, in said county; which was referred to the Committee on Private Land Claims.

Mr. DURKEE presented the memorial of the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States, praying for the confirmation of their title to certain lands in Wisconsin; which was referred to the Committee on Private Land Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GWIN, it was

Ordered, That the petition of seamen on board the steamer Missouri, which was destroyed by fire at Gibraltar, in 1843, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. GWIN, it was

Ordered, That the memorial of James L. Collins, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BROWN, it was

Ordered, That the petition of John L. Allen and A. R. Carter, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. BROWN, it was

Ordered, That the memorial of the corporation of Georgetown, on the files of the Senate, praying to be relieved from the expense of roads in Washington county, west of Rock Creek, be referred to the Committee on the District of Columbia.

On motion of Mr. DOUGLAS, it was

Ordered, That the petition of William Reynolds, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. BAYARD, it was

Ordered, That Thomas Lyons have leave to withdraw his petition and papers.

On motion of Mr. STUART, it was

Ordered, That the petition of H. W. Benham, administrator of John McNeil, on the files of the Senate, be referred to the Committee on Public Lands.

On motion of Mr. CAMERON, it was

Ordered, That the petition of Mary Petery, widow of Peter Petery, on the files of the Senate, be referred to the Committee on Claims.

NOTICES OF BILLS.

Mr. PUGH gave notice of his intention to ask leave to introduce the following bills:

A bill to authorize the States of Virginia, Pennsylvania, Kentucky, Ohio, Indiana, and Illinois, to enter into an agreement or compact between themselves, and with other States interested in the navigation of the Ohio river and its tributaries, for the improvement of such navigation, and to levy duties on tonnage for that purpose; and

A bill for the protection of vessels engaged in the navigation of Lake Erie.

COLONEL GRAHAM'S REPORT.

Mr. STUART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the annual report of Lieutenant Colonel James D. Graham, of the corps of Topographical Engineers, of his surveys, &c., of lake harbors for the year 1857.

MESSENGER IN SECRETARY'S OFFICE.

Mr. FOOT submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the compensation of the first or principal messenger in the office of the Secretary of the Senate shall be the same as that now received by the messengers of the Senate, commencing with the present fiscal year.

RECEIPTS AND EXPENDITURES.

Mr. HALE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate five thousand copies of the tables of receipts and expenditures of the Government, from March 4, 1779, to June 30, 1857, accompanying the letter of the Secretary of the Treasury transmitting an account of the receipts and expenditures of the Government for the year ending June 30, 1857.

MAIL ROUTES IN ARIZONA.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing mail routes from Tucson via Sopotri to Tubac, also from Tucson to Agua Calientes, in the Arizona portion of the Territory of New Mexico.

REPORTS FROM COMMITTEES.

Mr. IVERSON from the Committee on Military Affairs and Militia, to whom was referred the memorial of Christine Barnard, widow of the

late Major Moses Barnard, reported a bill (S. No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army; which was read, and passed to a second reading.

He also, from the Committee on Claims, to whom was referred the memorial of George A. O'Brien, submitted a report, accompanied by a bill (S. No. 92) for his relief. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the Committee on Claims, to whom was referred a bill reported from the Court of Claims the 17th of February, 1857, for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, with the opinion of the court on the claim, reported the bill (S. No. 89) without amendment; which was read, and passed to a second reading.

Mr. POLK, from the Committee on Claims, to whom was referred a bill reported from the Court of Claims the 17th of February, 1857, for the relief of Jane Smith, of the county of Clermont, State of Ohio, with the opinion of the court on the claim, reported the bill (S. No. 87) without amendment; and it was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill, reported from the Court of Claims the 2d of February, 1857, for the relief of Nahum Ward, with the opinion of the court on the claim, reported the bill (S. No. 93) without amendment; and submitted an adverse report, which was ordered to be printed.

He also, from the same committee, to whom was referred a bill, reported from the Court of Claims the 5th of February, 1857, for the relief of John Ericsson, with the opinion of the court on the claim, reported the bill (S. No. 90) without amendment.

He also, from the same committee, to whom was referred a bill, reported from the Court of Claims the 17th of February, 1857, for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont, with the opinion of the court on the claim, reported the bill (S. No. 88) without amendment; and it was read, and passed to a second reading.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Major Benjamin Alvord, reported a bill (S. No. 94) for the relief of Major Benjamin Alvord, paymaster United States Army; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Dempsey Pittman, reported a bill (S. No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Susannah T. Lea, widow and administratrix of James Maglennen, reported a bill (S. No. 96) for the relief of Susannah T. Lea, widow and administratrix of James Maglennen, late of the city of Baltimore, deceased; which was read, and passed to a second reading.

Mr. DOUGLAS, from the Committee on Territories, to whom was referred the message of the President of the United States of the 11th instant, communicating a copy of the constitution of Minnesota, submitted a report, accompanied by a bill (S. No. 86) for the admission of the State of Minnesota into the Union. The bill was read and passed to a second reading; and the report was ordered to be printed. Mr. DOUGLAS notified Senators that he would ask for the consideration of the bill as soon as the report should be printed, perhaps to-morrow.

Mr. MALLORY, from the Committee on Claims, to whom was referred the petition of Pamela Preswick, for herself and the other heirs of William Wigton, submitted a report, accompanied by the following resolution; which was agreed to:

Resolved, That the petition and papers in the case of Pamela Preswick, in behalf of herself and other heirs of the late Major William Wigton, praying for the payment of a sum alleged to be due for services rendered by said Major Wigton, be referred to the Court of Claims.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and

Alabama, on account of losses sustained by depredations of the Creek Indians, reported it without amendment.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the memorial of certain permanent residents of Kansas, presented the 19th instant, asked to be discharged from its further consideration, and that it be referred to the Secretary of the Interior; which was agreed to.

BILLS INTRODUCED.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 97) to incorporate the Benevolent Christian Association of Washington City; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. DOOLITTLE asked and obtained leave to introduce a joint resolution (S. No. 13) in relation to certain liabilities assumed by the State of Wisconsin; which was read twice by its title, and referred to the Committee on the Judiciary.

HOUSE BILLS REFERRED.

The bill from the House of Representatives (No. 207) to amend an act entitled "An act granting a pension to Ansel Wilkinson," approved August 13, 1856; which was read twice by its title, and referred to the Committee on Pensions.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1859; which was read twice by its title, and referred to the Committee on Finance.

DEATH OF MESSRS. LOCKHART AND BRENTON.

A message was received from the House of Representatives, by Mr. J. C. ALLEN, its Clerk, informing the Senate of the death, during the recess, of the Hon. JAMES LOCKHART and the Hon. SAMUEL BRENTON, members elect of the present Congress from the State of Indiana, and communicating the proceedings of the House of Representatives in relation thereto.

The resolutions of the House of Representatives were read.

Mr. BRIGHT. Mr. President, the death communicated to us by the resolutions of the House of Representatives is an event well calculated to inspire serious and painful reflections. Again and again, this session, have we been reminded that death has been amongst us. For the sixth time, since our meeting, has the dread announcement been made, that one of our number has gone to his eternal home. The uncertainty of life could scarcely be brought to our minds in a more impressive form.

My late colleague, the Hon. JAMES LOCKHART, departed this life, after a long and painful illness, at his home in Evansville, Indiana, on the 7th of September last. Though wasted by disease, he retained his mental faculties unimpaired until the last, and spoke words of peace and comfort to those surrounding his bedside.

JAMES LOCKHART was born on the 13th day of February, 1806, in Auburn, Cayuga county, New York. He emigrated to the West in 1832, and located in Evansville, Indiana, where he commenced the practice of the law in 1834. He applied himself studiously to his profession, and rose rapidly to a distinguished position at the bar. In his intercourse with the people, he so won their confidence and regard that his success, professionally and politically, seemed to follow as a matter of course, and with but little effort on his part. He was elected in 1841 to the office of prosecuting attorney of the fourth judicial district, and was reelected in 1843.

He performed the duties of this office with such ability and fidelity that, at the expiration of the second term, in 1845, he was chosen by the Legislature circuit judge of that judicial district, and continued in the discharge of its duties until 1851, when he resigned.

In 1850, he was elected a member of the constitutional convention of Indiana, and took an active and leading part in its deliberations.

In the fall of the same year, he was elected to the House of Representatives from the first congressional district; and as a member of the Com-

mittee on Territories, in the Thirty-Second Congress, applied himself diligently to the duties devolved upon him, and displayed that thorough acquaintance with the details of its business only to be acquired by studious application.

At the expiration of his congressional term, he resumed the practice of his profession; but his old constituency, unwilling to spare him from the field of public labor, summoned him again before them, when he was elected by nearly five thousand majority.

His efforts in the memorable canvass of 1856 will long be remembered by those who coided with him in political sentiment. It was in that contest he seemed to forget himself, and thinking only of the work before him, taxed his frame beyond its power of endurance. At the close of the canvass, death seemed to have marked him as its victim. Though not confined to his bed for some months afterwards, his physicians and intimate friends entertained but little hope that he would live to take his seat in the present Congress. Alas! their fears have been realized. In the meridian of life, and in the midst of his usefulness, he has been stricken down. The State he represented has lost a faithful public servant, and society an exemplary man in all the relations of life.

Mr. President, I move the adoption of the following resolution:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. JAMES LOCKHART, deceased, late a Representative elect from the State of Indiana, will go into mourning by wearing crape on the left arm for thirty days.

The resolution was unanimously adopted.

Mr. FITCH. Having been acquainted with Mr. BRENTON, one of the members elect whose death has just been announced, I cannot permit the enunciation to pass without bearing my testimony to his worth as a man, citizen, and officer. Mr. BRENTON and myself represented in Congress at one time, adjoining districts of our common State. We differed in politics, but the difference never was permitted in the slightest to cloud our personal relations.

He was a native of Kentucky, (your State, sir,) but early manhood found him a citizen of Indiana, a member of the Methodist clergy, the laborious duties of which position he continued to perform with a very slight interval of rest from 1831 to 1847. During that interval, a rest rendered necessary by the condition of his health, he read law, was admitted to the bar, became to some extent identified with politics, and was elected to the Legislature of Indiana, but finding the law not adapted to his taste, and not perhaps to that strong religious bias which was a prominent feature of his character, he returned to the active duties of his ministerial profession. He was appointed to many stations in that State, and left none without leaving behind him hosts of friends, and their heartfelt regret at his departure.

In 1847 an attack of paralysis compelled him to abandon his clerical duties. Soon afterwards he was appointed register of the land office at Fort Wayne, Indiana, and subsequently made that city his permanent residence. His acquaintance, of course, became extended, in what was, to him, a new sphere, growing out of his new position; but it was a sphere in which, like all others in which he had moved, many friends sprang up around him. His manly qualities, his satisfactory discharge of the duties of every position in which he had been placed, and his extensive acquaintance, made him prominent among his political friends. In 1851 he became their candidate for Congress, and was elected. He was reelected for the second time in October, 1856; but in March following death called him from a further discharge of earthly duties, to the realization of those hopes which he had ever held forth, as a clergyman, as an inducement to a life of rectitude and reliance upon Providence.

Mr. BRENTON never laid claim to brilliancy of intellect, nor did his friends for him; but he was a man of strong practical common sense. His epitaph can be written in words far more honorable to his heart than if they recorded merely lofty deeds without virtue. He was an honest man, a kind neighbor, a good citizen, and an efficient and honorable officer. Well might his city, when such a man departed from among them, go forth, as it did, mourning in his funeral train.

Mr. President, I offer the following resolution:

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. SAMUEL BRENTON, deceased, late a Representative elect from the State of Indiana, will go into mourning, by wearing crape on the left arm for thirty days.

Mr. HARLAN. In rising to second the motion of the Senator from Indiana, I do not propose to pronounce a eulogy on the life and character of the deceased. His high order of talent, and purity of character would certainly justify it. But it seems to me to be uncalled for on the floors of Congress. Here he was fully known—here he has made his record. Whatever he possessed in character and life worthy of admiration, as portrayed in his congressional career, is vivid in our memories. But his chief labors were performed in a different sphere of action. From his twentieth to his thirty-ninth year of age, (including an interval occasioned by ill health,) he was employed as an itinerant minister, under the direction of the church of which he was a member. It was in this calling that he attained his highest distinction, and endeared himself to the thousands who were accustomed to the enchantment of his pulpit eloquence. By close application he familiarized himself with the prescribed course of theological studies, with general literature, and acquired that general learning and scholarship which prepared him for the easy and graceful performance of the duties of the various positions in public life to which he was afterwards called. During the interval in his ecclesiastical labors, before mentioned, he engaged in the study and practice of law, in which he obtained merited distinction, winning the confidence and esteem of the masses, who selected him as their representative in the legislative councils of his State.

In 1848, when by an inscrutable dispensation of Divine Providence, he was permanently deprived of the power to fulfill the duties of an itinerant minister, he was appointed by the President to the land office at his place of residence; from which he was called by the people to represent them in the Congress of the United States. And to this high and honorable position he had been elected the third time immediately preceding his death.

There are those who doubt the propriety of selecting men who have been engaged in the ministry for political stations. And if it may have been said of him, as it has been and will be said of others, that he has degraded the office of the minister, and tarnished his own character for purity, by stooping to touch the turbid and polluting waters of politics, let the voice of his constituency at home, and our faithful remembrance of his daily walk and conversation, be its only refutation. If his experience was here varied from that of former years; if he here observed the vortices of avarice, licentiousness, and lust; if here he heard the voice of revelry and profanity; if here he witnessed deception and treachery, fraud and corruption, among his associates and companions in official stations, none have so much as whispered his participation in these evils. If in the opinion of those in positions of honor and trust under this Government, its offices and their approaches are so polluted and polluting that a pure man must avoid them as a leprosy, as he would avoid the malaria of the marshes or the pestilence of the deserts, the woe should be pronounced, not on him who is thus offended, but on them by whom the offense cometh. It is true, sir, I will admit, that personal considerations growing out of the character of society might have prompted Joseph to avoid the court of Pharaoh, Mordecai the gate of the Shushan palace, Daniel the court of the Babylonian King, and possibly Brenton the Congress of the United States. But it is equally true that his Christian meekness, his uniform piety, and consistent purity of conduct and conversation, made him all the more agreeable to a large majority of those with whom he served in these Halls. On this account he enjoyed the confidence and esteem of all who shared the pleasure of his acquaintance.

And now that he is no longer with us—that his name is no longer heard in "the call of the roll"—that his voice is silent, his eloquence mute in death, his Christian purity stands out the more conspicuously. In the opinion of his compeers, standing here, as it were, on the brink of his grave—in the opinion of those on whom their

countrymen have conferred the highest honors, what is there in the whole of life to compare with conscious rectitude of purpose and moral purity? Who, as he approaches the grave, would exchange them for all else that can be attained in life?

"Blessed are the pure in heart, for they shall see God."

Yes, he has left us with a confident expectation of a realization of this promise. But he went not alone. A colleague from his own State, and other companions from the other Chamber, have been summoned to accompany him through the dark valley. From this Chamber, too, from the purest and most beloved by us all, other companions have been summoned; they have gone out as on a committee of conference. But where are they to-day? The image of each is distinct before us; but they answer not at the sound of their names; they come not at the "call of the roll;" on "a call of the House" they still tarry; for they have been introduced to the angels—they are holding converse with "just men made perfect"—these to a Brenton, to a Bell, to a Butler, to a Rusk, are "kindred spirits"—hence they linger long, though we shed tears for their absence. And they may not return, though they loved us, for the angels are doubtless unfolding an eternity of enjoyment to their view. But by their example they beckon us to join them in that world of celestial light to which they have fled.

Mr. President, I second the passage of the resolution.

The resolution was unanimously adopted.

SPECIAL ORDERS—COMMODORE PAULDING.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, being the bill (S. No. 79) for the increase of the military establishment of the United States. By leave of the Senate, the Chair will make a brief statement with reference to the order of business. Yesterday there were two subjects specially assigned for consideration, this bill being assigned for twelve and a half o'clock, and a motion for the hour of one o'clock, the latter being the older special order. The Chair decided that the bill now in his hand, assigned for twelve and a half o'clock, would continue to have precedence over the older order, when the hour of one o'clock should arrive. That opinion was expressed in obedience to what he was informed had been the ruling and practice of this body. On a careful comparison and examination of the rules, he is quite clear, construing them by their language, that that decision was erroneous. Where several subjects have been severally assigned, they take precedence in the order at which they were severally assigned, and not in the order to which they were assigned severally. Accordingly, this special order is now before the Senate, and when the hour of one o'clock shall arrive, the Chair will call up another special order of an older date, being the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding, which will then take precedence of this bill, unless it shall be postponed by a vote of the Senate.

Mr. PEARCE. Perhaps it is not premature for me now to make a motion in regard to that, as the Senator from Mississippi will have his bill taken up immediately, and I have no desire that it shall be interrupted this morning while in progress. I will move now that the joint resolution last referred to by the Chair be postponed until Thursday at one o'clock. That will leave two days for the discussion of his bill, and will interfere with no other special order, as I understand.

Mr. DAVIS. I am very much obliged to the Senator from Maryland for allowing this bill to have that length of time for discussion, which will probably be effective, and for his yielding his right to the floor this morning.

The VICE PRESIDENT. Will the Senator from Mississippi yield to allow the motion to be put?

Mr. DAVIS. Certainly.

The VICE PRESIDENT. It is moved that the joint resolution directing the presentation of a medal to Commodore Hiram Paulding be postponed to Thursday next at one o'clock.

The motion was agreed to.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 79) to increase the military establishment of the United States.

The first section proposes to add to each of the regiments of dragoons, cavalry, infantry, and of mounted riflemen, two companies, to be organized in the same manner as the companies now composing these arms, respectively, and to receive the same pay and allowances, and to be entitled to the same provisions and benefits in every respect, as are authorized by the existing laws. They are to be subject to the rules and articles of war; and the enlisted men are to be recruited in the same manner as other troops, with the same conditions and limitations.

The second section authorizes the President of the United States to increase the number of privates in each of the companies of the Army serving in the field, or at remote and frontier stations, to any number not exceeding ninety-six; this increase to be by enlistment, and the soldiers to be on the same footing, in all respects, as other soldiers of the Army.

The bill further provides for the addition to the medical department of the Army of such number of assistant surgeons, not exceeding fifteen, as in the judgment of the President may be required by the wants of the service; the officers so added to be appointed in the same manner, and to be, in all respects, on the same footing as the officers of that corps now authorized by law. Hereafter, the bill provides that regular promotions to vacancies occurring in the regimental grades of commissioned officers of the United States Army are to be by regiments or corps, instead of by arms of service, as now regulated and provided in certain cases.

Mr. TOOMBS. I would ask the chairman of the Committee on Military Affairs what addition the first and second sections of the bill will make to the numbers of the Army? Those sections provide for increasing the rank and file.

Mr. DAVIS. The first section will add thirty companies to the Army, which, at the present greatest number allowed by law, would amount to two thousand two hundred and twenty men. If the second section, which authorizes the increase of each company to ninety-six, be adopted, of course the number of men added to the effective service will depend on the manner in which the Army may be posted. Suppose the Army to be posted as now, and the thirty companies added to be all sent to the same frontier where the one hundred and eighty-five are now serving; it would make a total increase of six thousand nine hundred and fifty privates.

Mr. TOOMBS. Does the second section alone make that increase?

Mr. DAVIS. No; the second section increases only the existing one hundred and ninety-eight companies; but the first section, adding the thirty companies to the Army, would make that increase.

Mr. TOOMBS. The second section would make an increase of over four thousand men, if they were posted on the frontier?

Mr. DAVIS. Yes, sir.

Mr. TOOMBS. I shall move to strike out the first section of this bill. I think the increase of the Army will be at least great enough with the second section, and will be made in a more appropriate mode. The occasion for the present increase of the Army is, I believe, a supposed Mormon war—an anticipated Mormon war, rather than an existing one. Inasmuch as the second section, if the men be employed in active service on the frontiers, will give from four thousand to five thousand men, and inasmuch as they can be used during the exigency of that expected war, and then be disbanded, I think that is the best way to increase the Army; and therefore I propose to strike out the first section.

I am perfectly satisfied that the present Army of the United States is altogether sufficient for the peace establishment. The original idea—and, I believe, it is common to the armies of most countries with which I have any acquaintance, though I am not very familiar with the subject—in arranging our Army on the peace establishment, was, that we could increase the numbers according to any temporary exigency. I think originally—probably by the act of 1822, or before that time—certainly it was so when I first came into Congress—the rank and file of each company was forty-two. It was afterwards raised in time of peace, probably on account of our Indian disturbances, to sixty-four. From time to time we added new regiments to the service. This bill

now proposes to carry the number in each company up to ninety-six. I do not object to that mode of increase, if it be supposed by gentlemen better acquainted with the military wants of the nation at this time than I am, that three or four thousand men are now wanted in anticipation of the Mormon war; though I do not think any increase is necessary, and shall not vote for the bill in any form whatever; but I deem it my duty to make the bill, in my judgment, as good as possible before voting on it finally. I do not think any one will say that more than four thousand men will be wanted. I hope the Senator from Mississippi will correct me if I am wrong, but I believe the rank and file of the present establishment is about seventeen thousand.

Mr. DAVIS. It is a variable quantity. It depends on how the Army is posted. As it is now posted, it is over seventeen thousand.

Mr. TOOMBS. It can be carried above seventeen thousand?

Mr. DAVIS. Seventeen thousand nine hundred and eighty-four.

Mr. TOOMBS. Nearly eighteen thousand. We have an Army capable of being enlarged according to its position in the public service on the frontiers, to nearly eighteen thousand men. This bill proposes to add about thirty-two companies to the one hundred and eighty-five companies now existing, making nearly five thousand men. To that extent it is capable of being enlarged; and if the second section alone be passed, it will make an Army of twenty-two thousand men in actual service under the bill. My friend from Ohio [Mr. WADE] suggests to me that it will cost \$22,000,000 a year. I believe it will on that distant frontier; because I know, that on some occasions during the Mexican war—and it would be worse in our own country than in an enemy's country—it cost \$1,000 a man, on account of the peculiar service.

But the question of cost, I admit, is not one to be considered when the public defense is concerned. If it be necessary for the public defense, of course the money must be expended, though it amounts to a hundred millions of dollars. I see no such necessity, on a peace establishment, even for the existing Army. So far as several of the arms of the national defense are concerned, they are comparatively useless for the service on which account it is proposed to raise them—I mean the Indian service. The infantry are worth but little or nothing on our frontier, in peace or war. They can take care of forts; but for any other purpose, they have proved to be an exceedingly inefficient service there.

One great objection I have to increasing the Army by adding companies is, that you never can get rid of them. I suppose the bill of the Committee on Military Affairs to be much better than that proposed by the Secretary of War. The five regiments he asks for, I deem to be wholly unnecessary. This is a superior plan and meets my approbation more than that proposed by the Secretary of War and presented to us in the annual message of the President. Inasmuch, however, as we can get four thousand more men by the second section of the bill, carrying up the rank and file on the war establishment to ninety-six men in a company, thus giving us nearly twenty-three thousand men altogether, which I think adequate to the purposes of the Government, I am unwilling to assent to the other sections of the bill.

I think it is a great mistake to suppose that our increased extension of territory has created an increased necessity for troops. Twenty-five or thirty years ago—in fact, from the last war with England down to the Mexican war, our legal military establishment did not exceed eight thousand men. Our Indians were scattered; large numbers of them were in Florida; large numbers were in Georgia; large numbers were in Mississippi; many were in the North west, and they were mixed with the white population. Instead of the two fronts of which gentlemen speak now, there were half a dozen fronts. Since we have adopted the policy of carrying them west of the Mississippi and putting them together, while we concentrate them, we can concentrate our Army. I think there is less necessity for troops now than when the Indians were scattered about from north to south, from Florida to the forty-ninth parallel of north latitude. Our troops now are required to protect the frontiers only in two points you may

say—on the eastern front and the Pacific side. That twenty-two thousand men will be adequate for the defense, I have no doubt.

As to the Mormon war, it is not yet a fact. Congress, which alone has the power to make war, has not spoken; and it is very certain, unless our country has undergone a silent revolution, that the President cannot make that war. It is very certain, that unless the Senate and House of Representatives intend to go on in the downward path of vesting all the powers of government confided to the legislative department in the executive, this war does not exist in contemplation of law. Therefore, I say, Congress has not yet acted, and when that question shall come up, there may be gentlemen who may believe such a war to be unnecessary; who may believe it to be unnecessary to carry vast bodies of troops over the Rocky Mountains, in order to murder those people who are called Mormons. It may be that we may suppose that no such necessity may exist. These are my present impressions on the case, though I give no judgment. I am not prepared to declare such a war, nor to wage it; but if we do declare it, if we do wage it, it is very clear that it must be exceedingly brief and temporary. If these troops are to be raised for the Mormon war, I shall then move an amendment, if I fail in my present motion, that these companies shall go out of the service on the termination of the war. When, on a national exigency, we declared war against Mexico, in regard to all the extra regiments, I believe, that were raised for that war, it was provided in the act raising them, that the commissions of the officers, and the terms of service of the men should expire with the war. Now, if we are going to raise the army on the pretense of a Mormon war, I shall insist on putting a provision in this bill, that all these commissions shall expire, and that the terms of service of the enlisted men shall expire with the expiration of the war, if it ends within five years.

If it be the intent simply in time of peace, with an exhausted Treasury, without the pretense of Indian war, now to increase the Army to twenty-six or twenty-seven thousand men, I am opposed to it, and shall oppose it in all its stages. If it be for the purpose, as I again repeat, of carrying on the Mormon war, twenty-two thousand men will be enough; four regiments will be enough. The force of Brigham Young is magnified merely for the purpose of getting regiments in many quarters. The same story has been told to Congress, I think, three or four times since I have been a member of the public councils. They came at the opening of the session two or three years ago, and said, "we are going to have an Indian war along the frontier." Stories were manufactured in the newspapers, and they came to Congress and got the regiments; and when they got the regiments, we had peace instantly. The regiments, when once mustered, are not to be gotten rid of; they are permanent officers, fastened on the community until we have a revolution. There is nothing in the times, sir; there is nothing in the condition of our country; there is nothing in its finances; there is nothing in those distracting questions which now agitate it; and I see nothing in the future which makes it either wise or prudent for the American Senate and House of Representatives to enlarge the military forces of the United States. A republican Government should rest upon and be defended by the people; and when they are unwilling or unfit to defend it, the sooner they get a master the better.

The VICE PRESIDENT. The Senator from Georgia moves to amend the bill by striking out the first section. The question is on that amendment.

Mr. DAVIS. Mr. President, the theory of our peace establishment, from the foundation of the Government, has been to maintain a small army, sufficient for the exigencies which would exist in time of peace, and capable of expansion to war necessities when war should arise. The adding of two companies to the regiment, as provided for in the bill, gives uniformity to the organization of the Army; it gives twelve companies to each of the regiments. Four regiments now have twelve companies. I esteem it a better organization than ten companies. If it turns out that we shall have such quiet among the Indians and elsewhere that it will not be necessary to have so many on the present establishment, which is not seventy-

four, as the Senator supposes, but fifty-two to the company, it will be capable of reduction. Seventy-four men to each company was only provided for in extraordinary cases, as recited in the act of 1850. That number to each company would give us on the peace establishment, in the large army of which the Senator from Georgia speaks, but eleven thousand nine hundred and fifty-six, if the thirty companies were added. If these eleven thousand nine hundred and fifty-six men should be found greater than the wants of the country required, then we should have an organization of the regiments susceptible of a division into three battalions, and a reduction of one third, keeping two battalions in the service on the peace establishment, and capable of sudden expansion, by the addition of the third battalion, in time of war.

So far from favoring the idea, which I know has been popular in both Houses of Congress for many years past, of increasing the rank and file in time of peace, I adhere to the theory of our fathers, which was so handsomely illustrated by Mr. Calhoun, as Secretary of War—a skeleton in time of peace, capable of sudden expansion in time of war, to the wants of the country. I have no disposition merely to reduce the expense by disbanding a few officers, to cut down our establishment to a few regiments, and to swell the rank and file of those regiments, so as to answer peace purposes. I prefer to incur the additional expense of keeping a larger skeleton, a greater number of regiments with a fewer number of privates, which gives us an efficient Army in time of war, by merely adding new privates to the old ones that constitute the skeleton company in time of peace, and prevents us from suffering those disasters at the commencement of a war which always ensue from an undisciplined army.

I think, sir, it will be an improvement in the organization of our Army to add two companies to each regiment, making them all uniformly consist of twelve. It will then be an easy matter, as I stated, to cut off the third battalion and reduce each regiment to eight companies, if the case ever should arise which the Senator from Georgia contemplates, of our having a larger army on this establishment than is necessary. I wish to call his attention to the fact that under the existing law, the number of privates allowed to each company is fifty-two, and the strength of the Army, therefore, with the thirty companies added, when the troops are not on frontier stations or in the field, will be eleven thousand nine hundred and fifty-six; and to that number it is competent for the President now to reduce the strength of every company of the Army, for he is only authorized or permitted to increase it to seventy-four, that not being our peace organization; for Congress, notwithstanding its preference for the rapid increase of the rank and file, has always had the wisdom—I say the wisdom—to preserve that skeleton organization which constitutes a small company in time of peace.

But it is argued that this increase of the Army is on account of the Mormon war. That is not my motive, nor is it the line of argument which is pursued by the Secretary of War in his report asking for an increase of the Army. He begins by reciting the actual strength and the authorized strength. He then states the number of posts, the amount of frontier to be protected, and the length of the line of communication between the settlements and the point at which troops must be stationed, and he closes his brief, and I think very forcible, argument thus:

"To render governmental protection to our vast frontier and emigration perfect, a very large augmentation of the Army would not be required. Five additional regiments would answer the purpose, if properly posted."

"It will be seen from a paper carefully prepared from reliable data by the Adjutant General, that no increase of our forces is so efficient, or near so cheap, as the augmentation of our regular Army."

Then, the two motives which the Secretary presents—and his report is adopted by the President of the United States in his message—are, first, the necessity for the protection of the frontier and the emigrant route; and second, the economy with which it can be done in the manner proposed by him. The manner proposed in the bill before us is more economical than that of the Secretary. It does not give us so large a peace skeleton; but the committee has decided that the skeleton would be large enough on this bill, being nineteen regiments of twelve companies each. To strike off

the addition to each regiment of two companies, provided for in the first section, and to leave the increase in the rank and file proposed by the second section, would be so small a measure of economy that I am sure, on a calculation, the Senator from Georgia would not urge it on that account. It would be merely adding the three company officers to each company thus added to the Army, the rank and file being supposed to be constant, either by reduction of the size of the company or otherwise. These three company officers—the captain and two lieutenants—being then all the additional cost of maintaining the larger skeleton, I do not think there is any financial consideration which will justify us in rejecting the proposition contained in the first section of the bill.

War, it is said, has not been declared against the Mormons; nor do I understand war to exist. I do not understand the President to be levying war upon the Mormons. I do not understand that the Army which is now *en route* for Salt Lake has, on reaching that point, any other order than to enforce the laws of the United States, and see that they are faithfully executed. I regret, as much as any one, that it should be necessary to call in the troops of the United States to execute the laws of the Union in any of its parts. I regret, as much as any one, that a rebellion should exist in the remotest Territory of the United States; but wherever rebellion does exist, wherever there is insurrection against State authority or invasion of the United States, the President has the power to repel such invasion, to suppress such insurrection, to put down such rebellion, if it be in a Territory, without the necessary application by the Governor or Legislature of a State provided for in the case of a State.

Our forefathers, jealous of the use of the Army and Navy by the Executive, first provided only for the use of the militia, wherever the militia is competent to discharge the duty. I think every Executive who consults his own welfare, who properly appreciates the true policy of our Government, will resort to the militia rather than to the Army and the Navy; but it is not apparent that the President cannot resort to the militia in this case? The militia composed of the Mormon Legion to be called out by the President to execute the laws of the United States upon the Mormons! The proposition is so palpably absurd that no one can entertain it. His only resort, then, is to use the Army. If he attempts to execute the laws of the United States in the Territory of Utah, he is perforce driven to the necessity of using the Army, in case of any organized resistance to the execution of the laws. That there is an organized resistance in the Territory of Utah is reported; it is generally believed. I have no further knowledge of it than that which belongs to every member of the Senate. I take it for granted, however, that there is resistance, an organized resistance, to the laws of the United States, and that the troops will be employed to execute the laws when they reach their destination. If there be no resistance to the laws there, then it will be merely a march to that portion of our territory.

I have not yet received the report which I called for some time ago, in relation to the Indian affairs of Oregon and Washington Territories. I think, however, that we may rely upon the statements which are made, that the Indians there are in a disturbed condition; that white emissaries have been among them supplying them with ammunition; *a priori*, we might have reached that conclusion, for the progress of the settlements towards the West, and then the progress of settlements towards the East, on the Pacific ocean, have driven these Indians into contiguity. Formerly dispersed in small bands, living in fertile valleys with tribal wars, traditional hostilities existing among them, they were weak. Driven from their old homes, collected into great bodies, their former feuds suppressed by the necessity of the case, they become every year more and more formidable against the United States; and the long line of communication by which it is necessary to reach them, may make them, within no distant period, a formidable foe to all the power which the United States can employ.

Surely it is no argument to say that Indian wars have heretofore been reported; that troops have been raised to prevent them; and that when the troops were raised, there was no Indian war. God grant that that may always be the result. It

would be a blessed consummation if the sending of a force into Utah should insure submission and obedience to the laws of the United States there. It would be a still more fortunate event if the posting of large bodies of troops all along our frontier should prevent the outbreak of Indian hostilities. To prevent hostilities is surely a more desirable object, and one which would better justify the expenditure of money, than to raise armies to exterminate Indian tribes, or shed the blood of inhabitants of the United States.

I have no doubt, myself, (and my early life gave me some opportunities for observation in that service,) that a large portion of our Indian hostilities has resulted from the very small garrisons which we keep on the frontier. The Indians whom we are now required to watch, are not like the Indians to whom the Senator from Georgia alluded. The Indians in Mississippi were generally friendly to the United States; and it was the traditional boast of the largest tribe in that State, that they had never shed the blood of a white man. The Indians in his own State were more hostile; but settlements at that time advanced slowly. The greater portion of his State, like my own, was cultivable; the people went shoulder to shoulder as they encroached upon the Indian tribes. In these vast interior regions, however, where fertility depends entirely upon the power to supply water, little segregated settlements are formed along the valleys of streams, not of sufficient strength to sustain themselves, and there they invite the incursion of the savages, and there these hostilities usually occur. I think, therefore, that the present position of the Indians is nothing like so favorable, even if we had only the same number to combat, as that in which they formerly existed.

Then, again, it is to be remarked that a different race of men have been brought into contact with these Indians. In no spirit of boasting or sectional exaltation, I will say that the men who inhabited the southern States and the southern Territories, from their habits as hunters, had those prerequisites for military service that enabled them, without the support of the Government, to find their way into the Indian country, and to maintain themselves against Indian tribes. Even against the formidable tribes that possessed Kentucky when it was settled, the white man made his steady progress without the aid of any military force from the United States. Such is the history of our country. The reverse is the fact in relation to the population now brought in contact with the Indians of the West. To a large extent they are foreigners; and the residue of the population is, to a very great extent, made up of emigrants from the northeastern States. Neither of these people are accustomed to a life which qualifies them to meet the savage in his own mode of warfare. They require the protection of the military arm; and hence, year by year, it has increased as a necessity on the part of the Government of the United States, to give military protection to these settlements. Every year you have bills brought before you to indemnify persons for property lost; and Congress has so far adopted this theory of their obligation to protect the person that they have carried it to the security of his property. They have almost become underwriters of the property on the frontier. If it were a mere financial question, it would not be difficult to prove that it is cheaper to maintain a force which will prevent these outbreaks of the Indians on the frontier, than it is merely to grant that poor boon of indemnity to the family of him who has been murdered by the Indians when hostilities commence.

I hope, therefore, that the first section of this bill will not be stricken out. I believe that it will render the Army more efficient. I believe that when no hostilities exist, when no necessity for actual operations shall require the companies to be filled up to the large standard proposed, by reducing them to fifty-two we shall have a skeleton or peace establishment better suited to the purposes of our Government in time of war. I believe, also, that this will furnish us a convenient organization whenever we shall think proper to adopt it; making three battalions to each regiment; having two in actual service, and the third battalion disbanded when there shall be no necessity for it, but called into service as regular, volunteer, or militia troops, and added to the two battalions which con-

stitute the permanent regiment. These are my principal reasons for proposing the addition of two companies to each regiment, and these are the considerations for which I insist on its not being stricken out.

Mr. HUNTER. If I believed that these Mormon difficulties required an increase in the regular Army, I certainly would vote it; and if I had to do so, I would greatly prefer the shape in which that increase is presented by the bill of the Senator from Mississippi than to raising it by additional new regiments. I prefer it because it would furnish rather more men, as I understand, than the five regiments, and we should have fewer officers.

But if the proposition be to increase the present standing Army to that extent, on account of these difficulties, it seems to me that it ought to be accompanied with another provision, that when these difficulties are settled, this addition to the Army shall be disbanded and dismissed. Unless some such provision accompanies the proposition, it is manifest that it is a mere increase of the standing Army of the United States, which is designed to be permanent. Now, sir, I am unwilling to do this. I believe that there are no lasting and permanent necessities which would require such an addition to the Army. We discussed this matter in 1855. Four new regiments were then added to the existing army, and it was supposed that was all that would be necessary to guard and protect our country in ordinary times of peace. I see nothing that has occurred since that time to create the necessity for five new additional regiments, or for the addition now proposed by the bill of the Senator from Mississippi, unless it be to settle the Mormon difficulties; and, as I said before, if that be the object, there ought to be some provision for disbanding them after those difficulties are settled.

There are, it seems to me, two provisions in the existing laws which would enable the President of the United States to increase the present rank and file. I see from the report of the Paymaster General that he states that at present one hundred and eighty-seven out of one hundred and ninety-eight companies come within the provisions of the law of 1850, which allow the President to raise the company force to seventy-four when stationed at distant posts. Already the whole Army comes within the range of this provision, with the exception of eleven companies as here stated. I see, too, that the law of 1846—I do not know whether it is construed to be obsolete, or not—allows the President to raise the company force to one hundred.

Mr. DAVIS. It is construed to have been repealed by the act of organization which reduced the strength of the company to fifty-two, and afterwards, by the special act which authorizes the President under certain circumstances to raise the strength to seventy-four. I esteem it an obligation, I will here say, with the Senator's permission, whenever the circumstances do not require the organization to seventy-four, that the President should go back to the organization of fifty-two. I think he is bound to do it.

Mr. HUNTER. I had supposed the law of 1850 allowed the President to keep up the companies to seventy-four as long as he thought the public good required it. Of course he has the power to reduce it if he chooses; but if, in his opinion, we want so many more men, he is already allowed, I think, under the law of 1850, to keep up the company force to seventy-four, certainly of those companies stationed at distant or frontier posts. That is the only limitation of the law.

Now, sir, what can be the necessity for increasing the Army beyond what is allowed by the law of 1850, and especially since the addition of four new regiments in 1855? For, observe, I throw out of consideration the Mormon difficulties for the present. This is designed to be a permanent increase of the Army; and I ask, what is there now to require more troops than were necessary in 1855? Certainly not the condition of the Indians. We have no more Indians to guard now than we had then; nor are those Indians more difficult, or even so difficult, to guard and keep off from our frontier, as they were at that time; for it is to be remembered that since that period we have adopted a very expensive system of defensive policy in regard to these Indians. We are collecting them in the north western reservations. We

are feeding them; we are keeping them within the boundaries of civilization and the white population, where they can be guarded without so many troops, and where, if the argument be true that was urged in favor of the establishment of these reservations, they will be kept at peace by the inducements which are held out by furnishing them with land and such supplies as are given them. It is also known that the number of Indians is yearly diminishing, and that the task is likely to be easier and easier with the lapse of time, instead of being more difficult, of defending our frontiers against them.

It seems to me, sir, that when we look to the immense expense of our Army, as it now stands, and is now organized, we should be exceedingly careful how we increase it; unless we can devise some means of bringing these expenditures within bounds. I know not why it is that in those distant Territories, especially when we are making these large grants of land, they might not be made with some condition of military service; why we might not make some use of them, which would enable us to command the services of the population in consideration of the lands which are given them, to preserve and protect them. If it could be done it would double the inducements to peace, because it would diminish the inducements of the frontier men to press too far and too fast on the Indians, and to make those wars, which they are accused of too often making, themselves. I think we had better turn our attention to the policy of peace, and to something of that sort, especially as it has already cost us a good deal to embark in it, than to make this large addition to the regular Army of the United States.

If it shall be said—and on that point I am willing to defer to the opinions of military men, and there is no man to whose opinions on such subjects I would defer more willingly and more cheerfully than my friend from Mississippi—that some addition is necessary on account of the Mormon difficulties, I am willing to vote it in the shape he has offered it, provided he will make it temporary, and introduce a section in the bill requiring the disbandment when these difficulties are settled. Let him do that, and I will vote for his addition in that shape; but if it be not done, I am unwilling to vote for it, because I cannot agree, as at present advised, to any permanent increase of the regular Army.

Mr. HALE. I beg to make a single inquiry of the chairman of the Committee on Finance. I have not the papers before me, and I desire to inquire from him how much the Department asks for arrears in the military service of the last year in the deficiency bill.

Mr. HUNTER. No estimate has come to me as yet. It has gone to the other House; and I am unable to inform him precisely what is the estimate for deficiencies.

Mr. HALE. I am told, but not officially, and that was the reason why I put the question to the honorable chairman of the Committee on Finance, that it is very nearly seven millions of dollars. The deficiency, which the Administration asks for the War Department, for the military service, is, I understand, \$6,700,000. We actually spent \$19,426,000, and they want about seven millions more, making \$26,000,000 for military service last year. I have a little book here, and I find that during the most expensive year of the war with Great Britain, our military expenditures never got up to \$21,000,000, and in the highest year of the Mexican war, when we had, I think, nearly fifty thousand men in the field, they never reached to \$36,000,000; but now, in a time of profound peace, they amount to about twenty-six millions of dollars.

The honorable Senator from Georgia is a little mistaken in one respect. He says that in these extravagant times the Army will cost about a thousand dollars to a man. They cost that when I first came into Congress, fourteen or fifteen years ago. I took occasion then to look at the total military expenditures of the country, including fortifications, &c., under the military head, and they averaged \$1,000 a man. The expenditures now in the West are a great deal more, for we have about fifteen thousand men, and the expenditures are \$26,000,000.

Mr. HUNTER. How much does the Senator say it averages per man?

Mr. HALE. I am upon that question now. I

said that, when I first came into Congress fourteen or fifteen years ago, the whole military expenses, including ordnance, fortifications, &c., under the military head, amounted to \$1,000 a man. Now, we have got up to about fifteen thousand men, and the expenditures are about twenty-six million dollars, making over fifteen hundred dollars for every man in the service. This bill proposes to raise about seven thousand additional men, which will saddle upon this Government a permanent annual increase of expenditure of about twelve million dollars.

The idea that the Army will ever go back, and grow smaller as long as we have money or credit to maintain it, is too absurd to be introduced by a sensible man on this floor. There are no backward tracks when our Government begins to expend money. You may have a war; it makes no difference how expensive it is; and you may have peace, and your expenditures will go on increasing. We actually spent more money last year, exclusive of any payment for the public debt, than we ever spent in any year from the beginning of the Government up to the last year, by a very considerable amount. The highest expenditures, exclusive of payments of the public debt, during the most expensive year of the war with Mexico did not come up to \$54,000,000, but last year we spent \$72,000,000. Pass this bill, and next year your expenses, including what you pay, and what you get trusted for, will be over a hundred million dollars. I represent a people who are in the habit of working hard for what little money they get, and they are not willing to vote away money unless there is an absolute necessity for it.

What does the President want with this Army? Let me read a note that gives definite and official information in regard to some matters about which some remarks have been made. I read from the last Army Register, on the forty-second page:

"By the act of June 17, 1850, 'to increase the rank and file of the Army,' &c., section second, the President is authorized, whenever the exigencies of the service require it, to increase to *seventy-four* the number of privates in any company 'serving at the several military posts on the western frontier, and at remote and distant stations.' In the table, the minimum or fixed organization is given, viz., *fifty* privates to a company of dragoons, *sixty-four* to a company of light artillery and riflemen, and *forty-two* to the artillery and infantry. Under the authority vested in him, the President has directed that the number of privates be carried up to *seventy-four* in the several companies serving in the peninsula of Florida, and on the islands adjacent to it; in Kansas, Nebraska, Utah, Texas, New Mexico, California, Oregon, and Washington Territories; as well as in those stationed at Forts Snelling and Ripley, on the upper Mississippi; Fort Ridgely, on the Minnesota river; and Fort Arbuckle, on Wild Horse creek. There being *one hundred and eighty-three* companies serving at, or in route to, these distant stations, the authorized increase in the number of privates is five thousand two hundred and twenty-eight; making the 'total enlisted' (as the troops are now posted, or in route) seventeen thousand and sixty-six, and the 'aggregate' eighteen thousand one hundred and fifty-one. If all the companies belonging to 'regiments' (one hundred and ninety-eight) were serving at the distant stations described, the additional number of privates allowed would then be five thousand six hundred and sixty-four; thus increasing the 'total enlisted' to seventeen thousand five hundred and two, and the 'aggregate' to eighteen thousand five hundred and eighty-seven."

So, sir, according to this statement we have now actually an Army of eighteen thousand men. I have been a little laughed at once in the Senate, and I am willing to be laughed at again, for repeating as the solemn conviction of my understanding a lesson of wisdom which the fathers of my native State inscribed on the first constitution they ever wrote, and which, I hope in God, will remain as long as we have a Constitution—that standing armies are dangerous to liberty. I tell you, sir, that an Army of eighteen thousand men, or twenty-five thousand men, as this bill proposes to make it, with the means of transportation with the rapidity of lightning by means of railroads from one end of the country to the other, is a force equal to what it would have been in olden times, if we had one or two hundred thousand men. The President can, if he pleases, concentrate them at any point, at any moment, and for any purpose. I do not know how it is, but the law has been construed that these armies are called, I believe, a *posse*, and under the name of a *posse* he can transport them to any place for any purpose he chooses. It is a significant fact to my mind that he has undertaken to play *possum* with them at elections. [Laughter.] Not long ago there was a call made to have a portion of his *posse* go to Baltimore and see that the elections were regularly carried on there. I believe, however, it was not thought

prudent for them to go, and they did not go; but he did have a *posse* in the city of Washington to carry on an election, and no small portion of this force—this *posse*—has been employed, and is now being employed to illustrate "perfect freedom" and "popular sovereignty" in Kansas.

I have an official table before me, by which I find that in the first quarter of 1855, three hundred and twenty-one men were considered sufficient to carry out popular sovereignty in Kansas. The next quarter they went up to nine hundred and twelve; and the first quarter of 1856, we had got up to one thousand and eighty-six men to carry out popular sovereignty in Kansas, and leave the people thereof "perfectly free." [Laughter.] Then we came to the first quarter of 1857, and at that time "perfect freedom" required a force of one thousand three hundred and forty-two men in Kansas. They so continued until the commencement of the fourth quarter of 1857, which I suppose was about the 1st of October last. At that time there had been an election in Kansas; and the people of Kansas had manifested what their ideas were of popular sovereignty and perfect freedom, by putting the President's forces into a very small minority, and electing a free-State Legislature, and a free-State Delegate to Congress, by an overwhelming majority; and immediately upon that the Federal army is raised from one thousand six hundred and seventy-three to two thousand five hundred and sixteen men in Kansas. That is what the President needs this Army for—to carry out "popular sovereignty" and "perfect freedom!" I think a force of eighteen thousand men is quite enough to do that; and I think that \$26,000,000, in a time of profound peace, is enough to spend upon an army in this country, particularly as long as we have to borrow the money to do it with. Borrowing money in order to raise men for such a purpose, I am utterly opposed to. I believe that if there is a difficulty in Utah, the Army is three times large enough to attend to it.

I am sorry to disagree with a man who is so perfectly competent to express an opinion on these matters as the honorable Senator from Mississippi is, but I differ from him entirely in the view which he presents, that our difficulties are owing to the fact that we have had so few soldiers among the Indians. I believe the difficulty is that we have had any troops among them. I think it has been provoked by the military display which has been made among them, and the conduct of some of the men, either among the volunteers or the regulars that have been stationed among the Indians. I do not speak without the book, on this subject. Anybody who will read the history of the Oregon and Washington Indian war, given by General Wool, (though I believe, as a matter of private history, the honorable Senator from Mississippi would not regard that as the highest authority,) will see what it is that provokes Indian hostilities on our frontiers. You will see there, according to the account of General Wool, that an Indian chief who came into the American camp with a flag of truce, offering, if any injury had been committed by his people, to make compensation and reparation in cattle or in money, was told that he had better go home and fight. They finally provoked hostilities, and took this chief who came in with a flag of truce, murdered him in the American camp, cut him into pieces, and sent the pieces around to different quarters of the Territory. That is a statement under the hand of General Wool.

Now, sir, I believe that the experiment which was made in olden times with the Indians, by the Quaker Penn, has been the best and wisest Indian policy which has ever been adopted. If the Indians are treated like men, I will not say with kindness, but with justice, you will be troubled with no Indian war. I am sorry that I do not see in his seat the veteran and honorable and gallant Senator from Texas. [Mr. Houston,] who knows so much in regard to the Indian, and who has so often, in his place on the floor of the Senate, expressed sentiments similar to those which I have here expressed. He has said, in regard to Indian hostilities, that whenever the blame is traced to its foundation and its source, it has been found to be with the whites, and not with the Indians. If we return to a policy of peace and justice to the Indians, that is all that is wanted.

I do not profess to know much about this Mormon war. I will say in the outset, however, that

I do not believe in it, nor in the necessity for the tremendous expenditure that is being made. I believe that if commissioners had been sent to precede the Army, they would have superseded the necessity for sending the Army.

Again, the honorable Senator from Georgia says we have not declared war against the Mormons. Has he forgotten our modern history? He is well versed in ancient history; but has he forgotten our modern history? Did we ever declare war against Mexico? No, sir; but I will tell you what we did declare. We declared that war existed by the act of Mexico. We may declare by-and-by that war exists by the act of Brigham Young; and if it be repeated as many times in a presidential message as the other statement was, that war was commenced by the act of Mexico, it will get to be a part of our history; and a man who shall doubt that war was commenced by the act of Brigham Young will be no better than an alien and a heathen.

I shall vote for this amendment, and I shall go for any other amendment that is proposed which will limit or restrict the number. I shall support the amendment which I understand my honorable friend [Mr. SEWARD] proposes to offer, that these troops shall be limited to the special necessity which calls for them; and when that ceases, that they shall cease to exist. I shall go for every amendment that will cut the bill down to what the honorable Senator from Mississippi calls it—a skeleton. I shall want to reduce it to a skeleton, and I shall go against the skeleton after that. [Laughter.] I shall go against the whole bill.

Mr. FOSTER. Mr. President, I am in favor of the amendment of the Senator from Georgia to this bill, mainly for the reason that it creates a less addition to the Army than will be created by the bill if the first section stands as part of the bill; for I am among those who believe that, increased as the second section of the bill proposes to increase the Army, it will be increased enough, and, in my judgment, too much. I am free to say, that if the bill be amended by striking out the first section, as proposed by the Senator from Georgia, I shall still vote against it. I would rather, however, that it should pass with the section stricken out than with the section standing. Therefore, I am in favor of that amendment.

On what grounds, Mr. President, are we asked to increase the regular Army of the United States, as proposed by this bill? There is, I believe, no written report accompanying the bill from the Committee on Military Affairs; and the reasons, and all the reasons which we have yet heard, come from the honorable Senator from Mississippi, the chairman of that committee. I must confess that the reasons suggested by him for increasing the Army are not such as satisfy my mind, although I defer certainly, as I ought to defer, to his superior experience and judgment on this question. The Senator from Mississippi and the Military Committee, as they have a perfect right to do, differ from the President and the Secretary of War; for in the message of the President and in the report of the Secretary of War, a plan different from this is proposed. Inasmuch as they differ from the Executive, and if they think the Executive is wrong, they are bound to differ from him. I suppose each individual Senator here is bound to act in his own judgment and on his own responsibility, and is not at liberty to defer to the judgment of others when that judgment does not conform to his own.

I do not believe, sir, that even for the purpose of enforcing the laws of the United States in any State or Territory, or for the purpose of protecting the frontier from the aggressions of our Indian tribes, or to keep the peace in Utah, or to bring the Mormons into subjection to the Government, is the increase proposed in this bill necessary. These are the grounds, and all the grounds, which are suggested; and the honorable chairman of the committee does not allude to the Mormon war as among the reasons why the Army ought to be increased. If I understand him, he disclaims that as a reason for increasing the Army; so that we are brought back simply to the two reasons—our relations with the Indian tribes, and the necessity of executing the laws of the United States. Now, sir, is it a fact, that eighteen thousand men in a regular army are not an adequate force to protect our frontiers from the aggressions of the Indian tribes, and to see that the laws of the United States

are faithfully executed throughout our whole territory? For one, I believe that force is abundantly sufficient.

I agree with the honorable Senator from New Hampshire, that one cause of our hostile relations with the Indians is a disposition to send military forces into their neighborhood; and I do not believe that the regular Army of the United States, if it were doubled, and if it were stationed along the whole line between the Indians and our frontier settlements, would serve to protect those settlements from the aggressions of the Indian at certain times. Certainly fifty thousand men could not extend over our whole line along the Rocky Mountains; and the mode of warfare practiced by the Indians would be then, as now, not to fight our Army in the field, but in the mode known to them, and in the mode alone followed by them. They would make incursions, commit thefts, robberies, and murders on our people, and fifty thousand men would never prevent it; fifty thousand men would do more to provoke it, in my judgment, than eighteen thousand, and very little more to protect the settlements. The national honor is not concerned in these warfare with the Indian tribes; it is simply a question of protecting the lives and property of our people, and that is all. No question of national honor is involved in fighting the miserable Indian tribes on this continent. It is simply, I say, a question of protecting the lives and property of our people, and mainly protecting the property of our people; for the Indians are not generally disposed to commit murders, unless it be in retaliation for murders committed among them. They are more disposed to predatory incursions, to steal cattle, and other property which they may, under certain circumstances, be enabled to possess themselves of.

Now, sir, viewing it in that light, it becomes, to some extent, an economical question. Look at the present condition of the detachment of the Army in the Rocky Mountains, with reference to the loss of property by that detachment, and compare it with the loss to which our people living on the frontiers have been subjected for the last five years, and how would the sum total be? Unless the accounts are grossly exaggerated—and we have no reason to suppose they are—the detachment of the Army now buried up in the snows of the Rocky Mountains has lost in property to this Government more than has been lost by all the emigrant trains, and all our inhabitants on the frontiers, within five or ten years past. I am not, by any means, advised of the precise number of domestic animals, such as horses, mules, and oxen, that have perished from starvation and cold in the Rocky Mountains, connected with the detachment of our Army now there; but I hazard nothing in saying that the loss of these animals will be found greater than all the animals which have been stolen by the Indians in ten years past. If our Army be sent out to the Rocky Mountains, or along our western line, to protect the property of our people, and in order to carry out that policy they are losing more property, day by day, than there is any danger of our people losing if the Army was not there, what kind of economy is it to continue this policy, when the question, as I have before suggested, is almost purely an economical question? I believe that if there were fewer of our military men sent along the line of the Indian territory, there would be fewer murders, less loss of property, greater peace with the Indians, more real protection to the inhabitants of our frontiers, and greater safety to life and property.

Next, in regard to the execution of the laws; where is the necessity for a large force to execute the laws of the United States? Some two thousand five hundred men belonging to the Army are in the Territory of Kansas, and have been for some time. For what purpose? To see that the laws are faithfully executed? I do not believe they are there for that purpose. They are there under orders; but I do not believe the detachment of the Army which is there is there for that purpose, or that it effectuates or carries out that purpose. On the contrary, I believe that the detachment of the Army now there is rather for the purpose of enabling the minority of the people to rule the majority, and to carry into effect laws which the people have not made, and therefore are not disposed to submit to; for it involves, to my mind, an absurdity to suppose that we need the cannon

and the bayonets of the Federal Government to enforce laws which the people themselves have made. The Territory of Kansas is living, we are boastfully told, under a new era of legislation. That era is to give to that population the right to regulate their domestic institutions, and make their own laws precisely in the manner they please; and in that Territory, almost an entire barren wilderness till within a few years past, there now seems to be need for two thousand five hundred men to enable that people to mold their institutions, to make their laws, and to enjoy that perfect freedom which there was first to be enjoyed on the soil of the United States as a territorial soil! I do not believe in the necessity of sending two thousand five hundred men, or any number of men, into the Territory of Kansas to protect the people against themselves—to enable them to execute their own laws. I believe that the tendency of the military force of the Government there was, and is, to give to a portion of the people—a very small minority of the population—the power to control the majority; and hence the need of force.

Now, sir, I am not disposed to vote an increase of the Army for purposes of this sort. The Army is not to blame. They are bound, of course, to obey the orders of the Commander-in-Chief, and are not to be held responsible for the position in which they are placed. And here, perhaps, I ought, by no means, to pass any criticism on the loss of property which the Army are now suffering in the Rocky Mountains, in consequence of their animals being unprovided with forage and killed by frost, and also by starvation. The honorable chairman of the Committee on Military Affairs yesterday hesitated in regard to pronouncing an opinion on the course of policy and management of the Army in that position. When he hesitates, certainly it would be very arrogant in me to pronounce an opinion. Taking it, however, for granted, either that the Army has been there under proper orders and properly provided, or that there has been an improper order, an improper provision, made for the Army in that position; in either event, it justifies and requires me to vote against an increase of the Army for such purposes as have been alluded to; because, if the Army is reasonably and properly there subjecting the country to these losses in the way of animals and other expenses, for the purpose simply of protecting property, it is unwise and unjust, and ought to be voted down as an economical measure; and if the Government is in such hands that the Army, if raised, will not be so commanded and directed as to effect the objects we have in view, the result is the same. No increase ought to be made.

Under these circumstances, Mr. President, I am compelled, in the first place—following the dictates of my judgment—to vote for this amendment; and then, if I can vote down the bill by my vote, I shall most cheerfully do so. If I cannot, I shall still be glad that, by adopting the amendment, the increase is not as great as the first section of the bill would make it.

Mr. FESSENDEN. Mr. President, just at this time I believe we are at peace with all the world. I do not know of any troubles that threaten us anywhere, except some little domestic difficulties, which, I suppose, the United States are very competent to take care of without any very particularly large army. I do not know that war threatens us from any quarter, or that there are any symptoms that we are about to get into difficulty with any foreign Government whatever; that is to say, any such difficulty as will lead to hostilities. I think, therefore, we need not alarm ourselves with apprehensions on account of foreign foes, but may turn our attention to the state of things as they exist at home, and see if there are any dangers that threaten us here which require the measure that is now proposed on the part of the Government, through the Committee on Military Affairs of this body.

One other thing is observable, and I think it ought not to be left out of view—that just at this time we are bankrupt; we cannot pay our debts; we are obliged to direct that orders on the Treasury, so far as they can be dispensed with, shall not be drawn, even to meet our existing obligations. We are obliged to borrow money. We have passed at this session of Congress, under the pressure of great necessity, a bill authorizing substantially a loan of \$20,000,000. It was proposed

at the time—or said, at any rate, and it was a leading argument—that in a very short time the Treasury, on account of a revulsion in business, from an unfavorable to a favorable position, would be able to meet all demands, and that we should go on as usual. The facts, instead of all encouraging that idea, have presented themselves to us in such a shape that I believe everybody is well convinced that, instead of our being able to meet that debt, provided we can incur it, (which seems to be a matter of some doubt, as nobody seems willing to take our notes,) we shall be obliged to resort to some other mode of raising an additional amount of money.

In this state of things, while we are at peace with everybody, and while we are bankrupt and not able to meet the expenditures which ordinarily arise in the course of government, for civil and other service, we are called on by the President of the United States to increase the expenses of our Government in the military department, by some five or six million dollars—\$7,000,000 if there are seven thousand men, certainly, and probably up to \$12,000,000, as suggested by the honorable Senator from New Hampshire. It strikes me, as a plain man, looking at the outside of matters, and not very competent to look deeply into affairs of government and political economy, that when a proposition of this kind is made in a peaceful day, and with a bankrupt Government which has not money wherewith to meet its expenses, and does not know where to get it, some exceedingly good reasons should be given for this proposed increase of our expenditures. I have waited to hear from the chairman of the committee who advocates this measure, those reasons which should induce me to give my vote for the measure, satisfying myself, at the same time, of the necessity of the case and the urgency of the exigency which is pressing upon us.

It was this view, and impressed by these general considerations, that I desired time yesterday. I suggested that, although we had the recommendation of the Secretary of War, yet we had not before us, as a Senate, the facts accompanying his report upon which we could predicate an opinion. We were at last precisely in this position: that we must take the recommendation of the Secretary of War on the reasons which he gave, which were mere logical deductions from the general state of things, and were to have nothing at all that we could look at from those officers who were competent to give us the details from which we might be enabled to form our own opinions on the subject. We have no report from the commanding General of the Army, that I know of; no details from any one conversant with the troubles upon our Indian frontiers, which would enable us to reach the conclusion which seems to have been arrived at by the Secretary of War and the committee. Nor have we a detailed report from the Committee on Military Affairs. We are obliged to take the bill, which, as the honorable Senator at the head of that committee said, is a plain proposition, and act upon that bill without details and without information; that is to say, without anything but the recommendation of the President and the Secretary of War.

Now, sir, I am one of those who require something more. When we are asked at a time like this, with the Treasury bankrupt, as I have said, and in a period of peace, to impose a burden of some ten or twelve million dollars additional per annum, permanently, on the people of the United States, it is hardly enough for my purpose to be told that the President recommends it, and that the Secretary of War recommends it, and that the chairman of the Committee on Military Affairs has had leave from the committee to bring in a bill to that effect.

Then that not being enough, we are obliged to proceed as we can. We have nothing before us as to the present existing state of facts; we have no details from military men; we have nothing presented to us as to what is intended to be done with this military force in detail; we are not told where it is to be stationed; that so many men are wanted here, that so many men are wanted there; so many for this expedition, and so many for that. No detailed tables are given us, by which we may see plainly that so great a military force is absolutely requisite in order to preserve the peace of the country. Ought we not to have something of that kind? Why should it be all kept back.

I do not say kept back purposely; but why is it that we do not have it from some source or other—either the President, or the Secretary of War, or the committee? We are called upon to act on a measure of this importance—not only important in point of money, but doubly important in point of principle—simply upon the say-so of the officer at the head of our Government, without giving us any details whatever, on which we can safely predicate an opinion.

Mr. President, this leads me to look at the outside of the matter, for I can penetrate no further, and inquire what there is in the existing state of things calling for this large addition to the expenditures of the Government? I waited to hear something on the subject from my honorable friend at the head of the Committee on Finance, [Mr. HUNTER.] I had hoped that he would appeal to the chairman of the Committee on Military Affairs to state some reason in the present condition of the Treasury, showing the extreme urgency and necessity of the case calling for this increased expenditure. We have had nothing pressed upon us showing the existence of an extreme urgency. The suggestion yesterday was that, if we are to do certain things immediately, this bill should be passed at once; and yet, to-day, the chairman tells us that he does not ask for this increase of the Army with reference to any particular exigency now existing, but rather with reference to military considerations generally. I think his great argument was that this measure would make the Army more uniform. I certainly so understood him. His first point, if I heard him rightly, was, to use his language, that it was desirable to encourage, or promote, or procure uniformity in the organization of the Army, and that for this purpose twelve companies to each regiment would be better than ten.

Mr. DAVIS. If the Senator will permit me, I will correct his misunderstanding of my remarks. I said that the addition of the two companies to each regiment would perfect the organization; but it did not follow that it would increase the whole number in the Army, because you can reduce the size of the companies, and with twelve companies have no more men than if you had but eight companies to a regiment. My remark in relation to the Mormon war was, that that was not the cause of asking for the increase—not that it did not enter into it, for just in proportion as troops are sent into the Territory of Utah, they are withdrawn from their ordinary duties. The ordinary duties of the Army, preserving the peace of the frontier, particularly in relation to the Indians, as well as garrisoning many posts which are now vacant, but which ought not to be vacant, constitute, in my mind, the necessity for the increase of the Army—the other consideration being only an element, not the great cause, as presented by the remarks of others. What I said was in answer to their remarks.

Mr. FESSENDEN. I listened to the chairman of the Committee on Military Affairs very attentively, with a view to see what were the particular points that he made to establish an exigency calling for this increase of the Army at the present time. Yesterday I spoke of the importance of Senators having on this subject some definite information, derived from the documents, instead of being compelled to take the mere say so of the Secretary of War, or the recommendation of the committee, accompanied by no report; and then I understood him to say that it was of pressing importance that the bill should be passed at once, in order that the enlistments might go on to prepare the Army for operations.

Mr. DAVIS. I say so now.

Mr. FESSENDEN. My next question sought to find out what the operations are, if the operations are necessary at the present time, and the exigency is so very pressing; but I have not heard that stated as yet. As I stated before, one ground of the increase is, that to the military eye there will exist greater uniformity. The Senator now says, that although you may have twelve companies in a regiment, they may be so manned that the whole number will not be equal to what it might be if there were only ten companies; but he will not deny that if you have twelve companies, capable of expansion to a certain number, that may be a much greater number than would be allowed by fewer companies.

Mr. DAVIS. Certainly.

Mr. FESSENDEN. This, therefore, is substantially an increase of the Army, because it enables the President, who is to judge of the exigency of the case, to increase the Army, whenever he deems it necessary, to that point. Whatever may be done by the Executive Government in this respect I look upon as done, because we give the power to do it.

I have great respect for the military mind in its proper place, and I have no doubt the honorable Senator is remarkable for the extent to which he possesses the military as well as the civil mind; but I think they should be kept distinct. I am in civil life, and I am not at all pressed by any considerations of a military character. I believe the country does not care that there shall be a particular number of companies in order to make out a uniformity in the organization. The people desire men enough, and so officered and organized that they can render the needful service; but whether there are more or less companies is of no consequence, except that they desire as small a number of companies and of men as possible. I would not add a man for the sake of making the companies uniform, nor would I enlarge the skeleton which is thus capable of expansion, in time of peace, for the sake of uniformity. It is no argument to my mind.

The honorable Senator said—he will allow me to insist upon it, I am not yet satisfied at least that I misunderstood him—that this increase was not wanted in reference to any existing difficulty with Utah; that in the enlargement of the skeleton, if he will allow me to call it so—

Mr. DAVIS. I think my remarks were in answer to the argument made, that that was the reason for asking the increase. I say no; that is not the reason given.

Mr. FESSENDEN. Then the Senator admits that it is one of the reasons. Passing by what was said by the Senator from Georgia with so much truth, that there is no existing war, it is impossible to keep out of sight, and I do not wish to do so, that there are existing difficulties with Utah which may require the use of a certain number of troops, a certain portion of the Army. We had the judgment of the present Secretary of War and our present military department on this subject, when they dispatched the recent expedition to Utah. We had their opinion of the exigency—not such as the honorable Senator now urges so strongly, that we cannot delay even to acquire the necessary information in the passage of this bill. Their opinion of the exigency was, that some two thousand five hundred men were all that were needed, and they dispatched them at the close of the summer, when there was no probability, in anybody's calculation, that they could get there in season to interfere with the operations going on in Utah. It was only, as it has been called in reference to Kansas on other occasions, a *posse*, to be used as a civil *posse* in aid of the operations of the civil government.

If they sent them out for that purpose—if two thousand five hundred men were enough, and they were dispatched in the manner they were dispatched, with no urgency, no speed, no haste, without preparation, without even making any reliable basis of operation, as I believe military men call it—without laying out their track in such a way that they could be reached and protected, or that they could protect themselves; if that is the opinion of the Government—and surely we may conclude it to be their opinion, from the mode of operation—there can certainly be no such pressing exigency arising from the necessities of the troops in Utah as would seem to be urged upon us. Why, sir, I never have been a believer in all these stories that are told about the great strength of the Mormons, and what we should have to do there. I believe in them no more than the Government does. On that subject I am somewhat of the opinion of the honorable Senator from Mississippi in regard to reports from Kansas, and certainly they cannot be considered as any more reliable. There is a vast deal of exaggeration in them, to say the least; and in the next place, we have no positive reliable information on the subject.

If the state of things in Utah at the present time be even one of the reasons for asking this increase of the Army, why has not the Government of the United States obtained some reliable information on the subject and sent it to Congress for our con-

sideration? They accompany their demand for an increase of the Army with no statements of facts. They say that there are difficulties; that the laws are resisted. They do not say there is war; they speak of no force requiring a great military power on our part; and yet, on the bare suggestion that there are difficulties existing in that country, without even giving credence to the rumors which exist, and which we have seen in the newspapers, and which we certainly cannot credit to the extent that they are given, they make this demand on us. Does it become us, as statesmen, to act in a matter of this importance, on such loose, unreliable data as these; upon bare suggestions, unaccompanied by facts; upon reasoning without giving us any details from which the conclusions are drawn? No legislative assembly in the world would undertake to raise a large military force in a time of peace, and at a time of bankruptcy add ten or twelve million dollars a year to its expenditure, merely on the requisition and suggestion of its Government, with no facts to show that the necessity existed.

It comes back, then, merely to the question of the Indians; and on that I do not feel disposed to say much. Indeed, I could not, if I would, add anything to what has been so well said by my friend from Connecticut [Mr. FOSTER] on that point. I remember that I had the misfortune to be a member of Congress in the year 1842, when the subject of the condition of the Army was gone into, and its number was fixed, I think, at about eight thousand. The grounds upon which it was determined at that time that that was a proper number, were predicated, in the first place, upon the necessity of supplying our fortifications on the Atlantic, and our military posts on the frontier; and we had then the same story about the Indians which we have had since, and are having now. I was a younger man then than I am now, and I was not disposed to look with so careful and scrutinizing an eye at matters of expenditure as I am at present. I remember that I made a speech at that time in the other House against the reduction of the Army. It was, however, advocated very strongly, and finally carried. I remember very well that Mr. Adams was a leading man in favor of reduction. We had no difficulties of any consequence at that period, and the Army was reduced to that number. The Florida war had been ended. Since then, we have acquired Texas and California and New Mexico and Utah. It is true, these additions have enlarged our frontier, and increased the number of our Indians. I am not disposed to deny, that on this ground our expenditures are necessarily greater; and I admit that we have occasion for a greater military force now than we had then; but between 1842 and 1857, a period of fifteen years, the Army has more than doubled. It has increased from eight thousand to eighteen thousand men; and as the Senator from New Hampshire has remarked, the expenses per man have vastly increased. Our Army expenditures have gone up from eight millions per annum to twenty-five or thirty million dollars. Is there anything in the present state of things to show that that increase is not enough in proportion to our necessities now, as compared with the existing state of our Army, and our necessities then? Why does not the Government give us some details of the difficulties on the Indian frontier? Why are we left merely to the statement that there are a certain number of military posts? Is it necessary to garrison all these posts? It may be necessary to garrison some of them and not others. Why are we left to the simple statement that there are so many Indians subject to our dominion? Why do they not tell us that, whereas we had then on our broad frontier a great cloud of about fifty thousand Indians who had been removed to the West, and stationed with those before on the frontier, disposed to quarrel, smarting under the grievances which they supposed had been imposed on them in the removal, our Indians are now settled down, a quiet, peaceable population, many of them cultivators of the soil, and at all events not disposed to commit aggressions upon us? To be sure we have acquired others; but so far as this particular class of Indians is concerned, we are vastly better off now than we were then.

I see, then, nothing in the state of our Indian affairs that should call for this increase of the Army. Indeed, I believe that instead of relying

on the Army, it would be better to rely on the frontier men themselves, for we shall never have any peace except such as they conquer; and if they choose to conquer it, I am willing to pay them for it, although we pay them more than we should have to pay the regular Army, because we shall then have the privilege of looking into the matter and seeing how far we are responsible, and what the difficulties really are.

What I complain of, then, is that we have no specific information on this subject; that instead of telling us there are so many posts to be garrisoned in order to meet such and such dangers, and that there are so many Indians to be met at such and such points, we are simply given the number of Indians in all our Territories, and the number of military posts. We have no military details whatever as to the necessities of the case. I think we have a right to expect such details from the honorable chairman, and he is unquestionably competent to give them, for he is perfectly familiar with all these matters. When he asks for this large increase of the Army, why not give us a statement of precisely what is necessary, and where and what number of troops is needed for each particular place, and each particular service, without dealing in these generalities? No legislative bodies on the face of the earth, careful as they ought to be, especially with us, and as our ancestors always were in the expenditure of money, ever thought of granting it, except upon the most specific statements showing how the money was to be used.

Some two or three years ago, on the recommendation of the then existing Government, and while the honorable chairman of the committee was at the head of the military Department of the Government, we raised four regiments, if I recollect aright. We, in fact, authorized the increase of the Army to very nearly, if not quite, the extent that was demanded. He will correct me, if I am wrong on that point. Has there been anything since to increase the necessity? Are we in any trouble now that we were not in then, calling for a larger number of troops? The honorable Senator says it is not Utah. What, then, is it? I believe that recommendation was based on similar arguments to those used now. With regard to the number of Indians on our frontier, and the exposed character of the frontier, the necessary protection of the people, and the necessary protection of emigrants, the argument was the same. How is the case changed? We raised the four regiments; we increased the Army; we added \$4,000,000 a year to the general expenditure, and now we are called upon to add from seven to ten million dollars more. I should like to know from somebody (because I profess my ignorance on these subjects) what has arisen, in the mean time, between the act we did then, in granting the increase of the Army, and the present time?

All these facts I desire to know; and they were the motive and the reason why I stated to the Senate yesterday, that upon this subject I did not believe the Senate was sufficiently informed; because I think it is the duty of every Senator to judge for himself upon the details of facts, and to take the word of no man, and no particular set of men, in regard to such matters, when merely stated in general terms.

I am not disposed at all to make an issue with the Government, simply for asking an increase of our military force. If that increase is necessary, I am ready to vote for it. It makes no difference to me what the amount is; if the exigencies of the State demand an increase of expenditure, in any quarter, I am perfectly willing to take my share of the responsibility of meeting it; but, with the honorable Senator from Connecticut, I do not believe there is a necessity for this increase, nor do I approve of the use that has been made of the Army, or that I believe will be made of it.

Allusion has been made to the use of the Army in Kansas for the purpose of executing the laws. Sir, I have never yet been able to understand that the President had the slightest right to use any portion of the Army there in that way. I know the power is claimed, and it is claimed under an act giving the President authority to use the Army of the United States in cases where he might use the militia for certain purposes; but that power never extended to the Territories, and does not extend to the Territories now, by existing laws.

Mr. PUGH. The statute of 1807 extends to the Territories.

Mr. FESSENDEN. I beg the Senator's pardon. The statute does not extend to them, as I understand it. That construction can only be made out by implication, and not by any necessary or strong implication either. I am disposed to agree with the honorable Senator from Georgia in the statement which he made the other day, that our ancestors were jealous of allowing the President to use the Army for the purpose of enforcing the laws. I wish the people of the present day were quite as jealous on that subject. Senators who are sensitive in relation to using the Army for one purpose are not so sensitive in regard to its use for other purposes. I never yet have been convinced—and I doubt whether I can be—that there is the slightest authority for using the Army as it has been used in the Territory of Kansas for the purpose of enforcing the laws of Kansas. I know gentlemen have disputed this proposition heretofore; but I must say, that to me it is a new idea that the President may use the Army to protect the polls in a territorial election.

President Pierce held that there was no authority in the Government, whatever, to undertake by any demonstration of force to see that fair voting was had in Kansas. President Buchanan seems to be of a different opinion. I suppose the honorable Senator from Mississippi agrees with the former President in opinion, as he was one of his Cabinet, that the Government possesses no power in such a case; but opinions seem to have changed on that subject. I apprehend the change has been owing to the fact that at that period the polls were to be protected against a superior power, from without the Territory; at the present time the polls are to be protected against the majority of the people of the Territory. That has made the change in the views of the Government. Why, sir, it was certainly so. The Senator will remember well, and the Senate will remember well, that in one of his messages President Pierce expressed a doubt whether he could so use the Army, and he certainly never attempted to use the military force of the country for the purpose of protecting the polls in Kansas, or elsewhere.

We all know what the condition of things then was. We did not get, I believe, even in the report of the honorable chairman, who was then Secretary of War, a direction to the military force in that Territory to see that the polls were protected against invasion, either from abroad or at home. Why? I will not say why, because it would not become me to say why, or to give an opinion or make an intimation on that subject; but the fact was that at that particular period the force outside of the Territory on the Missouri border was very much stronger than the force inside; and the polls, if they were to be protected at all, were to be protected against those from without the Territory who had taken possession of them by force, and shown their inclination and will and determination to take possession of them by force, whenever an election was held. The times have changed within a very short period. The free-State force in the Territory of Kansas is very well able to protect itself now, and see that there is fair voting if left alone; and now it becomes necessary that the military arm of the Government should be used to protect the polls in Kansas! Sir, whether the change in the policy of the Government is owing to the change of circumstances, is not for me to say, but the country will judge for itself upon that subject.

I say, then, sir, seeing no reason, having heard no pressing exigency, illustrated and enforced, calling upon me to vote an increase to our expenditure of \$10,000,000 in a time of peace and a time of bankruptcy, by adding to the permanent force of the Army, except loose suggestions and recommendations, unaccompanied by statements of facts, unaccompanied by any detail as to the proposed use, and therefore the proposed necessity, for this great increase of the Army, I must necessarily not only vote for this amendment, or for any other amendment which has a tendency to limit and lessen the increase which is proposed, but also against the bill in any shape in which it may be presented.

Mr. SEWARD. Mr. President, there is never any question which embarrasses me so much as the propositions to increase the military power of

the Government of the United States, which are continually moved here. The last reflection that I am willing to endure is the one that any portion of my countrymen shall suffer loss of property and life in the Territories of the United States, owing to my refusal to make the Government strong enough to protect them. Therefore, looking at the condition of things in the Territory of Utah, having made up my mind that the difficulties there are far more serious than Senators here seem to think them to be—much more serious and alarming than the honorable Senator who has charge of this bill here, [Mr. DAVIS,] seems to think—I am perplexed about the vote I shall give.

Sir, we are entering on a new experiment in the government of a Territory. The Territory of Utah stands out entirely distinct from the whole line of our past experience. Our territories heretofore have been settled by our own countrymen; by men trained up under our own Constitution; by men accustomed to the principles and the habits of American republican society—men educated to govern themselves, and maintain their rights and liberties; and men also accustomed by habit to submit with loyalty to the Federal Government in the exercise of its proper jurisdiction over them—men whose religion and whose morals have been derived from the same source with our own—men in every way who were our brethren. These territories have practically been accessible to us; they have been adjacent territories. Here we find a lodgment of a band of men which has been expelled from the heart of our country—cast out and rejected by its civilization—equally intolerant of us and intolerable by ourselves—men who have been driven to hate, and not yet instructed by all their calamities and experience to fear us. This body of the settlers of Utah are men who have set up for themselves another and peculiar religion. They have gone back two thousand five hundred years, and have set up a religion based upon the principles of Judaism—a system repudiated not only by ourselves, but repellent to the religious and moral sense of all Christendom. This community, thus made to fly before us, has taken refuge in passes of the Rocky Mountains, or in a region encircled by the mountains, which secures to them fortifications such as military science never yet has devised, or military art been able to construct. I look at that band, and see the perpetual increase of it by emigration from amongst ourselves, and by emigration from European and South American States; and I see in their religious and political constitution two martial elements—the elements of resistance to law and to authority such as have never yet been successfully overcome when combined: the one a lust of independence, of power, and dominion; and the other a religious license to the base passions of mankind.

This is the internal enemy which is lodged within a Territory across the path which leads from our Atlantic to our Pacific settlements. I trust in God that the difficulties in which we are placed with regard to these people will pass away as easily and lightly as Senators seem to think. I do not believe it. Whether the system of defense or of war to which they shall resort shall be that of open resistance, (for which I believe they have the spirit, urged as they are by superstition and ambition, and by a spirit of retaliation, which I believe they have the power to exercise,) or, practically, a guerrilla war on our people passing from that Territory, and our Army sent to maintain order and authority there, I believe the utmost vigilance on the part of the Government, and the utmost energy, will be demanded; and that seems to me to require, on the part of the Legislature of the United States, some confidence in, and liberality towards, the Administration which has charge of so serious and important a matter.

Sir, I have turned over in my own mind every possible proposition, to see if, with that love of peace which is paramount to all others—if, with a fear of a standing army, which is the strongest constitutional principle I cherish, it is possible, in any way, to accommodate this difficulty with safety, with honor; and I have not been able to find it.

Eight years ago, when that people was perfectly contemptible in numbers, counting only eight or ten thousand, the Government of the United States, the Government of this Republic, this im-

perial power, instead of sending a loyal citizen of the United States to exercise the administrative power there, and instead of appointing judges trained amongst ourselves, and being unable to find any such in this wild and strange Judaic population, humbled itself and placed the government, the treasury, and the force of the Territory, in the hands of the chief of the high priests of that religion. Ever since that time the United States have stood in the Territory of Utah a Mormon authority; the administration has been a Mormon administration, for it has exercised the powers of government through the hands of the chief of the Mormons. I have always been assured of this, although I cannot say that I was not misled with others, and gave my vote to confirm the first appointment of such a Governor. But I have gone far enough in that direction. I can go no further; and I do not see any reason to believe that when we shall change that policy we shall be able to maintain ourselves in Utah without the demonstration of military force—and a considerable one. I hope it may be demonstration merely; and I believe that a strong demonstration, if anything, will be more effective than the employment of an inferior force, which it may be hoped by the Mormons they can easily overcome or weary out of the Territory.

But for this, I see no reason for increasing the Army of the United States. I agree with all the Senators on this side of the Chamber who have expressed the opinion that the use of the Army has been abused in the Territory of Kansas. I wish to see no more of the employment of the Army of the United States in preserving the purity of elections in the Federal capital. I wish to see no more intervention by the Government of the United States in the elections of the metropolis of the State in which I live. I wish to see no more expeditions of the naval or military powers of the United States to enforce the execution of the fugitive slave law in the city of Boston. But I cannot be content that disaster shall happen to that small band of men who are now representing the United States, and hemmed in in winter quarters, distant from every part of our civilized country, in danger, and wasting away by disease, for aught I know, or by Indian or Mormon depredations deprived of their cattle and of their forage. I cannot endure the thought that I may possibly hear, at some not distant day, that disaster has overtaken that small band.

Then I come back to the question. It must be a military demonstration that shall be made. Why shall it not be a force of volunteers? All the political theories I ever studied and ever learned commended to me the use of volunteers; and yet I have given no vote here which I ever reflected upon with so little satisfaction as I do the votes, never withheld, to pay militia-men and volunteers for maintaining the peace against Indians in Florida and in Georgia; and I look forward with little satisfaction to the vote I shall be asked to give for the payment of volunteers who have protected and maintained public peace in Oregon and Washington Territories. I believe it the most extravagant and the most wasteful mode in which a country can be defended. If I could only be guaranteed that there should be no abuse of armed power, I would then have no hesitation whatever in increasing this force till it should be strong enough to command respect even in the Rocky Mountains, and to exact submission to the Constitution and laws of the United States even from these apostatizing Mormons.

Under these circumstances, it has seemed to me that the line of my duty required me to propose an amendment explaining my views, though it may not be in order to offer it now. This amendment will contain the proposition that the officers and men raised in this new levy, shall be occupied only in and about the business of maintaining the Constitution and laws in the Territory of Utah; and when order and acquiescence shall have been established there, then that they shall be disbanded. I hope that it may be accepted. If it is, under all the circumstances in which I am placed, I shall be able to give my support to this measure, but not pledging myself against any further alterations to make it more acceptable to the Senate. I ask that it be read now.

The Secretary read the amendment as follows:—
And be it further enacted, That such officers and men as shall be enlisted, or raised, under this act, shall be employed

only in the maintenance of the laws in the Territory of Utah, or in maintaining order and tranquillity in case of disturbances raised by the Indians, or in the movements connected with those operations; and when public order and tranquillity shall have been established, all such forces so enlisted or raised shall be discharged.

Mr. DAVIS. Mr. President, the fairness with which the Senator from New York presents his argument, and the clearness with which he views this subject—and that is characteristic of him generally—induce me to hope that he will not press his amendment after the very brief statement which I propose to make. It is to limit the use of the men, added to the Army by this bill, to operations in Utah; but the bill proposes to increase the size of companies; it proposes to add to each regiment two companies. Does he not perceive that it would be impossible, without breaking up the whole organization, the whole system of the administration of the Army, to send the men added by this bill particularly to Utah, if the rest of the companies to which they belong were sent to service elsewhere? It would be the separation of privates from the company to which they belong; the separation of companies from the regiments to which they belong. He must see that it would be impracticable in the administration of the Army. If there was a proposition to add an integral part to the Army, as by the proposition recommended by the President and Secretary of War, and the commanding General of the Army, to increase the force by five regiments, those five regiments might be sent to Utah, and disbanded at the end of the troubles in Utah; but the Senator must see that it is impossible that his proposition can be executed as the bill stands. I hope therefore that he will either modify his proposition so as to suit the character of the bill, or abandon it altogether. I am sure no one more readily than himself will see the justice of the objection which I present.

I listened with attention to the remarks of the Senator from Maine, and I must say they were characterized by more ingenuity than fairness. His ingenuity was displayed in the first instance by denying the right to use the troops in the Territory, and yet his pride of opinion as a lawyer required him to say that it might be drawn by implication. But, sir, it is in the terms of the law specifically granted. It was the act to which I referred as being that in which Congress, relaxing somewhat from the jealousy with which they viewed the standing Army and Navy, agreed that they might be used, as it had been previously provided the militia of the country might be employed by the President of the United States. The act approved March 3, 1801, is:

“That in all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect.”

Mr. FESSENDEN. Will the Senator allow me to make a suggestion to him, as he is arguing that question?

Mr. DAVIS. Certainly.

Mr. FESSENDEN. As I understand that statute, it simply changes the instrumentality. All the effect of the statute is this: where the President had power by law before to use the militia, by that law he is authorized to use the Army. I think it goes no further.

Mr. DAVIS. I saw the ingenious construction which the Senator put upon the law, and it is, of course, with great hesitation that I differ with him in its construction; but the language does not sustain him. It provides for the use of the Army “in all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia.”

It is giving him additional means. He previously had the power to use the militia. The statute refers specifically to the laws of a Territory; and surely that reference to the laws of a Territory makes it more than an implication that the powers granted to maintain the peace within the States are extended also to the Territories of the United States.

Mr. FESSENDEN. If the Senator will excuse me, I will state, in a very few sentences, precisely

the view which I take. I do not say that the authority ought not to exist in certain cases; but, in my judgment, it is an omission in the law. The previous statute, to which the act of 1807 refers, gives power to the President to use the militia, in certain cases, in the States. It does not go beyond the States; it says nothing whatever of the Territories. This statute says that where, by any previous law, the President has power to use the militia in the States, or in the Territories, he may use the Army; but there is no authority, by the previous law, to use the Army in the Territories.

Mr. DAVIS. I do not think the Senator's argument will hold. He refers to a date when the power over the Territories was unquestioned. The first statute was enacted at a time when the laws from the States were adopted in the Territories; and the second comes down to a period when there were laws enacted by the Legislatures of the Territories; and hence the difference in language. Upon this the Senator, perverting the language of President Pierce, hangs another argument: that President Pierce did not consider that authority existed to use the troops to preserve peace in the Territory of Kansas. President Pierce considered, and it was a part of his strict construction of all laws, fundamental or statute, that the provisions of the law must be fulfilled; that the troops must be used as a *posse comitatus*; that they must be called upon by the civil authority; and that, if insurrection existed, he must first issue his proclamation to the rioters to disperse; and he did issue a proclamation. Then, again, it is within the knowledge of the Senator, certainly, that the troops were employed during the administration of President Pierce; and his insinuation as to any change of circumstances in that Territory was the more unworthy, because it is also within his knowledge that these troops were used to prevent men from shedding blood, when his own political friends alone would have been involved in the hazard.

Mr. FESSENDEN. My statement was, that the troops were not used by President Pierce; and he denied the power to use them for the purpose of protecting the polls in the Territory.

Mr. DAVIS. The troops were not used for any other purpose than that provided by the law. The troops were used to put down insurrection—to suppress rebellion. They were used to check armed bodies of men who were in a state of insurrection—rioters, who were about to disturb the peace; but he did not—and I am proud to remember that he did not—station the troops in places to take care of the private interests of people within the Territory. He was blamed by the political friends of the gentleman himself for that sort of intervention which he always refused to make. He stood by the Constitution and laws passed under it, and used the means put in his hands to execute them according to the terms of those laws. Under the present Administration, I do not understand that a different policy has been pursued; but I am not so familiar, of course, with the acts of the present Administration. Far be it from me to follow the gentleman's example, and pretend to judge of their motives. I arraign the motives of no man. I ascribe to no man purposes unlike those which he avows, unless I am ready first to arraign him as destitute of all honor and truth. I take it for granted that the Administration has pursued the policy which is in exact accordance with the statements made in the official papers which have been laid on the desks of Senators, and there it appears that in every step the troops have been used under the application of the civil authorities, and used as a *posse comitatus*.

Will the Senator deny the power of the President to send troops to any point where it may be necessary, in order that they shall be within call of the Governor of a Territory, he having reported that those troops are absolutely necessary to preserve the peace? If so, he must deny to the President the powers conferred on him as Commander-in-Chief of the Army and Navy; he must assume that this body is to sit directory of the President as to where the troops are to be stationed; that he is to be stripped of his constitutional prerogative. The Executive may be held responsible, *in foro conscientie*, for stationing troops where the public necessities do not require them. He is open to that fair criticism, when any Senator or other citizen of the United States may think proper to make it.

I did hope, sir, to escape from this constant and,

as it seems, interminable reference to Kansas. I did not suppose that Kansas was to be the subject of discussion on a proposition to answer an application on the part of the Executive, favorable or unfavorable, as the Senate please, for an increase of the standing Army, the military establishment of the United States. But since it is otherwise, and since the fate of the bill seems to hang upon that, the argument must be made. I shall be brief, for I have no taste for the discussion; I do not see its application to the question in hand; but that it may be understood why troops have been kept in Kansas under this Administration, (and if it were necessary, the same reasons belonged to the one which preceded it,) if it is required that the arguments shall be shown to justify the Administration in not sending all its disposable forces to the frontier, so as to preserve quiet among the Indian tribes, I refer to the message of the President, communicating the correspondence of the late Governor of Kansas in relation to affairs in that Territory, and the course which he pursued. Governor Walker in a letter to Mr. Cass, dated July 15, 1857, after referring to difficulties which had occurred, and the necessary use he had made of the troops to prevent an outbreak in the execution of civil process, and the troubles then hanging over him, and the doubts he had of the future, says:

"During this period a telegraphic dispatch was received from General Scott, indicating that General Harney was to proceed with the troops to Utah. Subsequently, General Harney received from the same source what appeared to be an official order on this subject, indicating, if carried into execution, that Kansas would be left, not only by General Harney, but by all the troops, except a single company of infantry, which would be divided between Fort Riley and Fort Leavenworth.

"In view of my official letter of the 2d of June, 1857, and of the conditions upon which I agreed, with great reluctance, to accept the position of Governor of this Territory, namely, that General Harney, in whom I had great confidence, and who was well known to the people of Kansas, and greatly respected by them, should be ordered from Florida, put in special command in Kansas with a large body of troops, and especially of dragoons and a battery, and retained there, subject to my directions, for military operations, if necessary, in Kansas, until the danger was over, and in the absence of which I never would have accepted this office, I could not but conclude that some mistake must have been made by General Scott, and that such a course could never have met the approval of the President and his Cabinet, or of the Secretary of War, by whom this matter was so well understood."

He goes on:

"I received, on Monday morning last, a printed handbill, which I now inclose you, showing certain most alarming proceedings in the town of Lawrence. This was accompanied by information that the people of that town were proceeding that day to elect a mayor, aldermen, and other officers, and would immediately pass and enforce ordinances, in defiance of the laws of the Territory. At the same time, the fact was communicated to me that handbills were circulated from Lawrence throughout the Territory, urging all the disaffected localities, whether towns, cities, or counties, to pursue a similar course of organization; thus overturning the territorial government in detail, and necessarily producing collision with its authority, and, as a consequence, a renewal of civil war. Although still suffering from debility, as the result of my illness, I considered the crisis so alarming as to require my immediate presence at Lawrence, where I proceeded in company with Mr. Secretary Stanton, and after spending several hours there, ascertained to my entire satisfaction that all the facts communicated to me were true, and that this movement at Lawrence was the beginning of a plan, originating in that city, to organize insurrection throughout the Territory. Lawrence is the hot-bed of all the abolition movements in this Territory. It is the town established by the abolition societies of the East, and whilst there are respectable people there, it is filled by a considerable number of mercenaries, who are paid by abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State Legislature to organize this insurrection, Lawrence has commenced it herself, and, if not arrested, the rebellion will extend throughout the Territory."

Governor Walker, on the 14th of July, 1857, writes to General Harney:

LEAVENWORTH, July 14, 1857.

SIR: I have received authentic intelligence that a dangerous rebellion has occurred in the city of Lawrence, in this Territory, involving an open defiance of the laws, and the establishment of an insurgent government in that city.

This movement, if not speedily arrested, I am also assured, will be extended throughout the Territory, and must result in a renewal of civil war.

It becomes, then, my painful duty, under my instructions from the President of the United States, to request you to furnish a regiment of dragoons, to proceed at once to the immediate vicinity of Lawrence, to act as a *posse comitatus* in aid of the civil authorities in the due execution of the laws, and for the preservation of the public peace. The service of the troops for this purpose will be discontinued so soon as the public exigency will permit.

Respectfully yours,

R. J. WALKER,
Governor of Kansas Territory.

Brevet Brigadier General W. S. HARNEY, Commanding troops in Kansas, &c., &c.

Going on with the evidence of the necessities which the Governor of the Territory of Kansas found for retaining the troops within the limits of Kansas, and the purpose for which they were retained, I read from his proclamation of July 15th, 1857, to the people of Lawrence:

"It will be perceived that the authority of the territorial government is here distinctly denied, and whilst that of the so-called State government is acknowledged, it is conceded that no charter has been granted by them; indeed, it is a fact that, although this so-called State government has in itself no legal existence or authority, yet you asked and failed to receive a charter from them."

Further in this proclamation he says, speaking to the same people:

"Your evident purpose is thus to involve the whole Territory in insurrection, and to renew the scenes of bloodshed and civil war. Upon you, then, must rest all the guilt and responsibility of this contemplated revolution. You will be justly chargeable in law and in conscience with all the blood that may be shed in this contest, and upon you must fall the punishment. You have elected your officers under this charter, and instructed them to enter upon the immediate discharge of their duties, including the adoption of ordinances and the execution thereof, under an authority having in itself no legal existence, and established in direct defiance of the Government of the United States."

Further he says to them:

"Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason."

And again:

"If your proceedings are not arrested, you will necessarily destroy the peace of this Territory, and involve it in all the horrors of civil war."

Again:

"As all arguments heretofore so often addressed by me to you have failed as yet to produce any effect upon you, I have deemed it necessary for our own safety, and that of the Territory, and to save you from the perilous consequence of your own acts, under the authority vested in me by the President of the United States, to order an adequate force of the troops of the United States into your immediate vicinity, to performing the painful duty of arresting your revolutionary proceedings."

Further he says:

"I will accompany the troops to Lawrence with a view to prevent, if possible, any conflict, and in the sincere hope that the revolutionary movement contemplated by you, and now so nearly accomplished, will, ere it is too late, be abandoned by you."

"If you can be influenced by no other motives, the evident fact that the power of the Government is adequate to prevent the accomplishment of your purpose should induce you to desist from these proceedings."

On the 25th of July, Governor Walker sent to Mr. Cass a confidential telegraphic dispatch, written from Camp Cooke, near Lawrence:

"Copies of military orders one and two, by General Lane, acting under direction of the Topeka convention, to organize the whole so-called free-State party into volunteers, and to take the names of all who refuse enrollment, have just reached me. The professed object is to protect the polls, at the election in August, of the new insurgent Topeka State Legislature.

"The object of taking the names of all who refuse enrollment, is to terrify the free-State conservatives into submission. This is proved by recent atrocities committed on such men by the Topekaites. The speedy location of large bodies of regular troops here, with two batteries, is necessary. The Lawrence insurgents await the development of this new revolutionary military organization. Whenever the judicial authority orders arrests the troops will be required as a *posse comitatus*."

I shall not read any further. I have read enough to show that the executive officer of the Territory appealed, in the various stages of the troubles existing in Kansas, to the President of the United States, through the Secretary of State, for the use of the troops, that he objected to the removal of any portion of the troops, and he presented the conclusive argument that the removal of those troops would result in civil war. No Senator can be more reluctant than myself to maintain troops within the limit of any Territory or State to enforce laws against the will of the people thereof. It is a melancholy evidence of the decadence of the political morals of our times that it has been necessary to employ the troops of the United States to secure the execution of the laws. It gives melancholy forebodings as to the capacity of our people for self-government; but yet the fact is not to be denied.

In the Territory of Kansas was presented an anomalous case. If the President had there relied on the militia, and had called the militia from the Territory, he must have mustered either one side or the other of the then existing contestants. If he had called the militia of any neighboring State into the service of the United States, to execute the laws within that Territory, he would have been but swelling the number of combatants who would have been mustered on that field, for the

people were divided throughout the country on the question there pending. The collision in Kansas was but a miniature of the division of opinion throughout the United States. If he had mustered in regiments from the different States, he might have increased the Army to the whole capacity of the Government to maintain them, and it would have been merely bringing more troops to meet each other face to face in blood. It was an exceptional case, and fortunate for the President was it that he was able to use the Army of the United States, as was shown by the result; for not one drop of blood was shed by the army of the United States, thus maintaining the peace in that Territory. Wherever they came, belligerents on the very instant of conflict paused. They respected the persons of the troops of the United States, and they brought peace wherever they went. They arrested men coming fraudulently under the guise of emigration into the Territory, upon the borders of the Territory, announcing that their wagons were filled with agricultural implements. Those wagons were inspected, and instead of plows, hoes, and grain, they there found sabers, muskets, shot, shell, and all the appurtenances that belong to a military campaign. These men were stopped before they entered the Territory, by a small number of troops, and with no other coercion than when they refused to be released, sending them down to a place where they would answer for their attendance.

Whatever might have been the opinion of Senators before the fact, it seems to me that after the army in that Territory has prevented civil war, after it has stopped belligerents in the moment of conflict, and preserved order at every place where it was present, they should now abandon any censure which they might have passed on the proposition as a general one before the facts were developed. When connected with the Department to which reference has been made, but one act was performed by the troops in Kansas which I found it necessary to disapprove, though many received my highest official commendation. That one act was the dispersion of the so-called Topeka Legislature. I looked upon them as men assembled without authority, men who could pass no law which should ever be put in execution, that the crime would be attempting to put the law in execution; and, in the mean time, it might be considered as a mere town-meeting. I was compelled to disapprove the dispersion of that Legislature by the army; and, as my memory serves me, I met criticism on the other side of the Chamber, for that act.

But the Senator from Maine, in his remarks, says, that no argument has been produced to show the necessity of this increase. That is the want of ability. I cannot hope to convince the Senator. He has an opinion which I take it for granted he does not intend to surrender. He says, however, that he cannot adopt the mere opinions of the Secretary of War, or of the chairman of the Committee on Military Affairs. Surely I did not expect that of him. I did not expect any one to adopt an opinion because it was announced by myself, though I think some respect is due to the Secretary of War, because he is charged with the administration of military affairs. When he announces that certain means are necessary to perform the duties with which he is charged, I think it is but fair that we should favorably consider his application, and that the inquiry should commence with the expectation that he had justifiable reasons for making the call; but, if that inquiry should lead us to the opposite conclusion, then of course we ought to reject his proposition. The Committee on Military Affairs entered on the investigation, and came to the conclusion that it was not necessary to add five regiments to the Army. They also came to the conclusion that the Secretary had justifiable cause for asking an increase of the Army.

The Senator from Maine, as I understood him—and I am sure I did not there misunderstand him—said that the opinion of the Secretary of War was the whole basis of our action; and he referred to there being no military recommendation to sustain him. If so, he must have overlooked the report of the Commanding General of the Army, who states, as his opinion, that five regiments are necessary—I quote from memory—without any reference whatever to the troubles in Utah. If the Senator overlooked that, I may offer

that additional information. But then he asks, why should not the chairman of the committee state how and where the troops are to be used; at what stations, and for what purposes, against whom, &c. That is not the business of the chairman; it is not within the power of the Senate. The committee have no right to inquire and determine where troops shall be stationed; the Senate have no power to prescribe where troops shall be stationed. It is a total reversal of the whole theory of our Government to assume that power.

Mr. FESSENDEN. The Senator misunderstands me. I did not attempt to assert or to intimate that it was the business of the committee, or the business of the Senate, to prescribe where and how the Army should be used. What I desired was, that we should have some statement from some authority, from some persons acquainted with the subject, to let us know the particular points and purposes for which an increase was required.

Mr. DAVIS. The report of the Secretary does not go into minute details on that point. He refers generally to where they are to be used. Nor could he for six months tell himself where he would wish to use them. That will depend on a party with whom he has no binding contract. It must depend on the good peace of the Indians; it must depend on the conduct of the people of Utah, now known to be in a state of rebellion; it must depend on those who are in a state of rebellion also in the Territory of Kansas; and if reports be true, there are difficulties in other Territories. It must depend upon how far interference with our settlers along the British boundary shall arise from the instigation of the half-breeds of that country, known to be one of the most formidable powers in proportion to their numbers on the continent, and who have long been instigated to hostility on our people in that region. The Secretary could not possibly tell for six months where he would use the troops and state the numbers and regiments that he would have at particular places. It must depend on contingencies. All he could state would be to give to us his plan of campaign for the spring, how many men he expected to send to different places, and with what organization he expected to send them; but I take it for granted the Secretary did not suppose the Senate wished him to do so.

Some other points have been urged against this bill, which I will notice with the hope of removing at least some of the objections. One which seems most frequently to have been presented, is the amount of expenditure; and the conclusion is drawn, as though it were a necessary sequence, that in proportion as you increase the Army you increase the expenditures of the Army. That is not so. If you use one man to perform the duties of five, you must then supply an amount of transportation which makes that man equal to five. If you move troops, as they have been moved, over remote points on the frontier, distances greater beyond the depot of supplies than any European army has ever made a movement, you must expect that it will cost money, and money in no small amount. If you move them to meet emergencies as they arise, unprovided with the means of transportation, other than the military transportation which is kept at the posts, then you must keep that military transportation up to a standard that involves very heavy expense; and hence it is that this year you have a very large deficiency on account of transportation. The pay of the Army is constant; most of the expenses are constant after you fix the point at which the disbursements are to be made, except the transportation. That is the great variable quantity, and in proportion as you move the men, so you must increase, and rapidly increase, the expenditures of each man who is so removed. I am not able, and have not attempted, to make the calculation; I have not the elements on which the calculation would depend; and I am not able, therefore, to state what increase would counteract this great expenditure for transportation; but it may be stated, as a general proposition, that there is a certain increase in the number of men which would relieve us from those expenses of transportation, so that they would cost us less than the use of the same number of men at many points where the transportation is very expensive.

As to the reduction, I think that follows from the law; but if it does not, I have no objection to

adopt any provision which in the minds of Senators may be necessary, as soon as the exigency of the public service will permit, (they may fix a day, or they may fix it by an event,) to reduce the number of men per company as low as I think any one here will say it should be reduced.

Mr. SEWARD. If the honorable Senator will allow me, I will suggest a modification of my amendment to remove one difficulty in the way, and make it read thus:

Such officers and men as shall be enlisted or raised under this act, shall remain in service only until order and tranquillity shall have been established in the Territory of Utah; and whenever that object shall have been established, in the judgment of the President of the United States, the said officers and men shall be disbanded.

That avoids the difficulty.

Mr. DAVIS. The proposition in the first section of the bill contemplates a change of organization. I cannot accept the amendment, because it does not contemplate a change of organization; but, so far as the amendment goes to a reduction, I have no objection, if the Senate think proper to adopt the reduction in that form. I think it will answer all the purposes of the public service. I shall not insist on the mere idea of organization, though I think the addition of two companies to each regiment will be a better organization.

The other argument which I wished to notice was, that troops stationed in the neighborhood of Indians caused war. Now, I would ask from what part of our history is that assertion drawn? One incident was only alluded to, and that was an incident in Oregon; and the Senator from New Hampshire did most recklessly bring forward that incident. I waive the—I shall not characterize it further than to say the familiarity with which he made a personal reference; but his case was one in which the outrage represented was committed by troops not authorized by the United States, but sent out under the territorial government. The officer who made that very report on which the Senator relied for his argument, was then contending against the employment of such irregular or volunteer forces, and insisting that regular troops alone could preserve the peace on the frontier; that if regular troops alone were brought in contiguity with the Indians peace could be preserved; and that peace was hazarded and utterly destroyed by the presence of the territorial militia. That was his argument, and from that argument the Senator draws a single statement—being his accusation of bad conduct against those volunteers—and relies on it to show that when troops come in contact with the Indians, war is the result! The mere statement defeats his whole object.

Then we were told to follow the example of Penn, and to make treaties, and we should have peace. Sir, the very troubles we now have in Oregon and Washington naturally result from the treaties which were made. It was part of the view which I took when I first addressed the Senate this morning, that these treaties extinguished the titles of the Indians to the land, drove them back from the country in which they had lived, where they had small fertile valleys, and lived in a segregated condition. Driven back from their old homes into a country not suited for agricultural purposes, they were thus brought into a concentration that rendered them effective, and the wars are the result of that very policy of making treaties. If there had been no treaties; if the Indians had continued to live where they were, and troops had been stationed near them, I have no idea that the wars would have occurred. So far from being the advocate of treaties with the Indians, I think it is an absurdity. They are pupils, wards in charge of the United States, and liberal and humane terms should be made with them; but they have no right to treat. They have neither the intelligence nor the capacity to understand or enforce a treaty. I think the whole policy of the Government from the beginning, in making treaties with Indians, has been entirely wrong. Ours is the only Government that has pursued it, and all other Governments have held more peaceful relations with the Indians than our own. We have been more liberal to them; we have paid them larger sums of money; and, therefore, the conflicts which have resulted between this Government and its Indian tribes must be attributed to this policy.

I shall not follow Senators who have undertaken to criticise the movement to Utah. I am not

sufficiently informed of the facts in relation to it. Why the movement was made at so late a period as to arrest the march of that army in the mountains, why the army was not able to reach Salt Lake before the winter set in, depend on facts which must be minutely examined before any man, I think, can hazard an opinion. The delay in starting is, known, for some portion of it, to have been due to the constant demands of the executive of the Territory of Kansas that the troops should not be withdrawn from that Territory in the then rebellious condition of a portion of the inhabitants. What other causes existed, I do not know. They may be sufficient to explain the fact that the force now is locked up in the mountains, unable to complete the campaign, and exposed to all the horrors of a northern winter in that elevated region. I think, however, it is fair that Senators should at least wait until they are in possession of all the facts, before they proceed to criticise the movement and cast censure because the campaign is arrested in the mountains at this moment.

As to the economical consideration of the number of animals lost in the mountains, I could not see the application which was made of that branch of the argument to the remark he had previously made about the maintenance of a military force on the frontier as an economical mode of protecting our citizens settled upon it. These troops on their march to Utah, as is well known, were not engaged in the duty of protecting the frontier inhabitants; and whatever expense may attend the movement, whatever loss may result from any improper administration of the campaign, certainly does not at all apply to the argument I presented of the good economy of keeping a sufficient force on the frontier to protect our frontier inhabitants.

Several Senators alluded to the use of the troops on the frontier to maintain the laws in a Territory; and one at least spoke of it as absurd to require the troops to execute a law of the people themselves. Sir, I think that is answered by the few extracts which I have read from the correspondence of the Governor of the Territory of Kansas. He there found a party in open rebellion against the Government, a party openly defying the territorial government instituted by the organic act of Congress, and all laws passed under it. That troops should be necessary to execute laws on a people thus standing in open defiance to the Government of the United States, seems to me to be a proposition so plain that I am only surprised anybody should say force was not required to maintain or execute the laws under such circumstances. What the force should be is an open question; but we all are sufficiently familiar with the history of that Territory, whilst very little of it may be known accurately in its details, to understand that if the men of either side had been employed, if those who recognized the territorial government had been mustered into the service of the United States Army, fed and paid to execute the laws on those who defied their authority, it would merely inflict a civil war, in which the United States would have been a party; and the only practicable mode in which those laws could be executed peacefully and without bloodshed, was to employ men not having the excitement which existed among the inhabitants of the Territory, to wit, the troops of the United States, who have, I believe, as leniently as possible, and with a forbearance which entitles them to high credit, maintained the peace of the Territory, and sustained the civil authorities in the execution of the laws of the land.

Mr. FESSENDEN. Mr. President, I wish to call the attention of the Senate to the clause in President Pierce's message to which I referred in order to sustain the position which I assumed in regard to the different policy assumed by the last and the present Administration. President Pierce's message to Congress of January 24th, 1856, contains this clause:

"But it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections, either in a State or Territory. To do so would be subversive of public freedom."

The occasion of that statement by President Pierce in that message, of which I read only a single sentence, was this: he was applied to on the part of the citizens of the Territory to defend the polls against invasions from Missouri. We

all had heard, and we all knew, that whenever an election was held in that Territory it was interrupted and controlled by armed bands of men coming from the other side of the border, who took possession of the polls, appointed their own officers, and had their own election. In consequence of that, when the Government of President Pierce professed its willingness to do ample justice, and to see that peace and order were maintained in the Territory, an application was made to him by certain citizens, in writing, stating the facts—they have all been communicated to Congress—and requesting him to interpose, not only to preserve the peace of the Territory, but to guard the polls, in order that there might be a fair expression of public sentiment; and this is his answer. He denies that there is any power on the part of the United States by force to preserve the purity of election; that is to say, to protect the polls in order that the people of Kansas might have a fair opportunity to vote.

Mr. DAVIS. I deny that too.

Mr. FESSENDEN. Very well. That is what I stated was the policy of President Pierce. I did not undertake to quarrel with it; I made no comment on it; but I said the present Administration had adopted a different course. I said so, because it is perfectly notorious that the present Administration has used the United States troops for the purpose of preserving the purity of elections, and has stationed them about the polls at recent elections held in the Territory of Kansas. All I did, and I think it was a perfectly just course for me to adopt, was to call attention to the fact that, at the period when the polls were constantly taken possession of by people outside of the Territory, the Government of the United States denied its power to interfere; but the moment things were changed, and the great majority of the people of that Territory became competent to preserve the polls themselves and take control of them, the United States troops were then used for the purpose of protecting the polls. It is a very singular fact to me, that the policy of the Government should have changed so totally and so suddenly as it did. The people of the country will draw their own inferences from the facts. Such were the facts, as I understand them, and as they are admitted.

Mr. DAVIS. I cannot see where the Senator derives that position of the present Administration; nor do I possibly admit the facts which he presents, in relation to armed bodies of men being allowed to conquer and overturn the elections. Those are statements which have been controverted; but I did not intend to interrupt the Senator further than, when he spoke of these matters as being admitted, to say to him that I do not admit the facts he states.

Mr. FESSENDEN. I do not suppose the honorable Senator admits the fact, and I did not call on him to admit the fact, but the fact is clear enough to the country. It is not denied there. It is not denied in the message. The late President simply denies the power to use the Army of the United States for any such purpose. That was his policy; but I say the policy of this Administration, in point of fact, is different, because it is notorious that the troops have been used for that purpose since Mr. Buchanan came into power. Mr. Walker used them. He had a large number of troops stationed at Kickapoo, and at Leavenworth, and they were stationed there, as was said in the public communications that were made, for the purpose of protecting the polls of that Territory. I do not say that there was any bad motive about it. I say the fact is singular, and presents itself to the country for the people of the country to notice and remark upon as they please. I say the whole course of policy with regard to this particular point has been changed. Whether that change was owing to the different state of things in the Territory or not, it is not for me to say.

Now, sir, with regard to the statute of which I spoke, its provisions are very clear. The first statute on the subject, the act of 1795, reads in this wise:

"Sec. 1. Be it enacted by the Senate and House of Representatives in Congress assembled, That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation, or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States most convenient to the place of danger or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose to such officer or officers of the

militia as he shall think proper. And in case of an insurrection in any State against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State or States, as may be applied for, as he may judge sufficient to suppress such insurrection.

"Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and to cause the laws to be duly executed."

Upon these two sections connected with the law afterwards passed in 1807, the argument is founded that the President had a right to use the Army, in order to enforce the execution of the laws of a Territory. Clearly no such power is conferred on the President in this act in regard to the use of the militia. The word "Territory" is not in the act; it names no places where the militia is to be used, except the States. The President has a right to call forth the militia, for the purpose of suppressing insurrections, and he has a right to use it for the purpose of preventing obstructions to the laws of any State, or of the United States. That is the extent of his power, under the act which I have read. Then what is the second law? It is a very short one: "that in all cases of insurrection, or obstruction to the laws either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia," &c., he may use the Army. Now, "where" is it lawful for the President of the United States to use the militia? Anywhere but in the States? There is no specific authority except as to the States. What I said was, that if he had that authority in the Territories, it was by implication, and not by any positive provision of law.

But the difficulty is beyond that. It is that the laws of a Territory are not the laws of the United States. The President assumes to use the Army under these provisions, for the purpose of doing what? For the purpose of enforcing the laws of the Territory of Kansas. I cannot find, in either of these statutes, any authority given to the President to use the militia for the purpose of preventing obstructions to the laws of a Territory. His authority to use the militia is confined to the case of obstructions to the laws of the United States; and I say that the law of a Territory, passed by a Territorial Legislature, and approved by the Governor, is not a law of the United States in any shape or form, that I am able to understand.

The point which I endeavored to make in reference to this matter was, in the first place, that there is no specific authority given to use the Army in a Territory at all; and, in the next place, that, if the President has any such power by implication, it is only a power to enforce the laws of the United States.

Mr. DAVIS. Will the Senator allow me to ask him whether he construes the word "where" to refer to the locality, or to the conditions, the circumstances, the status, under which the militia may be used?

Mr. FESSENDEN. I construe it to mean that, whenever he has authority to use the militia, in any place, for any purpose specified by the previous law, he may use the Army.

Mr. DAVIS. And the previous law recites under what circumstances he may use the militia.

Mr. FESSENDEN. Yes, sir.

Mr. DAVIS. But not at what place?

Mr. FESSENDEN. No, sir; but it speaks of the purpose. I will not undertake to say, that where there is an insurrection against the Government, the President may not use the Army; but I am speaking of the specific use, and I say he has no right to use the Army by these statutes for the purpose of enforcing the laws of a Territory, or preventing obstructions to the laws of a Territory.

Mr. DAVIS. I was very reluctant from the beginning to get involved in this theory about the government of a Territory. My own opinion is, that the law of a Territory, in the early period of our history, was a law of the United States. My own opinion is, that not until you struck off the territorial bill the requirement that the laws

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should be submitted to Congress, and subjected to their revision, did they ever become independent laws of the Territory.

Mr. FESSENDEN. And there was no such provision in the act organizing the Territory of Kansas. Then that goes far enough for my purpose.

Mr. DAVIS. Then it became the law of the Territory, in the language of that statute.

Mr. FESSENDEN. But there is no such authority to enforce the law of the Territory. The authority is confined to preventing obstructions to the laws of the United States—not the laws of any particular State.

Mr. DAVIS. The Senator, I think, has certainly not looked at this subject lately, or he would find that provision is made upon the application of the Governor or Legislature of a State to the President, for him to call out the militia, and use the Army and Navy to maintain the laws of a State within its own limits.

Mr. FESSENDEN. Undoubtedly, under certain circumstances; but, as I say, that is not specifically given to the Governor of any Territory anywhere that I can find. I do not know that I shall convince the Senator, as his mind is made up; but I wish to explain what I have thought myself. I say that under these statutes there is no specific authority in regard to a Territory. If there is, it arises by implication from the word "Territory" being used. My own idea is, that it was an omission in the act. I do not know that I should quarrel about it, because I am willing to give all power that is necessary. I should take no exception, even under these acts, to a legitimate use of the Army for proper purposes, if the power could be derived by any implication, and its exercise was absolutely necessary. The point I make is, that I could never see that it was actually given by the terms of the statute to which gentlemen have referred, as conferring it. I believe the Attorney General, in arguing the matter, does not derive the whole power from the first section I have read, giving a general authority—

Mr. DAVIS. I think the Attorney General's opinion was that the militia could be employed within a Territory.

Mr. FESSENDEN. By virtue of the first section?

Mr. DAVIS. That by virtue of the first act he has referred to, the militia could be employed in a Territory as a necessary consequence of the power of the Government over a Territory, and the grant within the limits of a State. In relation to the act of 1807, I do not think the opinion of the Attorney General was asked for, or that his opinion touches that question at all.

Mr. FESSENDEN. With regard to the act of 1807 my point is that it confers no new power and simply changes the instrumentality. The President had the power before to use the militia in certain cases and for certain purposes, and in those cases and for those purposes, conferred by previous laws, the President had by that latter act the power to use the Army. It goes no further. It makes no new cases and provides for no new purposes anywhere that I can conceive, although it might have been the intention of the act so to do.

I rose simply to state more specifically the points which I made before in reference to these matters, in order that they might be more definitely understood, as the Senator from Mississippi did not seem exactly to comprehend the ideas I intended to convey; but I wish to say one word before closing, in reply to what I understood to be the argument of my friend from New York. If I believed that this increase of the Army was absolutely necessary in order to bring about a proper state of things in the Territory of Utah, I should agree with him, and I would be willing to vote for any increase that was necessary to effect that purpose or any similar purpose; but the point I make, and the difficulty in my own mind, is, that there has been no attempt to demonstrate that anything of that kind is necessary in the Territory of Utah. The Senator from Mississippi ex-

pressly gives it up. He does not base the demand which is made for an increase of the Army upon existing difficulties in Utah at all, but upon another ground; and when my friend assumes that to be the fact as a basis for his proposed action, he assumes what is not asserted by the Administration, what is not asserted by the Secretary of War, and not contended for by the Committee on Military Affairs, who have reported this bill. It is something which he assumes for himself as the basis of his own action.

If there were any facts in the case to convince me that the proposed increase of six thousand or seven thousand men was necessary, in order to accomplish that purpose, to restore peace in that Territory, and to preserve the rights of our people who travel in that region, it might be another question; but the difficulty in my mind has been from the beginning—and I shall be convinced only when that difficulty is removed—that no facts have been exhibited to show us that this increase is necessary for any of these purposes. It rests on assertions that have been used ever since I remember anything about public affairs to authorize an increase of the Army from time to time, until it has gone from eight thousand, where it was fixed in 1842, to eighteen thousand now, and is going on upon the same principle, without any facts, or any war, in time of peace, regularly, unless we check it in the beginning, from eighteen thousand to thirty thousand, and from thirty thousand up to fifty thousand, and God only knows where it will end, if we are to receive mere statements and demands of the Administration instead of facts to show that something of the kind is absolutely needed by the exigency of the country. We must stop somewhere; we must call for proofs somewhere; we must call for facts at some point, and not go blindly on merely to register the decrees of an Administration who say to us that more troops are wanted, without telling us why or wherefore, or giving us facts to establish their opinions, if they give us any opinions on the subject.

Mr. DAVIS. I shall detain the Senate but a very few minutes upon the point which is so often renewed of the connection of the campaign to Utah with the proposed increase of the Army. It is not presented in the report of the Secretary of War as his reason for the increase. The Commanding General of the Army states that the increase is necessary without reference to the troubles in Utah. Whilst I denied in the beginning that that was the reason for the request that the Army should be increased, it is nevertheless certainly clear that the withdrawal of the troops from other service to make a campaign to Utah creates a necessity for increasing the Army. So, if it be necessary to keep troops in Kansas, the withdrawal of those troops from their ordinary duties on the frontier creates a necessity for an increase.

The argument of the Senator from New York, based on the expectation of a campaign, such as may prove to be true, would require a large increase of the Army for that purpose, and if the Army were increased to the whole extent the bill proposes, and the campaign should realize the expectations of the Senator from New York, it would probably require all our troops to carry on the service at that point. In the mean time our forts along the sea-board are wholly abandoned; all our troops are thrown on the frontier. We have now only at one or two points any artillery force to hold possession of our fortifications. This is a condition of things which I hold to be objectionable, against which we should provide. If the campaign to Utah be made by the Administration, as they have power to make it, and troops be withdrawn from other points, and it be necessary to increase the force and put troops at the other points, I do not think it is right for Congress to refuse that increase because they may not approve of the campaign to Utah. They have not the power to prevent it, and therefore they are bound to submit to it. At the same time it is possible for us to get along without any garrisons in the fortifications. I rose merely to say that the

argument based on the theory of the campaign to Utah, sometimes taken on the one side and sometimes on the other, leads to a conclusion which I think is not true.

Mr. PUGH. I propose to the Senator from New York an amendment, in the shape of a proviso, to the second and third sections of the bill, which I think will accomplish his purpose. I propose to add to the second section the following:

Provided, That after the expiration of two years from the date of this act, no further enlistment shall be made for any regiment, until each company thereof shall be reduced to eighty privates.

To the third section I propose to add:

Provided, That after the expiration of two years from the date of this act, no further appointment of assistant surgeons shall be made until the number thereof shall be reduced below the number heretofore allowed by law.

Mr. SEWARD. Let it be printed

Mr. PUGH. I offer these amendments informally, and move that they be printed.

The motion was agreed to.

On motion of Mr. WILSON, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 26, 1858.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM D. HALEY.

The Journal of yesterday was read and approved.

STENOGRAPHER TO SELECT COMMITTEE.

The SPEAKER stated the business first in order to be the ordering the main question on the following resolution, offered yesterday by Mr. STANTON:

Resolved, That the select committee appointed to investigate the charges against members and officers of the last Congress, growing out of the disbursement of any sum of money by Lawrence, Stone & Co., be authorized to employ a stenographer, at the usual rate of compensation.

The main question was ordered; and, under the operation of the previous question, the resolution was adopted.

Mr. STANTON moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

INVALID PENSION BILL.

Mr. J. GLANCY JONES moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DAVIS, of Indiana. I ask the gentleman to withdraw his motion for one moment, to enable me to move to refer to a committee some papers, now on file, in reference to a private claim.

Mr. J. GLANCY JONES. I would do so with a great deal of pleasure, but that debate closes at one o'clock to-day, and every moment that I would give away now would be deducted from the time of the gentleman who has the floor.

The SPEAKER. The Chair would suggest to the gentleman from Indiana, that the reference can be made under the rules of the House.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. WINSLOW in the chair,) and resumed the consideration of House bill (No. 3) making appropriations for the payment of invalid and other pensions of the United States, for the year ending 30th June, 1859, Mr. ANDERSON being entitled to the floor.

Mr. ANDERSON. Mr. Chairman, I rise for the purpose of availing myself of the present opportunity to submit to this House and the country the views that will control my action in reference to the admission of Kansas under the Leecompton constitution. But, before doing so, as I am a stranger here, belonging to neither of the prominent political parties, and having up to this time remained a silent member, it may be well enough for me, in order that I may not be misunderstood by my political friends, nor misrepresented by my political enemies, to define my position. I am, sir, the

representative of a constituency who, looking to the purity and permanency of our institutions, demand that the term for the naturalization of foreigners shall be extended; who desire to render harmless all foreign influence in our political affairs; who deny to Congress the constitutional power to interfere with the domestic institutions of either States or Territories; who insist upon a strict construction of the Federal Constitution; who believe that the wisest and best relation that can subsist in this Government between the white and African races is that of master and servant; and who ardently desire the harmony of the States of this Confederacy, and their perpetual union. These are the principles enunciated by me during my canvass in 1856, and fully indorsed by a very respectable majority of my constituents. These principles shall by me be defended to the utmost of my ability, whenever and wherever assailed.

Permit me also to remark, before I advance to the discussion of the subject under consideration, that I now find myself placed in a condition where I must from necessity act with one or the other of the prominent political parties in this House upon the great subject of our domestic institutions—a subject which, from my observations here, and the known sentiments and purposes of the Republican party, I am reluctantly and painfully forced to say is hurrying us on with fearful rapidity to that point of time in the history of our country when in all probability (without divine interposition) the chain that now binds this Union together will be severed.

Actuated by a loyal and unwavering devotion to my country, I have no hesitancy in adopting the only course left me as a member of this Congress, and the representative of a just and intelligent, magnanimous and patriotic constituency; and that is, to support the Administration in every attempt to resist the fearful encroachments sought to be made upon the constitutional rights of the South. By so doing, I am satisfied that I shall faithfully represent the will of the American party of my district and State, who have no affinity or sympathy with the principles of the Republican party.

I come now, Mr. Chairman, to the contemplation of the important and agitating subject under consideration—a subject now engrossing the undivided attention of the American people—one that we should seek to settle wisely and judiciously; for the result of the disposition we may make of it will be either to allay or greatly increase this excitement. The lawless events connected with the history of Kansas have been the exciting theme for years; outrage after outrage has been perpetrated there; the laws of the Territory and the authority of the United States have both been contemptuously spurned and trampled under foot by a part of her population. No Territory of this Union has ever before been settled by such an ungovernable, reckless people. They have been the source of continual trouble and expense to the Government; and if I do not greatly mistake the sentiment of a majority of the people of this nation, they demand that Kansas shall now be admitted as a State and left to manage her internal affairs in her own way. Then the excitement, beyond her own limits at least, will in all probability pass away.

I insist, Mr. Chairman, that no apparent cause exists in the proceedings of the people of Kansas in the formation of the Leocompton constitution, that can justify us in refusing her admission; but that we may rightfully, legally, and constitutionally permit her to become one of the States of this Union.

The celebrated Kansas-Nebraska bill, approved on the 30th of May, 1854, authorized the people of that Territory to elect representatives, make their own laws, and form and regulate their domestic institutions in their own way. The twenty-first section of that act provides that the time, place, and manner of conducting all elections shall be prescribed by law. The people, under this act, met and elected their representatives to the Territorial Legislature. On the 19th of February, 1857, the Kansas Legislature passed an act providing for the election of delegates to frame a State constitution. That election was held on the third Monday in June, and the convention met on the first Monday in September. Much has been said in the newspapers and elsewhere as to the inefficiency of that law to secure a fair, honest vote of the people.

Now, sir, in order to disabuse the public mind and satisfy the country that there never was an election law enacted that sought to guard more vigilantly the rights of the electors, and to secure a fair and full vote, than the Kansas convention act, I shall ask the reporters to append to my remarks a synopsis of it, and also certain parts of a letter from H. Clay Pate, indorsed by gentlemen of high respectability in the Territory of Kansas.

You will perceive, from an examination of that act, that the probate judge of each county in the Territory was required to transmit to the Secretary and Governor of the Territory, immediately after the 1st day of May, and weeks before the inaugural address of Governor Walker, delivered on the 27th day of May, 1857, a list of the voters in each county. Before the delivery of this address, it is fair to presume that Governor Walker had fully informed himself in regard to the affairs of Kansas. He knew that the registering of the voters could not by law be continued beyond the 1st day of April; and he must have known, I presume, on the 27th day of May, what counties had failed to return the lists required by law, and the reasons why that failure had occurred. In that address he uses the following language:

"But it is said that the convention was not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this purpose by the Congress of the United States, and, in opposing it, you resist the authority of the Federal Government. The Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation. It is recognized by the present Chief Magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the constitution; and I have no other alternative, under my oath, but to see that all constitutional laws are fully and fairly executed. I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath, or other similar provisions objected to in relation to previous laws, but clearly repealed as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority, from a mere apprehension (I trust entirely unfounded) that they will not be permitted to exercise the right of suffrage."

Thus you find him eulogizing the act, and giving it as his opinion that a fair election will be held; he anticipates that, in all probability, a portion of the people would not vote. Now, Governor Walker was very remiss in advising himself of the affairs of the Territory if he did not know that they had determined not to vote; if he did not know that the people in those counties where no registry had been made were the warm, determined advocates of the Topeka constitution, and that they did not intend to participate in the election, and were resolved that no other constitution than that framed by the mobocratic Topeka convention should ever become the supreme law of Kansas. Had he sought information on this subject, I apprehend he would have ascertained that it was the fault of the people that no registry was made in the counties where no vote was taken. Hear the chief Executive of the nation on this subject; a man who rises above the sectional prejudices of the day. In his message, he says:

"At the time of the election for delegates an extensive organization existed in the Territory, whose avowed object it was, if need be, to put down the lawful government by force, and to establish a government of their own under the so-called Topeka constitution."

The persons attached to this revolutionary organization abstained from taking any part in this election. It was then their own choice not to vote. They had a fair opportunity to exercise the right of suffrage; but they preferred to follow the advice of partisan leaders at a distance, and to continue their resistance to law and order that had marked their rebellious course from the time they set their feet upon the soil of Kansas. The distinguished author of the Nebraska-Kansas bill, on the 12th day of June, 1857, but three days before the election for delegates, and six weeks after the expiration of the time within which the registry of the votes was by law completed, and after it was known that the "emigrant aid" agitators and disorganizers in Kansas did not intend to vote, delivered a speech at Springfield, Illinois, in which he said:

"Kansas is about to speak for herself through her delegates, assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates

are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every bona fide inhabitant the free and quiet exercise of the elective franchise.

"If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution, in opposition to the wishes of a majority of the people living under it, let the responsibility rest on those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit, and under the direction of whose leaders they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings, and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined; and the exercise of those rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity with the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls, and vote their principles in accordance with their professions. If such is not the result, let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

Thus spoke Senator Douglas. The principles enunciated by him on that occasion, were just and true; and all we now demand is that they shall be faithfully carried out. He admits, and I desire to repeat it, that the election law is just and fair in all its objects and provisions, and if the free-State party fail to vote—acting under the advice of political leaders in distant States—let the responsibility rest upon those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit of slavery agitation in the northern States of this Union. I hope, sir, that the Democratic party, as a body, will follow his advice, and enforce this responsibility though he may "back down." Sir, the position cannot be maintained that a portion of the people of Kansas had no opportunity to vote, and therefore the Leocompton constitution should be rejected. The opportunity was offered, and they refused to avail themselves of it. They did it voluntarily. They preferred to risk the consequences; let them now reap the fruit of their rebellion. Is the lawless spirit manifested by them to be sanctioned and encouraged by us, the representatives of a law-abiding people? Are we to become parties to their rebellious conduct, and permit them to triumph over law and order? No. I apprehend we know too well the paramount importance of sustaining the laws of the country.

But, sir, it is urged as an objection to the admission of Kansas that the constitution made by delegated authority has not been submitted to the people. Is that any business of ours? Are we authorized to supervise their action in the formation of their government? Had not the people the sole and unquestioned right to determine whether they would have their constitution submitted or not? They have not required it to be done in the Kansas convention act. They have demanded it by no act of theirs. Then tell me, I ask, by what authority do we demand it? The act simply declares—

"That the delegates elected shall assemble in convention at the capital of said Territory, on the first Monday in September next, and shall proceed to form a constitution and State government which shall be republican in its form, for admission into the Union on an equal footing with the original States, in all respects whatsoever, by the name of the State of Kansas."

This is the only direction given to their delegates, from which it is evident that its submission was not required. The people had the right to intrust their delegates with the entire formation of their constitution. The startling and monstrous doctrine recently promulgated in certain quarters, that the people could not delegate this power to their agents is utterly irreconcilable with the principle of popular sovereignty. If they had not the right to delegate that power, then they are not sovereign—then they have not the right to manage their affairs in their own way. On the contrary, I assert that the very highest exercise of popular sovereignty is the right to delegate power; with-

out this power on the part of the people no representative government could exist; and I believe it is the first time in this country that I have heard it boldly asserted that the sovereign people could not constitute agents to transact their business.

Is it not absurd for you to undertake to limit or contravene their authority to act by their agents, and, at the same time, declare that they possess sovereign powers? Are we not here to-day the agents of the sovereign people, clothed by them with the most solemn and important functions? Have they not confided to us the very highest interests of the nation? Are we not exercising sovereign power in regulating commerce with foreign nations; in coining money, and regulating the value thereof; in declaring war; in raising and supporting armies; in providing and maintaining a Navy; in the enactment of all laws necessary to carry on the machinery of this mighty Government; to protect the honor and integrity of this Union; to promote and advance the great interests of this nation; and are our acts to be submitted to them for ratification before they take effect? No; our acts are their acts. If the laws enacted by us are unwise or injudicious, they direct us or others to repeal them. If the people of Kansas do not like the Lecompton constitution, they can change it any time they think proper. They possess, as all must admit, the inherent and inalienable power to alter or remake their constitution whenever they, in their wisdom, choose to do so.

Permit me, sir, to inquire how has it become so important to submit the constitution of Kansas to a vote of the people? When before in the history of this Government has it been demanded by the national Legislature that the constitution of a State asking for admission should be first submitted to the vote of the people? The constitutions of Ohio, Kentucky, Tennessee, Alabama, Missouri, Maine, Vermont, and Wisconsin were not submitted. Was the great doctrine of popular sovereignty violated in the admission of each of those States? Did the great and patriotic men who then composed the national Legislature, and who, by their patriotism, their wisdom, their unequalled statesmanship, and devotion to the sovereignty of the people, reflected unfading honor upon their country and its institutions—did they permit them to be robbed of this transcendent power? No. They knew, as every disinterested statesman now knows, that the people had the right to exercise their sovereign power in the way and manner they thought proper.

But, sir, let me ask if the people of Kansas have not had submitted to them by the convention the great question that inaugurated the Kansas-Nebraska bill, the question out of which has grown all the difficulties that have for so long distracted the peace, safety, and quietude of that people? That act declares "that the true intent and meaning thereof is not to legislate slavery into any State or Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to regulate their institutions in their own way." Under it, "Kansas," when admitted as a State, was to be received into the Union "with or without slavery, as their constitution may prescribe at the time of their admission." The entire scope and effect of the Kansas-Nebraska bill was to render "void and inoperative the Missouri compromise line," which prohibited slavery north of 36° 30'. It reinstated a great principle; conferred upon the people a great and important right north of that line—the right to regulate their institutions as they might choose: all other governmental rights they could exercise before. Immediately after the passage of this bill, the controversy in regard to the institution of slavery in that Territory commenced. It was the great and all-absorbing question; the one that rose paramount to all others; the one that has alone convulsed that people and produced the "strife, contention, and bloodshed" that has brought everlasting disgrace upon that Territory, and given to it an unenviable name in the history of this country. It was the question that the Kansas bill designed should be settled by the people; it was the only one that the great body of that people expected ever to be submitted to them for their decision, until recently; and as evidence of this fact, I call your attention to a part of the address of the Hon. F. P. Stanton, then Secretary and acting Governor of the Territory

of Kansas, published on the 17th of April, 1857. He says:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention; and all preceding repugnant restrictions are repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting questions regarding their social institution which has so long agitated the people of Kansas, to a fair vote of all the actual bona fide residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay, as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

This was the language of Secretary Stanton to the people of Kansas, after the passage of the Kansas convention act, long before the election of delegates to the convention. He distinctly informed them that the Government of the United States recognized the territorial act, which provided for assembling a convention to form a constitution; that the "distracting question which had so long agitated the people of Kansas would be submitted to a fair vote of the people." He knew their views, feelings, and sentiments, in relation to this distracting question, and he doubtless concluded that by giving them assurance that the question of slavery would be submitted, (the only question designed to be submitted,) they would be satisfied. But no, sir; as intimated by Senator DOUGLAS, there were doubtless "other actors in this controversy, far away from the borders of Kansas," who controlled and directed the movements of the reckless Abolition army that had been quartered on Kansas by the Emigrant Aid Society, who urged that that deluded people should not submit to the legally constituted authorities of the country. They obeyed; became rebels to the Government, and refused to vote upon this agitating question, fairly and legally submitted; and now have the temerity to ask us to reject the constitution and sanction this fell spirit of insubordination to the legally constituted authorities of the land. Can any one doubt the wisdom and propriety of submitting the slavery clause alone to the people of Kansas? It was the question that far transcended in importance and interest all others combined. Had it been involved with other questions, none will pretend that a fair expression of the popular voice could have been had. The constitution has been made in strict compliance with the laws of the land; it is republican in form; and we now have no other alternative left us in the faithful discharge of our duty but to admit Kansas as a State into this Union. The entire constitution is as unexceptionable in its provisions, if not more so, than the constitution of any of the States of this Confederacy. The framers of that instrument have availed themselves of the wisdom and experience of the statesmen of our country, and introduced into their fundamental law many wise provisions, found together in no one of our State constitutions. We may be individually opposed to some of the provisions in that instrument; but it is not our right, nor within the scope of our authority, to pass upon them. They alone concern the people of Kansas, not us.

But, sir, we are told by gentlemen who oppose the admission of Kansas, that a law must be passed by the Congress of the United States to enable the people of Kansas to elect delegates and form a constitution. My first reply to this proposition is, that Congress did pass such a law when it enacted the Kansas-Nebraska bill. That bill confers upon the people the right to provide by law for all elections, and to manage their affairs in their own way; and under it, if authority was necessary to make a constitution, they derived it. But, sir, when once organized as a territorial government, I deny that any such necessity exists. Cannot the sovereign people act without our authority? Must they have permission from us to make a constitution—to exercise an inalienable right—a power neither conferred upon us by the people themselves nor the Constitution of the United States? Under what provision of that once sacred instrument do you find such authority? If

it exists as either a granted or implied power, under any clause in that instrument, it has altogether escaped my observation; and I think but few, if any, of the great constitutional lawyers whose names are conspicuous upon the pages of our country's history, have ever contended for any such power in Congress. Suppose you reject this constitution, and pass what you denominate an enabling act, and the people of Kansas should hold an election and adopt a constitution without any reference to its provisions: would you feel authorized to refuse them admission for the simple reason that they did not choose to follow your directions as to the form by which their constitution was made? I apprehend not. Why the necessity, then, of an enabling act for Kansas? Congress, at different periods in our history, has admitted States that had formed constitutions without enabling acts. The States of Tennessee, Iowa, Michigan, Texas, Arkansas, Florida, and several others, I believe, were admitted without any authoritative act on the part of Congress.

The ablest expounders of the constitution of the United States admitted their right to form a State constitution, without the permission of Congress; and if so formed, that such State must be admitted, if the constitution was republican in form. Why, then, the necessity of any such act in reference to Kansas? One of two reasons must operate upon those who demand it: either the toleration of slavery under the present constitution, or a desire upon the part of anti-slavery men to keep up this slavery agitation, and continue their fratricidal war upon the people of the South.

But, sir, every objection to this constitution that human ingenuity can devise is being pressed upon our consideration. We are told that the ordinance contains exorbitant demands from the general Government, on the part of Kansas, as regards the public lands. Admit it: and what then? I suppose no gentleman here will seriously contend that the ordinance is any part of the constitution. Surely no statesman will insist that we cannot accept the constitution and reject the ordinance. I confess that I am altogether unwilling that we shall accede to the propositions contained in that ordinance; and if Kansas enters the Union, she must do so without any such exactions. I am willing to give to her the same portion of the public domain within her territory that we have given to other States; but no more.

But, sir, disguise it as you may, the real opposition to Kansas is the slavery aspect it presents. We have been told by the leaders of the Republican party in this House that the submission of the slavery clause of the constitution was a "swindle and a cheat;" that even if that part of the constitution which was submitted to the vote of the people of Kansas had been stricken out, that still slavery was perpetuated there. What disposition would those gentlemen have had the convention to make of the slaves already in Kansas? Would it have been right, just, and constitutional to have deprived the owners of their property in them—to have declared them free? Would it have been just and honest to do so? How came they in Kansas; and under what guarantees were they taken there? The Territory of Kansas was the joint property of the entire people of the Union. It had been purchased with common treasure, on the joint account of the whole nation. The people of the South were equally interested with the people of the North, in its ownership and joint occupation, and had the unquestionable right to take to that Territory any species of property recognized by the Constitution of the United States; and no power there or elsewhere had the right to deprive them of that property, without first paying them a just compensation—nor even then, unless it was needed for public use. It would, in my opinion, have been a monstrous outrage for the majority of the people of that Territory to have deprived the minority of property taken there under the protection of the Constitution of the United States, and guaranteed and sanctioned by that instrument. I should like to know by what code of morals, or upon what principle of common honesty, the Kansas convention could have liberated the slaves already in that Territory? Permit me to say that when the Constitution of this Union ceases to protect the property of a large portion of the people of this nation against the ruthless hand of a wild fanaticism, then that Constitution fails to accom-

plish the great purposes for which it was designed—then this Government becomes tyrannical, unjust, and oppressive, and this Union valueless.

Why this continued effort to outrage the rights and exasperate the people of the South to alienate forever those fraternal feelings that bind together the hearts of this entire nation? We of the South make no assault upon the people or institutions of any portion of this wide-spread Confederacy, and all that we ask or demand is, that you let us and ours alone. If slavery is either a moral, social, or political evil, the responsibility rests upon us, not you. We of the South recognize it as an institution, established in the early ages of the world, under the express authority of Heaven, and neither condemned nor interfered with by the Savior of mankind in his glorious and benevolent mission to earth—an institution introduced and perpetuated by the descendants of the Pilgrims for more than one hundred years before the Declaration of Independence.

Brought to these shores in large numbers by the people of New England, under the operation of the slave trade, and held in bondage by them until they became satisfied that they were unprofitable in their northern climate and the culture of their barren hills. Then, and not till then, a large portion of them were sold to the people of the South; and the money invested in other property. An institution ratified and indorsed by our revolutionary fathers; sanctioned and guaranteed to us by the Constitution of the United States; that instrument, framed by the noblest, purest, and wisest body of patriots, statesmen, and philanthropists that ever assembled on earth. An institution that has elevated the negro from barbarism to civilization and Christianity; that has placed the race in a better and happier condition than they ever occupied before. An institution better adapted to their nature and capabilities than any ever devised by that disinterested philanthropy exhibited by a portion of the northern people, who ask us of the South to liberate our slaves and permit them to remain a part of our population, and at the same time refuses to allow them to emigrate to their own States.

Great sympathy has been expressed for the negroes of the South, and the institution of slavery denounced in this House in the most bitter terms, by gentlemen representing the North. If I am correctly informed, I apprehend they would find a much more commendable field for their operations and the outbursts of their philanthropy in first seeking to elevate in the scale of being that part of the race within the limits of their own States. Go to the cities and towns where the free negroes congregate, and you find them a lazy, miserable, poverty-stricken people, sunk into the lowest depths of moral degradation. Go, then, disinterested philanthropist, and contrast their social, moral, and physical condition with the negroes of the South. There you see, as a general thing, a happy, contented African race, well fed, well clothed, well treated, well taken care of in sickness and in old age.

And now, sir, while upon this subject, I desire to correct a false impression that has been made in the North by the public press, in reference to the feelings and sentiments of the people of Missouri on the subject of slavery during and since the gubernatorial election in that State, which took place in August last. You were told in substance that the citizens there were upon the verge of emancipating their slaves. That public sentiment was rapidly tending in that direction; that the candidate who ran in opposition to the nominee of the Democratic party was a Free-Soiler, and the closeness of the contest between him and the Hon. Robert M. Stewart, the Democratic candidate, was evidence of the disposition of the people of Missouri to rid themselves of slavery. A more unfounded statement was never published to the American people. Major Rollins, the candidate of the Opposition, received a majority of the votes in many of the largest slaveholding counties of the State. He was regarded by the American party as a pro-slavery man. He proclaimed in his public speeches that he was the owner of twenty-five slaves; and but four days before the election he announced in a public speech in my own city that he believed the wisest and best relation that could subsist between the white and African races was that of master and servant, and that he was violently opposed to the emancipation of slavery

in Missouri. In the very county in which I have the honor to reside, in northeast Missouri, one of the strongest pro-slavery counties in the State, he received a majority of four hundred and ninety votes. In my opinion, the great body of the people of Missouri have never at any time since the organization of the State been better satisfied with the institution of slavery, or more determined to resist all assaults upon it. The people of the North need not delude themselves with the idea that Missouri will yield up this institution. It is with the people of Missouri, as I apprehend it is with the other slave States of the Union—the more bitter and violent the assaults of the common enemy of the South, the more closely will they cling to it, and the more determined their purpose to defend it against every foe from within and from without.

Permit me, also, to say a few words in defense of the citizens of Missouri against the denunciations they have received from the people of the North, and their representatives, for their interference in the affairs of Kansas. The people of Missouri watched, with intense interest, the settlement of that Territory. I willingly confess that they were exceedingly desirous that it should become a slave State. Considerations of momentous importance were involved in its occupation. They deemed it of vast moment to their peace, safety, and quietude, to have upon their border a neighbor that would not interfere with their property; that would not, by incendiary publications and speeches, spread disaffection among their slaves, and render insecure their habitations. But notwithstanding the intense interest and anxiety felt by them upon this subject, they never would have interfered had it not been for the unwarrantable and unjustifiable means resorted to by the Abolitionists of the North, in the organization and machinery of emigrant aid societies. Had these Abolitionists permitted Kansas to settle in the quiet, usual, and ordinary way in which the other Territories of this Union have been supplied with population, the citizens of Missouri would have submitted without a murmur to any regulation they might have made in reference to their domestic institutions. But when they saw the people of the North impelled by a spirit of mad fanaticism, organizing large moneyed associations, under the authority of one of the States of this Union, for the purpose of sending to that Territory, "to prevent the introduction of slavery," a population such as they might gather principally from the purlieus of their large cities—such as had recently landed upon our shores, unacquainted with our laws and Constitution, unimbued with the spirit and genius of our institutions, for the purpose of molding and controlling the institutions of that Territory, and for the unjust and unconstitutional purpose of dispossessing the people of the South of their legitimate interest in it; with the undisguised object in view of compelling those who had gone, or might go, with slave property, under the protection and by the authority of the Constitution of the United States, either to forsake their homes and flee the country, or yield up their property to the unconstitutional demand of this predatory army, whose next field of operations, as announced by many of them, was Missouri; then, and not till then, did the people of Missouri think themselves excusable at least, if not justifiable, at the commencement of this unholy crusade, in aiding in the protection of their rights.

Let me also say, Mr. Chairman, that when this excitement shall pass away, and when the faithful historian shall commit to paper the stirring events connected with the settlement of Kansas, the people of this country will learn, and coming generations know, that the emigrant aid societies of the North—by the character of the population they sent there, with the avowed purpose for which it was sent—superinduced the outrageous and unlawful acts that have been perpetrated upon the soil of Kansas.

And let me say to the gentleman from Massachusetts who spoke so eloquently the other day in favor of the efficiency of this new mode for the "Americanizing of Central America and the settling of the Territories of this Union," that it may perhaps be safe to apply his policy to foreign semi-barbarian countries; but let me advise him in all sincerity, if he is a lover of peace, law, and order, never to advocate such an attempt in ref-

erence to the Territories of this nation for the accomplishment of the same purpose that it was resorted to in regard to Kansas; for fear that the reenactment of the same scenes might be produced in a more aggravated form.

It is but right and just, Mr. Chairman, for me to say that when I speak of this improper and unjustifiable interference on the part of the North with southern rights and southern institutions, I do not mean to include a large portion of that people. No; I cherish the belief that the great body of them love this Union, respect the Constitution, and are disposed to do equal justice to every portion of this Confederacy. Would, from the bottom of my heart, that I could say so in reference to the whole people of the non-slaveholding States. Then I should feel assured that this glorious Union was safe; that the stars and stripes that now command the respect and elicit the admiration of the whole civilized world, would float perpetually over this Capitol; and we should be able to transmit to our posterity the priceless heritage we received from our illustrious and peerless ancestry. Hitherto, the North has treated us with fairness and justice in the admission of new States. Until recently, one slave and one free State came into this Union together; but the non-slaveholding States now have the vantage ground—a majority in both the Senate and House of Representatives, with two free States asking for admission, which must still increase that majority. The South, I apprehend, if treated fairly, will make no objection to their admission. They have been settled in the usual and ordinary way, without the illegal and improper interference of emigrant aid societies, and have been left perfectly free to form and regulate their domestic institutions in their own way. But when Kansas comes with her institutions and constitution, adopted under all the forms and sanctions of law; and after the people of that Territory, both free-State and pro-slavery men, in the election of State officers under the constitution, have recognized it as the supreme law of Kansas, we are still told she cannot enter this Union. It may be so, but I cannot believe it. I still entertain such an abiding confidence in the justice and patriotism of the American people, and their representatives here assembled, as assures me that the fearful act of rejecting Kansas will not be consummated.

[APPENDIX.]

Synopsis of the Kansas Convention Act.

The act provides that the sheriffs of the several counties shall, between the 1st day of March and the 1st day of April, 1857, make an enumeration of all the free male inhabitants over the age of twenty-one years, with power to appoint deputies; and, in case of a vacancy in any county, the duty to devolve on the probate judge. The list thus made is required to be filed in the office of the probate judge of each county, on or before the 10th of April, 1857. The list of the voters of each county is to be posted up in three of the most public places in each election district. Said probate judge is required to remain in session each day from the time of receiving said returns, until the 1st day of May, 1857, to hear and determine all questions concerning the omission of any person from said returns, or the improper insertion of any name in said returns, or any other question affecting the integrity or fidelity of said returns; and as soon as said lists have been revised and corrected, said judges are required to make out full and fair copies, and, without delay, furnish one copy to the Governor, and one to the Secretary. The Governor shall cause said returns to be printed and distributed among the people, and one copy deposited with the clerk of each court of record in the limits of said Territory; also, a copy delivered to each judge of the election, and at least three copies posted up at each place of voting.

It further requires the judges and clerks of the election to be sworn, duplicate returns of the poll-books made out and certified by the judges and clerks—one deposited with the board of county commissioners, and the other transmitted to the Secretary of State.

It also provides that every *bona fide* inhabitant of the Territory of Kansas, on the third Monday in June, 1857, being a citizen of the United States over the age of twenty-one years, and who shall have resided three months next before said elec-

tion, in the county in which he offers to vote, and no other person whatever, shall be entitled to vote at said election.

It further provides for the punishment of any person who, by menace, threats, or force, or by any other unlawful means, shall, directly or indirectly, attempt to influence any voter in giving his vote, or deter him from going to the polls, or disturb or hinder him in the free exercise of his right of suffrage at said election.

It further provides for the punishment of any person holding said election who shall, willfully and knowingly, commit any fraud or irregularity whatever, with the intent to hinder, prevent, or defeat a fair expression of the popular will at said election.

It also requires all officers to make oath before entering upon the discharge of their duties, that they will faithfully and impartially discharge them.

Extract of a letter from H. Clay Pate.

"At the October election in 1856, a majority of five thousand votes were cast in favor of a convention, and at the session of the Kansas Legislative Assembly, which met on the second Monday of January last, [1857] 'all necessary provisions were made for that convention. A law was passed, taking for its basis the principles of the celebrated Toombs bill, which Senator DOUGLAS helped to make, and for which he voted. It provided for the registry of all the legal voters of the Territory by the Sheriff of each county and his deputies. The probate judges were required to hold courts or sessions in convenient parts of the counties, and add to the lists returned by the sheriffs any names accidentally or wrongfully omitted. It also provided that in cases where there was no probate judge, or he would not act, then the sheriff should, and if there was no officer at all to perform the duties specified, then the people might petition the Governor to appoint some one to carry out the law. The Governor says that 'fifteen counties' were entirely disfranchised, 'and by no fault of their own.' Let us see. In Franklin county, one of the 'oldest organized,' Esquire Yocum, probate judge, was driven away by the Abolitionists, as was also Richard Goulding, sheriff of said county; each of these officials was threatened with death should they attempt to perform the duties conferred upon them by the registry law. Under the same circumstances, George Wilson, judge of probate for Anderson county, was prevented from executing the law. So with Allen county; Passmore Williams had to leave in order to save his life. J. J. Barker, probate judge of Breckinridge, being a free-State man, refused to act. These four were the only organized counties not represented in the convention. Why not represented? It was the fault of those who now complain, and 'on their heads, and theirs alone, will rest the responsibility.'"

"It is well to observe that, of the nineteen counties spoken of as not represented, the census was not taken in four for the reasons stated; the other fifteen were, for civil purposes, attached to organized counties, as follows:

"Two, Richardson and Weller, to Shawnee;
 "Three, Madison, Butler, and Wise, to Breckinridge;
 "One, Coffey to Anderson;
 "One, McGee to Bourbon;
 "Six, Greenwood, Hunter, Dorn, Wilson, Woodson, and Gregory, to Allen;
 "One, Brown to Doniphan;
 "One, Davis to Riley.
 "The counties of Brown, Washington, Clay, and Dickinson, were organized at the last session of the Legislature; in the last named three there were no inhabitants.
 "The registry law was executed, and voters were registered in the following counties: Johnson, Lykins, Lyon, Bourbon, Douglas, Shawnee, Doniphan, Atchison, Leavenworth, Jefferson, Nemaha, Calhoun, Marshall, and Riley.
 "It will thus be seen that the only counties really disfranchised were the four in which Abolitionists would permit no registry to be taken; and it is an established fact that many factious people refused to tell their names, and otherwise obstructed the officers—some giving fictitious appellations, and others threatening the lives and property of census-takers.

"These officers were political partisans; and they refused or neglected to take any census or make any registry, and therefore they were entirely disfranchised, and could not and did not give a single vote. Why did they not compel the officers to do their duty? It was possible; but if not, they could have petitioned the Governor for redress. If the people of those counties could not and did not vote, it was 'a fault of their own,' and on 'their heads, and theirs alone, will rest the responsibility.'"

"From first to last, every opportunity has been given for an expression of the will of a majority; and now if the principles of a minority, as alleged, are to triumph in Kansas, by the neglect or factious opposition of the so-called majority, 'on their heads, and theirs alone, will rest the responsibility.'"
 H. CLAY PATE.

"We concur in the foregoing:

"GEORGE W. MCKOWN, *ex-member of the Leocompton Convention.*

"FRANCIS J. MARSHALL, *Democratic candidate for Governor.*

"WILLIAM G. MATHIAS, *Democratic candidate for Lieutenant Governor.*

"J. H. DANKFORTH, *ex-member of the Leocompton Convention.*

"BLAKE LITTLE, *ex-member of the Leocompton Convention.*

"WESTPORT, January 4, 1858."]

Before the conclusion of the above remarks, the time fixed by the House for closing debate upon the bill before the committee, arrived.

The bill was then read by paragraphs, for amendment.

Mr. ANDERSON moved to amend by reducing the appropriation in the last paragraph \$1,000.

He then proceeded to finish his remarks, as above printed.

Mr. J. GLANCY JONES moved that the committee rise, and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, the Chairman (Mr. WINSLOW) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill (No. 3) making appropriations for the payment of invalid and other pensions of the United States, for the year ending June 30, 1859, and had directed him to report the same back to the House, with a recommendation that it do pass.

Mr. J. GLANCY JONES demanded the previous question upon the engrossment of the bill.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed, and read the third time; and being engrossed it was accordingly read the third time.

Mr. J. GLANCY JONES demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put; and under the operation thereof the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. With the permission of the gentleman from Pennsylvania, I desire to send a resolution to the Speaker's chair, and have it referred to a committee.

Mr. J. GLANCY JONES. I cannot give way. I am very anxious to get along with the appropriation bills. If I yield to one I must to another.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. ENGLISH in the chair.)

DEFICIENCY BILL FOR PRINTING.

Mr. PHELPS. I desire that the committee shall take up the bill reported by the Committee of Ways and Means, and referred to this committee, making appropriations to supply deficiencies in the appropriations for printing in former Congresses. The general debate can go on upon that bill, and I desire that the House shall act upon it at as early a day as practicable. I therefore ask the unanimous consent of the committee to take up that bill.

Mr. HOUSTON. It is an appropriation bill, and you can move to take it up.

Mr. PHELPS. Very well. I move to take up that bill.

The motion was agreed to; and the bill was taken up for consideration.

The CHAIRMAN. The bill will be read by sections for amendment. The first section of the bill was read, as follows:

That for the purpose of defraying the deficiencies in the appropriations for the paper for the printing, and for the binding, engraving, and lithographing ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, the following sums of money are hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. PHELPS. Mr. Chairman, in seeking the floor, I do not desire to inflict upon the committee a speech, but simply to give a brief explanation of the bill; and I shall endeavor to confine my remarks to the subject-matter now under consideration, leaving to other gentlemen who are desirous to deliver their opinions on other questions of importance, which will come before this House, the exercise of the privilege of occupying the floor for that purpose.

At the first session of the last Congress, Mr. Chairman, a joint resolution was passed to supply deficiencies which had occurred in the appropriations for the printing ordered by the two Houses of the Thirty-Third Congress. That joint resolution was, in fact, an appropriation bill; for it diverted a portion of the amount appropriated

for defraying the printing of the first session of the Thirty-Fourth Congress and applied it to pay for the printing ordered by the Thirty-Third Congress. The joint resolution attracted no particular attention at that time. While it did not diminish the deficiency, yet, to a certain extent, it has placed a deficiency on the Thirty-Fourth Congress which was in part incurred by the Thirty-Third Congress. I am not going into the inquiry where blame or censure ought to rest—I mean, to say which Congress is to blame for the creation of this deficiency, which we have felt it to be our duty to recommend should be paid. Every dollar which this bill appropriates has the sanction of resolutions passed by the House of Representatives, or by the Senate, or by joint resolutions.

Sir, one of the heaviest items of expenditure provided for by this bill, as we are informed by the Superintendent of Public Printing in his report made at this session, is caused by the printing of the report of the results of the United States naval astronomical expedition to the southern hemisphere. This report was made by Lieutenant Gilliss, and was ordered to be printed before it was written—before it was communicated to either House of Congress, and consequently before its probable cost could be ascertained. A resolution was reported by Mr. STANTON, then chairman of the Committee on Printing, providing for the printing of six thousand extra copies of the report for the use of the House. Several years before, it was deemed important that an officer of the Navy should be sent to the coast of Chili for the purpose of making certain astronomical observations; and Lieutenant Gilliss was assigned for the discharge of that duty. I was a member of the Thirty-Third Congress when his report was ordered to be printed; but I had no expectation that the history of Chili was to be written by that gentleman. Yet if gentlemen will examine the report they will find that the first volume is a history of Chili. If the House of Representatives desire to employ a historian to write the history of this or any other nation, I desire to have a voice in the selection.

Some two or three volumes of this work have been printed, and I understand that in all it will embrace six or seven volumes quarto, with large plates, and many engravings. Engravings and lithographs accompany the written matter already published; and for the volumes yet to be issued, engravings have already been executed, and others are in the process of completion by those who have the contracts to furnish them under the joint resolution directing the Superintendent of Public Printing to enter into contracts for furnishing maps, drawings, illustrations, &c., to accompany works which have been ordered to be printed.

Mr. CRAIGE, of North Carolina. I would be glad if the gentleman would furnish to the House, while upon that subject, some information in regard to the cost of the different plates in those works. There have been some strange rumors in the country on the subject. I have heard it stated that the plates of parrots cost \$10,000. Now how much do the other plates cost—of lizards, &c., &c.?

Mr. PHELPS. If the gentleman expects that I can tell the cost of every engraving or plate which may be prepared for Gilliss's report, he is mistaken. It is impossible for any one man to attend to every detail in such matters. It is impossible to tell how much every cut or illustration costs by itself, or how much they cost in the aggregate, unless by a member of the special committee raised to investigate the cost of the public printing, who may require such specific statements to be furnished by the Superintendent of the Public Printing, to communicate it to the House, in compliance with its specific order.

Mr. CRAIGE, of North Carolina. If the gentleman does not possess the information, I think he ought to before he asks this House to vote for this appropriation bill.

Mr. SMITH, of Virginia. Let me make a remark.

Mr. PHELPS. One at a time. If the gentleman from North Carolina expects that I can tell the cost of any block of marble of this Capitol, although I am a member of the Committee of Ways and Means, whence the appropriation to pay for the extension comes, he is mistaken. That is a matter of detail which no man can inform himself unless he has all of the documents before him appertaining to the contracts which

may have been entered into. For several of these works, sir, there are at least one hundred plates, engraved or to be engraved. For Emory's report one hundred and thirty-six plates have been contracted to be engraved in Paris. A portion have been engraved and furnished to the Superintendent of Public Printing. Another portion have recently arrived and are now at the custom-house in New York, and the remainder of them are being engraved. These are the plates for the report of the Mexican boundary commission.

Mr. SMITH, of Virginia. I will ask the gentleman a question, which he can answer, I have no doubt. Is this appropriation designed to complete the work not yet begun? Is it designed to complete any volumes of Gilliss's report not yet commenced to be printed? Can any of them be dispensed with?

Mr. PHELPS. Whether any of the volumes of the report of Lieutenant Gilliss can be dispensed with I am not prepared to say. The appropriation embraces the money which is deemed necessary to complete Gilliss's report so far as it has been furnished to the Superintendent of Public Printing, and so far as the plates, engravings, and illustrations necessary to accompany the report have already been contracted for.

But, sir, so far as manuscript, hereafter to be furnished, is concerned, there are no data upon which any estimate could be made, for you do not know the amount of manuscript which Lieutenant Gilliss may yet furnish to the Secretary of the Navy to be transmitted to the Superintendent of Printing, nor do you know how many maps and illustrations he deems advisable shall accompany that work.

I was remarking, sir, that this extraordinary expenditure has been brought upon the House and upon Congress by the heedless (I use the term *heedless*, and I mean it) and reckless manner in which both Houses of Congress have voted for the printing of public documents.

Mr. BRANCH. I desire to ask the gentleman from Missouri a question before he leaves that point. I understand the gentleman to say that this printing of Gilliss's report is in pursuance of a resolution adopted long ago. Now, I wish to inquire of the gentleman from Missouri whether there is any restriction placed upon Lieutenant Gilliss in the preparation of that book; or whether there is any existing law requiring that, when Lieutenant Gilliss prepares another volume of that work, it shall be handed to the Public Printer, and the Public Printer be compelled to have it printed, without further action of Congress?

Mr. PHELPS. I will answer that question by reading the resolution of the House under which this report of Lieutenant Gilliss was ordered to be printed. During the first session of the Thirty-Third Congress, the following resolution was reported from the Committee on Printing, and adopted by the House:

"Resolved, That there be printed and bound, by the Public Printer and Binder of the House, six thousand copies of the report, and two thousand copies of the observations of the United States naval astronomical expedition to Chili—five hundred copies of the report and observations for the use of the Secretary of the Navy, two hundred and fifty for the Superintendent of the expedition, and the remainder for distribution by the members of the present House; said work to be printed in quarto or octavo form, as the work will admit and the Committee on Printing may direct."

That, sir, is the resolution under which the printing of Gilliss's report was ordered by the House. The House delegated its authority to the Committee on Printing to make a contract for the printing of that work, either in octavo or in quarto form; and for the binding of that work in such manner as the committee might direct it to be bound. That was an innovation upon the law providing for the binding of public documents; for you have a resolution upon the statute-book which directs that all public documents of two hundred pages of printed matter shall be bound, provided the cost of binding does not exceed a certain amount; and there is no order made by the House for the binding of such documents. But the Committee on Printing reported that resolution to the House during the first session of the Thirty-Third Congress, and the House of Representatives sanctioned the innovation which it was proposed to make, and the mandate went forth to the Public Printer to print the work either in octavo or quarto form, and to print the number of copies specified in the resolution. In pursu-

ance of that resolution of the House, the Committee on Printing directed the work to be published in quarto form, and to be bound in the style in which it has been bound, and in which it has been furnished to members for distribution.

Mr. NICHOLS. I desire to correct a statement which the gentleman has just made. The Committee on Printing of this House has no power to change the character of any work. It is the joint committee of the two Houses.

Mr. PHELPS. When I spoke of the Committee on Printing, I meant the Joint Committee on Printing. I am aware that it is a joint committee.

Mr. NICHOLS. So I presumed. I merely wanted to prevent misapprehension.

Mr. DAVIDSON. I desire to ask the gentleman from Missouri whether the appropriations which the Committee of Ways and Means recommend is intended to cover expenses already incurred or prospective expenses?

Mr. PHELPS. In reply to the inquiry propounded to me by the gentleman from Louisiana, I will state, as I have already stated, that it is for the purpose of paying for work already executed by the Public Printer; it is to pay for paper already furnished by the contractors, and which has been received by the Superintendent of Printing, and issued to the Public Printer; it is to pay for engraving, electrotyping, and lithographing already executed and now in process of being executed.

Then, Mr. Chairman, there was another work ordered to be printed during the Thirty-Third Congress. I refer to the report of the Pacific railroad surveys. That work was ordered to be printed, and the Committee on Printing on the part of the House was clothed with authority to direct it to be printed in quarto form, and did so direct; they also had power to direct the printing of the maps, engravings, and illustrations to accompany those surveys. When that report was ordered to be printed, it was supposed it would only make some two or three volumes. Such, at least, was my expectation. We had appropriated money for the survey of the several routes, for the purpose of determining upon the practicability of those proposed routes for a line of railroad to the Pacific ocean, and I was desirous that those explorations should be published; for even if they gave us no valuable information upon the subject of a line of railroad, still they were explorations of unknown regions of our own country, and ought, therefore, to be published on that ground. They were Government explorations of the country inhabited by Indians, lying to the far west of the Mississippi, and of passes in the mountains, of which we had, then, very meager and scanty information.

Mr. BURNETT. I desire to know of the gentleman from Missouri, if he can tell this committee how much of the appropriations asked for in this deficiency bill is for work yet to be done?

Mr. PHELPS. The inquiry of the gentleman cannot be answered. If an engraver is engaged in engraving a plate and it is but half executed, how can you obtain information of the exact amount that that work has cost up to that point? Again, how can you ascertain the exact amount of expense which has been incurred by the Public Printer, who is, perhaps, engaged at this very time in executing work which you have directed him to perform? Can you stop the press when a volume has been half or two thirds completed, and make a computation of the cost? Before you could make the computation and then get reports from the lithographers and engravers, employed in the cities of Washington, Baltimore, Philadelphia, New York, and Albany, you would find that the work would be executed.

Mr. BURNETT. The gentleman asks me a question, and I will answer it. It strikes me that, when the estimates were furnished him by which he made out this deficiency bill, it would have been a very easy matter to ascertain what part had been commenced, and what part had not been. We are asked to vote \$790,000 as a deficiency for public printing; and I am unwilling to vote that unless I know what it is for. The first information that I want to get from the gentleman from Missouri is, how much has been executed, and how much the Government actually owes. And then I want to stop that part which has not been furnished or commenced. Hence my inquiry, and hence my desire to have this information.

Mr. HOUSTON. I desire to ask the gentleman—

Mr. PHELPS. One at a time, if you please.

Mr. HOUSTON. I propose to ask the gentleman for information.

The CHAIRMAN. The gentleman from Alabama is not in order. The gentleman from Missouri has the floor.

Mr. HOUSTON. I am aware that the gentleman from Missouri is entitled to the floor; and, that unless the gentleman thinks proper to yield for a question—

Mr. PHELPS. I cannot submit to be catechized until I answer the questions already put to me. If the gentleman from Alabama will wait a little while, we will get along faster.

Mr. HOUSTON. Very well; we will see.

Mr. PHELPS. The gentleman from Kentucky [Mr. BURNETT] makes an inquiry of me as to how we came to submit this estimate, when, by obtaining information from the Superintendent of Public Printing, and by obtaining information from the Clerk of the House—

Mr. BURNETT. That is not my inquiry.

Mr. PHELPS. I always like to be allowed to make my own speech, and in my own form; and I do not like gentlemen on the floor of the House to direct me to proceed to a certain portion of that which I intend to comment upon, before I reach it in my own proper time. If the gentleman inquires in reference to the report of Gilliss, I tell him, just as I have told other gentlemen in regard to that report, that it is impossible to fix the amount of the work done on an uncompleted volume. But we do not propose in this bill to appropriate money for work where the manuscript has not yet been deposited with the Secretary of the Navy, or sent to the Superintendent of Public Printing. That is the answer in reference to the work of Gilliss. So I say with reference to the work of the Pacific railroad surveys and explorations.

On that point I was going to invite the attention of my friend from Kentucky, and also of my friend from Alabama, [Messrs. BURNETT and HOUSTON,] to the fact that here are some seven volumes of this report that have been completed, so far as the printing is concerned. Seven volumes have been executed by the Public Printer, and a portion of them have been bound; a portion has not yet been bound; and yet we propose, in this appropriation bill, to appropriate money for the binding of these volumes that are yet unbound. As to the reports of explorations and surveys to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, ordered at the second session of the Thirty-Third Congress, the printing of seven volumes of this report has been completed, four of which have been bound, and the other three are nearly ready for the binder. The letter-press and most of the illustrations for the eighth volume are printed; but some delay will be occasioned in its completion, in consequence of the destruction by fire, in Philadelphia, of ten of the copperplates. It is estimated that the entire work, when completed, will make eleven large quarto volumes, including one volume of maps and profiles.

Here are eleven volumes, including maps and profiles. A portion of these maps and profiles have been executed. What portion yet remains to be executed, I cannot inform the committee; but I am informed that a large portion of them have been executed. The completion of them has been delayed in consequence of the destruction of some of the plates in the fire at Philadelphia.

Mr. HOUSTON. Now, my question to the gentleman from Missouri is this: he speaks of seven volumes being complete so far as the printing is concerned, and says that the eighth volume has progressed, and that the whole number of volumes will be eleven. Then, I understand from him that there are three volumes not yet commenced at all? Now I ask the gentleman to state to us what these volumes cost each to the Government of the United States, and the relations between the volumes; whether, if the publication stop where it is, including the eighth volume, or excluding the eighth volume, the information is not as perfect, or nearly so, as if the whole eleven volumes be printed?

Mr. PHELPS. The gentleman from Alabama is a little mistaken in assuming that I have conceded that there are three volumes of this work

yet untouched. The gentleman misunderstood me. I stated that seven of them were entirely printed, and that a large portion of the eighth volume was printed, with the illustrations to accompany it. I stated that the whole work would amount to eleven volumes, including one of maps and plates, and profiles; and that a large portion of the engravings of this volume were already executed. Thus there are but two volumes left unexecuted; and I cannot inform the gentleman what they consist of. I desire to invite his attention, and the attention of the committee, to the resolution under which the printing was executed. The following resolution was adopted at the second session of the Thirty-Third Congress:

"Resolved, That there be printed for the use of the House, ten thousand copies of the reports of surveys for a railroad to the Pacific, made under the direction of the Secretary of War, embracing the report of F. W. Lander, civil engineer, of a survey of a railroad route from Puget Sound, by Fort Hall and the Great Salt Lake, to the Mississippi river, and the report of J. C. Frémont, of a route for a railroad from the head waters of the Arkansas river into the State of California, together with the maps and plates accompanying each of said reports necessary to illustrate them."

This resolution directed two reports to be printed, together with the plates and illustrations to accompany them, which were the history of an exploration not authorized by Congress—not undertaken in pursuance of the act making appropriations for the survey of a railroad to the Pacific.

Mr. Lander accompanied my friend, the present Delegate from Washington Territory, [Governor STREVELS,] in his exploration of a route from the Mississippi river to Puget Sound, in the year 1853. Mr. Lander, however, returned by an entirely different route, but the report of his return route was not then communicated to the Secretary of War, nor was he employed by the Government, nor was he acting in pursuance of any instruction from the Secretary of War, in his exploration from Puget Sound, by Salt Lake, to the Mississippi river. His report was not written when this resolution passed the House; nor was it submitted until six or eight months thereafter—perhaps I might say twelve months thereafter, though my memory may not serve me correctly. About nine months after this resolution passed, I had a conversation with the Secretary of War, (Colonel Davis,) who informed me that Mr. Lander's report had not then been submitted to him, nor filed in the office of the Pacific railroad surveys.

Again, the report of John C. Frémont was ordered to be printed. That expedition was undertaken by himself, solely with his own means, and without being authorized or sanctioned by the Government; yet the House of Representatives then had such a desire to have the information which he might contribute, that they ordered the printing of a document before it was even requested, and even before the House had any information that Colonel Frémont would write such a report.

I say the fault rests with Congress itself, in ordering the printing of documents before they have been communicated to either branch of Congress. I shall prescribe for myself, in future, a rule to prevent these extravagant expenditures, that until a report shall be presented to Congress—one branch or the other—I will not vote for its printing or its publication.

Mr. GARNETT. I find, sir, in Miscellaneous Document No. 36, addressed to the Committee of Ways and Means, from the office of the Superintendent of the Public Printing, in reference to the deficiencies in the public printing, engraving, and lithographing, and paper, statements marked Nos. 1, 2, 3, and 4, each containing distinct items of account.

I find in No. 4, that the amount of deficiency, according to the report of the Superintendent of Public Printing, for paper, due and unpaid, is \$104,000. The remaining \$65,000 is for paper yet to be furnished.

I find in No. 1, that the work ordered by the Thirty-Third and Thirty-Fourth Congresses, done and unpaid, amounts to a little over seventeen thousand dollars. The amounts in Nos. 2 and 3 are, in the aggregate, \$105,000, which is for work not yet done. Now the question which I propose to the gentleman from Missouri is this: Suppose this bill is amended so as to pay for the work already done, but make no appropriation for

the work not yet done: will not the effect be the very thing the gentleman from Missouri has indicated that he desires? And will not this Congress thereby put a restraint and check upon the extravagance of its predecessors?

Mr. PHELPS. I have two answers to the question of the gentleman from Virginia. The question of the gentleman seems to presuppose that it is the duty of the Committee of Ways and Means to provide for stopping the publication of these works; and, in reference to this matter, I have this reply to make, and it is in order to repel the presumption of delinquency upon the part of the Committee of Ways and Means: the Committee of Ways and Means has, for several years past, been charged with absorbing the whole business of the House; that nothing could take place unless it emanated from the Committee of Ways and Means, or was accepted as an amendment to their bills.

In the next place, the gentleman from Virginia is aware that it is the duty of the Committee of Ways and Means, in an appropriation bill, not to provide for legislation, but for the appropriation of such money as may be needed to meet the expenses arising under existing laws, or authorized by the resolutions of one or the other branches of Congress. That is made our duty; and hence, acting as we did, under that authority, we have made the recommendations which appear in this bill.

And moreover, the gentleman from Virginia will bear in mind that a select committee was raised by a resolution introduced by his colleague, [Mr. SUMNER,] for the express purpose of inquiring into the expenditures which had been incurred on account of the public printing, and to report to the House what measures are necessary to curtail those expenses. Then, as we find a committee specially charged with this subject, and as we find that these appropriations are necessary to meet the obligations of the Government, which had been assumed and contracted for, we could not report for curtailing these expenses, or for stopping the execution of the work.

Now, as to the specific inquiry of the gentleman. The gentleman from Virginia calls my attention to a tabular statement numbered 4 in this report of the Superintendent of Public Printing, in which there is reference to the fact that there are certificates issued by the Superintendent of Public Printing to the amount of \$104,000, which is on account of paper furnished to the preceding Superintendent. But since this report was made by the Superintendent of Public Printing, and even at that time, there was an additional amount of paper which had been used in printing the second volume of the Commercial Relations. Gentlemen will recollect that the first, third, and fourth volumes of that report have been printed and distributed; and the question arises, could you stop the printing of the second volume? But, sir, I am informed that nearly all the second volume has been printed now, and that it is nearly ready to be delivered to the binder.

Again, in reference to the amounts which are due the Public Printer according to the statements marked 1, 2, and 3, to which the gentleman has called my attention, I have this to say: that no bill is considered by the Superintendent of Public Printing as due the Printer for any portion of a volume until he shall have executed the entire volume. For instance: he may be engaged upon the eighth volume of the Pacific railroad report, as he is at this time, and he may have printed all but the last ten or twenty pages of the work. There is nothing due now; but when he shall have finished these few additional pages, when he shall have printed all the manuscript which has been furnished for the work, he is then entitled to the sum to which the work amounts according to the law regulating the rate of public printing; so that if we had appropriated simply the amount due at the time the bill was reported, by the time the House had acted upon the bill another sum would have become due, and we should have been compelled to raise the figures, if we had followed the suggestion of the gentleman from Virginia. These remarks are applicable, I think, both to the first, second, and third tabular statements.

Mr. GARNETT. I presume, then, that it is impossible, from this report of the 5th of December, to distinguish between the work already

executed, and the work still to be executed. I learn, with astonishment, I may say, that it is the duty of the Committee of Ways and Means to register all of the extravagant estimates from every Department of the Government, instead of recommending to a Democratic House a reduction of these estimates to the proper and Democratic economical standard.

I am ignorant of the rules of this House, if the proper object of a deficiency bill is not to provide for the payment of work already done, and for which no appropriation has previously been made. I would ask the gentlemen whether prospective expenditure is a proper subject in this bill? Is it not the duty of the Committee of Ways and Means to inform this House what part of the estimates submitted by the Departments of the Government is really for a deficiency, and how much is for a debt that we ought to sanction in a deficiency bill?

Mr. PHELPS. I will answer the gentleman. He has asked me already whether we can dispense with volume third. I will refer him to a report which sustains the answer I gave him. Is the gentleman prepared, if the Printer of the House has executed two thirds of a volume, to dispense with the work, and refuse to pay for the work already done?

Mr. GARNETT. I want to know what the Printer has done; and what work is not yet done?

Mr. PHELPS. It is that question which I am proceeding to answer. The gentleman should have looked a little further than he has done into the report of the Superintendent of Public Printing, made to Congress on the 5th of December last. The second volume of the commercial relations is nearly finished. It was not commenced at that time. The Superintendent of Public Printing then, in the gentleman's view, will have to go to the Public Printer every little while—for these works are progressing all the time—to ascertain what is finished and what is not. The second volume of the commercial relations is finished excepting trimming, which can soon be done. I will read the resolution ordering the printing of these commercial relations.

Mr. GARNETT. While the gentleman is looking for the resolution, I wish to put a question or two to him. The paper for this second volume of the Commercial Relations, upon which he rests so much stress, was estimated by the proper Department at \$14,000, and the printing at \$12,000, making an aggregate of \$26,000, out of the sum of \$200,000.

I will call his attention to another point. He stated, in the beginning of his remarks, that a portion of this appropriation was to pay for work not only not done, but the manuscript for which is not yet in the hands of the Printer.

Mr. PHELPS. The gentleman misapprehends what I stated. I stated when the inquiry was put to me whether this embraced an estimate for the publication of that portion of Gilliss's report, of which the manuscript was not in the hands of the Printer, that it did not embrace any such portion of that report. As the gentleman from Virginia finds so much fault with the printing, let me call his attention to some of the incomplete works. I will take for instance the second volume of the Japan Expedition, which was not printed at the time this report was made. It is printed now, and has been distributed, and the cost for printing that one volume, embracing paper, illustrations, and binding, was only the modest sum of \$99,000. The gentleman has the report of the Superintendent, and can read for himself. That report was made on the 5th of December last, and was printed in three or four days thereafter. He must know that the printing of these works is a continuous matter, that when the manuscript is handed by the Superintendent of the Public Printing to the Public Printer the latter proceeds with all dispatch to execute the work; and I will tell the gentleman, sir, that much of the expense arises from the cost of engravings ordered to accompany these works. Artists are and have been engaged in their execution for works printed and works yet in press.

Now, sir, a word in reference to the report of the United States commission to run a boundary line between the United States and Mexico. The order for printing this work was made at the first session of the last Congress. Money had already been appropriated to run the boundary line between the Republic of Mexico and the

United States. Major Emory was appointed the commissioner on the part of the United States. The first volume, a part of his report, was submitted at the first session of the last Congress, and the House ordered that it should be printed with the accompanying illustrations. This volume, when printed, was sent to the gentleman from Virginia, and all who were members of the last Congress; and these gentlemen were informed that the maps and illustrations designed to accompany it, had not then been printed. The second volume is in process of execution. I am informed that some of the plates to accompany this work, are in process of execution at Paris, in pursuance of contracts heretofore made by the Superintendent of Public Printing. As I remarked once before, a portion of these plates have arrived in this country and been printed, and that another portion was at the custom-house, New York.

I am as desirous as any member, Mr. Chairman, to check extravagant expenditures for public printing; but if gentlemen will look at the tables, they will see that a small portion only of the total amount goes either to the Printer for the House or for the Senate. I will call attention again to the report of the Superintendent. The cost of printing, folding, gathering, and inserting maps and plates of twenty-three thousand nine hundred and twenty copies of the report of explorations and surveys for a railroad from the Mississippi river to the Pacific ocean, volume second, was \$10,921 54, and the cost for dry-pressing, was \$1,900, about thirteen thousand dollars in all; whereas the cost of paper was \$16,300, and the cost of illustrations \$21,786 for that volume.

But the cost of the paper upon which these works were printed was \$16,300 for that one volume, the paper itself costing more than the mechanical work bestowed on it. What next have you? The cost of the illustrations for that volume amounted to the sum of \$21,786 77. By whom are those illustrations prepared and printed? Not by your Public Printer, but they are prepared by engravers throughout the United States, who have been employed by the Superintendent of the Public Printing in pursuance of the order of the two Houses of Congress. The cost of binding this work actually exceeds the cost of printing it. The cost of binding the extra copies of that one volume was \$17,116 08, and the total cost of that one volume, as reported by the Superintendent of Public Printing at \$70,829, and of that sum the Public Printer only receives about \$13,000.

I will briefly refer to the cost of the third volume of the Pacific railroad surveys. There was paid to the Printer, or will be when he shall have been paid for the work, about \$12,000. The paper for the printing of the work has cost \$15,712; the illustrations for the work have cost upwards of \$40,000; and the binding of the extra copies only has cost upwards of \$17,000. The reason why I make these remarks in reference to the amounts paid to the Public Printer is, that from the clamor which has been raised in the public press in regard to the profits of the public printing, one might be led to suppose that millions of dollars were annually paid to the Public Printer, whereas when you come to examine the items of the expenditures which go to make up the cost of these works to the Treasury, you find that the Printer generally receives but about from one sixth to one twelfth of the cost of the works so profusely illustrated.

But I desire to invite the attention of the committee to a singular resolution which was passed by this House during the last Congress, concerning the publication of the report on Commercial Relations. The President transmitted a message communicating the report, in compliance with an act of Congress; and thereupon the following resolution was adopted:

"Resolved, That the answer of the President of the United States to the resolution of the House of Representatives of December 14, 1853, upon the commercial relations of the United States with all foreign nations, be printed by the Printer of this House, in quarto form, under the direction of the Secretary of State, who is hereby authorized to cause all corrections therein which, in the course of printing, may be found requisite to be made, and also to cause to be added all additions thereto of commercial information which, subsequently to the transmission of said answer to the House, may reach the Department of State, which shall by him be deemed of sufficient importance."

That resolution was adopted by the consent of the gentleman from Virginia and myself; because the Journal does not show that either he or I voted

against it. And when my vote is not recorded in the negative, whether I voted for a proposition or not, I stand here to bear my share of the responsibility.

[Here the hammer fell.]

Mr. CLARK B. COCHRANE obtained the floor.

Mr. CRAWFORD. I presume the gentleman from New York desires to make a speech upon some political question?

Mr. CLARK B. COCHRANE. Yes, sir.

Mr. CRAWFORD. Will he allow me, before he proceeds, to introduce an amendment to the bill?

Mr. SMITH, of Virginia. Let us get in our amendments.

Mr. CLARK B. COCHRANE. I must decline to yield for any purpose.

The CHAIRMAN. The gentleman from New York is entitled to the floor, and will proceed.

Mr. CLARK B. COCHRANE. I propose, Mr. Chairman, for the brief period to which I am limited by the rules, to speak mainly to that part of the annual message of the President which relates to the Territory of Kansas.

The statements and positions therein assumed are so extraordinary, and, in my judgment, unwarranted in their character, and the policy therein distinctly indicated, if not recommended, must prove so disastrous in its consequences, if forced into practical effect, that no apology can be required, as it seems to me, for calling to them, here and now, the attention of the House and of the country.

Before proceeding to the discussion proposed, I desire, sir, to state one or two facts which recent events in the Territory have placed beyond debate. The whole number of votes returned and counted as having been cast at the constitutional election held under the provisional government of John Calhoun, on the 21st of December, was 6,712—as follows: for the "constitution with slavery," 6,143; for the "constitution with no slavery," 569; leaving the majority for the constitution, in the form it prevailed at that election, 5,574. Of these, more than one half were false and fraudulent. At the election ordered by the Territorial Legislature, and held on the 4th of January, the majority against the constitution was 10,226.

We have then, sir, the great fact that the people of Kansas have voted down the Lecompton constitution by an overwhelming majority. By a vote of at least four to one have the citizens of the Territory, in legal and solemn form, recorded their judgment against it. This is the only additional fact that has transpired since the organization of the present Congress, entitled to any considerable consideration in the proper solution of the question presented to us. On arriving at this point the whole issue is made up.

The result of the election for the Legislature and State officers, under this rejected constitution, whatever that result may be declared to be, in no manner affects the real question in controversy here.

So far as that people are concerned, it may influence the possible consequences, but cannot relieve the responsibilities of our action. It may aid or it may hopelessly embarrass the victim in recovering from the wound; but can neither justify or mitigate the infliction of the blow.

As to the policy of participating in that election, the people were not agreed. The alternatives presented were well calculated, balance them as best they might, to lead to divided councils. If they went to the polls they were to be doomed; if they staid away they were to be doomed. If they voted, they were to be charged as having acquiesced; if they refused, they were to be condemned as factious, and so deserved their threatened fate. Notwithstanding the difficulties by which their position was surrounded, a portion of the people resolved, as a measure of defense, to go to the polls; and they did so, with a ballot in one hand and a solemn protest in the other.

The strait in which they were shut up by the tender mercies of the usurpers, laid between Scylla and Charybdis, and they determined to venture upon the hazard of the passage. That the free-State candidates were elected, there is no manner of doubt. That they will be counted out, is, in my judgment, no less certain. To make up by fraud what was wanting in numbers, was the precise reason for the Calhoun dictatorship.

But the great fact remains, that the constitution has been voted down. That it is loathed and abhorred by three fourths of the citizens of Kansas, is known to the whole country; and the issue here and for us is, whether we are prepared to force a government upon a people, not only without their assent, but against their express will.

The question extends higher and deeper than any and all mere questions of partisan politics, any and all ordinary measures of public policy, and reaches the fundamental structure and essential principle of free government itself. It involves the original and basal idea which underlies and characterizes our American institutions, and upon which the Republic was started on its adventure of free empire.

We may sacrifice much to peace, to union, and to conflicting opinion; but we may not either sacrifice or impair those elementary principles by which, as a people, we are known and distinguished among mankind. We cannot do this without infidelity to the cause of freedom and the race; without blotting from the country the great element of its identity; preserving, it may be, the form, but changing the nature of the government. To force Kansas into the Union under the Lecompton constitution, as proposed by the Administration, would be to do this very thing.

Mr. Chairman what is this great American idea, this vital political truth, the proposed and practical denial of which tends to the subversion of the Government? It is, sir, that Government, whether State or Federal, local or general, "derives all its just powers from the consent of the governed;" that all political sovereignty resides in the people; that the will of the majority is the ultimate and supreme power in the State; that the rights of man are inherent and inalienable, undervived from society or any of its organic forms; the free bequest of God, and not the gift of Government; and are, therefore, exempt from invasion by any human power or authority whatsoever. To secure, not to impair, these rights, Governments are instituted among men.

The doctrine to which I have referred constituted the platform upon which the struggle of the Revolution was organized, and which the colonial army was commissioned to vindicate and establish. This Republic was inaugurated and rests upon it. It is the simple right of self-government—the inherent claim of men to construct the government to which they are expected to yield obedience.

To impose the Lecompton constitution upon the people of Kansas would be a plain, flagrant, and violent breach of this principle; so plain that no sophistry can obscure it; so flagrant that no considerations of public policy can palliate it.

Is it not your faith and the faith of the country, settled and unalterable, that the foundations of all rightful empire can be laid alone in the popular will? Government is not the creator, but the creature of power, of which the people are the original and only legitimate source. Political institutions are modes of procedure, not objects of pursuit—means which the people originate and employ to achieve the ends of social organization, namely, freedom and security. And, as the fundamental structure of the State derives its existence and the tenure of its duration from the free action and consent of the people, it follows, as the President justly observes, that no human power can rightfully prevent them from changing it at pleasure; but the people have the right to alter their constitution, because they have a right to make it. The right to abolish is derived from and depends upon their earlier and prior right to ordain and establish. If they have no antecedent right to make, they have no subsequent right to change.

If you can impose a constitution upon the people of Kansas without their authority and against their consent, for a day or a year, you may for all time. The question is one of power, not of duration; of principle, not of policy. You can do this only, sir, by subverting the principles of the Government and denying the traditional faith of the country.

What is a constitution in the American sense of such an instrument—what is an American constitution? It is not only the fundamental rule of the State, originated and adopted by the people as their mode of administering the Government, but also a limitation upon the sovereign power of

the people self-sought and self-imposed; not an iron harness sprung upon the limbs of a commonwealth by a foreign despotism or an internal faction. If there is anything upon which freemen may vote, it is the organic law under which they are to live. If popular sovereignty means anything—if self-government has any significance—it requires that the constitution proposed for the government of a people shall be fully and freely submitted for their acceptance or rejection.

Before Congress can receive Kansas into the Union as one of the sovereign States of this Confederacy, we are bound to be satisfied that the sovereign people have made application; that the majority, and not the minority, ask admission; that the constitution with which she comes unmistakably embodies the assent and judgment of her people. Not that the Kansas-Nebraska act has made any new revelations, or imposed any new requirements upon Congress in reference to the doctrine of self-government, as seems to be supposed in certain quarters, but because considerations with earlier and higher sanctions than the Kansas-Nebraska bill, or any act which Congress ever has, or ever can pass, demands this at our hands. The common and conceded rights of man require it; because you have no right, legal or moral, under any necessity whatever, to impose a constitution upon a free people against their will. And this is precisely what the Lecompton conspirators ask you to do. Their whole proceeding was a deliberative and studied scheme to force an obnoxious constitution upon an unwilling and resisting people; and you are now asked to consummate the wrong.

This Lecompton swindle, the work of a meager minority, and coming up here reeking with fraud and branded with the popular condemnation, is commended to our approval by the Federal Executive; not on the ground of justice but upon the plea of tranquility. That same old plea, sir, that made the compromise of 1820 and broke it in 1854; that has already nationalized slavery and localized freedom; changed by construction the organic law of the Federal Union from a free Constitution into an instrument by which the institutions peculiar to the southern portion of the Confederacy are carried into all the Territories of the Union heretofore or hereafter acquired. So that the music of the Union, with which we are required to keep step, is the clanking of chains and the rattling of coffles.

We may not forget, Mr. Chairman, that the Pierce Administration came into power upon the statute of repose. There had been a great finality in 1850. The slavery question had been definitely settled. There was to be no more agitation upon that subject, in or out of Congress. We were to have a good time generally, and, I may add, indefinitely. Well, sir, that Administration had scarcely entered upon the responsibilities of the Government, and had time to reaffirm its doctrines and pledges of repose, before these same Union-savers and tranquillizers—without cause, necessity, or invitation—reopened the slavery controversy both in and out of Congress, by striking down the Missouri settlement, to the end that slavery might be extended over the Territories from which, for a consideration and by the solemn stipulations of both sections of the Confederacy, it had been forever excluded. That act—so unjust and unfair to the free people and free laborers of the North—never had and never can have but one solution: its design was to make Kansas a slave State. So we believed and so we charged.

The argument of popular sovereignty, put forth with all the zeal and pretense of a new revelation, was but a tub thrown to the whale. A mere device, delusion, and snare, in order to allay the public excitement, and prepare the country for the next aggressive step in the progress and consummation of the wrong. So we also believed, and so we likewise charged. Less than four years have passed, and those predictions have become history, and those charges are more than verified. In the past history and present attitude of Kansas, I submit to the House and the country, we have all the elements of entire demonstration.

A bold and reckless minority of her people, intent on a purpose to be accomplished only by a cheat, have framed a constitution to suit themselves, and in known and shameless defiance alike of their own pledges and the public will. How have they

done all this? Under the protection of the Federal Army, commissioned and sent there to enforce the will of the minority. Majorities in a free land like ours, can enforce their own will. It is only the necessities of minorities which require the aid of dragoons. That minority, affecting to represent the people of Kansas, are now here with their slave constitution, asking admission into the Union as an equal State. That constitution is a fugitive from justice. It has been smuggled from the Territory under the cover of the Federal bayonets, and now appears here naked and unadorned not only, but with the dust and odor of the grave upon it, to which it had been committed by the votes of more than ten thousand freemen. Shall we breathe into it the breath of life? Shall we attempt to give it force and vitality, or return it, a corpse as it came, for final burial in the soil it was created to enslave?

Well, Mr. Chairman, the President tells us that the Kansas-Nebraska act did not require the whole constitution to be submitted, only that part which relates to the "domestic institution of slavery;" that the Kansas-Nebraska act is satisfied by such a submission. Who made that act the standard by which to measure the rights of American freemen? The right of our people to self-government—to decide for themselves the institutions under which they are to live—is derived from higher sources than the Kansas-Nebraska bill—their own intrinsic manhood; a right not conferred, but vindicated and guaranteed by the constitutional structure and maxims of the Republic. I am free to confess I do not know what the Kansas-Nebraska act does require. It has received so many different and successive interpretations from its friends, in order to meet the new exigencies of the Democratic party and the slavery question, it is difficult to say what is its present, or what is to be its final construction. At the time of its imposing advent, it was claimed, at least by the national Democracy North, that, under it, the people of the Territory might exclude slavery while in the territorial condition. By its interpretation in the Cincinnati platform, the people might exclude it when they came to form a State constitution. By the President's message it is understood to mean—and this is the last interpretation—that the people may exclude it after they become a State. So far, then, we have three interpretations.

1. The people may exclude slavery while in the territorial condition.

2. The people may not exclude it while in the territorial condition, but may when they come to form a constitution preparatory to their admission into the Union.

3. That the people may not exclude it before their admission into the Union, but may in a short time afterwards, provided they can.

This, then, is the Kansas-Nebraska bill; it "hath this extent; no more." This is the great doctrine of popular sovereignty; the new revelation; the "stump speech in the belly of the bill." What the eloquent gentleman from Mississippi called the "second Declaration of Independence." Are the Democrats from the free States, are the Democrats from the slave States, satisfied with this "lame and impotent conclusion."

But, again, sir, the President says that the question of slavery "has been fairly and explicitly referred to the people, whether they will have a constitution with or without slavery." The infirmity of this statement is a radical one; its entire want of foundation in fact. I affirm, sir, that no such question was submitted, or intended to be submitted at all by the Lecompton convention. No matter which form of ballot the people voted, whether "the constitution with slavery," or "the constitution with no slavery," they had a slave constitution still, and could not have anything else or different. Did these Lecompton despots suppose that the rest of mankind were fools and could not detect the fraud, bold and patent on the very face of their record? No, sir; they knew it was a cheat—they confessed it was a cheat. They intended to do just what they did; and expected it would be known and read of all men. It was the last desperate throw of the dice; and they meant to frame a constitution so odious in itself, and contrive such agencies and modes of submission as necessarily to exclude every man not in the conspiracy, whether Republican or Democrat, from the polls; and rely upon the Administration and its

majority in Congress to see them through. Did they count without their host? We shall see. I can assure gentlemen of one thing; if the expectations of the Lecomptonites are realized in this regard, the Democratic party, so-called, will become, geographically, what it is in fact, a mere sectional party.

The members of the convention who were opposed to the sham proceeding, and in favor of sending the constitution as framed directly to Congress, without committing it in any form to the ordeal of the public judgment, did not hesitate to denounce the scheme of affected submission as a "lie, a cheat, and a swindle;" as "wearing falsehood upon its face in letters of brass." What these men, and such men, thus characterized, the Executive head of the Republic has commended to us as "fair."

Had "the constitution with no slavery" prevailed at the election of the 21st of December, as it did not, it would have been, to all intents and purposes, simply and legally a slave constitution. It guaranteed and perpetuated slavery in Kansas forever. It provided "that the right of property in slaves now in the Territory shall in no manner be interfered with," and prohibited to the people of the proposed State any and all power, through legislative action or the processes of constitutional reform, to control or impair that right in any manner whatsoever.

By the fourteenth section of the schedule, which graciously permits the people after the year 1864, if they shall so order, to assemble a convention to revise the constitution, it is expressly declared "but no alteration shall be made to affect the right of property in the ownership of slaves."

What is this right of property in slaves thus exempted from all criticism and control, as that right is now understood and defined by the powers that be? It is the absolute right of property in all slaves *in esse* and in their increase forever. If this does not constitute a slave constitution the fault is in the infirmity of the English language.

The question then, Mr. Chairman, which the President informs us "has been fairly and explicitly referred to the people," is plainly and simply this, whether the slave owners of Kansas shall import their domestics or raise them, and no arts of argument or of rhetoric can make it anything more or different. The alternative presented to the people of Kansas, is precisely the choice the white man commended to the Indian: "you may have the crow and I will have turkey, or I will have turkey and you may have the crow."

This submission, the President tells us, satisfies the organic act of the Territory. This is allowing the people "to form and regulate their own domestic institutions in their own way." This is the great doctrine of popular sovereignty as recast, improved, and promulgated in the Kansas-Nebraska bill. For four anxious years has the Democratic mountain been in labor, and this is the progeny. And, Mr. Chairman, what a little thing it is.

In attempting to justify what he calls the reservation of the "rights of property in slaves now in the Territory," the President employs the following extraordinary language:

"To have summarily confiscated the property in slaves already in the Territory would have been an act of gross injustice, and contrary to the practice of the older States of the Union which have abolished slavery."

Was there no way of providing against a summary confiscation of the property in slaves except by a constitutional guarantee of that property and its increase in perpetuity? The object of that convention, in inserting these provisions, was not to prevent "summary confiscation," but its open and avowed purpose was to secure, in defiance of the public judgment, a slave constitution, with perpetual and unalterable guarantees—and this, whether submitted or unsubmitted, whether the slavery article was voted out or voted in—and this they accomplished.

Had I been a member of a constitutional convention of Kansas, fairly elected and constituted by its people, I might have accorded to the owner of this species of property, as was done at Topeka, a reasonable time to remove his slaves from the Territory, to be disposed of in any manner he thought proper; but I should have done it as a matter of favor, and not conceded it as a claim of right. I deny that any such right exists. No such claim is recognized by any rule of justice or

equity. "The practice of the older States which have abolished slavery" has nothing to do with the case under consideration, either by analogy or otherwise. The justice of this claim is to be determined by the Kansas-Nebraska act. As this act was put forth as inaugurating a new policy in respect to the Territories, we have a claim to know, though not responsible for the measure, what are the rights, if any, of the people under it? Is it conceded that the people of a Territory, when they come to form a State government, may exclude and abolish slavery? Then, sir, every person who carries his slaves into the Territories, carries them with notice of this unquestioned right of the people, and subject to the exercise of that right. He goes knowing and acknowledging that the people may say, whenever they proceed to form a constitution, that property in human beings shall no longer exist in the Territory, and he goes at his peril. If the people say, "we give you time to remove and dispose of your slaves elsewhere," very well; if not, he has no cause of complaint whatsoever.

I concede that with those who believe, as the Lecompton constitution declares, that the right of property in man is above all constitutional sanctions, and therefore exempt at all times, and in any manner, from the reach of the popular will, this argument can have no force. If the doctrines of the message are to prevail, the question will be, not whether there shall be any more slave States admitted into the Union, but whether there shall be any more free States admitted into the Union.

We are told that no matter how great the number of slaves in the Territory, "the provision would be equally just and reasonable." What "provision," Mr. Chairman? The provision in the Lecompton "constitution with no slavery," whereby the right of property in slaves already in the Territory, and in all children of them born, is guaranteed forever. If this is to become the policy of the Government, in respect to Territories—if this is the practical working of the Kansas-Nebraska bill—then, sir, is the age of free constitutions past, and the triumph of the slave power upon this continent is already universal and complete. Such heresy is entitled to no respect here or elsewhere. The Administration in laboring to defend this great wrong, proves itself an accomplice in its commission. In assuming the championship of this scheme to legalize and prolong the reign of terror and tyranny in Kansas, it could not, but for its official patronage and power, survive for an hour the merited judgment of popular condemnation.

I have said that the modes of submission were artfully contrived for the very purpose, and that purpose avowed, of driving the free-State men from the polls. I affirm the people of Kansas could not have voted without sacrifice of their honor, integrity, freedom, and self-respect. I have no time to enter upon the details of proof. I take a single illustration.

The Lecompton convention met in September, and adjourned until after the October election, to see what might then turn up to render unnecessary the *coup d'état* which they otherwise contemplated.

Through the just intervention of Governor Walker, for which he has since been compelled to resign to prevent decapitation, the Johnson and McGee county frauds did not prevail, and the result was a free-State victory by overwhelming majorities. The effect of this victory was to be got rid of, and the Lecomptonites reassembled. Enraged at Governor Walker—from whose proslavery antecedents they had expected better things—for rejecting the Oxford returns, they took those very returns, known and admitted to be palpable and undisguised forgeries, and placed them in the constitution as the basis of legislative representation for the county of Johnson. According to her population, that county is entitled not to exceed one representative; by the constitution she has four; entitled to neither senator, by this constitution she has two; and thus made equal with the county of Douglas with more than five times the population.

Now, sir, on the day of election a citizen of Douglas county approaches the polls, and we have this colloquy between himself and the inspector: "I want to vote against the Lecompton constitution." "You cannot do it, sir." "I want to vote to make Kansas a free State." "You can-

not do that, sir." "Well, then, what may I vote for?" "You may vote whether the owner shall import his slaves or raise them." "Well, this is a close question; but, on the whole, I will vote against importation." "Very good; then first vote for the constitution." "But," says the voter, "the constitution sanctions and sanctifies the Oxford forgeries, by which my county is defrauded of its relative weight in the councils of the proposed State, and I cannot vote for it." "So I supposed," answers the inspector; "you may as well leave, and go home."

Mr. Chairman, need I multiply arguments to show that this whole pretense of submission is a bold and infamous mockery? It can deceive no one. The whole plot, in its entire deformity, is exposed and patent to the world. Its origin, its development, and its memory, await but one doom—the common execration of mankind.

Governor Walker, speaking for himself and from Federal instructions, said to the people of Kansas: Surrender all other modes and settle your unhappy controversies by the arbitrament of the ballot-box—that sacred and magic spot where freemen go to execute their will—and I will see fair play. The Administration said the same thing, speaking directly and independently for itself; and the free-State men of Kansas, relying upon these pledges of protection, said amen. They went into the election and won—triumphantly, overwhelmingly won. And here is the rub; hence the clamor against Governor Walker, hence the backing down of the Administration, hence the violation of pledges, hence the Lecompton constitution, hence the desertion of Walker, the decapitation of Stanton, and the attempted ostracism of a distinguished Senator at the other end of the Capitol.

Why were not the common rights of freemen accorded to the people of Kansas in respect to their organic law? Why was not the whole constitution honestly submitted to the people for their acceptance or rejection? There is but one reason, one only answer. The answer given first by the convention itself, and afterwards taken up and repeated by the Washington organ of the Administration. *The people would have voted it down.* The majority were factious and unreasonable. They did not like the Oxford plank, the Know Nothing element, the bank project of the constitution. They did not like to acknowledge the usurpations of the convention, or very much fancy the outside barbarian sources from which it had its origin. The eleven jurymen were stubborn, and majorities are not always to be depended upon. This argument sounds well upon Democratic lips. It comes with peculiar grace from an Administration recently elevated to power upon the vehement pretense of superior devotion to the cause of popular sovereignty. Could anything more completely demonstrate the utter desperation of a cause, than such utter prostitution of all the consistencies of debate, employing against submission the precise considerations which make submission imperative?

Mr. Chairman, this Lecompton conspiracy is not an isolated wrong—falling upon that people with the startling effect of an unanticipated calamity. It is but the culmination of a system of atrocities. The last of a succession of outrages whose unity of design and execution is as traceable as the milky-way. The latest act of a drama of despotism and fraud, in which local barbarism and Federal intervention have combined in acting the same part looking from the first and invariably to the one end, the subjection of Kansas to the dominion of slavery. Hence the Federal Government could find no power in the Constitution to employ the Army to protect the people from organized invasion, by which the polls were seized and the government usurped in March, 1855, but found the authority so soon as the necessities of the usurpation required the Army to enforce its administration and execute its code of laws—a code in comparison with which the worst edicts of the worst of the Cæsars were the embodiments of a generous humanity. Hence northern emigration was for months blockaded along the whole eastern borders of the Territory by bands of armed men; and the navigable waters affording access to her soil—waters which nature had provided as free channels to the tide of empire—patrolled with all the jealousy of Austrian despotism. The people at every turn hunted and plundered by the aid

of Government officials. And lastly, have we seen this Lecompton convention guarded by the Federal soldiery, finish the work, and now that work accepted and defended by the national Administration. Accepted and defended not as entirely satisfactory, but as a measure of peace.

Unable to justify the Lecompton constitution upon any ground of reason, consistency, or justice, the ancient and heretofore prevailing argument of repose and amity is again invoked. The peace and quiet of the country have suddenly become objects of paramount importance, superior to all questions of faith, honor, or justice. Kansas we are told, has for some years occupied too much of the public attention. Granted.

Who is responsible for it? Not this side of the Chamber. Not the people of Kansas. Not the people of the North. The people of Kansas two years ago applied for admission into the Union under the Topeka constitution; a constitution which had been submitted to the people and received their ratification. Beyond all question it embodied the then popular will. Why did you not tranquilize Kansas and the country then? Why did you not localize the quarrel then? The Topeka was a free constitution, and the country did not need repose. The Union was not in danger except by admission. Kansas had not occupied sufficient of the public attention, and you did not propose to localize the controversy.

Then, if I recollect the speeches of gentlemen on the other side of this Hall, they wanted evidence that the constitution embodied the popular will. They were not, and wanted to be, satisfied as to this; and, besides, there was no hurry. Kansas had not sufficient population, and could afford to wait. It is only when she comes with a slave constitution—no matter how achieved—that she needs pacification, and the arguments of repose become prevailing.

Mr. Chairman, peace does not lay in the direction of the further oppression of the people of Kansas. If the recorded will of the majority is to be cloven down; if the fetters made to order by the Lecompton architects are to be fastened upon a whole community of American freemen, it will be after a struggle such as this country has never yet seen. If peace is secured in the mode proposed, it will be the peace of Warsaw, after the national heart of Poland had ceased its pulsations, and the power of resistance had perished.

But a distinction is taken between the legal people and the real people. I suppose the precedent for this is derived from our revolutionary era, when a similar distinction was taken. It is claimed that the Lecompton was a legal convention, and those who sustain it are the legal people, as distinguished from the real people. I deny, sir, that it was a legal or legitimate convention; its political genealogy is directly traceable to the Missouri invasion. One branch, at least, of the so-called Legislature, which provided for calling this convention, was elected by outsiders, and not by the people of Kansas, and was simply a usurpation.

The Lecompton convention can have no higher authority than its source. Moreover, it was vitally defective in its organization; it represented territorially but half of the counties of Kansas, and numerically but an insignificant fragment of that half.

In its inception, in its proceedings, in the provisional government and dictatorship which it establishes in order to override the real voters by fraudulent voters, the real people by unreal people, it was simply an illegal despotism. Away with your miserable distinctions between your legal people and your real people; no matter whether constitutions are framed by conventions called with or without legislative intervention, provided they have been indorsed and consecrated by the public will. Away with forms, and modes, and technicalities. The question is, have the people spoken, and to what results?—not through what conduits have they spoken.

Modes, and forms, and technicalities are often but cobwebs which mar the beauty without adding to the strength of the logical structure.

Through and beyond the dust and drapery rises the great temple of argument, resting upon the people's will as the everlasting hills upon their foundation.

Mr. DAVIS, of Mississippi, obtained the floor. Mr. DAVIS, of Indiana. I understand that the

gentleman from Mississippi does not desire to speak this evening, and I therefore, with his permission, move that the committee do now rise.

Mr. DAVIS, of Mississippi. I yield the floor for that purpose.

Mr. KEITT. Will the gentleman from Indiana withdraw that motion for a moment, to allow me to ask a question of the gentleman who has just spoken?

Mr. DAVIS, of Indiana. I withdraw it for a moment.

Mr. KEITT. I wish to ask the gentleman from New York [Mr. CLARK B. COCHRANE] a question, which, as this discussion is gathering to a head, may enable us to avoid some misrepresentation or misunderstanding.

Mr. SHERMAN, of Ohio. I must insist on the regular order. The gentleman from South Carolina can ask his question at some other time. Let the gentleman from Mississippi proceed, if he desires to do so.

Mr. KEITT. I only want to ask one question. The gentleman from Mississippi does not desire to speak this evening, and has yielded for a motion to rise.

The CHAIRMAN. Does the gentleman from Mississippi yield to the gentleman from South Carolina?

Mr. DAVIS, of Mississippi. I do, for a moment only.

Mr. KEITT. The gentleman yields for me to ask one question, honestly put, with a view of eliciting information. I wish to know of the gentleman from New York, who has just spoken, whether or not he would vote for the admission of Kansas under the Topeka constitution?

Mr. CLARK B. COCHRANE. I answer very frankly that, if I had evidence that it embodied the public will, I should do so.

Mr. KEITT. Did not the gentleman say in his speech that it did embody the public will?

Mr. CLARK B. COCHRANE. Yes, sir; at the time it was adopted.

Mr. KEITT. Then, in connection with that, I wish to ask the gentleman this question: if the whole Lecompton constitution had been submitted to the people, and the whole vote of the Territory, embracing all the voters there, had been thrown for that constitution, with slavery expressly and unequivocally established, would he have voted for the admission of Kansas under that constitution?

Mr. CLARK B. COCHRANE. Not since the repeal of the Missouri compromise.

Mr. DAVIS, of Indiana. I now renew the motion that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. ENGLISH reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had come to no resolution thereon.

DELAWARE BREAKWATER.

Mr. WHITELEY, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to furnish this House with the estimated cost of the completion of the Delaware breakwater by the construction of a mole, or pier, upon the shore of the Delaware bay, opposite the breakwater.

CLAYTON-BULWER TREATY, ETC.

Mr. CLINGMAN. I ask the consent of the House to introduce the following resolutions, for the purpose of having them referred to the Committee on Foreign Affairs:

Resolved, That the treaty between the United States and Great Britain, designated as the Clayton-Bulwer treaty, being, under the interpretation placed on it by Great Britain, an entire surrender of the rights of this country, and upon the American construction an entangling alliance without mutuality either in its benefits or restrictions, and having hitherto been productive only of misunderstandings and controversies between the two Governments, ought therefore to be abrogated.

Resolved, That since the acquisition and settlement of our territory on the Pacific, certain portions of Central America stand to us in a relation similar to that which Louisiana, prior to its acquisition, bore to our territory in the Mississippi valley, and, therefore, ought not to be subject to the control of any foreign Power that might interfere materially with our interests.

Resolved, That inasmuch as the Government of the United States has heretofore taken steps to suppress the African slave trade, and is at present subjecting itself to a considerable annual expense to keep up a squadron on the coast of Africa to prevent the same, we feel it to be our duty to protest against the trade in white men, commonly called the Cooly trade, not only on principles of humanity with reference to the subjects of that traffic, but also because it is eminently injurious in its ultimate effects to the countries to which they are transported.

Mr. BLISS. I object to the resolutions.

RAILROADS THROUGH SOUTH PASS.

Mr. BLAIR offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish this House with any information that may be communicated to him by F. W. Lander, Esq., engineer of the wagon road, as to the practicability of railroads through the South Pass, and the best method of constructing a road, and any other information in respect to the same obtained during his late exploration.

MAJOR GENERAL WOOL.

Mr. OLIN offered the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public service, so much of the correspondence between the late Secretary of War and Major General John E. Wool, late commanding the Pacific department, relative to the affairs of such department as has not heretofore been published under a call of this House.

THE MORMONS.

Mr. MORRIS, of Illinois. I ask the unanimous consent of the House to introduce a resolution for reference.

Mr. CLINGMAN. I think we all ought to have fair play; and I ask, therefore, that the States be called for bills and resolutions. Till that be done, I must object to everything coming in.

Mr. MORRIS, of Illinois. I believe the gentleman himself has got in a resolution.

Mr. KEITT. No; it was objected to.

Mr. MORRIS, of Illinois. My resolution is in the hands of the Clerk. Let it be read.

Mr. CLINGMAN. I withdraw my objection to that; but I will object to everything else.

Mr. LETCHER. Let us hear what the resolution is.

The resolution was read, as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized and required to appoint three commissioners to negotiate with the Mormons in Utah, for the purchase of their possessions, on the following conditions, to wit:

1. That they shall peaceably remove by the 1st day of June, A. D. 1859, from without the limits and jurisdiction of the United States.
2. That they shall keep the peace towards all the people of the United States.
3. That the money to be allowed them for their improvements shall be paid at such times and in such amounts as they and said commissioners may agree.
4. That said Mormons shall not depreciate in value their real possessions after an arrangement for their purchase shall have been concluded.
5. That until the removal of the Mormons from without the limits of the United States they shall submit to and be governed by the laws thereof.
6. That all hostilities between the Mormons and the United States shall cease after they shall have concluded an arrangement with the said commissioners to remove from without the United States, as contemplated in this resolution, and on the basis thereof: *Provided*, That the President of the United States shall keep such force within the Territory of Utah as, in his judgment, the public interest may require.
7. That the Mormons as a community shall be responsible to the United States for the value of its property, or that of any of its citizens destroyed by them, or any of them—the amount of which, when ascertained, in the manner said commissioners may designate, shall be deducted from the amount said Mormons may be entitled to receive as aforesaid from the Government for their possessions.

Resolved, That the commissioners hereby authorized to be appointed, shall receive dollars per day and all necessary expenses for their services; and that they be, and hereby are required, upon being notified of their selection by the President, to enter at once upon the duty assigned them. They shall proceed to Salt Lake City, where they shall commence the negotiation provided for in the preceding resolution, and report their action in the premises to the President as soon as practicable.

Mr. LETCHER. I object to the introduction of the resolution.

Mr. BOCKOCK. I move an amendment to it, that the Mormons shall not have more than one wife.

ADJOURNMENT OF CONGRESS.

Mr. FLORENCE. I rise to a question of privilege. I offer the following resolution:

Resolved, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses for the present session, on Monday, the 7th day of June next ensuing, at twelve o'clock, M.

The SPEAKER. The Chair holds that that is not a question of privilege.

Mr. CLINGMAN. I object. It fixes the time too far off.

And then, on motion of Mr. LETCHER, (at twenty minutes past three o'clock, p. m.,) the House adjourned till to-morrow at twelve o'clock, M.

IN SENATE.

WEDNESDAY, January 27, 1858.

Prayer by Rev. ALFRED HOLMEAD.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented the petition of insurance companies, owners of vessels, and others, at Milwaukee, Wisconsin, praying for the enactment of a law to regulate and establish a system of lights, to be carried by sailing vessels navigating the lakes; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Janesville, Wisconsin, praying for the adoption of some practical measure for peacefully extinguishing slavery, and providing compensation to the owners of slaves for their manumission; which was ordered to lie on the table.

Mr. SEWARD presented the petition of Phebe Smith, widow and executrix of Oziel Smith, praying for indemnity for property destroyed by the enemy in the war of 1812; which was referred to the Committee on Claims.

He also presented the petition of Frances Ann McCauley, widow of Daniel S. McCauley, late consul general at Alexandria, in Egypt, praying for compensation for certain judicial duties performed by her husband under the act of August 11, 1848; which was referred to the Committee on Foreign Relations.

Mr. FOOT presented the petition of William C. Fowler and others, praying to be allowed bounty land for services in the last war with Great Britain; which was referred to the Committee on Public Lands.

Mr. CAMERON presented the petition of James A. Glanding, praying for a pension for a wound received in the defense of Baltimore in 1814; which was referred to the Committee on Pensions.

Mr. WILSON presented the petition of Eliza Gerry Townsend, widow of David S. Townsend, late a paymaster in the Army, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. BIGLER presented the memorial of Henry S. Crabbe, first clerk to the commandant of the navy-yard at Philadelphia, praying Congress to correct an error in relation to his compensation; which was referred to the Committee on Claims.

He also presented the petition of James Suddards, a passed assistant surgeon in the Navy, praying to be allowed a balance of pay which he alleges to be due to him; which was referred to the Committee on Claims.

Mr. SLIDELL presented a memorial of the register and receiver of the land office at New Orleans, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

Mr. JONES presented a memorial of citizens of Fort Dodge, and a memorial of citizens of Iowa Falls, in the State of Iowa, praying that a grant of land may be made to aid in the construction of a railroad from some point on the Missouri river, westward, in the direction of the South Pass, in the Rocky Mountains, with a branch in the direction of Oregon and Washington Territories; which was referred to the Committee on Public Lands.

Mr. FESSENDEN presented the petition of John M. Chase, for himself and others, owners of the bark Attica, praying that certain money paid on account of that vessel, under an act of Congress, may be refunded; which was referred to the Committee on Commerce.

Mr. MASON. I present the petition of J. K. Kane, and many other citizens of Philadelphia, asking that some provision may be made by law for the relief of the widow of the late Commodore Foxhall A. Parker, of the Navy. The memorial states the services of Commodore Parker and the circumstances under which he died, some of which were known to me, and presents a very earnest

prayer that provision may be made in pursuance of the prayer of the petition. It has been intrusted to me, I doubt not, from the fact that Commodore Parker, although he died at Philadelphia, was a citizen, and a very valued citizen of Virginia. I move the reference of the memorial to the Committee on Naval Affairs.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MASON, it was

Ordered, That the petition of Bancroft Woodcock, on the files of the Senate, be referred to the Committee on Patents and the Patent Office.

On motion of Mr. BIGLER, it was

Ordered, That the petition of Joseph Paul, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. HALE, it was

Ordered, That the petition of Noah Smith, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. SEBASTIAN, it was

Ordered, That the petition of Elizabeth Monroe, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. YULEE, it was

Ordered, That the petition of the heirs of Jehu Underwood, on the files of the Senate, be referred to the Committee on Private Land Claims.

On motion of Mr. YULEE, it was

Ordered, That the petition of Joshua Mercer, on the files of the Senate, be referred to the Committee on Pensions.

POST OFFICE DEPARTMENT.

Mr. YULEE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads, be directed to consider if any changes are advisable in the organization of the Post Office Department.

ENTRIES OF PUBLIC LANDS.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the propriety of the passage of a law making it the duty of the Commissioner of the General Land Office to send abstracts, quarterly, of all entries of public lands, lying in each State and Territory, to the Governor of each respectively, applying for the same, and report by bill or otherwise.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. HENRY, his Secretary, announcing that he had approved and signed an act (S. No. 27) to detach Selma, in the State of Alabama, from the collection district of New Orleans, and make it a port of delivery within the collection district of Mobile.

REPORTS FROM COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom were referred the memorial of the corporation of Georgetown, relative to the improvement of the navigation at that place, and the memorial of the said corporation relative to improving the harbor of Georgetown, asked to be discharged from their further consideration, and that they be referred to the Committee on Commerce; which was agreed to.

Mr. HAMLIN, from the Committee on the District of Columbia, to whom was referred the memorial of the directors of the Columbia Institution for the instruction of the Deaf and Dumb and the Blind, and the petition of sundry citizens of the District of Columbia, submitted a report, accompanied by a bill to amend "An act to incorporate the Columbia Institution for the support of the Deaf and Dumb and the Blind," approved the 16th of February, 1857. The bill was read and passed to a second reading, and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 14) authorizing the appointment of commissioners to examine into the difficulties in the affairs of the Territory of Utah, with a view to their settlement; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 15) authorizing a renewal of certain contracts for carrying the mails on the Mis-

issippi river; which was read twice by its title, and referred to the Committee on the Post Office and Post Roads.

Mr. BRODERICK, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 98) to authorize and direct the payment of certain moneys into the treasury of the State of California, which were collected in the ports of said State as a revenue upon imports since the ratification of the treaty of peace between the United States and the Republic of Mexico, and prior to the admission of said State into the Union; which was read twice by its title, and referred to the Committee on Finance.

PACIFIC RAILROAD.

Mr. DAVIS submitted, as presenting the views of the minority of the select committee on the Pacific railroad, the form of an amendment, which he gave notice of his intention to move as an amendment to the bill (S. No. 65) to authorize the President of the United States to contract for the transportation of the mails, troops, seamen, munitions of war, Army and Navy supplies, and all other Government service, by railroad from the Missouri river to San Francisco; which was ordered to be printed.

Mr. GWIN. I desire to have printed with the substitute of the Senator from Mississippi, some copies of the original bill which was some time since reported by the select committee. The edition which was printed is exhausted; and as copies will be required when the bill comes up for consideration on Monday next, I move that the usual number be again printed.

The motion was agreed to.

OHIO LEGISLATURE ON KANSAS.

Mr. PUGH. I present resolutions of the General Assembly of Ohio, relative to the affairs of the Territory of Kansas. As my colleague wishes to make some remarks upon them, I move that they lie upon the table, and be printed.

Mr. WADE. Mr. President, I do not propose to make any extended remarks on these very extraordinary resolutions at this or at any time; but they are extraordinary in their character, incongruous in themselves, and, I fear, not very reputable to the State.

Mr. HALE. Let them be read.

The VICE PRESIDENT. The Secretary will read the resolutions.

The Secretary read them, as follows:

Senate Joint Resolutions relative to Kansas Affairs.

Resolved by the General Assembly of the State of Ohio, That we still have entire confidence in the disinterestedness, the integrity, and the ability of the present Chief Magistrate of these United States, and that his administration commands our cordial and undivided support.

Resolved, That we still adhere to and reaffirm all the doctrines of the Cincinnati platform.

Resolved, That we regard the refusal of the Lecompton convention to submit the constitution framed by them to the *bona fide* people of that Territory, as unwise, and unfortunate for the peace of that Territory, and we hereby declare it to be our unalterable judgment that every constitution of a new State, unless otherwise directed by the people, ought to be submitted to the *bona fide* electors of such Territory for their approval or rejection.

Resolved, That our Senators in Congress are hereby instructed, and our Representatives are hereby requested, to vote against the admission of Kansas into the Union under the Lecompton, or any other constitution that has not proceeded from the people by a clear delegation of power to the convention to form and put in operation such constitution, without a further sanction of the people; or which has not been submitted to, and approved by, a vote of the people.

Resolved, That the Governor be hereby requested to forward to each of our Senators and Representatives in Congress, a copy of these resolutions forthwith.

WILLIAM B. WOODS,

Speaker of the House of Representatives.

MARTIN WELKER,

President of the Senate.

January 20, 1858.

We hereby certify that the within resolutions have passed both branches of the General Assembly, have been enrolled and signed by the respective presiding officers thereof, and deposited in the office of the Secretary of State.

CHARLES W. BLAIR,

Clerk of the Senate.

JOHN W. KEES,

Clerk of the House of Representatives.

January 21, 1858.

Mr. WADE. Mr. President, I have said that I feared these resolutions were not reputable, because they do not speak out with that manly independence with which the Legislature of a sovereign State should ever speak upon any question sufficiently important to elicit their observation

at all. Why do they go on to indorse the President, and say they have special confidence in his Administration, and pledge themselves to support every jot and tittle of that Administration, when they intend finally to instruct us here to go against the only great darling measure the Administration has ever presented? Why could they not have come directly to the question at issue, and, with that calm dignity which becomes a sovereign State, declare and announce their purpose and their instructions and their will, in reference to any matter pending here which it became the duty of their representatives to act upon? Why declare that they have the fullest confidence in all its measures, while it was the purpose and end of their resolutions that with a stern determination their representatives here shall beard him, and oppose him to the death on his one great darling measure? They are disreputable because they have not spoken out like men conscious of their independence.

I did not rise for the purpose of arguing the reasons that led to their instructing us at all; they have been argued by others: in my judgment the question is not a debatable one. I never proposed to debate it at all. It is no less than this: The President, in his message, announces a determination not only to prohibit the people of a Territory from making the constitution under which they are to live, but that it is his purpose to force upon them one made by their enemies and sought to be crammed down their throats, if necessary, by Federal bayonets. When such a proposition as that is made, I leave others to debate it. This old issue was joined in the Revolution, and the argument was made on Bunker Hill; and I propose, if it comes to that, to resume that same argument where our fathers left it. It will not bear an argument at all. When any portion of the American people are so lost to all spirit that they would for one moment stand off to argue a question of this kind, their liberties are not worth preserving. I do not rise to argue such a question as that; but it was such a question, looming up in the distance, that attracted the attention of the Ohio Legislature and led to the making of these instructions.

The VICE PRESIDENT. The Senator will suspend his remarks for a moment. The Chair, under the rule, must announce that the hour has arrived for the consideration of the special order.

Mr. WADE. I have nothing further to say of any consequence. I shall not take more than a few minutes.

The VICE PRESIDENT. By unanimous consent the Senator will proceed.

Several SENATORS. "Go on."

Mr. WADE. Mr. President, bowing the proud head of a sovereign State, they descend to speak of party platforms, to which they show their devotion. I should not have alluded to party policy in connection with the acts of a sovereign State, if these resolutions had not introduced the subject. Why, sir, did they step aside from their legitimate business, to reindorse what they call "the Cincinnati platform?" Is that in accordance with the dignity of a sovereign State, when she undertakes to instruct her Representatives and Senators in relation to their duty here?

They show their devotion, too, to the Executive! Why, sir, if he shall persist in what they intimate is his purpose and intention, he is a tyrant, and deserves the frowns and reprobation of every man. They tell us that they have the utmost confidence in the Executive, and that they will adhere to all his measures; yet, in the next place, they tell us that what he is attempting to do is unfortunate; that it tends to a breach of the peace, and to stir up civil war. They do not lose their confidence in him; they say they have the most perfect confidence in his ability and his integrity; that they adhere to all his measures; and then they instruct us to throw his message in his face. I am ready to do it, sir. [Laughter.] Unfortunate, indeed, it was that the attempt was made to frame a constitution behind the back of a people, and to fasten it on their necks without their assent. They say that this was "unfortunate;" and that it is "unfortunate," also, in the President to announce it as his purpose to carry out the fraudulent design. Yes, sir, it was exceedingly "unfortunate." Was it not a little worse than unfortunate, if the President of the United States is responsible? I do not know that he is considered

responsible for his acts; but we will hold those responsible who act upon his suggestions, and go forward to fasten on the necks of an unwilling people a constitution with the making of which they have had nothing to do. On that principle of law which holds a man responsible for committing crime through an irresponsible agent, we hold them responsible. If, indeed, the President is unfortunate in not having the spirit and the power to dictate his own measures, then we will hold those responsible for his acts who may be supposed to move him to action.

These resolutions refer to a platform outside, and they indorse it. We know, then, who it was that passed these resolutions; and, in justice to the Republican party, let me say that these resolutions have had no countenance, no support, no acquiescence, from them. They were crowded down the throats of the Republican party there by a majority, who dared not face the scorn and contempt that would have been heaped on them had they permitted the liberty of speech.

So much as to the manner exhibited in the adoption of these resolutions. As to the matter of the last one, I find no fault with it. If they had confined themselves to that; if they had thrown aside all party platforms; if they had refrained from bespattering with flattery the President of the United States; if they had abstained from the indorsement of outside partisan creeds, they would have found no division of sentiment in the Legislature nor out of the Legislature; for, in the State of Ohio, there is but one side to this question. The brave and generous people of Ohio would speak out directly, without obsequiously seeking the favor of any man, President though he be. Boldly and independently they would announce their will, and ask us to act in accordance with it. Those who passed these resolutions have felt compelled at last to come to that, and, in their final resolution, they instruct their representatives here to go to the death against your Lecompton constitution, or any other constitution that is sought to be fastened upon the necks of an unwilling people by a tyrannical Executive. So far, all the people of Ohio, of all parties, are agreed.

What I object to is the manner in which this subject has been approached. These resolutions were carried through our Legislature under the gag rule; and what is very singular, although I think it is more than ten days since they were passed—and on the plea that there was the most absolute necessity they should be crowded immediately through, no argument or debate on the subject was allowed—they have slept in some man's breeches pocket from that day to this. They are unwillingly here, and I do not wonder at it; for I believe that any man, when he looks at these resolutions—the workmanship of his own hands—will not be ambitious to figure with them on the theater of the nation. In the manner in which they are presented, they are not in accordance with the wishes of the people of Ohio. They are an honest, generous, and brave people, and they speak their minds without any condition or qualification. They are not a people to flatter a tyrant before they dare order their troops to resist him.

I have thought it was due to myself to say thus much on account of the incongruity and the very extraordinary character of the resolutions. Do they ask me to indorse that portion of them which bespatters the President with fulsome flattery? Is that my part of them, or is that the part of my colleague? I can hardly go that part of the resolutions. And, again, I can hardly indorse the "Cincinnati platform." I do not know but that may be for me, [laughter,] but there I shall be found unwilling, and shall require the very strongest instructions. [Renewed laughter.] But when you come to the "unfortunate" part of it, that is too mild for my temperament altogether. It may suit my colleague to say that the President is unfortunate in persisting in forcing on the people a constitution which they detest and abhor; but I say it is downright tyranny and knavery, and demands the sternest rebuke of every man. If persisted in, it will demand not argument, but action.

Then they approach a subject on which I am with those gentlemen, and I hope my colleague is so too. I am ready to go with the Legislature of Ohio, in resisting unto the death your Lecompton constitution, or any other constitution that is sought to be fastened on an unwilling people, against the votes of more than three fourths of them; for at

this day, there is no mist hanging over this question at all. We know how it is. The people of Kansas have measured their strength too often to leave us at all in doubt as to what is the will of the people; and whoever is the advocate for fastening on them this Lecompton constitution, does it in cold blood, from his own tyrannical impulses, and a determination to deprive the American people of that which has never been sought to be taken away from any portion of them from the revolutionary period to the present. It is the first attempt, and, Mr. President, I say it must be the last.

Mr. PUGH. It is only necessary for me to say that I shall not detain the Senate at this time, with the special order before it, to make any observations on these resolutions. My purpose is, when the Lecompton constitution shall be presented, to express my views at length. I shall then say what I have to say on the subject-matter of these resolutions, and I shall probably find it my duty to correct my colleague in one or two little matters of fact connected with their passage.

The resolutions were ordered to lie on the table, and be printed.

The VICE PRESIDENT. The special order is before the Senate.

INDIANA SENATORIAL ELECTION.

Mr. BAYARD. I rise to a question of privilege. The Committee on the Judiciary reported a resolution to the Senate, on the 21st of January, which has lain over until the present time. I do not see in his seat the honorable Senator from Vermont, [Mr. COLLAMER,] who is opposed to the resolution; but, unless it is the desire of those who are opposed to it that it should stand over further, I conceive it my duty to call it up, because it is a resolution simply to authorize the taking of testimony, and I am not willing that the delay should rest with the majority of the committee. It is a privileged motion.

The VICE PRESIDENT. The Chair will give his impression to the Senate on the point of order. The special order (being the bill S. No. 79) is before the Senate, and has been taken up. These other proceedings were had by unanimous consent. I suppose it will require a motion to postpone the special order before the privileged question can come up.

Mr. DAVIS. I hope the debate on the bill to increase the Army will be allowed to proceed.

Mr. BAYARD. I have no wish to press the matter, if those who are opposed to the resolution which has been reported by the committee desire that it shall stand over until the honorable Senator from Vermont is in his seat.

Mr. FOSTER. I will state that the Senator from Vermont, to whom the Senator from Delaware alludes, is confined to his room by sickness, and requested me, if the resolution was called up, to ask that it might lie over for a day or two. He will undoubtedly be able to attend in his place by to-morrow, or the next day at the furthest. He is now confined by illness.

Mr. BAYARD. I move to postpone the consideration of the special order, if there is no probability of the honorable Senator from Vermont being here.

Mr. FOSTER. He will not be here to-day.

Mr. FOOT. I will say to the Senator from Delaware, and to the Senate, that I called upon my colleague just before the meeting of the Senate this morning, and learned from him that he is detained solely by indisposition. I think, however, and that was his own opinion, that he will be able to be in attendance in a day or two, and he desires to be present when that subject shall be brought up for consideration.

Mr. BAYARD. I will let it stand with pleasure until the honorable Senator from Vermont comes into the Senate.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States; the pending question being on the motion of Mr. Toombs to strike out the first section of the bill.

Mr. GWIN. Is it in order to offer a substitute for the whole bill now?

The VICE PRESIDENT. No, sir, not at this moment.

Mr. GWIN. Can I not move to strike out all after the enacting clause, and insert a new bill?

The VICE PRESIDENT. The Chair understands that the practice of the Senate has been to give an opportunity to perfect the bill first.

Mr. TOOMBS. The amendment will not be in order until the original bill be perfected; but I am perfectly willing to test the Senator's amendment, if it be the pleasure of the Senate. Now, however, it is not in order, the parliamentary rule being that the original bill must be perfected before a substitute for the whole can be offered; but if it be the pleasure of the Senate, I am content that the question shall be tested on the Senator's amendment.

The VICE PRESIDENT. In addition to the amendment of the Senator from Georgia, now pending, there is an amendment offered by the Senator from New York.

Mr. GWIN. I send my substitute to the Secretary.

The VICE PRESIDENT. It will be read for information.

Mr. TOOMBS. I am willing to waive my amendment. I want a vote on the proposition of the Senator from California. We can probably legislate more properly after we have put our opinion on record as to the addition of five regiments.

The VICE PRESIDENT. The Secretary will read the substitute intended to be proposed by the Senator from California.

Mr. TOOMBS. I will withdraw my amendment, and probably the Senator from New York will withdraw his, for the purpose of enabling the Senator from California to move his amendment as a test question. It is unnecessary to go on perfecting the bill, if that amendment is to be adopted. I want a decided expression on that point, so that we may know what we are to do.

Mr. SEWARD. I withdraw my amendment for that purpose, with that understanding.

Mr. GWIN. I now offer my amendment.

The VICE PRESIDENT. The Senator from California proposes to offer an amendment; to strike out all after the enacting clause, and insert:

That there shall be added to the Army one regiment of dragoons, one regiment of mounted riflemen, and three regiments of infantry; five surgeons, and ten assistant surgeons.

Sec. 2. And be it further enacted, That the officers, non-commissioned officers, musicians, and privates, herein authorized to be appointed or enlisted, shall be governed by the rules and articles of war which have been established by law, or by such rules and articles as may hereafter be established by law, and shall be subject to all the provisions and entitled to all the benefits of all laws applying to officers, troops, or corps, of the same denomination in the existing establishment.

Mr. GWIN. Mr. President, it is known that the Secretary of War has recommended the proposition which is embodied in my amendment. He asks for an increase of the Army by the addition of five regiments. He thinks that addition is necessary to enable him to conduct the military affairs of the country, and I think it is proper there should be a direct vote of the Senate on the proposition, as brought before us by the head of the Department. I confess I would prefer, if we could so approach the subject, that these five regiments should be raised during the war, if there is a war with the Mormons, rather than add five regiments permanently to the standing Army; but I prefer, if we are to increase the Army, that we shall add full regiments, instead of agreeing to the proposition reported by the Committee on Military Affairs. I believe we want more staff officers. It is well known that on the reduction of the Army, at the termination of the war with Mexico, we had twenty-five general officers, by brevet and by original rank. Sixteen of those are dead; one has resigned; one has been dismissed from the Army, and we have but seven now. If we are to have a war with the Mormons, I think we shall need more staff officers than we have at present. It is well known that a number of regiments in the Mexican war were commanded by majors and captains; there were no colonels for many regiments. If we are to increase the Army, I think it had better be done after the manner proposed by the Secretary of War. I have offered the amendment for the purpose of having a vote on it, not intending to go into the discussion.

Mr. FOOT called for the yeas and nays on the amendment; and they were ordered.

Mr. PUGH. It seems to me the Senate may well pause before voting on the amendment of the Senator from California, because it involves the whole principle of the bill. If this increase of the Army is to be permanent, I prefer the original bill; it will be much less expensive. Five regiments added to the Army will require us to pay five colonels, five lieutenant-colonels, and probably ten majors; and the pay of those officers is a very serious item of expenditure. It will require us also to increase the number of surgeons of the rank of captain and major, as proposed in the amendment. All these things are avoided in the original bill. There will be no increase of field officers by the original bill, except fifteen additional surgeons. If there is to be a permanent increase of the Army I infinitely prefer the original bill. If it is to be a temporary increase, it seems to me that the number of the regiments demanded is beyond the necessity shown, and I would prefer, as to a part of the force, to accept the services of volunteers.

Mr. TOOMBS. So would I. Let us vote it down.

The question being taken by yeas and nays, resulted—yeas 8, nays 38; as follows:

YEAS—Messrs. Allen, Bigler, Green, Gwin, Houston, Johnson of Tennessee, Polk, and Stidell—8.

NAYS—Messrs. Bell, Benjamin, Biggs, Bright, Broderick, Brown, Cameron, Chandler, Clay, Crittenden, Davis, Dixon, Doolittle, Douglas, Durkee, Evans, Fessenden, Foot, Foster, Hale, Hammond, Harlan, Hunter, Iverson, Jones, King, Mallory, Pearce, Pugh, Sebastian, Seward, Simmons, Stuart, Toombs, Trumbull, Wade, Wilson, and Wright—38.

So the substitute was rejected.

Mr. TOOMBS. I now renew the motion which I made to strike out the first section of the bill after the enacting clause.

Mr. BELL. I confess, Mr. President, that when this bill was first taken up, I supposed it would be my duty on public accounts to vote for it; or, if not for that, at least for such a proposition as has just been voted down by the Senate. I supposed, from the earnest recommendation of the Government, that there was really such a demand existing for additional troops, that we were bound by considerations of the public interest connected with the exigencies existing on the frontiers and in the Territory of Utah, to vote, as indispensable, an addition to the present military force of the country.

But, sir, before the debate closed yesterday, I found that I had been laboring under a considerable misapprehension as to the real state of the question and the exigencies of the case. My opinion now is, unless I shall be better informed before the discussion finally closes, that there is no absolute necessity for any such addition to the Army. It was considerably increased two or three years ago. Our force authorized by law is admitted to be about eighteen thousand men, rank and file, at present; and the addition of four, or five, or seven thousand men, according to the exigencies of the case, as provided by this bill, seems to me uncalled for at this time. I am of opinion, however, that some increase—say two or three thousand, or perhaps even four or five thousand—may not, at some early period, be an unnecessary addition to the military establishment of the United States. I think there is a great deal of force in the argument which has been made, founded upon the low condition of our finances. Although it might be desirable on many accounts to have some additional regiments authorized by law, yet at the present moment there is no such exigency as makes it absolutely necessary; and we may as well afford to wait two years at least before we enter upon such an increase of the standing Army.

I had supposed that the exigency now calling on us to act was really the Mormon war. The statement of facts elicited yesterday, and the opinions of gentlemen better acquainted by far than I am with the forces which may be ordered properly by the Government to increase those of Colonel Johnston, who is now in command of the detachment which is arrested by the snows of the Rocky Mountains, show clearly, it seems to me, that there is a sufficient force at the disposition of the Government to reinforce them adequately. If five or ten regiments were necessary to rescue those gallant officers and soldiers from the condition in which they are now placed, I should feel myself constrained to vote them. Whatever I might think of the indiscretion and the impru-

dence of the Government in precipitating those men into these difficulties, ordering them to enter upon the expedition at a season of the year when it was known to be almost impossible that they could pass the gorges of the Rocky Mountains until next spring, thus, of course, in the mean time exposing them to all the hardships, and privations, and severities of a Rocky Mountain winter, I would vote for the force demanded, if it was necessary, to rescue them. Whatever I might be disposed to say in reference to this indiscretion and want of foresight, and though, as it seems to me, (notwithstanding the fact I do not pretend to have a sagacity or judgment superior to the military gentleman who may have advised the expedition,) it was ill advised, and was entered upon with a spirit of temerity for which I cannot imagine any reason, in the existing state of things in Utah, I shall be willing to vote for any increase of force demanded at the hands of Congress to rescue these brave men.

But from the debate yesterday I am led to believe that no such exigency exists, and that there is an adequate and all-sufficient force ready to be sent in aid of that command, and at a time anterior to the probable enlistment of the men provided by this bill. I should like to know from the honorable Senator from Mississippi, the chairman of the Committee on Military Affairs, whether it is actually supposed that the additional number of men authorized by the bill before the Senate—the thirty additional companies—can be raised and organized, if the bill shall pass, in time to overtake Colonel Johnston's command in the Rocky Mountains before he may be expected to move upon Salt Lake. I have heard no gentleman state yet that it was supposed this force, even if authorized by Congress, was expected to be raised in time to unite with Colonel Johnston before he moves upon Salt Lake. I have seen it stated in the public papers that several volunteer regiments have already tendered their services to the Government, particularly in Missouri; and I should like to know from the honorable chairman of the Committee on Military Affairs whether it is contemplated to accept the services of those volunteer companies, now said to be tendered in the western part of the State of Missouri? Is it proposed to send them forward in the spring to the relief of Colonel Johnston?

Mr. DAVIS. I will answer the Senator. I have no information from the Administration that they have any such purpose. If he will permit me, I will add that the period for recruiting is now so very favorable that I think, notwithstanding his remarks, if this bill were to pass speedily, it would be possible to raise all the additional force for which it provides before the period at which they could move on the plains. I think they might be in a position to move as soon as it would be possible to start from Fort Leavenworth to the relief of Colonel Johnston.

Mr. BELL. I would like the honorable Senator also to state whether, in his opinion, there is not a sufficient force of regular troops now at the disposal of the War Department to enable it to send a competent reinforcement to Colonel Johnston, as soon as the spring opens and the grass appears on the plains?

Mr. DAVIS. The Senator will not fail to perceive, having been Secretary of War himself, on a former occasion, the delicacy of my undertaking to express such an opinion as that in relation to my successor. Whether he has the disposable force to send or not, will depend on how he distributes the force which he has. I have not the information, and have not sought to obtain the information which would enable me to answer the Senator's question with accuracy, because I have never claimed for myself the right to criticize, in these details, the conduct of my successor in office.

Mr. BELL. I will ask the honorable Senator another question, if he will allow me.

Mr. DAVIS. Certainly.

Mr. BELL. I was once familiar with the condition of the Army at a particular period; but I have given so little attention to it of late that I have not the knowledge which authorizes me to make a statement on the subject to the Senate. I have already stated that the military force now authorized by law is eighteen thousand, within a fraction. Now, what is the average percentage of that force which the experience of the last eight

or ten years shows can never be said to be effective? Is it ten, or twelve, or fifteen per cent.? Do not resignations, deaths, and other casualties reduce the actual force to far less in amount than the nominal number of troops authorized by law?

Mr. DAVIS. That is a very variable quantity. It depends on the condition of the country. At this moment, I suppose the force to be unusually large, on account of the sudden check which has been given to public works, and the number of men thrown out of employment. This has enabled the recruiting officers to get men with greater facility than usual. Under a different state of circumstances, the disproportion between the actual number of effective troops and the amount nominally authorized, would be much greater than it is now. I give the Senator the benefit of that answer. The former adjutant general, General Jones, stated that a company of fifty-two would rarely give more than thirty-two effective men to go into action. I think, at this time, a larger percentage could be obtained. That is the answer.

Mr. BELL. I should suppose, then, from the statement of the honorable Senator, that the effective force of the standing Army, at present, is about fifteen thousand men.

Mr. DAVIS. It is so reported.

Mr. BELL. That is more than the usual average proportion of the number authorized. Well, sir, if in the present circumstances of the country the present effective force, the actual number of the rank and file of the Army amounts to fifteen thousand men, I cannot conceive that there is a demand for additional force to reinforce Colonel Johnston at this time. Unless there is a larger force demanded for service in Kansas than I suppose can in any exigency arise, there must be a sufficient amount of troops at the disposal of the Secretary of War—

Mr. DAVIS. I see the Senator does not follow exactly what I intended to convey to him. He being so familiar with the subject himself, I did not attempt to be at all minute in my answer.

Mr. BELL. I do not pretend to be familiar with it at all.

Mr. DAVIS. I think it is not fair to infer that all the troops, which cannot be sent to the relief of Colonel Johnston, are to be employed in Kansas.

Mr. BELL. I do not infer any such thing.

Mr. DAVIS. I trust there may be no necessity to employ one man in Kansas. The Senator is certainly aware (for his connection not only with military, but Indian affairs, makes him peculiarly well informed on the subject,) that difficulties have arisen on our extreme northern border; that difficulties have, for some time, existed in our Pacific possessions—in the Territories of Oregon and Washington. He is probably also aware that recent incursions have been made by the Indians along the southern border; that the town of Mesilla has been recently attacked; that parties, passing between towns at a short distance from each other, have been attacked and robbed on the road. The people there have recently sent in a petition signed by a large number of persons, asking for an additional mounted force for their protection: He is also aware that we have memorials from Texas, asking that a regiment of mounted volunteers may be called into service for the protection of their frontier. He is also aware that hostilities are still existing in Florida. Let him run the whole circuit of our country and pass into the interior, and with difficulty he can put his finger on a spot where troops are not required. Why argue it, then, as a question affecting only the Mormons and the people of Kansas?

Mr. BELL. I had the knowledge of some of these things which the Senator has brought to my notice, though I had seen no statement of them, even in the public papers, or by public rumor. I have a pretty general knowledge of the statements in regard to our Indian frontier; and by long observation of the progress of things here, I have come to the conclusion that there must ever be many difficulties occurring on our Indian borders, and on our frontier lines in connection with Mexico, in all probability. My long observation has assured me also, that there is no perfect security to be afforded on any of these lines by any multiplication of the regiments of the standing Army. You send regiment after regiment to one of these frontiers if you choose, if you have them at your disposal, and still the

Indians will commit depredations; murders and robberies will be committed; they will slip in between our military posts, between the camps of our regular troops and volunteers; and then the clamor arises from them, "regular troops are not fit to guard our frontier; we are entitled to protection from the Government under which we live, and we must have it: our volunteers, our own men, our boys, our border settlers, or whosoever they can be raised within the State, are the men; let them be organized, admitted into the service and mounted, and they can protect our borders." Still they do not do it absolutely. I understand that part of the argument.

Now, sir, the lenient practice of the Government, though, I think, inexpedient practice in many cases, though not in all cases, the indulgent practice of the Government, or rather the relaxation of all discreet exercise of executive control, has led to many of those Indian wars, not only on our frontiers in the interior, but upon those nurselings of ours—the Territories on the Pacific coast. Money enough has been spent on them, if I have not been misinformed, within the last two or three years, to give a start to the trade, the enterprise, and the business of those communities—such a start as they could not, in the ordinary state of things, have given to themselves by their regular industry in ten years. This is on account of the distribution of six or seven million dollars; and some have said to me, and I stated it a year ago, on this floor, that there was no certainty that \$10,000,000 would cover the whole amount of the responsibilities of this Government for these irregular wars in that region. It would be a great misfortune to those Territories, materially speaking—speaking in reference to the sources of their power and prosperity, and increase in population and wealth—if you should adopt any policy that would cut off the prospect of renewed Indian wars upon their borders. Such is human nature. I do not say that I find fault with human nature; but where there is no adequate and stern government in such cases, its tendencies will always preponderate. Possibly, if I were there, I might gloat over the prospect of the country in the way that many gentlemen do there; I do not say that I would, but it is not improbable. We are the creatures of the circumstances by which we find ourselves surrounded, in a case of that sort.

The honorable Senator from Mississippi has spoken of a difficulty between the Hudson Bay Company's traders and some of the Indians on the Red River of the North. I have heard no exposition of that, and I do not know how it is in fact; but my experience—as the honorable Senator has alluded a little to that familiarity which I ought to have with some of these subjects, if I have it not—has been such on these questions here, and my observation has been such, that I do not adopt every piece of information I hear on subjects of that sort as true. I have been rendered suspicious; and I doubt whether there is any particle of foundation for that rumor. What is the reason I doubt it? I found an effort made last year to establish a fort there; we were asked to vote some fifty thousand dollars for the construction of a fort on the Red River of the North, on the ground that it was a very fine territory, and very desirable for settlement; that some of our western pioneers had already penetrated into it; that it was exposed to sudden attacks, not only of Indians from our own border, but from the Canada border; and I am not sure that my opposition to it did not contribute somewhat to its defeat. The honorable Senator from Kentucky [Mr. CRITTENDEN] came also in aid of me on that point. The proposition then was to establish a fort there. It was voted down; but there will be a similar proposition offered at this session. It will be said that we have not got land enough open; that we have not enough new Territories open; we have not enough new States forming in embryo, and particularly in the Northwest; that we have not got free States enough. I will say to my friend before me, [Mr. KING,] I am sure there will be a proposition to establish a fort on that Red River of the North. I have not the slightest confidence in the truth of this report that there are to be any Indian difficulties there, though it may be used as an argument for that measure.

But, sir, I am wandering somewhat from the subject. It would require half a day for me to state the results of my experience and observation

and knowledge of the state of things as they existed some years ago with reference to matters of this kind. From my knowledge of the causes existing at the seat of Government, and on the frontiers, particularly with regard to the state of affairs between the traders and the Indians, I am inclined to believe that a war can be had whenever it becomes expedient to the most influential and powerful individuals on the border, who have political influence at Washington to bring it on.

All this, however, is rather apart from the subject on which I rose to speak. I meant to say that a country with such a very extensive frontier as ours, exposed, at so many various points, to sudden internal outbreaks, and external attacks, with such a vast Indian frontier—I need not enumerate all the causes—needed a larger army than we have at this time; but, before providing for any increase, I think we can afford to wait until we see what is to be the condition of our finances, especially as there is no particular demand for the Mormon war, as was stated yesterday, and pretty well exhibited. I think we may wait a year or two before we add to the expenditure of the Government eight or ten or twelve million dollars, as the case may be, which will result from the adoption of this bill.

I asked what was the ordinary average actual strength of the Army, under the present authorized establishment, in order to show that perhaps twenty thousand of an effective average sufficient force was not too much for this great country, with all our exposed points. I should have asked the honorable Senator from Mississippi for further information on this point, but for the fact that he insists that I ought to be so familiar with these subjects as not to be called upon to ask him for additional information. I once knew, according to the number of fortifications and our internal posts, how many men it required really to keep our fortifications in a proper condition, to prevent dilapidation where that goes on, and how many men were required to prevent a sudden surprise from any quarter. I formerly had some knowledge of an average estimate or calculation that was formed as to the number of troops that were required to preserve them from dilapidation, keep them clean, keep them from the decay that takes place when there is neglect of such service, and prevent them from sudden surprises. I think now that we ought to have some estimates from the War Department of the number of troops that will be required to man these different posts and fortifications to an extent to answer these objects and purposes. We have had none such. The honorable Secretary of War, I suppose, would have stated it, if his attention had been called to it.

Then I asked for information in regard to the probable average number of the Army. It has been a great deal below the present point, as I find by the statement of the Senator from Mississippi. I had supposed, according to the experience of the last fifteen or eighteen years, that out of eighteen thousand in the Army, some twelve or fourteen thousand would be about the average effective strength of the Army. He states—and I am glad to hear it—that it is greater now; and therefore I feel greater assurance in the propriety of at present rejecting this proposition to add to the standing Army.

Now, sir, with regard to the Mormon war. I do not care about logging in that question here. The only point in reference to it that attracted my attention particularly, was that this increase seemed yesterday not to be regarded as necessary for that purpose. It struck me on reflection, also, that we could not possibly, after the period when this bill shall pass both Houses of Congress, raise any considerable portion of this additional force before they would be needed, if they were to start over the plains to take the advantage of the first springing grasses. It struck me, also, that the War Department has men enough at its command, if it has fifteen thousand effective troops, notwithstanding all this array of difficulties, and the warlike disposition of the Indians on the frontier of Texas, and elsewhere, at all events to add adequately to the force now under Colonel Johnston in the mountains.

With regard to these Mormons, something has been said as to the policy and expediency of suppressing them right away, making no question as to whether they are in a condition to, author

ize these military preparations on the part of the United States; whether it is expedient, whether it is a wise policy to send such a military force, with the instructions they are understood to have with reference to carrying on the war, unless the Mormons submit. I do not propose to enter into that subject. If the present state of things were retrieved, I should like to speak somewhat at large on that subject; but we have that force already in the Rocky Mountains; we have undertaken to subdue or suppress the Mormons by military force. I never doubted, when the Mormons were permitted to settle there as a separate people, that a day like this would come, sooner or later. I believed it would come; I did not much doubt that it must come. In 1830, when that people were organized into a separate Territory, called the Territory of Utah, I thought I foresaw these difficulties; I gave my voice against it, and explained my reasons briefly, and I even had the hardihood to vote against that part of the omnibus bill which attained such notoriety at that time. Another honorable Senator belonging to the same party organization at that time, whom I do not now see, [Mr. PEARCE,] and myself were the only two who voted against it. It was thought a most strange and extraordinary vote. My opinion always has been that they ought not to have been incorporated into a separate territorial organization, but combined with a sufficient extent of territory settled by people of different religious opinions from their own, which would be likely, however, to preserve the preponderance or control of them; or else they ought to be told at once that they were only to remain at sufferance; that we would attempt to organize no government for them, but leave them alone untouched, until time, their own reflection, and experience, should bring them to a knowledge of the infatuation under which they were acting, when they might either disband or disperse to different parts of the United States, where they would not be arranged in any large or effective power, or leave our country altogether.

That was my opinion then; and even now, from any knowledge that has come to my ears of the facts of the case, I have not seen the necessity of sending a military force there. It may be, however, that there is a necessity for it. I do not mean to find fault with it, for I have not a sufficient knowledge of the facts. I should have preferred that we had negotiated farther with them. I should have preferred that we had taken the step of repealing the territorial organization, and have nothing to do with them, provided we could stipulate with them that they should permit our caravans of emigrants, or troops, or what not, that we should find it expedient to send to California, to pass through their country unmolested. If they would do this, I should be willing to let them remain unmolested on our part, and govern themselves according to their own views of right and propriety.

I think the Government of the United States is under some obligation to be lenient in its policy towards these people. Why did you give them this Territory? Why suffer them by such a solemn act on your part, to make settlement in this region, when it was known to be likely from the character of the people and their peculiar religious opinions, that there would be no settlements of a different description in their neighborhood to interrupt them? You held out this encouragement to them, that they would be protected by your Government in the enjoyment of their peculiar opinions and institutions, subject only to the Constitution of the United States. These people are likely to have been greatly misled by the doctrines which have been prevalent in this country for the last two or three years, supported in high places, proclaimed by the highest authorities in our land—the doctrine that any people, by the inherent right of self-government, can do as they please in a Territory. I do not wish to go into any sectional or party question; I am only speaking of the probable effect of these doctrines on such a people as the Mormons in Utah. After they had a territorial organization provided for them, they had a right to conclude that there was a new era of principle inaugurated in the Government of the United States, which would allow them to rest undisturbed forever by any foreign influences in regard to their peculiar institutions and opinions, and give them a right

to regulate their own domestic institutions in their own way and at their own discretion. Was it not likely that that doctrine would find its way to their ears, many of them being very shrewd and acute men? Was it not likely that they would catch up the cry, and say, "whatever might have been our fears when we were permitted to make our first settlement, here the Government of the United States has now adopted in regard to the Territories a principle of policy which guarantees to us forever the right to the indulgence of our peculiar opinions, and we are located in the fastnesses of the Rocky Mountains, so that it is not likely we shall ever be intruded upon by the settlement of persons of a religion different from our own; here then, in perfect safety and freedom we can expand ourselves, enjoy our own principles of religion, and whatever indulgence of any kind may belong to it, maintain our own faith uninterrupted by any nation of the earth; now that the United States have avowed principles that give us these privileges, they are obliged to concede them to us?" I do not know how far these doctrines may have been propagated among them so as to create a feeling or disposition in favor of throwing off whatever vestige of the authority of the Government of the United States might be found among them—for example, the Governor, the secretary, and the judges appointed by the authority of the United States. I will not stop to suggest the inquiry whether that perfect freedom of popular sovereignty which we announced here, might not, in the minds of such people as these, imaginative, excitable, having a strong interest to adopt such a conclusion, lead them to suppose that to have a Governor sent to rule over them as a chief magistrate, judges appointed by the President to settle the controversies between them, and all that machinery belonging to another Government, was not consistent with the principle that they had a right to govern themselves, and regulate their institutions in their own way, at least while they were a Territory.

I now only express the sentiment that I should have been glad if some other steps had been taken to propitiate these people—such as withdrawing our Government from them, stipulating that while they retained the territorial form of government, (and with my vote they should never have any other form,) they should continue there only on condition that they allowed the peaceful passage of our emigrants, of our caravans, of whatever description, cattle, household furniture, or what not, free from molestation. If they did this, they might be permitted to remain forever, so far as I cared.

Now, sir, I am not so bloody-minded as my friend from New York [Mr. Seward] seemed to be yesterday, in relation to the Mormons. I think some indulgence is due to them, particularly from my honorable friend; for what is the foundation of the difficulty between them and the United States at this moment? They are the votaries of a "higher law" than our Constitution or the laws of the United States, and they are honest too. There may be men among them, as there are in our own country, who avail themselves of the infatuation of a number of followers, to give them strength to secure themselves office and emolument, and all the advantages which arise from the position in which they may be placed; but is there the slightest doubt that the great mass of these Mormons are really thoroughly honest in their convictions? Has not that feature in their institutions which is denounced as sensual, existed from the foundation of the world, in the nations of the earliest civilization of which we have any knowledge? Does it not exist in India and in Turkey at this day, and we may say in all the Oriental nations? There is a religious fanaticism. They do not consider themselves bound by any obligations to the municipal and constitutional law of the country. They are literally and honestly the supporters of a higher law. They are religious fanatics. My honorable friend from Michigan [Mr. Stuart] is often very acute and ingenious in his discriminations here, and I should like to know from him—I will not appeal to any other gentleman—if he can discriminate between that species of fanaticism and infatuation which controls the actions of the Mormon settlers from that which controls a portion of our brethren at the North? I do not allude to the anti-slavery extension gentlemen, but to the Abolition party proper,

which my friends around me here are rather obliged to sympathize with, because it brings them strength. How can you distinguish the fanaticism of the Mormons from that of a portion of the northern people, founded on that idea which disregards the obligation of municipal or organic law in political society? I have never opposed this class of people where I believed them to be honest, and to be acting under the convictions of their own conscience. I consider them as having been misled; as throwing aside everything practical, and pursuing one idea, and that alone in respect to these questions. Just such is the state of the Mormons. I do not mean to apologize for them or their institutions, especially not for that portion of those institutions which has rendered them so obnoxious to the people of the United States; but it belongs to the period of the Bible, the period of the early civilization of the world; and it exists now in Turkey, within the limits of Europe, with all its boasted light and civilization.

Why, then, should we wish to exterminate the Mormons and drive them out mercilessly? If their women may be considered as not entitled to our sympathy, what do you say as to their children. Are they to be driven into the gorges of the mountains to perish in the snows, or by starvation upon the plains? Are they to be driven out to seek new climes and new homes? Where will they go? Sir, I know of no sect of men, no class of men in the world, however they may differ with me in sentiment or doctrine, even upon questions that I regard as vital, whom I would pursue with such relentless and indiscriminate vengeance. I have great confidence in the skill of Colonel Johnston. If he is the brave man that he is represented to be, I have great confidence in his merciful feelings and disposition, and I am sure that he will not use the sword to a greater extent than he may find necessary. I have great confidence, too, in the discretion, judgment, and humanity of Colonel Cumming, who has been made Governor of Utah. If they were other men than they are, or if their positions were filled by some men even of high character, that I know, and I had the power to thwart the expedition by any course which I might take, consistent with the safety of the officers and men, I would do it before I would risk their indiscretions on that, I will not say imbecile people, but at least they are a mere handful. They cannot war upon us on equal terms of advantage in any respect. They can only resist us by retreating into the gorges of the mountains, putting their women and children in caves during the winter and summer. Notwithstanding what is alleged to be their numbers, I think this is the only mode in which they can carry on any warfare against us. They may, as bandits, range the mountains, annoying us, cutting off the supplies for our troops, harassing our troops in every way, but we know that they have not sufficient force to meet them on an open battle-field.

I did not intend, however, to go into these considerations, and I shall not extend my remarks further. I believe there is no necessity for this increase of the Army at the present time. I acknowledge that, in my opinion, an army of some twenty thousand effective men at all times would not be too great a force with the present limits and expanded territories and dominion of this Republic; but I prefer to postpone any such enlargement until another session, when we can see what is likely to be the state of our finances, and when we may learn whether the trade and business of the country have had a chance to revive from their prostrate and paralyzed condition. The proposed increase of the Army, voted in any shape, will involve an additional expenditure of at least five million dollars; and it may, according to circumstances, involve an additional annual expense of twelve million dollars. I think we had better postpone it until we see the effect of the present condition of the country on the finances. I feel confident that Colonel Johnston and his command are in no present danger, and that we have a full and adequate force to send to his relief. Under these circumstances, I am inclined not only to vote for striking out the first section of the bill, but to go against the whole bill.

Mr. IVERSON. Mr. President, as I am a member of the Committee on Military Affairs that reported this bill, and gave my support to the measure in committee, as I shall in this body, I

beg leave very briefly to state the reasons which commend it to my mind.

When the question was referred to the Committee on Military Affairs, of course the first point to be determined was, whether there was a necessity or propriety for an increase of the Army. The committee came to the conclusion, by a large majority, that there was not only a propriety but a necessity for an increase of the regular force. I agreed with the committee, and that is my opinion now. Having come to the conclusion that an increase of the regular force was necessary, the next and most important question was, in what way that increase should be made? The President and Secretary of War have recommended an increase by the addition of five regiments. Although the President, in his annual message, called for only four regiments, the Secretary of War, in his report, asked for five, and it is to be presumed that it was only an inadvertence on the part of the Executive that five regiments were not asked for by the Government.

The plan suggested by the Committee on Military Affairs, as contradistinguished from the increase by way of additional regiments, struck my view as the most appropriate one, for several reasons. The first is, that if you increase the force by regiments, by adding four or five new regiments to the Army, to answer present emergencies, or to accomplish present purposes, when you desire to diminish or reduce the force, it will be next to impossible ever to reduce a force which contains so many officers. You may get rid of the rank and file at your pleasure; you may at any time reduce the Army by the dismissal of privates; but it is with the greatest difficulty in the world—it is next to impossible, to reduce regiments that contain officers, especially field officers. Although this increase is at present demanded, in my judgment, by the exigencies of the service, yet the time may come, and I trust it will come, when this largely increased force will not be necessary, and it may be, in the wisdom of Congress, thought proper to reduce it. If they should ever reduce it, it could be done by cutting down the rank and file which it is proposed by this bill to add to the Army; but we might find it very difficult to get rid of the additional regiments, if they were incorporated into the regular force. That is one reason why I prefer the plan suggested by the committee to that which has been recommended by the Executive.

Of course, I was controlled, to some extent, also, by the difference in the expense of the two plans. The increase by regiments, if five were granted, would add one hundred and fifty company officers—fifty captains and one hundred lieutenants—besides the field officers. Of course, that would be a very large increase in the expense of the regiments, to say nothing of the number of the rank and file. The plan suggested by the Committee on Military Affairs looks only to the addition of thirty companies, and to the creation only of ninety additional officers, and they are officers of inferior grade—captains and lieutenants. Of course, this is the least expensive mode of increasing the Army, if it is to be increased at all.

These, together with other reasons which I shall not detain the Senate by adverting to, influence my mind to adopt the plan suggested of adding thirty companies to the existing regiments, instead of increasing the Army by the addition of whole regiments.

There is another reason which has been suggested by the Senator from Mississippi, the chairman of the committee. It is, that twelve companies is a more convenient organization of a regiment than ten. At present, the four artillery regiments have twelve companies, but the infantry regiments and the mounted troops have but ten companies to each regiment. Having four field officers, a colonel, a lieutenant colonel, and two majors, if we have twelve companies, the regiment is then divided into three battalions of four companies each; one commanded by the lieutenant colonel, and one by each major; the colonel being the superintendent and commander of the whole. This is a more convenient arrangement, therefore, and it is one which seems to me to be entirely appropriate. It is a better organization than the one which gives only ten companies to a regiment. This, I understand, is the French organization. Their regiments are divided into twelve companies and three battalions, and there

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is probably no nation upon earth which has had as much experience, and arrived at so much information and usefulness in relation to the organization of the military, as the French. I believe that that is the organization, also, of the English regiments, though I cannot confidently speak as to that point; but I am confidently informed that such is the organization of the French regiments; each regiment being divided into three battalions, each battalion having so many companies. This plan has been recommended by many Army officers with whom I have conversed, and they universally say that it is the best organization which can possibly be adopted.

But, sir, the great question comes at last: whether there should be any increase in the regular force or not. I believe there ought to be an increase in the regular force; and so believing, I am satisfied that the mode suggested to the Senate in this bill by the committee, is the best which can be adopted. I believe there ought to be an increase in the regular force, not only to answer the present exigencies of the service, but for permanent employment hereafter. The present exigency is the Utah war. It is not a war in the technical sense of the term; it is a rebellion on the part of the Mormon people, which it becomes necessary and proper on the part of the Government of the United States to crush.

I ask Senators if this rebellion is to be permitted to go unpunished? if this insurrection in Utah is to be permitted to exist? if the laws and Government of this country are to be put at defiance? I ask, are gentlemen prepared to admit this *imperium in imperio* to exist which the people of Utah have set up for themselves? I am one of those who believe that as long as we have a Government, the laws of that Government should be enforced in every quarter of the country. I believe that the peace, good order, and dignity of the Government should be enforced and vindicated upon all occasions. I am one of those who believe that this rebellion, or insurrection, or whatever else you may term it, in Utah, should be crushed; and crushed effectually, if it shall be necessary to sacrifice every individual in that country.

What is the condition of the Mormon war? What is the condition of the Mormon country? What force will it be necessary to send against them in order to effect this important object? I consider that the Mormon force is by no means one to be slighted. We have authentic information, such as I think every Senator will believe, that a force can be mustered into service in Utah under the command of Brigham Young, to the extent at least of four or five thousand efficient troops. We are informed, I think, by Captain Van Vliet, who was sent into that country for the purpose of spying out the land, that Brigham Young has an organized, well-equipped force of not less than four or five thousand men. We are informed upon reliable authority—upon authority on which I rely at least—that he has formed alliances with neighboring Indian tribes, and that those Indians, incensed as they are against the people of the United States, and ready to strike a blow whenever they have an opportunity to do it, will readily join Brigham Young in his operations against the United States. Combine these two elements together, and I think the opposition power of Mormonism is by no means to be despised by this Government. Four or five thousand effective troops, well armed and equipped as we understand they are, fighting on their own soil, with a full knowledge of all the passways and the topography of the country, fighting for their hearthstones, and as they believe fighting for their religion, infuriated by their fanaticism, is not a force that is to be despised by this Government. With all the advantages which they will possess of a full knowledge of the country, standing behind the defiles and gorges of the mountains, I think it will require a large force to put them down.

What is the force that has been sent against them? We are told that there are only four or five

regiments, the effective extent of which cannot exceed two thousand men. The probability is that the effective force of the army under Colonel Johnston, now in the mountains of Utah, does not exceed fifteen hundred men. That has been reinforced to some extent by a few teamsters and army-followers, and persons who are engaged in the contractor's service, and we understand that three or four or half a dozen companies have been united with him. How many can Colonel Johnston command in the spring? How many is he likely to have to march into Utah, against this large, powerful, and effective force of Mormons? Not more than two thousand, at the utmost extent, and that little force must be diminished before the campaign can open; death must make its mark in the ranks of our soldiers.

How far has the Government in its power, and to what extent can it reinforce the army in Utah? The Commanding General, we see, has already ordered two regiments and two companies to rendezvous at Fort Leavenworth, to join the expedition in the spring. What force is that? The first regiment of cavalry, one regiment of infantry and two companies of artillery. How many will be embraced in that number? With the fullest number of companies, and the fullest number of men in each company, none of these regiments can exceed seven hundred men. Then the force which is detailed to reinforce the army in Utah, cannot exceed fifteen hundred men, which, added to the fifteen hundred or two thousand already in the field, will make a force of three thousand, or three thousand five hundred men. Is that sufficient to overcome the formidable array of power which the Mormons are able to bring into the field? I do not believe it is sufficient.

From what source can the Government of the United States draw other troops, to add to those who are now detailed for the service in Utah? You have one hundred and ninety-eight companies in your whole Army. You have forty-eight companies in your four regiments of artillery; you have one hundred companies in your ten regiments of artillery, and you have fifty companies of mounted troops—in all one hundred and ninety-eight companies. At this moment, out of this force of one hundred and ninety-eight companies, there are one hundred and fifty-eight companies in the field and stationed at distant frontier posts, leaving only thirteen companies to garrison your interior fortifications and your whole extended Atlantic coast. From what quarter are you to draw any reinforcements to the army in Utah? Will you take them from Florida? We have a war now in progress in Florida with a hostile band of savages, who are exceedingly infuriated against the people of that country, and are seizing every opportunity to strike a blow. Will you withdraw the regular troops from Florida to send them to Utah? If you do that, you must expose the people of Florida to the scalping knife and tomahawk of the savage, or you must supply the deficiency by a volunteer force in Florida. Even now such is the smallness of the Army, that you have been compelled to employ a volunteer force in Florida; and if you take away the regulars who are there, and send them to join the Utah army, you must add to that volunteer force for the protection of the people of Florida. Are you prepared to employ volunteers? Of course they are always infinitely more expensive, and never as efficient as regulars.

Will you withdraw your regular troops from Texas? There you have the second regiment of cavalry, and one regiment of infantry. Can you withdraw any part of that force from the frontier of Texas, when you consider the exposed character of that frontier, and leave the people of Texas to the marauding incursions of hostile bands of Indians? I do not think that force can with safety be withdrawn. Can you take any troops from New Mexico? Are the people of New Mexico to be exposed to the surrounding savages who are so hostile to the white people, and who are disposed at all times to strike whenever they find the opportunity to do so with impunity? We know

what is the character of the Navajo and Apache Indian, and other hostile warlike tribes that surround New Mexico. Are you prepared to allow the troops you have in New Mexico for the protection of the people there to be withdrawn to swell the army in Utah? I think not.

Then as to the Pacific coast, how can you withdraw any men from that section? You have to guard the frontier settlements of Oregon and Washington Territories, and the troops which you have there are not even sufficient to do this. The history of the last two or three years demonstrates the fact, that in order to quell the hostile Indians on the frontiers of that country, a much larger force than you have been able to send there has been requisite and necessary.

Then, looking at the position of your Army in every section of the Union, there is not a single point from which you can withdraw additional force from the regular Army to join the army in Utah. The whole available force which could be spared from the exigencies and necessities of the service in other quarters, has already been called into the field by the commanding general; and what is it? The contemptible force of three thousand or four thousand men. If, from considerations of economy, or any other considerations, the army in Utah shall not be properly reinforced by the time the campaign opens in the spring, and that army shall be cut up or destroyed by the Mormons, I ask what excuse gentlemen can present for voting against supplies and additional reinforcements? Is that gallant army to be exposed to the danger and risk of that campaign because it may cost a few million dollars to reinforce them? Is money to be put in the scale against blood? God forbid that it should! If it was necessary to send ten thousand troops to Utah, and expend \$1,000,000 to crush this rebellion, I would expend it before I would suffer one hundred of your people to be sacrificed by the infuriated Mormons. What excuse could gentlemen present if any disaster should occur to this army in Utah? The miserable consideration that it may cost a few million dollars! Sir, we must reinforce this army to such an extent that they shall be safe in their operations, either by the increase of the regular force, or by calling out volunteers; and we all know the expense to which the call of volunteers always leads, and the danger to which it may give rise.

I am opposed to the use of volunteers in this Utah war. The very consideration of humanity is enough to prevent the calling out of the volunteer force. Send volunteers to Utah to suppress this insurrection! Why, sir, you know that volunteers, when they are once set in motion, are unrestrained by any order. Send volunteers to Utah, and every man, woman, and child in that Territory will be exposed to the danger of sacrifice. No, sir; let us send disciplined troops; let us send the regular Army; let us send troops who are disinterested, who are subject to the control of their officers, and will be regulated and directed by the dictates of humanity.

In my opinion, Mr. President, it is essential that the army in Utah should be reinforced. I do not think it can be reinforced without an addition to the regular Army, such as is proposed in this bill. This is the cheapest and the quickest way of obtaining recruits sufficient to throw a force into Utah which, under the circumstances of the case, may become necessary to crush the rebellion that exists in that country.

But if the Utah war were out of the question, if that were suppressed, I consider that still there is an exigency for the increase of your Army for permanent and future employment. Look at your extended country; look at the wide extent of your frontiers; look at the necessity for the protection of your people. You have a line of sea-coast extending for more than two thousand miles on the Atlantic, every city of which has a fortification, more or less; and those fortifications, and the arsenals and public stores, must be protected and taken care of by your troops. There is a demand for a portion of your Army at least. In Florida,

in Texas, in New Mexico, in Arizona, in Washington, in California, in Oregon, the wide extent of your frontier requires a very large increase of the Army, to give protection to the inhabitants, whom, by your laws and policy, you have induced to emigrate to, and settle in, those regions.

Besides this, there are your emigrant routes, on which you have expended millions of dollars for the use of the people going from your Atlantic to your Pacific possessions. Are not the wagon-roads that you have prepared, inviting emigrants, to be protected? Is there to be no protection given to your emigrants who go from this part of the country to the Pacific coast? You have recently established an overland mail route across the continent. Is no protection to be given by the establishment of a line of military posts along that route, to the mails which you send, to the servants that drive them, and to the passengers that go in those coaches and wagons? Even this is a requisite which calls loudly on the Government for the establishment of military posts, and the stationing of troops, along the line of emigration.

When you take into consideration all these various demands of the Government, I think the army which you have in the field at present is by no means commensurate with the demands of the Government. Let us look at the present condition of the Army, and see what it would be with the proposed increase which this bill establishes. I think when the analysis is made, much of the apprehension which gentlemen have about the danger of a large standing Army must be dissipated. You have now one hundred and ninety-eight companies, and we propose to add thirty companies—making two hundred and twenty-eight. That is all the increase. To be sure there is some small increase in the number of officers—ninety company officers—and a small increase of the medical staff, as proposed, but that is all. There may be a few dozen musicians and non-commissioned officers attached, but that is a very immaterial point. We shall then have two hundred and twenty-eight companies, which at the ultimate amount of ninety-six, the maximum number authorized by this bill, would give your Army twenty-one thousand eight hundred and eighty-eight men. That would be the entire force, with every company filled up to ninety-six men. But, sir, any one who is familiar with the condition of the Army, must know that there never are more than two thirds of the aggregate number in the companies on the average. During the Mexican war, when the maximum number was one hundred men, there never was a battle fought by the American troops in which there were more than thirty-seven men in each company who went into an engagement. That, I understand, is well ascertained to have been about the average number that went into all the engagements with the Mexicans. When the maximum was one hundred, the average number of available men in the company was only thirty-seven; and now with a maximum of ninety-six, how many do you suppose these companies will always have? They will never have more than two thirds of that number.

Let me give you an instance to show how this operates: The first regiment of cavalry was organized about two years ago. Their headquarters were at Leavenworth. The number of companies was filled up by the recruiting officers to the maximum allowed by law, and they were sent to their headquarters. In less than twelve months, over four hundred of them had deserted; more than one half of the whole regiment had deserted, and the companies were reduced to less than one half the maximum. That is the condition of a great many of the regiments. From casualties of this sort, either desertion, or death, or other cause, the companies never contain, on an average, more than two thirds of the maximum number authorized by law.

Now, let me suppose that the companies will contain, ordinarily and generally, two thirds of the maximum number, making sixty-two. If the two hundred and twenty-eight companies have sixty-two in each, they would only amount to fourteen thousand one hundred and thirty-six men. Is that a large standing army to be dreaded? Is that too much of a military force to be used in this wide extent of country, where so many demands are made on the Government for protection? Even in Texas, at the present time, when

you have two regiments of regular troops stationed there, the Legislature has called, by a formal application, on the Congress of the United States to authorize that State to raise a regiment of volunteers for the protection of their frontier people. That application has been referred to the Committee on Military Affairs, and sent to the War Department for its opinion on its propriety. Even now, in the present condition of things, the people of Texas are calling for additional protection from the Government, and so they call everywhere.

But if this force be reduced to the peace establishment of fifty-two after the exigency of the Mormon difficulty is out of the way, with fifty-two men in each company, that being the regulation according to the peace establishment, the Army would consist of only eleven thousand eight hundred and fifty-six men. I do not, of course, include the officers; I speak only of the rank and file. That is the mighty army which has created so much apprehension in the minds of gentlemen as to endanger public liberty—eleven thousand eight hundred and fifty-six men!

These are my opinions, Mr. President, in relation to the necessity of an increased force. But it has been objected by gentlemen on the other side of the Chamber that the Army ought not to be increased, and nothing should be added to it, no matter in what circumstances the country may find itself, because the expenses of the Army are of such an enormous character. The Senator from New Hampshire [Mr. HALE] yesterday told us that some years ago the expense of a soldier was so much, and that now it is one thousand or fifteen hundred dollars a year. That reminds me very much of an argument which I heard used by the Whigs in 1840, when they were objecting to Mr. Van Buren's reelection. They told the people then that in former times the expenses of the Government did not exceed ten or twelve million of dollars a year; but now, under Mr. Van Buren, it was spending \$27,000,000. What a contrast! How extravagant was Mr. Van Buren's administration! It had spent \$27,000,000, when the Government had, in former years, got along with at least one third of the amount! Because the expenses of the Army twenty years ago were \$5,000,000 a year, the Senator from New Hampshire predicates the argument that the expenses of the Army now ought not to be fifteen or twenty million dollars! Does not the gentleman understand that this country is advancing in population, advancing in area, advancing in everything which requires expense? Is it an argument against the existence of an Army now which the country demands and requires to be kept in the field, that fifteen or twenty million dollars are expended annually when ten, or fifteen, or twenty years ago an Army of four or five thousand men was all that was necessary, and their expense was much smaller? To say nothing of the increased number of your Army, the expense of everything has increased which the exigencies of the country demands. The expense of maintaining the Army is much greater per man than it was fifteen or twenty years ago.

Upon what principle did the Senator from New Hampshire vote at the last session to increase his own pay and mine to \$3,000 a year, instead of eight dollars a day which had been established in 1817? In 1817, the expense of living in the city of Washington was not more than one dollar and twenty-five cents a day. I remember when I was here, in 1830, I stopped at Brown's hotel, which was as good then as it is now, and paid one dollar and twenty-five cents a day; but now you cannot stay there for less than two dollars and fifty cents a day. Such has been the increase everywhere all over the United States in the expense of maintaining human life—the expense of transportation, the expense of provision, the expense of everything which is attendant on the operations of the Army in all its various branches. Is it an argument in favor of disbanding the Army, that it costs more than it did some years ago? I ask the Senator to take back his vote which was based on the principle that the expenses of members of Congress have so accumulated in this city that it became necessary to increase our pay, if he makes that argument applicable to the expenses of the Army.

But the Senator from Connecticut [Mr. Foster] yesterday objected to the increase of the

Army, and, indeed, to the very existence of the Army, because, he said, Indian difficulties and wars had been created by the Army of the United States, and not by the frontier settlers. He says that, wherever you send a body of troops and make a fortification or post in the Indian country, difficulties occur, and it is the presence of the troops that produces the difficulty. I ask that Senator to point out the instance in which troops of the United States have been sent in advance of the settlements of the people. I deny it. I say that, in no instance, has the Government ever established a fortification in the Indian country in advance of the settlements your people have made. These troops are sent, and these military posts are established after the settlements are made, and for the protection of the settlements. Is it not right that that should be done? What doctrine is it that which would leave your frontier settlements open to the incursion of hostile savages? It is true, posts have been established on the emigrant route where there are no settlements, but the reason is the same. They are intended for the protection of your emigrants who go from this part of the country to the Pacific coast. There is no instance in the history of our military operations in which the Government has established military posts, and sent your troops into Indian nations where we have no white settlement to protect.

The Senator is mistaken as to the operation of these causes. The difficulty with the Indians has been that your people are ever ready to seize upon vacant land. Their peculiar idiosyncrasy is to seize upon lands which do not belong to them, and they are always like the seas, not content with what they have, but would stretch their arms to grasp in all the shore. It is this lawless sort of emigration which characterizes the people of the northern States more than that section from which I come, that has produced all these difficulties with the Indians, and Indian wars. The Government has only used the Army of the United States in the establishment of posts for the protection of the emigrants who have gone into these new countries; and in that the Government has done right.

But, sir, it is objected by the Senator from New Hampshire, and others on the other side of the Chamber, that this increase must not be made; indeed they argue as if the Army ought to be disbanded, because they say a portion of the Army has been used in Kansas to illustrate popular sovereignty. A portion of the Army has been used in Kansas; and therefore, because it has been used in Kansas to accomplish particular ends, the Army ought not to be increased, but ought to be disbanded! Yes, sir, a portion of the Army has been used in Kansas; but for what purpose? According to my reading of the circumstances and history of the times, that Army has been employed for the purpose of keeping the peace in Kansas. It has been put there, not to control popular sentiment, not to control the elections of the people, not to put down popular sovereignty, not to set up the minority against the majority of the people; but it has been put there for the purpose of keeping the peace, of executing the laws—laws which were recognized by every branch of this Government as valid and constitutional. The use of the Army has been a matter of necessity in Kansas. It was not only necessary, but proper, that troops should be employed there for the purpose of protecting the people in the enjoyment of their rights.

Gentlemen seem to express regret that any portion of the troops of the United States were employed in Kansas. Sir, they are not singular in their regrets. I too regret that there ever was a solitary soldier sent into Kansas. If it had not been that the Army of the United States was sent to Kansas, the question which has agitated the public mind and distracted the country would have been long since settled. If it had not been for the interposition of the troops in Kansas, there would not to-day have been an Abolitionist to desecrate and disgrace the soil of Kansas; no, sir, not one of them would have been left to tell the story of his existence. If it had not been for the troops in Kansas and the interference of the Governor of that Territory with the troops as a *posse comitatus*, Lawrence, that sink of folly, filth, and falsehood, would long since have been razed to the ground, and there would not have been a stone

left to tell the story of its existence. Its history would have been written in two words—"Lawrence was."

Sir, the troops in Kansas have been kept there for the purpose of preserving the order, peace, and dignity of society and of the Government. That is the object for which the troops have been employed and none other. They, it is true, have kept down the marauding cut-throat bands of Jim Lane—a set of Abolitionists, a band of lawless ruffians. Talk of Missouri border-ruffians! But if there be a band of ruffians more despicable than any others on the face of the wide earth, in my estimation, it was the band of Jim Lane and his followers. Why, sir, if you could rake the infernal regions from the center to the circumference and from the surface to the bottom, you could not fish up such a mass of infamous corruption as exists in some portions of Kansas. Troops have been necessarily employed there for the purpose of suppressing violations of the law.

It was the duty of the President to vindicate the laws. It was his sworn duty to execute the laws in Kansas. It was his constitutional obligation to keep the peace, if he could do it by the employment of troops. He has done nothing more than his duty. I vindicate his motives. I approve what he has done. I believe the peace in Kansas has been preserved by the employment of troops there, and I am satisfied that, but for the presence of the troops employed by the President in Kansas, the soil of Kansas would have been drenched with the blood of its people, and the civil war commenced there would, in all probability, have extended beyond its borders, and involved this Union in destruction. That is my opinion, and I will say here, what may fall, perhaps, with some jarring on the tender sensibilities of some gentlemen, that if these two results had happened, if every Abolitionist had been driven out of Kansas, and this Union, by the operation of that cause, had been dissolved, I should not have much regretted the first, nor shed many tears over the latter.

But, Mr. President, Senators object to the increase of the Army because they say it has been used here, in the city of Washington, to control and regulate elections. The Army was not used, it was a portion of the marine corps, and it has been used in Boston to enforce the fugitive slave law. The Army is to be disbanded because the marine corps has been employed by the President upon a certain exigency, to put down a lawless mob in the streets of Washington—a mob instigated and incited by a set of ruffians from a neighboring city, who came here to control the elections of the people of this place! A portion of the Army has been used in Boston to execute the fugitive slave law, to vindicate the rights of parties under the Constitution of your country, and therefore the Army is a dangerous institution and is to be put down!

I wonder, sir, that among the instances which the gentlemen on the other side of the Chamber brought against the use of the Army, they did not recur to one which has not long since passed, and is familiar, probably, to all those who hear me. I wonder that the Senator from New Hampshire, the Senator from Maine, and others, did not recur to the Dorrite troubles in Rhode Island. If I understand the history of that transaction, the people of Rhode Island, vindicating the doctrine of popular sovereignty, desired to get rid of an odious government. When I say the people, I mean a majority of the people of Rhode Island. They desired to get rid of an old, arbitrary, despotic government which was grinding them down. They called a convention, formed a constitution, and attempted to put it in operation. The Army of the United States was called into requisition by the existing powers of the General Government, to put down this popular sovereignty in Rhode Island, and it was put down. That was all right, according to the doctrines of gentlemen on the other side. They had no objection to using the Army to put down popular sovereignty in Rhode Island, when that act was to vindicate their particular party; we heard of no objection then to the use of the Army; it was all right then. But when the President calls out a few marines in Washington to put down a lawless mob from a sister city, which attempted to control the elections, that is all wrong, and it amounts to a high crime and misdemeanor in the President, sufficient to authorize the dis-

bandment of the Army and marine corps! That is the sort of doctrine which the gentleman suggests as a foundation for an argument against this necessary increase of your Army; but these considerations ought to have no influence, and I trust will have no influence, on the question before the Senate.

It is a matter of no consequence whether the power given to the President over the Army has heretofore been abused or not. It may be abused again; it may have been abused heretofore; but is that an argument why we should not have an Army necessary for the public service? Because the President has abused his power heretofore, and may hereafter do it, is that an argument why you should not increase your Army to such an extent as to protect your people, and to vindicate the laws in Utah and to crush a rebellion that exists in that Territory? I think not.

Apart from all these considerations, if the exigency of the public service, if the demands of your people, if the vindication of the dignity and honor of the Government, if the putting down of a rebellion which exists now, and which puts at defiance your authority—if all these are necessary for the increase of your Army, I say that I am ready to vote for such an increase. I cannot see that it can be done in a more economical or more ready way than that suggested by the bill now before the Senate, and therefore I shall give it my vote.

Mr. SIMMONS. Mr. President, I did not intend to participate in this debate, and certainly I never expected to be drawn into any discussion upon the affairs of Kansas in connection with a bill for raising additional troops. I am one of those who in addressing the Senate generally go, or attempt to go, directly to the object which I have in view. I heard the Senator from Mississippi yesterday deprecate with great force the introduction into this debate of the Kansas question. When I deprecate the introduction of any topic of discussion into the Senate, and want to suppress it, I generally stop speaking on it. I think that is the most effectual way of stopping it. I thought that was an improper matter to be brought into this debate, any further than to illustrate certain positions which were taken by members on this side of the Chamber, and I do not intend to say anything about it. But, sir, allusion has been made to my own State, and it is that which has called me up. I know the Senator from Georgia meant no sort of reflection upon Rhode Island.

Mr. IVERSON. Not at all.

Mr. SIMMONS. I believe that Senator will hardly disagree with me now about the Dorrit business. That, I believe, was about the first question on which I had to talk when I came into the Senate, and I have not altered my mind about Dorritism from that day to this. I tell the Senator from Georgia that he does not know one of the facts that took place there. The Army of the United States was never called to go into Rhode Island at that time, and did not go there.

Mr. IVERSON. I did not say the Army was employed there. I know the Army did not go there; but a call was made on the Executive, as I understand, and he responded to the call that he was ready to send the troops if they were necessary.

Mr. SIMMONS. I admit there were a great many things done, or attempted to be done, about that time. I have not risen to speak as to what happened here; for I never mean, during the time I may be in the Senate, to refer to the man who was then at the head of the administration of this Government. I do not mean to call his name, or refer to him, unless I am forced to do so in order to explain some fact. I took leave of that man many years ago. What I felt as a little unkind on the part of the Senator from Georgia, was his statement that the authorities of Rhode Island called on this Government to put down the people for attempting to overturn an odious government, an odious tyranny there. If the Senator had known what our government was; if he had read it lately; (for I do not mean to say that he is not well versed in history;) if he had known the character of the institutions under which the people of Rhode Island lived for two centuries, he would not have made that remark about their government. I wish I had here the book of the history of our State, so that I could read to the Senator from Georgia the origin of that government. It would

put to shame all these talks about the popular sovereignty that have been introduced here in modern times. Sir, there never was a democracy established on these shores until the people of Rhode Island established one. It is in black and white in the book of history, and if I could have time to go to my lodgings, I would get the book and read it to the gentleman.

Mr. IVERSON. Allow me to put a question to the Senator. Has not that constitution, which he lauds so much, been entirely done away with, and a new constitution formed by the people of Rhode Island?

Mr. SIMMONS. It has been; and our present constitution is not quite so good a one as we had for two hundred years. That is my notion about it, though I helped to make it. The force of public opinion, as it is called, sometimes gets the better of men's judgments. Let me tell the Senator from Georgia that three months before this Dorritism began, I, myself, personally introduced into the Legislature of Rhode Island a resolution providing for the call of a convention to make a new constitution, to alter our old form of government, and make a new one better adapted to the exigencies of the times and the notions of the people about representation.

Why, sir, when I first took my seat in the Senate, my right to a seat was actually disputed by some of these modern sort of Democrats, on the ground that we had not a republican form of government in Rhode Island. I defended my right as well as I could in a speech which I made at that time. I have not seen the speech since; but it is to be found in the National Intelligencer, some time about the 18th of May, 1842. I do not read these speeches over, but I sometimes hear my children read the comments on them, for it gratifies them, not me.

Three months before the first popular meeting which was called in Rhode Island to get up a new constitution, the Legislature of that State passed a resolution calling a regular convention. For fear that constitution would be made so as to take the wind out of the sails of these modern Democrats, they called a mass meeting and roasted an ox, and got pretty well fitted up in other ways—pretty "well to do" in the world. [Laughter.] That may be a good way to make a constitution in these times, but we did not think so in Rhode Island. Mr. Dorrit himself was a member of the legal convention. Here let me say that I have a great respect for his memory—he is now dead. Let me tell the Senator from Georgia that I lost my seat on this floor for the act of taking him out of the State prison; and I have been waiting for a return to this body for ten years, and I intended to stand it ten years longer, if necessary—not by quitting my party, but by beating, while acting with, the same men and the same party I was in when I was defeated. My notion is, that you should act with the men with whom you have acted; stand by your rights; stand by your principles, and the people will come to you if you are not too much in a hurry. I am a patient sort of a man. Perhaps the Senator from Kentucky will recollect a speech which I made in the Senate in executive session some years ago upon a matter connected with our difficulties in Rhode Island, on which my then colleague (as worthy a man as ever lived) and myself disagreed; and I remember the generous proposition he made to me—not to call the yeas and nays after that speech, for fear it would mortify some other person; not me.

Mr. President, I think this reference to Rhode Island was unbecoming—I will not say it was unkind, because I know the Senator from Georgia means no unkindness towards me. So far as our intercourse has gone, he and I have agreed remarkably well. We do not talk about politics, to be sure, but I think we do not disagree very much even about politics; for I venture to say that if I could make a proposition to test the sense of the Senate on the controversy in Rhode Island in 1842, I could get a stronger vote than we have just had against the Administration, in which I certainly voted with regret. I rose simply to illustrate this matter to the Senator from Georgia, so that my right to a seat here should not be called in question now, after having waited so long, and after the struggle I had to keep it the first regular session I was here in 1842. A Senator from Ohio, three or four days in succession, had

addressed the President of the Senate to institute an inquiry whether my colleague and myself had any right to a seat on the floor of the Senate, he taking the ground that Rhode Island had not a republican form of government. After he had made about half a dozen speeches on the subject, I got the liberty, through the intervention of an honorable Senator from South Carolina, and an honorable Senator from Alabama, who was, at the presidential election preceding the last, elected to the seat you now occupy, sir, to explain the Rhode Island matter, and see if we could make out any sort of titles to seats here. The explanation I then gave of our rights to seats was this: that we helped to make this Government before his State (Ohio) was born, and that was the title we had. We acted with Georgia in making this Government. I have great respect for the State of Georgia, and she ought to have respect for Rhode Island, and not call in question the institutions under which Rhode Islanders formerly lived; for one of her sons, and a Rhode Island mechanic too, defended Georgia and South Carolina in the great struggle of the Revolution.

The State of Georgia has voted to a distinguished general of Rhode Island a whole island as a generous tribute to his memory and his services in that State. The Senator from South Carolina [Mr. EVANS] reminds me that his State voted that general £10,000 for his services. Are they the States which are going to question my right to a seat here, on the ground that Rhode Island had not a republican form of government when those great deeds of valor were done that made this a nation? No, sir. I go behind all these notions about Democracy, and I say we made this Government; we fought for the soil over which its jurisdiction was to extend, and we triumphed upon every battle-field. Rhode Island furnished more officers and more men than any other State of the same number of square miles in this whole country. Whom did the Father of his country refer to as his successor, if Providence should withdraw him from that controversy? The very man to whom Georgia and South Carolina voted this generous tribute as a recognition of his services—a man, let me tell you, sir, who was first in the hearts of his countrymen at that day, excepting only one, and second only to him because he was peerless among men.

I know that the remarks to which I am replying were made in a different spirit and for a different purpose; but for whatever purpose they were made, I cannot consent to sit here and hear the institutions of the State from which I come characterized by epithets so unkind and unjust as were used by the Senator from Georgia. Sir, the State of Rhode Island is almost the only original democratic government on this continent. Almost all the colonies within the limits of the old United States were organized and made bodies corporate under the King of Great Britain, under charters which emanated from the Crown; but in Rhode Island the body-politic was instituted, and declared to be formed by the people themselves. They said that, in the presence of Jehovah, they declared themselves to be a body-politic and corporate, having no reference to the Crown or the Parliament. They said further, that the government which they established was "a democracy, or popular government." And then they explained what a democracy means; and the definition has not been improved upon by time. They say, "it is the power of the body of freemen orderly assembled"—no border ruffianism, but the "people orderly assembled," or the major part of them, to make or constitute just laws by which they will be regulated, and to depute from among themselves such ministers as shall see them faithfully executed between man and man." Another article on which they agreed declared that no man should be held delinquent for any matter of religious belief, so that he did not disturb the public peace. This was as early as 1638; and I should like to know from the Senator from New Hampshire if he can get anything out of the granite rocks of his State quite as far back as that about popular sovereignty? It reads somewhat in this way:

"The 7th day of the first month, 1638.

"We whose names are underwritten, do here solemnly, in the presence of Jehovah, incorporate ourselves into a body politic, and, as He shall help, will submit our persons, lives, and estates unto our Lord Jesus Christ, the King of Kings and Lord of Lords, and to all those perfect

and most absolute lawes of His, given us in His Holy Word of truth, to be guided and judged thereby."—Exod. xxiv., 4; 2 Chron., xi., 3; 2 Kings, xi., 17.

After this they went on under a single judge, as of old, for a while, and then elected officers more in conformity with later civil States, and declared these two things:

"It is ordered and unanimously agreed upon, that the Government which this Bodie Politick doth attend unto in this Island, and the Jurisdiction thereof, in favor of our Princes, is a Democracie, or Popular Government; that is to say, It is in the Power of the Body of Freemen orderly Assembled, or the Major part of them, to make or constitute Just Lawes, by which they will be regulated, and to depute from among themselves such Ministers as shall see them faithfully executed between Man and Man.

"It was further ordered, by the authority of this present Courte, that none bee accounted a Delinquent for *Doctrine*: Provided, it be not directly repugnant to ye Government or Lawes established."

This was the origin of our government. Was it a tyranny? They admitted every man by a regular vote, whom they allowed to have a share in the government; and when he behaved unworthily they disfranchised him by a regular and popular vote, and made a record of it. They had no pannier-basket voting as the Dorrites had in 1842, who went about to collect votes anywhere and everywhere—and the same thing has been practiced in Kansas. In our State they took the muster-roll of a company at the fort, and put it into their list of votes for the people's constitution, just as the Cincinnati directory was used for the same purpose in Kansas. Such voting is not popular sovereignty as we understand it; it is not a fair way to ascertain the will of the people.

I have adverted to the origin of the government of Rhode Island, for the purpose of correcting the impressions of the Senator from Georgia. Although it is only a few years ago since the difficulties there occurred, people seem to have forgotten them. I do not blame them for forgetting them, because they have a great many things to attend to, and platforms are made so frequently that hardly anybody can keep the run of them. If I were going to make a platform, or to advise the making of one for the opposite party, to-day, I would advise them to qualify their doctrine of popular sovereignty, and besides providing that the people should regulate things in their own way, subject to the Constitution of the United States, I would also say: "and provided further, that their institutions should conform to the ordinary proprieties and decencies of civilized society," for that would cover this Utah business. [Laughter.] Platforms certainly want such a qualification; and when you have qualified these party platforms enough, you will have qualified all the popular sovereignty out of them. I do not mean, however, to make a speech about that, it is not worth making a speech about; but I am going to stand by this Rhode Island business. I came here particularly to defend her. She is a little State to look at, but a good one for sound doctrines.

In Rhode Island, for more than one hundred years, they tried free suffrage, and yet it was said we had an odious sort of suffrage in Rhode Island. Afterwards they prescribed a property qualification, and the preamble to the law prescribing it, declared that bribery and fraud had become a scandal, and the property qualification was imposed in order to get rid of it. Looking at the result of the last elections in some of our cities, I desire to know whether it would not be desirable to put a stop to bribery and fraud? Rhode Island did not wish to live under such a scandal. We tried a system of free suffrage for one hundred years, but it became corrupted. Some things grow bad as they grow old, others grow better with age—such as the liquor we have been trying to find out about, in the committee over which the honorable Senator from Georgia presides. [Laughter.] I know I shall get a smile from the Senator from Georgia. I do not mean to let anybody get mad with Rhode Island, anyhow you can fix it. I never mean to permit myself to be provoked into any discussion that is not pertinent to the matter in hand, unless somebody assails Rhode Island, and then I am on hand at any time. Now, if the Senator is perfectly satisfied, I will go no further, and I hope he will get up when I have done and retract all he has said, and then I will indorse him; and I will convince him afterwards, if he will not be convinced now.

Mr. IVERSON. I will take this occasion to say that I did not make any statement in relation

to Rhode Island on my own information or knowledge. I only said what was, at the time, the universal opinion, at least in that section of the country where I live, that there was a decided majority of the people of Rhode Island who desired to change their government; that they were not permitted to change it; that, in order to put down this popular sovereignty, it became necessary to employ a portion of the troops of the United States; or, at any rate, the troops were called for and announced to be ready to put down the majority of the people of Rhode Island, and maintain a government which the majority declared was onerous to them. That was the understanding. I may have been mistaken; popular opinion may have been mistaken; but that was the universal impression in my section, at that time.

Mr. SIMMONS. The Senator has now taken back as much as three quarters of what he said before, for it takes all the virus out of charges when they are confessed to depend upon public rumor; and if I go on a little longer, I think it probable that he will take back the rest, so that we shall perfectly agree. I shall not say anything as to what this Government did in regard to the troubles in Rhode Island, but I will tell you what the people of Rhode Island did.

The State of Rhode Island called the convention to which I alluded. Mr. Dorr was elected to the regular convention; but the ox-roasting meeting of which I spoke called another convention, and he was appointed to that also. We thought one convention was quite enough at one time; and we went on and made a constitution providing for open suffrage, and allowing everybody to vote. I must confess I was rather against that; but I went home from this city to vote for it, because my friends thought I ought to go there and help it. They asked me to go out and make a speech in favor of it, when I got to Providence; but I told them no; I would never make a speech in favor of that alteration; I would rather have the old charter; but out of deference to their wishes, I would vote silently for the new constitution, though I thought the alteration was no improvement. There were a great many charter men who would not vote for this new form of government with free suffrage; and they, going with the Dorrites, who did not want any change unless they themselves made it, voted down the new constitution framed in 1842, and I came back here. When they voted down our constitution they had a meeting, and put theirs out to the people; or, I believe, they put it out a little before ours. They went around the State with horses, and took in the votes at the forts and everywhere, and finally counted them up. When they were short, I believe they took some of the shipping papers of vessels to see how many men had gone to sea, and voted for them, on the ground that they could have voted if they had been at home. [Laughter.] They made out just enough to make out a majority, as they counted and ciphered, and called that a decided expression of popular sentiment against the old charter! Our folks did not think much of that kind of voting; and we called a new convention, of which I was a member, and we made the present constitution.

Now I wish to ask the Senator from Georgia one question. When there is an existing Government that has gone through a revolution such as ours had gone through; when there has been no complaint of it for two hundred years, does he believe there is such a case of necessity as justifies going around with pannier baskets, and manufacturing votes to show that a majority of the people are against it? Does he believe in that kind of voting against a regularly organized and constituted government, when there was no complaint, and when the people had just rejected a proposed new constitution, although there was a large majority in favor of altering the old system of representation? I do not believe there is a State south of Mason and Dixon's line that would tolerate such a doctrine for an hour of allowing anybody and everybody to vote. That is rather a dangerous doctrine.

The Senator from Georgia thinks the State of Rhode Island called upon this Government to put down its own people. That is not so; but I will tell you why that State called upon the Federal Government. It was stated upon this floor by a distinguished Senator that unless the Government of Rhode Island yielded, the great States of this

Union would crush her out, and that was the speech which I answered. There were armed bands of men organizing in the great cities. Here let me say to the Senator that he was mistaken in another respect; there cannot have grown up in Kansas in three years a city which can begin to compare with these old dens of vice and fraud. That is a work of longer growth than three, or four, or five years. You cannot get in one of the new States or Territories such great corruption in five or ten years, as that which has been collecting for centuries in these old haunts of filth and vice.

Mr. IVERSON. Allow me to suggest to the Senator from Rhode Island how it can be done. It can be done by establishing emigrant aid societies, and taking this very mass of corruption from the old States, and settling it in the Territories.

Mr. SIMMONS. We do not go into that. We are a conservative people; we stand by the old principle of regular voting and orderly meetings. I am not going to defend anybody else's doctrine. I do not belong to these organizations. I have a sort of organization of my own that I have had for about sixty years, and I consult my heart, when I want to know what is right and politic. I ask the Senator from Georgia if things have come to such a pass that the people of the large cities and States, through their representatives in the Halls of Congress, threaten to crush out a small State, whether it is not time to look around and see where you are to get strength? We asked nothing from this Government but a paper proclamation, and I believe that is what we got; and we asked further for a sensible man to be there in case we should need help.

I was not at home then; I was in my place in the Senate. Very many people asked why I did not go home and help to attend to that rebellion. I told them that I had left a parcel of boys at home who could take care of it better than I could. Sir, there was not one of my sons that was big enough to carry a gun, or to handle a hoe, that did not go. I had no occasion to tell them; I did not direct them. I knew where they were born; I knew they had descended directly from Roger Williams. I had one son who went with a Paixhan gun sixteen miles to meet those folks from New York that came over the line of Connecticut. He did it in a rain, a drenching rain. Then I had another son or two who went twenty miles to watch our neighbors on the border of Massachusetts. They, with others, slept on the tow path to be ready to keep men from coming in from Bellingham. They told me they had a good time; they were no more afraid of the Massachusetts people than the Kansas folks are of the border-ruffians. I would not send the Army there. Let the people alone, and they will take care of themselves. All we asked was to keep outsiders away.

I told a Senator from the big State of Ohio, that if he would let us alone we would take care of all the people in our own State, and not hurt one of them. When the proclamation was issued by our Governor for the people to repair to the lines of our State and defend the State from invasion from abroad, the men down in the county of Washington, and they were almost all Dorrites, set up their hoes in their fields and took up their guns and marched off, with no captains, no organization; and those fellows who were threatening us, when they heard that these men were coming, immediately scampered off. It was something like the song they used to sing, "The Campbells are coming." You cannot scare Rhode Islanders. We went over to Massachusetts and took some of the fellows within her territory. We played Paixhan upon them, and they sued us. They had us down to Boston to defend the suit. They said they would not have their territory invaded. We told them to keep their rogues at home, but if they disturbed us we would take them where we found them, though of course we should not go very far into the interior of Massachusetts. Our State paid the expenses of the trial, and we had more trouble about the lawsuit after fighting, than we had in licking them. [Laughter.] The greatest struggles we had in Rhode Island were in lawsuits with Massachusetts, and I believe we had some in the courts here.

I think I have made out a case in which the

Senator from Georgia will agree with me. We wanted the Government of the United States to keep the rowdies out of Rhode Island, and we promised to take care of our own people, and to render a good account of them, without hurting a hair of their heads. When I was making a constitution for the State, I was for allowing everybody who was there, or had been born there, to vote; but I could not consent to have that object attained in an irregular manner. When we came out of that rebellion, a clever Governor in Connecticut would not allow us to go over there for Dorr. He went to New Hampshire; and we asked the Governor of New Hampshire to deliver him up as a bad fellow who had given us trouble. "Oh, no!" he said. The Democracy reigned there then, and they could not give up a man, no matter how much trouble he had made at home. We did not go after him; we knew he liked his home, and would come back after awhile. When our folks, I think unwisely, put him into prison, I had rather sacrifice my seat here than have him kept there; and I went for his liberation, and got turned out of the Senate for doing so. I did not blame my folks for turning me out. I did not belong to that "law and order" party which has now been dominant in Kansas for some time. I was a Whig, and I told them I had not changed my opinions because there was a little sort of tempest in a teapot there, but I should keep to the old doctrines.

Now, I hope I shall not be questioned on this matter again. I trust that I have removed from the mind of the Senator from Georgia his unfavorable impression about Rhode Island. When I get up to speak again, I shall bring the book and read to him the old organization of that State, so that he shall be satisfied that we started right, and kept right longer than any people ever did in this country. For two hundred years we got along without a change, and I believe the good judgment of the State has been sorry ever since that the change was made; but we cannot help it now; we must make the best of it. This is all I have to say.

Mr. IVERSON. If the Senator is going to bring all those old musty books to satisfy me, I shall save him the trouble, and acknowledge myself satisfied in advance. [Laughter.]

Mr. SIMMONS. That is clever. I am glad of it, because I am always in favor of saving labor.

Mr. CHANDLER. Mr. President, I do not propose at this time to detain the Senate; but there are two or three points of the argument of the honorable Senator from Georgia that I propose to notice. I was gratified to learn from him the object of this increase of the Army. I had been waiting in vain for the last two days to have that object declared. It was declared by the honorable Senator from Mississippi to be one of the objects, but not the great object; but the honorable gentleman from Georgia has stated that the grand object is the conquest of Utah. Now, sir, why does the honorable Senator desire to conquer Utah? Is there any proof that Utah is in a state of rebellion against this Government? I deny that there is any such proof before the Senate of the United States. No such proof has been laid upon our table. All the proof we have is that Brigham Young is laboring under a slight mistake. Brigham Young has read the Kansas-Nebraska bill, and in that bill he has found this language:

"It being the true intent and meaning of this act, not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way."

Brigham Young has read that clause of the Kansas-Nebraska bill, and in the innocence of his heart he has supposed that it meant something. He has supposed that when that clause was inserted in the bill, it meant that he had the right not only to regulate but to form his own domestic institutions in his own way; and if the family relation is not one of the domestic institutions, pray tell me what is. He thought he had an undoubted right to have one wife or a hundred, and he turned to the Nebraska bill to prove that right. He labored under a slight misapprehension.

Then again, sir, he had the speeches of my honorable and illustrious predecessor [Mr. Cass] upon squatter sovereignty and non-intervention, and he had read the speeches of the honorable Senator from Illinois [Mr. Douglas] on the same

subject, declaring that in no event could Congress intervene in the affairs of a Territory. Brigham Young believed those speeches to mean something. He believed, and he believes to-day, that he is merely carrying out the true intent and meaning of that act, which I have just read.

What do the gentlemen on the other side of the Chamber propose? Do they propose to abandon the doctrine of non-intervention and squatter sovereignty? Do they propose to abandon the principles of the Nebraska bill? Do they propose to intervene in the affairs of the Territory of Utah? If they do, if they mean to back down and admit that they have been in error and have been doing wrong for the last four years, and will show to me that they require a force in Utah to put down rebellion against the Government, I will vote for it. I care not whether it be one regiment or one hundred regiments; but until they can show me that there is rebellion in Utah, and that Brigham Young is doing something more than carrying out the true intent and meaning of their own work, I will never vote to raise a man.

Now, sir, I suggest another remedy. I do not propose to send regiments and bayonets into Utah in this stage of the proceedings; but I propose that we employ a missionary, a sound missionary, a man known to be in the confidence of this Administration. Let him have letters patent from this Administration, showing that he does possess their confidence and represent their views. Send this man alone, without arms and without bayonets, to Brigham Young and to the people of Utah Territory; and after having exhibited his testimonials, let him say to Brigham Young, "Sir, you are under a misapprehension on this whole question." He may reply, "Here is the bill which declares that the people of the Territories 'shall be left perfectly free,' not only to regulate, but 'to form their domestic institutions in their own way,' and there is no misapprehension about it." "Ah!" the missionary can reply, "that was a mere tub thrown to the whale; that was to catch northern votes; that was to save the honorable Senator from Illinois, and the honorable Senator from Michigan, and other honorable Senators, from annihilation at home. It does not apply to the people of the Territories. You must obey the laws; and if you do not obey them we will send an army, and we will exterminate your whole race." If you can convince him that this man is the faithful exponent of the views of this Administration, and that that army will be forthcoming unless he submit to the laws, you will have no war, for he dare not resist this Government.

But, sir, why has he been led to suppose that this Administration was not in earnest? Why were not these fifteen hundred men started from Fort Leavenworth on the first day of June, instead of being kept there until it was an absolute certainty that the snows of winter would fasten them up in the gorges of the Rocky Mountains? He has been led by that act again to suppose that the Administration were not in earnest. He knew perfectly well where the troops were; he knew perfectly well that they might have been started in season to reach Utah before the frosts came on; and he knew that they were not sent. He certainly supposed that the Government were not in earnest, that they did not mean to interfere, that they still adhered to the doctrine of non-intervention.

The Senator from Georgia also alluded to the employment of troops in Kansas, and he said he wished to God—that may not be his exact expression, but it is the idea—that no soldier had ever been sent into Kansas; and gave as a reason that, had troops not been sent there, the Abolitionists would have been exterminated. I do not know exactly whom he terms Abolitionists. I do not know whether there is an Abolitionist in Kansas or not; but I do know one thing: that if the troops had not been sent to Kansas and had not been kept there, there would not have been a border ruffian now polluting that fresh and virgin soil. Never, sir, since the first drop of free-State blood was shed in that Territory has the moment existed when border-ruffianism would not have been wiped out in thirty days but for the intervention of United States troops. Take away the Army of the United States to-morrow, and I tell you, sir, the people of Kansas will settle their own affairs in their own way, will settle them for this time and for all time on the principle of free

labor and freemen's rights. They not only would have wiped out border-ruffianism from the Territory of Kansas, but there would have been a terrible account to be settled with some of those border towns in Missouri. Well for you, sir, well for those ruffians on the borders, that the United States troops were there; for that account would have been settled ere this but for their presence. If he desires them to be away, why not vote with us to-day to take them away? I will most cordially unite with him in voting for a bill to remove every soldier from that Territory to-morrow. If he is in earnest, let him introduce such a bill, and I will guaranty him every vote from this side of the Chamber.

Mr. DAVIS. Mr. President, I think the last speech that has been made must be very effective on the proposition before the Senate. I do not think the United States Senate can fail, under such an argument as has been offered by the gentleman who has just taken his seat, to see that the opposition springs from the purpose, in civil war, of shedding blood on the soil of the United States. I feel sorrow—sorrow too deep for anger, at speeches which invoke civil war among the people of the United States, and at such idle boasting as vaunts the triumph of one party by the immolation of the other, and recounts who would have been killed. I have no heart for such a controversy. I have no wish that any two of my fellow-citizens should be brought in collision as combatants in civil war; and I had supposed that I but uttered a sentiment which must be common to the Senate, when I spoke in terms of gratification, that the troops had been able to prevent that collision in Kansas. If the announcement of the opposition to this bill is that the increase of the Army will but increase the means of the Government to prevent the shedding of blood in civil war, who is there that hears me who is bold enough to look his countrymen in the face, and say he voted against a bill acknowledging such to be its effect?

I hope that we shall take a vote on this bill. If the sense of the Senate be against it, let us know it. I have no desire to prolong the discussion. I have no desire to enter into subjects which are to provoke crimination and recrimination. Points have been raised in the course of the debate which I think I could satisfactorily answer, and yet I trust it is unnecessary. Again and again it has been said that no reason was offered for this vast increase of the Army. It is no vast increase.

Again, it has been said that we cannot reduce the Army, if we once increase it. Why, sir, a campaign will reduce the Army. The law itself will cause all the reduction which is necessary. Those companies that may start on the campaign with ninety-six privates in the spring, will come back with some twenty-five or thirty, and when they return to garrison posts in the interior of the country, the President will be limited by the established organization of the Army, and cannot again by recruits fill them up to this number of ninety-six. If there be any objection to that, strike out the second section. And now, if Senators will give me their attention, I will endeavor to explain what I believe will be the effect of striking out the first section. Recruits will be sent in bodies, instead of being distributed among the companies, and when those bodies of recruits reach their destined posts they will find the companies so reduced that the recruits will only bring them up to seventy-four. I think this is a fair, open proposition; but if there be any objection to this authorized strength—if gentlemen start at the aggregate number you may authorize under it, strike out the second section. I do not know that it will diminish the force really, but you will change the form. Men will be recruited and distributed in bodies as recruits, but probably the number will be about the same. But the proposition pending is to strike out the first section. That I hope will not be done, for I believe it will materially impair the efficiency of the Army.

But, sir, as to this "vast increase" which it is said we are about to make—what is it? In 1819, Mr. Calhoun, then Secretary of War, speaking of our northwestern frontier, said, "it is on that frontier only that we have much to fear from Indian hostilities." The organized strength of the Army was then ten thousand; the extent of the northwestern frontier, reckoning from St. Louis up to the mouth of the St. Peters, thence across

to Green Bay, thence to Mackinaw, and up to Sault Ste. Marie, and from Mackinaw down to the present site of Chicago, was about twelve hundred miles. This was the whole amount of our Indian frontier at that period. Now we have six thousand five hundred miles of Indian frontier. Moreover, under the old army, commonly known as the Adams's army, as far back as 1798, the strength was four thousand one hundred and fifty-nine, and in the region of country which was then garrisoned by that army of four thousand one hundred and fifty-nine, we have, by the present distribution of troops, only eight hundred and sixty-nine officers and men, all told. The increase of the Army has been the consequence of the steady increase of our territory, the rapid increase of our frontier, and the rapid augmentation of the Indian tribes with whom we have been brought in contact. The garrisons which once furnished our fortifications along the sea-board have been ordered into the interior. Posts which were advantageously and economically held up to 1821, and from that time down to 1842, have been necessarily disbanded, and an increase of the Army is necessary, under any contingencies I can foresee, to give the same relative strength we had in 1798.

Nor is this all. The garrisoning of these posts, I consider essentially necessary for safety against any sudden incursions, if we are to apprehend difficulty in the future contingency of a foreign war. We require these garrisons to be in a state of instruction. You may acquire for your troops hardihood and fortitude, by sending them to wander over mountains and vast plains against the Indians; but what becomes of your artillery instruction? What becomes of your cavalry instruction? What becomes of that thorough training and preparation which enables a country to go to war effectively, when war is declared? All lost to the employment of your military forces to perform the police duties that belong to a state of peace. If that be the only purpose for which gentlemen are willing to maintain the Army, they may say "leave our forts ungarrisoned;" but if, following the wise counsel of our ancestors, they determine to keep up the military information of the country, to maintain the science of the United States in military affairs to the standard of the European countries, it is necessary that they should have their troops so stationed that they may be all the time undergoing instruction, and preparing themselves for the higher demands of war.

I wish in this connection to refer to the authority of one who was wisest among the statesmen I have known, and who in all his public action was influenced by a policy which knew no leaning to men or to section; who was a devotee of truth, whose steps were always directed toward that as the one great object for which he strove; who because of his devotion to truth was made the object of assault throughout the long period of his life, and died without attaining that elevation which his character, his genius, his services to the country justly entitled him—need I say that I refer to Calhoun! In a report which he made when Secretary of War to the House of Representatives, in 1820, on the subject of organization, he used the following language. I shall read only a single paragraph:

"To give such an organization (on the peace establishment) the leading principles in its formation ought to be, that at the commencement of hostilities there should be nothing either to new model or to create. The only difference, consequently, between the peace and the war formation of the Army ought to be in the increased magnitude of the latter; and the only change in passing from the former to the latter, should consist in giving to it the augmentation which will then be necessary."

That is the opinion to which I alluded yesterday when speaking of the skeleton peace establishment. If I had been devising a bill to present my own individual opinion—and I shall be permitted to say so on account of the reference which has been made to my opinion—I should not have drawn exactly the bill which is before us; but I have concurred fully with the committee in the propriety of presenting the bill in this form, as that which would give efficiency to the public service, and as that which we might hope to obtain. If I had been preparing a bill merely to express my own views, I would have added three regiments to the permanent peace establishment of the Army, and would have given to each regiment, under present circumstances, twelve companies; and then have provided that when the exigencies of

the service would permit, or at some particular day, if desired, each regiment should be reduced to eight companies; and this would have reduced the whole military strength to something less than it now is, but with a different organization, and, I believe, greater efficiency. Then I would have conferred on the President power, upon a declaration of war, which is the act of Congress, to add a third battalion to each regiment then in service, and thus have provided for an efficient Army in the commencement of hostilities, of from thirty-five to forty thousand men. As is argued in this report—I shall not detain the Senate by reading further from it—this would save us from the great loss, both of money and of honor, which is involved on the country by being precipitated into a war without a regularly disciplined and instructed army. Mr. Calhoun, fresh from the contemplation of all the consequences that belonged to our entering into the war of 1812 without preparation, made this report, and his mind shed such light upon it that no one since that, in attempting organization, has been able to depart from the great principles which he laid down without stultifying himself.

But, sir, it is argued that if we raise volunteers they can be got rid of. Yes, sir, and we can get rid of the Treasury of the United States in the same way: we can keep its organization, but empty its coffers. I have, since the debate of yesterday, on account of the manner in which this point was pressed, looked into the expenditures within the last few years for the raising of volunteers. Here let me state that the employment of that species of force may be considered in many instances as equivalent to a proposition to exterminate the Indians, and that the employment of that species of force, coming as they must, with all their border animosities, and excitement against the people of Utah or Kansas, would be but a means of shedding the largest amount of blood that could be drawn under the circumstances of the case.

In looking into these expenditures I find that in the last few years there have been large appropriations made by Congress. By the act of July 19, 1854, for what is known as the Rogue river war against the Indians in Oregon, an indefinite sum was appropriated, and under that act there has been expended \$167,922 25. By the act of August 4, 1854, in reimbursement of the State of California, there was appropriated \$924,259 65, of which there has been expended \$364,008 37. The only reason why the whole of it was not expended was on account of the defective form of the certificates which they produced in some instances, and the failure to produce them in others. All of it, however, I have no doubt will go. Then the act of September 30, 1850, for the Texas volunteers, appropriated \$72,000. For New Mexico, in 1851, you appropriated \$135,530 20; for Texas in the same year, \$236,934 34; for Florida in the same year, \$75,000. In 1852 there was appropriated for Texas \$80,714; for New Mexico in 1857, \$223,090. Then for the pay department alone, in 1856 and 1857, the cost of paying the Florida volunteers was \$273,746 85, and the estimates just prepared by the pay department for the payment of these Florida volunteers, supposing them now to be disbanded, are \$385,000, and if they be again mustered into service there will be required \$385,000 more. There have been expended in the Territories of Oregon and Washington, in the years 1855 and 1856 as adjudicated by the board of commissioners, \$5,931,424 78. These items make a total of \$8,836,397 79.

This is the expenditure which results from these men being brought irregularly into service. It is sound economy, and has been so demonstrated by reports which have been laid on the table of the Senate, to raise the regular force to whatever the exigencies of the country may demand, and I cannot admit that it is not in the power of Congress to reduce that force whenever that exigency has passed. We have too many instances in our military history to leave that question open. We have had reduction after reduction, some of them very unwisely made; as, for instance, by the act of March 3, 1815, fixing the peace establishment, the strength of the Army was reduced to ten thousand, at which it remained down to the time of the further reduction in 1821—a period when it reached its lowest figure, and from which, soon afterwards, it slowly began to rise. There was a regiment added in 1823; another in

1836; another in 1838. It went up successively, from six thousand one hundred and eighty-three, its strength in 1822, to seven thousand four hundred and ninety-seven in 1837, and to twelve thousand five hundred and thirty-nine in 1839. At the close of the Seminole war, in 1842, it was again reduced to eight thousand six hundred and thirteen; but four years afterwards it was raised to twelve thousand two hundred and sixteen, by the addition of a regiment of mounted riflemen, and an increase of the number of privates. Then came the Mexican war; after which, it was increased by raising the strength of the companies, in 1850, to seventy-four, and then by the addition of four regiments in 1855.

Thus we see that every attempt at reduction has been followed by another increase; and that the reduction was unwise was manifested by the disasters which immediately followed. Whenever the Army is above the requirements of the country, then, I think, without looking merely to the expenditure, the Executive Department (for it is unfair to question its integrity) will at once report the excess over the requirements of the public service. If it does not, and Congress shall find the occasion when our country shall cease to continue to increase its territory, to increase its frontier, and thereby to increase its necessities for military force, then I trust there can be no difficulty in the mind of either House of Congress in such reduction.

I should have no difficulty in providing a bill which would make a prospective reduction, but the manner in which it is proposed here to make a prospective reduction at the end of this campaign against the Mormons, I must protest against, because it is not for that campaign that the troops are asked by the Executive Government. I could not yesterday, when it was proposed, accept that, for the Executive Department does not present it as the reason for which it desires this increase. It is not willing to accept it as temporary, and I think fairly so, because if the Mormons should terminate the difficulties in the most speedy and submissive manner which may be imaginable, it is known that all the Indian tribes which surround them have already been involved in hostilities, and it is known that across that trail our emigration is steadily increasing; that on that and every other route, if we permit the emigration to go on to our Pacific possessions, we must give some adequate protection. Whether it be by annual campaigns, or the establishment of posts, the result is the same. If there be any one here who will say: "I wish to terminate the overland emigration to California, Oregon, and Washington," then with him it is sufficient to say, "I do not wish to protect these routes;" but if we desire the emigration to continue, I say we must continue the routes, and give security along them; and in proportion as that emigration increases, in proportion as it spreads over the various periods of the year, instead of being confined to one, so you will require an additional military force to protect it; and I am unwilling to incur the hazard of venturing an opinion that the time will come in my day when that force can be reduced. It may or it may not; I rather believe the time will not come. This interior country can never be so settled; settlements can never so extend from point to point as to assume that continuity which will give protection to the traveler across this wide space.

I am not willing to anticipate the extermination of these Indians. I look forward with hope to some partial civilization—partial it must be. Here I would say to the Senator from Georgia [Mr. TOOMBS] that I wish to call his attention to the difference between the Indians who inhabit this country and those of the old States of the Union, with whom our former difficulties arose. These are nomadic Indians. A settlement of our own people sufficient to reduce them, if you please, cannot pursue nomadic tribes without leaving their wives, their children, and their homes, to desolation. It is not as it was with those Indians who had a local habitation; who had fields and tenements; who could be reached by a steady campaign, and brought to subjection by bringing them to want, if they continued to insist on hostilities. These Indians, too, are driven to hostilities. Their whole pursuit is plunder. They cultivate no fields. They have no certain means of subsistence. Their subsistence, derived from the chase, is every year declining. The great hordes of buffalo that once

covered the western plains have now passed into the mountains. They have been compelled to live on horses, mules, and half the forays, if not more than that proportion, committed on the settlers, are to obtain subsistence—plunder for a livelihood.

By feeding them, by locating them upon territory which they may cultivate, I trust we shall steadily progress towards their civilization, bringing them into something like a condition of peace. If that ever should occur—and occur at some remote period I hope it will—then we may dispense with the protection of our emigrant route, we may dispense with keeping up these frontier posts, with keeping strong garrisons in them; but until then, I do not believe that the increase here proposed will be one man more than the wants of the service will demand. I say this with frankness, with a knowledge that it will not commend the measure. I state it on my knowledge of what the necessity of the country is. If others should differ from me, as to the necessity of giving the Government that aid which it asks, I hope their opinion will prove true, rather than mine.

Mr. TOOMBS. Having made this motion to strike out the first section of the bill, I deem it incumbent on me to state my reasons to the Senate, and more especially to answer the objections which have been made by the chairman of the Committee on Military Affairs.

Several Senators. Let us adjourn.

Mr. SIMMONS. It is four o'clock; and I hope the Senator will give way to a motion to adjourn. I wish to hear him.

Mr. TOOMBS. I shall detain the Senate but a few minutes.

Mr. SIMMONS. It is too late to go on now, and I move an adjournment.

Mr. DAVIS. I desire, before we adjourn, to ask the Senate to agree upon some time when the vote shall be taken, merely informally of course, as I learn from the Senator from Georgia that he does not intend to speak at length, and is willing to let the vote be taken at an early period. I ask the Senate if they will be willing to have the vote taken at two o'clock to-morrow.

Mr. FOOT. I wish to remind the honorable Senator from Mississippi, and the Senate, that another special order is assigned for to-morrow at one o'clock, on which the honorable Senator from Maryland [Mr. PEARCE] has the floor. I have thought it proper to suggest it in his absence.

Mr. DAVIS. I did not wish to interfere with the Senator from Maryland, and I thought probably that to fix two o'clock for taking the vote would not interfere with him; but say one o'clock; I am willing to agree to that.

Mr. KING. That, I think, is too early an hour to agree upon taking the vote.

Mr. SEWARD. I do not think we can come to a resolution when to take the question. I think we never do.

Mr. DAVIS. I do not want a resolution, but an understanding.

Mr. SEWARD. We can come to an understanding; but with reference to that, I wish to say that when the vote will be taken it will depend somewhat on who will occupy the floor, and how long it may be occupied. Before taking the vote, I have a word or two to say; but I shall speak very briefly, as I trust I always do.

Mr. TOOMBS. I understand the Senator from Texas wants to be heard.

Mr. SEWARD. I shall endeavor to hasten the taking of the vote to-morrow.

Mr. HOUSTON. I presume it is not necessary at present to assign any particular time for taking the vote. I want to say something on the bill myself. I feel interested. Several allusions have been made to Texas in the course of the debate, and after I know the number and extent of them, I shall have something to say in relation to the bill.

Mr. STUART. I renew the motion to adjourn. The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, January 27, 1858.

The House met at twelve o'clock, m. Prayer by Rev. CHARLES H. HALL.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER announced the business first

in order to be the call of committees for reports, and that reports were in order from the Committee of Elections.

Mr. ZOLLICOFFER. I am instructed by the Committee on Territories to ask leave to submit a resolution, asking for information which it is important for the House and for the country to have acted upon immediately.

Mr. CLINGMAN. I call for the regular order of business. That committee will be reached in a few minutes under the call. If not, I will consent.

EXCUSED FROM SERVICE ON COMMITTEE.

Mr. CHAFFEE. I was directed by my colleague, Mr. DAWES, to announce to the House, last Friday, that in consequence of sickness in his family he would be absent for several days; since which time he has been appointed a member of the committee for investigating the official conduct and accounts of the Doorkeeper of the last House. I received a letter from him on Monday, asking me to submit a motion to the House that he should be excused from serving on that committee, in consequence of his absence from the city caused by sickness in his family.

The motion was agreed to.

THE UTAH EXPEDITION.

Mr. ZOLLICOFFER. Objection being withdrawn, I ask leave to submit the following resolution from the Committee on Territories:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the House of Representatives the information which gave rise to the military expedition ordered to Utah Territory; the instructions to the Army officers in connection with the same; and all correspondence which has taken place with said Army officers, with Brigham Young and his followers, or with others, throwing light on the question as to how far said Brigham Young and his followers are in a state of rebellion or resistance to the Government of the United States.

The resolution was adopted.

Mr. PHELPS. I submit the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and I will remark, in submitting that motion, that there is an absolute necessity for the House—

Mr. SEWARD. Is debate in order?

The SPEAKER. It is not.

Mr. SEWARD. I object to it then.

CLOSE OF DEBATE.

Mr. PHELPS. Very well. I then submit the usual resolution, that all debate in Committee of the Whole on the state of the Union on House bill No. 202, appropriating money to supply deficiencies in the appropriations for printing, binding, and paper, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, shall terminate at half past one o'clock on Friday next, if the committee shall not sooner come to a conclusion thereon.

Mr. SEWARD. Is it in order to move to lay that bill on the table?

The SPEAKER. It is not. The bill is not before the House. The House is simply proposing to instruct the Committee of the Whole on the state of the Union.

The resolution was adopted—ayes 72, noes 55.

Mr. PHELPS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on the motion to go into the Committee of the Whole on the state of the Union.

Mr. LEITER. I ask the unanimous consent of the House to present the resolutions of the Legislature of the State of Ohio in relation to Kansas, for the purpose of having them read, laid on the table, and ordered to be printed.

Mr. PHELPS. I desire to accommodate the gentleman from Ohio; but the debate has been closed in Committee of the Whole on the bill now pending before it, and I think we had better go into committee.

Mr. CLINGMAN. I ask the unanimous consent of the House to make a correction of a statement in one of the papers in this city, which will not occupy more than a single minute.

Mr. PHELPS. I must insist on my motion.

The motion was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole

on the state of the Union, (Mr. DAVIS, of Indiana, in the chair,) and resumed the consideration of the

PRINTING DEFICIENCY BILL.

Upon which Mr. DAVIS, of Mississippi, was entitled to the floor.

CORRECTION OF A NEWSPAPER.

Mr. CLINGMAN. Before the gentleman from Mississippi proceeds with his speech, I ask the unanimous consent of the committee to make a statement, which shall not occupy five minutes by the clock.

No objection being made,

Mr. CLINGMAN proceeded: I am not in the habit of noticing, on this floor, articles which may appear in the papers; but when statements are made in a paper in this city, in reference to proceedings which have taken place here, I think it well enough sometimes to correct them.

Yesterday I offered resolutions here, which were objected to, and not received by the House. I find, on looking into the *Intelligencer* of this morning, that, in the editorial column, I am represented as having endeavored to introduce resolutions in favor of acquiring certain territory in Central America. Now, sir, my resolution proposes no such proposition. It opposes the acquisition of territory there by foreign Powers which might so use it as to interfere with our interests in a material point of view.

In the next place, I am represented as taking grounds against the coolie trade, as carried on by Great Britain and France. Now, sir, my resolution makes no reference either to Great Britain or France. And it is important that the correction should be made; because I understand there is just now a collision of opinion, or controversy between those two Governments in reference to the system of apprenticeship which is being carried out on the western coast of Africa by the French Government. I think that the French Emperor has the best of the argument. I hold that, if they are to have slaves at all, it is better to have Africans than white men, whether Chinese or East India sepoys. I look upon the negro as fitted for slavery, while the white races are not. But though my opinions are on the side of the Emperor of France in this controversy, yet my resolutions made no reference to any Power by name.

THE SLAVERY QUESTION.

Mr. DAVIS, of Mississippi. Mr. Chairman, the other day the gentleman from Massachusetts [Mr. THAYER] announced the fact that, if any State in this Union should at any time seek to withdraw from the Union, the people of the North were resolved to baptize it in fire and blood. I desire this morning simply to say to that gentleman, that whenever it shall be made known that the people in the section of the Union in which he resides desire to baptize any single inch of southern soil in blood, an opportunity shall at once be afforded them; and I hope that when they visit the portion of the Union in which I reside, for the purpose of baptizing it in fire and blood, they will come in open day, and not in the darkness of night. And I desire also to say to that gentleman, and to other gentlemen who entertain similar opinions with himself, that for every drop of blood shed on southern soil, for the purpose of coercing the southern people to submit to the wrongs and injustice with which they are now threatened, there will be visited upon the North a retaliation more terrible and desolating than the sweep of a simoom.

The gentleman from Ohio [Mr. BINGHAM] has, with characteristic delicacy, told us that if we continued to urge our claim to the admission of Kansas into the Union under the Lecompton constitution, it might by possibility awaken a revolution in that country which should deluge the whole land in blood. Sir, that gentleman may reserve his threats, and paint his scenes of civil war for those who are already prepared to become slaves. They are heard by the freemen of the South with indifference and contempt. I say to him, and to those who are in the habit of resorting to such threats, that we disregard them when made individually or otherwise. And, sir, whenever this revolution, now foreshadowed, shall become a reality—whenever this country shall become the theater of internecine war, simply

because we of the South demand our constitutional rights and constitutional equality in the Union, we are ready for the conflict, come in whatever form it may. These threats have been sounded in our ears for years past. We have become familiar with them. Our people can no longer be excited by them. They contemplate the threatened contingency with a calm, serene, and self-sustaining mind.

I will remind gentlemen, Mr. Chairman, that it is not a question whether our portion of the Union alone shall be deluged in blood if a conflict shall be forced by the North upon the South. When that hour shall come they will find an army marching from the South across the borders into the limits of the North; and, gentlemen, your section, not ours, will become the field of strife and the scene of desolating war. I know, sir, when gentlemen talk about a dissolution of the Union, they speak of it as a light matter, a matter of no importance; but I must be allowed to tell them that there is more reality in the declaration than they at present imagine. We of the South have borne insults in times past with patience, because we have loved this Union, and desired to remain in it on account of the reminiscences of the seven years' war of the Revolution, and the glories won by our forefathers and our forefathers in their united struggle for independence. But, then, it must not be forgotten that there are limits even to Christian forbearance; that there are some things which are too oppressive to be longer endured, and that will not be longer endured by the South. And, Mr. Chairman, I feel it to be my duty to speak calmly and deliberately on this subject, and thus to announce not only my own opinions, but the opinions, as I believe, of an overwhelming majority of the entire South.

Are there, then, no reasons to fear a dissolution of this Union? I say that there are. The other side of the House is divided into two parties; one called the Abolition, and the other the Free-Soil party; and for myself, I will say that I have more respect for the Abolitionists than I have for the Free-Soilers. The one, the Abolitionist, is bolder and more open than the other; and I prefer the rude assault of the highway robber, who, holding his pistol to my bosom, demands my money or my life, to the stealthy, cat-like attack of the midnight assassin.

I shall endeavor to demonstrate in the course of my remarks, that the only difference which exists between the Abolitionists and the Free-Soilers is, that the one is guilty of a higher grade of robbery than the other. That, sir, is the only substantial difference.

I ask, sir, whether there is no real danger to be apprehended, so far as this Union is concerned? While the Abolitionists continue to make war upon the South, manifestly the South cannot and will not endure it; manifestly the fifteen southern States of this Union, with a high-spirited, chivalrous people, who shrink from dishonor as from a wound, cannot and will not submit to be robbed by men who have the meanness to violate the Constitution of the country, and disregard the sacred contract entered into between their fathers and ours. Whenever it shall be attempted to deprive us of our just rights and our equality, whenever it should be attempted to strike down the institution of slavery, then inevitably will an attempt be made to sever this Union; and if it be not successful, it will be because the South is deluged with blood, and made desolate with fire. But in that conflict, gentlemen of the North, let me tell you, who call yourselves our brothers, that there will be blows to give as well as to receive.

I ask, sir, the most bigoted Abolitionist upon this floor, to say whether he believes the South will ever submit to the taking away of their property by force, and in violation of the Constitution of the United States? Does he think that they will supinely submit to such an act of aggression, without complaint, without resenting it with all their strength? No man can entertain any such expectation. Now it is possible that that event may transpire. It is not impossible. Some twenty years ago there was only a handful of Abolitionists in this country, and the sentiments they professed so outraged the public in Philadelphia, that the people burnt to the ground the hall in which they held their meetings. The Abolitionists were then expelled from that city, because their aims

were subversive of correct principles of order, and violative of the just rights of the South.

How is it now? They have grown in numbers, and have stood almost in a majority upon this floor; for, as I have said, the difference is very slight between Republicans and Abolitionists. If they have made such proffers as to unite with them those who are in favor of excluding slavery from the Territories, then it is fair to assume that the system of agitation which has been carried on will be continued in order to strike down the institution of slavery in the States. When that time arrives, it must be manifest to every man that, if a dissolution is not effected, a revolution will ensue, such as has never been seen before. It will not be like a war between the United States and any European nation, or a war between separate Powers, where the question involved rests upon some real or imaginary insult, and the parties look only to the protection of their honor. But drive us to war, if you please, under the conviction that we have been wronged, and that injustice has been inflicted upon us by those who claim to be our brothers, and it will be a fratricidal war, and will be accompanied, as I stated a moment ago, with a desolation of the most fearful and terrific character that has ever been inflicted on any people or on any country.

Mr. GIDDINGS. Will the gentleman permit me to put a question to him?

Mr. DAVIS, of Mississippi. Yes, sir. He can put his question, but I will not bind myself to answer it.

Mr. GIDDINGS. I want to know whether the gentleman means to carry this war of desolation into the Western Reserve of Ohio? [Laughter.]

Mr. DAVIS, of Mississippi. Yes, sir; that is the first place where I would strike, because there, in my opinion, reside the meanest and worst of the Abolition party on this continent. [Much laughter.] But, sir, there is another portion of the gentlemen on the other side who sustain themselves in their endeavors to rob us of our slaves by a reference to the fifteenth and sixteenth verses of the twenty-third chapter of Deuteronomy, which are as follows:

"Thou shalt not deliver unto his master the servant which is escaped from his master unto thee."

"He shall dwell with thee, even among you, in that place which he shall choose, in one of thy gates where it liketh him best; thou shalt not oppress him."

Sir, that law was given by Moses to the people after their forty years' residence in the desert, and when they had taken the land of their enemies; and it announced to them that if the slaves of their enemies came to them, they were to take them in and keep them. I desire to know if the gentleman who quotes that passage, regards the southern people as enemies, and if he intends his minions to travel into the southern country and rob us of our lands, as well as of our slaves and other property? But I refer the gentleman especially to this verse from Exodus:

"And he that stealeth a man and selleth him, or if he be found in his hands, he shall be surely put to death."

The gentleman would perhaps come under that category.

Mr. LOVEJOY. Will the gentleman allow me to ask him a question?

Mr. DAVIS, of Mississippi. If the gentleman will tell me his name, I will tell him whether I will allow him to do so or not. I have not got his name yet.

Mr. LOVEJOY. Lovejoy.

Mr. DAVIS, of Mississippi. Then I desire to ask the gentleman a question first. Did he ever receive a letter from one Mr. Lombard?

Mr. LOVEJOY. I did.

Mr. DAVIS, of Mississippi. I send that letter to the Clerk's desk, and ask that it be read.

The Clerk read the letter, as follows:

BRADFORD, STARK COUNTY, ILLINOIS,
July 30, 1857.

SIR: About two months since I emigrated with my family from the State of Mississippi to the county of Stark, in this State, intending to make it my future residence, to attend to my own business, and hoped I should be permitted to spend the balance of my days in peace and quiet, doing unto others as I would that they should do unto me. I brought with me a very aged and favorite negro man by the name of "Mose," whom I had refused to leave behind, as he had been honest and faithful in all things, (wish I could say the same of you,) had become infirm, and totally incapable to provide for or take care of himself. It was my duty, by the custom of the country where I had lived; and it was enjoined upon me by the laws of humanity, as well as dic-

tated by a feeling of affection, to provide, amply, for that poor old man. He had been with me "through weal and woe," was beloved and respected by all my family, every member of which would have divided his or her last biscuit with "Old Mose." In health and sickness he was kindly cared for, and always treated with that consideration and tenderness to which his past services and old age entitled him.

It was distinctly understood between him and myself that he should accompany me to Mississippi in October next; and then, if he preferred to remain there, I was to arrange for his future support, or he was to return to this State with me if he wished to. He was to make his own selection as to his future residence. He was as free as any man in this State. He knew no care, and did very little labor for me. So far as we knew, he was content and happy; and, if he had been left alone, would have continued so. In an evil hour, the poor old man, ignorant in his dotage, listened, as I am told, and believe, to the lies and persuasions of certain rascally church members not very far from this village, and very probably consented to leave his home, and trust to the tender mercies of the vile, thieving Abolitionists. By their agency he was taken (I should say stolen, as the ignorant old man could have had very little volition in the matter) from my house during the night of the 10th instant, as I think, and early the next morning delivered over to you, at Princeton, as the properly constituted agent of said railroad; and that, by the aid of contributions, mislabeledly levied by you upon the by-standers, not by your own means, you sent that old man to Canada, or some other cold country, to seek a support from the cold charities of the world—I might, perhaps, have said Abolitionists—but no; they can wheedle, coax, and steal negroes from their homes, provided it can be done at the expense of others, and not touch their purses. They are too sordid and mean to bear any portion of the outlay.

In the North, where you and I were raised, sheep-stealing is regarded as the meanest and lowest grade of thieving—in the South, to steal a negro's support is the meanest. Now, sir, I would ask you, is either of those thefts he, as mean, as low, and as contemptible as the abducting and sending away from his home a poor and infirm old negro man? Who say you, sir? Answer out—speak—tell the world and your constituents your code of morals.

Sir, I openly and publicly charge you with having been an accessory, and an active participant, in the abducting and sending away of that old man from a better home and kinder treatment than you or any other rascally Abolitionist, with all your hypocritical philanthropy, ever did or ever will provide for a negro. You, sir, have aided in robbing an old, infirm man of his home, and sent him forth to linger out the remainder of his days among strangers who have no sympathy with him, and where he must and will suffer and die in wretchedness and want.

You have disgraced the cause of humanity and of religion, which in past times you pretended to teach; you have disgraced your district, and committed an offense which ought to expel you from the Halls of Congress, and would but for the protection you will seek in the fanaticism and recklessness of a political party whose aim and object are to sacrifice the rights of the South, even if it be at the expense of the Union; but, though your party may protect you from expulsion, they cannot screen you from the scorn and loathing which every honest, patriotic member of Congress must and will view you. They will shun and avoid you as one disgraced—contaminated. You will be the contempt and scorn of every honest man.

In conclusion, I denounce you and all who aided you in the abducting and sending away "Old Mose" from my house as knaves and rascals.

E. H. LOMBARD.

To OWEN LOYCEJOY, Agent for the Underground Railroad, Ex-Minister of the Gospel, and Member of Congress elect from the Third District in Illinois.

Mr. PALMER. Will the gentleman from Mississippi allow me to ask him a question?

Mr. DAVIS, of Mississippi. No, sir; I can answer no question now.

In addition to this I now quote Exodus, chapter twenty, verses fifteen, sixteen, and seventeen:

"Thou shalt not steal.
"Thou shalt not bear false witness against thy neighbor.
"Thou shalt not covet thy neighbor's house, thou shalt not covet thy neighbor's wife, nor his man servant, nor his maid servant, nor his ox, nor his ass, nor anything that is his."

I also quote Exodus, chapter twenty-one, verses two to six and sixteen:

"If thou buy a Hebrew servant, six years he shall serve, and in the seventh he shall go out free for nothing.
"If he came in by himself he shall go out by himself; if he were married then his wife shall go out with him.
"If his master have given him a wife and she have borne him sons or daughters, the wife and her children shall be her masters, and he shall go out by himself.
"And if the servant shall plainly say, I love my master, my wife and my children, I will not go out free;
"Then his master shall bring him unto the judges: he shall also bring him to the door or unto the door-post; and his master shall bore his ear through with an awl; and he shall serve him forever.
"And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death."

I also quote Genesis, chapter fourteen, fourteenth verse:

"And when Abraham heard that his brother was taken captive, he armed his trained servants born in his own house, three hundred and eighteen, and pursued them unto Dan."

And Genesis, chapter sixteen, eighth to tenth verses:

"And he said to Hagar, Sarai's maid, whence camest

thou? and whither wilt thou go? And she said, I flee from the face of my mistress Sarai.

"And the angel of the Lord said unto her, Return to thy mistress, and submit thyself under her hands.

"And the angel of the Lord said unto her, I will multiply thy seed exceedingly, that it shall not be numbered for multitude."

I also quote from Ephesians, sixth chapter, fifth to ninth verse:

"Servants, be obedient to them that are your masters according to the flesh, with fear and trembling, in singleness of your heart, as unto Christ.

"Not with eye-service, as men-pleasers; but as the servants of Christ, doing the will of God from the heart;

"With good-will doing service, as to the Lord, and not to men;

"Knowing that whatsoever good thing any man doeth, the same shall he receive of the Lord, whether he be bond or free.

"And ye masters, do the same things unto them, forbearing threatening; knowing that your Master also is in Heaven; neither is there respect of persons with him."

Now, Mr. Chairman, I have said that I have no respect for the Abolitionists, and you may see, from what I have said, how much respect I have for them. But I have more respect for the Abolitionists than I have for the Free-Soilers. And why? The Free-Soilers do not go quite so far as the Abolitionists do. The Abolitionist professes that he is influenced by motives of humanity to the slave; he says that he is influenced by the conviction that all men are equal and ought to be equally free; that that is the doctrine of his country, and that he acts in obedience to that honest conviction of his. I say that Abolitionists, influenced by convictions of this sort, are to be at least pitied, if not excused. They are in favor of taking the negro directly, and placing him on an equality with the white man on this continent.

But how is it with the Free-Soiler? The Free-Soiler says to us southern gentlemen: "I do not want to interfere with your slaves; I am willing that the negro shall remain in bondage; but I want to place you, the white men of the South, in a state of political bondage, by a system of unjust, unfair, and unconstitutional legislation."

What do you propose, you gentlemen of the Free-Soil party? Do you propose to better the condition of the slave? Not at all. Do you propose to emancipate the slave? Not at all. What then do you propose? You say you are opposed to the expansion of the institution of slavery; that you are unwilling that one more foot of territory shall be dedicated to slavery; but that you are determined that all territory shall hereafter be free soil. Now, who is to be benefited by that? Is the white man of the South to be benefited by it? Not at all. Is the slave to be benefited by it? Not at all. Then it is not the interests of the slave which you are after, gentlemen of the Free-Soil party. It is not humanity that influences you in the position which you now occupy before the country. But you are influenced by a desire on your part to take from us unjustly the proceeds of our labor. In other words, your desire is to reduce us to the attitude which Prometheus was made to occupy, that you, like the vulture, may fatten on the products of our soil and industry. It is that you may have an opportunity of cheating us that you want to limit slave territory within circumscribed bounds. It is that you may have a majority in the Congress of the United States, and convert the Government into an engine of northern aggrandizement. It is that your section may grow in power and prosperity upon treasures unjustly taken from the South, like the vampire bloated and gorged with the blood which it has secretly sucked from its victim.

The Free-Soiler has some motive for his policy. He has some ulterior motive. No man yet ever advocated a settled opinion without having an object in doing so. No man yet ever did any act without looking to something beyond the act. And so when you Free-Soilers organized yourselves into what is denominated the Free-Soil party, and resolved to circumscribe the institution of slavery, you looked to the accomplishment of a result, future if not immediate. What are your doctrines? You say that you are not after the slave. You admit that you are not in favor of emancipating slaves; and yet you have not the frankness to acknowledge the full extent of your principles. But what are you after? You desire to weaken the political power of the southern States of the Union; and why? Because you want, by an unjust system of legislation, to promote the industry of the New England States, at

the expense of the people of the South and of their industry.

Now let us see whether I am right in saying that your Free-Soil organization is intended to lead to the breaking down of the political power of the southern States of the Union. Am I right in charging you with waging war against us for the purpose of obtaining a political ascendancy in the councils of the nation, that you might afterwards legislate for the benefit of the New England States to the prejudice of the people of the South? I think I am authorized in making this charge, by the position taken by the gentleman from New York [Mr. CLARK B. COCHRANE] yesterday, in which he admitted, in answer to the inquiry of the gentleman from South Carolina, [Mr. KEITT], that if every man, woman, and child in Kansas had voted in favor of the constitution tolerating slavery, he would have voted against its admission into the Union as a slave State. And why? Is it from any particular feeling of respect that he had for the people of the Territory, or for the doctrine of popular sovereignty, or for the right of the people to govern themselves? Or is it from interested motives and interested considerations? Is it that the political power of the southern States may be stricken down?

I will now call the attention of the committee to the opinions of Mr. Webster on the subject, whose opinions, I have no doubt, did more to create the organization of the Free-Soil party than the opinions of any other man of the nation.

Mr. Webster says, in his speech at Marshfield, I believe, in 1848:

"In the second place, in my judgment, the interests of the country and the feeling of a vast majority of the people rejoice that a President of these United States should be elected who will use neither official influence to promote, nor feel any desire in his heart to promote, the further extension of slavery in this community, or its further influence in the public councils."

And why, sir? Because the Democracy of almost the entire North, and of the entire South, had announced the doctrine of the limited powers, under the Constitution, of the Federal Government, and he wished, by the extension in this Government of northern abolition influence, to overthrow that doctrine.

Again, he opposed the admission of Texas into the Union. Why? Was it because it would increase the number of slaves on the continent? Not at all. Whether Texas was admitted into the Union or not, she was a slave State. And if she remained an independent State, she would still be a slave State. He gives this as his reason:

"I take it that the most important event in our time, tending to the extension of slavery, and its everlasting establishment on this continent, was the annexation of Texas in 1844."

He opposed it, then, as a measure for the extension of slavery. Not that it would increase the number of slaves, but because it would increase the political power of the slave States of this Union. In other words, because it would increase the power of the southern portion of this Union—the most important agricultural portion of the Union, as it always will be.

Again, sir, he was opposed to the acquisition of California and New Mexico. And why did he oppose that annexation? In his Faneuil Hall speech he says he voted against the acquisition of that Territory, and that he should do the same thing again, with much more resolution. He would have run a still greater risk; he would have endured a still greater shock; he would have risked anything rather than have been a participator in any measure which should have a tendency to annex southern territory to the States of this Union. He had no doubt that California and New Mexico would be free territory; but still, on account of its contiguity to the southern portion of the Union, he opposed its acquisition, because, in consequence of a similarity of climate and production, the interests of that Territory would of course be similar to those of the southern portion of the Union, and they would oppose the adoption of measures for the exclusive benefit of the northern portion of the Union.

This contest, then, has, as you perceive, grown out of a conflict between the moneyed interests of the country on the one hand, and the agricultural industry of the country on the other. I see it stated, sir, as a statistical fact, that out of the twenty-three million persons in this country in 1850, there were but two millions engaged in agri-

cultural pursuits. Twenty-one millions, then, of the people of the country, derived their entire subsistence from the other two millions engaged in agricultural pursuits. It is, then, of course, for the interest of those not engaged in agricultural pursuits, constituting as they do the great majority of the whole people, to obtain legislation that shall favor them at the expense of those who are engaged in these pursuits. I say that is their interest, and it is, therefore, their policy to break down the political power of that portion of the Union which is engaged in agriculture, and which must, perhaps, always be chiefly so engaged, and to obtain in Congress the power to favor class legislation.

Now, sir, when you have obtained the power and undertake to use it for the protection of the manufacturing, the mechanical, and other interests of the country, at the sacrifice of the agricultural interests of the country, you cannot expect that we shall submit to so unjust a system of legislation. Therefore I say that, in my humble opinion, the day is not far distant when the South will be compelled, from necessity, to protect her rights against the oppression of the North; and when that time does come, there is no people on the face of the earth more determined to preserve their honor untarnished, and their equality unimpaired.

Mr. Chairman, we now have territory enough to make fifteen or twenty more new States. Now, sir, let these States come into the Union as free States, and you then have thirty-five States, whose interest it is to secure legislation antagonistic to the agricultural and cotton regions of the country. And who can doubt that oppression against the agricultural interests will be carried to such an extent that every man will be ready to defend himself, as did our revolutionary fathers, against the tyranny of unjust legislation in the Halls of Congress?

Sir, Federal interference in the local interests of the States was never contemplated by our fathers who framed the Constitution under which we live. The primary object of the Government was to regulate all the external relations of the nation, to regulate our intercourse with foreign Governments, but not to interfere to any very great extent in the local legislation of the country. They knew very well that a law passed for the exclusive benefit of the State of Massachusetts might, from the nature of things, operate unfavorably to the interests of Georgia. They knew also that a law passed for the exclusive benefit of the State of Georgia might, from the difference of soil and climate, be fatal to the interests of the State of Massachusetts. Therefore, they left to each the right of regulating its own legislation in reference to its own local interests.

Now, then, whenever you can change this policy of the General Government; whenever you can, by combination, obtain sufficient strength to enable you to use the Government for the robbery and oppression of the State of Mississippi, or any other State in this Union, either North, South, East, or West, that moment, I hesitate not to say, that State or that section would rise in rebellion—if you see proper to call it by that name—and resist it with the bayonet if it cannot otherwise be resisted. To that, in my opinion, it must ultimately come. Why? If we appeal to your justice, what is granted to us? If we appeal to the Constitution, which is the creation of our common forefathers, what is the answer?

Sir, we are told scornfully that, by the higher law, and in virtue of numbers in the Halls of Congress, never again shall a slave State be admitted into the Union. We are told more than this; we are told that our people, however rapid the growth of their population, or however rapid the exhaustion of our soil in the production of those great commodities which constitute the basis of our commercial wealth, shall not be permitted to expand; that if they attempt it the strong arm of the Federal Government shall be stretched out to arrest upon foreign soil, where they have placed their feet, the bold pioneers from our midst, and that they shall be brought back and placed upon our shores again. Well, sir, when gentlemen have got the power, what will be the condition of the country? Do they expect us to tamely submit, when they shall pass a law advancing northern commerce, at the expense of the agricultural pursuits of the South, and when they shall pass

a law to advance the manufacturing interests of the North, at the expense of the interests of the South? What then, think you, will be the condition of the country? Do you think we will longer submit to it? If you do, you are much mistaken.

Mr. Chairman, there is no man in this House who loves the Union more than the people of the South. They love it, as I have already said, for the glories which cluster round its birth, for the gallant deeds of men of the North and men of the South during the revolutionary struggles—men whose ashes now repose in a common grave, into which they went down fighting shoulder to shoulder for their common rights of liberty and equality. We love this Union; we have ever loved it; we have ever sustained it; but, Mr. Chairman, there is a point beyond which patience ceases to be a virtue, a point beyond which aggression upon us can be no longer borne. When the time comes we shall do our duty as we do our duty now.

Mr. LEACH. Mr. Chairman, it is the unquestioned right of the sovereign people to understand fully, in all its bearings, whatever is recommended to the favorable consideration of Congress by the Chief Magistrate of the nation. And, sir, it is evidently our duty, as Representatives of the people, to investigate thoroughly all matters that have thus received the Executive sanction; to receive, approve, and adopt what is just and expedient; and to expose and reject what is unjust or inexpedient. This is not simply our privilege—not a matter optional with us to be done or left undone; but an imperative duty, a faithful performance of which our constituents have a right to expect at our hands. Hence, I rejoice at the entire freedom with which the annual message of the President is examined and criticised, both in this Hall and in the other wing of the Capitol. It is necessary—highly necessary, and eminently proper, that this should be done. These annual repetitions of a close and searching examination of that important document are essential to the highest usefulness, the purity and permanence of our system of government. A fearless and manly exercise of this inalienable and constitutionally guaranteed right of freedom of discussion, cannot be neglected or surrendered without imperiling all that we, as American citizens, most sacredly cherish.

I am aware, sir, that discussions on these occasions are sometimes deemed unnecessarily severe on the Executive; but it must be remembered that when a man assumes the direction of the affairs of this great nation, he voluntarily makes himself the servant of many millions of freemen; each of whom has a right to know how he discharges his duties, and to proclaim his approval or declare his disapprobation, in such terms as he may deem most appropriate. And it should be further remembered, that ordinary men only are reached by ordinary means. Those in high places, who have power and patronage in their hands, may commit with impunity deeds which would be regarded as infamous, if perpetrated by the untitled and the weak. Hence, a more thorough exposure, a more emphatic and severe condemnation becomes necessary when men in high places make serious mistakes or commit great crimes.

The people, sir, have a high regard for the presidential office, and when worthily filled, for the President himself. But they do not always receive with confidence, and unreservedly adopt, the opinions of him who may happen to bear the honored title; for since the fathers of the Republic fell asleep, they have learned, by sad experience, how often and how far even a President may stray from the landmarks of freedom. Often has been verified to them the truth of Jefferson's declaration, that "eternal vigilance is the price of liberty;" and they have learned to know that the higher the sphere in which a public functionary moves, the greater the necessity for closely scrutinizing his acts, and cautiously weighing his recommendations. No man's opinion, in matters of moment, is to be taken upon trust; and least of all that of a public officer on matters of grave political import. And the subject becomes of the first importance, and demands cautious, wise, and decided action, when that opinion bears directly or indirectly on the freedom of any part of the great family of man; or when it tends toward the establishment of rules that are liable to be construed as

favorable to slavery, or as hostile to any of those "inalienable rights" which are the birthright of every member of the human race.

Hence, sir, I have a few remarks to offer upon what the President has been pleased to recommend, relative to the Africans liberated from the Spanish ship *Amistad*, by the authorities of the United States, some eighteen years ago. I choose to speak upon this part of the message rather than that other and more important portion which treats of "popular sovereignty" and African slavery in Kansas; for the reason, that in both branches of Congress that subject has already been ably discussed, and other gentlemen around me, I am sure, will pursue it still further, until the unparalleled iniquities practiced upon the freemen of that unhappy Territory shall be fully exposed to the view of an indignant and outraged people. At the same time, I am anxious that every word the President has uttered in his message at the behest and for the interests of slavery, should receive due attention; for I am confident in the belief that there are multitudes in the free States who supported him for the office he now holds, that did not do it designedly for the benefit of slavery, and that will repudiate with scorn his efforts in its behalf, and henceforth give their influence and their votes to men whose lives are a sufficient pledge that they will ever be found true to the cause of freedom. Hence, I pay my respects to that portion of the message which relates to the *Amistad* Africans.

This subject has been at least twice before brought to the attention of Congress; once by President Polk, and once by the immediate predecessor of the present incumbent. Yet Congress has not hitherto deemed it worthy of serious consideration; and I trust that since the matter has slept so long and so quietly, it will not now meet with favor at the hands of this body. And I am not without confidence that it will be permitted to sleep on; or, that if brought into the House, it will meet the fate it so eminently deserves, and be indignantly rejected by an expression so emphatic that neither the present incumbent of the presidential office, nor any of his successors will ever again venture to intrude it upon the attention of Congress. Sure I am, if gentleman will but give the subject the attention it deserves, they can arrive at no other conclusion than that it has no business here.

But let us hear what the Executive says relative to this matter. I quote entire his remarks touching our relations with Spain:

"I regret to say that no progress whatever has been made, since the adjournment of Congress, toward the settlement of any of the numerous claims of our citizens against the Spanish Government. Besides, the outrage committed on our flag by the Spanish war frigate *Ferrolana* on the high seas, off the coast of Cuba, in March, 1855, by firing into the American mail steamer *El Dorado*, and detaining and searching her, remains unacknowledged and unredressed. The general tone and temper of the Spanish Government towards that of the United States are much to be regretted. Our present Envoy Extraordinary and Minister Plenipotentiary to Madrid has asked to be recalled; and it is my purpose to send out a new Minister to Spain, with special instructions on all questions pending between the two Governments, and with a determination to have them speedily and amicably adjusted, if this be possible. In the mean time, whenever our Minister urges the just claims of our citizens on the notice of the Spanish Government, he is met with the objection that Congress have never made the appropriation recommended by President Polk, in his annual message of December, 1847, 'to be paid to the Spanish Government for the purpose of distribution among the claimants in the *Amistad* case.' A similar recommendation was made by my immediate predecessor in his message of December, 1853, and entirely concurring with both in the opinion that this indemnity is justly due under the treaty with Spain of the 27th October, 1793, I earnestly recommend such an appropriation to the favorable consideration of Congress."

So, if the President is correct, our Minister at the Court of Spain is unsuccessful in pressing the "just claims of our citizens," partly because of the neglect of this Government to pay for the *Amistad* Africans. And to remove this difficulty, to put that kingdom in better "tone and temper," the President "earnestly recommends an appropriation to the favorable consideration of Congress."

Now, sir, for one, I shall not vote for an appropriation to put Spain, or any other Power, in better "tone and temper" towards our own Government. If our citizens have just claims against the Spanish Government, we are abundantly able to see that ample justice is done them. Shall we bribe Spain, or any other Power, to deal fairly

by our citizens? Shall we pay her a price for rendering to our people what is equitably theirs? Shall we purchase justice at the hands of any Government on earth? As an American citizen, sir, I say no, never!

If Spain is justly indebted to the citizens of this Republic, let their demands be properly presented, with the requisite proof, and it is more than probable they will be recognized and paid. But if they are not—if they are rejected—then let her as we would let Mexico, or Central America, know, under similar circumstances, that justice must be done, without evasion, equivocation, or delay. Sir, we are not, I trust, so pitifully weak and so despicably mean as to be compelled to pay a price for the privilege of fair dealing with foreign Powers. As we grant justice to others, so we should require it at their hands; and it is not idle boasting to say, that if we firmly demand it we shall speedily receive it.

How different is the language of the President from that used by Jackson relative to another European nation, whose power is far more formidable than that of Spain. But this is not surprising, not at all; for "progress"—the "Democratic progress" of the last twenty years, of which we hear so much—has played strange pranks with American parties and politics, and wrought marvelous changes in the opinions and character of American Presidents and judges!

But, sir, if it is really desirable, as I doubt not it is, to improve the "tone and temper" of the Spanish Government and the Spanish people towards the American Republic, I can suggest a remedy easy of application, that will accomplish all the most earnest friend of peace could wish; and that, too, without drawing upon the almost empty vaults of the Federal Treasury.

Sir, let us convince our transatlantic neighbor that we are not a nation of pirates. Let us prove to her that we respect and will observe and enforce the laws of nations. Let us give her to understand that the sacred rights of property shall not be violated; that neither the strong arm of the Government, nor the bloody hand of the filibuster, shall wrest from her, or attempt to wrest from her, the beautiful and fertile islands over which she rules in this western hemisphere. Let us repudiate the false doctrine, which has found too many supporters in high places, that those islands are ours of right, are necessary to our safety, and must be secured at whatever cost of blood or treasure.

Why, sir, so bold and reckless, so lawless and rampant, has this filibustering spirit become, that it casts off all restraint, overleaps all barriers, and here, in these council halls of the Republic, openly declares in favor of "national grand larceny." Said the gentleman from New York, [Mr. HASKIN,] the other day—

"I beg the gentlemen of the South not to believe that I am in the least tinctured with any sickly sentimentality on the subject of filibustering. I am a national filibuster, but am against individual filibustering, which retards the consummation of my desire with regard to Central America and other territories which we ought to have. I believe that the time has come when the application of the doctrine promulgated by the Ostend manifesto is necessary for the protection and preservation of our Pacific possessions and the continuance of our commercial rights in that quarter."

"I am for the nation seizing upon Cuba, and, for that purpose, suspending the neutrality law. I am a national filibuster, and will go with the gentleman from South Carolina to that extent. And let me say that northern Democrats are right on the subject. They believe that they have come by this feeling naturally from their mother country, the country which gave to the South her cavaliers, and to the North a great many of her puritans and roundheads. We northern Democrats believe that the Government should, by conquest, do certain things; but that this business of Walker was committing petty larceny. We northern Democrats are rather in favor of national grand larceny."

There, sir, is what I suppose we may properly term the last revised creed of the national filibusters. That is filibustering gone to seed! That is modern, progressive, pro-slavery Democracy run mad! That is piracy reduced to system; robbery made respectable; the old tyrannic principle that "might makes right" republicanized and held up for the younger members of the Democratic family to study, and for the older ones to swear by! It is the same dogma that has been in the mouths of tyrants from the earliest history of our race till the present moment; the same that has kept nine tenths of mankind in slavery; that has filled the world with chains and wretchedness and woe, and spread darkness more fearful than that of

midnight over the greater part of man's earthly heritage!

Sir, if we would put the Government and people of Spain in better "tone and temper" towards this Republic, we can very readily do it by repudiating all such unfounded dogmas, and by showing, both by our words and our acts, that we still have regard for the rights of nations and for international law. Said the Father of his country in his farewell address:

"Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it?"

How worthy these words of their distinguished author! Well will it be for us, and for those that are to come after us, if we give heed to this sage advice, and by every proper means seek to "cultivate peace and harmony with all nations." Let us do this in good faith, and that feeling of amity and good will that so long existed between the two nations, will be at once restored. The "tone and temper" of the Spanish nation towards this Republic will be changed, and all our minor difficulties can be readily and amicably adjusted.

But now, sir, let us come to the real merits of this Amistad case. The President avers his belief that "this indemnity is justly due under the treaty with Spain, of the 27th October, 1795." The ninth article of the treaty is the one mainly relied on by the advocates of this indemnity, as it was by the pretended owners of the Amistad negroes at the time the cause was tried in the United States courts. That article provides:

"That all ships and merchandise, of what nature soever, which shall be rescued out of the hands of any pirates or robbers on the high seas, shall be brought into some port of either State, and shall be delivered to the custody of the officers of that port, in order to be taken care of and restored entire to the true proprietor, as soon as due and sufficient proof shall be made concerning the property thereof."

As Mr. Justice Story well said, in delivering the opinion of the court:

"To bring the case within the article, it is essential to establish: First, That these negroes, under all the circumstances, fall within the description of merchandise in the sense of the treaty; Secondly, That there has been a rescue of them on the high seas out of the hands of the pirates and robbers; and, thirdly, That Ruiz & Montez, the asserted proprietors, are the true proprietors, and have established their title by competent proof."

First, then, do these negroes fall within the description of merchandise in the sense of the treaty? It appeared in evidence before the court, that "they were natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that Government." Spain, by treaty with Great Britain, had abolished the slave trade as early as 1820; and had directed that every negro introduced into her colonies in violation of the treaty, should be declared free in the first port at which he should arrive. Again, in 1835, another treaty was made between Great Britain and Spain, for the avowed purpose of "rendering the means taken for abolishing the inhuman traffic in slaves more effective." In this last treaty it is said: "The slave trade is again declared, on the part of Spain, to be, henceforward, totally and finally abolished, in all parts of the world." And still later, by royal ordinance, on the 2d of November, 1838, the authorities of Cuba were stimulated to renewed efforts to suppress the "inhuman traffic."

Such, in brief, were the laws and treaties of Spain, when, in 1839, these negroes were stolen by pirates—pirates by the laws of our own country and worse than pirates by the laws of God—and unlawfully carried to the Island of Cuba. A few days later, while being conveyed by the Amistad to another part of the island, they rose on their oppressors, achieved their independence, and some two months afterward were captured by a United States vessel on the Long Island coast. They had never been reduced to slavery. They were free by the laws of Spain; free by the laws of nations; and free, as they ever had been, by the eternal, impartial, and unchanging laws of Heaven. They were, as they ever had been, in that condition in which a very respectable and venerable public document declares that "all men are created;" they were "free," and there was no law in the Spanish dominions or in the United States by which they could be reduced to slavery.

But, sir, I go further than this, and assert that if these Amistad Africans had been slaves by the

laws of Spain, the treaty-making power of this nation had no authority to surrender them as "merchandise." It had no constitutional right to treat them as "merchandise," in any manner whatsoever.

Whence does the treaty-making power derive its authority? Of course, from the second paragraph of section two of the second article of the Constitution. It is true the language there used is indefinite, and were it not for other parts of the instrument, the President and Senate would scarcely have any bounds set to their authority as a treaty-making power. But all parts of the Constitution must be harmoniously construed; and inasmuch as it nowhere speaks of men as "merchandise," nowhere speaks of them as property; nowhere even speaks of them as slaves; it is doing violence to language, and outraging the rights of the people, to assume that it sanctions the idea that men are or can be property. Indeed, the tenor of the whole instrument is unequivocally and emphatically anti-slavery. It was "ordained and established" by "the people of the United States" to secure, among other things, "the blessings of liberty to themselves and their posterity." It was to secure those "inalienable rights of life, liberty, and the pursuit of happiness," in defense of which they had recently parted so freely with their blood and treasure. They had just emancipated themselves from British thralldom; they had just declared to the world, in the most solemn manner, their unqualified belief "that all men are created equal;" they had at divers times and places expressed in strong terms their disapprobation of the slave trade, and, in not a few instances, their anxiety to secure the freedom of the whole people. I might quote, almost without number, instances in which southern men in revolutionary days, in eloquent terms, condemned the African slave trade—that very traffic, by virtue of which the President now calls upon us to make this appropriation. But I will not, on this point, detain the committee, as these facts are notorious. Yet I cannot resist the temptation to show, from the record, what the statesmen of Virginia and of Georgia thought of chattel slavery in the "times that tried men's souls." Listen to the patriotic voice of Virginia:

"At a very full meeting of delegates from the different counties in the colony and dominion of Virginia, begun in Williamsburg, the 1st day of August, in the year of our Lord 1774, and continued, by several adjournments, to Saturday, the 6th of the same month, the following association was unanimously resolved upon and agreed to."

"2d. We will neither ourselves import, nor purchase any slave or slaves imported by any other person, after the 1st day of November next, either from Africa, the West Indies, or any other place."

"For the most trifling reasons, and sometimes for no conceivable reason at all, his Majesty has rejected laws of the most salutary tendency. The abolition of domestic slavery is the greatest object of desire in those colonies where it was unlawfully introduced in their infant state. But, previous to the enfranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to effect this by prohibitions, and by imposing duties which might amount to a prohibition, have hitherto been defeated by his Majesty's negative; thus preferring the immediate advantages of a few African corsairs to the lasting interests of the American States, and to the rights of human nature, deeply wounded by this infamous practice."—See *American Archives*, fourth series, vol. 1, pages 636 to 696.

Hear, too, what the good people of Georgia said of the "unnatural practice of slavery:"

"*Darien (Georgia) Resolutions.*"

"IN THE DARIEN COMMITTEE,
Thursday, January 12, 1775."

"5. To show the world that we are not influenced by any contracted or interested motives, but a general philanthropy for all mankind, of whatever climate, language, or complexion, we hereby declare our disapprobation and abhorrence of the unnatural practice of slavery in America, (how ever the uncultivated state of our country, or other specious arguments, may plead for it,) a practice founded in injustice and cruelty, and highly dangerous to our liberties, as well as lives, debasing part of our fellow-creatures below men, and corrupting the virtue and morals of the rest; and which is laying the basis of that liberty we contend for (and which we pray the Almighty to continue to the latest posterity) upon a wrong foundation. We therefore resolve, at all times, to use our utmost endeavors for the manumission of our slaves in this colony, upon the most safe and equitable footing for the masters and themselves."—Page 1136.

Such, sir, was even Georgia Democracy in 1775. What is Georgia Democracy to-day? Said a member from that State, [Mr. GARTRELL,] but a day or two since—and he said it, too, in the sacred name of Democracy—

"I hold that the institution of domestic slavery in the South is right, both in principle and practice; that it has

ever been, and still is, a blessing to the African race; that it has developed the resources of this great country to an untold extent; and that, by its conservative influences, it has elevated us in the scale of morality, wealth, enterprise, and intelligence, to a point never attained by any other people.

"As a southern man, proud of the place of my nativity; as the owner of slaves; as conscientious of my moral obligations, I trust, as any gentleman on this floor, I hesitate not, here or elsewhere, to defend this institution as being strictly in accordance with the principles of right, of Christian duties, and of morality, and as having the highest sanction of laws, both human and divine."

I have not one word of comment to make on this declaration—not a word. Let it go to the people of the free North "without note or comment." I cannot make it plainer, and I know of but one way to render it more impressive than it now is. There is an illustrious namesake of mine, whose genius shines conspicuous in every number of the London Punch, who, above all men, is qualified to illustrate truths so sublime as these! Let us have an illustrated edition upon which men shall look and be converted, whether they will or not. Some men do not seem to feel the power of truth, but the artist can oftentimes make them see it. Give us an illustrated edition of modern Democracy; the theme is a grand one; the materials rich!

I have shown, sir, what were the sentiments of a considerable portion of the people of Georgia and Virginia in revolutionary days. And it is a matter of history that similar views prevailed to no inconsiderable extent in the southern half of the Confederacy at that time, while at the North the feeling was wide-spread and almost universal. And when, after the achievement of colonial independence, the delegates of the several States met in convention to form a national Constitution, this anti-slavery feeling was still strong; so strong that it carefully excluded from that Constitution "the idea that there could be property in men." Mr. Madison thought it *wrong* to admit such an idea. It was not admitted, and neither the treaty-making power, nor the legislative power, nor the judicial power has authority to place it there.

The Constitution was made in a better age than this, while the love of freedom and the hatred of oppression that sustained our fathers through a struggle unparalleled in the world's history yet glowed in their hearts and gave character to their deeds. It was made previous to the grand discovery that African slavery is a "divine" institution, approved of God, and destined to last forever. It was made long before the promulgation of the doctrine that slavery is the true "corner stone of republican institutions." The Constitution was venerable with age before it was suspected of being a pro-slavery instrument; and its authors had been "gathered to their fathers" before courts and Presidents attempted by gross perversion of its true meaning to crush out freedom and to force slavery upon communities and States that regard it with utter loathing. Yes, it was made in a better, a more patriotic age than this—an age when the fires of freedom, kindled during the revolutionary struggle, still brightly burned on every hill-top; when the public heart beat strong for liberty, and the public conscience was pure and just; when slavery was regarded as a national curse, forced upon us by the then recently humbled monarch of Britain, but destined to be speedily extinguished; when, in short, politicians did not ignore precedent and truth and justice and conscience, nor limit their labors to the advancement of their own interests, or the up-building of a corrupt, slavery-extension, slavery-perpetuating, freedom-destroying party! It was made in an age when statesmen were afraid and ashamed to acknowledge, in such an instrument, that man might make "merchandise" of his fellow. Afraid? Yes. Said Mr. Jefferson, when contemplating the enormities of the system—

"I tremble for my country when I remember that God is just, and that his vengeance will not sleep forever!"

And there are men now, sir, that tremble for their country, and they mean to save that country which they love so well from utter subjection to the slave power. They do not mean that a sectional institution, anti-Republican and anti-Democratic in its every form and feature, shall be nationalized; that men everywhere shall be recognized as "merchandise," sold like beasts in the shambles, and driven by the lash of the taskmaster to unwilling and unrequited toil! They mean that these things shall not be, save in the States where they already exist; and even there, we say,

do them not in the name of the Federal Constitution! Such acts, in the name of that sacred charter of our liberties, are sacrilege! They are unpardonable political sins! No, sir, the Constitution does not make men "merchandise;" does not recognize them as "merchandise;" permits no inferences to be drawn from it that there is any analogy between "merchandise" and the bones and flesh and blood and souls of which men are made. It nowhere gives countenance to the idea that, by any possibility, can men be converted into "merchandise;" nowhere authorizes the Government to treat them as aught else than "persons," entitled to its support, and justly claiming its protection.

These Amistad Africans, then, were not only not "merchandise in the sense of the treaty," but they were freemen, unjustly and illegally restrained of their liberty by lawless pirates, against whom it was their right to rise in arms, and whose overthrow at their hands was a meritorious act. Yes, sir; they did as you and I, and all others worthy to bear the name of men would do in like circumstances; and the act was approved by the Supreme Court of the United States, and by unprejudiced men everywhere.

But even if it were true that these Africans were "merchandise in the sense of the treaty," it was necessary, said the court—and in this the court was unquestionably right—that the claimants should show that "there had been a rescue of them on the high seas out of the hands of pirates and robbers." This was not shown; it could not be shown. The negroes were in possession of the Amistad at the time she was boarded and captured by the United States marines. Yet they were claimed under the treaty as "merchandise" which had been "rescued out of the hands of pirates and robbers!" They were "merchandise" one day; "pirates and robbers" the next; and again, on the third, changed to "merchandise."

And here is a difficulty for the advocates of this indemnity scheme to solve: If these Africans were "pirates and robbers"—and unless they were they do not fall within the terms of the treaty, for it was out of their own "hands" that they were "rescued"—they would, by the laws of Spain, had they been delivered up to her authorities, have been subject to the death penalty, the punishment pronounced, I believe, in all countries upon those guilty of piracy. And can we for a moment suppose that in a case of robbery and piracy so aggravated as Spain has assumed to consider this, she would have failed to stringently enforce the law? Would she not have required the "pound of flesh" as "nominated in the bond?" And if so, what would the cargo of the Amistad have been worth to Ruiz & Montez? If the "pirates" had been hung, what would have been the fate of the "merchandise?" In this light, then, the liberation of the Africans by the Supreme Court caused no loss to their pretended owners.

Again, to bring this case within the terms of the treaty, it was indispensable for Ruiz & Montez to establish their title to the "merchandise" by "due and sufficient proof." On this point a brief extract from the opinion of the court shall suffice. I quote from 15th Peters's reports, page 593:

"It is plain beyond controversy, if we examine the evidence, that these negroes *never* were the lawful slaves of Ruiz & Montez, or of any other Spanish subjects. They are natives of Africa, and were kidnapped there, and were unlawfully transported to Cuba, in violation of the laws and treaties of Spain, and the most solemn edicts and declarations of that Government. By those laws and treaties and edicts, the African slave trade is utterly abolished; the dealing in that trade is deemed a heinous crime; and the negroes thereby introduced into the dominions of Spain are declared to be free. Ruiz & Montez are proved to have made the pretended purchase of these negroes with a full knowledge of all the circumstances; and so cogent and irresistible is the evidence in this respect, that the district attorney has admitted, in open court, upon the record, that these negroes were native Africans, and recently imported into Cuba, as alleged in their answers to the libels in the case. The supposed proprietary interest of Ruiz & Montez is completely displaced, if we are at liberty to look at the evidence or the admissions of the district attorney."

Again, the Court says, on page 596:

"Upon the merits of the case, then, there does not seem to us to be any ground for doubt that these negroes ought to be deemed free, and that the Spanish treaty interposes no obstacle to the just assertion of their rights."

Such, sir, was the view taken of this subject by the Supreme Court of the United States in 1841. The opinion of the Court was delivered by Judge Story, who has had few equals, and no superiors,

as an expounder of law, in this or other lands; and there was great unanimity of opinion among the members of the Court, only one—Mr. Justice Baldwin—dissenting; a unity of sentiment that did not exist in the Dred Scott case, which gentlemen on the other side regard as a final and unquestionable settlement of an important principle. And it is beyond dispute that the President regards the action of the Court in the latter case as *final*. Thus, speaking in his late message of the slaves now in Kansas, he says:

"These slaves were brought into the Territory under the Constitution of the United States, and are now the property of their masters. This point has at length been finally decided by the highest judicial tribunal of the country."

Now, it is a fair inquiry, why the President should view these two decisions of the Supreme Court in lights so very different? Surely no one will pretend that there was less legal acumen, less soundness of judgment, less honesty of purpose, in the court of 1841, than in the court of 1857. No one would dare so wickedly to wrong the illustrious dead. There must be some other potent reason why the Executive "earnestly recommends" Congress to disregard or overthrow the decision in the Amistad case, and in the same document pronounces the Dred Scott decision "final." Nor is it difficult to discover what that reason is. The former is an anti-slavery decision, the latter pro-slavery. The one preserved freedom to some fifty Africans; the other entails, or is designed to entail, slavery upon countless thousands. The one was made in the spirit that governed public men in the better days of the Republic; the other was an unholy attempt to give a solemn judicial sanction to those ultra pro-slavery interpretations of the Constitution, which, although of recent origin, have already deeply stained the soil of one fair territory with the blood of many freemen, and have shaken the very foundations of the Union itself. The one was in accordance with the genius of our republican institutions, and in harmony with the principles of our religion, and the feelings of good men throughout the world; the other did gross violence to the Constitution of our country—gross injustice to the wise and patriotic men who framed it, and the equally wise and upright jurists who had so long interpreted it in a manner favorable to free labor and free men; and last, but not least, gross violence to the humane feelings, and gross despite to the common sense of nine tenths of the civilized portion of the great brotherhood of man.

It is humiliating to my pride as an American citizen to say it, (and I earnestly wish it were not true,) but I see no other, I can discover no other reason for the alacrity and earnestness with which the President hurries to conclusions so directly opposite, with reference to the respect due these two decisions of the same judicial tribunal. The slave power, "the power behind the throne," willed it, and at once its will was recognized as law. The chief Executive of the nation yielded a ready and willing obedience. He recognized this extra-judicial opinion of a majority of the Justices of the Supreme Court as the "final" settlement of a grave national political question.

Notwithstanding the Court had admitted its want of jurisdiction over this very case; notwithstanding the opinion given overturned previous decisions, made under more auspicious circumstances, and acquiesced in by the people and all the departments of the Government through a long series of years; notwithstanding the sectional, partisan, anti-republican character of the opinion itself; notwithstanding it overthrew doctrines which the President had himself held and advocated with zeal and ability at an earlier period of his life; and notwithstanding the notorious fact that this opinion was opposed and logically demolished, utterly annihilated, by two of the ablest justices on the bench; notwithstanding all these things, which should certainly have made the Executive at least a little cautious, he receives it with a hearty amen, pronounces it "final," and declares it a "mystery" how the doctrines advanced "could ever have been seriously doubted."

And then, as before stated, he "earnestly recommends" Congress to overrule the decision in the Amistad case, and pay Ruiz & Montez for negroes whom they never owned. Am I not right in saying that this can only be explained by looking at the "power behind the throne?" What other motive but a desire to conciliate that power

could have induced the President to make this remarkable recommendation? But here, it seems to me, he went even further than was necessary to prove his fealty to slavery; for his position on Kansas affairs places him first on the list of the champions of that very peculiar institution. It proves the truth of all that his southern friends urged in his behalf during the canvass that preceded his election, and equally demonstrates the falsity of the positions assumed by his supporters in the free States. Why, sir, a leading southern journal, the *Richmond Enquirer*, declared that his record "disclosed a consistency and an efficiency of service to the South which flattery could claim for no other living man;" and that "he never gave a vote against the interests of slavery, nor uttered a word that could pain the most sensitive southern heart!" How completely has he met the expectations of his southern friends! His "consistency and efficiency of service" in their behalf continues, and their "sensitive hearts" have not yet been pained by any word or act of his!

But how is it at the North? We were everywhere told in that section of the Union that Mr. Buchanan was a northern man; that his sympathies were with those who were striving to make Kansas a free State; and that, if elected, no "aid and comfort" would be extended by him to the ruffian horde that had sought, by fraud and force, to introduce this heartless despotism, in opposition to the will of a large majority of the people. Why, sir, the watchwords of his friends in the North were, "Buchanan and Free Kansas!" Well, they secured Buchanan, but not yet have they secured freedom to Kansas; nor is the prospect very encouraging that he, whose name was thus linked with this important measure, is at all likely to promote its success. On the contrary, so open, bold, and utterly indefensible and inexcusable has been his course upon this most important of all questions now before the American people, that the very men who elevated him to the Presidency turn away chagrined and disgusted, and shake off the dust of their feet as a testimony against him. Well may the President, well may his deluded and distracted followers, well may every Democrat who formerly advocated the good old Jeffersonian doctrine of the Wilmot proviso, exclaim in that bitterness of heart which the prospective utter ruin of their party must cause—

"Oh! what a tangled web we weave,
When thus we practice to deceive."

Tangled and intricate, indeed, are the results which have grown out of the repeal of the Missouri compromise, and the specious and delusive cry of "popular sovereignty," by means of which that repeal was secured.

Yet the political troubles that now distract and threaten our country are not remediless. The disinterested patriotism, the devotion to country, the reverence for justice, the regard for human rights, which animated the founders of the Government, now warming the hearts and controlling the acts of people, President and Congress, would lead to a speedy and easy solution of all our difficulties, give peace and repose to the country, and security to all within its borders.

We of the free States, sir, are not unreasonable. Indeed, we are very modest in our demands. We ask only that the rights guaranteed to us, "the people of the United States," by the Constitution, and conceded to us during the earlier years of the Republic, be restored. We ask that the Constitution be interpreted in the same spirit in which it was made—that it be construed as the "charter of liberty," not as the bulwark of slavery. We demand that slavery be confined to the States in which it already exists; and that, as a State institution, it rely solely on State support, neither seeking nor receiving "aid and comfort" from the General Government. We demand that all the Territories, and this District of Columbia, be purged of this blighting curse, and that northern freemen be no longer required to join the chase for fugitive slaves. We demand, in short, the complete denationalization of slavery. "No slavery outside of the present slave States" is our motto.

With slavery in the States where it exists we do not propose to interfere; but we are unalterably pledged against its further extension. We shall contest its onward march at every step. We shall write it down, print it down, preach it down, vote it down. We are in earnest, sir, in this matter; and we know that we shall triumph, for truth

is omnipotent. God and the hearts of the people are with us; and though the struggle may be long and fearful, the final result is as certain as the continuance of time. We shall labor on, regardless alike of smiles of derision or frowns of defiance. We trust we love our common country and the Union of these States as well, at least, as other men; but we love our country's freedom and the ESSENTIAL RIGHTS OF MAN better still. Peace we love, but we do not desire it at the expense of our inalienable rights; yet we believe peaceable remedies are best, and that by such remedies all our political maladies may be healed. We design to use them, and them only. We have faith in their efficiency, and in them we trust.

But if we, or our kindred and fellow-citizens in the Territories, cannot have peace without a base and dishonorable submission to the slave oligarchy, then we do not desire it. If money contributed by northern men is to be drawn from the Federal Treasury to reward Spanish pirates for their deeds of blood; if from the same national fund millions are to be annually drawn to sustain, perpetuate, and extend this most odious of despotisms; if we are to join in the pursuit of fugitive slaves on our own free soil, or, for refusing so to do, are to be robbed of our substance and rot in prison; if our mouths are to be closed and our presses silenced anywhere beneath the stars and stripes; if the rights of the States are to be disregarded, and insinuations which we hate unceremoniously thrust upon us; if all the departments of the Government are to make the diffusion and perpetuity of this "sum of all villainies" the primary object of their labors; if the poisoned political chalice is to be thus constantly pressed to our lips; if all that we hold dear is to be laid upon the bloody altar of slavery, I can only say that when these wrongs have reached a point no longer tolerable, the freemen of the land will rise in their strength and remove them, "peaceably if possible, forcibly if necessary."

These, sir, are not idle words. They but express what I know to be an earnest and deep-seated feeling among the masses of intelligent and thinking men throughout the free States. Most certainly they are the sentiments of the *nineteen thousand* freemen by virtue of whose votes I have the honor of a seat on this floor.

We feel, sir, that the point where forbearance ceases to be a virtue is almost reached. It is very near; and I warn gentlemen to beware how they press these indignities home upon the freemen of the North henceforth. I know the strength of the Government, and that its power is now in your hands. The President is with you; the Congress is yours; the Supreme Court is ready to do your bidding; and the hungry cormorants that feed and fatten at the public crib bow in abject submission, and reverently execute the will, whatever it may be, of those who hold the keys of the Federal Treasury.

But there is, back of all these paid advocates of wrong, a power, compared with which they are but as a withered leaf before the rushing whirlwind. Yes, sir; the people are a power before which Presidents, and Congresses, and courts, with all their pampered retainers and fawning sycophants, dwindle into contemptible littleness. Let those who choose to insult their intelligence, outrage all the better feelings of their nature, and trample ruthlessly upon their dearest rights, look well to the future, and prepare for a reckoning which will surely come, and which from present indications cannot be long delayed. To-day you have the power, and may do what you will. You may give these Spanish pirates \$50,000 from the people's Treasury if you choose; but let me tell you, gentlemen, it will add as many thousand voters to the party of freedom in the North and West. And every aggressive act upon our constitutional and reserved rights will have a like effect. The harder you press us the speedier and more complete will be our triumph, and the more ignominious your overthrow. Choose, then, your course; but remember the impending settlement you have to make with the *three million* voters in the free States of this Union.

In conclusion, sir, I have but to add, that if this appropriation, so "earnestly recommended," is to be made; if some fifty thousand dollars are to be drawn from the Treasury to settle this Amistad affair, I, for one, shall insist upon its going to the parties who were the only ones wronged in

that transaction. I shall insist upon its payment to the Africans who so gallantly rescued the ship from Spanish pirates, and whose property it thence became. They had a right to the Amistad, for they captured it from outlaws. It was legally and equitably theirs; and when they were liberated by the court, the property which their valor had won should have been placed at their disposal. The wrongs which these unfortunate men suffered were irreparable; we cannot fully right them now; but do not let us add insult to injury, and disgrace ourselves in the eyes of all Christendom, by rewarding their oppressors, and setting the seal of our official approbation upon an act of inexcusable and unmitigated piracy.

Mr. AVERY. I would have been glad, Mr. Chairman, at the proper time, to have said something concerning our Central American relations; but as this opportunity did not occur when the question was properly before a Committee of the Whole, I will but barely now allude to it.

I would have been pleased, sir, on that occasion—and may yet avail myself of the privilege, in connection with what I conceive to be the unwarranted exercise and usurpation of authority and power on the part of Commodore Paulding—to have spoken somewhat of the relations, present and prospective, which it is the policy, as well as the destiny, of this nation to maintain toward that country. The President has indicated in his message; that it is the destiny of our race to Americanize Central America; that it is the policy of this Government peacefully to do so; that the different transit routes across the isthmus will be opened, kept open, and protected by this Government, not only for our own benefit, but for the benefit of the world. These are all desirable objects; they are, in my judgment, objects of paramount importance to the American people, and especially so at this time.

That the effects of the Clayton-Bulwer treaty—a blight, a mildew, an incubus, a nightmare upon American interests and American progress and prospects—should be speedily shaken off; that the great doctrine, known as the Monroe doctrine, should be enforced; that we should maintain our supremacy in the Gulf of Mexico; that Cuba should be ours; are all objects of vast concernment to us as a nation and as a people, and I doubt not are so regarded by the enlightened statesman who now presides over our destinies. But how all these desirable objects are best to be attained are subjects of philosophic inquiry for the statesman. Their importance, at this time, seems to me peculiarly striking. England—ever jealous and far-seeing England—sees the great benefits that would result to us in the accomplishment of these great purposes of national aggrandizement. This day she is the most filibustering nation on the globe; this day she is seeking to extend her already too broad possessions upon this continent; this day would she rejoice, did we never acquire another foot of territory north or south, and especially south. From present indications—unmistakable indications—she herself is looking forward to a formidable competition with us in the production of the great staples of the South. The most casual observer cannot fail to have noticed the wonderful recent revolution going on in the public sentiment of Great Britain upon the subject of African slavery and the slave trade. Already has the monarch of her press proclaimed that the false philanthropy of a Wilberforce has passed away; that his honest but misguided policy has impoverished her possessions; has desolated her colonies; has made her tributary and dependent, when it was in her grasp to govern and control. Listen to the language of the *London Times*, her great organ—the great popular organ of Britain—speaking fresh for the people, and of the people. It never molds, but reflects, public sentiment. The *London Times* says:

"Negroes are necessary to raise the cotton, sugar, coffee, and tobacco which the world wants. The white man cannot work under a tropical sun, and unless the African be used as a laborer, the fairest region of the New World must remain a desert; in fine, negroes must be had at any cost. And no nation has a right to impose its own scrupulosity on other free communities."

Her empire in the East, her subjugated Sepoys, are to furnish the labor, free labor as she calls it, but far worse than African slavery. And her colonies in the West, which she already holds, together with what we, by our supineness and masterly inactivity may suffer her to possess, will

furnish the field. France, too, is in the fight. It behooves us, then, as a nation, to watch these encroachments upon American soil. It should be no less our policy than it is certainly our destiny, to plant by the most proper means, be they what they may, American labor, American institutions, the American banner if you please, upon every foot of soil in these rich and undeveloped regions. If the more gradual and pacific policy of enlightened settlement and civilization is the best, be it so. But if, for our own self-defense and protection, some other and more speedy means were indispensable in the accomplishment of these grand purposes—in the spirit of the celebrated Ostend manifesto of the President—then be it so. I hastily and imperfectly touch upon these points without attempting to elaborate them. My time now will not allow, nor am I prepared now, to do so even had I the time.

But, sir, the gentleman from Ohio [Mr. BINGHAM] yesterday said that the President had pressed upon the consideration of this House a question of graver significance, of mightier import, a question which concerns the honor and the life of the nation. Sir, this is about the only declaration in the gentleman's speech to which I can subscribe. I fully concur, that the question of the introduction of a sovereign State into this Union is one of this magnitude and import, and that in this instance the honor and perhaps the life of the nation is concerned. To the present phase of the Kansas question will I then address myself; for it must be acknowledged that within the past year it has assumed as many as the colors of the camelion. The public mind has long since wearied with the never-ending cry of Kansas and her difficulties.

I must say, Mr. Chairman, in the outset, that I regret very much to see the spirit and tone of speech and press which have been to too great a degree indulged in towards those of the Democratic party who have seen fit to differ with the President upon his Kansas policy, however much I may regret this difference. And especially do I not unite in the fierce denunciations which have sometimes of late been hurled at the great author and founder of my faith on this subject, as expounded in the Kansas-Nebraska act. Sir, his deeds of valor in defense of southern rights, his proud uplifting of the Constitution above the fierce fires of fanaticism, are too fresh in my memory for me to anathematize him. It pains me to see it or to hear it. Can any one forget how, but a little while ago, in every conflict we have had, with the bright battle-blade of a Saladin, one by one as they came he clove down the mailed men of Abolitionism; how he stood the Ajax Telamon of his party, and defied them all? I think it in bad taste, at least, ruthlessly and wantonly and in hot haste to hurl such giants over the battlements of party. I have seen and heard his motives assailed; it is not mine to do this; I impugn no man's motives, much less of one whose patriotism has been so lofty, whose devotion to the Constitution seemed so sincere, whose high aims have all along been for his country's good, his country's glory. The Democracy of Tennessee were proud of DOUGLAS; they will not make haste to give him up, and if needs be he must go, the parting to them I know will be a sad one.

It was argued the other day with much zeal by the gentleman from Ohio, [Mr. BINGHAM] over the way, that the President and his party not only indorsed the Lecompton constitution, but by argument, entreaty, and by threat, seek to induce Congress to indorse it, and thereby give it the sanction and force of law. But that gentleman omitted to point out the line or passage of that message containing such threat. In what part of it is it to be found? The argument of the President is to my mind clear and conclusive that Kansas should be admitted under the Lecompton constitution, not upon the ground of tranquillity only—as stated by the gentleman from New York, [Mr. CLARK B. COCHRANE,] but of justice. Yes, sir, it is upon the ground of stern justice as well as to restore peace and harmony to a distracted country, that the President plants himself boldly in his message.

It was also argued by the gentleman from Ohio, [Mr. BINGHAM,] that this constitution did not emanate from the people of Kansas, was not their will, and that its provisions are in direct conflict with the Constitution of the United States; that it was conceived in sin and brought forth in iniquity

—without proving, or attempting to prove these bold and startling declarations. Where, I ask, is it in conflict with the Constitution of the United States?—did he show us where? Satisfy me that this is so, and it never receives my sanction. I shall show, or attempt to show, that it is the legally, and only legally-expressed will of the people—that it is in strict conformity with the Constitution.

As to the declaration that it was conceived in sin and brought forth in iniquity, this very same, self-same, declaration more than a thousand times was made by the opponents of the Kansas and Nebraska act; and yet, an overwhelming majority of the freemen of this nation have stamped with the broad seal of public condemnation, this calumnious declaration. It was, as eloquently remarked the other day by the gentleman from Mississippi, [Mr. LAMAR,] "the second declaration of independence." With what cruel effrontery; then, they now exclaim that this instrument, this Lecompton constitution, was conceived in sin and brought forth in iniquity, when they, themselves, the lawless trampers under foot of all law and forms of laws, stood by and stubbornly refused to prevent—when, according to their own showing, they had it in their power to do so—this foul thing, reeking, as they say, with fraud and corruption, from being fastened upon them! But I will speak of that more fully after a while, and in its proper place.

Mr. Chairman, I think the President deserves well of this nation for the patriotic and constitutional stand he has taken on this much vexed and distracting question. To have done less, he would have, in my humble judgment, departed from the principles of the act itself, and of the platform upon which he stood when he was borne into power. To have done more, would have overstepped and gone beyond that great doctrine which was sought to be established, and which was established for the first time in the history of this Government. The doctrine and principles upon which the great battle was fought and won—what are they? It is not necessary to enter into a minute review of all the ramified relations of the Kansas question. They have been published far and wide; they are familiar to the country; every act which has marked the brief but stirring history of that distracted Territory is fresh in the memory of the most unlettered man. But what, sir, was the great principle, the great theory which was the boast of the Kansas bill? Why, sir, it was that that distracting element which had, upon more terrible occasions than one, frightfully imperiled the Republic, should be withdrawn from the threatening theater of national legislation, and located where it properly belonged—with the people themselves. The advent of this doctrine was rapturously hailed everywhere as the harbinger of peace to the councils of the country. And peace there would have been, but for those disloyal and revolutionary spirits who cannot live in peace. Upon this doctrine the great battle upon which hung the fate of the nation was fought and won. Who were the enemies of this policy? The enemies of this policy at the North were those who were waging a fierce war upon the constitutional rights of the South, who were opposed to the equal rights of all the States, North and South, to the rightful enjoyment of the Territory which had been purchased and won by the common treasure and common blood of all the States—North as well as South.

The enemies of this measure, of this policy, at the South, were too few and feeble to deserve notice; for the whole array of opposition came from the North. Those of the Democratic party who see fit to differ with the President in his Kansas policy, contend that they do not, by so doing; oppose the great principles of the Kansas and Nebraska act; but that they are the only true upholders—defenders of that faith—the vindicators of that policy. The Republican party, opposed to the whole measure, to the doctrine, to the principles of the Kansas and Nebraska act *to toto calo*; the anti-Administration Democracy contending at the same time that they, and they only, represent the doctrine in all its pristine purity; and yet they stand together, united, one party, as far as this question is concerned. Here, we have presented the political anomaly of parties standing agreed upon a measure—the one swearing hostility to it, and the other claiming to be its ortho-

dox advocates and expounders. Each started traveling in exactly different and opposite directions, and have continued traveling, and yet have come together. How can this be? If the Republican party are true to their original faith in opposition to the fundamental principles of the Kansas and Nebraska act, and stand firm upon them—and I believe they do—and the anti-Administration Democrats stand firm on their original faith in support of the fundamental principles of that act, as they say they do, then how comes it that they are agreed—stand together, fight together, and fall together, too, upon this question? The one party who have all along been alien enemies of the measure, and boasting, too, in that enmity; and the other still stronger boasting in their loyalty to them—now united.

Who have been the fiercest enemies of this constitution in Kansas? Are they not those who have made open and rebellious war upon the Constitution of the country, the rights of the people, and the laws of the land? Have they not, in open defiance of all law and order, with a heart regardless of all social duty, and fatally bent upon mischief, lighted up the torch of civil war in their own distracted borders, and well-nigh throughout the land? Is this the company our friends are found in? I know they do not feel at home there. I know that praise from that quarter sounds not pleasing to their ears.

But let us look a little into this question, and see who have departed from the great cardinal doctrines inaugurated by that policy, they or we who stand by the Administration. They say that popular sovereignty has been violated, because the constitution was not, in all its parts, submitted to the people. What is popular sovereignty? It is the supreme power of the people. What people? Why, the people of Kansas. Power to do what? In the language of the act, from which they got their power to act at all in the premises, it was to be "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." Have the people of Kansas been thus free to do this thing? Have they had an opportunity to form and regulate their institutions in their own way?

In the first place, then, what is meant by "people?" Who were the people who were thus left free to form their institutions? Why, they were that organized body of persons who composed the community of Kansas—organized body, legally-organized body—not the lawless, not the rabble, not the revolutionary, who were doing everything to subvert the free expression of the popular will; they were that organized body of persons who acted through the legally-expressed will of a majority. Why, the Cincinnati platform itself says that the people of a Territory are those in a Territory who act through the legally-expressed will of a majority; not the reckless red-republican-rabble will, expressed without law, or forms of law, but the legally-expressed will. Expressed how? Why, expressed through the ballot-box, at the times and places legally appointed for that purpose; not at those times and places appointed by an irresponsible and illegal, unconstitutional power, but appointed by law, and by those having authority under the law. When and where, I ask, has been expressed, legally expressed, any will of a majority of the people of Kansas, preparatory to the formation of any constitution but the Lecompton constitution? When and where, except at the poll taken first to know whether or not they would call a convention; then to elect delegates to that convention; then to carry out the will of that convention? Have not all these separate and distinct acts of the people of Kansas been acknowledged as legal by the present opposers of the Lecompton constitution? Were they not recognized by Governor Walker? In his letter to the Secretary of State, of the 15th of July, 1857, he says:

"Early in July I proceeded to Paoli, a town in Kansas, situate fifty miles south of Lecompton, where the land sales were then progressing. A very large crowd, not less than one thousand, assembled to hear my address, when the views heretofore expressed by me, substantially, were again repeated. I was answered by one of their favorite orators, of the name of Foster, who, among other things, accused the President of the United States of great inconsistency in opposing the Topeka movement, when it was well known that he had advocated the admission of Michigan as a State, in 1836, under what he (Foster) claimed to be proceedings similar to those at Topeka. Most fortunately I had participated, as a Senator of the United States, in the admission of Michigan, and was enabled to explain the matter satisfactorily to the people. I showed them that, in the case of

Michigan, the Territorial Legislature were clothed by Congress with no authority to assemble a constitutional convention and adopt a State constitution; but that, under the comprehensive language of the Kansas and Nebraska bill, the Territorial Legislature was clothed with such authority by the laws of Congress, and that the authority of such a convention to submit the constitution to the vote of the people was as clear and certain as that of Congress itself, and that opposition to such a proceeding was equivalent to opposing the laws of Congress."

They were recognized by Governor Walker, by Mr. Secretary Stanton, and by the distinguished author of the Kansas and Nebraska act, as shown in his Springfield speech, (June 12,) a few days before the assembling of the convention, when he said "that Kansas was about to speak for herself through her delegates, assembled in convention to form a constitution preparatory to her admission into the Union. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions."

Kansas was about to speak through her delegates; nobody then thought of her speaking in any other way than through her delegates. Well, that is the way she did speak upon all other questions, except the all-absorbing question of slavery; and upon that she subsequently spoke through the people, as well as through her delegates.

By what authority, by what law, or semblance of law, has any other step been taken by the people of Kansas towards the formation of any other constitution? Then what was this people free to do? Why, first to form a constitution, with or without slavery. What is meant by forming a constitution? Form, to make, to create, to establish, to combine in a particular manner: the people, acting through the legally expressed will of their majority, were to do this. How were they to do it? How could they do it? Will it be for a moment contended that the whole people in a body, a mass in one grand assemblage, were to meet together and themselves to form a constitution? This thing would be impracticable. It is preposterous! It could not be done. The very language of the bill, backed as it is by the Cincinnati platform, proves that it was not intended that the mass—the people in one grand mass meeting—were to make or form this constitution. Who, then, were to do it? Who, then, could do it? By what human power could it possibly be accomplished but by and through the delegates, the legally and constitutionally appointed representatives of that people? How else have our constitutions ever been formed? This is the great distinguishing and characteristic feature between our Government and the Republics of former times—those Republics, both ancient and modern, which lived and flourished only for a season. Ours is a Government where the legally expressed will of a majority of qualified voters controls and governs, and makes the law. That will acts through the legally constituted and appointed delegates and representatives of that people. It is the firm and enduring rock upon which the stability of our Republic is based. The uncontrolled and uncontrollable will of the great body of the people—and especially unauthorized body—was one of the chief elements of the dissolution, destruction, and downfall of other Republics.

But, even had there been any other way; had some miraculous, superhuman power pointed out to the people of Kansas some other mode and manner, some other way, than that adopted by them, by which they had formed their constitution, and they had chosen that way, then that would have been the right way. Any way that they saw fit, according to the Constitution and laws, to manifest their will touching this great question of sovereign right, would have been, because of their making it their own way, the only proper and legitimate way, and the only one which Congress could recognize. Did not the people of Kansas, then, first, at the very threshold, in the inception of the exercise of this sovereign power towards the organization and putting into being a State government, enact that, at the first general election, held in October, 1856, a poll should be opened, at which every qualified voter in the Territory should have the privilege of saying whether a convention should or should not be called to frame a constitution in pursuance of that authority—the authority of that Territorial Legislature whose legal existence and power had been recognized by Congress on more occasions than one? Was not this convention convoked to frame this constitution? In this matter was not the will of

the people expressly consulted? Did they not, in conformity with this recognized legislative enactment, on the third Monday in June last, proceed solemnly to elect delegates to that convention? And did not those delegates, so legally and constitutionally elected, proceed likewise solemnly to the performance of the trust with which they were thus clothed and empowered by the people—to wit, to form a constitution? That territorial legislative act said nothing about submitting that constitution for their adoption or rejection, or any part of it. The Kansas and Nebraska act says nothing about it. The Cincinnati platform says nothing about it. Well, then, did not this convention do all, if not more, than was actually required of it? What did it do? It formed a constitution. What sort of a constitution? Why, of a republican form of government. What was it required to do? To form a constitution, with or without slavery, as they please, so that it was of a republican form of government. It went further: it submitted to the people—the qualified voters of the Territory—whether they would have that constitution with or without slavery. The very same sentence of the act which leaves the people free to form their domestic institutions, also leaves them free to regulate them: first form, then regulate them; what they were to do, and then how they were to do it.

We have seen what they were to do. Now, how were they to do this thing? How? Why, in their own way. Subject to what? Subject only to the Constitution. Well, then, in what way was this constitution to be formed—their institutions to be formed and regulated? In the way of the Governor of Kansas? of the Secretary of Kansas? of Jim Lane and his lawless rebellious minions? in the way of the President of the United States? in the way of Congress or in their own—the way of the people of Kansas, acting through the legally expressed will of the majority? What was that will? Why, that a convention should be called to prepare, to form, to make a constitution? To what was this constitution, after it had been thus formed by this convention, subject? To what power was it subject? To what restriction is it confined? What contingencies were placed upon it? To what, I ask, was it and is it subject? Is it subject to the adoption or ratification of the people after it was formed? Is it subject to any future action of Congress in the passage of a so-called enabling act? No, sir, none of these; but subject only to the Constitution of the United States; that is, not repugnant to the Constitution, but in conformity thereto, subject to it; a republican form of government; to the Constitution, and only to the Constitution. What does "only" mean; why, in no other way, no other wise, no other limitation, no other condition, no other restriction—none. Then the Kansas and Nebraska act was itself an enabling act, to all intents and purposes. No other is needed; any other would be an intervention—an unwarranted interference. It is a grant—a grant of power; with a limitation—a limitation expressed, expressed upon its face. That limitation is, that the constitution shall only be subject to the Constitution of the United States.

This grant, then, having in it, in unmistakable terms, an express limitation, all other limitations, by a well known and established principle of law, are excluded. You cannot, by any stretch of power, of implied power, make this grant subject to any implied limitation. It must be confined to the terms of the grant, to the express limitation in the grant. You cannot go beyond or outside of it. If this express limitation in the grant is complied with—is fulfilled—there is an end of it.

The distinguished gentleman in the other end of the Capitol said himself, in his Springfield speech before alluded to, that this was a limitation, and that it was subject only to the Constitution: it was the only limitation, the only qualification which could pertain to the constitution when presented. Have I not then high, ay, the highest authority, for the soundness of my argument on this point? Am I not borne out in the position that I take? Am I not right, then, in saying that you are estopped, precluded from going one step further. Have these things been done? Have the people of Kansas, according to this enabling power of the Kansas and Nebraska act, proceeded to form a constitution? Was this constitution formed in their own way? Was that way subject to the Constitution of the United States? Do

they present a republican form of government in their constitution? Have all these legal requirements been complied with? If they have, why then it remains only for Congress to vote Kansas into the Union as a sovereign and independent State, according to and under these requirements. I think they all, and more, have been complied with; for, as I have before said, the only threatening question, the question to quiet which this great doctrine was inaugurated, has been fairly and legally referred to the people of Kansas for their adoption or rejection.

The gentleman from Ohio [Mr. BINGHAM] said that the idea that this Kansas-Nebraska act was an enabling act was an afterthought. Was it an afterthought with Robert J. Walker, the Kansas Governor, when, in the passage of his letter from which I have already quoted, he argued that the difference between the admission of Michigan under her constitution, and the admission of Kansas under the Topeka constitution, was, that the Territorial Legislature of Michigan was clothed by Congress with no authority to assemble a constitutional convention and adopt a State constitution; but under the comprehensive language of the Kansas-Nebraska bill, the Territorial Legislature was clothed with such authority? Here is an acknowledgment for you, that the Kansas-Nebraska act was regarded as an enabling act; that it was no afterthought. It was so acknowledged by Governor Walker, by Mr. Stanton, and so regarded doubtless at the time of its passage, not only by its great author, but by its every advocate and supporter, when Mr. DOUGLAS said in the Senate on the 2d of July, 1856:

"All power which it is competent or possible for Congress to confer on the Territorial Legislature is conferred by that act." That Legislature must, then, be regarded as possessing the amplest of all legislative authority, that of providing for an expression of the people upon the question whether they would or not organize a State government."

Sir, for what purpose was this Kansas and Nebraska bill passed, if not to perform the functions of an enabling act? What has it accomplished? Of what value have been all the fierce conflicts concerning it, if it did not confer this power upon the Territory? Did any of its most ardent supporters—did its great author himself, then think that it was as impotent as this? Sir, I have mistaken them; I have mistaken it; I have misinterpreted its great objects and high aims, if this be so. The language employed everywhere, in all the legislation and resolves which have been had upon the subject—that of forming a constitution—does not convey to the human mind the idea of adopting it. If the imperative necessity of the submission and adoption of the constitution, by the people, after it had been formed, had been foremost in the minds of those who put this act in being, why did they not say so? Why did they studiously avoid saying so? It would have been a very easy matter to have done so.

Let me not be understood as opposing this doctrine. It may be a good one; it may be the best way. I shall not now dispute it. That is not now involved. States have been admitted under constitutions submitted and unsubmitted. The only question here is, was it obliged to be done in this instance? I say not. I took the ground at home, and I take it here, that this Lecompton convention had the power to submit this constitution or not, as they chose. That whether it was, or was not submitted, and came to me in Congress from the hands of a legally-chosen convention, representing the sovereign will of the people, I would vote for it. And so I would, having the other requirements of the Constitution of the United States—that is, subject to the Constitution of the United States, with a republican form of government. I contended there, as I do here, for the firm maintenance of that great doctrine of non-intervention. I contended, as I do now, that any act, by any power, by which the people of Kansas would be hindered or prevented from the formation and regulation of their own institutions in their own way, would have been an intervention, and violative of the act and of the principle. I thought then that Governor Walker himself, in his uncalled-for apparent attempt at dictation to the people, the mode and manner of their proceeding, as indicated in his proclamations and speeches, was such an intervention; that if the President or Congress, or any other power, slips in now to thwart the admission of Kansas under the Constitution, in the way the people have seen

fit to send it, it will be an unwarranted intervention. The way they have made and adopted it is their way, be it good or bad. That is not for us to determine; and an interference with that way, from any quarter, would itself strike down the great doctrine it was the pride and glory of the party to establish.

That convention, in my judgment, fully represented the whole and entire sovereignty of the people. It was clothed with plenary power to form, to establish, to mold and fashion, just such a constitution as they chose—with slavery if they chose, without it if they chose—so that it was republican in its form of government, and subject to the Constitution; and after they had thus formed, fashioned, and established the organic law, either to let the people pass in judgment upon their action, or to present it just as it was to Congress. But this convention saw fit (wisely, doubtless) to submit to the vote of the people the only question which had rent and divided, not only that country, but the nation; and submitted, too, in the most direct and palpable form in which it could have been presented, because it was isolated, alone, separated from all other questions in the constitution.

Granting, for argument's sake, that the Kansas and Nebraska act, that the Cincinnati platform, that the doctrines of the Democratic party, that the behests of the people, all demanded that the question should be submitted to the people by the language of the act and of the platform, it is plain that the reference or submission of no other question was contemplated. The language of the act is, that its true intent and meaning is not to legislate slavery into any Territory or State, nor to exclude it therefrom; but, &c. The language of the Cincinnati platform, that it recognizes the right of the people to form a constitution, with or without slavery, and be admitted into the Union, &c. So, if it was contemplated that anything at all should be submitted to the people, slavery was that thing, and that alone. It is the only thing, the only institution, the only domestic institution referred to by name. It was, and is the institution; the great, absorbing, distracting element alone thought of, or that interested anybody. It was dominant in the public mind; it had lashed it into fury everywhere. Well, then, this question was plainly and palpably submitted. The legal expression of the public will speaks through the Le-compton constitution. All other constitutions, or steps taken to form a constitution, have been done without law or the form of law; not in conformity to, but in violation of, not only the Kansas and Nebraska act, but of every legally authoritative step that was taken by the people of Kansas.

But it is contended that this constitution should be rejected because it has not been passed upon by a majority of the whole people in Kansas—that they did not vote. Whose fault is it that they did not vote? If a factious and rebellious opposition refuse to avail themselves of every free and untrammelled privilege that has been afforded them to vote, who ought to be the sufferers? If, upon the first legislative step taken by the Territory to take the vote of the people upon the calling of the convention, they stubbornly refused to vote, what is to be done? If, again, they refused to vote for delegates to the convention which formed the constitution, and still again refused to vote on the slavery clause of that constitution, who, I ask, are to be made the sufferers? Are the law-abiding people then to suffer? Is the country to be continually rent and torn? Is Kansas to be kept out of the Union? Are all law and order to be trampled under foot by this lawless opposition? What sort of a doctrine is this to broach in our country? Where would it end?

But, sir, I take it that this objection (if objection it be) is effectually and finally cured by the vote for officers on the 4th instant under that constitution. It is a complete acknowledgment of the Le-compton constitution, its validity and authority. The very men, or at least a sufficient number to make a majority of the whole people, who willfully and maliciously refused to vote in the former legally-appointed elections, and especially upon the constitution, have stepped up and voted for officers to be elected under that constitution. These very men, who pronounce the constitution of Kansas a fraud, a swindle, a corrupt thing, a thing conceived in sin and brought forth in iniquity,

by their own acts indorse this fraud; indorse this swindle; indorse this foul conception of sin and spawn of iniquity; acknowledge its authority by the very act of voting for officers under it, and by virtue of it. If it be so corrupt and corrupting, it must have imparted some of the base elements ramified throughout all its functions and functionaries. Can they now come in and say that the Le-compton constitution shall not be adopted by Congress? that Kansas cannot come in under that constitution, because they did not vote or would not vote on it when they had a chance? This objection ought not, under any circumstances, to be regarded; but by their act of voting for State officers under the constitution they are estopped and forever barred from putting in this plea. I, myself, would not care one cent, it would not affect my action in the matter one particle, if they had persisted and staid away from the polls and never voted; for I cannot for a moment subscribe to the monstrous doctrine, that because a factious party, either majority or minority, it makes no difference, refuse to avail themselves of the requirements and privileges of the law, and vote that the action of those who do vote and who thereby seek to settle disturbing elements, is vitiated, or to be considered as null and void. This would indeed be a monstrous doctrine, subversive of every principle of popular government.

But even had this argument a shadow of claim upon the consideration of Congress or the country, it is forever silenced in the fact that this constitution was in the most solemn manner acknowledged by their vote for officers under it. All these things plainly point out what course is to be pursued by Congress—by the Representatives of the people on this floor—and that is to admit Kansas under the constitution she presents, the Le-compton constitution, and put an eternal quietus to her unceasing troubles; to restore peace not only within her own distracted borders, but throughout the length and breadth of the land. The other neglected and needful legislation of the country calls for it, the people demand it, and look here to have it settled. If the people ultimately find that they do not want their domestic institutions settled according to this constitution, they can easily regulate them in a different manner. They have the sovereign power to do so at any time; and it illy becomes those advocates and defenders of the Topeka constitution—so radically sovereign as to be above and in defiance of law—I say it illy becomes them to object to the adoption of this constitution because it cannot be changed until 1864 on account of its schedule. The people are sovereign, and they can alter or abolish when they please. Law, order, sound policy, the peace of the country, the harmony and nationality of the Democratic party, and perhaps the perpetuity of the Union, depend upon this settlement of these distracting questions.

Sir, I think I can safely say that the people of the South considered themselves pledged, under the principles of the Kansas act, to vote for the admission of Kansas under the constitution she should legally and rightfully present, slavery or no slavery. However dear our southern institutions may be held; with whatsoever jealousy they may be watched; however ardent may be the desire to plant them everywhere, and especially in the virgin soil of Kansas; yet, if the constitution of the people said they did not want slavery, the Democracy South, true to the great principles of the act, would have said, without a murmur, let it be so. They were willing to stand or fall upon it. The constitution comes with a slavery form. The South stands precisely where she did when the chances were against her. And will our friends of the North now falter? Will they open afresh the bleeding wounds of this distracted Territory?

Sir, it may be that it would be different did this constitution come in an anti-slavery garb. It has ever been a struggle for a slave State to be admitted into this Union; the struggle is growing fiercer each succeeding time. It is almost as easy for a camel to pass through the eye of a needle as for a slave State to be admitted into this Union. Florida, Missouri, Arkansas, Texas, all came in through great tribulation; but, thanks to the conservative, Union-loving, constitutional men of the North, they shrunk not then. Will they now? Who has forgotten how the present enlightened Chief Magistrate of this great nation stood by the

Constitution in these hours of peril? How he welcomed in the lone-starred Republic to this family of sovereign and independent Republics? How, too, when the infant Arkansas was presented at the baptismal font, in the swaddling-clothes of her slavery constitution, he stood godfather and sponsor when she was baptized into the great family of States. And in the present crisis he plants himself again upon the side of the Constitution—upon the side of equal rights of all the States—upon the side of the doctrine of the platform upon which he was elected, of non-intervention. Were Congress now to interpose any obstacle to her immediate admission under the constitution of her own making, in her own way, by prescribing new and other and different modes or qualifications or conditions, would it not be an intervention? Should the President do the same, would it not likewise be an intervention? Should any power from any quarter, either Executive, judicial, State, or Federal, attempt to give direction and control to the matter, would it not be intervention, violative of the Kansas-Nebraska act, at war with the equal rights of all the States, and inimical to the Constitution?

Sir, the South has ever been loyal to the Constitution. She has ever stood on that broad and patriotic platform which guarantees to every State in this Union equal rights, the one with the other. It is all she claims, or has ever claimed. Nothing more she wants—nothing less is she willing to put up with. She has ever been amongst the foremost to vindicate those rights, in peace and in war, to crush out fanaticism, to trample under foot political heresies which tend to abridge the rights of people or State. Look to the last contest, which shook the pillars of the Republic—a contest such as never before had an existence in this Government; not a contest in which alone the peaceful establishment of great political principles was involved; not merely whether this or that policy should prevail; but it was a contest in which were deeply involved the liberties of the people, the perpetuity of the Republic, the existence of the Government. A deadly blow was aimed at the very vitals of the Federal Constitution. This battle may be to fight again. God in his providence avert it. I think that the safety of the Union rests with the conservative elements and organization of the Democratic party, North and South. It was the stay of the nation in the last struggle. Ever be it so. Stand by the Constitution; stand by the great principle which you, by your aid, have so nobly helped to inaugurate; stand by the solemn decisions and decrees of the high judicial tribunals of the land—enlightened, learned, pure, and patriotic monuments of impartial judgment, of lofty patriotism, of solid and enduring wisdom. Do this, and all will be well; but do it not, and it may be the beginning of the end.

Mr. THOMPSON. Mr. Chairman, in the pauses of the storm which the discussion of the Le-compton constitution has raised, and will raise, if ever presented here, into fiercer convulsions, and until which time I shall defer what I may have to say on that topic, I will avail myself of a temporary lull to bring to the consideration of the committee a subject which has not yet been discussed, but to which our attention will probably be directed, even before the affairs of Kansas shall be brought up for action.

For the first time since the organization of this Government, we are called upon to authorize the increase of the Army, ostensibly for the purpose of being employed against the people of one of our Territories. Under the provisions of the Constitution of the United States, article four, section three, new States may be admitted; and Congress has power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." By virtue of this provision, Congress has, from time to time, out of territory acquired by the General Government from the original States, or by cession or purchase from foreign Powers, organized territorial governments, which, after due political tutelage, have applied for admission as States, and been received, to take the rank and privileges belonging to the original thirteen States of the Union. Year after year has the tide of emigration from Europe and the eastern States surged on, and on, tracking the path of the retreating savage; plowing up the pasturage of the wild

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buffalo; felling the forests; harnessing the waterfall to the wheels of mechanical and manufacturing industry; gemming the landscape with towns, villages, and cities—the abodes of peace, property and refinement. Thus has the forest belt that lay around the original thirteen States been broken; the wigwam has disappeared; and double the number of coequal sovereignties now dwell in fraternal concord beneath the wide dome of the Republic! What was known as the Far West in the days of our boyhood, is now the Far East; and the representatives of millions of men stand beside us on this floor, whose tasteful dwellings have been reared where, within half a century, the war dance of the Indian was celebrated, or the panther of the wilderness made his lair. The valley of the Mississippi has become dotted with the homes of empire, fronting on that Father of Waters—to them as an inland sea and an outlet to the ocean. The trapper retreats to the head-waters of the Missouri, and gathers his spoil from the streams that thread the slopes of the Rocky Mountains. Up to their wooded bases surge the tides of advancing civilization; and beyond and over them breaks the wave, foaming on to the shores of the Pacific. Across vast plains, twelve hundred miles from the Missouri, sentinelled by mountain ramparts; the dry bed of a vast inland sea, with its salt waters sunken to an inconsiderable lake, whose margin sparkles with its white crystals, and four thousand two hundred feet above the sea level, lies the central Territory of the Republic—Utah! Ten years ago—a single decade—and not a dwelling dotted that valley; across it wound the rugged road of the trader, the bridle or war path of the Shoshone and his savage allies or foes. Standing on an eminence of the Wahstach mountains, to the east, their glittering peaks, lifting themselves eight thousand feet in the clear, silent air, and fringed far beneath by shaded masses of pine and fir and balsam, are receding ranges of hills and streams, sparkling like silver threads, and narrow gorges, looking like abysses in the distance; and westward the mountains become lower, and gradually melt away, until a valley, holding in its bosom this lake of salt, spreads out before it. All around on the slopes of the descending hills run even benches, formerly the water levels of the lake, and now used for cultivation or pasturage. At the foot of these rise the mud walls of a city, covering an area of six square miles, the abode of half the people of the Territory, which now holds more than sixty thousand souls! As by a common impulse, they have come together from all parts of the world—from Germany, Sweden, Denmark, Scotland, England, Australia, and the United States. They have become a nation in a day. They have trade, industry, manufacturing and mechanical skill; they have law, government, and a religion. They are a homogeneous people; act by a common impulse upon definite and fixed principles; and, after having applied as a Territory for an organic law in 1850, and been organized in pursuance of its provisions, received a Governor, judges, a marshal, and a district attorney, from Federal appointment; after sending their Delegate to sit in the councils of the nation, they have seen fit to repudiate the paternity and power of the General Government; to break up the Federal courts; to deny all political influence in their councils coming from or through the agency of Federal officers, and fall back upon a theocratic polity that impiously claims the immediate inspiration of the Most High as its source and authority, revealed through His servant and prophet, Brigham Young.

This leader, who rules this people with an unquestioned despotism, through a machinery I shall examine, after temporizing under Mr. Pierce as Governor and Indian agent, has at length grown desperate enough to declare openly his defiance of the General Government; and emboldened by distance and long success, gathered from the supineness of the executive power that had employment nearer home for all its energies, comes out by proclamation declaring military law, usurps all the functions of territorial government in his

person, and is training and marshaling his battalions for resistance and encounter. Three thousand braves—our brothers and our sons—have, in obedience to the executive mandate, crossed the plains and rest in their tents near the mountain passes that girdle that Territory. The wintry snows have not damped their ardor, or cooled their glowing courage; the howl of the savage, impelled to run off their horses and cattle by the stimulus of Mormon craft, has not made them irresolute or desponding; the driving tempest and the icy hail rattle upon their canvas covering, but the camp is merry with glee and the martial airs of Columbia echo through the passes and linger on every lip.

Why they were ordered off at a season which compelled this inevitable exposure, contrary to all prudent foresight, and against the advice of wise and experienced councils, let those who did it explain and justify to the people and the country, if they can. Whether the loud and deep murmurs that began to roll from all parts of the land towards the capital, condemning the retention of five thousand troops in Kansas Territory, under the pretense of maintaining law and order, and compelling a free people to vote or refrain from voting under the roar of United States artillery, according to settled programme formed at Washington, had the effect of starting forward the enterprise too long delayed, it is impossible accurately to determine. Should the disasters which now threaten our brave men, and which were anticipated by the sagacious in consequence of their long and unnecessary detention and late march, eventually fall upon them; should not Providence defied, and the enemy tempted, be better than our fears or our deserts, they who were instrumental in this dreadful exposure will be held to a strict and exacting account. Men in the plenitude of power, and backed by a dominant party hurrying them on, may for a time defy public opinion; but its edicts are unsparing upon imbecility or crime, and its vengeance sure. Let them remember that! Yes, sir, let them remember it!

Such is the aspect of things at this hour. The General Government has superseded Young as territorial Governor. His successor (Cumming) has issued his proclamation, exhorting the people to lay down their arms and refrain from all disorderly and treasonable projects. The idle wind that sweeps those plains is not more idle and ineffective than these proclamations upon that people. Their imperial priest, despot, and dictator, from his dual throne, as potentate of the Saints and viceroy of the Almighty, laughs them to scorn. Entrenched behind the material bulwarks of distance and the wall of rock which nature has provided; girded by sterile plains and verdureless hills, and guarded by a blind fanaticism that knows no law beyond his will, and will shed its last drop of blood at his behest, he has become foolhardy by impunity and the unquestioning devotion that encircles him. The wily craft of the conspirator and the low cunning of the knave have given place to the grasping ambition of the chieftain and the hopeful enthusiasm of the traitor and the prince.

In his plotting brain the time has arrived to cast off the allegiance he swore to this Government, which he once needed to subdue or wheedle the savage, around whom he now believes he has thrown stronger toils. A sway of more than six years, as head of the State and of the Church—wielder at once of the sword of territorial sovereignty and the crozier of spiritual might—has compacted and cemented in his grasp a dominion he is impatient to extend, and will not surrender! Ten thousand swords will leap from their scabbards at his beck; thirty thousand hands of male and female alike, will toil incessantly to sustain his power, linked, as they believe it to be, with their best interests in time and their salvation forever.

What is this moral and political phenomenon that looms up so grandly, and has ripened so soon; defying the forces of the Republic, and attracting the attention of the civilized world.

The President says in his message:

“A territorial government was established for Utah by act of Congress, approved the 9th September, 1850, and the Constitution and laws of the United States were thereby extended over it ‘so far as the same, or any provisions thereof, may be applicable.’ This act provided for the appointment by the President, by and with the advice and consent of the Senate, of a Governor, who was to be *ex officio* superintendent of Indian affairs, a secretary, three judges of the supreme court, a marshal, and a district attorney. Subsequent acts provided for the appointment of the officers necessary to extend our land and our Indian system over the Territory. Brigham Young was appointed the first Governor, on the 20th September, 1850, and has held the office ever since. Whilst Governor Young has been both Governor and superintendent of Indian affairs throughout this period, he has been, at the same time, at the head of the Church called the Latter Day Saints, and professed to govern its members and dispose of their property by direct inspiration and authority from the Almighty. His power has been, therefore, absolute over both Church and State.

The people of Utah, almost exclusively, belong to this church, and believing with a fanatical spirit that he is Governor of the Territory by Divine appointment, they obey his commands as if they were direct revelations from Heaven. If, therefore, he chooses that his government shall come into collision with the Government of the United States, the members of the Mormon church will yield implicit obedience to his will. Unfortunately, existing facts leave but little doubt that such is his determination. Without entering upon a minute history of occurrences, it is sufficient to say that all the officers of the United States, judicial and executive, with the single exception of two Indian agents, have found it necessary, for their own personal safety, to withdraw from the Territory, and there no longer remains any government in Utah but the despotism of Brigham Young. This being the condition of affairs in the Territory, I could not mistake the path of duty. As Chief Executive Magistrate, I was bound to restore the supremacy of the Constitution and laws within its limits. In order to effect this purpose, I appointed a new Governor and other Federal officers for Utah, and sent with them a military force for their protection, and to aid as a *posse comitatus*, in case of need, in the execution of the laws.

“With the religious opinions of the Mormons, as long as they remained mere opinions, however deplorable in themselves and revolting to the moral and religious sentiments of all Christendom, I had no right to interfere. Actions alone, when in violation of the Constitution and laws of the United States, become the legitimate subjects for the jurisdiction of the civil magistrate. My instructions to Governor Cumming have therefore been framed in strict accordance with these principles. At their date a hope was indulged that no necessity might exist for employing the military in restoring and maintaining the authority of the law; but this hope has now vanished. Governor Young has, by proclamation, declared his determination to maintain his power by force, and has already committed acts of hostility against the United States. Unless he should retrace his steps the Territory of Utah will be in a state of open rebellion. He has committed these acts of hostility notwithstanding Major Van Vliet, an officer of the Army, sent to Utah by the commanding General to purchase provisions for the troops, had given him the strongest assurances of the peaceful intentions of the Government, and that the troops would only be employed as a *posse comitatus* when called on by the civil authority to aid in the execution of the laws.

“There is reason to believe that Governor Young has long contemplated this result. He knows that the continuance of his despotic power depends upon the exclusion of all settlers from the Territory except those who will acknowledge his Divine mission and implicitly obey his will; and that an enlightened public opinion there would soon prostrate institutions at war with the laws both of God and man. He has, therefore, for several years, in order to maintain his independence, been industriously employed in collecting and fabricating arms and munitions of war, and in disciplining the Mormons for military service. As superintendent of Indian affairs, he has had an opportunity of tampering with the Indian tribes, and exciting their hostile feelings against the United States. This, according to our information, he has accomplished in regard to some of these tribes, while others have remained true to their allegiance, and have communicated his intrigues to our Indian agents. He has laid in a store of provisions for three years, which, in case of necessity, as he informed Major Van Vliet, he will conceal, and then take to the mountains, and bid defiance to all the powers of the Government.”

“A great part of this may be idle boasting; but yet no wise Government will lightly estimate the efforts which may be inspired by such frenzied fanaticism as exists among the Mormons in Utah. This is the first rebellion which has existed in our Territories; and humanity itself requires that we should put it down in such a manner that it shall be the last. To trifle with it would be to encourage it and to render it formidable. We ought to go there with such an imposing force as to convince these deluded people that resistance would be vain, and thus spare the effusion of blood. We can in this manner best convince them that we are their friends, not their enemies. In order to accomplish this object it will be necessary, according to the estimate of the War Department, to raise four additional regiments; and this I earnestly recommend to Congress. At the present moment of depression in the revenues of the country I am sorry to be obliged to recommend such a measure; but I feel confident of the support of Congress, cost what it may, in suppressing the insurrection, and in restoring and maintaining the sovereignty of the Constitution and laws over the Territory of Utah.”

Mormonism as a religious system had its origin in a romance, written about the year 1810, by Solomon Spalding, a native of Connecticut, who had been educated for the ministry, but followed a mercantile employment, removed to Cherry Valley, New York, where he amused his leisure hours by weaving into a book entitled by him the "MSS. Found," the notion entertained or suggested by some writers that the American Indians are the descendants of the lost ten tribes of Israel. Hence, he starts them from Palestine, invents for them various fortunes by flood and field, wars, quarrels, turmoils, strifes, separations, until they people this continent, and leave behind them the vestiges of mounds, tumuli, fortifications, sculpture, and cities dilapidated, which are discovered in Northern and Central America. It is written somewhat in Scripture style, and uses the machinery of the Jewish economy throughout. He read his manuscript to various persons who yet remember it, but was not successful in procuring its publication. Somewhere about the year 1823, this manuscript fell into the hands of Jo Smith, a native of Windsor county, Vermont. Smith was about twenty years of age, and already exhibited that singular compound of genius and folly, of cunning and absurdity, of indolence and energy, of craft and earnestness, which distinguished him to the end of his career.

Under the new-light preachers of that day Smith became imbued with all the wild and extravagant notions of seeing sights; hearing voices; receiving revelations; meeting and fighting the devil in bodily form; which indicate a diseased imagination, and want of all solid instruction and fixed principles on religious subjects. Enthusiasm ran mad through the whole region where he dwelt, and Smith was one of its most brilliant exemplifications; ultimately having a revelation that all existing systems of religion were wrong, and that he should be made the prophet of a new faith. For more than five years he vibrated between his caution and his enthusiasm; giving out, occasionally, dark hints about certain mysterious plates to be dug up by him, containing a new revelation. Part of his time was spent in lying, swindling, and debauchery, and the remainder in visions and repentance; the vulgar habits of the brute contending with the higher functions of the prophet. At length he pretended to dig out the plates from the side of a hill, in Palmyra, Wayne county, New York; placed himself behind a curtain, permitting no one to enter, from which *sanctum* he translated from the plates the book of Mormon to an amanuensis, reading it all from Spalding's manuscript in his possession, one hundred and eighteen pages of it having been stolen by Martin Harris. With this new Koran our modern Mohammed started upon his career.

On the 5th of May, 1829, John the Baptist came back to earth to baptize Smith; and on the 6th of April, 1830, the first church of Latter-Day Saints was organized at Manchester, New York, consisting of four Smiths and two converts out of the family—Pratt, Rigdon, Kimball, and Young, joining afterwards. This Bible, unlike that of the Christian or Musselman, purports to be chiefly historical, and does not enunciate or enforce a system of moral and religious truth in a philosophic or didactic form; all its incidental lessons upon life or manners being derived from current doctrines of this day. It is consequently incapable of comparison with any other extant form of religious faith. One might as well compare the Christian religion with Fenelon's *Telemachus*, or one of James's novels.

"If it be true that the author of the Koran stole his materials, yet must a man had greatness and elevation of soul to have stolen as he has done. If on the rich fields of sacred literature he plundered, he plundered like a prince! The spoil which he gathered so largely from the Jewish and Christian Scriptures, might be likened to that with which certain learned and magnificent conquerors have graced their triumphs. They have indeed trampled upon and overturned the ancient seat of arts and learning; but yet have first snatched from the devastations of war, each signal monument of greatness and beauty."

And out of these monuments he constructed an edifice, if of grotesque, yet gorgeous proportions, and blazing with the decorations of oriental splendor; but the materials of the Mormon book, though mostly derived from the same source, are so crazily jumbled together, so infartificially constructed, that if a whirlwind had scattered the leaves of the sacred record, and combined them again with the feats of Baron Munchausen by

machinery, it could not have surpassed this production of inanity and folly.

Two things may be remarked upon this Koran of Mormonism. 1st. It does not sanction the central principle of the new faith, as now practiced—polygamy: this was the growth of after years. 2d. It does not purport to be a full and complete revelation; indeed, it discloses that twenty-one plates and stones are still buried and undiscovered in the hill "Comorah," in the State of New York. But neither the plates dug up, nor those still unknown, prevented Smith from having direct visions and revelations from the Most High; and it is by this instrumentality primarily, and not by any potency in the doctrines embodied among the contemptible literature of the Mormon Bible, that the system has grown into its present magnitude. A very similar organization existed a short time before at Sing Sing, in the State of New York, headed by Matthias Folger, and others, which soon ripened and died out with a disclosure of the vices and selfishness of its founders. There is nothing whatever in the distinctive doctrines or truths of Mormonism which would tend to give it perpetuity. These elements lie in its polity, which was not at first a matured system, but grew up gradually, as circumstances gave it development:

First. An electorship of two and two was organized to preach the new system, which consisted principally of violent harangues against all existing forms of religious faith.

Second. An apostleship of twelve, after the model of the early Christian church, with plenary power over inferior orders.

Third. A commission of seventy, now very much enlarged, to go through the world and propagate the new faith.

Fourth. A location for the "new Zion," where, without disturbance from Gentile powers, it could carry out and display its inherent strength, and evince its glory on a scale proportioned to the greatness of its origin and the divine superintendence it commanded.

Fifth. A perpetual and infallible inspiration, through the high priest designated by Heaven, according to whose revelations all the personal, social, domestic, economic, political, military, and religious concerns of the church are to be regulated, in the minutest matter, without hesitation, question, or appeal.

There was an attempt, by Smith, to introduce communism while the Saints were located at Jackson, in Missouri, in 1832; but the principle of *meum* and *tuum* was yet too strong for the immature fanaticism of the early disciples, and the experiment has not been repeated.

This element of spiritual despotism pervades all the several orders, and runs through the entire line of this singular affiliation. It grasps and encompasses every interest, the vast and the minute, public as well as private. No circle is too sacred for its prying censorship and approach! Its thousand eyes gaze upon all the promptings of ambition, all the workings of its industry, all its complainings, discontents, hopes, affections. Through mysterious and hidden conduit pipes flow to the ear of this dictator the secrets of every domicile, the throbbings of every soul; and back, like a thunderclap, comes a revelation that goes crashing on its remorseless way, through heart and home of the disciple, who takes up his staff and flies to fulfill its stern decrees. It is a despotism which combines all the traditional force of Mohammedan absolutism with the shifting policy of Jesuit craft—dominant at once over State and Church, intolerant, exclusive, and fanatical. If "the priest of superstition rides an ass, and the priest of fanaticism a tiger," here is a double proof and representation of the fact.

Every convert is a zealot; every zealot a hero! To believe in these ravings and inspirations, reason and history, science and the world's progress, all the morals of Christianity and all the precious boons of civilization are first ignored and repudiated; a blind, bigoted, unreasoning, mindless faith supplants and swallows everything beside itself; and having laid down its majestic independence and its manhood, and accepted the fetters of a slave, the wilder the marvel the sooner it obtains credence. We have deemed, in our complacency, that no wide-spread delusion could roll its turbid waters over the surface of social life in these ends of the nineteenth century; but we wake up to this phenomenon growing under our

eyes and at our hearthstones, that involves the reign and rage of certain principles of human nature we had hoped were long ago discarded; that comes raving for its victims in the circle of our religious and political institutions, and by the fascinations of its egregious and impudent imposture, its intemperance, its folly, its blasphemous atrocity, carries them forth to exhibit to our baffled hopes and sickened sensibilities a spectacle of credulity and virulence, such as we had hoped history recorded only for warning, and not imitation!

It discards the fanaticism of the scourge; as penances and personal inflictions are not within its policy, except so far as direct and practical devotion to the interests of the "Saints" demand individual sacrifices. It passes by the fanaticism of the brand; its lust is not that of cruelty, and its jaws do not yet reek in blood. Its common hatred has not yet risen to an immortal abhorrence, nor its wrath swelled to execration. Fear and policy, and no inherent virtue of the system, have restrained this manifestation of its nature; for if all external pressure was removed, and the gleam of American bayonets did not glitter before the Mormon eye, it would persecute instead of curse, and exterminate Gentile contumacy where it had failed to convert. But it grasps with a lusty arm the fanaticism of the banner!

Clad in the sacerdotal robes of the priest, over which are drawn the vestments of the soldier, this unscrupulous and traitorous warrior-ecclesiastic rings out the blended war cry of the chieftain with the imperial edict of the Pope! From the sacred seclusion of the cloister, he emerges with mailed glove and plumed helmet. The will of the Almighty comes from his mouth, and His direst wrath foams on his hissing lip. "To your tents, O Israel! defiance is safety! to crouch is to die! strike at once for your homes, your altars, your wives, and your little ones!" This appeal finds an echo in every heart. He covers his designs under the pretext of a religious persecution. Gog and Magog are coming up against the Saints! Patriotism, national pride, calculations of policy, motives of ambition, resentment at foreign interference, the revenge of detected hypocrisy, all mingle in profound excitement, to give it the character of a religious war!

But let me not blend the elements of its polity with the web of its historical development. One or two points more of the former, and I will then turn to the latter—its practical workings being only the outgrowth of its inner spirit. It is unlike either that *fanaticism* of the Papacy that swept Europe of its brave chivalry, in the crusades, and poured its best blood on the Syrian sands, to redeem and sanctify the cradle of its faith, or that fanaticism of Mohammedanism which leaped into the saddle and, flashing its cimeter in the sun, bade the nations bow to the crescent; its battle cry being, "There is no God but God, and Mohammed is his prophet!" Each of these was invasive, aggressive, and acted independently of the political structures existing among the people they inflamed, and with which they did not meddle; but this is defensive, secluded, intense, because driven in upon itself. It blends in one the polity of State and Church, in imitation of the Hebrew theocracy, and spends its missionary zeal in proclaiming through every clime that God has come down to men; that a millennium on earth has opened; that within its peaceful walls care and sorrow and pain are no more; that a brotherhood of love and concord is established, where, surrounded by all that can gratify the taste and please the senses, the wicked cease from troubling and the weary are at rest. This earnest, enthusiastic proclamation and promise is one of the grand agencies of its success—the secret of its marvelous enlargement.

What wonder that the down-trodden, famishing masses from Wales, Scotland, Sweden, Germany, France, and all parts of the Old World, without education, without moral instruction, are caught by the picture, and start in troops for this earthly Paradise? What marvel that eager crowds begimed with the soot of the dark mine, or pale from the faintness of the heated factory—what marvel that the victims of an ecclesiastical system, that is known only by its oppressions and taxes and tithes, while it fails to bless or enlighten—what marvel that they crowd round the earnest man in the thronged marts of the continent, or

on the corners of the rural hamlets of England, and drink in his words, blazing with his own enthusiasm, as he paints the earthly glories of the God-defended Eden of the West, which sparkles to the eye of faith in the distance, the embodiment of all excellence that the imagination ever painted; And then comes in the aid of "organized emigration;" in vast communities, with the order and precision of an army, they set their faces resolutely for their new home, along every avenue, from the Atlantic and Pacific alike, in winter and in summer, toil on with a dogged energy, that in itself is morally sublime. Sixty thousand souls at least own the sway of this occidental hierarchy. Men and women of low intelligence, burning zeal, simple habits; but guided and governed in all their affairs by this inspired priesthood—a priesthood constituted mainly of the Yankee element, as to nationality—an element, in this case, of canting, calculating hypocrisy, which first inquires whether it will pay; and, secondly, whether it promises power; and, thirdly, whether it imposes any limitation upon license and lust; and having satisfactorily settled these profound questions of the pocket and the flesh, with the cool devilry of an ordinary speculation, places itself in the priesthood council and eldership; learns about from its high seat in the sanctuary for beautiful inmates of its harem, and stimulates its palled appetites by new victims, as often as exhausted passion loaths the worn and wasted forms that cease to amuse or please, where the heart is never touched, and woman is so degraded and defiled.

Sir, are the leaders—the master-minds of this fanaticism sincere? Smith was more hypocrite than enthusiast. His whole story of the origin of his bible was a lie; and, knowing that, he could not be sincere.

Nor do I entertain a higher respect for Young, or Kimball, or Pratt, or the other leading spirits who sustain them. Power and polygamy hold them there, and not a man of American birth and education would remain any longer than he could help it, if permanently deprived of both of these luxuries.

I need not argue before a Christian people this question of polygamy. If all the Abrahams and Solomons of the Old Testament practiced it, it is no less devilish and damnable. As long as the Almighty preserves by births and deaths the average equality of the sexes, what right has one man to thirty wives, any more than one woman to thirty husbands? thus defrauding twenty-nine in the social body of their rights. As long as the human heart demands and responds to a congenial and equal sympathy in the opposite sex; as long as man is capable of honor, or woman of love, so long will this licentious system which degrades her into a plaything of idle dalliance, or a breeding animal for children—every element of self-respect, every ray of sentiment, every upspringing impulse of her bleeding and bursting heart crushed out of her; her sense of equality, her queenly pride as wife and mother, her sacred place at the board and the hearthstone, gone, lost, sunken, in the shameless contentment of herding in droves like swine, beneath the roof of a creature who regards her as at once menial, mistress, and slave; so long will nature protest, with all the force of its outraged sensibilities, against this horrid desecration.

To argue such a question is to insult the mother that bore us, despise the home of our boyhood, and the virtues that refine and exalt the society in which we live. In a word, when we reflect that the primitive institution of marriage limited it to one man and one woman; that this institution was adhered to by Noah and his sons, amidst the degeneracy of the age in which they lived, and in spite of the examples of polygamy which the accursed race of Cain had introduced—when we consider how very few, comparatively speaking, the examples of this practice were among the faithful—how much it brought its own punishment with it, and how dubious and equivocal those passages are in which it appears to have the sanction of the Divine approbation; when, to these reflections we add another, respecting the limited views and temporary nature of the more ancient dispensations and institutions of religion—how often the imperfections, and even vices, of the patriarchs and people of God, in old times, are recorded, without the express notification of their criminality—how much is said to be commanded,

which our reverence for the holiness of God and his law will only suffer us to suppose were, for wise ends, permitted—how frequently the messengers of God adapted themselves to the genius of the people to whom they were sent, and the circumstances of the times in which they lived—above all, when we consider the purity, equity, and benevolence of the Christian law; the explicit declarations of our Lord and his apostle, St. Paul, respecting the institution of marriage, its design and limitation—when we reflect, too, on the testimony of the most ancient Fathers, who could not possibly be ignorant of the general and common practice of the Apostolic Church—and, finally, when to these considerations we add those which are founded on justice to the female sex, and all the regulations of domestic economy and national policy—we must wholly condemn the revival of polygamy.

Sir, the common law, as well as the law of nature, deems it a great crime. The municipal law of every State in Christendom has made it a felony; and the wretch who, in the immunity of territorial distance and ecclesiastical protection, will practice it, is worthy of the felon's character, and should receive the felon's doom.

And then this sealing process—a mystery of abominations that no devil not first brutalized could have invented. As a consequence of its polygamous intercourse, divorces are granted freely, at the parties' option, and woman goes through the process of legal transference from one master to another, as the authorities may determine, many marrying five or six times, and their husbands all living—the whole invention being hardly a veil for promiscuous intercourse.

The history of this fanaticism is soon told. The church was organized in 1830. In August, 1831, they commenced a settlement at Independence, Jackson county, Missouri—revealed to Smith as the site of the "New Jerusalem." Smith wavered long between this place and Kirland, Ohio, where, in 1833, they commenced building their first temple, which was finished in 1836, at a cost of about fifty thousand dollars. In 1839, they relaid the foundations of their temple in Missouri. They left this region again for Nauvoo, in Illinois, where another temple was soon erected. Jo Smith's life and labors ended together in Carthage jail, where, on the 27th June, 1844, he was shot by a gang of border ruffians.

And here endeth the first lesson, in the decease of the first saint of Mormonism by martyrdom. "The blood of the martyrs is the seed of the Church;" and it proved true of this, not less than of other causes. From a plotter, trickster, and buffoon, Smith ascended the ladder, and in the apotheosis became a saint and protecting divinity. Faith could now see in him qualities which light would have contradicted.

And while the heaving mass was surging to and fro, and looking for direction, Brigham Young steps forward upon the scene. With consummate tact and a master hand he seized upon the reins of authority. This modern Elisha drew upon his shoulders the falling mantle of his master, and with a will that never wavers and an eloquence of action and tongue that masters, subdues, and overwhelms, he sways the mass before him as with the stroke of an enchanter's wand.

Illinois spews them out; Missouri rejects them. Smith had aspired to the presidency, and the Saints wielded a banded political influence on which no party could count and which could at any time turn the scale in a contest between them. Dissensions grew up, blood was shed in bitter broils; and as the land became too strait and their numbers increased, in 1845 they turned their eyes westward—to Vancouver's Island, to Texas, to California, and finally to a valley in the Rocky Mountains. In 1848, as the young grass was peering from the sod and the buds were bursting into flowers, in the month of May, the exodus commenced. Pioneers having gone before, across the Mississippi they pass, and away over prairie and plain, men and women, flocks and herds—the heavy wain drawn by the lowing cattle—the patient tramp of feet, great and small—filing along the long line of fifteen hundred miles to a land naked as it came from the hand of its Maker; it was the heroism of faith! How sad that it had no worthier end!

From that day Young has reigned supreme, and thousands and tens of thousands have flocked

to his standard. The unsettled religious sentiment of the lower grades of mind gravitate there. It is the Botany Bay of the world! There it stands, rampant and defying. Its hand on its sword-hilt and its eye flashing fire; a Territory and not a Territory!—a Republic in embryo!—a despotism consummate, wearing the show of popular approval and bending willingly to the nod of a tyrant. There it stands—it is before you in your path to the Pacific—it will not away at your bidding; a huge, ugly, stubborn fact, which no ignorance can disregard and no political fatuity despise.

What will you do with it? Will you turn despot and saber sixty thousand souls because they believe in Brigham Young and polygamy? Will you meet the fanaticism of folly and fraud by the fanaticism of extermination? Will you make the city a desert and the region a howling wilderness on the one hand; or, will you suffer this moral cancer, inflaming political treason, to grow on untouched until it becomes too vast to handle? Will you permit an independent and defiant despotism, organized in the very heart of this continent and embracing the vilest and most intractable elements of which a community can be composed, to compact and strengthen its defenses, to train its battalions, to call home its forces, and light a fire at your threshold which all the forces of the Republic cannot subdue?

What will you do with Utah? Will you retrace your steps, and in defiance of the principle of the Kansas-Nebraska act, legislate polygamy out of the Territory, and so declare, and not leave them free to form and regulate their domestic institutions in their own way? Will you repeal the territorial act which they have practically nullified; annex it to adjoining States or Territories, and let them deal with this sin to the family, and this treason to the State? What will you do? As an individual, I will say what I would do: There is no way of avoiding peril; but in the face of ten thousand Kansas-Nebraska acts, and all the false principles they embody, I would pass a law making polygamy a crime in the Territories, and then send a force sufficient to scatter every harem to the four winds. If it be objected that an *ex post facto* law cannot reach past evils, this may be true; yet the offense has been committed in defiance of the common law and moral sentiment of the civilized world, and should receive no favor. In any event, such a law would stay the tide, and the sore would slough off in one generation.

Secondly, I would send an army there sufficient to apprehend Young and all his co-conspirators against the authority of the General Government—who will be found to include every lord of the seraglio—try them for treason, and hang every one, without distinction, who should be found guilty; excluding every Mormon from any participation in the legal processes of the court.

Thirdly, I would secure to the inhabitants a republican form of government, and see that they enjoyed their freedom without the heel of a despot, spiritual or temporal, on their necks; and I would wait patiently to see the results; and if all this failed, I would turn that city into a camp—a vast military depot, to guard and protect the highway to the Pacific.

There is but one question more: When and how shall it be done?

When? I answer now, without delay. This religious fanaticism has now assumed the form of a civil polity, and this civil polity is anti-republican and despotic; and this despotism has committed overt treason against the Government of the United States. The authority of every Federal officer is denied, or a reign of terror instituted over all their acts. War is proclaimed in fact. Forces are levied and trained for action. Slaughter is threatened. Our troops are defied, our courts closed, our officers insulted; the savages incited to plunder and ravage. Peaceful citizens, with their wives and little ones pursuing the path of emigration, are surprised and murdered in scores, with not a straggler left to tell the tale, their mangled corpses, or white skeletons, bleaching in the sun, disclosing the horrid tragedy. If anything is to be done not a moment should be lost. Every day strengthens its forces and compacts its power. Its agencies are hurrying home as fast as steam and money can speed them.

I know some think we should let them alone,

and that the system must soon fall to pieces. But how long has Mohammedanism lasted? How much less reliable is the fanaticism of to-day than that of ten centuries ago? What element of this structure gives signs of impotence or decay? What limb of this hale giant is already smitten with moral paralysis, and gives tokens that its energies are spent, or even wearied? Sir, we have let them alone; and from a contemptible handful, they have grown into a nation! The citizens of Illinois and Missouri could eject them without aid; but now they stand behind a wall of ten thousand bayonets, and dare you to the encounter. The unorganized fanaticism of the world gravitates to Utah, and there it is molded into armies. Eight tenths at least of these elements are foreign, uneducated by and unaccustomed to our institutions, with no love for democracy, and no reverence for national law; restless masses, impatient of restraint, and fraternizing only on the lust of license and the hope of power.

If it might not be deemed too fanciful, I would suggest a historical parallel in that of the fanatical Jew who rebelled against the Roman power, and brought Titus Vespasian to raze his city and temple, and level with the dust every vestige of his power, and every monument of his ancestral glory—a rebellion in which the fanaticism of religious and military sentiments were equally brought into combination. Sir, this is not a religious war—a persecution for conscience sake, any more than was that. As well may the Thugs of India protest their religious principles in justification of assassination! Suppose the devotees in Utah adopt treason as an item of their religious creed: will such a baptism give them immunity for conscience sake? By no means.

But gentlemen fear the great cost of this war! They look round upon an empty Treasury and an accumulating debt; upon \$6,000,000 unpaid for the Oregon war; upon unknown sums for the California campaign, to be ascertained and adjusted! They look upon commerce prostrate, manufacturing industry paralyzed, and the avenues of business closed by symptoms of derangement and distrust; our sources of national income diminished by decreasing imports, and by limited sales of the public lands. They see a system of wasteful expenditure organized in every governmental department; they discover that \$100,000,000 per annum will be needed to keep us from bankruptcy; and they are appalled at the prospect of running the State into financial ruin, by an expensive intestine war!

I admit the truthfulness of the picture, in all its aggravations. But some matters are above money; there are crises in the life of a nation, when, whatever her financial burdens, she must incur heavier; when her integrity and honor, her prestige, her existence, are all at stake; when to calculate is folly, to hesitate is to perish. Did General Washington hesitate and temporize and count the cost, when a part of Pennsylvania rebelled on the whisky tax? No, sir; he sent fifteen thousand men into the field, and this promptitude, energy, manliness, itself quelled the storm, without shedding a drop of blood? The Saints of Utah may be as wise as the whisky dealers of the land of Penn., if they find the Government are equally in earnest. If they choose to risk a battle, I trust it will be such a battle as has not been seen on this continent—overwhelming, decisive, complete; such as our brave Army will fight, even if fanaticism provokes to feats of superhuman valor.

Let those who must bear the responsibility of the war determine mainly how it shall be waged, and what shall be the amount and character of its appointments—whether the additional force shall be that of volunteers, to which opinion I incline, or an increase of the regular Army—whether it shall approach from the east or the west—whether it shall employ horse or foot. But let them not have it to say to the nation that a formidable rebellion has ripened, and is rioting unchecked among us, and we refuse the agencies to counteract or destroy it. I hope this may not become a party question—a shuttlecock for political partisanship to hurl to and fro. Let us deal with it as if we felt a common danger, and were only anxious to cope with and overthrow it. While I leave myself free to vote as I shall deem best upon all details, I stand committed, for one, to give my voice and vote to stay the march of this prairie fire; to fight it out at once, before it

involves our homes and ourselves in the ruin of its spreading conflagration.

Mr. SHAW, of Illinois, obtained the floor, but yielded to

Mr. HARRIS, of Illinois, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS, of Indiana, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had come to no resolution thereon.

VACANCY ON A SELECT COMMITTEE.

The SPEAKER announced that he had appointed Mr. GOOCH on the special committee to investigate the official conduct and accounts of the late Doorkeeper of the House, in place of Mr. DAWES, excused.

OHIO CONTESTED-ELECTION CASE.

Mr. HARRIS, of Illinois, from the Committee of Elections, made a report in the case of the contested election from the third congressional district of Ohio, accompanied with the following resolution:

Resolved, That it is inexpedient to allow further time to take testimony in this case, as asked for by the sitting member.

Mr. HARRIS, of Illinois. I simply ask that the report and the accompanying papers be printed, and I will call it up when members shall have had an opportunity to examine it.

Mr. GILMER, from the minority of the Committee of Elections, submitted a minority report, accompanied by the following resolution:

Resolved, That Lewis D. Campbell and Clement L. Vallandigham be, and they are hereby, allowed the further time of forty days from the passage of this order, to take supplementary evidence touching the matters set forth in the memorial of Clement L. Vallandigham.

Mr. HARRIS, of Illinois. The facts upon which these reports, majority and minority, are founded, are set forth in the papers which I have presented. I simply desire that these reports and accompanying papers shall be laid upon the table, and ordered to be printed. After members shall have an opportunity to look into them, I shall call the resolution up for action.

Mr. WASHBURN, of Maine. Is it understood that the minority report shall be printed?

Mr. HARRIS, of Illinois. It is.

The reports, with the accompanying papers, were laid upon the table, and ordered to be printed.

Mr. STEPHENS, of Georgia. I submit the following resolution:

Resolved, That Clement L. Vallandigham leave to occupy a seat upon the floor of this House, pending the discussion of the report of the Committee of Elections on the case of his contest for the seat now occupied by Lewis D. Campbell, from the third congressional district of the State of Ohio, and that he have leave to speak to the merits of said contest, and the report thereon.

This is the usual resolution.

The resolution was adopted.

NEBRASKA CONTESTED ELECTION.

Mr. HARRIS, of Illinois. I wish to present a brief report from the Committee of Elections in the Nebraska case, accompanied by a resolution. I ask that it be read.

The report was read, and is as follows:

The Committee of Elections, to whom was referred the memorial of Bird B. Chapman, contesting the right to a seat in the House of Representatives of the Thirty-Fifth Congress of Hon. Fenner Ferguson, as Delegate from the Territory of Nebraska, respectfully report that, from the evidence before the committee, there seems to have been a misapprehension of the parties in relation to the notices served heretofore for the taking of testimony, and the committee think that further time should be allowed the parties to perfect the proof in the case. They therefore recommend the adoption of the following resolution:

Resolved, That the parties, the contestant and contestee, in this case, be allowed the further time of sixty days from the passage of this resolution to take and return supplemental testimony.

Mr. HARRIS, of Illinois. I have just been informed by one of my colleagues on the Committee of Elections, that Mr. Chapman desires to be heard on that resolution before there is any action taken upon it. I therefore beg leave to withdraw

the resolution. I was not apprised of the fact at the time of its presentation.

The report was withdrawn.

INTERRUPTION OF THE TRANSIT ROUTE.

Mr. QUITMAN. I desire to offer a resolution for the purpose of obtaining some information from the President of the United States upon a subject which will shortly come before us.

The resolution was read, as follows:

Resolved, That the President of the United States be requested to communicate to this House, if not deemed incompatible with the public interests—

1. All correspondence, which has not heretofore been published, of our late Minister to Nicaragua on the subject of the interruption of the transit route through Nicaragua, and the murder of American citizens on the 13th October, 1856.

2. The correspondence between British officers and the Costa Rican authorities, which was intercepted on the river San Juan, by officers of Nicaragua, and forwarded to the State Department by our Minister, in explanation of the incentives to the war on this line of communication to the Pacific.

3. All information in possession of the Government respecting the subsequent attack of the Costa Ricans, in April, 1856, on the depot and wharf of the American Transit Company, at Virgin Bay, and whether any atonement has been made or demanded for the wanton destruction of American property, and the slaughter of our citizens on that occasion.

4. All correspondence and information in possession of the Government relative to the seizure by the forces of Costa Rica, in December, 1856, of the Transit Company, on the San Juan river and elsewhere in Nicaragua, whereby the transit route across this isthmus was broken up; and whether any steps have been taken to restore communication over said route.

Mr. BLISS. I do not know that I have any objection to the resolution; but I wish to make an inquiry of the gentleman from Mississippi, in order to know whether I have or not. There is one branch of the resolution which, if I understand it, calls for certain stolen correspondence between Great Britain and Costa Rica—correspondence that was stolen by Mr. Walker or by some of his followers, and sent to this country. Is that so?

Mr. QUITMAN. The resolution calls for correspondence sent to this Government by the American Minister at that time near the Republic of Nicaragua, on the subject of the interruption of the transit route—a subject of deep interest to us. It is very necessary that the information should be before the House in connection with some portions of the message of the President of the United States.

Mr. BLISS. It seems, then, that my inquiry is either acquiesced in or evaded, and I must object to the resolution.

INSPECTION DISTRICT AT PADUCAH.

Mr. BURNETT, by unanimous consent, and in pursuance of previous notice, introduced a bill providing for the establishment of an inspection district at Paducah in the State of Kentucky; which was read a first and second time, and referred to the Committee on Commerce.

IMPROVEMENT OF THE SUSQUEHANNA.

Mr. RICAUD. I ask the unanimous consent of the House to enable me to introduce a bill of which previous notice has been given for reference only.

Mr. JONES, of Tennessee, (at eighteen minutes after four o'clock.) I move that the House do now adjourn.

Mr. RICAUD. I hope the gentleman will withdraw that motion, until I can get my bill in.

Mr. JONES, of Tennessee. It is a bad thing to legislate after we come out of committee.

Mr. RICAUD. I have been trying to get this bill in for several days.

Mr. JONES, of Tennessee. Well, sir, I will withdraw the motion.

Mr. RICAUD then by unanimous consent, introduced a bill, making appropriations to improve the navigation of the Susquehanna river; which was read a first and second time, and referred to the Committee on Commerce.

PLYMOUTH HARBOR, MASSACHUSETTS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in answer to a resolution of the House of Representatives of the 20th instant, transmitting the report of the officer in charge of the engineer department, with inclosure, furnishing the estimate for the repair of the works in Plymouth harbor, Massachusetts, and for the preservation of the same; which was referred to

the Committee on Commerce, and ordered to be printed.

And then, on motion of Mr. HOUSTON, (at twenty-three minutes past four o'clock, p. m.) the House adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

THURSDAY, January 28, 1858.

Prayer by Rev. E. KINGSFORD, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, estimates for appropriations to pay volunteers serving in Florida; which, on motion of Mr. DAVIS, was referred to the Committee on Military Affairs and Militia.

He also laid before the Senate a letter of the Secretary of War, communicating, in compliance with a resolution of the Senate, the report of Captain J. C. Woodruff, of the topographical engineers, of a survey or examination of the Potomac river in the vicinity of Washington city, accompanied by a chart thereof; which, on motion by Mr. HAMLIN, was referred to the Committee on Commerce. A motion of Mr. SEWARD that the report be printed and the accompanying map engraved, was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, a statement showing the amount of revenue collected in each collection district for each year from 1852 to 1857, inclusive, the amount expended, and the number of persons employed in each district in its collection for each of those years; which, on motion of Mr. WILSON, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

He also laid before the Senate a message from the President of the United States, transmitting a letter of the Secretary of State, in response to a resolution of the Senate calling for information in regard to contracts made in Europe for inland passage tickets for intending emigrants to the United States; which, with the documents by which it was accompanied, on motion of Mr. KING, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. ALLEN presented the memorial of G. W. Lippitt, praying for compensation for diplomatic services while United States consul at Vienna; which was referred to the Committee on Foreign Relations.

He also presented the memorial of Daniel J. Browne, of the agricultural division of the Patent Office, praying for compensation for extra services, and for an increase of his salary; which was referred to the Committee on Claims.

Mr. FESSENDEN presented the memorial of George M. Weston, commissioner of the State of Maine, praying for the reimbursement of expenditures by that State, in defending the territory in dispute between the United States and Great Britain prior to the treaty of Washington; which was referred to the Committee on Foreign Relations.

Mr. BROWN presented a memorial of a committee appointed at a special meeting of the Provident Association of Clerks of the city of Washington, praying for the enactment of a law to authorize the association to wind up its affairs; which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Corporation of Georgetown, praying for an appropriation to complete the erection of lamp posts in that town; which was referred to the Committee on the District of Columbia.

Mr. BIGLER presented the petition of O. H. Browne, praying for indemnity for depredations in Kansas, committed by marauders during the political excitement in that Territory; which was referred to the Committee on Claims.

Mr. SEWARD presented a petition of commissioners appointed by an act of the Legislature of the State of New York, to erect and take charge of the arsenals and armories in the State, pray-

ing that the United States arsenal at Rome, New York, may be ceded to the State; which was referred to the Committee on Military Affairs and Militia.

Mr. BIGLER presented a memorial of underwriters of Philadelphia, praying that a steam revenue cutter may be built at that place, and stationed in the Delaware Bay and on the coast adjacent thereto; which was referred to the Committee on Commerce.

Mr. KING. I desire to present a petition from the masters of steamers and sailing vessels and ship-owners at Buffalo, Chicago, and other ports on the lakes, asking that a law may be passed establishing regulations for lights to be carried by sailing vessels. They allege that the law now regulating the carrying of lights by steamers in the night time answers a good purpose; but there is no law regulating the carrying of lights by sailing vessels of the United States; that the Provincial Government of Canada has recently established a good system for their ships and vessels, and the petitioners desire that one may be established similar to it, by a law of the United States, for our vessels. I move that the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. MALLORY presented a petition of citizens of Florida, praying for the establishment of a mail route from Mollenville to Bay Port, in that State; which was referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MALLORY, it was

Ordered, That the petition of Joseph Chaires, executor of Benjamin Chaires, deceased, and Gad Humphreys, and Pedro Miranda, on the files of the Senate, be referred to the Committee on Private Land Claims.

REPORTS FROM COMMITTEES.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of Nathaniel Champe, in behalf of the heirs of John Champe, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 39) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery, reported it, with an amendment; and submitted a report, which was ordered to be printed.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of William C. Fowler and others, praying to be allowed bounty land for services in the last war with Great Britain; and two petitions of citizens of New York, praying that the public lands may be laid out in farms or lots of limited size for the free and exclusive use of settlers not possessed of other lands, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of H. W. Benham, submitted a report, accompanied by a bill (S. No. 100) releasing to the legal representatives of John McNeil, deceased, the title of the United States to a certain tract of land. The bill was read and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 47) confirming the location of land warrants under certain circumstances, reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the memorial of Agatha O'Brien, widow of J. P. J. O'Brien, submitted a report, accompanied by a bill (S. No. 101) for the relief of Mrs. Agatha O'Brien, widow of Brevet Major J. P. J. O'Brien, late of the United States Army. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas Phenix, jr., submitted a report accompanied by a bill (S. No. 102) for his relief. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. TOOMBS, from the Committee on Commerce, to whom was referred the petition of S. De Visser & Co., reported a bill (S. No. 103) for the relief of Simon De Visser and Jose Villarubia, of New Orleans; which was read, and passed to a second reading.

TAMPICO VOLUNTEERS.

Mr. DAVIS, from the Committee on Military Affairs and Militia, to whom was referred the petition of S. W. Aldrick and other officers of the Tampico mounted rangers, and the memorial of Lewis Morris, reported a resolution that the prayer of the petitioners and the memorialist be rejected; and asked for the present consideration of the report.

Mr. TOOMBS. What is it about?

Mr. DAVIS. The petition asks us to compensate some persons who were mustered into the service, or irregularly called into the service, at Tampico. The object is to make a report which, if adopted by the Senate, will dispose of the subject. The report is adverse.

Mr. SLIDELL. Let us hear the report.

The Secretary read it as follows:

It appears that during the war with Mexico, after Tampico had been taken by our Army, in March, 1847, many threats were made by the enemy, in and around that city, to retake the place, and it was considered necessary by Colonel William Gates, then in command there, to call upon every American citizen and foreigner to arm themselves for the safety of the town, and the protection of themselves and property. An order was consequently issued, requiring enrollments to be made under the particular direction of Major W. W. Morris, fourth regiment artillery. Four companies were formed in this way, embracing quartermasters, men, crews of vessels in port, and American citizens generally, who offered to serve with their own horses, if forage only was allowed them, which was done; and these companies did much service at night in scouting around the town. They continued to do duty occasionally, not regularly, until October following, when there was no longer any necessity for them.

Colonel Gates, in a letter dated in October, 1848, to Adjutant General Jones, says:

"No muster-rolls were made for the purpose of mustering these men into the United States service, as I had no authority for doing so; but my force was weak, and there was a necessity for every man I could find for the defense of the place, and the safety of property and lives. I have never had any rolls made for the purpose of mustering them out of service, as I had not promised them pay or rations. The call upon them was made upon a great emergency, when the lives of all the citizens of the United States in Tampico were in danger, and when self-preservation was the actuating motive. There were officers enrolled in said companies under the same circumstances, and to some of these officers I have, as Governor, and at their request, given commissions, in order that it might be serviceable on some future occasion in giving them respectability as such. I can only say that they were useful and good volunteers."

The committee do not consider that these Tampico volunteers were ever in the United States service. It was a mere town association, organized for mutual defense, such as prudent communities resort to under similar circumstances, but for which service it has not been the practice of the Government to make compensation.

The report was concurred in; and the prayer of the memorial was rejected.

DISTRICT BANKS.

Mr. SLIDELL. I am instructed by the special committee appointed to examine into the condition of the banks in the District of Columbia, to make a report in writing, accompanied by a bill and resolution. I move that the report and bill and the resolution be printed, and I ask the indulgence of the Senate to make the consideration of this subject the special order of the day for some day that may be as near as possible. I will say the second Monday in February.

The VICE PRESIDENT. A special order has already been made for that day.

Mr. SLIDELL. Then I will say the second Tuesday of February.

The bill (S. No. 104) to prohibit the issue of bank notes by corporations, associations, or individuals, within the District of Columbia, and further to prevent the circulation of bank notes issued by any incorporated company or association of individuals, located beyond the limits of the District of Columbia, of a less denomination than fifty dollars, was read the first time, and ordered to a second reading.

The report was accompanied by the following resolution:

Resolved, That it is inexpedient to authorize the establishment, either by general or special laws, of banks of issue within the District of Columbia.

The report, resolution, and bill were ordered to be printed, and were made the special order for the second Tuesday of February, at one o'clock.

POST ROUTE IN FLORIDA.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a mail between Mollenville and Bay Port,

Florida, via Apopka Lake, Harris Lake, Adamsville, Sumterville, and Spring Hill.

POST ROUTE IN ARKANSAS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing by law a post route from Marion, in the State of Arkansas, via Walnut Grove, Lyle's Ferry, and Neely's Ferry, to Walnut Camp in said State, and report by bill or otherwise.

MILITARY ACADEMY.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the amount of expenditure for the support of the Military Academy at West Point for the past year, including compensation of cadets and all officers connected therewith.

LIGHT-HOUSE BOARD.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of repealing the law creating the Light-House Board.

BILL INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to bring in a bill (S. No. 105) to ascertain and adjust the titles to certain lands in Kansas; which was read twice by its title, and referred to the Committee on Public Lands.

PACIFIC RAILROAD.

Mr. FOOT. I desire to present a proposition for the construction of a railroad from the Missouri river to San Francisco, by what has been denominated the northern route. I shall ask that it lie on the table, and be printed, in connection with the bill of the select committee, and the proposition presented yesterday by the honorable Senator from Mississippi. I do not offer this as an antagonist proposition to the bill reported by the special committee. That bill had my concurrence in the committee, and will have my vote and my support here. In the event, however, that that should be superseded by the proposition of the honorable Senator from Mississippi, I propose to offer it, not as a substitute for that proposition, but as an additional section to the bill presented by the Senator from Mississippi. In the event that the bill of the committee should be superseded by the substitute, and my amendment shall be also adopted, thus connecting the two routes, the north and the south, I shall be able to vote for the proposition of the Senator from Mississippi; and I hope that he, at the same time, will be able to vote for my proposition. I ask that it lie on the table, and be printed.

Mr. DAVIS. I will say to my honorable friend from Vermont, that the proposition which I presented to the Senate yesterday was not for any particular route. It was across the territory, and did not locate the route.

Mr. FOOT. I had a misapprehension on that subject, not being able to see the bill.

Mr. DAVIS. It is fair I should say that I have no doubt where the road will be.

Mr. FOOT. I do not present this proposition, however, as antagonist to that of the Senator from Mississippi, or the bill of the committee.

Mr. GWIN. There was an order made yesterday evening to print another edition of the bill reported by me from the select committee, in connection with the substitute of the Senator from Mississippi. The Senator from Vermont had better make his motion that this proposition be printed with that bill, so that they shall all be printed together.

Mr. FOOT. I vary the motion in that way. The motion was agreed to.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States; the pending question being on the motion of Mr. TOOMBS to strike out the first section of the bill, which is in the following words:

That there shall be added to each of the regiments of dragoons, cavalry, infantry, and of mounted riflemen, two companies, to be organized in the same manner as the companies now composing these arms, respectively; and to receive the same pay and allowances, and to be entitled to the same provisions and benefits in every respect, as are au-

thorized by the existing laws; they shall be subject to the rules and articles of war; and the enlisted men are to be recruited in the same manner as other troops, with the same conditions and limitations.

Mr. HALE. With the consent of the Senator from Georgia, who is entitled to the floor, I rise to a statement of fact which I wish to correct. The day before yesterday I stated, in my place, some facts with reference to the expenditures of the Army, and the appropriations asked for in the deficiency bill, in these words as they are reported; and I believe they are reported accurately:

"The deficiency which the Administration asks for for the War Department, for the military service is, I understand, \$6,700,000. We actually spent \$19,436,000, and they want about seven million dollars more, making \$26,000,000 for military service last year."

That is the statement which is quoted in a newspaper printed in this city, called the Washington Union, which, I believe, is the organ of the Administration, of the Supreme Court, and of the Lecompton convention. I do not often notice attacks from such quarters when they relate to myself personally; but as this relates to a matter connected with the public service, and the accuracy of my statement is questioned, I beg leave to lay two documents before the Senate. This writer goes on to say:

"It is surprising that a member of the august Senate of the United States should consent to commit himself to statements like these—statements disclosing either inexcusable ignorance of the subject in hand, or else a most callous indifference to fact and truth."

Then he follows with about a column of twaddle, which, I suppose, he meant for wit; but I think he will have to explain it to anybody to get it understood as such. Then he comes to this statement:

"The Senator, therefore, has made the slight mistake of \$5,000,000 in his statement of the aggregate expenses of the Army for the year. Instead of \$23,000,000, the charge is \$21,000,000; and of this charge, nearly seven millions are asked to meet the extraordinary exigency of the Utah rebellion."

I hold in my hand, sir, Miscellaneous Document No. 56 of the Senate, of the Thirty-Fourth Congress, third session, in which there is a recapitulation of the appropriations made last year; and in that recapitulation I find this item:

"Army, fortifications, and Military Academy, \$19,436,190 41."

the precise sum which I stated the other day, omitting the fractions of dollars and cents. I hold in my hand another document, of which I propose to read a page, and then leave the subject. I now read from Miscellaneous Document No. 22 of the House of Representatives of the present session, entitled "Deficiencies in Quartermaster's Department:"

QUARTERMASTER GENERAL'S OFFICE, WASHINGTON, January 6, 1858.

STR: As I had occasion to state in my report, dated 21st of November, that large appropriations would be required for deficiencies in the present year on account of transportation and other Army expenditures made by the laws and regulations through the Quartermaster's department, I have made a thorough investigation of all the business, as well as military operations of the department, and have found that from the vast extent of those operations, the deficiency to be supplied is greater than I had believed it would be at the date of my report.

It is ascertained that a deficiency existed at the close of last year, which has been a charge upon the present year, of about \$1,000,000; in addition to which the extensive operations against the Cheyennes and other Indian tribes, and the extensive arrangements for the operations in Utah, have exhausted the appropriations for the present year so far that there is not a sufficient balance in the Treasury to fill the estimates now on my table for December; and the whole balance in the hands of disbursing officers will not be sufficient for the service for one half of the present month. Appropriations will therefore be required to carry the service through the year, and to make the large outfit for the operations in Utah for the following objects, viz:

For regular supplies, including fuel, forage, straw, and stationery.....	\$778,000
Mounts and remounts.....	252,000
Incidental expenses.....	190,000
Barracks and quarters.....	80,000
Army transportation.....	5,400,000

Making..... \$6,700,000 deficiencies, and for the service in Utah, taking the Army as it is, and limiting the expenditures to operations already determined on, as they have been communicated to me.

Should operations be carried on from the Pacific, or should a larger force be sent from this side, an increase in the appropriation in proportion to the increased force will be required.

I will have all the details ready to submit to you, so soon as they can be fairly copied, which make the several aggregate amounts above stated to be necessary.

I have the honor to be, sir, very respectfully, your obedient servant,

TH. S. JESUP, Quartermaster General.
Hon. J. B. FLOYD, Secretary of War, Washington, D. C.

Having the figures with me, I leave the wit to the editor.

Mr. DAVIS. With the permission of the Senator from Georgia I merely wish to say that I think the Senator from New Hampshire falls into the error, which has been commonly committed, of charging everything that has been estimated for by the Secretary of War as the expenses of the Army. Fortifications are certainly not the expenses of the Army. The building of the Capitol extension, or of the Aqueduct, is not an expense of the Army; yet these works, being under the charge of the War Department, go into the estimates of the Secretary of War. I think the statement which has been made from year to year of the gross amounts, without reference to the object of the expenditure, and proclaiming the whole as the expense of the Army, does injustice to that branch of the service.

Mr. HALE. I have no controversy with the Senator on that point. I simply wanted to vindicate myself before the country for the use of the figures I had used, being sustained in them entirely by the public documents; and I stated distinctly, I think, that the sum I named was the whole of the appropriation, including fortifications, ordnance, &c.

Mr. DAVIS. I have no purpose at all to take up the controversy between the Senator and the Union. I have not read the article to which he refers. My remarks were merely intended to put the Army in what I think is its true position.

Mr. TOOMBS. Mr. President, the discussion on this bill seems to have taken a very wide range, into which I do not intend to follow it. Some elements unfavorable to a calm judgment and proper determination of the question have been introduced on both sides by the disputants in this case. I desire to bring the Senate back to my motion, its effect and consequences, and the reasons which I suggested, rather than argued, when I originally made it.

I propose to strike out all of the first section of this bill, except the enacting clause. The effect of that will be to prevent the addition of thirty companies to the present military establishment of the United States, consisting of ninety-six men each, making nearly three thousand men, leaving the military establishment, if this bill should then pass without further amendment, twenty-two thousand men. If the bill be passed amended as I now propose, it will fix above twenty-two thousand men as the legal establishment of the United States; not the peace establishment, for under the peace establishment many of the companies are authorized to enlist only fifty-two men, and under the existing law many of the companies are authorized to carry their numbers to seventy-four; but, under the bill on your table, the President is authorized, if the public necessities should require it, to carry the number of each company to ninety-six men. The President, therefore, will have a legal right to bring into the field above twenty-two thousand men, if this bill passes even with the amendment I propose; and without that amendment, the bill carries the Army of the United States to between twenty-five and twenty-six thousand men. That is my motion, and the immediate effect of it.

The reasons which I offered for this motion to strike out the first section when I proposed it, were based purely on the fact that the existing military establishment, and certainly with the addition proposed by the second section of the bill, is at least large enough; I think it much too large. Two years ago, I opposed the addition of the four regiments. I believe there has been no session of Congress since I have been a member of either House, at which the head of the Army, the Secretary of War, and the President of the United States, have not recommended an increase. Whether we are in peace or in war, whether we are threatened with Indians or with Mormons, or with British or any other Power, on every occasion, every newspaper rumor with reference to war is made the occasion for asking an increase of the Army. Up to a very few years ago, and I believe up to the time of the Mexican war, we had but six thousand men on the military establishment of the United States. It was adequate to all the purposes for which an army ought ever to be used.

I am at issue with the chairman of the committee, [Mr. DAVIS,] as to the greater difficulty now

of defending the country than has existed from the beginning of the Government until the present time. The great power of the Government, its greatly increased physical power and its consequently increased moral power, the civilizing and the subjugation of those powerful tribes who once occupied the country east of the Mississippi, have tended to remove the grounds of alarm that formerly existed.

The Creeks, the Cherokees, and the Choctaws, of the South, have been removed beyond the Mississippi; and the powerful bands of northwestern Indians who once gave so much trouble, have been subjugated and nearly destroyed and annihilated. Those Indians at one time almost defied the entire power of the Republic, from 1790 to 1800. They are gone, and we have but a few miserable, disjointed, fragmentary tribes on this and the other side of the Rocky Mountains, without a single element of military strength. As the Secretary of War has said, they are roaming vagabonds, without culture, without any means for carrying on war except simply their bows and arrows; they are naked and defenseless, and give us no other trouble than to catch them. There is no force of Indians on this continent, within the limits of the United States, capable of fighting two thousand of our soldiers. There has not been an embodiment of Indians in the country for the last twenty-five years capable of fighting two thousand of our men.

If Senators will look into the history of the tribes west of the Rocky Mountains, they will find that it is said many of these wars are made, and they may be made for all I know, for the purpose of leading to the expenditure of public money. It shows how little the Indians are regarded by the community, if it be true. I have known similar charges wrongfully made about other sections of the country, and they may be wrongfully made about these people west of the Rocky Mountains, in regard to which we have greater difficulty in getting at the truth. But it is absolutely certain, as I have stated, that there is no prospect, nor is there scarcely a possibility that, at least within any brief space of time, before the militia of the country, the natural and legitimate and just defense of the people in all free Governments, can be collected together, a force of Indians capable of meeting two thousand United States troops can be mustered anywhere on the North American continent.

The proposition is to make this addition to the Army as a permanent peace establishment; and I admit the chairman of the committee meets it frankly and fairly. He does not base this increase of the Army on our present Mormon difficulties; he does not even base it on our present supposed Indian difficulties; but he puts it on the broad, naked principle that the public necessities require the enlargement of the military service of the United States. Upon that, I propose to meet him. It is true we are appealed to by other Senators, who refer us to the condition of a couple of regiments that, I believe, we have in the mountains between this and Utah. We are able to bring sixteen thousand men, or such portion of them as may be necessary, to their aid, whenever they can be got there. It is very certain that no great increase of the force in Utah is either necessary or possible to be used. It is not supposed, I believe, by the officers there, whose reports and letters I have looked into, that five thousand men could be used there, or would be necessary to be used if we had them there. I presume, if the President had command of one hundred thousand men, he would not place five thousand in Utah. The cost of maintaining them would be great. The whole difficulty with the enemy, according to the present opinions of the military men of the Government, it seems to me, is that we shall have to run down the Mormons from the mountains when we get to Salt Lake City; and about two regiments are within one hundred and fifty miles of that place. It is ridiculous to suppose that this man Brigham Young, is able to compete with three thousand troops of the United States. Then the Army establishment, as now proposed, will give you ten thousand men more than were ever used before, for the ordinary defense of the Republic. It will leave you twelve thousand men to take care of the Indian frontier, and give you ten thousand men to march against Brigham Young in Utah. Is not that enough?

I leave out of account the reasons adroitly seized upon by the chairman of the Committee on Military Affairs yesterday, that a portion of the army in Kansas had prevented one side from killing the other. I believe the honorable Senator from Michigan [Mr. CHANDLER] said his side would have slaughtered the whole of their opponents; and my honorable colleague [Mr. IVERSON] said that, without the Army, his people would have killed them all. I do not know how that is, nor do I care. I think the country would never suffer much, if both of them—

Mr. IVERSON. My colleague does not misrepresent me intentionally?

Mr. TOOMBS. Certainly not.

Mr. IVERSON. I said nothing about my people killing the Mormons.

Mr. TOOMBS. I did not assert it. The statement was that they would kill the Abolitionists in Kansas.

Mr. IVERSON. Yes. I did not say my people, but I thought the Missouri people would have put them down pretty effectually. That is what I meant.

Mr. TOOMBS. I will not go into the controversy at all. The matter has not been tested. I leave that question; but I brought it up to enter my dissent to using the Army for any such purpose. I will not give a man of the Army of the United States to maintain the civil peace of this country. I tell you the history of forty centuries has demonstrated that order obtained by regular soldiers is despotism; and that peace obtained by regular soldiers is the cemetery of liberty; and I will never give a man for that purpose. I will maintain peace on no such terms; I will have order at no such cost. If the freemen of this country cannot maintain their own laws of themselves, they are unfit to govern themselves, and I shall not moan at any amount of destruction which they may mutually commit. I shall not endanger the public liberty of twenty-five millions of freemen to compose the difficulties of two, three, five, or ten thousand men, on any side of a local controversy, in any part of the United States.

I know that it is just as impossible for the Ethiop to change his skin, or the leopard his spots, as for a regular army to be the friend of liberty. Always, in all ages, in all times, and in all countries, it has been the instrument of despotism. There is not a despotism in the world that could stand ninety days without this infamous instrument of oppression. How is the glorious Empire of France upheld to-day? How are the Italian people to-day held subject to a foreign Power? It is unnecessary to designate nations; but point to a country on the face of the earth where despotism tramples liberty under foot, and I will show you a country where it is upheld, not by the people, but by military power—by a regular army. They are the natural allies of despotism everywhere. They always have been, and they always will be. We are departing from the great, sound, and fundamental principles of our ancestors when we look to a standing army to maintain public order.

Then I must throw out that element which is offered me by the honorable chairman of the committee. I do not rejoice at peace which is maintained on those terms; I do not rejoice at order which is secured by the bayonets of mercenaries in the pay of the Government. Then dismissing that as an element, I notice another objection which is made by the honorable chairman. I do not propose to alter the principle we have followed with so much success from the beginning of the Government, and for which he so justly complimented the late distinguished Senator from South Carolina, Mr. Calhoun. His proposition to add thirty companies, I say, does alter the Army as left by Mr. Calhoun, and my proposition secures it in all its just proportions and symmetry. His organization of the regiment was ten companies. It is true this is a small point; but we are urged to maintain Mr. Calhoun's principles, and I am endeavoring to do it. I am maintaining them as he left them. I am maintaining the regiments as he left them when Secretary of War, if that is to be the model. He left the regiments with ten companies as the skeleton. He left it so in order that it might be enlarged on the occasion of war with any Power great or small, for the reasons so much better stated by the honorable chairman than I can state them. Our dispute is not whether we

shall maintain the skeleton system—I shall not differ from the Senator from Mississippi on that point—but solely as to the size of the skeleton; and I am maintaining it precisely on the principles which he has so well presented to the Senate. I am for preserving the skeleton of the Army as fixed by Mr. Calhoun. We have now from twelve to thirteen hundred officers; we have fifty-two men in each company on the peace establishment, capable of being enlarged, capable of letting in raw recruits to the extent of fifty other men on the war establishment. That gives you, I admit, a strongly increased effective force for an emergency, and I am for maintaining it. But in order to get more, the Senator from Mississippi wants to enlarge the skeleton, and I do not. That is the difference between us. I do not think he can take much by referring to the wisdom or acknowledged patriotism of Mr. Calhoun, for I am not only defending his principles but for exercising it just as he exercised it, and executed the military law when he was Secretary of War.

I am very glad to find so great an authority with me, though I am free to confess, that such is my jealousy of strengthening the standing Army of this country, that I should disregard all authority that attempted to shake those principles which have grown with my growth and strengthened with my strength. All experience and all history have taught me that standing armies are dangerous to public liberty. If you cannot maintain order, if you cannot maintain the law, if the regular operations of the Government cannot go along, then set up a military despotism, as they do in France, Austria, and the German States; but if you build up a standing Army, for the purpose of maintaining order, you have already subverted your Government. The very enunciation of the principle is a subversion of the fundamental ideas on which your Government was built. We have acted on the idea that the freemen of the country are capable of maintaining the law, of maintaining peace, of maintaining order. If that is wrong, if that is not true, if we have been mistaken, then our Government is a failure. It may be so; but I am not, as yet, willing to admit it. While I am not able to express the confidence that was felt twenty years ago, and which I then felt in common with many of the people of the United States, as to its final success, I am at least not yet prepared to give it up.

Then, what are the other reasons? I do not want an increase of the Army to secure public order. There is no occasion for it on account of the condition of the Indians. We have, as I before stated, not as many of them, and not as powerful races as formerly. The time was, when, on the frontier, in my own State, the Indians would bring twenty thousand men into the field. They fought your disciplined armies with one of the greatest American commanders, face to face, in some of the greatest pitched battles fought on your continent. They fought General Jackson, and other distinguished leaders. Where are they now? Where are their armies? Where is their material? Where is their organization? It is now openly charged by many gentlemen, as a reason for the increase of the Army, that Indian wars are got up by the people for the profit growing out of them. That is the allegation. So little dangerous have they become, so little do they alarm even the irregular militia, that it is openly charged in the Senate Chamber, and the other House, that the border people themselves get up these wars so that they may plunder the public Treasury. Suppose that is true. I am not indorsing it; I know nothing of it. I should hope it were not true. I do not believe it is true, as applied to any considerable body of people. But if it is true, will your Army prevent it? How will your Army prevent it? You cannot put ten, fifteen, or twenty thousand men all along the Indian border, within supporting distances, on your vast frontier. You must have a small force at various points as you have now. The difficulty is, that the people may make these Indian wars, and call out the militia for the purpose of drawing money from your Treasury, as is alleged, before any considerable regular force can be got there. There is on our table a document in relation to a quarrel between a general in the United States Army, a man distinguished in the field, and these very settlers, when he was on the ground, for refusing to use the troops of the United States. The

settlers, he said, got up the war for the purpose of plunder. How is it to be prevented? There is no preventive anywhere but here. It is the business of Congress to inquire into it, to use the best means for ascertaining whether these wars are got up regularly or irregularly, and whether they are legal or not. If they are illegal, the authors of them should be punished by law, and Congress should refuse to pay the expenses of the war. If I am answered that this cannot be done, then I respond, that it is one of those evils of free government that you must pay for. If it is true that you cannot get men honest enough to inquire into the facts, and that you have no means of getting information, and are necessarily plundered, then you must submit to it as one of the necessary evils of your extension. It cannot be shown that the Army can prevent it. It is said that the Indians do not make the wars, but the settlers. Then, you want the Army not to repress the Indians, but to repress the freemen. If the argument has any force, it is that, and that alone.

He who has looked into the account of the Indian war beyond the Rocky Mountains can very readily perceive that at no time have three thousand Indians ever been embodied, unless on some treaty-making occasion, to get goods and money. Those are the only occasions now, on which we ever see three thousand Indians together. How can they maintain themselves? They are uncivilized necessarily from the condition of the country, scattered into little valleys, without the means of carrying on war; they are really helpless, and dependent on the Government of the United States for subsistence. The Senate, not more than twelve months ago, was called upon, and will no doubt, at this very session, be called upon again, to appropriate thousands and hundreds of thousands of dollars to feed the poor Indians in California, in the Northwest, and in Texas. We were told that that policy was going to diminish the necessity for armies; that it was better to feed them than to fight them; that that policy was humane, philanthropic, just, and, above all, that it was economical. But while we are spending our hundreds of thousands of dollars on the "economical" idea of feeding the Indians, we are, on the other hand, spending our millions to increase our means of defense against them! That is the very inconsistent policy which this body is called upon to maintain at this session. I did not believe in the feeding policy. I do not believe savage tribes can be kept in subordination except by force. I believe it to be a necessary ingredient in their government, and I think the present Army of the United States is adequate to all the purposes of keeping them in terror. I believe they are not to be restrained by any other motive than the fear of punishment; and that is not very peculiar to Indians, but the same remark applies to a great number of other people.

We are again told, as a reason for this increase, that the militia are a more expensive arm of defense. The chairman of the committee puts it on that alone; he does not put it on the Mormon war, or Indian disturbances; but, as a reason for this permanent addition to the peace establishment of the country, it is said that the militia are a more expensive arm of defense. To prove this, the honorable Senator read some reports as to what moneys were expended in the Rogue river war. The sum of \$75,000 was one of the items; \$900,000 was another. Here is a fundamental error. I know it has been the Army idea; I know it has been dinned in our ears for twenty years by the persons here at the head of the Army, that the militia was an exceedingly expensive force in suppressing insurrection or Indian disturbances. I am prepared to combat that assertion; it is not true. In the first place, if the militia are called into the service of the United States, they are subject to the same rules and get the same pay as the Army, with this disadvantage, which I have felt in my own person—they are not half as good in making out accounts as those who are used to them. It is impossible that they can get more pay, or more rations, or more transportation. They are paid by the same schedule, and you cannot get one dollar more for these men, because the regular officers are generally, almost universally, the paymasters in Indian disturbances. The accounts are passed by the accounting officers of the Treasury. You call a man temporarily from his plow, from his farm, and put him in the service of the

country; you pay him for the time you want him, and then discharge him to go and make his own living. But get a regiment added to the Army, and when do you get rid of it? In such cases as the great war of the Revolution your men disband easy enough, because there is nothing with which to pay them. At the end of the last war with Great Britain we disbanded them, but we soon afterwards increased the Army. After the war with Mexico we found that the difficulty was so great of disbanding the Army, even in time of peace, that the American Congress were doubtful even of their own ability to bring it within any reasonable scope. With a foreign war on our hands, the very acts raising the regiments limited their duration to the war. We got rid of those regiments by that provision in the act raising them, and in no other way; and even then, in one mode or another, by special acts increasing the general officers, many of those gentlemen are still in the service of the United States.

It is not so when you call out volunteers and militia-men, who are much better fitted for this service, and have done more of it; for I verily believe that, if the repression of Indian hostilities belonged to the Army of the United States, to this day half my State would have been covered by Indians. We never had any troops there from 1775, until the Government sent them there to protect the Indians against us. Those were the first we had. The first soldier that ever made a track on the frontiers of Georgia was there to protect the Indians against us. I believe the honorable Senator did say that volunteers were very apt to commit great cruelties and kill the Indians. I think they are apt to hurt somebody if they fight. That is one advantage of having the Army; they hurt very few Indians! They are not the description of troops who are likely to do it. Sir, you understand these regular troops; you and I know them, and probably both of us have served with them. You might just as well expect an upland colt to run down an antelope ass, with the regular troops, attempt to run down an Indian. They are not suited to it; and, therefore, when we had real Indian difficulties, you had to cover your frontier with citizen soldiers and end the war. I have seen thousands and thousands who have been subdued by volunteers, carried to the distant West by them. Very little of that work has been done by regulars.

There is a remarkable fact that I will state. I think, during the period of the independence of Texas, about four companies of rangers defended her frontier from Arkansas all the way around to the Rio Grande, and down that river to the Gulf of Mexico—a line of not less than three thousand miles. Now, we send company upon company, regiment upon regiment there, at the most tremendous cost, expending an amount of money that Texas never dreamed of in her most extravagant days, and yet they are not as well defended as they were then, notwithstanding Texas, at that time, had less than fifty thousand inhabitants, and is now supposed to have half a million. Four companies of Texas rangers were more effective for the defense of the frontier than five regiments of United States soldiers. Volunteers are ready at all times. They will break into your Army whenever you invite them. There has never been a day or an hour within thirty years, whenever you wanted volunteers for temporary purposes, to defend you against Indians or other enemies, that your volunteers and militia have not leaped forward with an alacrity that gave no other trouble than to select from among them. If they cost more for a month or a year, you can disband them when you do not need them; but get your regular regiment, and you keep it for ten years at least.

There is another very remarkable fact with reference to Mr. Calhoun's administration of the War Department. I speak from memory (but I know I speak with accuracy, for I once had this question before me) when I say that during the administration of the War Department by Mr. Calhoun, he brought down the expense per man in the Army to \$273. It has now gone up, it seems, according to the estimates even of the legitimate expenses of the Army, to more than one thousand dollars a man.

Mr. HAMLIN. The legitimate expense is \$1,500 per man.

Mr. TOOMBS. The Senator from Maine says the legitimate expense is \$1,500 a man. There is

nothing in the times to warrant this increased expenditure. A bushel of wheat is as cheap as it was in 1816 or 1818. The ration you give your soldier is about as cheap as it was then. You have made a small addition to the pay of the men and a large one to the pay of officers, it is true; but that is comparatively a small item. Since you have got them remote from the center, since you have got them on distant frontiers, since you have lost accountability, your expenses are daily increasing in geometrical progression, without the least regard to the cost of living; and it must be arrested. I was glad to see the Senate lay its hand on that yesterday, when only eight men here could be found who would countenance this recommendation of the addition of five regiments to the regular Army.

This bill—and I would call the attention of the Senate particularly to that fact—adds thirty companies, equal to three regiments, to the present military organization, with all their officers, except field officers. It is taking three instead of five regiments—that is the difference between the first section of this bill and the proposition of the War Department. The section which I seek to strike out adds two companies to each regiment, making an addition of thirty companies to the whole Army, equal to three regiments of ten companies each. By this section, therefore, you are adding three regiments to the Army, to the same extent as the present regiments in number, except the regimental officers. That I do not propose to do.

There has been no want of power in the President to send troops to aid our soldiers in Utah; and at any time last summer he could have added two, three, or four thousand men to the Army under the present power, for the numbers of each company can be carried from fifty-two to seventy-four, according to the existing law. If this bill should become a law, the difficulties will be settled before the first man ever reaches there, unless it be an officer. Before the first soldier, raised by your bill, crosses the Rocky Mountains, I say the difficulty there will have terminated, and the necessity for them will cease to exist. That argument is used, therefore, merely as a pretext for permanently saddling the country with an enormously expensive military establishment. An Army of twenty-five thousand men, as was justly remarked by the Senator from New Hampshire the other day, is equal to an Army of one hundred thousand men twenty-five years ago. Considering our means of transportation to the interior, the facilities of railroads and steamboats, and the power of rapid combination, twenty-five thousand men are a more effective military force to-day than one hundred thousand would have been twenty-five years ago. Where, then, is the necessity, if you do not intend to enforce your laws in Massachusetts and New York? We do not want them enforced by your Army in Georgia. There is not a soldier there, and has not been for ten years. The last one I believe that was in the State came there to help the Indians against us; but since that time there has not been a single one, and I hope never to see another—I hope never to see the sole of the foot of a Federal soldier press the soil of Georgia. If she cannot defend herself, I am willing to see her dig her own grave.

Mr. STUART. I propose to make some remarks on this subject myself; but it will be recollected that the Senator from Maryland [Mr. PEARCE] was entitled to the floor on another subject which was assigned for one o'clock to-day, and I therefore move to postpone all prior orders, and take up the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding, together with the report of the Committee on Foreign Relations on the same subject.

The VICE PRESIDENT. The resolution on which the Senator from Maryland is entitled to the floor is the next special order after the disposition of this one. What disposition does the Senator propose to make of this?

Mr. STUART. I move to postpone all prior orders. That will give us an opportunity to proceed again with this bill to-day.

Mr. DAVIS. It would be very agreeable to me to answer the Senator from Georgia at this time, but I know I am indebted to the courtesy of the Senator from Maryland for the ability to discuss

this question the last two days, and therefore I shall make no objection to postponing the whole subject until he concludes.

The VICE PRESIDENT. It is moved to postpone the special order now under consideration, with a view to take up the next special order.

The motion was agreed to.

COMMODORE PAULDING.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. No. 7) directing the presentation of a medal to Commodore Hiram Paulding; the pending question being on the amendment of Mr. Brown.

Mr. PEARCE. Mr. President, among the strange things to which I listened during the debate on this question, nothing surprised me more than the pertinacity with which it was denied that this was a military expedition by General William Walker. That denial has been repeated so often, and in the face of such testimony, that I cannot but call to mind a little work published by Archbishop Whately, entitled "Historic doubts relative to Napoleon Bonaparte;" a work in which that learned and ingenious prelate has adduced a variety of arguments founded on the rules of evidence, to show the improbability of the historic statements we have concerning the remarkable incidents in the history of that extraordinary man, and even of his existence. It is a facetious rebuke of those skeptical minds who are so hardened in incredulity that they reject all historic statements, however founded on evidence, which has met the almost universal credit of mankind. As a specimen of it, let me read a short passage:

"But what shall we say to the testimony of those who went to Plymouth on purpose, and saw Bonaparte with their own eyes? Must they not trust their senses? I would not disparage either the eye-sight or the veracity of these gentlemen. I am ready to allow that they went to Plymouth for the purpose of seeing Bonaparte; nay, more, that they actually rowed out into the harbor in a boat, and came alongside of a man-of-war, on whose deck they saw a man in a cocked hat, who, they were told, was Bonaparte. This is the utmost point to which their testimony goes; how they ascertained that this man in the cocked hat had gone through all the marvelous and romantic adventures with which we have so long been amused, we are not told. Did they perceive in his physiognomy his true name, and authentic history?"

It really seems to me that the denial that this expedition of William Walker was a military expedition, to say nothing now of its being in contravention of our law, evidences just as much of this hardened incredulity as the Archbishop's work exhibits in regard to the romantic history, and even the existence, of Napoleon Bonaparte. It is very true, sir, that General Walker issued no proclamation to the wide world, and all mankind beside, announcing his purpose to set forth on this expedition to conquer Nicaragua; he did not in New Orleans or Mobile send out his heralds with trumpets to announce his purpose; but short of that, we have almost all the evidence which it is possible to require. We have in the papers furnished to us the proof that his agents were busy in various places engaging men; not, it is true, to take part in a military expedition, but to go out with him for the purpose of settlement; that being the flimsy pretext under which his hostile operations were disguised. But we are told that they were organized by having officers appointed; that such and such men were promised captain's commissions, or the next commission in rank. As for those who were to hold no commissions, they were not called privates, but "others than officers."

Then we find a steamboat obtaining a clearance at the custom-house by false and fraudulent representations—for this transaction is stamped with the meanness of falsehood in the very beginning; false invoices; false letters to a consignee, directing the sale of goods never put on board nor intended to be put on board, for cash, when they should arrive at San Juan de Nicaragua; passengers to go who were found with arms in their hands. The purpose is disclosed by the very first operation exhibited on reaching the coast of Nicaragua: a detachment of men, commanded by a colonel and subordinate officers, were sent up the south branch of the river, not to make a peaceful settlement, but to force a passage to Fort Castillo and capture it by military means; the vessel then running up to the harbor of San Juan, landing not only its men, but arms; depositing its ammunition, and forming a camp. No such goods as constituted the assorted cargo are found on board.

But we have an inventory of those cases and their contents. This assorted cargo, to be sold for cash, consisted of muskets, bayonets, rifles, and percussion-caps—all the ammunition and all the provision intended for a warlike expedition, and nothing which could give color to the false letter of consignment.

Then we are told that this is no proof of a military enterprise. General William Walker has avowed it himself, a hundred times over. In every speech he has made, in every letter he has written, he avowed his purpose to be to reconquer power in Nicaragua by the sword, and to maintain it by the same means.

We may be told, perhaps, that this subject has been referred to the judicial authorities; that a grand jury has ignored a bill against him, and that a judge has quashed some sort of a proceeding. I do not know that very great importance is due to the decision of a grand jury of which we know nothing but that they have written "ignoramus" on a certain piece of paper sent to them by the district attorney. Whether they had all the evidence before them which we have, whether they had any evidence at all before them, we do not know. All we know is that they have written "ignoramus" on the back of an indictment. Unless I could be satisfied by personal knowledge that the persons composing that grand jury were men of great weight of character and cultivated intelligence, or that they had not all the evidence before them, I should be very apt to think that in writing the word "ignoramus" on the back of the indictment, they were only subscribing a *nomen generalissimum* which would describe themselves. As to the decision of the judge, it is not every judge who is a jurist. I admit, however, that all the judicial effect due to his decision, is to be allowed in this case as in others, but no more. It has no control over the minds and opinions of men. Just so much authority is due to his decision, as springs from the force of the reasoning or the weight of the authorities cited. It cannot, at all events, affect us in the consideration of this question, as it cannot affect the decision of the Executive, which was made before the judicial investigation was held.

Nothing surprises me more than the sympathy which is expressed for General Walker in certain parts of the United States. To what qualities of his, to what part of his history is this sympathy due? He is a military adventurer, of a stout and courageous spirit, I admit; but what else? There is no evidence of skillful conduct in anything that he has ever done. All his efforts at military adventure have been failures, and although he professes that his failures have been due to the interference of the authority of this Government, we know very well that in regard to the first one the failure was as complete as it was ridiculous. I speak of his expedition to Sonora. The failure of the second, which he professes to have been occasioned by United States interference, was the result of his folly in usurping power and his subsequent abuse of power. It was his reckless ambition; his disregard of the true principles of republican government which made that experiment so complete a failure, placing him in a position of extreme distress and peril, from which, indeed, nothing but the humane interposition of Commander Davis rescued him.

I cannot see how any man who loves freedom, regulated by law and accompanied by order, who regards national obligation, and what is due to municipal regulation and statute—I do not for my life perceive how such a man can entertain any sympathy for this General Walker. He has developed his designs clearly enough for us all to understand; clearly enough for him who runs to read. He acquired power in Nicaragua by the use of the bayonets of his army—not by the free, unawed vote of the people of that country. He used his power to oppress and to injure the people over whom he exercised it. I believe that no legislative body ever sat in Nicaragua during the whole time of his presidency. Everything was done by imperial decree. There was no such thing as representative, responsible government. It was a despotism that prevailed while he was the President of Nicaragua, which mocked at popular rights and official responsibility. Is such a man entitled to our sympathies? Have we ceased to admire our own institutions? Is it following our example to establish all power in the hands of

one man, and that man a foreign adventurer, who has acquired it by means of the bayonets of foreigners whom he took with him, or who have gone to his aid? Does it excite our admiration that he burned villages; that churches were plundered while he was director, and that the inhabitants suffered confiscation and pillage? No, sir; none of these things excite my sympathy, and I do not believe that they excite the sympathy of the great mass of our countrymen. In a few localities where, from peculiar circumstances, these sympathies have been awakened, he may be regarded as a hero; but the larger part of our countrymen view him as an offender against our laws, a violator of the laws of nations, and a cold, relentless oppressor of the people whom he ruled with military rigor.

Besides, are his designs friendly to this country? I say they are not, as he himself has avowed them. They are no more friendly to the United States than they are friendly to liberty. His object has been one of conquest and of despotism. He has sought, not a free Government like ours, based upon the people's choice, and regulated by sound, popular sentiment, but he has sought the establishment of a military despotism in that country, and a military despotism antagonistic to this country and its institutions. I have here General Walker's letter addressed to General De Goicouria, from which I propose to read:

"GRANADA, August 12, 1856.

"MY DEAR GENERAL: I sent your credentials, for Great Britain, by General Cazencove. They are ample, and will be, I hope, not without result. If you can open negotiations with England, and secure for Nicaragua the port of San Juan Del Norte, you will effect a great object. It will be a long step towards our end. Without San Juan Del Norte we lack, what will be in the end, indispensable to us—a naval force in the Caribbean sea. The commercial consequences of this possession are nothing in comparison with the naval and political results.

"With your versatility and (if I may use the term) adaptability, I expect much to be done in England. You can do more than any American could possibly accomplish, because you can make the British Cabinet see that we are not engaged in any scheme for annexation. You can make them see that the only way to cut the expanding and expansive democracy of the North, is by a powerful and compact southern federation, based on military principles."

So it is not the love of liberty, it is not a desire to establish law and the reign of peace, and the equal administration of justice in Nicaragua, which has prompted the adventurer, but a desire to establish a government "based on military principles," such a government as would excite the detestation of the Senator from Georgia, [Mr. Toombs], who has painted to us this morning so brilliantly, the dangers of a standing army, the dangers of a system based on military principles; indeed its utter antagonism to anything like free institutions.

Well, sir, I remember to have seen, in a speech lately delivered by General Walker, in Richmond, the avowal that the Americanization of Central America is to be effected by the sword, and by the sword only. That is the power upon which he relies to Americanize this quondam Spanish territory, and to maintain the government which he proposes to institute there.

The truth is, Mr. President, that this General Walker is an ambitious dreamer. The enterprise which he has undertaken is one that does not belong to the age, and is not in accordance with its spirit. It is one that goes far back in its spirit and design, to ages which I trusted had passed away forever. It belongs rather to that dark period in the Christian era, when the hordes of barbarians from the northern hive, swarmed out and came in legions upon the fairest portions of southern and western Europe. It belongs rather to that still later period when the Vikings and Northmen went wherever they could, disregarding the obligations of national justice, making might right, and carrying rapacity and rapine wherever they went. That is the age to which an expedition of this character belongs.

I stated, upon a former occasion, when I addressed the Senate, that expeditions of this character were contrary to the recognized laws of nations—laws about which there is no dispute. Every one acknowledges the obligation of a nation at peace with another, not to allow that peace to be violated by its own citizens. Every one acknowledges that the obligations of the nation are the obligations of all the citizens, and of each and every one of them. All acknowledge, too, that private war is not justifiable in any sense; that

it is expressly forbidden by the laws of nations; and it is no defense of such an expedition as this to say that the parties engaged in it have a right to expatriate themselves.

The right of expatriation is not an absolute and perfect right. It is not so pretended to be by any publicist. It is a qualified right; it is subject to various exceptions, and to any legislation which a State may think proper to adopt in regard to it. I presume that no one would contend that the right of expatriation was an absolute right when a nation was engaged in war, and needed all its citizens or subjects to defend it. That man who should run away from his country, and throw off his allegiance, under such circumstances, would not only be a renegade, but a traitor. We cannot assert the absolute right of expatriation in regard to such a man. Indeed, sir, in our own history, we have one very striking instance in regard to this right of expatriation. I think it was in 1810 that Elijah Clark, a citizen of New Jersey, went from that State to Canada, where he married, and had children. He was said also to have accepted a commission in the Canada militia; and then when the war of 1812 broke out, he was found, after having crossed the river, in our lines lurking about the American camp. He was taken up by the military authorities, tried by court-martial, and condemned as a spy; but Mr. Madison interfered. He directed him to be discharged, and to be turned over to the civil authorities to be tried for treason. He did not admit the expatriation of Elijah Clark, in that case.

Neither can it be anything but *bona fide* expatriation to which we can allow any weight. Such a pretext cannot be set up when the object is to violate the laws of nations, or to violate the statutes of the country, to evade the laws passed to enforce neutral obligations, and to disturb the peace and security of a people with whom we are on terms of peace and amity. These expeditions have always been regarded with singular disfavor by the Government of this country. I am proud to say that the United States, although suspicions have been cast on her integrity in this regard, has uniformly manifested a sound and true public faith. No expedition has ever been got up in this country without receiving the denunciation of the Executive and the general disapprobation of the citizens. General Washington, even before the statutes of neutrality were passed, which I believe was in 1794, issued his proclamation, based on the principles of international law, prohibiting our people from engaging unjustly in the struggles of the great nations who were then in flagrant war, which threatened to involve us also. At a later period of our history, when Miranda came here, I think in 1806, or 1807, or thereabouts, and organized his unfortunate expedition against Venezuela, it met with no favor at the hands of our authorities, either executive or judicial.

The Senator from Georgia [Mr. Toombs] reminds me that the individuals who were tried in New York were acquitted. That is true; but let us hear what the President said on that subject. Mr. Jefferson, after the close of his administration, wrote on this subject, on the 4th of October, 1809—it is to be found in a letter to Foranda—as follows:

"Your predecessor, soured on a question of etiquette against the Administration of this country, wished to impute wrong to them in all their actions, even where he did not believe it himself. In this spirit, he wished it to be believed that we were in unjustifiable cooperation in Miranda's expedition. I solemnly, and on my personal truth and honor, declare to you that this was entirely without foundation, and that there was neither cooperation nor connivance on our part. He informed us he was about to attempt the liberation of his native country from bondage, and intimated a hope of our aid, or connivance, at least. He was at once informed that, although we had great cause of complaint against Spain, and even of war, yet, whenever we should think proper to act as her enemy, it should be openly and above-board, and that our hostility should never be exercised by such petty means. We had no suspicion that he expected to engage men here, but merely to purchase military stores. Against this there was no law, nor consequently any authority for us to interpose obstacles."

"Although his measures were many days in preparation in New York, we never had the least intimation or suspicion of his engaging men in his enterprise until he was gone," "until it was too late for any measures taken at Washington to prevent their departure. The officer in the customs who participated in this transaction with Miranda we immediately removed, and should have had him, and others, further punished, had it not been for the protection given them by private citizens at New York, in opposition to the Government, who, by their impudent falsehoods and calumnies, were able to overbear the minds of the jurors. Be assured, sir, that no motive could induce

me, at this time, to make this declaration so gratuitously, were it not founded in sacred truth; and I will add, further, that I never did, or countenanced, in public life, a single act inconsistent with the strictest good faith; having never believed there was one code of morality for a public and another for a private man."

Under the administration of Mr. Monroe, we amended the statute of neutrality passed in 1794, by the act of 1818, which was only an enlargement, to some degree, of the former act intended to prohibit these private enterprises of a warlike nature. I believe there has not been an occasion of that sort during our history, when the President for the time being, whoever he might be, has not entertained and expressed opinions like those expressed by Mr. Jefferson in the letter from which I have read. I have here a letter of General Jackson, showing what he thought of such expeditions, even anticipating one which he apprehended was on foot. This letter was addressed to William S. Fulton, then Secretary for the Territory of Arkansas, and dated December 10, 1830:

"DEAR SIR: It has been stated to me that an extensive expedition against Texas is organizing in the United States, with a view to the establishment of an independent government in that province, and that General Houston is to be at the head of it. From all the circumstances communicated to me upon this subject, and which have fallen under my observation, I am induced to believe, and hope (notwithstanding the circumstantial manner in which it is related to me) that the information I have received is erroneous; and it is unnecessary that I should add my sincere wish that it may be so. No movements have been made, nor have any facts been established, which would require or would justify the adoption of official proceedings against individuals implicated; yet so strong is the detestation of the criminal steps alluded to, and such are my apprehensions of the extent to which the peace and honor of the country might be compromised by it, as to make me anxious to do everything short of it which may serve to elicit the truth, and to furnish me with the necessary facts (if they exist) to lay the foundation of further measures."

I am glad to say that the gallant old general was mistaken in his suspicions; that such were not the purposes of the Senator from Texas, whom I now see before me, and I know that President Jackson received from him assurances that he entertained no such purposes. He did head, gallantly head, the revolution which made Texas an independent State; but it was not until the overthrow of the Mexican constitution, and the violation of the rights of the State of Texas, that her people took the last resort into their own hands. This, at all events, shows conclusively what was General Jackson's opinion, although I believe it was not altogether unfashionable at one time to suspect him of being somewhat of a filibuster himself.

It has, however, been attempted to be shown that this expedition stands on a different footing from any other hostilities which have been sought to be carried on from this country against a foreign country. It has been endeavored to be shown that, inasmuch as there were two parties in Nicaragua, it was perfectly fair, according to the law of nations, that Mr. Walker should engage his service to one of those parties in conflict with the other. I deny that entirely. When rebellion arises, we do not think it civil war; but when it has acquired such head, and the parties are so equally balanced that it can be characterized as civil war, then the rule is that both parties are to be treated as if they were independent nations at war; and the obligation of our citizens, as well as of our Government, is to regard the laws of neutrality, and not to take sides with either party. This obligation is just as perfect as if there were two independent nations engaged in lawful open war. In general, neither the Government nor the citizens of a neutral nation can, without a departure from their neutrality, take any part in such a conflict. It is true there are some extraordinary exceptional cases, as when a revolt has begun in consequence of inhuman oppression, such as justified the people of Holland in rising against the Government of Spain, in which other nations may and sometimes have taken part. The consequence of their doing so, however, always is a rupture of their peaceful relations with the country against which they have taken part. If not an act of war, it always leads to it. It did so in our own case during the war of the Revolution. It always must do so where there is sufficient power in the State which is thus opposed by hostile interference, to revenge or redress the grievance.

Now, sir, I propose to show by a very few cita-

tions, that what I said is justified by the publicists. Chancellor Kent says:

"It is sometimes a very grave question, when and how far one nation has a right to assist the subjects of another, who have revolted, and implored that assistance. It is said that assistance may be afforded, consistently with the law of nations, in extreme cases, as when rulers have violated the principles of the social compact, and given just cause to their subjects to consider themselves discharged from their allegiance."—*Kent's Commentaries*, volume 1, p. 24.

In a note, he quotes with approbation a letter of Mr. Webster to Lord Ashburton, dated April 21, 1841, in which Mr. Webster said that—

"It was a manifest and gross impropriety for individuals to engage in the civil conflicts of other States, and thus to be at war, while their Government is at peace;" and that "the salutary doctrine of non-intervention by one nation with the affairs of others, is liable to be essentially impaired, if, while the Government refrains from interference, interference is still allowed to its subjects individually or in masses;" and that "the United States have been the first among civilized nations to enforce the observance of the just rule of neutrality and peace, by special and adequate legal enactments against allowing individuals to make war on their own authority, or to mingle themselves in the belligerent operations of other nations."

Chancellor Kent himself observes:

"Prior to the recognition of the independence of any of the Spanish colonies in America, and during the existence of the civil war between Spain and her colonies, it was the declared policy of the Government of the United States, in recognizing the independence of the Spanish American Republics, to remain neutral, and to allow to each of the belligerent parties the same rights of asylum and hospitality, and to consider them, in respect to the neutral relation and duties of the United States, as equally entitled to the sovereign rights of war as against each other. This was also the judicial doctrine of the Supreme Court, derived from the policy of the Government, and seems to have been regarded as a principle of international law."

The policy and principle of the Government were laid down to the same effect by General Jackson in his message to Congress, December 21, 1836.

Vattel says, that, "even in lawful war between two nations, private expeditions are not lawful unless authorized by the civil authority." This every one knows by our ordinary experience. Even if this country were at war with Great Britain—public, lawful war—it would not be competent for individuals to arm private vessels and send them out to cruise against the commerce of the enemy unless they had a commission from the Government. If they were to cruise against British vessels without such a commission, and should be taken by a British man-of-war, they would be entitled to none of the privileges of prisoners of war, but would be regarded as freebooters, and treated pretty much according to pleasure. Vattel declares:

"The necessity of a special order to act is so thoroughly established, that, even after a declaration of war between two nations, if the peasants of themselves commit any hostilities, the enemy shows them no mercy, but hangs them up as he would so many robbers or banditti. The crews of private ships of war stand in the same predicament; a commission from their sovereign or admiral can alone, in case they are captured, insure them such treatment as is given to prisoners taken in regular warfare."

On every score, then, this carrying on of war by private adventurers against another State, especially when it is at peace with that country to which they belong, is an offense of the highest character against the laws of nations. Against their own Government it is just such an offense as the laws make it. I hold, therefore, that General Walker and his associates, although only guilty of a misdemeanor against the laws of the United States were, as regards Nicaragua, in no better condition than freebooters and pirates—they were waging war against that State and people, without any authority.

Now, sir, I turn to the act of 1818, chapter eighty-eight. That act was passed by this Government for the purpose of enforcing these very obligations. It contains a variety of provisions applying to different cases; and if the last clause of that act were struck out of it entirely, there would be penalties and prohibitions for every one of the offenses specified in the act, and authority to the Executive to use the military and naval force of the country to enforce such prohibitions and penalties. There are seven sections preceding the eighth. The first provides fine and imprisonment for exercising within the United States a commission to serve a foreign State. The second section imposes a penalty on any person for, within the jurisdiction of the United States, enlisting, or procuring others to enlist, in the service of a foreign State. The third section imposes a penalty for fitting out vessels for such services;

the fourth for citizens fitting out or arming. The fifth section imposes fine and imprisonment for augmenting within the jurisdiction of the United States the force of foreign armed vessels. The sixth provides fine and imprisonment for any person or persons setting on foot within the jurisdiction of the United States any military expedition against a friendly Power. The seventh section gives cognizance to the district courts of complaints in all cases of capture made within the waters of the United States, or one marine league of the coast; and the eighth section, if the last clause of it were left out, would provide for the enforcement of the prohibitions and penalties contained in the preceding seventh section, by means of the exercise of the military and naval power of the United States. It is something else that is described in this last clause, and that something else is this: it is to give power to the President "to prevent the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States, against the territories or dominions of any foreign prince or State, district, colony, or people with whom the United States are at peace." Without this last clause the President would have been fully empowered within the territorial jurisdiction of the United States to use all the military and naval forces to suppress here such expeditions. It would have been useless, therefore, to insert that additional clause in the section if it were not intended for another purpose.

That other purpose is sufficiently disclosed by its language. A different meaning from that which I supposed to belong to it has been given by interpreting the word "prevent" to signify to anticipate. But that is not the usual meaning of the word "prevent." In the course of time it has changed its original signification, and now means to hinder or obstruct, or rather something stronger than either of these words. Crabbe, in his synonyms, says it used to signify the doing that which makes the purpose prevented impracticable.

The power, then, of the President under the last clause of the eighth section of this act, is to employ the naval and military forces of the United States so as to make the military expedition carried on from the United States impracticable.

It is to put at the control of the President, and within his discretion, the military and naval forces of the United States, to prevent the carrying on from the shores of the United States of any such military expedition; not to stop it here *in limine*; not merely to enforce the prohibitions and penalties provided in the other sections; but something more than that, which something more can be nothing else than to pursue such an expedition after it has left our limits, and seize it wherever it may be found, unless there be some intervening authority to interrupt the President's proceedings.

I know that reliance has been placed very much on the right of emigration. Mr. Webster's authority has been very frequently invoked on it; his correspondence with Mr. Bocanegra has been cited; but Mr. Webster himself has furnished the evidences of his opinion in regard to the operation of this act. I read from a debate in this House in 1850, when this very question was made. It was asked by what authority the President of the United States had used our armed vessels to cruise on the coast of Cuba to anticipate the Lopez expedition. Mr. Webster said:

"But now let us come to the direct question. What is it that is complained of? It is said that the President of the United States has directed a portion of the naval armament of the country to the coast of Cuba, for a certain specific purpose; and if the facts are as they are generally believed to be, for a purpose not only perfectly legal and perfectly constitutional, to be executed on the part of the Executive of the Government, but a purpose made his especial duty by a positive statute. If there is any case, it is a case of this kind. A military expedition has been fitted out, or begun to be fitted out, in the United States, to act against the island of Cuba, now belonging to the Spanish Government; and it is not material, if such be the fact, if it be fitted out, or begun to be fitted out or prepared, according to the language of the statute, in the United States, whether by the citizens of the United States or by others. The law prevents the thing being done in the United States. Now, I suppose that whatever action the President has taken on this subject is founded upon information that this is a military expedition prepared and set on foot in the United States, in whole or in part. Well, then, if that be so, the law makes it his express duty, wherever he can exert the military and naval power within the limits and jurisdiction of the United States, to exert it to defeat such an expedition. And in the next place, if a United States vessel is found on the coast of Cuba intending to violate this law of

the country by helping to carry on a military expedition against Cuba, that vessel is just as much within the jurisdiction of the United States—for that is the word of the statute—as if she lay in the Potomac river."

Gentlemen seem to have confounded two very distinct powers of this Government. The first is the sovereign exclusive territorial authority which every nation possesses over its own territories, and extending over the waters beyond its shores to the distance of three miles. That is the general rule now of the publicists; though, in ancient times, the claim went to a much larger extent—as much as two hundred miles, as Hauterfeuille tells us, and he assigns a peculiar reason for that claim: in ancient days, filibuster expeditions were so common and so injurious that the older nations sought the protection of exclusive jurisdiction over the sea to a greater extent beyond their coasts, that they might be better able to secure themselves from such expeditions. This has come now to be three miles from shore. But the exclusive sovereign jurisdiction of a nation over its territory, which ceases within three miles of its shores, is a very different thing from that jurisdiction which they have on the high seas—not over the high seas, to be sure, but on the high seas, over their citizens, their vessels, and their property, wherever they may be afloat. Indeed, the publicists say that the flag continues the country. Wherever a vessel of the United States is borne on water, there is the United States. Indeed, how could it be otherwise; since, if it were not, there would be no power in any Government to punish for crimes committed on the high seas. If there were no jurisdiction in every nation over its citizens or subjects, their vessels and property afloat on the high seas, no crime committed there could be punished. The worst malefactors at sea would be beyond any jurisdiction, and even piracy itself would have uninterrupted immunity from the penalties of criminal law.

But we know, sir, that our statutes have provided for the punishment of all crimes committed on the high seas; and we have gone even further than that: we have a statute on our book—that of 1825—which punishes crimes committed on board our vessels within ports of foreign nations. We are not limited to the high seas. The jurisdiction of the United States attaches so completely to its vessels wherever they are water-borne, that even if a murder be committed in the port of Liverpool, the man may be tried in the courts of the United States, and may be hung for it. It is true, that there is there a conflict of jurisdiction, that the territorial jurisdiction of Great Britain attaches also, and that if her courts take cognizance of the case in the first instance, our jurisdiction must cease. That is provided for in the act; but if they fail to take cognizance of the crime committed on board a vessel of the United States within one of their ports, then our jurisdiction attaches; and on the return of the party to the United States, he may be tried and punished for his offense. If it were not that we have jurisdiction far beyond our territory, not limited by the lines of our land or three miles of water which bound our coast, how is it possible we could punish men for crimes committed on the high seas, or within the ports of a foreign nation? No law that we pass here gives any jurisdiction to the Government. No law that we pass here gives any authority to the law-making power. The law we pass providing for the punishment of people in these cases gives authority to the courts. It gives jurisdiction to your criminal tribunals; but the jurisdictional right of the sovereign power cannot be affected by any act of your legislation. So that I think I am warranted in saying that there is a jurisdiction all over the high seas, and wherever your vessels are water-borne; and I am not sure that it cannot be carried further still. I think it can be shown that there is a sort of jurisdiction too, even upon the land which belongs to a foreign nation, other than that of such nation.

We have on our statute-book a law which provides for the punishment of offenses committed by citizens of the United States within the limits of China and Turkey. They are tried by the courts of those countries,—and I speak now of offenses not committed on the high seas or on board a vessel lying in port, but offenses committed within the strictly territorial limits and on the very land of China and of Turkey. By what right can you punish these people for such crimes as

that, if your jurisdiction is limited to your own territory and to the high seas? Sir, if your jurisdiction does not extend beyond them, then when you punish a homicide under the judgment of your consular and commissioner's courts where the offense is committed in China, you commit judicial murder. Gentlemen may say we have a treaty with China, and that treaty with China confers on us the power. Sir, no treaty with any nation on the face of the earth can enlarge the powers of this Government; they may cede territory; they may yield up their own prerogatives; they may abandon their own territorial rights; they may say "this exclusive territorial jurisdiction which we have, we will waive and allow you to exercise yours within our limits;" but they cannot confer a right on the Government of the United States which the people of the United States have not conferred on us, or which does not spring necessarily and inevitably from the relation of Government and citizen.

Now, sir, I do not speak this purely from my own suggestion. I have at least one authority among the publicists—I have not had time to investigate this question, or I should have found more, no doubt; but in a volume which was one of the text-books of my school-boy days, I have seen this authority:

"The jurisdiction which a civil society has over the persons of its members affects them immediately, whether they are within its territories or not."

This is from Rutherford's Institutes, and is quoted with approbation by Judge Marshall in his celebrated speech on the Jonathan Roberts case. I cannot conceive any other principle on which we can vindicate the law we passed under the authority of the treaty with China, than this principle of natural law which I have quoted from Rutherford. If we have not a jurisdiction which attaches to the members of our civil community wheresoever they are, I do not know how it is possible for us, whatever may be the terms of a treaty with China, or the terms of the law we passed, to punish a man for a crime committed without our territorial limits, beyond the high seas, and beyond the ports where our flag floats, and within a jurisdiction which is entirely foreign to us.

If anybody can point out to me any other source of authority for the passage of such a statute as this than the one I have cited, I shall be very much obliged to him. I admit I should have broached this idea with a great deal of timidity if it had not been fortified by the authority I find in Rutherford; but it is very clear to me that all the treaty with China can effect is a waiver of her right to exclusive territorial jurisdiction. She certainly could not confer on the Congress of the United States the power to pass that act; but if that act is valid, if it is not unconstitutional, if it is not a violation of the principles of our Government, it must be because our Government has a sort of personal jurisdiction over its citizens wherever they are. I think something of the same sort will be found in Bowyer's late work on international law; but I have not had time to examine it with a view to this point.

Now, sir, I say that the act of 1818 imposes on restrictions or limitations on the President in regard to the power conferred by the eighth section. That power was unnecessary to effect the prohibitions and penalties of the other sections of the act within the limits of the United States. Indeed, without the authority which is given in the earlier part of the section to use the naval and military forces to enforce the penalties and prohibitions of the act, I take it, that in the ordinary course of judicial proceeding, the military authority might have been so invoked. I do not mean that the President of the United States might have been directly called on to do it; but if the mandate of the court was not obeyed, the *posse comitatus* might have been called out, and the military and naval forces as a part of it. From the fact of conferring the special power on the President, it is evident that there was a design to go much farther than the limits of the territorial jurisdiction of the United States. And do we not know that our naval forces are used abroad everywhere as the police of the seas? Somebody asked me if I had ever known the case of a statute giving authority to go beyond the three marine miles from the coast, except in regard to the revenue laws? Sir, that provision in the revenue laws which allows

cutters to board vessels within four leagues of your coast, is a limitation on your power, not an extension of it. If we had not a jurisdictional right beyond the three miles, no act of Congress could give it. Congress itself cannot increase its own powers, and yet that is the idea implied by the question which was asked me. Its powers are above itself. They come from the people through the instrumentality of the Constitution; and whatever we enact must be in subordination to the Constitution and the powers conferred by the people through it.

I say then that the power conferred on the President by the last clause of the eighth section of the act is not limited to the jurisdictional bounds of the United States territory; and if not limited there how is it limited, and by what? No limitation is found in the act, and there is none in the reason of things, except that in the exercise of the power thus conferred, the President shall take care not to violate the jurisdictional sovereignty of another State. That I admit. Unless that jurisdictional sovereignty of the other State has been waived, I suppose it would be ordinarily a violation of the territory of that State for forces to be landed there, and the capture of persons in the condition of General Walker, effected. But there are peculiar circumstances in regard to this capture of General Walker which vary the case.

In the first place, General Walker landed on Punta Arenas, a sand-spit, within the jurisdictional limits of Nicaragua, as our Government contends, though we all know that Costa Rica has claimed that territory for herself; and we know, too, that Costa Rican troops were in possession of it for some months prior to this advent of General Walker, and only left it a short time before he arrived there; and left it, I believe, in consequence of their apprehension of his landing with his filibusters. At the time when Walker arrived there it was derelict. At all events, at that moment Nicaragua had neither actual occupancy, nor constructive occupancy, nor potential occupancy, if I may use that term. She had no functionaries there; she had no troops there; she had no means to maintain her authority; she was ousted of her authority; and if she was not ousted of her authority before Walker got there, she was ousted of it by him. It was no longer within her possession. Her rule was not there. Her flag did not float there to protect or to punish. Our military force went there—for what purpose? To do her an injury? No, sir. They went there as her ally; they went there to her aid; they came to her assistance. It has been maintained by pretty high authority that there is no such violation of territory by the landing of forces, when their landing is not for a hostile, but for a friendly purpose, and to protect the nation on whose territory they landed from the incursion of those who, as to them, were to be considered as freebooters and pirates. What was the doctrine of the United States when our squadron was scouring the West India seas to put down the piracies which prevailed there in 1823? Judge Thompson, who was then Secretary of the Navy, instructed Commodore Porter on that subject, and I beg leave to read his instructions:

"Pirates are considered, by the law of nations, the enemies of the human race. It is the duty of all nations to put them down; and none who respect their own character or interest will refuse to do it, much less afford them an asylum and protection. The nation that makes the greatest exertions to suppress such banditti has the greatest merit. In making such exertions it has a right to the aid of every other Power, to the extent of its means, and to the enjoyment, under its sanction, of all its rights in the pursuit of the object.

"In the case of belligerents, where the army of one party enters the territory of a neutral Power, the army of the other has a right to follow it there. In the case of pirates, the right of the armed force of one Power to follow them into the territory of another, is more complete. In regard to pirates, there is no neutral party, they being the enemies of the human race; all nations are parties against them, and may be considered as allies. The object and intention of our Government is, to respect the feelings as well as the rights of others, both in substance and in form, in all the measures which may be adopted to accomplish the end in view. Should, therefore, the crews of any vessels which you have seen engaged in acts of piracy, or which you have just cause to suspect of being of that character, retreat into the ports, harbors, or settled parts of the island, you may enter, in pursuit of them, such ports, harbors, and settled parts of the country, for the purpose of aiding the local authorities, or people, as the case may be, to seize and bring the offenders to justice, previously giving notice that this is your sole object.

"Where a Government exists, and is felt, you will, in all instances, respect the local authorities, and only act in

aid of and cooperation with them; it being the exclusive purpose of the United States to suppress piracy, an object in which all nations are equally interested; and in the accomplishment of which the Spanish authorities and people will, it is presumed, cordially cooperate with you. If, in the pursuit of pirates found at sea, they shall retreat into the unsettled parts of the islands, or foreign territory, you are at liberty to pursue them, so long only as there is reasonable prospect of being able to apprehend them; and in no case are you at liberty to pursue and apprehend any one, after having been forbidden so to do by competent authority of the local government. And should you, on such pursuit, apprehend any pirates on land, you will deliver them over to the proper authority, to be dealt with according to law; and you will furnish such evidence as shall be in your power to prove the offense alleged against them. Should the local authorities refuse to receive and prosecute such persons so apprehended, on your furnishing them with reasonable evidence of their guilt, you will keep them, safely and securely, on board some of the vessels under your command, and report, without delay, to this Department, the particular circumstances of such cases."

The idea of the Secretary of the Navy in that dispatch was, that, inasmuch as pirates were not only enemies of the United States, but of Spain, in pursuing them upon the shores of the Spanish islands we were acting as allies of Spain itself, or at least with no hostile intent to them, with no idea of violating their territorial sovereignty, and therefore we might, in pursuit of them, lawfully penetrate within the jurisdictional limits of the Spanish Crown, provided no objection was made by the Government of Spain, or the local authorities. That seems to me to be very similar to this case.

Here we had Mr. Yrissari before he was received as the Minister of Nicaragua, but while he was in communication with this Government, and under the authority of his Government accredited to this, addressing a letter to the Secretary of State announcing the fact that Walker was about to carry on such an expedition, and asking the interference of this Government, by means of its naval forces in the harbor of San Juan, to repel this incursion; and in fact Yrissari was recognized before Commodore Paulding made this descent on Punta Arenas. We have no separate treaty of amity with Nicaragua, I believe; but we had one with Central America when she was part of that confederacy; and the provisions of that treaty still subsist, notwithstanding the separation. We are under a pledge of friendship and amity to Nicaragua. That people, through their accredited agent, asked our interference at this very point, requesting us to put down this expedition by the use of our naval forces in the harbor of San Juan; and what we have done is precisely what they asked us to do. I admit, readily, that Commodore Paulding was without express instructions from the Navy Department to land. Indeed, I do not know that he had any other instructions than the general instructions contained in the circular of the State Department—rather insufficient, I think, for the circumstances; but Lieutenant Almy had direct instructions from the Navy Department to repel by force any vessel bringing a hostile expedition into the port of San Juan, and I believe he was directed to proceed to other points to watch out, to look for these invaders, so as to repel them. This implied a violation of the territorial sovereignty of Nicaragua quite as much as the landing of Commodore Paulding on the sand-spit of Punta Arenas, because the port of San Juan is as completely within the jurisdiction of Nicaragua as Punta Arenas, and a shot could not be fired in the port without violating the territorial right, unless that territorial right could be considered as waived.

Under the circumstances of this case, considering the application made by the minister, the repeated solicitations which have been addressed to this Government by the authorities of that, to protect them from such expeditions, I think we are fairly entitled to consider their territorial sovereignty as waived, and ourselves as permitted to use force within their territorial limits for the purpose of repelling such incursions. We were fully entitled so to regard it, and so we were in the case of Commodore Porter and the Spanish West India islands. Therefore, when Commodore Paulding landed, although he went further than any orders of his Government authorized him to go, he was only carrying out the purpose of the Government; he was only executing its just and lawful objects; he was only doing that which a high regard for national law required us to authorize him to do; and in my opinion, if he has committed any error at all, it is not a very "grave"

error. It is the merest fractional error that it is possible for a naval man to commit under such circumstances. I admit that technically you may say he had no right to do this, because he had no orders to do it; but I rather think the expression of "grave error" attributed to him by the President in his message, is more the result of the President's great caution—a somewhat distinctive feature in his character—than anything like a deliberate design to censure Commodore Paulding. I am very sure he entertains no such design; and if he does not publicly, I have no doubt that privately he is gratified that Paulding has taken this short cut to the settlement of a very difficult matter.

The other day, when this subject was up, the honorable Senator from Mississippi [Mr. Brown] alluded to the case of Commodore Porter, and contrasted it with the treatment which Commodore Paulding was receiving. He seemed to think it was a similar case in all respects. While I think the case of the pirates which he was authorized to pursue into the interior of the Spanish Isles very much like the authority implied to Commodore Paulding to land at Punta Arenas and capture the filibusters there, and who, as to Nicaragua, were pirates, though not such as to us, I believe there is a great difference between the case under which Commodore Porter was tried and the case for which it is now proposed to censure Commodore Paulding. Commodore Porter visited the town of Foxardo, not in pursuit of pirates, but to avenge an insult to a lieutenant of his squadron who had gone to that town some time previously for the purpose of looking up goods supposed to have been taken by pirates from Saint Thomas and lodged there. When he arrived there, he was treated with indignity by the local authorities, and put into prison until the close of the day. He then repaired to the vessel of Commodore Porter and stated his wrongs.

The commodore, burning with resentment at this mal-treatment of one of his lieutenants, proceeded to the bay of Foxardo, landed a force, found a battery placed there, as if in opposition to him, went around the battery, charged it in the rear, took the guns, spiked them, then marched a force of two hundred men two miles from the coast, spiking other guns as he went along; and finally came to a halt two hundred and fifty or three hundred yards from the town; sent a flag of truce in to the alcalde; notified him that if he did not make the most ample reparation and apology the consequence would be the destruction of his town; then compelled an apology, and returned to his ships. That was his case. That was not a case of aiding and assisting the Government of Spain in the pursuit of pirates who had made a retreat to that place. It was the case of a direct act of war, initiated by a captain in the Navy, of his own authority, for the purpose of redressing an insult offered to one of his lieutenants. The cases cannot be compared at all. Captain Porter was a very gallant man. There were many people who disapproved of his conduct on that occasion, but regretted to find that he was suspended from the Navy, and ultimately he resigned his commission; but the cases are not in the least parallel.

I come now to the continuation of the remarks I was making a short time since as to the operation and extent of the power conferred on the President by the last clause of the act of 1818. Suppose that the President, having given instructions to his naval commanders to pursue an expedition of this sort, they should pursue them, chase them on the high seas, until they arrive at an island in the neighborhood of their operations, not within the jurisdiction of any Power at all; does any one suppose that if the pirates, thus pursued, should land on this unclaimed island the authority of the naval forces of the United States to capture them would be at an end? I apprehend not. I apprehend that wherever they could find those men they would have a right to seize them if they did not violate the territorial sovereignty of some other Power. Unless there is some particular sanctity about a mere spot of land not covered with water, I apprehend the authority given by this act would not be checked in that case.

But, sir, the conduct of our own Government in other cases has evinced a disposition to carry the authority of the United States under this law still further, to an extent perhaps to which I could not even go myself, though with some qualification I

might be able to do so. I have referred to the correspondence between a former Mexican Minister to this country, and one of the most accomplished debaters who was ever heard in these Halls, a statesman of very considerable acuteness and ability—I mean Mr. Forsyth, when he was Secretary of State under General Jackson. In 1836, soon after the revolution in Texas commenced, our Department of State was flooded with remonstrances from the Mexican Minister, and complaints made that our people were getting up parties for the purpose of going into Texas and aiding in the war; that companies were organizing at Nashville and other places. Mr. Forsyth promptly furnished the instructions given to our district attorneys and other officers to suppress all such movements. In addition to that, Mr. Gorostiza complained that General Jackson had given orders to General Gaines in command of the Army at that quarter, to advance as far as Nacogdoches, which was then in Texas, claimed by Mexico, some thirty miles, I believe, beyond our then limits. Mr. Forsyth replied to Mr. Gorostiza that he had somewhat mistaken the purport of the order to General Gaines; that General Gaines had not been ordered to carry the military forces of the United States as far as Nacogdoches, but that he had been told he must not go any further than that point, implying necessarily that under certain circumstances he might advance as far as Nacogdoches. Mr. Forsyth justified this order to General Gaines to carry the troops of the United States into the Territories then claimed by Mexico, not as a hostile movement, but as a friendly one, as fulfilling treaties of amity and peace; "treaty obligations," I think he says; but at that time there was no treaty with Mexico, except that of 1831. By that treaty, in the ordinary form, we stipulated that there should be perpetual and inviolate peace between the United States of America and the Republic of Mexico and between all the citizens of the one and the citizens of the other. This was the formal article found in all the treaties of peace and amity. There was a special provision that the United States should guard Mexico from the irruptions of our Indians; and Mr. Forsyth justified the implied order to General Gaines to advance as far as Nacogdoches, on the ground that the United States, as a friendly nation, was bound by its treaty stipulations as well as by the laws of nations to protect its friends from the incursion of hostiles who were within the limits of the United States, and that it had the right to follow those hostiles into the territory of Mexico, and even, he says, to the very heart of the Empire. Here is his language:

"To effect one of these great objects for which General Gaines is sent to the frontier of Mexico, that is to fulfill our treaty with Mexico by protecting its territory against the Indians within the United States, the troops of the United States might justly be sent into the heart of Mexico, and their presence, instead of being complained of, would be the strongest evidence of fidelity to engagements and friendship to Mexico."

The whole correspondence is to be found in the Congressional Globe and Appendix for 1835-36. I should question very much the right of our Government to dispatch troops, even for that purpose, without the consent of the party whose territory was to be entered on; but at all events this authority is enough to show that it is not the first time in the history of our Government that troops have been sent into the jurisdictional limits of another State, for the purpose of repressing incursions by American citizens; and the authority and right to do so, so far as it can be, affirmed by the opinion of an accomplished statesman, Mr. Forsyth, and of a President of great weight of character and authority in this country, undoubtedly. It has all the sanction to which it is entitled from the character of those two statesmen. Nay, more, sir, although it is not authority which you might quote, perhaps, in a contest with a foreign Power, it is one which may be used when we are discussing the conduct of our own Government in their own vindication. They have not gone beyond their predecessors. They have not gone so far as their predecessors. This Executive has ordered the forces of the United States to repel the invasion of these filibusters in the harbor of San Juan, within the territorial sovereignty of Nicaragua; but they have not avowed their right for that purpose to march an army into the heart of Nicaragua, as Mr. Forsyth

did in the communication to which I have referred, in relation to Mexico.

I believe I stated before that there was no treaty stipulation like that of the treaty of Guadalupe Hidalgo requiring us not only to protect Mexico from the incursions of the Indians, but to exact satisfaction for the same. The principle is solemnly recognized in every treaty of peace and amity made everywhere, and with all nations. The first article in all these treaties is an article of amity and peace—inviolable and universal peace and true and sincere friendship—from which the duty may be implied of preserving that peace by restraints upon the Indians within our borders.

I shall not detain the Senate much longer, but I wish to say a few words in regard to Commodore Paulding. I have heard a great deal said of the harshness with which he executed this duty. One gentleman spoke of his having boasted of the gallantry of his sailors and marines. That happens to be a mistake. I have looked at his letters and I do not see any boast of their gallantry; but he praises their good order and discipline, which, considering that the debarkation was made in a turbulent sea, and at considerable peril, is I think not at all immodest. I saw no language disrespectful to General Walker. He considers him as most people do in our country, I apprehend, as a lawless man, who is disregarding the laws of nations, who is disposed to carry ruin and havoc into the territory of Nicaragua, in order that he may establish himself there on the basis of a military despotism—that is what he means by a government "based on military principles;" but I see no language of Commodore Paulding to him which could be considered disgraceful to that officer. We do not wish our officers when executing a stern duty to speak with bated breath, and accompany the act by apologetic flourishes. We want them to speak like men, like officers; to speak whatever is to be said, plainly, frankly, without apology and unnecessary qualification. That is what Commodore Paulding has done, and I think he executed this office as wisely and as well as it could have been done. He organized a force sufficient to overcome all opposition. That was a mercy to these people, for if he had gone with a small force there would have been opposition and bloodshed. I see no barbarity, nothing inflicted which authorizes gentlemen to speak in the extremely harsh terms in which some have censured him. For my part, I believe him to be a sensible man, a gallant officer. I believe if he had no specific orders from the Government to do precisely what he has done, that the orders which Lieutenant Almy had were, at all events in their spirit and essence, sufficient to justify him in the step which he took. I think, in taking that step, he has relieved the country from a great responsibility; he has relieved Nicaragua from the horrors of an abominable war; and he has vindicated the good faith of the Government of the United States, which was bound to put down such a lawless expedition as this. If the President had not given him authority, the President might have given him the authority, as I think I have shown; and I will consider that what ought to have been done has been done; and though I am not willing to vote a medal to Commodore Paulding for this service, because it is not the sort of service for which I think medals ought to be voted, he has my thanks, and the thanks of the great mass of the people. There are some few places where he may be condemned, where Walker has become popular and received sympathy; but everywhere else the people of this country will approve and sanction and applaud the conduct of Commodore Paulding. I trust they will do so.

I would now say a word as to another officer who has been the subject of remark. I should say nothing about him, were it not for the fact that he is a constituent of mine, as honest and true a sailor as ever stepped on the deck—a perfectly brave and fearless man, as I know. I have known him for many years. He has been thirty-three years in the Navy, without the slightest reproach on his character or conduct as an officer. He is a conscientious man, not as ready, perhaps, to assume responsibility as some others. I mean Captain Chatard. He was without any other instructions than the circular which was dispatched to our attorneys and collectors of customs, and copies of which were furnished to the individual

officers commanding the different ships on that station. That was all he had. He naturally enough, not having more specific instructions than those contained in that circular, doubted his authority to stop this vessel as she was coming in, especially as his suspicions were not awakened as to her being engaged in a hostile enterprise.

I beg leave to say further, though he has been reproached for exhibiting ill-temper by certain notes he wrote to Walker, that I think, when the circumstances are explained, it will be perceived that he is not liable to that charge. It is a fact that he had put up, some weeks before, a target in the neighborhood of the place of Walker's camp. Here he was in the habit of exercising his crew in boat-practice with the howitzers; and the boat-practice of which Walker complained, was nothing but a continuance of what had been going on for weeks before. So in regard to his request to move his camp a little out of the way, so that, in firing to bring a vessel to, he might do no damage. A shot thrown from his vessel, I understand, must pass over this sand-spit, and he wished to notify Walker in time, that possibly, in throwing shot over there to bring a vessel to, it might do damage. These are the only instances of brutality and meanness I have been able to perceive in the correspondence. I trust he will be excused for not assuming the responsibility of bringing the Fashion to, when unsuspecting of her character, and not expressly required to search all vessels before allowing them to run up to the wharf.

Now, sir, I will only say in conclusion, that while I desire to see the people of this country, individually and collectively, free, happy, and prosperous, loyal to the Constitution, and obedient to the law, watching the Government with a sober vigilance—not with a partisan spite, not with an illiberal suspicion, but with a sober vigilance—and correcting them, if they go astray, with the moderation of wisdom, I desire to see the Government also sensitive to our national honor, and vigilant and firm in the protection of our national rights. I desire to see them just and firm, but courteous, towards the great Powers; and at the same time, not only just, but forbearing and generous to the weaker Powers, helping them in their debility, assisting them in their tottering steps in the progress of freedom and civilization. While they are doing all this, I want to see them crushing, with broad and mighty hand, the turbulent spirits in our midst, who regard no law, who set at naught the Constitution, who deride the obligations of international rules, who defy the enactments passed by you to enforce your national obligations, and who, looking only to personal victory, and to personal triumph and to personal aggrandizement, are willing to violate your law, the laws of nations, and the peace of another country; to trample down its independence, and to establish a Government "based on military principles," which shall be restrained by no representative legislature, by no constitutional responsibility, but which shall be a usurped despotism, directed for the benefit of one man or a few men.

Mr. SLIDELL. I desire to know what is the immediate question before the Senate?

The VICE PRESIDENT. The question before the Senate is the amendment offered by the Senator from Mississippi [Mr. Brown] to the joint resolution for the presentation of a medal to Commodore Paulding.

Mr. SLIDELL. I shall vote for the amendment of my friend from Mississippi; and, if that be adopted, will then vote to lay the amended resolution on the table. I will state, in a very few words, my reasons for so doing. The whole subject of the policy of our neutrality laws and the conduct of Commodore Paulding was referred to the Committee on Foreign Relations; that committee has reported; an early day has been fixed for the consideration of its report; and, in the meanwhile, I consider the discussion of so grave a subject, involving so large a field of inquiry, premature. When that report shall be considered, I will renew an effort which I made four years since, to vest in the President the power, under certain restrictions, to suspend the operation of our neutrality laws.

I am disposed to sustain the Executive in his declared purpose of rigorously enforcing them,

so long as he shall, by his constitutional obligation to see that the laws be faithfully executed, be bound to prevent the setting on foot, and carrying on, any military expedition against a State with which we are at peace. But I believe the policy to be suicidal which deprives us at all times, and under all circumstances, of the faculty to aid the struggles of oppressed and suffering communities against the despotism of their rulers. I cannot refrain, however, from saying that, while I utterly disapprove of Commodore Paulding's course, and think that he should not be retained in his very delicate and responsible command, I have not the slightest sympathy with Walker's late movement, or his future purposes. Were his object a good one, and his intended means of attaining it lawful, I consider him as altogether unfit for its successful consummation. In my opinion, he has no one requisite for his self-imposed mission of regenerating Central America; he is neither a good soldier nor a prudent administrator. His former expedition abundantly demonstrates his glaring incapacity alike in the field and the cabinet.

With these very brief observations, I ask that the report of the Committee on Foreign Relations be taken up informally, merely for the purpose of allowing me to submit the proposition to which I have alluded. I presume there will be no objection to that on the part of the Senate.

Mr. BELL. I ask the honorable Senator when he proposes to resume the discussion of this subject?

Mr. SLIDELL. I propose now to move that this resolution lie on the table, and let the whole matter come up on the day fixed for its consideration at the instance of the chairman of the Committee on Foreign Relations—Tuesday next, I think.

Mr. MASON. By a vote of the Senate, the report of the committee, with the resolutions and accompanying bill, have been made the order of the day for the 9th of February, which is next Tuesday week. I suppose any motion made by the honorable Senator from Louisiana will correspond with that.

Mr. SLIDELL. I thought it was the coming Tuesday.

Mr. MASON. No, sir, Tuesday week. I was induced to lay it over until that day at the instance of gentlemen interested in other special orders.

Mr. SLIDELL. I should, myself, prefer to have a vote, in the first instance, on the amendment of the Senator from Mississippi now.

The VICE PRESIDENT. That is the question before the Senate.

Mr. BELL. I think the proposed postponement is to a very late day, considering that we have had a pretty full argument on one side of this question, if not on the other. I should hope that some earlier day than Tuesday week would be acceptable to the Senate for resuming the discussion. I shall not, however, be obstinate about the time. It is a subject which requires some further discussion, and I hope that the debate will be resumed at an early day.

Mr. SLIDELL. I suppose the day fixed was agreed upon as the earliest day on which the Senate could consider the question.

Mr. MASON. That is the fact. It was put off to that day with reference to the business already arranged for the convenience of Senators. I put it off to that day because we should have a better opportunity then of getting at it.

Mr. SLIDELL. I presume there will be no objection to taking up informally the report of the Committee on Foreign Relations, so as to enable me to present my amendment.

The VICE PRESIDENT. The present question is on the amendment of the Senator from Mississippi to the joint resolution; but, by unanimous consent, the proposition of the Senator from Louisiana will be received and read for information.

Mr. HALE. It seems to me that if no one else wishes to speak on the particular proposition pending before the Senate, we may as well take the vote and dispose of it.

Mr. SLIDELL. I merely ask that my proposition may be read for information, and ordered to be printed.

Mr. HALE. Very well.

Mr. SLIDELL. I propose, when the report of the Committee on Foreign Relations shall come

up for consideration, to move, as a substitute for the resolutions reported by the committee, the following:

Resolved, That it is expedient that the President of the United States be authorized during any future recess of Congress to suspend by proclamation, either wholly or partially, the operation of an act entitled "An act in addition to the act for the punishment of certain crimes against the United States, and to repeal the acts therein mentioned," approved the 20th of April, 1818, and of an act entitled "An act in addition to the act for the punishment of certain crimes against the United States," approved the 5th of June, 1794, should, in his opinion, the public interests require such total or partial suspension; such suspension not to exceed the period of twelve months, and the causes which shall have induced the President to proclaim it to be communicated to Congress immediately on its first meeting thereafter.

Resolved, That the Committee on Foreign Relations be instructed to bring in a bill in conformity with the foregoing resolution.

I move that this proposition be ordered to be printed.

The motion was agreed to.

The VICE PRESIDENT. The question is on the amendment of the Senator from Mississippi to the joint resolution.

Mr. STUART. I move to postpone the further consideration of this question to the same day and hour fixed for the consideration of the report of the committee, Tuesday, the 9th of February, at one o'clock, when the whole matter can come up together.

The motion was agreed to.

ADMISSION OF MINNESOTA.

Mr. DOUGLAS. I ask the Senate now to take up the bill for the admission of Minnesota into the Union, so that it may be the unfinished business at the next meeting.

Mr. DAVIS. I hope the Senate will not agree to that. The unfinished business before the Senate is the bill which has been under discussion the last two days, this being the third day, and I hope we shall conclude that subject before we enter upon another. I supposed that when the debate on the resolution which was pending providing for granting a medal to Commodore Paulding had been concluded, we were to resume the consideration of the Army bill. I think that bill has priority of right in the order of business, and I hope the Senate will not reverse the ordinary rule.

Mr. DOUGLAS. If the Senate will take up the Minnesota bill, and assign a special day for its consideration, my object will be accomplished.

The VICE PRESIDENT. The recollection of the Chair is that the Army bill was not postponed until to-morrow, but postponed for the present, to enable the joint resolution, on which the Senator from Maryland had the floor, to be considered, and the bill now comes up before the Senate as a matter of course.

Mr. DOUGLAS. Does the Chair decide that the bill providing for the increase of the Army is now before the Senate?

The VICE PRESIDENT. Yes, sir.

Mr. DOUGLAS. Then I shall not make my motion until we get through with that bill.

Mr. GREEN. I think it proper to notify the Senator from Illinois, that one of our colleagues, the Senator from Alabama, [Mr. FITZPATRICK,] is too unwell to be in his seat, and I know he takes a great interest in the bill to which the Senator from Illinois has referred, and I should not like to have it made a special order for any particular time in his absence.

Mr. DOUGLAS. I understand that he will be here to-morrow. That will obviate the objection.

ADJOURNMENT TO MONDAY.

On motion of Mr. SLIDELL, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

INCREASE OF THE ARMY.

The VICE PRESIDENT. The business before the Senate is the bill (S. No. 79) to increase the military establishment of the United States. That bill is before the Senate as in Committee of the Whole; the question being on the motion of the Senator from Georgia, to strike out the first section.

Mr. STUART. When I moved this morning to lay this bill aside, in order to allow the Senator from Maryland to proceed with his remarks on another subject, I indicated a disposition to say something on this bill, before taking the vote. I do not care to say what I have to say before the vote is taken on the pending amendment, if there

is any disposition on the part of the Senate to dispose of the amendment now. ["Go on!"] In the first place, I desire—for it is proper in regard to this subject—to correct an impression that was sought to be made by the honorable Senator from Maine [Mr. FESSENDEN] in regard to the power of the President of the United States to use the troops in support of the civil authority. I think it is proper to notice that, because that is one of the reasons assigned in debate, and so far as we have a right to infer, it is one of the reasons which has governed the President in asking for an increase of the Army. I think there is a misapprehension, to some extent, both of the Constitution and the law on this point. The fourth section of the fourth article of the Constitution provides that:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

It is true, there is no reference in this clause of the Constitution to Territories, and it is equally true that, in that provision of the Constitution requiring the return of fugitive slaves or persons owing service in one State escaping into another, there is nothing said in regard to the Territories. The provision of the Constitution is, that a person owing service in one State escaping into another, shall not be discharged from that service by the effect of that act, but upon demand shall be returned; and yet the very first law that was passed by Congress under that provision of the Constitution of the United States embraced Territories. So the law of Congress in regard to the action to be had in cases of domestic violence embraces Territories, and from the very necessity of the case. Take the instance of the return of fugitives: the operation of the Constitution would be entirely defeated if they were not to be returned from a Territory. Take the case of domestic violence: the clause of the Constitution which I have just read cannot be carried out if domestic violence be permitted in a Territory, without any power to suppress it. Hence legislation has but followed the object of the Constitution itself upon these subjects in placing the Territories upon precisely the same footing as the States.

In regard to the construction of the law contended for by the Senator from Maine, I desire only to say to him and to the Senate this: The first act, the act of 1792, provided for calling out the militia to carry out the provisions of the Constitution—that is, to suppress domestic violence in States; and that act described the circumstances under which the President should have authority to call out the militia. The effect of the later act of 1807 is to provide that under the same circumstances existing in a State or in a Territory, the President may call out the regular troops. That is the construction. The Senator from Maine, I think, commits an error when he supposes that the latter act is limited like the former to States. The object was to embrace Territories, and to declare that in the States and in the Territories the regular troops, like the militia, might be called out. So much for that point.

Now, sir, what is the condition of things in regard to Utah? I think this point has been perhaps rather lightly passed over. The President of the United States has authority to send troops to Utah if the Legislature, when in session, or the Governor of the Territory in the recess of the Legislature, says to him that they are necessary in order to suppress domestic violence of any character. I am not going to assume that the President has sent troops toward that far distant Territory without having sufficient authority. I take it for granted that he has the authority; and until the contrary be shown, on his recommendations I am prepared to meet the emergency. He says, and the Secretary of War also says, that an additional force is necessary. They describe the character of the force which they need, and the mode in which it is to be raised; and but for the fact that the Senate Committee on Military Affairs has, after full consideration, reported a different mode of increase, I should have agreed with the President and Secretary, and voted the additional regiments. I am free to say that when a subject is referred to a committee of this body, there considered and investigated, I deem it safer in all cases to follow its recommendations unless my own convictions are clear against their conclu-

sions. Additional force is necessary as reported to us by that Department of the Government which has this subject in special charge. If it is intended to execute the laws in Utah and to carry out the plan which seems to have been prepared by the President of the United States, it will undoubtedly be found that a force of troops is necessary there, and to be retained there. Still I do not mean to admit here to-day that I believe in the truth of all that has been said in regard to the people of Utah. The experience of the world teaches us that on all such subjects exaggeration accompanies fact. A small difficulty is enlarged and magnified into a great one, and stories are told about the designs of these people which, in my judgment, have no foundation in fact. Certain things, however, are true. It is true that almost that entire community is a Mormon community, whose religion, fanatical, as the honorable Senator from Tennessee [Mr. BELL] said yesterday, is their guiding star. It is undoubtedly true that with that people as with the followers of Mohammed, the authority of their priesthood is superior to any other, when it is called in question.

Now how are the laws to be executed in that Territory? You may send judges and district attorneys and marshals there, but your jurors are Mormons; your sheriffs, your constables, your justices of the peace, are Mormons. That is the condition of things which exists, and will continue to exist as long as that people keep themselves in bodies of the magnitude that are there now.

What is the difficulty complained of? Not that a man cannot be arrested, not that civil process cannot be served, but that jurors will not find a verdict in accordance with the law and the facts; or if they do, inferior courts interpose their process and send their officers, take the respondent into custody, and, by a *habeas corpus*, or some process of their own, discharge him. How, then, are the laws of the United States to be executed unless you have a military force to use in aid of civil law? If you call on the civil *posse*, they are Mormons, they will not help you. If it is against the direction of their priestly authority they will not do it. Hence it is clear to my mind that a force sent to that Territory must remain there if you intend to execute the laws.

I do not mean to say that that would have been my mode of getting along with the Territory of Utah. I only mean to say that the President of the United States has adopted his policy; that it is the usual policy under our system, and that I am ready to vote him men and means to any reasonable amount to execute that policy. Still I deem it my right and duty to say here, that I believe it would have been better to have suspended all intercourse of United States authority with that Territory. I believe that if you withdraw your officers, and withhold your appropriations of money from that people, they cannot for one year successfully resist the United States or any other power. There is no article of their production which they can get to market that will bring as much money after they have got it to market, as it costs to take it there. We are expending in that Territory from forty to fifty thousand dollars a year. It is all the money they have got, and all they can get; and if you would withhold that from them, they would soon come to terms.

The Senator from Tennessee asked me yesterday what I thought about this species of fanaticism? I am not going into a comparative analysis of this with other species of fanaticism, but I will tell the honorable Senator, what he knows as well as any other gentleman, that the very best way to bring a fanatical man to his senses is to reach his pocket, and through his pocket his necessities. Let him be put in a condition where he cannot obtain the necessary clothing to put upon himself and upon his wives and children, and he will become, of his own accord, a pretty submissive citizen with great rapidity.

I say this would have been my mode of treating with the Mormons. I should not have repealed the organic law; I would have retained the organic law; but I would have authorized, by act of Congress, the President to suspend appointments, and I would, by the action of Congress itself, have suspended appropriations. I repeat, that if you take away the forty or fifty thousand dollars a year which you spend among these people, they will have nothing with which to resist you.

Now, sir, briefly, very briefly indeed, I hope,

I have presented to the Senate the reasons that will guide me in my action, and it is all I designed to do. Believing that more military force is necessary to carry on the operations of this Government with wisdom, with energy, and with success, I am prepared to vote it. Having confidence in the committee that has had this subject under consideration, and given us the benefit of its investigation, I am prepared to indorse its recommendations; and I trust that we may not be diverted from the true subject in hand by any discursive debate.

I ask the attention of the Senate while I correct one other misapprehension of the honorable Senator from Maine, and then I shall have ended all that I have to say. The Senator from Maine read an extract from a message of ex-President Pierce, as to the right of the Government to use military force to suppress difficulties at elections, to maintain the purity of the ballot-box. When the Senator read his selection from that message, I confess it struck me as not being in accordance with my recollection; and I think it will be seen, when I read three or four other sentences of that message, that President Pierce indorses this doctrine. He could not have done less. Under the authority given him by the constitution and laws of the United States, anything which amounts to domestic violence, no matter from what cause it originates, clothes the President of the United States with authority to call out the troops, on a sufficient local requisition. What does President Pierce say? After speaking of the difficulties in regard to Kansas, he adds:

"In such an event, the path of duty for the Executive is plain. The Constitution requiring him to take care that the laws of the United States be faithfully executed, if they be opposed in the Territory of Kansas, he may and should place at the disposal of the marshal any public force of the United States which happens to be within the jurisdiction, to be used as a portion of the *posse comitatus*; and if that do not suffice to maintain order, then he may call forth the militia of one or more States for that object, or employ for the same object any part of the land or naval force of the United States. So, also, if the obstruction be to the laws of the Territory, and it be duly presented to him as a case of insurrection, he may employ, for its suppression, the militia of any State, or the land or naval force of the United States. And if the Territory be invaded by the citizens of other States, whether for the purpose of deciding elections, or for any other, and the local authorities find themselves unable to repel or withstand it, they will be entitled to, and upon the fact being fully ascertained, they shall most certainly receive, the aid of the General Government."

Now comes the sentence which the honorable Senator read:

"But it is not the duty of the President of the United States to volunteer interposition by force, to preserve purity of elections, either in a State or Territory."

The Senator did not give the significance intended to the word "*volunteer*." The President has no authority under the Constitution of the United States to volunteer in this matter. He must be called upon by the executive authority of the Territory in the absence of a session of the Legislature; or if the Legislature be in session they must call on him; and President Pierce says in this message, when thus called upon, protection will be cheerfully furnished; but he says he has no authority to volunteer interposition by force to preserve the purity of elections either in a State or Territory:

"To do so would be subversive of public freedom."

And so it would.

"And whether a law be wise or unwise, just or unjust, is not a question for him to judge. If it be constitutional, that is, if it be the law of the land, it is his duty to cause it to be executed, or to sustain the authorities of any State or Territory in executing it in opposition to all insurrectionary movements."

That is a true interpretation of the Constitution of the United States; none can be truer. As I said, I do not introduce that point here for the purpose of going into any discussion upon the existing state of affairs in Kansas. Upon a former occasion I discussed what was the duty of the executive and judicial officers. On a recent occasion I have discussed what I thought was the duty of Congress. I shall continue to discuss those questions as often as they are before us properly, and in my judgment that is the proper time for discussion; but I do think (and I beg pardon of the Senator for differing with him) that on all occasions when a question arises as to the corresponding and relative authority of the different departments of this Government, the debate should not pass away without that subject being fairly comprehended and understood. I shall regret,

deeply regret, ever to see the day which seemed to be looked for with anything but displeasure, not only by the honorable Senator from Georgia, [Mr. IVYERSON,] but by my colleague, [Mr. CHANDLER,] occupying different sides of this question, when the people of the United States, in a Territory, in a State, or elsewhere, shall be brought in conflict, steel to steel and hilt to hilt. Sir, that will be a day when not only the liberties of this country will be ended, but when, in my judgment, freedom upon this continent will sleep forever.

Mr. FESSENDEN. The Senator from Michigan has controverted some of the positions which I attempted to illustrate in a very few words the other day, and he has referred the Senate to the provisions of the Constitution of the United States as laying the foundation for his argument. I think he was unfortunate in that reference, especially if he concedes, as I suppose every man must, that Congress possesses no power to pass any law which is not authorized by, and in pursuance of, the provisions of the Constitution. The provision of the Constitution which he read, was substantially this—I cannot repeat its exact language—that on a requisition made by the Legislature of any State, or the Governor of any State, when the Legislature is not in session, Congress may interpose for certain purposes. Very well. If Congress can interpose for those purposes, it must interpose by means of a law. The President cannot undertake to act except in pursuance of a law passed by Congress, to carry out the authority thus granted; and the act of Congress which has been so much commented upon, is a law passed in pursuance of that provision.

Now, sir, that provision of the Constitution applies to the States, and the States alone. There is no provision in the Constitution authorizing any law of the same kind with reference to a Territory. That idea is drawn by implication, I suppose, by the Senator, that "State" must mean "Territory," if necessary; that is to say, if the question arises in a Territory. There I take issue with him. There is no such thing to be inferred. The power is confined to the States; and the requisition must be made by the Legislature of a State, or the Governor of a State, the Legislature not being in session; and the first section of the act which has been referred to is intended to carry out that provision of the Constitution. There is a very good reason for the distinction, and I beg leave here to state it.

The Congress of the United States has no right to interfere, of its own motion, in these matters of difficulty in the States. The Constitution gives Congress no such power. If it had the power, it might become a very uncomfortable mediator in a State; it might do things to which no State would be willing to submit. It is only, therefore, when called upon by the authorities of a State, that Congress has the right to interfere at all in order to put down domestic insurrection, or perform the other duties prescribed in that section.

The same reasoning does not apply to a Territory. A Territory is under the direction of the Government of the United States. The Governor of a Territory is under the direction of the President of the United States. He is appointed by him and may be removed by him at pleasure. How idle is it to talk about the similarity of the two cases, when the Governor of a Territory is nothing more nor less than the President of the United States! The President may direct his Governor to call upon him to suppress insurrection; and if the Governor refuses to do it he may turn out that Governor and appoint one who will apply to him to suppress insurrection or interfere in the affairs of the Territory!

The difference between a State and a Territory is, that one is independent in all its action of the Government of the United States, and the other is the mere creature of the Government of the United States, and dependent upon it. The very reason and foundation of the application which has been attempted to be made of the law that was passed to carry out that provision of the Constitution fails when you come to the case of a Territory. If you apply that reasoning to a Territory, the result is that you give the President power to call out the militia or Army of the United States whenever he sees fit; because the whole matter is under his control; he has the command of the territorial officers and may remove them

at pleasure; and consequently, as I said before, he has only to call on his Governor (the Legislature not being in session) to state to him that the condition of the Territory is such as to require the intervention of the Federal Army, and then everything is under military domination, directed by the President of the United States, as Commander-in-Chief of the Army of the United States.

The honorable Senator from Michigan, therefore, will see his reasoning fails. The first section of the act, as I remarked, is drawn to carry out that provision of the Constitution, and that provision of the Constitution does not apply to Territories. It does not express the idea of its being intended to apply to a Territory. The language is "State," and "State" alone; and no act that is passed under and by virtue of it, applying it to a Territory, giving the same authority, could be constitutional. If found at all, the authority must be found under another provision of the Constitution, and that is the one immediately succeeding, in which it is made the duty of the President to execute the laws of the United States. I do not deny that under that provision, if the laws of the United States were resisted in a Territory, Congress might give the President power to use the militia, and power to use the Army where he could use the militia; because the Territories being subject to the laws of the United States, they being creatures, in their organization, of the statutes of the United States, so far as it becomes necessary to enforce these laws it is the President's duty to execute them; and if he has not the power, Congress may confer upon him by a statute the requisite authority to enforce these laws and to prevent their being obstructed. But the difficulty with reference to the use of the Army in Kansas is, that there is no authority given to the President specifically to use the Army for the purpose of preventing obstructions to the laws of the United States in Kansas, because the statute, as I remarked before—and I differ with the Senator there—does not in terms give it, because the second law simply changes the instrument which may be used, or rather gives the President power to use another instrument, but does not extend the contingencies in which force may be used as provided by the first law.

But behind that was the position which the Senator did not attempt to answer—that the law of the Territorial Legislature approved by the Governor, is not a law of the United States, and cannot be made so by any logic, unless the Congress of the United States pass it again, or indorse it in some way or other. Consequently there is no authority whatever in any of those laws, even on the construction given them by the Senator himself, to use the Army for the purpose of enforcing the territorial laws of Kansas. The Government was well aware of this when it gave direction that the military force must be used as a *posse comitatus*, under the direction of the civil power. Send two thousand five hundred men there as a *posse comitatus*! Who ever heard of such a thing as sending a regular army into a country to be used as the people of a county, for the purpose of enforcing the laws in a county? This may do very well to talk about; but anybody with half an eye can see that it is a mere evasion, and a clumsy evasion. It is using an army (which cannot be used legally) under the pretense of making a mere people of a county of it, to aid in enforcing civil process. If it were actually a *posse comitatus*, it should be called forth in a specific manner, not by the Governor of a State to enforce the laws of a State generally, but by the civil magistrate of a county to enforce the execution of a precept. That is not the mode in which it has been used. I say, therefore, that this idea of sending the Army to Kansas, and calling it a *posse comitatus*, and to be used as such, is merely for the purpose of accomplishing, by means of an evasion, what cannot be accomplished by virtue of any laws of the land, in any manner or to any extent.

These were the positions which I took in reference to this point the other day; and now the Senator does not differ so far from me about the construction to be put on Mr. Pierce's language. I did not undertake to say anything more than that President Pierce denied that he could volunteer to protect the purity of elections in Kansas; but President Buchanan does interfere, and does volunteer to do that very thing. There is the difference.

Mr. PUGH. The Senator does not understand that since that, there has been a demand from the Governor.

Mr. FESSENDEN. There has been a demand from the Governor of the Territory—for what purpose? To prevent insurrection?

Mr. PUGH. To execute the laws.

Mr. FESSENDEN. To execute what laws? The laws of the United States?

Mr. PUGH. The laws of the Territory.

Mr. FESSENDEN. Those are not laws of the United States, and the power cannot be furnished to execute the laws of the Territories legally. He has been called upon generally; but there has been no specific call upon the President asking him to furnish aid, for the purpose of stationing men about the ballot-boxes. That is an act which he volunteered himself in his instructions to Governor Walker when he sent him out there. He directed the Governor what to do in advance, before any call was made by the Governor. It comes back precisely to the same point I stated before, that Mr. Buchanan directs Mr. Buchanan to send troops into that Territory under the name of a *posse comitatus* whenever he chooses to do it, and on whatever pretense he chooses. It was a voluntary act on his part in the beginning. The germ which has grown up to this great violation of the law and the Constitution by sending such a large amount of troops, was contained in his instructions originally. He did it. Mr. Walker in calling for troops was only calling for aid to execute what the President had volunteered in the first place. I do not choose to defend Governor Walker, or accuse him; but when the honorable Senator from Mississippi the other day read that dispatch from him, in which he set forth those tremendous and awful difficulties at Lawrence, that they had actually formed a combination to make a city government and do divers and sundry other little things of that kind, and therefore that the aid of the Army was required to suppress insurrection, I thought the honorable Senator could hardly help laughing in his sleeve when he used that as an argument to justify the sending of such an amount of troops to Kansas!

Mr. DAVIS. I thought it rather a grave matter. The Executive of the United States was arraigned for sending troops there. I read from the dispatch from the executive officer of the Territory the call which was made on the Executive of the United States, and which justified him in keeping the troops there after, indeed, they had been destined for another service. It may be a laughing matter to the gentleman for a town to organize itself into an attitude of rebellion, for the Governor of a Territory to call on the President of the United States for military force, but it strikes me as rather grave, rather lamentable.

Mr. FESSENDEN. Rebellion! That is a new idea.

Mr. DAVIS. A new idea! You found it in the dispatch, sir.

Mr. FESSENDEN. Find it in the dispatch! Because he calls it so, that does not make it so; and because the Senator chooses to call it so, and emphasises it, that does not make it so. Rebellion! Talk about rebellion because the inhabitants of a city organize a mere civil government for civic purposes to clean their streets, perhaps to light their streets, to have a little order, to resist no Government anywhere, United States, State, or territorial, but merely to conduct their own civic affairs! Rebellion against the Government indeed! That is like "constructive treason."

Mr. GREEN. Will the Senator allow me to interrupt him?

Mr. FESSENDEN. Yes, sir.

Mr. GREEN. If the Senator will examine the attempted organization at Lawrence, which he calls a mere municipal organization for a city government, he will find that its purpose, its object expressly declared, was resistance to the law organizing the Territory, resistance to the laws that had been passed by the territorial authorities. They required every man to swear to support the Topeka constitution; and they called on their friends throughout the Territory to organize. They appointed a major-general by the name of Jim Lane, I think, who had his aids and his co-operators throughout. This formidable array, with these purposes, induced Governor Walker to call it rebellion.

Mr. FESSENDEN. There is nothing of that sort in Governor Walker's dispatch. What outside intelligence the Senator from Missouri may have, I do not know. I know that Governor Walker appeared to be very much excited about the matter.

Mr. GREEN. It is in the papers accompanying the dispatch.

Mr. FESSENDEN. I have not seen it then.

Mr. GREEN. I have.

Mr. FESSENDEN. Even if it is, how do you make rebellion out of it? That is what I ask.

Mr. PUGH. Let me ask the Senator a question. Suppose a parcel of people in the city of Washington get together and make a city council and municipal government, and proceed to levy taxes without the authority of Congress or the present municipal corporation, what would he call that?

Mr. FESSENDEN. Suppose they levy taxes, but do not attempt to enforce them? Suppose the people are willing to pay them for their own purposes? Do you want troops to put them down?

Mr. PUGH. Suppose they carry on a city government here, what do you call it?

Mr. FESSENDEN. If it is done by consent of the people, and nobody objects, then it is in defiance of no proper authority.

Mr. PUGH. The Senator does not answer my question. What does he call such an organization?

Mr. FESSENDEN. What do I call it? I do not call it rebellion. Do you?

Mr. PUGH. Certainly.

Mr. FESSENDEN. Then I should like to have the Senator find me a definition of rebellion in some law-book. Whom do they rebel against?

Mr. PUGH. Against the lawfully constituted government.

Mr. FESSENDEN. There is nothing until there is an overt act. Was the meeting of the Topeka Legislature rebellion? They had formed a constitution, and they met to act on it; they met to pass laws.

Mr. PUGH. Allow me to answer. If they had attempted to put a single one of their laws in force, even a law simply to create a private corporation, it would have been rebellion.

Mr. FESSENDEN. Undoubtedly, if they had done it by force; but these people proposed no such thing. It was a matter done by common consent in the city of Lawrence. They attempted to urge nothing on any man contrary to his will. They attempted to levy no taxes. All that was done was for mutual accommodation, and by mutual agreement. It was called for because the powers in authority were unwilling to see any organization there, unless it was an organization subject to their control. I say that the idea of calling out large bodies of troops to be stationed there on account of a matter of that simple description, was to me always an absurdity.

I repel the idea which the honorable Senator from Mississippi seems desirous to communicate with regard to us, that because we look upon a great many of these things which have been done in Kansas as ridiculous in themselves, we are therefore in favor of bloodshed and civil war, and all those horrible consequences which are to follow from that state of affairs which has been brought upon the country by attempting to force upon the people of Kansas institutions and laws which they reject. No, sir; do not impute it to us. The Senator from Georgia [Mr. IVERSON] said yesterday, that he was sorry any troops had ever been in Kansas; sorry that those border ruffians, as he did not call them, but as we call them, had not been left to wipe out the Abolitionists, as they would have done; and when my friend from Michigan [Mr. CHANDLER] replied, not that he was sorry, but stated the fact that if the troops had not been there, a different result would have followed, then the honorable Senator from Mississippi at once says, "now we see the motive of the opposition in opposing this bill; they desire civil war in Kansas." Is that the motive of the honorable Senator from Georgia?

Sir, there is only one state of things in which I shall expect civil war to arise in Kansas, and that is when you attempt to force on that people, by an overbearing power, institutions which they reject; a constitution from which they shrink; laws, in the making of which they have had no part. If that be attempted to be done by force,

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then, sir, I justify their exhibiting the spirit that was exhibited by their ancestors; and I trust in God that spirit is not yet extinct in this country of ours. I do not shrink from the accusation of being in favor of civil war, if it must come, whenever the necessity arises that calls for it. There is a point beyond which forbearance ceases to be a virtue in nations as well as in men; and when the time comes in this country that we cannot speak on certain things without being met with the accusation of desiring civil war, I, for one, tell you just when I am ready to meet it. Not that I desire or would call for it, or would not do everything that an honest man or a patriot could do to avoid it, but I should be unworthy the name of American citizen if I said that there could be no occasion when I should not be ready to meet the consequences.

Now, Mr. President, in order that I may not trouble the Senate again upon this subject, as I hope not to do, I wish to say a word in regard to the general subject before the Senate—the passage of this bill for the increase of the Army. I say, again, that I have listened and waited in the hope that from somebody I should hear a reason given for this increase of the Army. Some gentlemen have said that if an army is needed for Utah, to put down the Mormon rebellion, they are ready to vote whatever may be necessary. I have said that; and it has been urged in the Senate by some gentlemen that the increase is necessary for that purpose. Sir, I go to headquarters on that point. The Executive Government of the United States, in recommending the increase of the Army, has not said so. If it is necessary in order to put an end to the Mormon rebellion, let the President tell us so, and take the responsibility of it—not shrink from it, and call upon us on other grounds to increase the Army. No longer ago than yesterday, the chairman of the Committee on Military Affairs told us he did not put it on that ground because the Executive did not. Let us hear no more, then, about the Mormons. Let us wait for the recommendation of the Executive on that point. Let not anybody in the Senate, or out of it, accuse the minority here, so far as they act against this bill, of being unwilling to send aid to our army, and to send out as many troops as may be necessary to enforce the laws of the United States, in Utah and elsewhere, so long as the President does not tell us it is necessary, so long as the Secretary of War does not tell us so, so long as the chairman of the Committee on Military Affairs tells us expressly that he does not put it on that ground, because it is not demanded on that ground; but tells us on the contrary that this Administration does not wish a temporary increase of the Army, but desires a permanent increase, not for Utah, for that is an occasional matter, but for other purposes.

I repeat what I said the other day, that if I understand anything about the course of legislation, when the executive Government comes before a Legislature and says it wants a large increase of the disposable military force of the country, it is not enough in my opinion to say, "we shall want these troops on account of Indians whom we are bound to control, and on account of the difficulty which exists in regard to emigration across the plains, and we want to fortify some military posts." Would not a military man when he demanded that, say: "I propose such and such matters as necessary; I must have so many troops at one point for one purpose, and I must have so many troops at another point for another purpose; I wish to have so many to execute the laws in one place, and so many," if he has the authority, "to execute the laws in another place," and give us the details, showing that the number we now have is not enough, and that more are required for those purposes, submitting to our judgment the details on which we may act? That is my trouble; and the answer I get still, after two or three days of discussion, is not a single detail of any particular number of troops wanted anywhere; but a general statement that the Indians on our frontier and the protection of the emigrant

routes, in the judgment of the Secretary of War, require an addition of about seven thousand men to the disposable force of the Army. As I said before, that is not enough for me. If the Government really desire to carry this measure, and have an idea that it should meet with the approbation of the people of this country, and be sustained by any but a mere subservient Congress, that has neither the mind to comprehend what is needed by the country, nor the courage to speak their opinions upon it; if they address themselves to a Congress of independent men, ought they not to furnish us with the information if they have it?

I therefore must say still, as I said before, that I do not believe any more troops are needed. Why? For the reason that the Government will not tell us where they need them, or why they need them, with any particularity at all. I hold that, at this point in our history, situated as we are now, with the finances of the country in the state in which they are, with the people groaning under the burdens which are imposed on them for the support of the Government, with so large a portion of the people out of employment, and with no prospect of early employment, no man here is justified in voting to impose on them this great additional burden upon the mere statement of an opinion, when that opinion is not supported by a single fact or a single explanation. As was said by one of the papers in this city this morning, I should rather be disposed to believe that the real reason is not to be told, because the Government are unwilling to speak it; and it is that the Government wishes force enough to execute its own laws, and such other laws as its creatures may see fit to pass for any purposes whatever; and for those purposes I am not disposed to vote them.

Mr. PUGH. Mr. President, I wish to make one or two observations on some of the extraordinary propositions of the Senator from Maine; and I should not detain the Senate but that they have been iterated and reiterated so often that it seems to me necessary to notice them. In the first place, what was the character of this organization, or pretended organization, of a municipal government in the city of Lawrence? "Why," says the Senator, "it was simply a government to pass town ordinances, and clean the streets." So it was. That is all the government of the city of Washington is. That is all the business of the government of the city of New York. The simple question is, have they authority to establish a municipal government in defiance of the Territorial Legislature. Is it not the case of the Topeka, so-called, State Legislature? I say again, if that body calling itself a Legislature had attempted to put a single one of its laws in force, it would have been an overt act of treason. At the last Congress, I said, and said repeatedly, that the resistance of a single law of the United States, or the resistance of any given number of laws of the United States, did not amount to the crime of treason; but to resist the law-making power as a general proposition is the offense of treason.

What did Aaron Burr? Let us characterize it in the Senator's sneering manner; why he assembled a couple of hundred gentlemen at Blennerhassett's Island? What harm in that, the Senator may say. They marched and paraded, but it was a thing of consent. Mr. Burr proposed to set up a government in the southwest part of the country; but it was only a government over those who agreed to live under it. He proposed to make laws, but his laws were merely local. The essence of the matter is, that he proposed to set it up against the legitimate will of the sovereign, and that was the essence of this Lawrence business. Was it, as the Senator from Maine says, a mutual compact of individuals for their convenience? Why, sir, here is the alleged charter of the city of Lawrence. It sets out with the declaration that it is in defiance of the laws of the Territorial Legislature, in so many words:

"As the territorial government, however, in no sense represents the people of Kansas, was not elected by them, and

can have no right to legislate for them, we cannot accept of a charter at its hands."

Can a defiance be more plain? They then authorize this government of theirs to levy taxes and to collect the taxes by the hands of officers whom they appointed. What more did the Dorr rebellion do, or did it do half so much, in Rhode Island?

Mr. SIMMONS. I beg to interrupt the Senator, and to state a fact for his Democratic consideration. We had a government within Rhode Island for more than sixty years, carried on by the negroes, who used to have regular elections every year, and they had a very nice time. They were very peaceable about it. They used to pass resolutions every year to tax themselves, and carry on all the forms of government; but the regular government of the State never thought of disturbing them.

But the Senator from Ohio asks what Mr. Dorr did. Mr. Dorr and his friends, in the first place, made a constitution, as I had occasion to show yesterday. They had a Legislative Assembly, two Houses of their own, and he went into that body under an escort of more than one thousand men under arms. They passed laws, appointed State officers, and organized a government in every respect. He asked what I thought the government of Rhode Island would do in case he did such things; and now I will tell the honorable Senator my answer, as a suggestion which may apply to this case, though I do not profess to be a lawyer. After they had voted down the constitution, we proposed to them—he met me; it was the last time I ever spoke to him, and here I may say that I always had a great opinion of his integrity, honor, and honesty—and he said: "Mr. SIMMONS what are you going to do now that you have lost your new constitution?" "Oh," said I, "we are going to live under the old one until we can get you to agree to let us have a better one." "Well," said he, "suppose we put our government in force, what do you mean to do, suppose we organize and have an election?" "Very well," said I, "go on; we shall not do anything. The free blacks have had elections for sixty years down in Wickford, and we will not pay any more attention to you than we do to the Wickford election, that takes place every year, and is published in the newspapers. Go ahead; we shall not trouble you." "Well," he replied, "suppose we pass laws, and execute them?" "Then," I answered, "we will shoot you just as soon as we would a black snake."

Mr. PUGH. The Senator and I agree exactly.

Mr. SIMMONS. But, let me tell you a little further: we have not quite come to the point yet. We did not disturb Mr. Dorr or his friends. They went on and organized their government; but we never took any notice of them until they erected fortifications on the borders of our State, and called in aid from other quarters. Then we said it was armed rebellion, and we went at them.

Mr. PUGH. And then you were right. That is what I say about this proceeding. As long as they met—as a simple debating society, calling themselves the Topeka Legislature—and expressed their sentiments under the title of laws, nobody cared twenty-five cents for them; they were of no more consequence than half a dozen gentlemen met out in a ten-acre field; but when they undertook to put a law of their making in force, then it became rebellion; and, as the Senator says, they ought to have been shot—at least some of them.

Mr. SIMMONS. I ask the Senator from Ohio if there was any such overt act at Lawrence? If he can show me that there was, perhaps he and I may agree.

Mr. PUGH. The question is not whether they committed the overt act. The question is, whether they threatened to do it; but being warned not to do it, they then stopped. They were warned not to do it, and they paused on the threshold; but I say it was rebellion. If they had proceeded to put in force this charter and levy taxes, they would have committed an act of rebellion against the territorial authorities, which it would have

been the duty of the Governor to subdue by force wherever he could get the power.

It is vain for Senators to inquire into what the avowed objects of the organization were. It is the fact of setting on foot the organization that made the offense. Have we not heard the Senate, for the last two or three weeks, implored to consider the iniquity of a few dozen or fifty gentlemen putting two or three guns on board a ship at Mobile or New Orleans, even if they never went to sea, but put them there with the intention of going out to the coast of Nicaragua to commit an offense? The Senator from Maryland said truly the offense was complete the moment the gun was put on board a boat with that intention. I admit these men did not commit the overt act; and they did not commit it because the Governor of the Territory warned them of the consequences. That is where they stopped; and that is where the Topeka Legislature stopped. As long as they keep themselves there, nobody will attach any importance to them; but I say, again, whenever that Legislature execute the threats which have been made in their name on this floor, to put their laws in force, they will find themselves, in less than six weeks, in the position of your friend Dorr.

I have one other observation to make; and that is as to the everlasting talk which we hear about the civil war that is to come in Kansas. It was begun the second day of this session; and I believe before God that the idea never entered the head of a man in Kansas until it went forth from this Chamber. On that day the Senator from New York [Mr. SEWARD] deplored the civil war that was to come; but he would justify it if it did come. A few days later the Senator from New Hampshire [Mr. HALE] took it up; he, too, deplored the civil war that was to come; but he would justify it if it did come. The Senator from Michigan [Mr. CHANDLER] yesterday entertained the Senate with a detailed account of the victories that would have been achieved if they had not been prevented. I do not understand that style of courage, and I do not appreciate it very highly. I prefer that men should speak by their deeds on these occasions, rather than their words. Those men who say what they would have done if somebody had not taken hold of them by the coat-tail, never struck me as very powerful soldiers. They remind me of the fop who is mentioned in *Shakespeare*, who was sent to call on Hotspur, and who, after having been entertained with the parade of war, and feeling somewhat in love with the business, declared—

—“that it was great pity, so it was,
That villainous salt-peter should be digg’d
Out of the bowels of the harmless earth!
Which many a good tall fellow had destroy’d
So cowardly; and, but for these vile guns,
He would himself have been a soldier.”

Now we have it from the Senator from Maine; he, too, deplores civil war; and he, too, would justify it. Sir, there is no emergency in the history of this Government that can justify civil war; and there is no emergency that can justify a representative of the people in this House, or in the other House, in so much as suggesting such a remedy as that to his fellow-citizens at either extremity of the Union. Sir, I trust the day will never come when that style of argument in this Chamber, or in the other, is to threaten members on the one side or the other that, if this be not done, or that be not forborne, civil war is to be the argument vouch’d in! I never wish to hear that raised in this Chamber again whilst I have the honor of a seat here. I do not think it is within the rules of order; I do not think it is a proper style in which a body of gentlemen should be addressed, whether in the Senate or out of it; and if I have any prayer on the subject, it is that those who invoke civil war may, if civil war should come, be its first victims.

Mr. SIMMONS. I would remind the Senator from Ohio that our Rhode Island people got the name of “Algerines” for pursuing pretty much the course he has suggested. We issued, I believe, half a dozen proclamations inviting our friends there to go home and mind their own business; but we did not disturb them at all until they erected a fort and pointed their guns at us, and people began to come in from other States, and then we concluded to drop our hoes, and go at them. Now, sir, I hope to have nothing more to say this session about that question or about civil war. I have not talked about civil war at all,

I believe, for I am not a fighter; I do not belong to that tribe.

But, sir, I desire to ask the Senator from Mississippi, the chairman of the Committee on Military Affairs, a question in regard to the amendment which is pending. I desire to know what the purpose is of providing thirty new companies instead of enlarging the existing companies? I desire to know in order to satisfy myself, before I vote, whether the Government lacks officers or lacks men.

Mr. DAVIS. I will answer the Senator as well as I can; but I must premise that this is not a proposition of the Administration. I must follow that, too, with another suggestion to the Senator, that the committee does not represent the Administration, and that I am in no sense its organ. As chairman of the Committee on Military Affairs, I thought I represented the Senate; and for the first time I now learn that, as chairman of a committee reporting a bill which was the conclusion of the committee, the Administration is to be held responsible for our conclusions, though they are different from the recommendations of the Administration, and that the committee is to explain what the Administration desire by a proposition which the Administration never submitted.

The Administration is entirely exempt from any responsibility for these thirty companies, except so far as it has asked for additional regiments. The committee, finding the request of the Administration to be, that Congress would furnish additional troops as a means of executing the duties with which the Executive is charged, and proposing to furnish the additional troops in a particular manner, have adopted, without, I believe, any dissent in the committee, the theory that the Administration was a proper judge of its wants; that in the absence of any proof that it had not the necessities which it asserted, we would proceed on the basis of supplying those wants. So far from finding any proof that the Administration do not need additional troops, our conclusion was that they do need them; and then we adopted a plan of supplying their wants different from that which the Administration suggested. Now, sir, I am trying to make the answer full; I wish to be understood; and if the Senator is satisfied with my answer as it stands, I will stop.

Mr. SIMMONS. I was merely going to say that I do not mean to question the propriety of the mode adopted, but I wish to get at the facts.

Mr. DAVIS. The opinion of the committee was, that the addition of the thirty companies would give the effective force to the Army, with power to raise the companies in particular service to a higher maximum than that now established by law. Every calculation which has been made by an opponent of the bill, has been based on the supposition that every company was to consist of ninety-six men. That is not the fact. Only in particular positions can they go up to ninety-six.

Then again it has been based on the supposition that every company was to be full. More than once I have stated that that is a supposition which cannot be verified in any actual condition, either of peace or of war. The numbers constantly sink. If they are filled up, the very next occurrence by discharge, death, or disability, reduces the effective force, and it goes down until another supply of recruits comes to fill it up to the maximum again. These thirty companies therefore will give not only greater efficiency by giving a greater number of integral parts, but will enable you to fill up a greater number of integral parts, and thus the loss will be less upon the whole than if you raise the maximum of particular companies and were not able thus to distribute it over a greater number of companies. The number of officers to be added will be three to each company, and that it was believed would increase the efficiency of the Army.

Mr. SIMMONS. I did not intend to provoke discussion. I hope I said nothing offensive.

Mr. DAVIS. I hope the Senator will believe I was not replying to him under the supposition that he had asked any question which he had not the right to ask, and which it does not give me pleasure to answer; but he puts me in a position in which I have been so often placed by others, and which is not my true one.

Mr. SIMMONS. I understand. I thought from the observations of the Senator on former days, that he proposed these thirty companies with a

view of rounding out the regiments to a certain number in each. For that reason I wanted to know whether there was a lack of subaltern officers, captains, and lieutenants, in the service now. If so, I should be more inclined to favor the proposition to add ninety officers of that description, because, though I do not take any responsibility of either opposing or promoting the views of the Administration, I should be willing to take a knowledge of the facts and circumstances on such a matter from them; as I suppose the committee did. I certainly did not suppose the Administration were responsible for the committee not going as the Administration requested them to do. I think my intellect is not quite so cloudy as that. But when I heard a proposition to add thirty companies, equal to three existing regiments, I wanted to compare it with the necessities of the Government, to see whether the necessity could not be supplied by adding men without officers. I had supposed that the want was of men to fill up the companies. We have skeleton regiments and skeleton companies, and I take it that making thirty more skeletons will not increase the Army much. I want to fill up the skeleton companies, if there is any service for them to do, and not pay for useless officers.

If the chairman of the Committee on Military Affairs says that there are not companies enough, and that we should make the new officers, that is another question; but, as I understand all the speeches that have been made, (and I try to listen to them without intending to participate in the debate, and I do not think I should have got to talking again but for some of these questions about rebellion,) if we are now short about five thousand men, I cannot see, and I have heard nobody state, why the President, with his officers, cannot go on and recruit and fill up these companies and regiments. I do not profess to be a military man. It is as much as forty years since I was in the service.

Mr. JONES. I wish the Senate to proceed to the consideration of executive business; and with that view, I move to postpone the further consideration of this question until to-morrow.

The VICE PRESIDENT. The Senator from Rhode Island is entitled to the floor.

Mr. SIMMONS. I will give way for that motion.

Mr. JONES. Then I move to postpone this subject until to-morrow.

Mr. HOUSTON. Will the Senator please to withdraw it one moment? I will renew the motion for him.

Mr. JONES. Certainly.

Mr. HOUSTON. I believe we shall not have time to get through with the bill to-night. I was anxious to dispose of it to-day in order to accommodate the honorable chairman; but I have no expectation that we shall. I think it is but justice to him that we should dispose of it as soon as we possibly can. I wish to make some remarks on it myself. I propose if there be no disposition made of it, that it be postponed to Monday at one o'clock; or left as the unfinished business of to-day.

The VICE PRESIDENT. It goes over and takes its appropriate place on the Calendar, if nothing further be done.

Mr. HOUSTON. I believe we have agreed to adjourn over until Monday.

Mr. JONES. I renew my motion to go into executive session.

Mr. DOUGLAS. I hope if this bill is to go over, we shall rescind the order for adjourning to Monday, so as to finish it to-morrow. I feel it my duty to insist on a vote on the proposition to take up the Minnesota bill, and yet I do not wish to do it in opposition to the Army bill.

Mr. JONES. I believe my motion has precedence. A motion to go into executive session is a privileged one.

The VICE PRESIDENT. The Senator from Texas now is entitled to the floor. The Senator from Iowa had the floor, but he yielded it to the Senator from Texas, who said he would renew the motion for an executive session.

Mr. HOUSTON. I do not wish to deny any courtesies to the gentleman, but I thought the plan I suggested was the best for the purpose of getting rid of this subject, as we cannot dispose of it to-night. But I am perfectly willing to have the question taken on the motion to reconsider

the vote on adjourning over; and if the Senate go into executive session I take it for granted they will do it in consideration of the motion suggested by the Senator from Illinois.

Mr. DOUGLAS. There is no motion for an executive session.

The VICE PRESIDENT. The Senator from Texas has renewed the motion.

Mr. JONES, (To Mr. DOUGLAS.) You can make your motion afterwards.

Mr. DOUGLAS. But I can enter my motion now. I move to reconsider the vote by which we agreed to adjourn over to Monday.

Mr. CRITTENDEN. I have a motion which I think will take precedence. I move that the Senate do now adjourn.

Mr. JONES called for the yeas and nays on the motion to adjourn; and they were ordered.

Mr. TRUMBULL. What will be the effect of the adjournment with the motion to reconsider pending?

Mr. HAMLIN. It will cut it off.

Mr. TRUMBULL. If we adjourn now, will it be until to-morrow or Monday?

The VICE PRESIDENT. The adjournment, if made now, will be to Monday.

The question being taken by yeas and nays, resulted—yeas 31, nays 11; as follows:

YEAS—Messrs. Bell, Biggs, Bigler, Broderick, Brown, Chandler, Clay, Crittenden, Dixon, Doolittle, Evans, Fessenden, Fitch, Foot, Foster, Green, Hamlin, Hammond, Houston, Hunter, Johnson of Tennessee, Jones, King, Mason, Pearce, Polk, Pugh, Simmons, Toombs, Trumbull, and Yulee—31.

NAYS—Messrs. Benjamin, Davis, Douglas, Harlan, Iverson, Sebastian, Seward, Stuart, Wade, Wilson, and Wright—11.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, January 28, 1858.

The House met at twelve o'clock, m. Prayer by Rev. W. A. HARRIS.

The Journal of yesterday was read and approved.

The SPEAKER stated that the first business in order was the call of committees for reports, and that reports were in order from the Committee of Elections.

Mr. PHELPS. Debate has been closed on the bill pending in Committee of the Whole on the state of the Union at half past one o'clock to-morrow; and, as many gentlemen desire to speak, I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. I hope that motion will not prevail; but that we shall have a morning hour.

MOTION TO RECONSIDER.

Mr. BOCK. Before the question is taken, I wish to enter a motion to reconsider the vote by which the House adopted the resolution offered by the gentleman from Georgia [Mr. STEPHENS] yesterday, to allow the contestant in the Ohio contested-election case a seat upon this floor. I do not ask action on the motion now; but merely to have it entered.

The following is the resolution referred to by Mr. Bock:

Resolved, That Clement L. Vallandigham have leave to occupy a seat upon the floor of this House, pending the discussion of the report of the Committee of Elections on the case of his contest for the seat now occupied by Lewis D. Campbell, from the third congressional district of the State of Ohio, and that he have leave to speak to the merits of said contest, and the report thereon.

EXTENSION OF DEBATE.

Mr. MARSHALL, of Kentucky. Mr. Speaker, the subject-matter of the bill that is now pending in the Committee of the Whole on the state of the Union has not yet been discussed in committee at all, except in the explanation made by the gentleman from Missouri, [Mr. PHELPS]; and I would suggest that, as a discussion of that bill seems to be desirable, the time be prolonged. I move that the time for debate be extended until three o'clock to-morrow.

The SPEAKER. That can only be done by unanimous consent, as a resolution has been adopted fixing half past one o'clock to-morrow as the hour for closing debate, and a motion to reconsider has been made and laid upon the table.

Mr. MARSHALL, of Kentucky. It is a very

good commentary, sir, upon the operation of the present rule.

The SPEAKER. Is there any objection to the proposition of the gentleman from Kentucky?

Mr. HOUSTON. I do not make any objection to that; but I would like to append to that motion a condition that a certain portion of the time shall be allowed for the discussion of the bill itself, and that it shall not all be taken up in general debate.

Mr. MARSHALL, of Kentucky. I would prefer the gentleman's proposition to my own; and if the House would make an order to confine the debate to the pending question, I would not ask for any extension of time. It was only in order that we might have an hour or two for the discussion of the pending bill that I suggested an extension of time.

Mr. HOUSTON. I do not object to prolonging the time at all. All I wish is some guarantee that the bill will be discussed. It is one that ought to be discussed in its provisions and details, and I hope there will be no objection to setting apart the last three or four hours to a discussion of the merits of the bill, all other discussion being out of order.

Mr. PHELPS. I have no objection to the request of the gentleman from Kentucky, [Mr. MARSHALL], as modified by the gentleman from Alabama, [Mr. HOUSTON], as I have no desire to prevent the discussion of the question.

The SPEAKER. The gentleman from Alabama proposes that the proposition to extend the time for closing debate shall be further modified, so that all debate in Committee of the Whole on the state of the Union, on House bill No. 202, shall be confined strictly to the discussion of the merits of the bill.

Mr. COMINS. I object to that.

Mr. JONES, of Tennessee. I object to the extension of the debate if it is not to be confined to the subject of the bill.

Mr. HOUSTON. Perhaps the gentleman from Massachusetts [Mr. COMINS] will accept a modified form of the proposition: that is, to extend the time till three o'clock to-morrow, and to confine the last three hours to the discussion of the merits of the bill. Just give us some time to discuss the bill. I will take that rather than nothing.

The SPEAKER. The proposition, as modified, is that the debate to-morrow, in Committee of the Whole on the state of the Union, shall be confined to the question under debate.

Mr. STEPHENS, of Georgia. Is not that the rule of the House now? All that is necessary is to have the rule enforced. It is not necessary to make another rule on the subject, if the chairman of the Committee of the Whole on the state of the Union would do his duty.

The SPEAKER. The Clerk will read the 30th rule.

The rule was read, as follows:

"30. When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to 'Mr. Speaker,' and shall confine himself to the question under debate, and avoid personality."

Mr. JONES, of Tennessee. I ask that the 133d rule be now read.

The rule was read, as follows:

"133. The rules of proceedings in the House shall be observed in a Committee of the Whole House, so far as they may be applicable, except the rule limiting the times of speaking; but no member shall speak twice to any question, until every member choosing to speak shall have spoken."

Mr. JONES, of Tennessee. Now, if these two rules be enforced in the Committee of the Whole, every member addressing the committee will be confined to the subject-matter under debate.

Mr. HOUSTON. That rule has been construed—always against my vote, I admit—in this way: that, in the Committee of the Whole on the state of the Union, the state of the Union generally being under consideration, we may discuss everything except the matter truly before the committee; and, in view of that construction of the rule on the part of previous Congresses, I have proposed this modification. If the Committee of the Whole on the state of the Union will administer the rule as it is understood by my friend from Georgia, [Mr. STEPHENS], and my friend from Tennessee, [Mr. JONES], and as it is understood by myself, there would be no necessity for the order that I suggest.

Mr. GROW. I presume that there will be cer-

tainly no objection to the extension of the debate as proposed by the gentleman from Kentucky, [Mr. MARSHALL], with this condition; that on to-morrow the debate on this bill shall be confined to the bill, and that for to-day the debate shall go on as it has gone.

Mr. HOUSTON. There is no objection to that.

Mr. JONES, of Tennessee. I want the debate confined to the subject all the time. I think, if it be so confined, that the time for debate is long enough.

The SPEAKER. Does the gentleman object to the extension of the time?

Mr. JONES, of Tennessee. Yes, sir.

The question was taken on Mr. PHELPS's motion; and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the State of the Union, (Mr. DAVIS, of Indiana, in the chair,) and resumed the consideration of the

PRINTING DEFICIENCY BILL.

Upon which Mr. SHAW, of Illinois, was entitled to the floor.

Mr. SHAW, of Illinois. I do not expect, Mr. Chairman, that by the remarks which I purpose to submit, I will alter the mind of this committee on the subjects that have been under debate for some time past. I witnessed, with no degree of pleasure, the existence of a feeling between the members on my left and those on my right, on the subject of the admission of Kansas under the Lecompton constitution.

Mr. BURNETT. I rise to a question of order. My question of order is this: The gentleman has clearly indicated that it is not his intention to confine himself to the discussion of the question under consideration. Hence he is not in order, the rule of the House requiring him to speak to the bill. I desire that this rule shall be enforced, and I prefer to make the point on a gentleman on this side of the House.

The CHAIRMAN. The Chair would remark that, if the question were presented for the first time, the Chair would be inclined to sustain the question of order; but understanding that a different practice has been universal in this House, the Chair overrules the point of order.

Mr. BURNETT. I appeal from the decision of the Chair. I have been a member of the House in the last Congress, as well as in the present, and have watched, with a great degree of interest, discussions on this floor, and I am opposed, not only now, but I have been all the time, to the manner of discussion. Members occupy the time of the House in the making of speeches for home consumption. We do not confine ourselves to the questions before us for legislative action. We rise in our places and consume, day after day, the time that ought to be employed in the public business, in the discussion, very often, of mere abstract questions, requiring no legislative action at all. That is wrong. It is time that the House should put an end to it, and that members should be made to confine themselves to the legitimate matter before the body. That will not be done until the rules of the House be enforced by the members themselves.

Mr. WASHBURNE, of Illinois. Is debate in order?

The CHAIRMAN. The Chair decides that this question is not debatable.

Mr. HARRIS, of Illinois. I wish to have the rule read, under which the Chair decides that the question is not debatable.

The 34th rule was read, as follows:

"If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; in which case, the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case; but without debate: if there be no appeal, the decision of the Chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be at liberty to proceed, in case any member object, without leave of the House; and if the case require it, he shall be liable to the censure of the House."

Mr. HARRIS, of Illinois. I wish to say, Mr. Chairman, that you are neither the Speaker of this House, nor is this the House proper. We are in the Committee of the Whole on the state of the Union. The rule applies directly, both in its terms and construction, to the House proper.

Mr. BURNETT. I call the attention of the

gentleman to the 134th rule, which makes the rules of the House apply to a Committee of the Whole, as far as they are applicable.

The 134th rule was read, as follows:

"134. The rules of proceedings in the House shall be observed in a Committee of the Whole House, so far as they may be applicable, except the rule limiting the times of speaking—but no member shall speak twice to any question, until every member choosing to speak, shall have spoken."

Mr. HARRIS, of Illinois. Now, Mr. Chairman, I submit that by the uniform practice of the House in committee, the construction of that rule has been to allow the widest latitude of debate in the Committee of the Whole on the state of the Union.

Mr. BURNETT. I rise to a question of order. I am entitled to the floor, if the question is debatable. If it is not, then I yield the floor and call for the question.

Mr. STEPHENS, of Georgia. I cannot allow the remarks of the gentleman from Illinois [Mr. HARRIS] to go without a word of reply. He says it has been the uniform practice of the House to allow the widest latitude of debate in committee. Now, sir, I have never known the point to be made, and the position taken by the gentleman from Illinois to be sustained. The speeches upon subjects other than that before the committee, have been gotten in usually by saying that somehow or other the subject-matter of debate was connected with the appropriation bill under consideration.

Mr. HARRIS, of Illinois. If the gentleman will allow me, I desire to say that my statement of the uniform practice of the House did not refer to the decisions made when the point was raised, but to the fact that in ninety-nine cases out of a hundred it has been, by unanimous consent, so construed; and it has been considered almost a matter of discourtesy, when a gentleman had previously obtained the floor with the understanding that he was not to speak upon the question before the committee, to attempt to cut him off by a question of order.

Mr. BURNETT. I am entitled to the floor until it shall have been decided whether this question is debatable or not. But I want to say to the gentleman from Illinois that it was not from any want of courtesy to his colleague, upon my part; certainly not. But, sir, I desire that the merits of this deficiency bill shall be discussed. I believe it is wrong, and should not be passed in its present shape. There are gentlemen here who desire to discuss that bill, who have not been able to obtain the floor. The result will be that the debate will be closed, and we shall be called upon to vote on this important bill without its having been discussed, and without understanding it.

Mr. HARRIS, of Illinois. I would suggest to the gentleman, then, that he withdraw his question of order upon the gentleman from Illinois, who obtained the floor with the understanding that he was to speak upon another subject, and give notice that he will make the point upon the next gentleman who obtains the floor, and then whoever obtains the floor will take it with that understanding.

Mr. BURNETT. Very well, then I will withdraw my objection so far as the gentleman from Illinois is concerned, and give notice that I shall insist on the rule being enforced in future. I withdraw my appeal from the decision of the Chair.

Mr. ZOLLICOFFER. I renew the appeal. I want the question decided.

Mr. WASHBURN, of Illinois. I ask for tellers on the appeal.

Mr. HARRIS, of Illinois. I ask the gentleman from Tennessee to withdraw his appeal so far as the gentleman from Illinois is concerned. The gentleman yesterday obtained the floor with the understanding that the same courtesy was to be extended to him that has been extended to other gentlemen in committee. I protest against applying a new rule to him under these circumstances.

Mr. ZOLLICOFFER. I will withdraw my appeal for the present.

KANSAS AFFAIRS.

Mr. SHAW, of Illinois. I have no desire to make a speech upon this floor for home consumption. I have no wish to make any remarks here for the people of my district. They know very well the position which I occupy upon the question to which I shall direct my remarks. Still, sir, I

was unwilling to sit a silent observer of the course of action upon the part of this House, lest some individual not so well acquainted with that position might mistake my silence. I have not supposed for a moment that I should be able, by any argument I may make, to change the opinions of any member on this floor. Still, sir, I regard this Kansas question as one of vital importance to the country, and one which is intimately connected with the welfare of the country and the perpetuity of our institutions.

I have heard much said by southern gentlemen and by northern gentlemen, the one class known as fire eaters, and the other known as Abolitionists or Black Republicans. Sir, I regard them both with the same esteem. I regard one as no better than the other. In other words, I regard such parties, whether at the North or South, wherever they are to be found, who advocate the dissolution of this Union, with the same contempt. We have no disunionists in that part of the country from whence I hail. I wish to say to this House, that we have no Lovejoys there; no man who loves to steal a negro, or who will feel joy that he has escaped from his rightful owner. We stand by the Constitution and by all the provisions of law which govern us as a nation. We have no private construction to place upon the laws. I regard them as the great bond of brotherhood, and the rule which should govern every man as a citizen of the Republic in his action.

Sir, when I heard the gentleman from Mississippi [Mr. DAVIS] the other day talk of visiting the North with fire and sword, I looked round to see where the blow would fall. Sir, I presume the North and South of this Republic are made of very much the same material, and that if you were to change the positions of the two sectional parties—if you were to take the Abolitionists South and bring the fire-eaters North, I have no doubt that the fire-eaters would make northern Abolitionists, and the Abolitionists would become southern fire-eaters. As I have already remarked, I regard them both with the same esteem, and must say that I have not found it in my heart to fall in love with either of these parties.

But, sir, I will not attempt to fortify the position I have taken in regard to Kansas and the Lecompton constitution. That has been done by abler minds than mine. That has been done upon this floor by some of the ablest men that grace this Hall. It no longer stands as a problem requiring solution. It has become an axiom. I undertake to say that the people of Kansas have not had a fair opportunity of indorsing or rejecting that constitution. In other words, no fair opportunity has been given them to make their voice heard in making the law under which, by that constitution, they are called upon to live.

Sir, Governor Walker tells us that in that Territory there are about thirty-four counties entitled to vote under the territorial law. Fifteen counties were never assessed—no registry was ever taken; and that in nineteen counties the people had no opportunity to vote. Consequently, fifteen out of the thirty-four counties of that Territory never had an opportunity to cast a single vote for or against the delegates to that convention.

Then, sir, it is a well known, and, I believe, indisputable fact, that the individuals who were delegates to frame that constitution pledged themselves upon the stump, before the people of the Territory, that that constitution, when made, should be submitted to a vote of the people. Sir, that has not been done. In that they have played false. In that, sir, they have proved themselves unworthy to represent the people of Kansas, or the people of any other Territory, in a constitutional convention. I ask, and those with whom I act only ask, that truth shall prevail, and that justice shall be done. We care not—I think I can speak for those with whom I act as well as for myself—whether Kansas be a free or a slave State; but we insist that the people shall decide that matter for themselves. That, sir, is the voice of the Kansas-Nebraska bill. Who will undertake to say that we shall vote for the Lecompton constitution—a constitution which has not been made by the people—a constitution which they have had no opportunity to indorse? Never. Where, sir, is the man so mean that he would submit for a moment, be he Republican or fire-

eater? Where is the man in this Republic, North or South, who would submit for a moment to live under a law forced upon him, as this constitution is attempted to be forced upon the people of that Territory? The men who have gone to that Territory have gone there with the same natural and political rights, and the same intelligence they possessed here. And never, sir, will I indorse any constitution which shall not be submitted to a fair vote of the people of that Territory.

Mr. Chairman, have these people had an opportunity, in the language of the Kansas bill, to form and regulate their own domestic institutions in their own way? I must beg to differ with the Executive of this country on this subject, and I will say it affords me no gratification to do so. He seems to admit that as regards other Territories, which are hereafter to come into the Union as States, this principle should be applied—that it should be applied hereafter. Well, sir, hereafter is the next moment. I am for applying the principle now, whenever the question shall be submitted to us.

I feel, Mr. Chairman, that we have strength upon this floor sufficient to enable us to reject this constitution. I do not know whether I may be mistaken or not on this point, but I have indulged the hope that we have moral strength and numerical strength too, to reject that constitution which we cannot help believing to be wrong. I repeat that it is a matter of no difference to me whether Kansas shall be a free or a slave State. I do not look upon the institution of slavery with that holy horror which seems to sit like a nightmare upon some gentlemen from the North. For myself, I have no hesitation in saying, of the two million five hundred thousand or three million of slave population of the South, that nowhere upon the face of the globe can be found a like number of negroes better clothed and fed, and enjoying so much happiness. I shall pick no quarrel with the man who has made the discovery that Sambo and Dinah are his equals—I rather incline to the belief that he is right—I am willing for all such men to select their company. But, sir, we have no gentlemen in my section entertaining any such opinions of the negro.

It is idle, sir, for southern men to talk about the fire and the sword. It is all idle. The people North and the people South are not willing to follow any leader who starts upon a crusade against either. We are a great family of people. There are spots which have been made holy in our memories both North and South; made sacred, sir, by the chivalry and patriotism of our forefathers, of our common ancestors. And where is the ruthless hand that would sever this glorious Union? Where is the magnanimous leader who would start with the sword and the flaming brand against any portion of our common country? For what? Because, forsooth, they differ about the negro question. Ridiculous idea. Let us take care of ourselves, and in doing so we will also take care of the negro. I will not attempt to quote Scripture, as some gentlemen have done upon this floor, to justify the harboring of runaway slaves or the right to hold slaves. I have seen both sides appeal to that sacred book, and I think it hardly supported either; they had better consult the Constitution and laws under which we live, and under which the fathers and founders of our happy country lived, exemplifying in their lives a marked devotion to this Union, and respecting the institutions and laws, which they understood as well as, if not better than, any of their descendants.

Sir, in the canvass of 1856, this Kansas question was fairly before the people. We all know with what bitterness the Democratic party was attacked throughout the Northwest. We all know how the Abolitionists and the Know-Nothings, how all the factions and ends of parties joined against the Democratic party. We know that we had to contend against all the prejudices created by the able speakers in the ranks of the opposition. In that great war of words, in that hard fought contest, the Democratic party was sustained.

Sir, the great apostle of American liberty—that man who is called a "giant," not, I take it, on account of his physical size, but because he has a mind that is gigantic in its proportions—that man whom we all love, and who stood fearlessly by the repeal of the Missouri compromise, has advocated upon every stump in the North, the South,

the East, and the West, the doctrines which we advocate here to-day: that the people shall have the right in all the Territories to form and regulate their domestic institutions in their own way. Sir, that man was refused a hearing in his own State. Thank God! it was not in the southern portion of the State. It was not in that portion of Illinois where we have been in the habit of voting for "Old Hickory," but it was in that other portion, where it is said that although death had slain her thousands, none would have knocked at the door of the happy abode; the people there are wrong in this world, and will be wrong in the other, notwithstanding the large number of their preachers.

Sir, in their efforts to overturn Democratic principles, and to obtain power in this country, the pulpit has been desecrated—not the Bible; there is no Bible about it—but the pulpit. These hypocrites dare to hold the Bible in one hand and their politics in the other. They have disgraced the mantles which they have assumed. I have no words to express my contempt for the man who, under his sacred garb, quits the service of his Savior on high, and goes down into the dirty pool of Abolition politics to sway the destinies of this country by making war upon the institutions of the South. A friend near me suggests Sharpe's rifles. Sir, the doctrine is more deadly than any rifle. It is a doctrine which, if carried out, would sap the very foundations of the Republic. The safety of this country depends on the triumph of the Democratic party; it is the conservative party of this country, and I am grieved to see that that party is not a unit upon this Kansas question. It is a question of principle, not of power. As I said before, it makes no difference to my constituents whether Kansas be made a free State or a slave State; but we do say, that the people of that Territory have the right, and should have the liberty, of voting upon the constitution, and making the laws under which they are to live. That right has never been secured to them; and it appears from speeches which we have heard here, that it is the intention of a party in this House to deprive the people of that great and inestimable right.

Mr. SMITH, of Virginia. I would ask the gentleman if the people of Kansas had not an opportunity of voting for the election of delegates to the convention that framed the constitution?

Mr. SHAW, of Illinois. No, sir; I tell the gentleman they had no such opportunity, and I refer the gentleman to an authority which I suppose he will not be prepared to dispute. I read from a letter of Governor Walker:

"On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed, that delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates, based upon such census; and in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, by or by fault of their own, could not give, a solitary vote for delegates to the convention."

Mr. SMITH, of Virginia. Will the gentleman allow me just to make a word of explanation to the House upon that very point. There were nineteen counties, as the gentleman states; but if he will look into the question he will see that fifteen of those counties were attached to organized counties, and that in the four other counties the revolutionists of Kansas refused to allow the census to be taken or the voters to be enrolled. They drove out the sheriff and commissioners, and refused to allow the census to be taken. That is the fact. Fifteen of those nineteen counties of which the gentleman speaks had no population, or very little, and they were attached to organized counties. In the four which were not so attached, these very Abolitionists, and I will say revolutionists, refused to allow the law to be executed; and now their friends come here and lay hold of that circumstance as the reason for their tirades against law and order!

Mr. SHAW, of Illinois. I have quoted the statement of the indorsed Governor of the Territory; and as the gentleman makes a question of veracity between himself and that Governor, I will leave it to those two gentlemen, and to the reputation they may have in this House, to decide

the question as to which is right. I am not here as a juror to sit upon that question.

Mr. SMITH, of Virginia. Let me remind the gentleman from Illinois that there is no question of veracity. The statement which the gentleman has read is not inconsistent with my explanation.

Mr. GROW. I ask permission of the gentleman from Illinois to correct a misunderstanding.

Mr. SHAW, of Illinois. No, sir. I am a new hand at this matter of speaking; I feel very much out of place, and therefore decline to yield.

I have a word to say now about the Know Nothing party of the country, which has been liberal in its effort to break down the Democratic party; but in that effort it has most signally failed. I do not know exactly where that party hails from, or who has the paternity of that distinguished order. They appear to be the children of darkness. They took their positions first, I believe, in midnight caucuses. But they have grown into a party—a party who, like the Pharisee of old, thank God that they are not like other men. Well, sir, I thank God that we of the Democratic party are not like them; so we are even in compliments.

Sir, I can never indorse the principles of that party, so long as I remember the names and deeds of such men as La Fayette and De Kalb; never, while I recollect the name of Shields, a foreigner who is soon to adorn the Senate of the Republic, who, in the hour of our country's peril, stood foremost in her defense; never, while I recollect that the blood of foreigners has been poured out liberally upon our battle-fields, North and South. Upon the plains of Mexico the gallant Shields pressed forward and laid bare his bosom in defense of this land; he was a shield for the friends of the Republic; and shall we now turn round and say that we are not willing that he and those like him, shall participate in the Government of this nation? The people of the young State from which he hails have done themselves honor, and shown their good sense by selecting him as their representative in the Senate of the United States.

I have heard it whispered, sir, that Government patronage and power—the power of the throne—is to be brought to bear to affect the determination of this Kansas question here. I, sir, have nothing to fear upon that score. It cannot affect anybody in my section of the country. Dollars are, to us, matters of no consequence. With us principles are everything. Threats, or promises, or bribes, or hopes of reward, have no influence, I believe, on the votes that will be cast on this subject from the great Northwest. New York, Pennsylvania, and Virginia, have executive patronage equal, I believe, to that of all the other States. It has been the misfortune of the western States not to have been known in the distribution of patronage in the city of Washington. They are known, however, whenever the alarm of war sounds. Then the chivalry of the West is known and recognized. Then, I take it, the North and the South, the East and West, are all ready to join to defend the liberties and interests of the country.

But is it fair, I ask, that Kansas should go over, without a struggle, either to the Republican party or to the slavery party? How does either of them become entitled to it? We acquire territory either by the common treasure or by the common blood. It belongs to the North and South. Both sections supply the great column that drives back the enemy; and when the battle is won and the territory is acquired, is it for the South to say: "Now, my good fellow of the North, you have fought the good fight; you have helped us to obtain a territory that will make two or three States; you have fought well; your brothers' blood enriches the soil of this country; go home; we indorse you as a good soldier; but when we come to fill up this territory with happy homes, we claim it for the South?" And would it not be equally unjust and ridiculous for the North to say as much to the South? Whatever attacks are made by the clergy, North or South, on the Supreme Court of the United States, fall harmless upon that body. I can add nothing, by words of mine, to the luster of that body, which stands high above any attack that may be made upon it, either on this floor or by the clergy North or South.

Mr. CRAWFORD. I understand the gentleman from Illinois to say that attacks were made on the Supreme Court by ministers of the Gospel at the North and at the South. I desire him to

state distinctly where any ministers of the Gospel in the southern States have attacked the Supreme Court or made political speeches.

Mr. SHAW. No, sir; the gentleman has misunderstood me. I said that if any attacks were made on the Supreme Court, by the clergy of the North or of the South—not that any had been made. And I will say that I am not aware that any such attack has been made in the South. But I will tell the gentleman what the South does do. It attacks the principles of the Kansas-Nebraska bill. It attacks the right of the people of Kansas to settle their domestic policy for themselves. It attacks that great principle which lies at the foundation of human rights and popular sovereignty. It says: "Let Kansas take position among the States of the Union, under the Lecompton constitution." In doing so, sir, you perpetrate a fraud upon the people of that Territory. They have never indorsed that constitution. It is not the will of the people. They have never signed the note, and will never pay it.

Now, sir, there is a Free-Soil party in this country. I am glad to say that I have no sympathy with it. They are not so much for free-soil as for a kind of free-nigger soil. They are not satisfied that the soil of the country should be free to white people, but they want it partitioned also with the free negroes. And yet they are not in favor of the free negro coming among themselves; all that they want is that there shall be no more slave States. I shall not join them in that sentiment. I say, in the language of the Kansas-Nebraska bill, let the people decide the question for themselves. That is the Democratic doctrine. And whether under it a Territory becomes a free State or a slave State, I do not care a straw. Our people are pure Democrats. They have no sentiments at war with that assertion. Let the people decide the question for themselves. Let slave State after slave State come in, or let free State after free State come in and join this Confederacy, as their people may decide. We are satisfied, and care not whether it be slave or free.

Mr. COMINS obtained the floor, and commenced his remarks which follow, but was interrupted by—

Mr. BURNETT, who said: I rise to a question of order. The point of order which I now make on the gentleman from Massachusetts is the same as that which I made on the gentleman from Illinois, [Mr. SHAW,] that he is not speaking to the question under consideration.

Mr. COMINS. The gentleman cannot have ascertained that fact at this early stage of my remarks.

Mr. BURNETT. Yes, sir; even at this early stage. But it is very easy to decide it. I appeal to the gentleman to say if it is his intention to discuss the subject properly before the committee?

Mr. COMINS. I intend to avail myself of the privileges that have been granted to others who have preceded me.

Mr. BURNETT. Very well; then I make the point of order that the gentleman should be confined to the question under discussion.

Mr. GROW. The gentleman raises a point of order which is against the universal practice of the House, as we all know.

Mr. BURNETT. I understood the Chair to decide that the question is not debatable.

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Kentucky, and decides that it is not debatable.

Mr. BURNETT. Then I appeal from the decision of the Chair; and ask for tellers.

Mr. GROW. Is the appeal debatable?

The CHAIRMAN. The Chair decides that the appeal is not debatable.

Mr. GIDDINGS. Will the Chair state to the committee the subject-matter now before it?

Mr. CRAWFORD. I will read the title of the bill. It is a bill appropriating money to supply deficiencies for printing—

Mr. GIDDINGS. I did not ask the gentleman. I asked the Chair to state to the committee what is the subject under consideration by this committee?

The CHAIRMAN. I will answer. It is the state of the Union generally, and especially House bill No. 202.

The Chair overruled the question of order made by the gentleman from Kentucky. From that decision the gentleman from Kentucky ap-

peals. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. HUGHES. I wish to inquire of the Chair if, upon a question of this sort, the uniform parliamentary usage of a body is not the law?

Mr. BURNETT. I object to discussion.

Mr. COMINS. I insist that this discussion shall not come out of my time.

Tellers were ordered; and Messrs. BUFFINTON, and WRIGHT of Georgia, were appointed.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was taken; and the tellers reported—ayes 105, noes 43.

So the decision of the Chair was sustained.

Mr. HOUSTON. I again propose a compromise upon this matter.

Mr. BLISS. I object; and insist that the gentleman from Massachusetts shall be allowed to proceed with his remarks.

The CHAIRMAN. The gentleman from Massachusetts is entitled to the floor.

[A message in writing was here received from the President of the United States, by the hands of JAMES BUCHANAN HENRY, the President's Private Secretary.]

Mr. COMINS. A little more than a year ago, in obedience to the requirements of the Constitution, and in conformity to law, the American people gave their suffrages for a chief Executive Magistrate of the Union. A powerful minority, though conscious that the principles upon which they had battled for power were the principles of the Constitution, and as the only representatives of those principles victory should have crowned their efforts, gracefully yielded to the majesty of the people. True to their devotion to the Constitution and the Union, they not only yielded to the expressed will of the majority, but were ready to give their strength and support to every measure promotive of the best interest of the country, not in violation of the principles of constitutional liberty.

A year has passed away!—what an eventful one. In the walks of business—what an eventful one; so fraught with disaster and sadness, blighted hopes and ruined fortunes! For a brief period of executive rule—what an eventful one! for overflowing coffers, a bankrupt and beggarly Treasury; for comparative peace in the Territory, civil war; for the support of long-tried and devoted friends and statesmen, opposition; for a united and harmonious Democracy, an exasperated and rebellious South, and an alienated and indignant North; for high hopes, broken pledges and violated honor!

As I quietly but carefully listened to the annual message of the President of the United States, when it was read by the Clerk of the House, I conceived it to be one of the most extraordinary papers which ever emanated from the Executive of the nation: remarkable for its apparent frankness, whilst deception is stamped upon its most important features; remarkable, too, for the extraordinary propositions which it contains. The report of the Secretary of the Treasury, though none the less able, though none the less remarkable, is as far from being ingenious.

But it was readily to be seen that, owing to the financial condition of the country, the condition of the Territories, the unsettled condition of foreign affairs, and events which were so rapidly multiplying themselves, both of these extraordinary documents would be received by the people and the press with great charity. It was as readily to be seen that documents so much at fault—at fault in fairness; at fault in facts; at fault in history; and at fault in democracy too—would in due time be reviewed and criticised with the utmost severity.

Other and abler hands have gone into a general review of the position of the Administration, exposed its fallacies, its inconsistencies, and its tergiversations. Those topics which have so long and justly been the theme of orators, have been seized upon eagerly, but naturally, as the basis of much of the discussion which has thus far taken place in this House. While I will not yield to any of my associates upon this floor in devotion to those great principles of freedom which form the basis of our republican government, I prefer, in the present exigency, to profit by my fortune in obtaining the floor at this time to say a few words upon the financial policy of the Administration, as laid down in the message of the

President, with reference to its loan or Treasury note bill, and its recommendation of a radical, compulsory bankrupt law, applicable to all banking institutions throughout the United States.

Upon the subject of a proper and well-guarded bankrupt law for the relief of the people, I shall not speak at this time. I find nothing upon that subject in the message of the President. But I trust a measure of this kind will be introduced at an early day, at least for the consideration of this House.

One of the most extraordinary features of the message of the President is the wide difference between that which it recommends for himself, the Government, the Treasury, and that which he recommends for the country, the States, the people. It was at once to be seen, on reading the message of the President and the report of the Secretary of the Treasury, that the Administration was severely exercised; the Treasury was embarrassed. As a business man, I appreciated the condition of the Treasury, and I would not, by my voice or by my vote, willingly contribute to its embarrassment.

The President asked for relief; the Secretary of the Treasury asked for relief. I find no fault with them for that; it was, in my opinion, the imperative duty of the Administration to do so. It was, as I thought, as clearly the duty of Congress to respond to the wants of the Treasury. And, in accordance with my convictions of duty, and in accordance with my judgment, I voted, as the yeas and nays will show, for such relief as the Administration desired. The measure of relief asked for being a temporary one, I did not so much care about its form. I could not fail to sustain a measure so absolutely necessary to relieve the Treasury from its embarrassment and restore and maintain the integrity of the Government.

Though opposed to the issue of Treasury notes as a currency, I could not refuse to sustain the Treasury note bill, as it came from the Senate, as a measure of expediency. It was, I will admit, like the financial policy of the Democratic party, its foreign policy, its interior policy, and its every other policy—neither one thing nor the other. It was so near a loan bill that the friends of a loan in preference to an issue of Treasury notes might have supported it; and it was so near a bank of issue that the honorable gentleman from Pennsylvania [Mr. MORRIS] thought he saw signs of a return to a United States bank in it. It being of a temporary character, I gave it my vote to relieve the Treasury. Many were deterred from supporting the bill because of the inconsistency of the President in recommending one thing for the Government and another thing for the State banks. Others voted against it on those general principles respecting currency which they are known to entertain, and which they have maintained for many years; others, who, from their long devotion to a hard-money policy, have come to believe that such a system was about to be adopted. But, Mr. Chairman, these hard-money Democrats in my section of the country are the greatest devotees to the paper money banks to be found in the State. They become stockholders, directors, and presidents, and from some cause manage to keep out the largest circulation, and pay the largest dividends. They are worthy citizens and popular men.

Mr. Chairman, if the President, instead of spending so much time and ink in defaming the State banks and the moneyed institutions of the States, had devoted some time, some space, and some study, to an honest and faithful investigation into the real condition of the country and the Treasury, and the means by which the people were to be relieved from their present unhappy and embarrassed condition; and, with the frankness of a statesman, had adduced some facts, some evidence, and some argument in justification of the present condition of the Treasury, and made some recommendation for prospective and permanent relief, I am persuaded there would have been a unanimous vote for any measure of relief reasonable and proper.

But, sir, at the close of the Thirty-Fourth Congress the Treasury of the United States was full to overflowing; it contained \$20,000,000. On the second day of the present session, the President officially communicates the joyful intelligence that the Independent Treasury had not suspended payment as it was compelled to do by the failure

of the pet banks in 1837; that the Government would continue to discharge its liabilities in gold and silver; that "its disbursements in coin" would pass into circulation and materially assist in restoring a sound currency to the States. But, Mr. Chairman, on the same day that the President asserts with so much emphasis that the Independent Treasury had not failed, the Secretary of the Treasury as emphatically says it is indispensable to the public security that authority be given by law to the Treasury Department to issue \$20,000,000 in Treasury notes "as a failure of sufficient means in the Treasury may occur at an early day." Paradoxical as it may seem, both of these statements are true. But why not be open and frank? There certainly was never a time when sympathy was so copiously bestowed upon those found to be in failing circumstances, whether individuals or Governments, especially when good and sufficient reasons are given.

Mr. Chairman, is the cause which has produced the present financial crisis in every part of the country, and thrown the Treasury of the United States into embarrassment, in any way attributable to any relation that exists, or has existed, between the Federal Government and the State banks—the sub-Treasury and the State banks? Not at all. The President alleges no such cause; the Secretary of the Treasury alleges no such cause. Why, then, this warfare on the part of the Executive of the Federal Government upon the moneyed institutions of the sovereign States?

The passage of the Independent Treasury bill, in 1846, was declared by the Democratic party to be a complete separation of Government from the State banks—a complete divorce between the Federal Government and the financial institutions of the States and the people.

It appears that the sub-Treasury, which was to be the great balance-wheel—the great regulator—has regulated nothing. It went on very well just so long as mercantile prosperity and the prosperity of the country went on. So long as prosperity prevailed in all branches of trade and industry, the sub-Treasury could boast of its millions. The first cloud of commercial revulsion caused it to tremble and fall. This great regulator, which was supposed to be infallible, no longer regulates the currency of the country, because it can no longer regulate itself. But the Secretary says the Treasury is embarrassed; and why? Let us turn to the report of the Secretary of the Treasury, and see what he has to say upon this subject:

"Our revenue being derived principally from duties on imported merchandise entered at the custom-houses for consumption, the amount is necessarily dependent not only upon all those causes which affect trade and commerce, but on such as control the inclination and ability of the people in the purchase of such merchandise for consumption."

"Ordinarily an approximation can be made to the probable result, provided no unlooked-for cause shall intervene to disturb the usual course of trade and consumption."

"The events of the present fiscal year furnish a striking illustration of the uncertainty of all such estimates from the operation of unforeseen causes which exert a controlling influence over the revenue from customs."

Now, sir, this statement of the Secretary is good, as far as it goes; but it does not cover the whole ground. The "events" referred to by the honorable Secretary of the Treasury, are just as applicable to the merchants and the business men of the country as they are to the Government. But what does the President recommend for the Government, and what does he recommend for the people? Why, sir, Government recommends an issue of \$20,000,000 of paper currency for its own relief, and a bankrupt law for the State banks. The President proposes to make it the irreversible organic law of each bank existence that a suspension of specie payments, under whatever circumstances, however temporary, shall produce its civil death.

I will quote the President's own words:

"Congress, in my opinion, possess the power to pass a uniform bankrupt law applicable to all banking institutions throughout the United States, and I strongly recommend its exercise. This would make it the irreversible organic law of each bank's existence, that a suspension of specie payment shall produce its civil death."

Sir, such sentiments could never have been penned by one whose sympathies are with the people. They could never have been dictated by one who has any sympathy in common with the business men or the working men of the country, or who in any way appreciates the difficulties and disasters which pervade the people. No man

who has been nurtured amidst the men of business, who has walked upon the 'change of the merchants, or the mechanic whose hopes for months have alternated between life and death, whose every hour, whose every bulletin was the announcement of more and more trouble, of new individual disaster, and of increasing fear and alarm, could have put forth such doctrines as those which are contained in the message of the President of the United States.

Sir, I wish to ask any candid man who has ever had any business experience, what would have been the result—what would have been the condition of things, had a bankrupt law, like that which the President recommends and advocates, been applied to the banks of Pennsylvania, New York, Massachusetts, all New England, the South, the West, on the day these banks respectively suspended specie payments?

The banks of Massachusetts suspended specie payments on the morning of the 15th of October; and in just sixty days they resumed. But there was no time, during that sixty days, when you could not obtain specie in reasonable amounts, either for bills or deposits for domestic use; and there was no time, during that sixty days, when there was more than one eighth or one quarter of one per cent. difference between the value of the bills of the Massachusetts banks and specie, either gold or silver. Merchants who received shipments of specie from abroad found it difficult to realize any premium at all upon it. And there was no time, during that brief suspension, when regular customers of good standing, and whose business transactions were known to be of a sound and conservative character, could not get discounts to a reasonable amount.

Mr. Chairman, this recommendation of the Administration, if carried out, instead of protecting the people, or relieving them from the deep distress which pervades the whole community, would plunge the whole country into an irretrievable and inextricable bankruptcy, more disastrous and more ruinous in its effects than anything yet witnessed or experienced.

It is alleged that the banking business has been carried to excess. I grant it. So has every other business; and hence the revulsion. I have read disquisitions upon banks and banking, and upon the present financial crisis, by most of the eminent writers. I have found them full of interest and full of points; but I have found no two to agree in their conclusions. And the only conclusion I have been able to come to myself, is that every commercial revulsion is to a greater or less extent caused by the indomitable energy of the American people in doing business enough every seven years to supply the demands of ten. A proper attention to the revision of the revenue laws, with a view to a greater protection of American manufactures, and American labor, and American interest generally, is demanded, and will do much, very much, to restore trade and prosperity, and to prevent future revulsions. But I do not consider a high protective tariff the only panacea for all commercial revulsions.

Mr. Chairman, I contend that the charters of the State banks should not be annulled for a temporary non-payment of specie under the circumstances which surrounded them at the time of the late suspension. I agree that greater restriction should be placed upon them; but what these restrictions shall be, and to what extent they shall be applied, is for the people of the States and not for Congress to determine. I contend that the power to control and regulate the State banks is not vested in the Federal Government. These institutions are among the domestic institutions of the State, and to be managed by the people of the States in their own way. In this opinion I am sustained by high authority. A distinguished Senator, now, and for a long time, the leader of the Democratic party, [Mr. Douglas,] in one of the most patriotic speeches of his life—a speech which has aroused the Democratic party from East to West, and from North to South, and which is being responded to by the Democratic masses all over the country who love the Union and mean to maintain it, says:

"We agree that the people shall decide for themselves what kind of a judiciary system they will have; we agree that the people shall decide what kind of a school system they will establish; we agree that the people shall determine for themselves what kind of a banking system they will have, or whether they will have any banks at all."

Why, then, should the President so far depart from the principles of State rights as to commence this new warfare upon institutions wholly beyond his control? Why is it that the public mind has not spoken more potently than it has through that great engine of public opinion, the press, upon this new attempt of a Democratic President to bring the moneyed institutions of the States under Executive control and dominion?

When the deposits of public money were removed from the United States Bank, in 1833, the aggregate amount of which did not exceed ten million dollars, the people and the press spoke out in tones of thunder against that obnoxious measure; not only because of its effect upon the finances of the country, but because it was an assumption of power on the part of the Federal Executive. Memorials were presented to Congress from all sections of the country. Many of these memorials were intrusted to Mr. Webster, and by him laid before the Senate of the United States, backed by all the power of logic and the ready and ample resources of learning and eloquence for which that eminent statesman was so distinguished. Among these memorials was one from the city of Boston, signed by six thousand eight hundred and forty-one of its citizens, independent and legal voters. Mr. Webster, in presenting that memorial to the Senate of the United States, denounced that act of usurpation on the part of the Federal Executive, not only for the derangement which it produced in the finances of the country, but because (said Mr. Webster) it assumed, from beginning to end, the character of a warfare between the President of the United States and the government of the Bank of the United States. It mattered not whether the act of the President was a wise or an unwise act; expedient or inexpedient; it was to be resisted because it was illegal and unconstitutional.

So it is with the attempt of the present Executive to apply a bankrupt law to the moneyed institutions of the States, which a distinguished Senator and statesman of the present day says are domestic institutions, and should be governed and controlled by the States in their own way. If it were expedient to apply a bankrupt law at all to the local banks for a suspension of specie payment, under the circumstances which surrounded them in October last, (which I will not admit,) I would resist the enactment of such a law by Congress, because of its tendencies to a centralization of power in the hands of the Federal Executive. We hear of political oligarchies; but I tell you, sir, there is not a more dangerous oligarchy than the power of wealth; not wealth wide-spread, universal, but centralized wealth. By our New England system of banking we have no such power; we can have no such power. The benefits of our system are to be seen in the universal prosperity which is to be found throughout the whole community, and among all classes of the people—a prosperity, checked, it is true, at this time, from the nature of things, and from causes of a general character affecting the country through its whole length and breadth.

The people of the States are attached to their local institutions, prominent among which are the village banks. The prostration of these institutions by Federal interference would be as disastrous to the town as it would be to the city. Under these institutions we have advanced to prosperity and wealth. In Massachusetts, as a whole, these institutions are free from stain or reproach; the imputation of the Federal Executive falls harmlessly at their feet. For a period of twenty years they have gone steadily on, caring little for the interference of the Federal Government, and are to-day as little affected by the crippled condition of its Treasury as any institutions in the land. The one hundred and seventy-two banks of Massachusetts are managed by men of business, of experience, of undoubted integrity, and untarnished honor. They have lived in spite of the veto of 1832, the removal of the public deposits in 1833, and the celebrated specie circular of 1836; and to-day the sub-Treasury of 1846 is prostrate at their feet, begging for relief.

Mr. Chairman, I am opposed to this bankrupt law scheme of the President. Executive power and Executive interference have assumed fearful shapes since the days when Mr. Webster battled against their encroachments upon the Constitution. I am surprised to see those who profess

above all others to revere the name of Webster so ready to approve of sentiments so much at variance with his whole public record, and so utterly at variance with the principles of constitutional law, as laid down by the greatest of constitutional lawyers.

I am opposed to this proposed bankrupt law of the President, because of the train of Government officials necessarily to follow in its wake, enlarging the already too extensive and corrupt patronage of the Executive.

In connection with this subject, the President recommends the suppression of all bank bills under twenty dollars, and finally under fifty. Well, sir, I am not quite ready for that. I well know what would be the effect of such a policy upon the value of property of middle-interest men; and my experience teaches me that it would be ruinous to the middle-interest classes, who, to a great extent, owe more or less upon their property. Its most serious effect would be upon the value of real estate held by mechanics and working men. Those who have invested the hard earnings of years in such property, and owe fifty or seventy-five per cent. upon it, would be entirely ruined by the depreciation which would surely follow such a measure.

The proposition of the Administration to establish little sub-Treasuries in the several States, and the collection of county and town taxes in specie, I commend to the kind consideration and fostering care of the State-rights men of this House. If that system works well in Virginia, and is acceptable to South Carolina and other independent sovereignties who believe in that democracy which permits States to manage their own affairs in their own way, we can get along very well with it in Massachusetts.

Mr. Chairman, it is time this warfare of the Federal Government upon the local banks, and upon the financial institutions of the States, should cease. If we are to have a paper-money currency—and in my opinion we always shall have—and if the Federal Government is to participate in its benefits—and in my judgment it always will—let the President and the Secretary of the Treasury review their positions, and cease their assaults upon institutions which are to-day as well and as wisely managed as the sub-Treasury of the Federal Government.

I hope and trust the recommendation of the President upon the subject of a bankrupt law, to be applied to the State banks, will be little heeded. I think this House is composed of men too practical in their character, and too well acquainted with the real interest of the people, to be swerved from a course of true patriotism by the abstract sentiments of the President. Let the behests of party give way to the voice of reason; let not our prejudices run away with our judgments. I, for one, shall look with distrust upon a measure which will strike down the commercial interest of the country, and prostrate the manufacturing and mechanical interest of every State in the Union. But, sir, whilst I shall look with distrust upon recommendations of the Administration, I shall not be governed by party feeling in any vote which I may give or withhold from the support of measures recommended by Government.

The people of Massachusetts looked with as much favor upon the present Administration, when it came into power, as any people could who gave an overwhelming vote against it. They were willing to forego all party feeling for union and harmony in the Government, and contentment and prosperity in the nation. But they have looked in vain for those motives which should ever be so distinguishable in every communication from the Chief Executive, as evidence of his determination to give the weight of his exalted position and power for the restoration of peace throughout the broad territorial dominions of the Union, and prosperity, plenty, and happiness throughout the land.

Mr. HICKMAN. I should not have sought the floor at this time, but for the fact that silence would leave my views liable to an unpleasant misconstruction. I was an early, earnest, and sincere advocate of Mr. Buchanan's election to the Presidency of the United States, believing that his elevation would largely promote the present peace and lasting welfare of my country. His life had been a public one, and his character was that of an educated statesman and a just man. I

esteemed him as eminently worthy of the largest confidence and warmest regard of the American people, as I could not doubt his Administration would alike reflect his wisdom, experience, and nice appreciation of justice; and that under it the rights of the people, of *all* the people, would be scrupulously regarded. I did not expect infallibility in his management of public affairs, and do not now expect it; and when I shall meet with what I may regard as error, I trust to be pardoned for the frankness with which I shall always proclaim my opinions.

Until I heard the annual message read, I had expected to be able to yield to its doctrines an honest and decided support; but from its Kansas policy I must strongly dissent. I am unable to give it my support. I regret exceedingly the tendency of the Executive recommendation, which, to my mind, is to place the President in a position of antagonism to the majority in Kansas. It leads to an issue between power on the one hand, and the people on the other. In such a case, I never can hesitate in determining whose cause I shall espouse, or what verdict I ought to render. I am not unmindful of the fact that the former is quite as likely to triumph with the wrong as the latter with the right; and that the ambitious may well hesitate when resolves on success are to decide for whom to do battle. The great influence of executive patronage; the full extent of executive power in this country is but feebly comprehended. We are apt to underrate it vastly. If unscrupulously exercised, it becomes a crushing despotism, as indefensible as that controlled by the greatest of tyrants—combinations can seldom resist it, individuals never. But these considerations, clearly as they have presented themselves to my mind, can never induce me to espouse a political heresy.

But the great danger surrounding our institutions does not so much arise from a want of public virtue as general intelligence. Few outside of public life watch narrowly the conduct of their public servants, and fewer still are sufficiently conversant with the machinery of Government clearly to comprehend the bearing of particular acts. If it were otherwise, high officers of Government would be less powerful for evil, and public rights more practically defensible. If, therefore, at any time, resistance to a gross and unpardonable outrage upon an admitted principle, shall prove unavailing, let not the offense, on that account, be baptized and sanctified; let it rather be an evidence of the truth of my declaration, and a warning to those who are unwilling to part with the sovereignty of the citizen.

My opposition to the President's treatment of Kansas affairs does not arise from hostility to slavery; it stands upon a foundation, the strength of which will be more generally admitted. I rest my resistance upon the violations of declared principles, of solemn pledges, and the guarantees to the nation. To ask me to sanction them, with my views, is to insult me by suspicions of my integrity. Others may act differently, it is not my province to judge them.

"I may stand alone,
But would not change my free thoughts for a throne."

I am not blind to the fact that a very different motive will be assigned for my action. I have too often seen it attributed to others, not to anticipate it in my own case. But it has become a stale cry, and, I think, must soon prove a barren one. If differing from my southern friends on any point which immediately or remotely affects the interests of slavery must subject me to anathema, so be it; I must bear up under it; I cannot deny my convictions that I may receive a charitable judgment.

I do not oppose slavery where it legally exists. It is there a matter between the master and the slave; it concerns them alone; and I will not interfere with it or them. I yield a ready allegiance to our common Constitution, and will support all the laws made under it as long as they remain in force, to whatever subject they may relate, or whatever burdens they may impose upon me. But when any man, or body of men, seek to plant that institution or any other on my soil, or where I have the legal right to speak, I will then exercise the prerogative of a freeman. And when this is attempted by force or by fraud, when it is manifested in an utter disregard and profound

contempt for the popular will, that, of itself, will induce me to resist it to the last.

This is a law to me—and there is no other sound law of liberty—to exercise all my rights in their fullness, and to grant the same measure of power to my neighbor. The application of this rule of action is not only good for individuals, but equally so for communities and States. It is a golden rule; it is a pure constitutional rule. The North must regard all the rights of the South, and the South must regard all the rights of the North—in the States and in the Territories—throughout the broad land—for neither wears a panoply against the assaults of the other. There are two classes of persons, however, who, in a marked manner, interfere with this course of conduct. They are those who *deny* and those who *grant* all demands made, whether just or unjust. Extremists in the South, judging all northern men to be of the former class, designate them as enemies and Abolitionists; and certain northern politicians looking upon a few northern Democrats as a type of the whole, have declared Democracy to be the ally of slavery. Both cannot be right, and believe that they are equally wrong. Denying, as I do, the charge that Democracy has entered into a league with slavery, I am yet willing to admit, as I have said, the existence of a few northern confederates with it. I do not believe them able to exercise much power, whatever their disposition. If it shall prove otherwise in their action upon the present question, I must leave to them the responsibilities of a course destructive of the effective force of our party organization.

I think I may, with great truth, say that the enactment of the law organizing the Territories of Kansas and Nebraska, including the repeal of the Missouri compromise, was not, originally, a popular movement at the North. It was regarded with suspicion, and believed to be impolitic if not unjust. Mr. Puchanan himself, by expressing the wish, in his Reading letter, that that line should be extended to the Pacific ocean, gave to the compromise a sanctity or popularity additional to that derived from thirty-four years' acquiescence; and when its contemplated destruction was announced, it was received with great astonishment and deep regret. It was honestly believed, by very many, to be a movement to advance the peculiar interests of the South at the expense of those for whose benefit the territory north of the line had been dedicated to freedom. The doctrine of popular sovereignty by which it was accompanied, made it at first but tolerable, though, eventually, palatable. Could the future history of Kansas have then been read, as it has since transpired to this moment; the repeated frauds and usurpations practiced and imposed upon her people; her agonizing and fruitless cries for justice; the cruel and crushing sympathy of high Federal officers with her oppressors; her appeal for free institutions derided by ruffians, and slavery fastened upon her in bold defiance of her rights; could all this have been foreseen, the northern advocate of that legislation could not have breasted for a single moment the withering tornado such wrongs would have raised against him. These unjust consequences, not naturally flowing from the legislation spoken of, have now resulted; and if they would not have been tolerated then, why should they be now? Have we an overplus of political power which should induce us to carry so exhausting a burden with patience? Once taken up by the party they would cling to it like the Man of the Mountain to the back of the sailor, choking it and sinking it to the earth. It is too soon for us to forget what overpowering strength we brought to the polls in 1852, and the means—yes, sir, the means—by which it was recklessly frittered away before 1856.

Mr. Chairman, I am upon a point I feel deeply, and if I shall express myself with warmth and decision I must be pardoned. As long as I am capable of appreciating truth, I can never lend myself to the attempt now being made, with high sanctions, to undermine the foundation upon which the modern territorial legislation rests, and to falsify pledges upon the faith of which the last presidential election was accomplished. The vital principle, the soul of the Nebraska-Kansas bill, is to be blasted. The majority are not necessarily to rule. If I can read recent events at all, I learn so much from them. Let the people understand this; teach them the whole truth, and then hear their

response. Think you the mighty millions of the North, the East, and the West will be quieted as children by baubles? Will they allow legislation to be construed one way to-day, and enforced a different way to-morrow? In short, will they submit always to stake upon a game where they never can win? If they are so miserably made up, so destitute of real manhood, they are truly only fit to be the "white slaves" of whom we have occasionally heard, and from my soul I pity them. The name of freeman fits them not, but hangs upon them,

— "like a giant's robe
Upon a dwarfish thief."

My course is my own; others are not answerable for it; and I would not implicate them in my action if I could. But I will resist every attempt, no matter from what quarter it may come, to inflict a despotism upon the people of Kansas, when the law guarantees them liberty, or to impinge upon the promises the Democracy took upon themselves to make in the last presidential campaign.

The recommendation in the message goes out as "a forlorn hope" against what has heretofore been supposed to be the strongly intrenched doctrine of popular sovereignty. What will the country do, is the question. Will it defend this great principle in the hour of its severe trial? Or will it allow the right of self-government to be successfully assaulted? Has it already become an obsolete, a worn-out thing? But two years ago I expressed the opinion that those most prominently instrumental in causing the Democratic party to be pledged to maintain the doctrine of popular sovereignty, in the organization of four Territories, would deeply regret it. I never doubted that it would operate against the growth of the South. On the 19th of March, 1856, when insisting upon an investigation into alleged election frauds in Kansas, I had occasion to use these words:

"Sir, the supporters of that bill [the Nebraska-Kansas bill] have proclaimed to the nation that the Territories of the United States are to constitute 'a fair field,' and that there is to be a free fight there, between the North and the South, to decide whether slavery or freedom shall rule them. If the energy, the enterprise, the active modes of life, the available capital, and the numbers of the North, shall not be able to compete successfully with their opposites in the South, and secure freedom to the Territories, then I will admit that there is a vitality and a power in slavery which we of the North have never dreamed of. In my opinion, the Representatives of the South in the Thirty-Third Congress 'have sown the fire, and they will gather fire into their own garner.'"

The prediction is fulfilled; for now, like Pyrene, the Iberian princess, they fly in fear from their own child; it is a serpent, and pursues them. The day of repentance has come upon them much sooner than I anticipated. Instead of decades, it has required but brief months to inculcate the lesson which should never be forgotten, that weakness cannot long triumph over strength, nor minorities, in this free land, trample down majorities. If what we have esteemed the great truths of republican government are not a sheer lie, then squatter sovereignty, adequately protected, will give the virgin lands of our Confederacy to the free white man, and not the negro slave. This is now seen, and sovereignty is *not* to be protected; it is to be crushed out; by unwarrantable, illegal interference it is to be crushed out; and the hitherto pliant North is expected to acquiesce. If it submits, be it so. I will, never! no, never!

A southern writer in *De Bow's Weekly Press* exhibits in a striking light the imperative necessity resting upon the South to make Kansas a slave State. It is declared to be the necessity arising from self-preservation, and such as originates the highest law. I read an extract from the article referred to, of the date of January 16, 1858:

"The surrender of Kansas to the operation of the majority rule, under the cry of popular sovereignty in the Territories, without constitutional warrant, and her absorption by the non-slaveholding power of the country, would make the evil of the times no longer prospective, but instant and imminent. By the fact of this surrender, the South would become subordinate, and the North predominant, in the Union. Never again, in the Union, could the equilibrium of State sovereign representation between the South and the North be either maintained or restored to the Senate. Never again, in the Union, could the equality of the South with the North be either maintained or restored to the House of Representatives. No further barrier could be constructed between either the aggressive territorial or political rapacity of the North, and the weakened and diminished South. No other bulwark could be raised to guard either the moral or social integrity of the South against the disrupting and destructive legal and social systems of the North. The South, like Hector bound to the car of Achilles, would soon be dragged by the triumphant North around

a ruined possession, quickly to be followed by the erasive plowshare of the invading conqueror.

"The loss of Kansas to the South would involve the loss of Missouri; and the loss of Missouri would destroy the moral as well as political prestige of the South, and invade the integrity of their institutions. The moral prestige of States, like that of individuals, once destroyed, no earthly power can restore; and the integrity of State establishments, like the chastity of woman, once subjected to invasion, continues at the will of the despoiler. With abolitionized Iowa stretching along the northern boundary of Missouri, and abolitionized Kansas covering her western boundary, whilst there poured into her bosom, through Iowa and Kansas, from the more inhospitable lake and northern Atlantic regions, a continuous stream of agrarian radicals of any and all parties in those regions, alike determined to obtain control of her government, and to assert the rule of the majority in the line of emancipation, slave property in Missouri would become too precarious in its tenure to be holden, and the necessity for its sale or removal would at once arise. It may be confidently asserted that, under these circumstances, in five years Missouri would cease to be a slaveholding State. Already, in view of the anticipated result, Abolition journals have been started in Missouri, and candidates for Congress have unfurled the banner of emancipation.

"Now the loss of Missouri to the South would involve the loss of the Creek and Cherokee domain, the Choctaw and Chickasaw domain, New Mexico, and Arizona, which otherwise could be saved to the slaveholding interests of the country, and the harmonious equilibrium of the Union. It is known that the Creeks and Cherokees number from thirty to forty thousand free inhabitants, holding at least ten thousand negro slaves. The facts as to the Choctaws and Chickasaws stand in a similar ratio. The white man's blood in both nations predominates, strongly coloring each with the white man's mental forms and expressions. They have each a regular government, with distinct executive, judicial, and legislative departments, with a general common school system, with Christian churches established in many directions, and with the arts of agriculture and mechanics considerably developed. Each is gradually preparing to enter the Union as a slaveholding State. But, with abolitionized Kansas and Missouri along their northern limits, the floodgates would be thrown open through which the abolition tide would sweep with resistless energies, driving before it, or overwhelming in its deluge, alike the hybrid Indian and the negro slave, thus ultimately adding both domains to the colossal power of the North. New Mexico and Arizona would now be thrown between the 'free-soil' States formed out of the territories of the Creeks, Cherokees, Choctaws, and Chickasaws, on the east, the 'free-soil' State of California on the west, and the 'free' States of Mexico on the south. Negro slave property, however anxiously desired, in neither could be held for a day, and they, too, would inevitably go to swell the bedstriding power and monstrous proportions of the North."

But, Mr. Chairman, I wish to be more particular and precise in my objections to that part of the President's message to which I have made reference, and to the admission of Kansas into the Union on the Lecompton constitution. They arise—

First. From the antagonism of that policy and measure to what has been called the great republican principle of the Nebraska-Kansas bill; and

Second. From the attempts making to violate the plighted faith of the Democratic party.

"The true intent and meaning" of the act organizing the Territory of Kansas, is declared to be "to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way." This language would seem too unequivocal to be overcome by the most abstruse diplomatist, or the most adroit hair-splitting politician. No doubt, I suggest, is allowed to remain as to "the true intent and meaning" of the enactment. It was to give full, perfect, unrestricted sovereignty to the people of Kansas. It is this right, thus clearly given to them, the inhabitants of the Territory now claim; nothing more, nothing less.

But I understand the President to say that they are careless about all questions to be settled by their fundamental law, except the single one of negro slavery. Who conferred upon this officer the authority to speak so confidently for the people of Kansas? Surely Congress never did; for they have, by an unrepented law, vested all power in the people alone; and if the people have intrusted him with an agency, it is proper he should show his warrant. This, most unfortunately, and of course most unintentionally, tends to indorse and sustain that organized, systematic attempt, long insisted upon and persevered in, to stifle the popular voice in the Territory, and to cast its government into the hands of those having no shadow of right to exercise it. Free government is not to be allowed, because the people will not consult the wishes of the Platte district, nor accept institutions attempted to be forced on them from abroad. The language of the President is somewhat peculiar, and, to my mind, singularly unsound. He says:

"The convention were not bound by its terms [the terms

of the Nebraska-Kansas bill] to submit any other portion of the instrument [the constitution] to an election, except that which relates to the 'domestic institution' of slavery. This will be rendered clear by a simple reference to its language. It was 'not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way.' According to the plain construction of the sentence, the words 'domestic institutions' have a direct, as they have an appropriate reference to slavery. 'Domestic institutions' are limited to the family. The relation between master and slave, and a few others, are 'domestic institutions,' and are entirely distinct from institutions of a political character. Besides, there was no question then before Congress, nor indeed has there since been any serious question before the people of Kansas or the country, except that which relates to the 'domestic institution' of slavery."

All the obligations which "rested on the Lecompton convention to submit their constitution to an election" he assumes to be derived from the act of Congress. He contends that "domestic institutions," being synonymous with slavery, it is therefore not required to submit any other matter to the popular decision. Let us test this remarkable view by carrying it to its consequences. If "domestic institutions" mean merely slavery, then it is clear that the power given to the people "to form and regulate their domestic institutions in their own way," confers only the power "to form and regulate" slavery "in their own way." But this conclusion would prove too great an absurdity for its advocates to profit by. The policy of the Government with reference to slavery in the Territories, was intended to be permanently settled by the Nebraska-Kansas bill, giving to the people thereof complete sovereignty over all their institutions. All power to legislate on the subject of slavery was denied to Congress and given to the people of the Territory. Congress declared it was—

"The true intent and meaning of that act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way."

As I read it, and as the country has thus far interpreted it, slavery was to be left to the determination of the people of the Territory just as *all the rest of their domestic institutions*. Indeed the whole argument for the legislation referred to, proceeded upon that ground. They, the people, were to have their institutions in their own way—all their institutions. Their power was not large or unlimited with regard to one, and small or limited with regard to another; it was equal with respect to all. I need scarcely contend that if their will is to govern, it becomes necessary to ascertain what it is. As I look upon it, therefore, the admission that the question of slavery should be submitted to a vote of the people for the purpose of ascertaining their wishes touching that institution, carries with it the further admission that all their other institutions should be subjected to the same test. The error arises from shutting out of view the fact that the territorial legislation of 1854 intended to establish a governmental policy with respect to slavery; that it was designed to leave that "domestic institution" just where all other "domestic institutions" were left—within the popular control. That by using the words "slavery" and "domestic institutions" in the same sentence, Congress did not intend they should be regarded as synonymous, but as a member and a family. Slavery is a domestic institution, not domestic institutions; it is singular, not plural; it is one, not many. To adopt this fault of interpretation, would be to do not only great, and perhaps irretrievable injury to the people of Kansas, but to those of every Territory hereafter to be organized.

Is it not too plain that popular sovereignty, so much extolled in the Thirty-Third Congress, and so highly recommended in the last presidential contest, as the sound principle upon which our Territories were therefore to be organized and governed—which was declared as giving all power into the hands of the people—is to be sweated down to the very moderate dimensions of a privilege to say whether they will hold a negro in bonds or not? No opinion can be expressed as to the organization of the legislative, executive, or judicial branches of the government; none of the constitutional safeguards afforded to life and liberty are of any importance to the citizen. He may not speak as to them; his whole voice is to be kept for his yea or nay on negro slavery. This is Tom Thumb sovereignty, or sovereignty in a nut-shell.

The case is even worse than I have exhibited

it. Nothing has been submitted for popular determination. Slavery could not be voted down by voting the "constitution with no slavery," when the instrument expressly declares that, under such vote, "the right of property in slaves now in the Territory shall in no manner be interfered with." That right of property carries with it the increase of those slaves as completely as if born in South Carolina; and if that right "shall not be interfered with," slavery must continue. I have never before been taught that that is a free State in which the negro and his issue are to be holden as slaves, and where the property in slaves "shall not be interfered with." The right of the people "to form and regulate their domestic institutions in their own way," now means simply "to form and regulate" slavery, provided they "form" it in a State, and do not "regulate" it out. This I would designate as sovereignty invisible.

This solemn mockery of a guaranteed right is to be tolerated; not only tolerated, but encouraged and confirmed by the action of the present Congress, because the convention which perpetrated the enormity, represented, as I am told, the sovereignty of the people. No such reason exists. I would as soon recognize a bastard as a lawful heir, as the Lecompton convention to be the offspring of the people of Kansas. The fact that others may have recognized it as a legal body, imposes no obligation upon me to force myself to the same unwise conclusion. It is one of the fruits of a well-digested fraud concocted in the fall of 1854, and persevered in until the present moment; a fraud by which slavery was to be forced into the State when formed, without respect to the sentiment of the people. The very purpose of the fraud was to override the will of the people; to substitute the action of a minority for the rule of the majority. In organizing the Territory under the Nebraska-Kansas act, the first thing manifested was an anti-republican movement, subversive of the principles of the act, and those concerned in it took as much trouble to hide the facts as Periander did to conceal his grave, and committed as many crimes in doing so. The ballot-box gave no response to the resolves or wishes of the residents; it pointed only to treasonable acts striking at the very foundation of our institutions. Ruffianism has held uninterrupted sway there. It made legislators, who made a convention, which made a constitution. The great grandchild bears most unmistakable evidence of its parentage, and it would indeed be strange if it did not subvert the principle that the people are free "to form and regulate their domestic institutions in their own way."

"For he that once hath missed the right way,
The further he doth go the further he doth stray."

I am unwilling to marshal proofs to support the position here assumed, as the whole living history of Kansas attests its strength.

Sir, how does it happen that no man has yet been found with Democracy sound enough to bear up against the air of Kansas? Four Governors have been appointed in the space of about thirty months, from among the wisest and best of our party, and now the office is again vacant. How comes this? It finds its solution in the fact that "Democracy is morality," and unable to countenance so gross and palpable a usurpation as has always existed there. Those four high officers have all returned to us, speaking the same language, uttering the same words—that sovereignty is crushed out there. And what answer is made to this? A southern paper gives it, in declaring they are to be marked—their ears cut and tails split; they are to be read out. Take care, sir, that you do not read out the whole North. In the great political contest of 1856, how our energies were taxed to the utmost! Every vote was of importance—of vast importance—not to the North merely, but to the South—ay, to the South! How they trembled there! "Sectionalism" they thought would prevail. Looking back upon that fearful struggle, may we not well pause long enough to inquire what will probably be the result of future battles, when soldiers are so unceremoniously shot, at a time when they can be so illy spared?

I have not forgotten the almost impenetrable gloom which overhung my own State, and consequently the whole country, during the fierce conflict to which I have alluded. It was then that the persuasive voice of one who now fills a place near the person of the President was heard in our

midst, proclaiming the right of Kansas to be self-governed, and expressing his determination, as a son of the South, to carry out the will of her people. His present high position was bestowed upon him, doubtless, in consequence of the influence it was his fortune then to exercise. I fear his friends who, at that time, listened to him with so much true pleasure, were not prepared for the intelligence which just before our meeting flashed along the telegraphic wires, that the President and his Cabinet were a unit in favor of the admission of Kansas into the Union under the Lecompton constitution. But their greatest regret will, perhaps, be that they have forfeited the favorable regard of one in whose behalf they have taken so strong an interest, for the reason that they learned too well the salutary lessons he inculcated.

I cannot follow this digression further, although not unprofitable, but must resume my argument. I deny that the Lecompton convention represented the sovereignty of the people, for another reason. In the election of its members, a majority of those really entitled to vote were completely disfranchised. It was thus made to be the representative of a minority merely. In the language of Governor Walker, "it had vital, not technical, defects in the very substance of its organization under the territorial law." Out of thirty-four counties composing election districts, and in which it was requisite a census should be taken and voters registered by officers appointed by the Legislature itself, nineteen had no census taken and no representation assigned them, and fifteen had no registry of voters, and could not, therefore, vote at all. The nineteen counties were a majority of all the counties, and were unrepresented; the fifteen counties had more votes than were given to all the delegates who signed the constitution, and could not cast a single vote. How, then, can it be said that this was a convention of delegates of the people; and, as such, entitled to speak for them, act for them, and bind them? Under such circumstances, are a people left "free to form and regulate their domestic institutions in their own way?"

A further objection exists to the composition of this convention. Its members not only did not represent a majority, but those who controlled its action procured their election by a fraud. The delegates from Douglas county, including the president of the convention, suspected of a design to fasten a constitution upon the people without submitting it to them for their acceptance or rejection, issued the following card:

"To the Democratic Voters of Douglas County:

"It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolutions, which were adopted by the Democratic convention which placed us in nomination, and which we fully and heartily endorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN, A. W. JONES,
W. S. WELLS, H. BUTCHER,
L. S. BOLLING, JOHN M. WALLACE,
WM. T. SPICELY, L. A. PRATHER.

"LECOMPTON, KANSAS TERRITORY, June 13, 1857."

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas and to mold the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every bona fide actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

These men, by this act of baseness, not only accomplished their election, but placed the convention within their own control. Am I to be taught that our institutions can only be supported by public virtue, and then asked to defend such a proceeding as I have indicated, upon the ground that it is sovereign, republican, and binding upon the citizen? This is felon sovereignty.

The injustice of the course pursued towards the people of Kansas is very distinct. They are by law empowered to form their institutions in their own way; and yet the supporters of the Lecompton convention require them to adopt particular forms to make known that will, not because the bona fide settlers approve of them, but because their supporters approve of them. If one tenth maintain the legislation originating the constitu-

tion, and nine tenths repudiate and condemn it, can it be said the instrument is the offspring of sovereignty? But suppose every votable inhabitant had sanctioned the call of a convention, and yet a large majority should condemn the work of such a body when finished: would not a plain, common-sense interpretation of the organic act require us to reject it? The proposition is too plain for argument. I will merely inquire what the sentiment of the people is; and when I learn that, by employing such means as are likely to reveal it, I will aid it, whether I can sanction their conclusions or not. Anything else would fall short of giving a popular government; it would be but a government of force or fraud.

I deeply regret that those who support the Lecompton constitution have not rested that support upon a principle, but upon expediency. As I read the message of the President, he sanctions it in order that the country may get rid of the excitement which has so long prevailed on the subject. What excitement, pray? That which has been caused by repeated acts of violence, smothering the popular will, and gagging the popular voice. Its language is:

"When once admitted into the Union, whether with or without slavery, the excitement beyond her own limits will speedily pass away, and she will then, for the first time, be left, as she ought to have been long since, to manage her own affairs in her own way. If her constitution on the subject of slavery, or on any other subject, be displeasing to a majority of the people, no human power can prevent them from changing it within a brief period."

In my judgment a principle should never be sacrificed to expediency. But I deny the expediency of the course recommended, and the argument to sustain it is, to my mind, unfortunate. The President says: "if her constitution on the subject of slavery, or on any other subject, be displeasing to a majority of the people, no human power can prevent them from changing it within a brief period." The organic act promises the people that they may "form and regulate their domestic institutions in their own way;" now they are told they should take a fundamental law, in the making of which they had no part, and of which they totally disapprove, because "no human power can prevent them from changing it within a brief period." Now, at the time they seek admission into the Union, oppression forces institutions upon them; but when admitted, that hand will be withdrawn and they will regain their rights. This is sovereignty with suspended animation.

In opposition to the proposed policy of forcing upon the people what they do not want, I place the Democratic doctrine of popular sovereignty, which will give to the people what they do want. The President requires us to take a new but ragged garment, and attempts to comfort us by saying it can be patched and made sound. I will never traffic in goods which are defective, and will not wear, if I know it, notwithstanding I may buy, others if I do not like them. I will never barter truths for errors, knowing that I may support the latter by sophistries. I believe, with Milton, that—

"Truth is strong! Next to the Almighty, she needs no policies, no stratagems, no licensings to make her victorious."

And I will follow her wherever she may lead. If from power, then I am against power. If from the mass, then I am against the mass. If from my friends, then I am against my friends. If into solitude and the desert, I will make her my companion forever.

The rules of the House deny me the time to pursue this branch of my argument further, however much I may desire to do so. I shall now contend that, to adopt the course recommended by the President to Congress to support the action of the Lecompton convention, would be to violate the manifold and manifest pledges of the Democratic party touching the doctrine of popular sovereignty in the Territories.

The main or principal ground taken by the Republican party has been, that the Democracy were not to be trusted on questions involving the interests of slavery, and that their management of Kansas affairs afforded the sustaining proof. It will not do for us to say that it produced no effect upon the public mind. We were constrained to admit the policy, although we denied the justice of the appeal. In Pennsylvania, within sight of Wheatland, the home of the present Chief Magistrate, an impression had been made against us.

The reply was ready and potent, that Mr. Buchanan, having favored the extension of the Missouri compromise to the Pacific, had favored the exclusion of slavery from the territory north of that line, including Kansas; that he was a northern man, having, as such, sympathies with the white laborer, and likely, for that reason, to see full justice done him; that he had proved himself honest, and as the resolves of his party bound him to the doctrine of popular sovereignty, and the sentiment in Kansas was most unmistakably for a free State, there could be no doubt he would see the organic act fully and impartially carried out, and slavery repressed. Confidence was reestablished and a Democratic victory achieved. If the recent message could have been then anticipated, I do not hesitate to express my conviction that Pennsylvania would have cast an immense majority of her votes against him. His old congressional district—a part of which I have the honor to represent—I am satisfied would have spoken in a very different voice. You know but little of the present feeling in Pennsylvania if you suppose her sons can be induced to support the views of the Executive regarding the Lecompton convention. There is an accusation of bad faith, and I confess I have felt myself unable to answer it, and consequently unwilling to attempt it.

It was not alone in Pennsylvania our party committed itself to a faithful expression of the popular wish in Kansas. North and South, throughout the States, it was pledged in the most solemn terms to the same thing. There was no conflict of political opinion in the different sections of the Union; all acknowledged the obligation of the principle of the Nebraska-Kansas bill, and all expressed their unfaltering determination to defend the sovereign will of the people, whether its expression was for freedom or slavery. That these declarations were honestly made I do not doubt; the Cincinnati platform had then but recently been constructed, and all seemed to fully understand it. The resolution, to which I more especially refer, was demanded by the South, and fully accepted by the North. This demand was occasioned, doubtless, by a fear of the former that the latter was more or less unfriendly to the new territorial legislation. The principle of this legislation was hence reasserted and embodied, and became the bond of Democratic fellowship. It is too plain for misconstruction even now:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly-expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

It did not speak for Kansas merely but for "all the Territories." "The people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly-expressed will of a majority of actual residents" are to form constitutions. And here, let me observe, that in no other way are constitutions to be formed. The resolution follows the act of Congress in indicating the mode in which constitutions are to be formed, namely, by "the people acting through the legally and fairly-expressed will of a majority of actual residents." It was thus emphatically announced that a constitution could not be given to Kansas in any but the one way. Again, I say, the party was trusted, and it triumphed.

The inaugural address of the new President evinced a clear comprehension of the grounds upon which his election had been accomplished, and a determination to observe the most perfect good faith. In speaking of the Territories its language was:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved!"

This is not a passage framed for the purpose of ambiguity; it removes all doubt, if any existed before, as to the conviction of the speaker, that "the free and independent expression of his opinion by his vote" must be secured "to every resident" of Kansas, at all times. Here was a conclusion reached; and we find the President, afterwards, consistently and persistently carrying it out. Be it remembered "the resident" of Kansas was to be secured in the "free and independent expression of his opinion by his vote." The

President of the United States had so determined; and with this purpose fixed, he insisted upon the Hon. Robert J. Walker accepting from him the appointment of Governor of Kansas, to effectuate it. The reason for selecting the individual named, is to be found in the fact that there was a perfect agreement of the two as to the course to be pursued. This is most evident from the letter of Governor Walker accepting the appointment, and from the instructions issued to him. In the letter alluded to Governor Walker says:

"I understand that you and your Cabinet cordially concur in the opinion expressed by me, that the actual *bona fide* residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violence, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions. This is the great fundamental principle of the act of Congress organizing that Territory, affirmed by the Supreme Court of the United States, and is in accordance with the views uniformly expressed by me throughout my public career. I contemplate a peaceful solution of this question by an appeal to the intelligence and patriotism of the people of Kansas, who should all participate fully and freely in this decision, and by a majority of whose votes the decision must be made, as the only and constitutional mode of adjustment.

"I will go, then, and endeavor to adjust these difficulties, in the full confidence, as strongly expressed by you, that I will be sustained by all your own high authority, with the cordial cooperation of all your Cabinet."

The instructions to this officer are equally conclusive of the fact:

"The institutions of Kansas should be established by the votes of the people of Kansas, unawed and uninterrupted by force and fraud.

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right to vote for or against the instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

But the letter and instructions, as quoted, are proof of a much more important matter than that for which I have used them, for they conclusively establish that there was then an anxious wish on the part of the President that the people of the Territory should be fully protected in the exercise of their right to vote upon their constitution. I repeat his words: "They must be protected in the exercise of their right to vote for or against the instrument." Not in their right to vote for or against a part of the instrument, but the instrument—the whole instrument.

The Union, the organ of the Administration, of the 7th of July last, seems fully to appreciate the ground then held by the President, and, in defending that position, gives a most satisfactory reason for assuming it. I will read an extract from that paper of the date named:

"When there is no serious dispute upon the constitution, either in the convention or among the people, the power of the delegates alone may put it in operation. But such is not the case in Kansas. The most violent struggle this country ever saw, upon the most important issue which the Constitution is to determine, has been going on there for several years, between parties so evenly balanced that both claim the majority, and so hostile to one another that numerous lives have been lost in the contest. Under these circumstances there can be no such thing as ascertaining clearly and without doubt, the will of the people in any way except by their own direct expression of it at the polls. A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents to be anything but a fraud."

"We do most devoutly believe that unless the constitution of Kansas be submitted to a direct vote of the people, the unhappy controversy which has heretofore raged in that Territory will be prolonged for an indefinite time to come."

It is no answer to all this to say that other States have been admitted into the Union without submitting their constitutions to a popular vote. It would not be an answer if such had been the case with each and every one of the eighteen admitted States. If there were a thousand precedent cases of States so admitted, where there was no serious dispute among the citizens as to the particular form of their institutions, they would fall short of affording an argument for the admission of one where such difficulty does exist. Kansas is a case standing by itself; it has no parallels; it is not to be illustrated by precedent. Its feature are peculiar—anomalous; and the circumstances surrounding it such as never before surrounded the inchoate State. To its popular sovereignty most specially applies. Congress, the dominant political party, the President of the United States, the Governor of the Territory, all declared the people should have just such republican institutions as they might desire. All looked to a vote of the people as the means to determine the popular will. The people now ask that such vote may indicate their wishes. All sovereignty resides in the people, and no admitted principle refuses its exercise

in the mode desired. Why shall they not, then, speak at the polls?

Here I pause for a moment. In looking back from the point now reached, we see the Democratic party and the President have alike pursued a comparatively new, yet well-defined and strongly-marked policy. The Missouri compromise line, after continuing for years, is found to be too restrictive; the common territory of the nation should be open to the occupancy of our citizens in common. The Nebraska-Kansas bill is enacted, and the people of the Territories are to "form" as they are to "regulate" their "domestic institutions." In the North and in the South the doctrine is accepted, and eagerly they push forward their respective schemes for colonizing Kansas, for now numbers shall control the institutions there. By river and by land the emigration hastens forward, and the cabin is scarcely prepared for shelter before the struggle for power, for control, commences, and it is grasped and held by the friends of the South. It is alleged that strangers to the soil, Missouri borderers, decide the contest: the reply is, you shall not inquire as to that, or any other matter; the people rule. The hasty and superficial observer declares the South has gained an undue advantage over the North, and a sound of exultation is heard around us and in the distance. Thus baffled in the Territories, will the North, aspiring to executive power, still adhere to that sovereignty which has failed her? She must do so, or abandon her long-cherished object. The pledge is presented to her; she accepts it boldly, and repeats to the world what the faint-hearted believe is to degrade her free-born and undaunted sons:

"We recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of the majority of actual residents; and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

There is a hand-to-hand encounter. Now, again, the cry, as one of victory, resounds throughout the land, "the will of the majority, legally and fairly expressed, shall be the law of the Territories." It is barely uttered before an attempt is made to stifle it; for in the far Northwest the South has been outcolonized, and slavery is likely to be excluded from the soil. We were not prepared for this; for if the act of a minority, or, at best, a doubtful majority, can, for the time, establish a domestic institution, an actual majority should be able to form and regulate and perpetuate other or all domestic institutions.

The Democratic party and the President were honest in their support of popular sovereignty. This was not only the case before, but after the election. On no other hypothesis can you account for their early, distinct, and repeated avowals of it. The President intended to enforce it in Kansas literally and truly. There had never been but one interpretation given to it by the party of which he was, the head, and he understood it clearly. It was, that the fundamental law, the constitution, which gave form and regulation to their institutions, all their institutions, should not be imposed upon the people until sanctioned and adopted by a vote of the majority. If such was not the case, how came it that the President did not at once repudiate the action of Governor Walker in giving assurance that the Leecompton convention must submit their constitution to a vote, or it would be rejected by Congress? How could he pass over this sentence, in the address of that officer to the people of the Territory, without notice?

"Kansas never can be brought into the Union, with or without slavery, except by a previous solemn decision, fully, freely, and fairly made by a majority of her people, in voting for or against the adoption of the State constitution."

It must be conceded that the President approved of Governor Walker's course, and that it required him to do so to make his own course consistent, and the party true to their avowals.

I here leave the discussion. I am unwilling to repeat points raised in the earlier portion of my remarks, to assist this branch of my argument, and I do not think it necessary to do so. I can only use this general expression, that, in my opinion, the course now recommended to us by the President in his message is unjust to, because inconsistent with, himself, and would, if carried out, rob the Nebraska-Kansas act of its vital principle, and stand as an accusing record against the good faith

of the Democratic party, crippling it for years to come, if not destroying it for the future. In such an event, where is that strong hand which is to lay hold of the rudder and still direct the ship of State, freighted with the hopes of mankind, in her course of material greatness and increasing glory? What, in that day, will constitute the breakwater against which fanaticism shall dash in its wild fury, as the hurricane may bear it from the North or the South? How will then fare the Union, with which we are everything, without which we are nothing?

Do you believe you can satisfy the country of the propriety of planting slavery on that soil, from which the Missouri compromise excluded it, upon the newest doctrine that it should be left to the laws of climate and production alone, and that neither of these will exclude it? that popular sovereignty, applied by the legislation of 1854 to the rule of the Territories of the United States, may be trampled under foot upon the pretense that forms of law have been duly observed in establishing it? that popular elections may be carried under solemn guarantees to the voter, and all pledges be broken the moment they have performed their work? that the principal may instruct the agent, and the agent, by faithfully obeying the instructions given, shall render himself obnoxious to the just indignation of his superior? that that Territory is self-governed whose highest law is made and riveted upon it by a convention in whose composition one half the Territory was unrepresented and disfranchised, which was ordained by a Legislature never acknowledged because never elected? in short, that all is well, and that principle and faith are inviolably kept in Kansas, when they know that nine tenths of her citizens, acting together, are unable to prevent the adoption of institutions which they never can acknowledge without disgrace?

Do you believe you can satisfy the country of all this? I tell you here to-day plainly that the northern Democracy never will be able to satisfy northern men of these things. Unlike the ancient knight, those who support this strange policy will be known, although they may change the color of their armor at every charge they make hereafter. The time has come at last, and not too soon, when a new requisition will be made by northern constituencies—an earnest and manly defense of northern honor and of northern rights, whilst giving the utmost demands of justice to their brethren of the South. If unpardonable to insist upon so much equality, then we have reached the end of national platforms, and the beginning of sectional Presidents—to my mind the last calamity to be survived; for then will begin those acts of aggressive interference which, leading to protracted and desolating wars, must end in establishing among children of the same blood the cruel relation of conqueror and captive.

Mr. SHERMAN, of Ohio, obtained the floor.

Mr. LETCHER. I rise to a question of order. My point of order is this: that I addressed the Chair before the gentleman from Ohio even rose.

The CHAIRMAN. The Chair thinks otherwise.

Mr. LETCHER. Does the Chair so decide? The CHAIRMAN. The Chair does so decide.

Mr. LETCHER. Well, I appeal from the decision of the Chair, and leave it with the House to say whether I was not the first to address the Chair.

Mr. BOYCE. I hope my friend from Virginia will not press his question of order. He has frequently had the floor when he was not entitled to it. It has been usual for the Chair to regulate the matter of assigning the floor as he pleases.

Mr. LETCHER. I do not know that I ever got the floor when I was not entitled to it. I do not withdraw my appeal. I addressed the Chair clearly before any other member; and I insist that I shall be assigned the floor.

Mr. SHERMAN, of Ohio. If I am entitled to the floor, I will proceed. If not, I will give way.

Mr. HOUSTON. I hope my friend from Virginia will withdraw his question of order. It is really a question of fact, and I suggest to the gentleman that he submit to the ruling of the Chair in this respect, on the ground that the Chair has the right to determine. I do not suppose that it is generally done very fairly. I think it is the general understanding that there shall be a farming out of the floor as the Chair chooses to reg-

ulate it for the purpose of making speeches in committee. The gentleman from Virginia knows this very well, and I hope he will withdraw his question of order.

The Chair will have the rule governing the subject read.

The 33d rule was then read, as follows:

"33. When two or more members happen to rise at once, the Speaker shall name the member who is first to speak."

Mr. LETCHER. Very well. Now the question of order I raise, is, that I addressed the Chair before the gentleman from Ohio, and am therefore entitled to the floor.

Mr. PHELPS. Under this rule I hold that it has been the uniform practice of the House for the Speaker to assign the floor to whomsoever he sees fit. This has been the ruling in the House, and in committee. While I would like to hear my friend from Virginia upon the subject under discussion, I cannot go with him in reversing the practice and rule of the committee.

Mr. NICHOLS. I ask the gentleman to give way for a moment and allow me to submit a proposition to the committee.

Mr. SHERMAN, of Ohio. If I am entitled to the floor I desire to know it.

Mr. LETCHER. I am upon the floor. I first addressed the Chair, and the Chair should have recognized me.

Mr. SHERMAN, of Ohio. I call the gentleman from Virginia to order.

Mr. LETCHER. I am certainly upon the floor upon my appeal, and I mean to have a vote upon it.

The CHAIRMAN. The Chair decides that the gentleman from Virginia is out of order.

Mr. LETCHER. Have not I the right to take an appeal?

The CHAIRMAN. The gentleman has the right to appeal from the decision of the Chair; but the appeal is not debatable.

Mr. SEWARD. I rise to a question of order—that an appeal cannot be taken from the decision of the Chair upon such a question.

The CHAIRMAN. The Chair overrules the question of order of the gentleman from Georgia. The gentleman from Virginia has, in the opinion of the Chair, the right to take an appeal.

Mr. SEWARD. I insist that the gentleman has no right to take an appeal, and that the Chair should not entertain the appeal.

The CHAIRMAN. The Chair overrules the question of order.

Mr. BRANCH. I move that the committee rise.

Mr. WASHBURN, of Maine. I rise to a question of order. The gentleman from North Carolina has not the floor to make that motion, and cannot obtain it without the consent of the gentleman from Ohio.

The CHAIRMAN. Does the gentleman from Ohio yield for that purpose?

Mr. SHERMAN, of Ohio. No, sir. I give way for nothing but the question of order.

The CHAIRMAN. Does the gentleman from Virginia insist upon his appeal?

Mr. LETCHER. I do insist; and before the vote is taken, I ask the Chair to state whether I was not the first to address him? [Loud cries of "Order!" and confusion.]

The CHAIRMAN. The Chair will be allowed, as it is his privilege, to make a statement. The question of order raised by the gentleman from Virginia involves a question of fact which the committee is to decide. In awarding the floor to the gentleman from Ohio, the Chair acted honestly, according to the best of his judgment. He assigns the floor to the gentleman from Ohio; and from this decision the gentleman from Virginia takes an appeal.

Mr. LETCHER. Do I understand the Chair to state that he saw the gentleman from Ohio first?

The CHAIRMAN. The Chair so stated.

Mr. LETCHER. Then I withdraw my appeal.

Mr. NICHOLS. I now ask the consent of my colleague to submit a proposition to the committee in reference to the extension of time for this debate to proceed. [Cries of "Order!" "You can't do that!"]

The CHAIRMAN. The Chair decides that the extension of time is a subject over which this

committee has no control. The gentleman from Ohio has the floor.

Mr. SHERMAN, of Ohio. Mr. Chairman, it is with some reluctance that I rise to speak to a question not now directly before the House. But, sir, as I know that the Lecompton constitution will soon be presented, and that an earnest effort will be made to admit Kansas into the Union as a State under it, I avail myself, for the first time, of the laxity of the rules in the committee, to state my opinions upon that subject. Another reason why I engage in this debate is, that I have received from the Governor of Ohio the resolutions of the Legislature of that State, requesting me, as one of the Representatives, "to vote against the admission of Kansas into the Union under the Lecompton, or any other constitution, that has not proceeded from the people by a clear delegation of power to the convention to form and put in operation such constitution, without a further sanction of the people, or which has not been submitted to, and approved by, a vote of the people."

This request is entirely consistent with my sense of duty, with the wishes of the Republican party, and the general sentiment of the people of my native State. It is said to be the product of a Democratic caucus; at any rate, it received the unanimous vote of the Democratic members of the Ohio Legislature. Although I seldom speak for that party, or act with it, and owe it no allegiance, yet, in this case, it will give me great pleasure to comply with the request.

There have been so many irritating incidents connected with Kansas from its organization as a Territory, that it is difficult to discuss any question relating to it with due moderation and temper. We have been compelled, as legislators, again and again to examine the disgraceful events which compose its history. Though these were for a time disputed, few among us would risk their reputation by doing so now. The irritation of the past is increased, rather than diminished, by the application now made to admit Kansas into the Union as a slave State, against the recent vote and the known will of a large majority of her people.

This application comes to us with the sanction of the President, and it is our duty to examine it with the attention its importance demands. The Constitution of the United States gives to Congress, and to Congress alone, the power to admit new States. The only qualifications to this general power is, that no new State shall be formed within the jurisdiction of any other State, nor by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned, as well as of Congress. This provision of the Constitution is the only one that refers exclusively to the power to admit new States. That which guarantees to every State a republican form of government applies to the old States as well as the new; and, therefore, if any of the old States should so radically change their State constitution as to adopt other than a republican form of government, the guarantee would require the interference of the United States. It is but a part of that section which secures all the States against invasion and domestic violence. As against the old States it could only be enforced by military power; but as against a State applying for admission it would be enforced simply by refusing the application. It does not limit the general power to admit new States; but is one of many reasons which, if true, would justify Congress to refuse the application.

The general power to admit new States is indispensably necessary in our system of government. The framers of the Constitution wisely considered that it might be trusted to Congress as the direct representative of the States and the people. It is a power that never has been abused. Under it eighteen States have already been admitted; and the Old Thirteen have, by peaceful constitutional progress, extended the national jurisdiction and institutions over thirty-one sister States, extending from the Atlantic to the Pacific, and from the St. Croix to the Rio Del Norte.

And, sir, during this peaceful progress, no particular forms have been imposed upon the new States. The application need not come from the territorial government; it need not be authorized by a previous enabling act of Congress. It is only necessary that it emanate from the people of the new States; that it embody their will; is presented

with their sanction and approval; and is republican in form. This simple principle was stated by Mr. Buchanan in the Senate of the United States, in 1835:

"It has been our practice heretofore to treat our infant Territories with parental care, to nurse them with kindness, and when they had attained the age of manhood, to admit them into the family without requiring from them a rigid adherence to forms. The great questions to be decided are: Do they contain a sufficient population? Have they adopted a republican constitution? And are they willing to enter the Union upon the terms which we propose? If so, all the preliminary proceedings have been considered but mere forms, which we have waived in repeated instances. They are but the scaffolding of the building, which is of no further use after the edifice is complete. We have pursued this course in regard to Tennessee, to Arkansas, and even to Michigan."

Such, sir, were the opinions of the President twenty-three years ago; and I propose now to examine how far these precepts have been applied to Kansas. Has she been treated with parental care? Has she been nursed with kindness? Have her people adopted this constitution? Are we asked to waive forms and technicalities, and comply only with the will of her people? Sir, these questions embrace the whole merits of the proposition before us, and their true answer will show how great a wrong we are called upon by the President to perpetrate.

And here, at the outset, I will state the radical difference between those with whom I act and that portion of the Democratic party who, with us, oppose this constitution. They insist that the territorial government established by Congress was subverted with fraud and violence; that the so-called first Legislative Assembly was a usurpation, which no recognition could cure—one which it was a patriotic duty of the people to resist and overthrow, peaceably if they could, forcibly if they must, and which, in fact, has been practically overthrown; that the convention was a mere emanation from the usurpation, and, therefore, not entitled to any consideration whatever. On the other hand, those who agree with the distinguished Senator from Illinois, [Mr. DOUGLAS,] recognize the convention as a legal body, and base their opposition to the constitution wholly upon the refusal of the convention to submit the constitution to a vote of the people. Sir, I admire the boldness and ability shown by that Senator in maintaining his position. I can appreciate the indignant earnestness with which he seeks to defend the act of which he is the author. He has placed himself in the breach, and has risked his reputation and hopes in the future by the effort to secure to the people of Kansas a fair vote upon the adoption of a constitution. He has portrayed in striking colors the fraud and special pleading by which a reckless cabal in the Territory, aided by the President, seek to establish a constitution, in utter disregard of the will of the people. For this I admire him, and the country has given him the full measure of praise. But, sir, we cannot forget that he was the leading spirit in the repeal of the Missouri compromise, the cause of all the strife that followed; that when the territorial government was usurped by means of armed invasions, he excused, palliated, and defended them; that when the people of the Territory complained of fraud and outrage, he met them with denial, or, when that became impossible, with sneers and ridicule. All the reckless acts of the administration of President Pierce found in him their ablest defender; it was his influence that secured the election of President Buchanan; it was his opposition in the Senate that procured the defeat of the acts of the last House of Representatives, intended to secure to the people of Kansas their admitted rights. Even after it was shown that the faction whose acts he had maintained could command less than eighteen hundred votes in favor of members of a constitutional convention, after more than half the counties in the Territory were entirely disfranchised—he still maintained their authority. It was not until this faction was overthrown, in October last, that the Senator recurred to what he now declares to be the fundamental principles of the Kansas-Nebraska bill, that the will of the people shall govern. We will not stop to inquire why, through so many years of misrule and violence, this principle was held in abeyance; why it was not applied when Missouri furnished the legislators and voters of Kansas; why the Army of the United States was necessary to restrain it? This theory was proclaimed in 1854 to excuse the repeal of the Missouri compro-

mise. We have been steadily and earnestly endeavoring to secure to the people of Kansas this right, and have, throughout the contest, been opposed by three formidable powers—a large portion of the citizens of Western Missouri, the Army of the United States, and the Democratic party, led by none more ably than the Senator from Illinois. We are happy, sir, that our principles are now approved by very many citizens of Missouri—that we do not fear the Army—and that we shall hereafter have the benefit of the votes and influence, as well as of the theories, of a large portion of the Democratic party.

But, sir, it must be understood that the Republican party stands now where it has stood from the beginning. While we maintain the power of Congress over the Territories, yet, ever since this power was so unwisely surrendered in the organization of the Territory of Kansas, we have felt that, from the character of the Senate, this power could not be exercised until Kansas would apply for admission as a State; and therefore we accepted the contest before the people. We have steadily maintained that the popular will must not be defeated by fraud and violence. We have persistently demanded a fair vote, a fair election, and have shown conclusively that in such an event the contest in Kansas would be settled as we wish it settled—in favor of free institutions.

But it was obvious from the beginning that those who provoked this contest would not submit to the will of the people. While proclaiming popular sovereignty they uniformly overthrew it by fraud and violence. On the other hand, the Republicans in Kansas, while insisting on the power of Congress, uniformly demanded a fair election, and only resisted a palpable usurpation. The first legislative election was held on the 30th day of March, 1855. Both parties were prepared to contest it at the polls. There were then but two thousand nine hundred and five legal voters in the Territory, scattered over a large region of country, and, as was conclusively shown by proof, these electors would, if left to their undisturbed choice, have sent to each branch of the Assembly a majority in favor of free institutions. They would have practically reenacted the Missouri restriction, so far as Kansas was concerned, and thus have practically restored this question to where it was prior to 1854. But to defeat this result, and no other, (for no other motive could have induced the act,) an organized movement was set on foot in Western Missouri. It was gathered in secret lodges; and assuming the form of a military force, it invaded the Territory of Kansas. Companies of men were arrayed in irregular parties and sent into every council district in the Territory, and into every representative district but one. They went to vote, and with the avowed design to make Kansas a slave State.

I do not propose to spend any time in detailing events so familiar to the country, and so disgraceful to our national honor. It is sufficient to say that the poll-books of the election show that six thousand three hundred and seven votes were cast; and that of these only eight hundred and ninety-eight are shown on the census rolls as legal voters. Four thousand nine hundred and seven were proved to be residents of Missouri. The residence of about five hundred was not conclusively shown, but many of them were no doubt settlers who had arrived in the Territory after the census was taken. By these means the candidates voted for by the Missourians, many of whom were then citizens of Missouri, were thrust upon the people of Kansas as a Legislative Assembly, armed with all the power conferred upon the people by the organic law. It was a USURPATION, sir, which it was the highest patriotism to war against with every means with which the God of nature has furnished a free people. It was a declaration of war, to resist which the law of nations and the right of self-preservation authorized the use of stratagem, artifice, and open force.

These principles are recognized in Grotius, the highest authority on the law of nations, and are necessary for the maintenance of republican institutions. And, sir, the people have only been restrained by prudence and the power wielded by the national Executive. Submission was out of the question. I regard it as the highest compliment I can pay that people, that, from the 30th of March, 1855, to this hour, they have never thought of submission; but have, in various ways,

resisted and paralyzed the usurpation, and have now completely overthrown it. The only fault I have to find with them is, that they hesitated to avail themselves of even the forms of bogus law to overthrow the substance. In a war like that inaugurated on the 30th of March, I would not chaffer about the means, but keep only in view the great principle of our fathers, that resistance to tyranny is submission to God. Amidst all the denunciation that has been heaped upon the free-State men of Kansas, I desire to record my firm conviction that they have, by their prudence and courage in resisting and overthrowing usurpation, done more to secure our republican institutions against fraud and violence than any other portion of the people of the United States since the formation of our Government. They exemplified the declaration of the Kansas committee, that "it is not to be tolerated that a legislative body thus elected should assume or exercise any legislative functions; and their enactments should be regarded as null and void."

Sir, they never were of any practical force, and from the beginning have been met with an open, organized resistance. If you attempt to continue them, by adopting this constitution, you must prepare to enforce them by arms, and by a contest in which every principle of your Government, and every aspiration of liberty, will be against you.

There are but three modes of resistance, all of which have been resorted to. The first was the organization of a government emanating directly from the people, and in hostility to the usurpation. This was commenced immediately after the invasion, by a memorial to Congress. But as this body was not in session, steps were soon taken to organize a State government, preparatory to admission into the Union as a State. The first general meeting of the people was held at Lawrence, on the 15th of August, 1855, and was followed by other popular assemblies. These resulted in the election of members of a constitutional convention, which met at Topeka on the 23d of October, and framed a State Constitution. This proceeding, like any other effort of the people to form a State government, was necessarily inoperative until it received the sanction of Congress; and was so regarded by those who took part in it. It was, however, regular and fair—every stage of it receiving the sanction of the people. From that time to this it has continued by regular elections; and now, when the usurpation has passed away, is in session, and may pronounce the requiem of its adversary. The application for admission was presented to Congress, and after full debate and examination a bill admitting Kansas as a State under the constitution adopted at Topeka, passed this House on the 3d of July, 1856, by a vote of 99 yeas to 97 nays, but was defeated in the Senate.

The Topeka movement always kept within the bounds of law. While it acted in open defiance of what was called bogus laws—namely, the enactments of the usurping Legislative Assembly—it scrupulously respected the acts of Congress. Its proceedings were only to take effect in case the application for admission as a State was granted by Congress. If, however, the bogus laws had been generally enforced, a code of laws would have been adopted under the Topeka constitution, and a collision would have been inevitable. This was known to Governor Walker and the pro-slavery leaders, and tended much to check any attempt to enforce the bogus laws.

Another mode of resisting this usurpation was by a refusal to pay taxes, or to obey the alleged laws in any way. This mode of resistance to tyranny is a familiar one in the history of every free Government. Hampden refused to pay ship money, and although a facile judiciary held it legal, yet his steady resistance contributed to the overthrow of Charles I. Our revolutionary fathers refused to recognize the claim of Parliament to levy taxes upon its colonies, and entered into non-importation agreements and various other measures to defeat the taxes, before the final resort to war. And so successful were the people of Kansas in this mode of resistance, that, to this day, the amount of taxes collected would not pay half the expenses of the collection; and it is said that many of the active agents of the usurpation have impoverished themselves in the vain effort to enforce the law. In most civil contests the judges are

the subservient tools of the executive power. Such was the case in the revolutions in England, and in our own revolutionary struggle. Such has repeatedly been the case under the Constitution of the United States. The judges in Kansas are no exception to the rule. They are appointed by the President, hold their office at his pleasure, and uniformly upheld the worst acts of the usurpation. But in vain did they exercise their judicial power to enforce the bogus laws.

The only mode by which those laws could be enforced was by the employment of United States troops. The military power was the only effective instrument. Shannon, Woodson, Geary, and Walker, as Governors of Kansas, were in turn compelled to acknowledge that they could not enforce the laws except by the troops. Other means were tried in vain. A call by a civil officer for a *posse comitatus* only brought to his aid the citizens of an adjoining State. In two important instances—in December, 1855, and in September, 1856—the strange spectacle was presented of armed bodies of men marching from Missouri into Kansas, to aid in enforcing alleged laws in Kansas which the people of that Territory repudiated and resisted with open force. This singular proceeding, if it had been persisted in, would have lit up the flames of civil war from one end of the Union to the other. Although the contest was unequal, the people of Kansas never yielded to this invasive force; and in all cases the invaders made a sullen retreat without accomplishing their purposes. But wherever the troops of the United States appeared, then the people could yield without dishonor. However excited, they never resisted the majesty of the United States Government.

The submission was to the United States authorities, but never to the usurpation. The only government existing in Kansas was a military government, and the usurpation was utterly overthrown by the voluntary action of the people, except so far as it was sustained by military power. That such was the condition of affairs in Kansas is shown fully by the documents submitted to us by the President.

Governor Geary, in his letter to the President, of November 22, 1856, says:

"When I arrived here the entire Territory was declared by the acting Governor to be in a state of insurrection; the civil authority was powerless, and so complicated by partisan affiliations as to be without capacity to vindicate the majesty of the law, and restore the broken peace."

Governor Walker, in his letter to the Secretary of State, of July 20, 1857, says:

"There is imminent danger, unless the territorial government is sustained by a large body of the troops of the United States, that, for all practical purposes, it will be overthrown or reduced to a condition of absolute imbecility. I am constrained, therefore, to inform you that, with a view to sustain the authority of the United States in this Territory, it is indispensably necessary that we should have immediately stationed at Fort Leavenworth at least two thousand regular troops, and that General Harney should be retained in command. These troops, as far as practicable, should consist mainly of dragoons, as celerity of movement to different points is very important. We should also have at least two batteries, including Sherman's battery now at Fort Snelling."

"Permit me, before closing this communication, to renew my statement that such is the revolutionary condition of affairs in Kansas, that the territorial government is in imminent danger of overthrow, if I am not sustained by at least two thousand troops, chiefly dragoons, and two batteries. The presence of such a body of troops would probably prevent a conflict."

Again, in his letter of August 3d, 1857, he urges a reinforcement to the already large body of troops in the Territory:

"It is now, however, clearly ascertained that, but for this prompt movement of the troops to Lawrence, insurrectionary local governments, by towns, cities, and counties, would have been organized ere this throughout the Territory. The spirit of insurrection, of resistance to the laws, and to the territorial government, still pervades Kansas, and manifests itself in their newspapers, in violent harangues, in the enrollment and drilling of their troops, and in open threats for the use of the insurgent forces at the October election. Menaces, indeed, have been made in the most public manner, to drive the constitutional convention by force in September next from Leecompton. Under these circumstances, it becomes my duty to renew my request, so often made, that two thousand regular troops, chiefly mounted men, should be sent immediately into Kansas, together with two batteries."

The Secretary of State, by his letter of September 1, 1857, acknowledges the necessity of a military force:

"I learn from him [the Secretary of War] that, in addition to the four companies now in Kansas, eighteen companies are on the march for that Territory, and that fourteen other companies have been ordered for the same destination,

making thirty-six companies in the whole, and comprising a force of about two thousand men. I cannot anticipate a state of things which can render a greater force than this necessary to the assertion of the supremacy of the law in Kansas."

Thus it appears that the usurpation, commenced by the invasion of March 30, 1855, was reduced to utter imbecility, except so far as it was sustained by the military power.

It only remains to record its final overthrow. It had sought to perpetuate its power by appointing all the local officers—sheriffs, clerks, justices, &c. But by the organic law the House was elected for one year, and the Council for two years. In violation of law this time had been extended, practically, for near three years. The Council elected in March, 1855, held over until October, 1857; so that, during all this period, the rights secured to the people by the organic law were suspended. The election in October, 1857, was the first moment they could resume their rights without an open resistance to United States troops. But so bitter was the hostility of the people to the usurpation that they feared their voting might be construed into some kind of an acknowledgment of its legality. Rather than make this, even by inference, they would have put in force the Topeka constitution. But they were relieved from any appearance of yielding by the authoritative declaration of Governor Walker, in his speech, made at Topeka in June, 1857:

"In October next, not under the act of the Territorial Legislature, but under the laws of Congress, you—the whole people of Kansas—have a right to elect a Delegate to Congress, and to elect a Territorial Legislature."

It is true that Governor Walker subsequently attempted to qualify this language by inserting the important word "only," so that it would read: "In October next, not only under," &c.

This was a mere evasion. The people claimed no right under the legislative enactments, but denied their legality. The act of Congress gave them a right to elect a Legislature; and the only laws of the Territory they recognized were the Constitution of the United States and the acts of Congress. Their position was entirely consistent with the formal proclamation of Governor Walker, of September 10, 1857, in which he says:

"The people of Kansas have now, therefore, an opportunity, in conformity with the Constitution of the United States, the organic act of Congress, and the laws of this Territory, to decide, by the elective franchise, the choice of their delegates to Congress, their Territorial Legislature, and all their county officers."

The question of voting at the October election was fully considered by conventions of the people, at all of which the authority of the Legislature was denied.

Thus, at a convention of the people, held at Topeka, on the 15th of July, 1857, the following resolution was adopted:

"Whereas, Governor Walker, in his speech at Topeka, as reported in the 'Kansas Statesman,' of June 9, holds the following language: 'In October next, not under the act of the late Territorial Legislature, but under the laws of Congress, you, the whole people of Kansas, have a right to elect a Delegate to Congress and to elect a Territorial Legislature'; and whereas, Governor Walker has on various occasions used similar language: and whereas, under the above decision, 'the whole people of Kansas' may participate in an election for Delegate for Congress and for members of the Territorial Legislature without recognizing the validity of a bogus Legislature imposed upon them by fraud and by force: Therefore resolved—

"X. That we recommend to the people of Kansas that they assemble in mass convention at Grasshopper Falls on the last Wednesday in August, to take such action as may be necessary with regard to that election."

The delegate and mass conventions, held at Grasshopper Falls on the 26th of August, in pursuance of this call, passed the following resolutions:

"Whereas, it is of the most vital importance to the people of Kansas, that the territorial government should be controlled by the bona fide citizens thereof; and whereas, Governor Walker has repeatedly pledged himself that the people of Kansas shall have a full and fair vote at the election to be held on the first Monday in October, for Delegate to Congress, members of the Territorial Legislature, and other officers: Therefore,

"Resolved, That we, the people of Kansas, in mass convention assembled, agree to participate in said election.

"Resolved, That in thus acting, we rely upon the faithful fulfillment of the pledge of Governor Walker, and that we, as heretofore, protest against the enactments forced upon us by the votes of the people of Missouri.

"Resolved, That this mass meeting express their unalterable determination to adhere to the Topeka constitution and government, and that all our action shall be pointed toward setting that government in motion in a legitimate manner at an early date."

Such was the position of the people, maintained

without compromise or concession. I need not repeat the results of the election. It is sufficient to say that the usurpation was entirely overthrown. The faction that had so long ruled the Territory, could command but two thousand five hundred votes; about one half of the invading force from Missouri, in March, 1855. But true to its instincts, it sought to control the elections, by frauds at Kickapoo, Oxford, and McGee, of the most shameless character. At Kickapoo, near one thousand votes were voted, and but a small portion were legal. From Oxford, an insignificant village in Johnson county, sixteen hundred and twenty-eight votes were returned; the names were copied in alphabetical order from a Cincinnati Directory, and include the names of many well known citizens of the State of Ohio, and among the rest that of the Governor of Ohio. The county of Johnson is part of an Indian reserve not open for settlement; I crossed it in 1856, and did not see a white man in it, except those traveling on the road. Judge Cato, in his letter to Governor Geary, of October 29, 1856, says:

"Johnson county has not as yet had a sufficient white population to make either a grand or petit jury, and no business requiring a jury has been done in that county."

And yet, in October, 1857, more votes were returned from a single precinct in it than were cast in Leavenworth or Lawrence. Governor Walker and Secretary Stanton, who had overlooked this important city with so large a voting population, describe a visit to it in their proclamation to the people of Kansas, of the date of October 19, 1857:

"Accordingly, we went to the precinct of Oxford, (which is a village with six houses, including stores, and without a tavern,) and ascertained from the citizens of that vicinity, and especially those of the handsome adjacent village of New Santa Fé, in Missouri, (separated only by a street, and containing about twenty houses,) that altogether not more than one tenth the number of persons represented to have voted were present on the two days of the election, much the smaller number, not exceeding thirty or forty, being present on the last day, when more than fifteen hundred votes are represented as having been given. The people of Oxford, as well as those of the neighboring village of Santa Fé, were astounded at the magnitude of the return; and all persons, of all parties, in both places, treated the whole affair with derision or indignation, not having heard the alleged result until several days after it had occurred."

And yet upon these spurious, fictitious, and fraudulent returns, the convention whose action we are called upon to indorse, base their apportionment for members of a State Legislature. From the county of McGee returns were sent in containing more than twelve hundred votes. This, also, was an Indian reserve, with a sparse population, giving in June last but fourteen votes. It was an unorganized county, attached for civil purposes to the county of Bourbon.

It was by such means the usurping faction in Kansas sought to continue their power; but it was all in vain. A Legislative Assembly, fairly representing the people of Kansas, now wields all legislative power, and is now engaged in extirpating all traces of the usurpation.

And now, sir, when popular sovereignty is for the first time practically in force in Kansas, the President calls upon us to supersede it by a device of the usurpation. We are asked to invest the very faction thus defeated and overthrown by the people, with the power of a State government based upon the action of the bogus Legislature, and upon the subsequent frauds. The legislation of the people is to be defeated by the direct intervention of Congress. We are asked to sanction all the frauds and violence of the past. Sir, heretofore this intervention has been confined to the executive and judicial departments of the Government. It was the Executive power that removed successive Governors whenever they exhibited a spark of sympathy with the people of Kansas. It is that power which has imposed upon them Calhoun, Emery, Lecompt, Cato, Clarkson, Murphy, and *id genus omne*. But now the intervention of Congress is asked to force an organic law upon the people against their will.

Sir, you tell us you want peace; that you are tired of Kansas; want time to devote to other great interests of the country. Well, sir, we take you at your word. Give us peace; leave Kansas alone to the enjoyment of that liberty for which she has struggled so long and so well. Let us take no further thought of her, but leave her to herself. But, sir, while you cry, "Peace! Peace!" you thrust upon her an organic law,

which she rejects, and you compel her to resort to revolution to overthrow it. While you cry peace, you station armies all over her prairies to overawe her people; and what is worse to a free people, you force laws upon her which she rejects and detests. And, sir, this odious tyranny is sustained by a system of technical pleading worthy of the age of Littleton or Coke, when government was based upon the maxim "that the king can do no wrong." Let us examine it.

The President at the outset assumes two propositions, neither of which is correct. The first is, that the Legislative Assembly is a valid one; the second is, that without express authority of Congress, it may call a convention, and through it bind the people to a constitution not submitted to them. Here, sir, is no reference to the people; no reference to their inalienable rights. The doctrine of estoppel is thrust in their face, and they are required to look to the Territorial Legislature as the source, the origin, the exclusive possessor of all their rights.

The legality of the Territorial Legislature is based not upon the authority of the people, but exclusively upon the allegation that Congress had recognized it as valid. This allegation is thus stated in the letter of the President to the Connecticut clergymen:

"It is quite true that a controversy had previously arisen respecting the validity of the election of members of the Territorial Legislature and of the laws passed by them; but at the time I entered upon my official duties, Congress had recognized this Legislature in different enactments."

Now, sir, I deny that Congress has ever recognized the legality of this Legislature; and am surprised that such an assumption was made by the President.

That President Pierce recognized that Legislature, and sought to enforce their enactments with United States troops, is admitted; but it will be as readily admitted that the President cannot make laws, or impose laws by recognition upon the people of Kansas. I admit that the Senate recognized that Legislature at the same time that many of its leading members, including the present Secretary of State, denounced their acts as *infamous*. But, sir, the Representatives of the people in this House never recognized it as a valid one; and as this is an important allegation, I invite the attention of the House to the action of the House during the last Congress.

The attention of the House was early drawn to this subject. Under a resolution of the House, adopted on the 19th of March, 1856, a committee was sent to Kansas especially charged to examine "in regard to any fraud or force attempted or practiced in reference to any of the elections which have taken place in said Territory, either under the law organizing said Territory, or under any pretended law which may be alleged to have taken effect therein since." Upon the report of this committee, the bill to admit Kansas as a State under the Topeka constitution, already referred to, and which was based upon the position that the acts of the Legislative Assembly were null and void, passed this House. On the 27th of July, 1856, this House, by the decided vote of 88 yeas to 74 nays, passed the bill, commonly known as Dunn's bill, which denied the validity of the Legislature; declared their acts void; provided for the dismissal of all prosecutions under them; and forbid any prosecution for any violation or disregard of the enactments of that body at any time. This was the deliberate judgment of the House and was afterwards constantly adhered to. The House, by a great number of votes, refused to make any appropriation for the compensation and mileage of this Legislative Assembly. This was done on the 14th of August, 1856, by the vote of 90 yeas to 97 nays, and was persisted in until the Senate yielded, and the appropriation for that purpose was stricken from the legislative appropriation bill. I defy gentlemen to point me out any law, anywhere, by which the last Congress authorized the payment of money to the first Kansas Legislature. It is true that, in the last session, in the bill making appropriations for the ordinary legislative, executive, and judicial expenses of the Government for the year ending June 30, 1858, the ordinary appropriation was made for the expenses of the Kansas Legislature; but, sir, this money could not be used, without a clear violation of law, to pay the expenses of the bogus Legislature. The appropriation was expressly for the

year commencing July 1, 1857, and ending June 30, 1858. It was for the Legislature to be convened and held between those dates. Such a Legislature was elected, in October last, under the organic law, and is the one now in session.

Months before this appropriation commenced to run, the bogus Legislature had adjourned, and had only sought to propagate itself through a constitutional convention. And if, sir, the President has diverted the appropriation for the Legislative Assembly for the current year, to pay the expenses of the old, rejected, dishonored body, whose functions had ceased before the current year commenced, he has done it in clear violation of law, and, whatever may be our party predilections, should be impeached by this House.

Sir, this appropriation for a Legislative Assembly in Kansas for the current year ending June 30, 1858, during which the illegal Legislature was not in session, and the steady refusal of the House, finally concurred in by the Senate, to appropriate money for the year during which it was in session, instead of being construed into a recognition of that body, is a decision of both branches of Congress against its validity.

Nor can the admission of General Whitfield, at the last session, as a Delegate, be construed into a recognition of that Legislature. At the first session, both he and Governor Reeder were rejected, because neither was elected under valid law, and the House could not determine which received the greater number of legal votes. At an election in October, 1856, to fill the acknowledged vacancy, no one was voted for but General Whitfield, and no one appeared to claim the seat but him. Under these circumstances, without considering whether the law, under which he was elected, was valid or invalid, he might be admitted; and his admission would raise no implication for or against the law.

But, sir, the last House did not leave this question to implication. On the 17th day of February, 1857, it passed, by the decided vote of 98 yeas to 79 nays, a bill for the relief of the people of Kansas, introduced by Mr. Grow; the preamble of this bill was agreed to by a vote of 95 yeas to 68 nays. To show the clear, decided repudiation by the House of this legislation, I will read the preamble and first section

"Whereas the President of the United States transmitted to the House, by message, a printed pamphlet purporting to be the laws of the Territory of Kansas, passed at Shawnee Mission, in said Territory: and whereas unjust and unwarranted test oaths are prescribed by said laws as a qualification for voting or holding office in said Territory: and whereas the committee of investigation sent by the House to Kansas report that said Legislature was not elected by the legal voters of Kansas, but was forced upon them by non residents, in violation of the organic act of the Territory, and having thus usurped legislative power, it enacted cruel and oppressive laws: Therefore,

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all rules or regulations purporting to be laws, or in the form of law, adopted at Shawnee Mission, in the Territory of Kansas, by a body of men claiming to be the Legislative Assembly of said Territory, and all acts and proceedings whatsoever of said Assembly, are hereby declared invalid, and of no binding force or effect."

This bill passed the House but a little more than two weeks before the adjournment, when the President took the oath of office. It was never reconsidered, but was the final and deliberate judgment of the House. How the President could, in the face of this act, assume that Congress, of which the House is the important part, had recognized this Legislature in different enactments, is beyond my comprehension. Sir, I call upon the friends of the President to make good this bold assertion, or the whole string of technicalities by which he supports the Lecompton constitution is worse than a broken reed.

The other assumption of the President—that a Territorial Legislature may call a convention, who may put into operation a constitution without its submission to the people—my time will not allow me fully to discuss. The Senator from Illinois [Mr. Douglas] has called it a fundamental error, which lies at the foundation of the whole argument of the President. With due deference to such high authorities, I think the fundamental error is in recognizing the Territorial Legislature as having any authority at all; but as the Senator is committed by his action in the past upon this point, I will only express my concurrence with him, that in this proposition the President has committed a second fundamental error. And, sir, I wish to

call the attention of the House to the speech of the President already quoted. He there says:

"No Senator will pretend that their Territorial Legislature had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of forming a State constitution. It was an act of usurpation on their part."

Contrast this opinion, twenty-three years ago, which no Senator would then contest, with the message. Then it was an act of usurpation for a Territorial Legislature to call a convention. Now a Territorial Legislature is so potent that Congress cannot require the constitution to be submitted to the people. Then the usurpation was utterly void unless sanctioned by the people. Now it is so potent as to override the will of the people. But passing this singular inconsistency, I desire, for the few minutes I have left, to call the attention of the House to the history and character of the Lecompton convention.

The act authorizing it was the act of the bogus (I trust the House will pardon the use of a word not to be found in any dictionary, but it expresses my meaning) Legislative Assembly of Kansas. It was passed by that body just two days after the House, by a decisive vote, declared its acts invalid, and of no binding force or effect. Every act to be done under it was to be done by its creatures—persons selected, not by the people, but by it. The sheriffs and probate judges, or deputies appointed by one of them, were to make the lists of voters, and no person was permitted to vote unless his name was upon the list. The whole election was to be managed, controlled, and returned by these deputies of a power whose position was attained by an illegal election. Thus the people had no control over the election; and even if its officers had obeyed the act, the source of their authority would have cast suspicion upon their acts. But the act was not obeyed by them. Governor Walker thus states the facts in one of the documents submitted to us by the President:

"On reference to the territorial law under which the convention was assembled, thirty-four regularly organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give (and by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention. These nineteen counties in which there was no census, constituted a majority of the counties of the Territory, and these fifteen counties in which there was no registry, gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th November last."

The registry law was executed, and voters were registered in fourteen counties only, namely, Johnson, Lykins, Lynn, Bourbon, Douglas, Shawnee, Doniphan, Atchison, Leavenworth, Jefferson, Nemaha, Calloun, Marshall, and Riley. In these fourteen counties the registry was grossly inaccurate. A large portion of the best known settlers were omitted, and many non-residents were included. The result was that, at the election, out of a voting population of about fifteen thousand, less than eighteen hundred votes were cast for the members of the convention. And this was not occasioned simply by a neglect to vote, by an indifference as to the result, for several times as many persons were disfranchised in the counties where the registry was not taken and where it was imperfectly taken, as voted at the election.

When the meagerness of this vote was known through the country, it was generally supposed that the convention would never meet, that the members themselves would abandon the movement. For some time a quorum could not be got together, and finally an adjournment was carried until after the October election. It cannot be doubted that if the Kickapoo, Oxford, and McGee frauds had been successful, the convention would

have been abandoned as an abortion. But the cabal saw the scepter departing, and knew that the new Legislature would remove all traces of previous attempted legislation. Then, and not till then, the desperate expedient was resorted to of putting in force a State government and thus superseding the new Territorial Legislature. This could only be done through the action of the convention by framing a constitution and putting it in force without a submission to the people. But in the way of this reckless scheme there were many difficulties. There was the imbibed hostility of the people who looked upon the convention as the only residuum of the old tyranny, and who would but for the United States troops have scattered its members by force. There was the promise of the President, in his letter of March 30, 1857, appointing Governor Walker, that the constitution should be submitted to the people of the Territory, that they must be protected in the exercise of their right of voting for or against that instrument, and that the fair expression of the popular will must not be defeated by fraud or violence. There was the inaugural address of Governor Walker, that unless the convention submit the constitution to the vote of all the resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress; and that Kansas never can be brought into the Union, with or without slavery, except by a previous solemn decision, fully, freely, and fairly made by a majority of her people in voting for or against the adoption of her State constitution. There were his repeated speeches and promises to the people of Kansas, made with the sanction of the Administration, that the constitution must be submitted to the people, or he and they would assist in its defeat. There was the organic law of the Territory, the party cry—the shibboleth of popular sovereignty, that the people were to be perfectly free to form and regulate their domestic institutions in their own way. There was the recent action of the Democratic party in Kansas sustaining Walker and pledging the party that the constitution should be submitted to the ratification of the people. There was the pledge of the president of the convention, and many of the leading delegates, that the constitution should be submitted. There was the danger of the destruction of the Democratic party, without whose potent aid the whole scheme of villainy would be defeated. There was the certainty of civil war in the Territory if the attempt was made to impose this constitution without submission; and the certainty of a revolution to change it.

One would have supposed that the most desperate men would have been deterred by these obstacles. Yet they deliberately concocted a constitution, and now ask our aid to put it in force without a submission to the people, and against their known will. If this had been done directly, we must have given them credit for boldness; but, to relieve the Administration as far as was consistent with their great purpose, they submitted one clause only of the constitution, that relating to slavery, to the people. But before any one could exercise this poor privilege, he must vote "for the constitution," and swear to support it, if adopted. The vote must be "for the constitution with slavery," or "for the constitution without slavery." In any event, it must be for the constitution. One half of the promise of the President, Governor Walker, and the Democratic party, was fulfilled. They said the people should be protected in their right to vote for and against the constitution. Surely they ought to be satisfied if they were allowed to vote for it! If the people had been allowed to vote against the constitution, they would have been so unreasonable as to have voted that way, and that would have been a direct intervention, by the people, against the President! Is it not strange, sir, that the faction that marshaled three invasions, that controlled all power for three years in Kansas by force and fraud, that boasted of the Oxford, Kickapoo, and McGee frauds, should, in the last stage of its existence, be driven to so shallow an expedient to maintain their power; and that the President of the United States should sanction the fraud? Sir, this device was not for the people of Kansas, but it was pabulum for the President and the honest masses of the Democratic party in the northern States. Among the settlers it deceived no one; in the South it deceived no one. Whether the

slavery clause was voted in or voted out, slavery was in the constitution and protected by it. The recent elections in Kansas show how they regard the whole scheme and its authors. Both are repudiated, rejected, and despised. They will resist it with stratagem, artifice, and open force. Under forms devised by their enemies they now have control of a trio of governments. They are now nursing a territorial and two State governments; but, if let alone, will soon supersede all these by a State government formed by a legal convention, and sanctioned by the people. They do not ask your intervention. When it might have saved them from fraud and violence you did not interfere, but allowed the President, with the whole power of the Government, to uphold an odious tyranny over them. Having overthrown this, they only ask to be let alone. They hold you to your words—**NON-INTERVENTION AND THE WILL OF THE PEOPLE.**

Sir, I am conscious that but for one event it would be in vain to resist the admission of Kansas under the Lecompton constitution. It would be in vain to point to the invasion of March 30, 1855; to the illegal Territorial Legislature and its progeny; the constitutional convention; and to the innumerable frauds that form the history of both. All these would have been but as a rock in the way of a mountain torrent. They might have prolonged the struggle in this House, but experience has taught us that the interests of slavery and Federal patronage, when combined, can overcome all obstacles like honor, good faith, party promises, the will of the people, and the peace and prosperity of the country. When we met here I knew these were against us, and while prepared to resist, it was without hope. The Supreme Court had become the mere citadel of a local institution and was enthroned for life. The Senate, although much improved, was still against us. The message of the President only served to show that a struggle had taken place between his conscience and duty on the one hand, and his allegiance on the other; but that the result was against us. We knew that a majority of the Cabinet was from the South, and thus controlled the immense patronage of the Government. The signs of disaffection in high places, and among the northern Democrats were visible. But we knew the power of party drill and what weak pretexes would "correl" the disaffected. We knew that the Democratic party was in the ascendant, and this party everywhere was controlled by the superior numbers and sagacity of the southern branch of it; whose guiding star through storm and sunshine, through victory and defeat, was ever the same—the domination of slavery. Under these circumstances, what could we hope? If a slave constitution was presented, what did the "inner temple" of the dominant party care that fraud, violence, and civil war stood in the way; that honor, personal and party pledges forbid; that their rallying cry, the will of the people shall rule, was trampled upon. I expected, as a matter of course, to see northern Democrats wince and bear the yoke impatiently; but in due time we see them excuse and then applaud the notable device—of submitting a constitution to the people but requiring them to vote "for the constitution," and prohibiting all votes "against the constitution."

And, sir, now the only hope I have to defeat this constitution here is, that I can see no way in which slavery can, as the matter now stands, gain any practical advantage by indorsing this constitution. We now have the returns of the recent election. The returns of the vote on the 21st of December, on the submission scheme, show 6,063 "for the constitution with slavery," and 576 "for the constitution without slavery;" but included in the 6,063 are the following returns: Marysville, 232—a trading post one hundred and fifty miles from the Missouri river, and where there is scarce a settlement; Oxford, 1,266, and Shawnee, 729—both in Johnson county, and within an Indian reserve, where white men cannot settle; Delaware Crossing, a ferry station within the Delaware reservation, 254; and Kickapoo, a small village opposite Weston, 1,017; in all, 3,498. These returns are manifestly fraudulent and spurious; leaving but 2,565 "for the constitution with slavery." This number includes alleged illegal votes at Fort Scott, Leavenworth, Iowa Point, and other places; but I reject only those that are manifestly dictitious, as returns from places where three hun-

dred legal votes could not have been given; and this miserable faction is represented by 2,565 votes. On the other hand, at a legal election held under authority of the Territorial Legislature, on the 4th of January, 1855, and certified by Governor Denver, a vote of 10,226, all confessedly legal votes, was polled against the Lecompton constitution.

Now, sir, if you dare, in the face of this vote, attempt to fasten upon the people of Kansas the Lecompton constitution, you will only deepen their hostility to it and to slavery, and enable them, by its speedy overthrow, to add another wreath to their well-earned laurels. They will resist you, and all the powers you can bring against them; and craven be he that would not aid them in the holy contest. Calhoun may, if he dare, certify and return a pro-slavery majority to both branches of the Legislature. The President may station troops in sight of every cabin. You may arm Lecompte and Cato with injunctions, attachments, writs of mandamus, and all the enginery of the law. You cannot force that people to submit to this constitution. They will resist it and overthrow it; and, sir, they will not be friendless and alone in this struggle.

But I trust that this dark cloud may pass away; that a returning sense of justice in southern Representatives, or some show of manly firmness in those from the North, will defeat this measure. I trust that the same sense of fraternal kindness that guided our fathers in their revolutionary struggle; that smoothed many difficulties in the formation of this Government; and, more potent than all else, that the guiding hand of Divine Providence may save our beloved country from the shock of civil strife, or civil revolution—the inevitable consequence of any further tyranny upon the people of Kansas.

In conclusion, allow me to impress the South with two important warnings she has received in her struggle for Kansas. One is, that though her able and disciplined leaders on this floor, aided by executive patronage, may give her the power to overthrow legislative compacts, yet, while the sturdy integrity of the northern masses stands in her way, she can gain no practical advantage by her well-laid schemes. The other is, that while she may indulge with impunity the spirit of filibusterism, or lawless and violent adventure, upon a feeble and distracted people in Mexico and Central America, she must not come in contact with that cool, determined courage and resolution which forms the striking characteristic of the Anglo-Saxon race. In such a contest, her hasty and impetuous violence may succeed for a time, but the victory will be short-lived and transient, and leave nothing but bitterness behind. Let us not war with each other; but, with the grasp of fellowship and friendship, regarding to the full each other's rights, and kind to each other's faults, let us go hand in hand in securing to every portion of our people their constitutional rights.

Mr. BURNETT obtained the floor, but yielded to

Mr. GREENWOOD, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS, of Indiana, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had come to no resolution thereon.

KANSAS AFFAIRS.

Mr. HUGHES submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if in his judgment not incompatible with the public interest, all authentic and official information in his possession touching the present condition of affairs in Kansas.

Mr. JONES, of Tennessee, moved that the House adjourn.

On a division of the House, there were—ayes 63, noes 74.

Mr. CLINGMAN demanded tellers; tellers were not ordered.

So the House refused to adjourn.

WILKINS'S POINT.

Mr. HASKIN submitted the following resolution:

Resolved, That the special committee appointed by the House to investigate the sale and purchase of the Fort Snelling property be, and they are hereby, authorized to investigate the facts connected with the sale and purchase of property at Wilkins's Point, Queens county, New York, purchased by the Government during the year 1857, for fortification purposes, with the same instructions and powers, as are conferred upon them by the resolution creating said committee.

Mr. HUGHES. Mr. Speaker, I will not object to this resolution. But I wish to inquire of its mover upon what ground it is based. There seems to be a delicacy in the House in reference to matters of this kind. Three select committees have been raised already, without objection. It will be remembered that when those committees were raised, and when large powers were conferred upon them—

Mr. SEWARD. If debate continues, I shall object to the resolution.

Mr. PHILLIPS. I object, anyhow.

Mr. STANTON. Objection comes too late.

The SPEAKER. The Chair does not think the objection is too late.

Mr. HASKIN. I ask the gentleman from Pennsylvania, as one of the responsible majority in this Hall, to withdraw his objection.

Mr. PHILLIPS. I withdraw it.

Mr. BURNETT. I renew the objection, for the reason that that committee has as much to do now as it can well attend to.

And then, on motion of Mr. KEITT, the House (at four o'clock, p. m.) adjourned.

HOUSE OF REPRESENTATIVES.

Friday, January 29, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. A. HARROLD.

The Journal of yesterday was read and approved.

PRINTING DEFICIENCY BILL.

The SPEAKER. The question first in order is the call of committees for reports.

Mr. PHELPS. The time is fixed for closing general debate on House bill No. 202, and I have risen for the purpose of moving that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOWARD. Mr. Speaker, I ask the unanimous consent of the House to make a statement, and to submit a motion which relates so directly to the interests of the country that I am sure it will meet with no opposition from any quarter. It is known that in the Committee of the Whole on the state of the Union debate has been in progress with a printing deficiency bill under consideration. It involves items of expenditure of the utmost importance to the country. These have grown out of a system which has aided in bankrupting the Treasury; and if this system be continued there is no knowing where it will end; and yet, sir, not one single member of the committee that reported this bill—the Committee of Ways and Means—nor one member of the Committee on Printing, has been enabled to get the floor, but the whole debate has been diverted to general subjects. General debate will expire at half past one o'clock to-day. Under this state of facts, and the importance there is in bringing out what has led to this system of abuses, I ask all parties here to unite and extend this debate until four o'clock, with the distinct understanding that no man shall speak to any question except the bill itself. Let us, Mr. Speaker, give one day, and this day, to the country, and give every other, if you please, to the negro.

Mr. HOUSTON. Make it one o'clock to-morrow.

Mr. HOWARD. I desire to send to the Clerk's desk a resolution; but before doing so, I wish to say, that if we will come forward as honest men, and give this whole day to the country, we may check abuses that will be of more importance than all we have done during the session. If we do this for the country, our constituents will forgive us, perhaps, if we give the remainder of the session to Indians, negroes, Mormons, and Buncombe generally.

Mr. PHELPS. I certainly approve of the suggestion made by my friend from Michigan, and hope he will extend the time until to-morrow at

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, FEBRUARY 2, 1858.

NEW SERIES... No. 31.

one o'clock, and provide that the debate should be confined to the subject-matter of the bill in committee.

Mr. STEPHENS, of Georgia. I concur in the proposition of the gentleman from Michigan as far as it goes; but I suggest that he amend his proposition so as to provide that debate shall be strictly confined to the subject-matter under consideration, not only so far as this bill, but so far as every other bill is concerned.

Mr. HOWARD. I hope the gentleman will not embarrass my proposition with such an amendment at this time.

Mr. STEPHENS, of Georgia. I am for adopting such a rule.

Mr. FLORENCE. Let us have it settled now.

Mr. GROW. I object to the amendment suggested by the gentleman from Georgia.

Mr. HOWARD. I submit the following resolution. It is modified to suit the gentleman from Missouri:

Resolved, That the time for closing debate on House bill No. 292 be extended until one o'clock to-morrow; and that each member who shall participate in the discussion shall confine himself to the subject-matter of the said bill.

Mr. JOHN COCHRANE. I object to the resolution, and simply for the reason that it comes too late. The proposition was offered yesterday. The motion was put before the House, and the House distinctly refused to confine the debate to the subject under consideration. Therefore, sir, until this House shall come to the resolution that debate shall be at all times confined to the subject under consideration, I shall object.

Mr. GROW. The gentleman from New York will remember that the objection made yesterday was not to devoting this day to the discussion of the bill. Every one upon this side of the House agreed to that. But let me say to the gentleman from New York that when the time shall come when general discussion in Committee of the Whole shall be put a stop to, and the debates there confined to the subjects immediately under consideration, you will have put a legislative despotism upon the House; for when you go into Committee of the Whole, the chairman who has charge of the business can move to strike out the enacting clause of a bill, and prevent all amendment, or debate upon it. So that if gentlemen were confined to the discussion of the subject up for consideration, they would have no chance at all to discuss some measures. Now, I am in favor of the proposition of the gentleman from Michigan, and hope it will be adopted.

Mr. GIDDINGS. It seems to me that it is unnecessary to adopt this resolution. So far as I know, no gentleman upon this side of the House designs to speak to-day, except to the bill itself; and if gentlemen on the other side will pursue the same course, the bill can be discussed to-day without the adoption of any resolution invading the ancient right and usages of the House.

Mr. BURNETT. I think the House ought to adopt some rule in regard to discussion in Committee of the Whole on the state of the Union; and I desire to suggest to the gentleman from New York [Mr. JOHN COCHRANE] that he permit the resolution of the gentleman from Michigan to be received, and then we can amend it so as to provide that after the House shall have fixed the hour at which debate shall close upon any particular bill, then the discussion shall be confined to the bill under consideration.

Mr. WASHBURN, of Maine. I shall object to the resolution if it is to be amended in that way.

The SPEAKER. This debate is all irregular and out of order. The business before the House is the call of committees for reports; and this being private bill day, reports are in order from the Committee of Claims.

Mr. LETCHER. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WARREN. I appeal to my friend from Virginia to withdraw that motion, that I may in-

roduce a resolution which I know he, and I apprehend every gentleman upon this floor, will agree to. It has direct reference to the business of the House, and I hope gentlemen will hear it read.

Mr. MORGAN. I do not know what the resolution is, but I object to it, and I call for the regular order of business.

Mr. WARREN. It is a resolution designed to expedite the business of the House.

Mr. MORGAN. I must object.

The following is the resolution which Mr. WARREN desired to introduce:

Resolved, That from and after Monday next, all debate in the Committee of the Whole on the state of the Union shall be confined to the bill or resolution directly submitted to the committee, and nothing else; and that Monday nights, Wednesday nights, and Friday nights, of each week, shall be appropriated to the discussion of matters arising out of the condition of the Union generally, or such other matters as gentlemen may be disposed to discuss.

Mr. MARSHALL, of Illinois. I desire to make a report from the Committee of Claims.

The SPEAKER. The pending question is upon the motion made by the gentleman from Virginia, that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. MILLSON. I desire to make an inquiry of the Chair upon a point of order. If this bill shall be reported to the House, will it not be competent for the House afterwards, if they deem it proper to do so, to recommit it to the Committee of the Whole on the state of the Union for the purpose of having such further discussion as may be necessary?

The SPEAKER. The Chair thinks it would. The House can recommit either to the Committee of the Whole or to one of the standing committees.

Mr. MILLSON. So I supposed.

Mr. JONES, of Tennessee. I desire to make an inquiry of the Chair. Can the House, in recommitting it, instruct the committee to confine the debate to the subject of the bill?

The SPEAKER. The Chair thinks not.

Mr. JONES, of Tennessee. Then what would be the use of recommitting it?

Mr. GROW. I object to debate.

The SPEAKER. The Chair did not understand that either of the gentlemen rose for the purpose of debating any question. They simply rose for information upon a question of order.

Mr. JOHN COCHRANE. I ask the unanimous consent of the House to make one remark, regarding the objection I interposed a moment ago.

Mr. WASHBURN, of Maine. If the gentleman means to withdraw his objection, I will not object to his being heard.

The SPEAKER. The Chair cannot determine that.

Mr. SEWARD. I object to debate out of order.

Mr. TAYLOR, of New York. What is before the House?

The SPEAKER. The pending question is upon the motion of the gentleman from Virginia, that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. TAYLOR, of New York. Is that question debatable?

The SPEAKER. It is not.

Mr. TAYLOR, of New York. Then I object to all debate.

Mr. MARSHALL, of Kentucky. I rise to make an inquiry. Did I understand the Chair to say, in response to the gentleman from Tennessee, that if the House should recommit the bill to the Committee of the Whole on the state of the Union, it could not commit with other instructions?

The SPEAKER. The Chair thinks not with the instructions indicated by the gentleman from Tennessee.

Mr. MARSHALL, of Kentucky. Not so as to confine the debate to the bill?

The SPEAKER. That is the opinion of the Chair.

Mr. MARSHALL, of Kentucky. I merely want to call the attention of the Chair to the fact that last session the House did give such instructions to the Committee of the Whole on the state of the Union, when the tariff bill was under discussion.

The SPEAKER. Was it not done under a suspension of the rules?

Mr. MARSHALL, of Kentucky. I know such instructions were given, but I do not remember whether it was done under a suspension of the rules or not.

The SPEAKER. It must have been done under a suspension of the rules, which required a two-third vote.

Mr. PHELPS. I appeal to the House to allow me to submit a proposition to extend the time for debate until one o'clock, to-morrow.

Mr. SMITH, of Virginia. I object.

The question was then taken on Mr. LETCHER's motion; and it was agreed to.

So the rules were suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS, of Indiana, in the chair,) and resumed the consideration of the

PRINTING DEFICIENCY BILL.

Upon which Mr. BURNETT was entitled to the floor.

Mr. BURNETT. Mr. Chairman, I do not propose to pursue the course adopted by other gentlemen who have addressed the committee since the House fixed a time for closing the debate upon this bill. The committee have been entertained with speeches upon Mormonism, Free-Soilism, and every other ism having no connection with any measure of legislation now before the House, and, as yet, not a single speech has been elicited bearing upon the subject immediately under consideration. If gentlemen will debate abstract questions in Committee of the Whole, let them do it before the House fixes a time for closing debate upon the bill then before the body; but when that time is fixed, and but a few hours are left to speak to an important measure, it seems to me that it should be confined to a practical discussion of the bill before us. It was from this conviction that I endeavored to arrest that character of debate, and raised the point of order upon gentlemen who preceded me who did not utter a single word with reference to the printing deficiency, but the point was overruled; and until now, no opportunity has been afforded for debating the merits of the question properly before us. Feeling, sir, that the interests of the country demand a reform in this practice, I propose myself to confine my remarks to the bill under consideration.

The investigation of the subject of printing, as connected with the two Houses of Congress, is one of difficulty and embarrassment to any gentleman who will undertake it. This is owing to the fact that there is no regularity in the action of Congress making appropriations for printing purposes; there is no limit upon the work when the appropriations are exhausted. There are orders constantly being made by both Houses for extra printing, and it is only by an examination in detail of the entire legislation of each Congress that the amount of the appropriations for printing can be discovered; which involves a vast amount of difficulty and labor. The subject of the printing of Congress has, for the last few years, attracted much of the attention of the country. It has been a theme for the newspaper press.

Mr. GREENWOOD. I desire to present a question of order to the Chair. I understand that the gentleman from Kentucky proposes to discuss the bill under consideration. I would inquire of the Chair whether that is in order? [Laughter.]

The CHAIRMAN. The Chair overrules the question of order.

Mr. GREENWOOD. Then the Chair rules the discussion of the subject-matter under consideration to be in order?

The CHAIRMAN. That is the ruling of the Chair.

Mr. BURNETT. I am not surprised at the point of order raised by the gentleman from Arkansas, [Mr. GREENWOOD,] for I am aware that it is a novelty for any gentleman in this body to do what I am now doing—debating the merits of the bill before us. I was remarking, sir, when I was interrupted, that this subject of printing had occupied much of the attention of the press and politicians of the country.

It is charged that it is a source of corruption through which the public Treasury is robbed, that gentlemen who hold the office of Public Printer acquire in a short time princely fortunes, and that extensive combinations are formed at the commencement of each Congress by which the printing is to be obtained and controlled. I do not make these charges, nor do I say that they are true, but they are made, and I am glad—yes, sir, I congratulate the country, that we have a committee organized which is to investigate this entire subject, and to make a report to this House. I hope, sir, that that investigation may be a rigid and thorough one, and that this House and the public may be furnished with all the facts connected with it.

It is high time that these charges of corruption that are made in regard to this subject should be met, and if they are not true, their falsehood should be shown, so that they may cease. The gentleman from Missouri [Mr. PHELPS] alluded to the clamor that has been raised against the Public Printer. I must confess that so far as I have investigated the subject, it is a matter of mystery to me how the Public Printer can be guilty of corruption, unless there is a collusion between him and the agent of the Government who has the superintendence of the subject. And yet it is a fact, and one well worthy the consideration of this committee, that the Public Printers of both Houses of Congress do amass immense fortunes, and that reasons are sometimes given by their friends why we should reflect them to that office, that they have expended thousands of dollars in the presidential canvasses; that they have been ready in one particular State, or locality, to open their purses and give large gratuities for the purpose of carrying elections. The inference from this is, when holders of this office can be so liberal in aiding in elections, that we are paying too much, and that the matter is a proper subject of investigation for this House.

Now the law of 1852, passed by Congress, had for its object the fixing of prices for the public printing, and not only that, but it established the office of Superintendent and defined certain duties for him to perform. These duties are laid down and expressed so plainly that there can be no mistake about them. He is required to keep an exact statement of all the work ordered by Congress in the hands of the Public Printer. If he does his duty he ought to know what amount ordered has been executed, what amount is in the process of completion, and what amount has been ordered but not commenced. And yet the gentleman from Missouri [Mr. PHELPS] told us the other day, when I asked him how much of this work was completed and how much was yet to be done, that we were not to expect the Committee of Ways and Means to enter into such details or to be able to give the House this information. Now we do expect the Committee of Ways and Means, when they ask us to vote for a deficiency bill for printing to the amount of nearly a million of dollars, to tell us and tell the country what amount of the work for which this money is paid, has been done, and what has not been done. The means of information are within their control; and how? Why, as I said before, if the Superintendent of Public Printing discharge his duties, the information is in his office; and, being open to the Committee of Ways and Means, that committee should be possessed of it before they ask us to make appropriations of so extensive a character as those contained in the bill. Ought not the Superintendent, for instance, know what portion of Gilliss's report is in the hands of the Printer and how much of it is not? And I have applied to the proper source of information for a member of this House, as I supposed, and yet the Committee of Ways and Means cannot answer, nor do I believe any member of this House can answer, how much of that report is yet unprinted.

I call the attention of the committee particularly to another fact. If you investigate this subject

of public printing, and look at the action of past Congresses, you will find that that item of the public expenditure has grown enormously within the last few years. Let us go back as far as the Thirty-Second Congress, and see what the expenditure of the public printing of that Congress amounted to. The expenditure of the Thirty-Second Congress was \$950,287 30. The expenditure of the Thirty-Third Congress was \$1,699,381 51; and of the Thirty-Fourth Congress, \$2,334,087 27. This last item includes the amounts estimated in the bill now under consideration; but none of the items include special appropriations for special objects. For example: the appropriations for the publication of the Seventh Census, Index to Private Claims, &c.

Mr. NICHOLS. Will the gentleman from Kentucky allow me to—

Mr. BURNETT. The gentleman will excuse me, if he pleases. If gentlemen want to know why I do not consent to be interrupted, it is because I do not intend to have my time occupied by members catechizing me on this subject. I give the information which I have from your Clerk. My calculations are based upon estimates furnished by his office. If erroneous, the fault is in the figures furnished me, not in my calculation based upon those figures.

You find that, in two Congresses, this item of expenditure has increased from less than a million of dollars to over two millions. And to the gentlemen on the other side of the Chamber I have this remark to make. During the Thirty-Fourth Congress, as you well remember, there was, on this side of the House, or on the part of a large portion of it, a fixed and settled opposition to this wild and extravagant expenditure in the publication of books. We, or at least the great body of us, were found opposing every proposition looking to the publication of the books which increased this expenditure to such an enormous extent. You will find, by an examination of the Journals of this House, that the resolutions for their publication generally emanated from your side of the House. But I will say this, in that connection, that I presume that the gentleman from Ohio, [Mr. STANTON,] who offered the resolution in reference to the publication of Gilliss's report, did not suppose, and that no other member of the House supposed, that it would reach the large number of volumes it already has. I wish to read to the House the resolution under which this report has been printed, and is now being printed:

“Resolved, That there be printed and bound, by the Public Printer and Binder of the House, six thousand copies of the report, and two thousand copies of the observations of the United States naval astronomical expedition to Chili; five hundred copies of the report and observations for the use of the Secretary of the Navy, two hundred and fifty for the superintendent of the expedition, and the remainder for distribution by the members of the present House; said work to be printed in quarto or octavo form, as the work will admit; and the Committee on Printing may direct.”

Is there anything in this resolution which contemplated that, after its passage, the report was to be enlarged at the discretion of its author and extended to an unlimited number of volumes? Can it, by construction, be tortured into authority for printing any more manuscript than was then contained in it? Is there in it anything to allow Lieutenant Gillis to go on as he has for four years?—sir, it was four years ago this resolution passed—and prepare manuscript, or to go on for as many years more as he may want to and do so, to be printed at the public expense? I maintain the position, which no man on this floor can controvert, that every sheet of manuscript furnished since the passage of the resolution to the Public Printer by the Superintendent, and every certificate for payment for every sheet so furnished, was a direct and palpable violation of the resolution and of law. The same reasons apply to the printing of the Japan expedition, the Pacific railroad survey, Emory's report, and the commercial relations and stamps; the action by which the printing of them is now being executed; also as direct and palpable violations of the resolutions under which they were ordered, and of law.

The gentleman from Missouri remarked the other day that when there was no division on the question of the publication of these books, he felt his responsibility alike with that of all the members on this floor. I occupy no such position—and why? Because my course on this floor has

been, from the commencement of my service here to the present time, a uniform and persistent opposition to all this expenditure of public money for the publication of books which are worthless in their character. I believe there is not a member on this floor but will agree with me as to their worthlessness. Here we have this history of Chili, by Lieutenant Gilliss. We have these eleven volumes of the Pacific railroad survey. We have this coast survey, the illustrations of which cost many thousand dollars. I venture the assertion that there is not a man on this floor who has ever examined either one of these works thoroughly—not one. I say, then, to the gentlemen on the other side of the House, that when they ran up the cost of the printing of the last Congress (where they had the majority) to \$2,334,087 27, they are responsible for it. Now look at it: you voted these resolutions and propositions involving this large expenditure; and now that this deficiency bill comes in, how many of you will vote for it? You ask us to come and take the responsibility and vote this appropriation; and my friend on my left [Mr. PHELPS] may ask me: “Sir, are you in favor of repudiation? Are you not willing to meet the debts of the Government?” My answer to that is this, that so far as debts are contracted, so far as the work is executed, I will vote to pay them; but as to work not executed, I am in favor of stopping it.

Sir, let us contrast the difference between these items of expenditure for three years, and see how rapidly it has grown; and then I ask gentlemen if this matter of the public printing is not well worthy the attention of Congress?

What does this deficiency bill ask us to do? It is for deficiencies created in the Thirty-Third and Thirty-Fourth Congresses. This bill asks for an appropriation of \$790,000 to meet the deficiencies created in the Thirty-Third and Thirty-Fourth Congresses. Now, gentlemen, let us look back to the Thirty-Second and Thirty-Third Congresses, and see what is the history of these deficiency bills. At the first session of the Thirty-Third Congress, we were called upon to vote an appropriation out of the public Treasury. For what purpose? To meet the deficiency created in regard to this very matter of printing. How much was the deficiency? The amount was \$127,596 40. That was at the first session of the Thirty-Third Congress, to meet a deficiency in the appropriations of the Thirty-Second Congress.

Mr. STANTON. I think I misapprehended the gentleman, or he was laboring under a mistake. I understood him to say that I offered the resolution in this House for printing Gilliss's report.

Mr. BURNETT. I so understood it.

Mr. STANTON. I will say to the gentleman that he is entirely mistaken. I have never offered a resolution for printing extra copies of any report.*

Mr. BURNETT. Then you deserve credit to that extent, and no further.

Mr. STANTON. I trust the gentleman will also do me the credit to say that I have generally voted with him against all these resolutions.

Mr. BURNETT. Sir, the Thirty-Fourth Congress, if I recollect right, voted another deficiency bill for these very same items for which we are now called on to pass this bill. That deficiency bill, according to the figures which I have before me, appropriated money to the amount of \$625,877 21, for deficiencies created in the Thirty-Third Congress. I will give the items:

For printing.....	\$201,331 95
For binding in the Senate.....	11,000 00
For lithographing.....	99,600 00
For lithographing in the House.....	174,200 00
For binding in the House of Representatives...	82,715 56

Sir, these deficiency bills, in my judgment, are all wrong. I am for making specific appropriations, and when the money is expended, stopping at that point until we make additional appropriations necessary to pay for the work. I regard the present practice as a great evil. Past experience has shown it to be such; and it is one which is rapidly increasing. Perhaps gentlemen will tell me that it has existed for a long time, and that we must always have deficiency bills. But, sir, it strikes me that, to a very great extent, we may avoid them.

* This mistake arose from the fact that the resolution was offered by a namesake of Mr. STANTON.

Now, sir, the gentleman from Missouri, [Mr. PHELPS], the other day, when the question was propounded to him, said: "Sir, do you expect the Committee of Ways and Means to report to this House legislation stopping this printing? Is it a part of the duty of the Committee of Ways and Means to report such legislation?" He tells us that it is the duty of the Committee of Ways and Means to report appropriations; but, sir, when that committee asks us to vote a large appropriation of money from the Treasury, it does strike me that it ought to be able to tell us how much work has been done, and how much is left to be done.

Now, I will call the attention of the gentleman from Missouri to another item in this bill. I see by the report of the Superintendent of Public Printing, that there are items for dry-pressing, which, as I understand, is smoothing out and preparing the paper for printing. Sir, there is no authority of law for it. They have no authority to charge for it; yet we find that for five volumes of one of these works (the Pacific railroad report) this item for dry-pressing amounts to \$9,978. It is true gentlemen may say that is a remarkably small amount in the expense of the Congress of the United States; but you find that this item is to be used as a precedent, as one of the items to be charged for in the public printing. If it is not legal, then it strikes me that it is the duty of the Committee of Ways and Means, or of the Superintendent of Public Printing, rather, to see that these charges are not made. We find that this item of dry-pressing extends through the whole of the annual report of the Superintendent of Public Printing, and amounts in the aggregate to the snug little sum of near thirty thousand dollars. It has been allowed the Public Printer, and will be paid him, when the whole charge is in violation of law, and was not contemplated by the act of 1852.

Sir, the means of information which we have in regard to this whole subject are derived from the Superintendent's annual report, and his response to the Committee of Ways and Means. The latter is uncertain and vague in its meaning and character. It is impossible for any man to separate the items as reported by him, so as to arrive at a correct conclusion as to how much of this printing has been executed, in order to reach a proper understanding of the indebtedness of the Government for it.

Sir, this bill can be reduced; and it presents itself to my mind most conclusively that it is due to the country that it should be done. According to the calculations I have made, based upon the information furnished by the Superintendent's report and the Committee of Ways and Means, \$420,000 will cover every item of indebtedness by the Government for printing, paper, lithographing, &c. The balance of these deficiencies, making up the sum of \$790,000, is for work not yet done, and a large portion of which is still to be written.

We learn, sir, from the report of the Superintendent of Public Printing, that three volumes of Gilliss's report have been completed and delivered. One volume is nearly ready for the binder. The other three volumes, which complete the work, so far as he furnishes any information, are not yet commenced. There are four volumes of the Pacific railroad finished, four in a forward state of completion, and three volumes which have not yet been commenced. My friend from Missouri shakes his head. I read from the Superintendent's report to show that I am correct:

2d. Reports of explorations and surveys to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, ordered at the second session of the Thirty-Third Congress. The printing of seven volumes of this report has been completed, four of which have been bound, and the other three are nearly ready for the binder. The letter-press and most of the illustrations for the eighth volume are printed; but some delay will be occasioned in its completion in consequence of the destruction by fire, in Philadelphia, of ten of the copper-plates. It is estimated that the entire work, when completed, will make eleven large quarto volumes, including one volume of maps and profiles."

He only furnishes us with an account of eight volumes; while, at the same time, he states that the work will embrace eleven volumes. Hence, three volumes yet remain to be printed. And, sir, so far as the purpose of the Government in ordering the publication of these Pacific railroad surveys is concerned, I think that we could now

safely abandon what yet remains to be published, and to stop on the volumes which have been begun just where the work has advanced.

To go on with the report: Emory's report of the survey of the boundary line between this country and Mexico, ordered at the first session of the Thirty-Fourth Congress: one volume commenced, the other not. The gentleman from Missouri remarked, the other day, that the plates for the second volume had been contracted for in Paris. However, the letter-press for this second volume has not been commenced; at least, the Superintendent of Public Printing does not, nor does the gentleman himself, give us any account on that point.

Mr. Chairman, I am convinced that if members of this House would pay some attention to the cost of these works, there would be less disposition than there has been heretofore to order their publication. Look at the second volume of the Japan Expedition. Every member, I presume, has received a copy of that volume. It cost the Government the modest and inconsiderable sum of \$99,635 42!

Mr. BURROUGHS. How much is that per copy?

Mr. BURNETT. Five dollars and forty cents. Here, sir, is an estimate of the cost of volumes three, four, five, six, and seven, of the Pacific railroad surveys. The maps and illustrations embraced in these surveys are utterly valueless, except the one or two which show the lines of routes and their relative practicability for a line of railroad to the Pacific slope. All others, except those few maps, are utterly worthless. And, sir, I beg leave to differ with the gentleman from Missouri, who said that these works embodied a vast amount of information of a region of country heretofore unknown; I beg leave to differ with him as to the value of the information contained in that work.

The total cost of volumes three, four, five, six, and seven, is \$473,053 96. The illustrations in them alone cost \$198,729 24. The maps of the Coast Survey, extra copies of which we were again called on the other day to publish, and which is a work entirely worthless for distribution, cost \$21,715 75.

My friend from Tennessee [Mr. Jones] inquired what was the cost of the squirrel picture in the agricultural portion of the Patent Office report. Well, sir, the plates of rats, mice, owls, woodcock, &c., contained in that work for 1856, plates which in my judgment are unnecessary, and not worth the paper upon which they are printed, cost the Government the sum of \$45,421 22.

With these facts staring us in the face, I appeal to you, Mr. Chairman, and to the House, whether, even if we must pass this deficiency appropriation bill, it is not time for us to put an end to this extravagant expenditure of the public money. I voted for the resolution increasing the number of the agricultural portion of the Patent Office report, for the reason that I believe, with many other members, that it contained information valuable to the agricultural interests of the country, and which is wanted and demanded by those interests. But, sir, few of us, I venture to say, thought by that vote that we were authorizing the expenditure of the sum of \$45,000 for plates of rats, mice, squirrels, &c. I might refer to other books, but I will not do so now.

There is not a gentleman on this committee who will not agree that these extravagant publications should be stopped. The gentleman from Missouri and the gentleman from Virginia, both of them members of the Committee of Ways and Means, will agree that these publications are wrong. They, sir, are in favor of an economical expenditure of the public money for printing as for every other thing. But ought they not to come here with clean hands in the case of this deficiency bill, and tell us how much we owe, and how much we do not? We were told by the gentleman from Missouri, in his opening remarks, that this bill was for work already executed. I do not understand that this is so from anything I have seen on the subject.

We find in table No. 3, of the estimates of the Committee of Ways and Means, furnished by the Superintendent, that the sum of \$74,951 64 is "for printing yet to be executed." I have not the experience either of my friend from Virginia or Missouri as to the duties of the Committee of Ways

and Means, never having served on that committee; but, as I before stated, it is certainly their duty to furnish plain and correct statements justifying the appropriations they ask this House to make.

Mr. Chairman, when the Superintendent of Public Printing furnishes an estimate which he says is for work yet to be done, I regard that as plain English, meaning that the work has not yet gone into the hands of the Public Printer, or been executed by him. What else do we find in the estimates, as furnished by the Superintendent? In table No. 4, you find that the Superintendent, in accordance with law, has issued his certificate for the amount of \$104,000, which amount is due for work done; and there is the sum of \$65,132 98, the estimate for work not yet done. When we come down to the report of the Clerk of this House, what do we find? Binding documents for the Thirty-Third Congress; binding seventy thousand extra copies of the Pacific railroad survey; binding ten thousand copies of the Pacific railroad report; and so on, with Gilliss's report, &c.

These items, making a sum larger than both of those referred to in tables No. 3 and 4, is, as I learn through the Clerk's office of the House, for work yet to be done. And still Congress must go on furnishing and publishing works, which no private publisher in the country would publish, because they would be regarded of no value by the trade; and merely because the Thirty-Second and Thirty-Third Congresses may have ordered works then written to be published, we are to go on printing and publishing, *ad infinitum*, as long as their authors may think proper to continue to write; and that, too, at a cost which, before they are completed, will reach millions.

Mr. Chairman, I have effected the object I had in view in taking the floor. I am in search of information. I want light. And, sir, if this is a debt due and owing by the Government under contracts executed and completed, although I have uniformly opposed the printing of these books, and this extravagance in regard to the public printing, as far as I could, I will vote to pay it; for I am in favor of paying the debts of the Government. But, sir, if the work is not yet completed, I say to gentlemen here, that I never will give my countenance to such legislation.

Mr. Chairman, I believe the first section of this bill has been read. I move, now, to strike out all after the word "Congress" in the seventh line to the end of the bill, and insert in lieu thereof the following:

The sum of \$420,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. LETCHER obtained the floor.

Mr. TAYLOR, of New York. I should like, with the consent of the gentleman from Virginia, to ask one question before he commences his remarks.

Mr. LETCHER. I have only thirty-five minutes, and I must decline to give way.

Mr. Chairman, this subject is one of very great interest and importance; but it certainly never would have occurred to any man, who had entered this Hall at any time since the close of the speech of my colleague on the committee [Mr. PHELPS] up to this morning, that anybody felt the slightest interest in it, or that it related in any way to the interests of the tax-paying people of this country. When a proposition comes up to appropriate \$790,554 27 to pay contracts which have been the result of the legislation of this House, instead of discussing that matter, investigating the items, examining them, and presenting them in such shape as would make an impression upon the mind of the country, we have been entertained with speeches on Kansas, on Mormonism, and every other conceivable subject, until the time for debate has almost expired, and there is hardly enough left even to notice the prominent points which are the subject of controversy.

In the remarks which I propose to submit, I shall confine myself to the legitimate business before the committee. And, in the first place, in order to make myself intelligible, I propose to refer to the duties of the Committee on Printing, as laid down in the rules of the House, so that the distinction between their duties and the duties which legitimately belong to the Committee of Ways and Means may be ascertained and appreciated. According to the rule in regard to the public printing, you have a committee here, acting in conjunc-

tion with the committee of the Senate, whose duty it is to look into this matter, to regulate contracts, and to present their views in the shape of reports in regard to all books and documents which are proposed to be printed by this House, in order that the House may pass an enlightened judgment upon the report so presented; and until that report comes in and the judgment of the House is pronounced upon it, not one dollar for printing, lithographing, engraving, or anything else connected with this subject, can be expended—not a dollar. That is the business of the Committee on Printing, as the rule on the subject clearly shows. This is the rule, and to it I invite the attention of gentlemen.

"22. A committee of three members of the Senate and three members of the House of Representatives shall be appointed by the President of the Senate and Speaker of the House, to be called the Joint Committee on the Public Printing, which committee shall have a right to decide between the Superintendent of the Public Printing and the Public Printer in any dispute which may arise as to the propriety of the decisions of the Superintendent making deductions on account of work which the Superintendent may refuse to receive, or which, in his opinion, may not be done with proper dispatch, as required by law; and the said committee shall pass upon the accounts of the Superintendent of the Public Printing. Said committee shall have power to adopt such measures as may be deemed necessary to remedy any neglect or delay in the execution of the public printing: *provided that no contract, agreement, or arrangement entered into by this committee, shall take effect until the same shall have been approved by that House of Congress to which the printing belongs, and, when the printing delayed relates to the business of both Houses, until both Houses shall have approved of such contract or arrangement.* All motions to print extra copies of any bill, report, or other document, shall be referred to the members of the Committee on Printing from the House in which the same may be made."

Now, sir, what is the business of our committee—the Committee of Ways and Means? We are to take the estimates which are sent to us from the Departments at the other end of the avenue, to take the estimates which are sent to us from the subordinates under those Departments and under the House of Representatives, to ascertain what contracts they have made under the law, what sum of money is necessary to meet those contracts, and then it is our duty to report a bill to the House for the purpose of discharging the obligations which the Government has incurred through those duly constituted agents.

Now, sir, that, I take it, is the true distinction between their duties and ours; that they are to report to us what contracts they have made, and it is then our duty to report to this House the amount of money which is necessary to meet those contracts, and to pay the obligations which have been incurred by the Government under them.

But, sir, the gentleman from Kentucky [Mr. BURNETT] and other gentlemen in this House, have undertaken to say that this is not the duty of the Committee of Ways and Means; that it should not pursue this line of conduct; but that they must come here and propose legislation; that it is their business to recommend where these publications shall stop, and then that the House should act upon their recommendation.

Sir, it will be recollected that, during the last Congress, when the Committee of Ways and Means took charge of a subject which was legitimately brought to their attention in the report of the Secretary of the Treasury, and which report was referred to them for their consideration, in regard to marine hospitals; and when that committee introduced a proposition into this House, they were punished for their attempt to legislate by the defeat of the bill; and some of the very gentlemen who complain now that we have not undertaken to legislate on this occasion, are for punishing us for not legislating, while a year ago they were for punishing us for legislating. If it was wrong then, is it not equally wrong now? And if it was right then, why were we not sustained by the House, and a precedent set upon which we could act in future, in all cases where legislation was demanded, and where the public money could be saved. It will be recollected, sir, that, under that marine hospital legislation which was proposed at that time, thousands of dollars would have been saved to the Government if the recommendation of the Secretary of the Treasury had been carried out by the passage of the measure, which was proposed by the Committee of Ways and Means. But, sir, it was not sustained, and that was regarded then as a good reason for defeating it.

Mr. CAMPBELL, of Ohio. Will the gentleman yield to me for a moment?

Mr. LETCHER. Yes, sir; for a single moment.

Mr. CAMPBELL, of Ohio. I think the gentleman from Kentucky, [Mr. BURNETT], who has just closed a very able speech, was one of those who opposed the proviso which the gentleman from Virginia alludes to in regard to the marine hospitals.

Mr. LETCHER. Now, sir, it seems to me that I have clearly defined, according to the rules of the House, the relative duties of the Committee on Printing, and of the Committee of Ways and Means.

I come now to the action of this House, under which this expenditure has been made necessary, and which, I think, will illustrate with sufficient clearness the propriety of the course of the Committee of Ways and Means in reporting this bill. The first item to which I call attention, is that of the naval astronomical explorations to Chili. My friend from Kentucky [Mr. BURNETT] is under a slight mistake when he tells us that but three volumes of that work have been printed, and that three or more volumes remain yet to be printed. If I am not much mistaken, six volumes of that work have been already printed and delivered to the members of this House.

Mr. BURNETT. No, sir; only three volumes have been printed and delivered.

Mr. STEPHENS, of Georgia. They have printed the sixth volume, but have not printed the intermediate ones.

Mr. LETCHER. Another volume is prepared, and two more are in process of preparation. The whole work will be comprised, as now reported by the Superintendent of Public Printing, in seven volumes. Now, who originated that publication? Was it not done in this House? The Representative from the State of Kentucky [Mr. Stanton] was the man who introduced it here for the action of this body, and it was passed under his advice and under his direction. And now let us see what it will cost, taking the average of the cost of the volumes already printed. The average cost, per volume, will be \$16,441 91. The seven volumes, therefore, will cost \$115,107 37. Now, when the House of Representatives ordered this book to be printed, did it intend to print it? When the Committee on Printing was ordered to make contracts for the execution of the work, did they intend to fulfill those contracts, or did they intend—as my friend from Kentucky would have them do—after the contracts were made, and when progress was made in their performance, that the House should then undertake to declare that the balance should not be completed?

Mr. STEPHENS, of Georgia. Will the gentleman read the authority of the House for its publication.

Mr. LETCHER. I cannot refer to it just now.

Mr. CRAWFORD. It is a resolution that six thousand copies of the report and two thousand copies of the observations of the United States astronomical expedition to Chili be printed. That is the only authority I find for it at all.

Mr. GROW. When was that resolution adopted?

Mr. LETCHER. That was at the first session of the Thirty-Third Congress.

Mr. STEPHENS, of Georgia. Will the gentleman allow me to ask him a question?

Mr. LETCHER. Yes, sir.

Mr. STEPHENS, of Georgia. Is this sort of construction to be given to the resolution? Is it to be presumed that this House intended to print anything but a report then made? And is it not a fact that that report is still unfinished and that men are actually engaged in writing other volumes?

Mr. LETCHER. The gentleman from Georgia has waked up very late. When the Commercial Relations were ordered to be printed, it was said here that they would occupy but one volume; and yet the gentleman from Georgia did not last year arrest the publication of the third or fourth volumes of it. So in regard to others which I shall have occasion to allude to directly, in connection with the Pacific railroad. Now, why is it that this thing has passed along quietly until the attention of the people has been attracted to it? Why is it that while you have gone on here to publish and distribute the first and second and sixth volumes of a work, you are to stop in regard

to that work, and not publish the third, fourth, and fifth volumes? But I must go on, for I have little time to dwell on this subject. I call attention to these items only to show how this thing is begun.

I now come to the Pacific railroad report. Seven volumes have been already printed, and the eighth volume is about prepared for delivery. The average cost of the volumes already printed is \$77,526 49½. The eight volumes, then, amount to \$600,211 94½. There are yet three additional volumes to be supplied; which, at the same rate, will cost \$232,579 48; making for that publication alone, when completed, \$832,791 43½.

That work was ordered at the second session of the Thirty-Third Congress, and the work has been going on from that day to this.

Now I come to another work—the report of Major Emory. Let us see how that came to be published, and what it was expected at the time would be its cost. I have a letter here from Major Emory, dated July 29, 1856, addressed to the then Secretary of the Interior, Mr. R. McClelland, in which Major Emory says, that besides the volume then sent there would be an appendix. The appendix has proved to be about the same size as the first volume.

The letter is as follows:

OFFICE UNITED STATES BOUNDARY COMMISSION,

WASHINGTON, July 29, 1856.

Sir: I have the honor to send herewith my report on the boundary between the United States and Mexico, together with proofs of such maps and illustrations as have been completed, numbered from one to sixty-three. The plates and blocks from which these proofs are struck are held by me subject to your order, or that of Congress.

The general map cannot be completed until next winter; and the map of the new Territory is not quite completed; but when finished, no delay will ensue in the publication. By consultation with the printer, I find these maps will be done quite as soon as the printing of the report, should it be concluded to print that report.

Besides the volume now sent in, there will be an appendix, containing reports upon the botany and natural history of the country adjacent to the boundary, with from two to three hundred illustrations, many of which are already engraved and the plates deposited in this office. These reports are in the hands of Drs. Torrey, Engelman, and Professor Baird, and other savans of the country. They promise to have them all finished in the course of the year. These reports not being of the same general interest, I concluded it was proper not to delay sending in the general report until their completion.

Should it be deemed proper to publish the general report and a limited number of copies of the appendix, I beg to call attention to my letter to you of April 23, 1856, by which it will be seen there is a large surplus of funds which may be made available for the purpose, and which has been saved from the appropriations made by Congress for the prosecution of the work. That surplus is at present more than \$100,000.

I have the honor to be, your obedient servant.

W. H. EMORY,
United States Commissioner.

Hon. ROBERT McCLELLAND, Secretary of the Interior.

So says Major Emory. On that letter the report was sent in to this House for publication. Now let us see what it cost. The first volume of that report, as ordered by the Senate, cost \$26,190 65. The same volume as ordered by the House, cost \$47,035; making the total cost of the first volume, to say nothing of the appendix, \$73,225 65.

The second volume, or appendix, (three thousand four hundred copies,) for the Senate edition, contains five hundred and twelve pages, and will cost \$25,840 11. The edition ordered by the House will cost \$37,400; making the cost of the second volume, for the Senate and House, \$113,240 11; to say nothing of engravings, maps, illustrations, and other things of that sort. And then, sir, the item of engraving constitutes a separate charge. The two volumes, then, give us a cost of \$186,465 76. Well, sir, it is proposed to color a parcel of these engravings in the second volume. It is said that if ninety-two plates of natural history out of two hundred and seventy-five plain illustrations be colored by hand, as has been suggested, at a cost of seven cents per impression, there will be one million three hundred and seventy thousand eight hundred impressions, which will cost \$95,956, which, with the amount I have already stated, makes the entire cost of the two volumes \$282,421 76.

But that is not all. Accompanying these books are nine maps; one of which covers the entire country between the forty-ninth parallel of latitude and the southern boundary of the United States; the plate for which was engraved in the first instance, but it was erroneously engraved, and was rejected as being incorrect. This plate

was engraved at an expense of \$1,500. Well, now, sir, it is asked that these nine maps shall be engraved and printed. The expense for printing alone, to say nothing of the cost of engraving, is estimated at about \$15,000; for paper, \$3,600; making a cost of \$18,600 for publishing these maps. Then the cost of engraving is so much in addition, which, according to the estimate I have, will amount to the neat little sum of \$40,000 more; so that when you come to foot up the bill for printing this report of the boundary survey by Major Emory, you find that the total cost of printing the report is \$340,021 76!

Now, sir, when was the printing of that report ordered? It was ordered at the second session of the Thirty-Third Congress.

Well, now, sir, I come to the printing of the report on Commercial Relations. The first, third, and fourth volumes of that report have been printed. Let us see how it got into this House, and let us see upon what information the House acted. I refer to the Congressional Globe, volume 32, part first, page 630:

"Mr. JONES, of Tennessee. I wish to ask the gentleman from Illinois if he has made any estimate, or received any, as to what size the work is likely to be—how many volumes, and how many pages quarto, it will be likely to make?"

"Mr. WASHBURN. It will make one volume quarto, I suppose, of about three hundred pages. It is important, as I stated before, that it should be printed in quarto form, because it embraces tables which it will be difficult to print on pages of less size."

"Mr. JONES. It seems, Mr. Speaker, to me, from the pile of papers upon your table, that the work must be a very voluminous one; and the character of the work is one that will be very expensive in printing. It will be fully as large, I should think, as the large volume of the census report."

Mr. STEPHENS, of Georgia. Read the resolution which was offered.

Mr. LETCHER. The resolution was in these words:

"Resolved, That the answer of the President of the United States to the resolution of the House of Representatives, of December 14, 1853, upon the commercial relations of the United States with all foreign nations, be printed by the Printer of this House in quarto form, under the direction of the Secretary of State, who is hereby authorized to cause all corrections therein, which, in the course of printing, may be found requisite, to be made, and also cause to be made all additions thereto of commercial information which, subsequently to the transmission of said answers to this House, may reach the Department of State, which shall, by him, be deemed of sufficient importance."

Yet, sir, we have now gotten the first volume, of eight hundred and twenty-eight pages; the third volume, of seven hundred and ninety-two pages; the fourth volume, of seven hundred and six pages. The second volume is not yet printed, and as it is to be the last, it is hard to guess, even, how many pages it will contain. [Laughter.] Now, sir, I refer to page 790 of the same volume, where the Committee on Printing made their report upon the same subject:

"Mr. CRAIG also, from the same committee, to whom was referred a resolution of the House of March 10, 1856, instructing the committee to inquire into the expediency of printing twenty thousand copies extra of the message and accompanying documents from the President of the United States, in reference to the commercial relations of the United States with all foreign nations, and into the probable cost per volume of printing the same, presented a report that the committee had made inquiry and had arrived at the conclusion that the probable cost of printing the same would be \$1 59 per volume; and in relation to the extra copies the committee report the following resolution:

"Resolved, That ten thousand copies extra of the message and accompanying documents from the President of the United States, in relation to the commercial relations of the United States with all foreign nations, being the comparative tariff and commercial statistics of all nations, as prepared by the Secretary of State, be printed for the use of the House, and five hundred copies additional for the use of the State Department, and that the same be printed in quarto form

"Mr. JONES, of Tennessee. I wish to inquire whether the \$1 59 per volume includes the binding?"

"Mr. CRAIG. It does. I call for the previous question. The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted."

Mr. STEPHENS, of Georgia. Right here I wish to ask a question. It is, whether the resolution authorizes the publication of any matter other than that then prepared?

Mr. LETCHER. Yes, sir; it provides that the information subsequently furnished shall be published.

Mr. STEPHENS, of Georgia. If I understood the resolution just read, it authorizes the publication of nothing except the matter then reported, and before the House.

Mr. LETCHER. The first resolution directed that the report should be printed, and provided

that all subsequent matter which should be furnished should be printed, with what was then before the House. When the resolution went to the Committee on Printing, after consideration they reported back that the extra copies should be printed. The committee reported that the printing would cost \$1 59 per volume. Whether more than one volume or not was contemplated, I leave the House to infer.

Mr. STEPHENS, of Georgia. I say nothing about subsequent matter.

Mr. LETCHER. What is the meaning of the declaration of \$1 59 per volume, if there was not a doubt about the number of volumes?

Mr. NICHOLS. I say, sir, that the report for the printing of that document was based upon an official communication from the Department of State to the Committee on Printing, in which the work was estimated at four hundred and fifty pages, and the exact number of words in a page.

Mr. LETCHER. Then it is only surprising to me that when the Department had estimated it at three hundred and fifty pages, and when the gentleman who introduced the resolution, and the Committee on Printing subsequently estimated it at four hundred and fifty, they should not have inquired into the discrepancy.

Mr. STEPHENS, of Georgia. The discrepancy is caused by the fact that additional matter was supplied.

Mr. LETCHER. Grant it to be so; but will the gentleman from Georgia undertake to say that this House had the most distant idea, at the time it ordered that book to be printed, how many volumes it was ordering, or what the cost of printing would be?

Mr. STEPHENS, of Georgia. I think we did. The gentleman says that I have waked up late. I recollect the facts; and I will say that I never contemplated, by my vote, to order anything to be published except that embraced by the report of the Committee on Printing. And, sir, I will never sanction the going on and gathering up other material to make four or five volumes.

Mr. LETCHER. These volumes were published at the last session of Congress, as well as at this session of Congress. When the deficiency bill for printing was up here last year, why did not my friend from Georgia then raise his voice against this outrage of writing books and publishing books beyond the number submitted to this House for consideration? Then was the time to have stopped it, and then the time to rebuke the extravagance of the House.

Look at the manner in which this thing is done. Here are the first, third, and fourth volumes, leaving the second volume to be written last, in order that, when it is printed, the work will be complete. The first volume of that book cost \$28,659 98; the third volume, \$43,263 67; the fourth, \$39,771 46; and when the second is done, at the average cost of those which have been printed already, it will amount to the round sum of \$148,926 81 for the Commercial Relations. That book was ordered at the first session of the Thirty-Fourth Congress.

Well, sir, I will go to another set of books. The mechanical portion of the Patent Office report for the year 1856—and the last one printed—cost \$110,638 20, and the agricultural portion \$147,199 64. I say nothing about the illustrations to which my friend from Kentucky has referred, because he has superseded the necessity for my doing so. Let us see what amount these few books foot up. I have not included the Coast Survey; I have not included many other books which have been directed to be printed by this and the other House; but let us see what the small number I have included amounts to, as printing for these bodies. The total cost of those I have named reaches the enormous sum of \$1,599,729 21. If the cost of coloring by hand the plates for Emory's report (\$95,956) is to be added, it will make the amount \$1,695,685 21.

I might have gone much more into detail, but I have gone thus far only for the purpose of arresting the attention of this House, in the hope that we could put a stop to this printing extravagance; that, if it could not be stopped here, we could, at least, so far enlighten the public mind at home as to hear from them, and have a voice come up to this Hall that would operate upon the action of members; a voice proclaiming that there must be "retrenchment and reform" in this branch of the public service.

Sir, I trust that such a voice will come up here; that we shall hear from the people that a rigid economy must be observed, and this leak must be stopped. You may say what you please of these books, but the publication of them amounts to nothing more nor less than this: that the Congress of the United States is to be the book publisher for those whose works will not tempt the bookseller to buy them; the publisher of such works as will not be sold to the booksellers and printed by them for sale to their customers throughout the country. These books, sir, are to be brought here, and we are to print them; and, under the disguise of distributing them amongst our constituents, we are to saddle the tax-paying people of this country with the amount of money necessary to foot the bill. And if members have looked into the subject, they will find whole volumes in which there is little else save a title-page. In some of these astronomical explorations, there is nothing except stars and lines, and one thing or the other of that sort, that nobody but an astronomer could understand, and that not one of every twenty members here could understand.

If there is to be a reform in this matter, adopt a regulation by which you will hold the heads of Departments of this Government to a responsibility for whatever is to be printed here. If a work is to come from the Department of the Interior or the Secretary of the Treasury, let the officer, upon his responsibility and after due examination, report the manuscript, and appeal to this House to print it for the Government of the United States if it shall be in need of it. And, sir, when it comes here finished and ready for publication, with his recommendation, let it be examined by a committee, and then we can never be caught in a scrape like that in which we have been caught, of taking one volume and committing ourselves to the printing of as many other volumes as the party chooses to write. And I believe that even now this book-writing is going on. The second volume of Emory's report has been written in part, and probably printed in part. Yes, sir, printed in part and written in part, and not yet completed in either respect; and they are going on continuing this writing until they get the book to suit themselves.

Now, sir, finally—for I have not the time to go over the ground I intended to occupy if I had the usual limit—let the House come up squarely and meet the question. If they have authorized their Committee on Printing to make these contracts for the publishing of all the books; if they have gone on and executed its order; then, sir, however economical I may be; however much I may favor retrenchment in the expenditures of the Government—as everybody knows from my past course I have done—yet, sir, when the credit of this Government is involved by a contract entered into by the vote of this House, over my own head and against my vote, I shall be prepared, at least as a member of the Committee of Ways and Means, and as a member of this House, now and at all other times, to appropriate the amount necessary to fulfill that obligation on our part. I am ready, sir, to meet that responsibility, to go before my people on every such vote; and I think I know them well enough to say that they will approve of my course in doing what is necessary to maintain the obligation which the Government has assumed, and to discharge that obligation on its part.

I ask then, sir, whether this House, after taking this course of proceeding, after the contract has been made, the materials have been furnished, the work partly executed, and the printer has gathered together the necessary types and other fixtures to accomplish the entire job, after all that is done, will take advantage of its own wrong, and declare that it will not pay because this thing has run into the wildest species of extravagance?

The CHAIRMAN stated that the hour had arrived at which the debate was closed under the order of the House.

Mr. PHELPS. Mr. Chairman, as the member who reported the bill, I am entitled to one hour to close the debate; but I have sought the floor to submit a proposition that the committee do now rise for the purpose of going into the House, and extending the time for debate upon this bill. I hope it will meet the approbation of the committee. I submit the motion that the committee do now rise.

Mr. SMITH, of Virginia. I suggest to the gen-

tleman that that is useless; because if the time for debate is extended, we shall undoubtedly have this Kansas question, with which the patience of the committee has been already abused, brought up in a little while. I think, sir, we can accomplish all that is really necessary in the five minutes' debate upon amendments.

Mr. STEPHENS, of Georgia. I suggest to the gentleman from Missouri that he will have to dispose of the bill in some way. Let it be reported to the House, and then he can move to recommit it to the Committee of the Whole. Otherwise it will not be in order to extend the time for debate. It has been limited by the House, and a motion to reconsider the vote so limiting it has been laid upon the table. The only way in which his object can be attained now is for the committee to do something to the bill and report its action to the House, and then the House can recommit it.

Mr. PHELPS. I have every confidence, from the manifestations that have been made by members of the committee, that unanimous consent will be given to prolong the debate and confine it to the bill under consideration. I have, therefore, submitted the motion that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS, of Indiana, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had come to no resolution thereon.

PROPOSITION TO PROLONG DEBATE.

Mr. PHELPS. I ask the unanimous consent of the House to submit a resolution extending the debate in Committee of the Whole upon House bill No. 202 until two o'clock to-morrow, and that the members discussing it shall confine themselves to the subject-matter of the bill.

Mr. CAMPBELL. I suggest to the gentleman from Missouri, whether it would not be better to bring the bill before the House and allow it to be discussed in the House proper, where the rule limiting debate to the pending proposition will be enforced? If we go back into the Committee of the Whole, we have no guarantee that other questions will not be immediately introduced into the debate. I suggest that, by common understanding, the bill be brought before the House and discussed until to-morrow at two o'clock.

Mr. FLORENCE. I do not desire to interfere

much with the debate at this time, nor to consume the valuable time of the House, which has been so much wasted this week. But if we take up the bill in the House, what guarantee have we that the previous question will not be demanded, and the bill put upon its passage?

Mr. WASHBURN, of Illinois. We can vote it down.

Mr. FLORENCE. True enough we can vote it down, but if there is a disposition to put a stop to debate, the previous question can be demanded and sustained without opportunity being given to debate the merits of the bill. I hope it will be the general understanding that in committee the bill shall be discussed upon its merits until two o'clock to-morrow. We shall thus attain the end desired by the gentleman from Ohio.

The SPEAKER. The gentleman from Missouri asks the unanimous consent of the House to introduce a resolution extending the debate on House bill No. 202 until two o'clock to-morrow. Is there objection?

Mr. SEWARD. I object.

Mr. GROW. I desire to suggest to the gentleman from Missouri that he ask unanimous consent that we shall go on and discuss the bill in the House, and then go back into the committee for the five minutes' debate.

Mr. PHELPS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS, of Indiana, in the chair,) and resumed the consideration of the

PRINTING DEFICIENCY BILL.

Mr. MILLSON. With the consent of the gentleman from Missouri, I will now submit a motion which will, I am sure, effect his object, and it is the one suggested just now, very properly, by the gentleman from Georgia, [Mr. STEPHENS,] and which I rose to make at the time he suggested it. It is, sir, that the committee rise and report the bill to the House. Then we get rid of the resolution of the House closing debate altogether. The House may immediately recommit the bill to the Committee of the Whole on the state of the Union, and the committee can, at any moment thereafter, when weary of the debate, rise for the purpose of stopping farther debate.

Mr. PHELPS. As to the future disposition of the bill—

Mr. SEWARD. I shall object to the gentleman consuming an hour in closing the debate because

he waived his privilege. I move that the committee rise.

The CHAIRMAN. The Chair understands that the gentleman from Missouri only waived it temporarily, and is entitled to the floor. The Chair would remark further, that the motion of the gentleman from Virginia [Mr. MILLSON] is not in order, or would not be in order pending an amendment, and the amendment offered by the gentleman from Kentucky [Mr. BURNETT] is now pending.

Mr. PHELPS. Mr. Chairman, the course which I proposed to the committee would have secured a fair and legitimate discussion upon the subject-matter under consideration; and, furthermore, it would have reserved to the committee the debate under the five minutes' rule. But the proposition indicated by the gentleman from Ohio [Mr. CAMPBELL] would have had the effect of precluding the five minutes' debate. Where, under that arrangement, could you propose amendments and debate them?

I was desirous, sir, of securing to the fullest extent debate legitimate to the subject under consideration; but as the proposition which I have made, and those which have been submitted by other members, have been objected to, we must pursue such course as the rules point out for the consideration of this bill. Certain it is, that no one can impute to me a desire to preclude discussion of the matter now under consideration.

Much, sir, that I designed to have said upon the merits of this bill has been spoken by the gentleman from Virginia, [Mr. LETCHER,] my colleague upon the Committee of Ways and Means, and he has explained to the House some of the reasons which influenced the Committee of Ways and Means in reporting this bill to the House, with the recommendation that it do pass.

The other day, while this bill was under consideration, I referred to the various resolutions under which the printing had been directed to be executed, and, when my time for debate expired, I was proceeding to the consideration of the enormous expense appertaining to the public printing, and was proceeding to show that while there was a great deal of clamor about the emoluments which the Public Printer of the Senate and the Public Printer of the House of Representatives receive, yet, in fact, a large amount of the money paid for public printing was received by persons other than the Printer. For the sake of illustrating and proving this I will refer to some tables. I refer to tabular statement A, in Miscellaneous Document No. 3, which I will thank the reporter to insert in the report of my remarks.

The table is as follows:

A.—Statement showing the cost of so much of the Printing, &c., ordered by the Senate and House of Representatives of the United States, anterior to the third session of the Thirty-Fourth Congress, as has been completed since the last annual report of the Superintendent of Public Printing.

Title or subject.	No. of pages.	No. of copies ordered.	Cost of printing, folding, gathering, and inserting maps and plates.	Cost of dry pressing.	Cost of paper.	Cost of illustrations.	Cost of binding extra copies.	Cost of binding reserved copies.	Total cost.	Cost per copy.
<i>Thirty-Third Congress, first session.</i>										
Report of the results of the United States Naval Astronomical Expedition to Chili, vol. 6, [quarto].....	468	5,920	\$7,678 11	\$260 75	\$3,106 32	-	\$2,493 69	\$2,805 04	\$16,443 91	\$2 78
<i>Thirty-Third Congress, second session.</i>										
Report of Explorations and Surveys for a Railroad from the Mississippi river to the Pacific ocean, vol. 2, [quarto].....	610	23,920	10,921 54	1,900 00	16,300 11	\$21,786 77	17,116 08	2,805 04	70,829 54	2 96
Same Report, vol. 3, [quarto].....	588	23,920	9,910 98	1,831 50	15,712 86	40,917 96	17,116 08	2,805 04	88,204 42	3 69
Same Report, vol. 4, [quarto].....	524	23,920	10,220 32	1,828 00	13,949 02	24,901 94	17,116 08	2,805 04	70,618 40	2 96
Same Report, vol. 5, [quarto].....	506	23,920	9,596 11	1,576 00	13,521 71	50,341 13	17,116 08	2,805 04	94,956 07	3 97
Same Report, vol. 6, [quarto].....	518	23,970	9,693 79	1,622 00	13,524 43	34,863 94	17,116 08	2,805 04	80,025 28	3 34
Same Report, vol. 7, [quarto].....	454	23,970	8,873 55	1,423 00	12,260 08	25,917 50	17,116 08	2,805 04	68,335 25	2 85
Report of the United States Naval Expedition to Japan, vol. 2, [quarto].....	456	18,420	6,772 72	1,094 00	9,368 96	67,679 30	11,895 40	2,805 04	99,635 42	5 41
<i>Thirty-Fourth Congress, first session.</i>										
Report on the Commercial Relations of the United States with all Foreign Nations, vol. 3, [quarto].....	792	18,420	10,690 47	1,569 50	16,303 26	-	11,895 40	2,805 04	43,263 67	2 35
Same Report, vol. 4, [quarto].....	706	18,420	9,139 04	1,399 00	14,532 98	-	11,895 40	2,805 04	39,771 46	2 16
Total.....	-	-	\$93,496 63	\$14,401 75	\$128,939 73	\$266,408 54	\$140,676 37	\$28,050 40	\$672,173 42	-

This statement exhibits the number of copies of documents ordered by either House of Congress; the cost of printing, folding, and binding; of engraving maps and plates; the cost of paper and illustrations; the cost of binding extra copies; the cost of binding reserved copies; and the total

cost of the work. This tabular statement also shows the actual cost of each volume of extra copies of the works therein mentioned, which were ordered to be printed. From this it will appear that the Public Printer, out of the total expenditure of \$673,000, only received the sum of

\$93,496 63. The cost of dry-pressing is an item of expenditure which the gentleman from Kentucky [Mr. BURNETT] objects to, and which he says is not authorized by existing law. My only answer in respect to that is this: that it has been so adjudicated under your act, providing for com-

pensation to the Public Printer, by the First Comptroller of the Treasury, who audits and settles the accounts of the Public Printer. Therefore his censure must be a censure against the executive department of the Government—not a censure either of the Public Printer or of the Superintendent of the Printing, or of the House itself. If this construction of the law be erroneous on the part of the Comptroller, it is time for the House to correct it; but I am yet to ascertain that it is erroneous.

The cost of the paper on which these volumes have been printed amounts to the sum of \$128,939 73—much more than you pay to the Printer; and the cost of illustration amounts to the modest sum of \$266,408 54; and of binding the extra copies, to \$140,876 37. For binding reserved copies—those which are distributed to public libraries, and of which one copy of all these documents is read by each member of Congress—is the sum of \$28,050 40; the total cost being, as I before remarked, \$673,173.

These figures carry out the remarks that I made the other day. I stated that these maps, illustrations, and engravings, were executed to accompany works ordered by Congress to be printed, and that the compensation actually paid to the Public Printer ranged only from one sixth to one twelfth of the total expenditure.

I also remarked the other day—though the gentleman from Kentucky [Mr. BURNETT] misunderstood me—that it was proposed by this bill to pay for works already executed, and for works which were in process of execution under authority given by one or other House of Congress.

Mr. SINGLETON. Does your estimate cover the whole ten thousand copies of the report of Emory's boundary commission?

Mr. PHELPS. It does not, and I will tell the gentleman why it does not.

Mr. SINGLETON. I will say this to the gentleman and to the committee. There is now in the hands of the chairman of the Committee on Printing of this House, a resolution proposing to strike off five thousand copies of the second volume of that work, the committee believing that we can dispense with that number, without any detriment to Congress or to the Public Printer. Again, sir; geological maps, to be printed in thirteen colors, have been ordered to be printed with this second volume. We propose, in this resolution, to dispense with these colored maps, so far as the extra number of copies are concerned. Let these colored maps go only with the regular copies. By these means a saving of \$30,000 can be effected.

Mr. PHELPS. The gentleman from Mississippi heard read the letter to the Secretary of the Interior. And let me remark, with reference to this boundary survey, Major Emory, who was appointed commissioner on the part of the United States to run that boundary line, has furnished the matter for the first volume of the report; and, as I understand, the engravings are being prepared. They were probably prepared when that first volume was distributed, some time during the past summer. They were prepared, however, under the authority of Major Emory. And here let me invite the attention of the House to a resolution which was reported from the Joint Committee on Printing, and which was passed in the Senate. This resolution proposed to divert the balance of the appropriation for running this boundary line to the printing of the report. But that gave no authority to the Secretary of the Interior to disburse the money in that manner.

Mr. CLINGMAN. I would like to ask a question of the gentleman from Missouri. I desire to know whether, if these works were stopped where they now are, any considerable sum of money would be saved to the Government?

Mr. PHELPS. I doubt whether anything would be saved to the Government by stopping the further execution of them, from the fact that a large amount of the work consists of plates, that are being engraved. A portion of them have been already executed, and the remainder are in process of execution at this time. I have here a letter from the Secretary of the Interior, giving additional information on this subject.

Mr. CLINGMAN. What about the coloring of the plates?

Mr. PHELPS. With regard to the coloring of them, I suppose the decision is to color them.

They are specimens of natural history and botany obtained by the scientific gentleman who accompanied that boundary survey commission; and I suppose that that scientific gentleman would inform the gentleman from North Carolina that if the plates were not colored, they would fail to convey such information as they are intended to convey.

Mr. CLINGMAN. I want to ascertain whether some considerable portion of this money might not be saved by our refraining to take any more of these plates than we have already taken?

Mr. PHELPS. I can answer you on no other terms than I have answered; because we do not know to what extent these engravings have been executed. We have gone on and made contracts for the engraving and printing of these plates; and if we now have their execution suspended, why, as a matter of course, the engravers would have equitable claims on Congress, as well for the work done as for damages on account of our violation of the contract; and you would have your Committee on Claims burdened with applications of this kind, to ascertain the amount due them. As these works are being executed, and the engravings being prepared in distant cities, the Committee of Ways and Means could not obtain the information in time for legislation. There are thirty-six of them being prepared in Europe.

Mr. CLINGMAN. My object, as the gentleman will see, is to obtain the facts in relation to the matter. While I am opposed to all publications of this sort, at the same time, if our contract has gone so far that no money would be saved by the defeat of this bill, I would not be in favor of defeating it.

Mr. PHELPS. My own opinion is, and I believe that is the opinion of a portion of my colleagues on the Committee of Ways and Means, that we could not stop the printing of this work, and save the Government of the United States any considerable portion of the expense.

Furthermore, I will state that we were actuated by this principle in the course we pursued: that when you have directed your printer, and when you have directed your engraver, to perform a certain work, and then refuse to appropriate the money under the contracts made by authority of the House and Senate, or by authority of the Government, we actually become repudiators—a position which I will never, by my vote, assume.

Mr. SINGLETON. I wish to call the gentleman's attention to another point. I wish to know whether the gentleman has any evidence as to whether or not these ten thousand maps ordered to be struck off have been executed; and if they have not been executed, whether we could not dispense with them without seriously impairing the value of the work?

Mr. PHELPS. In reply to the interrogatory, I will read a letter from the Secretary of the Interior.

Mr. SINGLETON. I wish to state further that we, as members of the Committee on Printing and Binding, have had before us individuals who were well acquainted with these maps, and we learned from them that none of them had been colored; that thirteen stones upon which this work is executed, and the coloring itself, have not been done; and so far as the ten thousand copies of the second volume are concerned, that we may dispense with those maps without any injury to the work itself. By refusing to color these maps we save the Government some \$10,000.

Mr. PHELPS. If the gentleman expects the Committee of Ways and Means are going to examine into what is necessary to illustrate these works which the House has ordered to be printed, the House must appoint some other person than myself as a member of that committee; for it is an impossibility for us to investigate all these items of expenditure. When you have a Committee on Printing, whose duty it is to investigate and inquire into this matter, it is their duty to inquire whether you can dispense with any portion of the public printing, and whether, in their opinion, we can dispense with these plates which are being prepared in Europe, in Georgetown, in New York, Buffalo and Philadelphia. I now refer gentlemen to a letter of the Secretary of the Interior, in answer to certain inquiries made by myself. It is the following:

DEPARTMENT OF THE INTERIOR,
January 27, 1858.

SIR: I have the honor to acknowledge the receipt of your note of yesterday, asking "how many plates of the bound-

ary survey (Mexican) have been executed, where executed, how many are yet to be executed, and when?" and in reply I have to state that all the illustrations for the first volume have long since been completed. They are comprised in seventy-four steel engravings, three diagrams on copper, twelve stone engravings, and twenty wood cuts. (See "contents" of first volume.) As it will require some time to investigate this volume, so as to reply to your queries, and as it is nearly ready for distribution, under the Senate and House orders, I refer that you have reference more particularly to the illustrations of the second volume or appendix.

Major Emory, United States Commissioner, in a communication, addressed to the Department, dated October 7, 1857, stated that there were at that time one hundred and thirty-three pages (eighty-one plates) completed, illustrations for the second volume, being principally illustrations of the natural history and botany of the route, &c., about to be turned over to the Department; and further stated that there were about one hundred and forty-four pages more in progress in the hands of artists, viz:

33 steel pages, in the hands of Dr. Engelmann, in Europe.
28 (27) steel pages, in the hands of W. H. Dougal, Georgetown, District of Columbia.

2 lithographic plates, botany, in the hands of Ackerman, New York.

48 lithographic plates, botany, in the hands of Prestelle, Buffalo, New York.

25 lithographic plates, birds, in the hands of Cassin, Philadelphia.

4 or 5 plates (?) placed in the hands of some Paris engraver by Dr. Torry, of New York.

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Since the date of Major Emory's report above referred to, Mr. Dougal has finished the twenty-seven (reduced one by rearrangement of material on the steel plates) in his hands. Ackerman has furnished informally seven proofs of botanical (stone) engravings. Prestelle has furnished nothing. Cassin has furnished nothing. Torry has furnished nothing. Engelmann has forwarded from Europe sixteen pages of botany, (steel plates,) now in the custom-house at New York, and daily expected here.

The Department has no official knowledge of the progress of the plates now in the hands of artists, nor any definite idea as to the exact number. Those remaining in the hands of Doctor Engelmann will not probably be finished in twelve months. Cassin's birds are about completed. Ackerman has probably in hand some ten or twelve plates, (stone,) which, it is understood, are a part of the forty-eight above referred to as being in the hands of Prestelle.

There appear, therefore, to be completed and in the custody of the Department, one hundred and sixty pages for the second volume, and about one hundred and sixteen in progress.

I am, sir, respectfully, your obedient servant,
J. THOMPSON, Secretary.

Hon. JOHN S. PHELPS, M. C.

Mr. JOHN COCHRANE. I wish to inquire of the gentleman from Missouri, whether in his opinion, if the execution of these works be arrested here, there will, either in law or equity, be a violation of any contract with any person whatever?

Mr. PHELPS. My opinion is that there will be. If any engraver has made a contract with a legally appointed officer of the Government to perform certain work, the Government becomes liable, in my opinion, not only for the work actually done, but, in strict justice, to damages for the non-performance of the contract.

Now, sir, in reference to the matter of how much is due the printer, gentlemen seem to misunderstand the position of the printer who is to perform the work. Some of these works were ordered to be printed by the House and Senate in the Thirty-Third Congress, and they are to be executed by the gentlemen who were the printers for the Thirty-Third Congress, and not by the printers whom the Senate and House have elected for the present Congress. Mr. Nicholson was elected printer of the House for the Thirty-Third Congress, and what is due on account of the printing ordered by the House for that Congress is due to him. Mr. Tucker was the printer for the Senate for the same Congress, and what is due on the work ordered by the Senate for that Congress is due to Mr. Tucker. You had two printers at the last session. Mr. Nicholson was the printer for the Senate, and Mr. Wendell for the House; and, sir, there are amounts due to these gentlemen for printing ordered to be done by the Senate and the House of Representatives of the Thirty-Fourth Congress. There is, too, a mass of printing executed which is only in part of works ordered; and so soon as the works shall be completed, and turned over to the Superintendent of Public Printing, these gentlemen will become entitled to their pay, according to the rates provided in the act of Congress of 1852.

Mr. GARNETT. I will ask the gentleman a question in connection with the inquiry of the gentleman from New York, and it is this: are not some of the contracts for engraving of this character: The contract is made by a certain

party with the Committee on Engraving, to do a certain work, to engrave the drawings and maps; that is, that the contract is indefinite, like the order to the printer of the House, that he shall do all the work at a certain price which is put into his hands? If this be so, is not a portion of this engraving then of such a character that we can rescind the order in respect to drawings not yet in the engraver's hands without any violation of a contract? Does the gentleman from Missouri mean to say that the sum of \$490,000, provided for by this bill for binding, lithographing, and engraving, is all the committee intended to pay, not only for orders already made, but for work actually in the engraver's and binder's hands?

Mr. PHELPS. The gentleman has propounded several inquiries. One is, as I understand it, whether the contracts have not been made with one person to execute the engraving for a particular work? My information is different from that which the gentleman's question would lead us to infer he has received.

Mr. KELSEY. With the gentleman's permission, I will answer that question. There has been no contract made by the Committee on Engraving during the last Congress with any artist to do all the work appertaining to a particular work. The work has been divided among a large number of artists, in order that it should be finished in time; nor has any particular number of plates been assigned to any particular artist, so far as I am informed. After fixing the price to be paid for the work, the committee directed contracts to be made with several persons, dividing the work between them.

And here, sir, let me say that the entire amount of engraving ordered by the House, independent of the Senate, during the last Congress, as reported to me by the Superintendent of Public Printing, is \$76,291 94. That does not include the engraving that the Committee on Engraving on the part of the House ordered in connection with the Committee on Printing on the part of the Senate.

Mr. GARNETT. The gentleman does not answer my question. I mean to inquire whether the contract was made for the engraving of a particular number of plates, or was it an indefinite contract for plates attached to a certain work?

Mr. KELSEY. The contract as directed to be made by the Committee on Engraving, is not for a specific number of plates, but that the plates belonging to a particular work shall in equal proportions be divided amongst a certain number of artists who bid for it.

Mr. GARNETT. And therefore if you rescind the order for plates not yet in the engraver's hands, there is no violation of contract?

Mr. KELSEY. I think not.

Mr. GARNETT. That is what I wanted to get at.

Mr. PHELPS. I referred the gentleman from Virginia, the other day, to the joint resolution passed on the 18th of January, 1855, which directs the Superintendent of Public Printing, whenever any drawings, maps, diagrams, views, or other engravings shall be required to illustrate any document ordered to be printed by either House of Congress, those engravings shall be procured by the Superintendent of Public Printing, under the directions of such committee as the House shall appoint. As I am informed, the Superintendent of Public Printing invites proposals, the Committee on Engraving inspects them, and the contracts are then made by the Superintendent. These engravings are divided up. And, sir, the gentleman from Virginia had an answer to his inquiry, in the letter from the Secretary of the Interior, which I read, if he had listened to it. There we were informed that six or eight different engravers are engaged in executing illustrations for that second volume of Emory's survey.

I was remarking, Mr. Chairman, when I was interrupted, that the amount which was due to the Public Printers, is not due to the Printers for the Senate and the House elected at the present session, but to the gentlemen who were the Public Printers at the time the work was ordered. Some four volumes of the Pacific railroad report have been printed, for instance, and other volumes are still to be published; and the compensation for printing those other works will go to Mr. Tucker and Mr. Nicholson, who were the Public Printers at the time the publication was ordered. So with the Commercial Relations, Mr. Nicholson was the

Public Printer for the Senate, and Mr. Wendell for the House, when that book was ordered to be printed during the Thirty-Fourth Congress; and when it shall be completed, they will be paid for that work. Gentlemen seemed to misunderstand me when I remarked the other day, when I endeavored to explain, that the Superintendent of Public Printing never certified the account of the Public Printer to the Comptroller, to be audited and allowed, until the entire volume was furnished.

There are now several incomplete volumes in the hands of the gentlemen who have been executing the public printing for the last two Congresses. There is a portion of Gilliss's report to be finished. I was led into an error myself in reference to that work. I stated that there were two volumes of the manuscript which had not yet been placed in the hands of the Superintendent of Public Printing. That statement gave an erroneous impression to this committee, and I was misled myself, by the information I had received from the Superintendent of Public Printing. I had conversed with that gentleman, and with the gentleman who has been the chief clerk in the office since it was established, and I was informed by them that the manuscript for the fourth and fifth volumes of that report had never been placed in the charge of the Superintendent of Public Printing. But yesterday I was waited upon by the author of that book, who informed me that, in pursuance of a verbal order given him by Mr. Seaman, the late Superintendent, the manuscript had been sent directly to the Public Printer who is to execute the printing. The proof-sheets, as they were ready, had also been submitted to him. He informed me that a portion of the manuscript of each of those volumes had been furnished, under the order of Mr. Seaman, to the Public Printer, and that a portion of each had been printed. I argued, the other day, from the statement furnished to me, that the manuscript had not yet been furnished to the Superintendent or the Public Printer, that that work had not been commenced.

Mr. BURNETT. I desire to ask the gentleman from Missouri if the sending of the manuscript, by the author, to the Public Printer in the manner in which it has been done, is not in direct violation of the law of 1852?

Mr. PHELPS. What provision of the law?

Mr. BURNETT. The provision requiring that all manuscripts shall be filed in the office of the Superintendent, and by him transmitted to the Public Printer.

Mr. PHELPS. Yes, sir; and I think that the action of the House, in ordering a document to be printed which was not written, was in violation of the spirit of the act of 1852. I think we ourselves have been guilty of a violation of the law of 1852, regulating the public printing. We ordered this very report of Lieutenant Gilliss to be printed before it was written.

Mr. STEPHENS, of Georgia. No, sir. Where is the resolution ordering it to be printed? It did not order anything to be printed that was not then prepared.

Mr. PHELPS. I read, the other day, the resolution under which that work was ordered to be printed. It is as follows:

Resolved, That there be printed and bound, by the Public Printer and Binder of the House, six thousand copies of the report, and two thousand copies of the observations of the United States naval astronomical expedition to Chili; five hundred copies of the report and observations for the use of the Secretary of the Navy, two hundred and fifty for the superintendent of the expedition, and the remainder for distribution by the members of the present House; said work to be printed in quarto or octavo form, as the work will admit and the Committee on Printing may direct."

Now, I state that the observations accompanying the report were not, at that time, reduced to a form for publication.

Mr. STEPHENS, of Georgia. The gentleman means that matter, which has since been printed, was not then prepared; but did that resolution contemplate the printing of anything that was not in the report at that time? Did the resolution authorize the publication of anything afterwards to be written? I say, no.

Mr. PHELPS. The gentleman and myself differ as to the construction of the resolution. But you have directed the Pacific railroad surveys to be printed before they were written. You directed, by a resolution of the House, the reports of Lander and Colonel Fremont to be printed, and it

is well known that neither of these gentlemen had furnished reports.

Mr. STEPHENS, of Georgia. I call again for the authority to print anything that was not written. We differ entirely about the construction of the authority.

Mr. PHELPS. Very well; we differ with respect to the construction of the authority. I tell the gentleman, and the committee, that the reports of Fremont and Lander had not been written when the resolution passed directing them to be printed. And I state further, that the Patent Office report has been ordered to be printed before it was here.

Mr. STEPHENS, of Georgia. The resolution authorizing the publication of the Pacific railroad surveys did not authorize the publication of anything not then written. It is true, that under the construction given to the resolution, matter that was not then written has been published. I suppose, too, that, under the resolution authorizing the publication of Lieutenant Gilliss's report, the same thing has been done, and that they are going on now writing upon it, and will continue to do it just so long as this House sanctions it. But what did the resolution which the gentleman has read authorize? It authorized the publication of the report. What was meant by the report? Why, something in writing. For what purpose was it to be printed? For distribution among the members of that Congress. Does not that show that the resolution did not contemplate the publication of something which was to be written during succeeding Congresses, and which is still being written?

Mr. PHELPS. I will give the gentleman information in relation to another document ordered to be printed before the manuscript was even in the possession of the Secretary of State or of the House, and that is the report on Commercial Relations. The resolution was adopted by the House in this form:

Resolved, That the answer of the President of the United States to the resolution of the House of Representatives of December 14, 1853, upon the commercial relations of the United States with all foreign nations, be printed by the Printer of this House, in quarto form, under the direction of the Secretary of State, who is hereby authorized to cause all corrections therein which, in the course of printing, may be found requisite to be made, and also to cause to be added all additions thereto of commercial information which, subsequently to the transmission of said answer to the House, may reach the Department of State, which shall by him be deemed of sufficient importance."

Mr. STEPHENS, of Georgia. Why, Mr. Chairman, that is the resolution which was first offered, and which was referred to the Committee on Printing. Will the gentleman now turn to the resolution that was reported by that committee?

Mr. PHELPS. The gentleman from Georgia is mistaken. That resolution was adopted, except so far as directing a certain number of extra copies to be printed.

Mr. STEPHENS, of Georgia. No, sir; that resolution, under the law regulating the public printing, had to go to the Committee on Printing; and that committee reported it back. Why, the gentleman has this day stated to the committee that the very number of pages which the work would make was given by the Secretary of State.

Mr. PHELPS. The gentleman is in error, unless his statement is to contradict the records of the House. I read now from the Journal:

"To the House of Representatives:

"I transmit the report on the commercial relations of the United States with all foreign nations, in answer to the resolutions of the House of Representatives of December 14, 1853.

FRANKLIN PIERCE.

"WASHINGTON, March 4, 1855.

"The same having been read, Mr. ELLIHU B. WASHBURN offered the following resolution; which was read, considered, and agreed to, to wit:"

Then follows the resolution which I have read, and which directs the printing of such information as should be subsequently received, as the Secretary of State might deem important. The Journal then goes on as follows:

"On motion of Mr. ORR.

"Ordered, That it be referred to the Committee on Printing on the part of the House to inquire into the expediency of printing twenty thousand copies extra of said message and the accompanying documents."

Mr. STEPHENS, of Georgia. Will the gentleman allow me—

Mr. PHELPS. Not just now. I wish to explain.

Mr. STEPHENS, of Georgia. The gentleman needs to explain.

Mr. PHELPS. The gentleman is wrong in this. The House may order the printing of the regular number of any document; but when it is proposed to print *extra* numbers, the propriety of printing those extra numbers is referred to the Committee on Printing.

Mr. STEPHENS, of Georgia. Certainly.

Mr. PHELPS. You may order the printing at any time of the President's message and the accompanying documents; but a proposition for the printing of extra copies for distribution is a matter which the Committee on Printing have to examine into. Now, I say that the resolution which I have read directed the printing of additions to be made to the report.

Mr. WASHBURN, of Illinois. I hope the gentleman from Missouri will give way to me for a moment. I know something in relation to the printing of this work entitled *Commercial Relations*; and as I have been alluded to by the gentleman from Virginia in his remarks as being in some degree responsible for the printing of it, I wish to refer to the record to show how it stands. I hope the gentleman from Missouri will let me have a very little time to explain this matter.

Mr. PHELPS. Do not take too much of my time.

Mr. WASHBURN, of Illinois. I will be brief. It will be recollected by those who recollect anything about this subject, that the resolution in relation to these commercial statistics was introduced by the gentleman from Virginia, [Mr. FAULKNER,] on December 14, 1853, requiring this information to be given. On the 10th of March, 1856, the President of the United States transmitted to the House the information which was required by that resolution; and the then Secretary of State (the late Mr. Marcy) addressed a letter to me, as chairman of the Committee on Commerce of the last Congress, on the subject, and inclosed a form of resolutions to be passed by the House, which he supposed would answer the purposes of the original resolution requiring the information. That resolution was passed by the House unanimously. It provided for the printing in the manner therein specified.

The Secretary, in his letter to me, also transmitted a letter from the Superintendent, Mr. Flagg, the gentleman who had charge of the work. And it was not only on the authority of the information contained in that letter that I made my remarks before the House, but on the authority of the information which I obtained at the Department before I reported the resolution. I went to the State Department and examined the manuscript and somewhat into the character of the work. I was informed by the Superintendent that it would make a volume like one which he had in his office and printed by order of the British Parliament. I brought that volume to the House, and held it up to the view of the House in order to let it be seen what sort of a volume it was supposed it would make. The manuscript was sent in to the House at the time the resolution was passed, and the mistake was on the part of the Superintendent and Secretary as to how much printed matter the manuscript would make.

It only amounts to this, that the work being printed in a style and manner appropriate for such a work, it has made more than it was supposed. I will read what Mr. Flagg says in his letter:

"5. The report will probably make, if printed, a quarto volume about the size of one of the volumes of Executive Documents No. 91, containing the 'Report of Explorations and Surveys, &c., for a Railroad to the Pacific Ocean,' printed by order of the House in 1855, or the 'Coast Survey,' or the 'House List of Private Claims.' Commercial and statistical matter, like that of the present report, is generally printed by other Governments (by Great Britain, France, Belgium, Austria, Spain, Mexico, &c.) in the large quarto form, for the more convenient arrangement of tabular statements."

Mr. PHELPS. I have made no reflection upon the gentleman from Illinois.

Mr. WASHBURN, of Illinois. I say further, that I had nothing to do with the extra copies; my resolution did not provide anything of the kind. The motion for such extra copies did not come from me. It came from the honorable Speaker of the House, who proposed twenty thousand extra copies; and as to all that matter of the price of printing, I had no knowledge.

Mr. PHELPS. The gentleman has misunderstood my object in referring to this. I quoted that part of the resolution which directed the printing of any subsequent information that the

Secretary might deem important, and which resolution the gentleman from Illinois says was prepared by the Secretary of State. I quoted it to sustain the position that I took. In reply to the interrogatory of the gentleman from Georgia, [Mr. STEPHENS,] I stated that the resolution directing that document to be printed had passed unanimously, and that it directed the printing of matter where the manuscript had not been received.

Mr. WASHBURN, of Illinois. One word more. I will show that the House did not act in the dark; that members were not misled. Here is the letter of Mr. Flagg on this subject, read in the presence of the House, and I want to read it now to do him justice, and to show further that the House was fully advised in the premises and knew what it was about:

"It is very respectfully suggested that, inasmuch as it is important that the House should comprehend the character and contents of the report about to be transmitted, in order that they may act understandingly in its disposition, and, inasmuch as very little can now be known of it, and, if printed, months must elapse before it can appear, and inasmuch as the introductory letter of the Superintendent to the Secretary of State gives, in about a dozen foot-scrap pages of ordinary writing, a complete *resumé* of the whole report, it might be well if a few thousand copies of that letter were printed at once for general information."

Although this work has cost a considerable sum, it has cost less than any work of the kind ever printed. It is undoubtedly the most comprehensive, most important, and most valuable work ever printed by Congress, and does great credit to the gentleman (Mr. Flagg) who got it up. It has given us great credit at home and abroad.

Mr. PHELPS. The gentleman from Illinois has paid a very handsome compliment to Mr. Flagg, which I endorse.

Mr. STEPHENS, of Georgia. I suppose that the gentleman from Missouri will no longer insist on that resolution which he has read, being so construed as to authorize the printing of two or three additional volumes.

Mr. PHELPS. The resolution does sustain my position, that the House did order the printing of manuscript not in its possession, but not that it ordered the printing of extra copies. I am not contending for that. It ordered the printing of manuscript which might be thereafter compiled under the direction of the Secretary of State. It ordered the printing of information which might be received subsequent to the date when he communicated that document to the House, and which the Secretary might regard as important to the commercial relations of the country.

But the gentleman from Georgia seems to find fault with this public printing. Has not that gentleman been aware that a resolution was adopted directing the printing of the Pacific railroad surveys? Has he not been aware that expenses were incurred in the procurement of the paper, in placing the manuscript in the hands of the printer, and in directing him to execute the work in pursuance of the act of 1852? Has he not been aware that maps and illustrations have also been placed in the hands of engravers, under contracts made by lawful authority, and that the expenses were running on day after day? And when has he interfered to arrest this expenditure?

But now that contracts have been lawfully made, and that the work has been progressing under them, a singular spirit of economy seems to have come over the committee; and certain gentlemen are willing to put in practice the principle of repudiation, and to repudiate and refuse to pay the obligations which our predecessors have incurred and which are as valid and binding on us as the bonds of the Government which were issued under the act of 1847, and which are now outstanding, or as the Treasury notes that were authorized to be issued the other day, and that are now in the hands of the community. Go to the public printing office here, and you will find some four hundred persons employed, and you will find an amount due to the persons engaged in the management of that concern of nearly sixty thousand dollars. During these late hard times indeed they were compelled to borrow money to pay their workmen, at the rate of from three to five per cent. a month. And yet members of the House of Representatives are unwilling to pay the amount due for this public printing, so as to enable the printer to pay the wages of the workmen in his employ.

There is another view to be taken in connection

with this matter. That is, that one who was a Public Printer is now abroad, and has left that duty to be discharged by another person in his name—to execute the printing ordered by the Senate during the Thirty-Third Congress; and liabilities have been incurred, and money is due to him on this account.

What else? You have sent abroad over the country inviting proposals for furnishing paper, according to the directions of the act of 1852. Paper manufacturers have made their proposals to the Superintendent of the Public Printing. Their propositions have been accepted, and they required to furnish from time to time paper for the public printing, and have furnished it; and at this time there is over one hundred thousand dollars due to these paper manufacturers, and they are embarrassed on account of the non-payment of the amount due them. They appeal, not to the liberality of Congress; but they ask that the contracts which they made shall be faithfully executed and observed. They ask Congress to place at the disposal of the Government the money necessary to liquidate their just demands under their contracts. The same may be said of the engravers, lithographers, and copper-plate printers, scattered through the northern cities. They have been employed under competent authority to execute these works, to furnish these maps and charts to us; and they want from this Government the money justly due them.

These, Mr. Chairman, are some of the reasons that induced the Committee of Ways and Means to ask for the passage of this bill. We must endeavor to guide our course in future by the examples that we have had. I was pleased, the other day, to see the defeat of the resolution reported by the Committee on Printing, providing for the printing of the Coast Survey report. It was estimated that the cost of these copies would amount to \$20,000; and yet, in my opinion, the expense would have exceeded the amount estimated by that committee. Gentlemen will recollect that the cost of the printing of the Coast Survey report for the last Congress was near forty thousand dollars, and although the Committee on Printing proposed to reduce the number of copies ordered to be printed for the present session, yet they will not thereby diminish the cost in the same proportion. The cost of composition will be the same whether you print one copy, five hundred, or five thousand.

Mr. Chairman, I have had no desire, as the committee will bear me witness, of precluding debate upon this bill. The Committee of Ways and Means were actuated by the belief that the appropriation of this money was necessary to comply with the contracts of the Government. We, however, desired to put the items relating to this subject in a bill by itself, for the purpose of calling the attention of the country to the extravagance of the preceding Congresses, in the hope that the constituents of the members of the present Congress will hold them to a strict accountability, and that now, while the Government is borrowing money, while we concede that the former Congresses ordered documents to be printed which were unnecessary, and which it would have been expedient not to print, let us govern our course in future in view of the experience we have derived from the acts of the preceding Congresses.

Mr. JONES, of Tennessee. I desire to call the attention of the gentleman from Missouri to the disparity of the cost between the same volumes of *Commercial Relations*, as published by the House and by the Senate. I find, for instance, that the first volume ordered by the Senate contains eight hundred and twenty-eight pages, and cost \$2 53 per volume; while the same volume, ordered by the House, contains eight hundred and twenty-eight pages, and cost \$2 38 per volume.

Mr. PHELPS. I will answer the inquiry of the gentleman in one moment. The price paid to the binder of the Senate was a little higher than that paid to the binder of the House. The gentleman is aware that the binder of the House is appointed, and that his compensation is regulated by the Committee on Printing upon the part of the House; and that the binder of the Senate is appointed and his compensation regulated by the Committee on Printing upon the part of the Senate. The Senate paid a little more for its binding than the House, and this accounts for the disparity to which the gentleman alludes.

Mr. BOYCE. The gentleman from Missouri speaks of some of these plates having been executed in Paris. I wish to ask him whether they could not have been as well executed in this country?

Mr. PHELPS. I suppose they could; but it is probable, in consequence of the large amount of engraving in the process of being executed by the engravers in our country, it was impossible to have the work executed as soon as required, and, therefore, engravers in other countries were employed.

Some conversation here occurred between Mr. PEYTON and Mr. PHELPS, entirely inaudible to the reporter, when the hammer fell, the hour for closing debate having expired.

The CHAIRMAN stated the question to be on the amendment offered by the gentleman from Kentucky, [Mr. BURNETT.]

Mr. CRAWFORD. I move to strike out all after the tenth line, and to insert the following:

To pay for paper, \$104,000.

To pay for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, \$47,619 94.

To pay for the binding, lithographing, and engraving, ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses, \$164,569 64.

Sec. 2. *And be it further enacted*, That the Public Printer is hereby instructed and required not to print any further "reports of the results of the United States naval astronomical expedition to the southern hemisphere," nor "of the explorations and surveys to ascertain the most practicable route for a railroad from the Mississippi river to the Pacific ocean," nor "of the United States commission to survey a boundary line between the United States and the Republic of Mexico," other than such reports of each as may be now written and in his hands for publication.

Mr. Chairman, as the hour debate has been terminated, I have not the time to discuss these questions as I would like. I will speak of some others than those I shall now address myself to, as the debate progresses.

I am in favor of paying for the work that has been done. I only propose to cut off everything that has not been done. I find, that in reply to an interrogatory from the Committee of Ways and Means, the Superintendent of Public Printing has declared the amount due and required to pay for the paper for the Thirty-Third and Thirty-Fourth Congresses to be \$104,000. That is due, and we ought to pay it. He says in his report that he answers this question, although he was not requested to do so; yet other questions which were propounded to him he does not answer. I propose to pay for this paper, and to cut off the rest. This will save the Government \$65,000. I propose to pay also for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses. The amount is \$47,619 94. We owe that much, according to the report of the Superintendent of Public Printing, and we ought to pay it. I propose to pay also for the binding, lithographing, and engraving, ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses. The amount is \$164,569 64. That is due, and ought to be paid. The whole amount which I propose to cut down is \$474,000.

We were called upon, in the deficiency bill in 1856, to supply the sum of \$406,000 as deficiencies in lithographing and engraving. Congress did vote that amount for the purpose specified; and we were called upon in 1857 to vote the round sum of \$250,000, to supply deficiencies in the same character of appropriations. We are called upon now to vote an additional appropriation of \$790,000—making, in round numbers, in all, \$1,446,643—to supply deficiencies for printing, binding, &c., of books; some of which, it is stated, are not yet written, while others are in the process of preparation. In regard to Gilliss's report, we are informed by the Superintendent of Public Printing that he has no information when that work will be finished—to what number of volumes the results of the astronomical surveys in the southern hemisphere will run. I propose to stop these works, all of them, just where they are; I propose to cut down this bill to \$316,000, which is the amount the Government owes, and ought to pay. I would rather pay the damages we will subject ourselves to, than to run up a deficiency bill to \$1,000,000 at each session of Congress.

The Superintendent of Public Printing tells us, sir, that he has no information, I will repeat, as to the period at which the completion of Mr. Gilliss's report is probable; and if we are to con-

tinue in this line, there is no telling the amount of money that will be required to supply deficiencies before the work is printed. I understand the author has been relieved from his position in the Navy, and that he has nothing to do now but to write out his report of his surveys, &c., in South America. Are we in a condition to afford this? With a necessity existing, calling for extraordinary means to get money into the Treasury, and while war threatens with Utah, are we to extravagantly lavish hundreds of thousands of dollars upon this book? These are pertinent questions.

The CHAIRMAN. The gentleman's time has expired.

Mr. CRAWFORD. I am sorry for it. Others have obtained the floor to discuss Kansas affairs and other questions, when I have failed to get it with a view to discuss the bill before the committee.

Mr. SANDIDGE. Is further amendment in order?

The CHAIRMAN. It is in order to reply to the remarks of the gentleman from Georgia, if the gentleman wishes to do so. The gentleman can only speak to the amendment to the amendment.

Mr. NICHOLS. With the gentleman's permission I will make some remarks in opposition to the amendment of the gentleman from Georgia. If I understand the amendment, it proposes to dispense with any work necessary to complete the works now in progress. It may be very proper for the House to manifest its sense of what has been done in reference to some of these works. To that I have no objection. I believe, sir, that the pruning knife might be applied even to this bill, and amendments made to it, which will work good. But I am opposed to the amendment of the gentleman from Georgia, and for this reason: Take one single work—there is the Commercial Relations of the United States with all nations; you have the first, third, and fourth volumes printed. I presume there is no question in the mind of any gentleman as to the value of that work. The amendment of the gentleman would stop the publication of the only volume necessary to complete the series, the second volume.

Mr. CRAWFORD. The gentleman misunderstands my amendment. There is nothing in it about the report on commercial relations.

Mr. NICHOLS. As I understand the proviso of the gentleman from Georgia, it cuts down all that is not now printed. That is what I oppose. I want this report on Commercial Relations completed. I want also the Pacific railroad surveys completed. Have gentlemen who served in the last House of Representatives forgotten that, upon a distinct question made in reference to that work after prolonged discussion and fierce controversy, the money was placed within the control of the Secretary of War for the express purpose of preparing the maps, engravings, and illustrations, which gentlemen are now talking so much about?

I say that, if the work is costing money, it is the fault, not of the House, but of the officers who are preparing it, and the House which heretofore authorized this publication, and placed the means in the hands of these officers of swelling the expenditures in reference to it. For this reason, and believing, too, that the work itself is a work of great utility, I wish to see it completed.

But, Mr. Chairman, I do not believe that it is necessary to complete that work, or the work of Emory, in the style and manner that they are estimated for here. Why, sir, I find in these estimates forwarded to the Committee of Ways and Means, a sum set down here for colored engravings. Let any gentleman take the second volume of the Japan Expedition, and look through it, and he will find that the views of scenery are not colored; but when you come to a picture of a little fish, you find it spotted with a color or two, and the increased cost is in consequence of this change in the ordinary mode of illustrating these works. Strike down all these profuse illustrations; put a limitation upon the appropriation which shall restrain the contractors to that end, but that which is useful of itself—of practical utility—I ask the House to retain.

Mr. SMITH, of Virginia. Is it in order now to offer an amendment?

The CHAIRMAN. The Chair is of the opinion that it is not. The amendment to the amendment must first be disposed of.

Mr. CRAWFORD. I desire to say to the committee that I will withdraw my amendment in the shape in which it now is, and present it as a substitute for all after the tenth line of the bill.

Mr. GROW. I object to its being withdrawn for that purpose.

Mr. CRAWFORD. I will withdraw the amendment, if there is no objection.

Mr. GROW. I object. Let us have a vote upon it.

Mr. HOUSTON. I understand that the gentleman from Georgia proposes to withdraw his amendment as he has presented it, and submit his amendment by way of a substitute for the entire bill, or for two thirds of it.

The CHAIRMAN. There is objection to the withdrawal of the amendment.

Mr. HOUSTON. There can be none.

Mr. GROW. I object.

Mr. HOUSTON. The gentleman from Georgia has a right to withdraw his amendment, and then submit another.

The CHAIRMAN. The Chair decides that he has no such right.

Mr. EUSTIS. I desire to ask the gentleman from Georgia [Mr. CRAWFORD] a question.

[Cries of "Order!" and "Question!"]

The CHAIRMAN. The gentleman is out of order.

Mr. GROW. Is it in order now to move to strike out the fourteenth and fifteenth lines?

The CHAIRMAN. The Chair thinks not. The question before the committee is on the amendment to the amendment.

Mr. EUSTIS. I desire to ascertain—and I ask the Chair if it is not in order for me to ask the gentleman from Georgia, [Mr. CRAWFORD]—whether the amount of \$104,000, which the gentleman from Georgia proposes to substitute for the amount reported by the Committee of Ways and Means to pay for the paper of the Thirty-Third and Thirty-Fourth Congresses, includes the amount which will be required to pay for the paper of the second volume of the Commercial Relations, or is that excluded?

Mr. LETCHER. Certainly it is excluded.

Mr. EUSTIS. The third and fourth volumes have already been published, and we ought surely to appropriate the money to pay for the paper of the second volume.

[Cries of "Order! Order!"]

The CHAIRMAN. The gentleman from Louisiana is not in order.

Mr. GROW. I rise to a point of order. The motion of the gentleman from Kentucky, [Mr. BURNETT], as I understand it, is to strike out all after the enacting clause. The motion of the gentleman from Georgia [Mr. CRAWFORD] is to amend the amendment of the gentleman from Kentucky. Now, it is in order to amend any portion of a bill proposed to be stricken out; and, therefore, it will be in order to move to strike out lines fourteen and fifteen of the bill; because, sir, if you cannot amend before the motion to strike out is carried, you cannot perfect the original bill.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HOUSTON. I want to know the state of the question.

Mr. GROW. I ask the Chair to decide my point of order which is, that any portion of the bill proposed to be stricken out is open to amendment before the vote is taken on striking out.

The CHAIRMAN. The Chair thinks not in this stage of the proceedings, and overrules the question of order.

Mr. GROW. I would like to know, then, how you can perfect the original bill?

Mr. HOUSTON. I desire to know what is the precise state of the question?

The CHAIRMAN. There is an amendment pending, and also an amendment to the amendment which will be reported.

The Clerk read the amendments.

Mr. HOUSTON. I understand that the amendment of the gentleman from Georgia [Mr. CRAWFORD] is intended as a substitute for the bill. It is competent for the committee to perfect the original bill before the vote be taken between it and the substitute; and it is also competent to amend the substitute offered by the gentleman from Georgia before the vote be taken.

The CHAIRMAN. The Chair thinks not, and

that the vote must be taken on the amendment to the amendment.

Mr. SHAW, of Illinois. I desire to know whether the substitute proposes to appropriate a sufficient amount to pay for all the matters now in the hands of the artists?

Mr. MORGAN. Are we to have the question put, or is this dialogue to go on over there in a corner?

The CHAIRMAN. Discussion is not in order.

Mr. CRAWFORD demanded tellers on his amendment.

Tellers were ordered; and Messrs. SMITH, of Tennessee, and DEAN were appointed.

Mr. SMITH, of Virginia. I desire to know whether, if the substitute be adopted, we can amend the substitute?

The CHAIRMAN. The Chairman thinks so, at present.

Mr. LETCHER. I desire to inquire whether, if the substitute of the gentleman from Georgia be adopted, it would be in order to strike out any part of it?

The CHAIRMAN. The Chair thinks not. No part of the substitute can be stricken out.

Mr. GARNETT. Would it not be competent for the committee to amend it by way of addition?

The CHAIRMAN. The Chair thinks so.

Mr. STEPHENS, of Georgia. I would inquire from the gentleman from Virginia, [Mr. LETCHER,] whether he agrees with my colleague [Mr. CRAWFORD] that, if his amendment prevails, it will cover all we owe for work done or executed? Will it relieve us from all we owe in that matter?

Mr. LETCHER. No, sir, I do not agree with him in any such thing. Suppose I contract to purchase a plantation from you at so much an acre, which is estimated to contain five hundred acres, but which, on being surveyed, is shown to contain one thousand acres, am I not bound by my contract to pay you for the whole quantity it contains?

Mr. STEPHENS, of Georgia. I move, before the question be taken, to amend the original bill, by striking out the sixteenth line, "to pay for printing and lithographing."

The CHAIRMAN. The Chair decides that motion to be out of order, the House being in the act of dividing.

Mr. STEPHENS, of Georgia. Then I raise a question of order. The gentleman from Georgia [Mr. CRAWFORD] proposes to strike out all after the ninth line of the bill. Before that question is put, I have a right to amend the bill as it stands. Most assuredly I have.

The CHAIRMAN. The Chair overrules the point of order. The House is dividing on the amendment of the gentleman from Georgia [Mr. CRAWFORD] to the amendment of the gentleman from Kentucky, [Mr. BURNETT.]

Mr. STEPHENS, of Georgia. The Chair does not seem to understand my point of order. The motion made by my colleague was, to strike out certain lines of the original bill. Before that motion is put, it is in order to amend the original matter. Does the Chair overrule my point of order?

The CHAIRMAN. The Chair does overrule it. The Chair is of opinion that it is not in order now.

Mr. STEPHENS, of Georgia. Then I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Kentucky offers an amendment to strike out all after the seventh line of the bill and insert other words. The gentleman from Georgia [Mr. CRAWFORD] proposes another amendment. The other gentleman from Georgia [Mr. STEPHENS] makes the point of order, that it is in order to perfect the original bill before the question be taken, and the Chair overrules the point of order. From that decision of the Chair the gentleman [Mr. STEPHENS] appeals. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken; and there were, on a division, ayes 67; noes 51.

So the decision of the Chair was sustained.

Mr. BURNETT. With the consent of the committee, I will accept the amendment of the gentleman from Georgia, [Mr. CRAWFORD,] and incorporate it as a part of my amendment.

Mr. HOWARD. I object.

Mr. PHELPS. The gentleman has clearly the right to modify his amendment.

Mr. BURNETT. Then I modify my amendment as I have indicated.

Mr. HOWARD. I object, and submit that the gentleman has not the right to modify his amendment. Tellers were ordered, and the vote was being taken, and the gentleman, at this stage of the proceedings, has certainly not the right to modify his amendment.

The CHAIRMAN. The Chair decides that the gentleman cannot now modify his amendment.

Mr. BURNETT. I understand that I can modify my amendment at any time before the vote is being taken upon it.

The CHAIRMAN. The tellers will resume their places.

Mr. GROW. I rise to a question of order. I submit that the rule provides expressly that a member may withdraw or modify his proposition at any time before a vote has been taken on it. Now, sir, no vote has been taken upon the proposition of the gentleman from Kentucky and he has a right to modify it.

The CHAIRMAN. The Chair thinks not.

Mr. BURNETT. I think I have clearly that right, and I shall be compelled to appeal from the decision of the Chair.

The CHAIRMAN. The Chair will have the rule read upon which he bases his decision.

The 34th rule was read, as follows:

"34. No member shall occupy more than one hour in debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee, may open and close the debate: *Provided*, That where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer, after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege on debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment shall be withdrawn by the mover thereof, unless by the unanimous consent of the committee."

Mr. BURNETT. I understand the rule to prevent a member from withdrawing his amendment except by unanimous consent; but I do not propose to withdraw my amendment, but only to modify it so as to accept the proposition of the gentleman from Georgia.

The CHAIRMAN. The Chair thinks otherwise and overrules the question of order. The tellers will resume their places.

Mr. COVODE. I submit that the proposition is a new one.

The CHAIRMAN. Debate is out of order.

Mr. COVODE. I rise to a point of order. A vote was taken and tellers were ordered. After the tellers were ordered, an amendment was offered. It is now a new question.

The CHAIRMAN. The Chair thinks the gentleman is mistaken. There has been no amendment proposed since tellers were ordered.

Mr. GROW. I rise to a point of order. My point is this: The gentleman from Kentucky moved to strike out a portion of the bill. Now, sir, I submit that before the motion can be put, the friends of the matter proposed to be stricken out must have an opportunity of perfecting it. I refer to the one hundred and fifth page of Jefferson's Manual, which says:

"In like manner, if it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to make it as perfect as they can, by amendment before the question is put upon striking out."

Now my point of order is, that under that rule, the question cannot be put upon the motion to strike out until the words proposed to be stricken out are perfected, and then the motion to strike out will come up.

Mr. SEWARD. I move the committee rise.

The question was agreed to; there being, on division—ayes 92, noes 38.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS, of Indiana, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had come to no resolution thereon.

HENRY KING'S HEIRS.

On motion of Mr. MARSHALL, of Kentucky, it was

Ordered, That leave be granted to withdraw from the Court of Claims the claim of Henry King's heirs, and that it be referred to the appropriate committee of the House.

ADJOURNMENT OVER.

Mr. BOYCE moved that when the House adjourns, it adjourn to Monday next.

Mr. WARREN moved that the House adjourn to seven o'clock in the evening.

The SPEAKER. The amendment is not in order.

Mr. HOUSTON demanded the yeas and nays. The yeas and nays were not ordered.

Mr. JOHN COCHRANE demanded tellers. Tellers were ordered; and Messrs. WRIGHT, of Georgia, and BUFFINGTON were appointed.

The motion was agreed to; the tellers having reported—ayes 95, noes 67.

RESOLUTIONS OF OHIO.

Mr. HALL, of Ohio, by unanimous consent, presented the resolutions of the Legislature of the State of Ohio, relating to Kansas affairs; which were laid upon the table, and ordered to be printed.

CHANGE OF REFERENCE.

Mr. STEVENSON. I ask the consent of the House that the Committee on Public Lands be discharged from the further consideration of certain papers in relation to the construction of a railroad to the Pacific, and that they be referred to the select committee on the Pacific railroad. The papers were referred to the Committee on Public Lands before the select committee was organized.

The SPEAKER. Did the gentleman present this paper?

Mr. STEVENSON. Yes, sir, some time ago Mr. WALBRIDGE. I object.

Mr. ROBBINS. I ask leave to introduce a bill of which previous notice has been given.

Mr. JONES, of Tennessee. I ask the regular order of business.

And then, on motion of Mr. WARREN, the House (at thirty-three minutes past three o'clock p. m.) adjourned until Monday next.

IN SENATE.

Monday, February 1, 1858.

Prayer by Rev. JOSHUA MORSELL.

The Journal of Thursday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. WADE presented the petition of S. W. Turner and A. A. Turner, praying for compensation for the transportation of the mails from Cleveland up Lake Superior; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented a petition of citizens of New York, praying that the public lands may be laid out in lots or farms and granted free of cost to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. DOOLITTLE presented a petition of citizens of Appleton, Wisconsin, praying Congress to take measures for the purchase of the Island of Cuba and its annexation to the United States; which was referred to the Committee on Foreign Relations.

Mr. PUGH presented the petition of Alexander Hays, late a lieutenant in the Army, praying to be relieved from a disability in the settlement of his accounts; which was referred to the Committee on Military Affairs and Militia.

He also presented a petition of the Ohio State Board of Agriculture, praying that a donation of land may be made to each of the States for the establishment of an agricultural college therein; which was referred to the Committee on Public Lands.

He also presented a paper signed by the Democratic members of the Legislature of the State of Ohio, recommending an increase of the salaries of the United States judges for the districts of that State; which was referred to the Committee on the Judiciary.

Mr. KENNEDY presented the petition of Elizabeth A. Middleton, praying to be allowed a sum of money expended by her father, Captain

Belain Posey, in the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Mr. STUART presented a petition of inhabitants of Michigan, praying that a donation of land may be made for the use of the Michigan Agricultural College; which was referred to the Committee on Public Lands.

Mr. SLIDELL presented a resolution of the Chamber of Commerce of New Orleans, recommending that a suitable steam cutter be stationed at the mouth of the Mississippi river; which was referred to the Committee on Commerce.

Mr. BROWN presented a memorial of citizens of Washington, District of Columbia, praying for an appropriation of money or lands to aid in the support of the public schools in the District; which was referred to the Committee on the District of Columbia.

Mr. GWIN presented a memorial of A. M. Winn, praying for the payment of expenses incurred in relieving the sick, and in burying the dead in California, some of whom were emigrants from every State in the Union; which was referred to the Committee on Claims.

He also presented a memorial of the trustees of the Odd Fellows' and Masonic hospital, at Sacramento City, California, praying for the payment of the amount expended in relieving the sick in California; which was referred to the Committee on Claims.

Mr. BRODERICK presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots, and granted free of cost to actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. SEWARD presented the memorial of E. F. Smith, of the firm of Smith, Perkins & Co., of Rochester, New York, praying that a penalty paid by that firm for forfeiture of a debenture bond, may be refunded; which was referred to the Committee on Finance.

Mr. COLLAMER presented the petition of Anna Addison, widow of William H. Addison, a captain of Sea Fencibles, praying that her pension may be continued; which was referred to the Committee on Pensions.

Mr. IVERSON presented the petition of Isaac W. Brown, representing that he has invented a new and useful fire-arm, which invention, as he alleges, is used in the United States service, and praying for an investigation thereof; which was referred to the Committee on Patents and the Patent Office.

Mr. FITZPATRICK. I present a memorial from the General Assembly of the State of Alabama, for the erection of an arsenal of construction in the coal region of that State. The memorial sets forth that there are inexhaustible fields of bituminous coal in that State, which has been proved, by actual experiment, to be equal to any in the United States, for fuel, the generating of steam, the manufacture of iron, and for other purposes. In the same region are found inexhaustible quantities of lime rock and iron ore which is unsurpassed for its yield and the fineness of the iron produced from it. That region of country is one of the most healthy of the State of Alabama, and it is in the midst of a virgin forest, through which there has recently been constructed a railroad, by which the lime, the iron, and the coal which are found there are brought within, perhaps, four hours' run of the Alabama river, and within, perhaps, eighteen or twenty hours' run of the bay of Mobile and the Gulf of Mexico. The memorial represents, also, that the whole Gulf coast, and all the Gulf States, have heretofore been deprived of the benefits of an institution of this kind, the nearest being that at Springfield. They ask for an arsenal now with the more confidence, because there is in process of construction what is called the Northwestern and Southeastern road, connecting with the railroads to the West, and there will soon be in process of construction a railroad from Pensacola to Montgomery, and one from thence to that rich mineral country, through which facilities of transit will thus be supplied. The General Assembly has elaborated all these facts in this memorial, and they ask Congress at least to order an examination or survey of that country preparatory to the establishment of an arsenal of construction. I beg leave to submit this memorial, and move that it be referred to

the Committee on Military Affairs and Militia, and be printed.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the petition of Nancy King, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. SEWARD, it was

Ordered, That the petitions of J. Hosford Smith, on the files of the Senate, be referred to the Committee on Foreign Relations.

On motion of Mr. BRODERICK, it was

Ordered, That the petition of A. S. Wright, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of John T. Wright, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

BILLS INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 106) for the relief of Elijah F. Smith, Gilman H. Perkins, and Charles F. Smith; which was read twice by its title, and referred to the Committee on Finance.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill for the relief of Mrs. Jane Turnbull; which was read twice by its title, and referred to the Committee on Pensions.

He also submitted a paper on the subject; which was referred to the Committee on Pensions.

Mr. COLLAMER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont; which was read twice by its title, and referred to the Committee on the Judiciary.

STATISTICS OF MINES AND MANUFACTURES.

Mr. BIGLER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 16) in relation to the statistics of mines and manufactures of the United States; which was read twice by its title.

The VICE PRESIDENT. What reference of the resolution does the Senator propose?

Mr. BIGLER. I ask that the Senate proceed to consider it now.

Mr. STUART. That resolution had better be referred to some committee. I move to refer it to the Committee on Foreign Relations.

Mr. BIGLER. It does not relate to foreign affairs; it treats of domestic subjects.

Mr. MASON. It should be referred to the Committee on Finance.

Mr. BIGLER. If Senators will permit me, I will make a very brief explanation of the purpose of the resolution. It does not involve a dollar of expenditure. When the last census was taken, the statistics of mines and manufactures were taken under the law, and they are now in the Department of State, scattered in loose sheets. This resolution simply directs the Secretary of State to cause the digest to be completed, and these statistics to be included. He says it can be done without any additional clerkships, for the force in the Department is sufficient. It is only intended to give him authority to put the papers in proper order for reference and use hereafter. This is the census up to the close of the middle of this century; and it seems to me that it is a very important matter to have these papers in convenient form, but the Secretary has no power now to do the work. The resolution involves no expenditure, and no question of printing.

Mr. GWIN. I suppose the resolution goes over under the rule.

Mr. BIGLER. I have no objection to its reference to any committee.

Mr. MASON. I would suggest the Committee on Finance.

Mr. BIGLER. Very well; I move its reference to the Committee on Finance.

The motion was agreed to.

REPORTS FROM COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred a bill reported from the Court of Claims on the 27th of June, 1856, for the relief of Moses Noble, with the opinion of the court on the claim, reported the bill (S. No. 109) for the relief of Moses Noble, without amendment; which was read, and passed to a second reading.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of Ephraim Hunt, submitted a report, accompanied by a bill (S. No. 107) for the relief of Ephraim Hunt. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred a bill from the Court of Claims, reported on the 2d of February, 1857, for the relief of O. H. Berryman, with the opinion of the court on the claim, reported the bill (S. No. 108) without amendment, and submitted an adverse report on the subject; which was ordered to be printed. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred the memorial of the heirs and representatives of Gaetano Carusi, submitted a report, accompanied by the following resolution:

Resolved, That the case of the heirs and representatives of Gaetano Carusi, now pending before the Senate, be referred to the Court of Claims.

The resolution was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the bill (S. No. 53) for the relief of John McVey, reported it without amendment; and submitted an adverse report, which was ordered to be printed.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 76) to incorporate Gonzaga college, in the city of Washington and District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 97) to incorporate the Benevolent Christian Association of Washington city, reported it without amendment.

PAY OF PENSION AGENTS.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Pensions be instructed to inquire into the necessity of increasing the compensation now allowed by law to pension agents.

Mr. SLIDELL also submitted a paper on the subject of the resolution; which was referred to the Committee on Pensions.

COST OF LIGHT-HOUSES.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate the annual expense of erecting light-houses and supporting the light-house system, since the creation of the Light-House Board; and also the expense for the same number of years preceding the establishment of said board.

HOUSE BILL.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that it had passed a bill (H. R. No. 63) to supply an omission in the enrollment of a certain act therein mentioned.

The bill was read twice by its title, and referred to the Committee on Finance.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States, the pending question being on the motion of Mr. TOOMBS to strike out the first section.

Mr. HOUSTON. Mr. President, not being prepared to support this bill, I think it proper to offer a very few remarks on the subject this morning. I believe it is a principle in our Government not to encourage the raising and maintenance of large standing armies in time of peace. This principle should not be departed from. The disposition of the present military force of the country is doubtless correct; and if I could perceive any advantage to result to the country from the adoption of this proposition, or if the present exigency was such as to require an additional force, I should with much cheerfulness render my support to the measure. I trust, sir, that this subject is presented in such a way that opposition to it will not be construed into opposition to the Administration or the general measures of the Government; but that, viewed upon principle, the right of every member of this body to form his conclusions in relation to its policy will be accorded to those who may be opposed to it. I have every disposition to render an earnest and cordial support to the Executive in those measures he may propose,

which may strike me as in accordance with the wants of the country; and in regard to those measures in which I differ from him, I shall pay all due deference to the wisdom and patriotism of the chief of the nation. But, when measures of this character come up, it is the right of every individual Senator to form his own opinion of the necessity which may exist for them, and to render or withhold his support as he may think proper.

The section of country from which I come has been referred to as an example inculcating the necessity of an increased military force. Texas, it is said, has called for an additional force. It is true that Texas, through her Legislature, has memorialized the Congress of the United States for a military force, but not for an increase of the regular Army. She asks for a regiment of rangers to protect her frontier. In my opinion it is necessary that that peculiar description of force should be accorded to Texas. Texas has been peculiarly situated since her annexation to the United States. At that time she had peace on her borders, from one extremity to the other; she had not a regular soldier within her limits; she had not a military company in service within her limits or upon her borders; since then, thousands of regular soldiers have been there, and millions of money have been expended for their support. In 1853, the regular troops in Texas amounted to about three thousand. That has been the average number since. The military force there at this time amounts to three thousand three hundred and fifty-two. These troops are distributed upon our frontiers at different stations. More than nineteen hundred infantry are there; but, so far as they are concerned, in efficiency, and in affording protection to the settlements, they might as well be at Passamaquoddy bay, as on the frontiers of Texas. Men stationed and stationary on the frontiers of Texas are utterly useless. Within sight of their fort a foray may be made on our borders, or an inroad of Indians may penetrate into the country for an indefinite distance, and return again, in sight of the fort, and these men be utterly inefficient to protect the country. They can give no protection, for the reason that they cannot pursue their assailants; and the Indians, seeing that they are perfectly harmless and inefficient, regard them no more than they would a parcel of stockades. I have yet to learn that when an inroad has been made within our settlements, regular troops have pursued the Indians, and made reclamation for injury, or have retaken property. There may have been such instances, but I cannot think of them. If they had occurred, they would have made a deep impression on my mind. I have heard of none such; or, if I have, I have not retained them in my memory.

This is the situation of the frontier of Texas. In order to remedy the existing evils, in consequence of the description of troops you send there, and their stations in relation to our frontier, Texas desires to have a more efficient force. She wants men who understand the disposition of the Indians, and who understand the description of warfare that will render a defensive force efficient against them. She does not ask for an increase of the regular military force of the United States. You may withdraw every regular soldier of the artillery, infantry, and dragoons, from the border of Texas, and take them to Utah or any other station you think proper, if you will give her but a single regiment, one thousand or even eight hundred men, of Texas rangers to protect her frontier. She would derive real advantage from that, but not from stationary forces.

The expense now incurred for transportation and provisions alone, for the regular force there, would nearly support that number of Texas rangers. They are men who are acquainted with action; they are efficient; they are athletic; they are inured to toil, to enterprise, to danger; and they carry with them a spirit that is not to be found in the troops that are generally collected in the regular Army, who are confined to a routine of duty, uninured to toil and exercise, and without a quick eye to perceive the movements of an adversary. Every man who would be in the corps of rangers would be a man who is himself capable of controlling a campaign; some of them would be men accustomed from early infancy to duty and enterprises of this kind. This is the force asked for by Texas. It is of a peculiar description, such as her necessities and her condition

require, but not such as have been stationed there for years past.

It was alleged by the honorable Senator from Georgia, [Mr. IVERSON], that the fortresses which had been constructed on our frontier had been for the purpose of protecting settlements, and that they had always accompanied the settlements. That gentleman, I must say with great deference to his general intelligence in this peculiar branch of knowledge, has been unfortunate; for you will find that some eleven stations in Texas, which have been occupied by the regular Army, where over three thousand men are stationed, have been advanced to very great distances beyond the settlements. You will find Fort Duncan advanced one hundred and twenty miles beyond the settlements when it was established; Fort Clark not less than forty-five miles; Fort Davis, three hundred miles, Fort Mason, fifty miles, Fort McKavitt, seventy-five miles; Fort Terrett, seventy-five miles; Fort Chadbourne, one hundred and fifty miles; Fort Graham, thirty miles; Fort Lincoln, sixty-five miles; Fort Inge, eighty-five miles; Fort Belknap, one hundred and sixty miles; making the mean distance beyond the frontier seventy-nine miles at which these forts have been established.

The expense of furnishing supplies at these various forts is at least equal to the amount that would support a regiment of rangers on the frontiers of Texas. The expense is immense. The provisions, and, if cavalry is stationed there, the forage for the animals, costs an immense sum. So, these troops may be withdrawn without detriment to Texas, and with benefit to the general necessities of the regular Army of the United States, if you leave Texas with eight hundred or a thousand rangers, who will give more protection than all the regular Army of the United States. They would be men who can ride on horses, who understand thoroughly the disposition of the Indians, who know their inclination, their points of foray and attack, and who can pursue them to their fastnesses, or track them as the beagle would the deer. When, however, you take men such as constitute the regular Army, who are unaccustomed to frontier life, to whom Indian habits are unknown, who are utterly incompetent for these duties, they are useless on our frontier.

For this reason I will cheerfully vote to give Texas such a force; and I would, if I were capable of doing so, advocate to a successful achievement the application for a regiment of rangers to protect her frontier. It is necessary; it is indispensable; and without it no efficient protection can be given. The force which has been there heretofore, though well designed, has been placed there under a misapprehension, and has not accomplished the purpose for which it was intended; and therefore it is comparatively useless. There is a plan by which protection can be given to that country. If a regiment of a thousand rangers be placed there, it would only be necessary that they should touch at the several fortresses. It would not be necessary for them all to be on the scout or ranging at one time; a portion of them, if there were invalid horses or men, could keep the several stations, whilst the *élite* of the command would go out in quest of the Indians, and for the protection of our border, keeping up constant vigilance and activity.

Our frontier can be protected without so large a standing Army as we now have numerically. Upon our frontier establish a fortification, or keep the fortifications that are established, with fifty or one hundred men, and there set up trading houses. Let the Indians go there to trade. Do not hunt them up in their hunting parties, to make war upon them when they are at peace, but invite them there to trade. Finding the convenience of obtaining such things as they need, either for taste, or dress, or otherwise, or supplies of provisions such as could be furnished them in part, they will become reconciled to the white people; they will meet them on other occasions than those of hostility, and they will meet them amicably; they will associate with them; they will discover some good qualities in them; they will discover some kindness to the Indians, and not perpetual war and hostility, which places them either in an offensive or defensive position towards the United States. This will create a state of feeling in their breasts that will influence their councils and their conduct. Finding that it is for their advantage to

maintain these amicable relations, they will soon become domesticated, if you will allow the term, or reconciled to the white people, and peace will take the place of depredation and warfare on our frontiers. Let them get the supplies that are necessary at these trading houses, and not have to go to other sections and to other people to obtain them, and they will be content.

It is said the Mormons are rendered formidable by their relationship to the Indians, and that the Indians in their neighborhood are to join them. Why should they join the Mormons in opposition to the United States? They are in juxtaposition with them, and if they have been hostile to them, the Indians will necessarily cherish a reciprocal hostility to them. The Indians have received annuities from the United States, and if properly treated it would be the natural tendency of their feelings that they should be friendly with the United States. Instead of that, we find them ready to associate with a people who do not confer benefits on them, but who, in their personal and tribal intercourse, treat them with a degree of friendship that they do not receive from the agents of the United States, or from our border men, or our soldiers. If that course had been pursued by us, how could the Mormons, without resources, control the feelings of the Indians or secure their alliance? We had the power, and if we had managed it with the same policy that they have done, the Indians would not only have consulted their interest by remaining faithful to the cause of the United States, but they would have been our allies and our friends, opposed to the Mormons. It is by extending to them kindness, friendship, hospitality, when they have an opportunity, and justice on all occasions, that you secure the confidence of the Indian; for it is only justice he wants. He may be a beggar, and if you refuse him alms, he has sense enough to know that it is your right. If you have aught to give him, give it graciously; for he can appreciate the manners and feelings of the white people as well as Chesterfield could in the Court of St. James. These are the considerations which influence the Indians.

If you will establish trading houses with a sufficient force to give protection to the traders, and let the Indians form an intercourse there, you will secure their friendship, and you will need no army to protect your frontier. I have never yet known a frontier to be protected by stations and by forts. It might be, if the Indians knew you could pursue them successfully; but so long as they are aware that you are harmless in your fortresses, they will defy you. They are not going to stand up and let you shoot them from the fortresses; and out of them our troops are inefficient.

If it is necessary on this occasion, for the Mormon war or any other purpose, I care not what, to raise an additional force, of what description should that force be? Is it to be composed of active and efficient men? Are they to be such men as could be raised in the United States? No, sir. We are told that owing to the present depression of affairs and the existing monetary derangement, there will be no difficulty in filling our regular Army. Of what material will that Army be formed? Who are the men that are thrown out of business? Are they not men about manufactories? Are they not artisans about cities who have never been on the frontier? who know nothing of it? All their education, all their observation, has been confined to city life, to streets, to alleys, and to houses. They know nothing about the forest and the wilderness. They know nothing about the red man or his habits. They are not inured to active toil, to marches, and to equestrianism. These are the men, and this is the material, from whom you are to organize an army! Why, sir, they are men who have never, perhaps, shouldered a gun, or even made mimic war with a cornstalk in a company muster-field, and who would cut an indifferent figure even at that. They are men who have never bestrode a horse in their lives, and who know nothing about horses. These are the men that you are to convert into cavalry; men taken from cities, who never fed a horse, or bridled a horse, or saddled a horse, or rode a horse; and they are to form your dragoon corps! These are the men to pursue wild Indians that could ride a buffalo, if necessary, in a chase!

I have heard something of their drilling. They are drilled on the frontier of Texas; and I am told

it is an elegant farce to see it done. Sometimes they are so awkward that, really, they have to be tied on the horses in order that they may not fall off. After some experience in that way they are untied, not knowing how to brace themselves, or make taut the rein, or apply the spur, or handle the sword; and a stand is made of bars, for the purpose of practicing leaping, and in jumping three feet high on a horse. They either, in alighting, go heels over head, or, at the first rising to leap, they go head over tail. [Laughter.] These are the men who constitute your cavalry! These are the men that are to pursue Indians! These are the men that are to take care of their horses! They know nothing about it. On the frontier it requires an accomplished equestrian, a man who is qualified to take care of his animal; who understands his disposition, knows how to regard him, and continue his usefulness, or make him more useful. These men do not know how to take care of their horses. What is the consequence? The cavalry stock of the United States must die off; a new supply must be brought; fine animals purchased. One of these men cannot hobble his horse, that he may graze for food, or stake him out to the end of his tether, where he may range and be refreshed in the morning. He has knowledge enough to induce him to tie him up to a tree at night, that he may be safe in the morning, and if he can luxuriate on the bark of the tree, very good; if not, he may starve. These are the men whom you enlist for cavalry; who know nothing about the exercise or disposition of the animal, or about his duty. Such men have to learn everything. It is a new existence to them. They enter on a new theater. After having habituated himself to a different life, such a man is to be transformed into a new animal himself.

This mode of producing an army will never do. Who are they generally that would enlist now? Are they men of enterprise? Are they men of activity? Can they render efficient service, or will they be mere counters in the Army? Will they count one, two, three? They are that description of persons; and moreover, not intending the slightest reflection on their mechanic arts, or upon their origin, or upon the circumstances which surround them, I would venture to say, they are that description of men who are unqualified for these pursuits, and are thrown out of employment, or they are men who have been thrown on our shores from distant countries, alien in feelings to the United States, having no identity with us, who are not naturalized, and who go into the service as a resource; not from choice or motives of patriotism. These are the men that constitute our regular Army, and doubtless one third or one fourth of the men now in the service are not men who are "to the manner born." Are we to rely on these men for defensive purposes, or for other useful purposes to the country? No, sir. We have a resource in our country to which we can always have recourse.

There is another impediment to respectability in the rank and file of the Army. To make the rank and file of the Army respectable, you must hold out to a man some inducement beyond the mere receipt of eight dollars a month, or whatever the pay may be, clothes for the time being, and rations. To a man of any pride of feeling, or expectation, or of hope, you must hold out some inducement beyond the mere waste of human existence in the routine of military service. You must say to the gallant non-commissioned officer or private, to the man who in civil life would have expectation, if he had not exchanged it for the military profession: "Sir, upon your trial and your conduct depends the circumstance of your promotion to an office, an ensigncy, a lieutenancy, or even a cadetship." By doing that, you hold out to him an inducement to enlist in the Army of the United States. But when you limit a man to the mere routine of a soldier's duty, to what he considers a degradation, and reduce him below the quality of men generally in society, and place him in a position where he is looked upon as a different class of being, you can never fill your ranks with respectable men, whose hearts are stimulated by high and holy motives of patriotism. Pride is as necessary to a soldier as are his rations to his physical existence.

The VICE PRESIDENT. The Senator will suspend his remarks for a moment. The hour of one o'clock has arrived, which was assigned for

the consideration of the Pacific railroad bill. The Chair, after a good deal of consideration and reference to the rules, has felt it to be his duty to call the attention of the Senate to the fact that he feels himself bound, when the hour arrives for which a subject has been assigned as a special order, to bring the matter to the notice of the Senate. It will be for the Senate to say whether they will proceed with this question or take up the special order.

Mr. WILSON. If the Senator from California [Mr. GWIN] desires to take up the Pacific railroad bill, I wish now to send to the Chair an amendment to this bill, as a substitute for it, for the purpose of having it printed.

The VICE PRESIDENT. At present, the Senate have not determined what will be the order of business.

Mr. DAVIS. I hope the Senate will progress with the bill which we have under discussion to a conclusion. I think it must be generally admitted that there will be great loss of time, and loss of a just understanding of the subject, if we now take up a new bill, discuss that, and return to this, discuss this in its turn, and so changing from one subject to another, divide the attention of Senators, and surely delay the time for the completion of the bill. It cannot be expected that the railroad bill will be settled in any short period. I have been greatly disappointed in the time consumed in the discussion of this bill. I did innocently—ignorantly, if you please—believe, when it was taken up, that the half hour assigned to it would suffice. The debate has widened, and I see no prospect of its ever being narrowed down to the subject under consideration, except by confining the attention of the body to it. I hope, therefore, the Senate will postpone the special order fixed for to-day at one o'clock, and proceed with the discussion of the bill now under consideration.

Mr. GWIN. I do not wish to interrupt the consideration of this bill, because I believe the right way to progress with business is to take up one subject and dispose of it. I agree with the Senator from Mississippi in that respect; but I understand that the Senator from Massachusetts intends to offer an amendment to this bill, and it may be that it would be better for it to go over, in order that the amendment may be printed, and be before the Senate when the bill shall be finally decided. I do not intend to interrupt this bill.

Mr. DAVIS. Certainly, we can never progress if the debate is to be arrested, and the subject postponed by the introduction of an amendment. After it is read, we can have the amendment printed if necessary; or if the debate continues, we shall see the amendment in to-morrow morning's paper. The debate of to-day will not depend on the amendment.

Mr. GWIN. I suppose, if this discussion goes on, that the special order fixed for one o'clock will not lose its place.

The VICE PRESIDENT. By postponing it until to-morrow, it will be continued as a special order.

Mr. IVERSON. I suggest to my friend from California that there is no special order after to-morrow until next Monday. There is a special order for to-morrow, February the 2d—the bill repealing all laws or parts of laws allowing bounties to fishing vessels; but there is no special order for Wednesday, Thursday, or Friday. We can have until next Monday for the consideration of his Pacific railroad bill, by making it the special order for the day after to-morrow.

Mr. GWIN. There is a special order for to-morrow.

Mr. IVERSON. That bill will hardly interfere with this one.

Mr. GWIN. I am willing to have the Pacific railroad bill passed over until to-morrow. I do not know whether or not the Chair has decided that the bill now under consideration has preference. I should like to have that point settled.

Mr. STUART. I think this is a very proper occasion to determine the construction of the rules which govern us, and I beg leave to submit a few suggestions on that subject. The 15th rule of the Senate provides that—

"The unfinished business in which the Senate was engaged at the last preceding adjournment, shall have the preference in the special orders of the day."

The bill now under consideration was the unfinished business at the last adjournment, and therefore it has priority over all other special orders under the express terms of the 15th rule. I think there is no want of harmony between the 15th and 31st rules. Take the case now in hand. The Pacific railroad bill is a special order for to-day at one o'clock, and was made so on the 19th of January. The unfinished business of the last adjournment stands precisely as if it had been made an older special order by an express vote of the Senate; and the 31st rule provides that the priority of special orders shall be decided according to the time at which they were made special orders. Now apply these two rules thus harmonized to this case: the unfinished business of yesterday, legislatively speaking, has a preference over all other special orders, and has a precedence over this one, so that it is the duty of the Chair, on the arrival of one o'clock, to call it up. If called up, by the express terms of the 15th rule, the unfinished business has priority. I think it very important that the Senate should decide, through the Chair, these subjects correctly; for I think there is no difficulty in the two rules, and no difficulty in the construction of the 31st rule. I do not believe that human language can make it plainer. Here is an order, special order made on the 11th January—"the motion by Mr. DOUGLAS to refer so much of the President's message as relates to Kansas to the Committee on Territories." That is a special order having priority over the Pacific railroad bill by the express terms of the 31st rule.

Mr. HOUSTON. I believe, according to the opinion of the gentleman, I may be permitted to go on with my remarks.

Mr. STUART. Certainly; I insist that the Senator from Texas has a right to proceed; that the unfinished business of the preceding day has preference over all special orders, no matter when made, and we shall produce anything but harmony if we resort to any other construction.

Mr. GWIN. Is that the decision of the Chair?

The VICE PRESIDENT. The Chair was about to give his opinion. The 15th rule is, as suggested by the Senator from Michigan, that the unfinished business has preference among the special orders. This bill was unfinished business. The Chair considers it much the same as if the Senate had been in continuous session considering this question up to this time; in which event, when the hour arrived for the consideration of an order fixed by a vote of the Senate, the Chair would deem it his duty to call the attention of the Senate to that fact. No inconvenience can arise, because the Senate may postpone either one or the other. The Chair calls up the special order under this portion of the 31st rule:

"When the hour shall have arrived for the consideration of a special order, it shall be the duty of the Chair to take up such special order, and the Senate shall proceed to consider it, unless it be postponed by vote of the Senate."

Under this rule the Chair deemed it his duty to call the attention of the Senate to the fact that, some weeks ago, by special vote, it assigned this day, at one o'clock, for the consideration of the Pacific railroad bill. It is in the power of the Senate to consider the present question by postponing that bill.

Mr. SEWARD. I hope that, all around, by unanimous consent, we shall defer any action on this question, and suffer the Senator from Texas, who has the floor, to proceed with his speech, and when he has got through, then will be the proper time to settle this question. It is very unpleasant to a Senator, who is in the midst of a speech, to be interrupted and broken off. I move that the honorable Senator from Texas be allowed to proceed by unanimous consent.

The VICE PRESIDENT. By unanimous consent, the special order is postponed, and the Senator from Texas will proceed.

Mr. HOUSTON. I have no doubt of the propriety of the course adopted by the Chair, in calling for the order of the day; and I think it was perfectly right and perfectly a matter of course that the orders of the day be postponed, and the unfinished business proceeded with.

As I was remarking, it is impossible to constitute a good regular army, unless you furnish inducements beyond the mere pay the soldier receives. You must hold out some honorable inducement, some reward for meritorious services, or you never will constitute a regular army that

will be reliable and efficient in time of difficulty. From the mere circumstance of a soldier entering the service, knowing that he is restricted to a certain degree of respectability or character, he will be regulated by no such feeling as possesses the man of an honorable and ambitious heart, but such as would become a drudge and a slave.

The time was, Mr. President—and I well recollect it—when the Army held out inducements to honorable emulation. It was in the war of 1812; promotions then were made not only from private life, but from the ranks of the Army. When a man enlisted, if his capacity and intelligence were such as to commend him to the notice of his superiors, he was promoted to the rank of a non-commissioned officer. Then higher promotion invited him, if his deeds were worthy of it. He was promoted to be a lieutenant, and might hope at some day, by brevets and promotions, and by gallant conduct, to reach the very chief command of the Army. This road is now blocked up; insuperable barriers are interposed to it; and I have not, within the last twelve years, heard of a single appointment—though there may have been instances—from the ranks to commissioned officers. Thus it is that you see the great path to glory, to honorable achievement, blocked up. An impassable barrier is placed in the way of the advancement of your soldiers. How is this done? It is by an institution that I am not altogether opposed to. After an education has been granted at the Military Academy, young men are taken from there, and placed over the head of old veterans. They have not experience; they are from the drill of the Academy. It is the great duty of life, and we see it commence with infancy in well-regulated families, that obedience is the foundation of future usefulness and future character. First learn an individual to obey, and then he will know how to exercise authority with proper deference to the feelings of his subordinates and inferiors. But when you place him in command before he has learned the duty of obedience, he becomes presumptive, haughty, tyrannical, and domineering, and will not seek to create and foster in the Army a proper *esprit du corps*.

It is said a regular army is dangerous. The danger does not consist in its numbers. It is not from the number of the regular Army that danger is to be apprehended. They are too much dispersed over a vast area of the country to be congregated and rendered formidable. There is an outside pressure that is too terrible to be resisted in the sovereignty of the States, that would crush out and at once annihilate a congregated regular Army. Sir, the evil begins here; it begins at the other end of the Capitol. It begins in the political structure of our Government. The danger is in the Military and in the Naval Academy. There privileged classes are inaugurated. No matter how promising a youth may be—he may be an orphan boy that has sprung up with the impress of genius in his mind, and nature's nobility stamped on his heart; but if he has no political influence—if he has no friends—if he has no patronage with which to reciprocate patronage, he is neglected and overlooked. The members of Congress, in selecting individuals from their districts for these Academies, are guided by an eye to policy. "Who among these candidates will bring me the greatest support in my district?" is the question. No matter how stupid a boy may be, if he has influence to back his application he is selected by a member and sent to West Point Academy, where he is nursed and cherished and fostered till he graduates. Then, forsooth, provision must be made for him in the Army. You create places; you add companies to the regiments to make room for subordinate stations, or subordinate appointees. A graduate of the Military Academy must be provided for; you will not return him to the walks of civil life to add his mite to the general contribution of society—to make us great and glorious as a people. No, sir; but he is stultified as to all usefulness, by placing him in the regular Army. This influence continues. It has not ceased with the Academy, but is disseminated throughout the whole community. The consequence is, that no reduction in the Army can ever take place. Why? Because here come the relatives of the man whom you propose to turn out; he has raised them to action on the subject. All the thousands of officers whom we have disseminated throughout the various States and the va-

rious congressional districts, go around and influence their Representatives. They have relatives and friends to say, "My son must be retained; my brother must be retained; or my father or somebody else must be retained." This outward pressure on Congress will prevent the reduction of the Army. You may add to it, but you cannot reduce it. You may go on by degrees till a great portion of the community becomes interested in exercising an influence through their Representatives, in increasing the Army, but never in diminishing it. This is the evil that is to arise in the country, and thus it is that the Army is becoming formidable. It is to become ingrafted with the corruptions that always grow up at a capital, and the country's institutions will gradually decline as these privileged orders rise to the ascendant.

You may depend upon it, Mr. President, that things here are not as they once were. I say it in sorrow, for I feel it in my heart. The time was, that when officers were employed here, they were employed for useful purposes; and they were to be found at remote stations when usefulness required it. They were not congregated here in masses; and every officer was proud to wear, either in his hat-band, or upon his shoulder, or upon his person, some insignia, telling the world: "Look at my conduct, and see that I walk worthy of the insignia I wear." They were not sneaking about in citizens' clothes, identified with the masses, lest they might attract attention, and the people become alarmed at the formidable number about the Capitol. They were set apart, and the uniform was worn for their circumspection and demeanor. There were no bureaus here then. There were no men to influence the Departments, and dictate indirectly to the Government, as there now are. The Departments once in four years become subservient to these stick-fasts, these set-fasts, these chibblains on the Government, as they are—yes, sir, these plague-spots on our institutions, that are here now. They are adroit and cunning; they have got themselves placed here; and whenever a new Cabinet officer comes in, necessarily unacquainted with many of the forms and details, and indeed some of the principles of the Department—for there is no man that possesses perfect intuition—these men are ready to take possession of him, and make him a mere supple instrument in their hands, and impress on him, like the metal upon the wax, what impression they please.

These bureaus ought also to be changed every four years. I am told that really some families are very much distressed, and have been so for fourteen, fifteen, or seventeen years, perhaps, for fear their husband would be ordered off to do his duty as an active sailor or soldier. That is a most distressing condition of anxiety! I want to relieve them of those distresses. These men are either necessary on the decks of their ships, or they are necessary in command of their regiments, or at their post as commanders or subalterns, or they are not needed in the Army and Navy. They ought to be at their posts; but if they are here, they ought at least to certify to the world, "I am an officer; here is the evidence." The world expects it. Continue your present system, however, and the very instruments of the nation's salvation, to counsel wisdom and legislate for the benefit of the nation, will be rendered subservient to these privileged classes; and this will be accomplished through the medium I have stated.

There is the danger arising from a standing army. It is from the manner of its construction. You will never have men, until they are promoted from the ranks, who will feel that they have a motive for acting worthy of their vocation. Whenever you make promotions from the ranks, you will furnish a good army. This is a matter that is discretionary with the head of the War Department; and I trust, from his known chivalry and just appreciation of an *esprit du corps*, that it will now be adopted. Gentlemen most capable of doing it have talked of it. I have known men who enlisted with the hope of getting promotion. They had to go into the ranks because they had no political influence to enable them to get a commission, and feeling self-reliance enough that when they had an opportunity they would recommend themselves to the consideration of their superiors and the nation, and that promotion would be the consequence. Open that door and you invite men of pride, of character, and of family, to

enter your Army. Knowing that that is the highway of promotion, they will enlist; but never until that avenue is open to them. The man who could not properly appreciate a commission and aspire to it is not fit for a soldier on whom to throw the responsibility of defending the liberties of his country. The man who will toil only for animal existence, to draw nutrition and vegetable and rot, is not the man that is to vindicate our liberties.

But, sir, if you want an additional force, you have the means in your control. We have a standing Army, the most invincible on earth. It is an army of freemen—men who feel clustering around their hearts all the sympathies of life, country, friendship, and honor; sensitive to their country's glory and honor as they are to their own family relations. Call upon such men to volunteer, and they will do it with pleasure. Tenders are made, throughout the country, of volunteer services. Accept them; let them go; they are efficient; they are equestrians; they are marksmen. Let them go and serve till the emergency is over, and they will then return to the greetings of family and the embraces of affection, and all the cherished hopes of life will cluster around them on their return triumphant from a glorious campaign.

Who achieved the glories of the war with Mexico? Were they regular soldiers? They fought well and could be shot down; but who were the efficient men? Who were the men most gallant and daring on that occasion? Is not the Palmetto regiment of the South immortalized? Is not the Mississippi regiment also immortalized? Yet they tell me that volunteers are not to be relied upon. Sir, if you have no reliance upon them the country is not free, for freemen constitute your volunteers. These are the men that are always ready to go. They are men who are capable of taking care of themselves and their animals; acquainted with frontier life; men who are not more expensive than regular troops of the same description—mounted men. The Government buys animals for the regulars and keeps a supply on hand for men who let them die through their carelessness or want of knowledge of the means to preserve them. The frontier-man's next and best friend in a campaign is his gallant steed. He will take care of him, and is responsible for him, while no responsibility rests on the regular dragoon! If the horse is gone it is no loss to him; if the volunteer's or ranger's horse goes, the loss is his and he feels it. Rely on them in every time of emergency, and you place your reliance, not on a broken reed, but on a strong, firm staff, that will not deceive you or wound the hand that presses on it.

Thus, sir, I am decidedly in favor, in emergencies like the present, of calling for men who will go into active service. If you were now to undertake to recruit a regular army, how long would it take to do it? How long would it take the regular Army to be filled, even from the material I have described? It would take a twelvemonth. Would not the expense be greater than the expense of volunteers? You may say not, because the volunteers present a round sum of per diem; but if the volunteer does not keep himself supplied with a horse, you reduce him to the grade of footman. He always keeps himself supplied, and he is an efficient horseman. If the regular soldier loses his horse, he is not bound to supply another. He is to all intents and purposes on the sick list so far as efficiency goes, and the Government supplies the deficiency.

As I have said, troubles with the Indians will cease if they are treated as I have proposed, by establishing trading houses and forts not defended by more than one hundred men at any position, or merely by way of keeping guard there; and employing such men as are necessary for spies, or skulks, or for messengers, or for expresses. Let them be employed from the different Indian tribes; let them be placed in your confidence; they will reciprocate that confidence. Encourage them, create a spirit of emulation amongst them, and when one man proves himself faithful, it will open the door to others. They will look forward to distinction in the confidence of the white man, and each will be emulous to rival his fellow in confidence, in usefulness, and fidelity. In this way you will conciliate the Indians. They will see that they are not regarded as enemies, but incorporated into the list of friends; that confidence is reposed in them; and no man has stood up in my

hearing on earth to say that an Indian deceives. The white man teaches him deception, and by way of retaliation he may deceive him. The white man, thinking all will stop with his own deception, concludes that the Indian has no right of retaliation; but the Indian retaliates faithfully. Put confidence in him, and he is as constant as the northern star that has no fellow. He is truthful and accustomed to risk his life for his friends, or die in seeking revenge on his adversary. Do him wrong, and it is unforgiven. The idea of punishing the Indians and pursuing them with your regular troops is preposterous.

I recollect the time I determined here, some years since, never again to vote for an increase of the regular Army unless in time of war, and imminent necessity, which could not be supplied from volunteers or the militia. That determination is as unshaken as my life. It is a purpose that I will cherish, and I hope to leave my prejudice against an inordinate increase of the Army as a heritage to my children. If I leave them nothing else, it will be a pledge that I love my country.

When four regiments were raised a few years ago, it was announced that for years the Department had been calling for an increase of the regular Army; successive Secretaries of War had called for it; and reports had been made. That is very true. I do not deny the fact that reports were made in favor of it. The four regiments were raised, and I presume if you would calculate the net expenses of raising and supporting them up to the present time from the time the law passed, you would find it just about equal to the deficit of \$20,000,000 in the Treasury.

That is the advantage which has resulted to the country from that action. Now, what have these regiments done? What are the glories that they have won? What deficiency in the public defense have they supplied? They have had a war with the Indians, under the lead of a gallant man, I admit, and report said they killed one hundred and fifty, of whom one hundred and thirty were women and children. That is the way these regular troops act. They may surround women and children; they may attack the warriors on the prairies, when they are attended by their women and children; moving, perhaps, to winter quarters, or, perchance, coming to hold a treaty, and seeking amity with the United States. They are surrounded from the consideration that some achievement ought to take place to show that the regular force has not been idle, and that there was some excuse for having raised them. I saw that in olden times on the frontier of Texas. A company was raised for a certain time, and just before it expired they would have a difficulty with the Indians to protract their services.

Mr. DAVIS. Will the Senator from Texas allow me to ask him to what case he refers, in which one hundred and fifty women and children were killed?

Mr. HOUSTON. I said one hundred and thirty.

Mr. DAVIS. What was the case?

Mr. HOUSTON. The case where General Harney attacked them on the Platte.

Mr. DAVIS. The Blue Water?

Mr. HOUSTON. Yes; I believe that was it; and it was done at the very time when they wished to confer. The onset, it was said, was made unadvisedly. The onset was made while the Indians were attempting to escape. Why were they not let go? Why were not the women and children allowed to pass unscathed? If you cannot attack the warriors, for mercy's sake let the little ones flee. But that is not all. There was another furious Sioux war, where a lieutenant went out and made an outrageous attack on the Indian camp; and when the matter was investigated, it was proved conclusively that it was an indiscretion on his part, a madness that had seized upon him from some influence or other, which brought on that war. It may be said that the Indians went to the trading houses exasperated, and took things that were there. The fact was that the white people had not paid them their annuities as they had promised to do; and the Indians, feeling that wrongs and aggressions, without provocation, had been inflicted upon them, could only regard the whites as enemies.

But, sir, I say here that if you will treat the Indians justly, kindly, truthfully, let them come

and open useful commerce with the whites on the frontier; the Indian will become useful to the white people; he will preserve peace, and the chiefs of the various bands, when brought thus in contact with the citizens or officers of the United States, will chastise any of their fugitive warriors who may commit aggressions. They would punish them, because it would be to their interest to do so. If they obtained from the United States fair treatment, they would not allow individual members of the tribe to act to the detriment of the tribe; but the Indian is not thought of; he is not cared for; as I have observed before, he has no political influence; he has been an object of rapacity and robbery ever since our first intercourse with him. More than one hundred millions of money have been paid to the Indians, and what have they benefited by it? Against all the malign influences the white man has interposed to their civilization, many tribes have risen up into respectability, civilized, enlightened, and christianized. Those tribes have overcome all the difficulties, have dispelled all the clouds of ignorance and heathenism that surrounded them, and now have the bright light of science and the immortal light of religion shed around their heads and in their pathway to direct and guide them.

The Indians, Mr. President, have amongst them men who have overcome these difficulties; for within my recollection there was nothing of the artisan in a whole nation now so civilized and enlightened—the Cherokees. Fifty years ago they were in darkness; they were wild, rude, and savage; but in half a century they have become cultivated, civilized, enlightened, and christianized. They were surrounded by whites, and sympathy resulting from that acquaintance on the borders gave them, in most instances, that protection which left them to themselves to imitate the arts of the white man; and as their ambition arose and civilization shed its benign influence upon them, education took the place of ignorance and light of darkness, until they have now become illumined by the full radiance of literature and science. Why cannot other Indians do the same? Because they are not objects of sympathy; they have no political influence; they have no vote to give; they can reciprocate nothing that is done for them; are objects of cupidity, of rapacity, and of rapine. Whenever you undertake to exercise an influence, such as a Christian, an enlightened, and a glorious nation as this ought to do, you will reclaim the Indian from his wild pursuits, convert him into the agriculturist, the grazier, the artisan; you will make him a man of social and domestic habits, and all the blessings of civilization will recompense him for his efforts in that direction. This can be done. Let it be commenced and followed up with an earnest and honest determination on the part of this Government, and you can dispense with your frontier army; you will not have the Indians to war against; you will not be required to annihilate them; they will not be objects of rapacity; they will not feel indignant at you; they will not find it necessary to make reclamation for wrongs done to them or property taken from them; they will be able to explain their grievances if they have any; and the attitude which they may occupy before this nation will not depend on the statements of interested parties. When this shall be your policy in regard to the Indians, you will need no standing army among them.

It has been said in the course of the debate that volunteers are more cruel than the regulars. Sir, I do not know from what facts that conclusion is drawn; but I may say, that I have never known of any acts of atrocity within the last half century on the part of volunteers that would not find a parallel in the action of regulars. I am not aware of any greater inducements they have to cruelty or butchery than the regular soldiers. I would much sooner trust them than I would trust men who know nothing about the Indians, who have no sympathies with them, who have been reared where oceans rolled between them and the Indian, and who have only heard of them as of beasts for slaughter. The volunteers generally have some sympathy, though they may be exasperated at aggressions committed by lawless Indians, and by lawless parties from different bands. We often find that some lawless individuals will congregate and depredate on the settlements while the councilors and the mass of the Indians know nothing of their purposes. The depredators flee. A com-

pany immediately pursues their trail, which lies in the direction of a village. They escape their pursuers by a by-way, but the pursuers come on and attack the village whose people are harmless. Whilst the murderers escape, the innocent are the sufferers. That is the kind of warfare which is liable to be pursued by the regulars, if they ever pursued anybody successfully, as well as by the volunteers; but I have not heard of their overtaking any Indians that committed depredations. It will be recollected that those on the Blue Water were not pursued; but they were met accidentally, with all the incumbrances of camp equipage and provisions for the season, and they were attacked at a time when they were in a fit condition to negotiate, but not to fight.

I prefer a volunteer force because I believe it to be more efficient, more useful, and certainly equally as cheap as, if not cheaper than, a regular force. When volunteers are out of service, they return to their homes to support themselves. If emergency calls for them, they are on the spot in a few days; and when they perform the service for which they are needed, they return to their homes, and mingle again with their fellow-citizens; they contribute by their industry to the general mass of the national wealth; while a regular army is a continued incubus on the nation, utterly unproductive, a drain on the country's resources, who never add aught to its revenues. I am not prepared, therefore, to support this bill; and I have come to this conclusion, with all deference to the recommendation of the President and the Secretary of War. I oppose the bill without any enmity to its origin. Neither of those gentlemen has given his attention to the national defense as a matter of peculiar consideration and investigation. They are dependent on military men for the suggestions which are made as to the necessity of an increase of the regular Army; and how are they prompted? Promotion is a desirable thing in the Army. It is only denied to worthy non-commissioned officers and privates; but promotion is a great thing for all commissioned officers, and the more you increase the Army the more rapid promotions are. Though you may say this bill does not open the door to high promotions, as it only adds two companies to each regiment, yet you will find that it opens the door to a batch of cadets that are to come in, and in a very short time it will be found that the companies are not as efficient as they would be if they had smaller numbers, and then they will be reduced; and thus regiments will be multiplied, brigades increased, and then will come a request for brigade generals. I recollect that when the four new regiments were raised some years ago, it was supposed that an honorable member of this body would be appointed a brigadier general in the Army. I have no doubt that idea inclined many minds kindly to the measure. It was understood that various individuals were applicants for colonelcies, and they operated on their friends in Congress. The measure received countenance and support from considerations of that kind. Finally it was passed; but none of the gentlemen that I knew of, who were expectants for high office, received the appointments, from some circumstance of misunderstanding, I presume, in their own expectations.

I am not disposed to incumber the country with additional expense at this time. If volunteers cannot defend us, cannot reach Salt Lake, if necessary, in half the time that regulars can be raised and do it, it is of no use to attempt the war. If they can be assembled and reach there in one half or one fourth the time regulars could reach there, they are the most efficient force, because efficiency often is increased by expedition. If the Mormons are preparing, the less prepared they are when our troops meet them the more easy it will be to reduce them to order.

Before taking my seat, sir, I must allude to a remark which was made by the Senator from Maine, [Mr. FESSENDEN,] and I must express, with great deference to his intelligence, my dissent from one position which he assumed. He contended, as I understood him, that the President had no right to order the troops into a Territory for the purpose of suppressing insurrection or rebellion. My own opinion on that point is very different. I think the power of the President in that respect cannot be questioned, though the expediency of its exercise in any particular case may be a question for investigation. In a Terri-

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tory there is no government of a sovereign community, such as there is in a State, to demand the aid of the United States forces to suppress insurrection or rebellion. Is such a state of affairs, if it exists, to go on unchecked? or is it not the duty of the President, *ex officio*, a Territory being an appendage of the Federal Government, to use all the power he can to suppress insurrection? Has he not the power to do it, at any rate? I do not say that insurrection has existed; but I ask, if it does exist in a Territory, has not the President the power to use the troops in order to put it down? Suppose that in the District of Columbia the Mayor of this city were to head an insurrection or rebellion against the Federal Government—were to refuse its authorities the exercise of their appropriate functions—would not the President have the right to put it down without waiting for a call from the Governor of a State? If he can do it in the District of Columbia, which I presume no one will question, he can in a Territory; because a Territory is as much under Federal tutelage and government, until it becomes a sovereign State, or assumes some organic form, as the District of Columbia. Therefore, I think it is perfectly within his competency to use the Federal Army whenever it is necessary, in his opinion, within the limits of any Territory or the District of Columbia. The propriety of such a measure is the only point to be investigated; the right, I think, is undoubted.

I was very sorry, Mr. President, to hear the honorable Senator from Georgia [Mr. IVERSON] allude to what might have occurred in Kansas in certain contingencies. I shall pass over all questions relative to Kansas, for the reason that I am not informed in relation to everything connected with it; and I do not feel that I am competent to shed any light on that subject, or even to express an enlightened opinion of my own. I was sorry to hear the honorable Senator from Georgia allude to what might have occurred, if certain events had not taken place; and he said it might have led to a general agitation throughout the country that would have resulted in the disunion of these States. I heard this with pain; because he seemed to entertain no regrets in anticipation of such an event. Sir, I have never heard disunion suggested, I have never heard allusion made to it, without inflicting the deepest wound on my heart, and casting a cloud over my hopes of the future. I was born and reared in that school which looked upon the Union as the palladium of liberty upon which was built the proud superstructure of our Government; too holy to be touched by unhallowed hands—never to be approached but with reverence and respect. I came into active being in early manhood, having received as a pupil that doctrine. I have maintained it inviolate through life; I have contributed, by my life and example, all the evidence that any man could give in favor of the Union; I will never secede from that hallowed doctrine; I will never be a heretic to the Union and a belief in its conservative necessity. Disunion cannot be thought of with pleasure by any individual who is descended from the proud ancestral loins of the men of high intellectual powers, whose rich and generous blood flowed in the achievements that led to the Union. I was struck the other day with a speech by an enlightened Indian, who met me, and taking me apart, said, in a whisper, "General, will you tell me what all this talk means about disunion? I hear it all around about the streets." He asked me, tremblingly, what it meant? He thought there was a rottenness in Denmark. What will disunion profit us? It will give us ruin in exchange for happiness; it will give us slavery in place of freedom; it will give us infamy in place of glory. Destruction will be the consequence of disunion. But, sir, when disunion comes, the strife is not to begin on your borders; but the first blood that flows will be the blood of traitors; and it will be shed here, or in the other Hall, where it may originate. Sir, we ought to beware how we talk; for I tell you that a man who has bled for the Union, for freedom, and for nationality, will always be satisfied with the Constitution of the country, and will be ready

to vindicate it with his life. I have never heard the word "disunion" with pleasure; I never shall hear it with delight. Wild as the vagaries may be in relation to it, there is a soberness among the people, who have no motive but love of country, and a desire to see the nation happy, independent, and prosperous. Go to your mountain-tops; go to your valleys; go to your dales; go to the gorges of the mountains; speak to the people of the Union; and they will tell you it is worth preserving. Go to speculators and agitators, and they may tell you it is not worth preserving. I say it is. The man knows little of the value justly attaching to it, if he has ever periled his life in defense of the liberties of his country, that would not freely peril existence again to protect and secure this Union to posterity.

Mr. WILSON. I send to the Chair a proposition which I propose to move as a substitute for the bill now under consideration. I move that it be printed, and that the subject be postponed until to-morrow at half past twelve o'clock.

The VICE PRESIDENT. The Senator from Massachusetts moves that the substitute which he sends to the Chair be printed, and that the further consideration of the subject be postponed until half past twelve o'clock to-morrow.

The motion was agreed to.

Mr. DAVIS. I should like to have the substitute read, as it will probably not be printed in time for us to see it to-morrow morning.

The Secretary read the proposed substitute. The motion is to strike out all after the enacting clause of the bill, and insert the following:

That the President, for the purpose of enforcing the laws of the United States, of maintaining peace with the Indian tribes, and of protecting the citizens on the routes of emigration in the Territory of Utah, and to be employed only in said Territory, be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not exceeding in all five thousand, officers and men, who may offer their services as infantry, to serve for twelve months, unless they be sooner discharged, after they shall have arrived at the place of rendezvous, or been mustered into the service of the United States; and that the sum of \$— be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

Sec. 2. *And be it further enacted*, That said volunteers, when mustered into the service, shall be armed and equipped at the expense of the United States, and, until discharged therefrom, be subject to the rules and articles of war; and shall be organized in the same manner, and shall receive the same pay and allowances, as the infantry arm of the Army of the United States.

Sec. 3. *And be it further enacted*, That the volunteers so offering their services shall be accepted by the President in companies, battalions, or regiments, and that each company shall consist of the same number of officers and men as now prescribed by law for the infantry arm of the Army. The captain and lieutenants of the said companies shall be elected by the company, and commissioned by the President of the United States, and the President shall apportion the staff and field officers among the States and Territories from which the volunteers shall tender their services, as he may deem proper.

Sec. 4. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred upon the persons wounded or disabled in the service of the United States.

ADMISSION OF MINNESOTA.

Mr. GWIN. I now move that the special order be taken up.

The VICE PRESIDENT. That is the business now before the Senate.

Mr. DOUGLAS. I move that the Senate proceed to the consideration of the bill for the admission of Minnesota into the Union.

The VICE PRESIDENT. The special order, being the Pacific railroad bill, is before the Senate; but the Senator may move to postpone it.

Mr. DOUGLAS. I am a friend of the Pacific railroad in any proper manner, and think well of the bill which the Senator from California has reported; but I think that the question of allowing two Senators who are here in attendance to take their seats is one that ought to take precedence of all others. They are deeply interested in the Pacific railroad, and I think the proposition for their admission ought to take precedence. I move, therefore, to postpone all prior orders, and proceed to the consideration of the Minnesota bill.

Mr. GWIN. I am in favor of the proposition to admit Minnesota as a State, and shall vote for it. I have no objection to it at all; but it strikes me that the Pacific railroad bill having been set apart as the special order for this day, it is due to the friends of that measure that it should come up for consideration. As to the Senators who may take their seats from Minnesota, I have an abiding conviction that they will not be admitted before this bill passes. After the Minnesota bill passes here it must go to the other House, and may be debated there for a long time. The benefit to arise from the passage of the bill admitting Minnesota as a State may be delayed until after this bill passes. I must insist on the consideration of the Pacific railroad bill.

Mr. GREEN. I do not see that the bill for the admission of Minnesota would expedite that measure at all by being now taken up, and displacing the bill for the construction of the Pacific railroad. There are considerations that must necessarily be brought to bear when the Minnesota bill is taken up. It affects the representation in the other House, and it depends on questions of fact not yet decided—the returns of the census from that Territory. They are not yet all received; and to take up the bill thus prematurely, I think would prejudice the measure itself. I do not expect to see any formidable opposition made to the admission of Minnesota; but I do see a good reason why the consideration of it should not be hurriedly thrust upon us. As we have a special order, as there are good reasons why the Minnesota bill should not now be considered, I hope the special order will be sustained, and that the other bill will not be brought up to its prejudice.

Mr. CRITTENDEN. It would seem to me that the first object should be to complete this body by the admission of all those who are entitled to seats in it; and I really think that considerations of respect for the State and for the gentlemen who are in attendance here, and have been for ten days or a fortnight, enjoin it on us as a primary duty to take into consideration the bill to admit the State of Minnesota, and to admit them to their seats. If this is a great question which is made the special order—the construction of a railroad to California—they have a right to a judgment; they have a right to a decision on that very question; and the more important it is, the more important is the privilege and right to them to decide with us on it. Courtesy and every consideration of respect for the State and the gentlemen here in attendance to represent her, seem to mark out this measure as one entitled to particular precedence and particular favor, and I hope it will take precedence of all other matters.

Mr. SEWARD. I hope the honorable Senator from California, as chairman of the select committee on the Pacific railroad, will not insist on taking up that bill now. It is necessary for me, though I have a very deep solicitude for the success of that measure, to vote against giving it priority over the Minnesota bill. I entirely agree with the remarks of the honorable Senator from Kentucky. It seems to me that a State which has been invited into the Union, which has organized itself, and which has come here in compliance with that invitation, presents an appeal of a privileged case, and that it is due to the magnitude of that subject, and to the interests of the community who are to be brought in as a State, that they should be brought in at the earliest day consistent with a compliance with all the necessary forms for their admission.

I will say also to my honorable friends on the other side of the House, that we are doing very well with the Pacific railroad bill. We did very well the other day, and made a decided step forward in favor of it when we defeated the bill for increasing the regular Army of the United States by the addition of five regiments; for there are but two systems of governing the Territories of the United States: one is peaceful, and for that purpose the Pacific railroad is the engine; and the other is by a standing army. I think that in reaching the solution of that problem, in rejecting

a bill for the permanent increase of the Army, we made an advance decidedly in favor of the Pacific railroad. My impression is, that if the honorable Senator from California will now waive this question of precedence, and let the State of Minnesota come in, as soon as she comes in he will find that he has an increase in both Houses of Congress in favor of the measure; and I am sorry to say that I am not satisfied that there is strength enough to carry the bill until we bring in one, two, or three more States—at least one.

Mr. FITZPATRICK. I concur very fully with the Senator from New York in the propriety of the admission of a new State when she comes here in proper form; but I stand before the Senate in a peculiar attitude with reference to this matter. I think the honorable chairman of the Committee on Territories will do me the justice to say that I attended all the meetings appointed for the purpose of examining the Minnesota constitution. I attended two meetings of the committee at some inconvenience, as well as some trouble to myself, growing out of the state of my health. I had not, however, the pleasure of being present on the last occasion, when, as I understand, the report was submitted for the final action of the committee. For ten days past I have been confined to my room, and the day on which the committee agreed finally to adopt the report, I was confined to my bed. The honorable chairman did me the honor to send to me the report as well as the bill, with the request that I would read it, or listen to his clerk's reading it, stating, at the same time, that the report had been concurred in by a majority of the committee, and, if I am not mistaken, that all the committee were willing that the report should be made. Being unwilling to thwart the object of the Senate, or the country, in the admission of a State which, as far as I have examined I am frank to say showed that she was entitled to admission, I sent a verbal message to the chairman, that he might make the report, so far as I was concerned, and that I would concur in it or not, as I should think proper on examination. This is the first day I have been able to leave my room. I have seen neither the bill nor the report, and I am utterly unprepared and unwilling, without looking into the bill and report, to go into the examination of the subject.

I do not design by this to delay the admission of the State; but at the same time, when a State is to be admitted into the Confederacy, it seems to me that every member of that branch of the Government legitimately charged with this matter should have an opportunity to look into the report as well as into the bill itself. I have not been here before since last Thursday week, nor have I seen the printed report or bill. As soon as I am in possession of the bill and the report, I will see whether they accord with what we agreed on at a previous meeting of the committee; and if so, to waive all objection and admit Minnesota at the earliest day; but I am anxious to inform myself whether the facts are presented in accordance with the preliminary statement agreed on by the committee. As soon as I learn that fact, I shall be willing to forego all objection and agree to the taking up of the bill. I do not, however, feel authorized at this time to go into an investigation of it.

Mr. GWIN. Under the circumstances, I hope the honorable Senator from Illinois will not press his motion, as one of the Committee on Territories wishes to postpone it. I wish to say to him, and to the Senator from New York, that I have not the slightest disposition to have any collision in point of precedence between these two bills, for I am in favor of both of them; but the subject before the Senate having been made the special order some weeks ago, and being now ready for consideration, I ask the Senate to proceed with it. I hope there will be no collision between these two measures, but that the chairman of the Committee on Territories will feel justified by the remarks of the Senator from Alabama in postponing his motion.

Mr. DOUGLAS. I should be glad to consult the wishes of my friend from California, but this is not the first time I have been compelled from a sense of duty to urge the admission of a State prior to action on the Pacific railroad. I had to do so in 1850, when California was admitted into the Union. I felt it my duty then, to the two Senators from California, who were waiting to

take their seats, to insist on giving priority to the question of admitting that State. I feel it to be my duty to do the same thing now. I am certain that he will hasten his Pacific railroad bill, by not antagonizing with this measure, because he knows that those of us who are now pressing the bill for the admission of the State of Minnesota to a vote, are the warm advocates of the bill which he has at heart, and he certainly cannot wish to press it against us. I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. GREEN. I only wish to remark that another of our colleagues of the Committee on Territories, the Senator from Arkansas, [Mr. SEBASTIAN,] is sick, and has sent me word that he desired to be present when the Minnesota bill shall be considered. There is a clause in the bill to which we did not assent. The proper regulation and determination of the representation of that State depends on facts which we have not in our possession; and it would be premature, and, as I think, unwise, to press the consideration of it now. If we wait until these facts come—and they are expected every day—the committee can mature this measure, so that there will not be a difficulty in the Senate, and the State will slide into the Union without raising a ripple upon the stream. As a mere matter of policy, therefore, and as a matter of courtesy to the absent gentleman who feels so deeply interested in it, I hope the bill will not be pressed to displace and disjoint the order of business with reference to the Pacific railroad bill.

Mr. JONES. I wish to ask the Senator from Illinois, who reported this bill, upon what conditions he was authorized by the committee to report it to the Senate.

Mr. DOUGLAS. I will answer that question. At the meeting before the last, the committee agreed upon the bill and what should be the propositions embraced in the report, and I was instructed to draw the report. Having agreed on that, we adjourned to another meeting when the report was to be read to the committee. We met on that occasion, the Senator from Alabama being absent then, although he had been with us punctually at all the previous meetings. He was sick, or he would have been with us at the reading of the report. The report was then read and the committee unanimously agreed that the report did conform to the propositions which had been agreed to at the previous meeting, (the Senator from Missouri dissenting from the propositions on one point,) and that the bill was in conformity with the agreement.

As the Senator from Alabama was not present, but sent a message that he felt an interest in the matter, and desired to see the report before it was made, I was instructed by the committee to report, subject to the approval of the Senator from Alabama. He was the only absent member, I think. I sent the report to the Senator from Alabama, with a note explaining the action of the committee, by the clerk of the committee. He came back, bringing the verbal message which has been stated by the Senator from Alabama, that he was ill, and did not deem it necessary to read the report; in fact, that he was unwilling to delay the action of the committee, if the majority had agreed to it; but, reserving his own opinion and right to dissent on any point, he would interpose no objection to the report being made. Having received that message from him, I thought, as I had seen each other member of the committee—I do not think I am mistaken, but possibly I may be—the occasion had happened on which the report was to be made; and it was made. If there was an objection to it, I should have been glad if it had been made by any member of the committee when the report was presented. It has been made, printed, and been on our tables for nearly a week. I have been anxious to call it up before, but some questions antagonized with it. There was some delay in printing, and the Senate adjourned over from Thursday to Monday, so that I could not get an opportunity of trying the question until now. I trust that we may be permitted to get a vote on it. The Senator from Arkansas, I have no doubt, will be here when we come to the final vote.

In regard to the information which is expected, I can only say that the census has been received from all the counties in the Territory except seven.

The enabling act provided that the State should have the representation in the House of Representatives to which she would be entitled by the census according to the apportionment of 1850. The bill reported now provides the same thing, that the number of her Representatives in the other House shall be what she may be entitled to by the census according to the apportionment of 1850, leaving the House of Representatives to determine the question just as it did under the census of 1850. The presumption is, that in a few days, or by the time the bill will get through both Houses, the census of the other seven counties will be here; but if not, it leaves that question to the House of Representatives. They are to have one member, and as many more as that census, when complete, shall show them to be entitled to. Hence, to vote on this bill will need no additional fact. However, I will not occupy time, in the hope of getting the question.

Mr. MASON. Mr. President, there was a time when the admission of a new State into the Union excited little other sensation in either House, or in the country, than the earnest desire to welcome a new State into the Confederacy. I trust that time has not yet gone by. But we all know that events have occurred, and other events are at hand, that may perhaps enlighten the American mind on this question of the admission of new States.

The State of Minnesota has just passed from the chrysalis form, and has been but a very few days before the Senate. I think the report of the committee, of which the honorable Senator from Illinois is chairman, was presented here within the last week, or ten days, at the outside. I have read it, but I confess I took it up out of its order in the press of business upon me, and that portion of public business which has been more especially confided to me, in order to do so. I do not know that, when the question comes before the Senate according to a regular, and, as it would seem to me, an appropriate course, objection will be made to the admission of the State. I did observe, what I regret to say I have more than once observed in the quarter of country where that State, or that Territory, to speak more properly, is found, very great irregularities occurring and passed over in the mode of erecting the State. I do not mean to say that I shall find any objection to the admission of the State on them, but they exist and are set forth in the report of the honorable chairman of the Committee on Territories.

But, sir, why this apparently undue haste to bring this question now before the Senate? The honorable Senator from Illinois has said that those who have been elected Senators from Minnesota are waiting, and it is desirable to give them their seats. As a matter of courtesy to those honorable gentlemen I should be disposed to go as far as my sense of duty to the whole country would admit; but a question of courtesy, however we may entertain it elsewhere, can have no place on this floor if it is at all in collision with what honorable Senators may consider matters involving the great public interests of the whole country.

Now, Mr. President, we know very well, although not officially informed, that we shall have presented here, certainly in the course of this week, possibly in the course of the next day or two, an application from another State for admission into this Union. I do not know where the honorable Senator from Illinois, the chairman of the committee, will stand upon the question of the admission of that State. If the State presents itself in the manner in which it is said it will be done, I do know where the great array of honorable Senators on this side of the Chamber will stand, or at least I think I know. I am not prepared to take up, at present, the consideration of these questions separately. I do not know that I may not be prepared to do so on further consideration and further conference; but it may be considered when we have had further time to take a more extended view of all the circumstances, and the probable exigencies that may surround the question of the admission of new States at this session, it may be found desirable that they should not be taken up separately. I do not know that it will occur, but, for one, I am indisposed to take up one of those measures until the other is matured, at least.

Sir, I do not profess to be informed of the circumstances under which the State of Kansas is to apply for admission.

A SENATOR. Territory.

Mr. MASON. And now the Territory of Minnesota, for they are both Territories, applies for admission. I do not know the circumstances under which the Territory of Kansas is to apply for admission as a State; and I apprehend that no honorable Senator knows them; but we do know that the sources of information which have been open to the Senate and the country upon every question attending the passage of Kansas from a territorial state to that of an independent political community have been of a character to carry with them distrust and doubt. We know, however, that the constitution of that State is now in Washington. We have reason to believe that, within a very short time, it will be sent to the Senate, and we may presume—we cannot take it for granted—that when it is sent to the Senate, it will be accompanied by authentic information touching every matter connected with it; but it is not done yet. I trust when that question comes up, that it may not be attended by the opposition, or the extent of opposition, that is anticipated to the application of that State for admission; but if it is, it certainly interests me and those whom I have the honor to represent on this floor greatly, that not one single step shall be taken by this body in reference to the admission of new States until every question connected with the Territory of Kansas has been matured, and we shall be enabled to see exactly where that question stands and how it is to be received.

These are my present impressions. I do not mean to commit myself; because, as I have said, I am uninformed, and must be so until we have an official and authentic communication. I do not know but that when the time comes, I may as cheerfully vote to admit the one State separately as to admit the other separately; but I want to see the way around me. I want to see where we are to stand. When the Territory of Kansas presents herself here and asks to be admitted as a State, there may be circumstances—I trust that there may not be—why it should be found a matter necessary to the southern States to determine where they stand in this Union, that the two questions should be taken together and not separately.

Now, sir, I am not aware of any necessity for undue haste. As to the honorable gentlemen who are here to represent Minnesota when admitted, however interesting it might be to me as a gentleman to receive them here, certainly it interests me not at all in connection with the public matters which I apprehend will be found necessarily connected with it. I hope, therefore, that no unusual haste will be exhibited by the Senate to take up this bill.

Mr. WILSON. Mr. President, I am in favor, and the people I represent are in favor, of any just and practicable measure for the construction of a railway to the Pacific ocean; but I feel under the necessity of voting for the motion made by the Senator from Illinois, to postpone that measure for the consideration of the question of admitting Minnesota in the Union. We passed, at the last session, an act authorizing the people of that Territory to frame a constitution and be admitted into the Union as a State. They have complied with that act. There were irregularities, but all parties agreed on a constitution, and that constitution was submitted to the people and received thirty thousand votes, while there were only about five hundred against it. We have the voice of the people of Minnesota, approaching unanimity, in favor of this measure; and I think that all irregularities of form ought to yield to the substance.

Sir, I hope the Senate and the country will notice the position taken by the Senator from Virginia. He is opposed to going into the consideration of this measure now, because he supposes that Senators on this side of the Chamber may oppose the admission of Kansas under the Leecompton swindle. He does not want now to act upon the question of the admission of a State under a constitution authorized by Congress, because he wants to see what we intend to do on this side of the Chamber when the proposition comes here for the admission of Kansas into the Union. I say to the Senator now, I say to his friends here and elsewhere, that he may understand that we will oppose the consummation of that Leecompton constitution by all the means in our power under the rules of this body; and I

take it that it will be so under the rules of the other House.

I see no necessity, the country sees no necessity, why a Territory that has framed a State constitution, in accordance with an enabling act—a constitution that has received the sanction of nearly the whole people of the Territory—a constitution under which a Legislature was elected, that has been in session nearly two months, and has been engaged during that time in passing laws; I say the country sees no necessity why that Territory—hardly a Territory, but not yet a State—shall be kept out of the Union, to wait for an examination of all the facts connected with the Territory of Kansas. There is no connection whatever between them. There is no such connection as can justify any man in the Senate, or in the country, in defeating the admission of Minnesota into the Union to wait for an investigation of the affairs connected with the Territory of Kansas.

Now, sir, there is a need of immediate action in favor of the admission of Minnesota into the Union. There is a Legislature chosen under this constitution, which has been in session nearly two months. They have been passing laws. Perhaps the Senator from Ohio [Mr. PUGH] would say this is rebellion; but they have been passing laws, and those laws have been signed, not by the Governor elect under the constitution, but by the Secretary under the territorial law. Here you have a State Legislature passing great and important measures concerning the interests of the people of that new State, and the laws signed by a territorial acting Governor. These laws are taking effect in that Territory; and I say here today what I know to be true, that the State Legislature and the people of Minnesota are embarrassed by this question being kept in its present position. It affects them in their local legislation and in their local interests. I think the time has come when we should act upon this measure disconnected from any and all other questions; and I shall give my vote for the motion made by the Senator from Illinois.

Mr. BAYARD. Mr. President, if I could see the necessity for immediate action on the bill brought forward by the Senator from Illinois to admit Minnesota into the Union, I should be disposed to vote for taking it up now; but there is a difficulty in my mind to which I have had my attention drawn, which is one reason why I am unwilling to act on that bill now.

The great object, I presume, of the admission of Minnesota at an early day as a State into the Union, is that those gentlemen who have been elected by the Legislature of that inchoate State as Senators in the Congress of the United States and by the people as Representatives to the other House, may take their seats on the floors of the respective bodies. I have a very clear opinion myself that under the terms of the Federal Constitution no such election could entitle a Senator elected before the admission of the State, to a seat on this floor. It will be personally unpleasant to me to make the objection; because, for one of the gentlemen elected as a Senator from Minnesota, I have the highest personal regard and esteem—I allude to the gentleman who was formerly a member of this body. The other I am personally unacquainted with. It would be personally painful to me to make the objection; but I am one of those who believe that adherence to the provisions of the Constitution, even when there may be no great apparent difficulty arising out of transcending its provisions, is of great importance because the precedent at a subsequent day may be urged when it becomes of much higher importance, and so obliterate the provisions of the Constitution. On its reading, I cannot doubt.

But, as I know that admissions have been made, I believe *sub silentio*, without question made, under similar circumstances, I should have paused to make the objection did I not find that it was made in the early history of the country. In the year 1796, General Washington communicated, on the 8th of April, I think, to the Congress of the United States, the fact that the Territory of Tennessee had formed itself into a State, and transmitted the papers to Congress for their action on its admission into the Union as a State. The subject was under discussion from the 8th of April until the 1st of June, the day on which Congress adjourned; and on that day the State was admitted into the Union. Pending that discus-

sion the credentials, or what purported to be the credentials, of Mr. Cocke and another gentleman whose name I have forgotten, two Senators elected by the Legislature of Tennessee, were presented. The credentials were perfect in their form. They might well have been used as a model for all subsequent credentials, and would, probably, have removed many of the questions that have arisen in this body if they had been adhered to as such. The credentials, in their form, were a certificate by the Governor, under the seal of the State, that those gentlemen had been elected members of the Senate of the United States, as was authenticated by the resolutions of election, signed by the Speaker of the House of Representatives, and the Speaker of the Senate of the State of Tennessee, and the signatures were attached and the resolutions given. There could be no objection whatever on the face of the credentials. Unfortunately, the debates of that day are not to be found; and we do not know the reasons which governed the Senate. We can only find the votes.

This paper being read, after two or three motions of postponement, the Senate ultimately passed a resolution authorizing these Senators elected, before the admission of the State, to take seats on the floor of the Senate as spectators. As I have stated, the State was admitted on the morning of the 1st of June. At the evening session, after the approval of the bill by the President, and the admission of the State, a resolution was offered to admit the Senators elect from Tennessee, and swear them in as members of the body, Tennessee being then a State of the Union; but the resolution was rejected by the Senate.

I have then the earliest precedent which appeared in the history of our country, in which the Senate decided, on a contest made, that the election of Senators by an inchoate State, before admission, could not be recognized as made by valid authority under the Constitution of the United States, which provides that Senators shall be elected by the Legislatures of the States, of course necessarily meaning the States of the Union.

I do not propose to go further into this question now than to mention in connection with it, that if the great object be, as I suppose it must be, the admission to the floor of the Senate of the gentlemen who have been elected to the Senate from the State of Minnesota, in the event of the admission of the State I shall hold it to be my duty to ask the reference of the question, before they are sworn in—as the matter is one that you must notice on the face of the credentials presented—that they were elected antecedent to the admission of the State into the Union, and to have it decided by a vote of the Senate. I believe it wiser to adhere to the Constitution. I have a very clear conviction that the Constitution renders such an election invalid, and I am supported by the first case which occurred in the history of the proceedings of the Senate. I am not aware that a contested question has ever arisen since as to admission under the same circumstances, though I am aware that Senators have been admitted where no objection has been interposed, when they have presented themselves under circumstances of the same character.

Mr. HALE. Mr. President, I have generally found, in my experience of the Senate, difficulties enough attending questions that were presented, without inviting the body to the consideration of other questions that might be involved in other issues and other matters which were to come up at another time. I had proposed to act on this supposition in my action upon this floor. But, sir, the remarks that have been thrown out by the Senator from Virginia [Mr. MASON] seem to my mind to require a very brief and passing notice. The manner of the Senator from Virginia indicated that they were not opinions hastily formed, that they were not the result of heated blood that had been stirred up in an angry and excited debate, but they appeared to be the deliberate convictions of his understanding and the announcement of his settled purpose. In that sense they seem to demand more weight than they would have in a different view of the subject. If I understand the Senator, his position is that he will not consider the application of any State for admission into the Union until the Kansas controversy shall be settled. That was the amount of what he said. I do not give his very phraseology, and it is to that announcement that I ask the

attention of the Senate, and I hope to call to it the attention of the country.

The Senator from Virginia objects to considering the application of any State, no matter how regular may have been her proceeding, no matter how literally she may have pursued every requirement of the Constitution and every provision of the enabling act, no matter how unexceptionable may have been her whole history in her territorial state and in the manner in which she proposes to emerge from the condition of a territorial to that of a sovereign State—I should have said a State, for I hope we are not to have any more sovereign States in this Union—no matter how unexceptionable it has been, here is a block thrown in the way over which Minnesota and every other State must pass before she can gain admission into this Union.

Now, sir, the eloquent Senator from Texas [Mr. Houston] said something, and the Senator from Ohio, [Mr. PUGH,] the other day, said something, which I did not hear, but have read since in the papers, lecturing us for speaking lightly on the danger of collision, and of danger to the Union. Well, sir, I am always willing to be lectured, glad when anybody undertakes it, because it satisfies me, at least, that if there is not anybody here that knows more than I do, there is somebody who thinks he does. [Laughter.] But let me say that there never has been a sentiment avowed on this floor, which looks so directly, so seriously to a conflict, and one that may end in a dissolution and disruption of this Union, as the avowal which has been made by the Senator from Virginia, and in which I understood him to intimate the great array upon the other side of the Chamber would act with him; and that is to make the admission of Kansas under the Lecompton constitution the touchstone by which fidelity is to be tried, and without which acceptance no other State can ever come into this Union. Sir, I am not here to speak for any party, nor for anybody, but myself and the State which I in part represent; but I am free to say, and I am bound to declare, that so far as my action has anything to do with the voice of the Government, and the proceedings of this body, if that is the condition, it will be a long while before your numerical number of States will exceed thirty-one. I deem it to be contrary to the whole genius of our Government, to the principles of our Constitution, and that bond by which the States are bound together, for any one State, or any set of States, to say that in a certain case, which I think a majority of the people of this Union believe not to be so characterized as to entitle the Territory to come into the Union, her admission shall be made the *sine qua non* without which no other State ever shall come into the Union.

I disclaim now and forever the idea of threatening anybody or of speaking lightly of the Union, or of the dissolution of the Union, and I am willing to sit at the feet of anybody who chooses to lecture me, because I am used to being lectured; but I have thought sometimes that some of these lectures would do very well if applied to somebody else. [Laughter.] There is an eloquent and able Senator who sits near me—I allude to the Senator from Louisiana, [Mr. BENJAMIN]—and I remember that at the close of a very eloquent and able speech which he made on this floor not long ago, abounding with the richest figures of rhetoric and the choicest ornaments of oratory, he closed with this significant figure: that if certain things did not turn out in a certain way, the South would throw the sword into the scale, and settle the weight that way. I remember that, but I do not recollect that any lecture was ever delivered to the honorable Senator for it from that time to this, and I do not mean to lecture him now. I think it was a beautiful figure; but whether it was appropriate to the subject or not, I do not know. I remember one significant fact that all these lectures come upon those of us who sit upon this side of the Chamber, upon the minority, and a very small minority it is. It seems to me that if gentlemen want to throw out censure in a place where it will have an effect, a good effect, they should sometimes take some of the gentlemen on the other side. I thought the honorable Senator from Georgia, [Mr. IVENSON,] the other day presented as fair a case for a good wholesome homily as I had ever seen in the Senate, but nobody thought of administering it to him. When my friend from

Michigan, [Mr. CHANDLER,] however, fired, I suppose, with the magnetism which the Senator from Georgia threw out, got up and undertook to respond to him in the same style, perhaps not so eloquently, and presented simply a counter opinion to the one which had been announced by the Senator from Georgia, he had to take a lecture; but the Senator from Georgia went scathless.

I do not wish to lecture anybody; but I must say that I look upon the avowal of the Senator from Virginia, made coolly and deliberately as it was, as being something, if it is to be backed up by the great array which the honorable Senator intimates, of very serious import. I do not know how we shall be able to meet this crisis. I do not know but that you can carry your Lecompton constitution through this body. I rather think you can; that is my decided opinion. I do not know but that you will carry it through the House of Representatives. I think you would be more likely to do it if you had raised the five regiments; for without meaning any disrespect to the members of that House, I must say there is a sort of weight, that the great amount of patronage which the appointment of so many officers would create, would have a kind of insensible influence on the atmosphere. [Laughter.] There is a great amount of pressure pervading the atmosphere, when one of these bills, which has such a large amount of patronage in it, is passed, that has an effect, and I have no doubt an insensible effect sometimes, even upon the men that ought not to be affected by it.

But, sir, I had hoped, and I yet hope, that this question presents, and will present, considerations that will address themselves to patriotic minds, independent of the party associations which they sustain, independent of the localities and the communities which they represent. I believe the Kansas question will present to the minds of such men, coming from such quarters, considerations that will have weight enough to influence their judgment, independent and irrespective of the considerations which have been alluded to as necessarily connected with it. I am the more strengthened in this belief, in this hope, and in this conviction, when I remember the history of Kansas, and when I remember the history of the men whom you have sent there to act as Governors of that Territory—

Mr. DOUGLAS. Mr. President, I trust I shall be pardoned for raising the question whether discussions in regard to Kansas are in order on a motion to take up a bill for the admission of Minnesota? I know that we have all been wandering a little further and further, and we are going into the vortex of general politics to the exclusion and defeat of the very object we have in view. The object is to decide whether we shall take up the Minnesota bill or not. When we do take it up, the question will be open for debate; but really I hope we shall not open on this question a debate to which I can see no speedy termination.

THE VICE PRESIDENT. The Chair does not feel himself authorized to determine the relevancy of the remarks of Senators.

Mr. HALE. I am obliged to the Senator from Illinois for giving me another illustration of what I just remarked, that the lecture always comes here. Why did he not give it to the Senator from Virginia?

Mr. DOUGLAS. I trust it will always be as well deserved as it is now.

Mr. HALE. Why does not the Senator begin the censure at the head of the class? Why does he come down so far, when all have offended? But, sir, I think I was out of order, and I think the Senator from Virginia was too. I give up.

Mr. MASON. Mr. President, the honorable Senator from New Hampshire did not undertake to report what I said, but undertook to report what he considered the amount of what I said—the substance of it. In what I said I was speaking for myself alone. I have had no conference with friends around me. I did not, so far as my own action was concerned, say that I wanted to see all the difficulties surrounding the Kansas question settled before I could vote to admit a new State anywhere else under any circumstances. I refrained from saying that. The time has not yet come to say it; I trust it never may come. What I did say was, that this bill for the admission of Minnesota had been reported within the last week or ten days; that in looking into it I saw that very

great irregularities had attended the construction or erection of this State; that I was not prepared to object to them; it may be that they were subsequently cured; but that we knew there was another State, one also recently erected from a Territory, or claiming to be so, that would apply within the next day or two for admission, and we knew, from the history of the country, that there was probably a great amount of objection which would be raised by Senators sitting on the other side, to the admission of that State; and that, for one, I wanted to see the whole ground, to understand what we were about. I said that when two States are applying coterminously for admission, there might become, not a political necessity only, but a political propriety, in justice to the great public that we all represent here, in connecting their fortunes. I did not know, and did not declare, that even in my judgment that might become necessary; but I said I wanted to take a survey of the whole ground before I committed myself to the admission of one State, when there was another at the door, and that it might be necessary to connect them. With all the respect which I bear to the honorable Senator, I must declare that I did not say that, for one, I would not again vote to admit a State from any quarter, until the Kansas difficulties were settled, meaning by the Kansas difficulties—at least what I mean by them is, objections made to the admission of that Territory as a State. I again say to the honorable Senator, the time has not yet come to say that; I trust it never may come.

Mr. BROWN. I appreciate, sir, the suggestion made by the Senator from Illinois, that in discussing a question relating to the order of business, we had better not wander so far off as to discuss everything; and in the remarks which I shall submit on this occasion, I shall not allude to Kansas further than is necessary to illustrate the views I have in reference to the point before us, which is, whether this subject ought to be considered now, or whether it had better be postponed to a subsequent day.

At the last session, Congress passed what was termed an enabling act for Minnesota; such an act as the Senator from Illinois has assured us was, in his judgment, absolutely necessary to enable a Territory to form a constitution preparatory to coming into the Union as a State. He notified us in his opening argument on the Kansas question, that a Territory could do nothing which it was not authorized to do by the enabling act. If that be true and there have been in Minnesota those irregularities which gentlemen on all hands admit to have existed, I submit whether the enabling act amounts to anything. If it be necessary to pass an enabling act, there must exist a necessity for obeying the act after it is passed; and that seems, in the case of Minnesota, not to have been done. What is the necessity for an enabling act if the Territorial Legislature and the people of the Territory do not regard the act after it is passed? As I understand the case before us, there is no pretense that the enabling act has been obeyed by the authorities in Minnesota.

But, says the Senator from Massachusetts, these defects were cured by the subsequent action of the people. I say again, if there was a necessity for passing the enabling act, and nothing could be done till it was passed, then I want to know how it is that the people of a Territory can cure defects which must have been fatal in themselves, except upon the ground which we take in reference to Kansas, that the power emanates from the people, that no enabling act is necessary, that when the people have acted they give vitality to the constitution, and whether it is made in obedience to an enabling act or not, is of no consequence; and because of these arguments we desire to see these two States brought in together. I want to know whether my honorable friend from Illinois means to take the ground that an enabling act is necessary, and when the act has been disregarded, vote for the admission of Minnesota, and then vote to exclude Kansas because in that case there has been no enabling act. When he does that, I wish him to do it altogether, so that the two things may stand in such juxtaposition that the whole country may see what he has done.

I raise no question in reference to the enabling act, or that the people have disregarded it. I think the act was unnecessary. If I had known the full tendency of it, I should have opposed it on other

grounds than those on which I placed my opposition last year. I think, when the proper time comes, I shall be able to demonstrate that no such act is necessary. The Senator from Illinois, however, takes a different ground. He says the act is necessary. Then, I say, admitting his premises, there is a necessity for obeying the act. What! an enabling act totally disregarded and defects cured afterwards by a popular vote, and admit the State; and in the next breath tell us that Kansas cannot come in because there is no enabling act for her! If there be such power in the people of Minnesota, that they may not only make a constitution without an enabling act, but in violation and total disregard to it, I shall want to know, at the proper time, why the same rule does not apply to Kansas?

But the Senator from Massachusetts tells us, as an argument why we ought to act at once on this subject, that the Legislature has gone on, and that the Governor chosen under this constitution not yet acted on by Congress, has been signing laws, and that a Secretary, whose existence under the constitution has not been recognized, has been countersigning them. I should like to inquire of the Senator if these laws are put in force there. Are the laws thus signed by a Governor unknown to Congress, and unknown to the President in a Territory, enforced in Minnesota?

Mr. WILSON. I cannot tell whether those laws are enforced or not. I have heard of laws, some dozen or twenty, I think, passed, not by the Territorial Legislature, but by the Legislature elected under the constitution, and signed by the Secretary of the Territory as acting Governor.

Mr. DOUGLAS. He is acting Governor in the absence of the Governor of the Territory. They are signed by him as acting Governor.

Mr. BROWN. I did not precisely understand it. I supposed the Governor elected under the new constitution had signed the laws.

Mr. DOUGLAS. No, sir; but the Secretary of the Territory, as acting Governor.

Mr. BROWN. I did not know but that you were getting back to the days of Topeka, and that some such man as Governor Robinson was signing laws there. All I desire to add is in reference to a remark uttered by the Senator from New Hampshire. If Kansas is to be excluded, under the circumstances mentioned by the Senator from Virginia, he expressed the hope that the number of States never would exceed thirty-one. Am I mistaken?

Mr. HALE. Yes, sir.

Mr. BROWN. Will the Senator repeat what he did say?

Mr. HALE. Yes, sir. I said, that if the Senator from Virginia was correct in announcing that that was to be a test, that the admission of Kansas, under all the objections which exist to her, was to be made the price of the admission of any State from any quarter, it would be a great while before our numerical number of States would exceed thirty-one. That is what I said, exactly.

Mr. BROWN. That varies it a little, but I think not a great deal. I can say, however, to the Senator from New Hampshire, that, if one rule is to be applied to Kansas, she ask no admission as a slave State, and she is to be excluded on that rule, and then, when the same rule applies to Minnesota, she is admitted notwithstanding the rule, the number of States never will exceed thirty-one. If you admit Minnesota and exclude Kansas, standing on the same principle, the spirit of our revolutionary fathers is utterly extinct if the Government can last for one short twelvemonth. I am sure you will not do it; I entertain no serious apprehension that you are about to do it; but I do not understand this impatience, this exceeding anxiety to force Minnesota into the Union. When we know that Kansas will be asking for admission, as the Senator from Virginia has already announced, certainly this week, and possibly to-morrow, why this exceeding haste to put Minnesota ahead? Do Republican Senators hope to have two more Senators on this floor to aid them in the exclusion of Kansas? Is that what they are driving at? If it be, I trust there is a firmness and decision on this side of the House that will resist to the bitter end the consummation of any such design. I know nothing of the views of the two honorable gentlemen asking admission on this floor as Senators from Minnesota. I know not upon which side of this question they will

vote. I know them to be honorable men, as all of us know them to be. But when I find such exceeding anxiety on the other side of the Chamber to bring them in, I expect that gentlemen look for some aid and comfort from that quarter. They would hardly manifest such exceeding zeal in getting in two additional Senators, if they believed they would vote against them, when they came in, on the vital question of the session. I do not know that they will vote against us; I do not state that they will; because, on that question, I know nothing; but I would rather try this question before the old Senate, without the addition of any new material. Whether we can carry it is another proposition. What will result to the country if we fail, I pretend not to say. I hope I may not be misunderstood on that point. What I say is, that if you admit Minnesota, and Kansas applies substantially on the same grounds, you must not exclude her. If Kansas be excluded on account of irregularities in the formation of her constitution, then let Minnesota be excluded for the same reason, and there will be peace all over the country. Nobody in my section will complain, for an instant, that you apply the same rule to the one that you apply to the other. Our point is, that you shall not apply one rule for the admission of a free State, and then exclude a State asking admission as a slave State on the same principle.

Mr. CRITTENDEN. Mr. President, I did not intend, nor did I expect, to say another word on the subject; but allusions are made to this side of the Chamber. Perhaps they are not always intended to include me; but I am included in the language which gentlemen use. I am on this side of the Chamber. I sit where I sat twenty years ago, and I stand where I stood twenty years ago, so far as principles are concerned.

Mr. BROWN. Allow me to interrupt my honorable friend from Kentucky?

Mr. CRITTENDEN. Certainly.

Mr. BROWN. I suppose the remark of the Senator may by possibility be meant for me. I am not unaware of the fact that my friends from Alabama, [Mr. FITZPATRICK,] South Carolina, [Mr. EVANS,] and Louisiana, [Mr. BENJAMIN,] in common with the honorable Senator from Kentucky, all southern Senators, sit on the other side of the Chamber; but when I speak of the other side, I mean to be understood as speaking of the Republican members of the Senate, and nobody else.

Mr. CRITTENDEN. I did not take it in any sense personal or offensive. I sit where I sat; and I endeavor to act as I always have done, so as to do what I think is right. When I suggested some time ago, in a very few remarks, the propriety that called on us to act on this measure, I did not know that there was any opposition to it whatever; and though I have heard the remarks of many gentlemen, I do not yet perceive that they have any objection to the proceedings that have taken place in Minnesota. All has been regular; to my understanding substantially so. The committee have so reported, and have recommended the admission of the State on the ordinary terms. I regarded it somewhat in this stage of the business as a mere formal proceeding on the part of the Senate; and I thought it due to the State itself, who now, by regular course of law, has arrived at its present condition, and is entitled by law to admission here if she presents a republican constitution, and all the conditions have been complied with on her part, and that we were unjustly delaying the admission of her representatives on this floor. I thought it due to ourselves and to the Constitution of the United States; I thought it due to the State of Minnesota and to the gentlemen who are her Senators, for such they virtually are, who are in attendance from that State, that this formality, as I consider it, should be gone through with without delay. I yet regard it as such.

I have heard my honorable friend from Virginia; I have heard the honorable gentleman from Mississippi, and others; and what do their objections amount to? Have they made an objection to the course by which the constitution of Minnesota was formed, or by which it is authenticated? I have heard none. It has been intimated that perhaps there were some irregularities; but gentlemen do not state that those irregularities would control their judgment on the subject; and yet we

are to delay it. Why, sir, if there are questions to be settled, they are entitled to a speedy settlement; and let us proceed at once to the business.

Gentlemen suggest that Minnesota is not to be admitted until Kansas is prepared. In the name of God, when will that be? She has been preparing now many years for admission here. She has been the subject of long controversies here. Why shall we delay the admission of Minnesota because of the controversies that exist in relation to Kansas? I can see no reason. Are we not to proceed in the case of Minnesota, which involves no question, which involves no objection, until we can settle a disputable question in respect to another State that asks for admission? Why are we to throw into the bottomless sea of troubles that is around Kansas, this question of the admission of Minnesota? If that is to be the case, we shall not now proceed to the consideration of this subject, and no gentleman can tell me when we shall be brought to consider it.

Is it just to the State of Minnesota? Is it just that she, who has approached us in an unquestionable shape—in obedience to law—in conformity to the Constitution, and has presented to you a State constitution sanctioned by a convention, and sanctioned by an almost unanimous vote of the people, shall be rejected or stopped at our door, compelled to wait until somebody else is prepared for admission? I see no justice in it; I see no argument in it; and yet such considerations as these are supposed by gentlemen that I would, under ordinary circumstances, say are much more competent to judge than I am, to justify them in withholding themselves from acting on this subject, until another doubtful and questionable event, in their apprehension, is decided upon.

With all these arguments and views, and in almost every argument and controversy that I now witness on this floor, are mingled, to give them strength and point, either prognostics of the overthrow of this Government, or threats against its existence. This is the common strengthening means now thrown into every argument here. While we prize the Union, while we would, I am sure, and the very gentlemen who use this language would do all they could to preserve and perpetuate the Constitution and the Union, there is not a day that we are not doomed to listen here, over and over again, to threats of its overthrow; predictions made, little prophecies thrown out, that to-day, or to-morrow, or at some day near at hand, this Government is to be no more. Sir, this is the most unfortunate and ominous sign that exists in the whole country, in my judgment. If such language can be familiarly used, and thrown into every argument as a make-weight—as a dust in the balance—if these threats can be made here against the existence of the Union, and if they can have any effect upon the people of this country, then, indeed, sir, we may well apprehend that it cannot last long. I hope it will last forever; and if nobody threatened it until I did, it would last forever. [Applause in the galleries.] Yes, sir, and it will last much longer than gentlemen here, by continual repetition and reflection, and meditation, believe to be so near at hand; and it would last much longer, perhaps, but for these meditations. They prize it so highly that the remotest danger affects them; and they forthwith begin to prophecy that its end is near at hand; or they are provoked at something which is done which they think is adverse to the interests of the Republic and the Union, and then they threaten; but all this is promoting the very purpose and the very end against which I know, in their heart, they are opposed, and with their hands would oppose.

We should do well, I think, to throw out of all our ordinary course of argument these threats and these prophecies. I believe the Union is to live, not because I wish it, or you wish it, sir, but it is to live for ages; I believe it is enshrined in the hearts of the people, and they will be its sustainers and maintainers even if we should be recreant to the part we are to act, and desire its overthrow. It is not in our power—thank God it is not in the power of the Senate, or of the Congress of the United States to overthrow this Government; and I rejoice in it. [Applause in the galleries.]

Mr. MASON. I trust the order of the Senate will be preserved. This is not the first occasion since I have been here, by many, when the order

of the Senate has been disregarded by those present. I hope the order of the Senate will be preserved.

Mr. CRITTENDEN. Mr. President, I did not intend to have said this much, and this, perhaps fortunate, interruption, brings me to a speedier conclusion than I should otherwise have done. I do not think, in all soberness and earnestness, that we can, in justice to the State of Minnesota, refuse to consider her claims to admission here. How her members will vote on this side or that side of any question, can not be anticipated. We have permitted her to exercise by anticipation the rights of a sovereign State. We have permitted her to make a constitution for a State government. She has put on the armor of a State government in your presence and by your permission. She is entitled to all its privileges, and she is exercising them. Though not yet within the limits of your Constitution, she is by your authority in a state of preparation for it, and has already, by your authority, anticipated her sovereignty, and performed acts which a sovereign State alone could do. She has made a constitution such as befits a sovereign State. She has elected representatives, such as a sovereign State is entitled to have on this floor. She has done all this, not in the tumultuous, disorderly manner in which we have frequently allowed it to be done, but in regular conformity with, and in obedience to, law. She is here in an unquestionable form. I say in an unquestionable form, if the report of the committee be relied upon, and I will rely upon it. Why should she be held back? Shall she be held back to be used by gentlemen on the one side or the other, as a mere argument, a mere matter of constraint to carry or prevent some other measure? I trust not. I do not think that is just. I feel that I can do justice now in reference to Minnesota, and I feel that I can do equal and unswayed justice in the case of Kansas, when that shall come up. It is not necessary as to me that one should be made to operate on the other. Nothing but reason, nothing but justice should operate on the decision in either case. Let us, then, act on this. It is not a mere matter of courtesy to be sure—it is far, far above it. It is an act of justice to this State; it is an act of justice to ourselves, and to the Union of these States, that Minnesota should come in, and that without unnecessary delay. There has been a week's delay since the report was made. There is no reason why it should be postponed—no reason at all adequate which has been alleged by any gentleman who has spoken against the present consideration of the subject.

I have heard no objection to the constitution; I have heard of no irregularity pointed out in the making of the constitution. There was some little controversy among the members of the convention who formed it, who separated into different bodies; but they came together at last, and agreed on one instrument that was submitted to the people, and adopted by the almost unanimous vote of the people. The sovereign hand of the people has ratified and sealed the instrument made by their delegates in convention. What more does any one want? Nothing more, according to any form of proceeding with respect to any other State that has ever been admitted.

As to the objection of my honorable friend from Delaware, [Mr. BAYARD,] that these Senators perhaps have only a very questionable right to their seats, inasmuch as they have been elected by a Legislature before the admission of the State into the Union, that, I think, is settled by the constant practice of the Senate. Practice and precedent, even if there was a little error in it, have established that doctrine. We cannot go behind all the precedents, and say now, that these gentlemen are not entitled to their seats because they were elected before the admission of the State into the Union. That might have been a question once; but it was never one, I think, of much moment or difficulty.

The people of Minnesota, as I said before, are exercising the anticipated rights of a sovereign, and, while in a transition state, they are of necessity permitted to exercise and perform acts which none but a sovereign could perform without your consent. You have given your consent that they shall become a State. They are exercising, by a little anticipation, the right of a sovereign State in electing Senators, after they have exercised the same right in establishing and presenting to the

people a constitutional form of government. It is a Legislature within that ample sense of the Constitution of the United States; that beneficial construction of it which is necessary to its useful operation. It comes within its reasonable and proper construction.

That, however, is not the question now before us. Admit the State, and then when the Senators present themselves, it will be time enough to consider whether their credentials and their election have been of that character to entitle them to a seat. I hope we shall proceed with this bill and finish it before anything else is done. I think it is the greatest exigency that we now have. The body is not complete. Two of the judges that ought to decide upon all questions are excluded, and it is said are to be excluded till another question is settled. I am opposed to all that sort of action by this body. I want direct action on every subject that comes before us, according to its character, and according to its exigency. This is one of the exigencies, in my opinion.

Mr. DOUGLAS. The Senator from Mississippi [Mr. BROWN] seems to be under the impression that I am going to apply one rule to Minnesota and another to Kansas. I desire to relieve him from any apprehension of that kind so far as I am concerned. He is entirely mistaken in assuming that I regard an enabling act, as it is called, as essential. I have in explanation of that point said, in reply to the Senator from Missouri, [Mr. GREEN,] the Senator from Pennsylvania, [Mr. BIGLER,] and several other Senators, that I deemed the want of an enabling act an irregularity which might be waived or not according as the proceedings were fair and just or not. I do not regard an enabling act as at all essential; because if there is no enabling act, and if Congress, therefore, has not given its assent to the formation of a constitution, yet if the people proceed and make a constitution, and when it comes here we believe it embodies the will of the people fairly expressed, that they have the requisite population, that the boundaries are fair and proper, we may waive the omission of an enabling act and receive them into the Union. I have voted several times since I have been a member of the two Houses of Congress for the admission of States under such circumstances, and hence I do not regard an enabling act as at all essential. It may be waived. The essential point is that the constitution must be the act of the people embodying their will.

I have not regarded submission to the people as an essential principle. It is a fair way of ascertaining the popular will, when that will is disputed. It is a means of ascertaining an end; but if there is no dispute that the constitution presented is the will of the people, it is no more essential to have a vote of submission, than it is in this body on the passage of a bill that the yeas and nays shall be recorded each time. If you put the question and one Senator says "ay," and nobody says "no," you declare it carried; the will of the body on the point is not questioned; but if I rise in my place, or any other Senator does, and demands a count, or a sufficient number demand the yeas and nays, they are taken, in order to ascertain the essential point, whether it is the will of the body that the act in question shall become a law. So with regard to the question in Kansas and Minnesota. Satisfy me that the constitution adopted by the people of Minnesota is their will, and I am prepared to take it. Satisfy me that the constitution adopted, or said to be adopted, by the people of Kansas, is their will, and I am prepared to take it. I will not apply one rule to Minnesota and another to Kansas. I will never apply one rule to a free State and another to a slaveholding State. I hold each of the States equal in this Confederacy, and apply the same rule to one as to the other.

I have deemed this explanation necessary, in order to correct the erroneous impression into which the Senator from Mississippi had fallen. It is an explanation which I have, in substance, had occasion to make on two or three previous occasions.

Now, sir, in regard to the admission of Minnesota, I apprehend that there are no such irregularities as enter into the essence of the question. I shall be prepared to show, beyond all doubt, when the question comes up, that the constitution here presented is the act of the people of Minne-

sota; that it embodies their will; that the enabling act has been substantially complied with; that the boundaries are those prescribed by Congress in the enabling act; that the population is more than sufficient for one Representative in Congress; and that there are none of the conditions omitted upon which she was to be admitted into the Union. I am prepared, therefore, to vote for the admission of Minnesota on her own state of facts, and then I will deal with Kansas on her own state of facts, without reference to Minnesota. As I stated before, show me a constitution from Kansas that is the act of her people, embodying their will, and you will not find me voting against it, either because of the absence of an enabling act, or because of the absence of a formal vote of submission, or because it is a slaveholding State, or for any other cause; she having the proper boundaries and the requisite population.

If I know myself, it is my fixed purpose to deal with each of these questions separately, each upon its own state of fact and upon its own merits. When Oregon comes—and I understand that her constitution is here—I shall take up her case, and deal on the same principles with her, without inquiring whether her Senators will vote this way or that way on the Army bill, this way or that way on the Pacific railroad bill, this way or that way on Kansas; without inquiring whether they are Republicans or Democrats, and without inquiring whether her constitution recognizes, tolerates, or prohibits slavery. If she comes, she will come without an enabling act; yet, if her constitution is the act of her people, the embodiment of their will, and the evidence is satisfactory on that point, she having the requisite population and the proper boundaries, she will receive my vote for admission. If there is any insuperable objection on either of these points, she will not receive it; but I will not prejudge it until the facts are before us.

Mr. GREEN. It is unpleasant to me to be represented in a class of objectors to which I do not belong; and I regret that the honorable Senator from Kentucky, in singing his song of praise to the Union, used general terms, which might be construed as including me as uttering threats against the integrity of the Union. I did no such thing. I stated my propositions with as much clearness as my understanding of the English language will permit; and I expect to carry nothing by threat or denunciation.

Mr. CRITTENDEN. If the gentleman will permit me, I will say that I certainly made no personal allusion to the honorable Senator.

Mr. GREEN. Certainly not.

Mr. CRITTENDEN. My remarks were general.

Mr. GREEN. And that is what I think casts the imputation.

Mr. CRITTENDEN. I do not know that they apply at all to the honorable Senator.

Mr. GREEN. It was because of the generality of the expression that I object to the remark. I want explanations made. If others deem it their duty to speak in deprecating terms of the existence of the Union, let them do it, and be responsible for it. For myself, I speak of this Union as of the mother who has cherished me from youth.

I opposed the taking up of the Minnesota bill, for reasons that I stated, and which have not been met or corrected. Gentlemen have gone off, as I think, into other things, irrelevant, immaterial, and unnecessary to the proper consideration of the Minnesota bill. The Senator from Kentucky is mistaken in one thing, however. When he says the action in Minnesota has all been in pursuance of the enabling act passed by Congress, he greatly mistakes the facts returned before us. The law of Congress said they might have seventy-eight delegates, and they had one hundred and eight. The law of Congress said those delegates should meet together in convention. They never so met. They split it into two parties, one meeting in one place, and another at another. The law of Congress said that the State, when she presented herself, should be admitted with one Representative, and as many others as the returns of the census should prove her to be entitled to under the apportionment of 1850. That has not yet taken place.

My first objection to the present consideration of the bill is, that the pledge we made to Minnesota that she should be admitted with a represent-

ation according to the population she might have under the ratio of 1850, cannot now be determined; it is not returned. No Senator here present can say what her representation ought to be. The pledge, the promise, the guarantee, cannot be carried out, because you have not the facts; the census returns have not come in. I desire delay, so that we may be prepared to do justice to that Territory, and to execute the pledge which we made in the passage of the Minnesota enabling act, as it has been latterly called; and this was the ground of my opposition—not because I wanted to threaten the Union; and here let me say, this Union cannot be sustained by singing songs to its praise. If we find the car of the Republic sunk in the mire, and get down on our knees and sing praises to it, and call on the gods to aid us, and put not our own shoulders to the wheel, it will never be extricated from the difficulty. We must go to work, and when difficulties beset us we must meet them and ward them off, and protect it, in imitation of our fathers who have gone before us. This is the only method of preserving this glorious Union.

Minnesota has not complied with the enabling act. I present that, not as an objection to her admission when the facts are brought before us, which will enable us to act definitely as statesmen in the premises. There is not one Senator present who can say how many Representatives she shall have—not one.

I never authorized the report that has been made. The honorable Senator from Illinois, I suppose, felt himself authorized to make it; but I believe a majority of the committee to-day dissent from him in opinion. He was authorized to consult the absent members of the committee, and if they agreed to it, to make the report. That assent was given in the manner which he has explained. It was because the Senator from Alabama had not the physical ability to make the requisite examination, and permitted the report to be made under the promise that he should still have an opportunity to examine it. Now, when that honorable Senator says he has not been able, from physical debility, to make the examination, and is not prepared this day to vote for or against the bill, and when the report was made under the sanction which the Senator from Illinois was justified in assuming, surely to press the bill under such circumstances is doing injustice to the Senator from Alabama.

Mr. DOUGLAS. Allow me to ask the Senator from Missouri if every member of the committee was not present when we agreed on all the propositions in the report, and what the form of the bill should be, and that the facts should be set out in the report?

Mr. GREEN. I will answer, as soon as you are through, by a brief narrative.

Mr. DOUGLAS. I ask that question because my understanding of the facts is that every member of the committee was present, and they all agreed that a bill should be reported. They differed on the second section, as to how many members were to be allowed. I understood each member, except the Senator from Missouri, to instruct me to put in that second section, he dissenting alone, according to my understanding, out of seven members; six one way, and one the other. Then we adjourned to another meeting, when I was to read the report. When the report was read, perhaps two members were absent, the Senator from Vermont [Mr. COLLAMER] and the Senator from Alabama [Mr. FITZPATRICK]; each person present agreed that the report was as it was instructed to be drawn, the Senator from Missouri still reserving his objection as to the question of the census; but every other member agreed that the report had been drawn as it was agreed at the previous meeting it should be, when the vote stood six to one. That is the fact.

Mr. GREEN. I dislike any question of fact or differences of opinion existing in regard to facts, to be raised in the Senate at any time. I shall give what did occur in as few words as possible, and about which I suppose there will be no difference of opinion. When the committee was in session, it was agreed that a report should be drawn in a certain manner. It was also agreed by a majority that a bill should be prepared in a certain manner; and a subsequent meeting was to have the submission of the bill and the report of facts made to them. At this subsequent meeting

there were but four members present—the honorable Senator from Illinois, the Senator from Ohio, [Mr. WADE,] the Senator from Arkansas, [Mr. SEBASTIAN,] and myself. The Senator from Arkansas and myself agreed that our opposition to the bill could not be overcome without a report of facts from the Secretary of the Interior showing the census. We did not concur in the bill, but we all agreed that the honorable Senator from Illinois had drawn his report in accordance with the facts, as we understood them. We objected to the reporting of a bill, because we did not believe it was justice, or in conformity with the enabling act authorizing the people of Minnesota to form their constitution and State government. It however was agreed that the Senator should submit it to the absent members of the committee, and that, if they concurred in the bill thus framed, it might be reported. Whether they did or not is for them to say, and not for me. One of them has spoken, and explained the circumstances under which he permitted it to be reported. While I refer to that with no view of censuring the Senator from Illinois, I state it as a reason why this matter should not be pressed with unnecessary haste on the consideration of that Senator who, from sickness, has been unable to turn his attention to it up to the present period of time, and because another Senator on the same committee, the Senator from Arkansas, coinciding with me, is now sick, and has sent me word this day that he is not able to come to the Senate.

Here is a grave question as to the representation, as to the proportion of influence which this inchoate State is to exercise in the councils of the nation, to your detriment, to my detriment, to the lessening of the equality of the States now in the Union; and when a great question like that is to be considered, surely those specially charged with its investigation ought to have the small privilege, when they are kept away by sickness, of having it deferred until they can have an opportunity to be present.

I will state that the returns are not complete, and I was unwilling to report any bill until they were complete, or until the opportunity to complete them was closed, and we resorted to other evidence to ascertain what the population of Minnesota was. I am not willing to trust the representation to which Minnesota may be entitled, to the other wing of this Capitol. I hold it to be the duty of Congress to say, when they admit Minnesota, what the number of her Representatives shall be; whether one, two, or three. The honorable Senator from Illinois is mistaken when he says he reported this bill in accordance with the bill of 1850, leaving it to the House of Representatives to determine how many members she should have. That was not the bill of 1850. The bill of 1850 that fixed the apportionment, required the Secretary of the Interior to determine the number of members each State should have.

Mr. DOUGLAS. My meaning was this: leaving it a matter of addition of figures, as it was under the act of 1850, instead of specifying the number in the law.

Mr. GREEN. Very well. I am not willing to do even that. New States may be admitted; and each State shall have at least one Representative. These are provisions of the Constitution; and Congress, at the time of the admission, must say how many Representatives each shall have. Each State must have two Senators, as fixed by the Constitution. The number of Representatives is to be fixed by the act of admission, according to the ratio, and that ratio depending on the previous ratio established for the Representatives of the old States. Look at the advantage which will be given to Minnesota if you admit them now, and let them go on taking the census for twelve months to come. Is that the way, or to what period will you fix it? At what point of time will you limit it? Every State in this Republic had her ratio fixed according to the population of 1850. Since that time the honorable Senator's State has increased more than half a million, without a single additional Representative, without any voice in the councils of the nation? Since that time, my State has increased more than three hundred thousand without any additional Representative, without any additional voice in the councils of the nation. Now, when we propose to admit Minnesota, we must fix the period of time. It must come up to the time of admission, and we must fix the degree of influ-

ence which she is to exert on the councils of the nation at that time, and not leave the door open for an unlimited space of time. If they are to go on, the population may increase fourfold before they close the census; and they may bring in five, or eight, or ten Representatives at the other end of the Capitol. It is not right. It is not right for us to close the census before we admit the State, and give them a fair opportunity to bring them in. As there remain, I think, but seven counties, as we have reason to believe that those returns will come in within a very short period of time, and as we can then discharge our constitutional duty, and as we cannot discharge that constitutional duty in the absence of this information, I have asked for this postponement. I have objected to the displacement of the great bill for the construction of the Pacific railroad, and I am sorry to find the great advocate of that road acquiescing in the taking up of this bill. Though the eastern end dodges Missouri, and though the western end terminates where it cannot benefit us a cent; though we are cut off as exiles and orphans in this Government, still I had hoped to bring it up for consideration, and not to see its peculiar friend and advocate disposed to let this bill take its place and be pushed forward with so much facility. I hope this bill will not be taken up.

Mr. GWIN. Does the Senator allude to me?

Mr. GREEN. Yes, sir.

Mr. GWIN. He is mightily mistaken. I am not going to give it up.

Mr. GREEN. I hope not.

Mr. FITZPATRICK. When I had the honor of addressing the Senate this morning—

Mr. BROWN. I ask my friend from Alabama to yield to allow me to make an explanation to my friend from Illinois. In a few remarks submitted by me in the earlier part of the debate, I assumed that the Senator from Illinois had taken the ground that an enabling act was necessary to a Territory in the formation of a State constitution. I based that declaration on his opening speech in the debate, in which I thought I was not mistaken; and upon recurring to the speech I find that I was right. I do not know that the Senator expressed himself in the precise language in which his maturer judgment would require him to express an opinion; but in that speech beyond all question he did take the ground that an enabling act was necessary. That speech is the one upon which I based my remark, and I was not aware that he had qualified it in such broad terms as he states to-day that he has done in the debates which followed. I have in my hand a copy of that speech. Said the Senator:

"A Territorial Legislature possesses whatever power its organic act gives it, and no more. The organic act of Arkansas provided that the legislative powers should be vested in the Territorial Legislature, the same as the organic act of Kansas provides that the legislative power and authority shall be vested in the Legislature. But what is the extent of that legislative power? It is to legislate for that Territory under the organic act, and in obedience to it. It does not include any power to subvert the organic act under which it was brought into existence. It has the power to protect it, the power to execute it, the power to carry it into effect; but it has no power to subvert, none to destroy; and hence that power can only be obtained by applying to Congress, the same authority which created the Territory itself."

Now, sir, according to the Senator, when the Territorial Legislature provides for forming a constitution, that is an act of subversion. It is a subversion of the organic act, because it proposes the substitution of altogether a different form of government; and I understood the Senator to say distinctly in that speech that that could not be done (for that was the point in controversy) without applying directly to Congress for the power to do it; in other words, that when the Territorial government was to give way and a State government to be substituted, that could be done by the authority of Congress and in no other manner. Upon another page of the same speech, the Senator, after speaking of Arkansas again, used this language:

"If you apply these principles to the Kansas convention, you find that it had no power to do any act as a convention forming a government; you find that the act calling it was null and void from the beginning; you find that the Legislature could confer no power whatever on the convention."

Why? Because it had not been authorized by Congress; there was no enabling act. The act of the Legislature calling a convention, said the Senator, was absolutely null and void from the beginning. It could be null and void but for one

reason, and that was, that Congress had not authorized it. A Territorial Legislature can do nothing, said the Senator, which the organic act does not authorize it to do; and if it undertakes to substitute one form of government for another, it must come to the source of its power, to Congress. If I have been led into an error from not exactly keeping up with the debates in the Senate, or not reading or listening to all the speeches of the honorable Senator, I hope I shall be excused. I based my remarks on the reading of this speech, which has unquestionably been more extensively read than any other speech delivered at this session, by the Senator or anybody else. I am glad he makes the correction. I am glad he comes forward, and says in terms which are not to be mistaken—and it is to that point, and to vindicate myself, that I rose now—that an enabling act is not necessary.

I return my thanks for that declaration. We have the Senator's authority, and it is a potential authority in the country, that no enabling act is necessary. He goes further, and tells us that the act of submission is not essential. Not only does he say now, and I thank him for saying so, I repeat again, in terms so plain that the whole country will understand, that an enabling act was not necessary—but he says that a submission of the constitution to the people was not necessary. That gets us clear of two troublesome propositions in the discussion of the Kansas question. Let us hear no more of this argument, then, anywhere. If the great chieftain gives up the question, I take it for granted that the subalterns will do it of course, and that hereafter we shall hear no more that Kansas does not present herself properly because there was no enabling act; and we shall hear no more complaint of Kansas that she did not submit her constitution to the people.

The Senator tells us to-day that neither the one nor the other was necessary. All we have to inquire now is, as to whether the constitution she is about to present is the work of her people. What the people desire is to be expressed through the ballot-box. The will of the people, what they desire, is to be ascertained through the ballot-box; and, as I now understand the question, if we shall be enabled to show that the people of Kansas, expressing their will through the ballot-box, under the forms of law, have organized this constitution, then we have nothing beyond that to establish. Two points, I want it noted, are now out of the question—no enabling act is necessary, and no submission of the constitution to the people is necessary. All you are to learn is, whether it is the will of the people.

Then the point which I submit to the Senator for his reflection is simply this: has the will of Kansas been ascertained in the mode and manner prescribed by the laws of the land? Has the ballot-box been thrown open? Have the people been allowed to vote freely? If they have, then I claim that they stand on as good a footing before us to-day as does Minnesota. I ignore the proposition, if it shall be made from any quarter, that you shall compel them to vote whether they will or not. I am glad to see the issue narrowing down; I am glad that we are to have no question except the simple one, is this the work of the people of Kansas? We are not to be embarrassed with vague ideas about enabling acts, or about propositions to submit constitutions to the people. All that is out of the way from this time on. All we have to inquire is, as I said before, has this constitution been made by the people of Kansas, and have we ascertained that fact under the forms of the laws of Kansas? I think, when the proper time comes, we shall be enabled to show that, in the mode pointed out by the law, the fact has been ascertained that the people of Kansas do sustain the constitution.

Mr. DOUGLAS. I regret to be under the necessity of troubling the Senate any more on this question; but inasmuch as my speech has been read for the purpose of giving to it a construction which I never intended it to bear, and which I do not think it does fairly and justly bear, I feel it to be my duty to put that matter right, in order that no misapprehension shall result. I did not blame the Senator from Missouri when he put that construction on it, although it surprised me at the time; and I do not blame the Senator from Mississippi now for putting the same construction on it—he having stated that he did not hear my pre-

vious disclaimer of that construction. Still, I must say that that speech, in my opinion, does not bear the construction which they have placed upon it; and, as evidence that I did not intend it to bear that construction, the first moment any member of this body attributed it to me, I disclaimed it emphatically, and restated my proposition as I have done to-day.

Now, sir, when I spoke of the act of the Legislature calling a convention being void unless assented to by Congress, I intended to declare that the only power which the Territorial Legislature possessed was that which the organic law conferred, the right to pass all laws consistent with the Constitution, and the organic act for the protection of that people under and in obedience to the territorial government; but the organic act did not give to the Legislature the power to subvert the government under which it existed. It had the power to execute it, to carry out the objects of that government, but not to subvert it. An attempt to subvert it and put another government in operation upon its ruins, would be an act of rebellion. I say now, that if the Territorial Legislature calls a convention, and that convention attempts to put a government in operation in subversion of the territorial government established by Congress, it is an act of gross rebellion. Why? The territorial government established by Congress cannot be overthrown except by the consent of Congress.

Mr. BELL. I hope the honorable Senator from Illinois will give way for an adjournment. I see that we are going into a long controversy.

Mr. DOUGLAS. I am not going to occupy much time, but I desire to put myself right.

Mr. BELL. There will be a reply to the honorable Senator.

Mr. DOUGLAS. But I must put myself right on this point, because it is essential to my position. I maintain that the Territorial Legislature cannot subvert the government established by Congress, without the consent of Congress. That consent may be given in advance, or may be given subsequently. It is regular to give it in advance. It is irregular to take the steps for forming a State constitution without having the consent in advance; but that irregularity has been overlooked in several instances in the history of the Government, as I have shown. It was overlooked in the cases of Arkansas, Florida, and California. In several instances this irregularity has been waived and been cured by the subsequent assent of Congress, by the acts of admission into the Union.

Then, sir, what authority has a convention called by a Legislature of a Territory without the consent of Congress? They have the authority to frame a paper called a constitution and send it here as a petition, which Congress may accept or reject as they please. It is to frame and send here an application for admission having the force of a petition, and not the force of a constitution. Having merely this weight, we may accept it or we may reject it as we see proper. I so stated in my opening speech. I have stated the same thing in every speech I have made since. I repeat now that the constitution framed by the convention in Kansas was a paper having the authority of a petition which Congress may accept or may reject. Ought we to accept it? If it is the will of that people, if they have the requisite population, and if the boundaries are proper, we ought to accept it. If it is not the will of the people of Kansas, you have no right to force that constitution down their throats against their will. That is the point I made. I cited in my argument the absence of an enabling act to show that the convention, not having had the sanction of Congress, was not authorized to institute government. It was authorized to frame a petition in the shape of a constitution, and ask for admission into the Union, but it was not authorized to institute government. The moment you recognize the right of the people of a Territory to institute a government in subversion of the government placed there by Congress, without the consent of Congress, you authorize rebellion. Hence, I say, the proceedings of that convention are null and void unless Congress shall hereafter give them vitality, by receiving Kansas into the Union under the constitution framed by it.

Now, in regard to the doctrine of submission, I said in my opening speech, and I have repeated it since, and, in order that no man shall have an excuse for misapprehending it hereafter, I

repeat now, the only essential point is that the constitution must be the act of the people, embodying their opinions. In any case where it is disputed, the fairest, the best mode of ascertaining the popular will is by submission to the people by a fair vote. I agree with the President, as I have stated heretofore, that the fairest and best mode is by a submission to a popular vote, and inasmuch as that is the best rule, it ought to be the general rule; and I am willing to join the President of the United States in making it the general rule; but submission is not a principle. The popular will is the principle; the popular sanction is the principle; that it shall be the act of the people is the principle. Submission to a vote is a means of ascertaining that will. It is a fair means; and for that reason I have advocated it as a means of ascertaining the fact upon which fact your right to admit them must rest. I therefore receive the congratulations of the Senator from Mississippi that the Kansas issue is reduced to that one point. If he had deemed my first remarks worthy of being listened to—no, I will not say that, because that would not be just to our personal relations; but if he had happened to be in his seat, and his public duties had not taken him elsewhere, when I made these previous enunciations, he would not have been under any misapprehension in regard to my opinions.

I repeat that I think it wise and it ought to be the general rule in all cases, that no Territory should take any steps to form a State government till it has had the consent of Congress to do it by what is commonly called an enabling act. I hold more, as a general rule, Congress ought not to give that consent till the Territory has population enough for one member of Congress, according to the existing ratio. I go further, and agree with the President, that inasmuch as it is essential that the constitution shall be the embodiment of the popular will, it would be wise to adhere to the general rule, that in all cases the constitution shall be submitted to the people for their ratification or rejection. While I regard these as wise rules, general rules, rules which should not be departed from, unless in case of stern necessity, I come back to the real point, the only point that I intended to make as a cardinal point on the Kansas question, and that is, that the constitution must be the act of the people of Kansas, embodying their will.

The Senator from Mississippi has congratulated himself and the country, more in the manner and tone of his remarks than anything else, that hereafter it is an admitted fact that an enabling act is not necessary, and hence the people of a Territory can proceed to make a constitution in their own way, without application to Congress. Sir, I am amazed to hear a southern man enunciate that doctrine; I should be amazed to hear a northern man enunciate it. I hold that the people of no Territory ought to proceed to form a constitution and State government till they have applied to Congress for permission to change from a territorial to a State government, and they should never proceed without that consent of Congress unless there has been long, protracted, and vexatious delay after they have population enough for a member of Congress.

I do not agree with Senators whom I have heard express the opinion, during the debate on the Kansas question, that the Kansas-Nebraska bill was an enabling act. It was not, in my opinion, an enabling act. It authorized the people of Kansas to exercise all powers under the organic law, but none to destroy or subvert it. But, if it was an enabling act, when did it become so? From the day of its passage? If so, did it authorize the first Legislature, with five hundred people, to form a constitution and demand admission then? Did it authorize Kansas with two hundred people to call a convention, and demand admission then? If so, you are derelict in not admitting Utah, with the same powers, the Kansas act being copied from the compromise act of 1850, when they called a convention and made a constitution preparatory to admission two years ago. No, sir; the Kansas-Nebraska act did not authorize the people of Kansas to demand admission, until they had applied to Congress and obtained our assent to form a constitution. I deny that Nebraska to-day, with her fifteen thousand people, has a right to call a convention, form a constitution, and demand admission into this Union,

without first having obtained our assent. We have a right to insist that the boundaries shall be proper; we have a right to insist that there is sufficient population; we have a right to insist that the time has come when they are a settled, homogeneous people, entitled to admission into the Union. Congress is to decide that question. I repeat, it is more regular to decide it first, before the application, than afterwards. I repeat, that a Territory ought not to take the steps to make a constitution, until she has applied to Congress and obtained that permission. I repeat, that if she does take the step and make the constitution without our permission, it is merely a petition to Congress, which we may accept or reject at pleasure, as we rejected the application from New Mexico several years ago.

I agree, that if we conclude to waive the irregularity and accept it, that cures the evil, and it may become a State in the Union without an enabling act, or without submission to the people; but I say you never ought to admit them without submission to the people, if there be any serious doubt as to whether their constitution is the embodiment of the popular will. If there is no doubt about it, you may waive the vote, just as you waive a vote in the Senate on the passage of a bill, when it passes by common consent; but if there is doubt, the President of the United States has told you, in his message, the proper mode of removing the doubt is to refer it to the people for a fair vote for or against the constitution.

Mr. President, I am sorry to have been put on the defensive in these discussions, and to have occupied time, but I felt it due to myself to say thus much. I have repeated these explanations two or three times. I hope I shall not be under the necessity of repeating them any further.

Mr. CLAY. I move that the Senate adjourn.
Mr. FITZPATRICK. I trust my colleague will indulge me in a few words. I have not much to say.

Mr. CLAY. Will you renew the motion?
Mr. FITZPATRICK. Yes, sir.
Mr. CLAY. I believe my colleague is entitled to the floor if he designs to go on.

Mr. FITZPATRICK. I shall detain the Senate but a few minutes, as I have been alluded to.

Mr. GWIN. I rise to a question of order. I should like to know what the question before the Senate is. Is it not the report of the select committee on the Pacific railroad?

The VICE PRESIDENT. The question before the Senate is the motion to postpone the special order with a view to take up the bill for the admission of Minnesota.

Mr. GWIN. This discussion seems to me to be entirely out of order. I do not wish to interrupt the Senator from Alabama, but really I think the discussion is all out of order and has been. We are going into the merits of a question which the Senate has not yet concluded to take up. I hope the question will be decided whether it is in order to go into a discussion of the Kansas bill on a motion to take up one bill and set aside another.

The VICE PRESIDENT. The Chair knows of no authority that he possesses to limit debate.

Mr. FITZPATRICK. I am aware that the question is on the motion to postpone the special order for the purpose of taking up the bill to admit Minnesota into the Union. At the suggestion of many Senators, I give way to my colleague.

Mr. CLAY. I believe it is the general wish that we should adjourn. It is evident that we cannot get through this discussion this evening. I move that the Senate adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, February 1, 1858.

The House met at twelve o'clock, m. Prayer by Rev. S. P. HILL, D. D.

The Journal of Friday last was read and approved.

CONTUMACIOUS WITNESS.

Mr. STANTON. I ask the unanimous consent of the House to offer the following resolution:

Whereas, J. D. Williamson, of the city of New York, was, on the 27th day of January, A. D. 1858, duly summoned to appear and testify before a committee of this House appointed to investigate certain charges growing out of the alleged expenditure of money by Lawrence, Stone & Co., of Boston, in the State of Massachusetts, to influence the

passage of the tariff of 1857, and has failed and refused to appear before said committee pursuant to said summons: Therefore,

Resolved, That the Speaker issue his warrant directed to the Sergeant-at-Arms, commanding him to take into his custody the body of said J. D. Williamson, wherever to be found, and to have the same forthwith before the bar of this House, to answer for contempt of the authority of the House.

Mr. PHELPS. I desire to inquire if that is the report of the select committee.

Mr. STANTON. Certainly.

Mr. PHELPS. Then I hope the gentleman will demand the previous question and let us pass the resolution.

Mr. STANTON. I ask first that the papers which I send to the Clerk's desk may be read.

The Clerk read the papers as follows:

By authority of the House of Representatives of the Congress of the United States of America:

To A. J. GLOSSBRENNER, Sergeant-at-Arms:

You are hereby commanded to summon Captain J. D. Williamson (of the firm of Williamson, O'Reilly & Co., Trinity Buildings, New York,) to be and appear before the select committee of the House of Representatives of the United States, appointed to investigate the charges preferred against members and officers of the last Congress, growing out of the disbursement of any sum of money by Lawrence, Stone & Co., of Boston, or other persons, to bring with him any papers in his possession connected with or referring to the expenditure of money to procure the passage of the law modifying the tariff, forthwith in their chamber at the Capitol in the city of Washington, then and there to testify touching the matter of inquiry committed to said committee; and he is not to depart without the leave of said committee. JAMES L. ORR, Speaker.

Attest: J. C. ALLEN, Clerk.

Indorsed as follows:

WASHINGTON, January 26, 1858.

I hereby depote J. W. Jones for me and in my stead to execute the within order of the Speaker.

A. J. GLOSSBRENNER,

Sergeant-at-Arms House of Representatives, United States.

I hereby certify that I served a copy of the within summons upon J. D. Williamson, at the city of New York, on the 27th day of January, 1858, by delivering said copy to him personally, and I know the person served to be the person named in said summons. J. W. JONES.

The following letter was also read:

MY DEAR SIR: I must respectfully decline attending before the committee of the House of Representatives, at Washington, in relation to the affairs of Lawrence, Stone & Co., according to a copy of a summons I received from you in our office on the 27th instant, for reasons which my attorney advises me is sufficient to prevent me from leaving the city of New York.

Respectfully, yours, J. D. WILLIAMSON.
A. J. GLOSSBRENNER, Sergeant-at-Arms of the House of Representatives of the United States.

Mr. STANTON. I will simply state that this resolution follows strictly the precedent set in the case of Colonel Chester in the last Congress, and is abundantly sustained by authorities. I ask the previous question on its passage.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the resolution was agreed to.

THE NATIONAL ARMORIES.

Mr. FAULKNER. I now ask for the regular order of business.

The SPEAKER. The business first in order is the consideration of House bill (No. 63) to supply an omission in the enrollment of a certain act therein named, which was postponed, to this day.

Mr. FAULKNER. Mr. Speaker, I should scarcely have deemed it necessary to say a word in explanation of this bill, but for the remark made by the honorable gentleman from Ohio [Mr. STANTON] the other day, that I need not expect this bill to pass without discussion. I shall, therefore, submit a brief explanation of the object of the bill.

In accordance with the settled policy of the Government, extending back as far as 1794, the Secretary of War, at the commencement of the last session of Congress, recommended the usual annual appropriation for the support of the national armories. The sum recommended was \$360,000. It was a sum which, by the invariable usage of this Government, has been divided equally between the two national armories—the one situated at Springfield, in the North, and the other at Harper's Ferry, in the South. The Committee of Ways and Means reported this appropriation. It passed through the Committee of the Whole on the state of the Union without any objection. It received the unanimous approval of the Senate and of the House of Representatives; and it was lost in transcribing the item from the engrossed to the enrolled bill.

The object, therefore, of this bill is simply to correct that omission of the Clerk; to do that

which Congress intended to do, and which, I may say, Congress had, in fact, done, but for the inadvertence and omission of a ministerial agent of this House. The first week of the present session, a special communication was transmitted to this body from the Secretary of War, in which he calls the attention of Congress to that clerical omission, and urged the importance of immediate action to supply that omission. That communication was referred to the Committee on Military Affairs. It was considered by that Committee, and this bill is the result of the action of the Committee on Military Affairs.

Now, with this brief statement of the facts of this case, I should be justified in demanding the immediate passage of this law; and even, under ordinary circumstances, in calling the previous question. But I promised my colleagues on the Committee on Military Affairs that I would afford them an opportunity of making any objection which they might think proper to the passage of this bill. Therefore I will not call the previous question until they shall have had the opportunity of making any objections that may occur to them against the passage of this bill.

I will make one additional explanation before I take my seat. It has been asked, and will, no doubt, be asked again, what has become of the national armories since the 1st of July, 1857, the expiration of the last fiscal year? How have they been sustained?—by what authority, and under what law? I will answer these inquiries.

Shortly after the adjournment of last Congress, and as soon as this omission was discovered, the attention of the President of the United States was called to that state of facts. It was represented to him, and represented to him truly, that unless some arrangement, in strict conformity to law, could be devised by which the omission could be corrected, the manufacture of arms at those armories must cease after the first day of July following; these national establishments must be suspended, and corps of the most skillful and enterprising mechanics, selected with a great deal of care from various portions of the country, must be scattered, with the probability that many of them would never return. The President was fully advised of what was the will of Congress, as indicated in the proceedings which I have before recited. And the only question with him was, whether there existed, under his control and in conformity to law, any remedy for this state of things. He had a consultation with the Attorney General, and that distinguished law officer of the Government, by a written opinion filed in his Department, advised, that under the provisions and language of the act of 1808, it was competent for the President to direct that the appropriation of \$200,000 for arming and equipping the militia of the States might be used for the purposes of the national armories.

I have a copy of that opinion in my possession. I have examined it, and I concur fully in the conclusion of the Attorney General. For, in truth, the act of 1808, making the standing appropriation of \$200,000 for the arming and equipping of the militia of the States is, in fact, a power vested in the ordnance department, by which it may be applied either to the manufacture of arms or to supplying, by purchase, those arms to the militia. Acting on this opinion of the Attorney General, the President of the United States directed a temporary use of that fund—a temporary loan of it, I may say—to the national armories. So that, since the 1st of July, 1857, that fund has been thus temporarily applied to this purpose, in the expectation that Congress would, at the very earliest moment, correct this error made in the closing hour of the last session of Congress. If this law now passes, that fund will be replaced to its proper head of appropriation for arming and equipping the militia; and the legislation of this body will stand precisely as it would have stood if this error had not been committed by the enrolling clerk.

Now, if Congress had, by any act, indicated a purpose to discontinue the appropriations to the national armories, this course of proceeding would never have been resorted to. But in the face of the fact that Congress has indicated its clear purpose to make an appropriation; in face of the fact that the policy of sustaining these national workshops was cherished by the legislative branch of the Government with perfect unanimity, it became the absolute duty of the Pres-

ident to adopt some means, and especially if those means were in conformity to law, to apply the appropriate remedy.

Mr. GIDDINGS. I desire to inquire what is the question before the House?

The SPEAKER. It is upon the engrossment of House bill No. 63.

Mr. FAULKNER. It may be asked whether the application of this fund does not to that extent diminish the necessity of the entire appropriation provided for in this bill. I state upon my examination of the question, as well as upon the information furnished by the Secretary of War, that the application of that fund does not diminish the necessity. I say, sir, that the only effect would be to diminish or withdraw from the States that fund, which under the policy of the act of 1808, has been applied annually in arming and equipping the militia of the States. That would be the effect of cutting down this appropriation.

Mr. Speaker, this is no party question and no sectional question. The fund appropriated by this bill is equally expended in the North and in the South; and the benefits derived from the appropriation are equally participated in by every portion of the United States. I am authorized by those intrusted by law with the management of these national armories to say, that no part of this appropriation can properly be dispensed with, and that if the appropriation be delayed longer it will work serious injury to the public service.

Mr. STANTON. I agree with the gentleman from Virginia, that this is certainly not a party or sectional question. It is merely a question of economy and necessity. But, sir, I think the gentleman from Virginia stated, when this bill was reported from the Committee on Military Affairs, that it was with the distinct, express understanding that it was first with the view of facilitating its passage at as early a period as possible; and further, with the distinct understanding that the House was to be governed by information subsequently to be obtained from the War Department, in its policy in passing this bill.

Now, sir, I have received no information which has satisfied me that the whole amount of this appropriation ought to be granted. The state of the case, as I understand it, is briefly this: Congress annually appropriates to meet the expenses for the current fiscal year, \$180,000 for the use of each of these national armories; and it also appropriates for this fiscal year \$200,000 for the manufacture or purchase of arms and military equipments for the militia. These appropriations are for expenses to be distributed throughout the entire fiscal year. Two hundred thousand dollars is deemed necessary to be expended in furnishing arms to the militia of the States; and \$360,000 is considered to be necessary to be expended through the entire fiscal year for the purpose of manufacturing arms at the national armories.

Now, sir, for the purpose of keeping the national armories in motion, the entire fund for arming and equipping the militia of the States has been transferred, and the arms for distribution among the States have been provided in another way. I do not understand that there is any necessity for replacing this \$200,000 for the distribution of arms to the militia of the States. I understand that the arms for distribution have been already manufactured. It is not claimed at all that the entire \$360,000 can be expended during the current fiscal year; nor can the \$200,000 originally appropriated to supply arms for the militia, be expended in the residue of the fiscal year. The appropriations were originally made for the fiscal year, commencing July 1, 1857. Seven months of that fiscal year are already gone; the armories only need money enough to keep them in motion five months, to the end of the current year.

With this brief statement, sir, I desire to move an amendment. I desire to keep the national armories in operation, and that they shall not suffer from the failure of this appropriation. But, sir, I do not suppose the public service requires the restoration of this \$200,000, for the manufacture of arms for the militia at all; nor do I suppose the entire \$360,000 can be expended by the national armories in the five months remaining of this present fiscal year. I therefore move to strike out "\$360,000" and insert "\$180,000," giving to the armories for five months, what was contemplated by the last Congress to supply them for six months.

Mr. CHAFFEE. The gentleman from Ohio declares that his object is not to embarrass the national armories. Now, sir, the statement he has made has nothing to do with the passage of this bill. The bill is simply to supply an omission upon the part of the enrolling clerk at the last session, by which the appropriation intended for the use of the national armories could not be made available.

Now, sir, I have this morning received a letter from the superintendent of the national armory at Springfield, in which he informs me that the mechanics and manufacturers there have not been paid since November last. I appeal to gentlemen, therefore, if they do not desire to embarrass the armories, as a simple act of justice, that they shall pass this bill, and remedy the defect in enrolling the act of the last Congress. And, sir, I hope there will be nothing stricken out of the bill. These armories have been going on for the last six months without having received anything, and this appropriation cannot be longer delayed without injury to the service of the country.

Mr. MARSHALL, of Kentucky. I am satisfied, Mr. Speaker, that this bill ought not to pass. It is a bill, as the gentleman from Virginia has observed, which presents no party question. It is a bill, however, which does present a question of the powers of administration, and of the proper control of this House over the execution of the law. You have a law upon your statute-book which plainly lays down the manner in which sums of money appropriated by Congress shall be transferred from one point of service to supply another point of service, in the same department. As, for instance, transfers from the national armories to supply the militia, and *vice versa*; whenever such a transfer is made, the law requires that it shall be done upon the application of the head of a Department to the President of the United States, and that the President of the United States shall, upon his responsibility, make the transfer, and that the disposition made of the public money so appropriated by Congress shall, by a special message of the President of the United States, be accounted for to Congress within the first week of the next session.

The President of the United States, the gentleman from Virginia [Mr. FAULKNER] says, was fully advised of this operation which had been performed with this appropriation. I should like to have some further evidence of that fact; for if so, it was the duty of the President of the United States to have complied with that law, and to have advised us of the disposition of that public money within the first week of this session. But up to this time the President of the United States has been entirely silent upon this subject. Sir, this transfer is not put upon the ground of a diversion from one branch of the public service to another in the same Department, and I venture to say that, the President of the United States has never made an official determination upon the subject at all. This thing, sir, has been managed between Colonel Craig, the head of the ordnance bureau, and the Attorney General. So far from its being a diversion from one branch of the public service to another, Colonel Craig applied to the Attorney General to know how he could do this thing, and the Attorney General replies, in a letter which I have before me, that there was no necessity to direct the appropriation from one branch of the public service to another; that there is an appropriation of \$200,000 for providing arms and equipments for the whole body of the militia, either by purchase or manufacture by or on account of the United States, and that this sum of \$200,000 may certainly be used in the manufacture of arms at the national armories until it be exhausted.

This ordnance bureau, then, goes on and manufactures arms, under the opinion of the Attorney General, at the national armories; and now he wants to get the whole appropriation of \$360,000; for what? That, forsooth, he may retransfer to the head of the "militia" the \$200,000 he has drawn from that appropriation and disbursed in another quarter. Sir, if he gets the \$200,000 back, he cannot legally retransfer it; and, instead of your having \$360,000, which was the original appropriation, you will have \$560,000 to put into these armories. If you intend to override the law; if you intend to allow the head of the ordnance bureau, or the head of any other bureau of the Government, when the Congress of the United

States has made an appropriation for a particular purpose, to use that appropriation in any branch of the public service they choose, and then come here and ask you to reappropriate it, in order that they may retransfer and adjust the balance to suit their own caprices, and their views of public advantage, we might as well resolve ourselves into an auditing committee for the various bureaus of this Government.

I am opposed to it, because it has been the policy of the Congress of the United States to hold these Executive Departments, in the disposition of the public money, to an observance of the objects of the appropriations which the representatives of the people in Congress have determined upon. If you let go of this proper responsibility upon your part, and leave it to the Executive Departments upon their part, you let go the lines of legislation which are, by the States, intrusted to your hands, and you need not complain if losses occur, or if this Congress resolves itself into a mere executive department to audit the accounts of the heads of bureaus.

The gentleman from Virginia says he wants this \$200,000 in order to reimburse the appropriation which was intended for the distribution of arms and military equipments among the States. How is it to be legally resupplied? If we vote this \$360,000, how is it to be done? Colonel Craig has applied \$200,000 designed for that purpose, as he might well have done under the opinion of the Attorney General, to keep the national armories at work. In other words, he has applied that sum to the manufacture of arms instead of to their distribution. They come now, however, and ask for \$360,000 to be given for these armories, which is all we intended to give them last year. If they get it, Colonel Craig cannot retransfer the money without a violation of law. If you make the appropriation, then, the armories, having spent \$200,000, will have still \$360,000 to spend. That, sir, is the whole case. Therefore I object to the passage of this bill. I do not object to the passage of this bill as proposed to be amended by the gentleman from Ohio, [Mr. STANTON,] because that will give the armories at Springfield and Harper's Ferry \$180,000 instead of \$360,000—that is, \$180,000 in addition to the \$200,000 which they already have, and will leave a deficit of \$200,000 in the appropriation for the supply of arms and military equipments to the States, which deficit you may resupply. If you choose to make an appropriation, make it in the right way. Put the \$200,000 back, not to the armory, but to the militia fund for the distribution of arms among the several States. There is no use to argue a proposition so plain as this.

Mr. UNDERWOOD. Is this \$200,000 for the distribution of arms for the use of the militia a separate and distinct appropriation from the appropriation of \$360,000 for the national armories?

Mr. MARSHALL, of Kentucky. Yes, sir. The appropriation of \$360,000 was for the purpose of carrying on the manufacture of arms at the armories; and then, under a distinct head, \$200,000 was appropriated to distribute or manufacture arms for the militia. The language of the statute was "for the purchase or manufacture." Well, the Clerk of the House of Representatives, in enrolling the bill, left out the appropriation of \$360,000. Congress adjourned. There was nothing with which to carry on the work at those armories. The \$360,000 appropriation was missing. There was no law for it. The head of the ordnance department called upon the Attorney General to know whether he could transfer the militia appropriation to the armory appropriation. The Attorney General replied to him that he could not transfer an appropriation from one branch of the expenditures of the department to another, except in certain cases, and that it must be done upon the responsibility of the President—the law providing for the report of the President to Congress as to the manner in which the appropriation had been expended. He said, however, that there was no necessity for making the transfer, in order to prevent the armories from being stopped by the accidental omission of the appropriation, for that there was an appropriation of \$200,000 for providing arms and equipments for the whole body of the militia, either by purchase or manufacture, and he might take the \$200,000 and go on and manufacture arms at the armories; he would thus be applying the appropriation as he was allowed

by law to apply it. Well, sir, the money has been so applied; and now they come here and ask us to give to the armories \$360,000 after there has been already expended on the armories \$200,000; and it does not require much arithmetic to show that that will be an appropriation of \$560,000 to the armories, while you cut off the militia entirely. Ah, but (says the gentleman from Virginia) it was intended only as a temporary loan, and we intend to give it back to the militia. Then, sir, if that be so, let us make the appropriation according to law, and let us teach the head of the ordnance bureau, the Secretary of War, and everybody else who is in the Executive Departments, that they have no authority to retransfer appropriations. If there has been a substantial diversion of the fund that we have already appropriated, let us make the appropriation of \$200,000 ourselves, under the proper head, and stop this confusion in the Executive Departments, which begets looseness in the management of the accounts of the Government, and let us teach our executive officers that when Congress makes an appropriation they may not use it at their own will and pleasure.

Mr. CURTIS. The gentleman from Kentucky and the gentleman from Virginia have both fairly explained the question now before the House. In the Army appropriation bill of the last Congress there was an appropriation of \$200,000 to supply the militia with arms; but the appropriation for the manufacture of arms at the armories was omitted, and the omission has been supplied by a transfer from the appropriation for furnishing arms to the militia to the head of manufacturing arms. I concur with the gentleman from Kentucky that there was no propriety in that transfer in the manner in which it has been done.

Mr. CLARK B. COCHRANE. I would inquire of the gentleman if there was any law for it?

Mr. CURTIS. There is a law for it; but that law, as the gentleman from Kentucky has shown, has not been complied with. The officers of the Government have not carried out the law technically, and the President has not reported. It is true, that the Attorney General has decided that no such transfer was necessary. I do not concur with the Attorney General, nor does the gentleman from Kentucky. I think the Attorney General was mistaken in supposing that the manufacture of arms and the furnishing of arms were so assimilated that an appropriation, made for the one object, could be applied to the other. If such was the intention of Congress, why have separate appropriations always been made—one for the manufacture and one for the supply of arms?

Mr. MARSHALL, of Kentucky. The gentleman is mistaken in my view of the law. The law provides for the furnishing of arms and equipments to the whole body of the militia, either by purchase or manufacture, by and on account of the United States. I do not hold that the opinion of the Attorney General is wrong. On the contrary, I think that it is right. But, as the ordnance bureau has applied the \$200,000 for providing arms for the militia to the manufacture of arms at the armories, and has exhausted that appropriation for the relief of the armories, if we now appropriate \$360,000 in addition to that, we shall have appropriated \$560,000 to the armories.

Mr. CURTIS. I understand the gentleman's position; but I deny that the distribution of arms among the militia could be legitimately and properly applied to the manufacture of arms, because it has always been the custom to separate those different items; and although the words "manufacture or purchase" are used, it was not intended that the appropriation of \$200,000 for furnishing the militia should go to the manufacture of arms at the armories; because, if so, why make a distinction in the appropriations? But why should we trouble ourselves about the matter? The ordnance department report distinctly that the purpose is to retransfer the \$200,000 immediately after this appropriation is made, for the purpose of manufacturing arms. The \$200,000, we have the assurance of the Department, will be devoted to the furnishing of arms to the militia. The bill is now before us. It has been delayed until this period of the session, and it is time that it was passed. The gentleman from Massachusetts [Mr. CHAFFEE] has shown that the money is now needed to pay the men employed in the armories.

There is no harm to grow out of the passage of this bill; but justice will be done by it, because the transfer will be made immediately on the books of the department back to the supply fund, and then the accounts will be right. While I object to the original movement in the department, I concur in the propriety of this mode of correcting it. No harm or injustice can grow out of it. The funds will be properly arranged in the department. Therefore, I am in favor of the bill, and hope it will pass, because it is time it should be passed. The object of the misapplication was a good one. It was to prevent the throwing out of employment of a vast number of hands engaged in those armories. The object was, therefore, a good one, and the officers were acting right, under that opinion of the Attorney General. This bill is only to supply this error of the last Congress, and I hope it will be now passed by the House.

Mr. STANTON. I understood the gentleman from Iowa to intimate that he disapproved of the manner in which this fund has been transferred. If so, then I would inquire of him whether he does not regard it as being the duty of this House, if that fund is to be replaced, to make an appropriation in name, as an appropriation for the distribution of arms to the militia, and that the appropriation in this bill be limited to the amount necessary to keep the armories for the rest of the year? I submit that we are surrendering the prerogative of Congress, if we permit this illegal transfer.

Mr. CURTIS. The opinion of the Attorney General is, of course, worthy of more consideration by this House than is my opinion. He says it is right. I still am of the opinion that he may be wrong; but I submit that, if the officers of the Government have erred, we should visit the consequences of the error upon the officers themselves, and not on the persons engaged in those armories. They should not be left with their wages unpaid. If the transfer of the fund has been improperly made, we can do nothing more than we now do by our voices—express our disapproval of that act and of the course pursued by the Department. By the passage of this bill, justice will be rendered to those individuals who are now deprived of their pay; they will receive their wages; and the fund, so temporarily misapplied, will be restored to its proper object. If there has been any error, it has occurred in the Department, and our expression of opinion should be sufficient to prevent its repetition.

Mr. HUGHES called for the previous question, and demanded tellers.

Tellers were ordered; and Messrs. MARSHALL, of Kentucky, and CRAIG, of North Carolina, were appointed.

The House divided; and the tellers reported—ayes 78, noes 51.

So the previous question was seconded, and the main question ordered, which was on ordering the bill to be engrossed and read a third time.

Mr. FAULKNER. Have I a right, having reported the bill, to speak to it now?

The SPEAKER. The Chair thinks that the gentleman is entitled to his hour.

Mr. FAULKNER. I propose to occupy for a short time the attention of the House, in replying to some of the objections which have been urged against the passage of this bill. I desire, in the first place, to correct what might have left an improper impression upon the part of the House.

Mr. STANTON. I rise to a question of order. The previous question has been seconded; and as the bill has never been discussed in Committee of the Whole, and I do not understand it to be the privilege of the chairman of the standing committee in the House to occupy the time of the House for an hour in closing the debate. I understand that he is entitled to that privilege only when the bill has been considered in Committee of the Whole.

The SPEAKER. The Chair is of opinion that the gentleman from Virginia is entitled to his hour to close the debate upon the bill. The gentleman from Virginia has not availed himself of the privilege of closing debate in committee; and the Chair is of opinion, that the debate having been ordered to be closed, the gentleman reporting the bill is entitled to an hour to close debate.

Mr. STANTON. I ask the Chair to have the rule read.

The first clause of the 34th rule was read, as follows:

"No member shall occupy more than one hour in debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee, may open and close the debate."

Mr. STANTON. I withdraw my question of order.

Mr. FAULKNER. I shall not occupy the time of the House for more than a few minutes in reply to the objections which have been urged against this bill. And I will first notice the remark which fell from the gentleman from Ohio, [Mr. STANTON,] which might leave the impression upon the mind of members, that all the information necessary to throw light upon this subject was not before the House. It is true, sir, that this information was not before the Committee on Military Affairs when they first acted on the subject. But, sir, the special report of the head of the ordnance department, sent in at a subsequent day, was read to the committee, and will be laid before the House before I have concluded my remarks. It proceeds to state that this entire sum is necessary to carry on the national armories. The gentleman from Kentucky, [Mr. MARSHALL,] in the comments which he has made upon this bill, has manifestly fallen into an error; and he has confounded this proceeding with the system of transfers originally authorized by the act of 1809, but which has since been repealed by Congress.

Mr. MARSHALL, of Kentucky. I beg the gentleman's pardon, I have fallen into no such error.

Mr. FAULKNER. The gentleman spoke of the President making a report during the first week of a Congress.

Mr. MARSHALL, of Kentucky. If the gentleman will indulge me, I will correct him. I will show that I have not fallen into an error. There has been no transfer; but this has been a legal appropriation. According to the opinion of the Attorney General, the \$200,000 which has been used in your national armories for the manufacture of arms was a legal appropriation; and therefore you do not want this \$360,000 to supply the arms which are annually distributed to the States. And I submit, further, that if you propose to make this appropriation for the purpose of giving it that direction, there is no power to transfer it, as they propose.

Mr. FAULKNER. The gentleman then concedes that this was not a transfer?

Mr. MARSHALL, of Kentucky. Certainly.

Mr. FAULKNER. Under the act of 1809, a transfer of an appropriation to another object than that for which it was originally intended was the final and absolute disposition of the fund. It was a system then commenced, but which was leading to the most dangerous consequences. It has since been repealed; and is not now allowed in any Department of the Government at all, except in a few specified cases. It is conceded that the action of the ordnance bureau, under these circumstances, in making this application of this fund, was legal. It was done under the authority of the Attorney General. If I understand the gentleman from Kentucky, [Mr. MARSHALL,] he does not himself question the legality of the act by which this fund was appropriated for the manufacture of arms.

Now, sir, in reference to this act of 1808, by which the ordnance department is authorized to use \$200,000 per annum to arm and equip the militia of the States, it will be seen by that law, that it has power to apply that fund either to the purchase of arms and equipments or to their manufacture. But the mistake which gentlemen have manifestly fallen into on this subject, consists in the idea that these arms and military equipments are to be manufactured at the national armories. Why, sir, I will state, that but a small portion of the distribution of arms and equipments which takes place under authority of that law, consists of rifles or muskets. Under the law, the Government is to furnish such arms or equipments as the States themselves may demand. Some of them call for cannon, some for swords, some for powder, and some percussion caps—but all comes out of that \$200,000, appropriated for arming and equipping the militia of the States.

Mr. HOUSTON. I wish to ask the gentleman from Virginia a question: I understand the object

this bill has in view is to appropriate a sum of money sufficient to replace another appropriation which has been transferred from its regular head of appropriation. Now, I desire to ask the gentleman the condition of the fund which was so transferred by the War Department or its officers. Is there not now an unexpended surplus remaining under that head of appropriation, so that if this bill should not pass there would be no injury done to the cause for which it was originally appropriated. I know, or at least it is my opinion, that heretofore it has been true that under the head of appropriation from which this money was taken there has usually been a large surplus unexpended, which goes over from year to year.

Mr. FAULKNER. I am aware of no such unexpended balance.

Mr. HOUSTON. Have you looked to it?

Mr. FAULKNER. I have not; but I am assured by the head of the War Department, and by the ordnance department, that they have temporarily applied as much of the militia fund as could be spared for that purpose. What was the condition in which this matter was presented before? Here was a regular appropriation by Congress of \$360,000 for the national armories, sanctioned by both branches of Congress, and defeated alone by the misfeasance or malfeasance of one of the officers of this House. What was the duty of the President of the United States under the circumstances? Was he to permit these national establishments, rendered necessary by your policy for the last sixty years, to be abandoned, the manufacture of arms to be suspended, and a corps of mechanics of the most skillful and enterprising character, which has been obtained from every part of the United States, to be disbanded, never, perhaps, to return again? There was no course left to him but to see if there was not some arrangement, reconcilable to law, by which a fund could be applied temporarily until Congress could properly repair the wrong.

On an examination of that question, what was ascertained? That the act of 1808 could be so construed, and in fact that the very object of that act was, an appropriation, to a certain extent, to the national armories; because the proper department had by that act the power to supply the militia of the United States either by purchase or manufacture. It was found by the Attorney General, that this fund could be temporarily so applied during the recess of Congress. The legality of this act is not doubted. The necessity that compelled its exercise is not questioned. Then what is the difficulty that gentlemen conjure up in regard to it? They tell us if we are permitted now to have \$360,000, it will make the sum of \$560,000 applied to the manufacture of arms. I say it will have no such effect whatever, unless you propose to withdraw that appropriation, which for the last fifty years has been sanctioned by the policy of this Government, of applying \$200,000 for the arming and equipping of the militia of the States. It is but a temporary loan, so to speak, under the authority of law, from one branch of the public service to another, to be replaced so soon as this appropriation is passed.

Mr. MARSHALL, of Kentucky. I would like to ask the gentleman from Virginia a question. Will the gentleman permit me?

Mr. FAULKNER. Certainly.

Mr. MARSHALL, of Kentucky. Does the gentleman from Virginia say to the House that if this money is appropriated now to these armories, that the head of the ordnance bureau will have the right to repay the loan of which he speaks?

Mr. FAULKNER. I have not the slightest question about it—not only that he has the power to do so, but that it will, in fact, immediately be so applied. There still exists the obligation of this Department to supply the militia of the States with arms and military equipments, which obligation cannot otherwise be fulfilled.

Mr. MARSHALL, of Kentucky. It is exactly at that point that the whole pressure comes. My position is that he not only has no such authority, but that an attempt by him to do it would be a violation of law.

Mr. FAULKNER. There I differ with the gentleman from Kentucky. I see no difficulty upon the subject. Here is a fund which the gentleman himself concedes may be legally applied for the purpose to which it has been applied.

Mr. MARSHALL, of Kentucky. I certainly

say that the ordnance bureau might have applied it to the manufacture of arms legally, and that if he did apply it legally, nobody has a right to complain. But, then, there is no necessity for the loan. If it was not a loan, it was a legal appropriation of a sum given by Congress, and when reappropriated it cannot be retransferred. I call the attention of the gentleman to what Colonel Craig says in this letter:

"The national armories were supplied from the 1st of July, 1857, to January 1st, 1858, from the fund for arming and equipping the militia."

That it was a proper investment of the militia fund, the gentleman and I agree. But, I ask the gentleman whether he is willing to say to the House that if we do appropriate the \$200,000, it is to be spent between this time and the 30th of June next in distributing arms to the militia? because the effect of that will be that we will have given to that fund \$400,000, and not \$200,000; or we will give to the armories \$560,000, and not \$360,000.

Mr. FAULKNER. I say, upon the authority of the head of the ordnance department, that it will be replaced to the extent that fund has been temporarily used for the manufacture of arms; and no doubt it will be applied, between this time and the 1st of July next, to carry out the policy of the law, in distributing arms and military equipments among the States. That is the inevitable result which must follow the requirement of law. Here stands the obligation on the part of the ordnance department to apply \$200,000 to the distribution of arms and equipments to the States. The gentleman says he concedes that, under the law of 1808, the head of the ordnance department has the power to apply this fund temporarily as it has been applied. But how does he get over the obligation of distributing \$200,000 among the States, in the form of arms and military equipments? That obligation must be complied with. It is not superseded by the temporary use of this fund for the manufacture of arms. That is a right vested in the States, and which they have the right to call upon this Government, under the act of 1808, to perform in furnishing them their quota of arms and military equipments. You cannot fulfill that obligation only by replacing this fund, and applying it to furnishing the States with arms and military equipments.

What would be the effect, supposing the amendment of the gentleman from Ohio should prevail? Would it affect the national armories? No; its effect would be to withdraw the power from the Secretary of War to distribute arms and military equipments among the States. He only made a temporary use of that fund, taking it for granted that Congress, at its first session, would enable him to comply with the law of 1808, for distributing arms and military equipments among the States.

Now, Mr. Speaker, an impression may prevail that this whole sum of \$200,000 has been applied to the manufacture of arms since the 1st of July, 1857. I learn from the ordnance department that not more than \$100,000 has been applied for that purpose. They speak, it is true, of this fund as a fund of \$200,000; but they do not say that the whole amount has been applied.

Mr. MARSHALL, of Kentucky. Then if it has not been applied, it remains in their hands.

Mr. FAULKNER. They have no right to touch it, except under an emergency. During the recess of Congress, when your national workshops would have been broken up if the Department had not resorted to this arrangement, they were justified, under the opinion of the Attorney General, in doing it. But now when you have the power to correct the wrong, when you can apply the remedy, it would not be proper for them to be using the fund longer in that way.

Mr. MARSHALL, of Kentucky. The difference between the gentleman and myself is this: I say, with the Attorney General, they were authorized by law to do what they did. I say, as against the gentleman, that they were not authorized by any emergency at all; they had a legal right to do it; and no emergency without law could have justified it.

Mr. FAULKNER. It is true the emergency could not of itself have justified it; but the militia appropriation was susceptible of a construction by which it might be applied to the manufacture of arms. Inasmuch, however, as the universal usage of the country has been to gratify the States by

giving them a description of military equipments not made at the national armories, it would be impossible for the ordnance department to carry out the policy of the country in the distribution of such arms and military equipments as they desired, unless they applied that fund to other purposes than the manufacture of arms at the national armories.

Mr. PHELPS. I desire to ascertain if I understand the question correctly. If I understand it the \$200,000 of permanent appropriation by the act of 1808 has been applied in part for the manufacture of arms for the purpose of supplying the militia of the country. If I understand the gentleman from Kentucky, he claims that that was a misapplication of that permanent appropriation.

Mr. MARSHALL, of Kentucky. No, sir, I do not. On the contrary, I say that it might very well be done under the law. I merely want to correct the gentleman from Missouri. He seems to be under the impression that I think that this was a misapplication of the fund. Not so. I have said, certainly for the third time, that under the opinion of the Attorney General, it was a proper application of the fund. But I say that if the fund of \$200,000 has been exhausted in manufacturing arms for the militia, then they do not want the \$360,000; and if we supply the \$200,000 that has been spent, we ought not to supply it to the fund that the gentleman from Virginia wants to carry it to, but to the fund from which it has been taken.

Mr. PHELPS. I suppose that only a portion of the \$200,000 has been applied to the manufacture of arms.

Mr. FAULKNER. Only a portion.

Mr. PHELPS. How much?

Mr. FAULKNER. About one hundred thousand dollars, as I learn.

Mr. PHELPS. Only about one hundred thousand dollars. Well, sir, the Executive had clearly a right to direct arms to be manufactured at the national armories for distribution to the militia. Whether those armories can expend \$360,000, in addition to the \$100,000 which they have already expended, is a matter about which I am not advised; but I presume that the Committee on Military Affairs would not have recommended this appropriation to supply the omission in the Army appropriation of last session, unless they had been satisfied that the amount could be economically expended in the manufacture of arms at these armories. Certain it is, that the committee of which I was a member at the last Congress did recommend the House to appropriate \$360,000, and it went through all the forms of legislation except being enrolled and signed by the President. The Committee of Ways and Means of the last Congress thought that the amount was necessary.

Mr. STANTON. If the gentleman from Virginia will permit me, I desire to correct a misapprehension. The report of the Committee on Military Affairs is no expression of opinion about the wants of the armories in regard to this appropriation. They express no opinion upon the subject. The members of the committee expressly reserved the right to make up their opinions from information subsequently to be obtained.

Mr. PHELPS. What did the committee consider—the bill?

Mr. SEWARD. I object to this transferring the floor.

Mr. FAULKNER. The conclusion of the gentleman from Missouri is correct. The Committee on Military Affairs agreed to report the bill, but the right was reserved to each member of the committee to modify his opinion or action upon information which might be subsequently given to him, and to urge any objections to the bill before the House. But as a military question there was no difference of opinion; and the committee did give its assent to it, subject to the qualifications before stated.

Mr. STANTON. I desire to ask the gentleman a question, in order that we may understand each other. Do I understand the gentleman to say that the Military Committee, in reporting this bill, expressed the opinion that more than \$360,000 could be profitably expended at the armories during the fiscal year?

Mr. FAULKNER. I do not know that it did. Every gentleman was at liberty, as I remarked, upon full information derivable from the ordnance

department, but not then before the committee, to modify his opinion and course in the House.

Now, Mr. Speaker, the gentleman from Kentucky could not be more opposed than I am to the exercise, by the Executive Departments of this Government, of anything like an improper discretion in the matter of appropriations. I concur in the wisdom of that policy recently adopted, by which the right of transfer authorized under the law of 1809 has been in a great measure repealed; but no such principle is involved in this proceeding—none whatever. It is conceded that here was a fund that the ordnance department could, with propriety, resort to temporarily during the recess of Congress for the support of the national armories. It has been so applied. It was so applied with the distinct understanding that the fund was to be replaced for the benefit of the militia of the States as soon as this bill should pass. Where is the wrong? Where is the harm done? Where is the invasion of any prerogative of Congress? I can see none. I ask, in conclusion, that the letter from the head of the ordnance bureau be read to the House.

The letter was read, as follows:

ORDNANCE OFFICE,
WASHINGTON, January 16, 1858.

SIR: In answer to the interrogatories in the Hon. C. J. FAULKNER's letter of this date, referred to this office, I have the honor, in compliance with your directions, to report:

1. The national armories were supplied from July 1, 1857, to January 1, 1858, from the fund for arming and equipping the militia.

2. The use of that fund was only a temporary expedient to avoid the evil consequences of the clerical error of omitting to copy the item appropriating for the national armories, in the enrolled bill; which error it was not doubted that Congress would correct at its next session. Such use of the militia fund, although not contrary to law, is a diversion of it from more appropriate purposes, and the amount so used should be returned to be applied to such purposes. The necessity for the usual appropriation for one year's service is not diminished, because so much of the militia fund as has been temporarily used should be refunded, and the residue will not be more than sufficient to carry on operations at the armories for the rest of the fiscal year.

3. The full sum of \$360,000 for the national armories is now required, and no portion of it can be dispensed with, and the policy of the Government be carried out in respect to the operations of the armories, and the arming and equipping of the militia of the several States and Territories.

The letter of the Hon. C. J. FAULKNER is returned herewith.

Respectfully, your obedient servant,

H. K. CRAIG, Colonel of Ordnance.

Hon. JOHN B. FLOYD, Secretary of War.

Mr. HOUSTON. I desire to call the attention of the gentleman from Virginia to the point to which I called it a few moments ago. It seems to me that he himself will agree that there is a part of this appropriation which can be dispensed with. When I asked him the question a few moments since, I was of the opinion that any balance that might remain unexpended at the end of each fiscal year, of the appropriation for arming and equipping the militia of the States, would be retained to be used in another year. I am not quite certain, on reflection, whether I am right in that; yet I think I am. Still I may be mistaken. But there is this point in the case: I find, on looking at the receipts and expenditures under that head of arming and equipping the militia, that for the year 1855 the Government expended but \$180,000, and for the year 1856 but \$150,000; so that it seems to me, on the spur of the occasion, from the information we have, that the Government has never expended the entire \$200,000, and that it is unnecessary for us to reappropriate money for the purpose of refunding the amount of \$100,000 borrowed from that fund. So that, according to the gentleman's own argument, if I am right in the information—and I think I am—the appropriation in his bill can be reduced at least \$100,000; and my own opinion is, that it can be reduced much further.

Mr. FAULKNER. In reply to the gentleman from Alabama, I can say that I have never, in connection with this bill, looked into or deemed it necessary to look into the fact of whether there may have been any unexpended balances to the credit of the appropriation for arming and equipping the militia. All that we could do, and all that we could be expected to do, was to borrow temporarily from that fund an amount sufficient to keep up these armories during the recess of Congress. If there are unexpended balances to the credit of the fund for arming and equipping the militia, let the Committee of Ways and Means look to that in their next appropriation. It is a

matter that has no just connection with the appropriation for the national armories. The gentleman will hardly contend that there are any unexpended balances of the appropriations for the national armories. That is the only question that we have to do with on this occasion. We have nothing to do now with the fund for arming and equipping the militia, except so far as to exhibit the fact, that a temporary loan, so to speak, was made from that fund during the recess of Congress for the manufacture of arms.

Mr. CURTIS. If there be a surplus, that will go to the reduction of the next appropriation.

Mr. FAULKNER. It would be well for the gentleman from Alabama [Mr. HOUSTON] to call the attention of the Committee of Ways and Means to those balances when they are reporting their next appropriation for arming and equipping the militia. It has nothing to do with the bill now before Congress. This bill is to supply an omission in the Army appropriation bill of the item for the manufacture of arms. There is no unexpended balance to the credit of that fund. And why does the gentleman from Alabama seek to perplex and mystify this bill by talking about unexpended balances of the fund for arming and equipping the militia with which we have nothing to do, and which has no connection whatever with this bill?

Mr. HOUSTON. The gentleman is very much mistaken. If I have mystified the question, it is my misfortune. But if the fund for arming and equipping the militia does not need the return of this money, I should like to know why we should make an appropriation for it while we are borrowing money so extensively? If the fund for arming and equipping the militia is ample, and we have a right to infer that it is from the condition of the receipts and expenditures to which I have referred, it seems to me that there is no use in reappropriating money for this purpose.

Mr. FAULKNER. I see no force in the reasoning of the gentleman from Alabama. We are here on behalf of the armories, asking only our own. We are asking simply for that appropriation which Congress sanctioned, and which was defeated by the negligence of a clerk of your body. If we have borrowed from the militia fund during the recess of Congress, it was only a temporary loan. It is no less our obligation to refund what we have borrowed, even though there be the balances before stated. The only duty that devolves on Congress in connection with these balances, is to reduce the next appropriation for that purpose.

The question being on Mr. STANTON's amendment,

Mr. STANTON demanded tellers.

Tellers were ordered; and Messrs. STANTON, and WRIGHT of Georgia, were appointed.

The question was taken; and the tellers reported—ayes 86, noes 105.

Mr. KELSEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 86, nays 105; as follows:

YEAS—Messrs. Abbott, Anderson, Atkins, Bennett, Bingham, Bingham, Bliss, Boyce, Burroughs, Campbell, Case, Ezra Clark, Cobb, Covode, Cragin, Burton, Craze, Curry, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dodd, Durfee, Fenton, Foley, Foster, Garnett, Giddings, Gilman, Gilmer, Goodwin, Granger, Greenwood, Grow, Lawrence W. Hall, Harlan, Hill, Houston, Howard, Kelsey, Kilgore, Leach, Leiter, Lovejoy, McQueen, Humphrey Marshall, Maynard, Moore, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Nichols, Olin, Palmer, Parker, Peyton, Pike, Pottle, Ready, Ricard, Seward, Henry M. Shaw, John Sherman, Spinner, Stanton, William Stewart, Talbot, Tappan, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Wood, and Wortendyke—86.

NAYS—Messrs. Adams, Ahl, Andrews, Arnold, Avery, Barksdale, Blair, Boocock, Bowie, Brayton, Buffinton, Burlingame, Burns, Caskey, Chaffee, Chapman, John B. Clark, Clawson, Clay, Clemens, Clingman, John Cochrane, Colfax, Comins, Corning, Cox, James Craig, Crawford, Curtis, Durrell, Davidson, Davis of Mississippi, Dowdell, Edmundson, Faulkner, Florence, Goode, Goode, Gregg, Thomas L. Harris, Hatch, Hawkins, Hickman, Hoard, Hopkins, Horton, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Knapp, Jacob M. Kunkel, Landy, Lawrence, Fletcher, McLay, McKibbin, Samuel S. Marshall, Miles, Miller, Millson, Montgomery, Morrill, Oliver A. Morse, Niblack, Pendleton, Phelps, Phillips, Potter, Powell, Purviance, Quitman, Reagan, Reilly, Ritchie, Robbins, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Aaron Shaw, Shorter, Sickles, Singleton, Robert Smith, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Miles Taylor, Thayer, Warren, Cadwalader

C. Washburn, White, Whiteley, Winslow, Woodson, and John V. Wright—105.

So the amendment was not agreed to.

Pending the call of the roll,

Mr. WINSLOW stated that his colleague, Mr. BRANCH, was detained from the House by sickness.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FAULKNER demanded the previous question upon its passage.

The previous question was seconded; and the main question ordered to be put; and, under the operation thereof, the bill passed.

Mr. FAULKNER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

DIRECT TAXATION, ETC.

Mr. BOYCE asked unanimous consent to offer the following resolution:

Resolved, That a committee of seven be appointed, to which it shall be referred to inquire into and report on the following subjects: a reduction of the expenditures of the Government; the navigation laws of the United States; the existing duties on imports, and the expediency of a gradual repeal of all the duties on imports, and a resort exclusively to internal taxation.

Mr. TOMPKINS objected.

Mr. BOYCE moved to suspend the rules.

The question was taken, and the rules were suspended—ayes 104, noes 51.

Mr. BOYCE moved the previous question upon the resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was adopted.

Mr. BOYCE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider lie on the table; which latter motion was agreed to.

PRINTING DEFICIENCY BILL.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the bill which the committee had under consideration on Friday last.

Mr. HARRIS, of Illinois. I ask the gentleman to withdraw his motion for a moment, to enable me to offer a resolution to which there will be no objection.

Mr. PHELPS. I prefer to allow the motion to take its usual course.

Mr. SEWARD. Is it in order to move to lay that motion on the table?

The SPEAKER. It is not.

Mr. SEWARD. Then, sir, I shall not make the motion. [Laughter.]

Mr. WARREN. I appeal to the gentleman from Missouri to withdraw his motion for a moment, to allow me to offer a resolution. This is the only day on which resolutions can be offered except by unanimous consent.

Mr. PHELPS. I decline to accede to the request of the gentleman from Arkansas.

Mr. WARREN. Then I hope the House will vote down the motion. I demand the yeas and nays. I do it with a view to get an opportunity to offer my resolution.

The yeas and nays were refused.

Mr. SEWARD. I call for tellers.

Tellers were not ordered.

The motion of Mr. PHELPS was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS, of Indiana, in the chair,) and resumed the consideration of the printing deficiency bill, the pending question being on a point of order raised by Mr. GROW.

Mr. SEWARD. I move that the committee rise.

Mr. WARREN. I demand tellers.

Tellers were not ordered.

The motion was not agreed to.

Mr. SEWARD. Well, sir, I give notice that I shall renew the motion every little while.

The CHAIRMAN. The point of order is, that pending an amendment to an original bill, and an amendment to the amendment, it is in order to go back to the original bill, and perfect any portion of that bill which is proposed to be stricken out

before the question is taken upon striking out. The Chair overrules the point of order. The Chair understands that no appeal is taken.

Mr. GROW. There was an appeal taken on Friday upon the same point, and the decision of the Chair was sustained. I therefore do not take an appeal.

The CHAIRMAN. The question then is upon the amendment to the amendment, offered by the gentleman from Georgia, [Mr. CRAWFORD.]

Mr. PHELPS. I desire to have the amendment read.

The amendment offered by Mr. BURNETT to the original bill was read, as follows:

Strike out all after the word "Congresses" in the seventh line to the end of the bill, and insert in lieu thereof the following:

The sum of \$420,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment of Mr. CRAWFORD to the amendment was read, as follows:

Strike out all after the tenth line, and insert the following:

To pay for paper, \$104,000.

To pay for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, \$47,619 94.

To pay for the binding, lithographing, and engraving, ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses, \$164,569 64.

SEC. 2. And be it further enacted, That the Public Printer is hereby instructed and required not to print any further "reports of the results of the United States naval astronomical expedition to the southern hemisphere," nor "of the explorations and surveys to ascertain the most practicable route for a railroad from the Mississippi river to the Pacific ocean," nor "of the United States commission to survey a boundary line between the United States and the Republic of Mexico," other than such reports of each as may be now written and in his hands for publication.

Mr. NICHOLS. Is the amendment of the gentleman from Georgia open to amendment?

The CHAIRMAN. It is not.

Mr. NICHOLS. I hope the amendment of the gentleman from Georgia will be voted down.

The CHAIRMAN. Tellers were ordered on Friday on the amendment to the amendment.

Messrs. SMITH of Tennessee, and DEAN were appointed tellers.

The question was taken; and the tellers reported—ayes 60, noes 72.

So the amendment was not agreed to.

The question recurred upon Mr. BURNETT's amendment.

Mr. WARREN. As there is no probability that a vote will be had upon this amendment, and as this is the day set apart by the rules for the introduction of bills and resolutions from the different States, I move that the committee rise, in order that we may have an opportunity of presenting bills and resolutions.

The motion was not agreed to.

Mr. SANDIDGE. Is it in order now to offer an amendment to the amendment?

The CHAIRMAN. It is.

Mr. SANDIDGE. Then, sir, I offer the following as an amendment to the amendment:

Provided, That no portion of the moneys hereby appropriated shall be drawn from the Treasury to pay for any work or printing ordered by the Thirty-Third or Thirty-Fourth Congresses, where specific contracts have not already been entered into, under authority of law; and that the execution of all laws or resolutions of either or both Houses of the Thirty-Third and Thirty-Fourth Congresses, ordering the publication of any book of explorations, observations, or surveys, shall be suspended, where the manuscript copy is not in the hands of the proper officer, and a legal contract made for the publication.

Mr. Chairman, I take it for granted that this House does not, by its action, intend to set aside any contracts that may have been entered into in compliance with laws heretofore passed. I intended, sir, to have offered this proviso to the original bill reported by the Committee of Ways and Means. I hope this committee will vote down the amendment of the gentleman from Kentucky, and then, no matter what amount of money may be appropriated by this bill, under the proviso which I have just offered, if sanctioned by the House, not one dollar can be drawn from the Treasury unless it is done in accordance with laws previously enacted by Congress, and carried out by the officers of this House and of the Government.

Presuming that the House will, in good faith, appropriate a sufficient amount of money to pay all contracts legally entered into, I have merely offered this proviso to stop at that point all orders given by the House for the further publication of any books of explorations or surveys. I think,

sir, that will meet the views of every gentleman here; and I hope the committee will vote down the amendment of the gentleman from Kentucky, and adopt the proviso which I offer.

Mr. BURNETT. I hope the House will not vote down my amendment; and why? For the simple reason that the amendment covers every dollar, as we learn from one at least of the members of the Committee of Ways and Means, which this Government owes for printing, engraving, and lithographing.

Mr. SEWARD. I insist on the enforcement of the rule which requires the gentleman to confine his remarks to opposition to the amendment of the gentleman from Louisiana.

Mr. BURNETT. I will do so, sir. The amendment which has just been voted down by the House contained the amount of \$316,189 and some cents. We learn from the Committee of Ways and Means, or at least from a member of that committee, that that includes every dollar which is due and owing by the Government as a deficiency for work which has already been done by the parties with whom we have made contracts. Now, I differ with the gentleman who offered that amendment, in this: My calculation, making the amount \$420,000, is based on the fact that a portion of the additional work has been already commenced. My amendment provides for that, and the \$420,000 covers it.

Now, I am opposed to the amendment of the gentleman from Louisiana, [Mr. SANDIDGE;] and why? Because it is, in my judgment, a proviso which is unnecessary, and which ought not to be added to this deficiency bill. But if the committee will vote for my amendment, the \$420,000 will pay for all the work already done and for that which has been commenced, and thus we shall cover the whole amount due, and stop this thing.

The gentleman from Louisiana remarks that this House is not prepared to set aside any contract that has been made. Nor am I, sir; but you may take every resolution which has been adopted by the Thirty-Third and Thirty-Fourth Congresses, ordering the publication of these books, and you will not find one solitary resolution that ever contemplated, or by any sort of construction can be made to authorize, the publication of anything but what was written and prepared at the time.

Mr. SANDIDGE. Allow me to ask a question.

Mr. BURNETT. I have only five minutes and cannot be interrupted. Not only is the fact as I have stated it; but I state this as a correct position, that all certificates issued by the Superintendent of Public Printing, based upon work done by the Public Printer, which has been prepared by the authors of the various publications since the resolutions authorizing those publications passed the House, are in direct conflict with the law upon the subject, wholly unauthorized, and that this Congress is not bound to pay them.

Mr. QUITMAN. I should like to make an inquiry.

Mr. BURNETT. I will yield the floor for that purpose.

Mr. QUITMAN. The inquiry that I desire to make is, whether without the amendment of the gentleman from Louisiana [Mr. SANDIDGE] the amendment of the gentleman from Kentucky [Mr. BURNETT] will stop the execution of these unfinished works?

Mr. BURNETT. I hold that the Superintendent of Public Printing is bound, by the law of 1852, to enter on the books of his office the manuscript furnished; and that, when it appears that the manuscript was furnished subsequent to the date of the resolution passed by Congress, he has it published at his own risk, and the printer who does the work does it at his own risk; and Congress is not compelled to pay for it. If this is done, let us refuse to appropriate money to pay it; and in this way we will reach the evil.

The question was taken on Mr. SANDIDGE's amendment; and it was not agreed to.

Mr. SMITH, of Tennessee. I move to amend the amendment of the gentleman from Kentucky [Mr. BURNETT] by increasing the appropriation \$100,000. I do so for the purpose of making a few remarks, because I see here that some gentlemen are very much mistaken in regard to the obligations of the Government growing out of the various resolutions that have been heretofore

passed on the subject of public printing. It will be conceded by every member of the House that when any officer of this Government has made a contract under these resolutions, which contract would be in the line of his duty, although he may have committed fraud—

Mr. SEWARD. I insist on the gentleman confining his remarks to the amendment.

Mr. SMITH, of Tennessee. I intend to do so, because I contend that the appropriation is too small. Every contract that has been entered into by an officer of the Government, this Government is legally bound to pay. If the Superintendent of Public Printing has made contracts for engraving, for lithographing, for plates, or for anything else in the line of his duty, under the orders of this House, we are bound to observe them, and we can no more refuse payment under them than we can refuse payment of our honest private debts.

Moreover, suppose we do refuse payment; suppose we say that there has been fraud in the office of the Superintendent of Public Printing; suppose we say that Congress ordered too many of these works, and refuse to pay the money contracted to be paid by the officers of the Government; what is the consequence? Every man whose contract is not carried out by us will come before us for the next ten years, and we will have to make appropriations to pay damages to those men, to which they would be justly entitled. Why not, then, appropriate a sufficient amount of money in this bill to pay for all the expenses incurred under the orders of this House, although an officer of the Government may have exceeded his authority or his duty? We are bound to do it, and cannot refuse doing it.

But gentlemen say there was no manuscript copy of these volumes furnished to the House of Representatives. Why these very gentlemen have been receiving these volumes from time to time, until they have run up to three, four, five, six, and even eight volumes, and not one word has ever been said about it, till the meeting of Congress, when the clamor was raised in reference to the public printing. I am glad to see that that clamor was raised which called the attention of the House to this subject. I voted against these resolutions for the publication of these books; but I would as soon repudiate my honest debts as repudiate any contract made by an officer of the Government in the execution of the careless orders made by this House. I am opposed to this extravagant mode of ordering printing by this House. I am not in favor of making Congress a book concern. I am not in favor of ordering these men to write histories of the country, and to illustrate them with lizards and crows, and all those engravings. But as we have ordered the work to be done, as the obligations have been contracted, under which we are bound to pay, let us pass the bill, and let these accounts undergo the scrutiny of the Treasury Department. When they pay them, my word for it they will pay no more than is justly due under the contracts made. Then I will join hands with any gentleman here to put a stop to all this useless printing. But let us pay for that heretofore ordered by the House, for it is the cheapest way of getting rid of the consequences of our own folly.

Mr. GROW. I am opposed to the amendment of the gentleman from Tennessee, for this reason: We have heard the same appeal made to us on all deficiency bills—that our executive officers have promised to pay; and that, therefore, Congress must appropriate the money. Now, so long as you permit the executive officers of the Government to exceed the appropriations of Congress, you deprive Congress of the control over the appropriations of money given to it by the Constitution. Your executive officer involves the Government in any amount of expenditures, and then calls on Congress to appropriate money to carry out his own act. I agree with the gentleman from Tennessee, that these evils of public printing have their initiative here, in resolutions to print large numbers of books to be sent as reading matter throughout the country—a policy which I am utterly opposed to; for what reason is there why Government should furnish reading matter to the people of the country any more than that it should furnish clothing to them? That, sir, is not in the line of its legitimate business.

But while I would not increase the appropri-

tion fixed in the amendment of the gentleman from Kentucky, [Mr. BURNETT,] I would say that you will never put a stop to executive officers exceeding the appropriations of Congress, so long as you pass deficiency bills. Here is a deficiency of over three quarters of a million of dollars that has accrued through a series of years. All the works for which this appropriation is asked, were, with the exception of one, ordered by the Thirty-Third Congress, so that this debt which we are now asked to pay, has been accumulating for years.

Now, whether the Government is legally responsible under the resolutions ordering these books, I will not stop to inquire. I take it for granted that Congress did not intend to publish a series of volumes, untold in number, when the order for their publication was made.

Mr. LETCHER. Will the gentleman from Pennsylvania allow me to put an inquiry to him?

Mr. GROW. I have but five minutes to myself, but as the gentlemen is always kind, I will yield to him.

Mr. LETCHER. If Congress did not mean to pay for this work, why did Congress sit here and permit it to be executed?

Mr. GROW. That is a pertinent question, and comes back to the responsibility of Congress. Executive officers in every part of the Government come to Congress every year for deficiencies in their several Departments. Congress orders a first volume of a work to be printed, and resolutions are passed that executive officers shall have power to see that the manuscript is prepared and sent to the printer. And, in most cases, after publishing the first volume, the last volume of the series is the next to be printed; and why? In order to compel Congress to complete the intermediate volumes, and thus to force us to expend money against our will. The publication of the sixth volume is followed by the publication of the second, third, fourth, and fifth. This is an abuse of the power granted by Congress; and as long as we allow our executive officers to go on in this way, so long will we have to continue to vote these deficiencies. Therefore, I have come to the conclusion to vote for no deficiency bill unless it is shown to me to be absolutely necessary, and that the money was expended for some reason not known to Congress at the time it made the appropriation. It is a usual thing to estimate for less than the amount wanted, because it is known that the proposition can be better got through for a small amount, and then funds are diverted from their proper objects to pay for these purposes. This evil will continue if Congress keeps paying these deficiency bills. It is time that this abuse was corrected. It is time that the power conferred by the Constitution on the money-appropriation branch of the Government was restored to the hands to which it properly belongs, and that we should put a stop to the practice of executive officers applying money and contracting obligations, and then coming to us and asking us to ratify their action.

Mr. SMITH, of Tennessee, by unanimous consent, withdrew his amendment.

Mr. NICHOLS. I propose to increase the amount of the appropriation of the gentleman from Kentucky [Mr. BURNETT] \$1,000. I have offered this amendment merely for the purpose of correcting some erroneous impressions which seem to rest on the mind of the gentleman from Kentucky. As I understood him the other day, he stated to this House that the printing of the Thirty-Fourth Congress greatly exceeded in amount that of the Thirty-Third Congress. Now, sir, I have been to some considerable amount of trouble to make a computation upon this subject, and I find that the gentleman was \$920,000 wrong in his estimate.

I understood him, also, to say that the amount included in the return of the Superintendent of the Public Printing for dry-pressing was totally unauthorized by law. Now, sir, I refer him to the Statutes at Large, Thirty-Third Congress, second session, page 645, and he will find that it is specifically provided for by law. And, sir, I have no doubt that the declaration of the gentleman in reference to what he states as the erroneous statements of the Superintendent of the Public Printing, if scrutinized closely, will show just as little foundation for the charge as in relation to dry-pressing.

I say to the gentleman from Pennsylvania, [Mr.

GROW,] that I want this bill to have a fair show round the board. I am willing to take my responsibility in connection with it, and I want other gentlemen to stand up to theirs. Sir, the gentleman from Pennsylvania, himself, and other gentlemen upon this side of the House, have made furious speeches in opposition to this bill, and yet they will sit here quietly in their seats, without interposing one word of objection, and allow resolutions to pass authorizing the authors of these books to write in them whatever they choose; to get up these books not only during the sessions of Congress, but during the vacation. You pass these resolutions, you suffer them to go through the House, and then complain of the men who have charge of these works for doing, in good faith, precisely what you have authorized them to do. But, sir, I will say to the gentleman from Kentucky, when he asks how many men upon this side of the House will vote to pay the debts of the Government, I cannot answer for all, but for one I will say that I will vote every cent that this Government is responsible for.

Mr. RITCHIE. I ask the gentleman from Ohio whether, in his opinion, these expenditures have been legitimately incurred, in consequence of resolutions passed by this House? If they have been, I will vote for the bill to pay for them; and so great confidence have I in the gentleman's means of information and judgment, that I will trust his judgment in the matter.

Mr. NICHOLS. I will answer the gentleman's question as I understand it. I believe that every dollar provided for in this bill, except, perhaps, the amount to print Emory's report, is based upon the action of this House and of the Senate. The work has been commenced in good faith, and I think the House should comply with its obligations in good faith. In reference, however, to Emory's report, I think, if you will look to the resolution authorizing its printing, you will find that there is nothing authorizing an appendix; and I think that the printing of that appendix should not be commenced until authority upon the part of the House had been given.

Mr. SINGLETON. I desire, with the gentleman's permission, to ask him a question. I find there is an estimate made for printing ten thousand copies of the second volume of Emory's report. I wish to know whether he has not in his possession a resolution which he has been instructed by the Committee on Printing to offer, for dispensing with five thousand of the ten thousand copies of the second volume of the report of Emory's boundary survey?

Mr. NICHOLS. Such is the fact. But now let me say to the gentleman from Virginia, who is a member of the Committee of Ways and Means, [Mr. LETCHER,] that his argument the other day in reference to that work was based upon a state of things which does not now exist. The proper measures have already been taken to suppress many of the illustrations and extraneous matter prepared for that work. And, sir, as the gentleman from Mississippi has remarked, I have a resolution in my possession, which I am instructed by the Committee on Printing to offer, cutting down the number of copies of the second volume of Emory's report from ten thousand to five thousand, which, in the opinion of Major Emory, is sufficient. I believe that one thousand is all that is required.

Mr. BURNETT. I suppose it is not the intention of the gentleman from Ohio [Mr. NICHOLS] to do me injustice. The statement which I made the other day in reference to the relative amount of printing ordered to be done by the Thirty-Third and Thirty-Fourth Congresses, was based upon a statement furnished me by the Clerk of the House. It was impossible, as I then stated, to go into every item going to make out this enormous expenditure. It was impossible, from the statement of the Superintendent of the Public Printing, to separate the various items. I say to the gentleman from Ohio, therefore, if there be any error in the statement made by me on that occasion, it is an error based upon the statements of your Clerk. He put down the items for the Thirty-Second Congress and for the Thirty-Third Congress; then he gives the amount paid out for the Thirty-Fourth Congress. Add to it the amount contained in the bill now under consideration, and you have the amount of \$2,334,081 27. And it was in this way that I made my calculation. I do not say that

these articles were not ordered under resolutions formally passed by Congress. I give you the gross amount as added up, including the amount for paper, printing, lithographing, &c. The gentleman from Ohio tells me that some of these items were for deficiencies in the Thirty-Third Congress and payment for work already done. Now, sir, I cannot understand this system of legislation; and why? Because, at the first session of the Thirty-Fourth Congress we passed a deficiency bill of \$625,000, to defray these very deficiencies in the Thirty-Third Congress.

Now, sir, as to the error on the subject of dry-pressing, I have this to say: the act of 1852, passed by the Thirty-Third Congress, which fixes the price of the various items, does not include the item of dry-pressing at all. I did not go through all of the laws of the United States for the purpose of investigating every law on the subject; but I understood that that act repealed all laws inconsistent with its provisions which were passed before it. I looked at it in that view.

Now, sir, in reference to the issuance of certificates of the Public Printer, the law expressly provides that when work shall be done by the Public Printer, the Superintendent of the Public Printing shall issue his certificate, which shall be evidence of indebtedness upon the part of the Government. But, sir, I perceive that the gentleman from Ohio either misunderstands or misapplies my remark.

I lay it down that if the Thirty-Fourth Congress passes a resolution authorizing the publication of a particular work, the author of that work has not the right, under that resolution, to go on *indefinitum*, and furnish volume after volume; and if he does so furnish manuscript to the amount of six, seven, or eleven volumes of the Pacific railroad surveys, it is a violation of the law, and Congress is not under obligation to pay that debt.

That is my proposition, and it is one which can be maintained under the act of 1852.

The amendment was, by unanimous consent, withdrawn.

Mr. CRAGIN. I move to amend by adding the following proviso:

Provided, That the further publication of the results of the United States naval astronomical expedition to Chili be discontinued.

I have been seeking the floor mainly for the purpose of replying to some remarks made by the gentleman from Kentucky [Mr. BURNETT] the other day; but as that has been done somewhat by my colleague upon the Committee on Printing during the last Congress, [Mr. NICHOLS,] I need not direct any remarks to that subject particularly. The gentleman conveyed the idea the other day, distinctly, that the printing of the Thirty-Fourth Congress was much more expensive than that of the Thirty-Third. Now, if he had examined the Daily Globe of January 25 last, he would have found about a true statement of the fact. Under the head of "Daily News," the Globe of that day says:

"The gross amount of expense incurred for the public printing, binding, engraving, &c., of the Thirty-Third and Thirty-Fourth Congresses has just been ascertained. The account stands as follows:

Thirty-Third Congress.....	\$2,800,000
Thirty-Fourth Congress.....	1,600,000"

making the printing of the Thirty-Fourth Congress \$1,200,000 less than that of the Thirty-Third Congress.

Mr. BURNETT. Does your estimate include this deficiency bill?

Mr. CRAGIN. My estimate includes the cost of the printing ordered by each of those Congresses.

Mr. LETCHER. This deficiency covers not only the Thirty-Fourth, but the Thirty-Third Congress.

Mr. CRAGIN. I have also examined the reports of the Superintendent of Public Printing, which are the true sources to go to in order to ascertain the cost of the public printing. Now, Mr. Chairman, I say that these pictured books ordered to be printed by the Thirty-Third Congress—the Pacific railroad surveys, the report of the Japan expedition, and the report of the naval astronomical expedition to Chili—cost more than the whole printing ordered by the Thirty-Fourth Congress. The printing of those three reports will cost this Government upwards of \$1,500,000.

Sir, I do not wish to make this matter a party question at all; but, since the gentleman from Kentucky has accused this side of the House of

having voted to create this great expense, I wished to call the attention of this committee, and of the country, to the facts.

Mr. MORGAN. I wish to inquire if that is not the same Congress that passed the Kansas-Nebraska bill?

Mr. CRAGIN. As soon as I can get the opportunity in the House, I have a resolution which I intend to offer, requesting the Superintendent of Public Printing to report to this House the cost of the printing ordered by the Thirty-Third and Thirty-Fourth Congresses, respectively. I want to have it from official quarters, and I tell you, that report will show that the printing ordered by the Thirty-Third Congress costs \$1,000,000 more than that ordered by the Thirty-Fourth Congress.

The great error of this whole printing business is this: Congress has ordered the printing of works which they knew nothing at all about. When the resolution was introduced for printing the Pacific railroad report no member of this House supposed that it was going to run up to eleven volumes. Only two years ago, after one or two volumes had been printed, the Superintendent of Public Printing, in a communication to the chairman, at that time, of the Committee on Printing, [Mr. NICHOLS,] of which committee I was also a member, said he supposed that report would reach six volumes. Now we are told it is going to amount to eleven volumes. This is the way these enormous expenses have been created. These works, too, were allowed to be profusely illustrated. The engraving, alone, for the Japan expedition, cost \$250,000.

Mr. PHILLIPS. Mr. Chairman, it seems to me that this is purely a question of good faith. If I understand the bill as reported from the Committee of Ways and Means, it is a bill to provide means for the payment of a debt incurred by prior Congresses. If that debt has been contracted by them, if that work has been ordered by them, and the contracts have been made upon the faith of Congress in the usual way, it does not become us, at this time, to say they must not be paid, or to stop to inquire whether the work ought to have been ordered at that time. The resolution is express in declaring that the sums now asked to be appropriated are for the payment of work ordered to be done by the Thirty-Third and Thirty-Fourth Congresses. If that be so, let each gentleman, before he votes against it, ask himself whether he would listen to an imputation upon himself of being unwilling to pay for any work which he himself had ordered. It matters little whether the work has been done or not if the contract has been made in good faith, if it has been put into operation, and there has been an undertaking to do the work; and if, as I understand there are, things are in progress connected with the work, good faith requires that we should pay for it.

I believe there has been great extravagance, but I believe that, from the necessity which is felt to pay this debt, we may learn wisdom in contracting future debts. I agree with all sides about the wasteful expenditure of the public money, and the impolicy of entering into contracts which outlast the official existence of those who enter into them. But as it has been done, and preceding Congresses have given orders requiring people to enter into contracts to fulfill those orders, we must, as their successors, be willing to pay for them.

Now, sir, I cannot vote for the amendment which has just been offered, because it seems to interfere with contracts already entered into. If there is no obligation to print these books, I hope the printing may be discontinued; but if there is any obligation to do the work, and contracts have been entered into, those contracts must be fulfilled to the letter, and I, for one, will never listen to any suggestion of extravagance or waste or useless expenditure, which has its foundation only upon broken faith. I would do in reference to a public debt exactly as I would do for myself, and if I deem it an imputation upon my character to be unwilling to pay for what I had ordered, or to fulfill a contract in part executed, I should be just as unwilling to lend my vote to withhold payment from those who have made contracts with the nation under like circumstances.

I think, Mr. Chairman, the amendment ought not to be adopted. I think there is no occasion for it. If the works have been ordered, they must be paid for. If they have not been ordered, there

can be no necessity for the adoption of the amendment.

Mr. BOYCE demanded tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. BILLINGHURST and PEYTON were appointed.

The committee divided; and the tellers reported—ayes 52, noes 66.

So the amendment to the amendment was disagreed to.

Whilst the committee was dividing, Mr. CRAGIN proposed to withdraw his amendment, with a view of offering it at another point in the bill; but the Chair decided that it was not in order to withdraw it whilst the committee was dividing.

Mr. GARNETT. I move to amend the amendment so as to reduce the sum to \$2,000. My object in moving that amendment is to avail myself of the five-minute rule to make a few remarks on the bill. I have heard disputes on different sides of the House as to which party is responsible for the extravagance of former Congresses in this printing matter. My colleague from Virginia [Mr. LETCHER] gave us a speech in favor of the bill, one of the principal arguments of which was that one gentleman had voted to print such a report, and another gentleman had voted to print such another report, and that those gentlemen were now found in opposition to the bill. For my own part, I think that we have to deal with the responsibilities of the present, and it is a matter of no sort of consequence to the House how inconsistent any gentlemen amongst us may have been in former times. It is of equally little consequence in reference to the present bill, whether the Democracy of the Thirty-Third Congress were more extravagant than the Republican majority of the Thirty-Fourth Congress. The question is whether the Thirty-Fifth Congress should sanction the extravagance of its predecessors. The question is whether we, in this period of heavy taxation and public and private financial calamity, shall go on to perpetrate additional extravagance, and cumulate the excesses of former Congresses. That is the question for us to consider, and I submit to you, sir, whether it is worthy of statesmen, and of the responsible Representatives of the people, to allow the debate to degenerate into a mere recrimination between persons and parties.

I wish, sir, that these amendments were being offered in the House instead of in committee, that we might take the yeas and nays upon them and see who is responsible. I hope, sir, that gentlemen upon the other side noticed the vote taken by tellers upon the amendment of the gentleman from Georgia, [Mr. CRAWFORD.] The large bulk of those who sit upon this side of the House voted for that amendment, and to my utter astonishment the gentlemen upon the other side most clamorous for economy, voted against it and defeated it. That amendment was eminently right and proper.

Who, Mr. Chairman, in this House is opposed to fulfilling contracts? We are all for that. But you must first tell us what the contracts are. The Superintendent of the Public Printing in his report, dated as late as the 5th of January last, informs us that only \$316,000 of the seven or eight hundred thousand dollars appropriated in this bill is required to pay for work already done. All the rest is to pay for work which was yet unexecuted on the 5th of January. Now, before the Committee of Ways and Means can ask us to vote an amount, under the name of a deficiency, beyond the \$316,000, it is their duty to tell us whether that report of the Superintendent of Public Printing is true or false. The gentleman from Missouri [Mr. PHILIPS] has told us that it is true that only \$316,000 was due on the 5th of January, but that printing has been done since, and that something is due for that. It will be time enough to provide for that when the Committee of Ways and Means have information on which they can ask for a deficiency.

The gentleman from Virginia [Mr. LETCHER] tells us that there are contracts for work yet unexecuted; for plates, engravings, lithographs, and the like. The amendment offered by the gentleman from Louisiana [Mr. SANDRIDGE] would have covered all that. I am willing to fulfill all these contracts; but will gentlemen tell me that we are bound by contract to pay for the printing if the manuscript be not even written yet? Are we bound by contract to pay for the printing of manuscript written but not yet in the printer's hands? Are

we bound by contract to pay for printing where the manuscript is in the hands of the printer but where the work is not yet done? Are we bound to pay, as in the case of the second volume of the Emory report, for paper not yet bought? And yet our Superintendent's report shows that part of the appropriation asked for in this deficiency bill is for imaginary liabilities of this sort. Your printer and binder are merely your employes to execute your orders; and you might as well say that because Captain Meigs has the superintendency of the Capitol extension you are bound by the contracts which he makes, and are bound to go on and complete the work in any style of extravagance that he may have designed.

Sir, let it be known that this is the very first attempt made in the beginning of the Thirty-Fifth Congress to bring about retrenchment; and let gentlemen come up to the mark, and show who are for and who are against it. If this Congress is to go on and imitate the acts of its predecessors; if this system of public plunder is to go on from Congress to Congress, for the benefit of party editors and party favorites, give us who are against it the opportunity of placing our names on record, and of washing our hands of all such corruption.

Mr. SEWARD. I renew my objection to the character of this debate. I hope the Chair will confine gentlemen strictly to the question under consideration.

The CHAIRMAN. The Chair will try to do so.

Mr. LETCHER. So far as I am concerned, either in regard to this or to any other matter, my colleague [Mr. GARNETT] knows me well enough to know that I am not inclined to dodge any vote, either by yeas or nays or by any other way whatsoever. So far as this matter is concerned, I humbly conceive that the Committee of Ways and Means have done nothing more than their duty in reporting this bill; and I am prepared to vote "ay" on the yeas and nays, or in any other way in which this measure may be presented to the House. Not only so; but I am willing to assume and to bear whatever of responsibility attaches to that vote, and to go before my people on my past record in this House on the question of economy or extravagance.

Now, sir, it was my belief, when this bill was reported, and it is my belief now, after all that has been uttered on this subject in debate, that the most economical plan to dispose of this question is to pass the bill which the Committee of Ways and Means has introduced. If that bill be rejected now, or if it be reduced either one fourth, or one half, the Congress of the United States will be besieged, from this time till there be a final disposition of the question, for the balances that may be claimed by these parties on contracts, or, in the language of the House, on the agreements or arrangements that have been consummated between the parties who are to do this work and the organized agents of this House, who are the Committee and the Superintendent of Public Printing.

Now, sir, the gentleman from Pennsylvania, over the way, [Mr. GROW,] thanked his God that he was not like these other people around here; that he did not vote for any of this printing; that he had been opposed to it all the way through from its inception to the present time. I find, sir, that when—

Mr. GROW. Is it to me the gentleman refers?

Mr. LETCHER. Yes: just wait till I get to the charge.

I find on reference to the Journal of the House, that in the second session of the Thirty-Fourth Congress, the gentleman from Pennsylvania [Mr. GROW] constituted one of seventy who voted to reprint the American State Papers by Gales & Seaton. How much that was to have cost I do not know, nor does anybody else here.

Mr. SEWARD. I rise to a point of order. The gentleman is not speaking to the amendment, but is making a speech in reference to the conduct of members of a prior Congress, and is exhibiting yeas and nays to show the conduct of members of this House.

Mr. LETCHER. I am opposed to all the amendments, and I am surprised that my friend from Georgia [Mr. SEWARD] does not see it, and does not know that I am making a common fight against them all, whether they be to reduce or increase the appropriation.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, FEBRUARY 3, 1858.

NEW SERIES...No. 33.

Mr. SEWARD. I am surprised that my friend from Virginia, [Mr. LETCHER,] who has been a member of the Committee of Ways and Means for several Congresses, has not seen it to be his duty to have provisions put in these appropriation bills declaring that no more money than that appropriated should be paid for these works. If the Committee of Ways and Means had done that, we should not have had this difficulty here to-day.

Mr. LETCHER. It would be well enough for the gentleman from Georgia to pluck the beam out of his own eye before he attempts to pull the mote out of another's eye.

Now, so far as the Committee of Ways and Means is concerned, they have their legitimate business; and the performance of such an operation as the gentleman from Georgia refers to devolves just as heavily upon him as upon any of us.

Mr. SEWARD. That is true; but the gentleman is one of those who are always cutting off debate by moving the previous question, and who thus cram on the country whatever the committee want, so that other gentlemen cannot expose their extravagance.

Mr. LETCHER. As well as I recollect, I think there was an important bill for a navy-yard somewhere down South, on which my friend moved the previous question.

Mr. SEWARD. Yes, sir; but I could not get my friend to indorse it.

Mr. LETCHER. I do not doubt that; for I was opposed to a navy-yard there, and would have been very glad to defeat it; but I could not do so under the previous question.

But, all this by-play aside. If I did not believe that the good faith of Congress was bound to appropriate the amount of money presented in this bill for its consideration, I should not ask for the passage of the bill; but it is my belief that good faith requires it; that there is an obligation resting on this House which should be met, and this induces me to come forward here and sustain it by whatever influence I have, and by my vote.

Mr. GARNETT withdrew his amendment to the amendment.

Mr. WHITELEY. I move to amend the amendment of the gentleman from Kentucky by striking out "\$420,000," and inserting in lieu thereof "\$20,000."

My object, Mr. Chairman, in moving the amendment is this: it was stated the other day by the honorable gentleman from Missouri, [Mr. PHELPS,] from the Committee of Ways and Means, in reply to the gentleman from New York; and it was stated by the gentleman from Kentucky [Mr. BURNETT] that it was a question of plighted faith on the part of the Government; and it was said this morning by the honorable gentleman from Pennsylvania [Mr. PHILLIPS] that it was a question of good faith. Now, while I have very great respect for the Committee of Ways and Means collectively, and individually, and for their opinion as lawyers and as members of this House, I, for my own part, like to see the contract; and I now wish to ask the gentleman from Missouri this question: When the Thirty-Third or Thirty-Fourth Congress—be it which it may—ordered the printing of five or ten thousand extra copies of any report, I want to know whether Congress meant to pledge its faith to print *ad infinitum*? I have here the copy of a resolution adopted on the motion of Mr. McDougall, of California:

"Resolved, That five thousand extra copies of the reports of the Pacific railroad surveys, with the accompanying maps, be printed for the use of this House."

I want to know whether the Thirty-Third Congress meant to pledge itself to pay for eleven volumes of that report, or for so many more as these penny-a-liners chose to write? In other words, I want to know whether, if it is a question of plighted faith, if we are bound for eleven, are we not bound for fifty volumes of it? Now, as lawyers, as statesmen, as men who can construe the English language, I ask gentlemen, and I ask the Committee of Ways and Means, where, if your

faith is plighted for eleven, is the stopping-place? If we are bound for eleven, are we not bound for fifty? And why will they not go on as long as the Government stands, or as long as these penny-a-liners continue to write; and these authors will, like James and Dickens, go on and write as the publishers continue to pay for what they write. I ask whether there is not some stopping-place? Is their plighted faith to step in at all times to prevent a stop being put to the exuberant imaginings of men who go on writing and illustrating their printed works without regard to any practical results? There must be some stopping-place.

Mr. GROW. I do not rise to make a speech, but merely to correct a statement of the gentleman from Virginia, [Mr. LETCHER.] The gentleman is always on the alert; but without his usual care, he misstates my position in this instance, to which, however, I raise no special objection. I have never made any claim to special purity in legislation, or any exemption from the usual follies of legislation; but, sir, the gentleman brings in my vote on printing the American Archives for supplying the new members of Congress. Now, sir, I did not vote for my own set of books, but I did vote to give the new members who came after me the same set of books which were given to me. Gentlemen will recollect that these were books for the individual members, and not for distribution over the country of books embellished with engravings, the engravings of which cost four times as much as the printing. Now, sir, if the gentleman will bring in here any vote which I gave for printing these picture-books for distribution, I will acknowledge that I was mistaken in the vote which I gave. Sir, I wish to say that I claim not to be more pure in my votes than anybody else; but I desire to call attention to the mode in which this printing has been ordered, and to the enormous abuse which has grown up, both in the printing ordered by Congress and the Executive Departments.

Mr. LETCHER. Can the gentleman state any instance in which the Superintendent of Public Printing, or the Public Printer, has exceeded his orders?

Mr. GROW. I do not intend to make any charges against anybody. I have not stopped to inquire whether any officer has exceeded his orders. I merely rose to correct the gentleman from Virginia. I say that in voting for the printing for the American Archives I only exercised the same magnanimity toward the new members then as was shown to me and to those who were elected with me.

Mr. WHITELEY, by unanimous consent, withdrew his amendment.

Mr. MAYNARD. I offer the following amendment:

Provided, That hereafter no payment shall be made, or money disbursed, for engraving, lithographing, or electrotyping, except for work already done, or partially done, or contracted to be done, unless the same shall have first been specifically sanctioned, and the price stipulated by one of the appropriate committees of Congress.

Mr. Chairman, I do not feel any personal or party responsibility for this large appropriation which we are called upon now to vote. But, sir, I am very unwilling to vote for it unless it can be done with some restriction which will prevent hereafter what has, as I conceive, grown to be a gross abuse, from a system which, in the outset, perhaps was right enough. I confess that I see a very marked distinction between printing books and buying clothes for distribution. I can see a very great propriety in the Government publishing, at the public expense, some works which private enterprise would not publish, for the very reason that public enterprise could not publish them. These are works which embody valuable and important scientific labor and research from original and unexplored sources of knowledge; works from which other parties derive information second and third hand, and prepare it for publication in a popular form—like the ephemeris of the astronomers, from which the almanac-maker prepares his tables. Such work are, many

of them, we know, from sources of responsibility and high reputation in the country. Works of that character I think we owe it to ourselves and our country to patronize and to distribute abroad. But, sir, while I so think, I am aware that the system is one which has grown into great abuse. We have taxed the country and sent abroad works which are of no earthly use to anybody unless it be to the men who are to print and bind them.

There is another class of works which, though not wholly useless in their original design, become so in the manner in which they are gotten up. You start out a naval or military expedition for search and research. You allow to accompany it some ambitious young men, fresh, inexperienced, who see something wonderful—in every partridge a bird of paradise, and who start at the novelty of a rabbit springing from a bush. Their portfolios are filled up with sketches accordingly. Then, sir, the result is, when their report comes to be published—they thinking they have a *carte blanche* to publish—you have them filled with pictures useless for the purposes of illustration, and utterly worthless as works of art; and these books when published are of very little value except as Christmas gifts for boarding-school misses.

Now, sir, my amendment is, by its provision, not to stop the publication of any work which we have directed to be printed, not to interfere with contracts entered into by the regularly authorized agents of the Government, but in future to have no work published which shall not have been first written, prepared, with the pictures, plates, charts, engravings, and all, and submitted, not to an executive officer, but to a committee of one or the other of the two Houses, or to a joint committee of the two Houses.

Mr. PHELPS. I have risen to oppose the amendment of the gentleman from Tennessee, merely for the purpose of stating my opinion that, under the law of 1852, and under the several resolutions which have been passed by both Houses of Congress, if they were embodied in a contract, drafted and executed by myself and any other gentleman, the contract would hold us for the payment of the money specified in this appropriation bill. Thus much I give as my opinion in regard to this matter.

But I now desire to ask the committee that they will cease speaking upon amendments they may propose, and let us vote; for I believe the mind of every gentleman in this committee is made up in regard to this matter. I trust we shall dispose of this bill to-day.

The question was taken upon the amendment of the gentleman from Tennessee, [Mr. MAYNARD,] and it was not agreed to.

Mr. SINGLETON. I move to amend the amendment of the gentleman from Kentucky, by reducing it twenty dollars; and I do it simply with the view of making a statement to the committee, which I hope they will listen to, and upon which I hope they will act.

I asked the gentleman from Missouri, [Mr. PHELPS,] on Friday last, if there was contained in this estimate an appropriation to pay for the ten thousand copies of the second volume of Major Emory's report. The gentleman said at that time that there was no estimate for the payment for the second volume. I find, however, upon an examination of the report made by the Superintendent of Public Printing, under the head of "estimates of the cost of public printing yet to be executed for the Thirty-Third and Thirty-Fourth Congresses," an estimate for the payment for the second volume of Emory's report, both for the printing, and for the paper upon which that printing is to be done. And you heard this morning, from the gentleman from Ohio, the chairman of the Committee on Printing for the last Congress, [Mr. NICHOLS,] that it was the opinion of Major Emory himself that it was not necessary to print ten thousand copies of that second volume; that one thousand copies would be sufficient for all practical purposes.

Mr. LETCHER. I would inquire of the gen-

tlemen whether he is not aware of the fact that a portion of the second volume of Emory's report is already printed?

Mr. SINGLETON. But a very small part of the manuscript has been put into the hands of the Public Printer—a very small part of it; and done, doubtless, with the view on the part of the printer to get the work under way, in order that an appropriation might be made for the payment of the whole ten thousand volumes.

Mr. LETCHER. The gentleman is mistaken, for the whole manuscript has been furnished to the Secretary of the Interior, and would have been printed but for his interference.

Mr. SINGLETON. I quote from the Superintendent of the Public Printing, who was called before the committee. Now, sir, the whole narrative of the whole of that work that is worth one single copper, is contained in the first volume. The second volume consists of sets of diagrams, of stars and lines, worth nothing to you or your constituents. If this Professor Emory believes that we can dispense with nine thousand copies of that second volume, I ask gentlemen, if they propose to retrench any way in this matter of printing, to make a beginning here, and by this one item of retrenchment, save \$54,000 to the Government. Sir, gentlemen have made an estimate of the amount to be paid for this second volume, and are now pressing it upon the committee, though the Professor, who got up the work, declares that one thousand instead of ten thousand copies are sufficient. Let me say to gentlemen that the Senate only ordered four thousand copies—one half the amount we took. They considered that it was not necessary to have as many of the second volume as of the first. We therefore can commence at this point to curtail the public printing. As has been stated, the chairman of the Committee on Public Printing has a resolution in his hand which he proposes to offer in the House, recommending that the resolution of last Congress be rescinded; and that only one half of the number then ordered to be printed shall be printed. I ask, where is the necessity of printing the whole ten thousand copies?

Besides, there is a map accompanying the second volume. That map is to be detached from the volume and printed by itself. That map will answer no purpose but to put upon the walls of your backwood cabins, as a background for a looking-glass. You have seen them, or maps like them, scattered through your district, and you know they are thrown in the top of cupboards or thrown away in a corner with the dust and rubbish, never useful for any purpose.

Mr. WARREN. While I am opposed to the amendment offered by my friend from Mississippi, I am not induced to that opposition by reason of the matters alleged by the gentleman from Tennessee, or by my friend from Kentucky. While they talk about the rats, and the mice, and woodcocks which appear in the agricultural reports ordered to be printed by this House, and allege that as a reason for opposing the appropriation proposed, I say I must dissent from them in that behalf. I think it material to the interests of this country that those pictures should have been put in that particular report, for the reason that the people of the South and the people of the North desire to know each other, and to know all about what pertains to each other. We in the South want to see whether we have the same kind of rats, and mice, and squirrels that you have in the North. [Laughter.]

But I have a different reason for opposing it. I want to see this engraving go into these agricultural reports, and while I am opposed to this particular matter under consideration, I will say that I am prepared to vote for the printing of any amount of agricultural and mechanical reports of the Patent Office, that any gentleman upon this floor may propose, for the very reason that works of that sort interest every portion of the country, North, South, East, West. But, sir, while I say that I am in favor of printing a larger number of reports of that character than has ever been ordered by the American Congress, I stand here prepared to oppose the publication of these reports and other works heretofore ordered in large quantities.

Gentlemen talk, sir, about this Emory's report. That is a matter which, in my section of the country, we know nothing about and care nothing

about. Whilst I represent a constituency that would be in favor of footing any bill for expenses already incurred for works ordered to be printed, and that have really been executed, I stand here prepared to vote against any bill incurring further liabilities for works of this character. And why? Because no large portion of the people of this country are interested in such works. But a small portion of the people of this country can by any possibility be interested in works of that character. I do not refer to Major Emory's report only. I allude to nine out of ten of the works which have been ordered by the American Congress for the last few Congresses, and I say they are upon matters in which the people of the country feel no interest at all.

Sir, while we are assailing the Public Printer, and talking about the enormous expenditures in consequence of public printing, we had better bring the matter home to ourselves, and look at the source from which this extravagance springs. It has emanated from the American Congress, and has resulted from the ordering of innumerable quantities of works that the people could not understand if you were to submit them to them; and if they could understand them, would not care a doit about. That has brought about this extravagance in the public printing.

Mr. FLORENCE. I desire to ask the gentleman from Arkansas a question.

Mr. WARREN. I cannot refuse my friend from Pennsylvania anything.

Mr. FLORENCE. I was aware of that, and hence I asked the gentleman to yield to me. I desire to ask if the gentleman excepts the Pacific railroad survey?

Mr. WARREN. I take this occasion to say that I am decidedly and unqualifiedly opposed to those Pacific railroad surveys; and why? Because there is so much surplus matter embodied in the reports that the people never can get at the gist of the thing. If you will confine the reports to the surveys made by the engineers appointed for that purpose, then, I say, disseminate that knowledge among the people. But what do you find in these reports? Descriptions of the buffaloes, the mountains, and the country generally. If they would tell us exactly where the road ought to be laid, and that it should pass directly through the center of Arkansas, as the Pacific railroad route ought to do, I would go in for publishing thousands and thousands of reports. [Laughter.] But they do not do that, sir.

[Here the hammer fell.]

Mr. SINGLETON. I withdraw my amendment to the amendment, my object being accomplished.

Mr. WASHBURN, of Maine. My impression is that there has been sufficient debate upon this question, and I move that the committee rise, for the purpose of moving a suspension of the rules to enable me to offer a resolution to terminate all debate in Committee of the Whole upon this question.

Mr. PHELPS. I appeal to the gentleman from Maine to withdraw his motion, and let us see if we cannot dispose of the bill.

Mr. WASHBURN, of Maine. I will withdraw it for a few moments.

Mr. SEWARD. I offer the following amendment to the amendment:

Provided, That no part of the appropriations contemplated by this act shall be paid, unless the same be received and accepted by those claiming to be entitled thereto in full consideration for any and every book now printed, or to be printed; for all paper now purchased, and to be purchased; for all engraving, finished or unfinished; lithographing, finished or unfinished; or any other work done, or to be done, ordered during the Thirty-Third and Thirty-Fourth Congresses, upon the condition only so far as may be within the legal operation of some contract heretofore entered into, which shall be determined by the Secretary of the Treasury.

Believing, sir, as I do, from the feeling manifested by the committee, that the bill reported from the Committee of Ways and Means will pass the House ultimately, the object of my amendment is to prevent any settlement being made with the money now appropriated, unless the money shall be accepted in full consideration for everything contemplated by this bill.

Now, sir, we are told that the bill passed to supply deficiencies in the appropriations for the Thirty-Third Congress did not cover the entire amount necessary, and here in the Thirty-Fifth Congress we are called upon to provide for a deficiency which arose in the Thirty-Third Con-

gress. If this seven hundred and ninety odd thousand dollars has to be paid to the employés of the Government, let it be paid and let there be an end to it. My amendment proposes to settle now and forever for books, paper, engraving, and everything else for which these parties claim from the Government by reason of contracts. I go further, sir. I do not believe that the Government is bound by these contracts, and I provide that the question shall be settled at the Treasury Department, and only where the work has been executed under contracts binding on the Government, is the money to be paid out of these appropriations.

Now, sir, I ask for a vote on that amendment. I offer it in good faith. I think it is a sound amendment. It will protect the Treasury, and I hope the committee will sustain it. I have nothing more to say.

Mr. HOUSTON. Mr. Chairman, I oppose that part of the amendment of the gentleman from Georgia which seems to acknowledge the principle that the mere ordering of a book or anything else by Congress is a contract with the Public Printer.

Mr. SEWARD. The gentleman is mistaken. My amendment recognizes no such principle.

Mr. HOUSTON. I hope the gentleman will not interrupt me. I have got but five minutes, and I speak slowly.

Mr. SEWARD. Well, the gentleman is so often out of order himself that he might tolerate a little interruption from me. [A laugh.] My amendment provides that the question of contract shall be settled at the Treasury Department.

Mr. HOUSTON. This question has been argued as one of contract. The gentleman from Missouri, [Mr. PHELPS,] who has the management of this bill, states that if a contract of this kind existed between himself and another individual, it could be enforced against him in a court of justice. Now what is the relation that the Public Printer sustains to the House of Representatives? He is an officer of this House, just as the Speaker is an officer of the House, and the Clerk and Doorkeeper are officers of the House. If the House shall order the printing of any amount of matter—I care not whether it be a volume or a set of volumes—the House has a right to rescind that order at any time, and pay for the work that has been done. If the House has ordered a multitude of volumes to be printed, it is competent for the House to change or rescind that order, paying the Public Printer, according to the rates established by law, for the work he has done.

Now, Mr. Chairman, as at present advised, I intend to vote against this bill, and I will tell you why. I am going to vote against it because I have honestly, but in vain, sought information upon the points presented in connection with it. The gentleman from Virginia [Mr. LETCHER] gives us one set of facts. The gentleman from Ohio, [Mr. NICHOLS,] who is a member of the Committee on Printing, and who says he is familiar with the subject, tells us that quite a different set of facts exists. And then my friend from Mississippi [Mr. SINGLETON] comes up and makes another statement of facts, in which I have confidence. My friend from Missouri [Mr. PHELPS] tells us that there is not so much work unfinished as other gentlemen suppose; that this volume is commenced, and that that volume has been ordered, and that such and such plates and illustrations have been contracted for, and here we are, after a week's struggle to obtain information, in the middle of this discussion without reliable information from any source.

Mr. PHELPS. I have had read a letter from the Secretary of the Interior to show it.

Mr. HOUSTON. I know you did; and what does my friend from Mississippi [Mr. SINGLETON] say this morning? He cites the report of the Superintendent of Public Printing, which gives a precisely different state of facts from the one the gentleman [Mr. PHELPS] gave.

Mr. SINGLETON. I cited that recommendation.

Mr. HOUSTON. Exactly. I understood the gentleman from Mississippi to say that the Committee on Printing—

Mr. SEWARD. I rise to a point of order. The gentleman from Alabama is not confining his remarks to my amendment.

Mr. HOUSTON. I am opposed to that part of the gentleman's amendment which refers to

contracts. I say there is no such thing, and I am going on to elaborate that view of the case.

The CHAIRMAN. The Chair overrules the point of order, and thinks that the gentleman from Alabama is confining himself to the question.

Mr. HOUSTON. Then I ask how are we to vote? My friend from Virginia [Mr. LETCHER] says we are bound to vote for all this. My friend from Missouri [Mr. PHELPS] produces a letter from the Secretary of the Interior, presenting a state of facts showing the progress of this work, and says that we are bound, at least, to go to that extent. My friend from Mississippi [Mr. SINGLETON] comes from the Committee on Printing, which has charge of this precise matter, and reports to us a state of facts derived from the report of the Superintendent of Public Printing, entirely in conflict with the statement reported by the gentleman from Missouri, as from the Secretary of the Interior. Now, in this state of confusion, in this state of great want of information, how are we, who are outside of these committees, to vote? I should like to know to what point the mind of any gentleman can arrive with any degree of satisfaction to himself? I do not hold that when the Committee of Ways and Means report a bill the Committee on Public Printing are bound to come and show us how much of the work is done, and how much is not done. Yet they have been able to do so, and to do so satisfactorily. But I contend that the Committee of Ways and Means ought to have advised us on these precise points that we might know how to vote.

The question being on Mr. SEWARD's amendment to the amendment, Mr. GARNETT demanded tellers.

Tellers were ordered; and Messrs. READY and JOHN COCHRANE were appointed.

The committee divided; and the tellers reported—ayes 78, noes 43.

So the amendment to the amendment was adopted.

Mr. UNDERWOOD. I think, sir, that this is a subject of a great deal of interest; but from the discussion which has been had I am satisfied, and I think the House is satisfied, that we all understand the merits of the bill; and to spend more time in discussion would be a wasteful expenditure of the public time and treasure. I move, therefore, that the committee rise and report the bill to the House.

Mr. WARREN. I move to amend the motion by substituting the motion that the committee rise and report the bill back to the House, with the recommendation that it be referred back to the committee from whence it came.

The CHAIRMAN. The motion is not in order.

Mr. BURNETT. The amendment of the gentleman from Georgia to my amendment having been adopted, I suppose the question is on my amendment?

The CHAIRMAN. The question before the committee is on the amendment of the gentleman from Kentucky as amended.

Mr. BURNETT. I hope the gentleman from Kentucky will withdraw his motion until the vote can be taken upon my amendment.

Mr. UNDERWOOD. I will withdraw it.

Mr. WARREN. Is it not in order to move that the committee rise and report the bill to the House with the recommendation that it be recommended to the committee from whence it came? It strikes me that would be the better mode of proceeding decidedly.

The CHAIRMAN. The Chair thinks that the motion is not in order while an amendment is pending.

Mr. SMITH, of Tennessee. I shall object to this bill being reported now. I have an amendment which I think will obviate all difficulty on the subject.

Mr. LETCHER. Is it in order to offer an amendment to the amendment?

The CHAIR. The Chair thinks it would be in order to offer an amendment as an addition to the amendment already adopted.

Mr. WALBRIDGE. I rise to a question of order. I understand the motion pending to be, that the committee rise; which motion is not debatable.

Mr. LETCHER. I propose to amend the amendment by adding these words:

Provided, The sum does not exceed that reported by the Committee of Ways and Means.

Now, sir, my friend from Alabama [Mr. HOUSTON] has undertaken to "pitch in" generally and miscellaneously to the Committee of Ways and Means.

Mr. SEWARD. Which one of the Committee of Ways and Means was it that reported this bill?

Mr. LETCHER. The whole committee. I hope my friend from Georgia will not interrupt me again.

Mr. CRAWFORD. I hope the gentleman from Virginia will not include me, when he says the bill was reported by the whole committee.

Mr. LETCHER. I except the gentleman from Georgia, certainly. Now, sir, the gentleman from Alabama told the committee that there was no contract upon the part of the House with the Public Printer. Mr. Chairman, if such be the fact; if there was nothing obligatory on the part of the House, I should like to know what induced the House, preparatory to the election of Public Printer, to adopt this resolution?

Resolved, That this House now proceed to the election of a Public Printer for the House of Representatives for the Thirty-Fifth Congress, with the proviso that the House retain the right to modify the existing law upon the subject of the public printing as it may seem proper.

Now, sir, if there was no existing obligation by which this House was bound to pay according to the law as it stood on your statute-book, what did gentlemen mean by voting for that proviso? Sir, if they believe to-day that there is no obligatory force upon the part of this House to comply with its obligation, in the election of Public Printer, they ought surely to be able to understand why it was necessary to insert a proviso of that sort in that resolution, in order to protect us in the event of the change of the law upon the subject of the public printing.

Now, sir, one word more. My friend from Alabama intends to vote against this bill because he has received no satisfactory explanation in regard to it; that the Committee of Ways and Means have one version, the gentleman from Ohio [Mr. NICHOLS] another, and the gentleman from Virginia another; and in this uncertainty he can come to no satisfactory conclusion as to what is right and proper. How was the Committee of Ways and Means to procure their information upon the subject? Were they not to look to the Superintendent of Public Printing? Is he not authority who is supposed to understand the obligation of Congress towards the Public Printer? Yet, sir, the gentleman says he will vote against it because the Committee of Ways and Means have not given him satisfaction.

But there is another thing to which I wish to call the attention of the committee. My friend from Mississippi [Mr. SINGLETON] says there is no obligation upon the part of Congress to print the second part of Emory's report. If there was no obligation, why a resolution of that sort?

Mr. SINGLETON. I did not say that the House had a right to rescind its order at any time it thought proper to do so; and a resolution which is now in the hands of the chairman of the Committee on Printing is to that effect. It proposes to dispense with five thousand copies of the second volume.

Mr. LETCHER. In other words, if they have the right to rescind it, why did they adopt this proviso at the opening of the session? How can it be explained? There are a multitude of gentlemen who voted for that resolution; and upon their theory, as laid down yesterday and to-day, I ask them to come to the mark, and explain this matter.

Mr. WASHBURN, of Illinois. I move that the committee rise.

Mr. HOUSTON. I rise to oppose the amendment. I have a right to do that.

The CHAIRMAN. The motion of the gentleman from Illinois is in order.

Mr. WASHBURN, of Illinois. I insist upon my motion.

Mr. WARREN. I desire to appeal to the gentleman from Illinois to accept an amendment.

Mr. WASHBURN, of Illinois. The gentleman's amendment is not in order.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS, of Indiana, reported that the Committee of the Whole on the state of the Union had had the Union generally under

consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had come to no resolution thereon.

CONSTITUTION OF OREGON.

Mr. LANE, by unanimous consent, presented the official copy of the constitution of the State of Oregon; which was referred to the Committee on Territories, and ordered to be printed.

RESOLUTIONS OF KANSAS LEGISLATURE.

Mr. PARROTT. I ask the unanimous consent of the House to introduce joint resolutions of the Legislature of Kansas, with a view to have them laid upon the table and printed.

[Cries of "Read!" "Read!"]

Mr. CRAIGE, of North Carolina. I object to the reception of the resolutions, unless I know what they are.

Mr. PARROTT. I move to suspend the rules.

Mr. COBB. What are the resolutions?

Mr. FLORENCE. Can they not be read for information?

The first resolution was read by its title, as follows:

"Preamble and joint resolution in relation to the constitution framed at Leecompton, Kansas Territory, on the 7th of November, 1857."

Mr. LETCHER. Read them. Let us know what they are?

Mr. FLORENCE. There is no objection to that.

Mr. CRAIGE, of North Carolina. They have not been received; and, therefore, I say it is not in order to read them.

The SPEAKER. It is demanded that the papers shall be read, so that gentlemen may know how to vote.

Mr. CRAIGE, of North Carolina. I submit a question of order. They cannot be read, as they have not been received as yet.

The SPEAKER. Pending the question, "Will the House receive the resolutions?" the demand is made that they be read, so that gentlemen may know how to vote.

Mr. CRAIGE, of North Carolina. I appeal from the decision of the Chair.

Mr. WASHBURN, of Illinois. I move to lay the appeal on the table.

The appeal was laid upon the table.

[Cries of "Read!" "Read!"]

The first joint resolutions in reference to the Leecompton constitution were then read, as follows:

Preamble and Joint Resolutions in relation to the Constitution framed at Leecompton, Kansas Territory, on the 7th day of November, 1857.

Whereas, a small minority of the people, living in nineteen of the thirty-eight counties of this Territory, availing themselves of a law which enabled them to obstruct and defeat a fair expression of the popular will, did, by the odious and oppressive application of the provisions and partisan machinery of said law, procure the return of the whole number of the delegates to the constitutional convention, recently assembled at Leecompton. Whereas, by reason of the defective provisions of said law, in connection with the neglect and misconduct of the authorities charged with the execution of the same, the people living within the remaining nineteen counties of the Territory were not permitted to return delegates to said convention; were not recognized in its organization, or in any sense heard or felt in its deliberations; and whereas, it is an axiom in political ethics that the people cannot be deprived of their rights by the negligence or misconduct of public officers: and whereas, a minority, to wit, twenty-eight only of the sixty members of said convention, have attempted, by an unworthy contrivance, to impose upon the whole people of the Territory a constitution without consulting their wish, and against their will; and whereas, the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have defied the known will of nine tenths of the voters thereof; and whereas, the action of a fragment of said convention representing, as they did, a small minority of the voters of the Territory, repudiates and crushes out the distinctive principle of the Nebraska-Kansas act, and violates and tramples under foot the right and sovereignty of the people: and whereas, from the foregoing statement of facts it clearly appears that the people have not been left "free to form and regulate their domestic institutions in their own way;" but, on the contrary, at every stage in the anomalous proceedings recited, they have been prevented from so doing: Be it therefore

Resolved by the Governor and Legislative Assembly of Kansas Territory, That the people of Kansas being opposed to said constitution, Congress has no rightful power under it to admit said Territory into the Union as a State; and we, the representatives of said people, do hereby, in their name and on their behalf, solemnly protest against such admission.

Resolved, That such action, on the part of Congress, would, in the judgment of the members of this Legislative Assembly, be an entire abandonment of the doctrine of non-inter-

vention in the affairs of the Territory, and a substitution, in its stead, of congressional intervention in behalf of a minority engaged in a disreputable attempt to defeat the will and violate the rights of the majority.

Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves.

Resolved, That the Governor of this Territory be requested to forward a copy of the foregoing preamble and resolutions to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from this Territory.

G. W. DEITZLER,
Speaker of the House of Representatives.
C. W. BABCOCK,
President of the Council.

SECRETARY'S OFFICE, LEOCOMPTON,
KANSAS TERRITORY, January 12, 1858.

I certify the above to be a true copy of the enrolled resolutions deposited in this office.

[L. S.] HUGH S. WALSH, Clerk.

The Clerk was then proceeding to read the concurrent resolutions of the Legislature of the Territory of Kansas reaffirming the Topeka constitution.

The SPEAKER. The Chair, at this stage of the proceedings, desires to call attention to the passage in the Manual in reference to the reading of papers. The Chair should have propounded the question to the House, when objection was made, whether the paper should be read?

Mr. CRAIGE, of North Carolina. If the Chair will allow me, as I got the House into this difficulty, I will get them out of it. As I have been deprived by the decision of the Chair of the parliamentary right which I had to object to the reading, and as gentlemen have accomplished the object they had in view, I withdraw all objection to the reading.

The Clerk then read the resolutions of the Kansas Legislature in relation to the Topeka constitution; which are as follows:

Concurrent Resolutions reaffirming the People's Constitution framed at Topeka on the 23d day of October, 1855.

Whereas, in the spring of 1855 the first Legislative Assembly of the Territory of Kansas was by force and violence seized upon by people foreign to our soil, and a code of laws enacted highly unjust and oppressive, and calculated to drive off or enslave the actual settlers of said Territory, and to fix upon them an institution revolting to a large majority of the bona fide citizens of the Territory; and whereas, to avoid civil war, and as the only peaceful alternative, asserting as they did, that the principle formally enunciated in an act organizing the Territories of Nebraska and Kansas would fully authorize and sustain them in their movement, the people of said Territory did proceed to call a convention to frame a State constitution, the delegates thereto were regularly and fairly elected, and on the 23d day of October, A. D. 1855, did assemble in convention at Topeka, in said Territory, and did frame a constitution, and provided for its submission to a full and fair vote of the people, for their ratification or rejection, to wit, on the 15th day of December, A. D. 1855; and whereas, at the time aforesaid, the people of said Territory were engaged in a war, resisting an armed invasion from abroad, and were disabled thereby from giving expression upon said instrument; and whereas, to wit, on the 3d day of August, A. D. 1857, said constitution was again submitted to a full and fair vote of the people for their ratification or rejection, and by them ratified by a majority of about eight thousand; Therefore,

Resolved by the Council and House of Representatives, (the House of Representatives concurring)—

1st. That the constitution framed at Topeka, in said Territory, on the 23d day of October, A. D. 1855, embodies the wishes of the people of this Territory upon the subject of a State government, and ought to be received by the Congress of the United States as the constitution of the State of Kansas.

2d. That we hereby memorialize the Congress of the United States to admit the State of Kansas into the Union under the said constitution, framed at Topeka, in said Territory, on the 23d day of October, A. D. 1855, as aforesaid; as one of the sovereign States, upon an equal footing with the other States.

3d. That the President of the Council and Speaker of the House of Representatives be respectfully requested to transmit a copy of these resolutions, with a certified copy of the said constitution, framed at Topeka on the 23d day of October, A. D. 1855, as aforesaid, to the President of the United States, and the presiding officers of each House of Congress.

Passed Council, December 14, 1857.

Passed House, December 15, 1857.

G. W. DEITZLER,
Speaker of the House of Representatives.
C. W. BABCOCK,
President of the Council.

OFFICE OF THE SECRETARY OF KANSAS TERRITORY.

I certify the above to be a true copy of the enrolled resolutions deposited in this office.

[L. S.] HUGH S. WALSH, Clerk.
LECOMPTON, KANSAS TERRITORY, January 12, 1858.

The SPEAKER. The Chair now asks that the Clerk may report the paragraph from the Manual under which the ruling of the Chair was made.

The Clerk read the paragraph as follows:

"Where papers are laid before the House, or referred to a committee, every member has a right to have them once read at the table before he can be compelled to vote on them;

but it is a great, though common error, to suppose that he has a right *forties* *quoties* to have acts, journals, accounts, or papers on the table read independently of the will of the House. The delay and interruption which this might be made to produce, evince the impossibility of the existence of such a right. There is, indeed, so manifest a propriety in permitting every member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is for information, and not for delay, the Speaker directs it to be read without putting the question, if no one objects; but if objected to, the question must be put."

The resolutions were then laid upon the table, and ordered to be printed.

RESTRICTION OF DEBATE.

Mr. WARREN. I ask the unanimous consent of the House to introduce a resolution, not with a view of pressing it particularly upon the House to-day, but with a view of getting it before the House now, in order that they may act upon it at their earliest convenience. It will be seen, from the reading of it, that it is calculated to expedite business, and will not put any gentleman on the floor to any inconvenience at all. It is as follows:

Resolved, That from and after the passage of this resolution, all debate in the Committee of the Whole on the state of the Union shall be strictly confined to the bill or resolution directly submitted to the committee, except that Monday nights, Wednesday nights, and Friday nights, of each week be, and they are hereby, set apart for the discussion of matters arising out of the condition of the Union generally, or such other matters as gentlemen may be disposed to discuss.

Mr. BLISS. I object to that resolution.

Mr. WARREN. Objection being made, I move to suspend the rules; for I am satisfied that two thirds of the members would be willing to vote for the resolution.

Mr. CLINGMAN. I move that the House do now adjourn.

The SPEAKER. Will the gentleman waive that motion for a few moments, to enable the Chair to lay certain papers before the House?

Mr. CLINGMAN. I will waive it for that purpose.

CENSUS OF MINNESOTA.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, submitting to the House of Representatives a report from the Secretary of the Interior, under date of the 27th ultimo, with accompanying papers, in compliance with the resolution of the House of the 18th ultimo, requesting the President to communicate to the House whether the census of the Territory of Minnesota has been taken, in accordance with a provision of the fourth section of the act of Congress providing for the admission of Minnesota as a State, approved February 26, 1857; and if said census has been taken and returned to him or any department of the Government, to communicate the same to this House; and if the said census has not been so taken and returned, to state the reasons, if any exist to his knowledge, why it has not been done.

The message and the accompanying documents were referred to the Committee on Territories, and ordered to be printed.

REVISION OF REVENUE LAWS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in reply to a resolution of the House of Representatives of March 3, 1857, relative to House bill (No. 187) for the revision and codification of the revenue laws; which was referred to the Committee on Commerce, and ordered to be printed.

DELAWARE BREAKWATER.

The SPEAKER also laid before the House a communication from the War Department, being a report in answer to a resolution of 26th January, relative to the cost of completing the Delaware breakwater, &c.; which was referred to the Committee on Commerce, and ordered to be printed.

MILITIA RETURNS.

The SPEAKER also laid before the House a communication from the War Department, containing an abstract of the returns of militia; which was laid on the table, and ordered to be printed.

ADDITIONAL POST OFFICE APPROPRIATIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Treas-

ury, transmitting a letter from the Postmaster General, asking additional appropriations for temporary clerk hire for the Post Office Department; which was referred to the Committee of Ways and Means, and ordered to be printed.

REPORTS FROM COURT OF CLAIMS.

The SPEAKER also laid before the House certain reports from the Court of Claims. The adverse reports were referred to the Committee of the Whole House, and ordered to be placed on the Calendar, and the bills to be considered as read a first and second time, and referred to the Committee of Claims, under the rule.

And then, on motion of Mr. CLINGMAN, (at half past four o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, February 2, 1858.

Prayer by Rev. I. J. MURRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a letter from the Secretary of the Treasury, communicating, in compliance with the resolution of the Senate, a statement showing the cost of the printing, binding, and paper, ordered by Congress for each year, beginning with December, 1845, and ending with the late session; which, on motion of Mr. SEWARD, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

He also laid before the Senate, a report of the Secretary of War, communicating returns of the militia of the States and Territories, with their arms and accoutrements and ammunition for the year 1857; which, on motion of Mr. WILSON, was referred to the Committee on Military Affairs and Militia.

He also laid before the Senate reports of the Court of Claims, made in pursuance of law, adverse to the claim of Samuel C. Reid, for himself and in behalf of the owners, officers, and crew of the private-armed brig General Armstrong; the claim of Rebekah Heald; the claim of Benjamin H. Springer; the claim of John Etheridge; and the claim of the Illinois Central Railroad; which were referred to the Committee on Claims.

PETITIONS AND MEMORIALS.

Mr. BROWN presented a petition of citizens of Washington, District of Columbia, praying for the passage of an act to incorporate the Columbia Wood Gas Company; which was referred to the Committee on the District of Columbia.

Mr. STUART presented the petition of citizens of Michigan, praying that a grant of land be made for the benefit of the Michigan Agricultural College; which was referred to the Committee on Public Lands.

Mr. BIGLER presented the petition of P. S. Duval & Co., praying for indemnity for the loss of paper and plates for the second volume of the Japan expedition, which were destroyed by fire in Philadelphia, in April, 1856; which was referred to the Committee on Claims.

Mr. EVANS presented the petition of Mary S. Taylor, widow of Alexander S. Taylor, a volunteer in the war of 1812, praying to be allowed bounty land; which was referred to the Committee on Public Lands.

He also presented the petition of Anna M. E. Ring, praying that a land warrant may be issued to herself and sisters in lieu of one issued to their father for services in the war of 1812; which was referred to the Committee on Private Land Claims.

Mr. DAVIS presented a petition of Lieutenant Colonel Johnston and other cavalry officers, remonstrating against the incorporation of the dragoons and mounted riflemen with the cavalry; which was referred to the Committee on Military Affairs and Militia.

Mr. YULEE presented a presentment of the grand jury of St. John's county, Florida, in favor of the appropriation of certain lots and buildings at St. Augustine for the promotion of education in that State; which was referred to the Committee on Military Affairs and Militia.

He also presented a communication from E. E. Blackburn, United States marshal for the northern district of Florida, in favor of an amendment of the act to regulate the fees and costs to be allowed

to clerks, marshals, and attorneys of the circuit and district courts of the United States; which was referred to the Committee on the Judiciary.

Mr. WILSON. I present the memorial of E. R. Livingston, Esq., of Boston, praying to be appointed to superintend and aid in the preparation of a catalogue, with abstract and index, of the original documents and papers of the Senate of the United States, on a plan of his own originating. A work, on Mr. Livingston's plan, has just been completed of all the original legislative documents and papers of the commonwealth of Massachusetts, from the year 1774 to the close of the political year 1856. During its preparation, and on its completion it was examined by joint committees of the Legislature, not merely to test its accuracy, but also its convenience and importance for a ready access to any particular document or paper. Those committees were unanimous in their commendation of this gentleman's plan, and of its execution; and likewise of the great importance and value of the work. It has also been examined and highly commended by a number of the most distinguished reviewers in the State of Massachusetts. By this ingenious system of arrangement any desired paper can easily be found in any one of three ways—from the subject; or the order of time; or the kind of legislative action. That is to say—in a very few moments by consulting this catalogue and index, any person can easily refer to all the papers on the files relating to any particular subject, from first to last; or he may obtain a summary of the whole legislative proceedings of any session; or he can readily find, under one head, all the business of the same kind at each session. It is needless to add, that such a catalogue and index of the original papers of the Senate would be of immense utility in facilitating reference to them for all purposes—for committees and historians—and days and even weeks of research for particular papers may be saved by the aid of such a system. I move a reference of the memorial, with the recommendations accompanying it, to the Committee on the Library.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BRIGHT, it was

Ordered, That the petition of Adam Hays, on the files of the Senate, be referred to the Committee on Pensions.

BILL INTRODUCED.

Mr. STUART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 112) authorizing a drawback on old railroad iron, imported, rerolled, and reexported; which was read twice by its title, and referred to the Committee on Finance.

FEES OF MARSHALS.

Mr. YULEE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be directed to inquire what alterations are advisable to be made in the existing laws regulating the fees of marshals and other officers connected with the courts of the United States in the several States and the District of Columbia, and to report by bill or otherwise.

PRISONS IN THE DISTRICT OF COLUMBIA.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the state and condition of the prisons in the District; their sufficiency to prevent the escape of prisoners; the nature and propriety of the rules and regulations for the government and discipline of the inmates of the penitentiary; the capacity of the present building used for a penitentiary for the efficient and convenient discharge of all the duties incident to such an institution; the expediency and propriety of erecting a new building for a penitentiary, and the procuring a different site from the one now occupied; and also the expediency of conferring the appointment of warden of the penitentiary on the board of inspectors of the prison; and, generally, what improvements and alterations are necessary to render the system in this District equal to that in many of the States.

REPORTS FROM COMMITTEES.

Mr. SEWARD, from the Committee on Foreign Relations, to whom was referred the petition of J. Hosford Smith, reported a bill (S. No. 115) for his relief; which was read, and passed to a second reading.

Mr. BRIGHT, from the Committee on Public Buildings and Grounds, to whom was referred the petition of Randall Pegg, asked to be dis-

charged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

He also, from the same committee, to whom was referred the petition of Sarah Foy, widow of John Foy, deceased, asked to be discharged from its further consideration, and that it be referred to the Court of Claims; which was agreed to.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of the heirs of Isaac and Sarah Blauvelt, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Albert G. Hopper and Nancy Baldwin, heirs of Garrett A. Hopper, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jeremiah Pendergast, submitted a report, accompanied by a bill, (S. No. 116,) for the relief of Jeremiah Pendergast, of the District of Columbia. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of John Wentworth, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Allen, submitted a report, accompanied by a bill, (S. No. 117) for the relief of William Allen, of Portland, in the State of Maine. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Elijah Roath, submitted an adverse report; which was ordered to be printed.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Nathan Weeks, submitted a report, accompanied by a bill (S. No. 113) for the relief of the heirs of Lieutenant Nathan Weeks, deceased. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of John Scott, submitted a report accompanied by a bill (S. No. 118) for the relief of John Scott, Hill W. House, and Samuel O. House. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Moss, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of the legal representatives of George Mayo, submitted an adverse report; which was ordered to be printed.

LEGAL TENDER.

Mr. HUNTER, from the Committee on Finance, to whom was referred the bill (S. No. 44) to amend an act entitled "An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime," approved February 21, 1852, reported it back, with a recommendation that it do not pass.

Mr. SLIDELL. I have great deference for the opinion of the Committee on Finance, and especially for that of its distinguished chairman, and if the report of that committee were unanimous, I probably should not be disposed to press this matter any further; but I understand there is great division in the committee on that subject. I should like to have an opportunity of explaining to the Senate the provisions of the bill, and my reasons for introducing it. For that purpose, I move it be made the special order for Monday, the 15th instant, at half past twelve o'clock.

Mr. HUNTER. I have no objection to that. Mr. STUART. I hope the Senator will say one o'clock. We get into confusion by making special orders for half past twelve o'clock.

Mr. SLIDELL. My impression is, that the bill can be disposed of in half an hour; but I will say one o'clock. I move that the bill be made the special order of the day for Monday, the 15th instant, at one o'clock.

The motion was agreed to.

PENSION APPROPRIATION BILL.

Mr. HUNTER. The Committee on Finance, to whom was referred the bill (H. R. No. 3.) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th June, 1859, have instructed me to report it back without amendment. I give notice that I shall call it up to-morrow or the next day.

NATIONAL ARMORIES.

Mr. HUNTER. I am also instructed, by the Committee on Finance, to report back the bill (H. R. No. 63) to supply an omission in the enrollment of a certain act therein named, and I ask the unanimous consent of the Senate to act on it at once. It is to correct an error of the clerk's in enrolling the Army appropriation bill of the last year. The item in relation to the armories was left out, and this bill is to supply it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. The clause of the Army appropriation act for the year ending June 30, 1858, appropriating \$360,000 for the "manufacture of arms at the national armories having been omitted in the enrollment" of the act, the bill makes an appropriation of that sum for that purpose.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE AMISTAD CASE.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred so much of the message of the President of the United States as relates to the claim made by the Government of Spain in the case of the schooner Amistad, submitted a report, accompanied by a bill (S. No. 114) to indemnify the master and owners of the Spanish schooner Amistad and her cargo. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SEWARD. In behalf of the honorable Senator from Vermont [Mr. Foor] and myself, as members of the Committee on Foreign Relations, I submit a minority report, in which the minority arrive at the conclusion that the claim in the Amistad case is not supported by the facts or the law so as to authorize Congress to make provision for its payment. I move that the minority report be printed with the majority report.

The motion was agreed to.

COMPENSATION OF LABORERS.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom was referred the memorial of William J. Walker and others, reported a joint resolution (S. No. 17) explanatory of the "joint resolution giving an increased compensation to all laborers in the employment of the executive and legislative departments of the Government in the city of Washington," approved August 18, 1856; which was read, and passed to a second reading.

Mr. YULEE. This is a bill explanatory of a joint resolution passed at the last Congress, which I ask may be put on its passage now. I will state to the Senate its purpose.

The VICE PRESIDENT. The Chair will call the attention of the Senator to the fact that the hour has arrived for the consideration of the special order, which is the unfinished business of yesterday.

Mr. YULEE. Is the morning hour exhausted? The VICE PRESIDENT. It is for this purpose.

Mr. YULEE. I suppose by general consent we can proceed with the morning business?

The VICE PRESIDENT. The special order is now before the Senate; but by unanimous consent it may be informally laid aside, or it may be postponed by a vote of the Senate.

Mr. YULEE. I move that it be postponed for the present, so that we may proceed with the consideration of this bill.

Mr. DAVIS. Let us go on with the special order.

Mr. YULEE. I withdraw the request. My purpose was not a very material one, and I will not interfere with the desire of the chairman of the Military Committee to take up his bill.

Mr. DAVIS. I fear a debate will arise on a bill if taken up at this time. I will yield to the Senator from Florida, with the understanding that

the subject on which he desires action will be postponed if it creates debate.

Mr. YULEE. It is not material that it should be attended to to-day, and I will not press it.

ORDER OF BUSINESS.

The VICE PRESIDENT. The special order is the unfinished business of yesterday, being the bill in reference to the Pacific railroad, upon which there is a motion to postpone it with a view to take up the bill to admit Minnesota into the Union.

Mr. DAVIS. I understood that the bill for the increase of the Army was the special order for to-day at half past twelve o'clock.

The VICE PRESIDENT. That is true. The Chair will state, however, that the Senate adjourned on this business yesterday; and by special rule of the Senate, the unfinished business takes precedence of special orders.

Mr. DAVIS. I thought we adjourned yesterday without taking up any other subject, after having postponed the Army bill. There was a mere proposition to take a subject into consideration.

The VICE PRESIDENT. The Chair announced that the special order was taken up, and there was a motion to postpone it. Whether that was up or not, however, the motion to postpone it was the unfinished business on which the Senate yesterday adjourned.

Mr. CLAY. I will state to the Senate as a reason why I trust this subject will be suffered to lie over for to-day at least, that my colleague, who had the floor when the Senate adjourned upon the question of taking up the Minnesota bill, is confined to his bed to-day by sickness, and he is unable to get out. He requested me this morning to ask the favor of the Senate not to act on that proposition to-day. I state that to the Senate, and I move to postpone the subject until to-morrow.

Mr. DAVIS. It was a mere motion to take up a subject for consideration which was pending at the adjournment. If the subject had been taken up, then we should have to continue its consideration. The subject mentioned by the Chair was not before the Senate.

The VICE PRESIDENT. The Chair will state to the Senator that the subject was taken up, and there was a motion to postpone its further consideration.

Mr. SEWARD. The question yesterday was on a motion to postpone the Pacific railroad bill until to-morrow, and upon that motion the Senate adjourned, as I understand it. To-morrow has come; and it seems to me that we fall back, then, on the special order for half past twelve o'clock, the Army bill; and if there be no objection I will move to take up the Army bill, to avoid all question about it.

The VICE PRESIDENT. The special order was taken up yesterday, and there was a motion made to postpone it and take up another bill. The Chair thinks it is necessary to postpone that other bill before proceeding with the Army bill.

Mr. CLAY. I have made that motion.

The VICE PRESIDENT. The Senator from Alabama made a motion to postpone it.

Mr. GWIN. To postpone what question?

Mr. CLAY. The special order.

Mr. DOUGLAS. My impression is, that without any motion, the Army bill, being the unfinished business, and having been postponed until to-day, has priority as the first special order.

The VICE PRESIDENT. The Army bill was not the unfinished business. The motion to postpone the Pacific railroad bill was the unfinished business.

Mr. GWIN. The present subject under consideration is the Pacific railroad bill, is it not?

The VICE PRESIDENT. It is.

Mr. GWIN. I hope that bill will not be postponed.

Mr. DOUGLAS. I shall vote with the Senator from New York to take up the Army bill. I do not wish to antagonize with everything.

The VICE PRESIDENT. The Senator from Alabama moves to postpone the special order, with a view to take up the special order fixed for half past twelve o'clock, being the Army bill.

Mr. GWIN. The business before the Senate was the Pacific railroad bill, was it not?

The VICE PRESIDENT. The Pacific rail-

road bill was taken up as the special order yesterday, and the Senate adjourned on a motion to postpone it and take up the Minnesota bill. That unfinished business takes its place at the head of the special orders. The Senator from Alabama now moves to postpone that special order, with a view to take up the bill for the increase of the Army.

Mr. GWIN. This motion is to postpone the Pacific railroad bill in order to take up the Army bill. That is the question. The Pacific railroad bill was before the Senate, and there was a motion by the honorable Senator from Illinois to postpone it, in order to take up the Minnesota bill. Certainly the Pacific railroad bill is the one before the Senate. That is the decision, as I understand the Chair. The special order for yesterday, being the Pacific railroad bill, is before the Senate, together with the motion of the Senator from Illinois to postpone it, in order to take up the Minnesota bill.

The VICE PRESIDENT. That is the opinion of the Chair.

Mr. GWIN. Then the Pacific railroad bill is before the Senate, and the motion is to postpone it. I hope it will not be postponed. I hope the Senator from Alabama will not press that motion. If the question is pressed, I shall ask for the yeas and nays on it.

Mr. CLAY. I understood the Chair to say that the unfinished business was the question of taking up the Minnesota bill. I now understand the Chair, however, that the unfinished business is the Pacific railroad bill. I move to postpone that with a view of taking up the Army bill. We have progressed, I think, very nearly to the close of the argument on that bill. We are assured by the Committee on Military Affairs that it is important to the public interest that the bill should pass or be defeated at once. There is no pressing emergency, certainly, in respect to the Pacific railroad, for it is not the work of a day, or a year, or of many years. I trust that it will be postponed, and that we shall proceed to the consideration of the Army bill.

Mr. GWIN. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. DOUGLAS. I have one word to say. I understood the state of facts to be this: Yesterday, when the Army bill was postponed until to-day, the Chair, without any motion, announced that the next special order was the Pacific railroad bill. I immediately interposed a motion to postpone the prior orders and take up the Minnesota bill; and I did that before the Pacific railroad bill had been taken up at all. It was simply announced that it had been reached on the Calendar, but we did not proceed to its consideration; it was not read; it was not before the Senate. We arrived at the point where it was to come next, and I interposed a motion to postpone it and take up the Minnesota bill. My impression is, that motion having gone over, that the Army bill has the same priority to-day that it had yesterday morning, and that next to it is the Pacific railroad bill. When the Pacific railroad bill is reached, I shall insist on my motion to take up the Minnesota bill against it. I do not wish to withdraw it, or to antagonize with the Army bill, because I believe that is nearly finished, and I do not wish to seem to be antagonizing with everything in the Senate.

Mr. IVERSON. I rise to ask a question of the Chair. My remembrance is—I may be mistaken, however—that the Senator from Massachusetts yesterday submitted an amendment to the Army bill, and moved to postpone it until half past twelve o'clock to-day. Is that the fact?

Mr. WILSON. Yes, sir. I made that motion.

Mr. IVERSON. If that is the fact, the Army bill is the special order now, and the other matters cannot come up until one o'clock.

The VICE PRESIDENT. The Chair is obliged to adhere to the opinion he expressed, that the unfinished business of yesterday takes precedence of the special orders.

Mr. IVERSON. At one o'clock; but not until that time.

The VICE PRESIDENT. The Army bill was the special order for half past twelve o'clock, but the unfinished business takes its place ahead of that.

Mr. GWIN. I withdraw my opposition, with the understanding that the Army bill is to be taken up and disposed of, and that then the Pa-

cific railroad bill shall follow in its course immediately after.

Mr. DOUGLAS. There cannot be any agreement made as to what shall follow in its course. The argument is nearly finished on the Army bill; but I shall be compelled, after we have disposed of the Army bill, and come to the Pacific railroad bill, to insist on my motion to postpone it, and take up the Minnesota bill. I wish to give this notice now, so as to deal with entire frankness with the Senator from California.

Mr. GWIN. The question then will be, the Army bill being considered and passed, whether we shall take up the next special order, which is the Pacific railroad bill. Very well. I will meet the gentleman on that question. I withdraw the call for the yeas and nays.

The VICE PRESIDENT. It requires unanimous consent to withdraw the call. The Chair hears no objection.

The motion was agreed to.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States, the pending question being on the motion of Mr. TOOMBS to strike out the first section of the bill.

Mr. SEWARD. Mr. President, when this bill was under debate on a previous occasion, I intimated that I had some words to speak on the subject, and I will proceed to make my remarks now. I shall not detain the Senate long; and, in what I say, I shall hardly labor to convince Senators to bring them over to my own opinions, for I am, in regard to this bill, but half convinced myself. My object is to place myself right upon the record, in order that the reasons for the votes I shall give may be understood hereafter.

It would be impossible, Mr. President, to engage with any advantage in this debate; for, so far as I have observed its progress, there is no dispute on principle involved in the subject. On the one side, the bill is opposed by those who deprecate a standing army, and we have pictures drawn of the dangers of a standing army in the country; and, on the other side, the argument is only to show that this bill does not contemplate a dangerous increase of the standing Army. Now, upon principle, I suppose we are all agreed; there is no one here that is in favor of a large, dangerous, standing army—one that would menace the liberties of the country, or bring them into jeopardy. So, on the other side; I think there is no one here who supposes that the police of this great empire can be conducted without some military force, some regular troops. There is no one who is for a large standing army; there is no one who is for no regular force; there is no one in favor of a universal or general police; there is also no one who is for no Federal police; there is no one who will argue that the fortifications of the country ought to be abandoned, and suffered to go to desolation and ruin; and so there is no one who will argue that any greater force than is necessary for the present emergencies, whatever they may be, shall be raised; there is no one who is in favor of a standing army of one hundred thousand men; there is no one, so far as I know, who is against a standing army of five thousand men.

The trouble, then, arises out of collateral questions, out of a view of the exigencies to which the armed power of the country may be applied if it shall be increased; and our difficulty on this subject is to discuss and consider it fairly in the absence of a knowledge of what will be the action of the Government on some other questions. I am perfectly clear in my own mind about what I would do. I would grant this increase of force if I knew that when it was granted the army which is now in Kansas would be withdrawn from that Territory. I am reluctant to increase the armed forces of the United States, while an army is remaining in Kansas; but I cannot know, nor can any one else know, what will be the disposition of the army in Kansas. I can only make up my judgment in regard to it from the facts which are before me; and taking the condition of the Kansas question as it stands, I have made up my mind that it approaches its solution, and that whether the Administration favors a free State, or whether it continues its intervention there in favor of a slave State in Kansas, things

are reaching such a crisis that the President of the United States will not dare to maintain an army in Kansas to enforce a constitution which the people of that State reject, and against which they array themselves with armed force; and that is the issue which I expect to see if such a constitution shall be forced on Kansas.

I do not expect to see the Lecompton constitution carried through Congress—a constitution to establish slavery in the Territory of Kansas without the consent of the people; a constitution framed by a convention which they never called, which they have absolutely repudiated three distinct times, and at the moment when the Territorial Legislature representing, under the sanction of Congress, the people of that Territory, have abolished slavery and are sustained, as we all know they are, by five sixths or six sevenths of the whole people. Sir, I think there has been great skill in manipulating returns from Kansas Territory; I think there has been great skill manifested at the other end of the avenue in bringing this question before Congress; but I have no fear that there is such political skill here or in the Territory, separately or combined, as will be able to force that constitution upon Kansas, nor such boldness and desperation as to attempt to maintain it by the use of the Army.

My impression, therefore, is, that the army which is in Kansas will have to be withdrawn. Then I have endeavored to frame an amendment to this bill which would compel the withdrawal of the troops in Kansas. I have been unable to frame one that would be practicable, and I have, therefore, to give that up. Suppose I shall be disappointed in this, and the army is to be retained in Kansas: what then? Well, sir, if the army is to be retained in Kansas, it has got to be paid, and it is Congress that is to grant the supplies for the Army. When I look over this Chamber and the other, and see how they are constituted, I have no fear that the Congress of the United States this year will appropriate money to maintain an army in Kansas to enforce a constitution on the people which they have rejected, and to which they will never submit.

It is only a year ago, when we were much weaker here than we are now, that we brought this Government to a dead stand upon the appropriations for an army to maintain the usurpation of the Missouri invaders in Kansas, and to enforce slavery on that people. If all had stood with the same firmness that I stood, and that I recommended to others, the Government would have stood to this day before a soldier would have been in Kansas. There I shall stand now; and it may as well be understood first as last, that those who attempt to send an army into Kansas to maintain that constitution, must look into the Senate and House of Representatives elsewhere than to me, or any upon whom my opinions may operate, for support.

This disposes of the matter in that aspect. Yesterday I was quite disposed to take the substitute offered by my honorable and esteemed friend from Massachusetts, [Mr. WILSON.] That Senator proposes to raise five thousand volunteers, and that they shall be disbanded at the expiration of one year. It is attractive, as showing a preference for a volunteer force to a regular force; but on reflection I see that his proposition is embarrassed with precisely the same difficulties with my own. If we raise five thousand volunteers upon the system which he recommends, and they are to be sent to Utah and employed there exclusively, as his proposition suggests, then the Army may all be left in Kansas, or five thousand regular troops may be left in Kansas, while the volunteers are sent to fight our battles in Utah; and therefore I do not find in that proposition any relief.

My very much respected friend from the State of Maine [Mr. FESSENDEN] suggests that I am impressed with too deep a sense of the importance of an increased Army in the present emergency. I will only restate what I have stated before. It does not seem to me unreasonable to suppose that this great empire, extending now from the Atlantic coast, with fortifications there on every hill, which overlooks a port, with garrisons stretched across, on two or three lines, from the Atlantic to the Pacific ocean, with the Indian population gathered into compact bodies, and pressed to the point of starvation, is to be maintained so as to preserve

peace on the frontiers and in our provincial or territorial settlements, without a force of seventeen thousand, or eighteen thousand, or twenty thousand men, under any circumstances. I am prepared to expect that the Army of the United States must increase with the removal of the borders of the United States in every direction; and I am prepared to see those borders continually extending—I mean the borders of settlement. I suppose the Army to be adequate to the present emergencies, except for the urgent difficulties that have arisen in the Territory of Utah; and it is with reference to this, and this alone, that I am willing to increase the armed force of the United States, and to increase it so far as may be necessary for that purpose.

When I present this as my single reason for favoring this bill, I am told by my excellent friend from Maine, that the Government does not put its proposition on this ground, and that therefore we have no official evidences of an exigency existing in the Territory of Utah which would require this increase of the Army. I must admit that he speaks with much reason; but the sources of information are open to us, as well as open to the official organs of the Government—the Executive Departments. If the Secretary of War, if the whole Cabinet, were to tell me that there is no danger of disturbance, no danger of resistance, no danger of civil war in Utah, I would not believe one word that they should tell me, because I must judge from the facts which I know. The facts which I know are simply these: that a leprous band of foreigners are concentrated in a valley in the center of this continent; that they, having been unwisely favored by the Government of the United States with the appointment of their own officers and the making of their own laws, and the administration of their own laws, and the execution of their judgments till they have come to regard themselves as independent in their isolation and to defy the Government, are now found in combination with the Indian tribes by whom they are surrounded, and that the lives and the property of emigrants passing upon the highway across which they are located, between the Atlantic and Pacific, are exposed to depredations which are committed by them with the aid of the Indians.

The VICE PRESIDENT. The Senator will suspend his remarks for a moment. It becomes the duty of the Chair to call the attention of the Senate to an older special order set for this hour.

Mr. STUART. It is very necessary to proceed with this bill, and it certainly is due to the Senator from New York that he should have an opportunity to continue his remarks now. I therefore move to postpone, until to-morrow, all prior orders for the purpose of continuing the consideration of this bill.

The motion was agreed to.

Mr. SEWARD. Now, Mr. President, we are told that notwithstanding these indications of a hostile nature on the part of that people, still there may be no collision. I agree to that. I trust there will be no collision; I am prepared to go further and say that there will be no collision, that there will be no outbreak, that there will be no civil war; but it is upon one condition, and that is that an armed demonstration, which has now become necessary, and which, whether necessary or not, has been adopted by the Administration and is in the course of execution, shall be made so imposing as to command respect and to extort obedience. Therefore it is that, with a view to save life, with a view to save the public peace, and with a view to bring the Territory of Utah into submission to the authorities of the land without bloodshed, I favor the increase of force which is to be sent there, and for no other reason. I would have it continue only so long as is necessary for that purpose.

I am told that these Mormons will not fight; and I know that it is not until after a long time that any community makes up its mind to defy an imperial power like this; but, sir, these Mormons are exceptional, in the first place. They have done nothing but fight from the beginning. They are an armed and military sect, a superstitious sect, and war is an element of their progress. They fought themselves out of the State of New York, when they were but a handful of men, into Ohio. They wrangled themselves out of Ohio into Missouri. Civil war grew up around them in Missouri, and they fought their way into Illi-

nois, and established themselves at Nauvoo, and a civil war attended their exit from Nauvoo to the Salt Lake. They are worthless for any other purpose but to fight. Their religion makes them fighting men; for it is a religion which can submit to no civil authority that is administered or exercised over them by a Christian people. It is a religion which gives license, in the name of government and God, to the indulgence of the basest propensity of human nature. I never yet have read, I never yet have heard, I never yet have seen, any superstition of this kind that did not take in, as its weapon for proselytism, the sword.

Sir, the worst that can come of all this is, that I shall have committed an error; I shall have consented that the Government of the United States shall employ an additional force of five or six thousand men for this occasion. It will be a safe error, whatever may happen. If my proposition shall be adopted, as I trust it will, it will be guarded by a stipulation that the additional force shall be disbanded as soon as order is restored in Utah. To those who may object to that, I have but a single argument to urge in favor of the proposition. If there shall be a necessity, Congress will then be able to continue the force. If, on the other hand, my apprehensions are right in regard to the disturbances in Utah, and their probable course and development, then I shall feel that, whatever responsibility may rest upon me for errors of judgment here, there will not rest on me the responsibility of having left, by my own act or default or neglect, a single citizen of the United States to suffer violence at the hands of this belligerent people for want of the necessary supplies of troops and money, to compel them to respect the authorities under which we live, and forbear from cruelty upon the citizens of the Government which has fostered and protected them.

Mr. HALE. Mr. President, it is with great reluctance that I throw myself on the indulgence of the Senate for a few moments; for I had hoped not again to feel the necessity of trespassing on the patience of the Senate; but I am impelled by a sense of duty to say a word or two, after the remarks which have fallen from the Senator from New York. He will not deem me unkind, if I say that I have listened with extreme pain and disappointment and mortification to the speech which he has made—a pain equal to that with which I heard the great statesman of New England, Daniel Webster, some eight years ago, with the ripe honors of nearly three score and ten years, bring himself and his fame and his reputation, and lay them down as an offering at the footstool of the slave power, to find himself used and spurned afterwards. This is no question of detail, no matter of unimportant legislation; but it is a deep, vital, fundamental question that must divide the people of this country, and must rally the friends of free, independent, and liberal government on the one side, and the supporters of power on the other. Sir, the question of increasing the military power has been a question which has divided the friends and the opponents of free government in all times; and as the Senator from Georgia [Mr. TOOMBS] well said, the experience of forty centuries speaks to us, in characters of blood, lessons of warning upon this great question. Let me say that the Army which this bill proposes is no small, no insignificant, no unimportant force. It will, if completed according to the terms of the bill, be equal to twenty-five thousand men. Give me a President disposed to use that military force, in order to coerce the people of these States to his purposes, and with the command of the Federal Treasury, and with the means of concentration which our multiplied system of railroads and steamboats furnishes, and he can come like the lightning of heaven at any moment, with this concentrated and tremendous power, upon any State, or upon any portion of the people that he chooses.

I do not desire to go to the Departments; I do not wish to go to the Secretary of War, or to the President, or to anybody else, to tell me what he wants with this Army. Here I will do all credit to the distinguished gentleman who has charge of the bill, the chairman of the Committee on Military Affairs, [Mr. DAVIS.] He tells us it is not for Utah; it is for no pressing emergency; it is for nothing of to-day; it is not to be used to meet the dangers which now environ us, and then to be laid aside; but he wants it for a permanent increase of

the standing Army of this country. The use to which this standing Army is to be put is exemplified by the use which is now made of it in the Territory of Kansas. Two thousand five hundred troops are kept there; and the honorable Senator from New York says he would not vote for an increase if he thought they would be sent there. Sir, if I may be indulged in quoting a remark of a very illustrious and a very distinguished patriot and orator of the Revolution, I would say that I have no light to guide my path except that of experience; and the experience of the past year, the experience of the present moment, tells me to what uses the Army is to be put.

Here let me say, that while that most dangerous, that most fallacious, that most monstrous doctrine which has lately been broached and practiced upon by the Executive of this country, that under the general power to see the laws faithfully executed, he has a right to call out at his will the Army and the Navy, under the name of a *posse*; while that doctrine is proclaimed and acted upon, it is not a time for me, however it may be for others, to strengthen the hands of a man who is disposed to use it for such purposes and on such authority. I deny here, utterly and totally and forever, that he has any such right; and I say that it is a usurpation, a dangerous, an alarming, a fatal one—one that if it is tolerated by this Government, will bury our liberties beyond the reach of resurrection. No, sir; we cannot stand it. There is not a crowned head in Europe that would desire a greater power over the standing army of his realm than to make him the guardian to see that the laws are faithfully executed, and under that grant to have power to call in the army to do it. Sir, is it a time for me; is it a time for my friends, is it a time for the distinguished Senator from New York, upon whom the eyes and the hearts of the friends of liberty have centered and clustered, when such dangerous, and fatal, and damnable doctrines are proclaimed and practiced upon by the Executive of the United States, to vote seven thousand extra men to him? No, sir; it is not for me, however it may be for others.

The honorable Senator refers to the experience of two years ago, when the Government was brought to a dead lock, and when, he says, we were not so strong as we are now. We were not then so strong on this floor as we are now; but we are not so strong now but that our strength is weakness; for we are but a third of this body, with a majority of two thirds against us; and we were stronger then in the House of Representatives than we are to-day by a very considerable number. What was the result of that dead lock? Why the President said it was his duty to see that the laws were faithfully executed, and he issued his proclamation immediately, called Congress together, and kept them until they became subservient to his purposes. That is the history of that dead lock, and I do not doubt the President would like such another, with the same result.

In the history of my political life, I have seen a time when I stood solitary and alone the representative of the views which I entertain. I have looked with joy, with gladness, with gratitude to the increasing hosts that have rallied around our banner in the free States, until the Democratic party has been stricken down in the large majority of them. I have seen these accretions made to our ranks with gratitude, but I have seen also the accretions of other men coming to our ranks, who might have relieved me from a position which I occupied with reluctance, and that was to be the representative of this party, when it was nothing but a sentiment, and political power was not even among its dreams. But, sir, when a new star is dawning; when light is beaming in upon us; when one party has been shattered so that its history may be written as among the things of the past, and when from its ruins and its wrecks we were building up a new fortress to storm the battlements of the heretofore impregnable Democracy—at such a time as this, it does fill my heart with pain and my mind with fearful apprehensions, when I see any one upon whom I have looked with the hope that he might lead great hosts to the consummation of their hopes and their wishes, halting upon a question which, in my humble apprehension, is fundamental, vital, and characterizes the whole controversy.

We must come to an issue on this subject. The

history of the republics that have lived and gone down is full of warning on this subject. We are apt to boast of what we are, and of what we have done, and to look back on our history with exultation and pride. Why, sir, we are not yet one hundred years old. The Republic of Rome lived more than six hundred years, strong, conquering the world, and adding new kingdoms to her territory; but she at last fell, and her liberties perished under the insidious policy which converted her into a great military power; until, at last, the imperial crown was set up at auction, and knocked off to the highest bidder from the walls of the Prætorian camp.

I confess that upon this subject I have very deep feelings; for, if the party with whom I act, the party with whom are my hopes and my expectations, do not take ground on this subject, firm and decided ground, against the increase of the military power of this Government, they will go down, and they ought to go down, and my humble voice and my humble services shall be found rallying the people to set the seal of their condemnation on a party with great professions and high principles, but, in my humble judgment, wanting in the carrying out of those measures which their policy and principles should dictate.

If I had supposed that I should speak on this subject to-day, I should have referred to an authority, and I should have had the author by me. I was reading it not long ago, an ancient history, in which, speaking of the final destruction of the Roman Empire, the author said that whenever the people began to get turbulent, whenever there began to be danger to the agrarian law being carried, or any great measure of popular liberty indicated, it was the favorite policy of the aristocracy to get up a foreign war; "for," said the historian, "in war the State is strong and factions weak." I believe it is just exactly that policy which dictated a foreign war whenever public liberty was in danger of being vindicated in ancient Rome, that dictates this Utah war now.

Let me ask, if I must go to that, where is the evidence that the affairs in Utah are more threatening now than they were when President Pierce appointed Brigham Young Governor? Are their sentiments any more leprous, or their practices any more abominable now, than they were then? Not that I know of. I have seen no evidence that their depravity or their principles have made progress since that time, and I am utterly at a loss, if this is an army to go to Utah, to know of any reason or any fact which would justify sending an army to Utah, when there is not, so far as I am advised, any difference in the state of affairs now from what there was when they were basking in the sunshine of executive favor.

Mr. DAVIS. Will the Senator allow me to ask him what is the date at which President Pierce appointed Brigham Young, Governor of Utah.

Mr. HALE. He was appointed by President Fillmore.

Mr. DAVIS. You said President Pierce.

Mr. HALE. Well, he continued him.

Mr. DAVIS. Ah!

Mr. HALE. He continued him in office.

Mr. DAVIS. He did not remove him.

Mr. HALE. Well, he did not remove him, but he kept him in, just in the same way that he kept in all his Federal officers. I am obliged to the Senator from Mississippi for correcting me; because when he makes such a very slight correction as that, it shows he is watching me closely, and sees that I am very correct. [laughter,] and need only that slight correction. The state of affairs there, so far as I am advised, is no different now from what it was then.

The honorable Senator from New York—I know he will not misinterpret what I am saying—says that if he errs it will be a safe error. I should like to make a very small addition there, and let it read "unsafe," and I shall then agree with him entirely. It is an unsafe error. It is an error that I fear cannot be retrieved. For several years past we have been marching in the path of increasing our Army; and it is avowed here on this floor, that this bill provides for a permanent increase. I see no backward steps. I am like the cautious animal who, when he was reproached for not going into the sick lion's den to pay his respects to the monarch, said he would have gone in, but, as he looked around to see the tracks, he

found that they were all going in and none coming out. So it is with the increases of the Army; all the measures are for increasing and none for decreasing it; they are all one way; and I feel called upon to take my stand here, and say I will not vote another man or another dollar, to increase the expenses of the Army.

The honorable Senator suggests another thing which, it seems to me, has an infirmity about it which does not often attach to suggestions or arguments that come from his lips. He says we will give them this army, and then we shall have the power over them, because we will not pay them if we are not satisfied with the uses to which they are put; or we can refuse the pay. So we can; but we can refuse the men much easier. The argument is a great deal stronger for refusing the men, than it will be for refusing the pay after you have granted the men. If we are going to exercise that wholesome control over the Executive, which in theory belongs to this body and the body at the other end of the Capitol, here is the place, and now is the time to stop.

If things were twice as threatening as the honorable Senator thinks they are in Utah, let me ask you if we have not an Army more than four times sufficient for all the emergencies? I have heard it said by those who pretend to know, and who, I think, do know, that five thousand men will be as many as you can possibly use in Utah, even if there shall be a necessity for them, which is not conceded. We have an Army now capable of being filled up to eighteen thousand men, and, I am told, practically, it is fifteen thousand at this moment. I do not know the necessity of increasing the force beyond that, when they will not want one third of that force to put down the troubles in Utah.

Nor am I disposed to make very great drafts on my confidence in behalf of the manner in which this affair has been managed thus far, from the accounts which I have read, and which purport to be official accounts of the manner in which the force, that is now on its way to Utah, has been precipitated there. Utterly regardless, if you are to believe the accounts which have come to us, of any single suggestion, not only of military foresight, but of common prudence; you have sent your men there to suffer their beasts to die, and expose them to the inclemencies of the winter where they are locked up in the mountains. I think half the animals sent out with them died from mere starvation and the effects of cold. If this was a bill to furnish the Executive with prudence and discretion, I would vote liberal appropriations; but it being a bill to increase the military force at a time when I think the friends of liberty should be jealous of increasing it; and it being at a time when, if the accounts that we read be true, there has not been such conduct displayed as should entitle them to our confidence, I shall vote against it.

For these and many other reasons I am utterly opposed to the bill. Opposed as I am to it, I should not have said a word if there was not danger, from the position which the distinguished Senator from New York occupies, and justly occupies, in the public estimation, that the words which fell from his oracular lips might be supposed to compromise or compromise feebler and humbler men who sit at his feet. But for that, I should not have ventured thus openly before the Senate and the country to dissent from what he has said; but looking upon it as I do as a very dangerous error, and one which I am ill prepared to have go out under the sanction of his name unchallenged, I have deemed it my duty in all the kindness that I entertain for him, and all the profound respect that I feel for him, thus publicly to differ from him on a question which I consider vital and fundamental to the dearest and best interests of the country.

Mr. SEWARD. Mr. President, I certainly shall not complain of my honorable friend from New Hampshire, or regard it as any unkindness that he has presented this subject in a manner which makes an issue between him and myself, or between me and others with whom I am accustomed to act in the country. I know his generosity; I know his independence; I know his spirit; and I know his devotion to the great principles which are common to us all. So far from complaining of it, I give him my thanks with all my heart. I never yet have seen the time when I

could not bear a difference with friends, as I never yet have seen the time when I cared in the least for unkind or hostile reproaches from my enemies.

But, sir, I shall not imitate the example of my honorable friend, for I think he himself will come to the conclusion that, so far as the special objects which he and I have in view are concerned, it would have been quite as well to indulge me in an explanation of the reasons why I dissented from the course which he had adopted for his government, and to let it pass without being signalized as a great difference calculated to divide great bodies of men who follow his lead, or my own, or that of some other man.

I have not one word of complaint or reproof for the honorable Senator. I must, however, say for myself that I am not influenced by the appeal which the honorable Senator makes to me in regard to the success of the party of which he speaks. Sir, I have been some twenty years, more or less, in the public service, here and in my own State. Since I have been here I think every word that I have uttered in this Chamber has been recorded in books, and will go down to history; and so of a large portion of what I uttered in other places. I think I may claim that, when ten years shall have passed over the debates of to-day, when ten years of rest shall have been allowed to me after my service here shall have been completed, there will be no man living who, with the records all open before him, will be able to tell whether I belonged to one party or another. No, sir; I know nothing, I care nothing—I never did, I never shall, for party. I should be unfit to be here if I had not learned to postpone my own advantage to that of the respective and honored friends with whom I cooperate in public life; and if I had not learned to postpone their advantage and their benefit to the greater good of my whole country. If there is a reproach that is more proverbial against me throughout this land than any other, it is, that I dare postpone the good of the whole country under a false and demoralizing Administration, to the rights and interests of mankind under the laws of eternal truth and justice. Sir, I am not to be deterred from giving an honest vote by any fear of the party with which I act going down. I have a different idea about parties going down. I have a different idea about men going down. They are not thrown down by false analogies.

The honorable Senator has referred to a great statesman, now dead, who, for a large portion of his life, led the vanguard of the army of freedom—of freedom in the Territories, of freedom in the States; and who, on the great day when the contest came to a decisive issue, surrendered that great cause here in his place, and derided the proviso of freedom, the principle of the ordinance of 1787. The Senator considers this analogous to my case, because here I think five thousand soldiers not too many, and he thinks five thousand less just enough. That is all. If the question was, whether one hundred thousand should be the standing Army, we should both be against it. If the question was whether it should be five thousand, we should both vote in favor of that number. There is no principle in this dispute. It is a question of the application of great principles.

Now, I may say for myself, in regard to this point, that having had a sense more profound, perhaps, than others have conceived, for twenty years of my life, that it belonged to somebody to restore the equilibrium of freedom, which was depressed in the scales held by this Government so as to give slavery a preponderating balance, I, with as much power and ability as I have, have devoted myself to cooperate with the honorable Senator, and all others who might engage in that great and beneficent enterprise. I knew, sir, that there would be times when I should have to stand alone. I saw him stand alone; and I think the first ally who came to his side here was myself, which meeting could not be accomplished until one great State of the Union had been revolutionized, so as to produce a combination in favor of his purposes and mine, his principles and mine. I knew that I should have to stand alone; I have stood often alone; but I have never complained of it, and I do not now. I knew that in standing alone in this cause I exposed myself to a danger which easily besets the reformer; and that danger is, that the sense of injustice, the sense of isolation, will make him sometimes unjust, unwise, partisan, and factious. The danger of every reforming

party is the danger of seeking to build itself up by drawing in false, spurious, and collateral issues, having nothing whatever to do with the main question. I am sorry to say, but I must say it, that my experience has only shown that there was, in the position which I have occupied, an exposure to this great danger of being beset to cut down this measure of the Administration here; cut off the head of this appointee of the Administration there; defeat the Administration on this appropriation for a railroad; defeat the Administration upon this measure of organization; cut off the supplies of the clerks in some of the Departments; refuse to give to those who will not vote for your measures and your policy your support for measures to which they may be attached.

I determined, knowing that I was exposed to this danger, that with the grace of God I never would be found wanting in my place to assert and maintain my principles, and the measures and policy which were to carry them out; and on the other hand, that when I should retire from the Senate there should be no man living who could charge that I had ever given a vote influenced by passion or prejudice against the interests and fame and honor of my whole country. If I have not been unsuccessful, I have done this. That is just what I am doing now, and the result will be just the same when we reach the end of this matter.

I remember that an excellent friend, half a dozen years ago, solicited me to lend my aid and my name to the organization of the American party, because it was necessary to give success to the principles of freedom which otherwise would be lost without it. "Well," I said, "suppose I should, what would be gained?" "Well, then, your cause would prevail, and you yourself would be elevated to a place," much higher than I dare speak of. "But," said I, "that movement is ephemeral; it will last only to-morrow, and how is the party to be relieved from the consequences of the falseness of its position then?" "Oh," said he, "we will look for you to do that." I was to lead them in and I was to lead them out!

I have but one word more to say, and I shall not detain the Senate. I am very sorry that the faith of the honorable Senator from New Hampshire is less than my own. He apprehends continual disaster. He wants this battle continued and fought by skirmishes, and to deprive the enemy of every kind of supplies. Sir, I regard this battle as already fought; it is over. All the mistake is that the honorable Senator and others do not know it. We are fighting for a majority of free States. There are already sixteen to fifteen; and whatever the Administration may do—whatever anybody may do—before one year from this time we shall be nineteen to fifteen. If that is so, what danger are we exposed to? It is that the free States will nevertheless go for slavery. If they will, that is a matter that we are not to help in this way. I do not believe that either. I think it is simply a question whether the Administration shall surrender, and grant freedom to Kansas, under the constitution of her choice, or whether they shall break their necks in resistance to it. The result is precisely the same in either way; and I come to my conclusion, notwithstanding I am so unfortunate as to differ from my honorable friend, that it is the safest side to vote the men and the money to save the lives and property of the American people.

KANSAS—LECOMPTON CONSTITUTION.

A message was received from the President of the United States, by Mr. HENRY, his Secretary, communicating a duly certified copy of the constitution of Kansas, framed by the convention recently assembled at Lecompton.

Mr. MASON. I ask that the message which has just been received may be read.

The VICE PRESIDENT. Is it the pleasure of the Senate now to receive the message from the President of the United States? The Chair hears no objection.

The Secretary read the message.

Mr. BIGLER. Mr. President, I do not know that the reading of this message is to lead to discussion. I certainly do not intend to initiate a discussion. I rise for the purpose of submitting the usual motion, which I hope may guard the Senate against the embarrassments which have surrounded us under similar circumstances. If

this message is to be printed at all, it is important that it be printed promptly. I intend to submit a motion that the message be printed, and then a motion that the constitution be referred to the Committee on Territories. The first proposition can be disposed of, and, if discussion is to come up, let it be on the question of reference. I move that the message be printed.

Mr. DOUGLAS. I suppose one motion will cover the whole—that the message and documents be referred to the Committee on Territories, and printed.

The VICE PRESIDENT. The motion to print goes to the Committee on Printing.

Mr. BIGLER. I suggest that by common consent the usual number be printed, without reference.

Mr. SEWARD. Let it be printed, by common consent.

Mr. DOUGLAS. After the message is referred, I have a paper to present.

The VICE PRESIDENT. The rule is imperative; but by the unanimous consent of the Senate, the printing may be ordered without a reference to the Committee on Printing.

Mr. TRUMBULL. I am unwilling that this paper shall pass from the consideration of the Senate without any further notice. I look on it as a perverted and incorrect history, from the beginning to the end, of the difficulties in Kansas. It is repeated again, I know, for we have had this history detailed here in this same light a number of times before. Assuming the positions this paper does, as I understand from hearing it read by the Secretary, I am unwilling that it shall be ordered to be printed and be referred, and pass from the consideration of the Senate at this time, without putting in my disclaimer, at least, against the monstrous doctrines avowed, and the monstrous perversions of fact that are embodied in it. Even from this imperfect hearing of it I am able to perceive that it is inconsistent with itself. Why, sir, it is recommended, if I understand the document, that Kansas be admitted into the Union under what is called the Lecompton constitution, upon the ground that even if that constitution be in violation of the will of the people of Kansas, the Legislature which convenes under the constitution may provide at once for its change; and yet the author of that declaration tells you that the act of a Legislature, convened in pursuance of law, which ordered an election to be taken upon this very constitution, before it went into effect, to determine whether the people of Kansas would have it or not, is a nullity. What, sir! The legitimate Legislature of Kansas has no authority to prevent a constitution from going into force, and has authority, the day after it is in force, to provide for declaring it a nullity! Upon what principles can such doctrines be maintained? If this constitution, when adopted, is not binding on the people of Kansas until it can be changed, in pursuance of its own provisions, will any man tell me how it is binding on the people of Kansas before it is adopted? Was there anything sacred in the Territorial Legislature which called the Lecompton convention, that made its acts irrevocable? Where did it get the authority to enact a law which should be irrevocable, and beyond the power of a subsequent Legislature?

But, sir, I have been induced to call attention to this document chiefly on account of the detail of facts which it pretends to give. It sets out and argues that, to preserve our institutions, we must submit to the law; that the whole difficulties in Kansas have arisen out of a disposition to disregard the law. That is assuming the whole ground. The people of Kansas deny that they have any territorial laws. The President speaks of a usurpation on the part of the people. Why, sir, the usurpation is on the part of those who have attempted to force laws upon the people in violation of their rights. The origin of all the difficulties in Kansas since its organization as a Territory was the first usurpation—the carrying of the election of March 30, 1855, by violence, and installing in authority a set of usurpers. That this was done, any man at all acquainted with the history of Kansas affairs knows to be true. It has been proven and conclusively established by a commission which was sent by the House of Representatives to Kansas Territory to inquire into the facts.

This being so, the enactments of these usurpers

do not deserve to be dignified by the name of laws. The President of the United States has brought his army to sustain this usurpation. There was no way for the people of Kansas to escape from the despotism, except by setting up a government for themselves in opposition to it. It is not in the nature of usurpers to provide the means for their own overthrow. The position of the people of Kansas is not unlike that of an individual in a case which I will imagine. Suppose, sir, your dwelling, to-night, should be surrounded by a dozen ruffians, who should enter it violently and turn you out of it, the Army of the United States and the peace officers standing by until the outrage is committed; and then, when you rally your friends to take possession of your own house, and occupy your own premises, you are met by the Army of the United States, and told, "Sir, you cannot enter the threshold of your door, except you enter it according to law;" that is, according to the law of those who have violently taken possession of your house: when would you get possession? Not till doomsday. The army comes to interfere after the outrage is committed, to uphold and sustain it; and the man who goes to take possession of his own is told that he must do it in a peaceful manner, and he must do it in accordance with the way pointed out by the ruffians who have thrown him out of doors. This is precisely the condition of the people of Kansas, and this is the kind of law which that people have justly and rightly refused to submit to.

The President alludes, in this message, to the employment of the army in Kansas. Although he talks of rebellion in Kansas, and of attempts at usurpation on the part of the people who have undertaken to set up a government of their own, in opposition to the government of the usurpers, I undertake to say that there is no usurpation in Kansas worse than that committed by the Chief Magistrate of this nation, with his army in that Territory. The army has been employed there without authority of law. It will not do for Senators to say, as has been said on this floor, that the President is charged with the execution of the laws; that it is made his duty to see that the laws be faithfully executed; and that this gives him power to use the army for that purpose. He can see that the laws are faithfully executed, only in the manner pointed out by law. He has no general, unlimited power to see that the laws be faithfully executed in any way he may deem proper. He would become the veriest military despot in the world, if, under that general grant of authority, he could use the Army and Navy at his pleasure, to enforce what he might think proper to call the laws. The President's duty is pointed out by the Constitution and by the laws of the land. If he has any authority to use an army in Kansas, he has that authority under and by virtue of law. I should like to see the statute which authorizes him to employ it as he has done.

We have but two statutes on this subject; one is the act of 1795, which authorizes the President of the United States to employ the militia to repel invasion, and also upon the call of a Legislature of the State, or of the Executive when the Legislature cannot be convened, to put down a formidable resistance to the laws, which is too powerful to be overcome in the ordinary course of judicial proceedings. Then we have the act of 1807, which authorizes the President of the United States to employ the Army and Navy in cases where he was before authorized to employ the militia; and he can only employ the Army and Navy after he has followed out the directions prescribed by the act of 1795. There has been some controversy about this power to employ the army in Kansas to enforce territorial statutes, and it is therefore that I allude to it particularly. There is not a word in any statute authorizing the President of the United States to employ the Army and Navy in the enforcement of laws until you come to the act of 1807. Now, what is that act? I will read it:

"That, in all cases of insurrection, or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval forces of the United States as shall be judged necessary; having first observed all the prerequisites of the law in that respect."

This grants no additional power to the President; it merely authorizes him to use the Army and the Navy for the same purposes which he was before authorized to call forth the militia to accomplish; and he can only do that after he has observed the prerequisites of the law in that respect. Now, we refer back to the law of 1795 to ascertain the cases in which the President of the United States was authorized to employ the militia; and I will read those sections conferring the power, that we may have a clear idea of the cases. As I read them, I should like to know (and it will be no interruption to me for any gentleman to show) by which of these sections it is that the President of the United States gets the authority to use the Army, as he has done in Kansas? The first section provides—

"That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State, or States, most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose, to such officer or officers of the militia, as he shall think proper."

I presume no one will contend that under that clause authority is given to employ the army in the Territory of Kansas. The second clause of the first section is this:

"And in case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened), to call forth such number of the militia of any other State, or States, as may be applied for, as he may judge sufficient to suppress such insurrection."

Clearly that gives no power to employ the militia of the United States to enforce any State law, unless it amount to an insurrection against the government thereof.

"That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary."

There, clearly, the power is not given to the President to call forth the militia in order to enforce the execution of any other than laws of the United States.

The third section makes it the duty of the President, before calling forth the militia, to issue a proclamation commanding the insurgents to disperse peaceably within a limited time.

I have read the only statute there is, conferring on the President of the United States authority to use the Army and Navy in the execution of laws. He is authorized by the act of 1807 to use them where he was authorized by previous acts to use the militia, and in no other instances; and he was only authorized, by previous acts, to use the militia to repel invasion, or in the enforcement of laws of the United States, or in case of an insurrection in a State "against the government thereof." Under these statutes, then, it is clear that the President of the United States might, after complying with the provisions of the act, and issuing his proclamation, and not before, have employed the army for the purpose of enforcing the laws of the United States in Kansas; but when he goes another step, and employs those troops for the purpose of enforcing the territorial laws, which are not laws of the United States, I deny his authority. He can only use the troops to enforce the State or territorial laws in a case of insurrection "against the government thereof." That is the only instance in which the President of the United States can march his armies into the States of this Union, to sustain their local governments. It is only when an insurrection exists, threatening the existence of the State government, and when he is called upon by its Legislature, or, if it cannot be convened, by its Executive; and then he must first issue his proclamation commanding the insurgents to disperse.

The Army has been used in Kansas, as is admitted, for the purpose of enforcing the territorial laws against the people; and yet the President of the United States talks about usurpation. That we may understand distinctly how his Army has been used in Kansas, I will call attention for a moment to the document communicated to this body by the President of the United States. In Governor Walker's letter to the Secretary of State, of July 15, 1857, occurs this passage; and

from it we can ascertain the purpose for which the Army was sent to Kansas:

"In view of my official letter of the 2d of June, 1857, and of the conditions upon which I agreed, with great reluctance, to accept the position of Governor of this Territory, namely, that General Harney, in whom I had great confidence, and who was well known to the people of Kansas, and greatly respected by them, should be ordered from Florida, put in special command in Kansas with a large body of troops, and especially of dragoons and a battery, and retained there, subject to my directions, for military operations, if necessary, in Kansas, until the danger was over, and in the absence of which I never would have accepted this office."

He then goes on to say, that in view of these facts, he is surprised at an order which had been issued to remove the troops from Kansas. This shows the purpose for which they were sent there. Governor Walker, on accepting the office, took it on the condition that two thousand troops should go to Kansas and remain there, subject to his direction, for military operations. Now, sir, does it lie in the mouth of those who contend for law and order, to justify such a proceeding as that? There is no law, there is no statute of the United States authorizing the President to place two thousand troops at the disposal of Governor Walker for military operations in Kansas, and no man can show such a statute. In carrying out this plan I find communicated with the same documents an order from General Harney, dated July 15, 1857. General Harney, in a letter to Governor Walker, in answer to an application which had been made to him for troops, says:

"I desire to inform you that I have directed Lieutenant Colonel Cooke, of the second dragoons, to proceed with seven companies of his regiment, all the disposable force of that arm, to the vicinity of the city of Lawrence, and to report his force to yourself, as a *posse comitatus* to execute such orders as you may deem proper to give him in that capacity."

Here is a regiment of seven companies placed under the orders of the Governor as a *posse comitatus*. Why, sir, what is a *posse comitatus*? It is the power of the county, summoned by a civil officer to aid him in the execution of process. Who ever before heard that the Governor was the person to execute process? A Governor summoning a *posse comitatus*! The thing is unheard of. It is a mere pretense under which to escape the odium which would follow the employment of the Army for illegitimate purposes.

Again: Governor Walker, in his letter of the 20th July, uses this language:

"There is imminent danger, unless the territorial government is sustained by a large body of the troops of the United States, that, for all practical purposes, it will be overthrown or reduced to a condition of absolute imbecility."

It is strange that a government established upon the great principle of popular sovereignty, as we are told, should need an army to sustain it, and be in danger of falling into a condition of absolute imbecility, unless two thousand troops were placed at the disposal of the Governor to maintain it. He continues:

"I am constrained, therefore, to inform you that, with a view to sustain the authority of the United States in this Territory, it is indispensably necessary that we should have immediately stationed at Fort Leavenworth at least two thousand regular troops, and that General Harney should be retained in command."

It is not only necessary to have two thousand troops as a *posse comitatus*, but General Harney is to command them; and they were to be ordered from Florida on condition that Governor Walker should accept the Governorship of Kansas! Just imagine a *posse comitatus* of two thousand men summoned by a civil officer in Kansas from the remote State of Florida, thousands of miles distant, with General Harney to command them, armed with muskets and cannon, to aid him in the execution of civil process! The statement of the proposition shows its absurdity. The Governor further proceeds in the same letter to say:

"The only practical way to maintain the peace of the Territory, and to inaugurate a party which would support the Constitution and the Union, is to unite the free-State Democrats here (who were with us in the election of 1852) with the pro-slavery party of Kansas."

The only way to maintain the peace of the Territory is to unite the free-State men who were with them in 1852, with the pro-slavery party; and it is in the same letter that he wants two thousand troops to carry out that object. That was a part of the non-interference with the affairs of Kansas about which we have heard so much. In the same letter, (for Governor Walker seems to have been beset with the idea that there was no other way to force the people to submit to the usurpation

which had been established except by an army,) he again calls attention to the necessity of troops in this language:

"Permit me, before closing this communication, to renew my statement, that such is the revolutionary condition of affairs in Kansas that the territorial government is in imminent danger of overthrow if I am not sustained by at least two thousand troops, chiefly dragoons, and two batteries. The presence of such a body of troops would probably prevent a conflict."

There, sir, you have the purpose for which this army was sent to Kansas, and kept in Kansas, as the President tells us to-day, at the sacrifice of the expedition to Utah. This Administration is responsible, not only for the despotism which has existed in Kansas, but it is responsible for the lives that shall be lost, and the property destroyed, and the suffering endured, upon the Rocky Mountains, by an insufficient force sent forth too late to reach their destination before the winter snows overtook them. The Administration is responsible for all this, and it grows out of its action in regard to Kansas. It is admitted now, in the document before you, that the reason for sending so small a force to Utah was that Governor Walker insisted on their being in Kansas. And for what? For no purpose which the law would justify.

But we see, further, the purposes for which this army was kept in Kansas by reference to another portion of this correspondence. Governor Walker, in another part of his letter of July 15, says:

"It is universally admitted here that the only real question is this: whether Kansas shall be a conservative, constitutional, Democratic, and ultimately free State, or whether it shall be a Republican and Abolition State; and that the course pursued by me is the only one which will prevent the last most calamitous result, which, in my opinion, would soon seal the fate of the Republic."

The admission of Kansas as a Republican State would be a most calamitous result, and soon seal the fate of the Republic, according to Governor Walker's opinion, who was sent out there on the avowed doctrine that it was wrong for the Federal Government to interfere in the affairs of a Territory. He says further, in another communication:

"If this can be accomplished the great object of my mission will have been attained, and Kansas come into the Union as a conservative State, without any confiscation of the slave property now within her limits."

That is, upon the condition that he could bring about a union between the free-State Democrats and the pro-slavery party, the great object of his mission would be accomplished, and Kansas would come into the Union without the confiscation of slave property. We have here, in an official letter from the Governor of Kansas Territory to the Secretary of State, an acknowledgment that the object of his mission to Kansas was to bring about that union of parties which would bring Kansas into the Union as a State, without a confiscation of slave property. Call you that non-interference? Sir, would it be possible to conceive a clearer case of interference—improper interference with the affairs of a Territory, than is exhibited in this communication from Governor Walker which I have read? In the first place, he avows that he went to that Territory for the purpose of bringing about a party result; that that was the object of his mission; and he says that that could not be brought about unless he was sustained by an army of two thousand men, headed by a particular general, with two batteries at least; and yet all this is done and carried on in the name of non-interference and of law; and the President of the United States, who sanctions and sustains it, talks about the necessity of enforcing the law! His predecessor, for whom I have no great respect, in his administration of Kansas affairs hesitated to go thus far. President Pierce, in a message sent to this body in December, 1856, in speaking of the authority of the President of the United States to use the Army, employs this language:

"The President of the United States has not power to interpose in elections, to see to their freedom, to canvass their votes, or to pass upon their legality, in the Territories any more than in the States. If he had such power, the Government might be republican in form, but it would be a monarchy in fact; and if he had undertaken to exercise it in the case of Kansas, he would have been justly subject to the charge of usurpation, and of violation of the dearest rights of the people of the United States."

What, then, shall we say of that President who has done this very thing? On the authority of President Pierce, may I not charge him with usurpation—a violation of the dearest rights of the people of the United States? Sir, I make that charge;

not upon this authority, however, but upon the authority of the Constitution and the laws, and the rights of the people of Kansas, every one of which has been trampled under foot by the present Chief Magistrate, in the use of his army in Kansas.

I know that the Senator from Michigan, [Mr. STUART,] the other day, undertook to qualify this language of President Pierce, and say that he only declared the President had no right to volunteer to defend the ballot-box. The word "volunteer" is not here in this connection. I have read the whole sentence; and if President Pierce was right in what he said as to the authority of the President to use the Army, what shall be said of President Buchanan, who, in a letter which he wrote to citizens of Connecticut, says:

"It is my imperative duty to employ the troops of the United States, should this become necessary, in defending the convention against violence whilst framing the constitution, and in protecting the 'bona fide inhabitants,' qualified to vote under the provisions of this instrument, in the free exercise of the right of suffrage, when it shall be submitted to them for their approbation or rejection."

Contrast this language of President Buchanan with the language of his predecessor, and you find that he assumes a position which his predecessor pronounced usurpation and a violation of the dearest rights of American citizens. I know that there are those who sustain them both—who sustained President Pierce and gave him credit for refusing to use the Army to protect the polls, and sing hosannas to President Buchanan for using it for the very same purpose. Surely both cannot have been right; unless the usurpers who had control of the ballot-boxes protected by Mr. Buchanan were entitled to greater consideration than the lawful judges who held the election which President Pierce refused to protect.

Now, sir, I think I have shown from the statutes and from the previous doctrine as laid down even by President Pierce, that there is no authority vested in the President to use the Army as Mr. Buchanan has been using it in Kansas, and that it ill becomes him to talk about the people being usurpers when the only usurpation they are guilty of is that of resisting usurpers. The people of Kansas have been forbearing; they have sought to avoid collision with the United States troops; have submitted to degradation; and many of them have been guarded in tents in Kansas for months by United States soldiers. They probably thought it policy to avoid a conflict with United States soldiers; but those troops had no right to take and hold in prison the citizens of Kansas. Those troops were as much guilty of a violation of law, and as much usurpers, as they would be if they were to march into this Capitol and drive Congress from its possession; and the people of Kansas would have been justified in resisting them equally as we would be justified in defending ourselves against their entrance into this Capitol. The gilt buttons and epaulets on a soldier no more protect him in usurpation than the citizen; and when he goes forth on an unlawful and illegal purpose, or is used as a mere instrument in the hands of one who is usurping authority, to trample on the just rights of the citizen, every one has a right to meet him and crush him if he can.

The President tells us in the message that the people of Kansas have had the slavery question submitted to them. I deny it. The very document he communicates to us proves that it is not so. That instrument declares that, whether a particular clause be voted in or voted out of the constitution, slavery shall exist in Kansas. It is a slave State to all intents and purposes, whether what was called the slavery clause was voted in or voted out. That provision applied only to the future introduction of slaves into Kansas. He tells us in one part of his message (and I call attention to the contradiction, for whenever an individual starts out to establish error, he will always fall into contradictions) that Kansas is as much a slaveholding Territory, under the Constitution of the United States, as any State in this Union is a slaveholding State. He tells us that slavery exists in Kansas under the Constitution of the United States, and that it is a slave Territory. Notwithstanding that, he tells us in another part of his message that the people had submitted to them the question whether they would have slavery or not, when he knows that the only question submitted was as to the future introduc-

tion of slavery, and that there was a clause in the constitution providing that the slaves then in existence should never be emancipated or interfered with, and it was made a slave State then and forever so far as that constitution is concerned, let the people have voted which way they would on the particular clause submitted to them for approval or rejection.

The President tells us also in the message, if I heard it correctly, that the will of the majority is supreme when asserted in a lawful manner. I believe that is very nearly the language used, and yet after enunciating that as a fundamental principle, he tells us that the will of the majority in Kansas, as expressed on the 4th of January last, when they voted down the Lecompton constitution, should be set at naught though nobody contends that it was not done in an orderly manner. How is it, if the will of the majority when expressed in a lawful manner is omnipotent, that the people of Kansas in expressing their will on the 4th of January last, are to be told that their action is a nullity and that they could take no action which would affect the proposed constitution?

Sir, this whole transaction is of a piece with what has been going on in Kansas from the beginning. The despotism and the outrages in Kansas commenced at a very early day; and the party which has upheld and sustained them has been changing its position ever since, almost from day to day. It started out with the proposition that the Missouri compromise must be repealed, not for the purpose of allowing slavery to go into Kansas—that was not the intention; but for the purpose of allowing the people to do as they pleased. This meant the people of the Territory. It was so argued and so understood all over the northern section of the Union at least. The next step, after removing the Missouri compromise, which kept slavery out of Kansas, was to deny the authority of the people of the Territory to exclude slavery. This was done at Cincinnati. The Cincinnati convention avowed itself in favor of the great principle of popular sovereignty, and declared that the people of a Territory, when they were sufficiently numerous to form a State constitution for themselves, ought to have the right to regulate their own domestic institutions in their own way; that is, when they come to form a State. Why, sir, nobody ever denied the power of the people of a State to form their institutions in their own way. There was never any controversy between parties about that.

The complaint in Kansas now is, not that the people may not form their institutions in their own way, but that they are having no opportunity to do it; that the despotism established over them in the beginning has been such as to deprive them of that right; and this is testified to by all the officials who ever went to Kansas. All the Governors, and all the Secretaries, tell you that the people of Kansas have had no fair chance to form their own institutions. They were disfranchised either by registry laws or by requiring particular qualifications for voting, or else they were cheated in the returns made. As to the Lecompton convention, we all know that half the counties of the Territory were disfranchised utterly in the choice of delegates, and in the other half the registry was very imperfect, and no one but a registered voter had authority to vote for a delegate to the convention. Yet knowing all this, the President tells us that the people of Kansas had a fair opportunity to elect delegates to this convention, and that it is their own fault if they did not avail themselves of it!

The principle of non-intervention, upon which the Kansas-Nebraska bill was passed, has been set at naught. Here you have the evidence patent and open to the country, of the Governor using his official influence, backed up by troops, to bring about a particular party result, and saying, in his official correspondence, that the admission of a Republican State into this Union would be fraught with danger to the Union itself. Sir, what is meant by a Republican State? We mean nothing more than a free State. A Republican State is a State which does not tolerate slavery. The doctrines of the Republican party, which are talked about as being inimical to the Union, are based on the Constitution, as our fathers understood and administered it. It advocates, so far as I know anything about it—and I speak but for myself—no

principle inimical to any State in this Union. I am for giving to every State all the rights that the Constitution of the United States guarantees to it. I would not interfere with slavery where it exists, but I think it a very different thing to prevent the spread of slavery into free Territories.

Here I will allude, for a moment, to a remark made, I think, by the Senator from Pennsylvania [Mr. BIGLER] a few days ago. He stated that it was very strange the Republican party which had been in favor of denying to the people of the Territories any rights, should now be advocates of popular sovereignty, and in favor of the submission of a constitution to the people for their adoption. Does not the Senator from Pennsylvania recognize the difference between a State and a Territory? Sir, we did contend, and do now contend, that Congress has authority over its Territories, to govern them as shall be best for the interests of the people of the Territories. Believing it to be best for the interests of the people living in a Territory not to have slavery when in a territorial condition, we think Congress has the right to keep it out; but we do not contend that Congress may interfere with slavery in a State, or with the domestic institutions of a State.

Now, sir, I want to know what has become of the principle of the Nebraska bill, that has been talked about so much—the principle of self-government and popular sovereignty? Did it apply to a Territory or a State? If it applied to anything, it applied to a Territory. The Kansas-Nebraska bill certainly has no force in any State of this Union. It was never intended to have force in a State. Even those who advocate it tell you that it provided simply for a territorial government, and that it did not even convey authority to form a State government. If that be so, what is the great principle of that bill? What is the popular sovereignty of it? Is it the right to regulate slavery? All those who advocated that bill deny the right of the people of a Territory to settle the subject of slavery for themselves, except when they come to be a State. They indorse the Dred Scott decision in the same way that the President understands it, as establishing slavery in all the Territories of the United States. What, then, is the principle that was established by that bill? It is no principle at all. No great rights were conferred by it on the people of the Territory of Kansas not possessed by the people of every other Territory heretofore organized. Even those who contended for this right of the people of a Territory to regulate the subject of slavery, have abandoned it, and now indorse the monstrous doctrine put forth by the Supreme Court, establishing slavery in all the Territories.

By the way, permit me here to remark, for I do not mean to discuss that matter on the present occasion, that the opinions of the majority of the judges of the Supreme Court are just upon a par with the action of the army in Kansas. The army were a set of usurpers there, or were used by usurpers, for unlawful purposes, and the court have undertaken to usurp authority, and pronounce an opinion on a question not before them. Judge Taney says in so many words that the case is dismissed for want of jurisdiction; and yet, after dismissing the case because the court had no right to pass upon it, the majority go on and undertake to express opinions about the slavery question. Their opinions are worth just as much as, and no more than, the opinions of any other gentlemen equally respectable in the country. The fact they wore gowns, sat on the bench, and pronounced them in a case not before the court, gives them no additional sanction. Mr. Buchanan knows—it would be an insult to his intelligence to suppose that he did not know, however he may assume the contrary—that no such question has been authoritatively settled as that slavery exists in the Territories. There never has been a case when it could be authoritatively settled; for in the Dred Scott case every tyro knows that the court decided they had no jurisdiction of it, and the majority dismissed it for that reason. The minority, who disagreed, believed that the court had jurisdiction; and it was necessary, in their view of the case, to pass upon all the questions raised, and to decide them upon their merits; but in the opinion of the majority which controlled, there being no jurisdiction to pass upon the case, what they have said in regard to questions which might have arisen if the court had jurisdiction to inves-

tigate them, is out of the case, and is of no authority whatever, either in court or elsewhere.

Our position in regard to the rights of the people of a Territory—or my position, for I speak for nobody else—is, that during the territorial condition, the people have such rights as Congress confers upon them. Congress passes an act organizing a Territory. That act is the charter under which the people of the Territory act; the constitution, if you please, by which they are bound. If Congress thinks proper to confer on the people of a Territory the right to exclude slavery, they undoubtedly may do it. Congress may itself exclude it, and may always do what it grants authority to the people of the Territory to do through their Legislature. The Republican party, so far as I understand its principles, never denied the authority of the people of a Territory to exclude slavery through their Territorial Legislature. They have asserted that it would be proper for Congress, in the first instance, to exclude it. If Congress will not, let the people exercise the right. Either may do it—the people, in subordination to the act of Congress, or Congress itself. It is a total misapprehension of the doctrines we advocate, to say that we deny all right to the people of a Territory, or that we oppose the doctrine of popular sovereignty in the foundation of a State government. The latter question was never raised between parties, the whole controversy being as to the government of the Territories, and not the States. This attempt to transfer the principle of the Kansas-Nebraska bill, which was applicable to a Territory, if it had force anywhere, to a State, is a total misconception of the bill, and is applying it to a condition of things for which it was not made.

Having said thus much in regard to this extraordinary message, I have no objection to the motion which has been made, that it be printed and referred.

Mr. DOUGLAS. Mr. President, I shall reserve to another occasion any reply that I may have to make to the onslaught which my colleague has just made on the Nebraska bill, and the provisions and principles involved in it. I need not say to the Senate or to the country that I shall at all times hold myself ready to vindicate the principles, the provisions, and the history of that measure from any assaults, no matter from whence they may come. I do not choose, however, at this time, to be drawn into the discussion of that question. Nor shall I go into the discussion of the question presented by the message. My opinions have been expressed to the Senate, clearly, I think, so that all present understand them. If they do not, I could not hope to make them more specific to-day. I think the better course, therefore, is for us to refer the message at once to the committee, where it can be examined, and the authority upon which it rests can be investigated, where the matters of disputed evidence and disputed facts can be reviewed and brought before the Senate in a regular form for action, when we can go into the discussion of the measure.

Hoping that that will be the course of the Senate, I ask leave to present a remonstrance, signed by certain gentlemen as Governor and State officers elect in the Territory, or State of Kansas, whichever it may be called, protesting against the reception of that State into the Union under the constitution framed at Lecompton. I move that this remonstrance be also referred to the Committee on Territories.

Mr. SEWARD. And be printed.

Mr. DOUGLAS. And that it be printed.

Mr. TOOMBS. Mr. President, but for the character of the assault which the honorable Senator from Illinois [Mr. TRUMBULL] has thought proper to make on the message of the President of the United States, I should have been content to let it go to the country and vindicate itself; but on account of the nature of that assault, I deem it to be my duty to express my hearty coöperation with the policy which the message vindicates; and at the same time to express my gratification at the signal ability and power with which the great principles lying at the bottom of that policy have been presented to the American people by the Chief Magistrate of the Union.

He has proposed to the American Congress, as becomes his duty under the Constitution, that the Territory of Kansas be admitted to her place as one

of the sovereign States of the Union. His policy is that it shall be done now. Upon the point that Kansas ought to be admitted into the Union, it seems that all the people of Kansas, and all the representatives of the people of the United States, in both Houses of Congress, for the last three years, have agreed. Since 1856, there appears to have been no question with any portion of the inhabitants of Kansas that it was their desire to come into the Union. A large portion, said to be a majority by those gentlemen who represent what is known as the Republican party, formed for themselves, nearly three years ago, a constitution known as the Topeka constitution, and came here and asked for admission into the Union under that instrument. A very considerable portion of both Houses of Congress, a majority in the other branch, and a large minority in this, voted to admit Kansas into the Union under what was known as the Topeka constitution. Another portion of the people of Kansas, acting under the authority of the territorial government, and in obedience to law, took no part in the action on the Topeka constitution. Then the Territorial Legislature submitted the question to all the people of Kansas, whether they would come into the Union or not, and a very large majority of the then inhabitants said they desired to come into the Union. In conformity to their wishes, thus expressed, the Territorial Legislature called the Lecompton convention. That convention met in pursuance of this act of the Legislature, which had for its authority the expressed will of the people of Kansas at an election where all had an opportunity of voting, and where, as far as I am informed, no man complained that he had not a fair opportunity of voting. Then, those of the people who were on the side of law and order, on the side of the territorial government recognized by every Department of the Government of the United States, said: "We too desire admission into the Union."

In 1856, this body seeing that this was the desire of all parties in Kansas, the Topeka party being before us with a constitution seeking admission, and believing it to be illegal and not in proper form to justify her admission into the Union, other propositions were then made from various quarters. The Senator from New York, [Mr. SEWARD], acting in behalf of the friends of the Topeka constitution, the Senator from Illinois, [Mr. DOUGLAS], probably other Senators, and myself, suggested plans for doing that which it was settled everybody in Kansas wanted us to do, and everybody here was willing to do, if we could agree on the mode of doing it. I say, therefore, the admission of Kansas is conceded to be necessary, proper, and desirable, by all the people of Kansas, and also by all the representatives of the sovereigns among whom she desires to take her place.

Then I suppose there can be no difficulty about so much of the policy of the President as recommends that Kansas shall be admitted into the Union. Waiving all question as to the number of her people, for various and sufficient reasons, it is admitted on all hands that it is proper to admit her into the Union. The point of dispute is, how shall she be admitted? The President of the United States says she ought to be admitted under the Lecompton constitution. Why? Why ought she to be admitted under that constitution rather than under the Topeka constitution? The President states historical facts, which no man can deny. Those persons who framed the Topeka constitution, for reasons which I do not pretend to say were true or false, as I am simply giving the history of the affair, said: "We will trample under foot the Territorial Legislature"—and the Senator from Illinois, [Mr. TRUMBULL], to-day, indorses and defends their action for doing so—"we will not recognize this government; we assume that we are a majority of the people, and we claim, *proprio vigore*, by virtue of being a majority of the people of the United States in the Territory of Kansas, that we can make our own constitution, not only without law, but against law, and demand admission into the Union, even against the existing government of the Territory." That I deny; that the President denies. There is the issue, and it is a grave issue. It is an issue lying at the very foundation of public liberty—an issue that will survive this question, and a thousand such.

The President says Kansas ought to be admit-

ted under the Lecompton constitution, because it comes with legality; it comes clothed with the dignity of representing the will of the majority, legally expressed. That is the ground on which he puts it. What, then, are the historical facts? The Topeka constitution is avowedly in opposition to the existing government. Its supporters have made that declaration everywhere, and have boasted of it until this moment. It is a pretended government, organized in opposition to the territorial government, which, as I before stated, has been recognized by the President, by his predecessor, by both branches of the last Congress and of this Congress, by every department of legitimate government, and by a Republican House of Representatives themselves; for at the last session of Congress both Houses voted for the payment of the Territorial Legislature. I say the validity of the Territorial Legislature was recognized by the former Executive, Mr. Pierce, and has been recognized by the present Executive. It has been recognized by the Senate and House of Representatives. Every department of this Government has recognized it, except Topeka, if that be a department of the Government. If parties be referred to in this connection, I say that it has been recognized by the Democratic party, and also by the Republican party. Every department of this Government, and all the party organizations, have recognized the legality of the territorial government; and if they had not, it could be well and easily maintained upon irrefragable legal principles. No man, I suppose, denies our right to make a territorial government of some sort. No man denies that we have made such a government for Kansas, that we have had governors, judges, marshals, and constables there; that we have had a code of laws and been acting under them, and have upheld them but too vigorously, according to the account of the Senator from Illinois. Such being the fact, the opposing constitution is a rebellious constitution, made by men in hostility to the laws of the land, as the President has justly and truthfully said.

The friends of the Topeka constitution stand here to oppose the admission of Kansas under the Lecompton constitution; and they tell us, in the first place, that it violates the fundamental principles of the Kansas-Nebraska act. I have a few words to say on that act. I know something of its history and its object, but I shall take it only as it is on the statute book. Its enemies have turned its expounders. It is not to be supposed that they have expounded rightly that which has always met their opposition. Four years ago, there was a great clamor raised when we attempted to pass that act, although it was based upon principles which have been affirmed by every branch of this Government; affirmed by the executive, by the legislative, and by the judicial departments, and sanctioned by the people at the popular elections. When we passed the Kansas-Nebraska act in 1854, there was a greater clamor raised than, I think, can be gotten up on this question of the admission of Kansas into the Union under the Lecompton constitution, even with the opposition of the Senator from Illinois, [Mr. DOUGLAS.] What was that question on which such violent denunciations were made; on which the people were told that liberty was trampled under foot; on which the North was called to the rescue, and an appeal was made to the freemen of that section that their liberties were taken away, that the South was making aggressions on them, and that they were dough-faces if they submitted?

When we came to establish territorial governments for Kansas and Nebraska, the representatives of the southern States of this Union, who have the institution of slavery in their midst, recognized by their laws, affirmed that great principle which, after all these struggles and troubles, has been ended by the proudest and the speediest vindication that ever a great truth got from an excited and prejudiced community. We simply asked you to put no prohibition upon us or our property. We sought no advantage over you; but we said: "this is common territory, and we simply ask that while it is in a territorial condition we shall be allowed to go there with our property, and you with your property, and form a civil society; and we will give you all the great advantages which are offered by a territorial government, of protection and peace, until you are strong enough to protect yourselves and come into

the Union." We simply asked that there should be no prohibition on us, or our institutions, or property. That was all our demand; and the South then asked for but one thing in reference to that bill. In 1820, in the eighth section of the act known as an act to admit Missouri into the Union, and for other purposes, there was a clause that slavery, or involuntary servitude, except for crimes, should never exist in this territory. We said, "Repeal that, because it is unconstitutional." We came to the legislative forum; we went to the executive forum; we went to the judicial forum; we went to the popular forum; and everywhere we have received the verdict in our favor by the fair judgment of honest men, North and South. That was all we demanded. The clause which seems to be a bone of contention, and to have created trouble, and to have been bandied about between politicians, about popular sovereignty, was no part or parcel of the demand or of the object of the bill. We were not then to be taught popular sovereignty. We did not want new lessons on popular sovereignty in 1854. We had no new theory on that subject. We said: "Here is a law excluding us from the Territories; repeal it." After consultation, the Democratic party, with a large body of the Whigs, said: "We will repeal it, because it is unjust." It was repealed by gentlemen of the North and the South, constituting a large majority of this House, and a majority of the other, and maintained, as I have said, subsequently, by the judiciary and the people. The effect of that repeal would have been to leave the people, when they might come to make their State constitution, free to make a government to suit themselves; and, in the mean time, it would admit everybody, and protect everybody, while it was, under the Government of the United States, common property. We declared that when they came to ask admission into the Union, and clothe themselves with the attributes of sovereignty, they should be protected in making a government to suit themselves and coming into this Union, with or without slavery, as their constitution might prescribe.

This was all we wanted, but it was said by gentlemen from the northern States that this would be the subject of misrepresentation, that this simple repeal might possibly revive the pro-slavery laws of Louisiana, and whether it did or not, it would be so charged by the adversaries who were raising a clamor throughout the whole North, and therefore they asked us to let the bill interpret itself upon this point. That was the sole reason for the introduction of the sentence which seems now to be made in many quarters the chief of the corner. It was a legislative interpretation of the effect of repealing the eighth section of the act of 1820. We desired nothing more than that repeal, and this legislative interpretation was intended to prevent misrepresentation in the country. It was said "it will be charged, that by repealing the act of 1820, we restore the slavery laws," and many gentlemen supposed that might be the effect. That, however, was not our object. Holding the principle which I did, and the great body of the gentlemen with whom I acted, that slavery was lawful wherever it was not prohibited, I was content to unite with those who held the contrary doctrine, that it was lawful nowhere except where it was expressly allowed by statute. Being willing to stand on my own principles, and legislate on my principles, and take the consequences of standing on them, I said, "all I ask of you is a *tabula rasa*; therefore, if this can be construed as having the effect you fear; if it can be injuriously construed against you in the non-slaveholding States of the Union; if it will tend to raise a prejudice against you on this question, and stand in the way of your carrying out this great principle of constitutional law, put the fair interpretation in the bill and let it speak for itself." Hence, we injected what a distinguished member of the other House and for a long time a distinguished member of this body, said was a stump speech into the bowels of the bill. It was to prevent misrepresentation of it as I once had occasion to say to the honorable Senator from New York, [Mr. SEWARD.] That was the sole motive. That clause was that it was

"The true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

They were left perfectly free to make their own institutions without interference from Congress, which had assumed in 1820 the right to prescribe to them that they should not. In 1820, Congress said, "no matter if every man in Kansas, if every man in Minnesota, desires to make his institutions to suit himself, on the subject of slavery, he shall not be allowed to do so, but we will do it for him." Congress assumed, as a matter of conscience, that it was its duty to do this for the people. To that we objected. We denied the power and the policy. Upon the question of power we have been maintained by the courts, the expounders of the laws, about whom the Senator from Illinois [Mr. TRUMBULL] seems to think so little. On the policy of the measure we have been defended by the highest tribunal known to this country, the people. Who are the people? Those who are enfranchised by the thirty-one sovereign States, who have a right to speak in the Government. I do not care whether they are white or black; I do not care whether they are rich or poor; I do not care for what reason any class may be excluded—I say it belongs to these thirty-one sovereignties to judge for themselves into whose hands they will commit civil power, into whose hands they will place the elective franchise. We have appealed to them as "the people," the only people known to the laws, the only people known to the Constitution, "perfectly free," free to execute this right according to law and in no other manner.

The idea of the Topekaites, that under the Kansas-Nebraska act persons were to be allowed to vote at the ballot-box whenever they thought proper, and that those who did not like the territorial government might make a rebellion against it for themselves, is a "perfect freedom" that was discovered by the enemies of the bill; not by its friends. To this day none of the friends of the measure, none of its legitimate expounders, have ever held any such "perfect freedom" as that. That is a "perfect freedom" claimed by its enemies. They could not get their views indorsed here, nor in the other House, nor before the courts, nor before the people; and they have attempted to strangle a great measure, to which they are opposed, by interpretation. The question is a plain one. The law as written is easily interpreted. Who are "the people?" and how do they speak? We know of no people in this country except those recognized as such by law. In the formation of this Government, I believe Connecticut and Massachusetts were recognized as republican States, but they put limitations on the right of suffrage; they excluded men from voting if they were not freemen of a town. My own State excluded some because of their color, and so did many of the non-slaveholding States. Rhode Island and Virginia excluded men because they did not own land. North Carolina excluded them for some purpose because they did not have land, and granted the franchise to the lack-landers for other purposes. She divided it between land-holders and lack-landers. Other States excluded from the right of suffrage those who would not perform military duty. It was conceded that it was for the governing power to determine those who should share at the ballot-box in its exercise; and when they have spoken, this Government has never inquired into its rightfulness or its republicanism.

Sir, this Government never could have been formed on modern wisdom. It was formed on a very simple plan by those who met in 1787, at Philadelphia. They found these various provisions as to the qualifications of voters in the thirteen sovereignties which met there to make a Constitution. Massachusetts might have wanted her own rule; Rhode Island hers; Virginia hers. My own State was more liberal in her franchise. She had but one distinction. She gave political power to every man that bore on his face a white skin. We chose to make that a test. I know some gentlemen think it is unjust, but we do not. When we came into the Union the same test was made by two thirds of the States, that the voters should be white. Some inserted an additional clause against the universal right of suffrage even by white men, by which thousands and tens of thousands of men who fought for the liberties of the country, as we say in ordinary parlance, lived and died excluded from the right of ever depositing a single ballot in the ballot-box, or once cast-

ing a vote at the hustings. The framers of the Constitution said "we will not fix any rule; it is a local question; it is one we cannot control; it is impossible for us to settle it; we will leave it to the States, and therefore we will say that whoever is entitled under State laws to vote for members of the most numerous branch of the Legislature in any one State, shall be entitled to vote for members of Congress. That was a simple solution. The convention did not say to Virginia, you must include black people; it did not say to Massachusetts, you must exclude blacks; it did not say to Virginia, you must let in the back-landers; but it said to each State, determine for yourselves what portion of your community it is safe to intrust with political power and we will take your rule, and whoever your laws enfranchise for the most numerous branch of your Legislature shall stand enfranchised for the officers of this Government. That was the simple rule.

When I speak of the people of Kansas, I speak of the people whom the law has declared are entitled to vote, who vote because the law gives the right. As for inherent sovereignty, I know it not; it is an absurdity; it is not an idea of government; it is not an idea of liberty. It does not exist in nature. It exists nowhere but in the fancy or brains of some politicians who want to work themselves out of a dilemma, by manufacturing a term. God gives nobody the right to vote; nature gives nobody the right to vote. Ten men necessarily have no natural right, and no divine right that I know of, to govern nine. It is a question of convention.

Mr. WADE. The people of Missouri seem to have that "divine right."

Mr. TOOMBS. If they make any such claim, it is a bad claim. They may, like others, set up a bad claim; but I do not think they claim any such thing in this case. I am putting the question on the great fundamental principles that will live through all time and all ages. Missouri may violate them, Ohio may violate them; but they will live as long as liberty is preserved. Those whom the Constitution and the laws have enfranchised, are the people, and the only people meant in legal sense, the only people anybody by any possibility could mean in this act. You did not mean women, you did not mean children, you did not mean idiots. Whom did you mean? The people under the government you were making. You made a government, and declared in the act creating it, who should be enfranchised, and how other people should be afterwards enfranchised.

I say now, it did not necessarily happen, and perhaps it was impossible that it could happen in a single one of the thirteen original States of the Union, that its constitution was ever adopted by a majority of its people, in fact or by consent; because most of them were adopted by conventions, and they were divided into districts for the purpose of electing delegates to the conventions. Population is the usual rule for such divisions. In our section of the country, we usually take the Federal population, including whites and blacks, according to the proportions recognized in the Federal Constitution. You take numbers, but you do not by any means determine how many of them are voters. I think probably Kansas comes nearer to proposing an absolute naked rule of governing by numbers than any community I have ever known. The LeCompton constitution was based more nearly on that idea than any which has ever come under my observation. They obliterated all county lines, took a census, and said, we will have sixty members in the convention; we will take the whole population and divide it by sixty, and give the same proportion all over the Territory. I say that is more nearly according to mere numbers than any instance I have known.

When we proclaimed that the people should be free to form their institutions, we declared who were the people who had the right to make institutions. They are made in our country by representation. We provided a government for this Territory; the people elected a Territorial Legislature, and they were to govern through that Legislature until their admission into the Union as a State, and then the people whom the constitution enfranchised were the people intrusted with the power of making, altering, and changing their government. That is a plain proposition which nobody can mistake who will look at the law.

That point was provided for in the very bill from which this clause is seized. It said that at the first election every citizen of the United States, over twenty-one years of age should vote, and all who had declared on oath their intention to become citizens, and then that the first Legislature should fix the right of suffrage on certain limitations; and therefore "the people" meant by this clause of the act was expounded by the act itself.

Then, as the President properly states in his message, the territorial government, thus acknowledged, set out on the principle of the Kansas act, that the people, acting according to law; the people, acting through the government established by law, have this right. That government stands there to-day. It submitted to the people the propriety of calling a constitutional convention. The people decreed that there should be a convention, and the Legislature called it. The convention met; the fruit of that convention is now before us. At this point objection is made, even by some gentlemen with whom I have acted heretofore, in regard to this matter. They do not disagree with the President up to this point, but they say the constitution ought to have been submitted to the people. Why? From whence do you derive the idea that it must be submitted? I do not pretend to say that it may not be so submitted, but I hold that is a point to be determined by the law-making power. I admit that it may be submitted; and it must be submitted, if the law so wills it. If the territorial law calling the convention had decreed that the constitution should be submitted to a popular vote, the work would be incomplete without submission. If the convention itself had declared that it should be so submitted, it would be incomplete without that sanction, because it would have lacked a sanction required by law.

This, however, lacks no sanction of law. The convention determined to put the *questio vexata*—the question of slavery, before the people, and they submitted no other question. They saw that eighteen States had been admitted into the Union with constitutions framed by conventions. They saw from all your enabling acts, beginning with that of Ohio, in 1802, up to this day, no such requirement was ever made by this Government until it was slipped somehow or other into the Minnesota bill. They saw that in no enabling act had such a requirement been demanded by Congress as essential to the validity of a State constitution. It was not required by the territorial law, nor by the convention. Hence I say there is an absence of all foundation for the idea that there is such a necessity unless you get it somewhere else. Where are you to get it from? It is not in the law of Congress; it is not in the action of Congress; it is not in the territorial law calling the convention; it is not in the Constitution itself. Where, then, do you get it from? You must go to the "higher law" of the honorable gentleman from New York, and there you will not find it. Go and look at the revelation of which he speaks, and it is not there. Go to the only utterance of his that I know of, and it is not there. Go, then, to nature, from the beginning of the world, and she gives no such utterance. Where are you to get it? It is faction; it is demagogism; it is nothing else; it has no warrant in law; none in philosophy; none in nature, and none in the revealed will of God.

The Kansas convention thought proper to submit a portion of the constitution to the people. The President says that in his opinion, according to his construction of the act, they were bound to submit the slavery question. In that I think he is mistaken; because I have shown you what we meant by "the people;" and when the people act they act through organization; they act through the Legislature; they act through the convention; and the action of the convention is the action of the people themselves. It is the embodiment of their sovereignty. Millions of people have been born under the constitutions of Georgia and other States, which never had this essential prerequisite of popular sanction as it is now considered.

Mr. DOOLITTLE. Will the honorable Senator allow me, on the point he is discussing, to ask a single question?

Mr. TOOMBS. With great pleasure.

Mr. DOOLITTLE. My question is, from what source do you derive the legal authority of the convention to form a constitution at all? From the Legislature of the Territory?

Mr. TOOMBS. Entirely from the Legislature of the Territory. If the authority came from Congress, we should be bound by any propositions we made. If it comes from the Territorial Legislature, we may accept or reject the propositions.

Mr. DOOLITTLE. I will put one further inquiry. If the legal authority of the convention was derived from the Legislature of the Territory, has not the Legislature of the Territory, until the State is admitted into the Union, the legal power of legislation still for the State; and may not the Legislature pass a law submitting the constitution to the people of the Territory? May it not be done by any Legislature, as well as the original Legislature which authorized the calling of the convention?

Mr. TOOMBS. I think not, and for very obvious reasons. The Legislature called this convention together, and it has performed its duty, and the people voted upon the question submitted to them before the action of the Legislature, to which the Senator from Wisconsin has referred, took place. Then the previous law was executed, and the constitution wanted nothing but the action of Congress to become the fundamental law. It was then too late for the Territorial Legislature to interfere. It could not then affect the constitution. It might provide for calling another convention, and bringing another constitution here, if it chose, but as far as the constitution then formed was concerned, the law providing for it was an executed law, and nothing could be done under it except to elect State officers, and its validity did not depend on that. That is my view of it.

Mr. DOOLITTLE. As a matter of fact, I understand that the election which was to come off under the schedule of the convention, did not take place until after the Legislature had provided by law for another election.

Mr. TOOMBS. Before the action of that Legislature, the election on the constitution took place, on the 21st of December; and the convention having exhausted its powers, passed the matter back to the people. Whether the action of the Legislature was before or after that time, it was incompetent for the Legislature to interfere with that work, because it was executed when the convention dismissed it, and they had nothing more to do except to submit one clause of it, according to its own terms, to the people; all the rest was perfect. Then, neither the Legislature that gave the power could revoke it, nor any subsequent Legislature take it away.

After this digression, I come back to the point I was arguing, and propose to show that my construction of the Kansas-Nebraska act was the contemporaneous construction given by its friends. I hold in my hand a bill introduced into this body by myself in 1856, which, with some amendments, passed this body by a vote of three fourths; but the other House substituted for it a provision admitting Kansas with the Topeka constitution. To show that it was not understood to be the true intent and meaning of this act that the constitution should receive any popular sanction, I will mention that, when the Senator from Illinois [Mr. DOUGLAS] and other gentlemen, with myself, proposed to end this disturbing difficulty, by bringing Kansas into the Union, in 1856, the bill which passed this body read thus:

"That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas for their free acceptance or rejection; which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Kansas."

We passed an enabling act, and went on to declare that a convention should be called to make a constitution; and we proposed to that convention to accept certain terms and conditions. We did not require that they should submit the constitution, formed by them, to the people. This was the true intent and meaning of the act, as thus interpreted by its friends two years after its passage; as interpreted by the Senate by a majority of three to one—an interpretation adopted by every one of its friends in the House of Representatives, and by many gentlemen from other political organizations, who affirmed this to be the true intent and meaning of the act, that submission of the constitution was not a requirement of the Kansas-Nebraska act. This was an authoritative exposition, made by the original friends of that measure, and by other gentlemen who were then members of Congress; and would have been the law of the land but for the Republican major-

ity in the other House, who defeated it by substituting for it a proposition to admit Kansas with the Topeka constitution.

I have not only shown that the interpretation I have put on the Kansas-Nebraska act is the just interpretation, according to the philological construction of the sentence, according to common sense, according to all legal rules of interpretation, but I have shown a legislative interpretation by all its friends when they attempted to carry it out. I hope, therefore, that there is an end to the question as to the true intent and meaning of the Kansas-Nebraska act on this point. It did not require a popular sanction for the constitution before admitting the State into the Union. It did not, however, prevent such sanction if required by the convention.

I shall only advert to one other point. We are told that the Lecompton constitution is a fraud; that there was cheating at the polls; that there was cheating at some crossing, and cheating at Leavenworth; and that there were bogus votes. I have heard this cry from the enemies of the territorial government from the day we passed the original act until this day, and I expect to hear it until Kansas shall be admitted into the Union. I do not intend to deny or affirm the truth of these allegations. I think there are very few new communities, very few excited communities, where voting is done by ballot, anywhere in the United States, where there is not a large amount of cheating. We have heard of such things in the State of California; it has been alleged that in the city of San Francisco corruptions of this kind were carried on to a great extent. In the old, virtuous, civilized city of New York, the commercial metropolis of the Union, it is alleged every day, and sometimes proven. One branch of Congress is now exercised on a wholesale fraud alleged to have taken place in the city of Baltimore. I do not know how that is; I am passing no judgment on it.

I have one answer, which I think is a complete one, to all these allegations. If there be frauds at elections, in all well-constituted governments tribunals are made to try them and correct them; and there let them go. The Baltimore election of members of Congress is to be passed on by the other House. If there be allegations affecting the election of a Senator of the United States, the question is to be settled here. If there has been fraud in the election of members of the Senate or House of Representatives of the Legislature of Kansas, the matter can be passed upon by those bodies respectively when the State shall have been admitted into the Union. That is the tribunal set up by law for the decision of such questions. There and there alone they can be decided. This body, I trust, will never undertake whether or not there have been frauds in the elections of Kansas. If the proceeding is legal *prima facie*, if *prima facie* it is fair, our duty ends. When the member from the new State, elected by its people, takes his seat in the other House, that body may investigate the circumstances of his election. When the Senators elected by the Legislature of the new State come here, this body can determine the legality of their election.

Every legislative body is the proper tribunal to decide questions affecting the elections of its members. It is the only tribunal which the experience of twenty centuries has shown can be safely intrusted with any such power. The ablest on English jurists, the ablest parliamentarians, have always held—and we find it deeply imbedded in the privileges of the British Parliament, in the privileges conferred on each House of Congress by our Constitution, in the privileges of every State Legislature, and inherent in every town meeting—that a legislative body is to judge for itself of the election, returns, and qualifications of its members. Without this principle, representative bodies could not live an hour. If you have a case of fraud in the election of members of the Legislature, take the question there for decision. If you have such a case in regard to the election of a Representative in Congress, take it to the other House. If you have such a case as to the election of a member of this body, bring it here. If it be true that these bodies are so corrupt that they will not decide the questions properly, it proves that we are incapable of self-government; and I, for one, shall not admit that for any purpose whatever. They are the judges of such ques-

tions—the absolute and sole judges. Every member here holds his seat by this principle. If you admit one wrongfully it cannot be controverted anywhere; but the presumption is, that your decision is right. Society could not live an instant if unjust judgments were not executed as well as just ones. Does the supreme tribunal of any State or country in the world always decide rightly? Nobody pretends that. But there must be finality; there must be a tribunal to decide, or there is no government at all; and therefore bad judgments must be enforced as well as good ones as long as they stand, until altered according to the forms of law.

My reply to the allegation of fraud is, that this constitution comes from a regularly constituted, legal government. The convention was called for by a vote of the people, on the question being submitted by their Legislature. Delegates were elected by the people, and the convention met and framed a constitution. They submitted that portion of it which they thought proper to the people for approval, and it has received their approval. It stands on every form of legality. The law, the peace of the country, the right, demand that the policy of the President shall be sternly upheld by the representatives of the States and of the people.

Mr. WILSON obtained the floor, but yielded to Mr. CHANDLER, on whose motion the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 2, 1858.

The House met at twelve o'clock, m. Prayer by Rev. A. HOLMEAD.

The Journal of yesterday was read and approved.

SECURITY OF STEAMBOAT PASSENGERS.

The SPEAKER announced the business first in order to be the consideration of House bill No. 45, further to amend an act to provide for the better security of lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes, the consideration of which bill had been postponed to this day.

Mr. WASHBURN, of Illinois. I am directed by the Committee on Commerce to ask that the further consideration of that bill be further postponed one week from to-morrow, and also to ask to have a substitute for the bill, which has been prepared by the Committee ordered to be printed. It was so ordered.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed a bill of the House, to supply an omission in the enrollment of a certain act therein mentioned.

NEBRASKA CONTESTED ELECTION.

Mr. HARRIS, of Illinois, from the Committee of Elections, presented a report in the contested-election case of the Territory of Nebraska, accompanied by the following resolution:

Resolved, That the parties, the contestant and contestee, in this case, be allowed the further time of sixty days from the passage of this resolution to take and return supplemental testimony.

The report and resolution were ordered to be printed, and their consideration was passed over informally.

OHIO CONTESTED ELECTION.

Mr. HARRIS, of Illinois. I wish to give notice to the House, now, that I shall to-morrow call up the report and resolution presented from the Committee of Elections in the case of Vallandigham against Campbell, that the preliminary questions involved may be disposed of.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS, of Indiana, in the chair,) and resumed the consideration of the

PRINTING DEFICIENCY BILL,

the question being on the amendment offered by Mr. LETCHER, as follows:

Add to the amendment the following words:

Provided, The sum does not exceed that reported by the Committee of Ways and Means.

Mr. HOUSTON. I shall say but a word in reply to my friend from Virginia, [Mr. LETCHER,] on the point he last raised. I took ground, in a few remarks which I made yesterday, that the proposition before the committee now does not involve a contract. The gentleman has sought to involve me in what he seems to regard as an inconsistency, by reading a resolution which I had the honor to propose to the House at the organization of this Congress. I am astonished that my friend from Virginia does not see that the point involved in this resolution, and the points involved in the discussion now, are totally and entirely different. The resolution, as offered by myself, with the proviso that is appended to it, was offered for the gratification of other members of the House, and not for my own; because, in the incidental discussion that came up on that resolution, I admitted the fact, and stated it, that the proviso did not change the legal power of the House, or the rights of the party who might be elected under the resolution. I believe that the House has power to change the price of printing at any time, after the election of Printer as well as before. There was nothing in that proviso. But others might have differed with me as to the power of the House; and this proviso was expressly placed on the ground that it was a notice to the party who might be elected under it; and that in the event of the House or Congress voting to reduce the prices below those fixed under the act of 1852, he should not set up a claim for damages.

So much, then, for that resolution. But, Mr. Chairman, the point involved here is not that. There the question was as to the price which was to be paid. Gentlemen might have contended that the election of a Printer under the existing law, establishing the rates of compensation, was a pledge on the part of Congress that the party elected under that law should receive the compensation fixed by it. I say that I dissented from that view of the case. I believed that Congress had the power to change the rates of compensation as well after the election of Printer as at any other time. But, sir, what is the point involved in this discussion? It is as to the amount of printing. Gentlemen say that you have ordered a work and that, therefore, you made a contract with the Printer. Now, in that case the *price* was the thing in issue. In this case the *amount of work* is the thing. It is not proposed here, nor have I contemplated or intimated such a desire, to reduce the prices for the labor that has been performed. On the contrary, we are willing to pay the price agreed upon in the law of 1852; and the only question involved, as to the power of the House, is whether we have a right to reduce the amount of printing ordered to be done at a previous session of Congress. Now, sir, I will illustrate it.

Mr. REAGAN. Does the gentleman from Alabama contend that the House has not the right to change the price of printing?

Mr. HOUSTON. That is not contended by me. But my friend from Virginia [Mr. LETCHER] seems to take that view of the case. I do not. I take the opposite view, and was going on to illustrate it.

Mr. LETCHER. I desire to correct the gentleman from Alabama—

Mr. HOUSTON. If I have done the gentleman injustice in my statement, I withdraw it. I desire now to proceed with my remarks.

If this is a contract, it is a contract from the very moment that the order for the printing is made. The fact of the work having progressed one degree, or two degrees, does not give it any more the semblance or form of a contract than it had when the printing was ordered. Suppose that to-day we should order ten thousand copies of Emory's report to be printed, have we not the right to-morrow to rescind that order, and to say either that we shall not print any at all, or that we will publish a much smaller number than that? No gentleman can deny that we can bring it up by a motion to reconsider.

But gentlemen may say that the contract is not complete until the power to reconsider has passed from the House. I will meet them on that issue. Suppose that we order to-day the printing of ten thousand copies of a book; have we not the power

this day week—if no step has been taken towards its execution, if the Printer has done no act to involve him—to rescind the order? But according to the argument of the gentleman, it is a contract on the part of the House, and we cannot reduce the number of copies ordered.

Now, is there a member of the House who, on that view of the case, would not agree with me that the House has the power to rescind the resolution; to rescind its order for publishing any number of books, and either publish none at all or reduce the amount ordered to be published to a much lower number? Well, then, if we can do it in a week, can we not do it at any time? I agree that we are bound to pay for such work as has been done. Whenever we order work to be performed, it is a part of the business of the Public Printer to do that work, and if he does it we must pay him for it. We are bound to pay him, as far as he has progressed, for the work done.

But when we find a volume that has not been entered upon; when we find a volume that has not been printed; when we find that the Printer has not commenced the execution of the order of the House; we have a right to rescind the order, and say that we will publish a smaller number, or none at all.

My friend from Virginia [Mr. LETCHER] seemed to take exception to what I said in relation to a want of information in relation to this matter. I certainly know too much about the arduous duties of the Committee of Ways and Means, and the difficulty, at times, of obtaining information, to attempt, even by implication, to cast censure upon any member of that committee.

Mr. LETCHER, by unanimous consent, withdrew his amendment to the amendment.

Mr. UNDERWOOD. I indicated yesterday an expression of opinion that the running debate upon this bill had been already protracted too long; that instead of saving money to the country, by the continuance of this discussion further, we were absolutely exhausting the public Treasury by detaining the House longer with this discussion. I therefore, yesterday, moved that the committee rise, with a view of closing this five minutes' debate. That, however, did not accomplish the purpose I had in view. I am now advised that the only mode by which I can succeed in closing the debate on this bill, is by moving to strike out the enacting clause. If that motion prevails, I understand the effect will be that those who have the bill in charge will report it to the House, with the various amendments, and the House will be brought to a direct vote upon the bill and amendments. I therefore, in this view of the matter, under the circumstances, move to strike out the enacting clause of the bill.

Mr. PHELPS. I appeal to my friend from Kentucky to withdraw his motion. I desire to submit an amendment to the original bill, which, I believe, will relieve gentlemen from many objections which they have taken to the bill.

Mr. UNDERWOOD. I would suggest to my friend from Missouri, that if my motion prevails, he can submit his amendment and accomplish his purpose as well then as now.

Mr. PHELPS. No, sir. The gentleman from Kentucky must be aware that if the enacting clause of the bill be stricken out, all the amendments to the bill will be lost. The bill as originally presented, will be brought to the House, with the recommendation that the enacting clause be stricken out. The first question to be taken will then be on concurring with the recommendation of the committee. If that recommendation be non-concurred in, the question will then arise directly on the passage of the bill.

Mr. UNDERWOOD. Believing, as I do, that the purpose the gentleman desires to accomplish is to stop, as far as he can, this great waste of the public time, I, myself, am willing to submit to any proposition having that end in view. I will therefore, for the present, withdraw my motion, and allow the gentleman to offer his amendment, hoping that after it shall have been disposed of, the gentleman will renew my motion.

Mr. PHELPS. I desire to submit the following amendment, to come in at the end of the original bill as an additional section. I suppose I have the right to submit an amendment by way of perfecting that part of the original bill which is proposed to be stricken out.

Mr. SEWARD. That amendment is in vio-

lation of the decision of the Chair made the other day. I submit that the amendment is not in order.

The CHAIRMAN. The Chair will reply to the point of order made by the gentleman from Georgia, that the cases are not similar. In the case presented the other day, to which the gentleman from Georgia has referred, there was an amendment pending to the amendment. Now, the gentleman from Missouri proposes to amend the section of the original bill which it is proposed to strike out.

Mr. PHELPS. And there is no amendment to the amendment pending.

The CHAIRMAN. There is not.

Mr. SEWARD. The original bill has been amended by the amendment offered by the gentleman from Kentucky. This is, therefore, an amendment to the amendment offered by the gentleman from Kentucky. Now, sir, when you get to the end of the original bill, you have got two amendments already to that original bill, and you are multiplying amendments to a greater extent than the rule allows.

The CHAIRMAN. If the Chair understands the state of the question, there is no amendment pending to the amendment. The amendment of the gentleman from Georgia [Mr. SEWARD] was adopted to the amendment of the gentleman from Kentucky; and a further amendment to that amendment is therefore in order.

Mr. SEWARD. Well, sir, I move the amendment of the gentleman from Kentucky [Mr. UNDERWOOD] as an amendment to the amendment of the gentleman from Missouri.

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Missouri is in order.

Mr. SEWARD. Is not my motion in order?

The CHAIRMAN. Not at present. The gentleman from Missouri has offered an amendment and is entitled to the floor upon that amendment.

Mr. PHELPS. I move the following as an additional section to the bill:

SEC. 2. And be it further enacted, That the Joint Committee on Printing is hereby directed to inquire if it is right and expedient to discontinue the further publication of any of the reports ordered to be printed, either by the Senate or the House of Representatives of the Thirty-Third or Thirty-Fourth Congresses, and which have not yet been printed in whole or in part.

Mr. Chairman, the amendment which I have offered does not emanate from the Committee of Ways and Means, but it has received the concurrence of a portion of the members of that committee. I propose it as an amendment for the purpose of removing some of the difficulties which exist in the minds of some of the members of this committee.

The gentleman from Mississippi, [Mr. SINGLETON,] not now in his seat, was yesterday certainly misinformed, and has done injustice to the Secretary of the Interior, when he told this committee that no portion of Emory's report had been printed. The Secretary of the Interior said otherwise, in a letter which I had read to the committee on Friday last. I was this morning told, by the chief clerk of the Superintendent of Public Printing, that the first portion of the second volume had been in the hands of the printer for six months, and that they were waiting for the residue of the report from the author. The Committee on Printing now propose to diminish the number of copies ordered of the second volume of that work. Now, sir, if it be right and proper to discontinue the publication of any work which has been ordered by either of the last two Congresses, I propose that the Joint Committee on Printing shall inquire into the matter. The Committee on Printing has the right to report at any time, and that committee will, no doubt, enlighten the House with the result of its deliberations. If it be, in their opinion, right and proper to discontinue the publication of the ninth and tenth volumes of the Pacific railroad report, upon which no portion of the work has been commenced, they will report a resolution to that effect.

But, sir, recollect that this public printing has been ordered not by a law, but by resolutions of a single House. If it be right to rescind those resolutions, you may do it by a single resolution of either House. If they consider it expedient that a less number of the second volume of Emory's report shall be printed than was originally ordered, as we have been informed the Committee on Printing have already determined on, let

them report a resolution rescinding so much of the resolution of the Thirty-Fourth Congress as ordered the printing of ten thousand copies, and order to be printed as many copies as they may deem proper and expedient. I think, if this amendment to the bill be adopted, it will relieve the committee, and relieve the minds of many members of this committee from the objections which have been taken to the passage of this bill. The Committee on Printing has the right to report at any time under your rules. The Committee on Printing may consider this matter and report to-morrow, if they please, a resolution recommending the suspension of the publication of the ninth and tenth volumes of the Pacific railroad report.

Mr. BURNETT. I wish to ask the gentleman from Missouri why we should vote the money to pay for the ninth and tenth volumes of the Pacific railroad reports, and then pass a resolution directing the Committee on Printing to inquire if their publication may not be dispensed with?

Mr. PHELPS. It leaves the matter in this position: if the House does not direct a suspension of the further execution of this work, the money will have been appropriated for the purpose of meeting that expenditure. If it is the opinion of a majority of this House that it is right and expedient to prohibit the publication of the ninth and tenth volumes, let the Committee on Printing make a report to that effect, and let the House adopt the resolution if they think proper.

The inquiry was made by my friend from Alabama, [Mr. Houstoun,] whether we want this money during the present fiscal year, provided we continue the publication of the additional volumes. I understand that we will. I understand that a portion of it, perhaps, may not yet be prepared; but it will be prepared and furnished to the Public Printer before the 30th day of June next, or shortly after that time. Therefore, the Committee on Printing have time to consider this matter; and if they recommend to the House to diminish the number of copies to be printed, or to prohibit the publication of any additional volumes of any report, they can do so.

I have stated to this House that this bill does not embrace money to be appropriated for the seventh volume of Gilliss's report. I understand that that report is not yet prepared for publication; nor is it contemplated that it will be published under this bill, nor that it will be paid for out of the money appropriated by this bill.

Mr. SEWARD. The amendment which the gentleman from Missouri has offered is, in my opinion, a very mischievous one; and, instead of relieving the difficulties, it complicates them greatly. Suppose, for instance, that the joint Committee on Printing report that it is necessary to discontinue the publication of a certain work: what proportion of the money appropriated by this bill is it contemplated will have to be paid out to those who have performed the work? How does the gentleman propose to adjust the balance due, and settle these difficulties? Now, if the gentleman's amendment proves anything, it proves that this whole question should be settled by the Committee on Printing before you legislate at all for the payment of this money. If they should decide that you should discontinue the publication of a certain number of these works, then you could legislate understandingly.

Mr. PHELPS. In reply to the gentleman from Georgia, let me say this: suppose you should direct a discontinuance of the publication of any volume of Gilliss's report. Now, a part of those volumes have already been printed, and as a matter of course the compensation is due, to the extent of the labor already performed, and you must pay the paper manufacturer for the paper used for that printing.

Mr. SEWARD. I appeal to the gentleman to know how much will be sufficient compensation for the labor already bestowed and for the volumes already completed. By what standard would he settle the compensation to be paid for the work already done? The parties might not be satisfied with the compensation fixed by law, because the publication of a great number of volumes would be less expensive in proportion, than the publication of a few volumes. The result will be that these parties will be coming here and asking additional compensation on account of the discontinuance of the work, because the compensation is not adequate for the amount of work

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done. I therefore hope the amendment will not be adopted.

The question was then taken on Mr. PHELPS's amendment, and it was agreed to.

The question then recurred upon the amendment offered by the gentleman from Georgia to the amendment.

Mr. HOUSTON. Is it in order now to offer an amendment, either as an amendment to the bill, or as an addition to the amendment of the gentleman from Kentucky?

The CHAIRMAN. The Chair thinks it is.

Mr. HOUSTON. Then I offer the following amendment:

Sec. —. *Be it further enacted*, That hereafter, in all cases where proposals for any contract or contracts, to be made by any of the Executive Departments or bureaus, and in all cases where notices of any description, issuing from the same, are now required by law to be advertised, the same shall be advertised by publication in one newspaper in the city of Washington, to be selected by the President of the United States: *Provided*, That the charges for such publications shall not be higher than such as are paid by individuals for advertising in said paper.

Sec. —. *And be it further enacted*, That so much of the twelfth section of an act entitled "An act making appropriations for the naval service for the year ending June 30, 1846," approved March 3, 1845, as conflicts with this act, be, and the same is hereby, repealed.

The object of the amendment is this: at present all the notices —

Mr. SEWARD. I rise to a point of order. It is that the amendment is not germane to the bill and the question before the House.

The CHAIRMAN. The Chair thinks it is. It comes in as an amendment to the original bill.

Mr. SEWARD. It proposes to change the law in reference to publication of notices. That subject is not under consideration.

Mr. NICHOLS. I saw that amendment before it was offered, and I cordially approve of the object sought to be attained by it, but I make this point of order upon the amendment: the bill makes appropriations, or is intended to make appropriations, for a specific object named in it—the printing of the House of Representatives and of the Senate. Now, the amendment of the gentleman from Alabama proposes to change laws which have been some time in existence, and which affect the organization of the Departments of the Government, and, therefore, I think it cannot be in order as an amendment to this bill. I believe that the gentleman's object is a correct one; and I suggest to him that he had better refer his amendment, in the form of a resolution, to the select committee on the Public Printing which has made an investigation of this subject, has it now under consideration, and will report upon it in a few days.

Mr. HOUSTON. I understand this to be a bill to appropriate money for deficiencies in the public printing; and the gentleman who reported the bill from the Committee of Ways and Means has offered an additional section of general legislation. Now, my amendment relates to a part of the public printing—a part, it is true, which comes from the Departments, but at the same time it is public printing, just such as is involved in this bill; and if the Chair will allow me to explain the amendment to the committee, I do not think there will be any opposition to it.

Mr. Chairman, the law which I propose to repeal or modify, is found in the naval appropriation bill. It relates to the public printing, but it is to be found in the naval appropriation bill of 1845. My amendment proposes to dispense with the publication of all of these notices that come from the Departments for mail contracts, &c., in two of the Washington city papers where they are at present printed. The existing law says that all such notices shall be published in the two papers in the District having the largest circulation, and also in a third paper in the District selected by the President of the United States; so that they are published in three papers. Now every member of the House who takes the Union, the Intelligencer, or the Star, occasionally gets a batch, weighing some two or three pounds of notices in relation to the postal service of the country; and I venture

to say that those things very seldom find their way into the interior of the country where the bidders come from and the service is to be rendered.

The CHAIRMAN. There is a question of order pending, and it is not in order to debate the amendment. The Chair sustains the point of order raised by the gentleman from Ohio, [Mr. NICHOLS,] and rules the amendment out of order.

Mr. HOUSTON. I hope the gentleman from Ohio will withdraw his point of order. All admit that this is an important amendment; and I will state to the committee that, if the amendment had been the law twenty days ago, you would have saved at least \$30,000, which has been thrown away upon the papers of this District, and will do no good to the public service of the country.

Mr. NICHOLS. I cannot resist the appeal of the gentleman from Alabama.

Mr. BOYCE. Is debate in order?

The CHAIRMAN. It is not.

Mr. NICHOLS. I rose to withdraw the point of order.

The CHAIRMAN. It is too late. The Chair has sustained the gentleman's point of order, and ruled the amendment of the gentleman from Alabama out of order.

Mr. BOYCE. I offer the following as an additional section to the bill:

And be it further enacted, That hereafter it shall not be lawful to order the printing of any reports or other writings submitted to Congress, until the Joint Committee on Printing shall first estimate and report the extent and probable cost of the reports or writings to be printed.

Mr. PHELPS. I rise to a question of order. The amendment of the gentleman from South Carolina is a proposition to change the rules of the House, and is not germane to the bill. I will vote with the gentleman for the adoption of a rule for the government of the House that no report shall be ordered to be printed until the manuscript shall be in the possession of the House, and the Committee on Printing shall have reported the cost; but it is not in order as an amendment to this bill.

Mr. HOUSTON. Let us put it in this bill.

Mr. NICHOLS. I ask the gentleman from South Carolina to incorporate the following in his amendment:

And that hereafter when any report or other communication is submitted to either House of Congress by any Department, bureau, or office of the Government, or by any other person or persons, and such report or other communication is ordered to be printed, no additions of any kind shall be made thereto without the direction of the House or of Congress giving the order to print, and no alterations or corrections shall be made therein which will change the character of the work as originally communicated and ordered to be printed, or which may add to the cost of printing.

Mr. BOYCE. I cannot accept that.

Mr. PHELPS. I withdraw the point of order.

Mr. HOUSTON. I hope the gentleman from Ohio will modify his amendment, so as to provide that no alteration or change shall be made unless under the direction of the House or of Congress.

Mr. NICHOLS. That is now the language of the amendment.

The CHAIRMAN. This debate is not in order.

Mr. PHELPS. I suggest to the gentleman from South Carolina to modify his amendment, so as to embrace extra copies.

Mr. BOYCE. I will accept of that modification. The great difficulty in reference to the expense of this printing department of the Government is, that Congress is induced to order the printing of works without knowing anything about the extent of those works, or the expense of printing them.

Now, if Congress, in ordering the printing of Gilliss's report, or the Japan expedition, or Emory's report, had had any idea of the extent of those works, or of their immense expense, I do not believe they would ever have ordered the printing of those works. The amendment I propose meets this difficulty, and requires that an estimate of the probable extent of the work and of the expense shall be submitted to Congress at the very threshold. In that way Congress cannot be drawn unexpectedly and ignorantly into

undertaking to print these mammoth works which cost such immense sums of money, and half of which are worth nothing when completed. Vast expenditures have been made upon this matter of printing, and a great deal of the matter printed is the veriest trash in the world; it only incumbers the mails, and is worth nothing. In order, therefore, to put an end to this growing evil, this profligate expenditure of the public money upon this printing department, it seems to me that we had better adopt some additional amendment or section like the one I have suggested, and I leave it to the committee.

Mr. LOVEJOY. I wish to make but a single remark, Mr. Chairman, and that is, that I hope we shall not spend so much time and economy on these little dribbling expenditures, as to prevent us from stopping the greater expenditure in reference to the Army, &c. We do get some benefit from all these appropriations, and I am inclined to vote for the bill. I would like, however, an assurance from the gentleman from Missouri [Mr. PHELPS] on one point. In the correspondence that was read by the gentleman from Virginia, [Mr. CLEMENS,] at the opening of Congress, the election of Mr. Wendell, as Printer, was urged on the ground that he had bled so patriotically and so freely in the last presidential campaign —

Mr. PHELPS. I must make a question of order on the gentleman from Illinois.

Mr. LOVEJOY. I think I am in order. I simply want an assurance from the gentleman from Missouri that none of this money is to go to remunerate Mr. Wendell for these patriotic services.

Mr. PHELPS. I will answer the inquiry of the gentleman from Illinois in this way. Mr. Wendell can get nothing under this bill except for work performed according to the prices specified in the act of Congress of 1852, when the prices were regulated by Congress.

Mr. LOVEJOY. Then I can vote for the bill with a great deal of satisfaction. I believe we do get some benefit from all these publications.

The question was taken on Mr. Boyce's amendment to the amendment, and it was adopted.

Mr. GARNETT. I offer the following amendment to come in as an additional section:

And no extra copies of any document shall be printed, except when ordered by joint resolution.

My motive in offering this amendment is a very simple one. It is to restore the business of printing to the limits of our constitutional authority. Under the name of contingent funds, and orders of a single House of Congress, we have spent, under the head of printing, two and a half millions in the last Congress, and have averaged a million and a quarter for the last four years, and this not by authority of law, but by the order of a single House of Congress.

Now there is no power in the Constitution more carefully guarded than the power over the purse. In all forms of republican government the money power is the one that is most carefully limited; and under our form of government, the Constitution requires that before any money is appropriated or spent, the expenditure shall be sanctioned by both Houses of Congress, and approved by the President. And yet, sir, by a species of legislative legerdemain, we have succeeded, for the last four years, in averaging a million and a quarter in the single matter of printing, without any other sanction whatever than resolutions passed in a single House of Congress, most frequently under the gag, and without the yeas and nays.

If the amendment be adopted, it will at once put a stop to this thing. No large expenditure for printing can then be made unless sanctioned by the legislative authority of this Government, by both Houses of Congress, and by the signature of the President. I submit, then, whether it would not be a worthy and proper reform for this Congress to inaugurate, to declare that while each House of Congress shall be competent to order that printing which is necessary for its own purposes, to enable them to discharge their duties as legislators intelligently, yet that all general

expenditures for printing—this immense hole in which so much money is annually sunk—shall be placed again under the control of the proper legislative department of the Government. Many of the amendments hitherto offered have looked to remedying past abuses. This amendment looks to preventing such abuses for the future; and in my humble judgment, it will go far to promote economy and bring down the printing expenses of Congress to the ancient standard.

Mr. WASHBURN, of Illinois. I rise to oppose the amendment offered by the gentleman from Virginia, [Mr. GARNETT,] merely for the purpose of making one statement. The other day I adverted to the great value of a work which had been published by order of Congress—the Commercial Relations—and I said that it had done us great credit at home and abroad. I am very unwilling that that work, which I really think the only valuable one that Congress has printed, should be put in the same category with these other trashy publications, and made to bear the burden of them. And I now desire to have read to the House an extract from a letter just received at the State Department, addressed to the superintendent, (Mr. Flagg,) from Mr. Alexander Vauemare, agent for international exchanges, dated at Paris, December 1, 1857, in reference to that work, to show how it is regarded abroad.

The extract was read, as follows:

"According to your instructions, I presented to his excellency the Minister of Agriculture, Commerce, and Public Works, the third and fourth volumes, with your thanks. This distinguished statesman received them with gratitude, and expressed once more his high appreciation of your most valuable Herculean labors, and instructed me to renew to you his congratulations for the same. While examining them, the minister expressed his admiration for the beauty and perfection with which these volumes are executed, as well as the liberality of the Federal Government, which never shrinks before any sacrifices calculated to elevate the American character, and the promotion of useful knowledge."

The question being on Mr. GARNETT's amendment to the amendment,

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. HASKIN and DEWART were appointed.

The question was taken; and the tellers reported—yes ninety-one, a further count not being demanded.

So the amendment was adopted.

Mr. NICHOLS. I move the following as an additional section to the bill:

SEC. 3. And be it further enacted, That hereafter, when any report or other communication is submitted to either House of Congress, by any Department, bureau, or office of the Government, or by any other person or persons, and such report or other communication is ordered to be printed, no additions of any kind shall be made thereto, without the direction of the House of Congress giving the order to print; and no alterations or corrections shall be made therein which will change the character of the work as originally communicated and ordered to be printed, or which may add to the cost of printing, without the order of the House ordering the said extra copies.

Mr. Chairman, I offer that amendment for the purpose of obviating an objection which has run through this whole debate. Now, sir, if you will take the last two reports of the Superintendent of the Public Printing, you will find this state of facts existing: that when the report was made to the House of Representatives on the 13th of January, 1857, you will find, in reference to the Pacific railroad report, for instance, that the Superintendent of the Public Printing states that the work will be embraced in six volumes. If you will take the report made by the same officer a year subsequently, you will find that the same work is to be embodied in eleven volumes. Now, sir, this discrepancy comes from the failure of the House, in making its order to print, to limit the amount of matter to be embodied in the report. My amendment is designed substantially to cover this point. It provides, that whenever any report shall be submitted for printing, it shall be perfect in itself, and that it shall be within the control of no other person; that neither the Superintendent of Public Printing, nor the author, nor any executive officer, shall have the power to embody additional matter in the report; that they shall be bound by the report as at first presented. I think that every member of this House has been able to gather sufficient from the discussion which has taken place on this question, to see the necessity of some peremptory provision of law to furnish some check upon the executive officers upon this subject.

I would have preferred to have offered this provision in another form. I believe that independent legislation on an appropriation bill is improper, and in violation of the rules of the House; but inasmuch as the committee have already adopted substantial provisions of legislation, and incorporated them into this appropriation bill, I have offered this amendment in good faith, and I hope it will be adopted. I believe it is the most material amendment which has been offered, and that it will place a salutary and necessary limitation upon the officers having in charge the matter of the public printing.

Mr. HOUSTON. My opinion is that the amendment just offered by the gentleman from Ohio conflicts with that already adopted. I understand the amendment of the gentleman from Virginia, adopted a moment ago, provides that no additional or extra copies of any work shall be ordered, without the concurrence of both Houses of Congress. The amendment of the gentleman from Ohio, as I understand it, provides that no change shall be made in reports as first presented without the consent of the House ordering it to be printed. If the gentleman from Ohio will strike out the last part of his amendment, I think it will make the matter consistent, and I shall be in favor of it.

Mr. NICHOLS. I will modify my amendment by striking out these words: "without the order of the House ordering the said extra copies." I will say, however, for the information of the gentleman from Alabama, that the limitation contained in my amendment was designed to apply as well to the regular copies ordered to be printed, as to the extra copies.

The amendment was agreed to.

Mr. MORRIS, of Illinois. I submit the following as an additional section:

Be it further enacted, That hereafter it shall be the duty of the Executive Departments to contract for and procure the printing, on the most favorable terms possible, of all forms, blanks, and other printing necessary for or connected with their respective Departments, at such point or points, or in the vicinity thereof, in the United States, where such forms, blanks, or other printing may be required for use: Provided, That such printing shall not exceed in price the amount heretofore paid for the same.

Mr. Chairman, the practice now is, as I understand it, to print all the blanks and forms needed for Government purposes in the city of Washington, and send them throughout the United States to the different post offices. The object of my amendment is to have this printing done in the States where it is required. The work can be done there just as cheaply as it can be done here, and more expeditiously. I think, therefore, the amendment is proper, and that the House ought to order this printing to be done where it is required.

I know no reason why all the Government patronage should be confined to two or three papers in the city of Washington. The constituents of every gentleman upon this floor contribute their equal proportion to pay these expenses; and if there is any advantage arising from this, they ought to be permitted to share in it, and it should not be monopolized in the city of Washington. If post office blanks and forms are needed in your State and mine, let the Postmaster General contract with some printing establishment there to furnish them. Then the mails will not be constantly incumbered with these forms and blanks.

Mr. LETCHER. I am opposed to the amendment of the gentleman from Illinois, and I am opposed to it on the score of economy. Now it is perfectly manifest that by this amendment you are to have thirty-one places for printing these blanks, and you are to pay thirty-one times for the composition of these blanks; while, as it now is, we print all these blanks in the city of Washington, or, perhaps, a part of them in New York. We pay for the composition only once, in the one case, or only twice at the furthest. So that the additional cost is nothing more than paper and press-work.

Mr. MORRIS, of Illinois. I merely wish to say to the gentleman from Virginia that if he will notice the proviso to the additional section which I have offered, he will see that his objection amounts to nothing; for the proviso is that the printing shall not cost more than it would if printed in this city.

Mr. LETCHER. The gentleman will see at once, that if this plan is to be adopted, you necessarily increase the cost of printing here, on ac-

count of the less amount to be done, and thus you necessarily run up the cost elsewhere, as the cost here is taken as the basis of compensation elsewhere.

Mr. PHELPS. And besides, you have the expense of sending the paper to those various points.

Mr. LETCHER. It strikes me that it will be vastly cheaper to send the blanks, after they are printed here, to the various post offices of the United States.

There is one way in which you might lighten the cost and expense; and that is, to stop the transmission of seeds through the mails, which would lessen, to some extent, the cost of mail transportation. But, at any rate, the proposed plan will be attended with greater expense to attain the end than is now incurred by the Government.

Mr. HOUSTON. I propose to offer an amendment to the amendment.

Mr. CRAWFORD. I rise to a point of order in reference to the amendment of the gentleman from Illinois. I think there is a short way of disposing of that amendment. We are now upon a deficiency bill to supply deficiencies in the public printing ordered by the Senate and House of Representatives. Here is a proposition which travels outside of the question before the committee. It proposes to regulate the manner in which the printing of the Executive Departments shall be done. I therefore make the point of order that it has no reference whatever to the subject-matter before the committee.

Mr. HOUSTON. The gentleman makes the point too late.

The CHAIRMAN. The Chair overrules the point of order, believing that it is made too late.

Mr. HOUSTON. I now propose to offer, as a substitute for the amendment, the amendment which I offered a short time ago and which was ruled out of order. The substitute proposes to restrict the publication of these notices which ought to be published in the States. They ought to be published in the States instead of here, and the money which is paid for that labor here should be distributed among the States where the blanks and forms are needed. My substitute proposes that instead of their being published in two or three papers here, the publication shall be confined to one paper, and that the thirty or forty thousand dollars saved thereby shall be paid for publication in the States where the service is performed.

Mr. SEWARD. I rise to a point of order. The amendment is not in order.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. HOUSTON. The amendment relates to precisely the same subject as that of the gentleman from Illinois.

Mr. SEWARD. If it is out of order I object to it.

Mr. HOUSTON. I hope that the Chair will be good enough to look at the amendment. It was ruled out of order before, and now the Chair has admitted an amendment regulating the printing of the Executive Departments. Now, I ask by what discriminating process a difference can be drawn between the gentleman's amendment and my own?

The CHAIRMAN. The Chair rules the amendment out of order. The question is upon the amendment of the gentleman from Illinois.

The question was taken; and the amendment was disagreed to.

Mr. CRAWFORD. I offer the following amendment: Insert after the word "dollars," in the amendment of the gentleman from Kentucky, [Mr. BURNETT,] the following:

And that said sum of money, so appropriated, shall be applied to the completion of the "Pacific railroad surveys" and the "commercial relations," and to such other work as has been ordered by Congress, which is now executed; and that the Committee on Printing be instructed to inquire and report whether or not any portion of the works above specified for completion can be dispensed with without injury to the volumes already completed.

And strike out all after said word "dollars," down to the amendment offered by the gentleman from Virginia.

Mr. PHELPS. I rise to a question of order.

Mr. SEWARD. The original bill is now being amended, and I suggest to the gentleman from Georgia that the amendment of the gentleman from Kentucky is not now before the committee.

The CHAIRMAN. The Chair thinks that an

amendment to the amendment of the gentleman from Kentucky is in order.

Mr. CRAWFORD. Of course it is. It would be very remarkable if it were not.

Mr. Chairman, I propose my amendment as an amendment to the amendment of the gentleman from Kentucky, [Mr. BURNETT.] The gentleman from Kentucky proposes to strike out everything after the seventh line of the bill, and to appropriate \$420,000 for the printing, binding, engraving, lithographing, and so forth. Now, I propose to amend his amendment, so as to direct that the \$420,000 shall be appropriated to the completion of the Pacific railroad reports and the report on commercial relations, and such other works as are now executed and ready for delivery. My amendment furthermore provides that the Committee on Printing be instructed to inquire into the fact whether or not it would be proper to dispense with any portion of the Pacific railroad surveys or the commercial relations; and if so, that that committee report the fact to the House. The \$420,000 will be amply sufficient for that purpose. A sum of \$316,000 would cover the amount of printing, binding, engraving, and lithographing, for which we now owe; and the sum proposed by the gentleman from Kentucky gives \$104,000 in addition to that.

Now, I desire to state to the committee that, in the original bill, the Committee of Ways and Means ask for \$178,000 for lithographing and engraving, whilst there is, in the hands of the proper officers, the sum of \$125,000 that has not yet been disbursed. Again, sir, none of the binding of seventy thousand extra copies, and ten thousand seven hundred and ten regular copies of the Pacific railroad surveys has been done; and there is, in the hands of the Clerk of the House of Representatives, at this time, a sum of \$125,000. That, with the amount proposed by the amendment of the gentleman from Kentucky, will make a sufficient sum to cover the entire amount of the debt, as well as to carry forward the Pacific railroad surveys and the commercial relations, provided the Committee on Printing deem it proper and right to continue the publication of those works to their completion. Now, I ask the committee to adopt that amendment.

Mr. PHELPS. I would ask the gentleman from Georgia whether he is not aware that the sums now in hand, to which he has referred, were deducted by the Committee of Ways and Means, with the exception of some \$5,000?

Mr. CRAWFORD. I know that.

Mr. PHELPS. Then justice required that you should state it to the committee.

Mr. CRAWFORD. The Clerk says that there is a sum of \$125,000 still in his hands to pay for this work, and I am informed by an officer under the Clerk of the House that none of the binding of the Thirty-Third Congress or of the Thirty-Fourth Congress has yet gone into the hands of the binder, and they have money yet on hand to pay for lithographing and engraving. Why, then, should we appropriate \$790,000 when they have in their possession \$125,000 which has not yet been expended on binding and lithographing? I hope the committee will adopt my amendment.

Mr. PHELPS. I desire that the Clerk shall report the amendment of the gentleman from Kentucky as it will read if the amendment of the gentleman from Georgia shall be adopted. If I understand the amendment, the gentleman proposes to strike out matter which has already been adopted by the committee. If that be so, I desire to make the question of order, that the gentleman has no right to submit an amendment to strike out what has been adopted by the committee.

The amendments were again read.

Mr. PHELPS. If the amendment of the gentleman from Georgia is entertained, I have something to say in opposition to it.

The CHAIRMAN. The Chair decides that the amendment is in order.

Mr. PHELPS. I have but a few remarks to make. I was astonished that the gentleman from Georgia, who is a member of the Committee of Ways and Means, did not inform the House that that committee had diminished the appropriation by so much money as was in the hands of the Clerk, which might be applied to the payment of the expense of binding, engraving, and lithographing. His statement would seem to convey the idea that the Committee of Ways and Means

did not take that into consideration, when the fact is, they did diminish the appropriations by that amount with the exception of \$5,000 which it was intimated was necessary to pay bills outstanding.

But the gentleman from Georgia rises and tells you, when the printing of the Commercial Relations has not been completed, that he wants no portion of this money to go to defray the expenses of printing that work.

Mr. CRAWFORD. No, sir, I did not say that.

Mr. PHELPS. Then I misunderstood the gentleman, and I have no desire to misrepresent him. But I understood the gentleman to say that no portion of the documents ordered to be printed by the Thirty-Third Congress had as yet been bound. The gentleman stated that—

Mr. CRAWFORD. I did not. If the gentleman will allow me, I will repeat what I said, or intended to be understood as saying. I intended to say that the binding for the Thirty-Third Congress amounted to \$93,000, and the binding for the Thirty-Fourth Congress amounted to \$39,000, making in all \$132,000, which amount was estimated for by the committee, that there was now in the hands of the Clerk \$75,000, and that no portion of the work had gone to the binders. That is what I stated.

Mr. PHELPS. The way in which the bill was prepared was this. The Clerk submitted to the Committee of Ways and Means his estimate of the amount necessary to defray the expenses. He exceeded the amount of money which he has at his disposal for this purpose; and we have diminished the sum by the amount of money which the Clerk has on hand, in each instance, for the binding and engraving. So that we do not appropriate any more money than is necessary, according to the estimate of the Clerk, including the unexpended balance of appropriation on hand. I hope the amendment will not be adopted.

The question was taken on Mr. CRAWFORD's amendment to the amendment; and it was rejected.

Mr. PHELPS. I now ask that the Clerk report the amendment of the gentleman from Kentucky, [Mr. BURNETT,] with the part of the bill which it proposes to strike out. Then we can make it a test vote, and can vote understandingly.

Mr. BURNETT's amendment, as amended by that of Mr. SEWARD, was reported as follows:

Strike out of the bill the following words:

The following sums of money are hereby appropriated out of any money in the Treasury not otherwise appropriated:

To pay for paper, \$169,133.

To pay for the printing ordered by the Senate and House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, \$122,564 58.

To pay for the binding, lithographing, and engraving ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses, \$320,555 15.

To pay for the binding, engraving, lithographing, and electrotyping ordered by the House of Representatives during the Thirty-Third and Thirty-Fourth Congresses, \$178,321 53.

And insert in lieu thereof the following:

The sum of \$420,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That no part of the appropriations contemplated by this act shall be paid, unless the same be received and accepted by those claiming to be entitled thereto in full consideration for any and every book now printed or to be printed; for all paper now purchased, or to be purchased; for all engravings, finished or unfinished; lithographing, finished or unfinished; or any other work done, or to be done, ordered during the Thirty-Third and Thirty-Fourth Congresses, upon the condition only so far as may be within the legal operation of some contract heretofore entered into, which shall be determined by the Secretary of the Treasury.

Mr. BURNETT. I desire to know whether it is not in order for me to move that the amendments of the gentleman from Virginia, [Mr. GARRETT,] and of the gentleman from Missouri, [Mr. PHELPS,] be added to my amendment as amended?

The CHAIRMAN. The gentleman can offer a substitute for the whole bill.

Mr. HOUSTON. The amendment of the gentleman from Kentucky is proposed as a substitute. Is it not in order now to amend that amendment?

The CHAIRMAN. It is in order to amend it by adding to it.

Mr. HOUSTON. Well, I understand that the gentleman from Kentucky moves to add these other amendments to his. His motion is to embody them all in one amendment; and then the two propositions will come up in competition, the original bill as amended, and the amendment as amended. That is competent; and the Chair is right in so ruling.

The CHAIRMAN. The Chair decides that it

is competent for the gentleman from Kentucky to move to amend his amendment.

Mr. BURNETT. That is the motion I make.

Mr. ZOLLICOFFER. I ask for the reading of the propositions to be added as amendments to the amendment of the gentleman from Kentucky. The amendments were again read.

The question now being on Mr. BURNETT's amendment to the amendment,

Mr. HOUSTON called for tellers.

Tellers were ordered; and Messrs. BUFFINTON and TALBOT were appointed.

The question was then taken; and the tellers reported—*yeas* 58, *noes* 69.

So the amendment was not agreed to.

[The committee here informally rose, and a message in writing was received from the President of the United States, by JAMES BUCHANAN HENRY, his Private Secretary, which was handed in at the Speaker's table; and the committee again resumed its session.]

The question then recurred on the substitute submitted by Mr. BURNETT as amended.

The amendment as amended was disagreed to—*yeas* 51, *noes* 80.

Mr. SEWARD. I now move my amendment as an amendment to the original bill. I move to add at the end of the bill the following proviso:

Provided, That no part of the appropriations contemplated by this act shall be paid, unless the same be received and accepted by those claiming to be entitled thereto, in full consideration for any and every book now printed or to be printed; for all paper now purchased or to be purchased; for engraving finished or unfinished; lithographing finished or unfinished; or any other work done or to be done; ordered during the Thirty-Third or Thirty-Fourth Congresses, and then only so far as may be within the legal operation of some contract heretofore entered into, which shall be determined by the Secretary of the Treasury.

Mr. PHELPS. I hope the gentleman will not insist on his amendment. It is substantially embraced in the amendments adopted to the original bill.

Mr. SEWARD. I insist on my amendment; and demand tellers.

Tellers were ordered; and Messrs. BURNETT and ADRIN were appointed.

The question was taken; and the tellers reported—*yeas* 61, *noes* 62.

So the amendment was lost.

Mr. PHELPS. I now move that the committee rise, and report the bill and amendments to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVIS, of Indiana, reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill (H. R. No. 202) to appropriate money to supply deficiencies for the paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and had directed him to report the same to the House with sundry amendments, with a recommendation that they be concurred in.

Mr. PHELPS. I demand the previous question.

Mr. SEWARD. I move to lay the bill upon the table; and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and decided in the negative—*yeas* 88, *nays* 103; as follows:

YEAS—Messrs. Atkins, Avery, Blair, Burlingame, Burnett, Case, Clawson, Clemens, Cobb, Clark, B. Cochrane, Colfax, Covode, Burton, Craig, Crawford, Curry, Davis of Massachusetts, Davis of Iowa, Dewart, Dodd, Durfee, Eliott, English, Fenton, Foley, Garnett, Gartrell, Gilman, Goodwin, Grow, Thomas L. Harris, Haskin, Hill, Hoard, Houston, Hughes, Jackson, Leavitt, George W. Jones, Keitt, Kilgore, Lamar, Leach, Leiter, McQueen, Humphrey Marshall, Maynard, Miles, Miller, Potter, Powell, Quinman, Olin, Palmer, Parker, Pettit, Rowce, Seales, Seward, Ready, Reagan, Ricard, Robbins, Judson W. Sherman, Henry M. Shaw, John Sherman, Stanton, Stephens, Stevenson, Talbot, Thayer, Tompkins, Tripp, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Israel Washburn, Watkins, Wilson, Wood, Augustus R. Wright, John V. Wright, and Zollicofer—88.

NAYS—Messrs. Abbott, Adrain, Ahl, Anderson, Andrews, Arnold, Billingshurst, Bingham, Bishop, Bliss, Bock, Braxton, Bryan, Buffinton, Burroughs, Campbell, Cassie, Claflie, Chapman, Ezra Clark, John B. Clark, Clay, John Cochrane, Cockrell, Comins, Cox, James Craig, Danzell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dean, Edmundson, Eustis, Farnsworth, Faulkner, Florence, Foster, Giddings, Gillis, Gilmer, Gooch, Goode, Granger, Greenwood, Gregg, Groesbeck,

Lawrence W. Hall, Robert B. Hall, Harlan, Hatch, Hawkins, Hickman, Hopkins, Horton, Howard, Huyler, Jenkins, J. Glancy Jones, Owen Jones, Kelogg, Kelly, Kelsey, Jacob M. Kunkel, Landy, Lawrence, Leidy, Letcher, Lovejoy, Maclay, Millson, Montgomery, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Niblack, Nichols, Peyton, Phelps, Phillips, Pike, Pottle, Purviance, Reilly, Ritchie, Russell, Sandidge, Scott, Shorter, Sickles, Samuel A. Smith, James A. Stewart, Tappan, Wade, Ward, Ellihu B. Washburne, White, Whiteley, Winslow, Woodson, and Wortendyke—103.

So the House refused to lay the bill upon the table.

Pending the call,

Mr. SHORTER stated the gentleman from Louisiana, Mr. TAYLOR, was confined to his room by sickness.

The previous question was seconded; and the main question ordered to be put.

Mr. PHELPS. I suggest that the amendments be read over; and that any member, who desires, may indicate any particular amendment that he wishes a separate vote upon, and that we vote upon the remaining ones *en masse*.

Mr. SEWARD. I object. I want a vote upon each amendment separately.

Mr. MORRIS, of Illinois. I rise to a privileged question. I voted against laying the bill upon the table, supposing that the vote was upon the proposition itself. I should have voted for laying it upon the table, had I understood the question.

The question recurred upon the first amendment, as follows:

And be it further enacted, That the Joint Committee on Printing is hereby directed to inquire if it is right and expedient to discontinue the further publication of any of the reports ordered to be printed by either the Senate or House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, which have not yet been printed, in whole or in part.

Mr. SEWARD. I move that the amendment be laid upon the table.

Mr. PHELPS. Does not that carry the bill with it?

Mr. SEWARD. It does; and I make the motion for that purpose.

The motion was not agreed to.

Mr. SEWARD. I rise to a question of order. That amendment, sir, has no relation to the original subject-matter of the bill. The bill is one to appropriate money to pay for printing, binding, and engraving done, for paper furnished, and so forth. That amendment proposes to place in the hands of the Joint Committee on Printing the power to revise all these works, to direct a discontinuance of them if they think proper, and to report to the House. That is new and distinct legislation.

The SPEAKER. The question of order might have been very appropriate in the Committee of the Whole on the state of the Union, but it cannot be entertained in the House. The Chair therefore overrules the question of order.

Mr. MAYNARD. I would ask what would be the effect of laying the amendment on the table? Would it carry the whole bill with it?

The SPEAKER. It would.

Mr. SEWARD. Do I understand the Chair to decide that the House is committed by the decision of the committee?

The SPEAKER. That is the decision of the Chair. The Chair would feel very unwilling, by a mere opinion of his, to overrule the decision of the Committee of the Whole, and to decide that to be out of order which the committee decided was in order, and proper to be reported to the House. The proper time for the gentleman from Georgia to have raised the question of order would have been when the amendment was offered in the Committee of the Whole on the state of the Union.

The amendment was agreed to.

The second amendment was then read, and agreed to, as follows:

And be it further enacted, That it shall not be lawful to order the printing of extra copies of any reports or other writings submitted to Congress, until the Joint Committee on Printing shall first estimate and report the extent and probable cost of the reports or writings to be printed.

The third amendment was then read, as follows:

And no extra copies of any document shall be printed, except when ordered by joint resolution.

Mr. SEWARD. I move to lay that amendment upon the table.

Mr. BLAIR. What would be the effect of that motion? Would it not carry the whole bill on the table?

The SPEAKER. That is the effect of it.

Mr. READY. Well, is the motion in order after the House has refused to lay the bill upon the table?

The SPEAKER. The Chair thinks it is, because the bill is not now in the condition, legislatively, that it was in when the motion was made to lay it upon the table.

Mr. STANTON. I rise to a question of order. I submit that, if the gentleman from Georgia wants his motion acted upon by the House, he should put it in a form in which it would be in order. The motion to lay the amendment on the table is not in order, because it would carry the bill with it.

Mr. SEWARD. I am surprised that the gentleman from Ohio should make such a statement as that, in the face of his experience in Congress for the last four or five years.

The SPEAKER. The Chair entertains the motion of the gentleman from Georgia.

The question was taken; and the House refused to lay the amendment on the table.

Mr. GROW. I call for the yeas and nays upon agreeing to the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 75; as follows:

YEAS—Messrs. Adrain, Anderson, Andrews, Atkins, Avery, Barksdale, Blair, Boeck, Bryan, Burnett, Burns, Case, Caskey, Chapman, Ezra Clark, Clay, Clemens, Cobb, Clark B. Cochran, John Cochran, Cockerill, Cox, James Craig, Burton Craige, Crawford, Curry, Davis of Maryland, Davis of Mississippi, Dodd, Dowdell, Edmundson, English, Faulkner, Fenton, Foley, Garnett, Gartrell, Gilmer, Goode, Greenwood, Gregg, Lawrence W. Hall, Harlan, Thomas L. Harris, Hatch, Hawkins, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Keitt, Kilgore, Jacob M. Kunkel, Letcher, McKibbin, McQueen, Samuel S. Marshall, Maynard, Miles, Miller, Millson, Moore, Morgan, Morrill, Isaac N. Morris, Mott, Niblack, Nichols, Olin, Pettit, Peyton, Pike, Powell, Quidman, Ready, Reagan, Ricard, Sandidge, Scales, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, Robert Smith, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Tompkins, Trippe, Underwood, Walbridge, Waldron, Ward, Ellihu B. Washburne, Watkins, Whiteley, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—116.

NAYS—Messrs. Abbott, Ahl, Arnold, Bingham, Bishop, Bliss, Braxton, Buffinton, Burlingame, Burroughs, Campbell, Chaffee, John B. Clark, Clawson, Colfax, Comins, Covode, Cragin, Danrell, Davidson, Davis of Indiana, Davis of Iowa, Dean, Dewart, Durfee, Elliott, Eustis, Farnsworth, Florence, Foster, Giddings, Gilman, Gooch, Granger, Grow, Robert B. Hall, Haskin, Hickman, Jewett, Owen Jones, Kellogg, Kelly, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, Maclay, Humphrey Marshall, Montgomery, Edward Joy Morris, Freeman H. Morse, Parker, Phelps, Phillips, Potter, Pottle, Purviance, Reilly, Ritchie, Robbins, Royce, Russell, Scott, Sickles, Samuel A. Smith, William Stewart, Tappan, Thayer, Wade, Walton, Cadwalader C. Washburn, Israel Washburn, and White—75.

So the amendment was agreed to.

Mr. GARNETT moved to reconsider the vote by which the amendment was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HARRIS, of Illinois. Is it in order to move to lay this bill aside, and take up the message of the President of the United States which was received to-day?

The SPEAKER. The Chair thinks not.

Mr. HARRIS, of Illinois. May it not be done by unanimous consent?

The SPEAKER. It can be done by unanimous consent; but by nothing short of unanimous consent.

Mr. PHELPS. I must object at this time.

The fourth amendment was then read, and agreed to, as follows:

And be it further enacted, That hereafter, when any report or other communication is submitted to either House of Congress, by any Department, bureau, or office of the Government, or by any other person or persons, and such report or other communication is ordered to be printed, no additions of any kind shall be made thereto, without the direction of the House of Congress giving the order to print; and no alterations or corrections shall be made therein which will change the character of the work as originally communicated and ordered to be printed, or which may add to the cost of printing.

Mr. SINGLETON. I have a resolution which I desire to offer in connection with this bill.

Mr. PHELPS. I must object, the previous question having been sustained.

The amendments reported from the Committee of the Whole on the state of the Union having all been disposed of, the question recurred on order-

ing the bill to be engrossed and read a third time.

Mr. SHERMAN, of Ohio, demanded the yeas and nays.

The yeas and nays were not ordered.

The bill was then ordered to be engrossed, and read a third time.

Mr. HUGHES. Has the bill been engrossed?

The SPEAKER. It has not.

Mr. HUGHES. Then I object to the third reading at this time.

Mr. PHELPS. I hope the gentleman from Indiana will not interpose that objection. It is merely a formal one. I hope the gentleman will withdraw it, and let us dispose of this matter now.

Mr. HUGHES. I withdraw the objection.

Mr. ENGLISH. I renew it.

Mr. PHELPS. I move to reconsider the vote by which the bill was ordered to be engrossed; and upon that question I ask for the yeas and nays. By the time the vote has been taken the bill will be engrossed.

Mr. HOUSTON. I do not know who objected to the third reading of the bill. I expect to vote against the bill myself, but I hope that this kind of opposition will be withdrawn, and that we shall take the yeas and nays upon the passage of the bill.

Mr. SEWARD. I renew the objection to the third reading of the bill. I intend to fight this bill at every step. I move that the House do now adjourn.

Mr. LETCHER. I ask for the yeas and nays on the motion to adjourn.

The SPEAKER announced that thirty-five members voted for the yeas and nays.

Mr. PHELPS. I will inquire whether the bill is now engrossed?

The SPEAKER. It is.

Mr. PHELPS. Then I hope that the motion to adjourn will be withdrawn; and I withdraw my motion to reconsider.

Mr. SEWARD. I should like to know how the bill came to be engrossed with such dispatch?

Mr. LETCHER. I withdraw the call for the yeas and nays.

Mr. SEWARD. I renew the call for the yeas and nays.

The SPEAKER. The Chair had not announced that the yeas and nays were ordered. The gentleman from Virginia would not have the right to withdraw the call, provided the result had been announced.

Mr. PHELPS. I ask for tellers on the yeas and nays.

Tellers were ordered; and Messrs. CRAIG, of North Carolina, and WALDRON were appointed.

The House divided; and the tellers reported—ay one, noes not counted.

So the yeas and nays were not ordered.

Mr. SEWARD. I raise the point of order, whether the clerks of this House can engross a bill before it is ordered by the House to be engrossed?

Mr. LETCHER. I believe the Brunswick navy-yard bill was engrossed before it was ordered to be. [Laughter.]

Mr. SEWARD. That is a great mistake, sir. I make this point of order: that no clerk of this House is authorized to engross a bill until it is ordered to be engrossed. It was an unofficial act, done prior to the order of the House; and I might as well bring in a copy and tender it at the Clerk's desk and insist that it is an engrossed bill, as have it brought in in this way.

The SPEAKER. The Chair overrules the question of order raised by the gentleman from Georgia. The bill appears to be engrossed. The Chair does not know when it was done, nor is it requisite that the Chair should know.

Mr. JONES, of Tennessee. I hope that the rule, requiring bills to be engrossed and read a third time, will be observed. We have no Committee on Engrossment in this House, to report and certify that a bill is correctly engrossed. When a bill is ordered to be engrossed, the rule requires that the question should be put, "When shall the bill have its third reading?" Then the House can fix the time, whether now, to-morrow, or at any other time, provided that the bill be engrossed in a fair hand. Then it should be read to the House, so that each member may vote understandingly on its passage. But, sir, we have fallen into the habit—

The SPEAKER. Debate is not in order. The Chair understood the gentleman from Tennessee as rising to a question of order.

Mr. JONES, of Tennessee. If I am right, the first question is: "When shall this bill have its first reading?" And it is wrong, in my opinion, for us here to pass bills of this character till they have been engrossed.

The SPEAKER. Debate is objected to.

Mr. JONES, of Tennessee. I ask that the bill be read now as engrossed.

Mr. GROW. Rule 116 will settle the gentleman's point of order.

The rule was read, as follows:

"Upon the second reading of a bill the Speaker shall state it as ready for commitment or engrossment; and, if committed, then a question shall be, whether to a select or standing committee, or to a Committee of the Whole House; if to a Committee of the Whole House, the House shall determine on what day—if no motion be made to commit, the question shall be stated on its engrossment; and if it be not ordered to be engrossed on the day of its being reported, it shall be placed on the general file on the Speaker's table, to be taken up in order. But, if the bill be ordered to be engrossed, the House shall appoint the day when it shall be read the third time."

The SPEAKER. The Chair, in stating the question, stated it thus: Shall the bill be engrossed and read a third time? And the gentleman from Tennessee is aware that no other form of voting on the question has existed in this House, certainly for the last ten years.

Mr. JONES, of Tennessee. I know that; but we have been in the habit of reading the bill by its title, without being engrossed.

The SPEAKER. The gentleman has a right to demand that the engrossed bill shall be read.

Mr. PHELPS. I hope it will be read.

Mr. SEWARD. I move that the bill be referred to a select committee, to ascertain whether it is properly engrossed or not.

The SPEAKER. The motion is not in order; the previous question not being exhausted.

The bill, as engrossed, was read.

Mr. PHELPS moved to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The question then recurred on the passage of the bill.

Mr. PHELPS demanded the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. SEWARD. I move to strike out the caption of that bill.

The SPEAKER. The title of the bill is not yet before the House for consideration.

Mr. SHERMAN, of Ohio. Before the previous question is ordered on the passage of the bill, I would like to ask the gentleman from Missouri a question.

The SPEAKER. The gentleman will ask his question, unless objection is made.

Mr. BURNETT. I object.

Mr. SHERMAN, of Ohio. Then I hope the gentleman will withdraw the previous question to enable me to ask the question. I understand that this bill makes an appropriation for printing a book which has never been ordered to be printed by either House of Congress. I desire to know whether there is any appropriation in this bill for publishing the Dred Scott decision?

Mr. PHELPS. No, sir; it does not. I can answer that question.

The previous question was seconded, and the main question ordered to be put.

Mr. BURNETT demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 67, nays 135; as follows:

YEAS—Messrs. Adrain, Ahl, Arnold, Bishop, Bocoek, Bowie, Burroughs, Campbell, Chaffee, Chapman, Ezra Clark, John B. Clark, Clay, John Cochrane, Cox, James Craig, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Dean, Dowdell, Eustis, Farnsworth, Florence, Gillis, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Howard, Huyler, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kelsey, Landy, Leidy, Letcher, McClay, McKibbin, Millson, Montgomery, Mott, Niblack, Nichols, Pendleton, Peyton, Phelps, Phillips, Potte, Purviance, Reilly, Ritchie, Sandidge, Scott, Searing, Aaron Shaw, Samuel A. Smith, James A. Stewart, William Stewart, Ward, White, and Wortendyke—67.

NAYS—Messrs. Abbott, Anderson, Andrews, Atkins, Avery, Barksdale, Billingshurst, Bingham, Blair, Bliss, Brayton, Bryan, Buffinton, Burlingame, Burnett, Burns, Cuse, Caskie, Clawson, Clemens, Clingman, Cobb, Cock-

erill, Colfax, Comins, Covode, Cragin, Burton Craige, Crawford, Curry, Curtis, Damrell, Davis of Massachusetts, Davis of Iowa, Dewart, Dodd, Duffey, Edmundson, Elliott, English, Faulkner, Fenton, Forney, Foster, Garnett, Garrett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hill, Hoard, Hopkins, Horton, Houston, Hughes, Jackson, Jenkins, Jewett, George W. Jones, Keitt, Kilgore, Knapp, Jacob M. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Moore, Morgan, Morrill, Edward J. Morris, Isaac N. Morris, Parker, Pettit, Pike, Potter, Powell, Quitman, Ready, Reagan, Ricard, Robbins, Royce, Ruffin, Scales, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, Robert Smith, Spigner, Stallworth, Stanton, Stephens, Stevenson, Talbot, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Whiteley, Wilson, Winslow, Wood, Woodson, Augustus R. Wright, John V. Wright, and Zollicoffer—135.

So the bill was rejected.

Mr. HOUSTON. I move to reconsider the vote just taken for the purpose of recommitting the bill, with instructions to report a bill making an appropriation of a sum sufficient to pay for the work actually done.

Mr. LETCHER. I move to lay the motion to reconsider on the table.

The motion was agreed to.

THE LECOMPTON CONSTITUTION.

Mr. STEPHENS, of Georgia. I move to take up the message of the President of the United States, sent to us this morning.

No objection being made,

The SPEAKER laid before the House the following message of the President of the United States:

To the Senate and

House of Representatives of the United States:

I have received from J. Calhoun, Esq., President of the late constitutional convention of Kansas, a copy, duly certified by himself, of the constitution framed by that body, with the expression of a hope that I would submit the same to the consideration of Congress, "with the view of the admission of Kansas into the Union as an independent State." In compliance with this request, I herewith transmit to Congress for their action, the constitution of Kansas, with the ordinance respecting the public lands, as well as the letter of Mr. Calhoun, dated at Leocompton, on the 14th ultimo, by which they were accompanied. Having received but a single copy of the constitution and ordinance, I send this to the Senate.

A great delusion seems to pervade the public mind in relation to the condition of parties in Kansas. This arises from the difficulty of inducing the American people to realize the fact that any portion of them should be in a state of rebellion against the Government under which they live. When we speak of the affairs of Kansas, we are apt to refer merely to the existence of two violent political parties in that Territory, divided on the question of slavery, just as we speak of such parties in the States. This presents no adequate idea of the true state of the case. The dividing line there is not between two political parties, both acknowledging the lawful existence of the Government, but between those who are loyal to this Government and those who have endeavored to destroy its existence by force and by usurpation—between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress. This government they would long since have subverted, had it not been protected from their assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period, a large portion of the people of Kansas have been in a state of rebellion against the government, with a military leader at their head of a most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert it, and to establish a revolutionary government under the so-called Topeka constitution in its stead. Even at this very moment the Topeka Legislature are in session. Whoever has read the correspondence of Governor Walker with the State Department, recently communicated to the Senate, will be convinced

that this picture is not overdrawn. He always protested against the withdrawal of any portion of the military force of the United States from the Territory, deeming its presence absolutely necessary for the preservation of the regular government and the execution of the laws. In his very first dispatch to the Secretary of State, dated June 2, 1857, he says: "The most alarming movement, however, proceeds from the assembling on the 9th June of the so-called Topeka Legislature with a view to the enactment of an entire code of laws. Of course, it will be my endeavor to prevent such a result, as it would lead to inevitable and disastrous collision, and, in fact, renew the civil war in Kansas." This was with difficulty prevented by the efforts of Governor Walker; but soon thereafter, on the 14th July, we find him requesting General Harney to furnish him a regiment of dragoons to proceed to the city of Lawrence; and this for the reason that he had received authentic intelligence, verified by his own actual observation, that a dangerous rebellion had occurred, "involving an open defiance of the laws, and the establishment of an insurgent government in that city."

In the Governor's dispatch of July 15, he informs the Secretary of State "that this movement at Lawrence was the beginning of a plan, originating in that city, to organize insurrection throughout the Territory, and especially in all towns, cities, or counties where the Republican party have a majority. Lawrence is the hot-bed of all the abolition movements in this Territory. It is the town established by the abolition societies of the East; and, whilst there are respectable people there, it is filled by a considerable number of mercenaries, who are paid by abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State Legislature to organize this insurrection, Lawrence has commenced it herself; and if not arrested, the rebellion will extend throughout the Territory." And again: "In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the Republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the Government and to the Union; and that the continued presence of General Harney here is indispensable, as originally stipulated by me, with a large body of dragoons and several batteries."

On the 20th July, 1857, General Lane, under the authority of the Topeka convention, undertook, as Governor Walker informs us, "to organize the whole so-called free-State party into volunteers, and to take the names of all who refuse enrollment. The professed object is to protect the polls, at the election in August, of the new insurgent Topeka State Legislature." "The object of taking the names of all who refuse enrollment is to terrify the free-State conservatives into submission. This is proved by recent atrocities committed on such men by Topekaites. The speedy location of large bodies of regular troops here, with two batteries, is necessary. The Lawrence insurgents await the development of this new revolutionary military organization," &c., &c.

In the Governor's dispatch of July 27, he says, that "General Lane and his staff everywhere deny the authority of the territorial laws, and counsel a total disregard of these enactments." Without making further quotations of a similar character from other dispatches of Governor Walker, it appears, by a reference to Mr. Stanton's communication to General Cass, of the 9th December last, that the "important step of calling the Legislature together was taken after I [he] had become satisfied that the election ordered by the convention on the 21st instant, could not be conducted without collision and bloodshed." So intense was the disloyal feeling among the enemies of the government established by Congress, that an election, which afforded them an opportunity, if in the majority, of making Kansas a free State, according to their own professed desire, could not be conducted without collision and bloodshed! The truth is, that up till the present moment, the enemies of the existing government still adhere to their Topeka revolutionary constitution and government.

The very first paragraph of the message of Gov-

ernor Robinson, dated on the 7th December, to the Topeka Legislature, now assembled at Lawrence, contains an open defiance of the Constitution and laws of the United States. The Governor says: "The convention which framed the constitution at Topeka, originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote, and also indirectly through two elections of State officers and members of the State Legislature. Yet it has pleased the Administration to regard the whole proceeding revolutionary."

This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government prescribed and recognized by Congress.

It is a usurpation of the same character as it would be for a portion of the people of any State of the Union to undertake to establish a separate government, within its limits, for the purpose of redressing any grievance, real or imaginary, of which they might complain, against the legitimate State government.

Such a principle, if carried into execution, would destroy all lawful authority, and produce universal anarchy.

From this statement of facts the reason becomes palpable why the enemies of the government, authorized by Congress, have refused to vote for delegates to the Kansas constitutional convention, and also, afterwards, on the question of slavery, submitted by it to the people. It is because they have ever refused to sanction or recognize any other constitution than that framed at Topeka. Had the whole Lecompton constitution been submitted to the people, the adherents of this organization would doubtless have voted against it, because, if successful, they would thus have removed an obstacle out of the way of their own revolutionary constitution. They would have done this, not upon a consideration of the merits of the whole, or any part of the Lecompton constitution, but simply because they have ever resisted the authority of the Government authorized by Congress, from which it emanated.

Such being the unfortunate condition of affairs in the Territory, what was the right, as well as the duty, of the law-abiding people? Were they silently and patiently to submit to the Topeka usurpation, or adopt the necessary measures to establish a constitution under the authority of the organic law of Congress?

That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress "to leave the people of the Territory perfectly free," in framing their constitution, "to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," and then to say that they shall not be permitted to proceed and frame a constitution in their own way without an express authority from Congress, appears to be almost a contradiction in terms. It would be much more plausible to contend that Congress had no power to pass such an enabling act, than to argue that the people of a Territory might be kept out of the Union for an indefinite period, and until it might please Congress to permit them to exercise the right of self-government. This would be to adopt, not "their own way," but the way which Congress might prescribe.

It is impossible that any people could have proceeded with more regularity in the formation of a constitution, than the people of Kansas have done. It was necessary first to ascertain whether it was the desire of the people to be relieved from their territorial dependence, and establish a State government. For this purpose the Territorial Legislature, in 1855, passed a law "for taking the sense of the people of this Territory upon the expediency of calling a convention to form a State constitution," at the general election to be held in October, 1856. The "sense of the people" was accordingly taken, and they decided in favor of a convention. It is true, that at this election the enemies of the territorial government did not vote, because they were then engaged at Topeka, without the slightest pretext of lawful authority, in framing a constitution of their own, for the purpose of subverting the territorial government.

In pursuance of this decision of the people in favor of a convention, the Territorial Legisla-

ture, on the 27th day of February, 1857, passed an act for the election of delegates, on the third Monday of June, 1857, to frame a State constitution. This law is as fair in its provisions as any that ever passed a legislative body for a similar purpose. The right of suffrage at this election is clearly and justly defined. "Every bona fide inhabitant of the Territory of Kansas" on the third Monday of June, the day of the election, who was a citizen of the United States, above the age of twenty-one, and had resided therein for three months previous to that date, was entitled to vote. In order to avoid all interference from neighboring States or Territories with the freedom and fairness of the election, provision was made for the registry of the qualified voters; and in pursuance thereof, nine thousand two hundred and fifty-one voters were registered. Governor Walker did his whole duty in urging all the qualified citizens of Kansas to vote at this election. In his inaugural address on the 27th of May last, he informed them that "under our practice the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you, under the call of the Territorial Legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress; and the authority of the convention is distinctly recognized in my instructions from the President of the United States."

The Governor, also, clearly and distinctly warns them what would be the consequences if they should not participate in the election. "The people of Kansas, then, (he says,) are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage; but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage, authorize those who do vote to act for them in that contingency; and the absentees are as much bound, under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

It may, also, be observed, that at this period any hope, if such had existed, that the Topeka constitution would ever be recognized by Congress, must have been abandoned. Congress had adjourned on the 3d of March previous, having recognized the legal existence of the Territorial Legislature in a variety of forms, which I need not enumerate. Indeed, the Delegate elected to the House of Representatives, under a territorial law, had been admitted to his seat, and had just completed his term of service on the day previous to my inauguration.

This was the propitious moment for settling all difficulties in Kansas. This was the time for abandoning the revolutionary Topeka organization, and for the enemies of the existing government to conform to the laws, and to unite with its friends in framing a State constitution. But this they refused to do; and the consequences of their refusal to submit to lawful authority and vote at the election of delegates may yet prove to be of a most deplorable character. Would that the respect for the laws of the land which so eminently distinguished the men of the past generation could be revived! It is a disregard and violation of law which have for years kept the Territory of Kansas in a state of almost open rebellion against its government. It is the same spirit which has produced actual rebellion in Utah. Should a general spirit against its enforcement prevail, this will prove fatal to us as a nation. We acknowledge no master but the law; and should we cut loose from its restraints, and every one do what seemeth good in his own eyes, our case will indeed be hopeless.

The enemies of the territorial government determined still to resist the authority of Congress.

They refused to vote for delegates to the convention; not because, from circumstances which I need not detail, there was an omission to register the comparatively few voters who were inhabitants of certain counties of Kansas in the early spring of 1857; but because they had predetermined, at all hazards, to adhere to their revolutionary organization, and defeat the establishment of any other constitution than that which they had framed at Topeka. The election was, therefore, suffered to pass by default; but of this result the qualified electors, who refused to vote, can never justly complain.

From this review it is manifest that the Lecompton convention, according to every principle of constitutional law, was legally constituted, and was invested with power to frame a constitution.

The sacred principle of popular sovereignty has been invoked in favor of the enemies of law and order in Kansas. But in what manner is popular sovereignty to be exercised in this country, if not through the instrumentality of established law. In certain small republics of ancient times, the people did assemble in primary meetings, passed laws, and directed public affairs. In our country this is manifestly impossible. Popular sovereignty can be exercised here only through the ballot-box; and if the people will refuse to exercise it in this manner, as they have done in Kansas at the election of delegates, it is not for them to complain that their rights have been violated.

The Kansas convention, thus lawfully constituted, proceeded to frame a constitution; and having completed their work, finally adjourned on the 7th day of November last. They did not think proper to submit the whole of this constitution to a popular vote; but they did submit the question whether Kansas should be a free or a slave State to the people. This was the question which had convulsed the Union and shaken it to its very center. This was the question which had lighted up the flames of civil war in Kansas, and had produced dangerous sectional parties throughout the Confederacy. It was of a character so paramount in respect to the condition of Kansas, as to rivet the anxious attention of the people of the whole country upon it, and it alone. No person thought of any other question. For my own part, when I instructed Governor Walker in general terms in favor of submitting the constitution to the people, I had no object in view except the all-absorbing question of slavery. In what manner the people of Kansas might regulate their other concerns, was not a subject which attracted any attention. In fact, the general provisions of our recent State constitutions, after an experience of eighty years, are so similar and so excellent, that it would be difficult to go far wrong at the present day in framing a new constitution.

I then believed, and still believe, that under the organic act the Kansas convention were bound to submit this all-important question of slavery to the people. It was never, however, my opinion that, independently of this act, they would have been bound to submit any portion of the constitution to a popular vote in order to give it validity. Had I entertained such an opinion, this would have been in opposition to many precedents in our history, commencing in the very best age of the Republic. It would have been in opposition to the principle which pervades our institutions, and which is every day carried out into practice, that the people have the right to delegate to representatives, chosen by themselves, their sovereign power to frame constitutions, enact laws, and perform many other important acts, without requiring that these should be subjected to their subsequent approbation. It would be a most inconvenient limitation of their own power imposed by the people upon themselves, to exclude them from exercising their sovereignty in any lawful manner they think proper. It is true that the people of Kansas might, if they had pleased, have required the convention to submit the constitution to a popular vote; but this they have not done. The only remedy, therefore, in this case, is that which exists in all other similar cases. If the delegates who framed the Kansas constitution have in any manner violated the will of their constituents, the people always possess the power to change their constitution or their laws according to their own pleasure.

The question of slavery was submitted to an

election of the people of Kansas, on the 21st December last, in obedience to the mandate of the constitution. Here again a fair opportunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question "in their own way," and thus restore peace to the distracted Territory; but they again refused to exercise their right of popular sovereignty, and again suffered the election to pass by default.

I heartily rejoice that a wiser and better spirit prevailed among a large majority of these people on the first Monday of January; and that they did, on that day, vote under the Lecompton constitution for a Governor and other State officers, a member of Congress, and for members of the Legislature. This election was warmly contested by the parties, and a larger vote was polled than at any previous election in the Territory. We may now reasonably hope that the revolutionary Topeka organization will be speedily and finally abandoned; and this will go far towards the final settlement of the unhappy differences in Kansas. If frauds have been committed at this election, either by one or both parties, the Legislature and the people of Kansas, under their constitution, will know how to redress themselves, and punish these detestable, but too common crimes, without any outside interference.

The people of Kansas have, then, "in their own way," and in strict accordance with the organic act, framed a constitution and State government; have submitted the all-important question of slavery to the people, and have elected a Governor, a member to represent them in Congress, members of the State Legislature, and other State officers. They now ask admission into the Union under this constitution, which is republican in its form. It is for Congress to decide whether they will admit or reject the State which has thus been created. For my own part, I am decidedly in favor of its admission, and thus terminating the Kansas question. This will carry out the great principle of non-intervention recognized and sanctioned by the organic act, which declares, in express language, in favor of "non-intervention by Congress with slavery in the States or Territories," leaving "the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." In this manner, by localizing the question of slavery, and confining it to the people whom it immediately concerned, every patriot anxiously expected that this question would be banished from the Halls of Congress, where it has always exerted a baleful influence throughout the whole country.

It is proper that I should briefly refer to the election held, under an act of the Territorial Legislature, on the first Monday of January last, on the Lecompton constitution. This election was held after the Territory had been prepared for admission into the Union as a sovereign State, and when no authority existed in the Territorial Legislature which could possibly destroy its existence, or change its character. The election, which was peaceably conducted, under my instructions, involved a strange inconsistency. A large majority of the persons who voted against the Lecompton constitution were, at the very same time and place, recognizing its valid existence in the most solemn and authentic manner, by voting under its provisions. I have yet received no official information of the result of this election.

As a question of expediency, after the right has been maintained, it may be wise to reflect upon the benefits to Kansas and to the whole country which would result from its immediate admission into the Union, as well as the disasters which may follow its rejection. Domestic peace will be the happy consequence of its admission; and that fine Territory, which has hitherto been torn by dissensions, will rapidly increase in population and wealth, and speedily realize the blessings and the comforts which follow in the train of agricultural and mechanical industry. The people will then be sovereign, and can regulate their own affairs in their own way. If a majority of them desire to abolish domestic slavery within the State, there is no other possible mode by which this can be effected so speedily as by prompt admission. The will of the majority is supreme and irresistible when expressed in an orderly and lawful manner. They can make and unmake constitutions at pleasure.

It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove. If they could do this they might tie their own hands for a hundred as well as for ten years. These are fundamental principles of American freedom, and are recognized, I believe, in some form or other by every State constitution; and if Congress, in the act of admission, should think proper to recognize them, I can perceive no objection to such a course. This has been done emphatically in the constitution of Kansas. It declares in the bill of rights that "all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper." The great State of New York is at this moment governed under a constitution framed and established in direct opposition to the mode prescribed by the previous constitution. If, therefore, the provision changing the Kansas constitution after the year 1864, could by possibility be construed into a prohibition to make a change previous to that period, this prohibition would be wholly unavailing. The Legislature already elected may, at its very first session, submit the question to a vote of the people whether they will or will not have a convention to amend their constitution and adopt all necessary means for giving effect to the popular will.

It has been solemnly adjudged, by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is therefore, at this moment, as much a slave State as Georgia or South Carolina. Without this, the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of a Territory acquired by the common treasure of all the States, would be closed against the people and the property of nearly half the members of the Confederacy. Slavery can, therefore, never be prohibited in Kansas, except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution.

On the other hand, should Congress reject the constitution, under the idea of affording the disaffected in Kansas a third opportunity of prohibiting slavery in the State, which they might have done twice before if in the majority, no man can foretell the consequences. If Congress, for the sake of these men who refused to vote for delegates to the convention, when they might have excluded slavery from the constitution, and who afterwards refused to vote on the 21st December last, when they might, as they claim, have stricken slavery from the constitution, should now reject the State, because slavery remains in the constitution, it is manifest that the agitation upon this dangerous subject will be renewed in a more alarming form than it has ever yet assumed.

Every patriot in the country had indulged the hope that the Kansas and Nebraska act would put a final end to the slavery agitation, at least in Congress, which had for more than twenty years convulsed the country and endangered the Union. This act involved great and fundamental principles, and, if fairly carried into effect, will settle the question. Should the agitation be again revived—should the people of the sister States be again estranged from each other with more than their former bitterness—this will arise from a cause, so far as the interests of Kansas are concerned, more trifling and insignificant than has ever stirred the elements of a great people into commotion. To the people of Kansas the only practical difference between admission or rejection depends simply upon the fact, whether they can themselves more speedily change the present constitution, if it does not accord with the will of the majority, or frame a second constitution to be submitted to Congress hereafter. Even if this were a question of mere expediency, and not of right, the small difference of time, one way or the other, is of not the least importance, when contrasted with the evils which must necessarily result to the whole country from a revival of the slavery agitation.

In considering this question, it should never be forgotten that—in proportion to its insignificance,

let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas who have, from the beginning, resisted the constitution and the laws—for this very reason the rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union where slavery is recognized under the Constitution of the United States.

Again, the speedy admission of Kansas into the Union would restore peace and quiet to the whole country. Already the affairs of this Territory have engrossed an undue proportion of public attention. They have sadly affected the friendly relations of the people of the States with each other, and alarmed the fears of patriots for the safety of the Union. Kansas once admitted into the Union, the excitement becomes localized, and will soon die away for want of outside aliment. Then every difficulty will be settled at the ballot-box.

Besides, and this is no trifling consideration, I shall then be enabled to withdraw the troops of the United States from Kansas, and employ them on branches of service where they are much needed. They have been kept there on the earnest importunity of Governor Walker, to maintain the existence of the territorial government, and secure the execution of the laws. He considered that at least two thousand regular troops, under the command of General Harney, were necessary for this purpose. Acting upon his reliable information, I have been obliged, in some degree, to interfere with the expedition to Utah, in order to keep down rebellion in Kansas. This has involved a very heavy expense to the Government. Kansas once admitted, it is believed there will no longer be any occasion there for troops of the United States.

I have thus performed my duty on this important question, under a deep sense of my responsibility to God and my country. My public life will terminate within a brief period; and I have no other object of earthly ambition than to leave my country in a peaceful and prosperous condition, and to live in the affections and respect of my countrymen. The dark and ominous clouds which now appear to be impending over the Union, I conscientiously believe may be dissipated with honor to every portion of it, by the admission of Kansas during the present session of Congress; whereas, if she should be rejected, I greatly fear these clouds will become darker and more ominous than any which have ever yet threatened the Constitution and the Union.

JAMES BUCHANAN.

WASHINGTON, February 2, 1858.

Mr. STEPHENS, of Georgia. I move that the message be referred to the Committee on Territories, and ordered to be printed. As it is late, however, and I presume no member wishes to discuss the message to-day, I will, if no one wishes to speak, move that the House adjourn.

Several MEMBERS. Withdraw the motion to adjourn.

Mr. STEPHENS, of Georgia. I withdraw the motion.

Mr. HUGHES obtained the floor.

Mr. LETCHER. If the gentleman will yield me the floor, I will move that the House adjourn.

Mr. HUGHES. I yield for that purpose.

Mr. HARRIS, of Illinois. I appeal to the gentleman from Indiana to allow me the floor for a moment to submit a motion which will be in order. The House will then have the two motions before them, and can choose between them.

Mr. HUGHES. I ask the gentleman from Illinois to state the nature of his motion.

Mr. HARRIS, of Illinois. I will send it up to the Chair. It is in the form of a resolution.

Mr. HUGHES. I do not yield the floor to the gentleman to submit a resolution, unless he will first inform me of its nature.

Mr. GROW. I appeal to the gentleman from Indiana, if he does not wish to discuss this matter now, to allow some other gentleman the floor.

Mr. HUGHES. I am ready to go on now, if the House does not wish to adjourn.

Mr. POTTER. I wish to inquire whether the gentleman from Indiana yielded the floor for the motion to adjourn?

Mr. HUGHES. I did yield the floor for that purpose.

Mr. JONES, of Tennessee. I wish to inquire,

if the House now adjourns, whether this matter does not come up in the morning?

Mr. WASHBURN, of Maine. I hope the House will not adjourn. There are gentlemen here who wish to speak to-night. I myself would like to submit some remarks upon the message before the House adjourns.

Mr. LETCHER. The gentleman from Indiana having yielded the floor for the purpose, I move that the House do now adjourn.

Mr. MORGAN and others demanded the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and the House refused to adjourn—yeas 105, nays 109, as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Branch, Bryan, Burnett, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Milson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Tripp, Underwood, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—105.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—109.

So the House refused to adjourn.

Pending the call of the roll,

Mr. HUGHES asked to be excused from voting.

The SPEAKER stated that under the rules all motions to be excused must be made before the House commenced dividing. The motion not having been made until after the call of the yeas and nays had been commenced, was therefore not in order.

Mr. HUGHES. Then I desire to say that I care very little about the matter myself, but as my friends are in favor of adjourning, I vote "ay."

The SPEAKER announced that the gentleman from Indiana [Mr. Hughes] was entitled to the floor.

Mr. HARRIS, of Illinois. I ask the gentleman from Indiana to give way for a moment, to allow me to submit a motion, and I will then renew the motion to adjourn. My only object is to have the motion entered, and allow it to come up in the morning.

Mr. HUGHES. If it will oblige the gentleman particularly to have his proposition side by side with that of the gentleman from Georgia, [Mr. Stephens,] and he will communicate it to me, I will make the motion myself; otherwise I decline to yield the floor.

Mr. HARRIS, of Illinois. There is no question at all of the right of the gentleman from Indiana to the floor. It is a matter between him and the Speaker; but I take it for granted that he will be entitled to the floor in the morning. I desire to submit my proposition, and I will then move to adjourn. I have no disposition to interfere with the right of the gentleman to the floor.

Mr. HUGHES. I have interrogated the gentleman from Illinois in regard to his resolution, but have been unable to hear his reply. But I understand, from information, it is to refer this message to a select committee. I therefore submit the following motion, before I submit my remarks, in order that the two motions may be before the House at the same time:

Resolved, That the message of the President be referred

to a select committee of thirteen, to report upon the propriety and expediency of the admission of Kansas as a State into the Union, with power to report by bill or otherwise.

Mr. HARRIS, of Illinois. Now, if the gentleman will allow me to make an amendment to that motion, it is all I desire. If the gentleman will give me the floor I will send it to the Chair; but I am not disposed to thrust it upon him.

Mr. HUGHES. Will the gentleman allow it to be read for information? I want to hear the proposition before I yield the floor unconditionally.

Mr. HARRIS, of Illinois. Well, as the gentleman declines to yield, I want him to go on with his speech. I hope, when the gentleman has done, I shall get the floor to move my amendment.

Mr. McQUEEN. Is it competent to interpose any objection in reference to this matter? If so, I want to say here that I never will consent to any further compromise in this House upon the subject of slavery, so far as I am concerned. We have had the last compromise that the South ought to have. ["Order!" "Order!"] Keep cool, gentlemen; you have had the last compromise upon the subject of slavery that, I trust, you will ever get from this House; and I want to say so to you as a southern member upon this floor.

Mr. ADRAIN. I hope the amendment of the gentleman from Illinois [Mr. HARRIS] will be read.

The SPEAKER. He has not yet offered an amendment.

Mr. BOCOCK. A motion has been made since the last motion to adjourn. With the leave of the gentleman from Indiana, [Mr. HUGHES,] I will renew the motion to adjourn.

Mr. GROW. No business has intervened.

The SPEAKER. An amendment has been moved and received.

Mr. GROW. I stand corrected.

The SPEAKER. Does the gentleman yield to the motion to adjourn?

Mr. HUGHES. I do.

Mr. WASHBURN, of Illinois. I demand the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 102, nays 109; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Bryan, Burnett, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Milson, Moore, Niblack, Pendleton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Tripp, Underwood, Ward, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—102.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dewart, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Miller, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—109.

So the House refused to adjourn.

Pending the call of the roll,

Mr. WINSLOW said: Mr. Speaker, my colleague, Mr. BRANCH, although sick, came here this morning and voted upon the last call of the roll; but he became so much indisposed that he was compelled to return to his room. He has paired off with Mr. DAMRELL, of Massachusetts, who obliged him in the matter very kindly, and who, though present in the Hall, declines to vote.

Mr. HARRIS, of Illinois. I now ask the gentleman from Indiana to allow me to introduce my motion.

Mr. HUGHES. Will the gentleman allow it to be read for information? I can then judge whether I should yield the floor or not.

Mr. HARRIS, of Illinois. The gentleman declines to yield.

Mr. BARKSDALE. Will the gentleman from Indiana yield the floor for a moment?

Mr. HUGHES. For what purpose?

Mr. BARKSDALE. That I may move a call of the House.

[Cries of "Go on!" "go on!"]

Mr. HUGHES. I decline to yield for any purpose.

I think I owe it to myself, before I proceed, to place myself right in regard to this question of adjournment, and in regard to the appeal made to me to yield the floor. As to the question of adjournment, it was a matter of indifference with me; but I did not desire to detain the House against their will.

As to the request that has been made that I should yield the floor for the purpose of permitting a proposition to be offered, I simply asked that, before I yielded the floor unconditionally, I should be informed what the nature of the proposition was. To that I received no answer. I thought I might have been misunderstood upon that subject, and took the trouble, when the roll was being called, to go to the seat of the gentleman from Illinois, but I found that my understanding was correct.

Mr. HARRIS, of Illinois. If I understand the gentleman from Indiana correctly, he does not correctly state my own position.

Mr. HUGHES. I yield the floor to the gentleman to make a correction.

Mr. HARRIS, of Illinois. I understand him to say that he came to my seat, and that I desired him to yield the floor unconditionally. Did I hear right?

Mr. HUGHES. That the gentleman desired me to yield the floor before I knew what the proposition was.

Mr. HARRIS, of Illinois. It was that he should yield the floor to allow my motion to be submitted. I did not tell the gentleman what it was. It was my own motion, not his. I do not desire his approbation of my motion.

Mr. HUGHES. Will the gentleman inform us what it is?

Mr. HARRIS, of Illinois. That is my business.

Mr. HUGHES. The gentleman asks courtesy and declines to return it.

Mr. HARRIS, of Illinois. I ask no courtesy.

Mr. HUGHES. And I ask none of you. I will not be unparliamentary.

Mr. GILMER. I think courtesy to the gentleman from Illinois—"Order!" "Order!"

Mr. HUGHES. There is no gentleman upon this floor that can take the place of the gentleman from Illinois in this matter. He appealed to me to yield the floor, and I inquired for what purpose? He declined to tell.

Mr. HARRIS, of Illinois. The gentleman misrepresents me. I did tell him what I wanted.

Mr. HUGHES. The House, I think, understands very well the issue between us.

I desire to modify the proposition which I submitted, by striking out these words—

"To report upon the propriety and expediency of the admission of Kansas as a State into the Union, with power to report by bill or otherwise;"

so that it will read:

"That the message of the President be referred to a select committee of thirteen."

It has been suggested that it might be inferred from my submitting this proposition for a select committee, that it was my purpose to avail myself of that parliamentary usage which would make me the chairman of that committee. I here disavow any such purpose. I submit the proposition merely that the two propositions shall be before the House at the same time. If that proposition be carried, I shall not consent to occupy a position at the head of that committee. I am upon one more committee now than I can attend to.

I do not know, Mr. Speaker, that the remarks I design to submit upon this message, and the motion to print and refer it, will occupy the full hour which will be allotted to me under the rule, but in order that I may not be embarrassed at all for want of time, I will ask the permission of the House to print, without reading, some prelimi-

nary remarks which I have reduced to writing, which have reference more particularly to the affairs of my own State.

[Cries of "Go on, we want to hear that!" "No," "No!"]

Mr. DAVIS, of Indiana. I object to that.

Mr. HUGHES. Now, sir, I hope we shall have no more talk about courtesy. I will read those preliminary remarks. I did not desire to inflict upon the House a written speech after the numerous examples I have had before me for the last two weeks. But since I cannot be permitted to reach my constituents in any other mode, I shall adopt that course, though it may deprive me of some of that time which I would otherwise have devoted to the real merits of the subject before the House.

The speeches made here are addressed either to the House, or, as the phrase goes, "to the country." I will not promise that I shall say nothing directed especially to my constituents, or to that great public whose judgment is justly formidable, both to authors and speakers; but I do say that I shall speak to the country through the House, for what is most practical and best adapted to illustrate the measures under consideration here before the Representatives of the people, is best worthy the attention of the people themselves.

Mr. GROW. I rise to a question of order. The gentleman is not confining himself to the subject under consideration, and as the gentleman has been so anxious to have the debate strictly confined to the pending question before the House, I think he should be governed by that rule.

The SPEAKER. The Chair will endeavor to keep the gentleman within the rule.

Mr. HUGHES. Representing a portion of the people of a State in this Union, whose government has been almost subverted, and whose constitution has been trampled under foot, through frauds upon the ballot-box, perpetrated in 1856, by this same Republican party which professes so much purity and love of liberty, I claim to be second to none in zeal for the rights of the people and sacred regard for the freedom of elections.

Mr. GROW. I rise again, sir, to a question of order. Any frauds committed in the gentleman's district in Indiana, are not pertinent to this message; but any frauds that have been committed in Kansas would be pertinent; and, therefore, I hold such remarks are not in order.

The SPEAKER. The Chair cannot undertake to say that the remarks of the gentleman from Indiana are not in order. The gentleman may have introduced those remarks for the purpose of illustration. The Chair cannot determine at this stage of the gentleman's remarks, whether they are in order or out of order.

Mr. GROW. I will withdraw my point of order, for perhaps the subject of frauds may be very pertinent to this message.

Mr. BOOCK. I hope the Chair will bear in mind how much of the gentleman's time is taken up by these interruptions.

Mr. MARSHALL, of Kentucky. I ask the gentleman from Indiana to give way to me, that I may move that the House adjourn. I am perfectly satisfied that no good can come out of this proceeding.

Mr. GROESBECK. I hope the gentleman from Indiana will not meet with a single further interruption in the course of his speech. I hope he will be allowed to have his full hour, and that the Speaker will not deduct from it the time which has been taken up in these interruptions.

Mr. CLARK B. COCHRANE. I second that suggestion.

Mr. MARSHALL, of Kentucky. I desire to move an adjournment, in order that the gentleman may have a fair opportunity of speaking. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. LAWRENCE. I appeal to the gentleman from Kentucky to withdraw his motion, and let us have the speech of the gentleman from Indiana this evening.

[Cries of "Order!" "Call the roll!"]

Mr. MARSHALL, of Kentucky. I withdraw the motion to adjourn.

Mr. HUGHES. I recognize no liberty in this country but that which is obedient to law, and I repudiate and detest both that mischievous

fanaticism which, in the name of freedom, incites to anarchy, and the turbulent revolutionary and corrupt practices which are its legitimate fruits. Of these, the State of Indiana has had enough within her own borders; and I think it likely her people will deem it wise to settle that account before they exercise any supervision over the affairs of Kansas. Sir, do you know that, at this moment, the State government of Indiana is being carried on without revenue or appropriation laws; that, for want of the necessary assessment laws, no taxes have been levied; that the munificent charities of the State were for a time defeated, and the helpless inmates of her institutions turned out upon the world; that, at the time appointed for the meeting of her Legislature, an organized mob took possession of her Senate Chamber, attempted to depose the presiding officer, and, inspired by the presence, within the bar, of General James H. Lane, commander-in-chief of the army of freedom, enacted such outrages as very shame forbid them even to mention on their journal? Do you know that they inducted into office three pretended Senators, who claimed their seats in virtue of frauds established since by the testimony of Republican witnesses, and unsurpassed in Kansas; and having thus obtained control of one branch of the State Legislature, made use of their usurped power for the subversion of the government? These things are true, sir, as set forth in the resolutions of the Democratic State convention of Indiana:

"9. Resolved, That we arraign the Black Republican party of Indiana before the people, for sustaining the members of that party in the last Legislature of this State in the commission of the following enormous outrages upon public and private rights:

"1. Creating a revolution in the first step towards the organization of the Senate, and violating the constitution and the law by attempting to supplant the legal presiding officer of that body with one of their own number.

"2. Refusing in open defiance of the constitution and in flagrant violation of their oaths to meet in joint convention and be present at the canvass of votes for Governor and Lieutenant Governor, when counted by the Speaker of the House of Representatives.

"3. Meeting without a quorum and without a presiding officer, and expelling the Senator from Clarke county, thereby making a mockery of the constitution, breaking their oaths as Senators, and in all their councils calling to their aid the evil spirit of anarchy which has in every age involved nations in bloodshed and overthrow.

"4. Voting more than one hundred times, by a strict party vote, against appropriating money to defray the expenses of the benevolent institutions of the State, thereby closing the doors of charity, and sending the deaf, the dumb, the blind, and the insane abroad in the world, without that protection which humanity dictates, and which Indiana gives to them.

"5. Voting more than one hundred times, by a strict party vote, against a revenue bill and an assessment bill, thereby attempting to prostrate the State government; to bring her into dishonor at home and abroad, by failing to pay the interest on the State debt, as provided for and made obligatory by the constitution, and inflicting other and most grievous injustice upon her citizens.

"6. Refusing to join and assist in the election of Senators in Congress, thereby setting at naught the will of the majority of the voters of Indiana as expressed at the ballot-box, October 14, 1856.

"7. Attempting, as far as in their power lay, to legalize gross, palpable, and wicked frauds upon the elective franchise; recognizing and receiving from the counties of Rush, Fountain, and Marion, persons as Senators conclusively proven in legal investigations to have been elected by illegal, hired, and perjured voters; stifling the voice of inquiry into their pretended and usurped right to their seats as Senators, in the face of legally instituted contests in each instance. Thus alone enabling the party to which the said spurious and illegally elected Senators belonged, to inflict their spirit of misrule upon the State; and finally sending forth to the world a forgery upon the journals of the Senate by which to cover up their high handed villainy, and avert from themselves, if possible, the just indignation of all honest men."

Here are extracts from the majority report of the Committee on Elections on the election frauds in Rush county, Indiana:

"Mr. Speaker: The majority of the Committee on Elections, to whom was referred the matter of the contested election of Rush county, in which Samuel McBride is a contestant, and Leonidas Sexton contestee, would report to the House of Representatives that they have endeavored to institute a careful and thorough examination into the frauds alleged to have been committed in the petition submitted to them by the contestant. They have in their possession depositions taken in relation to the matter by both parties, copies of which are herewith submitted, together with the evidence given by the witnesses who have testified before the committee. Being clothed with the usual powers 'to send for persons and papers,' they proceeded to summon those persons whom they had reason to believe were cognizant of the facts bearing on the case. From the nature of the case, the witnesses were, of course, chiefly members of that party alleged to have committed the frauds.

"In the discharge of their duty the committee desired to hasten the examination of witnesses, with a view to be able to make an early report to the Legislature. The only

material facts elicited will be found to be embraced in the testimony of the first witnesses summoned. The formation of a combination to carry the elections of Rush county by fraud, is by these witnesses clearly proved, and the existence of the organization established.

"By the evidence of Messrs. Ray, Spriggs, and Williams, examined early, certain prominent members of the Republican party being clearly implicated, a summons was issued for them, but no efforts were successful to bring them before the committee. The writ of subpoena was utterly disregarded, and even an attachment, duly issued by the Speaker of the House for contempt in failing to appear, had no better effect. One gentleman so much feared to make disclosures within his knowledge, that, when in custody of the Sergeant-at-Arms, he broke his parole of honor, and fled to Kentucky. Others left their homes, visiting other distant States. Your committee believe, and here confidently assert, that if the actors in these frauds could have been compelled to come forward and testify, a conspiracy of a character heretofore unknown for its extent and character, would have been laid bare. Enough has been developed by the evidence herewith submitted, to implicate men considered heretofore of the highest respectability, and prominent members of the Republican party of Wayne and the adjoining counties, in devising and carrying out plans calculated to pollute the ballot box, and render the election of members of the Legislature a matter to be controlled by money. Not the least important result of these investigations is the establishment of the fact, that this fraudulent arrangement extended far beyond Rush county. From the evidence, your committee have no doubt, that the same foul and corrupt means succeeded in several other counties, but particularly in the county of Marion. Although, in the investigations, questions were confined to fraud in the county of Rush, yet witnesses inadvertently disclosed these facts, and Mr. Williams particularly testifies, that in sending young men abroad, he sent them indiscriminately to Marion or Rush. The contemplation of the development made is painful, viewed either in relation to its extent, or the former character of those who have taken so active a part in its consummation.

"We find at least one member of the State Senate, judges, and other functionaries not only giving encouragement and countenance to the project, but taking the lead, and active among them was the brother of the contestee himself. Judge Perry clearly testifies, in his account of the meeting held in Richmond, early during the canvass, that these heartily approved the plan proposed, and other witnesses prove how well they carried it into faithful execution.

"The testimony shows that the avowed object was to procure young men without families, citizens and voters in those counties having (as was the case with Wayne and Henry) large Republican majorities, and induce them to migrate, a short time before the October election, into Rush county, to vote at that election, and having done so, their object in going thither was accomplished, and they might return as soon thereafter as they should choose to their place of residence.

"The evidence conclusively points to John C. Hudelson, clerk of Henry circuit court, as treasurer and principal contractor to furnish 'outside' voters for Rush county. It is in evidence that he deposited with Watkin Williams, of Wayne county, fifty dollars for that express purpose—that he sent by a son of Solomon Meredith, \$350 to E. D. Sprigg, of Wayne county, for a like purpose. Mr. Hudelson left the State, and has been sojourning in some of the eastern cities up to the present time. This makes the handsome sum of \$400 furnished to persons in two townships only, while it is clearly proved that the same arrangement extended to other townships in the same county.

"This was not, either, the county of Mr. Hudelson's residence; he lives in the county of Henry, which gives some fifteen hundred Republican majority. Many of the witnesses from both counties say that they had plenty of votes to spare, and if Mr. Hudelson was willing to invest that sum of money in two townships, what amount did he likely expend in the remaining townships of Wayne and Henry? His friend, neighbor, and co-laborer, Elijah Holland, was not only subpoenaed, but afterwards attached, and when brought to the city, ingloriously fled, when under his parole of honor to the Sergeant-at-Arms.

"A. F. Woodcock, the depot-master, and agent at Rushville for the reception and distribution of foreign Republican votes, has not only failed to obey the subpoena to appear before this committee, but it is in evidence that he likewise failed, in his own county, to appear before a justice of the peace, to testify in this same case. Mr. Hackleman swears that he asked him if he could be compelled to attend, and he gave his opinion that he could not.

"Mr. Joel Smith, the Republican candidate for treasurer in Rush county, was duly subpoenaed to appear before this committee. It appears, by the testimony of Mr. Hackleman, that Mr. Smith was in his office, at Rushville, on Tuesday of last week, and that he had a conversation with him on the subject of the power of this committee to attach, and he gave him a like opinion. Mr. Smith has, to this time, failed to appear. Mr. Smith was regarded as a most important witness in this case. So the committee might go on and enumerate many other persons acting with the same disregard to the summons issued by this committee. It is unnecessary to say that this conduct is alike disrespectful to this committee and the House, under whose authority they have acted. It taints the case and the actors in it with suspicion, and gives the whole an odor of fraud, which deserves the unqualified condemnation and rebuke of the House of Representatives."

Evidence of E. D. Sprigg.

"E. D. Sprigg, being duly sworn on oath, says: I live in Cambridge City, Wayne county, Indiana. It was about the last of September or the first of October that I was informed that there would be some young men left with me for the purpose of being paid out to young men who would go to Rush county to vote at the State election. This information was given me (I think) by Solomon Meredith and Dr. Lemuel Johnson. In a short time \$350 was handed to me by Mr. Samuel Meredith, a son of Solomon Meredith, who resides with his father in Knightstown, and was directed to hand

it to me. He said Mr. John C. Hudelson gave it to him, that he did not know the amount or for what purpose it was sent. I afterwards saw Mr. Hudelson, who is clerk of Henry county, who called on me and said he wanted part of the money. I paid him then \$150. In the conversation alluded to with Messrs. Meredith and Johnson, they told me that the Democrats were engaged in importing votes into Rush county, and that we had to meet it on the same ground.

"A number of young men came to me and reported that they were going to take up their residence in Rush county. To each one who thus called on me I paid \$5. I paid this sum to as many as nineteen young men, and expected them to go into Rush county to vote. I remember the names of Brothers, Widdeman, Levi Williams, Justice, and Marion Tyner. The balance were all strangers to me. I did not see any of them in Rush, nor do I know that any of them went there. They had all resided in Wayne county previous to the time I gave them the money. I have talked with many persons in relation to the political campaign in Indiana and Rush county, but I do not think I ever spoke to a Rush county man about it until yesterday. I have talked several times with Sol. Meredith in relation to this matter: he always said there was an effort making to run Irish voters into Rush, and in order to counteract that, we had better run some young men there to gain a residence and become voters. If this arrangement extended over the country, I am not posted about it. On the day of the Republican meeting at Cambridge, there were three or four young men came to me, introduced by a gentleman from the northern part of the county. The blank cards alluded to were given to me by Abner D. Bond; they had on them (I think) the name of Woodcock, who, I was told, lived in Rushville. I drew the inference that the cards were to be given to the young men who would give them to Woodcock. I used nineteen of them and destroyed the balance. The general arrangement and understanding among us all was, that Woodcock would find them employment. Lewis Burke and I did not operate together at all. I do not know that I ever heard him talk on the subject. At Richmond, I had a conversation on politics, in which Meredith, Dornier, Hudelson and two or three strangers were present. Burke may have been with them. We were together not more than ten or fifteen minutes; it was not a regular meeting; we talked of the campaign generally; the election and the prospects. Neither Dr. Sexton nor Mr. Varyan were present.

"As regards the money, Mr. Hudelson once asked me if I had received such a package, but he never told me that he had sent it to me by Mr. Meredith. The balance I expressed to Mr. Hudelson since the election. I am a Republican decidedly. Those young men to whom I gave money—with whom I was acquainted—were Republicans; nor would I have sent any young man if I had believed he was a Democrat. I usually told these young men what to do with their cards; if they could get work to do so, and take up their residence there, and it was my opinion that in doing so they became legal voters of Rush county. I always asked these young men as few questions as possible. I gave out these cards from three weeks up to four or five days before the State election.

"I have seen four of these young men since the election. Widdeman lives in Cambridge. Brothers told me he was going to settle in Rush, but in a week or so he returned to Wayne. I did not see Williams for two or three weeks after the election. I am secretary of the Republican club of Cambridge city. Mr. Meredith is president. At one time I paid A. W. Ray twenty dollars, which he afterwards returned to me. I cannot tell how many times Mr. Ray went out on this business, but I paid buggy hire for two trips. I had no connection with any arrangements save my own, but I had the impression that persons were going to vote from other townships in Wayne county; also from Henry. I was of the opinion that young men, going under the circumstances and advice I gave them, into another county, became thereby legal voters in that county.

"Cross-examined.—Except the five young men alluded to, I do not know where they resided, or what were their political opinions, and I think I have not seen any of them since. ELY D. SPRIGG."

Thus it appears that while the howling of these pretended apostles of liberty diverted the attention of the people of Indiana to the distant plains of Kansas, straining their vision to detect afar off the alleged enormities of the border ruffians of Missouri, these smooth hypocrites were taking care of popular sovereignty at home by practicing similar frauds upon our own soil.

And when the Democratic party of Indiana, struggling to maintain the spirit as well as the letter of the Federal Constitution, and to give to the will of the people of Indiana its true representation in the Senate of the United States, chose two Senators in Congress, the apostles of freedom planted themselves upon the frauds and the usurpation which would subvert the sovereignty of Indiana, and destroy the freedom of elections among her people, and denied the right of those Senators to their seats.

These transactions, Mr. Speaker, are fresh, and will be kept fresh, in the memory of the people of Indiana, who burn with honest zeal to redress their own wrongs and punish their oppressors; and whatever differences of opinion may exist or be fomented among them concerning the affairs of a distant Territory, no Kansas clamor will a second time draw off their attention and afford a cover under which the authors of these outrages may escape their just indignation.

The Democratic party of Indiana, the only organization which can restore the supremacy of the

constitution and laws of that State, will remain united and triumph over those who have violated the sanctity of the ballot-box and trampled under foot the sovereignty of the people, whatever may be the decision of the Kansas question. But it is by no means my purpose to evade that question.

I have before me that famous statute, called "the Nebraska bill." What is its true construction, particularly in reference to the manner of expressing the assent of the people of that Territory to their constitution?

Must that constitution be submitted to the people, or may it be the work of delegates alone?

What is the true intent and meaning of the act, and how has it been represented to the people? for if their verdict in its favor was given in 1856, in view of a construction then placed upon it by its friends, no different legal construction ought now to prevail—except, indeed, those high, authoritative expositions proceeding from the Supreme Court of the United States, which all good citizens are bound to respect and to obey.

The President has placed his construction upon that act. He tells us in his message, that while the submission of the whole constitution to a vote of the people was *admitted*, it was not *required*, but that the question of slavery alone was *required* to be submitted; that he preferred a submission of the whole instrument, and in good faith endeavored, by his instructions to Governor Walker and all his official acts, to bring about that result, but that the people of Kansas, acting through their delegates, to whose hands they had committed the whole subject, chose a *different way*, and submitted the slavery question alone—as, according to his judgment, but not his wish, they had the right to do; that he is ready to surrender his will to theirs, legally expressed, and acquiesce in their work, but hopes in future cases, as he had hoped in this case, a submission of the whole constitution may be had, and for that purpose recommends that the Minnesota law be copied into, future enabling acts.

A great statesman, second in intellect to none, unequaled in the art of clothing his ideas with the appearance of logical compactness and popular justice—a dangerous talent, if unfairly used—master of all the details of this Kansas business, and author of the Nebraska bill itself, has also placed his construction of this act before the public. He holds that the submission of the entire constitution to a vote of the people is the only mode consistent with that "popular sovereignty," which is the vital principle of the act; that all others are excluded; and that a constitution not ratified in that manner ought to be rejected. It will be observed that the President does not *oppose* a submission to the people; on the contrary, he gives it his preference; he only concedes the right of the people to *take their own way*, and will not refuse them admission because they have *not* adopted *his*. The Senator says to the people of the Territory: "You must vote on your constitution; it is vain to tell me that, following in the footsteps of many States of this Union, you choose to make a constitution through delegates; that is not popular sovereignty; I am the author of the Nebraska bill, and this is popular sovereignty."

Here is an issue—an issue between the President, on the one part, and the eminent Senator on the other; and the controversy involves, to its fullest extent, the great question decided by the people in the election of 1856, "the right of the people to form and regulate their domestic institutions in their own way." It is a momentous issue, not only on account of the great question involved, but of the respective positions of the parties, their past relations to each other and to that country whose fast-healing wounds seem about to bleed again—that country so long distracted, and so much in want of repose.

The position, associations, and past services of the author of the Nebraska bill, gave him the right to remonstrate against any departure from its principles, if there was any; nay, it was his duty, above all other men, to vindicate it, if invaded, for he *had been* its champion at all times and in every place.

With all his intellect he will never be deemed to have blundered concerning the application of principles so familiar to his mind; and if, indeed, it should appear that he has abandoned the true and vital principle of his bill in its most trying hour—that he has deserted the substance for a

most delusive shadow, and displayed a counterfeit presentment of popular sovereignty to that confiding people, whom none but he could have deceived—great will be his responsibility, and unenviable the place which history will assign him. Time will determine this, not the first wild clamor of misjudging friends, nor the first indignant grievings of friends that were.

There are doubtless those in this House, and out of it, to whom, at first view, the doctrines of that distinguished Senator, on this question, have appeared conclusive, who have ever been faithful to the principles of the Nebraska bill. With such I would reason, and to their reasonings I would lend an attentive ear; they have the right to resist all encroachment, if there is any, on the principle of self-government, for they are its friends.

But what shall I say of the *new converts* to the doctrine of popular sovereignty; the new champions of the faith; the new advocates for the Nebraska bill—they who have hitherto been its enemies; who have reviled it and its author, and invoked the curses of Heaven upon both! They also have placed their construction upon this statute; they think the great doctrine of popular sovereignty is clearly violated, and that the constitution of Kansas ought clearly to have been submitted to a vote of the people. The result for which they have worked night and day, in the Territory and out of the Territory, has come to pass. Kansas is here knocking at our doors, with a slave constitution, because having, as they say, a majority in the Territory; organized rebels have refused to vote! Men who could expend thousands, and travel many a weary mile to fill Kansas with rifles, and stir up civil war, could not walk across the street to vote! Here let me, in passing, allude to one matter—the pretense that several counties were disfranchised and could not vote. The fact is emphatically denied. "But, if it were so; how did those who were allowed an opportunity? Did any considerable number of them vote? Alas for the new revelation of popular sovereignty, and the new prophets of the faith! Heaven defend the Nebraska bill from its new friends, and its author from their alliance!

And now, in moving forward to a solution of the question we have before us concerning the true construction of the Nebraska bill, let us note this landmark. I point out this great fact which meets us at the beginning—I point it out to those who hesitate, to the members of this House, and to that generous constituency to whom I am responsible for my vote in this body—I mean that the great "army of freedom," composed of renegade Democrats, Abolitionists, Maine-law fanatics, Free-Soilers, political preachers, and strong-minded women, is marching under its flag of sixteen stars in solid column, after this new revelation of popular sovereignty! I must decline to follow that flag, and to march in that army, even though false prophets shall arise, who, if it were possible, would deceive the very elect.

I shall now proceed to give my construction of the Nebraska bill, which will fully justify the vote I expect to give upon the Leocompton constitution. No one is responsible but myself. I hold myself responsible to my constituents. In doing so, I shall have occasion to refer to the recorded speeches and reports of the author of that bill; because they are directly in the line of my argument. I disclaim any purpose to fasten inconsistency upon that distinguished man—the inconsistency of individuals is a matter of no importance to the country; but I shall quote from him as authority upon this question—authority that will be received. Incidentally, I shall show that he is inconsistent; but it is impossible to discuss this question without doing so.

It will also be proper to quote from him because it will show that the President, though out of the country, might have drawn his impressions of the "true intent and meaning of the Nebraska bill" from a very high source—no less a source than the author of the measure himself; and that if there is any desertion of principle it is not with those who are now following the doctrines of the Senator to their logical results.

Section fourteen of the Nebraska bill contains the celebrated clause repealing the Missouri compromise and instituting squatter sovereignty, which I have often defended, and which I stood manfully by until it was disposed of by a decision of the Supreme Court of the United States.

Then, and not till then, did I surrender it. That decision has been indorsed by the party with which I act in my State, by the unanimous vote of the State convention. There is another section of the bill which relates to the legislative power of the Territory. It says that that power shall extend to all rightful subjects of legislation. Sir, I would not now, after that act has received a construction before the people, and after their verdict has been rendered in favor of it at the polls, set up any new legal construction contrary to the construction placed upon it in 1856. But it is a matter of law, and a matter of history, in my humble judgment, that those two sections referred to the question of slavery while the Territory remained in a territorial condition.

Sir, it has been said repeatedly in this House that the great question made before the people in 1856 was how the people of Kansas should ratify their constitution. What I say, sir, will go on the record, and I hope it will reach the eyes of my constituents: I deny that proposition, and challenge the proof. I say that the first section of this bill disposes of the whole subject of State constitutions in that short clause which says that these Territories shall come into the Union with or without slavery, as their constitution may prescribe, without saying one word as to the manner in which that constitution is to be made or ratified. All this is very plain. What, then, is the matter in controversy? Had any man ever questioned the right of the people, in forming a constitution, to decide the question of slavery for themselves? And especially can it be questioned with reference to the people of these Territories which came into this country under a solemn treaty, which is, as the Constitution of the United States says, the supreme law of the land? That treaty actually provided that the people should be protected in their rights of property, religion, &c.; and one of the most distinguished statesmen that this country has ever produced (John Quincy Adams) has said emphatically, that the people of these Territories had an absolute right to come into the Union as slave States; because it is so nominated in the bond—because of the treaty under which they were acquired. I say that the object of the Nebraska bill, so far as the formation of a constitution was concerned, or as to the mode in which it was to be ratified, was simply to place the Territories of Kansas and Nebraska on precisely the same ground as the States already in the Union occupied.

It was not the intention of this bill to place it on any higher or any lower ground. It is not necessary, sir, that I should consume the time of the House by attempting to show that it is the principle in theory and in practice, in this country, that the people may form a constitution, and that it may be ratified either by the delegates to the convention, or by the vote of the people. Do gentlemen mean to say that it was understood at the time the Nebraska bill was introduced and passed, that the people of Kansas should not have the right to make a constitution without submitting it to the people? There was no such idea broached, and I think I shall show conclusively that no such idea was ever entertained. I desire to call the attention of the House to some documents on this subject.

I hold in my hand, sir, the original Nebraska bill, as introduced in the Senate by Mr. Dodge, of Iowa, and the substitute reported in lieu of it by Mr. Douglas of Illinois; and when we turn to the original draft of this section in that substitute, which was to refer the question of slavery to the people, it is very explicit on that subject. It shows distinctly three things—that, according to the President's doctrine, it was the slavery question that was the trouble; that the intent was to confer power on the Territory, not on the State, and that that was to be a representative power. The construction contended for now, with reference to this law, would resolve every Territory of this Confederacy into an Athenian Democracy where all the people should collect themselves together in one vast plain and enact their laws. That would destroy the idea of a representative Republic, which was the thing in controversy in our revolutionary struggle. It will do very well to tickle the ears of the people by talking about popular sovereignty. But carry out the construction contended for here, and the Constitutions, State

and Federal, vanish in thin air; for nothing could then be done in this country unless the people were to assemble and vote upon it in mass.

Most emphatically will the people of Indiana repudiate this doctrine. They have precedents in their own State which cover every phase of this question. They have had two constitutions there. The first was made by their representatives, and ratified by them alone. The second was submitted to the people. They have knowledge within themselves of the power to make constitutions in their own way; and the man who says that the Congress of the United States intended to deny to Kansas or Nebraska the power to make their constitutions in the manner in which any old State made hers, is in error, and I take issue with him on that statement, and refer the question to the country to determine.

Here is the clause which I desire to read:

"All the questions appertaining to slavery in the Territory, and in the new States to be formed therefrom, are to be left to the decision of the people residing therein through their appropriate representatives."

The distinguished statesman who prepared this bill was evidently under the impression that the question of slavery could be decided by the representatives of the people. But here we are told to-day that it could not be, that sovereignty is inalienable, that the right to make a constitution could not be delegated; that, in short, this is not a representative Republic, but a great Democracy after the model of Athens.

But, there is a further proof on this question. I hold in my hand Senate bill No. 172, introduced by the Senator from Illinois [Mr. Douglas] for the purpose of framing an enabling act to authorize the people of Kansas to form a State constitution, and come into the Union; and in that act, as originally introduced, is the following clause:

"Sec. 3. And be it further enacted, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection, which, if accepted by the convention and ratified by the people at the election for the adoption of the constitution, shall be obligatory on the United States, and upon the said State of Kansas, to wit:" [Here follow certain propositions.]

Now that bill, as introduced by the Senator from Illinois, expressly recognizes that this constitution was to be ratified by a vote of the people. But the Senator from Georgia [Mr. Toombs] offered an amendment, and that amendment was accepted, not only by the distinguished author of the Nebraska bill, but by the whole Democratic party in the Senate, and received the votes of the Democratic Senators, including two members of the Cabinet, who then had seats in the Senate of the United States.

And what was the feature of this Toombs bill? Why, lo and behold! this vital principle of popular sovereignty, this doctrine that stares us in the face, was struck out without a sigh, without a tear, and was consigned to the tomb of the Capulets.

Here is a provision of the bill as modified after the introduction of an amendment by the Senator from Georgia:

"That the following propositions be, and the same are hereby, offered to the convention of the people of Kansas"—

Leaving out all that part that requires the people to ratify the constitution at the ballot-box—

"for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said State of Kansas, to wit:" [Here follow certain propositions.]

Well, sir, the bill as modified received the votes of the entire Democratic party. They recognized the power of making a constitution, and of bringing a State into the Union, without the necessity of submitting that constitution to the direct vote of the people. Yes, sir, and they adopted that provision in preference to the other proposition which required its submission to the people. Yet now we are told that nothing can have life, nothing can be valid unless it has been first submitted to a direct vote of the people at the ballot-box.

And what further would you have on the subject? After that first section had been set aside and the other adopted in its place, after they had abandoned the idea of requiring the constitution to be submitted to the people, that same distinguished Senator submitted a report to the Senate of the United States upon the "Toombs bill;" and let us see whether he was in favor of the con-

stitution being submitted to the people at the polls, or whether he considered such submission as necessary. I read from his report on the "Toombs bill," on the 30th of June, 1856:

"The question now arises, whether a constitution made by a political party without the authority of law, and under circumstances which afford no safeguards against fraud, and no guarantees of fairness, and raises no presumptions that it embodies the wishes and sentiments of a majority of the inhabitants, shall be forced, by an act of Congress, upon a whole people as their fundamental law, unalterable for nine years.

"In the opinion of your committee, whenever a constitution shall be formed in any Territory, preparatory to its admission into the Union as a State, justice, the genius of our institutions, the whole theory of our republican system, imperatively demand that the voice of the people shall be fairly expressed, and their will embodied in that fundamental law, without fraud or violence or intimidation, or any other improper or unlawful influence, and subject to no other restrictions than those imposed by the Constitution of the United States.

"It is true that each party claimed, at the time the Topeka constitution was formed, and now claims, to have a large majority of the legal voters in Kansas, in opposition to the pretensions of the opposite party. Each party has always professed a willingness to test and decide this disputed point in respect to the majority, at the ballot-box, whenever the elective franchise can be exercised in security, and protected against illegal voting, fraud, and violence, and a fair expression of the popular voice thus obtained. The amendment proposed by the Senator from Georgia, [Mr. Toombs,] as a substitute for the original bill of the committee, has been prepared expressly with reference to attaining this desirable result."

That was popular sovereignty, then. He was satisfied, then, for the constitution to be submitted to Congress without the vote of the people upon it. He was willing that the convention should do the whole work. He goes on to say:

"The delegates are to assemble in convention at the seat of government of the Territory on the 1st day of December, and then to decide, first, whether it be expedient or not for Kansas to come into the Union at that time; and if deemed expedient, to proceed to form a constitution and State government, which shall be republican in form, preparatory to admission into the Union on an equal footing with the original States in all respects whatever."

And again, he says:

"The revised proposition of the Senator from Georgia refers all matters in dispute to the decision of the present population, with guarantees of fairness and safeguards against frauds and violence, to which no reasonable man can find ground of exception, while the Senator from New York, if his proposition is designed to recognize and impart vitality to the Topeka constitution, proposes to disfranchise, not only all the emigrants who have arrived in the Territory this year, but all the law-abiding men who refused to join in an act of open rebellion against the constituted authorities of the Territory last year, by making the unauthorized and unlawful action of a political party the fundamental law of the whole people."

Is it not a fair inference, looking at what I conceive to be the meaning of the author of the bill, and following in his footsteps—looking at the past history of the country—that the people of Kansas have the right to ratify their constitution through their delegates in convention, as well as in any other way? Mark, you, I am not opposing a submission to the people. I prefer that mode because, in the progress of our history as a nation, it has become more in vogue, and seems to be the more favorite mode with the people. The President of the United States, neither in his annual message nor in any other message, opposes this course. On the contrary, he frankly declares that it has his preference. He so declares in his instructions to Governor Walker; and every official act of his Administration relating to the subject, carries out the same idea. And I point to those facts to show that, instead of trampling upon the rights of the people of Kansas, he has endeavored, in good faith, to carry out the plan of a submission to the people.

But, sir, the Kansas-Nebraska bill says, the principles of right and justice say, the whole practice and theory of our Government say, that the people of Kansas have the right to prescribe the manner in which their own constitution shall be ratified; and if that manner does not happen to be the way the President had marked out, it is the duty of the President, as he has done, to concede to them the right of acting in their own way.

But, sir, the distinguished author of the Kansas-Nebraska bill says to the people of Kansas: "You must vote on this constitution. That is the vital principle of the Nebraska bill. I am the author of that bill, and this is popular sovereignty."

Mr. MAYNARD. If the gentleman from Indiana will give way, I will move that the House adjourn.

Mr. HUGHES. I will yield for that purpose.
Mr. MAYNARD. I move that the House adjourn.

Mr. ENGLISH. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. MORRIS, of Illinois. I hope the gentleman from Tennessee will withdraw his motion.

Mr. MAYNARD. Since the yeas and nays have been ordered, I withdraw it.

Mr. HUGHES. I regret that the hour rule, which was established here in 1840, precludes all discussion, where it is necessary to refer to authorities. It takes too long. But, sir, I must be permitted to say that most of the remaining propositions to which I designed to call the attention of the House, are fully covered, and much more ably presented than could possibly be done by me, in the message of the President, which has just been read in the hearing of the House.

In reference to the law under which the convention which framed the Lecompton constitution was called, I have a few remarks to make. The law is almost a transcript of the "Toombs bill," fair in all its provisions. It is almost a transcript of that great measure of pacification upon which the author of the Kansas bill and the entire Democratic party of the country stand committed. Sir, for the execution of that law the faith of the Government is pledged, and no man doubts that the people of Kansas would have carried it out in perfect peace and safety, if they had all participated in the election of the convention which made their constitution. But, sir, they did not do so; and why? A registry was to be made, and these people, acting in pursuance of a plan of organization which commenced far back in the canvass of 1856, refused even to allow themselves to be registered.

But nineteen counties, it is said, were disfranchised. Yes, sir, and the question of fact has been raised upon this floor in regard to the matter. If gentlemen who are so industrious in searching the official records, to cut out a sentence here and there, used by Governor Walker, had consulted the public documents upon the subject, they would have found an answer to that matter.

Mr. SHERMAN, of Ohio. The gentleman refers to certain facts in regard to the disfranchisement of counties. I am now here prepared, from a copy of the territorial laws, to show that the statement to which he refers is full of errors, and that but one of the allegations contained in that statement is true. I have the book now with me; and if the gentleman will permit me, in two minutes I will point out to him twelve errors contained in eleven lines.

Mr. HUGHES. I will do it upon one condition. Will the gentleman from Ohio answer me a question? The Supreme Court of the United States having decided, as he understands, and as the country understands, as you and I, Mr. Speaker, understand, that the Constitution carries slavery into the Territories, is the gentleman, in good faith, willing to abide by that decision and carry it out?

Mr. SHERMAN, of Ohio. I will not answer any question which is not pertinent to this question; but as the gentleman refers to circumstances involving a question of veracity, I am prepared to show, by a document which the gentleman acknowledges as the law of Kansas, that the statement upon which he relies, and upon which gentlemen upon the other side have impugned the integrity and veracity of Governor Walker, is untrue.

Mr. HUGHES. The gentleman stands in the most favorable position—the position of a lawyer, who makes a statement which he knows cannot be admitted in evidence, for the purpose of having an effect upon the minds of the jury. Having had the benefit of his offer, I leave him there. I can excuse him from answering my question, because he has already answered it. I find in the Appendix of the Congressional Globe, third session, Thirty-Fourth Congress, page 108, the following:

"Mr. ENGLISH. I ask the gentleman further, if the Supreme Court of the United States should decide that the Constitution does carry slavery into the Territories, will he acquiesce in that decision?"

"Mr. SHERMAN. I answer, yes."

Mr. SHERMAN, of Ohio. I will respond if

the gentleman desires, but I will not interfere unless the gentleman consents.

Mr. HUGHES. That gentleman declined to yield me the floor the other day to put a question. I yield to gentlemen who yield to me, and I may say that there has been no over-courtesy extended to me in this House, up to this time.

I say that Governor Walker and Secretary Stanton have said in their official statements that the population of those nineteen counties was very sparse, and that the execution of the registry law was prevented, to a great extent, by the local agents and the people. But, nevertheless, the population was sparse. If the gentleman's proposed correction was upon the point that those counties were attached to other counties, I admit that they were attached for legislative purposes, and not for convention purposes. Sir, nine thousand voters were registered, but only two thousand voted. Where were the other seven thousand? Were they disfranchised? They were doing precisely what their compeers did on the day of the election on the 21st of December—they were carrying out that unlawful conspiracy by which they bound themselves by an awful oath, under military organization, to resist the laws and the Constitution of the United States, and to set up, in defiance of them, a government of their own.

Gentlemen talk about troubles in Kansas. I could, if time allowed, go back and trace the whole of this Sharpe's rifle matter from beginning to end, and show that to this day they are enrolled in brigades and companies, with their officers, colonels and generals, and required to be dealt with accordingly. I say that no man ought to be treated with by the Government, while he retains the attitude of rebellion, and I say that the President of the United States has, in his message, struck the key-note of this whole matter, and it will find an enthusiastic response in the hearts of the people. It is rebellion, rebellion alone that has caused all these difficulties.

Talk about freedom and free constitutions! You say you are opposed to the extension of slavery. If we could agree upon the meaning of the terms, I could possibly agree with gentlemen. What is slavery, and what is freedom? It has been said that "he is a freeman whom the truth makes free, and all beside are slaves." Now, there is the slavery of the bondman, and of the black man, but that is nothing to the slavery of the soul, which bows in absolute subjection man's nobler powers; and I say of the blackest negro beneath a southern sun, that, though his body may be enslaved, his mind may be free; and that, while he toils under the lash of the overseer, if endowed with capacity, his mind may converse with the sublimest truths of science and philosophy.

I say that an individual who is bound by such an oath as that to which I have referred, is bound by that which destroys the individual, and subjects him to a slavery that conquers the soul. I would say to those men who howl about African slavery, before you go to the South to strike off the fetters of the slave, uncoil from around your own hearts the cankering chains which your own folly and fanaticism have riveted there.

You talk about devotion to freedom. I say you may show your devotion to freedom much better by maintaining free institutions already established, than by clamoring about those yet unborn. I could review the history of the recent canvass of a party which filled the country with appeals against their own government, a party that maintained that because a small State had two Senators, and a large State had only two, therefore the Constitution of the United States was wrong; a party that made war upon the free Constitution which spreads its ample folds over thirty millions of white people, and bestowed all its affections upon a miserable instrument of rebellion designed, as they pretended, to protect the people of a single Territory.

I was going on to show the position which those people occupied. Governor Walker, in his official report, says:

"The difficulties in this Territory are not yet adjusted, and, without the submission of the constitution to the people, a peaceful settlement is entirely impracticable. There is still a considerable party in Kansas who will resist the adoption of the constitution, however framed, upon the ground so long occupied by them, that the Territorial Legislature which called this convention was elected by voters of another State, (as they allege,) and not by the people of Kansas."

That was the ground they occupied before the convention met and before the delegates to it were elected. These men were pledged then not to recognize anything the convention might do, and to refuse to adopt the constitution it might frame, on the ground that they would not recognize the territorial government of Kansas. Well, sir, they were warned by Governor Walker upon that subject, and I commend these sentences of his to the attention of gentlemen with whom he has become a great and shining light:

"The people of Kansas, then, are invited by the highest authority known to the Constitution, to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage; but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency, and the absentees are as much bound, under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution."

That was the flattering unctious they were laying to their souls. Why? Because they wanted this very contingency to arise, that Kansas should be knocking at the door of Congress with a slave constitution, so that they might have food for agitation. But Mr. Walker goes on:

"Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body."

Ah! but they say they were assured that the constitution should be submitted to the people. I tell you, sir, Mr. Walker said it was his opinion that it would be; and he said, too, that if it was not so submitted, it ought to be rejected by Congress; but he told these men that the convention had the absolute authority to submit the constitution to the people, which implies the authority to withhold it, and he warned them not to rely on the privilege of a subsequent vote. He told them that he could not, and that the President could not, dictate the proceedings of the convention. And now they come here, and say that they had no chance to vote. Where were they when the delegates to that convention were elected? They say they had no chance to vote in the election of the 21st of December because the full constitution was not submitted. Why, sir, they had a chance to make the constitution; to construct it from the preamble to the end; but they had fully, deliberately, and defiantly committed themselves against it, and declined to have anything whatever to do with the proceeding. And now they come here claiming to be the people of Kansas. But we had an illustration yesterday of what these men are driving at. They want the Topeka constitution. They have sent resolutions here recommending the Topeka constitution; and what do they ask? Do they propose that that constitution shall be submitted to the people? By no means; not at all.

I omitted, in my argument, some minutes ago, to show that Mr. SEWARD, of New York, offered an amendment to the Toombs bill, which proposed that Kansas should come into the Union after certain propositions had been accepted by the Legislature. That amendment, I believe, received the vote of the whole-Republican party in the Senate. It is as follows:

"And be it further enacted, That the following propositions be, and the same are hereby, offered to the State of Kansas for the free acceptance or rejection by the Legislature of said State, which, if accepted by the same, shall be obligatory on the United States and upon the State of Kansas, to wit:

"From this it appears that the Republican party recognize the power of a Legislature to make terms for admission into the Union. This is going beyond even a convention, and falls far short of a vote of the people. Here is one of the resolutions of the Legislature of Kansas, presented here yesterday, which no more requires a vote of the people on their constitution than the Cincinnati platform:

"Resolved, That the people of Kansas Territory claim the right, through a legal and fair expression of the will of a majority of her citizens, to form and adopt a constitution for themselves."

[Here the hammer fell.]

[APPENDIX.]

I here append the general orders of Lane's Kansas volunteers:

GENERAL ORDER NO. 1.

HEADQUARTERS KANSAS VOLUNTEERS,
(For the protection of the ballot-box.)

LAWRENCE, July 18, 1857.

TO THE PEOPLE OF KANSAS: The convention at Topeka, on the 15th instant, passed the following resolution:

"Resolved, That General James H. Lane be appointed by this convention, and authorized to organize the people in the several districts to protect the ballot-boxes at the approaching elections in Kansas."

Now, therefore, in pursuance of the authority thus vested in me, I do earnestly request the people of Kansas to form companies in their various neighborhoods, towns, and settlements, and every man enroll himself in some one of the same; that when each company shall contain not less than thirty, nor more than eighty men, it elect a captain, one first and one second lieutenant, two sergeants, and two corporals; and that it make a perfect and complete roll of all its officers and men in accordance with the printed form which will be transmitted from this office.

It is also desirable, and I hereby request that the captain of each company shall require a registry to be made of all persons in his neighborhood, town, or settlement, if any such there be, who shall refuse to enroll himself in said company, and transmit the same, with his company's roll, to this office.

When the aforesaid rolls shall be received, commissions for the officers will be promptly forwarded, after which requisitions for arms, signed by the company's officers, may be sent to the office of the quartermaster general.

Kansas expects every man to do his duty in this matter. The time has come for thorough organization and efficient action. The despotism which has been forced upon us must be overthrown. We must look to the ballot-box as the instrumentality of our disenthralment, and prepare to defend that ballot-box at any and every sacrifice against any and every attempt to violate its integrity.

The general staff, as organized this day, consists of M. F. Conway, adjutant general; E. B. Whitman, quartermaster general, and William A. Phillips, commissary general, each with an office in this city.

Correspondence may be conducted with any of these officers, and information, at all times, obtained from them in the line of their respective duties.

Signed at the office of the adjutant general this day.

J. H. LANE, Commanding.

By M. F. CONWAY, Adjutant General, K. V.

GENERAL ORDER NO. 2.

HEADQUARTERS KANSAS VOLUNTEERS,
(For the protection of the ballot-box.)

LAWRENCE, July 20, 1857.

Whereas, the people of Kansas, in convention, at Topeka, on the 15th instant, did adopt the following resolution:

"Resolved, That General James H. Lane be appointed by this convention, and authorized to organize the people in the several districts to protect the ballot-boxes at the approaching elections in Kansas;"

Now, therefore, in pursuance of the authority thus vested in me, and in order to facilitate the accomplishment of the object thus set forth, I do hereby establish divisions and brigades, and appoint superintendents of enrollment for the same, with instructions as follows, to wit:

DIVISIONS.

First division. Commencing at the mouth of the Kansas river, thence by the river west to a point where a line between range seventeen and eighteen crosses the same; thence south following said line to the line separating townships twenty-two and twenty-three south; thence east, following the said line to the line between range twenty-one and twenty-two east; thence south, to the southern boundary of Kansas; thence east, to the Missouri State line; thence north, along said line to the place of beginning.

Second division. Shall comprise all that district of country lying west of the first division, and south of the Kansas river.

Third division. Commencing at the mouth of the Kansas river, up the main channel of the Missouri river to a point where the base or boundary line between Kansas and Nebraska terminates at the same; thence south, following the line between ranges eighteen and nineteen, to the Kansas river; thence down the main channel of said river, to the place of beginning.

Fourth division. Shall comprise all the region of country lying west of the third division and north of the Kansas river. (Here follow the details of the several brigades and divisions.)

In addition to the above, the superintendents of enrollment are requested to visit all other places within their respective limits, and to take such steps, wherever they go, as may be necessary to secure the enrollment of the people into companies, as per general order No. 1, herewith transmitted. They are also requested to proceed at once to the performance of their duties.

The brigade superintendents will report with dispatch to the superintendents of their respective divisions, and the latter will report to the adjutant general immediately upon the completion of their work.

Signed at the office of the adjutant general this day.

J. H. LANE, Organizing.

M. F. CONWAY, Adjutant General, K. V.]

Mr. GROW obtained the floor.

Mr. HARRIS, of Illinois. Will the gentleman from Pennsylvania yield me the floor?

Mr. GROW. For what purpose?

Mr. HARRIS, of Illinois. I wish to move an amendment to the resolution introduced by the gentleman from Indiana, [Mr. HUGHES.]

Mr. GROW. I yield for that purpose.

Mr. SEWARD. I object, unless the gentleman

from Pennsylvania yields the floor unconditionally. I object to this farming out of the floor.

The SPEAKER. The gentleman from Georgia objects, unless the gentleman from Pennsylvania yields the floor unconditionally.

[Cries of "Withdraw the objection!"]

Mr. SEWARD. I withdraw the objection, so that we may see the intimacy existing between the gentleman from Illinois and gentlemen on the Republican side of the House.

Mr. HARRIS, of Illinois. I move to amend the resolution introduced by the gentleman from Indiana, by striking out all after the word "resolved," and inserting in lieu thereof the following:

That the message of the President concerning the constitution framed at Leecompton, in the Territory of Kansas, by a convention of delegates thereof, and the papers accompanying the same, be referred to a select committee of thirteen, to be appointed by the Speaker.

That the said committee be instructed to inquire into all the facts connected with the formation of said constitution and the laws, if any, under which the same was originated; and whether such laws have been complied with and followed.

Whether said constitution provides for a republican form of government, and whether there are included within the proposed boundaries of Kansas sufficient population to be entitled to a Representative in this House, upon the basis now fixed by law; and whether said constitution is acceptable and satisfactory to a majority of the legal voters of Kansas.

Also, the number of votes cast, if any, and when, in favor of a convention to form a constitution as aforesaid, and the places where they were cast, and the number cast at each place of voting and in each county in the Territory.

The appointment of delegates to said convention, among the different counties and election districts of said Territory, and the census or registration under which the same was made, and whether the same was just and fair, or in compliance with law.

The names of the delegates to said convention, and the number of votes cast for each candidate for delegate, and the places where cast, and whether said constitution received the votes of a majority of the delegates to said convention.

The number of votes cast in said Territory on the 21st of December last, for and against such constitution, and for and against any parts or features thereof, and the number so cast at each place of voting in said Territory.

The number of votes cast in said Territory on the 4th day of January last, for and against said constitution, and for and against any parts or features thereof, and the number so cast at each place of voting in said Territory.

The number of votes cast in said Territory on the day last named for any State and legislative officers thereof, and the number so cast for each candidate for such offices, and the places where cast.

That said committee also ascertain, as nearly as possible, what portion, if any, of the votes so cast at any of the times and places aforesaid, were fraudulent or illegal.

Whether any portion, and if so, what portion, of the people of Kansas are in open rebellion against the laws of the country.

And that said committee have power to send for persons and papers.

Mr. GROW then resumed the floor.

Mr. HARRIS, of Illinois. If the gentleman from Pennsylvania will yield the floor for that purpose, I will move that the House adjourn.

Mr. GROW. I will do so, if it be the pleasure of the House.

Mr. HARRIS, of Illinois. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at six o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, February 3, 1858.

Prayer by Rev. SMITH PYNE, D. D.

The Journal of yesterday was read.

The VICE PRESIDENT. The Chair must explain an entry on the Journal. The Army bill was under consideration as a special order yesterday, when a message was received from the President of the United States, which was read by general consent at that time, and a motion was made to refer it, which consumed the remainder of the day, and the Senate adjourned on it. Under the circumstances, no order having been made in regard to the special order which was under consideration when the message was received, the Chair directed an entry that it was "postponed until to-morrow." If there be no objection, that order will stand on the Journal.

The Journal was approved.

PETITIONS AND MEMORIALS.

Mr. STUART presented a memorial of a number of persons styling themselves Hollanders, adopted citizens of Michigan, praying an appropriation for completing the improvement of Black Lake harbor in that State, and compensation for the Holland colony pile driver, which was lost

with a portion of the pier erected in the waters of Lake Michigan; which was referred to the Committee on Commerce.

Mr. BRODERICK presented a resolution of the Legislature of California in favor of a mail route from San Francisco to Petaluma, and from thence to Humboldt and Trinity; which was referred to the Committee on the Post Office and Post Roads.

He also presented resolutions of the Legislature of California in favor of a tri-monthly mail between San Francisco and Crescent City, by steamers; also, between Crescent City and Yreka, and Trinidad and Yreka; which were referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented a petition of citizens of Morrisania, New York, praying that the public lands may be laid out in farms or lots, for the free and exclusive use of settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. CAMERON presented the petition of William W. Hubbell, inventor of a new and useful improvement in eccentric explosive shells, praying for compensation for an infringement of his patent; which was referred to the Committee on Military Affairs and Militia.

Mr. IVERSON presented a memorial of officers of the first and second regiments of dragoons, and of the regiment of mounted riflemen, praying for such an amendment of the laws creating the five regiments of mounted troops, as will make them one corps; which was referred to the Committee on Military Affairs and Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. DURKEE, it was

Ordered, That the petition of Prudence Couch, on the files of the Senate, be referred to the Committee on Pensions.

BILL INTRODUCED.

Mr. DAVIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 119) for the relief of the officers and soldiers of the Army who were stationed at Fort Kearny, Nebraska Territory, previous to the 1st day of March, 1853; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

REPRESENTATION OF THE NEW STATES.

Mr. HARLAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the constitutionality and expediency of a law allowing the new States such increased representation in Congress as their present population would entitle them to under the apportionment of 1850.

OFFICERS OF THE TEXAS NAVY.

Mr. HOUSTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to furnish, for the information of the Senate, a full statement exhibiting such action as has been had in his Department in relation to the appropriation of five years' pay to the officers of the navy of the late Republic of Texas, embracing,

1. The names of the persons who have been paid under the act referred to; the amount to each, and the nature of the evidence on which payment was made.

2. A copy of his decision in the case of Captain John G. Tod, of said navy, together with a copy of all the papers upon which said decision was founded.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the report of the Court of Claims on the claim of Samuel C. Reid and others, officers and crew of the private armed brig General Armstrong, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of John Hughes, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of John Pope, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of William K. Remmon, submitted an adverse report; which was ordered to be printed.

Mr. MALLORY, from the Committee on Claims, to whom was referred the report of the

Court of Claims on the claim of David Myerle, submitted a report accompanied by a bill (S. No. 120) for the relief of David Myerle. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred a bill reported from the Court of Claims the 28th of July, 1856, for the relief of Sturges, Bennett & Co., merchants of the city of New York, with the opinion of the court on the claim, reported the bill (S. No. 121) without amendment, and submitted an adverse report; which was ordered to be printed. The bill was read, and passed to a second reading.

NAVAL COURTS OF INQUIRY.

Mr. MALLORY. The Committee on Naval Affairs, to whom was referred the amendment of the House of Representatives, to the joint resolution (S. No. 4) to extend the operation of the act, approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" have had the same under consideration, and direct me to report it back with a recommendation that it be concurred in with an amendment. The amendment proposed by the committee is a verbal one, striking out one date, and putting in another to make it accord with the true date of an act. If there be no objection, I ask that it be acted on now so that it may go back to the House.

There being no objection, the Senate proceeded to consider the amendment of the House of Representatives, which is to add, at the end of the resolution:

"Except as to any case pending, undetermined, before any court of inquiry under the act of the 17th of January, 1857, at the expiration thereof."

The Committee on Naval Affairs propose to amend the amendment, by striking out "seventeenth" and inserting "sixteenth."

Mr. MALLORY. The act was approved on the 16th of January, 1857, and not on the 17th. The amendment is to make the recital conform to the real date.

Mr. DAVIS. I ask the chairman of the Committee on Naval Affairs whether he considers the amendment vital.

Mr. MALLORY. I do certainly. The amendment of the House of Representatives refers to an act which was passed on the 16th of January. The real date is the 17th of January, 1857.

Mr. DAVIS. It will delay, and possibly defeat action on the resolution, to send it back to the House of Representatives, though there can be no objection to having the date corrected if they can get it considered in the other House; but the machinery of that body may defeat action.

Mr. TOOMBS. I ask the chairman of the committee what the amendment is?

Mr. MALLORY. The House of Representatives, in adding an amendment to the resolution, have recited a bill as passed on the 17th of January, 1857, whereas it was passed on the 16th. This is a mistake as to the date of the bill. In the House a motion was made to amend it, but it was not allowed. It may be an important amendment or not; I leave that to the Senate to say.

Mr. CLAY. I would inquire of the Senator whether the description of the act does not designate it sufficiently?

Mr. MALLORY. Let the Secretary read the amendment, and the Senate can see.

The Secretary read the resolution and amendment.

Mr. STUART. Inasmuch as the House amendment does not give any other description of the act except its date, I consider the amendment of our committee indispensable to give it any force. If it had recited the act by its title, and then given a wrong date, it would be sufficient; but it has given you no reference to the act at all except its date. When you come to refer to the matter, you find no act of that date.

Mr. IVERSON. That may be true, but there is no such act as the act of the 17th of January, 1857, and, therefore, the amendment of the House of Representatives is perfectly nugatory. It refers to an act which is not in existence. The act in existence was passed on the 16th and not on the 17th. If the House amendment refers to an act not in existence, of course the amendment passes for nothing, and it cannot accomplish or affect

anything. It is useless, therefore, to amend that which, in itself, is nothing at all; and as it may endanger the passage of the whole resolution by sending it back to the House of Representatives, I trust the amendment of the Committee on Naval Affairs will not be adopted.

Mr. TOOMBS. I think the amendment of the committee is wholly unimportant, because the description of the act is sufficient. I believe it only covered one case, and that probably has taken a direction now that makes the amendment unnecessary. That I understand to be the fact, so that the amendment becomes wholly immaterial, and it has nothing to operate upon, even if it were operative. I think we had better defeat this amendment, and concur in the amendment of the House of Representatives as it comes here.

Mr. MALLORY. I differ with the Senator, unless he has some information that I have not. I have made inquiries on the subject, and I think there is one case that will be reached by this amendment, and to reach that case the amendment ought to be made. It is a case where an officer is raised from the dropped list to the leave list.

Mr. POLK. I should like to ask the chairman of the Committee on Naval Affairs whether he considers the amendment of the House of Representatives an important amendment? If it is, it seems to me that it cannot be effective unless we change the date.

Mr. MALLORY. I do consider it of consequence. When the time of the courts was up, and they were about to be disbanded, there were two cases pending and undetermined, which the House of Representatives desired to embrace. They added the amendment to our joint resolution, to embrace those two cases. It is now important to embrace only one of those cases, because in the other the court declined to make a change; they left the officer where they found him. But to embrace that one case, I think the amendment of the House of Representatives is important; and inasmuch as that amendment, in referring to the act, refers to it wrongly, I think it is important to make it right in that respect.

Mr. POLK. It is very clear it does not affect the act as it now stands, unless the date be changed. The amendment of the committee was agreed to.

The VICE PRESIDENT. The question now is on concurring in the amendment of the House of Representatives, as amended.

Mr. FESSENDEN. I wish to ask whether it is in order further to amend it?

The VICE PRESIDENT. The Chair thinks it is.

Mr. FESSENDEN. I will state to the Senate a further amendment which I wish to make. As the resolution has passed both Houses, of course I have no desire to interfere with it, or defeat it. I said what I deemed it my duty to say in regard to it before it passed this body. There is another case, however, which I wish to meet, and which I think justice to the parties interested requires should be met and provided for; and that is, the case of a person who was absent at sea at the time of the passage of the original act of 1857, and has not returned to this country up to the present time. The original act limited the date of applications, if I recollect aright, to one year from its passage. It extended the privilege of a trial before a court of inquiry to all who should apply within one year from the date of the passage of that act. At that period, one individual, an officer formerly in the Navy, and, I believe, a very meritorious officer, supposing that he was out of the Navy, had accepted the command of a merchant vessel, and gone to the East Indies. He has not been in the country, or able to return to it, to take any steps with reference to his restoration to the Navy since the passage of the act.

The VICE PRESIDENT. The Senator will suspend his remarks. It becomes the duty of the Chair to call up the unfinished business of yesterday, which comes up at this hour.

Mr. FESSENDEN. If the whole matter goes over, I am willing to stop here till to-morrow. In the mean time, I can reduce my proposed amendment to writing.

KANSAS LECOMPTON CONSTITUTION.

The VICE PRESIDENT. The motion to refer the President's message, received yesterday,

to the Committee on Territories, is the business now before the Senate.

Mr. SIMMONS. Was that made the special order for this morning?

The VICE PRESIDENT. It takes its place as a special order by being the unfinished business when the Senate adjourned yesterday.

Mr. WILSON. I propose to offer the following amendment to the proposition to refer the message to the Committee on Territories:

And that the committee be instructed to ascertain the number of votes given at each county in the Territory upon the question of calling a convention to form a constitution; to inquire into the appointment of delegates to the convention, and the census and registration under which the same was made, and whether the same was in compliance with law; the number of votes cast for each candidate for delegate to the convention, and the places where cast, and whether said constitution received the votes of a majority of the delegates to said convention; the number of votes cast in said Territory on the 21st of December last, for and against said constitution, and for and against any parts thereof, and the number so cast at each place of voting; the number of votes cast on the 4th day of January last, for and against said constitution, and the number so cast at each place of voting; the number of votes cast on the 4th day of January last for any State and legislative officers thereof, and the number so cast for each candidate for such offices, and the places where cast; and that said committee also ascertain, as nearly as possible, what portion, if any, of the votes so cast at any of the times and places aforesaid were fraudulent or illegal; and that said committee have power to send for persons and papers.

Mr. IVERSON. I was under the impression that as the Senate adjourned on this question without making it a special order, it would not come up before one o'clock.

The VICE PRESIDENT. The Chair will explain to the Senator that there were two special orders assigned for half past twelve o'clock to-day, one of which would be called up; but this subject, being the unfinished business, takes its place at the head of the special orders, and comes up at half past twelve o'clock.

Mr. HALE. I desire to make a report from a committee. Will the Senator from Massachusetts yield me the floor for that purpose?

Mr. WILSON. Certainly.

THOMAS AP CATESBY JONES.

Mr. HALE. I am instructed by the Committee on Naval Affairs, to whom his memorial was referred, to report a bill (S. No. 122) for the relief of Captain Thomas Ap Catesby Jones. As the bill is a very short one, and has twice already passed the Senate, once on full debate a year ago, and as Commodore Jones is a gallant old sailor, and is now sick, and may not live a great while, I ask that the bill may be put on its passage at once.

Mr. MASON. I hope it will be considered now.

The VICE PRESIDENT. If there be no objection, the bill will be read the first and second time.

There being no objection, the bill was read twice, and considered as in Committee of the Whole. It directs the accounting officers of the Treasury to allow to Commodore Jones the pay of which he was deprived by the decision of a court-martial in the year 1851, with a proviso that this act is not to be construed into an expression of opinion upon the organization, conduct, or decision of that court.

Mr. JOHNSON, of Tennessee. How much does the bill appropriate?

Mr. BIGGS. Is there any report accompanying the bill?

Mr. HALE. There is none; but I will state what the facts are. Commodore Jones was put on trial by a court-martial, and sentenced to be suspended five years; two and a half years without pay. At the end of two years the sentence was remitted. In consideration of the very gallant services of Commodore Jones, and of his age and health, the committee have agreed to report this bill without going into the question whether the court-martial was legal or illegal, leaving that an open question, but simply giving the old Commodore the two years' pay of which he was deprived.

Mr. STUART. I object to the bill.

Mr. MASON. The Senator from Michigan objects too late. The bill had the unanimous consent of the Senate to be put on its passage, and was read on that unanimous consent.

The VICE PRESIDENT. The Chair stated that the Senator from New Hampshire asked the unanimous consent of the Senate to let the bill

go through its several readings, and be put on its passage. The Chair paused several seconds, and hearing no objection, announced that there was no objection, and directed the second reading of the bill.

Mr. STUART. I rose as soon as the Senator from New Hampshire sat down, and objected to it. This bill is an old affair.

The VICE PRESIDENT. The Chair heard no objection to the second reading of the bill, but if there be objection to the third reading of the bill to-day, it cannot pass now.

Mr. STUART. All I want is to have the bill considered. It has been considered here once, and rejected, after very full investigation.

Mr. HALE. Let me correct that mistake. It passed by a very large majority.

The VICE PRESIDENT. The bill lies over on this objection to its third reading.

COURTS IN SOUTH CAROLINA.

Mr. BAYARD. I am instructed by the Committee on the Judiciary to report back the bill (H. R. No. 22) to alter the time of holding the courts of the United States in the State of South Carolina, and to ask for its present consideration. It is a bill which meets the approval of the Senators and Representatives from that State, and it is a courtesy always to suffer such a bill to pass. It relates simply to the time of holding the courts. I ask for its present consideration.

The VICE PRESIDENT. If there be no objection, the Senate will proceed to the consideration of the bill.

Mr. STUART. What is it?

The VICE PRESIDENT. The Secretary will read the bill for information.

The Secretary read it.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill. It provides that hereafter the terms of the district court of the United States for South Carolina, at its sitting in Charleston, shall be held on the first Monday in January, May, July, and October, in each year, instead of at the times heretofore appointed; and that the term of the circuit court at its sitting in Charleston, shall be held on the first Monday in April in each year, instead of at the time appointed.

The bill was reported to the Senate without amendment; ordered to a third reading, read the third time, and passed.

PENSION APPROPRIATION BILL.

Mr. HUNTER. I wish to ask the general consent of the Senate to take up the pension appropriation bill. It will not take five minutes to consider it. It is according to estimate, and we can pass it directly. If it leads to debate, I will agree to lay it down.

The Senate proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1859.

The bill was reported to the Senate without amendment; ordered to a third reading, read the third time, and passed.

HENRY HUBBARD.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of Henry Hubbard, submitted a report, accompanied by a bill (S. No. 123) for his relief; which was read a first time, and ordered to a second reading.

Mr. WADE. I ask for the consideration of that bill now. It has once or twice passed the Senate before, and it has the unanimous consent of the committee.

Mr. KING. I ask that the bill be read through, before consent is given.

The Secretary read the bill. It provides that there be paid to Henry Hubbard \$672 75 for his services as United States agent, charged with the safe-keeping of the public property at the harbor of Ashabula, Ohio, as certified by the bureau of topographical engineers, with interest at the rate of six per cent. per annum from the 11th of June, 1856, from which time payment is shown to have been delayed for want of appropriation.

Mr. BIGGS. It is a very bad practice, it seems to me, to take up a bill which has just been reported, without the report being either printed or read. I object to it.

The VICE PRESIDENT. Objection being made, the bill cannot now be considered.

Mr. POLK. I move that the report be printed. The motion was agreed to.

R. R. RICHARDS.

Mr. CHANDLER. I ask that the joint resolution (S. No. 9) introduced by the Senator from Pennsylvania, [Mr. BIGLER,] be taken up and passed at this time. It will not occupy one moment. It is a very small matter. The bill has been reported unanimously by the Committee on the District of Columbia. I move to take it up.

The motion was agreed to; and the Senator proceeded, as in Committee of the Whole, to consider the joint resolution (S. No. 9.) for the compensation of R. R. Richards, late chaplain to the United States penitentiary, for his salary, up to the 30th of June, 1857. It provides that \$300 be paid to him in full, for his half year's salary, ending June 30, 1857.

The joint resolution was reported to the Senate without amendment.

Mr. BIGGS. Is there any report accompanying this joint resolution?

The VICE PRESIDENT. The Chair is not aware of any report accompanying the resolution.

Mr. CHANDLER. Mr. President—

Mr. BROWN. With the indulgence of the Senator from Michigan, I will make a very brief explanation of this resolution. This gentleman, Mr. Richards, was appointed by Secretary McClelland, chaplain of the penitentiary. He acted there and received his pay for three quarters. When the account was presented for the fourth quarter, the auditor stopped it on the ground that the appointment was illegal. There was a difference of opinion between the Secretary of the Interior and the Auditor of the Treasury, as to whether he could make the appointment. He withheld the compensation, and required of Mr. Richards that he should pay back a quarter's salary which he had received for the quarter preceding that time. Under that requisition he did return \$150 to the Treasury, as one quarter's salary. This bill is to return to him the \$150 which he paid into the Treasury, and to pay him for the other quarter during which he served. He served under a commission from the Secretary of the Interior, who writes a letter, which is among the papers, saying that he had no doubt at all, himself, that he had a right to make the appointment, and that the appointment was legal. The auditor thought differently, and refused to pay the salary.

Mr. BIGGS. Then I understand it to be a case in which there is a difference of opinion between the accounting officer of the Government and the Secretary of the Interior as to the legality of the appointment of this chaplain. I am unwilling, particularly when there is that difference of opinion, to extend the laws in regard to compensating chaplains. It seems to me that unless there is a better excuse given for it than has been presented by the remarks of the Senator from Mississippi, the joint resolution ought not to pass.

Mr. HAMLIN. What the Senator from Mississippi has stated is true; but there is one other fact that he did not state, and which I think has a material bearing on the case. I was a member of the committee, and did not agree to the report; but I do not propose to enter into any discussion here against it. I will simply state one fact, which explains the reason why the Secretary of the Interior could not make this appointment. Mr. Richards was a clerk in one of the Departments, receiving his compensation there, and the law provided that a person should not receive the compensation of two offices at the same time. He was getting his pay for praying and writing, and for that reason I opposed it.

Mr. BROWN. The Senator's statement is true; but it was not the business of Mr. Richards to determine what the law was. He was appointed by a competent power, and performed the service. There is no charge that he did not perform all his clerical duties. He did all that he was required to do. I believe he was a clerk at \$1,200 a year. There is no charge that he neglected his duty in that respect. Then on the Sabbath he performed his ministerial duties at the penitentiary, under this appointment, which he doubtless believed was made according to law. Now, when the services have been rendered under a mistake of the Secretary of the Interior, if you will, the question is, who are you going to cheat? Are you going to cheat the preacher? That is the only point in

the case. Are you going to take his services under an appointment of the Secretary of the Interior, and refuse to pay for them? It was not his fault that there was a mistake about the law. That was the fault of the Secretary, if there was, indeed, any fault. If that question were involved, I should discuss it, and undertake to show that he had a right to make the appointment, and that this is not one of the cases referred to by the law mentioned by the Senator from Maine; but I do not wish to take up the time of the Senate on a \$300 claim.

The joint resolution was ordered to be engrossed for a third reading; there being, on a division—ayes 26, noes 11. It was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill to amend an act for the relief of Whitemarsh B. Seabrook and others.

INDIANA SENATORIAL ELECTION.

Mr. TRUMBULL. I rise to what I suppose is a privileged question. Some days ago the majority of the Committee on the Judiciary reported a resolution in regard to the right to seats of the Senators from Indiana. That resolution has been lying over for some time, on account of the indisposition of the Senator from Vermont, [Mr. COLLAMER,] who has been in his seat for the last day or two, and is now present. I think it desirable that it receive speedy action—either that we proceed to its consideration now, or at some early day to be agreed upon. I believe those who dissent from the report of the majority of the committee are ready to proceed with it now; and unless there is some reason shown for delay, I ask that the Senate proceed to its consideration at once.

The VICE PRESIDENT. The Chair will state to the Senate that the Senator from Massachusetts [Mr. WILSON] was upon the floor, and it cannot be taken away from him without his consent. Does the Senator yield the floor, in order that this question may be taken up?

Mr. WILSON. Yes, sir.

Mr. BAYARD. I did move to take up the resolution of the Committee on the Judiciary some days ago; but in consequence of the absence of the honorable Senator from Vermont I postponed it until he should be well enough to come in. I was perfectly willing then, but I am not now willing to take it up—not, at all events, before Monday. Whether on Monday I can agree to call it up, as far as my own vote is concerned, I cannot at present answer. The reason that actuates me I will state. When I originally asked the Senate to take up the resolution, there was nothing that I conceived ought to take precedence of it. I believe, however, there is now before the Senate, for the purpose of reference, a question connected with what is called the Kansas issue, which I consider far more important than any other question which can be brought before the Senate as regards the permanent destinies of this country; and the sooner that question can be disposed of, the better for the preservation of the Union and the peace of the country. Under these circumstances, though this be a privileged question, I feel myself bound not to ask that it shall be taken up; and, in fact, to vote against its being taken up until there is at least a reference of that question, and probably until its disposition.

Mr. TRUMBULL. I think the Senator from Delaware has given the very best reason in the world why this question should be taken up. He tells us that there is pending a question which may affect the stability of the Union itself—an important issue in regard to Kansas; and that he is unwilling to determine who are entitled to seats in this body until that vastly important question be settled. Why, sir, I think the first thing is to determine who has the right to settle that question. It should be settled by a Senate properly constituted. It will be remembered that for nearly a year a question has been pending here as to the right of two of the sitting members of this body to occupy seats. I do not propose now to discuss it; but I move that the question in regard to the right to seats of the Senators from Indiana be postponed until to-morrow at one o'clock, and made the special order for that hour, to the ex-

clusion of all other business until it be disposed of.

Mr. BAYARD. I disagree with the honorable Senator from Illinois altogether. If this were a case in which there were contesting members from the State of Indiana, and the individual rights of others claiming to be representatives of that State on this floor were before us for decision, I should think that we ought to dispose of it before we entered upon any other question; but the State of Indiana has sent to us, with the *prima facie* evidence of proper election, two Senators, who have their seats upon this floor. I am perfectly aware that there are questions which must be decided by the Senate ultimately as to the legality of the election; but of the broad, general fact, which I can look at outside of that, that these Senators represent the public sentiment of the State of Indiana, I can entertain no doubt. Under these circumstances, when a question is to arise important to the destinies of this Union, why should not a sovereign State of the Union be represented, even though it be that it may turn out ultimately that the election was not in that form which the Constitution of the United States requires, and therefore invalid? I think the distinction is a clear one. As there is no individual interest connected with this matter, no contesting persons who claim to be entitled to the seats, as the result of the decision, if it shall be what the Senator from Illinois desires, will simply be that the State of Indiana will be unrepresented on this floor, as there is *prima facie* evidence of the right of these gentlemen; and as I believe the public sentiment of that State, even if the election was not regular in itself, is represented by them, I am not willing to lessen the number of the Senate when a question so grave and important as that of the admission of Kansas is to come before us.

Mr. BRIGHT. So far as is proper for me to speak, I desire to say that I am anxious to have this matter disposed of. I have not believed, really, that the Senator from Illinois was in earnest in insisting that the Senators from Indiana were not legally elected Senators from that State; but from the pertinacity with which he adheres to his position and insists on the consideration of the subject, I desire to say that I am anxious to have it considered. I think it is proper that the Senate should know my feelings on the subject; and I presume these are the feelings of my colleague, though I have not conferred with him on the point.

Mr. TRUMBULL. Then, sir, I trust we shall unite on an early day for the consideration of the subject, and that my proposition that it shall be considered to-morrow will meet the approbation of the Senate. I defer any reply to the Senator from Delaware on the present occasion, as I will not encroach on the time of the Senator from Massachusetts.

The VICE PRESIDENT. The proper question is first on the motion of the Senator from Illinois to take up this resolution. If taken up, he then can move to make it a special order.

Mr. TRUMBULL. I make a motion to take it up.

Mr. BROWN. If the resolution is to be taken up and postponed without debate, I have no objection; but if it is to be taken up and discussed now, so as to delay the discussion on the reference of the President's message, I object.

Mr. TRUMBULL. I will inform the Senator from Mississippi, that I do not propose to discuss it at the present time; but merely to take it up and have it made the special order for to-morrow.

Mr. BROWN. The Senator has already given an intimation of the character of the motion he proposes to make; and that is, to postpone this question until to-morrow at one o'clock, and make it the special order for that hour to the exclusion of all other business. No such motion can pass without debate. I certainly shall not be silent when it is proposed to make this question override all other business. If it is simply to be taken up and postponed until to-morrow at one o'clock, and take its position with the other special orders, I have no objection to that; but I object to giving it precedence to-morrow over everything else.

Mr. TRUMBULL. I am willing to test that to-morrow when the question arises. I now move to make it the special order for to-morrow at one o'clock.

Mr. HALE. I should like to know, for my own information, what is the right of a privileged question here. I remember to have heard it raised in a former Senate, when a distinguished Senator from South Carolina, not now a member of the body, and not now living, was at the head of the Judiciary Committee. In the discussion we then had, he said it made no odds how long, or how often a question affecting a member's right to a seat was postponed, it being a question of privilege as to who might vote in the Senate, any member of the Senate might raise the question at any time by objecting to the incumbent's voting when his name was called. If that be so—and I really rise for information—it would seem that, this being a question of privilege, it is in the power of any Senator to take that course, and object to these gentlemen voting. That was the course suggested by the late Judge Butler. I should like to know what a question of privilege is if it may be postponed at the will of a bare majority. If it may be so postponed, it may be postponed indefinitely, and then there is no privilege about it. It strikes me that it enters into the very constitution of the body, that the question of who shall sit here and vote is a question which by its own inherent force must override every other question, unless by the common or universal consent of the Senate a different course is suggested. I want information on this subject.

Mr. BAYARD. If the question were not to give rise to any debate, I should not have interposed an objection to its consideration. The report of the committee authorizing the taking of testimony does not dispose of this question. That is opposed by the minority of the committee, and their views have been submitted in writing. This will give rise to debate; and yet if the Senate coincide with the majority of the committee, there can be no final action until the testimony shall be taken. It will, however, give rise to extended debate, I have no doubt; because at the last session of the Senate, when a precisely similar resolution was reported by the Committee on the Judiciary, (and though then a member of the committee I was not present when it agreed on the resolution, and did not know anything of it until it was reported,) it went over in consequence of debate being raised then, when there was no time for the disposition of it. But for the objection made then, the testimony would have been taken by this time. The same question arises, and will be discussed now. Of course it will interfere with what I suppose to be (although this is a privileged question) a more important matter than the disposition of the right of a Senator who has come here and been admitted with the proper credentials, *prima facie* credentials certainly, and such as are usual when there is no contestant in the case to have his rights infringed upon. Under these circumstances, I cannot see the necessity for immediate haste when there is pending what is, I think, a measure of greater importance; but I do not contemplate anything like an indefinite postponement. I say, further, I look solely to the measure to which I have alluded, which I consider of such vital importance, and if that were out of the way, no other measure would have induced me to ask the Senate to delay the consideration of this matter; but in reference to that, I consider it sufficiently important to justify me in voting against disposing now of a question of privilege which is to give rise to debate.

Mr. COLLAMER. I am unable to appreciate the views which the gentleman from Delaware seems to entertain in relation to this question. It is true that a majority of the Committee on the Judiciary have reported a resolution, directing the taking of testimony on certain matters connected with the election of United States Senators in Indiana. It is also true that the minority of that committee have presented their statement of the case, in which we insist that no testimony can alter the character of the case; that the facts, the undisputed facts, in relation to the manner in which the election was made, are such as to show that the election was not legal, was insufficient, and is incapable of being corrected. This is the ground taken. I do not propose to enter into the merits of the minority report, and consider whether it is well-founded or not; but certainly, if the view of the minority be entertained and sustained by the Senate, it will bring on a final and definitive view of the case on its merits.

Mr. BAYARD. Certainly.

Mr. COLLAMER. The minority think they sufficiently present the question. Now, Mr. President, the Senator from Delaware seems to suppose that because these gentlemen had a certificate, that is, had the proper *prima facie* credentials, though their right is questioned, though it is contested, and though the point is on trial, yet, after all, we ought to proceed with great questions which concern the interests of the country; and if they are very important and concern the interests of the country deeply, we ought to defer settling who has a right to vote on them till after those questions are disposed of. I cannot understand that. It seems to be based on the presumption that inasmuch as these men had certificates, it must be that they represent truly the views of the people of Indiana. *Non sequitur*. That depends on whether they were legally elected. If they were not legally elected, you can raise no presumption of that kind; and it is but begging the question to say now, that they represent the sentiment of the people. That depends on whether they were properly elected or not, and that question is to be tried.

I view this not only as a privileged question, but as a question of privilege; and it is in the very nature of it preliminary. The right to vote is preliminary to the decision of any subject upon which Senators are to vote; and it is proposed to defer it because there is an important subject to be voted on. That is the very reason why it should not be deferred. The more important the subject to be passed upon ultimately, the more important it is to settle the preliminary question of who has the right to vote on it. With these views, I do not think this should be deferred to any other question; but, from its very nature, we have a right to insist that it shall be first passed upon, and that the Senate shall fix the earliest day for doing so. With these views, I cannot but insist that either now, or at an early day to be fixed, it shall be taken up.

Mr. DOUGLAS. I merely rise to suggest that this motion, I presume, is made under a misapprehension of its effect on the question. I understand that a question relating to the organization of the body, the right of individuals to hold seats, here, is a question of privilege. It can be taken up any day, on a motion being made by a majority vote, to the exclusion of special orders of every kind. If that be the case, the question to-morrow morning, without any motion being made now, will stand in precisely as good a condition as it would if it were taken up now and made the special order for to-morrow. Therefore, I do not see that anything is gained by taking it up now and postponing it. If you make it the special order for to-morrow morning, and then there is not a majority in favor of going on with it, they can pass it by. It being a question of privilege, a motion to take it up to-morrow morning will take priority then, and if there is a majority for taking it up, it can be taken up. Hence, I do not see that we can gain anything by taking it up this morning, and then postponing it.

The VICE PRESIDENT. The Chair will state that he considers this a privileged question; and that the Senator from Massachusetts, having yielded the floor to the Senator from Illinois, he could bring it to the attention of the Senate; but of course the Chair would feel bound to recognize the action of the Senate to the subject of postponing it to another day.

Mr. HUNTER. I presume that no matter what is the character of the question, a majority of the Senate can postpone it. If it be a privileged question, all the priority which it has is to enable its mover to bring it up for the consideration of the Senate; but when it is up, the Senate, if it chooses, can postpone it and take up other business. All that I understand the Senator from Delaware to maintain is, that in the present condition of the public business, it would be better to postpone this matter and go through with the question which is now up, on which the Senator from Massachusetts has the floor, on the reference of the President's message.

Nor do I see that there are any such claims for speedy action as have been urged, inasmuch as this is not a motion to settle the question. It is a mere resolution to take testimony, which, if adopted, will require time. It will not be possible to take testimony and have a decision of the case

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before this question to which Senators have alluded will probably be decided. I do not see that that enters into the consideration of it at all. It seems to me to be a question which is to be considered and decided in reference to the business of the Senate, and the first thing it strikes me that we ought to do is to dispose of the motion for the reference of the President's message. In regard to the taking of testimony in this case, we can take up the resolution in the morning hour to-morrow or any other time, I care not when, and decide it; but I do not regard it as one of those questions which takes precedence over all others. It might have been so when it was first introduced; but it has already been once postponed, and a majority can continue to postpone it as they choose.

Mr. BIGGS. It seems to me that, by the course which is being pursued, the order of business in the Senate is becoming quite complicated. We had introduced, by unanimous consent yesterday, the message of the President of the United States. Upon that a motion was made, by unanimous consent, for the printing and reference of the message. That is the unfinished business; and that is the business regularly before the Senate, on which the Senator from Massachusetts is entitled to the floor. Now, it seems to me that, without unanimous consent, although the Senator from Massachusetts may yield the floor to the Senator from Illinois, we should be doing very wrong to take up another subject, either for consideration or for postponement. Considering the propriety of the order of business, it seems to me that, although the Senator from Massachusetts does yield the floor to the Senator from Illinois, he has not the right to make the motion, unless by the unanimous consent of the Senate, because it is entirely out of order, as the business of the Senate now stands. If that be the ruling of the Chair, as it seems to me proper it should be the ruling of the Chair, with all due deference to other Senators and to the Chair itself, I object to the Senator from Illinois making this motion on the present occasion; and insist that we shall proceed with the business properly before us, on which the Senator from Massachusetts is entitled to the floor.

Mr. SEWARD. I think there would have been no difficulty about this case whatever, if it had not been for a remark, which seems to be quite extraordinary, by the honorable chairman of the Committee on the Judiciary, that this question, which is a privileged one, and concerns the rights and dignity of the body and the constitution of the body itself, could be or ought to be postponed upon any ground of expediency in regard to the votes of the sitting members on measures which are to be decided by the body. I think but for that suggestion, which he himself, when he comes to reflect on it, will consider an unfortunate one, there would have been no debate on the proposition to assign an early day for the consideration of this resolution. It is demanded on the part of the minority of the committee, and it is assented to by the sitting members. For one, I think that there is no question so important to the Senate as the maintenance of its own integrity, its own dignity, its own honor, and that when the seat of any member is challenged, the first, the highest duty of the Senate, paramount to all others, is to give it such consideration as can be given to it consistently with the dispatch of the business of the country before the Senate at the time.

I quite agree with what has been said by the honorable Senator from Illinois [Mr. DOUGLAS] and others, that there is no necessity for having a vote to take up this question to-morrow. The honorable Senator from Illinois, [Mr. TRUMBULL,] or any other Senator, can, to-morrow, move to take it up, and I do not think it important that the debate on the President's special message of yesterday should be delayed for the consideration of this question. I presume that the message will find a reference in the course of to-day or to-morrow. When it is referred, then this question can be taken up, and either considered immediately or at some early day thereafter.

I throw out these views for the purpose of suggesting to my honorable friend from Illinois, [Mr. TRUMBULL,] that he can to-morrow, if the condition of public business shall favor it, call for the consideration of this question; and although I am holding my mind open on the question in regard to the rights of these Senators to their seats, yet I will go with him, or with anybody else here, in arriving, at as early a day as possible, at the question of the title to those seats or any others. I should not ask any other course in my own case, and I am glad to see that the honorable gentlemen who are concerned in this matter do not ask any other course in theirs.

Mr. TRUMBULL. The Senator from Virginia assumes that nothing is to be done in this case except to pass the resolution to take testimony. We think that no testimony is requisite, that all the facts are here essential to a proper decision of the case; and that being so, it may be decided at once. But, not to interfere with the Senator from Massachusetts, who has the floor to-day on another subject, I will give notice that I shall to-morrow morning move to proceed to the consideration of this subject; and now I ask leave to withdraw the motion which I made to make it a special order for to-morrow, so that he may take the floor and proceed with his remarks.

The VICE PRESIDENT. No action having been taken on the motion, the Senator has a right to withdraw it.

KANSAS—LECOMPTON CONSTITUTION.

Mr. WILSON. I am informed that Senators desire that the President's message shall be printed now, and that the debate shall go on upon the question of reference; I therefore ask that, by unanimous consent, it may be ordered that the message and the constitution accompanying it be printed.

The VICE PRESIDENT. The motion to print under the rules goes to the Committee on Printing, unless by the unanimous consent of the Senate that be dispensed with. [Agreed.]

Mr. HUNTER. I hope consent will be given.

The VICE PRESIDENT. The Chair hears no objection, and the order will be made to print the message and the accompanying documents. The question now is on the motion to refer the message to the Committee on Territories, to which motion the Senator from Massachusetts has offered an amendment proposing certain instructions to the committee.

Mr. WILSON. This application, Mr. President, for the admission of Kansas into the Union, into this sisterhood of free Commonwealths, comes to us under circumstances that demand the prompt, thorough, and full investigation of the Senate and of the House of Representatives. Charges have been made by the people of Kansas, by Government officials in Kansas, of illegalities and frauds—illegalities and frauds which have deprived the people of that Territory of their rights, and defeated their will. These reports have gone over the country, over the Christian and civilized world, bringing dishonor and shame upon free Democratic institutions. Under these circumstances, sir, I take it that every man, every Senator here, every member of Congress, every fair minded and honorable man throughout the Republic, desires, before we vote to bring Kansas into the Union or to reject her application, that all the facts connected with the calling of the convention to frame a constitution, the election of delegates, the framing of the constitution, the mode of submission to the people, the election under the constitution, and all the questions concerning the rights and the interests of the people of Kansas shall be fully investigated. To accomplish this object, which every honorable gentleman in America must desire, I have submitted the motion that the Committee on Territories be instructed to make this investigation, and that they have power to send for persons and papers.

I indulge the hope, Mr. President, that every Senator on this floor will promptly vote for these instructions, and that the Committee on Territo-

ries will make the most searching, thorough, and complete investigation into this whole subject; and if there be frauds; if there be wrongs; if there be anything in the action of that Territory that baffles the popular will; that robs the people of their rights, that the facts will be presented to the Senate and to the country, and that we shall be guided on this great question, which now arrests the profound attention of the country, by the simple idea of ascertaining the real will of the people of the Territory of Kansas, and letting that will control our action.

Before I sit down, sir, I wish to call the attention of the Senate to some of the allusions, assumptions, and declarations of the President, in this extraordinary communication to Congress. The President told us, in his annual message, that the attention of the country had been too much drawn to the Territory of Kansas. I regret, I think the country will regret, I think every man who cares anything for right or justice, who cares anything for the honor of the American name and the American character; ay, anything for the good name of the Chief Magistrate of the Republic, will regret that the President himself had not devoted time enough to the consideration of the affairs of Kansas to have enabled him to present to the Senate and the country, a full, intelligent, accurate, and truthful statement of the events that have transpired in that Territory. I say here, sir, what I know to be true; what every intelligent man in the Senate knows to be true; which the country and the world know to be true—that the statements in this message misrepresent, wholly and entirely, the events that have transpired in that Territory; and wherever this message goes, it will carry to the world a stupendous and gigantic misrepresentation of affairs in the Territory of Kansas.

I know, sir, that the President cannot be expected, in the midst of the vast duties that devolve upon him, to understand everything that has transpired in that Territory. He was out of the country when the act for the organization of Kansas was passed; he was out of the country during the eventful years of 1854 and 1855, and a portion of 1856; years in which events of great magnitude transpired in Kansas. He was nominated, we all know, sir, because he was out of the country, and had no connection with those events, because he was able to prove an *alibi*. But, sir, he sends to us, to men familiar with the events of the past four years, this message, covering this application for the admission of Kansas, on the application of John Calhoun, the president of that convention, and he gives a coloring to events in that Territory which will give to the country and to the world about as correct an idea of the affairs of that Territory as the bulletins of Napoleon gave to the people of France of the condition of the grand army on their retreat from Moscow.

The President tells us that there is a delusion in the country in regard to the condition of affairs in Kansas; that it is supposed there are two parties in that Territory contending for the government of the Territory. He gives us to understand that this is not the fact, that there is not a great free-State party struggling to make Kansas a free State, and a slave-State party struggling to make Kansas a slave State; that these two parties are not contending on the soil of that Territory for mastery; and he would have the country to understand that this is not the state of affairs in that Territory, but there is a party of law and order, a party that legitimately and legally governs the Territory; and that there is another party setting at defiance the laws of Congress and the Constitution of the country, and that they are laboring to overthrow by lawless violence the government of the Territory and to impose on the people a constitution of their own choice. Now, sir, I know, you know, every man here knows that this is not the fact. I say here to-day that there is no party and there has been no party in the Territory of Kansas setting at defiance the Constitution of the United States, or the laws of the United States; no party, nobody, no set of

men, in that Territory in rebellion against Federal authority. On the 30th March, 1855, the people of that Territory were summoned to the ballot-box to elect thirteen members of the Legislative Council and twenty-six members of the House of Representatives. On that day there was an invasion of that Territory of forty-nine hundred men from the neighboring State of Missouri. These forty-nine hundred armed men went into every council district and into every representative district but one. They took possession of the electoral urns; they selected the Legislature to frame the laws for that Territory, and to shape and mold its future. Of the twenty-nine hundred men in the Territory who had a right to vote, less than fourteen hundred voted on that day, and yet a majority of actual residents were in favor of a free State and had majorities in sixteen of the eighteen districts. These facts have been proved, demonstrated, by taking the names of the persons enrolled as actual voters, and taking the names of the persons who voted on the 30th of March. These facts were proved under the order of the House of Representatives, and by a thorough investigation by a committee of that House, and no man here or elsewhere can deny them.

The people of Kansas had imposed upon them that day a government not elected by themselves, a government imposed upon them by those forty-nine hundred men from the State of Missouri. The people of the Territory felt this to be a great outrage on their rights. They had a right to feel so. The people of any State would have felt outraged on going to the ballot-boxes and finding them in the possession of armed men from another State. Governor Reeder undertook to correct some of these frauds upon the ballot-box by withholding certificates from the members thus elected, and Governor Reeder, on that day when he undertook to right these wrongs, was marked for swift destruction.

The Legislature assembled; threw out the free-State members who held certificates from Governor Reeder; it passed laws violating the rights of a free people; it violated the freedom of speech and of the press; it denied to them the right to go to the ballot-box unless they took a test oath that no freeman could take without degradation. Those laws would not allow a man to sit in a jury-box if he denied the right to hold slaves in that Territory. These laws were intended—to use the language of one of the leading men who imposed them on the people—to degrade and drive out of the Territory the free-State men. What were freemen to do under such circumstances? They had been brought up in the belief that the people were the inherent source of power, that all power came from the people in their sovereign capacity. They had read the Kansas-Nebraska act, and they supposed that act conferred on the people, without the intervention of a Territorial Legislature or of Congress, the right to come together to frame a constitution and to ask for admission into the Union as a sovereign State. The people of other Territories had framed such constitutions. They assembled in convention, they framed such a constitution, they submitted that constitution to the people and it received the popular verdict. They elected their officers under it; they chose their Senators, and sent them to this Chamber to ask for admission into the Union. They undertook to enforce no laws, and from that time to the present they have kept that Topeka government in existence; they have framed some acts necessary for its preservation; but from that day to this they have never attempted to enforce those laws. I declare here to-day what I know personally to be absolutely true, and I declare it in the face of the declaration of Governor Walker and of the President, that the presence of your army in that Territory, the proclamations of your officials, the action here in the Senate and the House of Representatives, have not prevented that people from putting those laws in execution; but they have acted according to their own well chosen and deliberate policy. They never intended to go into rebellion; they never intended to enforce these laws against the laws of Congress. They have always denied the validity of your territorial laws which were imposed upon them by fraud and force; they have not used them for the protection of their liberties or their lives. Young men, who went to that Territory to practice their professions, have, from conscientious scruples, from that time to this

engaged in the most common labors of life rather than acknowledge those laws, or take the oath to support them. The masses of the people of that Territory from that time to this have never acknowledged those laws as binding on them; they have never claimed their protection. They have been outraged, robbed, imprisoned; they have seen their dwellings burned down; they have been invaded; many of their fellow-citizens have been murdered because they loved liberty; but they have not invoked the protection of those laws. They never have; they never will; they never ought to do so. No man here would ever submit to them, or claim their protection, or use them for his own personal protection.

The President, in support of this charge of rebellion, quotes the evidence of Governor Walker. Governor Walker, sir, went to that Territory as the President's instrument to accomplish a certain purpose. He was appointed Governor of that Territory on the 30th of March, 1857; he entered that Territory on Sabbath evening, the 24th of May. Much of the intervening sixty days of time was spent by the Governor in making speeches, and writing letters magnifying his great mission. I went to the Territory from St. Louis in company with Governor Walker; I saw him at Lawrence; I saw him when he was welcomed by the people of "rebellious" Lawrence in a generous way, of which any man might be proud; I was at Leecompton, the capital, when he arrived there. Governor Walker went to that Territory, and his own letters demonstrate it, on this mission to divide the people of Kansas who were in favor of a free State, to unite the free-State Democrats with the pro-slavery men, and secure the slavery then existing in Kansas, and make it a black-law, pro-slavery, Democratic State. That was his mission; and no man in America could have labored more faithfully to accomplish that object. He went to that Territory a pro-slavery man, in favor of the pro-slavery policy of this country; and in his inaugural address to the people, in view of the fact that it might become a free State, he said that the great Indian territory of the South would be slave territory, and that slave States might be made out of it. I was there when that address was issued; and although we are told now that everything in the Territory was in a state of excitement bordering on rebellion, I say here to-day, that there was no spot on the North American continent where there was more quiet than existed on the 1st of June last in the Territory of Kansas. Rebellion existed only in the teeming brain of Governor Walker. The persons appointed to take the census and to enroll the voters had not performed their duty in about half of the counties of the Territory. The free-State men, under the lead of Governor Robinson and other leading men, made a proposition to acting Governor Stanton, before Governor Walker arrived, to go into the election of delegates to the convention if they could be enrolled, and the ballot-boxes so protected that there should be no invasions and no fraudulent voting. They did not wish to commit themselves in that election, and find at the polls what they found at the polls on the 30th of March, 1855—an invading host of illegal voters, to rob them of their rights. Secretary Stanton, who was then acting Governor, to whom this proposition was made, answered these gentlemen by saying he had no power to correct the list of voters, and he could do nothing to aid them. Some of the people, in some of the counties where the officials had refused to take the census or to register the voters, made an application to go on and elect their delegates; and it was suggested to them that they could do so, and that their delegates might be accepted by the convention. When the day of election came, less than twenty-three hundred men went to the polls to vote, about one ninth part of all the voters in the Territory.

When the result of that election was known in the Territory, it was believed by intelligent men of all parties that the convention would never assemble; that it had gone down beneath the moral sentiment of the people, that it was an ignominious and contemptible failure. The President quotes Governor Walker's hasty and ill-timed language in regard to the action of the people of the city of Lawrence. We were told here, the other day, by a Senator from Georgia, that the city of Lawrence was the sink of filth, folly, and falsehood. Sir, I venture to say that there is not

a town in the United States, north, south, east, or west, of the numbers to be found in this town of Lawrence, containing more of individual worth, or personal character, or general intelligence. I venture to say that there are more college graduates in that town, than in any town west of the Alleghenies of equal population. The people of Lawrence are a law-abiding, liberty-loving people. Having lived for two years without the protection of law, having been robbed and plundered, and being desirous of doing something for their own local interests, the people of that town, in July last, framed and adopted a city charter. The people there are all on one side—there are, I think, only two or three slave-State men there, and no one intended to enforce any laws on them. It was a charter framed by common consent. The laws under it were intended to be executed by common consent. The committee of the people say in their address:

"As its action will be purely local, and have reference merely to our own internal affairs, no collision is apprehended with any other organization claiming to exercise general jurisdiction in the Territory."

They did not intend to violate the laws of the Union, or of the Territory. The Governor moved the troops upon that town, and pronounced their acts rebellion; but the people went right on. They framed their ordinances, they put their ordinances in execution, while his army was encamped on their soil; and from that time to this, they have peacefully and quietly administered their own local town affairs, and have harmed nobody in or out of the Territory. This simple act, performed by common consent, having the assent of the whole people, intended to operate only in their own local affairs, was pronounced by Governor Walker as the greatest rebellion the world had ever witnessed!

"A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country."

This ridiculous declaration is only equaled by his ridiculous action in moving the army on Lawrence. The Governor tells us that this town of Lawrence was the hot-bed of the Abolitionists of the East, that paid agents of those societies were there. I deny the fact that paid agents were in the town of Lawrence, of any Abolition society, East or West.

The Legislature imposed on Kansas by lawless violence provided that the people should vote in October, 1856, whether they would call a convention to frame a constitution. In October, 1856, the vote was taken, and about two thousand votes were given upon that question. Test oaths were then demanded, and the free-State men would not vote. The President sharply censures them for not doing so. The Legislature, in the winter of 1857, passed the convention act. The plan was to make Kansas a slave State. The time, the mode, and the machinery were all selected with the skill of political tricksters to secure that result. Governor Geary vetoed the act, because it contained no clause authorizing and directing the submission of the constitution to the people for their ratification or rejection. In a succinct letter Governor Geary tells us that—

"In a conference with the committees of the two Houses, by whom the bill had been reported, I proposed to sign the bill, provided they would insert in it a section authorizing the submission of the constitution as above indicated. But they distinctly informed me that the bill met the approbation of their friends in the South—that it was not their intention the constitution should ever be submitted to the people, and that to all intents and purposes it was like the laws of the Medes and Persians, and could not be altered."

Governor Geary tells us that he was informed that the reason why the constitution was not to be submitted to the people was, that their friends in the South, who were in favor of making Kansas a slave State, required that it should not be submitted. Their friends in the South were wise in this respect. They believed they could control the election of the delegates to the convention; but they knew that if the constitution was submitted to a fair vote of the people, the people by an overwhelming majority would vote it down; and they then demanded, if we are to believe these gentlemen of the committees of the two Houses, that the constitution should not be submitted to the people. Why did gentlemen from the South demand that the constitution should not be acted on by the people? They knew that that people were in favor of making Kansas a free State; that they would vote down any constitution that did not make

Kansas a free State; and therefore the people must be robbed of their right to vote on their own constitution.

The President sent Governor Walker to the Territory with the promise, with the assurance that the people should vote upon the constitution. Governor Walker, in his letter of acceptance, says that he understands the President and Cabinet to be committed to that policy. Governor Walker went to the Territory, and in his inaugural address promised the people that "unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be rejected by Congress."

What was the effect of these declarations on the people? The people said "the census has not been taken; the registry has not been honestly made; we shall be cheated if we go to the polls to elect delegates to this convention. We do not wish to commit ourselves and then be cheated and defrauded. We will let them elect their delegates to the convention, frame their constitution, and when they submit it to us, we will vote it down." That was the sentiment of the free-State men throughout the whole Territory, and all the evidence goes to show it. I know it to be so by my own personal experience in that Territory. I know it to be the sentiment of the leading men and of the people.

We are told by the President that the reason why they did not vote was that they wanted to enforce their Topeka constitution; that they wanted to frame laws and establish their rebellious government! Sir, they had a convention on the 9th of June, before the delegates were elected to the Lecompton convention, and they voted, with only one solitary exception, against putting the laws framed under the Topeka constitution in force. The people intended nothing of this kind; but they decided to elect their officers under the Topeka constitution, to keep that Government alive for protection in the last resort and then resolved to go into the October election under protest. They went into the October election and carried the Legislature and Delegate to Congress.

Now, sir, I wish to call attention for a few moments to Governor Walker's course in regard to the October election. The President quotes Governor Walker when he sustains his theory, but he does not quote him when Governor Walker's testimony goes to show that the people of Kansas have been cheated and defrauded. For promising that the people of the Territory should have the right to vote on their constitution, Governor Walker was assailed in all the slave States of this Union south of us. I think some of the Senators of this body demanded that he should be removed. He was denounced throughout the southern States by a class of public men and by a class of public journals for having promised that the people of Kansas should have a fair opportunity to vote for the adoption or rejection of the Lecompton constitution. The Administration which gave him that assurance quailed beneath this denunciation from the slaveholding States. It changed its policy, abandoned Walker, and betrayed the people of Kansas.

When the October election came on, there was stupendous frauds perpetrated at Oxford and in McGee county. These fraudulent votes, if counted, would have settled the character of the Territorial Legislature. Governor Walker could not give his sanction to those frauds. What did he do? He investigated the frauds at Oxford, and the frauds in McGee county, and threw out the fraudulent votes. For that act, for throwing out these palpable frauds, for throwing out the list made up out of the Cincinnati directory, in which it is said Governor Chase's name was included, for performing that act of justice, Governor Walker was assailed from one end of the southern States to the other by politicians and presses. Men who had sustained the invasion of the 30th of March, 1855, of four thousand nine hundred men from Missouri, men who had refused to investigate those frauds, men who had upheld the laws enacted by the Territorial Legislature, men who had sustained the use of the army in the Territory, and all the acts which have transpired in that Territory, these men denounced Governor Walker for throwing out frauds that prevented them, as they thought, from consummating the iniquity of dragging Kansas into the Union as a slave State.

We are told by the President that the people of Kansas have had a fair opportunity to vote on the slavery question. I am surprised that the President of the United States has so little regard for the intelligence of the Senate and the country, and for his own reputation, as to make a declaration of that character. The people of Kansas had a fair opportunity, he tells us, to vote on the 21st of December last, for or against slavery. Sir, they had no such opportunity; and the President of the United States, if he does not know it, ought to know it. The slaves in the Territory, it was declared by the Lecompton constitution, were property; and—

"The right of property in slaves now in the Territory shall in no manner be interfered with."

"No alteration shall be made to affect the right of property in the ownership of slaves."

These provisions went into your constitution with no slavery! There are about three hundred slaves in the Territory of Kansas. This constitution with no slavery recognizes the existence of the right of property in those slaves, and declares that in no manner shall that property be interfered with. In any proposed amendment to the constitution, we are told "that no alteration shall be made to affect the right of property in the ownership of slaves." That was the constitution with no slavery.

Then we have the constitution with slavery; and I assure Senators that I had much rather have your Lecompton constitution, with slavery, than your Lecompton constitution without slavery. Your constitution without slavery recognized slavery in the State, declared that it should never be interfered with, made it eternal; those slaves then there and their posterity forever. That was the constitution without slavery. What a mockery is it to tell the people of Kansas that they had an opportunity to vote for or against making a slave State.

But we are now told by the President that we can change this constitution before 1864. I have no doubt of that. I believe the people have the right to change their constitution when they please, and just how they please. But what security have we that the men who have been retreating for the last ten years from the Wilmot proviso down to the doctrine that slavery exists in the Territories by the Constitution of the United States, as much as it exists in Georgia or South Carolina—what security have we that the President of the United States, that the Congress of the United States, that the Supreme Court of the United States, will not declare that this constitutional provision cannot be changed, that it is of binding force in the new State, and is the eternal law of that State, beyond the reach of the people? I know there are men in the country who have already proclaimed this to be true. You can find in southern presses the doctrine that the people have no right to change it. If the slave drivers of the South put their foot down and demand that that shall be the accepted doctrine of the Administration and the pro-slavery Democratic party, the Administration and the pro-slavery Democratic party, with all the branches of authority, will adopt it as readily as they have adopted any of the monstrous heresies of the past. I have no faith in their promises or declarations. I know that this Administration came into being as the agent of the slave propagandists; that by them it lives, moves, and has its being, and without their support it would perish in one hour. Whenever the slave power makes a demand on this Administration, or on the pro-slavery Democratic party, that demand I know is first resisted by a portion of them in the North, but they surrender in the end. No man can maintain his manhood and continue to enjoy the confidence of the Africanized Democracy of this age.

If we had said, Mr. President, twelve years ago, that the Democratic party, which then, in both Houses of Congress, stood up here for the glorious doctrines of the ordinance of 1787, would have retreated from that doctrine, and come down, down, to the doctrine that the Constitution of the United States carries slavery wherever it goes all over the Territories; that wherever it goes it carries chains and fetters for men; they would have justly regarded it as a libel upon them, but there they are now. They have only got a step or two further to go. They have only got to declare—and they have raised the question in the judicial tri-

bunals of the country—that they may take their slaves *in transitu* through the free States, and then come to the final doctrine enunciated in the Union a few days ago, that these views, legitimately carried out, would prevent the abolition of slavery in the States by the State constitutions. I believe they intend to come to that. I believe the slaveholding interest will ultimately demand the right not only to carry their slaves into the Territories and hold them there, but they will demand the right to carry their slaves *in transitu* through all the States, and then to set up the doctrine which we find in the Kansas constitution, that slaves are property, that property is above all constitutions and all laws, and that you have no right by constitutional action, or any other action, to abolish slavery in the States. Then we shall be an Africanized Republic.

The President tells us that the people of Kansas, on the 4th of January, by voting for the election of officers under the Lecompton constitution, recognized its validity. If the people of Kansas refuse to vote, they are denounced as rebels that have no rights, and they are held to be bound by the will of those who do vote. If they do vote, then they recognize the validity of this constitution. The President will not be satisfied with their action any way. The Legislature, finding that this constitution was not to be submitted to the people, assembled, and summoned the people to the ballot-box on the 4th of January, to give their votes for or against the constitution. By the provisions of that constitution there was an election to take place on that day. The free-State men went to the ballot-box, and by from twelve to thirteen thousand votes voted down that constitution. They wanted to make another protest against it; and what were they to do? They could not vote against the Lecompton men for State and Legislative officers, without putting up men of their own and electing those men over them. They nominated a ticket. They went into that canvass to vote down that constitution, and to vote down the men who supported it.

This vote of the people of Kansas against these men and for the election of free-State men, was an additional protest against your Lecompton swindle; and it is a perversion of fact, a perversion of truth, a perversion of all that is just, for any man; be he President, Senator, or Representative, to charge that the people of Kansas, by voting for the election of officers under the constitution, intended, in any way, to give their sanction to it. These men went to the ballot-box on the 4th of January to blot out forever the Lecompton constitution. They knew the people were against it by an overwhelming majority—of five or six to one. They meant to overthrow Calhoun and his corrupt minions in that Territory, who have violated law and justice, who have stained their names and lives by frauds and outrages. They meant not only to vote down the constitution, but to crush out the men who were endeavoring to force it upon them. The only way to do that was to elect men, pledged against the constitution, and who would come here as they already have done, and ask you, ask Congress, ask the country, to reject it as a fraud on the people. Yet this act, proclaimed to the country and to the world, the President of the United States misrepresents and perverts.

Sir, we have had enough of these petty quibbles in Congress without expecting them to come from the other end of the avenue. We have had the pleading of technicalities, all the little technicalities and specialties put in on a great question of public policy. All the outrages in Kansas have been perpetrated under the color of law. Tyrants always rule under the color of law. Instead of asking "what is the opinion of the people? what do they want?"—instead of ascertaining what the public will is, we have had Senators, Representatives, and now we have the President, quibbling on technicalities and forms by which the substance is to be lost to the public.

We have the evidence of Governor Reeder, of Governor Geary, of Governor Stanton, in a paper recently published, and of Governor Walker, that outrages and frauds have, from time to time, been perpetrated in the Territory of Kansas. Now we have before us the fruits of all these frauds and all those wrongs. Senators here object to their final consummation. The Senator from Illinois, [Mr. Douglas,] who introduced the measure for

the repeal of the Missouri compromise, who, for four years, has stood here, and before the country, as the champion, the acknowledged champion, of that policy—a man who, during the struggles of the last three or four years, has led here, as he had a right to lead the supporters of this policy in the Territory of Kansas and in the country, asks that these frauds shall not triumph; that these wrongs shall not be finally consummated. He asks that the people of Kansas may have an opportunity to vote upon the constitution, for or against, before admission into the Union; and because he has paused now, because he simply asks that the people shall have the right to vote in framing a constitution for their own government, he is denounced from one end of the country to the other, by the supporters of the policy indicated by the President in this message. He has not uttered a word or written a line indorsing the views that we on this side of the Chamber hold on the question of slavery; but because he now demands that the plighted faith of his party shall be redeemed, that the people shall have the right to vote on their own constitution, he is hunted down in the Senate and in the country. Already he is branded in some sections of this Union as a Black Republican, or the ally of the Black Republicans. Black Republicanism seems now to be this: any man is a Black Republican who refuses to support the last iniquity, the last crowning act of infamy. No matter though his whole life has been devoted to the interests of slavery, if he pauses now, if he refuses to allow slavery to triumph by palpable frauds, he is to be crushed for that act, and to be read out of the Democratic party.

The Governor of Virginia—that Governor who was ready to dissolve the Union in 1856 if Fremont was elected, who was ready to call out his militia, and who boasted that they would “hew their bright way through all opposing legions”—has pronounced these acts in Kansas “unveiled trickeries” and “shameless frauds,” which the people of Virginia would scorn; for that declaration he is denounced in Virginia and throughout the country. You have had Reeder, Geary, Stanton, and Walker sacrificed. Now you propose to sacrifice the distinguished Senator from Illinois, and the hardly less distinguished champion of the pro-slavery Democracy of the Old Dominion. You propose to drive everybody out of this Administration party who refuses to consummate the last iniquity, to make effective the last crime in the interests of slavery.

I hope the motion I have made to instruct the Committee on Territories to investigate everything connected with the formation of the constitution of Kansas will be adopted by the Senate. If Senators are disposed now, at this time, with all these frauds, all these wrongs before this nation, to investigate and be guided by the facts, the country will give them the credit, whatever may be their wish of being actuated by a sense of justice. The ear of this country is pained with the crimes and frauds that have been perpetrated in Kansas. No man here or elsewhere can doubt them for a moment. The voice of the people of Kansas comes here in a thousand ways and asks us to reject the application, because it has been framed and carried through in violation of the public will.

I say, then, that if we reject this proposition to instruct the committee to go into a full and thorough investigation, it will be understood in Kansas and in the country, and throughout the world, that the Senate of the United States sanctions the frauds by which a constitution, made by a small and contemptible minority, under the lead of Government officials, has been forced upon the people of Kansas contrary to the clearest expressions of the popular will. If the Senate shall refuse to institute the most searching inquiry into all the matters concerning the formation of this constitution, it will stand before the world and go down to after ages, associated with the men who have, by violence and fraud, forced the accursed system of slavery upon a reluctant people.

Mr. BROWN. I rise, Mr. President, to express my cordial concurrence in the message of the President of the United States. It has seldom fallen to my lot to read a paper of the same length and find in it so little which in my judgment is fairly subject to criticism. In many of the arguments of the President in his annual message to

Congress I did not concur, though I did concur in his conclusions. From his message on Central American affairs I dissented almost entirely. In this message I concur, not only as to its chief arguments, but as to its conclusions. It will hardly be expected that I should concur in every sentiment expressed in a paper of such length; but as to its main arguments, its principal conclusions, I think there can be but two opinions, and they are the opinions entertained by national men of all parties on the one side, and by sectional men of all parties on the other side. It was never expected that the Senator from Massachusetts would concur in the arguments or conclusions of a national President, whether he be a Democrat, an American, or a Whig. Nothing but sectional Republicanism will do for that Senator. Nothing but measures which look to the triumph of one section of the Union and the putting down of the other section ever has met, or is likely ever to meet, the approbation of the Senator from Massachusetts. With his views politically, it is not strange that he should wholly dissent from such a message. I am not going to reply to the speech of that Senator. If I had ever intended to reply to that speech, I could have done it some three years ago. I think the honorable Senator makes a mistake in supposing that old speeches, like old wine, will bear keeping. They grow stale. There are many old things for which I have great respect. I love old friends; I love old wine in a moderate degree, [laughter;] I reverence old age; but I abhor an old speech, delivered from year to year through a whole senatorial term.

I would greatly prefer seeing the question taken on the reference of the message; and if the Senate is prepared to do that, I shall be very glad to have it done. But if the debate is to go on, I shall submit this evening what I have to say. I am perfectly willing, however, if no one else is disposed to continue the debate, to let the vote be now taken, and let the message be referred; and when we get the report, then have the debate. If there is a general acquiescence in that view of the subject, I shall yield the floor.

Mr. KING. I was disposed yesterday to speak to this question, and a Senator, not now in his seat, on this side, thought he would do so. I have no particular desire to speak, but I should be glad to hear the gentleman from Mississippi.

Mr. BROWN. Does the Senator want to go on?

Mr. KING. If the gentleman gives me the floor, I will go on now. I do not want it, if he wishes to speak. I would rather hear him.

Mr. BROWN. As I said before, if the debate is to go on I would as soon submit the few remarks I have to make now as at any other time. From what Senators say to me I think there is a strong probability that we can get the vote this evening on referring the message.

Mr. FESSENDEN. I wish to say to the Senator that I feel rather disposed to say something on this subject before it closes. If I make a speech, it may not be a very brief one; so that I think there is very little probability of the debate being closed this evening.

Mr. BROWN. Then, Mr. President, under the circumstances, I see no probability of accomplishing the design I had in view; and I suppose I may as well proceed.

Mr. FESSENDEN. I would suggest, with the leave of the Senator, that if he does not desire to proceed this evening, there is no disposition on my part to urge a vote. The Army bill is yet before the Senate; and if the Senate choose to lay this aside until to-morrow, if the Senator prefers to speak to-morrow morning, it would certainly be very agreeable to us.

Mr. BROWN. There is a disposition on our side of the House, I will say to our friends on the other side, to dispose of the important question before us, so that we may reach other questions that lie behind.

Mr. FESSENDEN. I should not like myself to be forced into a debate at a very late hour; it is not customary. If the Senator chooses to go on now, however, very well.

Mr. BROWN. It is not on that account that I hesitate.

Mr. FESSENDEN. The Senator will perceive that unless the Senate chooses to say that all that is to be said must be said to-night, it would perhaps be as well to postpone the debate now, as the hour is late.

Mr. BROWN. Well, Mr. President, I must say to Senators that I intend to address myself to this question with as much deliberation as possible. I do not intend to occupy any extraordinary time; but as the evening is drawing on, if any of them choose to go away while I am speaking, and occupy their time elsewhere, I shall take it not at all unkind. What I have to say is not designed to influence the votes of Senators, and especially not the votes of Republican Senators. Like Ephraim, they are joined to their idols, and I shall let them alone. I may have something to say in the progress of my remarks which ought to have influence on the minds of Democratic Senators inclined to differ with me in opinion on this question; but even if they do not choose to remain in the Chamber, I shall not take it as at all unkind if they go away.

On a former occasion, I called attention to the fact that, at the beginning of the Kansas controversy, we expressly enacted that Kansas was to be admitted into the Union when she came to form her State constitution, with or without slavery, as her people should determine; that all of us who voted for that proposition thenceforward stood committed to the admission of the State. I asked then, as I ask now, whether it is fulfilling that obligation to resort to technicalities, to resort to special pleading, with a view of avoiding the force of the agreement? Republican Senators are not committed to this view of the subject, because they voted against the bill. The Democratic Senators are committed to it, because they stand on the record in favor of the bill.

I had further called attention to the fact that the national Democratic party, in council assembled at Cincinnati, solemnly reiterated this declaration, and made it one of the corner-stones of its political edifice; and, therefore, every member of that convention, and its nominees; every member of the party throughout the Union, stood solemnly committed to the same doctrine, that Kansas was to be admitted, with or without slavery, as her people should determine when they came to form a constitution. I had shown from the record that Democratic speakers, from that day forward, had on all proper occasions declared that they were prepared to redeem the obligation into which we had thus entered. I had inquired whether, this fact being true, we were now, on any system of pleading, to avoid the force of the contract?

Now, Mr. President, beyond all dispute, slavery lies at the bottom of all our difficulties on this territorial question. Whenever we are about to organize a Territory over any portion of the domain lying South, this question arises; and it leads to long, animated, and angry controversy. On the other hand, whenever we are about to organize a territorial government over any of the domain lying North, it is done without controversy. Whenever we are about to admit a State in the North or Northwest, there is no controversy. Michigan was admitted, and Iowa and Wisconsin have been admitted, and other northern States have been brought into the Union, without any sort of objection on the part of southern Senators and Representatives. But when Arkansas and Florida and Texas were about to come in, we had a revival of these contests. More recently, we have had Minnesota and Washington and Oregon organized into Territories—regions where slavery had not gone, and was not likely to go—and there was little or no controversy; but when we were about to organize the Territories acquired in the war with Mexico, we had a renewal of these angry contests, the point of conflict being always the existence in the Territories of domestic slavery.

The two Territories that were organized together in 1854, Kansas and Nebraska, gave rise, for a time, to a joint controversy; but still the main point was in Kansas, as it has been ever since. Why? Because slavery had not gone, and was not likely to go, to Nebraska; while, if it had not actually gone, the probabilities were strong that it would go, to Kansas; and hence the whole controversy rested on that Territory, there being an effort, on the one hand, to force the institution out of the Territory, and there being a strong disposition, on the other, to stand by what we conceived to be the constitutional right of those who have the custody of that institution, to take it into the Territories.

The question of slavery, Mr. President, has not

only given annoyance to Congress and the country, but it has been the fruitful source of annoyance to political parties. It broke up the national Whig party. When the whole northern wing of that party became thoroughly abolitionized, the southern portion refused any longer to affiliate with them; the party was broken up. Out of its ruins and out of the dissensions in the Democratic party, rose the American, sometimes called the Know Nothing party—a party which perished almost as soon as it was born. The fragments of these dissolved or dissolving parties were gathered together in the northern States, and constituted the Republican party—a party which has no existence, or shadow of existence, anywhere outside of the non-slaveholding States of the Union.

This being true, there remains for us but one party which can lay just claims to nationality; that is the Democratic party. But now the same element which broke up the Whig party, which prevented the formation of a great national American party, which has made the Republican party purely sectional, is at work for the destruction of the national Democratic party. If the destruction of that party shall be worked out, if it shall follow in the wake of its predecessors, then it is absolutely certain that the country will instantly be divided into two sectional parties. The whole North will unite as a northern party, and the whole South will unite as a southern party. When this shall be done, it requires no spirit of prophecy to foretell the result. When all the North is pulling in one direction, and all the South in a contrary direction, that the Union must be drawn asunder is as certain as that the sun rose this morning and will go down to-night.

With fearful consequences like these staring me in the face, and feeling the responsibility which rests upon me as one member of the Democratic party; seeing the imminent danger of its dissolution, and believing that bad men everywhere seek its dissolution, and to the end that I have pointed out, I approach the consideration of this question with extraordinary embarrassment; and as I intimated before, what I have to say is to be said rather to the country, and to that portion of it which I have the honor in part to represent, than to any one here.

I hope it will be understood here, as I am sure it is understood elsewhere, that this Union has no more devoted friend than I; that there exists not in all this broad Republic one citizen prepared to make greater sacrifices than myself for its preservation. If I sometimes hesitate to go with those who claim to be, *par excellence*, the friends of the Union, it is because I doubt whether their policy does not lead rather to its disruption than its perpetuity.

Repeated efforts have been made to compromise the question of slavery in the new States and Territories, and they have as repeatedly resulted in disaster. In 1819-20 there was an attempt to compromise it. The country had been wrought up to a state of very high excitement, and the political doctors of that day said that a sedative, a light draught, the compromise, known ever afterwards as the Missouri compromise, was all that the case required. Wiser men of that day thought it was a disease so deeply rooted that it required more powerful remedies. If I can say it without giving offense, I will remark that the advice of political quacks was taken, and instead of striking at the root of the disease, Congress undertook to settle it, to cure it by compromise, by the application of sedatives; and the compromise of 1820 was adopted.

Years passed on, and as other territory was asking admission into the Union, that happened which the wise statesmen of 1819-20 on the southern side of the question declared would happen. The North—Massachusetts among them, Massachusetts who, in the person of the Senator, has stood up here to-day the champion of law and order—refused to recognize the binding force of the compromise. Though Arkansas asked admission, lying clearly south of this compromise line, now so much revered and honored on the other side of the House, there was an attempt made to deny her admission, on the ground that her constitution tolerated slavery. We acquired subsequently the Territories of California, Utah, and New Mexico. Proposition after proposition was submitted to extend the Missouri compromise line

to the Pacific, and as often as it was submitted it was rejected by our northern friends. That compromise, then, was a failure, not recognized by anybody.

In 1850 it was considered necessary to compromise again. Then we were told that the philosopher's stone had certainly been found; that not only "the five bleeding wounds" had been cured, but that everything which could give rise to agitation in the future had been permanently settled, and the whole disease had been torn up by the roots, and from that day forward we should have no controversy on the subject of slavery. To me the compromise of 1850 was distasteful. I abhorred it from the beginning, and am perhaps one of the very few, if I am not indeed the only man in Congress who voted against it in all its forms, in all its features, and in all its parts.

Four years passed away, and it became necessary to compromise again. In 1854 we were told that the question had again got into difficulty, and it was necessary to compromise it a third time. The Senator from Illinois [Mr. DOUGLAS] brought forward his famous Kansas-Nebraska bill—a bill which I propose now to consider. The main feature of that bill was the one so often quoted, that it neither designed to "legislate slavery into the Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." I need not say that this provision sprang out of an attempt to enforce the Wilmot proviso on the country, not only on the territory north of the Missouri compromise line, but on the territory south of that line. The contest was kept up for years in almost equal balance, the friends of the proviso insisting that they had the right, by congressional legislation, to exclude slavery, and we of the South on the other hand contending that we had the right under the Constitution, without the aid of legislation, to carry our slaves into the common territory; and that, having them there, we had the same right that gentlemen of the North had to demand protection for any property of theirs. I say the contest thus stood, and was kept up with various chances of success for several years. About 1848 what was considered by many as a most happy idea was hit upon—the doctrine of non-intervention. It was tried in the presidential election of that year, and had very many warm and zealous advocates. It was more successful in the contest of 1852; but it was not until 1854 that it was formally enacted into law. Then it received the sanction of Congress. No longer bandied about in political circles or resolved upon by vast political meetings, it received the high sanction of the Congress of the United States, and was enacted into a law.

It is hardly necessary for me to say that as an original proposition I was opposed to it. I belonged to that class of politicians who believed that a southern man had the same right to go into one of the common Territories of the Union, and take with him his slave property, that a northern man had to go and take with him any other species of property. I believed that I had the same right to go from Mississippi and take my slave property, that the Senator from Massachusetts had to go and take anything which was recognized as property by the laws of his State, and that when I got it there, I was entitled to the same protection from Congress to which he was entitled for his property; or if the Territorial Legislature made the law, then the Territorial Legislature was under the same obligation to protect me and my property that it was under to protect the property of the Senator from Massachusetts. That is what we asked, and it was all we asked. We had, however, no power to enforce a recognition of our claim, and the other side found themselves deficient of the power to enforce their idea of our total exclusion. After years and years of conflict, this idea was taken up that Congress would neither legislate slavery into the Territory nor exclude it therefrom, but leave the people thereof perfectly free to regulate their domestic institutions in their own way. We passed the Kansas bill, and we stood in that bill solemnly committed to the ground that we would admit the State with or without slavery, as her constitution at the time of her admission should prescribe.

This was our last compromise; and now we are here, in less than four years after its passage, discussing again whether we are not to have another compromise. So far as I am concerned, and I speak for myself alone and for those who have authorized me by their commission to speak in their name, I am for no compromise; I am for the law as it is written. I accepted the compromise of 1854, I say, reluctantly in the beginning; but having accepted it, I made up my mind as a man of honor to abide by it. I am not prepared to see its force destroyed by any resort to special pleading, by any resort to miserable county-court technicalities.

Having said this, I come to the next point in the controversy. The law of 1854 was passed, under which Kansas was organized as a territorial government. A Legislature was chosen for the Territory; but before that election was gone into, movements were set on foot here to which I beg leave, by way of reviving the recollection of gentlemen as to what is the true history of this transaction, to call attention. I find them set forth in the memorable report of the Senator from Illinois, made to the Senate on the 12th of March, 1856. That Senator stands opposed to-day to the admission of this State into the Union under a constitution formed, as I believe, and as I think I shall be able to show, by her people. The Senator from Massachusetts undertakes, in the close of his speech to-day, to defend the Senator from Illinois. It was not from that quarter that defense came in days gone by. If the Senator from Illinois can stand a defense from that quarter, I have nothing to say in regard to it.

Mr. WILSON. Allow me to say a word.

Mr. BROWN. Certainly.

Mr. WILSON. I think the Senator from Mississippi is entirely mistaken. I made no defense of the Senator from Illinois. He is capable of defending himself here or elsewhere. I simply referred to the fact that the Senator from Illinois, who introduced the Kansas-Nebraska act, who, for four years, has been the champion of that policy, the trusted leader of the Senators who supported that policy, has paused, has refused to consummate a stupendous and gigantic fraud; and for that act he who has been their champion is now denounced from one section of the country to the other, and threatened with being driven out of the party whose leader he has so long been. That is what I said.

Mr. BROWN. I have no comment to make on that part of the Senator's speech. If it appears as it was delivered, I shall be quite content. But I desire to call attention to this controversy as it arose in Kansas, and to show high authority for the position which I take, that the Republican members in the Senate, and their friends in the States, were responsible for the first outrages committed there. It was because I intended to use the high authority of the Senator from Illinois in this connection, that I alluded to him at all, and I was thus reminded that he had been but a few minutes before, as I thought, defended by the Senator from Massachusetts. In the report of the 12th of March, 1856, to which I before alluded, the Senator from Illinois said, as I believed at the time, and still believe, truly:

"The passage of the Kansas-Nebraska act was strenuously resisted by all persons who thought it a less evil to deprive the people of new States and Territories of the right to State equality and self-government under the Constitution, than to allow them to decide the slavery question for themselves, as every State in the Union had done, and must retain the undeniable right to do, so long as the Constitution of the United States shall be maintained as the supreme law of the land. Finding opposition to the principles of the act unavailing in the Halls of Congress, and under the forms of the Constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions of those Territories and future States through the machinery of emigrant aid societies. In order to give consistency and efficiency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the Legislature of the State of Massachusetts, in which it was provided, in the first section, that twenty persons therein named, and their 'associates, successors, and assigns' are hereby made a corporation by the name of the Massachusetts Emigrant Aid Company, for the purpose of assisting emigrants to settle in the West; and for this purpose they shall have all the powers and privileges, and be subject to all the duties, restrictions, and liabilities set forth in the thirty-eighth and forty-fourth chapters of the revised statutes of Massachusetts."

"The second section limited the capital stock of the company to \$5,000,000, and authorized the whole to be invested in real and personal estate, with the proviso that 'the said

corporation shall not hold real estate in this Commonwealth (Massachusetts) to an amount exceeding twenty thousand dollars."

"Although the act of incorporation does not distinctly declare that the company was formed for the purpose of controlling the domestic institutions of the Territory of Kansas, and forcing it into the Union with a prohibition of slavery in her constitution, regardless of the rights and wishes of the people, as guaranteed by the Constitution of the United States, and secured by the organic law; yet the whole history of the movement, the circumstances in which it had its origin, and the professions and avowals of all engaged in it, render it certain and undeniable that such was its object."

This, then, was the commencement of the present controversy. No sooner had the Kansas bill passed, than a movement was set on foot, (as was charged by the distinguished Senator from Illinois, and as I believed at that time, and still believe,) through the instrumentality of a certain secret circular, prepared and signed by some of the Republican Senators—the then Senator from Ohio, Mr. Chase, now Governor of that State, the eminent Senator from New York, [Mr. SEWARD,] and I believe, also, the Senator from Massachusetts, not now in his seat, [Mr. SUMNER]—which gave rise to this organization in Massachusetts, this Emigrant Aid Society, with a capital of \$5,000,000, only \$20,000 of which was to be used within the limits of the State of Massachusetts.

Mr. SEWARD. Allow me a word of explanation. I am desirous that my honorable friend from Mississippi shall not perpetuate an old error, which was corrected at the time. Although there were some statements that I was a signer of the paper to which he alludes, those statements were corrected at the time of the occurrence and according to the fact. I am not entitled, therefore, to any of the merit or any of the demerit of the proceeding on which he is commenting. I know the honorable Senator would not like to continue an error which is merely personal in its bearing.

Mr. BROWN. I am glad to hear that there is one who did not sign it; but there was such a paper. The point I was making is, that there was such a paper, and that it gave rise to the emigrant aid societies in Massachusetts and elsewhere. I make no point as to the individual Senators who signed it. Now, taking the same report, from which I before read, at page 9, I want to show how the persons who were sent out by the Massachusetts Emigrant Aid Society demeaned themselves when they got to Missouri:

"When the emigrants sent out by the Massachusetts Emigrant Aid Company, and their affiliated societies, passed through the State of Missouri, in large numbers, on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolish Kansas as a means of prosecuting a relentless warfare upon the institution of slavery within the limits of Missouri. These apprehensions increased and spread with the progress of events, until they became the settled convictions of the people of that portion of the State most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration similar to that of the Massachusetts Emigrant Aid Company, for the avowed purpose of counteracting the effects, and protecting themselves and their domestic institutions from the consequences of that company's operations."

I produce this authority to show how the controversy commenced. It had its origin in the secret circular; it next exhibited itself in the formation of emigrant aid societies under the authority of the Massachusetts Legislature. The emigrants were sent out, and demeaned themselves as is described in the paragraph I have just read, and, in the strong language of the report, the natural consequences were the stirring of a feeling of resistance in Missouri. If there had been no secret circular issued, there would have been, probably, no organization of an emigrant aid society. If there had been no emigrant aid society, with a constituted capital of \$5,000,000, to stimulate the settlement of the class of persons set forth in the report from which I have read, in the Territory of Kansas, there would have been no counter movement in the State of Missouri, and we should have escaped the charges about border ruffianism, and all the complaints which we have heard uttered to-day for the fortieth time by the Senator from Massachusetts, of the terrible outrages committed by those people. I hope the Senate, like a high court of chancery, will require that he who comes here and asks for justice shall come with clean hands. If things have not been

done in Kansas with the precise regularity, with all the order and decorum which the Senator is accustomed to see at home, whose fault is it? Who began the error? I shall now proceed to show who has perpetuated it.

The election for members of the Legislature, as I said before, was holden at the time, at the places, and in the manner prescribed by law. That there must have been irregularities, from the statement of facts already submitted, any one will see at a glance. The emigrants sent out from Massachusetts and the other New England States, were sent out in full force. They were met in the Territory by emigrants from the State of Missouri.

Mr. HARLAN. I desire to inquire of the Senator from Mississippi if he knows what proportion of the free-State men in Kansas emigrated from New England?

Mr. BROWN. I do not know, of course.

Mr. HARLAN. Then I will remark, merely in order that he may not base his argument on a wrong state of facts, that more than four fifths of the free-State men in Kansas are from the northwestern States—the States northwest of the Ohio river. There are to-day, doubtless, more people in Kansas from the State of Iowa than from all the New England States combined. The free-State men arrested, with arms in their hands, as it was stated, by the Army of the United States, were principally from the State of Michigan; and there were none of those emigrants, I believe, from New England. The great body of the free-State men in Kansas to-day are from the northwestern States; and this is from the necessity of their position. Within those States there is to-day a population of between six and seven million people. They necessarily, according to the legitimate laws of emigration, throw over into the new Territories of the Northwest an immense emigration, that overwhelms any other class of emigrants in point of numbers.

I have deemed this correction necessary, as I saw that the Senator from Mississippi was basing one portion of his argument on the supposed fact that the Massachusetts Emigrant Aid Society had sent the major part of the free-State men to Kansas. This is not true. They went to Kansas from the States of the Northwest, as they are going to Nebraska and to Minnesota. There are some men from New England, and some from the southern States, but the great mass is from the Northwest.

Mr. BROWN. For any purpose of mine, it is not a matter of consequence where they went from—whether from Massachusetts or from the Northwest. My point is, that the movement was set on foot through the instrumentality which I have named. I never supposed that the operations of the Massachusetts Emigrant Aid Society were confined to the limits of that State, else it would not have been provided that only \$20,000 of the capital of \$5,000,000 should be invested in property in Massachusetts. It was intended to operate elsewhere. That it operated in Michigan, Iowa, Wisconsin, and all the free States, I dare say is true; but Massachusetts was the seat of the cancer. It spread out its roots, it is true, into all the free States; its influence was felt everywhere. It is the influence of the movement of which I speak, and not the precise locality where it was set on foot.

Then, sir, I repeat again, that it was the influence of this emigrant aid society that gave rise to the first conflicts in the Territory of Kansas. It was the conduct of its creatures as they went through the State of Missouri, as shown by the report of the eminent Senator from Illinois, that first stirred the blood of the Missouri people, and determined them to defend, not Kansas, but themselves; for they had unmistakable evidence that these people were being planted there so that they might make forays on Missouri, and, in the language of the report, wage a relentless warfare on slavery in the State of Missouri.

Mr. FESSENDEN. Will the Senator allow me to ask him a question?

Mr. BROWN. Yes, sir.

Mr. FESSENDEN. I simply wish to inquire of the Senator whether he is aware that, by the report of the committee appointed by the House of Representatives to investigate the matter, it was shown by the testimony of those who were engaged in the transaction—Missouri men—that even before the Missouri compromise act was

repealed, associations were formed in that State in the shape of Blue Lodges, as they were called, with the express purpose of procuring emigration into the Territory of Kansas, in order to shape its political institutions, and settle there and acquire the mastery?

Mr. BROWN. I was not aware of any such thing. I use the report of the Senator from Illinois, not only because it comes from a high source, but because I have been already admonished in the debate this morning that the source from which it comes is regarded as of high authority on the other side of the Chamber. When the eminent Senator from Illinois speaks to the Republican members of this Chamber, they are accustomed to listen. If I am not mistaken, they not only listen, and listen attentively, but they are, to a great extent, guided by his counsels.

Mr. WADE. The gentleman ought not to bind us by confessions made previous to the conversion. Anything stated since, we will hear; but anything before that, I do not consider myself bound by. [Laughter.]

Mr. BROWN. Well, sir, that is rather more witty than profound. But I will show, in this connection, what happened immediately on the reading of that report. The Senator from Massachusetts, not now in his seat, [Mr. SUMNER,] at once rose and said:

"I cannot allow the subject to pass away, even for this hour, without repelling, at once, distinctly and unequivocally, the assault which has been made upon the Emigrant Aid Society of Massachusetts. That company has done nothing for which it can be condemned under the laws and Constitution of the land. These it has not offended in letter or spirit; not in the slightest letter, or in the remotest spirit. It is true, it has sent men to Kansas; and had it not a right to send them?"—*Congressional Globe*, first session Thirty-Fourth Congress, p. 639.

Now, sir, I wish to show how the Senator from Illinois [Mr. DOUGLAS] met that speech at the time. He first declares that the facts as he set them forth in the report are true, and then, addressing himself to the Senator from Massachusetts, says:

"This he knows as well as I do. I do not intend to allow denials of the truth of facts to be interposed to screen men from the consequences of their action, when that action is avowed and susceptible of proof; hence the Senator's denial cannot be interposed. It is a denial of facts which he knows to be true; it is a denial of facts which shall not be controverted. If, instead of denying, he proposed to justify them, I would willingly hear him; but he cannot be permitted to deny them." * * *

"If he means that he is prepared to go to the country to justify treason and rebellion, let him go; and I trust he will meet the fate which the law assigns to such conduct. If he means that the hopes of his party are to produce a collision in Kansas, in which blood may be shed, that he may traffic in the blood of his own fellow-citizens for political purposes, he will soon discover how much he will make by that course. We understand that this is a movement for the purpose of producing a collision, with the hope that civil war may be the result; blood shall be shed in Kansas. Sir, we are ready to meet the issue. We stand upon the Constitution and the laws of the land. Our position is the maintenance of the supremacy of the laws, and the putting down of violence, fraud, treason, and rebellion against the Government."

I am aware that this strong language was controverted at the time as unjust; but I am not aware, nor do I believe the record will show, that there was interposed at that day any denial of the facts. The challenge of the Senator from Illinois was broad—as human language could make it. Not only his language, but his manner, was daring and defiant. The Republican Senators were told at that day that their friends were charged with fraud—with rebellion against the constituted authorities of the country—and if they wanted to justify such conduct, they might attempt it, and take the consequences of the justification, but they should not deny the facts; and I believe the facts were not denied.

It was under circumstances like these, I say, that the election for the first Legislature was gone into. The pro-slavery party triumphed; and at once we had a howl raised all over the country, from one extremity of it to the other, that the election had been carried by fraud. The party who attempted the first fraud, and that upon a most gigantic scale, calling to their assistance from a single State a concentrated capital amounting to \$5,000,000, lost the election in the Territory; and then they cry out "fraud," "rascality," "villainy," "bogus laws," and all that. On the broad principle named by me before, that he who commits the first fraud cannot afterwards be allowed, in a court of equity, to complain that his adver-

sary has committed frauds, I claim a judgment in this case. If gentlemen on the other side stood at a disadvantage in the beginning, when did they ever set themselves right? All that I have heard from them since, has been one eternal cry about "fraud," "violence," "bogus laws," and all that. Setting out with the fixed determination, by the use of money and organized societies, to carry the election against the will of the people, they were beaten, and then set up this howl.

The validity of the election, as has been repeatedly said, and, as I suppose, will not be controverted, was recognized by Congress, recognized by the President, recognized by all the five or six Governors whom we have sent there; ay, sir, and recognized by a vast majority of the people of Kansas themselves, of all parties. The acts passed by that Legislature are in force there to-day; and, as was strongly said by Governor Walker, if you blot them out you leave the Territory without law. On that point, I desire the attention of Senators to Governor Walker's language:

"The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the Territorial Legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that Legislature was invalid, then are we without law or order in Kansas; without town, city, or county organization; all legal and judicial transactions are void; all titles null; and anarchy reigns throughout our borders."

Thus, sir, it seems that the authority of the Legislature, its validity, was recognized in the Territory, and is recognized now on all subjects except slavery. Though it is not germane to the point which I am discussing, I will ask in this connection, if it was a valid Legislature for all other purposes, if it could grant town charters and city charters, if it could pass laws by which the rights of property are determined, if, in the comprehensive language of Mr. Walker, it was a competent Legislature for all other purposes, and it be true that the people were left to regulate their own affairs in their own way, how does it come that it was not a competent Legislature on the subject of slavery?

The Legislature thus chosen, the validity of which has been thus recognized by the President, by both Houses of Congress, by six successive Governors, by a vast and overwhelming majority of all the people of the Territory on all subjects except the subject of slavery, called a convention; but they did not do so without first consulting the people to know whether they desired to have a convention. I hold in my hand an extract from the Kansas Herald of October 18, 1856, which sets forth the returns of an election held in obedience to law to determine whether the people of Kansas desired to have a convention called or not. A vast and overwhelming majority of the people instructed the members of the Legislature to call a convention. Then it was not, as has been assumed, an act of supererogation. It was not an act of assumption on the part of the Legislature to order the convention. It was done in obedience to the popular will. The people at the ballot-box had ordered that it should be so.

The Legislature did not call the convention without first preparing the way, so that it should be done in the best manner possible, and in a way to avoid all future controversy. I have before me an act of the Legislature, in which it is directed that a census of the whole population shall be taken, and a registry of the votes made, for the purpose of ascertaining who was legally entitled; and, under that authority, I find that—

"Every bona fide inhabitant of the Territory of Kansas, on the third Monday of June, 1857, being a citizen of the United States, over the age of twenty-one years, and who shall have resided three months next before said election in the county in which he offers to vote, and no other person whatever, shall be entitled to vote at said election; and any person qualified as a voter may be a delegate to said convention, and no others."

What could be fairer? Was there any attempt to give advantage to one party over another? Every bona fide white male inhabitant over the age of twenty-one years was entitled to vote; and all he was required to do was to give his name to the census-taker, and allow it to be recorded on a register kept for that purpose, so that when the election came on, these emigrant aid men, these

bogus men from Massachusetts, and these border ruffians from Missouri, might be excluded. It was a fair attempt on the part of the Legislature to allow all who were justly entitled to vote the privilege of exercising it, and excluding all who were not entitled to vote.

When gentlemen find fault with this action of the Legislature, would it not be well to point out the objection? Was it not fair? Was it not as fair for one side as for the other? It was an attempt to register all who should be entitled to vote, and to exclude all from every quarter, whether they came from the North or the South, who were not entitled to vote. How was that proposition met? Governor Stanton, in his message to the Legislature at the late extra session, tells us that nine thousand two hundred and fifty-one votes were recorded, and no more. He tells us that a large number were not registered, and he assigns various reasons for it. I will read his very words:

"The census therein provided for was imperfectly obtained from an unwilling people, in nineteen counties of the Territory; while, in the remaining counties, being also nineteen in number, from various causes no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some, there was but a small population, and no efficient organization, enabling the people to secure a representation in the convention. Under the operation of all these causes combined, a census list was obtained of only nine thousand two hundred and fifty-one legal voters, confined to precisely one half the counties of the Territory, though these, undoubtedly, contained much the larger part of the population."

Mr. Walker subsequently repeats the same charge, and says there were fifteen counties disfranchised. As this is an important point in the transaction, I shall pause to examine it with some little care. Is it true that either nineteen or fifteen counties were disfranchised either under the circumstances named by Mr. Stanton, or those presented by Governor Walker? I think I shall be able to demonstrate that no such thing is or can be true. Recollect Mr. Stanton states there were nine thousand two hundred and fifty-one votes registered. This was the number on the last day of March, 1857, when the register was closed. In October following, more than six months after, when it is admitted the whole population voted, registered and unregistered, at that election at which Mr. Parrott, now a Delegate in the other House, was chosen, when I believe all parties took a hand in the election, what number of votes was polled? According to the authority of the Kansas Herald, ten thousand nine hundred and fifty-three votes were polled, being only seventeen hundred and two more than were on the register. According to the Herald of Freedom there were polled at that election eleven thousand six hundred and eighty-seven, or two thousand four hundred and thirty-six more than were on the register.

Now, sir, if you will bear in mind that this was an election at which everybody went to the polls without let or hindrance, and then remember that the country had been populating from the last of March, when the register was closed, to October afterwards, you will find, I think, most of these two thousand four hundred and thirty-six, according to one authority, and seventeen hundred and two, according to the other, accounted for. There would be that many more by the ordinary laws of population; and then it is admitted large numbers were found by the census takers who refused to give their names. In a country like that, sparsely populated, new, and without roads, beyond all question, there would be considerable numbers who could not be found even with the utmost vigilance. Now, make a fair deduction for the increased population for six months; make a fair deduction for those that could not be found; make a fair deduction for those who refused to register, and take those deductions from the excess of two thousand four hundred and thirty-six, according to the Herald of Freedom, an Abolition paper, and you have very few deliberately disfranchised men left—not half enough to populate nineteen counties, according to Mr. Stanton, or fifteen counties, according to Governor Walker. I think, therefore, unless the figures speak falsely, I have shown already that Mr. Stanton and Mr. Walker are mistaken. And I now choose to show, even at the expense of wearying myself, that these gentlemen never

seemed to entertain this idea until lately. Let us see what Mr. Stanton said on the subject in his first address to the people of Kansas, when he went there and assumed the duties of acting Governor, by virtue of his commission as Secretary. In this address, dated the 17th of April, 1857, he said:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people, through the delegates who may be chosen to represent them in the constitutional convention."

Recollect that when this was said the register had been closed; we had then these complaints that men had been disfranchised, and everything had been said about it. Then the great prominent fact which stared the country in the face was, that considerable numbers of the free-State men had refused to register; and the acting Governor speaks to them, and tells them they had a full and fair opportunity open to them to give expression to their views. How could he say that, if nineteen counties, or one half the counties in the Territory, had been disfranchised? I do not pretend to say that a full registry was taken or kept in all the counties of the Territory. I think that may not have been. I see the fact stated on the authority of an eminent citizen of the Territory, that the census was taken in some instances for four or five counties together, under the name of one county. I have the paper before me, but shall not stop to read it, because I do not consider it very essential.

Next let us see what Mr. Walker said on this subject. Mr. Walker went to the Territory and issued his inaugural address on the 27th of May. The registry had then been closed nearly two months. He had the benefit of the experience of Mr. Stanton, who was his immediate predecessor; and then, addressing the people of the Territory, he used this language:

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government."

Mr. Walker, with all the facts before him, addressing the people two months after the registry had been closed, and all the complaints had been uttered, said to the people of Kansas, "an opportunity is now offered to you of freely and fairly expressing your opinions," how can he now come forward and say that fifteen counties, some of them the oldest in the Territory, had been deliberately disfranchised?

I show then, first by the figures, next by Governor Stanton, and next by Governor Walker, that the statement is not true. It cannot by possibility be true that fifteen counties of the Territory were disfranchised, if by fifteen counties be meant any considerable portion of the population. If it be simply meant that the forests and the soil were disfranchised, without reference to the people, it may be true. There may be territory enough there to make fifteen counties, and those counties may have legislative names; but when Mr. Walker is at pains to say, as he does, that some of them are the oldest counties, if the story is not contradicted in some way, the country will be led to the conclusion that by this declaration it is meant that one half the population has been disfranchised. I undertake to say, first from the poll-list, next from Mr. Stanton's declaration, and lastly from Mr. Walker's himself, that the statement is not true in that sense, and cannot be so. If Mr. Walker thought as he now states, and as he seems willing to have his friends here state upon his authority, that these people had been disfranchised, and that they were only seeking rights which belonged to them under the Constitution and laws, I want to know how he could ever find it in his heart to address to them such language as I shall now read? In addressing the Secretary of State, under date of July the 15th, 1857, he says:

"In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the Republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the Government and to the Union."

Sir, if Mr. Walker, writing on the 15th of July,

1857, to the Government whose commission he held, under whose authority he was acting, and to whom he was bound to make truthful and correct reports, had seen that these people had been disfranchised, that fifteen counties had been denied the right to participate in the election, and had seen, as he seems quite willing now to have us believe he did see, that they were struggling for rights which had been lawlessly and violently torn from them, how could he say to the President that they were in open rebellion against the Government? No, sir; he did not so understand it. He doubtless thought and understood as he wrote, and as he said, that the spirit of rebellion pervaded the entire mass of the Republican party in that Territory, that they were instigated by certain eastern societies, the Massachusetts Emigrant Aid Society and its affiliated societies elsewhere, and that the purpose was to break down the Government, and overthrow the Union. These were the grave charges brought at that day.

Let us go a step further, and hear him talk to the poor downtrodden free-State men of Kansas! Robert J. Walker talking to these people who, he now says, had been disfranchised, who had been denied, according to his present authority, all right to participate in the election; who had been tyrannized over, trampled upon, and treated worse than outlaws and outcasts, says, (I read from his proclamation of July 15, to the people of Lawrence:)

"You have, however, chosen to disregard the laws of Congress and of the territorial government created by it; and whilst professing to acknowledge a State government rejected by Congress, and which can therefore now exist only by a successful rebellion, and exact from all your officers the peridious and sacrilegious oath to support the so-called State constitution; yet you have, even in defiance of the so-called State Legislature which refused to grant you a charter, proceeded to create a local government of your own, based only upon insurrection and revolution. The very oath which you require from all your officers to support your so-called Topeka State constitution is violated in the very act of putting in operation a charter rejected even by them.

"A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country."

That is Robert J. Walker talking to these downtrodden people who had been disfranchised! Did he think they were disfranchised at that day? Mark you, he had been in the Territory then from the 27th of May to the 15th of July following. During all that time he had made no discovery that the rights of these people had been injured, or he could never have said to them: "a rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country." Then again, in addressing the Secretary of State on the 20th of July, he says:

"I am no alarmist; but if the Lawrence rebellion is not put down, similar organizations, extending to counties as well as towns, will be carried into effect throughout the Territory, the object being to overthrow the territorial government and inaugurate the Topeka State government, even before the admission of Kansas as a State by Congress."

And he calls for troops, thinking nothing else will do. Now, one extract further. On the 27th of July, Governor Walker disposed of this whole complaint about border ruffians. In addressing the Secretary of State on that day, on his responsibility as Governor of the Territory, bound to give correct information, acting under the solemn obligations of his oath, he says:

"There is no longer any pretext for the suggestion that any portion of the people of Missouri intend to invade the ballot-box at any election in Kansas."

If all this be true, why did not the people go forward and vote? A full, free, fair opportunity was afforded to them to do so. They certainly were not to be intimidated, nor browbeaten, nor driven from the polls by the Missouri border ruffians, when the Governor of the Territory could assure the President, as he did, that there was no longer any pretext for saying that Missourians intended to invade the ballot-box or take any part at the election. Yet the spirit of rebellion was kept up in the Territory.

I come back to the convention. It was chosen; it assembled; it made a constitution. At this point we lose an ally who has stood by us from the beginning of the controversy. The Senators on the other side of the Chamber were never expected to go with us for the admission of Kansas, but the Senator from Illinois was expected to do so. He, it will be recollected, was the author of the bill; he it was who urged upon us the accept-

ance of the proposition to admit the State with or without slavery as her constitution might determine; he it was, of all other men, who was most bound to stand by that agreement, and never to abandon it until compelled to do so by some gross violation of it on our part. The Senator stood committed to the legality of the first Legislature, as I have shown you. He defended all its proceedings up to the calling of this convention. He told us but two days ago that, in calling the convention, the Legislature had not transcended its power. He insists that it would be more regular to get authority from Congress before the Legislature acted; but, if the Legislature choose to act without the authority of Congress, he admitted two days ago, clearly and distinctly, it had a right so to act. He admits that a refusal on the part of the convention to submit the whole constitution to the people does not invalidate it. He would prefer to have the whole constitution submitted to a popular vote; but he says it is not essential that it should be done.

This narrows the controversy, it seems to me, to a single point, and that this is: is the constitution, as it is now presented to us, the act of the people of the Territory of Kansas, ascertained in the mode prescribed by law? Is it a constitution made by the people at the time, at the place, and in the manner, prescribed by the written law? If it be so, then I think we shall have no difficulty in maintaining that it must be accepted, whether it tolerates or excludes slavery; and that it is but a resort to a technicality, not creditable to those who resort to it, to make complaints that a majority of the people of the Territory possibly did not vote in regard to it. If they did not, whose fault was it? Did it lie in the power of Congress to compel them to vote? Did it lie in the power of the Legislature to force them to the ballot-box? Could the President, or the Governor, or any other power known to the law, compel these people to go to the ballot-box and vote, whether they would or not? If I have shown you from the documents, as I think I have, that the law gave them the privilege of voting; that the Governor proclaimed to them that they had a full opportunity of voting; that he would use the military power at his disposal to secure them the right to vote; if all these guarantees were held out and they refused, is the constitution to be overturned? Are we to refuse to accept the State, in deference to the judgment of those pronounced by the Senator from Illinois to be rebels and traitors against the Government—those denounced by the Governor of the Territory as rebels and traitors, seeking to overthrow the Government and overturn the Union? Are we to refuse, in deference to the judgment of such men, to fulfill the solemn compact we have made, to admit the State, with or without slavery, as her constitution might prescribe?

I quite agree with the Senator from Illinois that the constitution must be the act of the people, or it is no constitution; but he and I have different modes of arriving at the will of the people. I maintain that when the day of election comes, and the ballot-box is open, and the people left free to go and vote or not as they please, those who vote carry the election, and not those who stay away and obstinately refuse to vote. The ballot-box has been kept open under the strongest guards. Every legal protection has been given by the President, by all his Governors, and by all who have spoken, that every man should vote who chose to vote; and yet these parties have obstinately stood out and refused to exercise the right guaranteed them by the law; sometimes, we are told, because they were intimidated; and then some more daring friend, a little ashamed of that sort of excuse, says they would not vote because the whole thing was a fraud from the beginning. I care not whether it was done for the one cause or the other, so long as the plain, stubborn fact stands out that there was no intent, no desire, expressed by them to exercise the franchise. Sir, we are falling upon strange times. An election is holden, the ballot-box is closed, and some man has got all the votes polled, but they do not constitute a majority of all the people of the district; and forthwith up starts some fellow, who says: "The election must go for nothing; you have not got a majority of all the voters, and therefore the election is void." That I understand to be substantially the ground taken by the Senator

from Illinois; that because a majority were not polled affirmatively, therefore the election is not binding.

I believe the Senator is a native of Vermont, and I think he does great credit to his nativity; for certainly nobody short of a Vermonter ever would have made a discovery so notable as this. Why, sir, it is Yankee all over. See how easily you can dispose of any election according to this theory. All that you have to do is to ascertain that you are pretty certain to be beaten, and then tell your friends not to go into the election, and keep everybody else from voting that you can; and when the election is over, show that a majority of all the votes have not been polled, raise a cry, and have the whole election overturned. That sort of argument will not do. I have, I believe, two colleagues in the other House now who were chosen by minority votes; chosen, I am glad to know, because of their extraordinary popularity. Nobody ran against them. They got each, I suppose, two fifths of all the votes in their districts; nobody else got any votes at all; but according to these modern doctrines they are not elected; the three fifths who did not vote can call a mass meeting, overturn the old election, and have a new election to-morrow! This is what I understand this doctrine to amount to. No, sir; when the time came, and the place was pointed out for holding the election, and it was held in the manner prescribed by law, it was binding; and I care not whether one, or one thousand, or one hundred thousand votes were polled.

Why, sir, if an election were to be held in your district to-morrow, and but two of the fifteen thousand votes were cast, the election would be binding. It would not be in the power of the other fourteen thousand nine hundred and ninety-eight to overturn the election the next day. They allowed the time to pass when they could have expressed their will in the mode prescribed by law; and if they chose to let the favorite moment pass by unimproved, they could not afterwards take advantage of their own error, or wrong, or laches. That is all I claim with reference to Kansas. I simply claim that, at the time, at the place, and in the mode prescribed by law, the people of Kansas have expressed their opinion favorable to this constitution.

But we are told that the constitution is not binding on other grounds; it is said that some of the delegates disregarded the will of their constituents. I do not know how that may be; but I appeal to every man who has read the first horn-book of the law, if this is not true: that, as between you and other parties, you are bound by the act of your representative. We shall fall upon strange times here, if the fact of delegates, representatives, disregarding the will of their constituents, is to vitiate laws and constitutions. I mean to be entirely respectful; but it seems to me that in throwing my eye over this Chamber when it is full, it takes in more than one Senator who does not obey the will of his constituents. Am I to be told that the legislation of Congress is void because the will of our constituents has not been obeyed? If your acts are not invalid when you refuse or fail to carry out the will of your constituents, does not the same principle apply in Kansas? The delegate is responsible to his constituents, and to nobody else. The constituency has not complained. This complaint comes from a different quarter. It is said that General Calhoun and other delegates did not carry out the will of their constituents. Have you ever seen a complaint from any of those who voted for them, that their will had not been executed by them? Has anybody that voted for Calhoun and his associates ever complained that he was cheated—that they did not do what they promised to do? I want to know if it lies in the mouth of the enemy to complain that I do not properly reflect the will of my constituents?

I do not know what my friend from New York, who sits before me, [Mr. KING,] may have promised when he was elected. I dare say he promised to do something wrong: I think that is exceedingly probable. [Laughter.] Suppose he does not do it: have the Democratic members of the New York Legislature any business to complain? They were not cheated; they gave him no votes. If the Senator fulfills the wishes of his own friends; in other words, if, on party questions,

they release him from party obligations, nobody else has a right to interpose and complain. I take the ground, and I stand on it, that my obligations on party issues are to the party who have elected me; and if they absolve me from the obligation, no one else has a right to bind me.

Then, sir, taking it on the ground that these men did violate their pledges, which I should undertake to controvert as a matter of fact, what does it amount to? Until it is shown that the men who elected them were deceived, and that they complain, I maintain that the complaint goes for nothing. Suppose a Senator comes here pledged to his party friends as a party man on a party measure to do a particular thing, and they afterwards change their minds, and say to him, "we would rather you would not do it, and he refuses it: have the enemy any business to complain? This was a party question; it was a question between the pro-slavery party on the one hand, and the free-State party on the other; the free-State men did not vote for Mr. Calhoun; they did not vote for his associates; they got their votes of the pro-slavery party, and were chosen; and whenever the pro-slavery party complain that they have violated their pledges to them, the complaint may be listened to; but it would be just as bad for me or my friends to complain if the anti-slavery party had not redeemed their pledges to their friends. I have nothing to do with their pledges, whether they redeem them or not.

Now, sir, I can tell you what I understand to be the facts, and that they are susceptible of proof I have no question. These men did pledge themselves to submit the whole constitution to the people. They did it with the hope of getting the whole population to come out and vote. The anti-slavery people declared that they would take no part in the election; they would have nothing to do with it; they would stay away from the polls. Then the friends of Mr. Calhoun and his associates held meetings, and absolved them from their obligation to fulfill that pledge. They said, and said rightly, "the pledge is to us; we do not want you to fulfill it; we do not ask you to fulfill it; we would rather you would not fulfill it." If they absolved them from the obligation, I maintain that nobody else had a right to complain.

The Senator from Michigan, [Mr. STUART,] in addressing himself to this subject, some days ago, took one or two positions to which I beg leave to call attention. He made it a ground of marked objection to the Kansas constitution that it was repugnant, in many of its provisions, to a large portion of the people, and that yet, before they were allowed to vote in regard to it, they were required to take an oath that they would support it. This the Senator considered a monstrous outrage. Sir, it would have been a monstrous outrage if the test oath, as he calls it, had been applied to one party, and not to the other; but it was applied to every voter, whether he belonged to the free-State or to the slave-State organization; to the pro-slavery or the anti-slavery party. If anybody required him to do it, he must take an oath to support that constitution before he could exercise the right of voting for or against it. I do not think there was any great outrage in this. If there had been an oath that they should approve the constitution, there would have been a great outrage in that; but to support a constitution, and to approve it, are two different things. How often has the honorable Senator sworn to support the constitution of Michigan? Does he approve all that is in it? Are there not things in it which he would prefer to have otherwise? When we go to that desk, and swear to support the Constitution of the United States, do we swear that we approve it? If so, I never would have taken an oath to support it. There are many things in it which I do not approve, which I should be glad to see otherwise; but I am simply sworn, as a good, law-abiding citizen, that so long as it is the Constitution, I will support it, whether I believe it to be right or wrong.

These people, as I have shown before, were in open rebellion against the government of Kansas. Disguise the fact as you please, it still stands out at every point that they were in rebellion; and the convention, wisely I think, required them to support the constitution before they should have anything to do with putting it in operation. It was meant for rebels and traitors and for nobody

else, and being meant for them it was right. What business has a man in open rebellion against the Government of his country, not meaning to obey its laws or support its constitution, to take part in its elections? If he will do so, ought you not to bind him by oaths, and by all the power that you can throw around him, to cease his rebellion and obey the laws? Even acting under the solemnity of an oath, these men would hardly be held within reasonable bounds or proper restraint. Without some such restraint, it would have been madness to submit the constitution to their hands.

Again, my honorable friend objects to that feature of the constitution which required the president of the convention to appoint the officers who were to hold the election. When people do not mean to be satisfied, they find fault with anything and with everything. What have been the great complaints in reference to Kansas elections? That the sheriffs would not do their duty, that they were partisan men. It is even said, now, that when they were required to take the census and keep the registry of votes, they did it so imperfectly that one half the people were disfranchised. Then the convention takes the matter out of the hands of the sheriffs and puts it in the hands of commissioners, and the Senator is not satisfied. What will satisfy him? I know the Senator from Michigan is too fair-minded to want anything unjust. I am sure he would not want ballot-box stuffers appointed on either side to hold the election; but it seems to me, that in view of all the complaints about the malfeasance and bad conduct in every way of the sheriffs, that it was wise and proper to put the election in the hands of new parties.

Again, the Senator says Kansas is to be admitted into the Union, and he likens the position to bring her in to carrying a convict with shackles upon his arms, and admitting him into the penitentiary. I am sure that the Senator could not well have studied that expression before he uttered it; he could not have reviewed the speech after he made it, or no such comparison would have been allowed to pass into the everlasting records of the country. What, sir, the introduction of a State into this Union, likened to the admission of a shackled convict into the penitentiary! I scarcely know in what language to comment on such a comparison.

Then my friend, (and I am sorry that I have not his speech before me, but I am sure I shall quote his idea correctly,) as though exceedingly anxious to get clear of the slavery question and put it away from him, says "these woolly-heads are eternally floating before my vision; turn which way I may, I am surrounded with these woolly-heads." All I have to say to that is, that if the Senator will let the woolly-heads alone, I will be responsible that the woolly-heads will let him alone. There is not a more amiable people in all the world, let me tell the Senator, than these same woolly-heads. They are as innocent and inoffensive as the sheep that graze upon his own pastures, and never disturb any one.

By the way, talking of the woolly-heads and the sheep, reminds me of a little story that I think will illustrate the Senator's position. I heard somewhere of a man who had been long suspected of not dealing very fairly with his neighbor's property. Away out in an unfrequented wood the owner of a flock came bluff upon him just as he had slaughtered a sheep, and it was lying at his feet. Said the owner of the animal, "I am glad to catch you at last. At last I have caught you in the very act." "Caught me in doing what?" "In the very act of killing my sheep." "Indeed," the man replied, "have a care; be a little cautious, sir, how you charge an innocent man with sheep stealing." "Why, you do not mean to say that you did not kill the sheep?" "Certainly not," was the reply. "I did kill the sheep, and I would kill anybody's sheep that would bite me as I am walking peaceably along the road." [Laughter.]

Now, sir, if the Senator will let our sheep alone, our woolly-heads alone, I dare say he will never be bitten by them while he is peaceably walking along the road, or in any unfrequented part of the country. Just let the negroes alone. If the Senator will take it kindly, I would advise him to attend to Michigan affairs, and let me attend to Mississippi matters; just get all your north-

ern friends to attend to local matters which concern you, and let us down South attend to our own local affairs; and then let us jointly attend to the affairs of the whole country, and we shall get along finely. Our sheep will never bite you, our woolly-heads will never disturb you if you will only act on that principle.

Well, sir, I have got through the greater portion of what I intended to say on the points already alluded to; yet there are other matters connected with the discussion to which I feel that I ought to pay some attention.

Mr. TOOMBS. If the Senator will give way, I will move an adjournment.

Mr. BROWN. Oh, no; unless the Senate desires to adjourn. ["Adjourn."] I understood, when I rose, that there was some disposition to settle the question this evening. ["Oh, no."] Rather than weary the Senate, I indicated in the beginning a purpose not to say anything, but let the question be taken. If I have talked the Senate into the humor to take the vote now, I will stop. ["No, no."] If the Senate is not disposed to have the vote taken, I will go on.

Mr. SEWARD. Though I have no purpose of speaking myself, I am quite sure that it will be a very late hour before the question can be taken to-night; and I hope the Senate is not under any such pressure but that we can be allowed to digest what the honorable Senator has given us to-day, and come back and proceed to-morrow.

Mr. STUART. Will the Senator yield me the floor for an instant? I shall not undertake to reply to the Senator from Mississippi now, because I think it is very improper to put one Senator's speech into the speech of another. I only wish to say, that at the proper time, and on a proper occasion, I will pay my full respects to the Senator's criticism on my speech, anecdote and all.

Mr. IVERSON. If the Senator from Mississippi will yield the floor, I will move that the Senate proceed to the consideration of executive business.

Mr. BROWN. I yield.

Mr. IVERSON. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 3, 1858.

The House met at twelve o'clock, m. Prayer by Rev. E. KINGSFORD, D. D.

The Journal of yesterday was read and approved.

CONTUMACIOUS WITNESS.

Mr. STANTON. The House will recollect that an attachment was issued some days since for a witness who had been subpoenaed and had refused to appear before the select committee of which I am chairman. That witness is now in the custody of the Sergeant-at-Arms, and I desire to offer a resolution in relation to the subject.

The SPEAKER. The gentleman had better have the witness brought to the bar of the House.

Mr. WRIGHT, of Georgia. The resolution of the gentleman from Ohio proposes to do that.

The SPEAKER. A warrant was issued to bring the witness here. The Sergeant-at-Arms was directed to bring the witness to the bar of the House, and that officer will now report.

The Sergeant-at-Arms appeared at the bar of the House, and said:

Mr. Speaker, in obedience to the order of the House, I have now here J. D. Williamson, a witness whom I was directed to report at the bar of the House.

Mr. STANTON. I offer the following resolution:

Resolved, That J. D. Williamson, Esq., of the city of New York, now in custody of the Sergeant-at-Arms, under an attachment for contempt in refusing obedience to a summons requiring him to appear and testify before a committee of this House, be now arraigned at the bar of the House, and that the Speaker propound to him the following interrogatories:

1st. What excuse have you for not appearing before the select committee of this House, in pursuance of the summons served on you on the 27th ultimo?

2d. Are you now ready to appear before said committee, and answer such proper questions as shall be put to you by said committee?

And that said J. D. Williamson be required to answer said questions in writing and under oath.

Mr. LETCHER. Is the return of the Sergeant-at-Arms in writing?

The SPEAKER. The announcement that the witness is in custody was made verbally by the officer of the House, in conformity with the order of the House.

Mr. LETCHER. It seems to me that it ought to be in writing, so as to show the whole proceeding.

Mr. STANTON. I have consulted with all the members of the select committee but one, and this resolution meets their approval. I have followed the precedent set last session in the case of Colonel Chester. I understand that the witness desires further time to prepare his answers. I hope the resolution will be adopted; and then I will move that the witness have until one o'clock to-morrow to prepare his answers.

The resolution was agreed to.

Mr. STANTON. I now move that the witness be recommitted to the custody of the Sergeant-at-Arms, and have until one o'clock to-morrow to make his answers to the interrogatories to be propounded by the Chair.

Mr. HOUSTON. He may prefer to answer now.

Mr. STANTON. I ask that the witness be brought forward, and the interrogatories be propounded to him by the Speaker.

The SPEAKER. Is it the pleasure of the House that the interrogatories shall be now propounded?

Mr. PHELPS. It seems to me that the proper course would be that the witness should answer in writing, and under oath, and not verbally.

Mr. STANTON. That is the order of the House. I propose that the interrogatories be now propounded to the witness; and that he have until to-morrow at one o'clock to prepare his answers in writing.

The SPEAKER. The resolution just adopted by the House requires the interrogatories to be answered in writing, and under oath.

Mr. PHELPS. That is right.

Mr. STANTON. I suppose there is no necessity of bringing the witness to the bar and having the questions propounded to him. The Clerk will furnish him with a copy of the resolution. I therefore move that he be recommitted to the custody of the Sergeant-at-Arms, and allowed until to-morrow to prepare his answers.

Mr. PHELPS. And that a copy of the resolution be furnished him.

Mr. HOUSTON. It may be that the witness would prefer to answer the interrogatories now, or at an earlier hour than the one named by the gentleman from Ohio; and I think that, being in custody, he ought to be allowed to answer at the earliest possible moment.

Mr. STANTON. I have consulted the witness, and he desires until to-morrow to prepare his answers.

Mr. BOCK. I would suggest to the gentleman that he move that the witness have until one o'clock to-morrow to prepare his answers, unless he desires to answer at an earlier hour.

Mr. STANTON. The witness has informed me that the time I have named will suit him.

Mr. FLORENCE. I would suggest to the gentleman from Ohio that he modify his motion as suggested by the gentleman from Virginia, [Mr. Bock], so as to allow the witness to elect whether he will answer now, or at some future time.

Mr. STANTON. I will say to the gentleman from Pennsylvania that I have consulted the witness, and the time I have named suits him. I move the previous question.

Mr. FLORENCE. I have no objection; but we have had precedents in other cases—

Mr. CLINGMAN. Debate is not in order, the previous question having been called.

Mr. FLORENCE. In the case of Mr. Chester, that gentleman informed the House, through a member, that he would prefer to answer under oath.

The SPEAKER. So the gentleman from Ohio states. To-morrow, at one o'clock, is the time fixed for answering.

Mr. FLORENCE. It is to the case of Mr. Chester that I am referring.

The previous question was seconded, and the main question ordered; and under its operation, the motion was agreed to.

CALL OF COMMITTEES.

The SPEAKER announced the business first in order to be the consideration of the President's message; the question being on the motion to refer it to the Committee on Territories, on which the gentleman from Pennsylvania [Mr. Grow] was entitled to the floor.

Mr. GOODE. I desire to ask the unanimous consent of the House to introduce a bill, of which previous notice has been given, to reimburse the corporation of Georgetown a sum of money which I think is justly due to it.

Mr. J. GLANCY JONES. Is this bill reported from a committee?

Mr. GOODE. It is introduced merely for reference.

Mr. WALBRIDGE. I object.

Mr. J. GLANCY JONES. I wish to make an appeal to the House to postpone for one hour the question now before it, for the purpose of allowing the committees to present their reports. This will give us the benefit of the morning hour. After that the subject before the House can be resumed, and the debate continued. I hope there will be no objection to this.

Mr. HARRIS, of Illinois. I have no objection to the proposition of the gentleman from Pennsylvania; but I wish to say that if it is in order I shall move to lay aside the consideration of the President's message, and call up the case of which I gave notice yesterday—the contested-election case of Ohio. I yield to the solicitations of friends around me, who desire that this case shall be presented and considered at this time, although I am entirely willing that the gentleman from Pennsylvania shall succeed with the proposition which he has presented to the House. Still I wish to give notice now that I will make the motion in proper time.

Mr. J. GLANCY JONES. The case mentioned by the gentleman from Illinois will come up in its proper place, after the committees shall have had an opportunity to report. It is a privileged question, which takes precedence of the matters now before the House. The gentleman can call it up just as well after the committees shall have reported as now.

Mr. HARRIS, of Illinois. I will, then, to test the sense of the House, move to postpone for one hour the consideration of the question that I have called up, so as to enable the committees to report. If the committees conclude their reports in less time I will call it up.

Mr. GROW. Will the gentleman modify his motion so as to let the committees be called through, provided the call does not consume more than two hours?

Mr. HARRIS, of Illinois. I will agree to anything that meets the approbation of the House. I have been spoken to by a large number of gentlemen to allow this to be done, and I will accord it as far as is in my power.

The SPEAKER. Is it the pleasure of the House that the committees be called for reports, and that the call be continued for one hour?

Mr. WALBRIDGE. I object to that, unless all the committees be called through. In that case I will not object.

Mr. J. GLANCY JONES. Let the proposition be so modified.

Mr. HARRIS, of Illinois. Do I understand the gentleman from Michigan to object?

The SPEAKER. The Chair understood him as objecting unless conditions were annexed which the Chair has no right to annex.

Mr. HARRIS, of Illinois. Then I desire to call up the Ohio contested-election case.

The SPEAKER. If the gentleman from Illinois moves to postpone the further consideration of the matter now before the House for one hour, the first business in order will be the call of committees for reports.

Mr. HARRIS, of Illinois. Then I make that motion.

The motion was agreed to.

The SPEAKER announced that reports were in order from the Committee of Elections.

Mr. COBB. Do I understand the Speaker to commence the call again at the head of the list?

I think the Speaker was at a different place when the committees were last called.

The SPEAKER. The gentleman from Alabama [Mr. COBB] will recollect that the last call was on Friday. The gentleman from Illinois [Mr. MARSHALL] was proposing then to make a report, because on that day his committee had special preference.

Mr. COBB. Then the Chair must commence the call where it was last left off.

The SPEAKER. The Chair commences the call now at the head of the list, the call having been completed on the last occasion.

ARMY APPROPRIATION BILL.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, reported a bill (H. R. No. 2) making appropriations for the support of the Army for the year ending 30th June, 1859; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

HENRY S. CRABB.

On motion of Mr. J. GLANCY JONES, it was Ordered, That the Committee of Ways and Means be discharged from the further consideration of the memorial of Henry S. Crabb, of Philadelphia, praying for relief; and that the same be referred to the Committee of Claims.

BENJAMIN F. HALL.

Mr. KELLY, from the Committee of Ways and Means, reported a bill for the relief of Benjamin F. Hall; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

LEWIS FEUCHTWANGER.

On motion of Mr. KELLY, it was

Ordered, That the Committee of Ways and Means be discharged from the further consideration of the petition of Doctor Lewis Feuchtwanger; and that it and the adverse report thereon be laid on the table and ordered to be printed.

DEPOSITS IN UNITED STATES TREASURIES.

Mr. HOWARD, from the Committee of Ways and Means, presented an adverse report on House bill No. 128, to authorize the deposits of gold and silver bullion and gold dust in the treasuries therein named, and the issuance of certificates therefor convenient for use and circulation; and asked that the bill and report be laid on the table, and ordered to be printed.

It was so ordered.

A. H. ABRAHAMS.

Mr. CRAWFORD, from the Committee of Ways and Means, presented an adverse report on the petition of A. H. Abrahams, of Charleston, South Carolina, for refunding duties illegally exacted; which was laid on the table, and, with the report, ordered to be printed.

BAUDOUIN AND ROBERTS.

Mr. DAVIDSON, from the Committee of Claims, reported a bill for the relief of A. Baudouin and A. D. Roberts; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

CHARLES GORDON.

Mr. DAVIDSON, from the same committee, reported back the memorial of Charles Gordon; which was referred to the Committee on Revolutionary Claims.

SURVEY OF THE COLUMBIA RIVER.

Mr. JOHN COCHRANE, from the Committee on Commerce, reported back House bill (No. 181) to provide for a survey of the Columbia river in the Territories of Washington and Oregon; which was referred to the Committee on Military Affairs.

Mr. JOHN COCHRANE, from the same committee, reported back the petition of citizens of the State of New York, praying for an increase of duty on gold-leaf; which was referred to the Committee of Ways and Means.

PADUCAH.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, made an adverse report on House bill (No. 241) to provide for the establishment of an inspection district at Paducah, in the State of Kentucky; which was laid on the table, and ordered to be printed.

EUFAULA.

Mr. WASHBURNE, of Illinois, from the same

committee, reported back the petition of the town council of Eufaula, in the State of Alabama, praying for an amendment of an act therein named; which was laid on the table, and the report ordered to be printed.

SETTLERS ON LANDS IN WISCONSIN.

Mr. BENNETT, from the Committee on Public Lands, reported a bill for the relief of certain settlers on the public lands in the State of Wisconsin; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

DIRECTION TO THE SECRETARY OF WAR.

On motion of Mr. HILL, the Committee on the Public Lands were discharged from the further consideration of House joint resolution, No. 6, directory to the Secretary of War, for a survey of the east bank of the Mississippi river, &c.; the bill was laid on the table, and the report ordered to be printed.

A. BINGHAM.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, made an adverse report on the memorial of A. Bingham, asking the prohibition of the transportation of the United States mails on the Sabbath; which was laid on the table, the report ordered to be printed, and the committee discharged from the further consideration thereof.

MR. HILLBURN.

Mr. DAVIS, of Mississippi, from the Committee on the Post Office and Post Roads, made an adverse report in the case of Mr. Hillburn; which was laid on the table, the report ordered to be printed, and the committee discharged from the further consideration thereof.

ALEXANDER HAYES.

Mr. CRAIG, of Missouri, from the Committee on the Post Office and Post Roads, made an adverse report upon the petition of Alexander Hayes; which was laid on the table, the report ordered to be printed, and the committee discharged from the further consideration thereof.

DEAF, DUMB, AND BLIND INSTITUTION.

Mr. DEAN, from the Committee for the District of Columbia, reported a bill to amend an act entitled "An act to incorporate the Columbia Institution for the instruction of the Deaf, Dumb, and Blind," approved February 16, 1857; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

WASHINGTON ELECTIONS.

Mr. GOODE, from the Committee for the District of Columbia, reported a bill regulating municipal elections in the city of Washington; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

JESSE W. PAGE, JR.

Mr. READY, from the Committee on the Judiciary, reported back House bill (No. 43) for the relief of Jesse W. Page, jr., of the State of Tennessee; which was laid on the table, and the report ordered to be printed.

CHANGING NAMES OF VESSELS.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary to report back to the House the memorial of certain underwriters and merchants of the city of Philadelphia, asking the repeal of the law of 1856 authorizing the owners of vessels to change their names, and to ask that the committee may be discharged from its further consideration. There is a bill, as I understand, now upon your table, reported by the Committee on Commerce, having that object in view.

Mr. WASHBURN, of Illinois. I hope that, by unanimous consent, that bill will be taken up and passed, after we shall get through the order we are now proceeding upon.

The committee was discharged from the further consideration of the memorial, and the same laid upon the table.

JOHN G. CAMP.

Mr. HOUSTON also, from the same committee, made an adverse report upon the petition of the legal representatives of John G. Camp; which

was laid upon the table, and the report ordered to be printed.

NANCY D. HOLKER.

Mr. COX, from the Committee on Revolutionary Claims, reported a bill for the relief of Nancy D. Holker; which was read a first and second time, and referred to a Committee of the Whole; and the bill and report ordered to be printed.

MICHAEL SHAVER.

Mr. CURRY, from the Committee on Revolutionary Claims, asked that the committee be discharged from the further consideration of the petitions in the case of Michael Shaver, and that they be referred to the Committee on Revolutionary Pensions.

It was so ordered.

NATHANIEL RIDDICK.

Mr. CURRY also, from the same committee, made an adverse report in the case of Nathaniel Riddick, administrator of Richard Taylor; which was laid upon the table, and ordered to be printed.

JOHN K. TEMPLE.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported back Senate bill (No. 38) for the relief of John K. Temple, of Louisiana; which was referred to a Committee of the Whole House, and the bill and report ordered to be printed.

PIERRE GIGNON.

Mr. SANDIDGE also, from the same committee, reported a bill for the relief of Pierre Gignon, of Natchitoches, Louisiana; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

JOHN HUERTAS.

Mr. SANDIDGE. I am instructed by the Committee on Private Land Claims to report a bill to authorize the claimants in the right of John Huertas to enter certain lands in Florida. As I have not troubled the House, I will take the liberty of saying, that this being a case of great hardship, where the rights of the parties have been adjudicated by the Supreme Court of the United States, and where the rights of the parties will be jeopardized unless relief is soon granted, I desire that the bill be put upon its passage.

Mr. SEWARD. I object to debate, and I move that the bill be referred to a Committee of the Whole House, and the bill and report be printed.

Mr. SANDIDGE. I hope the report will be read, and then I think the bill will be passed without objection.

Mr. RITCHIE objected.

Mr. SANDIDGE. I withdraw the motion, if there is objection to it.

The bill was then read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

CARONDELET.

Mr. BLAIR, from the Committee on Private Land Claims, reported back a bill (H. R. No. 133) for the relief of the city of Carondelet; which was referred to a Committee of the Whole House, and the bill and report ordered to be printed.

COMMITTEE DISCHARGED.

Mr. BISHOP, from the Committee on Manufactures, reported back the following memorials, and moved that the committee be discharged from the further consideration of the same, and that they be laid upon the table:

The memorial of citizens of Lynchburg, Virginia, asking for the passage of a law to punish factors and consignees for the misapplication of funds; and

The memorial of citizens of Virginia, asking the passage of a law making penal the counterfeiting of brands for the manufacture of tobacco.

Also, the proceedings of tobacco manufacturers held in the city of Richmond, on the 3d of December, 1857.

The motion was agreed to.

INDIAN AFFAIRS IN OREGON, ETC.

Mr. GREENWOOD, from the Committee on Indian Affairs, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to furnish to this House all correspondence and documents, if not incompatible with the public interest,

relating to Indian affairs in Oregon and Washington Territories, received by the Department of the Interior since March 4, 1837, not already transmitted; and also all papers and correspondence relative to the official conduct of Anson Dodd, late superintendent of Indian affairs in Oregon Territory, not heretofore transmitted.

HEIRS OF MARY JAMISON.

Mr. BURROUGHS, from the Committee on Indian Affairs, reported a bill for the relief of the heirs of Mary Jamison, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WHITEMARSH B. SEABROOK AND OTHERS.

Mr. QUITMAN, from the Committee on Military Affairs, reported back House bill (No. 81) to amend an act for the relief of Whitemarsh B. Seabrook and others.

Mr. QUITMAN. I desire to ask the immediate consideration of that bill. I have but a few words of explanation to make. At the last session of Congress a bill was passed authorizing payments to be made to Whitemarsh B. Seabrook and certain others for some expenses which they had incurred in the last war. That bill directed that these payments should be made to the heirs of the parties, and this bill only proposes to amend that bill by changing the word "heirs" to "executors and administrators." The House will see that this is necessary in order to preserve the rights of creditors as well as to distribute the funds in the proper channels. I hope the bill will be passed.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

HEIRS OF JOHN J. BULON, JR.

Mr. BUFFINTON, from the Committee on Military Affairs, reported a bill for the relief of the heirs of John J. Bulon, jr., deceased; which was read a first and second time, and referred to a Committee of the Whole House; and, with the accompanying report, ordered to be printed.

JAMES B. WOOD.

On motion of Mr. MARSHALL, of Kentucky, it was

Ordered, That the Committee on Military Affairs be discharged from the further consideration of the petition of James B. Wood praying to be paid for mules and oxen captured from him in New Mexico by Indians, and that the same be referred to the Committee of Claims.

WILLIAM HUTCHINSON.

Mr. PENDLETON, from the Committee on Military Affairs, reported a bill for the relief of William Hutchinson; which was read a first and second time, referred to a Committee of the Whole House; and, with the accompanying report, ordered to be printed.

THOMAS PHENIX, JR.

Mr. PENDLETON, from the same committee, reported a bill for the relief of Thomas Phenix, jr., late a paymaster's clerk in the service of the United States; which was read a first and second time, referred to a Committee of the Whole House; and, with the accompanying report, ordered to be printed.

BAYLEY'S BATTALION.

Mr. CURTIS, from the Committee on Military Affairs, made an adverse report on the petition of officers and soldiers of Major Bayley's battalion for service in the Black Hawk war; which was laid upon the table, and ordered to be printed.

RETIRED NAVAL OFFICERS.

Mr. SEWARD, from the Committee on Naval Affairs, reported back, with a recommendation that it do pass, Senate resolution (No. 3) to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy in respect to the dropped and retired naval officers,'" which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SEWARD. I desire to enter a motion to reconsider the vote by which the resolution was referred to the Committee of the Whole on the state of the Union, in order that the House may have control of the resolution hereafter.

Mr. HOUSTON. I move to lay the motion to reconsider upon the table. I object to giving this

resolution an unfair advantage over other bills which have been referred to the Committee of the Whole on the state of the Union.

Mr. SEWARD. I have made the motion to reconsider with a view to accommodate the chairman of the Committee on Naval Affairs, who desires to debate the resolution. The committee were not unanimous in their report. The resolution is an important one, and I desired, as the chairman of the Naval Committee is not present, to place it in such a position that the House can have control of it, and he may give it such direction hereafter as he may think proper, by agreement with the committee. I hope, therefore, that the gentleman from Alabama will withdraw his motion.

Mr. HOUSTON. I could not hear the gentleman's explanation. If his object is to keep the resolution in such a position that the Committee on Naval Affairs may take its own action upon it hereafter, I will not insist on my motion.

Mr. SEWARD. That is my object.

Mr. HOUSTON. I have no objection to that. My objection is to giving this resolution preference over other matters which are equally meritorious.

Mr. SEWARD. I do not desire that.

Mr. HOUSTON. Then I withdraw my motion to lay the motion to reconsider upon the table.

The motion to reconsider was entered upon the Journal.

THOMAS AP CATESBY JONES.

Mr. HAWKINS, from the Committee on Naval Affairs, presented an adverse report on the memorial of Commodore Thomas Ap Catesby Jones, and asked that the committee be discharged from the further consideration thereof, and that it be laid on the table.

It was so ordered.

Mr. HOUSTON. I would ask the gentleman from Florida if there is a written report accompanying those papers?

Mr. HAWKINS. There is not. If it was necessary, a report would have been made; but the committee thought that, under the peculiar circumstances of the case, it was not necessary to make a report unless asked for. The committee simply asks to be discharged from its further consideration.

Mr. HOUSTON. My object in asking the gentleman is this: cases of the character of this one just returned to the House have been hanging before the committees of the House, from year to year, for probably a quarter of a century. This one is probably not quite so old. It seems to me that committees would advance the interests of the country and the business of the House, and would reduce the labors of committees, if they would present reports in such cases.

EXTRA PAY TO SEAMEN.

Mr. BOCK, from the Committee on Naval Affairs, presented an adverse report on the petition of seamen of the Gulf squadron asking for extra pay; which was laid on the table, and ordered to be printed.

JOHN G. WILKINSON.

Mr. BOCK, from the same committee, also presented an adverse report in the case of John G. Wilkinson; which was laid on the table, and ordered to be printed.

MARINE HOSPITAL AT ALBANY.

On motion of Mr. BOCK, it was

Ordered, That the Committee on Naval Affairs be discharged from the further consideration of a petition of citizens of New York engaged or interested in the navigation of the Hudson river for the establishment of a marine hospital in the city of Albany; and that the same be referred to the Committee on Commerce.

ARREST OF WILLIAM WALKER.

Mr. BOCK. I am instructed by a majority of the Committee on Naval Affairs to report to the House a joint resolution, expressive of the opinion of the Congress of the United States in relation to the arrest of General William Walker by Hiram Paulding, a captain of the United States Navy, and to ask that the joint resolution and report be printed, and referred to the Committee of the Whole on the state of the Union.

I also ask that my friend from Ohio [Mr. SHERMAN] shall have an opportunity to put in a mi-

nority report. I presume that the gentleman from Georgia [Mr. SEWARD] will also have a minority report to present. There is a report to accompany this joint resolution, but I have not it with me at this moment.

The joint resolution expressive of the opinion of the Congress of the United States, in relation to the arrest of General William Walker by Hiram Paulding, a captain of the United States Navy, was read a first and second time.

Mr. KELSEY. I ask that the resolution be read in full.

The resolution was reported, as follows:

Resolved, That the act of Hiram Paulding, a captain of the United States Navy, in arresting General William Walker, was not authorized by the instructions which had been given him from the Navy Department.

Resolved, That while we have no reason to believe that the said Paulding acted from any improper motives or intention, yet we regard the act in question as a grave error, and deserving, for the reason already given, the disapproval of the American Congress.

Mr. SHERMAN, of Ohio. I am instructed by a minority of the Committee on Naval Affairs to submit a minority report, and to offer a substitute for the resolutions just read. I ask that the substitute be read, and that the report of the minority take the same direction as that of the majority.

The SPEAKER. The motion to commit will have to be modified before the substitute is received.

Mr. SHERMAN. I understood the gentleman to modify it.

The substitute was reported, as follows:

Resolved, That Commodore Hiram Paulding, in arresting William Walker and his associates, and returning them to the jurisdiction of the United States, acted within the spirit of his orders, and deserves the approbation of his country.

Mr. SHERMAN, of Ohio. I think the question should be taken now.

The SPEAKER. The motion submitted by the gentleman from Virginia [Mr. BOCK] is, that the resolutions be referred to the Committee of the Whole on the state of the Union.

Mr. PHELPS. I trust that course will be pursued, so that the other committees may be called to-day.

Mr. SEWARD. While I approve of the resolutions presented by the chairman of the Committee on Naval Affairs, I had some views of my own which the committee consented I might present. My resolutions are at my room; and I ask leave to present them to-morrow, and that they be committed, with the other papers, as a minority report.

The SPEAKER. The gentleman from Georgia asks the privilege of filing a minority report and having it printed.

Mr. JONES, of Tennessee. I have no objection to the gentleman making his report, but I move to lay all the resolutions on the table; and on that I call for the yeas and nays.

The yeas and nays were not ordered.

The motion was not agreed to.

The motion to refer and print was agreed to.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the resolutions were referred to the Committee of the Whole on the state of the Union, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to.

Mr. CLINGMAN. I am instructed by a majority of the Committee on Foreign Affairs to present a report on that part of the President's message having reference to the seizure of Walker. There are some members of the committee who entertain different views, and they will take the opportunity of presenting them in the shape of resolutions, or in some other shape. What I desire is, that this report be printed and its consideration postponed till some future day.

Mr. RITCHIE. I have a resolution which I shall offer as a substitute for those reported by the majority of the committee. But I am not prepared to submit it now.

Mr. CLINGMAN. I will then move that the resolutions be printed, and that they be postponed until Tuesday next. If that course is agreeable to the gentleman from Pennsylvania, I hope there will be no objection to it.

Mr. SMITH, of Tennessee. I object to that. I think we have more important subjects to talk about than filibustering.

Mr. LETCHER. Does that report conclude with a resolution?

Mr. CLINGMAN. It does.

Mr. LETCHER. Let the resolution be read.

Mr. CLINGMAN. The report is a very short one, and will require but two or three minutes to read it. If there be no objection I will read the report and resolution.

Mr. SHERMAN, of Ohio. As the other report, upon substantially the same subject, was not read, I shall object to the reading of this. If both can be read, I shall have no objection.

Mr. HOPKINS. Do I understand that this comes before the House as a report from the Committee on Foreign Affairs?

The SPEAKER. It does.

Mr. HOPKINS. I was not aware that that committee had authorized any report to be made upon that subject. My understanding was, that the subject had been postponed to some future day.

Mr. BARKSDALE. I desire to state that at the last meeting of the Committee on Foreign Affairs, it was agreed that no report should be made on the subject until another meeting was held. Since that time, however, I understand there has been a meeting of a majority of the committee, and that the chairman was authorized to make the report which has been now presented.

Mr. CLINGMAN. The Committee on Foreign Affairs, at the instance of my friend from Mississippi [Mr. BARKSDALE], agreed to have the subject postponed. The gentleman from Mississippi, however, and other members of the committee, desired, afterwards, that a report should be submitted. I saw all the members of the committee except, perhaps, the gentleman from Virginia, [Mr. HOPKINS.] The report was ordered to be made at the instance of the gentleman from Mississippi, and with the consent of the other members of the committee whom I saw informally on the subject. They stated that it was satisfactory to them, if no action was contemplated on it to-day.

Mr. BARKSDALE. It is very true that this morning I authorized, as far as I was concerned, the chairman of the Committee on Foreign Affairs to make that report; with the understanding, however, that the majority of the committee were willing it should be made. I withdraw whatever objection I might have had to the report. But, sir, I wish to state further, that I did not concur in that report, either in its reasoning or the conclusions to which it arrives; and I shall avail myself of some early opportunity to give to the House my opinions in reference to this whole question.

I hope the motion of the gentleman from North Carolina will be agreed to, and that the further consideration of this question will be postponed until Tuesday next. This report, sir, involves considerations of the gravest importance; and it does seem to me that they ought not to be passed over lightly by this House. I think they ought to be thoroughly investigated.

Mr. KELSEY. Is debate in order?

The SPEAKER. The Chair thinks not.

Mr. BARKSDALE. One word more. I ask the House to postpone the further consideration of this report until Tuesday next.

Mr. GROESBECK. I should like to say one word in reference to this matter.

The SPEAKER. The Chair will state that if the report is regularly before the House, it is open to debate. The Chair desires, however, to call the attention of the House to this paragraph in Jefferson's Manual:

"A committee meet when and where they please, if the House has not ordered a time and place for them; but they can only act when together, and not by separate consultation and consent—nothing being the report of the committee but what has been agreed to in committee actually assembled."

Mr. CLINGMAN. If any member of the committee prefers it, I will ask leave to withdraw the report.

Mr. BARKSDALE. I hope the gentleman will withdraw it.

Mr. CLINGMAN. I withdraw it.

OLIVER P. HOVEY.

Mr. ZOLLICOFFER, from the Committee on Territories, reported a bill for the relief of Oliver P. Hovey; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

PAPERS WITHDRAWN.

On motion of Mr. CLEMENS, leave was granted

ed to withdraw from the files of the Committee on Revolutionary Pensions, the papers in the case of the heirs of Colonel Benjamin Wilson, deceased, of Harrison county, Virginia, for the purpose of having them referred in the Senate.

JOHN CRININ.

Mr. JEWETT, from the Committee on Invalid Pensions, made an adverse report in the case of John Crinin, a soldier in the Rogue River war; which was laid on the table, the report ordered to be printed, and the committee discharged from the further consideration thereof.

HENRY E. REAP.

Mr. JEWETT, from the same committee, reported a bill to increase the pension of Henry E. Reap, of the State of Kentucky, and for other purposes; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

CLERK TO A COMMITTEE.

Mr. JEWETT also, from the same committee, offered the following resolution:

Resolved, That the Committee on Invalid Pensions employ a suitable clerk, for the present session of Congress, at four dollars a day.

The resolution was adopted.

Mr. FLORENCE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AUGUSTUS J. COON.

Mr. ROBBINS, from the Committee on Invalid Pensions, reported a bill for the relief of Augustus J. Coon; which was read a first and second time, referred to a Committee of the Whole House, and the bill and report ordered to be printed.

PENSIONS TO OFFICERS AND SOLDIERS.

Mr. SAVAGE, from the Committee on Invalid Pensions, reported a bill granting pensions to the officers and soldiers of the war with Great Britain of 1812, and those engaged in the Indian wars during that period.

Mr. SAVAGE. Mr. Speaker, I move that the bill be recommitted to the Committee on Invalid Pensions, and that its further consideration be postponed until the 24th day of February.

Mr. PHELPS. I must object to the motion to postpone the consideration of this bill; for the effect of it will be to consume the morning hour whenever it comes up, and thereby prevent other committees from reporting. I move that it be referred to a Committee of the Whole House, and that the bill and report be printed.

Mr. SAVAGE. My motion has precedence.

Mr. JONES, of Tennessee. It would be right for the House to be aware that this is one of the most important propositions that will be presented for our consideration during the present session of Congress. A similar bill was before the last Congress, introduced by my colleague, who now reports this bill, and it was referred to the Committee of the Whole on the state of the Union. I made inquiry at the Pension Office as to what would be the probable amount which would be required to pay the pensioners provided for in this bill.

Mr. MARSHALL, of Kentucky. I rise to a question of order. A discussion of the merits of a bill is not in order upon a motion to postpone.

The SPEAKER. The Chair sustains the point of order.

Mr. JONES, of Tennessee. Is there not a motion pending to commit and print?

The SPEAKER. The motion of the gentleman from Tennessee was to recommit and postpone.

Mr. JONES, of Tennessee. Did not he move to print?

The SPEAKER. There was no such motion heard by the Chair.

Mr. JONES, of Tennessee. Which takes precedence?

The SPEAKER. The motion to postpone.

Mr. MARSHALL, of Kentucky. I understood the gentleman from Tennessee to move to recommit, and then to postpone.

Mr. JONES, of Tennessee. Well, I had but one word more to say, and that is that the answer of the Department was that this bill would require \$10,000,000 a year.

Mr. SAVAGE. I am ready to go into the merits of this bill at any time; but I do not desire to have the gentleman from Tennessee [Mr. JONES] prejudice it before I can be heard. I want to assure my colleague and the House that I wish to bring this bill fairly before the country, and that my object is to have the most unlimited range of debate, and to subject the bill to every amendment which friend or foe may propose.

The SPEAKER. The Chair would remark that it is in order for the gentleman to state reasons why the bill should or should not be postponed. The pending motion does not open the merits of the bill.

Mr. JONES, of Tennessee. That was all that I was doing when I was ruled out of order; and I think, if that question is debatable, I have the floor.

Mr. SAVAGE. I should much prefer that this bill should be postponed by the House, and that I should not be called upon at the present time to give the various reasons why this bill should become the law of the land.

The SPEAKER. The gentleman from Tennessee cannot, upon a motion to postpone, go into a discussion of the merits of the question. He must confine himself to showing why it should or should not be postponed.

Mr. SAVAGE. Then it will be very difficult for me to say anything in the present state of the question. I did not come here prepared to discuss the bill, yet I am not unprepared to enter into its discussion. The bill, I know, has a good many friends here, and I wish to enlist their attention in its behalf. I have the utmost confidence that, when the fullest intelligence is had upon this question, the views of the Invalid Pension Committee, by which this question has been examined, will be sustained, and the bill become the law of the land.

This is, as my colleague [Mr. JONES] intimates, the most important bill, in my opinion, that will be brought before the present Congress, because it looks, as I think, to the continuation of a great policy which has been followed from the foundation of the Government, but which, unless continued by the means proposed by this bill, will cease to have its influence upon the nation; and this discontinuance will bring along with it evils forever to be dreaded. This bill presents briefly the question of the military organization for this country in all time to come.

The SPEAKER. The gentleman cannot discuss the merits of the bill.

Mr. SAVAGE. I will confine myself to the question, and I will thank the Speaker, or any member, to call me back if I wander away from it, because it is not my object to violate the rules. I am one of those men who profess to be law-abiding, and not to be governed by any higher law particularly, but by laws which have been enacted by man. I submit to all laws that are rightfully enacted, and it is my object and my wish to obey the rules of this House. In the efforts I intend to make, and expect to make, as long as I have the honor of a seat upon this floor, to accomplish the great work I have undertaken, of passing this bill, I do not intend to resort to any trick or device to force it upon the House or upon the country.

Mr. SEWARD. I must call the gentleman from Tennessee to order.

The SPEAKER. The gentleman from Georgia raises the question of order, that the gentleman from Tennessee is not confining himself to the legitimate points of debate.

Mr. SAVAGE. I think I am certainly showing reasons why there is a great necessity for the postponement of the further consideration of this bill.

Mr. SEWARD. I would inquire if the rules do not require that this bill, which appropriates money, shall first be considered in the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair will determine the rule upon that point when the question arises.

Mr. SAVAGE. Am I called to order, Mr. Speaker?

The SPEAKER. The gentleman from Georgia insists that the rule shall be enforced, and that the gentleman shall be restricted, in his remarks, to assigning reasons why the bill should be postponed.

Mr. SAVAGE. I am assigning such reasons,

and I hope the gentleman will show that I am not.

Mr. REILLY. I would inquire what the "higher law" has to do with the postponement of this bill? I object to everything out of order. There are other committees waiting to report.

The SPEAKER. The Chair hopes that the gentleman from Tennessee will confine himself strictly to the pending question.

Mr. SAVAGE. I hope the Chair will specify in what respect I am out of order. The gentleman from Georgia calls me to order, but makes no specification. I certainly cannot acknowledge that I have offended against the rules of the House. I was going on to assign, in my way, what reasons I could why the bill should be postponed. I was coming to a very substantial one, and it is this: The friends of the bill did not know until this morning that the bill was coming up. This same question is now under discussion before the Committee on Military Affairs, and it is my object to await the action of that committee which has been delayed by other important matters of legislation.

My object, then, Mr. Speaker, is to postpone this question to a day certain, so that, if there is any merit in the bill, those who feel an interest in it and wish to see it pass may have a fair opportunity to sustain it on the one side, whilst those who are opposed to it may have an opportunity to defeat it on the other. I want nothing but a fair, generous, and manly battle; and if the measure fails, why, its friends must submit. I do not wish to detain the House with a speech, restricted and narrowed down as I am, and prevented from discussing the merits of the bill.

Mr. QUITMAN. Mr. Speaker, I hope that the House will not now postpone this measure to a day certain. The subject is before the Committee on Military Affairs, and much of the time of that committee has been devoted to the investigation of the question. I am not prepared, until a report upon the subject comes in from the Committee on Military Affairs, in which it is being elaborately discussed, to postpone the bill to a day certain, or to fix a day for its consideration. Let it take the same course as other bills; and when the report of the Committee on Military Affairs comes in, we may then be prepared to appoint a time for its consideration.

Mr. READY. As a friend of this bill, I hope that the motion to postpone will prevail, for the reason that I do not consider that the House is in a state of mind at the present time to consider so important a measure as this is; and for the further reason, that I believe there is a lack of information, which will have an important bearing upon the provisions of the bill. The peculiar financial condition of the country has been such that, in my judgment, it must necessarily have produced a fear that the passage of such a measure as this would impose, at the present time, too heavy a burden upon the Treasury. I think there are indications that this financial crisis is rapidly passing away; and the objections to the passage of the bill on that account will have ceased to exist in a very short period; probably by the time the House shall have had an opportunity to examine the provisions of the bill, and determine its merits in all its different bearings. I therefore hope the motion of my colleague will prevail.

Mr. JONES, of Tennessee. What is the exact question before the House?

The SPEAKER. The motion to postpone.

Mr. JONES, of Tennessee. Well, is there not also a motion pending to refer the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. None.

Mr. JONES, of Tennessee. Well, is it not competent to show why the bill should be committed rather than postponed?

The SPEAKER. Any reasons the gentleman can assign why the bill should not be postponed, the Chair thinks would be entirely in order.

Mr. JONES, of Tennessee. Well, sir, I will endeavor to confine myself to that point in the very few remarks which I desire to submit. The reason why I think the bill should not be postponed, is that it is one of very great importance and magnitude—one which proposes, as I am informed, to take the sum of \$10,000,000 annually from the Treasury of the United States; and the effect of postponing it to a day certain, and keeping it before the House, will be to prevent a fair

discussion of it, and deprive members of the opportunities to amend it which are afforded in Committee of the Whole on the state of the Union, but from which we should be precluded in this House by the demand for the previous question. For this reason, if for no other, in my opinion, a bill of this importance and magnitude should go to the Committee of the Whole on the state of the Union, where we can have the fullest and freest investigation of it. If it is right, and a majority of the House are of that opinion, they will pass it when they have perfected it. The only reason why I prefer that it should be committed rather than postponed, is that it may have that examination which will enable every gentleman to make up his mind intelligently upon this important question.

Mr. BURNETT. I do not agree in the views expressed by the gentleman from Tennessee, [Mr. JONES,] and particularly not for the reasons which he has given. I understand the gentleman from Tennessee who reports this bill [Mr. SAVAGE] to say that it is not his object to prevent a full, fair, and rigid investigation of the merits of the bill.

Mr. JONES, of Tennessee. Permit me one word of explanation. I did not refer to the object of my colleague, but I stated what would be the effect of his motion; whenever a majority here think proper, they can call the previous question, and cut off all further discussion or propositions to amend.

Mr. BURNETT. I do not know that I am in favor of the bill as reported by the gentleman, [Mr. SAVAGE,] or that it will receive my vote. Nevertheless I am for giving a pension to the soldiers of the war of 1812. These men, as was remarked by some gentleman, are fast passing away; and if we intend to do anything for them to reward their services, we must do it quickly. Now, is the effect of postponement that which the gentleman [Mr. JONES] says it is? Not at all. The gentleman who reports the bill, and who seems to have it in charge, [Mr. SAVAGE,] says that he will not, by any action of his, ask the House to prevent a full investigation of the merits of the bill. We want to have the bill in a position where this Congress can act upon it. We desire that the House shall come to a vote upon it, and that the country shall know whether or not it is the intention of the House to pass the bill in some form, giving pensions to the soldiers of the war of 1812.

Now, as to the amount of \$10,000,000 that it is said this bill will take from the Treasury. I do not know whether it will take ten or twenty millions. The amount is not a question that I have investigated; but I am for doing justice to those men who have rendered service to their country, by giving them in their old age some bonus. Yes, sir; I want to at least do them justice. I am for putting this bill in a shape that will allow the House to do that thing. I am unwilling to commit it to the Committee of the Whole on the state of the Union, where it will never be heard of. I prefer to keep it before the House, in order that, when it shall have received the investigation due to a bill of its magnitude, we may come to a vote upon it, and either pass or reject it.

Mr. COLFAX. The very fact stated by the gentleman from Tennessee, [Mr. JONES,] that this bill is a bill of importance, requires, as it seems to me, that we should keep it within our control, as is proposed by the gentleman who reported it, [Mr. SAVAGE;] that we should not send it to that "tomb of the Capulets"—the Committee of the Whole on the state of the Union—where it will be overslaughed, as it was in the last session, by political discussions, by appropriation bills, which take precedence there over every other subject, and thus, perhaps, prevent a test vote being taken on it through the whole Congress.

I believe that if the people of the United States were to be consulted, you would find that public opinion is almost undivided on this matter, and that the great masses of the people would say that it is more patriotic as well as more beneficial to make an appropriation of the public funds for such a purpose than to spend them by the million, as has been done, for water-works for this city, and in reckless expenditures all over the land.

This is a debt of individual justice and of national honor. All of those men who were in the second wave of American independence are now in the evening of their days and in the decline of their

lives; and the small pittance proposed by this bill to be given to them would assist at least in smoothing their passage to the grave.

For these reasons, and for the fact that I do not wish to see the bill overslaughed by the appropriation bills, which are always certain to pass, from the many interests involved in them, even if they were postponed till the last week of the session; and because it is due to the numerous petitioners for a bill of this character, and to the persons specially interested in its passage, that it should be decided, in the affirmative or negative, I wish to see a debate had upon its merits, and a vote upon its merits on the yeas and nays. I hope, therefore, that the bill may be kept within the control of the House, and that the motion to postpone it to a specific day will be agreed to.

Mr. WARREN took the floor.

Mr. DAVIDSON. I rise to a question of order. I believe the hour assigned for the call of committees has expired.

The SPEAKER. The morning hour has expired.

Mr. DAVIDSON. Then I call for the regular order.

Mr. SAVAGE. I hope the gentleman will withdraw his objection till this question be disposed of.

Mr. HARRIS, of Illinois. I think that the quickest way to dispose of this matter is to call up the regular business.

Mr. SAVAGE. I move to reconsider my motion to postpone.

The SPEAKER. There has been no vote taken. The bill will come up the first thing in order when the committees are called again; and the gentleman from Arkansas [Mr. WARREN] will be entitled to the floor.

OHIO CONTESTED-ELECTION CASE.

Mr. HARRIS, of Illinois. Mr. Speaker, the matter for the consideration of the House at this time is the report of the Committee of Elections on the application of the gentleman from Ohio, [Mr. CAMPBELL,] asking for leave to take supplemental testimony in his case.

Mr. BOCOCK. Will the gentleman from Illinois yield me the floor to make a motion which ought to precede this, and which will take but a few moments? A resolution was submitted the other day by the gentleman from Georgia, [Mr. STEPHENS,] to allow the contestant in this case to occupy a seat on the floor during the pendency of this matter. I moved to reconsider it, so that the resolution is not now in effect. I wish to dispose of the motion to reconsider.

Mr. HARRIS, of Illinois. I give way for that purpose.

Mr. BOCOCK. I wish to say, in regard to this, that at the time the resolution was submitted by the gentleman from Georgia, it struck me that it was unusual. I was aware that, in cases of contested elections, the right had been frequently yielded to the contestant to appear at the bar of the House and argue the merits of the contest. Contestants had been allowed to make speeches on the issue of the contest itself. It struck me, however, that it was an unusual thing to allow a contestant a seat on the floor for the purpose of debating matters that might arise in the progress of the case. The gentleman from Georgia stated, in answer to a question, that it was the usual resolution. I was perfectly satisfied, Mr. Speaker, that the gentleman from Georgia considered it the usual resolution. I desired time, however, to investigate this matter, and to see whether it was the usual resolution; and I therefore made the motion to reconsider. Since that time I have investigated the matter very fully, and I have found a large number of cases, extending through many years of the history of the American Congress, in which nearly similar, or precisely similar, resolutions were adopted.

I may say, Mr. Speaker, that if that had not been the case, if this had been the first time that such a resolution had been submitted, if this practice was now to be inaugurated, I, for one, would be opposed to it. I need not give my reasons. I find, however, that it has been the practice of the country for years; and I find this, further, that no such resolution has been submitted at any time and not passed. Whenever the privilege has been asked for the contesting member to have a seat on the floor for the purpose of discussing these

matters, that privilege has been allowed. While I have been unwilling, therefore, to yield to the contestant in this case any unusual privilege, I am, at the same time, unwilling to deny, now and for the first time, the contestant any privilege which has been heretofore uniformly granted when asked for. I therefore move to lay the motion to reconsider on the table.

Mr. HOUSTON. I desire to ask my friend from Virginia [Mr. BOCOCK] a question. I agree with him very fully in the views which he has submitted in reference to the practice of the House on previous occasions. But I desire him to state how long it is since that practice has been departed from? How long is it since a resolution of this sort was adopted by this House, and these privileges granted to a person contesting the seat of a sitting member? And I would ask, too, whether this does not amount to the inauguration of a new policy, as far as our action is concerned?

Mr. STEPHENS, of Georgia. I stated the other day, in reply to the gentleman from New York, [Mr. MORGAN,] that this resolution was in accordance with the practice of the House. I have an abundance of authorities in support of that position, and the gentleman from Virginia [Mr. BOCOCK] was right in saying that the privilege has never been denied by the House. It was said by Mr. Macon, in one of the first contested-election cases in the House of Representatives, that it was a matter of right upon the part of the contestant, and that there was no necessity for the House to grant the privilege. The first time a resolution was offered in the House for that purpose was in 1811.

Mr. HOUSTON. The question I propounded to the gentleman from Virginia was, how long the practice, which it is proposed now to revive, has been discontinued? I do not understand that it has been the practice within the last few years.

Mr. STEPHENS, of Georgia. I do not know of any case where it has been departed from.

Mr. HOUSTON. I have not examined the matter myself, but I do not remember of any case since I have been in Congress, where a contestant has ever been allowed to come on the floor and participate in the general debate upon all incidental questions growing out of the contested election. I understand that contestants have, in all cases, been allowed to come upon the floor and make a speech directly upon the merits of the case. I understand the gentleman from Virginia to state that this has been the practice for perhaps the last quarter of a century.

Mr. HARRIS, of Illinois. I rise to a question of order. I do not see the propriety of continuing this debate upon this matter. The gentleman from Virginia moves to lay the motion to reconsider on the table; and the motion is not debatable.

Mr. STANTON. I desire to understand the effect of this resolution. We on this side of the House understand it to give the contestant in this case the right to be present on the floor of the House and speak to the merits of the question, but not to speak upon any incidental question that may arise touching the contest.

Mr. BOCOCK. The gentleman, I think, is mistaken.

Mr. STANTON. I ask that the resolution may be read.

The resolution was read, as follows:

Resolved, That Clement L. Vallandigham have leave to occupy a seat upon the floor of the House, pending the discussion of the report of the Committee of Elections upon the case of his contest for the seat now occupied by Lewis D. Campbell, of the third congressional district in the State of Ohio, and that he have leave to speak to the merits of said contest, and the report thereon.

Mr. STANTON. Now, sir, I understand that gives him the right to speak to the merits of the resolution, and not upon incidental questions.

Mr. STEPHENS, of Georgia. There is no misapprehension at all. It allows the contestant to speak upon the merits of his case, upon any issue, or point, or question, as it may arise, whether it be upon the final or any intermediate vote. And, sir, I state further, that the resolution is almost *verbatim* with the one which I now send to the Clerk's desk. And I state that it is almost identically the same as that which has been adopted in every contested election since 1811. Whether the contestants have availed themselves of the right to speak on incidental questions in every case within the last few years, I do not

know. But, sir, the intention was to give them the right to speak upon every material question growing out of the contests.

Mr. STANTON. I should be very glad to hear the resolution read to which the gentleman refers.

Mr. CRAIGE, of North Carolina. Is this debate in order?

The SPEAKER. It is not. The Chair understands the gentleman from Virginia to have moved that the motion to reconsider lie on the table.

Mr. BOCKOCK. I did make that motion; but if there be no objection, I would like to have the proposition in the case of Newton, in the Virginia contested election of 1834, read.

Mr. STANTON. It is perhaps proper, if the House will allow me, to state, that in the objection I have made I have acted without consultation with the sitting member. He will interpose no objection to the contestant having any privilege of debate before the House. I now ask that the case alluded to by the gentleman from Georgia may be read.

The Clerk read as follows:

"Ordered, That Rollin C. Mallary have leave to occupy a seat on the floor of this House pending the discussion of the report of the Committee of Elections upon his petition; and that he have leave to speak to the merits of the petition, and the report thereon."

Mr. STANTON. I should like to know if any gentleman can bring any instance in which the contestant has been allowed to speak upon incidental questions?

Mr. STEPHENS, of Georgia. I have a number of them.

Mr. CRAIGE, of North Carolina. I object to further debate.

The motion to reconsider was then laid on the table.

Mr. HARRIS, of Illinois. I now call up again the report of the Committee of Elections upon the question of granting Mr. CAMPBELL, the sitting member, time to take further testimony.

The report was thereupon taken up for consideration.

Mr. HARRIS, of Illinois. The question immediately before the House, Mr. Speaker, is the application of the sitting member of the third congressional district of the State of Ohio, for leave to take supplemental testimony. The law of 1851 provides that, in cases of this character, the time for taking testimony shall be limited to sixty days, and that no testimony shall be taken after sixty days from the day on which the answer of the returned member is served on the contestant.

The sitting member presents some reasons why the rule should not be applied in his case; and as the same section of the act of 1851 provides that the House may grant a further extension of time for reasons shown, he applies to the House, through the Committee of Elections, for that extension. The committee, after hearing the application of the sitting member, and hearing, also, the argument in resistance to that application made by the contestant, instructed me to report a resolution that it was inexpedient to extend the time for taking testimony in this case. With this report, sanctioned by the majority of the committee, was presented also a report from a minority of the committee, differing with the majority in the conclusion at which they arrived.

The report sets forth very succinctly the reasons upon which the sitting member bases his application for leave for further time. They seem to be of a twofold character.

First, the sitting member alleges that during most of the time covered by the sixty days, in which by law he should have taken his testimony, he was a member of the House, engaged in the discharge of arduous and responsible duties connected with a committee of the House; and it was, from that cause, impossible for him to give his personal attention to the taking of that testimony necessary to defend him in his right to a seat in this House. He also, as another reason, sets forth that the contestant occupied all the time of the sixty days in taking testimony in his own behalf, thus excluding the sitting member from any right to occupy any portion of that time in taking testimony in defense.

I shall not go over the whole ground of the reasons which governed the committee in coming to the conclusion which they have arrived at; but

will briefly state to the House that the committee were of opinion that it is not an adequate reason for the extension of time that the sitting member was a member of the last Congress. The act of 1851 is not intended to apply to one man and not to apply to another. It is intended to be general in its application, and to meet all cases alike. In fact, if it were not to apply to cases where members of Congress are interested, any member of Congress, where the election occurs prior to the termination of the session of Congress, could claim the advantage of the extension of time, and exemption from the effect of the law. Or if the election immediately preceded the assembling of Congress, his term of service under the election would commence, and he would again claim exemption from the operation of the law, and thus the law would apply to only a small portion of contested-election cases. It cannot, therefore, it seems to me, with any good reason, be claimed that for that reason a member of Congress should be exempt from the operation of the law.

The other reason urged by the sitting member why this time should be extended was, that the contestant, in his notice served upon him, covered the period of sixty days provided by the law; that the contestant gave notice of his intention to take testimony during that whole period; and that he, the sitting member, in consequence thereof, was unable to take testimony on account of the time being preoccupied by the contestant.

Upon this point the committee were of opinion, and I think with good reason, that the law contemplated that either party may go on and take testimony at the same time that it is being taken by the other party. While it limits the taking of testimony by either party at one place alone, it allows each party, by the fair terms of its construction, to go forward and take testimony in his own behalf. If this construction is correct, then it is no good reason for the extension of time, that the contestant covered the whole period with the notices in his own behalf.

Mr. STANTON. I wish to ask the gentleman a question just at this point. I wish to know whether the contestant did not claim, pending the sixty days, the other construction? that is, that he was not bound by notices given at the time covered by his own notices; and whether he did not refuse to recognize the validity of them?

Mr. HARRIS, of Illinois. I understand that the sitting member alleges that the contestant did so claim; but I will say that, with what either party claimed, we have nothing to do. We are construing a law of Congress.

Mr. WILSON. I ask the gentleman from Illinois whether the contestant, in his answer before the committee, did not so contend?

Mr. HARRIS, of Illinois. I concede that it is stated that the contestant did tell the sitting member that he ought to be aware it was necessary that the testimony should be closed in sixty days. That is the very reason why the sitting member should go forward and take the testimony within the sixty days. So far from its being a reason in support of his not taking the testimony, it was a direct notice to him that his time was limited to sixty days, and that he should be vigilant in watching his rights.

I have endeavored to show the two reasons upon which the sitting member claims this extension of time. I think there were sufficient reasons to govern the committee in coming to the conclusion to which they have arrived, and they submit their decision to the decision of the House.

I may as well say, if there are any gentlemen who desire to discuss this question, as it is somewhat in the nature of a precedent, concerning the effect of this law, I am willing that a fair range of discussion shall take place. I am not disposed to call the previous question upon the resolution reported by the committee, until after a fair expression of the feelings of the House in the discussion.

I do not, myself, propose to occupy any more time at present.

Mr. GILMER. Mr. Speaker, I do not rise for the purpose of discussing this question at length; but being a member of the Committee of Elections, and therefore possessing, perhaps, more information than some other gentlemen, I deem it due to both parties to state this case as fairly and as impartially as I can from my recollection of it.

In the first place, Mr. Speaker, if this is not a case in which the discretion of this House can be exercised as to granting means of taking this supplementary testimony, then that portion of the legislation of Congress is entirely nugatory, and not worth anything at all. We are without precedents in this case, so far as I have been able to ascertain, unless you may concede that the decision of our Committee of Elections is sufficiently imposing to be treated as a precedent in guiding this House in the action they may take upon this subject.

Why, sir, we have a case before that committee in which notice was given regularly and according to law, so decided by the committee—I allude to the Nebraska contested-election case—and the answer came in just as it has in this case. In that case the sitting member had no Congress to attend, no court to attend; he went about his own matters of business; he went upon a pleasure trip to visit his friends. Notices were given and left at his house, according to law, and the testimony taken and closed. But hardly without his asking for time, and merely upon stating, that if the committee deemed the testimony so taken as regular, he desired to take additional testimony, his request was granted. I believe it may be said that neither side formally asked for leave. It was the desire of the parties to take the testimony, and the Committee of Elections decided in that case that it was a fair and proper case for giving this leave to take supplementary testimony. I concurred with the committee in that decision.

Well, how is it in this case, Mr. Speaker? Here was a gentleman confined in the discharge of his official duties in the Congress of the United States. The gentleman from Illinois, over the way, [Mr. HARRIS,] thinks that that is no excuse—no reason why he should not have been in Ohio, either in person or by an agent, and have attended to the taking of testimony. Sir, I think there is a vast difference between an ordinary case of being a member of Congress, so far as the excuse is concerned, and this case. The gentleman [Mr. CAMPBELL] was not then holding a seat that was disputed. He was then occupying a seat to which it was conceded he had been legitimately, properly, and constitutionally elected. He was there by virtue of an election which had taken place two years before, when, in a contest between himself and the present contestant, he was elected by a large majority, and I conceive that it was his bounden duty to be here. He had not only been elected then by an overwhelming majority over the present contestant, but even two years before that, he had been elected by the same people, by a very large majority. But now, when it is a matter of doubt whether he ought to be occupying the seat, or whether Mr. Vallandigham ought to occupy the seat, it is a very different case, because we have not yet decided, and this House has not decided, whether the sitting member is properly here, or whether the man who claims his seat is entitled to it. If the occupation of his time by the business of the House under this last election, or a similar one, had been plead as a reason why he could not be in attendance on the taking of testimony, and the proper examination of witnesses, it would have been an entirely different thing.

Now, sir, when was this election announced? I mean officially announced. Never until after the sitting member was bound to be here as a member of the House. The notice that his seat was going to be contested was given in the usual time. The answer was returned in the usual time. The taking of depositions by the contestant was commenced on the 2d day of February, 1857, and the contestant occupied, virtually, the whole time from that date up to the 28th of March, when the sixty days expired. The sitting member was here attending the sessions of Congress; he was chairman of one of the most important committees of this House, the Committee of Ways and Means; two distinguished members of that committee were absent, one from sickness and the other from some other cause; and, sir, in addition to that, his family were sick, and one of his colleagues died. He could not get home earlier than the 19th day of March, thus having only from that day up to the 28th of March. And yet, sir, it is said that that is no reason why we should allow additional testimony to be taken, so that we may learn exactly how the case stands, and

what is the truth, each party having a fair chance of presenting their proof.

But the majority of the committee say, in their report, that the sitting member should have gone on after the sixty days had expired, and should have occupied a portion of the summer in the taking of his testimony, and then have relied upon the indulgence of the House, or of the committee, in receiving and acting upon the testimony thus taken. Now, Mr. Speaker, let me just inquire for a moment into that matter. It appears that the sitting member evinced every desire to have the whole testimony taken and here in time. He courted no delay, and desired, if possible, to avoid the necessity that he now feels himself under, of asking this very indulgence from the House. In a letter which he addressed to the contestant, on the 2d of April, 1857, he made use of this language:

"Desirous that all the material facts shall be fairly presented before Congress, I deem it proper to advise you that I will hereafter proceed to take testimony in the case, (of which due notice, according to law, will be given you,) and to suggest my entire willingness to enter into a mutual agreement with you to waive any technical objection which might be made on the point of time in the taking of testimony on either side. I propose, therefore, a mutual agreement to that effect. This would give to both of us, and our friends, a fair opportunity to present all the facts bearing upon the issue, and tend to prevent delay in the final decision of the matter, as well as the increased expense to the Government which would result from a necessity to take testimony after the meeting of Congress."

The contestant, in answer to that letter, positively declined to enter into any such agreement; and yet the majority of the committee present it in their report, as a reason why this privilege should be denied, that the sitting member ought to have gone on and taken testimony, notwithstanding the refusal of the contestant to make any such agreement.

It is true the contestant submitted another proposition, that the sitting member should resign and that they should go before the people. That is what the contestant says should have been done by the sitting member. The majority of the committee say that he should not have done so, but that he ought still to have gone on and taken his testimony.

It seems to me, Mr. Speaker, that it is but fair and right, that it is but justice, that time should be allowed for the taking of further testimony. Such is my anxiety to let all the parties be heard, that I voted in committee to give further time to the sitting member in the Nebraska case, as in this. I desire to know the truth of the case. I desire that justice should be done under all the circumstances.

And, Mr. Speaker, let me say further. As I understand it, it was believed by both of these parties, as well the sitting member as the contestant, and both acted under that solemn conviction, that while one had a commission pending the other had no right to take testimony at another place, under a different commission, at the same time. So that this whole case comes within a nut-shell. The contestant takes the initiatory steps, he begins as early as he can, and in the usual time, and substantially occupies all the time allowed for taking testimony, leaving the sitting candidate no time to take testimony on his side. Besides that, the contestant does what is conceded to be wrong; while he has a commission pending at one place, he gives notice that he will take depositions at another place; and actually proceeds and takes testimony under two commissions running at the same time.

My friend from Illinois [Mr. HARRIS] says that all men should be treated alike. So say I. But if we refuse, in this case, to follow out the precedent that we have set, in asking the House for an extension of time in the case of Chapman and Ferguson, we will not be carrying out that golden rule of treating all persons alike.

My friend says it makes no sort of difference what either of these parties claim. When the question was asked of my friend, did not the contestant insist, as a rule of law under this statute, that the sitting member had no right to take any testimony while his commission was sitting, what was his answer? That it made no sort of difference what any of the parties claimed. I differ with him. Inasmuch as the contestant refused the extension of time, and held that to be the construction of the law, so far it must affect him as though it was the law. And if that was the correct construction of the law, then he left no time to the sitting candidate to take testimony.

Mr. Speaker, I have been careful to form no opinion in this case. Honestly I have none, and if I had I would not express it now. But, Mr. Speaker, there does arise in this case the decision of a question, which I conceive the taking of additional testimony may avoid; and I think it ought to be avoided if possible. It is one which will introduce before this House a discussion, out of which no good can arise. As the testimony now stands, that question will certainly be involved, and will have to be decided first by the committee, and its decision perhaps reviewed by this House. It is a question dangerous and exciting in its character. It is as to the right of certain persons in the State of Ohio to vote—persons with Indian or with African blood in their veins. As the testimony now stands, this House will have to decide whether inhabitants of the State of Ohio who have voted, who have offered to vote, and who have been denied the right of voting, are entitled to vote as the law now stands. I think, sir, that by the continuing of this case we may possibly have the case so clear as to be able to avoid the decision of this question, and thus to avoid the sacrifice of time here, and save agitation to the country. It is important that that question should be stated here for the consideration of the House, that gentlemen may think of it and investigate it before it comes up.

In 1802 the constitution of Ohio used the words "white inhabitants" in reference to the qualifications of voters. The question went to the court of last resort of Ohio, and that court solemnly decided twice that all persons in the State of Ohio were "white inhabitants" in whose veins there was a preponderance of white blood—where the Indian or African blood was less than the white; and that such persons were, under the constitution, entitled to vote.

In this case we have testimony in relation to a large number of electors of that description who voted, some for the contestant and some for the contestee; and as the matter now stands, a correct decision, according to the evidence, cannot be made by the committee or by the House without first determining that question.

It is insisted, on one side, that such persons are now legal voters of the State of Ohio; and it is insisted on the other side that they are not. The ground on which it is claimed that they are not, is, that in 1851 the people of Ohio reviewed their constitution, and for the words "white inhabitants" they substituted the word "citizens;" and that that has been done after the decisions were made in 1842, declaring that persons in whom the white blood predominated over the Indian or African were entitled to vote. It is insisted, then, inasmuch as in 1851 this change was made by the people in the phraseology of the constitution of Ohio, they intended to exclude all the inhabitants of that State from the exercise of the elective franchise who had any visible trace of Indian or of African blood.

Here is presented to my mind a new and very interesting question—whether, under the decision in the Dred Scott case, we shall have to come to the conclusion, in this case, that individuals in whom there are visible traces of Indian or of African blood are citizens of the United States, or can be so far a citizen of the State of Ohio, or of any State, as to vote for a member of Congress?

I have come to no conclusion upon the subject, but it is one very interesting in its character. I stated to my friends on the committee, that in the southern States they allow such persons to vote, or testify, or hold office, or muster into the militia, who are not within the fourth degree. And, sir, we shall have to carry the Dred Scott decision very far before we decide that when it can be proved by inspection or by admission that a man contains Indian blood, he cannot be considered a citizen of the United States to a sufficient extent to vote for members of a State Legislature, or for members of Congress. And, sir, one fact presents itself to my mind, which I know my friend from Virginia has often seen—that on the hustings it is not considered a disqualification for a man to boast that he has the blood of Pocahontas running in his veins. [Laughter.]

But, sir, I desire only to detain the House long enough to show that this is one of the questions that will come up in this case as the matter now stands; and to submit whether it would not be better to allow more time in this case on the other

side, and see if we cannot make out a decision here for the contestant or against him upon some other point, and avoid a discussion upon that point which must consume time, create excitement, and come to no good result. For, Mr. Speaker, in a case of this kind, in a heated election, as this was, where there are nine or ten thousand votes polled on either side, where the contest is very close, and must be decided one way or the other by a few votes, where one party is in a different portion of the Union attending to official duties, during the whole time in which the testimony is being taken under the law, it would be strange if the other party in that time could not find men enough who had voted improperly, who may have been too young, or who may have voted in the wrong place, to overcome the majority. There has never been an election under these circumstances in which the dissatisfied party could not in this manner obtain votes enough to overcome such a majority as is claimed by the sitting member.

Now, sir, without detaining the House longer, I submit that if the House is ever going to indulge any party in taking supplemental testimony; if they are ever going to establish a precedent of that kind, this is a case in which it should be done.

Mr. STEVENSON. I do not think the gentleman from North Carolina who has just taken his seat has placed the issue upon the proper grounds between the majority, with which I concur, and the minority. Nobody on the Committee of Elections, as I understand, denies or questions the power of the House to extend the time for taking testimony under the election law of 1837. It is not a question of power, but it is a question which addresses itself to the discretion of the House, whether it will exercise a power which everybody admits is granted under that act.

Now, sir, the majority of the committee thought that Mr. Campbell, the sitting member, did not bring himself within the rule under which further time ought to be granted in which to take further proof in his case. I shall not detain the House long in stating the grounds on which the committee arrived at that conclusion. It will never do to place such a construction upon this act of 1851 as is now claimed by the gentleman from North Carolina, [Mr. GILMER.] If such a construction is placed upon the act, then the act itself becomes a monstrous wrong. It gives safety to the sitting member, but it absolutely denies everything like justice to the contestant for a seat in this House. Why, sir, it is claimed here that the gentleman from Ohio, in consequence of his duties here in Congress, had no time to attend to the taking of that testimony which, by the act of 1851, is required to be taken within sixty days.

Gentlemen are well aware that in nearly all the free States the elections are held the year preceding the Congress in which the members elected are entitled to take their seats. This election took place nearly two years ago, just preceding the last session of the last Congress. Under the law of 1851 this testimony was to be taken in sixty days. Did the framers of this act contemplate the returned member to be present in person to take testimony? or could be present by an attorney? If present in person, he had to be there within the sixty days; and in this case that sixty day was necessarily during the second session of the Thirty-Fourth Congress. But, sir, the act clearly contemplated that if he was to be there in person, he had the right to leave his seat in Congress for that purpose. He could either do that or he could be represented in the taking of testimony by an agent. Mr. Campbell was represented by an agent in taking proof; and yet now, eighteen months after, he comes here and asks that the time may be extended, in consequence of his having been engaged here at the time as a member of the House.

Will the law of 1851 bear such a construction as that? I put it to the legal acumen of the gentleman from North Carolina. Is it consistent with justice, or propriety, that such a construction should be placed upon it? Sir, under that construction, every gentleman who is returned from the free States will be engaged in Congress during the time when testimony must be taken under the law, if his seat is contested. He is presumed to be here; and if that will give him the right to have time allowed to take supplemental testimony, members from the free States, whose seats are contested, will always have that right.

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But, sir, our report does not rest upon any such ground as this. We say that Mr. Campbell has not shown due diligence in availing himself of his rights, under the law, for taking testimony, and is not therefore entitled to this privilege. I am glad the gentleman from North Carolina read, and the majority of this committee concur, in support of the proposition that there is nothing in the act of 1851 which precludes the sitting member and contestant from taking proof at the same time. But the gentleman contends that there was a misconstruction; that the majority of the committee are right in their construction, but that Mr. Campbell gave a different construction, and that his erroneous construction entitles him to the indulgence of the House. Now, sir, I think I can show by Mr. Campbell's letter that he did not place any such construction as the gentleman from North Carolina seems to suppose he did. In the very letter to which the gentleman from North Carolina refers, Mr. Campbell says:

"There is, you are doubtless aware, a clause in the act of Congress prescribing the mode of obtaining evidence in cases of contested election, which provides that no testimony shall be taken after the expiration of sixty days from the day on which the answer of the returned member shall be served upon the contestant. I understand, however, that the practice of Congress, under the act, has been to regard this provision as *directory* only, and to receive and consider testimony taken after the period limited, whenever a just determination of the contest seems to require it.

"Desirous that all the material facts shall be fairly presented before Congress, I deem it proper to advise you that I will hereafter proceed to take testimony in the case, (of which due notice according to law will be given,) and to suggest my entire willingness to enter into a mutual agreement with you to waive any technical objection which might be made on the point of time in the taking of testimony on either side."

He does not say "by your consent." No, sir. "I shall go on and take this testimony;" "I shall bring this testimony before the committee; and then, if you stickle about formalities, I shall show the materiality of the testimony, and I shall appeal to the House;" "If I am cut off by technicalities, let me go and retake this testimony."

Why did not the sitting member do what he proposed to do? Why did he not present to the committee this proof? Then he might have said, "Here is the substance of what I can prove, and from which I am cut off by the technical construction of this act." Although the sitting member said he intended to take that proof, he did not take it; he let two years pass, and does not even now present to the committee the names of half a dozen witnesses by whose evidence he could change this result. Why should he not come up to the rules of diligence applicable to judicial proceedings? A court has always the right to continue a case upon just and reasonable grounds shown, and where due diligence appears to have been exercised. Does this appear? Does the minority report show, even now, by the affidavits, half a dozen, or even five witnesses, by whom this result could be changed? No, sir, nothing of that sort. There is nothing specific, but he comes in and indulges in general statements of a belief that he could show that he was legally entitled to the seat.

Then the naked fact is presented that both these parties had the right to take testimony; that Mr. Campbell's presence here did not deprive him of the opportunity to take it; that he fell within the time prescribed by law, after the time had elapsed, and after he had given notice to the contestant that he should take these depositions. But he failed to take one of them; and now he asks the committee for a continuance of the time to take the affidavits of men, which, if taken, would not be likely to change the result.

Mr. STANTON. I have noticed in the printed report a dozen affidavits in which the names of persons are given who were illegal voters. I ask if the Committee of Elections expect to use these affidavits as competent evidence in the case? The gentleman says that there is no showing where material testimony can be produced to change the result. If the committee desire to use it as competent evidence, it is right; but if it is not the intention to use it, farther evidence is material.

Mr. STEVENSON. The gentleman will find by the affidavits that there are but three witnesses alluded to in them; and as Mr. Vallandigham contests with some eighty or ninety on the other side, I say that, admitting the truth of these affidavits, they could not change the result. But I referred to them only as an illustration. It was Mr. Campbell's duty to have gone on, under that notice, and taken all the proof he could; should have laid it before the committee; and then, if the contesting member objected on a technicality, I grant the argument of the gentleman from North Carolina [Mr. GILMER] would have applied with full force. But I say, as the sitting member has been guilty of neglect, he does not bring himself within the pale of that sound discretion of this House to grant leave for extending the time for taking this proof. You might extend it. Two months of the session is past; another month of the session is added; and then what time would be left for the investigation of these nice and important questions alluded to by the gentleman from North Carolina? No, Mr. Speaker; we claim that that act authorized both parties to take proof; that Mr. Campbell did not avail himself of that right; that when he went home he gave that construction to the act, and gave notice to the contestant that he intended to take this proof; that he failed to do it; and with affidavits which go to the extent of changing only three or four votes, he comes with the sweeping declaration of a belief on his part that he could change the result. He does not bring himself within the known legal rights of judicial procedure applicable to discontinuance. The gentleman must state not only that he expects to change the result, but he must give the names of the witnesses, and his belief of what he expects to prove by them, before he brings himself within the rule by which a court exercises a sound discretion in granting a discontinuance.

Mr. WASHBURN, of Maine. I desire to state to the House some considerations which induce me to join the minority in desiring the House to grant an extension of the time for taking the testimony in this case.

The contestant claims that the House should be governed by the act of 1851. By that act the result of the election is to be declared by the proper authorities of the State; and it further provides that the contestant shall, within a certain specified time, serve notice upon the party to which the certificate of election shall be given. Then the party to whom the certificate shall be awarded is allowed thirty days in which to make his answer. In this case the answer of the sitting member to the notice of the contestant was made on the 27th day of January, 1857, and within the time allowed by law. The sixty days for taking the testimony under the statute would expire on the 28th of March, 1857. On the 22d of January, five days before the sitting member had given his answer, and at a time when it is doubted that the contestant had a right to do so, he gave notice that he would take depositions on a certain day at a certain place; so that he took care to give the first notice that he might be the first in the field, and he afterwards gave additional notices.

These notices covered the entire period of sixty days. The first notice he gave was for taking depositions on the 7th day of February, at Hamilton. That commission, under that notice, was kept open by adjournments from day to day until the 13th day of March. That was at Hamilton. The commission was kept open under that notice and another subsequent notice over the days intervening between February 2 and March 13. Notice was also given that a commission for the taking of testimony would open at Dayton on the 2d of March; and that commission, if I mistake not, was kept open from day to day, the contestant occupying or claiming to occupy all the time, until the 18th of March. Another notice was given to the sitting member, before that time expired, to take testimony at the same place, Dayton, on the 2d day of March; and the time was occupied from day to day by the contestant up to the 28th of March, the very last day upon which testi-

mony could by possibility be taken under the law. So that the contestant had taken especial care to occupy all the time when testimony could be taken, from the commencement, on the 27th day of January, to the 28th of March, when, under the law, the right terminated.

Well, sir, it is manifest, I think, that the understanding of both the sitting member and the contestant was that but one party should be taking testimony at a time. It appears, however, that the sitting member was taking testimony concurrently at Dayton and Hamilton, or, at all events, that the commission was opened in one place, and opened and adjourned from day to day by the magistrate in the other, notice being given to the sitting member to be present in two places at the same time. So that, while at Dayton the magistrate was present in the office, and perhaps adjourning from day to day, the contestant was taking testimony at Hamilton.

But I was saying that, from what I have seen of the case, it appears that both parties acted on the supposition that but one party could occupy the ground at the same time. It is alleged in the memorial of the sitting member, and is not disputed in the answer of the contestant, (and therefore, I suppose, it may be fairly taken to be admitted,) that when the attorney of the sitting member served notice upon the contestant to take depositions, the contestant replied that he had no right to do so, because his (the contestant's) notice, previously served, covered the residue of the sixty days, and refused to appear and cross-examine witnesses. That, then, appears to have been the understanding of both parties, and perhaps there was some show of reason for that understanding; perhaps they had some right to believe that such was the law; because the best lawyers on the Committee of Elections did hesitate as to the construction of the law, although in the end I believe they were unanimously of opinion that the law did not restrict the parties from taking testimony concurrently. This is the language of the law:

"Provided, That neither party shall give notice of taking testimony in different places at the same time, or without allowing an interval of at least five days between the close of taking testimony at one place and its commencement at another."

I think the House will perceive that it is not very strange that these gentlemen, without perhaps examining very closely into the law and ascertaining its purpose, should understand that while one was occupying the time rightfully, under his notice, the other had no power to go on and give notice and occupy the time also. At any rate, I believe that was the judgment of the parties at the time; and so understanding, I believe that it is right, equitable, and just to the sitting member that he should have an opportunity to produce testimony here. It is apparent to me that he has not had that opportunity. He was here, as we all know, as a member of this House, during the whole of the last short session which terminated on the 4th of March. He was chairman of the Committee of Ways and Means—the most important position upon this floor. And, sir, would he have done right—would he have been excused by his constituents and the country if he had deserted his post at that time and run home to Ohio, neglecting his public duties and the interests of his constituents, for the purpose of taking testimony in regard to his election to a future Congress? No, sir. The minority of the Committee of Elections do not hold, as the gentleman from Kentucky [Mr. STEVENSON] would intimate, that additional rights ought to be given to a member of Congress. Not so. Every case must stand upon its own merits, and be decided by the particular circumstances surrounding it. And I say that in this case, when all the time allowed the sitting member by the law was during the session of Congress, when he was here occupying the important post he did, it is only reasonable, it is only honest, it is only just, that the House should give him additional time to take testimony in the case.

Sir, I do not believe in the binding authority of the law of 1851 upon this House in all cases. I believe, sir, that it is directory, and not absolutely binding. I do not believe that the Senate of the United States, in conjunction with the House of Representatives in one Congress, can make a law which is to bind future Houses of Representatives. Not so. By the Constitution of the United States, each House is made the judge of the returns, qualifications, and elections of its own members, and each House can and must judge for itself upon those questions. The law of Congress of 1851 is nothing but the advice or suggestion of reasonable and intelligent and just men, as to the proper course to be taken—advice given when no particular case was before them, and which may be presumed to be good and sound advice and counsel in reference to the matter. It is nothing more. The law is not binding upon us; and if in any case it is oppressive, and there is reason for stepping outside of it, I hold that we have a right to do it. I hold that the law was intended to be a shield and not a sword. It was intended to say to gentlemen claiming seats here, that at a certain time and in a certain way they might take testimony, which should be received; but not to say that a member or his constituency should lose their rights upon this floor through any neglect, or inadvertence, or misinformation. No, sir; I will not consent to admit any gentleman claiming a seat upon this floor unless I believe that he has a right to it; that he has been elected; that he was the choice of a majority of the people voting in the district. I am willing to look beyond forms and technicalities, and to ascertain the sense of the people, and who has been rightfully and truly elected and will represent the people.

Now, I think I have shown, Mr. Speaker, by recital of the essential facts in this case, that we cannot act intelligently, that we cannot decide upon this case as we ought to do, unless we give to the sitting member an opportunity to go home and take further testimony. Let it not be said that he has been guilty of laches in this case. The memorial of the contestant was filed here on the 16th of December, and before it could be printed and action had upon it, the House adjourned till the 4th of January. Immediately afterwards the committee heard one of the parties in the absence of the other, such was the anxiety of the contestant that the case should go on, and that a report should be brought in here. Suppose, sir, the granting of this privilege to the sitting member involves a delay of a fortnight, or a month, or even two months; it is more important that we should know who was really elected, and who is entitled to the seat, than that we should decide the question to-day, to-morrow, or at any given time. The question is, who ought to have the seat? Who has been chosen? And I think that the complaint of laches, on the part of the sitting member, does not come with the best possible grace from a gentleman who refused the application of the sitting member, last April, to go on and take the testimony by mutual agreement, and bring it here, so that the matter might be decided as early as the House could be brought to a vote upon it.

I disagree with the gentleman from Kentucky as to the effect of the letter of the sitting member. Let me read it, sir. The sitting member, referring to the law of 1851, says:

"There is, you are doubtless aware, a clause in the act of Congress prescribing the mode of obtaining evidence in cases of contested elections which provides that no testimony shall be taken after the expiration of sixty days from the day on which the answer of the returned member shall be served upon the contestant. I understand, however, that the practice of Congress under the act has been to regard this provision *directory only*; and to receive and consider testimony taken after the time limited whenever a just determination of the contest seemed to require it."

"Desiring that all the material facts shall be fairly presented before Congress, I deem it proper to advise you, that I will hereafter proceed to take testimony in the case, (of which due notice according to law will be given you,) and to suggest my entire willingness to enter into a mutual agreement with you to waive any technical objection which might be made on the point of time in the taking of testimony on either side. I propose, therefore, a mutual agreement to that effect. This would give to both of us, and our friends, a fair opportunity to present all the facts bearing upon the issue, and tend to prevent delay in the final decision of the matter, as well as the increased expense to the Government which would result from a necessity to take testimony after the meeting of Congress."

The object of this letter was to have that mutual

agreement to go on and take testimony. The sitting member, if he was actuated by the motive intimated by the gentleman from Kentucky, would have gone on, served his notices, and said nothing at all about them. But, in the spirit of kindness, in the spirit of fairness, in the proper spirit, he addresses a letter to the contestant, notifying him that he desired to take testimony, and asking him to concur in some mutual agreement by which they could proceed at once to take testimony, and lay it before the House at the commencement of the session. What reply did the contestant make to that? He denied that the act is directory, and says:

"By the statute the period for taking testimony is expressly limited to 'sixty days' from the service of the answer. You were in Congress when the act passed, and are presumed to know that you were equally bound with myself to close the testimony within that period."

"The 'practice' you allege of taking testimony after the sixty days, notwithstanding the statute, cannot be very *veterate*, since the act was not passed till March, 1851; nor do I think that at so early a day, practice will prevail against the express words of the statute, which declares that 'no testimony shall be taken.'"

"As to your notion that this language is '*directory only*,' I have to say that I can well understand how an affirmative provision in a statute may sometimes, under stress of judicial pressure, be held '*directory*,' and *non-compliance* excused; but I have yet to learn how a provision expressly *negative*, was ever or can be in like manner interpreted. 'Thou shalt not steal,' is, I take it, strictly *prohibitory*."

"Your intimation, therefore, that you mean to proceed with your testimony in spite of the statute, gives me no concern. You can suit your pleasure and convenience in that respect. I beg to assure you that it will in nowise incommode or cause me expense."

I submit to the candor and intelligence of this House that that was a fair and just proposition, and one to which the contestant ought to have yielded, if he only desired to have the case fairly and fully investigated on the merits. The contestant, however, did not yield his assent; and, therefore, I say that it does not seem very becoming in him or his friends on this floor to try and prevent any further opportunity being given to procure testimony, on the ground that it would operate to postpone the matter till a later period in the session. He might have prevented the necessity for it himself. He might have prevented it when both he and the sitting member were at home, and when both might have taken whatever testimony they required, and brought it here.

I understand, sir, that there is sufficient in the application of the sitting member here for further time, to justify the House in granting that time. It is said that some sixty or seventy votes have been controverted by the contestant, and a similar number by the sitting member. But how many of these votes, which the contestant challenges, will the House say are bad, and how many on the other side, which the sitting member challenges, will the House say are good? Who knows but that this very controversy may be brought within the range of the votes alluded to by the gentleman from North Carolina, [Mr. GILMER,] or of the testimony referred to by the sitting member in his memorial? Who is authorized to state here that the judgment of the House cannot possibly be affected by the votes named by the sitting member, or by the testimony in reference to the other votes, many in number, referred to?

Are we to be told here that we are bound by any narrow, illiberal practice? No, sir. We have a right, and it is our duty, to give to these parties reasonable opportunity, under all the circumstances, as they appear to us, to take testimony. We are not bound hand and foot by this statute. We are bound to do right. We are bound to be just. We are bound, if we believe there is anything in the case on which the parties should be allowed to present additional testimony, to afford them that opportunity; and I have no doubt—I can have no doubt—when the House comes to read the facts and understand the reasons assigned by the sitting member, that the House will very cheerfully yield him the time asked, and allow him to open the testimony on which they can give judgment in this case which will be satisfactory to themselves.

Mr. BOYCE. Mr. Speaker, the law and the facts, so far as they are material to the determination of this application for an extension of time for taking testimony, lie in a narrow compass. By the act of 1851, regulating contested elections, sixty days are allowed for the taking of testimony. These sixty days begin to run from the day that the answer of the sitting member is returned to

the notice of contest. During the sixty days each party may examine as many witnesses as he chooses. The only limitation upon the parties, in reference to taking testimony, is, that no one of the parties shall take testimony at different places at the same time. With this limitation each party may consume the whole of the sixty days in taking testimony. Practically, the act permits one hundred and twenty days to be spent in taking testimony. The law presumes that this length of time will be sufficient, and, therefore, limits the taking of testimony to this period; but to provide for any exceptional case, the power is reserved to this House to extend the time of taking testimony. The discretion reserved to the House is not an arbitrary discretion, but a reasonable discretion to be exercised under proper safeguards. The rule which I would lay down upon this point is this: that a party should not be entitled to an extension of time unless, after due diligence upon his own part, he is unable to take his testimony. But whenever, by due diligence, a party could examine his witnesses, but fails to do so, no extension of time should be made. Such are the general principles of law governing this case.

The facts are substantially as follows: the election, under which Mr. Campbell claims his seat, took place October 14, 1856, more than fifteen months ago. The answer of the sitting member was received by the contestant on the 27th of January, 1857, and consequently the sixty days limited by law for taking depositions expired on the 28th of March, 1857. Mr. Campbell was a member of the last Congress, and occupied the position of chairman of the Committee of Ways and Means. The contestant commenced taking testimony on the 2d of February and continued so doing, according to his own statement, for fifty-five days. The sitting member also took depositions from the 17th of March for some eight or ten days.

Under this state of facts the sitting member applies, January 22, 1858, for the privilege of taking further evidence. I may remark here, that I do not think he has moved in this matter as promptly as he should have done; but I pass this by.

The main grounds upon which the sitting member makes his application for further time to take testimony are as follows:

1. That having been a member of the last Congress, he was unable to be present at the examination of witnesses until after the 4th of March.

2. That the contestant occupied, or gave notice that he would occupy, the sixty days in examining his witnesses, thus debarring the sitting member from taking testimony.

In reference to the first ground. It is sufficient, it seems to me, to reply that there is no necessity for the personal attendance of the parties claiming the seat, as the law provides for their attendance by their agents. The matters to be proved do not lie peculiarly in the knowledge of the parties themselves, and the examination of witnesses can just as well be conducted by their agents as themselves. The important matter is the preparation of the case before the examination of the witnesses. This the sitting member might have done from October, when he knew his seat would be contested, until he left for Washington in December. This he neglected to do. It may further be insisted that the law having made no special exception in the case where the sitting member was in attendance on the session of the House, though, from the periods at which the elections take place in many of the States, nothing could be more probable than the occurrence of such a case, it intended such a case as this to take the ordinary course. A strong objection to the extension of time on this ground arises from the fact that the sitting member is now a member, and could not now be personally in attendance on the examination of the witnesses.

In regard to the second ground. The evident meaning of the act of 1851 is, that any one of the parties shall not examine witnesses at the same time at different places. But the law does not prevent either party from examining his witnesses, because the other party is examining his witnesses at the same time. It was perfectly competent for Mr. Campbell to examine his witnesses for the whole period of the sixty days; that he did not do so is his own fault. That he knew that he could do so, is evident from the fact that he did examine

his witnesses a portion of the time, some eight or ten days. I see nothing whatever in this ground for granting the extension of time.

Mr. TRIPPE. Will the gentleman from South Carolina allow me to ask him a question which occurs to my mind?

Mr. BOYCE. Certainly.

Mr. TRIPPE. It is stated in the report of the minority of the committee that the sitting member not only so construed the law himself, and therefore did not proceed to take testimony, but that the same construction was given to it by the contestant also. Not only did the contestant so construe it, but he actually protested against the right of the sitting member to overreach his time. Is that statement, made by the minority of the committee, true—that both parties did so construe the law?

Mr. BOYCE. I am informed by the contestant that he denies that statement.

Mr. TRIPPE. There is this fact further stated—as a matter of fact, not of opinion—that when the sitting member proposed to take testimony at a certain period, the contestant protested against his right to do so, because he, the contestant, already covered that time.

Mr. BOYCE. That is denied by the committee.

Mr. TRIPPE. Well, sir, it is stated in the report of the minority; and it is a point on which I would like to have information as to what is the real fact. That is a controlling consideration with me.

Mr. BOYCE. The sitting member does not, as I understand, make that assertion on his own knowledge. He says that somebody says so. The contestant says he never did take that ground; so that we have his positive testimony against what somebody said.

Mr. TRIPPE. That may be perfectly right; but I beg leave to call the gentleman's attention to a sentence in the minority report:

"Whilst the sitting member—from the construction (in which, however, we do not concur) which it is clear to us both the parties gave to the law—was only able to take testimony from the 17th to the 27th of March, 1857; and that, at the time of the sitting member's notice to take his testimony, as aforesaid, was served, the contestant refused to attend, and claimed that he had already covered this time with his notices; and which latter statement is not denied by the contestant."

The point which I am at, is the authority for this statement in the minority report. Is it true, or is it not, that the contestant did so claim?

Mr. BOYCE. I read from Mr. Vallandigham's answer to Mr. Campbell, page 14:

"It is asserted, or insinuated, upon the authority *cujusdam ignoti*, that my purpose in serving the notice in this contest was to prevent the returned member from taking any testimony at all.

"I meet this by a flat denial. But five notices in all, to take testimony, were served; one of them he refused to accept; another was simply a list of witnesses, as required by the statute; and two of them were abandoned—leaving just two under which testimony was fully taken.

"The construction of the statute is obvious, and the returned member acted upon it as construed by the committee, but a few days ago. I add that, in this as in other instances, there would seem to be a studied effort to represent me as unfair and disingenuous throughout this contest. Of the justice of these insinuations and the delicacy of introducing them here, I leave the committee and those who know me best, to judge."

But, in the view that I take of the case, it is immaterial what construction the contestant may have contended for. There was the law, about which the understanding of both the minority and the majority of the committee is, so far as I know, harmonious. Both parties could have gone on and taken testimony. If the contestant set up an erroneous construction of the law, that is not material. But it appears that he did not.

There are other matters suggested by the sitting member, but they do not seem to me to have any force in them. For instance, he says some of the notices of testimony to be taken by the contestant were left at his residence, which was in charge of only a colored servant. This fact, if it had any effect, would go simply to invalidate the testimony taken against him, but it is no excuse for his not taking testimony. As regards the further facts, that the sitting member was detained in Washington a few days, by the illness of one of his children, and the duty devolved upon him in reference to accompanying to Ohio the remains of the Hon. Mr. Disney, they do not seem to me, in themselves, of much weight, inasmuch as the testimony could very well be taken without the personal attendance of the sitting member.

The sitting member further states, that at the expiration of the sixty days, he proposed to the contestant to go on and take testimony by consent, which was declined. This suggestion does not vary the case. The only question in the case, as I conceive it, is simply this: did the sitting member have an opportunity to take testimony? I think there can be but one answer to this. The election had taken place in October, 1856; he was promptly informed of the intention to contest. He could, I think, very easily have, between the time of the election and the assembling of Congress, examined into his case, ascertained what he could prove, got the names of his witnesses, and had the testimony taken in his absence by his agents. Not having done this, I do not think he used due diligence, and therefore has no claim for the extension of the time of taking testimony.

It is a matter of the first importance that these contested-election cases should be promptly decided. Fifteen months have elapsed since the election; the sitting member has had the opportunity of taking testimony, and now to reopen the case for new testimony would involve considerable delay, and unnecessarily protract the case. I conclude, therefore, against the extension of time asked for. It rests, however, with the House in their discretion to grant the application; in their decision I acquiesce.

Mr. WILSON. I desire to go back to the majority and minority reports in this case to show to the House the reasons which controlled the minority in making the report which they have presented. This election took place in the State of Ohio, on the second Tuesday in October. The board of canvassers met to determine the election on the 6th day of December. The answer of the sitting member is dated, "City of Washington, 19th January, 1857."

Mr. Speaker, I wish now to bring before the House, as clearly as I can, the course of the contestant in this case, and show reasons why the sitting member should have additional time to take testimony. In the first place, as to the notice. Here are six notices upon the part of the contestant. The first is dated five days before the answer of the sitting member was given to him. It is dated January 14, 1857. He closed the commission under it, at Hamilton, on the 13th of March—having occupied forty days out of the sixty days in which he could take testimony under the law. Another notice was issued on the 16th of February, stating that he would commence taking testimony at Dayton, on the 2d of March. This commission was opened and continued from that day until the 18th day of March, embracing twelve days of the time covered by the commission under the first notice. And right here I wish to call attention to the fact that the law of 1851 requires that five days shall elapse, from the closing of one commission, before another shall be opened. But, sir, in violation of that law, you find that the contestant in this case, before one commission was closed, gave notice of another; and that the taking of testimony under the second notice was commenced before five days had elapsed from the close of the first; so that you find that he has gone outside and over the law of 1851, if that is to govern in this case.

What, sir, are the facts further? The commissions under these five notices cover the entire sixty days, as you see by referring to the minority report, and if you include the five days' interval, they covered seventy-one days. So much for the notices.

The next question is, did the contestant consider that all the evidence should be included and completed within the sixty days. I say that he did. I read from his answer or reply before the committee, to show that he considered the law of 1851 as imperative, and that the entire evidence should be taken within the sixty days; at the same time, he having by his notices and his commissions covered seventy-one days, as is shown by the report and by the evidence in the case. He says:

"By the statute the period for the taking testimony is expressly limited to sixty days from the service of the answer. You were in Congress when the act passed and are presumed to know that you were equally bound with myself to close the testimony within that period."

Within what period? Sixty days. How did the contestant occupy these sixty days? By these notices and by taking testimony, which notices

and testimony occupied not only the entire time allowed by the law of 1851, but seventy-three days; thirteen days beyond the law. He goes on:

"The 'practice' you allege, of taking testimony after sixty days, notwithstanding the statute, cannot be very inveterate, since the act was not passed till March, 1851; nor do I think that at so early a day, practice will prevail against the express words of the statute, which declares that 'no testimony shall be taken.'"

That no testimony shall be taken after the sixty days, which shows that the contestant understood well the law, and acted upon it, intending to take testimony covering the entire sixty days. Now, another question for us to consider, is this: did the contestant so construe the law as to limit the taking of testimony to within sixty days; and did he also construe it, that the sitting member and contestant could not both take testimony at the same time.

Mr. STEPHENS, of Georgia. If the gentleman from Indiana will allow me to have the reply of the contestant read at the Clerk's desk, it will answer his question.

Mr. WILSON. I will read the reply to which the gentleman refers, before I take my seat.

Mr. STEPHENS, of Georgia. I want it read right at this point.

Mr. WILSON. I will read it before I am through. Now, sir, let us look at the law of 1851, and if the House does not wish to do injustice between these parties claiming the right to a seat upon this floor, let us see how they regarded this statute, and what construction they (the sitting member and the contestant) gave to it. I find in the application of the sitting member for additional time in which to take testimony, filed before the committee, the following language:

"I was detained in Washington several days after the adjournment by the sickness of one of my children, and by the subsequent demise of one of my former colleagues—the Hon. David T. Disney. At a meeting of the friends of the deceased from Ohio, then in this city, I was appointed chairman of a committee to accompany his remains to the residence of his family in Cincinnati; and in the discharge of this melancholy duty I was unable to reach my home until the 19th of March, a few days prior to the expiration of the 'sixty days.' I then found that my attorney had taken steps to secure testimony in my behalf in one of the counties composing the district. He occupied ten days, (pp. 147 to 155.) I am informed by him that when he served notice, (p. 138,) contestant claimed that he had no right to do so, because his notices previously served, covered the residue of the 'sixty days,' and refused to appear and cross-examine witnesses."

Now, sir, here is a material fact, as important, perhaps, as any one presented in the case. Yet never once does the contestant, in his reply, deny, or even refer to this statement upon the part of the applicant for additional time to take testimony. If it is not true, why did he not deny it in his reply? This was the construction clearly given to the law not only by the contestant but by the sitting member.

Now, then, let us take one step further in this case. What is that? The time allowed by law closed, evidence had been taken upon one side and no evidence scarcely upon the other side. I understood the gentleman upon the other side of the House to say that eighteen months had elapsed, and that it was time this case was determined. Let us see what steps the sitting member took to determine this question between him and the contestant. Let us see who has been in "laches." On the 2d of April, 1857, at Hamilton, the sitting member forwarded to the contestant a letter, it being a part of the papers in this case, in which I find this language:

"Desirous that all the material facts shall be fairly presented before Congress, I deem it proper to advise you that I shall hereafter proceed to take testimony in the case, (of which due notice according to law will be given,) and to suggest my entire willingness to enter into a mutual agreement with you to waive any technical objection which might be made on the point of time in the taking of testimony on either side. I propose, therefore, a mutual agreement to that effect. This would give to both of us and to our friends a fair opportunity to present all the facts bearing upon the issue, and tend to prevent delay in the final decision of the matter."

Here was the offer made. The sixty days had elapsed. What did the sitting member say? I will go with you and take evidence notwithstanding; present that evidence before the House; that shall determine between us. What was the answer of the contestant? Here it is:

"Your intimation, therefore, that you mean to proceed with your testimony, in spite of the statute, gives me no concern. You can suit your pleasure and convenience in that respect. I beg to assure you that it will in nowise incommode or cause me expense."

He refused the offer, and declined to take the evidence. And why should the sitting member be held responsible now before the House on account of lapse of time, when the contestant himself refused to go outside of the law of 1851; contended that the law was imperative; had covered the whole time with his own commission; and declined to permit evidence to be taken after the "sixty days," so far as he was concerned.

Again I state a fact which does not appear upon the face of the papers, but which I believe to be true. The law requires that so soon as the depositions are taken they shall be sealed and immediately forwarded to this House. These depositions were never forwarded until after the meeting of this Congress. They remained unsealed in Ohio until about the first week of Congress, when they were forwarded here, so I have been informed. Had not the sitting member then a right to consider that the party himself did not consider the testimony closed, and that time would be extended?

But the gentleman from South Carolina [Mr. BOYCE] says that the application of the sitting member was not made promptly before the committee. What are the facts? When the memorial was referred to the committee, it was ordered to be printed. At the time it was printed and laid before the members of the committee, the sitting member was necessarily absent in Ohio. In his absence, the case was taken up, and the first moment after his return, after the contestant had been heard upon the merits, he made his application for time to take supplementary evidence. The application was made at the very first moment it could be made. Now, then, under all these facts, I ask, will the House refuse to grant further time? Why, sir, the Committee of Elections, a day or two ago, reported to this House a resolution granting further time to take evidence in the Nebraska contested-election case. Why make a distinction between a Territory and a State? I know no good reason why a distinction should be made. I was in favor of giving time in both cases, so that this House may have all the facts before them, and decide correctly.

Mr. BOYCE. I understand the gentleman to refer to the Nebraska case. That action of the committee was upon peculiar grounds. In that case the contestant had taken all the evidence under a notice, the validity of which was very doubtful if strictly construed, and not to have given further time would have been at once to have prejudged that case. In order, therefore, to give any showing whatever to the sitting member, who had left the Territory of Nebraska at the time the notice was served, I consented with a majority of the committee to extend the time.

Mr. WILSON. I ask the gentleman if the notice was a valid one?

Mr. BOYCE. It was given under very peculiar circumstances. I was willing to allow further time and give each side fair play. If I had been compelled to decide exclusively upon the evidence taken under such circumstances, I should have had doubts as to the validity of the notice.

Mr. WILSON. The gentleman says the Nebraska case was surrounded by peculiar circumstances. What are they? Simply whether a notice was valid or not. This was all. But here, where the commission on one side has consumed the entire sixty days; where the party refused to go outside of that commission; where he considered the law imperative, it is not considered a peculiar case; even when it may overthrow the expressed will of the people of the third congressional district of Ohio. Sir, if "peculiar circumstances" surround either case, it is the Ohio, and not the Nebraska case.

But again, sir, I cannot understand why a rule is applied to one case and not to another. In the Nebraska case, the committee, and I presume the House, wished to hear the entire evidence, to have all the testimony before them, and then to determine between the two gentlemen claiming the seat as Delegate from that Territory. I wish the same rule to be applied in this case.

But the gentleman from Kentucky [Mr. STEVENSON] says that there is no evidence before the committee, or before the House, that the sitting member would be able to refute the evidence which has been presented by the contestant. That, sir, depends entirely on another question, which we have yet to decide upon. The question whether

hearsay evidence is admissible or not will have to be passed on by the House and by the committee. But here are statements very material and to the point in the application of the sitting member for further time. What does he say? He says:

"I verily believe that, if this application is granted, I shall be able to show to the entire satisfaction of the House, by legal testimony, that my election was a fair and valid election, and that if illegal votes may have been cast, more illegal votes were cast for the contestant than for myself. Having had no fair opportunity of vindicating my rights and the rights of my constituents in the premises, this application is respectfully submitted."

He here claims that if the time of forty days is allowed him, he can show that his election was fair and legal; and that, if illegal votes were cast, more illegal votes were cast for the contestant than for him.

Mr. Speaker, there is but one other point to which I desire to allude. Sir, when this evidence was taken, the sitting member was a member of this House; he was chairman of an important committee; you, sir, remember that his duties upon that committee were arduous during the last session of Congress, and you know how well and faithfully he attended to the interests committed to his charge. I ask, then, is it fair, without having his voice heard before this House, or his evidence completed, so that every man, no matter what his political opinions, can determine fairly for himself upon the merits of the case—is it fair to strike him down as it is proposed to do by the majority of the Committee of Elections? I think not. Let, then, the time be given by the House.

Mr. PHILLIPS. As one of the majority of the Committee of Elections, I desire to state to the House the reasons which govern me in my course upon this question. They are, to my mind, clear and conclusive. I think the House will find that there has been as clear a case of neglect, upon the part of the sitting member, as has ever been shown in any Congress. If he has not taken his testimony, and if there has been any fault, it was his own. From the hour when the contestant served notice upon the sitting member, down to the time when his application was made, there seems to have been a desire for delay. I will not charge it to have been intentional; nor will I say that he supposed there was more strength in a member of an old Congress than in a mere contestant for a seat; but I promise to show the House, in a very few words, that abundant opportunity was afforded to the sitting member to prove his case, if he had a case; and it was not until after the Committee of Elections were ready to decide the case as presented, that this application was ever interposed. The application, Mr. Speaker, was not made in the regular way—as a request of the committee; but it was interposed with a demand—respectfully made, I admit—that whether the committee favored it or not, it should be submitted for the action of the House.

Mr. Speaker, this election took place on the 14th of October, 1856. I do not know how the returns are made in Ohio, but I have been informed this morning that, immediately after the election, the returns are counted by the county officers, and I suppose they are made public records. They are then sent, I am told, to the Secretary of State, and are kept in his office, open to the inspection of every citizen. Ten days after that election, on the 24th of October, 1856, the contestant, in compliance with what he believed to be the law, served upon the sitting member notice of his intention to contest the right of that gentleman to the seat. Whether that notice was in time, or whether it was premature, it is not worth while to consider. There may be doubts about that. The act of Congress of 1851, which, in my opinion, is very little more than suggestive, and hardly rises to the dignity of being directory—the act of 1851 provides that notice shall be given within thirty days after the result of the election shall have been determined by the officers or board of canvassers authorized to determine the same.

I am not prepared to say whether we can consider the returning officers as canvassers under this law, or the Governor of the Commonwealth as the canvasser; but I do know—it has never been denied—that on the 24th day of October, 1856, within ten days after the election, the contestant, Mr. Vallandigham, served notice on the Hon. L. D. Campbell that he intended to contest his right to a seat in the House of Representatives

of the Thirty-Fifth Congress; and he specified therein the frauds or mistakes which he alleged, as the ground on which he would ask that the return should be set aside. Mr. Campbell knew then that he had to take his seat in the Thirty-Fourth Congress, at the second session, within six weeks thereafter. The notice may have been premature; but the contestant having waived that point, the sitting member had time and opportunity to take testimony, while the testimony was fresh, to establish his right to the seat. But how was this action of the contestant met? On the 31st of October, 1856, a week after the notice had been given, the Hon. Lewis D. Campbell, then a member of the Thirty-Fourth Congress, wrote to Mr. Vallandigham, the contestant, a note, which put it beyond his power to ask for any favors from that gentleman. That note is short, and I will read it:

HAMILTON, OHIO, October 31, 1856.
SIR: I received your written communication touching that "nigger business" some time after it appeared in the "naze papers."

No official information of my election to a seat in the Thirty-Fifth Congress of the United States has yet been furnished me, and you will pardon me for suggesting that perhaps your deep anxiety on this subject has occasioned premature action.

In December next I shall probably receive, under the "broad seal" of the State of Ohio, a certificate that the honor of representing the third district in the next Congress has been conferred on me by the people. In that event please observe that you and the corrupt minions of the present condemned Administration are not only invited but dared to contest my right to the seat. Should you or they attempt to carry out your vaunted designs, I promise the country a record of one of the most corrupt and disgraceful outrages that has ever been perpetrated upon the American ballot-box.
LEWIS D. CAMPBELL.

Col. C. L. VALLANDIGHAM.

Now, Mr. Speaker, when the contestant gave this notice to the returned member, if the latter was in possession of the facts which he asserted in his notice—and I suppose that he would assert nothing unless he had, or supposed that he had, some evidence to support it—it was a duty which he owed to himself, to the citizens of his district, to the country, and to the party at least to which he belonged here, to proceed to the investigation with all possible dispatch, and to give notice of taking testimony in accordance with the law.

But this answer of Mr. Campbell effectually stopped all prospect of an investigation till after he had taken his seat at the last session of Congress.

Now I agree that the fact of a man being detained here by public business has weight; but when you find, as you do here, that the opportunity was afforded him of attending to this case without any sacrifice of the public interests confided to his case, when you find from the start that there was no disposition on his part to do anything except under whip and spur, except under the coercion of law and of the House, then I say it comes with bad grace for him now to ask that further time be allowed him. The only effect of granting it would be to deprive the contestant, if really entitled to the seat—of which I know nothing—of any chance to take his seat in this House at the present session.

Mr. Vallandigham, on the 29th of December, having ascertained that the commission had been issued by the Governor of Ohio to the Hon. Mr. Campbell, the sitting member, repeated his notice of contest. Mr. Campbell was then a member of the Thirty-Fourth Congress. Now, Mr. Speaker, if the sitting member had been inclined to act fairly and promptly, he might have made use of the five or six weeks that elapsed between the first notice and the commencement of the session in taking testimony. Under the act of 1851 the answer to the notice could have been given the same day; his notice to take testimony could have been served the same day, and testimony could have been taken at the expiration of ten days.

On the 27th of January, 1857, twenty-nine days afterwards, nearly all the time allowed by law, Mr. Campbell returned his answer to Mr. Vallandigham's notice, and, in his own language, gave him twenty-three specifications of the proof which it was his purpose to make during the proposed contest, when he said that he knew exactly what he had to prove, and, of course, he knew the sources from which the proof was to be had. The contestant goes on and takes testimony. Mr. Campbell also proceeds to take testimony, and gives notice of the names of many witnesses. And it is a remarkable thing that it should be forgotten,

by gentlemen on the other side, that Mr. Campbell did examine thirty-seven witnesses.

The question now is, whether, after an experiment is made, and the testimony referred to this House, and compared with the testimony in support of the contestant's claim, the sitting member should now be allowed to go on and try and improve his case? He gave notice that he would take the testimony of certain witnesses, and he actually did take the testimony of thirty-seven of them.

And there is one fact to which I would call the attention of gentlemen over the way; and that is, that not one of the witnesses on whose testimony Mr. Campbell now proposes to rely is named in the notice given to Mr. Vallandigham. The witnesses on whom he first intended to rely were examined, thirty-seven in number; and now, for the first time, there is an allegation that other witnesses are to be examined, whose testimony he was not prevented from taking for want of time, by whom certain facts are to be proved.

Without saying anything further, this closes the case, so far as compliance with law is concerned. But it is further said, why did not Mr. Vallandigham waive his technical objection when Mr. Campbell proposed this "mutual arrangement?" I answer, that after that letter of Mr. Campbell to Mr. Vallandigham, that gentleman could not enter into any agreement with him. He (Mr. Vallandigham) would stand by the law; and as he stood by the law, so he would require the sitting member to stand or fall by the law.

But let me turn to Mr. Campbell's letter. He says:

"There is, you are doubtless aware, a clause in the act of Congress prescribing the mode of obtaining evidence in cases of contested elections which provides that no testimony shall be taken after the expiration of sixty days from the day on which the answer of the returned member shall be served upon the contestant. I understand, however, that the practice of Congress under the act has been to regard this provision directory only; and to receive and consider testimony taken after the time limited, whenever a just determination of the contest seemed to require it."

If that was his opinion, Mr. Speaker, why did he not go on and take the testimony? It will not do to answer us that the contestant refused to appear. The contestant had refused to appear before that. All the sitting member's depositions were taken *ex parte*, and without cross-examination. If that was the opinion that he entertained of that clause of the law, why did he not go on, take the testimony, and appeal to the House to admit it, since he had not been able to take it within the time strictly limited by law?

I hold that when a member of Congress is engaged in public business, and especially when he is engaged as chairman of an important committee, he may claim fairly some consideration beyond that allowed to others. But he must at least show himself entitled to it by a course of conduct evincing desire and design on his part, not only to comply with the law, but to lay before the House the facts of the case.

Mr. WILSON. I will ask the gentleman if Mr. Campbell was not absent, and did not apply for an extension of time to take testimony the moment the committee met after his return?

Mr. PHILLIPS. I will answer the gentleman by saying that I understand he was absent some portion of the time; and that when he returned, (which was, I believe, on Saturday, the 16th day of January,) he appeared before the committee on the next Monday, the 18th; and without then asking any extension of time, he consented to go into a reply to the argument that had been made by the counsel for the contestant the week before; and he fixed upon Thursday, the 21st, for that reply. On that day he appeared with his counsel, who went into the argument upon certain objections urged against the testimony taken by contestant; and before concluding the argument, the committee adjourned to the next day, (January 22,) when the sitting member, for the first time, presented his application for further time; and then only in the alternative that the committee should overrule the objections presented the day before. This the committee refused to decide, but required the sitting member to determine for himself upon the sufficiency of the evidence. But the committee were also of opinion that it was his duty to have indicated his desire to them at the earliest opportunity in the session.

Mr. WILSON. I will ask the gentleman if the testimony in the case was printed at that time?

Mr. PHILLIPS. I do not know; and I do not care. I am told that it was printed about the 15th of December. But it is a matter of no consequence whether the testimony was printed or not. The sitting member knew what was the substance of it. I hold that when a returned member's seat is contested, he shall not be privileged to hold on just as long as he can prevent an examination from taking place. If he desired additional time in which to take testimony, it was his duty to present his application on the very first day the committee was organized. I say that was the time he should have made the application.

When did he present it? After the case had been examined, after the argument in behalf of the contestant had been heard, and after the argument in his own behalf had been partly heard. It was not until then that his claim was presented, and it was presented then in alternative. If the committee decided against him on the merits, then he wanted more time, and this application was first presented on the 22d of January, as I have already stated. If the sitting member has had experience and has more accurate knowledge of the rules of this House and parliamentary law than almost any other member, as he is said to have, he must have known that it was competent for him to present the application before the committee at any time, and that the proper time was as early in the session as the committee had organized. He must have known that was the right time, and why did he wait until the 22d of January, when six or seven weeks of the session had passed, and when the case had been partially argued by the committee?

Mr. WASHBURN, of Maine. I wish to ask the gentleman whether the sitting member could have made his application for further time in which to take testimony before the memorial had been presented and come before the Committee of Elections in a printed form; and whether he did not present it within two or three days of that time, which was the earliest possible period when he could have presented it?

Mr. PHILLIPS. The answer to that question does not at all embarrass me. His application was not made for weeks after the memorial and testimony had been printed. I would have had him make the application at the time the memorial was presented to the House. He knew that the memorial was to be presented; that it would be referred to the Committee of Elections, and ordered to be printed. He did not need to read the memorial to know what it contained. He knew what it was, and to him it was a matter of very little consequence whether it was printed or not. Justice to the contestant, and justice to every member of the House, demands that this question should be settled without further delay. If there is to be any precedent drawn from this case, I hope it will be a good precedent. I hope the House will give an expression of their opinion, that these cases of contested elections should be settled at the earliest possible period of time. It is not fair to the contestant, it is not fair to the constituency of the district, and it is not fair to this House, that the case should go undecided through the whole session, or the whole Congress.

Mr. Speaker, I have seen in this discussion no good reason presented for this delay which is asked for. I do not present it as a party question. I will raise the same question upon my friends. I am advocating a principle which I am willing to have applied to myself, if I shall be placed in the condition of the sitting member. I would grant every reasonable indulgence to a member of Congress thus situated. But, I ask again, has the sitting member shown any good reason for this delay in taking his testimony? He knew the facts he expected to prove, and where he expected to obtain proof; for he did proceed to take the testimony of thirty-seven or thirty-eight witnesses, and had given notice that he would take the testimony of others; but he abandoned the idea of taking their testimony, and he does not now express a desire to have the testimony of those other witnesses. But he comes here with an alternative proposition, that if the committee decide in his favor, he desires no more testimony; but if they decide against him, then he desires to take other testimony. Sir, I say that it is hardly fair for the House to prolong this contest until the 15th of March, upon such an application, and yet

that is the time at which the new testimony is to be returned; after the return, it is to be investigated by the committee, and by the House, giving a fair promise that the contest will outlast the present session.

Mr. Speaker, I do not intend to say anything about the merits of this contest. I can say, in truth and sincerity, that I have made up no opinion as to its merits; but, sir, I claim that this is a matter of moment. It is a question of high importance to the contestant; it is a question of quite as high importance to ourselves, and to the constituency of the district, that it should be determined speedily. I do not care for the propositions made by these parties. I would treat them both alike. While, on the one hand, I think the sitting member had no right to ask for, nor expect, any special indulgence from the contestant, at the same time I cannot censure him for not accepting the challenge of the contestant to refer the matter again to the people. [Laughter.]

But, sir, both these offers are outside the law, and therefore not worthy of our consideration; and this question should be decided at once and properly, and the application of the sitting member should not be granted.

Under ordinary circumstances a failure to secure all the testimony would be the sitting member's misfortune; in the present instance, if there is such a failure, it is clearly his fault.

Mr. MARSHALL, of Kentucky, obtained the floor.

Mr. GROW. I desire to know whether the message of the President of the United States will come up next in order after this question has been decided?

The SPEAKER. In the opinion of the Chair it will.

On motion of Mr. PHELPS, the House (at four o'clock) adjourned.

IN SENATE.

THURSDAY, February 4, 1858.

Prayer by Rev. SAMUEL REGISTER.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in pursuance of law, a statement showing the expenses of the armories, and the number of arms and appendages made and altered thereat, during the year ending June 30, 1857; which was, on motion of Mr. GWIN, referred to the Committee on Military Affairs and Militia; and a motion by him to print it was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of War, communicated in compliance with a resolution of the Senate, showing the amount expended for the support of the Military Academy during the past year; which, on motion of Mr. GWIN, was referred to the Committee on Military Affairs and Militia; and a motion by him to print it was referred to the Committee on Printing.

HOUSE BILL REFERRED.

The bill (H. R. No. 81) to amend an act for the relief of Whitmarsh B. Seabrook and others, was read twice by its title, and referred to the Committee on the Judiciary.

ADJOURNMENT TO MONDAY NEXT.

On motion of Mr. ALLEN, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

PETITIONS AND MEMORIALS.

Mr. GWIN presented a petition of citizens of New York, praying that the public lands may be laid off in farms or lots, and granted free of cost to actual settlers only, who are not possessed of other lands; which was ordered to lie on the table, the appropriate standing committee having already reported on that subject.

Mr. HUNTER presented the memorial of George W. Flood, a laborer in the topographical bureau, praying for compensation for services performed as clerk; which was referred to the Committee on Claims.

Mr. IVERSON presented the petition of Edward Ambush and Robert Boston, employed as laborers by the Court of Claims, praying addi-

tional compensation; which was referred to the Committee on Claims.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of Terryville, Connecticut, praying that the public lands may be reserved for the use of actual settlers; which was referred to the Committee on Public Lands.

Mr. PUGH presented the memorial of the directors and faculty of the Farmers' College, Hamilton county, Ohio, praying that land be granted to the several States and Territories for the establishment of agricultural colleges therein; which was referred to the Committee on Public Lands.

Mr. HARLAN presented a resolution of the Legislature of Iowa, in favor of a weekly or semi-weekly mail from Dyersville to Dacotah, in that State; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. DAVIS presented the petition of Sarah M. Smead, praying that the pension she now receives may be increased and continued; which was referred to the Committee on Territories.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CLAY, it was

Ordered, That the petition of J. S. Devlin, and the petition of Sarah S. Hine, on the files of the Senate, be referred to the Committee on Pensions.

CALL FOR PAPERS.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior cause to be transmitted to the Senate the papers of Richard Fitch, of Ohio, in the Pension Office, on his application, Nos. 260, 565, for bounty land for his services during the war of 1812.

DEPARTMENTAL PRINTING.

Mr. STUART submitted the following resolution; which was considered by unanimous consent:

Resolved, That the Committee on Printing be instructed to inquire and report to the Senate what amount has been paid annually, during the last five years, to each of the printing establishments in the city of Washington for printing of any kind for the United States other than that ordered by either House of Congress, whether done by the direction of any Department, or civil or military officer thereof. Also, whether the same has been paid under the provisions of the existing law, and whether any amendment of existing laws is necessary in order to secure proper economy in the printing expenditures of the Government, and to report by bill or otherwise.

Mr. HAMLIN. I suggest to the Senator from Michigan to incorporate in this resolution after the word "printing," the words "and advertising."

Mr. STUART. I agree to that.

The resolution as modified was adopted.

COAL TRANSPORTS.

Mr. GREEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate the number and tonnage of the Government vessels employed in the Pacific ocean, as well as Government vessels proper, as private vessels employed by Government in transporting coal or other supplies for the United States, and the annual expense thereof, with specifications in detail.

DATE OF IMPORTS.

Mr. SLIDELL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of defining more precisely by law, whether, by the date of shipment at, or that of departure from, foreign ports, the value of merchandise imported into the United States shall be fixed for the purpose of estimating the duties thereon.

NEUTRALITY LAWS.

Mr. YULEE. I submit the following:

Ordered, That one thousand five hundred additional copies of the Senate Report No. 20 be printed for the use of the Senate.

The report referred to is the report from the Committee on Foreign Relations on the subject of the neutrality laws. Although I shall probably take occasion to express a difference of opinion with the committee on one or two points in their report, yet, as the subject is one of considerable interest, and has been discussed by the committee with ability, I think it desirable that a larger number than that which has been furnished should be printed for the use of the Senate.

The resolution was referred to the Committee on Printing, under the rules.

NAVAL OFFICER FROM TURKEY.

Mr. MASON. I offer the following resolution of inquiry; and I ask that it may be considered at this time:

Resolved, That the Committee on Foreign Relations be instructed to inquire whether it is in the contemplation of the Government of Turkey to send to this country an officer of rank in their Navy, with a view to obtain information concerning American improvement in naval architecture and equipment, and to superintend the construction of one or more vessels of war for the Turkish Navy at the ship-yards of this country; and, in such case, whether any, and what steps should be taken by this Government to manifest its good will towards the Government of Turkey by giving to such officer an appropriate reception, and otherwise to further the object of his mission.

I will say to the Senate that the resolution is of course offered after conference with the Secretary of State. It is understood there by correspondence with our Minister at Constantinople, that such a minister, I think of the highest rank in the Turkish Navy, is on his way to this country, the immediate object of his mission being to have a vessel, a three-decker, a first-class ship, constructed at one of the ship-yards of the United States; and the inquiry is, whether it will not become this Government to further her relations with Turkey, by giving to that officer such reception as the Executive may think proper. The resolution is one of inquiry, and I trust it may now be considered.

The resolution was considered by unanimous consent, and agreed to.

REPORTS FROM COMMITTEES.

Mr. CRITTENDEN, from the select committee to whom was referred the bill (S. No. 45) to provide for the ascertainment and satisfaction of claims of American citizens for spoliation committed by the French prior to the 31st day of July, 1801, reported it without amendment, and submitted a report, which was ordered to be printed. On his motion, it was made the special order for Thursday, the 18th of February, instant, at one o'clock.

Mr. DURKEE, from the Committee on Revolutionary Claims, to whom was referred the memorial of the legal representatives of James Bell, deceased, submitted a report, accompanied by a bill (S. No. 115) for the relief of the legal representatives of James Bell, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

BILL INTRODUCED.

Mr. PUGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 124) to provide for the holding of the stated terms of the circuit and district courts of the northern and southern districts of the State of Ohio, and for other purposes; which was read twice by its title, and referred to the Committee on the Judiciary.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the Speaker of the House had signed an enrolled bill (H. R. No. 63) to supply an omission in the enrollment of a certain act therein named; which thereupon received the signature of the Vice President.

LEGISLATURE OF IOWA ON KANSAS.

Mr. JONES. I desire to present certain resolutions of the Legislature of Iowa; and I ask that they may be read and printed.

The Secretary read them, as follows:

Preamble and Joint Resolution of instruction concerning the admission of Kansas into the Union under the Lecompton Constitution.

Whereas, application has been made, or is about to be made, to the Congress of the United States for the admission of the present Territory of Kansas into the Union under the instrument known as the Lecompton constitution: and whereas, among other grave questions arising from said application is that presented by the fact that the convention which framed said instrument refused to submit it fairly to the people of said Territory for ratification or rejection: and whereas, the question thus presented involves one of the fundamental principles upon which our Governments, State and National, are all based: and whereas, it is eminently right and proper that the several States should, through their General Assemblies, clearly express to their Senators and Representatives in Congress their opinions upon such questions: Therefore,

Be it resolved by the General Assembly of the State of Iowa, That our Senators in Congress be instructed, and our Representatives be requested, to oppose the admission of

Kansas as one of the States of our Union under the so-called Lecompton constitution, because among other reasons said constitution was not submitted by the convention which framed it to a fair and honest vote of the people of the Territory of Kansas for ratification or rejection.

Resolved, That we condemn the President of the United States, Senators in Congress, and all others in authority under the Constitution of the United States, who have advised or consented to the admission of Kansas into the Union under the Lecompton constitution.

Resolved, That our Senators in Congress be requested to resign unless they can support the foregoing resolves, and vote as therein indicated.

Resolved, That the Secretary of State be instructed to forward a copy of the foregoing preamble and resolutions to each of our Senators and Representatives in Congress.

STEPHEN B. SHELLEDY,
Speaker of the House of Representatives.
ORAN FAVILLE,
President of the Senate.

Approved, January 23, 1858. RALPH P. LOWE.

OFFICE OF SECRETARY OF STATE,
DES MOINES, January 23, 1858.

I hereby certify that the foregoing is a true copy from the original roll on file in my office.

ELIJAH SELLS, Secretary of State.

The resolutions were ordered to be printed.

Mr. JONES. I present these resolutions as a matter of respect to the State Legislature of Iowa, which has sent them to me; but not because I intend, or have the most remote idea that I shall hereafter obey these instructions. I know that the people of Iowa, when they elected the present Legislature, had not the question of the admission of Kansas under the Lecompton constitution before them. I believe that the people of Kansas have had opportunities of expressing their views at the ballot-box; that they have refused to do so; that perhaps a majority of them—the Republican party almost unanimously—refused to express any opinion on the subject. My own opinions are made up, I think, irrevocably, to vote for the admission of Kansas under the Lecompton constitution; and unless some stronger arguments are made against it than any that I have heard heretofore, I shall continue of this opinion.

These resolutions, I understand, were adopted by a strict party vote in my Legislature. I am happy to say every member of the Democratic party voted against them, whilst every member of the Republican party voted for them. I have heretofore been similarly instructed by my Legislature, and I then determined to pay the same respect to their instructions that I do now to these. It was then done by a Republican Legislature, and by a strict party vote. It is probable that a majority of the people of Iowa would now obey these instructions, but I do not believe, when they come to understand the question as I understand it, that they would refuse to admit Kansas into the Union under the constitution which she has sent here.

These resolutions condemn the President of the United States, Senators, and all others in authority, who propose to sustain the views of the Administration, and to admit Kansas under the Lecompton constitution. I am not one of those who intend to condemn the Administration, but, on the contrary, I intend to do everything in my power to sustain them on this question. I made up my mind before I left home, as soon as I heard the subject broached, that I should, as the surest means of settling this vexed question which has almost brought civil war into the country, to vote to admit Kansas into the Union as soon as I could possibly do so, if my vote would do it, so as to settle the difficulty. My own opinion is, that we ought to admit Kansas and Minnesota now in the same way that Iowa and Florida were admitted, as twin children into the Union. I shall do all that I can to effect that end, and I hope that Congress will do it at an early day, and so give quiet to the country, and put an end to the question of slavery, which has so long agitated the Congress of the United States, as well as the Legislatures of the States, and the people themselves, in the North as well as in the South.

RULES OF THE SENATE.

Mr. FOOT. I propose the following amendment to the rules of the Senate: To add to the 11th rule, and to constitute, as a part of that rule, the following words:

And all motions to take up any business for consideration, or to postpone any question pending before the Senate with a view to take up some other question indicated by the mover, shall be put to the Senate by the Chair, and shall be decided without debate.

This, of course, lies over one day for consideration.

Mr. PUGH. I should like to propose an amendment to the Senator, that he may incorporate it in his rule, of which I am in favor: it is, that all motions to print a document, or refer it to a standing committee, shall be likewise decided without debate. If he will not accept it, I give notice I shall offer that amendment.

Mr. FOOT. It lies over one day before it can be taken up.

INDIANA SENATORIAL ELECTION.

Mr. TRUMBULL. I ask that the Senate proceed to the consideration of the resolution reported by the Committee on the Judiciary, in regard to the seats of the Senators from Indiana. That matter, I suppose, is before the Senate on being called up by any Senator.

The VICE PRESIDENT. The Chair thinks the question which the Senator from Illinois has called up is a question of privilege; and that it is in the power of the Senate to make what disposition they may choose of it. The Chair thinks, as it is a question of privilege, it may be called up, as it has now been, by the Senator from Illinois; but the subject is under the control of the Senate.

Mr. TRUMBULL. The report, then, being before the Senate, I will state what I suppose to be the facts of the case.

Mr. PUGH. The Senator will permit me. Do I understand the Chair to say that the question is taken up at the instance of a Senator, or merely that it is in order to move to take it up?

The VICE PRESIDENT. It is the decision of the Chair that it is in order for the Senator to call it up as a question of privilege.

Mr. PUGH. Does it come up without a motion?

The VICE PRESIDENT. No, sir.

Mr. TRUMBULL. My motion to call it up, I understand, brings it before the Senate; and then the Senate can do whatever it pleases with it, as a matter of course. It being now before the Senate, called up on my motion, I suppose I have a right to state what the question is?

The VICE PRESIDENT. I suppose the Senator from Illinois moves to take up this matter as a question of privilege?

Mr. TRUMBULL. Yes, sir.

The VICE PRESIDENT. The Chair thinks that is the motion before the Senate.

Mr. COLLAMER. I will inquire whether the calling up of a question of privilege is not the bringing of it before the Senate without a vote; whether that does not place it before the Senate of itself? The Senate may postpone it, of course; but when it is called up, being a question of privilege, does it not stand before the Senate as a matter of course?

The VICE PRESIDENT. The Chair, upon reflection, considers—

Mr. PUGH. The Chair will pardon me for a moment, as I wanted to make the objection, if the Senator from Illinois had persevered in his proposition. I understand a question of privilege to be a question that any Senator may call for, but it is in the power of the Senate to say whether they will take it up; otherwise it is the privilege of one Senator to insist that a question shall be heard against all the rest of the Senate. I never heard before of such a question of privilege as that. I understand that it is in order to move to take up this subject, and that then it will have priority over every other subject, if the Senate choose to consider it; but I do not understand that one Senator has the right to insist that the Senate shall consider a subject against its will.

Mr. COLLAMER. There would be, if the gentleman's view were correct, no sort of difference between a question of privilege, or a privileged question, and any other question; because you can move to take up any question. To my mind, there is a distinction. It is privileged here—not that the Senate is obliged to consider it, because that is subject to their own order; they may fix a day for its consideration; they may postpone it; but it is not to be disposed of as an ordinary matter; that is, we are not to have the question put on a motion to take it up. It comes up without a motion, if any Senator requires that it shall. It may be a question when and how they will dispose of it: that is another matter.

Mr. BAYARD. I cannot doubt that any Sen-

ator has a right to call up a question of privilege without reference to other business; but after it is called up, it is in the disposition of the Senate like any other question. That has been our universal practice. We may postpone it if the exigency of the public business requires; we may lay it on the table. I gave, yesterday, the reasons why I supposed this case ought not now to be taken up until the Kansas message shall be referred, as it will give rise to debate. That is the basis on which I went. I think so still. I was somewhat misapprehended by Senators on the other side as regards the view which I took of the relative importance of the two questions. I admitted, unhesitatingly, that if I did not consider the reference of the Kansas message as an essential and vital question, I should not be disposed to give precedence to any other subject over this question of privilege. But I do consider a question which, in my judgment, involves the future of this Union, as of higher importance, by far, than the mere question of whether a Senator is, or is not, entitled, by regular election, to a seat on this floor, where he has presented his credentials and been admitted. I consider the Union of more importance. As I look at the reference of the Kansas message, it presents itself to me in this attitude: the debate which is going on is without any practical question before the Senate; it is debate on the merits of the admission of Kansas before it has been referred to a committee, or come practically before us for our action. It is a debate for the purpose of agitation, and agitation alone—agitation which I consider perilous to the Federal Union; and therefore, if I can, by staying here any length of time, or by waiving every other question, succeed in having that referred to the appropriate committee, in order that it may be brought properly before us, I, for one, am disposed to do so.

The VICE PRESIDENT. The Chair does not perceive any very essential difference between the views which are suggested on this point. It is in the power, as the Chair understands it, of any member to say that he rises to a question of privilege. If the Chair decides that it is a question of privilege, he calls the attention of the Senate to it, and the whole matter is under the control of that body. He will, therefore, state, that on the call of the Senator from Illinois, the report and resolution of the Committee on the Judiciary, being a question of privilege, come before the Senate.

Mr. TRUMBULL. It being before the Senate—

The VICE PRESIDENT. Will the Senator pause while the Secretary reads the resolution, and also the report, if desired by any Senator?

Mr. DOUGLAS. Will the Chair have the report read? I should like to hear it.

The Secretary read as follows:

The Committee on the Judiciary, to whom was referred the protest against the election of the Hon. GRAHAM N. FITCH and the Hon. JESSE D. BRIGHT, as Senators in Congress from the State of Indiana, report:

The committee find that the protests against the election of the Hon. GRAHAM N. FITCH, as a Senator in Congress from the State of Indiana, were referred to the Committee on the Judiciary on the 10th of February, 1857; and on the 26th of the same month a resolution was reported by the committee, authorizing testimony to be taken, both by the protesters and the sitting member. The resolution not being acted upon by the Senate at that session, from the pressure of other business, the protests were again referred to the committee on the 9th of March last, at the special session of the Senate, and the same resolution, with a slight amendment, reported by the committee on the 13th of the same month, which being taken up on the day it was reported, a debate ensued upon an amendment offered by the Hon. Mr. TRUMBULL, of Illinois, and the Senate having on the previous day resolved to adjourn, *sine die*, on the 14th of March, at one o'clock, the resolution reported by the committee was ordered to lie on the table.

The protests against the election of the Hon. JESSE D. BRIGHT, as well as against the election of the Hon. GRAHAM N. FITCH, having been referred at the present session, and the objections of the protesters and allegations of the sitting members being identical in both cases, the committee have adopted and recommended the passage of the resolution reported to the Senate by the committee at the special session on the 13th day of March last, with such variation as is requisite to make it apply to the cases of both the sitting members, as follows:

Resolved, That in the case of the contested election of the Hon. GRAHAM N. FITCH, and the Hon. JESSE D. BRIGHT, Senators returned and admitted to their seats from the State of Indiana, the sitting members, and all persons protesting against their election, or any of them, by themselves, or their agents or attorneys, be permitted to take testimony on the allegations of the protesters and the sitting members touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by

first giving ten days' notice of the time and place of such proceeding in some public gazette printed at Indianapolis.

Mr. HALE. Let the minority report be read also. It is very short.

The Secretary read the following report:

Views of the minority of the Committee on the Judiciary, to whom were referred the protests against the right of Graham N. Fitch and Jesse D. Bright to seats as Senators from the State of Indiana.

The Legislature of Indiana, called the General Assembly, is composed of a Senate of fifty members, and a House of Representatives of one hundred members, and two thirds of each house is, by the constitution, required to constitute a quorum thereof. Each House is declared to be judge of the election and qualification of its members, and required to keep a journal of its proceedings. No regulation exists by law in Indiana as to the manner in which members of the State Senate are to be inducted into office. No law or regulation is there existing providing the time, place, or manner of electing United States Senators.

It appears by the journal of the Senate of Indiana, that on the opening of the Senate at the meeting of the Legislature, January 8, 1857, forty-nine of the Senators were present, and that all the newly-elected members were duly sworn, took their seats, and continued thereafter to act with the other Senators till the close of the session. The only absentee Senator took his seat January 13, 1857. Protests were filed contesting the seats of three of the newly-elected members, which were afterwards examined and considered by the Senate, and they were each found and declared to be entitled to seats, respectively, by majorities more or less numerous, all which is entered upon and appears by the journal of said Senate.

The State constitution makes it the duty of the Speaker of the House of Representatives to open and publish the votes for Governor and Lieutenant Governor in the presence of both Houses of the General Assembly. No provision exists by the constitution making such meeting or presence of the two Houses a convention, or providing any officers therefor, or authorizing or empowering the same to transact any business whatever, except by joint vote, forthwith to proceed to elect a Governor or Lieutenant Governor in case of a tie vote.

Both Houses being in session, the Speaker notified them that he should proceed to open and publish the votes for Governor and Lieutenant Governor, on Monday, the 12th day of January, at half past two o'clock, p. m., in the Hall of the House. Shortly before the hour arrived the President of the Senate announced that he would proceed immediately to the Hall of the House of Representatives; and thereupon, together with such Senators as chose to go, being a minority of the whole number thereof, he repaired to the Hall of the House of Representatives, and there, in their presence, and in the presence of the members of the House, the votes for Governor and Lieutenant Governor were duly counted and published by the Speaker, and A. P. Willard, the then President of the Senate, was declared duly elected Governor, and A. A. Hammon, Lieutenant Governor, of said State.

At the close of this business, a Senator present, without any vote for that purpose, declared the meeting (by him then called a convention) adjourned to the 2d of February, 1857, at two o'clock.

The Senate, hearing of this proceeding, on the 29th day of January, 1857, as appears by its journal, passed a resolution protesting against the proceedings of said so-called convention, disclaiming all connection therewith, or recognition thereof, and protesting against any election of United States Senators or other officer thereby. On the 2d of February, 1857, the President of the Senate, with a minority of its members, again attended in the Hall of the House, and, without proceeding to any business, and without any vote, declared the meeting (by him called a convention) adjourned until the 4th day of February, 1857, at which time the President of the Senate, with twenty-four of its members, went to the Hall of the House of Representatives, and there they, together with sixty-two members of the House, proceeded to elect two Senators of the United States, to wit: GRAHAM N. FITCH and JESSE D. BRIGHT, they each receiving eighty-three votes, and no more, at their respective elections, twenty-three of which votes were by members of the Senate.

Against these elections so made, protests by twenty-seven members of the Senate of Indiana, and thirty-five members of the House of Representatives of said State, have been duly presented, alleging that, in the absence of any law, joint resolution, or regulation of any kind by the two Houses composing the Legislature of Indiana, providing for holding a joint convention, it is not competent for a minority of the members of the Senate, and a majority, but less than a quorum, of the members of the House of Representatives of said State, to assemble together and make an election of United States Senators.

Of the facts as herein stated there is no dispute, as we understand.

It is now alleged by the sitting Senators, respectively, as we understand the substance of their allegations, in contradiction of the Senate journal, that the three State Senators whose seats were contested were not legally elected and qualified; that they were without the expressly required credentials, the certificate of the proper and only returning officer; and that they were, notwithstanding, directed to be sworn in by a presiding officer chosen for the purpose by the members of the Senate designated as Republicans, for the clear purpose—illegal and fraudulent, in fact—of defeating an election of Senators of the United States.

Under these circumstances, we object to the adoption of the resolution for the taking of testimony to sustain these allegations, because the said election of United States Senators, so conducted, is obviously illegal and insufficient, and cannot be cured by any proof of these allegations; and we insist that the Senate should now proceed to a definite decision of the question.

J. COLLAMER.

L. TRUMBULL.

Mr. TRUMBULL. I suppose that before the Senate adopt the resolution reported by the ma-

majority of the Judiciary Committee, they would wish to understand what testimony it is that is to be taken, and the points about which it is to be taken. I know that it is exceedingly difficult to get the attention of Senators to a question of this character, and yet it is a question of very great importance, vital to the organization of this body, and vital to the preservation of the Constitution and the Union. I disagree entirely with the Senator from Delaware, [Mr. BAYARD,] who says that some other question is more important than that of the organization of the two Houses of Congress. I ask him how long he supposes this Government can last, if the two Houses of Congress are made up, not of representatives legally and properly elected, but of any persons who may think proper to intrude into these Halls? I do not say that here is an improper intrusion; I am replying to the remark of the Senator from Delaware, who says some other question is higher and of more importance than that of deciding who constitute the Congress of the United States. I say it is the most important question that can be called up at any time, to determine who constitute the rightful members of this body.

If I can get the attention of Senators for a few moments to a statement of the facts of this case, it seems to me that it can be speedily decided. The minority report presents in a concise form the facts, as we understand them, about which there is no controversy; I wish to put this question to each individual Senator: "Do you propose to vote for the resolution reported by the majority of this committee?" If you do, you have some reason for it. Will you be good enough, any one of you, to tell me what it is? I ask any Senator on this floor, why will you vote for the resolution to send to Indiana to take testimony? Can you tell me what it is about which you seek to take testimony? You have the reports before you, lying on your tables, and I challenge any one to show what it is that you ask to take testimony about. The resolution says, "on the allegations of the protestants, and the sitting members." The allegations of the protestants and the sitting members are not before you. The Committee on the Judiciary have not reported them to you. Is any Senator prepared to vote for a commission to take testimony to ascertain who are the members of this body, simply because it is asked, and upon allegations about which they know nothing? The chairman of the Judiciary Committee, who has brought in this report, has not thought proper to state what the allegations are, nor what the issue is between these parties?

The whole substance of this report is simply a history of the transactions which have taken place in the Senate, since the matter was first brought to its consideration, and shows that the question has been pending here nearly a year; that a question which should be the very first to be decided by a legislative body has been left undecided for almost a year, and during three different sessions of the Senate. It was here at the regular session of the last Congress. The Legislature of Indiana was then in session; and after protesting against the right of the individuals acting as Senators here to their seats, through one of its legislative bodies, they also sent on a petition asking the Senate of the United States to settle this question, for it was then pending as to one of the Senators, and it is admitted to be identical as to both, before the Legislature of Indiana adjourned, so that in case it should be settled adversely to the sitting members, the Legislature might proceed to make a valid election. But, sir, the Senate disregarded the petition, and although I struggled to get action on it, and it seems, struggled to such an extent as to subject myself, in the opinion of the Senator from Indiana, [Mr. BRIGHT,] to an undue pressing of the case, I was unable to procure the action of the Senate on that question.

A resolution was then introduced by the Judiciary Committee, recommending the taking of testimony, but the Senate declined acting on it either one way or the other. Now a similar resolution comes here, and, before it is adopted, all I would ask of Senators, is to look into the facts and see what it is about which testimony is sought to be taken. The facts being before the Senate in the minority report, let me ask, is it possible that any parol of testimony, can change or vary the state of facts as therein set forth.

A Senator of the United States, as we all know,

is elected by the Legislature of a State. In the language of the Constitution, "the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof." They can be elected in no other way. Have the Senators who present themselves here been elected by the Legislature of Indiana? That is the fact to be inquired into. They say they have. We say they have not. How shall we determine that fact? Is there any other possible way to ascertain it than by going to the records of the Legislature of Indiana, and seeing what they have done? We go to Indiana. We look into her constitution. We find that her constitution provides that her Legislature shall be composed of two branches, one called the Senate and the other the House of Representatives. We find that the Senate consists by law of fifty members, the House of Representatives of one hundred members. These are matters to be learned from reading the constitution and the statutes of Indiana. No parol proof can change them. We examine the statutes of Indiana and the constitution of Indiana, and we find there is no provision in either for the election of a United States Senator. The Constitution of the United States provides that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations except as to the place of choosing Senators."

Congress not having done so we must look to the Legislature of Indiana to see if it has prescribed a mode for the election of Senators. It is admitted by the sitting members, and not controverted anywhere, that no provision of law exists, and that the Legislature of Indiana never has made any provision for the election of Senators. Then how is it possible, by parol proof, to show that the persons claiming the seats are entitled to them? They must be elected by the Legislature. The Legislature has prescribed no mode by law. We ascertain that by looking into the law; no mode by joint resolution; we ascertain that by looking into the journals of the Senate and House of Representatives of the State of Indiana, which we have before us. The constitution of that State, like the constitution of most States, requires each House to keep a journal of its proceedings. The two Houses of Indiana kept such a journal, and those journals do not show any resolution, any joint action of the two Houses; or, I may say, any action of either House for going into an election of United States Senators. How, then, can it be possible that an election has taken place? We think this transaction cannot be varied by any testimony that may be offered. But how was the election effected? I suppose, from the facts, as set forth in the minority report, which is made up from the documents which were before the Committee on the Judiciary, every one can see how this election was effected. A majority of the members of one House, that is, sixty-two out of the one hundred members of the House of Representatives, and a minority of the members of the other House; twenty-four out of the fifty members of the Senate met together, and these eighty-six men—without any resolution of the Legislature authorizing them to meet together, without any action of either branch authorizing it—proceeded to make the election. Now, can such an election be good? If the Senate of the United States is prepared to assume that a minority of one House of a Legislature, and a majority of the other, can get together on their own mere motion, and elect a Senator, then the election of these Senators is valid, and it may be settled now. If they cannot do it, it is impossible to make it valid by any testimony which can be furnished.

The Judiciary Committee admit, by sending in this report, that the title to the seats of the Senators is not good unless they can make it good by parol evidence. They have decided, by submitting this report, that some sort of evidence is material to a decision of this case. I should like to know what that evidence is. What evidence can there be material to the decision of the right of a member of the Senate to his seat; what other evidence, I mean, than that furnished by the constitution and the laws of the State, and the action of the Legislature, as exhibited by its records which it is bound, under its constitution, to keep? There can be no other evidence, as I conceive; and, therefore, it is the duty of the Senate to proceed to de-

cide this case at once, it seems to me, without sending out a commission to take testimony which can have no effect on it.

I may imagine what is sought to be proven by parol; and if I were to imagine it, I should suppose an attempt is to be made to prove who constituted the Legislature of Indiana. Senators, are you prepared to go into that investigation? Are you prepared to go into an investigation of the title to seats of members in the State Legislatures of this Union? Will any one of you treat your States with such disrespect as to say that the Congress of the United States shall supervise the organization of your Legislatures? Are you prepared to do that? The Legislature of Indiana passed upon the title to seats of all its members. They were judges of the qualification and election of the members of their respective bodies, and from their decision there is no appeal. The Senate of the United States cannot revise that decision. It is no matter whether they were legally or illegally elected; it is enough that the proper House in Indiana determined that they were legally elected. That made their election legal, so far as their action was concerned. It matters not whether they did it fraudulently, or whether they did it rightly; we cannot investigate the motives by which they were governed in arriving at their conclusion.

What is it, then, that is sought to be proved? The committee have not informed the Senate what it is, and no man who votes for this resolution, with this report before him, can state what the point is upon which testimony is sought to be taken. We have endeavored in the minority report to show what we suppose is the point; that is, that some three State Senators were not legally elected and qualified; but that question, subsequent to the election of the sitting members here, was tried and passed upon by the Senate of Indiana. That body which met and set for some three months and published a journal of its proceedings of nearly a thousand pages, during the latter days of its session passed upon the contested seats, and by majorities varying from six to eight, decided that every Senator whose seat was contested, and who protests against the right of these members to their seats, was legally elected. Can you controvert that?

There is an allegation that they were illegally qualified. The journal of the Senate of Indiana states upon its face that they were duly qualified. Can you introduce testimony to controvert that fact? If not, for what purpose is this case to be delayed, except it be for a purpose which the Senator from Delaware has had the candor to avow, and I thank him for it—a purpose of settling by the votes of the Senators from Indiana some other question, before deciding on their title to seats. He assumes that they represent the public sentiment of Indiana. Whether that be so or not, I cannot tell. It certainly is a matter of very great question whether they represent the public sentiment of their own party to-day on this vital question threatening, as he tells us, the existence of the Union. At most, they represent but the sentiment of that party. They do not represent the hundreds of thousands of voters who are totally opposed to them, even if they represent a majority of their own party. But is that the test of the title to a seat in the Senate of the United States, whether the individual who comes here represents the popular feeling of his State, or not? Has it come to this, that this body is to be composed of men who come here with no other title than a claim not manifested by an election in the legal mode, to represent the popular feeling of their State? Why, sir, this assumption implies that it is better to have a misrepresentation of the State than no representation at all.

The Senator tells us that there will be no representatives from that State if the sitting members are denied their right to seats. Whether that will be so or not, I shall not now stop to inquire. It is enough for me to know that, if they are not entitled to seats, they ought not to occupy them; and if they are, the cloud which rests over their right should be dispelled, and they should occupy seats here undisputed. The Senate of Indiana, as a legislative body, has passed resolutions protesting against this action of a minority of its members. Twenty-seven Senators have signed a paper stating that they never have participated in this election, declaring it to be void, without the authority of law, without the concurrence of

the Senate; and asking you to determine whether persons who claim seats here without their concurrence shall be entitled to hold them. That is the question.

Now, why postpone this case, which has been delayed for nearly a year, until time can be given to send out a commission to take testimony, about you know not what? When is the testimony to be taken? The resolution is as illimitable in that respect as any other. They are to have authority to take testimony. When? Until their term expires, so far as the resolution goes. It contains no limitation; it is as unbounded as to time as it is in regard to the subject-matter about which the testimony is to be taken.

In the minority report, which I believe represents fairly the statements as they were before the committee, it is stated that certain members of the Senate of Indiana were sworn in by a presiding officer chosen for the purpose by the members of the Senate designated as Republicans. What of it? Had not the members of the Senate designated as Republicans a right to swear in members? Did the fact that they were Republican members of the Senate alter the right? I suppose not. It is not said that the Republican members were not a majority. I suppose if they were, they could control the proceedings.

But, sir, there is a pretense that a joint convention was authorized to be held by the constitution of Indiana. What are the facts about that? We need no commission to take testimony to inform us what the constitution of Indiana is. That constitution contains a single provision on the subject of the two Houses meeting together, and what do you suppose it is? Here it is:

"That the returns of every election for Governor and Lieutenant Governor shall be sealed up and transmitted to the seat of Government, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the General Assembly."

Does that authorize both Houses of the General Assembly which are convened to see that publication, or which may attend to see it, to elect a Senator? Can there be any pretense for such an authority? The Speaker of the House of Representatives of Indiana did publish the votes for Governor and Lieutenant Governor, I think, on the 12th of January, 1857; and after he had published those votes, and declared them in the presence of the House of Representatives and such members of the Senate as thought proper to attend, was not that assembly to witness this counting ended? Could anything further be done by that body? What was done? A Senator, without any authority whatever, steps upon the stand and says, I adjourn this convention until the 2d day of February. He had no authority for it. He called it a convention, but he had no more authority to call it a convention in order to adjourn it, than you had, sir; and none can be shown. On the 2d day of February a minority of the Senate and a majority of the House of Representatives met together, and the presiding officer of the Senate, the Lieutenant Governor, says, I adjourn this convention to a subsequent day—I think the 4th of February. On the 4th of February the same parties met again, a majority of the Senate still being in session, protesting against this action. A minority of the Senate then go in and unite with a majority, but less than a quorum, of the House of Representatives, for it takes two thirds of each body to make a quorum, and there they proceeded to elect two gentlemen as Senators to this body.

Can any man pretend that that is an election by the Legislature of Indiana; that this was a joint convention assembled according to the authority of the Legislature or the constitution of Indiana? Why, sir, it is as far from possessing the authority to elect Senators to this body, as would be an assemblage of eighty-six persons upon the avenue who should meet there to-day and undertake to elect Senators from the State of Indiana, or the State of Illinois, or any other State. It is utterly without authority; it was not the Legislature of Indiana. Tell me, sir, that less than a quorum of the House of Representatives, and less than half the Senate of Indiana, is a Legislature upon which the Constitution of the United States has devolved the high duty of electing members of this body; and you propose by parol evidence to show that it was a Legislature! The constitution and the laws of Indiana determine what its Legis-

lature shall be, and to them we may appeal from all your outside testimony.

For these considerations—and I wish not to detain the Senate longer than to make, if I can, a clear statement of this matter—it does seem to me that there can be no object in adopting the resolution reported by the committee. If I am correct in that, no Senator will vote for it who entertains that view, and it is our duty to proceed at once to the consideration of the right to seats, of the members whose seats are questioned, and determine it. I move, sir, to strike out of the resolution reported by the majority of the committee, all after the word "resolved," and insert,

That the Senate do now proceed to a final determination of the right to seats, of the Hon. GRAHAM N. FITCH, and the Hon. JESSE D. BRIGGS, claiming seats in this body.

Mr. BAYARD. Mr. President, the honorable Senator from Illinois may attach far less importance to the perpetuity of the Federal Union than I do. He may consider that that is a very trivial question compared with the disposition and determination of a contested seat on this floor. I do not agree with him. It may even be, for aught I know, that the honorable Senator from Illinois may consider such a consummation even a desirable event. There, too, I do not agree with him. I can conceive no evil of any kind as great and as wide-spread in its influence as the dissolution of the Federal Union. I can conceive no question equivalent in importance to the immediate disposition of one which brings that Union into hazard.

It is not my intention to enter into the assumed facts of the honorable Senator from Illinois, or to controvert his positions now for one moment. It will be time enough to do so when I consider that they properly come before the Senate. I do not mean even now to enter into the question of whether the resolution reported by the majority of the Committee on the Judiciary ought to be entertained, or the amendment offered by the honorable Senator from Illinois; because I consider the disposition by reference, of the message of the President in regard to Kansas, of too high importance to give precedence to any other question whatever. Without any practical question for action before us, in regard to that message, except the mere question of reference, which must inevitably come, there is a debate going on for the purpose of agitation, and agitation perilous to the Union. I desire to see that debate ended as soon as may be, and I think no other question should interfere to prevent it.

The honorable Senator from Illinois seems to have an extreme care over the interests of the State of Indiana, to take a peculiar interest in the welfare of the people of that State; and yet all the delay that has occurred in the disposition of this question can fairly be attributed to him. At the last session of Congress, the committee reported a resolution precisely similar to this, except that it applied to but one of the sitting members, instead of both. The pressure of business at the date of the report prevented its disposition. At the special session of the Senate, on the 12th of March, the Senate, having got through with its executive business, determined to adjourn on the 14th. On the 13th, when there could be nothing more done, and no evil could arise from the Senators from Indiana remaining in their places till the commencement of this session, the resolution was again reported by the Judiciary Committee. These facts I found when I became its chairman at this session; and on the motion of the honorable Senator from Illinois to amend that resolution leading to debate, knowing that the session was to be terminated on the succeeding day, of necessity the case went over, and that evidence which might have been acquired in the course of the vacation, the sitting members were precluded from obtaining. Can it be that the honorable Senator desires to deprive any member of this body of testimony which he deems important as affecting his right to a seat in this body? Can it be that there is anything in that testimony which may make developments awkward or unpleasant to any gentleman? Can it be that there is anything in that testimony which may show a very irregular interference on the part of the Representatives of one State for the purpose of disorganizing the Legislature of another State? Can such things be; or from what motive can it be, that the honorable Senator from Illinois prevented the taking of testimony by interposing an amendment which

was utterly useless, when, but for his interposition, we should have had all the facts before us at the commencement of this session; and now urges us to go on and decide this case without taking the same testimony, without regard to any other question whatever?

Mr. President the honorable Senator from Illinois has been pleased, no doubt unwillingly, to pervert very much a remark of mine made in the debate of yesterday. He speaks of my having avowed the purpose of settling the admission of Kansas by the votes of the Senators from Indiana. I avowed no such purpose. My position is reported in the debates of yesterday. Take it altogether, and to my mind it is apparent enough. I am willing to abide by it. I will not trouble the Senate now by any disquisition on that, further than to say that I made no such declaration as the Senator attributes to me; I referred to the fact that there was no contesting member, and endeavored by a collateral argument to show that it was not so important to deprive a State of her delegation in this body, where they came here with the *prima facie* evidence of title to their seats, and where, as a well-known fact outside of any proof, they certainly represented the public sentiment of Indiana, as that, in consideration of important questions, we might not postpone it with more propriety than if there had been a contesting member in the case. This is the substance of what I said.

Now, sir, I am perfectly willing, whenever it is the desire of the Senate, to have this question disposed of. As regards my own vote, however, I adhere to the position I took, that I considered the first subject which the Senate ought to dispose of, and I trust a majority of the Senators will concur with me, is the reference of the message of the President as to the Kansas constitution to its appropriate committee, in order that we may have that question brought before us at the earliest possible day. Until that reference is made I am indisposed to take up debatable questions. If there were to be no debate here, if it were a mere question whether the resolution should pass or not, without debate, I should not be disposed to interfere; but my honorable friend from Vermont, if he will allow me so to style him, differs with me as to the propriety of our resolution, and desires to discuss the question. I also do, and my colleagues on the Judiciary Committee entertain the same desire. Under these circumstances, for effecting the purpose I have in view—the disposition of the question which I think ought first to be disposed of—I move to lay these proceedings on the table.

Mr. TRUMBULL. Will the Senator from Delaware allow me to read what he did say yesterday, without comment, to show whether I misstated it or not?

Mr. BAYARD. Yes, sir.

Mr. TRUMBULL. I will read from the remarks of the Senator from Delaware yesterday on this subject, as reported in the Globe:

"I am perfectly aware that there are questions which must be decided by the Senate ultimately as to the legality of the election; but of the broad, general fact, which I can look at outside of that, that these Senators represent the public sentiment of the State of Indiana, I can entertain no doubt. Under these circumstances, when a question is to arise important to the destinies of this Union, why should not a sovereign State of the Union be represented, even though it be that it may turn out ultimately that the election was not in that form which the Constitution of the United States requires, and therefore invalid?"

Mr. BAYARD. It matters very little, of course, whether I have in the heat of debate used an expression broadly or not. I still say that the purpose attributed to me by the honorable Senator from Illinois, as charged by him, is not sustained by what he has read. His language was that I had avowed the purpose of retaining them here in order to settle the Kansas question. In the course of debate I simply stated exactly what is said there, as he has read it. I made use of it as a subsequent argument, that I did not consider it an objection that a sovereign State, where I knew her sentiments, stood in that position that we should be hurried to dispose of it, when we had important questions before us. Is that the avowal of a determination to keep them here for that purpose? Far from it; but that I did not consider it a reason for proceeding at once to the decision.

Besides, in order to understand a man's views in the course of debate, I rather think that all he has said ought to be taken together. It is very easy to quote a part of the context from any paper

or book whatever, and give to it a meaning from the looseness of the spoken language which would not otherwise be attributed to it when the whole sense is taken together; but I think that, even taking the mere extract which the honorable Senator has seen fit to read, he has not sustained his allegation, which he made to-day, that I had avowed that my object or purpose in delaying these proceedings was to enable these Senators to vote on this floor on the Kansas question. I renew the motion to lay the subject on the table.

Mr. TRUMBULL called for the yeas and nays on the motion; and they were ordered.

Mr. DOUGLAS. I wish to interpose no delay to a decision of the question which has been under discussion, of the right to seats on this floor. Considering its question of privilege, and that it is very important to decide it, I shall be ready to coöperate in deciding it at an early day; but I am unwilling to take up any question now to the exclusion of the reference of the President's message to the Committee on Territories, believing that it is important to have that reference at as early a day as practicable. I shall therefore vote against giving any subject priority over the question of reference.

The question being taken by yeas and nays, resulted—yeas 28, nays 18; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Broderick, Cameron, Clay, Davis, Douglas, Evans, Green, Gwin, Houston, Hunter, Iversen, Johnson of Tennessee, Jones, Kennedy, Mason, Polk, Pugh, Sebastian, Slidell, Stuart, Toombs, Wright, and Yulee—28.

NAYS—Messrs. Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—18.

So the report and resolution were ordered to lie on the table.

KANSAS—LECOMPTON CONSTITUTION.

Mr. DOUGLAS. I desire to offer a resolution, calling for information which will hasten our action on the Kansas question. I will read it for information; but if it gives rise to debate, of course it will go over:

Resolved, That the President be requested to furnish all the information within his possession or control on the following points:

1. The returns and votes for and against a convention at an election held in the Territory of Kansas, in October, 1856.
2. The census and registration of votes in the Territory of Kansas, under the provisions of the act of said Legislature, passed in February, 1857, providing for the election of delegates and assembling a convention to frame a constitution.
3. The returns of an election held in said Territory, on the 21st of December, 1857, under the schedule of the Lecompton constitution, upon the question of "constitution with slavery" or "constitution without slavery."
4. The returns of an election held in the Territory of Kansas, on the 4th day of January, 1858, under the authority of a law passed by the Legislature of said Territory, submitting the constitution formed by the Lecompton convention to a vote of the people for ratification or rejection.
5. The returns of the election held in said Territory, on the 4th day of January, 1858, under the schedule of the Lecompton constitution, for Governor and other State officers, and for members of the Legislature, specifying the names of each officer to whom a certificate of election has been accorded, and the number of votes cast and counted for each candidate, and distinguishing between the votes returned within the time and in the mode provided in said schedule, and those returned subsequently and in other modes, and stating whether at either of said elections any returns of votes were rejected in consequence of not having been returned in time, or to the right officer, or in proper form, or for any other cause, stating specifically for what cause.
6. All correspondence between any of the Executive Departments and Secretary or Governor Denver relating to Kansas affairs, and which has not been communicated to the Senate.

Resolved, That in the event all the information desired in the foregoing resolution is not now in the possession of the President, or of any of the Executive Departments, he be respectfully requested to give the proper orders and take the necessary steps to procure the same for the use of the Senate.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The Senator from Illinois asks the unanimous consent of the Senate for the consideration of these resolutions.

Mr. DOUGLAS. Of course, if objection is made, I shall waive it; but I must say I deem this information essential before we can proceed with the consideration of the subject.

Mr. SLIDELL. Let them lie over.

The PRESIDING OFFICER. It requires unanimous consent to consider the resolutions. If no member objects, they will be considered now.

Mr. SLIDELL. There is objection.

Mr. MASON. I object.

The PRESIDING OFFICER. Objection be-

ing made, the resolutions will lie over under the rules.

The Senate resumed the consideration of the motion of Mr. BIGLER to refer the message of the President, communicating the Lecompton constitution, to the Committee on Territories, the pending question being on the instructions proposed by Mr. WILSON.

Mr. BROWN. The Senator from Illinois, [Mr. DOUGLAS,] in opening the discussion on the Kansas question at this session, took the position that the President of the United States had committed a "fundamental error" in stating that the Lecompton convention was bound to submit the slavery clause to the people of Kansas, but was not bound to submit any other portion of the constitution. I am not going to discuss with the Senator the point whether this was a fundamental or a superficial error, and yet I think it was an error. I take the ground that the Lecompton convention was not bound to submit the whole constitution, or any part of it; and that the error into which the President fell was not that stated by the Senator from Illinois, but the one indicated by myself—to wit, in assuming that the convention was under obligation to refer any part of the constitution to the people. It might refer the whole, if it chose; it might refer any part, if it chose; or it might not refer either the whole or a part.

If this be not so, it seems to me that the whole doctrine of non-intervention passes for nothing. What, sir, lay down the broad principle that the people of the Territory are to regulate their domestic affairs in their own way, and then interpose your authority at every step—tell them what they shall and what they shall not do; that they must submit this clause of the constitution and that they need not submit others; or that they must submit the whole constitution, or that they shall not submit any part of it! I apprehend that the true doctrine is—not only upon sound original principles, but on the principles embodied in the Kansas bill itself—that you have no right to interpose your authority; but the people of Kansas, or the convention speaking for the people, might either submit the constitution or not, as they chose, or submit the whole of it or any part of it. This must be so if you leave them free to regulate their own affairs in their own way.

I think the President erred. I think he fell into an error in his instructions to Mr. Walker originally on the subject of submitting the constitution to the people. In the instructions he says:

"When such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence."

This, I think, was an error; yet it was not so grave an error as has been charged. Mark you, the President did not say to Governor Walker, as the Governor afterwards very adroitly assumed he had said, that "the constitution must be submitted;" "it shall be submitted;" or "it ought to be submitted." He authorized him to employ no such language, but he assumed that it was to be done as a matter of course. I should have preferred that the President had assumed no such thing; but rather that, in the language of the law itself, he should have left the people of the Territory perfectly free, either to submit it or not, without any suggestion from the executive power of this Government. But if you will scrutinize the language, it will be seen that there is a vast difference between that employed by the President and that attributed to him by those who choose to criticize his instructions. While I say that I think the President committed an error in this point, I must also declare that it was an error into which he might very easily have fallen; for the reason that there had been an assumption in the debates here on the Minnesota question that these constitutions must be submitted; and in the Minnesota case, Congress determined that it should be done. The President, therefore, might very easily have fallen into that error; and seeing that he did it, innocently, in all probability, and that it amounted to very little after he had fallen into it, I have never felt disposed to criticize his instructions to Mr. Walker. My criticism has always been on the manner in which the instructions were carried out. When the President assumed that the thing was to be done, Mr. Walker had no right to conclude that he had been ordered to have it

done. There is a great deal of difference between assuming that a thing is to be done as a matter of course, and ordering it by authority to be done, whether the people like to have it done or not.

The instructions to which the sentence I have quoted was a prelude, went to a different point. The instructions were—and strangely enough, the Republican Senators overlook them—that the election should be a fair one; that the Governor should, if necessary, use the military power of the Government to prevent disturbances at the polls. Assuming that the constitution was to be submitted, not directing that it should be done, the President gave the very proper direction that the election should be fair; and that, if the military power should be necessary, the Governor should employ it to prevent either fraud or violence at the polls. Overlooking these proper instructions, the President is constantly criticised as having given a specific instruction to do that which he assumed would be done without instruction, or without invitation.

If this constitution be rejected, the fact can never be disguised from the great American public that it owes its rejection solely and entirely to the slavery clause. Gentlemen may resort to all manner of sophistry; they may resort to all manner of argument; but still, at last, the broad fact stands out staring the world in the face, that the constitution is to be rejected because it tolerates slavery. It is true that the Senator from Michigan [Mr. STUART] and the Senator from Illinois [Mr. DOUGLAS] speak of what strike them as objectionable features in the constitution, with reference to banks, railroads, and schools, and all that; but will one of them get up now and say, "I would vote to reject the constitution solely on these grounds?"

Mr. DOUGLAS. I desire to respond to that interrogatory now. If the Lecompton constitution was a free-State constitution, I would vote to reject it. To show the Senator from Mississippi that he ought to have so inferred from my former action, I will remind him that my speech against it was made before the vote was taken on the 21st of December, on the slavery clause, and at a time when it was almost universally conceded that the pro-slavery clause was to be voted out; and that the constitution was to come here with a provision for "no slavery." My speech was made against it under the probability that Kansas under it was to be a free State. I took the ground then, that you had no more right to force a free-State constitution on the people against their will, than you had to force a slave-State constitution on them against their wishes. I now say to the Senator that my vote is given without any reference, directly or indirectly, to the slavery question. It is predicated on the great fact that a majority of that people are utterly opposed to this instrument as their fundamental law, and that you have no right to force it upon them either as a slave-State or a free-State constitution against their will. If they want a slave State, let them have it. I will give them every chance to express an opinion for a slave or a free State as they choose, and I will take them into the Union whichever way they decide that question.

Mr. STUART. I intimated yesterday my disinclination to interfere with the speech of the Senator from Mississippi, and stated that at the proper time I should take occasion to reply to all that he had said of me, in full; and I had hoped that the Senator would not find it necessary, in the further discussion of this question, to refer again to me. He has done it, however, and done it in such a manner that my silence might authorize him, and authorize his constituents, for whom, he informed us yesterday, he was speaking, to infer that I should have voted for the admission of Kansas with this constitution, if it had been a free-State constitution. Now, sir, I stated distinctly in my speech, and, if the Senator will take the trouble to look at it he will find it there, that it made no difference with me whether the constitution with slavery or the constitution without slavery were presented. And I stated then, show me that the constitution embodies the will of the people of that Territory, and I shall vote for it, whether I like its provisions or not; but, believing that this instrument is decidedly against the will and wishes of a large majority of that people, and being convinced that this is no longer a debatable point, but one which has been demonstrated by

that people at the polls, I stated that there was no power under the Constitution to admit them as a State. The Constitution, in my judgment, authorizes the admission of a State when requested by a majority of its people; but not the coercion of a State into the Union against a majority of its people.

Mr. BROWN. Neither of the Senators has answered my question. I was advertised before that they were resisting the admission of Kansas on the ground that her constitution was not acceptable to the people of Kansas; and yesterday I answered that objection, and shall probably have to repeat some of the arguments to-day: especially if this colloquy goes on. But the point to which I was calling the attention of the Senators was this: they have criticised the railroad policy, the banking policy, the school policy, and other features embodied in this constitution. Will they vote to reject the constitution on one or all of these grounds?

Mr. DOUGLAS. I will answer again that I should not vote to reject the constitution because I did not like its railroad policy; or because I did not like its revenue policy; or because I did not like its system of elective franchise; or because I did not like its slavery policy. I should not vote against it on any or all of these grounds; but I vote against it upon this ground: I do not care what provision the people of Kansas insert in their constitution on each, all, or any of these subjects. Whatever they want to put there they may have; but I vote against it because this constitution does not meet their will—because they are opposed to it. If they are opposed to it only because they do not like the elective franchise, you have no right to force it on them. You have no right—it is not your province—to judge of the sufficiency of their objection. So with the slavery question. My opposition, I repeat, has no connection with the slavery question. I stand on the principle that the people of Kansas have a right to make their own constitution, and have it embody their own will; and I will stand by that right, whether the result be to make Kansas a slave State or a free State, and any other motive attributed to me is unjust, and proven to be unjust by the fact that I denounced this as a fraud at a time when it was universally conceded here that the pro-slavery clause was to be stricken out. Mr. GREEN. You say "universally conceded." I say, no, sir.

Mr. DOUGLAS. Perhaps there may have been here and there an exception, but I made the objection at a time when the President of the United States told all his friends that he was perfectly sure the pro-slavery clause would be voted down. I did it at a time when all or nearly all the Senators on this floor supposed the pro-slavery clause would be stricken out. I assumed in my speech that it was to be returned out, and that the constitution was to come here with that article rejected. I made my speech against it therefore as a free-State constitution. The whole speech proceeded on that ground. Now I submit whether it is candid or just to intimate that my objection is on account of the slavery clause? I stand here prepared to prove, and intend to prove, that this constitution is not the act of the people of Kansas; that it does not embody their will, and that there is no lawful authority to put it in operation against their wishes.

Mr. BROWN. We have heard very often from the Senator from Illinois that his objection to the Lecompton constitution is chiefly and mainly that it is not the act of the people. When, however, I heard him elaborately criticise the banking policy, the railroad, school, and other policies indicated in the constitution, I took it for granted that they had made some lodgment on his mind. I was endeavoring to ascertain to what extent—whether to a sufficient extent to induce him to vote for a rejection of the constitution. I now understand him to say distinctly that he would not vote to reject the constitution on account of any policy of that sort, either bank, railroad, school, or any other.

Mr. DOUGLAS. Or slavery.

Mr. BROWN. Or slavery, or all combined.

Mr. DOUGLAS. All combined would not induce me to vote against it, provided it was the will of the people.

Mr. BROWN. Then I come to discuss the question with the Senator again, and very briefly

to recapitulate what I said yesterday on the point of this constitution being the act of the people. I said then, and now repeat, that unless it is the act of the people it is no constitution, and ought not to be accepted; but I have one mode of ascertaining what is the will of the people, and the Senator has another, and a different mode of ascertaining it. If the will of the people has been ascertained at the time and place, and in accordance with the mode appointed by law, that is all I require. If, as I undertook to show yesterday, the ballot-box was thrown wide open, a free and unrestricted invitation given to all men of all parties to come forward and vote, and the time was allowed to pass by, the opportunity to vote was suffered to go unimproved, those who did not vote cannot claim that they carried the election as against those who voted. I undertook to illustrate that idea by showing that, if in a congressional district on the day appointed by law, when the ballot-boxes are all opened, the judges, and superintendents, and clerks all there, but one third, nay, if but one tenth of all the votes are polled for a particular candidate, he is elected, and it is not competent for the other nine tenths to hold a mass meeting on the next day, and declare the election void. I said, yesterday, that I have two honored colleagues in the other House of Congress, who received at the election in Mississippi about two fifths of all the votes in their districts. They had no opponents. The opposition did not vote because voting would be fruitless. A large portion of their friends seeing that there was no contest, did not vote, and but a small vote was polled. I submit to Senators whether it would be competent for the other three fifths, who did not vote, to call a mass meeting, and declare that my venerable friend, General QUITMAN, was not elected a member of Congress, because he only got two fifths of the votes of his district. He got about five thousand votes out of some fourteen thousand. The remainder were presumed, as in all such cases, to have acquiesced in the result; but, whether they did or not, I take the ground that they could not hold an election the next day, and determine that General QUITMAN was not elected. When the time came, when the polls were opened at the right place, and the people had an opportunity to vote, if they did not do it, it was their own fault.

The Senator from Illinois says he agrees with me there. If he does, I ask whether, in the manner of submitting this constitution, all was not done which those who had taken part in the election required to be done? That takes us back to the election of delegates. I discussed yesterday, and do not care to repeat it all to-day, the question whether, in the matter of disregarding instructions, as was charged upon Mr. Calhoun and his associates, they had violated any public sentiment in the Territory to which they were in any wise amenable. I do not discuss the question whether they violated pledges or instructions or not; I simply say that there is no complaint from those who voted for them.

Mr. SPURGEON. If the Senator will allow me to interpose now, as I am about to go out, I will only say this: so far as I am concerned, I have no disposition to interrupt him, or raise any dispute with him at this time in regard to his effort to prove that this constitution is the will and the wish of the people of Kansas. I should not have interrupted him at all, if he had not indicated at least a design to charge me with an intention to vote against the constitution because it was now a pro-slavery constitution, when I otherwise would not have done so. That I thought was unfair, when I had entirely shut the door against that conclusion in the very speech I made. I desire to take as little of the time of the Senator as possible; and, therefore, shall say nothing further at present.

Mr. BROWN. I am sure I am very glad to hear the Senator say so; but unless he intended to control his vote by his speech, I really cannot see much use in making the speech. The greater portion of the Senator's speech was taken up with criticisms on the bank policy, the railroad policy, the land policy, and the school policy of Kansas. If he was not going to vote to reject the constitution on these grounds, I certainly do not see any reason for assigning them as objections to the constitution; however, our tastes differ on that subject.

On the point to which I was addressing myself a few moments ago, a friend has handed me a speech, pronounced by a very distinguished statesman of this country in 1843, which is so apposite that I will take the liberty, with the indulgence of the Senate, of having read one or two short paragraphs. It is a speech pronounced by Mr. Webster, and published on the 19th of February, 1843, in Niles's Register.

Mr. GREEN read, as follows:

"Is it not obvious enough that men cannot get together, and count themselves, and say they are so many hundreds and so many thousands, and judge of their own qualifications, and call themselves the people, and set up a government? Why, another set of men, for miles off, on the same day, with the same propriety, with as good qualifications and in as large numbers, may meet and set up a government for themselves—one may meet at Newport, and another at Chepachet, and both may call themselves the people. What is this but anarchy? What liberty is there here but a tumultuary, tempestuous, violent, stormy liberty—a sort of South American liberty, without power, except in spasms—a liberty supported by arms to-day, crushed by arms to-morrow. Is that our liberty?"

"This regular action of popular power, on the other hand, places upon public liberty the most beautiful face that ever adorned that angel form. All is regular and harmonious in its features, and gentle in its operation. The stream of public authority, under American liberty, running in this channel, has the strength of the Missouri, while its waters are as transparent as those of a crystal lake. It is powerful for good. It produces no tumult, no violence, and no wrong. Its well enough described in those lines of Sir Thomas Denman—it is a stream

"Though deep yet clear, though gentle yet not full,
Strong without rage, without overflowing full."

Mr. DOUGLAS. I endorse heartily every word there is in that beautiful passage from Mr. Webster's speech. I should like to know on what question it was made.

Mr. BROWN. On the Rhode Island question.

Mr. DOUGLAS. So I supposed.

Mr. SIMMONS. I thought so.

Mr. DOUGLAS. Then it was a speech against the right to change an existing constitution in opposition to the constituted government in existence, and is a beautiful authority against the right under the Lecompton constitution to change it in any mode except that authorized by the Constitution, and I am very much obliged to the Senator for having quoted it on this occasion.

Mr. BROWN. I quote the sentiment for what it says, that public opinion is to be ascertained under the forms of law, and not through mob meetings; I did not allude to the subject on which it was made, though that subject lies in the line of my speech, and I shall come to it by-and-by, if I can only be permitted to proceed without interruption.

Mr. DOUGLAS. I beg the Senator's pardon for interrupting him.

Mr. BROWN. Not at all.

Mr. DOUGLAS. I wish to state that I would not have interrupted him if he had not specially invited me. He said many things before in his speech to which I wished to reply; but I permitted them to pass in silence, because I did not wish to interrupt him. I will say to him now, while I am obliged to him for his courtesy, that I will not interrupt him any more.

Mr. BROWN. I have no objection to being interrupted on a point which I have reached in the progress of my speech; but bringing in outside matters, gentlemen must see, takes a Senator outside of the line of his argument, and when he comes to publish it, it makes it cumbersome and unwieldy.

When these interruptions were interposed, I was about commenting on the charge (and I am doing it for the second time in answer to the Senator's suggestion, because I feel it necessary to put it in juxtaposition with what he has said on the oft-repeated charge) that the delegates to the convention disregarded the instructions and will of their constituents. I said yesterday, I say again to-day, that there is no charge coming up from those who supported Mr. Calhoun and his associates, that their will has been violated. Those persons in Kansas who are denounced by the Senator from Illinois, by Governor Walker, and by those who have watched their course and conduct most critically, as traitors to the country, and who did not take any part in the elections, now come forward and complain that the delegates, not chosen by themselves, and at elections in which they took no part, have not fulfilled their pledges.

I undertake to say, as I said yesterday, as a Democratic Senator, that I am responsible on party questions to the Democratic sentiment of

my State, and to no other sentiment; and if I stand to-day under a pledge to my party to do a particular thing, and to-morrow they hold meetings and absolve me from the obligation to redeem the pledge, then I am free, and no one else has the right to complain. Sir, it is a pretty business if the enemy may force a man to redeem pledges to his own friends, when his friends do not want the pledges redeemed. Now, I undertake to say that Mr. Calhoun and his associates were released in public meetings, by their friends, from any real or supposed obligations to redeem their pledges, and they never have complained. The complaint comes from a different quarter. It comes from men who are in open rebellion against the government there; who refused to take any part in the election; who trampled the authority of Congress under foot, and could only be kept down by the presence of an armed soldiery in their midst. I simply protest that they have no right to make complaints. If they have not, and if the constitution was made in accordance with the will of those who triumphed in the election, and was submitted so far as they required that it should be submitted, who else has a right to complain? I shall not go over all these points again.

Mr. President, if Congress has the right to reject this whole constitution, has it not a right to reject any part of it? Does not the major proposition include the minor? If you have the right to reject the constitution for any other reason than that reserved in the Constitution of the United States, to wit, that it is not republican, where are you to stop? If you reject the whole, cannot you simply reject the pro-slavery clause, or the bank clause, or the railroad clause, or anything else that may be objectionable to you? If you can, what becomes of the doctrine of non-intervention—this boasted doctrine that the people may form and regulate their domestic institutions in their own way, subject only—not, mark you, to your authority; subject not to the authority of Congress or the President; but subject only to the authority of the Constitution of the United States—that Constitution which affixes but one condition, that the constitution of the State asking admission shall be republican in form.

I have asked what becomes of the doctrine of non-intervention? and I would ask, again, what becomes of this boasted doctrine that the people are to be allowed, in the name of popular sovereignty, to regulate their domestic affairs in their own way, if you are to interpose at every point to tell them what they shall do and what they shall not do, and not only what they shall do, but when and how they shall do it? It is well known that I have very little respect for the doctrine of "popular sovereignty." I always regarded it as a catch-word of politicians. I always believed that it would lead to mischief. It has led to mischief. What gives you your disturbance in Utah to-day but this clap-trap about popular sovereignty? You told Brigham Young and his deluded followers that they were popular sovereigns: that they had the right to do as they pleased; and they very naturally inquired, "if we have, by what authority do you assume to appoint a Governor to rule us, judges to expound our laws, and marshals and sheriffs to execute them. We are popular sovereigns; these things belong to us." The President told them that they were popular sovereigns; the Secretary of State told them so; all the great men in the land told them so; and all the little ones, too, except myself and one or two others. They believed it, and because they believed it and acted on their convictions, you are going to do—what? Send an army there to shoot them, every one. I am not interposing any apology for Brigham. I think he was a great fool ever to believe politicians, but I would not shoot him because he is a fool. I simply say that his course is a legitimate and fair consequence from the doctrines which you gave him. You told him that he and his people were sovereigns of the land, and he acted like a sovereign. He will not give up the office of Governor to the President or anybody else, and he has turned your judges out of the Territory. The same doctrine prevails in Kansas. Jim Lane and his followers think that they are popular sovereigns; that they have a right to do as they please; to overturn the lawful government if they are in a majority, and do it without going through the forms of law; that they have nothing to do but call a mass meeting at Topeka, resolve that they

are a majority, then act on their resolves, and overturn the government. It is a very convenient way of solving a difficulty, I grant you; something like the old resolves in New England, when the people resolved that the earth and the fullness thereof was the Lord's and his saints, and then they resolved that they were the saints of the Lord; and so took possession of the land.

I said to the Senator from Illinois, a short time ago, that the Rhode Island matter lay in the course of my remarks, and that I would come to it presently. I will take it up here. The difficulty as to the Rhode Island case, I apprehend, was that by the election laws of that State, a very large portion of the people were disfranchised; that is, they were not allowed to vote. They had property and other qualifications there which disfranchised a large portion of the people. These who were disfranchised, together with their friends who had the right to vote, had a majority; but of the voting population, a majority was opposed to changing the constitution. They appealed and appealed again for the privilege of voting, so as to show that the whole adult population of the State would change the constitution if the privilege was given them; but the Legislature refused.

Mr. SIMMONS. If it is of any consequence at all to have the facts in the argument, I will tell the Senator he is mistaken about the facts.

Mr. BROWN. Very well.

Mr. SIMMONS. If it is of no consequence I will not interrupt the Senator.

Mr. BROWN. If I am mistaken in the facts as far as I have gone, of course I wish to be corrected.

Mr. SIMMONS. I stated the facts the other day, in the little allusion I had occasion to make to them. At the time those meetings were being held and before they began to be held, the government of Rhode Island had authorized a convention for the purpose of framing a constitution with the view of altering this matter; but in order to prevent that or to prevent another party from having the credit of it, these people began to roast oxen and have the sort of meetings which I described the other day. These are the facts, if they are of any consequence.

Mr. BROWN. Of course I shall make no point with the Senator from Rhode Island as to the facts of that controversy. I was only stating them briefly as I understood them, by way of showing the ground for the position I was going to take; but I can do it as well without a recapitulation of the facts of that case. It is sufficient for me that the Dorr party in Rhode Island undertook to change the constitution of the State, or to make a new constitution, without going through the forms of law, and without legal sanction; and Mr. Webster, on that proposition, whatever may have been the precise facts of the case, pronounced the speech which has been read here to-day. Now, if the doctrine of popular sovereignty is to prevail, law or no law, then Dorr was right, because he and his friends constituted, as I understand, a majority of all the people, though they were not a majority of the voters of Rhode Island. If they could have voted, I dare say they would have appealed to the ballot-box. I always understood that to be the fact. Very many of them, as I said before, had the privilege of voting, but many of them had not. I do not pretend to say that Dorr did right. I think he did very wrong. I never sympathized with his movements, but I thought his party were an oppressed party. That was my opinion; but I saw only one way of changing the organic law or laws of any kind, and that was to do it in the mode pointed out by the law—through the peaceful agency of the ballot-box; and anything else is revolution.

But if the popular-sovereignty doctrine is to prevail, Dorr was right if he had the majority on his side. If he had the majority on his side, he had the right to control the government, law or no law, precisely as Brigham Young is trying to control the Government of Utah, law or no law; precisely as Lane and his Topeka followers are undertaking to control Kansas, law or no law. They claim to be the majority, and it was to that point I wished to invite the attention of the Senator from Illinois. It was to the point that these movements in Kansas were without sanction of any binding or valid law; that the law, so far as the constitution was concerned, had fulfilled its

entire mission when the election was held and the votes returned, and by no subsequent act of the Legislature could the constitution thus formed be overturned, and much less could it be done through the agency of mass meetings or popular clamor. Therefore it was that I said to the Senator that I choose to gather public opinion through the agencies appointed by law, through the ballot-box, and at the time and in the manner prescribed by the statutes. The Lecompton constitution has been adopted, if that be the rule. If, on the other hand, we are to take the Dorr rule, or the Brigham Young rule, or the Jim Lane rule, and appeal to the masses without law, then it may be that the constitution has not been adopted.

I have said, and I repeat, that the Senator from Illinois brought forward the Kansas bill originally, and he, of all men, is called upon to make the greatest sacrifice to sustain it according to the letter of the law as drafted by himself. Whatever other men might do, it does not lie in the mouth of the Senator from Illinois to avoid the force of the contract by any resort to special pleading. He, at least, ought to give it a fair and full and liberal construction, and mete out to us all that it gives, knowing, as he does, that his Democratic friends at the South accepted it with extreme reluctance. There is more than one Senator in my eye who will bear me witness that I voted for his bill with extreme reluctance. I had seen how compromises had been construed away before; how compacts, into which we had entered, had been kept with Punic faith, and I was slow to go into it. I went for it as much because I thought I was following a gallant leader who, come what might, would adhere to the law, and see that we had justice under it, as for any other reason; but when, as I think, he abandons it, my feeling of regret for ever having gone for it, is greatly quickened. For a long time I thought the Senator did mean to give us the Kansas-Nebraska law in its purity. I recollect that when Senators on the other side first raised the cry against the fraudulent Territorial Legislature, as they termed it—first denounced it as a bogus Legislature, forced on Kansas by the people of Missouri—with what indignation the Senator from Illinois rose to repel the charge; how stoutly he stood up for the legitimacy of that Legislature; how he hurled the firebrands back into the teeth of gentlemen. Still they make these charges; still they make it as the ground work of all their speeches, that the Legislature was a bogus Legislature. The junior Senator from Illinois, [Mr. TRUMBULL,] in commencing his speech on this subject the other day, laid the foundation of it in the charge that this was a fraudulent and bogus Legislature; that the laws which it had passed were no laws at all; and the charge yesterday was reiterated with greater earnestness by the Senator from Massachusetts. Why was not the Senator from Illinois [Mr. DOUGLAS] then as quick as in days gone by to rise and repel these charges against this Legislature? He had reported to Congress, he had time and again spoken to us, he had satisfied me at least, that it was as fair a Legislature as ever was chosen, and as much entitled to make laws.

The principles of the Kansas bill were carried into the Cincinnati platform. There again they received the cordial approbation of the Senator from Illinois. It was never until this constitution had been formed, and was upon the eve of being sent to us, (for nothing was to be gone through with but the mere form of an election before the people on the slavery clause,) that we heard the first complaint from the Senator from Illinois, [Mr. DOUGLAS.] Then it was that he interposed objection; and I beg leave to say to the honorable Senator that while I accept as true all he has said to-day, still I think the facts justify me, and justify his southern friends, in believing that slavery has something to do with resistance even on his part. Mark you, I do not charge that it is so, because the Senator denies it, and what an honorable Senator asserts I will not deny where I have no proof; and I can have none in a case of this sort. I only state the facts as reasons for my own conclusions.

The Senator complains, and has complained heretofore—perhaps it was not exactly a complaint, but he has said—that there was a disposition among some of his Democratic brethren to read him out of the party. I have no such disposition. I should part with him with extreme regret. I am sure there is not a Democrat in all

the land who would not make any reasonable sacrifice to secure the fidelity of the Senator, not only on this question, but on all other questions. But, Mr. President, this is a vital question; it is a question of vast magnitude; and even at the risk of being lectured again by the venerable Senator from Kentucky, [Mr. CRITTENDEN,] for whose judgment I have the profoundest regard on this and all other subjects, I will venture again to suggest that there are wrapt up in the destinies of this question the perpetuity of the Union itself. How do parties stand on this question? The National Democrats, North and South, are for the admission of Kansas, with here and there an exception. The President is at our head, backed by a united Cabinet. The Democratic presses throughout all the country thunder in our ears that a bill for that purpose ought to pass. Mass meetings being held in New York, Charleston, New Orleans, North and South, almost everywhere, urging the passage of it. Legislatures resolve in favor of its being passed—the whole party, in a word, North and South, is sustaining the measure, and the whole sectional Republican party on the other side opposing it. Sir, the spectacle which you have in this Senate is seen all over the country—the great mass of the Democratic party is on the one side, and the great mass of the Republican party on the other. The American party, what little there is of it, I believe is somewhat divided. It is a pity, too, for there is hardly enough of it to divide. [Laughter.]

Well, sir, this being the state and magnitude of the question—a question which involves the integrity of the Democratic party certainly, and which involves, in all probability, the perpetuity of the Union, the Democratic party standing arrayed on one side, and the Republican party on the other—where is the Senator from Illinois? Is he on the Democratic side? Does he stand where he stood three years ago? Are his consultations with us? No, sir, he stands on this question with the Republican members. On this vital question—vital to the integrity and to the perpetuity of the party; vital, as I believe before God and angels, to the safety of the Union itself—the Senator from Illinois has taken sides with the Republicans against the Democrats. If he is out of the party, it is not because he has been turned out, but because he has voluntarily walked out.

Mr. President, the constitution of Kansas is here, and, but for this debate, it would probably have been reported from the committee, and we should be called on, each and all and every one of us, to vote either to accept or reject it. I shall vote for its acceptance. I should vote for it just as freely if it were an anti-slavery constitution. If there was a total want of any word, sign, or syllable in it, from the beginning to the end, looking to the protection of slave property; nay, sir, if there were a total prohibition against slavery, I would vote for it. Why? Because that was the compact into which the Senator from Illinois invited me, and into which I entered. I vote for it; I think he ought to do so; but if he will not, let it be otherwise.

Now as to whether the people of Kansas are to live under this constitution after it is made: they are to live under it just so long as they choose; but when they choose to throw it off and make a new constitution and go to work according to the forms of law as it is written, they have the right to do it, in my opinion, without the slightest regard to anything that may be inside or outside of the constitution. I understand that the constitution secures the universal exercise of the elective franchise in the State of Kansas, that all men are allowed to vote. The Senator has told us to-day—he has told us with equal emphasis on other occasions—that a vast majority of the people of Kansas are opposed to this constitution. If they are, let them manifest that opposition in some legal form. When the election comes on for Governor and members of the Legislature, if they have not already secured those officers, let them secure them; let a new convention be called; let the constitution be changed; let it be made a free constitution as you call it, and I have not one word to say against it here or elsewhere. Let it be so.

Mr. PUGH. Will the Senator allow me to ask him a question at this point?

Mr. BROWN. Certainly.

Mr. PUGH. I wish to ask the Senator whether

he admits the right to amend this constitution as well previous to 1864 as subsequently?

Mr. BROWN. I do. I would not care if it had declared on every page of it that it should be unalterable. I believe that the right to alter, and amend, and abolish forms of government is inherent in the people. All I demand is that the right shall be exercised under the forms of law, and not through mob violence—not in the mode of Dorr, and Brigham Young, and Jim Lane; but in the orderly, peaceable, and quiet mode in which constitutions have been changed in other States—New York, Massachusetts, Ohio, and everywhere else.

Mr. PUGH. I did not interrupt the Senator to make a controversy with him. I fully agree with him on the point; but I only wished to ascertain his opinion.

Mr. TRUMBULL. Will the Senator from Mississippi allow me to ask him a question?

Mr. BROWN. Certainly.

Mr. TRUMBULL. I understand him to say that he believes the people may change the constitution before 1864, provided they do it according to the forms of law.

Mr. BROWN. Exactly.

Mr. TRUMBULL. I wish now to ask him if any law passed by the Legislature contravening that provision of the Lecompton constitution would have any force whatever? Would not that be in violation of the law, and would not every court be bound so to hold.

Mr. BROWN. I did not expect to be asked to point out to the Republicans precisely how they could change the constitution; but still, if they ask me I will tell them. They can do it precisely in this way: if they have not already secured the Governor and Legislature, which I believe is a disputed question, and have that four fifths or nineteen twentieths about which the Senator from Illinois is constantly talking, if they have that strength, when the next election comes on, just go to the polls like peaceable, orderly, quiet citizens, and exercise the right of voting, elect a Legislature, and elect a Governor. Then let your Legislature, being instructed as they would be by your people, that they wanted to change the constitution, appoint a day, not when they (the Legislature) will change it, or when they will remodel it, or do anything with it, but when the people themselves can elect a convention which shall change it. The Legislature has no power to change a line, word, or syllable in the constitution; but the Legislature can appoint a day when the people may assemble, and under the forms of law elect a convention, which convention can change the constitution, even against the words of the constitution itself. I say again, when it shall be done I will defend it here and elsewhere, all over the land. I will stand by the President, who has already announced to the country that the constitution may be changed in this mode.

Gentlemen, you try to fan the flames of discord in the North in this wise: you say to your people there—some Senator stated it the other day, and I do not know but that it was the Senator from New Hampshire [Mr. HALE]—he is always saying something out of the way [laughter]—that whenever your friends undertake to change the constitution, party lines will be drawn, the party lash will be applied, you will be declared to be in the wrong, and the Army will be sent to put you down. Sent by whom? Has not James Buchanan already announced to you in the message we are now discussing, that you have the right to make the change? Have you ever heard a southern man, in position here or elsewhere, declare that you had not the right to do it? Then why say the party lash will be applied and armies sent to put you down in Kansas?

Gentlemen, I am respectful towards my brother Senators. I dare say you believe what you say, but you do make the greatest sacrifice of common sense to your candor that I have ever heard from any set of sensible men, when you profess to believe that the President of the nation would deliberately, in the face of his pledge to the contrary, send an army to prevent that very thing being done which he himself declares in his message can be done. If you have the power, exercise it. If you have the votes, put them in the ballot-box; take possession of the government, and God knows you are welcome to it; but so long as I have a tongue to speak or an arm to strike, you

shall take possession neither of that government nor of any other through mass meetings held at Lawrence, Topeka, or anywhere else. Do it through the peaceable agency of the ballot-box, and I am content. Attempt it by any other agency, and I will stand by the President in sending an army to crush out your rebellion.

We have heard a great deal said in the course of this debate about apprehension of civil war, and bloodshed, and dissolving the union, and all that. Sir, there is a sovereign remedy for all such apprehended evils. Obey the law, respect the Constitution, fulfill your contracts, and there will be no civil war; there will be no bloodshed; there will be no dissolution of the Union. Fulfill all your obligations to the laws and the Constitution and to the contracts between the sections of the Union on the subject of slavery, and all other subjects, and I guaranty that your Union will stand for ever. Trample upon these obligations, and soon your Union will pass away as "the baseless fabric of a vision." In the future I see the Union standing upon pillars as firm as the eternal rock of ages; but I see it only through those paths which lead to the law, the Constitution, and the fulfillment of obligations: In a different direction I see it a dissolving Union; I see the stars of our galaxy being blotted out, and the sun of our glory running away as it were in rivulets of blood; and all this is seen over the traces of violated laws, prostrate constitutions, disregarded compacts.

Let me say, Mr. President, to the Senator from Illinois, that on him rests a fearful responsibility. He is the author of this measure. He has stood by it until he has brought it to its present condition. He sees a whole united South arrayed on the one side, and he has thrown himself into the northern scale. Does he mean to array a whole united North against a whole united South? If this result shall ever be accomplished, it will be done, in my opinion, over laws violated, constitutions trampled under foot, and compacts flagrantly outraged. I will not be responsible for the consequences when this state of things shall be brought about. Let not the Senator from Illinois suppose that I have meant to assail him; that I have meant to join in any cry against him. Let him not suppose that I am pursuing him with any of the instincts of a bloodhound. Heaven knows I would to-day much rather embrace him as a friend than regard him for a solitary instant as an enemy. He knows how much I have loved him in the past. He knows with what fidelity I have followed his flag, and with what joy I have witnessed the rising star of his glory. But it is not in the name of these that I would appeal to the honorable Senator. We have a country, a common country, a country dear to him and to me; to you, sir; to one and to all of us. That country is in peril. The hearts of stout men begin to quail. Thousands and hundreds of thousands of our people believe that the Union is even now rocking beneath our feet. The Senator has it in his power to put a stop to all this agitation. If he will but say to the angry waves, "Peace, be still," calmness will settle on the great deep of public sentiment. Whether he thinks so or not, he is the very life and soul of this agitation. If he stood now where he stood at the passage of this bill, with his Democratic friends, supporting the strong arm of a President who dares to do his duty in defiance of all danger, there would not have been a ripple on the surface, or if there had been, it would have subsided and died away in the great ocean of oblivion where other ripples have gone, and we should almost without an effort introduce Kansas into the Union. Sir, the Senator from Illinois gives life, he gives vitality, he gives energy, he lends the aid of his mighty genius and his powerful will to the Opposition on this question. If ruin come upon the country, he, more than any other and all other men, will be to blame for it. If freedom shall be lost—if the Union shall fail—if the rights of man shall perish on earth—if desolation shall spread her mantle over this our glorious country—let not the Senator ask who is the author of all this, lest expiring Liberty, with a death-rattle in her throat, shall answer to him as Nathan answered David, "Thou art the man."

Mr. HALE. I do not intend to occupy the time of the Senate more than a few minutes; but if the honorable Senator from Mississippi will give me his ear, as he thinks I am always saying things out of the way, I want to put a question, so that I

may be able to keep in the way hereafter. I wish to ask him whether or not, if the constitution of Kansas, or any other State, comes here correct in all its forms, so far as paper and ink are concerned, it is competent for the Senate or Congress to look behind the forms to facts that are not patent upon the papers which are presented? That is the simple question I wish to ask, and I believe it is pertinent to the train of argument in which the Senator has been indulging. If a State comes here applying for admission with everything, so far as paper and ink are concerned, so far as is shown on the face of the papers, all correct, and it is contended and admitted that there has been a fraud, is it competent for Congress to look behind and beyond the returns, to that fraud, on the question of admission?

Mr. BROWN. Unquestionably, if it is a clear and palpable case of fraud. If one man, for instance, should to-day make out a constitution for Nebraska, or make out a constitution for Oregon, and should present it here, and the charge should be distinctly made, it would be competent to inquire whether it was not a fraud of that sort. Unquestionably it would.

Mr. HALE. I do not wish to be left in doubt. The Senator says it would be competent to inquire, if the fraud were clear and palpable. A thing that is clear and palpable, exists on the face of the papers. My question is not as to a patent fraud that is palpable on the face of the paper; but where the allegation is that there is fraud behind the paper, and though the figures are well enough. It is said that "figures cannot lie;" but it is forgotten that those who make them can. My question is, whether the paper and figures, being right, yet there being a suggestion that there is a fraud behind—not patent, not palpable—in that case the Senate can go behind it? That is the question.

Mr. BROWN. I am not prepared to answer a question which has such latitude as that. I dare say a case could be supposed where I should say they could; but I think they should proceed behind the presentation of the constitution with exceeding caution, and never to the point of inquiring into the validity of an election. I do not think that proper. The convention must necessarily be the judge of the qualification and election of its own members; and, except in a case of very extreme and outrageous fraud, palpable and clear, we ought not to go behind that. I am not prepared to say that, in such a case, you cannot inquire into such an election; but an ordinary inquiry into the validity of an election, I hold is beyond our power.

Mr. HALE. I am satisfied.

Mr. WILSON. Mr. President, the Senator from Mississippi has told the Senate and the country that he loves old wine better than old speeches. The Senator and myself differ in our tastes. I love old truths better than old wine. I was led to suppose, from the declarations of the Senator, that we were to have nothing old, stale, or threadbare in his speech; that we were to have something original, fresh, racy, brilliant—something that was to thrill the Senate, charm the galleries, electrify the nation, and carry the Senator's name all over the country to receive the admiration and applause of the people. I have listened to his speech, to his declarations, to his assertions, to his iteration of old errors oft refuted in this Chamber and in the other. There is one declaration, however, which seems to me to have something of originality about it. He told us that he did not expect to make any converts on this side of the Chamber. This avowal of his expectations brings to mind a couplet of Pope's, that we should

"In every work regard the writer's end,
For none can compass more than they intend."

After listening to the Senator's long and labored speech, I am sure we shall all admit that he has not, in this case, compassed more than he intended. The Senator could hardly expect to win any converts on this side of the Chamber to his principles or to his sentiments by logic so often refuted, or by the iteration of palpable historical facts.

The Senator assured us that he approved of the President's message, but that he did not expect us on this side of the Chamber to approve it. I did expect him to approve it, and I am not disappointed; for the message is a complete and absolute public surrender by the President of the United States to the principles, the doctrines, the

policy, and the sentiments of the slaveholding propagandists of this country—of men who are now, and have been during the past, pursuing a policy looking to the ultimate triumph of the slaveholding interest in this country, or the dissolution of this Republic and the establishment of a southern confederacy based on military principles.

The Senator supposed that we would not indorse these doctrines because we were sectionalists—we were the sectional Republican party! Sir, what principle have we avowed that is not incorporated into the Declaration of Independence, the Constitution of the United States, and the grand old ordinance of 1787, which received the sanction of the framers of the Constitution, and the great national men of the Republic? What policy have we avowed that has not received the sanction of Washington, of Jefferson, and of the great men of this country, North and South? I say to-day that we have not avowed a principle, declared a policy, or pronounced a sentiment, here or in the country, that has not received the sanction of the mightiest men of this Republic from 1775 up to within the last few years. We have declared everywhere that freedom is national; that the doctrines of human rights underlie our free democratic institutions; that all our institutions grow out of the absolute recognition of the equal rights of all men. We have maintained that in the Territories under the national authority, under the protecting folds of the national flag, freedom and free institutions for all men go where the flag of the Republic goes. We have acknowledged that the system of slavery is nothing but a municipal institution, founded on State law, and limited to State lines. This was the doctrine of all the fathers of the Republic—of all the great statesmen who have associated their names with the liberty, honor, and renown of the Republic.

These are national doctrines. Standing upon these ideas, we have not assumed to control the slaveholding States of this Union; we have recognized State rights, but we have claimed authority to save the Territories of this Republic forever to free men and to free institutions. Do you call this sectional? If it was sectional, Washington, Jefferson, Madison, and Monroe—all the great men of the past, were sectionalists. This charge of sectionalism comes with an ill grace especially from the Senator from Mississippi. Eight years ago, in the other House, when California had framed a constitution that had received the sanction of her whole people, and organized a State government, and came here and asked for admission, the Senator from Mississippi took the floor, and resisted her admission, because it would disturb the equilibrium between the free and slave States of this Union!

Mr. BROWN. I have no objection to the Senator's stating his position, but I do object to his giving my reasons for it. I would rather do that myself. I did object to the admission of California into the Union, and I did it because her constitution was not formed through any legal agency proceeding from Congress or anywhere else, because the convention which made the constitution was assembled upon the motion of a military Governor, not authorized to exercise over the country even civil control. He appointed the time, place, and manner of holding the election. I thought it an irregularity so gross as not to be overlooked. I thought that was very much like the Dorr case, or the Brigham Young case.

Mr. WILSON. I will call the Senator's attention to one of his old speeches; and I commend him to the study of old speeches, especially his own old speeches. I like my old speeches because I always intend they shall be so sound in principle, correct in sentiment, and accurate in fact, that I can refer to them with safety. In the speech before me, the Senator from Mississippi, while he opposed the admission of California on the grounds he now states, opposed it also avowedly on the ground that it would destroy the balance between the free and the slave States. This doctrine of the balance between the North and the South came from the brain of Mr. John C. Calhoun. There is nothing national in it. It is a sectional idea, proclaimed in support of a sectional interest, and a sectional institution. A balance between the North and the South! A balance between the seventeen millions of northern freemen and the seven millions of southern freemen! A balance between

the minority and majority of the country! The whole doctrine is anti-democratic, is local, is sectional in all its aspects, and should be scouted from this Chamber and from this country, as at war with our republican institutions and our republican ideas. But, sir, about the old speech of the Senator from Mississippi, and I commend him to the reading of his old speeches. He said:

"What, Mr. Chairman, is to be the effect of admitting California into the Union as a State? Independent, sir, of all the objections I have been pointing out, it will effectually unbalance that sectional balance which has so long and happily existed between the two ends of the Union, and at once give to the North that dangerous preponderance in the Senate, which ambitious politicians have so earnestly desired. The admission of one such State as California opens the way for, and renders easy, the admission of another. The President already prompts New Mexico to a like course. The two will reach out their hands to a third, and they to a fourth, fifth, and sixth. Thus precedent follows precedent with a locomotive velocity and power, until the North has the two thirds required to change the Constitution. WHEN THIS IS DONE THE CONSTITUTION WILL BE CHANGED. That public opinion, to which Senator SEWARD so significantly alludes, will be seen, and its power will be felt—universal emancipation will become your rallying cry."

"My own opinion is this: that we should resist the introduction of California as a State, and resist it successfully; resist it by our votes first, and lastly by other means. We can, at least, force an adjournment without her admission. This being done, we are safe. The southern States, in convention at Nashville, will devise means for vindicating their rights."

That disunion convention, which met, as Mr. Webster said, over the grave of Andrew Jackson, were to settle it. The Senator who taunts me with being actuated by a sectional spirit, would throw California out of Congress, and appeal to the sectional, disunion Nashville convention.

"I do not know what these means will be, but I know what they may be, and with propriety and safety. They may be to carry slaves into all of southern California, the property of sovereign States, and there hold them, as we have a right to do so; and if molested, defend them, as is both our right and duty."

"We ask you to give us our rights by NON-INTERVENTION; if you refuse, I am for taking them by ARMED OCCUPATION."

Yes, sir, the Senator then was for keeping California out of the Union, going to a disunion sectional convention, and sending slaves to populate California, and defending them by force if the people there objected!

Now the Senator says that I and those who act with me are sectionalists. I have referred to our principles and our policy, and I appeal to the Senators on the other side of this Chamber to say if the Senators on this side, from the time they came here to this hour, have not, in all our legislation connected with the affairs of this country, looked over this broad land and given our votes for your interests, for the interests of the South, as much as we have given them for the interests of the North? Senators know it. The records of the country prove it; and they contain, too, their confessions and admissions that it is so.

But the Senator from Mississippi says our policy tends to build up two great interests in the country; that we are to have a united North and a united South, and that that is to lead to a dissolution of the Union. The Senator makes professions of devotion to the Union. In the very speech from which I have before quoted, the Senator says that—

"Our people have been calculating the value of the Union. I tell you candidly we have calculated the value of the Union. 'Love for the Union will not keep us in the Union.'"

The whole tone, temper, and sentiment look not to the support of the Union as our fathers made it, but to the triumph of a sectional southern policy, to the expansion of slavery, or to the ultimate overthrow of the Government of this country.

I think there will soon be a general union in the North, as there is now in the South. We are fast coming to it; and let me tell the Senators on the Administration side of this Chamber, that if they consummate, if they support—whether they succeed or fail—the bringing of Kansas into the Union under the Lecompton constitution, with a knowledge of all these monstrous frauds scattered over the land, comprehended by the whole country, they will do more to unite all honest, liberty-loving, God-fearing men in the North than has been accomplished by any act ever adopted by this Government. Your Kansas-Nebraska policy of 1854 shivered to atoms that great Whig party which had battled, sometimes successfully, for power here, under the lead of some of the most

accomplished statesmen of the country. Another party sprang up—the American party. It paused, it faltered, and it went down under the general judgment of the people of the free States. The Republican party rose in one year from a few thousand men, and gave at the last presidential election one million three hundred and forty thousand votes. It came much nearer than you wished taking the control of this Government—of this country.

The opinions they entertain, the policy they avow, the sentiments which swell their bosoms, are deepening and spreading all over this land. Those opinions and sentiments will unite the northern people. They will spread over the slave line as they have done, for they have gone into Missouri; they have brought into the other House one of the ablest and most accomplished members of that body from the southern State of Missouri. Sir, they are to pass over southern lines. These sentiments and opinions cannot be hemmed in by lines of latitude or of longitude. They will yet be adopted by fair-minded and honorable men everywhere, who love their country, who love justice and liberty; and whenever anybody shall raise the black flag of slavery and disunion in the South, he will find, leaping from the ranks of the people, thousands of patriotic men who will stand by this Government and defend it.

The Senator from Mississippi tells us that the first troubles in Kansas grew out of the formation of the Emigrant Aid Society. That society, he tells us, came from a secret congressional organization. The Senator is mistaken in his facts. The secret congressional circular to which he refers was issued in the summer days, after the passage of the Kansas-Nebraska bill. The bill incorporating the Emigrant Aid Society, was introduced into the Legislature of Massachusetts in March, 1854—more than sixty days before your Kansas-Nebraska act passed. It passed the Legislature of the State, and received the sanction of the Governor, in April, forty days before the Kansas-Nebraska act passed Congress. Instead of this secret circular being the father of the emigration movement, you might turn it around the other way, and say the emigration movement created this secret congressional movement. The Senator is mistaken in this assertion. I commend him to the study of old facts.

Then the Senator dwells on the fact that the Emigrant Aid Company was incorporated with a capital of \$5,000,000, only \$20,000 of which could be used in the State. Does not the Senator know that the Emigrant Aid Society was never organized under that act at all? No organization under it took place, but the corporators went to the next Legislature and got a new charter with a capital of \$1,000,000. That \$1,000,000 of capital is mostly on paper. The company have a capital of \$110,000 paid in, and it has been invested mostly in mills and churches and school-houses and lands. They never, from the days of their organization to this hour, sent a man into the Territory of Kansas—not one; no sir, not one to vote. They have sent no arms into the Territory; theirs has been a mission of peaceful industry. I tell the Senator here now, that this company organized emigration; that it reduced the expenses of going there thirty or forty per cent.; and that is all it did. They have never asked whether a man was for or against slavery. The first company that went to that Territory got there on the 9th day of August, 1854. It was a company of thirty men with Mr. Thayer, who originated the movement. They sent during the autumn of 1854, or rather a few hundred persons availed themselves of this organization to go to that Territory, as emigrants, to live there.

The Senator from Mississippi tells us that the Senator from Illinois [Mr. Douglas] charged that they committed misdeeds on going there. We denied it then. He did not prove it. Those who make charges of that kind against men are bound to prove those charges true. These men are presumed to be innocent until they are shown to be guilty. I say there is no evidence before this country that any man who went there under the auspices of the Emigrant Aid Society, ever performed any illegal act on his way there or in that Territory. They were as law-abiding, upright, conscientious men as can be found in any part of New England or of this country. They were the picked men of New England. Those emigrants

who went out under the auspices of that Emigrant Aid Society averaged better than the people who remained at home. They were the intelligent, upright, law-abiding young men of Massachusetts and of New England. From the time they went there to this moment, you can find no record, in or out of the Territory, that they have violated laws of the United States—that they have ever committed any offense, or ever been arrested or punished for any offense. They stand before the country as those old Pilgrim Fathers stood, who landed at Plymouth in 1620, and they are animated and guided by as elevated motives, and as lofty aims and purposes.

But the Senator from Mississippi would have us understand that those irregularities which transpired in that Territory in regard to the election of 1855 were brought on by these men. Does not the Senator from Mississippi know, (or if he does not know it, he ought to know,) that the House of Representatives sent a commission to that Territory; that they went there; that they thoroughly investigated the whole subject; that they examined the names of the two thousand nine hundred voters residing in the Territory; that they found how many of those men voted; that they saw the names of four thousand nine hundred men who went there from Missouri; that there is no mistake about these Missourians voting on the 30th of March, 1855; that this fact is as clear as mathematical demonstration? Senators may smile; but this fact has been proved, absolutely proved, and no man can deny it. This fact is also proved: that from the closing of navigation, in the autumn of 1854, up to the day of election, on March 30, 1855, there went into that Territory but one hundred and sixty-six men, women, and children, under the auspices of the Emigrant Aid Society. Ninety-seven of these were men, and thirty-seven only of all of them voted at that election. Thirty-seven men, under the auspices of the Emigrant Aid Society, voted on that day. From the time of the organization of that society up to this hour, no men have gone out under its auspices to vote. Those persons went to that Territory as emigrants, and not for the purpose of voting.

The Senator from Mississippi seems to think there was nothing very wrong in the election of the 30th of March. Why, sir, it has been proved that only fourteen hundred actual residents of the Territory voted, and over seven hundred of them voted for free-State men, and that the free-State men had a majority in sixteen out of eighteen districts of the actual voters that day. Even the town of Lawrence gave eight or nine hundred votes! They were cast mostly by the slave-State men who went there from Missouri. There were but two or three slave-State men in that city; one was the postmaster, but he could not go for these crimes, and the Administration found it out and turned him out of office. These facts stand on the records; they have been proved to the country. They were first denied, then apologized for. These frauds did take place, and they vitiated everything in that Territory from that time to this; and they have been the prolific source of all the strifes which have marked the history of the Territory.

The free-State men, overborne by this invasion, felt that their rights had been taken from them, that they were outraged, and they saw that a government was organized which put them all under the ban—a government that required a test-oath. They saw a government organized by fraud, and sustained by force—they saw they had no power, that they were as absolutely powerless as were the people of the tyrant of Naples. The doctrines of the fathers had taught them that the people were the source of power; that, in the language of Alexander Hamilton, "the streams of power came from the pure, original fountain of the people." They believed in your Kansas-Nebraska act, and I suppose they were the only people in America who had any abiding faith in it; for it appears that the Senator from Mississippi and most of his associates, have none, and I do not know anybody on this side of the Chamber that was ever deceived about that act. They, by an act of original inherent sovereignty, called a convention; they framed a constitution; they had it indorsed; they have been denounced as rebels for that act, and for passing laws enough to keep up the organization, so that if they were ever driven to it they might use that organization to defend

their lives, their liberty, and their property. They have never attempted to enforce one of those laws, and yet the Senator from Mississippi denounces their acts as rebellion! Rebellion! Why, sir, did Michigan rebel in 1836? Did not her people establish a government? Did they not drive out, or rather turn out, by the expression of the popular will, the Governor sent there by Andrew Jackson? Did not Andrew Jackson sustain them? And did not James Buchanan, in this Chamber, defend them? Did he call it rebellion then? The State of California formed a constitution without authority. Were they rebels? Minnesota has framed a constitution with your leave. She is framing laws under this constitution, before her admission into the Union. Are her people rebels? This charge of rebellion against the people of Kansas has nothing of truth in it. It is a libel, a slander, come from what source it may.

The Senator tells us that the people ordered this constitutional convention. The first Legislature chosen by the men from Missouri passed a law that in October, 1856, the sense of the people should be taken. In October, 1856, a vote was taken, and about two thousand men voted on that occasion—two thousand three hundred, says the Senator from New York. On the day on which that vote was taken, laws were on the statute-book requiring a test oath, an oath to support the fugitive slave law, and no freeman could vote. Do you suppose liberty-loving, God-fearing men would take that infamous oath? Then every ballot-box was in the hands of men appointed by this Territorial Legislature. The people had been to the polls once, and they met an armed invasion; they were cheated, overborne, and defrauded. Laws had been passed requiring a test oath to be taken, and taxes to be paid, and the votes were to be given into the hands of men who had cheated and robbed them of their rights. Of course, the people of the Territory did not vote. They would have been craven spirits if they had.

Then, Mr. President, the Legislature assembled in January, 1857, and they passed an act calling a convention. If Senators will examine this act they will find that it was intended to cut off the spring emigration into the Territory. They knew they had possession of the government, and that they could control the Territory, and shape its future. They refused to provide for the submission of the constitution to the people; and Governor Geary tells us that, when he said to these men, "I will sign this bill if you will submit the constitution to the people," they said they had been advised by their southern friends not to submit it to the people, because, if they did not, it would secure Kansas as a slave State.

Who were to take the census? Who were to register the voters? The officials appointed under this territorial bogus Legislature—yes, sir, bogus in every sense—were to take the census and register the voters. Governor Stanton and Governor Walker tell us that in nineteen counties no census was taken, and in fifteen counties no registration. There was a paper read the other day, headed by Henry Clay Pate, undertaking to get over the force of that charge. I have examined this paper signed by Henry Clay Pate, and in eleven lines there are twelve absolute lies; and the law book of the Territory shows it. Do not Senators know that in some of these counties there was a large population, that they gave more votes at the October election than were given for the election of delegates to the constitutional convention in June?

The Senator from Mississippi thinks this cannot be true, and he quotes the appeals of Governor Walker when he first went into the Territory against Governor Walker after he had spent months in the Territory. He went there as Saul went to Tarsus—he did not understand the affairs of that Territory. Mr. Stanton is frank enough in the admirable address he has just published to the people of the United States—an address marked by truth, by candor, and by everything that should win for him the respect of fair-minded men—to declare that when he went to that Territory he did not understand its affairs. The honorable Senator from Mississippi would display more fairness if he would quote to us the words of Governor Walker after months of residence in the Territory had made him familiar with the condition of affairs. The time and conditions fixed

upon by the Legislature were intended to cut off the population that would pour into the Territory from March to the third Monday of June. The machinery and the carrying into effect the whole arrangement, were intended expressly to take possession of that Territory and make it a slave State.

Mr. PUGH. Will the Senator allow me to make a suggestion?

Mr. WILSON. Certainly.

Mr. PUGH. I understand the Senator complains of the convention act of 1857, because it was designed to cut off the spring emigration of that year. Am I right in that?

Mr. WILSON. Yes, sir.

Mr. PUGH. Then why does the Senator complain that the spring emigration of 1855 voted? It is as long as it is broad.

Mr. WILSON. I will state the difference. This act provided for taking the census; and I think it was to be closed in March or April. Then the names were to be placed in the hands of officials, who were to make up the registration. This was to be done early in May; a residence of six months was required to entitle a man to vote. It cut off the thousands who went there as actual residents in March, April, May, and the first three weeks of June—men who were to cast their fortunes in that Territory. The four thousand nine hundred men who went over from Missouri in 1855, went back the next day; marched back with banners and music; they were not, and did not intend to be residents. That is the difference. I hope the Senator from Ohio sees it. I complain that the men who go there to live are cut off. I do not complain that the men who go there to vote should be cut off, whether they go from the North or the South.

The Senator from Mississippi quotes Governor Walker as saying on the 27th of July, that there was no longer any fear of invasion from Missouri, and the people could vote.

Why, sir, they were called to vote for delegates on the third Monday in June, and this letter was written on the 27th of July. The Senator from Mississippi ought to be a little more accurate in his facts, and I commend him to the study of old speeches, to listen to old speeches with patience, until he is better posted in his facts.

This letter has reference to the October election, to the election of the Legislature under the Territorial laws, and not the election of delegates to the convention. The people voted in October, because in their 9th of June convention, before the delegates were elected, the people assembled in the largest convention ever held in Kansas; they discussed the questions connected with the interests of that Territory for two days, and voted with only one exception to go into the October election. They voted to elect their officers under the Topeka constitution in the first week of August. They did elect officers under the Topeka constitution, and they went into the territorial election in October, and carried that election.

But the Senator from Mississippi has great doubts about frauds. Does he not know that the people were nearly being cheated out of their Legislature? If Governor Walker had not assumed the responsibility of throwing out some fraudulent votes, the people who triumphed by five thousand majority, who cast nine thousand votes against four thousand for the pro-slavery candidate for Congress, would have been cheated out of the Legislature. The frauds at Kickapoo, at Oxford, and in McGee county, if allowed to pass uncorrected, would have lost them the Legislature. Governor Walker saw that these frauds were so great that he must reject them, and he did reject the McGee and the Oxford frauds.

Mr. FESSENDEN. He rejected them for informality.

Mr. WILSON. He rejected them, as the Senator from Maine suggests, for informality; but he went down to Oxford and found "six houses" and only a few people there. He found that over fifteen hundred fraudulent votes had been returned, and he threw out the returns.

In answer to questions of the Senator from New Hampshire, the Senator from Mississippi said there might be occasion to go behind the instrument, and investigate the frauds. Now what are the charges? That there were frauds in the elections of the 21st of December and 4th of January everybody knows. The convention which framed

the Lecompton constitution was elected in June. It met and adjourned to a period after the October election. When they saw that the Territory was taken possession of by the free-State men, they changed their tactics. It is true, meetings were got up, asking Calhoun and his associates not to submit the constitution to the people. Calhoun and those men had pledged themselves to do it. On the demand of the President, on the promise of Governor Walker, and the declarations of the Washington Union, they had promised the people of Kansas that they would submit the constitution to the people. They provided for its submission in such a way that Governor Walker could not correct frauds as he had done in the case of Oxford and McGee county, and so that Calhoun could have the matter in his hands—a man who would not only permit the frauds, but, if necessary, make the frauds himself. He was just the man to do it; for God never allowed to walk the green earth any man who more richly deserves to die a traitor's death, and leave a traitor's name, than John Calhoun.

Mr. GREEN. Say it to his face.

Mr. WILSON. I have said it here, and it goes on the record. I have no fear of the tools of border ruffianism in Washington or in Kansas. I am able to take care of myself. I will try to do so, at any rate. Sir, this John Calhoun has cheated and defrauded the people of Kansas out of their sacred rights. He has committed a crime against the liberties of the people which will associate his name with tyranny and tyrants while the history of Kansas shall be read and remembered by mankind.

The Senator from Mississippi justifies the refusal to submit the constitution. Why, sir, it has been the policy to ascertain the popular will. These men knew that if they submitted the constitution to the people it would be voted down, four or five to one. The President says they would have voted it down because they did not like it. What business was it to John Calhoun, or to that convention, or to the President of the United States, whether the people of Kansas would vote down the constitution or not? That was their business. It does not belong to the President or his Cabinet to pronounce on their motives for doing it. It is an insult to a free people to talk to them in this language, whether it comes from the executive mansion or that class of men who formed the convention that assembled in Kansas.

The vote was taken on that provision of the constitution, whether Kansas should be a slave State with the slave trade, or whether Kansas should be a slave State without the slave trade. That was the whole of it. Kansas was to be a slave State anyhow. In order to make it a slave State without the slave trade, the voter had to vote for the constitution. No one could vote against it. It was one of the most stupendous insults to a free people that a body of usurpers ever offered. They took their votes. They have returned six thousand seven hundred votes at that election—thirteen hundred down at this little township of Oxford. The town of Kickapoo gave nearly eleven hundred votes—a town that cannot have legally more than four hundred voters. Four or five towns make up three thousand fraudulent votes given on that day. No man who knows anything of Kansas believes that there were more than twenty-five hundred, at the utmost, legal votes given in Kansas on that constitution. The Legislature have sent a commission to Kickapoo to examine into the frauds.

The St. Louis Republican publishes a letter in regard to this investigation; and I wish to call the attention of Senators to it, especially the Senator from Missouri. The St. Louis Democrat makes an abstract of this correspondence:

"On the original poll-book of the vote on the constitution, December 21, 1857, which book is now on file in the county recorder's office in Leavenworth, it was discovered that James Buchanan, President of the United States, cast the two hundred and seventieth vote."

Mr. SEWARD. What day was that?

Mr. WILSON. On the 21st of December.

Mr. GREEN. For or against slavery?

Mr. WILSON. "For the constitution with slavery," of course. The Senator need give himself no anxiety what vote James Buchanan would give in Kansas or out of it. I wish the President would go to Kansas. He has sent out his Governors there; and they went as men sent out of

old to curse the people, and they come back blessing the people. If the President was there a few weeks he would become a wiser and better man. Instead of denouncing these people as rebels, I think he would come back and say that he found a people loving liberty, law, and order, who had been oppressed by a class of corrupt and unprincipled officials.

"Next on the list of distinguished names appears, as the two hundred and seventy-sixth voter, William H. Seward of New York." [Laughter.]

They do not say how William H. Seward voted on that day, but we all know how William H. Seward would have voted if he had been there.

"323d. Thos. F. Marshall, of Kentucky. 714th. George W. Brown, Editor Herald of Freedom. Then, 859th. John C. Fremont." [Laughter.]

Mr. GREEN. How did he vote?

Mr. WILSON. It does not tell how any of them voted except Buchanan.

"Then comes the eight hundred and seventy-sixth voter, J. W. Denver, Governor of Kansas, who had only taken his place the day before, and was then in Leecompton, fifty miles distant. Thomas H. Benton appears as the nine hundred and fiftieth voter. And now it was dark, the polls being kept open till half past six o'clock, when, alas! for frail humanity, for the compunctious visitings of conscience, in slips Horace Greeley, [laughter,] and stealthily deposits his ballot as the nine hundred and eightieth voter. It is now half past six o'clock, and the curtain rises on the last act of the drama, and in steps, in all his majestic proportions, Edwin Forrest, as the one thousand and twenty-sixth voter. This is Mr. Forrest's first appearance on a Kansas stage."

Mr. PUGH. What is that you are reading?

Mr. WILSON. It is an abstract of the correspondence of the St. Louis Republican.

Mr. PUGH. What is the paper you have in your hand?

Mr. WILSON. The St. Louis Democrat.

"It is further stated by the correspondent that 'one of the Kickapoo judges who was before the commission refused to answer the question whether a majority of the names on the poll-books were fictitious or not, for fear of criminating himself.'"

I do not vouch for the correctness of these statements.

Now, are not Senators prepared to adopt the amendment I have proposed, or the resolution proposed by the Senator from Illinois, and examine these charges before they hurry this State into the Union against the manifest hostility of the people?

At the 4th of January election, Delaware Crossing gave, it is said, forty-three votes. These votes had not got in when Governor Denver, and Mr. Deitzler, and Mr. Babcock, counted the votes. It now turns out that the returns have come in from that Crossing where forty-three votes were given, and they have returned three hundred and seventy-nine majority for the slave ticket, and that ticket is elected by that vote, being eight representatives from Leavenworth district and three councilors, making a change of six in the Council and sixteen in the House, changing the whole political complexion of the State.

The frauds in Kansas are patent to the whole country; nobody doubts them. There is not an intelligent man in America who doubts them. When these charges have gone over this country, why is it that the President of the United States, against the protests of some of the ablest and best men of his party, in this body and in the other House; against the voice of the press of his party in the Northwest; against the intelligence that comes flashing over the wires and by mail, by presses, and by letters from all quarters of the Union, sends in this message misrepresenting, misstating the affairs in Kansas, and pressing its prompt admission? Why is it that Senators—honorable men—men who ought to scorn to do a mean thing—also press it? Why is it that this is pressed, to be hurried through, and this act consummated, when we know that, on the 4th of January, twelve or thirteen thousand men of that Territory voted against this constitution, and there were only six thousand seven hundred votes cast for it on December 21, of which three or four thousand were unquestionably fraudulent. I say there is only one power on this continent that could thus control, direct, and guide men, and that is that gigantic slave power which holds this Administration in the hollow of its hand, that guides and directs the Democratic party, and which has only to stamp its foot, and the men who wield the Government of this country tremble and submit and bow to its will.

Senators talk about the dangers of the coun-

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try. Great God! What are our dangers? The danger is that there is such a power, a local, sectional power, that can control this Government, can ride over justice, ride over a wronged people, consummate glaring and outrageous frauds, and override and trample down the will of a brave and free people. That is the danger. The time has come when the freemen of this country, looking to liberty, to popular right, to justice, to all sections of the country, should overthrow this power and trample it under their feet forever. The time has come when the people should rise in the majesty of conscious power, and hurl from office and from places of influence the men who thus bow to this tyranny.

Senators are anxious about the Union. The Senator from Delaware [Mr. BAYARD] to-day thought it was in peril. Well, sir, I have no alarm about it. I am in the Union; my State is in the Union; we intend to stay in it. If anybody wants to go out, there are Mexico, and Central America, and the valley of the Amazon, all open to emigration; let them start. I shall do nothing to keep them in the Union. But all this continent now in the Union is American soil, and a part of my country; and my vote and my influence, now and forever, will be given to keep it a part of my country.

Mr. GREEN. Mr. President, there has been no disposition on this side of the Senate Chamber to force this question in any manner whatever. The motion now pending is a motion to refer it to the appropriate committee, there to be investigated and reported back to the Senate for their future consideration. Why the charge should be made that there is an attempt to force Kansas into the Union, is to me most extraordinary indeed. That question has not yet come up; that question is not yet before us; no single individual has yet said that that is the question pending for consideration. I could have raised a point of order on the Senator from Massachusetts and kept out one of his old speeches, for I believe we have a rule of the Senate which says that no Senator shall speak more than once on the same question, until all other Senators present have spoken. He has, however, favored us with two of his old speeches. I thank him for them. I find no complaint whatever with them—they are just about such as I had expected; without replying to them, for I do not intend to do so, I must be permitted to make a single remark, that I shall never make use of my immunity as a Senator to utter slanders against citizens of the United States outside of this Chamber.

I hope this discussion will stop until the subject be referred, and the facts evolved. Let them all come out. What right has any man to charge fraud without giving any evidence of it? He who makes a charge of fraud without being prepared with the evidence to substantiate it, is guilty of calumny and slander; and if he does not give the evidence, still stands as a slanderer before the country. Whenever I make a charge in this Chamber, I shall be prepared with the facts to substantiate the charge I make. I may have an opinion smothered up in my own bosom until the evidence comes that will justify me to give it utterance; but until that evidence does come, if I dare make the accusation, I am nothing but a calumniator and a slanderer before the country.

Mr. FESSENDEN. I should like to ask the Senator a question—whether it is the design of the committee to take testimony in relation to all the charges which have been made in reference to these frauds, and examine into them before they make a report?

Mr. GREEN. If the Senator asks the question, and will take his seat, I will answer him.

Mr. FESSENDEN. I have asked the question, and now I take my seat.

Mr. GREEN. Now I will answer. Until it is referred to us I shall not undertake to speak for the committee; but I can say that we will undertake to do justice to the whole subject; and more than that, we will undertake to be guided by any directions the Senate may see proper to give us. This is my answer. If a more explicit or more

full answer be desired, I will still give that. I have heard, day after day, and kept my seat in silence, with all the harassed feelings that a son of Missouri must necessarily be expected to feel, these imputations thrown out against Missourians when I knew they were false, and when the men making them dare not pretend to substantiate them before the country; but I stand in the defense on the negative. He who makes an affirmative charge is guilty of slander, if he does not sustain it. He who makes it, and throws it broadcast before the country without giving the grounds on which he dares to make it, is equally guilty, because the country is not prepared to justify the accusation. Let the facts be investigated. We are begging for an investigation. We are proposing that the matter shall be referred to the appropriate committee, there to be investigated. Instead of that, we are charged with undertaking to force Kansas into the Union, right or wrong.

Such is not the object; and if, when the facts are developed; if, when the scrutiny of this committee has been applied to them, they do not believe that the rules of law, of justice, and of constitutional government, will justify the admission of the State, it will be, so far as I am concerned at least, reported against; but I do not deem it proper to sit silent in my seat while these unjust charges are made; while these broad assertions are repeated again and again, that the people of Kansas do not desire admission into the Union, when Senators have no right to make any such assertion, or present any such charge. Who are the people of Kansas, in a governmental sense? The women and children? No. The Indians who inhabit the Territory, and who are not incorporated in the civil society there? No. Who, then, are the people of Kansas? The loyal, obedient subjects; the citizens who acknowledge and who owe allegiance to this Government; not rebels, not those who owe no allegiance to our Government, not alien enemies who happen to be encamped within the boundaries of the Kansas Territory—they are not citizens of Kansas; they have no right to a voice in the determination of the civil policy of Kansas; and when you talk of the great majority, the overwhelming influence that surrounds the outsiders of Kansas against this constitution, there is not a single Senator who dares say, on his honor as a gentleman, that they are citizens of the United States, much less inhabitants of the Territory of Kansas. When I refer to the vote cast, when I refer to the legal proceedings had, I assert that those who participated in them—and no man dare controvert it without my riveting on him the falsity of his denial—are citizens of the United States, in allegiance with our Government, and of right exercise the power which they assert in that Territory.

There are many points to be investigated in this matter. I have forbore much. I have listened without complaint to the taunts and slanders and insinuations which have been asserted against the State of Missouri; but there is a point beyond which forbearance ceases to be a virtue; and it is well-nigh approached. The facts must be developed; the facts will be evolved; and when those facts come before us, those who have been loudest in making these denunciations will either have to take them back with humiliation and contempt, or acknowledge that they have made the assertions without proof.

Talk to me of Kansas! I know not what vote has been cast there. I am asking for an investigation, and I implore members of the Senate to defer their arguments on the subject until the facts are developed; and, at the same time, I say to them that if they want the committee to summon witnesses, to call for persons and papers, to bring out a more perfect understanding of all the facts, and give us that authority, let them do so according to their own will and pleasure. Because we ask this, we are charged with undertaking to force it down their throats. No, Mr. President, there is nothing like it upon this side of the Chamber.

When the Senator rises in his seat and reads about James Buchanan, and William H. Seward

and other men voting, he knows—I do not mean that he guesses—that they are fictitious votes.

Mr. WILSON. They are counted.

Mr. GREEN. So far as any evidence is before us in the Senate, as honorable Senators I ask you who is it that gave fictitious names in Kansas when the registry was taken? We have no evidence that anybody did so, but a certain class. Your own man, Secretary Stanton, said that the Republicans in many instances refused to give their names, and in other instances gave fictitious names. Some base Republican may have assumed the name of James Buchanan; some base Republican may have assumed the name of William H. Seward; and this, I am justified in asserting before the Senate, from the legal evidence before us. I pause for a reply, and am willing to receive it. There is not a particle of evidence before us of any man assuming a name or making use of a fictitious name except that anti-slavery, that Republican party, which, not content with abiding by the forms of law and of constitutional obligation, have been intent on making Kansas a free State without African slavery, right or wrong, and they therefore are to be charged with the assumption of those names.

It is known to you, sir, that they not only organized a party, but gave it a military form, and in that military form they even aped the ritual of the Free Masons in initiation, and required an oath on admission, by which the initiate swore "to use all exertions to make Kansas a non-slaveholding State." What Congress had refused to do; what the Senate and House of Representatives and the President of the United States had said we have not the competent power to accomplish, you outside of the Territory of Kansas will import hired mercenaries to do; you will, as your own men themselves assert, make them swear an oath to do what Congress has not the power to do and what the Supreme Court of the United States has said Congress cannot do. Because these movements are frustrated, and an overruling Providence has so directed the result of human events that it comes in otherwise, complaint is to be made and we are to be held up before the country as guilty of fraud. I hurl back the accusation. Why, Mr. President, frauds may have been committed; I do not pretend to say frauds have not been committed. I say that so far as my experience extends, there never has been an election in the United States in which there may not have been some fraud. Yes, sir, I do not believe there ever has been an election in the United States at which some minor, some man outside of the district, some one not qualified by law, has not assumed to exercise the elective franchise when it did not belong to him. But what I do assert is this: that there is no fraud in Kansas sufficient to vitiate the legal proceedings of that Territory, that they stand with all the sanctions of law, and that nothing can be brought up against them of a sufficient magnitude to repel the legal presumption in their favor; that the constitution stands as the will of the people of Kansas—not of the rebellious part, not of alien enemies, not of Mormons or Danites, but of those who owe allegiance to the country.

I shall not now go into a critical examination of what the Senator from Massachusetts calls a test oath. Obnoxious it may have been, or it may not have been; but this much I will say: if it was, it was provided for in the exercise of power which Congress authorized them to exercise, to regulate the elective franchise as they pleased. They did it; and I will say more, that there is nothing very obnoxious in it, as far as I recollect; for it only required voters to swear to support the Constitution of the United States, the organic act of the Territory passed by Congress, and the fugitive slave law, and to pay one dollar tax as evidence of their citizenship. There are many States in this Union whose constitutions contain provisions almost identically similar with that. Would you have a man to vote or hold office in Kansas who defies the authority of the Federal Constitution? No. So said the Legislature of the Territory of Kansas.

Would you have a man to vote and hold office there who denies the organic act of Kansas? No. So said the Territorial Legislature. Would you have a man to vote or hold office in Kansas who denies the legality of the fugitive slave law? No; because it is passed by constitutional authority to carry out a provision of the Federal Constitution. Such being the case, there is nothing very wrong in that. If they thought proper to superadd a provision requiring evidence of citizenship strong enough to produce a certificate that a man had paid a tax, is that anything very extraordinary? In the State of Missouri, border-ruffian as it is, but yet imbued with all the principles of liberty that burn in all the purity they ever did in the presence of the vestal virgins, the law requires a man, before he can take a seat in the Legislature, to produce evidence that he has that year paid his State and county tax. The people of Kansas, living just beyond the border of Missouri, many of them being emigrants from Missouri, if they imitate the example which Missouri and other States have set, there is nothing very exceptional in that.

So I might go on, but I will not do it. My object to-night is not to prolong this debate; not to enter into this discussion at all, but to beg of friends and foes—I mean in a political sense, for I know I have no personal foes here, because I am no man's personal enemy myself, and I judge of others by myself—to let the question be taken at once. Let the message be referred so that it may be investigated and reported back, either favorably or unfavorably. If you want the committee invested with power to take evidence, pass your resolution accordingly; and whether done right or wrong, when it is reported back you can investigate with more intelligence, on a better predication of facts than you possibly can before that investigation is had. It is alone for this purpose that I press the matter.

I know the Senator from Maine [Mr. FESSENDEN] indicated a desire to be heard on this subject. I am the last man in the world to interfere with his desire; and if he insists on being heard before the reference, I shall not even ask for a vote; but if he can forbear until the reference is had and the investigation made, I will take it as a great favor, as it will tend to expedite the matter; assuring him, at the same time, that when reported back, if it ever shall be reported back, there will be no effort to crowd it to the prejudice of any man who desires to be heard, either for or against the report. I hope, therefore, Mr. President, that we shall have a vote this evening; but I only make this request, leaving it for Senators to consult their own will on the subject. I yield the floor.

Mr. WILSON. A very few words in reply to the Senator from Missouri; and I wish to say in advance that threats, by word, voice, or manner, from that Senator, have no terrors for me. He talks about charges made against some of the people of his State, and he says that when charges are made, unless they are supported by authority, they are slanders. I agree with the Senator. For myself, I have said nothing in regard to his State that is not on the records of this Government, where it will live forever—evidence taken under the solemnity of an oath by a committee of the House of Representatives.

When, in January, 1856, knowing, as I did, many of the facts in regard to the election of the 30th March, 1855, I brought them before the Senate, a Senator from Missouri [Mr. Geyer] assumed to deny them. I proved them upon him on this floor, and there is not a man here that has attempted to disprove them from that time to this. When the proposition to raise the House committee was made, it was resisted. There is a large volume of records proving that four thousand nine hundred and twenty or four thousand nine hundred and thirty men from Missouri went into the Territory to vote on that day. It is as clearly demonstrated as is any mathematical problem in Euclid; and it requires a degree of assurance in any man to deny it here or elsewhere. No one shall brand me as a calumniator when I refer to that record. There is the record, deny it; but do not undertake to intimidate me by threats. I am not the man to be intimidated by threats, here or elsewhere.

The Senator says that when I referred to the investigation at Kickapoo, I knew that James

Buchanan and William H. Seward did not vote in the Territory of Kansas. Of course I know it. There were over one thousand and seventy votes returned as cast on the 21st of December at Kickapoo. The Senator intimates that Black Republicans gave these names. Sir, Black Republicans did not vote on that day, and the Senator ought to have known it. He did know it, and knowing it, he makes the declaration that Black Republicans had given in those names. The votes on that day were pro-slavery votes. Republicans were not there to give the name of any man.

Are we to have no other evidence on which we are to act as public men than what we gather from the executive documents? Sir, the tree of knowledge does not grow in the executive garden. I wish it did; for if so, we should not have such documents as we have before us. Our knowledge is not limited to executive documents, or to the executive agents in that Territory. There is some little intelligence outside of the Executive and his tools in Kansas.

The Senator from Missouri objects to declarations being made. Is it not admitted that frauds have taken place in Kansas? How is it in Oxford? Did not Governor Walker prove that fifteen hundred fraudulent votes were given there in October last?

Mr. PUGH. What is proved?

Mr. WILSON. That there were frauds at Oxford in the October election.

Mr. PUGH. How do you know it?

Mr. WILSON. Governor Walker and Secretary Stanton examined the facts, and stated them to the country. The public press states the facts; the people there state the facts. It is said by those who have examined the list of names, that the poll-list at Oxford was made up from the Cincinnati Directory. I do not know whether the Senator's name is in that directory or not.

Mr. PUGH. It is.

Mr. WILSON. That town gave sixteen hundred votes in October and thirteen hundred on the 21st of December. I say the simple statement of the fact shows that there must be fraud. The Senator from Missouri knows it must be a fraud.

Mr. GREEN. I know exactly the contrary; and can give an explanation which will be satisfactory to the Senate.

Mr. WILSON. Will you do it now?

Mr. GREEN. I will do it when you refer that subject to the committee of which I am a member.

Mr. WILSON. We will refer it to you, and I want you to give us the facts.

Mr. GREEN. I will do it.

Mr. WILSON. It is known that there are not over one hundred and thirty voters in the place. Governor Walker states that he found there "six houses and no tavern." These votes must have been fraudulent.

The Senator talks about our saying here that the people of Kansas do not want to come into the Union. We have not said so. I believe the people of Kansas, of all parties, desire to come into this Union. It is not a question of coming into the Union, but it is a question of how they shall come in.

The Senator talks about a legal people, and indulges in legal technicalities. I admit he has the color of law on his side. His Missouri men went over there and elected a Legislature; they took possession of the government; they made the laws; their friends have administered them from that time to this, and all the wrongs of Kansas have been perpetrated under them. Because they have the color of law on their side, it does not follow that it is right or just, or that we should be governed by it.

I say to the Senator from Missouri, that I want a fair and distinct understanding with him. If I misstate in any respect a matter of fact in regard to Kansas, and he will show it to be so, I will most gladly correct it.

Mr. GREEN. It would be a little more appropriate and a little more in conformity with the ordinary rules of right, for the man who makes a charge to sustain it, and not require his opponent to prove a negative.

Mr. WILSON. I agree to that, and I agree to the Senator's general declaration that a man who makes a charge without proof is a slanderer. I accept that declaration with all its consequences. What I have stated here to-day as matters of

fact, I have the evidence to substantiate; and I tell him his general denials will not do.

Mr. PUGH. The Senator stated that he knew that the names in the Cincinnati Directory were to be found in the poll-books at Oxford. Let us have the evidence of that.

Mr. WILSON. I have in my possession the authority upon which I made the statement, and I believe the authority reliable. I will place the authority in the Senator's hands. Did not the Senator from Missouri make a charge in regard to Black Republicans putting in fictitious names at the Kickapoo election? Did he not insinuate it?

Mr. GREEN. Not at all. I made this remark: that we have no evidence of any persons in Kansas using fictitious names except Black Republicans; and Mr. Stanton, in an official paper, stated that many of them refused to give their names at all, and others gave in fictitious names. It was very evident that the names read by the Senator were fictitious names; so that the presumption was stronger against Black Republicans than any one else. That was my argument. Answer that if you can.

Mr. WILSON. I do not see that nice distinctions can be taken between declarations and insinuations. They amount to the same thing. But have not Governor Walker and Governor Stanton referred, in their testimony, to the fictitious names put on the list in the town of Oxford, and in McGee county? Certainly the same men who assert what the Senator now states, prove what I state.

But I do not wish to take up the time of the Senate at this late hour. I close by expressing the hope that we shall refer the message to the committee, with instructions to investigate and report the facts for the guidance of the Senate.

Mr. BIGLER. I desire the Senator to allow me a moment, as he seems to be familiar with the affairs of Kansas and the facts connected with the elections there. I have a few official papers before me, and they present some things which I cannot understand. I do not intend to enter into any question as to the general returns in Kansas; I shall certainly not do so at this time; but I wish to call the attention of the Senator from Massachusetts to one or two very striking facts which are contained in the official papers in my possession. I have before me an official return of the votes cast at the election in October, certified from the executive department of Kansas. I have also a return, certified by the presiding officers of the respective Houses of the Legislature of Kansas, as to the vote on the constitution on the 4th of January, under the territorial law. These returns exhibit, first, this striking fact: that whilst in the city of Leavenworth alone there were over one thousand three hundred votes cast against the constitution, Mr. Parrott received in that entire city and county but one thousand and forty-six votes. I have not the official vote for the city of Leavenworth alone, but I am told it was less than seven hundred for Mr. Parrott in October. Therefore, in the city of Leavenworth alone, there were seven hundred more votes polled against the constitution than were cast for Mr. Parrott. How can this discrepancy be accounted for? The population has manifestly decreased rather than increased.

Another fact is shown by these official returns. I do not undertake to say whether these things are true or not, but I want to give them as they appear on the face of the papers. In Shawnee, where Mr. Parrott received seven hundred and forty-nine votes, seventeen hundred and twenty votes were cast against the constitution.

Mr. COLLAMER. I would ask the gentleman whether he is not perfectly aware that all the free-State people opposed to the constitution voted against it, but only a comparatively small part of them, not more than one half of them, voted for officers.

Mr. BIGLER. The Senator is entirely mistaken. What I am speaking of is the October vote for Mr. Parrott, and not the vote for Mr. Parrott on the 4th of January. The election in October was at the end of a bitter partisan contest, and when, let me tell you, owing to the character of the population in Shawnee, it was doubtless larger than it is to-day. The October vote in Shawnee for Mr. Parrott was seven hundred and forty-nine, and for Mr. Ransom sixty-one—making a

total of eight hundred and ten votes; and yet the other day there were cast seventeen hundred and twenty votes against the constitution, according to the returns. Whence this additional thousand? Will the Senator from Massachusetts say there are a thousand men in Shawnee who did not vote in October last?

Mr. DOUGLAS. I desire to ask the Senator from Pennsylvania where he gets the information that there were seventeen hundred votes cast at Shawnee in January. It is one of the subjects for which I introduced my resolution this morning to which objection was made. It is that very information, how that vote stood, that I want to get at, and I want to test the accuracy of these verbal statements by an official return.

Mr. BIGLER. I stated when I took the floor that on the one hand I read from the certified returns of the October election from the executive department, and on the other from the certificate of the presiding officers of the respective Houses of the Legislature of Kansas. In that return, not in an official manuscript, but as furnished from the papers of Leecompton, it is put down at one thousand seven hundred and twenty votes against the constitution. The other is official, for it is certified by the proper officer, and shows that in October last, in this district of Shawnee, Mr. Ransom received sixty-one votes and Mr. Parrott seven hundred and forty-nine votes—together, eight hundred and ten. The other day there were one thousand seven hundred and twenty votes cast in the same district against the constitution. Perhaps this can be explained and reconciled, but certainly on its face it looks as much like fraud as anything brought to our notice by the Senator from Massachusetts.

Mr. COLLAMER. Let me ask the gentleman if he is not aware that in the October election it was required that there should be a residence of six months; while at the election in January, in relation to the constitution, there was no residence required?

Mr. BIGLER. That is the most unhappy explanation the Senator could make. It is the most fatal view he could present. Anybody who is familiar with Kansas affairs knows that Shawnee is a country where the citizens have no titles. The title is in the United States Government. They are there as preëmtors; and when the fall of the year approaches, the population, as far as it can without destroying the squatter rights, leaves the country, to stay away during the inclement season. It is my deliberate judgment that the population of Shawnee was hundreds less in January than it was in October. I am so assured by gentlemen who have good opportunities of knowing.

The VICE PRESIDENT. The Senator from Massachusetts is entitled to the floor.

Mr. WILSON. I have no wish to occupy the floor any longer.

Mr. COLLAMER. I move that the Senate adjourn.

Mr. PUGH. I hope we shall not adjourn without a vote on this question. I call for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. POLK. I wish to ask the Senator from Massachusetts a question. He said, I believe, if I understood him aright, first, that he read from the Missouri Republican, and afterwards it appeared that he read, not from the Missouri Republican, but the Missouri Democrat. He did not state the date of the paper.

Mr. WILSON. I did not say that I read from it, but from an article which had been made up out of a letter published in the Republican. It is in a paper that came to me to-day. I received it since the Senate met.

The VICE PRESIDENT. The question is on the motion to adjourn.

The Secretary proceeded to call the roll, and Mr. ALLEN answered "yea."

Mr. HUNTER. Has any Senator answered? ["Yes!"] I ask that, by general consent, I may make a statement. I understand there are some Senators on the other side who desire to be heard on this question. There is no disposition to force them to speak to-night, if we can get the question by Monday night. That is all we ask. If those Senators desire to sit on, I am willing to sit with them; but if not, I am willing to adjourn, and let us take the question on Monday night.

Mr. PUGH. I withdraw the call. I supposed we were about to sit it out to-night.

The VICE PRESIDENT. By unanimous consent, the call can be withdrawn. The Chair hears no objection.

The Senate then adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 4, 1858.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM KREBS.

The Journal of yesterday was read and approved.

MOTION TO RECONSIDER.

Mr. GREENWOOD submitted a motion to reconsider the vote by which the case of L. J. Hilburn was yesterday laid on the table.

The motion was entered on the Journal.

The SPEAKER announced the business first in order to be the report of the Committee of Elections on the Ohio contested-election case, on which the gentleman from Kentucky [Mr. MARSHALL] was entitled to the floor.

Mr. PHELPS. I ask the gentleman from Kentucky to yield the floor, to enable me to submit a motion that this contested-election case shall be postponed for one hour, in order to allow the call of committees for reports, which was commenced yesterday, to be concluded.

Mr. MARSHALL, of Kentucky. I have no objection to the proposition of the gentleman from Missouri, if I shall be entitled to the floor when the subject shall again come up for consideration.

Mr. PHELPS. The gentleman from Kentucky will certainly be entitled to the floor.

Mr. MARSHALL, of Kentucky. Then I will yield the floor, and allow the sense of the House to be taken on the motion of the gentleman from Missouri.

Mr. STEPHENS, of Georgia. I object to the motion.

Mr. PHELPS. I suppose I have the right to submit the motion. I move that the further consideration of the report of the Committee of Elections be postponed for one hour, to allow the committees to be called for reports which were not called yesterday.

Mr. SEWARD. Is debate in order?

The SPEAKER. It is not.

Mr. SEWARD. Then I object.

Mr. MARSHALL, of Kentucky. I will yield the floor to allow the gentleman from Missouri to make his motion.

SELECT COMMITTEE.

The SPEAKER announced the appointment of Messrs. BOYCE, QUITMAN, TRIPPE, GARNETT, MOTT, WORTENDYKE, and SPINNER, as the committee authorized under the resolution of Mr. Boyce to investigate various matters connected with the revenue and expenses of the Government.

Mr. SEWARD. I withdraw my objection to the motion of the gentleman from Missouri.

The SPEAKER. The question then is upon the motion to postpone the further consideration of the resolution reported from the Committee of Elections for one hour.

The motion was agreed to—ayes 81, noes 58.

PENSIONS TO OFFICERS AND SOLDIERS.

The SPEAKER. The first business in order is the consideration of the report made from the Committee on Invalid Pensions, of House bill No. 259; and upon that question the gentleman from Arkansas is entitled to the floor. The question is upon the motion to postpone.

Mr. WARREN. Mr. Speaker, it is not my intention, if I were disposed to do so, to enter into a discussion at this time of the merits of this bill. My object is to oppose the proposition which emanates from the Committee on Invalid Pensions, to postpone the further consideration of this bill to a day certain. I am perfectly willing to vote on a part of that proposition. I am perfectly willing that the consideration of this bill shall be postponed; but I am radically opposed to the system resorted to by gentlemen upon this floor, and giving a measure of that character, and indeed of any other character, precedence over bills long since introduced and of equal importance. I desire it, then, to be understood that while I am not expressing an opinion upon the merits of this

measure, I am desirous of being understood as opposed to the postponement of this bill to the time indicated by the motion of the gentleman from Tennessee, [Mr. SAVAGE,] for the reason that it would give this bill preference over any and all other measures which in fact have not had the same advantage, and which could not possibly get the advantage sought for this measure.

Gentlemen talk about the importance of this measure, and say that, because it is an important measure, therefore it should be given this preference; therefore we ought to postpone it to a day certain. Why, sir, I could talk about a dozen other measures which have been introduced, which are equally important. I remember to have introduced a resolution a few days since, which has not had this advantage—a resolution by virtue of the passage of which the business of this House would be greatly facilitated—a resolution confining debate in Committee of the Whole on the state of the Union to the matter legitimately submitted to the committee. That resolution has not been acted upon yet; and I could also say to the gentleman from Tennessee [Mr. JONES] when he talks about the importance of this measure, that there are others which are of more importance. I would call his attention to a bill which I introduced a few days since, for the establishment of a board of inspectors at the town of Napoleon, Arkansas, and to the numerous railroad bills for that State, all of which are of more importance than this bill. This is an important measure, but those others are equally important. Therefore I propose to enter my protest against giving this or any other measure precedence over others which I regard as equally important. I could allude to numerous other bills introduced by various gentlemen upon this floor, which are equally important; yet they are all to be thrust aside, I apprehend, and this particular measure, because it is a great source for Buncombe, must have precedence over all other measures. I protest against it. Let it go where all other important measures go—to the Committee of the Whole on the state of the Union; and let it be found where my bills have always heretofore been found—among its unfinished business.

Mr. STANTON. What is the distinct question before the House?

The SPEAKER. It is a motion to recommit the bill to the Committee on Invalid Pensions, and a motion to postpone until the 24th of February. The question will be first upon the motion to postpone. No motion has been made to commit to the Committee of the Whole on the state of the Union.

Mr. STANTON. I have one word to say in regard to the postponement. It is clear to my mind that if this bill, reported by the gentleman from Tennessee, is to be considered, it ought to be considered in Committee of the Whole on the state of the Union. If it is intended to make it a special order for a given day, it should be attended by a motion to commit. This is a measure of very great magnitude; it has been pending almost since the commencement of the session before the Committee on Military Affairs, and that committee have been seeking to perfect the details of a bill, but have not succeeded as yet in doing so. Now, the details of this measure are matters of very great importance, as well as the measure itself; and I shall not, for one, consent that this shall be brought before the House in the House itself, subject to having the previous question called upon it, and where, without debate and without amendment, members may be compelled to vote upon it as it stands, and thereby be placed in a doubtful position before the country, when they are, in fact, in favor of a well-adjusted system of pensions to the soldiers of the war of 1812, and in favor of the proposition of the gentleman from Tennessee.

For myself I am in favor of a well-digested and carefully-prepared bill granting pensions to the soldiers of the war of 1812; but I am not in favor of the proposition of the gentleman from Tennessee as it now stands. I am perfectly certain that no well-digested bill will be prepared in this House unless it does go to the Committee of the Whole on the state of the Union, where the committee may have an opportunity to examine its details and perfect its provisions. The Committee on Military Affairs have deemed it important, to enable them to act understandingly on the meas-

ure, to have some information from the War Department as to the extent of the draft which this bill will make upon the national Treasury. They have called for the information, but it has not yet been communicated to them. Neither the committee nor the House have perhaps the remotest idea of the extent of the draft which this bill will make upon the national Treasury. Whether the bill, as it now stands, will require ten, or twenty, or forty millions per annum, no man can tell. I submit that while it is an important measure, and perhaps a very desirable measure—though I confess that it is a measure the expediency of which is somewhat questionable—I am not in favor of legislating in the dark, or of making it a special order in the House, where it may be forced through under the previous question, and where members may be compelled to vote upon the bill as it is, and thereby be held responsible to the country as being opposed to a system of pensions for the soldiers of the war of 1812, while, in fact, they are in favor of it. I trust, therefore, than unless the gentleman from Tennessee will modify his motion so as to make the proposition to refer the bill to the Committee of the Whole on the state of the Union, and make it the special order for a day certain, the House will not postpone it to the day named by him.

Mr. BILLINGHURST. Why not make the motion yourself?

Mr. DAVIDSON. Mr. Speaker, I understand, and if I am wrong gentlemen will correct me, that this bill was reported from the Committee on Invalid Pensions. It seems to me, sir, that if that committee has been constituted for any purpose at all, if it has any duty to perform, it is to examine and report upon just such bills as this. I think that, if the Committee on Military Affairs discharge their duty, and I know they will do it, they will have enough to do at this time to attend to the military affairs of the country.

Mr. STANTON. If the gentleman will permit me, I wish to inquire whether it is in order now, with the questions at present pending, to move to refer the bill to the Committee of the Whole on the state of the Union, and make it the special order for the 24th of February?

The SPEAKER. It is not in order to move to make it a special order, unless it be done by unanimous consent. The motion could only be made on Monday; it requires a suspension of the rules.

Mr. DAVIDSON. Well, sir, the Committee on Invalid Pensions have examined the details of this bill and have reported it. They have asked the House, after a full investigation of its merits, to fix a day to determine whether they will at this late day grant relief to the widows and orphans of the soldiers of the war of 1812. They come here and ask you if you will do justice to these parties, without asking whether it will take one million, or five million, or ten million dollars. I have never yet learned, sir, that statesmen, in the discharge of the solemn duties imposed on them, have ever counted the cost when they undertook to do justice between claimants and the Government. I have always thought that the first thing to be ascertained by a committee in the consideration of a proposition was, is it just? and if it is right to render justice on the part of the Government to the people, then it is right and proper that they should have a chance to be heard.

Now, sir, I know, from the little experience I have had in legislation, what the meaning of a motion to refer to the Committee of the Whole on the state of the Union is. I understand the strategy resorted to by gentlemen to avoid discussion and votes in this House, and a show upon the record of the House who is in favor of rendering justice to the people and who is not in favor of it; and, therefore, I, for one, am opposed to sending this bill to the Committee of the Whole. I wish to know the reason why this House, with the Speaker in the chair, and under the rules, cannot render a just and appropriate and proper verdict between the people and the Government? Let us do it here, sir, where we have a right to call the yeas and nays, and show the people who are for rendering them justice and who are opposed to it, or rather in favor of postponing it and giving it the cold shoulder.

I am in favor of this bill. I believe it is right that the Government should carry out the principle which they have established as a just one, of giving pensions to those who have served the

country, by coming forward now and rendering justice to the widows and orphans of the soldiers of the war of 1812. For these reasons I am in favor of fixing a day for the consideration of the bill in the House; and I demand the previous question.

Mr. PHELPS. Will the Chair state what will be the order in which the question will be put if the previous question is seconded, and the main question ordered?

The SPEAKER. The first question will be upon the motion to recommit the bill to the Committee on Invalid Pensions. That failing, the question will be upon the engrossment and third reading of the bill.

Mr. PHELPS. Then the motion I desired to submit yesterday to refer the bill to the Committee of the Whole on the state of the Union, was not entertained?

The SPEAKER. The Chair did not hear such a motion.

Mr. PHELPS. I submitted such a motion yesterday.

The SPEAKER. The Chair did not entertain the motion of the gentleman from Missouri. If he made the motion at all, it was made after the motion to postpone had been submitted, which precluded the reception of his motion.

Mr. HOUSTON. I understand that the previous question is demanded. I would inquire if the effect of sustaining the previous question would not be to cut off the motion to postpone?

The SPEAKER. It would.

Mr. STANTON. What will be the effect of the previous question? Will it bring us to a direct vote upon the engrossment of the bill?

The SPEAKER. The first question will be on the motion to recommit to the Committee on Invalid Pensions.

Mr. STANTON. And next upon the motion to postpone?

The SPEAKER. The motion to recommit failing, the question will then be upon the engrossment and third reading of the bill. If the previous question be sustained, it will cut off the motion to postpone.

Mr. DAVIDSON. Then I withdraw the demand for the previous question.

Mr. LOVEJOY. I simply want to say in regard to this matter, that if I understand it, it is not a question of legal right and justice; that it is, at best, a matter of gratuity, and that it is not a fair statement of the case to say that these individuals are here requiring their legal claims. They are here simply asking for a gratuity. It is not a question of legal claim, but a question whether the House will grant pensions to these parties. It may be in equity and morals an honest claim, but it is certainly not a legal one.

Mr. CURTIS. I rise to a point of order. It is not in order to go into the merits of the bill upon a motion to postpone.

The SPEAKER. The Chair sustains the point of order.

Mr. LOVEJOY. I am simply answering the gentleman from Louisiana, [Mr. Davidson.]

The SPEAKER. The gentleman from Louisiana was out of order.

Mr. LOVEJOY. Well, I wish the Chair had found it out sooner.

The SPEAKER. If the gentleman from Illinois had appealed to the Chair, the Chair would have interrupted the remarks of the gentleman from Louisiana. The gentleman from Illinois can proceed to assign any reasons why the measure should or should not be postponed. The debate is limited by the rules of the House upon a motion to postpone, and it must be confined to assigning reasons why the measure should or should not be postponed.

Mr. LOVEJOY. Well, Mr. Speaker, it is immaterial for me to speak unless I can say what I wanted to say in a few words; and that was that it is well known, I presume, to every gentleman of the House, that nine out of ten, and perhaps ninety-nine out of a hundred, of these claimants, are not the widows and orphans of the soldiers; but that the object is simply to satisfy the demands of speculators and land-sharks into whose hands the claims have gone. That is the fact about it. I desire the bill to be referred to the Committee of the Whole on the state of the Union, where it can be considered and sifted, so that it shall be well guarded. If we do anything in this matter,

let us do it for the benefit of surviving soldiers and their widows and orphans, and not for the everlasting cormorants who come here and urge the kind of claims which it is here proposed to originate.

Mr. PHELPS. I desire to appeal to the gentleman from Tennessee [Mr. SAVAGE] to permit me to submit a motion that the bill be referred to the Committee of the Whole on the state of the Union, and then he can submit his motion to postpone.

Mr. CURTIS. I have but one word to say, Mr. Speaker. I am sorry that the gentleman from Illinois [Mr. LOVEJOY] took occasion to refer to the merits of the bill. For one, I am perfectly willing to have it fully prepared and matured before it comes before the House; but I submit that there will be time enough before the 24th of February to mature the bill, as the gentleman from Tennessee avers that he will do. So far from this being a scheme coming from speculators, it is merely a measure of even-handed justice.

Mr. CRAIGE, of North Carolina. I submit the question of order, whether the gentleman is in order in discussing the merits of the bill?

Mr. CURTIS. I will confine myself, if possible, to what is in order. I am arguing that the time to which it is proposed to postpone this bill is sufficient to allow of its being matured.

One word now in regard to the matter being before the Committee on Military Affairs. It is true that this bill had been before the Committee on Military Affairs, and is now before that committee in another form. Every member knows that within this period the committee will have ample time to mature it, so far as it can do so; and every member knows that it is the purpose of the friends of the bill to bring it up in the fairest possible form; to ask nothing but what is right; to trim it down to the simplest possible form, and to have it fairly and fully discussed before the House.

There is no desire to have this bill brought prematurely before the House. So far from the Military Committee requiring a postponement, I apprehend that a majority of that committee have already prepared their own views. Some inquiries have been made at the War Department, and I presume that long before the 24th of February these inquiries will have been answered. I am in favor of the motion made by the gentleman from Tennessee, [Mr. SAVAGE], because I am told by those who are best acquainted with the forms, that unless a vote be secured on it in this way, it is likely to be lost forever. I therefore advocate the motion of my friend who introduced the bill, and hope it will pass. If it be found that the Committee on Military Affairs produce a better bill, or a bill that may appear more satisfactory, I am authorized to say that the friends of the bill will take that form in preference to the one now presented, and will bring it up on the day proposed. We are in earnest in this matter. I do not want to encroach on the rights of the House by entering on a debate as to the merits of the bill, but I hope that in proper time I will be heard on the merits.

Mr. JONES, of Tennessee. It appears to be the wish of all persons in the House that there should be a fair and full investigation of this bill; and therefore, to secure that, I propose that it be referred to the Committee of the Whole on the state of the Union, and made the special order, and that the bill be printed. That will secure its investigation and consideration.

Mr. CLINGMAN. I shall object to making a special order. I desire the reference of the bill to the Committee of the Whole on the state of the Union, but I am opposed to making a special order.

Mr. JONES, of Tennessee. I have nothing more to say on the subject. I am opposed to having the bill postponed and kept before the House.

Mr. SAVAGE. My object is a fair one; and I am at all times willing to accept a fair proposition. The only object that I have in view, as I said in my remarks yesterday, is simply to have a fair trial of this bill before the House and before the country. I believe that the proposition of my colleague [Mr. Jones] presents such an opportunity, and that I ought to accept it, if the House permit me to do so. I am willing to have the bill referred to the Committee of the Whole on the state of the Union, if it be made a special order

for any time within the next six weeks or two months. If my colleague will select any day within the next six weeks, I, as a friend of the bill, will give my consent. Say the first Tuesday in March, as suggested to me by the gentleman from Illinois.

Mr. JONES, of Tennessee. I would say to my colleague that I am willing to see any day selected; but as the gentleman from North Carolina [Mr. CLINGMAN] objects to its being made a special order, I cannot make the motion; and therefore I have nothing more to say on that subject.

Mr. SAVAGE. I suppose that the gentleman has a right to make the motion for a special order.

The SPEAKER. The Chair thinks not.

Mr. JONES, of Tennessee. I understand that I can only make my motion by unanimous consent.

Mr. HARRIS, of Illinois. I hope unanimous consent will be given, and let us dispose of this matter.

Mr. LETCHER. I hope my friend from North Carolina will withdraw his objection, and let the course indicated by the gentleman from Tennessee [Mr. JONES] be adopted. We waste more time in caviling over it than would be taken up in this way.

Mr. CLINGMAN. What is the precise motion?

Mr. LETCHER. To refer it to the Committee of the Whole on the state of the Union, and make it a special order for six weeks or two months hence.

Mr. SAVAGE. Say the first Tuesday in March.

Mr. CLINGMAN. For how many days?

Mr. LETCHER. Say for two days. We can dispose of it in that time.

Mr. CLINGMAN. I withdraw my objection, if the special order be confined to two days.

Mr. SAVAGE. Say three days, as a compromise.

Mr. DAVIS, of Indiana. I object to the motion to make it a special order.

Mr. HOUSTON. I suppose we can vote at once on the motion to postpone. There is no use in discussing it further.

The question being on the motion to postpone the further consideration of the bill till the 24th of February next,

Mr. BOCKOCK demanded tellers.

Tellers were ordered; and Messrs. Bockock and WALDRON were appointed.

The House divided; and the tellers reported—ayes one hundred and eight, noes not counted.

So the bill was postponed.

INVALID PENSIONS.

Mr. MORSE, of New York, from the Committee on Invalid Pensions, reported bills of the following titles; which were severally read a first and second time, referred to a Committee of the Whole House, and ordered to be printed:

A bill for the relief of Isaac Carpenter;
A bill for the relief of Leonard Loomis; and
A bill for the relief of Hector St. John Beatty.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed bills of the House of the following titles:

A bill making appropriation for the payment of invalid and other pensions of the United States, for the year ending June 30, 1859.

A bill to alter the times of holding the terms of the United States courts for the State of South Carolina.

Also, that the Senate had passed a joint resolution for the compensation of R. R. Richards, as chaplain of the penitentiary, for his salary, to June 30, 1857; in which he was directed to ask the concurrence of the House.

RE-REFERENCE OF PAPERS.

Mr. MORSE, of New York, from the Committee on Invalid Pensions, reported back the petitions and papers in the cases of John McGarvey, Stephen P. Lamb, and Mary M. Davison; which were referred to the Committee on Public Lands.

INVALID PENSION BILLS.

Mr. CHAFFEE, from the Committee on Invalid Pensions, reported bills of the following titles;

which were severally read a first and second time, and referred to a Committee of the Whole House, and ordered to be printed:

A bill for the relief of Henrietta L. Clarke;
A bill for the relief of Thomas Alcott; and
A bill for the relief of Mary W. Thompson.

WILLIAM YORK.

Mr. POTTER, from the Committee on Revolutionary Pensions, reported a bill for the relief of the heirs of William York; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

T. L. O. KEEFFEE.

Mr. ANDERSON, from the Committee on Revolutionary Pensions, reported a bill for the relief of T. L. O. Keefee, of Missouri; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

T. A. CROSBY.

Mr. CASE, from the Committee on Invalid Pensions, reported back the petition and papers of Thompson A. Crosby; which were laid on the table, and ordered to be printed.

EXTENSION OF A PATENT.

Mr. REILLY, from the Committee on Patents, reported a bill extending the patent granted to William Crompton for an improvement in figure or fancy power-looms, for seven years from the 25th day of January, 1858; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

DAVID BRUCE.

Mr. MACLAY, from the Committee on Patents, reported a bill for the relief of David Bruce; which was read a first and second time, referred to a Committee of the Whole House, and ordered to be printed.

CLERK TO A COMMITTEE.

Mr. KEITT, from the Committee on Public Buildings and Grounds, reported the following resolution:

Resolved, That the Committee on Public Buildings and Grounds be authorized to employ a clerk at the usual rate of compensation for clerks of committees in this House.

Mr. CRAIGE, of North Carolina. I object to that resolution.

Mr. LETCHER. How does it come here?

Mr. KEITT. It is the report of a committee.

Mr. LETCHER. I desire to inquire of the gentleman from South Carolina [Mr. KEITT] how long that committee want a clerk, what they want him to do, and whether they do not also want a stenographer?

Mr. KEITT. In reply to the question of the gentleman, I have to say that if we wanted a stenographer, we should have to appoint the gentleman from Virginia; but as the gentleman is pretty full of business, I do not like to ask him to act as stenographer. But, sir, the only question of the gentleman requiring an answer is, how long we want a clerk? I reply that, we want one only for a short time—only until we can complete some surveys and explorations which have to be made.

It is very well known that these grounds have to be extended; and various plans have been presented, some extending them to Second street, some to Third street, and some to Four-and-a-half street. We have in view to present these various schemes to the House, with their cost, and then let the House determine which plan they will adopt; and no longer than is absolutely necessary will the clerk be employed.

The resolution was not agreed to—ayes 60, noes 114.

Mr. BILLINGHURST moved to reconsider the vote by which the resolution was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported that the Committee had examined and found truly enrolled an act (H. R. No. 62) to supply an omission in the enrollment of a certain act therein named; which thereupon received the signature of the Speaker.

CONTUMACIOUS WITNESS.

Mr. STANTON. The House will remember that the reception of the answer of the witness who was attached for contempt, was postponed until one o'clock to-day. It is one o'clock now, and the Sergeant-at-Arms informs me that the witness is present and ready to answer.

Mr. PHELPS. How many more committees are there to be called?

The SPEAKER. Some eight or ten.

Mr. STANTON. I now move that the House receive the answer of the witness in writing.

The SPEAKER. The hour having arrived, the Chair thinks, in execution of the order that the party shall present himself, when the Chair will propound to him the questions directed by the House.

The Sergeant-at-Arms conducted the witness into the presence of the House, when

The SPEAKER said: J. D. Williamson, you have been presented at the bar of the House by its order, to show cause why you have failed to appear before its committee in obedience to its summons. I am instructed by the House to propound to you the following interrogatories, and to receive your answers thereto "in writing and under oath:"

1. What excuse have you for not appearing before the select committee of this House in pursuance of the summons served on you on the 27th ultimo?

2. Are you now ready to appear before said committee, and answer such proper questions as shall be put to you by said committee?

The witness then submitted the following answer in writing, under oath:

NATIONAL HOTEL, WASHINGTON, February 3, 1858.

Mr. SPEAKER, House of Representatives of the United States, Sir: According to a resolution of the House, of this date, the following interrogatories are to be answered by me under oath, viz:

1st. What excuse have you for not appearing before the select committee of this House, in pursuance of the summons served on you on the 27th ult.?

Answer. I was under the authority of the sheriff of the city and county of New York, not to leave the city without his consent, and was so advised by him and my counsel, with whom I consulted on the subject; also that it always was my opinion, and is still, that neither the House of Representatives or the Senate, has any legal right or authority to compel me to come before them or their committees, to divulge the private transaction of my business which I see fit to transact in a perfect lawful manner, and which if divulged, would destroy all the business of my office, by which I am dependent on to support my family, as no person would entrust their confidential business to a firm who, to suit the different political parties that spring into power every year, would call the firm before them to expose their most confidential and private affairs, which concern only themselves, and which the Constitution of our common country gives to every man who does not violate any of the laws of the land, which I solemnly swear I have never done or violated up to this day, and if I had not have been taken from my bed by force, and brought to this city, by virtue of a warrant issued by order of this House, it was my intention to have thoroughly rested the question now at issue, before one of the courts in New York, without any disrespect to your honorable body, as it has always been one of the most particular objects of my life to pay all due respect and regard for the legal constituted bodies of my country at all times.

2d. Are you now ready to appear before said committee and answer such proper questions as shall be put to you by said committee?

Answer. Yes, all proper questions which shall not effect my integrity or violate my oath or sacred promise I have given not to divulge the same.

J. D. WILLIAMSON.
Subscribed and sworn to before me, this 4th day of February, A. D. 1858.
F. A. MURPHY, J. P.

Mr. STANTON. The committee which this witness was summoned to appear before have had, of course, no consultation as to the course the House should pursue upon that answer, and therefore I am not authorized by them to submit any proposition to the House. I will, however, submit a proposition which strikes me as being proper under the circumstances. The answer, it will be seen, sets up matter of privilege by virtue of which the witness claims exemption. In my judgment there is nothing in it. But I do not propose to precipitate the action of the House upon a question of that sort, or to present the issue prematurely. I therefore desire, by the leave of the House, that time may be given to enable the committee to have the witness brought before them, to propound to him distinct interrogatories, in order that the committee may ascertain whether there is any matter of confidence which the witness claims should exempt him from giving the information the committee desire. If he answers, the question of his obligation or not to answer as to confidence

tial matters, will not be brought before the House. If he does not, the committee will be ready to report to the House for such action as the House may think proper to take. With a view to enable us to see what his answer will be, and to appreciate properly the claim of the witness to exemption from responding to the call of the House, I move that the further consideration of this subject be postponed until to-morrow, and that the answer of the witness be printed. And in the mean time I will say to the House that the committee will assemble and have the witness brought before them and interrogatories propounded to him, and we will know then whether there is anything in the witness's claim of exemption.

Mr. KELSEY. I desire to have the first part of the answer of the witness read, in which he speaks of being in the custody of the sheriff of New York. I want to know by what process he was held in custody by the sheriff?

Mr. STANTON. The gentleman will find that he does not state by what process he was held. I submit the motion that the further consideration of the subject be postponed until one o'clock to-morrow, and that the answers of the witness be printed; and on that motion I ask the previous question.

Mr. MILLSON. Will the gentleman from Ohio withdraw his motion for the previous question for a moment or so? I want to make a suggestion to him in reference to the proposition he has submitted, which I think is due to the dignity of the House that the House shall consider before adopting the course proposed by him.

Mr. STANTON. I withdraw it to hear the gentleman's suggestion.

Mr. MILLSON. Mr. Speaker, those who listened attentively to the replies of the witness will observe that he has not even sought to purge himself of the contempt for refusing to obey the summons of the House.

Mr. STANTON. If the gentleman will permit me, I will modify my motion by adding to it that the witness be recommitted to the custody of the Sergeant-at-Arms.

Mr. MILLSON. That modification will, in a great degree, remove the objection which I had to the original motion of the gentleman from Ohio. I want to call the attention of the House to the fact that the witness distinctly takes issue with the House. The witness has come here to defy the authority of the House. It is not now a question between the witness and the committee, but one between the witness and the power of this House to compel the attendance of persons whose testimony may be wanted in the prosecution of any investigation before a committee having power to send for persons and papers. Now, sir, the House will see that it owes it to its own dignity first to settle this question, before the witness shall be allowed to appear before the committee and give testimony in reply to questions that may be propounded to him. He tells us that unless he had been compelled to appear here, unless he had been dragged from his bed by order of the House, he never would have voluntarily appeared. He tells us that it was his purpose to invoke the decision of the courts of law for the purpose of ascertaining the extent of the constitutional power of this House. Then, sir, he stands in the attitude of contumacy before the House. In his answer it is declared that he intended to test the question before one of the courts of New York.

Now, I do not mean to say that this is a privilege which the witness may not exercise. He has a right to invoke the decision of the courts of law; and, as he has invited this controversy with the House, it is due to him, as well as to the House, that he should be indulged in the opportunity of invoking the decision of the courts of the United States in this District. Sir, I do not mean to come to any premature conclusion as to the extent of the authority of the House. It may be that, upon a full investigation of this subject, I may conclude, too, that this House had no authority to compel the attendance of the witness here. But we have summoned him here; we have "dragged" him here; and it will not do for the House now to evade the issue thus made up. It is due to ourselves that, before this person is examined as a witness before the committee, it should be ascertained in what aspect he presents himself, in what attitude he stands before the House. To allow him to be examined before the committee

is to relieve him of the penalty that he may have incurred.

I then suggest, sir, to the gentleman from Ohio, that before this person shall be brought before the committee to give testimony, the House shall deliberately determine as to the extent of its own power, and inquire whether he does not owe an atonement to the House, which must first be exacted before his testimony can be received.

Mr. STANTON. I will suggest to the gentleman from Virginia what, it occurs to my mind, is the proper course for us to pursue when the answers shall have been printed and the House shall have had an opportunity to see them. It certainly never occurred to me that the taking of the witness before the committee, and propounding questions to him, whether answered or not, would discharge him from the contempt of the House. But my idea is this: that when the witness shall be presented here, upon a refusal to answer or having answered, this House shall, by its resolution, transmit him to the criminal courts which have jurisdiction of his case for violating the statute which requires him to obey the subpoena of this House.

That is my idea of what the committee will probably recommend if the witness shall refuse to answer questions; that the House shall send him to the district attorney for the District of Columbia, or for the southern district of New York, to be dealt with for a violation of the criminal statute of the country in refusing obedience to the subpoena of the House, and that we shall not bother with him here about a little question.

Mr. COX. I ask the gentleman from Virginia to give me the privilege of submitting a resolution which, I think, will meet his views. I ask that it may be read.

Mr. MILLSON. I have no objection to hearing it read.

The resolution was read, as follows:

Whereas, J. D. Williamson has failed satisfactorily to answer questions put to him by order of the House, and has not purged himself of the contempt charged:

Resolved, That said J. D. Williamson be continued in close custody by the Sergeant-at-Arms, until discharged by the further order of the House, to be taken when he shall have purged himself of the contempt charged, by testifying before said committee.

Mr. MILLSON. I did not give way to the gentleman from Ohio to offer that resolution, but merely to hear it read.

Mr. WRIGHT, of Georgia. I ask the gentleman to allow me to have read a substitute for the resolution of the gentleman from Ohio, [Mr. Cox.] I will remark that I am a member of the select committee.

Mr. MILLSON. I will hear the gentleman's resolution read.

The resolution was read, as follows:

Whereas, the answer of J. D. Williamson, in answer to the questions of the House of Representatives relative to his disobedience of a summons of this House as a witness, and his willingness to answer the questions of the committee which may be propounded to him, being insufficient and quibbling, and therefore disrespectful and impertinent: It is thereupon

Ordered, By this House, that said J. D. Williamson be committed to the common jail of this District, without bail or mainprize, until he answer all legal questions propounded to him.

Mr. DAVIS, of Maryland. Will the gentleman permit me to read a proposition which I desire to offer?

The proposition was read, as follows:

Ordered, That the Speaker do reprimand J. D. Williamson for his contumacy, and that said J. D. Williamson do pay the costs of this attachment; and that the Sergeant-at-Arms do produce him before the said select committee at such time as it may require him, and answer such questions as they may propound to him.

Mr. MILLSON. I have now heard all the various suggestions and propositions submitted by gentlemen; and I take the opportunity to say that none of them exactly meets my concurrence. Before I proceed, however, to consider the merits of these propositions, I desire to reply to a suggestion made by the gentleman from Ohio, [Mr. STANTON.] The gentleman says that the witness will not be relieved from the penalties incurred for his contempt in refusing to obey the process of the House, by going before the committee and being examined. He says that if he is brought before the committee and shall then refuse to answer the questions propounded, a report of his contempt will then be made, and the House may then take such order as may be proper. Now, I suggest to the gentleman from Ohio that there is

an account now to be settled with the House by this witness. It may be that another opportunity will be afforded the House to consider the question of the propriety of punishing for contempt in refusing to answer. But there is, at this moment, an unsettled account with the House in the refusal to appear.

We must first consider whether we have authority to compel the attendance of a witness; and when the witness is in contumacy in refusing to appear, it is due to the House, before it gives him another opportunity of practicing a contempt of its authority, to have the preliminary question settled. The mandate of the House will fall into contempt, if, when we require the attendance of a witness, he shall deliberately, on the advice of counsel, refuse to make his appearance here, and then, when compelled to come by the service of an attachment, say that he never would have come of his own free will, and that he came only because he was dragged here. If we permit that, sir, our authority will fall into as much contempt as that of ancient Dogberry, when he charged his subordinates to arrest all disorderly persons, and when asked what they should do if they resisted, advised them to let them go, and thank God that they had got rid of the rogues.

Let us determine this preliminary question. And on this point I will observe that I do not like any of the propositions suggested by the three gentlemen who have submitted them to the House. I do not think we ought at this time to come to any conclusion as to the extent of our authority. I think the witness ought to be remanded to the custody of the Sergeant-at-Arms, and that then the select committee charged with the subject should report to us their views of the power of the House and their opinion as to what ought to be done to vindicate its authority.

Mr. COX. Permit me to say one word in explanation of my substitute.

Mr. BURROUGHS. I wish to have the original resolution and the amendments reported by the Clerk.

The SPEAKER. The Chair has entertained no proposition except that made by the gentleman from Ohio, [Mr. STANTON.]

Mr. BURROUGHS. I understood that amendments were offered to that.

The SPEAKER. The Chair did not entertain them. They were merely reported for information.

Mr. WRIGHT, of Georgia. I move my proposition as a substitute for that of the gentleman from Ohio, [Mr. STANTON.]

Mr. BURROUGHS. I am not in favor of adopting any resolution to send this subject as a matter of inquiry to any committee of the House, either to determine the power of the House, or to decide any question relating to this subject of contempt. This doctrine, that the Legislature of a State, or that either House of Congress of the United States, has the right to demand the attendance of any citizen, and to examine him as a witness, did not originate in America. It is as old as the existence of the Parliament of England.

I understand the proposition of the gentleman from Ohio [Mr. STANTON] to be, that this man be sent back, and to make a report of his case to the district court for the southern district of the State of New York. Now let us see what dilemma we would then be in. We have here before us a question to investigate certain grave frauds and wrongs and villainies alleged to have been committed during the last Congress by certain gentlemen. Now, when we have got before us a man brought up by the proper officer as a witness, the gentleman from Ohio proposes the very ingenious method of sending him back to the State of New York, that his offense may be there investigated, while he stands before us in utter defiance of our authority; in defiance of the parliamentary law of the country; in defiance of the parliamentary law of every country that ever had a parliament, or a properly constituted government. And we remain here with our hands tied, unable to produce the facts on which this investigation is to proceed.

Another thing. The gentleman from Ohio says that this man may possibly be under some honorable obligation as to matters which he dare not or may not disclose. It is not the first time, sir, that thieves have felt themselves under honorable obligations. It is not the first time that rascals and villains have claimed that their confidence was

superior to the law. I recollect very well, that on a murder trial in my State, a few years ago—the highest crime known to the common law or to the law of the land—men appeared before the court and said that they had taken to themselves obligations higher than the law of the land, higher than the Constitution of their country. But what did the courts do with those men? They put them in jail and kept them there till they answered.

Now, we have got a committee ready to investigate frauds which my friend from Ohio [Mr. STANTON] thought it worth while to inquire into. It is charged, sir, that \$87,000 were offered and paid to members here last year to obtain their votes on certain measures calculated to strike down the interests of the North; and we have engaged in the investigation of these villainies. And yet we are to send this man home to be tried before our courts for refusing to answer! Sir, I am in favor of putting this man straight in jail, and keeping him there until he shall indicate his intention to appear before this committee and tell the truth, the whole truth, and nothing but the truth. And I would keep him there until his flesh withers upon his bones, unless he answers. Sir, we shall never be able to establish truth, honesty, and fair dealing among men, unless we have power to compel the attendance of witnesses, and to compel them to testify their knowledge of wrongs that have been committed.

Now, sir, I do not know what other men may think, but I believe that during the last ten years there have been villainies practiced by lobbies about the Halls of Congress, which should be laid before the world. I believe the future existence of this Government depends upon the integrity of the representatives of the people. But, sir, I have perhaps said more than the occasion calls for. I put it to the conscience, I put it to the heart of every member, whether he will consent to excuse a man who comes here to defy the power of Congress—who tells us that he has got some confidential arrangement with some thieves and scoundrels which he will not disclose? Sir, send this man to jail, and keep him there until he will speak.

Mr. HUGHES. I ask that the first and last sections of the act of the last Congress be read. The Clerk read as follows:

“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person summoned as a witness by the authority of either House of Congress to give testimony, or to produce papers upon any matter before either House, or any committee of either House of Congress, who shall willfully make default, or who appearing, shall refuse to answer any question pertinent to the matter of inquiry in consideration before the House or committee by which he shall be examined, shall, in addition to the pains and penalties now existing, be liable to indictment as and for a misdemeanor, in any court of the United States having jurisdiction thereof, and on conviction, shall pay a fine not exceeding one thousand dollars, and not less than one hundred dollars, and suffer imprisonment in the common jail not less than one month, nor more than twelve months.”

“Sec. 3. And be it further enacted, That when a witness shall fail to testify, as provided in the previous sections of this act, and the facts shall be reported to the House, it shall be the duty of the Speaker of the House or the President of the Senate to certify the fact, under the seal of the House or Senate, to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action.”

Mr. HUGHES. I desire to make a suggestion or two to the House upon the application of that statute, in a case of the character of that now under consideration. That law was passed in the last Congress. It will be observed that a contempt of the House, such as will subject a party to the penalties provided in this statute, may be committed in two ways: first, by refusing to obey the process of the House; and, second, by refusing to testify before the House or before a committee. And the statute says that these penalties are superadded to such penalties as now exist. Now, in case the party refuses to obey the process of the House, he is liable to be indicted in the district court of the United States where the offense was committed. If he refuses to testify, the effect of his refusal will be that he will be reported to the House, and the Speaker is to certify to the fact of his so refusing to testify to the district attorney. But the Speaker is not required to certify to anything in case he fails to obey the process of the House, because the offense is already complete.

So far as that branch of the matter is concerned, the witness has clearly brought himself within the

letter and spirit of the law of the last Congress. The House has nothing to do, and the Speaker has nothing to certify to. It is a complete offense within the jurisdiction of the district court, and must be left to that court to determine. If gentlemen desire to pursue this man further for this offense they must carry their complaint before the district court.

But so far as the second branch of the statute is concerned, the case is not yet fairly before the House for its action. If the witness has refused to testify, the fact of his refusing to testify must be reported to the House by the committee, and the Speaker must then certify that he has so refused, to the District Attorney.

Then so far as this statute passed by the last Congress is concerned, the matter has not, in my opinion, assumed a form which authorizes the House to take definite action in the case.

But, sir, this law provides that the penalties therein named shall be in addition to the penalties to which the party was previously liable. Upon that subject I shall appeal to my friend from Virginia [Mr. MILLSON] for information, for I do not profess to be correctly informed upon it. I understand, however, (and if I am not correct, I hope gentlemen will set me right,) that, previous to the passage of that act, the extent of the House to punish for contempt consisted in continuing the party in the custody of the Sergeant-at-Arms during the session.

Mr. WRIGHT, of Georgia. Where did you get that authority from?

Mr. HUGHES. From the case of Houston and Stansbury. The circumstances of that case led to a very full discussion of the powers of the House for punishing for contempt.

Mr. MILLSON. In reply to the gentleman from Indiana, I will say that he is undoubtedly correct in stating that the power of the House to punish by imprisonment is limited by the duration of its constitutional term. There can be no doubt about that; and that was precisely the reason why Congress at the last session enacted a law which would subject a contumacious witness to a punishment which might outlast the duration of the Congress itself.

Mr. KELSEY. I desire to make a suggestion. It seems to me that the first question before the House is to decide whether this answer of the witness purges himself of the contempt he has committed in refusing to obey the subpoena of this House? When the House has passed upon that, the question will then recur, whether the witness is willing to obey the order of the House and testify before the committee? Then we can deal with him, if he is contumacious.

Mr. WRIGHT, of Georgia. The very substitute now before the House proposes to pass an opinion upon that subject, by saying that he has not purged himself, the reply being insufficient and impertinent.

Mr. HUGHES. To proceed from the point where I was interrupted—and I will presently come to the matter suggested by the gentleman from New York, [Mr. KELSEY:] this House, then, had power, previous to the passage of this law, to commit a party for contempt for such a period as the Congress might last. Now, whether that punishment can extend to confinement in the common jail, is a question I shall not discuss. This House commits a man, for contempt, to the custody of the Sergeant-at-Arms. Whether it is usual or not to put him in the common jail, I do not know. The question now before the House is, will they leave this man to this penalty of the law, which he has incurred for failing to obey the process, and which he will further incur if he refuses to testify? or will the House act under the old law, so imperfect that this law was necessary to cure its defects? So far as the question now before the House is concerned, in regard to the exercise of its own powers, there can be no two opinions about it. The witness has openly set the power of the House at defiance. That he is in contempt of the House there is no doubt. But, sir, it is a matter of discretion in the House whether they will now proceed to deal with him, or whether they will suspend their judgment upon that matter until he has been before the committee—for the sending him before the committee, before the jury, to give evidence in the matter in which it is required, by no means purges him of contempt.

I suggest that, as the powers of this House upon

this subject are so very imperfect, an attempt to exercise them would give rise to a great deal of embarrassment, and be a great obstruction to the public business; and as this statute covers the case fully, and there is a competent court having jurisdiction of this matter, the House ought to content itself, for the present at least, by simply passing the proposition submitted by the gentleman from Ohio, [Mr. STANTON.] Then, if the witness continues to be contumacious, the House, upon the report of the committee, can pursue the matter further. But it is obvious, if we do, we ought not to carry it any further than is necessary to obtain the testimony, because we detain a man who is already in the power of a court.

Mr. STEPHENS, of Georgia. I agree very generally with the remarks made by the gentleman from Indiana. The proper course for the House, as I think, is to waive the contempt, send the witness before the committee, and let the questions be propounded. I do not know, nor does he know, what questions will be propounded. There ought to be no questions propounded but legal ones, and he has said that he will answer all legal questions. [“No! no!”] Proper and legal I consider the same. Let the committee report to the House the questions propounded to the witness by the committee, if he refuses to answer them. Then we can take action upon the report. I call the previous question.

Mr. STANTON. I ask the gentleman from Georgia to withdraw the demand for the previous question a single moment, and I will renew it.

Mr. STEPHENS, of Georgia. I withdraw it.

Mr. STANTON. I trust that the gentleman from Georgia, [Mr. WRIGHT], who has made the motion to commit the witness, will withdraw his proposition. All I desire is, that the committee may have an opportunity to propound their questions, and see if they can get the testimony they desire. I wish the House to remember that we are now acting judicially; and it has been my experience, in the little practice I have had, that judges sit deliberately and calmly, and mature their judgments. I hope the House will not act hastily, make a rash judgment, and establish a practice which may be prejudicial to the rights of parties who may hereafter be brought before it.

The proposition I submit to the House contemplates no present, definite, and distinct action in reference to this matter of contempt. It does not exonerate the witness from any action which the House may think proper to take hereafter. It does not decide that the act of the witness is not a contempt, but it proposes a course which is dignified, and which befits a calm consideration of the subject.

It is proper to say further, that since this proceeding has commenced the witness had said to me that he is not a lawyer, and has not prepared his answer upon consultation with a lawyer, and does not know its legal defects; that he does not desire, in consequence of his ignorance, to be involved in any very serious consequences. At the same time, it is as little as the House can do to let the matter go over; and if the gentleman from Georgia will withdraw his proposition, I think the House will, by common consent, adopt the proposition I have submitted, or will now agree upon such a proposition as will give satisfaction to the witness and to all parties concerned. I move the previous question.

Mr. WRIGHT, of Georgia. Will the gentleman from Ohio withdraw the demand for the previous question, as he has made an appeal to me in regard to my proposition?

Mr. STANTON. Certainly.

Mr. WRIGHT, of Georgia. It was with great reluctance that I moved the resolution which I submitted. I moved it, sir, with the conviction in my own heart that it was absolutely necessary that the House should act with energy in the protection of its own rights, and in the protection of its honor, or that this House would not attain the object which it sought by this investigation. This gentleman presents himself here, sir, in an attitude of contumacy. He comes here to quibble in the face of the House, and before its members, upon the authority of the House to command respect from all the citizens of this Republic. He comes here and doubts, in the first place, our right to take him at all, and tells the House that he intends to have the question investigated by the tribunals of the country. Well, sir, he has the

right to have it so investigated; but it does not come, in my opinion, with a good grace from a witness who appears before a judicial tribunal—for that is our attitude now—in obedience to a rule, nisi to show cause why he should not be punished for contempt, to quibble upon the authority which has brought him before it, and to tell the court that he intends to pry into its powers and ascertain whether it can do so and so and so and so. Let this House act, and then this gentleman can investigate the question. Let him take the responsibility, in the first place, of refusing obedience to the mandate of the House; and when this House has, in a proper manner, punished him for that disobedience and that contumacy, or undertaken to do it, then let him try the law—the judicial tribunals are open to him—and see whether the action of this House is legal or not.

Sir, we are engaged in a great question. It is one, as I remarked in the outset, which involves the honor of the House, which involves the integrity of the legislative body of this nation. It is alleged that in this temple, dedicated to justice and to law, frauds, infamous frauds, have been practiced for the purpose of controlling legislation, and that the votes of members of this House have been bought and sold in the market. You have appointed a committee to investigate the matter, to ascertain whether those allegations are true, and if so, to publish the facts to the country. I say it is a great question. If there be truth in these charges, it ought to be known, although it may blacken the annals of our country's history. The people ought to know it. The people never will know it unless you command respect to the precepts which this House issues, and aid your committee in a proper investigation of this question.

Mr. Speaker, the committee were satisfied, before the subpoena was issued for this witness, that we should have trouble with him.

Mr. COX. I ask the gentleman from Georgia if a letter, written to the committee by this witness, in which he denied the power of the House, was not read here the other day?

Mr. WRIGHT, of Georgia. I think there was, but I have not read the letter.

Mr. STANTON. Certainly there was.

A MEMBER. It was addressed to the Sergeant-at-Arms.

Mr. COX. I would be glad to have it read again.

Mr. STANTON. I submit to the gentleman from Georgia whether it will not do just as well to do this thing to-morrow as to-day? That is all the difference there is between us.

Mr. WRIGHT, of Georgia. No, sir.

Mr. STANTON. I submit whether it is not better not to do anything hastily?

Mr. WRIGHT, of Georgia. I do not want to do anything hastily. This gentleman has nothing in the world to do but to express his willingness to answer all legal questions (mark you) which may be propounded to him to relieve himself from imprisonment. He need not move one foot from where he now stands. He has but to say "I am ready to answer all legal questions propounded to me by the committee;" but he has no right to append to it his own terms or the condition that he will answer if he can do so without violating any promise he has given or any oath which he has taken.

Mr. JOHN COCHRANE. Will the gentleman allow me to interrupt him at this point? I do it for the purpose of announcing to the House, upon the authority of the witness who is produced before it, that he is willing to answer every and all questions, and that he does not set up the defense that any question may require him to criminate himself.

Mr. WRIGHT, of Georgia. If that is the case, I am satisfied that the witness shall go before the committee, and will not press my resolution.

Mr. STANTON. I now demand the previous question, and will insist on it.

Mr. JOHN COCHRANE. May I take the floor for a moment?

Mr. STANTON. I would be glad to accommodate the gentleman, but there are twenty others asking the same privilege, and I cannot do it.

Mr. JOHN COCHRANE. I appeal to the gentleman from Ohio to withdraw the demand for the previous question for a moment. I will renew it.

Mr. STANTON. Well, Mr. Speaker, if the

gentleman has anything to say for the witness, it will be proper that he shall state it. If not, I must decline to withdraw the previous question, as there are at least twenty other gentlemen who desire to make speeches.

Mr. JOHN COCHRANE. I answer the gentleman from Ohio that I have something to say, direct and pertinent to the interests of the witness, and which I am authorized to speak by him and for him.

Mr. STANTON. Then, sir, if the gentleman from New York will renew the demand for the previous question, and not withdraw it for anybody, I withdraw it.

Mr. JOHN COCHRANE. Have I the floor, Mr. Speaker?

The SPEAKER. The gentleman from New York is entitled to the floor.

Mr. READY. I desire to know if the gentleman from New York is authorized to say that the witness will make the answer he has just stated in writing?

Mr. JOHN COCHRANE. I have not questioned the witness on that point.

Mr. SEWARD. I ask if the gentleman is authorized to say that the witness will make that answer under oath, as the resolution of the House requires?

Mr. CLARK B. COCHRANE. The answer ought to be in writing.

Mr. JOHN COCHRANE. If I have the floor, I desire to say a word or two, not only in respect to the rights of this witness, but in respect to the reputation of this House and of the people of the United States whom it represents.

Mr. McQUEEN. I desire to ask the gentleman from New York if the witness is prepared to withdraw the answers which he made to the House this morning?

Mr. JOHN COCHRANE. I will ascertain that in a moment. In the mean time, however, I have a word or two to present to the House on this subject, a subject certainly of a very serious and important character. It has been stated here that we are upon a grave crisis, that we are engaged in the discovery of frauds, and that we have taken a first and a very important step towards that discovery. Ay, sir, we have, but let me entreat gentlemen to look to it that any subsequent step towards that discovery be not planted in an outrage upon the rights of any citizen of these United States. Why, sir, what a picture will it be? The Congress of the United States engaged in purging itself of corruption; engaged in discovering iniquity elsewhere; carrying out their inquiry, in the first place, by an outrage and violence upon the rights of an individual; and in the next place, by asserting a right and their impunity in so doing.

Now, sir, what is the case before us? The witness is introduced here in default. In default of what? Of replying to your mandate to appear and answer. But, in the first place, you have advanced a step beyond that; you have purged this default by asking a question; and your inquiry now is in respect to his contempt for refusing to answer the question, not to a contempt by reason of his default. But if that were not so; if it were for the contempt by reason of his default, and you were not concluded by your advance beyond that question, was not that default purged by his written declaration here that he acted under the supposition that he was under the authority of the sheriff of New York, and was so advised by his counsel? What contempt was there in that, I ask gentlemen here, either those who have been bred to the profession of the long robe, or those who have acted in other vocations of life?

Now, what says the law upon this subject? It has been stated that the law which has been cited is applicable to this case. It is, undoubtedly, but it is applicable only in concurrence with the inherent power of this body to assert its parliamentary rights. The section of the law to which I allude, is as follows:

"Any person summoned as a witness by the authority of either House of Congress to give testimony, or to produce papers, on any matter, before either House, or before any committee of either House of Congress, who shall willfully make default, or, when appearing, shall refuse to answer any question pertinent to the matter of inquiry before the House or committee before which he shall be examined, shall, in addition to the pains and penalties now existing, be liable," &c.

It is clearly, sir, a concurrent and coöperative

remedy; and we stand here, not acting under this law, but under the general parliamentary law of all legislative assemblies; and it is in pursuit of that question that I will address to the Speaker, and to the House, a few remaining words. And what shall they be devoted to? Why, simply to the sole question that remains before this House at this present time—whether the witness standing there is a contumacious witness, refusing to answer the questions put to him. What question is put to him? I ask that the question be read from the Clerk's desk. Sir, there is no question. The committee has not done its duty. In its great anxiety to punish an alleged fraud, it has come here in hot haste—to punish whom? The perpetrators of the fraud? No; but the witness, before they have given him the opportunity of answering, or refusing to answer, the questions that should have been put to him.

And what a spectacle is this for the country to look upon! What a spectacle to be exhibited in the Hall of its Representatives; that, when pursuing alleged fraud, they should plant their foot on the neck of an innocent and unoffending witness! Sir, I move the previous question.

Mr. MOORE. I beg the gentleman will withdraw the call for the previous question.

The call was withdrawn.

Mr. WRIGHT, of Georgia. I understand that the answer of the witness is not withdrawn.

Mr. JOHN COCHRANE. I am authorized by the witness to state that he is ready and willing to answer in writing here, or at the bar, or elsewhere, as the House may direct.

Mr. ADRAIN. I hope that the witness's answer will be put in writing. It will not do to come merely from the lips of a member. I wish to have his answer reduced to writing, so that there will be no dispute hereafter as to what he said or did not say.

Mr. BURNETT. I object to this discussion as being out of order.

The SPEAKER. The call for the previous question has been withdrawn.

Mr. MOORE. If the answer handed in by the witness to-day be withdrawn and modified, as the gentleman [Mr. JOHN COCHRANE] states it will be, and if the modification be made in writing, I do not desire to submit the remarks which I intended to submit.

Mr. JOHN COCHRANE. May I suggest that the witness professes his willingness to withdraw the present return, and to file a second one to comport with what has been said in his behalf?

Mr. MOORE. The answer that he has made contains nothing about whether he is going to reply to the committee. The House cannot investigate that question now. It can only do so when the certificate of the committee comes legitimately before it. At this time we have nothing to do with it.

Mr. SEWARD. For the purpose of settling this question, I make the distinct motion that the witness do have further time to answer—till to-morrow, at one o'clock, p. m.

Mr. STEPHENS, of Georgia. I move that the witness have permission to withdraw and amend his answer, and that the matter be postponed till to-morrow.

Mr. SEWARD. Well, that is my motion. Mr. JOHN COCHRANE. On that I move the previous question.

Mr. WRIGHT, of Georgia. I am perfectly willing that that course be taken, particularly as I have private information that the witness is willing to amend his return, and to answer all questions that may be propounded to him. No man in the world has a greater objection than myself to inflict punishment; and it was only for the purpose of punishing contumacy that I moved my amendment.

Mr. STANTON. I submit that, if my proposition to postpone the whole thing till to-morrow be adopted, the witness can come to-morrow with his amended answer.

Mr. STEPHENS, of Georgia. But I want the Journal to show that the answer was regarded as not satisfactory, and that the witness had permission to withdraw and amend it.

The SPEAKER stated the question to be on the proposition that J. D. Williamson have leave to withdraw his answer, and to submit an amended answer; such amended answer to be submitted at one o'clock, p. m., to-morrow; and that in the

mean time said Williamson remain in the custody of the Sergeant-at-Arms.

Mr. TRIPPE. I would inquire whether, if that motion be adopted, the select committee cannot have the witness before them between now and one o'clock to-morrow? whether the committee can call the witness before them without the order of the House?

The SPEAKER. Debate is not in order; the previous question has been called.

Mr. STEWART, of Maryland. Why did not the previous question cut off this amendment?

The SPEAKER. The previous question was withdrawn to allow the resolution to be amended, and was again demanded.

Mr. SEWARD. By the consent of my colleague, I should like to suggest a modification.

The SPEAKER. No further debate is in order.

Mr. SEWARD. I do not intend to debate it; I want the resolution to show that the answer was withdrawn by the request of the witness.

Mr. STEPHENS, of Georgia. I accept the modification.

The order was so modified.

Mr. MOORE. I suggest another modification to the effect that in the mean time the witness may be called before the committee to answer.

The SPEAKER. The Chair thinks that unnecessary.

Mr. STEPHENS, of Georgia. The committee has that power now.

The previous question was seconded; and the main question ordered.

Mr. STANTON. My motion is to postpone this whole subject until one o'clock to-morrow, when the witness will have his answer ready, and may withdraw his answer filed to-day, and present his amended answer. I think that covers the whole ground.

The amendment was agreed to—one hundred and twenty-one having voted in the affirmative.

The proposition, as amended, was then adopted.

OHIO CONTESTED-ELECTION CASE.

The SPEAKER stated the next business in order to be the report of the Committee of Elections in the Ohio contested-election case, upon which Mr. MARSHALL, of Kentucky, was entitled to the floor.

Mr. MARSHALL, of Kentucky. Mr. Speaker, in the determination of the question which is brought by the Committee of Elections before the House, propriety demands that we should lose sight entirely of everything like partisan feeling. It is a question of practice, and in treating it, the House acts as a court as well as a parliamentary body.

The precedents, under the act of 1851, stand in bold contrast with the course recommended by the committee. The resolution passed by the committee adopts a rule more stringent than it is usual to observe in courts of justice.

The application for further time to take testimony is met by the declaration that the sitting member in this case declined, directly after the election, to receive a notice from the contestant, the object of which was to go into an examination of the proof. What figure should this fact cut in the decision of the principle by this House?

The laws in Ohio require that the election shall be determined by a board of canvassers, consisting of the Governor, Secretary of State, Attorney General, and probably some other public officer of the State. It provides that the county clerks in the several districts in the State shall forward the returns to the seat of government, and, upon the day fixed by the law of the State, the board of canvassers shall open the poll, examine the returns, and declare the result. The notice of the contestant was sent to the sitting member before the declaration of that result by the canvassers. The day fixed by law for canvassing the returns of the election, was some day in December—the election took place in October—and the notice was served on Mr. Campbell in October, before the day fixed by the law of that State, for the inspection of the election returns, and the declaration of the result, had arrived.

Mr. Campbell declined to enter upon the examination, upon the grounds that the movement was premature. Gentlemen say that in this Mr. Campbell relied upon a technical objection. Not so. As the election was not to be declared until an appointed day in December, it would have been

exceedingly indelicate for the member to have received notice of contest, and actually have proceeded to the defense of a seat which, by the laws of the State, had not been pronounced to be his. I ask the members of this high court whether any one of them, placed in exactly the same position, would feel himself at liberty to receive notice of a contest and to go into an examination of the validity of his title to a seat, which title, by the laws of the land, had not been declared in his favor? Much less, then—if he would not do so—ought he to permit this refusal upon the part of Mr. Campbell to affect prejudicially the question which is now pending at the bar. I take it for granted that there is no judge in the world who sits upon the bench, disposed to do right, who would prejudice the rights of a party for not doing that, or for not accepting the proposition to do that which he was in nowise bound by law to do, and was forbidden to do, by every consideration of propriety.

If my proposition is correct, the objection I have noticed falls to the ground, and Mr. Campbell stands here unprejudiced by reason of anything that occurred up to the time when that notice was given to him, under which this proceeding takes place. That was some time in December, 1856. Mr. Campbell was then in Washington, a member of the Thirty-Fourth Congress; and, as we all know, engaged in its business at the head of the Ways and Means. And he was here, a member of that House, from that period in December until after the time had expired in which, according to law, he might have taken this testimony. But I am told this fact makes no difference. The chairman of the Committee of Elections [Mr. HARRIS, of Illinois] says that the law must operate upon all alike; and that the fact that Mr. Campbell was a member of the Thirty-Fourth Congress, engaged in its legitimate duties, has nothing to do with the question. I admit it has no bearing upon the ultimate question of right to the seat. It is not to affect the rights of the other party. If it affected the rights of the other party in any manner, I would not urge the fact of Mr. Campbell's engagements here as a reason why we should delay; but upon the question of *due diligence, we have a right to consider it*. Upon a proposition addressed to the discretion of the court, we have the right to consider the fact that a man was detained by necessary and legitimate business—that he was in a condition in which he could not presently attend, or that he was deprived of the opportunity to attend to the taking of depositions within the time limited by the law. In practice, nothing is more usual than for the courts to hear statements like this upon applications for continuance. If that be so, let the admitted fact of Mr. Campbell's necessary detention here in the winter and spring of 1856-57 have the weight it deserves.

Mr. BARKSDALE. I desire to ask the gentleman why this application was not made at the commencement of this session?

Mr. MARSHALL, of Kentucky. If the gentleman from Mississippi will wait until I come to that part of my argument he will receive my answer, and I will inform the gentleman beforehand that I consider the question as one which ought to be answered.

It seems to be conceded by the minority of the Committee of Elections that, under the law of 1851, both parties may, at the same time, open the commission for taking depositions by themselves and their agents, for the sixty days within which the law limits the taking of testimony. I confess that is not my construction of the statute. I do not understand how, upon a mere matter of construction, any lawyer upon that committee got at that construction. The law itself says:

"That the party at whose instance the subpoena may issue, shall, at least ten days before the day appointed for the examination of the witnesses, give notice in writing to the opposite party of his intention to examine witnesses, which notice shall contain a statement of the time and place of the proposed examination, the name of the officer who shall conduct the same, the names of the witnesses to be examined and their places of residence, which notice shall be served by leaving a copy with the person to be notified, or at his usual place of abode: Provided, neither party shall give notice of taking testimony at different places at the same time, or without leaving an interval of at least five days between the close of taking testimony at one place and its commencement at another."

Now, the construction of the committee upon this law is that both parties may open a commission at the same time, and in different places. How did that committee arrive at that conclusion, when

the law itself says that neither party shall give notice of the taking of depositions at different places at the same time? Is it the construction of the committee that both parties together may do what the law has declared neither party may do? All I can say is, that as a person desirous of putting a proper construction upon the statute, I do not understand the reasoning which allows either party to do what the law itself declares neither party shall do.

It may be very convenient in practice, but if gentlemen will look back and ascertain the reasons that induced the enactment of the law, they would probably have found it in the fact that, in a contested-election case which was brought to the observation of this House, just prior to the passage of this act, it was shown that the United States commissioner had been housed with one of the parties and his witnesses; and, in the absence of the other party, the contestant had examined witnesses *ex parte*, and when the witnesses were drunk, and other witnesses of whom nobody had any knowledge in the neighborhood. Therefore it was intended by those who enacted this law that when a commission was opened, the party whose rights were to be affected should have an opportunity to be present at the taking of the depositions, and that two commissions should not be running at the same time in different places. Neither party has this privilege under this law.

What becomes of that proposition of the law, under the construction of this committee, which requires that five days shall intervene between the closing of the testimony at one place and the opening of the commission to take it at another? Why may I not open a thousand commissions in the congressional district as well as one, if, when my adversary informs me he will be engaged at A, I may notify him that his presence is required at the same time at B? Why may I not multiply them *ad infinitum*? What is the use of that section of the law which prohibits both parties from taking testimony in different places at the same time, under the construction these gentlemen give to the law? No, sir, it was the intention of the law, that within the sixty days, opportunity should be afforded to the parties to be present, and that if my competitor opens a commission in his behalf, I shall have the opportunity to be present personally, if I prefer it. I am not to be driven to the employment of a lawyer. I am not to be driven to the employment of an agent. Maybe I am not willing to do it—maybe I am not able to do it.

Let us change the application of the point for a moment. Suppose that instead of this election of Mr. Campbell being contested here by a party who wants the seat, it was contested by one of his constituents who did not want the seat, but who merely wanted to have a judicial determination, by this House, of some question affecting the validity of the election arising under the State laws; as, for instance, the day on which the election was held, or the character of the constituency that was permitted to vote. By the proposed construction of the law, will you shut that man off from his right to contest the election, by saying that the sitting member—probably endowed with fortune—has the right to open a commission wherever he may choose, and at any number of places; and that if the contestant cannot attend them, it is his own fault? When that constituent challenges the examination of votes at Hamilton, shall the member proceed at the same moment to take and close the proof at Dayton?

But, take the construction that it seems the committee put upon the law, and, for the argument, assume that both these parties had a right to have commissions open at different places at the same time; then this salient fact appears upon the papers—that the contestant himself did not so construe the law at the time that the contest was going on; for when Mr. Campbell gave his notice, about the 17th of March, that he would occupy the time from that date up to the 28th of March, the contestant replied, *no; that period of time is already covered by my commissions*. I do not know whether the gentleman is a lawyer or not—I am told that he is—and this shows the fact that while he was at home, on looking at this law, he put the same construction upon it that I now put on it. It shows the additional fact that, putting that construction upon it, he attempted, in carrying out his construction, to employ the whole time with

commissions in his own behalf, *while his competitor was here in Washington!* It was denied here yesterday, after a fashion, that he so intended, or that he so understood it; but the fact stands out on the face of the papers, it appears on the application of the sitting member for further time.

Was there not then room for a doubt as to the true construction of this act in regard to the privileges of the parties? I show you that the contestant construed it at that time in one way. I show you that I myself now, with all the lights before me, construe it as he did then. I differ with the committee in their construction of the law. I am not alone. A number of lawyers in this House differ with the committee in their construction of the law. Mr. Campbell differed with them in that construction. Will not the fact that the sitting member was here, engaged in his legitimate duties, added to the fact that there was a doubt as to the privilege under the law, weigh with this House, on the application for further time to take testimony? Shall these facts have no force in the settlement of the question as to what, *under the circumstances of the case*, was due diligence?

But it is asked, why did not Mr. Campbell go on and take his testimony, as he proposed to do, after the sixty days had expired? Am I asked that question by lawyers? Am I asked that question by men who pretend that they intend to do justice? Will you require of a man that he shall do that which the law prohibits? Will you, when he comes forward here to address himself to your legal discretion, set down against him the fact that he did not do what you know would have been foolishly done, if done at all, and when done, would have been worth nothing? I think that the contestant was right in the reply which he gave to Mr. Campbell. He said:

"By the statute, the period for taking testimony is expressly limited to 'sixty days' from the service of the answer. You were in Congress when the act passed, and are presumed to know that you were equally bound with myself to close the testimony within that period."

"The 'practice' you allege of taking testimony after the sixty days, notwithstanding the statute, cannot be very inveterate, since the act was not passed till March, 1851; nor do I think that, at so early a day, practice will prevail against the express words of the statute, which declares that 'no testimony shall be taken.'"

"As to your notion that this language is 'directory only,' I have to say that I can well understand how an affirmative provision in the statute may sometimes, under stress of judicial pressure, be held 'directory,' and non-compliance excused; but I have yet to learn how a provision expressly negative, was ever or can be in like manner interpreted. 'Thou shalt not steal,' is, I take it, strictly prohibitory."

This conclusion of the contestant is a sound position, and indicates a proper interpretation of the law. It was conclusive on Mr. Campbell. I could have added another proposition. It is, that if Mr. Campbell had subjected himself to the expense of going on to take testimony after that answer of the contestant, such testimony could not have been read here *for any purpose* to affect the rights or the interests of this contestant. All that the astute gentlemen who argue on the other side of the case would have then been required to do, would have been to rise in their places and say that *that testimony was worth nothing. The taking of it was prohibited by law, and if the witnesses had sworn falsely, they could not have been indicted or convicted of perjury.* Therefore, had their affidavits been produced, they could not have been read here *for any purpose.*

That is explanation enough why Mr. Campbell did not go forward and take proof in the time that intervened after the expiration of the sixty days and before the session of Congress. We must say, as a court, not only that such taking would have been useless, but that the other party in the case expressly put his veto upon the proposition to go on with the taking of the testimony. He indicated to Mr. Campbell that the taking of it would be useless, *because he interposed a legal bar to its future use.* Ah, but, say gentlemen, why did he not go forward and do it in order to exhibit to us the substance of what he could prove? For the simple reason that, in the eye of the law, it would not have exhibited the substance, nor even the shadow of a substance. Because, the answer would have been made that it was good for nothing; that it was *ex parte*; that it was not only *ex parte*, but was *denounced by the law*; that although the men who made the statements had gone forward and sworn to them before a magistrate, yet, being prohibited by law, it was not testimony, and could not be so regarded; and you would then have been called upon,

by these close constructionists, *not to permit such testimony to be read here for any purpose whatever.*

"Why did not Mr. Campbell, then, appeal to this House at an early day of this session?" We met here on the 7th of December. The contestant's memorial was filed on the 14th of December. The testimony was sent to the Committee of Elections after its constitution, and it had not been printed, as I understand, until about the period when the recess occurred at Christmas. But the gentleman from Pennsylvania [Mr. PHILLIPS] said: "What is that to us? Mr. Campbell knew what that testimony was, and knew to what extent he was interested in it. Why did he not come forward before the House?" I ask any member of this body, of any experience, if he will not respond affirmatively to the proposition that, when the memorial was referred to the Committee of Elections, and before that committee had had any opportunity of learning anything whatever in regard to it, if Mr. Campbell was not right in not making any movement in the case till the committee had had an opportunity of seeing the testimony? Was it not a matter of courtesy due to the committee, as well as a matter of right, that he should not have so abruptly moved in the matter?

Mr. PHILLIPS. I beg to say that the testimony was printed on the 16th of December, one week before the House adjourned for the recess.

Mr. MARSHALL, of Kentucky. I understand that the memorial of the contestant was filed on the 14th of December.

Mr. PHILLIPS. The whole of it was printed on the 16th of December—the memorial and the testimony. I ascertained that yesterday, and so stated the fact.

Mr. TRIPPE. The memorial was filed December 16, 1857, referred to the Committee of Elections, and ordered to be printed.

Mr. MARSHALL, of Kentucky. The memorial was filed and referred on the 14th. We were to adjourn on the 23d of December. Here, then, were seven days between the time when the memorial was filed and the time when this House adjourned over till the 4th of January. I ask the gentlemen of that side of the House whether, under the law of Congress, you intend, in all cases, to lay down the line so strictly as to make this question of due diligence strike within seven days? Why will you do so in this case, while at the other wing of the Capitol, in the case of the contested seats of the two Senators from Indiana, who belong to your party, you give two years to take testimony? Let us act fairly. Let us settle this as a court, not as partisans. Is it right that while, at the other wing of the Capitol, you construe this law so as to give these Senators a right to go on from session to session taking proof, you shall restrict a party here *within seven days*? And let me here remark, that, in the contested election case of Allen and Archer, decided by the Thirty-Fourth Congress, the Committee of Elections gave further time for testimony, without referring the question to the House. And in this case, Mr. Campbell may well have supposed that the matter would properly come before the committee.

Mr. WASHBURN, of Maine. The gentleman is mistaken.

Mr. MARSHALL, of Kentucky. I am told that I am mistaken; but, if I have made a mistake, I have done so on the faith of the Clerk of this House—who was then the sitting member—who, no longer ago than this morning, told me the fact as I have stated it.

Mr. WASHBURN, of Maine. If the gentleman from Kentucky will allow me a single remark, I will state precisely what was the fact. Certain testimony was produced by the contestant and laid before the committee, to which the sitting member objected. It was stated that the notice was served when he was here at Washington, and that he had not a proper and sufficient opportunity to be present and cross-examine the witnesses. The committee differed with him, however; they considered the notice sufficient; he then asked that he should have time to examine those witnesses. Owing to this fact, as stated by him, the committee then understood that he desired an opportunity to cross-examine these witnesses; and they also understood from the contestant that he desired an opportunity of taking the testimony over again. With that understand-

ing, the committee said to the parties, "if you take this testimony, we will receive it."

Mr. PHILLIPS. I ask the gentleman if that was not done at the instance and by the consent of the parties, and not in the exercise of their power as a committee of the House?

Mr. MARSHALL, of Kentucky. The gentleman from Maine makes the explanation which answers the question of the gentleman from Pennsylvania. It shows the fact that what was done was done by the committee without consulting the House. What was done by the Committee of Elections in the case of Archer and Allen might have been done in this case; and the subject of granting additional time Mr. Campbell might well have supposed would not be made a proposition before the House. And, therefore, prior to the time fixed by the committee for taking up the Ohio contested election, Mr. Campbell may very well have concluded that it was not his business to bring the matter of this special application before the House.

I understand that when he left here it was the understanding that his case would not be taken up before the recess; and that if it was taken up afterwards before his return, he should, by telegraph, be notified of the fact. It is a fact that by telegraph he was notified; that he left a sick family and hurried here, where he found his case already pending. He then presented some questions as to the admissibility of testimony, in the nature of exceptions to the testimony which had been filed; and I understand that the committee determined they would not hear exceptions to the admissibility of testimony until they came to a final hearing of the case, when they would decide on everything at the same time.

Now, I apprehend that this determination of the committee, that exceptions which had been taken to depositions which were before them should not be heard in the progress of the case, and the possibility of the case being decided upon hearsay testimony, put Mr. Campbell on his guard, and admonished him that, if he would have his rights properly represented, he must have additional testimony before the committee at their final hearing of the case. If the committee decided to reject what he considered illegal testimony, he was ready to submit his case to the committee as it stood; but he thought it would not be safe to those whose rights he represents until he knew the character of the evidence to be used against him in the investigation. Unsuccessful before the committee in obtaining the preliminary decision he sought, he then comes before this House upon this state of facts, with the declaration which he has made here, to wit:

"I verily believe that, if this application is granted, I shall be able to show to the entire satisfaction of the House, by legal testimony, that my election was a fair and valid election, and that if illegal votes may have been cast, more illegal votes were cast for the contestant than for myself. Having had no fair opportunity of vindicating my rights and the rights of my constituents in the premises, this application is respectfully submitted."

That, sir, has all the dignity of an affidavit. It is the statement of a member of this House, on honor as a Representative, in a matter pending here judicially. But my colleague [Mr. STEVENSON] says this application ought to fail, because it is not accompanied by the affidavits of the witnesses, showing what they can prove if they were examined.

Mr. STEVENSON. I made no such statement. I understand my colleague to assume the position, that upon the mere statement of the party that he expects to prove facts, without stating what he expects to prove or the witnesses that he relies on, such an application should be granted. What I said was, that if you move to set aside a judgment, the facts the affiant expects to prove must be stated; and if you make application for a continuance, then the applicant must state the facts he expects to prove, the names of the witnesses, and the reasons why he makes the application.

Mr. MARSHALL, of Kentucky. It is just as I supposed, except that the gentleman has probably mistaken the position he occupied here. He certainly would not draw an illustration in this place from what a man should do who applies to a court which has rendered the judgment. Mr. Campbell is not here applying as one against whom judgment has already been rendered upon the merits of the question. He applies for time to prepare for a hearing on the merits, and that application is ad-

dressed to the sound, equitable discretion of this court. This high tribunal is not to carry out a Kentucky statute of practice.

Mr. STEVENSON. The gentleman forgets or fails to mention a material fact, that this case was fully argued upon its merits by the attorney general of Ohio for the contestant, and that the argument for the sitting member had been continued for two days before the application for continuance was made. And, in analogy to judicial proceedings, I say that, when a party announces himself ready to put a case on trial and proceeds with the trial, he must bring very strong reasons for setting the judgment aside.

Mr. WASHBURN, of Maine. I desire to correct the gentleman from Kentucky, [Mr. STEVENSON.]

Mr. MARSHALL, of Kentucky. I will correct the gentleman myself. That statement brings us to the "cream of the coconut." That brings us to the question of fact, whether Mr. Campbell had pronounced himself ready to have a hearing before the committee.

Mr. STEVENSON. He had not.

Mr. MARSHALL, of Kentucky. Then why does my colleague put him in the category with a man in court, who has announced himself ready for the trial? and why does he say the trial had for two days proceeded &c.? The fact that the attorney general of Ohio argued the case upon its merits for two days, does not prove that Mr. Campbell had announced himself ready for the hearing. On the contrary, I understand that the case was taken up in violation of what Mr. Campbell understood to be the intimation of the chairman of the committee. I do not mean to be understood as imputing unfairness upon the part of the chairman or any member of the committee.

Mr. GILMER. I want my friend from Kentucky to go on and state the facts, as I know he will with great pleasure.

Mr. WASHBURN, of Maine. With the permission of the gentleman from Kentucky, I will state that, in the absence of Mr. Campbell, the committee were called together and the contestant appeared before them with his counsel, and desired to be heard upon the merits of the case. Perhaps I should not refer to what transpired before the committee; but inasmuch as reference has been made to the transactions of the committee, I think I may be permitted to state some few facts. At that time I made the suggestion that perhaps it was not exactly right to do so in the absence of Mr. Campbell. It was said, upon the other side, that the counsel of the contestant was to leave for Ohio in a day or two, and that it was important that he should be heard; and that he would make a full brief, and give it to Mr. Campbell. Mr. Campbell soon after returned, and immediately made application for further time; or rather, that, in order that he might determine whether or not he should desire further time, he would like to have the committee pass upon some preliminary questions. The committee discussed that matter to some extent, hearing Mr. Campbell's attorney partly through upon the preliminary question; then finally said he must decide at once whether he would apply for further time to take testimony; and informed him that they would not decide upon the preliminary question or demurrer until they came to decide upon the full merits of the case; and that, if he desired to put in an application for further time, he must do it then. And it was understood when Mr. Campbell's attorney commenced making the argument, he was considered as having made the application at that time.

Mr. STEVENSON. I would ask the gentleman from Kentucky whether, when the sitting member had allowed a whole month to pass after his case was laid before the committee, without he or any of his friends making any application for a continuance, the contestant had not a right to infer that he was ready in the cause?

Mr. MARSHALL, of Kentucky. Most indubitably not, in the presence of the fact that we had taken a long recess at that time; that the sitting member had gone home, with an understanding that his case would not be taken up unless he was telegraphed of the fact, and notified to be present. But, sir, if the gentleman were a judge of a court in the county where he lives, and should say to parties litigant in that court that there would be no more causes taken up until the next Monday morning; that the witnesses and jury-

men could go home; what would the people think of him if he were to take up a case in the absence of one of the parties, take proof, and proceed to judgment? I would like the gentleman to tell me the difference between this case and that.

Mr. STEVENSON. I think it would be perfectly right to take it up if that litigant's attorney was there and allowed it to be taken up.

Mr. MARSHALL, of Kentucky. Who was that attorney in Mr. Campbell's case?

Mr. STEVENSON. Mr. Day, of New Orleans.

Mr. MARSHALL, of Kentucky. He was not the attorney until after Mr. Campbell's return. The committee took it up while Mr. Campbell was at home attending at the sick bed of his wife, and heard the attorney general of Ohio for two full days argue the merits of the case in the absence of Mr. Campbell, when he had gone home with the understanding that the case would not be taken up in his absence.

Mr. HARRIS, of Illinois. This whole case seems to be argued upon very little points; and I hope the gentleman from Kentucky will remember, "*de minimis non curat lex*." In regard to this whole question, there is no difference of opinion between Mr. Campbell and myself. This testimony was all printed two or three days before the recess; and it was in the hands of the members of the committee. There was no action taken by the committee prior to the recess. Mr. Campbell came to me, and asked if the case would be taken up before the recess? I told him I thought not; that the testimony was voluminous, and that we could look at it in our rooms better than in the committee. He said he desired to go home; and requested, if necessary, that we should send him word by telegraph. I promised to do so. I only promised that; but I wrote him a letter, stating that his presence here would be necessary by a given day; that Mr. Vallandigham was here, and desired to take up the case. That letter was written four or five, and perhaps six, days before his presence was necessary. In addition to that I sent him a telegraphic dispatch, which he received. He told me, on his return, that he did not get my letter, but that he got the dispatch.

Mr. CAMPBELL. I received the letter after my return here.

Mr. HARRIS, of Illinois. There was no misunderstanding about it. Mr. Vallandigham was here with his counsel, waiting four or five days to commence the argument. Mr. Vallandigham said that his counsel could not stay longer. As Mr. Campbell had been notified to be here on a given day, but did not come, the argument commenced, and the counsel promised to Mr. Campbell a full brief of it. I believe he wrote out the substance of what he said, and gave it to Mr. Campbell. He returned with Mr. Day, a distinguished lawyer from New Orleans, who argued the case for two full days upon its merits before any application whatever was made for a continuance.

In justification, however, to Mr. Campbell, I must say that a motion was submitted to the committee requiring them to decide certain legal questions in regard to the admissibility of some testimony. In case the committee decided that certain testimony was illegal, then he desired further time to take testimony. He desired an immediate decision. The committee concluded not to decide upon the admissibility. It was not a motion to suppress testimony or to take testimony. The committee determined not to decide upon the admissibility of this particular testimony, nor upon any of the other points raised; but only upon the whole case. After all this argument had taken place upon the merits of the case, the application was made for a continuance.

I believe I have stated the facts correctly, and the journal of the Committee of Elections, which I have before me, bears me out in my statement. If I have not, I desire any gentleman to correct me.

Mr. MARSHALL, of Kentucky. The explanation answers all the purposes I desire to accomplish by it. It is to show to the House the fact that Mr. Campbell did not go into a discussion of the merits of this case voluntarily; that the discussion commenced in his absence; that he had filed preliminary exceptions to the admissibility of certain testimony, and it will be apprehended by the country, which may take an interest in this case, that, according to all the modes of prac-

tice, exceptions to the admissibility of testimony are generally heard in the progress of a case. If a question as to the admissibility of testimony arises in a jury trial, it is decided as the case progresses. If exceptions to the admissibility or competency of testimony arise in a chancery cause, they are decided before, or, if not before, at the general hearing.

Mr. STEVENSON. I desire to ask my colleague a question.

Mr. MARSHALL, of Kentucky. I will say to my colleague that I have not time, as there are other points to which I desire to refer. How much time have I left, Mr. Speaker?

The SPEAKER. Four minutes.

Mr. MARSHALL, of Kentucky. It has been said by my colleague, or by some other gentleman, that Mr. Campbell has only produced affidavits to show that he could change three votes. I want you to remember that those votes were negro votes—negro votes given for the Democratic candidate. Sir, it is known to the House that a syllabus, setting forth the proof in this case, taken by the contestant, was circulated prior to the hearing, and addressed to the jurors before the court came on. I recollect that I received one of them at my home, long before I came here. It was an argument of the case before term time, by one of the parties; and the point addressed to us, from the slaveholding States particularly, was that there was something dark about Campbell's vote; that "niggers" had voted for him; and Campbell, knowing our peculiar sensitiveness upon that subject, offers to produce testimony here to show that three negroes voted for the contestant to every one that voted for him. That is the reason why he furnishes these affidavits at all. It is a speech to those among us who are sensitive in regard to a particular species of suffrage.

Again, sir, there is a fair and good reason why the names of the witnesses should not be given in this application for further time. One of the charges in this case is, that there was a wholesale scheme "of colonization" in this election. That charge is made by Mr. Campbell against the other side. If there was any such wholesale scheme of colonization carried on in order to rob the people of the district of their rights, then it would be the easiest thing in the world to get hold of the men who were colonized, if a list of their names was published before they were brought forward to testify. That excuse for the failure to furnish a list of the names of witnesses would be considered perfectly conclusive and satisfactory in a court of justice.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. It is my wish, Mr. Speaker, that in the discussion of this question, and in its decision, we should act as if we were a court—act as if we were judges. I wish to be governed by the same considerations that would govern me if I were on the bench; and I did hope, when the gentleman from Kentucky [Mr. MARSHALL] arose, that he would have argued the question upon its merits as a question of continuance addressed to our discretion as a court, whether the motion to continue should be granted or not, in order to effectuate justice. I intend, in what I say, to argue this motion to continue upon its merits. But I must say to the gentleman from Kentucky, that in what he said before the conclusion of his remarks, it does seem to me that he has not been governed by the rule he laid down. He alludes to an exhibit made by the sitting member in his application for a continuance in which is appended the affidavit of two or three individuals, stating that one Flanigan, who is a negro, voted for Mr. Vallandigham, but the sitting member does not even state that he expects to prove this statement to be true.

Mr. MARSHALL, of Kentucky. Allow me to set myself right. My allusion to that was in reply to the statement that Mr. Campbell had made an attempt to show how many votes he could change, and had only attempted to show that he could change three. My point was, that that attempt was made to meet an effort on the part of the contestant to create a prejudice against the sitting member.

Mr. STEPHENS, of Georgia. Very well, sir; let the question be argued strictly as a motion to continue. What I say is, that the sitting member does not allege that he expects to show that Flanigan was a negro, and voted for Mr. Vallan-

digham; and no court of justice, not even the humblest justice of the peace in the land, would grant a continuance unless the party would swear that he would prove the fact alleged. The gentleman does not even state that he expects to prove it. This paper, purporting to be an affidavit, was taken by the sitting member at some time, of which the contestant knows nothing. As soon as it was exhibited to the committee, the contestant replied to it, and alleged that the accusation was libelous against any one who had voted for him. Sir, I hold in my hand, but have not time to read it, proof incontestable to show that the contestant was right, and that the statement was but a fabrication. Upon the bare announcement of the statement he was prepared to pronounce it a libel, and here is the proof of it. This exhibit, then, unsupported by an allegation that the sitting member expects to make it appear true by proof, amounts to nothing in his motion for a continuance.

I listened with attention to the gentleman from Kentucky, [Mr. MARSHALL,] because, if anything could be said on legal principles why the continuance should be granted, I would be willing to give the sitting member the benefit of it. He rests it mainly on a construction he gives to the act of 1851; but in this he differs both with the majority and minority of the committee, as well as with the sitting member and the contestant. He differs from all of them. He thinks that if the contestant had covered the whole sixty days with his notices, the sitting member would have been excluded from taking testimony under the law. Well, sir, this is a ground the sitting member does not set up himself. He placed no such construction on the law, and does not ask the House to do it. He understood that, while the contestant was taking testimony in one place, he could be doing the same in another; and he thus acted. He took testimony while the contestant was also taking testimony, which was all right. The records of the committee (this document) show that he did not act upon the principle that the gentleman is contending for, and upon which he has mainly rested his defense of the motion for further time.

Now in this connection I wish to call the attention of the minority of the committee to some statements made in their report. They say here:

"Whilst the sitting member—from the construction (in which, however, we do not concur) which it is clear to us both the parties gave to the law—was only able to take testimony from the 17th to the 27th of March, 1857; and that, at the time the sitting member's notice to take his testimony, as aforesaid, was served, the contestant refused to attend, and claimed that he had already covered this time with his notices; and which latter statement is not denied by the contestant."

Sir, I call upon every member of that minority, I call on JAMES WILSON, EZRA CLARK, ISRAEL WASHBURN, and JOHN A. GILMER—I call upon them collectively and individually to make good this statement. I ask them to show the evidence on which it is clear to them that both parties gave this construction to the law? or that either of them did? Where is there one particle of evidence here that the contestant at any time disputed the right of the sitting member to take testimony if he saw fit within the sixty days, though he was taking testimony at the same time at a different place? Where is there any evidence that the sitting member doubted his right to take testimony at any time by giving the proper notice, though the contestant was at the same time taking testimony at a different place?

Mr. GILMER. The gentleman from Georgia will permit me to draw to his attention the fact, that Mr. Campbell, in his applications for a continuance for testimony, states that Mr. Vallandigham declared that Mr. Campbell had no right to take testimony whilst he was taking his testimony; and that he (Mr. Vallandigham) actually declined to attend and cross-examine.

To this application of Mr. Campbell, the contestant filed a very particular answer, as long as a spell of sickness, answering and arguing in full in reply, but failed to deny these two statements in the application. He simply denies that he gave his notices with the view of preventing Campbell from taking testimony.

Mr. STEPHENS, of Georgia. Why, Mr. Speaker, it is strange that the gentleman should entertain or enter into any such delusion. Mr. Campbell does not state that Mr. Vallandigham declared any such thing. He says he was in-

formed that Mr. Vallandigham claimed the right to occupy all the time. This Mr. Vallandigham denies. How could Mr. Vallandigham give such construction to the law when, by the very record before the committee, it appears that Mr. Campbell served him with a notice to take testimony on the 7th of March, and two days after that, on the 9th of March, he served Campbell with a notice to take testimony during the same time, at another place or before another tribunal? How can he have been assisting in such a construction as you say, when the record shows that he acted directly in the teeth of it? But, Mr. Speaker, I asked for the evidence to sustain this statement of the committee. I ask the Clerk to read an extract from Mr. Vallandigham's reply to Mr. Campbell's statement.

The Clerk read the extract as follows:

"It is asserted in the application that forty of the sixty days were 'covered' by me in taking testimony in Butler county. 'I reply, first, that if I had chosen to consume the whole sixty days in that county alone, I had the right so to do. It would not have precluded the returned member from taking testimony in that or in any other county, at the same time.'"

Mr. STEPHENS, of Georgia. Now, before you go any further: can the Committee of Elections want any clearer denial than the paper in their own hands? How can any gentleman of the minority of the committee rise and make good a statement that it is evident to them that both parties gave that construction to the law? Does not the contestant distinctly state that he had the right to take testimony on every one of the sixty days? And that the sitting member had the same and equal right?

Mr. GILMER. He states it now as a matter of argument; but he has not denied that he previously gave the law that construction.

Mr. STEPHENS, of Georgia. How could he have given that construction when he acted differently, as I have stated and shown? [To the Clerk.] Read on.

The Clerk read as follows, from Mr. Vallandigham's letter:

"Second, that, in point of fact, only twenty-eight of the forty days were actually occupied, and many of these only in part."

"It is asserted that twelve of these same forty days were 'covered' by notices for Montgomery county also."

"I answer that, for the reason hereinafter assigned, but two days were occupied under the notices referred to. [Testimony 15.]

"Complaint is made that notices were served in Hamilton at the returned member's house, it being then in charge of a colored servant."

"I answer, first, that the returned member had in Washington refused to accept personal service of the notice last preceding the one now complained of; [testimony 10.] second, that Congress had adjourned at the date of the service, [March 9, 1857.] third, that the notice was served at his usual place of residence, as provided for by the statute; fourth, that his counsel appeared and cross-examined every witness."

"It is asserted that 'seventy-three days would seem to be occupied by the contestant's commissions within the 'sixty days' provided by law; and to make up these seventy-three days, the five wherein I was precluded by statute from taking any testimony are reckoned."

"Without commenting on the singular disingenuousness, in this and in other respects, of this calculation, I answer: 1. That the taking of testimony on my behalf commenced on the 2d of February and closed on the 28th of March, a period of just fifty-five days—two days only of the time for the county of Butler being occupied in Montgomery; and, 2. That the very diligence of the contestant is made an argument against him, upon an application by the returned member for leave to avoid the results, as he insists, of his own gross negligence. If strict law is to prevail here, as is claimed by his counsel, upon other points, I respectfully recur to that ancient and wise maxim of both equity and law, *vigilantibus, non dormientibus, succurrit lex*."

"It is asserted, or insinuated, upon the authority *ejusdem generis*, that my purpose, in serving the notice in this contest, was to prevent the returned member from taking any testimony at all."

"I meet this by a flat denial. But five notices, in all, to take testimony were served; one of them he refused to accept; another was simply a list of witnesses, as required by the statute; and two of them were abandoned, leaving just two under which testimony was fully taken."

"The construction of the statute is obvious, and the returned member acted upon it as construed by the committee but a few days ago. I add, that in this, as in other instances, there would seem to be a studied effort to represent me as unfair and disingenuous throughout this contest. Of the justice of these insinuations, and the delicacy of introducing them here, I leave the committee and those who know me best to judge."

Mr. WILSON. I understand the gentleman from Georgia, [Mr. STEPHENS,] to challenge the minority of the Committee of Elections, individually and collectively, to answer his question; and he refers to the argument of Mr. Vallandigham, as read from the Clerk's desk, to show that the

contestant here does not give the construction to the statute which we say he did. That, Mr. Speaker, is not the question.

Mr. STEPHENS, of Georgia. I do not yield the floor unless the gentleman rises to answer the question I put. My question is this: I ask the minority of the committee to show to this House and to the country, *one particle of evidence* on which their statement is predicated, that it is clear that both parties gave the law this construction, or that either of them did.

Mr. WILSON. I will do so. It is not material what the contestant's construction of the law may be now. That letter just read is a mere matter of argument. But I refer the gentleman to page 6 of this report, where Mr. Campbell states:

"I am informed by him [his attorney] that when he served notices contestant claimed that he had no right to do so, because his notices, previously served, covered the residue of the 'sixty days,' and refused to appear and cross-examine the witnesses."

Where was this? In Ohio. Not here in the committee room. Not since the commencement of this Congress. The contestant denied that Mr. Campbell had a right to take further testimony.

Mr. STEPHENS, of Georgia. Does the gentleman read that to me as evidence?

Mr. WILSON. It has not been denied.

Mr. STEPHENS, of Georgia. It is denied flatly. It is denied in the statement of the gentleman [Mr. Vallandigham] in his own paper, which I have just read. It is denied by his acts; denied by those documents that I hold, and read from a while ago, which show that he acted inconsistently with any such construction. What the gentleman [Mr. Wilson] has read is the statement of the sitting member, that his lawyer told him that Mr. Vallandigham put such a construction on the law, in the very teeth of the acts of Vallandigham and of the acts of Campbell. I ask for the evidence. Do you, as a lawyer, give me that as evidence? I want the evidence upon which that statement was made.

Mr. WILSON. Do I understand the gentleman from Georgia as stating that the contestant denies that he informed the attorney of Mr. Campbell that he had no right to take this evidence?

Mr. STEPHENS, of Georgia. I understand the contestant *distinctly* to deny it.

Mr. WILSON. Will the contestant rise in his place and deny it?

Mr. VALLANDIGHAM, (contestant.) I have denied, and do deny, making the statement alluded to.

Mr. STEPHENS, of Georgia. Sir, there is no evidence of any such fact before the committee. The course of the sitting member all the time is directly inconsistent with any such construction. We find the contestant receiving notice of Mr. Campbell on a certain day, that he would take testimony in a certain place, at a future stated time; and we find him—two days afterward—giving notice that he would take testimony before another tribunal at the same time. Now, Mr. Speaker, this statement says: "It is clear to us that both parties gave to the law a construction" inconsistent with their acts. And what I say is, that there is not a particle of evidence that either of them did. The evidence, as far as it covers any construction, is that neither of them did.

Now, sir, as far as I have been able to judge of this application on its merits, it is nothing in the world but a pretext for delay, and delay only. What are the facts on which the showing is made? And, first, what is the history of the contest? The election was held on the 14th day of October, 1856. Within ten days after the returns of the election, by the first board of canvassers, were known, the contestant gives a notice to the sitting member of his intention to contest, with specifications. The gentleman from Kentucky argues as if this was a step taken prematurely. I am not certain myself that it was. The act of 1851 says that it shall be done within thirty days after the board of canvassers shall have determined upon the election. By the law of Ohio, the first board of canvassers—the county officers—count the votes, make out an abstract of them, and send them up to the Governor. The contestant in this case acted upon the presumption that this first board of canvassers were the individuals referred to in the act of 1851. At any rate, if he was premature, it shows that he did not intend to sleep

over his rights. There was no laches on his part. The sitting member has no reason to complain of it. He was notified of what he might expect at an early day, and this is his answer to that first notice:

HAMILTON, OHIO, October 31, 1856.

SIR: I received your written communication touching that "nigger business" some time after it appeared in the "nuz papers."

No official information of my election to a seat in the Thirty-Fifth Congress of the United States has yet been furnished me, and you will pardon me for suggesting that perhaps your deep anxiety on this subject has occasioned premature action.

In December next I shall probably receive, under the "broad seal" of the State of Ohio, a certificate that the honor of representing the third district in the next Congress has been conferred on me by the people. In that event please observe that you and the corrupt minions of the present condemned Administration are not only invited but dared to contest my right to the seat. Should you or they attempt to carry out your vaunted designs, I promise the country a record of one of the most corrupt and disgraceful outrages that has ever been perpetrated upon the American ballot-box.

LEWIS D. CAMPBELL.

Col. C. L. VALLANDIGHAM.

Now, Mr. Speaker, when this contest was commenced we see how the sitting member treated it. He commences in the first place by saying "I have received your written communication touching that 'nigger business.'" Sir, here is the notice served upon him—courteous, a proper notice in every respect. No such term is used in it—no such language used in it. But the sitting member, seeming to regard his rights as already perfected, or being determined to deal in insulting, or at least offensive language, couches his reply in these words:

"I received your written communication touching that 'nigger business,' some time after it appeared in the 'nuz papers.'"

He goes on to say—

"In that event, please observe that you and the corrupt minions of the present condemned Administration, are not only invited but dared to contest my right to the seat."

Dared to contest his right! Did not this look as if he was ready even then, in October, 1856? "You have begun too soon. Begin at the right time. I dare you to do it!" Well, sir, the contestant abided his time, relying on the truth of his cause when the time had expired, after the sitting member had received his certificate in the month of December, 1856. He then gave another notice, which is couched in respectful, courteous, proper, and legal language. That was on the 24th day of December, 1856. It was served on the 29th of that month. The dare was now met. The law allowed thirty days to the sitting member to answer the notice given. It might have been supposed, from the dare, that it would have been promptly replied to. He took twenty-one out of the thirty days to write his answer. It was served on the 27th January, 1857, just in time; the contestant went on and took his testimony under the law; he served his notice under the law; he had his commission issued under the law; he had his witnesses examined under the law; it was closed up under the law; it was sent to the Clerk under the law; he stood upon the law of the case, as he stood upon the right of it from the beginning; what he was dared to do he did do, and according to law throughout.

Now, what was the course of the sitting member? If he had such awful disclosures to make, why did he not accept the first notice? Why delay? But more than this. Why did he delay so long in replying to the second notice? Was it not to stave off the investigation? Again: when notice of the time and place of taking the testimony was sent him by a friend of the contestant, the sitting member then in Congress refuses to accept it. Here is the proof of his refusal before this House. He would neither accept service nor allow notice to be served upon him; at least he evaded it two or three different times. Now he complains that he did not have notice because it was left with a colored woman at his house in Ohio. When she positively refused to accept notice here, when Mr. Crane could not run him down, he now complains that he did not get personal notice. Well, the law declared that the notice should be served personally or left at his usual place of abode. The contestant did leave it there. He complied with the law, but he did more; he went and served his attorney personally with a copy, and he was represented by an attorney at the examination of witnesses at both places—one

at Hamilton and one at Dayton—different attorneys, but one at each place.

I now ask if the contestant has not pursued his rights legally, and if any advantage was taken? Does the bare fact that Mr. Campbell was a member of Congress excuse him from his own laches if he had any testimony to take? I say "no." Is not he a member of Congress sitting here at this time? Would not the same plea excuse him now as before? He is a member of the same committee of Ways and Means. Sir, the question is one of diligence—whether there was not such laches upon his part if he had any more testimony to take as should now preclude him from asking further indulgence by the House?

It appears to me that the contestant has done his duty; pursued his rights properly; and that, in every step, the sitting member has shown nothing like diligence or a desire to forward this investigation which he courted. Delay has been his course all the time. He did take some testimony in the latter part of March; but he could have taken it every day from the 27th of January to the 28th of March if he had been inclined to do it, or if he had had any to take. I say it was due to him, due to the House, and due to his constituents, that he should have done it. I say, when the gentleman used this language—

"Should you or they attempt to carry out your vaunted designs, I promise the country a record of one of the most corrupt and disgraceful outrages that has ever been perpetrated upon the American ballot-box."

he should have made the attempt at least to redeem his promise; he had the opportunity offered to him. What were those outrages? Twelve months have rolled around; he has failed to show them, and now he asks for time. When Congress met in December he failed to ask for time. He failed to ask for time when the testimony was printed. This was before the recess, for I got a copy of this testimony before the recess; not only that, but it is here almost the middle of the Congress to which he claims to have been elected, counting back to the beginning of the congressional term, more than twelve months since he was served with notice of contest, and having failed up to this time to expose these great outrages upon the ballot-box, he now comes and asks for more time?

Why, sir, after the contestant has pursued his rights, got his evidence, returned it to the Clerk's office, and printed, and the committee are about to report, when a long argument upon the merits of the case by an attorney of the sitting member has been heard before the committee, he comes in and asks this House to allow him further time. It seems, sir, that that pledge can never be redeemed; these outrages upon the ballot-box alleged by him to have been committed, can never be established. In my judgment, under all these circumstances, it is due to the contestant here, due to the people of the third congressional district of Ohio, that no longer time should be given. I ask the gentleman who said he intended to argue this case as a judge, or, rather, to take such a view as a judge would take of the case, whether he would grant a party litigant in his court a continuance in a cause upon such a showing as this?

Mr. MARSHALL, of Kentucky. I have indicated to the gentleman that I would.

Mr. STEPHENS, of Georgia. The gentleman did not take the view I have presented—he did not go into this record.

Mr. MARSHALL, of Kentucky. Yes, sir, I did. I did not allude to the *nuz* letter because I did not think that was to the merits of the case.

Mr. STEPHENS, of Georgia. I think that letter does go to the merits of the case, for it shows the tone and temper with which this contest was first met. It shows, too, Mr. Speaker, that the sitting member was not taken by surprise. It shows what he threatened, and that if he had the testimony which he now asks us to let him have an opportunity to exhibit, he would have produced it before this.

Mr. MARSHALL, of Kentucky. I think, if the gentleman takes that ground, the opportunity denied and asked for by the sitting member ought to be afforded to him.

Mr. STEPHENS, of Georgia. I am of the belief, from all the facts, that he can produce no such testimony. He has had his day in court, and he failed to produce it; and, sir, it is due to the constituency whose Representative he alleges

he is, that this House of Representatives shall put its condemnation upon that threat.

Having closely scrutinized this case, I think this House should decide it at once and give no further time. If there has been any laches, it has been on the other side. I consider this nothing but the most groundless pretext for delay; for delay and nothing else. The sitting member has not presented the names of his witnesses, nor has he stated what it is that he expects to prove by them. He merely alleges that he verily believes that he can establish such and such things. The gentleman from Kentucky [Mr. MARSHALL] argued as if the sitting member had alleged, in his motion for further time, that he could prove that more negro votes had been cast for the contestant than for himself—three to one, I believe. Now, sir, he alleges no such thing; his exhibit only refers to two, and one of these the affidavit I have shown to be wholly unfounded. He makes no statement of facts whatever that he expects to be able to prove; he simply says he verily believes that he can prove that he was fairly and legally elected if we would give him more time. And what is the force of this? Now let us see who says this—who is the party in court, if you please. Who says that? Why, it is the same party who said at first:

"Please observe that you and the corrupt minions of the present condemned Administration are not only invited but dared to contest my right to the seat. Should you or they attempt to carry out your vaunted designs, I promise the country a record of one of the most corrupt and disgraceful outrages that has ever been perpetrated upon the American ballot-box."

There is the promise made, and nothing has been done with that promise. He utterly failed to comply with his promise. He says now that he "verily believes" he can prove so and so, but he does not say by whom or when. I say that he has had time enough. He has had his day in court, and this is nothing but a pretext for delay; the outrageous frauds have dwindled down to a belief that he can prove that he was duly elected.

There are one or two other points, Mr. Speaker, to which I wish barely to allude. Reference has been made to the fact, that after the sixty days had expired, the returned member made a proposition to the contestant that they should take further testimony; and an argument has been made upon that statement of fact, prejudicial to the contestant. Now, I ask to have read the reply of the contestant to that proposition. But, before it is read, I will state to the House that this was the reply made by the contestant before the Committee of Elections:

"As to the proposition of April, 1857, by the returned member, to take further evidence by agreement, I shall refer to that hereafter, and supply the answer by me returned to it, but which he has omitted."

Now, I ask the Clerk to read the reply the contestant made to Mr. Campbell's proposition last year.

The Clerk read, as follows:

"But, like yourself, I deprecate delay and suspense: equally with you, I desire to save all cost to the Government: and above all, I have a very high regard for the true principles of popular sovereignty. Your proposition would be a fair one, and instantly and willingly accepted, were there not a fairer and better course for both, and for all concerned."

"Wherefore, to avoid all suspense and delay, and the exceeding annoyance and irritation of a contest; to save all cost as well to ourselves as to the Government; to relieve Congress from an unpleasant duty which may devolve upon it; but especially by ascending to the fountain-head—the people—to carry out the true principles of popular sovereignty, and obtain a full and clear expression of the public will, free from doubt, so that the true majority may govern, I hereby propose to waive all advantages, as well substantial as technical, and at such time as the Governor of the State may appoint, or, if you prefer, upon the second Tuesday of October next, submit again the question to the people of this district for their final decision."

"To this proposition I shall await your reply. Should you decline, Congress must decide between us upon the law and the testimony."

C. L. VALLANDIGHAM.

"LEWIS D. CAMPBELL, Esq., Hamilton, Ohio."

Mr. STEPHENS, of Georgia. That was the reply of the contestant to the proposition of the sitting member to take further testimony. He told him he would go before the people. He was willing to go before the people and let them decide the question. Why did not the sitting member accept that offer? Gentlemen upon the other side of the House say that it was unfair in the contestant not to accept the sitting member's proposition to do away with all they had done legally,

and recommence the taking of the testimony illegally.

Mr. WILSON. I desire to ask the gentleman if he would be willing to apply the rule he contends for to the case of the Indiana Senators?

Mr. STEPHENS, of Georgia. If the Indiana Senators had made such a proposition, and it had not been accepted, and if those who contest their seats came and pleaded a weaker proposition which they had made to their prejudice, I should say that that fact would be a very good reply to it. The gentleman, however, brings to my mind a remark of the gentleman from Kentucky, which I intended to reply to, but was nearly forgetting. The gentleman from Kentucky said that the Democratic party in the Senate had given two years to the Indiana Senators to take testimony. That struck me as rather a strange statement. I have got the Senate reports here, both the majority and the minority, and I find no such proposition in either of them.

Mr. MARSHALL, of Kentucky. The gentleman must quote me correctly. I say that the party in the Senate, under their construction of this law, have extended the time from session to session.

Mr. STEPHENS, of Georgia. Is that two years?

Mr. MARSHALL, of Kentucky. An application for time was made last year, and another application of the same sort has been made this year.

Mr. STEPHENS, of Georgia. I speak by the record. I have here the majority report of the Senate committee on that election, and this is the resolution which they report:

"Resolved, That in the case of the contested election of the Hon. GRAHAM N. FITCH and the Hon. JESSE D. BRIGHT, Senators returned and admitted to their seats from the State of Indiana, the sitting members, and all persons protesting against their election, or any of them, by themselves, or their agents or attorneys, be permitted to take testimony on the allegations of the protestants and the sitting members touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by first giving ten days' notice of the time and place of such proceeding in some public gazette printed at Indianapolis."

It does not extend the time to two years, nor to one year, nor to six months.

Mr. MARSHALL, of Kentucky. It gives them a running commission, extending the time down to the end of the term for which the Senators were elected.

Mr. STEPHENS, of Georgia. That is not the resolution.

Mr. MARSHALL, of Kentucky. No, the resolution fixes no time; it is an indefinite time.

Mr. STEPHENS, of Georgia. Then the gentleman cannot say that it is two years. Two years is not an indefinite time.

Mr. MARSHALL, of Kentucky. The gentleman seems to be very particular to hold me to the declaration of two years. I do not care whether you fix it at two years or not. My observation was that the rule ought to work alike here and in the Senate, especially when it was worked by the same party.

Mr. STEPHENS, of Georgia. Very well.

Mr. MARSHALL, of Kentucky. And I say that the Indiana Senators have been allowed time from session to session.

Mr. STEPHENS, of Georgia. Well, sir, their term of office only began on the 4th of March last—at the same time as the term of the sitting member in this case. No time has yet been granted to the Senators from Indiana; but time has been allowed the sitting member in this case. Now, under my construction of the Senate resolution, which is yet unacted on, it does not allow indefinite time, as the gentleman says, but time under the law of 1851. That is my reading of it. The Senate knows the law as well as we do, and the resolution merely allows the time under the existing law.

Mr. WASHBURN, of Maine. Does the gentleman from Georgia understand the law of 1851 to extend to the election of Senators?

Mr. STEPHENS, of Georgia. I supposed that, so far as the taking of testimony was concerned, they might adopt the rule prescribed by that law. I know the law was expressly made for this House; but the Senate might adopt the rule for the taking of testimony. But the gentleman claims that the same rule should be worked here as in the Senate, especially when it is to be worked by the

same party. Well, sir, the Republican minority in the Senate recommend that there be no time granted, and no testimony taken, in the Indiana case. Will the gentleman from Kentucky take that side? I do not suppose that the gentleman from Kentucky will identify himself with that side anyhow; but would he have those who act with him on this question adopt that rule?

Mr. MARSHALL, of Kentucky. I can only say, in reply to the gentleman, that I am rather surprised that he talks about "sides" on a question like this.

Mr. STEPHENS, of Georgia. The gentleman commenced it. I am but replying to him. It was he, sir, that first spoke about the Senate and "sides." He urged this action of a Democratic Senate as authority for his side of the House. He brought the question here. I am only replying to him; and, sir, it is a bad rule that will not work both ways. [Laughter.]

I say, sir, to the gentleman, and to the House that for my own part, I am not governed by any such principle. I intend to determine this question strictly according to law. And when I see that the sitting member treats these notices as he did from the beginning, when he does not accept them, when he evades them on all occasions, when the party seeking his rights is thrown on strict law; then, I say, let him stand on the law. I go further. I look on this attempt in no other light than as a pretext, a slim and flimsy pretext for delay, and delay only. I look on it as nothing else; and, therefore, I give it as my opinion, that this extension of time ought not to be granted. We ought to take the vote on the merits. I trust the committee will report as soon as possible on the merits, and let us know who is the proper Representative of the third congressional district of Ohio. The people there have an interest in this matter. This offer of the contestant to the sitting member, that they should appeal anew to the people, was limited to the last election. The sitting member would not accept it. Congress is now far advanced. We have passed the first two months of the session. The case ought to be ended. He would not let the people decide it, although he dared this investigation; and now, sir, when the day of judgment has come, he appeals again for more time, time, time. I say, let the judgment, whatever it is, be rendered and executed.

Mr. WASHBURN, of Maine. I have but a few words to say at this time; and before saying them I desire to make a motion. It is to amend the resolution accompanying the majority report, by striking out all after the word "resolved," and inserting in lieu thereof the language of the resolution reported by the minority of the committee.

I will occupy but a few moments of the time of the House in saying a word or two in reply to the gentleman from Georgia, [Mr. STEPHENS.]

Mr. HOUSTON. I rise to a point of order. Has not the gentleman from Maine already addressed the House on this subject?

The SPEAKER. He has.

Mr. WASHBURN, of Maine. I have now offered an amendment.

The SPEAKER. The gentleman from Maine has addressed the House once on the original resolution.

Mr. HOUSTON. That is true, but the Speaker will remember that the amendment which he has now proposed was pending at the time.

Mr. WASHBURN, of Maine. Not at all.

Mr. HOUSTON. It was proposed in the report of the minority of the committee.

The SPEAKER. It was not pending at the time.

Mr. HOUSTON. It was presented by the minority of the committee as a counter proposition to the resolution offered by the majority. It was read to the House, and was under the consideration of the House.

The SPEAKER. The proposition was not entertained, as shown by the Journal of the House.

Mr. DAVIDSON. Will the gentleman from Maine give way for a motion to adjourn?

Mr. WASHBURN, of Maine. If it be the pleasure of the House I will give way for that motion to be made, with the understanding that I shall have the floor on this question to-morrow.

And then, on motion of Mr. DAVIDSON, (at twelve minutes past four o'clock,) the House adjourned till to-morrow at twelve, m.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 5, 1858.

The House met at twelve o'clock, m. Prayer by Rev. JOHN LANAHAN.

The Journal of yesterday was read and approved.

The SPEAKER stated the business first in order to be the consideration of the report of the Committee of Elections in the Ohio contested-election case, on which the gentleman from Maine [Mr. WASHBURN] was entitled to the floor.

MARYLAND CONTESTED ELECTION.

Mr. HARRIS, of Illinois. I rise to a question of privilege. I wish to present to the House certain papers connected with the contested election for the State of Maryland—the case of Mr. Brooks against Mr. Davis. I ask that they be laid on the table and ordered to be printed.

The SPEAKER. The papers can only be received by unanimous consent. The House is already considering a question of privilege which cannot be suspended by a second question of privilege, except by unanimous consent.

Mr. HARRIS, of Illinois. Then I ask the unanimous consent of the House to have these papers laid on the table and ordered to be printed. It was so ordered.

WITHDRAWAL OF PAPERS.

On motion of Mr. J. GLANCY JONES, it was Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Colonel Johnson, of Ohio; copies thereof to be left on file.

SOLDIERS OF THE WAR OF 1812, ETC.

Mr. QUITMAN. With the consent of the gentleman from Maine, I desire to offer a resolution, requiring some information from the President of the United States, which information is indispensable to enable the Committee on Military Affairs to proceed to the consideration of the matters before them. The resolution was prepared by order of the committee.

There being no objection, the resolution was reported as follows:

Resolved, That the President of the United States be requested to communicate to this House—

1. What was the whole number of officers—non-commissioned officers, musicians, and privates—whether regulars, volunteers, drafted men, or militia, at any time engaged in or mustered into the service of the United States in the last war with Great Britain.

2. Also, what was the whole number in like manner engaged in any of the Indian wars which occurred during the same period, distinguishing, in both cases, between the number of those engaged for a greater or less period than one month.

3. Also, what was the number of persons to whom bounty lands have been awarded for services in said war of 1812, or in the said Indian wars.

Resolved further, That the President be requested also to communicate to this House, if there be any data in the possession of the executive department, an estimate or proximate estimate of the probable annual cost of the extension of the system of revolutionary pensions to the soldiers of the war of 1812, and accompanying Indian wars.

Mr. HARRIS, of Illinois. We have, in the official reports, all the information called for, except that requested in the last branch of the resolution. I therefore do not see any necessity for the resolution.

Mr. JONES, of Tennessee. I would suggest to the gentleman to include also those engaged in Indian wars from the close of the revolutionary war to the commencement of the war of 1812. There are a great many of them.

Mr. QUITMAN. There is now a bill before the House, and also a bill before the Committee on Military Affairs, on the subject of extending this pension system to the soldiers of the war of 1812, and to those engaged in the Indian wars at that period. The information is required to enable this House to act understandingly on the subject of extending the pension system to the soldiers engaged in the war of 1812 and in the Indian wars. If the gentleman from Illinois [Mr. HARRIS] can point out to me where I can procure this information I will not trouble the House or the President; but I have been unable to find it.

Mr. HARRIS, of Illinois. I can furnish my friend from Mississippi with all the information he seeks except as to the last branch of the resolution. But I do not object to the resolution, as the information can be furnished very easily.

Mr. JONES, of Tennessee. I am not aware of any document where I can get the information I desire as to the number of those engaged in the Indian wars between the close of the revolution-

ary war and the commencement of the war of 1812.

Mr. QUITMAN. I have no objection to that. Mr. JONES, of Tennessee. I think we might as well include this. I therefore propose the following amendment:

Also, the same information as to those engaged in any of the Indian wars, from the close of the revolutionary war to the commencement of the war of 1812.

Mr. MASON. This and the other committees have clerks. It is the duty of these clerks to prepare such information as is necessary for the action of their committees; but most of them, I observe, are used merely as messengers to go to the Departments, and to pile up labor on the regular clerks of the House. They are mere sinecures. They do not discharge the duties which properly devolve upon them. Such resolutions as this only relieve these clerks of what are their proper duties. They act now merely as messengers to go to the Departments for information which they should compile themselves.

Mr. QUITMAN. I can reply to the gentleman from Kentucky in a single word. The information called for at the suggestion of the Military Committee is for the consideration not only of the committee alone, but for all the members of the House. And I would remind him that it would be very indecorous for a committee of this House to send a clerk to the President for official information without the authority of the House. It might require weeks to obtain the information in the manner suggested by the gentleman, which could be obtained of the President promptly, if respectfully called on by the House for it. This is information for the benefit of every member of the House, as well as of the members of the Committee on Military Affairs.

Mr. MASON. Certainly that reason may be very good for those who are disposed to throw the responsibility upon the House. But I would remind my honorable friend from Mississippi, the chairman of the Committee on Military Affairs, that I, and, I believe, most of the members of the House, depend on the information furnished by the regular standing committees of the House with almost as much certainty as if it came from the President himself. They can obtain all this information from the records, through their clerks, and then they would have something to do for their clerks. But, sir, the custom has become too common for this House to call on the Departments for information which subjects the Departments to immense labor, when the information could as well be obtained by the committees of the House, through their clerks.

Now, sir, if the gentleman wants to make a big showing—if gentlemen in this House who are opposed to this pension bill want to make a big showing—they can pile up these soldiers; they can magnify them to any extent which they think proper.

Mr. COBB. I wish to inquire if the resolution has been received, and is before the House?

The SPEAKER. It has been received.

Mr. MASON. I have no disposition to detain the House longer in reference to this matter; but I think the resolution is entirely unnecessary. There are a dozen clerks of committees, any one of whom has leisure enough to obtain all the information required by the committees of the House. I have some knowledge about the action of some of these committee clerks. I know, and the clerks of the House know, that these clerks of committees, instead of discharging their legitimate duties, go to the clerks of the House and require them to make long reports, while, perhaps, they are engaged in important duties. They impose upon the regular clerks of the House immense labors which it is the duty of the clerks of committees to perform themselves. Under the course now pursued, the places of these committee clerks are mere sinecures; they have nothing to do but to frank the documents and conduct the correspondence of members of the committees. If they will discharge the duties properly appertaining to them, they would be worth something.

Mr. HARRIS, of Illinois. I see no cause for detaining the House in reference to this matter. I can assure my friend from Kentucky that this information can be obtained with very little labor. My opinion is that most of it has already been presented. If it has not, it should come before the House in official form. It would be of no

value obtained in the manner which the gentleman proposes. I think the House is ready for the question, and I hope no more time will be consumed.

Mr. MASON. I am opposed to consuming the time of the House on this theme; and it is to prevent the consumption of the time of the House that I oppose this class of resolutions. I vote against these resolutions all the time. They devolve an immense deal of labor upon the Departments to obtain information which the committees could very well obtain themselves. They have clerks appointed for this especial purpose. Much time is consumed by having these resolutions of inquiry constantly presented to the House. The committees report resolutions requiring immensely long reports from the Departments, and immensely long reports from the clerks of the House. They make a showing that they are very laboriously engaged in their investigations of public questions, when, in fact, they are devolving all their labors upon others; and when, in fact, the immense amount of public business transacted by them is really done through the labors of others. I object to this system of blocking up the business of the House by these resolutions. It is a very plain case who are opposed to the appeal of your masters and mine. You never saw a man who was opposed to the soldiers of the war of 1812 having pensions. You, sir, never saw, among your citizens at home, a man opposed to it. It is very well for these gentlemen to undertake to show that this bill will saddle an immense expense on the country, and hold it up as a scarecrow to frighten members from their proprieties.

Mr. HARRIS, of Illinois. I raise the question of order, that the gentleman is not confining his remarks to the resolution before the House, by discussing the propriety of passing pension laws.

The SPEAKER. The Chair thinks the remarks of the gentleman are not pertinent to the question before the House.

Mr. MASON. Well, sir, I was only applying them to all this class of resolutions. I object to that resolution.

Mr. GROW. I call the previous question on the adoption of the resolution.

The previous question was seconded; and the main question ordered to be put.

Mr. QUITMAN. I permitted the amendment of my friend from Tennessee, [Mr. JONES;] but I wish that there should be a distinction made between those who served in the Indian wars and those who served prior to those wars. I hope the resolution will make that distinction.

Mr. MASON. I objected to that resolution. How did it come before the House by unanimous consent?

The SPEAKER. It had been received before the gentleman from Kentucky commenced. The Chair asked the question if there was objection, and no objection was made.

Mr. QUITMAN. I introduced that resolution as a report from the Committee on Military Affairs, and I suppose I have the right to say a few words upon the subject. I do not wish to consume the time of the House, but—

Mr. WASHBURN, of Maine. I would inquire if debate is in order after the previous question has been ordered? I did not understand that this resolution was introduced as a report from a committee.

The SPEAKER. The Chair understood the gentleman from Mississippi to ask the unanimous consent of the House to make a report from the Committee on Military Affairs.

Mr. WASHBURN, of Maine. I did not so understand it.

Mr. SEWARD. How could it be the report of a committee?

The SPEAKER. The Chair is not informed.

Mr. SEWARD. I wish to make a point of order. I did not understand the gentleman from Mississippi as introducing this resolution as a report from a committee. If he did not, debate is not in order.

Mr. QUITMAN. I would inform the gentleman that I expressly stated that I introduced it as a report from a committee.

Mr. SEWARD. Well, I am satisfied.

Mr. WASHBURN, of Maine. Had I understood that, I should not have yielded.

The SPEAKER. The Chair so understood it at the time, and asked if there was any objection.

He heard none. The Chair thinks the gentleman from Mississippi is entitled to an hour.

Mr. QUITMAN. I will not consume as much time as the gentlemen have in objecting. I wish the House to understand that the information called for by this resolution will not cover one sheet of paper; and therefore all this cry about labor and expense is all imaginary. It simply calls for the numbers, not the names, of these persons. This is all I wish to say.

The amendment was then agreed to; and the resolution, as amended, was adopted.

Mr. QUITMAN moved to reconsider the vote by which the resolution was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

EXECUTIVE COMMUNICATIONS, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Post Office Department, containing a statement of the clerks and other persons, employed in the Post Office Department for the year ending January 30, 1857; which was laid on the table, and ordered to be printed.

Also, a communication from the War Department containing a statement of the expenses of the national armories; which was laid upon the table, and ordered to be printed.

Also, a communication from the Post Office Department, transmitting a detailed statement of the expenditure of the contingent fund of the Post Office Department; which was laid upon the table, and ordered to be printed.

OHIO CONTESTED ELECTION.

The SPEAKER. Upon the pending question—the Ohio contested-election case—the gentleman from Maine [Mr. WASHBURN] is entitled to the floor.

Mr. GILMER. Before my friend from Maine proceeds, I ask him to yield me the floor, as an act of courtesy, that I may reply to a question which was put to the minority of the committee in the debate yesterday, as I apprehend, with somewhat too much warmth and confidence. The minority of the committee were called upon individually, by name, and with an air of defiance which might have produced the impression that there was not one particle of testimony before the committee upon which the minority could have reported that both parties acted upon the presumption that one could not proceed to take testimony during the sixty days that the other party was proceeding under his commission. Although I make no charge of a want of courtesy, I think my friend from Georgia [Mr. STEPHENS] will consider, after having put the question, and particularly after calling the names of the minority individually, he should not have declined to yield at least a portion of his time to have pointed out to him and to this House the grounds upon which the assertions in that report were based. I say I complain of no discourtesy, for, Mr. Speaker, I am proud to say, speaking of my brethren upon that committee, leaving myself out of the question, that I have never been associated with a set of gentlemen who seemed to me more fair-minded, more willing to hear and to be heard, to have their opinions canvassed, and more patient, even under contradiction, than the gentlemen upon that committee. My brethren upon that committee will do the minority the justice to say to the House, that, differing with the majority of the committee, our report was drawn up and submitted in full meeting, and read over to the majority. It was not then intimated that there was any question of fact relied upon in that minority report which was not well founded; for, if it had been, that minority, I may say, would have yielded to any suggestion made by the majority in that regard, and have allowed it to be corrected; as a matter of fact. I understood it to be the sense of the whole committee, that in that fact we did concur; that, taking the whole case together, it was apparent to us that they had acted under that view of the law; and I believe (with great deference, however, to the legal opinion of the gentleman from Kentucky) that we gave a correct opinion upon a fair construction of that statute.

I desire to point out, in the answer of Mr. Valandigham, what is a perfect refutation of the pretense that he did not so understand it. After all the air of triumph of my friend from Georgia, what does that evidence prove? I invite the at-

tention of the House to it, since it is now printed in my friend's speech. It is simply a denial of Vallandigham that he did not keep his commission open with a view to deprive Mr. Campbell of the opportunity to take his testimony.

Mr. Speaker, in this political investigation I presume it is not expected that a committee, in arriving at its conclusions, in all instances are to have the same direct, positive, and conclusive testimony upon facts that a judge or a jury in a court of law would require in determining an issue. This is a question of discretion. A question of discretion is one thing, and a question which is decided finally and prejudicially to a party is another thing. The question before us is upon a question of application for extension of time for the taking more testimony, which, if granted, cannot prejudice either of the parties. Let me state the case here, Mr. Speaker, as clearly as I can, so that this House will understand it.

It is stated in Mr. Campbell's application for further time, that when his attorney served notice upon Mr. Vallandigham, that gentleman then gave that construction to the law, and said that he would not attend; and he did not attend. In his answer he answers everything minutely, cautiously, carefully, and like a lawyer; and not only answers, but argues every point; but these two material points are left unanswered, except the answer which my friend from Georgia brought to the attention of the House—that he said he did not give his notices with a view of cutting off the sitting member. He did not attend when the sitting member was taking testimony, either in person or by counsel, to cross-examine the witnesses. Then, sir, we have not only his failure to reply, but the corroborating circumstances tending to show that he failed to appear and cross-examine the sitting member's witnesses, in order that legal exceptions might be taken to their testimony when it was brought before the committee.

Mr. TRIPPE. I desire to ask the gentleman from North Carolina a question. I feel considerable interest on this point, because, as I announced the other evening, I put my vote upon this question directly upon it; and I am now by no means satisfied as I was the other evening.

I desire to call the attention of the gentleman to this particular point. He is making, I admit, a pretty plausible case that Mr. Vallandigham, the contestant, did put that construction upon the statute, and that he protested against the right of the sitting member to overlap his time and take testimony while he (the contestant) was taking it. That may be true; and it occurred, I believe, on the 17th or 18th of March. The question I wish to ask is—and that is the point upon which my vote as a member of this House will depend—did the sitting member act under that impression himself up to that time or afterwards? Did he fail to take testimony because he so construed the law? Did he postpone giving notice of his intention to take testimony up to the 17th of March because he believed that before that time he could not do it because of the notices of the contestant? Did he believe himself to be unable to do so under perhaps a wrong construction of the act? If he did, if he believed that he could not take testimony, and did not take testimony because, as a lawyer, he so construed the law, then it would be cruel not to give him further time.

I will make this further remark, sir: it nowhere appears that Mr. Campbell did, at that time, give that construction to the law, except in the statement of the committee. It is not in Mr. Campbell's application or anywhere else. If it is stated on this floor to be the fact, I shall be satisfied.

Mr. GILMER. I will say to my friend that it is so stated in the minority report. The contestant knew, the day before the report was submitted to the House, what it contained; and he also knew that if he had shown, either personally or through his friends on the committee, any reasons why it should not be stated in the report, the objection would have been noticed in the report. The contestant was here all the time; he knew every day what was going on in the committee; he knew what would be in the report; it was submitted to his friends in the committee, and no exception was taken to it. If there had been, and Mr. Vallandigham had stated that there was any doubt about the fact, the minority would have hesitated to state the fact.

Mr. MAYNARD. I desire to ask the gentleman

from North Carolina a single question to see if I understand the course of remark he is now pursuing. Does the gentleman desire to be understood as saying that the report of the minority of the committee came under the personal observation of the contestant before it was presented to the House, and that any statement of fact contained in that report might have been corrected by him if not consistent with fact?

Mr. GILMER. Perhaps it would be going too far to state that, and I will not do the gentleman injustice by stating anything that is not strictly true. What I say is this: that in deference to our brethren on the committee, we caused this report to be read over in the committee before it was presented to the House, Mr. Vallandigham not being present. I cannot state, at least, that he was present. May be he was. But I will state with great confidence that he knew what was in the report, and must have known that the minority would not have inserted a statement of fact if it was to be controverted here, without stating that it was denied. I will add further, that when the testimony of the contestant was taken, Mr. Campbell was in the city of Washington; and when he gave his notice, he endeavored to put it in such shape that his taking of testimony should commence after the conclusion of the contestant's commissions, and as soon as he could get home.

Sir, I was pleased to hear the gentleman from Georgia, [Mr. STEPHENS,] when he stated the rule by which he intended to be governed in coming to a correct and fair conclusion in this case, and upon this question. I think he laid down the proper rule; but I regretted to see that, when he came to argue the facts, instead of addressing himself to our judgment, he addressed himself to our prejudices and to our passions. One prominent argument which he presented by way of enlightening the House as to whether this continuance should be granted or not, was a letter which Mr. Campbell wrote shortly after the election, in reply to an untimely notice of contest given him by the contestant. That is a prominent reason why this continuance should not be granted.

Another reason which Mr. Vallandigham presents, and presses with great vehemence, is the proposition made to him by Mr. Campbell on April 2, 1857, which, in substance, was this: "Well, now, we are both at home; we have got the summer before us; we can go on and take all the testimony we want; we need not trouble the House with asking for an extension of time; we can waive informality; you can accept my notices and I will accept yours." My friend from Georgia [Mr. STEPHENS] thinks, because the contestant replied, "Why, let us go again before the people," that is an argument here to determine this question, under the rules of impartiality. And, in conclusion, my friend exclaimed, in an excited manner, that we should now proceed to judgment—that the time had come when we should go to execution. He said that this delay was all a pretence. And this was addressed to the House to secure impartiality. That was addressed to the House, of course with no improper desire to sway its judgment in the decision of the question. If I were disposed, Mr. Speaker, I think I could show many things to operate on the southern friends of Mr. Vallandigham, by way of prejudicing them against him. If I were disposed to do any such thing, I could record his vote in the Legislative Assembly of Ohio, in which he voted to allow free negroes and other negroes to testify against white men.

Mr. VALLANDIGHAM. I never cast such a vote.

Mr. GILMER. I will show by the journal that you did.

Mr. SEWARD. I raise the point of order whether the gentleman is not bound to confine himself to the subject-matter under discussion? We will have talk enough about negroes before we get through this Congress.

Mr. GILMER. I did not intend—God forbid that I should—to hurt the feelings of any gentleman; but when this comes to be examined, it will be incontestably shown by the journal that I am right.

Several MEMBERS. Read the journal.

Mr. SEWARD. I make the objection that the question as to nigger voting in Ohio, so far as the State of Ohio is concerned, has nothing to do with this question.

The SPEAKER. The Chair sustains the question of order, and thinks that the consideration of questions in the Ohio Legislature cannot be introduced into this House.

Mr. HILL. May I ask a question of the gentleman from Georgia?

Mr. SEWARD. Yes, sir.

Mr. HILL. Do you object to this information going before the House lest it may injure the character of the contestant?

Mr. SEWARD. I have nothing to do with the character of either of the contestant or sitting member. That is a matter for their constituents at home to settle. I do not know that I would indorse either of them. I ask the gentleman [Mr. HILL] if he indorses the political opinions of the sitting member [Mr. CAMPBELL] on the slavery question?

Mr. HILL. I would remark to the gentleman that he ought to have called the gentleman from Georgia [Mr. STEPHENS] to order yesterday when he read that irrelevant letter.

Mr. GILMER. I will state in brief what I desire to show, and gentlemen can compare this statement with the journal.

The SPEAKER. The Chair thinks that the gentleman from North Carolina cannot proceed with the statement in order.

Mr. GILMER. I submit with great deference to the decision of the Chair.

Mr. CRAIGE, of North Carolina. I move that the gentleman have permission to make his statement.

Mr. SEWARD. I insist on my question of order. I want to vote on the question without regard to niggers in any shape. I want to know which of the gentlemen comes here indorsed by the majority of the people of the district, and I shall vote accordingly.

Mr. BURNETT. I hope the gentleman from Georgia will withdraw his objection, and let the gentleman [Mr. GILMER] bring in his statement. Mr. Vallandigham has denied it.

Mr. SEWARD. If it suits the temper of the House I withdraw it; but I have no relish for it myself.

Mr. MILLSON. I do not think it proper to introduce such subjects in the House; and I object.

Mr. GILMER. I was simply going to show that, as my friend from Georgia [Mr. STEPHENS] thought proper to indulge in these side-bar explanations, and in these matters *dehors* the matters at issue it might turn out that if Mr. Campbell chose to do the same, he might have reasons as thick as blackberries in the corners of fences, or as huckleberries in the swamps.

Mr. VALLANDIGHAM. I hope the objection will be withdrawn, and the gentleman be allowed to proceed.

Mr. HILL. I would say, in justice to the contestant himself, that he desires the gentleman from North Carolina to go on and read this vote. I hope there will be no objection, since it is agreeable to him.

Mr. UNDERWOOD. I certainly stand impartial between these parties. I have taken no part in this controversy. But I appeal to gentlemen on both sides of this question, that matters so purely irrelevant as this, which may provoke asperity, crimination, and recrimination, to a certain extent, shall not be introduced in this House on a question of this sort. It certainly is a matter of no earthly consideration to any man sitting here as judge or juror, what may have been the past political opinions expressed by either of these gentlemen on any question, in any convention or Legislature. I therefore renew the point of order, and intend to maintain it. I trust that no irrelevant matter will be introduced in this discussion.

Mr. STEPHENS, of Georgia. I appeal to the gentleman from Kentucky to withdraw his objection.

Mr. MILLSON. I have not withdrawn my point of order.

Mr. UNDERWOOD. I regard it as discreditable to the House to allow discussions of this character to go on. It is a question of no importance to the main question how gentlemen vote on any proposition outside.

Mr. STEPHENS, of Georgia. I hope objection will be withdrawn, now that injustice has been done. The record shows that Mr. Vallandigham gave no such vote.

Mr. GILMER. I will proceed.

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, FEBRUARY 9, 1858.

NEW SERIES...No. 38.

Mr. STEPHENS, of Georgia. Did the gentleman say I was mistaken?

Mr. GILMER. I think so. I will read the journal, if I can be permitted to do so.

The SPEAKER. The gentleman from North Carolina must suspend. The Chair has ruled this debate to be out of order, and cannot permit it to go on to settle the question of fact.

Mr. GILMER. Then I hope I shall be permitted to proceed without further interruption. I will be very short. I will remark that I do not desire to do Mr. Vallandigham any injustice in relation to this matter. There is no gentleman here who would be more relieved to be satisfied that the intimation I have made was unfounded. But, Mr. Speaker, in the debate heretofore, the fact that Mr. Campbell's application was not formally made until after Mr. Vallandigham had been heard by his counsel before the committee, has been held up as a reason why his application should not be granted. While my friend from Kentucky [Mr. STEVENSON] was speaking, I desired to put in an explanation of the matter; and had I been permitted to do so, I know he would have done both parties justice. When the fact is understood, I am very well satisfied, and I am certain the members of the Committee of Elections will sustain me, that the objection will go for nothing.

When we returned after the holidays, Mr. Campbell was detained at home by reason of sickness in his family. Mr. Vallandigham was here. His counsel was here. They appeared before the committee, and asked, as a matter of favor, that the counsel of Mr. Vallandigham might be heard. I believe the majority of the committee were opposed to his being heard; unless Mr. Campbell or his counsel were present. I think I submitted to the committee, that inasmuch as the committee were all lawyers, and as the counsel of Mr. Vallandigham had to be at home at a given time, I saw no impropriety in hearing him upon the law of the case, upon the admissibility of testimony, and upon the merits of the case, without prejudice to anybody. When Mr. Campbell came here, he would be supplied with a brief of the argument made before the committee. With the understanding that the counsel was to have a memorandum of the argument made before the committee in behalf of Mr. Vallandigham, they allowed him to proceed. He did proceed, with much ability and fairness as a debater, and was heard with great interest and pleasure by the committee. He did, as I understand, leave a brief of his argument, to be reviewed by the counsel of Mr. Campbell, who also addressed the committee, as I understand, during my absence. Yet, sir, this very indulgence granted to Mr. Vallandigham's counsel, who wanted to go home to attend to his business, is seized hold of as one of the reasons why time for taking additional testimony should not be granted.

Sir, no member of this House, when the case comes to a final hearing, would be more ready, upon all the facts, with the supplement testimony before us or not, to do ample justice to Mr. Vallandigham than the person who now addresses this House. But, sir, under the circumstance, were I in Mr. Vallandigham's place, or were I one of his personal advisers, I would say to him, "Let all the facts be produced." After having been a candidate in that district for three successive times; after having been rejected by that people twice; and after having the legal returns of the third election decided against you, I would place no impediment in the way of taking that testimony. Do not have yourself subjected to the suspicion of asking to be voted a member of the House of Representatives by that body, itself, in the face of the fact that this additional testimony may disclose that you were not elected by the people you seek to represent."

One word more on that question, in answer to the remarks of my friend from Georgia, [Mr. STEPHENS,] in relation to the answer given by Mr. Campbell to the first notice given by the contestant. I do not stand here to vindicate that answer. I think that both in its tone and language

it is subject to criticism; and I have no doubt that Mr. Campbell afterwards, in a cooler moment, after he had had time for reflection, when he had had time for consideration, would regret having giving such an answer.

But, Mr. Speaker, I will in this connection present some considerations by way of excuse for the answer thus given, under the circumstances, in that mode and manner, admitting that it is obnoxious to much criticism, if not to the extent to which it has been carried. When did it take place? It took place shortly after a most heated and angry contest, in which one of these gentlemen was elected, and which was held between the State and presidential elections; and when you consider the manner in which this canvass had been conducted; when you consider the intolerance to which it had been carried on the part of the contestant, I think it presents some excuse for the character of that answer.

In a report of a speech made by Mr. Vallandigham in 1856, it is said:

"Mr. V. then proceeded to trace Mr. Campbell's political history, interrogatively, from the beginning, some twenty years ago, to the present time."

Mr. UNDERWOOD. I desire to know of the gentleman from North Carolina if he is reading from a book, or from matter which was laid before the committee?

Mr. GILMER. No, sir.

Mr. UNDERWOOD. Then I raise the point of order, that it is not in order to read from a speech of Mr. Vallandigham which was not laid before the committee.

Mr. GILMER. I read it by way of reply to what was said yesterday. It will be very short. It will only give a specimen of what is contained in that speech:

"Was he the public spirited young man who began his career by volunteering to prosecute gratis all offenders against the black laws? He (Mr. V.) had been accused by some of voting, while in the Legislature, to repeal these same laws some ten or twelve years ago; but it was not true: he voted then against them along with Dr. Hibbard and Thomas Brown of this county, although he then thought them useless and obsolete; and never heard of anybody 'reported' in favor of enforcing them except his very consistent competitor."

He then goes on and uses this language, to which I call the attention of the House:

"Was he the man, who pending the balloting for Speaker, and after he had been forced to decline, moved to put Mr. Orr of South Carolina in the chair over Mr. Banks's head?"

And then again, in another part of the speech, he uses this language:

"The South don't know him, and cares still less about him. Does he suppose, because a few southern members of Congress of loose patriotism and yet looser habits are accustomed, out of abundant good nature, to associate with him at a few places of public resort, that the whole South knows him? Does he suppose, because once or twice in a session, along with the congressional gang drawn out alphabetically, he is permitted to dine at the President's house, and now and then by special favor is allowed to eat the crumbs and drink the heel-taps left after dinner, at the house of Toombs, Stephens, Hunter, or Slidell, that therefore he is of sufficient importance to call forth the united efforts of the South to defeat him? Can arrogance, insolence, and vanity go further?"

I only read these extracts, Mr. Speaker, to show, when he penned this answer, which even his friends admit is open to criticism, that perhaps no man was ever more provoked, and that no man could have greater provocation to extenuate any offense, than Mr. Campbell had when he sent that answer.

Mr. HARRIS, of Illinois. I think this debate has proceeded about far enough. The debate has wandered very far from the point involved upon which the House are to pass, and I hope that the attention of the House will be brought back to the resolution before it, and not be lost entirely in the mazes of declamation on outside matters brought into this discussion. The simple matter for the House to determine is, whether Mr. Campbell, in this application to take further testimony, presents a case proper for the exercise of the discretion of the House? That the House has, in its discretion, the right to grant further time, there is no doubt. Is the case presented a proper case for its exercise?

I will for one moment depart from the line of

remark I had intended to pursue, in order to allude to the remark of the gentleman from North Carolina about this vote. I think it is proper I should do so in a single sentence. I have carefully examined the vote to which the gentleman referred.

Mr. HILL. As this question has been ruled out upon the one side, it ought to be upon the other. I make the point of order, that what occurred in the Ohio Legislature is not germane to the question before the House.

The SPEAKER. The Chair thinks that it is not relevant, and therefore sustains the point of order.

Mr. HARRIS, of Illinois. I will not speak further, then, upon this matter, than to deny utterly the conclusion to which the gentleman from North Carolina comes, as to the facts which have been stated.

Mr. STEPHENS, of Georgia. I appeal to my colleague to withdraw the point of order, and let all the facts come out.

Mr. HILL. I will say that I have no prejudice in relation to this matter. I know all this matter is extraneous; but I have seen, with regret, that political feeling has taken charge of this matter already. I think that what is fair upon one side is fair upon the other. Properly speaking, I belong to neither side, and I have no bias between these parties.

Mr. HARRIS, of Illinois. The gentleman can assent or refuse.

Mr. HILL. If gentlemen will take all this matter, and read the journal as it is, with the consent of the gentleman from North Carolina, [Mr. GILMER,] I shall have no objection.

Mr. HARRIS, of Illinois. I am willing to read the whole record.

Mr. HILL. I shall object, unless it is all read.

Mr. HARRIS, of Illinois. It justifies no such conclusion as the gentleman from Georgia arrives at. I have read it carefully.

Mr. HILL. Every gentleman can examine it for himself, and come to his own conclusion; though I have, myself, no objection to have the whole of it read.

Mr. HARRIS, of Illinois. I shall devote the very few moments I have to the consideration of the question. If there have been more grounds presented as reasons why further time should be given than were stated in the report of the committee, I have yet to learn them. There are only two grounds upon which the application can be placed. One is, that Mr. Campbell was a member of Congress, and unable to give attention to the taking of testimony; and the other is, that the contestant occupied the whole time, and excluded him from any opportunity to do it. All the other points which have been made are but relative to those two, and nothing else.

The gentleman from Kentucky [Mr. MARSHALL] yesterday took occasion very violently to assail the committee on account of the conclusion at which they had arrived in their construction of the law of 1851. The opinion which the committee expressed was their unanimous opinion. It is an opinion that they are still disposed to adhere to. It is, perhaps, very unfortunate for the House that, in the organization of the committee, some gentleman, possessing the legal ability of the gentleman from Kentucky, was not placed upon it; and it is very probable that hereafter we will inquire of him, before we make our reports, what his opinions are upon the law, that the whole committee may not go so entirely astray hereafter; and I have no doubt he will be quite as ready to volunteer his opinions in a quiet way to the committee as he was to express them so very eloquently before the House.

The gentleman objected to the view of the committee in the construction of the law, that the parties had a right to go on at the same time and take testimony. Well, sir, if they have not that right, the law is but a piece of nonsense. The law says that neither party shall proceed to take testimony in more than one place at the same time; and he inquires, if neither cannot, can either

one? and he thinks the answer to that question involves the demonstration of his position in the argument. Very far from it. I answer the question just as he answers it—that neither one can take testimony in more than one place at a time, but *either one can take testimony in one place at a time.* He puts a question that does not involve the point at issue; and having extorted an answer to it, he concludes that that is an answer to our argument.

But the gentleman finds fault upon the other branch of the law, because the committee concluded that the parties may go on and take testimony after the expiration of the sixty days. He says very triumphantly: "What! Ask the parties to take testimony in violation of the law? The law says no testimony shall be taken after the expiration of the sixty days, and you ask him to violate the law. Parties swearing falsely could not be convicted of perjury under such circumstances. It is idle to talk about the right of the parties to take testimony after the expiration of the sixty days."

Well, sir, with all deference to the opinion of the gentleman, I still differ with him in the view that he takes. He says that a party swearing falsely could not be convicted of perjury. Why not? It is a matter pending and undetermined by the House, a point material to the issue; and if the House see fit to receive the testimony when it is presented, it is as valid for the purpose of determining the matter in controversy as though it had been taken during the sixty days; and although the law says that the House may extend the time for taking testimony, it does not necessarily say that the time shall be extended *after the House shall pass the order*; but it may retroact and make good an employment of time immediately following the sixty days, and before the passage of the order.

I suppose, sir, that if a case were opened in a court, either upon the common law side or the chancery side of the court, the rule would apply that testimony could not be taken during the term, during the session of the court; but yet, would the gentleman say, that if such testimony was taken, and a party testified falsely, he could not be convicted of perjury? The rule of court would exclude the testimony; and yet, if a party had testified falsely, he would most undoubtedly be guilty of perjury, and could be punished.

Now, sir, I still insist that, by a fair construction of that law, it means precisely what the committee have interpreted it to mean, and that any other construction would, in many cases, utterly prevent a contested case from being decided in Congress at all.

Having briefly noticed these two points, I wish to proceed to notice some other objections that have been interposed. But before it shall pass from my mind, I wish to do Mr. Campbell an act of justice, by extending somewhat an explanation that I made yesterday. In the hurry of my remarks, I did not state all the facts connected with the subject upon which I was speaking.

I stated that before Mr. Campbell made this application for further time, his counsel had argued this case upon its merits, and that the counsel for the contestant had done the same thing. I should have stated that before the argument commenced, it was represented to the committee that Mr. Campbell would, perhaps, upon his arrival, desire to make a motion for further time. The argument was commenced with the understanding that he should have the privilege upon his return. It is just to him to state that part of the history of the action of the committee.

The contestee further suggests to me—what it is perhaps proper I should say, because it is true—that his counsel argued the question, up to the time when he closed his argument, mainly upon questions of law relating to the admissibility of testimony which had been taken. Such is the fact, and it is right and proper that I should state it; and before he had concluded his argument, and taken up the facts of the case, he was informed by the committee that they would not pass upon those questions of law until the other question was settled; and that if he desired to make his application for time, he must do it then. The discussion was then abandoned, and the application made which has been brought before this House.

I do not share in the apprehension of my friend from North Carolina, [Mr. GILMER,] in regard to

some question which may arise to be decided by this House. He is extremely fearful that, unless this case goes back for further testimony to be taken, some very dangerous and startling question may be raised in this House for its decision. He is very apprehensive that this House will have to determine the question whether, under the constitution and laws of Ohio, a person having negro blood in his veins is entitled to vote. I do not see any such very alarming matter in that. The constitution of the State of Ohio limits the right of suffrage to citizens of the United States, and the only question for this House to determine is, who are citizens of the United States, and at the same time citizens of Ohio? If the gentleman from North Carolina sees any great danger in this, I confess I do not. We have important legal opinions to guide us in coming to a conclusion. The House ought not, for the reason indicated, to send this inquiry back. The reason is, in my opinion, utterly insufficient, and one which ought not to be entertained for a moment.

The proper question for the House to decide is, "has Mr. Campbell used such due diligence in the prosecution of his case as would entitle him to a further extension of time?" Now, I think that he should have stated in his application what he expects to prove by having further time, and the witnesses by whom he expects to prove it. He should have laid the foundation in such a way as to enable the House to determine whether, if his expectations were realized, the result would probably be changed. But he does not lay that foundation. He presents certain affidavits which, according to the reasoning of the gentleman from Kentucky, [Mr. MARSHALL,] have no legal force whatever; affidavits taken after the expiration of the time allowed, and on which, according to the gentleman's reasoning, the parties could not be prosecuted if they had sworn falsely. But even admitting their force and validity, they do not state those facts which would change the result as now presented to the House.

I submit, then, that under all these circumstances the sitting member has not laid the foundation necessary to entitle him to come before the House and ask for an extension of time. His absence from home during the taking of testimony worked no disadvantage to him and no advantage to his opponent. His opponent did not appear before the commission, but was represented by counsel. They both stood on precisely the same footing. And it is no valid objection for him now to say that he was absent, because he appeared, as the law provided he should appear, by counsel, through the whole of the examination.

Now, Mr. Speaker, without any sort of desire to go over all this ground, and take up all these legal points raised in the course of the discussion, but simply to bring the House back to these two points which I first stated, I have limited my consideration entirely to them. I think we are just as well prepared for the question now as we ever will be. At any rate, I am satisfied that we have taken up time enough with this preliminary question. I must therefore ask the previous question on the passage of the resolution reported by the committee.

Mr. VALLANDIGHAM. I hope the gentleman will withdraw the call for the previous question for a moment.

Mr. HARRIS, of Illinois. I will do so to hear what the gentleman has to say. I do not, however, surrender my right to the floor.

Mr. VALLANDIGHAM. I ask the unanimous consent of the House to make good now, by reference to the journal of the Ohio Legislature referred to, my declaration a short time ago that I did not vote as the member from North Carolina [Mr. GILMER] stated.

Mr. WASHBURN, of Maine. I raise the point of order that was raised on the gentleman from North Carolina, [Mr. GILMER.]

Mr. CAMPBELL. I appeal, on behalf of the contestant, to the gentleman from Maine to withdraw his point of order.

Mr. WASHBURN, of Maine. I withdraw the objection.

Mr. MORGAN. I object, decidedly.

Mr. SEWARD. If the gentleman wishes to refer to what occurred in the Ohio Legislature, I object.

Mr. HARRIS, of Illinois. I must resume the floor. The contestant has appealed to the House,

and the objection has come from the gentleman from New York. I renew the call for the previous question.

The previous question was seconded.

Mr. STEPHENS, of Georgia. Before the question is put on ordering the main question, I move a call of the House; and on that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 102; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Bryan, Burnett, Burns, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockerill, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dowdell, Elliott, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Harlan, Hatch, Hawkins, Hickman, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Quincy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, McKibbin, McQueen, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Millson, Montgomery, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Rufin, Russell, Sandidge, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sikes, Singleton, Samuel A. Smith, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—106.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Branch, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Covode, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, English, Eustis, Farnsworth, Faulkner, Fenton, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Thomas L. Harris, Haskin, Hill, Hoard, Hopkins, Horton, Howard, Kellogg, Kelsey, Kigore, Knapp, John C. Kunkel, Leach, Leiter, Letcher, Lovejoy, Maclay, Humphrey Marshall, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, Woodson, and Zollicoffer—102.

So a call of the House was ordered.

Pending the vote,

Mr. TAYLOR, of New York, stated that Mr. SEARING had been called home by sickness in his family.

Mr. FAULKNER. My colleague, Mr. SMITH, has been called home by severe indisposition, and requested me to announce that fact to the House. This is the first occasion since that his name has been called, and the first appropriate occasion that I could state the fact.

Mr. PEYTON stated that Mr. TALBOT was confined to his room by indisposition.

The roll was then called; and the following gentlemen failed to answer to their names:

Messrs. Bonham, Caruthers, Caskie, Horace F. Clark, Corning, Dummieck, Edie, Davis of Maryland, Lawrence, Matteson, Murray, Searing, Smith of Virginia, Talbot, and Thompson.

Two hundred and eighteen members answered to their names.

The doors were closed; and the names of the absentees called for excuses.

MILLEGE L. BONHAM

Mr. MILES stated that his colleague, Mr. BONHAM, was detained at home by severe indisposition; and moved that he be excused.

The motion was agreed to.

SAMUEL CARUTHERS.

Mr. CRAIG, of Missouri, stated that his colleague, Mr. CARUTHERS, was detained from the House by indisposition; and moved that he be excused.

The motion was agreed to.

JOHN S. CASKIE. No excuse offered.

HORACE F. CLARK.

Mr. JOHN COCHRANE. I know that my colleague, Mr. CLARK, has been called away suddenly and that he was, very reluctantly, obliged to leave. That is all the excuse I can make for him—that he has been called away by business of a very important nature. I move that he be excused.

The motion was agreed to.

ERASTUS CORNING.

Mr. JOHN COCHRANE. I repeat, as to Mr. CORNING, what I have stated in respect to Mr. CLARK. I know the fact, personally, that he has been called away also on important business, and obliged to leave. I move that he be excused.

The motion was agreed to.

WILLIAM H. DIMMICK.

Mr. FLORENCE. I understand that my colleague, Mr. DIMMICK, is at home in consequence of the illness of a member of his family. I move that he be excused.

The motion was agreed to.

JOHN R. EDIE. No excuse offered.

J. MORRISON HARRIS.

Mr. RICAUD. My colleague is absent from the city, engaged in getting testimony in his contested-election case, by permission of the House. I therefore move that he be excused.

The motion was agreed to.

WILLIAM LAWRENCE.

Mr. COCKERILL. I will state that my colleague was called home by the death of a member of his family. I move that he be excused.

Mr. NICHOLS. I wish to state further, that Mr. LAWRENCE came to me yesterday morning, and stated that he could not leave the city unless he could pair off on this question. Upon this statement, I paired off with him, and shall not feel at liberty to vote upon any of the questions affecting this contest during his absence.

The motion was agreed to.

ORSAMUS B. MATTESON. No excuse offered.

AMEROSE S. MURRAY.

Mr. TOMPKINS. I will state that Mr. MURRAY left the city several days ago, stating that his family were sick. I have not heard from him since; but he was called home by sickness in his family. I move that he be excused.

The motion was agreed to.

JOHN A. SEARING.

Mr. KELLY. My colleague is detained from the House by important business. I move that he be excused.

The motion was agreed to.

WILLIAM SMITH.

Mr. FAULKNER. I have before stated that my colleague is absent from indisposition. I now move that he be excused.

The motion was agreed to.

ALBERT G. TALBOT.

Mr. BURNETT. My colleague was absent from the House on account of ill health. He is now outside the door, having left a sick bed to be here. I move that he be excused.

The motion was agreed to.

JOHN THOMPSON.

Mr. PALMER. I will state that Mr. THOMPSON is detained from the House by indisposition. I move that he be excused.

The motion was agreed to.

Mr. RITCHIE. I believe all the absentees have been called over. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

The main question was then ordered on the resolution reported by the Committee of Elections, and amendment.

The question was first taken upon the amendment offered by the minority of the committee.

The amendment was reported, as follows:

Strike out all after the word "Resolved," and insert: That Lewis D. Campbell and Clement L. Vallandigham be, and they are hereby, allowed the further time of forty days from the passage of this order to take supplemental evidence touching the matter set forth in the memorial of Clement L. Vallandigham, contesting the right of Lewis D. Campbell, of the third congressional district of Ohio, to a seat in the Thirty-Fifth Congress.

Mr. KELSEY demanded the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 98, nays 113; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Conins, Covode, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lench, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Royce, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollcoffer—98.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery,

Barksdale, Bishop, Bocoock, Bowie, Boyce, Bryan, Burnett, Burns, Chapman, John B. Clark, Clay, Clemens, Clingan, John Cochrane, Cockerill, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Milson, Montgomery, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—113.

So the amendment was disagreed to.

Pending the call of the roll,

Mr. HILL said: I wish, in a few words, to state the reasons why I shall ask the House to excuse me from voting on that amendment.

Mr. STEPHENS, of Georgia. I object.

Mr. HILL. I wish to state, that from the best attention I have been able to give the subject—

Mr. STEPHENS, of Georgia. I object to the gentleman's statement.

The SPEAKER. The Chair is of the opinion that the gentleman has not the right to assign a reason why he wishes to be excused from voting, and that the motion to excuse is not in order. The motion should have been made before the call of the roll had commenced.

Mr. COBB. I desire to state that I am not certain whether I was within the bar when my name was called or not. I was just by the door, reading a memorial, and I am not certain whether I was within the bar at that particular time or not.

The SPEAKER. That is a question which the gentleman must decide for himself.

Mr. COBB. That I cannot determine. I should certainly vote "no," if allowed to vote.

Mr. BENNETT. I wish to state that I was absent from the House for a moment, and when I returned I found the door closed. But for that fact I should have been within the bar when my name was called. I ask the consent of the House to vote.

Mr. CLEMENS. I object.

Mr. COBB. I hope I shall be allowed to vote. I was at that time reading the memorial of a poor, destitute lady.

Mr. JOHN COCHRANE. If the gentleman from Alabama was talking to a lady, it is not to be wondered that he does not know whether he was within the bar. [Laughter.]

Mr. COBB. A gentleman here states that I was within the bar when my name was called.

The SPEAKER. The rule requires that the gentleman must himself respond to the question whether he was within the bar, yes or no.

Mr. COBB. I could not do that.

Mr. HOUSTON. What does the Chair rule is within the bar?

The SPEAKER. Anywhere within the Hall.

Mr. FAULKNER. The committee which had charge of the arrangements of the new Hall reported that the limits of the entire Hall should be considered the bar. If a gentleman, therefore, is within the Hall, he is within the bar.

Mr. MARSHALL, of Kentucky. I want to call the attention of the Speaker to the fact stated by the gentleman from New York, [Mr. BENNETT,] that he was shut out of the House. I saw him come to the door, and find it locked. He was not out of the House, therefore, voluntarily. He was shut out. I do not think the rule should be applied to him.

The SPEAKER. The Chair thinks it should.

Mr. MARSHALL, of Kentucky. I think, then, that the gentleman from New York and the gentleman from Alabama had better consider themselves paired off.

Mr. WARREN. I want to ask a question.

Several MEMBERS objected.

Mr. WARREN. I want to know whether the gentleman from Alabama was within the bar before the next name was called? [Cries of "Order!" "Order!"] I hold that the Speaker must put the question, "Were you within the bar before the next name was called?"

The SPEAKER. The Chair has propounded the only question that the rules recognize. The practice of the House has been that, if a member is within the bar when the next name was called,

he shall be allowed to vote. The Chair has, however, propounded the only question which the rule requires.

Mr. CLAY. There seems to be some mistake as to what is the bar of the House. The gentleman himself seems to have labored under some doubt as to what was the bar of the House.

The question then recurred upon agreeing to the resolution reported by the Committee of Elections.

Resolved, That it is inexpedient to allow further time to take testimony in this case, as asked for by the sitting member.

Mr. MARSHALL, of Kentucky, demanded the yeas and nays.

Mr. KEITT called for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. SICKLES and BILLINGHURST were appointed.

The House was divided, and the tellers reported—ayes forty.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 114, nays 101; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoock, Bowie, Boyce, Bryan, Burnett, Burns, Caskey, Chapman, John B. Clark, Clay, Clemens, Clingan, Cobb, John Cochrane, Cockerill, Cox, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Goode, Greenwood, Gregg, Groesbeck, Lawrence W. Hall, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclay, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Milson, Montgomery, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Tripp, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—114.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Conins, Covode, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Zollcoffer—101.

Pending the call,

Mr. HILL said, when his name was called, I ask now what I proposed to ask some moments ago; which is, that the House excuse me from voting upon the resolution, which is nothing more nor less than a reversal of the resolution which has just been negatived.

Mr. BURNETT. I object.

Mr. PHILLIPS. I would inquire if the rules do not require that such request should be made before the call of the roll is commenced. If so, I object.

At the close of the call,

Mr. HILL said, I ask the House now to suspend the rules to enable me to occupy three minutes in giving my reasons for desiring not to vote.

Mr. BURNETT. I object.

Mr. HILL. I shall have to make some objections myself on another occasion.

The result of the vote having been announced, **Mr. HARRIS**, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CONTUMACIOUS WITNESS.

The SPEAKER. The Chair desires to call the attention of the House to the response made by the witness, J. D. Williamson, which he has prepared as an amended answer in pursuance of leave granted by the House yesterday.

The amended answer was read, as follows:

WASHINGTON, February 5, 1858.

To SPEAKER House of Representatives.
Thirty-Fifth Congress:
SIR: In answer to the questions propounded to me by the House, I would most respectfully state: that the subpoena was served upon me summoning me before your

select committee. I consented to appear, and prepared to do so, but being under heavy bonds in New York not to leave the jail limits of that city, I called upon the sheriff and told him that I had been summoned to appear before the committee, and desired that my bonds should not be forfeited by my absence. He replied, that if I left the city voluntarily my bonds would be forfeited, and my pledged faith broken; but if my attendance was compelled it was his opinion, as well as that of my attorney, that my bail would not suffer loss. Upon their advice I acted, supposing it was right, and never intending and not knowing that I was committing a contempt upon your honorable body. I would cheerfully, and without hesitation, have appeared before the committee and answered all questions put to me touching the investigation they were pursuing, had it not been for the restraints thrown around me in New York. I now hold myself in readiness to answer "such proper questions" as shall be put to me by the committee.

J. D. WILLIAMSON.

Sworn to, and subscribed before me, on this 5th day of February, 1858.

C. W. C. DUNNINGTON, J. P.

Mr. STANTON. I desire to state to the House, in addition to the written answer of the witness, that he has been before the committee and has answered very promptly, without evasion or equivocation, every question propounded. The committee have no further business with him that we know of, so far as the answers are concerned. Whether they are true or not, is a question which the public will decide when the testimony is published. I ask that the witness be discharged from the custody of the Sergeant-at-Arms.

Mr. TAYLOR, of Louisiana. I hold in my hand a letter from a very particular friend of mine in New York, a member of the bar, in which he states to me that this gentleman was in the position in which he represented himself to be, that he was called upon in his professional capacity, by the witness, and consulted in regard to what he could do to obey the order of the House; and that at his instance this witness instituted proceedings with a view of placing himself in such a position, without involving his sureties in responsibility not intended to be imposed upon them.

Mr. STANTON. I move the previous question upon the motion that the witness be discharged from custody.

Mr. LETCHER. Oh, no previous question is necessary.

Mr. STANTON. Very well; I withdraw it. The motion to discharge the witness was agreed to.

Mr. AVERY. I ask the unanimous consent of the House to introduce a bill for reference merely. Several MEMBERS objected.

Mr. HARRIS, of Illinois. I call for the regular order of business.

PRESIDENT'S KANSAS MESSAGE.

The SPEAKER stated that the first business in order was the consideration of the President's message in reference to the Lecompton constitution and the motion to refer the same, upon which the gentleman from Pennsylvania [Mr. Grow] was entitled to the floor.

Mr. JENKINS. I rise to a privileged question. It will be remembered by the Speaker, and by the House, that the special committee, which was appointed to investigate the official conduct and accounts of the late Doorkeeper, had leave, under the resolution appointing them, to report at any time. That committee have instructed me to make a report.

Mr. GROW. Yes; but the gentleman cannot take the floor from another to make that motion.

The SPEAKER. The Chair thinks not. The Chair thinks that the gentleman from Virginia cannot take the floor from the gentleman from Pennsylvania to make the report.

Mr. GROW. Mr. Speaker, the President has sent to Congress a message recommending the admission of Kansas as a State into this Union, under the constitution formed at Lecompton, in November last. The first question that arises in all such applications for the consideration of the legislators is, is the constitution republican in its form, and does it in its essential features meet the will and wishes of those to be affected by it? The President has failed to send to Congress the vote of the people of Kansas on this constitution, so that we may judge whether it meets their will and wishes by the official record of their action. In the case of Minnesota he sent a message transmitting the constitution and the vote of the people for and against it, without any recommendation whatever. In that case he sent the facts, and left Congress to act upon them. In this case, with-

out sending the facts, he sends a message abounding in epithets and denunciations of the majority of the people of Kansas, without furnishing us with the facts that the official record ought to show.

Mr. HARRIS, of Illinois. I ask the gentleman from Pennsylvania to yield me the floor, that I may modify the proposition I made the other day, and explain the modification.

Mr. GROW. I yield the floor for that purpose.

Mr. HARRIS, of Illinois. Mr. Speaker, I wish to withdraw the amendment which I offered the other day to the motion of the gentleman from Indiana, [Mr. HUGHES.] The reasons why I wish to withdraw that amendment may be briefly stated, and I will state them. My object in moving the amendment was to obtain certain information which the country required. If we are to believe the opinions expressed by gentlemen upon all sides of this Chamber, this is one of the most momentous questions that ever has been presented to the Congress of the United States. Intimations have been given out upon this floor, and at the other end of the Capitol, that the decision of this question might result in precipitating a train of events of the most disastrous character to the welfare of this country. If these expressions of opinion rest upon any well-founded, existing state of facts, it is proper, it is necessary, that the country should know what they are. When a navigator is about to embark upon a voyage, it is important for him to ascertain exactly the point of his departure. If we are about to venture upon a new order of things, let the country and the world know what the facts are upon which that order of things is initiated. Let us know the facts upon which these predictions are made, and upon which this great change, if change there must be, must take place.

There is a wide diversity of opinion as to the existing state of facts in the Territory of Kansas. Allegations have been made of frauds, of corruption, of outrages, of infamy. If these allegations be true, and by our action we indorse what has been done, we become accessories after the fact in the perpetration of these frauds; and it is, therefore, due to ourselves as members of this House; it is due to those people whom we represent here, and who have confided their interests to our hands; it is due to those that are to come after us in this country and throughout the world, that these facts should be obtained in an authoritative form. And, sir, what possible objection can there be to an inquiry into the facts? The truth never harmed anybody. Upon a great public question of this kind there should be a call for information from all the sources from which it can be obtained.

I trust, sir, that no gentleman will desire to precipitate a vote upon the great question that lies at the bottom of this subject of the admission of Kansas, until we have before us all the facts connected with the origin of the constitution of Kansas—facts which have transpired since its formation by the convention—so far as they can affect the question of the propriety of her admission into the Union as a State. I ask for no facts beyond those that are directly pertinent to that question, and those facts I trust that gentlemen are prepared to give us, and to give them to us in an authoritative form.

It is said in some quarters that the object of this movement on my part is to effect delay, to prolong excitement in the country. Sir, it is not to effect delay. It is to hasten the work which we are to do. Who is there that desires to take this fearful leap in the dark, when he can by investigation have facts before him to light his path? I do not propose to recount all that has occurred in the Territory of Kansas. It is no part of my purpose to do it. My own convictions of what has occurred there, and what has not occurred there, do not in this movement that I make affect my action. I have not been there. I am not personally acquainted with the facts. But, sir, I hold in my hand that information which satisfies me that there ought to be investigation. As it can be read by the Clerk much better than by myself, I send it to the Clerk's desk that it may be read. I will state that it is the letter of ex-Secretary Stanton, the late acting Governor of the Territory of Kansas.

Mr. LETCHER. I rise to a question of order. Who is entitled to the floor—the gentleman from

Pennsylvania [Mr. Grow] or the gentleman from Illinois, [Mr. HARRIS?]

The SPEAKER. The gentleman from Pennsylvania was recognized; and he yielded the floor to the gentleman from Illinois.

Mr. LETCHER. For explanation of his amendment, as I understand; not for a speech.

Mr. HARRIS, of Illinois. Well, sir, I am explaining my amendment.

Mr. LETCHER. I raise the question that the floor cannot be farmed out.

Mr. GROW. To do away with objections, I yield the floor unconditionally to the gentleman from Illinois.

Mr. HARRIS, of Illinois. I propose that the paper sent to the Clerk's desk be read as a part of my remarks, and in this connection, in the same way as if I had read it myself.

Mr. BOCK. Would it be in order for a gentleman to send up a portion of his speech to be read by the Clerk?

Mr. HARRIS, of Illinois. If the point of order is made on me, I ask the Chair to decide the point.

The SPEAKER. A question of order is raised. The gentleman from Illinois proposes to have read a certain paper. According to the practice of the House, the Chair thinks it is in order. According to the Manual, the Chair is of opinion that the leave of the House must be granted. The Chair will follow the practice of the House, and permit the paper to be read, as it comes out of the gentleman's time.

Mr. STEPHENS, of Georgia. I trust that objection will be withdrawn, that the paper may be read. The gentleman has certainly a right to have it read. We all can see the convenience of it.

Mr. HARRIS, of Illinois. I am only amazed that the gentleman from Virginia should have made the point.

Mr. LETCHER. What point?

Mr. HARRIS, of Illinois. Objecting to reading.

Mr. LETCHER. I did not object to the reading. I objected to your taking the time of the gentleman from Pennsylvania.

Mr. HARRIS, of Illinois. I hope the paper will be read now.

It was read, as follows:

To the People of the United States.

Having been recently removed from the office of Secretary of Kansas Territory, under circumstances which imply severe censure on the part of the President, and having had no official information of my removal, nor any opportunity for explanation or defense, I have deemed it necessary to present to the people of the United States a brief statement of facts in vindication of my motives, and in explanation of the results of the act for which I have been condemned.

The office in question was not given at my solicitation. My acceptance of it, under all the circumstances, was a proof of strong friendship for the President, and of unbounded confidence in the firmness and faithfulness with which he would adhere to the line of policy deliberately agreed upon between him, his whole Cabinet, and Governor Walker.

On my arrival in the Territory in April last, in advance of Governor Walker, I confess that I had an imperfect knowledge of the real condition of affairs. I supposed the question of slavery to be the only cause of dissension and difficulty among the people; and, in my brief inaugural address of the 17th April, I treated this as the chief subject of difference upon which a submission to the people would be likely to be demanded. I soon found, however, that this view was altogether too limited, and did not reach the true ground of controversy. The great mass of the inhabitants of the Territory were dissatisfied with the local government, and earnestly denied the validity of the existing laws. Asserting that the previous Legislatures had been forced upon them by the fraud and violence of a neighboring people, they proclaimed their determination never to submit to the enactments of legislative bodies, thus believed to be illegitimate and not entitled to obedience.

This was the condition of things when Governor Walker came to the Territory, in the latter part of May. It was evident that the just policy of permitting the people to regulate their own affairs could not be successfully carried out, unless they could be inspired with confidence in the agents of Government through whom this result was to be effected. If a mere minority of the people had been thus dissatisfied and contumacious, they might possibly have been pronounced factious, and treated as disturbers of the peace; but when the dissatisfaction was general, comprising almost the whole people, a more respectful consideration was indispensable to a peaceable adjustment. It was evident that the policy of repression—a rigid attempt to enforce submission without an effort at conciliation—would inevitably result in a renewal of the civil war. With commendable anxiety to avoid this contingency, Governor Walker resolved to go among the people; to listen to their complaints; to give them assurance of a fair and just administration of the territorial government; and to induce them, if possible, to abandon their hostility, and to enter upon the peaceful but decisive struggle of the ballot-box. I was often with the Governor when he addressed the people, and gave my best efforts in aid of the great purpose of conciliation.

It was too late to induce the people to go into the June election for delegates to the convention. The registration required by law had been imperfect in all the counties, and had been wholly omitted in one half of them; nor could the people of these disfranchised counties vote in any adjacent county, as has been falsely suggested. In such of them as subsequently took a census or registry of their own, the delegates chosen were not admitted to seats in the convention. Nevertheless, it is not to be denied that the great central fact, which controlled the whole case, was the utter want of confidence by the people in the whole machinery of the territorial government. They alleged that the local officers, in all instances, were unscrupulous partisans, who had previously defrauded them in the elections, and who were ready to repeat the same outrages again; that, even if intruders from abroad should not be permitted to overpower them, they would be cheated by false returns, which it would not be possible for the Governor and Secretary to defeat. Although, at that time, these apprehensions seemed to me to be preposterous and unfounded, it was impossible to deny the earnestness and sincerity with which they were urged, or to doubt that they were the result of deep convictions, having their origin in some previous experience of that nature.

The worst portion of the small minority in Kansas, who had possession of the territorial organization, loudly and bitterly complained of Governor Walker's policy of conciliation, and demanded the opposite policy of repression. And when, under the solemn assurances given that the elections should be fairly conducted, and no frauds which we could reach be countenanced or tolerated, it had become apparent that the mass of the people were prepared and determined to participate in the October elections, the minority endeavored to defeat the result by reviving the tax qualification for electors, which had been repealed by the previous Legislature. Opinions were obtained from high legal sources, the effect of which, had they prevailed, would have been to exclude the mass of the people from voting, to retain the control in the hands of the minority, and, as a consequence, to keep up agitation, and to render civil war inevitable. But the intrepid resolution of Governor Walker, in spite of fierce opposition and denunciation, far and near, carried him through this dangerous crisis, and he had the proud satisfaction of having achieved a peaceful triumph, by inducing the people to submit to the arbitrament of the ballot-box.

But the minority were determined not to submit to defeat. The populous county of Douglas had been attached to the border county of Johnson, with a large and controlling representation in the Legislature. The celebrated Oxford fraud was perpetrated with a view to obtain majorities in both Houses of the Assembly. When these returns were received at my office, in Governor Walker's absence, I had fully determined not to give certificates based upon them. If they had been so formal and correct as to have made it my duty to certify them, I would have resigned my office in order to testify my sense of the enormity of the wrong. Governor Walker, at Leavenworth, had formed the same resolution, as he stated to me and to several others; and we were both gratified that we found the papers so imperfect as to make it our duty to reject them. Great excitement followed in the Territory. The minority, thus righteously defeated in the effort to prolong their power, became fierce in opposition, and resorted to every means of intimidation. But I am led to believe that they found their most effectual means of operation by undermining us with the Administration at Washington.

The constitutional convention, which had adjourned over until after the October election, met again in Leecompton to resume its labors. Many of the members of that body were bitterly hostile to the Governor and Secretary, on account of their rejection of the Oxford and McGee frauds, in which some of the members and officers of the convention had a direct participation. In fact, this body, with some honorable exceptions, well represented the minority party in the Territory, and were fully imbued with the same spirit and designs. It was obviously not their desire to secure to the real people of Kansas the control of their own affairs. In the constitution, soon afterwards adopted, they endeavored to supersede the Legislature which had been elected by the people, by providing, in the second section of the schedule, that "all laws now of force in the Territory shall continue to be of force until altered, amended, or repealed by a Legislature under the provisions of this constitution." They provided still more effectually, as they supposed, for the perpetuation of their minority government, by adopting the Oxford fraud as the basis of their apportionment, giving a great preponderance of representation to the counties on the Missouri border, and affording, at the same time, every possible facility for the introduction of spurious votes. The president of the convention was clothed with unlimited power in conducting the elections and receiving the returns, while the officers are not required to take the usual oath to secure fair and honest dealing. The elections were hurried on in midwinter—the 21st of December and the 4th of January—when emigrants could come only from the immediate borders, under the qualification which invited to the ballot-box every white male inhabitant "in the Territory on that day." The same men who did this had previously denounced Governor Walker for the suggestion in his inaugural address, and in his Topeka speech, that the constitution should be submitted to all the bona fide inhabitants, although he invariably stated, when asked for explanation, that some reasonable length of residence ought to be required as evidence of the bona fide character of inhabitants.

It was apparent that all the machinery had been artfully prepared for a repetition of gross frauds, similar to those which had been attempted in October; and it was in view of all these facts, after the adjournment of the convention, that the people of the Territory, by an almost unanimous demand, called upon me, as the acting Governor, to convene an extra session of the Legislature, in order to enable them peaceably to protect themselves against the wrongs evidently contemplated by the adoption of this constitution. There was no law to punish frauds in election returns. The people were intensely excited; and it was the opinion of the coolest men in the Territory that, without a call of the Legislature, the elections under the constitution could not have

taken place without collision and bloodshed. The meeting of the Legislature diverted the attention of the people from the schemes of violence upon which they were brooding, substituted the excitement of debate and investigation for that of fierce and warlike hatred, and enabled their representatives to devise means for counteracting the wrongs which they justly apprehended.

Recent events have shown that their apprehensions were well founded. Enormous frauds have been perpetrated at the precincts of Oxford, Shawnee, and Kickapoo; and it may well be believed that this result was actually designed by the artful leaders who devised the plan and framework of the Leecompton constitution. I have lately been at Shawnee, and I have seen and conversed with persons who were at Oxford on the day of election. The frauds committed are notorious; and though dishonest persons may deny them, and may fill the channels of public information with shameless representations to the contrary, they can be easily established beyond all controversy.

It was to enable the people to shield themselves from these frauds, and to give legal expression to their hatred and rejection of the instrument which permitted them, and was to be carried by them, that I called the Legislature together.

In my judgment the people had a fair claim to be heard on this subject through their Legislature. The organic act confided to me the discretion of convening that body in extra session. The President of the United States had no rightful authority to exercise that discretion for me. He had the power of removal, and such control as that power gives him. But I would cheerfully have submitted to removal, and consequent loss of favor with the President, rather than occupy the position of Governor, and refuse to the people an opportunity to assert their most essential rights and to protect themselves against the basest frauds and wrongs ever attempted upon an outraged community.

Not having been informed of the grounds of my removal, I know them only through the newspaper reports, to the effect that, in calling the Legislature, I disobeyed the instructions of the President. I had no instructions bearing on the subject, and there was no time to obtain them, even if I had felt bound to substitute the President's will for that discretion which the organic act confided to me. The convening of the Legislature undoubtedly prevented difficulty and secured peace. Were it important, I am confident I could establish this position by the most indubitable facts; but it is sufficient now to say that the peace of the Territory was not, in fact, disturbed, and whatever approaches were made towards such a result were wholly attributable to the policy of the Administration in censuring my acts and removing me from office.

The measure for which I have been unjustly condemned has enabled the people of Kansas to make known their real will in regard to the Leecompton constitution. This affords the Democratic party an opportunity to defend the true principles of constitutional liberty, and to save itself from disastrous division and utter overthrow. If Congress will heed the voice of the people, and not force upon them a government which they have rejected by a vote of four to one, the whole country will be satisfied, and Kansas will quietly settle her own affairs, without the least difficulty, and without any danger to the Confederacy. The southern States, which are supposed to have a deep interest in the matter, will be saved from the supreme folly of standing up in defense of so wicked and dishonest a contrivance as the Leecompton constitution. The moral power of their position will not be weakened by a vain and useless defense of wrong, when it is perfectly certain they will gain nothing even by success in the present attempt.

The extra session of the Kansas Legislature has done good, also, by giving means to expose and punish the monstrous frauds which have been perpetrated, and doubtless, also, by preventing others which would have been attempted. It has driven the guilty miscreants engaged in them to become fugitives from justice, and has rendered it impossible for the peace of the Territory hereafter to be endangered by similar occurrences.

In view of these facts and results, I willingly accept the rebuke conveyed in my peremptory dismissal from office, but I appeal to the deliberate judgment of the people to determine whether I have not chosen the only honorable course which the circumstances allowed me to pursue.

FRED. P. STANTON.

WASHINGTON, January 29, 1858.

Mr. HARRIS, of Illinois. In addition to the statement made by ex-acting Governor STANTON, just read, I might read the statement made by ex-Governor Walker, of a like character and import. It is quite remarkable that there should be such a diversity of opinion between those who have exercised executive functions in the Territory of Kansas, and the national Executive from whom they derived their appointment. There seems to be a direct issue of fact raised between those functionaries; and while there is such a difference of opinion there, how can it be that the people of this country can be supposed to be united on such questions? Now I hold that it is demanded by every consideration that can influence men on whom great responsibilities rest, to obtain the best information they can on the subject; and it was to promote such important public ends that I offered my resolution the other day.

I wish now, not being disposed to occupy any time unnecessarily, to withdraw the amendment which I offered to the resolution proposed by the gentleman from Indiana, [Mr. HUGHES,] and now I desire to make an inquiry of the Chair. I desire to be informed whether, under the rules of the House, I can move my amendment as a distinct substantial proposition? The gentleman from Georgia [Mr. STEPHENS,] moved to refer the mes-

sage to the Committee on Territories. That is a distinct, independent motion. The gentleman from Indiana [Mr. HUGHES,] moved to refer it to a select committee of thirteen; not as an amendment, but as a separate, independent proposition. Under the rules, the motion to refer to the Committee on Territories would take precedence. My inquiry now is, whether there can be more than two distinct propositions of reference pending at the same time on the one question? I do not desire to move my resolution as an amendment to that of the gentleman from Indiana. I understand that the practice of the House has been, in regard to the appointment of committees under such resolutions, different. For instance, if I should move to strike out of the resolution all except the word "Resolved," I suppose the Speaker would give the position of chairman of that committee to the gentleman who originated the resolution.

I state, sir, without any reserve or concealment, what are the objects I have in view. If my resolution is adopted, it will be a different resolution from that offered by the gentleman from Indiana; yet, if it is adopted as an amendment to that resolution, under the parliamentary practice, the Speaker would appoint the gentleman from Indiana chairman of the committee. It is true, the practice of the House in the last Congress has been both ways. But, in order to relieve the Speaker from any embarrassment on the subject, I desire to submit my proposition as an independent proposition. I do not know whether it can be entertained as such; but, for the purpose of obtaining a decision upon it, I now withdraw my amendment, and submit the following as an independent proposition:

Resolved, That the message of the President concerning the constitution framed at Leecompton, in the Territory of Kansas, by a convention of delegates therein, and the papers accompanying the same, be referred to a select committee of fifteen, to be appointed by the Speaker. That said committee be instructed to inquire into all the facts connected with the formation of said constitution and the laws under which the same was originated, and into all such facts and proceedings as have transpired since the formation of said constitution, having relation to the question or propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas. And that said committee have power to send for persons and papers.

I ask, Mr. Speaker, if it is in order to present that resolution as an original proposition?

THE SPEAKER. The Chair thinks not. The Chair is of the opinion that the gentleman can only accomplish his purpose by moving his amendment as an amendment to the amendment of the gentleman from Indiana. The following is the rule upon which the Chair bases his decision:

"47. When a resolution shall be offered, or a motion made, to refer any subject, and different committees shall be proposed, the question shall be taken in the following order:

"The Committee of the Whole House on the state of the Union; the Committee of the Whole House; a standing committee; a select committee."

Mr. HARRIS, of Illinois. I supposed that would be the ruling of the Chair. I presented the resolution in this form in order that I might understand precisely the ground on which I stood. I do not find fault with the ruling of the Chair, because I believe it is correct. At the same time, when the gentleman from Indiana moves a resolution to refer the matter to a select committee of thirteen, stating at the same time that he did it supposing that was the motion I asked the floor to make, placing himself in the position, by the practice under parliamentary usage, to be placed at the head of that committee, I regret the position in which the matter stands.

Mr. MONTGOMERY. The gentleman from Indiana, at the time he made his motion, disclaimed any desire or intention on his part to be chairman of that committee.

Mr. HARRIS, of Illinois. I had forgotten the fact the gentleman states. I thank the gentleman for his suggestion. I did not intend to do the gentleman from Indiana injustice. The matter referred to had for the moment escaped my recollection.

Mr. Speaker, I do not wish to take up the time of the House any further. I believe the House is as ready to vote now as they will be at any future time, and I therefore move the resolution which has been read as an amendment to the amendment of the gentleman from Indiana, and call for the previous question.

Mr. STEPHENS, of Georgia. I hope the gentleman does not propose to press the House to a vote this evening.

Mr. HARRIS, of Illinois. I cannot withdraw the demand for the previous question. I hope the House will come to a vote without further delay.

Mr. STEPHENS, of Georgia. I hope the demand will be voted down. I state, candidly, that motion is one which I hope will not be adopted; and if it is to receive the concurrence of a majority of the House, I hope they will at least allow us to state our objections to it.

Mr. HARRIS, of Illinois. I cannot withdraw the call for the previous question.

Mr. STEPHENS, of Georgia. I wish to make one suggestion. If the previous question is to be applied to the motion, I hope the vote will not be taken this evening. Let it go over until morning.

Mr. HARRIS, of Illinois. I hope the vote will be taken this evening.

Mr. STEPHENS, of Georgia. I move a call of the House.

Mr. CLINGMAN, (at ten minutes past four o'clock.) I move that the House do now adjourn.

Mr. BOYCE. I move that when the House adjourns it adjourn to meet on Monday next.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 120; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bowie, Boyce, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Clingman, John Cochrane, Burton Craige, Crawford, Curry, Davidson, Davis of Maryland, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gihner, Goode, Greenwood, Gregg, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, McKibbin, McQueen, Mason, Miles, Miller, Millson, Moore, Pendleton, Peyton, Phillips, Powell, Quitman, Reagan, Ricard, Rufin, Russell, Sandidge, Savage, Seales, Henry M. Shaw, Shorter, Sickles, Stallworth, Stephens, Stevenson, George Taylor, Miles Taylor, Underwood, Ward, Watkins, White, Whiteley, Winslow, Woodson, and Wortendyke—80.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Bilinghurst, Bingham, Blair, Bliss, Biscock, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Curtis, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Jewett, George W. Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leiter, Lovejoy, Samuel S. Marshall, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Pettit, Phelps, Pike, Potter, Purviance, Reilly, Ritchie, Robbins, Roberts, Royce, Seward, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, Tappan, Thayer, Tompkins, Trippe, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and John V. Wright—120.

So the House refused to adjourn over.

Pending the call of the roll,

Mr. TAPPAN stated that Mr. CRAGIN, who was ill, had paired off with Mr. BRANCH.

Mr. MORGAN stated that Mr. THOMPSON had paired off with Mr. TALBOT, who was indisposed.

The question then recurred on the motion to adjourn.

Mr. SAVAGE. I ask the gentleman from North Carolina to withdraw his motion to adjourn, to allow me to ask the unanimous consent of the House to have the bill which I presented the other day printed.

Mr. HARRIS, of Illinois, objected.

The question was taken; and it was decided in the negative—yeas 95, nays 112; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Biscock, Bowie, Boyce, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dowdell, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gihner, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, MacLay, McQueen, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Rufin, Russell, Sandidge, Savage, Seales, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Stallworth, Stephens, James A. Stewart, George Taylor, Miles Taylor, Trippe, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—95.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Bilinghurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chap-

man, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samuel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Purviance, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—112.

So the House refused to adjourn.

The question recurred upon the motion that there be a call of the House.

Mr. PHELPS demanded the yeas and nays.

Mr. SEWARD. I move that the House take a recess until half past seven this evening.

The SPEAKER. A motion to take a recess is not in order.

Mr. BISHOP. I move that when the House adjourns, it adjourn until Monday next.

The yeas and nays were demanded.

Mr. WASHBURN, of Illinois, called for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CLINGMAN and CLEMENS were appointed.

The House was divided; and the tellers reported—yeas fifty-five.

So the yeas and nays were ordered.

Mr. REILLY. I move to amend the motion by striking out "Monday," and inserting "Tuesday."

Mr. FLORENCE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. CLINGMAN. We are getting into a snarl, and I move that the House adjourn.

Mr. WASHBURN, of Illinois. The motion of the gentleman from North Carolina is not in order.

Mr. REILLY. I withdraw my amendment.

The SPEAKER. The gentleman can withdraw it only by unanimous consent.

Mr. FLORENCE. I object.

The SPEAKER. The motion of the gentleman from North Carolina cannot now be entertained. Two other motions have precedence.

Mr. CAMPBELL. I think this whole matter may be compromised, and I will make a proposition to gentlemen upon the other side of the House. It is, that the several motions to adjourn and to adjourn over be withdrawn, and that we come to a direct vote upon the resolution offered by the gentleman from Georgia, and the pending amendment. [Laughter.]

The question recurred on the motion to substitute "Tuesday" for "Monday."

Mr. STANTON. I rise to a question of order. There is a motion pending that when this House adjourns it adjourn to meet on Monday next. Then there is a motion to strike out "Monday" and insert "Tuesday." My point is, that the motion to adjourn until Monday is not in order, for the reason that that motion has been once voted down to-day, and, therefore, the amendment depending on that motion is not in order. I do not know any better time to experiment than the present.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Ohio, and states that the uniform practice of the House has been to entertain the motion at any time; and the gentleman from Ohio himself, only three or four days ago, appealed from a decision of the Chair on this same point. The House sustained the Chair, and held that the motion was in order.

Mr. STANTON. We have not much to do, now; and I take an appeal from the decision of the Chair, and upon that appeal call the yeas and nays.

Mr. SEWARD. I move to lay the appeal upon the table.

Mr. KEITT. I demand the yeas and nays upon the motion to lay the appeal on the table.

The yeas and nays were ordered.

Mr. COBB. I ask to be excused from voting on the motion to lay the appeal on the table; and upon that request I ask the yeas and nays.

Mr. GROW. I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and DAVIS of Mississippi, were appointed.

The question was taken; and the tellers reported—yeas 50, nays 69.

So the yeas and nays were ordered.

Mr. TRIPPE. I would like to inquire upon how many questions the yeas and nays have been ordered, and are now pending?

The SPEAKER. Only five.

Mr. TRIPPE. And how many motions are pending upon which the yeas and nays have not been ordered?

The SPEAKER. The Chair cannot tell.

Mr. TRIPPE. Is not a motion to adjourn in order? If it is, I make it.

The SPEAKER. A motion to adjourn is already pending.

Mr. TRIPPE. I thought it was a resolution to adjourn over.

Mr. SEWARD. Is it in order to move that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not. The Chair will entertain the motion to adjourn.

Mr. TRIPPE. Then I make that motion.

Mr. GROW. I rise to a point of order. There was a motion made to adjourn. Some gentleman then moved that when the House adjourns it adjourn to meet on Monday next. An amendment was moved to insert "Tuesday" in the place of "Monday." Now, by the rules, the motion to adjourn over takes precedence of the motion to adjourn.

The SPEAKER. The Chair entertains the motion to adjourn because of incidental questions arising. The House will perceive that the House will soon put itself into the position that it cannot adjourn unless the Chair so rules.

Mr. LETCHER. I hope the gentleman from Pennsylvania will not appeal from that decision.

The yeas and nays were demanded and ordered upon the motion to adjourn.

The question was taken; and it was decided in the negative—yeas 92, nays 106; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Biscock, Bowie, Boyce, Bryan, Burnett, Caskie, John B. Clark, Clay, Clingman, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davis of Mississippi, Dewart, Dowdell, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gihner, Goode, Greenwood, Gregg, Hatch, Hill, Hopkins, Houston, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, MacLay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Ricard, Russell, Savage, Seward, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Trippe, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, and Zollcoffer—92.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Bilinghurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—106.

So the House refused to adjourn.

Pending the call,

Mr. DAVIS, of Massachusetts, stated that he had paired off with Mr. WRIGHT, of Georgia.

Mr. COVODE stated that Mr. DICK had paired off with Mr. HAWKINS.

Mr. HAWKINS stated that he had paired off with Mr. DICK.

The question recurred on the motion to excuse Mr. COBB from voting, upon which the yeas and nays had been ordered.

Mr. MOORE, (at ten minutes after five o'clock, p. m.) I move that the House do now adjourn.

The SPEAKER. That motion is not in order, no business having been transacted since a similar motion was voted down.

Mr. HOUSTON. Have the yeas and nays been called for on the motion to excuse my colleague?

The SPEAKER. They have been ordered.

Mr. HOUSTON. This is a very important question, and I move that there be a call of the House, in order that we may have a full vote on this momentous issue.

Mr. WASHBURN, of Maine. Well, I suppose we had better have the yeas and nays upon that motion.

Mr. KEITT. I ask for tellers on the yeas and nays.

The SPEAKER. The motion of the gentleman from Alabama [Mr. Houston] is not in order; there is a motion for a call of the House already pending.

Mr. HOUSTON. That is true; but this is a very important issue which has been presented to the House since the motion for a call of the House has been smothered up.

Mr. WASHBURN, of Maine. I call the gentleman from Alabama to order.

Mr. LETCHER. What proposition is it that the gentleman from Alabama [Mr. Cobb] wants to be excused from voting on?

The SPEAKER. The gentleman from Ohio [Mr. Stanton] appealed from the decision of the Chair. A gentleman on the left moved to lay the appeal upon the table. Pending that question, the gentleman from Alabama moved that he be excused from voting upon the motion to lay the appeal upon the table.

Mr. LETCHER. Well, sir, if it be in order, I move to be excused from voting upon that question.

Mr. MARSHALL, of Kentucky. I move that the House adjourn.

Mr. LETCHER. Let us have this question decided first.

The SPEAKER. The gentleman from Virginia [Mr. Letcher] is upon the floor.

Mr. SHERMAN, of Ohio. I desire to know whether the motion of the gentleman from Virginia is entertained?

The SPEAKER. The Chair will entertain it. Mr. SHERMAN, of Ohio. Then I raise the point of order that motions cannot be cumulated in this way; and I appeal from the decision of the Chair entertaining the motion. It may be important to have the practice established upon this point.

Mr. COLFAX. It may be very important hereafter.

Mr. LETCHER. I move to lay the appeal upon the table; and on that motion I ask the yeas and nays.

Mr. MARSHALL, of Kentucky, (at fifteen minutes after five o'clock, p. m.) I move that the House do now adjourn.

Mr. GROW. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. MARSHALL, of Kentucky. I withdraw the motion to adjourn.

Mr. KEITT. I renew the motion.

Mr. COMINS. I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. I wish to make an inquiry. Would it be in order to move that when the House adjourns, it adjourn to meet in the old Hall? [Laughter.]

The SPEAKER. The Chair thinks not.

Mr. JONES, of Tennessee. Well, if it would be in order, I would make that motion, and make it in good faith. I think a majority of this House are about ready to go back to the old Hall. I think they are satisfied with this experiment.

The SPEAKER. The Chair thinks the motion is not in order.

Mr. JONES, of Tennessee. Well, I will make it when it is in order.

The question was taken; and it was decided in the negative—yeas 71, nays 92; as follows:

YEAS—Messrs. Ahl, Anderson, Bowie, Bryan, Caskie, Clemens, Clingman, Cobb, James Craig, Burton, Craig, Crawford, Davis of Mississippi, Dowdell, Eustis, Florence, Garnett, Gartrell, Gillis, Gilmer, Greenwood, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jewett, George W. Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Leidy, Letcher, Maclean, McQueen, Humphrey Marshall, Maynard, Miles, Milton, Moore, Niblack, Peyton, Phelps, Powell, Quitman, Reagan, Ricard, Ruffin, Russell, Sandage, Savage, Seales, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Miles Taylor, Tripp, Underwood, Ward, Warren, Watkins, White, Whiteley, Woodson, Wortendyke, and Zollcoffer—71.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame,

Burns, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Curtis, Damrell, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dodd, Durfee, English, Farnsworth, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harian, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Olin, Palmer, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Waiton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—92.

So the House refused to adjourn.

Pending the call of the roll,

Mr. KEITT, when his name was called, said: I wish to ask the House to suspend the call at this point and let me introduce a resolution.

Mr. CLINGMAN. I call the gentleman to order.

Mr. KEITT. I vote "ay." We want a clerk for my committee, and I wanted the House to suspend the call and authorize us to employ one.

Mr. GARNETT stated that Mr. STEVENSON had paired off with Mr. GROESBECK.

Mr. ADRAIN stated that he had paired off with Mr. STEWART, of Maryland.

The question recurred upon Mr. LETCHER's motion to lay Mr. SHERMAN's appeal upon the table.

Mr. KEITT. Is that question debatable?

The SPEAKER. It is not.

Mr. SHERMAN, of Ohio. I withdraw the appeal. Let the decision of the Chair stand as the judgment of the House.

Mr. KEITT. Is the question now debatable?

The SPEAKER. It is not.

Mr. KEITT. Is it not in order to ask the gentleman from Virginia [Mr. Letcher] his reason for wishing to be excused from voting?

The SPEAKER. It is not.

Mr. HUGHES. I offer the resolution which I send to the Chair.

Mr. ENGLISH. I object.

Mr. HUGHES. It is a privileged question.

Mr. STANTON. I object to the reading of the resolution.

The SPEAKER. The resolution is objected to.

Mr. HUGHES. It is a privileged question.

Mr. HOUSTON. The gentleman says he rises to a privileged question; and if that is so, we ought to hear what it is.

Mr. HARRIS, of Illinois. He can state what it is.

Mr. HOUSTON. If it be read, we can see at once whether it is privileged or not.

The SPEAKER. The Chair thinks that no privileged question can intervene at this time. The question recurs on the motion of the gentleman from Virginia, [Mr. Letcher] that he be excused from voting on the motion to excuse the gentleman from Alabama [Mr. Cobb] from voting. [Laughter.]

Mr. LETCHER. Upon that motion I ask for the yeas and nays.

Mr. RICAUD. I move that there be a call of the House.

The SPEAKER. That motion is not in order, inasmuch as there is a motion for a call of the House already pending.

The yeas and nays were ordered.

Mr. GARNETT. I ask to be excused from voting upon the motion that my colleague be excused from voting?

Mr. SHERMAN, of Ohio. I raise the point of order again whether motions of this kind can be cumulated in this way after a call for the previous question?

Mr. BURNETT. I call the gentleman from Ohio to order.

The SPEAKER. The gentleman from Ohio has risen to a question of order. The Chair is of the opinion that, under the rules of the House, whatever may be the result, it is competent for the gentleman to make the request; the rule allows any gentleman to ask to be excused from voting upon any proposition.

Mr. HOUSTON. I think we have got the questions a good deal complicated; and I move that the House do now adjourn, in order that we may investigate and see where we stand.

Mr. ENGLISH. I ask for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. KEITT. I ask the House to excuse me from voting on the motion to adjourn.

The SPEAKER. The Chair cannot entertain the motion.

Mr. CAMPBELL. I desire to make an inquiry. Is it in order now to renew my proposition to compromise this whole matter by coming to a direct vote? [Laughter.]

The SPEAKER. Pending the motion to adjourn, the Chair thinks it would hardly be in order.

The question was taken; and it was decided in the negative—yeas 72, nays 93; as follows:

YEAS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bowie, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Burton, Craig, Crawford, Curry, Davis of Mississippi, Dowdell, Florence, Garnett, Gartrell, Goode, Greenwood, Gregg, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Maclean, McQueen, Maynard, Miles, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Savage, Seales, Henry M. Shaw, Singleton, Samuel A. Smith, Stephens, Miles Taylor, Underwood, Warren, Watkins, Woodson, Wortendyke, John V. Wright, and Zollcoffer—72.

NAYS—Messrs. Abbott, Andrews, Arnold, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Thomas L. Harris, Haskin, Hickman, Horton, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Waiton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—93.

So the House refused to adjourn.

Pending the vote,

Mr. ADRAIN stated that he had paired off with Mr. STEWART, of Maryland.

Mr. DAMRELL stated that he had paired off with Mr. TAYLOR, of New York.

Mr. GARNETT stated that Mr. EUSTIS had paired off, till twelve o'clock to-morrow, with Mr. MURRAY.

Mr. CLEMENS stated that Mr. FAULKNER had paired off with a gentleman from New York.

Mr. KEITT stated that he took it for granted that Mr. GILLIS had paired off with somebody.

Mr. STEWART, of Pennsylvania, stated that he had paired off with Mr. WHITE.

Mr. SINGLETON stated that Mr. WARD had paired off with Mr. MARSHALL, of Illinois.

The question recurred on [Mr. GARNETT's] motion to be excused from voting on Mr. LETCHER's motion to be excused from voting on Mr. COBB's motion to be excused from voting on the motion to lay on the table Mr. STANTON's appeal from the decision of the Chair.

Mr. GARNETT called for the yeas and nays.

Mr. WASHBURN, of Illinois, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. WASHBURN of Illinois, and TRIPPE were appointed.

The House divided; and the tellers reported—ayeas forty-nine.

So the yeas and nays were ordered.

The SPEAKER. The Chair desires to inquire of the gentleman from Ohio, [Mr. SHERMAN], if he took an appeal from the decision of the Chair in entertaining the proposition of the gentleman from Virginia to be excused from voting?

Mr. SHERMAN, of Ohio. I am satisfied with the decision of the Chair.

Mr. STANTON. I think it would be well enough to settle that question by a recorded vote; and I will take an appeal from the decision of the Chair. It may be useful for future reference.

The SPEAKER. Debate is not in order.

Mr. PHILLIPS. I move to lay the appeal on the table; and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CAMPBELL. I desire to submit a proposition as a sort of compromise. It is that all these propositions should be withdrawn, and that we come to a direct vote on the motion of the gentleman from Illinois, [Mr. HARRIS.]

The SPEAKER. It is not in order.

Mr. WARREN, (at five minutes past six, p.

m.) I move that the House do now adjourn; and on that I call for the yeas and nays.

Mr. JONES, of Tennessee. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HARRIS of Illinois, and SAVAGE were appointed.

The House divided; and the tellers reported—ayes sixty.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 70, nays 96; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bowie, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davis of Mississippi, Dowdell, Edmundson, Florence, Garnett, Gartrell, Gillis, Greenwood, Gregg, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Keitt, Jacob M. Kunkel, Landy, Leidy, Letcher, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Moore, Niblack, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ruffin, Russell, Savage, Scales, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Stephens, Trippé, White, Whiteley, Wortendyke, and John V. Wright—70.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Iowa, Dean, Dewart, Dodd, English, Farnsworth, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hickman, Hoard, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Ricand, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—96.

So the House refused to adjourn.

The question recurred on Mr. PHILLIPS's motion to lay on the table Mr. STANTON's appeal from the decision of the Chair.

Mr. WARREN. I was going to remark that I thought I was rising to a question of privilege. At any rate I regard this as the most appropriate period of the session to make the motion. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair thinks that the motion is not in order.

Mr. SEWARD. I move a call of the House.

The SPEAKER. That motion is already pending.

Mr. KEITT. I ask to be excused from voting on the motion to lay the appeal upon the table.

The SPEAKER. The Chair thinks that the proposition of the gentleman from South Carolina [Mr. Keitt] is hardly in order, as it involves the very point on which the appeal is taken.

Mr. LEITER. Would it be in order to move to excuse all those members from voting?

The SPEAKER. Not upon one motion.

Mr. TRIPPE. I move that there be a call of the House.

The SPEAKER. That motion is already pending.

Mr. TRIPPE. I appeal from the decision of the Chair. Can I be heard on the appeal?

The SPEAKER. Debate is not in order. There is already one appeal from the decision of the Chair pending.

Mr. GILLIS. Is it in order to make a motion now to adjourn till Monday next?

The SPEAKER. The Chair thinks not. That motion is pending, and cannot be reached.

Mr. SEWARD. I ask the unanimous consent of the House to make a few remarks.

Mr. COX. I object.

Mr. STANTON asked for the yeas and nays on Mr. PHILLIPS's motion to lay the appeal on the table.

The yeas and nays were ordered.

Mr. WARREN. I rise to a question of privilege. I am sincere about it. Would not a motion to proceed to the business on the Private Calendar take precedence of anything else?

The SPEAKER. The Chair thinks not.

Mr. WARREN. Then I desire to ask another question. I desire to ask whether, after the suggestion made over the way, it would not be legitimate for this side of the House to decline voting?

The SPEAKER. The Chair thinks not.

Mr. FOSTER. I would inquire if it would be in order to take any steps to employ a photographer or other competent artist to perpetuate this scene?

The SPEAKER. The Chair thinks it would be hardly in order at this time.

Mr. MAYNARD. This is a question involving very grave interests. I do not wish to vote on it to-night. I therefore move that the House do now [ten minutes before seven, p. m.] adjourn.

Mr. GROW. I raise the point of order, that no business has transpired since the House refused to adjourn.

The SPEAKER. The yeas and nays have been ordered since, on the motion to lay the appeal on the table.

Mr. DEAN called for the yeas and nays on the motion to adjourn.

Mr. PHELPS called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. SCALES and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes sixty-seven.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 74, nays 99; as follows:

YEAS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Bowie, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Cingman, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davis of Mississippi, Dowdell, Edmundson, Florence, Gartrell, Gillis, Greenwood, Gregg, Hatch, Hill, Hopkins, Houston, Hughes, Jackson, Jewett, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ruffin, Russell, Savage, Scales, Henry M. Shaw, Shorter, Samuel A. Smith, Stallworth, Stephens, Trippé, Underwood, Warren, Watkins, Whiteley, Woodson, John V. Wright, and Zollcoffer—74.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Ricand, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—99.

So the House refused to adjourn.

Pending the vote,

Mr. HUGHES stated that Mr. Bisnor had requested him to say that his wife was unwell, and he was therefore absent from the House.

The question then recurred on the motion to lay the appeal on the table.

Mr. KEITT. I wish at this point to make an inquiry of the Chair. My inquiry is this: if the House decides that the gentleman from Virginia has not a right to ask to be excused do they not violate the 42d rule? which I ask to have read. Would not such a decision declare that no member can ask to be excused from voting? I ask that the 42d rule may be read.

The rule was read, as follows:

"42. Every member who shall be in the House when the question is put shall give his vote, unless the House, for special reason, shall excuse him. All motions to excuse a member from voting shall be made before the House divides, or before the call of the yeas and nays is commenced; and the question shall then be taken without further debate."

Mr. GROW. Can two questions of order be pending at the same time? There is one question of order pending upon which the House is now deciding. I submit that the gentleman from South Carolina cannot raise another.

Mr. STANTON. I did not understand the gentleman from South Carolina as making an additional point. The gentleman had the rule read with reference to the question already pending.

The SPEAKER. The Chair so understood the gentleman.

Mr. KEITT. I rose to make this inquiry of the Chair: whether, if the decision of the Chair was overruled, it would not violate what is the settled rule and practice of the House, and be equivalent to a denial of the right of a member to ask to be excused from voting?

The SPEAKER. Debate is not in order.

The question was then taken; and it was decided in the affirmative—yeas 150, nays 19; as follows:

YEAS—Messrs. Abbott, Ahl, Andrews, Arnold, Atkins, Avery, Barksdale, Billingshurst, Bingham, Blair, Bowie,

Brayton, Buffinton, Burlingame, Burnett, Burroughs, Campbell, Case, Caskie, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Burton Craige, Crawford, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dewart, Dowdell, Durfee, Edmundson, Farnsworth, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gillis, Gilman, Gooch, Goode, Goodwin, Granger, Greenwood, Gregg, Grow, Robert B. Hall, Harlan, Hatch, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Jackson, Jewett, J. Glancy Jones, Keitt, Kellogg, Kelly, Kilgore, Knapp, Jacob M. Kunkel, Landy, Leach, Leiter, Letcher, MacLay, McKibbin, McQueen, Mason, Maynard, Miles, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Peyton, Phelps, Phillips, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Robbins, Royce, Ruffin, Russell, Savage, Scales, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Singleton, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, William Stewart, Tappan, Thayer, Tompkins, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Whiteley, Wilson, Wood, Wortendyke, and John V. Wright—150.

NAYS—Messrs. Bennett, Bliss, Clingman, Dodd, Thomas L. Harris, Haskin, Owen Jones, Lovejoy, Isaac N. Morris, Pike, Potter, Pottle, Roberts, Robert Smith, Thompson, Underwood, Wade, and Zollcoffer—19.

So the appeal was laid upon the table.

Pending the call of the roll,

Mr. RUFFIN stated that Mr. DAVIDSON, being quite unwell, had paired off with Mr. RITCHIE.

The question then recurred upon the motion to excuse Mr. GARNETT from voting; upon which the yeas and nays were ordered.

Mr. KEITT, (at twenty minutes before eight o'clock.) I move that the House adjourn.

Mr. FLORENCE. Is it in order to amend that motion by moving that when the House adjourns it adjourn until Monday next?

The SPEAKER. The Chair thinks not, inasmuch as the motion to adjourn over is already pending.

Mr. CAMPBELL. I desire to know how long it will take to have the yeas and nays called upon all the motions pending.

The SPEAKER. The Chair thinks it will take about four hours. The yeas and nays have still to be called on seven different propositions.

Mr. CAMPBELL. Then I rise to a question of privilege. I desire to make a personal explanation. I will be very brief.

Mr. HUGHES. I object.

Mr. PHILLIPS. I demand the yeas and nays upon the motion to adjourn.

Mr. DEAN. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. DEAN, and SMITH of Tennessee, were appointed.

The House divided; and the tellers reported fifty-six in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 98; as follows:

YEAS—Messrs. Avery, Bowie, Burnett, Clay, Clemens, Cobb, John Cochrane, Burton Craige, Crawford, Curry, Dowdell, Florence, Garnett, Gartrell, Gillis, Goode, Gregg, Hatch, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Leidy, Letcher, MacLay, McQueen, Mason, Maynard, Millson, Moore, Niblack, Phelps, Phillips, Quitman, Ready, Reagan, Ruffin, Russell, Scales, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Trippé, Warren, Watkins, White, Whiteley, John V. Wright, and Zollcoffer—58.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Durfee, English, Farnsworth, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Reilly, Ricand, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Wood, and Wortendyke—98.

So the House refused to adjourn.

Pending the call of the roll,

Mr. POTTLE stated that Mr. KELSEY, being unwell, had paired off with Mr. UNDERWOOD.

Mr. COX stated that he had paired off with Mr. CRAIG, of Missouri.

Mr. DICK stated that he had paired off with Mr. HAWKINS.

The question again recurred on excusing Mr. GARNETT from voting.

Mr. HUGHES. I move there be a call of the House.

The SPEAKER. The Chair thinks the motion is not in order, inasmuch as the motion is already pending.

Mr. MILES. I ask to be excused from voting on the motion to excuse the gentleman from Virginia, [Mr. GARNETT;] and on that motion call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 98, nays 50; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Atkins, Avery, Bingham, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Durfee, Edmundson, Farnsworth, Foster, Gartrell, Gillis, Goode, Goodwin, Granger, Greenwood, Grow, Robert B. Hall, Harlan, Horton, Houston, Howard, Hughes, Jackson, J. Glancy Jones, Kellogg, Kelly, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Lovejoy, Macley, Mason, Miles, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Phillips, Pike, Pottle, Purviance, Reagan, Reilly, Robbins, Roberts, Royce, Ruffin, Russell, Savage, Scales, Aaron Shaw, Judson W. Sherman, Robert Smith, Spinner, Stephens, William Stewart, Tappan, Thayer, Tompkins, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, and Israel Washburn—98.

NAYS—Messrs. Bennett, Billingshurst, Burnett, John B. Clark, Clay, Clemens, Clingman, Cobb, Cox, Burton Craige, Crawford, Dawes, Dewart, Dowdell, English, Fenton, Florence, Foley, Gilman, Lawrence W. Hall, Thomas L. Harris, Haskin, Hatch, Hickman, Hill, Hopkins, Owen Jones, Keitt, Lamar, McKibbin, McQueen, Maynard, Millson, Montgomery, Moore, Mott, Potter, Quitman, Ready, Reagan, Reilly, Ricard, Russell, Shorter, Sickles, Robert Smith, Samuel A. Smith, Spinner, Thayer, Whiteley, Woodson, and Zollcoffer—50.

So Mr. MILES was excused from voting on the motion to excuse Mr. GARNETT.

Pending the call of the roll,

Mr. BURNETT said: I rise to a question of order. I submit that the gentlemen from South Carolina [Mr. MILES] has no right to vote. The rule prescribes that a member shall not vote upon any question in which he is directly interested. The gentleman from South Carolina has voted upon this question, in which he is directly interested. [Laughter.]

The SPEAKER. The Chair is of opinion that the rule has reference only to a pecuniary interest.

Mr. OLIN stated that Mr. GILMER had been obliged to leave the House, in consequence of indisposition.

Mr. MILES. I ask the unanimous consent of the House to withdraw my vote.

Mr. HUGHES. I object.

Mr. WARREN. I ask to record my vote. I was not within the bar when my name was called. Objection was made.

The question then recurred upon the motion that Mr. GARNETT be excused from voting.

Mr. PHILLIPS. I rise to a privileged question. I move to reconsider the vote by which Mr. MILES was excused; and I would ask whether that motion is debatable?

The SPEAKER. It is not debatable.

Mr. HUGHES. I move to lay the motion to reconsider upon the table.

Mr. PHILLIPS. I demand the yeas and nays upon that motion.

Mr. CLEMENS. I ask for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CLEMENS and WALDRON were appointed.

The House divided; and the tellers reported thirty-seven in the affirmative and none in the negative.

Mr. CRAIGE, of North Carolina. As there seems to be no quorum present, I move that there be a call of the House.

The SPEAKER. It is not necessary that there should be a quorum to order the yeas and nays.

Mr. CRAIGE, of North Carolina. How does the Speaker know that there is a quorum in the House?

The SPEAKER. It is not necessary at this time for the Chair to ascertain that fact.

Mr. CRAIGE, of North Carolina. One fifth of a quorum have not voted for the yeas and nays.

The SPEAKER. More than one fifth of a quorum have voted. The Chair decides that the yeas and nays are ordered.

Mr. WARREN. It is with great pleasure that I generally concur with the Speaker in all his decisions. But, sir, I must appeal from this

decision; and I ask the yeas and nays upon the appeal. I dislike very much to do it, but upon this occasion I must take an appeal.

The SPEAKER. The Chair thinks this is a very good time to stop appeals, inasmuch as there is one pending already.

Mr. WARREN. I am very much obliged to the Chair. I took the appeal very reluctantly.

The question was taken; and it was decided in the affirmative—yeas 106, nays 52, as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Bennett, Billingshurst, Bingham, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burnett, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Deau, Dewart, Durfee, English, Fenton, Foley, Foster, Gilman, Goode, Goode, Goodwin, Granger, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hickman, Hoard, Horton, Howard, Huyler, Kellogg, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Letcher, Lovejoy, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Ruffin, Savage, Scales, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Stallworth, Stephens, James A. Stewart, William Stewart, Tappan, Tompkins, Tripe, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, White, Wilson, and Wood—106.

NAYS—Messrs. Anderson, Atkins, Avery, Bryan, Burns, Clemens, Clingman, Cobb, John Cochrane, Burton Craige, Crawford, Dowdell, Edmundson, Farnsworth, Florence, Gartrell, Gillis, Hill, Hopkins, Houston, Hughes, Jackson, Jewett, J. Glancy Jones, Keitt, Kelly, Kelsey, Lamar, Landy, Macley, McQueen, Mason, Maynard, Moore, Isaac N. Morris, Peyton, Phillips, Quitman, Ready, Reagan, Reilly, Ricard, Russell, Shorter, Sickles, Robert Smith, Samuel A. Smith, Spinner, Thayer, Whiteley, Woodson, and Zollcoffer—52.

So the motion to reconsider was laid on the table.

Pending the call of the roll,

Mr. WARREN stated that Mr. GREENWOOD, being indisposed, had left the Hall, and had paired off with Mr. PETTIT.

Mr. MARSHALL, of Illinois, stated that he had paired off with Mr. WARD.

The question recurred upon the motion to excuse Mr. GARNETT from voting.

Mr. CRAIGE, of North Carolina. I move that the House do now adjourn.

Mr. WASHBURN, of Maine, demanded the yeas and nays.

Mr. WARREN. I ask the gentleman from North Carolina to withdraw his motion for a moment, while I make a proposition which I apprehend will meet the approbation of the whole House.

Mr. CRAIGE, of North Carolina. I will hear the proposition of the gentleman.

Mr. WARREN. It is this. We have been talking about Kansas very unprofitably, and I now move that we talk about Ar-Kansas. [Laughter.]

The SPEAKER. The Chair thinks the subject is hardly in order now.

Mr. WASHBURN, of Maine. Gentlemen upon that side of the House must be very anxious to get a vote upon the President's message, and I hope that we may hear any proposition to that end, and—

[Cries of "Order!" "Order!"]

The SPEAKER. Debate is not in order.

The yeas and nays were ordered.

The question was then taken on the motion to adjourn; and it was decided in the negative—yeas 74, nays 95; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Boccock, Bowie, Bryan, Burnett, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Davis of Mississippi, Dowdell, Edmundson, Florence, Garnett, Gartrell, Gillis, Goode, Gregg, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, J. Glancy Jones, Kelly, Jacob M. Kunkel, Lamar, Landy, Leidy, Letcher, Macley, McQueen, Mason, Maynard, Miles, Moore, Niblack, Peyton, Phelps, Powell, Quitman, Ready, Reagan, Ruffin, Russell, Savage, Scales, Scott, Seward, Henry M. Shaw, Shorter, Singleton, Samuel A. Smith, Stallworth, Tripe, Warren, Watkins, White, Woodson, Wortendyke, John V. Wright, and Zollcoffer—74.

NAYS—Messrs. Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Goode, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter,

Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Wood—95.

So the House refused to adjourn.

The question then recurred on the motion of Mr. GARNETT to be excused from voting on the motion of Mr. COBB to be excused from voting on the motion of Mr. SEWARD to lay on the table the appeal of Mr. STANTON from the decision of the Chair ruling in order the motion of Mr. BISHOP that when the House adjourns it adjourn to Monday next, upon which the yeas and nays had been ordered.

Mr. WARREN. Being peculiarly situated in this behalf, I move to be excused from voting upon the question; and upon it I demand the yeas and nays. I dislike to make a request of that sort.

Mr. LEITER. Would it be in order to move to hith on the balance of those who want to be excused?

The SPEAKER. The Chair thinks not.

Mr. ENGLISH. I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. ENGLISH, and CRAIGE of North Carolina, were appointed.

The House divided; and the tellers reported—ayes thirty-seven, noes none.

The SPEAKER. The yeas and nays are ordered.

Mr. SEWARD. I rise to a question of order. There was no quorum voting.

Mr. DAVIS, of Mississippi. I ask the unanimous consent of the other side of the House to allow me to speak for one hour. I think my personal popularity is such that they will grant my request. [Cries of "Object!" "Object!"]

Mr. SEWARD. Did the Chair decide my point of order?

The SPEAKER. The Chair decided that a sufficient number voted for the yeas and nays, to entitle them to be taken.

Mr. SEWARD. But no quorum voted.

The SPEAKER. It requires only one fifth of the members present.

Mr. SEWARD. How does the Chair know that one fifth of those present voted?

The SPEAKER. The Chair is governed by the vote taken.

The question was then taken; and there were—yeas 72, nays 31; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Bennett, Bingham, Bliss, Brayton, Buffinton, Case, Ezra Clark, Clawson, Clark B. Cochrane, Comins, Covode, Curtis, Davis of Indiana, Dean, Dick, Dodd, Durfee, Edmundson, Fenton, Foster, Gilman, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hoard, Hopkins, Horton, Howard, Jewett, Kellogg, Kilgore, Knapp, Leiter, Lovejoy, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Niblack, Nichols, Olin, Palmer, Parker, Pike, Pottle, Robbins, Roberts, Royce, Russell, Seward, John Sherman, Judson W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, and Wilson—72.

NAYS—Messrs. Billingshurst, Blair, Burlingame, Burroughs, Chaffee, Clemens, Cockerill, Colfax, Cox, Davis of Iowa, Dawes, Dewart, English, Foley, Goode, Kelly, John C. Kunkel, Leach, Maynard, Montgomery, Freeman H. Morse, Mott, Potter, Purviance, Reilly, Savage, Aaron Shaw, Ellihu B. Washburne, Israel Washburn, and Wood—31.

No quorum voted.

Pending the call,

Mr. TAYLOR, of New York, stated that he had paired off with Mr. DAMRELL.

Mr. CLINGMAN. As a quorum has not voted, no motion is in order but a motion to adjourn. I therefore move that the House adjourn.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 13, nays 96; as follows:

YEAS—Messrs. Ahl, Bowie, Caskie, Clingman, Goode, Gregg, Hopkins, Houston, Hughes, Jewett, Kelly, Niblack, and Savage—13.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Goode, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward

Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—96.

No quorum voting.

Mr. HARRIS, of Illinois. I move a call of the House.

Mr. PHELPS. I would inquire of the Chair whether there is not such a motion now pending?

The SPEAKER, (Mr. Bocoek in the chair.) There is.

Mr. PHELPS. Will the Chair entertain another motion?

The SPEAKER *pro tempore*. He will.

Mr. HARRIS, of Illinois. We have that power under the Constitution.

The SPEAKER *pro tempore*. The Chair will read a clause of the Constitution which, of itself, will be a sufficient reason for the decision of the Chair:

"Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide."

The rule of the House is:

"No member shall absent himself from the service of the House unless he have leave, or be sick, or unable to attend."

The House will see that in the complication of motions which now exist, if there was not the power to call the House, and a majority of members should choose to absent themselves, when we meet to-morrow the same complication of motions would exist, and if there was no motion to call the House, the members who might be in attendance would lose their constitutional right to compel the attendance of absentees. The Constitution gives the right over and above the rules of the House. The Chair will entertain the motion.

Mr. HARRIS, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SEWARD. I move that the House adjourn.

Mr. COMINS. I demand the yeas and nays. The yeas and nays were ordered.

Mr. SAVAGE. I move to be excused from voting upon the motion to adjourn.

Mr. HARRIS, of Illinois. For the same reason that the Chair has given—the right of a majority to compel the attendance of absent members—I hold that, under the present state of the case, a motion to adjourn is not in order, for it tends to defeat that right.

The SPEAKER *pro tempore*. The Chair overrules the point of order, because the Constitution gives the majority the right to adjourn or to compel the attendance of absent members as they may think proper.

Mr. SAVAGE. I move to be excused from voting upon the motion to adjourn.

The SPEAKER *pro tempore*. The Chair will not entertain the motion; because there is not a quorum present, and less than a quorum cannot excuse a member.

Mr. WARREN. I desire, before the question is put, to propound a question. In the event that a quorum should not vote on the motion to adjourn, what will be the result?

The SPEAKER *pro tempore*. If the House vote not to adjourn, the question will recur on the motion that there be a call of the House.

The question was taken; and it was decided in the negative—yeas 15, nays 96; as follows:

YEAS—Messrs. Bowie, Caskie, Edmundson, Goode, Gregg, Houston, Hughes, Jenkins, Jewett, Kelly, Letcher, Niblack, Phillips, and Henry M. Shaw—15.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Iowa, Dawes, Dean, Dick, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Reilly, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner,

Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—96.

So the House refused to adjourn.

The question recurred on the motion that there be a call of the House, on which the yeas and nays had been ordered.

Mr. PHILLIPS. I desire to propound a question to the Chair. If a call of the House be refused, what will be done then?

The SPEAKER *pro tempore*. The Chair will decide that question when a call of the House is refused.

Mr. TAYLOR, of New York. I rise to a question of order. I wish to appeal to the opposition members here to give up their factious opposition, and allow us to come to a vote on the question. [Loud cries of "Order!"]

The question was taken; and it was decided in the affirmative—yeas 142, nays 19; as follows:

YEAS—Messrs. Abbott, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Bowie, Boyce, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Caskie, Chaffee, Ezra Clark, Clawson, Clay, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Burton Craig, Crawford, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewar, Dick, Dimmick, Dodd, Durfee, Elliott, English, Fenton, Florence, Foley, Foster, Gartrell, Gillis, Gilman, Gooch, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Hickman, Hoard, Horton, Howard, Hughes, J. Glancy Jones, Owen Jones, Kellogg, Kilgore, Knapp, John C. Kunkel, Lamar, Landy, Leach, Leiter, Lovejoy, McQueen, Maynard, Miles, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Phelps, Phillips, Pike, Potter, Pottle, Purviance, Quitman, Reilly, Robbins, Roberts, Royce, Rufin, Russell, Scott, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Singleton, Robert Smith, Samuel A. Smith, Spinner, Siallworth, Stanton, Stephens, Stevenson, William Stewart, Tappan, Thayer, Tompkins, Trippe, Wade, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, Wood, Wortendyke, and John V. Wright—142.

NAYS—Messrs. Clingman, Edmundson, Goode, Gregg, Groesbeck, Hawkins, Hopkins, Houston, Haylor, Jackson, Kelly, Jacob M. Kunkel, Macay, McKibbin, Mason, Montgomery, Moore, Peyton, and Seales—19.

So it was ordered that there be a call of the House.

Mr. HUGHES. Is it in order to move a reconsideration of that vote?

Mr. WARREN. I apprehend that a motion to adjourn is in order now.

The SPEAKER *pro tempore*. It is in order. [Cries of "No! No!" and "Let us have a call!"]

Mr. WARREN, (at half past eleven o'clock, p. m.) I move that the House adjourn.

Mr. DEAN. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. WARREN. At the suggestion of my friends, I withdraw the motion.

Mr. SEWARD. I ask the unanimous consent of the House to make a few remarks.

[Loud cries of "Go on!" and "Leave!" "Leave!"]

Mr. DEAN. I object.

The roll was then called; and the following members failed to answer to their names:

Messrs. Adrain, Bonham, Branch, Burnett, Caruthers, Caskie, Horace F. Clark, Corning, Cragin, Curry, Damrell, Davidson, Davis of Maryland, Davis of Mississippi, Davis of Massachusetts, Edie, Eustis, Farnsworth, Giddings, Gilmer, Greenwood, J. Morrison Harris, Jenkins, George W. Jones, Kelly, Kelsey, Knapp, Landy, Lawrence, Letcher, Humphrey Marshall, Samuel S. Marshall, Matteson, Miller, Milton, Murray, Olin, Pettit, Ready, Reagan, Ricard, Ritchie, Sandidge, Savage, Searing, Shorter, William Smith, Talbot, Miles Taylor, Thompson, Underwood, Ward, Warren, Israel Washburn, Woodson, Augustus K. Wright, and Zollicoffer.

Pending the call of the roll,

Mr. SEWARD stated that Mr. CURRY had paired off with Mr. MORRIS, of Illinois.

Mr. LOVEJOY stated that Mr. FARNSWORTH was sick.

Mr. CLEMENS stated that he had paired off with Mr. LAWRENCE, who had left the city to attend the funeral of a relative at Hagerstown, Maryland.

Mr. WINSLOW said: Some time ago I was called out of the House on business, and Mr. GRIMES was kind enough to pair off with me. He has not returned, and I am not, therefore, at liberty to vote; but on this call I am bound to answer to my name.

The roll having been called through, the Speak-

er *pro tempore* stated that the Clerk would now proceed to call the names of the absentees.

Mr. WARREN, (at a quarter before twelve o'clock.) I move that the House do now adjourn.

Mr. SAVAGE. I ask if I am recorded as present?

Mr. BUFFINTON. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

Mr. SHERMAN, of Ohio. Is the motion to adjourn in order, pending the execution of the order of the House?

The SPEAKER *pro tempore*. The Chair is of the opinion that the motion to adjourn is in order at any time when anything has intervened since a former motion to adjourn.

Mr. SAVAGE. I rise to a point of order.

The SPEAKER *pro tempore*. There is a point of order already pending.

Mr. BURNETT. I desire to respond to my name.

Mr. SAVAGE. I rose and addressed the Chair and asked to have my name called before the gentleman from Arkansas made the motion to adjourn.

The SPEAKER *pro tempore*. The gentleman is aware that, under the rules of the House, a gentleman who was not in at the first call is not at liberty to have his name recorded until the second call.

Mr. SAVAGE. It has been the custom of the House to allow gentlemen to record their names at the end of the call.

The SPEAKER *pro tempore*. The gentleman from Tennessee is mistaken. The usual plan is to call the names of the absentees, and then gentlemen who have not responded at the first call have an opportunity to record their names.

Mr. SAVAGE. I want to know if the Clerk has recorded my name? I was present all the time.

The SPEAKER *pro tempore*. The question is upon the motion to adjourn.

Mr. McQUEEN. I ask if my name is recorded? If not, I claim the right to respond.

Mr. WINSLOW. I rise to a privileged question. I move that when the House adjourns, it adjourn to meet on Monday next.

The SPEAKER *pro tempore*. The gentleman from North Carolina is aware that that motion cannot be carried without a quorum; and on the last vote there was no quorum.

Mr. WINSLOW. There may be a quorum here now.

The SPEAKER *pro tempore*. Besides that, there is a motion now pending that the House adjourn till Monday.

Mr. BURNETT. I desire to know if my name is recorded as responding to the call or not?

The SPEAKER *pro tempore*. The name of the gentleman is not recorded.

Mr. BURNETT. I was within the bar, and answered.

Mr. KELLY. I desire to have my name recorded. I was present.

Mr. GROW. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state his point of order.

Mr. GROW. My point of order is this: the roll having been called, and another motion submitted, and the yeas and nays ordered upon it, it is not in order to go back and inquire about a vote taken some time since.

The SPEAKER *pro tempore*. The Chair has already decided that the motion to adjourn is in order, business having intervened since a motion to adjourn was voted on.

Mr. GROW. The Chair misunderstands my point of order. A motion has been made to adjourn, and the yeas and nays have been ordered on it; and now gentlemen rise to inquire if their names are recorded on a preceding vote. I hold that that is not in order.

The SPEAKER *pro tempore*. It is not strictly in order.

The Speaker at this point resumed the chair.

The Clerk then proceeded to call the roll, the question being on Mr. WARREN's motion to adjourn; and Mr. ABBOTT answered to his name.

Mr. WARREN. I rose before there was a response, my object being to withdraw the motion to adjourn.

Mr. GROW. I object to any interruption of the roll-call.

[Loud cries of "Call the roll."]

The call of the roll was then completed; and the question was decided in the negative—yeas 76, nays 102; as follows:

YEAS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Bocock, Bowie, Boyce, Bryan, Burnett, Caskie, John B. Clark, Clay, Clingman, Cobb, James Craig, Burton Craige, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Faulkner, Florence, Garnett, Gartrell, Goode, G-e-z-z, Hatch, Hawkins, Hill, Hopkins, Houston, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leitcher, McClay, McQueen, Mason, Maynard, Miles, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ruffin, Russell, Seales, Scott, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, Tripp, Warren, White, Whiteley, Wortendyke, and John V. Wright—76.

NAYS—Messrs. Abbott, Andrews, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Cox, Crawford, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pendleton, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—102.

So the House refused to adjourn.

The House then continued the execution of its order. The absentees were called over, and the doors closed.

The absentees were then called for excuses, as follows:

GARNETT B. ADRIN. No excuse offered.

MILLEDGE L. BONHAM.

MR. MILES. My colleague is at home on account of severe indisposition. I move that he be excused.

The motion was agreed to.

LAWRENCE O'B. BRANCH.

MR. WINSLOW. My colleague is indisposed. He might have been here at some prejudice to his health; but he has paired off with Mr. CRAGIN, and gone home. I move that he be excused.

The motion was agreed to.

SAMUEL CARUTHERS. Excused under the rule.

HORACE F. CLARK.

MR. JOHN COCHRANE. My colleague was called home by important business. I move that he be excused.

MR. QUITMAN. I hope no man will be excused on account of business.

MR. BILLINGHURST. I understand that the gentleman from New York is represented as being out of town. I believe the practice of the House has never gone so far as to send for members who are out of town. The fact has been considered as a sufficient excuse. I hope, therefore, that the House will not direct that the gentleman from New York shall be sent after, but that he be excused.

MR. DICK. I ask that the 66th rule may be read.

The rule was read, as follows:

"66. No member shall absent himself from the service of the House, unless he have leave, or be sick, or be unable to attend."

MR. FLORENCE. This is an important question to be settled. I demand the yeas and nays.

The yeas and nays were ordered, there being, on a division—ayes 35, noes 98.

MR. BOYCE. Has not the morning hour arrived; and has not the President's message passed from the consideration of the House? If so, I call for the regular order of business.

The SPEAKER. The Chair is of the opinion that, technically, the morning hour has not yet arrived, though it may have in reality.

The question was taken; and it was decided in the affirmative—yeas 113, nays 48; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Gooch, Goode, Goodwin, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelly, Kilgore, Knapp, Leach, Leiter, Lovejoy, McClay, Mason, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac Morris, N. Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Pendleton, Peyton, Phelps, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—100.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bocock, Boyce, Burnett, Clemens, Cobb, James Craig, Burton Craige, Crawford, Dean, Dowdell, Edmundson, Florence, Garnett, Gartrell, Gregg, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Lamar, Leitcher, McQueen, Maynard, Miles, Moore, Phillips, Powell, Quitman, Reilly, Scott, Singleton, Stallworth, Stephens, Stevenson, White, Whiteley, and Wilson—48.

So Mr. CLARK was excused.

Pending the call of the roll,

MR. QUITMAN, when his name was called, said: I rise to a question of order. I wish to know of the Chair if the doors of the Hall were not ordered to be closed?

The SPEAKER. The Chair gave that order.

MR. QUITMAN. I see men passing freely out and in at the doors.

The SPEAKER. The Chair gave orders that the doors be closed; and it is the duty of the officers of the House to see that they remain closed.

MR. QUITMAN. I simply desired to call the attention of the Chair to the fact. I vote "no."

The House then continued the execution of its order, it being the call of absentees for excuses, as follows:

ERASTUS CORNING.

MR. JOHN COCHRANE. My colleague was summoned from the city by pressing business; and therefore I suppose he is unable to attend here. I move that he be excused.

The motion was agreed to.

AARON H. CRAGIN.

MR. TAPPAN. My colleague is quite sick, and certainly not able to be in the Hall. I move that he be excused.

MR. MCQUEEN. I ask for the yeas and nays on the motion.

MR. PHELPS. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. OLIN and KELLY were appointed.

The House divided; and the tellers reported thirty-six in the affirmative, a further count not being demanded.

So the yeas and nays were ordered.

MR. STEPHENS, of Georgia, (at one o'clock, a. m.) I move that the House do now adjourn.

MR. COMINS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 65, nays 100; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Avery, Bocock, Bowie, Boyce, Bryan, John B. Clark, Clay, Clemens, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Davis of Mississippi, Dowdell, Edmundson, Faulkner, Florence, Garnett, Gartrell, Goode, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Leitcher, McClay, McQueen, Maynard, Miles, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ruffin, Russell, Seales, Scott, Henry M. Shaw, Samuel A. Smith, Stallworth, Stephens, Stevenson, Tripp, Watkins, Whiteley, Wortendyke, and John V. Wright—65.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Mason, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Reilly, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Sickles, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—100.

So the House refused to adjourn.

Pending the call of the roll,

MR. CLAY stated that Mr. JEWETT left the House at midnight quite ill.

The question recurred on the motion to excuse Mr. CRAGIN, upon which the yeas and nays had been ordered.

MR. DAVIS, of Mississippi. I want to submit a proposition that we have one or two speeches before we proceed further. [Cries of "Agreed!"]

MR. GROW. I object.

The question was taken; and it was decided in the affirmative—yeas 135, nays 11; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocock, Bowie, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Burton Craige, Crawford, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Durfee, Edmundson, Faulkner, Fenton, Florence, Foley, Foster, Gartrell, Gilman, Gooch, Goode, Granger, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Hatch, Hickman, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kellogg, Kelly, Kilgore, Knapp, Lamar, Landy, Leach, Leiter, Leitcher, Lovejoy, McClay, McKibbin, McQueen, Mason, Miles, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Mott, Nichols, Olin, Parker, Pendleton, Peyton, Phelps, Pike, Potter, Pottle, Purviance, Quitman, Robbins, Roberts, Royce, Ruffin, Russell, Seales, Scott, Henry M. Shaw, John Sherman, Judson W. Sherman, Sickles, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, Tappan, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Wortendyke, and John V. Wright—135.

NAYS—Messrs. Gillis, Harlan, Thomas L. Harris, Haskin, Hill, Owen Jones, Isaac N. Morris, Oliver A. Morse, Aaron Shaw, Robert Smith, and Whiteley—11.

So Mr. CRAGIN was excused.

MR. QUITMAN. I ask the unanimous consent of the House to submit a proposition to the House.

MR. GROW. I object to anything out of order.

MR. QUITMAN. I wish to submit a proposition perfectly fair on all sides.

MR. ENGLISH. I appeal to the gentleman from Pennsylvania to withdraw his objection, and let us hear what the proposition is.

Several MEMBERS. Withdraw it.

MR. GROW. I withdraw my objection.

MR. QUITMAN. As a matter of course, if any gentleman objects, I have nothing to say. My proposition is this: I do not speak on the authority of any one but myself; but, sir, regarding this contest as one that will probably come to no good result, I propose that, by a common understanding, all the motions made subsequent to the call of the previous question on the motion of the gentleman from Illinois, [Mr. HARRIS], shall be withdrawn.

At this moment a violent personal altercation commenced in the aisle at the right of the Speaker's chair, between Mr. KEITT and Mr. GROW. In an instant the House was in the greatest possible confusion. Members in every part of the Hall rushed over to the scene of conflict, and several members seemed to participate in it.

The SPEAKER made loud and repeated calls to order, and required the Sergeant-at-Arms to arrest the members acting in contempt of the House.

The Sergeant-at-Arms, bearing the mace of the House, was at once in the midst of the combatants; and after some minutes, with the most energetic efforts on the part of the Speaker, succeeded in partially restoring order.

MR. BOWIE moved that the House adjourn. [Shouts of "No!" "No!" and great confusion.]

The SPEAKER. The Chair calls on gentlemen to resume their seats and come to order.

MR. CLAY. I desire to ask the Speaker if a motion to adjourn is in order?

MR. QUITMAN. I claim the floor.

The SPEAKER. The gentleman from Mississippi was upon the floor by the unanimous consent of the House.

MR. CLAY. I ask the gentleman from Mississippi to yield to me to inquire of the Chair if a motion to adjourn is in order?

MR. SHERMAN, of Ohio. I insist that the gentleman from Mississippi shall proceed. I object to everything that is not in order.

MR. QUITMAN. I was proceeding to present a proposition to the House, and the scene just before us seems to demonstrate the necessity of it. I propose, then, that all the motions which have been made and not acted upon since the previous question was called upon the motion, or resolution, or amendment, of the gentleman from Illinois, [Mr. HARRIS], shall be withdrawn, and that the House shall then adjourn until Monday, [cries of "No!" "No!" and confusion,] with the understanding that on Monday at one o'clock the question shall be taken.

[Loud cries of "No!" "No!" "Order!" and confusion—members standing, and much excited.]

Mr. CAMPBELL. Mr. Speaker, anticipating some difficulty in the continuance of a night session, over a question so exciting as that embraced in the recent message of the President of the United States—

Mr. CRAWFORD. I object to any motion to adjourn. When this House adjourns, let it be to meet no more.

The SPEAKER. The Chair appeals to gentlemen to resume their seats. The Chair requires gentlemen to be seated. The Chair will direct the Sergeant-at-Arms to arrest gentlemen who are acting in contempt of the authority of the House.

Mr. CAMPBELL. I ask for the same courtesy which was extended to the gentleman from Mississippi [Mr. QUITMAN.] [Cries of "Order!"]

Mr. BARKSDALE. I object.

Mr. CAMPBELL. Well, sir, I say gentlemen—

[The remainder of the sentence was lost in shouts of, "Order!" "Order!" and the disorder which followed.]

The SPEAKER. Debate is not in order, and the Chair will entertain no debate. The Clerk will proceed with the call of absentees for excuses.

The Clerk called the name of

JABEZ L. M. CURRY.

Mr. DOWDELL. I desire to state that my colleague, Mr. CURRY, has been but two or three days from a sick bed. I do not think he is able to be here. He has paired off with Mr. FARNSWORTH; and I move that he be excused.

Mr. STEPHENS, of Georgia. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. SEWARD. I ask the unanimous consent of the House to make a few remarks.

The SPEAKER. The gentleman is not in order.

The question was taken; and it was decided in the affirmative—yeas 159, nays 4; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocoek, Bowie, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clemens, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Burton Craige, Crawford, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dick, Dimmick, Dodd, Dowdell, Durfee, Edmundson, Elliott, English, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Gartrell, Gilman, Gooch, Goode, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hatch, Hawkins, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kellogg, Kelly, Kilgore, Knapp, Macley, McKibbin, McQueen, Mason, Miles, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morse, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Olin, Palmer, Parker, Peyton, Phelps, Pike, Potter, Purviance, Quitman, Reilly, Robbins, Roberts, Royce, Rufin, Russell, Scales, Scott, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Stephen, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stevenson, Tappan, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Whiteley, Wilson, Wood, Wortendyke, and John V. Wright—159.

NAYS—Messrs. Clay, Pendleton, Savage, and Stephens—4.

So Mr. CURRY was excused.

Mr. HUGHES, (at half past two o'clock.) I move that the House adjourn.

Mr. WASHBURN, of Maine, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 73, nays 95; as follows:

YEAS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Bocoek, Bowie, Boyce, Bryan, Caskie, John B. Clark, Clay, Clemens, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Florence, Garnett, Gartrell, Gilman, Goode, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Letcher, Macley, McQueen, Mason, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reilly, Rufin, Russell, Savage, Scott, Seward, Henry M. Shaw, Sickles, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, Tripp, Warren, Watkins, White, Whiteley, Wortendyke, and John V. Wright—73.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L.

Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morse, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—95.

So the House refused to adjourn.

Mr. BOWIE. Is it in order to move that all further proceedings under the call be dispensed with?

The SPEAKER. The motion is in order.

Mr. BOWIE. I submit the motion.

Mr. STEPHENS, of Georgia. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 120; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Bingham, Bliss, Bowie, Boyce, John Cochrane, Cox, Davis of Iowa, Dewart, Dowdell, Edmundson, Elliott, Foster, Goode, Lawrence W. Hall, Hatch, Hopkins, J. Glancy Jones, Keitt, Kellogg, Kelly, Macley, McKibbin, Mason, Montgomery, Olin, Pendleton, Phillips, Reilly, Russell, Scott, Sickles, and Stevenson—35.

NAYS—Messrs. Abbott, Atkins, Avery, Barksdale, Bennett, Billingshurst, Blair, Bocoek, Brayton, Bryan, Buffinton, Burroughs, Campbell, Case, Caskie, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Cobb, Colfax, Comins, Covode, Burton Craige, Crawford, Curtis, Davis of Indiana, Davis of Mississippi, Dawes, Dean, Dick, Dodd, Durfee, English, Fenton, Florence, Foley, Garnett, Gartrell, Gilman, Gooch, Goodwin, Granger, Gregg, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hawkins, Hickman, Hill, Hoard, Horton, Houston, Howard, Hughes, Huyler, Jackson, Kilgore, Lamar, Leach, Leiter, Letcher, Lovejoy, Maynard, Miles, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morse, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Nichols, Palmer, Parker, Pettit, Peyton, Phelps, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stephens, William Stewart, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Wilson, Winslow, Wood, Wortendyke, and John V. Wright—120.

So the House decided to continue the call.

The Clerk next called the name of

WILLIAM S. DAMRELL.

Mr. CHAFFEE. I suppose it is known to every member of the House that Mr. DAMRELL is incapacitated from remaining in his seat. I move that he be excused; and I hope he will be excused by unanimous consent.

Mr. PHELPS. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. CHAFFEE. I withdraw the motion.

Mr. PHELPS. I renew the motion that Mr. DAMRELL be excused; and call for the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 142, nays 5; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocoek, Bowie, Boyce, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Caskie, Chaffee, Ezra Clark, John B. Clark, Clawson, Clemens, Cobb, Cockerill, Colfax, Comins, Covode, Cox, James Craig, Burton Craige, Curtis, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Dowdell, Durfee, Edmundson, English, Fenton, Florence, Foley, Foster, Gartrell, Gilman, Goode, Goodwin, Granger, Gregg, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hawkins, Hickman, Hill, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kellogg, Kilgore, Knapp, Leach, Leiter, Letcher, Lovejoy, Macley, McQueen, Miles, Moore, Morgan, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Pendleton, Peyton, Phelps, Pike, Potter, Pottle, Powell, Purviance, Quitman, Reilly, Robbins, Roberts, Royce, Rufin, Russell, Scales, Scott, Seward, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, William Stewart, Tappan, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Watkins, White, Whiteley, Wood, and John V. Wright—142.

NAYS—Messrs. Clay, Crawford, Montgomery, Isaac N. Morris, and Elihu B. Washburne—5.

So Mr. DAMRELL was excused.

Mr. PHELPS. I move that the House adjourn.

Mr. QUITMAN. I ask the gentleman from Missouri to withdraw that motion for a moment to enable me to submit a proposition to the House.

Mr. PHELPS. I will withdraw it.

Mr. QUITMAN. I have been induced by the representations of some gentlemen on the other side of the House, again to ask the House to

hear a proposition which will, for the present at least, terminate the present contest. The proposition is a very simple one; and if gentlemen will listen to it, I hope it will be unanimously adopted.

Mr. GROW. I object to anything out of order.

Mr. HARRIS, of Illinois. I hope the gentleman from Pennsylvania will withdraw his objection, and let us hear the proposition.

Several MEMBERS. Withdraw objection.

Mr. GROW. The gentleman from Illinois has charge of the resolution; and at his instance I will withdraw objection.

Mr. CAMPBELL. Understanding that the gentleman from Mississippi has a proposition which may terminate this controversy for the present, I hope no objection will be made.

Mr. PALMER. The House will remember that when the gentleman from Ohio proposed to present a proposition which might terminate the difficulty, it was objected to.

Mr. CAMPBELL. I can overlook all that. I hope no objection will be made.

Mr. HICKMAN. I object.

Mr. PHELPS. I move, then, that the House adjourn.

Mr. HOUSTON. I suppose it would be in order for the gentleman from Mississippi to move that the House adjourn; and then he would have the right to have his proposition read at the Clerk's desk. A majority vote could then carry the proposition. I hope he will take that course if objection be made.

The SPEAKER. The Chair could not entertain the motion except by unanimous consent.

Mr. HOUSTON. A motion to adjourn is in order.

The SPEAKER. It is.

Mr. HOUSTON. Then I presume no one would object to a proposition which would relieve the House of its present difficulties.

Objection was made.

Mr. PHELPS. I then renew the motion that the House adjourn.

Mr. GROESBECK. I hope gentlemen will withdraw all objection to the proposition.

Mr. DEAN. I call for the yeas and nays on the motion.

Mr. HOUSTON. I ask the Chair if a motion to adjourn until Monday next would not be in order? That of itself would, in part, accomplish the object sought by the proposition of the gentleman from Mississippi.

The SPEAKER. The motion would not be in order under existing circumstances.

Mr. PHELPS. I would inquire to what time we should adjourn, if we adjourn now? [half past three o'clock, a. m.] Would it be until Monday, twelve o'clock, m.? This is Saturday.

The SPEAKER. The Chair is of opinion that if the House adjourns now, it will adjourn to meet at twelve o'clock.

Mr. GROESBECK. I ask gentlemen to withdraw their objection to the proposition made by the gentleman from Mississippi, [Mr. QUITMAN.]

Mr. WHITELEY. I object.

Mr. BURROUGHS. Will it be in order to ask unanimous consent that the proposition of the gentleman from Mississippi be read at the Clerk's desk?

The SPEAKER. Objection has been made.

Mr. ENGLISH. I hope there will be no objection to the mere reading of the proposition for information. ["Yes!" "Yes!"] I ask that the paper be read for information.

Mr. HICKMAN. I understand that a young friend of mine has just got married, and this proposition may be of some importance to him, and I hope it will be read.

Mr. COMINS. I hope the objection will be withdrawn.

The objection not being insisted on—

Mr. PHELPS withdrew his motion to adjourn; and the paper was read, as follows:

All motions now pending, made since the call of the previous question upon the amendment offered by the gentleman from Illinois, shall be withdrawn. The vote shall then be taken on seconding the previous question; whereupon, if carried, the House will adjourn to Monday; and at one o'clock, Monday, the vote shall be taken on the main question.

Mr. HARRIS, of Illinois. I hope the proposition made by the gentleman from Mississippi may be adopted. I think it embraces everything any gentleman can ask for.

Mr. STANTON. I hope there will be no objection.

Mr. COBB. I object. No man has a right to compromise my proposition without consulting me.

Mr. PEYTON. If there ever was a fair proposition made, this is one; and I hope our friends will accept it.

Mr. BARKSDALE. This is the same proposition made last evening by the gentleman from Georgia; but it was not understood.

Mr. COBB. I will, if it is the wish of the House, withdraw my motion to be excused.

No objection being made, the motion was withdrawn.

Mr. PHILLIPS. If the proposition of the gentleman from Mississippi is that the vote upon the previous question shall be taken to-night, I object.

The SPEAKER. That is the proposition in part.

Mr. QUITMAN. If there be no objection, I ask that my proposition be the understanding of the House.

The SPEAKER. It is objected to.

Mr. TRIPPE. It is the same proposition we have been all this time contending for.

Mr. HARRIS, of Illinois. It has not been so understood by the House to-day.

Mr. WASHBURN, of Maine. We upon this side of the House have not understood that any such proposition has been made.

Mr. STEPHENS, of Georgia. The proposition I made was not exactly this proposition. It did not cover the seconding of the previous question. In substance, the main thing was to get a vote upon the matter on Monday.

Mr. PHELPS. As objection is made, I move that the House do now adjourn.

The yeas and nays were demanded and ordered. The question was taken; and it was decided in the negative—yeas 68, nays 97; as follows:

YEAS—Messrs. Abbot, Anderson, Arnold, Atkins, Avery, Barksdale, Bocoek, Boyce, Bryan, Caskie, John B. Clark, Clay, Clemens, Cobb, Burton Craige, Crawford, Davis of Mississippi, Dowdell, Edmundson, Elliott, Florence, Garnett, Gartrell, Gillis, Goode, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, J. Glancy Jones, Keitt, Kelly, Lamar, Letcher, MacLay, McQueen, Mason, Miles, Moore, Niblack, Phelps, Phillips, Powell, Quitman, Reilly, Ruffin, Scales, Scott, Seward, Henry M. Shaw, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, Trippe, Warren, Watkins, White, Whiteley, Wortendyke, and John V. Wright—68.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Goode, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pettigoe, Pike, Potter, Pott, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wood—97.

So the House refused to adjourn.

Mr. HASKIN. Will it be in order now to renew the proposition of the gentleman from Mississippi?

Mr. McQUEEN. I object.

Mr. PHILLIPS. May I be permitted to say why I objected to that proposition?

Mr. HICKMAN. I object to any discussion.

The Clerk then proceeding with the call of the list of absentees for excuses, called the name of

THOMAS G. DAVIDSON.

Mr. RUFFIN. I move that Mr. DAVIDSON be excused. He has been indisposed for several days. He has paired off with the gentleman from Massachusetts, [Mr. DAMRELL.]

Mr. PHELPS. I think he should be excused, but I desire to record my vote upon it; and therefore I demand the yeas and nays.

Mr. COLFAX. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. WINSLOW and BUFFINTON were appointed.

The House was divided; and the tellers reported—aye 45, forty-one.

So the yeas and nays were ordered.

Mr. WINSLOW. I move [at four o'clock] that the House adjourn.

Mr. ENGLISH demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 97; as follows:

YEAS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Bocoek, Boyce, Bryan, John B. Clark, Clay, Clemens, Cobb, John Cochrane, Crawford, Davis of Mississippi, Dowdell, Edmundson, Florence, Garnett, Gartrell, Gillis, Goode, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Huyler, Jackson, J. Glancy Jones, Keitt, Lamar, Letcher, MacLay, McQueen, Mason, Miles, Moore, Niblack, Phelps, Phillips, Ruffin, Scales, Scott, Henry M. Shaw, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, Trippe, Warren, Watkins, Winslow, Wortendyke, and John V. Wright—57.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Gilman, Goode, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter, Pott, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, and Wood—97.

So the House refused to adjourn.

The question recurred upon the motion of Mr. RUFFIN to excuse Mr. DAVIDSON, upon which the yeas and nays had been ordered.

Mr. WARREN. I desire to submit a motion to excuse my colleague, Mr. GREENWOOD. He was here until eleven o'clock, and soon after left the Hall.

The SPEAKER. His name has not yet been called.

The question was taken on the motion to excuse Mr. DAVIDSON; and it was decided in the affirmative—yeas 122, nays 6; as follows:

YEAS—Messrs. Anderson, Andrews, Arnold, Avery, Barksdale, Bennett, Bingham, Blair, Bliss, Bocoek, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Ezra Clark, John B. Clark, Clawson, Cobb, C. B. Cochrane, John Cochrane, Cockerill, Comins, Covode, Cox, Curtis, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edmundson, Elliott, English, Foley, Gartrell, Giddings, Gilman, Goode, Goode, Granger, Gregg, Grow, Lawrence W. Hall, Thomas L. Harris, Haskin, Hawkins, Hill, Hoard, Hopkins, Horton, Howard, Huyler, Jackson, J. Glancy Jones, Kellogg, Knapp, Lamar, Leach, Leiter, Letcher, Lovejoy, MacLay, McKibbin, McQueen, Miles, Moore, Morgan, Morrill, Edward Joy Morris, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Peyton, Phelps, Phillips, Pike, Potter, Pott, Purviance, Robbins, Roberts, Royce, Ruffin, Russell, Scales, Scott, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, White, Wilson, Winslow, and Wortendyke—122.

NAYS—Messrs. Davis of Indiana, Houston, Kilgore, Montgomery, Stephens, and Warren—6.

So Mr. DAVIDSON was excused.

Mr. HARRIS, of Illinois. I move that all further proceedings under the call be dispensed with.

Mr. CRAIGE, of North Carolina. I object.

Mr. STEPHENS, of Georgia, moved (at four o'clock and forty minutes) that the House adjourn; and upon that motion called the yeas and nays.

The yeas and nays were ordered.

Mr. HASKIN. Will the gentleman from Georgia withdraw his motion, to enable me to renew the proposition of the gentleman from Mississippi?

Mr. PHELPS. I shall object to that.

The question was then taken; and it was decided in the negative—yeas 53, nays 88; as follows:

YEAS—Messrs. Anderson, Arnold, Atkins, Avery, Barksdale, Bocoek, Bryan, John B. Clark, Clemens, Cobb, John Cochrane, Burton Craige, Crawford, Dowdell, Edmundson, Gartrell, Gillis, Goode, Gregg, Hatch, Hill, Hopkins, Houston, Hughes, J. Glancy Jones, Keitt, Lamar, Landy, Letcher, MacLay, McQueen, Mason, Maynard, Miles, Niblack, Peyton, Phelps, Phillips, Quitman, Ruffin, Scales, Scott, Henry M. Shaw, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, Warren, White, Whiteley, Winslow, and John V. Wright—53.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Iowa, Dawes, Dean, Dewart, Dodd, Durfee, English, Fenton, Foster, Giddings, Gilman, Goode, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Knapp,

Leach, Leiter, Lovejoy, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Olin, Palmer, Parker, Pike, Potter, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, and Israel Washburn—88.

So the House refused to adjourn.

Pending the call of the yeas and nays, and before the result was announced,

Mr. DAVIS, of Mississippi, stated that when his name was called he was in the cloak-room, which opens out of the Hall, and to which there is no entrance except from the Hall, and desired to know if he was entitled to vote under the rules of the House prescribing what shall be considered the bar of the House.

The SPEAKER decided that the gentleman was not entitled to vote.

Mr. DAVIS, of Mississippi, took an appeal from the decision of the Chair.

Mr. CLAY. I ask if it is not in order again to renew the proposition made by the gentleman from Mississippi, [Mr. QUITMAN?]

The SPEAKER. It can be done by unanimous consent.

Mr. CLAY. Then I ask that the proposition of the gentleman from Mississippi may be entertained by the House.

Mr. LETCHER. If that motion is amended in one particular, I shall not object; if it is not, I shall. That is in reference to seconding the previous question to-night.

Mr. HARRIS, of Illinois. Is it objected to?

The SPEAKER. The Chair understands the remarks of the gentleman from Virginia [Mr. LETCHER] as an objection. The gentleman from Mississippi [Mr. DAVIS] not being within the bar of the House, according to the construction of the Chair, claims the privilege of voting. The Chair has held, pursuant to the intimation and construction, he believes, of the committee appointed for that purpose, that the doors leading into the Hall of the House were to be construed to be the bar of the House. Any one to be within the bar of the House must be within either of the doors leading into it, and where a member is in either of the recesses he cannot be considered to be within the bar. The gentleman from Mississippi appeals from that decision. The vote has not been announced upon the last question taken, and it is necessary to settle this preliminary question to prevent confusion, and therefore the Chair will put this question before announcing the result on the other question.

Mr. STANTON. Is there not an appeal pending?

The SPEAKER. There is.

Mr. STANTON. Can another be entertained while that is pending?

The SPEAKER. According to the usual practice of the House it cannot; but the gentleman will perceive that this question can alone be made at this time, and before the vote on the pending question is announced, as it involves the right of a member to vote upon that question. The Chair would be very glad to have the House determine whether the Chair has construed the rule of the House properly.

Mr. MASON. I demand the yeas and nays upon the appeal.

Mr. HUGHES. I move to lay the appeal upon the table.

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 137, nays 5; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Arnold, Atkins, Barksdale, Bennett, Billingshurst, Bingham, Blair, Bliss, Bocoek, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Comins, Covode, James Craig, Burton Craige, Crawford, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Fenton, Florence, Foley, Foster, Gartrell, Giddings, Gilman, Goode, Goode, Goodwin, Granger, Gregg, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Hatch, Hawkins, Hickman, Hoard, Hopkins, Horton, Houston, Howard, Hughes, Jackson, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kilgore, Knapp, Jacob M. Kunkel, Landy, Leiter, Letcher, Lovejoy, MacLay, McKibbin, McQueen, Mason, Maynard, Miles, Moore, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Niblack, Olin, Palmer, Parker, Peyton, Phelps, Phillips, Pike, Potter, Pott, Purviance, Quitman, Robbins, Roberts,

Royce, Ruffin, Seales, Scott, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Singleton, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stephens, Stevenson, William Stewart, Tappan, Thayer, Tompkins, Tripp, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Watkins, White, Wilson, Winslow, and John V. Wright—137.

YAYS—Messrs. Avery, Davis of Mississippi, Thomas L. Harris, Haskin, and Powell—5.

So the appeal was laid on the table.

The SPEAKER then announced the result on the motion to adjourn, as before inserted.

The question recurred on the motion of Mr. HARRIS, of Illinois, that all further proceedings under the call be dispensed with.

Mr. STEPHENS, of Georgia. I have a proposition which I wish to submit to the House, which I think is a fair one. I hope they will hear it read.

Mr. CAMPBELL. Mr. Speaker, I object.

Mr. CLAY. I hope the gentleman from Ohio will withdraw his objection.

Mr. DAVIS, of Indiana. Let us hear what the proposition is.

Mr. CAMPBELL. I think it due to the gentleman from Mississippi [Mr. QUITMAN] that the objection to his proposition, made upon the other side of the House, should be withdrawn.

Mr. PHELPS. I demand the yeas and nays on the motion of the gentleman from Illinois.

The yeas and nays were ordered.

Mr. WINSLOW, (at twenty-five minutes to six o'clock, a. m.) I move that the House do now adjourn.

Mr. MORGAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 91; as follows:

YEAS—Messrs. Anderson, Barksdale, Bowie, Caskie, John B. Clark, Clemens, Cobb, James Craig, Burton Craige, Crawford, Davis of Mississippi, Edmundson, Garnett, Gartrell, Goode, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, J. Glancy Jones, Keitt, Jacob M. Kunkel, Letcher, McQueen, Mason, Maynard, Miles, Moore, Niblack, Peyton, Phelps, Powell, Quitman, Ruffin, Russell, Seales, Scott, Henry M. Shaw, Singleton, Stallworth, Stephens, Tripp, Watkins, Whiteley, and Winslow—49.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Curtis, Davis of Indiana, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Giddings, Gilman, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Kellogg, Kilgore, Knapp, Leach, Leiter, Lovejoy, McKibbin, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Nichols, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—91.

So the House refused to adjourn.

The question recurred on Mr. HARRIS's motion.

Mr. HATCH. I do not rise, Mr. Speaker, to make any remarks, if objection is made; but it seems to me that this mode of proceeding here has gone far enough.

Mr. CLAY. I call the gentleman to order.

The SPEAKER. It is not in order for the gentleman from New York to proceed.

Mr. HATCH. Not if any gentleman objects.

The SPEAKER. Objection is made.

[Cries of "Withdraw it!"]

Mr. CLAY. No, sir, I do not withdraw it.

The question was taken on Mr. HARRIS's motion; and it was decided in the affirmative—yeas 91, nays 49; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Bingham, Bliss, Bowie, Boyce, Brayton, Buffinton, Burlingame, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Colfax, Comins, Covode, James Craig, Curtis, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, English, Fenton, Foley, Foster, Giddings, Gilman, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hickman, Hoard, Hopkins, Horton, Howard, Kellogg, Kelly, Kilgore, Leach, Leiter, Lovejoy, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Olin, Palmer, Parker, Pike, Potter, Pottle, Purviance, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, Wilson, and Wood—91.

NAYS—Messrs. Anderson, Atkins, Avery, Barksdale, Billingshurst, Bryan, Burroughs, John B. Clark, Clay, Cox, Burton Craige, Crawford, Davis of Indiana, Davis of Mississippi, Edmundson, Florence, Garnett, Gartrell, Hughes, Huyler, J. Glancy Jones, Owen Jones, Keitt, Knapp, Jacob

M. Kunkel, Lamar, Letcher, Maclay, McQueen, Mason, Maynard, Miles, Montgomery, Mott, Peyton, Phelps, Phillips, Quitman, Ruffin, Russell, Seales, Henry M. Shaw, Singleton, Samuel A. Smith, Stallworth, Stephens, Tripp, Whiteley, and Winslow—49.

So all further proceedings under the call were dispensed with.

Mr. STANTON. I wish to inquire if there is not an appeal pending, taken some time yesterday?

The SPEAKER. There is an appeal pending, taken by the gentleman himself.

Mr. STANTON. What would be the effect of the withdrawal of that appeal?

Mr. PHELPS. Stop a moment. We have ordered the yeas and nays on that appeal.

Mr. STANTON. I withdraw the appeal.

Mr. PHELPS. I object.

The SPEAKER. The gentleman has a right to withdraw it.

Mr. PHELPS. Were not the yeas and nays ordered?

The SPEAKER. They were; but that does not deprive the gentleman of his right to withdraw the appeal, and all the subsequent motions fall with it. The question now is on the motion to amend the motion that when the House adjourns it adjourn to meet on Monday, by substituting Tuesday for Monday.

Mr. QUITMAN. I will again attempt to introduce a resolution which I hope will receive the unanimous approval of the House.

The SPEAKER. Is it the pleasure of the House to hear the resolution?

Many MEMBERS. Let it be read for information.

The resolution was read, as follows:

Resolved, That this House do now adjourn over to Monday next, when the subject under consideration shall be resumed, and the vote upon the pending proposition shall be taken without further delay, debate, or dilatory motion.

Mr. STANTON. I think that is right. It is as good as the previous question.

Mr. LOVEJOY. What is the pending question referred to in the resolution?

The SPEAKER. The previous question.

Mr. WASHBURN, of Maine. I will inquire if the pending question referred to in the resolution is not the question upon the reference of the President's message?

Mr. KEITT. Certainly.

The SPEAKER. The previous question.

Mr. WASHBURN, of Maine. I understand this resolution to override the motion for the previous question, and to provide that the question shall be taken on the reference without further delay, debate, or dilatory motion.

The SPEAKER. The pending question is the previous question, and the previous question is not a dilatory motion.

Mr. COLFAX. I desire to inquire if, under that resolution, we shall be required to vote upon the ten or eleven propositions now pending?

The SPEAKER. They fell with the withdrawal of the appeal.

Mr. CAMPBELL. I wish to inquire whether there is not a motion pending from last Monday to suspend the rules for the introduction of a resolution, and whether that motion will take precedence of this business?

The SPEAKER. The Chair is of opinion that this would operate as a special order.

There being no objection, the resolution was adopted.

And thereupon (at twenty-five minutes past six o'clock, a. m.) the House adjourned till Monday next.

IN SENATE.

MONDAY, February 8, 1858.

Prayer by Rev. H. N. SIPES.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to the 8th section of the act of July 22, 1854, for the action of Congress, transcripts of certain private land claims in New Mexico, which have been examined and approved by the surveyor general of that Territory; which was referred to the Committee on Private Land Claims.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of citizens of the United States praying that the public lands may no longer be sold for the purposes of revenue; but be held for the exclusive use of actual settlers and cultivators; which was referred to the Committee on Public Lands.

Mr. BIGGS presented the memorial of Anna M. McKenney, widow of William McKenney, late a chaplain in the Navy, who died of disease contracted in the service, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. JONES presented the petition of Louisa Merrill, widow of an officer of the Army, who was killed in the Mexican war, praying for the renewal of her pension; which was referred to the Committee on Pensions.

He also presented the petition of James B. Thomas, praying for compensation for Indian depredations; which was referred to the Committee on Indian Affairs.

He also presented four petitions of citizens of Iowa, praying that the Des Moines river grant, to the source of the river, may be confirmed to the State of Iowa, upon condition that the State will construct a railroad from Keokuk to the source of the Des Moines river in Minnesota; which were referred to the Committee on Public Lands.

Mr. WILSON presented a petition of George Clermont and others, praying that the public lands may be appropriated to the free and exclusive use of actual settlers not possessed of other lands; which was ordered to lie on the table.

Mr. FITZPATRICK presented the memorial of the register and receiver of the land office at St. Stephens, Alabama, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

Mr. GREEN presented two petitions of citizens of Nebraska, and a petition of citizens of Mount Ray, Kansas, praying for the establishment of a mail route from St. Joseph, Missouri, to Pawnee City, Nebraska; which were referred to the Committee on the Post Office and Post Roads.

Mr. IVERSON presented a petition of Sheldon C. Dunning, legal representative of John Love, a surgeon's mate in the revolutionary war, praying for a pension; which was referred to the Committee on Revolutionary Claims.

He also presented the petition of C. E. Habicht, administrator of J. W. P. Lewis, praying for the payment of a balance due to him as agent for building a light-house on Sand Key, in Florida; which was referred to the Committee on Claims.

DISTRICT BANKS.

Mr. MASON. I have been requested by the citizens of Georgetown, in the District of Columbia, to present to the Senate a respectful memorial or remonstrance against the passage of a bill which has been reported to the Senate from a select committee, to prohibit the issue of bank notes by corporations and associations, or individuals, within the District of Columbia. The gentleman who brought me this petition asked that, inasmuch as the people of the District have no representative in either House, I would be so kind to them as to call the attention of the Senate to the contents of the memorial. It is very numerous, signed by a number of gentlemen, many of whom I know; they comprise chiefly, as I am informed, those who have principal charge of the commercial and manufacturing interests of that town. My own dispositions have always been to look upon the citizens of this District with very peculiar interest, from the fact that, by the terms of the Constitution, they constitute the only portion of the people of the United States who are disfranchised. I do not mean to give any opinion on the bill against which they remonstrate, further than to say that, so far as I am aware, it was not introduced upon the request or petition of any portion of the citizens whom it is intended chiefly to affect. I am satisfied that, when it comes up in the Senate, it will receive that deliberation which its magnitude to them requires. I move that the memorial lie on the table.

Mr. SEWARD. Will the honorable Senator indulge me with a remark on that question?

Mr. MASON. I withdraw the motion.

Mr. SEWARD. My attention has been called to this subject by a portion of the citizens of the

District, and I rise for the purpose of letting it be understood by them, that when the question arises, I shall desire to have it considered with reference as well to the interests of the public and the country, as the views and opinions of the people, who are to be immediately affected by it; and that, as I understand the bill, which is objected to, has not been referred to the appropriate committee, which, I suppose, is the Committee on the District of Columbia, I shall, when it comes up, propose that it be committed to that committee, together with the memorial which is now about to be laid on the table.

Mr. MASON. The bill to which the memorial refers has been reported to the Senate by a select committee.

Mr. SEWARD. Oh!

Mr. MASON. It has been suggested by an honorable Senator near me, that inasmuch as the subject of the memorial has been acted on by the committee, it would be as well to have it printed. I move that the memorial be printed.

The VICE PRESIDENT. That motion will go to the Committee on Printing.

The memorial was ordered to lie on the table.

EDUCATION OF SHIPS' CREWS.

Mr. BIGLER. I present four memorials of citizens of Pennsylvania, praying Congress to provide a system of instruction on board of our ships of war. The memorialists, entertaining a high regard for the interests of the Navy, and desirous that it should command the universal respect of all nations, and prove to our own people a great moralizing agent in time of peace, as well as a defense in time of war, believe that the only way to effect this is to obtain improvement in the *personnel* of our ships' crews. To attain this object they believe that a system of instruction on board of our ships of war would be a powerful means; and that to convert our ships of war into great floating scholastic institutions, as well as conservators of peace and avengers of aggression, would give to the Navy and to the country a proud distinction, especially if the United States showed itself to be a pioneer in this improvement; while it would increase, rather than diminish, the capability of our men-of-war in every element of a well-disciplined, orderly, and efficient Navy. For this purpose, schoolmasters should be appointed by act of Congress at a pay sufficient to insure the services of competent persons to superintend the instruction of the youth, boys, and such men among the crew as desire to avail themselves of such provision; and be required to pass a preliminary examination, to determine their fitness (as is now the practice in the appointment of boatswains, gunners, &c.) in reading, writing, geography, history, mathematics, including navigation, &c.; and, to guard against undue familiarity when not engaged in scholastic duty, should rank and mess with the forward officers. They set forth that a sufficient supply of the necessary slates, stationery, books, and mathematical instruments, should be provided, and that some additional expense would necessarily be incurred in effecting these provisions; but they believe that the improvement they would introduce in the *personnel* in the ships' crews, and the greater facility in shipping men and youth at our recruiting stations, would more than counterbalance that additional expense: for when it was known that a good common-school education would be provided to lads entering the Navy, parents, guardians, and friends of boys would be anxious to place them there, especially if unable otherwise to provide such education for them. The memorialists, therefore, pray Congress to enact a law to carry out their wishes. I move that the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. SEWARD. I am requested to present the memorial of citizens of the United States, suggesting to Congress that schoolmasters should be appointed by act of Congress, at a pay sufficient to insure the service of competent persons, to superintend the instruction of the youth, boys, and such men among the crews of our national vessels as desire to avail themselves of its provisions. The subject is one of very great interest and far-reaching importance. The number of subscribers to this petition is small; they are, however, about twenty, and they seem to be clergymen connected with the Episcopal Church in the United States.

The memorial is signed, in the first instance, by Bishop Potter, of the State of Pennsylvania, and other very eminent clergymen.

I have a similar memorial which is subscribed by a large portion of the principal merchants and insurance companies of the city of New York. The two memorials together combine two very great and highly respectable influences, and I commend the subject to the consideration of the Committee on Naval Affairs, to which I move that the memorials be referred.

The motion was agreed to.

THE LECOMPTON CONSTITUTION.

Mr. ALLEN presented a resolution of the Legislature of the State of Rhode Island and Providence Plantations, instructing the Senators and requesting the Representatives of that State in Congress, to vote against the admission of Kansas into the Union as a State under the Lecompton constitution; which was read, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FITZPATRICK, it was

Ordered, That James D. Cobb have leave to withdraw his petition and papers.

On motion of Mr. SEBASTIAN, it was

Ordered, That the memorial of David Butler, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

REPORTS OF COMMITTEES.

Mr. BIGGS, from the Committee on Private Land Claims, to whom was referred the petition of Joseph Chaires, executor of J. B. Chaires, deceased, and Gad Humphreys and Pedro Miranda, submitted a report, accompanied by a bill (S. No. 126) for the relief of the heirs and legal representatives of José de la Maya Arredondo. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of George Phelps, submitted a report, accompanied by a bill (S. No. 128) for the relief of George Phelps. The bill was read, and passed to a second reading; and the report was ordered to be printed.

BILL INTRODUCED.

Mr. SEWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 127) to repeal the fifth section of an act entitled "An act to authorize the register or enrollment and license to be issued in the name of the president or secretary of any incorporated company owning a steamboat or vessel," approved March 3, 1825; which was read twice by its title, and referred to the Committee on Commerce.

BILL BECOME A LAW.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the President of the United States had approved and signed, on the 5th instant, an act (H. R. No. 63) to supply an omission in the enrollment of a certain act therein named.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills:

An act (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1859; also, an act (H. R. No. 22) to alter the time of holding the courts of the United States for the State of South Carolina; which thereupon received the signature of the Vice President.

PRINTING OF THE KANSAS MESSAGE.

Mr. HALE submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That ten thousand copies of the message of the President of the United States communicating a constitution from Kansas as a State, and presenting his views in relation to the affairs of that Territory, be printed for the use of the Senate.

DATE OF IMPORTS.

Mr. GWIN. I noticed on the reading of the Journal that a resolution offered by the Senator from Louisiana [Mr. SLIDELL] in reference to the valuation of goods imported on which duties are paid, has been referred to the Committee on Commerce. It certainly pertains to the finances of the country, and ought to go to the Committee on Finances. I hope it will take that reference.

Mr. CLAY. I have no objection to that.

The VICE PRESIDENT. The Chair will state to the Senator, that he is informed the author of the resolution had the reference made to the Committee on Commerce.

Mr. GWIN. I move to discharge the Committee on Commerce from its consideration, and that the subject be referred to the Committee on Finance.

Mr. DAVIS. In the absence of the Senator from Louisiana, I hope no action will be taken on that proposition. I think it proper that he should be present when it is considered.

Mr. STUART. We can discharge the Committee on Commerce and then let the question of reference remain before the Senate until the Senator from Louisiana comes in.

Mr. DAVIS. Let the whole subject go over.

The subject was passed over by common consent.

ORDER OF BUSINESS.

Mr. DOUGLAS. I ask the Senate now to take up and pass a resolution of inquiry which I offered on Thursday, calling for information from the President in regard to certain facts and the returns of votes in the Territory of Kansas. I presume it will be disposed of in a few minutes.

Mr. GWIN. I wish to offer some resolutions of inquiry.

Mr. DOUGLAS. This is only a resolution of inquiry.

Mr. IVERSON. I rise to a point of order. I have petitions to present.

The VICE PRESIDENT. The Chair supposes it is his duty to call first for petitions and then for reports of standing committees during the morning hour. He does not know what the practice of the Senate has been in reference to a motion to change the order of business.

Mr. DOUGLAS. During the morning we have petitions, reports, and resolutions, indiscriminately, and I was only calling up this resolution in accordance to the practice of the Senate.

The VICE PRESIDENT. The Chair does not suppose it is in the regular order of business; but he doubts whether the Senator has not the right to make a motion to take it up.

Mr. HALE. I hope the Senator will withdraw it, and let me offer a resolution to go to the Committee on Printing.

Mr. DOUGLAS. But if I withdraw my motion for one I shall have to withdraw it for others.

Mr. IVERSON. I wish to ask of the Chair if the standing rules of the Senate can be dispensed with?

Mr. DOUGLAS. I will waive my motion that petitions may be received as they take priority, if my motion will be considered as the first motion pending after them.

The VICE PRESIDENT. The Chair does not suppose it is in the regular order of business at this time.

Mr. DOUGLAS. I suppose the motion stands; but if petitions take priority gentlemen can go on presenting them, and the motion can afterwards be acted on, taking priority of other business. That is my understanding of the rule.

Mr. HALE. I have a resolution to offer which I suppose will go to the Committee on Printing, as a matter of course.

Mr. DOUGLAS. I inquire if my resolution does not take priority?

Mr. HALE. This will not take a minute.

Mr. DOUGLAS. My only object is to get an answer to a certain resolution of inquiry. I do not wish to push it contrary to the sense of the Senate, yet I cannot feel that we have the information before us that we ought to have, until we get that which is called for by this resolution. I wish for the action of the Senate on the adoption of this resolution of inquiry. I do not propose to stand in the way of any gentleman who desires to offer other resolutions. I supposed mine was one of form, like any other.

Mr. JOHNSON, of Tennessee. I rise to inquire whether the call for petitions has been gone through with?

The VICE PRESIDENT. It has not. Petitions are being offered, and resolutions and reports of committees also.

Mr. JOHNSON, of Tennessee. I have some petitions to offer.

Mr. DOUGLAS. I consider that petitions take

priority, but if there are no petitions I renew my motion.

The VICE PRESIDENT. It has been the practice, ever since I have occupied this chair, for petitions, memorials, and resolutions, to be offered indiscriminately during the morning hour. The Chair understood that it had been the practice of the Senate, and of course he acquiesced in it.

Mr. SEWARD. On that subject, I wish to make a remark. I think the rule requires that petitions shall be presented first; but early in the session we are accustomed by unanimous consent to adhere not very tenaciously to the rule; still, if a question is raised, it requires the consent of the Senate to substitute resolutions.

The VICE PRESIDENT. The Chair would find no difficulty in construing and enforcing the rules; but in attempting to follow the practice of the Senate he is sometimes led into error, by not knowing what that practice has been.

Mr. DOUGLAS. I understand there is nothing now before the Senate, and I move to take up the resolution to which I referred.

The VICE PRESIDENT. Petitions are still in order. The Chair may not be aware but that half a dozen Senators are ready to offer petitions. I will follow the rule, and ask for petitions and memorials.

CHANGE OF REFERENCE.

Mr. HOUSTON. I move to withdraw the petition of Mrs. Larned, which I presented the other day, from the Committee on Pensions, and refer it to the Committee on Military Affairs and Militia.

Mr. CLAY. I should like to know why the honorable Senator makes that motion? whether it be because he thinks the Committee on Military Affairs is the more appropriate committee, or whether it is a want of confidence in the Committee on Pensions? I think it is certainly disrespectful to a committee, after referring to them what seems legitimately to belong to them, to withdraw it, and refer it to another committee; and I think the Senator ought, in justice to the Committee on Pensions, of which I am a member, to explain the grounds of his motion.

Mr. HOUSTON. I am sorry—

The VICE PRESIDENT. The Chair has let the moment slip by when it was his duty to call up the unfinished business of yesterday, which is the special order for this hour.

Mr. HOUSTON. I wish to make an explanation.

The VICE PRESIDENT. By unanimous consent the Senator can make the explanation.

Mr. HOUSTON. I am very happy to have it in my power to give a satisfactory explanation to the honorable Senator from Alabama in relation to the motion I have just made. It is simply this: the memorial has lain before the committee for some time. I spoke to the chairman of the Committee on Pensions, and I have spoken to him again this morning, and he acquiesced in the course I have proposed; so that it does not arise from any distrust of the capacity or integrity of the Committee on Pensions; but I think it more appropriate, as the husband of this lady was an officer of the Army, and was killed under peculiar circumstances, to refer the petition to the Committee on Military Affairs. That is the only reason; and I hope the gentleman will be satisfied with it.

KANSAS—LECOMPTON CONSTITUTION.

The VICE PRESIDENT. The Chair calls the attention of the Senate to the special order, being the unfinished business on which the Senate adjourned.

Mr. DOUGLAS. What is that?

The VICE PRESIDENT. The motion to refer the President's message communicating the Lecompton constitution to the Committee on Territories, with the amendment of the Senator from Massachusetts proposing instruction to that committee.

Mr. FESSENDEN. I have no objection, if I may be permitted to do so, to give way that the Senator from Illinois may call up his resolution.

The VICE PRESIDENT. Does the Senator move to postpone the special order?

Mr. FESSENDEN. I am willing to postpone it for that purpose, it being understood that I have the floor.

Mr. BIGGS. I must object.

Mr. MASON. If the honorable Senator from

Maine moves to postpone the further consideration of the motion to refer the President's message, with a view to allow the honorable Senator from Illinois to call up the resolution he has offered, I shall ask for the yeas and nays upon it; because, as I understand, the effect of it must be to continue the discussion, in a different form, on the resolution offered by the Senator from Illinois. If the Senator makes the motion, therefore, I shall ask for the yeas and nays on the question of precedence, to test whether the Senate will go on with the motion to refer, or whether they will take up this incidental and collateral question.

Mr. DOUGLAS. It is entirely immaterial to me whether the vote be taken first on the reference of the message, or on this resolution of inquiry, for the reason that I wish the information under the resolution of inquiry to enlighten me in the consideration of the other question. I think any delay in adopting the resolution of inquiry will only operate as a delay in the consideration of the Kansas question by the committee. I deem it my duty to have that information, if it be possible to get it, and to ask for the requisite time in order to get it. For that reason I thought I would, at the earliest moment last week, bring forward the resolution of inquiry, supposing it would have been answered by this time, if it had been adopted. If, however, the Senate desire to go on with the question of reference, I will waive my motion, and bring up the resolution of inquiry afterwards.

Mr. MASON. That would be better.

Mr. FESSENDEN. Mr. President, I was perfectly willing to give way for the purpose of allowing the Senator from Illinois to introduce his motion, in order that the Senate might pass upon the question whether or not any more information was to be afforded to us, officially, than we have already received. I was suspicious that it was not the desire of the majority of the Senate that the resolution of the Senator from Illinois should pass, and that the information sought for by it should be obtained. I had no idea that its passage would be permitted; but yet I was willing to make the experiment. If, as a matter of fact, it had appeared to me probable; if I had supposed there was any good reason to believe that an investigation would be had with regard to the allegations that have been made of fraud in one stage and another of this proceeding in Kansas, I should probably have been willing, very willing, to waive any remarks on the general question until that information was obtained. The inquiry, however, that I put to the honorable Senator from Missouri, [Mr. GREEN,] the other day, as to the intentions of the Committee on Territories, and the answer I received from him, satisfied me that we should have no other information afforded to this body, officially, than that which we now have; and, therefore, I see no reason why I, or any other Senator who desires to do so, may not as well proceed to comment on this message of the President now, as to defer remarks until we have a report on the subject from the committee.

Mr. GREEN. I thought I remarked—I know it was my intention so to do—that the committee had never considered that point, and that I was not authorized to speak for the committee; but that, as far as I was concerned, I would undertake to carry out whatever instructions the Senate gave me.

Mr. FESSENDEN. I understood the answer of the Senator to say exactly that; and strange as it may seem to him, that answer satisfied me of what I have just stated, that we should have no more official information on the subject. Other Senators may draw a different conclusion, but such was mine. I was remarking that, under the circumstances, I saw no reason why any Senator might not as well proceed now to comment on this message of the President, and on the various topics connected with it now, as to wait until we shall have a formal report from the committee on the subject.

I think, sir, that the message has been drawn with care and with design. It is an argument presented to the country—intended as an argument which should affect and influence the minds of the people in reference to the great question which is soon to be tried before this body, and decided, so far as we are able to decide it. I deem it, therefore, not unimportant that the views of some gentlemen, to some extent, should be expressed with reference to that message, and that the coun-

try should understand that, although the officer highest in position entertains certain opinions which he has expressed on this subject, others who are in a less degree, perhaps, the representatives of the people, entertain different opinions, take a different view of the facts, and have something to say with reference to the statements that have been made. In the comments which I propose to make, I do not design to go much further than to make a statement of the case, as I understand it. Whether, with the impressions prevailing on my mind, I shall be able to make a fair statement of it, will be determined by the result. I certainly shall endeavor to do so.

The message which we have received transmitting the Lecompton constitution to us is certainly, in some respects, a singular one; and whatever demerits it may have, there is one thing about it which is observable, and which I trust may in some manner relieve the difficulties which seem to have pressed on the mind of my respected friend from New York, [Mr. SEWARD.] In his remarks on the Army bill he deemed it to be a matter of consequence that troops should be raised in order to quell the disturbances in the Territory of Utah, and he seemed to be of the impression that other questions were in such a state of forwardness towards a settlement that the Government could not need the increase of force for which it asked with reference to any other subject than the Territory of Utah. Now the President tells us very distinctly in his message that he has need of troops, and may continue to need them, not only for the Territory of Utah, but also for certain purposes in the Territory of Kansas; for he says distinctly that in case the constitution should be accepted and Kansas become a State, he will then be able to withdraw the troops from Kansas, and use them where they are more needed—distinctly referring to the Territory of Utah. We may infer, then, that if the Lecompton constitution should not happen to be acceptable to Congress, troops are still to be kept in Kansas for the purposes for which they have been used there heretofore. I cannot believe that the honorable Senator from New York can in any manner justify the keeping of those troops in Kansas, or can in any manner believe there is any necessity for keeping them there in the existing state of things.

The President clearly intimates that he will be obliged to keep the troops there if the Lecompton constitution should not prove acceptable, and Kansas be not admitted with it. That is his conclusion; for if, as he says, he can withdraw them in case Kansas becomes a State, he cannot withdraw them unless Kansas becomes a State. That is the clear inference. That is singular; for the reason that, at the present time, we know the fact that the Territory of Kansas is under the control of what is called a free-State, and what gentlemen choose to call an Abolition, Legislature. There is no difficulty in Kansas now. Those who are denounced as "rebels," but who are in fact the free-State party of Kansas, and a majority of the people of Kansas, have control of the government of Kansas at the present time. If this constitution should not be adopted, and Kansas should not become a State under it, what is the result? That the power is in the hands of the rebels; for rebellion, as it has been called, has things all its own way.

I see no necessity on the part of the President to keep troops there for the purpose of aiding in establishing the Government, which is going on so much according to the will of those whom he has been accustomed and desired to control by the use of the troops. It is a very singular declaration on the part of the President. What? That unless Kansas be admitted as a State under this constitution, he will be obliged to keep troops there—for what purpose? For the purpose of controlling the free-State government of Kansas; for the purpose of controlling the majority who now have the government in their own hands. Is that the game that is to be played? Is Kansas, while it remains a Territory, still to be held under military domination, simply for the reason that those whom he has heretofore chosen to denounce as rebels, are now in the possession of the government, and will continue so unless Kansas becomes a State under this constitution? It is a very singular declaration to put forth to the country; and yet such is the plain inference from the message he has communicated to us.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, FEBRUARY 10, 1858.

NEW SERIES....No. 39.

Sir, I admit that this message is entitled to be treated with respect, for the reason that it comes from an officer who is always to be spoken of with respect so far as those associated with him in the Government are able to do so.

Mr. SEWARD. As the honorable Senator is passing to another point, I wish to make an explanation. I think the honorable Senator from Maine has probably fallen into some error by not considering the effect of all I have said in regard to the Army question. I will state it once more in order to remove a misapprehension from his mind. I stated in my last speech on that subject that I spoke with great diffidence on that point, because I was not half convinced myself. I began with that remark. I stated that my difficulty arose in not knowing the future in Kansas, and the future operations in Utah. If I knew what was to be done in regard to Kansas, and if I knew what was to happen in Utah, I should see my course as clear as others; but, on examination of the whole subject, I came to the conclusion that there would be such a state of things in Kansas as would oblige the President to withdraw the troops. That state of things I considered in the first place to be the admission of Kansas as a State during the present session of Congress; or, in the next place, the leaving of Kansas where she is, without bringing her in as a slave State under the Lecompton constitution. I had no belief then, and I have not now, that an administration would be so infatuated as to endeavor to keep an army there, though such an inference may be drawn from the President's message. On the other hand, I have my own mode of reasoning, which brings me to the conclusion that there are to be disasters in Utah, which, to-day, do not appear so distinctly to the vision of other persons, and I was obliged to decide on the question then when I spoke.

Under these circumstances and having these opinions, I certainly should give my support to the measure which I proposed, which was the employment of an additional number of men with reference distinctly to their operation in Utah, and their being disbanded when that difficulty was through. What circumstances may change the case I do not know. I stated at the same time, most distinctly, that the President would never obtain my vote nor the vote of any other person, if I had any influence with him, to retain an army in Kansas, the use of which was to maintain the Lecompton constitution or to maintain Federal authority in the Territory against the will of the people. That is my position now. If that should be the state of the case, as the Senator thinks it will be, I shall vote with him. If, on the other hand, the state of the case should be as I think it will be, then I shall expect the honorable Senator to vote with me because I believe we have precisely the same views on this point, differing only in the importance we attach to the developments already made.

Mr. FESSENDEN. The honorable Senator predicates his supposition, then, on utterly rejecting the President's assurance of what he means to do. The President says, quite distinctly, that unless Kansas be admitted as a State with the Lecompton constitution, he will be obliged to keep the troops in Kansas. Now, I know the Senator does not mean to vote for the admission of Kansas under the Lecompton constitution, and, therefore, what is his inference? He must either take it for granted that Kansas is to come in under that constitution, and that, therefore, the troops are to be withdrawn, in which case no more are needed; or else that it is not to come in, and if not, that the President does not mean to perform what he has promised in relation to that matter. I take it for granted that Kansas is not to be admitted under this Lecompton constitution, and I take it for granted that the President then will, if he has army enough, keep troops in Kansas with a design to control the free-State people there, as he has done before. I do not understand with what object the Senator can vote for an increase of the Army to relieve him from the necessity, if such a necessity might exist, of withdrawing

those troops for the sake of quelling disturbances in Utah. The Senator must reconcile it himself. He undoubtedly acts from the best motives, and is the best judge of his own actions.

But, sir, I proceed to speak of the message itself. I was remarking that it was entitled to be treated with all the respect due to the eminent position of its author. In times past, we have been accustomed to receive these messages and to believe that the author in sending them to Congress, intended to perform that part of his constitutional duty which enjoins on him "from time to time" to "give to the Congress information of the state of the Union." A message from the President of the United States should import absolute verity; and heretofore, whatever else we may say about them, we have been accustomed to believe that Presidents of the United States in communicating a message to Congress, in undertaking to give information to Congress, would at least tell the truth; at any rate that they would not set at defiance known and recorded facts, not make an argument all on one side; ignoring facts quite notorious with reference to one position, and stating that which was not supported by fact in regard to the other. And yet, sir, with all the respect which I entertain for the officer who occupies so eminent a position, and notwithstanding all the impressions I have with reference to his constitutional duty when making a communication to Congress, I am compelled to say, I feel obliged to say, under the circumstances, that the President has been guilty in this message not only of ignoring well-known facts, but of stating as facts things which he must have known, if he examined the documents, could not be true. What excuse he has for this before the country, it is not for me to say.

I have to remark next in regard to the tone of the message. The tone of the message of the Chief Magistrate of the Union, to be according to his character and position, should, in my judgment, be dignified, plain, and impartial; it should not be denunciatory; yet from the beginning to the end of this message, we hear from the Chief Magistrate of the United States strong denunciations, in severe language, of what he admits to be a majority of the people of the Territory of Kansas; while he has not one word to say, nothing save excuse and palliation—not even that, but rather of approbation, implied approbation—for all that has taken place there in opposing the efforts of the people of Kansas to obtain a free-State constitution. I think the language of the message in that particular is unworthy a man who has been chosen by the suffrages of his fellow-citizens to fill one of the few great, eminent places of the world.

It is a little singular, too, when we consider his education, that, with reference to this controversy, he has no sympathy whatever for the object which the people of Kansas, those whom he admits to be a majority, express themselves as having in view. He was born and educated in a free State. He has seen all the advantages of free institutions. He has seen his native State of Pennsylvania grow up to be one of the very first in rank in the Union, and to retain that rank; to be one of the first in wealth; one of the first in power; stretching out its arms on every side towards commerce and manufactures and agriculture—growing with a rapidity unprecedented, its people enjoying all not only of the comforts but of the elegancies of life, simply from the fact that its people have been left to labor, to carry out the cardinal doctrine on which our institutions were founded—that the capital of the country is the labor and employment of the free people of the country. Notwithstanding all that, and notwithstanding all that he has witnessed of the enormous growth of the free States under free institutions, we have not one word in the message, from the beginning to the end, except denunciation of those who are attempting to extend the benefit of the same institutions to the Territory of Kansas. There is no sympathy for them. He exults, his tone is that of exultation, when he speaks of the

fact that the Territory of Kansas, which he calls a State, although it is not yet a State, is now as much a slave State as Georgia or South Carolina. His tone is that of feeling, of gratification, that instead of being a free State, like his own, and instead of joining the sisterhood of the great free States of this Union, it has placed itself on the level—not a lower one; far be it from me to say that—but on the very different level of the slave States of this Union, and is bound from this time henceforward, as he thinks, to the car of slavery. The tone in which he speaks of this is to my mind incomprehensible, and it shows that for some reason or other he has chosen to forget the land of his birth and education, with all its manifold advantages and blessings.

Sir, he treats the question as of no importance to anybody except the slave States of the Union. It is of trifling importance, he says—not precisely in those words, for I do not undertake to quote his language—but it is of little importance comparatively to the few thousands in Kansas; as if the institutions under which they were to live are of no consequence to them! Who should be interested but the thousands who are to live there, to receive the benefit or suffer the evils which are to flow from the institutions established there? It is of consequence to the slave States of the Union, he says. Is it of none to the free States? He does not intimate that it is. It is of no comparative importance, he says, because there are but a few thousand people in Kansas, forgetting as he does, the many thousands and hundreds of thousands who may be there in a very short period of time, covering its plains, and filling its valleys until they smile. It is not enough to say that the question is of very little comparative importance, as connected with them, but it is of great importance to the slave States of the Union. They have much feeling about it; they are to be consulted about it; but he does not intimate that the free States, the millions of people who live under constitutions unlike those which have been forced upon Kansas, can feel any interest in a question whether that great Territory is to be opened to them and their descendants, freed from a competition with that kind of labor which, in my judgment, has cursed so large—yes, the largest portion of the area of the States of this Union. Sir, I say these remarks, this tone, this want of sympathy, this exultation, this entire forgetfulness of the great and much the largest portion of the people of this country, in the President's message, is to me mysterious, coming from a man born and educated as the President has been, under institutions with which he is so familiar.

Again, the President very clearly intimates that difficulties must arise in case we refuse to admit Kansas as a State under the Lecompton constitution. He warns us in covert but very clear terms, that the people of the slave States will be excited on the subject; that they will not be willing to submit to it; and that, therefore, with a view to check all the agitation which may arise from the rejection of the constitution which has thus been submitted, he counsels that for peace sake we should admit it. Sir, I should have expected from the Chief Magistrate of this Union, sworn to support the Constitution and execute the laws, that at the time when he stated the danger that there might be an excitement, he would have intimated his opinion, his wish, that that excitement should not arise; that he would have warned the people of the slave as well as of the free States against disobeying the laws of the country. What is the proper tribunal, I should like to know, to settle this question? Is it not Congress? If Congress chooses to settle the question adversely to the views of the President, and say that Kansas shall not be admitted under the Lecompton constitution, I beg to know why he should not counsel the people of the slave States to submit to the majority who have the constitutional right to decide and have decided? Why does he warn us that we must pay some regard to these threats of overturning the Constitution, of dissolving the Union, and shun agitation, because we have been threat-

ened, and not put in one word of warning to the people from whom he anticipates it—not tell them that they will be compelled to bow to the will of the majority, that they will be compelled to obey the laws of the land? Why, sir, it is the strangest thing to me that a Chief Magistrate of the country holding this position should not say, as one of his great predecessors said before him, that the Constitution should be preserved; that the Union should be preserved; that when the action of Congress was legal, no matter upon what subject, the power of the Federal Government should be brought to bear on any people or any portion of people whatever who undertook to make any agitation which endangered the safety of the Union of these States; but we hear nothing of that from the present President.

Strange to say, too, he is all the time talking about law; he tells us that the people must obey the laws; that the course of things in Kansas has been legal on the one side and illegal on the other; and he is very ready to read lectures to that people and to us on the subject of obeying the law, while he conveys no intimation to anybody that if the laws are broken, or attempted to be broken, in one region of country, there will be any interference from him, or even any words of reprobation from him.

Now, sir, as to the facts stated: let us look a little at what the President has stated in his message. He has made all the intimations of which I have spoken; but what has he gone on to say? He charges, substantially, that the majority (for he admits it to be a majority by saying more than once in his message that the people of Kansas, unless he had prevented them by military force, would have overturned the Government; thus admitting that they had the power as well as the will to subvert the territorial government there established) had a design, and have had from the beginning, to subvert the government by force. Is there any proof of this? What proof does he adduce? The desire to establish the Topeka constitution, as it has been called; and on the strength of that fact he even charges Governor Robinson with having, in the very first sentence of the message which he communicated to the Topeka Legislature, expressed the same design; when, if you come to look at it, (I will not trouble the Senate with reading it,) there is not a single word, not a single idea, not a single intimation, in that clause of Governor Robinson's message, which has been referred to by the President, intimating any design or wish of the kind. I deny, here, the whole foundation of the President's charge and argument on that point. There never has been a design to establish the Topeka constitution by force. No such design has ever been avowed, and no such design has ever been attempted to be carried into execution.

I know very well that the honorable Senator from Illinois, [Mr. DOUGLAS,] in his speech which he made at the first part of this session, stated that, if he had not believed it was the intention of the people of Kansas to carry that constitution into effect by force, and establish a State government under it by force, he would not have been disposed to interfere, for they had undoubtedly as good a right to petition, in that form, as another portion of the people had to petition in another form; but I should be glad to have gentlemen point me to the proof, in any part of the proceedings in the Territory of Kansas, showing that that people ever designed or expressed the intention to establish that constitution and a State government under it by force. The very first step they took disproves it. They sent it here to Congress, and petitioned to be admitted under it as a State. They chose a Legislature; and that Legislature met, but passed no laws; it adjourned. It avowed then, that its design was not a forcible one—not to establish a State government by force; but to establish it by the weight of opinion in the Territory, under an application to Congress to be admitted under it; and yet this has been alluded to over and over again, more than once on this floor, and by the President himself and by other officials, as establishing the fact that there was rebellion existing in Kansas. Sir, the adoption of that Topeka constitution, and the choice of State officers under it, and all they ever did, no more goes to make out rebellion against the constituted government than would a town meeting called to pass resolutions on the same subject.

What is rebellion? It is a desire and an attempt to overturn a government by force. Rebellion does not consist in words; you must have forcible acts. It is not enough to express abhorrence of a government; it is not enough to express detestation of the officers who carry on the operations of government; it is not enough to call town meetings; it is not enough to frame a constitution and submit it to the people for adoption; it is not enough even to pass laws under it, so long as there is no design to put them forcibly in execution and enforce the execution of those laws thus passed. The people of Kansas have done no more than this. On that ground, Senators on this floor, and others elsewhere, have repeatedly charged, and the President echoes the cry, that here is rebellion existing in Kansas; and the people are denounced as rebels against the constituted authorities. Leaving out of the case the fact that the territorial government was a usurping government in the beginning, (as it was,) and granting it to be a legal one, still I aver that there has been nothing done in reference to the Topeka constitution from the beginning to the end, on which any man who values his opinion as a constitutional lawyer could predicate the idea of rebellion. I said so the other day, and I say it again; and it is as little made out by long labored quotations from letters of Governor Walker. Governor Walker seems to be very good authority with the President on one point, and no authority whatever with him on other points. When Governor Walker tells him that a great majority of the people of Kansas are opposed to this constitution, he does not believe him, for he does not refer to the fact. When Governor Walker tells him there was fraud in the arrangement made in reference to the State officers that should be corrected, he does not believe a word of it, nor do gentlemen here. When Governor Walker tells him of the great frauds that were committed at various precincts which have been spoken of by the Senator from Massachusetts [Mr. Wilson] and others, he does not believe a word of it. But he does refer to Governor Walker's letters, and makes many extracts from them, to establish the fact of rebellion; but they produce no such convictions—they prove nothing of the kind. Take them from the beginning to the end, and they make out no forcible resistance. They are nothing but statements; there is no fact on which to predicate them. The country might understand, from the statements thus made in detail, that the President really believed there was a dangerous rebellion in Kansas, and that unless he interfered with the troops of the United States, the Government would be overturned!

It has been remarked by my honorable friend from Massachusetts [Mr. Wilson] that it will be observed that these letters of Governor Walker were written immediately after his arrival in the Territory. Who was Governor Walker? A friend of the Administration, a leading Democrat, a southern man, with all his prejudices excited against the free-State people of Kansas, all his feelings and wishes in favor of adding to the strength of the slave States, by making Kansas also a slave State. He went there with these impressions; he carried them with him; he began his administration with them; he carried them, I am happy to say, not to the end. On arriving there, whom does he meet? His associates are the very persons who have been practicing these iniquities in Kansas. His suspicions are awakened, his mind is excited upon the subject, and he looks upon all these demonstrations as actually constituting a rebellious disposition on the part of the people of Kansas!

What are the proofs that he gives? They amount to nothing. As I remarked on a former occasion, one is that the people of Lawrence undertook to form a city government for municipal purposes. They had a right to do so; they did so; and they put that government in operation, not to be enforced on those who were unwilling, but to be enforced with the consent of those who agreed that that should be done under the very strong necessities of the case. He looked upon it as rebellion; he denounced it as rebellion; and they denounced him in their turn. He did not undertake to prevent them, and did not prevent them.

Again, another reason was the formation of a military organization. For what avowed purposes? For the purpose of protecting the polls—a legal purpose, a constitutional purpose—a right

which arose from the constitutional right of the people to bear arms for their own protection, which cannot be taken away from them. That was the argument, because Governor Walker said he believed that was not the design! Has there been any evidence that it was not the design? It was the design avowed, the only one; and yet this is all the proof we have, coming from these statements, to make out the charge made by the President of the United States, that there was rebellion in Kansas which called for the use of the military power.

Sir, there are some things which the President forgot to state. He forgot to state that this was a usurping government. Did he not know that fact? The honorable Senator from Illinois, in his speech, which we all remember, excused the President, or attempted to excuse him, for not knowing and understanding what was the absolute meaning and intent of the organic act of Kansas, or a certain portion of it, on the ground that he was absent from the country at the time of its passage. He was absent from the country at the time the events happened of which I have spoken. Does any gentleman here undertake to deny that the first Legislature was forced on the people of Kansas by a foreign invasion? The proof is in the record. It is in the record taken by the House of Representatives. Was not the President familiar with that? Ought he not, as a statesman, to have been familiar with that? Can he give any excuse for not knowing it? Is it enough for the President of the United States to come into office, and say he does not know some of the leading facts which have taken place within a very short period before his election and inauguration? No, sir, it is no excuse; and the President of the United States ought not to, and shall not, avail himself of it before the people of the country. He does not know the other facts which I have stated with reference to the disclaimer of the people who framed the Topeka constitution from the beginning, of any intention to subvert by force the established government of that Territory.

His next allegation is a very singular one, and it calls for more particular notice. He avers that the sense of the people was taken on the question of whether they would have a convention or not; and he holds them accountable, therefore, for not voting on that question. Mark you, he is now communicating information to Congress; this is one of the items which he communicates, that the sense of the people of Kansas was taken on the question of a convention! What opportunity did they have to express their sense? Could they express their sense on a convention under the force of a test oath that was applied to them? Is it not matter of notoriety; is it not upon the book; is it not matter of record, that, coupled with the right to vote on the question of calling a convention, was prescribed an oath to be taken by every person who should offer himself as a voter on that occasion? What was that oath? It was stated by the Senator from Missouri the other day. It was an oath to support the Constitution of the United States; to support the organic act of the Territory; and, beyond that, to support the fugitive slave law. Now, sir, who in any country—I will not say in any free country, but who in any country—ever before heard of a test oath made a prerequisite to the right to vote? I have heard of an oath administered at the polls to show a person's qualification; that he comes under the description of persons who are allowed to vote; but I believe this is the first time, in the history of any country where the people are allowed to exercise the right of suffrage at all, in which an oath has been prescribed by way of test to support certain measures of Government and certain laws, as a prerequisite to the right of suffrage.

Is it not well known, does not the whole country understand, that, throughout the free States, there is the greatest abhorrence of the fugitive slave law; that in many of those States that act has been held to be unconstitutional; that a large portion of the people not only consider it unconstitutional, but a much larger portion consider it oppressive and unjust, and derogatory to their rights? Is not that well understood? And yet, when people from the free States, with these feelings and impressions, present themselves in Kansas, and show that they are qualified, under the organic act of Kansas and the laws of the Territory, to exercise the right of suffrage as persons,

they find that the so-called Legislature which ordered the calling of a convention have prescribed that no man shall vote, if challenged, unless he takes an oath to support that very law, which they knew perfectly well could not be taken without a violation of the conscience and the honor of those who presented themselves.

Is this taking the sense of the people of Kansas? Is this the mode in which the President would allow the people of Kansas to express fairly their views on the point, whether a convention should be called or not? This was the only mode presented to the people of Kansas, and this is held out by the President to the people of the country as sufficient to entitle them fairly to express their own sense on the subject thus submitted to them. That is information communicated to the country! I pray Senators who hear me, as they are already familiar with it, and those who are hereafter to consider it, to remember the fact that he states for our information, that the act passed for the election of delegates was fair in its provisions. Why does he not take the testimony of Governor Walker and Mr. Stanton on that subject? What fairness was there in it? It provided for a census and apportionment. As has been stated, in that census and apportionment one half the people of the Territory were excluded.

Mr. COLLAMER. That objection applies not to the law, but to the execution of the law.

Mr. FESSENDEN. I know that. He states, however, that they had a fair opportunity to act. I am speaking of the result, and inquiring whether there was any such fair opportunity as to entitle him to consider the people of Kansas bound by the result which followed? I may have expressed myself incorrectly, and I am obliged to my friend for suggesting that this evil was not in the law. The law may have been fair on the outside. That is the argument; all these laws have been fair, and a fair opportunity has been presented! My question is with reference to the opportunity; what kind of opportunity was presented to the people of Kansas to settle that question? Although a census and apportionment were provided for, it is perfectly notorious—and we have testimony by which the President is bound, because it is the testimony of his own officials, of Governor Walker and Secretary Stanton; we have their testimony to the fact—that one half the Territory of Kansas was entirely neglected and unprovided for. I will not say one half the people, because, perhaps, the counties thus omitted might not have been so populous as the rest; but the President undertakes to say, sneeringly, that it is no objection that a few scattered people in the remote counties did not vote. Sir, it has been shown that a very large and important portion of the Territory was not included in the census; and we know, moreover, as a fact which cannot be contradicted, and has not been, that even in the counties where the census was taken, a large number of the people were omitted; they were not registered; there was comparatively a very small number registered; in fact, not one half the people of the Territory. That matter was so conducted as not to present to the majority of the people of the Territory an opportunity of being heard on the election of delegates; and yet the President undertakes to say to the Senate and to the House of Representatives, and to the world, in this manifesto which he has put forth, that there was a fair opportunity presented for the people of that Territory to select delegates of their own peculiar shades of opinion to carry out their own will and desire! It is a very curious kind of information he communicates. I stated that, in many respects, he had forgotten facts notorious, and in other things he had stated as facts things notoriously untrue; and I think I am borne out by the record in the assertions I have thus made. Why should he speak of the comparatively few voters omitted? Did he know how many there were? Has there been any census taken of those voters in the Territory? Not at all. Whence does he derive his information? It is a statement without book; an assertion without authority; an allegation without proof. What right has he to come before the country and thus make an assertion which is not upheld by any evidence from any quarter?

He makes another allegation, which is well worthy the serious notice of the country. It is in a very few words, and I will read it:

"The question of slavery was submitted to an election

of the people of Kansas, on the 21st of December last, in obedience to the mandate of the constitution. Here, again, a fair opportunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question 'in their own way,' and thus restore peace to the distracted Territory; but they again refused to exercise their right of popular sovereignty, and again suffered the election to pass by default."

Fair opportunity to decide the question of slavery! Why, sir, the President makes this allegation on the whole facts before him; with the constitutions before him, which were submitted to the people. Calmly and deliberately, in an argument presented to the people of this country, he comes before them and says, in his official character, as communicating information relative to the state of the Union, that the question of slavery was fairly submitted to the people of Kansas on the 21st of December. Did not the President know that it was but a choice between two slave constitutions—two constitutions, both of which recognized and established slavery in that Territory? The facts are familiar to all of us in the Senate. I hope they are equally familiar to the country. One of those constitutions authorized slavery in the ordinary form, providing that slaves might be brought into the Territory and held there, but it allowed the people to change that constitution and that provision; the other prohibited the introduction of slaves into the Territory, but it provided for the perpetuity of the slavery that already existed there. Those there were to remain slaves, and their children were to remain slaves to the remotest ages, and the people were prohibited from changing that provision at all.

Is it not the height of assumption—I will not use a stronger word with reference to the President of the United States—to put upon paper and send here, and before the country, the broad assertion that the question of slavery was submitted to the people of Kansas? Sir, that question never has been submitted to the people of Kansas. Nothing has been submitted to that people but a choice between two slave constitutions; and, for my life, I am unable to tell which was the worst of the two. Will any gentleman undertake to demonstrate to me the contrary? Is there any possibility of disputing the assertion, and did he not know it? Had he not read those constitutions? Had not his attention been called to them? Does he never read a newspaper? Is he not aware of what is transpiring before the country every day, and is admitted as a fact before and by the people of the country? It is a matter of astonishment to me that a man occupying that eminent position, speaking to the country in a State paper, speaking in the face of papers which are to go upon the record, and by which his truth, or his neglect of it, may be adjudged, could hazard his fame on an assertion so utterly destitute of foundation, so entirely opposed to fact, as this assertion.

He follows it up by the remark that they had a fair opportunity to settle the question of slavery. They could only vote, not to reject both these constitutions, or one or the other, but they could vote to choose between the two, provided they would previously take an oath that they would support the constitution which might have the majority of the votes. A man opposed to slavery, believing it to be wrong, believing it to be unwise, believing it to be a curse to the people among whom it exists, is presented with two constitutions, and told that he may vote on one of them provided he will take an oath to support that which he believes in his secret soul to be wicked, and at any rate he believes to be disastrous to the community in which it is established; and this is submitted on the word of the President, on these facts, as a presentation fairly of the question of slavery to them, not only with reference to the question presented, but to the mode in which they were to act upon and determine it. I think it requires a wonderful degree of courage in any man, especially a man holding the position which the President of the United States holds, to make an assertion thus unfounded in fact.

But, sir, he offers us some remedies; he offers the people of Kansas remedies. He tells us that, after all, if they do not like this constitution, there is no difficulty in getting rid of it; that is to say, that the constitution may be changed. Does he not know, do we not know, is there a man among us who does not understand, that when that con-

stitution is once fastened on the people of Kansas, it is next to impossible to get rid of it for a series of years, although a majority may exist against it, except by violence? What have we witnessed?

We have seen the votes of two thousand five hundred people—for Secretary Stanton says that is about the number—or, at most, three thousand people in favor of slavery outweigh and override the votes of ten thousand, or twelve thousand, or fifteen thousand people; I do not know how many, but four, or five, or six times as many. We have seen this result over and over again produced by the act of their officials. How easy is it for unscrupulous men to control the polls, having the authority which has been exercised by those men there heretofore, and is exercised now? If Mr. John Calhoun and his associates can get majorities as he has obtained them recently, how easy will it be for them, when in possession of all the forms of law of which the honorable Senator from Georgia [Mr. Toombs] has spoken, and in possession of the Government, to control it still?

Let us look at the operation of it for a moment. A Legislature is to be elected. The judges of the election have control of the polls; the individuals desirous of producing a certain result have control of the election; they record the votes; they return the votes; they may make any number of them as they have made any number of them. What chance is there, then, to obtain a Legislature who will submit the question of a change of the constitution to the people? And if it is submitted to the people, with the same men having control of the polls who have had it before, or men actuated by the same principles, what opportunity presents itself for a fair vote of the people on it? The only remedy is revolution; and the President knew it when he suggested the idea of changing the constitution as a remedy. The only remedy is the last resort to arms and physical force; and what chance would the people of Kansas have then? The Governor or the Legislature calls on the Chief Magistrate of the nation and states to him that there is domestic insurrection in Kansas. The troops of the United States, of which my friend from New York is so ready to vote an increase, are under the control of the President, and on his requisition are marched to Kansas for the purpose of suppressing that insurrection. What is the result? What opportunity, I ask again, would the people of Kansas have under those circumstances to rid themselves, by a change of their constitution, of that which had been thus forced upon them? None.

But the President makes another very singular suggestion, one which shows his great regard for law and his great knowledge of the principles of law. He suggests one remedy they will have; that after they have come into the Union as a State, they will then have the power to punish those who have committed these frauds. It is very much like shutting the stable door after the steed is stolen, if you can do it; but this is the first time I have ever heard it suggested by the Chief Magistrate of the nation that an *ex post facto* law could be passed and persons punished for committing frauds for which there was no punishment at the time they were committed. What, sir, here are frauds committed in the Territory of Kansas, and the President tells us that it is very easy to get along with them because, after you are admitted as a State, you may punish the persons who have committed these frauds! I should like to know of my honorable friend from Louisiana, [Mr. BENJAMIN,] with all his acuteness and knowledge of legal and constitutional principles, in what mode he would set about to do it? If you could do it, it would afford but a very poor satisfaction, after the whole evil for which the frauds were committed had been consummated.

The whole argument of the President is founded on the idea that all the proceedings in Kansas have been legal on the one side and illegal on the other. I propose to examine that position. If you read the message of the President carefully, you will see that that is the outline of the whole. It was the argument of the honorable Senator from Georgia, [Mr. Toombs,] the other day, that there was legality on the one side and illegality on the other; and that having these two to choose between, of course he must sustain that which was legal. How does the President undertake to establish it? In the first place, he asserts that the organic law establishing the Territory was in

itself an enabling act. I suppose that I might as well leave this point to the examination of the honorable Senator from Illinois, [Mr. DOUGLAS.] He will deal with it, I have no doubt, when the time comes; but I think he must have been as much surprised as I was when he found the President asserting, in plain and unmistakable language, that there was no need of an enabling act from Congress, because the Kansas organic law itself provided one. The idea is new. I never heard it suggested until it was hinted at by the honorable Senator from Missouri on a previous occasion, and he did not seem to make much of it; but the President has taken it up. I should like to know of any Senator here whether the idea, as thus presented, is not one that comes upon him by surprise from the authority from which it emanates on this occasion.

Now, I wish to read this clause of the message for another purpose, because there is something remarkable about it:

"That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress: 'to leave the people of the Territory perfectly free,' in framing their constitution, 'to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States,' and then to say that they should not be permitted to proceed and frame a constitution in their own way without an express authority from Congress, appears to be almost a contradiction in terms."

Be it remarked that in order to establish this position, the President is obliged to interpolate words into that clause of the organic act which are not found in it originally. Those words are: "in framing their constitution." There are no such words in the act. Undoubtedly, if that clause had provided that the people might, in framing their constitution, have arranged their institutions to suit themselves, the idea might be supported; but the words are not in the original provision. He assumes that they are. He makes that interpretation, and then draws his own inference from that interpretation thus introduced into the organic act.

Mr. BROWN. If the Senator from Maine will allow me, I will, in that connection, show that the author of the Kansas bill puts precisely the same interpretation on it which the President does. In the report made to Congress on the 12th of March, 1856, by the Senator from Illinois, I find this language:

"Is not the organization of a Territory eminently necessary and proper as a means of enabling the people thereof to form and mold their local and domestic institutions, and establish a State government under the authority of the constitution, preparatory to its admission into the Union?"

I read from page 4 of the report, in which it is stated to be eminently proper and necessary for two purposes; first, to enable them to regulate and mold their institutions to suit themselves; and, second, to form a constitution preparatory to their admission into the Union. If the author of the bill put that interpretation on it in a report made to Congress, I see no great harm in the President putting the same construction on it. I think it was the true interpretation.

Mr. FESSENDEN. It makes no difference to me what construction the Senator from Illinois put on that act at any time. I do not, however, agree with the Senator from Mississippi, that the language he has read carries any such idea with it; but I shall leave it to the Senator from Illinois, if he chooses, to settle that question with the Senator from Mississippi, and with the President. What I have to do is to comment on what the President says. I say that it is a new idea, never before suggested in my hearing, (and I believe I have heard this controversy from the beginning,) that the organic law was to be construed as an enabling act, until it comes authoritatively, for the first time, from the President of the United States.

I do not blame him in one sense; it was necessary to his argument; without it, that argument fails; but in another sense I do blame him for it, and that is this: in undertaking to quote the language of a clause in a law of Congress, I think he should not interpolate words into it which are not there, and hold out the idea that those words actually exist, or are clearly and distinctly implied, when there is nothing in the act itself to authorize anything of that description. Let me read this act. It has been read some thousands of times before, but perhaps it cannot be read too often—I mean this clause:

"It being the true intent and meaning of this act not to

legislate slavery into any territory or State, nor to exclude it therefrom, but to leave the people thereof?"—

Here the President inserts "in framing their constitution," but "in framing their constitution" is not there.

—"perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

It is very plain that it was not intended that that should be an enabling act; because, if it had been so intended, it would have been so specifically stated. The words, "in framing their constitution," would have been inserted. At any rate, some particular portion of that act would have been found, in which the authority was specifically given to the people of Kansas to frame a constitution under it, and under that constitution to ask admission into the Union; but nothing of that kind is found. Is it possible, can anybody believe, that the Congress of the United States in framing a law to organize a Territory, and intending by that law to confer on the people of the Territory the power to frame a constitution, and under that constitution to come into the Union, would have left it to be inferred from language which, in fact, conveys no such idea? The idea is preposterous. Again, we all know that nothing of the kind was ever held out in any debate that took place on that occasion. Nobody supposed that under that organic act there was authority conferred to frame a State constitution preparatory to admission into the Union. There is nothing in the terms of the provision which I have read, nothing in the terms of the act anywhere, which could lead to the conclusion that any such authority was either given or intended to be given in any manner whatever.

I should like to ask any man, and the President of the United States particularly, who contends that this is an enabling act, of what benefit in that clause are the words "subject only to the Constitution of the United States," if the clause was intended to say and only to say to the people of the Territory of Kansas, "you are at liberty, when you frame a constitution preparatory for admission into the Union, if you choose, to frame your domestic institutions in your own way?" Of what benefit, let me ask anybody, is it, to add at the end of the sentence "provided you do not in any manner contravene the provisions of the Constitution of the United States?" Must not the State constitution when framed come before us? Must it not be presented to us for our action, and if there is a provision in it contrary to the Constitution of the United States, have we not power to reject it? The very fact that the words "subject only to the Constitution of the United States," are left in the act, goes to prove most conclusively beyond all dispute, that the object was not to confer on the people of Kansas that authority when they were forming their constitution, but to confer on them that authority to be exercised while they were a Territory, and with reference to their territorial institutions alone. The people of a Territory may very well be thus limited while they remain a Territory. While they are acting under their organic law framing institutions to regulate themselves at that time; confining themselves to that, it may be very good sense to say that while you are thus a Territory you shall frame no institutions that are contrary to the Constitution of the United States; but if it was conferring on them the authority to form a constitution, of what use is it to say—are not the words thrown away as perfectly inoperative—"subject to the Constitution of the United States?" that is, you may make a constitution, but it must be such a constitution as does not contravene the Constitution of the United States. That very clause shows that it was not intended as an enabling act.

It was not considered to be an enabling act. I should like to ask the honorable Senator from Georgia, if he considered it an enabling act, why he so soon afterwards introduced a bill into this body, which was passed by the Senate, to enable the people of Kansas to form a State constitution? Was that construction put on it at the celebrated meeting at the house of the Senator from Illinois, when that enabling act was agreed upon to be reported to Congress, and to be carried through Congress, if possible? Was it supposed that the organic act itself contained an enabling act, rendering that unnecessary, and that under it the people of the Territory of Kansas might go forward

and form a State constitution preparatory to being admitted into the Union? It was not the construction placed on it by the Democratic party, by the friends of the bill, and the honorable Senator from Georgia thinks the friends of the bill are those who alone are competent to understand and construe it, and that nobody else can understand it properly. I point his attention, therefore, to his own construction, and I ask him if he considered that clause of the organic act on which I have been commenting, and on which the President commented, and into which he interpolated the words of which I have spoken, as an enabling act authorizing the people of Kansas to frame a State constitution?

Mr. TOOMBS. I will answer the question with pleasure. I did not then, do not now, and never have so considered it. Nor do I consider an enabling act necessary. I think it oftentimes a convenient mode. I act with or without it, according to the circumstances of the case.

Mr. FESSENDEN. I am very happy to get that admission from the Senator from Georgia. It is made with his customary frankness and clearness. Having admitted it, I propose to ask him another question; if it was not an enabling act, where does he get the legality of all these proceedings of the Legislature of Kansas? If they had no authority conferred on them by Congress to call a convention for the purpose of framing a constitution preparatory to the admission of that Territory into the Union as a State, where does the legality of their action come from?

Mr. TOOMBS. The Territorial Legislature.

Mr. FESSENDEN. What authority had they? They had no such authority conferred on them. They might call a convention to petition; they could not make it binding. Unless Congress confers the authority on a particular Legislature to do that very act, what authority has that Legislature more than another? What can they do but petition? What can they do but recommend? The authority is not given them; they must derive it from somebody. True, they have power to legislate; but this is not a proper subject of legislation unless the authority is conferred on them to make it binding. My answer to the whole of the President's argument on that point, and to the argument of the Senator from Georgia on that point, is, that if this is not an enabling act, which the Senator from Georgia admits it is not, then there is no more legality in the act of the Legislature of Kansas, in calling a convention, than there is in the act of the people of Kansas calling the Topeka convention. They can do it in the one form or the other, provided they do it peaceably; and yet, on that the whole argument is predicated. The President, or the person who drew this message, whoever he may have been, saw the difficulty. It was a part of his object to show and to convince the country that here was legality on one side and illegality on the other; and therefore he interpolates the words of which I have spoken into this provision of the organic law, and says, after that interpolation, that the organic law is itself an enabling act. If correct in that, he is correct in his conclusion. The Senator from Georgia says he is not correct in it. I agree with the Senator from Georgia, and therefore, as I think, the conclusion does not follow. There is no legality in it; that is to say, there is no binding legality.

What right had the Legislature to act conclusively on that subject? to say "we appoint a place of meeting at such a time; the people of Kansas may come and vote at such a time; and we prescribe a test oath to those who may choose to vote on the question of calling a convention?" Who gave them authority to make that test oath, and apply it to the people of Kansas? Where did they get it? It is precisely as much rebellion as was the formation of the Topeka constitution, against the constituted government, although done by the Legislature. This Legislature having no such authority conferred on them, not having the right to call a convention given them by the original organic law, undertake to say that at such a day, and such an hour of the day, the people of Kansas shall vote on the question of whether a convention shall be called to make a constitution, and only such persons as take a particular kind of oath shall be allowed to vote. Where did they get the authority to make any such rule? From the organic law? No, says the Senator from Georgia; no, say I, and no must every man say who is not at liberty

to do as the President has, and that is to interpolate into that clause the words "in framing their constitution," and thus to make out the argument. The whole foundation of his argument fails, and therefore his allegation, that here has been legality on one side and illegality on the other, fails. I aver that the Topeka constitution is as legal as that, as legal in its form, as legal in its inception, as legal in all the steps that have been taken with regard to it, in every particular, as much within the purview of the power of the people under that clause in the organic law, as the action of the Legislature.

I deny the legality of the first Legislature as I stated; and I deny, too, the assertion of the honorable Senator from Georgia, that it has ever been admitted or recognized by Congress. I say it has never been recognized in any shape or form. The Senator appealed to the fact that at the last session of Congress, in the general appropriation bill, we made a provision for the payment of the Legislature of Kansas. Congress, at the previous session, refused to make that appropriation. When we made it at the last session of Congress, it applied only to a future Legislature. It applied to the one now in existence. It could not go into operation until the beginning of the fiscal year, last July, going forward to next July. The first Legislature had become defunct; it had ceased to perform its functions; a new one was to be elected, and that fact being known, Congress made provision for its payment—not for the last one; that has not been made to this day; and under a law of Congress which the chairman of the Committee on Finance well understands, the President cannot apply money thus appropriated for the service of the current year, from last July until the next July, to the payment of a preceding debt for a Legislature whose term of office had expired.

But admitting the legality of the Legislature, usurping though it was, and admitting also that it had been recognized by Congress, nothing follows except that its action was advisory. So was the action of the Topeka Legislature. The people were not bound by one more than the other; one was not more rebellious than the other; one had as much force as the other, because the substratum, the authority from Congress to the Legislature to call a convention and prescribe rules for that convention was wanting.

If I am right in this position, the only question that remains is, does it fairly represent the people of Kansas? Does the vote taken under these circumstances at that particular period of time, represent the will of the people of Kansas, fairly expressed? I have commented on that. It is a question of fact, and it is a question of fact for us to settle; and we are not precluded by the assertion that here is legality on one side and illegality on the other. Have the people of Kansas, by any act of theirs, under any circumstances, at any time, manifested clearly to the Congress of the United States, their desire that the Lecompton constitution should be accepted, and that they should come into the Union as a State under it? That is the question submitted to us as the tribunal to decide it. What have we against it? What have we to reply? To what facts can we appeal as an answer to any allegation that it was so? We have in the first place the admitted unfairness and dishonesty of the whole proceedings from the beginning. I have adverted to them, and they are matter of history. If it was supposed that they would fairly represent the will of the people of Kansas (and it was designed they should) why not submit the whole constitution fairly to them? Why present to them two slave constitutions, and bid them take their choice between those two? Why accompany those two with an oath to support one or the other, both being abhorrent to a large portion of the people of Kansas? Why place the question in that form? If it was the will of the people, if they had any idea that a majority of the people of Kansas would sustain it, why not submit the question fairly to the people of Kansas without any of those restrictions? It is not a sufficient answer to satisfy my mind, to say that all legal forms have been complied with. Why was it not done?

Another answer is made in the thunder tones of the last vote of the people of Kansas, when, the question being submitted to them by the Legislature now existing in that Territory, they threw a majority of over ten thousand votes

against that constitution? Is that no answer? Shall we not receive it as proof?

The honorable Senator from Georgia, on this particular matter, said, in answer to the inquiry which I now make why the present Legislature might not repeal the convention law, or might not order a new vote to be taken on the constitution, to ascertain what is the will of the people of Kansas, that its power was exhausted. What power was exhausted? Where do they get any power on the subject? He admits that they had no power from the Congress of the United States. There was no enabling act; no power to frame a constitution had been conferred on them from any quarter whatever; and yet he says the power was exhausted. The power that they assumed was exhausted; but, if it is in the power of a legal Legislature of Kansas to call a convention, and have the action of the people on a portion of the constitution, is it not in the power of another Legislature of the same Territory of Kansas to call a meeting of the people, in due form, to pass upon another question connected with the same subject, and the whole subject? If he had shown us where the power was derived from, if he had shown that the Congress of the United States had ever conferred any power on the Legislature of Kansas to act on that question, it would be one thing; but denying that, and admitting that no such authority was conferred, he yet says, in answer to a question put by the honorable Senator from Wisconsin, [Mr. DOOLITTLE,] their power was exhausted. I should like to have him, or some other Senator, show me, and show the country, whence was the derivation of this power; and to answer the question decisively, if they had none conferred on them, how they could exhaust that which they had not themselves? and why the existing Legislature has not the same right and authority to put the question to the people of Kansas that the previous Legislature had?

The President and the honorable Senator from Georgia agree on one point, and that is, as to who are the people; and I agree with them. The people, in the language of this law, and as we understand it with reference to suffrage, are those people who are legally qualified to vote. Such questions, I also agree with them, are not to be settled in mass meeting and without form, but are to be settled in due form by those who have the authority to exercise the right of suffrage. But this statement which was argued at such length, and which nobody would ever think of denying, avoids the true question at issue. The question at issue is, whether a fair opportunity has been accorded to this very people to exercise the right of suffrage on this question; and that the President and the Senator from Georgia, who undertakes to defend the message, have not discussed at so much length. They assume it; they take it for granted; we deny it. What is the argument to sustain it? Simply that, in ascertaining the will of the people, in the form prescribed, at the time prescribed with reference to the Lecompton constitution, all the forms of law prescribed by the Legislature have been complied with. I dislike, exceedingly, to hear as the sole answer to such allegations, that the thing was formally done.

The honorable Senator from Georgia is an eminent lawyer, and he knows that that is no answer in courts of law. It is no answer to an allegation of fraud to say that the forms have been complied with; and, as a matter of history, we know that there is no more dangerous mode of attacking the liberties of a people than under the forms of law. It has been well remarked that, for hundreds of years, Rome was a tyranny, exercising at the same time the forms of republican institutions. Tyrants always keep up the forms as long as they are able when they are defrauding the people of their rights, because in that manner they are able to prevent, perhaps, that outbreak which would arise from a resort to absolute physical force. Charles the First lost his head for tyrannizing under the forms of law; James, his son, lost his throne for the same reason; and our ancestors wrested this country from Great Britain for attempting to tyrannize over us under the forms of law. Yet this is the only answer that is made—"here is a legal form." The Legislature thus forced on the people of Kansas assumed to appoint a time for a convention to provide a mode of voting; and that convention assumed to make a constitution. They assumed to put it to the

people; they prescribed their own forms; and followed out their own manner of doing it; and now, when we come forward and say that from the beginning to the end they designed to defraud, and did defraud, the people of Kansas, the answer is, "We cannot go into that subject, for it was all done under legal form." My reply is a very simple one: that fraud vitiates everything.

What were these forms? Let us enumerate them in distinct order, so that they may be understood by the people. A Legislature was forced on the people of Kansas in due form by a Missouri invasion. Does the honorable Senator from Missouri (I do not see him in his seat) want proof of that? The proof is found in the records of the committee of the House of Representatives that investigated the subject. Nobody has undertaken to deny it. The Legislature acted without legal right, as I have demonstrated, but in due form, in appointing a convention, but they prescribed a test oath, which rendered it unavailing. My honorable friend from Vermont, who sits beside me, [Mr. COLLAMER,] informs me that I am mistaken on that point, and he says the test oath had been repealed. A portion of it might have been repealed, but the whole of it was not.

Mr. COLLAMER. That portion requiring an oath to support the fugitive slave law had been repealed.

Mr. FESSENDEN. That was part of the test oath. That may have rendered it less odious; but still the objection lies to the principle that no Government in the world, such as ours, acting under a republican form, has a right to establish any test oath at all, with reference to the exercise of the right of suffrage, or go any further than adopt such measures as are necessary to show that a man is qualified to vote. That was the next step.

A census was taken in due form, not including one half of the people of the Territory. Next, the members of the convention forfeited their pledges. What were those pledges? If we may trust to what has been cited here, and not contradicted, a large proportion of the members of the convention pledged themselves to submit the whole constitution to the people. These pledges were forfeited; and I heard a very singular excuse given for this the other day by the honorable Senator from Mississippi, [Mr. BROWN,] who said that their constituents had released them from their pledges; that they had been released by the people to whom they had given them. I should like to know how or in what form that release was given? They held themselves out to the people on paper pledging their honor that, if elected delegates to the convention, they would submit the constitution to the people. They refused to do so; they forfeited their word after they were elected. Having been elected, they refused to perform their promise. It is charged on them; and the excuse is, that those to whom they made the promise released them from the obligation of keeping it. I should like to ask the honorable Senator from Virginia, [Mr. MASON,] with his high sense of honor, and I believe it is higher with no man, whether he could be excused from an obligation thus given in writing, by any individuals who might come to him, and say, "We do not hold you to it; party purposes require a little different disposition." Honorable men never would make such an excuse for breaking their word of honor thus given. So long as there was a single voter who threw his vote for me, or might have thrown his vote for me, on my written word, or my spoken word, that I would act in a particular manner, I should deem myself base if I could retain the office thus bestowed on me, and at the same time refuse to redeem the pledge that I had made.

The next step that was taken under the forms of law was to present two slave constitutions, as I have before stated, and tell the people of Kansas they might take their choice between them, provided they would swear to support the one which might get the majority of votes.

The last step in this proceeding, under the forms of law, was to return six or seven thousand votes as cast on the constitution, on the 21st of December, when it is satisfactorily shown that no more than two or three thousand were thrown. Does any Senator ask me where I get my authority for this? I get it from the same authority to which the President appeals to show that there was rebellion in Kansas—Governor Walker and Secre-

tary Stanton. They say it, and nobody undertakes to dispute it.

Now, all these forms having been complied with, pledges having been forfeited, the question not submitted, and a cheat in the vote, we are told that legality is all on one side, and illegality on the other, and we are bound to take the result; in other words, that this is a legal ratification. That is the principle laid down, and it amounts to this: that because it has never been submitted, therefore, it has been legally adopted—a logical conclusion to which I am entirely unable to give my assent.

What is the reply which is made to the allegation of fraud? The honorable Senator from Georgia makes it. His reply is, that it must be investigated in the proper place. What is the proper place? Is not this the tribunal? Where is the question to be settled if not here? Are not we the tribunal to settle the question whether Kansas shall be admitted as a State under this constitution? Are we not the tribunal to settle whether the matter has been fairly submitted to the people of Kansas, and whether they have adopted the constitution? It comes before us for action. If a better tribunal than this can be found to settle the question definitely, I wish the honorable Senator had pointed it out.

The votes on the constitution are returned to Mr. John Calhoun. He is the man who forfeited his pledge; he is the man who broke his word; he is the man who promised to submit this constitution to the people of Kansas, and refused to do so. The votes are to be returned to him; he declares them; he claims no power to go behind the returns; and he is the person to make a conclusive return on this subject. When we wish to inquire into the truth of these allegations, and judge whether this constitution does fairly express the will of the people of Kansas, is it enough to reply, "the question has been settled by Mr. Calhoun, and he is the proper tribunal; and the Congress of the United States in deciding whether or not Kansas is to come into the Union as a State has no right to inquire whether a fraud has been committed or not; or whether the will of the people of Kansas has been expressed or not?" I reply again that the Senator from Georgia, for he is an eminent lawyer, well knows the principle that fraud vitiates everything, no matter what. It vitiates the record of a court of law. It sets aside a judgment. This is claimed as a judgment of the people of Kansas; a judgment that is conclusive by virtue of the decision that has been made there by a person who is a party to the whole thing. It is claimed as a judgment. We ask to go behind it, and inquire into it. It is said we are precluded; on what principle? Not on the principle of law, for if fraud will vitiate the record of a court and enable any proper tribunal to inquire into it, I wish to know why fraud will not vitiate an election, as has always been held from the foundation of the Government to the present time, when that election is brought before the very tribunal which is appointed by the Constitution to settle the question?

My conclusion, then, Mr. President, on all this matter is, simply, that the President of the United States, in sending this communication to us, his written argument, has deliberately chosen to omit the most important facts in the case, as well known to him, or which should have been as well known to him, as any man; for he cannot plead ignorance. They are facts apparent on the record; palpable, plain, unmistakable. He has omitted to state them, and he has stated others which are disproved by the record accompanying the message. It has been shown over and over again, beyond all power of contradiction, and I take it few men can be found with hardihood to deny it, that the vote of December 21st, on the constitution, does not express the will of the majority of the people of Kansas. The attempt is merely to estop us, and to say that, by virtue of the success of these fraudulent practices, the people of Kansas have no right to inquire into the matter. Sir, I deny the principle. It exists neither in law, nor in equity, nor in legislation, nor anywhere where truth and justice prevail. Therefore, all I have to say in reference to that matter is, that considering the question in that point of view, this constitution presents itself to my mind as an outrage, deliberately planned, followed up remorselessly, and, perhaps, from the indications we have had,

designed to be carried through and imposed on the people of Kansas. All I have to say is, that it will meet with my resistance, feeble as it may be, here, so long as I am authorized to act on it, under the forms of the Constitution of the United States.

Sir, I have considered this question so far wholly with reference to the simple point whether, in the exercise of what is called popular sovereignty in Kansas, there has been any adoption by the people of that Territory of the constitution thus presented. That is only one branch of the remarks which I intended to present to the Senate, and the Senate will pardon me if, on this occasion, I go a little further, and treat of what I believe to be still more important, at any rate, as important, and, as affecting my mind, as materially with reference to the whole subject. I have presented the question on the ground of popular sovereignty. The party to which I belong have rejected the idea of popular sovereignty in the Territories from the beginning. We do not reject the idea that the people have a right to rule. We admit it in our principles and our practice; but we have rejected the idea that Congress had a right to change the whole form in which it had been accustomed to exercise authority over the Territories of the United States, and lay those Territories open to slavery when they were free, under the name of giving the people the right to prescribe their own institutions in their own way. Since this doctrine of popular sovereignty has been forced on us—since it has been adopted, to a certain extent—we have been compelled to yield to it. We were in hopes that even in the exercise of that principle, of the right which it was said the people had to frame their own institutions, Kansas would be a free State. We sympathized with it in the hope that it would be available. We took it as the shipwrecked mariner takes the first plank on which he can lay his hand in order to escape death. The boon was apparently held out, if it was a boon, to the people—the right to settle what their institutions should be by their own popular vote. We rejected it when offered, because we believed it was a breaking down of the landmarks which Congress had adopted with reference to the Territories, and establishing a principle that would carry civil war and slavery into the Territories. Our predictions in that particular have been verified.

Why have we rejected it; why have we repudiated it in regard to the Territory of Kansas—because in the remarks which I have to make I confine myself to that? I answer for myself when I say that I repudiated it because, to me, the circumstances under which it was introduced were such as to lead to the conclusion that, in my mind, it would make no difference even if the whole people of Kansas had adopted a constitution which recognized slavery. I expressed my sentiments on that subject on a former occasion very distinctly, and if I may be excused for doing so, although I am ordinarily averse to attempting to repeat myself, I wish to refer to what I said when the Kansas-Nebraska bill was under consideration, as the ground which I hold at the present time. I said then:

"If gentlemen expect to quiet all these controversies by adopting what my constituents now consider, and very well consider, an act of gross wrong, under whatever pretense it may be, whether on the ground of the unconstitutionality of the former act, or any other, after having rested so long satisfied with it, let me tell them that this, in my judgment, is the beginning of their troubles. I can answer for one individual. I have avowed my own opposition to slavery, and I am as strong in it as my friend from Ohio, [Mr. WADE.] I wish to say, again, that I do not mean that I have any of the particular feeling on the subject which gentlemen have called 'sickly sentimentality,' but if this matter is to be pushed beyond what the Constitution originally intended it; if, for political purposes, and with a political design and effect—because it is a political design and effect—we are to be driven to the wall by legislation here, let me tell gentlemen that this is not the last they will hear of the question. Territories are not States, and if this restriction is repealed with regard to that Territory—it is not yet in the Union, and you may be prepared to understand that, with the assent of the free States, in my judgment it never will come into the Union, except with exclusion of slavery."—*Appendix to Congressional Globe*, vol. 29, p. 322.

I took the ground then, that if the Missouri restriction were repealed, and this Territory which had been dedicated to freedom, thrown open to the incursions of slavery for the purpose, as I believed then, and believe now, of making a slave State of it, it was not the last of my opposition; that if it presented itself in my day with a con-

stitution allowing slavery, I should oppose its admission as a State. I am willing to go further now and say that, viewing it as I did at the time, and as I do now, to be an outrage, to be a breach of compact, to be a repeal of that restriction for the purpose of making slave States out of Territory which was before dedicated to freedom, I hold myself at liberty to contest it, now and at all times hereafter. Establish slavery in that State, if you please, by force or fraud, for nothing but force or fraud can do it; and the result with regard to myself is that, on that subject, I hold the liberty to agitate, I shall hold the liberty to agitate, and I will agitate so long as a single hope remains that slavery may be driven from the Territory thus stolen, robbed from freedom. I have no hesitation on that point; I am perfectly willing to avow it now and before the country. While I say now, as I have said here before, that with regard to the slave States of this Union, I would not, if I could, interfere with their institutions; while I hold that under the Constitution of the United States we have no right to interfere with them directly, and that under the laws of morality we have no right to do indirectly that which we have no right to do directly; and while I am willing they should enjoy all the benefit they can get from their institution undisturbed by me, here, henceforth, and forever, as long as they may choose to embrace it, with regard to this Territory which has once been dedicated to freedom by a solemn compact, and which has been stolen from freedom by the repeal of the Missouri compromise, and where slavery has now been forced on the people by a series of outrages such as the world never saw—a man can hardly imagine the gross character of these outrages—I hold myself free from all obligation. Force it there if you will; force in this constitution if you please; but I hold myself absolved, so far as the Territory is concerned, from all obligation to receive it.

I was commenting on the idea of what was called popular sovereignty, and I was about to say that I considered it at the time, and now consider it, a mere pretext. It was a mere excuse for the repeal of the Missouri restriction. It was designed, in my judgment, and I stated it deliberately, for the purpose of making Kansas a slave State. This was denied; it was denied indignantly on this floor. I have been myself rebuked for undertaking to question the motives with which the act was done. Sir, I appeal to the recorded speech of the honorable Senator from South Carolina, [Mr. EVANS,] who stated, in substance, subsequent to the passage of the act, that it was designed to make Kansas a slave State. I appeal to the speech made by a northern man, I regret to say a Representative from Pennsylvania, in the other House, who said, substantially, that it was designed to give Kansas to slavery as a sort of offset, to what we obtained in California, south of the line of 36° 30'. I appeal moreover, as proof conclusive, to the facts which took place at the time; to the nature of the bill; to the want of necessity for the passage of any such act for any other purpose; and to the peculiar provisions of that bill which so hemmed in Kansas and hedged it about with slave Territory, that, apparently, it was impossible for the people of the free States to make their entrance into it.

What else could have been meant by the repeal of the Missouri restriction? I know some gentlemen said "it is a matter of feeling with us; we do not think anything will come of it." It was answered with the manifest reply, "will you set the country in a blaze from one end to the other merely upon a point of honor; for a thing that you do not intend or wish to avail yourselves of?" If it could be rendered more manifest by anything that could be appealed to, it was proved by every after transaction with reference to the matter; it was proved by the forcible invasion; it was proved by that series of outrages to which I have referred; and now, at this day, nobody undertakes to deny what we then charged.

I say, therefore, that this popular sovereignty idea was a pretense. It was held up to the people for a short time as, in fact, the main thing to be accomplished by the bill. The honorable Senator from Georgia the other day undertook to say here in his place that he was familiar with that provision, and that it was not introduced for any such purpose; but simply for the purpose of excluding a conclusion; that is to say, that there

were some gentlemen who held there was danger if you repealed the compromise that the old French and Spanish laws would be reinstated, and that slavery thereby would be established in Kansas, and that this clause was put in merely for the purpose of negating that conclusion. That is not so, because if you appeal to the bill itself, the very next provision settles that matter, namely:

"Provided, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of the 6th March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

That is the clause which affects the question to which the Senator from Georgia alluded.

It is proved by another fact. The honorable Senator from Illinois, in his speech which he made on the night the bill was passed, the last night, the memorable night, declared that this clause (which was not an amendment, but came in as one of the changes of the committee who reported the bill, and was moved by him) was the main feature of the bill, and the removal of the Missouri restriction was only an incident. I dare say the Senator remembers it. He said that the great object of the compromises of 1850, as they were called, the leading idea of the compromises of 1850, for which he contended, was to give the people the power of deciding what their institutions should be in the Territories, and he went so far on that occasion as to contend that they should be allowed not only to establish but to exclude slavery; that is to say, that no provision should exist which would not give the people of the Territory both powers. I have his speech before me.

Mr. DOUGLAS. I did not intend to interrupt the gentleman from Maine; but he said a moment ago that the object of that bill was to make a slave State of Kansas, and that nobody denies it. I must say to him that I interpose my positive denial. It was not the object to make it a slave State; it was not the object to make it a free State; but it was the object to leave the people of Kansas perfectly free to do as they pleased in the management of all their domestic institutions, slavery included. I do not desire to say any more than that at this time.

Mr. FESSENDEN. We use language in debate which the Senator is aware is perfectly understood; but, if taken literally, goes perhaps further than it should. When I say that nobody denies it, I do not mean that everybody admits it. I mean to say simply that the matter is palpable from after circumstances as well as from what took place at the time; and from the absence of any other reasonable motive, and from what has taken place since, in the progress of affairs towards making it a slave Territory, no reasonable, unprejudiced mind, not connected with the transaction, can deny, on any good, logical reason, that such was the object with which the Missouri compromise line was repealed.

But, sir, I was replying to the idea that this clause was intended, as was suggested by the honorable Senator from Georgia, as a mere exclusion of a conclusion. The framer of that bill, in his speech on that occasion, said that the idea of popular sovereignty was the principal thing aimed at in the bill; and that the removal of the Missouri restriction, instead of being the principal thing, as contended by the Senator from Georgia, was merely an incident necessary in order to effect the object of conferring popular sovereignty. That is the idea. I stated that it was a pretense. I so considered it. We so considered it on our side of the House, and so stated it. But I now go further, and say that what I then considered to be a pretense for the repeal of the Missouri compromise, I now consider to have been a delusion and a snare; and I am willing to give my reasons for this opinion as briefly as I can.

It was held out to the country as the main feature of that bill, that a great boon was to be conferred on the people of the Territories; that whereas, by the operation of the Missouri restriction, they had been excluded from the power of deciding what their own domestic institutions should be, by the repeal of that restriction this power was conferred on them. Upon whom? What was understood at the time? That it was conferred on the people of the Territories as the people of the Territories, and acting with regard to their own territorial institutions. That idea was boldly proclaimed by

the Senator from Illinois. That idea was proclaimed as boldly by southern gentlemen on this floor on the occasion of the Kansas debate. It was denied by nobody, if I recollect, except the honorable Senator from Mississippi, [Mr. BROWN,] and a hint of dissent was given by an honorable Senator from Virginia; but, with these exceptions, according to my recollection, no one here denied it. Southern men and northern men all agreed that, by the repeal of the Missouri compromise, it was intended to confer on the people of the Territories, as people of the Territories, the power and right to settle their own institutions in their own way; to say whether they would have slavery or not. It was so presented to the people on the stump, in the years 1854 and 1855, throughout all the northern States.

Mr. BENJAMIN. If the Senator from Maine will permit me, I will make a remark here. I intend hereafter to make a more formal answer to his argument; but on the proposition he is now stating, I beg leave to call the gentleman's mind to the fact that when that particular subject in the discussion of the Kansas bill was under consideration, it was distinctly stated that the supporters of that bill North and South entertained different views as to the rights of the people of a Territory to exclude slaves from a Territory; and for that reason the clause was added to the section of the bill which gives power to the people of the Territory "subject only to the Constitution of the United States," the intent being to leave that particular power subject to construction by the courts of justice. We carried out that intent by providing, in another clause of the bill, for an appeal to the Supreme Court of the United States on every question touching slavery, whether the amount in contest was two thousand dollars or not. The gentlemen from the South who supported the bill contended that it was not in the power of Congress to confer on the people of a Territory the right to exclude slaves, because our right to carry our property into the Territories was guaranteed by the Constitution. Gentlemen from the North denied it; and on that particular question this very clause was inserted into the bill of a grant of power subject only to the provisions of the Constitution of the United States, referring to that contested question which, by common consent, was to be submitted to the Supreme Court, and has been decided, in the Dred Scott case, in conformity with the views then entertained by gentlemen from the South.

Mr. FESSENDEN. I remember that controversy very well, and I know that something of that sort was said, but the matter was not questioned as a matter of argument. Gentlemen did not seem disposed to discuss it. Nobody, as I said before, started the idea, then so monstrous, then so new, now established, as the Senator says (if he considers it established) by the opinion of the Supreme Court; nobody dwelt upon it. That clause means nothing more; it is substantially in all the territorial bills; not in the same language, but to the same extent; that is to say, that they shall have all power of legislation in the Territory, subject to the provisions of the Constitution of the United States; but it was not contended then in argument that the Constitution of the United States, by its own force, carried slavery into the Territories, and protected it there. It was hinted that a different opinion prevailed; but the gentleman from North Carolina [Mr. Badger] disavowed it. The gentleman from Maryland, [Mr. Pratt,] if I remember aright, offered an amendment, which he subsequently withdrew, giving expressly to the people of the Territories power to exclude or admit slavery at pleasure. The language of the act, as my friend from Ohio [Mr. WADSWORTH] says, carries the same idea with it.

But the point to which I was directing my attention was simply this: that at that time it was not pretended but that the people of the Territories had power, or were intended to have power, under that clause to legislate upon the whole subject—subject, however, as of course everything of that kind must be decided to be, to the Constitution of the United States. I am speaking of what the idea was then; and I was endeavoring to illustrate my position, that it was intended as a snare and a delusion. Why? It was so presented here; it was so presented in the country; it was so argued through the free States. Was it the design of gentlemen who placed it in that condi-

tion, to have two grounds on which they might sustain the Democratic party; South, on the point that there was no constitutional power; North, on the point that there was constitutional power; and thus vibrate in the scale, on the one side or the other, according as they might catch votes, as they assumed this or that doctrine? Was that the calm, settled intention of that bill? It makes out my position of its design to establish slavery there, much more strongly than any argument I have used.

But what is the result after it was thus argued? When the Cincinnati convention met we had an entire change of doctrine. The Cincinnati convention intimated a different opinion; and the Democracy of the North, which had talked so much about popular sovereignty before, which universally in the Senate had claimed that the people of the Territories had the right as Territories to settle the question of slavery in their own way; the Democracy of the North, when they met in Cincinnati, yielded to the doctrine promulgated there that it was only to be settled when they came to form a State constitution; because that is the clear inference from the platform there adopted.

You have gone still further, and now assume the doctrine that the Constitution by its own force not only carries slavery into the Territories, but protects it in the Territories, until a State constitution is formed. Is that the doctrine? Is that what is now assumed by the Supreme Court? Suppose it to be so, I should like to know what new power was given to the people of the Territories by this famous clause in the Kansas bill granting popular sovereignty? Did they not have that power before? Was it necessary to repeal the Missouri compromise in order to give the people of the Territory of Kansas a right to prohibit or establish slavery by their State constitution as they saw fit. The Missouri compromise provided nothing further than that slavery should not be carried into the Territories north of 36° 30'. Suppose, without the act, the people of Kansas, when they came to form a State constitution, should have provided that slavery might exist in that State; legalized and authorized it; and sent that constitution to Congress, and it was admitted; would not that have been a repeal of the Missouri compromise? What was gained, then, in any form, I should like to ask, by this famous provision introduced into this bill, and which has been called a stump speech?

Mr. DOUGLAS. I will answer the Senator from Maine. There was on the statute-book an act prohibiting the introduction of slaves there "forever," not confined to the Territory only, but extending forever; and it is useless to disguise the fact that there was a large political party in this country who claimed that "forever" was to apply to a State as well as a Territory, and hence they resolved that they would never admit another slave State into this Union, whether the people wanted it or not.

Mr. FESSENDEN. How resolved it?

Mr. DOUGLAS. Resolved in county meetings, in congressional conventions, in State conventions against any more slaveholding States whether the people of the proposed State desired slavery or not. The Democratic party took the ground that the people of each Territory, while a Territory, should be left free, without any congressional intervention, to fix their institutions to suit themselves, subject only to the Constitution of the United States; and that when they came into the Union, they should come in with just such a constitution as they desired, subject only to the same restriction. Here was an act on the statute-book which purported to invade both these rights. The Kansas-Nebraska bill repealed that prohibition or restriction of slavery, leaving the people perfectly free to do as they pleased, both while a Territory and when they formed a State constitution, subject only to the limitations of the Constitution of the United States. I repeat, therefore, the object of that bill was to remove all restrictions, and make the principle general, universal, that the people should fix all their institutions, slavery not excepted, both while a Territory and a State, subject only to the limitations of the Constitution.

The Senator now comes forward and says that since that time the Supreme Court of the United States, in the Dred Scott case, has decided that the Missouri restriction was unconstitutional, and that, therefore, Congress could not delegate to a

Territorial Legislature the power to prohibit slavery; and hence, he says, this act conferred no new rights on the people of the Territory. His argument goes too far. If that be the true construction, it shows that the only effect of the Kansas-Nebraska bill was to take an unconstitutional and void statute from the statute-book. You assume the correctness of the Dred Scott decision for the purpose of your argument. I do not blame you for assuming that, for it is a decision by the highest judicial tribunal on earth, the tribunal authorized by the Constitution of the United States to decide it. They have decided it, and we are bound by the decision, whatever may have been our individual opinions previously. That decision establishes the fact that the Missouri restriction was unconstitutional and void; the fact that Congress cannot prohibit slavery in a Territory; the fact that the dogma of the Wilmot proviso was void, and would have been a nullity if it had been imposed on the Territories. If that be so, was it not wise to remove that void legislation which remained on the statute-book only as a snare, or as a scare-crow, and which ought not to be there because it was in violation of the Constitution of our country? I ask, was it not wise to remove it and to say plainly, in clear and explicit language, that our true intent was to leave the people of a Territory, while a Territory, and also when they become a State, perfectly free to make their laws and establish their institutions upon all questions, slavery not excepted, to suit themselves, subject only to the limitations of the Constitution of the United States?

Mr. FESSENDEN. The honorable Senator, probably on account of my unfortunate mode of expression, did not exactly comprehend what I meant to say. I am very glad, however, to hear him now give the old original construction to this provision of which we have been speaking. He says now that the intention was to confer on the people of the Territories, while Territories, the power to settle all questions, including slavery, in their own way, subject to the Constitution of the United States.

Mr. DOUGLAS. Of course. If the Constitution prohibited the exercise of that power, you could not confer it. If the Constitution of the United States prohibited you from passing the Missouri restriction, you had no right to pass it. If the Constitution allowed you to give the people of the Territory the right to prohibit slavery while a Territory, this act conferred the power. In other words, the Kansas-Nebraska act conferred all the power which it was possible by any legislation or any human effort to give to the people of a Territory under the Constitution of the United States on the subject of slavery. We could give no more, for we gave all we had—all that the Constitution did not prohibit.

Mr. FESSENDEN. I am not quarreling about that at all. I was saying that this was a delusion and a snare. Why? Because it did precisely what the honorable Senator says it did. It professed to hold out to the people of the Territories that they had a right which they could exercise to exclude slavery, if they saw fit, or to admit it, if they saw fit, subject to the Constitution. It was so stated and so argued to the country.

Mr. BENJAMIN. I dislike very much to interfere with the course of argument of the Senator from Maine; but it is a historical truth, which cannot now be shaken, that during the discussion of that bill, and during the preliminary meetings of its friends, which were made public, the fact was divulged, that its supporters differed in relation to that constitutional power; that some from the North contended that the people of the Territory had the power, if we gave it to them; that Congress had the power to give to them authority to exclude slaves from the Territory, whilst a Territory; and that, on the other hand, the representatives of the people of the South determinedly resisted that pretension, and said, from the beginning, they would never agree to any act which in any manner might imply the concession of a right in Congress, or in the people of a Territory under Congress, to exclude them with their property from territory which was common soil, belonging to the people of the whole United States.

The fact I have just stated cannot be contested, for the reason that there is a special clause in the bill providing for the submission of that very question to the Supreme Court of the United States.

Senators from the North, who took the opposite view of the question, said, "very well, we differ on this constitutional question, but there is a tribunal in this country which can settle all these disputed points of jurisdiction without the necessity of resorting to force or bloodshed: let that supreme tribunal decide, and we will submit." The people of the South never asked for anything else; never sought any other solution of the question. Now, it is obvious that since the decision of the Supreme Court of the United States in the Dred Scott case, it is decided that from the origin all this agitation of the slavery question has been directed against the constitutional rights of the South; and that both Wilmot provisos and Missouri compromise lines were unconstitutional. An attempt is made to go back on the interpretation of the Kansas act, and then, when that fails, to question the authority of that tribunal whose right to decide in the last resort has never before been questioned in this country.

Mr. FESSENDEN. Mr. President, I am not aware of any such provision in the Kansas-Nebraska act in regard to referring this question to the Supreme Court of the United States as the Senator has referred to. If there is any such provision he can find it. I know it was proposed, but it was not admitted at the time. But whether there is such a clause or not, would make no difference. Congress can confer no power upon the courts of the United States, except under the Constitution. If they would have it under the provisions of the Constitution, very well; if they would not have it, it cannot be conferred by Congress.

But I do not wish to be drawn off from the point I was arguing. I do not undertake to say that there were not gentlemen at the South, then members of the Senate, who held, or might have supposed and might have intimated, an opinion that there was no power on the part of the people of the Territories to exclude slavery until they came to form a State constitution. That might have been so. What I was arguing was, that the idea held out to the country at the time was that the people of the Territories had the control of the subject, and would continue to have it while a Territory. I say it was so presented to the people in 1854 and 1855, at the polls, throughout the free States. I do not know how it was presented throughout the southern States. I know that gentlemen on this floor, Senators from southern States, avowed the doctrine that the people would have power to act on it as they chose, to exclude slavery or admit slavery.

The point I was making, however, was one totally distinct from that; and it was, that no sooner had the people been induced to believe that such was the intention, no sooner had this pretense been made available for the purpose of reconciling the people of the free States to the repeal of the Missouri restriction, than the Cincinnati convention met and repudiated the whole doctrine of territorial popular sovereignty. Whatever the Senator from Illinois may now say with regard to his construction of that clause, what it meant in the beginning, the Democratic convention of this country, in nominating a President, especially repudiated that doctrine before any decision of the Supreme Court of the United States, and avowed substantially that the people of a Territory had no right whatever to exclude slavery until they came to form a State constitution.

Now, the Senator from Illinois has not even attempted to answer the question which I put to him, which was this: if the doctrine of the Cincinnati convention is true—not the doctrine of this bill, as he asserts, but if the doctrine of the Cincinnati convention is true—that the only power which the people of the Territories have to interfere with slavery is when they form a State constitution, what was gained by that celebrated provision thus inserted in the Kansas-Nebraska bill? I say the people had it before. Suppose the Missouri restriction had continued up to the present day, providing that slavery should not exist north of a certain line, 36° 30'; and at the present day, while that restriction was in operation, the people of Kansas should assemble and adopt a State constitution, by which they should authorize the introduction and sale of slaves, and then should send that constitution to us, and we should admit them on that constitution: should we not repeal the Missouri restriction *pro tanto*? Certainly we should.

I say then, that under this resolution of the Cincinnati convention, which was the creed of the Democratic party, North and South, no power whatever was conferred on the people of the Territories in regard to that particular matter of popular sovereignty. They had none that did not exist before. No boon was conferred.

Therefore I say that I believed it was not only a pretense at the time, but it was a fraud and a snare; and when the people of the free States were deluded into the idea that by the repeal of the Missouri compromise line they were to have the power given to the people of the Territories to establish or reject slavery, as they pleased, the snare was, that the Democratic party was to put it to them next, that they should not have the power to admit or reject slavery, as they pleased, except when they came to form a State constitution, and slavery had overrun them; and that when, by such proceedings as the present, they had been bound hand and foot, and cast into the burning fiery furnace of slavery, then they might have the privilege of doing—what? Simply what they could do before—form a constitution to suit themselves; send it to Congress; and if Congress adopted it, then repeal the Missouri restriction. It went nothing further than that, and that was the point I made; and to that point no answer has been given. I was endeavoring to illustrate the idea that there was an intention in this matter—an intention demonstrated from the absence of all possible motive except to force slavery into the Territory; from the nature of the provisions surrounding the Territory with slave States; from the proceedings that have taken place since in the Territory, and from the principle which was adopted as a cardinal point in the creed of the great Democratic party, viz: that they should not have the power to reject or exclude slavery until they came to form a State constitution, and in the mean time, that everybody from the slave States might carry slaves there when and how they pleased, and they were there recognized and protected by the Constitution of the United States. Sir, had that doctrine been announced at the time the clause was inserted, had that clause been inserted, that we intended to leave the people of the Territories perfectly free when they form a State constitution to establish or reject slavery, as they please, would it not have been laughed to scorn, as conferring any new advantage on the people of the Territories—anything that they had not before? Certainly it would.

The Senator from Georgia said this measure had been before the popular forum, and the popular forum had decided in its favor. How has it decided? It has decided under these pretenses, these delusions, these frauds practiced upon them with regard to what was the absolute meaning of that clause. What privilege was conferred on the people by it? No other than that which I have spoken of; and it is idle to talk of the matter having been settled by the great tribunal of public opinion. There has been no such opinion expressed, because there have been no points except the two I have mentioned, before the people, one of which was abandoned when it had served its purpose, and the other carried in such a manner as to force slavery on the people of Kansas without any power left in the people to act on the subject, directly or indirectly.

I desire, before concluding, to advert to one other position which was taken by the Senator from Georgia, and which has been alluded to again to-day—that this matter has been settled by the judicial forum. It is said that it has been carried to the Supreme Court of the United States, and settled there. Does the honorable Senator from Louisiana, as a lawyer, undertake to tell me that the question has been settled by a judicial decision in that court? Did that question ever arise and present itself to the mind of the court with reference to any necessity of the case? To what extent does the honorable Senator, or anybody else who is a lawyer, undertake to say that the decision of the court is binding? It is binding so far, and so far alone, as it can issue its mandate. Its opinion is of force only upon the question which settles the cause. Am I bound to follow out a set of opinions that may be advanced by any set of judges in any court simply because, after they have decided a cause, they undertake to give their opinions? They may be bad men, they may be weak men, but their mandate in the

cause before them must be obeyed; and I will go as far and as readily as any man to obey the mandate of any court to which I am bound to render obedience; and I am bound to render obedience to the Supreme Court of the United States; but when they undertake to settle questions not before them, I tell them those questions are for me as well as for them. When they undertake to give opinions on collateral matters which are not involved in their decision, and they are not called upon to decide them, I tell them they are men like myself and others, and their opinions are of no value, except so far as they enforce them by sufficient and substantial reasons; and if they give bad reasons or bad logic, I would treat them as I should anybody else who would try to convince my judgment in such a way. I have good authority on this point; and it is authority that I present for the special benefit of those who are disposed to read its lectures lately on the subject of bowing to the opinion of the court. I have a law-book in my hand, from which I wish to read one or two passages. The supreme court of one of the States of this Union, in giving the opinion which I hold in my hand, in speaking of the action of the Supreme Court of the United States, says:

"The disregard of this court to the known will of the makers of the Constitution, as to the rule of construction, is equally exhibited in a number of other cases; especially in the cases of *Cohen vs. Virginia*, and *Worcester & Butler vs. Georgia*, in which it held that a State might be sued, notwithstanding the clear manifestation of the will of the makers of the Constitution, in the amendment of it to which I have heretofore referred, that the Constitution was not to be so construed as to make a State suable.

"But are not the decisions of the Supreme Court of the United States to govern this, as to the rule of construing the Constitution? They are not, any more than the decisions of that court are to be governed by the decisions of this.

"The Supreme Court of the United States has no jurisdiction over this court, or over any department of the government of this State."

I wish to read another passage showing the opinions entertained by the learned court which gave the decision before me:

"But say that I am wrong in this opinion; still, I deny that the decisions of the Supreme Court referred to are precedents to govern this court.

"Those decisions were mere partisan decisions—to be overruled in the Court which made them, as soon as a majority of the members of the court should be of different politics from the politics of the members who made the decisions. The doctrine that a decision of the Supreme Court of the United States is to dictate a man's politics to him, is a doctrine avowed by a few in this country. Such a doctrine would be an easy means of perpetuating a dynasty of principles, however false and wicked. All that would have to be done, would be to start with men of those principles. Their decisions would do the rest. Whatever they said the Constitution meant, the people would have to vote it to mean. Parties, on constitutional questions, could not arise.

"But are these mere political decisions, and made by partisan judges?"

Then the court go on to review the history of the judges of the Supreme Court of the United States, beginning with Judge Marshall, to show that they are mere partisans. There is another little extract I should like to read.

Mr. STUART. What court is it, from the opinion of which the Senator is reading?

Mr. FESSENDEN. I will give my authority after I have read what the court say:

"Now, partisan decisions may do to bind the political party which the makers of them happen to belong to. They certainly bind no other party. And this has been the uniform practice of all parties in this country. The Supreme Court said a bank is constitutional: yet, bank charters have been vetoed by three several Presidents: Madison, Jackson, Tyler."

The same court say we received such a mandate from the Supreme Court of the United States, but we treated it with contempt. Sir, that is the opinion of the supreme court of Georgia delivered in the case of *Padelford & Co. vs. the city of Savannah*, in the fourteenth volume of Georgia Reports, page 438.

If these are mere party decisions, let us understand it. It seems that when the decisions are one way by the Supreme Court of the United States, gentlemen of the South say "the judges are partisan judges; they cannot settle constitutional questions for us; those are political matters." When, however, they undertake extra-judicially to give opinions not called for by the point before them; to lay down doctrines at variance with the whole history and precedents of the country from its very foundation, to overturn the decisions of their own predecessors, greater men than ever they can hope to be, and to reverse all the decisions of the legislative department of the Govern-

ment, on questions of a political character and description, on their own mere say-so, we are told all this is law.

Sir, I was perfectly aware, from the course of proceeding, what this decision would be. When I saw the dictum, or the dogma, if you please to call it so, laid down in the Cincinnati platform, that there was no power in the people of a Territory to exclude slavery, and when I saw that that question had been brought to the Supreme Court of the United States, and that the Supreme Court, after hearing the argument, had adjourned from one day before the election of President over to another day after the election of President, I knew what the strength of the slavery party was; I felt what the decision was to be; and I felt as well, and I do not hesitate to say it here, that had the result of that election been otherwise, and had not the party triumphed on the dogma which they had thus introduced, we should never have heard of a doctrine so utterly at variance with all truth; so utterly destitute of all legal logic; so founded on error, and unsupported by anything like argument, as is the opinion of the Supreme Court.

I should like, if I had time, to attempt to demonstrate the fallacy of that opinion. I have examined the view of the Supreme Court of the United States on the question of the power of the Constitution to carry slavery into free territory belonging to the United States, and I tell you that I believe any fairly respectable lawyer in the United States can show, beyond all question, to any fair and unprejudiced mind, that the decision has nothing to stand upon except assumption, and bad logic from the assumptions made. The main proposition on which that decision is founded; the corner-stone of it, without which it is nothing; without which it fails entirely to satisfy the mind of any man, is this: that the Constitution of the United States recognizes slavery as property, and protects it as such. I deny it. It neither recognizes slavery as property, nor does it protect slavery as property.

Fortunately for my assertion, the Supreme Court, in making that the very corner-stone of their decision, without which the whole fails, state the clauses on which they ground these assertions. On what do they found the assertion that the Constitution protects slavery as property? On the provision of the Constitution by which Congress is prohibited from passing a law to prevent the African slave trade for twenty years; and therefore they say the Constitution recognizes it as property. Will not anybody see that this constitutional provision, if it works one way, must work the other? If, by protecting the slave trade for twenty years, we recognize it as property, when we say that at the end of the twenty years we will cease to protect it, or may cease to do so, is not that denying that it is property after that period elapses? Suppose I yield to the court all the force they demand, and admit that here is a distinct recognition that this is property, because we recognize that the African slave trade may exist for twenty years; yet, when we say that after that period has elapsed that protection shall no longer exist, do we not say that after that period of time it no longer is property, and ceases to be at the expiration of twenty years? Certainly if the argument will work the one way, it must work the other. If you derive the power under the Constitution, because for twenty years it is property, you lose it when the twenty years elapse, by the same method of argument.

Mr. MASON. That is an assumption.

Mr. FESSENDEN. That is my argument, and it is my answer to the assumption of the Supreme Court of the United States. If it is an assumption on my part, it is certainly an assumption on theirs. But I leave it to every fair man, on every principle of logic. It depends on that, does it? That died twenty years after the Constitution went into operation. Did not the recognition die with it? Does the Constitution recognize it after the twenty years have elapsed? The power is gone. So far as you draw any recognition from that clause, it ceased with the expiration of the period.

Again, the court say it is recognized as property by the provisions that persons held to service escaping from one State into another shall be delivered up. Are they not spoken of as "persons?" Are they spoken of as property? Is there anything said about their being property? Does not that provision of the Constitution apply just as

well to white apprentices, held under the laws of the different States for a term of years, as it does to slaves? Will you pretend that by the Constitution of the United States, white persons, held as apprentices for a term of years, are property? Certainly no such position can exist. Your argument, if it works at all, must go the whole length, and you must find that the word "person" means property, and may be regularly and legally construed as property. I have not time now to pursue this topic.

Then, sir, to sum up the substance of my argument, I wish to say again that what I consider this original scheme, to have been, was to assert popular sovereignty in the first place with a view of rendering the repeal of the Missouri compromise in some way palatable; then to deny it and avow the establishment of slavery; then to legalize this by a decision of the Supreme Court of the United States, and claim that it had become established. I sincerely believe that decision of the Supreme Court of the United States was a part of the programme. It was to be had, if having it would avail; but if not, it would never have been had.

Mr. President, the natural result of all this should have been foreseen. The honorable Senator from Illinois, at this day, interposes his strong arm to stay the tide of slavery which is setting over Kansas Territory contrary to the express will of her people. He claims to do so, not from any sympathy he has with the general subject, but simply for the purpose of carrying out what he says is the original intent and meaning of his favorite bill. From what I have said, I think it is perfectly obvious that he might have foreseen what the result would be. He has gone on, according to the dictates of his own conscience; first breaking down the barrier which kept slavery out of Kansas; next protecting and defending every outrage that has been perpetrated in Kansas, with a view to force slavery on that people up to the time of this last great outrage, when it was attempted to place a constitution, in the shape it was, before the people, and then send it to Congress; and now he stays his hand here. Why, sir, with what a vain hope! Does the honorable Senator think he can take the prey from the tiger and not himself be torn? When was slavery ever known to stay its hand in its march over a free country unless forced to do so; and when it had seized it, when was it ever known to let go its hold? It is a part of the system to pay nothing at all for involuntary servitude; and if the service is voluntary, experience has shown that it must be unlimited, unquestioning, eternal. To hesitate is to lose all; to stop, is to die. The experience of greater men than the Senator from Illinois, and of many smaller ones, might have taught him that lesson.

Sir, I say that he and the friends who stood by him, in repealing the Missouri compromise at the time it was repealed, should have known what the result was to be, should have known that as the design was to force slavery into Kansas, so slavery would never leave Kansas unless it was driven out by force. They should have understood what the result was to be; and it is not enough for them to say now, that they do not, and did not understand it. Well might they quote the language of the greatest poet of this century, and say:

"The thorns which I have reaped are of the tree
I planted; they have torn me and I bled.
I should have known what fruit would spring from such
a seed."

But, sir, what is to be the remedy for all this? What is promised us? The President tells us we are to have peace when this constitution is adopted and Kansas comes into the Union as a slave State. He speaks contrary to all philosophy. Have we ever had any peace for the last four years on this question? Has this country been a peaceful country during that time? The initiation was only then; and when this matter was initiated; when the Missouri compromise was repealed; did you not witness in this country an excitement which would not die; and yet we are told now, consummate the iniquity, carry out the cheat, repudiate popular sovereignty, get a decision from a slavery court that the Constitution (shame to it, if so) not only recognizes, but protects slavery on free soil, force slavery on the people of Kansas, by presenting them two constitu-

tions and telling them to choose one of them, for they shall go no further, and then we shall have peace!

Sir, let me tell the President of the United States, and all others, that the opposition to slavery in this country is now a sentiment, an idea—not to slavery as it exists in the States, not a desire to interfere with your institutions anywhere; but a determination, if possible, to arrest its progress over the free territories of this country, because it is believed to be a curse. Although that sentiment was covered up in the ashes of the compromise of 1850, buried so deep that it seemed as if it would never again spring into life, you yourself exhumed it; you added fuel to the sparks that were buried; you kindled that sentiment into a flame; you have been heaping combustible material on it from that day to the present, until at last you are in a fair way to make it a conflagration. Upon you be the consequence if it be so. It is not for the President to cry "Peace!" at the consummation of an outrage, when the very beginning of it excited the detestation of the community in which he was born and bred.

But, sir, we go further than that. That is to be the consequence on the one side. What is to be on the other? We are told that we are to have a crisis, and the Union is to be dissolved. I expressed my opinion on that topic four years ago. We have had resolutions in the newspapers from the State of Alabama, that if Kansas shall not be admitted under the Lecompton constitution, it would be time to look about and see how this Union could hold together. We have had it started in one or two other of the States of the South. We have had it from the honorable Senator from Mississippi, [Mr. Brown,] and from other Senators. They tell us that then will be a crisis; the moment the people of this country get divided into parties, North and South, on a question that is important to them, and the people of the North triumph at the polls under the Constitution, then the time has arrived, the crisis has come, when the Union is to be dissolved! Sir, if I did not think it was to be a very serious matter in some respects, I could laugh at this idea. At any rate, it reminds me of a story familiar to all of you probably, though I never saw it until yesterday.

This disposition, which gentlemen have on all occasions, to get up a crisis whenever anything looks against their peculiar view of a subject, and to inform us that the time has arrived, with the idea that people can be frightened from their propriety, is illustrated by a story which I saw in the newspapers, something like this: A celebrated general in the last war is said, in one of the battles on the advance to the city of Mexico, to have rode up to Captain Duncan, who was in charge of a battery, and, with a very grave and sober face, told him: "Captain Duncan, fire; the crisis has arrived." Duncan turned to his men, with matches all lighted and ready, and gave the order to fire. An old artilleryman walked up to him and said: "Captain, I do not see any enemy within range of our guns; what shall we fire at?" "Fire at the crisis," was the response; "did you not hear the General say the crisis has come; fire at that." [Laughter.] So it is with gentlemen, I think, in reference to this matter. They are always charged and ready to fire at the crisis. I believe it has arrived half a dozen times within my recollection.

What I wish to say on that point is, that I look on it with great seriousness, but without a particle of apprehension. We in the free States have rights under the Constitution of the United States, and we have determination enough to enforce and sustain them. We are not to be driven from the position we have assumed by any threats of a disruption of the Union. We have no particular pretentious exclamations to utter with regard to our great attachment to it. Let that attachment be proved by our works. We will stand by the Union of this country so long as it is worth standing by; and let me say to gentlemen that the moment the time arrives when it is to be used as an argument to us, "you must yield on a question which you consider vital to your interest and your rights, or we shall take measures to dissolve the Union;" my answer is, that if we do yield, the Union has ceased to have any value for me. So long as I stand upon American soil, a freeman with equal rights with others, and power to enforce them according to my ability, unrestricted, unrestrained, and unfettered, too, this Union is valuable to me;

but when the hour comes when that privilege no longer exists, when I hold my rights by the tenure of yielding to weak fears, I am willing to see any consequences follow, so far as I am concerned, or so far as my people are concerned. Let not gentlemen indulge themselves with the hope that so far as the people of the free States are concerned, all these resolutions passed by southern Legislatures about dissolving the Union, and all these mass meetings held for the same purpose, and all intimations thrown out here to the same effect, are to produce any possible result so far as the determination of free-State men is concerned on this question.

The Senator from Mississippi spoke of compromises that had been made, and said he wanted no more compromises. Sir, I want no more compromises on this matter. There is no room for compromises. I agree with him that there have been compromises enough. As addressed to a northern man, if the Senate will allow me to quote poetry again, and I shall not trouble them much in that way, it means this and this only:

"Northward it hath this sense alone
That you, your conscience blinding,
Should bow your fool's nose to the stone
When slavery feels like grinding."

Sir, I want to be ground no more under such compromises. The question that is presented to the people of this country is a simple question; shall slavery, with all its blighting and all its political power, be extended over the free Territories of the Union? Not by my consent. Never will I compromise upon one single point, so far as I am individually concerned, that will allow what I consider to be a death-blow to all the free principles of our institutions to be extended over one solitary foot of free soil beneath the circuit of the sun.

Mr. BENJAMIN. Mr. President, I do not rise for the purpose of entering into the discussion to-day, as it has been very generally understood that we are to take the vote on the motion for reference. I merely rise to give notice that when the report of the Committee on Territories shall be presented, and the question shall be before us, on some tangible issue upon which our votes may determine what is to be the fate of this measure, I shall take occasion to answer, as best I may, some of the extraordinary arguments and propositions put forth to-day by the honorable Senator from Maine. I shall not characterize them any further. They have been put forth with great ingenuity and power, but I think they are utterly incompetent to stand the test of examination or analysis.

Mr. CLAY. With the honorable Senator from Louisiana, who has just taken his seat, I do not propose to say anything on this question at this time. I agree with the majority of the Senate, that it is proper it should be referred at once to the committee to which it properly belongs; but inasmuch as the Senator from Maine alluded to some late legislative action of the State which I have the honor in part to represent, I wish to take occasion now to say, that I shall endeavor, at the proper time, to show that the State of Alabama has only taken the ground which has hitherto been assumed by every southern State of this Confederacy, with perhaps the exception of one or two. I am prepared to sustain that ground; and I shall endeavor to fortify it by arguments which are unanswerable, and which are derived from the Constitution of the country and its political history. I shall not protract this discussion at the present time; but in reply to what the Senator from Maine has rather vauntingly said, I say that when the principles which are enunciated in these resolutions of my State are forgotten or unheeded by Congress, then, like him, I may say, this Union will have no charms for me. I trust that my State will never dishonor herself by retreating from the position which she has assumed.

Mr. SEWARD. Mr. President, at some proper time I shall have some opinions to express on this great question, which I regard as presenting an important stage in the advance of civilization on this continent; and I hope, when that time comes, I shall have listened to the arguments which have been promised us by the very able Senator from Louisiana and the very able Senator from Alabama. If they shall convince me that their positions are in accordance with the Constitution, I shall surrender any prejudices I

have to the contrary. But I confess that I have very little expectation of that kind. I think that if those honorable Senators will turn their attention to the question whether it is possible that African slave labor can be made, by any application of human wealth, or human talent, or human power that can be combined, to rescue the unsettled portions of this continent from the invasion of free labor, increasing as it is in this country, and increasing by the immigration from abroad, they will find a profitable subject of inquiry. I regard that as totally impossible; and therefore I regard this attempt to force slavery into Kansas as abortive, as one that must utterly fail and bring on those who have been engaged in it the mortification of attempting to carry out, through the patronage of the Federal Government of the United States, a scheme not more destructive to the best interests of society than it is incompatible with the laws of nature.

Mr. President, I did not rise to say this so much as to say that I regret to hear Senators express the opinion that in any case, or under any circumstances, this Union will cease to have a value for them. I have no belief that the Union is going to cease at all; and I have no belief that it will cease to confer on all of us all the benefits for which it was designed; and whatever our individual opinions and feelings may be, as evolved in the heat of this debate, I do not believe at all that we shall reflect the opinions of our constituents, the people of the several States, if we suffer ourselves to believe that they sympathize in such utterances. The people of the United States will have this Union. There has been found at last in this country a Government which is a Government of the people, and in which every man who exercises the rights of a freeman exercises also the powers of a sovereign. That end having been attained in this country for the first time, I believe that those who suppose the people can be induced to overthrow it utterly miscalculate the character of mankind in general, and especially the character and the intelligence of the people of this Union.

Sir, whatever may be the decision of this question, I am prepared to see the people of that region of country in which I reside still upholding the Union; and I believe that they are of the same race, the same kindred, and the same education with the people of all the other portions of this Union, and that the Union will survive not only all threats and all alarms, but all fears, and will come out triumphantly. I believe it will come out a free nation in the highest and proudest sense of the term. I expect to see this Union stand until there shall not be the footstep of a slave impressed upon the soil that it protects, although that soil will be extended, for ought I know, from the north pole to the Caribbean sea, as it has already extended from the Atlantic to the Pacific ocean.

Mr. HUNTER. It seems to be the general impression that the debate had better be postponed until the subject shall be reported back from the Committee on Territories; I hope, therefore, it will be the pleasure of the Senate now to take the question. I agree entirely with the opinion that it is far better to postpone the debate until then, and take up the subject when the report is made, and when we shall all be better posted in regard to the facts. Otherwise, I should be pleased myself to express my cordial concurrence with the policy which has been recommended by the Chief Magistrate of the United States in this message, which I think is unjustly and harshly dealt with on the other side of the House.

Mr. DAVIS. I wish to express my concurrence not only with the message of the President, but my hearty approbation of the high motive which actuated him when he wrote it. In that paper breathes the sentiment of a patriot, and it stands out in bold contrast with the miserable slang by which he was pursued this morning. It may serve the purposes of a man who little regards the Union to perpetrate a joke on the hazard of its dissolution. It may serve the purpose of a man who never looks to his own heart to find there any impulses of honor, to arraign everybody, the President and the Supreme Court, and to have them impeached and vilified on his mere suspicion. It ill becomes such a man to point to southern institutions as to him a moral leprosy, which he is to pursue to the end of extermination, and perverting everything, ancient and mod-

ern, to bring it tributary to his own malignant purposes. Not even could that clause of the Constitution which refers to the importation or migration of persons, be held up to public consideration by the Senator in a studied argument save as a permission for the slave trade. Then everything that is most prominent in relation to the protection of property in that instrument he holds to have been swept away by a statute which prohibited the further importation of Africans. The language of that clause of the Constitution is far broader than the importation of Africans. It is not confined or limited at all to that subject. It says:

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

That was a power given to Congress far broader than the slave trade; and yet the Senator gravely argues that when that prohibition against the further importation of Africans took place by act of Congress, thenceforward the constitutional shield which had been thrown over slave property fell. Sir, it is the only private property in the United States which is specifically recognized in the Constitution and protected by it.

There was a time when there was a higher and holier sentiment among the men who represented the people of this country. As far back as the time of the Confederacy, when no narrow, miserable prejudice between the northern and southern men governed those who ruled the States, a committee of three, two of whom were northern men, reporting upon what they considered the bad faith of Spain in Florida, in relation to fugitive slaves, proposed that negotiations should be instituted to require Spain to surrender, as the States did then surrender, all fugitives escaped into their limits. Hamilton and Sedgwick from the North, and Madison from the South, made that report—men, the loftiness of whose purpose and genius might put to shame the puny efforts now made to disturb that which lies at the very foundation of the Government under which we live.

A man not knowing into what presence he was introduced, coming into this Chamber, might for a large part of this session have supposed that here stood the representatives of belligerent States, and that instead of men assembled here to confer together for the common welfare, for the general good, he saw here ministers from States preparing to make war upon each other, and then he would have felt that vain indeed was the vaunting of the prowess of the one to destroy another. Or if, sir, he had known more, if he had recognized the representatives of the States of the Union, still he would have traced through this same eternal, petty agitation about sectional success, that limit which cannot fail, however the Senator from New York may regret it, to bring about a result which every man should, from his own sense of honor, feel when he takes his seat in this Chamber, that he is morally bound to avoid as long as he retains possession of his seat. To express myself more distinctly, I hold that a Senator, while he sits here as the representative of a State in the Federal Government, is in the relation of a minister to a friendly court, and that the moment he sees this Government in hostility to his own, the day he resolves to make war on this Government, his honor and the honor of this State compel him to vacate the seat he holds.

It is a poor evasion for any man to say, "I make war on the rights of one whole section; I make war on the principles of the Constitution; and yet I uphold the Union, and I desire to see it perpetuated." Undermine the foundation, and still pretend that he desires the fabric to stand! Common sense rejects it. No one will believe the man who makes the assertion, unless he believes him under the charitable supposition that he knows not what he is doing.

Sir, we are arraigned day after day as the aggressive power. What southern Senator, during this whole session, has attacked any portion, or any interest, of the North? In what have we now, or ever, back to the earliest period of our history, sought to deprive the North of any advantage it possessed? The whole charge is, and has been, that we seek to extend our own institutions into the common territory of the United States. Well and wisely has the President of the

United States pointed to that common territory as the joint possession of the country. Jointly we held it, jointly we enjoyed it, in the earlier period of our country; but when, in the progress of years, it became apparent that it could not longer be enjoyed in peace, the men of that day took upon themselves, wisely or unwisely, a power which the Constitution did not confer; and, by a geographical line, determined to divide the Territories, so that the common field, which brothers could not cultivate in peace, should be held severally for the benefit of each. Wisely or unwisely, that law was denied extension to the Pacific ocean. I was struck, in the course of these debates, to which I have not been in the habit of replying, to hear the Senator from New Hampshire, [Mr. HALE,] who so very ardently opposed the extension of that line to the Pacific ocean, who held it to be a political stain upon the history of our country, and who would not even allow the southern boundary of Utah to be the parallel of 36° 30', because of the political implication which was contained in it, the historical character of the line, plead as he did, a few days ago, for the constitutionality and legality, and for the sacred character, of that so-called Missouri compromise.

I, for one, never believed Congress had the power to pass that law; yet, as one who was willing to lay down much then, as I am now, to the peace, the harmony, and the welfare of our common country, I desired to see that line extended to the Pacific ocean, and that strife which now agitates the country never renewed; but with a distinct declaration, "go ye to the right, and we will go to the left; and we go in peace and good will towards each other." Those who refused then to allow the extension of that line, those who declared then that it was a violation of principle, and insisted on what they termed non-intervention, must have stood with very poor grace in the same Chamber when, at a subsequent period, the Senator from Illinois, bound by his honor on account of his previous course, moved the repeal of that line to throw open Kansas; they must have stood with very bad grace in this presence, to argue that that line was now sacred, and must be kept forever.

The Senator from Illinois stood foremost as one who was willing, at an early period, to sacrifice his own prejudices and his own interests, if, indeed, his interests be girt and bounded by the limits of a State, by proposing to extend that line of pacification to the Pacific ocean; and failing in that, then became foremost in the advocacy of the doctrine of non-intervention; and upon that I say he was in honor bound to wipe out that line and throw Kansas open, like any other Territory. But, sir, was it then understood by the Senator from Illinois, or anybody else, that throwing open the Territory of Kansas to free emigration was to be the signal for the marching of cohorts from one section or another to fight on that battle-field for mastery? Or did he not rather think that emigration was to be allowed to take its course, and soil and climate be permitted to decide the great question? We were willing to abide by it. We were willing to leave natural causes to decide the question. Though I differed from the Senator from New York, though I did not believe that natural causes, if permitted to flow in their own channel, would have produced any other result than the introduction of slave property into the Territory of Kansas, I am free to admit that I have not yet reached the conclusion that that property would have permanently remained there. That is a question which interest decides. Vermont would not keep African slaves because they were not valuable to her; neither will any population whose density is so great as to trade rapidly on the supply of bread, be willing to keep and maintain an improvident population, to feed them in infancy, to care for them in sickness, to protect them in age; and thus it will be found in the history of nations, that whenever population has reached that density in the temperate zones, serfdom, villenage, or slavery, whatever it has been called, has disappeared. Ours presents a new problem, one not stated by those who wrote on it in the earlier period of our history. It is the problem of a semi-tropical climate, the problem of malarial districts, of staple products. This produces a result different from that which would be found in the farming districts and cooler climates. A race suited to our labor exists there. Why

should we care whether they go into other Territories or not? Simply because of the war that is made against our institutions; simply because of the want of security which results from the action of our opponents in the northern States. Had you made no political war upon us, had you observed the principles of our Confederacy as States, that the people of each State were to take care of their domestic affairs, or, in the language of the Kansas bill, to be left perfectly free to form and regulate their institutions in their own way, then, I say, within the limits of each State the population there would have gone on to attend to their own affairs, and have had little regard to whether this species of property or any other was held in any other portion of the Union. You have made it a political war. We are on the defensive. How far are you to push us?

The Senator from Alabama has been compelled to notice the resolutions of his State; nor does that State stand alone. To what issue are you now pressing us? To the conclusion that because within the limits of a Territory slaves are held as property, a State is to be excluded from the Union. I am not in the habit of paying lip-service to the Union. The Union is strong enough to confer favors; it is strong enough to command service. Under these circumstances, the man deserves but little credit who sings paeans to its glory. If through a life, now not a short one, a large portion of which has been spent in the public service, I have given no better proof of my affection for this Union than my declarations, I have lived to little purpose, indeed. I think I have given evidence in every form in which patriotism is ever subjected to a test, and I trust whatever evil may be in store for us by those who wage war on the Constitution and our rights under it, that I shall be able to turn at least to the past and say, "up to that period when I was declining into the grave, I served a Government I loved, and served it with my whole heart." Nor will I stop to compare services with those gentlemen who have fair phrases, whilst they undermine the very foundation of the temple our fathers built. If, however, there be here those who do really love the Union and the Constitution, which is the life-blood of the Union, the time has come when we should look calmly, though steadily, the danger which besets us, in the face.

Violent speeches denunciatory of people in any particular section of the Union; the arraignment of institutions which they inherited and intend to transmit, as leprous spots on the body politic, are not the means by which fraternity is to be preserved, or this Union rendered perpetual. These were not the arguments which our fathers made when, through the struggles of the revolutionary war, they laid the foundation of the Union. These are not the principles on which our Constitution, a bundle of compromises, was made. Then the navigating and the agricultural States did not war to see which could most injure the other; but each conceded something from that which it believed to be its own interest; to promote the welfare of the other. Those debates, whilst they brought up all that struggle which belong to opposite interests and opposite localities, show none of that bitterness which so unfortunately characterizes every debate in which this body is involved.

The meanest thing—I do not mean otherwise than the smallest thing—which can arise among us, incidentally, runs into this sectional agitation as though it were an epidemic, and gave its type to every disease. Not even could the committees of this body, when we first assembled, before any one had the excuse of excitement to plead, be organized without sectional agitation springing up. Forcibly, I suppose gravely and sincerely, it was contended here that a great wrong was done because New York, the great commercial State, and the emporium of commerce within her limits, was not represented upon the Committee of Commerce. This will go forth to remote corners, and descend, perhaps, to after times as an instance in which the Democratic party of the Senate behaved with unfairness towards its opponents; for with it will not descend the fact that the Democratic party arranged for itself its portion of the committees, taking the control of them, and left blanks on the committees to be filled by the Opposition; that the Opposition did fill the blanks; that the Opposition had both the Senators from New York; but did not choose to put either of them on that

committee, though it afterwards formed the basis and staple of their complaint.

Mr. President, I concur with my friend from Virginia, and when I rose I did not intend to consume anything like so much time as I have occupied. I think there are points which have been sprung upon the Senate to-day and heretofore, which require to be answered and to be met. Like my friend from Virginia, I shall feel that it devolves on me, as a representative in part of that constituency which is peculiarly assailed, on another occasion, to meet, and, if I am able, to answer, the allegations and accusations which have been heaped, as well on the section in which I live, as upon every man who has performed his duty by extending over them the protection for which our Constitution and Government were formed.

Mr. FESSENDEN. My physical ability is not very great at any time, and what I have is well high exhausted by the length of time during which I have been obliged to trespass on the Senate. In what I have to reply, therefore, to the Senator from Mississippi, I must necessarily confine myself to a very brief period. I may take occasion hereafter to review what the Senator has now said, in detail; and, although I have wearied the patience of the Senate very much to-day, I suppose it will not preclude me from wearying it as much at another time, if I see fit to do so. I am, therefore, not particularly alarmed by the threat of the Senator that he will proceed, at some future occasion, to treat of what has been said on this side of the Chamber to-day, and in which, I suppose, he referred to me, as I have said the principal part of it.

But I rise for the purpose of saying that I do not recognize his authority in the style which he chooses to assume, to lecture me on the sentiments that I choose to advance before the Senate. In the first place, I have not attacked the institution of slavery in the States where it is established. I have preached no crusade against it. I have expressly disavowed the intention to interfere with it—not because I have any fear of avowing such sentiments if I entertained them, nor because I should hesitate to do so in the presence of the honorable Senator from Mississippi. Sir, when the day comes when I shall shrink from stating in this Senate and before the country, every sentiment that I entertain, every feeling of my heart, with reference to these matters which so much agitate this country, under the fear of man, of what man can say or man can do; whenever such considerations shall induce me to hesitate, I will not stay in this body a single hour. I should disgrace the noble State from which I come and which trusts me here, if I hesitated to speak my opinions as well upon this subject as any other. I will not use the offensive phrase which has been used here sometimes with reference to the demeanor of gentlemen towards this side of the Chamber when we express our sentiments; but I will say to the Senator from Mississippi most distinctly, and to every other Senator, that while I intend to treat them with all that respect and courtesy which are due from me to them, as having the same rights here and sitting in the same position, they must accord to me the right to speak the sentiments which I entertain, unawed by any comment or any consequences that may be intimated from any quarter whatever.

The Senator chooses to place me in the attitude of advocating disunion sentiments. I have not sung pæans to the Union or the Constitution. I do not pretend that my life has been so illustrated by distinguished services to the country as the honorable Senator from Mississippi seems to suppose his has been. I accord to him all the glory and the merit which he may claim for himself. I attack not him. I respect his character and respect his services; but, sir, I want him to understand distinctly that whatever may be his superiority over me in those particulars, or in any other particulars, on this spot we are his peers. I am the equal of any man in my rights on this floor, and I will exert those rights wherever I choose, within the rules of order, let the consequences be what they may in regard to me; and if the time comes when I cannot make my hand keep my head, then any body is welcome to take it. Sir, I have avowed no disunion sentiments on this floor, neither here nor elsewhere. Can the honorable Senator from Mississippi say as much?

Mr. DAVIS. Yes.

Mr. FESSENDEN. I am glad to hear it, then. Mr. DAVIS. Yes. I have long sought for a respectable man who would allege the contrary.

Mr. FESSENDEN. I make no allegation. I asked if he could say as much. I am glad to hear him say so, because I must say to him that the newspapers have represented him as making a speech in Mississippi, in which he said he came into General Pierce's Cabinet a disunion man. If he never made it, very well.

Mr. DAVIS. I will thank you to produce that newspaper.

Mr. FESSENDEN. I cannot produce it, but I can produce an extract from it in another paper.

Mr. DAVIS. An extract, then, that falsifies the text.

Mr. FESSENDEN. I am very glad to hear the Senator say so. I made no accusation. I put the question to him. If he denies it, very well. I only say that with all the force and energy with which he denies it, so do I. The accusation never has been made against me before. On what ground does the Senator now put it? On the ground that I assert that I am opposed to the extension of slavery over free territory, and have asserted that the repeal of the Missouri compromise, and the events which have followed it, have been an outrage on the rights of the free States and on the Territory of Kansas, and that I will continue to agitate that subject so far as that Territory is concerned, so long as I have the power to agitate upon it with any effect. Is that disunion? Does that prove his allegation?

Mr. DAVIS. Does the Senator ask me for an answer?

Mr. FESSENDEN. Certainly; if the Senator feels disposed to give one.

Mr. DAVIS. If you ask me for an answer it is easy. I said your position was fruitful of such a result. I did not say you avowed the object—nothing of the sort; but the reverse.

Mr. FESSENDEN. I am very happy then to be corrected in that particular. I understood the Senator to charge me distinctly with disunion sentiments, as undermining the Constitution of the United States.

Mr. DAVIS. As sentiments that had that effect.

Mr. FESSENDEN. That is a matter of opinion on which I have a right to entertain my view as well as the Senator his. That I am undermining the institutions of the country by attacking the Supreme Court of the United States! I attack not their decision, for they have made none; it is their opinion. My belief is, my position is, that that very opinion, if carried into practice, undermines the institutions of this country. Sir, the institutions of this country stood firm; they stood upon the doctrines of freedom, not of slavery. When the Supreme Court of the United States lay down the doctrine that the Constitution of the United States recognizes slavery, I do not deny it. The position I assumed was, that the Constitution of the United States does not recognize slaves as property; does not protect them as property. It recognizes slavery as an institution existing in the States; it provides for certain contingencies; those contingencies I neither repudiate nor deny, nor attempt to cavil at; but I do deny the position which is assumed by the Supreme Court of the United States, applied to property as recognized by the Constitution beyond the limits of those States.

I assume, as I have always assumed, that in the Territories no State has any right. There is no such thing as the right of States in a Territory. The rights, if they exist, are the rights of the people of the States—personal rights; and when an individual, a citizen of a State, leaves that State with a design to go to another, and passes beyond its limits, he loses every right which he had as a citizen of that State, for he ceases to be its citizen. It being a personal right, if you wish to put it on that ground, and wish to divide this Territory according to the interest the people have in it, in proportion to numbers, how much, I ask, would the slaveholders of the Union be entitled to? How much would the half a million of slaveholders, with their wives and children, be entitled to out of the Territories of the United States when put against the more than twenty millions of free people, who have the same rights with themselves? And yet the doctrine is taught here that because

in some of the States of the Union slavery exists, therefore we are to take the number of States, and on the ground of State rights claim that the territory is to be equally divided, with equal privileges.

Sir, it is a personal privilege. So far as you may be a slaveholder, and desire to go to the Territories, you have all the privilege which belongs to you as an individual. If the Constitution enables and authorizes you to carry slaves there, take them there and try it. I deny the fact. It never was so held until very recently, when individuals of the Supreme Court gave that opinion. When Mr. Calhoun broached the doctrine in the Senate of the United States, it was received with derision, and it died. It hardly had an existence long enough to have it said that it lived; and when Mr. Calhoun, at a later day, said, as he did say, that if the Supreme Court should decide that the doctrine was not a true one, that decision would be entitled to no respect, to no observance, pray, was not he uttering sentiments undermining the Constitution of the United States and our institutions? He said then, in a supposed case, what I say now. He said that if the Supreme Court established the doctrine that the Constitution did not carry slavery into the Territories, that opinion of theirs would be entitled to no respect. I say they have decided according to his wish, and that decision is entitled to no respect, for it is opposed to all the precedents of this Government, and opposed to all the doctrines which lie at the foundation of our institutions, and opposed to the previous decisions of that court.

Now the Senator says we are aggressive. Pray who began the aggression? Was not this country at peace after the compromises of 1850? Was not the country quiet? Who reopened the agitation? Who introduced the torch of discord among the people of these States? Those who advocated the repeal of the Missouri restriction. You opened it at a time of profound peace, not we; and we warned you then, that if you insisted on it, these flames would be kindled again, and God only knew how long they would burn. That aggression has been going on in Kansas from that day to the present. It has not ceased even now; and this issue is presented here in such a shape that the Senator from Illinois is compelled, from a sense of justice and duty, and regard to his own honor, to oppose the further perpetration of the outrages that have taken place there.

You say that you make no aggressions on us; you attack none of our interests. Look at the attack made on them at this very session. The fishing interest is an important matter in this country, protected by the Government of the United States. Has there been no attack on that? Has not the honorable Senator from Georgia given notice of a bill to repeal all the navigation laws of the United States? Has he not put that question before a committee? Is that no attack on the interests of the North? I am speaking of their interests. I do not feel disposed to argue that matter now, but I regard it as only the beginning. I know not how far it will go. I did not allude to it in the speech which I made; but if the Senator asks me for proof of any desire on the part of the southern people which is to be found to attack the interests of the North, all I have to say is, look at your policy. You have broken down our manufactures as far as you could. Some of you are now seeking to break down our commerce, and you ask us what you have done, and when will we cease our aggressions? Sir, we have been on the defensive from the beginning. We were on the defensive in 1854 when the Missouri compromise line was repealed. We have been on the defensive ever since; we stand on it to-day. What we advocate is that same line which was then established. If the consequences are injurious to you, blame yourselves for that; we have had no hand in them; we warned you from the beginning.

Mr. President, I did not think I could be drawn out to the extent to which I have been, but I felt it my duty to repel the imputation that I thought was made on me by the honorable Senator from Mississippi. What my sentiments may lead to I do not know. They are such sentiments as I honestly entertain, such as I have an undoubted right to express, and I do not feel called upon to resign my seat here, although the honorable Senator from Mississippi intimates that the opinions which I have advanced must be the product either

of malice or of ignorance—and I would rather be accused of the latter than the former. I beg him and the Senate to understand that I believe I know enough to express clearly the sentiments I do entertain, and to uphold my right to express them.

Mr. DAVIS. Mr. President, I rise principally for the purpose of saying that I do not know whence springs this habit of talking about intimidation. I am not the first person towards whom a reply has been made that we are not to carry our ends by intimidation. I try to intimidate nobody; I threaten nobody; and I do not believe—let me say it once for all—that anybody is afraid of me, and I do not want anybody to be afraid of me.

Mr. FESSENDEN. I am. [Laughter.]

Mr. DAVIS. I am sorry to hear it, and if the Senator is really so, I shall never speak to him in decided terms again.

Mr. FESSENDEN. I speak of it only in an intellectual point of view. [Laughter.]

Mr. DAVIS. Then, sir, the Senator was in a Pickwickian sense when he began; there were no threats, no intimidations, and he is just where he would have been if he had said nothing. [Laughter.] He closes with a point which is to show how aggressive the South is; and how does he prove it? He says that we are unwilling to be taxed for the benefit of the cod-fisheries; that we are unwilling to be taxed to keep up manufactures; that, in a word, we wish to keep our own money in our own pockets, and leave them to get the fruits of their labor to the extent they can extract it from the commerce of the world. That is no aggression. We say "manufacture if you please; fish if you please; navigate if you please; make all you can; but you have no right to tax us for the purpose." We do not ask them to pay anything in the form of taxation to support our labor, and we only ask comity, good-fellowship, the protection which the Government is bound to afford, and beyond that, that we shall be let alone.

Mr. CLAY. I feel it due to say a word in respect to one subject suggested by the Senator from Maine. I am sorry that he has anticipated me in the discussion of the cod-fisheries. I hope, at a future day, to cook up a kettle of fish which will not be offensive even to his nostrils; and I wish to say now that I shall then endeavor to define the difference between rights and interests; and I will show him that the interest is on his side and the right on ours; and that we are bowing like Issachar under burdens which have been imposed upon us at his hands.

Mr. DOUGLAS. I rise to express the hope that the course indicated by the Senator from Virginia will prevail, and that we shall now take a vote on this question, refer the message to the committee, and let the debate be suspended until we get the report. ["Agreed."] As I am anxious to terminate the debate on the part of others, I shall not trespass on the Senate by making a speech, for fear somebody might be prompted to reply to it.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts, [Mr. WILSON,] to add to the motion the following instructions:

And that the committee be instructed to ascertain the number of votes given at each county in the Territory upon the question of calling a convention to form a constitution; to inquire into the appointment of delegates to the convention, and the census and registration under which the same was made, and whether the same was in compliance with law; the number of votes cast for each candidate for delegate to the convention, and the places where cast, and whether said constitution received the votes of a majority of the delegates to said convention; the number of votes cast in said Territory on the 21st of December last, for and against said constitution, and for and against any parts thereof, and the number so cast at each place of voting; the number of votes cast on the 4th day of January last, for and against said constitution, and the number so cast at each place of voting; the number of votes cast on the 4th day of January last for any State and legislative officers thereof, and the number so cast for each candidate for such offices, and the places where cast; and that said committee also ascertain, as nearly as possible, what portion, if any, of the votes so cast at any of the times and places aforesaid were fraudulent or illegal; and that said committee have power to send for persons and papers.

Mr. HUNTER. I rise for the purpose of making a suggestion to the Senator from Massachusetts. We are all anxious to have this subject referred to the committee, and I propose that we refer the message without any instructions, for the substance of this amendment comes up in

the resolutions of the Senator from Illinois, upon which we shall pass next in succession.

Mr. COLLAMER. The resolutions of the Senator from Illinois are merely an inquiry of the President. This proposition is to obtain the truth through the investigation of our own committee.

Mr. MASON. I think time will be saved if my colleague will allow the vote to be taken.

Mr. WILSON. I wish merely to say that this amendment proposes a full investigation into the question. The resolutions of the Senator from Illinois simply call on the President for such information as he has in his possession. I think the distinction is a very broad one; and after having read the reports of the investigations that are now going on in the Territory of Kansas, reports that have come to us since the adjournment of the Senate the other day, I hope we shall adopt this amendment. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 28; as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—22.

NAYS—Messrs. Bell, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Crittenden, Davis, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mallory, Mason, Polk, Sebastian, Sidel, Toombs, Wright, and Yulee—28.

So the amendment was rejected; and the question recurring on the motion to refer the message to the Committee on Territories, it was agreed to.

Mr. DOUGLAS. I now ask the Senate to take up the resolutions which I offered, calling on the President for information on this subject, according to the suggestion of the Senator from Virginia, so that we may have the information at the earliest day.

Mr. MASON. I move that the Senate adjourn.

Mr. DOUGLAS. I hope not until we act on the resolutions.

Mr. MASON. I make the motion; it is not debatable.

Mr. WILSON called for the yeas and nays; and they were ordered.

Mr. FOOT, when his name was called, announced that he had paired off with Mr. Toombs.

The question being taken by yeas and nays, resulted—yeas 27, nays 22; as follows:

YEAS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Crittenden, Davis, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mallory, Mason, Polk, Sebastian, Sidel, Wright, and Yulee—27.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—22.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 8, 1858.

The House met at twelve o'clock, m. Prayer by Rev. GEORGE W. SAMSON.

The Clerk proceeded to read the Journal of Friday last, but was interrupted by

Mr. GREENWOOD, who moved that the further reading of the Journal be dispensed with.

The SPEAKER stated that the motion could only be entertained by unanimous consent.

Mr. LETCHER objected.

The Clerk then resumed and completed the reading of the Journal; when the same was approved.

ENROLLED BILLS.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as correctly enrolled:

An act (H. R. No. 3) making appropriations for the payment of invalid and other pensions of the United States for the year ending the 31st of June, 1859; and

An act (H. R. No. 22) to alter the time of holding the courts of the United States for the State of South Carolina; when the Speaker signed the same.

PRESIDENT'S KANSAS MESSAGE.

The SPEAKER stated that the business in order was the question on seconding the demand for the previous question on the motion to refer the

President's message in relation to the Lecompton constitution; upon which tellers had been demanded.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported—aye 110, noes 105.

So the previous question was seconded.

Whilst the House was dividing, and before the tellers had announced the result,

Mr. WASHBURN, of Maine, said: I move that there be a call of the House.

Mr. FLORENCE. That is a dilatory motion.

Mr. BARKSDALE. Is that the way you carry out the contract you made?

The SPEAKER. Gentlemen will come to order.

Mr. HOUSTON demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 107; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comius, Covode, Cox, Cragin, Curtis, Damrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, English, Farnsworth, Featon, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, McKibbin, Humphrey Marshall, Samluel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—113.

NAYS—Messrs. Ahl, Anderson, Atkins, Avery, Barksdale, Bishop, Bococek, Bowie, Boyce, Branch, Bryan, Burnett, Caskie, Horace F. Clark, John B. Clark, Clay, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craigie, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, Macley, McQueen, Maynard, Miles, Miller, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Tripp, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zolliecoffer—107.

So the main question was ordered.

Pending the call of the roll,

Mr. MILES stated that his colleague, Mr. BONHAM, was still detained at home by severe illness.

Mr. CLEMENS. Mr. Speaker, on Friday last, I was appealed to by the gentleman from the Belmont district of Ohio, [Mr. LAWRENCE,] as a matter of personal favor to himself, to pair off with him on all questions affecting the proposition of the gentleman from Illinois, [Mr. HARRIS,] until he should have gone to the town of Hagerstown, in Maryland, and returned—he having been called there by the death of a relative. I understand that the gentleman was in Baltimore this morning, and I further understand that he came here in the eleven o'clock train of cars to-day. Under these circumstances, I consider myself absolved from the obligation which I incurred to the gentleman, and vote "no."

Mr. LEIDY stated that he should have voted "no" on this question but for the fact that he had paired off with his colleague, Mr. REILLY.

Mr. OWEN JONES stated that his colleague, Mr. REILLY, had been called home by sudden sickness in his family.

Mr. LAWRENCE. I desire to state that I came into the House—having been unavoidably absent—just as the call of the roll was completed. I came as soon as I possibly could after the arrival of the cars. I ask the unanimous consent of the House to vote.

Mr. GARNETT. I object.

Mr. STEPHENS, of Georgia. Is this the gentleman with whom Mr. CLEMENS paired off?

Mr. CLEMENS. Yes.

Mr. STEPHENS, of Georgia. I hope, then, he will be allowed to vote.

Mr. GARNETT. I withdraw my objection. Mr. JONES, of Tennessee. I object. We have never allowed gentlemen to vote who were not within the bar when their names were called.

Mr. CLEMENS. Would it be competent for me to withdraw my vote, under the circumstances?

The SPEAKER. The gentleman can withdraw his vote by unanimous consent.

Mr. LAWRENCE. I understood that I had paired off with my friend from Virginia [Mr. CLEMENS] upon this question until I had returned. I arrived in the city to-day; and, after accompanying from the cars the lady under my charge, who had been attending the last funeral rites of a deceased husband, I came here just as soon as I could, and am now all in a perspiration from my hurry to be here at this vote.

Several Voices. Let him vote.

Mr. CLEMENS. I appeal to the gentleman to withdraw his objection.

Mr. JONES, of Tennessee. I do not withdraw my objection.

Mr. CLEMENS. Then I ask the unanimous consent of the House to withdraw my vote.

No objection being made, Mr. CLEMENS's vote was withdrawn.

The question then recurred on the motion of Mr. STEPHENS, of Georgia, that the President's Kansas message be referred to the Committee on Territories and ordered to be printed.

Mr. DAVIS, of Indiana, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 113, nays 114; as follows:

YEAS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, Maclay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Peyton, Phelps, Phillips, Powell, Quinman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—113.

NAYS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—114.

So the motion was disagreed to.

The question then recurred on the amendment of Mr. HARRIS, of Illinois, which was read, as follows:

Resolved, That the message of the President concerning the constitution framed at Lecompton, in the Territory of Kansas, by a convention of delegates thereof, and the papers accompanying the same, be referred to a select committee of fifteen, to be appointed by the Speaker. That said committee be instructed to inquire into all the facts connected with the formation of said constitution and the laws under which the same was originated, and into all such facts and proceedings as have transpired since the formation of said constitution, having relation to the question or propriety of the admission of said Territory into the Union under said constitution, and whether the same is acceptable and satisfactory to a majority of the legal voters of Kansas; and that said committee have power to send for persons and papers.

Mr. JONES, of Tennessee. Is it in order to call for a division of the question, so that the vote shall be taken, first on the reference, and then on the instructions?

The SPEAKER. The Chair thinks not, because the two branches of the resolution could not stand independent of each other. The first branch

of the resolution is complete in itself, but the latter part is not.

Mr. CLARK, of New York. I ask to be excused from voting, on the ground that to vote in the affirmative would be inconsistent with the votes that I have already given, and to vote in the negative would imply an unwillingness on my part to have an investigation made which I believe to be essential to the best interests of the country. I therefore am not willing to vote upon the pending question.

Mr. PHELPS. I wish to inquire if the motion pending is not the amendment of the gentleman from Illinois [Mr. HARRIS] to the resolution of the gentleman from Indiana, [Mr. HUGHES]?

The SPEAKER. It is.

Mr. PHELPS. Then if the pending amendment is voted down, the question will arise on the resolution of the gentleman from Indiana, to refer the message to a select committee without instructions.

Mr. SMITH, of Virginia. I ask that the resolution of the gentleman from Indiana be read.

The resolution was read, as follows:

Resolved, That the message of the President be referred to a select committee of thirteen.

The SPEAKER. Does the Chair understand the gentleman from New York to move to be excused from voting?

Mr. CLARK, of New York. I do, for the reason I have stated. I want an investigation made, but I should have preferred that it should be done by one of the regular standing committees of the House.

The motion to excuse Mr. CLARK was disagreed to; there being, on a division, yeas 89, noes 106.

Mr. SAVAGE. Is it in order to move to lay the whole subject on the table?

The SPEAKER. The Chair thinks, as the adoption of the motion would finally dispose of the subject, it is in order.

Mr. SAVAGE. Then I move to lay the whole subject on the table.

Mr. HARRIS, of Illinois. I ask the gentleman from Tennessee if he proposes to keep the arrangement which was made by the unanimous consent of the House on Friday, that no dilatory motions shall be made?

Mr. SAVAGE. Is this a violation of it?

Mr. HARRIS, of Illinois. I so understand it. Mr. SAVAGE. I do not understand the motion to be in violation of that arrangement. My motion, if successful, would be a final and conclusive disposition of the subject. As there seems, however, to be some doubt about it, I withdraw the motion.

Mr. SINGLETON. I rise to have myself informed in regard to the position of affairs. I desire to know whether if the amendment offered by the gentleman from Illinois [Mr. HARRIS] is rejected, the question will not then recur on the motion of the gentleman from Indiana, [Mr. HUGHES,] which is to refer to a select committee without instructions?

The question was taken; and it was decided in the affirmative—yeas 114, nays 111; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—114.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Bryan, Burnett, Burns, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, Maclay, McQueen, Humphrey

Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Pendleton, Peyton, Phelps, Phillips, Powell, Quinman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—111.

So the amendment was agreed to.

Mr. HARRIS, of Illinois, moved that the vote by which the amendment was agreed to be reconsidered; and also moved that the motion to reconsider be laid on the table.

Mr. CRAIGE, of North Carolina, called for the yeas and nays upon the latter motion.

The yeas and nays were ordered.

Mr. STANTON. I rise to a question of privilege. I desire to know if the Printer of the House is entitled to admission within the Hall?

The SPEAKER. The Chair thinks he is as an officer of the House.

The question was taken; and it was decided in the affirmative—yeas 115, nays 111; as follows:

YEAS—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burns, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cox, Cragin, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Granger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Wood—115.

NAYS—Messrs. Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Branch, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilmer, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, Maclay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Pendleton, Peyton, Phelps, Phillips, Powell, Quinman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollcoffer—111.

So the motion to reconsider was laid on the table.

The SPEAKER stated that the question next recurred upon the resolution of the gentleman from Indiana, as amended on motion of the gentleman from Illinois.

Mr. CLINGMAN. Is there a motion pending to refer to the Committee of the Whole on the state of the Union?

The SPEAKER. There is not.

Mr. CLINGMAN. If, then, the present question be voted down, will it not be in order to move a reference to the Committee of the Whole on the state of the Union?

Mr. HARRIS, of Illinois. There is not the slightest doubt about that, if the pending question be voted down.

The SPEAKER. If the pending proposition be voted down, the motion indicated by the gentleman from North Carolina, will then be in order.

Mr. STEPHENS, of Georgia. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. JOHN COCHRANE. I ask that the resolution, as amended, be read.

Mr. ENGLISH. It has been read half a dozen times already, and I object.

Mr. HOUSTON. The resolution has not been read since the last vote, when it was amended; I would therefore suggest to the Chair whether the gentleman from New York has not a right to have it read?

The SPEAKER. The Speaker thinks he has. The resolution, as amended, was read by the Clerk.

The question was taken; and it was decided in the affirmative—yeas 115, nays 111; as follows:

YEAS.—Messrs. Abbott, Adrain, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Chapman, Ezra Clark, Clawson, Clark B. Cochrane, Cockerill, Colfax, Conins, Covode, Cox, Craig, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dodd, Durfee, Edie, English, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Gooch, Goodwin, Grainger, Groesbeck, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, Thomas L. Harris, Haskin, Hickman, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Lawrence, Lench, Leiter, Lovejoy, McKibbin, Samuel S. Marshall, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Olin, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Purviance, Ritchie, Robbins, Roberts, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Waide, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Efflu B. Washburne, Israel Washburn, Wilson, and Wood—115.

NAYS.—Messrs. Aht, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoock, Bowic, Bowic, Branch, Bryan, Burnett, Burns, Caskey, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Corning, James Craig, Burton Craig, Crawford, Curry, Davidson, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, Eustis, Faulkner, Florence, Garnett, Gartrell, Gillis, Gilder, Goode, Greenwood, Gregg, Hatch, Hawkins, Hill, Hopkins, Houston, Hughes, Haylor, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Letcher, Mackay, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Ricard, Ruffin, Russell, Sandidge, Savage, Seales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Trippie, Underwood, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollieffer—111.

So the resolution, as amended, was adopted.

Mr. HARRIS, of Illinois, moved to reconsider the vote by which the resolution, as amended, was agreed to; and also moved that the motion to reconsider be laid upon the table.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. KEITT. I ask the unanimous consent of the House to make a personal explanation.

There was no objection.

Mr. KEITT. Mr. Speaker, the House will remember that its proceedings during the session of Friday were broken by an unpleasant incident. It is due to fair dealing that I should assume upon myself all the responsibility for the act involving a violation of its order, its dignity, and its decorum. I was the aggressor, and whatever responsibility attaches to the act properly belongs to me alone. It was, however, casual, accidental, and sudden. It is also due to justice that I should make whatever of reparation is in my power to the dignity and decorum of the House thus violated. I do that in the expression of my profound regret at the occurrence. Personal collisions are always unpleasant, seldom excusable, rarely justifiable—never in a legislative body.

In this connection I have but one more remark to make, and that is, if any blow was directed at me I am not conscious of it. I am at least utterly unconscious of having received any. With this explanation I part from the subject.

Mr. GROW. Mr. Speaker, I have been taught from my childhood that all fights among men are disgraceful to human nature and to a Christian community, and especially when they occur among the law-makers of a people, in the midst of their deliberations. The judgment of my riper years has fully satisfied me that my education in this respect, at least, has been good and true. Yet the right of self-defense I recognize as one of the inalienable rights of man, to be exercised on all occasions and under all circumstances where it is necessary to protect life or person. At the last sitting of this House I found myself unexpectedly engaged, for the first time in my life, in a personal conflict. To the House I tender most cheerfully whatever of apology is due for this violation of its order and decorum. No man can regret more than I do that there should have been any occasion for a violation of either.

Mr. CURTIS. I move that the House do now adjourn.

The motion was agreed to.

The House accordingly (at twenty minutes to three o'clock) adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

Tuesday, February 9, 1858.

Prayer by Rev. BYRON SUNDLAND.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate, statements showing the number and tonnage of Government vessels employed in the Pacific ocean; also of the private vessels employed by the Government in transporting coal or other supplies for the United States, and the annual expense thereof; which, on motion of Mr. POLK, was ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate a resolution of the Legislature of Tennessee, instructing the Senators and requesting the Representatives of that State, in Congress, to aid in the passage of a bill granting pensions to the soldiers of the war of 1812, and of the various Indian wars; which was referred to the Committee on Pensions, and ordered to be printed.

Mr. DAVIS presented the petition of Jeremiah Y. Dashiell, a paymaster in the Army, praying that he may be released from responsibility for certain public money lost in the surf while being landed at the mouth of Indian river, in Florida; which was referred to the Committee on Military Affairs and Militia.

Mr. HARLAN presented a memorial and resolution of the Legislature of Iowa, praying that the State may be indemnified for expenses incurred in raising troops to protect the people of Iowa from a hostile invasion of the Sioux Indians in March, 1857; which were referred to the Committee on Claims, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa, in favor of granting bounty land to the volunteers in the Spirit Lake expedition, in March, 1857; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. CHANDLER presented a memorial of the regents of the University of Michigan, praying for a donation of land; which was referred to the Committee on Public Lands.

Mr. BRODERICK presented a memorial of citizens of New York, praying that the public lands may be laid out in farms or lots for the free and exclusive use of actual settlers not possessed of other lands; which was referred to the Committee on Public Lands.

Mr. BROWN presented the petition of James Hendebert, praying the reimbursement of money advanced to Captain Henry, while engaged in the prosecution of his claims against the United States before Congress; which was referred to the Committee on Claims.

DISTRICT BANKS.

Mr. SEWARD. I present a memorial from the Mayor, Recorder, and members of the Common Council of Georgetown, remonstrating against the passage of the bill to prohibit the issue of bank notes in the District of Columbia. The memorialists state that they think their long residence and daily experience in the business affairs of the District entitle them to know the sentiments and wishes of the people; and they say, at the same time, that they know they are disfranchised and have no other mode of obtaining the adoption of such measures as the welfare and interests of the community with which they are connected require, except by petition. They therefore respectfully remonstrate against the passage of this bill. Yesterday, I think, similar remonstrances were laid on the table and ordered to be printed. I ask that this memorial may have the same consideration.

The memorial was laid on the table.

Mr. BIGGS. The question of printing will go to the Committee on Printing, I presume.

The VICE PRESIDENT. Yes, sir.

Mr. SEWARD. I ask whether the papers on the same subject went to the Committee on Printing yesterday, or were ordered to be printed by the Senate?

The VICE PRESIDENT. The Chair is not able to say; but unless by unanimous consent, the motion to print must have gone to the Committee on Printing.

Mr. SEWARD. I suppose no Senator will object to this having the same disposition.

The VICE PRESIDENT. Objection has been made; and the motion must go to the Committee on Printing.

HOMESTEAD BILL.

Mr. FOOT. I have received a petition, numerously signed by citizens of the city of New York, praying Congress to pass a law to prevent the further traffic in, and monopoly of, the public lands of the United States; and that they be laid out in farms and lots of limited size for the free and exclusive use of actual settlers not possessed of other land. As this subject has been before the Committee on Public Lands, and that committee have reported a bill to carry out the objects contemplated in this petition, and that bill has been assigned for this day as the special order, on the motion of the Senator from Tennessee, [Mr. JOHNSON,] who has been long known as the champion of this measure, and as it is now in his special charge, I move that this petition be laid upon the table.

The motion was agreed to.

Mr. JOHNSON, of Tennessee. I have a number of memorials—one from the State of Connecticut, one from Wisconsin, one from Kentucky, and two from the State of New York—all asking for the passage of the homestead bill, granting to each head of a family one hundred and sixty acres of land; and that all future sales of the public lands be confined to actual settlers in limited quantities. I move their reference to the Committee on Public Lands.

Mr. STUART. I wish to suggest, in regard to these memorials, that inasmuch as the committee has reported a bill, it is better to move to lay the memorials on the table.

Mr. JOHNSON, of Tennessee. They ask Congress to confine the future sales of public lands to actual settlers.

Mr. STUART. The committee has reported on several of those memorials, and have asked to be discharged from their consideration. It is only lumbering up the business of the committee to refer these petitions to them.

Mr. JOHNSON, of Tennessee. I do not understand that any bill has been reported in regard to limiting the future sales of public lands.

Mr. STUART. The committee has reported against that proposition on several of those petitions.

Mr. JOHNSON, of Tennessee. I move that it be laid on the table.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. MALLORY, it was

Ordered, That the petition of William Marvin, on the files of the Senate, be referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. DURKEE, from the Committee on Private Land Claims, to whom was referred the petition of the heirs of Jehu Underwood, submitted a report, accompanied by a bill (S. No. 129) to provide for the final settlement of the land claim of the heirs of Jehu Underwood, in Florida. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Thomas Johnson, submitted an adverse report; which was ordered to be printed.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of Mary D. Hays and B. S. Fassett, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred a memorial of the heirs of revolutionary officers of the continental line, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Jennett H. McCall, submitted a report, accompanied by a bill (S. No. 130) for the relief of Jennett H. McCall. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. FITZPATRICK, from the Committee on Printing, to whom was referred the resolution of the Senate to print five thousand copies of the tables of receipts and expenditures of the Gov-

ernment from March 4, 1789, to June 30, 1857, reported in favor of the resolution; and it was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of the Senate, showing the payments from the contingent fund of the Senate during the year ending December 6, 1857, reported in favor of it; and the motion was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of War, showing the number of troops stationed in Kansas each quarter since January 1, 1855, reported in favor of it; and the motion was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of War, showing the amount expended for the support of the Military Academy during the past year, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of War, communicating the report of the commission on the war claims of Oregon and Washington Territories, reported in favor of the motion; and it was agreed to.

He also, from the same committee, to whom was referred the motion to print the report of the Secretary of the Treasury, communicating the amount of revenue collected in each collection district for each of the years from 1852 to 1857, inclusive, the amount expended, and the number of persons employed in its collection during those years, reported in favor of the motion; and it was agreed to.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of Samuel V. Niles, submitted a report, accompanied by a bill (S. No. 131) for his relief; which was read, and passed to a second reading; and the report was ordered to be printed.

Mr. DOUGLAS, from the Committee on Foreign Relations, to whom was referred so much of the annual message of the President as relates to our relations with foreign Powers, submitted a report relative to the difficulties between the United States and the Republic of Paraguay, accompanied by the following resolution:

Resolved, That, for the purpose of adjusting the differences between the United States and the Republic of Paraguay, in connection with the attack on the United States steamer *Water Witch*, and with other matters referred to in the annual message of the President, he be, and hereby is, authorized to adopt such measures and use such force as, in his judgment, may be necessary and advisable, in the event of a refusal of just satisfaction by the Government of Paraguay.

The report was ordered to be printed.

Mr. CAMERON, from the Committee on Printing, to whom was referred a motion to print an additional number of the report of the Committee on Foreign Relations, in relation to the arrest of William Walker, reported in favor of the motion; and it was agreed to.

PRINTING OF KANSAS MESSAGE.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order, which is the bill to increase the military establishment of the United States.

Mr. CAMERON. I desire to make a report from the Committee on Printing.

Mr. DAVIS. If the report is not to lead to debate, I shall not object.

The VICE PRESIDENT. The Chair hears no objection to the reception of the report of the Senator from Pennsylvania.

Mr. CAMERON. I am instructed by the Committee on Printing to report in favor of printing fifteen thousand extra copies of the message of the President of the United States communicating the constitution of the State of Kansas. I ask the concurrence of the Senate in the report.

Mr. SEWARD. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. GWIN. Is the report to print fifteen thousand copies of the message and constitution, or fifteen thousand copies of the message and the usual number of the constitution?

Mr. CAMERON. I withdraw the motion for the present. There seems to be a difference between the other members of the committee and myself, and I therefore withdraw the motion.

The VICE PRESIDENT. The yeas and nays have been ordered, but by unanimous consent the report may be withdrawn. The Chair hears no objection.

KANSAS LECOMPTON CONSTITUTION.

Mr. DOUGLAS. I move to take up the resolutions upon which we adjourned last evening, which were resolutions of inquiry calling for information relative to Kansas.

Mr. DAVIS. The special order must first be postponed before that question can be taken up.

The VICE PRESIDENT. The motion regularly in order would be to postpone the special order, with a view to take up those resolutions.

Mr. DOUGLAS. I do not understand that that is necessary, according to the rules of the body. A special order made for one morning for half past twelve o'clock, and then postponed, loses its priority, I apprehend. I take it for granted it loses it after the first day. It is then postponed until to-morrow, and falls into the regular list of special orders which come up at one o'clock. Because a bill is made the special order for one day at a particular time, and that, too, during a morning hour, I do not understand that when postponed it necessarily comes up at that time, to the exclusion of the morning business every day until it is disposed of.

The VICE PRESIDENT. The Chair will state briefly his opinion on the point of order. There is no morning hour in the Senate. There is a fixed order of business in reference to petitions and reports by the rule of the body.

Mr. DOUGLAS. I was going to remark that in order to avoid any questions of order in the Senate, I would change the motion, and move to postpone all prior orders of business, for the purpose of considering the resolutions of inquiry to which I have alluded.

The VICE PRESIDENT. The Senator from Illinois moves to postpone the present and all other special orders, with a view to take up the resolutions of inquiry to which he has referred.

Mr. DAVIS. I suppose those resolutions of inquiry cannot pass without debate. It is really, therefore, the postponement of the consideration of the bill to increase the Army, which is the unfinished business before the Senate; and I suppose every Senator will bear testimony that his mind has now been so long drawn off that subject that a great deal of what has been said heretofore will have to be repeated. I think it is a loss of time thus to interrupt the progress of the bill, and that if we proceed with the subject now, we shall more readily reach a conclusion than by a further postponement.

Mr. DOUGLAS. I should be entirely willing to yield to the view suggested by the Senator from Mississippi if I could have the assurance that I should not be called upon to act as a member of the Committee on Territories, and decide on the very question at issue, before this information is obtained. I only desire this information in order that I may be able, as a member of the committee, to act intelligently on the subject referred to them. I have no desire to postpone the consideration of the Army bill, or procrastinate that business at all; but my object is to obtain the information which is necessary, essential to enable us to act upon that subject which the Senate yesterday referred to the Committee on Territories. That is my sole object, and it seems to me the resolutions ought to be considered and adopted by the Senate.

Mr. MASON. I think the Senator from Illinois may feel satisfied that, whenever his resolutions come up, unless they be disposed of by a motion to lay them upon the table, they will lead to a very long debate. My own impression of the tenor of the resolutions offered by the Senator is, that their effect will be, if they are adopted, to transfer to the Halls of Congress all the crimination and recrimination, without any useful result whatever, which we know to have existed in Kansas for the last two years; and under that impression, whenever it shall be the pleasure of the Senate to take up those resolutions, I shall move to lay them on the table, as a test question, for it is not a question proper for the consideration of the Senate. If, however, that motion should not prevail, then I feel satisfied the resolutions will lead to a very long debate. I hope, therefore, that the order of business will be pursued, and that the Senate will go on and dispose of the Army bill,

which is certainly a question of very great importance before the country. What the Committee on Territories may do, that committee will decide for itself. If it chooses to refrain from acting until these resolutions are disposed of, it is a proper subject for the committee to decide. I take it for granted the Senator can have no assurance from the Senate of what it would be proper for the committee to do in the case.

Mr. PUGH. I hope the Senator from Virginia will withdraw his objection. I expected to have been in my seat yesterday when the vote was taken on the instructions moved by the Senator from Massachusetts, [Mr. Wilson,] but did not return in time. I should have voted against those instructions if I had been present; but I can see no reasonable objection to a call for copies of the public documents to be found on the files of the executive department of Kansas Territory. We asked for these very documents before, except the returns of the election on the 4th of January, and we received for answer from the President that no copies of these documents were on file here. There is no change, as I understand, between this resolution and the resolution which the Senate adopted on my motion in December, except that this asks for the returns of the elections held on the 4th of January.

Now, Mr. President, how is it that a call for documents of this character can possibly give rise to the discussion specified by the Senator from Virginia—a discussion into which, I assure him, I have no disposition to go? It is alleged here, on one side, that one half the counties of Kansas Territory were not represented in the convention, without any fault of their own. On the other side it is alleged, as specifically, that the greater number of those counties contained no population. It is a fact that ought to be settled. I do not say that ought to induce us to delay the decision of the question on the admission of Kansas; but it is a fact on which we ought to be satisfied, and the country ought to be satisfied. It is susceptible of being demonstrated on the one side or the other; and we can demonstrate it, if we can ascertain what number of votes were given in October, 1857, in the various counties of Kansas for members of the Territorial Legislature, and for a Delegate in Congress. If these are paper counties—counties in name, with no votes in them—there is an end of the whole allegation. If, on the contrary, they are counties that ought to have been represented, then it goes, as I once before said on this floor, to the legality of the whole convention. The fact that Senators may make a public document sent here the pretext for an argument that is not pertinent to it, seems to me no reason why we should not have the document. It is simply asked that we shall have the returns of the various elections, and the law requires them to be here. The organic act requires the Secretary of that Territory every six months to send the executive minutes; but it has not been done; and, therefore, we cannot get them by an ordinary application to the Departments. This results from a neglect of duty on the part of the Secretaries of that Territory. I think we ought to have them. I hope the Senate will agree to order them; and to do it now, because it is a material part of the controversy. If we put it off, it will be an argument why we should not have the question heard in committee, and why it should be delayed *ad infinitum*.

Mr. GREEN. I had supposed that the information called for was designed for the use of the Senate more than for the committee. If it be designed for the use of the Committee on Territories, it is much more appropriate that the committee themselves should call for it, than for one member to call for it in the absence of any action or consideration on the part of the committee. The committee have never been called together on the subject. It has never been before them. I know it is perfectly proper for any Senator to move for information for the use of himself and of other Senators; but when it is for the use of a committee it would be more appropriate for the committee itself to make the request. There is one branch of it however that is wholly immaterial and ought to be stricken out. To the others, if they do not cause delay, I have no objection.

Mr. DOOLITTLE. If the honorable Senator will give way for a moment, I should like to hear the resolutions read before the discussion goes on.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

THURSDAY, FEBRUARY 11, 1858.

NEW SERIES...No. 40.

Mr. HAMLIN. They have not been taken up yet.

Mr. COLLAMER. We want to know what they are, to see whether we shall take them up.

The Secretary read the resolutions, as follows:

Resolved, That the President be requested to furnish all the information within his possession or control on the following points:

1. The returns and votes for and against a convention at an election held in the Territory of Kansas, in October, 1856.

2. The census and registration of votes in the Territory of Kansas, under the provisions of the act of said Legislature, passed in February, 1857, providing for the election of delegates and assembling a convention to frame a constitution.

3. The returns of an election held in said Territory, on the 21st of December, 1857, under the schedule of the Lecompton constitution, upon the question of "constitution with slavery" or "constitution without slavery."

4. The returns of an election held in the Territory of Kansas, on the 4th day of January, 1858, under the authority of a law passed by the Legislature of said Territory, submitting the constitution formed by the Lecompton convention to a vote of the people for ratification or rejection.

5. The returns of the election held in said Territory on the 4th day of January, 1858, under the schedule of the Lecompton constitution, for Governor and other State officers, and for members of the Legislature, specifying the names of each officer to whom a certificate of election has been accorded, and the number of votes cast and counted for each candidate, and distinguishing between the votes returned within the time and in the mode provided in said schedule, and those returned subsequently and in other modes, and stating whether at either of said elections any returns of votes were rejected in consequence of not having been returned in time, or to the right officer, or in proper form, or for any other cause, stating specifically for what cause.

6. All correspondence between any of the Executive Departments and Secretary or Governor of Kansas relating to Kansas affairs, and which has not been communicated to the Senate.

Resolved, That in the event all the information desired in the foregoing resolution is not now in the possession of the President, or of any of the Executive Departments, he be respectfully requested to give the proper orders and take the necessary steps to procure the same for the use of the Senate.

Mr. GREEN. As this is a question merely preliminary to the order of business, I shall not go into what my mind had previously inclined me to discuss. I shall defer it until I see what course the Senate think proper to take. I want no delay. I am willing to have an investigation of all matters which it is proper should be investigated.

Mr. BELL. I should not, on a mere motion to take up these resolutions at this time, after the hour has arrived for the consideration of the special order, say anything on the general subject, if it had not been intimated by the honorable Senator from Virginia, that if these resolutions be not taken up at present, he will, whenever they shall be taken up, make a motion to lay them on the table, which, of course, would preclude me or any other Senator from making any remarks. I shall content myself with expressing the opinion that the information sought for in these resolutions appears to me to be of the utmost importance as connected with the main proposition, which will be shortly, I presume, before the Senate. I do not understand that the information asked for by these resolutions, relates to any frauds or disturbances which the honorable Senator from Virginia supposes would lead to a long and angry debate, and crimination and recrimination, if we had the information. The information sought is principally statistical—the number of votes given at the respective elections, which is supposed to be material in connection with the main subject; and then copies of all the correspondence between the President or any Department of Government, and Governors, Secretaries, and other officials in Kansas Territory, mainly in reference to the election on the 14th of January.

I consider the number of votes given *pro* and *con*. upon the subject of the adoption of the Lecompton constitution of the greatest importance to the Senate in coming to a wise and prudent determination in regard to the main question. At all events, it would with me have great influence; and I cannot conceive that any portion of the Senate could desire that main question to be decided without all the information within our reach, in regard to the true state of things in Kansas in reference to a point to which, so far as I can infer, on looking over the President's message, he has

not made the remotest allusion. I speak in reference to the estimated or alleged overwhelming majority of the people of that Territory against the proposition to admit Kansas into the Union with the Lecompton constitution. I have heard various statements on that point, in the Senate and out of it; but little in the Senate, to be sure. On the one side, it is alleged that there was more than ten thousand majority against the constitution evinced in that election; on the other side, I have heard it denied, and heard it alleged that no election transpired on that occasion which is calculated to give the true state of the case in regard to the views of the people of that Territory on this subject.

Will the Senate of the United States undertake to decide that Kansas shall be admitted with the Lecompton constitution, without any satisfactory knowledge of the state of parties, or of the state of sentiment in Kansas on this subject? I know very well that some gentlemen think all these questions ought not to be considered, and they consider that we have no right to go outside of the grounds of principle, fundamental principle, as it is called, on which we are to act on the proposition to admit Kansas with the Lecompton constitution. Their idea is that there is a constitution formed in a legal manner, in a perfectly regular manner, as stated by the President—

Mr. DAVIS. I rise to a point of order, which I very reluctantly do on this or any other occasion, certainly when it stops my friend from Tennessee; but I must ask the Chair whether it is in order to go on with this discussion on the proposition to take up the resolutions?

Mr. BELL. I know that it is by the permission of the Senate that I speak. If the honorable Senator from Mississippi takes exception, I think the Chair will be bound to rule me out of order.

Mr. DAVIS. It is not an objection to the Senator, he will understand; but this discussion is postponing a bill in which I am interested, and is equivalent to taking up the resolutions for debate.

Mr. BELL. I am in favor of proceeding with business in regular order. I said pretty much all that I intended to say.

The VICE PRESIDENT. Pursuing the practice of the Senate, the Chair has not felt himself called upon to restrict debate; but a general debate on the merits of the question, on a motion of this sort, the Chair does not suppose to be strictly in order.

Mr. BELL. I know it is the uniform courteous habit of the Chair, on such occasions, when some gentlemen have been indulged, not to interpose unless objection is raised in the Senate. I made, I thought, a proper explanation when I said that I would not have spoken at all, but for the anticipation that when this question was brought forward, the Senator from Virginia (and he is very prompt in getting the floor) might move to lay the resolutions on the table, and his motion might be carried by a majority, and preclude me from expressing my sentiments as to the importance of the information sought by these resolutions. I wished to express the deep conviction that I cannot conceive that the Senate of the United States would be willing to take up and decide the main question without the important information which may be afforded, if there be any in the Departments, on the subject to which I have particularly alluded. I cannot conceive that they can lead to any investigation of the fraud or outrages, *pro* and *con*., to which the honorable Senator from Virginia has alluded. I take my seat, begging pardon for having added these few additional words.

The VICE PRESIDENT. The Senator from Illinois moves to postpone present and other special orders, with a view to take up his resolutions of inquiry.

Mr. DOUGLAS. I ask for the yeas and nays on the motion.

Mr. PUGH. I ask the Senator from Virginia to withdraw his opposition; and if the resolutions are to be debated, I feel bound by the understanding among my political friends, not to put any

obstacle in the way of the Army bill. Although I desire to have the information, I cannot engage in any new discussion until the Army bill has been disposed of.

The yeas and nays were ordered.

Mr. MASON. I have made no proposition. I have said that whenever the resolutions come up, I shall move to lay them on the table; and I refrained from giving any further reason for it than an apprehension of the consequence. I will not move to lay a subject on the table and debate it first myself, because that motion precludes debate; but I may be allowed to say this: that the great object I seek to attain will be to take the sense of the Senate on the tenor of the resolutions; that they ask the Senate to go into inquiries which belong either to the Territory or to the State of Kansas, and do not belong here. All Senators who agree with me, I presume will vote to lay them on the table.

Mr. GWIN. I do not object particularly to the resolutions; but if the motion is to put aside the Army bill in order to take them up, I shall not vote to lay aside the Army bill, though I have no particular objection to the passage of the resolutions. When they come up, I may vote for them.

The question being taken by yeas and nays, resulted—yeas 23, nays 30; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Allen, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Crittenden, Davis, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Sliedell, Toombs, and Yulee—30.

So the motion to take up the resolutions was not agreed to.

ORDER OF BUSINESS.

The VICE PRESIDENT. While these proceedings have been going on, the hour has arrived for the consideration of an older special order, which was assigned at an earlier period, and which is now before the Senate. It is the motion of the Senator from Illinois to refer so much of the President's annual message as relates to Kansas affairs, to the Committee on Territories.

Mr. DIXON. Do I understand the Chair to say that the special order is with regard to the reference of the President's annual message?

The VICE PRESIDENT. Yes, sir. The Army bill was the special order for half past twelve o'clock. When the hour of one o'clock arrived that special order falls, to give way to another, which was assigned at another period, and takes precedence according to the order of time at which it was assigned, in conformity with the rules and the decision of the Senate the other day.

Mr. DAVIS. I move to postpone that special order and all prior orders, so that we may proceed with the consideration of the Army bill.

Mr. DIXON. I had supposed that the subject which was the special order this morning was the bill for increasing the Army.

The VICE PRESIDENT. The Chair will state again to the Senator that the bill for the increase of the Army was made the special order for half past twelve o'clock. It came up at that hour. Another special order of an older date was assigned for one o'clock, and when the hour of one arrived it would have been the duty of the Chair to call up the older special order assigned for that hour, under a rule of the body which says that when two or more subjects have been specially assigned, they shall take precedence according to the order of time at which they were assigned, and according to the view expressed by the Senate the other day when that question arose. Accordingly, at one o'clock the Chair calls up an older order. The Senator from Mississippi now moves that that, and all other prior orders, be postponed, with a view to take up the Army bill.

Mr. DIXON. The remarks I propose to submit can, as I understand, be as well made on the bill which the Senator from Mississippi desires

to bring to the attention of the Senate. I am perfectly willing to give way.

Mr. BIGLER. Will the Senator from Connecticut permit the vote to be taken on the motion?

Mr. DIXON. I give way.

Mr. BIGLER. I simply suggest that we take a vote and proceed with the consideration of the Army bill, and then the Senator has the floor.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi to postpone the special order indicated by the Chair, and all other special orders before the Senate, with a view to continue the consideration of the Army bill.

The motion was agreed to.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States, the pending question being on the motion of Mr. TOOMBS to strike out the first section of the bill.

Mr. DIXON. It was my desire, Mr. President, yesterday to address the Senate on the general subject of the affairs of Kansas, then perhaps more properly before the body than it is now; but such was my reluctance last evening, at the late hour when I might have obtained the floor, to claim the attention of the Senate, that I relinquished my desire. I now propose to ask the indulgence of the Senate while I submit some remarks, briefly as may be, I trust, upon the question before the Senate at that time; and I think, sir, that everything that might have been said yesterday, or at any previous stage of the debate, may as well be said on this bill as upon any other subject which has been before us for consideration. The President of the United States, in the message which was yesterday referred to the Committee on Territories, informed us, among other reasons why Kansas should be admitted as a State, that one, in his opinion, was, that if we so admitted her he could remove that portion of the Army of the United States which is now in that Territory; and I take it that we may infer from this that one very important reason in the estimation of the Administration for at this time increasing the Army is, that the President thinks it his duty to keep a very large portion of the troops in that Territory. It is my opinion that there is no occasion at this time for retaining any portion of the Army of the United States in the Territory of Kansas for any purpose whatever; at any rate for any such purpose as that for which it is now retained there. I desire to allude, in the course of my remarks, somewhat to the reasons given by the President of the United States for sending to and retaining in that Territory, the troops under his command as Commander-in-Chief of the Army and Navy.

We are in the midst of a very important controversy. I am sorry that it takes the character of a controversy; but I desire to ask the Senate why it is that we are now engaged in a controversy of this kind, in regard to one of the Territories of the United States? In the beginning of the year 1854, the law with regard to the state of every portion of the territory of this Union, and especially this portion of it, was fixed and settled. It was settled by a law which had existed for more than thirty years, and which had been considered constitutional; and it had been declared, by a very great authority on this floor, (Mr. Webster,) to be in his judgment irrepealable. He stated here, in 1850, that the condition of the territory of the United States, with regard to slavery, was fixed and settled by an irrepealable law. So far was he from supposing that the law of the United States which fixed the character, and had for a long time fixed the character of the Territory in question, was unconstitutional, that he actually declared it to be irrepealable. He supposed it to be in the nature of a contract which could not be repealed.

It was not, however, actually irrepealable; it was repealed; and we are told now, we were told by the Senator from Georgia [Mr. Toombs] the other day, in the course of his very remarkable and very able speech, that the legislation existing at that time in the Territory of Kansas, which was repealed by the act of 1854, and declared inoperative and void, was the beginning of legislation and interference on the subject of slavery in the Territories of the United States. I have not

quoted his exact language, but I think that was the idea suggested by the Senator. We have since been told, we were told yesterday, that the course of the non-slaveholding States and their representatives on this floor, and in the other branch of Congress, had been aggressive. The charge has been made here and elsewhere throughout the country, that the people of the free States of this Union are, in their feelings and in their legislation, aggressive on the subject of slavery, and that the aggression commenced in the year 1820. If I understood the Senator from Georgia, his idea was that then was the commencement of interference on the part of Congress. I deny, with all respect to the opinions of that gentleman, and other gentlemen who have spoken on the other side, that there has been any aggression on the part of the free States of this Union. I deny that that was the beginning of the interference of Congress; and I take upon me here to say, and I can show, by reference to acts of Congress and the whole course of the Government, that, from the very beginning of the Government, from its earliest inception, even before the establishment of the Constitution of the United States, the whole course of policy of the Government was legislation on the subject of slavery as well as other subjects in the Territories; and that full power was claimed on that subject, and that it was not until 1854 that the power of Congress was abnegated. Then it was that Congress, instead of exercising its power on that and all other subjects in the Territories, announced the doctrine that there was no such power in Congress. If the doctrine was not then started, the action of Congress at that time was its first official recognition.

Now, I propose to show that from the very beginning Congress asserted, claimed, and exercised the power of legislating on slavery, as on all other subjects in the Territories. I do not propose to detain the Senate with a historical account of what took place in regard to the ordinance of 1787, known as it is to every Senator present; but I beg leave to refer very briefly to certain historical events which occurred previous to that time. That was not the beginning. Any one who will refer to the history of events connected with that period, will find that there was not only no intention of extending slavery into the Territories of the Union on the part of the fathers of this Republic, but that there was actually no desire to extend territory. Not only did they not claim that slavery should be extended, but there was no wish, or desire, or intention, or supposition, that the territory of this Union could be extended in any direction. In the year 1787, the whole territory of the United States was covered by the ordinance of 1787. That ordinance was adopted and ratified by Congress among their first acts after the Constitution. Their first important act was to pass a bill for the protection of American industry; and almost their second act was to pass a bill ratifying and confirming the ordinance of 1787. This, I presume, is pretty much the order in which my honored friend from Rhode Island, who sits by my side, [Mr. SIMMONS], would take up the subject if it were now referred to him.

What took place before that time? The Congress of the Confederation, in their last moments, were employed in a manner somewhat instructive to us, in view of this subject. What were they occupied upon? If you refer to the debates in the Congress of the Confederation, you will find that the subject before them was the question whether the whole territory bounding the Mississippi, together with the exclusive right of the navigation of the Mississippi river, should be ceded to Spain. Seven States of this Union voted to relinquish to Spain the exclusive navigation of the Mississippi river for twenty-five years. What States were in favor of that proposition? Mr. Madison, in a letter to Mr. Jefferson, written in the year 1787, states the course of each delegation. He says:

"Maryland and South Carolina have hitherto been on the right side. Their future conduct is somewhat problematical."—*Madison Papers*, vol. 2, p. 642.

It was doubtful what position the States of South Carolina and Maryland would occupy on that all-important question. They then had no idea of extending territory. So far from intending to extend slavery, they had no idea at that time that our territory would ever extend beyond the Mississippi river. They could not have had that supposition with the view they entertained in

regard to the small importance of the navigation of the Mississippi. We are told by Mr. Madison, that in the discussion of that question between the Spanish Minister, (Mr. Guardoqui,) and our Minister of Foreign Affairs, the Spanish Minister said that Spain occupied both sides of the Mississippi, as far as the mouth of the Ohio, thus including Kentucky, and,

"With an air of ostensible jocoseness, he hinted that the people of Kentucky would make good Spanish subjects, and that they would become such for the sake of the privilege annexed to that character."—*2 Madison Papers*, p. 592.

Instead of excitement on the subject, two southern States—Maryland and South Carolina—were so indifferent with regard to it that Mr. Madison could not tell which way their votes would be recorded. In the result the Constitution was adopted, and the powers of the Congress of the Confederation, of course, departed, and no action was taken on the question. There was then no northern aggression. The proposition to prohibit slavery in the territory northwest of the Ohio river did not come from the North. It is now known to have originated with Mr. Jefferson himself. Northern people took very little interest in the question, comparatively. Southern statesmen, seeing that it would be better for that region of country that their institutions, about which they knew so much, should not be there extended, proposed the prohibition in the Congress of the Confederation, and it was carried by their votes and by their influence.

After the ordinance of 1787 was established, our territories were extended in the southwestern region of this country; the purchase of the Louisiana territory was made, with regard to a portion of which the controversy now going on is concerned. What do you see in the legislation of Congress, in reference to that territory? If you will refer to the very first act passed on that subject—the act for the organization of Orleans Territory—you will see that instead of abdicating power on the question of slavery, Congress exerted full and supreme power on that subject. Any Senator who states that the commencement of legislation for the restriction of slavery in the Territories was in 1820, certainly either has not examined this subject, or has not retained in his memory the result of that examination. I do not now propose to dwell on that branch of the subject. It has repeatedly been dwelt upon at sufficient length in the Senate. It has been held up before the country. The Senator from Vermont, [Mr. COLLAMER], in a speech of great ability, has laid before the Senate all the facts in regard to that legislation. I barely desire to refer to it. You will find that in that act Congress exerted the power of abolishing a certain species of slavery which then existed in this country. Congress provided that slaves carried into that Territory for a certain purpose should be, immediately on being conveyed there, entitled to their freedom. Congress exerted a power of prohibiting the slave trade many years in that Territory before they had power to prohibit the foreign slave trade with the States of this Union.

Not to dwell on that legislation which took place in the Territory of Orleans, what was done when the State of Louisiana was admitted into the Union? We have been told repeatedly that Congress had no power to affix conditions to the admission of a State into the Union, except to provide that that State should be republican in the character of its government. If, however, you will refer to the act admitting Louisiana into the Union, you will find that not only was her government required to be republican in its character, but also a condition was annexed that the proceedings of all her courts, and all her legislative proceedings, should be in the language in which the laws and proceedings of this Government were published, to wit: in the English language. That was one of the conditions insisted upon before the State of Louisiana could be admitted into the Union. Another condition was that the navigation of the Mississippi should be free from any tolls which the State of Louisiana might claim at any time the right of imposing; and furthermore that the public lands in that State should be ceded to the United States, and the right of the State to tax them relinquished.

Such, at that time, was the policy of the Government. Was there to be found a statesman in this whole country, in Congress or out of Con-

gress, who then claimed that the power did not exist in Congress to legislate on the subject of slavery, as well as all other subjects, in the territories of this country? I do not wish to exhaust the patience of the Senate by referring more minutely and particularly to authorities on the present occasion, but I beg leave to ask the attention of this body to what was said by Mr. Madison himself, at the first session of the Congress of the United States, under the Constitution formed by his aid and his counsel. A petition was presented to that Congress by Benjamin Franklin, asking that the traffic in human beings might end. Some degree of excitement was occasioned by that petition; but what did Mr. Madison say? The power of Congress to legislate on the subject of slavery was then, for the first time, debated in either branch. It was admitted on all hands that there was no power to legislate with regard to slavery in the States; but how was it as to the Territories? Mr. Madison said:

"He admitted that Congress is restricted by the Constitution from taking measures to abolish the slave trade; yet there are a variety of ways by which it could countenance the abolition, and regulations might be made in relation to the introduction of them into the new States to be formed out of the western territory. He thought the object well worthy of consideration."—*Gales & Seaton's Register of Debates*, vol. 1, p. 1246.

That covers the whole ground. He does not barely say that Congress might legislate with regard to the Territories; he says regulations might be made with regard to the introduction of slaves into the new States to be formed out of the western territory, showing his opinion to be not only that Congress could legislate in regard to the Territories, but could so legislate as to bind the States formed out of them after they became States of this Union. Down to the year 1820, I have never been able to find, in any examination I have given the subject, that the power was doubted or denied; on the contrary, it was exercised on all occasions. Whenever the matter came before Congress, the power was exercised fully and completely.

We then come to the year 1820. I suppose the restriction of slavery in the bill to admit Missouri into the Union is one of the instances of northern aggression, upon which gentlemen would dwell in discussing this matter. I need not remind the Senate of the manner in which that question was brought before the country; but I desire at this time to call attention to the peculiar mode in which that compromise was carried through both this and the other House of Congress. Was it done by northern men? Was it considered as a gain by northern men? I have been at some little pains to look into the manner in which that bill was brought before Congress and passed, and I find that there is no record of any advocacy of the measure, except by southern men. The principal advocate of it seemed to be Mr. Lowndes, of South Carolina. Mr. Clay, of course, was an advocate of it, but he occupied the chair a large portion of the time, and what he said is not reported in the current reports. Mr. Lowndes was one of the warmest and strongest advocates of that compromise, and when the vote was finally taken, and the measure passed Congress, it appears that all the members present from the States of Maryland, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Louisiana, Mississippi, and Alabama, voted in favor of that compromise. It was passed by their influence and their exertion. Their arguments sustained it. The North opposed it. It is true the North claimed more; it is true that most of the non-slaveholding States of the Union claimed that slavery should not be permitted in any territory of the United States, but the restriction of slavery in the territory north of 36° 30' was advocated and sustained by southern men, and carried by southern votes.

The Missouri compromise act was signed by Mr. Monroe, after consultation with his Cabinet, among the members of which was Mr. Calhoun. Among Mr. Monroe's manuscripts has been found a paper indorsed: "Interrogatories, Missouri, March 4, 1820. To the heads of Departments and Attorney General."

Questions. "Has Congress a right, under the powers vested in it by the Constitution, to make a regulation prohibiting slavery in a Territory?"

"Is the eighth section, which passed both Houses on the 3d, for the admission of Missouri into the Union, consistent with the Constitution?"

The following original draft of a letter was found in Mr. Monroe's handwriting, not addressed to any one, but supposed to be intended for General Jackson:

"DEAR SIR: The question which lately agitated Congress and the public has been settled, as you have seen, by the passage of an act for the admission of Missouri as a State unrestricted, and Arkansas likewise, when it reaches maturity, and the establishment of the 36° 30' north latitude as a line north of which slavery is prohibited and permitted to the south. I took the opinion in writing of the Administration as to the constitutionality of restraining Territories, (and the vote of every member was unanimous,) and which was explicit in favor of it, and as it was, that the eighth section of the act was applicable to Territories only, and not to States, when they should be admitted into the Union. On this latter point I had, at first, some doubt; but the opinion of others, whose opinions were entitled to weight with me, supported by the sense in which it was viewed by all who voted on the subject in Congress, as will appear by the Journals, satisfied me respecting it."

To show that the question was fully considered by Mr. Monroe and his Cabinet, I ask attention to the following extracts from the diary of Mr. John Quincy Adams, who was then Secretary of State:

"March 3, 1820.—When I came this day to my office, I found there a note requesting me to call at one o'clock at the President's House. It was then one, and I immediately went over. He expected that the two bills, for the admission of Maine and to enable Missouri to make a constitution, would have been brought to him for his signature; and he had summoned all the members of the Administration, to ask their opinions, in writing, to be deposited in the Department of State, upon two questions: 1. Whether Congress had a constitutional right to prohibit slavery in a Territory; and, 2. Whether the eighth section of the Missouri bill (which interdicts slavery forever in the territory north of 36° 30' latitude) was applicable only to the territorial state, or would extend to it after it should become a State. As to the first question, it was unanimously agreed that Congress had the power to prohibit slavery in the Territories. [Mr. A. thought it extended to the State, which was bound by—others that it only related to the Territory.]

"March 5.—The President sent me yesterday the two questions, in writing, upon which he desired to have answers in writing, to be deposited in the Department of State. He wrote me that it would be in time if he should have the answers to-morrow. The first question is, in general terms, as it was stated at the meeting on Friday. The second was modified to an inquiry whether the eighth section of the Missouri bill is consistent with the Constitution. To this I can, without hesitation, answer by a simple affirmative; and so, after some little reflection, I concluded to answer both.

"March 6.—I took to the President my answers to his two constitutional questions, and he desired me to have them deposited in the Department, together with those of the other members of the Administration. They only differed as they assigned their reasons for thinking the eighth section of the Missouri bill consistent with the Constitution, because they considered it as only applying to the territorial territory, and I barely gave my opinion, without assigning for it any explanatory reason. The President signed the Missouri bill this morning.

"A true copy from the original, by me,

—CHARLES FRANCIS ADAMS."

With this legislation the country rested in peace for many years. In the year 1854, however, this legislation was disturbed. At that time the country was in peace; the compromise measures of 1850 had been adopted, and had been for the most part acquiesced in. There were some, to be sure, in some parts of the country, who were opposed to those measures; but the opposition had nearly subsided; there was a general acquiescence. If the subject had been allowed to slumber there, I think the acquiescence would have continued, and would have increased. But, in an evil hour, in the year 1854, the law which had existed for more than thirty years—the constitutionality of which had been admitted on all sides; which had scarcely been denied, or, if it had been denied, had been denied in a manner which showed that there was no very great sincerity in those who were denying it—the restrictive portion of the act was declared inoperative and void; and, in addition to that, a feature was presented in the bill which it was supposed would render it quite acceptable to the people of the free States. What was that feature? Having stricken out, and declared inoperative and void, the clause prohibiting slavery north of 36° 30', the bill provided that the question of slavery in the Territory included in it should be left to the free action of the people of the Territory. They were to be left "perfectly free to form and regulate their domestic institutions in their own way." That was the only feature of this bill which, so far as its supporters in the northern States were concerned, was considered in any degree acceptable. To a portion of the people of this country that feature was acceptable. It was that feature of the bill which sustained the party now in power in the last presidential election. Mr. Buchanan is right, in his message, when he says the subject

was presented to the people of the northern States of the Union in this light: that the people of the Territory of Kansas should be permitted to vote on the question of slavery freely; that it was to be submitted to them; that their will was to be not only considered, but respected and regarded as final.

That bill having become a law, what was the action of the people of this country respecting it, considering them sectionally, viewing them as occupying different portions of the Union? What did the northern States? I will consider their conduct in the light of the charges brought against them. They are accused of having colonized Kansas Territory. We are told that people from the northern States of the Union, being desirous, if possible, to retain that Territory as free territory, believing, as they did, that it belonged to them by every title, not only by the legislation which had long been acquiesced in, but by the law of nature, that it was a proper region for free territory, emigrated to that region in large numbers; we are told that emigrant aid societies were established; we are told that free settlers were encouraged and aided by incorporated companies to go into that Territory, and there take up their residence. If it were so, I am not able to say that I see in that anything objectionable; certainly there was nothing illegal. What if it were true that northern States did incorporate companies with a view of settling one of the Territories of the Union: is not that a perfectly proper and perfectly legal course? Is not settling a Territory a laudable object?

We are told in the message of the President of the United States, in regard to Central America, that the proper way of obtaining that territory which does not belong to us, is by emigration; that we ought not by force of arms to attempt to seize Central America; but that we ought to do it by peaceful emigration. If it is right to emigrate into a territory which does not belong to us, is it not perfectly proper, is it not a laudable object, to encourage emigration into a Territory of this Union? That is all that any Senator can say has been done, even admitting every charge with regard to the Emigrant Aid Society. It was a laudable object; it was a desirable object; and if there was the further object of carrying liberty into that Territory, it certainly does not render it less laudable or less desirable.

But what are the facts? In point of fact, the settlement of that Territory by means of the Emigrant Aid Society, which has been considered a very great act of aggression on the part of the North, has been much overstated. I believe the fact to be that only a very small portion of the free settlers of Kansas Territory went from the New England States at all; or, if they went there from the New England States, it is not true that they went there under the auspices of the Emigrant Aid Society. For one, I can say that in my entire acquaintance, I have never known but a single emigrant who has ever gone into that Territory from the State of Connecticut. The Senator from Iowa [Mr. HARLAN] informed us the other day, that (I think) nine tenths, at any rate a very large proportion of the settlers of the Territory have gone from the northwestern States, and they have not gone under the auspices of the Emigrant Aid Society. They had a perfect right to do so. The States of this Union had a right to pass acts of incorporation for any legal purpose, and if citizens had gone under those acts of incorporation, there would have been no possible objection which could have been made to it by any Senator with any show of reason; but in point of fact it was not so. The settlers went there, as we should have supposed they would go there, from the adjoining States, from adjacent territory; or a large proportion of them, almost the whole of them, did so.

That having been the course of the free States, what, I beg leave to ask, was the course of the States that are called the slaveholding States, or the slave States—I prefer to call them the slaveholding States? Did they attempt to settle that Territory? Did they make any attempt to settle it by peaceful emigration? If the State of South Carolina, or the State of Virginia, had seen fit to incorporate companies, with the view of settling Kansas, with the view of encouraging their own people to go there and settle that Territory with an honest intention of residing there, there would

have been no complaint raised by the portion of the Union from which I come. Their right was perfect: they could have done it. I never heard that they did; but what did they attempt to do? I do not say that any of the States of this Union interfered in any improper manner in the settling of that Territory; but I do say that the proof is perfectly undeniable—I undertake to allege that it is proved by the report of the investigating committee of the other House of Congress—that the people of the adjacent States, instead of attempting to settle Kansas, instead of going there as actual residents with the intention of remaining, went there by force and took possession of the ballot-box at the point of the bayonet. It was not fraud in the inception; they did not begin by fraud; they adopted no such peaceful means as fraud implies. They went there by actual force and violence, and drove the free settlers of that Territory from the polls, and took possession of the government.

The Senator from Missouri [Mr. GREEN] the other day, denied these charges; and he charged the Senator from Massachusetts [Mr. WILSON] with having stated what he could not prove. I say it is proved. It is so far proved that any Senator has a right to allege it on this floor; he has a right to say it is substantiated by evidence. It is shown that, of the voters who took part in the first election, on the 30th of March, 1855, in the Territory of Kansas, where the violence first made its appearance, about five thousand, in round numbers, were persons who had no residence in the Territory, who had no intention, so far as appears, of becoming residents, who were there merely for the occasion of voting; and when their business of voting was finished, they returned to their homes in an adjoining State. They established a government; they gave it the form of law; they elected a Legislature. That Legislature was not elected by the people of the Territory, but by the people of an adjoining State—men who exercised the right of suffrage in their own State—men who had exhausted their right of suffrage in their own State; men who, having voted in their State, had no right to vote anywhere else. They came into this Territory, and without resorting to fraud, by actual violence took possession of the polls, and drove away those who had a right to vote at that election. That is the origin of the "legality" of the acts that have since taken place in Kansas.

We are told by the President of the United States that the form of law has been given to this action; and we are told that the Legislature has been recognized by both branches of Congress; we are told that he himself has recognized it. That is the very thing of which we complain. The very cause of complaint on the part of the people of the northern States of this Union, and, I trust, a portion of the southern States, is, that this gross and outrageous and too successful attempt to subvert the liberties of the people of that Territory, to deprive them of their rights, has been upheld and recognized by this Government. Can it be claimed here: will it be claimed, that fraud and violence can be ratified, can be sustained, can have any sanction given them by any subsequent indirect approbation, such as it is claimed has been given them by the other House of Congress? It seems to me that no Senator can claim that any such technical support can be given to these proceedings.

We come, in the progress of events, to the presidential election. While these troubles were exciting the attention and interest of the people of the country, the last presidential election took place; and what was the issue then made before the people? I cannot say what was the issue made in the southern States; but I can say with safety that the issue made in the northern States of the Union was whether the people of the Territory of Kansas should be allowed to settle the question of slavery for themselves. If any other question had been presented to the people of that portion of the country, I am safe in saying that the result would have been very different. The President tells you that everywhere this question was made—not the question of the extension of slavery to Kansas; not, shall Kansas be a slave State; but shall the people of Kansas at the polls in a legal manner, in a proper manner, be permitted to say whether they will have slavery or not? That was the question submitted in the presidential election, and the result is known to us all. The people of this country decided it. I am

willing to admit that the decision was then made, so far as you can draw an inference in regard to their decision from the result of the presidential election. They decided that, in their judgment, it was right and just that the people of the Territory of Kansas should be allowed to decide on their own institutions in their own way.

When the President of the United States took his place as Chief Magistrate of this Union, a very large portion of the people of the northern States and of my own constituents had great confidence in his patriotism. They had a strong hope that there would then be a fair opportunity furnished for the people of the Territory of Kansas to decide on their own institutions. They knew very well that if that decision was made in accordance with the actual views of the people of the Territory, it would be in favor of the views entertained by us on the great subject of slavery. They had entire confidence as to what the decision would be, and they had great confidence in the patriotism and the honesty of the President of the United States. He had assured them that the people of the Territory should be permitted to decide the question in their own way. He has stated, in his annual message, that if the question had not been presented to the people in the manner I have suggested, the result would not have been what it was; or, at any rate, he has said that it was so left, and that such was the understanding everywhere. Well, sir, has that been done? Has the confidence reposed in the President of the United States by the people of this country been repaid? Let us see.

Sir, in the course of the last summer, when it was first publicly announced that the President of the United States had deemed it his duty to use the Army to enforce the pretended laws of the Territory of Kansas, or more correctly speaking, to compel the free State settlers of that Territory, they being a large majority of the actual population, to submit to the government of a small minority, a number of my constituents united in a memorial to the President, which was expressed in the following language:

*"His Excellency James Buchanan,
President of the United States:*

"The undersigned, citizens of the United States, and electors of the State of Connecticut, respectfully offer to your Excellency this their memorial:

"The fundamental principle of the Constitution of the United States and of our political institutions is, that the people shall make their own laws and elect their own rulers.

"We see with grief, if not with astonishment, that Governor Walker, of Kansas, openly represents and proclaims that the President of the United States is employing through him an army, one purpose of which is to force the people of Kansas to obey laws not their own, nor of the United States, but laws which it is notorious, and established upon evidence, they never made, and rulers they never elected.

"We represent, therefore, that by the foregoing your Excellency is openly held up and proclaimed, to the great derogation of our national character, as violating in its most essential particular the solemn oath which the President has taken to support the Constitution of this Union.

"We call the attention further to the fact that your Excellency is, in like manner, held up to this nation, to all mankind, and to all posterity, in the attitude of 'levying war against [a portion of] the United States,' by employing arms in Kansas to uphold a body of men, and a code of enactments purporting to be legislative, but which never had the election, nor sanction, nor consent of the people of the Territory.

"We earnestly represent to your Excellency that we also have taken the oath to obey the Constitution; and your Excellency may be assured that we shall not refrain from the prayer that Almighty God will make your administration an example of justice and beneficence, and with His terrible majesty protect our people and our Constitution."

This memorial was signed by forty-three gentlemen, citizens of the State of Connecticut. They made no publication of the paper; but in good faith they sent it to the President for his own private perusal, with the intention and the hope that it would exert on his mind such influence as it might deserve to have. No man can say that the memorial is not couched in respectful language. The President himself took no exception to it in this respect; for he made an exception to his general rule in relation to papers addressed to himself, and gave it a particular reply. This reply was made through the channel of the newspaper press, and thus was first announced to the public the existence of the memorial itself. It was not by the memorialists obtruded upon the public attention. The President himself, apparently desirous of an opportunity to publish his intentions regarding Kansas, seized this as a fitting occasion of making them known. I make no complaint of this, nor do I complain of the tone of the reply. It was like the memorial itself, respectful in manner and

style, and the character of the memorialists perhaps justified the unusual course taken in giving it publicity.

Now, sir, I invite the attention of the Senate to this correspondence between my constituents and the President, in several points of view. I have brought the history of the affairs of Kansas down to the period when this correspondence took place. I have shown the character of the act repealing the Missouri restriction, and I have referred to the series of outrages consequent thereon. I have referred to the presidential election of 1856, and to the hopes kindled in many honest and confiding hearts that James Buchanan would take high patriotic ground on the subject of that unfortunate Territory. Then, at this precise time to which I have alluded, came the correspondence of which I am speaking.

The main object of the memorial was to protest against the use of the Army of the United States in enforcing the execution of the pretended laws of Kansas. To that I will first direct my attention. They first lay down the acknowledged principle that the people should make their own laws and elect their own rulers. They then say that Governor Walker openly represents and claims that the President of the United States is employing through him an army, one purpose of which is to force the people of Kansas to obey laws not their own, nor of the United States; but laws which it is notorious and established upon evidence they never made and rulers they never elected. They then allege that by the foregoing the President is held up and proclaimed as violating his oath of office. They do not charge him with such violation of his oath; but they say that to use the Army of the United States to force the people of Kansas to obey laws not their own nor of the United States, but laws which they never made and rulers they never elected, would be such a violation; and they say further that the President is represented and proclaimed by his agent, Governor Walker, as employing through him an army for that purpose.

This memorial always seemed to me timely and proper; but whatever may have been thought of it by others at the time of its publication, it has since, by the progress of events, been fully vindicated, and the wisdom and justice of its appeal been fully established. The President of the United States, however honest his intentions, had no legal right to use the Army in the manner and for the purpose indicated in the memorial, and acknowledged by him in his reply. This I now propose to attempt to prove.

The memorialists declare that the laws of Kansas, which the President was enforcing by the bayonets of the regular Army, were not laws; that they had never the election, nor sanction, nor counsel, of the people of the Territory; and that they were not laws of the United States. What is the President's reply to this? I take now his own allegation with regard to it. Does he say that the laws in question were really enacted by competent legislative authority? Does he say that the rulers, claiming authority which he was sustaining by Federal bayonets, were actually chosen by the people of Kansas? He says no such thing. He barely alleges that the Territory had been organized, and that its government was in operation. "A Governor," he says, "secretary of the Territory, chief justice, two associate justices, a marshal, and a district attorney, had been appointed by his predecessor, by and with the advice and consent of the Senate, and were all engaged in performing their respective duties." Who denies this? Who disputes the authority of these officers? Their powers were not in question. The President well knew, when he dwelt on this long array of officers of the Territory, appointed by his predecessor, that their powers were undisputed, that they were unresisted in the execution of their duties, and that they were not now the subject of complaint. Why, then, dwell on this list of officers, except to divert attention from the true question; which was, are the laws of Kansas the enactments of the representatives of the people, and are their elected rulers the officers chosen by them? But he goes on:

"A code of laws had been enacted by the Territorial Legislature. It is quite true a controversy had previously arisen respecting the validity of the election of members of the Territorial Legislature, and of the laws passed by them; but at the time I entered upon my official duty, Congress had recognized this Legislature by different enactments."

The Delegate elected to the House of Representatives, under a territorial law, had just completed his term of service on the day previous to my inauguration. In fact, I found the government of Kansas as well established as that of any other Territory. Under these circumstances, what was my duty? Was it not to sustain this government, to protect it from the violence of lawless men, who were determined to rule or ruin? to prevent it from being overturned by force; in the language of the Constitution, "to take care that the laws be faithfully executed?" It was for this purpose, and this alone, that I ordered a military force to Kansas to act as a *posse comitatus* in aiding the civil magistrate to carry the laws into execution."

The President asserts that it is his duty to enforce the enactment of the so-called Legislature of the Territory. I have already considered the question whether those acts were entitled to be considered true legislative acts or not. My own opinion is that they were not. I think it has been shown conclusively that there was no form of legislation connected with them which gave them any authority or should entitle them to any respect. But let us for a single moment suppose that they were legislative acts: the signers of this memorial were of opinion that even if they were, the President of the United States ought not to send any portion of the army into that Territory for the purpose avowed by him. While I do not admit that they were acts of legislation, I undertake to say that even if they had been acts of a Legislature properly and legally chosen, the President of the United States, under the Constitution and under the law, had no legal right to send the Army of the United States into the Territory of Kansas for the purpose which he has himself acknowledged and avowed. For what purpose had he a right to send the army into that Territory? The Constitution of the United States gives to Congress certain powers with regard to the Army. It gives Congress power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion." Founded on that clause of the Constitution is the act passed in the year 1795. In passing that act, Congress followed, almost *verbatim*, the language of this clause of the Constitution. It has sometimes been questioned why larger powers were not given by that act of Congress; and one gentleman, I think the Senator from Ohio, [Mr. PUGH,] spoke the other day of a *casus omissus* in this act.

Sir, the reason why no power was given to the President of the United States to order troops into a Territory, is that Congress themselves had no power to delegate to him that authority. Congress had only power to provide for the calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion. When Congress had passed a law authorizing the militia to be called out for that purpose, their power was exhausted. The framers of that bill passed it with the Constitution before them. They gave the President all the power which the Constitution invested in them. They authorized him to call out the militia for certain purposes, and Congress had no power to authorize him to call out the militia for any other purposes. To show that the act of 1795 goes no further than I have stated, let me read three sections to the Senate:

"SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the United States shall be invaded, or be in imminent danger of invasion from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State, or States, most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders for that purpose, to such officer or officers of the militia, as he shall think proper. And in case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State, or States, as may be applied for, as he may judge sufficient to suppress such insurrection.

"SEC. 2. *And be it further enacted*, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of the militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress.

"SEC. 3. *Provided always, and be it further enacted*, That whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse, and return peaceably to their respective abodes, within a limited time."

I think there are very few, if any, Senators here, who would claim that under that act, if there had been no further legislation, the President of the United States would have been authorized to order the militia of any State of the Union into a State or Territory, unless for the purposes specified in that act. He would have power, having thus been authorized by Congress, to call forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion—how? The mode in which he was to do that was specified in the act. In the first place, after having been called on by the Governor or Legislature of a State, he was to issue his proclamation as President of the United States, stating the reasons why he had resorted to this measure. Then, after having ordered the militia into any State, the law expressly provided that he should retain them there for no longer than the space of thirty days after the next meeting of Congress. So jealous were the framers of that act of the powers of the Executive, that even in the instances therein specified, the President was only permitted to use the militia for the space of thirty days, and after all the prerequisites mentioned in the act had been complied with.

Then, in the year 1807, another act was passed, under which the President of the United States claims the power to keep the Army of the United States, as he is at this time retaining them, in that Territory, and as he tells us he will retain them, until we admit Kansas as a State. What is that act? My constituents saw fit to expostulate with the President of the United States for using the Army for the purpose, as they supposed, of crushing the liberties of the people of Kansas. Now, what authority had the President to use the Army there at all? The act of 1807 simply provides:

"That in all cases of insurrection, or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval forces of the United States as shall be judged necessary; having first observed all the prerequisites of the law in that respect."

When might he use the militia under the previous law? Could he use it at all in any Territory? There is not a word said in the Constitution, or the law which was drafted in compliance with it, in regard to a Territory; but in the second act the word "Territory" is used, and it may possibly be claimed by some that, by implication, the President has power to use the regular Army in a Territory. I do not admit that such a power as this can be granted to the President by implication; I say an express act of Congress must be shown to authorize the President to use troops in that manner; but if any Senator is of opinion that implication is sufficient on which to found this authority, I take it the implication must follow the general act itself. If the President gets the power by the use of the word "Territory," he must comply with all the prerequisites of the former act; and, if the analogy of a State is to be carried into a Territory, because of the use of the word "Territory," then he is to act in a Territory precisely as he would in a State. If he has power to order troops into a Territory, he has power to order them there as he would in a State, and in no other wise. If he has any power at all, under this law, as to a Territory, he has it precisely as he has it in regard to a State; and he is bound to comply with all the requisites, prerequisites, and postrequisites, in regard to his employment of the troops required in any State of this Union. His power is no greater in a Territory than in a State.

That, I think, must be admitted by every Senator who claims that there is this power by implication. If there is a grant, it is a grant confined to the powers the President had in a State. Now what could he do in a State? In certain cases he might use the militia in a particular manner; but he could retain them there only for the period of thirty days after the next meeting of Congress. There was the limit of his power; and he may use the regular Army in the same manner, having complied with all the prerequisites. I do not claim that the President of the United States has not a right to station or quarter troops in Kansas. That is not the question. The question is whether he has the right to order the troops of the United States into the Territory of Kansas for the purpose which he has himself avowed.

What is that purpose? The act of Congress authorizes him to use the Army for the purpose of executing the laws of the Union; for the purpose of suppressing insurrection; for the purpose of repelling invasion. But what has he done? He tells us—he tells the gentlemen of Connecticut who wrote to him on the subject—that he has ordered troops into Kansas, not for the purpose of repelling invasion, not for the purpose of suppressing insurrection, not for the purpose of executing the laws of the Union, but for the purpose of protecting the polls "as a *posse comitatus*," as a measure of "precaution," he says. Did the Congress of the United States intend to give to the President precautionary powers in regard to the preservation of the peace by the use of the regular Army? Has he a right to judge for himself as to when there is a probability that the laws may be violated? And if he sees reason to suppose that at any time the laws may be violated, or an election precinct disturbed, has he a right, as a precautionary measure, without complying with any of the prerequisites mentioned in the statute, without waiting for a requisition from the Governor, or for a call from anybody, to send the Army into any State or Territory to guard the polls?

The Senator from Georgia told us the other day, in rather striking language, that liberty preserved by regular troops is not worth preserving. I am rather inclined to think that the freedom of elections in the States of this Union, preserved by regular troops sent by the President of the United States as a measure of precaution, is scarcely worth preserving. What has he done? We have before us, (it was laid on our tables this morning, and I then saw it for the first time,) a document containing some particulars with regard to the manner in which that *posse comitatus* was employed by General Harney, eminent as I admit him to be in his military capacity. It seems that on the 3d of October, 1857, this order was sent to Captain Hendrickson:

HEADQUARTERS TROOPS SERVING IN KANSAS,

FORT LEAVENWORTH, October 3, 1857.

CAPTAIN: By special orders No. 85, from these headquarters, of this date, you are instructed to proceed, in command of companies A and H, 6th infantry, to the town of Kickapoo, to be in time for the opening of the polls at the ensuing election in that place, on the 5th instant.

You are further instructed by the general commanding to report your force, upon your arrival at Kickapoo, to the proper civil authorities, to act as a *posse comitatus* in the execution of such orders as may be deemed proper to give you in that capacity.

Before leaving this post you will report to his excellency the Governor for certain instructions he is desirous of giving to you concerning the above civil duties. After the election is over, you will return with your command to this post, unless detained by the proper civil authorities for a longer period.

I am, captain, very respectfully, your obedient servant,

A. PLEASANTON,

Captain 2d Dragoons, A. Ass. Adjutant General.

Captain THOMAS HENDRICKSON,
6th Infantry, Fort Leavenworth, K. T.

MR. BENJAMIN. Where is that to be found? Mr. DIXON. On page 128 of the second volume of the message and accompanying documents for 1857-8. I deny that the President of the United States had any right to send a body of the regular force of this country to Kickapoo, or any other place, as a precautionary measure for the purpose of protecting the polls. I will not now allude to what took place at Kickapoo. There were three hundred voters in that small town, and they gave one thousand votes under the auspices of the regular troops of the United States. The polls were pretty thoroughly protected on that occasion. But, not to allude to that, admitting that everything there was fair and honest, nobody claims that there was any outbreak; nobody claims that there was any danger of an outbreak. It was a place where the free-State men had no strength; it was a place where the vote was almost wholly on the other side. But, to drop that point, and not to dwell on it at all, I say the President of the United States had no power under the Constitution, or under the law, as a precautionary measure, to send troops to that point for the purpose of guarding the polls. General Harney, in a letter to Mr. Floyd, Secretary of War, says:

"HEADQUARTERS TROOPS SERVING IN KANSAS,

FORT LEAVENWORTH, October 11, 1857.

"SIR: I have the honor to report, for the information of the Department, that the general election in this Territory, which took place on the 5th and 6th instant, has passed off very quietly, no disturbance or tumult having occurred at any of the polls which have been heard from to mar the peace of the Territory.

"The troops have returned from the different election precincts, with the exception of Sherman's battery of artillery and one company of foot artillery, and these companies have been retained in the vicinity of Lawrence, at the request of his excellency the Governor of the Territory."

What a picture does that present! An election carried on under the auspices, under the guard and protection, of the troops of the United States, sent out by the President of the United States as a mere measure of "precaution!" There was no disturbance, peace was preserved, "order reigned in Warsaw;" and why should it not? You had the whole force of the Army of the United States, and the President tells the New Haven gentlemen, who protested against his course, that the whole power of the Government should be used for the purpose for which he has used it in that Territory. What was the opinion of the late President of the United States with regard to the power of the Executive on this subject? I will not say that I quote it as an authority which ought to govern on all subjects; but I do say it is an authority which ought to have binding force on the present President of the United States, and on Senators on the other side of the House. This subject was discussed by General Pierce, in his message presented at the commencement of the third session of the Thirty-Third Congress; and he said then:

"The President of the United States has not power to interpose in elections, to see to their freedom, to canvass their votes, or to pass upon their legality, in the Territories any more than in the States. If he had such power, the Government might be republican in form, but it would be a monarchy in fact; and if he had undertaken to exercise it in the case of Kansas, he would have been justly subject to the charge of usurpation, and of violation of the dearest rights of the people of the United States."

I adopt that language. I think it is correct. I think the President had no power to use the Army for that purpose; and I believe that his act in using that power was, in the language of President Pierce, a usurpation; that the law gave him no authority; that it was, in every sense of the word, improper; that it was an act unnecessary in itself; that there was no pretext for it; that there was no occasion for it; that the election would not have been disturbed by those whom he calls free-State men, if those troops had not been there; and he does not admit that he took them there for the purpose of protecting the polls from those of opposite sentiments.

Believing that no power existed on the part of the President of the United States to send troops into Kansas; at any rate believing that they ought not to be sent for such a purpose, a portion of my constituents, as I have already stated, addressed the memorial, of which I have spoken, to that officer. Mr. President, who are the men who have thus memorialized the Chief Magistrate? They have been stigmatized as if guilty of some outrageous enormity. The Government organ, in this city, if I am not mistaken, has joined in the denunciations of a partisan press. It has used language with regard to them which it might well have left to its more unscrupulous companions, and which I do not wish to quote in this presence. Even the Governor of Virginia, in a letter to his political friends in Tammany Hall, has joined in the cry. I know not how many epithets of derision, from various quarters, have been applied to the gentlemen who have signed the memorial of which I speak.

Among other things they have been denounced as political clergymen. Well, sir, suppose it were true that they were all clergymen. Undertake to say that the clergy of this country stand where they ought to stand; first and foremost in intelligence, in education, in morality, in sincere piety. A purer, a more spotless clergy cannot be found in Christendom. They wear their sacerdotal robes unspotted. They mingle in no mere political strife. They lead the people by their counsels and by their example in the paths of that religion whose doctrines they preach, whose precepts they practice, and whose profession they adorn. This, sir, whatever may be said of a few individuals who have proved unworthy, you and I know, and every Senator here knows to be true from our own observation of their lives. Are not such men eminently entitled to the privilege of memorializing the President of the United States on a subject which they believe touches the immortal destiny of man, and takes hold on eternity? I was shocked when I saw these men insulted and vilified by the organs of the Government, and I rejoiced when it appeared that the

President himself authorized and justified no such indignity, but gave them memorial a respectful reply.

But, sir, allow me to say that, in point of fact, only a small proportion of the whole number of these forty-three memorialists are clergymen. The rest are eminent civilians and men of science. As a body, they are not inferior in position, in talents, in influence, in learning, to any equal number of men who may be found in any State in this Union. Such are the signers of this memorial. The distinguished man whose name has been placed at the head of the list, and first addressed in the President's reply, sought no such honor; but I admit he is entitled to the distinction. Connecticut consents to accept him as her representative man, and the President was only right in taking his name from its too humble place on the list, and placing it before those who would gladly yield him precedence. And now, sir, who is Benjamin Silliman, that he should be assailed by name in the Government organs, as if he were not entitled to address a respectful message of expostulation, or, if there were need, of reproof, to the President of the United States? One of the great lights of modern science—known, celebrated, distinguished among the few who have adorned the arts, and shed new light on the studies most cultivated by civilized man; the peer, the friend of Humboldt, of Davy, (while he yet lived,) of Arago, of Agassiz, of Chevreul, of Cotta, of De La Beche, of Jean Baptist Dumas, of Faraday, of Le Verrier, of Brogniart, of every great contemporary name made illustrious by devotion to science—known all over the world, when many of our distinguished countrymen are still unknown; the honored instructor of three generations of young men, in that far-famed university beneath whose classic shades he is passing his last days, the guide, the philosopher, the friend, whose teachings and whose counsels have been enjoyed by more of our public men than those of any man now living, the honored professor, at whose feet your own Calhoun sat for many years, when he, a young man, went to New England, as the young men of Rome went to Greece to learn philosophy. There, sir, under the instructions of Silliman, and Dwight, and Kingsby, his great intellect was cultivated, adorned, and strengthened. There he learned to wield that invincible logic which enabled him successfully to encounter the giants of other days—the Websters, the Clays, the Bentons—in this Senate, with constant victory; or, if not with victory, without ever having been compelled to acknowledge defeat. I know not, sir, how many members of this body were trained by the same men or their successors; one, at least, I see near me, [Mr. BENJAMIN,] who has left in those halls a traditional record of eminent scholarship, of high talent, scarcely surpassed by his distinguished position on this floor. But this with deference I say, that whatever honors may be in store for any member of this body; whatever just claims to undying fame the talents, the acquirements, the eloquence, the public services, of the most distinguished here may give him, there is not one among these honored Senators who may not deem himself satisfied, all the hopes of his youth more than fulfilled, all the labors of his manhood more than rewarded, if he may finally reach the measure of fame enjoyed in his ripened years by Benjamin Silliman. No office could elevate him; no honors could extend his reputation; no added celebrity could make his name familiar where it is now known among civilized men. It is inscribed in the immortal records of learning, and can never be forgotten, till the knowledge of humanizing arts and sciences shall fade from the memory of mankind.

I will say more, sir, if the President of the United States, with all the honors he has received from his country, including the added distinction of being enrolled in that list of eminent men who have held the high office he now occupies; if he may believe that when he is at last summoned to his reward, his name shall be as well known to the educated minds of Christendom as that of Benjamin Silliman, he may well be satisfied with the anticipation. Far off, I trust, is the distant day when Professor Silliman shall be called from among men; but when he shall have entered into the fragrant laurel grove through which the ancient Eridanus rolls its ample flood—if I may

copy the beautiful allusion of the Senator from Ohio on another occasion—the civilized world will lament his departure, and acknowledge his services to the cause of popular science. His fame is of no country, but of the world.

Yet such is the man who has been assailed and traduced for the audacious character of his respectful memorial to the President; such the man, for having presented whose memorial a Government official has found it necessary to make a public apology.

In the President's letter to these gentlemen, there are several points to which I desire to call the attention of the Senate. I have already alluded to that portion of it referring to his use of the troops. Senators on this floor—men of great legal science, whose opinion I have more confidence in than I should ever have in my own—after the greatest and closest investigation of a subject, have given it as their opinion that the President had no power under the acts of Congress to use the Army as he has used them in Kansas; but I have done with that point. There are a few other matters to which I desire to call attention.

The President says that the Topeka convention is an illegal body, and that he has treated it as a usurpation. Now, is it not the right of every citizen of the United States to meet and peaceably petition for a redress of grievances? Was the Topeka convention any more than that? Was there any overt act? Was there anything to render it illegal? Conventions are frequently held in various parts of this country. It is growing somewhat common to hold them, not only at the North, but at the South; conventions in which a great many sentiments which some gentlemen might perhaps consider treasonable are expressed, but I have never yet heard it claimed that, so long as no overt act was performed, no step taken of forcible resistance to any existing Government, those conventions were illegal. If that was an illegal convention, the President and his friends here could show it. Have they done so? I think not. What law did it contravene? Did it contravene the organic act? Did it contravene any act of the Territory of Kansas? Was there any law existing anywhere prohibiting any set of men, in any of our Territories, from meeting when they pleased to form a constitution, call it a constitution, and send it to Congress? They sent it to Congress, and what action did Congress take? One branch of the Congress of the United States accepted this constitution, made by this so-called "illegal" body. It came very near being, and would now be, if it had received the assent and consent of the Senate of the United States, the existing law of the State of Kansas. Had they not a right to send that constitution here? Did they infringe or violate any law or any enactment by doing it?

But the President says he will treat them as President Madison treated the Hartford convention. I have no doubt he thought a very severe blow. He was addressing Connecticut men, and the Hartford convention was held within the State of Connecticut, and this allusion to the Hartford convention undoubtedly was considered a very fortunate hit on the part of the President of the United States. What comparison was there between the Hartford convention and the Topeka convention, admitting that the latter was illegal? There was no analogy between them. There have been conventions held in this country somewhat analogous to the Hartford convention, if they were guilty of what was charged against them. If the Hartford convention had any design (of which I have never seen the proof) of bringing about a disunion of the States, there have been conventions held which might have been compared to them, and to which the President might have alluded. But why drag in the Hartford convention? There were peculiar reasons, I think, why the President should not have alluded to it. I think his own cheeks ought to have been bedewed with some penitential tears before he made any reference to the Hartford convention, in addressing these gentlemen. They did not belong to the party that sustained the Hartford convention. I doubt whether any portion of them—certainly, if any, very few of them—belonged to it; the great body of them were men not then in active life; but the President did belong to the party which sustained and upheld the Hartford convention, and did not leave that party

until long after. It was long after that, that Democratic blood began to flow in his veins. I think that before alluding to this, he should himself have shown some signs of penitence. He should have shown that he at least regretted that he had any connection with the Hartford convention, with which he attempts to taunt these gentlemen from Connecticut.

He goes on further and expressly avows in this letter that his principal, if not his sole object, in sending troops into Kansas, was to protect the people in their right to vote on the constitution which was to be submitted to them. There has been a great deal said in this body and out of it as to the right of the people of Kansas to vote on a constitution formed for themselves, and, as should be supposed, by themselves. The question is raised whether they ought to be sustained in so voting; whether they ought to be admitted into the Union under a constitution which is known to be in violation of their wishes; against which they have protested; against which they are now constantly protesting; against which they have protested by their late vote. But what says the President? He says:

"It is my imperative duty to employ the troops of the United States, should this become necessary, in defending the convention against violence while framing the constitution, and in protecting the *bona fide* inhabitants' qualified to vote under the provisions of this instrument, in the free exercise of the right of suffrage when it shall be submitted to them for their approbation or rejection."

Was it, then, a question whether the constitution shall be presented for their approbation or rejection? So far from it the President of the United States says it is his duty to use the whole power of the Government in protecting them, when it shall be submitted for their approbation or rejection. It is not only to be submitted to the people of the Territory, but the regular Army is to attend them at the polls, and they are to be sustained and defended in their right of voting upon it.

What has been done? Has it been submitted? Have the people of that Territory had any opportunity of voting upon it? The President tells us in a subsequent message that each citizen of Kansas has had a fair opportunity "of expressing his opinion, by his vote, whether Kansas shall be received in the Union with or without slavery." True it is that the constitution itself has not been submitted; but the great question of slavery, he says, has been submitted! I say it has not been submitted at all. The question submitted to them was, will you take this constitution with a particular form of slavery, or will you take it with another form of slavery? and that was the only question submitted to them. It has not been the question of slavery or no slavery. It is difficult to say—the Senator from Illinois [Mr. TRUMBULL] said the other day, it would be difficult for him to say, if he were a voter of that Territory, whether he would prefer the constitution in the one form or the other. It is somewhat immaterial; it is a slave constitution in either form.

Are the people of this country to be told that this question has been submitted to the consideration of the proper tribunal—that tribunal which ought to judge upon it, and which they were told should judge upon it? Are they now to be told, at this late day, when the constitution has not been presented to the people; when there has been no opportunity for them to act on the question of slavery alone; that it has been thus presented, and that they are bound by that decision which is pretended to have been made?

Why, sir, the President of the United States says that the vote taken on the day appointed for the election of State officers by the convention is a waiver of all objection on this point. The ground now taken is, that having appeared there and voted under protest, every objection which had previously been made by the people of that Territory to the illegality of the former proceedings is waived. That was the reason why many in that Territory thought it was best not to vote at all. That is the very reason they gave for not having voted previously. They were upbraided; they were charged by the President with treasonable designs for not having voted at the previous elections. They said if they did vote it would be urged that they had waived all objection; but when, finally, at the urgent request of the President of the United States and his officers, they do come forward and vote, then the very thing is

said which they had apprehended would be said, namely, that they have waived all objection to all former illegality, and are now estopped from pleading any of those objections on any future occasion.

The President says to us at the close of his message that Kansas must be admitted as a State because dark clouds are lowering over this country which will grow darker, and from which some direful consequences are anticipated, unless the State shall be admitted. I have no wish to allude to anything of this kind. I have had no wish, and have now no wish, in any remarks I may submit, to allude to the subject of slavery at all, or to the questions growing out of it, as to the stability of the institutions of this country and the duration of our Union. I believe that this question may be discussed without much reference to slavery. I think it may be looked at now without reference to the condition of the African race on this continent, and the duration of slavery as an institution, either as a State or territorial institution. In regard to its existence in the States of this Union, I have no desire to discuss it. I have no wish to say one word in regard to the existence of slavery in any State of this Union. If other Senators see fit to do so, I have no objection to any course they may pursue; but so far as I am concerned, I desire only to discuss such measures as I may vote upon in this body. Having no power to vote on the subject of slavery in the States of the Union, I am perfectly willing to drop the discussion of it, and say nothing about it; other Senators may do as they please.

In the consideration of the subject now before us, we are no longer confined to that view of it which relates solely to the destiny of the African race on this continent, and our duties and rights as affected by African slavery. The tendency of all disputes regarding the interests of humanity is to escape from the contemplation of particular instances of wrong or complaint, and rise into the region of general principles. The individual instance of alleged oppression thus becomes, by a natural progress, the concern of the whole human race. The interest of the man becomes the interest of mankind. Thus it has always been in all history. So it was in the struggle which terminated in the establishment of the constitutional Government of England on its present basis; what was at first the quarrel of a few daring individuals became the quarrel of the English nation. So it was in our own Revolution. The question soon lost its local and individual character; the cause of Boston became the cause of all; and when the contest was over, the rights of the whole human race had been vindicated, and the liberties of all within the influence of the result confirmed. And now, in the instance before us, we see a controversy which, in its beginning, regarded the condition of an oppressed and despised people, whose fate many of the governing race in this country thought unworthy of their attention, ending in a terrific conflict, convulsing the whole continent, the termination of which is to decide nothing less than the right of man in this Republic to self-government.

I deem it, Mr. President, a happy circumstance that this question has ceased to relate solely and entirely to particular interests and conditions, and has become thus general in its character. The great principles which it involves can now be distinctly discerned and understood. Those who were indifferent when their attention was invoked to the concerns of what they considered an inferior race, may not be reluctant to engage in a struggle which involves their own rights and privileges. But more than this: the question having ceased to be particular in its interest, can no longer be considered sectional. It relates to the right of man to self-government—not at the north or the south only, but throughout the Republic. Every freeman, whatever his sentiments, whatever his interests in relation to the question of slavery, and wherever his residence, may forget and escape from the narrow prejudices of birth and education, and take such part as a generous nature should prompt in this great contest in defense of the rights of humanity.

When we view it in that light, and stand here and say that we cannot consent to the admission of Kansas into this Union, under the constitution adopted at Lecompton, because the people of that Territory have not been permitted to express their

opinion on that constitution, because it is wholly in violation of their wishes, because their rights and privileges have not only been neglected, but have been forcibly and fraudulently trampled in the dust, we are told by the President of the United States that we must make no such objection, because dark clouds hover over the Union. What does that mean? I would not allude to it here, if the President of the United States had not done so. I do not wish to stand here, occupying my position as one of the humblest Senators on this floor, as a defender of the Union. I wish to say nothing about the Union. I wish to take it for granted that the Union of these States is to continue; but the President intimates that it depends upon the result of the vote on this question of admitting Kansas. I see no blame attached by him to those who propose to destroy the fabric of this Government, unless Kansas shall be admitted, under this constitution, into the Union of these States.

Suppose a portion of the people were to be addressed, as we familiarly say, "from the stump," a portion of the people of the State of this Union which is most ultra, if any such there be, in defense of the institution of slavery, and an orator, such as many they have sent to this body, in addressing them, were to say to them, "My friends, the Union between the States forming this Government, is to be dissolved; and why? In the year 1820, we made a compact, we made an agreement, we consented, our representatives themselves brought forward the proposition, we made a solemn covenant and agreement that north of 36° 30' slavery should be forever prohibited. Now, my friends, it is proposed on the part of our northern brethren to do as they agreed; they propose to carry out that compact; they have carried it out for thirty-six years; they propose to continue it; we have had all on our side of the line; they propose to take the other side of the line; and now, gentlemen, we propose to dissolve this Union because our brethren will do as they have agreed." That is the whole of it. The people of the North are now told—I regret that they are so told; I wish it were not said; I am sorry that any such threat should be held out even by implication, and that the President of the United States should make the intimation—"if you insist on what you consented and agreed to twenty years ago, the Union is to be dissolved." What would Henry Clay have said, what would William Lowndes have said, what would Mr. Calhoun have said? What would these gentlemen have said, if they had been told by Mr. Taylor, of New York, who opposed the compromise, "we will not make this agreement; because, if we do make the agreement, in less than half a century representatives from your portion of the country will threaten to dissolve the Union if we propose to abide by it?"

Sir, would any man at that time have dared to say anything of that sort? Would it not have been considered insulting to the South? Would it not have been considered insulting to Mr. Lowndes, to Mr. Clay, to all those distinguished men who forced this compromise on us, if they had been told that if it were insisted on by the North, their descendants would make that a cause of dissolving the Union? I have no very great fear of the Union being dissolved at any time. I see no reason why our friends on the other side of the House should attempt to dissolve it. You have it all, as it is. I see not how you could very well have a more complete southern confederacy than you now have. I do not object to it. Connecticut never has objected to anything of that sort. Connecticut has never been very anxious to assert her rights and interests on this floor. She has been willing, as a patriotic member of this nation, to do her duty, to perform her part; but she has never claimed any very great share of the honors or the spoils of office. She took a pretty active part in the commencement. She was active in the Revolution. You could not have had your independence without her, and she made your Government. Mr. Calhoun stated in a speech on this floor that to Connecticut, to Oliver Ellsworth, and to Roger Sherman, were the thanks due for the Government we now have, and to them solely, with Mr. Paterson of New Jersey. We took an active part then; but since that time we have been perfectly willing to live in the Union simply as a patriotic member.

Our people are a Union-loving people. They would sacrifice everything but honor and principle

to save the Union; but when they are told that their brethren of the South demand of them that they should relinquish an agreement and compact made over thirty years ago on this subject, or that the Union must come to an end, they have nothing to say on the subject. I think they desire their representatives here to vote as they think duty ought to prompt and dictate, without paying any regard to intimations of that kind. Certainly I intend to do so. I intend to follow nobody's lead here. Something has been said in regard to leaders, and how certain Senators intend to vote. I intend, as one, to vote in accordance, as I understand them, with the views of my constituents, in connection with, and most willingly under the lead of, my colleague, [Mr. FOSTER,] and under the lead of nobody else. Other Senators may speak for themselves. I propose to speak for myself.

But, sir, I can see no reason why the President should imagine that so dark a cloud now hangs over us. Suppose we should not at this time admit Kansas with the Lecompton constitution; and suppose, upon the whole, it should be thought best to adopt the resolutions which were offered by the Senator from Illinois, [Mr. DOUGLAS,] the consideration of which has been voted down at this time, and make further inquiry—and all we ask is inquiry; suppose the Senate of the United States should conclude, on the whole, that it is best to investigate this subject, to ascertain whether all the charges of fraud and violence are founded in truth or not; is it not too trivial a cause for a dissolution of the Union? It seems to me almost puerile, that the President of the United States should come before us, and tell us that on this question hangs the permanency of our institutions. It cannot be, sir. Our institutions do not hang on any such feeble chain as that. They hang on another chain. They hang on the golden chain of mutual advantage. That is the chain on which they are suspended—the mutual advantage of the different sections of this country. That I believe will forever sustain the Union.

But, sir, we are told that a pledge has been given, and pledges are not to be violated. A pledge, it seems, was made in 1854, and the people of the northern States of the Union are now violating a pledge! They are aggressive, and they are violating pledges! Why, sir, the Union newspaper, this morning, if I may allude to the passing events of the day, spoke of a pledge made in the year 1854 by the people of the United States with regard to the question of slavery. I wish to take this occasion to say, that instead of making a pledge at that time not to violate the legislation of 1854, the general feeling throughout the northern States, so far as I know, was that they would not be bound. There was a general protest. Your old parties were broken up; it destroyed the vestiges, the fragments of all the old parties, with the exception of the Democratic party; and I think that is pretty thoroughly demoralized by this time. There was great excitement at that time on the subject. Instead of making a pledge for that purpose, there was another pledge made. There was a determination expressed that the territory included within the compromise of 1820, which had then been ceded to freedom, which belonged to freedom by every title, human and divine, should never, with the consent of the people of the North, be converted into slave territory. It was free then; it had been declared free by the acts of southern men; their leading statesmen had acquiesced in this disposition of the territory; it originated with them; Mr. Calhoun had acquiesced in it; Mr. Monroe and his whole Cabinet had acquiesced in it. The people of the North said we will never be content that that territory shall be made slave territory so long as we can prevent it. They did not say that they would dissolve the Union if it was done. I have never heard any threats of that kind. I do not understand that they now propose to do so.

They propose to stand by the original agreement. They do not ask you now to restore the compromise of 1820. That of course is now out of the question. They ask a practical recognition of it. That is their feeling; that is their desire; they go that length; but still they are not only not permitted to go that length, but they are not permitted to go so far as to claim that the people of the Territory of Kansas shall settle the question for themselves. A large portion of the people think that Congress never ought to admit Kansas

as a slave State under any possible circumstances; but the course of events has changed the aspects of the question. It is not now a question of that kind; but it is, as I have already indicated, a question as to whether the people of the Territory shall be permitted to decide for themselves on this question. I scarcely know of any difference of opinion in that region of country on that point.

If this is persisted in; if it is insisted upon that the people of that Territory shall not be permitted to express their opinions, my belief is that there will be a unanimity on this subject at the North, such as has never been witnessed on any question before. It is not now merely a question of slavery; it is not so considered. There are hundreds and thousands who care nothing about the question of slavery, and never have taken much interest in it, who do feel an interest in the question whether the people of the Territory of Kansas shall be permitted to say for themselves whether slavery shall exist there. They see here a determination to force on that people a constitution which they not only never have adopted, but which they have rejected; and they believe that that ought to be resisted to the end, and if need be to the bitter end, however bitter that may be.

But, sir, I have no desire to occupy the attention of the Senate further on the subject. I have already trespassed further than I intended, and, with my thanks to the Senate for their attention, I will now close.

Mr. FOOT. Mr. President, I rise for the purpose of submitting a very few remarks on the subject-matter before the Senate, which, if I recollect aright, is the "bill to increase the military establishment of the United States." If my memory serves me correctly, the pending direct question before the Senate is on the motion of the honorable Senator from Georgia to strike from the first section of the bill all after the enacting clause.

The PRESIDING OFFICER, (Mr. BIGGS in the chair.) That is the pending question.

Mr. FOOT. It is my purpose, I will say here, to discuss at full length the Kansas question, old and hackneyed and thread-worn as it is, yet still as the great absorbing question before the country, when we shall have that subject before us on the report of the Committee on Territories, to whom it has been referred for consideration and report. But my purpose now is to address myself, for a few moments, to the question immediately before the Senate.

I shall vote for the proposition to strike out the first section of the bill before us. The reasons which will control my actions on this bill have been very forcibly presented already by the honorable mover of the pending amendment, and by several other Senators. But, sir, I beg to state, very briefly, for myself, the reasons which will compel me to vote against this bill, whether the first section shall be stricken out, or whether it shall be retained.

I shall vote against any measure which looks to a permanent increase of the military establishment of the United States at the present time, and simply for the reason, which, indeed, comprehends the whole argument of the case, that I am unable to see any existing necessity for it; that I am unable to see any possible occasion for it. An Executive call for a permanent increase of the military force of the country is an extraordinary one, and requires always, for its justification, some extraordinary occasion. It is made at an extraordinary time, and is made, allow me to say, sir, in an extraordinary manner; in that it is made without the assignment of a single specific circumstance in the condition of the country which renders it necessary; without assigning a single specific reason for so doing.

Fortunately, we are at peace with all the world. No speck of war with any of the nations of the earth appears on our political horizon, and, indeed, it is not so pretended. The President of the United States, in his recent annual message to us, says that with all "other European Governments except that of Spain, our relations are as peaceful as we could desire." Against that Government there are a few unadjusted claims in behalf of American citizens, amounting in the aggregate to something less than two hundred thousand dollars. In addition to that, there is the matter of difference between the two Governments growing out of the affair of the American steamer *Eldorado* and the Spanish war frigate *Ferrallana*,

on the high seas, off the coast of Cuba, in the spring of 1855, wherein we complained of an insult to our flag. But the President informs us in the same message that he is about "to send a new Minister to Spain with special instructions upon all pending questions between the two Governments, and with a determination to have them speedily and amicably adjusted, if possible." There is no reason to doubt, I trust, but that these questions of difference will be settled at an early day, in a manner just and honorable to both Governments. It is not quite time, therefore, as yet, while these negotiations are in progress, to declare that "war exists by the act of Spain;" and hence it is not quite time yet to incur the heavy expenditure of the proposed increase of the military establishment of the United States in order to meet so remote and improbable a contingency. And I will say, in passing, that, possibly, we may ultimately be able to obtain possession of Cuba at a much cheaper rate than by such a process.

I take it for granted, then, that this call for an enlargement of the military force of the country is for no purpose of national defense against any foreign or external foe. When a call shall be made on us for men and money for such a purpose, I trust I shall be as ready and prompt to vote them as any one here. But so free are we from any actual or threatened violence from abroad, that we need not a single soldier for defense against foreign aggression. We might, with entire safety, so far as regards foreign invasion or encroachment, disband our whole Army; and I think I would, to-day, if the proposition were before us, vote to reduce it to one half its present strength.

This call for a permanent increase of the military establishment of the United States is unusual and extraordinary, as being made in a time of profound peace; and still more extraordinary as being made in a time of a most severe monetary revolution throughout the country and throughout the business world; as being made in a time of widespread and general depression in all the departments of industry through the country; when the Government itself is on the very verge of bankruptcy, and is obliged to meet its own immediate and pressing obligations with paper promises; when your national Treasury is well-nigh empty, and when your revenues are falling far short of your current civil expenses. In such a time as this, sir, nothing can justify a call for an increase of the military force of the country, and a corresponding increase of the Government expenditures, short of some great and pressing emergency—nothing short of some imperious necessity. Does such an emergency exist? Is any one prepared to say that any such necessity exists at the present time? Certainly it is not to be found in any condition of our foreign relations.

Does it exist in any condition of our domestic affairs? I respectfully submit and insist that it does not. Is it demanded by any condition of things now existing in Utah? Not at all, in my opinion. The present regular military force of the country, at its maximum, is about eighteen thousand men. One half, or one fourth—yea, sir, one sixth part of this number is abundantly sufficient, in my judgment, to suppress whatever of disturbances, whatever of insurrection, or rebellion, or resistance to the constituted authorities of the country there may be in Utah, even if it be thought best and wisest to use the military arm of the Government to suppress insubordination among that people. But, in my judgment, Mr. President, instead of sending the military troops of the United States to put down the Mormon rebellion, as it is termed, it would be far better and wiser, and more politic, to withdraw the forces which have already been sent there; to recall your civil officers; to withhold your appropriations from that Territory. Leave them to themselves. Let them alone, and they will make no trouble for us. Let them alone, and they will let us alone. Have nothing to do with them, and they will soon cease to exist as a separate, organized community. Have nothing to do with them, and they will fall to pieces and dissolve of their own dissensions, and their own intrinsic weakness.

Sir, they are an ignorant, superstitious, and misguided set of fanatics—an insane people, who have been gathered up from all parts of the earth—some of them from our own country; many more from Germany and from among the mountains of Wales and Scotland—and they are gathered

here to this "Zion" of theirs in the valley of Salt Lake. There I would let them alone. Recall your civil officers; withhold your appropriations, unless it be in charity, if need be, to save them from suffering; send them no more appropriations for the ordinary purposes for which they have hitherto been sent; assume no responsible government over them, except that sort of guardianship which we exercise over our Indian tribes; and above all send no armies to them, but rather send them commissioners of peace, and they will make no war upon us.

I think it was a mistake to give an organized territorial government to this people; and if I am not mistaken, the Committee on Territories—if I am, my honorable colleague will inform me—at the last Congress, had under consideration the question of the repeal of that territorial government. At any rate, it seems to me, sir, that this would be a far better course to pursue towards these deluded, crazy people, than to send an armed soldiery among them to shoot them down. The very idea of raising armies to go to war with Brigham Young and his Mormons, strikes me as presenting this great nation of ours in rather a humiliating, not to say a ludicrous, attitude before the world. There is no glory to be won; there are no laurels to be gathered on such a field as that.

As at present advised, I shall vote against any increase of the Army of the United States, on account of any present or prospective state of things in Utah. If the very worst condition of things shall happen there which the most credulous can anticipate, our present regular force is ample to meet any emergency which can possibly arise there. If not, if I am in error in this, then raise a sufficient temporary force for the occasion, to be discharged when the occasion shall have passed. At most, it is but a temporary difficulty, and demands no permanent increase of the Army of the United States.

If it be said that an increase of the Army is needed for the purpose of suppressing what some gentlemen are pleased to call rebellion in Kansas, I have but a single remark to make in answer to it; and that is, that the proposed increase of the military establishment of the United States, I apprehend, will be found to be utterly insignificant and altogether insufficient for that purpose. I have nothing more, however, to say at present on that point.

If it be said, again, that this enlargement of the military force of the country is needed for the purpose of protecting our border settlements from the ravages of the Indian tribes, I answer, in the first place, that this necessity, if necessity it be at all, is no greater now than it has been for many years past; and I add, in the second place, that the regular military force of the country is as adequate for that purpose to-day as it has been for many years past, and much more adequate than it was but a very few years ago. I answer further, that volunteer companies can readily and effectually supply, for the time being, any deficiency or inadequacy in the regular military force of the country. And after all, a few companies of mounted rangers, I believe, with the honorable Senator from Texas, [Mr. Houston,] to be much better than either.

But a more pertinent and potential answer still, is this: protect the Indians against the aggressions, the incursions, the wrongs, the injustice, the violence of the whites, and you will have no occasion for any military force, either regular or volunteer, to protect the whites against the Indians. I presume it is safe to say that in nineteen cases out of every twenty, these Indian wars and depredations which have cost this Government such enormous sums of money, and which have caused so much of alarm, misery, and bloodshed, have been provoked by, and have had their origin in, the aggressions of the whites. Put a stop to this; put a stop to the aggressions of the border whites; put a stop to the injustice, the frauds, the wrongs, and the robberies of your white Government agents, and we shall hear very little more of Indian invasions and of Indian barbarities.

The sum of the whole argument against the proposed increase of the military establishment of the country is this: that we are not advised of any existing necessity for it; and we are unable to conceive of any such necessity. We are at peace with all nations; and whatever domestic

disturbances there may be within our borders, they are but local, incidental, and temporary, and our present regular military force is abundantly sufficient to meet any emergency that can possibly arise from them. Least of all, sir, do they call for an increase of the military establishment of the United States, and a corresponding imposition of taxation and burden on the people. We all know that the people of the United States will very cheerfully bear the imposition of any burden on them when they see an existing necessity for it. They will cheerfully bear whatever burden may be imposed on them for the necessary defense of the country; but when they see no such existing necessity, and above all, when they are not even told of any such necessity, they will at least bear such impositions with impatience.

Besides casting this large number of men for support upon the public charge, it takes just exactly so many men from the productive power of the country; and, in a corresponding degree, so much from the effective means of national wealth and of national prosperity. But I will not enlarge on this point.

Aside from all this, Mr. President, as we have already been told, and we may be emphatically told again, the American people have a hereditary and just jealousy of standing armies, the effect and influence of which were so eloquently depicted the other day by the honorable Senator from Georgia; and that jealousy is the more awakened as they see your Army growing in numbers and strength, but surely, from time to time, and almost from year to year. It is not that nobody is alarmed at a small army of five or ten thousand; it is not but what everybody would be opposed to a large army of one or two hundred thousand; but the ground of alarm, of apprehension, of jealousy, is, that they see your small Army, to which nobody is opposed, rapidly advancing to your great Army of one or two hundred thousand, to which everybody to-day is professedly opposed.

Standing armies, I need not say in this presence, have proved the bane of every Republic that has risen or fallen, in ancient or in modern times. They overthrew all the earlier, as they have overthrown most of the later, Republics of the world. They have been the instrumentalities by which the grand and the petty tyrants of the Old World, "springing from the stagnant pools of despotism" for the last two thousand years—from the Roman triumvirate, which reared the throne of the Cæsars upon the ruins of republican liberty there, to the Emperor who to-day holds in his hands the destinies of France, and of Europe—the instrumentalities by which the despots of the earth have been able to sustain themselves while pressing with their iron heels upon the necks of the popular and prostrate masses of the people.

Sir, in the absence of any foreign war; in the absence of any formidable domestic disturbances beyond our present means of suppression and defense; in the absence of any information with regard to any existing necessity for a permanent enlargement of the military force of the country; and in the presence of a general and crushing depression in all the departments of industry; in the presence of impending national bankruptcy; and in the presence of the popular distrust of large and increasing standing armies in times of peace, I shall certainly best discharge my duty to the convictions of my own judgment, and to what I conceive to be the public sentiment of the country, by voting against this bill.

The PRESIDING OFFICER. (Mr. Biggs.) The question before the Senate is on the motion of the Senator from Georgia, to strike out the first section of the bill.

Mr. DAVIS. A number of gentlemen who, I believe, are friendly to the main purpose of the bill, and on whose votes I have relied against striking out this section, have left the Senate, not expecting that the vote would be taken to-day; and, therefore, I very much prefer that the debate shall be closed if the Senate think proper, and that the vote shall be taken at some hour, which shall be named, to-morrow. I will say three o'clock, to-morrow.

Mr. SEWARD and Mr. TOOMBS. Say two o'clock.

Mr. DAVIS. Very well; I will say two o'clock, to-morrow. The debate may as well go on to-day on this and any other amendments gentlemen may wish to offer, so that it may be entirely practicable

for us to take the vote to-morrow at some hour which may be named.

Mr. PUGH. I supposed the honorable Senator from Mississippi desired to vote on this bill, and therefore I was disposed to rest with the reasons which have been so well given by the Senator from Georgia and the Senator from Vermont. I have the utmost inclination to support any reasonable demand of the Administration for an expenditure of public money; but, sir, I think the Senate and the country ought to be admonished of the wasteful extravagance of this Government, and particularly in the Army and Navy; and I say to the honorable Senator from Vermont, that if he will bring in his bill to reduce both the Army and the Navy, he shall have my vote from the first proposition to the last. It is hardly a month ago since we were asked to give the Government \$20,000,000 to carry on its ordinary expenses. The emergency was so imminent, we were told, that we could not resort to the ordinary form of a loan; we must adopt a system of irresponsible paper money, with no provision for its redemption. As much of it as could be pressed into circulation in every conceivable manner, has gone into circulation. We have made no attempt to provide for its payment; and, I declare for one, I see no manner in which we can support this increase of our expenditures, unless we go on issuing paper money time and again, without any reasonable means provided for its redemption.

Now, sir, I am not sufficiently acquainted with the condition of the defenses of the country to say whether this force may be necessary to subdue an alleged insurrection in the Territory of Utah; but I think it is due to the Senate and due to the country, in these circumstances, that that necessity should be demonstrated; and I cannot say that I think it has been demonstrated. Here is an Army of eighteen thousand men, or which may amount to eighteen thousand men. Where is it employed? Is not that sufficient to subdue a few wandering bands of Indians, and these poor deluded creatures in the Territory of Utah?

I see no necessity for the troops to remain in Kansas. They were called there legally, in my opinion, in the first instance—differing therein from many other Senators—but the party which was alleged then to be in opposition to the territorial government is now in possession of the government under the territorial form, and it occurs to me that there is no further necessity for the presence of troops there; and, in fact, I believe that the wisest thing which could be done for the peace of the country would be to withdraw them to-day—not that I apprehend the civil war which Senators threaten. I apprehend civil peace will be the result, and quiet and satisfaction there as elsewhere.

My inclination, Mr. President, has been to vote for this bill if the first section of it were stricken out; to vote for an increase of the rank and file of the Army, not an increase of officers with large salaries; and that rather from my general confidence in the Administration, than because I am satisfied there is a necessity even for that.

For these reasons, I shall vote for the motion of the Senator from Georgia, to strike out the first section; and if that section be not stricken out, I shall be compelled to vote against the bill; with the further proviso, that I think this increase ought to be limited to the period of two years.

Mr. BENJAMIN. I do not desire to enter into any debate on the merits of the bill, but as it will be impossible for me to give it my vote, I wish to state in a very few words the reasons that control me in my action.

I cannot for the life of me discover, either from the arguments which have been addressed to us by the honorable chairman of the Committee on Military Affairs or by the executive communications, whether emanating from the Chief Magistrate or the Secretary of War, for what purpose a permanent increase of the Army is wanted. I have looked again and again into those communications for the purpose of satisfying my judgment on the subject; but I have looked in vain. I sent this morning for the estimates put on our table, at the beginning of the session, for the War Department, and I have looked into the report of the Secretary of War first published with the accompanying documents this morning. I find the expenditures of the Government for the Army proper, calculated during the present year in those

estimates of expenses at something like fifteen million dollars. The entire appropriation required by the Department of War exceeds twenty million dollars, but the estimate put down for the Army proper is about fifteen million dollars. Then looking into the report of the Secretary of War, I find that the average amount of the public forces is fifteen thousand men. So that by combining these two statements we find the annual expenditure for each man in our Army now amounts to \$1,000. The proposition is to increase the Army seven thousand men; that is, to add to the permanent regular expenditure of the Government \$7,000,000 per annum for all time to come. It is not proposed that this additional force should be raised at the moment for any emergency, upon the cessation of which the Army is to be again reduced; but on the contrary we are told that it is to be a permanent increase of our regular force.

Now, sir, taking this estimate to which I have just referred—and we all know that the expenditures of our Army are annually increasing per man instead of decreasing—\$7,000,000, at the rate at which this Government can borrow money, is equivalent to a capital, at the very lowest, of \$140,000,000. At five per cent., and we can borrow money cheaper than that, it is equivalent to an expenditure outright of \$140,000,000, for by agreeing to pay \$7,000,000 per annum, we can at this moment put \$140,000,000 into the Treasury.

The proposition to Congress, then, is nothing more nor less than the expenditure of a capital of \$140,000,000. I can view it in no other light. I say, sir, that I have looked carefully this morning into the report of the Secretary of War, and I find nothing in it to justify this increase of force. He refers to some possible difficulties in Utah. I will say, as other gentlemen have said who have given their views against the expediency of increasing the Army, that if for the temporary emergency some additional force be now required, and we are told so by the Executive Department, I am willing to vote it; but I am not willing to vote one dollar towards a permanent increase of the Army, neither by companies, nor by regiments, nor by single soldiers.

We have now fifteen thousand men in the field. Against whom are they employed? The honorable Senator from Vermont has told us this morning, and told us truly, we have no foreign enemy to repel. As to our frontiers, the Senator from Georgia has told the Senate in language which none of us can forget, that the present condition of the Indians on the frontiers bear no comparison with that which existed some years ago, when the combination of the western tribes enabled them to fight pitched battles against the Government. A few miserable wandering savages upon the frontiers perfectly within our power to keep in check by a few companies of mounted rangers, and for that purpose we are to add \$7,000,000 per annum to the permanent expenditures of the Government!

I must have some other reasons offered to me to control my judgment before I can agree to this bill. Disposed as I am to support every legitimate measure of the Administration, disposed as I am to give it a cordial and even generous support, I cannot vote for such a recommendation as this. I will not repeat the reasons given by other gentlemen, but the fiscal reason alone would be sufficient to satisfy my judgment and control my vote, if my judgment were not already convinced by the arguments of the Senators from Georgia and Vermont. I shall vote against the whole bill.

Mr. HAMLIN. Mr. President, while the Senator from Georgia [Mr. Toombs] was addressing the Senate the other day, I remarked, in an undertone, and I saw that it was incorporated into what he said, that the expenses of the Army per man for the past year were equal to \$1,500. The Senator from Louisiana now states that, taking the number composing the Army at fifteen thousand, and such I understood to be the number from the chairman of the Military Committee, and dividing fifteen millions by that number, it will make \$1,000 per man. The amount is sixteen millions, which would be a little more than \$1,000 per man. What the Senator states is true; but is it not equally true that we have before us appropriations of about six millions asked for legitimate Army purposes for the past year, outside of fortifications? You may tell me that it is for an extraordinary state of things. Grant it; but add to your

Army, and if they are to be located in the very position now occupied by your Army, will not that same state of things exist, demanding of us a like appropriation to supply the deficiency for another year. I say, then, by every just rule in the world in ascertaining what is the amount of expenditure for the Army proper for the past year, you should take into the account the appropriation of about six millions which is now asked of us to supply deficiencies. Take, then, these two sums together, and what do they amount to? Fifteen millions and six millions are twenty-one millions. Divide that sum by fifteen thousand, and you have to a dollar—excluding the odd dollars in the millions—\$1,400 to a cent, and I insist that that sum, and not \$1,000, is the amount which is to be set down legitimately as the expense of your Army for the past year, and it is an alarming expense.

Mr. President, it was my purpose at one period of time to address the Senate on this question, but other Senators have anticipated me in what I proposed to say. I shall, therefore, content myself with voting upon reasons which have been given by others. I wish, however, to state one suggestion which occurs to me as worthy of remark, and which has not been stated to the Senate. These troops, if they are to be used at all, if I understand the state of things existing, are to be used for the same purposes, and in the same way, that our Army is now employed. The war-making power, in all its ramifications, is delegated expressly in the Constitution to Congress. Are we to have war in Utah? I hold that that is a question for us to determine; and while I have a seat here, I will not vote a dollar or a man to support executive wars anywhere. If there is to be a war, if there are to be forces used in Utah, I insist that it is a question for us first to settle, and to determine the mode and manner in which they are to be used. I concur in what fell from the Senator from Vermont. I would withdraw our troops from there; I would send no additional forces there; because, in my judgment, it is not the best and most appropriate way to effect the object desired.

Now, sir, step by step you witness the aggressions of the executive power. I speak in no party sense; I speak in no sectional sense; I bring into the discussion nothing of local questions; but, basing it upon principle, upon principle alone, I would not vote a single man to send into that Territory until we have determined, ourselves, in a preliminary manner, the necessity that shall exist for sending them there. I would not vote to increase the Army a single man for ordinary purposes; but, as other Senators have said, I will vote now, I will vote this minute, to reduce it to ten thousand men, and that number, in my judgment, is more than ample for all purposes.

Look at the manner in which the Army has been always increased. Look at your debates when you created your dragoons. What were the purposes for which they were raised? To suppress Indian hostilities, or to keep the Indians in check; to protect the frontier settlements. What have they done? Sir, I stand here and I challenge contradiction: not a single thing have they done since they were created, except, on one occasion, to murder a few poor squaws and little children.

Mr. DAVIS. What occasion does the Senator allude to?

Mr. HAMLIN. The name of the point at which it took place has escaped me; but the Senator from Texas alluded to it a few days ago, and perhaps he will recollect it.

Mr. DAVIS. It is the same, is it? I am ready for that.

Mr. HAMLIN. I say that is the only exploit which has signalized that arm of our military forces. There is always an emergency, in the minds of some men; and for this purpose, or that purpose, an army may be increased to an indefinite amount. If I can be satisfied, on investigation, that it is wisest and best, and that it shall be necessary, to send an adequate military force into the Territory of Utah, I am willing to vote those men; but I am unwilling to vote them for the ordinary purposes of the Government. How many troops on all the Atlantic coast are now stationed in your forts and fortifications? If I am wrong, the chairman of the Committee on Military Affairs will correct me; but I think in what is called the eastern department—and, if I am not mistaken, the eastern

department embraces all the Atlantic coast from the Gulf of Mexico to Maine—there are about eight hundred men and officers, an ample number; and that number I think is ample for any other equal distance of our coasts or our frontiers, where ever that may be.

I simply rose for the purpose of saying this. I do not wish to be put in a position of refusing to vote troops that are actually necessary for any emergency; but I insist that that emergency is a question which is to be determined by ourselves. Before we raise them for that emergency we ought to have all the facts, all the information that will lead to an enlightened vote on the subject. For ordinary purposes we are entitled to the same sources of information and to the same information in fact. We have neither investigated in the one case, nor have we had the information in the other. But, believing as I do, that for peace purposes, for the purpose of keeping a skeleton army according to the whole policy of the country, the present force is sufficient, I will vote to strike out the first section of this bill; and then I shall cheerfully vote against the bill, if it shall be so stricken out.

Mr. WILSON. As a member of the committee—

Several SENATORS. Let us adjourn.

Mr. SEWARD. If no person desires to speak but the Senator from Massachusetts, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 9, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. J. MURRAY, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Department of the Interior, transmitting for the action of Congress, contemplated by the eighth section of the act of July 22, 1854, the transcripts of thirteen private land claims in New Mexico, designed for the House of Representatives, as indicated in the letter of the Commissioner of the General Land Office, of the 21st of November last, a copy of which was also inclosed.

The communication, together with the letter of the Commissioner and the accompanying documents, were referred to the Committee on Private Land Claims, and ordered to be printed.

RESOLUTIONS INTRODUCED AND REFERRED.

Mr. CURTIS, by unanimous consent, presented the following resolutions of the Legislature of the State of Iowa; which were referred as indicated below:

Joint resolutions of the Legislature of Iowa, for additional mail service in Iowa; to the Committee on the Post Office and Post Roads, and ordered to be printed.

Preamble and joint resolution of instructions concerning the admission of Kansas into the Union under the Lecompton constitution; to the select committee ordered yesterday, and ordered to be printed.

Joint resolution to procure additional mail facilities; to the Committee on the Post Office and Post Roads, and ordered to be printed.

Joint resolution to the Senate and House of Representatives of the United States, asking for bounty land warrants for the volunteers on the Spirit Lake expedition; to the Committee on Public Lands, and ordered to be printed.

Memorial and joint resolution asking Congress to appropriate a sum sufficient to the State of Iowa to indemnify the said State for all necessary expenses incurred in an expedition raised under the authority of the Governor of the State of Iowa to relieve the settlements of Spirit Lake, in March A. D. 1857; to the Committee on Military Affairs, and ordered to be printed.

Mr. STEPHENS, of Georgia, by unanimous consent, presented the resolutions of the Legislature of the State of Georgia, relative to certain Indian reserves in the State of Mississippi; which were referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GREENWOOD. I ask, in this connection, that the papers connected with this same sub-

ject, now on the files of the House, be withdrawn and referred to the same committee.

The SPEAKER. That can be done under the rules.

Mr. CLINGMAN. I ask the unanimous consent of the House, in this same connection, to have referred to the same committee the bill upon this subject which was reported by the Committee on Indian Affairs during the last Congress. I merely desire to get it before the committee.

No objection being made,

Mr. CLINGMAN introduced the bill to which he referred, being "A bill to execute the treaties of 1817 and 1819 with the Cherokees, by making provision for the reservations under the same;" which was read a first and second time, and referred to the Committee on Indian Affairs.

Mr. DOWDELL, by unanimous consent, presented the joint memorial of the Legislature of Alabama to the Congress of the United States, asking that the city of Montgomery, in said State, be constituted a port of entry, and that a building be constructed for a custom-house, court-house, and post office; which was referred, the first part to the Committee on Commerce, and the last part to the Committee on the Post Office and Post Roads.

CONDUCT, ETC., OF LATE DOORKEEPER.

Mr. JENKINS, from the select committee to inquire into the accounts, &c., of the late Doorkeeper, reported the following resolutions:

Resolved, That the select committee appointed to inquire into the accounts and official conduct of Mr. Darling, the late Doorkeeper of the House, be also authorized and empowered to inquire into the misappropriation, by any person whatsoever, of any books, or other public documents, printed by the order of either or both Houses of Congress.

Resolved, That the committee be authorized to employ a clerk at the usual compensation.

Mr. JENKINS. I ask for a division of the question, and move the previous question.

Mr. LOVEJOY. I object to the last resolution.

The SPEAKER. A single objection will not prevent its reception.

Mr. LOVEJOY. I ask that the resolutions may be divided so as to take the vote upon each separately.

Mr. KELSEY. Is an amendment in order?

The SPEAKER. Not pending a demand for the previous question.

Mr. KELSEY. I hope the gentleman will withdraw the demand for the previous question and allow this whole thing to be investigated. I have heard as many rumors about the present Doorkeeper as I have heard about the last; and I desire to empower the committee also to investigate the charges in relation to him.

Mr. BURNETT. I call the gentleman to order.

Mr. HOUSTON. Let us hear the resolutions read.

Mr. JENKINS. The resolutions explain themselves.

The resolutions were again read.

Mr. SEWARD. I cannot see that that is a report from the committee. It simply asks the House to authorize the committee to select a clerk for themselves, and to extend the scope and authority given to them. They ask to be clothed with new powers. That is not a report on the matters referred to them, and therefore I raise the point of order.

Mr. HOUSTON. Mr. Speaker, I am not a member of this select committee, but it seems to me to be a natural inference to be drawn from the presentation of this report, that the committee, from their investigation as far as it has gone, see a necessity for an enlargement of their powers. If they did not see such necessity we are bound to suppose that they would not have thus sought an enlargement of their authority. I shall therefore vote for the resolution.

Mr. JENKINS. I insist on the demand for the previous question.

The SPEAKER. The Chair must overrule the point of order made by the gentleman from Georgia, [Mr. SEWARD.] The gentleman from Virginia presents this as a report from the committee.

Mr. SEWARD. I shall appeal from the decision of the Chair, on the ground that this is not a report from the committee on the subject-matter referred to them. They are asking to be clothed with new powers and to be permitted to investigate matters that have never been intrusted to them.

The SPEAKER. The Chair holds that the report is in order, the gentleman from Virginia stating that it is a report from the committee. From this decision the gentleman from Georgia appeals.

Mr. STANTON. I ask for the reading of the resolution under which the committee was appointed.

The SPEAKER. The resolution is not at the Clerk's desk, but it directed an inquiry into the accounts and official conduct of the late Doorkeeper.

Mr. STANTON. Was there a clause in the resolution authorizing the committee to report at any time?

The SPEAKER. There was.

Mr. SEWARD. They were authorized to report at any time in regard to the matters referred to them. Now I care nothing about this investigation. My sole object is to prevent abuses in this House by committees assuming jurisdiction over matters which have never been referred to them. But as I have not as much confidence in my own judgment as in that of the Speaker, I withdraw the appeal.

Mr. JENKINS. I hold in my hand the resolution under which the committee was appointed, and I ask that it be read.

The resolution was read, as follows:

"Resolved, That a select committee of five be appointed by the Speaker to inquire into the accounts and official conduct of the late Doorkeeper of the House, with power to send for persons and papers, and to report at any time."

Mr. KELSEY called for tellers on seconding the previous question.

Tellers were ordered; and Messrs. KELSEY and AVERY were appointed.

Mr. SHERMAN, of Ohio. If the gentleman from Virginia will allow an amendment to be offered extending the investigation to the conduct of the present Doorkeeper, there will be no objection to the previous question.

Mr. JENKINS. The gentleman will see from the terms of the resolution, that it covers the misapplication of public documents by any person. If an investigation be necessary into the conduct of any other officer of the House, another committee ought to be appointed. I do not think that our committee ought to be required to perform all the service of this kind.

The House then divided; and the tellers reported—ayes 80, noes 96.

So the previous question was not seconded.

Mr. SHERMAN, of Ohio. I now offer the following amendment, and demand the previous question:

Add at the end of the first resolution as follows:

And that said committee be authorized and directed to investigate any charges affecting the official conduct of the present Doorkeeper of the House.

Mr. KELSEY. That meets my views.

Mr. SEWARD. I ask the gentleman to withdraw the demand for the previous question for a moment; I will renew it.

Mr. SHERMAN, of Ohio. I cannot withdraw it.

Mr. HOUSTON. I hope the gentleman will withdraw the demand for the previous question or else move an additional amendment to the resolution as reported by the committee. The resolution speaks of the misapplication of books by any one. I suppose the inquiry ought to be confined to members or officers of the House.

The previous question was seconded; and the main question ordered to be put.

Mr. UNDERWOOD. I ask a division of the question on the resolutions. I desire to vote to enlarge the scope of the investigation; but I do not desire to authorize the committee to employ a clerk.

The SPEAKER. The gentleman from Virginia called for a division of the question before the previous question was seconded. The vote will, therefore, be taken separately upon the resolutions.

The amendment was agreed to.

The question then recurred on the first resolution as amended.

Mr. HUGHES called for the yeas and nays.

The yeas and nays were not ordered.

Mr. SEWARD. I am opposed to all these investigations, unless charges are made on the responsibility of some member of the House. I move to lay the whole subject on the table.

The motion was not agreed to.

The first resolution, as amended, was adopted. The question was then on the adoption of the second resolution; which was read, as follows:

Resolved, That the committee be authorized to employ a clerk at the usual compensation.

Mr. HUGHES. I ask the unanimous consent of the House to make an explanation.

Mr. KELSEY. I object.

Mr. JONES, of Tennessee. I ask for the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

The House divided; and there were—ayes 83, noes 72.

Mr. MORGAN. I demand tellers.

Tellers were ordered.

Mr. DAVIS, of Mississippi, asked for the yeas and nays.

The SPEAKER. The House has just refused to order the yeas and nays.

Mr. JONES, of Tennessee. Mr. Speaker, the Constitution provides that one fifth of the members may have the vote entered upon the Journal, and I think that if the House, at one stage of a question, refuses to order the yeas and nays, it does not debar itself from exercising that privilege at another stage.

The SPEAKER. The question is at the same stage now that it was when the yeas and nays were refused.

Mr. JONES, of Tennessee. But, sir, we have divided on it. And although it is the same question I know, my own opinion is that after the vote has been taken and announced, we have the constitutional right to move that that vote be entered upon the Journal. That, I think, is the constitutional provision.

The SPEAKER. One fifth of the members have the right under the Constitution to order the yeas and nays, and to have them entered upon the Journal; but the rules of the House prescribe the particular mode in which that constitutional right is to be exercised. The gentleman claimed that right, but on his demand one fifth of the House did not vote to order the yeas and nays.

Mr. JONES, of Tennessee. It may be that at this time one fifth of the members desire to order the yeas and nays.

Mr. LETCHER. I hope the yeas and nays will be ordered by unanimous consent.

Mr. CLINGMAN. I object.

Mr. SHERMAN, of Ohio. I move that the second resolution be laid upon the table.

Mr. FLORENCE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. HUGHES. I ask leave of the House to be allowed to explain the reasons for this resolution. I am chairman of this committee, and it is a courtesy not often denied to the chairman of any committee to state to the House the reasons upon which a report is based.

Mr. LOVEJOY. I object. The reason why they want a clerk is to give employment to somebody.

Mr. HUGHES. That is not true. There is work to be done. The gentleman does not understand the matter.

The SPEAKER. Debate is not in order.

Mr. HOUSTON. Will not the effect of the motion to lay a part of the resolution upon the table be to lay the whole subject there?

The SPEAKER. The first resolution was adopted, as amended. That has been disposed of.

Mr. JENKINS. I trust the House will indulge me with one word of explanation. I will be brief.

Mr. COLFAX. As the gentleman called for the previous question to prevent amendments, I must object.

Mr. HOUSTON. Has not the gentleman from Virginia the right, having made this report from a committee, to explain it or make a speech after the previous question has been ordered? I think he has that right under the rules of the House.

Mr. PALMER. There has been a response on the call of the roll, and the gentleman from Virginia has no right under the rule to interrupt the call with a speech.

The SPEAKER. The Clerk informs the Chair that there has been a response, and it is therefore too late for the gentleman from Virginia to claim his right to speak.

Mr. HOUSTON. I appeal to the Chair—

Mr. PALMER. I insist on my point of order.

Mr. HOUSTON. The gentleman can insist only as far as his right goes. I make a point of order, and it is this: does the fact that the Clerk has called a name, and that there has been a response, deprive the gentleman from Virginia of his right under the rules to address the House after the previous question has been ordered?

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Alabama. If the gentleman from Virginia had desired to avail himself of his privilege before there was a response, he would have been entitled to it, if he had not been cut off by the motion to lay upon the table.

The question was taken; and it was decided in the negative—yeas 93, nays 114; as follows:

YEAS—Messrs. Abbott, Andrews, Billingshurst, Bingham, Blair, Bliss, Buffinton, Burlingame, Burroughs, Campbell, Case, Ezra Clark, Clawson, Cobb, Clark B. Cochrane, Colfax, Comins, Covode, Cragin, Burton Craigie, Curtis, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dean, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Granger, Lawrence W. Hall, Robert B. Hall, Harlan, Hoard, Horton, Howard, Jewett, George W. Jones, Kellogg, Kilgore, Knapp, John C. Kunkel, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Moit, Murray, Nichols, Palmer, Pettit, Pike, Potter, Pottle, Ready, Ricard, Robbins, Royce, Seales, Seward, John Sherman, Judson W. Sherman, Sickles, Samuel A. Smith, Spinner, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Wilson, Wood, and John V. Wright—93.

NAYS—Messrs. Adrain, Ahl, Anderson, Atkins, Avery, Bishop, Boeck, Bowie, Boyce, Branch, Brayton, Bryan, Caskie, Chapman, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, John Cochrane, Cockrell, Corning, Cox, James Craig, Crawford, Curry, Davidson, Dick, Dimmick, Dowdell, Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Gooch, Goode, Goodwin, Greenwood, Gregg, Groesbeck, Grow, Hawkins, Hawkins, Hickman, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, J. Glancy Jones, Owen Jones, Keitt, Kelly, Kelsey, Lamar, Landy, Leidy, Letcher, Maciay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Moore, Isaac N. Morris, Niblack, Parker, Peadleton, Peyton, Phelps, Phillips, Powell, Purviance, Quitman, Reagan, Ritchie, Rufin, Russell, Sandidge, Savage, Scott, Searing, Aaron Shaw, Henry M. Shaw, Shorter, Robert Smith, William Smith, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Warren, Israel Washburn, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zolllicoffer—114.

So the House refused to lay the resolution upon the table.

The question then recurred upon the adoption of the resolution.

Tellers had been ordered; and Messrs. KELSEY and AVERY were appointed.

Mr. SHERMAN, of Ohio, by unanimous consent, withdrew his call for tellers.

The resolution was adopted.

Mr. JENKINS moved to reconsider the votes by which the resolutions were adopted, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EXPENSES OF INVESTIGATING COMMITTEES.

Mr. STANTON. I ask leave to introduce a joint resolution for reference.

Mr. WASHBURN, of Maine. I ask the unanimous consent of the House for leave to introduce a bill for reference.

Mr. PHELPS. I call for the regular order of business.

Mr. DAVIDSON. I hope the gentleman will not object to a resolution for reference to the Committee on the Post Office and Post Roads.

Mr. PHELPS. I call for the regular order of business; but I do not mean to object to the introduction of a resolution for reference.

Mr. STANTON. Then I ask leave to introduce a joint resolution making appropriations for the expenses of investigating committees. The Clerk of the House informs me that such an appropriation is wanted. The amount of the appropriation is \$5,000. I move that it be referred to the Committee of Ways and Means.

Mr. LETCHER. Let me make a suggestion at this point, before the resolution goes to the Committee of Ways and Means. I would suggest that the chairmen of these investigating committees send to that committee some statement showing what are their current expenses, so that we may be informed when we come to act upon the subject.

Mr. SEWARD. I should like to make another suggestion. I wish the chairmen of the commit-

tees of investigation would also inform the Committee of Ways and Means how many hours of the day and how many days of the week their clerks are employed.

The SPEAKER. The Chair does not understand that the appropriation is for clerks; but for witnesses.

Mr. SEWARD. It is for the expenses of special committees. I want to know how many hours these clerks are employed. I think, so far as I have seen, that very little work is done by any of them.

Mr. LETCHER. Nevertheless my friend from Georgia understands that they have to be paid.

Mr. SEWARD. I think we had better discharge them.

The joint resolution was then read a first and second time, and referred to the Committee of Ways and Means.

Mr. WASHBURN, of Maine. I ask the unanimous consent of the House to introduce a bill, that it may be referred to the special committee on the Pacific railroad.

Mr. JONES, of Tennessee. What is the regular order of business?

The SPEAKER. The call of committees for reports.

Mr. JONES, of Tennessee. I call for the regular order.

Mr. WASHBURN, of Maine. I ask the gentleman from Tennessee to give way that I may introduce this bill, and have it referred to the select committee on the Pacific railroad. It was sent to me; I have not examined it, and do not know whether it meets my approbation; but I desire to have it referred.

Mr. JONES, of Tennessee. I call for the regular order.

The SPEAKER commenced the call of the committees for reports, commencing with the Committee on Accounts.

Mr. DAVIDSON. I ask the gentleman from Tennessee to allow the resolution, which I have sent to the Clerk's desk, to be read and referred to the Committee on the Post Office and Post Roads.

The SPEAKER. The gentleman from Tennessee objects.

CLERK TO A COMMITTEE.

Mr. PHELPS, from the select committee on the Pacific railroad, reported the following resolution:

Resolved, That the select committee, to which was referred so much of the President's message as relates to a railroad to the Pacific ocean, is hereby authorized to employ a clerk at the usual rate of compensation.

Mr. PHELPS. At a meeting of the committee I was directed to report that resolution; and really I think the services of a clerk will be necessary to aid the committee in its investigation. I move the previous question upon the adoption of the resolution.

Mr. SEWARD. I ask the gentleman to withdraw that, and allow me to amend that resolution.

Mr. PHELPS. No, sir.

Mr. SEWARD. Then I move to lay it upon the table.

Mr. SMITH, of Virginia. What is the usual compensation?

Mr. PHELPS. Four dollars per day.

Mr. STANTON. Do the committee intend to take testimony?

Mr. PHELPS. No, sir.

Mr. JONES, of Tennessee. On behalf of the minority of that committee, I wish to say that there is no necessity for a clerk.

The SPEAKER. Debate is not in order.

Mr. JONES, of Tennessee. If it is not, I move to lay the resolution on the table.

The SPEAKER. The gentleman from Georgia has already made that motion.

Mr. WASHBURN, of Maine, called for tellers upon the motion.

Tellers were ordered; and Messrs. SMITH of Tennessee, and DEAN were appointed.

The question was taken; and the tellers reported—ayes 87, noes 42.

So the resolution was laid on the table.

THE SOUND DUES.

Mr. J. GLANCY JONES, from the Committee of Ways and Means, reported a bill to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States

and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the sound dues; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

E. K. KENT.

On motion of Mr. HOWARD, it was

Ordered, That the Committee of Ways and Means be discharged from the further consideration of the petition of E. K. Kent, asking for compensation for his invention used at the Mints and assay offices, and that the same be referred to the Committee on Patents.

M'ATEE AND EASTHAM.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported back, with a recommendation that it do pass, Court of Claims bill (No. 65) for the relief of Benjamin L. McAtee and J. N. Eastham, of Louisville, Kentucky; which was referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed.

ADVERSE REPORTS.

Mr. MARSHALL, of Illinois, from the same committee, made adverse reports in the following cases:

On the petition of Addison Farnsworth, asking to be remunerated for property lost in the Mexican war;

On the memorial of William B. Barry; and

On the petition of Ephraim Shackley.

The adverse reports were laid upon the table, and ordered to be printed.

MAJOR H. L. KENDRICKS.

Mr. MARSHALL, of Illinois, from the same committee, reported a bill for the relief of Brevet Major H. L. Kendricks; which was read a first and second time, referred to a committee of the Whole House, and, with the accompanying report, ordered to be printed.

COMMITTEE DISCHARGED.

On motion of Mr. WASHBURN, of Illinois, the Committee on Commerce was discharged from the further consideration of sundry petitions and memorials; which were laid upon the table.

PUBLIC BUILDINGS AT KEOKUK.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported back, with a recommendation that they do not pass, the following bills; which were laid upon the table, and the reports ordered to be printed:

H. R. No. 155. A bill to provide for the erection of a marine hospital in the city of Keokuk.

H. R. No. 156. A bill to provide for the construction of a custom-house and post office building at the city of Keokuk.

STEAMBOAT PASSENGERS.

Mr. WASHBURN, of Illinois. I desire to state to the House, that the bill known as the steamboat bill was postponed until to-morrow. The substitute for that bill which has been agreed upon, and the report, have been printed, and gentlemen can find them in the document room. I hope any gentleman who is interested in the subject will get those documents and examine them, as I shall endeavor to call the bill up to-morrow and have it passed, if possible.

JOHN B. BAYLISS.

Mr. JOHN COCHRANE, from the Committee on Commerce, made an adverse report on the petition of John B. Bayliss; which was laid upon the table, and ordered to be printed.

JOHN N. M'INTOSH.

On motion of Mr. JOHN COCHRANE, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of John N. McIntosh, asking compensation for office rent and so forth, and that the same be referred to the Committee of Claims.

J. W. SULLIVAN.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of J. W. Sullivan, asking compensation for losses sustained in consequence of the failure of the mails; which was laid upon the table, and ordered to be printed.

HARRIS AND MORGAN.

Mr. ENGLISH, from the Committee on the Post

Office and Post Roads, reported a joint resolution authorizing the Postmaster General to revise and adjust the accounts of Harris & Morgan on principles of equity and justice; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN F. CANNON.

Mr. CRAIG, of Missouri, from the Committee on the Post Office and Post Roads, reported a bill for the relief of John F. Cannon; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

REIMBURSEMENT OF MONEY.

Mr. GOODE, from the Committee for the District of Columbia, reported a bill to reimburse the Corporation of Georgetown, in the District of Columbia, a sum of money advanced towards the construction of the Little Falls bridge; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

J. W. NYE.

Mr. MORRIS, of Pennsylvania, from the Committee for the District of Columbia, reported a bill to provide for the payment of the claim of J. W. Nye, assignee of Peter Barge, jr., and Hugh Stewart; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MARY ETT VAN BUSKIRK.

Mr. TAYLOR, of New York, from the Committee on Revolutionary Claims, reported a bill for the relief of Mary ett Van Buskirk; which was read a first and second time, referred to a Committee of the Whole House, and, with the unanimous report on principal, and majority report on interest, ordered to be printed.

GENERAL CHURCHILL.

Mr. QUITMAN, from the Committee on Military Affairs, reported a joint resolution for the relief of General Sylvester Churchill; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

TEXAS BOUNDARY LINE.

Mr. STEPHENS, of Georgia, from the Committee on Territories, reported back House bill (No. 152) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary line between the territories of the United States and the State of Texas.

Mr. STEPHENS, of Georgia. If there be no objection, I ask that the bill may be acted on immediately.

The bill was read. It provides for the necessary details of running and marking the boundary line between the territories of the United States and the State of Texas, and makes an appropriation of \$80,000, or so much thereof as may be necessary, for that purpose.

Mr. MORGAN. Is there a report accompanying the bill?

Mr. STEPHENS, of Georgia. There is no written report.

Mr. MORGAN. Is this a unanimous report of the committee?

Mr. STEPHENS, of Georgia. It is. Texas has appointed a commission to join such commission as this Government may appoint to make this survey of a boundary line.

Mr. MORGAN. Is the boundary marked out in the bill the boundary of the Texas bill?

Mr. STEPHENS, of Georgia. It is.

The bill was ordered to be engrossed and read a third time; and being engrossed, the bill was read a third time.

Mr. LOVEJOY. I should like to have time to examine into this matter, and to learn whether this proposed line is in accordance with the treaty line.

Mr. STEPHENS, of Georgia. Which treaty?

Mr. LOVEJOY. I mean the resolutions of annexation.

Mr. STEPHENS, of Georgia. The western line is the Rio Grande; and the other part of the bill is taken from the law defining the boundaries of Texas.

Mr. LOVEJOY. Why cannot we have a little time to look into this matter, instead of putting the bill upon its passage in the instant?

Mr. STEPHENS, of Georgia. I have no objection. It will take but a moment to examine it. Texas has already appointed her commissioners, and the sooner we pass the bill the better.

Mr. REAGAN. Mr. Speaker, I will say a word on this subject for the satisfaction of gentlemen who desire to know the facts. Some four or five years ago, the Legislature of Texas passed a joint resolution instructing the members of Congress from that State to secure the passage of a law authorizing the appointment of commissioners to define and mark the exterior boundaries of Texas. Subsequently, the Legislature twice passed a law making an appropriation and provision for such a commission on its part, to act in conjunction with a commission to be appointed by the Federal Government, to run and mark this boundary line; not to change any boundaries.

The question has become one of great interest to the people of Texas in this point of view: They are going out upon our borders and locating their land certificates. Doubts have arisen in the minds of some of our people whether they have not crossed over the boundary line, and located their certificates upon territory outside of the true boundary of Texas. It is to obviate the difficulties originating from this want of information that this bill has been introduced to secure the appointment of a commission to run and mark the boundary, so that the citizens of Texas may know when they are in and when out of that State.

The bill copies the boundaries from the compromise bill of 1850, beginning where the one hundredth degree of west longitude crosses Red river, running with the boundary as fixed up to 36° 30', west to the one hundred and third parallel, south to the thirty-second degree, and west to the Rio Grande. The bill, in this respect, is a copy of the boundaries as defined in the compromise measure of 1850. There is no change of boundaries proposed. The only object is to have the boundaries of Texas marked, so that our citizens may know when they are in and when out of that State.

There are other points of view in which this measure is important, outside of the points I have referred to. These boundaries separate Texas from the Indian reservation. The Government has already appointed a commission to run the boundaries of the reservation, separating it from the Chickasaw and Choctaw territories, and upon which it is proposed to locate the roving tribes of Indians in the territory of Texas, and north of Texas in the territories south of the Arkansas river. As the Government has appointed a commission to establish the boundaries of this Indian reservation, the western boundary of which is the eastern boundary of the northern part of Texas, it is desired by the State of Texas that when this boundary is run the State shall participate with the Federal Government in determining the line, so that there may be no disputes hereafter. If this bill be passed before that commission has executed its work it will prevent a second running of that line. If that commission should go on and run the boundary, and then the boundary of Texas should be defined, it will involve a double expense to the Federal Government and delay to Texas.

It is, I will repeat, a matter of great interest to Texas to have this boundary commission appointed at once. It is also a matter of concern to the Union, because it is to define the western boundary of the Indian reservation; and it is important in reference to our Indian affairs in that region that the boundary there should be established without delay.

It is not only important to settle, at an early day, these questions of boundary, but to do so will be a saving of expense; for only one commission will be necessary, when otherwise two will be demanded.

I hope gentlemen will consent to the passage of this bill. It proposes no change of boundaries. It is a literal copy, so far as the boundaries are specified, of the compromise measures of 1850.

Mr. LOVEJOY. It is to ascertain and mark the line between fixed termini.

Mr. REAGAN. That is all. It is to run and mark a boundary already fixed and defined.

Mr. LEACH. I do not rise to object to this

bill, but simply to inquire whether I misunderstand the Clerk's reading of it? If I understand rightly, the bill appropriates \$80,000 to defray the expenses of running these boundaries. I would ask the chairman of the committee whether anything like that amount of expense is necessary? It seems to me to be large. The committee, I have no doubt, have investigated the matter, and are prepared to give us the truth in regard to it.

Mr. REAGAN. I will make a statement, and then the chairman of the committee can answer, if he desires. I know not how far the committee have investigated this matter. I have myself made some inquiries in reference to the expense of running other boundary lines; and, from the information given me by the Department in reference to other boundary lines, I thought it proper to name this amount. It is, however, less in proportion to the length of the line than the amount appropriated for the running of other lines. I do not know that the whole amount will be necessary, but the importance of an early establishment of a line induced me to ask a sufficient appropriation to secure the running of a line.

Mr. LEACH. How long is the line?

Mr. REAGAN. Eight hundred miles.

Mr. STEPHENS, of Georgia. I will state, from investigations I made upon this subject, that a less amount was paid for similar services elsewhere. But only so much of this sum as will be necessary will be applied.

Mr. MAYNARD. I understood the gentleman from Georgia to say, in reply to the question propounded by the gentleman from New York, that this report was the unanimous report of the Committee on Territories.

Mr. STEPHENS, of Georgia. Yes, sir.

Mr. MAYNARD. That they investigated it, and agreed in the report?

Mr. STEPHENS, of Georgia. Yes, sir.

Mr. MAYNARD. I shall vote for it.

The bill was then passed.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ANDREW LONGABOUGH.

Mr. JEWETT, from the Committee on Invalid Pensions, made an adverse report in the case of Andrew Longabough, an applicant for an invalid pension; which was laid on the table, and ordered to be printed.

DAVID MOORE.

Mr. JEWETT, from the Committee on Invalid Pensions, asked that the committee be discharged from the further consideration of the petition of David Moore for bounty land, and that the same be referred to the Committee on Public Lands.

It was so ordered.

GEORGE W. GRAVES AND OTHERS.

Mr. JEWETT, from the Committee on Invalid Pensions, asked that the committee be discharged from the further consideration of the petition of George W. Graves, Sally Walker, and Solomon Fitch, praying relief from the decision of the Commissioner of Pensions in their land bounty claims, and praying that the act of March 3, 1855, and the amended act of May 14, 1856, may be extended to them; and that the same be referred to the Committee on Public Lands.

It was so ordered.

MARY BOYLE.

Mr. CHAFFEE, from the Committee on Invalid Pensions, reported a bill for the relief of Mary Boyle; which was read a first and second time, referred to a Committee of the Whole House, and the report and bill ordered to be printed.

PACIFIC RAILROAD.

The call of committees being finished, The SPEAKER stated that reports were in order from the State of New York, and that the following resolution, offered by the gentleman from New York, [Mr. BENNETT], was pending when the States were last called for resolutions:

Resolved, That a select committee of — be appointed by the Speaker to take into consideration all such petitions and matters relating to the construction of roads, railroads, and telegraph lines to the Pacific ocean, as shall be referred to them by the House.

And that the pending question was a motion to

reconsider the vote by which the House refused to lay the resolution upon the table.

Mr. JONES, of Tennessee. What would be the effect of reconsidering that vote?

The SPEAKER. To bring the resolution back to the House.

Mr. JONES, of Tennessee. Is not the resolution before the House? The resolution was not laid on the table.

The SPEAKER. A reconsideration would bring the House back to the question, "Shall the resolution be laid on the table?"

Mr. JONES, of Tennessee. Would it not be in order to make that motion now?

The SPEAKER. It would not.

Mr. JONES, of Tennessee. It would be if the House refused to reconsider the vote.

The SPEAKER. The Chair holds that the motion to lay on the table could not be made twice while the paper is in the same legislative condition.

Mr. JONES, of Tennessee. I suppose it would be on a different day. If a motion were made yesterday to lay upon the table, and it failed, and the subject came up to-day, though it was in the same legislative condition, it would be in order to move again to lay it upon the table. But as the matter of the Pacific railroad and the military road have been referred, one to the Committee on Military Affairs, and the other to the select committee, and a bill introduced by the gentleman from New York, who introduced this resolution, has been introduced and sent to the Committee on Public Lands, and as the subject is now under investigation, I presume, by two standing committees and one select committee, there is no necessity for consuming the further time of the House with this matter; and therefore I move to lay the resolution on the table.

Mr. BENNETT. Is it in my power to withdraw the resolution?

The SPEAKER. It can be done by unanimous consent.

No objection being made, the resolution was withdrawn.

The SPEAKER stated that resolutions were in order from the State of New York.

PUBLIC BUILDINGS AT ROCHESTER.

Mr. ANDREWS introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the propriety of constructing or providing a suitable building for the use of a custom house, United States court room, and post office, in the city of Rochester, New York.

HARBOR OF PULTNEYVILLE.

Mr. MORGAN introduced a bill to improve the harbor of Pultneyville, New York; which was read a first and second time, and referred to the Committee on Commerce.

FORTIFICATIONS AT WILLET'S POINT.

Mr. HASKIN introduced the following resolution:

Resolved, That a special committee, consisting of five members, be appointed for the purpose of investigating the facts and circumstances connected with the sale and purchase of a tract of land at Wilkins's or Willett's Point, in the county of Queens, in the State of New York, opposite Fort Schuyler, purchased by the Government for fortification purposes during the year 1837; and that said committee be, and are hereby, authorized to send for persons and papers.

Mr. JONES, of Tennessee. I object to that resolution. I propose to debate it.

Mr. LETCHER. I would suggest to the gentleman from New York to send that matter to the Committee on Military Affairs, already organized.

Mr. JONES, of Tennessee. I proposed to debate that resolution, and it goes over.

Mr. HASKIN. I call the previous question upon the passage of the resolution. I believe I have the floor.

Mr. JONES, of Tennessee. I proposed to debate the resolution as soon as it was introduced.

The SPEAKER. The gentleman has not the floor to debate it.

Mr. JONES, of Tennessee. Immediately after it was read, I arose and proposed to debate the resolution.

The SPEAKER. The gentleman from New York was upon the floor.

Mr. JONES, of Tennessee. I move to lay the resolution on the table.

The motion was not agreed to.

Mr. HASKIN. I ask the unanimous consent of the House to explain the object of the resolution.

Mr. BARKSDALE and many others objected. Mr. LETCHER. I move to strike out "a select committee," and insert "the Committee on Military Affairs."

The SPEAKER. The motion is not in order, as the gentleman from New York has demanded the previous question.

Mr. LETCHER. Well, I hope the amendment will be made. We shall have the whole House engaged on select committees before long.

The previous question was seconded, and the main question ordered to be put.

Mr. JONES, of Tennessee, demanded the yeas and nays on the adoption of the resolution.

Mr. HASKIN. I will state that we shall not want a clerk for this committee.

The yeas and nays were ordered.

Mr. MAYNARD. I would like to know if this resolution contemplates the employment of a clerk or not?

Several MEMBERS. Oh, no.

The SPEAKER. Debate is not in order.

The question was taken; and it was decided in the affirmative—yeas 148, nays 36; as follows:

YEAS—Messrs. Abbott, Andrews, Arnold, Bennett, Billingshurst, Bingham, Bishop, Blair, Bliss, Biscoe, Boyce, Bratton, Buffinton, Burlingame, Burns, Campbell, Case, Caskey, Chaffee, Chapman, Ezra Clark, John B. Clark, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Cornins, Corning, Covode, Cragin, James Craig, Crawford, Curtis, Darnell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fenton, Foley, Foster, Garnett, Garrett, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hatch, Hickman, Hill, Hoard, Hopkins, Howard, Hughes, Hayler, Jenkins, Kellogg, Kelly, Kelsey, Kilgore, Knapp, John C. Kunkel, Lamar, Lawrence, Leach, Leiter, Letcher, Lovejoy, Maclay, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Milson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Murray, Niblack, Nichols, Parker, Pettit, Pike, Potter, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Ricard, Ritchie, Robbins, Roberts, Royce, Ruffin, Russell, Sandidge, Scales, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, William Smith, Stallworth, Stanton, Stevenson, James A. Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wood, Woodson, Wortendyke, and Zollcoffer—148.

NAYS—Messrs. Ahl, Atkins, Avery, Barksdale, Bowie, Branch, Burnett, Clemens, Cox, Curry, Davidson, Dimmick, Dowdell, Florence, Greenwood, Gregg, Groesbeck, Hawkins, Houston, Jackson, Jewett, George W. Jones, J. Glancy Jones, Landy, Miles, Moore, Phelps, Phillips, Singleton, Samuel A. Smith, George Taylor, Ward, Watkins, White, Whiteley, and Augustus R. Wright—36.

So the resolution was adopted.

Pending the call of the roll,

Mr. COX, when his name was called, said: I ask to be excused from voting, for this reason—I do not wish to appear in the attitude of stifling investigation of these matters; but I think that, before we raise special committees of this kind, we ought to have some data, some statements made here, on which to predicate them.

Mr. HASKIN. I will state the reason why I have moved for this committee now, if the House will allow me to do so.

Mr. JONES, of Tennessee. If the resolution gives rise to debate it goes over.

The SPEAKER. Debate is not in order.

Mr. COX. I have made this statement more for the purpose of explaining my vote than of asking to be excused. I now vote "no."

Mr. HASKIN moved that the vote by which the resolution was adopted be reconsidered; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CLINGMAN. I rise to what I suppose to be a privileged question. I believe the morning hour has expired, and I move that we proceed to the business on the Speaker's table. There are some Senate bills and other matters there that ought to be referred.

Mr. WASHBURNE, of Illinois, demanded tellers on the motion.

Tellers were ordered; and Messrs. FOSTER, and WRIGHT of Georgia, were appointed.

The House divided; and the tellers reported—ayes fifty, noes not counted.

So the motion was not agreed to.

The call of the States for resolutions, &c., was then resumed.

IMPROVEMENT OF THE HUDSON RIVER.

Mr. CORNING, in pursuance of previous notice, introduced a bill to continue the improvement of the channel of the Hudson river above and below Albany, and below Troy, in the State of New York; which was read a first and second time, and referred to the Committee on Commerce.

PUBLIC BUILDINGS AT ALBANY.

Mr. CORNING also, in pursuance of previous notice, introduced a bill to construct a building for a custom-house, court-house, and post office at Albany, New York; which was read a first and second time, and referred to the Committee on Commerce.

Mr. CORNING also, in pursuance of previous notice, introduced a bill to provide for the construction of a marine hospital at Albany, in the State of New York; which was read a first and second time, and referred to the Committee on Commerce.

PUNISHMENT OF CRIMES.

Mr. JOHN COCHRANE, in pursuance of previous notice, introduced a bill for the reenactment of certain parts of the act entitled "An act in addition to an act for the punishment of certain crimes against the United States, and to repeal the acts therein named," approved 20th April, 1818, and which act, hereby in part reenacted, was approved March 10, 1838, and expired by its own limitation March 10, 1840; which was read a first and second time, and referred to the Committee on the Judiciary.

BUFFALO MARINE HOSPITAL.

Mr. HATCH, in pursuance of previous notice, introduced a bill to provide for the construction of a marine hospital at Buffalo, New York; which was read a first and second time, and referred to the Committee on Commerce.

APPRENTICES IN THE COMMERCIAL MARINE.

Mr. FENTON, in pursuance of previous notice, introduced a bill to require the employment of apprentices in the commercial marine of the United States; which was read a first and second time, and referred to the Committee on Commerce.

YONKERS A PORT OF DELIVERY.

Mr. HASKIN, in pursuance of previous notice, introduced a bill to constitute Yonkers, New York, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

IMPROVEMENT OF HARLEM RIVER.

Mr. HASKIN, in pursuance of previous notice, introduced a bill for the improvement of Harlem river and Spuyten-tuyfel creek, in the county of New York; which was read a first and second time, and referred to the Committee on Commerce.

HELL-GATE.

Mr. HASKIN, in pursuance of previous notice, introduced a bill to remove obstructions to the navigation at Hell-Gate in the East river, opposite the city of New York; which was read a first and second time, and referred to the Committee on Commerce.

BROOKLYN POST OFFICE.

Mr. TAYLOR, of New York, in pursuance of previous notice, introduced a bill to provide for the erection of a post office in the city of Brooklyn, New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

SALARY OF SUPREME JUDGES.

Mr. TAYLOR, of New York, in pursuance of previous notice, introduced a bill increasing the salaries of the Judges of the Supreme Court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

CAPITOL BUILDINGS AND GROUNDS.

Mr. TAYLOR, of New York, in pursuance of previous notice, introduced a bill to create a commission to complete the Capitol and Capitol grounds; which was read a first and second time.

He also moved that the bill be referred to the Committee on Military Affairs.

Mr. MORGAN. That bill appropriately be-

longs to the Committee on the Public Buildings and Grounds.

Mr. TAYLOR, of New York. I believe the construction of the Capitol extensions is now in charge of the War Department.

Mr. CLINGMAN. I object to debate. If it give rise to debate, it will go over.

Mr. JONES, of Tennessee. The Committee on the Public Buildings and Grounds have this subject, as I understand, under consideration, and are preparing a report on the extension of the grounds on different plans, covering different areas, so that the House may be able to select under what plan and to what extent the grounds shall be enlarged, and I think this subject should go to them. It is a committee which is certainly organized to investigate and look into the condition of the public buildings and grounds, and it is the committee to which this subject, as it seems to me, should properly be referred.

Mr. TAYLOR, of New York. I have no objection to that reference, except this: the chairman of that committee told me that I had better not have the bill referred to that committee; that he was opposed to the whole thing, and should report against it. I would like to have this bill receive a fair consideration; and I want it referred to a committee which will give it a fair and proper consideration. That is my only reason for proposing that it shall be referred to the Committee on Military Affairs.

Mr. MORGAN. If the Committee on the Public Buildings and Grounds is not the proper committee to consider such a subject, we may as well abolish the committee altogether.

Mr. TAYLOR, of New York. I will not object to its being referred to that committee.

The bill was accordingly referred to the Committee on the Public Buildings and Grounds.

INVALID PENSIONERS.

Mr. FENTON introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior report to the House of Representatives the names and residence of all the invalid pensioners of the United States, who have been admitted to the roll since March 3, 1849; the time when their pensions commenced; the amount of pension per annum received by each, distinguishing each according to grade, with reference to the several acts of Congress under which said pensions were allowed.

ABOLITION OF THE POST OFFICE.

Mr. SPINNER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of abolishing the Post Office Department; and if they deem it inexpedient, then that they report on the propriety of repealing all the laws that restrain individuals or corporations from carrying mails or mail matter.

Mr. LETCHER moved that the House adjourn.

The motion was disagreed to.

Mr. JONES, of Tennessee. Has the morning hour expired?

The SPEAKER. It has.

Mr. JONES, of Tennessee. I move that the House proceed to the consideration of the business upon the Speaker's table.

Mr. BEADY. I ask leave to present a memorial.

Mr. GROW. I object, and call for the regular order of business.

The motion of Mr. JONES, of Tennessee, was disagreed to.

Mr. JONES, of Tennessee, moved that the House adjourn.

Mr. DAVIS, of Mississippi, demanded the yeas and nays.

The yeas and nays were not ordered.

The motion was disagreed to.

CUSTOM-HOUSE ETC., AT TRENTON.

Mr. ROBBINS, in pursuance of previous notice, introduced a bill making an appropriation for the purchase of a site for a custom-house, post office, and court-house, at Trenton, in the State of New Jersey; which was read a first and second time, and referred to the Committee on Commerce.

MARY C. HAMILTON.

Mr. HUYLER, in pursuance of previous notice, introduced a bill to continue the pension heretofore paid to Mary C. Hamilton, widow of Captain Fowler Hamilton, late of the United States

Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. BURROUGHS asked leave to present several petitions, which he would move to refer to a select committee.

Mr. LETCHER objected.

POST OFFICE AT JERSEY CITY.

Mr. WORTENDYKE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of erecting a post office at Jersey City, in the State of New Jersey, and that they report by bill or otherwise.

Mr. BURNETT moved that the House adjourn.

Mr. LETCHER demanded tellers.

Tellers were ordered; and Messrs. BLAIR and GARTRELL were appointed.

The House refused to adjourn; the tellers having reported—ayes 25, noes 93.

CONFIRMATION OF TITLE.

Mr. KUNKEL, of Pennsylvania, introduced a bill confirming the title to certain lands; which was read a first and second time, and referred to the Committee on Public Lands.

FEES OF OFFICERS, ETC.

Mr. PHILLIPS introduced a bill to regulate the fees and costs to be allowed to district attorneys of the United States, clerks, marshals, attorneys, and other officers of the circuit and district courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

RIGHTS OF AMERICAN CITIZENS ABROAD.

Mr. MORRIS, of Pennsylvania, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to inform this House, if compatible with the public interests, if our ministers and diplomatic agents have been instructed to secure, in the treaties negotiated with foreign Governments, since 1850, the right of free worship and honorable burial, to American citizens, resident in or traveling through their dominions; and what Governments have rejected these propositions, and the reasons assigned therefor.

KANSAS AFFAIRS.

Mr. GROW introduced the following resolution, and demanded the previous question upon the same:

Resolved, That the President be requested to communicate to the House, copies of all instructions, by himself or any head of Department, to the Government or other executive officers, in the Territory of Kansas, and all correspondence with the same, together with a copy of the executive minutes of said Territory, not already communicated to the House. Also, a copy of the constitution framed at LeCompton, together with a copy of the census and return of the votes in the election of delegates to said convention in each election precinct in said Territory, and the returns of the election held in said Territory on the 21st of December last, and 4th of January last, with the number of votes then polled respectively in each election precinct in said Territory, and copies of any other official papers in possession of the Secretary of State, relative to Kansas affairs, not already communicated to Congress.

Mr. CLINGMAN. That resolution will lie over under the rule.

Mr. HOUSTON. Under the rule it must go over one day, if objected to.

Mr. GROW. Perhaps the gentleman from Alabama does not want information in regard to Kansas affairs.

Mr. HOUSTON. The gentleman will speak for himself, and not for me.

The SPEAKER. The 61st rule reads as follows:

"A proposition requesting information from the President of the United States, or directing it to be furnished by the head of either of the Executive Departments, or by the Postmaster General, or to print an extra number of any document, or other matter, excepting messages of the President to both Houses at the commencement of each session of Congress, and the reports and documents connected with or referred to in it, shall lie on the table one day for consideration, unless otherwise ordered by the unanimous consent of the House; and all such propositions shall be taken up for consideration in the order they were presented, immediately after reports are called for from select committees; and when adopted, the Clerk shall cause the same to be delivered."

The resolution lies over one day.

HARBOR OF CHESTER, PENNSYLVANIA.

Mr. HICKMAN introduced a bill for the repair and improvement of the harbor of Chester, Pennsylvania; which was read a first and second time, and referred to the Committee on Commerce.

HANNAH STROOP.

Mr. FLORENCE introduced a bill for the relief of Hannah Stroop; which was read a first and second time, and referred to the Committee on Revolutionary Pensions.

POST OFFICE AT HARRISBURG.

Mr. KUNKEL, of Pennsylvania, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of the erection of a post office building at Harrisburg, Pennsylvania.

PIER IN DELAWARE BAY.

Mr. WHITELEY introduced a bill for the construction of a mole or pier upon the shore of Delaware Bay, opposite the breakwater, at the town of Lewes, in the State of Delaware; which was read a first and second time, and referred to the Committee on Commerce.

LIGHT-HOUSE IN THE DELAWARE.

Mr. WHITELEY introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of erecting a light-house on one of the United States piers in the Delaware river at New Castle.

TOLL-GATES IN THE DISTRICT OF COLUMBIA.

Mr. BOWIE introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency and propriety of purchasing the toll gates on the turnpike roads within the District of Columbia leading to the seat of Government, so as to make the same free within the limits of said District; and to report by bill or otherwise.

HOUSE FOR BRIDGE-KEEPER.

Mr. BOWIE introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the expediency of purchasing a lot and erecting thereon a house for the keeper of the upper Eastern Branch bridge, on the Potomac, usually known as Benning's bridge; and that they report by bill or otherwise.

WITHDRAWAL OF PAPERS.

Mr. BOWIE asked and obtained leave to withdraw from the files of the House, the petition and papers of the heirs of Gerrard Wood, copies of the same being left with the Clerk.

NEBRASKA CONTESTED ELECTION.

Mr. HARRIS, of Illinois, presented certain papers relating to the contested-election case of Chapman against Ferguson; which were referred to the Committee of Elections, and ordered to be printed.

BOUNTY LAND.

Mr. FAULKNER introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of reporting a bill recognizing the right of the officers and soldiers of the company commanded, during the late war with Great Britain, by Henry St. George Tucker, of Virginia, to the benefits of the land bounty provided by existing laws for officers and soldiers of that war.

TERRITORIAL EXPENSES.

Mr. CLEMENS offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Treasury be requested to communicate to this House the amounts, under the proper heads, appropriated and expended in each of the different Territories of the United States for all purposes, legislative, executive, and judicial, for roads, bridges, wells, public buildings, and so forth, and for the extinguishment of Indian and other titles, military defenses, and so forth, from the year 1845 and up to the present time, including California, before and since her admission into the Union, to the close of the last fiscal year.

Mr. CLAY moved that the House do now adjourn.

The motion was agreed to—ayes 68, noes 61; and thereupon (at three o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, February 10, 1858.

Prayer by Rev. F. SWENTZEL, D. D.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communica-

ting, in pursuance of law, lists of clerks and other persons employed in that Department, other than officers of the Army, during the year 1857; which, on motion of Mr. STUART, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of War, communicating, in pursuance of law, statements showing the contracts made under the authority of the War Department, during the year 1857; which, on motion of Mr. STUART, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

He also laid before the Senate a report of the Secretary of War, communicating, in compliance with resolutions of the Senate of the 4th, 5th, and 26th of January, the annual report of Lieutenant Colonel J. D. Graham, for the year 1857, in relation to lake harbor improvements; which, on motion of Mr. STUART, was ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

CREDENTIALS.

Mr. HARLAN presented the credentials of the Hon. JAMES W. GRIMES, chosen a Senator by the Legislature of Iowa, for six years from the 4th day of March, 1859; which were read, and ordered to be placed on the files.

PETITIONS AND MEMORIALS.

Mr. DOOLITTLE presented the memorial of the register and receiver of the land office at Superior, Wisconsin, praying that the compensation of registers and receivers may be increased; which was referred to the Committee on Public Lands.

Mr. KING presented the petition of James W. Nye and other citizens of New York, praying that the public lands may be laid out in farms or lots for the free and exclusive use of actual settlers only; which was referred to the Committee on Public Lands.

Mr. JOHNSON, of Tennessee, presented a petition of citizens of New York, praying that the public lands may be laid out in farms or lots for the free and exclusive use of actual settlers only; which was ordered to lie on the table.

He also presented thirty-six petitions of citizens of Luzerne county, Pennsylvania, praying that all entries of public lands may be confined to actual settlers, and to them only in limited quantities; which was ordered to lie on the table.

Mr. WILSON presented a petition of journey-men gold-beaters of Boston, praying for an increase of the duty on gold-leaf; which was referred to the Committee on Finance.

Mr. HAMLIN. I have received and been requested to present a memorial signed by A. Waterhouse and sundry other citizens in Maine, who allege that certain land warrants were issued to several parties whom they represent, and who, subsequent to the application for the same, and prior to the issuing, died. They ask that the law be so amended that the heirs-at-law shall be entitled to the benefit of the warrants. I commend it to the careful consideration of the Committee on Public Lands. The delay of the Department has occasioned this state of things. If there had been no delay on the part of the Government the warrants would have been issued, and would have been available by the parties for whom they were issued. The delay having been wholly on the part of the Government, and the loss having been occasioned in consequence of that delay, I hope it may receive the favorable action of the committee. Other petitions have been presented on the same subject of a similar character.

The memorial was referred to the Committee on Public Lands.

GOVERNMENT CHAPLAINCIES.

Mr. BIGLER. I am requested to present a memorial, numerous signed by citizens of Pennsylvania, by our law-makers there, by judges, preachers, and lawyers, praying Congress to take steps to reform the system of chaplaincies in the Navy and Army. The memorialists set forth that, while strenuously disapproving and opposing any union of Church and State, it has been and is the strong conviction of the American people that for our national freedom and prosperity we are mainly indebted to the principles and in-

stitutions of the Christian religion. This conviction, which has been expressed by our ablest and purest statesmen of all parties, sections, and times, they say has been recognized in our State papers and embodied in resolutions and acts of Congress too frequently and too recently to require citation.

They also represent that our Governments, State and national, have always recognized themselves as bound in simple equity and justice to make due recompense to all those engaged in their service, such recompense having respect both to the character of the service, as painful, hazardous, or long continued, and to the nature of the public servant, physical, intellectual, or moral; and thus provision is made, not only for salary, but for protection, subsistence, and, in certain cases, for special instruction and for general mental and moral culture. Thus have originated our military and naval schools, and thus, too, and as a more obvious necessity, a system of chaplaincies for the Army, for the Navy, for Congress, and for the penitentiary in the District of Columbia. These schools and chaplaincies all stand upon the same foundation of justice and propriety; they all evince the same dignified self-respect in the Government, and the same high and just appreciation of those in the employ or in the power of Government, as men with social and moral natures.

The system of chaplaincies, they say, is in fact older than our present form of Government. It was introduced by Washington himself, immediately upon his taking command of the army of the Revolution, and was maintained and cherished by Congress throughout that glorious struggle. The adoption of the Federal Constitution did not interfere with it, but on the contrary, the Administrations under that instrument, one and all, have recognized it as both national and necessary. It is evident, therefore, that the discrimination of reserved and delegated rights, and the prohibition of religious tests which are found in the Constitution, were not designed by its authors, its first expounders and ministers, to apply to the matter of chaplaincies for the public service, and that it never has been, and ought not now to be, interpreted to the prejudice of this department.

No objection, it is conceived, ought to lie against such a system on the ground of its expensiveness. In point of fact, the memorialists believe it has never exceeded in cost the annual sum of \$100,000; but had it been a much larger amount, they confidently urge that such an outlay would be amply justified. When it is remembered that our soldiers and sailors are our fellow-citizens sent on our country's behalf beyond the reach of those institutions and that healthful public sentiment which are all-important to good citizenship; that they are exposed in asylums, hospitals, or garrisons to the demoralizing effects of idleness, or, in active service, to the contagious recklessness and ferocity which are incident to even the most lawful warfare; that they are thus liable to be returned to the bosom of society, disqualified for the duties and privileges of freemen—for all which the ministrations of religion are the only preventive; that often, while in active service, they are borne to distant and unwholesome climes and exposed to countless diseases and modes of death, and are thus in constant need of these teachings which nerve the heart by faith and hope; it is conceived by the memorialists that it were unworthy of a great and Christian nation to offset to a system of such uses its mere money cost. The chaplain system, properly regulated, and sustained by right-minded men, must work out such results in favor of society, as to make a liberal compensation for all the expenditures required of the Government to keep its machinery in good working order.

The memorialists further represent that the present system of Government chaplaincies is quite inadequate to the public need of such service. In the last report of the Secretary of War it is stated that the Army, as now constituted, comprises nineteen regiments, with a total of seventeen thousand nine hundred and eighty-four men, who are distributed at one hundred and thirty-eight different posts; and the presumption is that this number of men will be speedily increased to twenty-five thousand. For these men, segregated, and necessarily deprived of all home, social, and moral influences, and for the sick, wounded, and dying among them, there are authorized but thirty teachers of religion. The Navy of the United States will, when the six

war steamers now under contract are completed, comprise more than one hundred vessels, each carrying a sufficient number of men to require the presence of some member of the medical department. In these vessels, and including those who are in receiving ships, naval asylums, and navy-yards, the Government employs near nine thousand officers and men, and the number of chaplains allowed by law is twenty-four. At best, but one of our military posts in four, and but one of our national vessels in four, is provided by law with a chaplain. The actual disproportion, however, is much greater: for not more than one half of the thirty chaplains allowed to the Army are now in commission. Of the twenty-four chaplains allowed to the Navy, not more than one fourth of that number are to be found where their service is most needed, in sea-going ships. And further, as the memorialists believe, no camp or campaign chaplains are employed, there being only one or two among the troops on our Pacific coast, and not one for those serving in Kansas, Utah, and Florida.

The memorialists also represent that in the present system of Government chaplaincies are divers anomalies and defects, which well deserve attention. Chaplains, they allege, are appointed to their office without any formal and sufficient inquiry into their professional standing and qualifications; they are appointed for life, and no provision is made for retiring any who may become superannuated or otherwise disabled for the duties of their office, and thus it becomes possible that the whole number authorized by law may consist of such, to the entire prevention of religious and moral teaching to the Army and Navy; no report is required of the amount of service rendered by any chaplain; and the designation of chaplains to particular posts or vessels is made without due regard to their specific adaptation to such post or vessel.

In view of all which the memorialists pray Congress to increase the number of chaplains authorized for the Army and for the Navy, upon the principle that a Christian Government should furnish adequate religious instruction to those who, in Government service, are deprived of it; to require that no person shall be eligible to the office of chaplain, who shall not produce formal and official testimonials of his good religious and ecclesiastical standing, and of his qualifications for the special duties of the office; to make no more life appointments to the chaplaincy of either Army or Navy; retire upon a reasonable salary such chaplains now in commission as may be by reason of age or infirmity disabled from effective service; to require of all chaplains to either Army or Navy, stated reports of the services rendered, together with statistical and other information connected therewith, and that an abstract of the whole may accompany the President's message; and to designate chaplains to particular posts or vessels, with due regard to the matter of their adaptedness to such posts or vessels, and to secure to each chaplain so designated all proper facilities for the stated religious instructions of the men, and for the conduct of Divine worship among them.

The memorial is an interesting one, and I move that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. FOSTER, it was

Ordered, That the petition of N. C. Haywood on the files of the Senate, be referred to the Committee on Patents and the Patent Office.

On motion of Mr. KENNEDY, it was

Ordered, That the heirs of John Ireland have leave to withdraw their petition and papers.

On motion of Mr. HALE, it was

Ordered, That George Townley and John Denman have leave to withdraw their petitions and papers.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a bill (H. R. No. 152) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the Territories of the United States and the State of Texas, in which the concurrence of the Senate was requested.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION

THURSDAY, FEBRUARY 11, 1858.

NEW SERIES...No. 41.

REPORTS FROM COMMITTEES.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of Edward D. Reynolds, praying compensation for making certain disbursements, submitted a report accompanied by a bill (S. No. 132) for the relief of Edward D. Reynolds.

The bill was read, and passed to a second reading; and the report was ordered to be printed.

REPORTERS' GALLERY.

Mr. FOOT. I ask for the consideration of the following order:

Ordered, That the Committee on the Library consider and report a plan for the admission and accommodation of reporters in the eastern gallery, other than the reporters of the Congressional Globe.

I understand that there is no authoritative provision over this subject at the present time. It was formerly under the control of the Presiding Officer of the Senate. That rule, however, at the last general change of our rules, was omitted. It is very desirable that it should be placed under the control of some authority; and it strikes me that a committee of this body should constitute the authority to regulate this subject. For the Presiding Officer it would be a delicate and sometimes a disagreeable duty to perform. If it be assigned to a committee of the body, it relieves the Presiding Officer from that duty. I think the Presiding Officer, at the present time, has been consulted in reference to this matter; and I presume there will be no objection to the adoption of the order.

Mr. TOOMBS. I hope the resolution will lie over. I object to its consideration. I do not think there ought to be any such people in the galleries at all. It is a very great nuisance.

The resolution lies over under the rule.

RESOLUTIONS.

Mr. GWIN. I desire to offer two resolutions of inquiry; and I ask that they may be considered at this time.

Mr. DOUGLAS. I object to them, and move to take up the resolutions I have endeavored to bring up for several days.

The VICE PRESIDENT. Resolutions cannot be offered, as petitions are still in order.

Mr. GWIN. Can I not offer resolutions?

The VICE PRESIDENT. If there be no objection, the resolutions may be read.

Mr. DOUGLAS. I must interpose again, and call for the regular order of business.

The VICE PRESIDENT. The Senator from Illinois insists on the regular order, which is reports from standing committees, there being no other petitions; which, under the rules, the Chair must call for specially. Reports from committees are still in order.

Mr. GWIN. What follows then?

The VICE PRESIDENT. Resolutions and motions after the reports of committees, unless some special order should intervene.

Mr. DOUGLAS. There being no further reports, I move to take up the resolution which I offered.

Mr. GWIN. I believe I had the floor.

The VICE PRESIDENT. If there are no further reports from committees, the Chair will feel himself bound to recognize the Senator from California.

Mr. DOUGLAS. Very well, sir.

The VICE PRESIDENT. If there are no further reports, the Secretary will read the first resolution offered by the Senator from California.

The Secretary read it, as follows:

Resolved, That the Secretary of War furnish the Senate a copy of the military topographical memoir, report, and maps of the military department of the Pacific, by Captain T. J. Cram, of the corps of topographical engineers.

Mr. DAVIS. I hope the Senator will explain the nature of that report.

Mr. STUART. I object to its consideration. The resolution, therefore, lies over, under the rule.

Mr. GWIN. I have another resolution, to which I hope there will be no objection:

Resolved, That the Committee on Finance be instructed

to inquire into the expediency of reporting a bill to increase the facilities for refining gold for coinage in the branch mint at San Francisco.

Mr. DOUGLAS. Let that resolution lie over.

The VICE PRESIDENT. It lies over, being objected to.

KANSAS LECOMPTON CONSTITUTION.

Mr. DOUGLAS. I now interpose my motion to take up the resolutions to which I have referred.

Mr. DAVIS. The hour has arrived for the consideration of the special order.

The VICE PRESIDENT. Not yet. The Chair will call it, when the hour arrives.

Mr. DOUGLAS. I am very unwilling to seem to antagonize with the wishes of the Senate on a matter of this kind; but it does seem to me the application I make is a reasonable one. I am called upon as a member of this body, and as a member of the Committee on Territories, to which the message of the President, with the Kansas constitution, have been referred, to report on those documents. The President has given, in the message referred to, many facts, and those facts it is important for us to investigate. We cannot report intelligently upon the matters referred to us unless those facts shall come before us.

Mr. TOOMBS. Will the honorable Senator from Illinois allow me to say a word? If this resolution be only directed to the President, I do not see that there need be any speeches about it, if it calls for information. If it does, I do not see any objection to it.

Mr. DOUGLAS. That is the point. If I can have a vote on it I will yield the floor.

The VICE PRESIDENT. The hour has arrived for the consideration of the special order.

Mr. DOUGLAS. But I suppose these resolutions are the unfinished business, and take priority.

The VICE PRESIDENT. They are not the unfinished business. The special order is the unfinished business, and comes up at the head of all the other orders under the rule.

Mr. DOUGLAS. I move to postpone the special order, for the purpose of taking up these resolutions.

Mr. DAVIS. On that I hope we shall have the yeas and nays. There was an understanding yesterday that we were to proceed with the bill which is the special order until we finish it.

The yeas and nays were ordered.

Mr. DOUGLAS. I do not wish to antagonize with the Army bill. I do not wish to postpone it. I have refrained from calling up any other subject to its exclusion; I was willing to give the reference of the President's message the priority over all other measures, and then to consider the Army bill as the unfinished business, and when that should be disposed of, I desired to call up the Minnesota bill. This is a part of the reference of the President's message; it is necessary for a consideration of that subject. The reason we gave priority to the reference of the President's message was, that it was important to give the committee an opportunity to report upon it. If that report is not to be hurried until we can get this information, I should be willing to let the resolutions lie over until the Army bill be acted on; but if I am to be required to act and to vote on that message, and at the same time to be deprived of the opportunity of procuring the facts necessary to an elucidation of the subject, it places me in a position in which I think no Senator should be placed.

For instance, in reading over the constitution of Kansas this morning, I find that in fixing the apportionment, a certain number of representatives is awarded to Johnson county—four representatives; and I find allowed to the adjoining county of Shawnee only two representatives. I am informed that by the census taken under the law which called the convention, Shawnee county showed a larger population than Johnson, and yet the county with the largest population is to have one half the representation of the other. I am informed that this extra representation of Johnson county is founded on fraudulent votes polled at Oxford precinct under

fictitious or spurious returns. I desire to know whether these things are true, and whether—

Mr. DAVIS. I rise to a point of order, whether it is proper to go on with the debate on the propriety of considering a resolution at a time when a special order is pending?

Mr. DOUGLAS. I am only giving reasons why these resolutions should be taken up at this time. I am only pursuing what has been the practice of the Senate. I will confine my remarks strictly to the motion to take up, and propose to show why the resolutions should not only be taken up, but taken up now, to the exclusion of other business. I do not intend to go into the discussion of the merits of the Kansas question; I do not intend to say a word on the merits of the constitution of Kansas, or of the President's message, but simply to give the reasons why the resolutions should now be taken up; and I shall do so as briefly as I can.

The VICE PRESIDENT. The Chair feels obliged to express an opinion on the point of order which has been raised. The Chair supposes that short remarks of explanation would be proper; but from the very nature of the case and the nature of the question, it occurs to him that an extended discussion would be out of order when there is a special order, and a motion made to postpone it with a view to take up other business. It would defeat the very object and purpose of setting special orders, if extended discussion should be had on the merits of the business which it is proposed to take up to their exclusion.

Mr. DOUGLAS. I do not propose to make any extended remarks. I do not propose to do anything which the Senate during the whole period I have had a seat here, has not sanctioned. I intend to be brief. I have seen a discussion on taking up a subject run two days here, under the sanction of the Senate, because there were no means of stopping it. I have seen it held here, that a motion to postpone one subject and take up another, opened the merits of both questions as a matter of parliamentary law—not only the merits of the question to be postponed, but the merits of the question to be taken up; but I do not propose to do any such thing. Because that has been held to be the parliamentary law, and has been the practice here, an honorable Senator only a few days ago brought in a resolution to change the rule, so that there should not be debate on the priority of business. The evil of general lengthy debates upon a motion to postpone one subject and take up another, has been felt and is conceded; but the right of discussion, I apprehend, is beyond dispute.

But I do not wish to discuss the merits of the question. I was only showing the importance of obtaining the information for which the resolutions call; and on one point embraced in the call, I stated that I was informed there is a representation provided for in the Lecompton constitution which will secure permanently to the minority of the people of Kansas the control of the Legislature. I am informed that the evidence of that fact will be furnished, if the information for which I call can be had. I have instanced the two counties of Johnson and Shawnee as an illustration. Shawnee, I am informed, as shown by the census had a larger number of legal votes returned than Johnson, and yet in this constitution twice the number of representatives and twice the number of Senators are awarded to Johnson county that are awarded to Shawnee; and I am told the excuse for thus awarding double representation to Johnson county is predicated on the fraudulent returns at the Oxford precinct.

If that be true with regard to Johnson county, if it be true in regard to the whole apportionment, is it not important that the facts should be brought before the Senate in order to ascertain how the matter stands? I do not allege this to be so; I am informed that it is so; I believe it is so. The production of the facts will settle the question. If I have been misinformed, let it be shown; and when these facts come I shall correct any misapprehen-

sion under which I may have labored on this subject. If it be true, that great truth ought to be known, because it is an evidence of fraud running through this constitution—planned, meditated, contemplated fraud, intended to run into the operations of the Legislature under the constitution in all time to come. I am unwilling to believe that such a fraud was contemplated; but I wish to know the facts.

So it is in regard to other questions. We are told by the President that if this constitution shall be adopted, and Kansas admitted into the Union with it, the people there can change it any time. How are they to change it if the apportionment in the constitution is a fraudulent one, arranged for the purpose of enabling the minority to overrule the majority?

Again, with a view to that very point, I desire to know the results of the election of the 4th of January for officers. There is a rumor here that the Lecompton ticket was elected—

Mr. MASON. I rise to a question of order. It may be perfectly competent for the honorable Senator to assign reasons why, in the order of business, his resolutions should take precedence of the Army bill; but it cannot be in order for him to assign reasons why those resolutions should pass, for the purpose of enabling his committee to have the information. These remarks would be properly in order, I conceive, if the resolutions were up; but I rise to the question of order, because if the debate is gone into in the manner now indicated by the honorable Senator, there must be a reply to him, and the result will be to postpone, without consulting the Senate, the unfinished business relating to the Army bill. I say, therefore, with all respect for the Senator, and submit it to the Chair, that it is not in order to discuss the merits of his resolutions.

Mr. DOUGLAS. I do not desire to discuss the merits of the resolutions, and I propose to keep myself even within the rule assigned by the Senator from Virginia. Although I conceive that under the universal practice of the Senate for all the years I have been here, I have a right to discuss the merits of the proposition, yet I do not propose to do it. I will tell you what I propose to do: first, I want to show that this information is material to the investigation; and, being material, it is important to have it now, for the reason that instant action is asked. If I sustain both these propositions, they prove that we ought to take steps now to get the information, for it cannot be disguised that there seems to be great anxiety to act immediately on the merits of the Kansas question. If I should attempt to procure delay, it would be said that I was endeavoring to thwart the wishes of the Senate by an opposition producing unnecessary delay. I wish to produce no unnecessary delay. I wish to hasten the report on the Kansas question, and to get it at the earliest possible moment; but when I say that I believe this information is essential, when I give reasons why I cannot make a report intelligently on its merits without this information, and then when I show that we must have it now or it will be too late—these are all reasons why the matter should be acted on at this time, in preference to the Army bill. I might take up that bill and show that it makes no great difference whether the Army bill be passed this week or the next, to-day or to-morrow; but it is very essential to have this information, if I am to be called on to vote and act on the Kansas question before the Army bill is disposed of. Hence I was going on to say that it was important to know to whom the certificates of election have been awarded on the ticket elected for State officers and the Legislature, on the 4th of January.

Mr. DAVIS. With the permission of the Senator from Illinois, I must say that this is an argument on the merits of his resolutions, and upon the action which the committee are to take—not upon the priority of business; and that if he goes into this wide field of rumor which has spread itself over every subject which has been raised in the Senate for some weeks past, it is apparent that such statements as he is now making must elicit reply, and thus we defeat the agreement of the Senate to take up the unfinished business, and settle it to-day.

Mr. TOOMBS. Let the Chair decide the point of order.

The VICE PRESIDENT. If it is insisted

upon, the Chair must give his impression in relation to the point of order. In regard to the usage of the Senate on these questions, the Chair of course has no knowledge except as to this session, where the usage has been to some extent as intimated by the Senator from Illinois. It has been proceeding, by a sort of common consent, up to this time in the session, and no points of order have been made. The Chair supposes that in deciding questions of order he should be governed by the written rules, and, where they do not apply, by the general parliamentary law. It is perfectly certain that when the Senate has assigned a particular question for a particular time, it is a privileged question at that time; and if a motion is made to postpone it, debate ought not to be indulged in; but a mere suggestion, a mere remark might be made. Otherwise there is no limit to the length of speeches that may be made, and the object of the Senate may be utterly defeated. The opinion of the Chair, although it is a very delicate question for him to decide, is that the line of remark in which the Senator from Illinois is indulging is not pertinent to the motion to postpone, and must necessarily lead to extended debate on the merits of the question, and defeat the previous order of the Senate.

Mr. DOUGLAS. Will the Chair inform me what line of remark I may indulge in on the motion to take up, or whether he decides that no debate, no explanation of reasons for giving priority to particular business can be assigned? I intend to keep strictly within the rules of the Senate, and to act and speak with entire respect to the Presiding Officer, and to every member of the body; but I wish to know what the rules are, and have them applied to me as they have been and shall be applied hereafter to every member of the body.

Mr. DAVIS. If the Senator will allow me, I will state in entire frankness—

Mr. DOUGLAS. I was asking the Chair—

Mr. DAVIS. Will the Senator allow me to say a word?

Mr. DOUGLAS. Certainly.

Mr. DAVIS. I wish to say to the Senator, in entire kindness, that, in making this question of order, I was actuated by no disposition to cut off any remarks which he may, at any time, think it necessary to make. It was with no disposition to violate the courtesy of the body; and courtesy has been, during my knowledge of the Senate its rule. It has had little need of printed rules; the rules that govern gentlemen in ordinary intercourse have been sufficient for the body; and, therefore, it is that by consent one thing is done to-day, and it is repeated to-morrow. As the Senator asserts, this may grow into precedent; but when in the progress of the business of the Senate it becomes necessary to insist on parliamentary rules they are as practicable here as elsewhere; and a debate springing up on a mere question of the priority of business, and running into the merits of the whole subject proposed to be taken up—going into the illimitable field of rumor—it is apparent defeats the order of the Senate.

Mr. DOUGLAS. I did not intend to say that the Senator from Mississippi was discourteous in interposing his objection. On the contrary, it is his duty, as the chairman of the Committee on Military Affairs, to maintain the priority of the bill in his charge, if he can do so consistently with the rules. I feel it to be my duty, if I can, to obtain this information, which I believe is essential in the performance of the trust confided to me. I must do what I can, within the rules, fairly and properly to get the information. Since the Chair decides that the line of remark in which I was indulging was not authorized by the rules, I shall endeavor to ascertain whether the decision cuts off all debate on the priority of business. If the Chair so decides, I shall conform to it, although I shall have to say that it is reversing, so far as I understand it, the decision of this body uniformly made for the entire eleven years that I have been a member of the Senate.

The VICE PRESIDENT. If the Chair is satisfied in regard to the practice of the Senate, he will pursue that practice without regard even to general parliamentary law or his own opinion on questions of order. He desires to conform himself to the usages of this body. His only difficulty, heretofore, has been to understand what

those usages have been from the conflicting statements of gentlemen.

Mr. DOUGLAS. The point I now wish to know is, whether I may assign reasons for taking up this subject and giving it priority over the Army bill, or whether I am not to give any reasons. I shall conform, if I can find out what the rule is.

The VICE PRESIDENT. Questions of relevancy are uncertain, and the most difficult of all to decide. The Chair cannot draw a precise line; but he can say to the Senator that upon a question of laying aside one piece of business to take up another, it does seem to him to be out of order to pursue a line of discussion, even although it may appear to bear on the issue, which must necessarily lead to extended debate, which may even lead to a long speech on the part of the Senator himself, and defeat the object which the Senate had in making a particular piece of business the special order. He cannot be more explicit.

Mr. DOUGLAS. Well; I have yet to ascertain whether the Chair decides that a motion in reference to the priority of business is debatable or not.

The VICE PRESIDENT. The Chair does not think it is properly debatable. He thinks that here, as in every deliberative body, suggestions may be made in reference to it, as, on motions to lie on the table, by common consent suggestions are indulged.

Mr. DOUGLAS. Are those suggestions made as matter of right, or matter of courtesy?

The VICE PRESIDENT. They are matter of courtesy and custom, so common and universal as to amount to a right—suggestions or remarks that do not lead to discussion in reference to the order of business. The Chair can only say that the impression on his mind is that the Senator's remarks open up a general discussion of the question, will lead to debate, and therefore are not pertinent to this question in reference to the priority of business.

Mr. DOUGLAS. I waive those remarks; and now I will state to the Chair what I propose to show, without making an argument, that I may know whether or not it comes within the rules. The President of the United States has referred, in his message, to the fact that the Legislature elected on the 4th of January, could call a convention to change a constitution immediately. I desire to find out who were elected members of the Legislature on that day. I desire to ascertain whether it be true that a Legislature has been declared elected, sixteen of whose members depended on a forged return from Delaware Crossing; or whether it be true that the president of the convention has gone behind that fraudulent return, and set it aside because it was fraudulent, and declared the other side elected. I desire to find out who was declared elected; because, if one ticket was elected, that answers the President's argument; and it is sustained if the other was elected. I want to know, therefore, how the fact is upon that point.

I want to know also the facts as to the election on the 4th of January, not only for State officers and members of the Legislature, but also as to the adoption of the constitution. I hold that that election was a legal one, and I wish the facts on that point. I want the returns. I wish also to have the census which was taken under the law calling the Lecompton convention, showing the number of votes in each county, so that we may see whether in any one county, or in quite a number of counties, twice or three times as many votes have been cast as there were voters on the register. I want to see whether the apportionment on representation, made by the Lecompton convention, is based on population. All these matters are said in the message to be fair, and the assertion is that all these proceedings were conducted fairly. I want the facts. I am told the facts disprove the assertion that they were fair.

Mr. DAVIS. Will the Senator state where he wants them?

Mr. DOUGLAS. I want them as a member of the Senate, and as a member of the Committee on Territories. I do not think the information can hurt anybody.

Mr. DAVIS. Mr. President, if the Senator wants them as a member of the committee, this is not the place to argue the matter. If he wants them to decide any question which has been referred to the committee, surely no question has yet been referred which involves the legality, the

validity, the fairness of any election under the State constitution.

Mr. DOUGLAS. Certainly, a question has been referred that involves the legality of that constitution; because its validity, as I am prepared to show, depends on the vote of the 4th of January, so far as it may be considered an embodiment of the popular will. I wish copies of the laws, I wish the census under them, I wish the votes at the elections, for the purpose of ascertaining the fact whether this constitution is the act of the people of Kansas, or whether it is repudiated legally according to the forms of law by the people of Kansas. I believe that the facts for which I call will prove that the people of Kansas, according to the forms of law, at a legal election, have repudiated, and declared null and void, this constitution. If it be true that at an election authorized by law, an election legal in its results, this constitution has been rejected by ten thousand majority, then I think it is proper that we should have the opportunity of knowing it. There is a great variety of facts for which the resolutions call that I deem important and essential. If the information I have received about these enormous frauds is not true, the friends of this measure ought to desire the information in order to show that it is not true.

Mr. MASON. I respectfully submit to the Chair that one of two things must be done: either the honorable Senator must be curtailed in his course of remark, or the whole question be thrown open to debate, (and I need not predict that the debate will last many days,) because he is going now into the merits of the resolutions which he has offered. On a question of priority of business, he assigns reasons why he wants the information that the resolutions call for. He assigns no reason why it is important that that information should be obtained now as a question of priority over the unfinished business of yesterday; being the Army bill.

Mr. DOUGLAS. I will give that reason now.

Mr. MASON. But I mean to say this: I ask that the decision of the Chair may be enforced, or that it may be understood that the whole debate shall be gone into.

Mr. DOUGLAS. It is entirely unnecessary to ask that the decision of the Chair shall be enforced, for I shall yield, voluntarily and cheerfully, obedience to it the moment it is announced. When the Chair decided some time ago that the line of argument I was then pursuing was not quite justified by the rules, I waived it. When I asked the question whether I could give reasons for taking up the resolutions, the Chair did not understand that I could give none, but he said I must not be too lengthy and must not wander from the question. I then proceeded to show what were my reasons, keeping within the line indicated by the Chair. The Senator from Virginia is under the impression that I have shown the importance of this information, but have not shown why it should now be had in preference to considering the Army bill. On that point I will say there is no great necessity for the Army bill, to-day or to-morrow; it makes no difference whether it be passed this week or next week. This information I must have now, or it will be too late, or I shall be held responsible for postponing the Kansas question. If the Senator from Virginia, or those with whom he acts, will assure me that the Kansas question shall not be pressed upon me until I get this information, I will withdraw my motion now, and agree to go on with the Army bill.

Mr. MASON. I can only say, in regard to that, that being perfectly satisfied that the information for which the Senator calls, if it could be had, would lead to no results which ought to affect the question submitted to the committee, these resolutions shall never pass by any aid of mine, or by my vote. In my view, if the information could be had for which the resolutions call, it is not information which the Committee on Territories ought to act upon, in its deliberation on the admission of the State of Kansas. It belongs to the people of Kansas and the State of Kansas, but not to Congress.

Mr. DOUGLAS. The Senator is frank in avowing that his objection to my motion results from his opposition to this call for information, and not from his anxiety to have the Army bill passed. He is perfectly frank. I am glad of it.

If it is the determination of the Senate that this information shall be smothered, that no means of acquiring it shall be given, you may as well say so at once. If the Senate is determined that I shall not investigate the fact whether the apportionment in the Lecompton constitution is based on fraudulent votes or on actual population, then it will do right in voting down my resolutions. The objection of the Senator from Virginia is to the resolutions at any time, not to postponing the Army bill.

Mr. MASON. Both.

Mr. DOUGLAS. One good reason is always sufficient, without adding another; but I have no objection to taking it that way. I submitted the resolutions calling for this information last Thursday. They were then, by a side motion, postponed and got rid of. I have asked for their consideration on each day since that, when the Senate has been in session. Deeming it essential to have it, believing that it will expose fraud that affects not only the election, but fraud in the making of the constitution—fraud in the apportionment for the Legislature under the constitution—fraud which hereafter is intended to secure the power of the Legislature in the hands of a minority in opposition to a majority—

The VICE PRESIDENT. The Senator from Illinois will pardon the Chair—

Mr. MASON. If debate is gone into, there must be reply.

The VICE PRESIDENT. The Senator will pardon the Chair for a moment. The Chair is very clear, with great respect to the Senator from Illinois, that his remarks are not in order upon a question of the priority of business. The Chair will hear any suggestion, according to the sense of the Senate, that the Senator may make, why these resolutions should be taken up now to the exclusion of the special order; but the Chair does think the remarks of the Senator are not in order. We must have an established order of business; and this is subversive of it.

Mr. DOUGLAS. My respect for the Chair and for the body restrains me from pressing a statement of my reasons any further. I will now ask a vote by the yeas and nays on the question of postponing the Army bill, and taking up these resolutions.

The VICE PRESIDENT. The yeas and nays have been ordered. The Secretary will call the roll.

Mr. DAVIS. Before proceeding with the call of the roll, I wish merely to state that the resolution offered by the Senator from Vermont, [Mr. Foor,] acquires additional importance at this time, from the fact which has been exhibited, that a Senator has sought to postpone the consideration of a subject which was continued from yesterday, by the consent of the Senate, to be entered upon at a certain period to-day, and finished at a certain hour; and I do hope that the Senate will now redeem its obligation to the unfinished business.

The question being taken by yeas and nays, resulted—yeas 23, nays 24; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Collamer, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Stuart, Sumner, Trumbull, Wade, and Wilson—23.

NAYS—Messrs. Bayard, Benjamin, Biggs, Bigler, Bright, Crittenden, Davis, Evans, Fitzpatrick, Gwin, Hammond, Houston, Iverson, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Sillwell, Toombs, and Wright—24.

So the motion was not agreed to.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States, the pending question being on the motion of Mr. Toombs to strike out the first section, in the following words:

"That there shall be added to each of the regiments of dragoons, cavalry, infantry, and of mounted riflemen, two companies, to be organized in the same manner as the companies now composing these arms respectively, and to receive the same pay and allowances, and to be entitled to the same provisions and benefits in every respect, as are authorized by the existing laws; they shall be subject to the rules and articles of war, and the enlisted men are to be recruited in the same manner as other troops, with the same conditions and limitations."

The VICE PRESIDENT. The Senator from Massachusetts [Mr. Wilson] is entitled to the floor.

Mr. WILSON. Mr. President, I do not propose at this time to detain the Senate from taking the vote on the amendment proposed by the Senator from Georgia. I did propose, and I do still propose, to say a few words in favor of the amendment which I have intimated that I intend to offer, but I shall waive that for the present; I shall wait until the vote has been taken on the motion of the Senator from Georgia to strike out the first section of the bill.

Mr. MASON. Mr. President, I have been far more willing to listen than to take any part in the debate which has gone on so far upon this bill; but I do not feel at liberty to give my vote on the motion offered by the Senator from Georgia, without a word of explanation, and of explanation only.

There are none, I apprehend, in the Senate, who are more disinclined to increase the public force of the country further than is absolutely necessary for the public service than I am, whether it be in the Army or in the Navy. But whatever opportunities other Senators may have, I confess that my means of knowing what the necessities of the public service are in reference to the use of the public force are very limited, and I am obliged to rely, to a very great extent, on the information given to me from that Department which is particularly charged with that subject—I mean the executive department. I do not advert to any blind reliance on the Executive, or any undue confidence in the executive department, with its present or any other head. I give them the confidence that must be due from one branch of the Government to the other; but I know that from our recent very large acquisitions of territory, it would seem to have become the more necessary to enlarge the Army, chiefly for the purpose of protecting our people on the frontiers, or of protecting our people who are *in transitu* between the Atlantic and the Pacific States. I know, too, (and it has been disclosed here more than once,) that the great expenditure of the Army arises from the staff department, chiefly the quartermaster's department. The great source of expenditure in the Army is the expense of transportation, not of troops only, but of the supplies necessary for those troops. I know it has been the great labor of my honorable colleague, [Mr. Hunter,] who is charged more particularly with the finances of the country in the Senate, as far as practicable to cut down those expenditures; and yet he has found it impossible, because of the necessarily dispersed condition of our Army over the immense territory which they are called upon to pervade.

I was very much struck, in this connection, with a remark which fell from the honorable chairman of the Committee on Military Affairs, (than whom none is more competent to give information to the Senate on all subjects connected with the military department,) that when the Army was small, and it was found necessary to transport them on sudden emergencies from one to another very distant point, great expense must be incurred in that transfer, and the transportation which accompanies it, which might have been avoided, or to a great extent curtailed, if the *materiel* of the Army were large enough to increase the number of military posts on the frontier. Now if it be true, (and I know it is true,) that the very great expense of the Army is in the transportation, in the quartermaster's department, it might be economy to increase the number of men in order to increase the number of military posts. It does not follow that because we raise our Army from fifteen to twenty or twenty-five thousand men, we thereby increase the expenditure; for it may result that by confining it to the smaller number of men, a larger expenditure is required in order to make a proper disposition of it. I should be very much gratified if it would be in my power to interpose a vote here which would prevent an increase of the Army, even to the amount contemplated by the Committee on Military Affairs; and I would do it, if I could confide in my judgment rather than in that of those who have an opportunity of surveying a field which is not open to me. I shall therefore vote against the proposition of the Senator from Georgia, and, so far as my vote goes, sustain the *project* of the Committee on Military Affairs.

Mr. DAVIS. The proposition before the Senate is to strike out that section of the bill which

provides for adding two companies to certain regiments of the Army, being those regiments which now have but ten companies. I hope the Senate will decide to retain that section, for a few reasons which I will offer at this time.

I think the organization, as I stated on a former occasion, will be more complete, because it will give regiments divisible into three battalions of four companies each. It will give the power to divide regiments without dividing battalions so as to garrison three posts by each regiment, or, if you please, six posts, without reducing any post to a single company. I will here say to Senators as a military question, that it is a very great disadvantage to troops to separate them into garrisons consisting of a single company, and that that disadvantage is not to be overcome by multiplying the rank and file. You must have the number of officers to perform the duties that devolve on commissioned officers, and cannot be intrusted to anybody else. To maintain discipline and to perform the duty in a responsible manner, you require at least the number of officers that will be afforded by two companies. You cannot, therefore, double the size of a company without injury to the public service, relying on one company to constitute a garrison instead of two.

That is one reason. Another is, that by increasing the number of companies, you give that advantage which the Senator from Texas [Mr. Houston] has illustrated as his opinion of the present defect in the Army—the want of an opportunity of promotion and inducement to the rank and file. These additional companies not only increase the number of non-commissioned, but also the number of commissioned officers. They give an opportunity to worthy men, who enter the ranks of the Army by enlistment, to rise to the grade of commissioned officers. They give a nucleus on which, in time of war, you can aggregate the raw material of recruits, and increase the power of the standing Army of the United States.

Here I would say to the Senator from Texas, that he was egregiously mistaken in his argument that a law had grown up of usage, which, for the benefit of the graduates of the Military Academy, now excluded the rank and file from promotion in the Army. He said it was not now as it was in the war of 1812. I wish to correct that error; for, in the wisdom of Congress, upon the recommendation of so humble an individual as myself, the two Houses, not long since, adopted a provision, for the first time in this Government, which made it quite easy for the Administration to provide for the certain promotion of a non-commissioned officer who proved himself worthy. For the first time, I say, since the organization of our Army, the last Congress did provide for conferring brevets on non-commissioned officers, and thus made them certain of promotion, though the graduates of the Military Academy should be equal to all the vacancies which should occur within the year. The Senator, I say, therefore, was egregiously mistaken in assuming that the door to promotion had been closed against the rank and file of the Army. It has been opened, sir.

Another Senator, (the Senator from Georgia, [Mr. Toombs,] I think it was,) asserted that, for a great number of years, no such promotions had occurred. There the mistake was equally great; such promotions have been made from time to time.

Mr. TOOMBS. The Senator is mistaken; I expressed no opinion on that point.

Mr. DAVIS. It was not the Senator from Georgia, but somebody else; but as I am making points, not on individuals, but on the merits of the question, it makes no difference who it was. Very probably it was the Senator from Texas; but I say, whoever it was, it is equally erroneous, because such promotions have been made by brevet, to await vacancies. Promotions of that kind have been made by nominations to the Senate, and confirmations by the Senate. Sergeants were raised to the grade of commissioned officers in the new regiments that were provided for three years ago; and never before, in the history of the Army since I have known it, has the rank and file had so wide and open a door to enter into the grade of commissioned officers as now. This is but widening that door which admits the rank and file to rise to the grade of commissioned officers. It is but increasing the number of commissioned officers who will serve in detached posts, thus

relieving them from the danger and the toil of a responsibility which they cannot probably meet, if reduced to the small number of two or three, to perform, not only their regular duties, but all the staff duties of a garrison at a frontier post.

I hope, therefore, that the Senate, if they think that the addition of the thirty companies and the increase of the maximum of the strength of each company to ninety-six, will give more troops than are required, will prefer rather to keep down the maximum, as it is now, to seventy-four, and give the additional companies, because I believe it will create a more effective force than increasing the maximum of the rank and file of the Army, that maximum being a need which is rather upon paper than in the field. It is merely the mode by which you will fill up a company to a strength from which it will waste away on a distant campaign or at a distant post. It will have really but very little effect, on account of the power of the War Department to send out unattached recruits, and thus bring them to the distant posts at a time when the company has been wasted below the maximum of seventy-four.

If, then, the purpose of the Senate be to limit the size of the Army to any certain standard, I appeal to them that they shall, in consideration of the great interest which is involved, strike from the bill the second section, taking the numerical strength away which that would confer, and leave the first section, which perfects our system and enables us to occupy the great number of posts we now have with our small Army, without reducing the number of commissioned officers at each post below that which will enable them efficiently to perform every duty.

Mr. CRITTENDEN. I have desired, sir, to say something, not much, on this subject. I am apprehensive that this recommendation of the President has not received that sober and direct consideration to which it is entitled. The debate has been principally occupied with stating objections to standing armies, objections to an increase of our Army because of the emptiness of our Treasury, objections to it because of the apprehended misuse of it which the Executive may make, and other reasons of this sort. But, with the President, it seems to me, that if all these objections be admitted, (and many of them are well founded objections to standing armies,) still the question comes up, whether the proposed or any increase of the Army of the United States is necessary for the public service, or would be useful for the public service? That is the question. If it would be so, we ought to grant that increase, although we admit every objection and every danger that is attendant on the measure.

It is said we ought to be jealous of standing armies. So we ought. I honor the sentiment, and concur in it. It is said we ought to be regardless of the condition of the Treasury. So we ought; and its present condition demands our serious consideration in every question of expenditure. It is said that the President of the United States may make an ill use of this increased military power which you are giving him by increasing the Army. It may be so. There is no power granted to the President that he may not abuse; but there is no power that he can abuse with less probable success than the command of such an army as we now have. What can he do with it? Is it a standing army within the compass of that wise jealousy which we have been warned to entertain against standing armies? This warning is said to be hereditary to us, impressed on our minds by the teaching of our forefathers. Be it so; but while they warned us against standing armies, they meant such standing armies as were useless in time of peace. Notwithstanding all their teachings, they knew and recognized the absolute necessity that every Government like this should maintain some permanent military force. That did not contradict their warning, in the proper sense of the term, against standing armies. The necessity of preserving a force of this sort was always recognized by them when this Government was poorest and weakest, and least able to maintain an army.

The only question for us now really is to decide whether the proposed increase is one required by the public service, or will contribute to the promotion of the public interests. That is the question. If it be, we must encounter the expense. If it be, we must hazard the danger of the abuse of

this increased military power by the Executive. We must always do it. Every power you grant him is liable to abuse, but none so little liable as the command of twenty thousand men in this country. He cannot use this power to any great extent to the detriment of the public. All his misuse of that power must be open, and flagrant, and notorious. The public will be warned of that, and that warning will be enough to divert any danger that it might occasion. There are other powers of the Executive more liable to objection on this ground. His power of patronage is susceptible of a much wider range of injurious and corrupting and dangerous influence, than any which he can derive from the command of such an army as ours, even when it shall be increased as proposed. That patronage in its influence may work secretly and privately; the public cannot see it; the public are not permitted to hear it. It works its dangerous and winding way in secrecy and darkness. You do not take away that power from him because it may be abused; but this other power which it is said he may abuse, the command of a military force, cannot be made use of to any improper or injurious purpose, without its becoming open and notorious to the public. The fring of his cannon will be heard all round about, and the country will be put on its guard and warned to inquire what is this for, and why is it, and what law warrants it.

The question is plainly one of military calculation. What army is necessary to perform the great military police duty of this country? We have had a standing Army, if you please to call it so, for this purpose from the origin of the Government. The only increase which I contemplate voting for would raise your Army to an amount not exceeding twenty thousand men. Is that too much? Let gentlemen decide. My knowledge of the particular services and exigencies of this great and wide country is not sufficient to enable me to determine, with any sort of precision, what is the force that is necessary. I know that, according to all experience and my own convictions, some force is necessary. That has been admitted by all. How much, exactly, is a subject, I presume, not capable of exact or mathematical definition. You cannot define exactly the amount of force that is necessary, but we can look around our country; we can see generally the duties that this Army has to perform, and determine in some general way, each one for himself. But it is the business of the executive department of the Government, who manage this military force, who direct all its exertions, and place it wherever danger, or safety, or the public interest requires it, all over this country, to know and to make a calculation approximating, at least, to certainty as to the amount of force that is necessary. I cannot tell. I know we have a vast boundary. I know it comprehends many savage tribes who are necessary to be restrained for the protection of the rural and domestic people of the country. We have garrisons to maintain and man. We may have insurrections to suppress, though I throw them out of the calculation; they cannot amount to much. I throw out of the calculation any imaginary necessity for the use of the military force in Kansas. I cannot, however, altogether throw out of view the necessity there may be for troops to be sent to Utah, because that is a step the Executive has already taken; and we have there in those mountains now, surrounded by snows and threatened by enemies and rebels, some fifteen or sixteen hundred of our countrymen, sent there by the orders of the Government. This must have some consideration here.

All these things considered, can we say with assurance and satisfaction to ourselves that less than twenty thousand is an ample number? If I could say that less than that number was adequate, or the present Army in the service of the United States was sufficient, I would not vote for an additional man. It is not because a President has asked an increase, or a Secretary has asked an increase, that I would register their opinions as laws, simply because it is their wish and their judgment that it should be. It must have the corroboration of my judgment. Certainly, I think that, in legislating on this subject, a proper degree of deference, and a proper degree of respect ought to be paid to the opinions and judgments of the War Department, not because of any influence they are entitled to have over our judgment, but because, if they do their duty, they ought to know

better, and be better informed than we are of the public necessities on this subject, and of the public force that is actually required to do the people's business, so far as that is involved in the military affairs of the country. That is my idea. I give them that respect, and no more. The President urges it; the Secretary of War urges it; the general commanding the Army urges it, a higher authority with me on such a question than any other; but I only admit that as an authority because it is an opinion on a subject that ought to be known to the individual who gives the opinion; he should be well acquainted with it, and I am not.

I think, therefore, that we ought to be very well assured that some increase is necessary; but how shall we give it? It is with great reluctance and diffidence, in my judgment, that I differ with my friend from Mississippi [Mr. Davis] on this point. Knowing his military experience and character, and his general ability, I differ from him with great caution; but I wish to make this increase as little expensive to the Government as possible. I should think that the little increase that may be necessary may be fully accomplished by leaving it to the discretion of the President, whenever he deems it necessary and proper for the public service, to increase the privates of every company now in the Army to ninety-six, on his responsibility. I think there can be no objection to that. The authority, if executed to the utmost, would give him an additional number of about four thousand three hundred men. There would be no additional expense for officers. It would be merely an increase of privates by adding to the number in each company now in the Army. I am willing to do that; and then the President should say not, that the public service has been neglected or done amiss because Congress would not give the necessary force. Here you have put at your discretion a body of four thousand three hundred men, to be added to the Army whenever you shall think the public service demands it. I am willing to vote that; that is the second section of the bill; and when the bill shall be (as it may easily be by a little change or transformation of its language) reduced to that, I am willing to vote for it. That is all the increase my judgment can be made to approve of; and in adding that I do it not so much because I perceive the necessity for it, as because to that extent I am not willing to oppose my own judgment to the judgment of those whom I acknowledge ought to be better acquainted with the subject than I am.

Much has been said on this subject that goes altogether beyond the scope of the bill which is presented to us. My old friend from Texas [Mr. Houston] has taken the widest range. His views are usually of a very catholic and general kind. He is opposed, I believe, to the whole standing Army; and he thinks the military genius of the country would be better promoted and more excited by appealing, whenever public service of a military character is necessary, to the militia or volunteers—appealing to the courage and to the genius of the country. That seems to be the gentleman's great object—to patronize and encourage the general genius of the people. If I understand him, he would also be willing to see abolished the Military Academy at West Point. In both these particulars I differ with great diffidence from him on military subjects, because he is a veteran and a warrior; but I find these peculiarities in his opinions naturally resulting from the condition and circumstances of his life. He has fought his battles; he has won his victories; he has won his laurels, fighting with militia and volunteers. He has been associated and identified with them in the whole long career of his distinguished military exploits. This gives a bias to his mind.

But, sir, all experience has determined, as I before said, that, while we have an everlasting and all-conquering force in that resource of going to the body of our fellow-citizens for great military power, when the country shall require it, some regular army is necessary. I can concur in all his eulogiums upon our citizen soldiers; but, while I do that, I must differ from him as to the policy and propriety of maintaining a permanent military force to some extent, to be always ready. They are always necessary for some occasions. For the protection of our fortifications and frontiers, for manning those fortresses which we have

erected for the protection of our great cities, we must have some troops; and that is not a service in which volunteers will engage.

Besides, you must not only cherish, as the gentleman proposes, the native military genius and spirit of the country, but you must cultivate and preserve, at least, the science of war. Untaught bravery, untaught genius, will not supply the place of that military experience and that military knowledge which is necessary to insure success. We must cultivate and educate them. I look on West Point with the greatest possible favor. There is a nationality about it that I like. There our young men learn that they belong to the same nation, though they come from all its different portions. All idea of sectionalism is lost; their ideas are concentrated on a common country; they are educated by that country; their common gratitude is directed to a common object; their fidelity to their country is secured in early life by the very terms of their education.

All this is very desirable to one who would wish these sectionalisms and every sort of sectionalism entirely effaced and made to give way to more generous and more national and more patriotic feelings. I admire it as an institution to be cherished. The country is already much indebted to it. Is there such a class of army officers in any part of the world, of the same chivalry, of the same honor, of the same intelligence, of the same intellect, that occupies the humblest ranks in your Army? Not in the world. They are a class of officers that must insure victory to your standard whenever you fight on anything like equal terms with any enemy that this world can bring to confront you. Instinctively military, brought up scientifically to all its work and to all its arts, and each one fighting with the zeal and spirit and hopes of a republican citizen, what can resist them? Nothing. The world presents no such motives to the soldiery of any country on earth, nor do the armies of the world present men so well educated and prepared to occupy any station. There is hardly from that institution any second lieutenant in the Army who could not command his regiment, if the casualties and misfortunes of the day required it, and take the command instantly—not one. There never was such a little Army.

What does it do? Gentlemen say they see nothing particularly requiring an increase. Well, I ask gentlemen to look at what this little Army of ours performs. Take any single regiment of it. Let any gentleman who happens to be acquainted with its movements trace where it has been, what it has done, within any period of time to which he chooses to limit his inquiries, and he will find the same regiment to have been fighting at one time in the swamps of Florida; he will find that same regiment a year afterwards, perhaps, in Oregon or in Washington Territory; he will find it afterwards at San Francisco; he will find it again at Fort Leavenworth, fifteen hundred miles from New Orleans on the Missouri river, on the Indian frontier, engaged in an Indian skirmish, or an Indian pursuit. Was there ever an army in the world that performed the labor of this Army? I think there is not, within my knowledge, an army of twice its number that performs the same amount of labor in any part of the world that this little Army of ours does; and that, I presume, is one reason of the great, alarming, expense which is brought upon us by our soldiers. We are told that, according to a capitation division of the cost, they cost us a thousand or fifteen hundred dollars each. They are constantly in motion, and always on the frontiers of the country, where everything that is necessary for the soldier is dear; where everything costs a great deal by reason of the distant transportation you have to make of whatever feeds him, whatever clothes him, and whatever arms him.

That must be one reason why this expense has been rendered so great. And how have they performed the duties assigned them? I have spoken of the mere labor which is thrust upon them, beyond that which I believe is thrust on the officers of any branch of the public service. There are no clerks in the Executive Departments; there are no officers here, that perform the same amount of public labor and public service as the soldiers of our Army do; and how do they perform it? Like soldiers, like American disciplined soldiers, obedient to your first word of command, performing

the most perilous duties without a murmur; nothing but discipline, and courage, and firmness and devotion manifested in the whole course of their military operations. Whatever may be your orders and the command of your Government, they execute unhesitatingly. Look at the little inglorious war carried on by them in the swamps of Florida for a long time, wading through swamps and marshes in the pursuit of Indians, perishing with disease, perishing with inglorious wounds received from an enemy in ambush, and dying there without a murmur, and without a groan to disturb the tranquillity or the happiness of their country. So it is wherever they have served.

How did they serve you in Mexico? How was it that they were always victorious? Could you have expected to accomplish such results with untrained troops? Certainly you could not. Could you have expected with such troops to have accomplished such a work, unless you had your ranks filled by the young officers that came from West Point. No, sir. There is the secret of our wonderful success—that, and the ability of the general-in-chief, and our generals, who controlled and directed it to its proper objects, and their courage and discipline. Are we not satisfied? Does not our great experience satisfy us that we have had a good return for the expense we have had for our permanent military force? Your triumph in Mexico, your speedy and glorious termination of that war, was the work of the men you had been sustaining and maintaining as a permanent military force. I believe we ought to value this little Army of ours at a high rate. There is no other such in the world. There is no other where the feeling of patriotism, and where the feeling of citizenship still survives every other consideration to the same degree that it does in our Army. There is no other army of the same amount of force, that has ever performed what your Army has performed, and is daily performing. I regret to hear gentlemen here say they are willing to abolish this Army. I am not. I believe it is necessary; and at the same time I perfectly sympathize with most of the opinions which have been uttered here, inculcating a jealousy of standing armies. Any idle, useless army, for which the public has no service, I call a standing army; but a mere military force of twenty thousand, which performs only a sort of police duty, cannot awaken alarm. I cannot fear it. I do not; but upon principle, I will not increase it a single man, if I know it, beyond what the public service and the public good actually require.

Entertaining these views, Mr. President, I must vote to strike out the first section of this bill, which, I believe, is now the question, because it proposes to increase the Army by additional companies, and I shall limit myself simply to voting for an increase by additional privates to each company in the Army, which, I think, will give an adequate force for the service of the country, so far as I am informed.

Mr. HALE. Mr. President, I did not think that it would fall to my lot to stand here to represent the views of the Administration on this question; but as none of the friends of the Administration have done it, and as I am fully advised of their views, though not by any private conference, I shall state, in behalf of the Administration, that they do not want this bill to pass. They are opposed to it; and I will read to you an article from a newspaper of this date, which speaks by authority on this subject—the Washington Union; of February 10. There is in the article a little censure for the Military Committee of this body, which I shall not read, but merely allude to. It is an intimation that, if they had done their duty, this matter would have been disposed of long ago; and I now come to this part:

"The inference is irresistible that the theory, organization, and efficiency of the Army are better known at the War Office than at any other Department; and when that office asks an increase by regiments, in the nature of things Congress must infer there is good reason and sound policy in that request, as far as the form of increase is concerned especially. There is, then, manifest wrong in the present bill before the Senate."

That is what the Administration say—"manifest wrong"—I knew it before I saw it in this paper, [laughter,] but I suppose some on the other side did not—"to add companies instead of regiments;" and now the paper goes on to tell the reason why it is wrong:

"We are probably safe in the assertion, that not one in

twenty members has reflected carefully upon Army organization, or the theories on which it is based."

It is not strange that the Senate committee have run wild, and got wrong, when not one in twenty members of Congress has recollected it. Again, this paper—I am not going to read the whole—says:

"It is, therefore, clear to our mind"—

I agree to that when the writer says "our;" he means him and me. [Laughter.]

"It is, therefore, clear to our mind that the proposed addition of two companies to each one of the regiments of infantry, cavalry, dragoons, and mounted riflemen, now in service, would go to change the whole Army system of the Federal Government; and as the militia system of the States is based on this, it would throw the whole militia system of the Union into a confusion."

Think of that, sir. [Laughter.] It would throw the whole militia system into confusion! You could not have a regular muster after that! [Laughter.]

"Additional companies are not contemplated in the constitution and theory of the Army, as it now exists, is instructed, and drilled. They would be wholly supernumerary, and without a fundamental change in the system, could not be ingrafted on the old established regiments. But the mischief, we repeat, would not end in deranging the fixed Army basis, but would result in fundamentally changing the militia organizations in all the States of the Union, as they have adopted the Army plan, and must always look to it for its system of drill and instruction. Here would be incalculable mischief and confusion!"

Now, sir, the Administration tell you that incalculable mischief will result from this bill. I am not converted to all the doctrines of the Administration, and I am not requested by them to say what I do in their behalf, [laughter:] but when they have put out their views so plainly and so palpably, I felt called upon, as a man who likes to see fair play, none of the friends of the Administration having come forward with their views, to lay them before the Senate, and to say that so far as their policy is to kill this bill I am with them, entirely with them, and I think they are wise.

Mr. HOUSTON. Mr. President, it was not my intention to make any further remarks on this bill in addition to those which I hastily offered a few days since; but the allusions which have been made to me in the course of the debate seem to require some vindication of the positions I then assumed; and it may be possible for me to illustrate them by examples which may be instructive in their character.

That there may be no misapprehension of my estimate of the regular Army, I will say with cheerfulness that I am not opposed to the Army, and I am not disposed to reduce it much. Perhaps I might vote to repeal the law creating the four regiments which were added a few years since; but beyond that, I should not be in favor of reducing the Army. I wish to have a force for maintaining our sea-board defenses, and for the purpose of preserving the arms of the Government and maintaining such fortresses as are permanent and necessary in their character. I would have no further permanent force than is necessary for these purposes. I do not wish to be regarded as an enemy to the Army, though since the remarks which I made the other day, I am the more convinced, if that were possible, of the truth of the apprehension I then expressed of the potency of the Army, for I find that my remarks have exasperated greatly the officers of the Army, who, I presume, anticipated promotion; but of that I have no certainty; and they not only regard me as hostile to it, but have displayed hostility to myself and other Senators who have dared to express similar opinions to mine on the subject. I am sent here, sir, to vindicate the nation, not a privileged class; and I am ready to combat the young monster as I would the old one of despotism. Never again, while I live, will I vote in time of peace to increase the regular Army one man. This is a fundamental principle with me. It is not that I apprehend danger from their bayonets or their swords; but it is rather the imperitiveness that arises from idleness and want of employment in individuals whose time ought to be given to the line of their duty in the service.

But, sir, there is a political influence growing upon the country in connection with the Army which I described the other day. Its inception is at the Military Academy. The inmates of that institution are the bantlings of the public. They are nursed, fostered, and cherished, by the Government; and when they graduate they must be provided with places in the Army. It is their

vocation by education, and they must be provided for; the Army must be increased to accommodate the number of graduates whom the Military Academy may turn out annually. Places must be made in the regular Army to supply with positions the cadets who graduate at that institution. The danger is, that, as they multiply and increase, such will be the political influence disseminated through society that it will become a general infection, ruinous to the liberties of the country, and to the deliberations of the Congress of the United States. This is the danger which I apprehend from the growth of the regular Army.

I have bestowed some thought upon military matters. I have had some connection with the Army. My honorable friend from Kentucky [Mr. CRITTENDEN,] for whom I feel so much kindness, and, if he will permit me to say so, I will add even veneration—for when I was in a subordinate station in the Army, he was in this Chamber a Senator—has misapprehended my training as a soldier. My service has been in the regular Army—never in the militia.

Before I attained to adult years, I enlisted a private soldier in the regular Army, the old seventh regiment. There I learned the rudiments of soldiery. For six months I was in the ranks, and I learned my duty there. Obedience was inculcated, and I imbibed readily the instruction accompanying it. I was then promoted an ensign, and every step of rank I acquired from that time, until I ceased to be an officer in any army, I acquired by dint of service. My promotions were purchased by what I deemed a fit recompense in service. It was alone in the regular Army that I was instructed—not in the militia. Five years of my soldier drilling was in the old regular *régime*—in the seventh, the thirty-ninth, and the first regiments. I learned, whilst there, to appreciate properly the regular Army duties of a soldier. I learned, too, that he was better capacitated for command when it was conferred upon him for meritorious conduct, than if he had gratuitously received it without learning the duty of a subordinate, or to pay obedience to a superior. Thus it was inculcated most instructively to me. It was not merely the result of observation, but in the school of experience I was taught.

Mr. President, you might as well tell me that you can take the dunghill fowl from its walk, or the young nestling, and rear it in an eagle's nest and make an eagle of it, as to tell me that you can place at the Military Academy one who has no military genius, and create him a general or a military man. You might as well tell me that you can educate a Shakespeare, a Burns, or a Byron, as to tell me that you can educate a general. You may teach a man the routine of platoon, of company, of battalion, of regimental or of general drills, but you cannot place in his head that strategy which is necessary to success; that high design and enterprise which are necessary to enable a general to bear your banners in triumph, and wave them above a conquered enemy.

"'Tis education forms the common mind."

But there are attributes of character that are not common, and they are not to be formed by education. Was Washington educated at a military academy? Were those glorious generals who seconded him so educated? Was Jackson, or Brown, or any of the men who so proudly vindicated our flag, and added to our national glory in the war of 1812, educated at a military academy? No, sir; they were from the school of nature, taught by nature's great teacher, God. You may make a mechanical soldier at the Military Academy; but if he has not genius to stir him on, let not Congress legislate to make him a place.

But, sir, I should be glad to know when it was that a regular force has ever given protection to a harassed frontier in this country? Tell me an instance of retaliation inflicted on an Indian tribe by a regular force, after the Indians had made incursions? I do not know it. I have not heard of it. Have chastisements taken place; have reclamations been made; have Indians been pursued; their villages destroyed; and they humbled or harassed in that way until they became amicable or receded from our frontier? If it has been done, it has been by volunteers who turned out for the occasion, or by rangers who were selected for that purpose, and for the protection of the frontier, and were not stationary in garrisons. Who ever heard of a garrison giving protection to any place,

unless it was in time of alarm, when women and children might flee to it for refuge? A nation that keeps its men always in garrison will be easily conquered in the field. Are Indians going to march up to a fortress? Will they not pass miles around it, and march upon the settlements, and knowing its locality, easily avoid it on their return, after having depredated on the inhabitants, or stolen their property? and there is no one to pursue them. An infantry soldier is a very inefficient enemy to the Indians. But try your rangers; their impulses will keep them in constant exercise, moving from place to place. They feel the excitement of action, and there is nothing lethargic about them to enervate them and make them desire repose, tranquillity, or idleness. They would seek activity. Why? Because they are from that portion of the community where they have been inured to activity and toil from infancy. They are efficient men. So far as the fortresses are necessary to be kept up, let the regular soldiers do it. Whenever the emergency of the country calls for it, call on your volunteers, and they will rally to their country's call. These are the men I would depend upon. They are the men with whom I would hazard my life in full confidence that, so far as depended on their gallantry and valor, I would stand intrenched in the midst of a fortification of gallant hearts and brave arms. I never will vote for an increase of the regular Army, because it is useless. I would rather make ample provision for the Army we have; give them such compensation as will enable the officers, if they come in contact with the officers of other nations or our own citizens, to preserve a genteel and respectable appearance; and I would make the soldier comfortable, and supply him with everything useful for his position. I would rather maintain handsomely a small army than burden the Treasury with a numerous one.

The four regiments which were raised some three years ago have cost, up to this time, just about the \$20,000,000 for which we have been obliged to resort to a loan, and what have they done? Are your fortresses better defended? Have you added victories to your account of national triumphs? Have they subdued any tribes of Indians? Have they given peace and security to our frontiers? What have they done? They have cost us millions of dollars of money, and that is the whole story—a short history of a glorious design. I was opposed to the creation of those additional regiments, and I believe my position at that time was considered to be a little heretical. I have heard gentlemen here speak of reading people out of the Democratic party. I did not know for what I was read out, nor did I care. I never inquired. If I had felt more interest, perhaps I should have inquired; but I never asked. Seeing that it did not affect my spirits or impair my general *physique*, I did not think it was so bad a thing. I saw that gentlemen were taking what I considered a wrong road, and I opposed them on the great matter now agitating the country, and I opposed them in regard to the increase of the Army which was made three years ago. My views on those points were not considered orthodox, and it seems that I was read out of the party. In parting company with gentlemen, I did not part from my principles. My principles from the beginning were those of Andrew Jackson. I challenge any man to show the slightest discrepancy between those principles which I now cherish and ever have cherished, and the sentiments of Andrew Jackson. His doctrine was, "principles without a platform;" but now the Democracy to a great extent is resolved into a platform without principles. I stand where Jackson stood—upon principle.

After the digression, I come back again to the Army; not that I expect to find any refuge or protection there, because I think it is a very harmless concern. [Laughter.] If I could really believe that it was the earnest wish of the Executive and the Secretary of War, based upon thorough information and a critical examination of the subject, that the Army should be increased as now proposed, I should regard it with a degree of seriousness which I cannot now attach to the proposition. How, in point of fact, do such suggestions originate? A lieutenant in camp in idleness may make a suggestion to a captain or a higher officer, for they form their associations, and the notion may be taken up and be generally dissemi-

inated throughout the Army. Some point is settled upon; some achievement is to be accomplished; some change to be effected. They press their influence upon the Secretary of War. He takes it for granted that they are military men and must have digested the matter carefully, and he is ready without investigation to yield his assent to their recommendation. He brings the matter to the notice of the President, and the President, satisfied that the officer having charge of the War Department has much less to do than he has who supervises the whole, defers to his suggestion, and the measure is recommended to Congress. When it comes here, our duty is to investigate it with the best light we have, and to make our decision accordingly. We are responsible; not the Executive, not the Secretary of War. If those officers had investigated the matter thoroughly, and had made this recommendation for examination, it is as much our duty to investigate it and to yield or withhold our concurrence, according to our judgment, as if they had made no recommendation at all. The responsibility of its adoption devolves upon us, and not upon the President or the Secretary of War. We are sent here to act, as substantively as the President or the Secretary of War. I have no hostility to either of those gentlemen; but a fair, just, and excellent appreciation of them; yet I am not willing in opposition to my principles to yield my concurrence to any recommendation of theirs which I do not readily adopt on the information before me.

These are my views in relation to the Army; and until I have some evidence before me that I have not yet had, I shall continue to believe that those gentlemen have not had an opportunity of investigating this matter thoroughly, so as to justify us in following their recommendation, and increasing the Army to the extent proposed.

I shall not allude to the condition of things in Kansas, although it has been introduced into the debate. That is a subject which I have not allowed myself yet to investigate. The period was, when in perspective I saw all the calamities that have fallen on this nation—distracted, ruined, or almost destroyed liberties—by the adoption between midnight and dawn of the measure which repealed the Missouri compromise. On the night of its enactment, I stood on this floor appealing to Senators to preserve the peace and vindicate the Union and the national faith; but I was laughed at. They have not laughed since. I have avoided touching that subject, and I shall not do it now. I hope the opportunity will be afforded before I quit this Chamber, which will allow me to vindicate myself and the course of principles on which I stood, and then I will lay bare the iniquity, as I conceive, of the repeal of the Missouri compromise. I shall not allude to the use which has been made of the Army in Kansas; I have already expressed the opinion that the President had power to use it there, and as to the mode in which he has used it I shall say nothing.

If this increase of force is supposed to be needed for a Mormon war, or an Indian war, that is an emergency which cannot be of long duration. For such a service, I prefer volunteers, who can march to the scene of action promptly, who go on their own responsibility, and can be there almost in the twinkling of an eye. If you adopt the system of raising regulars, you will not in less than two years have raised your regular force of men for that purpose; and when raised, they will be utterly inefficient and unqualified for the service. If, however, you take volunteers, in sixty or ninety days or less, from Missouri, from Iowa, and I would say from Texas, troops will go there and settle the business very speedily, if war be necessary; but I doubt whether, unfortunately, men have not been there in former times who were worse than the Mormons themselves, and whose moral texture and complexion might reflect disgrace even upon the Mormons. It may be that such persons incited these men to desperation, and led to the statements which have induced the present Executive to act as he has done, when, perhaps, there would not have been a necessity for that action if the truth had been before him. If, however, you wish to subdue the Mormons, it can be done by volunteers in sixty or ninety days; but if you undertake to do it by regulars, and increase your Army for that purpose, you will not be in a situation to commence operations efficiently in twelve months.

It is said that volunteers are very expensive, and that it is more economical to employ regular troops. I do not see how they can be more expensive than regulars. You can get mounted volunteers as cheap as you can infantry soldiers of the United States—men who will provide themselves with their cavalry, and not exhaust the Treasury in purchasing it.

For the reasons which I have stated, I shall oppose everything like an increase of the Army now and forever, in public and private life, at home and abroad, in word and in action. As a matter of principle I am conscientiously opposed to increasing the Army in time of peace. I am not inclined, however, to disturb the present Army, but let them realize whatever may be expected from men who have given their lives to the service of their country.

Mr. MALLORY. Mr. President, I have listened with a great deal of attention and a great deal of interest to the discussion of the question before the Senate; and I desire, without protracting the debate, simply to say a few words in reference to what influences my own vote.

I regard it as one of the highest duties of a country to provide for the due protection of its citizens; and I am convinced, from the investigation which I have given the subject, that, for protection of the character we are now called upon to give our citizens, no force is so economical, none is so efficient, as the Army, as it is organized by the laws of the United States at present. Upon this point of economy, there is something before the Senate besides mere figures of speech. There are figures here running back twenty years. If authority is wanted, we have before us a statement of the money we have paid; and we find, by the report of Mr. Poinsett, that he, in submitting the question to the House of Representatives, when he was Secretary of War, estimated the expense of volunteers, as compared with the regular Army, as four to one. That was in 1838. If we bring the expense of volunteers down to this time, the present Adjutant General says the ratio will be increased, and the disparity shown to be greater. Therefore, as a question of economy, if we are guided by a sense of justice in that respect, everything dictates that we should go on with the organization of the Army we have now.

Is there a necessity for an increase of the Army? Where are we to look for reasons to support this necessity? Gentlemen here say they have seen nothing before the Senate to justify an opinion of this kind. I regard the facts set forth in the report of the Secretary of War, unless they are answered, as furnishing all the grounds for that necessity. He shows the possible standing of the Army under existing laws, including the increase of the rank and file by the act of 1850, according to the urgent necessity under which that law was passed, to be seventeen thousand nine hundred and eighty-four men as posted, but the actual strength on the 1st of June was fifteen thousand seven hundred and sixty-four. He goes on to show that these troops have garrisoned sixty-eight forts and seventy other posts where the Secretary of War deems the presence of troops absolutely necessary. These forts and posts extend, according to his report, over an area of three million square miles, requiring thousands of miles of journey to reach them. In another part of his report, he says:

"These lines are very long, and are now extremely important, whilst every year renders them more and more so. From our western frontier of settlements to those of northern Oregon the distance is about eighteen hundred miles; from the same frontier to the settlements of California, via Salt Lake, is eighteen hundred miles; from the frontier of Arkansas, at Fort Smith, by Albuquerque or Santa Fé, to Fort Tejon, is about seventeen hundred miles; and from San Antonio, by El Paso, to San Diego, near the borders of the white settlements, is fourteen hundred miles; constituting an aggregate line of six thousand seven hundred miles, which ought to be occupied, and which we pretend in some sort to keep open and defend."

If the Army had given no other evidence of its utility, the fact that it had occupied this line would be sufficient to show its activity. True, the Army has not illustrated the country's glory by brilliant victories; it has not been called on to do so in time of peace; but in this extended frontier of over six thousand miles, it is an arduous duty, which it has performed, of keeping off the incursions of the Indians.

In voting for this bill, I put out of view entirely the question which has been mooted here, as to the employment of the Army against the Mor-

mons. I noted the remarks of the honorable Senator from Vermont, [Mr. Foot,] yesterday evening, and I agree with him, to some extent, that if we leave these people to themselves, in the second or third generation the peculiar tenet of Mormonism will fade out. I believe, if left to themselves, dissension will grow up among them, and I cannot be convinced that an institution of this kind in the nineteenth century can stand in the face of Christianity. But, sir, we must bring the Army or we must bring Christianity in some shape in contact with them, where a parallel can be drawn. We may not fight them; but they lie directly in our path of emigration to the Pacific, and as long as they intrude on the path and violate the laws of the country, we must either surrender or find some other route for our emigrants; we must find other lines for our communication, or we must quiet them in some way. I should do almost anything in the world, but fight them.

Now, sir, in relation to volunteers, I concur in all the encomiums that have been passed on the service of volunteers by the Senator from Kentucky. I know something of that service; and I know that when there are emergencies which will call the volunteers of our country into the field, they are the troops on which we are to rely; but, if a standing army be necessary at all, we must have an army in contradistinction to volunteers. If you do away with your Army, the volunteers must become the standing army. You cannot get any force so efficient as the Army according to its present organization.

I understand that the present legal standing of the Army (apart from the act of 1850, by which the President is authorized to swell it in emergency) is about twelve thousand men, and if this bill passes now, according to the opinion of the Secretary of War, there will be no more men employed in the service (looking at the recruiting service, and the ability to obtain men at the present rates) than are absolutely wanted for the defense of our frontier without regard to the Mormon difficulties. I have looked over the report of the Secretary of War; and I have not seen any attempt to answer his positions. I have not seen his figures contradicted. I have heard no gentleman take up the report and discuss it, proposition by proposition, to show where an error is made; and if I follow out the report I come to the inevitable conclusion that the increase is essential. To say that we should not proportion the standing army of the country to the population of the country, is a proposition, in my opinion, untenable. Because the standing army may have been established in times past at six or twelve thousand men is no reason why that should constitute the standard for all time to come, irrespective of the wants of the country.

I have no fears of a standing army in this country. A standing army of twenty thousand men would be swallowed up by a single ward of one of your great cities. Notwithstanding it has never reached nineteen thousand men under the present organization, we cannot get a sufficient number of artillery forces together to drill according to the artillery arm of the service. This Army is scattered through all the forts and posts of the country; you scarcely ever hear of an entire company together. They are employed principally on the frontier.

But, sir, I am not in a condition to speak further on the question, and I will not detain the Senate.

Mr. DAVIS. Mr. President, I am very much inclined, in all the business of the Senate, to look practically to the subject which is before it. When I rose this morning, and addressed some remarks to the pending amendment, and confined myself strictly to that subject, it was because I supposed it was not probably the wish of the Senate to go into general debate. Since that, however, I understand, from the remarks made to the Senate, as well as some made to myself, that explanations are expected on the whole bill, rather than remarks addressed to the pending amendment.

I have also been instructed by the Committee on Military Affairs to announce to the Senate, in conformity with the opinion which I expressed this morning, and which was the opinion of the committee, as I was aware, that, should the Senate think proper to retain the first section of the bill, then the committee will move to retire the second section, so as simply to provide for the

addition of the thirty companies. Believing that there is some objection to the paper increase—and it is merely on paper—we will withdraw the proposition to increase the maximum strength of the company to ninety-six, leaving it as it now stands, at an average of say fifty-two, for it varies in different arms, with authority to the President, in certain contingencies, to raise it to seventy-four. That is the present law, by the act of 1850.

On account of the statements which have been made in relation to the strength of the Army, so greatly exaggerated beyond the reality, I have thought it necessary to make an exact statement of what the Army is. It is now composed, including all arms of the service which go into the field, (not including engineer soldiers or ordnance soldiers,) of one hundred and ninety-eight companies, which, according to the fixed establishment of the Army, to be found in a table in the Army Register of this year, at page 41, gives a number of privates equal to nine thousand and sixty-six, supposing every company to be full up to the organization of the peace establishment; adding non-commissioned officers and musicians, you get the total of enlisted men eleven thousand eight hundred and thirty-eight. In 1850, on account of the necessity of troops on the frontier, Congress provided that at distant stations, and on the emigrant routes, the President should have authority to increase the privates in any company so employed to seventy-four; and this is the number which is taken from the Secretary of War's report. It is not the peace establishment; it is not the fixed establishment of the Army; but it is the temporary increase authorized by Congress to be made in certain contingencies. That gives a possible number of seventeen thousand five hundred and two, exclusive of the three or four hundred men who belong to the engineers and ordnance, and who, being added in the report, confuse the view which has been taken. That possible increase of the Army, it being now stationed almost entirely on the frontier, brings it up to that number. If every company in the Army was on duty, or in campaign, there would be a still higher possible number. It might in that contingency go up to about nineteen thousand.

Mr. IVERSON. The Senator will allow me to interrupt him. I have an authentic statement from the Adjutant General's office, showing the present numerical distribution of the Army by military departments. The department of the east, including forts and fortresses, has eight hundred and sixty-nine men; the department of Florida, three hundred and thirty-seven; Kansas, Nebraska, Minnesota, and Arkansas, three thousand six hundred and seventy-six; the department of Texas, two thousand and forty-nine; New Mexico, two thousand two hundred and forty; the department of the Pacific, two thousand five hundred and seventeen; the army of Utah, one thousand eight hundred and eighty-seven; making the total of the Army of the United States at present only thirteen thousand five hundred and seventy-five. That is the whole Army at present.

Mr. DAVIS. That is in consequence of the wasting which occurred after the month of June, when the actual force was stated in the report of the Secretary of War, which has been so often read to the Senate. The actual number is a fluctuating number; and the only thing upon which any calculation can be made in relation to the broader question of the policy of the Government, is your fixed or legal establishment—not how many men may happen to be in the service to-day, or may be to-morrow, fluctuating under the sliding scale established by the act of 1850, but what you will have for a permanent peace establishment. That can be determined by principles of statesmanship much broader than the mere question of how many men are necessary to chase down some Indian tribe. The policy of our military establishment was framed by men who stood upon a higher pedestal, and looked over a wider sphere. It was carrying out the policy proclaimed by Washington, "in peace prepare for war." It was enabling our Government to move step by step, and keep easy progress with foreign nations with whom we might be involved in war.

In the mean time, a certain portion of the Army was from the beginning employed in the defense of our frontier settlements, then an easy task. As that task increased in difficulty, the Army was increased, and every reduction proved an unfortu-

nate reduction. It has been very well established that the war with the Sacs and Foxes, commonly known as the Black Hawk war, which extended over two campaigns, resulted from the fact that we had not a sufficient number of troops in a position to punish the first acts of aggression. It finally involved both parties in open hostility. It has equally well been established in regard to that long and vastly expensive war in Florida, where each Indian's head cost a sum that I would be afraid even to state, where, *per capita*, more money was expended than one would deem it possible could have been fairly expended on a worthless Indian tribe. I say it has been established that if one, or at most two regiments had been in position when the first inception of that movement commenced, those expensive wars of 1833 and 1842 might have been avoided.

But, sir, our predecessors had a wiser policy, I say, than merely protecting the frontier settlers. They had the policy of keeping our Army instructed in all that belongs to civilized war; training artillery, training all the various arms of service in the science of war which is not to be learned merely by campaign duty—that is the practice, not the science of war.

The necessities for frontier service, with the augmentations of the Army which have been made, have caused its whole disposable force to be thrown to the exterior of our line, and scarcely any are left to hold the great fortifications along the sea-board, and there to learn those lessons in artillery practice that would be so essential to us in war. We have no dragoons or cavalry in any schools of instruction or practice. They are kept constantly on the frontier; and only so much as may be learned in occasional encampments—so much as may be learned in hot pursuit with jaded horses, is all that can be taught the cavalry arm of the United States. This is the great departure; not the increase of the Army, but the refusal to keep up those garrisons where military instruction may be perfected, is the great departure from the policy of our fathers.

According to the report of the Secretary of War, we now have one hundred and thirty-eight posts. According, also, to his report, we have an exterior boundary of eleven thousand miles; and of emigrant routes requiring military supervision by the military force, we have six thousand seven hundred miles; giving a total of seventeen thousand seven hundred miles. From this aggregate is excluded the whole amount of our Indian frontier, being two lines, extending from our northern to our southern boundary, and the whole amount of the reservations where, by the reports to the Secretary of the Interior, from his agents in different parts of the country, it is made apparent that the fulfillment of our obligations to the Indian tribes require the establishment of new posts. This may be taken as quite equal to the amount stated in the report of the Secretary of War; and then we have seventeen thousand seven hundred miles stated, which may be considered as about half the demand; and for which we may possibly have, by posting them as stated, an army of seventeen thousand five hundred men, or less than one man to the mile; or if you include the Indian frontier and the Indian reservations, less than one man to two miles. That is the Army the augmentation of which is considered so great as to become dangerous to the peace and liberty of the country! Taking the posts at merely the number we now have, one hundred and thirty-eight, and the companies of the Army being one hundred and ninety-eight, it is apparent that you have not companies enough in the Army to establish two companies at a post, and less than two never should be the garrison of a post. It destroys discipline; it impairs responsibility; it greatly depreciates from the efficiency, and I might say respectability, of the troops, to segregate them into such small detachments and leave them there to wear out like mere policemen stationed on a wharf.

The main argument in opposition to an increase of the Army, as I understand it, has been that there has been no showing of the necessity. I have, therefore, referred to what is to be drawn from the report of the Secretary of War, and I have also indicated the report of the Secretary of the Interior; but without wearying the Senate to read from it extensively, I will merely allude to a single passage at page 62 of the report of the Secretary of the Interior, where he announces the

number of Indians at three hundred and twenty-five thousand, of whom three fourths belong to the hostile and roving bands. Two hundred and forty-three thousand five hundred of our Indians belong to that roving and hostile character which requires the interposition of military supervision. Where Indians of friendly temper have been drawn into reservations, I have, in looking hastily through this volume, found, in a great majority of cases, that the report of the sub-agent superintending the reservation says there is a necessity for the establishment of a military post to perfect the purpose of the Government to bring these Indians to an agricultural condition, and to give them that protection which is essential for their future progress. This is all in addition to what is contained in the report of the Secretary of War. These reports, too, are further sustained by the report of the Commanding General and of the Adjutant General, and in each of them it is shown, as I think, very conclusively, that the necessity exists for a force greater than we now have, and that, economy considered, is best to be obtained by increasing the regular army of the United States.

I have said before, and I repeat, that in urging this measure I do not make it rest on the necessities of the expedition against Utah, nor the necessity of keeping troops in Kansas. I did not say, as I have been sometimes represented, that no troops were necessary for Utah, or for Kansas. I assumed no such position. I say, I am not asking for troops for that purpose; because I believe if those difficulties were ended to-day the troops would be necessary. I believe that if the troops are used in one or both places for a time, at the end of that time they will be necessary for other purposes; and now they can be used in one or both of these places, only by withdrawing them from other purposes for which troops are required. I have not said, and I hope again that I shall not be misunderstood, that I deny the necessity for the use of troops in either of those Territories. That belongs to the Administration. I have no disposition to enter into the question as to whether the campaign should have been commenced against the Mormons or not.

I hope the anticipations of the President, as in a contingency which he expects soon to occur, troops will no longer be required in Kansas, may be realized. I may say, from my knowledge of the personnel of the Army, that there is no duty which could be more disagreeable—I may say more odious—to them, than interference with citizens of the United States in the Territories, or elsewhere. The maintenance of civil order is the last duty that any soldier would like to perform; but, at the same time, I deem it due to candor to say that I do not entertain the hopes which the President expresses. I have seen no evidence that the reign of terror in Kansas is to terminate in any contingency which I now foresee. I believe those lawless men who have been brought into conflict there, are to continue their collision; that men are to be intimidated for political ends, their houses to be burned, and assassinations to occur all over the Territory, the moment the strong arm of the Federal Government is taken away. I cannot go to the extent of the Senator from Georgia, and say that I will not give a man to preserve peace. I cannot go to the extent which would declare that I prefer that civil war should rage in the land, rather than to increase the Army and maintain order by the presence of troops in the Territories of the United States. It is no part of my feeling. In the first place, I should be willing to use troops anywhere to put down civil war and insurrection against the United States, when a contingency, such as is contemplated by the law, arises.

In the next place, I do not hold that the Territories occupy the same position as States. I do not admit, as I have never subscribed, to the doctrine of squatter sovereignty, that the Government of the United States has no more power in a Territory than in a State. I hold that the Territories are dependencies of the Federal Government; they are in a condition of pupillage, to be governed by the States; the property of the States; and that if men, either foreign or native, should aggregate themselves upon a Territory of the United States, and raise the standard of rebellion against its Government, and in defiance of its laws, it is not only within the power, but it is the plain, palpable duty

of the Government to put down such an insurrection, and to compel obedience.

I am at a loss to understand how any one entertaining, as I do, the doctrine that this Government has power to acquire new territory, can at the same time deny that it has power to control it. We acquire a Territory with a population not comprehending our institutions, having no attachment to them, and we admit at the same time that we have no more right to use coercive measures within the limits of that Territory than in one of the equal States of the Union! It would be the Dead Sea fruit turned to ashes. The population might at once erect a government, not only anti-republican, but destructive of all the great principles that lie at the foundation of our Constitution. They might build up a monarchy. If you were to acquire an island, or a Territory, or a State, the whole population of which had been reared in subordination to monarchical education, and then at once to say, after we had expended thousands of lives and millions of treasure, these men are allowed to do what they please within their own limits, and the Government that has acquired the Territory by conquest or by purchase has no authority to exercise any authority over them, I think it is an absurdity on its face, and only has to run to these remote consequences to become apparent to every one.

Then, sir, I say the use of troops in a Territory of the United States does not stand in the same relation to constitutional questions as the use of troops in a State of the Union. I deny, as emphatically as any one, the power of this Government to coerce a State. That is a question which was discussed in the convention that formed the Constitution, and which was so powerfully stated by Mr. Madison to be a proposition, not to form a Union and preserve the States, but to provide the means for the destruction of the States. A State may, through its Legislature or its Governor, invoke the aid of the Federal Government, and of the other States; but the Federal Government has no power to invade the limits of a State, there to attempt the coercion of its people.

With this broad distinction I think the whole argument falls, except in the minds of those who still insist that the inhabitants of a Territory have all the political rights of the people of a State. I belong not to that school.

Then the argument is made, as a natural consequence of denying the right to use the troops, that in a period of profound peace, and of financial embarrassment, the startling proposition is made to increase the military establishment of the United States! Peace, it is true, exists between our country and all foreign countries, and I hope long may continue; but, in the mean time, we are engaged in a constant succession of border hostilities. All around that vast territory which lies between the Pacific settlements and those of the Mississippi valley, is a constant succession of hostilities with roving bands of Indians. If this is peace, when but eight hundred and sixty-nine men, officers and enlisted soldiers, can be left to garrison all the great fortifications on our sea-board, what, I pray, would be war? That proportion was left during the war with Mexico; and that proportion would be required in a war with any country, even if we were the invading Power; and that proportion of troops is altogether inadequate for the purposes for which those fortifications were built, in the case of any sudden surprise. It is not a state of peace so far as the Army is concerned.

The financial embarrassments of the country, the diminution of revenue because of a failure to pay the duties on imports, constitutes in my mind no difficulty at all to discharging any of the duties that belong to this Government. I wish that source of supply to our Treasury was cut off forever. I wish your great army of retainers and your numerous palaces for customs purposes were all disbanded, all evacuated, and we went back to that simple process of collecting money upon the people themselves, and let the people themselves look to the mode in which it was expended.

Then, sir, proceeding to answer the objections as they have arisen, as nearly as I can, in their order, the next was, that the Indians, by removal to the west of the Mississippi, had had their strength broken; that they had no power to resist us; and the next, in connection with it, was, that by the improvement of communication twenty-

five thousand men had been made equal to what one hundred thousand were twenty-five years ago. Is it true that the concentration of the Indians on the west side of the Mississippi has diminished their strength? Is not the reverse true? When they were separate tribes, living surrounded by an active, intelligent population, driven themselves, by the small amount of territory they inhabited, to agricultural pursuits, when they lived in towns and villages where they could always be found, when they were dependent on their crops, the destruction of which must always bring them immediately to submission, it was an easy matter to control them, compared with the condition in which they now exist. On a wide extent of territory, brought into contiguity with each other, no longer surrounded by white population, driven to the chase for subsistence, returning every year more and more to their roving and original habits, these people have not only been made stronger, but they have been made more disposed to hostility than they were in their former position.

Again, by the acquisition of territory, and the extension of our settlements into territory long since acquired, we have been brought into contact with those tribes which, heretofore unacquainted with the white men, must go through the same process, the same series of conflicts and subjugation which had rendered the eastern Indians, before their removal, harmless in their contiguity to the whites. Not only this, but our population has poured over the mountains, and commenced extending from the Pacific as a front; our people have pressed the Indians back from the fertile valleys they inhabited, and from the soft climate where they were reared in proximity to the coast, and have driven them into the mountains—into a country so arid that a large portion of it can only be cultivated by irrigation. They have thus again reduced them to the chase for subsistence, and those Indians may well look on the valleys, and, like the Gaels in the Highlands, claim the right to redeem from the plain and the valley, as long as one sheep shall stand on a portion of their own heritage. These forays have been perpetrated, and they are to be perpetrated, until a new state of things shall be brought into existence. During that period of transition, when the Indians may be gathered from these vast hunting grounds on reservations which they will and can cultivate, it will be necessary to preserve a military force sufficiently large to rule them by coercion; and this is the opinion of every intelligent sub-agent whose opinions I find recorded in the volume which contains the report of the Secretary of the Interior.

These things are facts on which I should think the Senate might reach the conclusion that the recommendations of the President and the Secretary of War have not been made without some due consideration. These volumes have been but recently printed, and laid on the tables of Senators. I trusted that as they progressed in the examination of them, many of those objections and doubts which were expressed two or three days ago would vanish. I believe that the increase which is proposed by the committee to be the least which the present exigencies of the country will permit. If the Senate had indicated a purpose to adopt the recommendation of the Secretary of War, the committee were ready at any time to withdraw their bill and allow the Senate to pass the other; but on the vote it was made apparent that that was impossible; it was not within the view of the Senate, getting but eight votes, and some of them hostile; and, therefore, the committee feel that it is their duty to urge the adoption of the bill which they have reported as a means absolutely necessary to the performance of these duties unless some substitute can be provided.

I know that the Senator from Texas, [Mr. Houston], whose familiarity with Indian character I do not doubt, has proposed to us a remedy which every man's heart would respond to as much more desirable, if it were attainable. He proposes an Indian policy which is to substitute kindness, justice, and generosity; and one might suppose that the Government had pursued a different policy; but his remarks put it out of the question that he meant the Government had pursued any other policy than this, except through the regular Army. Now, sir, I believe that the argument of the Senator from Texas is somewhat answered by the argument of the Senator from Georgia, [Mr.

TOOMBS.] The Senator from Georgia says that the regular Army is entirely harmless as against Indians; so that if the Senator from Texas thinks they are dangerous, I must refer him to his friend from Georgia, who assures him that the Army is quite harmless in relation to the Indians.

This being out of the way, he appeals to the high motives and the generous character of the Indians to remove the necessity for any military force. In the first place, Indian agents do not seem to entertain that idea. In the next place, the officers of the Army are frontier men, and they know more of the Indians than anybody else; and much as the Senator himself has seen of Indian tribes, I should say he had not seen as many weeks of Indian service as every field officer of the Army on the frontier has seen years. I do not think, therefore, his opinion is to be put in opposition to that of the sub-agents of Indian affairs, and that of military officers whose acquaintance with the Indian exceeds that of any other class of our population.

I have no confidence in the high principles that are ascribed to the Indians. They have a certain sort of morality—a certain sort of religion, if you may so call it—and in that there are some things good. Perhaps no body of men is wholly bad. Take them as a class, they are as deceptive, as blood-thirsty, as treacherous, as cowardly a race of men as I believe are to be found on the face of the globe. If our frontier inhabitants have sometimes committed aggressions on them, where is the frontier settlement that does not record the most cold-blooded and cowardly murders of women and children? Where is the frontier settlement that does not bring with its tradition torture at the stake of a prisoner when he stood powerless, at the hands of a hostile savage band? Are these the high principles to which the Senator appeals? Are these the noble qualities that are to make the Indian an exception, and lift him at once out of barbarism by holding to him something like an example of those qualities which he may perhaps possess when the millennium shall come? In the mean time, I rely, as everybody else connected with the Indians, as every frontier inhabitant whose wife and children are exposed to be tomahawked by these Indians, relies on force of some kind as the only means for giving that protection which the Government owes to its people.

Thus, then, we proceed to inquire what the character of the force should be; and, in this connection, the regular troops of the Army have been pronounced as ineffective. It is said they are ineffective, and do not kill the Indians; but that the volunteers become excited, and do kill them. The Senator from Texas says that if regular troops endeavored to pursue the Indians, they might become excited and possibly do the same thing. I am not to be put in the attitude of depreciating the volunteer force of the country; nor shall I engage in recrimination against the volunteers. My relation to the volunteers and the regular troops is the same. At one time or other, in the course of my life, they have both been my companions. My remembrance of both brings to mind many associations, the dearest to me in my life. I have seen all that ought to crown the American soldier in the ranks of both regulars and volunteers. Why should this war exist between these forces? Shoulder to shoulder they stand upon the battlefield; together they bleed, even exchanging men from one kind of force to the other, when it is necessary. There, when the flag of their country required them to do their utmost in the presence of a hostile foe, these jealousies and depreciations of one by the other did not arise. They were left for the debate in the Senate, and for a time of piping peace, and for places remote from the battlefield where they fought for a common cause, inspired by common sacrifices for a common country.

But the Senator from Texas says, surely with entire sincerity, that he has not heard of any pursuit of Indians by regular troops; that all that has been done has been by volunteers. Well, sir, in the volume which has been laid upon his desk, the report of the Secretary of War, he will find some cases cited—not all, but some which have been cited because of their prominence. They have been cited to show that the Army as it now exists is not on a peace establishment, to show the constant active service on which it is engaged. Not only is it to be found in this volume, but it has been circulated over the country in general

orders from the head-quarters of the Army as long ago as November 13th last. Not only that, but some of the significant acts of service therein recited, occurred within the limits of the Senator's own State. Let me read some of these instances from the general order to which I have referred:

"I. On the 17th of February, 1856, Captain James Oakes, with a part of his company C, second cavalry, from Fort Mason, Texas, after a pursuit of six days, and on the ninth day from his post, overtook a party of seven or more Indians, killed one and wounded several others; capturing all their animals and other property; sergeant Reis and private Kulin, severely wounded. The troops were exposed to very cold and wet weather, and for more than seven days subsisted on two days' allowance of bread and coffee, such game as they could kill, and the flesh of horses they were obliged to abandon."

That sounds to me something like pursuit; and it was a pursuit of a party that invaded the Senator's own State. Again, the seventh case recited in this order is:

"VII. On the 13th of April, 1856, a party of fifty-five Indians were overtaken on the head waters of the Nueces, by detachments from companies B and D, mounted riflemen, and F, first artillery, from forts McIntosh and Duncan, Texas, under the command, respectively, of Captain Thomas Claiborne, junior, and Brevet-Captain George Granger, mounted riflemen, and Second Lieutenant George H. Elliot, first artillery. One Indian killed and four made prisoners, their camp and all their animals captured."

"The vigilance of the Indians, and the character of the country, which enabled them to discover pursuit at a great distance, prevented a more complete success. In this case, from the time of leaving their posts until the termination of the pursuit, the troops marched three hundred and fifty miles in eight days. They suffered from want of water; and for four days, two in the pursuit and two after its termination, had no provisions but a small allowance of rice and coffee, accidentally obtained in crossing the El Paso road. The mayor of Laredo, Señor Don Santos Benevidas, Mr. Edward Jordan, and some twenty-five other citizens of that place, participated in this pursuit, and are represented as having rendered valuable service."

Again:

"XII. September, 1856. A detachment of troops from Fort Clark, Texas, commanded by Captain Charles C. Gilbert and eighteen men of company B, first infantry; Second Lieutenant Henry W. Closson and twelve men of company I, first artillery; and Second Lieutenant James B. Wetherill and thirty men of company C, second cavalry, penetrated the country between Fort Clark and the mouth of the Pecos, western Texas, hitherto not visited by troops, and considered very difficult of access. The expedition was conducted with so much judgment and energy that, in the operations of a day, three parties of Indians were surprised between the Rio Grande and Pecos, near their junction. Four of the Indians killed and four wounded. Their animals and other property taken or destroyed."

The Senator from Texas knows Indians well enough to know the difficulty of surprising an Indian camp. He understands that men who are ignorant of the frontier and its service, as he described the Army to be, would never surprise an Indian camp, and yet here is a gallant soldier who three times surprised Indians in one day. Then again:

"XIV. November 30th, 1856. A detachment composed of men of company G, first dragoons, and company C, mounted riflemen, in all twenty, commanded by Second Lieutenant Horace Randall, first dragoons, followed a party of fifty warriors of the Gila Apaches, and after a chase of three hundred, and, in one day, of eighty, miles—going over mountains and plains of snow, the trail frequently obliterated, without water for three days and nights—overtook the enemy and attacked and drove them from the position of their own selection, recovering all the captured animals."

That sounds something like pursuit—a pursuit in which fortitude, skill, and all the knowledge that could enter into such service, were exemplified in the highest degree, and that too by one of those very young men against whom so many of the Senator's remarks this morning were directed. Again:

"XIX. April 4th, 1857. First Lieutenant Walter H. Jenifer, second cavalry, with thirteen men of Company B, of that regiment, after a search of thirteen days, and a march of nearly three hundred miles, came upon a fresh trail of Indians, near the head of the north fork of the Nueces river, Texas; and, as the trail led into a rocky country, almost impracticable for cavalry, he dismounted, left his horses with a guard, and continued the pursuit with only seven men. After a tedious march of four miles, he suddenly came upon a camp, occupied by from eighty to one hundred Indians. Approaching it, under cover, to within two hundred and fifty yards, and he and his little party being discovered, they were attacked by all the warriors in the camp, and threatened, at the same time, by a party returning to it with horses. He repulsed the Indians, with a loss to them of two killed and one wounded. It being then night, he withdrew his men, rejoined his horses, and returned to the attack the next day; but, in the mean while, the Indians dispersed. For the last three days this detachment had no rations, having been out seventeen days."

I could go on with these instances. I have other cases marked which I might cite. There are twenty-five recited in this single order—one of them a

case where the Indians were drawn up in position, and waited to receive an attack of cavalry, when they were gallantly attacked by Sumner, leading his men, charging them in the same manner in which he charged the Mexican forces at the time of the confusion thrown into our troops at Molina del Rey, equally followed by a dispersment. He drove them from the field, and their safety arose simply from their ability, with their light horses, to cross a stream, the bed of which was composed of sand.

The Senator, then, has done injustice; and if he will take this order, I will give it to him, that he may see how great is the injustice he has done to the Army in thus proclaiming to the country that they have rendered no part of that duty which devolves upon them for the protection of the frontier. If he will read the report of the Secretary of War, he will find that this is but one of the two orders that recite such deeds, illustrating the services which have been rendered by our gallant little band on the frontier, answering the reflection which the Senator has, I am sure unconsciously, cast on those who are mean time encountering service more severe than I have ever known volunteers to bear.

Then the Senator, in the course of his remarks, (for I find that, as my opponents are pressed to a change, I must change also,) took the ground that, on one occasion, the Army had been effective; for, said he, they had killed one hundred and thirty women and children; and the Senator from Maine, [Mr. HAMLIN,] on the intimation perhaps of the Senator from Texas, said dragoons had been raised under the pretext of defending the frontier against the Indians; and all he heard of their doings was the killing some squaws and children. I do not know what number he meant, whether the same one hundred and thirty or not; but he explained that he meant the same place. The report of General Harney, in reference to the action referred to, is to be found in the second volume of the President's message and accompanying documents for last year, at page 49. He sets forth the whole case; and, according to his report, and the accompanying reports of the officers who were serving under him, the number of killed was eighty-six; and wounded, five—not one hundred and thirty women and children; but eighty-six Indians were killed, and five wounded; about seventy women and children captured, and fifty mules and ponies taken, besides an indefinite number killed and disabled. In a report made by Colonel Cooke, which I shall not weary the Senate by reading, he explains that the women dressed and armed so much like the men as sometimes to be almost undistinguishable from them. They fired upon his men; and, in one instance, wounded a sergeant who had passed a woman because he perceived she was one.

Then, again, the report of Lieutenant Warren, who was the topographical engineer accompanying the expedition, gives distinctly the whole circumstances of the ground which caused the killing of, I think, seven women and three children. After the first attack on the Blue Water, a part of the Indians escaped across the plains, and were pursued by the mounted troops. A part of them being on a hill had fled into a sort of a cave, where the rock hung down near to the ground, and furnished a loop-hole through which they fired upon the troops as they approached. This fire was returned by the troops. After a cry was heard from the interior of this cave, one of the interpreters, coming up, said there were women in it, and the officer who commanded them (and who, by the way, the Senator from Maine would have found, if he had inquired, was a worthy representative of his own State) immediately halted, told the interpreter to advance, and called on the women to come out. They did come out; they were surrendered; they were not hurt; and all that were killed were those who had been shot in the cave where they could not be seen, and that, after a fire from the cave had been made. That, according to the history of the case, as far as I have been able to learn, is the foundation of this charge of killing one hundred and thirty women and children.

The commander of that expedition, General Harney, might compare his knowledge of Indians and of Indian character favorably with the Senator from Texas, or anybody else. That stroke which he gave the Indians on the Blue Water was the most successful blow that was ever struck on that frontier for the preservation of its future

peace; and if peace shall be enjoyed by the people of Nebraska, it will be attributable more to that one great movement of Harney's than to anything else which has ever happened there. Then, moving on, with that knowledge of Indian character, and that intrepidity and devotion to his duty which characterizes the man, he went forward, disregarding all difficulties, until he reached the Missouri river, and there held a council with the Indians, formed with them an agreement, which stands in my judgment as a model for all treaties with Indian tribes. He there established among them an organization, which, if anything could be effective to preserve these restless people in order, would conduce to that result. It has had the good effect, so far as I can learn, thus far, to keep the Indians who had hitherto been hostile, in a state of peace, and approximating to that end of which the Senator speaks.

But, sir, in answer to some remarks which have been made by myself and others, replies have been offered which would indicate that there had been an intention to signify that volunteers were wanton, and were cruel. I have no disposition to shrink from the responsibility of what I said; or if I did not say it, what I thought. I thought, and I now say, that if you bring men out with border animosities, men who have had past injuries, who come with grievances to redress, they will exceed the limits of justice; they will exceed the limits of humanity and forbearance; they will kill without justifiable cause. I have no disposition to cite cases, though it would be easy for me to do so. Volunteers—I use the word because others use it; militia is the strict term—the militia are the people of the United States, and so are the soldiers of the regular Army. They are all volunteers. Thank fortune we live under a Government where all who enter the military service do it voluntarily. Militia may be coerced by draft; the regular soldier is always a volunteer. It is always a voluntary enlistment, he is emphatically, under all circumstances, the volunteer. But using the term in the sense in which it has been used of militia, I say the militia, if drawn from a distance, would be exactly like those who had been enlisted in the regular service; the whole difference being the degree of discipline, and that disparity constantly vanishing in the progress of a long campaign, bringing them at last to precisely the same standard; being the same material at the start, and reaching the same result if they are carried through the same process. If you take men away from the border; if you take the citizens of the State which my friend before me [Mr. CLAY] so ably represents, Alabama, and move them on to the frontier of Texas, or of Oregon, they would have no animosities to gratify; no past grievances to redress; their conduct to the Indians would be marked by the same lofty generosity and forbearance which is to be found in men from any other quarter.

The whole of the cases which were referred to, and which have been somewhat warped in the argument, were those which resulted from border animosity and from partisan feeling. I think I said—and if I did not, I intended to say—that if the militia of California were called out against the Mormons, coming there with their hostility towards them, the result of their contact with them, justifiable, if you please, but coming with that preconceived hostility, they would have a severity in their treatment of them which would not belong to men brought from a distance. That is my opinion. I think it very likely, that if the appeal was made to the men themselves, they would say: "Yes, that is true, we do feel it; and we are likely to exercise it." I am sure I have never seen a body of militia in the field, called from the neighborhood of a settlement on which Indian depredations had been committed, that did not come with the spirit of extermination, and justified themselves by arguments drawn from what they had suffered.

We have also had the argument presented to us, that the militia will always respond to the call of the country; that they always have been the effective force which has fought the battles of the country; and that they are the reliable strength of the country. Grant it. Who denies it? The militia have responded, and they always will respond, when there is occasion; but the militia never have been called out to hold frontier posts; and they will be found to be very restless troops

if they should ever thus be employed. It would be at a great sacrifice of the other interests of the country if the militia were so called out. Men useful in the ordinary avocations of life, detached from them and from their families, to perform the duty of private sentinels at a frontier post, would be such a waste of valuable material that it would deserve to be called anything else than economy, even if it did not cost a dollar.

But, sir, as to the relative efficiency of the two species of troops, I have some brief points to which I will refer; and the first is the "Vital Statistics" of Dr. Coolidge, a review of which work will be found in the *American Journal of Medical Science*, for January last, and a table from the work to which I alluded, will be found at page 92 of the *Journal*. It is a table showing the proportion of the invalid and disabled troops in the different services. First, he takes the British army, giving a percentage of 0.65 per month; then the regular Army of the United States, giving a percentage of 0.53; and then the additional force raised in the war with Mexico, being regular troops, 0.52; then the volunteers, 1.25 per month. That is to say the men who became diseased and disabled by the contingencies of the camp, were about double in the volunteer forces what they were in the regular army. Why was this? In the first place, the volunteers did not know how to take care of themselves; they did not know how to shelter themselves; they did not know how to cook their provisions; and in the next place, their habits were suddenly changed, and this waste of life was the result of the sudden change before the animal economy had been accommodated to it. If you were to take an Osage and put him on a simple rice diet, you would as surely kill him as if you were to take a Hindoo and put him on a meat diet alone. Either of the two extremes would bring about the same result, and be destructive to the efficiency of the Army. The same law is found in operation among the brutes.

Next I refer to the report of the Surgeon-General of the Army, of November 9, 1846, in which he says:

"From the best information which has been received at this office, it is believed that the extent of sickness among the volunteers on the Rio Grande has been fourfold to that among the soldiers of the regular Army, with a corresponding excess of mortality in the ranks of the former."

"But this is not all; the presence of a numerous body of invalids seriously embarrasses the service; for, besides consuming the subsistence and other stores required for the efficient men, they must have an additional number of surgeons and men to take care of them, and a guard to protect them, which necessarily lessens the disposable force, the available force, for active operations in the field."

These are the two statements on which I would rely as to the relative efficiency of the two species of troops; and these reasons apply with fourfold force to the circumstances of the expedition to Utah. They will be there further removed from civilization; they will be there more deprived of the comforts to which they have been before accustomed. The casualties resulting from the employment of militia in such a service as that, by their being disabled by disease, exposure, and the vicissitudes of the camp, will greatly exceed anything we have heretofore encountered in the cases from which these results have been drawn.

There might, however, be circumstances which would justify us in meeting all these objections. If I believed, with the Senator from Texas, that the cavalry of the United States Army was necessarily wholly inefficient, a mere tax that never did and never would do anything, certainly I would say we must look out for some other character of troops; but some of the hard rides which I have read to him to-day, some of the successful pursuits, defying all privations of food, cold, and thirst, should somewhat convince him that the Army may be effective for the purpose for which he proposes to employ a volunteer force. He says he wants troops; but he wants a different kind of troops than the Army can furnish; he wants men who are able to take care of their horses; men who know something about frontier service. Where will he find them out of the Army, comparable to our dragoons? Where will he find men who have so often encamped under the blue vault of heaven, and relied on grass to support their marching column, as in the Army of the United States? Where will he find men who know so much of the topography of the country? If his objection be that the recruits are not sufficiently instructed, the remedy is to give

us more force; not to require that every man, the instant he is enlisted, shall be thrown on to the frontier for immediate service; but give us enough troops to keep some in camps of instructions and in schools of practice, where they may be educated for those duties which the Senator desires to have them perform.

But he makes the argument of economy in that connection, and he uses it in several other connections; and among others, the Senator from Georgia first asserts and the Senator from Texas indorses it, that Texas used to be better protected by four companies of rangers than she is now by five regular regiments. To that, I have two answers to make: First, there are not five regiments there; and second, if Texas ever was protected by four companies at the early period referred to, those four companies might have been quite adequate to protect the settlements which, at that time, were not equal to one twentieth, or perhaps one hundredth part of what they are now. Four companies were sufficient to protect a single ranch; they were more than sufficient to protect a single man; and they may have been sufficient to protect the whole amount of border settlements Texas then had.

It is further to be remembered that the Indians then lived upon fertile valleys with abundance of game, and that the prosperity and progress, which to me is most gratifying, of the people of Texas, has now driven the Indians from the fertile plains into the arid region where but little game is to be found; and now, by necessity, they commit forays for plunder in order that they may obtain food, which is not to be found in the haunts to which they have been driven.

Then, again, it is to be remembered that Texas did not occupy to the boundary of the Rio Grande. I contended in 1850 that that was her territory. I contended for it a great way up the stream; but nevertheless it is true that she did not maintain posts on the borders of that river overlooking the territories of Mexico. A portion of the force in Texas is to be accounted for by manning those posts which mark the boundary of the Rio Grande, and which Texas never occupied with a regular force.

Now, sir, the question of economy is to be answered in several forms. As I understand the argument, the basis of it, and it was so stated by the Senator from Georgia, is, that the cost whilst in the service, of a militiaman and of a regular is the same. He made some slighting remarks about the skill of regulars in making out accounts, to which I have no reply to make, but he said the pay and allowances were the same. He overlooks the fact that the more frequently you change the force the greater its cost. He has neglected the law which gives to the militiaman fifty cents a day for his own subsistence, and twenty-five cents for that of his horse, whilst he is going to and getting back, and twenty-five cents for the use of his horse while he is in service. It is a fact that we have been able to get very few volunteers otherwise than mounted. It has become more and more so, and steadily more so with each year. The late Adjutant General Jones used to say to me that he recollected the time when the song was that a man was to shoulder his musket and march away, but now it was to get upon a horse and ride away. His complaint was then that he could not get militia to serve on foot. He could not get militia in Florida to serve on foot. It was not so much that they required to ride, as that they would not serve for the poor pay you give to the private soldier of the United States; they required the pay of mounted men, pay and allowances for their horses, and the indemnity for their horses which always follows in a heavy train just behind the allowance for permission to use the horse at all.

All these matters have been reduced to calculation; we have had reports on them. It is hardly necessary to argue that the traveling allowances, the clothing which is on the ratio of the first year's services, and the pay for the use of the horses, constitute the items that make up the very great expense of the employment of volunteers. These have all been stated in tables, which have heretofore been prepared, presented, and published for the use of the Government. The Senator from Florida [Mr. MALLORY] this morning referred to the letter of Mr. Poinsett. That letter communicated a report of the Paymaster General, who goes beyond the limits of the then Secretary of

War. He refers to the disparity between the cost of the two forces as nearly six to one, because, he says, the horses that are employed are merely to carry the men from place to place, and really impede the march of the column. Then he goes on to state that—

"This enormous disparity in the expenses of the two forces is not owing to the extravagant allowances made to volunteers; for, except in the article of clothing, they are not better paid than regular troops, and altogether insufficiently compensated to reimburse them for the pecuniary sacrifices they make in leaving home and employment, to say nothing of the danger and hardships they encounter. It is caused principally by expenses for traveling to and from the place where the services of the volunteers and militia are required; to the hire, maintenance, and indemnity for horses; and to furnishing them a full supply of clothing as a bounty, without regard to length of service. The statements also show the expense of volunteers serving on foot, and of militia. The term of service of the latter never exceeds three months, unless specially provided for."

"There is one comparison that would place the contrast between the expenses of regular and irregular troops in a much stronger light, if I had the data to enable me to state it in figures; and that is, the comparative loss and destruction of military stores and public property by the two forces."

He presents his tabular statement in which he shows, on the basis of the companies, that for six months the cost of a company of United States dragoons was \$13,573, and for the mounted volunteers \$22,575. That is the ratio to which I call the attention of the Senator from Georgia before he again assumes the position that the expense is the same.

The Senator announced, in the course of his argument, I think, that the cost per man of the Army, was \$1,000 per annum; but the Senator from Maine, I think, says it is \$1,500. The Senator from Louisiana, [Mr. BENJAMIN,] says it is \$1,000; and thus it seems to be a question between the gentlemen whether it is \$1,000 or \$1,500. I am quite at a loss to know by what process of calculation they reach that result. Surely the Senator from Georgia, when he states the cost per man during the time Mr. Calhoun was Secretary of War, to be \$273, has not based his calculation on any data which will lead him to decide that \$1,000 is the cost of a man now. Whatever process of calculation is adopted, it must be different for the one case and the other to reach these results. It is utterly impossible to obtain them by any one process of calculation.

Mr. TOOMBS. I can refer the Senator to my authority. In 1842, the Secretary of War, Mr. Spencer, of New York, I think, was called upon to compare the estimate of expenditures. He puts it at that amount on the same basis by dividing the expense by the number of men and officers. The report I stated from recollection was that it was \$273. That is where my information is derived from.

Mr. DAVIS. The report of 1820 is to be found in the *American State Papers*, volume 2, pages 46-7; and in it is stated the strength of the Army at different dates, and the annual expense per man, including officers; and this report states it to have been, in 1809, 1810, and 1811, \$383 60; in 1820, \$336 56, per man; and that reduction of nearly fifty dollars has been ascribed, and I think with much justice, though I do not believe it is wholly due to that cause, to the increase of the Army which, in the mean time, had taken place. The Army had been increased on the peace establishment to six thousand men, and the expense per man had sunk nearly fifty dollars *per capita*.

Now, sir, I have had a calculation made on the present basis to ascertain what a regiment of infantry will cost; and I have asked that it shall be a regiment of infantry to be raised, including the whole expense for recruiting, the first years' clothing, all the camp and garrison equipage, so as to bring it as nearly as possible into a fair comparison or parallelism with a volunteer force raised for the same time. It is the same table which I think was furnished to the Senator from Texas; but I suppose it was not in his possession when he made his remarks. The pay during twelve months of a maximum infantry regiment, eight hundred and seventy-eight strong, (that includes all the field and staff, and includes the additional men granted by the act of 1850,) including officers, subsistence, clothing for their servants, and forage for the horses of the field and staff, subsistence of the enlisted men at the price which has been estimated for the Utah expedition, clothing for the enlisted men, with camp and garrison equipage for the officers and men, make the total amount of maintaining for one year a maximum infantry, eight

hundred and seventy-eight strong, \$293,784 39. If to this be added the maximum cost of raising such a regiment, \$14,630, we shall have an aggregate of \$308,414 39; and this divided by eight hundred and seventy-eight would give us the cost per man for the first year, \$351 24. The cost of raising a regiment would of course be excluded from all subsequent calculations. The estimate for clothing would be greatly lessened the second year; and the estimate for camp and garrison equipment would disappear.

We have had an estimate lately sent in to us, of \$385,000 required by the pay department alone for twenty companies of volunteers for six months. That would be equal to ten companies for twelve months; and taking it and comparing it with this estimate of a regiment for a year, adding the cost of rations, which are \$77,015, it would give a total of \$462,015, instead of the \$385,000, (adding merely the cost of rations to the pay,) or \$526 21 per man. It follows, then, that a regiment of volunteers would, for one year, cost more than a regular regiment of the same strength, \$153,600 61, or an individual volunteer during the same period, \$174 97 more than an individual regular soldier. It will be remembered, however, that these volunteers are mounted.

Mr. BENJAMIN. In my statement as to the cost per man of the Army, I took from the estimates submitted by the War Department what the Secretary of War himself states as to the expenses of the Army proper. I find the estimates as follows: First, expenses of recruiting, transportation of recruits, &c., \$110,000; next, pay, commutation of officers' subsistence, commutation of forage, payments to discharged soldiers for clothing not drawn, payments in lieu of clothing for officers' servants, subsistence in kind, clothing of the Army, supplies for the quartermaster's department, incidental expenses of that department, barracks, transportation of officers' baggage, transportation of troops and supplies, purchase of horses, contingencies of the Army, medical and hospital department, contingent expenses of the adjutant general's department, expenses of the commanding general's office,—the whole making, together, as the expenses of the Army proper, \$14,776,619 49.

Now, if we take, according to the statement of the honorable Senator from Mississippi, the cost of raising a regiment, and count that only as added to the pay and rations, undoubtedly he may bring the expenses per man to four or five hundred dollars; but have we any assurance that all the other expenses and all those other branches of the Army service are not to increase proportionately to the Army, and consequently that the sum total of the appropriations will still remain about a thousand dollars per man? I do not profess to be acquainted with these details, but I take the report of the Secretary of War, and he says he wants \$15,000,000 for the Army proper, which now averages about fifteen thousand men, making \$1,000 per man.

Mr. DAVIS. I am obliged to the Senator from Louisiana for his explanation. I think it is easily answered. It is a process of calculation which always leads to error. There are some methods of computation which will occasionally be right, and sometimes wrong; but that is a process which is always wrong, and cannot be right. I will put the two cases that result from that process. I will suppose that fortifications cease; that the manufacture of arms ceases; that your staff is disbanded; that you swell the companies to the maximum limit; that you have additional regiments; that you raise an army to that magnitude which might even frighten the Senators who have spoken of the dangers of a standing army; and yet, according to this process of calculation you would bring forward a beautiful sheet of economy. You would have lopped off the vast expenditures which do not depend on numbers; you would have multiplied the lower grades where the smallest pay is received, and, *per capita*, you would bring up a sheet demonstrating a most economical administration. Now, let us take the other case; that following in the footsteps of our fathers and profiting by the experience of the time which has intervened from their day to this, we think proper to maintain in time of peace a large staff; we think proper to go on with fortifications for the contingencies of war; we think proper to go on with the manufacturing of arms, so that the whole militia may be supplied at any moment; we think

proper to cut down the companies to the small number necessary for duty in time of peace; we think proper to maintain a large number of regiments in proportion to the whole number of the rank and file; and then, *per capita*, you have the greatest expenditure you could possibly show, and yet you have the wisest economy, according to the theory of our military system, which you could adopt.

Mr. BENJAMIN. In the list of expenditures to which I have just referred, I carefully excluded everything having reference to the manufacture of arms, and to fortifications. That list has no reference to them at all. They are excluded. If we include these and other items, the expenses would reach twenty millions.

Mr. DAVIS. But you include all the vastly expensive portions of the Army in your estimate. You include the staff, which would be increased by adding to the number of men, and which, on our theory, is maintained in time of peace because it is essential in time of war; because it is a part of that arrangement by which you may accumulate a large army in the field and have it effective with the small nucleus you preserve in time of peace.

Besides, it will be remembered that by special legislation you have sometimes increased the pay of particular officers, general and staff; you have raised it to a magnitude which bears no relation to that of the soldiers; and this is an argument adduced against the increase of companies, against the increase of privates in the Army; but it has resulted from the pay which you have bestowed with a liberal hand on some officers in the service. I say such a process of calculation leads to error, and cannot lead to any other result. It never can evolve the truth. It may vary the one side or the other, just in proportion as the Administration multiplies the troops and diminish the size of the staff, or the reverse; but it is false, work it out as you may.

In the argument of Mr. Calhoun, in his report of 1820, in answering then the very same objections which are made now, as to the expensive character of our peace establishment, he pointed out the unfairness of including the staff in such an argument, and running a parallel between the staff of our Army and others. A nation of Europe keeping on her peace establishment an army equal to her war purposes, and having it concentrated, and with a staff exactly commensurate to the size of that army, forms no standard of measure for a country like ours and an army like ours, where we preserve, in time of peace, a staff suited to the vast augmentation of our force, by bringing the militia into the field in time of war. The same argument which he made then is applicable now; but I shall not detain the Senate longer on this point.

I am not arguing that the expense of our military establishment is not great, or I should say more properly the expense of protecting our frontier. I am arguing rather that the whole theory on which the opposition rests is wrong. They contend that in proportion as you increase the number of men, you will increase the expenses of the Army. It is not so; because, if you use one regiment to perform the duty of five, you add to the expense of that regiment the transportation of moving it to the places where five would be stationed, and you increase the expenses of that regiment just in proportion as you move it over great distances. Then the expense comes in, as this year, in the form of transportation. It comes in exactly as that deficiency which was cited by the Senator from Maine, and which he argued should be included in the expense *per capita*. That is an expense which is proportionately great as you reduce the number of men. The transportation increases from the want of your ability to station the men wherever you need them, and you make up for that by taking the same man and using him at a number of places. Never in the history of any nation were such extensive marches and movements made, and that over plains so desert and so totally destitute of all supplies by the way, as our Army has made in the last two or three years.

This brings me to the argument of the Senator from Georgia, that on account of the improvements which have been made, an army of twenty-five thousand men is equal to what one hundred thousand would have been twenty-five years ago. Sir, twenty-five years ago we had none of these long marches to make which are reported by the Secretary of War. Twenty-five years ago our

Indian frontier was within reach of supplies which could be sent on navigable water. It has been since that time that our Indian frontier has been pressed outward, the settlements advancing from navigable waters, throwing our military operations into a country where everything has to be transported at a vast expense, and where nothing is to be obtained, either on the road or at the place of destination. These are the elements of increasing expense, and the expense is not to be put down by making speeches about what has been done in former times, and what might be done now. It requires the coöperation of the legislative and executive branches, to reduce the expenses of the Army, or any other branch of the public service. Reforms have been asked, from year year, to improve the administration of the Army, but they have not been granted. The last two Administrations, as well as this, have recommended to Congress changes in the organization which would be conducive to economy and efficiency. Congress has not heretofore responded. Whilst it does not so respond, it seems as idle as it is easy to make declamation against the expenses of the military establishment.

We are told by the Senator from Georgia that he takes the standard of Mr. Calhoun, and he made the argument, which I am willing to pass over, that Mr. Calhoun left ten companies to the regiment, and therefore he was retaining the theory of Mr. Calhoun, against the invasion of that theory by the proposed bill. Sir, the theory of Mr. Calhoun was not any certain number of officers to the regiment; it was not any certain number of men to the company; it was not even any certain number of officers to the Army. He says, in his report, that those were things which varied with different countries, and must vary in the same country, at different times. He presented what he believed to be a good organization of the staff. What I claim respect for in relation to Mr. Calhoun's theory of organization, is the great principle on which it rested; not the details, which were to vary with circumstances, but the mighty truth, which his mind, contracting all light like a moral lens, brought on the subject. It was the truth of this theory of a skeleton army, in time of peace, for purposes of instruction and organization, with a staff adequate to the vast number of militia which would be called into the field whenever we should be engaged in a foreign war.

That theory he presented; that theory he defended; that theory has been justified by the practice and the experience of the establishment from that day to this. That theory is not violated by changing the number of men in a company, or the number of men in a regiment, or the number of companies in a regiment. The number of companies in a regiment varies from twelve to eight. It is not violated by increasing or reducing the Army. It would only be violated by establishing as a rule that we would on our peace establishment keep a certain number of companies required for frontier service, and swell them up to the war or maximum standard, and then, when we get into war, be compelled to meet its contingencies by raising new troops, or, as Mr. Calhoun said, introducing a new element instead of expanding the old one.

The Senator from Texas says there is a want of respectability in the rank and file of the Army, and he draws that want of respectability from their inability to obtain promotion. I answered him on that point this morning, and showed him that, at least, recent legislation had removed his argument, had opened the door wider than ever before, and the rank and file were in a better condition now than they were at the time to which he referred, so far as promotion was concerned. I endeavored—I will not say successfully—to controvert his idea that the present object was to diminish that opportunity. I sought to show, and I must say I believe I did show, that the first section of this bill was to increase the opportunities for the promotion of the rank and file, both to commissioned and non-commissioned officers.

But he repeated this morning something like the argument he made the other day when he averred that there was an impassable barrier between the rank and file and the commissioned officers, and he ascribes it all to the Military Academy as the root of the evil. He says these are political appointments. He seems to have a very bad opinion of a man because he has been instructed in a par-

ticular branch. He seems to reach the conclusion that it follows as a necessary consequence that if a man has been educated for a particular profession he is utterly unfit for it. Therefore, the lawyer who gets a license must be unfit to go into court; the surgeon who has walked the hospitals must be unable to perform an operation. It seems to me that the test to which they are applied ought to bring anybody's mind to a different conclusion.

I propose to notice that in connection with his arguments that this is political favoritism. I claim that on the theory which at present exists, we have the most democratic basis which could be incorporated into the Army. How are your cadets appointed? It is true the law leaves to the Executive the power to appoint; but it is well known that the practice is, and for many years has been, for the members of the congressional district in which a vacancy occurs, to nominate whomsoever he pleases from that district, and the Secretary of War always appoints the person so nominated. Then these appointments are political only in the sense that they represent every shade of political opinion which is represented in the House of Representatives, and that every political party which can have a voice in the House of Representatives has a representative in the Military Academy. Is that objectionable? If so, how is it proposed to be cured?

Then, again, the large number appointed, say one hundred per annum, exceeds the number who are commissioned, say forty or fifty, more than two to one. Thus double or more than double the chances are given to the youth of the country to get into the Academy that are offered to get places in the Army. I say you multiply the opportunities; and how is this brought to bear? From each congressional district a nomination may be made. The cadet so nominated enters the Academy, and there it depends on himself whether he shall go through and obtain a commission or not. When he attains that commission, he feels that he has something which he has won by his own effort; something he does not owe to the favor of any one, save so far as he may run back to the early favor he received from the member who nominated him to an office which was so small that the member had probably forgotten it. If, then, I say, there is any mode by which you could leave the officer of the Army without any political bias of character; any mode by which you could leave him independently to feel that he might entertain whatever opinions he pleased, it is that which you have adopted, and which enables him to reach a commission by his own effort, in contact with the struggling many by whom he is to be surrounded.

If you were to increase that Academy twofold in number, you would but render its principles more democratic; you would but increase the chances to youth to get position; you would but increase the struggle which would be required to obtain a commission, and give him additionally to feel that whatever he attained he owed to his country, and not to man; to himself, and not to mere political favoritism.

Several SENATORS requested Mr. DAVIS to yield the floor, as the hour was late.

Mr. DAVIS. Of course I will conform to the pleasure of the Senate.

Mr. SEWARD. I move that the Senate adjourn.

The VICE PRESIDENT. Does the Senator from Mississippi yield?

Mr. DAVIS. Certainly.

Mr. BENJAMIN. I appeal to the Senator from New York to withdraw that motion to permit me to move for an executive session. The public business requires it.

Mr. SEWARD. I withdraw the motion.

Mr. BENJAMIN. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; the doors were closed; after some time they were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 10, 1858.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM PINKNEY, D. D.

The Journal of yesterday was read and approved.

The SPEAKER stated that the business first in order was the consideration of House bill (No.

45) further to amend an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes.

Mr. WASHBURN, of Illinois, obtained the floor.

Mr. DAVIDSON. I ask the gentleman to allow me to introduce a joint resolution providing for a mail route, for reference merely.

Mr. WASHBURN, of Illinois. Will it give rise to debate?

Mr. DAVIDSON. Oh, no; I merely want to have it referred.

Mr. WASHBURN, of Illinois. I will yield for that purpose.

POST ROUTE IN LOUISIANA.

Mr. DAVIDSON then introduced a joint resolution instructing the Postmaster General to establish a certain mail route; which was read a first and second time.

Mr. HOUSTON. I ask that the joint resolution be read for information.

The joint resolution was read. It instructs the Postmaster General to establish a mail route from Lavonia, via the new road or court-house of the parish of Point Coupé, to the landing on the Mississippi river known as the Point Coupé post office.

Mr. HOUSTON. I object to that.

The SPEAKER. The Chair thinks the objection comes too late.

Mr. HOUSTON. I objected as soon as I could hear the resolution read.

The SPEAKER. It was the second reading of the resolution.

The joint resolution was referred to the Committee on the Post Office and Post Roads.

PRINTING OF THE PENSION BILL.

Mr. WASHBURN, of Illinois. The gentleman from Tennessee [Mr. SAVAGE] desires to make a motion to print his pension bill. I have no objection to that, and yield for that purpose.

Mr. SAVAGE. I have received a large number of applications from members of the House, and from other quarters, for copies of the pension bill which I reported the other day from the Committee on Invalid Pensions; but I have been unable to supply those demands. I move that that bill be printed.

The motion was agreed to.

MEMPHIS AN INSPECTION DISTRICT.

Mr. AVERY, by unanimous consent, introduced a bill providing for the establishment of an inspection district at the city of Memphis, in the State of Tennessee; which was read a first and second time, and referred to the Committee on Commerce.

CHILDREN OF EDWARD HARRIS.

Mr. HILL asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Commissioner of Pensions be instructed to deliver to the chairman of the Committee of this House on Revolutionary Claims, the original papers and documents on file in his office, appertaining to the claims of the children of Edward Harris and of Elizabeth Harris, his widow; and also to send to said committee all of the original papers in his office belonging to the claim of the children of Elizabeth Wilson, widow of John Wilson, deceased.

Mr. SEWARD. The resolution asks for the withdrawal of original papers from the Pension office. I think that it is not proper for us to grant leave for the withdrawal of original papers when copies can be supplied. I hope my colleague will amend his resolution in this particular.

The SPEAKER. The Chair will state to the gentleman that the papers he refers to will be surrendered on application of the committee.

Mr. HILL. I withdraw my resolution. Copies will not answer the purpose I have in view, or I would be content with them.

RESOLUTIONS OF ALABAMA.

Mr. CURRY, by unanimous consent, presented the memorial of the General Assembly of the State of Alabama, in favor of the establishment of an armory in Shelby county in said State; which was referred to the Committee on Military Affairs, and ordered to be printed.

RESOLUTION OF TENNESSEE.

The SPEAKER laid before the House the following communication from the Governor of the State of Tennessee:

EXECUTIVE DEPARTMENT,

NASHVILLE, TENNESSEE, February 4, 1858.

SIR: I have the honor to transmit through you to the House of Representatives, a joint resolution, passed at the

present session of the General Assembly of the State of Tennessee.

I am, very respectfully, your obedient servant.

ISHAM G. HARRIS.

Hon. JAS. L. ORR, Speaker of House of Representatives.

The resolution inclosed was read, as follows:

Resolved by the General Assembly of the State of Tennessee, That our Senators in the Congress of the United States be instructed, and our Representatives most respectfully requested, to use all reasonable diligence and exertion to secure the passage through Congress of a bill granting pensions to the soldiers of the war 1812, and the various Indian wars in which the Government has been engaged; and that the Governor of the State be respectfully requested to furnish copies of this resolution to the President of the Senate and the Speaker of the House of Representatives in Congress.

"Adopted, January 7, 1858."

On motion of Mr. SAVAGE, the communication was referred to the Committee on Military Affairs, and ordered to be printed.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the War Department, containing a statement of contracts made for 1857; which was laid upon the table, and ordered to be printed.

The SPEAKER also laid before the House a communication from the War Department, containing a list of clerks, &c., employed in that Department during the year 1857; which was laid upon the table, and ordered to be printed.

Mr. WASHBURN, of Illinois, resumed the floor.

CLERK TO SPECIAL COMMITTEE.

Mr. MORRIS, of Pennsylvania. I ask the gentleman from Illinois to give way for a moment that I may enter a motion to reconsider.

Mr. WASHBURN, of Illinois. I yield for that purpose.

Mr. MORRIS, of Pennsylvania. I desire to enter a motion to reconsider the vote of the House yesterday laying on the table the resolution of the gentleman from Missouri [Mr. PHELPS] authorizing the special committee on the Pacific railroad to employ a clerk.

The motion was entered.

TENNESSEE RIVER IMPROVEMENT.

Mr. MAYNARD. I ask the gentleman from Illinois to allow me to introduce a bill for reference to his own committee.

Mr. WASHBURN, of Illinois. What is it? Mr. MAYNARD. A bill of a local character merely.

Mr. WASHBURN, of Illinois. I have no objection.

Mr. MAYNARD then, by unanimous consent, introduced a bill to liquidate the unadjusted contracts of the Tennessee river improvement; which was read a first and second time, and referred to the Committee on Commerce.

STEAMBOAT PASSENGER BILL.

Mr. WASHBURN, of Illinois. The bill which has been postponed until to-day for the consideration of the House, is a bill amending the act of 1852, entitled "An act better to provide for the security of the lives of passengers on board vessels propelled in whole or in part by steam." It is not my purpose to go into a detailed explanation of the bill. I know how restive the House always becomes at hearing these detailed explanations; but I will endeavor to state briefly some of the most important provisions.

I will, however, state, in the first place, that at the last Congress a bill upon this subject was agreed upon by the Committees on Commerce in both Houses of Congress, on consultation with many gentlemen in the different parts of the country, and with the Secretary of the Treasury. That bill failed for want of time. At the commencement of the present session, I introduced a bill nearly identical in its provisions with that agreed upon at the last Congress. Two other bills for the same purpose were introduced, one by the gentleman from Louisiana on my left, [Mr. TAYLOR,] and one by the gentleman from California, [Mr. SCOTT.] They were also referred to the Committee on Commerce, and the three were taken up by the committee and a substitute agreed on, which I shall offer for the consideration of the House.

I trust it is not necessary for me to impress upon the House the importance of further legislation upon this subject. I think, from what we have all seen within the last few years, and the last few

months, that we are admonished far more strongly than by any language I can use of the necessity there is for some action upon the part of Congress upon this subject. Sir, the recent terrible disaster to the steamer Central America, which has wrung so many hearts, and carried sorrow and desolation into nearly every family in the country, calls to us in the loudest tones to act in this matter, and endeavor, if we possibly can, to provide some regulations of law by which a recurrence of these terrible disasters may be prevented hereafter.

Now, sir, I propose to explain briefly the principal provisions of the bill. The bill itself, with a report of some eighteen pages, which have been printed, will prevent the necessity for explaining all the provisions in detail. I trust, if the House will give me their attention for a few moments, they will be satisfied that the bill ought to pass into a law. We have brought within the provisions of this bill steam ferry-boats, tug-boats, freight-boats, and other craft which were not included in the act of 1852, and upon which some of the most terrible accidents have happened in consequence of their not having been included under the provisions of the law of 1852, and of their not being subject to the inspection of the supervisors under that law. In this bill we bring within the law these boats, and place additional restrictions upon their carrying oil of turpentine, spirits of turpentine, vitriol, gunpowder, and other combustible and dangerous articles, and inflict additional penalties for carrying them.

We provide penalties for inscribing upon steamers false names. There is a law requiring the names of all vessels to be painted upon their sterns; but it has been the habit, in some of the large cities, while the regular name is painted upon the stern, to paint upon the wheel-houses, or in some other conspicuous place, some other name, by which the public are deceived. We inflict a heavy penalty for this offense. We provide further for the more complete and thorough inspection of steamboat boilers, and for carrying lights on sailing vessels. And there is another very important provision to which I wish to call the attention of the House. We provide that all these ocean-going passenger steamers shall be divided into watertight compartments and bulkheads. We provide for the proper number of boats, and determine how they shall be used. We also limit the number of passengers which shall be carried upon these ocean-going steamers. It has been found necessary to interpose the strong arm of the law against the cupidity of steamboat owners who have loaded their vessels going from this country to such an extent as to make a passage in them worse than the middle passage.

We provide for the removal of planks after the vessel shall have been built a certain length of time, so that it shall be determined whether the rot has gotten into her. We provide, also, that station bills shall be posted up in all the passenger steamers, in which shall be entered the names of all the passengers, and of the officers and crew of the boat, designating the station or part of the steamer assigned to each passenger and person on board, to prevent confusion in case of accident.

We provide, further, against granting certificates to any vessel or boat in which the inspector shall be directly or indirectly interested, and inflict a large penalty on them for doing so. We provide for an additional supervisor and inspector on the Pacific coast. At the time of the passage of the act of 1852, it was not considered necessary; but at the present time it is conceded that the appointment of a supervisor and inspector on that coast is necessary. We provide further.

We provide for the performance of the duties of inspector in certain specified cases—as where the regular inspector is sick, provided that in such cases where inspection is necessary, other parties may be called in, under certain restrictions, to make the inspection. We then regulate the salaries of local inspectors, and provide for the summoning of witnesses before the inspectors, and compelling their attendance.

We provide, further, that when an accident shall occur, there shall be made a full and complete report by the officer or person in charge, or, in his absence, by some licensed officer, to the first custom-house officer that can be reached. This report shall contain everything connected with the accident, shall be made under oath, and shall be made a matter of record, to which refer-

ence can be had for authentic information in regard to the accident.

There is another section, which is not in the printed substitute, but which is in the substitute which I shall offer, which provides against conspiracies or combinations on the part of pilots and other persons, the tendency of which is to obstruct commerce on the different rivers.

I will say, and it will conclude all I have to say, that the steamboat law of 1852 is nearly self-sustaining. I understand, from the parties who are engaged in its execution, that the fees of inspectors and other officers amount to what it costs the Government; and, sir, the additional salaries of additional boards of inspectors will be more than paid by the additional amount of fees to be paid by steamboats to be brought within the operation of this act.

The gentleman from Louisiana [Mr. TAYLOR] has submitted a bill which would change the entire system. One of the provisions of that bill we have incorporated into the pending measure. The other provision we did not incorporate. We thought it would be unsafe to adopt the principle which it embraced, at this time. Although we concede to the gentleman great ability and great legal acumen, yet, as his proposition changes the entire principle of the law, we felt constrained to object to it. The gentleman, however, can have an opportunity of taking the sense of the House on the question, by moving it as an amendment to my substitute. I understand that the gentleman desires to submit some remarks on the subject. The gentleman from California [Mr. SCOTT] also desires to be heard. After these gentlemen have been heard, unless there shall be a strong desire on the part of other gentlemen to address the House, I hope the House will second the call for the previous question, that we may come to a vote upon the bill to-day.

Let me say, in anticipation of a motion to refer the bill to the Committee of the Whole on the state of the Union, on the plea of perfecting it, as it is called, that I would much rather that the House would lay the bill upon the table, and at once kill it.

Mr. SMITH, of Virginia. What is the gentleman's particular objection to a reference to the Committee of the Whole on the state of the Union?

Mr. WASHBURN, of Illinois. Because, to make that reference is to give the bill a lingering death.

Mr. SCOTT. Mr. Speaker, I propose making some remarks in relation to the bill which is now before the consideration of this House, and shall confine myself more particularly to that portion of it which has reference to our ocean steamers. On the 20th of January I introduced a bill "to provide for the better security of the lives of passengers on board of steamers navigating the ocean propelled wholly or in part by steam." That bill was read twice, referred to the Committee on Commerce, and ordered to be printed. The committee, after due deliberation, and after a thorough consultation with persons who were considered experts in such matters, have reported favorably, and incorporated my bill in the one which is now before this House.

I know that many high and important questions, of a national character, are now absorbing not only the attention of this House, but the entire country. Already the great eye of the people is turned with a painful anxiety, and with a deep solicitude to our future course—to that vexed and threatening question, Kansas; and scarcely will the wild, fierce, and turbulent waves of sectionalism be settled by a proper adjustment, before another will again be presented, to agitate and distract this body, in the imposing form of the Utah and Nicaraguan difficulties. While I am free to confess, that, in each and all of these questions are involved great principles, requiring the combined wisdom of this distinguished body to fairly and justly reconcile, I nevertheless believe that the bill which is now before us is only secondary in importance to any measure, saving those which I have already alluded to.

It is true, sir, that no partisan press has heralded forth its advent. It is true that no popular tumult has given it a noted and a wide-spread reputation; its object and its purport have only been advocated periodically, when some sad, afflicting, and dire steamboat calamity was visited upon us.

Then there would be a spasmodic action on the part of the public sentiment and the public press to prevent these steamboat abuses, which would scarcely last longer than the dying groans of those who had fallen victims either to the avarice, cupidity, or criminal negligence of the steamboat monopolies that are now looming up in our midst, and who, by their ill-gotten gains, have finally become so wealthy, so powerful, as to deal with impunity in the safety and life of all who may, by force of circumstances or by chance, commit themselves to their care.

Now, sir, whilst this whole Union is mourning over those who have fallen upon the battle-field of Kansas in the advocacy of their respective doctrines, whilst morality and decency are crying aloud and calling for redress against the polygamy of Mormonism, whilst the avowed advocates of law and order are fiercely denouncing filibusterism, and lamenting over the sad fate of those who have fallen bravely and gallantly upon Nicaragua's soil, where has been the tear yet shed, the sympathy yet manifested by this body, for those who have been consigned to the watery caverns of the sullen deep?

Coming from a constituency that is immediately and directly interested in this subject, who are compelled alone to confine themselves to an oceanic route for the want of a better, I conceive it to be a duty which I owe them as their Representative, to place the object and intent of this bill in a true and proper light before you. I shall, therefore, briefly review those provisions which have reference to ocean steamers, and endeavor to show the effects and consequences that have already ensued for the want of proper congressional legislation on this subject, and the benefits and advantages that will inevitably follow by the passage of the bill. In doing this, I will have to ask your kind indulgence, as these matters are not surrounded with the fascinating charms of a political or constitutional question, but are merely statistical and dry in their character.

I will go back as far as the year 1851, and will enumerate a number of steam vessels that have been wrecked, lives that have been sacrificed, and treasures that have been lost, all attributable, as I sincerely believe, to the want of such a bill as is now before you.

List of Steamers lost within the last five years.

Name of steamer.	When lost.	Value of vessel and cargo.	No. of lives lost.
President, (British)	-	\$1,200,000	130a
Arctic, (American)	-	1,800,000	300b
Pacific, "	-	2,000,000	240a
San Francisco, "	-	400,000	160b
Central America, "	-	2,500,000	387b
Union, "	July, 1851,	300,000	none.c
Chesapeake, "	Oct., 1851,	50,000	" c
Sea Gull, "	Jan., 1851,	50,000	" c
Com. Probé, "	May, 1851,	50,000	" c
Gen. Warren, "	Jan., 1852,	50,000	" c
North America, "	Feb., 1852,	150,000	" c
Pioneer, "	Aug., 1852,	250,000	" c
Independence, "	Aug., 1852,	100,000	140 c
City of Pittsburg, "	Oct., 1852,	300,000	none.d
Tennessee, "	Mar., 1853,	300,000	" e
J. S. Lewis, "	April, 1853,	150,000	" e
Washington, "	April, 1853,	40,000	" e
Southerner, "	-	30,000	" e
Yankee Blade, "	Nov., 1854,	280,000	75f
Humboldt, "	-	1,600,000	none.f
Franklin, "	-	1,900,000	" f
City of Glasgow, (British)	-	850,000	420g
City of Philad'a, "	Sept., 1854,	600,000	none.f
Her Majesty, "	Sept., 1854,	250,000	" f
Opolunas, (American)	-	125,000	30g
Rhode Island, "	-	100,000	60a
North Carolina, "	-	100,000	15g
Winfield Scott, "	-	350,000	none.c
Tempest, (British)	-	300,000	150a
Lyonnais, (French)	-	280,000	160g
Albatross, (American)	-	120,000	none.h
Cherokee, "	-	450,000	" i
Knoxville, "	-	150,000	" j
Canadian, (British)	-	400,000	" k
Crescent City, (American)	-	180,000	" f
		\$17,750,000	2,307

a Never heard from.

b Foundered.

c Wrecked on the coast of California.

d Burned at Valparaiso.

e Lost on the Pacific coast.

f Wrecked.

g Collision.

h Lost near Vera Cruz.

i Burned in the harbor.

j Burned in the harbor of New York.

k Wrecked in the St. Lawrence.

Losses on the Lakes.

1854, Steam vessels, valued at \$2,187,825	Lives lost, 119
1855, " " 1,692,700	" 118
1856, " " 1,378,100	" 407
	\$5,258,625 644

On the western rivers for one year, from 1852 to 1853.

78 steamboats,	} on board of which 400 lives were lost.
4 barges,	
73 coal boats,	
32 salt boats,	

RECAPITULATION.—Value of property.

Lost on steamers on the ocean.....	\$17,750,000
Lost on the Lakes.....	5,258,625
	\$23,008,625

Number of lives lost.

Lost on the ocean.....	2,307
Lost on the Lakes.....	644
Lost on western rivers.....	490
	3,351

Making the aggregate amount of treasure and property lost in five years on the ocean, \$17,750,000 in steam vessels alone; and the number of persons who have thus perished amount to over two thousand human beings. In addition to this, if we examine the loss of life and property on our lakes in the years 1854, 1855 and 1856, we find that it amounts to \$5,258,625, and six hundred and forty-four lives; which, added to the losses on the ocean steamers, amounts to the enormous sum of \$23,008,625, and over three thousand lives.

Now, is not this startling, and does not this state of facts loudly and imperatively call upon Congress to pass some law, so positive, so stringent in its character, as to stay this reckless, this inhuman and indiscriminate sacrifice of life, and wanton destruction of property? We have discovered that, in the short space of six years, over twenty-three million dollars have been consigned to the sea, and over three thousand souls have been buried in the "deep bosom of the ocean," by what we believe to be negligence, or a willful mismanagement on the part of those who own and who are interested in steamboats in this country. Now, this bill proposes to remedy this evil by making it the legal duty of all steamboat owners so to construct their steamships hereafter that in the event of their meeting with the dangers and perils that are incidental to the sea, they will be able to contend with and overcome them; or, if by accident the ship is lost, this bill amply provides, in my estimation, for the preservation of life, and for the security and safety of the treasure which may be on board.

Some of these provisions may appear to operate with severity and a degree of hardship upon the companies owning these vessels, on account of the expenses necessarily incurred in carrying out their requirements. In answer to any such objections, I would simply state that I believe that before the expiration of a year after the passage of this bill, they will be as much benefited as those whose lives are saved and whose property is preserved by its just and humane operations. For by its passage the risk that they incur of losing their vessels will be largely diminished, and the rates of insurance will decrease in a corresponding ratio, thus saving the owners of steamers a heavy tax as insurance money, whilst their receipts will be heavily increased when the traveling community receives the assurance that there is safety on board their steamers.

The thirteenth section of this bill provides "that all passenger steamers navigating the ocean shall be furnished with at least three watertight cross bulkheads, forming separate compartments." As regards this provision, I have been informed by numerous gentlemen, competent judges in such matters, that the expense of constructing these cross bulkheads in vessels already built will be attended with but small cost, whilst the additional guarantee of safety, both to life and property, will be almost incalculable.

This is no vain and empty assertion; and in order to satisfy this House of its truth and correctness, and also to demonstrate the immense superiority that a vessel that is constructed with these cross-bulkheads has over one that does not possess them, I will cite the melancholy loss of the Collins steamer Arctic, which came in collision

with the French steamer Vesta. The Arctic foundered immediately after she struck, whilst the French steamer Vesta, reached a harbor with her bows almost out of the water. Why was this? Because the Arctic was not constructed with these compartments, and the Vesta was, and consequently owed her safety in reaching port to that fact, and that fact alone.

Again, another case which has occurred more recently, illustrates the necessity of having our steamers so constructed. I allude to the Sarah Sands. She caught fire in the Indian ocean, with several hundred troops on board. This steamer was nearly destroyed and partly blown up by gunpowder, but being constructed in the manner prescribed by this section, she reached the Isle of France in safety. Here, then, is practical evidence of the utility, the efficiency, in fact the emphatic necessity of three compartments. Had the San Francisco, or Central America, and many others, been so constructed, we would not now be moaning over their sad and lamentable fate; neither would the destiny of the Pacific or the President be now clothed in an impenetrable mystery, of which no human mind can know more than that they are lost, and lost forever.

This bill also provides, in section fourteen, for a certain number of boats and pumps. There certainly can be no objection to that provision; for every steamboat company ought and should be compelled by law to look out for the safety and security of the lives of their passengers in the event of accident; and the only way that their lives can be preserved in such cases is, by having ample means, such as boats, pumps, rafts, and other appliances, to assist them in the hour of danger and in the time of peril. What was the situation of affairs on board the Central America, at the time when she went down on the 12th of September last? We find, from the evidence in this case, elicited by the committee of investigation of New York, that there were six hundred persons on board of her, and that she only had boats sufficient to carry one hundred and twenty persons in fair weather; we also find her pumps inadequate and insufficient for the occasion, and that she could have been easily and readily saved, if the necessary appliances which this bill provides for had been on board of her. Why, the Eldorado, Captain Burt, ran within fifty yards of her stern. If she had been in possession of a mortar and a life-car, as provided for in this bill, she could have shot a line on board of the Eldorado, made her fast by means of a hawser, and every human being and every dollar of treasure could have been conveyed from the Central America to the Eldorado. Unfortunately, and to our shame be it spoken, the law did not require her to have these on board, and the Eldorado, a small schooner drawing only seven feet of water, drifted some six or seven miles to leeward of her by morning, and was entirely incapable of rendering that service which the dictates of humanity demanded, and which her captain and crew were desirous of affording.

Section sixteen provides "that no steamer shall be permitted to carry more than one person for every seven tons of lawful tonnage measurement." I deem this a most wise and salutary provision; for I have traveled several times on the ocean steamers plying between the harbors of New York and Aspinwall, and from Panama to San Francisco, and I know that the companies now owning these California steamers are accustomed to crowd passengers on their vessels without regard to the safety of life, and utterly regardless of comfort and health. The European steamers seldom carry more than prescribed in this section, whilst I have seen six to seven hundred persons on a vessel of two thousand tonnage, and one thousand to twelve hundred on a vessel not over three thousand tons, which vessels did not have boats enough to rescue one sixth of the persons in the event of fire, leakage, or any other accident which might have compelled them to resort to the boats. I never yet have seen on these vessels a life-car or a mortar, articles that I conceive to be indispensable, and which are provided for by Government at the various "life-boat stations" on the coast.

As regards the "removal of two outside and two ceiling planks from each side of the vessel every five years," as set forth in section eighteen, is very important in its nature and object,

and should be rigorously enforced; for past history on this subject shows conclusively that such a removal should be made, if we wish to avoid rotten hulls and unseaworthy vessels as a means for transportation of life and treasure. As an evidence, I point you to the steamer Illinois as one of the many cases. This steamer, carrying the United States mails, and commanded by a naval officer, was, a few weeks since, on the eve of her departure from the harbor of New York, when, by the merest accident, she was found to be so badly decayed as to render it necessary to remove some fifty feet of her outside plank. Had not this timely and most fortunate discovery been made, we would have had the sad and painful duty of again recording the sacrifice of a few more hundred lives, either to the culpability, cupidity, or carelessness of these steamship companies. And in addition to the above case, I here offer, in testimony of the necessity of this provision, the names of a list of vessels that have rotted within the period of five years from the time of their construction.

LIST OF VESSELS ROTTEN IN FIVE YEARS.

Names of vessels.	Where and when built.	Rotten.
Ship Copota.....	New York, 1843	*1847
Southerner.....	New York, 1833	1839
Panama.....	Connecticut, 1834	1842
Helena.....	New York, 1841	1847
Vanguard.....	New York, 1850	1857
London.....	New York, 1847	1857
Maid of Orleans.....	New York, 1848	1857
Jacob Bell.....	New York, 1852	1857
Samuel Willets.....	Mystic, 1854	1857
Wild Pigeon.....	Portsmouth, 1851	1856
Bark Rover.....	New York, 1848	1857
F. A. Perley.....	Jonesport, 1848	1856
Roderick Dhu.....	Hallowell, 1847	1855
Brig A. P. Flucker.....	Orland, 1855	1857

* Rotten at both ends.

Again, there is another provision in section twenty-second that I consider very important, and to which I wish briefly to call the attention of this House: it is in relation to steamboat inspectors, and whilst it is far from my intention to cast any reflection upon the character, the standing, or integrity of these gentlemen, I nevertheless believe that according to Scripture, "a man cannot serve both God and mammon;" hence my desire to prevent these inspectors from being in any way connected in any manner, shape, or form, with steamboats or steamboat companies, so that their inspections may be fair and impartial, and not swayed or influenced by pecuniary motives. If interested parties are to pass judgment upon their own interest, or part owners of steamers are to certify to their seaworthiness, the whole matter becomes a grand farce, and the traveling community becomes a prey to a combination of steamboat organizations, of agencies, inspectors, Government officers, whose immediate and direct interest will be to shield the enormities and offenses of these monster steamboat companies, and to perpetuate a system of duplicity and fraud upon the innocent and unsuspecting traveler, that only assures to him a sure and speedy death by intrusting his body to their kind and tender mercies.

Again: section nineteen provides that all authority shall be vested in the captain of the steamship, and that he shall have entire control over every department of the ship. This may cause some surprise, as it is enunciating an old common-law principle; but investigation of the loss of the Central America revealed the astounding fact that chief engineers were not under the control or subject to the command of the captain. Now if this state of affairs be true, we find an *imperium in imperio* on board of our steamers; and that where there should be but one head in the hour of danger—when human life and property are involved in the great stake, that disorder and confusion will inevitably prevail, from a conflict of opinions arising from having two commanders, who may differ in regard to the best method of saving the ship. To obviate this, the provision vests all power in the captain; and to him, and none other, is intrusted the fate of the ship, and to whom all shall bow in implicit obedience.

I have thus briefly and hastily as possible reviewed the various provisions of this bill relating to ocean steamers, and have arrived at the conclusion that it is sufficient and adequate to meet the present demands and requirements of the country, by insuring and guaranteeing by its operations better security to the lives of the traveling community. If steamers are compelled to have

water-tight compartments, to have boats sufficient to carry each, all, and every passenger; if they have a mortar and a life-car, by which they can communicate and become connected with another vessel at sea; if they will have pumps, to be worked by manual labor, and donkey-pumps to be worked by steam; if they are inspected every five years, in order to ascertain their soundness; if they are intrusted to able and efficient commanders, who shall have the whole, sole, and entire control of them; and, above all, if they are inspected by local and supervisory inspectors, who are purely actuated by conscientious motives of official duty; I ask, in the name of common sense and common justice, if the fearful, and I may truly say, almost appalling risk that is now incurred, will not be greatly diminished?

Why is it that we do not hear of these frightful losses of life on European steamers? It is from the simple fact that ample means are provided by law for their prevention, and for the insurance of human life. Examine the laws of England regulating her ocean steamers, and it will bring a blush of burning shame to the cheek of every one who is capable of feeling, when we compare them with ours, and discover how infinitely superior they are. The utter recklessness on this subject which is now and has heretofore been manifested by the "universal Yankee nation," cries aloud for a remedy; and our national character as a humane, benign, and Christian people, demands that we should pass some law by which this wholesale butchery and indiscriminate slaughter of men, women, and children, upon our ocean steamers, shall be stayed. When we do this, we will have performed an act which will elevate us in the standard of the civilized nations of the globe, and will add additional reputation to us, as being among the first in the great commercial and maritime world.

I cannot conclude my remarks without alluding to the deep interest which the State which I have the honor to represent feels on this subject. The flag of our country announced, on the 10th of July, 1846, the conquest and occupation of California by American valor. Gold was soon discovered; and scarcely had the wonderful tidings been borne by the gentle zephyrs of the placid Pacific to the stormy shores of the boisterous Atlantic, when, as if by magic, the love of enterprise, the spirit of adventure, so peculiarly characteristic of our hardy and intrepid countrymen, was fully aroused, and thousands left their homes and their firesides to visit the golden land—

"Bearing their birthrights proudly on their backs,
To make a hazard of new fortune there."

Obstacles almost insurmountable seemed to arise to arrest their onward march; the cold and threatening Horn, the trackless desert, the boundless plain, the fatal rencontre, the tomahawk of the relentless savage created no fear in the stout hearts of these hardy adventurers, but like the old guard of Napoleon, in their ruinous retreat from burning Moscow, their courage only increased with the surrounding dangers. It is these men who have borne in triumph through every danger, every difficulty, and every hardship, the free and enlightened principles of republicanism to the far-off shores of the Pacific, and have so nurtured and cherished them that they now spread their benign and genial influence over the oppressed of every clime. It is these men who now stand in this Hall to-day, and ask you, through their Representatives, that, in the name of their past services, by the recollection of their past deeds, and by the remembrance of the present ties that bind them to you, you will save them from being sacrificed and immolated on the selfish altar of these steamboat monopolies.

The California of to-day is far from being the California of 1846; for then she had only twelve thousand beings, save the degraded aborigines; now she has over a half a million population, and her sea-going tonnage, in and out, is only surpassed by New York, Massachusetts, and Louisiana. Every avenue of her glittering domain is crowded with the sturdy sons of every clime; whilst every State in our Confederacy has furnished her quota. Few may be aware of the number of passengers and the amount of treasure that are annually shipped from the harbor of San Francisco to New York. From information, through a letter and statistics, kindly furnished me by the distinguished collector of the port of New York,

I have been able to ascertain nearly the precise amount.

Specie from California imported into New York from January 1, 1856, to December 31, 1857, inclusive.

Date.	Gold.	Silver.	Gold dust.	Total.
1856.				
January...	\$3,288,155 70	\$3,350 00	-	\$3,291,505 70
February...	2,633,581 87	-	-	2,633,581 87
March....	2,749,308 73	5,700 00	-	2,755,008 73
April.....	1,469,529 47	28,670 00	\$780	1,498,979 47
May.....	5,378,204 31	30,680 00	8,000	5,416,884 31
June.....	4,191,906 93	21,517 65	-	4,213,424 58
July.....	3,340,458 00	10,340 00	-	3,350,698 00
August....	2,944,517 86	4,071 00	-	2,948,588 86
Sept.....	3,463,175 85	7,730 00	-	3,470,905 85
October...	3,523,216 33	800 00	748	3,524,764 33
Nov.....	3,583,379 08	490 00	-	3,583,779 08
Dec.....	3,445,736 60	92,381 50	-	3,538,168 10
1857.				
January..	2,417,966 77	19,719 97	-	2,437,686 74
February..	2,390,736 96	27,608 70	-	2,418,345 66
March....	2,147,163 41	3,607 25	-	2,150,770 66
April.....	2,695,869 84	22,627 70	-	2,718,497 54
May.....	3,387,916 84	8,012 30	-	3,395,929 14
June.....	3,767,889 62	5,354 00	-	3,773,243 62
July.....	2,762,995 29	13,820 00	-	2,776,815 29
August....	1,241,035 11	4,750 00	-	1,245,805 11
Sept.....	1,588,468 66	4,948 50	-	1,593,417 16
October...	1,383,338 71	4,093 75	-	1,387,432 46
Nov.....	4,520,643 20	5,415 50	-	4,526,058 70
Dec.....	4,267,372 81	33,859 91	-	4,301,232 72
				\$72,951,363 68

CUSTOM-HOUSE, NEW YORK.

COLLECTOR'S OFFICE, January 22, 1858.

Sir: In reply to the inquiries contained in your letter of the 19th instant, I have the honor to submit the following:

The total number of passengers sailed from New York for San Francisco, in steamships, from January 1, 1856, to January 1, 1858, is 20,095. The total number of passengers arrived at this port from California, during same period, is 17,161. The total tonnage of steam vessels running between this port and Aspinwall is 16,747 tons. No treasure has been exported from this port for Aspinwall during the above period. The total amount of specie arrived at this port in steamships from Aspinwall, during same period, is, as per inclosed statement, \$72,951,363 68.

I have no means of ascertaining the tonnage of the steam vessels employed in carrying passengers between Panama and San Francisco, but I have no doubt you can obtain that information at the Treasury Department. I shall be happy at all times to furnish you with any additional information you may desire, if in my power.

I am, very respectfully, your obedient servant,
AUGUSTUS SCHELL, Collector.

Hon. C. L. Scott, Washington, D. C.

From this we find that the total number of passengers from New York for San Francisco, from 1st of January 1856, to 1st of January, 1858, is 20,095; the total number arrived at this port from California during the same period, is 17,161; making the aggregate number going to and fro in two years, 37,257. Now, it is reasonable to suppose that one fourth of that number have gone by the way of New Orleans, Charleston, and Havana; which amounts to 9,314; which, being added to 37,257, makes the whole number 46,671, which is annually 23,285 passengers. As regards treasure, \$72,951,363 68 has arrived at the port of New York from California; and acknowledging that one fourth or fifth of the above amount has also been shipped by the way of New Orleans, Charleston, and Havana, it amounts to nearly ninety or a hundred million dollars that has been shipped from California in the last two years; and in this calculation we do not include the millions that are brought here by private individuals on their persons.

Now, Mr. Speaker, I may say truly, and without the fear of contradiction, that upwards of fifty million dollars is annually transported from the shores of my State to the Atlantic States; and that nearly twenty-five thousand persons are conveyed over the oceanic route that is traversed by the United States mail steamship and Pacific mail steamship companies semi-monthly.

With these facts before us, does it not become our bounden duty to throw some safeguard, to give some protection, to this mighty interest, both in human life and property—equal to any with which this great Union is prominently and immediately interested in, and directly identified with? I shall not now array before the bar of this House either the United States mail or the Pacific mail steamship companies; but the day is not far distant when, if an opportunity offers, I will certainly avail myself of it, and hold them to a strict accountability for the deep wrongs and injuries which they have already inflicted on my State.

When I reflect upon the loss of that ill-fated

ship, the Central America, how deeply impressed I am with the urgent necessity of the passage of this bill. I cannot refrain from paying a passing tribute of respect and reverence to the memory of those who perished on that sad and ever to be remembered day. Courage is indeed a noble quality, and none other elicits stronger admiration. Many have immortalized themselves, and have written their names high on the scroll of fame by their deeds of valor amidst the din and carnage of battle and the roaring and crushing cannon; but the truest, the noblest, the purest courage, is when the soul of man quails not, but looks death calmly in the face solely to maintain a principle or to advocate a right.

You may search the annals of history through, and tell me where you will find a case on record that will compare in heroism and true manly courage to that which was exhibited by those four hundred brave spirits that stood on the sinking deck of the lost ship, the Central America. There, far, far away from the distant land, with the wild, surging, roaring waves dashing against their frail bark, with the dark, gloomy, and lowering storm-clouds casting the somber hue of a mighty pal over them, did these men stand firm and undaunted, resolved to save the weak and terrified women and helpless children. They are gone, gone to that bourne whence no traveler returns; no marble monument marks the spot where they sleep, for the fathomless depths of the dark caverns of the deep is their grave, and the chilly waters of the restless ocean is their winding sheet. The eternal heaving of the moving waves of the Atlantic chants forth their funeral dirge, whilst the low, whistling, and sad moaning of the ocean winds sings a solemn requiem in honor of their burial. Peace, peace be to the respected and revered dead; for there is not a mother, a wife, a sister, or one who bears the name of woman, who will not drop a tear of sympathy for these noble spirits, who perished in such a holy cause.

They were our countrymen; and as such they have added new and fresh laurels to our national reputation, which each and all of you can appreciate and admire in common; but to me they were bound by stronger and more affectionate ties: they were Californians; and as such a generous State weeps and moans over the loss of her dead, whilst she points with the finger of pride to their noble deeds, and challenges the heroes of every land and every clime to emulate them. God forbid that ever the like should occur again; and it is for you to say to-day whether you will shield and protect such gallant men, by passing laws that will prevent the repetition of such a calamity, or whether these steamboat companies shall have unbridled license to run their steamers, regardless of life. If you adopt the latter course, the day is not far distant when many of you will have to mourn over the untimely end of some relative or dear friend, as I do to-day over the loss of a host of friends.

Mr. TAYLOR, of Louisiana. Mr. Speaker, I am not certain that the condition of my lungs will enable me to be heard by the House, or that I shall be able to say what I desire upon the subject before the House. Before I commence my remarks, I submit the following amendment to the substitute:

Add, as additional sections, the following:

That no insurance upon any vessel propelled wholly or in part by steam, and carrying passengers out of any port of the United States to any port of a foreign nation, or between two or more of the several States, or between a State and Territory of the United States, or in the Territories of the United States, or upon the freight to be earned by said vessel, shall be effected by any owner of such vessel, or by any person for the benefit or advantage of any owner of the same, until all the provisions of law in relation to the build, machinery, and equipments of vessels propelled in whole or in part by steam, and carrying passengers, and intended to guard against loss or danger from fire or the explosive force of steam, to prevent accidents tending to the injury or loss of passengers, and to aid their escape upon the occurrence of accidents, have been fully complied with; and that if any insurance shall at any time be effected in violation of this prohibition upon any such vessel so carrying passengers, and such vessel be lost or suffer injury upon the voyage from any cause whatever, that then and in that case, if the said provisions of law had not in point of fact been complied with, and the said vessel was not in the condition prescribed by law as to build, machinery, and equipments at the time of leaving port when the voyage began, the said contract of insurance shall be, and the same is hereby, declared absolutely null and void, and no right of action of any kind whatsoever shall be had thereon.

And be it further enacted, That no person who was, after the passage of this act, as engineer, in charge of an engine on any vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, at the time when an explo-

THE CONGRESSIONAL GLOBE.

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sion of the boiler or boilers on the said vessel took place, which caused loss of life to any of the passengers; that no person who was, after the passage of this act, as pilot, in charge of any vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, at the time when a collision between the said vessel and any other vessel took place, which caused loss of life to any of the passengers on said vessel, or which caused loss of life to any person on the vessel come in collision with; and that no person who, as master or captain, was, after the passage of this act, in charge of a vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, at a time when a fire broke out on the said vessel which consumed the same wholly or in part, and caused the loss of life to any of the passengers on said vessel—shall be employed in any capacity whatsoever on any vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, by the owner or owners of the same, or by their agent or agents, until the said person or persons shall have been tried, according to law, upon a charge of manslaughter, and shall have been found not guilty, and, in addition thereto, been declared, by a special verdict of a jury, to have been entirely free of all censure for misconduct, negligence, or inattention in relation to any matter or thing leading to said loss of life: *Provided, always*, That the said prohibition shall not attach to any person in any case in which a grand jury may investigate the facts connected with any loss of life as aforesaid, and shall refuse to find any bill of indictment against such person, and declare, by a written report accompanying their finding, that the said person was free of any misconduct, negligence, or inattention in the premises.

And be it further enacted, That if any person shall be knowingly employed on board of any vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, by the owner or owners of the same, or by their agent or agents, to discharge the duties of engineer, pilot, or master, or captain, and the said vessel should be lost or suffer injury while any one was actually employed thereon in violation of said prohibition as aforesaid, then and in that case any policy of insurance on the said vessel, taken out by or for the benefit and advantage of the owners of the said vessel, shall be, and the same is hereby declared, absolutely null and void, and no right of action of any kind whatsoever shall be had thereon.

And be it further enacted, That the master, or the owner or owners of any vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, shall, prior to the departure of such vessel on any voyage from any port of the United States where there is a collector, or any officer performing the duties of a collector, make and deposit in the office of the said collector or other officer performing the functions of collector at said port, a statement in writing, and under oath, of the names of the persons employed on the said vessel as engineers, pilots, masters, or captains, and mates, for the said voyage; and that for every failure to make and deposit such statement in writing and under oath as aforesaid, the master or the owner or owners of the said vessel shall be liable to pay a penalty of five hundred dollars, to be recovered in any court of competent jurisdiction from the said master; or, if the payment of the same cannot be enforced against him, then to be recovered in like manner from the owner or owners of said vessel.

And be it further enacted, That whenever any accident shall happen to any vessel propelled in whole or in part by steam, and carrying passengers as aforesaid, by which there is loss of life to any passenger on board of the same, or to any person on board of any other vessel, it shall be the duty of the master of the said vessel to report the same at the first port at which the said master of the said vessel shall land or arrive after the said accident, within twenty-four hours after his said landing or arrival; and the said report shall be made to the collector of the customs, or other officer performing the functions of collector, if the same be a port of the United States or its Territories, or to the consul or vice consul of the United States, if it be a foreign port. And the said report shall be made in writing and under oath, and shall contain a statement of the name of the vessel, the port from which she cleared or took her departure, and the port she was bound to; the names of the officers of said vessel, and, as near as may be, the number and names of the passengers on board of the same; the nature and cause of the accident; the place and time when the said accident occurred; the number of passengers lost or injured, and their names, as far as may be, and the extent of the injury done to the vessel. And any master who shall willfully fail or neglect to make a report and statement as aforesaid shall be liable to a fine of not more than five hundred dollars, and to be imprisoned not more than three months, at the discretion of the court.

And be it further enacted, That if an accident should occur to any vessel as aforesaid, and no report of the same should be made, as required by the preceding section, to the collector or consul of the port at which the passengers and crew first land and arrive, as aforesaid, either because of the loss, physical disability, or willful default of the master of the same, then it shall be the duty of the collector or consul of or at the port aforesaid to ascertain the facts connected with the said accident from the survivors, all or a part of whom shall be called before the said collector or consul and examined on oath; and the said collector or consul shall, from the facts ascertained by them, make out a statement in relation to the same, as nearly as may be, in conformity with the one provided for in the preceding section.

And be it further enacted, That the said collectors and consuls shall file all original statements made to them in relation to accidents as aforesaid by the master of any vessel as aforesaid, as prescribed in the fifth section; and all statements prepared by themselves, as prescribed in the sixth section, in their respective offices, where they shall remain on record.

And be it further enacted, That the said consuls shall, immediately after filing any statement as aforesaid, make out two copies of the same, one of which shall be transmitted at once to the Secretary of the Treasury, and the other shall be transmitted to the collector of the port from which the said vessel, the subject of said accident, was cleared; that the said collectors, or other officers performing the functions of collectors, at the ports of the United States or in the Territories of the United States, shall, immediately after filing any statement as aforesaid, make out two copies of the same, one of which shall be at once placed in the hands of the district attorney of the United States for the district, and the other shall be forthwith transmitted to the Secretary of the Treasury; and that the said collectors shall, in the like manner, make one copy of any statement sent to them by any consul of the United States, and place the same at once in the hands of the district attorney of the United States for the district.

And be it further enacted, That the Secretary of the Treasury shall file the said statements transmitted to him by the said collectors and consuls, as aforesaid, in his office, and that he shall, from time to time, as they are received, cause the same to be printed, and printed copies of the same to be sent or transmitted to all the collectors or other officers performing the functions of collectors, one of which shall remain in their respective offices for reference to be by the owners or masters of vessels, consignees, insurance companies, or underwriters, and others having an interest in the matters set forth in the same.

And be it further enacted, That it shall be the duty of the collector, or other person performing the functions of collector, at any port of the United States, or in the Territories of the United States, in which a statement was filed as provided for in the — section, prior to the departure of the vessel subject to the accident described in any statement transmitted to him by the Secretary of the Treasury, on the voyage during which the said accident occurred, to compare the names of the officers of said vessel, as set forth in the two statements; and in the event of any discrepancy between the two statements, to give information of the same, and wherein it consists, to the Secretary of the Treasury forthwith, who will, if in his judgment it may be necessary, give public notice of the same by a circular letter to all whom it may concern.

And be it further enacted, That every case arising under the provisions of the second section of this act, where there has been a prosecution according to law, which has been terminated by a special verdict of a jury, or a report of a grand jury, declaring the person proceeded against to have been entirely free of all censure for misconduct, negligence, or inattention, as set forth in said section, shall be immediately communicated to the Secretary of the Treasury by the clerk of the court in which the said proceeding was had, by transmitting to him a copy of the indictment therein and of the verdict of the jury on the same; or, when the grand jury refused to find an indictment, by transmitting a copy of the charge preferred and of the report of the grand jury thereupon. And it is hereby made the duty of the Secretary of the Treasury to cause the same to be printed, and to send copies thereof to all the collectors of the United States, or other officers performing the duties of collectors, who are hereby directed and required to file the same and keep them of record in their respective offices for the inspection of all having an interest in the same.

The subject before the House, Mr. Speaker, is one of the most important that can engage its attention. It is one which contemplates the exercise of the constitutional power of this Government to regulate commerce, for the purpose of throwing additional security round the lives of passengers on board of steam vessels and steamboats. It is well known that accidents have been of perpetual occurrence on board of steamboats and steam vessels navigating our western lakes and rivers and navigating the ocean. From day to day, for years, the public mind has been agitated by accounts of the most extraordinary and of the most shocking accidents; accidents which have been attended with a great loss of life, under circumstances which were calculated to harrow the feelings of the survivors, as well as to give additional pangs in their death to those who were the victims.

It is well known to this House that in 1838, for the first time, the power of the General Government was invoked for the purpose of attempting to establish some system, adopt and enforce some regulation, which would have the likelihood of lessening the frequency of these catastrophes. A law was passed at that time making provision in relation to the mode of building boats, establishing rules with respect to the arrangement of the machinery which should be employed on board of them, with a view to guard as far as possible against accidents, and pronouncing penalties against those who were in their charge for negligence or the result of inattention. This did not have the effect of preventing a recurrence of those accidents. From year to year, after the occurrence of some accident of extraordinary magnitude and attended with great loss of life, Congress

has again and again had its attention directed to the subject, in the hope of applying a remedy to the evil. Again and again it has exerted its power with a view to extending protection to those whose necessities or whose pleasure make them passengers on board of these vessels.

The provisions of all of these laws are of the same character. These provisions were of two classes, and were intended to operate on all the causes tending to occasion loss of life. The first class of provisions was intended to operate upon the owners of vessels, and by compelling them to conform to certain rules in the construction of their vessels, in the character of the machinery, and in the equipments which they put on board of them, with a view to the saving of life in the event of accident. The other class related to the action of those who were in charge of these vessels, who were responsible for their navigation, and upon whose care, upon whose attention in the discharge of their duties, the lives of passengers depended. This bill proposes additional requisitions of the same character; the imposition of penalties of the same description. But, Mr. Speaker, experience has shown that all previous requirements of law, all such penalties have been unavailing; that the requisitions made upon the owners of boats in relation to their construction, to their equipment, to their machinery, and to the means and appliances of escape in the event of accident, have not been complied with. Experience has shown, too, that again and again accidents result from the inattention or the negligence or the gross misconduct of the officers in charge, without their being subjected to any penalty. It is not the fault of the law, because the law contains provisions which are ample. If the owners of boats comply with the law, the chances of accident are diminished; and in the event of the occurrence of accident, the chances of escape are multiplied. If they fail to comply, the policy of the law is not carried out; and when the accident occurs, the lives of our citizens are sacrificed. It is the same with reference to the officers charged with the conduct of these vessels, and upon whose care and skill depends the safety of the passengers on board. The penalties pronounced against their want of care are severe; but they, too, go unwhipped of justice.

It has been my fortune to have been several times present to witness the sad results following upon the explosion of boilers on steamboats. I have seen again and again the mutilated remains of those victims of negligence, the torn bodies of those whose forms were shattered and torn asunder by fragments put in motion by the explosive power of steam. It has been my fortune to have been on board one of our lake steamers when a catastrophe of that kind occurred, and I there saw the dead, scorched, and burned by that dreadful agent, heated steam. I saw there, too, numbers in the pangs of death from injuries and scalds, shocking to behold, and heard their shrieks in their last agonies.

In consequence of my having been present in the midst of such scenes, my attention has been much directed to this subject. Upon that occasion, though it was my conviction, though it was the conviction of every passenger upon the boat, that the catastrophe occurred through recklessness upon the part of the officers in charge of the vessel, and the most shameless recklessness on the part of the engineer in charge of the engine, not only were none of the penalties imposed by law inflicted, but there was no inquiry. Why? The vessel which was the scene of this disaster was encountered upon the broad lake, a wreck, by one of the steamers engaged in the same line. It was taken in tow, and carried, not to the port of destination or to the port of departure, but into one of the smaller ports along the lake shore. When it arrived there, the passengers departed as suited their convenience. No inquiry was instituted. It was the pecuniary interest of no one to engage in an investigation; no one had the power to enter upon the matter and compel a thorough investigation; and the consequence was, that

in that instance, the criminals went unwhipped of justice. It is the experience of every one who has had any acquaintance with these matters, that the law is not enforced; that in a large majority of instances investigations are not undertaken, and that when they are, they are ineffectual; because there is no individual, except the public officer, to conduct the investigation. There is the stimulus of interest upon the part of the owners of the boats; the stimulus of interest upon the part of the officers whose criminal negligence might have led to the catastrophe, to prevent an investigation; or, when undertaken, to prevent its being made effectual; while, on the other hand, there is nothing but official duty to encounter those efforts prompted by the most powerful motives that can operate on the human mind.

Now, Mr. Speaker, I am persuaded that no matter how proper may be the provisions of law adopted in relation to the building of steamboats; no matter how proper are the provisions of law in regard to the construction of machinery, and the adoption of safeguards to prevent accidents; in regard to the provision of means of escape, and to preserve life when these accidents do occur; no matter how violent and extreme the penalties that may be pronounced upon individuals for want of care and for inattention; they never will be enforced, and the safety of individuals will never be secured, until we travel out of the beaten track, and invoke some new principle; unless we introduce into our legislation some new feature. It is the object of the amendment which I have had the honor to submit, to invoke and put into action that new principle.

I will now proceed to display to the House, as briefly as possible, the features of this proposed change of policy. I have said that the laws are not now enforced because all the pecuniary interests are arrayed, either in preventing investigations, or, when they are undertaken, in defeating them; that they are not enforced because the burden of proof in relation to the misdeeds of those in charge of the engines, those in charge of the boats as pilots or as captains, is thrown upon the prosecution. They are not punished, because they always have the advantage of those principles of law which make it the duty of criminal courts, when there is room for doubt, to excuse the one accused of crime.

Now, the object of our legislation on this subject is not to punish crime. The object is simply to secure passengers on board of steamships, so far as human care can do it, from the effect of accidents fatal to life. In order that that may be effected, the national Legislature interferes for the purpose of saying what shall be the construction of vessels, what shall be the particular plan of the machinery, what shall be the safeguards against the explosion of boilers; and it also interferes for the purpose of saying to the engineers, the pilots, the masters of vessels, that they shall exercise every care that man is capable of exercising to insure the safety of those who are placed under their charge.

Now, sir, the bill which I present proposes to bring into play the pecuniary interests of men; to make those interests agents in enforcing the law; to array in support of the law the strongest motives which can operate upon the human mind. That is attempted to be accomplished by two classes of provisions. One provision, contained in the first section of that act, proposes to declare that no insurance shall be effected upon the hull of any steamboat carrying passengers, or upon the freight to be earned by that steamboat, unless the owner has complied with the requisitions of the law in relation to its construction, its machinery, and equipments. That is, it is intended to make it the interest of the owner to comply with the law; because, if he fails to do so, he necessarily incurs the loss of his property if it be destroyed by an accident; for the section goes on further, and provides that if a policy of insurance be taken out upon the body of the vessel, or upon the freight to be earned by it, in behalf of the owner, or for his benefit; that if it shall turn out that at the time of leaving port, when the voyage began, the law had not been complied with in relation to the construction of the boat, its machinery, and equipments, designed for the safety and preservation of passengers, then, in the event of accident, if the vessel be lost, and the fact is shown in a court of justice, any such policy of insurance shall be ab-

solutely null and void, and give no right of action to the owner or any one in his behalf, or for his benefit.

And, Mr. Speaker, the provisions of this section are right. They are founded upon this principle: that when the law commands that certain things shall be done in the public interest—that certain things shall be done for the security of the life of the citizen—if a man whose duty it is to obey that command fails to do so, the law will not extend to him its aid to enable him to repair the loss he may have incurred whilst violating the law. I conceive there is no man who will not admit that that is a sound and proper principle. And what will be its effect? It will have the effect of arraying the interests of the whole mass of underwriters in aid of the enforcement of the provisions of law, adopted for the purpose of securing human life, for the purpose of preventing those terrible catastrophes that again and again, and every day, afflict this community. Why, sir, since these very bills have been reported to the House, there have been many accidents of this character, some from collisions, three from fire, in which there has been a loss of nearly a hundred souls, and three or four from explosions of steamboat boilers. I conceive that it is eminently proper and right that human interests should be invoked and called into play for the purpose of protecting human life, and that it is not only the right of Congress, but that it is the duty of Congress, to make use of every means for the purpose of preventing the recurrence of these accidents—accidents that shock the public mind, and fill homes throughout the length and breadth of this land every week and every day with mourning.

But, sir, there are other provisions in this bill. This to which I have referred relates to the owners of the vessels. It visits them, if they disobey the law, with no personal penalty, no imprisonment; but it visits them with one single penalty; and that is, that the aid of the law is refused to them to enable them to repair their losses growing out of the destruction of the property with respect to which they had not obeyed the law.

There are other provisions that relate to the officers of boats. It is well known to this House that the various acts which have been passed upon this subject have regarded want of care, lack of attention, and misconduct on the part of the captains of vessels, of the pilots of vessels, and of the engineers of vessels of this description, as of so heinous a character, that in the event of there being an accident by which loss of life was occasioned, those individuals who have failed to make use of the proper care, who have been guilty of inattention or of misconduct, are pronounced by law to be guilty of the crime of manslaughter, and they are subjected to the punishment of manslaughter upon conviction.

Now, Mr. Speaker, it is not the object of human laws to inflict a penalty. Legislators do not act from a spirit of vindictiveness. They only inflict penalties for the purpose of preventing the crime. In this instance, the penalty is inflicted—or rather is pronounced, for practically it has never yet been inflicted; it is pronounced with a view to prevent inattention, negligence, or want of care; but all know that it has been pronounced in vain; that the law is not enforced; that its provisions are ineffectual; that there are scarcely ever any investigations into questions of this character; and that when there are, they are lamentably unsuccessful.

Now, sir, my situation has made me acquainted with an occurrence, within the last two or three months, which illustrates, in a degree as remarkable as it is possible to imagine, this fact. On the coast of Louisiana, upon the route between the port of New Orleans and the port of Galveston, in Texas, which is one of the great routes of travel, one on which steamers are running every day, carrying great numbers of passengers, an accident of the most frightful character occurred, in which there is no man living that will not say there was the grossest want of care, the grossest negligence, the most shameful misconduct on the part of the officers of the two boats. There were two boats, belonging to the same line, one the steamer Galveston, the other the steamer Opelousas; one was coming from the port of Galveston, bound to Berwick's bay, the terminus of the railroad connecting with New Orleans; the other had left Berwick's bay, and was bound for Galveston. On a starlight night, when it was as clear for the

purpose of navigation as at noon-day, those two boats, belonging to the same line, running in opposite directions, came in collision. One went down, and numbers of men, women, and children, sunk in a watery grave. Prosecutions were, for a wonder, instituted; and what was the result? Criminal after criminal—perhaps I am wrong in saying criminal after criminal—but accused after accused was arraigned and tried, and one after another all were acquitted.

Now, sir, under a state of law which leads to such results, when we find that penalties are not inflicted under provisions of law adopted with a view of securing a great public benefit, and carrying out a proper public policy; when it is obvious to all that the laws have been violated with impunity, that they have not secured the object aimed at, it is to my mind clear that it is necessary to take another step and attempt to find a remedy for the evil—a means of carrying out the policy—by introducing some new principle, some new feature, into the law.

Mr. Speaker, it is a principle in the commercial law, that when the common carrier receives on board his vessel, and grants his bill of lading for goods, wares, and merchandise, he is responsible for the delivery of that merchandise in the same condition in which it was delivered; and that, in the event of his failure so to deliver it, he is not to be excused from the responsibility he has assumed, unless this failure has been caused by the act of God or the public enemy; and the burden of proof is with him to show that he has used all possible care, and that he has exercised every possible diligence for the purpose of carrying what was intrusted to him in safety.

But, sir, that principle has not yet been invoked for the protection and safety of human life. This bill, however, proposes to invoke that principle which has been recognized for centuries, and been in operation with respect to goods, wares, and merchandise; it proposes to invoke it, and put it in action for the protection of human life. Now, sir, when men engage in carrying passengers, they contract as common carriers, just as when they engage in carrying goods. They contract and bind themselves to use every possible care—to leave no human means unused to carry safely the passengers whose lives are intrusted to their custody. If they fail now, they are not punished, because they are to be visited with a pecuniary penalty, or with imprisonment. They are to be tried by juries, and they come under the principle of criminal law which requires that if there be doubt, they are to have the benefit of that doubt. But, sir, that is in direct opposition to the principle of commercial law with respect to carrying goods. Under that, the person who has failed to carry the goods intrusted to his charge is obliged to purge himself from delinquency by positive proof; he must show that some overpowering force—the act of God or of the public enemy—has prevented him from carrying out his contract to the letter.

The other provisions of this bill are framed for the purpose of making that principle apply with respect to the persons engaged in carrying passengers, and who have an actual trust to discharge in regard to them. It proposes that when an engineer has been in charge of an engine upon a steamboat, and an explosion has occurred which results in the loss of human life; or when a pilot has had charge of a boat and a collision has occurred with another boat, resulting in the loss of human life, either upon the boat which he has in charge, or upon the boat with which his boat has come in collision; or if a master be in charge when a fire occurs which leads to the loss of human life—in any of these instances no owner of a steamboat, and no person engaged in carrying passengers, shall be permitted to employ that individual, until he has been tried for manslaughter and a jury has not only exculpated him from the criminal charge, but made a report in writing that he is free from censure—that he has not been guilty of negligence, inattention, or misconduct.

It goes no further than that. It proposes that instead of leaving the enforcement of the law in relation to the exercise of care, to the uncertain action of public tribunals, to make it the absolute interest of persons who are engaged in these walks of life to have an investigation, because their occupation is gone until there has been one. And then it proposes that they shall not be permitted

to go on and continue their occupation or business in life until a jury of their fellow-men shall have said that "in relation to this calamity, your skirts are clear; your hands are clean."

Now, Mr. Speaker, the other portions of this bill presented by me are designed merely to carry out that principle. They contain provisions for a report of these accidents. They contain provisions making it necessary that the names of all officers occupying these responsible positions shall be communicated to the proper custom-house officer before their departure on a voyage; and it provides for a communication to all the custom-houses of all this information as to the names of all those officers who sailed on board boats or vessels, and this information as to the persons who were in charge when the accidents occurred, making them matters of record in all the custom-houses, where they may be referred to by ship-owners, by steamboat owners, and by insurance offices.

Now, Mr. Speaker, I feel that I am suffering from the exertion I have made, and I shall therefore not continue my remarks. But I will say this: if it be the design of this House to make effectual provisions against the recurrence of these accidents; if it is their serious design to put an end to these terrible calamities; if they wish to put a termination to these perpetual occasions of public and private mourning, they must depart from the beaten track, and add to our laws these or some other provisions, based upon a principle which they recognize, and which it is their object to invoke. They must call into play human interest for the purpose of neutralizing the improper action of human interest. If they wish to give safety upon all the means of public travel, they must make it the interest of the engineer, the pilot, and the captain in charge, to put in action that care which they contract to employ for the safety of those persons whose lives are intrusted to their charge.

Mr. JOHN COCHRANE. The Committee on Commerce has devoted much time and attention to this bill—

Mr. TAYLOR, of Louisiana. If the gentleman from New York will allow me for a moment longer. My friend from Ohio [Mr. GROESBECK] asks what I propose to do to enforce that principle? I forgot to mention to the House, that one section of the bill, the third, provides that if the owner of any vessel should knowingly employ a person in violation of the prohibition in question, and the vessel on which he was employed was lost, that in that event any policy of insurance on the vessel should be absolutely null and void, and give no right of action. So that it would be made the interest of ship-owners to enforce this prohibition against the officers of vessels in charge, when accidents occurred occasioning loss of life, just as the other provisions of the bill make it the interest of the underwriters to enforce the various requirements of law against the owners.

Mr. JOHN COCHRANE. Mr. Speaker, the Committee on Commerce summoned before them proficient and experts in steamboating and skilled in the art of engineering, and who were familiar with the practices of navigation. To the utmost extent of their ability they have been careful to reconcile all interests with a steady eye to those of humanity as the paramount interests to be protected. Their wish has been to present such a bill as the country can rely upon in perfect safety, and such a bill as, by its provisions, will accommodate itself to the commerce of the country.

Although the bill may, in many of its features, impinge upon particular interests, yet, in its whole scope, we believe that we have presented as ripe and as efficient a result as probably can be presented to this House now, or at any other time.

The provisions of this bill resolve themselves into two great classes: the precautionary and the remedial—precautionary against the occurrence of accidents, and remedial against the results of these accidents when they have occurred. In respect to the first, there is very little difference from those of the old bill, except that the precautions are more stringent and rigorous, and that the means to be employed are those recommended by the experience accumulated since the passage of the last bill; and, indeed, it is mainly in reference to accidents which have occurred in the interim that the bill has been framed, which it is now asked may be put on its passage.

In the first place, then, Mr. Speaker, I may be allowed in a few moments to remark in respect to the precautionary provisions of the bill. At section twelve, it is provided that each steamer upon the waters of the United States, and upon the ocean running between ports of the United States and other ports, shall carry certain lights. I will be pardoned, I presume, if I read from the bill itself:

"All such vessels shall exhibit a bright white light, in a central position, in their after or main rigging; the said light to be carried at such a height as to be seen above all sails carried upon the vessel in the night, and when viewed from whatever direction. Such vessels shall also carry a bright white light on the bowsprit cap, or upon one of the head stays of the vessel, at a height not exceeding six feet from the bowsprit cap, and in all cases it must be so arranged as to show an unbroken light through an arc of the horizon of twenty-four points of the compass, viz: from right ahead to four points abaft the beam on each side of the vessel; and no sail shall be so set or managed as to screen or interfere with these signal lights to show as above described. It will also be the duty of all sail vessels, when steamers are meeting or nearing them, whether by night or day, to continue, if practicable, upon the course they may be steering until the steamer shall have passed them; and these provisions being complied with, the duty of avoiding collision will devolve upon the steamer. When any such sail vessel shall be brought to an anchor in the night season, the light to be carried in the after or main rigging, as above provided, shall be left standing as a warning signal to other vessels which may be approaching," &c.

If this shall become a law, there will be comparative safety upon our waters during the night; and we shall not, at least so frequently as heretofore, be afflicted with the wail of people descending to watery graves prepared by these accidents.

I will now allude to what, indeed, has been alluded to already by the gentleman from California, and to the fact that compartments in vessels are required to be constructed, and to the other fact in that connection, that if compartments had existed in the vessels which have been lately lost, we would not have been called upon to lament the heart-rending destruction of so many lives.

In section fifteen, there is to be found another important feature of this bill, which contemplates the provision of life boats and rafts. It is well for gentlemen to pay particular attention to this section, for upon it depends, I conceive, the very vitality of the bill itself, and on it rests its effective character.

Section fifteen provides:

"That all passenger steamers shall be provided with good and sufficient cables, anchors, hawsers, and other cordage; and all steamers embraced in the preceding section shall, in addition, be also furnished with all necessary carpenters' tools and materials, storm sails, spare spars, and lumber for the construction of rafts, in such number as may be certified to be necessary by the proper inspector, or inspectors; together with the life boats for the preservation of the lives of the maximum number of passengers to which the steamer is entitled; and, in addition to the buckets required by the law of the 30th day of August, 1852, they shall be provided with at least fifty buckets for steamers not exceeding the burden of one thousand tons, and ten additional buckets for each additional five hundred tons burden; said buckets to be constructed of wood or leather, and to be held in reserve in case of fire or leakage."

If this provision be embraced in any act which it is proposed to convert into law, there can be no question that passengers can, in comparative safety, trust themselves upon the great deep, and upon our inland waters, in steamers or steamboats.

In section sixteen I beg leave to direct the attention of the House to a provision which I do not think perfect, and to which perhaps I may offer an amendment:

"And be it further enacted, That no passenger steamer, embraced in the fourteenth section of this act, shall be permitted to carry more than one person, exclusive of officers and crew, to every seven tons of lawful tonnage measurement."

In this connection it is well that the House should be advised that while attending to the paramount interests of humanity it is necessary that we look also after those which tend towards the invigoration of commercial enterprise. If by attending exclusively to the one we shall prostrate and destroy the other, why, commerce itself languishes, and may be destroyed. If we pay such entire regard to the safety of life that commerce comes to be restricted and trammelled, every business communication of the country will be interrupted, and we will have arrived at that *reductio ad absurdum* in the pursuit of safety, that life, to be secure, must be guarded by close confinement. No one will question that the individual who is engaged is safer and freer from accident than he who is employed in ordinary pursuits, and so if we restrain commerce upon the seas by an over-careful

attention to life, we may destroy the business and trammel the energies of the country, though, in truth, adding little or nothing to the safety and preservation of our citizens.

Now, in this connection, an objection has been taken that the maximum of passengers allowed will be so reduced that the business of carrying passengers will be unfairly interrupted, if not quite destroyed. In this sense, therefore, I believe that this section is liable to criticism, and that, when passengers are restricted in number to one for every seven tons burden, our steam lines on the Pacific will be obliged to be discontinued, and our steam lines to the isthmus and across the Atlantic may hereafter, very possibly, be interrupted. I should say that it would be better that we should adopt the rule of one passenger to every four tons. There are gentlemen upon this floor who represent portions of the great commercial mart of the country, who disagree even to that number, and are of the opinion that a still more liberal standard should be adopted, so that one passenger to every three tons may be the legal measurement applied.

I leave this part of the bill, with these remarks, considering that while we attend to the interests and lives of passengers, we should not disregard those of commercial enterprise. In section fourteen we find another feature of the bill which I deem of great importance. The section is as follows:

"That on all passenger steamers navigating the ocean, on a route exceeding four hundred miles in total length, in addition to the pumps required by the act of the 30th day of August, 1852, each compartment shall be furnished and fitted with two ordinary lifting pumps, each to be of a capacity at least equal to six inches diameter and ten inches length of stroke, arranged in a proper manner for being worked by manual labor upon the main deck. The pumps in each compartment shall be inclosed in a pump well of sufficient dimensions to admit the passage of a man, for the purpose of cleaning and repairing them: And it is further provided, That all valves to openings in the bottom and sides of the vessel, below deep water-line, with their connections, shall be inclosed in such manner as to admit the passage of a person to examine them, and shall be so arranged that they may be opened and closed from a point at least six feet above the top of the floor ceiling."

This provision is inserted to guard against the accidents which frequently occur to engines, and which, when they occur, arrest the action of the pumps attached to them. It guards against that difficulty not only, but it provides the means of exhausting the water from the compartments, when either one of the pumps shall have become useless, through the remaining pump.

At section twenty, appears a feature in the bill which it will be well for gentlemen to consider. I deem it one of the most important, and one which should recommend the whole bill to the attention and favor of this House, if there were none other in it worthy of their regard. It is this:

"And be it further enacted, That every master, or commander of any steamer, embraced in the fourteenth section of this act, shall, within twelve hours after leaving port, cause suitable station bills to be prepared, embracing all passengers, officers, servants, and crew, such station bills to designate the place or station of each and every person on board, in case of fire and other disaster. And there shall be at least three copies of such station bills prepared and posted up in conspicuous places on board such steamer, for the information of passengers and others; and for every failure of the master to prepare and post up such station bills, he shall forfeit and pay the sum of \$500."

Now, under this provision, it must be apparent, that, in cases of the most appalling accident, the means of preservation are placed at hand and organized; for every passenger, and every man of the crew, and every officer, will have found, before the event, his proper station and position on board the ship. In such a case, a battalion of men are then furnished, ready armed with the necessary instruments of safety, and will ever be at hand to provide against disastrous consequences. In every such case discipline is required; and where discipline exists, panic is repelled. One great cause of the loss of life in the disasters which have occurred has been the panic, the blind fear of becoming victims to the disaster.

I would say a few words, Mr. Speaker, in reference to that which has been broached by the gentleman from Louisiana, [Mr. TAYLOR.] His bill was before the committee; it was considered and fully discussed. Indeed, it was admitted that the end the gentleman had in view would be more certainly accomplished by the means he proposed than perhaps by the means contained in the bill which has been submitted by the committee to the House; but, on the other hand, we supposed,

also, that while life might be more safe and secure from accidents through those provisions, yet it most certainly would occur that those interested in the carrying trade would be driven from their business by the adoption of so stringent a rule.

Perhaps the House may remember that it seemed, from the suggestion made by the gentleman, that in case of accident, from whatever cause, should it be proved afterwards to have happened in the absence of those precautionary measures recommended by him, the policy of insurance, covering either cargo or vessel, should be forfeited and become void. In view of such a consequence, I put it to the House how unjust, how improper would be the requisitions of a law that would devolve such a punishment, in such a form, in case of accident, which, by possibility, might not have been occasioned by an omission of the precautions required by the law? If the provisions of his bill had referred to an accident caused directly or remotely by any such omission, the defect possibly might have been cured; though even in that event I may ask the House to consider what a field of evidence, of examination, and uncertainty, would be thrown open to our courts of law. How many witnesses, think you, would be found necessary to the question whether the accident had occurred by reason of the omission to provide the means which the law required, or whether it was precipitated by some other and different cause? Gentlemen must see that there would be neither satisfaction nor certainty in the pursuit. There certainly would be no warrant of honesty in the result.

Again: should this provision be effected, should this burden be cast upon our marine insurance companies, I think it must be apparent to every gentleman that no company would give a warrant of insurance against the losses arising from such a disaster, for in every case litigation would ensue; in every instance those engaged would be reduced to a painful uncertainty, and in no instance would there be any security that the end of litigation would ever be reached.

I say, then, that it would be unwise in respect of the argument urged by the gentleman himself, to adopt the provision he has propounded to the House. And I certainly think it would be unwise to commit the safety of life upon the high seas to the custody of a law intended to disturb the principles of the common law, in the continuance of which I am prone to believe that we shall escape more serious disasters.

Thus I have run over the most important features of this bill. I do not deem it perfect, nor that it does not, in some of its parts, disturb special and individual interests; yet, in view of the great interests of humanity, in view of the safety of life upon the seas and upon our rivers and lakes, it is essential that some means be taken more rigorous and exact than any yet adopted for the preservation of human life, and for arresting that panic which even now prevails in the public mind regarding the dangers of the deep.

It is, therefore, I conceive, quite time that the House should proceed to action upon the subject contained within the sections of this bill. It is time, not only in respect to our obligations as legislators, but it is time in respect to the expectations of those who stand without, of the multitudes of those whose kindred or acquaintances have been, or who may be, subjected to the accidents against which they beseech us to guard; and I ask, therefore, that with all proper deliberation, to be sure, and with every opportunity given for gentlemen to express themselves upon the various provisions of this bill, we come to a speedy and final vote.

In accordance with my understanding with, and my promise to, the gentleman from Illinois, I move the previous question.

Mr. CLARK, of New York. Will my colleague allow me?

Mr. LETCHER. I hope the previous question will not be sustained, until somebody has been heard upon the other side.

Mr. CLARK, of New York. Do I understand my colleague to demand the previous question upon this bill?

Mr. JOHN COCHRANE. I do not desire to press it.

The SPEAKER. Does the Chair understand the demand for the previous question to be withdrawn?

Mr. JOHN COCHRANE. Yes, sir, I withdraw it.

Mr. CLARK, of New York. Mr. Speaker, I desire to move to refer this bill to the Committee of the Whole on the state of the Union, and to make a very few observations in favor of that motion. My attention has been called to this bill within the past hour, and I must be at liberty to express my surprise that, on going about the House, I have been unable to find a single gentleman, outside of the Committee on Commerce, who has given the slightest attention to its numerous details. I must be permitted to express my surprise that legislation of this important character should be hurried through the House without that attention which I am satisfied it ought to receive from every gentleman upon this floor.

Mr. WASHBURN, of Illinois. Will the gentleman from New York permit me to interrupt him?

Mr. CLARK, of New York. Certainly.

Mr. WASHBURN, of Illinois. I do not think there has been any great degree of hurry in this matter. I do not think there has been any snap-judgment taken. The original bill was introduced some six weeks ago or longer. All these bills have been printed, and have been for several days in the boxes of members, and in the document-room, and every gentleman has had an opportunity to examine them who was disposed to do so.

Mr. CLARK, of New York. But lest there may be a snap-judgment taken upon a matter involving vast and material interests in every portion of the country, I desire to make a few observations, addressed to the serious consideration of the House.

I desire first, however, to answer the suggestion made by the gentleman from Illinois, that this measure has not been sprung upon the House. This bill which I hold in my hand appears to have been reported on the 2d of February, 1858; and I am informed that the bill which it is now proposed to put upon its passage is a combination of two or three bills prepared by different gentlemen, each having different objects in view, each desirous to carry some particular measure, and no one of them, I apprehend—and I say it with the greatest respect—having paid that attention to the details of the bill which ought to be given to them before we make the innovations upon the commerce of the country which I know, from my personal knowledge, this bill contemplates.

I have not had an opportunity to read the bill, which contains twenty-seven pages; but I can call the attention of the House to two or three of its leading features, which will, I think, satisfy every gentleman that it ought either be recommitted to the committee who reported it, or be sent to the Committee of the Whole on the state of the Union.

The first section of the bill proposes to extend the provisions of the law of 1852—a law which, in its working, has been found impracticable, and which all men engaged in trade have for years admitted to be full of errors; it proposes to apply that law to every ferry-boat crossing any of the rivers of the continent. Now, I ask gentlemen of this House if they have given that attention to the provisions of this bill, in its application to the ferries across any of our navigable streams, which they ought to give it before it be put upon its final passage? There are very serious doubts whether that provision of the bill is constitutional; and, for one, I do protest against hurried legislation upon a matter involving such vast interests as I know this bill involves.

Let me call the attention of the House, Mr. Speaker, to the sixteenth section of the bill. That section provides that no passenger steamer shall be permitted to carry more than one person (exclusive of officers and crew) to every seven tons of lawful tonnage measurement. That is a very simple provision; but it is my judgment—and I speak as a man knowing something upon the subject—that it would confiscate \$10,000,000 of property belonging to the city of New York. And that is proposed to be done with hardly an hour's consideration! I assert that, if this bill be recommended, I will prove by witnesses, that in the present state of the trade that provision would lay up at the wharves every steamer now engaged in the commerce of the ocean. One passenger to every seven tons! Why, sir, at the present rates of

transportation in the California and European trade; that would not furnish money enough to pay for coal. Now, I ask my friends on the Committee on Commerce—I ask the honorable chairman of that committee—whether he is prepared, without further consideration, to strike this serious blow at the commerce of New York?

Mr. JOHN COCHRANE. I answer that I am not prepared; and I supposed that I had sufficiently expressed myself on that point in the remark that I submitted, when I declared that it was my intention to move an amendment, so as to make it one person to every four tons, instead of one to every seven.

Mr. CLARK, of New York. That would hardly remove the difficulty.

Mr. LETCHER. Unless the chairman of the Committee on Commerce was for taking the bill precisely as it is without amendment, how came he to move the previous question?

Mr. CLARK, of New York. I understood my colleague to move the previous question, and to withdraw it as a matter of courtesy to me. But, Mr. Speaker, knowing that gentleman as I do, knowing that he knows something of the interests to be affected by this bill, I think I can safely ask him to pause for another day, and then if I cannot demonstrate that the bill ought never to pass, I shall have nothing further to say.

Mr. JOHN COCHRANE. May I be permitted to say in reply to the gentleman from Virginia, [Mr. LETCHER,] that the motion I made for the previous question was in compliance with a promise previously given to the gentleman from Illinois, [Mr. WASHBURN,] and with the intention, after having complied with the promise verbally, to withdraw it, as I did.

Mr. LETCHER. I am glad to hear the explanation of the gentleman from New York, but I think it places the gentleman from Illinois in rather an awkward position in trying to force this bill through when four speeches had been made in its favor and none against it.

Mr. CLARK, of New York. I would like to ask my colleague if he is not aware that the steamboat law of 1852 has been found utterly impracticable, and that for several years there has not been any attempt to enforce some of its provisions?

Mr. JOHN COCHRANE. I will answer my colleague's question in the affirmative, with this additional explanation, that the provisions of this bill were designed to supply the defects in that law.

Mr. CLARK, of New York. And without any amendment of that law, it is applied body and soul, by the first section of this bill, to every steamer and ferry-boat in the American Union!

A MEMBER. And to every raft.

Mr. JOHN COCHRANE. Sir, I must protest against the gentleman's conclusion, in charging upon the committee an attempt to apply an imperfect bill to a greater number of vessels than the original imperfect bill was applied to. It was the intention of the committee to supply the imperfections of the originally imperfect bill by making a strong bill in the present instance before extending it to other vessels.

Mr. CLARK, of New York. I intended to imply no bad faith. I know that all the gentlemen composing the committee are incapable of it. But I submit it to the sober judgment of this House whether a bill which proposes to extend the power of Congress over the commerce of the country further than it has hitherto ever been extended; a bill which proposes to make these important innovations upon the business of thousands of men in the country; a bill which proposes to create, if I understand it, thirty or forty new offices; a bill which I assert confiscates millions of property—I ask if such a bill is to be put through this House under the previous question, when it was only reported on the 2d of February, 1858? Why, sir, it took me fifteen minutes to get possession of a copy of the bill when, about an hour ago, I sent one of the boys for it. I ask if this is not just one of those cases in which the interests of the country require that the bill should be referred to the Committee of the Whole on the state of the Union?

But it may be said, Mr. Speaker, that that course would defeat the bill. Well, sir, it is better to defeat the bill than to pass it without examination. But that is not the necessary result of the reference which I propose; because, if the bill is a proper one, if it will bear the investigation of gentlemen upon this floor, if it will bear the investi-

gation of gentlemen in New York and other places interested in the commerce of the Union, and who will be here whenever they apprehend that it is proposed to pass any such bill as this, a majority of this House can call it up from the Committee of the Whole on the state of the Union, and the bill can then be put upon its passage.

But, Mr. Speaker, I desire for a moment to refer to one or two of the remaining provisions of the bill for the purpose of establishing the proposition for which I contend; namely, that however much this bill may have received the attention of the Committee on Commerce, it has not received the attention of the remaining members of this House, each of whom is certainly as much interested in examining the provisions of the bill, if not as competent to judge of it, as are the members of the committee.

The seventeenth section of this bill, to which gentlemen will for an instant refer, regulates the number of persons which passenger steamers shall carry; and it regulates that number, not according to the number of passengers carried, but according to the tonnage of the ships. The bill provides that every steamer of two thousand tons and upwards shall carry a certain number of boats, no matter whether she has on board thirty or five hundred passengers. I submit that it is most unreasonable, and that the regulation as to the number of boats should be a regulation, not in accordance with the tonnage of the ship, but in accordance with the number of passengers to be saved from danger in case of storm, or from accident. There is a very mistaken notion afloat in respect to this subject of boats to be carried upon a steam-ship. Boats were never designed to be a substitute for a sinking vessel, but they are designed to carry the passengers from a sinking vessel, or a burning vessel, to a place of safety. Now, how should their number be regulated? Why, in accordance with the number of passengers. The seventeenth section of this bill, when applied to such steam-ships as are now employed in the California trade and the European trade, will cause the deck to be so lumbered up with boats that the passengers can hardly move about.

Mr. SCOTT. I wish to call the gentleman's attention to the section now under consideration; and if I state it incorrectly, I desire to be corrected. The gentleman is aware that nearly every steamer which leaves New York for Aspinwall carries from five to six hundred passengers, and we find that each one of these steamers is provided with but six life-boats. We find that in the case of the Central America, with six hundred passengers, there were but six boats, capable of holding, in all, one hundred and twenty-five persons. Now, sir, the provision to which the gentleman from New York refers has been very carefully calculated and very thoroughly estimated. It compels each steamer to carry on board a sufficient number of boats to take off her passengers, and that the seat of each passenger shall be numbered in the boat the same as it would be at the dinner table in the cabin. Then how can you get at the number of boats required? You can only get at it by the number of tons. You can only say that a vessel—such, for instance, as the *Star* of the West—of two thousand tons, sailing from New York, shall only carry three hundred passengers, and shall have boats enough to take away these passengers. That is the proposition we make. We say that such a vessel as the *Sonora*, running from New Orleans to Aspinwall, of three thousand tons and upwards, shall only carry four hundred and fifty passengers, and shall have twelve boats, sufficient to save their lives in case of fire or shipwreck.

Now, sir, I tell the gentleman that whether this bill strikes down \$10,000,000 of the property of the people of the city of New York or not, the lives of four hundred Californians are dearer to me than all the property it may affect.

Mr. CLARK, of New York. I agree with the gentleman, that the number of boats on board should be capable of saving the lives of the passengers; and it is for that reason I ask that the number of boats shall be regulated, not according to the tonnage of the ship, but according to the number of passengers. Take, for instance, our European trade, in which vessels are employed of five thousand tons burden. Now, this law would require such a steamer to carry twenty-four boats, twenty-four feet long, and seven feet wide, whether

she carried five hundred passengers or thirty. In the winter passages, when the number of passengers is sometimes reduced to thirty or forty, is it just that she should be compelled to lumber up her decks, and carry the same number of boats which she ought to carry in the summer season, when five hundred or six hundred passengers are found on board of her? It seems to me there can be no doubt that in that particular, at least, this bill has not been duly considered. But, sir, I did not rise to address the House on its merits, for I have never fully read it. I desire an opportunity of considering it, and I will be satisfied either by its recommitment to the Committee on Commerce, or by its being sent to the Committee of the Whole on the state of the Union.

But, sir, I must answer one suggestion made by the honorable gentleman from California, [Mr. SCOTT.] He has referred to the loss of the Central America, and he has referred to the fact that these California steamers sometimes carry five or six hundred passengers at the present time. Now, sir, is this legislation to meet a present emergency, or is it for all time? Is this a bill to be passed by this House in this hasty manner, because there was a shipwreck in September last? Or is it a bill that is to become ingrafted as part of the permanent settled policy of the country in connection with navigation interests? Is this a bill to meet a particular emergency at this moment? If so, it may be well enough; and if I could be assured it would operate for only a few weeks or months, there need be no serious opposition to it. But, sir, without further comment, satisfied as I am that this bill has not received that consideration which its importance demands, and that the parties in interest in New York and other cities have not had an opportunity of coming here and being heard, I ask in all sincerity that it shall be referred, either back to the Committee on Commerce, or be referred to the Committee of the Whole on the state of the Union, that I, at least, may have an opportunity of scrutinizing every provision; for I think it is a bill which ought not to pass the House. I move that it be referred to the Committee of the Whole on the state of the Union.

Mr. LETCHER. Mr. Speaker, I regret that I am suffering from a cold, so that I will be unable to go into the merits of this bill as fully as I would like. I regard it as the most palpable violation of the Constitution, and of the rights of the States, that has ever been introduced into this House in the shape of a bill. I should desire to be heard on it for at least the time of one hour. What do they propose to do here? They propose to go into the States, upon the canals and navigable rivers, and wherever else steamboats, flatboats, barges, or any craft whatever is found, and there to place them under the control of inspectors, to be appointed by the Federal Government, who are to examine this craft and to prescribe the rules by which they shall sail, or steam, or be dragged, from one point to another. I ask where, before, in the history of this country, was such a power claimed for the Federal Government, to interfere with the rights of the States? I would ask gentlemen why they do not go a little further, and when they undertake to protect the lives of passengers on board of vessels, or water craft propelled by steam, or in any other way, they do not also undertake to regulate the number of passengers that should be carried in stage coaches or upon railroads?

Mr. EUSTIS. If the gentleman will permit me, I will call attention to section thirty-eight.

Mr. LETCHER. I will come to that directly.

Mr. EUSTIS. It may save the gentleman some trouble.

Mr. LETCHER. I have had my attention called to that part of the bill, and I assure the gentleman he shall hear from me on it before I am through. I ask, if you can go upon a canal or upon any navigable stream, and there, within the limits of the State of Virginia or Louisiana, regulate the number of passengers which shall be carried on a steamboat, or if you can direct that steamboats shall be inspected in a particular way, that the plank shall be taken out in a given number of years after the construction of the boat, why you cannot protect the lives of passengers in stage coaches and upon railroads, and in road wagons too? The case is stronger concerning passengers upon railroads and in stage

coaches than this one, because the railroad and stage coach companies are the mail carriers, and directly connected with the Government by virtue of contracts; but, so far as these canal boats and barges are concerned, there is no connection between them and the Government in any way. Private individuals have invested their capital in them, and under the belief that they have invested it in a way that would be likely to give them what they consider an adequate return. Has the General Government the right to interfere here?

Let us look at this. Does it stop here? No, sir. They undertake to prescribe what shall be carried, and how it shall be carried. It is prescribed that gunpowder and the oil of turpentine, and oil of vitriol, and things of that sort, shall only be carried in a certain way pointed out by this act. What right have they to go upon the Potomac and undertake to control in this way the private business of individuals engaged in freighting? I do not state it in stronger language than it is. Here is the section:

"Sec. 7. And be it further enacted, That every person who shall knowingly offer, or deliver for shipment, or who shall attempt to put on board, to carry or to be carried on any such steamboat carrying passengers, any gunpowder, oil of vitriol, oil or spirits of turpentine, or other like dangerous articles, contrary to the provisions of the eighth section of the law of August 30, 1852, or the fifth section of this act, shall, for every such offense, be deemed guilty of misdemeanor, and shall be subject to the penalties prescribed respectively in such sections."

I should like just here to put it to my friends from the South who are for this bill, whether, when they undertake to regulate these particular articles of freight, they cannot also undertake to provide that the species of property peculiar to the South shall not be carried upon these vessels at all? If they have power to regulate one, they have power to regulate and control the other, or indeed any species of property which may be transported. Any person who shall deliver such for shipment is to be taken and made an example of; if the owner of the vessel carries it. Then comes the eighth section:

"Sec. 8. And be it further enacted, That hereafter, whenever barges, or other craft, shall be propelled or towed by a passenger steamer, gunpowder shall not be conveyed on board such barges, or other craft, except with the same precautions, and under the same restrictions, and subject to the same penalties, as prescribed for such passenger steamer by the steamboat law of the 30th of August, 1852, and by this act."

It is not alone to steam vessels that it applies, but to barges, those wood yaws which are brought up to this city of Washington, and to every other vessel of that sort traversing the waters of the Potomac, if drawn or towed by a steamer of any sort.

Is not this a most direct interference? I have always thought that it was the policy and the duty of the Government to let the private citizen alone with his trade, to let him conduct it to suit himself; if he chose to invest his capital, and to risk that capital in the prosecution of any business, to let him judge as to the risk, to let him judge as to the compensation which he would receive by virtue of the contract with the party who should desire to intrust goods to his charge for transportation. Here again:

"That, for the better security of life and property, it shall be the duty of the master and owner of all said vessels of every description above the burden of twenty tons, whether on navigable waters within the United States, or on the high seas, or on the Canadian waters of the northern or north-western lakes and rivers, to comply with the following regulations in respect to carrying lights in the night season, viz: All such vessels shall exhibit a bright white light, in a central position, in their after or main rigging; the said light to be carried at such a height as to be seen above all sails carried upon the vessel in the night, and when viewed from whatever direction. Such vessels shall also carry a bright white light on the bowsprit cap, or upon one of the head stays of the vessel, at a height not exceeding six feet from the bowsprit cap, and in all cases it must be so arranged as to show an unbroken light through an arc of the horizon of twenty-four points of the compass, viz: from right ahead to four points abaft the beam on each side of the vessel; and no sail shall be so set or managed as to screen or interfere with these signal lights to show as above described."

In the same section it is provided that—

"It shall be the duty of the owner or master of every flatboat, keel-boat, canal-boat, barge, raft, or other river craft, exceeding the burden of twenty tons, in respect to which no different provision is made by law, when underway or being towed, or moved or at anchor during the night season, on any navigable stream, river, or waters within the United States, to exhibit a bright white light in such manner as to show the position of such flatboat, keel boat, canal boat, barge, raft, or other river craft, exceeding the burden of twenty tons; and it shall be the duty of the owner or master of every such sailing vessel, flatboat, keel-boat, canal-boat, barge, raft, or other river craft, exceeding the burden of

twenty tons, when underway, or at anchor, or moored in the channel of any navigable waters of the United States, during a fog, snow-storm, or thick weather, when an approaching vessel or steamer cannot be seen at the distance of three hundred yards, to cause to be sounded, at intervals of not exceeding two minutes, a suitable bell or horn, as a warning to approaching vessels and steamers; and it shall be the duty of the master or owner of all steamers, when underway, upon any navigable waters of the United States, during such fog, snow-storm, or thick weather, to sound a proper steam whistle as a warning to other vessels, steamers, and craft; and when at anchor or moored in the channel of any navigable waters as aforesaid, to sound a suitable bell, at intervals of not exceeding two minutes, as such warning; and if any such owner or master shall neglect to comply with any of the regulations contained in this section, he or they shall forfeit and pay for every such offense a penalty of fifty dollars."

Is not this liable to the same objection? What do you want with a light like that described, upon a flat-boat, or upon a canal-boat, transporting flour, or something of that sort? And yet, all these things are to be, under this section, and these parties are to be subjected to inspection fees unless they have these arrangements all made.

If they do not do that, what then?

"And if, by reason of such negligence, loss or damage shall occur, he or they shall be liable to the injured party for all such loss or damage, and either penalty or damages, or both, may be recovered by action of debt in any court of competent jurisdiction."

I would like to know whether that power is not resident with the States now; whether, when a party carelessly does an injury to his neighbor's property, he is not subject to the jurisdiction of the State courts, and liable for that aggression? Here they propose to come in and take this right from the State and vest it in the Federal Government. Let us see how it will work?

Here, in Eastern Virginia, two courts are held; one at the city of Richmond and the one at Norfolk. The James river canal begins at the city of Richmond and runs to Buchanan, in the district of my friend over the way. What do you propose to do? You propose to send the parties along the line of this canal in search of their rights—either to Richmond or Norfolk, notwithstanding, under the State laws, they could get them at Wytheville, at Charlestown, at Staunton, at Wheeling, and at Clarksburg, as they should select. Is there, then, any necessity for such a provision as this? Does it do any good? Are not the rights of parties protected now in regard to any improper conduct or negligence on the part of other persons?

Mr. CLARK, of New York. Has the gentleman calculated the number of new offices this bill will establish?

Mr. LETCHER. I will come to that after a little.

Here is the thirty-eighth section, to which the gentleman from Louisiana calls my attention:

"Sec. 38. And be it further enacted, That this act shall not be construed to apply to any craft employed exclusively in the internal commerce or trade of any single State, except when the same is employed upon waters which are navigable from the ocean by vessels registered or enrolled and licensed by the United States, or upon a lake or river whose waters are navigable by vessels registered or enrolled and licensed as aforesaid, and form the boundary or wash the shores of two or more States or Territories, or of one or more States or Territories, and a foreign country."

If that be so, will anybody tell me what they mean by applying it, as is intended in section twelve, to "the navigable waters within the United States, or on the high seas, or on the Canadian waters?" &c.

Why, sir, the two sections are incongruous, and you can never construe them together so as to make them harmonize. They must be in conflict—direct and palpable conflict—from the very language of the twelfth section of the act, and the language of the thirty-eighth section.

Mr. MILLSON. Will my colleague allow me a moment?

Mr. LETCHER. Let me first just make this remark: To any ferry-boat passing across the river from the State of Ohio to the State of Kentucky, this very clause of the law would apply as provided here, even according to the statement of my friend from Louisiana.

Mr. MILLSON. I certainly concur in the criticism of my colleague upon that portion of the bill which he thinks violates the Constitution. But I think he has not given due effect to the thirty-eighth section, if amended, as I believe it will be amended, by the consent of the gentleman who reported the bill.

Mr. LETCHER. How could I know that,

when the gentleman was going to move the previous question?

Mr. MILLSON. I suggested to him, before the discussion commenced, the propriety of making that amendment, which I think will remove and ought to remove the objection of my colleague as urged just now.

It is unquestionably true that it is a matter of serious doubt how far Congress, which has power to regulate commerce between the United States and foreign nations, and between the several States, and with the Indian tribes, can regulate the internal commerce of a single State; and it was that very suggestion which led me to suggest to the gentleman from Illinois the propriety of amending the thirty-eighth section so as to strike out the words "upon waters which are navigable from the ocean by vessels registered or enrolled and licensed by the United States." If they are stricken out, then the operation of this law will not apply to vessels engaged exclusively in the internal commerce of any single State except when employed upon a lake or river whose waters are navigable by vessels registered, or enrolled and licensed, and which form the boundaries or wash the shores of two or more States or Territories. I consider it competent for Congress to apply the provisions of this law in all such cases. And I suggest to my colleague that the law already applies to vessels engaged in the navigation of the waters of a single State.

Mr. LETCHER. But that does not hit me, for I voted against the law.

Mr. MILLSON. I entirely concur with my colleague in a disinclination to extend this law further than it has already been extended; but I submit to him, if the amendment is made which I have suggested, it will remove his ground of objection.

I also say that it is a matter of very great importance that the provision which he has just now quoted in regard to sailing vessels should be retained in the bill; for it is known to me that it is a matter of daily and nightly occurrence that collisions occur in the Chesapeake bay in consequence of a want of lights in the night.

Mr. LETCHER. I would ask my colleague whether, with his construction, this law, with the amendment he proposes, would not apply to a ferry boat plying from Cincinnati across the Ohio river?

Mr. MILLSON. I think it ought to.

Mr. WASHBURNE, of Illinois. I would say that I propose to make the amendment suggested by the gentleman from Virginia; and I make this further remark, that this section was drawn up by my friend from Virginia [Mr. MILLSON] in conjunction with the gentleman from the Buffalo district, New York, [Mr. HAVEN] last winter, and for the very purpose of curing that objection.

Mr. LETCHER. I would suggest a much better way of curing the objection—strike out the first thirteen sections.

Mr. WASHBURNE, of Illinois. We will try that.

Mr. LETCHER. I think that amendment would be a good deal more satisfactory.

Now I suggest that this, instead of being "A bill to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam," should be "A bill to provide bread for hungry office-seekers who are not provided for here." Here is the twenty-third section:

"And be it further enacted, That, in addition to the nine supervising inspectors, the appointment of which is authorized by the eighteenth section of the act of 30th August, 1852, one other, of like qualifications, shall be appointed by the President, by and with the advice and consent of the Senate, for the Pacific coast of the United States: *Provided*, That this additional supervising inspector shall not be under obligation to attend the meetings of the board oftener than once in three years, but shall, in the intervals thereof, communicate with the said board in writing; and in all his official acts and proceedings shall be governed by such rules and regulations as may be from time to time established by said board; and a certified copy of such rules and regulations, and all their proceedings, shall be forwarded to him by the secretary of the said board."

I had supposed that the object of constituting this board at all, was for the purpose of consultation; that the members who constituted the board might come together, bring their common stock of information, and lay it before the body, in order that they might come to a conclusion what means of protection, further than those provided for by the law, were necessary to preserve the lives of individuals upon these steamers.

The section proceeds:

"The compensation of such supervising inspector for the Pacific coast shall be \$3,000 per annum, with traveling and other expenses as heretofore allowed; and for all other supervising inspectors \$2,000 per annum, with traveling and other expenses as heretofore allowed."

That is a pretty good start.

And there is another provision of this bill, which says:

"That in case of one of the members of any local board becoming incapacitated for the performance of his duties by sickness or other cause during the absence of the supervising inspector from the port where such board is located, also in case a vacancy in a local board shall occur in consequence of death, resignation, or removal, the remaining inspector may call in proper and competent aid to assist in making inspections; and certificates of such inspections, made out by the remaining member of the board, shall be valid, and of full force and effect, and shall warrant the collector, or other chief officer of customs, in issuing enrollments and licenses, provided the reason of the omission of one inspector's signature upon the certificate be indorsed upon the same, with the name of the party who aided in such inspections; and licenses issued to pilots and engineers under the same circumstances and conditions, and having the signature of but one of the inspectors, shall be considered a valid license, and of full force and effect."

The twenty-fourth section provides:

"That, in addition to the local inspectors for the collection districts named in the ninth section of the act of the 30th day of August, 1852, there shall be a board of local inspectors for the district of Galena, at Galena, in the State of Illinois; also, a board of local inspectors for the district of Oregon city, in the Territory of Oregon; also, a board of local inspectors for the district of Paducah, in the State of Kentucky; also, a board of local inspectors for the district of Appalachicola, in the State of Florida; such inspectors shall be appointed in the same manner, and shall have such character and like qualifications and powers, and shall discharge the same duties as are required of the local inspectors now holding appointments under that act."

All to be salaried officers, and the salaries all fixed in this bill, as you will find on reference to the twenty-seventh section. The salaries there specified on the 20th and 21st pages of the bill, for one officer for each district, amount to \$20,700, to say nothing about the assistant inspectors and those other officers provided for in the preceding part of this bill. Now, I would like to know from my friend from Illinois how much this thing is to cost when it is worked out?

Mr. WASHBURNE, of Illinois. In answer to the gentleman from Virginia I will say that the additional fees received by the local inspectors from boats brought under the provisions of this law, will far more than pay all the salaries; so that, instead of being an expense to the Government, it will not cost one dime.

Mr. LETCHER. Then why not provide to pay by fees, instead of a salary? Why make them all salaried officers here, charged upon the Treasury, no matter what the fees may be? And why provide that all the costs which may accrue in controversies which may spring out of this bill shall be paid out of the Treasury? Now, sir, if the gentleman believes that that will be the result, let us amend his bill in that way. Give them fees; give them their traveling and other expenses, and fix the *maximum*, if you choose, beyond which the fees shall not go. That will make the bill more acceptable to me than it is at present.

But, Mr. Speaker, I have another objection to the bill. The patronage of this Government, God knows, is large enough now. The whole tendency of public sentiment, the direction of the public eye, is to this Federal Government for the means of support. It is becoming a consolidated Government as fast as it can, and year after year we are breaking down the rights of the States, one after another, until those which are left are insufficient to protect the rights of the States against the grasping power of this Government.

But again, sir, my friends who have argued this question upon the other side have undertaken to present us with a very frightful picture of the sad disasters that have occurred to the Central America and other vessels, where lives have been lost, and we have been appealed to by every appeal which could be addressed to our sympathies to come up and aid in the passage of this bill—to aid in its passage at once, without sending it to the Committee of the Whole on the state of the Union, where it could be taken up section by section, where these sections could be amended, and the bill reduced to a shape that would give it something like perfection, or, at any rate, make it more acceptable to us than it now is. Now, I hope that it will go to the Committee of the Whole, and that we shall have a chance to consider it there. But here we are met by the gentleman from Illinois

[Mr. WASHBURN] with the declaration that if it goes to the Committee of the Whole, it will lie buried there, and you never will consider it. Why do you send your appropriation bills to the Committee of the Whole? Are they not just as important as this bill in regard to the shipping interest? They go to that committee; they are considered; they are passed. Why is it that this bill alone is to be made an exception, and hurried through within four days after it has been printed, and the House called upon to come up and register it as the exact bill, in all respects, which ought to be passed by this body?

Now, we have had hasty legislation enough, and I concur with the gentleman from New York, [Mr. CLARK,] that it is far better that we should have no legislation at all than to have it done without our understanding the provisions of the measure which we are called upon to vote for or against. I hope, therefore, that the House will give this matter consideration in Committee of the Whole. The remarks of the gentleman from New York in respect to the amount of property which will be confiscated in the city of New York alone, under the operation of this bill, ought to arrest the attention of the House, and induce members to give the bill that direction which the gentleman from New York seeks to give it.

Mr. FLORENCE. Mr. Speaker, I do not desire, at this late hour of the day, to occupy the attention of the House for more than a very few minutes; but it strikes me, in reading over the bill, that the ninth section contains in it a fatal objection to the passage of the bill. I agree with those gentlemen who have examined the different sections of the bill, that, if these objections exist, fatal as they are to its practical success or to its successful operation, it ought to be more maturely considered than it has yet been. I will read the ninth section to which I refer, so that the House may understand my objection to it. It is as follows:

"Sec. 9. *And be it further enacted*, That instead of the existing provisions of law relating to the use of fusible alloys upon high pressure boilers, there may be substituted fusible plugs, or rivets, of pure tin, of such dimensions, and inserted in such position, as shall be prescribed by the inspectors."

Now, I desire the gentlemen of the Committee on Commerce to inform me, and to inform the House, why they desire a repeal of the present law in relation to fusible alloys. By an examination of Bache's Chemistry, hastily made, I find that tin fuses at four hundred and forty-two degrees of Fahrenheit. To attain that degree of heat, the pressure upon the boiler would be three hundred and seventy-five pounds to the square inch, and if any gentleman can pretend to tell me that a boiler will sustain that pressure without collapsing or without exploding, it is a matter of surprise and wonder. I find, in the same work, the examination of the principles of heat by a commission appointed by the Parisian Academy of Science, in which the celebrated Arago took a leading part, and I deduce from that that this pressure of heat upon the boiler must be three hundred and seventy-five pounds to the square inch before these tin plugs or rivets will fuse. I am told, upon inquiry of some of the members of the Committee on Commerce, that this matter has undergone investigation, and that the result of the examination justifies this conclusion of theirs. Now, I ask the chairman of the Committee on Commerce if he will be so good as to tell me which of the inspectors recommended these tin plugs instead of fusible alloys?

Mr. WASHBURN, of Illinois. I will give the gentleman some information upon that subject, if he will yield the floor for a moment.

Mr. FLORENCE. Certainly I will. I want the information.

Mr. WASHBURN, of Illinois. I am thankful to the gentleman for affording me an opportunity of exposing to the House this matter relative to these fusible alloys. When the steamboat bill of 1852 was before Congress, a private interest appeared—as it appears now, to defeat this provision—and that private interest was enabled to incorporate a provision into the law of 1852, compelling the use of these fusible alloys.

Every member of the Committee on Commerce who was consulted, was opposed to the principle of incorporating any man's patent right into the law, and compelling the use of any particular invention, to the exclusion of all others, and

although this fusible alloy has, in the opinion of experienced men, proved an entire failure, yet the supervising inspectors were bound by the law to continue its use. We provide in this bill, not that it shall be entirely stricken out of the law, but we provide that if anything better can be discovered, it may be used. We do not deem it proper that Congress should tie up these matters, and prevent the inventive genius of the country from being felt in them.

Mr. FLORENCE. I do not understand the gentleman from Illinois, when he refers to private interests, nor do I know to what private interest he refers. But I want him to tell me who were the supervising inspectors who recommended the substitution of tin plugs for fusible alloy?

Mr. WASHBURN, of Illinois. I will answer the gentleman that I have seen nearly all the supervisors, and they have, without an exception, recommended the provision which we have reported; and I wish also to say further, in reference to these supervisors, that from my knowledge of them, and my intercourse with them, I know of no body of men more intelligent or better qualified to hold the positions they occupy.

Mr. FLORENCE. Who are they?

Mr. WASHBURN, of Illinois. If the gentleman will look into this report he will find their names. I will refer the gentleman to Captain Shallcross, of Kentucky; and, sir, I need not tell any gentleman from Kentucky who Captain Shallcross is. He is a man who has run a boat for thirty-five years, and never cost an insurance company one dollar, or lost a life. I give you the name of Mr. Burnett, of Boston; and the gentleman will find the names of all the supervisors and inspectors, if he will refer to this report.

Mr. FLORENCE. Have they all been consulted in reference to this fusible alloy?

Mr. WASHBURN, of Illinois. I have seen nearly all of them.

Mr. FLORENCE. Well, sir, did not they prepare this bill and submit it to the Committee on Commerce?

Mr. WASHBURN, of Illinois. They did not.

Mr. CLARK, of New York. I want to call the attention of the gentleman to the fact that the second section of this bill contains a provision which will enable the supervisor of New York to make one hundred thousand dollars a year.

Mr. FLORENCE. I have no doubt of it. It is this information that I desire to obtain, and I have no objection to consuming my hour in obtaining it. But, sir, I do not agree with the honorable and high-minded gentleman to whom the gentleman from Illinois has referred. I wish the chairman of the Committee on Commerce, or the committee itself, had called these same gentlemen before them and inquired as to the nature and impropriety of flues in boilers. In my opinion, the only way to get rid of the collapse of flues in boilers, is to get rid of the flues in the boilers themselves. If you were rid of the flues altogether, there would certainly be no collapsing of flues. Now, I will ask the honorable gentleman whether this was made a matter of investigation in the Committee on Commerce?

Mr. JOHN COCHRANE. The committee had that subject under consideration; and in connection with it they had also another subject under consideration, which was the creation of steam by cold water as a means of saving life. [Laughter.] But we found one difficulty, which was that no steam could be had from cold water, and that therefore no engines could be put in motion through the instrumentality of cold water. And we came to the same conclusion in regard to the flues. We found that it was essential that there should be flues within the boiler in order to raise steam, for the same reason that steam will come from hot water and will not from cold water.

Mr. FLORENCE. I believe, sir, that flues are used as a matter of economy to save fuel. If the flues were not in the boiler, it would require more fuel to raise steam. Now, gentlemen who have examined this subject, I suppose agree with me that there is danger from the flues in the boiler. If the water gets down below the flues there is danger of an explosion. Now, I ask the gentleman from New York where this tin plug is to be put?

Mr. JOHN COCHRANE. I must confess my incapacity to inform the gentleman the precise locality where the tin plug is to be placed. I will

refer for more particular information in respect to plugs, and the application of plugs, to my friend from Pennsylvania. [Laughter.]

Mr. FLORENCE. Then the gentleman cannot answer the question. I take it for granted it must be somewhere below the flues in the boilers, because, when the water gets below those flues, there is danger of bursting, and I suppose that at about that time the tin plug melts. It is a mighty ugly plug anyhow; but I do not mean to say the "Plug Uglies" had anything to do with it. [Laughter.]

Now, sir, I just happen to open a book before me. It is a recommendation of Evans's safety-guard, which I will read:

We, the undersigned, do hereby certify that we are well acquainted with the principles and modes of operation of Evans's safety-guard, for the prevention of explosions of steam boilers. It is exceedingly simple, and not at all liable to get out of order. It prevents explosion from undue pressure, both by its action as a common safety-valve and by the action of the heat of the excessive pressure. But the great and most important principle of its operation is that the valve will open by heat alone, wholly irrespective of pressure. Possessing the above principles, it is an effectual guard against explosions, and we therefore recommend its introduction on all steamboats.

B. C. RENO,
Master of the Irene.
JOHN WALLACE,
Practical Engineer and Machinist.
JAMES M'BRIDE,
Engineer on the Clara, of Mobile.
J. J. PERLEY,
Steamer Chicago.
DANIEL CARROLL,
First Engineer on the Haydee.
ROBERT DUFFY,
Second Engineer on the Haydee.
H. S. ROBINSON,
First Engineer on the Colonel Frtmont.
WILLIAM WARD.
D. W. BOSS,
Captain of the steamer Haydee.
J. A. FAGAN,
of steamer Haydee.
M. A. KNOX.

Pittsburg, August, 1850.

Now, one word in regard to the fusible alloy in its application to this safety-guard; and inasmuch as the subject has been introduced, I may be permitted to say that I have never known an instance where it has failed. I believe it is admitted that there has been no failure; and I just want to know what advantage is to be obtained by changing the use of the fusible alloy for this tin plug?

Mr. WASHBURN, of Illinois. I will refer the gentleman to the steamboat Colonel Crossman, which burst her boilers, a few days ago, on the Mississippi river, by which twenty-two persons lost their lives. This boat had one of these machines on board.

Mr. FLORENCE. It was tied down so that it could not work. Where it has had a chance to operate, it has not failed in a single instance.

Mr. LETCHER. If my friend will yield, I will move that the House do now adjourn. He can finish his remarks to-morrow.

Mr. FLORENCE. I yield for that purpose.

Mr. WASHBURN, of Illinois. I hope the House will not adjourn. If the House adjourns, in what position will this bill be?

The SPEAKER. It will come up as the first business in order in the morning.

Mr. LETCHER. The gentleman cannot expect to pass the bill to-night.

ACCOUNTS OF THE GOVERNMENT.

The SPEAKER, before putting the question, laid before the House a statement of the receipts, expenditures, and appropriations, from 1789 to June 30, 1857; which was laid upon the table, and ordered to be printed.

And then (at half past three o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, February 11, 1858.

Prayer by Rev. SEPTIMUS TUSTIN, D. D.
The Journal of yesterday was read and approved.

HOUSE BILL REFERRED.

The bill (No. 152) to authorize the President of the United States, in conjunction with the State of Texas, to run and mark the boundary lines between the territories of the United States and the State of Texas, was read twice by its title, and referred to the Committee on Territories.

PETITIONS AND MEMORIALS.

Mr. WRIGHT presented the petition of W

W. Bassett, late a master in the Navy, praying to be allowed the difference between the pay of master and that of lieutenant for the time he acted as a lieutenant; which was referred to the Committee on Naval Affairs.

Mr. DURKEE presented the petition of Edson Sherwood and others, of Green Bay, Wisconsin, praying for the confirmation of title to certain lands claimed by the Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States; which was referred to the Committee on Private Land Claims.

Mr. DIXON presented the petition of Harris & Morgan, late contractors for carrying the mail from New Orleans to Indianola, praying that the Postmaster General may be required by law to settle their accounts upon principles of justice and equity; which was referred to the Committee on the Post Office and Post Roads.

Mr. CHANDLER presented a resolution of the Legislature of Michigan, in favor of appropriations for the improvement of the harbors of New Buffalo, St. Joseph, Kalamazoo, Black Lake, Grand River, Muskegon, White River, Pere Marquette, Saginaw Bay, Monroe, Thunder Bay, Marquette, Ontonagon, Mackinac, and Cheboygan; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a resolution of the Legislature of Michigan, in favor of an appropriation for the repair of the St. Mary's Falls ship canal; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WADE presented a petition of citizens of Morrow county, Ohio, praying that the public lands may be reserved for the use of actual settlers only; which was referred to the Committee on Public Lands.

Mr. JONES presented two memorials of citizens of Sioux City, Iowa, praying that a grant of land be made to aid in the construction of a railroad from the Missouri river to the western boundary of Nebraska, in the direction of the South Pass in the Rocky Mountains, with a branch in the direction of Oregon and Washington Territories; which was referred to the Committee on Public Lands.

Mr. SIMMONS presented the memorial of Sarah A. Sarle and Elizabeth Pinneger, heirs-at-law of Thomas Arnold, an officer in the revolutionary war, praying to be allowed half pay; which was referred to the Committee on Revolutionary Claims.

TROOPS FOR UTAH.

Mr. SEWARD. I present a communication from Captain William P. Paff, a citizen of the State of New York, residing at Albany, in which he states to the Senate that he desires to contribute his aid to the extent of his abilities in sustaining the authority of the United States in the Territory of Utah; and he submits a plan in which his services can be engaged, and solicits the action of Congress upon it. He requests me to have his petition read; but as the rules of the Senate do not allow that, I will state very briefly what this plan is. It is to raise a regiment of a thousand men in ten companies, to be armed with the Minnie rifle, himself to be the colonel of the regiment, and the field officers and staff to be appointed by himself; the officers of the line to be elected by the respective companies; the pay to be the pay of officers and soldiers of the Army of the United States; the term of service to be the duration of the difficulties which it is expected to assist in subduing; the compensation extra to be three hundred and twenty acres of land to each officer and soldier at the close of the service, on condition that he becomes an actual resident of the Territory. The proposition, therefore, is similar to the one adopted in the conquest of California. I will barely state, in presenting this communication, that it is made in good faith, and that the person who makes it is a man of respectability and character, of military skill and acquirements, and a patriotic citizen. I move that it be referred to the Committee on Military Affairs.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the petition of Elbridge Lawton, on the files of the Senate, be referred to the Committee on Naval Affairs.

On motion of Mr. BIGGS, it was

Ordered, That the memorial of John H. Hinton, on the

files of the Senate, be referred to the Committee on the Post Office and Post Roads.

On motion of Mr. WADE, it was

Ordered, That the memorial of James Maceaboy, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. SIMMONS, it was

Ordered, That the petition of John J. DeWolfe, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. DURKEE, it was

Ordered, That leave be granted to withdraw from the files of the Senate the petition and accompanying papers of the clerks, watchmen, and others in the Washington navy-yard, in relation to their compensation, presented during the last Congress.

On motion of Mr. BIGLER, it was

Ordered, That the petition and papers of Eliza Evans be withdrawn from the files of the Senate, and referred to the Committee on Revolutionary Pensions.

On motion of Mr. DURKEE, it was

Ordered, That John Saaw have leave to withdraw his petition and papers.

On motion of Mr. DURKEE, it was

Ordered, That William B. Draper have leave to withdraw his petition and papers.

On motion of Mr. COLLAMER, it was

Ordered, That the petition of Emanuel P. Stedman, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. IVERSON, it was

Ordered, That the memorial of Hezekiah Miller, on the files of the Senate, be referred to the Committee on Claims.

BILL INTRODUCED.

Mr. FOSTER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 133) to extend an act approved the 3d day of February, 1853, entitled "An act to continue half pay to certain widows and orphans;" which was read twice by its title, and referred to the Committee on Pensions.

ADJOURNMENT TO MONDAY NEXT.

On motion by Mr. WILSON, it was

Ordered, That when the Senate adjourn to-day, it be to Monday next.

ARMY ABSENTEES.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he is hereby, requested to inform the Senate what officers of the Army, if any, belonging to the several regiments in service in the field or at remote or frontier stations, are now absent from duty, and the cause of such absence in each case.

BLUNT'S PATENT.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of adopting, in the Navy of the United States, Blunt's patent for detaching boats from their davits in a heavy sea-way.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Pensions, to whom was referred the petition of Jane Stoneham, submitted an adverse report; which was ordered to be printed.

TURKISH VICE ADMIRAL.

Mr. MASON. The Committee on Foreign Relations, to whom was referred a resolution of the Senate instructing them to inquire whether it was in the contemplation of the Government of Turkey to send an officer of high rank in the Turkish navy to the United States, with a view to build a ship-of-the-line of three decks for the use of that navy, and in such event to inquire whether it would become the executive department of the Government to give him a proper reception, have instructed me to make a report, accompanied by a joint resolution. The occasion, as I am informed at the Department of State, is one that, if acted on at all, is imminent, because the arrival of that officer in the United States is expected every day. The resolution is very brief, and I ask the present consideration of it that the end may be attained. I think no debate will arise upon it.

The joint resolution was read a first time. It is as follows:

Joint resolution for the reception of Vice Admiral Mehmed Pasha, of the Turkish navy, and to facilitate the objects of his mission in superintending the construction of a vessel-of-war in the United States.

It having been made known to Congress that it has been the pleasure of the Government of Turkey to direct that

Vice Admiral Mehmed Pasha of the Turkish navy should proceed to the United States for the purpose of superintending the construction of a ship-of-war of large class, at one of the ship-yards of this country, and that it would be agreeable to the Sultan that his officer should have the benefit of the skill and experience of the naval service of the United States, the better to effect the object of his mission: Therefore,

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the President be requested to cause Vice Admiral Mehmed Pasha, of the Turkish navy, to be received on his arrival in the United States in a manner suitable to his rank, and that every facility conducive to the objects of his mission, in every part of the United States, he may be desirous to visit, be extended to him and his suite.

Mr. MASON. The report which accompanies the resolution states that the committee sent the resolution to the Department of State, and received in reply a copy of a letter from the Minister of the United States at Constantinople, stating the fact that the Sultan had determined to send one of the highest officers of his navy to the United States, to contract for and superintend the building of a ship-of-the-line of the largest class, for the use of his navy; and that the order had been given by the Sultan against a good deal of European influence that had been attempted to be exercised against it. The act of the Sultan showed a persevering effort on his part to avail himself of the skill and science of our naval constructors by building a ship at one of our ports. The Minister further represented that a letter had been written to him by the Minister of Foreign Affairs of Turkey, requesting that letters would be furnished to the vice admiral to the authorities of this country of a character which would enable him the better to effect the object of his mission.

We know, on a former occasion, when an officer of inferior rank of the Turkish navy was sent here by the Turkish Government, more for the purpose of acquiring general information of the condition of our country and its resources, that, in conformity with what was understood to be the usage of eastern nations, it was thought proper, and Congress sanctioned it, that he should be received in a manner appropriate to the occasion, and to the usage of eastern countries, and an appropriation of \$10,000 to defray his expenses while in this country. We have reason to believe that the reception of that officer operated very favorably upon the Turkish Government and Turkish people, the character of whom is well known to our countrymen, in inducing them to cultivate more intimate relations with this country. It has been thought, and is so expressed in the report of the committee, that a civility of this kind will bear very abundant fruits, by opening new intercourse and new relations between our people and the remote people belonging to that eastern country. The resolution simply requests the President to extend these civilities to the naval officer when he may arrive. It will involve, I dare say, the expenditure of money, but to no very great extent. I was informed that of the \$10,000 appropriated in 1850 only four thousand or five thousand were expended, and the rest was returned to the Treasury. I gave it as my opinion to the Secretary of State, that in order to have the resolution passed, we should not make an appropriation of money in it; but for myself I entertained no doubt that whatever expense might be incurred, within reasonable limits, would be hereafter met by Congress.

Mr. BIGGS. It is with much diffidence, Mr. President, that I interpose my objection to this resolution; but it strikes me that it is one of that class which are intended merely to exhaust a large amount of money without any corresponding advantage. I cannot see the propriety of the resolution, unless it be to commit Congress in advance to the appropriation of public money to pay the expenses of this distinguished naval officer who is to come from Turkey. It occurs to me that is the only effect of the resolution. As a matter of policy it may be appropriate, but I doubt the propriety of it; and I doubt it the more at the present time, considering the state of our Treasury. There is nothing at all said in the resolution about the amount to be appropriated, but the Senator from Virginia tells us that on some former occasion \$10,000 was appropriated to pay the expenses of some minister or officer from Turkey. I may be acting under a misapprehension as to the propriety of this resolution, but it seems to me that the effect of it is to vote substantially a large appropriation from the Treasury at a time when we ought not to make such an appropriation at all.

The policy may be a proper one, but I doubt very much indeed the propriety of our adopting as a standing policy, that whenever a foreign Government sends a distinguished officer here we should take him through the country and pay his expenses. I do not think it is a correct policy; and therefore I cannot give my consent without more light than I have now before me.

The VICE PRESIDENT. If the Senator objects, the resolution cannot be further considered to-day.

Mr. BIGGS. I do not object to its consideration, but I shall vote against the resolution.

Mr. CLAY. I object.

The VICE PRESIDENT. Then the resolution cannot be read a second time to-day.

Mr. MASON. I move that the report be printed.

The motion was agreed to.

DRED SCOTT DECISION.

Mr. EVANS. The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution providing for payment to Mr. Wendell, for printing the Dred Scott decision, have directed me to present a substitute for the resolution referred to them, accompanied by a special report, setting out the circumstances under which the opinions of the judges were printed. I ask for the present consideration of the proposition. The committee propose to strike out all after the word "resolved," in the original resolution, and insert:

That there be paid, out of the contingent fund of the Senate, to Cornelius Wendell, the sum of \$6,150, as a compensation for publishing twenty thousand copies of the opinions of the judges of the Supreme Court, in the case of Dred Scott vs. John F. A. Sandford; the said sum to be in full for copyright and all other charges incident to the said publication.

Mr. SEWARD. I have no objection to the consideration of this resolution. I shall only ask for the yeas and nays on it; and, in giving my vote against the resolution, I wish it to be understood that I do it principally, or altogether, on the ground of my disapprobation of the merits of the judicial opinion which was printed.

Mr. HALE. I am not certain that I shall vote against this resolution. I understand the circumstances under which the printing was done are such as involve the honor of the Senators who ordered it, under the expectation that it would be paid for by the Senate, or else they are personally bound to pay it. I think the mode of ordering the printing was exceptionable; but, considering the manner in which it was done, I do not feel disposed to object to it. But I do protest against any inference to be drawn from this vote that we indorse the sentiments of those opinions; and I think it somewhat objectionable to print in this way a paper which is not regularly a Senate document; but I shall make no objection. I am not certain that I shall not vote for the resolution.

The VICE PRESIDENT. The hour has arrived for the consideration of the unfinished business of yesterday.

Mr. SEWARD. Let the question be taken on this report by unanimous consent.

The VICE PRESIDENT. By unanimous consent of the Senate, the Chair will put the question on the amendment reported by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. SEWARD called for the yeas and nays; and they were ordered.

The VICE PRESIDENT. The Secretary will read the original resolution, and the amendment, reported from the committee.

The Secretary read them accordingly.

Mr. EVANS. As the yeas and nays are to be taken, I desire that the report may be read; that will explain the circumstances.

Mr. WILSON. I have no desire to have the report read myself. I think I understand the whole matter. I have no apprehensions or fears that my opinions in reference to the Dred Scott decision will be misrepresented by any vote I may choose now to give. I rise simply to say that I entirely disapprove of the manner in which the printing was originally ordered. I think it was all wrong; and I shall be constrained, therefore, to vote against paying for printing ordered in the manner in which this was ordered, though I do not mean to say that anybody in the Senate intended to do anything improper.

Mr. SEWARD. I intended to call for the yeas and nays on the final passage of the resolution, and not on the amendment of the committee. If it may be so understood, let the amendment pass.

Mr. FESSENDEN. I desire to hear the report read, as suggested by the Senator from South Carolina. He says that will explain the transaction.

The VICE PRESIDENT. The Senator from New York desires to withdraw the call for the yeas and nays, and have them taken on the final passage of the resolution. By unanimous consent of the Senate, it may be considered as withdrawn.

The Secretary read the report, as follows:

The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred a resolution in the following words:

"Resolved, That the Secretary of the Senate be, and he is hereby, directed to pay to Cornelius Wendell, out of the contingent fund of the Senate, the sum of fifteen cents per one hundred pages for twenty thousand copies of the opinions of the judges of the Supreme Court of the United States in the case of Dred Scott vs. John F. A. Sandford."

Have considered the same, and submit the following report:

On the 11th of March, 1857, the following resolution was submitted by Mr. BENJAMIN:

"Ordered, That the Secretary of the Senate obtain, for the use of the Senate, from the reporter of the decisions of the Supreme Court, twenty thousand copies of the opinions of the judges of the Supreme Court in the case of Dred Scott vs. John F. A. Sandford, the same to be furnished as an extract from the forthcoming volume of the reports of the decision of that court during the December term, 1856, and that the same be paid for out of the contingent fund of the Senate, at a rate not exceeding fifteen cents per one hundred pages, provided the same shall be delivered stitched with paper covers, in pamphlet form."

This resolution was referred the next day (March 12) to the Committee to Audit and Control the Contingent Expenses of the Senate. On the same, or the next day, the committee met to consider this and some other matters which had been referred to them. On consultation it was thought a different mode of obtaining the same result, was preferable, and it was agreed to submit, as a substitute for the said resolution, the following:

"Resolved, That there be printed, by the Printer of the Senate, for the use of the Senate, twenty thousand copies of the opinions of the judges of the Supreme Court in the case of Dred Scott vs. John F. A. Sandford, the same to be stitched with paper covers in pamphlet form: Provided, That the copy-right of the reporter can be purchased for \$1,500; the expense incurred in the execution of the above resolution to be paid out of the contingent fund of the Senate."

This expense, according to an estimate furnished by the Superintendent of Public Printing, would amount to \$4,420, exclusive of the copy-right and the clerks' charges for copying.

A report was accordingly prepared to carry out this decision of the committee, but the Senate, having resolved to adjourn on the 14th, at one o'clock, no opportunity was offered to present it with any expectation it could be acted on. On the day of the adjournment—but whether before or after, is not recollected with certainty—there was a meeting of certain members of the Senate who belong to the Democratic party, at which there was an understanding that the report of the case above stated, should be printed; and, if the Senate refused to order the payment, it should be paid for by those who sanctioned it. The statement of what was done by the said meeting, is made by the chairman of this committee, who was present at the meeting, and assented to the agreement. How, or by whose direction, the work has been done, is unknown to the committee; but the work has been done, and has either been, or is, ready for distribution among all the members of the Senate. A majority of the committee have agreed to recommend to the Senate the payment of a reasonable compensation to the Printer for printing the said report; but in doing so, they are not disposed to go beyond the estimates furnished by the Superintendent of Public Printing. These, with the addition for the copy-right, and a small sum paid by the Printer to the clerk of the Supreme Court for copying, amount to \$6,150, and is about a thousand less than would be paid under the resolution referred to the committee.

In making this recommendation, your committee are influenced by these considerations:

1. If the report agreed on by the committee at the close of the extra session in March last had been made and acted on, no doubt is entertained that the Senate would have concurred.

2. There had been discussed in that case great constitutional questions. The argument was full and elaborate on both sides, and it was important that these opinions should be published in some authentic form, so that the people of all political parties might have the means of deciding for themselves.

Mr. DOOLITTLE. Mr. President, it is not my purpose to detain the Senate by any remarks on this occasion; but I desire to submit an amendment, not that I object to the expenditure of the money under the circumstances detailed in the report, but that I do not desire to give my assent, as a member of this body, to the publication of the opinions of the judges of the Supreme Court in this case, under any circumstances where it may be supposed that this body assumes to indorse certain doctrines which are there laid down by a majority of the judges. I desire to offer an

amendment, which, with the leave of the Senate, I will read:

And resolved, That in ordering the same to be printed, this body do not intend, in any manner, to sanction the opinions expressed by several of the judges, that Congress transcended its constitutional powers in passing the eighth section of the act for the admission of the State of Missouri, commonly called the Missouri compromise, nor, in any manner, to sanction the opinion that the Constitution of the United States, of its own force, carries the law of slavery into any State or Territory of the United States.

As I have said, Mr. President, it is not my purpose now to discuss the questions which are involved in this amendment; but on some future occasion it will be my purpose to consider them, and to show, as I shall endeavor to do, that the doctrine advanced that the Constitution of the United States, of its own force, carries slavery into any Territory or any State, is the most momentous and revolutionary doctrine that has ever been promulgated before the American people—a doctrine which concerns not merely the Territories of the United States, but, if it be acquiesced in, carries the law of slavery into every State of this Union. The Constitution of the United States is the paramount law of every State; and if that recognizes slaves as property, as horses are property, no State constitution or State law can abolish it, or prohibit its introduction. It is a question which rises above all other questions and overrides them all, and is to become the living issue for the next ten years before the American people. For myself, sir, for one, I cannot consent in any manner whatever to sanction this doctrine, or the publication of what, by the President of the United States, is assumed to be a judicial opinion, which lays down such a doctrine, by a resolution of this body, passed under such circumstances that the people of the United States shall have any reason to suppose that the Senate of the United States sanctions and approves the doctrine that the Constitution of the United States, of itself, carries slavery anywhere.

I shall not detain the Senate now. I simply offer this amendment; and upon that amendment I desire to have the yeas and nays.

Mr. SLIDELL. I presume there is no disposition on the part of any one in the Senate to be involved in a debate on this question now; and I would suggest to the Senator from Wisconsin that his resolution, perhaps, might not be objectionable, if he said it was intended "neither to impugn nor to sanction"—neither one nor the other.

Mr. HUNTER. I do not believe, when I vote to print a document, that I vote to sanction all the sentiments contained in it.

The VICE PRESIDENT. Will the Senator allow the Chair to determine whether the yeas and nays shall be taken on the question?

The yeas and nays were ordered.

Mr. HUNTER. I was about to say that, when I voted to print a document, I did not vote to sanction all the sentiments contained in it; and I am unwilling to set the precedent on this occasion for criticising or declaring that we do not entertain the opinions contained in any such document. It will make it necessary hereafter, if we once begin with this custom, whenever a document is ordered to be printed, if it contains objectionable matter in the opinion of any Senator, that he should offer some such resolution in order to protect himself from the conclusion this precedent would afford of agreeing in sentiment with it. I think we ought not to begin the practice. I do not think any member is bound to the opinions contained in the Dred Scott case because he votes to print it. That is a mere question of propriety, which depends on the fact whether we ought to circulate the document or not; or which may depend on the other fact of how much it is to cost, and whether it is worth the expense that would be occasioned if the order for printing should be made. We have heretofore been governed by such considerations only in printing documents; and I think they are the only considerations which ought to govern us hereafter. I hope the Senate will establish no such precedent as this. I shall vote against the amendment. I should vote against it if it was an amendment declaring that we did agree with the opinions in the Dred Scott decision. I think this is an improper place for such a declaration.

Mr. CLAY. In order to cut off debate on this question, I move to lay the amendment on the table.

The VICE PRESIDENT. That carries with it the whole question.

Mr. CLAY. I withdraw the motion.

Mr. HAMLIN. There is another point which has not been alluded to by Senators in this matter, and it goes to the foundation of the whole thing. I insist that we cannot adopt the resolution reported by the Committee on Contingent Expenses, without a direct and palpable violation of the law under which we are acting. That would be a sufficient objection to my mind, if there were none other. It is known that old documents, including the Annals of Congress, the American Archives, State Papers, and a variety of other matters, had accumulated, and had been distributed among the members of the House of Representatives and the Senate. It required a large annual sum to make that distribution; and Congress, at the first session of the last Congress, provided by law that thereafter no books should be furnished to members, unless the amount of the same were deducted from the compensation to which they were entitled. I have the law before me, and I will read the section, because I am aware that there may, by possibility, be given to it a different construction than that which I give to it, though I think the construction I place upon it is clearly right. It is the fifth section of what was called the compensation act, of the 16th of August, 1856, fixing the compensation of members of Congress. When that act was passed, it was deemed advisable to put a stop to what was a most extravagant, unnecessary, and wrong expenditure of the public money; and the fifth section of that act provides:

"Sec. 5. And be it further enacted, That if any books shall hereafter be ordered to and received by members of Congress, by a resolution of either or both Houses of Congress, the price paid for the same shall be deducted from the compensation herebefore provided for such member or members: *Provided, however,* That this shall not extend to books ordered to be printed by the Public Printer during the Congress for which the said member shall have been elected."

What is the meaning of the proviso in that section? Does it apply to anything else than the books which we order in the usual course of legislation, such as Patent Office reports and ordinary documents? I say that it is limited by that. If you carry it beyond that, you fritter away the whole power of the section entirely. If you can go to the Supreme Court room and can compile a book from judicial decisions, and have it come within the meaning of that proviso, and pass an order here for its printing, and pay for it out of your contingent fund, you may go to the stationer's and compile a book upon science; you may compile a book upon arts; you may compile any book you please, with just as much propriety as you may go to the Supreme Court room and compile a book from judicial decisions: no, sir, they are not worthy of being called judicial decisions, but the opinions that men utter there. I insist that a fair construction of that section goes to the foundation of this whole proposition; and that it is a clear, utter violation of the law under which we are acting, unless the resolution be so amended as to provide that we pay for the same out of our compensation.

I have never seen one of these volumes: I am wrong; I never received one of them. I did see one casually the other day, and I have never seen but one. I have received none; I want none; but if the Senate in its wisdom shall see fit to order the publication, I say a fair construction of the law requires that we should put our hands in our pockets and pay for it, or own that we do an act which is in clear violation of the law. If I am right in this view, the resolution ought to be rejected. I have nothing to say on the amendment which is offered by my friend from Wisconsin, other than that, to leave no implication, I shall vote for it.

The question being taken by yeas and nays on Mr. DOOLITTLE's amendment, resulted—yeas 19, nays 33; as follows:

YEAS—Messrs. Cameron, Chandler, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, King, Seward, Simmons, Sumner, Traubuit, Wade, and Wilson—19.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Clay, Davis, Evans, Fitch, Fitzpatrick, Green, Gwin, Hammond, Houston, Hunter, Iversen, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Sidel, Thomson of New Jersey, Toombs, Wright, and Yuloe—33.

So the amendment to the amendment was rejected.

The VICE PRESIDENT. The question now is on the amendment reported by the committee. The amendment was agreed to.

The VICE PRESIDENT. The question is on the resolution as amended.

Mr. SEWARD called for the yeas and nays; and they were ordered.

Mr. STUART. My attention was called away so that I did not vote on the last motion on which the yeas and nays were taken; but if I had voted I should have voted against it, for the reason that I do not choose to express my opinions here in regard to any question of that sort when voting on a resolution of this kind. In regard to the proposition as it now stands, I shall vote against it, because I agree with the construction of the law which is stated by the Senator from Maine. I think it is in violation of the law, and therefore do not feel myself at liberty to vote for it.

Mr. HALE. I wish to suggest, (I do not wish to urge it,) as it may throw some light on the point which the Senator from Maine has stated, whether it would not be practicable to get the opinion of the Supreme Court on the question whether this is in conflict with the compensation act or not? Because if it is, I should not be very much in favor of passing it. There is one doctrine assumed by the committee in the report that I should like to have light upon; and that is, whether the reporter of the decisions of the Supreme Court has a copy-right? I do not believe a word of it. I do not believe he has any more right to a copy-right of it than he has to a copy-right of speeches made in the Senate, or a President's message. I am unwilling to sanction that. An honorable Senator who sits in front of me, [Mr. BENJAMIN.] if he will allow me to refer to him, in a conversation I have had with him, put it on a different ground. He suggested that, inasmuch as we are diminishing to some extent the value of the Supreme Court reports, by publishing this opinion in pamphlet form, which otherwise the reporter would have printed in his volume, as a matter of equity we ought to pay him \$1,500, because, by this gratuitous distribution of this opinion, we to that extent lessen the value of the bound volume. On that ground it is not objectionable; but the ground assumed in the report that the reporter has a copy-right to the opinions of the Supreme Court I utterly dissent from and deny entirely.

A SENATOR. It has been decided.

Mr. HALE. I do not care whether it has been decided or not. Common sense would decide it, even if the Supreme Court were against it.

Mr. PUGH. Strike out that portion about the copy-right.

Mr. HALE. I will not propose any amendment; but I protest against that doctrine.

Mr. BENJAMIN. I do not mean to debate this matter, but as the Senator from New Hampshire has referred to something that occurred in conversation, I will state to the Senate, in a very few words, the ground of this allowance. When it was in contemplation under the resolution which I offered at the last session to print a certain number of this decision for distribution amongst the people of the United States, as a matter of information which would be valuable to them, and which all were desirous of obtaining, a difficulty arose with the reporter of the Supreme Court, who made an objection which I thought a very just one. He said: "My compensation depends upon the sale of the volumes which are allowed me for sale; if the Senate takes more than half my volume and distributes it gratuitously, it to that extent impairs the contract by which I am to receive compensation as a public officer by the sale of the volumes; nobody will buy my volume if more than half of it is taken and printed and distributed gratuitously." I thought that a fair claim. I had no idea he had a copy-right in the decisions of the Supreme Court, but that he had a fair claim, on equitable considerations, that we should not by a gratuitous distribution impair the value of that consideration which we allow him for printing the decisions of the Supreme Court.

Mr. CAMERON. As I intend to vote for this resolution, it is due to myself that I should say a word in justification of my vote. I think this whole matter of copy-right is wrong. I cannot imagine by what authority of law or equity an officer of the Supreme Court of the United States

can charge for a copy-right for a document ordered to be printed by the Senate. I shall vote for the resolution, however, because the work was printed in good faith. Members of this body, last spring, at the close of the session, when they had not an opportunity of consulting the Senate on the subject, with the impression that everybody here was desirous to have the information, ordered it to be printed. If it were to be done now, I should not vote for the printing. Fifteen hundred dollars for the copy-right, I consider a wrong, a great wrong. The amanuensis of the court has also charged \$250 for making the copy, which I consider an outrage; and the price of printing I regard as a very high price; but the printing has been done in good faith; the books have been distributed to different members of this body, and they have circulated them among their constituents. There is no other way of paying for it but that now proposed. The printer has done the work. He bought the paper; he either paid for it, or must have given his notes for it, and he has given his note to the reporter of the Supreme Court, and to the clerk of the court: all has been done in good faith. Therefore, in that spirit of kindness and courtesy, which I have seen always control this body, I shall vote for the payment.

Mr. PUGH. I dislike the use of the phrase "copy-right," and would prefer that my friend from Louisiana would substitute some phrase expressing his own present opinion. I agree with him that we ought to pay this gentleman for the injury we have done the circulation of his volume; but I suppose no Senator claims seriously, or imagines, that a reporter has a copy-right in what he did not write himself—the opinion of the judges.

As to the objection of the Senator from Maine and the Senator from Michigan, that this would be a violation of the compensation act, it seems to me only necessary to read the section of the law. This is section fifth:

"And be it further enacted, That if any books shall hereafter be ordered to, and received by, members of Congress, by a resolution of either or both Houses of Congress, the price paid for the same shall be deducted from the compensation herebefore provided for such member or members: *Provided, however,* That this shall not extend to books ordered to be printed by the Public Printer, during the Congress for which the said member shall have been elected."

This book was printed by the Public Printer, and would have been ordered by the Senate if the vote had been taken. This is a ratification of the order. It is an order now for all practical purposes. Senators might just as well claim that we are bound to deduct the cost of all the Japan books, and all the Pacific railroad books, for they were not literally reports from executive Departments; they were documents given to us for information. However, if there is any controversy about it, I am willing you should take out of my compensation, my share of the Dred Scott book, and the other Senators who received it may make a like deduction.

Mr. BENJAMIN. I will move the amendment my friend from Ohio suggests, to strike out the words "copy-right, and," and also the word "others," from the resolution; and it will then read:

"In full for all charges incident to the said publication."

Mr. EVANS. If there is any error in relation to the use of the word "copy-right," it is mine; I inserted it. I wrote the report, and I wrote the amendment of the committee. I did not examine to see whether it was so or not; but I assumed from the conversations I had and the way in which the first resolution was worded, that the reporter had some exclusive privilege. I did not know from whence it originated or how it originated; but I supposed there was an exclusive privilege or a copy-right in his volume. I do not understand that he is a salaried officer exactly; but he is entitled to whatever he can make by his book. I supposed he had entered it, and had some copy-right. The error was mine; and I do not object to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. BAYARD. I do not rise to prolong the discussion of the subject, but merely to state that, looking either at the abuse which was intended to be remedied by the act of 1856, or at the language of the law as I read it, I do not think the section read by the honorable Senator from Maine would prevent my voting for this resolution. I shall not detain the Senate now by stating the rea-

sons. The abuse which it was intended to remedy was the furnishing to members of Congress documents for their own personal use for which ultimately money was to be accepted in lieu of books. The language of the section, as I read it, would not prevent our making the present order. If I thought so, I should vote against it.

The question being taken on the resolution as amended, by yeas and nays, resulted—yeas 33, nays 12; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Broderick, Brown, Cameron, Clay, Davis, Dixon, Evans, Fitch, Fitzpatrick, Foster, Green, Hale, Hammond, Houston, Hunter, Iverson, Johnson of Tennessee, Jones, Kennedy, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, Wright, and Yulee—33.

NAYS—Messrs. Doolittle, Durkee, Fessenden, Hamlin, Harlan, King, Seward, Stuart, Sumner, Trumbull, Wade, and Wilson—12.

So the resolution was adopted.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States; the pending question being on the motion of Mr. TOOMBS, to strike but the first section of the bill.

Mr. DAVIS. Mr. President, having already consumed the time of the Senate to a greater extent than I had anticipated, I shall endeavor to close my remarks very soon. Yesterday, in the progress of a review of the various objections made to the bill, I noticed those points that relate to efficiency and economy. I undertook to show, at that time, that it was better all the duties of our peace establishment, as it is called, should be performed by regular troops, than by the frequent calling out of the militia. I endeavored, also, to indicate at that time the sources of the increase in the expenditure of the Army, and to show that this was the result of the remote points at which the Army was serving; it was the result of the vast expense of transportation to those remote points; it was the result of the increased cost of everything which entered into the consumption and the active employment of the Army.

I do not recollect whether or not I stated another very essential difference: being that, whilst at the time the comparison of which I spoke was instituted, we had no mounted force except a small amount of light artillery, we now have nearly one third of the amount of the Army mounted; and that portion of the Army almost constantly in active service. Horses which at that time were worth sixty or seventy dollars, cost last year \$176; forage has risen in the same proportion; and, as the loss of horses in the service of the United States has been referred to, I invite attention to the cases which I cited yesterday, and others of a like kind, where Indians had been pursued by troops for hundreds of miles without cessation, passing over sixty, and sometimes even eighty miles, almost, scarcely without drawing the rein, in pursuit of an enemy as wily, as brave, and, mounted on horses, nearly as fleet as the Arabs of the desert, over a country quite as inhospitable, and in which it is equally difficult to obtain water or food necessary to sustain a horse. Undergoing this severe fatigue under excessive heat, it is matter of surprise that horses, drawn immediately from the farms where they have been purchased, and forced into such service as this, should sink under the trial—should require to be renewed, and that the expenditure should be great, as they must be supplied not only at the high rates of the market, but at the accumulated value they have when transported to these remote points?

The distribution which is to be made of the gross amount of expenditure, according to the statement read by the Senator from Louisiana, [Mr. BENJAMIN,] is not a distribution upon the heads of the soldiers. For a fair comparison, reference must be had to the different character of troops; and it will be readily seen that the simple division of a gross sum to be applied to a variety of objects cannot give a result which will express the cost of the soldier truly. The sum he has stated is, I believe, perhaps about that which a mounted soldier costs in the Army. Taking the troops serving at these remote points, engaged in these expeditions, and taking the cost of forage, and the supplying of remount horses, I believe it will amount to what he stated, \$1,000 *per capita*; but this surely is not to be taken as the average cost of the Army, it being not the man only, but the

horse also, and the cost of both depending on the locality of service. Equally delusive is the comparison made between the cost of this date and that selected, there being no cavalry at the former period, and the posts being then convenient to the great markets of the country, and contiguous to productive settlements.

I have never, I believe, either in my former or present service in the Senate, referred to any criticism in a newspaper, or to a newspaper article, and I do not intend to do so now in that character; but the Senator from New Hampshire, [Mr. HALE,] yesterday, introduced a newspaper article, which, at that time, I had not read. Since it has been introduced by a Senator to the Senate, I will notice it; but otherwise I would not have done so. It is a flippant article contained in the Union of yesterday, in which the writer undertakes to arraign the Committee on Military Affairs of the Senate, and presumptuously, also, to arraign the Senate, and, committing the most egregious blunders, to state what, under certain contingencies, the Senate would have done. He announces, after speaking of the wants, and delay the Senate had made in attending to them:

"Strange as this delay is, its causes are yet stranger. The increase recommended was by regiments. That recommendation came first from the Lieutenant General commanding the Army, indorsed by the Secretary of War, and finally approved by the President. It can scarcely be doubted, had the Military Committees, without delay, reported a bill in conformity with these suggestions, it would at this moment have been the law of the land, the regiments in a forward state of recruiting, and arrangements in progress for their early march to their places of destination."

So far as that delay occurred in the committee, it occurred during the period the committee were collecting information and investigating the subject, to reach a result and bring that result to the Senate. Then, sir, as to what the Senate would have done, that is not a matter of speculation. The substitute presented by the Senator from California, [Mr. GWIN,] the very proposition of the War Department, was voted upon, and it received but eight votes in the Senate; and of those eight votes, some Senators voted for it because they felt it was a proposition so easily killed that they had better substitute it for the bill of the committee, with no desire that it should pass, with no intent to sustain it, but simply adopting it as a means of readily disposing of the whole question.

This article proceeds to deal with military matters, and informs the Senate and the committee that all the knowledge on military affairs is at the other end of the avenue; and then the writer proceeds himself to launch out a little. Speaking of the Army organization, he says:

"Indeed, on inquiry, we learn that two of each of the twelve artillery companies are intended for light field artillery, and are not integrals of the garrison organization, which conforms to the other regiments, is of long standing, is the basis of our system, State and Federal, and of the systems of the European armies."

If he had happened to know a little about the organization of the European armies, of which he speaks so confidently, he would have understood that the artillery organization there is for a wholly different purpose—a purpose for which ours should be—and conforms to the idea which I once presented to the Senate, when in the War Department, to make our artillery organization for the use of large guns, and not as they are now—infantry, merely wearing a different uniform. The article proceeds:

"In fact, but a hasty glance at the books shows but one established system of regimental organization in all these different arms, and we find the entire tactical system based on battalion, squadron, regimental drill, and army evolutions, contemplating ten companies to each regiment."

The "glance" must have been "hasty" indeed—hastier than a "plate of soup;" and it must have been oblique as well as hasty; otherwise it certainly must have occurred to the writer of this article, who, it is apparent, is not as ignorant as he is inclined willfully to misrepresent, that so far from this being a uniform organization, it is an exception in every army of Europe; that so far from ten companies being the universal organization, so far from the tactics depending on the number of companies, he will not find in any system of tactics the word "regiment" used. All our tactical organization is on the basis of the battalion; and a battalion in the European armies usually consists of some fraction of a regiment. A regiment may consist of one, two, three, four, or six battalions, and in some circumstances it does. There are, in some services, regiments

running up from six to twenty-four companies. The idea of ten companies being the basis recognized all over the world as necessary for the tactics, is an absurdity which a man who shows as much knowledge of the affair of which he writes as the writer of this article, cannot have committed with an honest purpose. Then he says:

"The mischief would not end in deranging the fixed Army basis, but would result in fundamentally changing the militia organizations in all the States of the Union, as they have adopted the Army plan, and must always look to it for its system of drill and instruction. Here, would be incalculable mischief and confusion."

Inc calculable mischief and confusion by changing the number of companies in a regiment!—a change that has been frequently made in our own history, and which, in its reference to the tactics, is not found to bear any relation at all, the whole being intended for a certain number of companies constituting a battalion; and it merely so happening that, when the tactics were prepared, ten companies did constitute a regiment; and, therefore, in assigning the captains to their posts in line, they are assigned numerically on the basis of ten companies to a regiment.

I wish it to be understood, sir, that it is because the Senator from New Hampshire has introduced this subject in the Senate, that I have departed from what is the course I have heretofore pursued, and stop to notice newspaper criticism on the action of the committee, or of the Senate, or of myself. In times past I have defied such criticism, and I expect to do it in the future. I rely upon the intelligence of the people to discriminate between the scribbler who arraigns a public man for the manner in which he performs his duty, and the justice that truth requires, as it is to be elaborated by their own intelligent minds.

I pointed out, in my remarks yesterday, the distinction between a State and a Territory in relation to the power of this Government to use its military force. This brings me to a brief notice of a remark in the President's message which refers to the withdrawal of the troops in Kansas in case Kansas should be admitted as a State. The President sees, no doubt, that troops are required elsewhere; and I agree with him, that if Kansas becomes a State, she ought then to provide for the execution of her own laws; and that if she requires extraneous aid, it ought to be sought only in the manner provided in the laws made in conformity with the Constitution. I agree with the President, that troops ought not to be quartered in the State of Kansas, or any other State, with a view to preserve civil order, and that the troops will be disposable when Kansas shall be admitted as a State. Whether peace will follow, I do not know. That depends on whether the people of Kansas are now fit to be a State. If they are fit to form and maintain a State and take their place as equals in this Union, then they do not require troops to be quartered in their midst in order to preserve civil order. That is a question which belongs to the future. In the mean time, I take it for granted that the President will withdraw the two thousand men heretofore kept, under the requisition of Governor Walker, to preserve peace in Kansas, and to suppress insurrection in the event of her admission into the Union.

That, then, renders two thousand men disposable for other service; but I submit to the Senate whether it will justify us in keeping our troops down to the present establishment. The long lines to be occupied, the numerous posts required, in addition to those we now have, demand an additional force. The committee have adopted a plan which gives us an increase of the integral parts of the Army. It was believed to be the most economical which could be adopted for that purpose, avoiding the very high expense that belongs to the higher grades of officers in the regimental organization, preserving the present efficiency, and opening in the future (when that future shall come and which I do not pretend to foresee) a convenient mode of reducing the Army by striking one battalion off each regiment; and if then, the President possess the power, on a declaration of a war, to restore this third battalion, it will render each regiment one third larger on the war than on the peace establishment, and they will go into the service with that efficiency and reliability which belong to discipline and instruction.

During the time I was particularly charged with the administration of the War Department, troops were kept in Kansas when I desired to

get them out, not that I did not believe occasions were occurring where they might be useful—and they proved more useful than I believed they would be—but on account of the difficulties which then existed on our frontier. The campaign which had been projected against the Cheyennes was paralyzed by the keeping of troops in Kansas. Those troops were wanted on the frontier to preserve peace; they were wanted on the frontier to punish Indians who had committed acts of hostility; but they were detained in Kansas from day to day, from month to month, and year to year. We looked to the time when peace in Kansas would relieve the Government of the necessity of keeping them there. Time rolled on, and the necessity still continued. When those necessities are to cease, I am not able to foretell.

In the mean time you are aware that a small army has been thrown forward to preserve order and maintain the laws in the Territory of Utah. I shall not follow Senators in a discussion of the propriety of making that expedition against Utah. I believe, and I will say so much now, that the elements of disintegration were in the community of Mormons established in Utah; I believe that physical causes and moral causes were conjointly working together to break up that people. I believed then, and I am rather inclined to the opinion now, that if we had stood still they would have separated; that it required the compressive force of active movements against them to bring them into submission to their great leaders, to bring in the colonies that had been thrown off from the mother settlement at Salt Lake, back to the grand church, and to unite them under a bond of fanaticism that now makes them effective against any military force that you can probably send there.

But these are questions which belong to the past, and speculation upon which cannot guide our conduct in the future. The Government of the United States has thrown forward its troops on the trail of the Salt Lake. They are in the mountains now, a small body of men; perhaps sufficient, if they had started in time to have gone through to Salt Lake, to discharge their duty; but, checked in the mountains, it is probable that before spring arrives their animals will have been so reduced, so many will have been lost, that they will be without the ability to move. If the commander of that expedition, Colonel Johnston, has the transportation which will enable him to move, he will subdue resistance with the force he has. I speak it with a confidence which grows out of a long acquaintance, both in the garrison and in the field; but my apprehension is that he will not have the power to move, for the want of transportation; that he must stand where he is until he is reinforced.

Now let us see what is necessary to reinforce him. The column with which he moved was no larger than was necessary for its own security and the security of its supplies. Then the column that goes to reinforce him, if it were only with provisions and animals of draught, must be as large as the original column, and it must be larger still, because the train will be increased; and thus you will go on from year to year with every additional train of supplies you send out; sending a detachment of troops at least equal to, I believe it must be larger than, the original column which went forth under the command of Colonel Johnston. Year by year, then, as you delay, you will continue to increase the expenditure and increase the column that you are annually to send out. A column may come back, but the expense will not be the less for that reason. Your expenditure is to grow annually until this matter is terminated in one way or the other. If it is to be terminated by bringing the Mormons to submission to the Government of the United States by force, clearly, then, wisdom, both in relation to treasure and the honor of the country, require that an efficient force should be thrown forward at once, and that the act should be accomplished in the first months of the ensuing summer.

On the other hand, it may be that they will make no armed resistance; that they will fly to the mountains, hang in the gorges to harass trains and cut off emigrants. We then stand but in the same category. This army of occupation still is to be maintained; it is still to be supplied—supplied by a column capable of covering its lengthy train over the long march it must make through

that arid, desert country, and thus annually you incur the same expense, if the object be merely to hold possession; whilst the rebels of the settlement at Salt Lake are scattered through the mountain passes, and lying in wait to capture the emigrant trains or the trains of Government supplies.

What other means may be in the power of the Administration to adopt to terminate this difficulty, is not within my knowledge. It may be that these people would be willing to withdraw from the controversy with the United States, and not being willing, on account of their religious oaths, to submit to the laws, and to surrender their hierarchical government, yet might be willing to leave the limits of the United States, and go to some remote region, if they had the means so to migrate; for I hold all speculation founded on the supposition that they are to go away in the spring to parts unknown, must prove entirely deceptive. No community ever had the transportation that would carry the whole body—politic to some remote country, and bear with them supplies to sustain them until other supplies could be grown in the country to which they had gone. They have no people waiting with open arms to receive them. Wherever they go, they are probably to meet with the hostility of the Government into whose country they enter. Unless they seek some island in the Pacific, I know of no place they can go where the Government will open its gates to receive them. Then they go not to find shelter, not to receive supplies; but they go bearing with them the supplies that are to support them, not merely during the march, but for at least six months after they have arrived at the place of destination. Is it not, then, apparent that they cannot go without the aid of the United States? If they wish to go, I would not only acknowledge in them the right of expatriation, if, indeed, they be citizens of the United States, but I would willingly give as much money, and more, too, than the campaign would cost, thus to get rid of them. I would much rather pay money to let them go peaceably than pay money to drive them away by shedding the blood of American inhabitants on American soil by American arms. Deluded fanatics—criminals they may be—I want not their blood shed by the Government of the United States.

Passing to the next supposition, if they shall retire, a force will be required to keep in check the Indians who surround them, already stimulated to hostility, holding a mountain region which can never be possessed by an agricultural people; indeed it required such associated labor as fanaticism only could command ever to enable the Mormons to support themselves in the valley of Salt Lake. Through that country our emigrant routes require constant military protection; and if the Mormons were out of the United States, still a force must be kept along those routes, or moving at stated periods across the continent to give protection to our emigrants traveling from the valley of the Mississippi to the slopes of the Pacific.

I do not see how we are to look forward, from any possible conclusion of this Mormon difficulty, to a reduction of the Army; and it was because of these and other things, with which I will not weary the Senate, (for I have already occupied too much of their time,) that I stated, in a very early period of this debate, that I did not propose a temporary increase, and that I could not anticipate the day when the reduction would come. This was the honest avowal of opinions which resulted from a somewhat careful examination of the subject.

During the last year I was in the War Office, an examination of the condition of that country and of the emigrant routes, and of the probable future, induced me to project a campaign which was to have started last spring, and to have gone across by the Salt Lake and through the Klamath valley, which was known to be filled with hostile Indians, to the slopes of the Pacific in the Territory of Oregon. That campaign was broken up; and the only reason I have ever known was, that it was thought to be too late for it to start. Provisions had been thrown forward as far as Fort Laramie, and every disposition had been made to render the campaign certain of success. Whenever they start, they will have to start later than the period when the order for that campaign was countermanded.

Mr. SEWARD. What time was that?

Mr. DAVIS. I think in May.

Mr. SEWARD. How soon do you think that Colonel Johnston's expedition can go forward?

Mr. DAVIS. I should think not before June, if they have the transportation. I think the snows will interfere with him, and it will be late before grass springs up on that portion of the route which lies between the valley he now occupies and the valley of the Salt Lake. I think under favorable circumstances only could he move as early as the 1st of June.

Among the amendments to the bill which have been suggested, one is to reduce the establishment at the termination of this campaign. I will offer no objection to that, because that is merely referring the question to the wisdom of the future. I have not, in any remarks that I have made, intended to offer any objection to a proposed reduction further than this: I deemed it due to myself to declare that I could not say that I believed, at that time, we could agree to a reduction. If the Senate decide it now, I have no objection to the provision being made now; no more than postponing it to that time. Whenever the time comes that the Army can be reduced, I shall be as ready to vote for its reduction in any form which may be practicable, with our theory of a skeleton peace establishment, as any one. I have no particular objection to the amendment which the Senator from Ohio [Mr. PUTN] has proposed; though I will say to him, in relation to the additional surgeons, that that does not depend on the size of the Army; it depends on the number of posts. The number of surgeons that may be required will depend on the manner in which the Army is distributed and administered.

When the four regiments were asked by the last Administration, no increase of the medical staff was asked, because the policy of that Administration was to concentrate the troops into larger bodies, relying for the control of the Indians more on campaigns than posts, and thus to diminish the number of medical officers who would be required, which does not depend on the number of troops, but on the number of parts into which you divide your Army. We now have some forty-two private physicians employed. They are generally employed at remote points, without any possibility of knowing whether they are competent or not; and the soldier, prostrated by disease at a point where he cannot possibly get a physician on private account, is turned over to somebody whom the Department cannot know. That is the present condition. We ask for an increase of fifteen assistant-surgeons, which is only a part of the whole number of private physicians now employed; but by employing those private physicians at recruiting stations and at posts near to cities, it will be possible to avoid the evil which is felt when the necessity occurs of employing a private physician on the Army frontier. It will be economy. You get not only persons of whose competency you have the power to judge, but you get them at a much lower rate than it is possible to hire private physicians.

Looking hopefully forward to the end of all present difficulties, Senators have proposed to fix a time and manner of reducing our military establishment. There are many practicable methods of reduction. I have mentioned one this morning—cutting off a certain number of companies from each regiment, and leaving the regimental organization entire, so as to give the readiest increase in time of war. Reduce the number of companies to eight, which gives you the battalion; our present system being, in a regiment of ten, to call eight battalion companies, and two flank companies; sometimes the two are called light companies; sometimes the two are called one light company and one grenadier company; but the ninth and tenth companies are flank companies; they are not companies of the battalion at all. Our organization is the battalion.

But we have been told that there is not the power to reduce the Army; and why not? The Senator from Texas says it is on account of the graduates of the Military Academy, and that it is necessary even to increase the Army to make places for them. That is a question of figures. The number of graduates did not equal the number of casualties that occurred last year; a number of appointments were made from civil life and one from the ranks of the Army. There were vacancies which occurred in the Army after absorbing

the brevets which had been attached to the Army during the previous year, showing that the class of the previous year did not equal the casualties of the year. But have we not power to reduce the Army, and have the young gentlemen educated in the Military Academy such political puissance that the Senate dare not brave them? The officers of the Army, the class in the community that have no vote, thrown out on the frontier so far that if they were to speak their voice would not be heard, how are they to control the action of the Senate? It is a reflection on the Senate, more degrading to it as a body than the depreciatory terms which the Senator applied to the Army. I believe we can, and I believe we will, when we find the interest of the country justifies it, cut down this or any other part of our governmental establishment; and I only wish that the same scrutiny could be applied to other portions of the expenditures of the Government of the United States.

In this connection I believe I did not allude to one point, which I will not at this time press, for I have already consumed too much time. The fact that no small part of the expenditures incurred in connection with our Indian troubles results from the administration of the Indians being under one Department, and the military affairs under another. The Interior Department and the Army are thus brought into conflict on the frontier. The Government pays both the contestants. The Government, through the Interior Department, sends arms and ammunition to the very Indian tribe whom the next month the War Department may send troops to subdue. Thus discontent and distrust arise between the two branches of the public service. The Interior Department sends presents to the Indians, and those Indians receive the presents after they have committed a foray on a settlement, and been chased for hundreds of miles by the troops; and thus they find their Great Father sending them these tokens of peace and good will, notwithstanding their misdeeds. It results from the organization, and it will continue until the control of the Indians is transferred back to the War Department. Then you bring the whole in connection; then a change from the peaceful to the hostile relation does not change the Department with which the Indians bear their connection. Then they will understand, after they have been subdued by force, that they are treating with the same power that subdued them, and their very narrow comprehension will then see that the Government of the United States is one, whereas now it presents itself to their view as divided.

A few remarks now upon the general subject will, I believe, enable me to relieve the Senate. In various phraseology, it has been charged that the Army everywhere is the enemy of liberty, the instrument of despotism. One Senator even arraigned the Executive as wishing to use the Army to subvert the liberty of the country. An old man, who has attained the highest station his country could confer, and that the highest station in the world, rising to it through the beneficial character of our institutions, which has enabled an obscure boy to become the Chief Magistrate of a great people, must now turn, according to this idea of the Senator from New Hampshire, and make war with the Army upon the liberty of the country to which he owes whatever he is—identified with which has been the whole course of his public life; associated with which is his every achievement; and the destruction of which would only save him from oblivion by preserving him for ignominy. What object could he have? His highest ambition, the highest ambition which earth offers, having been attained, he must now seek to crush the very steps by which he has ascended! Can it be so?

But, sir, suppose a Chief Magistrate to be so wicked and so silly as this, how could he use the Army for such purpose? Refugees, to some extent, from other countries, who have come here to enjoy liberty, weary of the despotism of the land in which they were born, and natives of the United States, cradled by mothers who would, themselves, have met a despot if he had come to the threshold of their houses, and with their own feminine arms have repulsed tyranny from the land of their birth—commanded by men who have been selected in their boyhood from the various conditions of the people and sections of our country, educated in the service of the Government, accustomed to look up to it as not only a temple

beneath which they found shelter, but to uphold which, in all its beauty and its strength, was the great end and aim of all their earthly ambition—trained to love, to respect, and to follow a flag emblematic of that Union which makes us a confederation of sovereignties, following from year to year, upon a poor pittance which barely sustains life, a profession to which they have been educated and to which they are attached, looking through it only to promotion and that reputation which is to be gained by the peril of their life, if an opportunity should offer, in the cause of their country—educated gentlemen, drawn from every section of the Union, from every condition of life, are suddenly, because they bear commissions and have sworn to sustain the Constitution and to serve their country against all enemies whatsoever, to be converted into the mere instrument which a tyrant may use for the overthrow of the country's liberties. And yet further, sir, these men, such as they are, segregated into little bodies of forty or fifty, or two hundred at a place, thousands of miles apart—he who was born in the South stationed in the North, and he who was born in the North stationed in the South, or he who was born in the South stationed in the land of his birth, and enjoying communion with the people who gave to him his first impressions, and so of him of the North—how are these men, in these little detached handfuls, all over our wide-spread country, to combine against the liberties of the Union?

In this connection, sir, I wish to read a single remark of Mr. Calhoun, for this is not a new subject. I read from a letter of his, addressed to the House of Representatives, December 14, 1818, to be found at page 779 of the State Papers, Military Affairs, volume 1:

"I have not overlooked the maxim that a large standing army is dangerous to the liberty of the country, and that our ultimate reliance for defense ought to be in the militia. Its most zealous advocate must, however, acknowledge that a standing army, to a limited extent, is necessary; and no good reason can be assigned why any should exist but which will equally prove that the present is not too large. To consider the present Army as dangerous to our liberty partakes, it is conceived, more of timidity than wisdom."

He then goes on to speak of the condition and character of the Army. We are told, however, and told truly, that republics have been overthrown by military organizations; but when did such a Republic as ours exist? Is Rome to be compared to this country? Rome is cited as an example to point the future destinies of the United States. Hers was an empire. When she had the name of a republic she was yet but a consolidated empire, with dependent provinces won by conquest, and governed by pro-consuls. Is this to be assimilated to our great family of States, each governing itself, each independent of all others, but all connected together for the common welfare, the common glory, and the general good?

Then we are cited to cases in Europe, where despotism is maintained by standing armies; but suppose the despot had an American army to rely upon, would they be faithless to their first impressions, faithless to the free blood which runs in their veins and which descends from the bold barons of Runnymede? or would he not find when he came to review the line of his army, on every brow set the seal of inborn equality and independence, and would not some private in those ranks thunder in the ear of the despot, like Patrick Henry, the warning of the fate of Caesar and of the fate of Charles?

Is it to be inferred that a man who is a freeman at his birth, who has all the spirit of republicanism in his heart, is to lose it by entering the military profession? Is it true, as the Senator from Texas has told us, that service in the Army stultifies young men? It cannot be. He is a bright example of the reverse himself. It was his proud fortune to rise from the ranks by his own merit to a commissioned officer, to serve in the Army, and there to acquire many of those qualities, endowments, and graces, which have adorned this Chamber. He stands in himself a brilliant example of how little the Army stultifies, and how much it may exalt the youth contained in its ranks.

We have other great examples. Did Washington become the fit instrument of a despotism? was he stultified because he entered the service of the United States in his youth? That great mind which comprehended the whole condition of the colonies; that heart which beat sympathetically for every portion of his common country, feeling

equally for Massachusetts and South Carolina, for New York and Virginia; that great arm which smoothed the thorny path of revolution, and led the people from rational liberty up to independence, and laid the foundation of that prosperity and greatness which have made us a people, not only an example for the whole world, but a protection to liberal principles wherever liberty asserts a right—was he stultified by service in the Army? Jackson too, the indomitable Jackson, who when a boy and a captive spurned the insult of a despot and received a wound, the scar of which he carried to his grave—was he by service in the Army when yet a minor, by brilliant exploits in middle age, rendered the fit instrument of despotism? If it be said these were men drawn from the pursuits of civil life and only occasionally employed, what, then, shall be said of the great, the good, the heroic Taylor? for a hero he was, not in the mere vulgar sense of animal courage, but by the higher and nobler attributes of generosity and clemency. His was an eye that looked unquailing in the hour of danger, when the messengers of death were flying around him; an eye which softened at the appeal of the vanquished; but when he stood in the ward-room over his wounded comrade it was involuntarily moistened with the tear of compassion. He was a hero, a moral hero. His heart was his country's, and his life had been his country's own through all its stages. Was he the fit instrument of a despot to be used for the overthrow of the liberties of the United States?

Shall I prove my proposition by going on and multiplying examples; or is it not apparent that whatever may be true of the history of Rome, whatever may be true of the condition of Europe, the United States stands out its own founder and its own example? No other people like our own ever founded a State. No other people like our own have ever thus elevated a State to such greatness in so small a space of time. If there be evidence of decay, that decay is not to be found in the spirit of your little Army, but is to be hunted for in the impurities of your politicians. It therefore does not become the politician to point to our little and gallant and devoted Army, as the incipient danger which is to overthrow the liberties of this country.

If I have succeeded, Mr. President, in impressing upon Senators the principal truths I have endeavored to advance, I have succeeded in showing that the plan of increase which we propose is the most economical and efficient within our reach. If their judgment, however, shall decide otherwise, I then have performed my duty. I have argued this question earnestly because I am thoroughly convinced of the advantages of the bill which is before us. If I am in error it is fortunate for me that the majority of the Senate will correct it. If I am right, the future will sustain my opinion, even though it be overruled now. I am, therefore, content with whatever fortune may befall the bill.

Mr. HOUSTON. Mr. President, after the very eloquent and interesting speech of the Senator from Mississippi, I feel that I must of necessity, in defending what I believe to be correct policy, appear much to disadvantage. I have been impressed with the eloquence and propriety of his remarks so far as they are general in their application, but to this particular case I do not conceive them applicable; but this may be owing to defective judgment or want of taste on my part. In the outset, however, I will ask of the honorable Senator to state in what instance I have used words derogatory to the Army? Certainly it was not my intention to disparage that respectable class of gentlemen in the least; but he spoke of the hard terms I used in relation to the Army.

Mr. DAVIS. I have not the Senator's speech before me, but I noted it as he went on. He spoke of the absence of respectability in the Army. He spoke of it as the result of there being no means of promotion. He spoke of the incompetency of officers. He spoke of their design to increase the Army for their own advantage. He spoke of their standing in the way of their betters and seniors. I do not know, if the Senator wishes me to repeat the particular sentences, how I could do it otherwise than by getting the Globe. I suppose he recollects the ideas he advanced.

Mr. HOUSTON. Perhaps some terms escaped me that were improper for this body, as well as reflecting on the character of gentlemen, which I

should have regretted exceedingly. If to assume a position, and maintain it by a statement of facts is derogatory to the Army, that is not my fault, but my misfortune. When I said that our Army in time of peace was not composed of the best material, I alluded to the rank and file; and I stated that perhaps not more than one fourth of them were native-born citizens of the United States. A large portion of them are foreigners, who are not naturalized, and therefore can have no sympathy with our institutions, and no feeling for our cause, except that of mercenaries. I do not think that the most respectable description of force.

But, sir, I am for an efficient army; I want one to execute whatever the emergency requires, and for that reason I have opposed the present bill, and advocated the motion of the Senator from Georgia to strike out the first section. I think the enactment of that section will produce no favorable result to the country. It will not meet the emergency; it will accumulate the expenses of the country, and will not redound much to its honor.

The Senator from Mississippi read the opinion of Mr. Calhoun in reference to the danger arising from the Army. I should be glad to have him state what was the strength of the Army at the time when Mr. Calhoun wrote the letter from which he read. I think it was a much less number than it is now. The Army which Mr. Calhoun considered not dangerous was not near as large as our present Army. I have never apprehended any martial danger resulting to the country from the standing Army. Their segregated character will be proof against that. The evil of which I have spoken, results from political influence. As you increase the number of officers, you increase the number of families connected with them, and they feel interested in the promotion of their relatives. These families have an influence in their respective localities, and in that way the whole community may be inoculated by the same sentiment, and the same political disease may pervade this nation. It is in this Chamber and in the Hall of the House of Representatives that the danger is to be feared, not in the array of martial men.

I am afraid of no tyrant usurping the liberties of any people. They have never been usurped; they have been relinquished and abandoned. Cæsar and Cromwell and Bonaparte have been denounced as tyrants, and our school-boy teachings are all of that character; but, sir, those men were not tyrants; they were the conservators of national existence. It was the Senate of Rome that became so corrupt that liberty could no longer exist in Rome, and the question was not as to Roman liberty, but who should be the master of Rome—Cæsar or Pompey. Cæsar's star was in the ascendant, and he redeemed the country. How was it with Cromwell? While England was a Commonwealth, was not the Rump Parliament the seat of corruption, the very heart of rottenness? Cromwell purged it; and he did this with a strong arm and a sharp knife; but the incision was necessary. He did well to do it. He preserved the British nation and gave it prowess. How was it with Napoleon? France had passed through sanguinary scenes, the gutters of her capital streaming with innocent blood; and then Napoleon took the helm like a man, and he corrected the corruptions of France, and built it up the mighty Power of the earth. He taught the French eagles to soar; and even upon the pyramids of Egypt they perched in triumph. He was not a tyrant; but he was the master of a people who could not live without a master. They invoked him; they invited him by their vices or their corruptions, as England had Cromwell, and as Rome had Cæsar. No people can be conquered by a single man or a single mind while they mean to be free. Men are born to be free so long as they are virtuous and patriotic, and whenever they cease to be either they are disfranchised and deserve the despot's lash.

It is not the Army that I am afraid of; but it is the outward pressure of the officers of the Army and their friends, to operate on the legislation of this nation, that I dread. If I had passed away a few years ago I should have carried more rest to my grave than I can do now, unless there shall soon be a change in the political complexion of affairs. I then could have passed away with anticipations of the perpetuity of our Union, and

the preservation of the purity of our institutions; but I see encroachment after encroachment on the foundation of our liberties slide on unobserved. They are insidious; and so it is to be with this official power that is growing up in this nation, and beneath the weight of which it will fall; and then a master will rise.

Mr. DAVIS. I will now answer the Senator's question, if he will give me permission to do so.

Mr. HOUSTON. With great pleasure.

Mr. DAVIS. I had intended to refer very little to documents to-day, as I was not able, yesterday, to find the place so promptly as I might have done; but there is a table connected with the letter from which I read, showing the aggregate of the Army to be twelve thousand five hundred and sixty-six; and the total of non-commissioned officers and privates, or enlisted men, eleven thousand five hundred and thirty-five. That was according to the organization of 1818.

Mr. HOUSTON. That was the number in the Army at the time Mr. Calhoun wrote the letter to which the Senator referred, and he was not then asking for any increase; though I have no doubt he may have felt a political influence harassing him to do so. My experience of this Government has shown me that there are two things you may do: you may reduce postage too low, but you never can raise it; and you may increase the Army, but you never can reduce it. Why is this? I have friends in the Army, but I thank God I have no relative in any Federal office, and I hope I never shall. If any relatives of mine ever possess influence or place, I hope it will be an emanation from the people of the country, resulting from confidence in their integrity as patriots and as honest men, and that they will never hold a Federal office unless they can return in benefits to the country more than they receive in pecuniary reward. Members of Congress have their friends in the Army. They say, "Colonel such-a-one, our friend, if we reduce the Army, will have to go into private life, for which he is disqualified from the pursuits in which he has been engaged; Lieutenant such-a-one is a noble youth; Captain such-a-one is a charming fellow; and Major so-and-so is an elegant man; we do not want the Army reduced because the ax will strike some of our friends when it falls." We all have our personal predilections; we have our partialities; or we have our associations in private life, and we do not wish to meet their reproaches or frowns, and therefore we cannot vote for a bill which our conscience tells us we ought to vote for. We are not more omnipotent than other men. We have the infirmities of humanity clustering around our hearts and sympathy continually clawing at us. We cannot resist importunities; and thus it is that you may easily increase the Army, but you cannot make a reduction when the necessities of a country require it.

Now, sir, I mean to refer to some documents to show the discretion that has been used in the chastisement of the Indians, and to prove that the aggression has not been from them. The Indians have no one to vindicate them; they have no sympathizers; they have no newspapers to issue their bulletins, and tell their misfortunes or the wrongs done to them. The white man has every facility. The Indian has no one to speak for him; for in nine instances out of ten, in my experience, I have found that those who should have been the guardians of the Indians' rights, appointed by the Government and paid for the purpose, have been their robbers, and frequently that robbery has brought on war. I do not speak of the Indian beyond his merits. I know him well, though the honorable Senator from Mississippi has been pleased to say that those gentlemen who have been educated at West Point, with all the advantages the country could give them, when stationed on the frontier know more and have better acquaintance with the Indians than myself. I do not wish to contradict the Senator, nor do I know that the facts would justify me in doing so; but humble as I may be, I am entitled to an opinion. I have some knowledge of the Indian, for when a boy fourteen years of age, it was my fate, an orphan lad, to be located within six miles of their boundary, where I was reared to manhood and in almost daily association with them. I had not, to be sure, the advantage of an education at West Point Academy to imbue me with that prescience which its graduates possess when they are acci-

dentally thrown on the frontier in the discharge of their official duties!

Mr. DAVIS. I am sure the Senator would not willfully misunderstand me; and I am not willing that he should believe I said anything so unkind as a reflection of that sort would imply. I was not speaking of the education of gentlemen anywhere; I was not speaking of the scientific attainments of the officers who had received a West Point education; I was speaking merely of officers whose long connections with the Indians gave them a knowledge of Indians more intimate than any other class in our community.

Mr. HOUSTON. Well, I am accounting for my own want of knowledge.

Mr. DAVIS. What I said cannot admit your want of knowledge. You are doing injustice to yourself.

Mr. HOUSTON. I do not wish to have it said that I apply hard names to the Army; but I have a right to allude to the facts which are before the country. I do not care how ingenious may be the graduates of West Point, or what grasp of mind they may possess, I say experience is the great teacher and nature the schoolmaster. I remarked that I had been reared on the immediate border of the Indians, and in constant association with them. It was where the bold Tennessee gushes her waters through the great mountain of Chilhowee; and I learned to scale its topmost peak realizing that perseverance and energy would master much. Indomitable will enable me to reach its highest peak, and there stand and contemplate the valley below. Undismayed by difficulties, I will not yield a principle that I cherish in my heart. I cannot consent to give up my opposition to an increase of the regular Army.

In such scenes I was reared to manhood; and when my duties called me to the Army, I was associated with the Indians, for they were in the army of Jackson in the Creek Nation. After that, in 1817, when still a subaltern in the Army, I was appointed an Indian agent by the Government—the first sub-agent that ever was appointed; and for a twelvemonth I was again associated with them in the transaction of business, and renewed the old associations of boyhood. After the duties of my agency were over, occasionally those associations were preserved; and when, in after life, reverses came upon me, and dark clouds fell upon my pathway, I spent in exile four years with the Indians, with various tribes. Tell me I do not understand the Indian! Too well I understand his wrongs. Tell me that with all the advantages of education, and all the bright associations of the world, and in all the galas of fashion, you are to learn the Indian's character and disposition, and the history of his wrongs! No, sir, they are in tradition; they are not in history, and I have learned them. I know them. I know his disposition; I know it well, and better than any officer who is on the frontier of the United States. If I have not the experience which I have cited, this might be considered boasting; but I feel that I only state the truth. I know that their character is as I have stated, for I have not failed to conciliate them wherever I have tried, and how? By even-handed justice. Hold the scales of justice suspended with a steady hand between yourself and the Indian, and you will have no danger from him, it will not be necessary to suspend the sword above his head, like the sword of Damocles.

Why, sir, with one twentieth part of the money expended to support the Army, or even less, you could feed the Indians on our borders, and clothe them in comfortable garments; and then you would need no Army except to take care of your fortresses, and keep you arms in order; for I am sure you can never rely on a regular Army unless you make it like the European armies of hundreds of thousands of men. I call on the honorable gentleman from Mississippi, who has worn proud and green laurels on his brow, to say with whom did he win them—with the regular soldiers? He gave years of his life to the regular service, but he won no laurels there that I ever heard of. The harvest was with the volunteers in Mexico, where he won rich laurels; and he wears them well. He purchased them with his own blood, and the blood of volunteers commingled on victorious fields.

He cites the case of Washington. Why, sir, Washington began his military career as a militia officer under Braddock, and as soon as Braddock's

campaign was done, he retired to the scenes of private life. He did not seek the Army as an avocation. When the Revolution began, destiny called him to the head of our forces. Nothing that I could say in commendation of him would add one laurel to his brow, nor can his civic wreath receive addition from mortal tongue. He retired from office whenever the necessities of his country permitted him to do so.

Jackson, too, was called from private life to military service; and I venture to say he never mustered with a company in his life before he went into actual service. He knew nothing about tactics. Strategy rises far above your martinets and tacticians. It soars in a higher sphere. There is an alembic connected with it that is not mechanical alone. He could well direct and comprehend who were to be his artizans; while he was the great master workman, the architect of high designs. Jackson was called into the field at forty years of age, and when the emergency was over he retired again to private life. He never sought office. He even resigned a seat in this august body, that he might give place to a man, as he supposed, of more experience and enlightened views—General Smith. He afterwards resigned the office of Major General in the Army, or intimated his disposition not to serve longer. He resigned the Governorship and Captain-generalship of Cuba and Florida, after he had accomplished the purpose of his Government there. He sought private life, or, if he occupied public station, it was for the purpose of being useful to the country, and not be an incubus upon it.

There is another point which I must notice. The Senator from Mississippi says the road of promotion from the ranks is now open. It may be open, but I never hear of anybody traveling that road. The door is wide open but nobody goes in. West Point Academy furnishes a suitable supply of officers. Sergeants and other non-commissioned officers, who are commended as worthy of promotion, do not receive it. Only the other day one brought me a note attested by officers under whom he had served for eight years. He was recommended to me from the fact that, once having been a sergeant myself, it was supposed I would sympathize with him. I examined him, and I saw that his indorsements of character were sufficient. To the eye, he was a gentleman; but he is doomed to a sergenty. He has his lines, and he cannot rise above them. Numbers have applied to me since I have been on this floor as a Senator, to aid them in procuring situations. Some may have received them for aught I know, but if so it never was known to me. I have never known of a solitary promotion of that kind. If the door is open, but persons are not admitted, I do not think it amounts to much. Whenever I see that they are sought after, I will look into the ranks of the United States Army for men to sustain the reputation of the country as officers, and then men will enter your ranks for the purpose of obtaining promotion by good conduct. When I entered the service, if I had been doomed all my life to be a private soldier or a sergeant, notwithstanding all the ardor of youth, and the fervor of patriotism which I thought I possessed, I could not have been induced in time of peace to enlist in the Army. I believed, however, at that time, that it would not be detrimental to my advancement in the service of my country for me to take a position where I could learn my duty before I undertook to teach others theirs. There I learned the duty of a soldier. I know his wants, and his feelings, and I can appreciate his necessities.

Now, sir, to show that the Indians came off badly on some occasions, I will read from the public documents before me a brief extract in regard to the Brulé war. Little Thunder and the Indians under his command were set upon while they were peacefully moving with their families, and with the supplies necessary for their support. I desire to read from the report of General Harney—an officer for whom I have always entertained the highest respect. General Harney, it appears, was ordered to retaliate on the Sioux for having murdered some troops—Gunnison's command, I think. He had a parley with them, and he attacked them, after finding out that they were there with their warriors, their women and children, and their supplies for an inclement season. I will read his own account:

"But, before reaching it, the lodges were struck, and

their occupants commenced a rapid retreat up the valley of the Blue Water, precisely in the direction from whence I expected the mounted troops. They halted short of these, however, and a parley ensued between their chief and myself, in which I stated the causes of the dissatisfaction which the Government felt towards the Brulés, and closed the interview by telling him that his people had depredated upon and insulted our citizens whilst moving quietly through our country; that they had massacred our troops under most aggravated circumstances, and that now the day of retribution had come; that I did not wish to harm him personally, as he professed to be a friend to the whites; but that he must either deliver up the young men, whom he acknowledged he could not control, or they must suffer the consequences of their past misconduct, and take the chances of a battle. Not being able, of course, however willing he might have been to deliver up all the butchers of our people, Little Thunder returned to his band to warn them of my decision, and to prepare them for the contest that must follow.

"Immediately after his disappearance from my view, I ordered the infantry to advance."

Little Thunder had gone to confer with his people; before he returned, the massacre commenced. Was this the way to maintain peace? If the troops killed the Indians on that occasion, how many defenseless human beings must become sufferers to that retaliation which is the nature of their savage state? But this new addition to the Army must accomplish something, the four regiments had done nothing up to that time, and they must achieve something, to justify the raising of them. Let me read further:

"The results of this affair were, eighty-six killed, five wounded, about seventy women and children captured, fifty mules and ponies taken, besides an indefinite number killed and disabled. The amount of provisions and camp equipage must have comprised nearly all the enemy possessed."

They were sent to starve or depredate on the frontier. In that inclement region, where game was wanting, what were they to do? Deprived of all their means of subsistence, how were they to live? They were to steal, to murder, or to rob, for they must live or famish. He says, further:

"Teams have been constantly engaged in bringing into camp everything of any value to the troops, and much has been destroyed on the ground."

That was a scene—an Indian chief willing to give up the offender if he had power, but protesting that he could not be accountable for the acts of outlaws; and we know that it is so. Suppose some persons from Baltimore county should inflict wrong on citizens of the District of Columbia, and were to kill one or two of them: would it be just in the people here to demand of the superior officer of that community restitution or surrender of the murderers? And if he should say it was not in his power to surrender them, but that he wanted peace, and would do all he could to preserve it, and they should go on and punish his people for what had been done, turn loose on the women and children wherever they might be congregated, and massacre them, what kind of justice would there be in that? Would there not be as much justice in that as to say that because an Indian chief could not surrender the lawless fellows of his band, you would murder women and children and warriors indiscriminately? Circumstances of this kind lead to interminable war. I have no doubt, however, this gallant officer obeyed the orders and met the views of the Government. Here is what Colonel P. St. George Cooke says:

"There was much slaughter in the pursuit, which extended from five to eight miles, and in which Heth's company took their gallant share, but with the great disadvantage, amongst others, of being armed with rifles. Very few, if any, of the enemy should have escaped if I could have handled the reserve."

"Following the reports of the several commanders, the loss of the enemy inflicted by my command was seventy-four killed, five wounded, forty-three prisoners, (women and children.)"

He does not say whether they were men, women, or children, that were killed; but he says so many were killed; and I see that in another place, by way of excuse he says that the women were armed and dressed like the men, and fought with arrows and wounded his soldiers. I presume such women were killed; but he does not say so. Now, sir, I never war with the ladies. I do not think that is gallant; and I think it is still less gallant to war on children, for some of them may become ladies after proper care. That is one instance of the species of warfare carried on with the Indians.

The honorable Senator told us yesterday of the achievements of the army in Texas. I had not heard of them before. It seems some of them surprised the Indians, but those who did so were dragoons. Well, sir, I have not said a word

against the dragoons. I have not said they were inefficient. I said that the troops you now propose to raise would be inefficient for this service, but I have never cast any reflections on the dragoons. I have not said that they were not perfectly efficient. The only allusion I made to them was to the drill that was practiced in Texas; but those men may have all broken their necks in falling off their horses. [Laughter.] I said the dragoons were the only description of troops that ought to be employed on the frontier, except to maintain stations to protect trading-houses with the Indians. We find that those men who have achieved so much in Texas surprised three different parties of Indians. I have no doubt of it. I have known parties of Indians surprised in Texas—some that were coming in to hold a treaty in a very friendly way, yet were set upon and murdered, and our citizens' lives paid the penalty for it. I think the Senator read two or three instances where some horses that had been stolen were reclaimed. I am glad of it. That shows an efficient description of service, that I approve and admire.

In another instance which he cited, the dragoons attacked the Indians, whose warriors came out to fight them. He does not say whether the women and children did not incur the warriors; he does not say that they were not hunting on a peaceful party; but the dragoons attacked them, and the women and children of course took to the chaparral. The troops to be employed on the frontier ought not only to understand the topography of the country, but they should be familiar with the character of the Indians; they ought to know whether they are for peace or for war before they treat them as belligerents.

As to the achievements of which the honorable Senator spoke, in New Mexico, they may be all right officially; but what he read stated that the troops had traveled eighty miles a day over rough mountains. To me that is rather a fishy story. [Laughter.] If it were printed twenty times, I could not think it. I have crossed mountains myself which were tolerably smooth, and I never could go eighty miles a day. There must be a mistake in that part of it; and if part of it is a mistake, I do not see why the whole of it may not be.

The Senator gave us a very handsome, tasteful, and elegant sketch of the feelings that the youths who enter the Military Academy must have; and I presume they must imbue the whole military force. He says young men go there from whom no danger can be apprehended, and that they will never conspire against their country, but will strike down the tyrant or usurper. Sir, I see a difficulty and a misfortune attending this military training in early life, and I cannot come to any other conclusion than that it is a great misfortune. The more closely you connect family associations; the more you endear families to each other, as members of society, the greater is the hope of harmony and of the continuance of affection. If you take a boy at the age of fifteen and send him to an institution like the Military Academy, you estrange him from his associates in early life. He loses that reverence for his parents which would have grown up with him if he had been left at home. Their moral teachings are lost upon him. He may, perhaps, retain a remembrance of some portion of them; but they are not daily inculcated by example and precept. He becomes alienated from his brothers and sisters. New associations and detachments withdraw him from home, and he gradually forgets it. He remains at school four or five years, where his mind is attracted to other pursuits, and home gradually loses its attractions for him. He only recollects it as a thing of the past. He remembers his kindred like others who have been kind to him; for he has found in the world friends and associates who are agreeable. He loses that filial and paternal affection which he ought to cherish through life. He becomes a soldier of fortune, wedded to the Army. His sword is his companion. He feels that if with it he gets promotion, he will be happy. He forgets the ties of home and of family, and becomes, if you please so to call him, a son of the Republic; and if an Emperor were at the head of the Government, he would be the Emperor's son.

Is this training calculated to increase a man's affection for his country, or to add to his patriotism, further than as he conceives the benefits he

receives are reciprocal? But, sir, go to the walks of private life; go to the volunteers. Who are they? They are men who, when they come to the camp, quit the warm affections and embraces of affectionate friends. They leave maternal or sisterly, or it may be conjugal affection. They rally to the standard of their country, and are anxious to achieve something, and return to those endearments for which they cherish so much fondness. They move with alacrity and spirit; there is no desertion among your volunteers. But in one year I have noticed that, in a single command of the regular Army, nearly half the troops deserted. There are no volunteer desertions, because home is no refuge for the dishonored man; but it is the elysium of the patriot. After he has performed his duty, he returns to the embraces of his family, to the confidence of his friends, to the esteem of his neighbors. He has every incentive to noble achievement. He has everything to invite him to return speedily to the walks of private life. When his country needs him, he drops the plow-handle, contemplates the objects of his attachment, and departs for the scene of action. When the danger is over, he returns again to his family. When his country again calls, he knows her tocsin, and he rallies to her banners. This should be the standing army of America—freemen, and none but freemen. Are they not more efficient than regulars? Certainly, if they had the same drilling and exercise, they would be. Why? Because they are not taken up here and there, as circumstances and pinching necessity may drive a man from want to enlist in the service. They are men who have substance to return to at home, and who only lend their arms for a while to their country, desiring to return again to their families. These are the efficient men, depend upon it. When the stronghold of liberty dissolves, there will be no volunteers in America.

Now, sir, how long will it take you to organize an army for the conquest of Utah, if you are to undertake that? If this increase of the Army is not intended for Kansas or for Utah, I do not see on what ground it can be urged at all. It is said it is not for Kansas. Then it must be for Utah. The Senator from Mississippi and myself have different notions about the result of that campaign and the condition of it at this particular time. Let an improper inference might be drawn if I were to do so, I shall not give an opinion as to the situation of the troops there now, what it has been for a month past, and what it will be for a month to come. I have done it privately, but here I will not do it. The Senator thinks the military head of that expedition is competent to everything. I will not gainsay that. He vouches for him, and I know he is candid in his voucher.

If you pass this bill, you must send officers over the country to recruit; and what kind of men will they get? Efficient, active men, accustomed to the use of arms—men who will be readily drilled and rendered effective in service? No; but men whose necessities drive them to the Army, who are thrown out of employment in the cities; and who, to avoid "loafing," or that becoming a bad business, seek refuge in the Army. A large proportion of the troops you may raise will answer to this description. You cannot, in a twelve-month, fill the ranks with the number proposed to be raised. Considering the transportation of supplies, I think I may safely say that you will not, in less than a year and a half, get to Utah, drilled and prepared for service, the regular troops whom you propose to raise by this bill.

If, however, you take volunteers, how long will it require for them to be recruited and go to the scene of action? In fifteen days from the time proclamation is made, they will be organized and ready to march from Missouri, from Iowa, from Texas, from California. Allowing twenty miles per day, it would take them fifty days to go to Utah from Fort Leavenworth, or from Iowa, or from Texas. It would require mounted volunteers to accomplish the distance in that time. If they were infantry, it would take seventy-five or eighty days; and they could not start until May or June. In the course of sixty days at the farthest, you could have in Utah, from Texas two regiments, from Missouri two regiments, and from Iowa two regiments, or as many as are necessary for the emergency. When this is done they return to their homes, and they are no further cost or charge to you. But admitting that their expenses are double

those of regular troops while they are in service, when the campaign is over the expense ceases. If there is an emergency now calling on us for action, volunteer troops are the only ones suited to the occasion. If the object is to increase the standing Army, I am opposed to it.

These are my views in relation to this emergency, and I am as anxious to see the country quiet as any one. I think that volunteers, active, sprightly, animated young men, going to that country, would be the best means of breaking up the Mormons. When they get there they will feel that they are cut off from the rest of the world; they will be delighted with the country, and be pleased to settle there. They will take wives from amongst the Mormons, and that will break up the whole establishment; it will take away their capital. [Laughter.]

My convictions are, that the true reliance of the country for its defense is on the volunteers. If you undertake to keep up a large army, the result will be deleterious to the country. If you add during each presidential term four regiments, you will have, in the course of the administration of five Presidents, in twenty years, twenty thousand men in addition to the present force. If you think it necessary to increase the Army in that ratio, very well; but I think that is a course which ought not to be persisted in. If I were to remain in this body, I should urge on the attention of this nation the civilization of the Indian tribes, and in this way we should dispense with a portion of the military force. When Texas was a Republic, her border extended for six hundred or eight hundred miles from the Red river to the Rio Grande; and when the conflagration of her hamlets proclaimed that hostile Indians were on the borders, where they had been left by the President in 1838 in peace and harmony, when they were excited by Mexico to depredate on our borders, and commit murder, what was done? At the commencement of a new term in the executive chair of that Republic, the Indians were hostile; but the Government of Texas appropriated \$10,000 and put it at the disposal of the President for the purpose of securing peace, and in eighteen months we had peace from the Rio Grande to the Red river. We opened commerce with the Indians, and the peace and concord we had with them lasted for years after the annexation of Texas. The Senator from Mississippi has spoken of the achievements performed in Texas by the dragoons. A single company of rangers would have done all that. Jack Hays, Ben McCullough, and Gillespie, achieved more than that; and I believe they never had over seventy-five men, and those for a few days only. Give us rangers in Texas. I ask you to give us one regiment of a thousand men of rangers, and you may withdraw your regular troops and dispose of them according to the other requirements of the country. Give us one thousand rangers, and we will be accountable for the defense of our frontier of eighteen hundred miles. We will give a quittance if you will give us a thousand rangers. We ask for no regular troops; withdraw them, if you please. I ask this not through any unkindness to them, but because they have not that efficiency which is necessary for frontier service. Troops in garrison never gave protection to a frontier.

I am willing to contribute all in my power to the general defensive interests of the country, where it does not conflict with some great principle; but I tell you the interests of the country will be best subserved by volunteers. You must rely on them, at least, as you have in every emergency. Every free country must rely on volunteers. They will not desert you. They are identified with the institutions of the country. They have their homes to defend; their wives, their children, their honor, and their country's glory. They have an ancestral blood which flows in their veins, a rich heritage which has descended with the blessing of God from their ancestors to them. You may rely upon them.

Mr. DAVIS. Mr. President, I shall occupy the Senate but two or three minutes. I wish merely to answer some facts, to which the Senator from Texas has alluded. I am quite convinced of the sincerity of his declaration that he merely wishes to sustain what is right, and therefore I suppose if I take from him his facts, or what he claims to be facts, he will cease his opposition.

Before going into that, however, I will merely

say that he offers a contract which the Government might well accept if he were the only party to make the contract. If the Government could absolve itself from its obligations to the State of Texas, it would do well to give the whole amount a thousand rangers would cost, to get rid of the defense of its frontier; but I do not think he would find it quite so easy. It is clear that he has not kept pace with the history of events in his own State—with great respect I say that. He says one company of rangers would have done more than all these troops; yet we have had several companies of rangers employed there, in the service of the United States, and should find it rather difficult to recount what they had done. Moreover, he says he has not attacked the dragoons, and has made no reflection on the dragoons; and that the dragoons performed the service of which I spoke yesterday. I hardly know how to follow the Senator, because it was not the dragoons, it was the cavalry, that performed the feats of which I read.

Mr. HOUSTON. I confounded the two; I am not technical.

Mr. DAVIS. Then the Senator means mounted men, because the riflemen would come in next if he had not covered it entirely. He is afraid that one gentleman did not ride so far as he said, eighty miles in a day.

Mr. HOUSTON. Over mountains.

Mr. DAVIS. The only reason the gentleman has to say that is, that he could not have done it himself; and that proves that the regulars are better than he, notwithstanding his early training in mountain climates, so that he has brought in a very strong argument for regulars, for I have no doubt in the world as to the accuracy of the report.

He makes his point again in relation to the Indian combat on the Blue Water. He makes it as though the Indians were a peaceable party and the troops the aggressors. This was a band which had been turbulent for some time, and committed various depredations. They were pursued by General Harney. He found them in force, summoned the chief, and made to him the proposition that he should surrender the murderer. He acknowledged his inability to do it and went back to confer; but then the slaughter did not commence as the Senator described. When he went to join the tribe, they fell back to a hill, taking advantage of the clemency of the troops; and that long chase of Colonel Cooke across the plains resulted from his not striking before he conferred with them. General Harney's report was made to the War Department, and it was published; the sub-reports were not.

Mr. HOUSTON. It is here.

Mr. DAVIS. His report was published; the sub-reports were not.

Mr. HOUSTON. Colonel Cooke's report is here.

Mr. DAVIS. General Harney, in his report, says:

"Assistant surgeon Ridgely, of the medical staff, was indefatigable in his attention to the suffering wounded, both of our troops and the enemy."

This hardly looks like the cruelty which is attributed to the troops. He says:

"The results of this affair were eighty-six killed, five wounded, about seventy women and children captured."

The Senator says he does not know how many women were killed. If it was the practice to kill women, the general would not have captured them and brought them in to feed them and take care of them. Again, if the Senator has Colonel Cooke's report he must have found a statement that "in the pursuit, women, if recognized, were generally passed by my men, but in some cases certainly these women discharged arrows at them."

The Senator's knowledge of Indians must make him perfectly aware of the difficulty of determining, when they are on horseback, the difference between the sexes. They are dressed much alike; they ride exactly alike; there may be a slight difference in the length of the stirrups, and that is all. He must be aware of the difficulty of distinguishing between men and women, carrying the same arms, their dress resembling, riding exactly alike, and firing upon the troops. But the report of the topographical officer, Lieutenant Warren, which is very accurate and detailed, and was made with more deliberation, states that at this attack in the cave, where they could not see who they fired

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upon, there were five men, seven women, and three children killed, and several wounded. General Harney is known to the country as a gallant soldier. He has proved it on many occasions. His knowledge of the Indians is very extensive; and in this particular case, which the Senator believes is to result in future evil, he struck a band that had often been hostile, tamed them at the first blow, and afterwards made a treaty with the tribes of that section of country, which has thus far preserved peace in it. The results have been as favorable as those of any Indian campaign ever known in the history of the country.

As to the killing of women and children, that is the result of all combats where they are together. A city never was bombarded in which women and children were not killed. In the memorable bombardment of Vera Cruz, the troops being generally under the wall, the non-combatants, the women and children, were the principal sufferers; but that was not the fault of the Army. They had an end to achieve, and were to achieve it by such means as were within reach. They did not wish to kill the women and children, but they could not avoid it. It is true of all battles when towns are besieged. It is impossible that it should be otherwise. Surely, the Senator does not mean to do injustice, and make an accusation, especially at this moment, against our own Army, when the result belongs to the nature of the case.

He takes my character of the commander in Utah, and I am obliged to him for the credence he gives to it; but the commander of the present expedition to Utah has some claim, I think, on the Senator's knowledge of his character. He was a soldier, and a brave one; he held a very eligible staff position, and he left our Army to join the revolutionary struggle of Texas in its very darkest hour. During that period he commanded one of her armies, and rose in her civil government to the position of Secretary of War. In Texas, at least, Albert S. Johnston might be known. He raised a regiment of volunteers and marched to join General Taylor upon the Rio Grande. When that regiment, on account of the terms of the law compelling them to serve twelve months, claimed their right to be disbanded, he remained in the service; and General Taylor, who had known him in his youth and appreciated his worth, retained him by his State rank of colonel and made him inspector general of General Butler's division of volunteers. He passed through all the sieges of Monterey, calmest among the brave who met the shock of battle, always prompt and collected. He was of infinite value in that division of volunteers, where he served as inspector general.

Then there is another point—one of the Senator's facts. He says I have stated that the door is open to the promotion of men from the ranks, but what value is that when they do not get promotion? He has not heard of one, and he has turned men away because he could not get them places. If he will begin at page 13 of the Army Register—

Mr. HOUSTON. I never said that I had turned men away.

Mr. DAVIS. I thought you said you had declined to seek places for them.

Mr. HOUSTON. Oh, no.

Mr. DAVIS. Very well; you say they cannot get in.

Mr. HOUSTON. I say I have not heard of it.

Mr. DAVIS. That is the Senator's fault, and not the fault of the men who administer the Army. If he has not heard, it is because he will not hear, for we confirmed one the other day in our last executive session. If he will not see it, it is because he will not read, for the Army Register is furnished to him as an official document, and if he will begin at page 13 and go on to the end of the list he will find one after another along the succeeding pages, officers "appointed from the Army," that are promoted from the ranks; and in those new regiments where they do not so appear, it is because they were all original appointments. Those sergeants who were taken and made commissioned officers in those regiments do not so

appear for the reason that they were all original appointments; but in the old regiments he finds them continuously. It is true they are generally of recent date, and I am sorry that it is so. They are of recent date, not because there were not such appointments in former times, but because unfortunately those appointed did not prove themselves so worthy as to retain their commissions. I am sorry that the fact exists; yet it is notorious. However, he will find on page 13, where is the list of the first dragoons, in the very beginning of those regiments, Sergeant David H. Hastings promoted in 1848. Then, if he will turn over to the next page, in the second dragoons, he will find Sergeant Starr promoted in 1848; lower down he will find Green promoted in 1855. So, if he will go on, he will find some twenty in the Register; and I commend the reading of the Register to him to satisfy his doubts as to the capacity of a sergeant to rise to the grade of commissioned officer.

These being the objections he has made to the Army organization, and his whole argument being that we had increased the Army lately, and that the additional force had been of no account; and, as he now takes that back, on finding that the troops who have rendered the services I have quoted were a part of those new regiments, I hope his facts being taken away, that he will come down as gracefully as he can—and that is more gracefully than anybody else—from those who dissent, and join the ranks of those who defend this bill.

Mr. HOUSTON. I have not seen a fact that shows that the troops who performed those achievements belonged to the four regiments. The gentleman assumes it.

Mr. DAVIS. The cavalry did it.

Mr. HOUSTON. I said one company of rangers would have achieved all that the boasted cavalry have done.

Mr. DAVIS. The cavalry are of the four regiments.

Mr. HOUSTON. There is one fact I wish to have understood in regard to the encounter on the Blue Water; that General Harney did make a report, which I have, in which he says emphatically what I have insisted upon. It is this:

"A parley ensued between their chief and myself, in which I stated the causes of the dissatisfaction which the Government felt towards the Brules, and closed the interview by telling him that his people had depredated upon and insulted our citizens whilst moving quietly through our country; that they had massacred our troops under most aggravated circumstances, and that now the day of retribution had come; that I did not wish to harm him personally, as he professed to be a friend of the whites; but that he must either deliver up the young men, whom he acknowledged he could not control, or they must suffer the consequences of their past misconduct, and take the chances of a battle."

Little Thunder did not want to fight; but it was necessary that there should be some justification for raising the four regiments, and therefore they thought they would give Little Thunder big thunder. [Laughter.]

Mr. DAVIS. Do you find that in the report?

Mr. HOUSTON. No. That is a mere expletive of my own.

Mr. DAVIS. Then, if the Senator will allow me, I will inform him that the four regiments were not there, any part of them, save and except one gallant officer, Captain Heth, who raised his company by extraordinary efforts, and mounted them on ponies to join General Harney in that campaign. The rest were old troops.

Mr. HOUSTON. Then, if they were old troops, I never heard of any of the new ones except that one company, who did anything. General Harney told Little Thunder "that he must either deliver up the young men, whom he acknowledged he could not control, or they must suffer the consequences of their past misconduct, and take the chances of a battle." General Harney did not doubt what the chief told him; but still they must make an example of the Indians. They had no disposition to war. The chief had said he could not control these outlaws, and are you to destroy a whole people because of a few bad men? Why, sir, you would sweep this continent if that were a law established; there would be nobody left here.

I will tell you the effect of that expedition. The honorable Senator says it has had a most salutary effect. It has had this effect: it has driven them to the Mormons; they are their allies. Why? Because they were killed when they wanted peace. Because the Mormons have not committed a corresponding wrong on them, they are allies of the Mormons. They will always go where friendship and justice are accorded to them. That is the benefit of this expedition.

Mr. DAVIS. These Indians were never in the Mormon country at all. The Senator gets all the facts wrong. These Indians have not committed any depredations since, or gone into the Mormon country at all.

Mr. CAMERON. The chairman of the Committee on Military Affairs has given us some information in regard to promotions from the ranks. I was aware myself that occasionally such a promotion had been made; but the impression is strong in that part of the Union to which I belong, that a man may be promoted through the influence of his friends in Congress and other places, from the ranks of the Army; but that the moment he gets there a cabal is raised against him, and by some means he is always turned out. I desire to know whether any, and if any, how many of those raised from the ranks have ever passed the first grade on which they entered into the Army as commissioned officers.

Mr. DAVIS. You mean the grade of second lieutenant.

Mr. CAMERON. Yes, sir.

Mr. DAVIS. I was reading in the Register some cases. Those I read were nearly all of them of the grade of first lieutenant. We have had, however, up as high as the grade of colonel, a man who had risen from the ranks.

Mr. CAMERON. Since the war of 1812?

Mr. DAVIS. No, sir; nor if they entered in any other manner since that date would they in many instances at this time have got up to that grade. I will answer the Senator as well as I can. The mode of appointing sergeants is now prescribed, and they may also be brevetted under a late law of Congress. The difficulty, heretofore, has been that, having no power to confer a brevet upon a non-commissioned officer, the graduating class at West Point came out and were attached as brevets to companies of regiments. Though a sergeant might be worthy of promotion, he could not be promoted, because, as vacancies occurred under the law, the brevet succeeded to that; and before the brevets all succeeded, another class came up; new brevets were attached, and thus it went on from year to year. The law which was passed by the last Congress enables the Executive to brevet a non-commissioned officer. He thus being a brevet officer, is put upon duty as a commissioned officer; and when the brevets older than himself are absorbed, he succeeds to the vacancy in preference to brevets who have come out afterwards, and who are junior to himself. This secures to the sergeant promotion. The means by which he obtains the recommendation for promotion are these: he is summoned before the officers at his post, or if a regimental organization exists—if the regiment is together—before the field officers of the regiment; he is there examined; the result of his examination is returned to the War Office, and he thus gives the evidence that his officers believe him fit for a commission; and the War Department then recommending him to the Executive, the Executive nominates him to the Senate for a brevet. That is the *modus operandi* prescribed under the law of the last Congress.

I know of no such feeling as the Senator from Pennsylvania refers to. I find usually that the officers of the regiment are too prone to recommend some sergeant that exhibits high character. They are too apt to forget that though perfectly equal to, and gracing the position he then occupies, he may fall short of the new one to which they wish to advance him; and hence it is that so many have failed when elevated to higher places.

Mr. CAMERON. I am gratified with the ex-

planation the Senator has made that there is that kind of feeling on the part of officers; but it is that mode of examination of which I think the country complains. A man may very well be qualified to be a soldier, and yet not undergo the examination instituted at West Point.

Mr. DAVIS. No. Not the examination at West Point. It is a very low standard of education that is prescribed. I do not believe the most of our field officers could conduct such an examination as is conducted by the professors at West Point. This examination is on the very lowest scale of common school, or what is termed English education; and if a man possess that, he is reported as competent. I will here say that one of the objects which the late Secretary of War (for I hate to refer to myself) had in providing for that examination by a board of officers, was to stand in the way of appointments by political influence, to throw around the man of merit the shelter which such an examination would give to him, and make it a matter perforce with the Administration to nominate him if he had merit.

Mr. CAMERON. I repeat, I am glad to hear the explanation of the distinguished gentleman at the head of the Committee on Military Affairs; but that is not the impression of the country. The understanding is, that the examiners required very high and great qualifications and intellectual learning, such as men who often get a diploma in college are not able to pass; and that there is a feeling on the part of the West Point graduates entirely averse to every man who comes in from the ranks. That is one cause why the Army has been unpopular, and why the country has been unwilling to increase its force. For myself, I have no feeling of that kind.

Mr. DAVIS. I will merely say, in order to be quite understood, that, so far as I know the feelings of officers, they would much rather see a meritorious sergeant promoted to be a commissioned officer than some political favorite put in to hold the position. They would decidedly prefer it; for, from the manner of their own appointment, and the manner in which they attained to their commissions and hold them, they are further removed from political influences than any body of men I know of in the country; and they dislike political appointments.

Mr. TOOMBS. The question before the Senate is on striking out the first section of the bill; and having made that motion I deem it proper to answer some few of the objections which have within the last two days been urged by the Senator from Mississippi, more especially so as to put myself right in some points of fact in which he attempted to correct me. I propose to strike out that section because it adds thirty companies to the standing Army of the United States in time of peace, for the great controlling reason that no such addition to that standing Army is necessary for the public service. I showed, in my former remarks, that we had now eighteen thousand men in our Army in time of peace; and not only had its numbers increased, but its expenses had continued to increase for the last fifteen or twenty years, not merely in direct ratio to the numbers of the Army, but in geometrical progression. I endeavored, in the next place, to show that if any troops were necessary for the war or supposed war about to commence in Utah, or for Indian disturbances, it would be preferable to make that addition in the shape of volunteers, who retire from the service when the exigency that called them into it has passed away. I sought to show that that was the best and the most economical mode of defending the country in any particular emergency.

It is the best, because I hold that a standing army in time of peace is dangerous to public liberty. I shall not go through the argument of that point again. I shall leave the experience of twenty centuries, I shall leave the traditional judgment of the patriots and heroes of my own country, to answer the argument of the Senator from Mississippi. He is driven to that very force which I want for the distinguished subjects of his eulogy—General Washington and General Jackson. Neither of them was educated in the Army; neither of them was a military officer in time of peace. Washington responded to the call of his country when she was engaged in war; and when the exigency was over he laid down his sword and took up the plowshare. General Jackson was taken from the judicial bench and placed in the ranks

when his country was at war with the most powerful nation on earth; and soon after the war ended he returned to his farm. He was not an Army man in time of peace, but a civilian attending to the duties of civil life. He was a member of Congress some fifteen years before he ever entered the Army.

These are the illustrious subjects which it seems the Senator from Mississippi has selected to show the beauties and the want of danger of a standing army in time of peace. That is a proposition which I oppose. The Senator admits that there is no war, nor does he base his measure even upon expected war with Utah; but he proposes it as a permanent addition to the military force of the United States in time of peace. I leave the experience of the past with the suggestions I have given, to answer that portion of his speech. Next as to the question of expenditure—

Mr. DAVIS. Before the Senator passes from the question on which he has been speaking, he will allow me to correct a misapprehension which he entertains of what I said. I stated that we were at peace with all foreign countries; but not at peace with the Indian tribes.

Mr. TOOMBS. I understood the Senator to mean that there was no present exigency of war with the Indians or with the Mormons.

Mr. DAVIS. I brought forward a great many cases of Indian hostilities to show that there was a necessity for Indian campaigns, for active operations of troops among the Indians. I do not call it war.

Mr. TOOMBS. Then we have peace and we have war with the Indians, as we have with other people, and we make treaties with them. I am not satisfied that even the proposition on which the Senator now puts his bill, changes the position I stated; for, looking on these disturbances with Indians as chronic, he proposes this increase of the Army as a permanent addition to the military force of the United States in time of peace. He does not look to disbanding it at any future time. I say, therefore, it is an addition to the standing Army, in time of peace, of some seven thousand men, carrying it from eighteen thousand to twenty-five thousand men. My motion, if it prevails, will strike out the additional thirty companies, and leave the force of the Army, if the bill shall then pass without that section, at about twenty-two thousand men.

I stated, and I yet believe the statement to be correct, that the cost of the Army of the United States had gone up to \$1,000 per man. How did I prove it? I got it from the official documents that the real force of the Army is about fifteen thousand men, of every description, from the Major General down, including all the enlisted men in the service of the United States. Last year we appropriated more than fifteen million dollars for that Army. That gives \$1,000 per man. I said the expense was \$1,000, because I desired to be perfectly accurate, and within the mark. I was well aware of the statement made by the Senator from Maine, [Mr. HAMLIN,] that there is a deficiency of \$6,000,000 called for this year, which would swell the expense per man to \$1,400. I further stated that it appeared, from a report made by the Secretary of War in 1842, that Mr. Calhoun had brought down the expenses of the Army, while he was at the head of the War Department, to \$273 per man. That statement stands.

Then, how am I answered on this point? In his first remarks, the Senator from Mississippi alluded to fortifications and various other matters; but let me tell him they are not included in this estimate. The \$15,000,000 include nothing but the expenses of the Army proper, as designated at the Department itself. It does not include a dollar for fortifications, or for the manufacture of arms, or for the West Point Academy, or even for permanent supplies; but simply the expenses of the Army proper, what is necessary to maintain our present force in the field. I say this fact maintains the statement, and it is correct in all its parts. If you had no fortifications, if you had made no arms, my statement would be correct, that, according to the official figures of the Department, it now costs \$1,000 a man to maintain your Army.

Another objection is made by the Senator from Mississippi, that we count in the staff. I stated that I thought this increase of expenditure ought

to be accounted for. Now, the number of men being fewer before the Mexican war, in 1842 or 1843, than it is to-day, the counting of the staff then, upon the same principles, when there were fewer men, would work to the Senator's advantage, and not to his disadvantage, in this calculation. If we count the staff in an Army of six thousand men, as it was then, and count the staff now, in an Army of fifteen thousand men, and distribute the expenses *per capita*, it would be two and a half times to his advantage in the estimate of the ratio of increase. I say the expenditures of the Army have been continually increasing. When the Army was smaller, the proportion which fell upon each man, on account of our large staff, was greater than it is now, when the Army is larger; and, therefore, the Senator's argument on that point is entirely without foundation.

To show that I am perfectly correct in regard to the statement which I have made as to the expenses of the Army proper, I will read the specifications of items from the estimates of the Secretary of War:

Army Proper.

Expenses of recruiting, transportation of recruits, three months extra pay to non-commissioned officers, musicians, and privates on enlistment, &c....	\$110,000 00
Pay of the Army.....	3,591,784 00
Commutation of officers' subsistence.....	998,424 50
Commutation of forage for officers' horses.....	124,128 00
Payments to discharged soldiers for clothing not drawn.....	53,000 00
Payments in lieu of clothing for officers' servants.....	39,890 00
Subsistence in kind.....	1,980,928 00
Clothing of the Army, camp and garrison equipage, and iron bedsteads for barracks.....	983,654 99
Regular supplies of the Quartermaster's Department.....	1,745,000 00
Incidental expenses of the Quartermaster's Department.....	500,000 00
Barracks, quarters, &c.....	793,000 00
Transportation of officers' baggage.....	130,000 00
Transportation of troops and supplies.....	3,460,000 00
Purchases of horses for dragoons, light artillery, mounted riflemen, cavalry, and infantry.....	200,000 00
Contingencies of the Army.....	25,000 00
Medical and hospital department.....	105,000 00
Contingent expenses of the Adjutant General's Department, at department headquarters.....	500 00
Expenses of the Commanding General's office.....	2,300 00
	<hr/>
	\$14,776,619 49

These are the regular expenses—\$15,000,000 to maintain fifteen thousand men in the military service of the United States. Not a dollar of this money is for any purpose but the maintenance of those men in the service; not a dollar for forts; not a dollar for the manufacture of arms; not a dollar for any purpose but to be absorbed, eaten up, expended in the transportation, pay, and allowance of these fifteen thousand men—giving exactly \$1,000 per man. I say this is a legitimate mode of ascertaining the expenditure of each man; and the figures show that my statement was correct. I stated also that the cost of a volunteer force and the regular force was the same. The Senator thinks I am mistaken in that. How does he show that I am mistaken? The law settles that. Of course, the Senator has every opportunity of knowing the fact as to this point better than I have, except with reference to the law, which is open to us both. The law gives volunteers and regulars of the same description of force the same pay, and the same rations when in the service of the United States. I know of no difference whatever in the laws of the United States, whether he be a militia man, a volunteer, or a regular soldier; if he is in the service, the pay, rations, and allowances are the same. There is said to be some difference in the clothing when they come in. I was not aware of that; but I admit that affects the calculation slightly.

Mr. DAVIS. The Senator, I think, has not studied the subject minutely, as he himself seems to admit. There is, in the first place, in the law, as he will find, an allowance made for the use and risk of horses where the volunteers are mounted men.

Mr. TOOMBS. I was coming to that.

Mr. DAVIS. He will find that the clothing is apportioned by years of service; and as volunteers come in for a short period, they get a larger apportionment with the beginning of the service. Then he will find they get fifty cents a day for their own services.

Mr. TOOMBS. I know all that; I have not come to it yet.

Mr. DAVIS. I thought you said there was no difference in the law. I was showing that there was a great deal of difference.

Mr. TOOMBS. I am going to show that on the point you state there is no difference in the law. The Senator said yesterday the volunteer got twenty-five cents a day for his horse, and he put that as the expense of volunteers. If he was a regular soldier the Government would have found the horse, and you would have to pay two or three hundred dollars for mounting and remounting. I suppose the Government finds it cheaper to allow the volunteer to provide his own horse, and pay him twenty-five cents a day for it, than to buy a horse for him. It is oftentimes an inconvenience to the volunteer to furnish his own horse. The Government, when it calls for volunteers, instead of being at the expense of paying for the horse, compels the volunteer to pay for him, and allows him twenty-five cents a day for the horse's hire.

Mr. DAVIS. Suppose the horse is lost, what then?

Mr. TOOMBS. The Government pays for him; but if a horse is lost by the regulars, it is the Government horse, for which the Government paid in the first instance. What is the difference? It is the difference between tweedle-dum and tweedle-dee.

Mr. DAVIS. Oh, no.

Mr. TOOMBS. Well, that is a matter of calculation, and the Senator's experience and observation are different from mine. In that connection he quoted a statement of the late Adjutant General Jones, that he could not get volunteers, except on horseback; they all wanted to ride. That officer, I admit, was very distinguished, especially about Washington, where he passed the later years of his life; and I do not believe much anywhere else in his later years. I know he frequently made reports drawing these discriminations for I frequently had occasion, as a member of the other branch of Congress, to investigate his statements. They are not unfamiliar to me. I know very well that in the Creek war, if you will go to the War Office, over which the Senator has recently presided with so much distinction, he will find there a record of thousands of infantry volunteers who have served the country. Within twenty-five years, he will find that tens of thousands of volunteer infantry have responded to their country's call. On the frontier of my own State, I have seen in arms more than five thousand infantry, foot soldiers, volunteers, in one campaign. I once had a charge of that sort myself, like Falstaff. There is no difficulty in the Government getting infantry volunteers. When it wants them it calls for them and obtains them. When it wants horsemen, whether you call them dragoons or cavalry, it calls for them, and gets just as many as it wants. I have never known volunteers to be asked for, in any emergency on the frontiers of the United States, without obtaining as many as were wanted, and at the instant they were wanted. I believe there were thousands of volunteer infantry who carried your standard to Mexico. The difficulty in some States, especially among our military brethren in the West, was, that they had to cast lots to determine who should stay at home, greatly to their mortification. So it was in every arm of the service, whether mounted men or infantry.

I say the Government pays regulars and volunteers precisely the same when they are in service. When mounted volunteers serve they furnish their own horses, and the Government pays nothing for them; it simply provides for their hire and subsistence. It finds it cheaper to do this than to buy the horse and mount the volunteer. If, however, it is actually cheaper for the Government to furnish the horse, it is a great wrong in the Administration not to do it; but it is supposed that this is the cheapest mode of doing the thing, and therefore the volunteer furnishes his own horse. I believe such has been the experience of the Government; at all events, it has been the course pursued for many years.

The Senator has referred me to a report of Mr. Poinsett. He once presided over the War Office for a short time; but though a very distinguished gentleman in many respects, I do not think he is very high military authority. The Senator quoted from his report this extract:

"This enormous disparity in the expenses of the two

forces is not owing to the extravagant allowances made to volunteers; for, except in the article of clothing, they are no better paid than regular troops."

That is the report which the gentleman read, and it shows that except in the article of clothing, volunteers are no better paid than regular troops, and therefore I can cast out all the other items by the authority of Mr. Poinsett, which the Senator presents.

Mr. DAVIS. I do not read the newspapers much, and I do not know how I am reported, but the letter from which the Senator is reading is a letter of General Towson, late Paymaster General.

Mr. TOOMBS. This does not state which it is.

Mr. DAVIS. I do not know what is in the paper; I have not read it.

Mr. TOOMBS. I will read the report of what the Senator said on this point:

"The Senator from Florida [Mr. MALLORY] this morning referred to the letter of Mr. Poinsett. That letter communicated a report of the Paymaster General, who goes beyond the limits of the then Secretary of War. He refers to the disparity between the cost of the two forces as nearly six to one, because, he says, the horses that are employed are merely to carry the men from place to place, and really impede the march of the column."

Mr. DAVIS. I will correct that and you will then see the point. The Senator from Florida [Mr. MALLORY] referred to the letter of Mr. Poinsett, in which he stated the disparity of cost between volunteers and regulars at four to one, and I then introduced a letter of the Paymaster General which Mr. Poinsett communicated, and which made it higher because he compared the mounted force of volunteers which had to serve on foot with the regular infantry, and made it six to one. Then I went on with the remarks which the Senator just read, and an extract from Mr. Towson's letter.

Mr. TOOMBS. I presume the statement is correct in the fact, that except in the article of clothing, the compensation of volunteers is no greater than that of regular troops. That is the fact I want to arrive at. General Towson states it.

Mr. DAVIS. But he goes on with the other causes of additional expense.

Mr. TOOMBS. I shall come to them, and I say not one of them has the least foundation, but is entirely delusive. He says:

"It is caused principally by expenses for traveling to and from the place where the services of the volunteers and militia are required."

That disparity more often falls against the regular troops. For instance, when the Florida war commenced, you had but a few troops there, and you had to carry your men from St. Louis, or New York, or somewhere else, to Florida. Where do you find the expenses of carrying them charged? That is charged in the Quartermaster General's accounts of transportation? No matter what the cost of taking them was by railroad or ship, you put it in the transportation account; but to make out the estimate against the volunteer, the expense of his transportation is charged to him. That is the adroitness of the statement. Generally speaking, the volunteer is right at the place where you want him—next to the disturbance. Generally, in our Indian wars, he is in the immediate neighborhood, and you have not to carry him far; but, in order to make it appear that the volunteer is a more expensive man than the regular, you charge to his account the cost of his transportation, and you charge the cost of the regular's transportation in the Quartermaster General's account.

The next item is "the hire, maintenance, and indemnity for horses." I have already explained that. You give the same rations to the horses of the regular soldier and of the volunteer; and I do not believe that they eat any more. Then he goes on with his items:

"And to furnishing them a full supply of clothing as a bounty, without regard to length of service. The statements also show the expense of volunteers serving on foot, and of militia. The term of service of the latter never exceeds three months, unless specially provided for."

All that is gratuitous. Sometimes we do not want them more than three months in Indian wars. In Mexico, and in the war of 1812, they served just as long as the Government wanted them. He continues:

"There is one comparison that would place the contrast between the expenses of regular and irregular troops in a much stronger light, if I had the data to enable me to state it in figures; and that is, the comparative loss and destruction of military stores and public property by the two forces."

There is nothing in that. Any man at all ac-

quainted with the Army knows it is a trumped up excuse, because the officers are responsible for the public stores and public property, and any loss is deducted from their pay. None of them can get their pay accounts through the offices here until the public property under their charge is accounted for. I believe the accounts of both regulars and volunteers are settled on the same rule; and I have had to attend to the settlement of cases for both. The Senator then goes on to state:

"He presents his tabular statement in which he shows, on the basis of the companies, that for six months the cost of a company of United States dragoons was \$13,573, and for the mounted volunteers, \$23,575. That is the ratio to which I call the attention of the Senator from Georgia before he again assumes the position that the expense is the same."

I have shown that the expense of the one is not \$13,000, and of the other \$22,000. By the Senator's own authority, there is no difference between them, except in the clothing. If you carry the regular soldier, the transportation is carried to a different account. It is not charged to the company or regiment, but to the general transportation of the Army. Inasmuch as there is no more pay, and no more allowances, and no more for traveling expenses of the one than the other, I do not think this statement can be correct. I believe the traveling expenses of the volunteers are nothing but pay, allowing twenty miles per day. I think that is the usual course of settling. I am quite sure it was twenty years ago. They allowed you pay for so many days going to and returning from the place of rendezvous. I believe that is the mode now; I know it was formerly.

This whole statement is predicated on the idea of marching one corps a long distance, and finding the other on the field, carried there at the most enormous expenditure, as is usually the case, without the expense of that carriage being charged at all. No such state of facts can exist as this difference between the two forces. The elements of calculation the Senator himself gives show that it is impossible. One cannot be \$13,000 and the other \$22,000, because the additional amount of clothing is the sole item of difference which exists, except in the case of horses; and I have shown that the pay is in lieu of the purchase of horses.

The Senator made another statement which strikes me as a very remarkable one, and to which I call his attention particularly, that I may see if I understand him:

"We have had an estimate lately sent in to us, of \$385,000 required by the pay department alone for twenty companies of volunteers for six months. That would be equal to ten companies for twelve months; and taking it and comparing it with this estimate of a regiment for a year, adding the cost of rations, which are \$77,015, it would give a total of \$462,015, instead of the \$385,000, (adding merely the cost of rations to the pay,) or \$526 21 per man. It follows, then, that a regiment of volunteers would, for one year, cost more than a regular regiment of the same strength, \$153,600 61, or an individual volunteer during the same period, \$174 97 more than an individual regular soldier."

Is the Senator properly reported here?

Mr. DAVIS. I think so; but I cannot recollect the exact figures. I then went on to state that those volunteers were mounted, and were compared with regular foot troops.

Mr. TOOMBS. Yes, sir; and I was going to read that sentence to show how easy and how ready an answer it was to the Senator's figures. He himself candidly answered this comparison in the next sentence. I will read it:

"It will be remembered, however, that these volunteers are mounted."

Mounted troops get more pay and more rations and the hire of the horses will cost more. The Senator has not brought a comparison between mounted volunteers and regular cavalry, nor between volunteer infantry and regular infantry. The disparaging comparison is made between a foot regiment of regulars and a mounted regiment of volunteers. Everybody who knows anything of the Army, knows that to maintain a regiment of cavalry in the field costs a great deal more money than to maintain one of infantry.

Mr. DAVIS. And is it not stated why it is presented in that form?

Mr. TOOMBS. My attention has not been drawn to that. I wish to prove that it does not show a comparison on the point which we were arguing. I do not think there is anything more than that on that point.

Mr. DAVIS. There was something more said.

Mr. TOOMBS. Then it is not reported. The Senator has fairly stated it as it is, but I want to

show the Senate and the country that the comparison is not a just one. It is not between two regiments in the same service, both cavalry or infantry.

Mr. DAVIS. The answer is easy, if the Senator does not understand my position. I read from a letter of General Towson, now dead, but who, when living, bore a character never impeached for integrity and fairness. In that letter he presented the position that as mounted volunteers could only serve on foot in the face of the enemy, the horses were merely for transportation; that therefore he held it to be a fair comparison to put the mounted volunteers against foot regular troops. I will also add, (what I did not say, I think, when addressing the Senate,) that these particular volunteers were called out in Florida. They have been called out by my successor. I tried to get foot troops there, believing that mounted men would be of little value in the everglades and the great lagoons and islands where they have constantly to cross water, but we could not get foot men because their pay was not sufficient to induce them to come out.

Mr. TOOMBS. I have no observation to make on that; I do not wish to talk on these questions further than is necessary for their correct elucidation. There is one conclusive answer on the subject of expense to which the Senator did not refer; but it is one which I put in the programme, and which is great, continuing, conclusive, and unanswerable; and that is, that when you get regiments in the regular Army, as here proposed, they stand there when you want them and when you do not want them. You may only want them for three months, and yet they will stand for ten years. If you muster the volunteer into service for three months, and only want him thirty days, you can pay him off and dismiss him at the end of the thirty days. If the volunteer cost five times as much while in the service as any regular, he would, in fact, be cheaper to the Government for all casual, all extraordinary service; and, as to a permanent addition, I have already given the reason why I am opposed to it. If you want a temporary addition on account of a Mormon war, or an Indian war, I am willing to give a force which can be disbanded the moment it is not wanted. If you want volunteers for three months, you can get them for that time; and when their service is over, you have nothing more to pay them. We have found, however, that the increase of the regular Army goes on from year to year. Three years ago we added four regiments. Now five more regiments are asked; and it is proposed to give thirty companies. It is give, give, give, forever, with the Army, and always will be. They do not belong to the industrial classes.

Talk to me about officers of the Army being friends of liberty and shooting down oppressors! Go and unlearn their history for twenty centuries. The Army is no more open to American soldiers than is the French, even to officers. There you can take the son of a beggar or of a duke, send him to the military schools, and he may reach a marshal's baton; but except an occasional fraternization or a barricade in the street, he is never anything else, and never has been, but the engine of oppression and despotism. The American soldier will be the same. He loses his character of American citizen. Their duty is obedience. They are taught it. They know nothing else. They lose their interest in society. They are not friends of liberty. An army in its essence is a despotism. They always have been and always will be the ready instrument of him that is bold and brave enough to seize the baton and trample public liberty in the dust.

Mr. DAVIS. Mr. President—

Mr. FESSENDEN. I was about to move an adjournment.

Mr. DAVIS. I shall detain the Senate but a few minutes.

Several SENATORS. Let us vote.

Mr. FESSENDEN. We cannot get the vote to-day.

Mr. DAVIS. I hope the question will be taken, and for that reason I intend to be brief. The Senator from Georgia closes with the same appeal and reference to the experience of twenty centuries against armies in which he indulged on a former occasion. I shall not follow him by answering, as I have done already, that those twenty centuries contain no history of American armies.

I will put my own knowledge of the *personnel* of the Army against his, though I might not match it against his in anything else, when I say that if the Army are inclined to any political power at all, it would be that they would be apt to exalt the General Government above the States; that their education could lead to no other result than that; but yet they will always remember the States from which they sprang. Though they may be generalized, though they may be lifted up to look over the country as a whole, raised on the pedestal of constant employment by the Federal Government, seeing all its interests and all its rights, they may feel for the whole more than a man who has always been confined to a section; yet let the Federal Government trample on the rights of any State of the Union, and you will see the officers, bearing commissions, springing from that State, flouting the commission in the face of the Federal Government to join the ranks of their own State. That is my experience.

But the Senator evidently, from the manner in which he treats my argument about expenditure, supposes I wish to put him in a false position. I said the line of argument was one that necessarily led to error; that I could not understand the process of his calculation. Neither can I; for he says that at some period, to which he refers, each man cost \$273. I took it for granted, then, that he excluded something which was in the Army appropriations, and not counted in the expense of the man; because the tables do not say so. He says the fact stands. I refer him again to the authority from which I read—American State Papers, Military Affairs, volume two, pages 46 and 47. On page 47 the statement is added that in 1809, 1810, and 1811, the annual expense per man, including officers, was \$383 60. In 1820, the annual expense per man, including officers, was \$336 56.

The Army is not responsible for the legislation which has occurred from the last date up to this time, greatly increasing your staff. I wish you would amend that organization. I wish you would improve the administration of the Army; that you would repeal a great many of your special laws in relation to the staff; that you would leave the quartermasters as they were when that estimate was made, to be selected from the line of the Army, to perform the duty temporarily, instead of creating one staff corps after another, and then fixing the whole expense, not only of those staff officers, but of those extraordinary provisions which you have made by special legislation, giving the enormous salaries which belonged to the Lieutenant General in time of war, when the whole militia was expected to be the Army of the country, to the general in peace commanding the peace establishment of the Army, and then dividing it up by the sum total of the Army, and counting it at so much a man. If Congress make these beneficial provisions, and swell up the gross appropriations, it is not the fault of the administration of the Army. If the Congress and the country require mounted troops, and the state of the service requires them, then, I say, it is not fair to compare the cost with the time we did not need them.

The Senator talks of the readiness with which foot volunteers were found on some occasions, and refers to the war with Mexico; but my reference was to the militia called into the service of the United States since the war with Mexico; and therefore, when he cites cases twenty-five years back, he does not meet my argument. The \$1,000 per man which he obtains is by a species of calculation which may be made high or low, as I showed on a former occasion, and will not repeat, and will be highest when your administration is, in my view of the case, most economical—when you have a skeleton establishment providing in time of peace for the exigencies of war.

Then in relation to the transportation and camp equipage; General Towson's calculation was taken from the facts. It exhibited the amounts that were paid, and presented them in a table, from which I read. The transportation of the militia may not be over so many miles, but the table is for every three and every six months; and the Senator must perceive that it amounts to a total much greater than the transportation of troops for permanent service at a particular locality, and that fifty cents a day for the footman, and seventy-five cents a day for the mounted man, is more than it would cost the Government to transport the troops,

It is the constant repetition of this transportation which swells up the gross sum of volunteer expense; not the different character of the troops; and in the table from which I read, it was so stated. It was based on an estimate expecting them to serve for short periods, and for short periods they ought to serve. Nothing would be more unjust than to call people from their peaceful avocations, and keep them for a long period at frontier posts to guard frontier settlements. It would take lower material, too, than compose the volunteers who turn out in time of war. Among my objections to the employment of volunteers for such service, is the very elevated character of the young men who are often induced thus to enter the service; men who are worthy of better employment; whose habits are injured, whose train of thought or pursuit of some profession is broken in upon by this temporary service where a cheaper man would do as well. If I may be permitted, without an appearance of egotism, to refer to my own observation, I would say that when I have traveled among the people from whom the volunteers were drawn who went to Mexico, I have had this fact more deeply impressed upon me by the sad countenance of some father, the tears of some mother over the fate of a promising young man who fell in performing the duties of a private soldier. The material is too high except when the honor of the country demands it. That is the conclusion to which my experience brought me some years ago.

I am sure that if the Senator from Georgia had known the character of the deceased General Towson, he would not have applied, in relation to his letter and his table, such words as "adroit" in his statement. He was incapable of preparing a table to deceive any one. He prepared the table from data which were in his office as the great disbursing officer, the Paymaster General of the Army. He took those data, and from them reached a certain result, which he presented, in a tabular statement, to Mr. Poinsett, and which he communicated to Congress. I hardly think there were errors in it. If there were, they were not made to deceive anybody. My knowledge of the man renders it to me a superfluous task to go over the calculations that are found in his statement. If the militia were employed for five years, the tables would be wrong; but to draw your people from peaceful avocations, and put them in service as regular soldiers, for five years, thus interrupting the whole course of life of young men, would be an evil to the country far greater than any expense.

Mr. FESSENDEN. I move that the Senate adjourn.

Mr. DAVIS. Why not take the vote? If the Senator wishes to speak I will not press it.

Mr. FESSENDEN. I have not the slightest idea of making a speech on this subject.

Mr. DAVIS. Let us have the vote.

Mr. FESSENDEN. Very well. If the vote is to be taken, I withdraw the motion.

Mr. DAVIS. Let us pass the bill or reject it, and let the Administration know it.

The PRESIDING OFFICER. (Mr. Foot in the chair.) The question is on the motion of the Senator from Georgia, to strike out the first section of the bill.

Mr. WILSON called for the yeas and nays; and they were ordered.

Mr. IVERSON. I will state to the Senate exactly the effect of the motion. The first section provides that thirty companies shall be added to the Army; two to each regiment of infantry, and two to each regiment of mounted troops. The second section provides that the rank and file of each company, when in the field, and on distant posts, may be by the President raised to ninety-six men. The first section it is now proposed to strike out.

Mr. HUNTER. It seems to me that the question on this section is premature. I am willing to vote for this addition to the Army, provided it be made temporary; and I understand that the Senator from Ohio has an amendment, the object of which is to make this force temporary. If you will make it temporary I shall vote for the addition; otherwise I will not.

Mr. PUGH. I have offered no amendment to this section. I am in favor of striking out this section, and making the second section temporary.

Mr. HUNTER. That will give four thousand men, I understand.

Mr. PUGH. Yes, of the rank and file, but no officers with high salaries.

Mr. HUNTER. If that gives four thousand men, I think it ought to be enough. I will vote for that.

Mr. BIGGS. The inclination of my mind in regard to this bill was to vote for the second section, and to strike out the first; but since the remarks of the Senator from Mississippi, I have determined upon a different course. I am for a temporary addition, and for but a temporary addition, no matter whether you adopt the first or second section. But deferring to the opinion of the Committee on Military Affairs, as suggested by the Senator from Mississippi, I am now prepared to vote for the first section, provided that it be made temporary, understanding from him that the Committee on Military Affairs recommends striking out the second section entirely. It occurs to me, therefore, that to attain the end I have in view, it is proper first to perfect the section before a vote is taken on striking it out. I propose, if it is in order, to put the proviso proposed by the Senator from Ohio to this first section as an amendment, before the vote is taken on striking it out.

The PRESIDING OFFICER. (Mr. Foot.) The yeas and nays having been ordered on the proposition to strike out the first section of the bill, the Chair thinks it is not in order to receive the amendment, except by unanimous consent.

Several SENATORS. Oh, yes!

Mr. HUNTER. We may amend the matter proposed to be stricken out.

Mr. DAVIS. The Committee on Military Affairs, as I stated to the Senate yesterday, instructed me to move to amend by striking out the second section if the first were retained. I do not know how we can get the vote taken on that before the vote is taken on the first section, unless I move now to strike out the second section.

The PRESIDING OFFICER. That motion is not now in order.

Mr. BIGGS. It occurs to me that it is competent to move to amend the first section before the vote is taken on striking out. [Certainly.] If there is an amendment made to the first section, making the increase temporary, I am willing to vote for that, and that alone.

Mr. HUNTER. It seems to me that that probably is the best arrangement. If the committee prefer to strike out the second section, and have the additional companies, let us give them the companies.

The PRESIDING OFFICER. The question before the Senate is on striking out the first section.

Mr. IVERSON. I will state to the Senator from Virginia, that if the Senate will retain the first section, the Committee on Military Affairs propose to withdraw the second section.

Mr. HALE. I shall go with them on that, whether this section be stricken out or not.

Mr. PUGH. I would rather retain the second section, and strike out the first.

The Secretary proceeded to call the roll; and Mr. ALLEN answered.

Mr. DAVIS. What is the proposition? Is it the motion of the Senator from North Carolina to amend? With the consent of the Senate, I suppose I had better withdraw the second section.

Mr. HAMLIN. You cannot withdraw it.

Mr. PUGH. I object to its withdrawal.

Mr. HUNTER. Is not the amendment of the Senator from North Carolina pending?

The PRESIDING OFFICER. It is not in order after the yeas and nays have been ordered on the amendment of the Senator from Georgia, except by unanimous consent.

Mr. HUNTER. Will it be competent for any Senator to move to amend the section after we refuse to strike it out? It can only be amended by addition then, I suppose. I should be reluctant to take an appeal from the decision of the Chair, but surely we have a right to amend matter which is proposed to be stricken out before the vote is taken on striking it out.

The PRESIDING OFFICER. The question is, whether it is open to amendment after the yeas and nays have been ordered?

Mr. HUNTER. How can that affect it?

Mr. HAMLIN. Let me invite the attention of the Senator from Virginia to this fact: the yeas and nays have been ordered, the question has been ordered to be put, the Secretary has called

the roll, and one Senator has answered to that call.

Mr. HUNTER. If a Senator has answered, it is different.

Mr. ALLEN. I answered.

Mr. JONES. But the Senator from Virginia was on the floor.

The Secretary resumed the call of the roll.

Mr. BENJAMIN. I wish to state that I have paired off with the Senator from Missouri, [Mr. GREEN,] who has been called from the Senate on public business.

Mr. STUART. The Senator from Illinois [Mr. DOUGLAS] was obliged to go home on account of illness in his family, and wished me to say that he had paired off with the Senator from Alabama, [Mr. FITZPATRICK.]

The result was then announced—yeas 25, nays 26; as follows:

YEAS—Messrs. Bell, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Pearce, Pugh, Simmons, Sumner, Toombs, Trumbull, Wade, and Wilson—25.

NAYS—Messrs. Allen, Bayard, Biggs, Bigler, Bright, Broderick, Brown, Cameron, Clay, Davis, Evans, Fitch, Hammond, Hunter, Iverson, Jones, Mallory, Mason, Polk, Sebastian, Seward, Slidell, Stuart, Thomson of New Jersey, Wright, and Yulee—26.

So the motion to strike out the first section of the bill was rejected.

Mr. BIGGS. I now move to amend the first section by adding the following proviso:

Provided, That after the expiration of two years from the date of this act, the companies herein authorized shall no longer be continued in the public service.

Mr. PUGH. I propose to amend the amendment. I wish not merely to get rid of the companies, but of the commissioned officers; for it will be still more objectionable if we are to have the officers remain in the service without the companies.

Mr. DAVIS. Of course the officers will go with the companies. The only question in my mind, as to the difference between the gentlemen, is, whether we should provide for disbanding these particular companies, or provide for disbanding two companies of the regiment at the end of two years?

Mr. PUGH. I hope the Senator will make a motion to carry out his own proposition. He said he wanted twelve companies in a regiment, in such a shape as to reduce them to eight. If he will propose to go back to the eight companies, very well; that will suit me still better.

Mr. DAVIS. I think it would be a decided improvement on the peace establishment to have eight companies to the regiment; but I have stated so often that I could not foresee that period of peace which I believe would justify the reduction, that I should be put in a false position if I were to anticipate it now.

Mr. PUGH. Then I will stand on the proposition to get rid of these two companies. My amendment is:

Provided, That after the expiration of two years from the date of this act, or sooner if the exigencies of the public service will permit, the said additional companies shall be disbanded, the commissioned officers thereof discharged, and the non-commissioned officers and privates transferred to other companies and regiments; and thereupon no further enlistments shall be made for any regiment, until each company shall be reduced to seventy-four privates.

Mr. STUART. I wish to make a suggestion to the Senators who have offered these amendments. It seems to me it would better effect their object to provide that after two years the regiments shall be reduced to the present number of companies. That would carry out the suggestion of the chairman, and then you could strike out any companies you chose. It would simply provide for a reduction to the present size.

Mr. PUGH. What becomes of the officers whose commissions are "during good behavior?"

Mr. STUART. It reduces the officers with the companies, of course.

Mr. DAVIS. I would call the attention of the Senator from Ohio to the fact that these companies will become integral parts of the regiment, and vacancies occurring among the commissioned officers will be filled up by promotions, of course, through the regiment. Suppose a captain is killed: the oldest first lieutenant of the regiment would become captain of that company; or if the first lieutenant were killed, the second lieutenant would take his place.

Mr. PUGH. I see the difficulty. It is a ques-

tion between a permanent or a temporary increase of the Army. The Senator from Mississippi wishes to make them a permanent part of the regiments, and to promote up from the lower grades.

Mr. DAVIS. It is not so much my wish as my idea of necessity. I will not resist the proposition that the Senate shall provide a time when the regiments shall be reduced. I see great difficulty in keeping these as a distinct body of troops all the time in the regiment.

Mr. PUGH. My proposition is to prevent the argument that will be made at the end of two years, or at any future time, if you desire to reduce the regiments from ten to twelve companies. The argument will be pressed on us that first and second lieutenants, at the time the bill was passed, who had become captains, must not be put out of the service. I wish to give notice beforehand, that whoever takes a commission in these companies, must take it on the expectation of going out of the service at the end of two years, whether he is now in the service or a new appointee.

Mr. WILSON. I believe this amendment which has been proposed is impracticable; and that if it be adopted it will have no practical effect in discharging these two companies. The officers appointed under this act will be, probably before the year transpires, assigned to other companies; they will be mixed, and we shall find that at the expiration of the two years, the movement will be to continue these two companies as a part of the permanent military establishment of the country. I have no doubt of it; and that that is the object and the intention.

Then, sir, I wish simply to say, that, for myself, I am ready to vote, for temporary purposes, any body of men, one thousand, five thousand, or twenty thousand, necessary to maintain the authority of the Government in Utah. I believe in maintaining the authority of the Government in that Territory, and in all portions of the territory of the United States. I assented to the reporting of this bill, but I did not commit myself to its support. The Senator from New York, who is upon that committee, [Mr. KING,] declared his opposition to the increase of the Army in any and every form. We found there Senators who, from long service on that committee, were familiar with everything connected with the Army; and the chairman of the committee, by his education, by his association with the Army, by his presiding over that Department for four years, was familiar with everything connected with it. We did not wish to offer any impediment to the bringing of the measure promptly before the Senate, that the Senate might take its own course, reserving to ourselves the right to do as we pleased. We did not wish to interpose any obstacles whatever to the prompt action of the committee of the Senate.

Although the official journal of the Administration has seen fit to arraign that committee before the country for not having promptly acted according to the suggestions that came from the executive department of the Government, I will bear my testimony that the chairman of the committee, and all those who are familiar with its affairs, interposed no obstacle whatever, and that the subject was fully and thoroughly investigated by the committee. We are told that the theory of the Government is that the War Department has more knowledge of the affairs of the Army than can be found anywhere else. That may be the theory, but it so happens at this time that that is not the practical fact before the country.

I believe that this amendment amounts to just nothing at all. Here is a proposition to add thirty companies, equivalent to about two thousand eight hundred men, to the permanent military establishment of the country. I believe that we ought to authorize the President of the United States to raise a sufficient military force to maintain the authority of the laws in the rebellious Territory of Utah. I am willing to vote for that force; but I do not see my way clear to vote for a permanent increase of the Army. The reasons for that have been fully stated to the Senate by other gentlemen, and I need not repeat them.

I have prepared an amendment to this bill, which I wish to offer to test the sense of the Senate at a proper time, by which I propose to authorize the President of the United States to call for and receive the services of volunteers, not exceed-

ing five thousand men, to be used only in the Territory of Utah, there to maintain the authority and laws of the country.

I believe the Army is large enough, and that we have troops enough now on the Missouri river to forward next May or June to Utah for this purpose. I do not believe the President will call for volunteers; I do not believe he need call for volunteers, because I think the Army is large enough; but if it should so happen that the exigencies of the public service should demand volunteers, then, I think, it is our duty to give him volunteers for that purpose. I am willing to vote them, but I am not willing, in the present condition of the country, to vote for a measure like this, when we are to meet the year 1859 with twenty-five or thirty million dollars of debt, (for I take it, that on the 1st of January, 1859, we shall find that we have at least twenty-five or thirty million of revenue less than enough to pay the current expenses of the Government,) without an absolute necessity for an increase of the standing military force of the country. I think we ought to authorize the raising of volunteers, and put the responsibility where it belongs, on the President of the United States, to call them out, if necessary; and if not necessary, I feel very confident, in the present condition of the finances of the country, he will not do it. Is it in order to move this amendment?

THE PRESIDING OFFICER. Not at this time. The question is on the proviso offered by the Senator from Ohio as an amendment to the proviso offered by the Senator from North Carolina.

MR. BIGGS. I will modify my amendment, and I think the Senator from Ohio probably will accept the modification I propose. As modified, it is:

Provided, That after two years from the passage of this act, or sooner if the exigencies of the public service will permit, the military establishment shall be reduced so as not to exceed the number of companies, either in officers or privates, as now authorized by existing laws.

MR. PUGH. I withdraw my amendment, and agree to that.

THE PRESIDING OFFICER. The question is upon the amendment of the Senator from North Carolina, as modified, as a proviso to the first section of the bill.

MR. STUART. The Senator should make it the duty of the President to make this reduction.

MR. KING. Provide means of executing the law.

MR. STUART. Exactly.

MR. WILSON. I should like to ask Senators on the other side, who propose to sustain this amendment, if it does not amount to this, if it be adopted, and you reduce the military establishment at the end of two years, that it necessarily involves the discharge of officers in commission now in the service of the country?

Several SENATORS: Certainly.

MR. WILSON. I believe that this is an impracticable thing. You will then have to discharge officers now in commission, because you will have appointed new officers under this act, and we shall not accomplish the object in the end.

MR. DAVIS. I do not see how the Senator can imagine that to be impracticable. Certainly, Congress can pass a law to reduce the Army, and when it passes a law to reduce the Army, it can discharge the men in commission. If those now appointed shall, at the end of two years, prove themselves to be more valuable to the Government than those who were in the service before, it would be nothing but fair that the old ones should be dismissed.

MR. CAMERON. I have voted for this bill thus far, with the impression that the increase was to be temporary. Nothing could induce me to add to the permanent standing Army of the country. I will offer an additional amendment, and, unless I can get something like it, I shall vote against this bill.

MR. HALE. While the Senator from Pennsylvania is preparing his amendment, I wish to say a word. I ask gentlemen what they mean by talking about emergencies, when the Administration, and the chairman of the Committee on Military Affairs, tell us there is no pressing emergency?

MR. DAVIS. I did not tell you so.

MR. HALE. If the Senator did not say there was no pressing emergency, then I have misunderstood him entirely. I understood the Senator from Mississippi to say that he did not look forward to the time when this increase could be abandoned, and that he wanted it for a permanent increase; that there was nothing in the particular circumstances of to-day requiring it, but that the interests of the country forever, so far as he could see, demanded a permanent increase.

MR. DAVIS. The Senator has two or three times so represented me, and I have two or three times stated what I did say and did mean. If he really is in error as to what I did mean, I will state it again. I did not say there was no emergency. I rather urged that there was a necessity, but I said I did not see when that necessity would cease.

MR. HALE. Then it is a mere difference of words. I repeat what I said before, that there is no pressing temporary emergency; the Senator thinks it is a continual want, and he does not look forward to any time when the want will be less than it now is. Then what is the use of talking about an emergency that is to expire in two years? What is the use of telling the Government they have an emergency, when they tell you they have not? Why say there is a necessity for two years' service, when the necessity, if it exists at all, we are told will exist forever, so far as gentlemen can see? I will tell you just what the two years' provision means. It is doubtful whether Congress will vote this increase of the Army; it is seen that it is doubtful; and to make it a little more palatable, they say let us have it for two years. We give it to them, and when the two years roll around they will say it is so necessary, and the experience of these two years has shown it to be so necessary, that they want it for two years longer, or for six years, or forever. So far as I am concerned, I would as lief vote for the increase to the end of time as for two years, because if you give it for two years it will go on to the end of time, and there will be said to be a greater necessity two years hence than there is now.

I desire to deal with this measure fairly. The Government tells us that they want it for a permanent increase, and if you give it, it will be permanent; and we do not deceive ourselves or anybody else by putting upon this bill this amendment, and pretending that we are going to get rid of it in two years. We never shall get rid of it so long as the Government is able to pay, or has credit to borrow money. If you put this on for two years or two months, it will go on eternally until there is a different policy in the Government, and I do not expect that in two years; but I do in about three. I move that the Senate adjourn.

The motion was not agreed to; there being, on a division—ayes 19, noes 22.

THE PRESIDING OFFICER. The amendment having been again modified by the mover, it will be read as modified:

The Secretary read it as follows:

Provided, That after two years from the passage of this act, or sooner, if the exigency of the public service will permit, it shall be the duty of the President to reduce the military establishment so as not to exceed the number of companies, either in officers or privates, as now authorized by existing laws.

The amendment was agreed to.

MR. PUGH. Do I understand the committee to withdraw the rest of the bill?

MR. DAVIS. The second section.

MR. HALE. That must be done by a vote of the Senate.

MR. STUART. I move to strike out the second section.

MR. HOUSTON. I propose to offer an amendment to the first section.

THE PRESIDING OFFICER. It is not now in order. The question is on striking out the second section.

The motion was agreed to.

MR. STUART. I move to strike out the fourth section, which changes the order of promotion.

THE PRESIDING OFFICER. There is an amendment offered and pending to the third section of the bill, which would be strictly in order before acting on the subsequent sections.

MR. STUART. I suppose there will be no objection to taking the question on this motion?

THE PRESIDING OFFICER. The Chair will, if there be no objection, put the question on the

motion of the Senator from Michigan, to strike out the fourth section.

MR. DAVIS. I wish to state to the Senate the object the committee had in preparing the fourth section; and I thought the committee were unanimous, though from the remarks of the Senator from Massachusetts, I may have been mistaken in that. The object was to secure promotion by regiments, instead of arms of the service, believing it to be more equitable. If a regiment goes out to meet the enemy, or is exposed to perilous campaigns, or is exposed to the peril of climate, vacancies will occur, and it was thought that those who shared the hazard that created the vacancies, were best entitled to the promotions. Then again, it will sometimes occur that two lieutenant colonels of about the same date, being in different regiments of the same arm, may have had all that rivalry that belongs to their position, and a vacancy occurring at the head of a regiment, the lieutenant colonel senior, perhaps by one day, comes to the head of that regiment over his old rival. Again it inevitably follows, that a man promoted into a regiment he has not previously seen, as a major, lieutenant colonel, or colonel, ignorant of the officers and men, will be less efficient than a man who had been serving in the regiment, and knew both the officers and men. It is well known that the fate of the gallant Lawrence, at the beginning of the war of 1812, was due to his want of acquaintance with the men of his ships.

Then there is another point, and the only one which I shall notice. A regiment in the field, going frequently into battle, may lose its colonel and lieutenant colonel, and be commanded by its senior major; he may go through battle after battle as the commander of that regiment; and yet, when he returns from the campaign it is to meet officers who, perhaps, have been enjoying their ease at home, and who come into the regiment as colonel and lieutenant colonel, and slip him down to the position of major.

I think the equity is on the side of the provision. It is a reform, and therefore, it must bear upon somebody. No reform can ever be instituted that will not violate the just expectations of somebody. If the reform is proper, if equity is on the side of the provision, the sooner it is adopted the better. It so happens that we now have four new regiments in the Army; two of them are infantry, liable to cross promotion; but no cross promotion has yet occurred; and I think it is better if the provision is to be adopted at all that it should be adopted before such cross promotion has arisen than after it shall have occurred, and claims have been perfected in the hands of other officers.

MR. WILSON. I assented, as the chairman of the committee has said, to this section of the bill. Without alluding improperly to anything that happened in the committee, I may say that the chairman of the committee stated the case, and stated it clearly, as he has now done. I think it is a sound general principle. I assented that it should be reported. I carried into that committee-room some general principles in regard to the Army, but very little experience in detail, and I have paid great deference to the suggestions of the chairman, who, perhaps, more than any man in the Senate or in Congress, is familiar with all the details connected with the Army.

But, sir, after assenting to this section of the bill, I was told by officers of the Army, that although sound as a general principle, and that if we were to organize an army now it ought to be carried into effect, it would practically operate badly in the Army if introduced at this time; that it would do great injustice; that some officers appointed in the new regiments two or three years ago, would, under it, outrank in the field officers who have gone through public service of ten or fifteen years' standing, and that it would be unjust. In addition to this, wishing to learn the precise facts in the case, I made inquiry of the General-in-Chief of the Army. He said that as a general principle it was a sound one; that if we were about to establish a new army it ought to be adopted; but that if adopted now, it would lead to a great deal of trouble, and cause injustice in the Army.

I am satisfied that if it be adopted now, although I assented to the report of it in good faith, we shall have about the same trouble in the Army that we have had in the Navy in consequence of the re-

tiring board—and we are all, I trust, sick of that. I do not wish to do any injustice.

A single word in relation to the allusion made by the chairman as to what I have said on the action of that committee. I went into the committee opposed to the five regiments; I did not see the necessity of any increase at all; but if we were to have an increase I preferred the bill proposed by the chairman to the five regiments. Without committing myself in favor of any increase of the Army, I assented to the report in this form. I did not suppose the chairman understood me as committed to its support here, because I certainly said in the committee that I did not see my way clear to vote for any increase of the permanent Army of the United States. My political associate on the committee, the Senator from New York, [Mr. KING,] was most emphatic in his declaration on that matter; and I told the chairman of the committee and the supporters of the Administration, those who took into consideration the recommendations of the President and Secretary of War, I wanted to interpose no obstacle to give those gentlemen a fair opportunity to bring the matter early before the Senate and the country.

I do not feel that I am committed to the support of the bill in any form. I must vote to strike out the fourth section, which, when it was proposed, for the reason stated by the chairman so clearly and forcibly, struck my mind as just. I believe it is just and sound in principle now; but I am satisfied, as we have established our Army in the way we have, and added one regiment to another, the effect will be to work injustice; and I fear we shall have great complaints from the officers, and we shall go over perhaps the same series of fault-finding, not so extensive I hope in regard to the Army, that we have had from the Navy. I am sure none of us wish to do any injustice to any officers of the Army.

Mr. CHANDLER. Mr. President—
Mr. DAVIS. The Senator will allow me a moment. I do not wish to go into any remarks other than to make a single reply to the Senator from Massachusetts.

Mr. COLLAMER. I shall wish to be heard on this subject; and if the Senator from Mississippi is to reply to each Senator, perhaps he had better wait and reply to us in the aggregate.

Mr. DAVIS. I shall not probably reply to anybody else. I was merely proceeding to say to the Senator from Massachusetts that the injustice of which he speaks is rather the wounding of sensibility; and the mode he takes will not reach his result. A major, for instance, has been put into a new regiment. If you confine his promotion to that regiment, he never can, in any possibility, come in such connection with an officer who formerly ranked him as to wound his sensibility; but if you make the promotion run through his arm of service, it will follow, and not very remotely, that that major will become a lieutenant colonel of an old regiment, and there he will find majors and captains under him who once ranked him. Promotion by regiment, as long as you continue to add regiments, does save the sensibility much better than any other mode which could be adopted. It is true that some old captain, looking to a majority and hoping for a vacancy in one of the new regiments, may find his opportunities of promotion under the old system better than under the new; but that is not his right. He has left to him, if you adopt this system, all that he would have if the new regiments had not been raised, and exactly what he would have had if those regiments had been called riflemen, as was sometimes proposed. He loses nothing except that advantage which he might gain by having the right of promotion across into the new regiments.

Mr. CHANDLER. I do not propose to occupy the time of the Senate at this late hour. I simply propose to point out some of the injurious effects which will be produced on the service by the passage of this fourth section. I hold in my hand the Army Register, and from that I have collated a few facts which will not require more than five or eight minutes for me to read. I shall read them, although I did not propose to do so when I collated them.

Mr. FOSTER. With the consent of the Senator, I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 11, 1858.

The House met at twelve o'clock, m. Prayer by Rev. SMITH PYNE, D. D.

The Journal of yesterday was read and approved.

WILKINS'S POINT—SELECT COMMITTEE.

The SPEAKER announced, as the select committee under the resolution of the 9th instant, in reference to the purchase of a tract of land on Wilkins's Point for fortification purposes, Messrs. HASKIN, HOPKINS, WOOD, FLORENCE, and HALL of Massachusetts.

KANSAS—SELECT COMMITTEE.

Also, as the select committee to which the Kansas message of the President was referred, with instructions, Messrs. HARRIS of Illinois, STEPHENS of Georgia, MORRILL, LETCHER, WADE, QUITMAN, WINSLOW, BENNETT, WHITE, WALBRIDGE, ANDERSON, STEVENSON, ADRAIN, BUTFINTON, and RUSSELL.

STEAMBOAT PASSENGER BILL.

The SPEAKER announced the first business in order to be the consideration of House bill No. 45, the better to provide for the security of the lives of passengers on board of vessels propelled in whole or in part by steam, and that the gentleman from Pennsylvania [Mr. FLORENCE] was entitled to the floor.

Mr. WASHBURN, of Maine. I ask the gentleman from Pennsylvania to yield to me, in order that I may introduce a bill for reference.

Mr. FLORENCE. I have no objection to yield for that purpose.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. FLORENCE. Mr. Speaker, it is proper that I should say to the Committee on Commerce, and to the House, that I do not pretend to contest the constitutional right of Congress to pass laws regulating commerce upon the navigable waters of the United States, either on board of sail vessels or steamers. My only purpose is to perfect this bill submitted after investigation by that committee; and in making the inquiry yesterday in relation to a tin rivet or plug, I did so to elicit the sort of information which I conceive it to be the duty of the committee to communicate to the House, and which gentlemen should know when they are perfecting a measure of so much importance as this is considered to be. By referring to the law passed in 1853, an act approved March 3, 1853, I find the following in reference to the subject of fusible alloys and the hydrostatic pressure required to test the strength of iron before it is made into boilers:

"That in or upon the outside flue of each outside high-pressure boiler there is placed in a suitable manner alloyed metals, fusible by the heat of the boiler when raised to the highest working pressure allowed, and that in or upon the top of the flues of all other high pressure boilers in the steamer such alloyed metals are placed, as aforesaid, fusing at ten pounds greater pressure than said metals on the outside boilers, thereby, in each case, letting steam escape; and that adequate and certain provision is made for an ample supply of water to feed the boilers at all times, whether such vessel is in motion or not; so that, in high-pressure boilers, the water shall not be less than four inches above the flue; *Provided, however*, in steamers hereafter supplied with new high-pressure boilers, if the alloy fuses on the outer boilers at a pressure of ten pounds exceeding the working pressure allowed, and at twenty pounds above said pressure on the inner boilers, it shall be a sufficient compliance with this act.

"*Third.* That in subjecting to the hydrostatic test aforesaid boilers, called and usually known under the designation of high pressure boilers, the inspectors shall assume one hundred and ten pounds to the square inch as the maximum pressure allowable as a working power for a new boiler forty-two inches in diameter, made of inspected iron plates at least one fourth of an inch thick, in the best manner, and of the quality herein required, and shall rate the working power of all high-pressure boilers, whether of greater or less diameter, old or new, according to their strength compared with this standard; and in all cases the test applied shall exceed the working power allowed, in the ratio of one hundred and sixty-five to one hundred and ten, and no high-pressure boilers hereafter made shall be rated above this standard; and in subjecting to the test aforesaid that class of boilers usually designated and known as low-pressure boilers, the said inspectors shall allow as a working power of each new boiler a pressure of only three fourths the number of pounds to the square inch to which it shall have been subjected by the hydrostatic test and found to be sufficient therefor, using the water in such tests at a temperature not exceeding sixty degrees Fahrenheit; but should such inspectors be of the opinion that said boiler, by reason of its construction or material, will not safely allow so high a working pressure, they may, for reasons to be stated specifically in their certificate, fix the working pressure of said boiler at less than three fourths of said test pressure; and no low-pressure

boiler hereafter made shall be rated in its working pressure above the aforesaid standard: *And provided*, That the same rules shall be observed in regard to boilers heretofore made, unless the proportion between such boilers and the cylinders, or some other cause, renders it manifest that its application would be unjust, in which cases the inspectors may depart from these rules, if it can be done with safety; but in no case shall the working pressure allowed exceed the hydrostatic test; and no valve, under any circumstances, shall be loaded or so managed in any way as to subject a boiler to a greater pressure than the amount allowed by the inspectors, nor shall any boiler or pipe be approved which is made in whole or in part of bad material, or is unsafe in its form, or dangerous from defective workmanship, age, use, or any other cause."

That is so much of the present law which it is proposed to repeal. I now read, sir, the proofs from the third section of the statement of experiments upon the temperature of steam, which I hold in my hand:

FIRST PROOF.

Extract from the Report of the Board of Examiners at Washington City, acting under the Secretary of the Navy, by virtue of act of Congress.

By virtue of authority vested in the Secretary of the Navy by an act of Congress, Professor Walter R. Johnson of Philadelphia, Mr. Charles Reeder of Baltimore, and Dr. Thomas P. Jones of Washington, were appointed a board of examiners to make experimental trials of such inventions and plans designed to prevent the explosion of steam-boilers and collapsing of flues, as they might deem them worthy of examination.

The commissioners met at the navy-yard at Washington city, where their experiments were made. They found the safety-guard in successful operation on one of the boilers in use there; but determining that all their experiments, embracing other inventions, could not be efficiently made on boilers whilst the engines were in use for other purposes, they got a new boiler constructed purposely. Their experiments on the safety-guard were continued during many days, and were characterized by exceeding watchfulness and nicety. The following is an extract from their report:

Table of observations to show the degree of sensibility of Evans's fusible alloy, used in testing his safety-guard.

Temperature by thermometer.

Experi- ment.	Temperature at fusing of alloy.	Experi- ment.	Temperature at fusing of alloy.
No.	Deg.	No.	Deg.
1.....	330	19.....	318.5
2.....	310	20.....	318.5
3.....	314	21.....	320
4.....	312	22.....	315
5.....	311	23.....	318
6.....	311	24.....	318
7.....	317	25.....	318
8.....	325	26.....	318
9.....	322	27.....	318
10.....	322	28.....	318
11.....	318	29.....	317.5
12.....	318.5	30.....	317.5
13.....	318		
14.....	318.5	Mean.....	317.48
15.....	318.5		312.91
16.....	318		
17.....	318	Difference.	4.57
18.....	318		

SECOND PROOF.

Extract from the Report of Hon. Edmund Burke, Commissioner of Patents, to the Senate of the United States, on the subject of steam-boiler explosions. Read in the Senate, January, 1849.

"The operation [of Evans's safety-guard] is simple; the alloy being melted, the spindle is as it were unsoldered, and allowed to turn; the chain is unwound from its drum; the weight falls on to a support prepared to receive it, and the safety-valve is entirely relieved. The advantages of this plan are that it not only indicates danger, but relieves it, and that the spindle is self-adjusting. The only operation requiring the attention of the engineer is the rewinding of the chain, an operation which could not be neglected without stopping the engine."

"The fusing point of the alloy does not change materially by the repetition of the melting process."

"Mr. Evans's apparatus, when the alloy is properly prepared, the apparatus fairly used and not tampered with, is one upon which considerable reliance may be placed for the purpose which it professes to accomplish—the indication and relief of a dangerous elevation of temperature in the metal of the boiler."

FOURTH PROOF.

Letter of the Chief Engineer at the Washington Navy-Yard.
UNITED STATES NAVY-YARD,
WASHINGTON, August 14, 1844.

DEAR SIR: I have to acknowledge the receipt of your letter of the 9th instant, and, according to your request, have again tested your alloy. I find there is no difference whatever in its melting point. I have tried it at least twenty times since you were last here, and I find it uniformly melts at a pressure of one hundred pounds, or a temperature of three hundred and twenty-four degrees, corresponding to that pressure, which is the point it was set by you to melt at, three years ago.

I would also state, in the different trials I have made with

your safety-guard, I have never, in a single instance, seen it fail in its operations at the given melting point—whether caused by deficiency of water or increase of pressure. I would further add as my humble opinion, that your apparatus, for efficiency and security, (if let alone and not tampered with,) cannot be surpassed in preventing those dreadful calamities caused by the explosion of steam-boilers. This is not a hasty opinion, but one which has been long and maturely considered and formed.

I am, with sentiments of respect and esteem, your obedient servant,
WILLIAM M. ELLIS.

C. EVANS, Esq.

FIFTH PROOF.

Report of Engineer in Chief of the United States Navy to Commodore Morris, Chief of Bureau, &c.

ENGINEER CORPS, UNITED STATES NAVY,
February 6, 1845.

SIR: The letter of Mr. C. Evans, of the 4th instant, to the Secretary of the Navy, which has been referred to me for an opinion, has been received.

In 1842 I witnessed several operations of Mr. Evans's safety-guard, and have since made myself fully acquainted with its construction. I am of the opinion that it is worthy of application to the boilers of all steam engines, and that, to the boilers of stationary engines, and to those of vessels navigating rivers, the application of it, or one of equal merit, should be rendered imperative by legislative enactment.

I am, very respectfully, yours, &c.,
C. H. HASWELL.

To Commodore MORRIS, Chief of Bureau, &c.

SEVENTH PROOF.

Opinion of Professor Henry, of Princeton College of New Jersey.

I have made a number of experiments with your apparatus, the results of which are perfectly satisfactory. To determine if the discharge of the steam always takes place at the same pressure, the composition of the fusible metal remaining the same, I attached to the apparatus a manometer gauge, and found that in each case the discharge took place at a pressure of about thirty-three pounds per square inch. The indications of the gauge did not vary from this more than a pound on either side in any of the experiments, although the quantity of water in the boiler was not precisely the same in all cases. I have also made some experiments on surcharged steam; for this purpose the water was suffered to get low in the boiler, and then the fire was removed from the bottom to the sides, so as to heat the metal above the water line, and thus surcharge the steam. Under these circumstances the fusible metal gave way at a pressure of about sixteen pounds.

These results appear so satisfactory, that I do not hesitate to state that I consider the plan of using the fusible metal inclosed in a tube, exposed to the steam, and your arrangement for relieving the safety-valve at the approach of danger, as the best contrivance which has been proposed to the public as a means of preventing the disastrous explosions from steam.

With my best wishes for your success in introducing your invention into general use, I remain respectfully yours, &c.,
JOSEPH HENRY.

To C. EVANS, Esq.

Now, sir, it will be seen, that, under the provisions of the present law, the pressure to be applied to the iron of which boilers are made, is one hundred and sixty-five pounds to the square inch. I will do the gentleman from Illinois [Mr. WASHBURN] the justice to say, that the fusible alloy has not in every instance fulfilled its purpose; but in its application with Evans's safety-guard, it has answered the required purpose. The gentleman referred yesterday to one instance of an explosion, in which the safety-guard was used. I have no doubt that when inquiry is made, it will be found that the pressure upon the boiler to produce the temperature at which this alloy will fuse, was removed in that instance. I say to the gentleman from Illinois that I know of no single instance in which the fusible alloy has failed of its purpose, when it has been protected by Evans's improved safety-guard. I am willing to admit that when the plug is used in boilers, very often the pressure of one hundred and sixty-five pounds to the square inch will not sufficiently fuse the alloy to permit the steam to escape; but it has answered the purpose in every instance in which it has been protected by Evans's improved safety-guard, and I defy contradiction of that fact. I think I have satisfied the House, and can satisfy the committee, by incontestable chemical tests and testimony, that tin fuses at 442° of Fahrenheit; that it is not adapted either for the purpose of preventing the explosion of boilers or the fuse of boilers, or securing the safety of human life; and I presume that the object of the committee, in introducing this section into the bill, was to throw additional guards and protections around human life.

Now, sir, I asked the gentleman from Illinois, yesterday, who reported this bill, if he could tell me where these tin plugs are to be placed, in what part of the boiler or flue, or where they are to be placed.

Mr. WASHBURN, of Illinois. When the gentleman gets through I will answer him.

Mr. FLORENCE. I desire again to call the attention of the House to the ninth section of the bill, and I hope the House will listen attentively to it. It is as follows:

“SEC. 9. And be it further enacted, That instead of the existing provisions of law relating to the use of fusible alloys upon high-pressure boilers, there may be substituted fusible plugs, or rivets, of pure tin, of such dimensions, and inserted in such position, as shall be prescribed by the inspectors.”

Now, I take this ground, sir, that there is no fusible plug or rivet of pure tin that will melt at a less pressure of steam than 442° of Fahrenheit, and I maintain that there is no boiler, no iron, that has undergone any hydrostatic test, that will bear any such pressure; and if that be so, I want to know how they will use fusible plugs of tin? I maintain, therefore, that to give to the builders and owners of steamboats the privilege of using plugs of tin or fusible alloy, as may suit their desires and purposes, is to endanger life to a greater extent by the explosion of boilers or the collapse of flues, than ever before existed.

Why, sir, if you were to put in a plug of tin in the crown-plate of the boiler, or in the top flue, with the fire immediately under it, and if, by any accident, the water should be reduced below the top flue, where the plug ought to be placed, the consequence would be terrible, for two reasons. If the metal becomes heated to 442° Fahrenheit, necessary for the tin plug to become fused, the pressure of steam upon the boiler, or on the doors of the flue, or on the boat generally, would cause a destruction of human life greater than can be conceived. And another reason is, that if the object is to keep the boat on her course, to prevent her from going on to a lee shore, I want to know how she is to be kept from shipwreck. The plug out, of course the draft occasioned by the rush of steam into the smoke-stack must greatly increase the heat of the boiler, and must produce a pressure of steam productive of the most terrible consequences. I cannot conceive how any of these inspectors, men, I suppose, learned in their profession, could, for a single minute, recommend, and I cannot believe they have understandingly recommended, the use of this tin plug.

Now I agree with all that has been said by gentlemen on this floor in relation to disasters and loss of human life. I agree that there may be a necessity for improvement in the existing steamboat laws. I will vote for the bill or amendment which has been presented by the gentleman from Illinois from the Committee on Commerce, if I can be satisfied that the changes they propose will accomplish the end sought to be accomplished. But I would ask here, Mr. Speaker, if it is not in order to give notice that I will move to amend the substitute of my friend from Illinois, by striking out the ninth section? I desire to have an opportunity of submitting that amendment, because I do not believe the Committee on Commerce will be able to satisfy me, from the examination I have been able to give to the subject, that this fusible plug of pure tin will answer the purpose for which it was intended. I think it would be very much better to leave the existing provisions of law to stand as they are, with these rivets of fusible alloy, rather than to give the inspectors the right to make the uncertain and dangerous experiment of changing the provisions of existing law by the substitution of tin plugs.

The SPEAKER. In response to the interrogatory of the gentleman from Pennsylvania, the Chair would state that, with a motion to commit pending, a motion to amend could not be entertained. If the motion to commit be waived, it will then be in order to move to strike out the ninth section; but not after the previous question has been seconded.

Mr. FLORENCE. The gentleman from New York [Mr. CLARK] having made the motion to commit, if he will withdraw it, I will then move to strike out the ninth section. I desire merely that the House shall have an opportunity of voting upon this subject; but, sir, I consider it the most important feature in the bill, and unless I can be satisfied by the gentleman from Illinois, who will have an opportunity of answering the objections which have been urged against the bill, that the tin plug which it is proposed to give

the inspectors power to substitute, will answer the purpose equally well, I shall be compelled to vote against this bill. I have constituents who are as much interested in the passage of this bill, and in the protection of human life, as the constituents of any other gentleman on this floor. I am willing to vote for such a bill as this, but I will not vote for it with this ninth section in it, unless they can satisfy me that it will answer the purpose for which it is intended. Will my friend from New York withdraw the motion to commit?

Mr. CLARK, of New York. I hope my friend from Pennsylvania will excuse me. I am very desirous that this bill should go to the Committee of the Whole. I have not discussed the bill at length upon its merits. I desire to do so. I know of no reason why the bill cannot be amended in Committee of the Whole; and I think that is the proper direction to give it.

Mr. FLORENCE. Then I cannot submit my amendment at this time.

Mr. HOUSTON. The gentleman from Pennsylvania can submit his amendment in the Committee of the Whole on the state of the Union.

Mr. FLORENCE. Yes, if the bill goes there.

The SPEAKER. The Chair will state, in answer to the gentleman from Pennsylvania, that the motion to commit cuts off all further motions to amend until that motion has been disposed of.

Mr. STEPHENS, of Georgia. Has this bill been printed?

The SPEAKER. The bill, substitute, and amendments, have been all printed.

Mr. STEPHENS, of Georgia. I hope it will go to the Committee of the Whole on the state of the Union. It is a very important bill; too important to be acted on in this way.

Mr. JONES, of Tennessee. Is there more than one motion to commit pending?

The SPEAKER. Only one motion.

Mr. JONES, of Tennessee. Then, if the motion to commit were withdrawn, the amendment could be submitted, and the motion to commit renewed.

Mr. FLORENCE. If the gentleman will withdraw his motion, I will submit my amendment, and then renew his motion to commit.

Mr. HOUSTON. I would suggest that we cannot perfect this bill by this amendment. I hope it will go to the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. The gentleman is correct. I hope the motion to commit will not be withdrawn.

Mr. CLARK, of New York. I do not withdraw the motion.

Mr. FLORENCE. I am not disposed to concur with the gentleman as to the propriety of referring this bill to the Committee of the Whole on the state of the Union. I am disposed, and I think the House is disposed, to consider it here. That seems to be the disposition. I appreciate, to some extent, the fears expressed by gentlemen who are in favor of the passage of a proper bill on this subject regulating the commerce of this country by steam. I think there should be a bill passed of some kind. A gentleman yesterday cited cases of dreadful disasters upon vessels propelled by steam. I know it is a fact that since the passage of the act of 1852, as the statistics will show, the accidents on these vessels have been reduced to almost nothing. Now, I do not want to do anything to impede the passage of a law for the protection of the lives of passengers; but I want gentlemen to be fully satisfied that the change they are making is a good change, and then I am willing to vote for the bill.

Mr. WHITELEY. Mr. Speaker, if I believed that the motion to refer to the Committee of the Whole on the state of the Union would prevail, I would not trouble the House at this time with one word in reference to this bill. To my mind, the character of some of its provisions is so monstrous that I cannot vote for it as it stands. It appears to me to interfere materially with our internal trade even upon canals. It not only does that, but it creates a horde of office-holders, an additional horde of office-holders, whose only duty will be to receive their salaries from the Government and bribes from steamboat owners. But it is not on this ground alone that I object to this measure; but more particularly upon the ground taken by the gentleman

from Pennsylvania, [Mr. FLORENCE.] As he has truly said, appeals have been made to our sympathies in regard to the frightful accidents which have happened by the explosion of boilers both at sea and upon our inland waters. This was all right. The provisions of this bill in reference to boats may be all right. The provisions of the bill in reference to limiting the number of passengers may be right. But while the ninth section is ingrafted upon it, I think that risks more lives of steamboat passengers than the legislation of Congress has ever prevented. This ninth section consists of about five lines. Modest as it is in appearance, it contains the sting, in my opinion, that ought to cripple and kill this bill. Members may not have had their attention called to it, because of its modesty. I wish, therefore, to attract to it the attention of the Committee on Commerce and of this House. It sets out with saying that instead of the existing provisions of law relating to the use of fusible alloys upon high-pressure boilers, there shall be substituted fusible plugs, or rivets, of pure tin, of such dimensions, and to be inserted in such positions, as shall be prescribed by the inspectors. I do not know by what process of reasoning, scientific or otherwise, the Committee on Commerce came to the conclusion to ingraft this provision upon their bill. If there was no outside pressure for it, I should like the gentleman who reported the bill to give me the scientific reason why these tin plugs should be inserted.

Mr. WASHBURN, of Illinois. I will endeavor to do so, when I get the floor.

Mr. WHITELEY. The eleventh section of the amended bill provides that all high-pressure boilers, whether old or new, upon passenger steamers, shall be subjected to the rules for inspection and test prescribed in the first part of the third clause of the ninth section of the law of 1852. Let us see what that is:

"That, in subjecting to the hydrostatic test boilers called and usually known under the designation of high pressure boilers, the inspectors shall assume one hundred and ten pounds to the square inch as the maximum pressure allowable as a working power for a new boiler, forty-two inches in diameter, made of inspected iron plates," &c.

It becomes important to know what pressure these tin plugs will bear per square inch. The highest pressure, under the law I have quoted, is one hundred and ten pounds to the square inch as the working power. They graduate the pressure from one hundred and sixty-five pounds to one hundred and ten in testing boilers. I undertake to say, and without fear of contradiction, that no tin plug will fuse under a pressure of three hundred and seventy-five pounds to the square inch.

I ask, then, where is the protection from explosion when the law limits the working power to one hundred and ten pounds, and a tin plug is inserted as a guard against explosion, the fusing power of which is three hundred and seventy-five pounds to the square inch—nearly three times as great as that required by the law? There is this difficulty in this ninth section. Your local inspectors, your supervising inspectors, the men who give authority to these steamboats to run, have to limit the pressure to one hundred and ten pounds to the square inch. The Committee on Commerce have provided in their bill authority to use a plug which will not fuse until the pressure reaches three hundred and seventy-five pounds to the square inch. I desire the gentleman who reported this bill to tell the House how a boiler is to be prevented from exploding, when it can only be worked up to the pressure of one hundred and ten pounds, while the guard will not fuse until the pressure reaches three hundred and seventy-five pounds to the square inch? Take it by the square foot: the monstrosity of this proposition will then become palpable to all. Multiply three hundred and seventy-five by one hundred and forty-four; and then you will see that the pressure will have to be fifty-four thousand pounds to the square foot, and then the plug must be in the hottest part of the boiler.

They say in this ninth section, that it is to be inserted in such place as shall be prescribed by the inspectors. They will not put it in the ladies' cabin, nor upon the rudder, nor in the wheel-house. If they do not put it in the hottest place, it will be of no use. When I asked where they were going to put it, the gentleman did not answer where it

was to be put. The only places where they can put it are these: either in the crown-plate of the boiler, or in one of the flues. What will be the effect if it be placed in the crown-plate of the boiler? With the water lying upon it, and with the fire underneath, it will not melt at four hundred and forty pounds' pressure. It would bear a pressure of more than three hundred and seventy-five pounds to the square inch; the water would protect it. If it be put there, the heat would have to be so great before it became a guard and protection—before it would fuse to let the steam escape—that the iron itself would have to melt.

So far as my knowledge extends, the most supposable place for it to be placed is in one of the flues. What is its effect there? There can be but two results, if it melts at all. I make the supposition that it will melt. If it melts in the flues there can only be two effects produced, so far as my knowledge extends. The steam escaping through the aperture will rush through the smoke-stack, and by producing a vacuum will cause a rekindling of the fires in the furnace; and, as stated by the gentleman from Pennsylvania, the boilers becoming so hot—that the engineers call a white heat—the vessel will then be set on fire, a catastrophe as disastrous as an explosion; or, in the second place, it will so heat your boilers that after the steam has escaped, you cannot for hours, until the boilers cool, send a man into them to close up the aperture; so that, as the gentleman from Pennsylvania has truly said, in a storm upon the ocean, or upon a lee shore, if you save your boilers from exploding, your vessel must either go down for the want of management, or go ashore for want of any control of it. Now, that is the effect, the sole effect, of this ninth section, providing for the insertion of these tin plugs.

Now, Mr. Speaker, if this House and the Committee on Commerce will examine this bill, and particularly the ninth section, they will find that there is not in it, throughout its whole forty sections, one single provision guarding against the explosion of boilers. I think I have demonstrated that this ninth section will not do it; that these fusible tin plugs will not do it. Where, then, is the provision? The law of 1852 was adopted, I take it, after hearing advice and suggestions from men of as high scientific attainments as those who have been consulted in reference to this bill; and the ninth section of that bill provided for the use of these fusible alloys. Now, any man who knows anything in reference to this subject, knows that two metals, be they what they may, if alloyed, melt at a much lower degree of temperature than either of the integral parts of that alloy. In most if not all high-pressure boilers it is this alloy, and it alone, that prevents explosion; because the alloy melts at a far less temperature than the iron will.

Well, sir, the bill of 1852 compelled the inspectors of high-pressure steamboats to say to every steamboat owner or captain who came to them for a certificate, that they must have on the outside of each high-pressure boiler alloy metal, fusible by the heat of the boiler when raised to the highest working pressure allowed. As the gentleman from Pennsylvania has said, this is not an entire guard, and the wit of man cannot devise an entire guard against the explosion of steam; but, as he has well said, the number of explosions has been greatly reduced since the passage of the act of 1852.

I know, Mr. Speaker, that subjects of this kind do not commend themselves to the ear of the House. But if I had time, and thought it worth while, I think I could demonstrate to the House the use, the great benefit, and the necessity, of these fusible alloys, as I think I have demonstrated the utter inutility of the tin plugs. I do not mean, however, to take up the time of the House in arguing upon that subject. I could read to the House the recommendations of such men as Professor Henry, of the Smithsonian Institution, Professor Locke, of Cincinnati, Professors Silliman and Olmstead, of Yale, and other distinguished scientific gentlemen who have examined this subject, and say that it is about the only thing that will protect your steamboats. Why not, then, I ask the Committee on Commerce—and I ask the gentleman from Illinois to answer the question—why not leave the matter as it was left in the bill of 1852? Why strike it out? Why strike it out, particularly when I am told that the local inspect-

or at Pittsburg, the local inspector at Cincinnati, and the local inspector at New Orleans, will not give certificates, or permit a steamboat to go from their wharves, until they have one of these fusible alloys attached to their boilers? *What is the influence that is legislating this provision out of the act of 1852? Why, sir, I believe that it is intended, by influences which I will not name here, to break down this thing called Evans's safety-guard, by the operation of the ninth section, without letting us know what we are doing. I believe the effect will be to endanger the life of every man who goes on board a high-pressure boat as a passenger.

Now, Mr. Speaker, I wish this bill to be referred to the Committee of the Whole on the state of the Union, in order that we may at least inquire into the matter. For my part, I did not know until yesterday that the bill was printed. I did not know any of its provisions. I am willing, and I think the House is willing, and the country demands, that there should be some legislation in reference to ocean-going steamers. But to come down to every little raft and vessel that floats upon any canal or creek in the country, and make with reference to them such provisions as would apply, in my humble judgment, only to vessels navigating large streams, is, to my mind, so monstrous that I, at least, cannot give it my support.

Mr. WASHBURN, of Illinois. Mr. Speaker, I think this matter has been pretty thoroughly discussed. There have been three speeches upon one side, and four upon the other; and I think the House is now prepared to second the demand for the previous question; which, I understand, will bring us to a vote first upon the proposition of the gentleman from New York [Mr. CLARK] to refer the bill to the Committee of the Whole on the state of the Union. I ask the previous question.

Mr. CLARK, of New York. I would ask the gentleman if he has considered that the bill makes a discrimination in favor of foreigners, and against our own shipping?

Mr. WASHBURN, of Illinois. I will answer that.

Mr. HATCH. I hope the gentleman will not insist on the demand for the previous question. This is a bill of great interest to the country.

Mr. WASHBURN, of Illinois. Does the gentleman want to make a speech upon it?

Mr. HATCH. No, sir, I do not.

Mr. WASHBURN, of Illinois. Then I insist on the demand for the previous question.

Mr. HATCH. I am opposed to this mode of legislation—legislation by committees.

The SPEAKER. The previous question being demanded, debate is not in order.

Mr. MILLSON. I wish to inquire if the amendment is pending which I suggested yesterday?

Mr. WASHBURN, of Illinois. It is.

Mr. JOHN COCHRANE demanded tellers on seconding the previous question.

Tellers were ordered; and Messrs. JOHN COCHRANE and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes one hundred and two; a further count not having been demanded.

So the previous question was seconded.

Mr. WASHBURN, of Illinois. I believe the rules now give me an hour in which to close the debate. But I shall not occupy my whole time.

The SPEAKER. The gentleman will be entitled to his hour after the main question has been ordered.

The main question was ordered to be put.

Mr. JONES, of Tennessee. I now submit whether the gentleman from Illinois is entitled to his hour while the motion to commit is pending. If he makes his speech now, and the bill should be committed, he may claim another hour to close debate in committee. If the House vote down the motion to commit, the gentleman will then be entitled to his hour.

The SPEAKER. The Chair is of the opinion that the gentleman from Illinois is entitled to address the House for an hour now, under the rules, if he chooses to exercise that right. That has been the construction given heretofore to the rules; and the Chair thinks the reason a very substantial one. The gentleman may be able to give reasons why the bill should not be committed.

Mr. HOUSTON. I understand that he may take his hour now, or after the motion to commit has been voted upon; but that if he chooses to avail himself of his right now, he will have exercised all the rights he has to address the House upon this bill.

The SPEAKER. That is the opinion of the Chair.

Mr. HATCH. What is the precise question upon which the House is now called to vote? What is the main question?

The SPEAKER. The question is first upon the motion to refer the bill to the Committee of the Whole on the state of the Union. If that motion shall fail, the question will then come up upon the first pending amendment, and then upon the substitute offered by the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. It is certainly very proper, on a bill of the importance of the one we are now considering, that every member of the House should fully understand its provisions. I desire very briefly to reply to some of the remarks which have been made in opposition to the bill; and let me say, right here, that I will endeavor to be as brief as possible, for no member of the House is more fully aware than I am, that bills of this kind are more frequently killed in this House by the speeches of their friends, than in any other way. I shall, therefore, endeavor to be as brief as possible, and make the necessary explanations.

In the first place, let me remind the House of what I said yesterday, in the opening of the debate, that I did not intend to call the previous question for the purpose of preventing discussion. I said, as gentlemen will see by referring to my remarks on that occasion, as reported in the Globe, that after the gentleman from Louisiana, [Mr. TAYLOR], and the gentleman from California, [Mr. SCOTT], who had presented amendments, should have spoken, if no other gentleman desired to speak, I hoped the House would sustain the previous question. If any gentleman desired, in good faith, to speak in opposition to the bill, I did not wish to cut him off. On the other hand, I desired that he should be heard.

Mr. CURTIS. If the gentleman will allow me, I will say that I do not propose to oppose this bill, but I am not ready to vote upon it until I understand more of its provisions. I am satisfied that those who are most interested in the commerce of the great valley of the Mississippi do not understand its application to that kind of navigation; and until it is fully explained in view of that commerce, I shall feel compelled to vote against it.

Mr. WASHBURNE, of Illinois. Well, sir, I profess to know something about the commerce of that river, as I have lived on its bank for nearly twenty years—longer, I imagine, than the gentleman from Iowa has. And in regard to his not understanding the provisions of the bill, and in regard to the suggestion yesterday made by the gentleman from New York, [Mr. CLARK], that it was proposed to take a snap-judgment in this House upon it, I ask the gentleman to take the facts into consideration, and then see whose fault it is if the bill is not understood. Within a very few days from the commencement of the session, I introduced a bill, nearly all of the provisions of which are incorporated into this bill, which is now offered as a substitute, which was referred to the Committee on Commerce. On the 18th day of January, the gentleman from Louisiana, [Mr. TAYLOR], and the gentleman from California, [Mr. SCOTT], introduced their amendments, which were printed and referred to the Committee on Commerce. And let me say here, that when the bill was originally introduced I gave notice to members that it was before them; that the bill would be printed; that they could examine it; and that I should ask that when it should be taken up in the House, it should be considered without being referred to the Committee of the Whole on the state of the Union. The substitute now presented was printed more than a week ago. On Tuesday morning I gave notice that the substitute was printed; that the report was printed; and that gentlemen could examine them before the bill came up for action in the House; and I say, therefore, to my friend from New York, who seems to have awaked just now from a sort of a Rip Van

Winkle sleep, that if he did not know about the bill and its position before the House, it is not my fault, nor the fault of the House.

Now, sir, to send this bill to the Committee of the Whole on the state of the Union, you, Mr. Speaker, have been here long enough to know, as every member of the House at all acquainted with the transaction of business here under the rules knows, is, at this stage of the session, equivalent to its defeat. It is a fact, that under the practical operation of the rules, no bill of this character referred to the Committee of the Whole is ever reached. The gentleman from New York is mistaken when he says that a majority of the House can call it up at any time. It cannot be done in point of fact. But my friend from New York says that the bill, if passed, will involve a forfeiture of property in the city of New York to the amount of \$10,000,000. Well, sir, if it be true that the bill bears more heavily upon private interest than the public good demands, then I admit that it is an objection.

Mr. CLARK, of New York. I alluded particularly to its effect upon sailing vessels.

Mr. WASHBURNE, of Illinois. The bill does not apply to sailing vessels at all. We are not legislating upon that subject now. And let me say that I do not think that the bill bears more heavily upon private interests than is demanded by the public good of the country. I must tell my friend that this is not a bill further to protect the interests of steamboat owners. That is not the title of the bill. It is a bill further to protect the lives of passengers on board of vessels propelled in whole or in part by steam. That is the object of the bill; and if, to carry out its just provisions, and save and protect human life, \$10,000,000 in steamboat property, in the city of New York, has to be confiscated, I say let the confiscation take place. I will not place dollars and cents as an offset against human life.

The country has seen how these steamboat owners have outraged the public in their mode of carrying passengers; and the country has demanded that there shall be some further legislation on this subject in their restraint. Even though it does bear, as it undoubtedly does in this bill, and as we intended it should, upon these private interests, how is it, I ask the House, under the present law, in regard to ocean steamers? There is no reasonable limit to the number of passengers which can be put on board of these vessels.

Mr. CLARK, of New York. The number of passengers is represented by the number of superficial feet of deck.

Mr. WASHBURNE, of Illinois. I understand; but that amounts to nothing. In the California steamers which sail from New York, passengers are crowded on board like cattle, and fed like dogs. A gentleman told me that he saw the steamer Georgia going out of the port of New York with fourteen hundred passengers on board, besides the officers and crew. Instead of having place to sleep, they had scarcely place to stand, and they were fed absolutely like dogs. These men who have thus been compelled to travel are our constituents, who are engaged in lawful pursuits, and who, after paying exorbitant fares, are treated in this way. This is one of the things we intend to remedy by this bill. We say that these steamers shall carry only a given number of passengers.

But the gentleman is mistaken entirely as to the effect, as I will show the House. In the substitute, it is provided that no ocean-going steamer shall carry more than one passenger to every four tons. Does that bear oppressively upon steamboat owners? Take some of the ocean steamers, and let us see how the case stands. Here is the Fulton, of two thousand and three hundred tons burden. How many passengers can she carry under this bill? She can carry very nearly six hundred passengers. Is that not a sufficient number? The gentleman from New York says that if we pass this bill, the ocean-going steamers from New York will not be able to pay their coal bill. Take the Fulton again. She can carry six hundred passengers from New York to Panama at the rate of \$100 each. That is \$60,000. What is her coal bill? Her coal bill does not amount to \$6,000, as I can prove, I believe.

Mr. CLARK, of New York, made a remark which could not be heard at the reporter's desk.

Mr. WASHBURNE, of Illinois. I do not know what these rates have been under some rigorous opposition, but I have had very different information in regard to the prices. The fare from New York to California has ranged within a few years past from \$400 to \$600.

Mr. SHERMAN, of Ohio. I understood the gentleman from New York to state on yesterday that the limit in the bill is one passenger to every seven tons.

Mr. CLARK, of New York. Yes, sir.

Mr. SHERMAN, of Ohio. I understand the gentleman from Illinois to say now that the Fulton, of two thousand three hundred tons burden, can, under the bill, carry six hundred passengers.

Mr. WASHBURNE, of Illinois. That is at the rate of one passenger to every four tons. That is a change in the original bill proposed by the substitute. I think that neither the steamboat interest of New York, nor any other interest, can complain of that limit.

I will go on with the point at which I was when interrupted. The Vanderbilt is of three thousand three hundred and sixty tons burden. She would be entitled, under this bill, to carry eight hundred passengers. Is not that a sufficient number of human beings to intrust to one steamer?

Mr. CLARK, of New York. The Vanderbilt is seven thousand tons burden.

Mr. WASHBURNE, of Illinois. I have taken the measurement of the Vanderbilt as set forth in the report of the committee appointed to examine into the loss of the Central America, which I have in my hand. But if the Vanderbilt has the tonnage which my friend claims, then so much the worse for him; she could, under this bill, carry one thousand five hundred passengers. But I have taken the tonnage as stated in the report I have referred to, and I presume it is according to ordinary measurement.

Now, sir, in regard to the number of life-boats. The Committee on Commerce did not pretend to know, of themselves, much about these things. So far as I am concerned, I do not profess to know about them. Instead of a seafaring man, I am what the sailors would call a land-lubber, residing as I do in the far off interior. We sought information from experts and from gentlemen who might be expected from their position to be informed on all these matters.

And who are the men, let me ask the gentleman from New York, who have recommended the provisions of the bill of the gentleman from California, which have been copied almost without a single change in my substitute?

Mr. CLARK, of New York. The Board of Underwriters.

Mr. WASHBURNE, of Illinois. I will give you some of their names. One is Commodore Perry. He is supposed to be a tolerably good seaman. Charles H. Marshall. I ask the gentleman from New York to say whether he is a man competent to judge of this matter? Captain Nye, late of the Pacific. These are some of the men whose counsels we have followed. There is a difference of opinion between them and my friend from New York, and it is for the House to determine which counsels they will follow in this regard.

Mr. CLARK, of New York. I desire to ask the gentleman a question. Can he remind the House of a single instance of class legislation like this? Can he remind the House of an instance in which a law has been passed discriminating in favor of one trade and against another? This bill would deprive steamers of the passenger trade and give it to sailing vessels.

Mr. WASHBURNE, of Illinois. We do not propose to make any such discriminations, and do anything in regard to sailing vessels. If legislation be necessary in regard to that branch of the marine, the gentleman from New York, with his knowledge of matters of that kind, if he sees the necessity for further legislation, will bring in a bill upon that subject. We are legislating now for the security of the lives of passengers in vessels propelled by steam. That is what we propose to do in this bill. We do not interfere with trade. We do not discriminate in favor of, or against, any interest. We merely ask Congress to pass some further provisions of law for the safety and protection of human life, which has been terribly sac-

rificed for the want, as we think, of provisions which are embraced in this bill. So much for the objections of the gentleman from New York.

I do not see the gentleman from Virginia [Mr. LETCHER] in his seat. He yesterday drew the Constitution upon the bill. Those of us who were here in the Thirty-Third Congress, and had the pleasure of serving with the genial and witty member from Mississippi, Mr. Wiley P. Harris, will recollect the remark that he made in regard to his Virginia friends always bringing up the Constitution. He said that they carried the Constitution about them, and drew it, like a pocket pistol, upon the slightest provocation. Well, sir, the gentleman from Virginia drew the Constitution upon this bill upon very slight provocation; and I might have been a little troubled by it, had not his colleague from the Norfolk district, [Mr. MILLSON,] who is known as one of the strictest constructionists in the House, and by his ability and fairness as a legislator, come up and answered, as I thought successfully, that objection of his colleague.

The gentleman objected to various other provisions and details of the bill, which I will not go into at any great length; but let me say that I think his objections were not well founded. He was certainly mistaken in one respect. He said, as I understood him, in response to his colleague, that he did not vote for the law of 1852. Well, sir, either the gentleman is mistaken, or the record which I have before me is erroneous. Let me say here, that although these steamboat passenger bills have been resisted in this House, yet when the House has come to a vote upon them, they have always passed; and, although there was a great deal of opposition to the bill of 1852, when the final vote came to be taken upon it, it passed by a vote of 147 to 27, the gentleman from Virginia, [Mr. LETCHER,] amongst others, voting for it. There were the same efforts made to refer that bill to the Committee of the Whole on the state of the Union that are now made to give this bill that direction; but the House steadfastly refused to commit the bill, and it was considered in the House. There was one remark made by the then chairman of the Committee on Commerce, in his closing speech, which I desire to repeat; and that was, that while Congress had been tinkering the bill, seven hundred souls had passed into eternity by explosions and other accidents, which he thought might have been avoided, had the proposed law been in operation.

I come now to the objections which the gentleman from Pennsylvania [Mr. FLORENCE] and the gentlemen from Delaware [Mr. WHITELEY] have urged. Now, sir, I do not profess to know much about the scientific operation of these things to which they have referred, but I will tell the House briefly what I do understand in regard to that subject. The bill of 1852 provided for the use of a certain fusible alloy, that had to be used and nothing else, because it was a provision of law that it should be used; and it can be used in no other way except through Evans's safety-guard, as it is termed, which is a patent right. The House will, therefore, see that there is a direct and special interest on the part of the patentees that they should continue to have this monopoly, whether it answers the purposes of the law or not. Well, the supervising inspectors, the local inspectors, and all men who have had any experience upon this subject have, as I understand, come to the conclusion that it does not answer the objects of the law; and what do they propose? Not to do away with this alloy entirely, but that a provision shall be made—which seems reasonable enough—that if anything else better is discovered it may be used, and they believe that the tin plug will answer every purpose.

Mr. ZOLLICOFFER. Will the gentleman from Illinois allow me to inquire of him whether, and if so, in what way, this tin plug can be used otherwise than in Evans's safety-guard? And whether there is any difference in that respect between the tin plug and the fusible-alloy plug? My impression is, that whether you use a plug of fusible alloy, or a plug of tin, it must be used, or at least the better mode of using it is to employ it in Evans's safety-valve. If I am mistaken, I ask the gentleman from Illinois to explain how it is that this tin plug can be used differently from the mode in which the plug of fusible alloy is used?

Mr. WASHBURNE, of Illinois. I will endeavor to answer the gentleman. This tin plug,

as I understand it, is to be inserted upon the top of the flue at the back end of the boiler, where the fire returns from under the boiler and enters the flue. That is the hottest part of the flue, and this tin plug fuses, according to a calculation which I have in my hand, the correctness of which, I think, cannot be disputed, at 442°, while the temperature at which the iron of the boiler is affected is much higher. That is according to the reliable experiment that has been made, I think, by the Franklin Institute.

Mr. FLORENCE. What experiment of the Franklin Institute? Have you the table there?

Mr. WASHBURNE, of Illinois. I have not the full table; but I state the fact.

Mr. CLARK B. COCHRANE. What is the difference in degree?

Mr. WASHBURNE, of Illinois. Four hundred and forty-two degrees as against 450°. The tin plug fuses at a degree of heat which does not affect the boiler at all.

Mr. HOARD. Will the gentleman allow me to ask him a question?

Mr. WASHBURNE, of Illinois. Certainly, although I do not want to be so constantly interrupted; because I do not profess, myself, to have the completest personal knowledge upon this subject. I am not a chemist, or a philosopher; but I have taken the opinions of competent practical men who have watched the operation of this thing from the time of the passage of the law of 1852 down to the present day. They have no interest in the matter, except to carry out the great object which I trust we all have in view, to obtain a law which shall produce the greatest possible safety to human life.

Mr. HOARD. I desire that the gentleman from Illinois will explain this fact. He is no doubt right as to the point at which tin will fuse, but will he tell the House what will be the pressure of steam upon the boilers at that degree of heat? I have no definite knowledge on the subject, but I hazard the opinion that to bring the boiler plate to a temperature that would fuse these tin plugs would involve a pressure of a thousand pounds to the square inch.

Mr. WASHBURNE, of Illinois. I think I understand the gentleman from New York. It is known that nineteen out of every twenty explosions or collapses which occur, occur in consequence of want of water in the boiler. Now, sir, this tin plug is a perfect and complete remedy against accidents from that cause; because, from the nature of the case, before the boiler can become so heated as to explode, the tin plug will fuse.

Mr. FLORENCE. I trust the gentleman will give way to me for a moment.

Mr. WASHBURNE, of Illinois. I should be very glad to accommodate the gentleman; but I do not desire to detain the House longer.

Mr. FLORENCE. I just want to explain the matter involved in the question of the gentleman from New York, [Mr. HOARD.] When the boiler arrives at a degree of heat to cause the tin plug to fuse, to wit: 442° Fahrenheit, the water must be below the top flue; but by this time the boiler will have undergone a hydrostatic pressure of three hundred and seventy-five pounds to the square inch; and I tell you that when you get the heat up to the point of fusing the tin plug, so as to let the steam out into the smoke stack, you will have produced a pressure upon the boiler that no iron ever manufactured can stand. It will tear the boat in pieces. This is why I oppose the use of this tin plug.

Mr. WASHBURNE, of Illinois. There is a difference of opinion in regard to that matter between the gentleman from Pennsylvania and other gentlemen, who—without any injustice to that gentleman—are quite as competent to judge as he. The House will determine between the evidence of both.

Mr. FLORENCE. If the gentleman will permit me, I will give him proof. I will read him the tables on which I make my statement. I will give him the statistics on which I controvert his position.

The gentleman from Illinois [Mr. WASHBURNE] says he has not the Franklin Institute table. I have it here, and will submit the more elaborate results of an examination of the elasticity of steam by a commission appointed by the Parisian Academy of Sciences—Dulong and Arago taking a leading part in the examination. This differs im-

materially from the table the gentleman has referred to:

Elasticity of the vapor, taking atmospheric pressure as unity.		Temperature according to Fahrenheit.		Elasticity of the vapor, taking atmospheric pressure as unity.		Temperature according to Fahrenheit.	
Atmosphere.	Degrees.	Atmosphere.	Degrees.	Atmosphere.	Degrees.	Atmosphere.	Degrees.
1.....	212.60	13.....	380.66	1.....	212.60	13.....	380.66
1½.....	233.96	14.....	386.94	1½.....	233.96	14.....	386.94
2.....	250.52	15.....	392.86	2.....	250.52	15.....	392.86
2½.....	263.84	16.....	398.48	2½.....	263.84	16.....	398.48
3.....	275.18	17.....	403.82	3.....	275.18	17.....	403.82
3½.....	285.08	18.....	408.92	3½.....	285.08	18.....	408.92
4.....	293.72	19.....	413.78	4.....	293.72	19.....	413.78
4½.....	300.28	20.....	418.46	4½.....	300.28	20.....	418.46
5.....	307.50	21.....	422.96	5.....	307.50	21.....	422.96
5½.....	314.24	22.....	427.28	5½.....	314.24	22.....	427.28
6.....	320.36	23.....	431.42	6.....	320.36	23.....	431.42
6½.....	326.26	24.....	435.56	6½.....	326.26	24.....	435.56
7.....	331.70	25.....	439.34	7.....	331.70	25.....	439.34
7½.....	336.86	30.....	457.16	7½.....	336.86	30.....	457.16
8.....	341.78	35.....	472.73	8.....	341.78	35.....	472.73
9.....	350.78	40.....	486.59	9.....	350.78	40.....	486.59
10.....	358.88	45.....	491.14	10.....	358.88	45.....	491.14
11.....	366.85	50.....	510.60	11.....	366.85	50.....	510.60
12.....	374.00			12.....	374.00		

It will be seen that one atmosphere is equal to fifteen pounds; therefore, multiply the atmospheres opposite the degrees of heat by fifteen, and the result is the pressure of steam to the square inch. For example: multiply the 25 opposite 439.34° by 15, and the result is 375 pounds. Tin fuses at 442° Fahrenheit, being 2,66° greater heat. I trust this table will satisfy the gentleman from Illinois that the position I have taken is the just one; and, as he has not answered the question I propounded him in my general remarks, he will abandon the tin rivet or plug.

Mr. WASHBURNE, of Illinois. I am sorry my friend from Pennsylvania has got so much excited. I am sorry this "plug-ugly" subject affected him so deeply. But, sir, I do not propose to dwell longer upon this subject. The provision here made is a perfectly safe one; there is no doubt about it. There is a manifest impropriety in this House, tying up, as it did in the law of 1852, and confining the action of the inspectors to a certain mode of accomplishing the object, to the rejection of all other modes.

Now, sir, I do not wish to take up any more of the time of the House, nor shall I, except to refer to one other objection made by my friend from Virginia, to the bill. Many of the objections urged by him to the details of the bill were only enlarging and carrying out the principles of the bill of 1852, which the gentleman himself voted for. But he refers specially, as an objection to the bill, to the number of officers it would create. Well, sir, I only want to submit to the House this fact. We have established new offices of supervising inspectors only at points where they were absolutely necessary; in Florida—which was, in fact, a *casus omissus* in the original bill of 1852; one in Oregon; one at Paduca, in Kentucky; one at Memphis, Tennessee; and one in Galena, Illinois. All these points, it was shown, absolutely required the establishment of these boards, for the reason that the boats running from those points frequently could not be inspected, and had to run without inspection if they ran at all, subjecting themselves to the penalties of the law.

But, sir, in regard to the outlay or expense involved. The gentleman from Virginia said it would be \$20,000. Now, sir, I have made a calculation, and find, according to it, that it cannot be more than \$12,000; and the additional boats that will come in to be inspected will bring more than that amount into the Treasury; so that it will not cost the Government, in reality, a single dollar in addition to the present expense.

But, sir, I wish to say, in conclusion, that I have no interest in the passage of this bill more than any other member of the House. The committee which reported it considered it thoroughly before reporting it for the consideration of the House. It has been fully and fairly discussed here for two days; and I think the House is now prepared to act, if they ever will be prepared. If they propose to pass the act at all, they had better pass it at once, and not send it to the Committee of the Whole on the state of the Union.

Mr. ZOLLICOFFER. If the gentleman from Illinois will allow me for a moment, I wish to cor-

rect one statement of his. He yesterday told the House that this bill failed at the last Congress for want of time. Now, I would be glad for him to explain to the House that he, as chairman of the Committee on Commerce in the last Congress, postponed this bill to a day certain, for eight or ten times, commencing in April, 1856, and from time to time postponing it, until finally it was postponed until the 3d of March, one day before the final adjournment?

Mr. WASHBURN, of Illinois. I will answer the gentleman from Tennessee. I think there were only two postponements of this bill in the last session, and they were made at the earnest request of members—I think the gentleman from Tennessee among them—who wanted further time to examine the bill. The day to which it was postponed the last time was a *dies non*; there was no session on that day, and the Speaker ruled that the bill went to the Speaker's table. I made repeated attempts to get it up afterwards but failed.

Mr. ZOLLICOFFER. The gentleman from Illinois says the bill was postponed but twice. Now, sir, I have a memorandum in my hand taken from the record, in which the dates are given to which it was postponed eight different times. First, the bill was postponed on the 22d of April, then on the 1st of May, then on the 5th of May, again on the 6th of May, then on the 8th of May, then on the 10th of June, again on the 15th of August, and finally on the 10th of December.

Mr. WASHBURN, of Illinois. The bill was postponed, then, oftener than I had any recollection of. These postponements are, however, only another argument against the postponement now asked for.

Mr. ZOLLICOFFER. I desire to call the attention of the House to the fact, that some of the material changes made by this bill are to increase the salaries of the supervising and local inspectors, the effect of which will be unnecessarily to burden the commerce of the country; to increase the salary of the supervising inspectors from \$1,500 to \$2,000, and to \$3,000, and to establish an inspectorship at Galena, Illinois.

Mr. WASHBURN, of Illinois. I did not yield the floor for the gentleman to make a long speech.

Mr. ZOLLICOFFER. One other word, and then the gentleman can give me the benefit of an explanation.

Mr. Speaker, I observed, during the last Congress, some evidences of an understanding—and I confess I felt that there was a combination—between the supervising inspectors and the Committee on Commerce. Perhaps that word “combination” is too strong; but I noticed that whenever this bill came up, these supervising inspectors were here, or some of them, looking to the interests to be subserved by it. Now, what are those interests, as indicated by leading features of this bill? Let me here remark, that the only effect of the change proposed, as to fusible alloy, is to give these supervising inspectors a dangerous discretionary power. This bill does not provide that the tin plugs shall be substituted for the fusible alloy, but that it *may* be substituted. If there is one body of men who are selling fusible alloy, and another who are selling tin plugs, it gives to these supervising inspectors the sole power to determine whether they will purchase the one or the other for all the boats.

Mr. WASHBURN, of Illinois. I will answer that question of my friend from Tennessee. One of the points he makes is in regard to the supervising inspectors being about here during the time the steamboat bill was under consideration last Congress. This is true. They came here at the request of the Committee on Commerce of this House and the Committee on Commerce of the Senate, in order to give us the information upon this subject which they, from their experience and knowledge, are so well calculated to furnish. One of the men who came here and who gave the committee his suggestions—and very wise suggestions they were—was the constituent of my friend from Kentucky, [Mr. HUMPHREY MARSHALL,] Captain Shalleross, of Louisville, a man, who as I stated yesterday, had been upon the Ohio and Mississippi rivers, running a steamboat for thirty-five years, and during all that time had never cost an insurance company a dollar, or lost the life of a single passenger. Such men, we thought, were able to give us information upon which we could

report to the House with the full belief that it would be satisfactory.

Mr. ZOLLICOFFER. Allow me to say a single word in conclusion. I ask the House to take care to ascertain whether the only material changes in this bill are not, first, to give to the board of supervising inspectors a dangerous power, a power that no body of men should be intrusted with unless, like Caesar's wife, above suspicion; next, to increase the salaries of local and supervising inspectors; and next, to establish an inspectorship at the town of Galena, where the chairman of the Committee on Commerce of the last Congress resides. I ask, why is this necessary?

We only ask, Mr. Speaker, that the House will not pass this bill without deliberation and reflection, but will give us time to put proper questions to the committee, that they may be answered before we shall pass upon a complicated and important measure like this.

Mr. CURTIS. When I asked the gentleman from Illinois a question in reference to the navigation of the Mississippi river, he only replied to me that he knew more about the Mississippi river than I did; but this answer did not satisfy me. He has said a good deal about witnesses and testimony. I do not care to put him upon the stand; I only wish to obtain information, that I may vote understandingly on this question. Now, what is the use of compelling every ferry-boat running across the Illinois, the Mississippi, the Missouri, or the Arkansas rivers, to have licensed pilots and engineers? What is the necessity for this upon boats which only run across rivers? I will ask him, too, whether these licensed pilots have not monopolized the business until they have actually stopped the commerce of the great trunks of the lower Mississippi? In some instances they have charged as high as one thousand dollars a month under the license provisions of these steamboat bills, which it is now proposed to extend.

Mr. WASHBURN, of Illinois. I will answer the gentleman from Iowa on the last point first. If he had listened to my remarks yesterday morning, he would have seen that in the bill I have proposed as a substitute, the very evil of which he complains is remedied. We make it a criminal offense for these pilots to combine in that way; and when they do thus combine, under this bill, they render themselves liable to punishment. If the gentleman asks how this law applies to the lower Mississippi, I will tell him that, as it is a general law, it applies everywhere in this country, to the lower Mississippi as well as to the upper Mississippi, to Keokuk as well as to Galena.

Mr. CURTIS. Now, as to freight-boats: Why should they carry as many life-boats and life-preservers as passenger-boats on the lower Mississippi? because, in one sense, they are all passenger-boats.

Mr. WASHBURN, of Illinois. No such thing. It has nothing to do with freight-boats.

Mr. CURTIS. I ask whether freight-boats on the lower Mississippi are not also passenger-boats?

Mr. WASHBURN, of Illinois. It was deemed by the committee a very important matter that these freight-boats should be brought within the law, in order to guard against the explosion of boilers, and that they should be obliged to have their boilers examined. Now, in regard to ferry-boats, I do not know of any class of boats where there is more necessity for inspection. They are crossing our rivers crowded, loaded down with passengers. I will call the attention of the gentleman from Iowa to that terrible accident on the Delaware river which occurred only a year ago. I allude to the burning of the ferry-boat, while crossing from Camden to Philadelphia, by which over fifty lives were lost. The boilers of that boat had not been inspected. I have said all I want to say.

The question now being on the motion to refer the bill to the Committee of the Whole on the state of the Union,

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 79; as follows:

YEAS—Messrs. Anderson, Atkins, Barksdale, Bishop, Blair, Bocock, Boyce, Brayton, Bryan, Burns, Horace F. Clark, John B. Clark, Clay, Clemens, Clingman, Cobb,

James Craig, Burton Craige, Crawford, Curry, Curtis, Davis of Indiana, Davis of Mississippi, Dimmick, Dowdell, Edmundson, Elliott, English, Faulkner, Florence, Foley, Gartrell, Gillis, Glimer, Goode, Greenwood, Groesbeck, Lawrence W. Hall, Haskin, Hatch, Hill, Hoard, Hopkins, Houston, Huyler, Jackson, Jenkins, Jewett, George W. Jones, Kelly, Lamar, Lawrence, Leiter, Maclay, McKibbin, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Milson, Montgomery, Moore, Morgan, Freeman H. Morse, Mott, Murray, Niblack, Nichols, Parker, Pendleton, Peyton, Phelps, Phillips, Potter, Powell, Quitman, Ready, Reagan, Reilly, Ricard, Ruffin, Russell, Sandidge, Savage, Scales, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Spinner, Stanton, Stephens, Stephenson, James A. Stewart, Talbot, Miles Taylor, Thompson, Tompkins, Trippe, Walton, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicofer—113.

NAYS—Messrs. Abbott, Andrews, Avery, Bennett, Billingham, Bingham, Bliss, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Corning, Covode, Cox, Cragin, Damrell, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Eustis, Farnsworth, Foster, Giddings, Gilman, Gooch, Goodwin, Robert B. Hall, Harlan, Hawkins, Hickman, Howard, Kettog, Kelsey, Kilgore, Knapp, John C. Kunkel, Landy, Leach, Lovejoy, Samuel S. Marshall, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Pettit, Potter, Purviance, Ritchie, Robbins, Roberts, Royce, Scott, Aaron Shaw, John Sherman, Judson J. V. Sherman, William Stewart, Tappan, Thayer, Underwood, Wade, Walbridge, Waldron, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—79.

So the bill was referred to the Committee of the Whole on the state of the Union.

Pending the call of the roll,

Mr. JONES, of Tennessee, stated that Mr. LETCHER was confined to his room by indisposition—not anything serious, but he was unable to be in the House to-day.

Mr. UNDERWOOD, when his name was called, said: I desire to ask a question, the answer to which will govern my vote. If the House refuse to refer the bill to the Committee of the Whole on the state of the Union, will it not afterwards be in order to recommit it to the Committee on Commerce?

The SPEAKER. The previous question has been seconded, and the main question ordered. If the motion to refer fails, the previous question does not exhaust itself until the bill has been engrossed and read a third time.

Mr. BILLINGHURST. Will it be in order to recommit the bill after the previous question is exhausted?

The SPEAKER. It will be in order.

Mr. UNDERWOOD. I vote “no.”

The result of the vote having been announced, Mr. FLORENCE moved to reconsider it; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

CONTUMACIOUS WITNESS.

Mr. STANTON. I am sorry to be under the necessity of again troubling the House with a question of privilege from the select committee of which I am chairman; but we find it difficult to make any progress, and I am instructed by the committee to make a special report. I ask that it be read.

The Clerk read the report, as follows:

The select committee appointed to investigate the charges against the members and officers of last Congress, growing out of the disbursement of any sum of money by Lawrence, Stone & Co., or other persons, now report:

That on the 8th day of February, A. D. 1858, John W. Wolcott, of Boston, in the State of Massachusetts, was called and sworn as a witness, and was examined by said committee, and, amongst other matters not material to the matter which the committee now desire to bring to the attention of the House, testified as follows:

“Question. Had you any funds placed in your hands, belonging to any of the manufacturers in Massachusetts, for the purpose of influencing members of Congress upon the passage of the tariff act?”

“Answer. I had not.

“Question. Were you ever authorized by any of them to make any promises of future benefits, in the event of the passage of that act?”

“Answer. I was not.

“Question. Did you, after the close of the last session of Congress, receive from the manufacturers, either in Boston or elsewhere, any funds, money, negotiable securities, or anything of that sort, to be used in that way?”

“Answer. No, sir.

“Question. Did you, at any time during the months of March or April, 1857, receive from Mr. Stone any negotiable securities, or money, or credits of any kind?”

“Answer. Never. Never for any such purpose as that, either directly or indirectly.

“Question. Did you receive at any time in the early part of March a considerable sum of securities for any purpose?”

“Answer. Never for any purpose connected with the tariff, either to be paid to members of Congress, for the purpose of influencing their action, or to be paid to their agents.

“Question. Nor for their benefit?”

"Answer. Nor for their benefit, either directly or indirectly."

"Question. Nor in satisfaction of previous arrangements or promises?"

"Answer. Nor in satisfaction of previous arrangements or promises."

"Question. Did you receive any securities at any time during the month of March last, to the amount of \$30,000, at one time?"

"Answer. Not for any purpose of that sort."

"Question. Did you ever for any purpose?"

"Answer. Well, that would be a matter of strictly private business; I did not for the purpose of influencing members of Congress, or their agents."

Whereupon the witness asked for time to consult counsel in regard to his obligation to answer the question last propounded to him, which was granted.

That on the 11th instant, the witness again appeared before said committee, and submitted the following as his answer to said question, and peremptorily refused to make any other or further answer thereto.

"Question. Did you receive from the firm of Lawrence, Stone & Co., sometime in March last, a sum of securities or money of the amount of \$30,000, more or less?"

"Answer. I did not, in March last, nor at any other time, receive from Lawrence, Stone & Co. any money or securities of any amount, for the purpose of influencing, or to be used in influencing, directly or indirectly, the action or vote of any member or officer of the present or the last Congress upon the tariff or any other act or measure considered by Congress, or before it, or contemplated to be before it; nor did I ever pay, or promise to pay, directly or indirectly, any money or pecuniary consideration to any officer or member of any Congress for his vote or services in the passage of, or to influence his action in relation to, the tariff or any other law; nor did I ever give any money or securities to any person for the purpose of being paid to any officer or member of Congress for his vote or influence, directly or indirectly, upon any act under the consideration of Congress, nor have I any knowledge that any such act or thing was done by any other person."

"I am advised by my counsel, Messrs. Reverdy Johnson and James M. Keith, whose opinion I have obtained since the present question was propounded to me, that the above answer is a full answer to everything which such a question may involve, falling under the jurisdiction of the House of Representatives, touching the inquiry which the committee are constituted, and could only be constituted, to investigate. And, acting under the same legal advice, I most respectfully submit that the question, in its present form, is not of itself 'pertinent' to the only inquiry which the House, in this instance, has a legal right to institute."

"If, acting under such a power, a committee of the House can compel a witness to answer such a question as this except by saying that he did not use at all, directly or indirectly, any money, coming from any quarter, to influence directly or indirectly the action or vote of any member of Congress, and that he has never paid any money to any one for such a purpose, and has no knowledge that any money was used for that purpose, or any other illegal purpose, regarding Congress, or any of its officers, I respectfully submit that it gives to the committee or the House the right to inquire into my private business and social relations, which, except so far as they may tend to prove the alleged improper influencing of members of Congress in some official duty, is as much beyond the jurisdiction of the House, and, of course, of the committee, as it would be beyond their power to investigate the private business and social relations of any other citizen, without such a charge or implication of corruption, or attempt to corrupt Congress or any of its members, having been made."

J. W. WOLCOTT.

"WASHINGTON, D. C., February 11, 1858."

Your committee having heretofore had evidence that the firm of Lawrence, Stone & Co. had, early in March, 1857, paid to the said John W. Wolcott the sum of \$58,000 in two payments, one of \$33,000, and the other of \$25,000, which constituted a part of the charge of \$87,000, which appeared from the books of Lawrence, Stone & Co. to have been expended in procuring the passage of the tariff of 1857, believe it very material and important to the elucidation of the matter referred to them, to know from Mr. Wolcott whether he admits the receipt of any such sum; and if so, how it was expended; that the House and the country may judge whether it was designed to influence the legislation of Congress, or not.

Your committee therefore recommend the adoption of the following resolution:

Resolved, That the Speaker be, and he is hereby, authorized and required to issue his warrant to the Sergeant-at-Arms of this House, commanding him to arrest the said John W. Wolcott wheresoever he may be found, and have his body at the bar of the House forthwith to answer as for a contempt in refusing to answer a proper and competent question propounded to him by a select committee of this House, in pursuance of the authority conferred by the House upon said committee.

Mr. STANTON. I have but a word or two to say in regard to the resolution. The House will understand from the statement which is made in the report in regard to the testimony that has already been taken, that so far the proof before the committee shows that of the \$87,000 charged upon the books of Lawrence, Stone & Co., as having been expended in procuring the passage of the tariff of 1857, \$58,000 have gone into the hands of Mr. Wolcott. That is the proof as it now exists before the committee. Upon the inquiry being propounded to Mr. Wolcott as to whether he received that sum, he answers that he received neither that nor any other sum for the purpose of influencing the action of Congress, but he peremptorily refuses to answer whether he received it for any purpose.

Now, sir, in the judgment of the committee, that question as to whether the payment to Mr. Wolcott, and the disbursement by him of that sum, was designed to influence the action of Congress, is a question of opinion, about which the committee, the House, and the country, might differ with Mr. Wolcott. We believe that it is indispensable, in order to ascertain whether the action of Congress was influenced by the disbursement of this sum or not, that we should know whether any portion of the money charged upon their books as having been disbursed for corrupt purposes, was so used; and that we have, therefore, a right to know how it was disbursed. That is the single, simple, and sole inquiry. The agent who, as the proof shows, was charged with the disbursement of a large proportion of that money, says that it was not disbursed for corrupt purposes, but he refuses to answer how it was disbursed, whether he received it at all, and to whom he paid it. The simple question for the House to determine is, whether the committee have a right to demand of this witness an answer as to the simple fact of the receipt of that money; whether he received it for any purpose, and if he received it, to whom, and for what purpose he paid it?

Now, I submit it as a legal proposition, that any court of justice has a right to know all the facts which may or may not tend to elucidate a question submitted to the court and jury. The question of the intention of the witness; the question of the object of the appropriation of money; the question as to whether the manner in which it was disbursed may have influenced properly or improperly the action of the House—these are not questions for the witness, but they are questions for the tribunal that is called upon to decide whether that disbursement was an honest or a dishonest disbursement. I submit to the House that if this committee cannot compel a witness to disclose any fact except such facts as, in his opinion tend to show that disbursement operated corruptly upon Congress, then the committee had better be disbanded at once. If this House is thrown upon the judgment of the parties to these transactions, upon their opinion as to what is criminal and what is not; as to what is a corrupt appropriation of money and what is an honest appropriation of it; why then there is an end of all investigations into corrupt practices in this House.

All that this committee ask, is that the House shall confer upon them power to know the facts in relation to this disbursement, that they may report to the House for its action their judgment as to whether the disbursement was corrupt, or whether it was honest. The witness may be right, or he may not be right. The committee may draw an erroneous inference, or a just inference, from the facts as they may be exhibited before them, but they want the facts which are within the knowledge of the witness.

Mr. Speaker, I will now ask for the reading of the act of Congress, passed at the last session, in regard to the duty of witnesses in making answers to the questions propounded to them, and in regard to the power of Congress, and committees of Congress, over witnesses called before them for the purpose of testifying. It will be remembered that, by that act, the common-law rule in relation to a witness having the right to protect himself from answering any interrogatory propounded to him, because his answer might tend to criminate him, disgrace him, or subject him to liabilities, was changed, and that the House have a right, under that act, to demand of the witness an answer to any question propounded to him material to the inquiry before them, without regard to its effect upon the civil or criminal rights of the witness. Upon the reading of the law, which is now in the hands of the Clerk, I have no further remarks to make. I submit the question upon this plain statement. There is a simple and distinct issue between the witness and the committee, as to whether he is bound to give an unqualified and categorical answer to the question whether he received this money or not. That is the whole question. It is suggested to me that I should call the previous question. This witness has had eminent counsel to advise him as to his rights in this matter, and I take it for granted that he has prepared himself, in the answer which he made to the committee, and which is now submitted to the House, to test the power of the House by an application to the courts.

I do not desire to precipitate any action upon the House that will not be sustained by the judicial tribunals, when they are called upon to decide the question. I ask the Clerk to read the law of the last session upon the question.

The Clerk read the law, as follows:

"Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That any person summoned as a witness by the authority of either House of Congress to give testimony, or to produce papers upon any matter before either House, or any committee of either House of Congress, who shall wilfully make default, or who, appearing, shall refuse to answer any question pertinent to the matter of inquiry in consideration before the House or committee by which he shall be examined, shall, in addition to the pains and penalties now existing, be liable to indictment as and for a misdemeanor, in any court of the United States having jurisdiction thereof, and on conviction, shall pay a fine not exceeding one thousand dollars, and not less than one hundred dollars, and suffer imprisonment in the common jail not less than one month, nor more than twelve months."

"Sec. 2. And be it further enacted, That no person examined and testifying before either House of Congress, or any committee of either House, shall be held to answer criminally in any court of justice, or subject to any penalty or forfeiture, for any fact or act touching which he shall be required to testify before either House of Congress, or any committee of either House, as to which he shall have testified, whether before or after the date of this act; and that no statement made or paper produced by any witness before either House of Congress, or before any committee of either House, shall be competent testimony in any criminal proceeding against such witness in any court of justice; and no witness shall hereafter be allowed to refuse to testify to any fact or to produce any paper touching which he shall be examined by either House of Congress, or any committee of either House, for the reason that his testimony touching such fact or the production of such paper may tend to disgrace him, or otherwise render him infamous: *Provided*, That nothing in this act shall be construed to exempt any witness from prosecution and punishment for perjury committed by him in testifying as aforesaid."

"Sec. 3. And be it further enacted, That when a witness shall fail to testify, as provided in the previous sections of this act, and the facts shall be reported to the House, it shall be the duty of the Speaker of the House or the President of the Senate to certify the fact, under the seal of the House or Senate, to the district attorney for the District of Columbia, whose duty it shall be to bring the matter before the grand jury for their action."

Mr. PHILLIPS took the floor.

Mr. UNDERWOOD. I wish to make this suggestion to the gentleman from Pennsylvania, [Mr. PHILLIPS,] which I think will perhaps obviate the necessity of his addressing the House. We are called upon, it seems to me, to tread upon very delicate ground, and I do not think we ought to act precipitately. I rise, therefore, to suggest that, by general consent, the subject be passed by informally for to-day, until the answer of the witness shall have been printed, and each member may be able to know exactly the question propounded by the committee, and the answer given by the witness. I make this suggestion, which I hope will meet the approbation of the gentleman from Pennsylvania and the House, as I am sure it will conduce to the proper action of the House.

Mr. PHILLIPS. I differ very much from the gentleman from Kentucky [Mr. UNDERWOOD] in this matter. I think this is a question upon which the House should take prompt action. It is time the House should establish some rule of action upon this subject, by which it is to be governed. The House should either abandon these investigations, or compel the answers of reluctant witnesses. The fault, in my opinion, is partly in the committee themselves. I think they have been too indulgent. But I agree with the chairman of that committee, the gentleman from Ohio, [Mr. STANTON,] that it is time now for the House to act, and to make a refractory and contumacious witness disclose all he knows on the subject of inquiry. I can imagine no case of action more directly calling for the exercise of the authority of the House than the present. A committee of this House, clothed with the authority of the House, authorized to send for persons and papers, authorized to examine witnesses upon a matter affecting the character of members of the present or preceding Congress, ask this witness a question which can affect him in nothing. To be sure, it may be the first of a series of questions which may bring upon him consequences which, if his conduct has subjected him to it, ought to be brought upon him. But, sir, if you consider the question propounded in itself, it is eminently proper. I ask if there be any member of this House, whether lawyer or otherwise, who will stand up here and allow a witness to substitute his own judgment for that of those who are to judge from his testimony?

Mr. Speaker, how is the issue presented? The committee report here that they find the fact that

there is charged upon the books of certain gentlemen \$87,000, expended to procure legislation; that there are charges upon their books, if I rightly understand the report, of that sum having been paid in money, or in bills negotiable, to this witness.

Mr. WRIGHT, of Georgia. And the fact is established by other testimony, aside from the books of Lawrence, Stone & Co.

Mr. PHILLIPS. The fact is established by the books of Lawrence, Stone & Co., and by other evidence before the committee, which satisfies them, and that satisfies me, that this witness received fifty-seven thousand or fifty-eight thousand dollars of this money. With this state of facts the witness refuses to answer the question propounded him in reference to this money; and yet the gentleman from Kentucky [Mr. UNDERWOOD] suggests that we should postpone our action, to see whether or not there is not something to examine—whether or not there is something to hesitate about.

Sir, when these facts have been disclosed to the House, they leave no room for inquiry. It is the right and it is the duty of the House to clothe that committee with all the powers of the House, and to make that witness answer all their questions categorically, one by one, which may lead to the truth in the inquiry they are pursuing.

The committee propounded this question: "Did you at such a time receive such an amount of money, or bills negotiable?" The question, with the information before them, was one eminently proper. They are met with what? By an attempt, upon the part of the witness, to set up his opinion for theirs as to what were correct and what were improper appliances of this money. Now, sir, the members of that committee and the members of this House may differ as to what were proper and what improper uses for the money.

The committee ask whether he received the money, and he responds that he did not receive it for corrupt purposes. Sir, that is our right, and it is the committee's right to judge. We want the facts, and we can judge whether the purposes for which it was used were corrupt or not. What would be said to a witness in a court of justice, when he was asked if he received a sum of money, if he answered: "I did not receive any money for corrupt purposes?" The judge would say to him: "Did you receive the money? Answer that." If he answers, "I did;" then, "For what purpose did you receive it?" would be the next inquiry. "What did you do with it?" Then, knowing that he received it, knowing what took place when he received it, the court would learn what he did with it. If that did not enable the committee to ascertain the truth of the charge that it was for a corrupt purpose, it would do what is a legitimate thing—it would turn them to others by whom this corrupt purpose could be ascertained if it existed. There can be no doubt about that.

My purpose in rising was not so much to vindicate the action of the committee, which needs no defense from me, as to remind the House that there is something due to its own dignity. There is hardly a case of investigation where some witness does not attempt to make a hero of himself, and a martyr sometimes. These cases of contumacy are repeated, and are growing more and more frequent. Why? Because we encourage them. If contumacious witnesses were treated as they ought to be, we would have few of them hereafter. If the committee will pardon me for saying it, if, instead of indulging this gentleman, they had called upon him to give an answer to the question, and refused to receive any that was not, in their judgment, an answer, the example would have been worth something.

The question now is, whether we shall abandon this inquiry? We might as well abandon it as only partially to carry it on. Shall the inquiry be abandoned, or shall this witness, who is proved to have received money, be made to testify before this House to the facts which he alone knows?

Mr. SEWARD. As I desire to be enlightened on this subject, and especially on the law of the case, I would inquire whether the witness has not expressly stated that he never received any money, to be used either directly or indirectly to control the legislation of Congress?

Mr. PHILLIPS. I have already stated that the witness has substituted his own judgment for

the judgment of the committee. We are the judge of that.

Mr. SEWARD. I ask the gentleman if that is an opinion? It is not an opinion of the witness. The only question arising, if the money has been traced to his hands, is this: if the witness has committed perjury, he is then liable to be indicted; but, sir, he has sworn unequivocally that he never used any of that money, directly or indirectly, to affect the legislation of this House. That is not an opinion. It is true that, in answer to a preceding question, the witness stated he never used any money for corrupt purposes. That was an opinion; but, when he declared under oath, that he never used any money, directly or indirectly, to control the legislation of the country, that was a fact; and if the money be traced to his hands, and he received the money for that purpose, then, having denied it, he could be indicted for perjury.

Mr. PHILLIPS. I differ with the gentleman. That is as much an opinion as the other. Let him tell us how he used the money, and then we can tell whether it was for a corrupt purpose or not. He has no right to say that he did not use it to control the legislation of the country; that he did not use it directly or indirectly for that purpose. What did he get that money for? Did he get it from Lawrence, Stone & Co.? What did he get it for? To whom did he pay it? Perhaps he would have told to whom he did pay it, and who did use it directly for the purpose charged in this inquiry.

Mr. SEWARD. I put the question to the gentleman in this shape: Suppose he was upon the bench adjudicating a case, and a question was propounded to a witness in relation to a matter which did not affect the merits of the case; would he compel the witness to answer? A court would judge of that point, and that is what this House is going to do now. And, sir, a committee created by authority of this House has not a right to ask a witness a question on other matters than those confided to them to be investigated. The witness has some rights as well as the House; and I lay it down as a proposition which cannot be denied, that neither this House nor any court has the right to go into the private affairs of witnesses unless the transaction relates to the business the court or House has under investigation. It is so with a court, and this House should be governed by the same rules.

Mr. PHILLIPS. There can be no real difficulty about this question. I would say to the gentleman from Georgia, that no judge, and no committee, would make or sustain any inquiry that was not pertinent to the matter before them. But of the pertinency of the question the House is the judge. Did the gentleman ever hear of a witness attempting to judge that? I ask the gentleman to answer.

Mr. SEWARD. I never did. I understand that, leaving the committee, he has come here to the proper tribunal to decide the question. I do not understand that the committee is competent to decide the question.

Mr. PHILLIPS. If it is competent for the committee to inquire whether money or other means were used for the purpose in influencing the legislation of Congress, the proceeding must be carried on as such examinations are made before courts. They must do it as they say lawyers get to Heaven—by degrees. They must ask one question at a time. They must begin and ask: "Did you get the money from these people? There has been a charge that certain persons expended money to procure the passage of certain legislation. There is, at least, foundation for the charge, as I am told, in testimony already taken, and in the books. This gentleman is represented to have received the money. The first question is, 'Did you receive the money?'" I apprehend the gentleman will find no instance to the contrary, that because the witness thinks it is his private business, he can arrest an investigation. Where would this thing end?

Mr. SEWARD. I do not deny that the private business of the gentleman can be inquired into, if that is under adjudication. I take it that the gentleman has answered, in fact, that he did get some money from Lawrence, Stone & Co. The question was never propounded to him what he did with it.

Mr. PHILLIPS. I differ with the gentleman.

Mr. SEWARD. I ask that it be read. I have

never heard it. He said that he never used any money, directly or indirectly, to control the legislation of Congress.

Mr. PURVIANCE. The question stated by the gentleman was asked.

Mr. SEWARD. I ask the record to be read. The committee has never asked the witness what he did with the money.

Mr. PHILLIPS. The question asked by the committee was, whether he ever received the money with which he appears charged upon the books? I beg to remind the gentleman that that was the question asked—whether he received this sum of money—whether he received these two particular sums of \$24,000 and \$33,000? If he did receive them, there is a manly way of answering. There is a truthful way of answering.

I differ with the gentleman from Georgia, who says that the witness has already admitted its receipt. He admits it with an equivocation. He does not admit it in such a way that, if it is not true, it could be the ground of an indictment for perjury. The question propounded was, "Did you receive these two sums?" The answer is, "I never received them for a corrupt purpose; I never received them for the purpose of influencing legislation." It by no means follows that he received them at all. That is not a fair inference to be drawn. On the contrary, the witness denies that this House shall draw that inference; for he undertakes to tell the House, through its committee, that we have no right to make an inquiry whether he received it absolutely, and that the only inquiry we have the right to make is the one to which he has limited his answer.

Mr. PURVIANCE. I wish, in the first place, to correct a misrepresentation under which the gentleman from Georgia [Mr. SEWARD] labors. The witness absolutely refuses to answer whether he received the money; and, as a matter of course, refusing to answer that question, in the first instance, it would be idle to ask him the second question: "What did you do with it?" And yet, sir, in the course of the examination, the witness was asked that question in that way, and he turned to the committee and said: "I have not yet told the committee that I have received a single dollar." Now, it appears from the evidence before the committee that the sum of \$58,000 was paid over into the hands of this man; and that it was paid into his hands for a corrupt purpose, is believed from the testimony of the witness who paid it. The witness refuses to answer whether he received the money. The committee say they have a right to the answer; and I think it will be obvious to the House, at once, that we have a right to the answer, because, if he answers that he did receive the sum of \$58,000, but disclaims having made any application of it for a corrupt purpose, that may be consistent with the truth; and yet the \$58,000 may have been applied for a corrupt purpose, for he may have paid it to A, B, C, and D, without reference to the mode and manner of its application. We have a right to have answers to these questions: First, "Did you receive the money?" Second, "If you did receive it, did you disburse any portion of it?" And third, "If you did disburse any portion of it, to whom did you disburse it?" If he says he disbursed a portion of it, we have a right to the names of the parties to whom he disbursed it, for the reason that we can subpoena those parties, and question them, and they may, perhaps, be the very parties who made the corrupt application of the money; so that, in any point of view, I think that this witness stands in a contumacious attitude towards the committee, and towards the House.

Mr. KUNKEL, of Pennsylvania. Let us have the answer read.

Mr. PHILLIPS. The answer is equivocal from beginning to end.

Mr. MAYNARD. I ask permission to interpose a motion to have the report printed and postponed to some hour to-morrow, so that we can have it before us, and can understand it better than is possible from merely hearing it read.

Mr. PHILLIPS. I do not yield for that purpose, but I will allow the question and answer to be read.

The Clerk read the question and answer as follows:

"Question. Did you receive from the firm of Lawrence, Stone & Co., some time in March last, a sum of securities or money of the amount of \$30,000, more or less?"

"Answer. I did not, in March last, nor at any other time, receive from Lawrence, Stone & Co., any money or securities of any amount, for the purpose of influencing, or to be used in influencing, directly or indirectly, the action or vote of any member or officer of the present or the last Congress upon the tariff or any other act or measure considered by Congress, or before it, or contemplated to be before it; nor did I ever pay, or promise to pay, directly or indirectly, any money or pecuniary consideration to any officer or member of any Congress for his vote or services in the passage of, or to influence his action in relation to, the tariff or any other law; nor did I ever give any money or securities to any person for the purpose of being paid to any officer or member of Congress for his vote or influence, directly or indirectly, upon any act under the consideration of Congress, nor have I any knowledge that any such act or thing was done by any other person."

Mr. PHILLIPS. That answer is as equivocal as it possibly could be made. He denies having paid any money, or given any pecuniary consideration, and he limits his answer to that. He denies the receipt of money for corrupt purposes, and then goes on to say that he did not pay away any money, or give any pecuniary consideration; and then he again uses the word "money," and, I think, "securities."

Mr. STANTON. I think the gentleman from Pennsylvania will find that he peremptorily declines to give a direct answer to the question.

Mr. PHILLIPS. I was coming to that. He says:

"Nor did I ever pay, or promise to pay, directly or indirectly, any money or pecuniary consideration to any officer or member of any Congress, for his vote or services in the passage of, or to influence his action in relation to, the tariff or any other law; nor did I ever give any money or securities to any person," &c.

Now, the gentleman from Georgia [Mr. SEWARD] argued just now that, when he said he did not receive the money for that purpose, it was a fair innuendo that he did receive it for some other purpose. I do not think the gentleman's inference is well founded; but it is just as fair an inference from that answer that he gave some consideration other than a pecuniary consideration. But the witness goes on to say to the committee what I think is most contumacious of all. He says:

"I am advised by my counsel, Messrs. Reverdy Johnson and James M. Keith, whose opinion I have obtained since the present question was propounded to me, that the above answer is a full answer to everything which such a question may involve, falling under the jurisdiction of the House of Representatives, touching the inquiry which the committee are constituted, and could only be constituted, to investigate."

Now, I have never known an instance in which a witness has endeavored more to evade the force of the inquiry, or been more contumacious, than the present one. And the question with me is, whether this committee shall be discharged from the further consideration of the subject, or whether the witness shall be properly dealt with as a contumacious witness—not, as I said before, made a hero or a martyr, but when brought to the bar, treated, as a contumacious witness ought to be treated, and not allowed, as has been too much the practice, to deliver to the House a harangue or homily upon the duties of members of the House. As I said before, I almost blame the committee for indulging the witness to this extent. The time has come, now that we have so many investigating committees around us, when the House should exert all the authority possible for the purpose of making witnesses answer directly and fully all inquiries.

A word now as to the inquiry. The question asked the witness was: "Did you receive this money?" If he did not receive it for any improper purpose, he could have answered "yes." Then would have followed the inquiry as to why and how he received it; then as to whether he used intermediate agents; and then as to his own imputation—I mean the imputation conveyed by his own evasive answer—to find out whether some consideration, even if it was not pecuniary, whether some inducement, whether some temptation, if it was not a consideration or inducement, was ever held out to any one in authority to procure the passage of the law.

I trust, Mr. Speaker, that the action of the House will not be delayed; that the witness will be brought to the bar of the House at once, and the matter disposed of before we adjourn. We encourage these things. Each successive attempt seems to bring on new ones. If this case is dealt with as it ought to be, properly, sharply, and promptly by the House, by making the witness answer, or subjecting him to pains and penalties if he refuses to testify, and handing him over to

the authorities, under the act of last session, depend upon it we shall not be troubled again in this way.

Mr. REAGAN. The question propounded by the committee is clearly a legal and proper question. Did the witness give a legal answer? He had no legal privilege to refuse to answer the question; but, in order to excuse himself for refusing to answer it, he goes on to answer a series of questions never propounded by the committee. If the witness desires to rely upon the ground that he might criminate himself by his answer to the question propounded, let him make that point. But he does not attempt to do it. He refuses to answer a legal question propounded by the committee, and goes on to give answers in response to questions never propounded by the committee, thereby treating that committee and this House with contempt. I trust this House will not indulge any such captiousness by deferring this matter until to-morrow. I call the previous question upon the resolution.

Mr. JOHN COCHRANE. I ask the gentleman to withdraw it for a moment.

Mr. REAGAN. I will withdraw it, at the request of the gentleman.

Mr. JOHN COCHRANE. I will not detain the House for more than a moment. Mr. Speaker, the issue has been fairly tendered by the witness who has been summoned before this committee of the House as to its powers. He has tendered it under the advice of counsel. He has declined answering categorically a plain, direct question; and it is now for this House to determine whether under these circumstances it will accept the issue and enforce its authority.

Under these circumstances I think it is unwise, nay, more, it is undignified for this House to delay. I think the time has arrived when we are to assert the power of the law. I think the time has arrived when we cannot with honor to ourselves, when we cannot without disgrace, declare that we will not meet the issue, or that we will postpone it. It seems to me that we have hardly yet arrived at the true point in issue between the House and the witness. There are two exigent cases provided for in the law. In either of these it becomes the duty of the Speaker to enforce certain acts. In either of them it is devolved upon the House to vindicate its authority. The one, is where a witness refuses to appear before the committee. The other is, where, having appeared, he refuses to answer. In this case the witness appeared; and the question is, whether, from the report of this committee, he has refused to answer a proper question. Nay, I may say more. It is immaterial whether the question be proper or improper. It is a question propounded under the authority of the House by a committee acting as its instrument, and it is not for gentlemen to take their positions that the question was an improper one.

But to pass from that point; the question is clearly a proper one, notwithstanding the fact that the witness is informed by his counsel that the question is not pertinent to the matter in inquiry before the committee, or within the scope of the authority of the House.

But there is another act of contumaciousness which clearly places him in the contempt of the House, and which is worthy of our serious consideration. Has there been here a refusal upon the part of this witness to answer the question propounded by the committee, under authority of the House? If we can only answer the question in the affirmative, then the witness should be summoned, and dealt with by the authority of the House. Now, then, what is the question propounded? It is, whether he has received a certain sum, in money or securities? What is the answer? That he has not received that or any other sum for a specific purpose. Why, sir, it is an evasion. It is no answer of the question at all. Let me illustrate. Suppose, in one of the courts of law, the question is propounded to a witness: "Did you, on a certain day, receive of your neighbor a horse?" Answer: "I did not upon that day or any other day receive a horse of my neighbor, for the purpose of going from Washington to Georgetown." Is there any man of common sense who will pretend that is an answer to the question? It is not. A full, categorical answer to the question is yea or nay; and he who attaches a condition to his answer evades the question, and

in every tribunal would be held as refusing to answer, especially when the witness declines to answer in any other way, and is held to be a contumacious witness.

Now, sir, there is the issue. It is full, well defined, naked. Gentlemen cannot close their eyes to it. And if it is thus presented, and if it is presented to us with care, and under the advice of counsel, with deliberation, under which the authority of this House is not only doubted, but scorned, there is no position which this House can take except to accept the issue, and bring the witness before us under the allegation for contempt.

Mr. SEWARD. I know nothing about this witness, and care but very little; but the law ought to be respected in this matter. If we have got arbitrary power here, that is no reason why we should exercise it. Now, sir, what is the issue to be tried before this House? It has been charged that the legislation of Congress has been corrupted by the improper use of money. That is the issue. That is the record, and I hold gentlemen up to it. Analogizing this case to an indictment where an individual is charged with stealing property, or with the commission of any other crime, I put it to legal gentlemen upon this floor, whether they can travel out of the record and compel witnesses to relate facts outside of the indictment upon which the issue is made up and is to be tried?

Mr. WRIGHT, of Georgia. The evidence is never put into the bill of indictment.

Mr. SEWARD. It never is; but your proofs must correspond with the allegations. That is the law. Now, I deny that this witness is in contempt of the authority of this House in this stage of the proceedings. He had a right to say to the committee, when they put questions to him, "I think your questions are improper, and I deny your authority to compel me to answer them. You have no right to compel me to disclose facts connected with my private transactions in life. I will go before the House of Representatives, and will there present my legal rights." Is there any contempt in that? Is there anything which should subject this witness to reproach?

Mr. PHILLIPS. I ask the gentleman whether this witness sets up any such defense as not recognizing the authority of the committee? Or, rather, does not he assert, in the broadest language, that this is all the answer he is willing to give, under any circumstances, to the question?

Mr. SEWARD. I do not understand the witness to say any such thing. He says what is right, and what every man in the country has a right to say. He says to the committee, "I deny your right to propound the question;" and then what? He had no power to bring it before the House. The presumption was that the committee would come to the House, and ask its opinion on the subject, and when the House decides the question on proper legal principles, that the witness shall answer this question, I undertake to say then that the witness will answer it.

Mr. KUNKEL, of Pennsylvania. Speaking of the record in this case, I would inquire of the gentleman from Georgia whether, in the first place, the House did not raise the committee upon a statement derived from the books of Lawrence, Stone & Co., that \$87,000 had been expended to influence legislation of Congress? and whether, in the course of the investigation of the committee, it does not appear by other evidence than the evidence of the witness in this case, that a large portion of that money passed into the hands of the witness himself? Now I desire to know of the gentleman whether he thinks that the witness, standing in such circumstances, can avoid and evade all further answer? Must we be satisfied with the answer that he does not know whether it was expended directly or indirectly to influence legislation? I ask him whether, as a lawyer, or a judge, or as a member of this House, he will not hold it to be the right and duty of the House and the committee to require him to say how it was expended by him, in order that the House or the committee may call upon the other persons into whose hands it may have passed, and still another, and still another, until at last they find how it was expended?

Mr. SEWARD. Upon the case made up by the gentleman in his speech—

Mr. KUNKEL, of Pennsylvania. It is according to the facts.

Mr. SEWARD. It is not. It is not the record; and I will show the gentleman that it is not.

"Did you receive from the firm of Lawrence, Stone & Co., sometime in March last, a sum of securities or money of the amount of \$30,000, more or less?"

That is the question. The answer is:

"I did not, in March last, nor at any other time, receive from Lawrence, Stone & Co. any money or securities of any amount, for the purpose of influencing, or to be used in influencing, directly or indirectly, the action or vote of any member or officer of the present or the last Congress, upon the tariff or any other act or measure considered by Congress or before it, or contemplated to be before it. Nor did I ever pay or promise to pay, directly or indirectly, any money or pecuniary consideration to any officer or member of any Congress for his vote or services in the passage of, or to influence his action in relation to, the tariff or any other law. Nor did I ever give any money or securities to any person for the purpose of being paid to any officer or member of Congress for his vote or influence, directly or indirectly, upon any act under the consideration of Congress. Nor have I any knowledge that any such act or thing was done by any other person."

Mr. CLARK B. COCHRANE. Does the gentleman regard that as an answer to the question?

Mr. SEWARD. I do not consider it an answer to the question whether he received \$30,000 from these parties or not. I say it is not an answer.

Mr. CLARK B. COCHRANE. Then is not the House entitled to a direct answer to the question?

Mr. SEWARD. I say that when the witness informed the committee that whatever money he received related to a private transaction, they had no right to make him disclose that private transaction. He denied that it had any reference to the matter which was being tried by the committee, on the record made up by the resolution referring this whole subject to the committee.

Mr. TAYLOR, of New York. I would like to ask the gentleman upon what legal principles he excuses the witness from answering as to what disposition he made of this money?

Mr. SEWARD. I will answer that; that question was never propounded to him, what he did with the money?

Mr. PURVIANCE. I will tell the gentleman for the second time, as a member of the committee reporting the pending resolution, that the gentleman is laboring under a misapprehension.

Mr. SEWARD. Then if I am mistaken, I am mistaken because the record does not enlighten me. I ask the gentleman to show it to me. I am trying this matter upon legal principles, and upon the record made here by the committee, and upon which they ask the judgment of the House.

Mr. MOORE. I desire to explain in regard to the examination of this witness before the committee. The gentleman from Georgia is clearly under a mistake. When the witness was asked whether he received this money, he refused to answer the question.

Mr. SEWARD. I cannot yield any further. I cannot go back into the committee room to inquire what transpired there.

Mr. MOORE. Then you must not make the charges. You do not give the members of the committee time to make an explanation of the matter.

Mr. SEWARD. I will take the explanation that is upon the record. It is upon that we are called to decide. I say that if the record shows that the question had been propounded, "What did you do with the money?" and the witness had refused to answer, then I should have insisted upon exerting the full authority of the House.

Mr. PURVIANCE. The answer of the witness was, that he had not yet said that he received any money.

Mr. SEWARD. That may have happened in the committee room. I do not know about it. I hope the committee, for the purpose of enlightening us, will complete the record, that we may have the whole case before us, and not have it made up of statements first of one and then of another. We are trying the legal right of the House, not to punish a witness for contempt, for contempt will only attach to a witness that shall have disputed the orders of the House. When the House shall decide the question, whatever may be that decision, right or wrong, if the witness does not stand up to it I am for imprisoning him.

Mr. CLEMENS. I desire to call the gentleman's attention, and the attention of the House, to the answers of the witness to three different questions propounded by the committee, which

the gentleman seems to have entirely overlooked in the course of his remarks:

"Question.—Did you receive any securities of any kind during the month of March last, to the amount of \$30,000 at one time?"

"Answer.—Not for any purpose of that sort."

Implying that he had received the sum of \$30,000.

Mr. SEWARD. I said before I got the floor to make my speech that the witness had impliedly acknowledged he received \$30,000; but he denied that he received it for the purpose of corrupting the legislation of Congress—the very matter which the committee had invited the attention of the witness to.

Mr. CLEMENS. Here are other questions:

"Did you ever for any purpose?"

"What does the witness say? His answer is:

"Well, that would be a matter of strictly private business."

Mr. SEWARD. I say so too. I will defend the witness in that. I will say that the committee never had the right to ask the witness whether he received money for any purpose.

Mr. KUNKEL, of Pennsylvania. If the gentleman will allow me a word. Suppose this case: that the witness received from Lawrence, Stone & Co., \$30,000 without a word being said as to the purpose for which it was given, and handed it over to a third person in the same manner, who used it corruptly. In such a case, if the committee must be satisfied with the answer that witness did not receive or pay over with corrupt purpose, I ask the gentleman from Georgia how he would ever get at the truth? Would he excuse the man for not answering under such circumstances?

Mr. SEWARD. No, sir; I would not. But I should say it would be a very fruitless act of generosity to hand over to any gentleman \$30,000 for no specified purpose, especially in these hard times.

Mr. KUNKEL, of Pennsylvania. That may be; but it is doubtless often done in such cases.

Mr. SEWARD. But this witness denies that any money was used by him, or by any other person, for the purpose of corrupting any member or officer of the House.

Mr. KUNKEL, of Pennsylvania. That he knows of.

Mr. SEWARD. That he knows of, of course. I presume you do not want the witness to state things which are beyond his knowledge. I say that the witness has disclosed every fact which would go to show that he had received money for a corrupt purpose, or in any shape, manner, or form, to buy votes, to influence members, or to control the action of the House.

Mr. STEPHENS, of Georgia. Let the resolution be read.

The resolution was again read.

Mr. STEPHENS, of Georgia. I merely wish to say, that I think that the question put by the committee was a very proper one; that the witness is in contempt in refusing to answer it; and that he ought to be made to answer it. I thought, from the remarks of my colleague, that the resolution contemplated the immediate imprisonment of the witness. I would not go that far; but I think he ought to be brought to the bar of the House.

Mr. SEWARD. It does contemplate immediate imprisonment.

Mr. STEPHENS, of Georgia. No, sir; it only contemplates that he shall be arrested and brought to the bar of the House to answer.

Mr. SEWARD. That is imprisonment.

Mr. STEPHENS, of Georgia. That is arrest, but not exactly imprisonment. It seems to me to be perfectly right that the witness should tell whether he got any money from Lawrence, Stone & Co.; and if so, what he did with it. I demand the previous question.

Mr. SEWARD. I will inform my colleague that the record does not show that the question was ever put to the witness what he did with the money.

Mr. STEPHENS, of Georgia. I know that; but he does not answer the question whether he got it or not. I maintain that he is bound to say, and that we should require him to say, whether he got it; and then, if he did get it, what he did with it.

Mr. HUGHES. I desire to have the resolution under which the committee was appointed

read, so that the whole subject may be before the House.

[Cries of "No, no!" and "Object!"]

Mr. BOWIE. I hope the gentleman from Georgia will withdraw the demand for the previous question.

Mr. STEPHENS, of Georgia. I think enough has been said upon this subject, and I insist on the previous question.

Mr. MOORE. I desire, with the leave of the gentleman from Georgia, to say a few words.

Mr. STEPHENS, of Georgia. Well, I withdraw the demand for the previous question.

Mr. MOORE. I will renew it, and I will occupy the time of the House for but a few minutes.

Mr. BOWIE. I believe I have the floor if the gentleman from Georgia withdraws the previous question; and I object to his farming it out to any one else.

The SPEAKER. The Chair is of opinion that if the previous question is withdrawn absolutely by the gentleman from Georgia, the gentleman from Maryland is entitled to the floor.

Mr. STEPHENS, of Georgia. I have withdrawn it.

Mr. BOWIE. Mr. Speaker, I regard this as a grave question. It involves, in fact, the rights—the private rights—of every citizen of this Republic. We are now called on to enforce the sovereign power of this House against a citizen who claims as against it his private rights; and I am for considering considerably the question of power between the sovereign and the subject. A citizen is brought up here before this House as the grand inquest of the nation, the great grand jury, in the exercise of a criminal jurisdiction; and is called on to answer certain questions. That you have a general inquisitorial power, under the Constitution of the United States, in regard to offenses against this House, no man can deny; and to that extent, and to that extent only, have you any jurisdiction whatever. It is said that a contempt of this House has been committed by a contumacious witness. One exercise of that power, which is given to you by the Constitution of the United States, is to preserve your order and to punish offenses committed in the presence of the House, or the misbehavior of members. Whence is the power derived? What is the power at last? What is its nature? It is, simply, and nothing more nor less, than that power which belongs to the Parliament of England, and has been transplanted to our soil. It is the law of all public bodies. It is the necessary law, incorporated into our Constitution—the law of self-defense, simply, and nothing more. You have power to protect your majesty, if you choose to call it majesty. You have power to protect and defend yourselves against disorder of every kind, and against violence of every kind. It is but the law of nature, the law of necessity, incorporated into the parliamentary law of England, and thus transplanted to our soil.

But if you attempt to go beyond that, you become usurpers and tyrants. You dare not go beyond that. Power is given to you to the whole extent of the purpose for which it is given. You propose to punish a man now for contumacy, for contempt of this House because he does not choose to answer a certain question. I assure you that upon every principle of common law his answers given to the committee of this House have purged him of contempt and you have no right whatever to pursue this subject any further.

"Question. Had you any funds placed in your hands, belonging to any of the manufacturers in Massachusetts, for the purpose of influencing members of Congress upon the passage of the tariff act?"

"Answer. I had not.

"Question. Were you ever authorized by any of them to make any promises of future benefits, in the event of the passage of that act?"

"Answer. I was not.

"Question. Did you, after the close of the last session of Congress, receive from the manufacturers, either in Boston or elsewhere, any funds, money, negotiable securities, or anything of that sort, to be used in that way?"

"Answer. No, sir.

"Question. Did you at any time during the months of March or April, 1857, receive from Mr. Stone any negotiable securities, or money, or credits of any kind?"

"Answer. Never. Never for any such purpose as that, either directly or indirectly.

"Question. Did you receive at any time in the early part of March a considerable sum of securities for any purpose?"

"Answer. Never, for any purpose connected with the tariff, either to be paid to members of Congress, for the purpose of influencing their action, or to be paid to their agents.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

THIRTY-FIFTH CONGRESS, 1ST SESSION.

TUESDAY, FEBRUARY 16, 1858.

NEW SERIES...No. 44.

"Question. Nor for their benefit?"

"Answer. Nor for their benefit, either directly or indirectly."

"Question. Nor in satisfaction of previous arrangements or promises?"

"Answer. Nor in satisfaction of previous arrangements or promises."

Now, in the question and answer which follow, I say there is an admission, by implication, that he did receive money:

"Question. Did you receive any securities at any time during the month of March last, to the amount of \$30,000, at one time?"

"Answer. Not for any purpose of that sort."

Now comes up the rights of the individual; now comes up the question between the Congress of the United States and the individual citizen of this country, as to their respective rights:

"Question. Did you ever for any purpose?"

"Answer. Well, that would be a matter of strictly private business; I did not for the purpose of influencing members of Congress, or their agents."

Having acknowledged that he did receive this \$30,000, and having denied that it had been, in any form or shape, either directly or indirectly, used for the purpose of influencing the legislation of Congress upon the tariff, or upon any other subject before Congress—having denied that it had any connection with the Federal Government, it was all the answer you could require of him.

Now, sir, I do not know whether this gentleman is a lawyer or a physician. I do not know whether he comes within the pale of privileges. I do not know whether he has professional pretensions or not; but I tell you that there is a law equal to the common-law—the law of honor, sir, of honesty and justice—a law which gives every man the right to take care of himself. If he has trespassed upon the criminal law, he is answerable to that. If he has made obligations which he has not discharged, the law will require him to discharge them. But that there is any process of law by which a man may be compelled to disclose his own private relations, I will even deny.

Mr. Speaker, when upon oath this witness purges himself of contempt, your jurisdiction is gone; you cannot lay your hands upon him; you have no more power than the courts of law have. The power which you can exercise is a legal one, and you cannot make it more. If you compel him to answer further than he has answered, it would be tyranny. This committee was instituted for the purpose of investigating fraud. So conscious am I of my own integrity that I am slow to charge fraud upon others. Men are ruled by their dispositions. Some are well disposed, and some are evil disposed. The spirit of good and the spirit of evil rules the world. [Laughter.] I choose to belong to the spirit of good. [Laughter.] That very spirit of good would make me hate vice, fraud, and crime, in every shape.

It has got to be a sort of fashion here to get up investigating committees on every subject. We have had investigating committees on our own members and our own officers. The other day an investigating committee was appointed on the late Doorkeeper. Now one has been appointed on the present Doorkeeper. It is a Rowland for an Oliver. [Laughter.] You have an investigating committee on the late Clerk, and I have not the least doubt that Mr. Allen may look out for an investigating committee upon him. [Laughter.] We have in consequence these sort of scenes—that side of the House is arrayed against this, and this against that. What is the effect? It is anything but creditable, and ought not gentlemen to be ashamed of themselves, when we come to look at the matter in serious soberness? [Laughter.]

Now, for the lack of something better to do, we must have a poor, unfortunate devil brought here, and the alternative presented to him either to divulge his private business or to go into imprisonment. He must tell about \$30,000 received from Lawrence, Stone & Co., when, by his answer, as every lawyer must know, he has ousted this House from propounding any further interrogatory. He has purged himself of contempt. The jurisdiction to which he was confined was the fraud and bribery and corruption of members

and of outside persons in regard to the legislation of Congress; and when he declares, on his oath, that no money he ever received was intended to be applied to such a purpose, then the jurisdiction of the House ceases. That is the principle in reference to every court at common law. It is the principle in reference to every tribunal where justice is attempted to be enforced. You propose to go further. The chairman of a committee puts his opinion against the opinion of a contemptuous witness. The witness does not disclaim, as I understand, that he received the money; but he does disclaim that he received it for any purpose connected with the jurisdiction of the House. What would you think of a court which, when a man was brought before it, would not listen to his affidavit and sworn protest? Is this House to say to this witness, "We have had a spite against you, and we must satisfy it?"

My friend from Ohio wishes to incarcerate this man because he has declined to answer questions concerning his own private business, and unconnected with the jurisdiction and the purposes of the investigation instituted by this House. It will not do for gentlemen to say that the witness has put his opinion against the opinion of the House; but in such a case he has the right to do so. If we were to compel a man, who has fairly answered all questions within the jurisdiction of the law, to divulge sacred matters of private business and confidential relations of the strictest character, then, indeed, we would be deserving of the scorn and contempt and anathema of every honest and patriotic citizen.

Mr. MOORE obtained the floor.

Mr. HUGHES. Will the gentleman yield to me, that I may send up an amendment to be read for information?

Mr. MOORE. I yield for that purpose.

Mr. HUGHES's amendment was read, as follows: Whereas, John W. Wolcott, a witness duly summoned before a select committee of this House, has appeared before said committee, and refused to answer and testify concerning matters pending before said committee: Therefore, Resolved, That the Speaker of the House be requested to certify the facts to the proper district attorney of the United States, according to the statute in such case provided.

Mr. MOORE. I know that the House must be already fatigued—

Mr. STANTON. I wish to inquire of the gentleman from Alabama whether he gives way for the purpose of having that amendment offered?

Mr. MOORE. No, sir; merely to allow it to be read.

Mr. STANTON. I hope the gentleman will not allow it to be offered as an amendment.

Mr. MOORE. The gentleman from Georgia [Mr. SEWARD] asked several times why it was that the committee had not asked the witness what he did with the money? Again and again was the witness asked whether he received the money; and no direct response was given to that question; and it will be seen from the report that again and again he answered it evasively. When he was asked whether he had received the money which we had traced to his hands, he answered that he had received it for no such purpose as to influence the legislation of Congress. But the direct question whether he received the money, traced to his hands by other testimony, he directly and positively refused to answer. I cannot believe that there is a member on this floor who will hesitate for a moment to come to the conclusion that this question was a pertinent, legal, and proper question. If he answered in the affirmative, the question would be followed by other questions. But unless this question be answered, the committee might as well suspend any further attempt or effort to elicit truth in this case, or to ferret out fraud, if fraud there be.

Mr. CLARK B. COCHRANE. I agree entirely with the gentleman from Alabama, that this was a proper question, and that the answer of the witness was not only an evasion but a volunteer statement. But I wish to inquire whether the witness did not distinctly refuse to answer the question?

Mr. MOORE. Most positively he did. He

came in this morning with a written plea, in which he steadily refuses to answer, denying the pertinency of the question, and claiming that it was an inquiry into his private affairs.

Now, Mr. Speaker, there is not a member on this floor, acquainted with the simplest rules of evidence in courts of law, who does not know that this furnishes no excuse. It is no excuse for a witness who refuses to answer a question to say that he cannot do so without betraying private confidence, or that it relates to his social transactions, as this witness says the questions propounded to him does. Even in a criminal case it is no excuse for a witness who refuses to answer to say that the question relates to a communication made to him in confidence.

This has been decided over and over again, and is laid down in all the elementary works. And I say, then, that unless it is the will of the House to clothe the committee with all legal power to ferret out this matter and to bring to light this fraudulent transaction, if there be a fraud, it should repeal the resolution under which the committee acts, and close the investigation here. I say, for one, Mr. Speaker, that unless the House sustains the committee in its efforts to bring to light these transactions, I shall ask to be excused from serving any longer as a member of the committee. It is an unpleasant position, at best. I will say for the rest of the committee as for myself, that we have endeavored diligently to bring the matter to light, considering it due to the reputation of the House, and due to the country, that this transaction, so publicly brought to view, should be investigated and the truth elicited. And I ask that, if the committee be not sustained in its efforts, I may be excused from further service on that committee, and some other member put in my place. I would suggest the honorable gentleman from Georgia [Mr. SEWARD] as my successor. But, believing that this House will sustain the action of the committee in the course it has thus far taken, and believing that the House has already grown weary of the subject, I move the previous question.

Mr. SICKLES. I hope the gentleman from Alabama will withdraw the demand for the previous question.

Mr. STEPHENS, of Georgia. I am very anxious that the gentleman from New York [Mr. SICKLES] may have an opportunity of submitting his amendment to the House. Let it be submitted, and then let us have the previous question.

Mr. MOORE. I withdraw the call for the previous question.

Mr. SICKLES. Then I offer the following amendment:

Resolved, That the witness be again subpoenaed to appear before the committee, and that the interrogatory in question be again propounded to him by the committee, and if he shall not then answer the same directly and fully, that the Speaker, on the report of said committee to that effect, issue his warrant for the arrest of the witness, and that he forthwith be brought before the House, to show cause why he should not be punished for contempt.

Mr. GOOCH took the floor.

Mr. MOORE. The witness has been already indulged for three days, and still he persists in not answering the question. I move the previous question.

The SPEAKER. The Chair understood the gentleman from Alabama as withdrawing the demand for the previous question, and recognized the gentleman from Massachusetts.

Mr. GOOCH. I do not desire at this moment to discuss the propriety of the question propounded to the witness, or the sufficiency of the answer. It seems to me that the proceedings which we have already had on this question fully demonstrate to us that we are not at this moment prepared to decide it. It is a question which, if we decide at all, we are to decide as judges, and we can only decide it with a full knowledge of all the facts. Now, I would ask if there is any man in the House who can say that he has fully considered the answer given by the witness, and that he is prepared to pronounce it insufficient?

Mr. FLORENCE. I say it.

Mr. GOOCH. How can any member who has only heard the answer read once or twice by the Clerk, be prepared to pass on every part and portion of it? Is it to be presumed that a majority of the House are prepared to say that they have fully considered the question, and are ready to pass upon it as judges? It seems to me that we are not in a condition to decide this question now, and that the matter should be postponed till some hour to-morrow, so that each member may have an opportunity of reading and fully considering the question and answer, and of deciding for himself as to the propriety of the one and the sufficiency of the other.

Mr. LOVEJOY. Will the gentleman allow me to ask a question?

Mr. GOOCH. I yield for that purpose.

Mr. LOVEJOY. I wish simply to ask if there is a single member of this House who is not convinced that that answer is a mere shuffling evasion of the whole thing; and are we to postpone a matter so simple till to-morrow, and then spend another day in its discussion? If the witness received the \$30,000, it is no great hardship for him to tell what he did with it.

Mr. GOOCH. I only yielded for an interrogatory, not for a speech. The gentleman from Illinois says it is a matter of slight consequence to the witness. I do not consider it a matter of slight consequence for a citizen to be arrested and brought before the bar of the House—and that, too, before the House has had full time to decide whether or not the question propounded is proper, or the answer that has been given sufficient.

I say that we, as judges, cannot decide the question as we should decide it, without a full knowledge of the facts.

It seems to me there is another question in connection with this matter. That question is this: Is it a contempt of this House for a witness to refuse to answer a question before a committee? It seems to me that, neither by parliamentary law nor by statute, is it a contempt of the House for a witness to refuse to answer a question propounded by a committee. It is the duty of the committee to report the matter to the House; and it is for the House to pass upon the propriety of the question and the sufficiency of the answer; and when the House shall have decided that the witness shall answer the question, or that the answer given is insufficient, then it is for the committee to call the witness again before it; and, if he again refuse to answer, after having been informed of the decision of the House, his refusal is a contempt of the House; and he should then be brought before the bar of the House, in order that he may there give the reason why he has not answered the question. The committee is in session at hours when the House is not in session; and, it seems to me, that the only safe rule which we can adopt is, that when a witness refuses to answer a question before a committee, the fact shall be reported to the House, and the House shall decide whether or not the question is a proper one. If the House decide that the question is a proper one, and the witness, on being again brought before the committee, still refuse to answer, then it is unquestionably a contempt of the House. But, it seems to me, there can be no contempt of the House before that. Can there be a contempt of a court of law, in refusing to answer a question, before the court itself has decided that the witness shall answer? Now, we, and not the committee, are the parties to determine this matter; and there can be no contempt of the House until the House shall have decided that question for itself.

Mr. BOWIE. Do I understand the gentleman from Massachusetts to say that the refusal of a witness to answer a question asked by a committee of the House is not a contempt of the House, because it is only a contempt of a committee? Does he not consider that a committee of this House is an emanation from the House, designated for useful purposes?

Mr. GOOCH. I will answer the question of the gentleman from Maryland by saying that I am informed by a gentleman near me that the House has decided that a refusal to answer a question asked by a committee is a contempt of the House. If it has been so decided, of course I yield to the decision. But if we were now to establish a precedent, if we were now to settle the question whether or not a refusal to answer questions asked by a committee is a contempt of the House, I should

say that I hoped the House would not come to the decision suggested, but to the opposite decision. I believe in protecting the rights of citizens. I would not assume that the refusal of a witness to answer a question asked by a committee is a contempt of the House; because I think that the witness should have the right of appeal from the decision of the committee to the House. The witness may well say to the committee, "I refuse to answer your question; but if the House decide that it shall be answered, then I will bow to the decision, and will be ready to answer the question."

Mr. ADRAIN. Will the gentleman from Massachusetts allow me to make a motion?

Mr. GOOCH. Yes, if it is a motion to adjourn. Mr. ADRAIN. It is perfectly apparent that the House is not ready to decide this question. I am not; the gentleman from Massachusetts is not; and he speaks for many on this floor. Therefore, I move that the House do now adjourn.

Mr. STANTON. I hope the gentleman will withdraw the motion, and let us dispose of this matter.

Mr. SEWARD called for tellers.

Tellers were not ordered.

The question was taken; and the motion was not agreed to.

Mr. GOOCH. I was saying that, if we were now to establish a precedent in this matter, we should give it such time and attention that we shall be willing hereafter to abide by the decision which we shall make in this case. I think that, if the matter were fully discussed and considered, it is more than probable that the House would come to the conclusion that we can decide this matter properly only by first taking up the question propounded by the committee, and considering whether it be proper or not; and if we come to the conclusion that the question is a proper one, then consider the answer which the witness has given; and if we decide that the answer is not sufficient, direct the witness, through the committee, to answer further; and, if he then refuse, bring him before the House to answer for his contempt.

It seems to me that we are in more danger of sacrificing the dignity of this House by moving hastily and inconsiderately in this matter, than we are by taking the time necessary for us duly to consider the question. When we have fully considered this question, we can then so decide it as to establish a precedent by which we shall be willing to abide. As I promised the gentleman from Alabama, I renew the call for the previous question.

Mr. SEWARD. I move that the House do now adjourn.

The motion was not agreed to.

The previous question was seconded; and the main question was ordered.

The question recurred upon the following amendment to the resolution of the committee:

Resolved, That the witness be again subpoenaed to appear before the committee, and that the interrogatory in question be again propounded to him by the committee; and if he shall not then answer the same directly and fully, that the Speaker, upon report of said committee to that effect, issue his warrant for the arrest of the witness, and that he be forthwith brought before the House, to show cause why he should not be punished for contempt.

Mr. PHILLIPS. I hope that will not pass.

Mr. STANTON. The witness has had time. He has consulted counsel. He has uniformly declined to answer the question.

The amendment was rejected.

Mr. UNDERWOOD demanded the yeas and nays on the resolution.

The yeas and nays were not ordered.

The resolution was adopted.

Mr. STANTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider, be laid upon the table.

The latter motion was agreed to.

Then, on motion of Mr. HALL, of Ohio, the House (at ten minutes past four o'clock) adjourned until to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 12, 1858.

The House met at twelve o'clock, m. Prayer by Rev. SAMUEL REGISTER.

The Journal of yesterday was read and approved.

CONTUMACIOUS WITNESS.

The SPEAKER reported to the House that the

Sergeant-at-Arms made the following return, in reference to a resolution adopted yesterday:

In obedience to the written warrant, I arrested the within named John W. Wolcott at his lodgings in this city (at Willards' Hotel) this 11th day of February, 1858.

And now, February 12, 1858, I produce the within named John W. Wolcott in person, at the bar of the House of Representatives to answer as within ordered.

A. J. GLOSSBRENNER,

Sergeant-at-Arms, Ho. of Reps. U. S.

To Hon. JAMES L. ORR, Speaker of the House of Representatives.

The warrant of the Speaker is as follows:

By authority of the House of Representatives of the United States.

To A. J. GLOSSBRENNER, Sergeant-at-Arms of the House of Representatives:

You are hereby commanded to arrest John W. Wolcott whosoever he may be found, and have his body at the bar of the House forthwith, to answer as for a contempt in refusing to answer a proper and competent question propounded to him by a select committee of the House of Representatives, in pursuance of the authority conferred by the House upon said committee.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 11th day of February, 1858.

JAMES L. ORR, Speaker.

Attest: J. C. ALLEN, Clerk.

Mr. STANTON. I move the adoption of the following resolution:

Resolved, That John W. Wolcott be now arraigned at the bar of the House, and that the Speaker propound to him the following interrogatories:

Question. What excuse have you for refusing to answer the question propounded to you by the select committee of this House, before whom you were summoned to appear, as to whether you had received any sum of money from Lawrence, Stone & Co. sometime in March, 1857?

Question. Are you now ready to answer that, and all proper questions which may be propounded to you by that committee?

And that said John W. Wolcott be required to answer the same in writing, and under oath.

Mr. STANTON. Mr. Speaker, the practice of the House in these cases is so well known, that there is no occasion for further discussion. I call for the previous question.

The previous question was seconded, and the main question was ordered; and the resolution, under the operation thereof, was adopted.

The Sergeant-at-Arms appeared before the bar of the House and announced, that in obedience to the order of the House, he presented John W. Wolcott in person.

The SPEAKER, (to Mr. Wolcott.) I have been instructed by the House of Representatives to propound to you certain interrogatories.

The Speaker then read the questions of the resolution just adopted.

The written answers of the witness were sworn to before the Speaker, and were read, as follows:

Mr. Speaker, and gentlemen of the House of Representatives: I am in your presence, in obedience to an order of the House of yesterday, to answer for a contempt alleged to have been committed by me in declining to answer otherwise than I did a certain question propounded to me by your committee.

Assuring the House, as I do, in all sincerity, that I did not design, nor suppose that I could be thought guilty of, a contempt of the House or of its committee, I respectfully request of the House to give me time until Monday to purge myself of all alleged contempt, and to place my conduct in this particular fairly and fully before your honorable body. To do this I need the assistance of counsel; and the indisposition of my senior counsel, together with a pressing engagement in the Supreme Court of the United States, he has assured me will render it impossible for him to afford any professional aid this week.

I hope, as a citizen of our common country, never before charged with violating any law, and conscious of no intended offense to the House or its authority, and believing that I will be able to justify myself in the well-considered judgment of this House if the time asked is allowed me, that the indulgence now respectfully asked will be granted.

J. W. WOLCOTT.

Subscribed and sworn to before me, February 12, 1858.

JAMES L. ORR, Speaker.

Mr. STANTON. I move that the witness have until one o'clock on Monday to make his answer to the interrogatories propounded, and that meantime he be recommitted to the custody of the Sergeant-at-Arms, and have the benefit of counsel in preparing his answers.

Mr. JOHN COCHRANE. It is, perhaps, an ungracious task to interpose objection to a request for delay, and they must certainly be very remarkable circumstances which would authorize or impel any gentleman to rise in his place to make such an objection. But under well-considered reflection upon the circumstances which surround this case, and those which have preceded the introduction of the witness here this morning, I cannot remain quiet without entering my protest against this delay. If there were reason for it, I should be among

the first to comply with the request; but I see no such reason; on the contrary, the record displays good reason for opposition to the request. Questions have been propounded to the witness. There is yet no answer. A request is made for postponement, that a day may be given to the gentleman alleged to be in contempt, for answer and purgation; and the cause of that delay is, that his counsel, his senior counsel, is engaged in professional duties before the supreme tribunal of the United States. And yet the advice of that senior counsel was obtained and presented to us here yesterday; that advice was fully discussed; and in respect to its nature, the House deliberately came to the conclusion that there had been a contempt of its authority.

In this connection I may ask at the proper time that the answer of the witness, reported to us yesterday, be read again to the House. If I recollect aright—and I am sure that gentlemen do not forget what occurred then, or what is indited there—the witness stated that upon consultation and receiving advice from two gentlemen learned in the profession of the law, he was counseled that the question itself was not pertinent to the inquiry or within the scope of the authority of the House of Representatives. If this gentleman has taken that position—if he then proffered that issue to us which we then and there accepted, I ask what reason is there for any delay now, when it is requested by the gentleman to enable him to seek further advice in respect to the issue which he then and there proffered to us?

Now, if we are engaged in a transaction which is surrounded by dignity; if we are engaged in the pursuit of an alleged culprit; if we are determined to administer with caution, but with due severity and promptitude, the punishment proper for the offense committed, let us proceed in order; and I ask, therefore, of the House, that before voting on the motion of the gentleman from Ohio, we may consider what is the position of the witness before us, and whether there is any propriety in granting him further time to review the position which he took yesterday, under the advice of that counsel of whose absence he now complains. I ask that his answer to the committee may be read from the Clerk's desk.

Mr. CLEMENS. Mr. Speaker, I concur generally in the views expressed by the gentleman from New York, on the question now presented for the consideration of this House; and in order that we may know precisely the issue presented for our determination, I desire to read that portion of the answer of the witness which was laid before the House yesterday. This question was propounded to the witness:

"Question. Did you receive from the firm of Lawrence, Stone & Co., sometime in March last, a sum of securities or money, of the amount of \$30,000, more or less?"

Now, what does the witness answer? He says:

"Answer. I did not, in March last, nor at any other time, receive from Lawrence, Stone & Co., any money or securities of any amount, for the purpose of influencing, or to be used in influencing, directly or indirectly, the action or vote of any member or officer of the present or the last Congress upon the tariff or any other act or measure considered by Congress, or before it, or contemplated to be before it; nor did I ever pay, or promise to pay, directly or indirectly, any money or pecuniary consideration to any officer or member of any Congress for his vote or services in the passage of, or to influence his action in relation to, the tariff or any other law; nor did I ever give any money or securities to any person for the purpose of being paid to any officer or member of Congress for his vote or influence, directly or indirectly, upon any act under the consideration of Congress; nor have I any knowledge that any such act or thing was done by any other person."

Now what does he still further say, sir?

"I am advised by my counsel, Messrs. Reverly Johnson and James M. Keith, whose opinion I have obtained since the present question was propounded to me, that the above answer is a full answer to everything which such a question may involve, falling under the jurisdiction of the House of Representatives, touching the inquiry which the committee are constituted, and could only be constituted, to investigate. And, acting under the same legal advice, I most respectfully submit that the question, in its present form, is not of itself 'pertinent' to the only inquiry which the House, in this instance, has a legal right to institute.

"If, acting under such a power, a committee of the House can compel a witness to answer such a question as this except by saying that he did not use at all, directly or indirectly, any money, coming from any quarter, to influence directly or indirectly the action or vote of any member of Congress, and that he has never paid any money to any one for such a purpose, and has no knowledge that any money was used for that purpose, or any other illegal purpose, regarding Congress, or any of its officers, I respectfully submit that it gives to the committee or the House the right to inquire into my private business and social relations, which, except so far as they may tend to prove the alleged improper

influencing of members of Congress in some official duty, is as much beyond the jurisdiction of the House, and, of course, of the committee, as it would be beyond their power to investigate the private business and social relations of any other citizen, without such a charge or implication of corruption, or attempt to corrupt Congress or any of its members, having been made."

Now, sir, what is the issue which he presents to the House in that answer? Upon full consultation with his counsel, as he himself alleges, he prepared an answer which was reduced to writing and which I have read to the House. To-day, in order to purge himself of the contempt of which he says he is unconscious, he desires until next Monday to have still further benefit of the counsel of Messrs. Johnson and Keith, both of whom he had consulted before the obnoxious answer was given.

Is there any reason, under the facts presented, to give to this gentleman, until next Monday, time to deliberate upon a matter upon which he alone is in full possession of the information required? He is either guilty or not guilty of using this money for improper purposes. He acknowledges that he has received the money, as I understand his answer. He acceded indirectly to the charge that he had received \$30,000 from Lawrence, Stone & Co. But when the question is put directly, whether he received the money, he evades the answer by saying that he received the money for no such purpose. Now that he did receive the \$30,000, he indirectly admits in his answer, because he acknowledges that he did not receive it for the purpose as alleged by the committee; indirectly admitting that he had received that sum, but denying that he applied it or used it for the purpose which the committee was called upon to investigate.

Now, sir, he, under his answer as presented to the House, is the only competent person to lay the truth, as it is, before the committee. Why have the benefit of counsel when he had it before? Why have the benefit of Messrs. Johnson and Keith in order to chaffer about the phraseology to which he may reduce his answer? If he is not guilty, as he himself alleges, of having used this money in any manner, either directly or indirectly, for influencing legislation in Congress; if he does not know for what purpose it was used; if he stands before the House and country purged of all attempt directly or indirectly to influence the legislation of this House, or to influence the vote of any member of this House, or of the last Congress, why can he not come up and state so plainly, distinctly, directly, and honestly? Why have time to deliberate upon a matter in which the truth is only required to be told? If he did not intend to place himself in contempt of the House and its authority, it is very easy for him to go before the committee, and if he knows nothing about this money, how it was used, how he got it, or how he disposed of it, it is very easy to say so; but it is very remarkable that \$30,000 could have come into his possession without his knowing why he received it, or without his retaining a single voucher in regard to its disposal, or knowing into whose hands it went. It has been proved, and virtually admitted by him, that \$30,000 was paid by Lawrence, Stone & Co. into his hands. What disposition was made of it? If he has not disposed of it at all, but still retains it, that is a matter between Lawrence, Stone & Co. and himself to settle. But if he has paid it into the hands of some one, and does not know for what purpose, then it is the right of the committee to pursue that money into whosesoever hands it passed.

Under these circumstances, while I am willing to extend to this gentleman, and every other gentleman similarly circumstanced, every possible liberality and magnanimity, and while I am not disposed to use the power of this House against any man placed in its power, yet under all the facts of the case as they have been presented under the answer of Mr. Wolcott himself, it is perfectly competent for him to appear before the committee to-morrow and answer the question truthfully and magnanimously as a man; and to do that he does not require any consultation with his counsel, Messrs. Johnson and Keith.

Mr. CLARK B. COCHRANE. I entirely agree with what appears to be the sense of the majority of the House, that the question propounded to this witness was a proper one, and that the committee were entitled to a direct and cate-

gorical answer thereto. The House yesterday pronounced that this witness was in contempt, and he has been arraigned this morning to answer to that charge. In this written answer, he applies to this House for time to purge himself from contempt until Monday next. He alleges, as a reason for asking this indulgence of the House, that one of his counsel is sick, and the other necessarily occupied in other professional engagements.

Now, sir, it appears to me that there is nothing unreasonable in this appeal to the House upon the part of this witness. There is no principle involved in granting this indulgence. My own judgment is clear that the question was a proper one, and that the House will feel itself called upon to compel him to answer the question directly. The position which the gentleman occupies is not an enviable or pleasant one. It is one of great embarrassment. He has been arrested here, charged with a grave offense against the House. Now, sir, shall we deny to him the advice of counsel—a right granted to every criminal arraigned before your judicial tribunals? The right to the advice of counsel is a constitutional right, guaranteed to every man throughout the region of the common law. It may be that both the witness and his counsel desire to reconsider this case, to reexamine this question, and to see whether or not the advice given to the witness on the previous occasion was safe and satisfactory. I am in favor, therefore, of allowing him this further time for the purpose of purging himself from the contempt under which he stands arraigned.

Mr. DAWES. This witness brought before the House, is a citizen of Massachusetts. I have never had the pleasure of seeing him before to-day, nor did I ever see or know any member of the firm of Lawrence, Stone & Co. I am not here in his behalf, or in their behalf; nor am I here to interpose any obstacle to any investigation of the charges brought against the members of the last House, or of this House, or its officers. If any money, from any source, has been used to corrupt any man in high place, I will contribute what little aid is in my power to ferret it out. Sir, the question before the House is not whether the witness has answered truthfully or not, for if he has committed perjury, he is to answer for that to another tribunal.

The question before the House yesterday was, whether the committee had propounded to him a proper question; and also whether he had answered that question in full? We differed here yesterday about the record that the committee had made up. Some of us thought that he had not answered the question properly—that he had not answered it in full—that he had not admitted that he had received that money; while others of us were just as certain that he had admitted its receipt. I observe that members here differ this morning on that point. I observe that the chairman of the committee, when the gentleman from Virginia [Mr. CLEMENS] declared a moment ago that the witness had answered that he had received this money, shook his head, and said he had made no such answer. A record has been made here; and we cannot tell, from the record itself—we who are here called upon to pass as judges upon this question—whether he has answered in one way or the other. It is true that he said he made that answer under the advice of counsel. It is true that the House declared yesterday that by that answer he had committed a contempt of the House; and he is brought here to-day to purge himself of that contempt. And what does he say? He says that he was not conscious of having committed any contempt. It was not his intention to have committed any contempt of this House or its committee. It was the furthest thing from his mind to have done so.

The House having declared that the answer he made in good faith, as he says, intending to answer all proper questions of the committee of this House, is a contempt of this House, he asks you to give him until the next day this House meets to prepare an answer, which will fully purge him of this contempt. He asks for time to purge himself of contempt; and gentlemen rise up here and say that it is inconsistent with the dignity of this House to give him one single day to prepare his answer. I was astonished to hear from the gentleman from New York [Mr. JOHN COCHRANE] that this House owed it to itself to give no time to this witness to answer. I have not forgotten that a

few days ago a citizen of New York was brought before this House, in contempt of its precept, who answered under oath that he took advice of counsel before the warrant of the Speaker reached him; and that his counsel advised, and he also entertained the idea, that this House had no authority even to bring him before it; and that it was his intention to have contested that question before the legal tribunals of the city of New York before you got him here; but that the officer of this House had taken him with such hot haste from the city of New York that he had not time to carry out the settled purpose which he had come to under the advice of counsel. He came here with this sworn answer. This was the manner in which he undertook to purge himself of contempt; and my friend from New York rose here and begged the House to give him another day to take back and amend that answer, and purge himself more fully of this contempt; and not a man objected to it, as I recollect.

Mr. JOHN COCHRANE. I think the gentleman has entirely mistaken the circumstances under which I rose on that occasion, if I understood them rightly, and I believe I did. The witness had not said, in his answer, that he made that specific answer by advice of his counsel. He did state, as I understood, and that was the presumption upon which I proceeded, that he acted upon the advice of his counsel; that the excuse which he possessed was full and sufficient. His answer, in respect to the insufficiency of the authority of the House, as I understood and believed it to have been, was, that his own private opinion was that the House had no authority to force him to come here.

Mr. DAWES. I understood the witness, and I understood my friend from New York, to say to the House that the witness, in whose behalf he rose to ask for time, came here on the advice of counsel, and said that the answer which he gave under oath was a sufficient one.

Mr. JOHN COCHRANE. It is upon that point I base my position—that the witness here has made a blow to precede the threat; that having taken the advice of counsel, whose absence he now complains of, he comes into the House with his red right hand, and defies its authority. It is upon that ground, and that alone, that I have interposed an objection to his request for delay.

Mr. DAWES. I so understood the gentleman. I understood him, a few days ago, to declare to the House that it was but just and fair to grant a witness, in precisely the same category, a day's time, not only to make a further answer, but to take back what he had said by the advice of counsel. The only difference is, that the counsel of the witness, a few days ago, was in New York when he gave this advice, and the counsel of this witness—I do not know where they live; I never saw them any more than I ever saw this witness before to-day.

I do not care what this witness is charged with. He comes here, and, under oath, says that he cannot answer fully; that he cannot purge himself of this contempt unless he has the advice of counsel, and that he cannot avail himself of that advice to-day. I want to know on what charge in your district court, or any criminal court in this country, a man can be arraigned on the very day upon which he is arrested, and brought to answer upon an indictment, when he comes with an affidavit that he cannot be heard in person, advisedly; that he cannot be heard by counsel without one day's delay? Who suffers by this delay? In what critical condition are we at this moment? Is the dignity of the House so far gone that it will not last a day? Are we in such peril from this witness, or from any source, that we cannot give him what we accord to the meanest criminal upon God's footstool—a day to answer to our charge? What is the occasion, Mr. Speaker, of this hot haste? I wished for time yesterday; I tried to find the commission under which this committee acted; I applied to the chairman of the committee, and I applied to other members of the committee, and at the Clerk's desk. I would like to know myself, to-day, the force of that commission. I do not ask delay in behalf of the witness merely—I ask it for myself. I am a judge here, and I am to pass upon this question as a judge. I want time myself. I ask for it in my own behalf, as well as in behalf of the witness. The witness comes here under these circumstances, and

respectfully declares to the House, on his oath, that there was no intention on his part to commit a contempt; and that if he has committed a contempt, he will purge himself from it if we will allow him one day's time. And now, I ask, will any member say that it is inconsistent with the dignity of the House to grant this much delay?

Mr. STANTON. If I had supposed there was the remotest probability that this motion would lead to any discussion, I should have moved the previous question when I made the motion. But it seemed to me that when a party is arraigned here for a contempt, and stands in the light of a criminal, and not of a witness, subject to have such punishment visited upon him as the House in its wisdom may see proper; when he is arraigned here and interrogatories are propounded to him for the first time, and he is required to answer them in writing and under oath, it is a matter of absolute necessity that he should have some time, however short, to prepare his answers. Now, we shall probably not sit to-morrow. I supposed, therefore, that the request was reasonable that he should have until one o'clock on Monday to prepare his answers. As he sets up some claim of constitutional right as a citizen, and desires to test the power of the House by a judgment of the courts, I see no reason why he should not have the opportunity and the benefit of counsel to do it. I therefore move the previous question, and I hope the House will sustain it, and let us get rid of this business at once.

Mr. GOOCH. I appeal to the gentleman from Ohio to withdraw the demand for the previous question, that I may ask him a single question, which, I believe, it is important that he should answer, for the benefit of the House.

Mr. LOVEJOY. I want to ask twenty questions, if he will withdraw it.

Mr. STANTON. This is not the proper time to discuss the question. Wait till the witness's answer comes in.

Mr. RITCHIE. The previous question has been demanded, and I object to all debate.

The previous question was seconded, and the main question ordered.

The question being upon agreeing to Mr. STANTON's motion,

Mr. HUGHES demanded tellers.

Tellers were not ordered.

The motion was agreed to.

Mr. STANTON moved to reconsider the vote by which the motion was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MARYLAND CONTESTED-ELECTION CASE.

Mr. BOYCE, from the Committee of Elections, made a report on the memorial of Henry P. Brooks, contesting the right of the Hon. H. Winter Davis to his seat as a Representative from the fourth congressional district of the State of Maryland, accompanied by the following resolution:

Resolved, That it is inexpedient to grant the prayer of the memorialist for the appointment of a committee to take testimony.

Mr. PHILLIPS presented the views of the minority of the committee, accompanied by the following resolution:

Resolved, That the Committee of Elections have power to send for persons and papers, and to examine witnesses and evidence in the case of the contested election of the Hon. H. Winter Davis, from the fourth congressional district of Maryland.

Mr. BOYCE moved that the consideration of the reports be postponed until Monday next, and that they be printed.

Mr. J. GLANCY JONES. It is a privileged question, and the gentleman can call it up at any time. The motion to postpone is not necessary.

The SPEAKER. It is necessary to postpone it, because some disposition must be made of it now.

Mr. JONES, of Tennessee. It had better be passed over informally.

Mr. HATCH. We had better fix a day for the consideration of these reports. This is a very important question, and one in which a large portion of our fellow-citizens feel a deep interest.

Mr. PHILLIPS. I understand the gentleman from South Carolina to indicate Monday as the day on which he will probably call up this question; and I hope his motion will prevail.

Mr. Boyce's motion was agreed to.

ADJOURNMENT OVER.

Mr. FLORENCE moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 105, nays 87; as follows:

YEAS—Messrs. Anderson, Barksdale, Bishop, Blair, Bliss, Bowie, Boyce, Bryan, Burlingame, Burnett, Burroughs, Campbell, Case, Caskey, Ezra Clark, John B. Clark, Clay, Clingman, John Cochrane, Cockerill, Colfax, Cox, Cragin, Burton Craigie, Crawford, Curtis, Davidson, Davis of Maryland, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dimmick, Dowdell, Edie, Edmundson, Elliott, English, Eustis, Farnsworth, Faulkner, Fenton, Florence, Foley, Gillis, Gooch, Groesbeck, Grow, Lawrence W. Hall, Haskin, Hatch, Hawkins, Hickman, Hill, Hopkins, Hughes, Jackson, Jenkins, Owen Jones, Keitt, Kellogg, Kelly, Lamar, Lawrence, McKibbin, McQueen, Samuel S. Marshall, Mason, Maynard, Miles, Montgomery, Moore, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Niblack, Nichols, Peyton, Phelps, Phillips, Powell, Purviance, Quitman, Ready, Reagan, Ritchie, Ruffin, Russell, Savage, Searing, Aaron Shaw, Shorter, Robert Smith, Stanton, Stephens, Stevenson, Tappan, Miles Taylor, Thompson, Underwood, Ward, Elihu B. Washburne, Israel Washburn, White, Whiteley, Wilson, Winslow, Woodson, Augustus R. Wright, and Zollieoffer—105.

NAYS—Messrs. Abbott, Adrain, Andrews, Atkins, Avery, Billingshurst, Bingham, Bocoek, Brayton, Bufinton, Burns, Chaffee, Clemens, Cobb, Clark B. Cochrane, Comins, Corning, Covode, James Craig, Curry, Darnell, Davis of Mississippi, Daves, Dean, Dick, Dodd, Garnett, Gartrell, Giddings, Gilman, Gilmer, Granger, Greenwood, Robert B. Hall, Harlan, Hoard, Houston, Howard, Huyler, Jewett, George W. Jones, J. Glancy Jones, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Mills, Morgan, Morrill, Mott, Murray, Palmer, Parker, Pendleton, Pettit, Pike, Potter, Reilly, Ricard, Robbins, Roberts, Royce, Sandidge, Seales, Seward, Henry M. Shaw, Judson W. Sherman, Samuel A. Smith, Spinner, James A. Stewart, William Stewart, Talbot, Thayer, Tompkins, Trippie, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, Watkins, and Wortendyke—87.

So the motion was agreed to.

Pending the call of the roll,

Mr. HUGHES stated that Mr. GREGG had been called home by sickness in his family.

Mr. FLORENCE stated that Mr. LANDY had been compelled to leave the city in consequence of sickness in his family.

Mr. JONES, of Tennessee, stated that Mr. LETCHER was still too unwell to be in attendance on the House.

Mr. REILLY stated that Mr. LEWY was detained from the House by sickness.

Mr. FOSTER stated that if he had been within the bar when his name was called he should have voted in the negative.

EXECUTIVE INFLUENCE.

Mr. HOARD. I rise to what I suppose to be a privileged question. There have been many rumors afloat with regard to interference with the rights and dignity of this House, and with its duties and its legislation, by the executive department of the Government. Those rumors have taken some shape in correspondence, and articles in newspapers, to which I desire to call the attention of the House. I do this, sir, I hope the House will believe, in no factious spirit, but with a desire, if any such interference has taken place, that the House may vindicate its dignity and its rights. For myself, I have heard frequent expressions of confidence on the part of one side of the House, that certain measures would be carried here by executive influence; and on the other side, fears that measures would be so carried, although, if members were left to themselves, such measures could not be carried.

Mr. SEWARD. What is the question before the House?

The SPEAKER. The gentleman from New York stated that he rose to a question of privilege.

Mr. FLORENCE. I hope the gentleman will state his question of privilege, and let us hear what it is. He has said nothing that indicates a question of privilege. I shall object to the gentleman proceeding until he states his question of privilege, unless, indeed, he has charges to make against a member of the Cabinet; and in that case I will listen to him, although that would probably not be a question of privilege.

Mr. HOARD. I was about stating my question of privilege, and calling the attention of the House to it, as I supposed, in a proper manner. At the close of my remarks, I shall send a resolution to the Chair, which I suppose is all that is necessary.

The SPEAKER. Perhaps it would be more regular for the gentleman to send up his resolution and have it reported, so that the Chair may be able to determine whether it be a question of privilege or not.

Mr. HOARD. I send up the resolution which I propose.

The resolution was read, as follows:

Resolved, That a committee of five be appointed by the Speaker to inquire and investigate whether any improper attempts have been or are being made by any persons connected with the executive department of this Government, or by any person acting under their advice or consent, to influence the action of this House, or any of its members, upon any questions or measure upon which the House has acted, or which it has under consideration, directly or indirectly, by any promise, offer, or intimidation of employment, patronage, office, or favors under the Government, or under any department, officer, or servant thereof, to be conferred or withheld in consideration of any vote given or to be given, withheld or to be withheld, with power to send for persons or papers, and leave to report at any time, by bill or otherwise.

Mr. WARREN. I rise to a question of order. I consider this resolution as nothing more nor less than a direct insult to the House. It is no question of privilege at all, and I therefore object to the resolution.

Mr. STEPHENS, of Georgia. I do not understand that the resolution has been received by the House.

Mr. WARREN. Certainly not; and I object to its being received. I understand the gentleman from New York to present it as a question of privilege. Sir, it is no question of privilege.

Mr. CLAY. If a proposition has been made to the gentleman from New York himself by the Executive, it is a question of privilege for the gentleman to demand an investigation.

The SPEAKER. The gentleman from New York is entitled to the floor.

Mr. WARREN. I rise to a question of order, and I would like to have the question determined by the Chair. I understand the gentleman from New York as presenting that resolution as a question of privilege. Now, sir, as I understand that resolution, it does not go far enough to involve any question of privilege. If there has been a proposition, of the character alluded to in that resolution made to the gentleman from New York, or if he can point his finger to any member on this floor to whom such a proposition has been made, then I admit it would be a question of privilege; at all events, it would be one that I should be willing to vote for as such. But I am not willing to sit here in my place, and see this whole House insulted by a proposition such as the gentleman has presented upon such a statement. If the gentleman will say, on his responsibility, that such a proposition has been made to any gentleman in this House, I care not whether on this side or the other, I will go as far as any gentleman here in investigating the matter to the bottom. But I object to entertaining any such proposition as this as a question of privilege.

Mr. WALBRIDGE. I object to this debate. The gentleman from New York is entitled to the floor.

Mr. STEPHENS, of Georgia. There is no statement of fact upon the responsibility of the gentleman who offers the resolution. There must always be a statement of fact upon which to base a question of privilege. If the gentleman from New York will allege any fact upon his responsibility, then it may be a question of privilege to inquire into. But with no statement of fact, a mere resolution, general in its terms, like this, involves no privilege.

Mr. KUNKEL, of Pennsylvania. If the gentleman from Georgia will allow me one moment: the statement of fact which he wants is just what the gentleman from New York was proceeding to give when he was called upon to send up his resolution.

Mr. STEPHENS, of Georgia. Then I think the question of privilege should be reduced to writing. If the gentleman from New York has any statement to make, let him make it in writing, and not verbally in his place.

The SPEAKER. The Chair will hear the gentleman from New York.

Mr. HOUSTON. I desire to make one suggestion. It is this: if the gentleman from New York will state upon his responsibility that improper influences have been attempted to be used upon members, then that is something tangible upon which we can act. But if the gentleman proposes

only to read scurrilous and false articles from irresponsible newspaper correspondents, for the purpose of laying the foundation for his resolution, then it is no question of privilege at all. The gentleman must state upon his responsibility. He must indicate who has been tampered with, and by whom, so that this House can know what it proposes to do.

Mr. HOARD. That is exactly what I propose to do, if the gentleman will allow me to go on. I propose to state, so far as I can, what I know, and to call the attention of the House to the facts of the case.

Mr. GROW. I wish to know whether the House has not raised committees of investigation during the present session without any specific statements of fact?

Mr. JONES, of Tennessee. I hope the gentleman will send up the articles he proposes to read to the Clerk's desk, and have them read. Let us hear what they are.

Mr. HOARD. I know that this is not the first time committees have been raised to investigate charges made upon mere newspaper reports.

Mr. WARREN. I desire to ask the gentleman from what paper he proposes to read?

Mr. HOARD. I propose now to read from the South, a paper printed in Richmond. I did not suppose that I should see what I have seen here. I did not suppose such a proposition, in such plain language, would meet with such opposition. I suppose it is the desire of the House to vindicate its dignity and its prerogative, and I suppose that committees have been raised to investigate charges made in newspaper reports. I propose to state to the House, very frankly, what I have heard, and what are the facts in this case. If the House, after hearing them, thinks they are not sufficient for the raising of a committee to investigate them, certainly I am satisfied. I have raised this question in the discharge of what I believe to be my duty to the House and to the country.

I read from the South of the 10th instant: "It is evident that the Black-Republican-Douglas coalition in the House of Representatives achieved a barren victory in their vote for a special committee on the Lecompton constitution. While that committee are wandering over the earth in quest of frauds, the Senate will take the initiative, and decide the matter by sending the Lecompton constitution to the House with a bill for the admission of Kansas. Then, doubtless, the influence of the Administration will prevail."

The following is from the Washington correspondence of the Richmond Enquirer:

"WASHINGTON, Monday, February 1, 1858. "The Lecompton constitution has arrived, and will be to-day submitted to Congress with a special message from the President of the United States. The fate of the constitution is uncertain. Strict party discipline may carry it through the Senate, but in the House there is a majority of four against its reception, under any and all circumstances; and yet it is said that Mr. Buchanan has declared his determination to put it through Congress in thirty days or burst. These four votes may be had, as there are a number of desirable executive appointments ready to be given out; but it will require nice party engineering."

Mr. MILLSON. I rise to a point of order. I wish the Clerk to read from the Manual, at page 59, for the purpose of showing that the gentleman himself has committed a breach of privilege in reporting these newspapers to the House.

The Clerk read as follows:

"And in 1783, December 17, it was declared a breach of fundamental privileges, &c., to report any opinion or pretended opinion of the King, on any bill or proceeding depending in either House of Parliament, with a view to influence the votes of members."

Mr. WARREN. I like this sport very well, but I deem it my duty again to interpose my point of order. The Chair must see now that the question raised by the gentleman from New York is not one of privilege. And, sir, let me say that I think that it is radically wrong, this attacking, or attempting to attack, gentlemen whose reputation has heretofore been unblemished, and who now stand fair before the country. I hope, therefore, that the Chair will determine at once the point I raise.

I take this occasion to say, that I am ready to investigate the conduct of any member upon this floor, or even the conduct of the Chief Magistrate of the Union, on good cause; but the charge must be made. I detest this way of attacking members by insinuation and innuendo.

The SPEAKER. The Chair will hear the gentleman from New York before deciding on the question whether it is one of privilege or not.

Mr. HOARD. My only object is to present to

the House considerations which have influenced me in taking this step.

Mr. HOUSTON. I wish to propound an interrogatory to the gentleman.

Mr. HOARD. I decline to yield. Let me say that I do not come here to be constantly interrupted with questions. I wish to present to the House a plain case, or such a case as might have the consideration of the House.

Mr. JONES, of Tennessee. I object.

The SPEAKER. The resolution, upon its face, does present a question of privilege.

Mr. HOARD. The following is from the New York Tribune:

"WASHINGTON, February 10, 1858. "I learn that until Monday morning it was expected that Burns, of Ohio, would vote against the Lecomptonites. On the morning of that day, however, he came to another perception of his duty, on the understanding with the President that his son-in-law should retain the valuable place of postmaster at Keokuk, Iowa, and that he himself should be gratified with the office of marshal of the northern district of Ohio, when his present term in the House is completed."

Mr. BARKSDALE. What is the signature to that correspondence?

Mr. HOARD. There is none. The third section of the Constitution of the United States contains the following in reference to the Executive:

"He shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

That, sir, I believe, limits the constitutional power of the Executive in his intercourse with the legislative department, excepting the signing and vetoing of bills, &c.

As I said before, these rumors floated about. I heard them and discredited them until I saw these newspaper reports; and in talking with members, discovered that there was a hope on one side and a fear on the other, that executive power would prevail. I desire now to call attention to an extract from Washington's Farewell Address, and hope it will not be out of order. I want to show this House that Washington foresaw the tendency of executive power to absorb the entire Government. It is a serious subject for reflection on our part, and the part of the country.

The extract to which I desire to call attention is the following:

"It is important, likewise, that the habits of thinking, in a free country, should inspire caution in those entrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism."

Washington foresaw this danger; and I fear that we are running upon it:

"A just estimate of that love of power, and proneness to abuse it, which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal, against invasion of the others, has been evinced by experiments ancient and modern; some of them in our country, and under our own eyes. To preserve them must be as necessary as to institute them."

Now I do not desire to occupy the attention of the House a moment longer. I know the House must see the consequences that would result from any interference on the part of the executive department of the Government with members of the House in casting their votes. I cannot present to the House any new considerations bearing upon this subject. But I do desire to say that all these rumors, these newspaper articles, these hopes on one side of the House, and fears upon the other, have a basis; and under these circumstances, we are called upon, in my judgment, to vindicate, by the investigation asked for, the dignity and the prerogatives of this House.

Mr. WARREN. Mr. Speaker, I am going to call the attention of the Chair in a moment to the question of order to which I rose in the first instance. Before doing so, however, I desire to say that I am satisfied that the gentleman from New York mistakes the character of at least one side of this House when he talks about hopes on one side, and fears upon the other. I cannot speak for the other side of this House. They may be afraid. I make no such allegation. The gentleman has said, however, that gentlemen who represent the sovereign people, and who profess to be honorable and high-minded, can be bribed and influenced by such means in the discharge of their duties here. A sentiment of that sort may attach

to the other side of the House, but I take occasion to tell that gentleman that if he intends to insinuate that there is a member upon this side of the House who can be influenced by reward, or the hope thereof, or by fear, he is very much mistaken, sir. [Laughter on the Republican side of the House.] I tell him that he has mistaken the character of this side of the House altogether; and I tell gentlemen upon the other side that if they are afraid that such a state of things exist, they may allay their fears; we are not made of that sort of material. [Renewed laughter from the same quarter.] Neither the Executive, nor anybody else, could influence us.

But, sir, this thing has gone far enough. I rose to a question of order when the resolution was first proposed. The Chair, however, and gentlemen all over the House, were disposed to hear the whole matter. It strikes me that it is not a question of privilege to attack any gentleman upon mere newspaper report. Why, I can find newspaper articles—articles emanating, too, from this Hall, and claiming high authority, that condemn the very best men upon this floor; and I am now upon the track of a distinguished reporter who has taken occasion to write an article, for which, if I can find him out, I will move to expel him from the Hall. I want gentlemen upon this floor who wish to make insinuations against the character of anybody, to meet us face to face. If you want to attack the President, or any member of the Cabinet, or any Democrat upon this side of the House, come up boldly and attack him, and we will meet you; but do not stab him behind the ribs when he has not a chance to see from whom the blow comes. I now raise the question of order that this is not a privileged question.

Mr. BURNS. I would like to have that article from the New York Tribune read again.

The SPEAKER. The gentleman from Ohio will suspend until the Chair makes a statement. The resolution on its face presents a question of privilege, and the Chair has so ruled. The Chair has heard the statement of the gentleman from New York, [Mr. Hoar,] and there was nothing in it which, in the judgment of the Chair, justified the predicate of the resolution. The Chair will not, however, undertake to say that this is not a question of privilege, but will refer that question to the House so far as to submit the question to the House whether it be a question of privilege or not.

Mr. BURNS. I would now ask to have that extract from the Tribune, which was read by the gentleman from New York a little while ago, read again.

The extract was again read by the Clerk.

Mr. BURNS. Is that from the correspondence of the Tribune?

The CLERK. Yes, sir.

Mr. BURNS. Well, Mr. Speaker, I pronounce it a falsehood from beginning to end; a lie from beginning to end; and the man who penned it is about as corrupt as the man who delivered it from the stand a moment ago. [Laughter, and cries of "Order!"]

The SPEAKER. It is not in order for the gentleman to make personal reflections.

Mr. STEPHENS, of Georgia. In such a case as this the Chair submits the question to the House whether it is a question of privilege or not. That was the course pursued here in the Thirtieth Congress by Mr. Winthrop.

Mr. GIDDINGS addressed the Chair.

The SPEAKER. The Chair asks to have read a precedent which arose in 1850, in the Thirty-First Congress, under the administration of Mr. Speaker Cobb.

The Clerk read as follows:

"JULY 5, 1850.

"Mr. GIDDINGS stated that he rose to a question of privilege, and submitted to the House a communication from the Washington correspondent of the Boston Atlas of the 2d instant, charging him with having abstracted from the files of the Post Office Department certain papers relating to the appointment of postmaster at Oberlin, Ohio. The same having been read, Mr. GIDDINGS was proceeding with some remarks thereon, when Mr. JONES raised the question of order that said communication did not involve a question of privilege, and consequently that its consideration by the House was not in order.

"The SPEAKER decided that when a member rises upon the floor and brings before the House matters relating to the privileges either of the House or a member, the question must be entertained by the Chair so far as to submit to the House to determine whether it is a question of privilege or not. The Chair would not entertain every motion

which a member might think proper to say was a question of privilege. But it is the duty of the Chair to see that the matter relates to the privileges either of the House or a member. When it does, as in the present case, then, under precedent in the Twenty-Ninth and Thirtieth Congresses, the Speaker holds it to be his duty to entertain it as a privileged question to the extent of submitting it to the House to determine whether it is a question of privilege or not for its consideration."

Mr. STEPHENS, of Georgia. That would apply to the other precedent to which I alluded, where the Chair first decided the question of privilege.

Mr. GROW. I rise to a question of order. The Chair recognized the gentleman from Ohio, [Mr. GIDDINGS,] and then asked him to suspend until he could have a paper read. I think the gentleman from Ohio is on the floor. I merely call the attention of the Chair to the fact.

The SPEAKER. The Chair thinks it was the gentleman from Ohio on the right [Mr. BURNS] whom he recognized.

Mr. GIDDINGS. I am perfectly willing the gentleman from Georgia should proceed.

Mr. STEPHENS, of Georgia. I was proceeding to say that it has been usual, when questions have been presented by a member claiming them to be questions of privilege, for the Chair to submit the question to the House, as the Chair proposes to do in this case. It is for the House to determine whether the statement made involves a question of privilege or not. In the case cited by the Chair, the member presenting the question of privilege brought before the House charges against himself—against his integrity; and the Chair submitted it to the House to determine whether it was a question of privilege or not. I do not distinctly remember how it was determined. My impression is that the House decided that it was not a question of privilege.

Mr. GIDDINGS. The House determined both ways on that occasion.

Mr. STEPHENS, of Georgia. It decided one way, as I have stated. Now, Mr. Speaker, the question we have got to decide is, whether the statement made by the gentleman from New York is a question of privilege. I stated, when the question was first presented, that I did not think it was. I repeat the same opinion to the House now. It is no question of privilege; and why? Because there is no statement made by any responsible person containing any charge against a member of the House.

Mr. STANTON. Is this question debatable?

Mr. STEPHENS, of Georgia. It certainly is, as I understand it.

Mr. STANTON. I ask the Chair to decide.

The SPEAKER. Following the precedent set in 1850, when debate was allowed, it is.

Mr. STANTON. Does not the Manual decide that questions of this description shall be decided without debate?

The SPEAKER. The Chair thinks not. Questions of priority of business are to be decided without debate.

Mr. STEPHENS, of Georgia. There is in this statement nothing from any person known to this House. The statements are from newspaper articles, written by correspondents, the names even of whom are not known—vague rumors. The member who presents them does not vouch for them. He does not rise in his place and present, upon his responsibility, such an instance as the gentleman from Ohio [Mr. GIDDINGS] presented. He presents nothing but vague rumors; and, in my judgment, the House upon them cannot entertain the resolution as a question of privilege. If the member will rise in his place and present allegations against the Chief Magistrate, which, if proved, would justify an impeachment, let him do it, and I venture to say it will be met promptly on this side of the House, and that a committee will be raised. But the member who presents this resolution makes no such statement. Why, sir, if we were to raise committees to investigate every charge made by an anonymous newspaper scribbler, we might cease to legislate and resolve ourselves into nothing but committees till no one would be left to do any other business. Now, sir, I think it is time that we should put an end to these proceedings. I move to lay the resolution on the table.

Mr. GIDDINGS. I ask the gentleman to withdraw the motion for a moment.

Mr. STEPHENS, of Georgia. I cannot.

Mr. GIDDINGS. As allusion has been made to me personally, I hope the gentleman will yield to me.

Mr. STEPHENS, of Georgia. I cannot withdraw the motion.

Mr. WASHBURN, of Maine. I suppose the motion to lay on the table assumes that it is received by the House as a question of privilege; and being in possession of the House as a question of privilege, the gentleman from Georgia moves to strangle this investigation.

Mr. STEPHENS, of Georgia. If the House wish to vote down the motion, they can do it.

Mr. GIDDINGS. I appeal to the gentleman as a personal favor to withdraw the motion; I will renew it.

Mr. STEPHENS, of Georgia. Very well; I will withdraw it and yield the floor.

Mr. CRAIG, of North Carolina. I object.

Mr. STEPHENS, of Georgia. Very well; then I will withdraw the motion unconditionally.

Mr. GIDDINGS. I will renew the gentleman's motion. Mr. Speaker, I am sorry to see so much excitement upon this grave question. We are sitting here as statesmen, and as representatives of a mighty people, and it becomes us at all times to purge ourselves of all charges of corruption and misconduct on our part. When I first rose I did so for the purpose of calling the attention of the Chair to the very decision to which he has referred. It is not a question of order for the Speaker to decide; it is a question which appeals to the conscience of the members of this body. Are we willing that these charges, insinuations, and distinct declarations shall go forth to the public, and we not meet them? That is a question which every man must decide for himself.

Sir, when charged with misconduct, in the instance to which allusion has been made—I speak of it with emotion—I did rise and appeal to my fellow-members to give me a committee, that I might meet the foul charge—for a more dishonorable charge could not have been made against me. The House gravely denied the request. They would not give me a committee to purge myself; but when these charges came from a man outside—from a member of one of the Executive Departments—when he had reiterated the foul slander, the House did then appoint a committee to investigate the matter, as you will see from your Journals.

My friends tell me that I must not go on. I wish to allude to another precedent. At a later period, a colleague of mine from the opposite side of the House, [Mr. Sawyer,] was charged by a correspondent of the New York Tribune, with partaking of refreshment outside the bar, of a very peculiar character; in other words, that he was eating sausages in the House; and gentlemen of the House, then Democrats, made it a question of privilege, and excluded the reporter from the Hall because he thus assailed a member.

Now, sir, I felt for my colleague during the reading of that paper this morning at the Clerk's desk. He is a stranger to me. But, sir, my heart beat in sympathy for him when he was thus assailed; and I want to give him an opportunity to repudiate the foul calumny. I want to disenthral him, and let him stand forth free from the imputation. It is a grave, infamous charge; and I hope he will not allow it to be passed by without throwing it off. But, sir, I only rose to call the attention of the House to the instance in which I was concerned. In obedience to the promise made to the gentleman from Georgia, I now renew the motion to lay the subject on the table.

Mr. MORRIS, of Illinois. I desire to have the extract from the Tribune read again.

Mr. HOUSTON. While the motion to lay upon the table is pending debate is out of order, and the paper cannot be read.

Mr. MORRIS, of Illinois. I hope that motion will be withdrawn.

Mr. STEPHENS, of Georgia. I decline to withdraw it.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 108, nays 88; as follows:

YEAS.—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bocoek, Bowie, Boyce, Bryan, Burnett, Caskie, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cockeill, Corning, Cox, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dimmick, Dowdell,

Edmundson, Elliott, English, Eustis, Faulkner, Florence, Foley, Garnett, Gartrell, Gillis, Greenwood, Groesbeck, Lawrence W. Hall, Hatch, Hawkins, Hickman, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kelly, Lamar, Lawrence, McKibbin, McQueen, Humphrey Marshall, Mason, Maynard, Miles, Miller, Millson, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Sickles, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—108.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Curtis, Darnell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, Haskin, Hill, Hoard, Howard, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Letter, Lovejoy, Samuel S. Marshall, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Purviance, Ricard, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, Tappan, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, and Wilson—88.

So the resolution was laid upon the table.

Mr. STEPHENS, of Georgia, moved to reconsider the vote by which the resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BOUNTY LAND.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. UNDERWOOD, by unanimous consent, submitted the following resolution; which was read and agreed to:

Resolved, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of providing by law, that all bounty land warrants issued in consideration of military service under the provision of existing laws, and which may have been issued subsequently to the death of the applicant, shall not, by reason of such death, become invalid, but shall descend to the heirs or be subject to the devisee of the applicant, and be subject to location and patent in the name of the party entitled thereto, and report by bill or otherwise.

TITLE TO LAND WARRANTS.

Mr. KELSEY. I desire to introduce a bill on the same subject, which was before the last Congress, but failed for want of time. It is a bill declaring the title to land warrants in certain cases. I hope the gentleman from Massachusetts will yield for that purpose.

Mr. CHAFFEE. I yield for that purpose.

The bill was introduced, read a first and second time, and referred to the Committee on Public Lands.

CALIFORNIA MAILS.

Mr. McKIBBIN, by unanimous consent, introduced a bill to provide for the transportation of the mails of the United States between New York, New Orleans, and the city of San Francisco, and to reduce the expense thereof; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

PRIVATE CALENDAR.

Mr. MASON. I rise to a privileged question.

Mr. CHAFFEE. I decline to yield further.

Mr. WASHBURN, of Illinois. I move that the House adjourn.

The House refused to adjourn; there being, on a division, ayes 72, noes 97.

Mr. SEWARD. I ask the gentleman to yield to me for a moment.

The SPEAKER. If the gentleman yields the floor it must be given to the gentleman from Kentucky, who rises to move a privileged question.

Mr. CHAFFEE. We have been here for more than two months, and the Private Calendar has not yet been taken up. There are two hundred and thirty-seven cases upon that Calendar. I ask now that the white people of this country shall have some legislation.

Mr. CHAFFEE's motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. MILLSON in the chair.)

ADVERSE REPORTS FROM COURT OF CLAIMS.

The CHAIRMAN stated the first business in order to be an adverse report from the Court of

Claims, (No. 90,) upon the petition of Frederick Griffing.

Mr. SEWARD. I move that by unanimous consent the committee pass over these adverse reports, and commence with the bill which follows.

Mr. JONES, of Tennessee. I object, and insist that they shall be taken up in order.

Mr. SEWARD. Then as they come up I shall move to postpone their further consideration.

Mr. JONES, of Tennessee. And I shall ask that the report in each case shall be read. These adverse reports are upon the Calendar, and, until disposed of, will stand in the way of other business. We might dispose of them as well now as at any other time.

Mr. MARSHALL, of Kentucky. In view of the requisition made by the gentleman from Tennessee that all these adverse reports shall be read, and looking to the late hour of the day at which it is proposed that we shall enter upon that work, I move that the committee rise.

Mr. WASHBURN, of Maine. I ask the gentleman from Kentucky to withdraw that motion for a moment until I put a question to the Chair. I ask the Chair whether it will not be in order, on taking up each one of those adverse reports, to move to postpone it, and if the question on that motion must not be decided without debate?

The CHAIRMAN. The Chair has so stated.

Mr. HOUSTON. I suppose these reports have to be disposed of some time or other, and we might progress with some of them now. They are upon the Calendar, in the way of everything else, and we ought to dispose of them, so that they may not be in the way when next we go into committee.

Mr. MARSHALL, of Kentucky. The gentleman from Tennessee calls for the reading of each of the reports.

Mr. HOUSTON. I understand the gentleman from Tennessee only to ask that cases shall be disposed of as they are reached on the Calendar.

Mr. MARSHALL, of Kentucky. Well, I will withdraw the motion to rise, that we may see whether we can make any progress.

Mr. BOCKOCK. I understand the gentleman from Tennessee to require that each report shall be read before it shall be laid aside. Now, I make the point of order that a case is not up for consideration. Under the rules of the House, each case upon the Calendar is to be called by its title. If any member objects to its consideration, then the question is to be put whether the case shall be taken up or not.

Mr. JONES, of Tennessee. This is not objection day.

Mr. BOCKOCK. I do not care whether it is or not.

Mr. JONES, of Tennessee. The rule to which the gentleman refers applies to the Committee of the Whole on the state of the Union.

Mr. BOCKOCK. I say that the rule prevails in Committee of the Whole on the Private Calendar, as well as in Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. No, sir; it applies only to the Committee of the Whole on the state of the Union.

The CHAIRMAN. The Chair has already stated that he will receive a motion to postpone any case as it is called.

Mr. STANTON. What objection is there to beginning at the top of the Calendar and recommending that the decision of the Court of Claims be concurred in where there is no objection?

The CHAIRMAN. The Chair would suggest that this debate is not in order. The first case on the Calendar will be reported.

Mr. JONES, of Tennessee. If it is the disposition of the committee, or the will of the committee, to report those cases upon the Calendar in which the Court of Claims have reported adversely to the House, with a recommendation that the House concur in those adverse reports, I shall not object to it.

Mr. STANTON. Certainly; that is precisely what I desire.

The CHAIRMAN. The Chair will state that there is no question before the committee.

The first case on the Calendar was an adverse report (C. C. No. 90) upon the petition of Frederick Griffing.

Mr. STANTON. I move that that case be laid aside to be reported to the House, with the recom-

mendation that the report of the Court of Claims be concurred in.

The motion was agreed to.

Mr. JONES, of Tennessee. Mr. Chairman, I would suggest to the committee that they should agree to lay aside all these adverse reports, to be reported to the House with the recommendation that the adverse reports be concurred in, except such as any gentleman present may desire to have excepted. If there be any cases upon the Calendar which have been reported on adversely by the Court of Claims, which any gentlemen here wish to have considered and discussed with a view of overruling the decision of the court, let those be excepted from the proposition; but let all the others be reported to the House with the recommendation that the report of Court of Claims be concurred in.

[Loud cries of "Agreed!"]

The CHAIRMAN. That can be done only by unanimous consent.

No objection was made.

The cases were then called in their order upon the Calendar, as follows; when those to the disposal of which no objection was made were severally laid aside to be reported to the House with a recommendation that the decision of the Court of Claims be concurred in:

An adverse report (C. C. No. 92) upon the petition of Francis Picard, administrator of Pierre Ayott. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 93) upon the petition of Francis Picard, administrator of Pierre Ayott. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 94) upon the petition of George W. Dow and John H. Dittmas.

An adverse report (C. C. No. 95) upon the petition of Daniel Vanwinkle.

An adverse report (C. C. No. 96) upon the petition of Joseph Lorenger.

An adverse report (C. C. No. 97) upon the petition of Michael Musy and Andre Galtier.

An adverse report (C. C. No. 98) upon the petition of Henry G. Carson, administrator of Curtis Grubb.

An adverse report (C. C. No. 99) upon the petition of Philip Lamoy and others. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 105) upon the petition of Ezra T. Marnay, administrator of Louis Marnay. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 106) upon the petition of Henry Miller.

An adverse report (C. C. No. 107) upon the petition of Stephen C. Hayden.

An adverse report (C. C. No. 108) upon the petition of David Noble. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 109) upon the petition of Joseph Stokely and others, heirs of Nehemiah Stokely. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 110) upon the petition of Jeremiah M. Williams and others, heirs of Thomas Williams. [Objected to by Mr. THOMPSON.]

An adverse report (C. C. No. 111) upon the petition of Arnold Harris, administrator of Robert Armstrong. [Objected to by Mr. COVODE.]

An adverse report (C. C. No. 112) upon the petition of E. B. Chamberlain and others, heirs of Captain Joshua Chamberlain.

An adverse report (C. C. No. 114) upon the petition of Eliza Shafer, widow of Jonathan Shafer.

An adverse report (C. C. No. 116) upon the petition of Augustine Demers and others, administrators of Francis Chaudonet. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 122) upon the petition of Alexander H. Cook.

An adverse report (C. C. No. 123) upon the petition of Joshua R. Jewett, heir of Joseph Jewett. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 124) upon the petition of James M. Thorne.

An adverse report (C. C. No. 125) upon the petition of J. C. Buckles.

An adverse report (C. C. No. 126) upon the petition of James Thompson, surviving partner of C. M. Strader & Company. [Objected to by Mr. MARSHALL, of Kentucky.]

An adverse report (C. C. No. 127) upon the petition of Robert Harrison. [Objected to by Mr. HAWKINS.]

An adverse report (C. C. No. 128) upon the

petition of J. H. King and others, heirs of James Green.

An adverse report (C. C. No. 129) upon the petition of T. S. J. Johnson.

An adverse report (C. C. No. 130) upon the petition of Abraham King, administrator of John Mandeville. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 131) upon the petition of Llewellyn Jones.

An adverse report (C. C. No. 132) upon the petition of Robert S. Garnett.

An adverse report (C. C. No. 135) upon the petition of Robert C. Thompson, administrator of William Thompson. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 136) upon the petition of Ann W. Butler, administratrix of General Richard Butler.

An adverse report (C. C. No. 137) upon the petition of Christiana Dener, widow of George Frederick Dener.

An adverse report (C. C. No. 138) upon the petition of Stephen C. Phillips, administrator of Jonathan Porter Felt.

An adverse report (C. C. No. 139) upon the petition of Ellen Martin, heir-at-law of Francis Martin. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 140) upon the petition of Francis Nadeau, heir of Basil Nadeau. [Objected to by Mr. PALMER.]

An adverse report (C. C. No. 141) upon the petition of Abraham R. Woolley.

An adverse report (C. C. No. 142) upon the petition of Ralf Richardson, executor of Margaret B. Cameron, daughter of James Bell.

An adverse report (C. C. No. 145) upon the petition of Nathaniel Williams. [Objected to by Mr. THOMPSON.]

An adverse report (C. C. No. 146) upon the petition of the heirs of Hugh Hughes.

An adverse report (C. C. No. 148) upon the petition of Richard L. Page, administrator of William B. Page.

An adverse report (C. C. No. 4) upon the petition of Robert Roberts.

An adverse report (C. C. No. 5) upon the petition of Samuel M. Puckett.

An adverse report (C. C. No. 6) upon the petition of John P. McElderry.

An adverse report (C. C. No. 7) upon the petition of Louis G. Thomas and others.

An adverse report (C. C. No. 8) upon the petition of Shepherd Knapp.

An adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick. [Objected to by Mr. PURVIANCE.]

An adverse report (C. C. No. 12) upon the petition of William W. Cox.

An adverse report (C. C. No. 18) upon the petition of J. D. Holman, executor of Jesse B. Holman.

An adverse report (C. C. No. 19) upon the petition of John C. Hale.

An adverse report (C. C. No. 21) upon the petition of Cassius M. Clay. [Objected to by Mr. CLAY.]

An adverse report (C. C. No. 22) upon the petition of Susan Decatur.

An adverse report (C. C. No. 30) upon the petition of William Neill and others. [Objected to by Mr. Cox.]

An adverse report (C. C. No. 31) upon the petition of Thomas Phenix, jr. [Objected to by Mr. UNDERWOOD.]

An adverse report (C. C. No. 32) upon the petition of H. L. Thistle.

An adverse report (C. C. No. 33) upon the petition of Abel Gay.

An adverse report (C. C. No. 43) upon the petition of J. Boyd.

An adverse report (C. C. No. 46) upon the petition of J. K. Rogers.

An adverse report (C. C. No. 67) upon the petition of Cortland Palmer.

An adverse report (C. C. No. 81) upon the petition of David Myerle. [Objected to by Mr. FLORENCE.]

An adverse report (C. C. No. 149) upon the petition of the claimants of the brig General Armstrong. [Objected to by Mr. TAYLOR, of Louisiana.]

An adverse report (C. C. No. 159) upon the petition of Rebecca Heald, widow of Major Nathan Heald.

An adverse report (C. C. No. 151) upon the petition of Benjamin H. Springer.

An adverse report (C. C. No. 152) upon the petition of John Etheridge.

An adverse report (C. C. No. 153) upon the petition of the Illinois Central Railroad Company.

The CHAIRMAN then proceeded to call up those reports to which exception had been made, and which had not been laid aside to be reported to the House with a recommendation that the report of the Court of Claims be concurred in.

An adverse report (C. C. No. 93) upon the petition of Francis Picard, administrator of Pierre Ayott.

On motion of Mr. CHAFFEE, the report was laid aside to be reported to the House with the recommendation that it be concurred in.

An adverse report (C. C. No. 99) upon the petition of Philip Lamoy and others.

On motion of Mr. CHAFFEE, the report was laid aside to be reported to the House with the recommendation that it be concurred in.

Mr. JONES, of Tennessee. I presume if the exceptions be withdrawn, the reports to which the exceptions are withdrawn will go with the others already disposed of.

The CHAIRMAN. The Chair holds that it is not competent for a gentleman who made an exception to withdraw it at this time.

Mr. MARSHALL, of Illinois. I would suggest that the proper motion is, that the committee do confirm the decision of the Court of Claims. It is so provided in the law.

The CHAIRMAN. The Chair thinks that a report is not a decision of the Court of Claims; but an opinion, to be concurred in by the House or not, as it chooses.

Mr. MARSHALL, of Illinois. I ask that section nine of the law be read.

The Clerk read it, as follows:

"The claims reported upon adversely shall be placed upon the Calendar when reported, and if the decision of said court shall be confirmed by Congress, said decision shall be conclusive, and the said court shall not at any subsequent period consider said claims, unless such reasons shall be presented to said court as, by the rules of common law or chancery in suits between individuals, would furnish sufficient ground for granting a new trial."

Mr. MARSHALL, of Illinois. Then the proper question, as I think, is, "Shall the decision of the Court of Claims be confirmed?" and not "Shall the report be concurred in?"

The CHAIRMAN. The Chair thinks that the question is one merely of form. The Chair, however, has supposed that these were opinions of the Court of Claims, and not, technically, decisions.

An adverse report (C. C. No. 105) upon the petition of Ezra T. Marnay, administrator of Louis Marnay.

On motion of Mr. WINSLOW, the report was laid aside to be reported to the House with a recommendation that it be concurred in.

Mr. DEWART moved that the committee rise. The motion was not agreed to.

An adverse report (C. C. No. 108) upon the petition of David Noble.

Mr. PALMER moved that the further consideration of the report be postponed until Friday next.

Mr. CHAFFEE moved that the report of the Court of Claims be laid aside to be reported to the House with the recommendation that it be concurred in.

Mr. JONES, of Tennessee. I hope the latter motion will be agreed to; let us dispose of the case before we leave it.

Mr. PALMER's motion was disagreed to; and the report was then laid aside to be reported to the House with the recommendation that it be concurred in.

An adverse report (C. C. No. 109) upon the petition of Joseph Stokely and others, heirs of Nehemiah Stokely.

Mr. COVODE. I ask that that report be read.

Mr. MARSHALL, of Kentucky. That we may settle these definitely, I move that the committee rise, and report the reports which have been laid aside.

Mr. COVODE. I have not yielded the floor. This report is not a decision on the merits of this case. I want the report referred to the Committee of Claims, with instructions.

Mr. JONES, of Tennessee. What is the case? The CHAIRMAN. No. 109.

Mr. JONES, of Tennessee. What is the proposition?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. COVODE] is upon the floor.

Mr. WASHBURN, of Maine. I understand the proposition of the gentleman from Pennsylvania to be, that the bill be laid aside to be reported to the House with a recommendation that it be referred to the Committee of Claims.

Mr. HOUSTON. The gentleman from Pennsylvania proposes to give this case a direction which the Committee of the Whole cannot give it. I suggest to him that he move that it be reported to the House, with a view of asking the House to refer it to the Committee of Claims.

Mr. COVODE. I accept the suggestion of the gentleman from Alabama, and move that the case be laid aside to be reported to the House, with a view to its receiving that reference.

Mr. STANTON. I suggest to the gentleman from Pennsylvania [Mr. COVODE] and to the gentleman from New York, [Mr. PALMER,] that perhaps the best way of disposing of the reports which have been excepted to, will be to make a motion that they be all reported to the House with the recommendation that they be referred to the Committee of Claims.

Mr. JONES, of Tennessee. Well, Mr. Chairman, I think as we have got them here we had better dispose of them in this committee. Let us give them consideration here. Let us take them up and hear the reports read, and see what the decisions of the court are based on.

Mr. COVODE's motion was agreed to.

Mr. MARSHALL, of Kentucky. I move that the committee do now rise, and report the cases which have been acted on to the House.

Mr. STEPHENS, of Georgia. By the time we have disposed of them it will be time to adjourn.

The motion was agreed to—ayes 69, noes 43.

So the committee rose; and the Speaker having resumed the chair, Mr. MILLSON reported that the Committee of the Whole House had had under consideration the Private Calendar, and had instructed him to report to the House sundry adverse reports of the Court of Claims with the recommendation that the decisions of said court be concurred in.

Mr. STANTON. I move that the House concur in the report of the Committee of the Whole upon the several cases reported by the chairman; and upon that motion I ask the previous question.

Mr. MARSHALL, of Kentucky. The question is, "Shall the decisions of the court be confirmed?"

Mr. JONES, of Tennessee. I wish to submit this proposition to the Chair, with a view to prevent this case being drawn into a precedent hereafter. I do not understand that the question can be put upon all these cases at the same time, if objection be made; but that, if a separate vote were called for upon each, it could be had.

The SPEAKER. Certainly.

Mr. JONES, of Tennessee. I do not ask for a separate vote in this instance; but this is the first case of the kind we have had this session, and I wish to provide against its being made a precedent.

The SPEAKER. The Chair would hold that any member had a right to demand a separate vote upon any case he might indicate.

The previous question was seconded; and the main question was ordered to be put.

The question was then taken; and the recommendation of the Court of Claims was concurred in, in the following cases:

An adverse report (C. C. No. 90) upon the petition of Frederick Griffling.

An adverse report (C. C. No. 92) upon the petition of Francis Picard, administrator of Pierre Ayott.

An adverse report (C. C. No. 93) upon the petition of Francis Picard, administrator of Pierre Ayott.

An adverse report (C. C. No. 94) upon the petition of George W. Dow and John H. Ditmas.

An adverse report (C. C. No. 95) upon the petition of Daniel Vanwinkle.

An adverse report (C. C. No. 96) upon the petition of Joseph Lorenger.

An adverse report (C. C. No. 97) upon the petition of Michael Musy and Andre Galtier.

An adverse report (C. C. No. 98) upon the pe-

tition of Henry G. Carson, administrator of Curtis Grubb.

An adverse report (C. C. No. 99) upon the petition of Philip Lamoy and others.

An adverse report (C. C. No. 105) upon the petition of Ezra T. Marnay, administrator of Louis Marnay.

An adverse report (C. C. No. 106) upon the petition of Henry Miller.

An adverse report (C. C. No. 107) upon the petition of Stephen C. Hayden.

An adverse report (C. C. No. 108) upon the petition of David Noble.

An adverse report (C. C. No. 112) upon the petition of E. B. Chamberlain and others, heirs of Captain Joshua Chamberlain.

An adverse report (C. C. No. 114) upon the petition of Eliza Shafer, widow of Jonathan Shafer.

An adverse report (C. C. No. 122) upon the petition of Alexander H. Cook.

An adverse report (C. C. No. 124) upon the petition of James M. Thorne.

An adverse report (C. C. No. 125) upon the petition of J. C. Buckles.

An adverse report (C. C. No. 128) upon the petition of J. H. King and others, heirs of James Green.

An adverse report (C. C. No. 129) upon the petition of T. S. J. Johnson.

An adverse report (C. C. No. 131) upon the petition of Llewellyn Jones.

An adverse report (C. C. No. 132) upon the petition of Robert S. Garnett.

An adverse report (C. C. No. 136) upon the petition of Ann W. Butler, administratrix of General Richard Butler.

An adverse report (C. C. No. 137) upon the petition of Christiana Dener, widow of George Frederick Dener.

An adverse report (C. C. No. 138) upon the petition of Stephen C. Phillips, administrator of Jonathan Porter Felt.

An adverse report (C. C. No. 142) upon the petition of Ralf Richardson, executor of Margaret B. Cameron, daughter of James Bell.

An adverse report (C. C. No. 145) upon the petition of Nathaniel Williams.

An adverse report (C. C. No. 146) upon the petition of the heirs of Hugh Hughes.

An adverse report (C. C. No. 148) upon the petition of Richard L. Page, administrator of William B. Page.

An adverse report (C. C. No. 4) upon the petition of Robert Roberts.

An adverse report (C. C. No. 5) upon the petition of Samuel M. Puckett.

An adverse report (C. C. No. 6) upon the petition of John P. McElderry.

An adverse report (C. C. No. 7) upon the petition of Louis G. Thomas and others.

An adverse report (C. C. No. 8) upon the petition of Shepherd Knapp.

An adverse report (C. C. No. 12) upon the petition of William W. Cox.

An adverse report (C. C. No. 18) upon the petition of J. D. Holman, executor of Jesse B. Holman.

An adverse report (C. C. No. 19) upon the petition of John C. Hale.

An adverse report (C. C. No. 22) upon the petition of Susan Decatur.

An adverse report (C. C. No. 32) upon the petition of H. L. Thistle.

An adverse report (C. C. No. 33) upon the petition of Abel Gay.

An adverse report (C. C. No. 43) upon the petition of J. Boyd.

An adverse report (C. C. No. 46) upon the petition of J. K. Rogers.

An adverse report (C. C. No. 67) upon the petition of Cortland Palmer.

An adverse report (C. C. No. 150) upon the petition of Rebecca Heald, widow of Major Nathan Heald.

An adverse report (C. C. No. 151) upon the petition of Benjamin H. Springer.

An adverse report (C. C. No. 152) upon the petition of John Etheridge.

An adverse report (C. C. No. 153) upon the petition of the Illinois Central Railroad Company.

Mr. STANTON moved to reconsider the vote just taken, by which the recommendation of the

Court of Claims was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was concurred in.

Mr. PURVIANCE. I move to refer the report (No. 11) of the Court of Claims, on the case of Cyrus H. McCormick, to the Committee on Patents.

The SPEAKER. The Chair desires to inquire of the gentleman from Pennsylvania whether this is one of the cases reported from the Committee of the Whole House?

Mr. PURVIANCE. It is not.

The SPEAKER. The proposition, then, can only be entertained by unanimous consent.

Mr. PURVIANCE. I move, then, to discharge the Committee of the Whole House from the further consideration of the bill, and that it be referred to the Committee on Patents.

Mr. JONES, of Tennessee. I object.

Mr. ZOLLICOFFER. I move that the House do now adjourn.

The motion was agreed to; and the House (at a quarter to four o'clock) adjourned until Monday next.

IN SENATE.

MONDAY, February 15, 1858.

Prayer by Rev. W. D. HALEY.
The Journal of Thursday last was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the memorial of M. Chambers, of New Jersey, submitting a plan for the construction of a railroad from the Missouri river to the Pacific ocean; which was referred to the select committee on the Pacific railroad.

He also presented a communication from F. S. Seybold, proposing to transfer to the United States, for the use of the two Houses of Congress, his invention for taking the yeas and nays, divisions, and other votes of legislative bodies, in an instant of time; which was referred to the Committee on the Library.

Mr. SEWARD presented the petition of the surviving children of Jerathmiel Doty, deceased, praying to be allowed arrears of pension due him as an invalid pensioner; which was referred to the Committee on Pensions.

Mr. SEWARD. Some ten years ago, Mr. President, the State of New York appointed a board of commissioners whose duty it was to receive, protect, and assist emigrants from Europe arriving at the port of New York, which, it is well known, is the gate through which the emigration from Europe flows into this country. At the head of that board is Mr. Verplanck, once distinguished in the halls of Congress, and in every way a man of eminent merit. The board enjoys the confidence of the people of that State, and has done a vast deal of good. They have sent me a petition in which they represent that, since the multiplication of steam vessels, and the withdrawing of sail vessels from employment in the bringing of emigrants into this country, there has grown up a practice on the part of the officers of abusing the female passengers, which has become not merely a matter of scandal, but of reproach and dishonor, both in this country and in Europe. The representations which they make can be sustained by evidence; and inasmuch as this offense is committed on the high seas, where the State of New York has no jurisdiction, but the United States has, they pray that Congress will pass a law for correcting that great abuse. I move that the petition be referred to the Committee on Commerce. There are laws for the regulation of passenger vessels, and perhaps this would come within the province of that committee. At an early day, I shall submit the evidence in support of this petition, and also ask leave of the Senate to introduce a bill.

The petition was referred to the Committee on Commerce.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a mail route from Dunlieth, Illinois, to Prairie du Chien, Wisconsin; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. FESSENDEN presented the memorial of George M. Weston, commissioner of the State of Maine, praying for the reimbursement to that

State of the expenses incurred in organizing a regiment for the war with Mexico; which was referred to the Committee on Military Affairs and Militia.

He also presented additional papers in relation to the claim of Benjamin Ward; which were referred to the Committee on Public Lands.

Mr. BRIGHT presented the memorial of Ambrose Whitlock, praying for additional compensation for services as receiver of public moneys at Terre Haute and Crawfordsville, Indiana; which was referred to the Committee on Claims.

Mr. FOSTER presented the memorial of Nathaniel Hayward, praying for an extension of his patent for an improvement in the manufacture of India-rubber goods; which was referred to the Committee on Patents and the Patent Office.

He also presented a communication from C. J. Fox, United States consul at Aspinwall, asking for an increase of his salary; which was referred to the Committee on Commerce.

Mr. STUART presented a resolution of the Legislature of Michigan, in favor of a grant of land for the endowment of the Michigan Agricultural College; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Michigan, in relation to a northern Pacific railroad; which was ordered to lie on the table, and be printed.

Mr. IVERSON presented the memorial of Thomas Rainey, praying that the Postmaster General may be authorized to contract with him for the transportation of the mails between Philadelphia and Savannah, and Para or Maraham, in Brazil, touching at St. Thomas, Barbadoes, and Demarara; which was referred to the Committee on the Post Office and Post Roads.

Mr. JONES presented the petition of James W. Rea, administrator of James H. Mattocks, deceased, praying for compensation for property destroyed by the Indians; which was referred to the Committee on Public Lands.

Mr. TOOMBS presented a memorial of citizens of Georgia, praying that they may be secured in the quiet enjoyment of lands in their possession, which were claimed by certain Cherokee Indians; which was referred to the Committee on Indian Affairs.

Mr. DURKEE presented the petition of Daniel Whitney, praying for the confirmation of his claim to a certain tract of land at Green Bay, Wisconsin; which was referred to the Committee on Private Land Claims.

Mr. JOHNSON, of Tennessee, presented the memorial of Walter James, praying for compensation for a horse lost while employed in transporting baggage and munitions of war, in the last war with Great Britain; which was referred to the Committee on Claims.

He also presented three petitions of citizens of Lee county, Iowa, and two petitions of citizens of Wisconsin, praying that the public lands may cease to be considered a source of revenue, and that all entries of them may be confined to actual settlers; which were ordered to lie on the table.

IMPEACHMENT OF JUDGE WATROUS.

Mr. HOUSTON. I present the resolutions of the State of Texas, requesting their Representatives to take such steps as may be necessary to cause a full investigation to be made during the present session, of charges that have been made against Judge Watrous. I ask that the resolutions may be read.

The Clerk read them, as follows:

SECTION 1. *Be it resolved by the Legislature of the State of Texas, That whereas, divers charges have been made against John C. Watrous, district judge of the United States for the eastern district of Texas, before the House of Representatives of the United States, with a view to his impeachment, and a committee of said House have reported the following resolution: "Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached of high crimes and misdemeanors;" and it is required for the honor of the State of Texas, and is due to the accused, that all of said charges be promptly and fully investigated and finally acted upon: that without intending to express any opinion as to the guilt or innocence of Judge John C. Watrous, the Representatives in Congress from this State are hereby requested to take such steps as may be necessary to cause a full investigation to be made by the House of Representatives of the United States, during the present session, of all the charges that have been made against said John C. Watrous, and to use their best exertions to cause definite action to be taken thereon.*

SEC. 2. *Be it further resolved, That the Governor is hereby requested to forward to each of the Senators and Repre-*

sentatives in Congress from this State, and also to said John C. Watrous, a certified copy of this joint resolution.
Approved January 19, 1858.

DEPARTMENT OF STATE,
AUSTIN, TEXAS, January 23, 1858.
I, the undersigned, Secretary of State of the State of Texas, do hereby certify that the above and foregoing is a correct copy of the original on file in this Department.
Given under my hand and the seal of the Department of State, the day and year first above written.

T. S. ANDERSON,
Secretary of State.

Mr. HOUSTON. I move that the resolutions be printed.

The motion was agreed to.

RESOLUTIONS.

Mr. GWIN. Some days ago I offered two resolutions, which I ask may be now acted on. They are merely resolutions of inquiry.

Mr. HAMLIN. If they give rise to no debate I will interpose no objection.

Mr. GWIN. They will not lead to debate.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of reporting a bill to increase the facilities for refining gold for coinage in the branch mint of San Francisco.

The resolution was adopted.

Mr. GWIN. I now ask that the other resolution be considered.

The Secretary read the resolution, as follows:

Resolved, That the Secretary of War furnish to the Senate a copy of the military topographical memoir, report, and maps of the military department of the Pacific, by Captain T. J. Cram, of the corps of topographical engineers.

Mr. PUGH. I object to that resolution. I do not want any more books printed. I want to know what that report is?

Mr. GWIN. It is no book. The Senate can tell whether it should be printed or not, when it shall be received.

Mr. PUGH. I withdraw the objection.

The resolution was adopted.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HAMLIN, it was

Ordered, That the petition of Harrison Sargent, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. POLK, it was

Ordered, That the petition of William G. Dove, on the files of the Senate, be referred to the Committee on Claims.

NOTICE OF A BILL.

Mr. SEWARD gave notice of his intention to ask leave to introduce a bill to reorganize the Supreme Court of the United States and the circuit courts of the United States, so that the several States shall be represented by judges in said courts more nearly on the basis of their federal population, while the administration of justice shall be made more speedy and efficient.

BILL INTRODUCED.

Mr. BENJAMIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 138) further to provide for the safety of passengers on steam vessels; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

MR. MEADE'S INSTRUCTIONS.

Mr. WILSON. I submit the following resolution; and as I may have something to say on it, let it lie over:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interest, the instructions given to the Hon. Richard K. Meade, United States Minister to Brazil, previous to his departure from the United States.

The resolution lies over for consideration under the rules.

REPORTS OF COMMITTEES.

Mr. CAMERON, from the Committee on Printing, to whom was referred a motion to print the message of the President of the United States on the subject of contracts made in Europe for inland passage tickets for intending emigrants to the United States, reported that the usual number of the message and the accompanying documents be printed; which motion was agreed to.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the memorial of J. E. Martin, submitted a report, accompanied by a bill (S. No. 134) for the relief of the legal representatives of J. E. Martin. The bill was read,

and passed to a second reading; and the report was ordered to be printed.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the House bill (No. 81) to amend an act for the relief of White-marsh B. Seabrook and others, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and Militia; which was agreed to.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to whom was referred the petition of James M. Hand, submitted a report, accompanied by a bill (S. No. 136) for the relief of the heirs of John B. Hand. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of William Y. Hansell, William H. Underwood, and Samuel T. Beecher, submitted a report, accompanied by a bill (S. No. 135) for the relief of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of William Nason and others, submitted a report, accompanied by a bill (S. No. 137) for the relief of the heirs-at-law of the late Abigail Nason, sister and devisee of John Lord, deceased. The bill was read, and passed to a second reading; and the report was ordered to be printed.

EXPENSES OF INVESTIGATING COMMITTEES.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House had passed a joint resolution (No. 12) making an appropriation for the payment of expenses of investigating committees of the House of Representatives; in which the concurrence of the Senate was requested.

Mr. HUNTER. The joint resolution which we have received from the House of Representatives ought to be passed to-day. It provides for an addition to the contingent fund of the other House to enable them to pay witnesses summoned before the investigating committees.

The joint resolution was read a first and second time by unanimous consent, and considered as in Committee of the Whole. It makes an appropriation of \$35,000 as an addition to the contingent fund of the House of Representatives to pay the expenses of the various investigating committees of that House during the present session.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

INDIANA SENATORIAL ELECTION.

Mr. HAMLIN. I ask the Senate to proceed to the consideration of the report of the Committee on the Judiciary, relating to the contested seats from the State of Indiana.

The VICE PRESIDENT. The hour has arrived when it is the duty of the Chair to announce the special order.

Mr. HAMLIN. This is a matter of privilege which overrides all special orders.

The VICE PRESIDENT. The Chair supposes, on reflection, that that is proper. That resolution, by a vote of the Senate, was laid on the table some time ago, and the Senator from Maine now moves to take it up and proceed with its consideration now.

Mr. HAMLIN. I think, if I insist on proceeding with it, it comes up as a matter of course. It was so ruled the other day.

The VICE PRESIDENT. The Chair will recognize the right of the Senator to call it up. He does not perceive any difference between its present position and that which it occupied on the former occasion. The report is now before the Senate.

Mr. HAMLIN. Mr. President, this matter has been a long time delayed, and it seems to me it is just and appropriate that it should now be determined. It is important in every point of view in which it can present itself to our minds. It is important in relation to the State of Indiana; it is important in relation to the persons who are holding seats here from that State; it is important in relation to the Senate. It ought long since to have been decided, because it goes to the very organization and existence of this body. It is the first duty of this body, I hold in all cases, paying re-

gard of course to the just rights of other parties, to examine as promptly as may be any question which arises involving the title of a Senator to a seat on this floor. I think I can appreciate the feeling which the Senators, or the persons sitting here claiming to be Senators from the State of Indiana, must possess. I think each of those persons has stated in his place that it is his desire that this matter should be decided by the Senate. I can well understand why they so desire. They are entitled to seats on this floor, or they are not; and they have a right to know whether they are rightfully here. The Senate is bound to determine that question, because, if they are not here rightfully, the Senate ought to know it.

The people of that State have a right to have this matter investigated. I repeat again, that it is a question which ought long since to have been settled; and the record furnishes an account of a delay which is to me inexplicable. I cannot understand why it has been postponed and procrastinated, when the Senators themselves are asking for a decision, and the importance of the case demands a settlement of the question. Why procrastinate it? Why should it not be determined at this time? Whenever an attempt has been made to get the attention of the Senate to the question, and to settle it by formal votes, with the yeas and nays recorded, it has been thrust aside; the Senate has refused to act on the matter, and it has been laid upon the table.

The original remonstrance in this case I find was presented against the right of one Senator [Mr. Fitch] who took his seat during the last Congress. The memorial or protest was referred on the 9th day of February, 1857, to the Committee on the Judiciary; and that committee held the protest until the 26th day of February, before any report was made upon it. On the 26th of February a report was made, accompanied by a resolution, which I think was, in substance, if not precisely, the same resolution that has been submitted to the Senate by the Committee on the Judiciary at this session of Congress. It was a resolution to authorize the sitting members to take evidence, but no action was had on it. I know it is said that there could have been no action; but that is not true. The majority of the Senate might have chosen, as they did choose, not to act upon it; but they might have acted upon it if they had been so disposed. There were no obstructions; there were no objections that could not have been overcome, if the Senate had been disposed to determine the question at that time. It is enough for me to say that after the matter had been delayed before the Committee on the Judiciary, and a report made at that late hour, the Senate did not see fit to act. It is not true, in point of fact, that they might not have acted. They might have acted if they had so chosen.

Then, sir, at the extra, or executive session, which commenced immediately succeeding the 3d day of March, that protest was again referred to the Committee on the Judiciary, involving the rights of both the sitting members from that State, the other Senator [Mr. Bright] having at that special session taken the oath of office under the same election. I have examined the papers carefully, and I believe I am right when I say that there is no difference in the two cases; they rest upon the same basis; both are entitled to their seats here, or neither is. The Committee on the Judiciary again reported a resolution to take evidence. On the 9th of March, at the extra session, the papers were referred, and on the 13th of March the committee reported; and upon that report no action was had, the Senate adjourning on the same or the subsequent day. Certainly, it was not more than one day after that report was made when the Senate adjourned.

Mr. BAYARD. It was referred on the 9th of March. The Senate had on the 12th determined to adjourn on the 14th. The report was made on the morning of the 13th, and went over in consequence of an amendment being offered, and debate arising.

Mr. HAMLIN. It is very probable that it was impossible at that stage of the proceedings to have acted definitively on the resolution. It may be true that there could have been no action at the extra session after the report of the committee was made; but I insist that these reports could have been made by the committee in as many hours after they were submitted as were taken days.

The papers were again referred to the Committee on the Judiciary at this session of Congress. I have not the day of the reference; but they were referred early in the session—I think about the middle of December; and the committee reported again the same resolution on the 21st of January.

Why is it that this delay has taken place? Why this procrastination? Why not examine and settle a question so vital to the organization of the body, and so necessary in every view which can be taken? There may be votes of this body, affirmatively and negatively, depending here daily on the votes of these two gentlemen. Are those Senators entitled to their seats? They ought to know it. Are they not entitled to their seats? Then any vote determined by them is a vote which gives to the Senate a majority that does not belong to it by the legal voters of the Senate, by those entitled under the Constitution to hold seats here. There is no view in which the matter presents itself to my mind in which it is not the bounden duty of the Senate to settle it, and to settle it now, in preference to any and all other subjects; and the parliamentary law has so regarded it, by making it a question of privilege, a question of more importance to the body than any other which can be presented.

It presents a peculiar feature. I do not understand—and I suppose the Senator from Delaware, the chairman of the Judiciary Committee, [Mr. BAYARD,] will give me the information which I desire—why a resolution authorizing the sitting members to take testimony is reported by the committee without limitation, and without express specification as to what they propose to prove. If that Senator were sitting as a judge, and a motion were submitted to him for a continuance of an action on account of the absence of a witness, I ask is it not law, is it not reason, is it not good sense, that the affidavit in support of the motion shall specify precisely what is expected to be proved by the absent witness, so that it may be known whether, if the witness were in court and could testify, his testimony would be relevant to the issue, and would be admissible? I have looked this matter over, and I want to know precisely what is the point, and what is the evidence which they propose to furnish to establish that point. Do they propose to offer parol evidence to contradict the records of the State of Indiana? If so, every man here knows that such evidence, even if offered, could not have binding force.

It is a most remarkable feature of this case that the committee have reported a resolution, the necessity of which I have failed to understand, and that the Senate, by vote after vote, have refused even to proceed to its consideration. Here are gentlemen holding seats as Senators; and certainly they ought to know, we ought to know, the State of Indiana ought to know, whether they are entitled to them. A resolution is offered allowing them to take evidence, without specifying, according to my understanding, upon what point that evidence is to be taken; and then the Senate, by a formal vote, refuse even to proceed to the consideration of that question; or when called up, as it has been, as a question of privilege, by a formal vote of the Senate, it is laid upon the table, thus cutting off the right to debate, the right to settle, and the right to determine it. It is remarkable, sir. I have no disposition to go into the merits of the case; but I want the matter settled: I want the resolution considered; and if it is appropriate and just that the resolution should pass, then let it pass. If it be not, then let the case be determined upon its merits.

Another thing, I think, will not escape the public attention; I have no comments to make on it; I desire to make none. The public, however, will not fail to draw their own conclusions; and I think they will draw them justly. We had presented here, some weeks since, a constitution from the Territory of Minnesota, which asks to be admitted as one of the States of this Union. We all recollect the language which was used by the Senator from Virginia [Mr. MASON] on that occasion. I am not going to misquote his language; I am not going to state what his idea, or what could be drawn from what he said; but I am going to read precisely the language which he used, and let those who please make their own application of it.

Mr. PUGH. If this debate is to go on, I should like to ask what is the question before the Senate?

The VICE PRESIDENT. It is on the resolution reported by the Committee on the Judiciary. The Chair will have it read for the information of the Senator. The Secretary will read the resolution and the amendment offered by the Senator from Illinois, [Mr. TRUMBULL.]

The Secretary read them. The resolution reported by the Judiciary Committee is as follows:

Resolved, That in the case of the contested election of the Hon. GRAHAM N. FITCH, and the Hon. JESSE D. BRIGHT, Senators returned and admitted to their seats, from the State of Indiana, that the sitting members, and all persons protesting against their election, or any of them, by themselves, or their agents or attorneys, be permitted to take testimony on the allegations of the protestants and the sitting members, touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by first giving ten days' notice of the time and place of such proceedings in some public gazette printed at Indianapolis.

The amendment of Mr. TRUMBULL is to strike out all after the word "*Resolved*," and insert:

That the Senate will now proceed to a final determination of the right to seats in this body, of GRAHAM N. FITCH and JESSE D. BRIGHT, claiming to have been elected Senators by the Legislature of Indiana.

Mr. HAMLIN. Mr. President—

Mr. PUGH. The point I wish to make is, whether it is in order for the Senator, in debating that resolution, to go off into the questions relative to the admission of Minnesota?

The VICE PRESIDENT. This is a debatable question. The Chair does not perceive how he is to limit the debate, and determine on the relevancy of remarks.

Mr. HAMLIN. I will endeavor to make my remarks so relevant that both the Chair and the Senator from Ohio shall understand the point I propose to make. I am now urging action on this matter, and I am going to read an extract from the speech of the honorable Senator from Virginia, and another extract from a speech made by the honorable Senator from Delaware, and I think the Senator will not fail to draw his own conclusions as to the reason which induces me to read them, and to see that they are both pertinent in the use which I make of them, to wit: to urge the necessity of the action of the Senate on this matter now. That is the point on which I am speaking. The Senator from Virginia [Mr. MASON] said, on the occasion to which I have alluded:

"And now the Territory of Minnesota, for they are both Territories, applies for admission. I do not know the circumstances under which the Territory of Kansas is to apply for admission as a State; and I apprehend that no honorable Senator knows them; but we do know that the sources of information which have been open to the Senate and the country upon every question attending the passage of Kansas from a territorial state to that of an independent political community have been of a character to carry with them distrust and doubt. We know, however, that the constitution of that State is now in Washington. We have reason to believe that, within a very short time, it will be sent to the Senate, and we may presume—we cannot take it for granted—that when it is sent to the Senate, it will be accompanied by authentic information touching every matter connected with it; but it is not done yet. I trust when that question comes up, that it may not be attended by the opposition, or the extent of opposition, that is anticipated to the application of that State for admission; but if it is, it certainly interests me and those whom I have the honor to represent on this floor, greatly, that not one single step shall be taken by this body in reference to the admission of new States until every question connected with the Territory of Kansas has been matured, and we shall be enabled to see exactly where that question stands, and how it is to be received."

The other day, when the Senate had under consideration this very question, the Senator from Delaware [Mr. BAYARD] remarked:

"I disagree with the honorable Senator from Illinois altogether. If this were a case in which there were contesting members from the State of Indiana, and the individual rights of others claiming to be representatives of that State on this floor were before us for decision, I should think that we ought to dispose of it before we entered upon any other question; but the State of Indiana has sent to us, with the *prima facie* evidence of proper election, two Senators, who have their seats upon this floor. I am perfectly aware that there are questions which must be decided by the Senate ultimately as to the legality of the election; but of the broad, general fact, which I can look at outside of that, that these Senators represent the public sentiment of the State of Indiana, I can entertain no doubt. Under these circumstances, when a question is to arise important to the destinies of this Union, why should not a sovereign State of the Union be represented, even though it be that it may turn out ultimately that the election was not in that form which the Constitution of the United States requires, and therefore invalid? I think the distinction is a clear one. As there is no individual interest connected with this matter, no contesting persons who claim to be entitled to the seats; as the result of the decision, if it shall be what the Senator from Illinois desires, will simply be that the State of Indiana will be unrepresented on this floor; as there is *prima facie* evidence of the right of these gentlemen; and as I believe the

public sentiment of that State, even if the election was not regular in itself, is represented by them, I am not willing to lessen the number of the Senate when a question so grave and important as that of the admission of Kansas is to come before us."

I have read these two extracts for the purpose of showing the importance of a decision of this question now. The Senator from Virginia affirms what I have read in relation to the admission of Minnesota. I do not, as I said, propose to misstate what the Senator has said. I have therefore read his language, and I leave every person present to draw his own conclusion. I do not propose to draw any deduction from what I have read of what was said by the Senator from Delaware. I have read that; and I leave every Senator, and I leave the country, to draw their own conclusions. But I do insist that both the questions to which they have referred are important; and they are of that importance which not only justifies, but demands, of the Senate a settlement of this question before any votes are taken on either. I think the Senators from Indiana themselves would well come precisely to that conclusion; indeed, they could well come to no other.

Why, then, is this matter thus delayed? Why has it not been long since settled? It will not escape the attention of the Senate that a memorial was presented, signed by a majority, I think, of the Senate of Indiana, and by quite a respectable number, nearly half, of the members of the House of Representatives of that State, at the last session of Congress. That memorial was presented to the Senate on the 20th of February. They asked that the question should be settled by the then Congress; and they did it upon the ground that the Legislature was then in session, and if the opinion of the Senate was adverse to the rights of the sitting members here, they desired to know it, so that they might proceed to the election of their successors. If the Senators here were entitled to their seats, they claimed to know it, so that the thing should be settled, and the State should not be unrepresented. That has passed by, but it is only one other link in this chain of delay which is to me inexplicable.

I hope that we shall proceed now to its final settlement. I do not propose to discuss the resolution which is offered by way of amendment. I want distinct and unequivocal answers as to what are the facts to be proved. If there are facts which do not contradict a record, if there are facts which go to the merits of the case, far be it from me to interpose a vote against the right of these persons to present those facts, notwithstanding all the delay which has been granted; but if the facts to be proved are in contradistinction to record evidence, then every Senator knows that in any court of law, or here, they are facts that cannot be received in proof. For that reason, certainly I would not vote for a resolution which, taken as reported, would give them the whole six years of their senatorial term in which to gather their evidence; because the resolution is without limitation, fixing no time within which they are to take the evidence; and the procrastination already had, I think, is pretty good evidence that it would be procrastinated to any given length of time unless the resolution itself were limited. But, sir, my object now is to draw the attention of the Senate to the matter, and then I shall act as I think the justice of the case shall require.

Mr. BENJAMIN. The Senator from Maine, in the observations which he has just made to the Senate, has made statements I think not entirely consistent with candor: not that the Senator has stated anything that was not accurate, that I am aware of at the present moment; but that he has not stated all the facts which would lead to a just apprehension of the question. I wish to call the attention of the Senate to a few dates. The protest made against the right of the sitting members from Indiana was referred by the Senate to the Committee on the Judiciary on the 10th of last February.

Mr. HAMLIN. On the 9th.

Mr. BENJAMIN. The gentleman says on the 9th. I will not quarrel as to a day, but the report says it was referred to the committee on the 10th. That was about twenty days before the adjournment of the Senate, less than twenty working days remaining of the term. It was the short session. The committee, in sixteen days, examined the question, so far as the documents placed

before it enabled it to make an examination, and reported to the Senate a resolution authorizing an examination into the facts. That resolution was reported on the 26th day of the month. An examination into the facts was proposed to be made during the recess of the Senate, during the summer vacation, so that at the present term the Senate, being in possession of the entire facts of the controversy, might be enabled to come to a definite conclusion. The adoption of that resolution, thus directed to an inquiry into simple matters of fact, was opposed, vehemently opposed; and the result was, that in the press of important public business at the close of a short session, when we were all trembling for the fate of the appropriation bills, it was impossible to come to a conclusion on so debated a question as the one before the Senate, and necessarily the motion fell through.

At the extra session which was called upon the 4th of March, the protests were again referred to the committee on the 9th of the month. The Senate adjourned on the 14th. There were then but five days; and yet within those five days the Committee on the Judiciary again made a report, and proposed to the Senate to allow the testimony to be taken of the facts relating to this election during the vacation, so that it might be possible for us to determine the cause at the present session. The Senator from Illinois, [Mr. TRUMBULL,] who had charge of the protests, again objected to the resolution. We had but one day left of the session, and the resolution was again necessarily lost: not by any action of the majority of the Senate; not by any vote of the Senate; not by any supposed favor that could be extended to the Senators from Indiana by those who entertained political sentiments in conformity to theirs; but by the action of the opposition, by the gentlemen who were opposed to their right to seats.

What has been the consequence? That, at the beginning of the present session, the Committee on the Judiciary has found itself just where it was upon the day when this question was first submitted to its consideration. It has not the facts. We have again brought forward a resolution proposing an inquiry into the facts, and we are met by a minority report, going into the merits of the controversy, attempting to show that no inquiry into the facts is requisite; and that minority report is backed upon its merits this morning by the Senator from Maine.

Now, sir, what I complain of in relation to the want of candor in the statements of the Senator from Maine is this: that Senator has stated that the Senate has again and again voted to lay upon the table this proposition when it came up for debate; but the Senator has omitted to state that the reason for laying it on the table was, that there was an important public matter then under discussion, uncompleted; and that it was urged by the Senator from Mississippi [Mr. DAVIS] that we should allow him to finish the discussion of the Army bill, and take a vote on that before another debatable matter should be taken up. It was suggested, and has been suggested at all times by the majority of the Committee on the Judiciary, that if the object of taking up this resolution was simply to pass it in order that we might get the facts, and proceed to the investigation of the right of these gentlemen to their seats, we should readily take it up, and were all ready to pass it at any moment; but the object is not to pass the resolution of inquiry, but to take it up with a view of instituting a debate into the merits of the whole question, when large numbers of Senators on this floor declare that their view of the subject will be controlled by the facts elicited on the examination. For myself, I am free to declare that, on many points on which it is proposed to take testimony, I do not perceive that the testimony would change my opinion. There is one point on which the testimony would change my opinion, if it was offered in accordance with the averments of the gentlemen who claim the seats. I do not see, on several of the questions of fact raised, how they touch the merits; but other gentlemen do see it.

It is to be remembered, Mr. President, that the Committee on the Judiciary is not a tribunal sitting to judge this cause. The Committee on the Judiciary has been appointed by this body to examine into all the facts, and to make report upon all the facts which can by possibility control the

judgment of any member of the Senate; therefore, although some of us may think that particular facts would not control our judgments, that if we were to determine the cause finally we should not require the evidence which it is proposed to adduce, we cannot say that those facts would not control the judgment of other gentlemen when we know there is very great diversity of opinion on this floor in relation to several of the constitutional questions involved in this election.

We all know, it was developed in the debate that occurred in relation to the right of the Senator from Iowa, [Mr. HARLAN,] who sits behind me, that there are two distinct classes of opinions in this body on the subject of the elections of Senators. Some hold that the right of electing Senators, under the Constitution, is vested in the State Legislatures, as organized bodies; and they hold, therefore, that there can be no valid election of a Senator unless he is elected by the Legislature, as organized by the State constitution. Other Senators hold that that clause of the Constitution which devolves on the State Legislatures the right to elect Senators, intends thereby merely to point out a class of electors, or, in other words, that the word "Legislature," in the Constitution, is equivalent to the word "legislators," and that the true meaning of the Constitution is, that the Senators to this body are to be elected by the majority of the legislators who compose the Legislature of any particular State. The result of that difference of opinion on this point of principle is this: some Senators hold that in no case can there be a valid election of a Senator when there has not been a proper joint convention of the two legislative bodies; whilst others hold that if you can reach the vote of the majority of the members who compose the two bodies at any time, it is a matter of no consequence in what form you reach that result: let the result be reached, let the fact be known that there is a majority of the members comprising those legislative bodies who have voted for the Senator, and his seat is well filled by him when he comes here.

In the case before the Senate there was a decided majority of the legislators of the State of Indiana who cast their votes in favor of the sitting members. They received eighty-three votes out of one hundred and fifty members all told. They contend that there were really but one hundred and forty-seven members then elected as members of that Legislature. Their majority was a decisive one. But the allegation is that there was so much irregularity in the getting together of the two bodies and in the formation of the joint convention which made the election, as to render that election invalid. The points in relation to those irregularities and informalities are those which it is proposed to examine into by a commission to be sent to take testimony in that State.

There is one point to which I said my attention had been drawn, which I considered, even in my own judgment, to be important in this matter, and it is this: it is alleged by the sitting members here, that at the time the Senate of Indiana went into the joint convention with the House of Representatives, that Senate was composed of but forty-seven members; it is alleged on the other side that the Senate was composed of fifty sitting members, and the dispute arises in relation to this fact. On the face of the record there were fifty members. It is alleged by the contestees that three of those members were inducted into the office by sheer, naked violence, without pretext of authority of law. It is alleged by them that whilst the Lieutenant Governor of the State of Indiana was occupying his chair as President of the Senate, just as you, sir, are there seated now, as our President, there being a majority of forty-seven on the floor who were in favor of the seats of the three sitting members who had no certificates of election, the majority on the floor, by violence, sheer, naked usurpation, put one of their own members on the stand along side of the Lieutenant Governor, and declared that he was President of the Senate *pro tempore*, and there in the face of the whole Senate, he, sitting along-side of the regular President of the Senate, swore in three men who then took their seats; and that the majority being thus further augmented and strengthened by this usurpation of power, made up the record, such as it is now placed before us, and which seems to show that there were fifty members present.

I say if that be so, I will look to the evidence

establishing it. I care not what the record is, when the charge is that that record is made up by fraud and violence, and that it is not true. I am aware of the general rule of law that no parol testimony is to be taken to control written records; but there is a necessary, a just, and a reasonable exception to that rule, when the allegation is made that the record has been made up through fraud and violence, by naked usurpation exercised over the officers who have made up the record. Surely, surely, Mr. President, it will not be contended here that if these facts were proven before us, they would control no man's vote. That will hardly be pretended. We are the judges of the elections of the Senators of the United States; and we are not to have them turned out of their seats or put into their seats by fraud and violence. I know that gentlemen suggest that I am now making admissions on the Kansas question before us; for you cannot say two words on this floor on any subject whatever, that Kansas is not thrust into your ears. Sir, we are not the judges of the election of the members of the convention of the Territory of Kansas. That is all I have to say on that point. I shall elaborate it when that question comes up.

Mr. STUART. Will the Senator allow me to ask him a question that seems to arise here? I want to hear his views on this question: can the Senate of the United States determine who constitute the Legislature of the State of Indiana, against a determination that has been made by the Legislature of Indiana itself? Does not, in other words, the whole power under the constitution of Indiana rest there, each House determining who are its members and who are not? and as the House there determines, can we revise it?

Mr. BENJAMIN. I admit the whole force of what the gentleman says in relation to the organization of the Legislature of the State of Indiana; but I am not now contending that the Senate of the State of Indiana had not the power to judge of the validity of the election of its own members. What I am contending for is this: that whatever it may have pleased that Senate to do eventually, on the day on which this election took place, there had been no such decision; but on the contrary the statement is, that upon that day the majority of the members then legally inducted into office—the question is not one of qualification; the question is not one of their right to sit; the question is one of induction into office—that on the day on which this joint convention took place, but forty-seven Senators had been legally inducted into office, and that therefore on that day the Senate of Indiana was composed of but forty-seven members. If a majority of the Senate afterwards chose, by any act of its own, to admit those three members whose seats were that day vacant in contemplation of law, and to recognize them as members of the body, their determination is undoubtedly valid and binding from the day on which it was made; but till made it bound no one. The question is not whether, at some subsequent period posterior to the day on which the senatorial election was held, that body was constituted of fifty members; but whether, on the day on which the election was held, there were forty-seven or fifty members of that Senate legally inducted into office. On that point I want light. On that point I believe every Senator present would like to know the facts.

Mr. President, the Senator from Maine has treated this question as though the majority of this body were desirous to retain in their seats, for political or partisan objects, gentlemen not entitled to sit amongst us; and for that purpose he has characterized the delay heretofore had as extraordinary, as unprecedented, as one that he cannot, by any possible exercise of his ingenuity, account for. Why, sir, the Senator from Maine and myself have served together in this body during the period when the right of the sitting Senator from Iowa was contested, and that Senator from Iowa was a member of the minority of the Senate. We had the question of his right to a seat brought before us on the 3d day of December, 1855, and, with a clear majority of the Senate of opinion that he was not entitled to a seat, as was proven by the vote which was finally had on the subject, that Senator retained his seat here, with a political majority against him, until the 12th day of February, 1857, making four hundred and six days' attendance. The Senator from Florida, [Mr. MALLOY,] upon one occasion, had his right to a seat on

this floor contested; he came here on the 1st day of December, 1851; but the contest was not finally decided until the 27th day of August, 1852, and there had been two hundred and seventy days of the session of the Senate.

Mr. TOOMBS. The sitting member and contestant in that case were both of the same political party.

Mr. BENJAMIN. The two gentlemen then contesting were of the same political party, both belonging to the majority of the Senate. In the present case, it is to be remembered that the composition of the Committee on the Judiciary has been changed at the two or three different sessions which have occurred since this matter first came under the consideration of the Senate. It has been before us, you may say, three sessions; but how long? Twelve or fifteen days at the end of the short session; five or six days at the extra session; and now we are just at the entrance of the third month of the only session of any length allowing a sufficient time for an examination of the important questions which have been submitted to the committee. It is very strange that gentlemen should consider sixty days so extraordinary a lapse of time, more particularly when we find that this very Committee on the Judiciary made its report on the case at this session on the 21st of January. The report has been before the Senate now nearly a month. Why has it not been decided before?

The Senate will bear me witness that when the gentleman from Delaware, the chairman of the Committee on the Judiciary, called it up day after day, he was begged by the opposition to let it lie, because the Senator from Vermont [Mr. COLLAMER] was unwilling and unable to take part in the discussion. Then when we had under discussion a special order beginning at half past twelve o'clock every morning, on a matter of exceeding public importance, a proposition was thrust in upon us to override that special order, and to take up this resolution—not for passage, but for debate; or, in other words, to arrest the debate on a special order, upon a pending public question vastly important to the public interests, for the purpose of debating whether or not we should send to take testimony. We said then, and we say again, these gentlemen can have this resolution passed at any moment to take the testimony; and the testimony will be back here long before they get through a debate whether it ought to be taken.

Of two things, one is evident: this testimony is either important to the adjudication of the case, or it is not. These gentlemen will not concede that it is not important, because then they would be placed in the attitude of endeavoring to stifle information necessary for the proper adjudication of the question by the Senate. They must, therefore, consider the information we desire to take as unimportant. How will it injure or affect them to take unimportant evidence? What difficulty do they see in allowing the time which would otherwise be occupied in a debate on the question whether the evidence shall or shall not be taken, to be occupied in taking it? If it is unimportant, it has no effect; and if important, it controls the judgment of the Senate on the question.

It cannot be denied, that if there were not some motive here—which I do not pretend to divine or to fathom—for keeping something out of view, it would be impossible that so strenuous and steadfast a contest should have been raised on a mere question of taking testimony. The entire year was before us last February. There was to be no Senate in session for many months. Nobody could be injured by taking unimportant testimony during the nine months of vacation; and yet, by the strenuous and persistent efforts of those who oppose the right to seats of these gentlemen, we were debarred from the opportunity of taking testimony on the facts desired for the elucidation of the question. And here again, when we proposed nearly a month ago already, (and the testimony would probably have been back, and certainly would have been back in two or three weeks from now,) to let us get at the facts, to let the Senate know the facts of this case, we are met constantly, not by a vote on that proposition to get at the facts, but by an argument on the merits of the case, tending to show that the facts are immaterial. Now, twelve months have been passed in arguing whether the facts would or would not control the judgment of the Senate, if

ascertained, when the ascertainment of the facts would have occupied sixty or ninety days. Gentlemen propose now again an elaborate minority report and elaborate speeches to the Senate, for the purpose of proving—what? That, after we have proved the facts, they will not be important. The general rule is, that if a fact of any nature is calculated to produce an effect on any intelligent mind in determining the question at issue, it is not for those whose judgment may not be controlled by that fact to exclude the light from others whose judgment may be so controlled.

I repeat, the strenuous efforts which have been made up to this time to prevent these contestees from bringing the facts before the country, show badly for those who are making the opposition. They seem to indicate that there is something which they do not desire the country to know; and whenever in a contest of this kind there seems to be an effort to throw a veil over every fact which is sought to be brought forward by those whose interests are most directly affected by the determination of the question, I, for one, want to see the light; I, for one, want the veil withdrawn, and the facts well known; and when those facts are exhibited before the Senate, I shall be prepared to give my vote according to the best dictates of my judgment, without fear, without favor, without partiality, and without partisan feeling, and so help me God! as a judge in a case in which I am bound to judge impartially.

Mr. COLLAMER. Mr. President, it is a relief to my mind, and it may be a relief to the minds of some other gentlemen, if we can occasionally, once in a great while, have before us a topic of a judicial character, one in which the feelings and the arguments of partisans should not and probably will not enter. I think we have a question of that kind now before us; and it becomes me to say, that, so far as I have observed, I believe the Senate, in deciding questions in relation to the right to seats in this body, have been governed in a very great degree, if not entirely, by an impartial administration of the law.

Another relief is afforded by the fact that, when speaking on a topic of this kind, the subjects of it, the persons whose seats are involved, have nothing on earth to do with the question. We have no right to inquire to what party they belong; nor have we the right to inquire whether they are personal friends, and whether they are gentlemen entitled to our high estimation or otherwise.

The question now presents itself to us as a legal question. I can most resemble it to, what very frequently arises in courts, a motion for a continuance of the cause for the purpose of preparing and presenting certain testimony. Generally, ordinarily, the first point to be settled when such an application is made is, is that testimony material? If it is not, the cause should not be continued for that reason. It is an utter and total disregard of judicial authority to continue a case for the purpose of taking testimony that is not admissible in the case, and if any judge permits himself to do that he must do it from some sinister and improper motive or purpose. If an application is made to a judge to continue a case for the taking of certain testimony, and he says it is immaterial, it is not enough to say to him, "It may govern the minds of some of your brother judges, or it may govern the mind of some jurymen when he gets here." The very question before the court is, should it govern anybody's mind; is it entitled legally to have any such effect? I know that we frequently, and especially in our minor courts, hear such arguments as it appears to me the honorable Senator from Louisiana has presented; that is, "Oh, you want to shut out light." What man has ever been frequently in court that has not heard that every day? What quarters do such objections usually come from? We all know what they are. We all know the purpose for which they are used. "You want to shut out light," is the cry when it is sought to create a prejudice against a party. It is constantly used, and the smaller the court the more such an appeal is used. The truth is, that if that is not the light which should guide us in the path of duty, it should be shut out; and because you may imagine some man so obfuscated that he would be governed by it, is the very reason why you should not admit it.

The whole question then comes back upon us,

and it should be settled, and will be settled, as I think, if men regard their duty, simply by the consideration whether that is material testimony. Here, perhaps, it may be proper for me to say a word on what was said by the Senator from Louisiana, it seems to me, with the same sort of color, and for somewhat the same object as the declaration on which I have just commented, namely, that another case was delayed, and that this ought to be delayed as long as that was. That was the case of the Senator from Iowa. There was a protest put in against his seat, and it lay here and was not taken up for many months. The majority of the Senate had direction of the business of the body; and they laid it here for a year, and never moved it against him, and, as I think, had better never have moved it against him; but they had an object, and when the time came, in their own way, they moved. They took their own course about it. Who was to blame for that delay? Did anybody claim it? Did anybody appreciate it as a very great advantage? Nobody in the world. Did anybody want it? Did anybody ask for it? Never. Why, then, make a precedent of it?

Besides, there may be a very different state of things now. The honorable Senator from Louisiana says that gentleman [Mr. HARLAN] was in a small minority. Yes, so small that there was no danger of his vote, and therefore they could well let him sit with impunity; but that may not be the condition of things now. There may be very important questions here now in regard to which the minority is not so small as gentlemen would perhaps desire. A different state of things exists now; but I should not make remarks on subjects of this kind, altogether foreign to the question before us, were I not induced to enter into it merely for the purpose of reply.

The question comes back upon us, is this testimony material? Is it admissible? Ought it to govern any man's mind? That is the whole question. I ought, perhaps, before leaving the collateral subjects which have been introduced, to ask the Senator from Louisiana, who speaks of the delays in the Senate just as if gentlemen here were arguing merely for the purpose of delay, what possible object can it be for those of us who are moving in it and who have thought it our duty to urge it, to create any delay? Delay continues these men in their seats, to which we think they are not legally entitled. Why should we make delay?

Mr. BENJAMIN. I do not know.

Mr. COLLAMER. Nor have we ever made any. It is true the point which has always been presented to us has been whether the testimony proposed to be taken was material to the decision of their right to seats here. I was not, at the last session of Congress, on the Committee on the Judiciary; but then the Senator from Illinois [Mr. TRUMBULL] pressed this subject all the time, and pressed the decision of the question, and never desired to delay it for a day; and while he was trying and endeavoring at every step to get action on this very point, the session ended.

I come once more, Mr. President, to what is the question. It is proposed to prove in this case, as stated by the Senator from Louisiana—I shall not go into the details—that three certain Senators in the Senate of Indiana were not regularly inducted into office; or, more properly speaking, were irregularly inducted into office. The gentleman has indulged in his own version of that transaction, and made his own statement of what he expects will appear. Permit me to state what I suppose will appear. In point of fact, they got into a dispute about three members whose seats were contested at the beginning of the session. The majority in point of numbers thought the presiding officer, the Lieutenant Governor, was unreasonable in his objections in not administering the oath to these men, or ordering it to be done, and they undertook to do it by a man by them appointed; but that controversy only continued through the forenoon session of that day. At the afternoon session the Lieutenant Governor said he never had made any such objections; he thought two of the men had sufficient credentials, and ought to be admitted, but the third he thought had not; and thereupon these men, without any objection, were, in the afternoon, by his direction, sworn in, and a vote was taken in relation to the third one, and, by order of the Senate, he was

sworn in. There that matter ended, and that disturbance which occurred in the fore part of the day never was entered on the journals, and had nothing to do with the true character of the Senate. It does not appear; but this does appear: that these three men were improperly inducted into office. That is the allegation.

The constitution of Indiana makes each House the judge of the election and the qualification of its own members. Those are the words. Each House is to keep a journal of its proceedings, and publish the same. Is it not perfectly certain that the provision that they are to be the judges of the election and qualification of their members, means that they are to pass as conclusively on the one point as on the other—on the qualification as well as in the election? What is meant by "qualification?" That does not mean that the Senate are to judge of the eligibility of a Senator to an election. That they determine when they decide whether he is duly elected; but the word "qualification" there is used in its ordinary and popular signification. It means "duly sworn in." People frequently ask, "Have you been qualified?" that is, "have you been sworn into office?" That is what is meant by "qualification," not merely in common parlance, but often in our books. In reading over the constitution which has lately been presented to us from Kansas, I perceive that it is provided that certain officers shall hold over until their successors are qualified—that is, sworn in. If you say that the power to judge of "qualification" means to judge of their eligibility, then the man is to be qualified first and elected afterwards. That is idle. He is to be elected and qualified, and the Senate or the House of Representatives is the judge of both these points in relation to its members. What they do in relation to the one point is just as conclusive as what they do in relation to the other. If we may inquire whether their members were duly qualified when their record shows that they were, we may inquire whether they were duly elected when their record shows they were. Most clearly, we can no more do the one than the other.

Now, is it true, will any gentleman seriously insist, that in judging of the elections of the Senators holding seats in this body, chosen by the acting Legislatures of the respective States, we can go back to the action of the Legislature to inquire into the legality of the election of its members? No gentleman will insist on that. I do not believe any one can be found in this body who would hazard his reputation and discernment as a Senator so much as to say that he believes we can inquire into the legality of the election of the men who actually hold their seats in the Legislature, in order to judge of the election by them of a Senator to this body.

How was it in this case? The record of the Senate of Indiana shows that the members who are spoken of were on the first day of the session duly qualified, duly sworn—all three of them. A question arose whether they were duly elected. That question was attended to in due time by the Senate of Indiana. And here I differ with the Senator from Louisiana; for I take it that when that body decided ultimately that these men were duly elected, as they did decide, they thereby decided that they were properly in their places from the beginning—not from the time of the decision, but from the time when they took their seats. I insist, therefore, that the record of the Senate of Indiana distinctly shows that these men were duly elected, and duly qualified or inducted, as the gentleman calls it, and the one fact appears just as distinctly, as positively, and as conclusively, as the other. If it be true that we can inquire into the one, we can inquire into the other; and if we cannot inquire into both, we cannot inquire into either.

So much in relation to the admissibility of this testimony. I say it is utterly incapable of being admitted as proof in contravention of the existing record. I am not troubled now with the subject of Kansas any more than the Senator from Louisiana. That is a point to which I can attend by itself in due time, and on the proper occasion; and I apprehend the distinction is quite too broad between that case and this, for this matter to trouble me at all when I get to that.

Then, sir, if you continue this cause, and send out to take this testimony, you send out to take testimony which, as I have attempted to show,

and as I believe I have shown to the gentlemen who listened to me, is utterly incapable of being admitted. It is not for me, any more than the Senator from Louisiana, to say what motive may exist in the minds of gentlemen for sending out for this testimony. It may be for the purpose of delay, to keep these men in their seats to use them for important questions. I do not know; but this I do know, so far as I can know anything of which I am convinced beyond a reasonable doubt, that the testimony proposed to be taken is utterly incapable of being admitted here.

There is another point in this case, Mr. President, which is altogether paramount to all this; and that is what appears by the report, which is not contradicted, and will not be contradicted, as to the manner in which the election of these Senators was conducted. For the present point, I do not care whether the three Senators of Indiana who have been spoken of, were ever chosen, or ever inducted, or ever there. Whether they were there or not, cannot alter the main question in this case; and what is that? The Constitution provides that the two Senators in this body from each State shall be chosen by the Legislature of the State; and it further provides that the time, place, and manner of that election shall be prescribed by the Legislature. I take it that one of these clauses is just as decisive as the other. In the first place, the election must be by the Legislature, and in the next place, it must be an election which is prescribed by the Legislature. I do not say how long beforehand provision must be made for it; whether one hour, one day, or ten years; but there must be a time, place, and manner of doing the thing prescribed, before the thing can be done. That is the Constitution. There is no equivocating about the Constitution on this point. There is no doubt about it; the words do not admit of doubt.

Then, I say, in the first place the election must be by the Legislature. That brings up the question, what is the Legislature of Indiana? The constitution of that State provides that its House of Representatives shall be composed of one hundred members, its Senate of fifty members, and that it shall require two thirds of each House to make a quorum. I take it nothing can be done by the Legislature of Indiana which is not done by a quorum of the two Houses. No act can be an act of that Legislature unless it is done by a quorum of the two Houses—two thirds of the two bodies. It is true that our different States have prescribed various modes of making an election of United States Senators. The simplest form, perhaps, would be, that each House of the Legislature, acting by itself in its legislative capacity, should pass the vote. Suppose that were done in Indiana: it would require each House assembled, with two thirds of its members present, to do the voting. I agree, however, that if the Legislature had prescribed by law a manner of assembling the two Houses separately or conjointly, an election might be made in that manner; because the law prescribing the manner would have been the act of the Legislature by its proper quorum in each branch; and if that were pursued according to the terms prescribed for it, there would be a legitimate election based on the legislative act of the two bodies. But, sir, I insist that at any rate there must appear in the case to be something showing that the quorum of the two Houses did the thing, or the quorum of each House authorized the doing of the thing: one or the other must exist, or it cannot be an election by the Legislature. I deny that the members of either House of the Legislature, or a majority of one House, or of both Houses, could get together in their own way when they pleased, without any law prescribed for that purpose, and elect a Senator of the United States, even if they had given notice to all the members of both Houses to attend. That would not be an election made by the Legislature, or prescribed by the Legislature.

Now let us inquire how the alleged election in this case was made. The constitution of Indiana provides that the votes of the people for Governor and Lieutenant Governor shall be counted by the Speaker of the House of Representatives in the presence of the two bodies composing the Legislature. After the Legislature had assembled, and both Houses were in session, the Speaker of the House of Representatives gave notice that he would count the votes in the Hall of the House

on a certain day, and at a certain hour of the day; and he desired the presence of the two Houses, so that he might perform this duty according to the constitution. You will observe, sir, that there was no act of those bodies to get together even for that purpose. It did not require it. The constitution did not require it. I take it as many members went as pleased to go. If only one third had attended, I presume the count would have been good. There was nothing authoritative in the notice. There was no way by which the Speaker could compel the members to be present. On this occasion a majority of the House of Representatives, I believe, was present. The Senate did not adjourn to go there; but the presiding officer said he was going there, for the purpose of attending the count; and some of the Senators, a minority of them, went to the Hall of the House of Representatives, where the votes were counted in the presence of such members of the two Houses as thought proper to attend; and the result of the gubernatorial election was declared. When this was done, the business of the meeting was ended. On that occasion, however, after the votes had all been counted, a Senator rose, I do not know by whose request, and proceeded to adjourn to another day what he called "this convention."

No convention had ever been assembled there either by law or the act of the two Houses; and even if you could call it a convention, the purpose for which it was assembled was distinctly fixed in the constitution, and that purpose having been attained, its functions were ended. An adjournment however was had in that manner. That man said "this convention is adjourned to a certain day." News got out that there was some purpose at the adjourned meeting to undertake to make an election of United States Senators, and thereupon the Senate of Indiana entered on the record their distinct protestation against the meeting of the so-called convention, or any election of any United States Senators or other officers which any such pretended convention might assume to make. Some of the members, including a minority of the Senate, met on the day and at the place to which it was before announced that the so-called convention was adjourned; and somebody or other adjourned them again. When they came together a second time, lo and behold the then existing Lieutenant Governor announced "this convention will now proceed to the election of United States Senators!" In fact I believe he announced at the previous adjourned meeting that they would meet at such a time for that purpose. They did meet. It is said they met for the purpose of electing. Grant it; but had they a legal right to meet for that purpose in that way? They did meet, and an election was made by which these gentlemen now hold seats here, and that election was made by a majority in number of the members of the House of Representatives and twenty-two or twenty-three of the Senators, who were a minority of the Senate.

Mr. BENJAMIN. There were twenty-four Senators present; twenty-three voting, and one not voting.

Mr. COLLAMER. I think there were twenty-three; twenty-two voted for these men, and one for another man, I believe. Now, the question is, was that a legal election? Testimony cannot by any possibility alter the character of that meeting. Whether you prove that those three Senators who have been spoken of were improperly inducted into office, or irregularly inducted, does not make that a legal convention. It does not prove any prescriptive law for the meeting of the convention, for there was no law in the State of Indiana for the meeting of any convention to elect Senators of the United States. There was no law providing any time, place, and manner of electing Senators. Now, the point comes back, can it be possible that that can be called an election by the Legislature of Indiana? There was not a quorum of either House present. There was present a minority in number of the members of the Senate, and a majority in number of the members of the House of Representatives, and counted together they would make a majority of the whole number of members of both branches. Can an election be made in that way? The case of the Senator from Iowa was very much stronger. In that instance, there was a regular law prescribing the manner of meeting, and directing the manner of adjournment; and although that law had been pursued in all its requirements, this body deprived him of his seat,

because the majority of the Senate of Iowa did not think proper to go into the convention on the last day of its meeting, but adjourned over. Now we are asked to say, that when there is no law for a convention; no action of either House of the Legislature providing for a convention; no action of what constituted a quorum of either House in any way, on the subject; a number of members convened together in the manner I have stated, could elect Senators of the United States. Is it possible that that was an election made by the Legislature of Indiana? And especially, I ask, is it an election made by the Legislature of Indiana in the manner and at the time prescribed for it? Obviously, it is neither. The fact of one member or two members or three members having been improperly inducted into the Senate, if established by proof, could not by possibility alter the character of this meeting. If such testimony were admissible, to contradict the records and proceedings of the Senate of Indiana on the subject of the election and induction of their own members, it would not give any character to this election which would constitute a case entitling these gentlemen to seats in this body.

The whole question resolves itself simply into this: is it true that, in the absence of all law for that purpose, a majority in number of the two Houses of a Legislature, consisting of a majority of one House, and a minority of the other, can get together of their own accord, without any resolution, without any law, and make an election, which is an election by the Legislature of the State? If they can, this is a good election. If a majority of one House and a minority of the other, constituting together a majority of the whole number of the two bodies, can make an election in this way, you have no need to send out for proof, but you can decide the case to-day. If that makes a legal election, we may as well say so, and decide it to-day as at any time. There is no necessity for sending out to obtain testimony in regard to this matter. The case is before us ripe, ready for a decision. If an election can be made in the way I have described, this is an election. If it cannot be made in that way, testimony cannot change it. I think, therefore, we should proceed at once to the decision of the case.

Mr. PUGH. Mr. President, I first designed to have made some observations in reply to the Senator from Maine, and his accusations against the committee and the majority of the Senate; but they were so effectually disposed of by my colleague on the committee, the Senator from Louisiana, that I shall now only make one or two observations in reply to the Senator from Vermont.

It is true, as he has stated, that the Legislature of the State of Indiana consists of one hundred Representatives and fifty Senators. The two gentlemen now in their seats as Senators from Indiana, received a majority of all the members of the Legislature, a majority of one hundred and fifty, and they are now in their seats in virtue of credentials bearing the great seal of the State. The protest presented at the last Congress alleges that there never was any joint resolution of the two Houses agreeing upon the time and place of election. What is the answer of the sitting members? and I do not, like the Senator from Vermont, go out to what may be stated by parol; it is stated in their paper. If you overrule a motion to continue a case, where the party by his affidavit sets out what he expects to prove, you must proceed upon the hypothesis that what he has said is true—that he can prove it; it is like what the lawyers call a demurrer to the evidence. They allege that although the Senate of Indiana could have consisted of fifty members, although there were that many memberships, yet in point of fact there were but forty-seven members in the Senate; when the Lieutenant-Governor, who is the President of the Senate, took the chair, appointed by law to recognize the members elect, he did not recognize the three gentlemen who have been referred to. They had not any certificates of election. I do not care whether they had been elected or not; if they had no evidence of their election, and were not recognized by the officer appointed by law, they had no right to take upon themselves the duties of the office. That is a plain proposition, and it seems to me that he who runs may read.

Then the contestees allege further, that by the law of Indiana, and by the settled usage and practice of the Legislature of Indiana, and particularly

in the Senate of the State, no person could be sworn as a Senator without the order of the Lieutenant-Governor; for he, by the constitution of the State, was made the President of the Senate. These three men presented themselves; the Lieutenant-Governor did not recognize them; they had no credentials. What then followed? Some Senator is thrust upon a seat by the side of the Lieutenant-Governor, and he directs them to be sworn. Now, the question is not of their election—no body claims the right to investigate the election of a member of the State Senate of Indiana; but we have a right to investigate the question whether he had color of office; whether he was legally inducted into office. The fact that the State Senate, long after the alleged election of the two sitting Senators, proceeded to investigate the fact, and ascertained that these three gentlemen had been elected, has no sort of pertinency to this issue; that had not transpired at the time of the election of United States Senators.

What is a man's commission? He is an officer—I do not care whether in the civil or military service; what is the object of his commission? It is to authorize him to execute the duties of the office. If he has no credentials of his election, and is not qualified in the proper manner, it makes no difference whether he has ever been elected or not; he cannot proceed, he cannot act. The minority of the committee do not admit the truth of this assertion made by the sitting Senators, and I do not assert that it is true; I do not know; but the majority of the committee say this fact ought to be ascertained; and I will show the Senate in a moment why it ought to be ascertained.

The Senator from Vermont says it is settled by the record; and he asks, can you contradict the record? In some cases you can. The allegation of the sitting members in that regard is that these three men helped to make the record. Fraud, we are told in the law books, vitiates everything. Fraud vitiates a judgment; fraud vitiates a record. I do not mean fraud that lies at the bottom of the transaction, but fraud in making up the record. If an instrument is brought here forged, are we to be told that we cannot go into the question of forgery? If some man goes into the Department of State and steals the great seal of the United States and puts it to a document, cannot we inquire how the seal came there? If these very three men whose right is contested, themselves, with others, made this record, it cannot stand against the truth of the transaction. That question of fraud we can examine into. It is a question of forgery rather than fraud.

Suppose the record says nothing about it, as in this case; what then? Cannot we inquire into it on an allegation of fraud? I have another question to suggest to the Senator from Vermont. Suppose we were satisfied, or rather the fact was so established to us indubitably, that one third of the Senators elect of the State of Indiana had died before the commencement of the session, and the majority had proceeded to vote others into their seats, not to decide on any question of election, but absolutely to award seats to a number of men for the express purpose of defeating the election of a Senator of the United States: what then? What is to be done in such a case as that? Is the record made up by these very men, to preclude us from ever examining the truth of the transaction?

Now, I will show the Senate, as I said awhile ago, how the question of the rightful induction of these three men into office, becomes material. I repeat, so that there may be no misunderstanding, that no member of the committee, so far as I know, claims the right to examine into the election of those three gentlemen; but they do claim the right to examine whether they were ever legally inducted into office. Therefore it is not a question between a Senator *de facto* and a Senator *de jure*. It is a question whether they were ever Senators *de facto*. The Senate of Indiana and the House of Representatives of Indiana were assembled. The constitution of that State appoints a day on which the Governor and Lieutenant-Governor elect shall be sworn into office, on which the votes shall be counted by the Speaker of the House of Representatives, in the presence of both branches of the Legislature. This proceeding, this disturbance in the Senate of the State went on. The House of Representatives sent up a message to the Senate appointing an hour on the last

day of grace when they would proceed to count the votes. The Senate paid no attention to it, and did not respond. Then the Speaker of the House of Representatives, the officer appointed by the constitution to perform this duty, finding that this was the very last day of grace, sent a notice to the Senate that he required their presence under the constitution of the State to enable him to perform that duty. The then President of the Senate left his seat. He was the Governor elect. He was followed by a majority of forty-seven Senators, if there were but forty-seven. Two other Senators, so that it would have been a majority of the Senate, were present, but they say they only went as spectators, and I leave them out. He was followed by a majority of forty-seven Senators if those were the only Senators; a joint convention was assembled; the Speaker of the House proceeded to count the votes; he announced the result; the Governor elect was sworn in and delivered his inaugural address; the Lieutenant-Governor was sworn in.

That convention, by the order of its presiding officer, was adjourned over to a future day. I admit there arises a question, and it is a fair question, as to the authority of the joint convention itself to adjourn over, or as to the authority of its presiding officer to adjourn it over. What is the answer of the sitting Senators to that? That that was the fixed, settled usage of the State of Indiana. I agree that a usage, to be of any validity, must be certain, notorious, and reasonable. It remains to be ascertained whether the usage is of that character. That is one of the very points which will influence my mind, in a great degree, in deciding on this election. I wish to know what the usage was, there being no law on the subject. Is that a new proposition in the Senate? The contested case from Florida, a few years ago, was decided on the question of usage by the unanimous vote of this body, as appears from the record. There being no written law, no provision of the constitution, no statute on the subject, we are to inquire what was the usage of the Legislature of Indiana as to these joint conventions; and if it had been the settled practice from the earliest times, with no dissent, for the convention, or for the presiding officer, of his own motion, *sub silentio*, to adjourn the joint convention to a future day, I do not see that there is anything more that can be alleged on the subject. It becomes a valid convention, provided a majority of the members of both Houses are present, and do not dissent.

Then this convention met at a subsequent time, according to its adjournment. At that convention, also, a majority of forty-seven Senators were present. It adjourned again in the same manner, without dissent; and on the third day of the session of the joint convention, the two gentlemen now in their seats were chosen, at which time a majority of forty-seven Senators were present.

That is the materiality of these three men. That is the reason why, as I understand it, the Senator from Indiana [Mr. BRIGGS] has stated several times in this body that if the minority of the Judiciary Committee will admit the fact that these three men were never legally inducted into office, he is ready to have his case decided to-day. I understood him to say that before. I so understand him now.

But it is said on the other side, by the Senator from Vermont, that there must be a quorum of the two Houses present to make an election of a United States Senator.

Mr. COLLAMER. Or an act previously passed by a quorum, prescribing the manner of election.

Mr. PUGH. There is no law on the subject in that State, and there is none in my State, and never has been in the State I represent. When they are ready to make an election, one House sends a message to the other, notifying them.

Mr. COLLAMER. I insist there could never be a convention by a majority of the members of the two Houses, unless there was a resolution for it.

Mr. PUGH. I am coming to that point. The Senator claims that this was not a valid convention, there being no previous law, because there ought to have been present two thirds of each House. What is the answer of the sitting members to that? That that provision of their constitution has been construed by the Legislature repeatedly in each House, and by the judges of

their supreme court, to apply only to the transaction of legislative business; that in the numerous joint elections which have transpired in that Legislature—or joint conventions for the purpose of electing State officers, being precisely similar to that of the election of Senator—the presence of two thirds of each House has never been considered material. I consider that each State has a right to construe its own constitution. If that be true, there is an answer, and especially does that proposition commend itself, not only to the Senator from Vermont, but to me; for when we had the case of the Senator from Iowa under consideration, he and I agreed that the word "Legislature" in the Constitution of the United States did not mean the law-making power as organized for the purpose of making laws, but that it was the electoral college by which Senators of the United States were to be chosen. I believe the Senator from Georgia [Mr. TOOMBS] went so far as to declare—and if I am wrong he will correct me—that where one House appointed a time and place for the election, and notified the other House to attend, and the other House did not attend, then if the party had still a majority of all the members of the Legislature, he was duly elected Senator.

Mr. TOOMBS. Yes, sir.

Mr. PUGH. I understood the Senator from Vermont to make a stronger proposition than that; and if I am mistaken, he may correct me. I understood him to state that we might pass an act of Congress requiring the judge of the district court of the United States to go to the seat of government on any day, and take the votes of members of the Legislature.

Mr. COLLAMER. It will be remembered that the time, place, and manner of election are to be prescribed by the Legislature; and the Constitution further provides that Congress may make provision in all those respects, except as to the place. Under that exercise of the power of Congress, I insist that Congress has plenary power on that subject.

Mr. PUGH. Then they have the power to require the judge of the district court of the United States for the district of Indiana to go to Indianapolis, the seat of government, on any day, either within the session of the Legislature or without it, and call upon the members of the Senate and House of Representatives of Indiana to vote; to issue a precept to them or a public advertisement, and that then the gentlemen who have the majority of the votes are Senators, without reference to the question whether the electors met as Houses of the Legislature or not. If that be so, how little consequence can be attached to the provision that two thirds of each House are a quorum for the passage of a law. How immaterial does it become what is the quorum required by their constitution for ordinary legislative business.

I have endeavored to state the allegations of the parties. When this case was before the Committee on the Judiciary at the third session of the last Congress, when the papers were in manuscript, and when it was a very difficult matter for six gentlemen, as the committee was then constituted, to have access to a great roll like this, and to sift out of the vast mass of transcripts, affidavits, and statements, what were the points at issue, the committee came to a resolution which seemed to them to be fair upon reading the allegations of the sitting Senator, [Mr. FRENCH], whose case was then the only case before us; and we reported to the Senate a resolution authorizing both the parties (not merely the Senators in their seats, but the protestants) to take their testimony on all the matters alleged in the statements on both sides. I think we used very great diligence in that case. It will be recollected by all those who were members of the Senate at that Congress, that the Committee on the Judiciary protested against the reference of the case to them, and protested chiefly on the ground that it was so late in the session that they could not pretend to do justice to it. It was forced on us, and we did the best we could. We reported the resolution. Why did it not pass? Because the opposition did just what they are doing to-day. They offered an amendment to prevent it from passing, to force the committee to decide on evidence which the committee said was not sufficient to enable it to decide. As often as the question came up, the Senator from Illinois [Mr. TRUMBULL] got the floor and spoke against the resolution, spoke it into the mass of the ap-

propriation bills, and literally spoke it to death. That is the first delay of which the Senator from Maine complains.

Then we came to the executive session and the same thing was repeated, and the Congressional Globe will show it. It was spoken to death again. Now, what is the object of this proceeding? Is it, as the Senator from Louisiana has well inquired, to pass the resolution? Not at all. It is to prevent its passing. I do not complain that Senators oppose it; they have a right to oppose any resolution; but I do complain that a Senator shall stand up and say he has examined the record, and by the record he proposes to convict the committee and the Senate of a delay which was caused by those who act with him. That is what I complain of.

I have stated the allegations of the parties, and stated them without giving my opinion on any one of the points, because many of them are questions of fact which could not be decided, or at least they are difficult to decide, if they can be decided at all, on these papers; and they are not immediately before us for consideration.

Nor do I mean to be understood as saying that I deem all this evidence, or that, upon further consideration, I should deem any of it, essential to a conclusion in my own mind on this case. That is not the question. I am but one of the seven members of the Committee on the Judiciary. I am entitled, in forming my judgment, to the benefit of the opinions of the Senator from Louisiana, and the Senator from Georgia, and the Senator from Delaware. Before I form my own opinion definitely and vote, I am entitled to the aid of their judgment in the decision of the case; and each of those Senators has declared that he cannot come to a satisfactory decision of this case without this evidence; and when they say that, it is enough for me. We are not a court, as the Senator from Vermont says. We decide nothing. If we come to a conclusion, what is our conclusion worth? It does not unseat anybody; it does not confirm anybody; it is to come here to the Senate to be considered in the Senate; and it may so turn out that a Senator who was not a member of the committee, on examining the case, would say, "Here is a material point of fact which would govern my vote; and I claim that the Committee on the Judiciary has no right to prevent the party from proving the fact, because, if he can prove it, he is entitled to my vote." It seems to me the committee have acted with candor, with frankness, with fairness, at every stage of the proceeding. I am satisfied that, if a speedy decision of this case is what is required, if that is what the Senator from Maine wants, it is the surest thing in the world, it was the surest thing at the last Congress, it was the surest thing at the executive session, to keep still and let the resolution pass. We should have had the evidence here if it had passed then.

If there be any objection that there is no limitation of time, or anything of that sort, I do not suppose there will be any objection on the part of the committee to any reasonable limitation. What we want is to give the parties a chance to establish the truth of their allegation, and that I think they are entitled to have. They are entitled to it not merely to inform me as one of the committee to which the case is referred, but to inform the other members. I shall therefore vote for this resolution.

Mr. TOOMBS. Having been a member of the Judiciary Committee during the last Congress, at the extra session of the Senate, and at the present session, I deem it proper to make a very brief statement in answer to the insinuations of the Senator from Maine, [Mr. HAMLIN.] I venture to say no question has been before that committee since I have been a member of it, which has been more assiduously attended to in committee and in this body than that of the election of Senators in the State of Indiana. The Senator from Maine has given the dates, and they are correct. It seems that when the question was first referred to that committee, in a very few days, sixteen days, which embraced but two regular meetings of the committee, a report was made. The question was taken up at the first regular meeting. An adjourned meeting was held, and then at the next regular meeting it was acted upon to the exclusion of all other business. We deemed this information important to the decision of the Senate, and

we asked that testimony should be taken for the purpose of furnishing it. It was opposed by the Senator from Illinois, [Mr. TRUMBULL,] as has already been stated, steadily, studiously, and pertinaciously, upon the grounds now urged. At the last Congress we had precisely the argument which we hear now; that it is unnecessary. I answered it then. I insisted that the resolution should pass. It was objected to, and action on the resolution was defeated by that member, and by that member alone. No action could be had on it then.

At the extra session there was a new organization of the committee. That gentleman and the Senator from Vermont became members of the committee. We took the question up immediately at a called meeting of the committee, the reference having been after the regular day of meeting, which was once a week. We acted immediately and promptly. We reported the same resolution. It was then free from any difficulty, because its adoption could not lead to any delay at all. There was ample time allowed for testimony to be taken during the recess, so that we might decide the case at this session. There was no reason in the world for stopping it except the one given by the Senator from Louisiana, that somebody did not want the exposition; because, if it was not important, why object to it when it could create no delay? There were eight or nine months when the commission could have acted and brought all the facts, material or immaterial. But it was spoken out by the Senator from Illinois, as you have just heard, who has stood in the path of action on it from the first day to the last. It was objected to then by him. He desired to be heard—he had a right to be heard. We have no means of bringing a question to an issue in this body. If gentlemen desire to speak on it they can speak on it forever, or as long as their strength will allow. He had the floor, and he spoke as long as he chose. There was other public business which was pressing and which took precedence. The committee urged this matter before the Senate at appropriate times, and even at inappropriate times, as already appears from the statement of my friend from Ohio.

At this session, when I reached here about Christmas, I found the question before the committee. It was delayed for one or two meetings, on account of the indisposition of the attorney of one of the parties; but it was brought up regularly, and the moment it could be fairly and intelligently heard, the same resolution was presented to this body. When we seek to pass that, we are met by the Senator from Illinois with the same story, the same speech, that it is immaterial, and seeking to show that it made no difference. I have no doubt it makes none with him, but it does with me. I deem it important to the right of the case. Here is a great fact. If the Senator from Maine wishes to go to the country, I want to give him something to take to the country. The fact is, that these two Senators hold their seats by the votes of eighty-three of the one hundred and fifty members of the Senate and House of Representatives of Indiana, by the votes of a large majority of the legal electors, the persons appointed by the Constitution of the United States to make the election.

This is beyond cavil, beyond dispute. They were competent to make the election. There was not a disputed seat among them. The constitution made it their duty to elect Senators. The question now which is urged by these gentlemen is, whether one branch of the Legislature of Indiana, by fraud and violence, prevented the exercise of this duty. That is the question which the minority are at. Can you maintain that fraud? I say that the Senate of the United States ought to be astute, ought to be careful to look into the whole facts, to ascertain if there be no means by which this infamous fraud of the minority of the Legislature of Indiana shall be prevented from defeating the exercise of a constitutional duty, and thus prevent the representation of the State on this floor. The State had then, for two years, had only one Senator on this floor; and if those men had carried out their purpose, she would have been for two years more without another Senator, and one seat would have been vacant for four years, as her Legislature meets only biennially.

The Senate of the United States are urged not

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to inquire whether there is not some way by which this fraud can be defeated—for it is nothing but naked fraud; whether they will allow a portion of a legislative body, by mob violence, to induct men into that body, call it a Senate, make false records, and send them here for us to be bound by them. I will not be bound by them. It is due to the country, it is due to the State of Indiana, it is due to the great question, it is due to those eighty-three men who were constitutional electors of Indiana for the election of United States Senators and who voted for these gentlemen, that the Senate of the United States should obtain all these facts, and, if it be possible, lay their hands on the fraud, crush it, and vindicate the Constitution and laws and the right of Indiana to have two Senators on this floor.

Mr. HAMLIN. Mr. President, when I addressed the Senate briefly this morning, I purposely abstained from expressing any opinion whatever on the merits of this case; I purposely abstained from any attempt to discuss—I did not allude to—the merits of the case. All I asked was that the Senate should settle the question. My point was that it was right, that it was appropriate, that it was just; and that the State of Indiana, the sitting Senators, and the Senate had a right to demand that the question should be settled. To that point, and only to that, did I speak. I traveled over the record of the course which has been pursued in this case for the purpose of showing a dilatoriness which was unjustifiable; and I have heard no man contradict me.

The Senator from Louisiana corroborates the record which I gave to the Senate. It is true that the Senator from Louisiana tells us that the reason why, upon one occasion, the Senate would not proceed to its consideration was that there was a special order pending. Grant it; but this was a special order which had a claim to the consideration of the body, higher and above that then pending before the Senate. It was special; it was privileged by common parliamentary law; the other was only so by the vote of the Senate. That Senator and every Senator knows that it is the daily practice to override special bills or special questions before the Senate, and give the consideration of the body to other questions. We had the same special order to which the Senator alludes before us for our consideration when the President's Kansas message came in; and the ruling of the Chair was that that overrode it. There was a subject which overrode all special assignments. Every session, and almost every day, we postpone the consideration of subjects specially assigned, for the purpose of deciding other questions that may be, in our judgment, more important. It is an insufficient answer, therefore; no good answer that the Senator from Louisiana has given us, when he says we did not proceed to its consideration earlier because we had other special assignments. I repeat again, this subject was a special assignment above those.

Again, sir, he states, what the Senator from Georgia repeats, that this resolution could not come up without a minority on this floor meeting it with their opposition. True; but how meet it? Was there ever a word uttered by any man in the minority on this floor, in opposition to the consideration of this question, and the settlement of it, other than when it was first reported this year, when the Senator from Vermont was absent, not being able to be in his seat for a few days? No Senator, belonging to the minority on this floor, whom I have heard, has objected to the consideration of the question. I was not present, and I did not hear the discussions which took place at the last session of the last Congress; but I have looked at the records, and I find that the only objection which the Senator from Illinois made was simply that, according to the facts of the case, as presented on the record, the evidence proposed to be taken could not be used, and that there was, therefore, no need for taking it. He certainly did not, as I understood the Senator from Georgia by implication to intimate, oppose the resolution for the purpose of not settling the

question. We know, sir, he was in favor of settling the question, and so stated; and if I am wrong, the Senator will correct me. He asked that the Senate should settle it then, because the Legislature of that State were in session, and they could act legitimately and according to the constitution, if in the opinion of the Senate they had not before done so.

But the Senator from Louisiana and the Senator from Georgia ask what harm could be done by postponing the question, and taking evidence? I answer, if the evidence had no bearing on the point in issue; if it was irrelevant; if it was evidence that could not properly be taken, then there was harm done, because you deprived the Legislature of that State of the power of acting when they were together, and they could not act again for two years. There was the harm done—a harm done to the State; a harm done to the parties interested; a harm done to the Senate.

Again, sir, the Senator from Georgia says I have thrown out certain intimations. I have intimated nothing but what I have stated plainly and distinctly, that there has been delay in this matter. There may have been delay in other questions of election; but I have never known the Senate to refuse to proceed to the consideration of such a question, when a large minority were in favor of so doing, and the parties themselves were stating that they asked it; and I believe both the Senators from Indiana have stated that they desired to have the question settled.

Up to this point I have not expressed an opinion on the merits of this case. I want to act fairly. I want to act as my judgment shall tell me is right, and I mean so to act. I stated, indeed, in the morning, that if there were legitimate facts to be proved, I would not vote against the investigation or against a resolution which should draw out those facts. I asked what were the facts on which the evidence was to be adduced? And now what is the evidence? I do not want any long resolutions, with numerous whereases, written and designed to cover up the point. What do gentlemen mean by inducing Senators in? State to me fairly and distinctly what you mean to prove, and, I repeat again, my vote shall be given for the resolution if you propose to prove legitimate facts which do not contradict a record. If you propose to contradict a record, I will not give a vote to obtain such evidence, because I do not believe we have by law, by equity, or by any rule, a right to introduce and use such evidence.

The Senator from Ohio says that there were three Senators of Indiana, or three persons, who were sworn in, inducted—that is the term—in an illegal manner into office on the day of the organization of the Legislature.

Mr. PUGH. I say that is what the sitting Senators claim.

Mr. HAMLIN. Well, does not the record show that all the Senators were duly sworn? I so understand it. If I am wrong, I beg to be corrected.

Mr. TRUMBULL. That is the Journal.

Mr. HAMLIN. Am I right?

Mr. TRUMBULL. Yes, sir.

Mr. HAMLIN. Then, I ask, for I want to know, if you can introduce parol evidence to contradict a record in that way, why may you not, on precisely the same reasoning, investigate the elections of those men as well as their qualifications? "Inducted into office" covers the whole. It no more covers the oath to be administered, than the manner in which they are elected at the polls, in my judgment. "Inducted into office" applies to every prerequisite known in their constitution; and you may, with just as much propriety, contradict the record in the one case as in the other.

But, sir, I want to know what the facts are. Outside of that, I am told—and now I appeal to the Senator from Indiana to tell me if I have the right information—that these are the facts: there were three persons claiming to be Senators; the Lieutenant Governor presided; another person alongside of him presided, who was elected by a

majority of those who claimed to be Senators, and the oath of office to some portion of the Senate was administered by one of the justices of your supreme court, including these three persons. I hear that such is the fact. Now, then, is it not equally true—and I put the question to the Senator—that on the same day these identical three persons were sworn in by the Lieutenant Governor?

Mr. WILSON. By his direction.

Mr. HAMLIN. By his direction, as all the others were sworn. I ask if that be not so?

Mr. PUGH. That does not appear by the record.

Mr. HAMLIN. It does appear by the record. The record shows that they were duly sworn; there it is, "duly sworn." If it were necessary that they should be sworn by the direction of the Lieutenant Governor, your record corresponds with the fact. It does not state the detail, but it states the truth. Now, the point I make is this: that the sitting Senators, in their specifications, set forth a part of what took place on that day, but only a part. They affirm, what I believe to be true, that those three persons were there, whose title to seats was confirmed by the Senate afterwards. They were sworn in first by a justice of the supreme court of Indiana, and subsequently by the direction of the presiding officer. I ask the Senator from Indiana if that is so?

Mr. BRIGHT. I have no knowledge of any such fact.

Mr. HAMLIN. I understand that such is the fact; but still it is not material, in my judgment, whether such be the fact or not. If it be so, I take it that the Senator from Ohio would admit that the record then would be correct, and that he would not introduce parol evidence to contradict it.

Mr. PUGH. But you want parol evidence to prove the fact.

Mr. HAMLIN. I do not want any such thing.

Mr. PUGH. That is your statement.

Mr. HAMLIN. No, sir. I am only making this statement for the purpose of showing, so far as I can understand, the intuity, and the entire want of necessity for taking any evidence on that matter. I say it is just precisely as much within the power of this body to go into the election of those Senators as it is to go into the manner in which they were sworn into office. The induction appears to every prerequisite to make them Senators; and you might, with just as much propriety, go into the election as go into the manner in which they were sworn. Still, if there are facts in the case outside of the records, and Senators will so state them to me, which can be proved to have a material bearing on this issue, I am perfectly willing to vote to have that evidence here, and I am willing to vote for a resolution that shall bring it here with a proper limitation of time; but I have heard nothing except on the point which I have stated.

The Senator from Louisiana was not as clear as he usually is, when he addressed the Senate this morning. He usually states his points with very great clearness and precision. He did not tell us on what point he wanted evidence, but he had a great deal to say about fraud and usurpation. Where does it all come from? Where is the evidence of all this? The Senator from Georgia censures the majority of the Senate, and the minority of the House of Representatives of Indiana, who refused to go into a joint convention on that day. I have no justification of them, but it is an old trick that is played in Indiana; and I believe the Senator from Indiana [Mr. BRIGHT] held his previous seat by precisely such a *coup d'état*. [Mr. BRIGHT dissented.] If he did not, others did, and my recollection is very clear, that on a previous occasion the Democrats ran away, and the Republicans were not quite so slow that they could not learn to travel the road their illustrious predecessors had traveled.

Mr. TOOMBS. I am against it.

Mr. HAMLIN. So am I. I agree with the Senator from Georgia there. I hold to no such acts of revolution. I justify them no more in

friends than in opponents. While taking the record as it is, if I am not wrong, there was no legal constitutional meeting of the Legislature for the election of United States Senators, and that state of things was brought about by the non-attendance of these men. They have no justification from me, nor have those who taught them how to do it any either.

Again, it is said that the minority on this floor oppose action on this subject. We oppose no action. We ask for action. Are you going to pass your resolution to take evidence? Do it; only act. Are you going to decide on the case as it is? Do it; only act. That is the point to which I desired the attention of the Senate. I should not have alluded at all to the merits of the case if those who followed me this morning had not done so while I had not even alluded to the merits. We can just as well settle this matter to-day as at any time. We can settle it before our adjournment as well as at any time, and as a majority of the Senate shall determine the minority must acquiesce. All we ask is, that the matter shall be settled; and I repeat again, in justice to the sitting members here, it ought to be done from every consideration and from every view in which it presents itself to a disinterested and fair mind. They both ask it, and certainly neither of those Senators will accuse me of having said aught in relation to themselves or in any manner on this question, except to urge action on the Senate, and action now.

Mr. SIMMONS. I wish to inquire of the Senators from Ohio and Georgia, if they consider this election to have been a valid one without a previous resolution of the Legislature of some sort, prescribing the mode in which it should be conducted. I have not heard either of them say he thought it would be valid without some such resolution by the Senate and House of Representatives, that they would unite in grand committee for the purpose of making it; or can a convention called together for one purpose in Indiana, the purpose of counting the votes for Governor, proceed to elect a Senator without any notice to either body?

Mr. PUGH. I will state to the Senator that I have refrained from expressing an opinion. I endeavored to state what the parties claimed.

Mr. SIMMONS. If I do not hear any opinion from any member of the Judiciary Committee, that they consider this evidence at all material to determine whether the election was valid or not, I cannot see what they want evidence for. It may be for effect on the country, as has been suggested.

Mr. PUGH. Several members have said they thought it material. The Senator from Georgia and the Senator from Louisiana have said so.

Mr. SIMMONS. No; the Senator from Georgia said that if anything was to go to the country, he wanted to show a case of egregious fraud.

Mr. TOOMBS. I look on the facts sought to be elicited as material to a proper determination of the case.

Mr. SIMMONS. I cannot concede it to be so, if I understand the Constitution of the United States. The Constitution requires that the time, place, and manner of choosing Senators shall be prescribed by the Legislature. Congress, however, may prescribe another mode. The only restriction on the power of Congress in this respect is, that they shall not change the place of election fixed by the Legislature. I agree that if Congress made a law on the subject, it would override the legislation of the different States, as to the election of Senators, if we did not interfere with the place of the election; but in the absence of any law of Congress, is not the Legislature itself bound to agree in separate Houses, by some form or other, how they will elect a Senator, so that the people may know, and the members of the Legislature may know, when it is to be done? I should like to ask the Senator from Ohio and the Senator from Georgia, if they believed that seventy-six members of the House of Representatives, without inviting the Senate, could elect a Senator? That number would be a majority of one hundred and fifty.

Mr. TOOMBS. I will state to the gentleman what my view is. It is alleged that, without the three members who have been spoken of, twenty-four Senators, being a majority of the Senate and a majority of the House of Representatives, did come willingly, by their own consent, into joint convention, and did elect the sitting members. If

those three members were legally inducted into office, twenty-four was not a majority of the Senate of Indiana. If they were illegally inducted, twenty-four was a majority; and if this fact be established, both Houses were in convention by their own consent, competent to elect a Senator. That is the importance of the fact.

Mr. SIMMONS. To my mind, it does not follow, that if a majority of the two Houses got together without a resolution of the two branches, they could make such an election under the Constitution of the United States. That is my difficulty. If a resolution to go into a convention was passed by twenty-six out of fifty, or twenty-four out of forty-seven, if that was the whole number of members of the Senate of Indiana, it was no resolution at all under their constitution, because there was not a quorum present to pass it. That is my difficulty. I think it would require a vote of a quorum of each House, by a majority of those present, to agree to go into grand committee. If two thirds were present, a majority of those present in each House could pass a resolution to join the other House; but if twenty-four men only were present, supposing the Senate to consist of forty-seven, they could not make such a legal act. If that be the case, no evidence as to the right of those three Senators to their seats can have any bearing at all on this question. I think, judging from the practice of the States with which I have been acquainted, that there must be some mode prescribed. I agree that you can prescribe it five minutes before the election. It is not necessary that it should be a standing law; but the two branches of the Legislature cannot join for an election of Senator of the United States without the distinct action of each under the Constitution of the United States, if that Legislature consists of two Houses. That appears to me most conclusively.

Mr. PUGH. Was the Senator here when the Florida case was determined?

Mr. SIMMONS. I was not.

Mr. PUGH. It was determined in that case, that where there was no law and no resolution prescribing the mode of election, the usage of similar elections in the State of Florida should govern. That was the unanimous determination of the Senate in that case.

Mr. SIMMONS. That is not the case in Indiana. The constitution of Indiana prescribes what shall be a quorum of each branch. There may have been no such thing in Florida. If there was no constitutional provision in Florida prescribing that it should require two thirds of each House to make a quorum, there would be no difficulty.

Mr. HALE. I was present when the Florida case was settled, and I did not understand it as it has now been stated. The question there was whether an actual majority voted. It was no question of organization at all. There were some blank ballots cast, and there was not a majority of the whole number of members of the Legislature cast for the contestant, Mr. YULEE, who claimed the seat. He claimed that he had a majority, and the fact whether he had a majority or not turned upon the question whether blank ballots should be counted or rejected. That was the simple question in that case, and there was no other point decided in it. I have not seen the record since the vote was taken, but my recollection is, that the only question was whether blank votes should be counted or not.

Mr. PUGH. It certainly was a question whether blank ballots should be counted; and now I will show how material it is. The Senator from Massachusetts, [Mr. SUMNER,] when first elected to the Senate, received the vote of but half the members of the Legislature; but, according to the usage in Massachusetts, blank ballots were not counted. The Senator from Rhode Island's predecessor [Mr. JAMES] was elected in the same way. Those cases were examined, but according to the usage of the State of Rhode Island, in their Legislature, blank ballots were not counted, and therefore he was elected. In the case of the Senator from Florida, the contestant, Mr. YULEE, on the first ballot received the votes of half the members of the Legislature. All the ballots cast against him were blanks, and he said he was elected, and he cited the case from Massachusetts and the case from Rhode Island to show that he was elected, because nobody else was voted for. But the usage in the

Florida Legislature being to regard a blank ballot as a vote against the affirmative, they went on, had another ballot, and another, and finally Mr. MALLORY was chosen. That question came up here; and we decided that the usage of every State Legislature should govern in all these proceedings. That was the decision. That is all I claim now. That is all the sitting members claim.

Mr. SIMMONS. I trust the Senator from Ohio does not mean to say that that is a similar case to this.

Mr. PUGH. The principle is the same.

Mr. SIMMONS. Well, you can make a principle out of anything; but you do not mean, where there is a constitutional provision both in the Constitution of the United States and the constitution of the State, that you can override them by any usage about counting blank ballots or not counting them.

Mr. PUGH. I say the Constitution of the United States does not require the mode to be provided by law. It may be provided by usage. As to the other point, in regard to the quorum of two thirds, the Senator did not certainly hear what I said before, that it had been the established construction of the constitution in the Legislature of Indiana; and, as I am assured, the opinion of the attorney general and of the judges of the supreme court is to that effect, that the provision requiring two thirds to make a quorum does not apply to cases of election, but only to cases of legislation. I do not know whether it is a correct decision; but if it be so decided, it is material.

Mr. FESSENDEN. Will the Senator from Ohio inform me whether or not it has been the usage of the Legislature of Indiana to elect in convention, which convention is authorized by concurrent vote of the two branches of the Legislature prescribing the time when that convention shall meet, and the purpose for which?

Mr. PUGH. I cannot answer that question. That is what I want to ascertain by testimony.

Mr. FESSENDEN. Cannot the Senator from Indiana tell?

Mr. SIMMONS. The record will show that. I did not intend to enter into this debate at all. I have not yet heard anybody intimate anything by which the real legality of this election can be changed by this evidence.

Mr. FESSENDEN. I should like to ask the Senators from Indiana, if they will answer the question, whether or not heretofore the usage has been in the Legislature of Indiana for the election of Senators to be made in a convention appointed by a concurrent vote of the two branches of the Legislature, fixing the time and place, and other requisites of the convention?

Mr. BRIGHT. Until the formation of the new constitution in Indiana, there was a law prescribing the time and manner of electing United States Senators. That law was repealed. When the Legislature, at which my colleague and myself claim to have been elected, met, there was no law in force regulating the election of Senators. The practice under the old law was to bring the two Houses together by a joint resolution, or a concurrent resolution of the two Houses.

Mr. FESSENDEN. Had there been no election since the new constitution was formed?

Mr. BRIGHT. There had been no election of Senator since the new constitution was formed.

Mr. FESSENDEN. Then there was no usage.

Mr. BRIGHT. The usage prior to that time was for the President of the convention to adjourn it from time to time, or from day to day, with the assent of the convention, as was the case when my colleague and myself were elected.

Mr. FESSENDEN. That usage was during the time the convention had been formed by a concurrent vote of the two Houses?

Mr. BRIGHT. That was the practice.

Mr. FESSENDEN. That was the preliminary to getting together.

Mr. BRIGHT. That was the preliminary.

Mr. PUGH. I wish simply to state what I presume the Senator from Maine is desirous of ascertaining—to draw the distinction between the law and the usage. Under the old constitution the law was, that the joint convention assembled by joint resolution. The usage was, without any law, that when in that convention the presiding officer had arbitrary control over it of adjourning it from time to time, and hour to hour, and he never would entertain a resolution from anybody.

Mr. FESSENDEN. Then there has been neither law nor usage under the new constitution.

Mr. FITCH. No.

Mr. SIMMONS. I should like to call the attention of the Senators from Georgia and Ohio, who are members of the Judiciary Committee, to one fact. They say that where there is no law, the usage should govern. Now, do not both the Senators from Indiana say that before their new constitution was adopted, and in every election of Senators under that constitution since it was a State, the usage was to call this convention by a joint resolution of the two Houses?

Mr. FESSENDEN. A law requiring it.

Mr. PUGH. Certainly.

Mr. SIMMONS. Is not that a usage? And when they were so called together, they adjourned from day to day by order of the chairman or presiding officer, and now they come together without any law.

Mr. PUGH. That is the mistake the Senator makes. There was a joint convention, and the question we shall have ultimately to decide is, whether the joint convention was lawfully constituted for this purpose. It was undoubtedly a joint convention to count the vote for Governor.

Mr. SIMMONS. The Senator might have waited till I got to that point. What I say is this, that, according to the usage of the State of Indiana, as I learn it now from both her Senators, prior to the adoption of the new constitution, when the convention met, called together by a joint resolution in pursuance of law, it was then competent, it was usual, for the presiding officer to adjourn the convention so called together, from day to day. You claim now the same authority under this usage to adjourn from day to day, that you did when you had a law getting a convention together. If you claim that, are you not bound also to come to the other usage, and is not that as binding, that your convention shall be called together by a joint resolution? You cannot escape one horn of the dilemma without falling upon the other. If you go by the usage, you must have a law or some provision by a joint resolution of each House by a quorum of each House for a convention, or else you must give up your plan of adjournment from day to day under the old usage. You must take both branches of the usage if you take one.

Mr. PUGH. It seems to me the Senator does not understand the point, if he will pardon me for saying so.

Mr. SIMMONS. I cannot understand such distinctions; but I will hear the explanation, because I really want to understand what the point is.

Mr. PUGH. The statement, as I understand it, of the Senator from Indiana is, that the joint convention, before the present constitution of Indiana, was to be constituted by a joint resolution. That is all the law required. The law said nothing about adjournments; but the usage was to adjourn them.

Mr. SIMMONS. I understand that.

Mr. PUGH. That is all the force I give to the usage, that in the absence of any declaration of the law, one way or the other, there was a usage by which the convention could adjourn by direction of the presiding officer. Now, the Senator from Rhode Island asks me how I can make a joint convention without a joint resolution? The constitution of Indiana made it, and the constitution was higher than a joint resolution. It bound both Houses. That is the way I get a joint convention.

Mr. SIMMONS. I ask the Senator from Ohio if the constitution of Indiana made this a joint convention for the purpose of electing a Senator, or of counting the votes for Governor?

Mr. PUGH. That is a question to be answered afterwards. I have not stated what my opinion on that question is. I have endeavored to state the question for the purpose of showing how the evidence claimed by the sitting members tends to elucidate it.

Mr. FESSENDEN. If the Senator from Rhode Island will allow me, I wish to ask the Senator from Indiana a question.

Mr. SIMMONS. I yield for that purpose.

Mr. FESSENDEN. I wish to ask the Senator from Indiana whether or not, in this so-called convention, or in this process which was gone through—I do not know that you can call it a convention, for I understand the language of the

constitution of Indiana is somewhat the same as the language of the Constitution of the United States, that the votes for the Governor shall be counted by the Speaker of the House of Representatives in the presence of the two Houses—it was not the custom of the two Houses to meet in the Representative Hall for the purpose of seeing the votes counted, by a concurrent resolution passed for that purpose, or did they go in just as they pleased when the time came? What has been the habit?

Mr. BRIGHT. I will state what I understood to have been the practice in both cases. Prior to the adoption of the present constitution of Indiana, as I stated when I was up before, we had a law prescribing the time and manner of electing United States Senators.

Mr. FESSENDEN. My present question has no reference to electing Senators.

Mr. BRIGHT. I shall come to that in a moment. That law was repealed. I may say, however, that the practice under that law was to bring the two Houses together by a concurrent vote, and being together the presiding officer had the control of the convention, and adjourned it from day to day. On one occasion he adjourned it, I think, as far distant as the fourth day from the day of its coming together. When the Legislature met, which it is claimed elected my colleague and myself, there was no law on the subject; but the new constitution provided that the Senate and House of Representatives should meet on a day fixed, for the purpose of counting the votes for Governor and Lieutenant Governor. The convention met on that day. The presiding officer adjourned it to a future day; and in the interval the question was submitted to the district judge of the United States, and a majority of the supreme judges of the State as to the right of the Legislature, under that adjournment, to elect a Senator. They gave it as their opinion in writing that it was not only their right, but their duty, to do so. When the day arrived, the election took place.

Mr. FESSENDEN. That does not answer the question which I put to the Senator. The question which I put was this: what has been the practice with reference to meeting in order to count the votes for Governor? Has that been done in pursuance of a concurrent vote of the two branches ordinarily?

Mr. BRIGHT. It has been done as was proposed to be done in the case I have just mentioned, by a notice on the part of the House to the Senate that they would proceed at a certain hour to count the votes for Governor.

Mr. FESSENDEN. Did the Senate then vote to proceed?

Mr. BRIGHT. No vote was taken; but there was an invitation to the Senate to attend in the Hall of the House of Representatives for the purpose of performing that duty.

Mr. FESSENDEN. A specific purpose?

Mr. BRIGHT. You may call it a specific purpose if you please.

Mr. SIMMONS. I understand the practice to be somewhat similar to the one we have had in our State; and I do not believe there ever was a time when a man there would have taken an election from a convention called to count, as we call them, the proxies for general officers. We never believed such a convention, such a grand committee, as we call it, had power to elect a Senator or any other officer. Even when there was a Senator to be chosen, and a grand committee was convened to make election of a State officer, if the resolution asking the Senate to join the House did not specify that a United States Senator was to be elected, we always had to separate in order to get a resolution to go into the election of a Senator. I suppose this is the invariable practice everywhere; I presume it must have been in Indiana.

The Senator from Indiana has repeated that the usage under the government of Indiana had been to get a concurrent vote of the two Houses to join in this convention, if that is what you call it; and without such a concurrent vote, I think no man will pretend that that was a legal convention for electing a Senator under the usage of that State. I do not dispute but that you might get judges of the Supreme Court individually to give an opinion, but I do not think that would be entitled to much weight with the Senator from Ohio,

if it happened to be against his individual opinion.

I cannot see the least effect that the right of the three State Senators spoken of to their seats can have on the legality of this election. I have been trying to see it from all that has been said by the members of the Judiciary Committee who have spoken, and I think they can see points as clearly as any other men in this body. I do not hear them present the point in so clear a manner as I know they always do when they see it themselves. Neither the Senator from Ohio nor the Senator from Georgia ever sees a point clearly that he does not make me see it. I am not quite so thick-headed but that they can drive it into me with their sharp sticks. [Laughter.] But they cannot make me see the point which they make in this case.

Mr. TRUMBULL. Having presented my views in regard to this question on a former occasion, I should not say a word upon it now, but for the very singular position assumed by the Senators from Ohio, Louisiana, and Georgia.

Mr. BIGGS. Will the Senator from Illinois give way for a motion to adjourn?

Mr. TRUMBULL. No, sir, I shall occupy but a few minutes. The Senators from Ohio, Louisiana, and Georgia, have assumed the position that, because I was opposed to the adoption of a particular resolution, I was therefore opposed to settling this question. Why, sir, I have urged the settlement of it from the beginning. Do they mean that every person is to be charged with delaying the settlement of a question, or the passage of a law unless he goes for it? That would be a very convenient mode of putting Senators in the wrong. A proposition is brought in which you believe to be wrong, which you think ought not to pass, and because you object to its passage, you are therefore opposed to its consideration. An extraordinary position, indeed!

I have urged the passage of a resolution on this subject. At the last session of Congress I moved, as an amendment to the resolution of the committee, a proposition affirming it to be the duty of the Senate to proceed immediately to the determination of the case. With what face can these Senators now get up and charge me with delaying a decision because I would not agree to their proposition? Why did not they agree to mine? I moved an amendment declaring that the Senate ought to proceed at once to a decision of the question. Who prevented its being proceeded with? The majority of this body. That was the pending motion at the last session, as it is now by the amendment I have offered to the present resolution.

It is said, that if we had not made objection at the last session, the testimony would have been taken by this time. How do you know it would have been taken? It is said that it might have been taken in vacation. The resolution you offered was illimitable then, as it is now. It prescribed no time when the testimony was to be taken. You ask, if we wanted an early decision, why did we not assent to the resolution reported by the committee? Because the Senate of Indiana sent their request here that the Senate of the United States, at the last Congress, would settle the question, so that the Legislature might proceed to another election, if this should be declared invalid; and sending out this commission to take testimony would necessarily postpone the decision beyond the then session of the Legislature. I urged that the matter should be disposed of at an early day; and I urged it simply because the members of the Legislature of Indiana, and the Senate of that State, as a body, thought proper to communicate their papers to me, and requested me to lay them before the Senate. I felt called upon, therefore, to endeavor to carry out their views, and obtain an early decision of the question, if I could.

But it is intimated that perhaps we are afraid of the light. Such intimations and insinuations may be thrown out in any and every case. It has been illustrated very happily by the Senator from Vermont. A party in court who wants a continuance, who has a bad cause and wants time, always asks for a continuance; and he is very ready to throw out the insinuation that his adversary in court is opposed to light. Sir, we are not opposed to any light that can be shed on this case, and we are not opposed to any testimony that can have

any possible bearing on the case; but it is because we want action, and because the effect of this resolution is delay, that we oppose it, and for no other reason in the world. I thought the case might have been settled at the last session of Congress; I thought it might have been settled at the executive session convened after the 4th of March; and it was therefore that I opposed the passage of this resolution then.

I think the question as to the three Senators of Indiana, whose case has been alluded to, wholly immaterial. Do you assume that the majority of the members of the Legislature of a State may, without any action of the different branches, assemble, and make an election of United States Senators? I understand the Senator from Georgia to assume that position. If he does, what is the materiality of this testimony? We all admit that a majority of the whole number of members constituting the Indiana Legislature met together and elected the sitting Senators. Nobody disputes that. If that made an election, for what do you want testimony? What matter whether the three members were in or out? Eighty-three is a majority of one hundred and fifty as well as of one hundred and forty-seven. It is wholly immaterial then. For what purpose do you want the testimony on this view of the case?

But, sir, I wish to put the facts in regard to those three Senators properly before the Senate. I hold in my hand the Journal of the Senate of Indiana. One half the Senators of that State held for four years, the other half for two; consequently half the Senators were holding over. This is the entry upon the Journal of the Senate in regard to the new Senators:

"The following Senators, elected since the last session of the General Assembly, appeared, and produced their credentials, and were duly sworn, as required by the constitution."

Then follow the names. That shows the qualification of the newly elected Senators duly according to the constitution. Now you go outside of the record, and say that is not true; and how do you state the fact? It is stated, and that I may be accurate, I will read the statement, which is made by one of the sitting Senators:

"That in the organization of said State Senate, according to the constitution, laws, and usage of the State, the Lieutenant Governor presides, and superintends the admission of the members, and the taking the required oaths of office. That upon this occasion, in violation of such constitution, laws, and usage, the said three members, who were without the expressly required credentials of election, the certificate of the proper and only returning officer, and whose seats were also known to be contested, and on grounds of fraud, also known to be true, were, by a presiding officer, chosen for the purpose by the members of the Senate, designated as Republicans, contrary to all law, and by naked wrong, directed, notwithstanding, to be sworn in, and for the clear purpose, illegal and fraudulent in fact, of defeating an election of Senators of the United States."

That is the allegation of the sitting Senators. *Non constat*, however, that all of those Senators were not sworn in afterwards on the same day; it is not negated at all. Now, what is the fact about it? I have here the Daily Sentinel, the administration paper at that time and now, at the seat of government of Indiana, giving an account of this proceeding. It is outside of the record, but I state it in order to show what the real fact outside would be, and to meet these assertions. That is my only object in stating it. I do not state it as evidence legitimate for the Senate, although it is in what I believe to be the official paper of that State.

"The Senate met at nine o'clock, a. m. Lieutenant Governor Willard, in accordance with the provision of the constitution and of all well established precedent that has prevailed ever since our organization as a State, took his seat as Presiding Officer of that body."

"When we entered the Senate hall, yesterday morning, the novel spectacle of two Presiding Officers seated at the President's desk, and two Secretaries, both engaged in calling the roll of Senators, presented itself to our view. The Chamber was crowded to suffocation, and it was with difficulty that we could make our way to a position where we could see and hear what was going on."

"The Republican Senators, under this temporary organization, proceeded to the election of Secretary, Assistant Secretary, Sergeant-at-Arms, and Doorkeeper, the old Secretary in the mean time calling the roll of those counties from which the Republican Senators were elected, who refused to answer to their names, as did the Democratic Senators when called by the Secretary *pro tem*, appointed by the Republicans. After the turmoil and confusion consequent upon the joint action of two Senators, both doing business upon one floor, had somewhat subsided, members began to get upon their feet and define positions."

"The Black Republicans were exceedingly pot-valiant at first; but as they proceeded to compare notes, and take

something like a cool and deliberate view of their position, there was an evident disposition to show the white feather."

I pass over some sentences not material to the facts; they are comments of the editor:

"Messrs. Stevens and Yaryan were frank enough to admit that the Republicans had placed themselves in a peculiar and unprecedented position, and that they had done so to block certain games which it was rumored the Democrats had planned for the election of United States Senators. It appears, from the confessions of these gentlemen, that Madam Rumor, the precious beldam, had announced that it was Governor Willard's intention, as Presiding Officer of the Senate, at its organization, to decide against the admission of the Senators from Marion, Fulton, Fountain, and Rush to their seats, which are contested; which would, during the pendency of the question of their election, produce a tie in the Senate, and thus enable the Democrats, by the casting vote of the President, to bring on an election of United States Senators."

"As if to knock from under them the last prop upon which they relied to justify themselves in their factious proceedings, Governor Willard condescended to give his assurance in advance, that he had made up his mind that the Senators from Marion, Fulton, and Fountain, should be sworn in and admitted to their seats, whenever they presented themselves for that purpose. In regard to Dr. Cooper, of Rush, he had decided differently, believing that the credentials which he presented were not such as the law required—or, in other words, that it was not, properly, a certificate of election."

"Mr. Murray, of Howard, openly acknowledged that when the Republicans decided upon their present course, they acted under a misapprehension of the designs and intentions of the Democrats, and was in favor of some conciliatory measure to remove the difficulty that stood in the way of an organization of the Senate."

The account goes on and shows that the Senate adjourned to half past two o'clock in the afternoon. Here is the account of what they did in the afternoon:

"A good dinner, and a calm consideration of the revolutionary and unjustifiable position they had taken, seemed to have wrought a wonderful change in the minds of the Republican Senators. At the afternoon session they quietly abandoned their extraordinary proceedings by general consent, and when the Senate was called to order by the President, all of those who had not previously done so, presented themselves at the President's desk, and, with the exception of Doctor Cooper, of Rush, were respectively sworn in by Judge Cookins."

"Thus, an affair which, at the time of the morning adjournment, threatened to protract discussion and delay the business of the session, proved to be nothing more than a harmless tempest in a tea-pot, which passed off as quickly as it had been raised."

It will be observed that, according to this account, Governor Willard stated that he would not direct Doctor Cooper to be sworn unless by a vote of the Senate. The Journal of the Senate shows that in the afternoon when they met at half past two o'clock,

"Mr. Murray offered the following resolution:

"That Stanley Cooper be now sworn as Senator from the county of Rush."

He is one of the three. Various motions were made to adjourn; to lay on the table, &c., until finally a vote was obtained on the question directly, and the resolution that he be sworn in was adopted by 28 ayes to 17 noes—a majority of 9.

"So the resolution was agreed to. Mr. Cooper came forward and was sworn as required by the constitution, by Judge Cookins of the supreme bench."

I only state these facts to show that although it may be strictly true, as the sitting member from Indiana has stated, that this took place in the morning, yet, in point of fact, the record shows that the three Senators were duly sworn, and it is unnecessary to go into this proof; it will not establish anything when you get it here. Suppose you show the fact that an improper officer was there: we insist that it would amount to nothing in any point of view. I state these outside facts as the shortest way to get at the real facts, and to show that there is nothing to be gained by delaying this case for the purpose of taking testimony. I observe that the Senate is anxious to vote, and I shall not detain them. The Senator from Georgia, on the present occasion, has spoken of fraud; and he wants to know how the Senate of Indiana was organized? I will read to the Senator from Georgia, in answer to his own remarks of to-day, what he spoke two or three weeks ago. He was not speaking about Indiana then; he was speaking about Kansas. The cases are not exactly alike. One is the case of the Legislature of Kansas; the other is the case of the Legislature of Indiana. The Senate, of course, will bear that distinction in mind. Here is what he said:

"If there has been fraud in the election of members of the Senate or House of Representatives of the Legislature of Kansas, the matter can be passed upon by those bodies respectively when the State shall have been admitted into the Union. That is the tribunal set up by law for the decision of such questions. There, and there alone, they can be de-

cided. This body, I trust, will never undertake to decide whether or not there have been frauds in the elections of Kansas."

"Every legislative body is the proper tribunal to decide questions affecting the election of its members. It is the only tribunal which the experience of twenty centuries has shown can be safely intrusted with any such power. The ablest of English jurists, the ablest parliamentarians, have always held—and we find it deeply imbedded in the privileges of the British Parliament, in the privileges conferred on each House of Congress by our Constitution, in the privileges of every State Legislature, and inherent in every town meeting—that a legislative body is to judge for itself of the election, returns, and qualifications of its members. Without this principle, representative bodies could not live an hour."

Mr. TOOMBS. Go on and read to the end of the paragraph.

Mr. TRUMBULL. Here it is:

"If you have a case of fraud in the election of members of the Legislature, take the question there for decision. If you have such a case in regard to the election of a Representative in Congress, take it to the other House. If you have such a case as to the election of a member of this body, bring it here."

Mr. TOOMBS. That is it.

Mr. TRUMBULL. Very well. I will take the Senator there. I understood the Senator to say he wanted to know how Senators of the State of Indiana were inducted into office, not how the sitting members came here. I understand that he places his ground on the organization of the Senate of Indiana, which, as I have read, he declared to be the proper body to settle such questions. In determining the election of a Senator here, I admit you may inquire into his election, but not into the election of the men who sent him here.

Mr. TOOMBS. I presume the Senator from Illinois does not agree with me on the views contained in that speech; nor does he agree with me to-day. If he believes they are the same cases, why did he not agree then? He knows very well, as every Senator who hears me knows, that the principles which he has read from my speech are clear, sound, and indisputable. In the examination of the credentials of a member who sits here, we are authorized to inquire, not (as has been stated frequently by me on this floor in this very case) into the elections, qualifications, and returns, of any man in the Indiana Legislature. I have at no time so held; and that Senator knows it, or ought to know it, and I believe he does know it; but it is not convenient for him to state it. It has been again and again reiterated. My friend from Louisiana, this morning, has argued the same thing. We have again and again cited the principle that a contest for a member of the Legislature in Kansas or Indiana, or anywhere, must be determined by the Legislature. If a question arises as to the proper election of a Senator of the State of Indiana, or in the Legislature of Kansas, it belongs to the Senators of those States, duly elected and inducted into office, to determine it. If the case arises in the election of a member of the House of Representatives of those States, it belongs to that House to decide it. If a question arises in the election of a member of the other House of Congress, that body is to settle it. If a question arises as to the election of a member to the Senate of the United States, it is to be settled here.

Now it becomes a question for this body to determine, and what we seek by this testimony is to ascertain, whether the Senate of Indiana was legally constituted. If the Senator cannot see the difference between that and an inquiry into the elections, qualifications, and returns of the members of the State Legislature, I cannot make him comprehend it. My friend from Louisiana has to-day put the illustration which I put last spring—suppose a mob comes to this House, and places in the chair a President of their own, and he illegally and unconstitutionally swears in pretenders as Senators: have you not a right to inquire whether the acts of such a body are the acts of the United States Senate? Suppose sixty men should be brought here by mob violence to-night, and take possession of these seats: is there a tribunal on earth before whom a question involving the validity of the body was brought who would not declare it void?

Mr. WADE. I am with you there, and I want you to carry to Kansas the same doctrine.

Mr. TOOMBS. Yes, sir, I carry it to Kansas, and everywhere else. I stand on a universal principle, one that I argued in the case of the Senator from Iowa, against the decision of the Senate it is true. I maintained his title, Black Republican

though he was, because I believed he stood on right. I did not then inquire into the qualifications, elections, or returns of members of the Iowa Legislature; but I held that they were in convention, that the adjournment of the convention was legal, and that even if it had been illegal he was elected by persons legally entitled to elect a member of this body.

Now, I desire to know whether, in Indiana, men have been inducted into office as members of the State Senate illegally, by a mob, in violation of the Constitution and of right. I desire to hear testimony on that point. That accusation is made. I have always understood the opponents of a motion to continue for want of materiality, to admit the facts. It is a demurrer to the evidence; it admits the truth of the evidence. If you admit the truth of the allegations of the sitting members, I am ready for a decision now. If you put this on legal principles, the demurrer admits the facts demurred to. If these facts be demurred to, I am ready for the issue, and I presume the Senate is. If, contrary to the constitution, and contrary to the law, with the fraudulent intention of defeating an election, they brought in three persons who were not entitled to be inducted into office, I am ready to meet the issue. I stand on the same principles in Kansas, Iowa, and Indiana. I put it on the same great principles. The House must determine for itself, but we must determine whether it is a Legislature. Suppose Senators should be sent up here by a body claiming to be a Legislature under the Topeka constitution: they may have as fair a record as the others. All they have to do, according to the Senator from Illinois, is to make the record fair, and that is not to be inquired into—show it in print, and it is sufficient. I am bound by no record if there be an allegation of fraud. It is said these three men were legally sworn in. If that, on inquiry, turn out to be true, there is an end of the point. If the statement he makes be true, that is an end of that point. If it is not true, it controls my judgment, and is an additional reason for giving this seat where it ought to go, according to the laws of the United States, and according to the rights of Indiana.

Mr. FESSENDEN. Before the Senator from Georgia sits down, I wish to ask him a question in regard to a position he takes—not that I mean to debate the question. Does he hold that an election by a majority of the members of the two branches when they are assembled, makes a good election, no matter how they get together?

Mr. TOOMBS. It does make a difference if they get together fraudulently, with an intent to deceive. Such circumstances would control me. If they get together privately, without notice, it would control me. The right is subject to a great many limitations. I say I will look at the circumstances; and I ask the Senate to criticize closely for some means by which to give to those men, entitled by the Constitution and laws to elect Senators, the free exercise of that right.

Mr. FESSENDEN. The substance of my question is, whether the Senator holds that no legislative action is necessary in order to make a convention for that purpose legal?

Mr. TOOMBS. I do, and always have held it.

Mr. TRUMBULL and Mr. BIGGS rose.

The VICE PRESIDENT. The Chair recognizes the Senator from North Carolina.

Mr. BIGGS. I presume we shall not be able to take a vote now; and I move that the Senate adjourn.

Mr. TRUMBULL. I will abstain from saying anything if we can get the question.

The motion to adjourn was not agreed to, there being on a division—ayes 18, noes 21.

Mr. STUART. I have only a few words to say on this subject. I have sat here all day listening with pleasure to Senators who urged the necessity of prompt action on this subject, and I barely wish to suggest that, perhaps, if we were to take a vote on the questions that are presented, we should satisfy the whole Senate by the promptness of our action. I hope that we shall vote at once, and determine what shall be done on this question. I only suggest that, in my view of it, we should pass this resolution, inasmuch as the committee recommend it—it is the organ of the body—limiting the time within which the testimony should be taken, and specifying the objects for which it should be taken. The committee

ought to be able to designate to the Senate what facts are necessary to be ascertained. Direct the inquiry to those particular facts, and limit the time within which they shall be inquired into, and I shall vote for the resolution. I hope that will be done.

Mr. GREEN. It has been intimated that the majority of the Judiciary Committee have not expressed any particular reason why they desire to have this evidence. Being on that committee, I will say that I desire it, and I desire to have it for this reason; if we cannot go behind a record at all, then the two sitting members are here legally and beyond all possibility of expulsion. They bring a record on which they are admitted and on which they take their seats. The protestants say that that record is not true, that there are certain other things which invalidate that record. The sitting members say that the allegations made by the protestants are not correct, and that the reference they make to a so-called record of the Senate of the State of Indiana is not correct. Questions of fact in each case look behind the record. If the one can be inquired into, so can the other; and no respectable lawyer in this body will assert that when fraud is imputed to any record, it may not be inquired into.

I know it has been said here in debate that by the constitution of the State of Indiana nothing was a Senate but two thirds of its members. If so, the three members of whom so much has been said were sworn in illegally; there never was a Senate to admit them; there never was a Senate to do any act, to elect a presiding officer, and the man who dared to take the chair not being the Lieutenant Governor appointed by the constitution was guilty of a usurpation. Who put him there? Each House may choose its own presiding officer in the absence of the officer designated by the constitution. What is the House? The objectors say that nothing constitutes the Senate but a majority of two thirds. You never had it, and consequently you never had a presiding officer, and the swearing in of the three Senators was null and void.

Mr. COLLAMER. All the Senate were there regularly, except those three.

Mr. GREEN. Were they in that organization? To be present at a place does not constitute a man a part of its organization.

Mr. COLLAMER. The Lieutenant Governor was there presiding, and they were all sworn in.

Mr. GREEN. I understand. I have attended mass meetings, and I have attended the meetings of Congress. If one half this body refuse to participate, but stand aloof, and never come forward, and the other half choose to throw themselves into an organic shape, if they do not do it according to the Constitution and the law, without reference to the others, it is null and void.

Mr. TRUMBULL. The Senator from Missouri will allow me to interrupt him. The Journal shows that on the swearing in of one of these three members, the yeas and nays were taken—the Lieutenant Governor presiding—and the vote was 23 to 19. He does not certainly contend that that was not a Senate.

Mr. GREEN. At what time was that?

Mr. TRUMBULL. On the same day.

Mr. GREEN. After dinner, was it not?

Mr. TRUMBULL. Yes.

Mr. GREEN. I remember it all distinctly. I am taken by surprise in nothing in regard to this question.

Mr. TRUMBULL. It was before the election of United States Senators.

Mr. GREEN. Yes; but how? Did twenty of them get in before dinner? That is what fixes the time when the two illegally got in.

Mr. TRUMBULL. If the Senator takes that view, the Senate was never organized; and how can he maintain that the sitting Senators here were elected? It would require a Senate, I suppose, to elect them.

Mr. GREEN. I am answering an argument that has been made on the other side, that nothing less than two thirds could constitute a Senate to do anything. I say that is not a correct position. A majority of the members present may do certain things, and make themselves an organic body, though the constitution may say, in express words, that two thirds shall constitute a quorum to do certain legislative business.

What is a Senate? The constitution says fifty

members, a majority of whom are the body; but when the constitution requires a specific number for certain legislative purposes, that number must be there. When it has no reference to those specific purposes, the majority of the members present is the Senate; and so far as this record is concerned, the Senator from Illinois need not read that, for he knows full well that as he attacks the record on which the sitting members rely, the sitting members attack the record on which the objectors rely. Here is an equal case, both of which demand evidence. The Constitution of the United States leaves it to the States to fix the time, place, and manner of choosing Senators in Congress; reserving, however, the privilege of exercising two of these powers—the manner and the time; saying expressly that, as to the place, Congress shall never interfere; but Congress has never deemed it proper to exercise either one of those powers, still leaving it with the State. It is admitted that the constitution of Indiana is silent on the subject; it is admitted they have no law on the subject. If they have no law and no constitutional provision, it is a matter which rests on parol. How ought you to do it? According to the custom, or the common law, on that subject in the State of Indiana, it is a matter that rests on parol.

Perhaps I shall be answered by saying that the joint convention kept a record, and that the record of that joint convention will prove it. I answer no, it will not prove it, and for this palpable reason: any record kept not according to the constitution or law, is no more than my word or my recorded statement, or any writing by any man; and there is no part of the constitution of Indiana, or of the Constitution of the United States, that requires a record to be kept in joint convention. If they kept a record in joint convention, it is no record in a legal, technical case; it is simply a putting down on paper, as any individual would have a right to do, and as the paper from which the Senator from Illinois read, did, published in the town of Indianapolis. It is no legal record unless kept in pursuance of some provision of law or of the constitution, and hence the custom of Indiana cannot be proven by any record.

We then want parol evidence for two purposes: first, to prove the custom, to prove the habit, to prove the heretofore existing manner; and, second, as the sitting members believe, to attack even the record of the State Senate, and prove that that is a falsehood; in other words, that what purports to be a record of the Senate was not the act of the Senate, and that half a dozen men getting together, sending up what they call a record, does not preclude us from inquiring into the fact, whether that is a record of a branch of the Legislature of Indiana. It is true, that, not being attacked, the presumption would be that it was the record; but when it is attacked, it is competent for us to inquire into it, and see whether it be true, or not true; and that is all this resolution proposes. We do not prejudice this case; we do not pretend to say there ever was a Senate in the State of Indiana; but we do say a case is presented requiring investigation, and that it is legally competent to take evidence to ascertain the facts put in issue. That is all I say; and I therefore have expressed my hearty concurrence in this resolution. I rose simply for the purpose of stating that it met my previous concurrence in the committee.

Mr. SEWARD. I beg leave to suggest to the honorable the Senate of the United States, that we are here about fifty in number, and, with the exception of half a dozen, I think, all of us are, or have been, lawyers, and many of us judges. We have spent four hours upon this question, and I wish to submit whether the Senate does not think that any court in Christendom would have been able to arrive at a conclusion before this or by this time as to the question whether we are ready to give our judgment now on this case, or should postpone it for the purpose of taking some other evidence. I hope we may have the question.

Mr. HUNTER. It is manifest that the Senate is not full; and when a vote is taken on a question of this nature the seats ought to be filled. I move that the further consideration of the subject be postponed until to-morrow, at some hour which may be convenient: I suggest one o'clock. [Very well.]

Mr. SEWARD. I will state, before the Senate adjourns, that if the amendment proposed by the

Senator from Illinois shall not prevail, I intend to submit an amendment, providing that "such evidence shall be returned to the Senate within thirty days from the passage of this resolution."

Mr. HUNTER. I move that the further consideration of the subject be postponed until tomorrow at one o'clock.

The motion was agreed to.

EXECUTIVE SESSION.

On motion of Mr. SLIDELL, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, February 15, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. MORSELL.

The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of State, inclosing communications addressed to the chairman of the Committee on Foreign Affairs, and the chairman of the Committee of Ways and Means, on the subject of an appropriation to refund to the vice consul of Sweden and Norway, at Norfolk, Virginia, the sum of \$749 92, paid by him to the United States navy-yard at Gosport, for repairs of the Norwegian bark Ellen, on the occasion of that vessel putting into Norfolk to land passengers saved from the wreck of the steamer Central America; which was laid on the table and ordered to be printed; and the communications inclosed severally referred to the Committees on Foreign Affairs and of Ways and Means, and ordered to be printed.

DEBATE IN COMMITTEE.

The SPEAKER stated the business first in order to be the motion of the gentleman from Arkansas, [Mr. WARREN], submitted on Monday last, to suspend the rules for the purpose of introducing the following resolution:

Resolved, That from and after the passage of this resolution all debate in the Committee of the Whole on the state of the Union shall be strictly confined to the bill or resolution directly submitted to the committee, except that Monday night, Wednesday night, and Friday night, of each week, be, and they are hereby, set apart for the discussion of matters arising out of the condition of the Union generally, or such other matters as gentlemen may be disposed to discuss.

Mr. DAVIS, of Indiana. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is not. The resolution has not yet been received. The question is on suspending the rules.

Mr. WARREN. I believe the motion to suspend the rules is not debatable.

The SPEAKER. It is not.

Mr. WARREN. Well, sir, I hope the House understands the resolution. I ask for the yeas and nays upon the motion to suspend the rules.

Mr. HOUSTON. If the gentleman from Arkansas will modify his resolution by adding at the end: "and at such night sessions no vote shall be taken upon any matter of business," I shall be very glad to support it.

Mr. WARREN. I will accept the modification, certainly. I have no objection to any amendment the House may choose to make. My only object is to get the matter before the House.

Mr. MILLSON. If this resolution is adopted we might as well abolish the Committee of the Whole on the state of the Union altogether.

Mr. MAYNARD. I ask to have the 31st and 134th rules read.

Mr. WARREN. I hope the House will suspend the rules, and receive the resolution. If we are going to have buncombe speeches, let us have them at night.

The 31st rule was read, as follows:

"31. When any member is about to speak in debate, or deliver any matter to the House, he shall rise from his seat, and respectfully address himself to 'Mr. Speaker;' and shall confine himself to the question under debate, and avoid personality."

Mr. WARREN. I cannot see what object the gentleman had in view in having that rule read.

Mr. CLINGMAN. Is debate in order?

The SPEAKER. It is not.

The Clerk read the 134th rule, as follows:

"In Committee of the Whole on the state of the Union,

the bills shall be taken up and disposed of in their order on the Calendar; but when objection is made to the consideration of a bill, a majority of the committee shall decide, without debate, whether it shall be taken up and disposed of, or laid aside; provided that general appropriation bills, and, in time of war, bills for raising men or money, and bills concerning a treaty of peace, shall be preferred to all other bills, at the discretion of the committee; and when demanded by any member, the question shall first be put in regard to them."

The question was taken; and it was decided in the negative—yeas 44, nays 139, as follows:

YEAS—Messrs. Burnett, Burns, Ezra Clark, Clay, Cobb, Cockerill, James Craig, Davis of Mississippi, Foley, Garrett, Gillis, Greenwood, Thomas L. Harris, Houston, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Kelly, Landy, Lawrence, Letcher, Peyton, Phelps, Ready, Rangan, Reilly, Sandidge, Seales, Seward, Aaron Shaw, Samuel A. Smith, Stephens, James A. Stewart, Talbot, George Taylor, Trippe, Ward, Warren, Watkins, Werten-dyke, Augustus R. Wright, and John V. Wright—44.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Atkins, Avery, Barksdale, Bennett, Bingham, Blair, Bliss, Bocock, Bowie, Boyce, Branch, Brayton, Bryan, Buffinton, Burlingame, Campbell, Case, Chaffee, John B. Clark, Clawson, Clingman, John Cochran, Colfax, Comins, Corning, Covode, Cragin, Burton Craige, Crawford, Curry, Curtis, Dammell, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Dowdell, Durfee, Edmundson, English, Eustis, Faulkner, Fenton, Florence, Foster, Giddings, Gilman, Gilmer, Gooch, Goode, Goodwin, Granger, Grow, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Hatch, Hawkins, Hoard, Hopkins, Howard, Jenkins, Keitt, Kellogg, Kelsey, Kilgore, Knapp, Jacob M. Kunkel, John C. Kunkel, Lamar, Leach, Leiter, Lovejoy, McKibbin, Mason, Maynard, Miles, Millson, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Murray, Niblack, Nichols, Palmer, Parker, Pendleton, Pettit, Phillips, Pike, Potter, Powell, Purviance, Quitman, Ricard, Ritchie, Robbins, Royce, Ruffin, Scott, Searing, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Robert Smith, Spinner, Stalworth, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elithu B. Washburne, Israel Washburn, White, Willson, Winslow, Woodson, and Zollcoffer—139.

So (two thirds not voting in favor thereof) the rules were not suspended.

Pending the above call,

Messrs. STEVENSON and CLEMENS asked leave to vote, having been outside the bar when their names were called, but objection was made.

EXPENSES OF INVESTIGATING COMMITTEES.

Mr. J. GLANCY JONES. Mr. Speaker, I am instructed by the Committee of Ways and Means to report to the House a joint resolution making an appropriation for the payment of expenses of investigating committees of the House of Representatives. This resolution appropriates the sum of \$35,000 to meet the necessary expenses of these special committees. The House have raised these special committees, and, in doing so, have incurred expense. There is no money in the contingent fund of the House to pay these expenses. A chairman of one of these committees submitted a resolution a few days ago, which was referred to the Committee of Ways and Means. As chairman of the Committee of Ways and Means, I addressed a letter to the several chairmen of these committees, one to the Sergeant-at-Arms, and one to the Clerk of the House. I have ascertained that there is required to pay for expenses already incurred the sum of \$35,000, and this expense has been incurred by only two or three of these special committees.

There is no money out of which to meet these expenses. Witnesses have been brought from a great distance, and they are here in town; but there is no money out of which to pay them. It is necessary, therefore, if these committees are to be continued in existence, that money should at once be appropriated for their expenses. The resolution I have reported appropriates money for these expenses as far as they have gone. I ask the unanimous consent of the House that the resolution be received and immediately considered and put on its passage. If there be objection, I shall move for a suspension of the rules.

There was no objection; and the resolution was read a first and second time by its title, and then read *in extenso*.

Mr. GREENWOOD. I should like to know from the chairman of the Committee of Ways and Means, what will be the probable expense of these special committees if they continue their work to the end, calculating on the ratio of the expense which has been incurred already.

Mr. J. GLANCY JONES. I believe that there are seven special committees in this House, perhaps a larger number. It is understood that the Judiciary Committee is about to bring before the

House the subject of an impeachment of one of the judges of the United States. The committee on the Lecompton constitution has power to send for persons and papers to Kansas. The committee on the accounts and official conduct of the Doorkeeper, the Lawrence, Stone & Co. committee, and the Fort Snelling committee, have made considerable progress. The Clerk has paid out of the contingent fund, for their purposes, some two or three thousand dollars. This contingent fund is intended for the ordinary expenses of the House, and that two or three thousand dollars must be re-funded.

My own opinion is, that \$35,000 will cover the expenses already incurred, and which will be incurred, provided the other committees do not act. If the other committees act, and send for persons and papers, \$100,000 will not foot the bill. I do not think \$150,000 will cover the expense of the work which has been cut out by the House for these special committees. If the work goes no further than it has done already, supposing it shall end here, I think, and the committee also are of the opinion, that \$35,000 will cover the expense.

Mr. HARRIS, of Illinois. I hope the gentleman will indulge me with an inquiry. I would be gratified if the gentleman, in stating the amount in gross which he supposes will be incurred by these committees, would set off to each committee something like what each one would require, so that the House may understand the basis of his estimate.

Mr. J. GLANCY JONES. Except what is asked for, I have given merely an opinion, and that opinion is founded upon the work which is cut out for each committee. If the committee on the Lecompton constitution deem it proper to send to Kansas for persons and papers, any gentleman can make up an opinion of what the cost will be. I have given what I believe will be the probable cost of these committees, if their investigations continue; and it is only the expression of my opinion on the subject in answer to the gentleman from Arkansas. So, also, in regard to the Committee on the Judiciary. If that committee go into the subject of impeachment, and send to Texas and other places for witnesses and papers, it is a mere matter of opinion how much it will cost. The gentleman from Arkansas asked for my opinion, and I give it as a matter of opinion merely, that it will require \$100,000 to pay the expenses of those committees, if they finish the work for which they were appointed by the House.

Mr. HOUSTON. I received a note from the honorable chairman of the Committee of Ways and Means, asking for an estimate of the expenses which might be incurred in the investigations before the Committee on the Judiciary. Since that time the Judiciary Committee have had no meeting, and if they had they have not reached that point in the case to which the gentleman refers, that they could make anything like an estimate which would be satisfactory to themselves or the House. Therefore I made no reply, and consequently any conjecture which may be indulged in by the gentleman must be simply his own, and I presume he could know no more about it than a member of the Judiciary Committee would know, and that is the merest guess in the world. I do not know how many witnesses that committee may see fit to bring before it, or how far they will have to travel; and in the absence of such information it was utterly impossible to reply to the questions addressed to us by the chairman of the Committee of Ways and Means.

Mr. STANTON. I may be permitted to say that for a similar reason no response was made to the circular addressed to the committee of which I am chairman. We have no means of knowing the extent of the information we may desire or the number of witnesses we may require. But I will say that so far as the expenses of that committee have already gone, it seems to me that they will certainly not exceed one thousand dollars, nor have I any reason to think that they will exceed two thousand or twenty-five hundred dollars. We have had no meeting since the receipt of that circular, and no opportunity to compare notes, to know what will be the probable expenses of that committee.

Mr. J. GLANCY JONES. Gentlemen seem not to understand the object I have in view in this explanation. If the committees do not continue

their investigations and create new expenses, \$35,000 will probably cover all their expenses. But I remember very well that, but a very few days ago, when a deficiency bill was reported to this House, the Committee of Ways and Means, a large majority of whom had never voted to incur one dollar of that debt, were found to be in a great minority in this House. All I want the House to understand now is, that I throw no obstacles in the way of any one of these committees; but I wish the House to understand, if they ask my opinion, that if the committees all proceed to the full extent of their power, at least \$100,000 will be required; if they stop where they are, only \$35,000 will be required.

Mr. WINSLOW. With the consent of the gentleman from Pennsylvania, I wish to propound a question to the gentleman from Kentucky, [Mr. BURNETT,] the chairman of the committee on the investigation of the sale of Fort Snelling. The cost of that investigation must reach a very large sum; and I would like to know the expense of summoning witnesses from Minnesota?

Mr. BURNETT. With the permission of the gentleman from Pennsylvania I will answer.

Mr. SEWARD. This questioning is not in order.

Mr. WINSLOW. I am not opposed to the resolution at all; but I would like to know what the expenses in certain matters are, and I think some steps ought to be taken to economize this matter hereafter. I wish now to know what the cost of these witnesses from Minnesota are?

Mr. SEWARD. I object.

Mr. J. GLANCY JONES. In asking for this \$35,000 appropriation, I have been led to make these remarks because the committee may be called upon to ask for more money hereafter, and I wish the House to understand it. I understand that the expenses of the Fort Snelling investigating committee are estimated at \$8,000, and that it forms a part of this \$35,000.

Mr. HOUSTON. I understand that the amount named in this resolution is intended to cover the expenses of the committees so far as they have gone.

Mr. J. GLANCY JONES. And the estimated expense of work already cut out.

Mr. HOUSTON. Does it cover—

Mr. SEWARD. What has become of my objection?

The SPEAKER. The gentleman from Alabama rose for explanation.

Mr. SEWARD. Who is upon the floor?

The SPEAKER. The gentleman from Pennsylvania; but the gentleman from Alabama rises for explanation.

Mr. HOUSTON. I desire to understand the resolution. For instance, the Fort Snelling committee, and two or three other committees are at work. Does this bill make an appropriation for the completion of the work of those committees?

Mr. J. GLANCY JONES. It is estimated that it will cover their expenses.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

WITHDRAWAL OF PAPERS.

On motion of Mr. WADE, it was

Ordered, That leave be granted to withdraw from the files of the House the papers in the case of Marshal Mathio, by leaving copies of the same on file.

LAND LAWS.

Mr. COBB. I ask the unanimous consent of the House to introduce a resolution, the necessity and importance of which every member will see, on its being read:

The resolution was read, as follows:

Resolved, That the Secretary of the Interior be instructed to codify and compile all the land laws now in force, in one volume, in such manner as he may think best, and report to this House, as early as possible, his action, with a copy of said compiled laws.

Mr. LETCHER. I wish to inquire of the gentleman how large a volume it will make?

Mr. COBB. About five hundred pages.

Mr. LETCHER. What will be the cost?

Mr. BURNETT. I object to the resolution.

Mr. COBB. I move to suspend the rules.

The motion was not agreed to—two thirds not voting therefor.

ACQUISITION OF TERRITORY.

Mr. CAMPBELL asked unanimous consent to introduce a joint resolution providing for the acquisition of foreign territory.

The resolution requests the President of the United States to negotiate through the Department of State with the respective Governments possessing or claiming the Canadas, Nova Scotia, and other portions of North America, and Cuba, and other islands adjacent thereto, with a view of annexing the same to the United States on terms compatible with the peace and honor of the nations negotiating; provided, however, that in the event of any annexation, no portion of the Territory should be admitted as a State into the Union until there should be therein a sufficient population to entitle it to one member of the House of Representatives, and until the *bona fide* residents of the same, being citizens of the United States by treaty stipulation or otherwise, should have had a fair opportunity of voting on their constitution, and of regulating their domestic institutions in their own way, subject only to the Constitution of the United States.

Mr. KEITT objected.

Mr. CAMPBELL. I move that the rules be suspended; and on that I call for the yeas and nays. The yeas and nays were ordered.

Mr. CLINGMAN. I ask the gentleman from Ohio [Mr. CAMPBELL] to accept a little amendment—to add to his resolution the words: "And the rest of mankind." [Laughter.]

Mr. CAMPBELL. I must decline to accept the suggestion. I think the resolution is sufficiently extensive for the present. [Laughter.]

The question was taken; and it was decided in the negative—yeas 10, nays 185; as follows:

YEAS—Messrs. Bennett, Billingshurst, Blair, Burroughs, Campbell, Ezra Clark, Montgomery, Mott, Murray, and Nichols—10.

NAYS—Messrs. Abbott, Adrain, Ahl, Andrews, Atkins, Avery, Barksdale, Bingham, Bocoek, Bowie, Boyce, Branch, Bryan, Buffinton, Burlingame, Burnett, Burns, Case, John B. Clark, Clawson, Clay, Clemens, Clingman, Cobb, Clark B. Cochran, John Cochran, Cockrell, Colfax, Collins, Corning, Corvode, James Craig, Burton Craig, Crawford, Curry, Curtis, Daurell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Dowdell, Edmundson, English, Eustis, Farnsworth, Faulkner, Feinton, Florence, Foley, Foster, Garnett, Gartrell, Giddings, Gillis, Gilman, Gilmer, Goode, Goodwin, Granger, Greenwood, Groesbeck, Lawrence W. Hall, Robert B. Hall, Harlan, J. Morrison Harris, Thomas L. Harris, Hatch, Hawkins, Hickman, Howard, Hopkins, Houston, Howard, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Keitt, Kellogg, Kelly, Kelsey, Kilgore, Kuapp, Jacob M. Kunkel, John C. Kunkel, Landy, Leach, Leitch, Letcher, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Maynard, Miles, Miller, Milson, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Oliver A. Morse, Niblack, Palmer, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Potter, Pottle, Powell, Parviance, Quitman, Ready, Reagan, Reilly, Ricard, Ritchie, Robbins, Royce, Ruffin, Russell, Sandidge, Seales, Scott, Searing, Seward, Aaron Shaw, Henry M. Shaw, John Sherman, Shorter, Singleton, Robert Smith, Samuel A. Smith, William Smith, Spinner, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, William Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Ward, Warren, Cadwalader C. Washburn, Elin B. Washburne, Watkins, White, Wilson, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollicoffer—185.

So (two thirds not voting in favor thereof) the rules were not suspended.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States, by Mr. JAMES B. HENRY, his private Secretary.

CONTUMACIOUS WITNESS.

The SPEAKER. The House on Friday last, when the witness, John W. Wolcott, was before it, adopted a resolution giving him till Monday at one o'clock, p. m., to file his answer to the interrogatories propounded to him; and that in the mean time he remain in the custody of the Sergeant-at-Arms, with the privilege of seeing counsel. The Sergeant-at-Arms returns that he has again present, within the bar of the House, the above-named John W. Wolcott, to answer as ordered. And the witness, John W. Wolcott, has presented to me the following answer to the interrogatories.

Mr. Speaker, and gentlemen of the House of Representatives: I thank you for indulging me until to-day to answer

for the contempt with which I am charged, and it will be my effort not to abuse the indulgence by trespassing unnecessarily upon the time or patience of your honorable body. I shall confine myself to what I hope will be considered as condensed a defense as may be consistent with a perspicuous presentation of it. Before proceeding, I repeat what I have before said, that nothing was further from my intention, in any one of my answers to the several questions put to me by your committee, than to contemn its authority, or the authority of the House. If I have done so in the reply which I gave to their last interrogatory, it is to be attributed solely to an error of judgment, as to my rights, in which judgment I had the mature sanction of my counsel, gentlemen who, all must know who know them at all, are as incapable of advising a course derogatory to the legal authority of the House, or of its committee, as any honorable member on this floor. I therefore, in the most solemn manner, disclaim the remotest design to commit, in what I have done, or failed to do, as a witness before your committee, or in what I am about to say now, any offense against the authority of the House or its agents.

To make my defense the more readily comprehended, a preliminary statement is necessary. On the 15th of January last the House adopted the following resolution:

"Resolved, That a committee of five members be appointed to investigate the charges preferred against the members and officers of the last Congress, growing out of the disbursement of any sum of money by Lawrence, Stone & Co., of Boston, or other persons, and report the facts and evidence to the House, with such recommendations as they may deem proper, with authority to send for persons and papers."

By virtue of this resolve the committee before whom I have been, was appointed, and its authority remains exclusively such, and no other than that resolve conferred. The commission then is to "investigate the charges preferred against the members and officers of the last Congress, growing out of the disbursement of any sum of money by Lawrence, Stone & Co., of Boston, or other persons," &c.

What the charges were the resolve does not state, except that they grew out of money disbursed by Lawrence, Stone & Co., or other persons. But, as no conduct of members or officers, save official, is within the power of the House, the charges must have referred to corruption consummated, or attempted upon such official conduct, in the disbursement of money, by the Boston house or by other persons. It would seem then to be clear that the powers of the committee are limited to inquiries touching such imputed disbursement; and that no questions can be asked, and no answer exacted except such as tend to ascertain that fact, namely: was such money disbursed for the purpose stated, or was it attempted to be so disbursed? I am far from admitting the authority of this House to institute the latter inquiry. The Congress, on whose members and officers the alleged attempt is supposed to have been made, no longer exists; and whatever illegal purpose existed against them, and whatever illegality there may have been in their conduct, the offense is to be answered for before the ordinary tribunals of justice, and with all the protection to innocence which the policy and wisdom of our laws afford, and with all the means they furnish to establish guilt, if guilt there be. Congress, as the grand inquest of the nation, has no power to investigate into the conduct of the citizen, or to punish him, or to direct criminal proceedings against him in the courts, except as to the first case, when the official integrity of its members is involved; and in the other two instances, when a witness is before them or a committee, in a matter within their jurisdiction, and refuses to answer a pertinent question. In such cases they can punish by arrest during the then session of the House; and under the third section of the act of the 24th January, 1857, they can also "hand the witness over to the district attorney of this District, whose duty it is to bring the matter before the grand jury for their action."

But this limitation on the power of Congress, or either of its Houses, is further apparent from these considerations. There is by the Constitution, (2d clause, 6th section, 1st article,) an express power granted "each House" to "punish" its members for disorderly behavior, and, with the concurrence of two thirds, to expel a member. The insertion of this authority, on principles of construction coeval with the Constitution, it was thought negated all power to punish in other cases, and consequently denied the power to punish a witness, or other party, for what in England or in the States would be adjudged and punished as a contempt. But this view was held to be, and, as I am advised, it clearly was, too limited. The power, though not granted, and not impliedly within the one actually in terms granted was necessarily incident to the just authority of Congress, and important to its purity and consequent usefulness to the country. The Supreme Court of the United States so held, in the case of Anderson vs. Dunn. (6 Wheaton, 204.) But because, as ruled in that case, it exists by implication only, it is not to be esteemed a "substantive and independent" power, "but auxiliary and subordinate." The purity of Congress, the official integrity of its members, are necessary to the faithful and satisfactory discharge of the duty to the country, and all-important to the interests of the people. The authority to examine into all imputations upon such purity and integrity must therefore exist; and, not being in terms conferred, is to be implied. But the implication does not bring into existence "a substantive and independent power," but one altogether "auxiliary and subordinate." The conclusion, I am advised, would seem to be clear that no authority can be implied to examine witnesses in such a case as that, and the one before you is only of that class, except to facts fairly calculated to ascertain the truth or falsehood of the charge under investigation. That is to say, to propound, only, such questions as may be pertinent to the inquiry.

The act, too, before referred to, of January 24, 1857, in words solimits the authority. It provides only in its first section—and consequently the third section is to be so limited—for the case of a witness who, appearing, shall refuse to answer any question pertinent to the matter of inquiry under "consideration before the House or committee by which he shall be examined," &c. Before attempting to apply what I have so far stated to the charge against me, and with all becoming deference to the House, I hope to be excused for

adding, as bearing further on what I am about to submit, that by the first clause of the first article, and evidently designed to exclude all other legislative powers, those vested in Congress are declared to be the "legislative powers *herein granted*." These, and these only, and such as are necessary and proper to their beneficial discharge, are all the legislative powers conferred; and so solicitous was the vigilance and far-seeing the sagacity of the great and patriotic men of the day, that they were not satisfied to have the powers granted, in the manner granted, to stand as the only security that in progress of time they should not be enlarged by construction. By the ninth and tenth articles of the amendments to the instrument, and in plain words admitting of no misapprehension, they provided:

First, That "the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Second, That "the powers not delegated to the people of the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

With these remarks I proceed with my justification. I am advised, Mr. Speaker and gentlemen, that the effect of the order under which I am in your presence, is to place me in the character of a criminal, according to precedent in like cases, adjudged to be such by the House, without giving me, in advance, an opportunity of being heard. And as such judgments, if enforced without a hearing of the party involved, are not consistent with the justice or the genius of our institutions, I have now the same right to show cause against the legality of the one in my case, that I would have had if I had been heard in advance.

Before some tribunals it is possible that an expressed opinion cannot be changed, but I have no fear of such an obstacle in this instance. Fresh from the people, and sooner or later to return and be of them, it cannot be that a judgment, though formed with perfect sincerity of conviction, but from the circumstances attending it, under the influence of more or less of haste or excitement, if, upon a more mature consideration, it shall appear wrong, will, in the slightest degree, from mere pride of opinion or other motive, constitute the least impediment to your now correcting the error; and I do not therefore fear, if I can satisfy you of the error, or make you entertain a reasonable doubt of it, but that you will, with the liberality, magnanimity, and candor, which ever belong to an enlightened tribunal, make the correction, and, by so doing, do justice to a citizen.

To this task I now more directly proceed.

The power of the House and the committee being limited to the investigation of the charges preferred, according to the terms of the resolution of the 15th of January, and necessarily and constitutionally so limited, it must be admitted that the authority to examine witnesses is confined to such questions as, in the language of the act of 24th January, 1857, are *pertinent* to the matter of inquiry. A question, therefore, which, in its form, shall seek information foreign to the inquiry, the committee have consequently no right to propound. Nor is a refusal to answer such a question illegal.

A want of jurisdiction in this case, as in the case of other tribunals, is a want of rightful power, and if assumed, in the eye of the law renders everything that may be done simply null and void.

For the same reason, a question which, if answered, may, if followed by pertinent questions, serve to elucidate the authorized investigation, the witness is bound to answer. But if the answer which he does give anticipates all other legal questions which can grow out of it, and shows that he can give no other response to that or such other inquiries, except such as will disclose matters of a private nature, touching his own individual business or rights, or the private business or rights of other parties, and in no way bearing on the only investigation which the committee is empowered to notice, the legal obligation of the witness is fulfilled, and the power of the committee is in that particular exhausted. It is a grave error to suppose that the power of such a committee gives the right to put to a witness any and every question which they may suppose proper. Such a principle would potentially vest in such a body unlimited and inquisitorial authority. The true rule, and the limit of the power is found in the rule, that the question which the witness is bound to answer be *pertinent* to the subject to be investigated. It is a refusal to answer such a question as that—a *pertinent* one—that the act of January, 1857, says is a contempt to be punished by indictment. To constitute either a contempt or a misdemeanor, under that law, the *pertinency* of the question is as vital as the refusal to answer. It is unsound doctrine, that it is immaterial whether the question be proper or improper. If it be improper in a legal sense, because not pertinent to the subject which the committee are only authorized to examine, then it is as unobjectionable upon the witness as a question propounded by the members of the House without any authority at all from the body.

The assumption that any question that may be asked by the committee, under the authority of the House, is to be answered, is true; but then the right to propound a particular question does not exist, if such question is not within their authority; and such is, as I am advised, the nature of the one which was put to me in this instance. A different rule would necessarily make a committee absolute and supreme, and render their judgment, thus given solely by virtue of a delegated authority, infallible and conclusive. Every question they should propound, simply because they did propound it, is to be held a pertinent one, which the witness is bound to answer; and when his refusal is reported to the House, or he is proceeded against by indictment under the act of 1857, the judgment of the committee is to be conclusive alike upon the House, the court, and the jury. I submit, under advice, that such a principle is at war with the well-settled rights of the citizen. If I am correct thus far, then the only matter to be considered is, does the answer which I did give to the last question put to me by the committee, contain all the information which their limited authority gives them the right to ask of me? By their report to the House it will be seen that a number and a variety of antecedent questions were propounded, to all of which I made prompt and apparently satisfactory replies. I had informed them, in response to their questions—

First. That no funds had been placed in my hands by any

of the manufacturers of Massachusetts, for the purpose of influencing members of Congress upon the passage of the tariff act.

Second. That I was never authorized by any of them to make any promises of future benefits in the event of the passage of that act.

Third. That I did not receive, after the close of the last session, from the manufacturers of Boston, or elsewhere, any funds, money, negotiable securities, or anything of that sort, to be used in that way—that is to say, in influencing members of Congress, as asked in the first question.

Fourth. That I did not, at any time during the months of March or April, 1857, receive from Mr. Stone any negotiable securities or money, or credits of any kind, for any such purpose, either directly or indirectly.

Fifth. That I did not receive at any time in March, 1857, a considerable sum of securities, for any purpose connected with the tariff, either to be paid to members of Congress for the purpose of influencing their action, or to their agents.

Sixth. Nor for their benefit, either directly or indirectly.

Seventh. Nor in satisfaction of previous arrangements or promises.

Eighth. Nor any securities at any time during March, 1857, to the amount at one time of \$30,000, for such purposes.

Ninth. These several replies having been given, and apparently considered sufficient, the committee then put to me the question which brings me before you.

The House cannot but perceive that nearly all the previous questions look to the influencing, by money, or its equivalent, in the passage of the tariff act, or by promises of doing so at a subsequent time, the action of members of that Congress on that act. My private business, having no connection with such a charge, was not inquired into. From whom I may have received funds, and on what consideration, and for what purpose, other than the imputed illegal purpose, does not, so far, seem to have entered into the design of the committee.

Having negatived every previous inquiry bearing on the development of the illegal purpose charged, and, in terms as strong as I could use, disclaimed the receipt of funds from any quarter, to be applied directly or indirectly at once, or by promise of future appliance, or benefits to the alleged improper influencing of the members of that Congress, the committee then submitted to me this question: "Did you ever receive the \$30,000 before mentioned 'for any purpose'?" This I at once declined answering until I could consult counsel, and upon the ground that it included a matter of strictly private business; but again added that no such sum was received for the purpose of influencing members of Congress or their agents. The permission for counsel was granted; and, before I left the room, the question in the form reported to the House was placed in my hands. It is in these words:

"Did you receive from the firm of Lawrence, Stone & Co., some time in March last, a sum of securities or money to the amount of \$30,000, more or less." The words "for any purpose," which formed a part of the question which I had first declined to answer, as first stated, are not here added. But it is evident the committee designed to get an answer without regard to the purpose, or object, or consideration, for the receipt of the alleged sum. What my answer was to the question in this form is now known to the House; and the inquiry is, is it such an answer as I am only legally bound to make?

I suppose that no one will for a moment maintain that, under our form of government, with the limitations implied and expressed upon its powers, legislative, executive, and judicial, and the express reservation to the States, or the people, of all rights and powers not enumerated in, or delegated in the United States, by the Constitution, it is in the power of Congress, or either of the other departments, to investigate the social relations and private business of a citizen, having no reference at all to, or connection with, the powers conferred upon them respectively. The right to hold these sacred from governmental investigation or power, is, in very terms, expressly secured by the ninth amendment, and vested in the citizen. The power, too, over this, is also, by the succeeding amendment, in like manner reserved.

In regard, then, to my strictly private rights, I am in no measure responsible to Congress. After, then, the answers which I had given to previous interrogatories, and the one I gave to this, denying expressly any purpose to influence Congress, or any of its members, by improper means in the passage of the tariff act of 1857, or any other act of Congress, in money or securities, or any such actual or attempted influence, I am asked whether I received the money from the parties named "for any purpose?"

Having denied all illegal purpose in its receipt, or its subsequent illegal use by Congress or others, the inquiry necessarily is, did you receive it for a legal purpose? And that is to be followed by asking what that purpose was? and how did you, in fact, appropriate the fund? Did you, in the execution of your legal purpose in receiving it, enter into private and business arrangements with the parties having no connection with the charges under investigation, causing you to pay to them a part of, or all of, the fund? If this is not to compel me to disclose my individual and private transactions, to lay before Congress and the country what these were, I am at a loss to conceive what private transaction in such a case is free from congressional investigation. It is said that it may be true that I did not receive the fund in question for the illegal purpose charged, or to use it directly or indirectly, or pay it to other private parties, with a view to such purposes, and yet it may be found that such parties did it with that view. The error, I respectfully submit, of this position is, that it seems to assume as true the fact that that sum, in whole or in part, was thus illegally appropriated. It assumes as clear that the charge the committee are to inquire into was truthfully made, and that the corruption of the members of the last Congress was effected by means of this \$30,000. I am advised that these assumptions are not such as the law makes. The charge, if established, is a crime: and the presumption before proof is always of innocence.

The House, I submit, will also see that in the several answers I have given to those prior questions, and in the one to the last interrogatory, I have not testified to matters of opinion or in relation to matters, on which, as opinion, the committee or the House might differ with me, but to

matters of fact exclusively. The purpose with which money is received is a fact; its intended appropriation is a fact; its actual appropriation is a fact; the denial of all knowledge of appropriation of it by others is a fact. If as to one or all of these I have testified falsely, I have foresworn myself, and may be indicted and punished for perjury. In no part of such testimony is there anything of opinion at all; the whole refers to matters of fact and nothing else. Those who may differ with me as to these cannot so differ because of opinion, but because they allege the facts to be otherwise. This would amount to a contradiction—a denial of my testimony.

But where is the scope of inquiry to terminate? My answer will exclusively disclose my private transactions, with which, in the abstract, Congress has nothing to do. But it is said we want to be informed as to them, because it may be that we shall discover some other citizen, who, by virtue of private business with me, has become possessed of sufficient means to corrupt members of Congress, and who may have been unscrupulous enough to so appropriate it: and we want his name, that we may summon him, and put to him the inquiry, "What did you do with the money you received from Mr. Wolcott in your private dealings with him, in March last, or at other times? Did you use it to influence, improperly, members in their action upon the tariff act of 1857?" He denies any such use of it, and then he is asked, "How, and to whom, then, did he dispose of it?" Thus, his private transactions are to be ransacked and disclosed, and the same course of proceeding is to be pursued as to all other citizens, into whose hands any part of the fund may be traced, though coming strictly from private business transactions, which, sacred in the eye of every civilized community in the world, are to be laid bare, under the authority of Congress to inquire into the official integrity of its members and officers.

I am advised, and the statement is made with all respect to the House and its legal authority, that such a doctrine as this would establish for it an unrestrained inquisitorial power, not less destructive of its legitimate influence, and its ability to discharge its high and most important legislative functions with usefulness to the country, than ruinous to what has ever, heretofore, been considered the well-established rights of the citizen—the unmolested enjoyment of all his private relations, in the transaction of his private business. Official corruption in members of Congress may have existed; it is not for me to deny it—since the very charge submitted to your committee assumes that it may have been the case in the last Congress. But it is better, far better, that this go unquestioned and unpunished, than that the sacred private rights of the citizen should be violated. The eye of a discerning and honest constituency, and the public opinion of the body, which the member may, by his presence, pollute, with his conscious guilt punishing him day and night with compunctious visitings, will, in a brief period, consign him to the degraded level to which he belongs.

The blot on the fair fame of the body will thus be wiped off, and its mighty powers, granted for the protection of the citizen, and the legitimate increase of the power and glory of the country, left unimpaired; private rights will then also be possessed without danger of illegal inquiry, and the citizen will look to Congress as competent to every of its delegated powers, whilst alike unwilling to attempt, and impotent to obtain, possession of others. With a perfect knowledge of the honesty of my own conduct, and of my freedom from intentional disregard of the constitutional authority of your honorable body, or of your committee, and with a full confidence in the justice of the House, I submit, without further remark, this my defense to its further consideration and more mature judgment.

J. W. WOLCOTT.
Sworn to and subscribed before me, the 15th February, 1858.

JAMES L. ORR, Speaker.

Pending the reading of the foregoing answer, Mr. LETCHER said: I should like to know, Mr. Speaker, to what question this is a response. I want to hear the question read, so that we may know what is proposed to be answered by it.

Mr. MOORE. I hope the gentleman from Virginia [Mr. Letcher] will withdraw all objection and let the witness be heard.

Mr. STANTON. I understand it to be an argument to show that the House has no power to require from him an answer to the interrogatory, and that he is not in contempt. I trust the House will hear his argument with patience and candor, and will consider it.

Mr. LETCHER. I want to know what question the House has asked to produce this answer.

The SPEAKER. The questions propounded to the witness were:

"What excuse have you for refusing to answer the question propounded to you by the select committee of this House, before which you were summoned to appear, as to whether you had received any sum of money from Lawrence, Stone & Co., some time in March, 1857?"

Mr. LETCHER. And this is an answer to that, is it?

The SPEAKER. The second question was:

"Are you now ready to answer that, and all other proper questions that may be propounded to you by that committee?"

These were the two questions propounded. The witness is proceeding to assign, as the Chair understands, the reasons why he should not answer.

The Clerk resumed the reading of the answer, and was again interrupted by

Mr. BURROUGHS. I desire to know how long that paper is—what length of time its reading will occupy? I think we have had quite enough

of it, and I think it time for the committee to make some move on the subject.

The SPEAKER. The Clerk has not as yet finished the reading of the paper.

Mr. JOHN COCHRANE. Let us hear it.

Mr. BURROUGHS. I suggest that we have heard enough of that paper; and I think it time that the chairman of the special committee should make some motion.

Mr. ADRAIN. I hope the House will hear the remainder of the paper read. The House adjourned over from last Friday till to-day to give the witness an opportunity of purging himself of contempt. The object of this paper is to purge him of that, and I hope the House will permit the paper to be read.

Mr. JOHN COCHRANE. Under the hour rule.

The Clerk again resumed the reading of the paper, and was again interrupted by

Mr. CLEMENS. Is that paper signed by Reverdy Johnson, or by John W. Wolcott?

The SPEAKER. It is signed by the witness, and sworn to.

The reading of the paper was again resumed, and completed.

Mr. STANTON. It will, of course, be expected that the committee which has this subject in charge will present to the House such action as they may think the answer of the witness demands. There has been, of course, no opportunity for consultation with the committee since the contents of the answer have been known. Anticipating, however, that the answer might be unsatisfactory, from what has previously passed, I have availed myself of the opportunity of consulting on the floor such members of the committee as were in the Hall at the opening of the session; and I therefore submit the following resolution:

Whereas, John W. Wolcott has failed satisfactorily to answer the questions propounded to him by order of this House, and has not purged himself of the contempt with which he stands charged: Therefore,

Be it resolved, That the said John W. Wolcott be committed by the Sergeant-at-Arms to the common jail of this District of Columbia, to be kept in close custody until he shall signify his willingness to answer the questions propounded to him by the select committee of this House, and all other legal and proper questions that may be propounded to him by said committee; and for the commitment and detention of the said John W. Wolcott, this resolution shall be a sufficient warrant.

Resolved, That whenever the officer having the said John W. Wolcott in custody, shall be informed by said Wolcott that he is ready and willing to answer the questions heretofore propounded, and all proper and legal questions that may hereafter be propounded to him by said committee, it shall be the duty of such officer to deliver the said John W. Wolcott over to the Sergeant-at-Arms of this House, whose duty it shall be to take the said Wolcott immediately before the committee before which he was summoned to appear for examination, and to hold him in custody subject to the further order of this House.

It is due, certainly, to the witness, and it is due to the occasion, that the House, exercising the powers of a court, and passing sentence of indefinite imprisonment on a citizen, should act coolly and calmly, and on a full and distinct understanding of the principles on which that power is to be exercised.

As the power which these resolutions propose to exercise is probably to be tested before the judicial tribunals of the country, it seems to me to be proper to submit a very brief and condensed statement of the principles upon which it rests, and which, in my judgment, justify and require its exercise on this occasion.

The Constitution makes "each House the judge of the elections, returns, and qualifications of its own members," and authorizes each to "punish its members for disorderly behavior, and, with the concurrence of two thirds, to expel a member."

The powers thus granted are judicial powers conferred upon the Senate and House of Representatives, as separate and distinct bodies, and have no connection with the general grant of legislative powers to Congress. And the fact that any specific and limited powers are granted to Congress, has nothing to do with the grant of judicial powers to the Senate and House of Representatives, as separate, several, distinct tribunals. The House, in the exercise of the judicial power thus conferred upon it, is sovereign and supreme—just as much so as if the grant of legislative powers to Congress had been general and universal over all rightful subjects of legislation.

I admit that Congress cannot confer upon the House additional powers, not enumerated in the

specific powers granted to Congress, or necessary to the exercise of the granted powers.

It is also admitted that there has been no act of Congress authorizing either House to punish a witness or anybody else for contempt. The only acts of Congress which are supposed to have any bearing upon the question, are the acts authorizing the chairman of committees to administer oaths, and requiring the Speaker to issue subpoenas for witnesses, upon the application of a committee authorized to send for persons and papers. And the law passed at the last session, making a party liable to indictment and punishment for refusing to appear and testify before a committee of either House of Congress, "in addition to the pains and penalties now existing," which assumes the existence of the power to punish for contempt.

The power to punish for contempt is a necessary incident to judicial power, without which it cannot be exercised. The judicial power is just as much sovereign and supreme as the legislative or executive. The power to decide controversies between citizens and between the citizen and the State, is one of the most important attributes of sovereignty; and the power to decide carries with it the power to inquire, to investigate, and to consider. And how can any tribunal inquire and investigate without the power to compel the attendance of witnesses, and to require them to testify? Who would consent to be bound by the decision of a court that was confined to the testimony of such witnesses as might come voluntarily before it, and such evidence as the witness might choose to give? The idea of a judicial tribunal without plenary power over the parties and witnesses is an absurdity. The creation of a court or a grant of judicial power, either in an organic law or an ordinary legislative enactment, carries with it power over the parties, the witnesses, and all the instruments of evidence that are necessary to the exercise of the power granted. At common law, in England and in all the States of the Confederacy, every judicial tribunal, from justices of the peace to the courts of last resort, have the power of issuing attachments and fines and imprisoning parties and witnesses for contempt. It is true that in most of the States statutes have been passed to regulate the exercise of this power. But these are restraining acts, to prevent the abuse of the power and prescribe the manner of exercising it.

But I apprehend that no lawyer will claim that the power is derived from the constitution or statute law of any State, and that it does not exist without such grant.

If the power to "punish members for disorderly behavior, and to expel a member" be in its nature a judicial power, it carries with it, *ex necessitate rei*, such incidental powers as are indispensable to its exercise.

This committee is required to "investigate" certain matters named in the resolution under which it was appointed. And how can it "investigate" if the House has no power to compel a witness to testify to facts within his knowledge which are indispensable to a proper understanding of the matter to be "investigated"?

The investigation with which your committee is charged is based upon an allegation that \$87,000 was paid by Lawrence, Stone & Co. to influence the legislation of the last Congress. The evidence already taken by the committee tends to prove that \$58,000 of this sum was paid to this witness. It is true that this witness says that this money was not paid to him, or paid out by him, to influence legislation. But *non constat* but he may have honestly paid it to some one who did use it corruptly; and how is the committee to trace it unless they can compel him to tell to whom he paid it?

But the committee and the House may differ with the witness as to what is an honest and justifiable use of the money. Are the committee and the House to assume, upon the judgment of the witness, that the consideration for which it was paid to him, or paid out by him, was legitimate and proper? I submit that the House has a right to know what that consideration was that they may judge of its character. If it is said that this is not a case of the "misbehavior of a member," which the House is authorized by the Constitution to inquire into and punish, I answer, first, that that is a question which goes to the power of the House to institute this investigation.

It assumes that the court has no jurisdiction over the subject-matter.

But this is a question which cannot be made by a witness who is under examination. It may be that the question of jurisdiction itself depends upon the facts which the witness refuses to disclose. Suppose a party were on trial in any court of the United States, for an offense which the defendant claimed was not within the jurisdiction of the courts of the United States, but was within the exclusive jurisdiction of the State courts: could a witness refuse to answer a question on the ground that the court had no jurisdiction? Would the court be bound to decide the question of jurisdiction against the defendant before the witness could be compelled to testify? Would not the court say that the question of jurisdiction was one with which the witness had no concern and had no right to inquire into? That to enable the court to try the question of jurisdiction, it had a right to inquire into the facts which were necessary to enable the court to decide the question of jurisdiction, and that the witness must therefore be compelled to testify?

If it be said that the want of jurisdiction is apparent upon the face of the record; I answer that the witness is not a party to the record, and can make no question about it. The record is made up and the issue joined by the parties without making any question of jurisdiction. The trial is in progress and the witness is upon the stand, and he will not be permitted to make a collateral issue not made by the pleadings or urged by either of the parties.

But the question of jurisdiction was decided by the House by the passage of the resolution under which this committee is acting, and in every order since made in relation to this witness as well as the witness Williamson, from New York. This House has, at its present session, raised not less than five other committees with similar powers, which cannot be distinguished in principle from the committee before whom this witness is required to testify. If, therefore, this witness shall be discharged upon the ground that this committee have no power to investigate the matters referred to them, it follows that this and all other committees of investigation that have been raised during the session must be at once disbanded. It would therefore seem rather late in the day to raise a question of this kind.

If gentlemen hold that the House has no power to investigate the matters referred to these committees, why was not the question made upon the passage of the resolutions for their appointment? But, if the House shall now come to the conclusion that these committees were imprudently raised, and that the House has transcended its powers, the sooner we retrace our steps the better. For one, I have no doubt about the power.

It may be matter of controversy whether the constitutional provision authorizing the House to punish its members for "disorderly behavior" contemplated anything beyond the preservation of order and decorum in the debates and proceedings of the House whilst in session; but, whatever may be the true construction of this clause, there are certain powers that are necessarily incident to every judicial tribunal, and to every legislative body. Amongst these, are the power to control its own officers, to defend itself and its members against aggression, and to protect its own dignity and honor. These powers are indispensable to its very existence. Without them, it is helpless, imbecile, and contemptible. A legislative body without the power to purge itself by the expulsion of a member for bribery, would be an object of scorn and contempt. It is a power that has been exercised a thousand times in the English Parliament, by this House, by the Legislatures of the various States of the Union; and has never been denied by any judicial tribunal or legislative body. The power to investigate, and to try a member, is merely the exercise of the power to punish or expel.

But the power of the House over its members is not limited, by the Constitution, to cases of "disorderly behavior;" but in addition to the power to "punish" for this cause, the House may, with the "concurrence of two thirds, expel a member." For what may he be expelled? Not merely for "disorderly behavior," but for whatever may, in the judgment of two thirds of the members, be good cause for expulsion. This is

an ample warrant for an inquiry into the conduct of a member, for the purpose of ascertaining whether he has done anything worthy of expulsion.

So far, I have discussed the question upon principle alone, without reference to precedent or authority. My time and opportunities for consulting authorities have not been such as to enable me to make any extended reference to precedents. There is an excellent summary of the principles governing the powers and privileges of Congress, with a reference to sundry authorities, in Jefferson's Manual, pages 52 to 56. From this it will be seen that some very questionable powers were exercised by the House from 1795 to 1800. The questions that seem mainly to have been discussed in those cases, was whether the power of punishing for contempts, whether witnesses or others, could be exercised without an act of Congress regulating the exercise of the power conferred by the Constitution. This question has been abundantly settled since, by the repeated exercise of the power, and by the uniform and concurrent decisions of the House in every case where the power has been called in question.

The case of Anderson, which was referred to in the discussions at the last session, was much stronger than the one now before the House. In that case, an attachment was issued against Anderson for a contempt of the privileges of the House, in attempting to bribe a member to make a favorable report from a committee on a private bill. He was arrested by the Sergeant-at-Arms and brought to the bar of the House, and reprimanded by the Speaker by order of the House, and then discharged from custody. He brought an action of trespass for false imprisonment against the Sergeant-at-Arms in the circuit court of the United States. The Sergeant-at-Arms was justified under the Speaker's warrant. The justification was sustained and judgment rendered against the plaintiff. He took a writ of error to the Supreme Court of the United States, and the judgment of the circuit court was affirmed by that court. This decision was made about the year 1818, when the country was peculiarly free from political excitement, and when the judges of the Supreme Court commanded the entire confidence of the whole country, and the court were unanimous. The power exercised in that case was much more questionable than the ordinary power exercised by every court in the country of imprisoning a witness for refusing to testify.

The case of Simonton, at the last session, was precisely like this, and I have followed that case in every particular, except that I propose to commit the witness to the jail of the District of Columbia, instead of requiring him to be kept in close custody by the Sergeant-at-Arms. I have adopted substantially the resolution offered on that occasion by the gentleman from Illinois over the way, [Mr. HARRIS], whose authority, I fear, will not go so far with gentlemen on that side of the House now as it did at the last session.

The reason for sending the witness to the custody of the Sergeant-at-Arms was the statement made by you, Mr. Speaker, as a member of that committee, that, in your judgment, the jailor would not be bound to receive him. With all due deference to your better judgment, I have, after some reflection, come to a different conclusion. The jail of this district was built by Congress. It is under the absolute control of Congress, and may be converted into a church or a distillery, or anything else that Congress may direct. The expense of maintaining the prisoners is paid from the national Treasury. The marshal of the United States for the District is *ex officio* the keeper of the jail. He is bound to receive into his custody all persons committed to the jail of the District by any judicial tribunal in the District having power to imprison. This House, when acting judicially, is such a tribunal; and, I have no doubt, if he would refuse to receive a prisoner committed by the House, that he would be liable to an indictment for an escape.

I see no reason why this party shall not be dealt with precisely as other parties are, who are found guilty of similar offenses. I have no notion of having him feasted at one of the hotels of the city, at public expense. I am a republican of the old school, and believe in practicing that democratic equality which I profess. I have no notion of making distinctions, on account of color

or condition. I would treat this Boston banker precisely as I would treat one of these hod-carriers about the Capitol, whether he be black or white. There is no hardship in the case. All he has to do is to submit to the laws of the country, as they are administered by its legally-constituted tribunals, and he is entitled to an immediate discharge. With this he ought to be satisfied.

I desire to say, that, while I have myself no inclination to press the House to a hasty decision, I am not disposed to take the responsibility of protracting its deliberations upon this question, and occupying more time than the occasion calls for.

I take it for granted that this witness intends to test the power of this House before the judicial tribunals of the District. Let him try it. While I do not feel disposed to precipitate the action of the House, on the other hand I do not feel disposed to make myself responsible for an unnecessary consumption of time, and therefore I shall move the previous question upon the resolutions, knowing that if the House desire a discussion they will vote it down.

Mr. BILLINGHURST. I desire to call the attention of the gentleman from Ohio to the phraseology of his resolution, and to suggest a slight amendment.

Mr. RITCHIE. I rise to a point of order. I believe the previous question has been called, and no amendment is in order.

Mr. BILLINGHURST. I appeal to the gentleman from Ohio to hear the proposed amendment.

Mr. STANTON. I am willing to hear it read. Mr. BILLINGHURST. I will say, in the mean time, that the House has no power to punish by imprisonment beyond the present session, and the resolution upon its face is perpetual imprisonment.

The amendment was read as follows—insert after the word "committee" near the close of the first resolution these words, "or until the termination of the present Congress."

Mr. STANTON. There is no necessity for that; because, if he is in custody when Congress expires, he will be discharged on *habeas corpus* immediately.

Mr. MILLSON was recognized by the Chair. Mr. JONES, of Tennessee. I wish to inquire as to the effect of this resolution.

Mr. HUGHES. I rise to a point of order. If the previous question has been called, I object to any debate.

Mr. JONES, of Tennessee. If the main question is ordered—

The SPEAKER. The gentleman from Virginia [Mr. MILLSON] has the floor, if debate is in order.

Mr. CLINGMAN. I object to all discussion. Mr. MILLSON. I desire to offer an amendment to the resolution, and I ask the gentleman from Ohio to withdraw the demand for the previous question, to enable me to do it.

Mr. STANTON. I must decline. Mr. JONES, of Tennessee. If the main question be ordered, will not the gentleman from Ohio [Mr. STANTON] be entitled to make an hour's speech?

Mr. STANTON. Yes; but I do not want to exercise the right. The SPEAKER. The gentleman does not report these resolutions from his committee.

Mr. BOWIE. I want to know whether an amendment is in order now?

The SPEAKER. An amendment is not in order pending the demand for the previous question.

Mr. JONES, of Tennessee. Well, I move to lay the whole subject on the table; and on that I would like to have the yeas and nays.

Mr. SEWARD called for tellers on the yeas and nays. Tellers were not ordered.

The yeas and nays were not ordered; only twenty-four members voting therefor. The motion to lay on the table was not agreed to.

Mr. JONES, of Tennessee. Were there not twenty-four members voting for the yeas and nays?

The SPEAKER. The Chair announced twenty-four; but that is not enough to order the yeas and nays.

Mr. JONES, of Tennessee. I ask that the other side be counted.

The SPEAKER. It is too late now. The gentleman from Georgia demanded tellers, and tellers were not ordered.

Mr. JONES, of Tennessee. I asked for a count of the other side before the Chair put the question on ordering tellers.

The question recurred on seconding the previous question.

Mr. DAVIS, of Mississippi, called for tellers. Tellers were ordered; and Messrs. SEARING and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes 82, noes 74.

So the previous question was seconded.

Mr. JONES, of Tennessee. I now move to lay the resolutions on the table; and on that I ask the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 158; as follows:

YEAS—Messrs. Abbott, Adrain, Avery, Bennett, Blair, Bocoek, Bowie, Boyce, Buffinton, Chaffee, Clawson, Burton, Craige, Davis of Massachusetts, Dimmick, Eliott, Gooch, Grow, Lawrence W. Hall, Hughes, Jewett, George W. Jones, Leiter, Humphrey Marshall, Maynard, Quitman, Robbins, Royce, Seward, Samuel A. Smith, Tappan, Thompson, Trippe, Underwood, and John V. Wright—34.

NAYS—Messrs. Ahl, Anderson, Andrews, Atkins, Barksdale, Billingham, Bingham, Bonham, Branch, Bratton, Bryan, Burlingame, Burnett, Burns, Burroughs, Case, Ezra Clark, John B. Clark, Clay, Clemens, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Corning, Covode, James Craig, Crawford, Curry, Curtis, Damrell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Daves, Dean, Dewart, Dick, Dowdell, Durfee, Edmundson, Farnsworth, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Giddings, Gillis, Gilman, Gilmer, Goode, Goodwin, Granger, Greenwood, Groesbeck, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hawkins, Hickman, Hill, Hoard, Hopkins, Houston, Howard, Huyler, Kilgore, Jenkins, J. Glancy Jones, Kellogg, Kelly, Kelsey, Knappe, Knapp, John C. Kunkel, Lench, Letcher, Lovejoy, McKibbin, McQueen, Samuel S. Marshall, Miles, Miller, Millson, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Oliver A. Morse, Mott, Murray, Niblack, Nichols, Parker, Pendleton, Pettit, Peyton, Phelps, Phillips, Pike, Potter, Pottle, Powell, Puvance, Reagan, Reilly, Ricard, Ritchie, Ruffin, Russell, Sandidge, Savage, Seales, Searing, Aaron Shaw, Henry M. Shaw, John Sherman, Judson W. Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stallworth, Stanton, Stevenson, James A. Steward, William Stewart, George Taylor, Miles Taylor, Fayer, Tompkins, Wade, Walbridge, Waldron, Walton, Ward, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Winslow, Woodson, Wortendyke, Augustus R. Wright, and Zolliecoffer—158.

So the House refused to lay the resolutions on the table.

Pending the vote, Mr. PHILLIPS stated that Mr. ARNOLD had been called home by sickness in his family.

Mr. HUGHES made a like statement in reference to Mr. GREGG.

Mr. HARRIS, of Illinois, stated that Mr. LAMAR had to leave the House on account of indisposition.

Mr. HOARD said: Is it proper to inquire as to the effect of this vote?

The SPEAKER. The motion is to lay the resolutions on the table, which, in the opinion of the Chair, carries the whole subject.

Mr. HOARD. Then I vote "No."

Mr. BURNETT stated that Mr. MASON had to leave the House on account of indisposition.

Mr. CRAWFORD made a like statement in regard to Mr. STEPHENS, of Georgia.

Mr. HALL, of Massachusetts, stated that Mr. WOOD was detained from the House by indisposition.

The main question was then ordered to be put, being upon the adoption of the resolutions.

Mr. UNDERWOOD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. QUITMAN. I am too unwell to make any remarks upon this question; and I shall therefore say in justification of the vote I shall give, that I do not believe this House possesses the power of imprisonment—

The SPEAKER. Debate is not in order.

Mr. MILLSON. If the resolution should be rejected, would it be in order to reconsider the vote rejecting the resolution, and then amend it?

The SPEAKER. The Chair thinks it would be in order.

Mr. ADRAIN. Is it too late now to propose an amendment?

The SPEAKER. It is.

Mr. ADRAIN. If the resolution proposed to commit the prisoner to the close custody of the Sergeant-at-Arms, I should be in favor of it; but it is a pretty hard-handed proceeding to commit a citizen to prison.

Several members objected to debate.

The question was taken; and it was decided in the affirmative—yeas 133, nays 55; as follows:

YEAS—Messrs. Ahl, Anderson, Andrews, Barksdale, Billingham, Bingham, Bonham, Branch, Brayton, Burlingame, Burns, Burroughs, Case, Ezra Clark, John B. Clark, Clemens, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Corning, James Craig, Crawford, Curtis, Darnell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dewar, Dodd, Durfee, Edmundson, Elliott, Eustis, Farnsworth, Faulkner, Florence, Foley, Foster, Giddings, Gillis, Gilman, Glimmer, Goodie, Granger, Greenwood, Robert B. Hall, Harlan, Thomas L. Harris, Hatch, Hawkins, Hickman, Hill, Hoard, Hopkins, Houston, Howard, Huyler, Jackson, Jenkins, J. Quincy Jones, Kellogg, Kelly, Kilgore, John C. Kunkel, Leach, Lovejoy, McQueen, Samuel S. Marshall, Miles, Miller, Montgomery, Moore, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Murray, Niblack, Parker, Peyton, Phelps, Phillips, Pike, Potter, Pottle, Powell, Purviance, Ransom, Reilly, Ricard, Ritchie, Ruffin, Russell, Sandridge, Savage, Seales, Seating, Aaron Shaw, John Sherman, Shorter, Sickles, Singleton, Robert Smith, William Smith, Spinner, Stanton, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Thayer, Tompkins, Wade, Walton, Walton, Ward, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Winslow, Woodson, Augustus R. Wright, and Zollicoffer—133.

NAYS—Messrs. Abbott, Adrain, Atkins, Avery, Bennett, Blair, Boccoe, Bowie, Boyce, Bryan, Buffinton, Burnett, Campbell, Chaffee, Clawson, Clay, Cowdell, Cowde, Burton, Craige, Curry, Davis of Iowa, Dowdell, English, Goodwin, Goodwin, Grow, Lawrence W. Hall, Hughes, Jewett, George W. Jones, Knapp, Jacob M. Kunkel, Leiter, Letcher, Humphrey Marshall, Maynard, Millson, Freeman H. Morse, Nichols, Pendleton, Quitman, Ready, Robbins, Royce, Seward, Henry M. Shaw, Samuel A. Smith, Stallworth, William Stewart, Tappan, Thompson, Trippe, Underwood, Walbridge, and John V. Wright—55.

So the resolutions were adopted.

Mr. STANTON moved to reconsider the vote by which the resolutions were adopted; and also moved to lay the motion to reconsider on the table. The latter motion was agreed to.

The question now being on the adoption of the preamble,

Mr. STANTON demanded the previous question.

The previous question was seconded, and the main question ordered to be put.

The preamble was adopted.

Mr. STANTON moved that the vote by which the preamble was adopted be reconsidered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. LETCHER. I should like to know what is to be done with the witness?

The SPEAKER. He is in the custody of the Sergeant-at-Arms.

Mr. LETCHER. I thought he was delivered by the Sergeant-at-Arms into the custody of the House.

The SPEAKER. The Chair supposes the Sergeant-at-Arms will attend to him.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, informing the House that the Senate had passed the joint resolution of the House, making an appropriation to pay the expenses of the committees of investigation raised by the House of Representatives.

MICHIGAN RESOLUTIONS.

Mr. WALDRON, by unanimous consent, presented the following joint resolutions of the State of Michigan, which were laid on the table and ordered to be printed:

Joint resolution in favor of the passage of an act of Congress making an appropriation for the improvement of certain harbors;

Joint resolution relative to the extension of slavery;

Joint resolution in relation to granting the public lands of the United States to actual settlers;

Joint resolution relative to a northern Pacific railroad;

Joint resolution relative to an appropriation of a grant of land for the endowment of the Michigan Agricultural College; and a

Joint resolution for the protection and permanent security of the St. Mary's Falls ship-canal.

REGISTER AT VINCENNES.

Mr. NIBLACK, by unanimous consent, in

pursuance of previous notice, introduced a bill to continue the office of register of the land office, at Vincennes, Indiana; which was read a first and second time, and referred to the Committee on Public Lands.

AMMON L. DAVIS.

Mr. ZOLLICOFFER, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of reporting a bill for the relief of Ammon L. Davis, a mail contractor from Nashville to Memphis, Tennessee, for services performed under the order of the Post Office Department, for 1854 and 1855.

TWO PER CENT. LAND FUND IN MISSOURI.

Mr. BLAIR, by unanimous consent, in pursuance of previous notice, introduced a bill giving the assent of Congress to a law of the Missouri Legislature, for the application of the reserved two per cent. land fund of said State; which was read a first and second time, and referred to the Committee on the Judiciary.

RHODE ISLAND RESOLUTIONS.

Mr. BRAYTON, by unanimous consent, presented joint resolutions of the State of Rhode Island and Providence Plantations, instructing their Senators, and requesting their Representatives to vote against the admission of the State of Kansas under the Lecompton constitution.

Mr. JONES, of Tennessee, called for the reading of the resolutions.

The resolutions were read, laid upon the table, and ordered to be printed.

ENTRY OF LANDS.

Mr. CLARK, of Missouri, by unanimous consent, and in pursuance of previous notice, introduced a bill supplemental to an act entitled "An act granting to certain citizens of the State of Missouri, the right to enter certain lands in the Plattsburg district in said State," approved July 3, 1856; which was read a first and second time, and referred to the Committee on Public Lands.

OHIO RIVER IMPROVEMENT.

Mr. GROESBECK, by unanimous consent, and in pursuance of previous notice, introduced a bill for the improvement of navigation at the falls of the Ohio river; which was read a first and second time, and referred to the Committee on Commerce.

ABROGATION OF THE RECIPROCITY TREATY.

Mr. MORRILL offered the following resolution; which was read, and by unanimous consent considered, and agreed to:

Resolved, That the Committee on Foreign Affairs be instructed to inquire into the expediency of abrogating the late so-called reciprocity treaty with Great Britain, and whether the same does not operate disastrously upon the timber and grain-growing regions of the United States, as well as against American interests generally.

IOWA LAND GRANT.

Mr. DAVIS, of Iowa, asked the consent of the House to introduce a bill making a grant of land to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State from McGregor, on the Mississippi river, to the western line of said State.

Mr. HUGHES objected.

ADMINISTRATION OF OATHS.

Mr. BOWIE asked the unanimous consent of the House to take from the Speaker's table the bill from the Senate, to authorize notaries public to take and certify oaths and affirmations and acknowledgments in certain cases.

Mr. JONES, of Tennessee, called for the reading of the bill.

The bill was read *in extenso*.

Mr. BOWIE. One word, Mr. Speaker. I wish to express my opinion of this bill.

The SPEAKER. The Chair stated to the House that the gentleman desired to take up the bill for reference only.

Mr. BOWIE. For reference only; but I want to state the object I have in view in that reference.

The SPEAKER. The Chair thinks that debate is hardly in order.

The bill was read a first and second time.

Mr. BOWIE moved its reference to the Committee for the District of Columbia.

Mr. JONES, of Tennessee. If I understand

this bill, it applies to the administration of oaths by notaries all over the United States. If that be true, the bill ought to be referred to the Committee on the Judiciary; and I make that motion.

The SPEAKER. The memorandum on the bill shows that it was considered by the Committee on the District of Columbia in the Senate.

Mr. JONES, of Tennessee. My impression is that it applies to the United States courts, and I insist upon my motion.

Mr. BOWIE. It is a bill, in my judgment, peculiarly for the Committee for the District of Columbia.

The amendment to Mr. Bowie's motion was agreed to; and, as amended, the original motion was agreed to. So the bill was referred to the Committee for the District of Columbia.

KANSAS LEGISLATIVE ASSEMBLY.

Mr. SHERMAN, of Ohio, asked unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Treasury be requested to inform this House whether any money has been paid out of the Treasury of the United States during the fiscal year ending June 30, 1857, for the expenses of any Legislature or alleged Legislative Assembly in the Territory of Kansas; and if so, under what act or provision of law and from what funds said money has been paid.

Mr. BURNETT objected.

Mr. SHERMAN, of Ohio, moved that the rules be suspended to enable him to offer the resolution.

And then, on motion of Mr. WARREN, the House (at ten minutes to four o'clock, p. m.) adjourned.

IN SENATE.

TUESDAY, February 16, 1858.

Prayer by Rev. C. C. MEADOR.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The VICE PRESIDENT laid before the Senate a report of the Secretary of State, communicating, in pursuance of law, statements showing the number and designation of passengers arriving in the United States on ship-board during the year 1857; which was, on motion of Mr. STUART, ordered to lie on the table; and a motion by him to print it was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. STUART presented the memorial of Anthony Caslo, otherwise called Castle, a soldier in the last war with Great Britain, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. IVERSON presented the petition of Samuel H. Taylor, asking for additional compensation as messenger and laborer in the office of the Third Auditor during the years 1853, 1854, 1855, and 1856; which was referred to the Committee on Claims.

Mr. HOUSTON presented the resolution of the Legislature of Texas, in favor of the adoption of more efficient measures for protecting the citizens of that State against Indian depredations, and indemnifying them for property stolen or destroyed; which was referred to the Committee on Indian Affairs.

He also presented a petition of citizens of Columbus, Texas, praying for the establishment of a mail route from that place to George Waldman's, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a resolution of the Legislature of Texas, in favor of a mail route from Marshall, Harrison county, to Dallas, in Dallas county, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a petition of citizens of New York, praying for the adoption of measures for the preservation and elevation of the American Indians; which was referred to the Committee on Indian Affairs.

Mr. BRIGHT presented the petition of Martin Layman, praying permission to enter a quarter section of land, on which he has settled and made improvements, in Minnesota, before the surveys of the Government lands in that Territory; which was referred to the Committee on Public Lands.

Mr. DURKEE presented a petition of certain inhabitants of Madison, Wisconsin, praying for the adoption of measures for extinguishing slavery; which was ordered to lie on the table.

Mr. THOMSON, of New Jersey, presented a petition of citizens of New York, praying that the public lands may be laid out in farms, or lots, for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. BROWN presented a memorial of the registrar and receiver of the land office at Washington, Mississippi, praying that the compensation of land officers may be increased; which was referred to the Committee on Public Lands.

He also presented the petition of Thomas Lawrent, surviving partner of Benjamin & Thomas Lawrent, praying that certain moneys belonging to that firm, and taken by General Scott as property of the Government of Mexico, during the Mexican war, may be refunded; which was referred to the Committee on Military Affairs and Militia.

Mr. MALLORY presented a presentment of the grand jury of the United States court for the northern district of Florida, showing the necessity of a building for the accommodation of the Federal courts in that district; which was referred to the Committee on the Judiciary.

Mr. YULEE presented the memorial of Smallwood, Earle & Co., praying to be allowed the amount of a fine illegally imposed on them and paid to the collector of customs in New York; which was referred to the Committee on Finance.

Mr. CAMERON presented additional papers in relation to the case of Dorothy Wurtz, or Wirt; which were referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. YULEE, it was

Ordered, That the petition of William F. Russell, on the files of the Senate, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. YULEE, it was

Ordered, That the papers on the files of the Senate, relating to the claim of Captain George E. McClelland's company of Florida volunteers, be referred to the Committee on Military Affairs and Militia.

On motion of Mr. HUNTER, it was

Ordered, That the memorial of Edward M. Kent, on the files of the Senate, be referred to the Committee on Finance.

On motion of Mr. HOUSTON, it was

Ordered, That the memorial of Joseph Nork, on the files of the Senate, be referred to the Committee on Patents and the Patent Office.

REPORTS OF COMMITTEES.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the memorial of George W. Lippitt, submitted a report, accompanied by a bill (S. No. 140) for the relief of George W. Lippitt. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of Hannah Stroop, reported a bill (S. No. 142) for the relief of Hannah Stroop, widow of John Stroop, deceased; which was read, and passed to a second reading.

Mr. YULEE, from the Committee on the Post Office and Post Roads, to whom the subject was referred, reported a bill (S. No. 143) to create the office of Fourth Assistant Postmaster General; which was read, and passed to a second reading.

Mr. POLK, from the Committee on Foreign Relations, to whom was referred the memorial of Charles G. Ridgely, submitted a report, accompanied by a bill (S. No. 144) for the relief of Captain Charles G. Ridgely, United States Navy. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Military Affairs and Militia, to whom was referred the petition of Major J. L. Donaldson, submitted a report, accompanied by a bill (S. No. 145) for the relief of Brevet Major James L. Donaldson, assistant quartermaster of the United States Army. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of James Suddards, submitted a report, accompanied by a bill (S. No. 148) for the relief of James Suddards; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of George H. Howell, submitted a report, accompanied by a bill (S. No.

149) for the relief of George H. Howell. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Henry S. Crabbe, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. CLAY, from the Committee on Pensions, to whom was referred the memorial of Jane Baker, submitted an adverse report; which was ordered to be printed.

Mr. JONES, from the Committee on Pensions, to whom was referred the petition of Richard E. Randolph, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a motion to print the message of the President of the United States in relation to the Sound dues, communicated to the Senate the 19th of January, reported in favor of the motion; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of the Treasury in relation to the printing of Congress, communicated the 2d of February, reported in favor of the motion; which was agreed to.

He also, from the same committee, to whom was referred a motion to print the report of the Secretary of War in relation to appropriations applicable to the War Department for the fiscal year ending June 30, 1857, the amount drawn and balances remaining July 1, 1857, and the amounts carried to the surplus fund, communicated January 26, reported in favor of printing the same; which was agreed to.

MEXICAN PROTECTORATE.

Mr. HOUSTON submitted the following preamble and resolution:

Whereas, the events connected with the numerous efforts of the people of Mexico, and of Central America, of this continent, to establish and maintain order and good government, since their separation from the mother country, have so far resulted in failure and consequent anarchy, and demonstrated to the world the inability of said people to effect an object alike so desirable and so indispensible to their welfare and prosperity: Therefore,

Resolved, That the Committee on Foreign Relations be instructed to inquire into and report to the Senate upon the expediency of the Government of the United States declaring and maintaining an efficient protectorate over the States of Mexico, Nicaragua, Costa Rica, Guatemala, Honduras, and San Salvador, in such form and to such an extent as shall be necessary to secure to the people of said States the blessings of good and stable republican government.

Mr. WILSON. Let it lie over.

The preamble and resolution were accordingly laid over under the rule.

EASTERN MAIL.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire if the transmission of the mail between Washington city and Boston cannot be so expedited as to prevent its detention in New York twelve hours, or more, each night.

BILLS INTRODUCED.

Mr. YULEE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 139) amendatory of the act entitled "An act in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. THOMSON, of New Jersey, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 141) to establish a port of entry at Tom's River, New Jersey; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 146) making an appropriation for deepening the channel of the St. Mary's river, in the State of Michigan; which was read twice by its title, and referred to the Committee on Commerce.

He also, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 147) making an appropriation for deepening the

channel over the St. Clair flats, in the State of Michigan; which was read twice, and referred to the Committee on Commerce.

Mr. CLAY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 150) regulating the payments to invalid pensioners; which was read twice, and referred to the Committee on Pensions.

DISTRICT BANKS.

Mr. JOHNSON, of Arkansas. The Committee on Printing, to whom was referred a motion to print the petition of citizens of Georgetown, in the District of Columbia, praying that the bill reported by the select committee to restrain the issue of bank notes in the District of Columbia, may not become a law, have instructed me to report adversely to the printing, and to move that it lie on the table, on the ground that it is only of interest probably to the select committee that have the subject-matter of that bill under their consideration. I move that it lie on the table.

Mr. SLIDELL. I move that it be referred to the select committee on that subject.

Mr. JOHNSON, of Arkansas. I think that is the proper direction; but I did not deem it proper to take the responsibility of proposing it. I withdraw my motion.

The motion to refer was agreed to.

MINNESOTA LAND GRANT.

Mr. JOHNSON, of Arkansas. The same committee have had under consideration a motion to print the report of the Secretary of the Interior, in answer to a resolution of the Senate, submitting an estimate of the quantity of land which will inure to Minnesota for railroad purposes, under the act of March 3, 1857, and report adversely to its printing. The report is of no very great length; it is so short that any member of the Senate can read it in a minute; it will not make two pages; and, indeed, hardly one, of octavo size. We do not believe it will be of any avail at all to print it; but we think it will lead to calls from other States for reports showing what each State is entitled to receive, or has received, and this would lead to a large amount of printing in the end. It is unnecessary, because any individual member can get the information without the cost of printing. I report against its printing, and I ask that the report be adopted.

The report was concurred in.

DEPARTMENTAL PRINTING.

Mr. JOHNSON, of Arkansas. The Senate, some days ago, on the motion of the Senator from Michigan, [Mr. STUART], adopted the following resolution:

"*Resolved*, That the Committee on Printing be instructed to inquire, and report to the Senate, what amount has been paid annually during the last five years, to each of the printing establishments in the city of Washington, for printing and advertising of any kind, for the United States, other than that ordered by either House of Congress, whether done by the direction of any Department, or civil or military officer thereof. Also, whether the same has been paid under the provisions of the existing law, and whether any amendment of existing laws is necessary, in order to secure proper economy in the printing expenditures of the Government; and to report by bill or otherwise."

There are facts called for in this resolution that no doubt are desirable. There are other duties imposed on the committee, by virtue of this resolution, which will take some considerable time for them to fulfill. I refer to that part of the resolution which says they shall inquire "whether any amendment of existing laws is necessary." The committee are now engaged on the subject of amendments to existing laws, and will prosecute that inquiry with as much rapidity as they may be able, until they bring forward such measures as they believe should be adopted by Congress.

The resolution goes further, and directs an inquiry to be made as to the cost of public printing done in this city not by order of Congress. The proper mode of procuring that information is, of course, through the heads of the different Departments. The committee, therefore, ask to be discharged from the further consideration of the resolution, trusting that the Senator from Michigan will bring in a resolution calling on the heads of the Departments to state to us the cost of printing of that character; and it will come more appropriately and satisfactorily before the Senate by that means, we think, than by the process proposed by the honorable Senator. The Committee on Printing have instructed me to ask that

they be discharged from the further consideration of the resolution.

Mr. STUART. I think, if the committee understand this subject as I do, they will not press the motion to be discharged. There are many facts connected with the printing of the Departments here which ought to be known to the Senate and to the public, and it seems to me are indispensable to be known, in order to enable our committee to make necessary suggestions in regard to the amendment of the law. For instance: I am told by one of the assistants in the Post Office Department that there are some thirty-five thousand dollars annually spent there under existing laws, which expenditure is of no earthly benefit to the service at all. It is just so much money thrown away. He told me, within three days, that he could point out expenditures to the amount of \$35,000, which were wholly unnecessary for the purposes of the Department. So undoubtedly it is with other Departments. I am of opinion, also, that there are many expenditures for public printing that are not sanctioned by any law at all, and that there are the grossest abuses practiced in regard to the printing emanating from the Departments.

Mr. JOHNSON, of Arkansas. The Senator will allow me to interrupt him. I see that this is to lead to a debate on the subject of printing, which must necessarily consume the residue of the morning hour. We know it is a vexed question, and I wish to suggest to the Senator that it was not with reference to the merits of his resolution at all that the committee asked to be discharged from its consideration.

Mr. STUART. I so understand it.

Mr. JOHNSON, of Arkansas. They simply ask to be discharged for the reason that the committee believe the Senate can, with greater propriety, and with certainly fully as much success, obtain from the Departments the information demanded by the resolution, as can the Committee on Printing, who have already their hands sufficiently full. We have therefore asked to be discharged with a view and expectation that the Senator would offer a resolution calling on the several Departments of the Government to furnish the facts which he seeks to obtain, and to let us know whether those facts have transpired under their direction, or under any of their subordinates. I suggest to the Senator that the Committee on Printing believe the information can be obtained with fully as much ease, and perhaps more promptness, by such a resolution; and we hope the duty of hunting up these facts will not be devolved on us. It seems to us the Senate can pass a resolution, calling for the information from each head of the Department with more ease and less trouble than we could do; but if the Senate is not satisfied to take that course, very well.

The VICE PRESIDENT. It is the duty of the Chair to announce that the hour has arrived for the consideration of the special order, which is the bill to increase the military establishment of the United States.

Mr. JOHNSON, of Arkansas. Does it come up at half past twelve o'clock?

The VICE PRESIDENT. That is the hour.

Mr. JOHNSON, of Arkansas. Then this subject must lie over until to-morrow.

SPECIAL ORDERS.

Mr. IVERSON. I ask the unanimous consent of the Senate to be allowed to make a few reports before the special order is taken up.

Mr. STUART. I much prefer that the Senate should pass on this question. I am very clear that the special order does not come up until one o'clock; and I hope that upon this occasion, when there is, apparently, no very great solicitude on the subject immediately before the Senate, that point will be settled. There is nothing in the rule which continues a special order from day to day, at the hour for which it was first made a special order. A special order is made for one o'clock, and that being the hour of proceeding to the ordinary general business of the Senate, on the expiration of the morning hour the Senate proceeds to the consideration of that special order; but I present this case for consideration: it is competent for the Senate, undoubtedly, to make a special order for half past two o'clock to-morrow. At half past two o'clock to-morrow the Senate proceeds to consider it, and then adjourns without dis-

posing of it. Will that go over until half past two o'clock the next day; and at every subsequent day can it not be called up until half past two o'clock? I think that after the day for which it was first made a special order has passed, it then becomes a special order among the other special orders, at one o'clock. It takes its rank according to the 31st rule, which rank is decided by the day of its date. The first day you take it up at the hour specified, because the assignment fixes the day and the hour, but at all subsequent days it comes up at one o'clock.

It is important to settle this question for this reason: it frequently happens that in the hurry of business, when the attention of Senators is called away from the business before the body, some member has a special order made for half past twelve o'clock. If that is to be continued from day to day at that hour, it cuts us out from all the morning business. Here is the Senator from Georgia now obliged to ask the unanimous consent of the Senate, in the morning hour, to introduce a resolution, or present a petition, or make a report. If the Chair has not fully considered the subject in his own mind, I suggest that he reconsider the intimation he has made, and see if I am not correct in saying that the hour for which a special order is first fixed cannot be permanent. The Senate may assign any hour to begin with; but unless they follow up that assignment by saying that it shall be the special order from day to day at that hour, it necessarily goes into the mass of special orders which are taken up at one o'clock, and taken up according to the order of their arrangement under the 31st rule. I think the suggestion I make in regard to a special order at half past two o'clock is unanswerable, and shows that the course which I have suggested is the proper one. I think no Senator will contend that you must wait every day until half-past two o'clock before you can take up that special order.

I make the suggestion, as I said, because, there being no great anxiety to-day about the measure which is the special order, it is an opportune time at which to fix the practice under the 31st rule of the Senate. I think it clear—it is perfectly clear to my own mind—that, after the first day, although it may be fixed for half past twelve o'clock, it remains a special order at one o'clock, and then to take its rank according to the order prescribed in the 31st rule.

Mr. WILSON. I would suggest that we pass over informally the Army bill. The chairman of the Committee on Military Affairs, [Mr. DAVIS,] I am told, is confined by sickness to his house. We have a special order for one o'clock, the Indiana case, which is of great importance; and we can spend the time from now to one o'clock in doing morning business. We can pass the special order over until the Indiana case is disposed of, and then take it up again. I move, therefore, that it be postponed.

The VICE PRESIDENT. The Senator from Michigan having raised the question in regard to these special orders, the Chair feels bound to state his opinion and the reason for it.

Mr. STUART. If the Chair prefers to take the course suggested by the Senator from Massachusetts, and look into the subject further, that will be entirely agreeable to me.

The VICE PRESIDENT. The Chair is prepared to announce his opinion upon the point. He has considered it.

Mr. STUART. Very well.

The VICE PRESIDENT. The suggestion now presented was made to me several days ago; and the view of the Chair on the subject of these special orders is this: he finds nothing in the rules of the Senate which makes any particular hour appropriate to special orders. They are fixed for different periods. He does not find any evidence that there is what is called a morning hour in this body, as in the other branch of Congress, and consequently the Senate sets special orders for one hour, and sometimes for another; some for one o'clock; some for half past twelve o'clock, and some for two o'clock. He does not find any evidence that one o'clock is the particular period for considering any special order, unless that hour is assigned for its consideration by direction of the Senate. The object in assigning a special order for half past twelve o'clock, is to dispose of it if possible before the hour of one, at which another and perhaps older special order

would come before the Senate. That being the hour fixed for this special order, the Chair deemed it his duty every day to call it up at half past twelve o'clock; but when the hour of one arrived, he would feel it his duty to call up an older special order under the 31st rule, referred to by the Senator from Michigan. He does not find any evidence that one o'clock is the hour for special orders; but that the special orders are to be called up at the hour for which they have been assigned by the Senate.

Mr. HUNTER. I think there is a usage of the Senate, designated in the Manual by Mr. Jefferson as the old custom, that the business which is laid over the day before comes up first at one o'clock. I speak from memory, but I think it will be found that at one o'clock the business on which the Senate adjourned the day before is the special order, unless some other is made by special designation of the Senate.

The VICE PRESIDENT. At one o'clock?

Mr. HUNTER. I think so, sir.

The VICE PRESIDENT. The Chair can readily perceive that it would be more convenient to consume an hour every morning in ordinary business, petitions, reports, and resolutions; but he felt it his duty to call up the special order at the hour fixed by the Senate. If the Senate prefer to have the understanding suggested by the Senator from Michigan and the Senator from Virginia, the Chair will be happy to pursue it hereafter.

Mr. STUART. I made the suggestion which I submitted with great respect to the opinion of the Chair, and certainly, I think, with a full appreciation of the delicacy of his position. I do not wish to take an appeal from the decision of the Chair on any question, but I make these suggestions for the consideration of the Senate; and I hope the Senate will now come to the determination that, in regard to these special orders on the subsequent days, the days after the first day of taking them up, they will be considered as coming up according to their order, at one o'clock. That will not lead us into confusion, and it will give us time for our morning business, which is frequently very important, indeed. If that could be the general understanding of the Senate at this time, and the Chair would so regard it, I think it would be found very conducive to the dispatch of business hereafter.

The VICE PRESIDENT. If there be no objection, then, the Chair will take the sense of the Senate, not in regard to this question of order, but in regard to the wishes of the body touching the arrangement of the special orders. The Chair will put it in this form: Is it the sense of the Senate that a special order which has been assigned for one day at an earlier hour than one o'clock, shall, if not finished on that day, fall into its proper place and be called not before one o'clock thereafter? If there is no objection, I will put that question to the Senate.

Mr. STUART. I did not hear the Chair distinctly.

The VICE PRESIDENT. Is it the sense of the Senate that orders which have been, or shall be, assigned for an earlier hour than one o'clock, shall, if not finished on that day, be not called thereafter until one o'clock?

Mr. STUART. Yes, sir; that is it.

The VICE PRESIDENT. Those who favor that practice will say "ay;" those of a contrary opinion, "no." The ayes have it, and that will be the order of business hereafter.

Mr. COLLAMER. I wish to throw out the suggestion that we avoid making any special orders within the morning hour.

Several SENATORS. That is right.

Mr. HUNTER. If the Chair will allow me, I will suggest that the arrangement of business, according to the usual course of proceeding which I believe was taken under the discretion resting in the Chair under parliamentary law, is given in the Manual, and is such as I suggested:

"The Speaker is not precisely bound to any rules as to what bills or other matters shall be first taken up, but is left to his own discretion, unless the House decide to take up a particular subject."

The VICE PRESIDENT. The Chair has examined that.

COMMITTEE SERVICE.

Mr. GREEN. I desire to ask the Senate to excuse the Senator from Alabama [Mr. FITZPATRICK] from service on the Committee on Territo-

ries, on account of his very severe illness, and to appoint some one in his place until his return. It is important that the committee should be full, so as to discharge the important duties referred to them.

The question was taken, and Mr. FITZPATRICK was excused; and the VICE PRESIDENT being authorized to fill the vacancy, appointed Mr. CLAY.

TURKISH VICE ADMIRAL.

On motion of Mr. MASON, the joint resolution (S. No. 18) for the reception of Vice Admiral Mehmed Pasha, of the Turkish navy, and to facilitate the objects of his mission in superintending the construction of a vessel of war in the United States, was read a second time, and considered as in Committee of the Whole.

Mr. MASON. I will only say that it is well understood in the intercourse between the United States and the nations of the East, that courtesies and hospitalities of this kind are very highly appreciated, and lead to very useful results. It has been recommended by the Secretary of State to the committee, and we cordially concurred with him. The Admiral is expected to arrive every day; and it is desirable, therefore, if anything is done, that it should be done at once.

Mr. CLAY. Perhaps I do not understand the import or the intention of this resolution. If it is not to cost any money, if it is a mere national courtesy, I have no objection whatever to it; but if the proposition is to give a *carte-blanche* to the Administration to expend whatever amount of money they may think expedient, or which they may think courtesy requires for this distinguished Turkish official, I object to it. I do not think that the Constitution warrants the expenditure of money by any Executive Department of the Government unless there be an appropriation by law. That is my reading of it and my interpretation of it. This mode of expending money is above all others the most objectionable to me. Why, sir, there is no limitation whatever upon the power or the discretion of the Administration. It may expend \$5,000, or \$10,000, or \$100,000.

I think we have had some experience that ought to admonish us of the folly of these national courtesies. We expended, according to my information—I rely upon newspaper reports—a large amount of money upon a Turkish impostor, who some years since came here representing himself as some distinguished official there. We expended upon the wine bills, the cigars, and the viands of Kossuth, at Brown's Hotel, as I understand, some \$5,000; and that was but a small part of the money expended. What was the fruit of it? What did we make by it? What benefit was realized by this country from these large expenditures? None whatever.

I am opposed to this resolution. It is a proposition which, on its face, is very inoffensive and unobjectionable; but it is a proposition which conceals its purpose. It does not discover what amount is to be expended, or how it is to be expended; and it is just transferring to the Administration a power which, under the Constitution, belongs only to Congress—that of appropriating money. Hence I shall vote against it, and I shall ask for the yeas and nays upon it.

Mr. MASON. The Senator says there is no limit upon the expenditure of money under the resolution. The limit is the scope and object of the resolution. I can hardly suppose that any President, or anybody else who is authorized to extend ordinary courtesies and civilities to a stranger, can expend \$100,000, or \$10,000, or \$5,000. The limit is in the scope and purpose of the resolution. I do not know that any money will be expended. The resolution merely provides that this officer shall be received in a manner consonant to his rank. I suppose the amount of it will be to direct some proper officer of our Navy to receive him and provide for his personal wants, and see that the objects of his mission are effected. It may cost a few hundred dollars, or a few thousands; but the limit is in the scope of the resolution. I should have no objection to make an appropriation, if we knew what it would be.

The honorable Senator, I suppose, is aware that it has been the practice of the Government to appropriate money for the purpose of conforming to the usages of eastern nations in more instances than one, as a matter of courtesy only. There was appropriated, I think, \$10,000, the other day—for

what purpose? To make presents, in conformity to eastern custom, on the exchange of treaties with the Shah of Persia. The usage is theirs, not ours; we only conform to it. I should have no objection, in the world, to put an appropriation in the resolution, if I knew what the amount would be. I suppose it will be a few hundreds or a few thousands.

The honorable Senator says he is not aware of any benefit coming from these national courtesies. At the last Congress, when we provided for restoring the ship *Resolute* to England, Congress required that the ship should be refitted and returned in a perfect manner, and appropriated no money, but the scope of the resolution showed the extent of expenditure. I do not know what was expended; I dare say, though, some thirty or forty thousand dollars. Certainly not less than thirty or forty thousand dollars were expended in putting that ship in perfect order. I do know—not from newspaper report only, but from the official correspondence which ensued on that event—that the restoration of that ship went more to fix the national feeling in Great Britain towards this country than any event that had ever occurred.

As to this small matter, the Sultan has sent one of his principal naval officers here to superintend the construction of a ship-of-the-line. If he came from any European Government he would be received as any European gentleman is, with the private courtesies or the official courtesies of the Government; but he comes from a people who are accustomed to a different sort of reception. I should think that the proprieties of usage would be that we should conform, within proper limits, to their customs. That is the whole object of the resolution.

Mr. SEWARD. Mr. President, I shall not go over again the case of Kossuth. I expressed my opinion on that at the time, and have never seen any cause to regret the demonstration which was made by the Government of the United States, showing its sympathy with the cause of freedom in Europe.

In regard to the case of the Turkish officer, Amin Bey, who was received in a manner somewhat similar to this a few years ago, I expected the chairman of the Committee on Foreign Relations would correct the error into which the Senator from Alabama has fallen on that subject. Amin Bey was no impostor. He was a visitor here, and came with letters and credentials from the Turkish Government. The Grand Sultan took an interest in his coming—indicated a wish that he should come; and he communicated to this Government his desire that he should be received with courtesy and distinction. He was an officer of very considerable position; I do not remember what. After he completed his visit, and returned to Turkey, the Turkish Government expressed the satisfaction with which they regarded the reception that had been given to him. Now, I do not know, sir, how much has been made by that act of courtesy, but I do know that it cost very little; and that, though courtesies may not be returned in money in this world, acts of kindness, politeness, hospitality, and generosity, are always compensated by equivalents of some kind.

A word now with regard to this particular case. Heretofore, as everybody knows, there has been no minister from Turkey in this country. The Turkish Government has remained in a state of seclusion, so far as this Government is concerned, except as we have penetrated it, by keeping a minister resident at Constantinople. The Turkish Government gives its orders for the manufactures of more civilized nations, generally to France and England. It has seen fit, in the present case, to notice the fact that the sciences and arts are developed to a very high degree in the United States; and notwithstanding the competition, in the councils of the Turkish Government, as to the place where a national vessel should be built, it has concluded to send a naval officer here, for the purpose of having one constructed in the United States. He is to come here for that purpose. This resolution barely contemplates that he shall be received according to his rank as a naval officer, not otherwise; and that he shall have all the facilities which this Government can afford, for inspecting the naval establishments of the United States, the places and establishments where ships-of-war are built. The effect of it

probably will be, that many of the Oriental nations will be brought into closer communication with the United States.

It seems to me, that if it was wise (as no one can doubt) that we should open Japan to our commerce, that we should have a representative in China, and that we should seek to extend our commerce into that empire, the same policy dictates that we should encourage any demonstration which the Turkish Government may make towards us of a similar character. If it be true, as I suppose it is, that this is according to the Oriental custom, we are but returning to the Turkish Government the same civilities which other nations, whether civilized or barbarian, extend to the Turkish Government, and which they extend to all other Governments.

Mr. HUNTER. I regret very much to oppose this resolution, but really it seems to me to be establishing a bad precedent. I do not agree that Turkey stands in the rank of barbarous nations. We should not treat an agent from any of the civilized Governments of Europe in this way, and I do not see why we should extend these civilities and make this appropriation in order to accommodate a Turkish minister, and refuse them to the agents of the other Governments of Europe. I think it is a precedent which may lead to ill consequences hereafter.

Mr. MASON. Will my colleague allow me to put a question? My colleague, I presume, voted the other day for the appropriation of \$10,000 to make presents to the Shah of Persia, on the occasion of exchanging ratifications of the treaty. Did he disapprove that policy?

Mr. HUNTER. The Shah of Persia stands in a very different relation to this country, and to the civilized world. I think he does come within the rank of those to whom we might extend extraordinary courtesy; but I do not put the Sultan of Turkey in the same rank as the Shah of Persia. I think he is rather to be recognized among the civilized Powers of Europe, and I should be unwilling to set this precedent.

Mr. BIGGS. It may be unfashionable to refer to the power of Congress to make an appropriation of this kind, after the numerous precedents that have been cited to the contrary; but I should like to know where is the power under the Constitution of the United States for us to appropriate money to carry a Turkish officer from one portion of this country to another. I should like to know under what clause of the Constitution of the United States we have the right to appropriate money for the purpose of showing a Turkish officer about this country. I do not understand that there is any such power in the Constitution of the United States. It seems to me that in the present state of the Treasury, it is about as much as we can do to pay the expenses we are authorized to incur under the Constitution—to pay our own officers. The idea of appropriating an indefinite sum (for this resolution is totally indefinite, so far as the appropriation is concerned) for this civility, as it is called, towards this Turkish officer, it strikes me ought not to be entertained for one moment in the Senate.

It seems to me that the President of the United States has the power to extend the advantages proposed by this resolution to be given to this Turkish officer to investigate our naval establishments, and gain all the information he possibly can from an inspection of our naval architecture. He has already that power; and I have no doubt this duty would be performed, on his part, in a becoming manner, and in a grateful manner to the Turkish officer who is expected; but that is not the object of the present resolution. The object is to get through Congress an indefinite appropriation to pay the expenses of this Turkish officer. If the resolution is to pass, I insist upon it that we ought to have some limitation as to the amount. Being opposed to it out and out, I shall vote against the resolution entirely; but for the purpose of limiting it, and making it as perfect as possible, I propose a proviso, that the expenditure hereby authorized shall not exceed \$5,000.

Mr. HALE. I was in my seat, last year, I think it was, when a report came in from the Committee on Foreign Relations, proposing to buy the ship *Resolute* and make a present of it to the Queen of Great Britain. I had the same difficulty then that the Senator from North Carolina has now, as to the constitutional power; and I looked to the

chairman of the Committee on Foreign Relations, the chairman of the Committee on Finance, and all the great lights of strict constructions, expecting that some of them would throw some light upon it; but there was not a word said, and I concluded that it was so well settled that I should only expose my ignorance if I were to ask the same question which has been propounded now by the Senator from North Carolina. He was in his seat then, and I looked to him at the time; but he said nothing. If he wants to find the authority for appropriating this money to receive this Turkish Pasha, he will find it in the same clause of the same section of the Constitution giving power to buy the ship *Resolute*. [Laughter.] If he will turn to that clause and find the constitutional charter that guided him then, he will find right under it exactly the provision, in so many words, to appropriate this money to entertain the Turkish Pasha.

Mr. MASON. My recollection is not very distinct; but I have a strong impression that the suggestion now made by the Senator from North Carolina, was made in the case of the *Resolute*, and that we did find the right to appropriate the money, and that the answer was given at the time that it was the unquestioned duty of the Federal Government to regulate our intercourse with foreign nations—the very same power that appropriates a fund for the continued intercourse with foreign nations. I thought it was answered at that time; but certain it is that that resolution to purchase the ship *Resolute* received the unanimous vote of the Senate.

Mr. HALE. The Senator is right in one part of his recollection, that it passed without division: there was not a word said against it; but I think he is mistaken about the other part of it, because I recollect what passed in my own mind. Probably the Senator recollects what passed in his mind, and he thinks he let it out before the Senate; but he did not.

Mr. MALLORY. I desire to see the resolution pass, because I have not the slightest doubt that it will redound to the advantage of the country. It cannot require a large appropriation. The proposition of the Senator from North Carolina is to limit it to \$5,000. My impression is that it cannot exceed, certainly, and, perhaps, cannot reach, \$5,000.

The Senate will recollect that we appropriated \$10,000 to receive Amin Bey, who came here some few years ago. If I am correctly informed, the entire expense on that account was about \$5,000. The limitation on the appropriation here, as has been well observed, is in the language of the resolution itself. It is for the purpose of receiving the gentleman who comes here for a specific purpose, and the operation of which will be to show him through the Federal offices, the different dock-yards, and navy-yards of the country. It will have a happy effect in cementing a friendly intercourse between ourselves and Turkey—a country that we have always regarded with a particularly friendly eye. The idea of my friend from Virginia, [Mr. HUNTER,] in classing Turkey among the barbaric or uncivilized Powers, is rather a novel one.

Mr. HUNTER. I said the reverse—that she belonged to the European system, and was so recognized.

Mr. MALLORY. I misunderstood him. If she were a barbarous Power, it would be greater reason for passing the resolution. We have appropriated money for the *Imaum* of Muscat; we have appropriated money for Japan; we have appropriated money in this way constantly, where ever the interests or honor of the country would be subserved thereby. The ship-building of the country at large, independently of the kind feelings between ourselves and the Turks, will be promoted by this resolution. I should prefer seeing a specific appropriation made; but as the committee have thought proper not to introduce one, and as I see, from past experience and from the nature of the resolution itself, that the expenditure cannot exceed, perhaps, \$5,000, I am willing to vote for the resolution as it stands.

Mr. MASON. I have no objection to the amendment further than this: that it may be considered by the Government as incumbent on them to expend the money. Now I am perfectly willing to trust the Executive with the proper, courteous mode of receiving this officer, and it may be done without any expenditure at all; but if

it should involve an expenditure, I think it is clearly limited by the general scope of the resolution. I have no objection to trust it to them; but if the Senator perseveres in the amendment, I shall not persist in opposing it.

Mr. PUGH. I shall vote against the resolution with or without the amendment; and I should have said nothing on the subject but for a suggestion made by the Senator from Virginia, [Mr. MASON,] which quite astonishes me if he is one of the apostles of strict construction; and as one of the disciples of that school, I enter my dissent. He has suggested that there is a universal power to appropriate public money to bribe foreign Powers—to make them presents, to pay the hotel bills of their ministers. I do not understand that doctrine. I dissent from it. What do we want with this gentleman? What does he come here for? The resolution says he comes to look at the ship-yards. That needs no money; that needs no act of Congress; let him go. If he wants to see the navy-yards, he will be shown them. If he wants to see the yards where merchant ships are constructed, as the Senator from Florida suggests, are we to pay the bills for his entertainment? Let the gentlemen who want to sell him ships pay the bills. It is not necessary for any official courtesy. It is not necessary to pay the expense of carrying him over the United States to hire three or four naval officers and a dozen other men to go with him, and to have a show from town to town. He is not even a diplomatic character. He is just sent here on private business of the Sultan of Turkey, to see how ships are built; and we are all to exhibit the solemn spectacle of the Congress of the United States racing after this man as if he were a show to the country! I say that without intending any disrespect; but that is the strong impression the whole thing makes on my mind.

As to the case of the ship *Resolute*, I do not recollect the matter. I do not know whether I was in my seat when it was passed; but no matter. I can see a vast difference between expending money in this way, and purchasing a derelict ship, which was English property, that came into the hands of some of our citizens as a wreck, which was connected with an enterprise that had enlisted the sympathies of the civilized world, when we were simply asked to buy off the claims of our own citizens, and restore the ship to its true owners. But even that I should not regard as a precedent. Despite my honorable friend from Virginia, I do not think we gained a fig by giving the ship *Resolute* back; nor do I see how this Government is to gain anything in its intercourse with foreign Powers, barbarous or civilized, by appealing to their cupidity. Let us stand on the exact principles of justice; treat them fairly, and require them to treat us so. They do not make our ministers presents: we do not allow them to take presents. They do not pay the expenses of our ministers: we do not allow it. Let us treat them as we require them to treat our ministers. We sent officers to Europe to examine the condition of the armies of Europe a few years ago; but I never heard that any foreign Government paid their expenses. They went to the realm of the Sultan of Turkey, I believe—at least they went to the Crimea; but I never heard that the Sultan appointed anybody to show them around the country.

It seems to me that this resolution is not only a bad precedent, but it is bad in itself; and, for one, I can never give my consent to it, whether it involves an expenditure of money or not. If it does not require any money, there is no use for the resolution; and if it requires money it is to be expended, in my judgment, for wrong purposes, and it is an illimitable field in which, not the Executive—for I have confidence in him—but in which his subordinate officers will spend just as much money as they please.

Mr. STUART. I did not intend to say a word on this subject, but the course of debate has elicited some ideas here which seem to me to render it proper for me to state why I shall vote for the resolution. In the first place, I disagree with my friend from Ohio entirely in regard to the distinction of power in favor of returning the ship *Resolute*. I think the honorable Senator from Virginia has taken a conversation that occurred between him and me into his recollection of what occurred in open Senate.

Mr. MASON. That is very possible.

Mr. STUART. I asked the Senator at the time, "where he found the power to make such an appropriation?" and he replied to me as he has now replied to the Senator from New Hampshire. I acknowledge that if it is fairly within the scope of our foreign intercourse, we have the power; but it is not enough to assert that it is for that purpose in order to give us the power. In this case, there being, as stated from the Senator from New York, no resident minister here from Turkey, this officer being about to visit this country on an important national purpose, we may, I think, within the scope of our constitutional authority, extend to him such courtesies, within proper limits, as will manifest to the nation which he represents, a very friendly disposition; and it is within the discretion of Congress to what extent they will go.

I wish to state a suggestion which operates upon my own mind, and which will control my vote in determining what I consider here a question of discretion, and that suggestion is in regard to Kossuth, who has been alluded to. Without any reference to him, or what he did in this country, I take the conduct of the Sultan of Turkey in regard to Kossuth and his associates. They were political refugees in his country, and though Russia and Austria threatened him with entire extermination, he said "these individuals have come within my jurisdiction; they demand my friendly protection, and I will never yield them up." I remarked at the time, that I doubted whether there was another nation on the face of the globe, certainly not another one in Europe, that would have thus stood out in the face and eyes of Russia and Austria. It was one of the noblest spectacles that has ever been exhibited in history. These were men claiming personal and political freedom in the Austrian empire, confessedly one of the most perfect despotisms that exists. They were obliged to flee from that country; they took shelter in Turkey, and the Sultan said, "Thunder your denunciations, and let your guns thunder, and sink me if you can; but my hospitality shall remain untarnished." I admired it; the civilized world admired that stand; and it is a reason that operates on me to-day, when a prominent officer of that Sultan is about to visit this country, to afford to him evidences of hospitality, so that it shall not leave me behind him in the way of advocacy of personal and political freedom. I can see clearly the constitutional authority in this case, because it does mingle itself distinctly with the foreign intercourse of the country. I have no difficulty, therefore, about the power; and the propriety of it addresses itself to my mind for the strongest reasons.

Mr. CAMERON. I shall vote for this resolution, because I look upon it as an act of hospitality. We are informed that this gentleman intends visiting us for the purpose of getting information. This Government ought to act towards him as any individual gentleman here would act towards a stranger who should come to his house or his farm inquiring for information. He would extend to him the hospitality due from one gentleman to another. It is a mere question of hospitality. I agree entirely with all that the Senator from Michigan has said in regard to the Sultan of Turkey in his bold and brave conduct towards the Emperor of Austria. Every American who thinks as an American is proud of his conduct on that occasion, and, if for no other reason, we ought to treat this agent of his with proper courtesy and with liberal hospitality. I shall vote for the appropriation, no matter what the amount is, believing it is only a question of hospitality.

Mr. TRUMBULL. It is not very often that I have found myself concurring in what the Senator from Ohio [Mr. PUGH] has said, but upon this occasion I endorse every word of it; and I think that for the great Government of the United States, in Congress assembled, to be debating a proposition to pay the traveling expenses and the wine bill of a Turkish officer, who is coming over here to superintend the building of a vessel, is a very small business. I do not wish to discuss it at all; but it seems to me that if any courtesy is due to him it will be extended to him by the executive department of the Government, which has the control of our relations with foreign countries. No doubt the Executive will afford reasonable facilities to this officer to visit our navy-yards and inspect our vessels; and beyond that I do not think anything ought to be done. It seems to me

there is no occasion for coming to Congress for that purpose. I trust the resolution will not pass.

THE VICE PRESIDENT. The question is on the amendment of the Senator from North Carolina, [Mr. BIGGS,] to add to the end of the resolution:

Provided, That the expenditure hereby authorized shall not exceed the sum of \$5,000.

MR. CLARK. Mr. President, I do not know that I am opposed to the resolution, but I certainly am opposed to the amendment. If it is worth while to do anything, it seems to me it is worth while to do it properly. I do not think it worth while to say to the Sultan of Turkey, "we will receive your officer hospitably, provided it does not cost more than five thousand dollars; we will treat you to the amount of two and threepence worth." If anything is to be done, let it be done by the Government as it ought to be done, and let us put confidence in the officers of the Government that they will do what ought to be done, and not undertake to limit them in this way, and have it go back to the Sultan of Turkey that we would pay five thousand dollars to be civil, and no more. Let your civility be such as it ought to be, without regard to the cost; just as, if a friend came to my house, I would treat him civilly whatever might be the expense, and not say, "I have two shillings or half a pistareen at your service."

The amendment was rejected.

The joint resolution was reported to the Senate without amendment.

THE VICE PRESIDENT. It requires unanimous consent to order the joint resolution to be read a third time to-day.

MR. BIGGS. I object to the third reading of the resolution to-day.

Several Senators. Let us vote.

MR. MASON. I hope we shall take the vote by general consent, and I trust the Senator from North Carolina will withdraw his objection.

THE VICE PRESIDENT. The joint resolution received its second reading to-day, and it requires unanimous consent to read it the third time to-day.

MR. BIGGS. It seems to be the general desire to have the question taken, and I withdraw the objection.

The joint resolution was ordered to be engrossed for a third reading, and was read the third time. On the question, "Shall the resolution pass?"

MR. BIGGS and **MR. CLAY** called for the yeas and nays; and they were ordered.

MR. COLLAMER. I did not intend to make any remarks in relation to this resolution; but as the yeas and nays have been ordered, I wish to make a brief suggestion. For a great number of years, in many of the Governments of Europe, and it continues with some to this day, their dock-yards, their forts, their arsenals, their national foundries, &c., are all kept locked up from the visitation of strangers. We have ever pursued an entirely different course. Here all is left open to the inspection of the world. Nothing is required from a visitor but ordinary civility. He may examine all our national armories, all our foundries, all our dock-yards, all our ships in the various courses of naval construction, and all the preparations for war. I am unwilling to do anything that implies the contrary. To my mind, to pass a resolution of this kind is to say to the world that we do not pursue this course, and that it actually requires a resolution of Congress to enable a foreign gentleman to make this visitation. Such is the necessary implication of this resolution; and I cannot vote for it because of that implication.

The question being taken by yeas and nays, resulted—yeas 31, nays 19; as follows:

YEAS—Messrs. Allen, Bigler, Bright, Broderick, Brown, Cameron, Clark, Dixon, Doolittle, Durkee, Evans, Foot, Foster, Gwin, Hale, Hamlin, Hammond, Harlan, Houston, Kennedy, Mallory, Mason, Polk, Seward, Simmons, Sidel, Stuart, Sumner, Thomson of New Jersey, Wilson, and Wright—31.

NAYS—Messrs. Biggs, Chandler, Clay, Collamer, Fessenden, Fitch, Green, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Pugh, Sebastian, Thompson of Kentucky, Toombs, Trumbull, Wade, and Yulee—19.

So the joint resolution was passed.

INDIANA SENATORIAL ELECTION.

MR. HALE calling for the question of privilege, the Senate resumed the consideration of the resolution reported by the Committee on the Judiciary in the case of the election of Senators from

Indiana, the pending question being on the following amendment offered by **MR. TRUMBULL**:

That the Senate will now proceed to a final determination of the right to seats in this body of **GRAHAM N. FITCH** and **JESSE D. BRIGHT**, claiming to have been elected Senators by the Legislature of Indiana.

MR. TRUMBULL. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

MR. CLAY (when **MR. DAVIS**'s name was called) said: I am requested to state that **MR. DAVIS**, of Mississippi, is confined to his bed by sickness; and he has paired off on this question with the Senator from Vermont, [Mr. FOOT.]

MR. CLAY (when **MR. FITZPATRICK**'s name was called) said: I am requested by my colleague to state that he is confined to his bed by sickness; but he has paired off on this question with the Senator from Illinois, [Mr. DOUGLAS,] who is absent.

MR. HALE (when his name was called) said: I wish to state that at the earnest request of the Senator from Delaware, [Mr. BAYARD,] who is engaged in the Supreme Court, I have consented to pair off with him, and shall not vote unless he comes in while the case is under consideration.

MR. WILSON (when his name was called) announced that he had paired off with the Senator from Louisiana, [Mr. BENJAMIN.]

The result was announced to be—yeas 16, nays 28; as follows:

YEAS—Messrs. Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foster, Hamlin, Harlan, King, Seward, Simmons, Sumner, Trumbull, and Wade—16.

NAYS—Messrs. Allen, Biggs, Bigler, Broderick, Brown, Cameron, Clay, Evans, Green, Gwin, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Sebastian, Sidel, Stuart, Thompson of Kentucky, Thomson of New Jersey, Toombs, Wright, and Yulee—28.

So the amendment was rejected.

MR. SEWARD. I offer the following amendment, to come in at the close of the resolution:

Provided, That the proofs to be taken shall be limited to the swearing in of the members of the Legislature of Indiana, the organization of the said Legislature, and the proceedings thereof connected with the election of the sitting Senators for said State in the Senate of the United States, and shall be returned to the Senate of the United States within thirty days from the passage of this resolution.

MR. PUGH. I hope that amendment will not be concurred in. The Senate of Indiana, the protestants in this case, have made specific allegations—they are in print here—just like a pleading. The sitting Senators have put in their answer. The parties have made the issue affirmative and negative; and what is the necessity for us to limit it? Let us leave them to take their evidence according to their pleas. It is as definite an issue as could ever be made up in court. To be sure the Senator from Illinois [Mr. TRUMBULL] says they do not exactly meet, as they would according to special pleading, but they substantially meet. I think they have made the issue, and I do not see why we should limit it. I think the Senator had better say at least sixty or ninety days. This evidence cannot be got in thirty days. I think ninety days would be the proper time to fix.

MR. SEWARD. If other Senators think thirty days is too short a time, I have no objection to extend it, so that the returns can be received in time to have the question disposed of during the present session of Congress. I will, therefore, propose sixty days, which is as long a period as it is probable we ought to postpone it; and if there shall be any necessity for any further delay it can then be presented. In regard to the other point, I understand that the amendment contemplates receiving proofs on every point on which an issue has been raised before the committee, as I judge from the report, and from the debates here. I see no objection to it in that respect.

MR. HALE. Let the amendment be divided. I suppose it is subject to division. Let that part which limits the scope of inquiry constitute one division, and that which limits the time the other.

MR. SEWARD. Very well.

MR. PUGH. If the original resolution is read, I think the Senator will see that his limitation is repugnant to the body of the resolution. The body of the resolution is that the parties may take their testimony on the points alleged in their respective statements.

MR. SEWARD. Let the question be divided.

I adopted this form for the purpose of obtaining as much support for the amendment as I could. Let the amendment be divided into the two parts, and have the question taken separately.

THE VICE PRESIDENT. The amendment being susceptible of division, the question will be taken first on the first branch of it, which is:

Provided, That the proofs to be taken shall be limited to the swearing in of the members of the Legislature of Indiana, the organization of the said Legislature, and the proceedings thereof connected with the election of the sitting members for said State in the Senate of the United States.

MR. PUGH. Let the original resolution be read.

The Secretary read it.

MR. STUART. I had myself prepared an amendment similar to this, and it seems to me eminently proper that the Senate should adopt some such amendment. It appears to me it will not do to say that individuals may make up an issue upon certain facts, and that the Senate should authorize the testimony to be taken and reported to this body, on that issue. The Senate should authorize the taking the testimony on disputed questions of fact that are within the scope of the Senate's inquiry, but not beyond it. The utmost extent to which I have heard any gentleman contend here, that it is competent for us to inquire, is as to the organization of the Legislature, the swearing in of the members of the Legislature, and the proceedings of that body in the election of the Senators who now hold the seats. This question was discussed all day yesterday. The Senator from Ohio and the Senator from Louisiana both conceded that that was the extent to which any inquiry could be proper.

It is important to limit the inquiry in this respect, but it is also important in another: it is highly important that no testimony be spread upon the records of the Senate upon any question that is of an improper character in respect to its own language or facts. I do not know what these contestants or somebody else might propose to prove; but it seems to me to be very clear that the ground taken by the committee yesterday is the extent of the Senate's inquiry. It is conceded that you cannot go into the fact of whether a man was properly elected to the Legislature or not; that is an inquiry which belongs to the body of which he claims to be a member; and having been decided by that body, it is not the subject of revision here.

But it is contended that there were certain irregularities in regard to the organization of one body of the Indiana Legislature; that certain individuals were improperly sworn in, and other questions of that character, which certain Senators here think are proper subjects of inquiry, in order to the full consideration and proper determination of this case. Whether it shall be found to be so or not when the testimony is in, may perhaps be another question; but it is contended that these facts are material, and it is conceded that they may be material. The Senate, therefore, should limit the inquiry to such questions as it sees can be material to its own decision on this subject.

Again, it is certainly important that the Senate should fix a time. Some time ought to be fixed at which this testimony shall be sent to the Senate, and the Senate be prepared to pass on the question of the right to seats of these gentlemen who now occupy them. I refrain, I purposely refrain (for I think it is no more than proper) from any discussion of the merits of this case, any indication of an opinion on the subject. I have not examined the papers to which the Senator from Ohio refers, nor do I think it essential to examine them. The Senate certainly does know what facts it may properly inquire into for the purposes of determining the right to a seat claimed by any gentleman representing a State of this Confederacy; and, as I said, it was conceded yesterday that the scope of the inquiry was not beyond the scope of this amendment. That being so, for the purpose of preserving the purity of its own records, for the purpose of having no evidence spread upon its records, except such as is legitimate in character and respectful in terms, for the purpose of securing an early settlement of this question, which is always proper, the Senate should prescribe the limits to the inquiry, not only in respect to its character, but its time.

These are my views. I voted against the amend-

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ment proposed by the Senator from Illinois, [Mr. TRUMBULL,] because a majority of the Senate's committee, after a full investigation of this subject, reported that, upon the facts now before them, they are not prepared to make a definite proposition to the Senate, but they require others. Let us, then, have them, but let us limit the inquiry within proper scope and proper time. It seems to me that there is fully as much importance in this matter, in respect to the particular case before us, as there is in respect to its becoming a precedent hereafter. I think it will not do for the Senate of the United States to determine that parties contestants for seats here may have any length of time and any scope of inquiry that they choose, for the purpose of presenting facts to bear upon the right of a Senator to his seat. That it should be determined as soon as can consistently be done, is no less important to the public than to the Senators who are occupying the seats. Every circumstance conspires to induce us to dispose of this question at as early a moment as the legitimate evidence can be spread before the Senate. I hope, therefore, that this amendment, or something substantially the same, will be adopted. I think it should be adopted. I see no reason against it.

Mr. PUGH. I am sorry to detain the Senate with any more remarks, but it seems to me that if the Senator from Michigan had done what he says he has not done—had read the papers—he would have seen the utter want of necessity for any such amendment. I stated before, that the parties had made their issue. He has not read it. He has not read the pleadings. Here is the paper, signed by the protestants, members of the Senate of Indiana. They state their propositions successively, eight in number. The sitting Senator [Mr. FRENCH] has put in his answer, which is to be found at page 3 of the document in my hand, being the report of the Judiciary Committee on this case, at the special session of the Senate last year. The sitting member has stated seven propositions of fact, and not one of them refers to the election of a member of the Legislature; so that when you authorize him to take his testimony on the allegations of the parties, you do not authorize any testimony to be taken as to the election of members of the Indiana Legislature.

The simple question is, why not let the parties who made the issue, and made it in black and white, whose pleadings are before the committee, and which pleadings have shaped the case, take testimony respectively in support of their allegations, instead of adopting an amendment suggested and urged by a Senator who says he has not even read the papers. The Senator from Michigan may be sure that the committee are no more anxious to get a mass of irrelevant testimony before them than he is; but they think they have drawn the resolution properly. It has been three times before the committee. On the first occasion it had their unanimous vote, and it has had a large majority of the committee ever since. It was drawn originally, I think, by the Senator from Georgia, [Mr. TOOMBS,] and revised by the Senator from Delaware, [Mr. BAYARD,] and I think they could draw it so as to reach the truth of the case far better than a Senator who says he has not even read the papers.

It is suggested, however, that if we do not limit it we shall get some testimony on our records that ought not to be here. How is that to be prevented? Who is to prevent a witness from answering a question put to him? The officer who takes the testimony will have no discretion; he will note an objection, if objection be made, but he will have to record the answer. We cannot permit him to decide the relevancy of the testimony. That belongs to us.

Now as to the time. The resolution requires the parties to give ten days' notice in a newspaper published in Indianapolis. You must give that notice, because the members of the Senate of Indiana, the prosecutors, are dispersed; they have returned to private life. They will complain if the sitting members proceed on twenty-four hours' notice, in Indianapolis, to take testimony. You

must have a notice sufficient to enable them to come and cross-examine. If the sitting Senators give ten days' notice, they will have only twenty days left, according to the original proposition of the Senator from New York, to take testimony; and when is the testimony to be taken on the other side? If there were a contestor here, claiming a seat in opposition to either of the Senators from Indiana, there would be some justice in saying that his right ought not to be delayed, because, if he is entitled to a seat, he ought to have it; but nobody else claims the seat; if these gentlemen be put out the seats will be vacant; the right of no one else is impugned; and therefore I say we had better allow a sufficient time to enable them to give the notice of ten days to the parties, and to have the testimony here, otherwise we shall have an application, from one side or the other, to extend the period. There is plenty of time at this session to take up the testimony and decide the case; and therefore I suggested to the Senator from New York, before, to fix ninety days, and I insist on that now, as the proper measure. As to the first branch of the amendment, in my humble judgment, it is wholly unnecessary, because the body of the resolution expresses sufficiently the points on which testimony is to be taken.

Mr. COLLAMER. I did not intend to occupy the attention of the Senate at all on this point; but I perceive from what has been said by the Senator from Ohio that he does not understand these allegations as I do. First, the sitting member insists that he was elected a Senator by a majority of all the members composing both Houses of the Legislature. That is not disputed. The second allegation is:

"Second. That he was elected, whilst in such joint convention, by a majority of the legally qualified members of the Senate of the State, and of the legally qualified members of the House of Representatives, respectively."

The next is:

"Third. That in order to ascertain the facts stated in the preceding point, he will be able, by evidence, to show that three of the persons who are contesting his election were not then, and are not now, legally members of the said State Senate, and had no right whatever, under the laws and constitution of the State, to be considered, or in any particular to act, as members of that body; and that this was at the time, and still is, well known to the other contestants."

The next is:

"Fourth. That in the organization of the said State Senate, according to the constitution, laws, and usage of the State, the Lieutenant Governor presides and superintends the admission of the members, and the taking the required oaths of office. That upon this occasion, in violation of such constitution, laws, and usage, the said three members, who were without the expressly required credentials of election, the certificate of the proper and only returning officer, and whose seats were also known to be contested, and on grounds of fraud."

The fraud here alleged must be in the election.

Mr. PUGH. That is the allegation; simply that there was a contest.

Mr. COLLAMER. If the testimony to be taken is to be on the points covered by these allegations, of course it will be on this point: that certain members of the Senate of Indiana were fraudulently elected, because that is the very allegation here.

Mr. PUGH. That is only alleged to show that there was a contest on the ground of fraud.

Mr. COLLAMER. I cannot be mistaken in this; and it will certainly be insisted on, that, under the language of this allegation, testimony can be given as to the election of members of the Senate of Indiana. The language of the allegation is, that, "upon this occasion, in violation of such constitution, laws, and usage, the said three members, who were without the expressly required credentials of election, the certificate of the proper and only returning officer, and whose seats were known to be contested, and on grounds of fraud also known to be true, were, by a presiding officer," &c. That contains as direct an allegation as these complicated words will allow, that these three members were fraudulently elected; that their being so was known to the contestants, members of the Senate of Indiana. The allegation is, not only that they were fraudulently elected, but that their seats were contested, and that these protestants knew that they were fraudulently

elected. If I can understand the English language, that is the purport of this allegation; that is what was intended to be understood by it, or else it was intended to mislead. Such being the allegation, I say that, unless some restriction be imposed in this resolution, the testimony which may be taken may be as to whether these men were fraudulently elected to the seats in the Legislature of Indiana. This at once shows the necessity for a restriction.

Mr. GREEN. I do not think the practical bearing of the first branch of this amendment of any importance whatever. I believe it will have no effect on those who conduct the taking of the evidence; for there is no tribunal to decide whether the evidence offered is pertinent, or is not pertinent. It will just resolve itself into this in either case: when the evidence is proposed to be taken on one side, it will be insisted that it is pertinent to the issues proposed in this amendment; on the other side it will be denied. No tribunal can decide that but the Senate. An objection will be noted, as the Senator from Ohio has remarked; it will then come up to the Senate, and, even if impertinent to the issue as presented in the first branch of this proposed amendment, if the Senate should see that it has a bearing on the great question, they will receive the evidence anyhow. The Senate will not be trammelled by little technical rules. They will look to the great question, the principle of law as the great guide to attain justice. Mere little technical rules will never hamper the action of this body. If it goes out in its present shape on the issues presented by the two parties, they will confine themselves to the issues as far as they can, but still subject to the same degree of uncertainty which would exist under the amendment.

It therefore, to my mind, amounts to nothing in its practical bearing. It will not cut off the taking of evidence any earlier; it will not limit the volume of the testimony; it will not limit the number of witnesses examined; and therefore all that it will result in when the evidence is brought before the Senate of the United States, will be that one Senator will contend it was not pertinent evidence, and ought not to have been taken; and another will say that, whether pertinent or impertinent, if it is important as bearing on the justice of the case, he will consider it. That would be the course the Senate would clearly take. They will never consent to be trammelled by mere technical objections that do not reach the equity of the case either on the part of the sitting members or of the protestants.

As to the question of time, I think there ought to be a reasonable limitation. Whether sixty days would be sufficient or not, I am not able to determine. The sitting members think it doubtful whether that would be sufficient. I do not wish to cut off the rights of either party by a limitation of time; and if for want of sufficient evidence taken in proper time injustice should be done on either side, we should be to blame for thus imposing that limitation. I would rather give an unnecessary extension of time for the purpose of being sure to get all the evidence that could possibly bear on the case, than run the risk of limiting the amount of evidence necessary to ascertain the truth of the facts put in issue, by saying sixty days. That is the view I take of the question of time. On the proposed first branch of the amendment it amounts to nothing practically; on the second it might do harm; it can do no good.

Mr. TOOMBS. I deem one branch of this inquiry a matter of some importance. I do not think the Senate of the United States has any right to inquire into the qualification, election, or return of any member of the Senate or House of Representatives of the Legislature of the State of Indiana; and therefore, to avoid even the appearance of the objection made by the Senator from Vermont, I shall be perfectly willing to agree to an amendment to the resolution, providing that no testimony shall be taken on that point. Then, that being guarded against, all the other points in the allegations of the sitting members are pertinent to the

question to be decided; or, if not, any departure from the issue is so wholly immaterial, that there can be no objection to it. As to the limitation of time, I have only to say that more witnesses may be required than we suppose, and it may require a longer time to get in all the testimony. We are not presumed to act, and do not act, on the idea that there is any intention to delay; and I should at least suppose that if we fix any limitation of time it should not be less than ninety days.

Mr. STUART. So far as the language by which this limitation is to be fixed is concerned, I shall be entirely content with any language that will effect the purpose. That suggested by the Senator from Georgia will answer the purpose. It is not denied now by my honorable friend from Ohio that the language of this amendment covers as broad a field of inquiry as the Senate of the United States can properly go into. We cannot properly inquire into the character of the election of a member of the Legislature of the State of Indiana. I watched the debate yesterday with a great deal of care to ascertain from the various members of the Judiciary Committee what their views were, and I think the suggestions which I made are entirely within the scope of the doctrines of my friend from Ohio. I disagree with him, however, in regard to these allegations; I think the criticism of the Senator from Vermont is correct—these allegations do involve an inquiry into the election of members of the Legislature of Indiana. I wish to prevent that by some language which will accomplish the purpose. The object to be attained is agreed to by the Senator from Georgia.

I cannot agree with the Senator from Missouri, that when the Senate says in its resolution the inquiry shall be restricted to certain facts, the officer taking the testimony, the contestants, or the gentlemen occupying the seats, will attempt to go into an inquiry entirely foreign to that; but if they should, I do not think such evidence would be treated with much respect when returned here. It would be a plain, palpable violation of the authority of the Senate, and of its own rules of propriety.

Again, sir, mere technicalities, as the Senator from Missouri says, are not considered here, in determining the right of an occupant to his seat; but substantial rules are adhered to, and adhered to with strictness. The Senate of the United States will not invade the rights that belong to State Legislatures any more than they will permit State Legislatures to invade their rights. The line of demarcation is clear and distinct. Therefore it is not an answer to the amendment to say that the Senate will not regard technicalities; to say that the judge who takes the testimony will disregard its limitations; that the honorable gentlemen who occupy the seats will disregard them; or that the Legislature of Indiana will disregard them. That is not to be assumed; but precisely the contrary is to be assumed. It is to be presumed that all who act under the Senate's resolution will act within its clear scope, as defined by itself, and attempt nothing else. Then our object will be attained; and we must proceed on the ground that we are giving a sufficient limit to the scope of inquiry. Is it sufficient? No Senator denies it. It is only argued that it is unnecessary; but from the reading of these allegations by the Senator from Ohio, I cannot agree to that. I do not think it is unnecessary; but if it is unnecessary it certainly does no harm. If the resolution means that now, it is not injured by the amendment. If it does not mean it, it ought to mean it; and the amendment is necessary.

As to the time, I agree with the Senators who have spoken on the other side, that a reasonable time should be given, that it should be as full as may be regarded necessary. I confess I think sixty days is sufficient; but if a majority of the Senate think otherwise, say ninety days; but some time should be fixed when the question shall be before the Senate in a proper condition to be determined. I hope, therefore, that this amendment, substantially, will be adopted. If another form of words is observed, I have no objection to that; but it seems to me the amendment now, in effect, is precisely what the language indicated by the Senator from Georgia would be.

Mr. SEWARD. Several years ago, Mr. President, there was a Senator here from Vermont, who occupied a seat in the Senate, (Mr. Phelps.)

He belonged to the same political association to which I belonged; and finding that the disposition of the Senate was so tolerant as to overlook what seemed to be a very great doubt as to his title, I brought the subject myself to the notice of the Senate, on my own motion, for the purpose of having it brought to trial; and with what diligence I could, without unkindness to him and to the public business, I kept calling the attention of the Senate to it until the matter was brought to a hearing, and the Senate decided that he was not entitled to a seat here, and he left the Senate Chamber; and during all that time, that Senator declined voting on any question.

Now, I pursue the same rule in this case. I have endeavored to keep my mind entirely unbiased on this question; I mean to do so as far as practicable; but I see that there has been a delay of a year. I do not complain of that; I do not allege that there has been any fault about it; but there is to be a further delay produced by this resolution. The Senate has decided that it will not take up this question for decision now, for the reason that it wants proofs. I then see that the matter of the proofs is left entirely without any definition, and that we are to send out a commission under which all kind of testimony, relevant and irrelevant, may be taken. There is no issue set out, while, at the same time, there is a distinct issue before the Committee on the Judiciary, and I think that issue is fairly understood and accepted by the whole Senate. I have endeavored to frame an amendment to this resolution, which will present just exactly that issue in the largest possible form, so as to cover every fact of every nature that on either side can bear on this election. I propose to amend the resolution of delay—the dilatory resolution—simply by stating the issue on which proof shall be taken, because I suppose that will expedite the proceedings in taking the proof.

I see also that the resolution is without any limitation as to time, and that the convenience of parties, or the convenience of the persons who may be employed to take testimony, or the convenience of witnesses, may delay and procrastinate this proceeding indefinitely; and therefore I have suggested a period within which the proof shall be taken.

These constitute the two branches of the amendment. I have submitted them because they seem to me pertinent; and in any case in which I felt any special interest myself that affected my own seat, I think I should be desirous that every conclusion of a desire to delay should be excluded. I have listened to the debate without hearing any satisfactory objection to either of these propositions. If sixty days, the time I have proposed, be too short, the Senate will determine that. It seems to me that with our railroad and postal communications, sixty days is quite long enough to take proofs of facts of this kind, which, after all, must be capable of being established by the testimony of a few witnesses, who must be accessible to all the parties who take an interest in the election. Still I am not tenacious about this. Having brought to the notice of the Senate what seems to me to be a defect in the resolution, and having proposed to amend it, I shall be cheerfully content to abide by the decision of the Senate on both the points I have suggested.

Mr. WILSON. I think the Senator from Ohio ought to remember that this question came here one year ago; that it has been repeatedly pressed upon the consideration of the Senate; and that now it is proposed to take testimony. The Senator from New York proposes to limit the time of taking it to sixty days. The Senator from Ohio thinks that not long enough. I would suggest to the Senator from Ohio that we owe it to the Senate to settle this question before the adjournment of Congress. If this investigation lasts ninety days, the report of the evidence will come here in the latter part of the month of May. I have no doubt that the testimony will be very extensive; that there will be a large amount of testimony taken. The testimony will be printed. It will require time to print it, time to examine it; and we shall not reach the consideration of the question before the summer months; and we may adjourn early in the month of June. I think this question should be settled, or put in a train of settlement, before the adjournment of Congress. I think it due to the Senators who represent Indiana here; due to the

people of that State; and due to the character of this body. I do not think the friends of the sitting members should ask more than sixty days to take testimony bearing on this case. Many of us here believe that no testimony whatever is needed; but the Senate has decided otherwise. I think the friends of the sitting members ought to be willing to accept a limitation of sixty days for taking testimony.

Mr. PUGH. Let me ask the Senator whether he considers it a question of friendship? I have not put it on any such ground. I have put it on the ground that I am one of the judges, and I want the evidence. If it will take sixty days, very well. If it will take a year, I want it. It is not a question of friendship.

Mr. WILSON. I do not put it on the ground of personal friendship; but it is well understood, by the votes that have been taken, that the matter has assumed somewhat a party character, and I referred to it in that light. I certainly did not make the remark in any way offensive to the Senator.

Now, this testimony is to be taken before the judge of the district court of the United States in Indiana, or before the judges of the State courts. It so happens that all these judges are of one political organization. They may also be engaged in other duties. They may not have time to attend to this matter; and I think that if we are to send out for testimony, we should appoint commissioners, and limit the time in which the testimony shall be returned. I hope that we shall appoint men whose duty it will be to attend to this matter, and that it will be attended to promptly; that all the evidence will at an early day be furnished to the Senate. I would suggest that we strike out of the resolution the words "any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana," and insert, "the Hon. Oliver H. Smith, the Hon. John Pettit, and the Hon. John Defrees, who are hereby appointed commissioners for that purpose." Mr. Smith, many years ago, served with eminent ability in this body; he is a man of talent and of high personal character; a man withdrawn from the political contests of the present time. Mr. Pettit has served recently in this body. He is a warm political friend of the Senators from Indiana; a man of talent, and who would, no doubt, if appointed, see that everything which could bear properly on the case should be reported in the evidence. Then, Mr. Defrees is an active Republican of that State, familiar with its affairs at the present time. I think if the Senate would consent to appoint these three gentlemen commissioners to take this evidence, it would be taken at an early day and spread before the Senate; but if we leave it to be taken before the judges of the State courts, or of the United States district court, they may be engaged in other duties, and after they enter upon this examination they may be called off to attend to official duties, and the matter may be prolonged to an almost indefinite period. I hope we shall adopt the amendment of the Senator from New York, which I consider just, and then I shall move the proposition I have suggested for the appointment of these gentlemen as commissioners to take testimony.

Mr. DOOLITTLE. On the question of time to take testimony, I desire to say a single word. There seemed to be two classes of opinions developed here in the discussions of yesterday. One is, that inasmuch as there is no law of Indiana providing that the Legislature shall go into joint convention, and inasmuch as the Legislature of Indiana did not by joint resolution resolve to go into joint convention, there is a vital defect in the whole proceeding; that if all the members of the Senate and all the members elected to the House of Representatives had met together in some place, no matter where, in the State of Indiana, and had elected Senators, the election would be totally void under the Constitution of the United States, because the Legislature of Indiana had never elected them, and never prescribed the time nor the manner of their election. With persons who maintain that opinion, of course this testimony would be unnecessary.

There is another opinion developed by gentlemen in the course of this discussion—and I refer more particularly to the remarks of the honorable Senator from Georgia—and that is that what

transpired there, there was such irregularity on the part of certain persons claiming to be members of the Senate of Indiana, as to render their proceedings void, and therefore, that three State Senators who were sworn into office were illegally and irregularly inducted into office, and were the same as if they had never been sworn at all; that there were, therefore, but forty-seven members of the Senate; and that twenty-four, being a majority of forty-seven, having met with a majority of the House of Representatives, that constituted a valid body, a joint convention, for the election of Senators. In reply to this, it is stated that although in the morning of that day, and before dinner, there was some irregular proceeding on the part of members of the Senate, yet after dinner they were regularly sworn in by, or by the direction of, the presiding officer of the body. It is conceded, as I understand, upon all hands, that if these persons were regularly inducted into office, previous to the time when this election for United States Senators took place, they were members of the Senate of Indiana, and this body have no right to go beyond that and make any inquiry as to whether they were properly elected or not.

It seems to me, then, that the only question presented upon the discussion which has taken place here is, whether they were irregularly or regularly sworn into office? The only question of fact that has been raised—the only one that was raised by the honorable Senator from Georgia—was whether these Senators were regularly sworn into office previous to the time of election of United States Senators? If they were, that is an end of the question. If they were not, the question of fact which they deem material arises, and it is proper to take the testimony for them to consider in forming their judgment upon the case.

Pray, sir, how long will it take to procure testimony to prove that fact? How long will it take to send to Indiana to find out whether these three persons were duly sworn in as members of the Senate of Indiana by the order of the Lieutenant Governor of the State of Indiana, and whether that occurred previous to the election of United States Senators or not? Thirty days is an ample time; sixty days is double the time that is necessary. So it seems to me; and, for my own part, I should have been much better satisfied with an amendment limiting the time to thirty days instead of sixty days. I shall, however, vote for the amendment of the Senator from New York, although he has deemed it proper to name sixty days as the time within which to take the testimony. All the testimony can be taken in thirty days just as well as in thirty years—all that is necessary to prove the fact whether they were sworn into office or not before this election of Senators took place. If they were regularly sworn in, that is an end of the whole question. The Legislature never agreed to go into joint convention, nor did they go in, if such is the fact. It reduces itself, it seems to me, to that single fact; and there is nothing else which should be inquired into.

Mr. MALLORY called for the yeas and nays on the first branch of Mr. SEWARD's amendment; and they were ordered.

Mr. FOOT. It may be proper for me to say that, on all questions arising on the case before us, I have been paired off with the absent Senator from Mississippi, [Mr. DAVIS.]

Mr. WILSON. On all questions connected with this case, I have paired off with the Senator from Louisiana, [Mr. BENJAMIN.]

The question being taken by yeas and nays, resulted—yeas 19, nays 25: as follows:

YEAS—Messrs. Broderick, Cameron, Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foster, Hamlin, Harian, King, Seward, Simmons, Stuart, Sumner, Trumbull, and Wade—19.

NAYS—Messrs. Allen, Biggs, Bigler, Brown, Clay, Evans, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thompson of Kentucky, Toombs, and Yulee—25.

So it was rejected; and the question occurred on the second branch of Mr. SEWARD's amendment proposing to limit the time for taking testimony to sixty days.

Mr. PUGH. I move to amend the amendment by striking out sixty days and inserting ninety.

Mr. SEWARD called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Allen, Biggs, Bigler, Broderick, Brown,

Clay, Evans, Green, Gwin, Hammond, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Kennedy, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thompson of New Jersey, Toombs, Wright, and Yulee—27.

NAYS—Messrs. Chandler, Clark, Collamer, Dixon, Doolittle, Durkee, Fessenden, Foster, Hamlin, Harian, King, Seward, Simmons, Stuart, Sumner, Thompson of Kentucky, Trumbull, and Wade—18.

So the amendment to the amendment was agreed to.

The amendment as amended was adopted.

Mr. TOOMBS. I move an additional proviso to the resolution as amended:

And provided, That no testimony shall be taken under this resolution in relation to the qualification, election, or return of any member of the Indiana Legislature.

I wish to set that question on a certain basis.

The amendment was agreed to.

Mr. WILSON. I move to amend the resolution by striking out the words, "any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana," and inserting "the Hon. Oliver H. Smith, the Hon. John Pettit, and the Hon. John Defrees, who are hereby appointed commissioners for that purpose."

Mr. TOOMBS. I hope that amendment will not be adopted. The original resolution reported by the committee was drawn in conformity with the general usage of the Government for many years. The taking of such testimony has always been limited to the judges of courts of record. We cannot compel the three gentlemen named by the Senator from Massachusetts, or a majority of them, to attend to this matter. It may interfere with their other duties. The investigation might be delayed and impeded by appointing three commissioners, who are engaged in other employments. I do not know them, except one of the gentlemen who was formerly a Senator in this body. The resolution refers the matter to the proper persons to take testimony, those whom the laws of Indiana recognize. We ought not to allow this testimony to be taken by anybody whom the laws of Indiana do not recognize as proper for that purpose—the judges of her supreme or circuit courts.

Mr. FESSENDEN. I have some apprehension, as the time is limited within which testimony is to be taken, that there may be a failure on one side or the other to get all the testimony; so that this matter cannot be definitively settled at the end of ninety days. I ask the Senator from Georgia what objection there is to inserting, after the provision which the Senator from Massachusetts proposes to strike out, the words "or any other persons qualified by the laws of Indiana to take testimony?" If we agree to that, and one of these gentlemen cannot attend to it, somebody else can be found who will; and then it will not be confined, as I understand it is now, to persons all of one political denomination.

Mr. TOOMBS. I can only state that I do not know what party these judges belong to. I do not know what are the politics of the judges. I never heard a suggestion on that point. Certainly none was made to me from Indiana, or anywhere else. I pursued the form usually adopted. The reason why I did not desire to extend it lower was because we might get into difficulties on account of the infidelity of inferior officers in taking testimony; but when we confide it to the judges, it is to be presumed that they are proper persons. To what party they may belong I do not know.

Mr. PUGH. I understand that the judges of the circuit court are elected by the people of separate districts, and the judges of the supreme court by the people at large.

Mr. FESSENDEN. That may be, but it does not disprove the allegation which has been made.

I presume those gentlemen, if they undertake the matter, will attend to it faithfully; but there is no mode of compelling them to take this testimony. It is a matter entirely within their choice to take it or not. It is possible they may find it convenient to take it on one side and not on the other. What will you do in that case?

Mr. TOOMBS. If we allow the testimony to be taken before so large a number of persons as all the judges of the supreme court, and of the circuit courts, I take it for granted that there will be found some person who will do this duty, and I confined it to them because that had been the regular course.

Mr. FESSENDEN. I doubt whether the Senate can have all the testimony taken in ninety days, according to the original resolution.

Mr. TOOMBS. If there should be a difficulty, either party could come to the Senate and have the time enlarged.

Mr. FESSENDEN. But I do not want the time enlarged. I wish to prevent the necessity of any such application.

Mr. TOOMBS. I should hold that either party desiring an extension of time should come early, and if it was shown to be necessary to enlarge the rule, and allow other persons to take testimony, I presume that would be allowed if a proper case was made out for it; as for example, if the persons now authorized would not attend to it.

The amendment of Mr. WILSON was rejected.

Mr. FESSENDEN. I now move to amend the resolution by striking out the words, "the supreme or circuit courts," and inserting instead of them, "any court of record," so that it will read, "or any judge of any court of record in the State of Indiana." That will include a still larger class. It will include the probate judges, I suppose.

Mr. TOOMBS. I do not see any objection to that.

Mr. GREEN. I think there may be objection to the amendment in this respect: there is a court of record in every county of the State, and they may be taking evidence in every county at the same time, while the sitting Senators would not be able to be present at them all.

Mr. TOOMBS. That is an objection which I did not think of.

Mr. GREEN. I should like to have some system designated.

Mr. FESSENDEN. The circuit courts extend over the whole State.

Mr. GREEN. That is true; but at the same time their number is limited, and both parties cannot be taking evidence at the same number of places as may be allowed under the amendment which the Senator now proposes. Probate judges keep records, and you can multiply them almost indefinitely. Some probate courts consist of three judges, so that you may multiply the number of probate courts by three; add to that all the circuit courts and all the judges of the supreme court of Indiana, and then you will have the number of persons before whom, under this amendment, testimony may be taken. Sometimes there is a commissioner's court to transact county business in a county, keeping a record, and called a court of record. You may multiply the number of such courts by three, and add that to the former number, and take testimony before so many persons. I really think it would produce confusion, and render it impossible for the parties to attend to the taking of this evidence. I think a fair opportunity ought to be afforded on both sides, or else no opportunity at all.

Mr. FESSENDEN. My simple object in moving the amendment was to so enlarge the number of persons before whom the testimony might be taken as to prevent the chance of failure to have the testimony taken at the end of the ninety days. If you confine it to the judges of the supreme and circuit courts, their number is very limited, and they may be engaged in the trial of causes, or other reasons may render it possible that the testimony will not be completed in time. For this reason I have offered the amendment allowing the testimony to be taken before the judge of any court of record in the State of Indiana.

Now, I do not agree with the Senator from Missouri in his supposition. I do not take it for granted that gentlemen of the high standing of these gentlemen, Senators of the United States on the one side, and members of the Senate of the State of Indiana on the other, would go to playing little pettifoggery tricks on each other. I think better of them. I do not suppose that either of those gentlemen will give notice of testimony to be taken in half a dozen places on the same day, or that their adversaries will do so. I do not presume such small business will be engaged in by such men. I hope they are men of more consideration than to resort to such means. I think the objection which is made does not lie, and I really think the Senate will be doing nothing unreasonable when they have given the time of ninety days, and when there is so strong a desire to have

this question settled, to make sure that there is a chance to take all the testimony that is necessary within that time, and not have the matter extended again at the end of the ninety days, on account of the failure to get all the testimony on one side or the other.

Mr. GREEN. I hope that neither the Senators sitting in this Chamber nor the Senators in Indiana would be guilty of small things; but we know that the issues presented represent some of them as having done very small things. They may do so again; and I want to keep them from having the opportunity to repeat the small things, if they ever did commit them heretofore. We know that serious charges are made against them. They may or may not be correct. If you confine the taking of evidence to one point or one locality, I care not about the person before whom it may be taken, so that he be an honest man; but if you permit them to scatter all over the State and multiply different points at which it is to be taken, it would be an exceeding hardship on the parties.

Mr. PUGH. I was inclined at first to agree to the amendment; but I rather think my colleague on the committee, the Senator from Missouri, is right. I understand that there are four judges of the supreme court of Indiana, thirteen judges of the circuit courts, and there is a judge of the United States district court—eighteen persons, any one of whom is competent to take this testimony. I would rather have it taken before the judge of a superior court. I do not want to get down before county courts or justices of the peace. I would rather have it taken before a man of some judicial experience and ability; and therefore I shall be compelled to vote against the amendment.

The amendment was rejected; there being, on a division—ayes 16, noes 22.

The resolution as amended was agreed to, as follows:

Resolved, That in the case of the contested election of the Hon. GRAHAM N. FITCH and the Hon. JESSE D. BRIGGS, Senators returned and admitted to their seats, from the State of Indiana, the sitting members, and all persons protesting against their election, or any of them, by themselves, or their agents or attorneys, be permitted to take testimony on the allegations of the protestants and the sitting members, touching all matters of fact therein contained, before any judge of the district court of the United States, or any judge of the supreme or circuit courts of the State of Indiana, by first giving ten days' notice of the time and place of such proceedings in some public gazette printed at Indianapolis: *Provided*, That the proofs to be taken shall be returned to the Senate of the United States within ninety days from the passage of this resolution: *And provided*, That no testimony shall be taken under this resolution in relation to the qualification, election, or return, of any member of the Indiana Legislature.

ENROLLED RESOLUTION.

A message from the House of Representatives, by Mr. BARCLAY, one of its clerks, announced that the Speaker had signed a joint resolution making an appropriation for the payment of expenses of the investigating committees of the House of Representatives; which was thereupon signed by the Vice President.

ORDER OF BUSINESS.

Mr. STUART. There was a report made by the Committee on Printing this morning, that I think might be disposed of, asking to be discharged from the consideration of a resolution in regard to the public printing. If the Senate will take it up, I will propose to substitute the Register of the Treasury, for the purpose of making the inquiry and reporting the facts to the Senate, and strike out that part of the resolution proposing to report by bill. Of course he cannot report by bill; but we can get the facts ascertained and reported to the Senate by the Register of the Treasury.

The VICE PRESIDENT. The Chair considers it his duty to call the attention of the Senate to a special order first; but it is subject to the control of the body.

Mr. MALLORY. I move that the Senate proceed to the consideration of executive business.

Mr. IVERSON. Will the gentleman be kind enough to withdraw that motion so that I may move to take up the Army bill and have it made the special order for one o'clock to-morrow?

Mr. SEWARD and Mr. STUART. It is now the special order.

Mr. IVERSON. Is it the special order for to-morrow?

The VICE PRESIDENT. It is a special order for to-morrow at one o'clock; but it is superseded by half a dozen other special orders.

Mr. IVERSON. I did not understand the remark of the Chair.

The VICE PRESIDENT. The remark of the Chair is that the Army bill is the special order, and can be called up at one o'clock to-morrow; but at that hour there are other and older special orders which will be called up by the Chair and have precedence of it unless they be postponed.

Mr. IVERSON. I move to take up the Army bill at present, with a view to leave it as unfinished business for to-morrow.

Mr. STUART. That will not give it any precedence. If it has any effect it will be an injury, because it will make it a younger order.

Mr. IVERSON. We can take it up and let it go over as the unfinished business.

Mr. STUART. In that view, I suppose the motion I submitted would have precedence. I submitted a motion and the Chair interposed, and announced that he would call up the special order.

The VICE PRESIDENT. With the leave of the Senate, the Chair will state that the business regularly to be called up now, is the motion of the Senator from Illinois, [Mr. DOUGLAS,] to refer so much of the President's annual message as relates to Kansas to the Committee on Territories, and now the Senate can determine whether it will consider it or postpone it. The Chair calls that up in the regular order of business.

Mr. STUART. I move to postpone it until to-morrow.

The motion was agreed to.

DEPARTMENTAL PRINTING.

The VICE PRESIDENT. The next special order on the Calendar is—

Mr. STUART. I move to postpone all the special orders until to-morrow at one o'clock.

The motion was agreed to.

Mr. STUART. Now I move to take up the report of the Committee on Printing on the resolution to which I referred.

The motion was agreed to.

Mr. STUART. The Committee on Printing asked to be discharged from the further consideration of the resolution. I have no objection to that.

The motion to discharge the Committee on Printing was agreed to.

Mr. STUART. I move to amend the resolution by striking out "the Committee on Printing," and inserting "the Register of the Treasury," and also by striking out the words "and that they report by bill or otherwise."

The amendment was agreed to.

The resolution, as amended, was adopted.

Mr. HUNTER. This is a small matter, but it is against form. I never heard of a resolution of inquiry directed to the Register of the Treasury. It should be directed to the Secretary of the Treasury and let him get the information. I move, by general consent, that the alteration be made.

Mr. STUART. I have no objection to that.

It was so modified.

The resolution, as modified and adopted, is as follows:

Resolved, That the Secretary of the Treasury be instructed to inquire and report to the Senate what amount has been paid, annually, during the last five years, to each of the printing establishments in the city of Washington for printing and advertising of any kind for the United States, other than that ordered by either House of Congress, whether done by direction of any Department, or civil or military officer thereof. Also, whether the same has been paid under the provisions of the existing law, and whether any amendment of existing laws is necessary in order to secure proper economy in the printing expenditures of the Government.

INCREASE OF THE ARMY.

Mr. IVERSON. I move that the bill to increase the military establishment of the United States be taken up, not with a view of considering it now; but the Senator from Virginia has an amendment, and he desires to offer it. Let us take it up, and then let it pass over until to-morrow as the unfinished business.

The VICE PRESIDENT. The Chair will suggest to the Senator to move to reconsider the vote by which that special order was postponed to to-morrow.

Mr. IVERSON. I make that motion.

The motion to reconsider was agreed to; and,

On motion of Mr. IVERSON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment; the pending question being

on Mr. STUART's motion to strike out the fourth section.

Mr. IVERSON. I was told that the Senator from Michigan, who moved the pending amendment to strike out the fourth section, would withdraw that motion for the present, and let the Senator from Virginia offer his substitute, which contains the same provisions, and he can afterwards renew it, if he thinks proper.

Mr. STUART. I have no objection to withdrawing the amendment, with the consent of the Senate.

Mr. HUNTER. I believe I shall then have to get the consent of the Senator from Massachusetts. I do not know whether he will waive his substitute. I wish to offer an amendment as a substitute for the bill. I give notice that I shall offer a substitute for the bill, and I ask that it be printed.

Mr. HAMLIN. Let it be read.

The Secretary read it, as follows:

That in addition to the military establishment of the United States, there shall be raised and organized under the direction of the President, one regiment of dragoons and two regiments of infantry, each to be composed of the same number and rank of commissioned and non-commissioned officers, buglers, musicians, privates, &c., as are provided for a regiment of dragoons and infantry respectively, under existing laws; and who shall receive the same pay, rations and allowances, according to their respective grades, and be subject to the same regulations, and to the rules and articles of war: *Provided*, That it shall be lawful for the President of the United States alone to appoint such of the commissioned officers authorized by this act, below the grade of field officers, as may not be appointed during the present session.

SEC. 2. *And be it further enacted*, That the said officers, musicians, and privates, authorized by this act, shall immediately be discharged from the service of the United States at the expiration of two years from and after the passage of this act.

SEC. 3. *And be it further enacted*, That regular promotions to vacancies occurring in the grades of commissioned officers in the regiments hereby authorized and required to be raised, shall be by regiments instead of by arms of service, as now regulated and provided in certain cases.

Mr. WILSON. I gave notice of an amendment to strike out all of the bill after the enacting clause, and insert a substitute providing for the raising of volunteers, which will supersede this amendment, I suppose. I should like to have a vote on that.

The VICE PRESIDENT. There is no pending amendment, the Senator from Michigan having withdrawn his motion.

Mr. GWIN. The Senator from Massachusetts offered an amendment, or gave notice of one, I think.

The VICE PRESIDENT. The Chair was about to state that the Senator from Massachusetts gave notice of an amendment in the nature of a substitute.

Mr. HUNTER. I move this amendment.

The VICE PRESIDENT. The Senator from Massachusetts is recognized by the Chair.

Mr. WILSON. I move, if it be in order now, to strike out all after the enacting clause, and insert this substitute.

Mr. HUNTER. Can I not move mine as an amendment to his?

Mr. WILSON. My motion is to strike out and insert.

Mr. HUNTER. I give notice that I shall move this substitute, if the Senate should not agree to the amendment proposed by the Senator from Massachusetts. I move that my amendment be printed.

The motion was agreed to.

Mr. WILSON. I now offer my amendment to strike out the whole of the bill after the enacting clause, and insert:

That the President, for the purpose of enforcing the laws of the United States, of maintaining peace with the Indian tribes, and of protecting the citizens on the routes of emigration in the Territory of Utah, and to be employed only in said Territory, be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not exceeding in all five thousand officers and men, who may offer their services, as infantry, to serve for twelve months, unless they be sooner discharged, or been mustered into the service of the United States; and that the sum of — dollars be, and the same is hereby, appropriated out of any money in the Treasury, not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

SEC. 2. *And be it further enacted*, That said volunteers, when mustered into the service, shall be armed and equipped at the expense of the United States, and until discharged therefrom be subject to the rules and articles of war; and shall be organized in the same manner, and shall receive the same pay and allowances as the infantry arm of the Army of the United States.

SEC. 3. *And be it further enacted*, That the volunteers so offering their services shall be accepted by the President in

companies, battalions, or regiments, and that each company shall consist of the same number of officers and men as now prescribed by law for the infantry arm of the Army. The captain and lieutenants of the said companies shall be elected by the company and commissioned by the President of the United States; and the President shall apportion the staff and field officers among the States and Territories from which the volunteers shall tender their services, as he may deem proper.

Sec. 4. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred upon persons wounded or disabled in the service of the United States.

Mr. PUGH. I move to amend the amendment of the Senator from Massachusetts, by striking out, in the fifth line, the words, "the citizens on," and also by striking out the word "in" at the end of that line, the whole of the sixth line and part of the seventh line, and also to insert "to the Pacific coast," so as to make it read:

"That the President, for the purpose of enforcing the laws of the United States, of maintaining peace with the Indian tribes, and of protecting the routes of emigration to the Pacific coast, be, and he is hereby, authorized," &c.

I understand that, if we increase the military force of the United States, the President is, by the Constitution, Commander-in-Chief, and we have no right to require him to employ one particular branch of force in one part of the country to the exclusion of the other.

EXECUTIVE SESSION.

On motion of Mr. IVERSON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES

TUESDAY, February 16, 1858.

The House met at twelve o'clock, m. Prayer by Rev. H. M. Sires.

The Journal of yesterday was read and approved.

REPORT ON EMIGRATION.

The SPEAKER laid before the House the letter of the Secretary of State, transmitting the annual report on emigration; which was laid upon the table, and ordered to be printed.

EMPLOYÉS OF INTERIOR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Department of the Interior, transmitting an annual statement required by act of 26th August, 1842, respecting the employes in said Department during the year ending the 31st December, 1857; which was laid upon the table, and ordered to be printed.

COLONEL CRABB'S EXPEDITION.

The SPEAKER also laid before the House a message from the President of the United States, transmitting a report from the Secretary of State, with accompanying documents, in reply to the resolution of the House of the 18th ultimo, requesting "to be furnished with official information and correspondence in relation to the execution of Colonel Crabb and his associates within, or near, the limits of the Republic of Mexico;" which was laid upon the table, and ordered to be printed.

DEFICIENCY APPROPRIATION BILL.

Mr. BOYCE. I now call up the report from the Committee of Elections, in the contested election case of Brooks against Davis.

Mr. LETCHER. I hope the gentleman from South Carolina will yield for a moment, until I can make a report from the Committee of Ways and Means.

Mr. BOYCE. I yield for that purpose.

Mr. LETCHER. I am instructed by the Committee of Ways and Means to report to the House a bill to supply deficiencies in the appropriations for the service of the fiscal year, ending 30th of June, 1858.

I take occasion to remark that after this bill has been printed, and gentlemen have had an opportunity to look into it and into the accompanying papers, I will, some time next week, move to take the bill up for consideration in the Committee of the Whole on the state of the Union. There are many items embraced which are of great importance to the country, and it is necessary that they should have speedy action.

The bill was read a first and second time.

Mr. LETCHER. I move that the bill and accompanying papers be referred to the Committee

of the Whole on the state of the Union, and ordered to be printed.

The motion was agreed to.

RESOLUTIONS OF TEXAS LEGISLATURE.

Mr. REAGAN. With the permission of the gentleman from South Carolina, [Mr. BOYCE,] I wish to introduce the joint resolutions of the State of Texas, in regard to Indian spoliation.

No objection being made, the joint resolutions were received, referred to the Committee on Indian Affairs, and ordered to be printed.

CHANGE OF REFERENCE.

Mr. J. GLANCY JONES. By the consent of the House, and the permission of the gentleman from South Carolina, who has the floor, I wish to report back from the Committee of Ways and Means the following papers, and move that the committee be discharged from the further consideration of the same, and that they be referred to the Committee of Claims:

The memorial of Riggs & Co., praying for the reimbursement of money advanced to the public receiver of lands, at Benicia, California, under advice of the Commissioner of the General Land Office;

The petition of John M. Newcomb, for additional compensation for services in taking the last census of the United States; and

The memorial of Charles Knap, relative to contracts with the Secretary of the Treasury to furnish iron castings, &c., for custom-house at New Orleans.

The motion was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as correctly enrolled a joint resolution, making an appropriation for the payment of expenses of investigating committees of the House of Representatives, when the Speaker signed the same.

MARYLAND CONTESTED-ELECTION CASE.

Mr. DEAN. What is the regular order of business?

The SPEAKER. The gentleman from South Carolina is upon the floor upon the contested-election case from the fourth congressional district of Maryland.

Mr. WRIGHT, of Georgia. Was that not the regular order of business for yesterday?

The SPEAKER. It was; but it is a question of privilege, and can be called up at any time.

Mr. BOYCE. Mr. Speaker, the facts are so fully set forth in the reports from the committee, that a very brief reference to them is deemed sufficient at this time.

At the election which took place in the city of Baltimore, on the 4th of November, 1857, the sitting member, Mr. Henry Winter Davis, and the contestant, Mr. Henry P. Brooks, were opposing candidates for Congress. The majority of votes appeared to have been given for Mr. Davis, who received the certificate of election; but Mr. Brooks, shortly after the election, gave notice of contest, as pointed out in the act of 1851. Before any evidence had been taken in the case, Mr. Brooks memorialized this House to investigate the case by one of its committees. The ground of contest was, in general terms, that the election had been carried by fraud and violence. The memorial of Mr. Brooks was referred to the Committee of Elections. The Committee of Elections were divided in opinion as to the recommendation they should make to the House. Five of the committee thought the House should not grant the prayer of the memorial; four of the committee thought the House should. The question is now before the House for its decision.

I suppose there is no difference of opinion as to the law of the case. By the Constitution, the House is made the "judge of the elections, returns, and qualifications of its own members." This power being granted by the Constitution is above all law, and cannot be taken away or impaired by any law. But as a means of preparing cases of contested elections for the decision of the House by enabling the parties concerned to take their testimony in advance, it is entirely competent for Congress to pass a general law upon the subject. Accordingly, this is what Congress has done by the act of 1851, which is what its title indicates, "An act to prescribe the mode of obtaining evidence in cases of contested elections." By this

act, effectual provision is made for the taking of testimony. There is no doubt, then, as to the power of the House to proceed, independently of the act of 1851, in this case. If the House thinks proper, it can, through a committee, or by a commission, take the testimony in this case. The only question is as to the expediency of so doing. The question for the House is not as to its power; that is conceded; the question is to the propriety of the exercise of that power in this particular case. I am decidedly of opinion that the House should not interfere in the matter, but let the parties concerned prosecute the case under the act of 1851.

The first time that my attention was closely called to this subject, was at the beginning of the last Congress, in the contest between Whitfield and Reeder. At that, we on this side of the House objected very strenuously to going outside of the act of 1851, insisting that that law should be followed, and the evidence taken under that law, and in no other way. We were overruled, and a committee was sent to Kansas to take testimony. The experience I had at that time rendered me extremely unwilling to depart from that law, and under no circumstances but those of an imperative necessity. I shall not quote from my own speech upon that occasion, but I will cite some passages from the speech of the distinguished gentleman from Georgia, made at that time, as illustrative of the light in which the question of going outside of the law of 1851 was then regarded on this side of the House.

Mr. STEPHENS said:

"These [the questions involved in the proposition to send for persons and papers in the Kansas contested election] are grave questions. They are questions of a judicial as well as a political character, of the highest order. In deciding them, we sit not as legislators, but as judges. Our decision upon this resolution, whatever it may be, will be an important precedent in the future history of the country. We should, therefore, not act without due deliberation, careful reflection, and a full understanding of the principles involved; and we should also be stripped, as far as possible, of all party bias, and all political prejudice. I do not deny the power [to send for persons and papers] in a proper case, though no instance of its exercise has occurred since the act of Congress of 1851, regulating the mode of taking testimony in cases of contests for seats here; and no case need ever occur, as far as I can see, so long as that law remains on the statute-book. Its provisions are full and ample."

This being an application to go beyond the law of 1851—the general law upon the subject—the onus is upon those who favor the extraordinary action on the part of the House to show the necessity for this course. They have felt the force of this, and have attempted to do so. It is urged accordingly, by the minority of the Committee of Elections, that Mr. Brooks is not embraced in the act of 1851. Why is he not embraced? Because it is said that he does not claim the seat himself. But the act of 1851 is not confined merely to those who claim the seats; its language is very comprehensive; it says, "when-ever any person shall intend to contest an election." Now, Mr. Brooks is certainly embraced in this comprehensive term, "any person," and he does "intend to contest an election." To "contest an election" it is not necessary that one should also claim the seat. To "contest," Johnson says, means "to dispute, to controvert, to litigate, to call in question." That is exactly what Mr. Brooks is doing; he is "disputing, controverting, litigating, calling in question," Mr. Davis's right to a seat. It is true we generally associate the idea of claiming a seat with the fact of one's being a contestant; but it is only an accidental, not a necessary connexion. The moment we analyze the idea of "contesting an election," we see that it does not at all necessarily imply any claim for a seat. The fact, therefore, that Mr. Brooks does not claim the seat, does not put his case outside of the act of 1851. To insist that no one is embraced within the act of 1851 but one who claims a seat, is to narrow the scope of that act very much indeed. The object of the act of 1851 is to facilitate the procedure in contested elections. To limit the benefits of the act merely to those persons claiming seats, would be to narrow its sphere of usefulness.

Previous to the act of 1851, there was no mode of taking testimony until after the new Congress had met, and, upon memorial, authorized the same to be done. The result was, that the sitting member, if illegally elected, could seldom be ousted before the end of the long session. The evil from this source was so great that, when the act of 1851

was before the House for consideration, the then existing system of contesting elections was pronounced in the debate an unmitigated "humbug;" and the necessity for a general law upon the subject was felt to be so great that the bill was passed without being referred to the Committee of the Whole. The purview of that act was to give those who might contest elections a more effectual and speedy mode of taking testimony, and preparing the case for the consideration of the House. To hold that persons contesting in the position of Mr. Brooks could not avail themselves of its provisions, would be, in my opinion, an act of great injustice to such persons. It is the privilege of Mr. Brooks, and such contestants as occupy the position he does, to have the benefit of the act of 1851. To hold that they are not included in the act of 1851, is to deprive them of great advantages, which I cannot consent to do.

It is further urged that if Mr. Brooks is embraced in the act of 1851, yet the special circumstances of this case should exempt him from its provisions.

Let us see what those circumstances are:

1. The extent of the illegality of the election; the great extent of the fraud, violence, and intimidation used to prevent a fair election. And in this connection the message and acts of the late Governor of Maryland are cited, and the correspondence between him and the Mayor of Baltimore. Admit these allegations in their full extent, and what follows? Why, that the case is so plain that it can easily be made out by evidence. Instead of furnishing any reason for the special interposition of the House, there is more reason to leave Mr. Brooks to make out the case, as it can be done so readily. So much upon this point.

2. It is said the expense of examining so many witnesses as may have to be examined to develop the illegality of the election should not be thrown upon Mr. Brooks. This is an argument against the entire policy of the act of 1851. Congress, by the act of 1851, expressed their opinion emphatically that the persons litigating seats, like litigants generally, should pay their own expenses. That system seems to have worked well, and I see no reason to depart from it. If we relieve Mr. Brooks from this expense, all other contestants hereafter will feel authorized to apply for the same exemption. We will thus be setting a precedent, which may be very much abused hereafter. It will always be a matter to be determined by the majority of this House; and I would submit, is there not danger that, in the fierce strife of parties, the voice of justice may not always be heard upon this floor? But it is said this is not merely the contest of Mr. Brooks; it should rather be considered as the remonstrance of many citizens of Baltimore; as twenty-eight citizens sustain Mr. Brooks's memorial with an affidavit. If this be so, then there is less necessity for the House to incur the expense; for these twenty-eight citizens can share the expense with Mr. Brooks. I think, myself, the great body of citizens, whose banner Mr. Brooks bore in the election, should see, in a matter so closely affecting their interests, that the expense did not fall alone on Mr. Brooks.

3. It is said the testimony cannot be taken in Baltimore, owing to the lawless condition of affairs there. Mr. Whyte, who contests the seat of Mr. Harris, from Baltimore, on the same ground that Mr. Brooks contests the seat of Mr. Davis, likewise memorialized this House to take testimony for him on the same ground of apprehended lawlessness in Baltimore. But upon the Committee of Elections deciding against his application, he went on, and is taking his testimony without any difficulty. This fact is conclusive upon this point. If Mr. Whyte can take his testimony in Baltimore, why cannot Mr. Brooks do the same?

In conclusion, I see no reason why Mr. Brooks should be exempted from pursuing the directions of the act of 1851. Let him make the effort to do so; if he fails, then the House will go to his relief.

There is an old fable, which has a great deal of wisdom in it, like most of the old fables. A waggon found his wagon in a tight place; whereupon he began to pray to Jupiter to help him out of his difficulty. Jupiter calmly replied: "Put your own shoulders to the wheel; and, if you fail, then will be time enough to call upon me." I think this House may very well imitate the prudence of the

great Jove. Let Mr. Brooks put his shoulder to the wheel; and, if he fails, then let him call upon us, and we will then go to the rescue.

MR. PHILLIPS. I would gladly, Mr. Speaker, have acquiesced in the report of the majority of the Committee of Elections if I could have done so. But it has been my duty to present to the House a question, which, if sustained by the House, will impose on that committee no ordinary labor. The importance of the question is derived mainly from its value as a precedent, for it cannot be said that in this case it will affect in any manner the final result. The minority of the committee have come to the conclusion that they have presented with some regret. They have done so under a conviction of duty, and in recognition of the great doctrine enunciated by the gentleman from South Carolina, [Mr. BORCE], that principles were dearer than party claims; and it is a question of importance to this House as a precedent, because, as has been well said by the gentleman from South Carolina, though it may be brought to-day to affect one side, it may just as well to-morrow affect the other side.

It is requisite to consider how this case is presented, and then to see what is the question raised, with a view to the action of the House. It is among the remarkable things in this case, that there is no imputation of motives, nor any insinuations of being governed by partisan prejudices or partialities. To the sitting member it does not make a particle of difference. His comfort would be better promoted by an investigation made in the mode proposed by the minority of the committee; but it is of the highest importance that this House should retain in its own hands the power given to it by the Constitution; it is of the highest importance for this House, now that the question is presented for the first time under the act of 1851, to establish a precedent that may be safe in all future cases.

The case is thus presented: a memorial was presented to this House in the early part of the session, setting forth that the honorable gentleman from the fourth congressional district of Maryland was not entitled to his seat. The memorialist did not assert any claim upon his part to the seat. He alleged that the election was invalid; that, in pursuance of combinations formed before the election, there was tumult, there was violence, there was fraud; or that there was that use of force which is recognized as equivalent to fraud; and that they were such as to prevent an election. The memorialist asks this House to order an investigation, in such manner as the House may see fit, to ascertain whether there has been a proper election or not.

The minority of this committee, Mr. Speaker, consider that there has been no law passed which provides for this case. This subject of contested elections has been frequently before the Congress of the nation, and on every occasion in which the question has been presented the constitutionality of the law on the subject has been denied. I have taken occasion to look into the matter, and I find, as early as the Fifth Congress, there was an attempt to introduce a law similar to that passed in 1851, but it failed when the attempt was first made. Subsequently a law was passed in 1801, but it was limited in its existence, and was suffered to expire in 1805. Attempts were made to enact similar laws in 1806, in 1810, and in 1820; and on all those occasions the power of Congress to regulate the mode of taking proof in inquiries into the validity of elections was denied by a majority of the body. In 1851 this law was passed. The minority of the committee have presented their views upon this law, as a salutary law. They consider that the existence of this law does not at all conflict with the Constitution; that it is a wise law; that it establishes wholesome regulations by which testimony may be taken, in case of contested elections; but they most emphatically deny that there is any power in this law, or that there is power in any law the Congress of this nation can pass, to restrict either the House of Representatives or the Senate from inquiring into the election, qualifications and returns of its own members. The Constitution prevents it. It says that "each House shall be the judge of the elections, returns, and qualifications of its own members." Each House, the minority claim, has the right to judge of the elections, returns, and qualifications of its own members, just as each House may, by a grant of

power in similar language, determine the rules of its own proceedings; and that an attempt upon the part of a prior Congress, or an attempt upon the part of a coordinate branch to restrain and restrict this House from looking into the returns and election of its own members, would be as futile and vain as similar attempts would be to regulate the rules of proceedings of this House. The minority, then, of the committee, entertain the opinion that there is no power to give to this law such an application as is attempted to be given to it by the majority. They have considered two questions: first, whether, supposing the law to be as stated, this is a case at all embraced within its provisions? and second, if it may be embraced within its provisions, whether, under the view taken of it, as to its constitutionality, this is not exactly the case in which another mode of procedure may be adopted?

As to the first, Mr. Speaker, I apprehend that the framers of this law, if any of them were now here, would have no hesitation in proclaiming to this body that the law was framed to regulate a personal contest between two claimants for a seat. No man can read that law without seeing that it applies exclusively to such a case. It cannot be pretended—and the gentleman from South Carolina will hardly urge here—that in the case of a popular remonstrance against an election, the provisions of this law can be closely applied. It only needs a reference to it to see that it was intended to apply only to the cases that ordinarily occur, and not to the case of a popular remonstrance against the validity of an election, or to a case where frauds were discovered subsequently to the thirty days allowed for a notice of contest. If the doctrine contended for by the majority of the Committee of Elections be sound, then this House would exhibit to the nation the lamentable spectacle of being unable to examine into the returns of a member where unmistakable evidence of fraud and error is discovered after the thirty days allowed by the law. The language of the law is peculiar. It says that when any person intends to contest an election, he shall give notice; that when any person intends to examine witnesses, he shall give notice of his intention to do so; that when witnesses are being examined, the two parties, with their agents, may attend. And will any gentleman contend here that this right, thus given by law to an individual, should be denied to the body, to the people, to the constituents? And yet the argument used by the gentleman from South Carolina would deny to the people of a district the right to contest elections in any manner whatever. The minority of the Committee of Elections have felt themselves called upon to present this view. They think that that law is within the Constitution, if applied within the limits of the Constitution; but that, if no examination is to be allowed to take place outside of the law, then it is a violation of the Constitution.

The objection of the gentleman from South Carolina astonished me. Had it come from any other quarter I should not have been so much surprised. But, taught as we are, that the Constitution is the text-book in South Carolina—the book first read in the morning, and placed under the pillow at night, I was a little astonished to hear the gentleman proclaim here—for the doctrine must go to that extent—that the law of 1851 restrains the power given by the Constitution to both Houses of Congress. I had always been taught to believe that Congress could pass no law, its power for the enactment of which is not found in the Constitution. So far as the law confers jurisdiction on magistrates to take testimony, it is within the scope of the Constitution; but I deny that it takes from our hands the power to examine into elections in any manner the House may think proper.

Assuming, then, Mr. Speaker, that this law is only what I have said, and that, by the language of the act of 1851, the contestant and the returned member are on an equal footing—the law speaking of his intentions, his notice, his conduct, and his witnesses, I put it to the judgment of the House whether this law was not made to regulate a contest between two members—a personal contest for a seat? But, Mr. Speaker, I go further. I say that, if even this case may be proceeded with under the law, that does not preclude the House from proceeding with it in any other way. And I ask this House whether this is not a case for proceeding in another way?

It is not at all intended to encroach on any of the comforts of the sitting member. His comfort would be much more promoted by the examination *here* of the witnesses. He would then be enabled to attend to his duties here, and would not be forced to leave his seat, and—what is perhaps of some consequence—forefeit his daily pay, as he would have to do if he went to Baltimore to have testimony taken there. The committee is willing to take on itself that labor, because it thinks it is its duty to do so. We think this is a case to be exempted from the operations of the law. It comes before us in the memorial of Mr. Brooks, supported by the affidavit of twenty-eight citizens of Baltimore. If the facts which the contestant alleges be substantially true, that there was no fair election, that there was fraud in the acceptance of illegal votes, and in the prevention of legal votes being cast, it ought not to be considered an election at all. That opinion has been officially indorsed by the Executive of the State; and to his office there certainly must be some respect paid. The Governor, in his annual message to the Legislature, declared his deliberate opinion that the election was fraudulently conducted; that by the exclusion of thousands of voters from the polls, there was no expression of the popular will; and that the whole returns were vicious and without a claim to official recognition. The sitting member [Mr. Davis] asserts himself, in his answer, that the city was under martial law. He asserts that the order for the troops had been withdrawn, although the election was conducted while the city was under martial law. If the allegation of the contestant is not sufficient to invalidate the election, it seems to us that it is sufficient to justify the House in sending a commission to Baltimore with power to send for persons and papers, to examine witnesses and ascertain the truth.

It has been said by the sitting member that one of the reasons alleged by the memorialist, namely, that most of the magistrates had been elected at the same election, and that difficulty would be met in examining witnesses, as they might be overawed, was monstrous. Well, sir, the minority of the committee did not place it upon any such ground. They put it upon higher grounds. Here is the official declaration of the chief Executive of Maryland, that in his opinion lawlessness has prevailed to such an extent as to prevent a fair election. Here is the allegation of the sitting member that the election was held under martial law. Under such circumstances, with the election recently held, ought we not to investigate it to the fullest extent of the power we can command? Ought not this committee to be willing to take the trouble, and ought not they to be clothed with power to examine witnesses, and take evidence, to see whether these startling allegations are true; whether the facts that are thus alleged on one hand and emphatically denied on the other, are founded in truth?

It is from a sense of duty—of imperative duty—that the minority have instructed me to present these views to the House. It is because these allegations have been made by this high authority that the minority of the committee have deemed that the facts should be subjected to a thorough and searching investigation. They have, therefore, instructed me to offer, as I now offer, the following amendment to the resolution submitted by the gentleman from South Carolina [Mr. Boyce] in behalf of the majority of the committee. Strike out all after the word "Resolved," and insert:

That the Committee of Elections have power to send for persons and papers, and to examine witnesses and evidence in the case of the contested election of the Hon. H. Winter Davis, from the fourth congressional district of Maryland.

Mr. MAYNARD. Mr. Speaker, whether this is an important question as between the parties directly in interest, I am not advised; but as a question of precedent, I conceive that it is a very important one, and so ought to be regarded.

The seat of a sitting member of this House may be contested upon two grounds. It may be contested upon individual considerations merely, by a man who wishes to assume for himself the honor and emoluments of the place; and it may be contested upon higher grounds—upon principles affecting the rights, the feelings, and the interests of a large body of the constituency. So far as the character of this contest appears from the papers which we have before us, it is of the former class; for though, as has been stated, Mr. Brooks, the

contestant, does not, in the present aspect of the case, ask us to oust the sitting member, and put him in his place, he does seek indirectly to accomplish that end by having the matter referred again to the people of the fourth congressional district of Maryland, by whom, I infer from his memorial, he hopes, upon a new appeal to them, to be returned here in place of the sitting member.

The fifth section of the first article of the Constitution of the United States provides, as has already been said, that "each House shall be the judge of the elections, returns, and qualifications of its own members." That is the constitutional provision. It is clear, plain, explicit. There can be no doubt, there can be no mistake, as to its meaning, or to the extent of our power under it. But it is said, if I understand the arguments on the other side, that this overrides the act of 1851, which, it is said, is but the action of both Houses of Congress, approved by the President. That law provides the mode in which the contestants shall take their testimony, and bring it before the House for decision. But, sir, it seems to me this view of the effect of the Constitution upon that law is entirely erroneous. The Constitution is one thing; the act of 1851 is another, and entirely different thing.

The Constitution prescribes and defines the judicial powers we possess under it. The act of 1851 determines the mode by which the case shall be presented to us so that we shall have it before us for the exercise of that power. The Constitution makes us the tribunal; the act of 1851 prescribes the mode by which the parties shall come into court; the mode in which they shall present their case to us, in pleading and proof, for our consideration. I see no inconsistency; I see no curtailment of the powers given us by the Constitution, by the act of 1851. And then, if it were so, as the minority allege, what follows? Why, sir, is this power given us in the Constitution a mere wild, random authority that we may exercise when and how we may happen to fancy? No, sir; constitutional power, like every other power, when controlled in its exercise by law, is liberty; but when exercised arbitrarily and without law it becomes tyranny. What are the provisions of the act of 1851? What is the scope and intention of that act? It seems to me the language is too clear, too explicit, to be misunderstood for a moment.

It provides, in the first section, that from and after its passage "*whenever any person shall contest the election of any member of the House of Representatives of the United States, he shall*" proceed under the regulations therein prescribed; applicable, as I conceive, to all cases of contestation that can ever arise.

The history of the contested elections in this House furnishes us with many cases where the seat of a member is contested, not by a single individual, but, as the reports show, by "sundry persons" of a community, the rights of which have been so outraged that they, feeling themselves aggrieved, have come as citizens, contesting the right of the sitting member to hold his seat; so that it seems to me we have no room left for doubt as to the intention of Congress in the passage of the law. Besides, here is the memorial of the contestant, showing that his original purpose was to deprive the sitting member of his seat, pursuant to the provisions of this statute. He says:

"To this end, your memorialist gave the notice required by the act of Congress of 1851, in reference to contested elections. The said notice was given on the 26th day of November, 1857, and has not yet been replied to."

With my reading of the act, and my understanding of the Constitution, I cannot conceive any other mode by which a seat can legally be contested, than by the provision of the act of 1851. That provision is general. It provides for all and every case. It makes no exception. It intends to make none, and this contestant manifestly so understood it when proceeding under it.

Having filed his pleadings, as it were, under the act of 1851, then he comes forward and asks to be exempted from its action in taking the proof. Has he any right, any legal right, to such a privilege? I cannot agree with the course of the argument of my friend from South Carolina, [Mr. Boyce,] that under the act of 1851 this House has the power to disregard its provisions and appoint a board of commissioners to go wandering over the country hunting up proof of any amount

or kind, whenever the contestant may suggest that such a course should be pursued. I insist that the act of 1851 is imperative. I insist that its provisions are conclusive, and apply to this case as well as to every other.

But, sir, without stopping further to argue or to dwell upon this view of the act of 1851, let us look to see the reasons given here by this contestant for departing from the mode of proceeding prescribed by that act. Even supposing my view of it to be wrong, and that taken by other gentlemen to be right, let us see the reason why he should be exempted from the operation of the law. We are told, in the first place, that he does not want the seat himself. We are told here, that he stands in the attitude of the dog in the manger, that, unable to eat the hay himself, he does not wish the ox in the stall to have it; that for that reason he does not come within the provisions of the act of 1851. I have already answered that position. Although he cannot, with the election returns before him, with the sweeping and overwhelming majority of between six and seven thousand votes, expect to purge the polls to the extent of securing a seat here, yet he wishes that the people of the fourth congressional district of Maryland shall hold the election over again, and give him another chance. If the course that is sought to be pursued in this case be adopted, what have we to do with every case where a candidate happens, unfortunately for himself, to be defeated in an election before the people? This candidate has only to suggest, not that he wants the seat himself, but that he wants the election declared void for informality or fraud, and that Congress should relieve him from the expense and trouble of taking testimony to make out his case. What are the grounds of the contestant for such an application? He says, in the first place, "that the disgraceful proceedings charged by your memorialist implicate the authorities of Baltimore as being either unwilling or unable to preserve the public peace." If that were so—if the authorities of Baltimore were so corrupt or so pusillanimous that they would not, or could not, afford protection to citizens in taking testimony under the act of 1851—would not the same thing occur in taking testimony under a commission of this House? Would you be in any better condition by appointing such a commission? Are you not as much protected under the laws of the country in taking testimony under a commission pursuant to the act of 1851, as under a commission appointed by the House? It seems so to me.

But, sir, what are the facts? Do the facts sustain this grave charge against the authorities of Baltimore? You have been told already that another sitting member and a contestant for his seat have been taking testimony for more than a month in the same city of Baltimore, with as much quietness and as peaceably as it could be taken here or anywhere else. But we are told that some twenty-seven or eight men from that city have come up here and made affidavit confirmatory of the allegation of the contestant. Do these affidavits corroborate him? They say that they are citizens of Baltimore, and we are told that they are most respectable citizens of that city. I do not know whether they are the most respectable or the least respectable; and it is a matter of no consequence, in my view of the facts of the case. They say that the matters and things set forth in the memorial "are substantially true, to the best of their knowledge and belief." What does this affidavit state? Absolutely nothing. It states nothing that the affiants know of themselves. They do not pretend that they have any knowledge of the circumstances; but, "to the best of their knowledge and belief," the allegations of the contestant are true. I may with the same propriety say that, "to the best of my knowledge and belief," they are untrue, knowing nothing about them, and predicating my "belief" upon the statements of men upon whom I see fit to rely. The statements in these affidavits amount to nothing, and less than nothing.

On the other hand, we have in this record affidavits of seven or eight judges of elections, presiding at so many of the different election precincts in the city of Baltimore, denying, contradicting, and controverting, in every essential particular, all the statements of this memorial and of the confirmatory affidavits that make up the contestant's

case. But if we look at the facts as set forth in the notice appended to the memorial, we then get an idea, some little conception, of the perils which will environ Mr. Brooks in his effort to obtain testimony. We are told by high authority that "the slothful man saith there is a lion without, I shall be slain in the streets." Mr. Brooks seems to have the same apprehension of lions, and some things more terrible than lions. Listen to him. He says that a "conspiracy was carried into effect by fraud, force, and intimidation. That in pursuance thereof, certain associations, bearing disgraceful and terrific appellations, have been admitted members of your party." I think there is a figure of speech called aposiopesis, where language is so used that more is meant than meets the ear. These "terrific appellations" were doubtless alluded to by the memorialist to give his words a peculiar significance. We find the same thing has been practiced before by men of poetic and imaginative minds. I think it was about 1812 that there appeared in the London Times a poetic effusion directed against the first Napoleon. After giving a fearful list of his foes, the son of the muses adds to the truculent catalogue of Platoiffs, Kutusoffs, and Rodonoffs:

"And last of all an admiral came,
A terrible man, with a terrible name;
A name that by sight we all know very well,
Which nobody can speak, and nobody can spell."

And the poet of Scotland understood the same thing, when recounting the supernatural horrors that beset poor Tam O'Shanter upon a well-remembered occasion. He concludes with a startling suppression of the most fearful terrors of that fearful night:

"Wi' mair o' horrible and awful,
Which e'en to name would be unlawfu."

"Terrific appellations!" Mr. Speaker, *stat nominum umbra!* Was ever a more ridiculous, ever a more unworthy, ever a more baseless argument submitted to the consideration of two hundred and thirty-odd men, who claim some sort of character for general intelligence? Terrific names! "Know Nothing," "Plug Ugly," "Shoulder-hitter," "Bloody-bones" and "Knock-under" desperadoes! Terrific names, which have so upset and bewildered the intellect of this valorous contestant that, forsooth, he wants the agis of this House of Representatives to be thrown around him, in the shape of, I suppose, half a dozen Democratic members of Congress, as a body-guard to protect him in the city of Baltimore, when he shall take his testimony; and to gather up his witnesses for him, so that they too shall be protected. I cannot understand it in any other way.

Sir, why did not this very prudent man learn wisdom from a very sage piece of advice, which, we are told, was given by one of the old demigods to the wagoner when he got his wheel into the rut? Why did he not put his own shoulder to the wheel, and then, if he could not lift it out, call upon us Herculeses to give him a helping hand? Why, sir, did he not go on? Why did he not give our friend over the way [Mr. Davis] the usual notice, and try his hand awhile, to see whether or not he could take his testimony? If then, terrible men, with terrific appellations, had beleaguered him, and he had been overpowered by them, he could then have come up with some reason for the alarm upon his countenance. He could have pointed at the blood, and the bullet-holes in his doublet—have uncovered his bleeding wounds, and our sympathies would have been touched. But, sir, I have never seen such an address as this to the discretion of a court—for, as has been very well remarked, we are sitting here in our judicial character—a character, by-the-by, which we have assumed during a good portion of this session, as it occurs to me; and what with adjudging cases of contempt, for the protection of our self-respect and personal dignity, and in preventing our seats from being unduly and improperly occupied by the representatives of these "terrific" outlaws, we are still occupying a judicial position—I have never seen in all my experience in judicial proceedings—which I admit may not have been as extensive and as long continued as that of many gentlemen in the House—I have never seen anything so frivolous as the excuse set up by this contestant why he should be relieved from pursuing the plain, straightforward, and obvious directions of a law which is so plain "that he may run that readeth it." ["Wrong!"] "That

he that runs may read." No, sir; I have it right, and you have it wrong. That is one of the contestant's reasons why he should not be required to make out his own case, and I suppose it is his principal reason. The others, I imagine, were put in for compliment—as an ornament—a sort of "caudal appendage" to the first.

What is the second reason? He says that "but sixty days are allowed" for taking testimony, and that the time is quite too short. Pray, what have you been doing during these sixty days? They will have expired, if I mistake not, by next Monday, and you have not turned your hand towards taking testimony so far as is shown in the case. You have made no attempt; you have not tried. There has been no sort of a beginning to make out a case. If this contestant had employed the sixty days diligently, faithfully, and properly, and then had come forward and asked to have the time extended on the ground that, by reason of the shortness of the time his evidence was not complete, that his case was not made out; or if he had come here and shown some good and sufficient reason why he had not done so during the time allowed, I would cheerfully have voted to extend more indulgence, as I did to another gentleman who made application to the House some time since. But he asks no such thing. He is not asking to extend the sixty days; he is not asking us to enlarge it, as we have the express power to do under the ninth section of the act of 1851; he is asking to be excused from taking it at all, and modestly soliciting us to do it for him.

The next reason he gives why we should excuse him from taking testimony, and why we should do his work for him, and at our own expense, to let him sue in *forma pauperis*—for that is what it amounts to—is, that "ten days' notice is required to be given to the contestee." Why, then, did not you give it? What reason is that why the House should take testimony? The House would not do it, I imagine, without giving notice to the other side.

The third reason merges itself into the previous one, and refers to the length of time allowed by law for the taking of the testimony, which, in this case, he alleges, is not sufficient. If it were not sufficient, upon that fact appearing, we could easily extend it.

There is another reason. I do not know whether the contestant is a lawyer or not—I have no personal acquaintance with him, nor am I informed on that point—but if he is, he gives a most un-lawyer-like reason for the excuse. He says that "the disposition and character of the witnesses, so readily ascertained from their manner by those present at an examination, will be totally lost in its effect if the evidence be in the nature of depositions." Can we have testimony in any other form? Is not the evidence upon which we are bound to act, and upon which we shall finally act, obliged to be in the form of depositions, and embraced in a document like this I have in my hand? Are we going to bring witnesses at the bar of the House, and look them in the face while they give their testimony, so that we can form our own opinions as to whether they testify the truth or not? No, sir; not at all.

Now, sir, take all these reasons from beginning to end, and in my judgment they amount to nothing at all. In looking over this document I can come to no other conclusion than that this contestant felt some sort of a moral necessity, some sort of a political constraint, in order to gratify friends who were urging him up, that impelled him to put on the appearance of contesting this election, and at the same time do it in such a manner as to take away from it the labor and expense of a reality. I certainly cannot believe that the man who presented this memorial is in earnest, or is serious in addressing himself to our consideration, or that he looks for our heeding the prayer of it. It looks to me as though he was doing it as a matter of form, to affect certain ulterior purposes and objects, without any expectation that it was to assume the reality of an actual controversy.

I do not desire to prolong my remarks on this question. The question now before us is simply, whether we should take the case out of the plain provisions of the act of 1851; and whether we should go on and take testimony at the expense of the country? I do not know what the expense would be; but we had before us, yesterday, a res-

olution showing the cost already incurred of some of these investigations, and what they are likely to cost. And now we are to decide whether we will go on and investigate, not frauds in Congress, not frauds under the general administration of the Federal Government, but frauds in an election in the city of Baltimore. We are to investigate them at our own trouble, and at the public charge. I, for one, am entirely opposed to such a proposition. Let this man act like every other man. Let him do as Mr. Whyte does, who is contesting the seat of another member from the same city. Let him go on in good faith, attempt to get his testimony, make every effort in his power; and when he has done that, and has still failed to bring out the facts, or to establish what he is satisfied is the truth of the case, then let him make application to us for further indulgence; and if he shows a case for it, I am very certain that no one will more cheerfully grant him that indulgence than will I. But I will not consent to this House assuming the responsibility of conducting this investigation at the expense of the country.

I might here rest the case. But I will ask: is it just to the sitting member that on him shall be devolved the labor and expense and trouble of taking his testimony, while the party contesting his seat shall be exempt therefrom, and have his testimony taken for him at the public expense? You would impoverish a member of Congress, unless he were a man of extraordinary wealth, by compelling him to go on and take proof to rebut all the testimony that the contestant might suggest. It would swell the expense to such an enormous amount that members would not be able to undergo them, and would rather give up their seats at once than attempt to retain them.

For these reasons I shall vote against the proposition of the minority of the committee, and in favor of the resolution presented by the majority.

Mr. HATCH. Mr. Speaker, in order to understand the precise question before the House I ask that the two resolutions of the majority and minority of the committee shall be read.

The resolutions were read; that reported from the majority of the committee is as follows:

Resolved, That it is inexpedient to grant the prayer of the memorialist for the appointment of a committee to take testimony.

That of the minority is as follows:

Resolved, That the Committee of Elections have power to send for persons and papers, and to examine witnesses and evidence in the case of the contested election of the Hon. H. Winter Davis, from the fourth congressional district of Maryland.

Mr. HATCH. In this connection I desire to have the record completed by adding the following sentence from the report of the majority of the committee:

"Your committee therefore recommend that the prayer of the memorialist be not granted, and that he be left to make out his case."

I desire to have that added in order to make the record complete, and to show precisely what condition this question is in. The question between the majority and the minority is "Shall the investigation be prosecuted, or shall it be abandoned?" and to these points I propose to speak.

I am not disposed, Mr. Speaker, to be a volunteer in parliamentary combats. I have no experience in such combats, and no ambition to enter the lists. But, sir, when subjects are before the House which concern my constituents, I shall ask its attention; and such a subject is that now before the House. It bears on the civil and religious rights of my constituents. The question is whether they are to be deprived of their civil and religious rights by secret organizations, and driven into a bondage worse than African slavery? My constituents do not care how the gentleman from Georgia or the gentleman from Ohio may settle their slavery discussion. They do not care whether the one supposes slavery to be an institution of God, or the other supposes it an institution of the Devil. They have no interest in the slavery question. They have nothing to do with negroes, and I do not know that they want to own one.

But I have said that my constituents are interested in the question now before the House. I desire to explain that statement. There is not a constituency in this country so largely filled with adopted citizens as the constituency which I am proud to represent on this floor. Probably all the civilized nationalities of the world are represented there; and some nine tenths of these adopted citi-

zens voted for me. There was one nationality, however, which did not vote for me.

Mr. POTTER. I rise to a question of order. I want to know what is the question before the House?

The SPEAKER. The first question is upon striking out the resolution reported by the majority of the Committee of Elections, and inserting the resolution reported by the minority.

Mr. POTTER. Well, sir, I should like to know what the remarks of the gentleman from New York have to do with the question?

The SPEAKER. The Chair will endeavor to confine the gentleman within the rules of order.

Mr. HATCH. The gentleman will find out before I get through, that my remarks are relevant. I am coming to his side of the House before I close. I was going to say that there was one nationality which did not vote for me. The negroes in my district do not think enough of the Democrats to vote with them.

The SPEAKER. The Chair thinks the gentleman is not in order in discussing this question.

Mr. HATCH. Well, sir, then I desire to have read at the Clerk's desk, the grounds upon which Brooks contests this case. The charges which he makes here, as the ground for this proceeding, are as follows—and I think they are broad enough to embrace all the subjects I wish to bring to the attention of this House:

"That the alleged election held on the 4th of November, 1857, under which you claim, was in fact no election at all.

"That intimidation, force and fraud were used by the party whose nominee you were, to such an extent as to deprive the proceedings of that day of all the true characteristics of an election.

"That large numbers of qualified voters were excluded from the polls on that day by threat and by violence.

"That both before and on the day of election, threats and actual violence towards naturalized citizens, became so notorious, that that class of voters were almost entirely disfranchised.

"That persons desiring to vote one ticket were compelled to vote the other.

"That your party by its organization, by the doctrines it promulgates, by the oaths it imposes, having aroused animosities between different classes of our citizens, a conspiracy was formed by and between certain clubs, or orders, or councils, or persons in the party whose nominee you were, to intimidate and exclude large numbers of legally-qualified voters, and thus carry the election—and that this conspiracy was carried into effect by fraud, force, and intimidation.

"That in pursuance thereof, certain associations bearing disgraceful and terrific appellations, have been admitted members of your party, and supplied with money by its prominent members, and that they armed themselves for the purpose of overawing and controlling the qualified voters of this city.

"That further conspiring, the managers of your party provided a ticket for the election on the 4th day of November, 1857, bearing *uniform red stripes*, visible, howsoever folded; thus enabling your partisans to detect the sentiments of the voter and destroying the secrecy of the vote by ballot.

"That many of the polls were held at places on the extreme confines of wards, so as to bring them near to the polls of wards noted for violence, and for being strongholds of your party; and that such locations were unusual, illegal, inconvenient, and for the purpose of producing fear in the minds of our citizens.

"That violence was used by clubs and members of your party at the elections held in this city in the fall of 1856, and of this year, to such an extent as to render this conspiracy more easy of being carried into effect.

"That persons were not permitted to hold tickets adverse to your party at most of the polls in your district.

"That the police refused to keep open the access to the places of voting, and, with few exceptions, to arrest persons assaulting voters at the polls—they being members of your party, and members of, or recommended as policeman by, the various clubs, councils, or orders, charged herein with conspiracy to prevent a fair election.

"That the 'Superior Council,' an organization of prominent members of your party, who have taken certain sordid degrees, directed the stripping of the tickets, the holding of polling places, and other matters in furtherance of the conspiracy herein charged."

Mr. Speaker, the question now before the House, in the view I take of it, is not a contest between the sitting member and the contestant. It is not a question between Davis and Brooks, and I hold that in the line of remarks that I am going to make, I have the right to refer to any of the grounds upon which Mr. Brooks claims here to set aside the return of the sitting member. This is not a case of Brooks. Brooks being overwhelmed by the municipal authorities, and stricken down by mob force in the city of Baltimore, says there has been no expression of the popular will there, and he asks this House to pursue the investigation to the proof of that fact. I hold that he has the right to ask this of the House. This case, in my opinion, involves the history of those secret organizations of the country. Their oaths, and

the whole subject-matter connected with them, are before the House, and I want to inquire into them.

Every man knows—it is notorious, it is undeniable—that in every city in this Union where this proscription, bigoted Know-Nothing party has had power, they have secured that power by blood and violence, and have held it by blood and violence. This is not a mere question of the election in the city of Baltimore. All the adopted citizens of the country are interested in it; ay, sir, and the perpetuity of this Government and the progress of self-government are concerned in it; for if you cannot protect the ballot-box, your liberties are gone. You must be ruled by the ballot or the bayonet. All governments which have preceded us have been so ruled. We are trying a most fearful experiment in government, and our only hope rests upon the purity and integrity of the ballot-box.

The sitting member here is charged with being a member of the Know Nothing party, and the representative of that party. The fact is not denied. Now, sir, I want to know whether the gentleman has taken the treasonable and unconstitutional oaths of that organization?

Mr. BURROUGHS. Will the gentleman allow me to interrupt him for the purpose of asking a question?

Mr. HATCH. I do not choose to be interrupted. I do not mean any discourtesy to the gentleman; but I have a certain line of argument which I wish to pursue, and need the whole of my hour to conclude it in. I was saying that I wanted to know, and the country wants to know, whether there are members of this House who have taken these treasonable and unconstitutional oaths? That is a part of the allegation here. And now, sir, I propose to send to the Clerk's desk the oaths of that organization, which I ask to have read.

Mr. SHERMAN, of Ohio. Mr. Speaker, is it in order to have read what the gentleman has sent up to the Clerk's desk, in a debate upon the appointment of a commission to take testimony? I object to it as irrelevant to the subject-matter before the House for discussion. It is not, in my opinion, at all pertinent.

Mr. HATCH. It is read as a part of my speech. It is a matter of convenience. If the Clerk does not read it, I will read it myself.

Mr. BOWIE. I hold that the reading of the paper sent to the Clerk's desk by the gentleman from New York is pertinent; for if there was violence in Baltimore, as there no doubt was, it was caused by this secret organization.

Mr. UNDERWOOD. I trust that the point of order will be withdrawn, and that the gentleman from New York will be permitted to make his speech in his own way.

The SPEAKER. The Chair is of the opinion that it is competent for the gentleman from New York, either by argument or by any paper which he may read, to discuss the points which have been made by the contestant in his application. This report is predicated upon the application or memorial of Henry P. Brooks. The Chair thinks that it is competent for the gentleman from New York to comment on whatever of allegations of fraud and secrecy and oaths, there may be in that memorial.

Mr. SHERMAN, of Ohio. I suppose under the decision of the Chair that it would be competent for the gentleman to discuss which is the worst party: the Know Nothings or the Democratic party.

The SPEAKER. The Chair has hurriedly glanced at the memorial, but he does not perceive that that question is referred to in it.

Mr. CLAY. What is the paper which it is asked be read by the Clerk?

The SPEAKER. The Chair is unable to inform the gentleman.

Mr. HATCH. It is from the Morning Express of the city of Buffalo, a Republican paper, that must be regarded as entirely sound by the other side; for it had, during the last canvass, a flag with sixteen stars flying at its mast-head, and preached a social negro equality which, as usual with the political priests upon the other side, it did not carry into practice.

The following are the oaths, and I ask every man who holds any respect for the free action of citizens in their political, social, and religious

relations, if they are not eminently treasonable in their character and pernicious in their effects upon the political relations and character of the citizen? Read them carefully and ponder them well in all their requirements:

"You, and each of you, of your own free will and accord, in the presence of Almighty God and these witnesses, your right hand resting on the Holy Bible and Cross, and your left hand toward Heaven in token of your sincerity, do solemnly promise and swear, that you will not make known to any person or persons, any of the signs, secrets, mysteries, or objects of this organization, unless it be to those whom, after due examination or lawful information, you shall find to be members of this organization in good standing; that you will not cut, carve, print, paint, stamp, stain, or in any way, directly, or indirectly, expose any of the secrets or objects of this order, nor suffer it to be done by others, if in your power to prevent it, unless it be for official instruction; that so long as you are connected with this organization, if not regularly dismissed from it, you will, in all things, political or social, so far as this order is concerned, comply with the will of the majority, when expressed in a lawful manner, though it may conflict with your personal preference, so long as it does not conflict with the grand State or subordinate constitutions, the Constitution of the United States of America, or that of the State in which you reside; and that you will not, under any circumstances whatever, knowingly recommend an unworthy person for initiation, nor suffer it to be done if in your power to prevent it. You furthermore promise and declare, that you will not vote, nor give your influence, for any man for any office in the gift of the people, unless he be an American-born citizen, in favor of American born citizens ruling America—nor if he be a Roman Catholic; and that you will not, under any circumstances, expose the name of any member of this order, nor reveal the existence of such an organization.

"To all the foregoing you bind yourself, under the no less penalty of that of being expelled from this order, and of having your name posted and circulated throughout the different councils of the United States as a perjurer and as a traitor to God and your country, as being unfit to be employed, intrusted, countenanced, or supported in any business transactions; as a person totally unworthy the confidence of good men, and as one at whom the finger of scorn should ever point—so help you God."

The second oath is as follows:

"You and each of you, of your own free will and accord, in the presence of Almighty God and these witnesses, your left hand resting on your right breast, and your right hand extended to the flag of your country, do solemnly and sincerely swear, that you will not, under any circumstances, disclose in any manner, nor suffer it to be done by others if in your power to prevent it, the name, sign, passwords, or any secrets of this degree; that you will in all things conform to all the rules and regulations of this order, and to the constitution and by-laws of this or any other council to which you may be attached, so long as they do not conflict with the Constitution of the United States, nor that of the State in which you reside; that you will, under all circumstances, if in your power so to do, attend to all regular signs and summonses that may be shown or sent to you by a brother of this or any other degree of this order; that you will support in all political matters for all political offices the second degree members of this order, provided it be necessary for the American interests that it may be done legally; you will, when elected to any office, remove all foreigners, aliens, or Roman Catholics from office, and that you will not appoint such to office—all this you promise and declare on your honor as Americans to sustain and abide by, without any hesitation or mental reservation whatever, so help you God and keep you steadfast."

The man who takes upon himself these oaths, and submits himself and his action to their direction and requirements, yields up entirely and totally his freedom as a citizen. He is not permitted for a moment to consult his own judgment, conscience, principles, or sense of duty.

Mr. EDIE. Before the gentleman resumes, I would like to propound an interrogatory to him.

Mr. HATCH. I want all my time, and I therefore decline to yield the floor.

Mr. EDIE. This is an important matter in reference to this case.

Mr. HATCH. I hope it is, in the gentleman's estimation; I decline to yield.

Mr. EUSTIS. I ask leave to have read the report of the Committee of Elections, which will throw more light on this subject than what the gentleman has had read.

Mr. BOWIE. I call the gentleman to order.

Mr. HATCH. I decline to yield the floor.

Mr. FENTON. Does the gentleman say that what the Clerk read is from the Buffalo Morning Express?

Mr. HATCH. It is from that paper, the soundest Republican paper in New York State. In this connection I desire to say, that this secret political organization, extending throughout this Union, is founded upon a hatred of race against race, and religion against religion. This is an important inquiry, and therefore it is one which should be prosecuted before the country. I will not dwell on that point now.

What is the power of this House? Congress has authority over elections. Article first, section four, of the Constitution, provides "that the

time, place, and manner, of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof, but that Congress may, at any time by law, make or alter such regulations, except as to the place of choosing Senators." I refer to this, to show that Congress has the entire power over the subject of elections; that the framers of the Constitution reserved that power; and it was conceded by the States. It was done as a matter of safety, and for the preservation of the Union. In this connection I read section eight hundred and fourteen of Story on the Constitution.

"In answer to all such reasoning, it was urged that there was not a single article in the whole system more completely defensible. Its propriety rested upon this plain proposition, that every Government ought to contain in itself the means of its own preservation. If, in the Constitution, there were some departures from this principle, (as it might be admitted there were,) they were matters of regret, and dictated by a controlling moral or political necessity; and they ought not to be extended. It was obviously impracticable to frame, and insert in the Constitution, an election law which would be applicable to all possible changes in the situation of the country, and convenient for all the States. A discretionary power over elections must be vested somewhere. There seemed but three ways in which it could be reasonably organized. It might be lodged either wholly in the national Legislature; or wholly in the State Legislatures; or primarily in the latter, and ultimately in the former. The last was the mode adopted by the convention. The regulation of elections is submitted, in the first instance, to the local government, which, in ordinary cases, and when no improper views prevail, may both conveniently and satisfactorily be by them exercised. But, in extraordinary circumstances, the power is reserved to the national Government; so that it may not be abused, and thus hazard the safety and permanence of the Union. Nor let it be thought that such an occurrence is wholly imaginary. It is a known fact, that, under the Confederation, Rhode Island, at a very critical period, withdrew her Delegates from Congress; and thus prevented some important measures from being carried."

These views are fully sustained by the debates in the convention, and all the political writers of that day. I refer to them to show that Congress has the power, where elections cannot be properly conducted and the rights of the people preserved, to go into the States, fixing the time and manner of holding elections, as they may, perhaps, have to do in this very case in Baltimore, before we get through with it. The Federal power extends over elections, and it is all vested in Congress. This would be, doubtless, a novel proceeding, and should only be resorted to in great emergencies. Yet the constitutional right of the citizens should be acknowledged and proclaimed. Congressional constituencies should understand that when State or municipal governments, either through neglect or fraud, fail to protect the citizen in the free exercise of the elective franchise, that he has an appeal to a reserved constitutional prerogative placed here for his protection. Here it exists. It is undeniable. The power of the House is defined in article first, section five, of the Constitution, which is in these words: "Each House shall be the judge of the elections, returns, and qualifications of its own members." Now, sir, in my opinion, where violence has been used at an election, I care not how the election may go, or what the result, it is the duty of this House to declare the election void. What is an election? It is the choice, the free will, the liberty to act, or not to act. They hold no election where violence or intimidation is used; and this House, if there is no precedent, ought to set a precedent, and set aside an election in such a case. It is important that it should be done for the preservation of the rights of three or four millions of our citizens who are scattered throughout the cities of the Union, more especially through the Northwest. The atrocious wrongs perpetrated by these secret organizations upon equal and human rights throughout this Union call for action—call for a precedent. This Government was not founded in the wisdom of the past, but in the wisdom of the present—faith in man's capacity for freedom. The gentleman from South Carolina seemed to be afraid that we had no precedent. Why, sir, precedents are very well; but that never should deter statesmen upon questions of national progress or safety. New phases must arise constantly in the development of our political history. There is no analogy for this Government in the history of the world. You have no precedent even for the Government itself. Indeed, the Government has no means for self preservation against disunion, North or South, except by the recognition of this constitutional doctrine.

Now, sir, this House should inquire first

whether the sitting member has taken this unconstitutional and treasonable oath; and second, was there violence and intimidation used? I am not going to take newspaper accounts for that; for I am going to refer to the testimony, and particularly to the document which the sitting member has furnished, and which will be found in miscellaneous document No. 42, of this Congress. I read from the response of the sitting member to the memorial of the contestant:

"I deny that intimidation, force, and fraud, or either of them, were used by any persons on my behalf to such an extent as to deprive the proceedings of that day of all or any of the true characters of an election."

It seems to be conceded here that violence and intimidation were used, but that they did not come up to the point that would destroy an election. It is a tacit concession on the part of the member that violence and intimidation were used. You will observe, further, that he here says:

"On the contrary, in my judgment, it was the most quiet and peaceful election held in Baltimore for many years."

I want the House to remember that. I have been through many elections, and I leave it to the House to determine what this sitting member regards as a quiet and peaceable election in Baltimore before I get through.

"Indeed, it is not easily to be seen how any election can be held in the fourth congressional district of Maryland hereafter, if threats and violence before the election are to invalidate it when held. Still less can the present condition of my competitor be improved by another election, if, as he suggests, the authorities of Baltimore are 'implicated'—especially since there is no longer a Governor who will give him the advantage again of martial law to secure the freedom of the election."

This statement in the response of the sitting member illy conceals the sneer at his competitor, that if this election were set aside it would be of no use. He says, in effect: "We beat you last time when we had the municipal and judicial authorities with us. Now we have got the executive power of the State, and we do not care how many elections you go into with us." The sitting member says:

"I deny that intimidation, force, and fraud, or either of them, were used by any persons in my behalf to such an extent as to deprive the proceedings of that day of all or any of the true characters of an election."

It will be seen that he always qualifies his statements. Again, he says:

"I am not aware that the House of Representatives takes any cognizance of party organizations, doctrines, or oaths, or of the animosities they may have occasioned; but if they suffice to vacate an election, it may be well for a majority of the majority of that House to look to their seats."

Again, he says:

"There were tickets with stripes on them, and some were cast for me; but I suppose it quite immaterial whether the tickets were white, or red, or striped, in the absence of any law on the subject; and it would seem difficult to avoid the objection, since any color is equally liable to the same objection."

This shows that the sitting member has no effeminate weakness about color. He has not been very particular about the color of the company which he has lately kept in this House, nor has he been particular about the color of the votes he has given here; in short, he has been as ready to vote a black ticket as a white one.

Again, he says:

"The suggestions of terror and intimidation have been held to be no legal ground for disregarding an actual majority, because a possible majority might have appeared on the other side but for the terror and intimidation. Congress refused to inquire why people did not vote. (Biddle and Richard vs. Wing, Election Cases, 1789-1834, pages 504, 505, and 507.)"

The case referred to was an election which took place in the Territory of Michigan, thirty years ago, where the whole number of votes polled was some six or seven hundred, about equal to the number that would be cast in a ward election in the city of Buffalo. The case really did not merit any consideration at all. The intimidation and influence used on that occasion did not amount to more than a pugilistic encounter, a common occurrence even in an election in the great city of Buffalo.

I will now proceed to refer to the proclamation of the Mayor of Baltimore, which document the sitting member recognizes in his defense. But first I will allude to some figures relied on by the sitting member.

In the congressional election of 1855 and 1857, the vote stood: For Mr. Davis, 7,983; for Mr. May, 7,493. In that vote Mr. Davis had a ma-

jority of 495. In the congressional election, Davis received 10,515 votes, and Brooks 3,979. In the mayoralty election of 1856, the Democratic candidate received 12,337 votes, and the Know Nothing candidate 13,905; leaving the Know Nothing majority 1,568. The presidential election took place two weeks afterwards, and on that occasion blood flowed freely in the streets of Baltimore. In that election the Know Nothings had a majority of 7,029.

I will not comment on these figures. The country will understand them. It was at these elections of 1856 that the terrible names, to which the gentleman from Tennessee [Mr. MAYNARD] alluded, appeared for the first time.

I now proceed to the proclamation of the Know Nothing Mayor of Baltimore, Maryland, dated September 19, 1857. I regard it as good authority, because it is brought here by the sitting member. It would appear by the proclamation that this Know Nothing Mayor was a good law-and-order man, and that he was going to have a peaceful and quiet election—at least in the view that these people have of a peaceful and quiet election. He says:

"It is due to the city of Baltimore, in this connection, to state that there is perhaps no city in the Union where the public press draws more largely for the entertainment of its readers upon the police returns. This has placed the city of Baltimore in a relation of disparagement—apparent rather than actual—and her true position has been still further distorted by the grossest and most shameful perversion of truth on the part of certain reporters of the daily press. In their effort to break down the city government and the police, under the influence of excited party rancor, the city of Baltimore has been given up, without remorse, to the abuse of the whole country."

"It cannot have escaped notice that for months past there has been a systematic effort to break down the municipal government of the city of Baltimore. There is hardly a week that murderous assaults are not made upon her officers in all parts of the city. The executive has found himself without support from a large class who claim to be lovers of law and order, and he has been left to maintain the peace of the city as best he might, with the force placed at his disposal, amidst the jeers and reproaches of those with whom it has been his misfortune to differ in political sentiment."

I read this to show the temper of this paper, and of these men who had in their control the armed police of Baltimore:

"The recent municipal election, I regret to say, has not been without its incidents of lawlessness and bloodshed. These, although limited in extent, have been of a character certainly without a precedent in our past history, because they have exhibited the spectacle of an armed force throughout the city, directed solely and exclusively to bring the government into disrepute by a war upon its police."

It seems there was no war upon the part of these police, headed by the Know Nothing Mayor. We would suppose he intended to be facetious here, when he speaks of an armed force against his police, or that his imagination was disturbed by the scenes of blood and violence about him. I wish to remark here, that these men, in 1856, settled that they should hereafter have a peaceful election in the city of Baltimore. In other words, they settled the question that they would hold the elections of the city of Baltimore in their own way, without being embarrassed by a Democratic opposition, as they have done ever since. Sir, here this Mayor, after citing all his arrangements for this armed police of his, in reference to the morning of the election, says:

"At half past ten o'clock I made the circuit of the western section of the city in company with the chief marshal, communicating with the judges at the various precincts, and satisfying myself that everything was progressing in an orderly manner."

Sir, it seems that the first thing this Mayor did after starting out at half past ten o'clock, with his marshals and armed police, on election day, was to visit a place called Jackson Hall, where a Democratic banner was hanging out. He went there with his armed police, and, according to his own account, fired upon the persons assembled there. He says:

"Under a heavy fire, they charged upon and took a cannon which had been stationed to command the street, making arrests of those who were in the act of firing, and making prisoners of all who were in the house, besides capturing their arms and ammunition."

This was Jackson Hall. I have no doubt that if all the facts were known, this Know Nothing Mayor draws largely upon his imagination when he talks about a cannon. But, however that might be, he brought down the flag at Jackson Hall, charged upon them there, took them all prisoners, put them in jail, and turned the key of the bastle upon these poor Irish and German Democrats.

I will now make the remark, that the contest-

ant, Brooks, alleged before the committee, and has not been contradicted, that on twelve o'clock of that day he went to every precinct in the city—(recollect, it was about eleven o'clock that Jackson Hall capitulated to the gallant Mayor)—and there was not a Democrat at any of the polls. They had retired. That was a very peaceful, quiet election—one of the peaceable, quiet elections of Baltimore.

"About seven o'clock, a dispatch reported that the Irish had risen upon the guard left in charge of the eighth ward, had overpowered them by their numbers, and had shot officer Kidd."

So it seemed that the Democrats now and then picked off a man; now and then fired back. Recollect, now, that this is the account of a Know Nothing Mayor. I am not reading from irresponsible newspaper accounts. I read from the official account of the Mayor of Baltimore, and his statement will certainly be received by gentlemen on the other side of the House as good authority. But he goes on to say:

"Four of the policemen were fired upon, and wounded, by a Democratic crowd, on the morning preceding election, in the vicinity of the Seventeenth Ward House, from which a fire had been directed against a party of citizens, who had been passing in that vicinity."

It seems that there were no Democrats to be found at the polls. You will perceive that, by all these accounts, Democrats were not to be found at the polls. They had been driven to their houses by the martial movements of the Know Nothing Mayor around the city, or shut up in prison by his minions; and these Know Nothing judges of election were, no doubt, holding a very peaceable, quiet election. But the Mayor says:

"Party rancor may be pressed too far. It has already made the whole city an ambuscade, from which the officers of the law, in the discharge of their duty, are fired upon day and night. It has excited to frenzy a large class of the foreign population, and has brought about a state of things which no man can contemplate without regret."

I imagine this will show the admitted temper of our adopted citizens there, and what was the condition of things existing amongst them. The Mayor again says:

"The absence of a large number of Democratic voters from the polls in some of the wards, can best be accounted for by themselves. I saw no evidence of any combination to exclude them from voting. It seemed to have been a foregone conclusion, before the election, that they were to take no interest in the contest."

And again:

"Of the twenty Democratic judges appointed by me, all resigned within a few days of the election, with the exception of six. Up to the latest hour their resignations were handed in at the Mayor's office, leaving it difficult to supply their places in time for the opening of the polls. In some of the wards the resident magistrates were called upon to officiate in the absence of the Democratic judges."

Sir, every man knows that Democrats are generally at the polls. They are never absent without good cause. The laboring masses who compose that party know that it is only through the ballot-box that their sovereign will can be expressed, and their equal rights vindicated.

I understand that this same Mayor Swann received some public testimonial from these "Plug Uglies" and "Rip Raps," "Blood Thubs" &c., for the patriotism he showed in conducting the election in so peaceable and quiet a manner, in the city of Baltimore. "Blessed are the peace makers."

But to follow up the history of this matter a little further; prior to the election there seems to have gone on quite a little controversy between the Executive of the State and Mayor Swann. I want you to bear in mind that the Governor of the State was a Democrat. He thought there was something wrong about the election in the city of Baltimore, and that he would come down there and see about it; and he called out some troops. Well, sir, Mayor Swann did not like to have this Democratic Governor there with his troops, because if he had remained there, perhaps he could not have taken Jackson Hall. They went to work and obtained a number of certificates of gentlemen of Baltimore, that the arrangements were complete, and that there would be a quiet and peaceful election. The Governor yielded. He withdrew his troops. Yet, it seems, he had some doubt about the withdrawal of these troops; while these people looked as though they were sincere, still he had some doubts on this subject. He stayed in Baltimore. I will read from his account of the election. He is no longer the Governor, the sitting member says; and says it, too, with a

sneer, and that they have now a Know Nothing Governor. The Governor stated in his message that—

"At the municipal election in Baltimore, held in October, 1856, an organized force was made apparent at the polls, which, in its direct influence, was immediately felt by naturalized citizens. This class of voters was to a considerable extent excluded from the exercise of suffrage; many of them beaten, and others overawed and deterred by violence from visiting the polls. Such were the representations made to me, asserted by a portion of the press of that city, and measurably conceded by all."

"In the course of the day bloody and destructive riots took place, and the subsequent record comprehended a list of killed and wounded truly appalling. The city was temporarily outlawed by its own fury; and it is beyond all question with me that, could the Executive authority have commanded military power at the moment of the emergency, it would have been my duty then to have interposed, and overwhelmed a lawless demonstration clearly defiant of the municipal police. As the time approached for the presidential election in November, 1856, apprehension generally prevailed that a recurrence of similar scenes was inevitable. Political sentiment and party animosity were alike demonstrative and violent, and peaceable and orderly citizens, especially naturalized citizens, were utterly hopeless of those decency and proprieties essential to the freedom of suffrage. In short, the large body of citizens composing the Democratic party within the city of Baltimore saw the day of election approach under the assurance that they would not be suffered to record their votes, and on the other hand, would be exposed to the consequences of the most reckless frauds. I repeat these assertions as they were made to me; and in view of the returns of most of the wards of the city, I have no hesitation in thus officially laying them before you."

"On the eve of the presidential election I proceeded to Baltimore, and sought an interview with the Mayor of the city, in the vain hope of such a co-operation of influence, and moral and material power, as would insure the peace of the city, prevent bloodshed, and secure to every citizen, without respect to party, the exercise of his political rights. My overtures were repulsed with cold civility."

"Again party animosity ran riot throughout the city; the most desperate encounters took place, in which hundreds of infuriated partisans were engaged; arms of all kinds were employed; and bloodshed, wounds, and death, stained the record of the day, and added another page of dishonor to the annals of the distracted city. I retired from the scene, convinced that all this might have been prevented, and not without painful sense of duty unfulfilled."

"Since the election of the preceding year, a new and enlarged organization of the city police had been made, and I was not without hope that it would exert a conservative force in some rational proportion to the emergency of the occasion. I was assured by numerous gentlemen of the city that they expected nothing of the sort, and they referred to the daily record of violence as abundant proof of its inefficiency to subdue even preliminary disorder. The day of election came and passed, and although the bloody scenes of the preceding year were not reenacted, violence was everywhere in the ascendant; outrages were perpetrated with entire impunity, and many thousands of the citizens were, by causes beyond their individual control, deprived of the exercise of their suffrage. In a word, the Democrats of the city, both native born and naturalized, were, to an extent that a few years since would have been absolutely incredible, virtually disfranchised. Facts exist, and are available in abundance for the verification of what I thus assert, and publicity has been given to current outrages of the day in one ward of the city, (and that ordinarily one of the most reputable,) attested by the vouchers of many highly respectable citizens."

"I positively refused, under any circumstances, to comply with any proposition which included such a stipulation: first, because it had the appearance, at least, of a surrender of my constitutional authority at a time when violent opposition to the laws was openly threatened; and secondly, because I knew not what exigency might arise on the day of election. But in deference to the opinions of gentlemen in whom I then had, and still have, great confidence, who were citizens of Baltimore, and who knew more of the local condition of affairs than myself, I consented to an announcement that, in view of the sufficiency of the arrangements just made, I did not contemplate the use of the military force which I had ordered to be enrolled and organized on the day of election."

"In this state of public affairs, the day of election approached. A form of suffrage was observed under circumstances defiant of the execution of the laws. Riot, in its voracious and most formidable aspect, did not occur, but I was made the recipient of almost ceaseless complaints of outrage, violence, and organized ruffianism at the polls, whereby multitudes of citizens, native and naturalized, were deterred from voting. I was powerless for their protection. The opportunity was past in which, as a lawful and enrolled force, they could have exhibited a moral as well as material power against their assailants. They were at the mercy of a mob, and without protection from the civil power."

"Abundant evidence from respectable citizens in all parts of the city could be obtained to prove a state of society verging upon the fiercest anarchy; outrages almost incredible in a civilized community; and the ubiquity of an organization which prevailed by violence, to the exclusion of voters at will, and controlled means and resources for the most pernicious and daring frauds. It is beyond all question that such wrongs were perpetrated on that election day as have no parallel in the election annals of our country but in Baltimore itself, and this, too, under the official assurance of municipal power, and of a police organization, and a plan of operations adequate to the emergency. Such a result has abundantly justified the movement I deemed it proper to make, and proves that the execution of the laws has been violently resisted and stayed, while the Executive authority has been powerless to enforce it."

"This is anarchy; and the issue of such a condition of things under our system of government is political confu-

sion. The formal power it creates is an essential tyranny. It sways a spurious scepter over people despoiled of their rights, and its career must be in profligate antagonism with law, order, and good government."

"Such is the outline of a political era, and its disgraceful character, in the history of Maryland."

"At the same time I record my deliberate opinion that the election was fraudulently conducted; that in the exclusion of thousands of people from the polls, there has been no expression of the popular will; and that the whole of the returns from that city are vicious, without a decent claim to official recognition anywhere, and in all their character a gross insult to our institutions and laws, and a most offensive mockery of the great principles of political independence and popular suffrage."

I have now closed a review of the papers before me. Is not this a case for inquiry, Mr. Speaker? Or shall we hesitate, and stop to count the cost, when the interests of whole constituencies are concerned? when, in fact, the great republican right of suffrage belonging to the only free people on earth is attempted to be abridged by fraud and violence? This is not, Mr. Speaker, as I have already said, a question which concerns merely the city of Baltimore. It is not merely whether one person or another shall occupy a seat on this floor from the fourth congressional district of Maryland. It involves far higher considerations—considerations which affect directly every Representative of a metropolitan district, more or less affect every member upon this floor, and still more directly concern every elector who is represented here, or who is entitled to be represented here.

This case is, perhaps, the very best, embodying these considerations, which could be presented to the attention of Congress. It is in this case, perhaps, that the right of free suffrage has been most flagrantly violated; if not, it is, at least, one in which we can easily rise above partisan considerations, and base our action upon broad, general principles. Here we see a whole city disfranchised by the employment of force and fraud, even when the party resorting to such means does not seem to need them in order to carry its men and measures at the polls. The electors are shot down, or knocked down with slung-shot, as they go to deposit their ballots. The voting places are surrounded by cordons of bullies who know each other by the signs of their secret organization, who know the color and shape of the ballots, who intimidate peaceable citizens by the fear of violence, and who use actual violence upon those who are bold and determined enough to insist upon their rights in spite of it. Sir, if this were merely a passing, local excitement, it might be viewed with a certain measure of charity, and the liberal spirit of our institutions might extenuate, though not excuse, an occasional excess. But it is not, Mr. Speaker, a mere passing local excitement. I solemnly believe, sir, that for the last four years, there has not been a legal election in the city of Baltimore. Their elections have not been occasionally, but uniformly, carried by fraud and violence. The electors of that city have lately been accustomed to only such a sort of free suffrage as that possessed by the people of France when they were called on to vote yes or no for Napoleon III., and when every man was warned beforehand that to vote no was to incur the suspicion of an arbitrary authority, which had even the safety of their persons at its disposal. I think that, if any comparison is to be drawn, the advantage is on the side of the French. They, at least, ran no risk of being knocked down in the streets, stabbed with bowie knives, or beaten with slung-shot.

The public misfortune is—though it is the better for my argument—that Baltimore is not the only example of this kind of lawlessness. The same or similar events have been transpiring in nearly every city of the Union; wherever, indeed, a secret organization has attempted to control the destiny of the country. The public mind has been alarmed by a repetition of such scenes in Louisville, in Cincinnati, in Chicago, St. Louis, New Orleans, and elsewhere throughout the nation. The public have been led to believe by such occurrences that, heretofore, as well as now, persons have secured and occupied seats on this floor by violence, and that the blood of our adopted citizens was on their garments. These things must not continue, if we are to exhibit to the world a successful example of self-government. The ballot-box must be protected, and the right of suffrage must be secured to every citizen to whom it is granted by the laws, no matter what his nationality, his religion, or his condition in life.

The war of races and of religions must be suppressed. Hitherto this has been the most prolific source of the various miseries which have scourged mankind; and in England, after centuries of wars and carnage, the various races only harmonized, aided by amalgamation and marriage, under one of the most tyrannical Governments on the globe. The problem is now to be solved here; and it is to be seen whether the result will be of the same disastrous kind. It is to be determined whether we can harmonize the races, and terminate the war of religion and of nationalities, and secure, as the result, the permanent fabric of a free Government. I proclaim it here that the problem must be solved in blood, if these bold and aggressive conspiracies against the right of free suffrage are not arrested.

I trust, therefore, Mr. Speaker, that this inquiry will go on, and that the attempt to interpose technical objections to prevent the redress of great wrongs to personal freedom and the honor of the House, will be repudiated as unworthy of the place and the grave subject under consideration. Not to act, not to inquire in such a case, is treason to the rights of almost four millions of adopted citizens; treason to the cause of equal rights; treason to liberty and humanity.

[Here the hammer fell.]

Mr. WILSON. Mr. Speaker, I desire to call back the attention of the House to the report of the Committee of Elections in regard to this case. I shall not detain the House longer than for a few moments. The clear and fair statement made by the gentleman from South Carolina, [Mr. BOYCE,] in regard to this case, places it, I think, in its right position before the House.

What is this case? This election took place on the 4th of November, a month previous to the assembling of Congress, and of course the sixty days had not run out when the memorial was presented by Mr. Brooks to the committee for their consideration. Now, Mr. Speaker, I object that any gentleman upon this floor shall furnish us with additional reasons other than the memorialist himself has presented in regard to the determination of this case; and I ask the House, and each member of it, to look to the reasons which he himself has placed before the committee, and to determine the case upon them, without reference to the political opinions of either party.

I will read the reasons set up by Mr. Brooks in his memorial presented to the House and to the committee, why there should be a departure from the law of 1851, and that evidence should be taken in the presence of the House, or in the city of Baltimore, by a commission. What is the first reason?

"That the disgraceful proceedings charged by your memorialist implicate the authorities of Baltimore as being either unwilling or unable to preserve the public peace; and it is upon those authorities that reliance is to be placed for inspiring the witnesses with that sense of personal security indispensable to the proper investigation of this case, for insuring their personal safety, and for preserving order during the examination."

He charges that he is unable to proceed under the law of 1851 to take evidence in the city of Baltimore, because of the unwillingness of the city authorities to allow that evidence to be taken. He charges further, as a reason why there should be a departure from the law of 1851, that no order could be preserved to the authorities during the examination of the witnesses. This is the charge. What are the facts? This charge was first presented in the case of Whyte against Harris, now before the committee. The Committee of Elections said, and I believe properly said, to these parties: "Take your evidence, if you can, under the law of 1851. If you cannot take it under that law, then we will grant you power sufficient to have it taken." What was the result? From the time the notice was given in the city of Baltimore, on the part of Mr. Whyte, contesting the seat of Mr. Harris, up to this hour they have quietly proceeded to take the testimony of every witness produced by either of them. And further, each and every one of the public authorities of the city of Baltimore has given to them every security. No complaint has come before the committee; no complaint has come before the House; no complaint has originated before the public. All the investigation in that case has proceeded in accordance with the law of 1851, and the parties are now, while you are considering this question, taking their evidence in that city according to the law of 1851. Thus, there is a sufficient, ample, conclusive

answer to the first charge made by the gentleman as a reason for a departure from the law of 1851.

Then, I say that the first reason alleged by Mr. Brooks before the committee is not sufficient, because the evidence in the case of Whyte and Harris is being taken in Baltimore quietly, and in accordance with the law of 1851.

The second reason is, that

"But sixty days are allowed for evidence to be taken, with the right of the contestee to cross-question and examine the witnesses; and the extensive nature of the conspiracy charged would prevent as full investigation as should be had, unless conducted by a power competent to prevent delays, which could not be as effectually done by any judge or magistrate as by a committee of this House with extraordinary powers."

He says that the sixty days which are allowed by the act of 1851, to take the evidence in the case of contested elections, are not sufficient to develop the conspiracy charged by him; but, mark you, he is not confined to sixty days, for in the law of 1851, you find the following language:

"Provided, That the House may, at their discretion, allow supplemental evidence to be taken after the expiration of said sixty days."

Again, if the taking of this evidence had been commenced, and had proceeded the full length of sixty days, but still additional time was required to take evidence, neither this House nor the committee would refuse that right to any individual, much less to Mr. Brooks, contesting the right of the sitting member.

Then, sir, what further? He was not only entitled to the full length of sixty days, but under the law of 1851 he could take evidence beyond sixty days, until every witness was sworn, and that evidence produced which would enable this House to determine, as between these parties, which was entitled to a seat as Representative from the city of Baltimore.

Again, I think, and a majority of the committee so agreed, that this law of 1851 is not imperative, that it is not binding; and that is a sufficient answer to the position of the gentleman from Pennsylvania, [Mr. PHILLIPS,] in regard to his constitutional objection. We do not consider the law of 1851 as imperative; but we do consider it a good, safe, and proper rule to be adopted by the House and by the committee in all contested-election cases. But what now is asked? The gentleman from Pennsylvania [Mr. PHILLIPS] says he wants a precedent set. Here is a popular remonstrance, he says; the party is not claiming a seat, he is not asking admission into this body, but the people are demanding an investigation, and he wants a precedent set that the people may have the right. And how? By a departure from the law of 1851, by a special commission. Do so, and what might be the result? Possibly a memorial might come here from the city of Philadelphia; might come from the city of New York; possibly from the city of Cincinnati; contesting the election of members of this House. Would the House upon any such memorial grant extraordinary commissions in all those cases for the purpose of taking evidence by which to determine the legality of the election? Suppose that it should be charged that in the twentieth ward, or any other ward of Philadelphia, a large number of illegal votes had been cast; take for instance, the gentleman's [Mr. PHILLIPS] own district: would the House therefore grant an extraordinary commission, or would they say to the memorialists, "bring the evidence forward as in other cases? We will hear all you produce, and give you our decision."

But it is contended that this case is different from ordinary contested-election cases. That here no person claims the seat. That Mr. Brooks does not claim it for himself, and that, therefore, a departure from the law of 1851 is proper. That it is a petition of the people, and therefore a commission should be granted. I do not admit the conclusion. It does not follow necessarily; on the contrary, the rule is just opposite. I hold in my hand the "contested-election cases," and I will refer the House to a few cases, without reading them.

You will find them on pages 38, 112, 127, 135, 165, 224, 411, 504, and 516. All of them were cases of contests by persons not claiming the seat—contests by citizens themselves—and no extraordinary commission was granted in one of those

cases. What did the committee do? They heard the evidence produced by those persons, and upon it determined the right of the parties, and when the report of the committee was made to the House, the House determined the right of the parties upon the evidence so produced.

The fact, then, that Mr. Brooks does not claim a right to a seat here, is no reason why an extraordinary commission should be granted to him to go to the city of Baltimore, or why he should ask you to depart from the usual custom of the House, or the law of 1851.

What is the third reason?

"Ten days' notice is required under the act of Congress to be given to the contestee of the names and residences of witnesses; and your memorialist believes that many persons whose testimony is important would be intimidated and prevented from appearing."

Sir, the same answer may be given to this as to the first—simply this: that witnesses are being produced every day, and evidence heard every day in the city of Baltimore in the election case now undergoing investigation there. No one is intimidated. The halls of the courts are open, and all the witnesses that the parties in the case need are brought forth and sworn, and their testimony placed on the record. These are all the causes assigned by Mr. Brooks, and I object that gentlemen shall make a better case for Mr. Brooks than he makes for himself. He places his objection to the law of 1851 on these three grounds, each and all of which have been answered fully and emphatically by the conduct of the city of Baltimore and its officers, in the case of Harris and Whyte. For this reason we say that there should be no departure in this case from the law, and we ask the House to determine the matter on the facts presented by Mr. Brooks to the committee, and on none other. The majority of the committee say that his reasons are insufficient, and ask the House to inform Mr. Brooks that he must proceed under the law of 1851—to tell him that if that is not sufficient, when he has fully tried it, to guard his rights, then come before the committee and before the House and ask for a commission and it will be given to him.

One word in answer to the honorable gentleman from New York, [Mr. HATCH.] He seems to have mistaken the question before the House. He argues it as a political question. He speaks for the country to the prejudices of party. I have no such appeal to make. The simple question for us to decide is, who is the Representative of the city of Baltimore? How shall the investigation in this case be made? By the law of Congress, or by a departure from the law of Congress? It is not a question of the political opinions of Mr. Davis or the political opinions of Mr. Brooks. I do not agree entirely with either of the gentlemen, nor do I conceive it necessary that I should in making up my judgment. But I say to that gentleman now and here, that no attack of his can intimidate the citizens of Baltimore or drive them from a manly and determined advocacy of their political principles. That Baltimore will in the future, as she has already done in the past, protect her rights and the rights of her citizens from all attacks, no matter where made, here or within her own limits. This House may take its own course—order this commission; invest it with extraordinary powers; ay, even eject the present Representative; the House may do all this; but when it has so decided, then, sir, then Baltimore will answer back, vindicate her sovereignty from Monument square to Fell's Point, with the same voice and the same majority as on the 4th of November.

Mr. BOWIE. Mr. Speaker, I did not seek the floor for the purpose of discussing the question raised by the gentleman from New York [Mr. HATCH] in regard to the oaths and obligations of the Know Nothing order. With that order and their secret obligations I have nothing to do. Their oaths are matters that belong to them, not to me. I have no curiosity about them. The Republican party, that has allied itself with the Know Nothing party, plants itself on the great basis of popular suffrage; but on the other hand the great national Democratic party stands on a still higher and more liberal principle—the principle of popular sovereignty.

The SPEAKER. The gentleman from Maryland must confine himself to the question before the House.

Mr. BOWIE. Certainly. That is the exordium

of the speech that I am going to make in regard to the great power of this House. [Laughter.]

I now approach great constitutional questions which concern every man and every true citizen. And, first, as to the power of this House to determine the mode and manner in which it shall protect the elective franchise. My friend from South Carolina [Mr. Boyce] said this morning, that there was a general judicial power in the House. Does my friend mean to say that this House has a judicial power except it is confided to it? There is no use in talking to me about general inherent powers. Inherent powers belong to individuals, belong to man in a state of nature, and not merely to man, but to animals and plants—the power to protect themselves. Why talk of the inherent powers of such a composite composition as a legislative body?

I am merely speaking now in response to the remarks of the gentleman from South Carolina, who said that there was a judicial power inherent in a legislative body. Now, here, in the beginning, I enter my protest in the name of the people of this great country, against any such doctrine. The question before the House is a very plain one. Every man who chooses to place his mind to the task may understand it. As my friend from South Carolina [Mr. Boyce] said this morning, it is nothing but a mere question of expediency. The power of the House is undoubted, and I believe, in the honesty of my heart, that if the gentleman from South Carolina will listen to me, he will be satisfied that it is expedient before I am through. No man doubts the power of the House to invest a committee with authority to investigate all questions connected with contested elections. From the earliest history of the Government up to 1798 there was no other mode adopted, except to appoint committees of elections, with full powers over the subject.

In 1798, there was a law passed very nearly like that of 1851. It purported on its face to relate to members of the House only, having no reference to the Senate. Now, sir, that law was universally acknowledged to be unconstitutional. The Constitution confers upon the House the exclusive right to judge of the election and return of its members, and the Senate could not interfere. The law very soon ceased to be taken heed of, and some fifty years passed over our heads, the House all the time exercising its exclusive power over its own contested elections, the power never having been questioned or denied; and with the single interregnum of seven years from 1798, no other power has been claimed or exercised up to 1851. Sir, how true is the judgment of the public mind to the judgment and feelings of a statesman! The fifth section of the first article of the Constitution of the United States shows how utterly worthless is this act of 1851; and, sir, I will meet the gentleman from South Carolina at every point, and show that it is utterly worthless.

Now, Mr. Speaker, this is not Brooks's case. It is the case of the great power of the people of the city of Baltimore—call it what you may; call it any name you please, and it will suit me. The great, eternal principles of justice give the people the right to form and regulate their own laws; but I deny the right to trample down the Constitution and laws. No, sir; the law must be observed. Know Nothings, Democrats, Black Republicans, and all other men, are amenable to the majesty of the law.

But, sir, I said the law of 1798 was similar in its provisions to that of 1851. The title of the law of 1851 is, "An act prescribing the mode of obtaining evidence in cases of contested elections." That of 1798 was, "to prescribe the mode of taking evidence in cases of contested elections in the House of Representatives." Some smart fellow, no doubt, thought that, by giving a good title to the act of 1851, jurisdiction might be given to the House. Now, to show you this fraud upon the powers and privileges of this House, look to that statute. From its first section to its eleventh section, does it say one word about the mode of determining contested-election cases in the Senate? There is the point. Yet, sir, men who claim to stand by this act of 1851 have only been duped. You have agreed that the Senate of the United States shall have coordinate powers with you in determining the rules and proceedings in elections of members of this House. Have you not done this? It says here, "Be it

enacted by the Senate and the House of Representatives of the United States of America in Congress assembled."

I turn now to that glorious instrument, which is my shield and protection, the Constitution. It is my shield and protection, and the protection and shield of every man in the country. The Senate has undertaken to pass a law, signed by the Executive, against our prerogative rights, against my prerogative rights—for I am a member of this body, sent here by a loyal and Union-loving constituency. The Constitution says that "each House shall be the judge"—not the judges—"of the elections, returns, and qualifications of its own members." "Each House may determine the rules of its own proceedings." Who, then, gave the Senate any power to pass upon the mode in which we should determine the proceedings in regard to contested elections? Who gave the Senate any power to pass any act on the subject? I defy any man here, and in the face of the Constitution, to say that there is any such power in the Senate to control our proceedings. Yet this law does so, and seems to confine and restrict this grand inquest of the nation. We do not mean to be hampered in that way. Where, sir, do you find the power to do this? The Constitution is dead against it. The Senate can no more join with this House to regulate and control the proceedings of this House than it can do that thing of itself; any more, sir, than we can join to control and regulate the proceedings of the Senate. It makes no sort of difference whether the attempt is made by law or by joint resolution. It is a surrender in either case of our prerogative rights, which, as a Representative of the people, I shall object to. Compromises are sometimes very good and sometimes very bad; and whenever they are made for the surrender of one right of those I represent, I shall oppose them.

My friend from South Carolina [Mr. Boyce] said he had some doubt about it, and it was because of his doubt that he went with the adverse party, giving them the majority in the committee. I say, if you turn Mr. Brooks and the disfranchised people of Baltimore over to that law of 1851, you turn them over to a dead law. That law has no vitality. The sitting member is now prepared to give advice to those men who are taking evidence in the case of Whyte against Harris, that they are not bound to return a particle of it. I would give the same advice. I believe this law is unconstitutional. But when the testimony is returned here, I shall use it.

My friend from Pennsylvania [Mr. Phillips] agrees with me that it may be useful. If you say, that instead of examining the matter yourselves you will send out a commission, that becomes the rule of this House, and it is lawful. That would meet the approbation of my head and my heart, and I will go for it. But when you come to form it into a law, and the legislative power of the Government—the Congress—and the Executive come to tell us how we are to regulate the rules of our House, I pass it by as a usurpation, and it falls dead beneath my feet. The power of that law of 1851 is nothing—nothing as a law, certainly.

The law of 1798 was declared to be unconstitutional, and was never carried into effect; and the law of 1851 is the same, only they changed the title. The title of the act of 1798 was "to prescribe the mode of taking testimony in regard to contested-election cases in the House of Representatives." Now, they struck that out in the law of 1851, and said "in contested-election cases." Yet not a solitary sentence is found in that law which affects the Senate. They hold on to their prerogatives—their eternal, prerogative rights. While you have basely surrendered yours, they stand firm. When I say basely, I do not mean meanly; but I mean ignorantly. [Laughter.] The law, therefore, amounts to nothing—nothing in this particular case, because every jury empaneled to try a cause, must try it upon the peculiar circumstances which surround it. Is not that so everywhere and under all circumstances? You turn us over to a law which is dead, not only because of its unconstitutional want of flesh, but because even in its letter it is dead. Gone, clean gone, forever. The sixty days have passed, and no notice has been given, and here is a case where the great mass of the people come up to us by memorial and petition, alleging that their rights have been invaded, their homes violated, and the lives of their fathers

and their children taken, by a lawless band of men. The very man who makes an assault, who kills another, who shoots another, who cripples another, is borne off in triumph, while the injured man is taken to jail. I do not know by what combination these things were done, but I know they were done.

I will not say a word against the sitting member. He is a very respectable gentleman; he has a sort of mind, in my judgment, which I should call rather flimsy-flimsy, namby-pamby. [Laughter, and cries of "Order."]

The SPEAKER. Personalities are not in order, Mr. BOWIE. You do not call that personal, I hope? [Roars of laughter.] Ben Jonson said that the smartest thing a man could say, was something good-natured in regard to his friend. [Laughter.] Now, when I say "flimsy-flimsy, namby-pamby," what do I mean? [Renewed laughter.] The gentleman is here to answer for himself. He need not take any offense at it, when I so characterize the nature of his letters and of his mind. [Great laughter.] If it be a crooked mind, if it does not go in the straight direction, it is not my fault, nor is my remark personal; because it does not relate to him, but it relates to all classes of men who go crooked ways. Whenever I indulge in personalities, I shall never be misunderstood. [Laughter.]

Now, I say that this law is not only not obligatory, but, as a rule of action, it is not binding. Gentlemen upon the other side say, that although it may not be constitutional, and may not be obligatory, yet, as a rule of action of this House, it is binding. It is not a rule of action because the Senate has assisted us in making it, when we were, by the Constitution, allowed the privilege and prerogative of making it for ourselves.

But there is another objection stronger than that. The act of 1851 does not even profess to be a rule of the House. It relates to men and to measures, to be taken outside of the House, and not in reference to proceedings in this House. It imposes fines upon witnesses who do not attend; it makes it the duty of judges to take testimony; and it provides for the summoning of witnesses outside of the House. It has nothing, whatever, to do with the proceedings of the House. Do you call that a rule of proceeding? No reflecting mind will say so. It is vicious as a law, vicious as a rule of action, and eternally wrong in every sense.

I had supposed that my friend from South Carolina [Mr. Boyce] was too zealous a guardian of the great, eternal constitutional rights of the South, to allow a thing so palpably unconstitutional as this. I should have supposed that such a proposition would have instantly stirred up his instinct of State rights; and I appeal to him whether it is not far better to grant the ordinary power to send for persons and papers to the Committee of Elections than to have a new commission issued to Mr. Brooks? He says he is willing to extend the time; it ought to be done. No favor should be shown to those who are bound by such oaths as have been read here to-day. Lady Macbeth says:

"I have given suck, and know
How tender 'tis to love the babe that milks me;
I would, while it was smiling in my face,
Have plucked my nipple from his boneless gums,
And dash'd the brains out, had I so sworn as you
Have done to this."

Even woman, sir, the sweet harmonious soul that makes man happy, the only really charming portion of creation—if she can be brought to this state of mind as to dash her babe's brains out when she has sworn it, how much more are men to be influenced by their oaths? The disfranchised people of the city of Baltimore are imploring you, in the name of Mr. Brooks and twenty-eight others, to have an investigation, and you delay it. You allow the sitting member to interpose dilatory pleas. How dare he do it? At the last Congress, in the case of Reeder and Whitfield, he went for a general investigation. Let gentlemen come up to the point. I do declare, most sacredly, in the presence of God, that I go for investigating frauds wherever we have jurisdiction. I agree with the sitting member, when he said in a former speech that this House has no jurisdiction over frauds in Kansas. I say so now, but he does not seem to say so.

The SPEAKER. It is not in order for the gentleman to refer to Kansas matters.

Mr. BOWIE. Mr. Speaker, you do not know, [laughter,] or rather you do not seem to perceive the application of my argument. The gentleman [Mr. DAVIS] votes for a thorough examination into frauds connected with Kansas; and I say that that is a question over which this House has no jurisdiction. I defy him to show any jurisdiction in the House over it. But now I have got a case before me in which the House has jurisdiction; and I mean to hold on to it. That is the difference—a wonderful difference. In the one case we have no power, no jurisdiction. I say so on the authority of the sitting member himself. That brings Kansas into the discussion. I do not care whether they determine their constitution by blood and by cannon. I know that my own glorious State established herself in spite of all difficulties, and that for three years a bloody war was carried on within her borders. I have nothing to do with border murders, or consternation, or fire, or dangers, or difficulties, outside of my own State. I only say to those who indulge in them, keep them to yourselves. Virginia and Maryland have gone through blood and war, and now do you do the same thing. Whether I will take part with you or not is another question. I always go for peace and quietness, but for fighting when necessary. [Laughter.]

Now, sir, my friend from South Carolina, [Mr. BORCE,] whose particular attention I want, because I want his vote, says that he is perfectly willing to extend the time provided by the act of 1851. I have shown him, as a State-rights-Constitution lawyer, that that law is itself an invasion of the privileges of the House, and worth nothing; and that when Mr. Pinckney Whyte's evidence is all taken before the magistrate, Henry Winter Davis, of this House, will advise them that they are not bound to return it. Nor are they bound to return it. I agree with him in that. The law is totally defective. It punishes witnesses, and imprisons them; but it does not impose any penalty on State judges or on State magistrates who are called upon to execute its orders. It is totally defective; and the defect can never be supplied, unless you do what you have done in the bankrupt cases, and in the fugitive-slave-law cases, execute its provisions by your own officers.

Now, in my own State, under the guidance of Know Nothing doctrines, a law has passed the lower House, and is now before the Senate, which body, being composed in the same way, will pass it, I suppose, making it a misdemeanor for a State judge to naturalize any foreigner; and that in the very face of the act of 1795. Yes, sir, wherever the Know Nothings have the power they will do the same thing; but, thank God, they have got the power in but one State; and that is my own disfranchised State. That is the reason why I plead here to-day that the House will come right up—all sides and parties—and put down all this sort of fraud and iniquity. Everybody knows that the Constitution gave to Congress the power of establishing uniform rules of naturalization. Well, Congress never passed any uniform rules of naturalization, but required the State courts to naturalize foreigners. But suppose the Legislature of a State passes a law, which says to the courts, "you shall not do this;" then the question comes up between the State power and the Federal power.

Sir, the Know Nothing party of Maryland are a bloody party. Won by the siren songs of the sitting member in this case, they are ready for a street fight at any time. I will not say how they hold their elections; but, at all events, they let every native vote, and shut out all the foreign voters. Do you deny it? Dare you deny it? And such men as that now appeal to us! Sir, Robespierre was a coward; yet Robespierre counseled death and destruction. You may be unlike him for aught I know.

"I have no spur
To prick the sides of my intent."

I counsel death and destruction only that it may come back upon the head of the offender. Yes, I tell you, you have a day of reckoning to come, gentlemen, in the city of Baltimore. There will be a war there, and it will be a war of the people against clubs and mobs. I only hope that, in the providence of God, I may live to counsel, advise, and direct you. I will not advise anything which I am not ready to take the foremost ranks in executing. You may be a Robespierre to counsel death, but always absent yourself. I will put you

under my foot. You shall not live an hour. There is a day of reckoning for you. You must either fight or escape it by flight, in your wickedness, your malice, your malignity, your utter disregard of all the rights of a great city—yes, sir, a city that ought to be, and I hope will be, the southern emporium of this blessed and glorious Union.

Mr. Speaker, I speak only for the great Democracy—yes, sir, the Democracy. Need I be ashamed to avow it? Ay, sir, you may talk about disregarding parties in this House; but you may take off these hands, let this head fall from my shoulders, before I will do it. When the Democracy in the city of Baltimore are disfranchised, it will not do to taunt them with cowardice. Sir, we will show you whether we are cowards, when the proper time comes. We are a law-abiding people. We have waited time after time, until we have seen these thick clouds gather round us. The gentleman from Tennessee [Mr. MAYNARD] said that the Democracy of Maryland want this House to help them. It is a libel upon the Democracy of Maryland. All we want you to do is, to carry out the great principles of the Constitution, and exercise the powers which the gentleman from South Carolina [Mr. BORCE] acknowledges you have. Now, I submit to him, whether it is not better to go right along, and not delay? If not, time must be allowed to file a petition for further time to take testimony, and to act on it; and long delays will follow. Why, then, will it not be better to go right along, and take the evidence ourselves?

Mr. Speaker, I do not know what may be the result of this investigation. I know very well that the city of Baltimore is now under Plug-Ugly government and Know Nothing government. All the police of the city are of the same stamp, and God Almighty only knows what they will do. They may allow the contestant to go on, and have a sort of investigation; when the time comes they will take the position which I do to-day: that the law is unconstitutional, and they will not send you the evidence. I say, therefore, to gentlemen, if they have any doubt whatever on this subject, do not allow your adversaries to catch you; exercise the power which this House possesses, and do not put any confidence in these city officers. I want you to tell me how, under the act of 1851, you can compel these men to make their return to the House? No constitutional lawyer can do it. [Here the hammer fell.]

Mr. WASHBURN, of Maine. Mr. Speaker, I rise with a view to call the previous question; but, before doing so, I will make a few remarks, not extending at furthest beyond five minutes.

The gentleman from South Carolina [Mr. BORCE] concluded the majority report from the Committee of Elections with the following resolution:

Resolved, That it is inexpedient to grant the prayer of the memorialist for the appointment of a committee to take testimony.

And the gentleman from Pennsylvania, [Mr. PHILLIPS,] who submitted the minority report, moves as an amendment to that, the following:

Resolved, That the Committee of Elections have power to send for persons and papers, and to examine witnesses and evidence in the case of the contested election of the Hon. H. Winter Davis, from the fourth congressional district of Maryland.

It cannot have escaped the attention of the House, that for the last two hours scarcely one word has been said on the propositions directly before it. The gentleman from New York, [Mr. HATCH,] forgetting the fact that the party to which he belongs now holds the control of the legislation of New York by an affiliation and coalition with the Know Nothings and Americans; and also forgetting that he himself holds a seat here by a minority of votes of his district in consequence of a diversion, got up for his benefit, on the part of the American party, has seen fit to spend a large portion of his hour in denunciation of that American party. I shall not follow his example, although, perhaps, in a strict party sense, I am as little of an American as he is. I do not think there is any wise or safe foundation upon which an American citizen can build except that of human rights; and I think that the American citizen will best serve his country who endeavors as well as he may to enfranchise and elevate all men, no matter what be their color, no matter what may be their race, no matter in what climate or under what sky they were born; that he will best serve

his country by doing all he can to prevent the oppression and degradation of any race. But I will not dwell on this.

The question, it seems to me, for the House to decide is, whether or not there is any power under the law of 1851 to take the testimony necessary to make out the case of the contestant's memorial? I think there is. I think that the law of 1851, though I hold it to be merely directory, provides for taking testimony under it. I believe that any citizen of Baltimore, who is dissatisfied with the result of the election, could go to work, serve his notice, and take testimony under that law. It does not appear that that has been done. There is no evidence offered to the committee or to the House that the contestant in this case may not take testimony easily and readily. If this be so, why should we depart from the law? Why should we go outside of it and undertake to take testimony in an extraordinary and unusual manner? I have listened to the gentlemen who have spoken, and I have heard no reason assigned to satisfy me that there is any propriety in the House departing from the law. The sixty days within which testimony could be taken did not commence until the latter part of December. The contestant then might have proceeded to take this testimony, and if, during its progress, it should have appeared that he could not take it easily and readily, he might have applied to the House; and then, I have no doubt, the House would have provided for taking it.

I can see no reason why the contestant cannot take testimony under the laws. It is said that it will involve him in expense, and it is asked whether he should pay the expense in an investigation of this kind? Should the people of the United States, or the people of the district directly interested, meet this expense? If Mr. Brooks or his friends are interested in ousting the sitting member, why should they not take testimony at their own expense? Is there any reason why they should not? Has any reason been shown why the United States should bear the burden of the expense? I have seen none, and heard of none.

Besides, how easy it would be, under the proposition of the gentleman from Pennsylvania, [Mr. PHILLIPS,] to evade the law. If it be right, then, an individual who contests a seat has only to get some friend to send in a memorial making a contest for him, and the House must order the testimony to be taken at the expense of the Union, and to be brought here outside of the law of 1851.

I do not believe that there is any reason in this case for going outside of the law of 1851. A gentleman representing another district in Baltimore is at the present time there, taking testimony without any molestation. This testimony should be taken in the same way and under the act of 1851, no matter whether the contestant claims the seat or not. This was thought a just rule for all parties to contests, for sitting members as well as all others. Under it, parties are taking testimony now, and at their own expense.

I call for the previous question.

Mr. STEWART, of Maryland. I hope the gentleman will withdraw the call for the previous question. I would like to have an opportunity to make some remarks on this question.

Mr. WASHBURN, of Maine. I will withdraw the call for the previous question for nobody.

Mr. HOPKINS moved that the House adjourn. Mr. DAVIS, of Mississippi called for the yeas and nays.

The yeas and nays were not ordered.

The motion was not agreed to—ayes 68, noes 95.

Mr. GREENWOOD. I desire, if I can get the ear of the gentleman from Maine, to appeal to him to withdraw his demand for the previous question, in order to allow the gentleman from Maryland [Mr. STEWART] to make a speech if he desires to do so.

Mr. BOYCE. The gentleman from Georgia [Mr. STEPHENS] is very anxious to address the House upon this subject. Being detained from the House to-day, he has not been able to do so. I should be glad if the House would give him an opportunity to do so to-morrow.

The SPEAKER. Debate is not in order, as the previous question has been demanded.

The previous question was then seconded—ayes 95, noes 58.

Mr. WARREN moved that the House do now adjourn; and called for tellers on that motion.

Tellers were ordered; and Messrs. WARREN and DEAN were appointed.

The House divided; and the tellers reported—ayes 64, noes 80.

Mr. WARREN demanded the yeas and nays. The yeas and nays were not ordered.

So the House refused to adjourn.

The main question was then ordered to be put.

Mr. MARSHALL, of Kentucky, moved to reconsider the vote by which the main question was ordered, and also moved to lay the motion to reconsider on the table.

Pending which, on motion of Mr. BOGOCCK, (at four o'clock, p. m.,) the House adjourned.

IN SENATE.

WEDNESDAY, February 17, 1858.

Prayer by Rev. W. PINCKNEY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in pursuance of law, a statement of the expenditures from the appropriation for the contingent expenses of the military establishment; which was referred to the Committee on Military Affairs and Militia.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented the petition of the Mayor and Council of the city of Omaha, Nebraska Territory, praying for the reimbursement of money expended by them upon the Capitol building in that Territory; which was referred to the Committee on Territories.

Mr. EVANS presented the petition of Margaret McGuire, praying for a continuance of her pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of citizens of New York, praying that the public lands may be laid out in farms, or lots of limited size, for the free and exclusive use of actual settlers; which was ordered to lie on the table.

Mr. WRIGHT presented the petition of citizens of New York and New Jersey, praying that the public lands may be laid out in farms, or lots of limited size, for the free and exclusive use of actual settlers; which was referred to the Committee on Public Lands.

Mr. WADE presented the petition of L. Lyens and others, citizens of the United States, praying that land may be granted in quarter sections to actual settlers in the proposed Territory of Arizona; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Hopkingsville, Ohio, praying that the policy of the United States, in respect to the public domain, may be so changed as to secure the public lands to the use of actual settlers only; which was referred to the Committee on Public Lands.

Mr. PEARCE presented additional evidence in support of the claim of Charles West to a pension; which was referred to the Committee on Pensions.

Mr. SLIDELL presented the petition of Marie Genand, sole heir of John Hudry, deceased, praying the reimbursement of money advanced and expended in 1814 and 1815, by said Hudry, during the defense of New Orleans; which was referred, with the papers on file, to the Committee on Military Affairs and Militia.

Mr. CHANDLER presented a resolution of the Legislature of Michigan, instructing the Senators and requesting the Representatives of that State in Congress to use all proper means to prevent the further extension of slavery in the Territories of the United States, or the admission of any more slave States into the Union, and to oppose the admission of Kansas into the Union as a State under the Lecompton constitution, or any constitution maintaining slavery therein; which was ordered to lie on the table, and be printed.

Mr. JONES presented five petitions of citizens of Iowa, praying for a grant of land to the McGregor, St. Peters, and Missouri River Railroad Company; which were referred to the Committee on Public Lands.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BIGLER, it was Ordered, That the petition of John Grayson, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. HOUSTON, it was Ordered, That the petition of Joseph Nock, on the files of the Senate, be referred to the Committee on Patents and the Patent Office.

REPORTS OF COMMITTEES.

Mr. EVANS, from the Committee on Revolutionary Claims, to whom was referred the petition of R. S. Hamilton and J. E. L. Hamilton, heirs of Persis Locke, widow of Josiah Locke, submitted an adverse report.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the memorial of the National Institution for the promotion of science, at Washington City, submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of the Provident Association of Clerks, reported a bill (S. No. 151) further to amend the act entitled "An act to incorporate the Provident Association of Clerks in the civil Departments of the Government of the United States, in the District of Columbia;" which was read and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of Joshua D. Todd, submitted a report, accompanied by a bill (S. No. 153) for the relief of Lieutenant Joshua D. Todd, United States Navy. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of William F. Carrington, submitted a report accompanied by a bill (S. No. 154) for the relief of William F. Carrington, passed assistant surgeon in the Navy of the United States. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Robert Carter, submitted a report, accompanied by a bill (S. No. 155) for the relief of Robert Carter, passed assistant surgeon, in the Navy of the United States. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Robert Morris, submitted an adverse report.

Mr. POLK, from the Committee on Claims, to whom was referred the memorial of Joshua Shaw, submitted a report, accompanied by a bill (S. No. 156) for the relief of Joshua Shaw, of Bordentown, New Jersey. The bill was read, and passed to a second reading; and the report was ordered to be printed.

BILLS INTRODUCED.

Mr. PEARCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 152) to incorporate the Washington National Monument Society; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. POLK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 157) to provide for the payment to the State of Missouri of two per centum of the net proceeds of the sales of public lands therein, heretofore received under a compact with said State; which was read twice by its title, and referred to the Committee on Public Lands.

SHELTON'S ISLAND.

Mr. FOSTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested, if not incompatible with the public interests, to cause to be furnished to the Senate all the correspondence, papers, and documents on file in the Department of State, in original or copy, in the case of Philo S. Sheldon and Sampson and Tappan, respecting "Shelton's" or "Aves" Island, not heretofore furnished by said Department to the Senate.

MEXICAN PROTECTORATE.

Mr. HOUSTON. I ask that the resolution which I offered yesterday, in relation to the establishment of an efficient protectorate by the United States over the States of Mexico, Nicaragua, Costa Rica, Guatemala, Honduras, and San Salvador, be now taken up, with a view to its reference to the Committee on Foreign Relations.

The VICE PRESIDENT. It will be referred, if there be no objection.

Mr. WILSON. I wish to hear the resolution read.

The Secretary read it, as follows:

Whereas, the events connected with the numerous efforts of the people of Mexico, and of Central America, of this continent, to establish and maintain order and good government, since their separation from the mother country, have so far resulted in failure and consequent anarchy, and demonstrated to the world the inability of said people to effect an object alike so desirable and so indispensable to their welfare and prosperity: Therefore,

Resolved, That the Committee on Foreign Relations be instructed to inquire into and report to the Senate upon the expediency of the Government of the United States declaring and maintaining an efficient protectorate over the States of Mexico, Nicaragua, Costa Rica, Guatemala, Honduras, and San Salvador, in such form and to such an extent as shall be necessary to secure to the people of said States the blessings of good and stable republican government.

Mr. HOUSTON. I move that the resolution be taken up for consideration.

The motion to take up the resolution was agreed to.

Mr. WILSON. I do not rise for the purpose of opposing the reference of this resolution, for I have no special objection at any time to refer resolutions of any description to committees, for the purpose of investigation; but I should like, before it goes to the committee, as this is a resolution of a most extraordinary character, that the honorable Senator from Texas, who has introduced it, shall explain to us what he wishes to attain by it. It seems to me that this resolution, which declares that nations with which we are at peace have failed in their own government since they have been independent nations, and that therefore we should extend over them a protectorate, and assume to govern them, is certainly a most extraordinary one. Whatever may be its object, or its purpose, it really seems to me that it is intended to encourage that spirit of filibustering which has disgraced this country in the face of the Christian and civilized world. Instead of repressing the tendency of such enterprises, I think it will encourage that very spirit which I understood the honorable Senator from Texas the other day to denounce on this floor, in regard to Walker and Nicaragua.

Mr. HOUSTON. I believe it is unusual, in a case of this kind, to object to the reference of resolutions.

Mr. WADE. I will ask the Senator from Texas whether this resolution does not "instruct" the committee? and therefore its adoption by the Senate becomes necessary before it can go to the committee.

Mr. HOUSTON. It instructs them to report, but not in any particular way.

Mr. WADE. It instructs them to make an inquiry.

Mr. HOUSTON. To inquire into and report.

Mr. SEWARD. Let it be read once more.

The Secretary again read the preamble and resolution.

Mr. HOUSTON. Mr. President, as I have remarked, it is, I believe, unusual, at this stage of business, to object to a resolution of inquiry. This resolution lays down to the committee no particular course of conduct to pursue. In the first place, we are aware that the people of the regions referred to are not in a very settled and regulated condition; and supposing that the sources of information would be open to the committee, I have offered this resolution, instructing them to inquire into the causes of the evils in those Governments, and, if they thought proper, to suggest a remedy. With these views I have proposed to refer it to them; but they are not bound by it to recommend a remedy. They are simply instructed to ascertain the cause of the evils, and by their report impart to the nation very useful information. It was not with a view of eliciting opposition that the resolution was introduced, nor did I expect any. I supposed the committee the most competent to attain the object for which it was intended.

I am sorry that the gentleman from Massachusetts has supposed that it was my object, or that this resolution could have a tendency, to foster the filibustering spirit that is abroad in the land. The very opposite was my belief and my intention. I have always denounced filibustering, when upon individual enterprise such schemes were conducted; and I shall never cease to do it.

But, sir, we are aware that these people, for a

quarter of a century, I think, or near that time, have been making experiments to establish a Government similar to our own. They have invariably failed. It has brought wretchedness on the community. If they had great grievances to endure under the despotism of Spain, they are certainly more intolerable now than they were then. Every description of crime runs riot there; they have no stable government; there is no foundation, on which to build up human happiness or rational institutions, yet laid, after all the experiments that have been made; and it does seem to me that it is due to the enlightenment of the present day that this subject should claim the attention of the civilized world.

This resolution is not offered with a view to extending our dominion, but with a view of improving our neighborhood. These people are contiguous to us; our commerce has connection with them; and our political relations necessarily have been and will be further extended to them. Their defenseless situation is well calculated to invite aggression from other nations, or from individuals who, either from vicious or enterprising considerations, see proper to invade them. They are not in a condition to defend themselves. The want of organization, the want of regulated government, the want of power, the existence of distraction amongst them, are all calculated to invite aggression; so that it is due to humanity that the situation of these people should be considered by the great community of nations. I cannot conceive that the course suggested in the resolution will be at all detrimental to their future peace or well-being. I do not urge it as a necessary measure, but I throw it out as a subject of consideration for the age and for the world.

If this nation throws its eye over those countries, I cannot conceive that that will induce individuals to invade them. When it is seen that this nation has its eye on those people, that it embraces all within the scope of its vision, they will be less encouraged to set on foot individual enterprises for the accomplishment of an object which they know the Government could achieve, and that they must be subservient to its views, and not indulge their personal enterprises and desires. So, sir, I think it is calculated rather to restrain aggression by individual enterprises, than to encourage them.

It is with these views that I offer the resolution. A much more enlarged view than this might be taken of the subject if it were necessary. We have relations with these people. We must have an eye to them. The country on the Pacific coast of the United States has a right to command our consideration. The facilities of communication with our Pacific possessions being through these regions, must necessarily be protected by this Government at all hazards, until we have a direct transit within our own territory. We have the means of doing this, and we are traitors to ourselves if we do not use them. If it were an infliction of wrong, or an aggravation of the misfortunes of these people, I should scorn to do it on account of their helpless condition; but I wish to build them up as a powerful people, whose national prosperity shall be based upon virtue and regulated government. Our connection with them and our interests as their neighbor, require us to take their condition into consideration.

For these reasons, I wish an inquiry made by the appropriate committee as to what may be proper to be done touching these matters. Other nations have an eye to these people, but we are their neighbors, and we ought to make them our friends. If a Power foreign to them is to control them and to wield their destiny, let it be the Power of the United States, and not of any transatlantic Government; let it be the Power in geographical affiliation with them, and immediately connected with them.

I did not intend to make any remarks on the subject; indeed I did not anticipate that there would be any necessity for them. I hope the resolution will be referred to the Committee on Foreign Relations.

Mr. MASON. I certainly do not entertain, and therefore do not intend, the least discourtesy to the honorable Senator who has moved this resolution, nor the slightest disrespect for the object of the resolution coming from that Senator; but I submit to the Senate, that if it involves a subject of inquiry which, in the judgment of the

Senate, ought not to be inquired into, the reference should not be made.

The first objection to it which I entertain, and one of the weakest kind, or rather weaker than others that belong to it, is, that if this proposition were to be entertained by a reference to a standing committee, it would be received, and justly received, by the South American States as an indignity to them; for however weak and feeble those States may be, we have recognized all of them, five in number, as sovereign and independent States; recognized them as equals, and they stand as equals before the world.

Mr. SEWARD. We have treaties with them. Mr. MASON. We have treaties with some of them. It would be justly taken by those States as an indignity, if the Senate were to go into an inquiry whether the United States would extend to them a protection which they have not asked.

The second objection to the resolution is that it involves a policy on the part of this Government that I apprehend very few are ready even to consider—the policy of taking any of those distant States under the protection of the United States. It is a policy that, for one, I should be exceedingly reluctant even to inquire into.

Then I would say to the honorable Senator, that although those States have certainly exhibited weakness, that weakness has only been shown in the case of two of them, the States of Nicaragua and Costa Rica, because of the single fact, according to my belief, that one or both of those States—one certainly, the State of Nicaragua—possess the most desirable transit route across the isthmus to connect the two oceans, and that transit route has become the great object of cupidity that leads depredators upon them. It is my decided impression that it is nothing but the wealth and value of that transit route across Nicaragua, and by the means of Lake Nicaragua, which has tempted the predatory expeditions that have from time to time left our shores—a temptation of cupidity only. They have exhibited weakness; Nicaragua certainly has; they are feeble; they are constantly having domestic broils among themselves, which they seem to be unable to quiet; but in the other States of Guatemala, San Salvador, and Honduras, I am not at all aware that they require protection; certainly, they have never asked it.

I think, therefore, that it would not only be a departure, and a very grievous departure, from the general policy of the country, but it would be an indignity offered to those States even to entertain the proposition. I mean no discourtesy at all to the honorable Senator, or to his resolution, in the motion that I shall make—unless gentlemen wish to discuss it—merely to test the sense of the Senate on the reference, to lay it on the table.

Mr. HALE. I wish to offer an amendment.

Mr. HOUSTON. I hope the motion will not be made.

Mr. TOOMBS. I desire to say a word on it.

Mr. MASON. I shall not make the motion now, but will make it after a while.

Mr. HALE. I simply desire to offer the following amendment:

And whereas, a state of colonial dependency is not calculated to illustrate the theory and practice of popular sovereignty and perfect freedom, said committee is instructed to extend the same inquiries to the Canadas, and the other British possessions on our continent. [Laughter.]

Mr. TOOMBS. It is not the appropriate time now, on this motion of inquiry, to discuss our tropical policy, though I very much concur in the resolution proposed by the Senator from Texas, and I shall give it my support. I think the time has come for us at least to inquire into that question; it will soon be upon us. Mexico and tropical America are worse than Turkey was said to be by the Emperor Nicholas—they are all sick men; they are in the very last agonies of political dissolution. Their fate is a question very much affecting our interests. It is a question in which there will be a policy of the people of this country, however the Government or its more immediate representatives in this Hall may attempt to evade it or avoid it; and I think it would be well that the Senate should at least take into consideration the very critical condition of Central America, and our southern neighbors generally.

So far as I am concerned, I am prepared to adopt a national policy towards those countries, one which I think becomes our position on this con-

tinental. I desire to have an American policy there, irrespective of any views of Great Britain, and more especially a policy opposed to the Clayton-Bulwer treaty. But, as I before stated, I wish simply to announce this fact, and not to discuss the question. I hope the resolution of the Senator from Texas will be referred to the appropriate committee, of which my friend from Virginia is chairman, and that a report will be made upon it. I think it is time we should take the matter into consideration. The time for action is not distant, and therefore the time for consideration is not too long.

Mr. GWIN. It seems to me, after the announcement made by the chairman of the Committee on Foreign Relations, that my friend from Texas had better have a select committee. He proposes to send his resolution to a committee, the chairman of which announces opposition to it in advance.

Mr. HOUSTON. I have no wish to incur further imputations of filibustering myself, and I should be unwilling to move for a select committee on this occasion; and particularly I should dislike to be chairman of such a committee. I have presented this resolution with a view to coming events, which cast their shadows before. The subjects involved in the resolution have almost become tangible. There is not a single one of the States referred to that has not, within my recollection, undergone one or more revolutions. Their Governments are unsettled; they are arbitrary and despotic so long as a party can hold power—until oppression has ceased to sustain them, and the people rise *en masse* against them without intelligence sufficient to construct a Government of permanency which can give protection to individuals.

At this very time it is announced through the intelligence of the day, that the recent President and Dictator of Mexico is upon our soil at New Orleans. How many mutations has that Government undergone within the last twenty-five or twenty-eight years? I presume not less than that number of changes. I think about twenty-five revolutions, at least, must have occurred in Mexico during that period. At this time, there is no probability of any permanent Government being established there, or in the other countries referred to in the resolution. If the weakness of the people of Central America, and the circumstances of the existence of the transit route there, have given rise to the filibustering spirit that is in our community and among our people, it would be a legitimate subject for the committee to inquire into the causes of it, and to suggest a remedy. I should be perfectly willing to submit it to the impartiality and intelligence of the Committee on Foreign Relations. From my knowledge of its chairman, I am satisfied that his familiarity with constitutional law—but that would not be a question that would arise, I presume—and international law, would enable him to make a report that would be satisfactory. Something must be done, and that time is coming when it will be very necessary to take into consideration the condition of these people, there is no doubt; for, instead of becoming nationalized, they are every day becoming more denationalized and demoralized in their condition. Intelligence is gradually fading away or becoming impaired among them. We should not wait for events to rush upon us, and become embodied in a formidable shape; but it is the duty of statesmen through prescience to look to contingencies, and to be prepared for them when they come upon us.

It is not from a disposition to overreach the necessities of our country, that this resolution is offered; but it is to contemplate them while they are distant, so that when they approach us we may be ready to grapple with them, if difficulties should arise, and to control them. The day is coming when an influence, which is now in the East, must pass off to the West and South, and control and enlighten these people. It is as inevitable as that the Indian tribes have faded before the majesty of the Anglo-American *morale*. When they have all faded away, the natural consequence will be, that a weaker race will be brought in contact with us, and the stronger must prevail. These people will have to yield to the dominant spirit of the American people. The structure of our institutions, their moral, their physical, and all their powers, indicate a controlling influence that at

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some day will not even stop at Central America, but will go beyond it. We are an increasing people. We have continual accessions from other nations, and they become imbued with our spirit, and commingle with us and our enterprises. This mixture of races causes an irresistible impetus, that must overshadow and overrule that whole region.

THE VICE PRESIDENT. The Senator will pause for a moment. It is the duty of the Chair to call for the special order.

Mr. HOUSTON. I was done, at all events.

Mr. MASON. To dispose of the subject, I move to lay the resolution and amendment on the table.

Mr. HUNTER. I understand the Senator from Texas is not through with his remarks.

Mr. HOUSTON. I had finished.

Mr. MASON. I make that motion.

THE VICE PRESIDENT. The Chair calls up the special order. Is there any motion to postpone it for the purpose of taking the vote on the resolution of the Senator from Texas?

Mr. HOUSTON. I move to postpone the special order, so that the vote may be taken on the motion of the Senator from Virginia.

Mr. MASON. I did not contemplate that. I thought by general consent we might informally pass over the special order, and dispose of this motion.

THE VICE PRESIDENT. If there be no objection in any quarter, the Chair will consider it to be the pleasure of the Senate so to dispose of this question.

Mr. MASON. By general consent we may take the vote. ["Agreed!"] I move that the resolution and amendment lie on the table.

The motion was agreed to.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States.

Mr. HUNTER. I desire to give notice that I shall modify the amendment I design offering, by adding to it a section which I ask may be read for information.

The Secretary read it, as follows:

And be it further enacted, That the President of the United States may, at his discretion, detail such officers of the regular Army as he may think proper, to command in the regiments hereby authorized, who shall receive, as their entire compensation, the pay and emoluments of the grade in which they may serve, and who shall return to the regular Army when the said regiments shall be disbanded, with such rank as they would have held if they had never been detailed to serve in the regiments so disbanded; it being intended by this act that such service shall be without prejudice to their promotion in the corps to which they respectively belong. All the field officers above the rank of captain, in the regiments herein authorized, shall be detailed by the President from the regular Army as above directed, in the mode and on the conditions therein prescribed.

Mr. HUNTER. I merely wish to give notice that when I offer the amendment which I suggested yesterday, which I shall do if the amendment of the Senator from Massachusetts should fail, I will modify my amendment by adding this as an additional section.

Mr. JOHNSON, of Tennessee. I wish to present an amendment to this bill, which I ask the Senator from Massachusetts to accept in lieu of his proposition. My amendment is, to strike out all of the bill after the enacting clause, and insert:

That the President, for the purpose of enforcing the laws of the United States and protecting the citizens on the routes of emigration in the Territory of Utah, and to be employed in said Territory, be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not exceeding in all four thousand officers and men, who may offer their services as infantry to serve for and during the pending difficulties with the Mormons in said Territory, and no longer; and that the sum of — dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

Sec. 2. And be it further enacted, That the volunteers so offering their services shall be accepted by the President in companies, battalions, or regiments; and that each company shall consist of the same number of officers and men as now prescribed by law for the infantry arm of the Army; and that the companies, battalions, and regiments, shall be each respectively authorized to elect their own officers, and

when so elected shall be commissioned by the President of the United States.

Sec. 3. And be it further enacted, That said volunteers, when mustered into the service, shall be armed and equipped at the expense of the United States, and, until discharged therefrom, be subject to the rules and articles of war, and shall be organized in the same manner and shall receive the same pay and allowances as the infantry arm of the Army of the United States.

Sec. 4. And be it further enacted, That the volunteers who may be received into the service of the United States by virtue of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred upon persons wounded or disabled in the service of the United States.

Sec. 5. And be it further enacted, That the said officers, musicians, and privates, authorized by this act, shall immediately be disbanded at the termination of the pending difficulties with the Mormons in the Territory of Utah.

I merely present the amendment now for the purpose of having it understood that I shall offer it at the proper time, if the Senator from Massachusetts does not accept it in lieu of his proposition.

Mr. WILSON. The Senator from Tennessee consulted me in regard to a modification of the substitute offered by me, to which I consented. He has now moved an amendment, which I prefer to the one I offered, and I accept it.

Mr. JOHNSON, of Tennessee. That being the case, I understand my amendment to be the proposition now pending.

THE PRESIDING OFFICER, (Mr. Foor in the chair.) The Chair will state the question before the Senate. The original bill reported from the Committee on Military Affairs, as modified by such amendments as the Senate have agreed to, is before the body. For that entire bill the Senator from Massachusetts offered a substitute. Instead of his own substitute, he now accepts in place of it another substitute, offered by the Senator from Tennessee, which is his right and privilege to do. The substitute offered by the Senator from Tennessee is proposed as an amendment in place of the original bill. These are the questions now before the Senate; and it is the privilege of the friends of both to modify either before the vote for substitution shall be taken. According to parliamentary order and regularity of proceeding, the original bill should first be perfected, and then the substitute; and after having been modified, if it should be modified at all, then the question upon the substitution will be in order, and not before.

Mr. BIGGS. I wish to suggest to the Chair that the pending question before the Senate, as I understood when we adjourned yesterday, was an amendment proposed by the Senator from Ohio [Mr. PUGH] to the proposition of the Senator from Massachusetts.

THE PRESIDING OFFICER. Before any amendment has been made to the substitute offered by the Senator from Massachusetts, the Chair thinks it is competent for that Senator to accept another substitute in place of his own.

Mr. BIGGS. That disposes of the amendment of the Senator from Ohio?

THE PRESIDING OFFICER. Yes, sir.

Mr. SIMMONS. I believe that when the bill was laid aside, an amendment was pending to strike out the fourth section.

THE PRESIDING OFFICER. That has been withdrawn.

Mr. JOHNSON, of Tennessee. The application to the Congress of the United States for an increased military force is made in the name of the President of the United States; and we are called upon to sustain it as an Administration measure. I have offered this amendment for the purpose of setting myself right; for the purpose of showing how far I am willing to go; and to enable me, if I can, to act understandingly on what is presumed to be the measure of the Administration. I do not, however, sustain this simply and alone because it is an Administration measure, but I offer the proposition which I have presented because I believe it is right in itself, and at the same time will come up to the views of the Administration, in regard to the request it has made to Congress to increase the military force of the country.

I set out with the proposition that I am against

an increase of the standing Army. I am against adding another man to it. Standing armies are contrary to the genius of this Government; they are contrary to the temperament of our people; and, so far as I am concerned, I shall go against adding another soldier to our regular Army. I think, when we come to examine the subject, we shall find that the Committee on Military Affairs, in the bill reported by its chairman, has not represented the Administration in its true character before the country. The bill of the committee, in the first instance, provides for an increase of the rank and file of the Army, to the extent of about four thousand men. In addition to this, it provides for thirty additional companies, as a permanent part of the standing Army. I do not understand the President as asking for a permanent increase of the standing Army. I understand him to have asked us to grant him an imposing force, that will enable him to correct the rebellious condition of affairs in Utah. For the purpose of setting myself right, and showing that my proposition covers the idea of the Administration, I propose to read a single paragraph. The President, in his annual message, after speaking for some considerable length upon the difficulties in Utah, and the declarations of Brigham Young, states:

"A great part of all this may be idle boasting; but yet no wise Government will lightly estimate the efforts which may be inspired by such frenzied fanaticism as exists among the Mormons in Utah. This is the first rebellion which has existed in our Territories; and humanity itself requires that we should put it down in such a manner that it shall be the last. To trifle with it would be to encourage it and to render it formidable. We ought to go there with such an imposing force as to convince these deluded people that resistance would be vain, and thus spare the effusion of blood. We can in this manner best convince them that we are their friends, not their enemies. In order to accomplish this object, it will be necessary, according to the estimate of the War Department, to raise four additional regiments."

Here the President tells us expressly that these troops are wanted to quell a rebellion which it is said exists among the Mormons in Utah. Is that asking Congress to make a permanent increase of the standing Army? Does he come before the country in such a position? He says that for the purpose of settling the difficulties in Utah we should give him an imposing force to quell rebellion, and thereby save the shedding of blood. Is this asking us to add six thousand or seven thousand men to the Army, to be salaried permanently at a great expense? Does the President ask any such thing? He does not. Why, then, should we be driven into an increase of the standing Army in compliance with the recommendation of the Committee on Military Affairs? We are not called upon by the Administration, as I understand it, to increase the standing Army by the addition of six or seven thousand men, as proposed by the committee.

I have said thus much for the purpose of showing that I am opposing no request of the Administration. Nor do I wish to be understood as being very squeamish and particular in the support of every measure that may come before the Senate as an Administration measure. If I support any measures that come before this body, I do so because I believe them to be right in principle and right in policy. I shall not support them on the mere dictum or recommendation of an Executive, without regard to their being right in themselves and correct in principle.

Then, as I understand the President, he asks for no additional force in the shape of an increase of the standing Army. He asks you to give him an imposing force to send to Utah, and thereby to prevent the shedding of blood, and put down the insurrection that is alleged to exist there. Why not employ volunteers for this emergency? Will not that answer the call of the President? I know it has been said that volunteers will cost more than regulars; but how can that be? I think it is evident that it will cost no more to call out volunteers than to call out regulars. We pay them the same amount, officers and men; and the volunteers are to be dismissed when the difficulties cease; whereas, regulars are a continual expense.

There seems to be a discrepancy between the President, the Secretary of War, and the Committee on Military Affairs. The Secretary of War asks for five regiments. The President tells us in his message that four will be necessary. There is a difference of one thousand men; and a difference in expense of \$1,000,000, according to the estimates of the Senator from Georgia [Mr. Toombs] and the Senator from Maine, [Mr. Hamlin.] It seems to me that we ought to act understandingly; we ought to know the exact effect of all the propositions that are before us. One reason why I have said what I have in reference to the Administration is, that we were called upon by the chairman of the Committee on Military Affairs to act upon the bill when it was last before the Senate, so as to let the Administration know what it had to depend upon. The inference is that all those who are opposed to increasing the standing Army must be set down as opponents to the Administration and the recommendations of the executive.

Mr. BROWN. My friend will allow me to interrupt him at this point. My colleague is absent from the Senate, and I am sure my friend from Tennessee misunderstood him on that point. He certainly did not mean to be understood as saying that those who opposed this measure were to be set down as opponents to the Administration; but that the Administration must shape its policy in reference to Army operations according to the force which it had; and if Congress meant to deny additions to the Army we should let them know it before the spring opened, so that they could dispose of whatever force they had to the best advantage possible. That I think was his meaning.

Mr. JOHNSON, of Tennessee. In the first instance, I have stated what I understood the chairman to say at the time; and in the next place, I shall show that statement to be substantially correct by the report of what took place here on last Thursday; for usually the reports are very accurate, and most speeches, if they have any method and order in them, are given with the fidelity of the daguerreotype. But this does not state it as strongly as the chairman stated it. I heard it with my own ears as I have stated it. The report is:

"Mr. Davis. Let us pass the bill or reject it, and let the Administration know it."

Then it would seem that it is principally to be urged on the ground of an Administration measure. If we are to act on it as an Administration measure, let us see whether we cannot agree to a proposition that covers the ground the Administration really occupies.

It is agreed on all hands that the cost of the regular Army is about a million dollars to each thousand men. By one statement made by the Senator from Georgia—and I am free to say that I always hear him speak on this subject with great pleasure, and rely much on his statements—it appears that the cost is about a thousand dollars per man. That being so, each thousand men will cost \$1,000,000. By another statement, made by the Senator from Maine, [Mr. Hamlin,] who seems to be accurate, and I presume is so, it appears that, including all expenses, the Army costs about fifteen hundred dollars a man, or a fraction less. If the force to be raised be five thousand men at \$1,500 per man, they will cost \$7,500,000; and that is to become a permanent expenditure, because the men being raised are a part of the permanent military establishment of the country, and must continue a charge on the Treasury of the United States.

I wish to ask Democratic Senators if this is a time to increase the expenditures of the Government? You are responsible for the expenses of the Government; you have the majority; you have the control of the Treasury in your hands. It is idle to go before the country, and talk before the people about the expenditures of the Administration. Who holds the purse-strings of this nation? When we run through the appropriations of this Government, from its origin to the present time, we find that the appropriations have generally outgone the expenditures. Who makes the expenditures? The President may recommend for this and for that, and he may make extravagant recommendations; but the query comes up, is Congress bound to appropriate? You, the appropriating power, hold the purse-strings of this nation in your hands; and if the expenditures of this Government go on increasing as they have

been going on for a considerable number of years back, you are responsible, not the Administration.

Then I would ask, when we take up this question of expenditure, where is it going to carry us to? Is it not time to pause? Is it not time to reflect? Is it not time to consult our log-book, and get a new reckoning? It seems to me that it is. At this point I wish to say to the chairman of the Committee on Finance of this body, that I shall look to him with great interest in reference to his moves in retrenching the expenditures of the Government. I will follow him as a humble volunteer, for I favor the volunteer system; it is more in accordance with the genius of the Government, and the patriotic impulses of the American people. Let us go into the unnecessary and extraordinary expenditures of this Government, and reduce them down to what is reasonable and right. Is there no place at which we can begin this work? Cannot the expenditures be arrested? When we talk about retrenching upon this bill, it is said, "this is not the place; let this go; this is not the bill." This is allowed to pass, and soon we find another bill before us for the civil or naval department, or the West Point Academy, or the military establishment; and then we are told, "this is not the bill either; we cannot get along without this." Well, where is the bill? What measure is it? Some how or other, we cannot find any. "This is not the place; this is not the bill; this is not the department to which to lay the pruning-knife. Oh! no; we must not begin here." That is the constant cry.

Then if war happens to exist, and we talk about retrenching and reducing the expenditures in time of war, the answer is, "Oh! you cannot do it now; the public mind is occupied about something else; the public mind is engaged in carrying on the war." I ask, when will the time come? When are the foul, reeking corruptions of the Government to be stopped? Your newspapers are filled with the details of them every day, and men are confined in prison for refusing to tell the truth in reference to the corruptions of the Government. What do those corruptions grow out of? The unnecessary and improper expenditures of the Government. It seems to me the time has come, and I think it is the duty of the Democratic party to commence the work of retrenchment. We have preached it in theory a long time. Let us commence to reduce our theory to practice.

I came into the Senate of the United States as a Democrat; and, if I know myself, I intend to be one in practice as well as in theory. I know it is against the taste, the refined and the peculiar notions of some men who get into high places, to talk about curtailing or reducing the expenditures of the Government. That, with them, is all cant; that is all for Buncombe; that amounts to nothing! Some may talk about it in that light, and some may act upon that principle, if it is a principle, but I intend to act in good faith, if I know myself. It may be said, "Oh! he is a pence-calculating politician; he talks about the pence; he talks about the shillings; and consequently he is not to be regarded as being a statesman expanded in his views, liberal in his feelings, that grasps and takes in the scope of his mind all the nations of the earth, and the rest of mankind." [Laughter.] I wish to quote what a very distinguished man once said in reference to public revenue, and I do it with no desire to speak disparagingly of American Senators, for I put a very high estimate on their character and position, and especially so since I have got here. [Laughter.] Mr. Burke was a man of no mean consideration—I do not mean Edmund Burke, of New Hampshire, but the distinguished British statesman—and what does he say on this subject of revenue? He says "the revenue of the State is the State." That is a book; it is a text worth preaching from, that the revenue of the State is the State; and that Government which manages its revenue best operates most lightly and best for the people:

"The revenue of the State is the State in effect; all depends upon it, whether for support or reformation. Through the revenue alone the body-politic can act in its true genius and character; and therefore it will display just as much of its collective virtue as it is possessed of a just revenue."

That is what Edmund Burke said. He was one of your pence-calculating politicians. He was one of those demagogues who talk about the interests and the rights of the people. He, who was not

only a statesman but a philosopher, declared that the revenue of a State is the State, and the virtue of the Government is indicated in the very same proportion that it collects a just revenue from the people.

Again, on this idea of the revenue of a Government, Lord Bacon, who was not the most virtuous it is true, but who wrote well, and said a great many good things, declared:

"Above all things, good policy is to be used that the treasure and moneys in a State be not gathered into few hands; for otherwise a State may have a good stock and yet starve; and money is like muck, no good unless it is spread."

What does he mean by that? Do not collect large sums of money from the people and appropriate them among the few; revenue, like muck, does no good unless it is spread; but how spread? Let the industrious portion of the community, the producers, spend their own money; let it be in their own pockets; appropriate it in such way as their interests, their happiness, and their prosperity may suggest; but we have reversed that proposition. We go on gathering muck from the barn-yards of the nation; we go on gathering revenue from the industry of the whole people, and we bring it here and squander it in appropriations, as I believe, wholly unnecessary to promote the interests and happiness of the people. As the cant is very common about demagogues, I desire to lay down as a text what was preached by Edmund Burke, one of the most distinguished of British statesmen.

Now, let us see where we are going on this subject of expenditure. And first as to the Army. I will divide our history into decades. At the end of the first decade, in 1800, the expense of the Army was \$2,560,000. In 1810, it cost \$2,294,000. In 1820, it cost \$2,630,000. In 1830, the War Department cost \$4,767,000. From 1820 to 1830 it jumped up to double. In 1840, it cost \$7,695,000, nearly double again. It ran up from \$7,695,000 in 1840, to \$9,687,000 in 1850. You will mark that at the end of all these decades, in the year for which the calculation is made, no war existed; but these sums embrace all the expenditures of the War Department. In 1857 what do we find them to be? They reach the pretty little sum of \$19,159,000! This is the way we are traveling. Whither are we going? What destination shall we reach at this rate?

Then, suppose we take the aggregate expenditures of the Government, and how does the matter stand? We find that in the year 1800 the entire expenses of the Government were \$7,411,000; in the year 1810, \$5,592,000—there was a decrease; in the year 1820, \$10,723,000. In the year 1830, the entire expenses of the Government were \$13,864,000. So we find that from 1800 to 1830 the expenses never got above \$13,000,000. Then we find in 1840 the entire expenses of the Government were \$26,196,000; in 1850, \$44,049,000. Now, in 1857, before the end of another decade, the expenses run up from \$44,049,000 to \$65,032,000. In the year 1858 the expenses are estimated at \$74,963,000. Here is an increase of ten millions in one year. At this rate where shall we go? At this rate of increasing the expenditures ten millions per annum, in another decade the expenditures of this Government will go up to the enormous sum of \$175,000,000. If we increase them five millions per annum, in ten years we shall run the expenditures of the Government up to \$125,000,000.

Is it not time to pause? Is it not time to inquire where we are going, and how much we are spending? We find a corresponding increase to that which I have traced in the War Department running into the Navy, running into the civil department, running through all the expenditures of the Government. I have added together all the expenditures of your Government since 1790, embracing the Army, the Navy, the civil department, and all the other objects of appropriation; and I find the sum total to be \$1,313,658,000. This is the large sum which has been drawn from the people since this Government was established. How much of that has been expended upon the Army and Navy? In a country where the prejudices of the people and the genius of the Government are against a standing army, in a country where the standing army has been put down to the lowest possible point, how much of this \$1,313,658,000 have been consumed for military purposes? Here where you say your Army is in

miniature, where your Navy has not got out of its swaddling clothes, how much has been expended on these two departments? Eight hundred and sixty-seven million five hundred and seventy-three thousand dollars have been expended on these two arms of the public service; and that, too, while your standing Army has been kept down to the lowest point, as we are told. Two thirds of the entire revenue collected from the people of the United States has been expended upon this Army and Navy in miniature. Let them grow until they become men; let them get matured; let them get full strength, and how much of the people's substance will it take to sustain this Army and Navy? As I remarked, it has already taken the sum of \$867,573,000, leaving \$446,085,000 to be applied to all the other purposes of the Government.

This should, I think, teach us a very important lesson. What lesson? Here where they have been kept in miniature, where they have been kept down, where their influence has been felt less than in other Governments, the Army and Navy have consumed two thirds of the revenue drawn from the people. Go to the Governments that have risen and fallen before us, and what has been the cause of their downfall and decline? It has resulted from the influence of armies and navies. Standing armies and navies sustained by money drawn from the people, are the two arteries that have bled the nations before us to death. They are the two arteries that are now bleeding our people more freely than any others in the body-politic. Shall we not profit by experience? Shall we not stop and consider?

I know it is very easy for Senators, and those who are not Senators, to speak disparagingly of those who count the dollars and cents when an appropriation is proposed for this or for that purpose; but we see where our appropriations have brought us. They have brought us just where we are—in the midst of extravagance, in the midst of profligacy, in the midst of corruption, in the midst of improper applications of the people's money. Is there no way to arrest it? I tell the Democratic party, especially when they find the Opposition willing to unite with them on this question, now is the time to curtail the expenditures of this Government. If it is not done now, when you get up a sufficient stir here, and go on constantly increasing the governmental expenses, the people will hear the noise. They will hear the struggle, and now and then a few of them will come up and look in and ascertain, if they can, what is going on; and when they do ascertain that there is a considerable struggle going on to reduce the enormous expenditures of this Government, to enable the people to retain the product of their honest labor in their own pockets, to be expended in their own way, they will come to the rescue of the party that is for arresting the extravagant expenditures of this Government. I now admonish those who have charge of the Government to commence the work in time; to commence it now.

But, sir, I come back to the more immediate question before the Senate, and that is as to calling out an additional military force. We are told by the friends of the committee's bill that we do not want volunteers. General Washington, in 1794, ordered out fifteen thousand of the militia to suppress the insurrection of what were called the whisky boys in Pennsylvania, and General Washington at that time acted upon what he understood to be the theory of the Government, as contained in the Constitution.

In the enumerated powers of the Constitution, we find the grant to Congress of power—

"To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

"To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years."

What is meant there? Does the Constitution contemplate a large standing army? Congress has power to declare war; and the body on which this power is conferred is authorized to raise and maintain an army. This is given as an incident as necessary to the express grant to carry out the war-making power. Does that imply that you can keep fixed on the people a large and expensive standing army? Proceeding with the Constitution, we find that Congress has power—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be

employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

Do we not see that the militia was considered the proper force to sustain the strong arm of the Government? It never was contemplated to have a standing army. But it is said we do not want this description of force. When we look into the Constitution further, we find that the States are prohibited from keeping a standing army. Our Federal and State Constitutions were made by our fathers, who were familiar with the oppressions of the Old World, who had witnessed the encroachments and dangers of standing armies in those old Governments. Hence we find in all our bills of rights—perhaps not in all of them, but certainly in most of them—that standing armies are dangerous, and shall not be allowed; and the Constitution of the United States provides for calling forth the militia to suppress rebellion or insurrection against the Government. What does this contemplate? It contemplates most clearly that the power of this Government is to be vested in the citizen soldiery, that they are to be called forth when the Government needs them, and to answer the purpose for which the Government calls them into service. I am for that description of force; I am for confiding in and relying upon the volunteers of the country. They are the citizen soldiery in the proper acceptance of the term. I am for that description of soldiers that go when war comes. I am for that description of soldiers that come when war goes, who are not willing to enter the Army for a livelihood, and depend upon the Army for their support. General Washington gives us, in his message of 1794, an illustrious example in what he said on this subject. He says of the fifteen thousand men who were called out to suppress and put down the whisky boys in Pennsylvania:

"It has been a spectacle displaying to the highest advantage the value of republican Government to behold the most and the least wealthy of our citizens standing in the same ranks as private soldiers, preëminently distinguished by being the army of the Constitution."

That was what Washington thought. He would be considered a demagogue, a pence calculator, a narrow-minded politician if he were to live and speak that language now; but he thought the true army of a republican Government should be composed of the most respectable and the least respectable, of the most wealthy and the least wealthy, fighting together when an occasion required them to tender their services. This was the army that Washington presented as an admirable spectacle of a republican Government; but when we come to modern times and to more distinguished men, we find a different doctrine preached. The honorable chairman of the Military Committee—I am sorry he is not in his seat—in speaking of the citizen soldiery, or of volunteers, makes use of the following language:

"Nothing would be more unjust than to call people from their peaceful avocations, and keep them for a long period at frontier posts to guard frontier settlements. It would take lower material, too, than compose the volunteers who turn out in time of war. Among my objections to the employment of volunteers for such service, is the very elevated character of the young men who are often induced thus to enter the service; men who are worthy of better employment; whose habits are injured, whose train of thought or pursuit of some profession is broken in upon by this temporary service where a cheaper man would do as well."

General Washington presented it as a noble spectacle that the force which he had ordered out, in obedience to the wants of the Government, was composed of the most and the least wealthy and respectable. That was the idea that General Washington had, and he presents it as an illustrious example in a republican form of Government. But hear the chairman of the committee:

"If I may be permitted, without an appearance of egotism, to refer to my own observation, I would say that when I have traveled among the people from whom the volunteers were drawn who went to Mexico, I have had this fact more deeply impressed upon me by the sad countenance of some father, the tears of some mother, over the fate of a promising young man, who fell in performing the duties of a private soldier. The material is too high, except when the honor of the country demands it."

This carries us back to the condition and material of which armies are composed in European countries. What is the material of which they are composed? There is a broken-down and brainless-headed aristocracy, members of decaying families that have no energy by which they can elevate themselves, relying on ancestral honors and their

connection with the Government. On the other hand there is a rabble, in the proper acceptance of the term—a miserable lazzaroni, lingering, and hanging, and wallowing about their cities, that have no employment; and they are ready and anxious to enter the service of the Government at any time for a few sixpences to buy their grog and a little clothing to hide their state of nudity. Such is the material of which their armies are composed—the rabble on the one hand, and the broken-down, decaying aristocracy on the other. Where does the middle man stand? Where does the industrious bee that makes the honey stand, from whose labor all is drawn? Where is he? He is placed between the upper and the nether millstone, and is ground to death by the office-hunter on the one hand, and the miserable rabble in the shape of soldiery on the other. I want no rabble here on the one hand, and I want no aristocracy on the other. Let us elevate the masses; and make no places in our Government for the rabble, either in your Army or the Navy; but let us pursue those great principles of government and philanthropy that elevate the masses on the one hand, and dispense with useless offices on the other. Do this, and you preserve the great masses of the people, on whom all rests; without whom your Government would not have an entity.

Cheaper men and lower priced men! Are these the men that a great Republic like this is to depend upon when danger is upon us? Think of it, Mr. President! An army composed of a rabble like this! You have heard much from the honorable Senator from Georgia [Mr. Toombs] as to military despotism; but think of the result that will ensue if you increase your standing Army a regiment now and a regiment then, until it runs up to fifty or a hundred thousand men, with all power concentrated here, composed of these "cheap" men—of this miserable rabble. Suppose then a difficulty should arise between one of the States and the Federal head here; these cheap men would feel it to be their duty and their highest pride to obey the commands and dictates of some daring military adventurer; and we might not have to wait for dextrous moves or for *coups d'état* by a Louis Napoleon. No; you would have some man to make the move here. What high pride, what high patriotism, what high sentiment in reference to Government can these "cheap" men entertain? They will feel it to be their duty to obey orders when commanded to charge on one of the sovereign States of this Union.

Already the military spirit and patriotism of the States are diminishing; the militia system is giving way; all eyes are turned to the Federal Government, this great central head that is collecting its millions annually from the people. Your State officers, and your States themselves, are sinking into insignificance. Here is the great center; here is the great attractive power. Abandon your military systems in your States, do away with the military ardor that exists among the several States of this Confederacy, and where are you? States that are now sovereign and independent, will revolve around this great central orb as so many dependants or satellites, receiving from the great center their light, their heat, and their motion. Let him advocate a standing army who will—to give another direction to the language of the Senator from Georgia, at the conclusion of his speech, when he said, "I tell Senators to beware," I vary the language, and tell the States to beware, for their sovereignty is at an end, if you persist in your career.

If we do not commence the work and arrest the expenditures and corruptions of this Government, the time will come when this Government will be overthrown; the time will come when the sound from the hoof of the cavalry horse will announce to the sovereign States the approach of a usurper; the legions of the Government, in advancing column, announce a despotism; when the goddess which presides in the temple of liberty will descend, and the last expiring hope of free Government go staggering from our land through carnage and through blood.

A standing army is an incubus, a canker—a fungus on the body-politic. Rely on the citizen soldier—the man that loves his country. When you call for volunteers, the lowest man in the company does not start out with the feelings or subdued spirit of a common soldier; but each man that goes, goes as a hero—and with the expecta-

tion of distinguishing himself, even as a private, before he returns to his home.

But it would seem from reading the speech of the honorable Senator—and you can see that old European idea of standing armies, commanders, and subjects, sticking out—that when he returned to Mississippi, and met the mothers and the brothers and the sisters and the fathers of those gallant men who had gone to Mexico, many of whom now sleep in a foreign grave, with not even a rude stone to mark their burial place, and many of them, perhaps, without a winding sheet save the blanket they slept upon in the tented field, and it saturated with their blood—they had tears, they had sympathies, they had some one they cared for. Those men who entered the service, and went into a foreign land as volunteers, had somebody to care for too. They had their country that they loved, and were willing to defend, and in whose cause they were willing to perish. Notwithstanding the tears that trickled down the mother's cheek, her heart would expand with patriotism when she reflected that her son had fallen in a glorious cause, defending his country's rights. He could not have died a more glorious death.

But to return to the idea suggested by the chairman of the Committee on Military Affairs; that we want some cheap man, I suppose, that has no mother, no father, no sister, nobody to care for him or to shed a tear over him. Oh no; that is not the man we want. We do not want the Army filled up with a rabble that have no country, no friends, nobody to care for, but are ready and willing to obey the order of their commander whatever it may be! I do not want such cheap men. I am opposed to such an army. I do not want to provide a place in the Government for them. I want men who have homes, who have mothers, who have fathers and friends and relations to care for them. I want them to feel that they have something to defend, and that they have a country which is worth defending.

In the course of the discussion on this bill, there were occasionally some strange developments. The eloquent chairman, who sustained the bill with so much ability all the way through, whenever he came to notice a man who had distinguished himself, seemingly had prepared a standing eulogy to pronounce on his character. As to everything that pertained to the standing Army proper, he seemed to be *au fait*. He was ready at every point to present them and to identify them with the Army, and especially with West Point. He commenced with Washington, and pronounced a eulogy upon him, the great and good, "first in war, first in peace, and first in the hearts of his countrymen." My heart responds to all that. He spoke of Jackson, from my own State; and if there is any man that ever lived that I venerate, it is the illustrious Andrew Jackson. He spoke of Colonel Johnston, who has command of our forces now away in the region of Utah, and he pronounced a eulogy upon him; of General Taylor, distinguished and brave, (and I have not aught to say against him,) and he pronounced a long eulogy upon him, his courage, his valor, his chivalry; and last, though not least, of my distinguished friend from Texas, [Mr. Houston,] on whom he pronounced a eulogy, and I say amen to all of it.

I will not undertake to add anything to what he said on that occasion; but in this brilliant galaxy of military chieftains, men who have been in the thickest and hottest of battle; men over whose efforts your gallant banner has triumphantly waved, upon whose standard the eagle of liberty has again and again perched, did it not occur to you that there was another man who was somewhat distinguished? I understand that that man too concurs with the Secretary of War in asking for regiments; not to fill up the rank and file with cheap men, but to have regiments, not companies. Who is that man? It occurred to me as being somewhat strange that nothing was said of him. I am no admirer of the individual to whom I allude, in a political point of view; but his military reputation is a part of the history of this country, and his military renown is only bounded by the limits of the civilized world. Who is he? When you come to look to him exclusively in a military point of view, he stands up in this great cluster of military chiefs like some projecting cliff from a lofty mountain. Did we never hear of Winfield Scott? Has

he no place in the military annals of our country? Has he fought no battles? Has he shed no blood? Has he not shown himself to be illustrious as a soldier, as well as a tactician? Why was he omitted? Why was he excluded from the category of great men? Why was there an omission to pronounce a eulogy upon him? I know there is nothing I could say that would add one gem to the brilliant chaplet that encircles his illustrious brow, and therefore I will not undertake to say anything in reference to that distinguished man. As a military chieftain, he belongs to the nation; his success in the battle-field, to the history of the world.

I do not understand the proposition before the Senate, as presented by the Military Committee, to be an Administration measure. When I turn to the report of the Secretary of War, in what terms does he recommend an increase of the Army? The principal idea in his mind seems to be that because his predecessor had recommended an increase of the standing Army, he too should recommend it. Who was his predecessor? The illustrious chairman of the Committee on Military Affairs. I say it not in disparagement of him; but I refer to it as a fact that we all have pride of character, and anything which emanates from us is, in our opinion, better than that which emanates from anybody else. It was recommended by him as Secretary of War. He comes into the Senate as chairman of the Committee on Military Affairs to execute and carry out his own recommendation; and then we are told that it is an Administration measure. We see how this matter stands. It is so of human character. Notwithstanding it emanates from that distinguished committee, (for all of whom I have the most profound respect, for their talents and their integrity,) I must say that committee, distinguished as it is, is not infallible, and may originate measures that are not perfect. We are all attached to our offspring. When we claim paternity, though the infant be imperfect, crippled, deformed, not capable of taking care of itself, such are the affections of the parental heart that it clings with more tenacity to its crippled and dependent and imperfect offspring than it does to those who can go alone and take care of themselves. It may be so in this instance.

In reference to the volunteer service, the amendment I have offered proposes to raise four regiments of volunteers in the very language of the President himself, and for the purposes for which he states in his message that he wants them. The officers and men are to be paid precisely the same amount that you propose to pay to these "cheap" men who have no home, or country, or friends, to care for them. I state here now, in my place, that it is estimated the cost will be about a million dollars per regiment. I state here, in my place, that if you will enter into a contract with me, I will guaranty that Tennessee, the volunteer State, will take your \$4,000,000 and acquit you of every claim hereafter, and will settle all your difficulties in Utah in less than six months. I was going to add, yes, we will do it for half the money. Tennessee has her companies and her regiments ready; and all the Government has to do is to say, "we will receive you into service and commission your officers," and the work is done. Volunteers are the very men to send there. Send them; and when Brigham Young has come to terms, when he has reached a state of subordination, when he has complied with the law, our volunteers will not only stop there, but if you will grant the boys homesteads, they will break up that rookery of polygamy, and Brigham will move to some other place. As a matter of economy, as a matter of expedition, as the most effectual means of restoring peace to the country, accept the proposition, and we will perform the work.

But there has been a great deal said on this subject; and especially the remarks of the Senator from New York, [Mr. SEWARD,] struck me with some force. In speaking of Brigham Young, and the institutions established under his government, if I remember right—I have not the speech before me, and it is not in any unkind spirit I refer to him; it is not my intention to make a wrong quotation—he said that they were a kind of Judaism; that they were deluded and fanatical; and the whole tenor of his speech was, that the power of the Government should be brought down upon them, and the anathemas of all Christian people should be hurled against them. The gentleman informed us that the Mormons had their origin in

New York; that they went from there to Missouri, from Missouri to Illinois, and from there they took up their line of march, and located themselves at the Salt Lake, where they are now.

When we allude to Salt Lake and Brigham Young, there are many associations that come up with them, all of which were thrown out in the honorable Senator's speech. He is pronounced to be a deluded man, and his followers fanatics; it is said they are all laboring under a delusion. Suppose this be so: in what does this delusion consist? In the establishment of polygamy. Let us talk of things as they are.

In reference to the religion or delusion of these people, we should be a little careful in the advances we make upon them. We have a very striking illustration, admonishing us upon this subject. Charles V., the Emperor of Germany, when tired of the cares of State, resigned the possession of his dominions to his son, and retired to a monastery. While there, to amuse the evening of his life, he undertook to regulate the movement of watches; but after repeated efforts he found that it was impossible to make any two of them keep precisely the same time. He was thus led to reflect upon the crime or folly and wickedness he had committed in attempting to make men think alike. It is as natural for men to differ in their religious and political notions as it is in the complexion of their hair and their skins.

Does polygamy exist nowhere else? We are wonderfully alarmed at a little polygamy at Salt Lake; yet no longer ago than yesterday a resolution was reported by the honorable chairman of the Committee on Foreign Relations which may result in the expenditure of thirty or forty thousand dollars to receive—whom? To receive the representative of the Grand Turk of Constantinople. [Laughter.] The first song I ever heard in my life used to run:

"The turban'd Turk who scorns the world."

We all know the lines that follow. It is said that he has his harem of six hundred wives; and yet we are almost agonizing ourselves to appropriate the money of the people of this country, who are so much opposed to polygamy, to receive the representative of polygamy of the grand harem itself. Have we forgotten when Amin Bey went through the country representing the Grand Turk and his harem, that he was escorted by the Secretary of State through the House of Representatives? An appropriation of money was made to defray his expenses. What all those expenses were, I shall not undertake to say.

Go to China; does not polygamy exist there? How long have we been trying to open commercial relations and intercourse with the Emperor of China? We have appointed a Minister and we pay him a large salary to represent us at the court of that country, which tolerates polygamy. I think it ought to be a little excusable in Brigham Young, who is said to be a deluded fanatic, living and moving and acting under his delusion, and his poor, blind followers, too. If they are laboring under a delusion, let us act as Christians. I fear that all those suggestions have been thrown out to excite the prejudice, not to say the anger, of the American people, against these misguided, and, I was going to say, abominable people.

Why, Mr. President, have we forgotten the accounts we read about the Crusades? That was a delusion got up by the simple power of speech. Three million people were moved by a delusion. Richard I., the lion-hearted Richard, who was alluded to here the other day—the great conqueror of the East, engaged the embattled hosts that were led by Saladin, in carrying out a delusion. It is very easy to say that one man is a maniac, that another is deluded, that this or that man is not in his right mind. Of that are we to be the judges? They may say that we are deluded, that we are misguided, that we are misdirected; and who shall judge between us? Sir, in the midst of all this delusion, while we pursue the career upon which we intend to enter against the Mormons, we should act as Christians; and with the light of Christianity, with the Bible before us, we should endeavor to correct and reform that deluded and misguided people.

But suppose we come a little nearer home. Does polygamy exist nowhere else? I intend to speak of things as they are; and I will venture to say that there is more practical polygamy in the city of New York than there is in all Salt Lake, with

this marked difference: at Salt Lake it is according to their religion, according to their delusion, according to the law and custom of the place; it is tolerated and made a matter of conscience: while in New York and many other places, practical polygamy exists in violation of our standard of morals, in violation of the law, in violation of what a sound virtuous community consider to be right. There is more practical polygamy now in many of the cities of this Confederacy than there is in all Salt Lake. Then, before we get so fierce, so rampant, and so willing to run these misguided and deluded people into the mountains, into the caverns and the gorges, as hiding places, I think we should be a little considerate, and see if we cannot correct the evil which lies at our own door.

I have occupied much more time, Mr. President, than I intended; but I desired to set myself right in the vote I should give in reference to the increase of the Army of the United States. The proposition I have introduced as a substitute for that of the Senator from Massachusetts, which is substantially his proposition with a little variation, covers, I think, what the President asks. I am willing to call out whatever number of volunteers is necessary to meet the emergency and answer the purposes of the Government; but I want to call out that description of men that have a country and care for somebody, and for whom somebody cares. I do not want to fill up the Army of this nation with a rabble. I do not want to fill up the Army of this nation with those who feel and have no responsibility. I want the men upon whom our liberties are to depend in time of battle to be men who have a country, and who feel an interest in that country. Stating these as my views for voting against the original bill and in favor of the proposition I offer, I conclude by expressing the hope that the Senate will adopt the volunteer proposition. If they think proper afterwards to authorize the War Department to do so, we will make a contract to do the work for half the money you propose to pay your "cheap" men.

Mr. CHANDLER. I understood the Chair to state that we were first to act on the original bill, before any action could be taken on the substitute. Was I correct?

The PRESIDING OFFICER. (Mr. Foot.) Both the original bill and the proposed substitute are before the Senate. Any modification that may be proposed to either the original bill or the substitute, must be acted on before the vote for substituting the one for the other shall be taken. The original bill is now before the Senate, and open to amendment or modification. After that, the substitute is open to amendment or modification. If no amendment or modification be proposed to either, the question is directly upon the substitution of the proposition offered by the Senator from Tennessee, and accepted by the Senator from Massachusetts, in lieu of his own amendment to the original bill.

Mr. CHANDLER. On the adjournment of the Senate last week, a motion was before the body to strike out the fourth section of the bill.

The PRESIDING OFFICER. That motion has been withdrawn.

Mr. CHANDLER. Precisely; and if the original bill is now to be perfected, I wish to renew that motion.

The PRESIDING OFFICER. That motion will be in order.

Mr. CHANDLER. I move to strike out the fourth section of the original bill.

Mr. IVERSON. I rise to a point of order. There is an amendment to the bill now pending—the amendment offered by the Senator from Massachusetts; and it is incompetent to offer another amendment which reaches the original bill, before we dispose of that amendment.

The PRESIDING OFFICER. The Chair has repeated, and such is the ruling of the Chair, that when a proposition is offered as a substitute for the original bill, it is the privilege of the friends of the original bill to perfect it before taking the vote on the substitution; and it is also the privilege of the friends of the substitute to perfect that before the vote on the substitute shall be taken; so that a motion to strike out the fourth section of the original bill is now in order.

Mr. IVERSON. If it comes from the friends of the bill; but is the Senator from Michigan a friend of the bill?

Mr. CHANDLER. I make no pretensions of that kind. I suggest that an amendment may come from an enemy, as well as a friend.

The PRESIDING OFFICER. The quarter from which it comes makes no difference as to the question of order.

Mr. CHANDLER. I renew the motion that the fourth section of the bill be stricken out. It is well known, sir, that I am opposed to the original bill, from beginning to end, in general and in detail; and I shall probably vote against it, however it may be amended; but if it is to pass, I desire that it may be made as little objectionable as possible. I have risen now merely to point out the great injustice which will result from the adoption of the fourth section; and the few remarks I shall make on this point are based entirely on the Army Register for this year, which I hold in my hand.

In my judgment, the remarks made last week by the chairman of the Committee on Military Affairs, [Mr. Davis,] in regard to this section of the bill, are entirely fallacious. If we were at this time reorganizing our Army, and all the appointments were to be made by rank in the service, it would not be as objectionable as it is at present, when we have some fifteen old regiments, and only four new ones in the service. The effect of the fourth section, if it be enacted into a law, will be to degrade the officers in those old regiments, and place them below others whom they have heretofore ranked. The chairman of the committee, when this subject was last under consideration, said:

"If a regiment goes out to meet the enemy, or is exposed to perilous campaigns, or is exposed to the perils of climate, vacancies will occur, and it was thought that those who shared the hazard that created the vacancies, were best entitled to the promotions."

Now, it is very well known that a regiment never goes into battle alone, and that all the regiments in our service are equally exposed to the perils of climate and to perilous campaigns. Our regiments are continually changing their positions. One regiment may be stationed in Florida, or some other sickly climate, for one or two years, and then it changes with a regiment from the North, and goes to a more healthy climate. If I understand our military system, every regiment in the service is equally exposed to the perils of climate as well as to the perils of war; and consequently that argument has no force, the risks being equally divided. The officers in all the regiments are perfectly willing to take the perils of life and their chances of promotion. The chairman said, further:

"Then again, it will sometimes occur that two lieutenant colonels of about the same date, being in different regiments of the same arm, may have had all that rivalry that belongs to their position."

I was surprised to hear that remark from the Senator from Mississippi, who has himself been a military man. There must be a very low state of feeling, there must be a deficient regard for rank and grade, in our Army, if such a consideration were allowed to have weight and impair the efficiency of any regiment in the service. Why, sir, one of the first principles inculcated upon our cadets at West Point is subordination to authority. It matters not whether one officer is ranked by a day or by ten years; if he is ranked, he is ranked, and he knows what his relative position is to be; and those rivalries to which the Senator alluded have no weight whatever, as I am informed by those who are conversant with the Army. That argument falls to the ground.

Further, the Senator said:

"Again, it inevitably follows, that a man promoted into a regiment he has not previously seen, as a major, lieutenant colonel, or colonel, ignorant of the officers and men, will be less efficient than a man who had been serving in the regiment, and knew both the officers and men."

I am informed by officers of the Army, and others, that the direct opposite of this proposition is the fact; that frequently in the old regiments which have been officered by the same men for a number of years, when you take a new man from another regiment as commanding officer, he comes in unbiased and unprejudiced; he looks upon the facts as they are; and if officers have been petted or indulged by their former colonel, he corrects the abuses which may have existed, and suppresses dissatisfaction; or, in other words, he repairs wrongs that may have previously existed in that regiment, and the efficiency of the regiment is improved rather than damaged by that transfer.

But, sir, I wish to call the attention of the Senate to a few cases in which gross injustice would be occasioned by the adoption of the fourth section of the original bill. It will be found, on reference to the Army Register for 1858, that Brevet Major L. P. Graham was a captain of three years' standing, in 1846. By the same Register it will be found that Delos B. Sackett was at that time a brevet second lieutenant, at the foot of his regiment, and that he entered the service July 1, 1845. At the battle of Resaca de la Palma, when the dragoons charged the enemy's batteries, Captain Graham was the second officer in command, and received a brevet of major for his gallant conduct on that day. Lieutenant Sackett, on the same day, received a brevet of first lieutenant. On the organization of the four new regiments, Lieutenant Sackett was made senior captain of the first regiment of cavalry, and he holds the same rank as Captain Graham, who was a captain of two years' standing when Mr. Sackett graduated at West Point; and yet there is not a more gallant and efficient cavalry officer in the service than Captain Graham.

The next case to which I allude is that of Captain Wood—and I wish it to be understood that I do not know any of these officers, but I have collated from the Register the facts which I present to the Senate, and I think they ought to be considered. Captain J. T. Wood, in 1846, was brevet second lieutenant in the corps of topographical engineers, at the bottom of the list, and we now find him second on the list of captains in the first regiment of cavalry, and holding rank equal to Henry H. Sibley, who was captain in 1847 in the second regiment of dragoons, and was breveted major for his gallant conduct in the Mexican war.

Captain Charles S. Winder joined the Army as brevet second lieutenant of artillery July 1, 1850, less than five years before the new regiments were formed. He was appointed fourth captain in the ninth regiment of infantry in 1855, not having then been five years in the Army. A further examination of the Army Register shows that Daniel Ruggles, who received two brevets, one of major and one of lieutenant colonel, for gallant service in the war, is fourth captain in his regiment, although he entered the Army in 1833. He was appointed captain in 1846, about the time when Captain Winder was entered as a cadet at West Point. Here seems to be a case of gross injustice and favoritism; and if you adopt the fourth section, and it shall become a law, it will place Captain Winder on an exact equality in the line of promotion with Captain Ruggles, who was breveted both as major and as lieutenant colonel before Captain Winder entered the service at all. Captain Winder has never taken any part in any war in which we have been engaged; and yet the fourth section of the original bill places him on an exact equality, and will render him just as likely to be promoted to major, lieutenant colonel, or colonel, as Captain Ruggles. This is a case of gross injustice, which I trust every Senator will see at a glance.

Again, Captain Caleb C. Sibley, the senior captain in the fifth regiment of infantry, entered the Army as brevet second lieutenant, in 1829. He was promoted to a captaincy in 1840. By reference to the Register, you will see that Franklin Gardner is the senior captain in the tenth regiment of infantry. Captain Gardner entered the Army in 1843, and was made a captain in 1855; and yet he has the same relative rank in his regiment as Captain Sibley, who was captain in his regiment three years before Captain Gardner graduated at West Point. On a further examination of rank in the infantry arm, Captain Sibley will be found to be the senior captain, while Captain Gardner is the sixty-sixth on the list; and yet, by the fourth section of the original bill, Captain Gardner will be placed on an exact equality, with regard to rank, with Captain Sibley.

When you examine the higher officers in the new regiments, and compare them with the majors, lieutenant colonels, and colonels of the old regiments, you will find the same disparity. Let me take the ninth and the fifth regiments—the ninth being one of the new regiments, and the fifth being one of the old. The lieutenant colonel in the ninth regiment has been thirty-two years in service; and the lieutenant colonel in the fifth regiment thirty-eight years. The senior major in

the ninth regiment has been twenty-one years in service; in the fifth, thirty-eight years, or nearly double the length of service of the senior major of the ninth regiment. There is a difference of seventeen years' service; and yet, by the fourth section of this bill, you propose to do away with these seventeen years of hard service, and place the senior major of the ninth regiment on an exact equality, as to promotion, with the senior major of the fifth regiment. Again: the junior major in the ninth regiment has been seventeen years in the service, while the junior major in the fifth regiment has been twenty-nine years in the service—a difference of twelve years; and yet you propose to place the two in the same relative position. So, sir, you may go through the whole list, and you will find that in almost every instance gross injustice would be done to the officers of the old regiments by adopting the fourth section.

But let me read what the Senator from Mississippi said on this point:

"I think the equity is on the side of the provision. It is a reform, and therefore it must bear upon somebody. No reform can ever be instituted that will not violate the just expectations of somebody. If the reform is proper, if equity is on the side of the provision, the sooner it is adopted the better."

I ask particular attention to the remark which follows:

"It so happens that we now have four new regiments in the Army; two of them are infantry, liable to cross promotion; but no cross promotion has yet occurred; and I think it better, if the provision is to be adopted at all, that it should be adopted before such cross promotion has arisen than after it shall have occurred, and claims have been perfected in the hands of other officers."

This last argument is like the postscript to a lady's letter: it contains all there is in it. Here are four new regiments in which no cross promotions have yet taken place, and performe it is meant that no cross promotions ever shall take place. Gross favoritism has been shown in officering the new regiments. Did not the honorable chairman know that no cross promotions could take place out of those new regiments? Did he not know that the officers of the ninth and tenth regiments of infantry must take their chance in relative rank for promotion into any other regiment, and they never can be promoted over the old officers of the Army until the time shall come when they stand oldest on the list of officers? No cross promotions have occurred over the heads of these new officers by older officers in the Army; and the intention of this clause is that no cross promotion ever shall take place over these special favorites of the late Administration. I trust that a sense of justice will influence the Senate to strike out the fourth section of the bill. It is an outrage upon all the old and able officers of the Army. Here is a man who entered the Army as second lieutenant in 1850, placed on an exact equality with the man who was breveted major and lieutenant colonel for his gallant service in the war. Do you suppose for one moment that that man who was twice breveted for gallant service would remain in the Army and allow this boy, the mere pet of somebody around Washington, to be promoted over his head? If he did, he would be unworthy of the epaulets he wears. The adoption of the fourth section would drive your ablest officers out of the Army; and in justice to them (not one hundredth of whom do I know) I demand that that section shall be stricken out.

Mr. PUGH. I consider the fourth section the best section in the original bill, and I say so with all the observation that I have been able to give to this subject during the short period of my connection with the Army and with public life. There are a number of the regiments which are stationed at posts, not at any scene of danger, not at any place of danger. Through the influence of the field officers, or the officer in command, they see no hard service. They are regiments remarkably exempt from casualties. Other regiments are sent to the frontiers; and by disease, by death, by wounds incapacitating from further service, vacancies occur in the higher grades, in the field officers; and then they are filled from officers who have taken good care to repose their heads on the pillow of easy service at these posts.

Why should we not promote by regiments to field officers, as well as to company officers? We promote from second lieutenant to first lieutenant, and from first lieutenant to captain, by regiments. Why should we not promote field officers in the same way? Why should all the captains of a

regiment which is in Utah, for instance, or in Nebraska, serving against an enemy, if a vacancy occurs in the rank of major or lieutenant colonel, be overruled, in order that some senior captain who has been commanding a post on the Atlantic coast for the last twenty years, shall all of a sudden be put over their heads? I consider this provision an act of sheer justice to those officers who perform military service, in contradistinction to those who hold their rank in the Army and do not perform service. Those officers who serve in the field ought to have this promotion, and not those whose only merit is their longevity. I hope, therefore, the Senate will not strike out this section.

Mr. PEARCE. I do not propose to enter into the debate of this section, but the Senator from Michigan alluded to a young officer of the Army whom I happen to know, and know to be a young man of great merit. I allude to Captain Winder. He spoke of him as owing his promotion to his being a pet of somebody about here. The truth is that that young man, whom I have known from boyhood, is a man of uncommon merit, and he distinguished himself on a melancholy occasion, which the Senate have not yet forgotten. He was one of the officers in charge of the regiment which was shipped from New York by the lost steamer San Francisco to go around Cape Horn. On that occasion when older and perhaps able soldiers did not exhibit quite as much composure as might have been desired, he distinguished himself by extraordinary courage and composure and by remarkable efforts for the preservation of the ship and those on board. I believe his conduct on that occasion was so favorably regarded by the Administration that it induced his promotion when the new regiments were raised. I think he owed it to no partiality, to no feeling which would authorize any one to call him a mere pet. He owed it to his merit displayed on a single occasion it may be, but certainly a signal occasion.

Mr. CHANDLER. I said that I did not know a single one of the officers to whom I alluded. I merely looked at the Register, and noticed the date of their entry into the Army, and I perceived that some of these young officers could not have seen service, because there had been no service since the date of their entry into the Army. Let me say, in answer to the Senator from Ohio, that I find by looking over the Army Register, a great number of men who were promoted for gallantry on the field of battle, that have been totally overlooked in officering the new regiments. If the Administration had taken men who had distinguished themselves upon the field of battle, without regard to rank, I should not have found fault, but such has not been the case. In all the four regiments I can find but one officer who has ever received a brevet for gallant service on the field of battle; and that is the case of Captain Lugenebel, the senior captain of the ninth regiment of infantry, who received a brevet as major.

Mr. PUGH. The Senator is surely mistaken.

Mr. CHANDLER. I find, on looking again at the Register, that I was mistaken. I perceive that one of the majors is a brevet lieutenant colonel, but there are very few brevets among the new captains—only one in the ninth and tenth regiments; and there are but very few among all the officers appointed to the four new regiments who received a brevet for gallant services in the Mexican war, while many of them were young men who had never seen service at all. Perhaps it was an assumption of mine, that the men who had not seen service were appointed through favoritism.

Mr. SEWARD. I hope the motion to strike out the fourth section will prevail; and I will state two considerations which seem to me to commend it to favor; but, in the first place, I ask that the section be read.

The Secretary read it, as follows:

SEC. 4. And be it further enacted, That hereafter regular promotions to vacancies occurring in the regimental grades of commissioned officers of the United States Army, shall be by regiments or corps, instead of by arms of service, as now regulated and provided in certain cases.

Mr. SEWARD. This, Mr. President, is an innovation establishing a new principle, one entirely new, and in antagonism to the system which has prevailed in the Army from the beginning, so far as my knowledge extends. As an original question, I am informed by military men that it would

have been quite unobjectionable, and, perhaps, wise; but it cannot be introduced now without producing derangement, confusion, dissatisfaction and discontent throughout the Army, and to a very wide extent.

This bill was introduced as a bill for the purpose of increasing the regular Army of the United States. It is quite apparent that it has already changed its character; and it is to be no longer such a bill, if it shall pass at all. What it will be, if it shall pass at all, will be a bill to increase the military power of the United States, either by adding to the regular Army or by calling out volunteers for a brief period of time, and with reference to a particular occasion. The Senate has already perfected the original bill, so far as to limit the term of service, of the two additional companies to each regiment which are to be raised, to the period of two years. It will either stand in that shape, or else it will stand in the shape of limiting them, as proposed by all the substitutes, to the period of service in the Territory of Utah necessary to reestablish the authority of the Government there. It is, therefore, an ephemeral bill, it is an occasional bill, and not a bill to increase the Army of the United States, or to affect the general arrangement of that institution. To engraft on a bill of such a temporary character, a provision so important as to create this innovation would seem to jeopard the original bill itself, and would probably be the means of producing discontent which may be avoided; while, if there is merit in this proposition, it can come up as a distinct proposition in a special bill.

Mr. WILSON. In spite of the opposition of the Senator from Ohio, I trust the Senate will strike out the fourth section of the bill, and not adopt, in a measure of a mere temporary character, a provision making so great an innovation on the established system. While I am up, I wish to call attention to the first section of the bill as it has been perfected. I understand that by that section, as perfected on the motion of the Senator from North Carolina, [Mr. BRAGS,] the commissions of all the company officers in the Army of the United States are to be placed in the hands of the President. The first section provides for raising thirty companies, two to be added to each regiment; and it also provides for discharging two companies from each regiment at the end of two years. In these thirty companies there are ninety officers. Thirty companies and ninety officers are to be discharged at the end of two years, and by the provisions of this section, the President can discharge any two companies in each regiment, and any ninety officers he chooses. He may retain every officer whom he may appoint under this bill, and select among all the other officers of the Army ninety whom he will discharge.

Now, if it be the judgment of the Senate to add two companies to each regiment, and to discharge the whole thirty companies at the end of two years, I hope that in justice to the old officers now in the Army, we shall so amend the first section that the officers to be commissioned under this bill shall be discharged, and that the present officers of the Army shall not be interfered with by this temporary measure. I have but little acquaintance with the officers of the Army. Eulogies have been pronounced upon them, and they have been somewhat assailed here. I take it that officers of the Army are very much like all the rest of us in the country in public and in private life. Many of them are gentlemen of talent, and of character, who adorn the profession they have chosen. Some of them I know to be the merest snobs in the world, who do no credit to their profession or any other; but they are in the service, and I hope that in this temporary bill, increasing the military force of the country to operate in the Territory of Utah, we shall adopt no provision that will in any way interfere with them.

The chairman of the Committee on Military Affairs has laid down the doctrine that we ought to increase the Army for general purposes. Some of us are opposed to the increase of the Army as a general principle; but there are those here—and I trust all of us agree in it—who think that exigencies have arisen in the Territory of Utah demanding that the President of the United States shall be authorized to raise a force to maintain the laws of the country, and to suppress rebellion in that Territory if he shall find it necessary to do so. The Senator from Tennessee has, to-day, admon-

ished his political friends not to increase the Army as a permanent military establishment at the present time, but to authorize the President to raise an additional force if he shall come to the conclusion that it is necessary. The Senator has told the Senate that we ought to diminish the extraordinary expenses of the Government. I hope his admonitions will be regarded by his political friends; and that the Senators on this side of the Chamber will also profit by them. I noticed this morning an article in the official journal—

A SENATOR. What is that?

Mr. WILSON. The Washington Union, I suppose, is the official journal; at any rate it assumes that character. I noticed in that paper this morning another of those articles which the Senator from Mississippi, the other day, pronounced to be "flippant," and I think the same description applies to the article of to-day. It tells us that to increase the Army will reduce the Army expenses. It says that if we add to the Army five regiments we shall not increase the expenditure, for it has already cost more to transfer regiments from one part of the country to another as the service demanded, than it will to increase the number of regiments and keep them permanently stationed on the frontiers. Our experience does not justify this assumption. Three years ago we added four regiments to the Army and the expenditures of the military establishment have gone up more rapidly than this increase of men. The experience of the country shows that when you add to the numbers in the Army, you increase the expenditures per man in a still greater ratio. I do not mean to say that the addition of three or five regiments at this time will increase the expenses in this proportion; I am not sure that it would; but we all know that the addition of three regiments or five regiments to the permanent military force of the country must increase the annual expenditures of the Government for years to come.

I trust the Senate will agree to the amendment I offered yesterday, as it has been improved by the proposition presented to-day by the Senator from Tennessee. I should have put it in that shape, if I had not feared it would lose support from some quarters, from Senators who sustain the Administration. The amendment, as modified at his suggestion, authorizes the President of the United States to raise volunteers to be used in the Territory of Utah to maintain the authority of the Federal Government there, to suppress any rebellion existing there, and to protect the people of the United States who pass from the Mississippi valley to the Pacific coast. I hope that proposition will receive the sanction of Congress; and that the President, if he needs this force, will summon it into the field; but if he has force enough, as I think he has in the Army of the United States, as it now exists, he will not summon three or four thousand volunteers into the service in the present condition of the country, when our Treasury is more than empty.

I thank the Senator from Tennessee for having said, what perhaps in some sections it requires some courage to say, that we ought to deal with the Mormons in Utah as Christian men should deal with other men. Words have been uttered in Congress and in the public press, in regard to the Utah troubles, which should receive the stern condemnation of every Christian man in America. The Mormons, in 1848, went across the country to their new homes in the gorges of the mountains, and there are now some sixty thousand of them there. They have a city at Salt Lake, with about twelve thousand inhabitants. They are a people remarkable for their industry; but they have adopted a false religion, as we all believe. They have adopted the system of polygamy, which has made their name infamous in this country and throughout the world. I am told, however, that there are only about one thousand polygamists in the whole Territory, and the great mass of the Mormons are not polygamists. Be this as it may, nobody has yet proposed in Congress, to my knowledge, to pass a law prohibiting and punishing polygamy in the Territory of Utah, as I think we ought to do in that Territory and in every other.

But, sir, this system of theirs has brought down upon them the condemnation of the country; and there are persons who would welcome a contest in that Territory which should result in

bloodshed, in civil war, in blotting them out, and scattering them broadcast over the world, or driving them out of our own country. I read to-day with pain the letter of the commanding officer of our Army in that Territory, in which he expresses the opinion that the Mormons will resist, that this will lead to war, and that the people of the United States should desire and welcome it. Sir, for myself, I welcome no contest in any part of this country between the Army of the United States and any portion of the American people, however deluded they may be. This remark of the military commander in that Territory will, I think, be received, as it ought to be received, with regret, and with disapprobation by the country.

The people of Utah complain that we have sent there unworthy persons as officers of this Government. Nobody doubts that; but I do not see that it justifies them in their conduct. Let them come to this Government as they should come; let them represent their wrongs, and I think we shall redress them. I believe the great mistake was originally made when President Fillmore appointed Brigham, the head saint among them, Governor of the Territory of Utah. I have been told by Senators that when that appointment was made, and since it was made, the Mormons all over Europe regarded it as sanctioning, by this Government, their religion, and that thousands of them have flocked to this country and gone to Utah on account of this recognition by the Government of the United States.

I suppose this increase of the military force of the nation, if made at all, will be made in view of the difficulties in Utah Territory. The Senator from New York who has sustained this bill, put it on this ground, and this ground only. The President of the United States asked for a force for that purpose, and so did the Secretary of War; and I think the only reason which has been assigned of any weight whatever for increasing the military force of the country is in reference to Utah. For one, I am ready to vote the men and the money necessary to execute the laws and preserve the peace in that Territory, and I do not wish to stand in any other position here. I believe we shall accomplish all that is necessary by the passage of the substitute of the Senator from Tennessee authorizing the President, if he needs an additional force, to raise four thousand volunteers or any less number, to be used in the Territory of Utah. I hope the Senate will sustain that proposition.

Mr. IVERSON. The first question, I believe, is on the motion to strike out the fourth section of the original bill, and on that question I desire to submit a few remarks to the Senate; and I may possibly submit some remarks on the main question, on the substitution of volunteers for an increase of the regular force, when that question comes up in its proper order.

The fourth section provides that promotions, hereafter, shall be by regiments, and not by arms of service, as heretofore. The gentlemen on the other side of the Chamber and everywhere, all admit that it is founded on a correct principle. The Senator from New York has admitted that it is a correct principle, and he says that if it had been proposed to be applied at the first organization of the Army it ought to have been applied.

The Senator from Massachusetts agrees with him, and makes the same admission; and so does every Senator who has spoken. Even the Senator from Michigan has acknowledged that it is a correct principle; but he says it might operate harshly and unjustly in half a dozen cases, and therefore he objects to its application on the present occasion. If it be a correct principle, ought it not to be adopted at some time? And I ask Senators what better time can you select to adopt it than the present? If it be correct, it ought to be adopted. When is it to be adopted? Will a better time ever arrive than the present? It seems to me not; because, no matter to what extent of time the Army may go down for all time to come, the same objection will exist—that, if you adopt this principle, it will overslaugh three or four or half a dozen others who are older than those who will be promoted in regiments. That will be the argument always. There never will be a time when you can more properly adopt this principle, which every gentleman admits to be correct. All reforms necessarily must do some injustice; but are reforms never to be adopted because they necessarily carry

some injustice with them? I think that, surely, is not a correct rule of action.

I do not think that much harm will be done by the application of this principle to the Army in its present condition and at the present time, if I know anything about its material. Whenever you form new regiments, the very best material is always selected to command those regiments. In relation to the new regiments formed recently, I undertake to say, notwithstanding the sneers of the Senator from Michigan, that there are no better officers in the American Army than have been put over the heads of those regiments. They have been selected with great care with reference to their skill and ability for command. Take the two regiments of cavalry—the first and second cavalry; where will you find a better set of officers in our service, or any service in the world, than compose the field and company officers of those two regiments? The gentleman now commanding in Utah, who has been selected by the President out of the whole Army to put in command of that hazardous and important expedition, is at the head of one of those regiments, the second cavalry. The officers of those two regiments, and of the infantry regiments that were formed at the same time, are men selected for their eminent ability. Some of them were taken from private life; and the same objection would apply to them that the Senator from Michigan has presented to the selection of younger officers from old regiments, to take places in the new ones.

I think that when new regiments are formed, generally speaking the material of those regiments is made up by selections out of the Army. The President has the whole field of the Army from which to select; but ordinarily, and I am very sure it is so, as far as my observation has gone, the selections made have proved eminently beneficial to the service. The way the old plan operates is this: when new regiments were formed, young officers are taken—men of science, men of talent, men of ability—young, active, and enterprising men are put in command; but if one of the officers dies, his place is taken by some old fogey who belongs to some of the old regiments, and he comes into the family of this new regiment for the purpose of disturbing them and commanding them. The officers of a regiment are a family circle as it were, and they do not want, and ought never to have, any intruder to come into it against their will and wishes. The operation of the present system is, that if any of the gallant young officers who have been selected by the President on account of extraordinary merit and put in command of new regiments, die or resign, their places are filled by old, worn-out, and superannuated veterans in the older regiments.

An instance has just occurred which illustrates the way this system works. Here were three men promoted recently, by the action of the present Senate, to the command of colonels and lieutenant colonels in some of the regiments by seniority. Those men were called upon for service for the last four or five years by the Secretary of War, who asked them to join their regiments, and the report was, invariably, "sick." They got certificates from their family physicians that they were sick, and unable to do military duty, and therefore they were excused. They are called upon this year to join their regiments, and the report is, "sick;" next year they are called upon, and the answer is, "sick;" the next year they are called upon—"sick;" until finally, by the death of some other officers in other regiments, these gentlemen happen to get promotion, and then the Secretary of War calls on them, "join your regiments; and if you do not, I will strike you from the roll." They join their regiments, but it is only for the purpose of avoiding being stricken from the rolls and to get promotion, that they are found well enough to do so.

Is it just and proper that such men, old, superannuated, and worn out, should be appointed to command? If they were truly infirm, they ought not to be put over the heads of old and energetic officers. If they were playing "possum," they ought to have been discharged from the service. That is the way this system operates. These old, superannuated, worn-out men, who are either infirm absolutely, or pretending to be sick so as to shirk duty, are now by your system put over the heads of superior young, active, energetic officers, who are in those regiments. Once commence the

plan proposed by the fourth section of this bill, and after you get rid of a few of the old men, it will go on and work well, and then promotion in each regiment will take place in the regiment. That is a system which I think every gentleman concedes to be a proper one if you select a proper time to commence it. I think there is no more proper time than the present, and I trust the section will not be stricken out.

Mr. STUART. I wish to state some facts on this subject which have been communicated to me. It will be remembered that the other day I moved to strike out the fourth section, but withdrew the motion for the purpose of enabling the Senator from Virginia to offer his substitute. Perhaps the best comment that can be made is an illustration contained in a letter to me:

"The senior major of infantry entered the service in 1824, has been a major since 1850, and is, of course, now the first for promotion, having ten colonels, and ten lieutenant colonels to make a vacancy for him, while by the fourth section of the bill he can only be promoted by a vacancy occurring in the place of colonel or lieutenant colonel in his own regiment. The senior major of the ninth infantry, who is fourteenth on the list of majors, entered the Army in 1837, was promoted a major by selection in 1855, and under the present system would not be promoted to a lieutenant colonel in less than eight or ten years; but if this bill passes, his chance for promotion will be as good as that of the senior major, and he may be promoted before all who now rank him. The senior captain of infantry entered the Army in 1829, was promoted to be captain in 1840; and there are now forty field officers to make a vacancy for him. Under the provisions of this bill he can only fill the vacancy of one of the four field officers of his own regiment. The senior captain of the tenth infantry entered the service in 1848, was promoted by selection to be captain in 1855, is now sixty-sixth on the list of captains, and, by this bill, his chance for a majority is just as good as the first captain's, and he may be promoted before him."

This communication is from an officer of great intelligence and experience; and it seems to me to present a difficulty that will exist at any time in adopting a section in this form. I, with the little military experience I have had, and it is very little, would agree that this principle might be adopted in a bill which was prepared carefully for the purpose, and without any difficulty might make exceptional cases, a few of them now, so as to enter into a general law, which might, perhaps, operate well. I am not prepared, however, to subscribe to it so fully as some gentlemen.

I think my friend from Ohio has gone a little too far when he charges upon the officers all the delinquency. They are subject to orders by the President through the Secretary of War. He may order any part of the military establishment to any particular service he chooses. It is no fault of those who are not ordered there that they do not go. He may order some to the frontier, others to our fortifications, just where in his discretion and judgment he thinks they should be. But is it just, they being all subject to this military discipline, that a system should be thrown in without exception changing the whole line of promotion in the Army? It seems to me not. It is always a matter of very great difficulty to undertake to introduce any such general revision of law as that which is proposed here. Whenever it is done, it should be done carefully. It should be done in a separate measure by itself and not thrown into a general bill increasing the Army. There may be very much in what has just been said by the Senator from Georgia, but when that argument was introduced on this floor and sought to be used with some effect in regard to inefficient officers in the Navy, it produced no effect at all.

I stand on the ground on which I stood then, and I would strike these officers from the list and send them out of the Army if they would report themselves sick when that report was untrue. I would do that same thing in the Navy, and I would do it everywhere where officers saw fit to demean themselves in that way. It is no answer, however, to the objections to this section. If there be such cases as the Senator from Georgia alludes to, let the individual thus perpetrating that sort of conduct be promptly ejected from the service; but a meritorious officer, and a meritorious set of officers, could not be in any wise injured by that species of conduct.

The simple question now is, will the Senate introduce into a bill for the temporary increase of the Army, a new system of promotions, which, upon the very face of it, is seen to produce at once the injuries alluded to in the letter which I have read? Is there any just compensation to be derived from it? Is the public service, so far as

the Senate is advised, now suffering on account of the present law of promotion? Not that we are advised of. It is only an opinion put forth that this principle is a better one than the one which now exists, as a principle. I am not prepared to concede the argument of the Senator from Georgia, that everything which is true in principle ought to be promptly adopted. I think that the experience in legislation which the honorable Senator himself has had, will show him that that is a course of proceeding that is unsafe. Abstract principles cannot always, they cannot very frequently, be introduced at once into a general system of legislation, if they are contrary to that system, without working manifest injury. We may imitate the laws of nature in legislation, so far as we can, with great propriety. Great radical changes are accomplished, but so slowly and regularly as not in the least to disturb the harmony of the great system itself. That is the way to introduce reforms, whenever it is necessary, into any system of government—not by sudden revolution, producing disastrous consequences; but by a careful application of a great, correct principle, discreetly and prudently, and no faster than it can be done with justice.

Now, sir, inasmuch as I see no good to arise from thus changing unqualifiedly, and without saving the rights of individuals, the order of promotion in the Army, I think it better that this section should be stricken out. As I do not wish to detain the Senate unnecessarily on this subject, believing that the facts in my possession have been fairly presented, and that they are such as ought to induce the Senate, in this place, to waive the adoption of this principle, I am content.

Mr. PUGH. I wish to say a word or two in reply to the Senator from Michigan. I do not understand him as yet to impugn the correctness of the principle. Then I ask, as the Senator from Georgia says, why not apply it? What is your Army for? Is it to accommodate the officers? Is that all? You want an efficient army; you want that army which, with the smallest number of officers and men, will accomplish the most service. That is the end to be looked at, and to do that certainly all military experience shows that a rivalry between regiments, emulation, and identification of officers with regiments, will give you the most efficient military corps.

Now, sir, what is your present system? As I stated before, you promote by companies within the regiment, you promote by lieutenants from the grade of second to first, and from that to captain. During all the most useful part of their lives, they are identified with the particular regiment, they become acquainted with the officers, with the non-commissioned officers, and with many of the privates; they are accustomed to the usages of that regiment. By and by, they are transferred to a regiment of which they do not know a single non-commissioned officer, and, perhaps, not a single one of the commissioned officers. What is the consequence? When a captain rises to the rank of major he has to learn again all that he has been learning in the regiment from which he was transferred. That is the reason why your regiments lack efficiency. It is a positive injury to the service.

Not only is the proposed change good in principle, but the present practice is as bad as the practice can be, and why should it not be changed? The Senator from Michigan says it will injure the chances of promotion. If any gentleman's vested rights are interfered with that is a question; but we do not touch a commission. We simply prevent some gentleman from getting what he hopes to get: not what he has, but what he hopes to get. What is the difficulty with every change? Whenever you propose to reform a bad practice, to cut up an abuse by the roots, you are told, if you do so, some gentleman will be prevented from obtaining what he wants. I am exactly in favor of preventing them from obtaining this. I do not wish to see a captain of the first regiment of infantry promoted to be a major in the tenth regiment. Let him stay in the first regiment, where he belongs. Let him stand with it in prosperity and adversity. If it goes into the field and distinguishes itself, let him bear a part of that distinction. If it remains in the interior of the country, free from toil, free from hardship, free from exposure, let that compensate him for the loss of his expected rank.

The Senator from Michigan says they are all subject to the orders of the Secretary of War and they ought not to be blamed for being in this place in preference to that. We all know that in the Army, as in civil life, the War Department is continually overrun with applications from officers to give them this, that, or the other desirable post. Military men are like civilians; they have no idea of doing hard work if they can help it, and they like easy posts, and they will take them if they can get them by influence over the President or Secretary. It comes back at last, as I said before, to this: will you take a regiment in the field, which has been in the field for years, and promote over the heads of all the captains in it some man who for ten or fifteen years has been staying at home or commanding one of the posts on the sea-board, and finds himself suddenly promoted to be the commander of this regiment. I think it is a gross abuse, and it ought to be remedied; and the only question is, shall it be remedied now?

The Senator from Michigan says, do not do it now; it may be very good, but put it off until to-morrow; let us have a general bill, and let us look into the thing. That will be the argument to the end of time, and it will always be so. Now is the time; now you have the subject before you. If you intend to pass the bill for volunteers it is not material; but if you intend to pass the original bill to add new companies to the regiments, now is the time to make this reorganization of the Army. It will add more efficiency to the Army of the United States than all your thirty companies. It will give them more vigor, more life, more emulation. It will put new courage and new spirit into the live officers of your Army to let them see that they have a chance of promotion, instead of being forever overslaughed by those officers who are not disposed to do their duty in the field. I say, in my judgment, if the original bill is to pass, this is the best section in it; and I would be in favor of this section if no other part of it be retained.

We know the fact that at the time of the Mexican war many of our regiments were commanded in the field by the fourth or fifth captain—its field officers and three or four of its senior captains reporting themselves unable for duty. They took all the pay. They did not perform the duty. It was performed by the junior officers. I have seen lieutenants with gray heads, grayer than any I see in the Senate Chamber; and I say that that is the fault of the system. The Army is weighed down by that incubus; and the only way I see to remedy it, is as the Committee on Military Affairs now propose.

We hear a great deal about the righteousness of promotion by seniority. We all know why it has been adopted in our service. It is an objectionable system; but, all things considered, in time of peace and time of war together, it offers less ground of controversy. It is not the system in all other armies. It is not the best system. In time of war it is the worst system. I believe that in the French army half the promotions only are by seniority, and the rest by order of merit. But it will be the same thing: a man who has been twenty years a major will insist that he shall be the next lieutenant colonel, although he may not be half as well qualified for it as some captain in the line.

How was it in the Mexican war? You took Zachary Taylor, colonel of the eighth infantry, brevet brigadier general, and you made him a major general, over the head of twenty of his seniors, and you were rewarded for it. You took a man of true military genius and ability, and it redounded to the honor of the country. So it will be as often as you act in that spirit.

It is to counteract the evils of the system of promotion by seniority, that brevets have been introduced into the Army, and they have been a pregnant source of quarrel. The only reason that I have always been in favor of the system of brevets, was that they were necessary to counteract the evils of promotion by seniority.

How do you now get at it? You take a captain: if he stays in his own regiment he only ranks as a captain below one of those majors of twenty or thirty years' standing, who has never rendered any particular service; but this captain distinguishes himself, and you give him a brevet as a major, as a lieutenant colonel, and finally as

a colonel; and then you assign him to his brevet rank—for what period? To take him out of the line; to take him from under the command of this piece of antiquity, who is set there to repress his energies and to overrule his judgment; and thus it is that our Army is a continual scene of quarrel. You confer brevets for merit, and you are keeping up a continual disturbance and dispute between the officers by brevet and the officers by seniority; and I do not see any way to get rid of it, unless you adopt the system either of the French army, of making half the promotions by order of merit, and the other half by seniority; or adopt the proposition of the Committee on Military Affairs, to make all promotions by regiments. Let an officer, when he enters a regiment, know that that is the place in which he is to stay until he goes out of the service; that all his fame, all his glory, all his service is identified with the name and the flag of that regiment; and then you will see the officers endeavoring to promote the honor of the military families to which they belong; and to raise the credit and the character of the regiment, instead of engaging in a perpetual squabble as to when they shall be promoted over the head of somebody else.

Mr. HOUSTON. I did not intend to make any remarks upon the subject before the Senate, but it seems to me rather extraordinary that armies should have existed for such a length of time, under so many able heads as we have had over them in the United States, without a suggestion of this kind for the perfection of army organization ever having been made before. At any rate, if such a suggestion has been made, I am not aware of it. When there is certainly no particular urgency for a modification of the law in this respect, it is strange that it should be brought forward on this occasion. I shall not refer to the temporary character of this bill, but I go upon general principle that there is no necessity for any change in the present system of promotion. If a change is necessary, that necessity must have been of such long continuance that I am satisfied it would have been discovered long ago if it really existed. The honorable chairman of the Committee on Military Affairs was Secretary of War for one presidential term, and it seems that it then never suggested itself to his mind, and perhaps never would have done so if it had originated with the *rationale* of the Army.

Mr. IVERSON. I beg leave to state to the Senator from Texas, that he is mistaken when he supposes that this reform was not suggested by the chairman of the Committee on Military Affairs when he was Secretary of War. He carried it out in the formation of the new regiments; for, when the two regiments of mounted troops were raised, he caused them to be designated cavalry instead of dragoons, so that promotions should not take place out of the dragoons into the cavalry. In those regiments the promotions are by regiments and not by arms of service.

Mr. HOUSTON. I am not astonished at that, because they were utterly useless; and any rule applied to them cannot be considered as an example of justice. I believe the cavalry formed part of the four new regiments.

Mr. IVERSON. There are two new regiments of cavalry and two of infantry.

Mr. HOUSTON. Promotions are not by regiments, as I understand, but by corps.

Mr. IVERSON. They are now, among the mounted troops.

Mr. HOUSTON. They are promoted now by corps.

Mr. IVERSON. No, by regiments.

Mr. HOUSTON. Perhaps that was a pet idea of the late Secretary of War, and it is necessary to remodel the whole military system in accordance with it; but still, that does not inculcate on my mind the necessity of conforming to that precedent. If gentlemen are called from their regiments who, by long service, are entitled to a majority or a colonelcy in another regiment, I do not think there is any great misfortune in that. It may be that in some cases they may not be so competent as a captain might accidentally happen to be who would be entitled to promotion under other circumstances in the regiment; but there is an equal chance that he will be as well qualified as the other. It is man against man, and no more; and he is as liable to be perfectly competent as the captain would be if promoted to a majority,

to say nothing of his additional experience. So it is with the major, or any other field officer.

I cannot see that any advantage would be gained by confining the promotions of field officers to the regiments in which vacancies may occur; but, on the other hand, by pursuing that course manifest injustice would be done to officers who, although you may say they have no vested rights, have yet reasonable expectations under the system under which they came into the service. To be sure, it is subject to modification by Congress at any time; but still, they had a right to expect that for faithful service they would receive certain rewards upon certain contingencies; and I think it would be unjust to them now, suddenly, when there is no necessity for it, to change a system that has been of such long duration, that has worked so well and so successfully heretofore, and under which the respectability of the present military establishment has grown up.

Here let me say that, although I have been charged with having detracted from the Army, I believe my appreciation of it is very just, and I think it has respectability and character. I believe it is composed of as respectable gentlemen as are in the United States. I have objected to an increase of the Army, not on account of the unworthiness of its officers, but because of the expense, the inexpediency, the danger of such an increase. I have always entertained a just appreciation of the respectability of the officers, and have voted in this body for an increase of their pay, to allow them to surround themselves with the comforts and conveniences required by their position. It is to maintain the respectability of the Army, and not to disappoint the just expectations of meritorious officers, nor to subject them to caprice, that I am in favor of striking out this section. I maintain that, if you promote under the present system, you will be quite as likely to get good and efficient men for the high grades, as you will be if you confine promotion in each regiment to the officers of that regiment. When officers have given their years, and have been willing to give their lives, to the service of their country, I do not think it should be a crime that they become old. I do not think young aspirants, who have never on any occasion fleshed their maiden swords, should be preferred to them. Throw more duty, if you please, on the young and vigorous, and give some respite to age, if it be necessary; but give them all their just reward for faithful service and for valorous deeds.

I am not for postponing men if they are entitled to a position in the service. Give them the promotion to which they are entitled. You may call them old fogies, or old veterans, or what you please; but give them the reward of merit. As for your brevets, I am proud to say that though I served five years in the regular Army of the United States, I never received one. Whether I deserved it or not is another question; but certainly I never received it, and I am proud of it. Why? Because I have seen the practice prostituted; I have seen men breveted during the last war who never saw an enemy in their lives, and I have known men of distinguished merit who never received a brevet, and yet had not only offered their lives and given their blood, but their limbs, to their country. It is a system of partiality and favoritism, and the very lackeys who hang about the generals-in-chief are the men who receive brevets—men who are screened from the shock of battle and ensconced behind favoritism. I have no respect, therefore, for brevets. I know that gentlemen sometimes receive them who deserve them well; but the most deserving are not those who are most fortunate in obtaining them. It is a system that I would put down. I would brevet no man except for service on the field of battle, as knighthood was received from the royal touch on the field, and then I would only brevet for deeds that would attract and electrify the Army.

When brevets are thus acquired, you give a stimulus to gallantry on the field of battle—you create a spirit of daring that will be terrible to your adversary; but when they are obtained by favoritism, by skulking, through political influences and agencies, they are a disgrace, and in the end will honor you as little as they will them. But I can see no earthly necessity for this change in the system of the Army, and of promotion, and therefore I shall oppose it, leaving things where they have stood for nearly a century, and where they

have operated well, and where there is no necessity shown for this change. Show that there is a necessity for it, that benefits will result from it generally, that it will create harmony and efficiency in the ranks of the Army, and I will then be prepared to vote for it; but not till then. Whilst it inflicts injustice on a single individual, I will oppose it as much as though it inflicted wrong on fifty or one hundred. It is the principle that I do not sanction, and I will not do it.

Mr. HAMLIN. The debate on this matter has been so very brief that I do not apprehend the Senate are sufficiently well informed to vote either on this amendment or on the bill. It ought to be discussed at length; it ought to be presented to the Senate in a variety of modes, so that we can be presumed to act with some intelligence. Laboring under a severe headache to-day, as I do, I ask the Senate to adjourn. I make a motion that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 17, 1858.

The House met at twelve o'clock, m. Prayer by Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday was read and approved.

MARYLAND CONTESTED-ELECTION CASE.

The SPEAKER stated that the first business in order was the motion made yesterday, by the gentleman from Kentucky, [Mr. MARSHALL,] to lay upon the table the motion to reconsider the vote by which the main question was ordered upon the report of the Committee of Elections on the contested-election case from the fourth congressional district of Maryland.

The yeas and nays were demanded and ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 68; as follows:

YEAS—Messrs. Abbott, Andrews, Bennett, Bingham, Blair, Bliss, Boyce, Branch, Bratton, Buffinton, Burroughs, Cane, Chaffee, Ezra Clark, Clawson, Clingan, Cobb, Clark B. Cochrane, Colfax, Covode, Cragin, Curry, Curtis, Durrell, Davis of Massachusetts, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foley, Foster, Giddings, Gilman, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Hill, Hoard, Howard, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Milson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Murray, Nichols, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Royce, Aaron Shaw, Judson W. Sherman, Shorter, Robert Smith, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Trippe, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Ellihu B. Washburne, Israel Washburn, Wilson, and Woodson—90.

NAYS—Messrs. Adrain, Ahl, Atkins, Avery, Bacoock, Bowie, Bryan, Caskie, Chapman, John B. Clark, Clay, Clemens, Cockrell, Corning, James Craig, Burton Craige, Crawford, Devant, Dimmick, Dowdell, Edmundson, Elliott, Faulkner, Florence, Gartrell, Greenwood, Lawrence W. Hall, Hatch, Hawkins, Hopkins, Houston, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Letcher, Maclay, McQueen, Mason, Miles, Montgomery, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Rufin, Sandidge, Seales, Searing, Seward, Singleton, Stephens, Stevenson, James A. Stewart, Ward, Warren, White, Wortendyke, and Augustus R. Wright—68.

So the motion to reconsider was laid on the table.

Pending the call,

Mr. TAYLOR, of New York, stated that, had he been in the House when his name was called, he should have voted in the negative.

Mr. READY stated that his colleague, Mr. ZOLLICOFFER, was absent on account of sickness.

Mr. MAYNARD asked permission to vote, stating that he was detained in his committee room until after his name was called.

Objection was made.

Mr. GILMER made a similar request, for the same reason.

Objection was made.

Mr. BARKSDALE stated that, had he been in the Hall when his name was called, he would have voted in the negative.

Mr. KUNKEL, of Maryland, previous to the announcement of the vote, said: I desire, before the vote is announced, to propound a question to the gentleman from North Carolina, [Mr. CLINGMAN.] I ask that gentleman whether he suggested the calling of the previous question?

Mr. CLINGMAN. In what case?

Mr. KUNKEL, of Maryland. On this Maryland contested-election case, and after my colleague had expressed a desire to address the House?

Mr. CLINGMAN. I understand that the previous question has already been ordered. I believe it was not upon my motion. The previous question was seconded, and the main question ordered yesterday, I believe.

The SPEAKER. They were.

Mr. KUNKEL, of Maryland. That is not an answer to my question. If the gentleman is disposed, he can answer it. I desire to know whether he suggested that the previous question should be called by the gentleman from Maine, [Mr. WASHBURN.]

Mr. CLINGMAN. I did not suggest it to Mr. WASHBURN. I voted for it, and I thought it should be called. I do not understand why the gentleman makes the inquiry of me.

[Cries of "Order!" "Order!"]

Mr. KUNKEL, of Maryland. With the permission of the House, I will explain why.

[Renewed cries of "Order!"]

Mr. WASHBURN, of Maine. I cannot hear anything that is said; and I object.

Several MEMBERS. Let it go on; it can do no harm.

Mr. CLINGMAN. I hope the House will allow the gentleman to ask his questions, and make his explanations.

Mr. DEAN. I object.

The SPEAKER. Objection is made.

The result of the vote, as above recorded, was then announced.

The SPEAKER. The majority of the committee reported the following resolution:

Resolved, That it is inexpedient to grant the prayer of the memorialist for the appointment of a committee to take testimony.

And the gentleman from Pennsylvania, [Mr. PHILLIPS,] who submitted the minority report, moves as an amendment to that, the following:

Resolved, That the Committee of Elections have power to send for persons and papers, and to examine witnesses and evidence in the case of the contested election of the Hon. H. Winter Davis, from the fourth congressional district of Maryland.

The question now is upon the amendment.

Mr. BOWIE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 86, nays 110; as follows:

YEAS—Messrs. Adrain, Abl, Atkins, Avery, Barksdale, Bonham, Bowie, Branch, Burnett, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, John Cochrane, Cokerill, Corning, James Craig, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dick, Dimmick, Dowdell, Edmundson, Elliott, Faulkner, Florence, Foley, Gartrell, Goode, Groesbeck, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, MacLay, McQueen, Samuel S. Marshall, Mason, Miller, Montgomery, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Ruffin, Russell, Sandidge, Scates, Sealing, Shorter, Singleton, Samuel A. Smith, Stallworth, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Ward, Warren, White, Wortendyke, and Augustus B. Wright—86.

NAYS—Messrs. Abbott, Anderson, Andrews, Bennett, Bingham, Blair, Bliss, Bocock, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clark B. Cochrane, Colfax, Comins, Covode, Curtis, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Haskin, Hill, Hoard, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Letcher, Lovejoy, Humphrey Marshall, Maynard, Miles, Milson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Royce, Seward, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, and Woodson—110.

So the amendment was rejected.

Pending the vote,

Mr. WALDRON stated that Mr. SHERMAN, of Ohio, was detained in his room by illness.

The question recurred on the resolution reported from the majority of the Committee of Elections.

Mr. STEWART, of Maryland, called for the yeas and nays.

Mr. WASHBURN, of Maine, demanded tellers on the yeas and nays.

Tellers were ordered; and Messrs. BUFFINTON, and CRAIG of North Carolina, were appointed.

The House divided; and the tellers reported—ayes forty, noes not counted.

So (more than one fifth voting in favor thereof) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 115, nays 89; as follows:

YEAS—Messrs. Abbott, Anderson, Andrews, Bennett, Bingham, Blair, Bliss, Bocock, Boyce, Brayton, Bryan, Buffinton, Burlingame, Burroughs, Campbell, Case, Chaffee, Ezra Clark, Clawson, Clemens, Clark B. Cochrane, Colfax, Comins, Covode, Cox, Cragin, James Craig, Curtis, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Dodd, Durfee, Edie, Eustis, Farnsworth, Fenton, Foster, Garnett, Giddings, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Harlan, J. Morrison Harris, Hill, Hoard, Howard, George W. Jones, Kellogg, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Letcher, Lovejoy, Humphrey Marshall, Maynard, Miles, Milson, Morgan, Morrill, Edward Joy Morris, Freeman H. Morse, Oliver A. Morse, Mott, Murray, Nichols, Palmer, Parker, Pettit, Pike, Potter, Pottle, Purviance, Ready, Ricard, Ritchie, Robbins, Royce, Seward, Aaron Shaw, Henry M. Shaw, Judson W. Sherman, Samuel A. Smith, Spinner, Stanton, William Stewart, Tappan, Thayer, Thompson, Tompkins, Tripp, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Wilson, Woodson, and John V. Wright—115.

NAYS—Messrs. Adrain, Abl, Atkins, Avery, Barksdale, Bowie, Branch, Burnett, Burns, Caskie, Chapman, John B. Clark, Clay, Clingman, Cobb, John Cochrane, Cokerill, Corning, Burton Craige, Crawford, Curry, Davidson, Davis of Mississippi, Dewart, Dimmick, Dowdell, Edmundson, Elliott, Faulkner, Florence, Foley, Gartrell, Gillis, Goode, Greenwood, Groesbeck, Thomas L. Harris, Hatch, Hawkins, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, MacLay, McQueen, Samuel S. Marshall, Mason, Miller, Montgomery, Moore, Niblack, Pendleton, Peyton, Phelps, Phillips, Powell, Quitman, Reagan, Ruffin, Russell, Sandidge, Scates, Sealing, Shorter, Singleton, Stallworth, Stephens, Stevenson, James A. Stewart, Talbot, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Wortendyke, and Augustus B. Wright—89.

So the resolution was adopted.

Pending the vote,

Mr. HUGHES stated that Mr. GREGG was detained from the House in consequence of sickness in his family.

Mr. JOHN COCHRANE stated that his colleague, Mr. CLARK, of New York, was confined to his house by sickness.

Mr. WASHBURN, of Maine, moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. DICKINS, its Secretary, notifying the House that the Senate had passed a joint resolution (S. No. 18) for the reception of Vice Admiral Mehmed Pasha, of the Turkish navy, and to facilitate the objects of his mission in superintending the construction of a vessel of war in the United States; in which he was directed to ask the concurrence of the House.

QUESTION OF PRIVILEGE.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CAMPBELL. I rise to a question of privilege.

Mr. J. GLANCY JONES. I have yielded the floor for nearly two weeks for questions of privilege. Mine is a privileged motion.

The SPEAKER. If the gentleman from Ohio rises to a question of privilege, it will take precedence of a privileged question.

Mr. J. GLANCY JONES. The question is whether I have the floor.

The SPEAKER. The gentleman from Pennsylvania will state the purpose for which he rose.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and, in making that motion, Mr. Speaker, I wish to state to the House that the appropriation bills are now ready for action, and I hope that—

Mr. SEWARD. Is this debatable?

The SPEAKER. It is not.

Mr. SEWARD. Then I object.

Mr. J. GLANCY JONES. I object to the gentleman from Georgia interrupting me every time I get the floor.

The SPEAKER. The gentleman from Georgia has a right to interpose the objection that this matter is not debatable. The gentleman from Ohio [Mr. CAMPBELL] will state what is his question of privilege.

Mr. CAMPBELL. It is this: my veracity is,

I think, involved in the truthfulness of a statement which I made to the House. I send to the Clerk's desk, to be read, a short extract from the application which I made to the House, through the Committee of Elections, to take further testimony in reference to my right to a seat here.

The SPEAKER. The Chair is of opinion that that is not a question of privilege.

Mr. J. GLANCY JONES. Unless it is strictly a question of privilege, I shall object.

The SPEAKER. The Chair would like to hear from the gentleman from Ohio on what particular ground he assumes that this is a question of privilege.

Mr. CAMPBELL. An issue is presented involving my veracity. I ask the unanimous consent of the House to make a statement.

Mr. J. GLANCY JONES. I object, unless it is a question of privilege.

Mr. CAMPBELL. I would say to the gentleman from Pennsylvania that my character for veracity is involved. I will not consume more than five minutes.

Many MEMBERS. Let us hear it.

Mr. J. GLANCY JONES. I renew my motion.

Mr. TAYLOR, of New York. I appeal to the gentleman from Pennsylvania to yield for the purpose indicated by the gentleman from Ohio. I think it is due to him that he should have the opportunity he desires.

Mr. J. GLANCY JONES. I dislike exceedingly to make any objection, and I am not in the habit of doing so; but I have been obliged to wait here for the last ten days under privileged questions and questions of special committees. However, as gentlemen all round me wish me to withdraw my objection, and as the gentleman from Ohio says he will occupy but a few minutes, I withdraw my objection.

Mr. SHORTER. I renew the objection. I suppose that the statement which the gentleman from Ohio wishes to make, has reference to the contest for his seat.

Mr. J. GLANCY JONES. I renew my motion.

Mr. BURNETT. I ask the gentleman from Pennsylvania to permit me to offer some joint resolutions from the State of Kentucky, that they may be printed, and laid on the table.

Mr. J. GLANCY JONES. I must decline to yield the floor for any purpose.

Mr. HOUSTON called for the yeas and nays on the motion to suspend the rules and go into the Committee of the Whole on the state of the Union.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 151, nays 48; as follows:

YEAS—Messrs. Adrain, Abl, Anderson, Andrews, Atkins, Avery, Barksdale, Billingshurst, Bingham, Bliss, Bocock, Bonham, Bowie, Branch, Brayton, Bryan, Burnett, Campbell, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Colfax, Corning, James Craig, Burton Craige, Crawford, Curry, Curtis, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Dick, Dimmick, Dodd, Dowdell, Durfee, Edie, Edmundson, Elliott, English, Farnsworth, Faulkner, Florence, Foley, Foster, Garnett, Gartrell, Giddings, Gillis, Gilman, Gilmer, Goode, Goodwin, Granger, Greenwood, Groesbeck, Grow, J. Morrison Harris, Hatch, Hawkins, Hoard, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Keitt, Kelly, Knapp, Jacob M. Kunkel, Lamar, Landy, Letcher, Lovejoy, MacLay, McKibbin, McQueen, Humphrey Marshall, Samuel S. Marshall, Mason, Maynard, Miles, Miller, Milson, Montgomery, Moore, Morrill, Niblack, Nichols, Palmer, Parker, Pettit, Peyton, Phelps, Phillips, Powell, Purviance, Quitman, Reagan, Ritchie, Royce, Ruffin, Russell, Sandidge, Scates, Sealing, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Stallworth, Stanton, Stephens, Stevenson, James A. Stewart, Talbot, Tappan, George Taylor, Miles Taylor, Thayer, Thompson, Tompkins, Tripp, Underwood, Walton, Ward, Warren, Cadwalader C. Washburn, Elihu B. Washburne, Israel Washburn, Watkins, White, Woodson, Wortendyke, Augustus B. Wright, and John V. Wright—151.

NAYS—Messrs. Abbott, Bennett, Blair, Buffinton, Burlingame, Case, Chaffee, Ezra Clark, Clawson, Comins, Covode, Damrell, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Eustis, Gooch, Howard, Robert B. Hall, Harlan, Thomas L. Harris, Hill, Howard, Jenkins, Kellogg, Kelsey, Kilgore, Leiter, Morgan, Edward Joy Morris, Oliver A. Morse, Murray, Pike, Potter, Pottle, Ready, Ricard, Robbins, Aaron Shaw, Judson W. Sherman, Robert Smith, Spinner, William Stewart, Wade, Walbridge, Waldron, and Wilson—48.

Pending the vote,

Mr. CAMPBELL stated that as he desired to facilitate the business of the House, he would change his vote, and vote "ay."

Mr. TAYLOR, of New York, said: I desire to say that I voted against the motion of the gentle-

man from Pennsylvania for the purpose of giving the gentleman from Ohio an opportunity to be heard. He desires, however, to go into committee. I will now change my vote, and vote "ay."

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair.)

INDIAN APPROPRIATION BILL.

Mr. J. GLANCY JONES. Mr. Chairman, the first bill on the Calendar is, I believe, a bill to authorize the issue of Treasury notes. As we have passed the Senate bill for the same purpose, I move that the bill be laid aside to be reported to the House with a recommendation that it be laid on the table.

The motion was agreed to.

Mr. J. GLANCY JONES. I prefer, for the present, to take these bills up in the order in which they occur on the Calendar. The next is a bill (H. R. No. 5) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859. The bill is a long one, and is drawn up strictly in accordance with treaty stipulations and the provisions of law. It is not susceptible of amendment or alteration without modifying treaties or changing laws. I shall therefore ask that, by unanimous consent, the first reading of the bill be dispensed with, and that it may be read by clauses.

There being no objection, the first reading of the bill was dispensed with; and the first clause was then read for amendments, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department, and fulfilling treaty stipulations with the various Indian tribes.

For the current and contingent expenses of the Indian department, viz:

For the pay of superintendents of Indian affairs, and of the several Indian agents, per act of 5th June, 1850, 28th September, 1850, 27th February, 1851, 3d March, 1852, 3d March, 1853, 31st July, 1854, 3d March, 1855, 18th August, 1856, and 3d March, 1857, \$66,250.

Mr. J. GLANCY JONES. Mr. Chairman, I have already stated that the bill now before the committee is one which will not admit of any amendment, unless it is by modification of a treaty or repeal of an existing law. We have already reached the month of February, and have passed but a single appropriation bill. There are nine on the Calendar already for the action of this committee and the House, and as there is an ample field for any latitude of debate which the House may choose to embark in, I am very anxious that the committee shall take up this bill, act upon it, and report it to the House, when another may be immediately taken up. My great object is to dispatch, as rapidly as possible, the public business, by the passage of these appropriation bills. At the same time, as I am well aware that a number of gentlemen are anxious to debate, not the question before the committee, but other questions, and as I have no disposition whatever to gag debate, or attempt to restrain it, except within reasonable limits, I give notice here that I shall not to-day, nor perhaps to-morrow, ask to have the debate on this bill closed; but I will ask the House at an early day to terminate the debate upon this bill within a reasonable period. I wish to say, that in doing so, I have no disposition to stop debate upon other questions, but simply that it shall proceed upon each of the other bills as it comes up, so that a portion of the time devoted to debate upon questions not before the House, may be taken upon each appropriation bill.

A motion was made, a few days ago, to hold night sessions, for the purpose of what is generally called Buncombe debate, and to confine the debate at other sessions of the committee to the questions immediately under consideration. That resolution failed, and I do not wish now to check the freedom of debate; but gentlemen will accomplish their entire object if they will, after allowing the general debate to go on for a day or two upon subjects not strictly before the House, allow the debate to be stopped, and the bill to be reported to the House and passed. We can then again immediately go into the Committee of the Whole on the state of the Union and take up another appropriation bill, upon which the same privilege of debate can be enjoyed.

KANSAS AFFAIRS—SLAVERY.

Mr. ATKINS. Mr. Chairman, conforming to a practice not unusual in this House, I shall pass by the immediate subject that now claims the attention of the committee, and shall proceed at once to the advocacy of the admission of Kansas into the Union with what is generally styled the Lecompton constitution. Kansas has become as "a thrice-told tale, vexing the dull ear of a drowsy man;" and yet it ranks in importance all other questions before this Congress. The peace and tranquillity of the country, the harmony of the Democratic party, and above all, the future policy which the dominant section of this country will foreshadow, if not establish, by their action on this subject towards the weaker section, are grave and momentous questions involved in this controversy, the proper adjustment of which is of the deepest concern to the patriot and statesman; this adjustment can be effected by the immediate admission of Kansas.

Kansas has occupied so prominent a position in Congress, and before the country, since its territorial organization; so much has been said and written of crimination and recrimination between the different parties—has been made by fanatics and demagogues the fruitful mother of discord, even to kindling the flames of civil war, that it is difficult to discuss the various issues growing out of that Territory without indulging in bitterness and reproach. Not so with myself. I am not "nursing my wrath to keep it warm." I have no pent-up fires seeking an outlet.

I would sooner ask a truce in this imbroglio, as the newspapers style it, for the moment, until we can reason together calmly and deliberately, as becomes the Representatives of the people, intent on truth and justice alone. We are told in the sacred writings that "a soft answer turneth away wrath;" and I am sure that the absence of passion is necessary to the proper investigation of any proposition about which the human intellect may differ. We all have indigenous ideas—ideas that derive their coloring from the influence of our particular locality; but we should never allow them to become so intensified by prejudice that truth cannot always overcome and vanquish error. I deeply regret that there is a difference of opinion in the ranks of the northern Democracy on this question; and it is to them, in a spirit of kindness, that I would address myself, there not being a single member of either branch of Congress from the North, outside of the Democratic party, to whom the South could appeal in behalf of her constitutional rights. Who does not know that it would be a work of supererogation to appeal to the Republican party? Though one were to rise from the charnel-house of death, and speak as never man spake, he could not make the least imprint upon their obdurate political consciences.

The principal objections urged by that portion of the Democracy who oppose the admission of Kansas may be summed up under two heads: first, that there was "no enabling act" of Congress, authorizing the Territorial Legislature to call a convention for the purpose of framing a constitution, preparatory to its admission as a State; and, secondly, that the constitution, as an entirety, was not submitted to the people for their ratification or rejection.

Mr. Chairman, I desire to examine these two objections in the order in which they are stated.

This is said to be a progressive age. New principles and ideas are being constantly evolved in science and ethics, and why not in politics? If we advance as rapidly in the next decade as we have in the last, in the usurpation of power by Congress, not warranted by the Constitution, or consistent with the inalienable rights of American freemen, as is contended for by a certain party, who can say that not only the Territories, but the States themselves, will require the assent of Congress to change or amend their own organic law? What, sir, is an enabling act? It is defined, I believe, by political lexicographers, to be simply giving the assent of Congress to an organized Territory to throw off its territorial form, and to frame its organic law, with a view to admission on an equal footing with the other States. I do not think the objection can be urged with any force against this application; since the very terms of the Kansas-Nebraska act provide that the people of the Territories shall have exclusive jurisdiction

and control over their own domestic affairs, not conflicting in any way with the Federal Constitution.

The distinguished Senator from Illinois said in the Senate, in July, 1856, that "all power which it is competent or possible for Congress to confer on the Territorial Legislature is conferred by that act;" and yet that same Senator now stands in a position asking Congress to confer still further power. It will not be denied, unless it be done by the advocate of unadulterated squatter sovereignty, that the people cannot exercise this control until they come to make their organic law; then the language of the act, "it being the true intent and meaning of this act not to legislate slavery into any Territory, or prohibit it therefrom, but to leave the people thereof perfectly free to form and regulate their own domestic affairs in their own way, subject only to the Federal Constitution," contemplated that the people would form and regulate their own institutions in their own way, without any further legislative permission from Congress; that is, make their constitution, and prepare to put on the dignity and sovereignty of a State, and ask of Congress that the door of admission be opened. This Kansas has done. What need, then, had Kansas for an enabling act, when the law of her territorial birth declared that she had the power already to do that which an enabling act only authorized her to do? Did the patriots of the Revolution require an enabling act from George III. to ordain this their Government, or was the Declaration of Independence sufficient authority? Congress becomes a tyrant when it transcends its own legal authority and powers.

But is an "enabling act" necessary to the admission of a State? In other words, has Congress the right to refuse a State admission, simply because its assent has not been previously given? In order to answer this question satisfactorily, it is necessary to inquire where the sovereignty with which a new State is invested resides during its territorial pupillage. Does it reside in the States of this Confederacy, or the people thereof? If so, how do they proceed to confer it upon the new State? It cannot be with them, else it would forever remain with them for it has no mode of egress. Does it rest with Congress? The Democratic party has not taught it in its creed; the Supreme Court has decided that it did not; for if it did, then could Congress force any sort of laws, however obnoxious, upon the people of a Territory. Where, then, I ask, does it reside? I answer, with the people of the Territories, restrained only by the Constitution. Sovereignty, though in a latent form, resides with the people, and they alone are the tribunal to decide when they will prepare to be recognized by Congress as a political community clothed with the attributes of State sovereignty. It is not for Congress to suggest. Congress has the power to admit or reject. It may judge whether there is sufficient population to justify admission—whether the constitution is republican in form; but that optionary power does not require the Territory to ask the assent of Congress before it can proceed to organize itself as a State.

I would remark, in that connection, that I totally dissent from the doctrine which is beginning to find supporters among that class of public men in this country who are called *national men*—but who would be better denominated consolidationists or centralizers—that the people of a State or of any political government can alter, amend, or annul, their organic law, except in the mode prescribed by itself, which is the supreme law; or by appealing to the sacred right of revolution, when a government is obnoxious, tyrannical, and offensive.

It is no time for southern men to embrace a doctrine which, sooner or later, may be commended as a "poisoned chalice to our own lips." I hold that the people of Kansas, who made this constitution, are the only legal authority in the Territory, and, as such, embody the sovereignty of the Territory or State; while those who oppose it are lawless rebels and outlaws, who are acting outside of the law, and consequently are the representatives, not of a political sovereignty, but of mere brute force. The law, in this Government, is our shield and protection. It is intended to defend the rights of the minority; the majority can take care of itself. It is for this reason that I cling to the Federal Constitution with a reverence that amounts almost to idolatry. Our whole sys-

tem admirably balances and adjusts the relative rights of the majority and minority, and is especially illustrated by the respective powers of the two Houses of Congress. For instance, Delaware and Rhode Island, in this House, are overshadowed and overpowered by the superior force of numbers from New York and Pennsylvania. Here their power is unequal, except in the accidental emergency which may devolve upon this House to elect a President of the United States. In that case the rights of the minority are protected. But, if you would see those rights fully vindicated, turn your eye to the Senate Chamber, and the voice of Delaware is as potent as that of the colossal State in the enactment of law. She sits there encircled and enrobed in all the queenly dignity of sovereignty—clothed with equal rights and privileges with the proudest of the sisterhood. The law of the Constitution is her shield, her panoply; and beneath it she reposes in conscious security. After a people have once established a constitution, and prescribed the forms and rules by which it may be altered or amended, I hold that to proceed to such alteration or amendment in any other manner than the one prescribed would be revolutionary. They would have no more right to do so, than posterity would have the right to repudiate the honest and legal contracts of its predecessors. If the people of a State have the right to upset and overturn a government without regard to the mode prescribed by law, why have not the people of the United States, by a popular vote, the right to upset and overturn the Federal Constitution, and build upon its sacred ruins a structure suited to the taste of the majority? And does any man doubt, if that were done to-day, the character of government that would be substituted? Does any man suppose that the spirit of compromise and sacred regard for the rights of the weaker, that animated our fathers—a Washington, a Hancock, an Adams, and a Jefferson—would enter into the councils of these latter-day statesmen and patriots? Never!

But it is alleged that an "enabling act" is necessary to the regularity of the admission of Kansas.

There can be but one mode of correctly judging of this "regularity" idea, and that is to conform to the practice of the Government. What is that practice? The history of the admission of new States establishes no rule; for, out of the eighteen new States that have been admitted into the great family of the thirteen old original revolutionary States, there have been only nine admitted with constitutions framed under express permission of Congress. They are Ohio, Louisiana, Indiana, Illinois, Alabama, Michigan, Mississippi, Missouri, and Wisconsin. So it seems, that if to be "regular"—that is, to conform to the precedents which the history of the admission of new States furnishes—Kansas could have followed either rule; that is, she could first have obtained the assent of Congress before framing her constitution, or have proceeded without it; and, in either case, she would have been in the "line of safe precedence"—she would have been "regular." Since there has been so much excitement, unnecessarily forced by the Abolitionists upon the country, in regard to Kansas; and since the original object of the Kansas and Nebraska bill was to remove this entire subject of domestic government from the halls of congressional legislation to the people of the Territories, I submit if this is not rather a late day to assume a position of hostility to the admission of Kansas upon a mere technicality, and when that technicality is wholly unsupported by the practice of the Government; for the practice of the Government has been as uniform in vibrating back and to from the "enabling-act" policy, to its opposite, as the seasons of summer and winter have followed each other, or that day follows night.

I now propose to notice the other objection, namely, that this constitution was not referred to the people for their ratification or rejection. This is the main ground of opposition.

I beg leave just here to remark, that I was opposed in my canvass for the seat I occupy upon this floor by a gentleman who voted in the Thirty-Third Congress against the Kansas and Nebraska bill. Of course I arraigned him upon that vote, upon the ground that it was, as I conceive, in direct conflict with the rights, interests, and the equality of the southern with the northern or free States. In the progress of the discussion between us upon

the slavery question, reference was made to the anticipated action of the Lecompton convention, when I assumed the ground that I was in favor of having, if the people desired it, a direct vote upon this vexatious question—slavery; provided it could be done in accordance with the doctrine of non-intervention, as contained in the Kansas and Nebraska bill.

This was in advance of the assembling of the convention. I am well satisfied that to vote to refer the Lecompton constitution back to the people and demand their indorsement of it as necessary to admission, would be a palpable violation of the doctrine of non-intervention, and of the rights of the people of Kansas. It would be virtually a repeal of the Kansas-Nebraska act, and set its great American principle practically at naught. But had it been consonant with that principle, I should unhesitatingly have stood up here in my place, as a Representative, and voted to refer the Lecompton constitution to the popular vote of Kansas. I am for carrying out the will of the majority of Kansas when lawfully expressed. The Lecompton constitution is their lawful will. When the delegates were elected, the people knew that the convention could submit the constitution or not, for Governor Stanton so informed them during the canvass. Governor Walker apprised them of the same thing, and was guilty of the interference of giving executive advice to the people of Kansas; thus endeavoring to prevent them from "regulating their own affairs in their own way."

The convention had full power to submit this constitution or not, as they chose. If Congress had the power, and were legitimately to exercise it, to reject this constitution, and demand a vote upon it by the people, it would be mere child's play; ay, it would be worse. It would be yielding to the fanatical and lawless spirit which has characterized everything that has been done by the free-State party of that Territory, composed, as it is, of straggling hordes of hired emissaries, carrying murder, rapine, and conflagration in their train. It seems that their only effort has been to experiment how far justice and law may be disregarded and trampled under foot with impunity.

The only question in all this Kansas controversy, between the Abolitionists and the friends of the Kansas and Nebraska bill, North and South, is the right of the people of the Territory to tolerate slavery in their organic law or not, as they might prefer. That was the question that we referred to, and it was the only one that we had any ground to suppose would be contested that was likely to be embraced in the constitution. It has been submitted, without any mandate from Congress, by order of the convention, to the people, on the 21st of December last, giving them a fair and legal opportunity to decide for themselves this great right at their own appointed time and in their own way.

I rejoice at the decision of the convention, and I commend the wisdom of its course, while I have, on the other hand, had it acted differently, no right to complain, as it is the exclusive privilege of that body to exercise supreme jurisdiction over the whole matter.

Kansas is following the example that has been set her by a majority of the States of this Union—their conventions having declined or failed to submit their constitutions to the vote of the people.

If the object is to secure to the people of Kansas the control of their own affairs, I submit if that object cannot be better effected by clothing Kansas with the authority of a State, than by continuing its territorial form, subject, whether properly or improperly, to the supervisory control of Congress?

But it is argued that the free-State men did not vote at that election. That is not the fault of the convention, but their own fault, and is but another stone to heighten the pyramid of folly that marks the history of that party in that Territory. Their failure to vote is not only their own fault, but, what is worse still, is a crime! for the failure was intended to operate as a check upon the action of Congress in the admission of Kansas into the Union, with the sole view of furnishing capital to the freedom shriekers in another presidential election. It was a crime against the peace of this Union. It was a crime against the spirit and genius of our free institutions—against the most sacred boon bequeathed us by our fathers, the

elective franchise. It is not only the prerogative, but the duty, of every American citizen to vote; for he is a part of sovereignty; for suppose every man were to fail to vote at our elections, then the Government would be at an end. It was a crime against their own cause—against posterity, whose interests are intrusted to their hands. It was a crime against those who did vote; for the validity of their action, although in obedience to law, has, in consequence, been since denied.

It will not do to say the constitution was not ratified. If I fail to vote I only transfer my political power in the Government to my neighbor who does vote. I clip from the Washington Union of the 29th of January an extract, which I think presents this phase of the case in a very strong light. The editor says:

"The two elections in Kansas on the 21st of December last, and the 4th instant, show conclusively that a large majority of the people of that Territory have either approved the Lecompton constitution directly, or indicated their acquiescence in it for the purpose of securing the admission of Kansas into the Union as a State. At the first election 6,712 votes were cast in its favor, being the apparent Democratic party strength. At the second, held under the constitution, about 7,000 votes were cast by the 'free-State' party for their State ticket. It appears, therefore, that a total of 13,712 voters have distinctly committed themselves to the constitution."

But, sir, I take higher ground still. I assert, sir, that the leaders of the free-State party of Kansas, with Lane at their head, and all who follow his counsel, are lawless rebels; and that to recognize their opposition to this constitution as exhibited in their failure to vote, as well as in their illegal voting under the direction of Stanton's Legislature, would be to disregard the people who stand by the laws and Constitution, and to set up mobocracy and rebellion.

Then, sir, the only question in the Lecompton constitution which was distracting the political parties of this country, and which was discussed seriously before the people of Kansas, in the election of delegates to the convention, as the history of that canvass shows, was submitted without being clogged with any other proposition. The question was, the "constitution with slavery," or the "constitution without slavery"—that is, that no part of the constitution was submitted except the slavery clause. This is obvious from the reading of the seventh section of the schedule. It commences thus: "This constitution shall be submitted to the Congress of the United States at its next ensuing session." This is an independent and imperative proposition, depending upon no conditions or contingencies. If it had been ordered to be submitted, and had been voted down by the people, how could it have been submitted to Congress? This is a great error into which some have fallen, and upon it assumed that this constitution is not republican in form. Had the whole constitution been submitted to the people, then there might have been various other questions which would have interfered with this particular one. The object of the convention was to frame a republican form of government, and to settle this one particular perplexing question in a manner which would admit of no doubt as to the views of the people: acknowledging the power, and leaving it with the people to alter, modify, annul, or reconstruct hereafter, their organic law in the manner and form prescribed and pointed out in their constitution.

Had the whole constitution been submitted, might not the free-State men—whose object has ever been to agitate—have complained that the all-absorbing subject of interest to them had been made to depend upon other, and not kindred subjects; that the clause tolerating slavery had been associated with the questions of currency, lands, internal improvements, schools, banks, &c.?

I think that the Republicans who have made such a noise in the country about slavery in Kansas, after the election of the 21st of December, and especially since the free-State party have acquiesced in the Lecompton constitution, and acknowledged its legality by participating in the election of officers on the 4th of January, with the view of organizing their State government, should feel rebuked, and their complainings should now cease. The Republican party in Congress are estopped in their crusade against the Lecompton constitution by the action of their friends in Kansas.

The northern Democrats who have intimated their intention of voting against this constitution, claim that they have not raised the issue of slavery

alone. They contend for the submission of the whole constitution to the people, as well on one ground as upon another, whether it tolerates or prohibits slavery; because, as they argue, that in so doing they best carry out the principles of popular sovereignty, as they understand them, as originally enunciated in the act organizing the Territory. I must confess that I do not see in this a justification; but, perhaps, I may not justly appreciate the force of the argument. They contend that they were the original friends of popular sovereignty; that they met the storm when in its wildest and most terrific form; that they nobly came to the rescue in 1854, when, to all appearances, the fury of the blast must sweep everything before it; that they are, and ever have been, ready to vote for the admission of Kansas, as they aver, with or without slavery, whenever she presents herself, having previously voted upon, and ratified by the popular will, her constitution; that there is a wide difference between them and the Republican party; that, while they are not controlled in their action by a reference to slavery at all, the Republicans, though every man, woman, and child in Kansas should desire that the institution be tolerated, would unhesitatingly refuse her admission, though that refusal should slough her off, were it possible, into an independent and foreign State. This is refining too much for our homespun understandings. It is poor comfort to the South; it is the apology which the hangman makes to the doomed criminal, when he adjusts the halter; it is keeping the word of promise to the ear, but breaking it to the hope.

Now what is the difference between Mr. Buchanan's position and the northern Democrats, who oppose his views? It is this: while the President expected and preferred that the constitution, as a whole, should have been submitted to the people, nevertheless he favors admission, as the only question about which there was any controversy has been referred to them. The President thinks that the convention was legally authorized to make a constitution; that it was optional with the convention to submit any part, or all, or none of that constitution, except the slavery clause, contending that the language of the territorial act required the convention to submit the question of slavery to the people; while those who differ contend that the language referred to requires the whole constitution to be submitted to the people. I am with the President, except that while I prefer and rejoice that the slavery question has been submitted, yet I do not think that there is anything in the territorial act obligatory or imperative. It was entirely optional with the convention.

This is a representative Government; it is *suu generis*; no other nation, either of ancient or modern times, so perfectly embodies the representative principle. It is our boast that all power is inherent in the people, and that our public officers are at last but our public servants. For convenience and practicability we delegate that power to chosen ones for specified purposes, to act as our servants or agents.

Now, there is no rule of law better established, and the validity of which is more universally acknowledged, than that whatever is done by a duly and legally-authorized agent, the principal is bound. It is especially true when applied to our political polity. We are emphatically a representative Government, as before observed. What we do here in Congress, our constituency, through us, have done. We are the medium, so to speak, through which they communicate one with another, and to the world. Sir, will it be contended that the convention was not duly authorized to make a constitution? The proof is abundant on that point. They were legally elected; they were clothed with sovereignty—that sovereignty which lay dormant or in a residuary form until it was vitalized by the action of the people, and conferred upon their delegates. It was in their sovereign capacity that they sent this their solemn organic law for their future government, that we might in due form initiate her into the great sisterhood of States, and that we might bespangle our banner with another star answering to the young and virgin State of Kansas. Shall she be admitted or not upon terms of equality? The Constitution says that Congress may admit new States when their form of government is republican. Have we any option, without doing violence to

the spirit at least of that sacred instrument which we have all sworn to support?

But to the difference. All are in favor of popular sovereignty in the Territories as declared in the Kansas-Nebraska bill. We think that the convention embodied this doctrine; that its action was the action of the people. But, says the distinguished author of the bill of 1854, "no, the people must speak and vote." Well, the people did vote; and they declare to us through the convention, the highest and most authoritative tribunal through which their wishes can be made known, that this constitution is the work of their chosen agents, and therefore their own. Then it becomes a question, not, say they, (if we allow to each other honest motives,) of principle, so much as a question of fact. There is no legal information before Congress that this constitution is not the voice of the majority of the people of Kansas. We must not go behind the law or proceed outside of the pale of the law. We all agree that no men or set of men—that Congress and the combined powers and energies of this great Government—can force a system of laws, a political government, upon the people of Kansas against their will, without first violating the territorial act of 1854, and every principle which underlies the whole federative system.

In a spirit of kindness, may I not inquire of our party friends on this floor who differ with us, if they are not going behind the principle of non-interference, when they refuse to accept this constitution as it came legally and regularly to them from the duly constituted tribunal; but propose to dictate to the people what manner and form shall be observed in the framing of their own government? Call you that leaving it to the people "to form and regulate their own affairs in their own way," or would it not be the act of the people in obedience to the mandatory behests of Congress? Call you that a question not of principle, but only of fact? It occurs to me if we maintain the doctrine of non-intervention in full force, and in its original purity, we must be cautious how we impose restrictions and make suggestions. It is none of our business how the people make their laws, or what kind of laws are enacted when they come to make a constitution, provided we know that it is the people, and not a faction, who are acting—which we can only know through forms of law, and regular procedure.

The Topeka constitution presented to the last Congress was a spurious emanation from a still more spurious and illegal source. It had none of the sanctions of law and regularity. Not so with this.

The great wrong to the pro-slavery party of Kansas has been committed by the negligence of the South, and by certain men in the South who have all the time desired that Territory to come in as a free State, supposing that political capital could be made thereby for themselves and their favorite partisan leaders. May not the pro-slavery party in Kansas—imitating the example of the great Roman General, when he was betrayed by his own friends, and in the agony of death exclaimed, "*et tu, Brute!*"—point to certain politicians of the South whose every effort has been to consecrate her soil to Abolitionism. For them there is no excuse, no palliation. They have been false to their own section and their own people. The position of certain leading politicians in my own State has done much to retard the progress of our cause in that Territory, by denouncing the Kansas and Nebraska bill. I do not, however, allude to my honorable colleagues on this floor, especially from the Hermitage and Murfreesboro districts, who stood up in 1854, and staked their political heads upon their fealty to principle; they, I believe, are the only gentlemen of that party who saved their heads in Tennessee; those who voted against the bill have been consigned by the righteous judgment of an injured people to the tomb, from whose sleep of death there is no resurrection. Instead of encouraging the southern people to remove thither, they have used means to dam up the streams of southern emigration to that Territory, thus becoming active and efficient emissaries of the anti-slavery Emigrant Aid Society.

Men who were friendly to the establishment of slavery in Kansas predicted that it could never go there; that it would not be profitable, and that the soil and climate forbade it; while quite another set of southern politicians urged, in addi-

tion to the reasons just stated, that there was no protection to be afforded the slave owner in his property, and that whoever emigrated thither with his slave did it at the peril of losing him. How false are all these predictions and positions! The soil, climate, and latitude of a large portion of Kansas are just the same as that of Missouri; where I am informed, by gentlemen whose credibility is beyond cavil or doubt, that the annual profits of the labor of a negro amount to \$500 in the production of hemp and tobacco; and yet we are told that slave labor is unprofitable.

As to the danger of losing your slave by abduction or escape, the facilities are no greater than they are in some of the southern States. The courts of the Territory furnish now all the protection which the civil authority affords in the States. These are the arguments originally started by the Abolitionists, as soon as the Territory was organized, with the sole view of making it a free State; and I regret that southern men, prompted by whatever motive, should have caught them up and heralded them all over the South, to the detriment of the pro-slavery cause. I do not desire to see slavery by adventitious aid forced into Kansas, nor do I desire to see it forced out by any such appliances. In the mean time, Kansas has been exceedingly unfortunate in her Governors. I believe, however, that the Governors have been equally unfortunate; for while they have attempted to stab Kansas, they in turn have been stabbed; and all Abolitionism cannot staunch their wounds. The soil of Kansas has drank their political blood. And, as if in order to give the finishing stroke, Governor Walker has broke upon the country the startling fact that an isothermal line forever precluded slavery from the virgin and prolific soil of Kansas. Such, sir, have been the blunders and treachery of southern men.

Yet in spite of all these difficulties, through fire and storm, Kansas comes to us with a pro-slavery constitution. She has passed her territorial pupillage—she has conformed to all the requisites of the law; and may I not be allowed to ask gentlemen of the Democratic party, how can you refuse her? Did not the Democratic party go into the fight in 1856 with this very identical proposition—that whenever the already mentioned prerequisites should be complied with, that any Territory, North or South, slave or free, should be admitted upon terms of perfect equality? Popular sovereignty and State equality were emblazoned upon your banners; they were the household words of the party—principles as old and as honored as the Revolution, without the recognition of which this Union never could have been formed. Truly is this equality of the States a germ of the Revolution; its spirit is breathed upon every page of the Constitution; and not until 1820 was the face of that charter of rights blurred by drawing for expediency's sake the black line of the Missouri compromise, which fell upon the ear of Jefferson "like a fire-bell at night—as the knell of the Union."

To efface that black line, by which one half the States of this Union were placed under the ban of inequality—an unjust and unconstitutional discrimination against the South—was the mission of the Kansas and Nebraska bill; and surely, since the Sage of Monticello penned the instrument which, as a sharp sword, severed the ties that bound us to British rule, and baptized our infant colonies in the blood and name of freedom, there has not been such an offering laid upon the altar of constitutional liberty. The Leecompton constitution is the result of the Kansas and Nebraska act; how strange to see those who stood by the parent measure in all its days of doubt, vicissitude, and final glorious triumph, now turn their backs upon the legitimate offspring. It is but another one of those unmistakable signs that appear periodically, but with shorter intervals, upon our northern political horizon, which admonishes the South of her rapidly impending fate.

The right of the people to govern themselves, restrained only by the Federal Constitution, whether in State or Territory, though not formally, is yet practically denied. This great truth was the watchword that flashed along the lines of the Democratic army of 1856. Did not the Republican party plant themselves as distinctly upon the principle that no more slave States should ever be admitted into this Confederacy? These were the banners, with their inscriptions, under

which the two principal parties of this country rallied in the last presidential struggle. The contest, in the South, it is true, was mixed up with the effete dogmas of Know Nothingism—the most of that party, with here and there a disgraceful exception, maintaining the same principles in common with the Democracy, touching the slavery issue. But how was it in the North? It was the bloodiest battle in the history of American political warfare. Only two years before that the national men of the North, with but very few exceptions, were overpowered and crushed out beneath the tramp of that mighty army with its myriads of fanatics, who marched in unbroken columns under that black banner upon which was written, in letters of blood, the memorable motto: "Anti-Kansas—no more slave States."

The admission or rejection of Kansas grows in importance and significance when we realize the fact that, with a large majority of those who oppose it—and that majority constitutes the larger moiety of the northern people—there is a settled determination not to admit any more slave States into this Union. This sentiment is growing at the North, and the southern people should know it. I am aware that the followers of the Illinois Senator contend that slavery is but an abstraction merely in Kansas—an admission I do not make; but even if it were, so much the stronger evidence that you do not intend ever that another slave State shall enter the door of this Confederacy. If you will not admit a State because it has the abstraction of slavery, without the institution practically, by what sort of logic are we to conclude that you would vote to admit a State that was clearly and unequivocally and practically in favor of slavery? If you are alarmed, and flee at the approach of shadows, how can we expect you to stand when the substance itself shall appear before you?

Whether Kansas shall be a free State or a slave State, will not affect my course; while I would prefer, as it seems to me every true southern man should, that she should come in as a slave State, in view of the effect which her close proximity may have upon Missouri, by whom the South should stand as one man, and never desert her though they had to march through fire and blood; nevertheless, I am here, to-day, ready to assume the responsibility to vote to admit Kansas as a free State, providing she applied in that capacity. It is principle that I contend for; the right of the people to govern themselves, and the equality of the States; is there nothing in that doctrine, though slavery be disconnected altogether with it, for which we of the South, as sovereign States, and as freemen, should contend? Should a gentleman submit to an insult any sooner than he would to a blow from an antagonist? The Boston merchants threw the tea into the ocean for the sake of a principle, which caused the first gun of the Revolution to be fired. It was a difference about a political principle or abstraction, that brought about the war of 1812. Principle is everything; deeds are only significant where they result from principle.

The leading idea of South Carolina's great statesman, of preserving an equilibrium of the strength and power of the free and slave States, is now gone forever. The admission of California threw the balance into the northern scale, and the admission of Oregon and Minnesota will forever preclude all hope of its readjustment. But was any one prepared to suppose that the day was so near at hand, that the sectional majority in either House of Congress would forever close the doors against the admission of any more States tolerating slavery? Truly will the South feel that the evil day is near if Kansas is rejected. No matter what the motive may be, let me say to you that the conservative men of the South will feel, that as their rights are trespassed upon inch by inch, that they must begin to look to and within the South for succor and relief. That principle once established and imbedded in the southern mind, it will not require a prophet to foresee the decline, and, unless there should be a returning sense of justice in the North, the end of this the model Republic that has yet been recorded in the annals of time. To quietly submit longer, would only encourage and invite continued aggression and wrong, and serve to deprive us, in the estimation of the enlightened Powers of earth, of the respect which resistance would at least entitle us to.

Oh! but the Republican party say that they are opposed to the extension of slavery. Southern expansion is their climacteric of political woe! Why are you opposed? It is a domestic institution—is it any of your business? Not if there is any truth in the doctrine that government was instituted among men upon the consent of the governed. That the people have a right to govern themselves, is an undeniable truth; and if they desire slavery, why oppose it? You cannot be opposed to slavery because the number will be increased thereby. Not a slave will be born by extending slavery into Kansas that would not be born by prohibiting the institution from that Territory. It cannot, then, be through motives of philanthropy and sympathy for the negro. Do you oppose its extension because you look forward to the day when you hope that the South may be overrun with a black population, with but few whites to control them—thus endangering the safety and supremacy of our race? Do you forget that we descended from a common stock? The Baptists of Virginia, the Huguenots of South Carolina, and the Puritans of New England, were all Anglo-Saxon. They were the nursery of this proud nation—the germ from which sprung this mighty people who now control the northern hemisphere of this continent, stretching from the icy North to the balmy South, and from ocean to ocean, shedding light upon the nations, offering a shelter to the downtrodden and oppressed of the world. And is it true that our northern countrymen, with the same blood coursing their veins that animates ours, are willing to force us into a war of races that would end in the extinction of the one while desolation and ruin would surround the other? Is this the heritage that you would bequeath posterity?

Sir, it cannot be concealed that the object Abolitionism—and Black Republicanism is its synonym—has in opposing the extension of slavery, strikes at its very existence in the States. They wish to confine it within narrow limits until it becomes burdensome and profitless, on account of its increased numbers within a limited area. They would dam up the stream until it overflows its banks, spreading devastation around.

Sir, the northern people who have been deluded and deceived by demagogues; who are made to believe that our beautiful South is a land of stripes and blood, are culpable for not having torn from their eyes the veil of misrepresentation and falsehood with which they have been hoodwinked. I had hoped since the nation, North and South, is becoming checkered all over with a network of railways, making the travel from the extreme limits of one section to the other cheap, comfortable, and expeditious, that the northern people would visit us more, partake of our hospitable boards, and see for themselves.

It is a remarkable fact, that our northern commercial men entertain sounder and more conservative views with reference to the institutions of the South than any other class as a class of their population. That is a fact worthy of reflection. Why is it so? Simply because they know more about the South from their commercial intercourse and social relations with the southern people. They know that all this sentimental philanthropy that would decoy and abduct a slave from his master—from a home of protection and plenty—and then permit him to starve in some miserable garret or cellar in some northern city is as cruel, false, and inhuman towards the deluded slave, as it is mean, dishonest, and an outrage upon the rights of the master. They know very well that slavery is the normal condition of the African negro, and that he has never attained to one half the degree of civilization in his native land or in this country, as a free negro, as he has under the guidance and control of his southern master. Commercial men, and they have been styled the factors of the agriculturists of the South and West, ought to make still greater effort to correct northern sentiment and to put down all this fanatical cry against the southern people. But for the products of slave labor, cotton, rice, sugar, hemp, and tobacco, which seek an exchange for other products in foreign markets, and thus constitute the commerce of our northern cities; and but for our direct trade with those cities pouring into their laps annually many hundred millions of dollars, the result of our slave labor, what would become of that commerce? What would become of the many

millions who now swell the great cities of the North, and whose handicraft labor is enriching that people?

New York is now the great commercial center or heart of this nation. She does not experience the least irregularity in her inmost receptacle that does not forthwith extend itself to the extremest limit of our southern and western trade. Her pulsations vibrate throughout the land. We have just passed through (if indeed we may flatter ourselves that the dawn is breaking) one of the darkest periods known to the history of monetary revulsions. Oppression and bankruptcy have waved their black wand of despair and ruin over the fate of thousands. The arm of industry has been paralyzed; labor has been denied its just reward; credit has been destroyed; and a wail of woe has filled the air, produced how? Simply by the expansion and sudden contraction of a worthless paper currency based upon false promises instead of gold and silver. In all this distress—and one gentleman said a few days since that it had brought starvation into his district, staring like a specter of death at the helpless and poor—not one solitary dollar of actual capital of national or universal currency has been sunk, lost, or destroyed. It is all the result of fictitious causes.

Now suppose that you could carry out the schemes of the northern fanatic or Abolitionist, that you would so hedge in slavery, surround it on all sides by a cordon of free States, prevent its extension, making inroads upon it at every possible aperture, narrowing the circle at every source of approach, until it should become profitless, ay, burdensome, and thus effect its abolition: what will you have made in a monetary point of view? Strike down at one blow the immense profits of slave-labor, which to-day enriches the North, and, sir, instead of the teeming millions of operatives who now fill your workshops—your mills of various kinds, not a hammer scarcely will be heard to beat, and not a spindle will charm the ear with its musical hum; grass will spring up in your streets, and plenty will desert your land. The cry will be truly "blood or bread!" If such consequences legitimately follow the withdrawal of the productive energies of slave-labor, what would be the picture if abolitionism could accomplish the abolition of slavery, and the \$2,000,000,000 (the value of slave-labor) were at another blow struck down from the bulk of American capital? Sir, will any man attempt to describe the picture? Instead of tenantless shops and crowded streets with the cry of "blood or bread!" the cry will be "blood and bread!" Think not that the evil will be upon us of the South alone. No; serious as it might be, if it were possible that the South would ever submit to such wrong—before which I am free to say every true southerner would first find his sepulcher—yet its effect upon the North cannot be described.

But you say that you once had slaves in many of the northern States, and that no such results followed emancipation. You never emancipated your slaves; you brought them down South, sold them, put the money in your pockets, and returned home, really doubting the morality of owning slaves. Pharisee-like, you were very conscientious after you got the money in your pocket. Sir, is the North determined that there shall be no more slave States admitted into this Confederacy? While the dominant power of the North uses every means within their grasp to prevent Kansas from coming into the Union, because she has recognized in her organic law the rights of her people to hold any kind of property they may choose, even though it be slaves, are they determined to wage an unending and relentless war against any and all efforts that may—it matters not how very remotely—look to the extension of slavery into Central America. I do not allude to Central America because I would advise any active movements upon the part of the South towards its colonization, but because it serves to illustrate the temper of the times as manifested by the Abolitionists of the North, and by the overweening cupidity of the British Government to get a foothold there that may be prejudicial to southern interests.

We are coolly told that Central America must be Americanized, and that the anti-slavery Emigrant Aid Society of New England is to accomplish the work. Is the object to surround the South with free States? New England men are to colonize

and Americanize Central America, as though the North did not have free territory enough.

Empires have been acquired by southern valor and a common treasure, and consecrated to the free society and institutions of the North; and yet abolitionism, or Black Republicanism, would fain deny to the South any outlet for the expansion of slavery, but would confine it and manacle it in a limited area, that it might in the process of time bring incalculable and incurable woe upon the South.

New Englanders Americanize Central America—engage in pursuits requiring active manual labor and exertion, under the burning rays of that tropical sun!

You tell us that the climate and soil of the northern States forbid slavery within your limits. We believe it; and are willing that you may enjoy your own views to the fullest extent. But these same laws require and demand slave labor in the South; the law of making money looms up in bold relief, and points the devotee of Mammon to slave labor in that country. African slavery is destined to fill up the neglected and deserted wastes of Central America; and if Yankees go there, they may depend upon having to live beneath the shadow of that institution. The unbending law of necessity demands it. You may depopulate New England, and pour the stream of emigration as an avalanche upon that soil, as the Northmen overran Britain; and a few sickly winds, with a vertical sun, will expel every white man from the field of active manual labor. It is only the negro, whose physical constitution enables him to dig the exuberant soil of that country. White men may, and must, direct his labors; for a community of civilized negroes, making their own laws, and controlling their own government, is unknown to the political economist or statesman. White men must govern and control that miserable, stolid, ignorant race of people, who are, and ever will be, unfit for the arts of American civilization, if left alone to work out the problem of their destiny. A hybrid, mixed race, of all kinds of blood, color, language—Indian, African, Mexican, Malay—mingling and vegetating in inglorious emasculation and degeneracy, upon a soil that might, by a proper system of government and culture, be made to "bloom and blossom as the rose." A thousand anti-slavery emigrant aid societies cannot prevent the introduction of African slavery into that beautiful, but neglected land.

The annexation of Nicaragua or any of the Central American States to this country, either as States or Territories, is a proposition foreign to my present inquiry.

It surely is a matter of the deepest moment to all our varied interests, commercial, foreign, and domestic, that the Monroe doctrine be enforced strictly in Central America. England has been watching and looking on with a lustful eye. We owe it to ourselves that no European Government be allowed to establish a protectorate in that country, or exercise in any way civil or political authority.

General Cass, in a recent letter (21st May last) to a Walker meeting in New York, lays bare the designs of England in the following significant language. He says:

"A new day, I hope, is opening upon the States of Central America. If we are true to our duty they will soon be freed from all danger of European interference, and will have a security in their own power against the ambitious designs of England far better than Clayton-Bulwer treaties or any other diplomatic machinery by which a spirit of aggression is sought to be concealed till circumstances are ready for active operation."

We have had quite enough of meddlesome interference by Great Britain upon both American waters and upon this continent. She has entered into solemn treaty with Spain with the sole purpose of preventing this Government from purchasing Cuba. She has freed the black population in Jamaica, to the infinite joy of the Abolitionists in this country; and yet she enslaves the natives of India, and actually proposes to the French Emperor to furnish, through the agency of the East India Company, the prisoners of war who have been captured by the British army, to the people of France, to be worked and controlled as apprenticed slaves. She marauds the world over. She is obstructing our interests in every way she can devise in Central America. But the other day, in offering to aid Commodore Paulding in his seizure of Walker, she was guilty of an interference which

was, in spirit at least, violative of the Monroe doctrine. The South owes it to her future independence and safety, that neither England or northern abolitionism, the one more than the other, or both together, be allowed to interfere in any manner whatever with Central America, Mexico, or any of the isles of the southern ocean.

The importance of the Americanization of Central America is growing daily; but we want none of the aid of New England's puritanical Abolitionists; still less do we want the scheme of the gentleman from Missouri [Mr. BLAIR] put in operation—the establishment of a second St. Domingo and Jamaica upon our southern border. Nor do we need the gratuitous assistance of England or any other European Power; let it be the work of the South, as it is the geographical and legitimate direction for the expansion of her own and similar institutions. Certainly in those perilous days to the property rights and institutions of our fifteen southern States, when the lava-tide of Abolitionism is slowly but surely encroaching upon us, we could not be indifferent to seeing a neighboring country bordering so closely upon our southern limit, affecting our domestic as well as our commercial polity, as she emerges from the misty cloud of semi-barbarism into the full-orbed splendor of civilization, build up the same kind of institutions, based upon the same foundation and having a common interest and sympathy with and for each other; and when the time shall come—if come it will—and God grant it may never come, when all equality between these States shall be obliterated, when the unwelcome dilemma forces itself upon the men of the South, either to yield the spirits and rights of freemen and become substantially the colonial and vassal tributaries to support and enrich an aggressive central Power, or to assert those rights as becomes the sons of worthy sires, we shall not hesitate to elect between the alternatives.

But while I will not close my eyes to the danger and evil that threaten and impend upon our future pathway as a nation, I yet trust that "the sober second thought" may prevail, and that the honor of the South may yet be vindicated by the northern Democracy. I can never forget the gallantry and self-sacrificing devotion to principle that they displayed in the uneven hand-to-hand fight of 1856; with what heroic firmness they met the assaults made upon the rights of the South; how they made our cause, and the cause of the Union, their cause. But for the efforts of northern Democrats, the coordinate branch of this Government, the present venerable Executive—wise, just, patriotic and firm—we should in his stead have had a Black Republican régime inaugurated and established; whose unconstitutional and sectional policy, if it had not rent the nation in twain, and lit up the fires of civil war, would have dispirited the hopes of the patriot, and alienated the affections of the people to the Government to perhaps an irremediable degree. If you would have us continue to cherish a holy regard for this Union, we must be treated as equals. The cohesive principle of this Union is not force; it is rather the opposite; it is mutual love and forbearance; claiming no superiority and acknowledging no inferiority, either as citizens or as States.

Sir, in Tennessee we are imbued not with the love of section only, but of our section in the Union under the Constitution. I have an abiding confidence in the ultimate justice and good faith of the northern Democracy, and that, as a party, they will continue to stand by the Constitution, in all its sanctity and integrity. When, in the canvass of 1856, southern men were tremblingly listening for the result of the election in the old Keystone, as the *avant-courier* heralded it over the land, it broke upon the great southern heart, overwhelming it with gratitude. It was a noble spectacle to see the Democracy of Pennsylvania rising above the sectional jealousies of her latitude, and boldly stemming the turbid stream of fanaticism, and rescuing from threatening ruin the argosy upon which the memories of our nation and its future hopes are freighted, in the election of her favorite son, the evidence of whose patriotism, fidelity, and capacity is a record service of near half a century. Indiana, New Jersey, Illinois, and California nobly offered themselves upon the altar of the constitutional rights of the States; and though the Democracy in the remaining northern States were overborne by superiority of numbers,

still they stood like a rock in the midst of the ocean, overwhelmed but unmoved by the conflicting surges that lashed it in ceaseless disorder. I trust the northern Democracy will continue to do us justice; if they desert—then is the South without hope.

The gentleman from Pennsylvania, [Mr. HICKMAN,] who addressed the committee a day or two since, boldly proclaimed that he was in favor of a sectional candidate for the Presidency in 1860. I trust that sentiment does not find a response in the breast of any other Representative from the North, who calls himself a Democrat. He should attach himself to the party to which his principles have affinity.

My faith is strong in the northern Democracy. Sir, we have tried northern Whiggery, and, although there are names connected with that party's history, who adorned it and the country's escutcheon; and there are a few gallant spirits, even living, whose effulgence shines in upon the waste of darkness that encompasses its memory, like the light of the fire-fly of the tropics, which only makes the darkness the blacker still; still the serried ranks of that party, once led with the prestige of a Webster in the North, and frenzied in days of old to very madness, by the heaven-touched tongue of Clay, was time and again decimated by the sirocco breath of anti-slavery, until those chieftains saw, in the bitterness of their hearts, in their declining years, their old Whig flag hauled down, and the black banner of Abolitionism hoisted in its stead.

The American party next appeared upon the tapis, and strutted for a brief hour upon the political stage; but it, too, became imbued with the fell spirit of Abolitionism, and its northern wing has entered that maelstrom whose circling wave ever tends downward and to the center.

With the sad fate of these parties before our eyes, will the national Democracy plunge headlong into an abyss from which there is no extrication? I trust not. By its past history, its present strong position, and the future glory that awaits it, if it but be true to itself, I trust not. Somehow or other I am impressed that this Union cannot survive very long the dismemberment of the Democratic party. It has survived the downfall of the parties I have just mentioned. They were built upon sandy foundations, and when the storm-cloud of sectionalism broke upon them they fell. It has survived the dismemberment of all the churches, except the Calvinistic Baptists; Puritan philanthropists of New England cannot sit at the table of the Lord with slave owners. Be it so; we can bear all that so long as the Democratic party, the great conservator of the Constitution, still stands; with its ranks, though thinned, we shall still have sufficient force to overcome the enemies of our constitutional rights. But how long will the evil day stay away, when the Union of our fathers and their Constitution shall become a mockery and a curse? But little longer, I fear, than the dismemberment and destruction of the Democratic party.

Mr. Chairman, the drama which is now being played, in which we all are actors, and which soon must close, will either gild our prospects with a bright and joyous future; or may drop a curtain, the blackness of which will enshroud in gloom the patriot's hope for the nation's weal.

Admit Kansas with the Lecompton constitution, and peace will again return to a distracted land, and once more spread her azure wings over a free, contented, and happy people. Reject her, and it is not for me to say what course Tennessee will or ought to adopt—how far she may pay deference and acknowledge her obligations to her sisters of the South; but whatever her honor demands of her, that will she do; and being born and nurtured upon her generous bosom, and having been honored with her confidence in various posts of public service, "let fate do her worst," I will stand by her, lo, even unto the end?

Mr. LOVEJOY obtained the floor.

Mr. FLORENCE. If the gentleman from Illinois will give way for a moment—and I know no gentleman of whom I could better ask the courtesy—I desire to present a petition in relation to the appointment of chaplains for the Army and Navy.

Several MEMBERS. You cannot present a petition in committee.

Mr. FLORENCE. I thought I might get it in

in a five minutes' speech, so that it may go in the Globe.

The CHAIRMAN. The Chair will say that it is not competent for the gentleman to present a petition in committee.

Mr. FLORENCE. Then if the gentleman will give way, I will read it as my speech.

Mr. LOVEJOY. If the brother wanted to pray, I would give way; but for a speech I cannot. [Laughter.]

Mr. FLORENCE. There are so many persons interested in this matter—"Order!" "Order!" If the committee will permit me to have it printed in the Globe as a part of the proceedings of the House, I shall have accomplished my object. I understand the gentleman from Illinois to give way.

The CHAIRMAN. The Chair understands not.

Mr. LOVEJOY. Mr. Chairman, before entering upon the consideration of the subject which is to be the principal theme of discussion, I desire to submit a few preliminary remarks as to the real nature of the contest in which we are engaged. To my apprehension, it is greatly desirable that we have a distinct and well-defined understanding of the conflict—for conflict it is—in which we are engaged, of the principles involved, and of the parties arrayed.

It is not, then, let me say, a conflict between the North and the South—a sectional strife between two portions of the country. I deem it unfortunate that the terms North and South are so frequently employed to designate the opposing forces in this contest. What is there to array the North against the South, or the South against the North? Nothing: so far as I can see, absolutely nothing. Is there any competition between the products of these two portions of our common country? Do the maize, wheat, and sorghum of the North, envy the rice, cotton, and cane of the South? On the other hand, the territorial extent of our country, the variety of its productions, and the range of its climate, are, if left to their natural operation, elements of strength, union, prosperity, and harmony. This complicated yet concordant unity is happily expressed in language employed for that purpose by one who has passed away:

"Not chaos-like together crushed and bruised;
But like the world, harmoniously confused,
Where order in variety we see;
And where, though all things differ, all agree."

If there is anything in the land that would destroy or even weaken this mystic, yet potent agency, that binds us together as a Confederacy, and which would hurl us in disjointed fragments into ruin and chaos, let it be brought to the altar of patriotism and slain.

What, then, is the source of this moral strife which at times wears an aspect so threatening and terrific? The source of the calamities which befel the Grecians in the Trojan war is recited in the opening lines of the Iliad:

"Achilles' wrath, to Greece the direful spring
Of woes unnumbered, heavenly goddess, sing."

What Achilles' wrath was to Greece slavery is to our own country—the prolific spring of woes unnumbered. Not the discussion, not the agitation of the subject of slavery, but the existence of slavery itself. The conflict, then, is not between the North and the South, but between freedom and slavery—between the principles of liberty and those of despotism. The free States (I speak it with shame) have advocates of slavery extension; the slave States (I mention it with joy) have many hearts that are loyal to freedom, and these liege men will be greatly multiplied ere many years roll away. I venture the prediction. The great mistake has been in identifying the South with slavery and slaveholding—in using the words as convertible terms. There is a class who advocate the rightfulness, perpetuity, and nationality of slavery, who seem to think that they are the South. Any attack on slavery, with its nameless wrongs and pollutions and usurpations, is construed into an assault on the South, and is called sectionalism.

But supposing slavery were not, would there not still be a South? Would not its rivers flow, its forests wave, and its soil and mines yield their annual and accustomed tribute? What if the class indicated a class infinitesimal as compared with the population of the entire Union, and numerically insignificant as compared with the whole

population of the South—what, I say, if this entire class should be annihilated by a single blow of that slumbering justice at whose anticipated waking Jefferson trembled; or be found, on some morning, heaps of slain, like the hosts of Sennacherib, pallid in their couch like the first born of Egypt, or buried like the horsemen of Pharaoh, beneath the avenging wave: would there not still be a South? What if the earth should open and swallow master and slave together: would there not be a class left more than equal in numbers to that of both the others, to wit: the non-slaveholders of the slave States, who, if freed from the presence and blight of slavery, would divide the territory into small freeholds, and commence a process of recuperation that would ultimately bring back the South to its original position, and make it the pride and glory of the whole land? Or—what is really desirable, and contemplating the only peaceful and bloodless and just exodus which I can see for the slave, and the only proper cessation of this conflict—supposing the present dominant class in the slave States, looking at this subject in the light of history, in the light of the inevitable workings and final triumphs of free principles, elevating themselves above the political expedients and shifts of a day, and taking broad, humane, and patriotic views of this subject, should, by some wise process, rid themselves of this malign system: would there not still be a South—a South jubilant, a country joyous, a world glad, and Heaven itself clothed in benignant smiles of approbation?

Then would be fulfilled that Divine injunction graven on the bell that used in the olden times to summon the fathers to their deliberations in Independence Hall—"Proclaim liberty throughout the land, to all the inhabitants thereof."

What an opportunity is here presented to the true heroic men of the South—an opportunity that never occurs but once during the life-time of an individual, and but seldom in the cycles of generations! Oh, that thou hadst known, at least in this thy day, the things that belong to thy peace, and true glory! I pray God that they may not be hidden from your eyes. The first Revolution found a leader from the South. The hosts of Freedom now marshaled in grand and goodly array, having passed their Bunker Hill, ask the South for a leader to take them to Saratoga and Yorktown. Have you the man—the hero? If so, let him ride forth, and you shall see whether we are a sectional party or not.

Opportunity rare! Have any of you a heart to improve it? Would you have your sculptured form fill some niche which is now vacant in these new Halls, or perpetuated on canvas and hung up amid the illustrious dead that now ornament the rotunda? Seize, then, this opportunity; forswear allegiance to slavery, and take the oath of fealty to freedom. You can gain no permanent renown in fighting for oppression; or, if you achieve fame, it will be like that of the madman who applied the torch to the temple of Ephesus—a bad preëminence. Some of you have the mental gifts and culture and position to achieve a fame that should be permanent and enviable. Have you the moral heroism to do it?

"Fear not; spurn the worldling's laughter,
"Thine ambition trample thou;
Thou shalt find a long hereafter
To be more than tempts thee now."

Let us, then, hear nothing more of North and South. We make no assault on the rights of the South; it is the wrongs and aggressions of slavery with which we grapple. The South, the citizens of the South, have all the rights, privileges, and immunities of the citizens of the North or West. Let those rights be guaranteed and protected, anywhere and everywhere, "to the fullest extent—to the fullest extent, sir."

The King of France, Louis XIV., in view of the union of that country and Spain, said, "there are no longer any Pyrenees." And I say, let there be no longer any Mason and Dixon's line; let it disappear, and let the country be one united whole; the rights of all equally respected, equally sacred.

But, as to slavery, that is a different thing. Whatever legal sanction it may have under municipal statutes, it has no constitutional sanction save the negative one of being left alone; while it skulks under and behind the sovereignty of the States, beyond the reach of the delegated powers

of the Federal Government. But where that Government has exclusive jurisdiction it has no right; and it has no moral right anywhere, and no suitable abode out of those penal fires that are never quenched. It is a very Caliban.

"Monstrum horrendum, informe, ingens, cui lumen ademptum."

And this brings me, sir, to the question which I desire to discuss—the question not only of the day but of the age—the most important question that has agitated the country since the Revolution, and the most solemn and grave one with which Christian civilization has had to grapple in modern times.

The President, in his message, claims, or rather assumes, that human beings are property in the absolute and unqualified sense—property as the grazing ox or the bale of merchandise is property; and that the tenure of this property is a natural and indefeasible right, guaranteed by the Constitution. And it has been averred on the floor of this House that, as an abstract principle, the system of American slavery was right, having the sanction of natural and of revealed religion. As the whole of this discussion, in its real merits, hinges on this principle or dogma, I confront it at the very threshold, and deny it. I affirm that it has not the sanction of natural or revealed religion, or of the Constitution.

I need not say that this is a new doctrine, unknown to the fathers and founders of the Republic. Indeed, till within a very few years, slavery was acknowledged by all classes, in the slave no less than in the free States, to be an evil, social, moral, and political—a wrong to the slave, a detriment to the master, and a blight on the soil; its very existence deplored, and its ultimate extermination looked forward to with earnest and often impatient hope. It was regarded as the relic of a barbarous age, which must disappear before the advancing civilization of the present. It was deemed to be contrary to the benign spirit and precepts of the Christian religion, which would ere long supplant it. Many of its ablest and truest opponents were reared in the midst of it, and could be called neither intermeddlers nor fanatics. No one pretended that it had any right whatever, beyond the limits of the local laws which created and protected it.

But all this is changed now. The demon of slavery has come forth from the tombs. It has grown bold and defiant and impudent. It has left its lair, lifted its shameless front towards the skies, and, with horrid contortions and gyrations, mouths the heavens, and mutters its blasphemies about having the sanction of a holy and just God; dodges behind the national compact, and grins and chatters out its senile perillities about constitutional sanction; and then, like a very fantastic ape, jumps upon the bench, puts on ermine and wig, and pronounces the dictum that a certain class of human beings have no rights which another certain class are bound to regard; and then it claims the right to stalk abroad through the length and breadth of the land, robbing the poor free laborer of his heritage, trampling on congressional prohibitions, crushing out beneath its tread State sovereignty and State constitutions. It claims the right to pollute the Territories with its slimy footsteps, and then makes its way to the very home of freedom in the free States, carried there on a constitutional palanquin, manufactured and borne aloft on the one side by a Democratic Executive, and on the other by a Democratic Jesuit judge! It claims the right to annihilate free schools—for this its very presence achieves—to hamper a free press, to defile the pulpit, to corrupt religion, and to stifle free thought and free speech! It claims the right to convert the fruitful field into a wilderness, so that forests shall grow up around grave-yards, and the populous village become a habitation for owls. It claims the right to transform the free laborer, by a process of imperceptible degradation, to a condition only not worse than that of the slave. Yes, sir, while the border ruffians are striving, by alternate violence and fraud, to force slavery into Kansas, the President and Chief Justice, by new, unheard of, and most unwarrantable interpretations of the Constitution, are endeavoring to enthrone and nationalize slavery, and make it the dominant power in the land; and are calling upon the people, in the name of Democracy, to crowd up to the temple gates of this demon worship! And all this upon the false,

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atrocious, and impious avowal, that human beings are property! Again I meet this doctrine, and spurn it. The Supreme Being never intended that human beings should be property.

In those far-off solitudes of the past, when that sublime manifestation of Almighty power was to be made in the formation of a human being, what was the utterance that fell from the Divine lips? "And God said let us make man in our own image, after our likeness; and in the image of God created he him." Made but little lower than the angels, crowned with glory and honor, there stood man, the delegated lord and possessor of the earth, and of all the irrational existence with which it teemed. This similitude of man to God is a reality. There is, in man's spiritual nature, a miniature God—debased this likeness may be, disfigured and dim, still there is the Divine tracery. The pearl may be in the oozy bed of ocean's slime; still it is capable of being burnished and made to glisten in the firmament of a future and immortal life.

When a monarch confides his signet ring to another, though that other be a beggar, that symbol carries with it the power and protection of royalty. And on whatever being the Divine artist has traced the image of himself, I insist that that being cannot, without wrong and impiety, be made an article of property. This spiritual existence with which man is endowed—this transcript of the Creator's likeness—is not a temporary endowment but an endless gift.

"The sun is but a spark of fire;
A transient meteor in the sky;
The soul, immortal as its sire,
Shall never die."

Shall a being thus highly endowed, and destined to an endless duration, be crowded down to the level of the brutes that perish? Does any one believe that that is in accordance with the Divine will?

As from the altitude of the stars all inequalities of earth's surface disappear, so from the standpoint of man's immortality all distinctions fade away, and every human being stands on the broad level of equality. To chattelize a rational creature thus endowed and thus allied, is to insult and incense the author of his being.

Look at it from another point. Eighteen centuries ago appeared the most wonderful personage that has ever moved among men—the God-man—the Deity manifested in human form. After a life of chosen poverty, passed amid the poor and the lowly, he laid down his life to expiate the sins of man. President Buchanan, believest thou the gospel record? I know that thou believest. Tell me, then, sir, did Christ shed his blood for cattle? Did he lay down his life to replenish personal property, to redeem real estate? I tell you, gentlemen, that this property claim in man is impiety rank and foul, against God and his anointed.

"Eternal Nature! when thy giant hand
Had heaved the floods, and fixed the trembling land—
When life sprang started at thy plastic call,
Endless her forms, and man the lord of all—
Say, was that lordly form inspired by thee
To wear eternal chains and bow the knee?
Was man ordained the slave of man to toil,
Yoked with the brutes and fettered to the soil,
Weighed in a tyrant's balance with his gold?
No! nature stamped us in a heavenly mold.
She bade no wretch his thankless labors urge,
Nor trembling take his pittance and the scourge;
No homeless Libyan on the stormy deep,
To call upon his native land and weep."

I adopt, with cordial admiration, the language of England's great statesman:

"While mankind loathe rapine, detest fraud, and abhor blood, they will reject with horror the wild and guilty fantasy that man can hold property in man."

In our preamble to the resolutions inviting clergymen to officiate as chaplains, we have avowed our belief in Christianity. One of the divinely uttered utterances of that religion is: "All things whatsoever ye would that men should do to you, do ye even so to them." The President, in his recent message, justly says that the avowed principle which lies at the foundation of the laws of nations is contained in this Divine precept.

Take one single feature of slavery: it annihi-

lates the family; it tolerates no home; it tears with relentless diabolism its plowshare beam deep right through God's domestic institution; and, having leveled it with the dust, rears the devil's domestic institution, and transforms the home, the house, into a stable, and its inmates into cattle. The relation of husband and wife, of parent and child, and the endearments of the home circle, are not, and cannot be legally known among the victims of slavery.

What a contrast between that family portrayed in the Cotter's Saturday Night—though they were in the depths of poverty, though they had been out to service during the week; what a contrast between that rude home and the best slave dwelling! From one springs a country's glory and greatness; from the other, a country's decay, shame, and disgrace.

Take away what there is of earthly happiness growing out of the endearments of home, and how much of human felicity have you left? I look around me, and see scores of men, many of whom have, in homes more or less distant, those dearer than life. Can any one prove to you, gentlemen, by any course of reasoning, that it would be right, under any possible circumstances, to doom those children to the auction-block, to be sold like cattle? If I can prove that it is right to take and chattelize another man's children, then he can prove it is right to do the same with mine. Make it right, as an abstract principle, to enslave one human being, and you have broken down the barriers that protect every other human being.

I come now to the constitutional question. The limits that I have assigned myself will not allow a full or even an extended discussion of this point. The President contents himself with declaring, in general terms, that the Constitution regards slaves as property, and adds that this has at last been settled by the highest judicial authority in the land. The Chief Justice who, according to the Executive, has settled this question, also alludes in a general way to the Constitution, and bases his dictum on coterminous history and sentiment, rather than upon anything found in that instrument. Both these gentlemen profess to be strict constructionists of the Constitution. Now, I beg to ask them upon what portion of the Constitution they rely for the support of this property dogma? They say it is in the Constitution. I say it is not in the Constitution; and in the absence of all proof my say is as good as theirs. In no article, in no section, in no line, word, or syllable, or letter, is the idea of property in man expressed or implied. It is a mystery to me how any man could ever believe it; and it is a double mystery to me how an utterance so absolutely untrue and so slanderous towards the framers of the Constitution, could be thrust before the American people from the supreme judiciary and receive the sanction of the Chief Magistrate. An ancient Roman prince said, that if truth should be driven from every other place, it ought to find a home in the hearts of rulers.

We have fallen upon evil times, when a Chief Justice and a Chief Magistrate deliberately and officially utter what, seemingly, they must know to be untrue. Terrible are the necessities and exactions of slavery! How can these gentlemen help knowing that these declarations are untrue? Do they not contradict the entire history of the country? Do they not contradict the repeated declarations of Madison on this very point? Has he not avowed, over and over again, that the idea of property was carefully kept out of the Constitution, so that when slavery should cease to exist in the States there would be no evidence in that instrument that it had ever existed at all? And now this instrument, so instinct with the spirit of freedom, so abhorring the idea of property in man, that it would not be polluted with the word slave, slavery, or servitude even, this Constitution is assumed, by its own inherent force, without any express law or legislative sanction whatever, to carry human chattelism into the Territory of Kansas, and if into the Territory of Kansas, into the State of Kansas; for what right has Kansas, or any other State, to adopt a con-

stitution that contradicts or invalidates the Constitution of the United States? If the slave owner holds his slave in Kansas by a tenure derived from the Constitution, I would like to know what power can take it away? If a new State forms a constitution with a clause prohibiting slavery, and comes and asks admission into the Union with such an organic law, it must be sent back with a mandate to strike out the prohibitory clause, as being contrary to the Federal Constitution. This has at last been settled by the highest judicial tribunal in the land. And it is a mystery to President Buchanan how any one ever could doubt it. Under this doctrine, carried to its logical results, no more free States could ever be added to the Union. *Proh pudor!* To this complexion it must come at last. To this complexion it has come already. The question now is, whether the country shall be the home of freedom or the lair of slavery; whether the despotism of the fetter and the scourge shall wield the scepter, and liberty be driven into exile.

But still further as to this property principle. If human beings are property, as is now claimed, why has Federal legislation declared the slave trade piracy? Is it piracy to go to the coast of Africa and trade in elephants' teeth, or in palm oil, or in any other article of commerce that may be produced there? If this property claim is correct, then this law is unjust, and ought to be repealed, unless it is to be considered in the light of a protective tariff to encourage and promote slave breeding at home.

More than this: how often is it that when slave owners lie down upon the death couch and look the future in the face, they emancipate their slaves? How often do they do it as a reward for some heroic achievement? Did you ever hear of men emancipating their cattle in their last will and testament? Do they ever bequeath freedom to their swine? or extend that precious boon to a Newfoundland dog that had rescued a child from a watery grave?

Besides, to whom belong all the stray cattle that are without owners in this country? There is certainly a goodly herd of them. How many millions of dollars worth I have not the means at hand of estimating accurately. Perhaps at the instance of the President the Chief Justice would enter up a judgment against them and issue a *capias*. They have no rights that are to be regarded. They are property, and all property ought to have an owner. They would bring a goodly sum, hard as are the times, enough to go far towards carrying Pennsylvania for a second term. But I meant to be serious, and I will.

I have no patience with these abhorrent assumptions, for I cannot call them arguments, which claim property in man. Such claims are an insult to the intelligence, the Christianity, and the civilization of the age.

I have a final objection to urge against slavery, and much more against its expansion. It lies across our country's glory and destiny.

Century after century rolled over the world, nay whole decades of centuries wore wearily away in earth's history, and the dogma gained universal prevalence and belief that kings ruled by right divine. *Dei gratia rex* was engraven on their coin. This dogma was by education incorporated into the common faith and acquired all the strength of a religious principle and all the ardor of a devotional sentiment.

I hardly need recite the unhappy results that flowed to mankind from the prevalence of this dogma. Monarchs wielded a scepter of iron. The masses were deemed of no value, only as they could minister to the lust, power, or ambition of the ruling class. The Government was not made for them, but they for the Government. Their blood saturated the soil, and their bones enriched it. They had no rights that kings were bound to regard. But the recital of the woes and wrongs inflicted and endured under the supremacy of this notion of the Divine right of kings would be an illimitable story—it would indeed be the history of the human race during the cycles of ages that they

have inhabited the globe. Heaven and earth became alike weary of this state of things. The period arrived when the Great Ruler would introduce a new theory of government. The curtain was to roll up and exhibit a new act in earth's drama. America was the theater where this manifestation was to be made. The old Pilgrim barks, borne as by a miracle over the angry ocean, came freighted with the elements of a new political life, and the germ of a new national organization. How they planted themselves at Jamestown and at Plymouth you know. How they struggled on in their colonial dependence against forest and savage, and British aggressions, you need not be told.

Then came the crisis of our fate? Our ancestors, Cavalier and Roundhead, and I bless their memory, met that crisis manfully, heroically. They came to the Revolution, and on its threshold it was that God poured that wonderful illumination over the mind of Jefferson, and inspired the utterance of those everlasting truths. How grandly majestic they come rolling down from the past, baptized in the blood that flowed from patriotic hearts. "We hold these truths to be self-evident—that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." This principle laid the ax at the root of the old and long dominant dogma, that one man, or race of men, was created to be kings or nobles, and another to be perpetual peasants and serfs. It placed them upon the broad level of absolute equality, so far as natural rights were concerned. It does not say all British subjects born on this side of the ocean are equal to those born on the other side of it, it does not say all English men are born equal, or all French men, or all Scotch men, or all Dutch men, or all white men, or all tawny men, or all black men, but ALL MEN. That every human being endowed with a rational existence, created in the image of his God, was equally entitled to life and liberty. It is on this principle that criminal jurisprudence rests. The law in its Divine impartiality exacts the life of the murderer, whatever his position, for that of his victim. Whatever may have been the intellectual endowments of the homicide, however exalted his social position, he must pay the forfeit of his life for slaying the most abject and idiotic of his species. And why? Because the life of the poor and debased victim was as sacred and inviolable as that of his gifted and exalted slayer. The one was equally entitled to his life as the other. So precisely with regard to liberty. To that every human being is equally entitled.

To protect these rights Governments are instituted among men. Not to bestow rights are Governments instituted among men, but to protect those which God has already given antecedent to all organic forms of government. I do not depend upon parliaments, or kings, or congresses, or majorities for my rights. I hold them direct from the Creator who formed me. So does every human being. The man, or body of men, who take away these rights without the forms of law or with the forms of law, unless forfeited by crime, are despots, tyrants and usurpers, and by the very act forfeit their own.

If a man is robbed of these rights it makes no difference whether it is done by one man called a king, or by many men called a majority. I do not subscribe to that translucent phantom of popular sovereignty when it claims the right to enslave men. In a company of a hundred men, have ninety-nine the right to rob the hundredth, provided even it is submitted to them and they have a fair election? A majority of a hundred men, of which I am one, may have the right to make rules which shall operate alike upon us all. But when they come to commend an embittered chalice to my lip, of which they will not themselves partake, then I say they have no right to do it—it is wrong.

If the people of a Territory or of a State will vote that they themselves and their children shall alike be slaves, I am content. But that a majority have the rightful power to take away the natural rights of any one single human being, I deny. Those rights, I repeat, are given and guarded by the common Father of us all. And as the parental instincts go forth with peculiar energy and jealousy toward the unfortunate and less favored member of the family circle, protecting his interests

and avenging his wrongs, so the Divine Parent watches with peculiar vigilance over the rights of the weak and hapless ones of earth, and avenges their injuries with a terrible and unusual retribution. Did it never occur to you, gentlemen, that as with the individual, so with the nation? Power, elevation, rare endowment, instead of conferring privilege and prerogative, impose obligation. The All-Wise and the All-Powerful is the All-Good as well; and it is His goodness that claims our adoration. And that one expression, which we have been taught to lip in childhood, and to utter in the strength of years—"Our Father"—is the Magna Charta of human brotherhood and of human equality before God and before the law.

What now is our country's duty, destiny, and true glory? To go marauding over the territories of weaker nations like buccaneers and poltroons, to extend the area of slavery; to hunt down fugitive slaves and take them back, manacled, to bondage; to break down the dykes of freedom and let the dark and ensanguined waters of slavery rush in a destructive flood over the land? No! In the name of the fathers, in the name of the Constitution, in the name of the Declaration, in the name of our dignity and position, and in the name of God, no! The true mission of this nation, the work assigned, the trust committed, is to reduce to organic form as we have already done, and now to illustrate before the world, the great and ever-enduring truths that I have recited, and thus to exemplify before the nations of the earth the principles of civil and religious freedom and equality, and so teach them that their monarchies and despotisms are usurpations. I never read that Declaration but with new admiration and delight. So comprehensive, yet so full. Embracing the entire Divine theory of human government in a single paragraph. All men, endowed by their Creator with an equal title to life, liberty, and the pursuit of happiness. Governments instituted among men to secure these rights, deriving all their just powers from the consent of the governed!

We hear about keeping step to the music of the Union. Sir, go build a huge organ on the shelving sides of the Rocky Mountains, and let the angel of liberty strike its keys and chant forth that sublime and grand old anthem of universal freedom; and then, as its notes roll over the land, solemn and majestic, in God's name, sir, I will keep step to the music of the Union. It is a divine symphony. But when you call upon me to keep step to the sound of clanking chains, and of human manacles, to the wild shriek of human agony and suffering, I cannot do it. It grates upon me like the very dissonance of hell. I cannot keep step to such music.

And now, sir, why do we stand thus proudly preëminent among the nations of the earth? Why has this nation been led to a position so grand and enviable? Is it because God is any respecter of persons or of nations? Not that; but because He has a grand work for us to do—to lead the world to freedom and glory; to the conscious possession and unmolested enjoyment of rights divinely given. And why should we abandon this position? Why are we called upon to betray the high and solemn trusts committed to our care by the Most High? Why are we asked to wheel around from the van in the progress of a Christian civilization, and with muffled drum and drooping colors march back a decade of centuries into the darkness and barbarism of the past? Why should we, by our refusal to fulfill the destiny plainly marked out for us by the finger of God, yield the honor of earth's renovation to some other people? What is to reward us for all this shame, loss of position, and recreancy to heaven-confided trusts? Will the clank of human fetters on the plains of Kansas, and the wail of man's despair on the Pacific shore, compensate us for this sacrifice?

Oh, how much more noble and heroic for those who have it in their power to say, in God's name this evil must be removed. What a future then flashes on our country? In those ages to come, by a natural process of assimilation and peaceful expansion, we should conquer and possess the entire continent. The genius of Freedom, on some lofty peak of the Rocky Mountains or the Andes, should look abroad, northward and southward, eastward and westward, and behold one vast ocean of republics, bound together by the federal compact.

"Distinct like the billows, yet one like the sea."

And as the recording angel dropped a tear of sorrow on the good man's oath, and blotted it out forever; so the genius of History, when she came to trace our record, would drop a tear of regret and blot out the fact that slavery ever existed. With this result in view, the Constitution was formed.

Shades of the departed, hovering around this Hall, I bless your memories for that Constitution.

Mr. SHORTER obtained the floor, but yielded to

Mr. FAULKNER, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House to authorize the issue of Treasury notes, and had instructed him to report it back to the House, with the recommendation that it be laid on the table; also, that the committee had had under consideration the bill of the House making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, and had come to no conclusion thereon.

The question being first upon laying the Treasury-note bill on the table, it was taken; and said bill was laid upon the table.

And then, on motion of Mr. LETCHER, the House (at five minutes before four o'clock, p. m.) adjourned.

IN SENATE.

THURSDAY, February 18, 1859.

Prayer by Rev. J. N. HANKS.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, the papers of Richard Fitch, of Ohio, respecting his application for bounty land; which was referred to the Committee on Public Lands.

PETITIONS AND MEMORIALS.

Mr. SEWARD. I present the petition of Henry Abram, of Richmond, Virginia; and, as it is very short, I can read it as soon as I can state the contents of it:

"I, Henry Abram, of Richmond, Virginia, do hereby petition the honorable Senate of the United States to take into its early consideration the propriety of granting to Virginia one hundred million acres of land, or an amount equal to the Northwestern Territory ceded by Virginia to the United States; said lands to be sold to actual settlers, and the moneys accruing therefrom to be applied to the purchase of the young slaves, and their migration beyond the United States."

I move that it lie on the table.

The motion was agreed to.

Mr. THOMPSON, of Kentucky, presented a resolution of the Legislature of Kentucky, in relation to pensions to the soldiers of the revolutionary war, and of the war of 1812; which was referred to the Committee on Pensions, and ordered to be printed.

He also presented a petition of soldiers of the war of 1812, and widows of some of those who have died, praying to be allowed pensions; which was referred to the Committee on Pensions.

Mr. GWIN presented the petition of Frank Madison, a colored man, who served as a waiter to Major Lee, in the Army, in the Seminole war in Florida, praying to be allowed bounty land; which was referred to the Committee on Pensions.

Mr. HAMMOND presented a petition of the president and stockholders of the Florida Steam Packet Company, praying for compensation for the seizure and detention of the Steamer Carolina by the collector of the port of Jacksonville, in May, 1857; which was referred to the Committee on Commerce.

Mr. HARLAN presented a petition of William F. Coolbaugh and others, citizens of Burlington, Iowa, praying for a grant of land to aid in the construction of railroads westward, through the Territory of Nebraska, so as to connect with the roads now located, to the eastern boundary of said Territory; which was referred to the Committee on Public Lands.

Mr. THOMSON, of New Jersey, presented the petition of citizens of Burlington, New Jersey, praying for the adoption of measures for the peaceful and gradual extinction of slavery; which was ordered to lie on the table.

Mr. BIGLER presented a resolution, adopted at a meeting of the German Central Agitation Club of Pennsylvania, in favor of the passage of the homestead bill now before the Senate; which was ordered to lie on the table.

Mr. SEBASTIAN presented the petition of Thomas Halenan, praying for indemnity for damages sustained in consequence of a change in the grade of New Jersey avenue in the city of Washington; which was referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. THOMSON, of New Jersey, from the Committee on Pensions, to whom was referred the petition of the heirs of Mary Hopper, widow of John A. Hopper, submitted an adverse report.

He also, from the same committee, to whom was referred the memorial of John Pickell, reported that the prayer of the memorialist ought not to be granted.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of Richard E. Randolph, reported that the prayer of the petitioner ought not to be granted.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of Anthony S. Robinson, heir of John H. Robinson, reported a bill (S. No. 158) for the relief of Anthony S. Robinson, heir and legal representative of John Hamilton Robinson; which was read, and passed to a second reading.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the petition of Thomas J. Page, submitted a report, accompanied by a bill (S. No. 159) for the relief of Commander Thomas J. Page, United States Navy. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Thomas J. Page, submitted a report, accompanied by a bill (S. No. 160) for the relief of Thomas J. Page. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred the memorial of American shipmasters in the port of Havana, in Cuba, asked to be discharged from its further consideration; which was agreed to.

Mr. ALLEN, from the Committee on Commerce, to whom was referred the bill (S. No. 77) to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851, reported it without amendment. He also submitted a communication from the Secretary of the Treasury on the subject; which was ordered to be printed.

SHELTON ISLAND.

Mr. WILSON. I submit the following resolution:

Resolved, That the President of the United States be requested, if not incompatible with the public interests, to cause to be furnished to the Senate, with the papers, correspondence, &c., called for by the resolution of the Senate of the 17th instant, in the case of Philo S. Shelton and Sampson & Tappan, all the correspondence, papers, and documents, on file in the Department of State, in original or copy, relative to the cases of Lang & Delano, and Wheelwright & Cobb, respecting the island of Aves, in the Caribbean sea, not heretofore furnished by said Department.

Philo S. Shelton, Sampson & Tappan, Lang & Delano, and Wheelwright & Cobb, have all filed in the State Department claims against the Government of Venezuela for an alleged interference with the rights of the claimants, in forcibly driving them from the island of Aves, of which they had taken possession as derelict, and upon which they had established themselves under the flag of the United States, for the purpose of obtaining guano.

At the last session of Congress, on the 9th of January, Mr. BELL, of New Hampshire, introduced a resolution in the Senate calling for certain information relative to the claims of certain American citizens for their expulsion from the Aves or Bird islands by the Venezuelan Government; to which, as also to another resolution of the Senate of the 4th of the preceding August, an answer was returned and printed as Executive Document No. 25 of the Senate.

On the 18th instant, Mr. FOSTER introduced a resolution referred to in the resolution now offered, confining the call to the cases of Shelton, and Sampson & Tappan, Lang & Delano, and Wheelwright & Cobb, of Boston, have claims; and equal justice to all demands that all the papers relative to their claims should be communicated to the Senate, if any are communicated.

The resolution was considered by unanimous consent, and agreed to.

PRIVATE CALENDAR.

Mr. IVERSON submitted the following resolution for consideration:

Resolved, That for the residue of the present session, after the present week, the private bills on the Calendar shall be special orders of the day, on Friday of each week, at one o'clock, in the order in which they stand upon the Calendar.

Objection being made, the resolution lies over under the rule.

ABSENTEE OFFICERS.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to inform the Senate whether any officers of the civil service of the United States, in the Territory of Kansas, are absent from their posts in said Territory; and if so, the reasons therefor.

Mr. BIGGS subsequently rose and moved a reconsideration of the vote by which that resolution was passed.

The motion was recorded for future action.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. A majority of the Committee on Territories, to which was referred the President's message transmitting the constitution of the State of Kansas, have had the same under consideration, and have instructed me to make a report, accompanied by a bill for the admission of that State.

The bill, entitled "A bill (S. No. 161) for the admission of the State of Kansas into the Union," was read a first time, and ordered to a second reading.

Mr. GREEN. I suppose it is hardly necessary to have the report read; it is quite long. I move that it be printed.

Mr. DOUGLAS. Before that order is made, I desire to present a minority report. I move that it be printed with the report of the majority, together with another minority report which I understand is to be made. I ask the Senator from Missouri to modify his motion, so as to print the whole of them together.

Mr. COLLAMER. I am directed by a minority of the committee to make a report, presuming that it will be printed with the majority report.

Mr. BAYARD. I do not rise for the purpose of objecting to the printing, but simply to object to calling papers which come from a minority of a committee, reports. There can be but one report from a committee, the official act of the majority of the body; but the views of the minority may be stated in a paper. I have no objection to their being so stated and printed; but they ought to be stated to be the views of the minority, and not the report of the organ of the Senate, which is the committee, under parliamentary usage.

Mr. DOUGLAS. I do not desire to enter into any controversy with the gentleman from Delaware in regard to the term proper to be applied to these dissenting reports. It has become a usage in common parlance to speak of the minority and the majority reports. You will find that that is our practice in nine cases out of ten. One or two Senators, I believe, in presenting dissenting reports, have conformed to the idea of taste suggested by the gentleman from Delaware, and called them "the views of the minority;" but the common parlance and common usage of the Senate, I presume, in nine cases out of ten for the last twenty years, has been to speak of such documents as minority reports. I have no particular desire on that point. Gentlemen can characterize the paper as they think best.

Mr. BAYARD. I think the honorable Senator is entirely mistaken, especially as regards the Senate. He will hardly find an instance of the printing, by the Senate, of the views of the minority of a committee fifteen years back. He will hardly find a case fifteen years, or even ten years ago, where the views of the minority were printed. I have myself, in particular circumstances, pre-

sented such a paper, and it has been called "the view of the minority." You may in common parlance call them reports, but it is not so stated on the face of the papers. It may be comparatively of little moment; yet I think adherence to parliamentary usages respecting papers of this kind is proper. There is a substantial distinction between them. One is the report of the organ of the body made by the committee to the body; the other contains the views of dissenting members. It is right that they should stand before the Senate and the country in precisely the position they occupy. I have no objection to their dissemination to the same extent as the report of the committee; but the report of the committee can be but one, I think, under parliamentary usage.

Mr. SEWARD. I beg leave to ask what is the question before the Senate? The debate is not on the printing, but upon the term or description which shall be given to these papers. Does that enter in any way upon the record? because, if it does, I have a word to say upon the subject.

The VICE PRESIDENT. It does enter upon the record.

Mr. SEWARD. The other day some members of the Committee on Foreign Relations, among whom I was one, dissenting from the majority, submitted a report which we described, if I recollect aright, as "the views of the undersigned, who dissent from the report of the majority, presented in the form of a minority report." I wish to ask if there is any objection to that?

Mr. BAYARD. It is nothing to me; it is for the Senate to decide. I think it is better to adhere to what is a distinction of substance, and require that a report shall come from that organized body, by a vote of the majority, that represents the Senate as a committee; and beyond that there is no report, in the proper parliamentary sense of the term, though it is undoubtedly proper and right to allow those who dissent in committee to present their views to the Senate, and have them disseminated in the same manner.

The VICE PRESIDENT. The Chair will state, on this point, that the other day, on another question, he had occasion to inquire into it, and confer with the officers of the Senate on this subject, and on the practice in respect to the Journal entries. The position taken by the Senator from Delaware he supposes to be correct, that the action of the majority makes the report of the committee; the dissent of the minority is submitted as the views of the minority; and he is informed by the Secretary, that the entries have been so made on the Journal of the Senate heretofore. Therefore, if there be no objection, the Chair will put the question on printing the report of the committee and the views of the minority.

Mr. GREEN. I will modify my motion to print, so as to include these dissenting opinions; and when the reports shall be printed, and Senators have had an opportunity to read them, I give notice that at an early day I shall make a motion to set apart some particular time for the consideration of this bill. I will not now designate the time, because I wish all to have a fair opportunity to understand the subject.

Mr. DOUGLAS. I am utterly indifferent as to what title we shall give these dissenting opinions of the members of the committee. We speak of the opinion of a court—that is, the opinion of a majority of the judges. The minority of the judges style their views "dissenting opinions." In our common parlance, we speak of the report of the majority of a committee, and the report of the minority. It is simply the dissenting opinion of those members (or that member, as the case may be) who do not concur with the majority. However, I make no point on the designation to be given to the paper.

Mr. MASON. There are many instances, as we all know, where forms indicate what the law is. The honorable Senator from Illinois has just used the expression, "the report of the majority of a committee." With all possible respect for him, I beg leave to say that is inaccurate. It is the report of the committee; but, if there are any who dissent from that report, it is the usage, I believe, in all legislative bodies—a usage which I am always happy to comply with—to print the dissenting views of the dissentients. I did not know until this instant what the case was, nor would it make any difference, but I submit that it would be better to preserve the forms that show

what the law is. Let the report be entered and printed as the report of the Committee on Territories, and any papers submitted by gentlemen from the committee which dissent from the report, be printed as the views of the gentlemen who dissent from the report of the committee. Take the case suggested by the honorable Senator from Illinois, who has himself been on the bench, and has illustrated, I am very happy to say, the ability of the bench of the country: if there be more than one judge, the opinion of the court is the opinion of the majority, and the views of those who dissent are entered as the opinions of those who dissent from the opinion of the court. So it is here. The report of the majority is the report of the committee; and the dissenting views are the views of the gentlemen who dissent from that report.

The VICE PRESIDENT. The Chair has already stated that he has no doubt in regard to the parliamentary practice, and he will put the question in the form he before announced.

Mr. DOUGLAS. I am unable to say how far these are dissenting opinions, for the reason that the report of the committee has never been read in committee. We know not what it is. We have had no opportunity of knowing, because we were required to report this morning, and it was impossible to read so long a report at the meeting of the committee this morning, if the bill were to be presented to-day. Therefore, whether these be dissenting opinions, or what they are, we have no means of knowing, for no one of the minority knows what is in the report of the committee.

Mr. GREEN. I beg leave to remark that the conclusion at which the committee arrived was well known by all its members. The question was, whether we would report in favor of the admission of Kansas as a State, or against it? A majority of the committee were in favor of it, and they of course make the report and assign their own reasons for the conclusion. The minority have the same privilege. The conclusions are just as variant as it is possible for conclusions to be. Each fortifies his own conclusion by the best material at his command.

The VICE PRESIDENT. The motion is, that the report of the Committee on Territories be printed, and also the views of the minority, as expressed in the papers submitted by the Senator from Illinois and the Senator from Vermont.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. ALLEN. I move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. BROWN. I must ask for the yeas and nays on that motion. I am opposed to adjourning over two days every week.

Mr. SLIDELL. I think we may postpone the taking of this question until after we know whether or not we shall get through the Army bill to-day. I presume there will be no objection to adjourning to Monday, if we get through with the Army bill to-day.

Mr. ALLEN. I withdraw my motion for the present.

Mr. CAMERON. I renew the motion, and I will give my reason for doing so. I desire to have it decided now, whether we shall adjourn over or not, so as to control my own action this afternoon in regard to going away. I move that when the Senate adjourns to-day it be to meet on Monday next.

Mr. WADE. I hope we shall not adjourn over. We have never touched the Private Calendar this session. There are a large number of reports from the Court of Claims before us, which ought to be acted on. Justice to the claimants requires that we should act definitely on them. There ought to be a day set apart for the consideration of those bills. I think our old rule is the right one, and that we ought to set apart at least every Friday for the consideration of private claims. The Senate has always done so at the previous sessions at which I have been a member of the body, but we have given them no kind of consideration at the present session.

Mr. CAMERON. After consultation with gentlemen I withdraw my motion.

CONSULAR COURTS IN CHINA.

Mr. FOOT. On the 15th of December last the President transmitted to the Senate a letter from the late Commissioner in China, transmitting a

decree or regulation for such revision as Congress may deem expedient, pursuant to the act of the 11th of August, 1848. This message of the President and the accompanying communication were ordered to lie on the table and be printed. I move that they be taken up and referred to the Committee on the Judiciary. It is understood, by a letter from the present Commissioner in China, that it is important this subject should be acted upon at an early day. It relates to the judicial powers of consuls.

The motion was agreed to.

REPORTERS' GALLERY.

Mr. FOOT. I will call up the resolution I introduced the other day in reference to the accommodation of reporters in the front seats of the reporters' gallery, with a view to place that matter under the supervision of the Committee on the Library of this branch of Congress.

The motion was agreed to; and the Senate proceeded to consider the following order:

Ordered, That the Committee on the Library consider and report a plan for the admission and accommodation of reporters in the eastern gallery, other than the reporters for the Congressional Globe.

Mr. TOOMBS. I hope it will be agreed to. I misunderstood the object of the Senator the other day. It is to put this subject under regulation, instead of leaving it without regulation. I should like to see it regulated. I wish to have a report that will not leave it unregulated, as it is now.

The order was adopted.

AMENDMENT OF THE RULES.

Mr. FOOT. Some days ago I presented to the Senate a proposition of amendment or addition to one of the rules of the Senate, which was laid over. I now call it up for consideration.

The motion was agreed to; and the Senate proceeded to consider the proposed amendment to the rules; which is, to add to the 11th rule:

And all motions to take up any business for consideration, or to postpone any question pending before the Senate, with a view to take up some other question indicated by the mover, shall be decided without debate.

Mr. FOOT. I have as little personal interest in this subject, perhaps, as any member of the body; but the experience of the present session, I think, has satisfied all members of the Senate of the importance of some such limitation—the less so, however, since the present Presiding Officer very properly, the other day, indicated at least, if he did not decide as a question of order, that preliminary motions to take up a subject for consideration, or to postpone a pending question, with a view to take up some other matter indicated by the mover, did not open the whole subject for discussion on its merits. I think that decision right; and if that decision were adhered to practically by the Senate, it would render the adoption of this rule less important than it would otherwise be under the practice which for a long time obtained in this body.

The experience of the present session, Mr. President, must have satisfied us all that the limitation proposed by this amendment to the rules will have the effect of greatly facilitating the dispatch of business, and simplifying the order and management of business. We have witnessed on these collateral motions a very general and irregular debate, not only upon the question proposed to be taken up, but upon the question proposed to be postponed; and not only that, but upon various other questions which different Senators think demand priority over others and the immediate consideration of the body. I therefore trust that by general consent this amendment will be adopted. I have not proposed it unadvisedly. I took occasion before I offered it, to confer with older and more experienced members of the body upon both sides of the Chamber, and it met with general concurrence—I believe without exception so far as my consultation extended.

Mr. BELL. I should like to know from the Senator how he supposes this amendment to the rules will be construed, if adopted? The provision is, that a motion to take up a question shall be decided without debate. The inquiry which I wish to make is, whether the honorable Senator from Vermont understands the meaning of that to be that no suggestions shall be permitted in regard to the reasons why one measure should be postponed to give place to another? whether it is absolute, so that when a gentleman moves to take

up a measure and postpone others which have priority by the preceding orders of the Senate, he shall only be at liberty to make the motion, without being allowed to say a word in explanation of his motion?

I beg leave to say, if that is to be the construction, it will operate very inconveniently. From my observation of the proceedings of this body and the other House, I think the effect of such a rule would be to give a decided advantage to the majority, who would have in either body the power to assemble—hold a caucus, if you please—and decide on the order of business, and all the minority, one after another, might make a motion, and each one would find himself overruled by what appeared to be the unanimous vote of the majority.

Another effect I can perceive, and this is without reference to majorities or minorities, either in the House of Representatives or the Senate: it would place the business of the body—I mean not party questions, but the general business of the body—under the control of the more active managing members; and a modest gentleman who would not like to go around and electioneer beforehand, who would not feel at liberty to make appeals to members on account of personal associations, to second a motion which he desired to make, would always find himself without support for his motions. You may say this is a result that cannot be avoided, because all members ought to be active and managing in getting business under consideration which interests them and their constituents particularly, and that a member who does not do that with success, is not so well qualified for his place, and cannot discharge his duties so effectually to his constituents or to his country, as some others; but that, I think, is not a sufficient answer to the objection.

These results will follow the adoption of this amendment, in my opinion, unless it allows a succinct statement of the grounds on which a motion to take up a subject is made. The great injustice of such a regulation is to the minority. I cannot be supposed to have a great deal of interest in this question, because my term of service here is fast approaching its end; and I stand in a very small minority here. I shall probably not feel it, but I throw out these views for the consideration of the body. In the first place, this proposition gives great advantages to the majority; and next it may affect even portions of the members of the majority, and do them injustice unless they possess the peculiar qualifications to which I have alluded. Most of the rules of the body are formed with a view to protect and allow equal rights and privileges to the minority of the body, like the guarantees in the Constitution itself. Those guarantees are not for the majority. If you mean to allow a majority to do as they please, you need no rules; majorities do not need their protection; rules are for the minority.

Mr. SEWARD. I hope the honorable mover of this proposition will consent to let it rest.

Mr. FOOT. I will follow an intimation from several Senators, and move that it be referred to a select committee of three members, to be appointed by the Chair. Before I sit down, however, in answer to the inquiry made by the honorable Senator from Tennessee, whether the purpose or effect of this rule would be to cut off debate altogether, I would only say that it would stand on the same footing, subject to the same restrictions, limitations, and privileges, with all other questions that are decided by our rules not to be debatable, as motions to lay on the table, for instance.

Mr. BELL. That is absolute.

Mr. FOOT. I move that the proposition be referred to a select committee of three, to be appointed by the Chair.

The motion was agreed to; and Mr. Foot, Mr. HUNTER, and Mr. STUART were appointed the committee.

INCREASE OF THE ARMY.

Mr. IVERSON. I move that the Senate do now proceed to the consideration of the bill to increase the military establishment of the United States.

Mr. HUNTER. I should like to ask the Senator from Georgia if it is his purpose to endeavor to close the bill to-day, and obtain final action?

Mr. IVERSON. In the absence of the chairman of the Committee on Military Affairs, who,

the Senate is informed, is sick, and unable to be in his place, the bill has to some extent, by his request and that of other members of the committee, been placed in my charge. I desire very much, as the chairman of the committee does, that the bill shall be disposed of to-day, if practicable. We must either dispose of it to-day, or sit to-morrow, because on Monday, the 22d of February, a number of Senators will be absent, and it would be unfair to decide it without a full Senate. If we do not dispose of it to-day, I shall insist that the Senate sit to-morrow.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States, the pending question being on the motion of Mr. CHANDLER, to strike out the fourth section, in these words:

SEC. 4. *And be it further enacted*, That hereafter regular promotions to vacancies occurring in the regimental grades of commissioned officers of the United States Army, shall be by regiments or corps, instead of by arms of service, as now regulated and provided in certain cases.

Mr. IVERSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. HALE. I wish to state that my colleague [Mr. CLARK] is detained from the Senate by sickness to-day, and has paired off with the honorable Senator from Mississippi, [Mr. DAVIS.]

The question being taken by yeas and nays resulted—yeas 24, nays 23; as follows:

YEAS—Messrs. Allen, Bell, Cameron, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Houston, Hunter, Mason, Seward, Simmons, Stuart, Thomson of New Jersey, Toombs, Wade, and Wilson—24.

NAYS—Messrs. Bayard, Biggs, Bigler, Bright, Brown, Clay, Evans, Fitch, Green, Hamlin, Hammond, Harlan, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Polk, Pugh, Sebastian, Shideell, Thompson of Kentucky, and Wright—23.

So the motion to strike out was agreed to.

Mr. WILSON. I move to amend the first section of the bill by adding the following proviso:

And provided, That such reduction shall not interfere with, or operate upon, any officer in the Army at the date of the approval of this act.

So that it will read:

Provided, That within two years after the passage of this act, or sooner, if the exigencies of the public service will permit, it shall be the duty of the President to reduce the military establishment so as not to exceed the number of companies, either in officers or privates, as now authorized by existing laws: *And provided*, That such reduction shall not interfere with, or operate upon, any officer in the Army at the date of the approval of this act.

Mr. SEWARD. I would suggest to the mover of the amendment, that there may be a doubt whether it does not make the reduction dependent as a condition on the fact whether the reduction will affect any officers of the Army. I would suggest to him to strike out "and provided," and insert "but."

Mr. WILSON. I accept that modification. I do not wish to detain the Senate upon this motion. I think it has been clearly shown, that at the end of two years, if this bill shall be sustained, the commissions of all the company officers of the Army will be in the hands of the President; and the ninety officers now to be appointed may be retained, and ninety may be selected from the officers in the Army at the present time and thrown out. I do not suppose that, in passing a bill to raise troops for temporary purposes, it is the intention of Senators to strike at any officers now in the Army, although it is said there is a great rush for officers in the five regiments that are talked of, and that there are about two thousand applicants for the places. If the bill should be sustained, ninety officers may be selected from political partisans in the various sections of the country, and when in the service, by the section as it now stands, they may all be retained; and officers who have served the country long and faithfully, may be thrown out at the end of two years. I do not suppose the Senate wishes to do any injustice to the present officers of the Army. The amendment was agreed to.

The PRESIDING OFFICER. (Mr. Foot in the chair.) If no further amendment be proposed to the original bill, the substitute for that bill is open to amendment.

Mr. JOHNSON, of Tennessee. I understand the proposition now to be on the substitute that I offered in lieu of the original bill.

The PRESIDING OFFICER. That is now open to modification or amendment.

Mr. JOHNSON, of Tennessee. I do not wish to detain the Senate, but I desire to make a few brief remarks in answer to some objections which have been urged to this proposition. It has been objected by some, for instance, that the substitute offered by me confines the President, in making his appointments, to particular persons, and that under the Constitution of the United States we have no such power. I wish to call the attention of the Senate to the fact that the law confines all appointments of midshipmen to the Naval School at Annapolis, and all appointments of cadets to the West Point Academy, to congressional districts. If you can confine the appointment of a cadet, or midshipman, or any other appointment to be made by the President of the United States, to a district, cannot you confine him to the appointment of particular persons? If the power is clear in the one case, it is equally clear in the other.

The objection is that my substitute confines the President in his appointments of officers to particular persons—those chosen by the companies. Well, sir, in 1846, when we passed what we called the ten regiment bill, it was provided:

"That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint one additional major in each of the regiments of dragoons, artillery, infantry, and rifleman in the Army of the United States, who shall be taken from the captains in the Army."

This law confined the President, in appointing majors, to the captains then in the Army. If that was constitutional, and Congress had power in that instance to designate whom the President should appoint, how do the provisions of the substitute, confining the President in the appointment of officers to the persons indicated by the companies, battalions, and regiments, conflict with the Constitution? If you can compel him to select majors from a particular class—the captains of the Army—can you not compel the President to take as colonels, majors, and captains, the persons elected by the regiments, battalions, and companies, when organized? The power is as clear in the one case as it is in the other.

Let us see how the Constitution stands on that point, for I want this question made clear. I do not want the idea to go out to the country that this proposition has been rejected on the ground that it came in conflict with the Constitution, or invaded any power conferred on the President of the United States by the Constitution. I know that whenever you come to popularizing the institutions of this country, and especially when you come to popularizing the Army of the United States, there is always some pretext, some excuse, for interposing an objection to the exercise of power on the part of the people. Why should not the regiments, the battalions, and the companies be authorized to elect their own officers when it does not come in conflict with the Constitution of the United States?

But it has been intimated or suggested to me, that such a provision is not constitutional. I do not pretend to understand a great deal about the Constitution; but I am very much inclined to think that if it was read a little more than it is, it would be better understood by a great many of us throughout the country. We find that the Constitution provides:

"The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

We may go on and establish the office of head of a Department; he is a superior officer; but the query now comes up, cannot the head of that Department appoint the inferior officers? I say he can, and such has been the practice. The Constitution further provides in the same clause:

"But the Congress may by law vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Departments."

I should like to know if the power is not clear. Does not my substitute vest the power absolutely in the President to appoint these colonels? It is

as clear as the Constitution itself. The great objection to the exercise of this power is that it is a confirmation of the will of the regiments in the selection of their officers. Let the men choose those who are to guide them in battle. Let the men choose those who are to sleep with them on the tented field. Why this great dread that you cannot get along in making these appointments unless they are taken away from the people? It is clear that the first section of the substitute is constitutional. It provides for the appointment of officers in the way pointed out by the Constitution itself, practically. It prevents delay. It does not even make it necessary to send such nominations to this body; but I shall have no objection to that if it be insisted on. These regiments can be organized, the officers commissioned, and put into the field, if the exigencies of the country require it, and whatever the Government wants to be accomplished can be accomplished at once.

I have made these remarks merely to remove the objections that have been intimated to me against the first section of the substitute.

Mr. HAMLIN. The bill which the Senate has already perfected, contains a section which requires that the troops shall be discharged at the expiration of two years, or sooner, if the exigency which called them into service shall cease. On reading the substitute which has been offered by the Senator from Tennessee, I find that in the last section he provides that the volunteers whom he provides for calling out, shall be dismissed from the service whenever the exigency which called them in shall cease. In the section of the bill perfected by the Senate, there is a maximum of time. In the section of the substitute of the Senator from Tennessee, there is no maximum; there is no positive limitation. I make the suggestion to that Senator that the last section of his substitute ought to correspond with the section of the bill which the Senate has already perfected.

Mr. JOHNSON, of Tennessee. I have no objection to that.

Mr. HAMLIN. Then I shall offer this amendment, to be added to the last section of the substitute:

And in no case shall the force created by this act continue in service more than two years.

The amendment was agreed to.

Mr. HUNTER. The question now before the Senate is on striking out the original bill, and substituting for it a proposition, as I understand it—for it has not been printed—to enable the President to call out four thousand volunteers, with their full complement of officers. That measure comes into competition with the bill, which, as now amended, proposes to add only thirty companies to the regular Army, and that for a temporary period. Both provide for a temporary exigency. According to the proposition of the Senator from Tennessee, we are to have four thousand volunteers for two years, or a less time, if the exigencies in Utah should allow of their being disbanded. According to the proposition of the committee as it now stands, we are to have the addition of thirty companies, consisting, as I understand from the gentleman who is acting as chairman of the Committee on Military Affairs, the Senator from Georgia, [Mr. IVERSON,] of between twenty-two hundred and twenty-three hundred men, with no officers higher than the rank of captain.

It has been objected to the bill reported by the Committee on Military Affairs, that there may be a difficulty in disbanding them at the end of two years; that these officers being incorporated with the great mass of the Army, a sympathy would be felt for them, and therefore Congress would be induced to repeal that provision which requires them to be disbanded. In order to carry out the manifest intention of the Senate, without exposing any future Congress to difficulties in the way of carrying it out, I have prepared an amendment, which I have given notice that I shall offer, in the event of the failure of the pending substitute. The object of the amendment which I have prepared is simply to carry out what seems to me to have been, so far, the declared will of the Senate; that is, that there shall be a temporary addition merely, and a temporary addition of only some twenty-two hundred or twenty-three hundred men.

Mr. JOHNSON, of Tennessee. With the permission of the Senator from Virginia, I wish to

make a suggestion to him. The basis of his argument is, that his proposition will incur a less expenditure than the one now pending before the Senate. When we turn to the first section of the substitute I have offered, we see it provides that the President may receive into the service any number of volunteers not exceeding four thousand. If it shall so turn out that no men will be wanted, he need not receive any. If he shall simply want one company, he can receive one company and no more. This power is to be exercised at the discretion of the President. It may turn out that he will want but one thousand or five hundred men, or none at all.

Mr. HUNTER. We all understand this. We all know from the Department that they want five regiments. We all know they will be called out. I do not suppose the Senator from Tennessee doubts that.

Mr. JOHNSON, of Tennessee. This substitute proceeds on the idea that they shall be called out, if at all, for the Utah service—for the Mormon war, if we may so denominate it.

Mr. HUNTER. This amendment proposes to leave it at the discretion of the President, who has already declared the number he will probably want. I say, therefore, so far as expense is concerned, it is right to compare this amendment, as if it provided for four thousand volunteers, with the expense that would be occasioned by the proposition of the Committee on Military Affairs, as now amended by the Senate. The amendment which I intend to offer is one which is designed to carry out strictly the intention of the Senate to make this force temporary, not to increase the number of your officers, and also to put it in the power of the President to disband them at the end of two years without exposing Congress or the country to any difficulty. It proposes to place it in such a situation that they must be disbanded unless Congress shall interfere by positive legislation to prevent it. I propose that this temporary force shall be kept separate; that it shall be raised as the ten regiments were raised during the Mexican war, with precisely the same provision which existed in that case in regard to disbanding them, under which they were disbanded, and returned to the bosom of civil society.

The propositions, then, as they stand, (for it must be remembered that both are temporary,) present a choice between four thousand men with a full corps of officers, field officers and all, and twenty-two or twenty-four hundred men, with no new officers higher than the grade of captain. In other words, the proposition of the Senator from Tennessee is to raise something like sixteen hundred men more than the Senate have already declared they think to be necessary. We are thus to raise not only sixteen hundred men additional, but to raise them in that form in which it has been proved the Army is most expensive; that is to say, we are to furnish volunteers, who, as has been shown by the whole experience of the War Department, which, surely, is worth something, and as has been shown by the reasoning of the chairman of the Committee on Military Affairs, which upon that head cannot be answered, are far more expensive than the troops proposed to be raised by the bill of the committee.

The Senator from Tennessee made us an admirable speech in regard to the necessity of economy. I concur in most of what he said in regard to that. I am glad to find that we are to have such a champion on this floor in the great cause of economy; but I could have wished that his practice had conformed more nearly to his precept. We are, by his amendment, to add some sixteen or eighteen hundred men more than the committee propose, who are to cost more per man than the regular soldiers. He tells us that the expense is to be \$1,600 a year per man. He takes that assumption of the Senator from Maine, [Mr. HAMLIN.] I do not indorse that assertion, that the soldiers are to cost \$1,600 a man; but suppose it to be so: then his amendment proposes to add an expense of something like two million dollars annually over and above what is proposed by the bill. Not only two millions annually, so far as the troops are concerned, but he proposes to make a much larger addition to the officers than the bill contemplates; to add a much more expensive character and description of force than that which the bill proposes; and it is to be followed by bounty lands, pensions, horse claims, and all that; and it will

take a whole bureau of officers, whose business it will be for years to settle the claims for the horses of these volunteers.

It seems to me that when the Senate come to compare these two propositions, they cannot and ought not to fail to vote down that which provides for four thousand volunteers. I know that there are certain descriptions of military service for which the volunteer is better fitted than the regular soldier. There are certain great exigencies in which the question is not so much the expense as the pressing demand for immediate military assistance, when it is necessary to call out volunteers and militia; but I submit that this is not one of them. This is a case in which the regular will perform the service more cheaply; and here is a competition between the two propositions, one of which increases the Army by a small addition of officers, and comparatively by a small addition of troops, and a much smaller expenditure of public money than the other. Why the Senate should be called upon to make this large and extravagant vote, I cannot imagine, especially when the appeal was made to us in the name of economy. I trust it will be voted down.

Mr. JOHNSON, of Tennessee. I think the gentleman's argument, with due respect to him, has but very little in it. In the first instance, he presses his proposition on the ground of economy; and he seemed to congratulate himself and the country that there was so able a champion here in advocacy of the cause of economy; but he says he would have preferred to see my practice conform to my precepts. Let us take the Senator's argument and see if my practice does not conform to my precepts.

What was the proposition reported by the Committee on Military Affairs? It was to make a permanent addition to the standing Army, which was variously estimated here to cost from five to seven million dollars. The honorable chairman told us two or three times in his speech that he did not expect to live to see the day when the Army would be reduced; that the proposed addition was to be permanent. Then what is the issue? Between the original proposition and the one which I have offered. But the gentleman sees great expense in that, and he comes forward with a favorite idea of his own; and what is it? He says his proposition is to make a certain increase of the forces of the United States to the extent of some twenty-four or twenty-five hundred men—that is certain. Then what is the proposition with which he contrasts it? What do I propose? It leaves the number to be raised at the discretion of the President and the War Department, it is true, but it is not to exceed four thousand men. If the gentleman's twenty-five hundred men will answer the purpose of the Government—will be sufficient, and no more than needed, will he impugn the President and Secretary of War by saying that if we confer this discretion they will call more men into service than are required? That is the issue he makes: his issue is with them that they will abuse this privilege. They say they may want four thousand, and the issue is with the Secretary of War and the President, not with me. The Senator's idea is that they cannot be trusted as to the number of men it will be necessary to raise to meet the emergency which may take place, or may not take place in Utah.

But again, the substitute I have offered proceeds on the idea that if troops are not necessary for service in Utah, the President is not to raise a man; and that if he does call out any, the number shall be in proportion to the wants of the Government; but he is not to go beyond the maximum of four thousand. Will the honorable chairman of the Committee on Finance deny the President and Secretary of War the discretion of calling out what they may deem sufficient between four thousand and the amount suggested by him, or not calling out any to meet the emergency? Is he not willing to trust them that far?

Mr. HUNTER. Let me ask the Senator if he is not willing to trust them so far as to give them the five regiments which the Secretary asks? Will he limit their discretion in that regard?

Mr. JOHNSON, of Tennessee. I do limit them; my proposition limits them. They may raise any number of men from one to four thousand. If there is no Utah war or difficulty, they need not raise any. That is my proposition. Your proposition is to raise some twenty-five hundred or

three thousand men certainly. Do you not make a certain addition to the Army?

Mr. HUNTER. I have stated that it is a temporary addition, like the other.

Mr. JOHNSON, of Tennessee. Exactly; the other is a temporary addition. So I meet you on that point; and mine may not make any addition whatever. We understand that. I proceed more on the idea that these men will not be needed at all. I do not believe there will be any Utah war. I believe that these people will submit to the laws of the United States; and that there will be no necessity for this Government to shed the blood of what we conceive to be a misguided and deluded people; for when it is understood that the President has sufficient military force placed at his discretion to quell and subdue any resistance they may make, I believe they will desist; and especially so if the President of the United States proceeds on that humane and parental feeling which was pursued by General Washington when he issued two proclamations urging the whisky boys to submission to the laws of the United States. I think it meets the precise case.

The gentleman says this force is to cost more than an addition to the regular Army. The substitute provides that they shall receive the same pay and allowances; that they shall be subject to the rules and articles of war; that they shall receive the same clothing as regulars, and that they shall be equipped at the expense of the Government. There will be no claim for volunteers' horses—the horses are to be furnished. If these men are to enter the service of the United States and receive the same pay that the regulars do, will it cost any more to transport them than to transport regular soldiers? In many instances they can be raised almost in sight of the place; from the neighboring State you can send the men into the service of the Government. The substitute provides that they shall receive the same pay; and will transportation cost any more for volunteers than for regular soldiers?

What then becomes of the gentleman's argument about economy? The issue is made up as to the difference between precept and practice. I am glad that the honorable chairman has embraced the theory. I trust and hope we shall have many evidences, before the close of this session of Congress, of the theory being reduced to practice, so far as he and others are concerned. I repeat here, I will go with him in retrenching the expenditures and reforming the abuses of this Government, as far as he who goes furthest. I am glad that I have such a leader, such a captain in the cause of economy; and I give him the assurance that I shall never shrink while he stands to his post.

Mr. HALE. Mr. President, I am pleased to see the amendment proposed by the honorable Senator from Virginia; not because I expect to vote for it, but because it is the first demonstration representing the views of the Administration since I made my humble efforts in their behalf some days since. [Laughter.] The honorable Senator from Tennessee read from the President's annual message to show what the views of the Administration were. I read from a later and a more authentic document when I represented the Administration—the Washington Union, of the very date of the day on which I spoke; and that paper said, that the reason why we had gone so wrong was, that not one in twenty of the Senate had reflected on the subject. It is not parliamentary, I know, to speak of the other House, and I shall not do it; but I shall suppose a case in the British Parliament, where the Administration are represented on the floor. The House of Lords sustain the Administration, and the House of Commons have become a little insubordinate, and by about three majority have shown a disposition to inaugurate a policy adverse to the Administration. Well, sir, the Administration have an Army bill in the House of Lords, ostensibly to put down rebellion in India. [Laughter.] They have before them a bill to increase the military establishment of England, so as to put down insubordination in India. The House of Commons manifest an insubordination quite equal to that in India, and the Administration want to put that down, too. When the editor said we had not reflected, he had reference undoubtedly to the insubordination in the other branch of the English Parliament—the House of Commons. We want the men to put

down the insubordination in Utah, and the officers to put down insubordination in the Commons—that is it, sir.

The objectionable feature of the proposition of the Senator from Tennessee, in this view of the subject, is that it does not repose so much confidence in the intelligence and discrimination of the Executive as it does in the people, and it undertakes to introduce democracy into the Army. If the Senator had ever read Captain Marryatt's "Midshipman Easy," he would have seen what was the result of introducing democracy into the Navy, and he will find that it will be about as easy to introduce it into the Army. It will not do. Democracy is very good to talk about and make speeches on; but when you come to apply it as a practical thing, and actually give the people the right of choosing their own officers, it assumes a different phase. I say we ought to submit to the censures of the Administration, when it tells us that we have not reflected. We cannot have reflected. Who is to choose these officers? How are they to be selected? Is this "cheap material," this "rabble," to come together, and in the exercise of its discretion, choose officers for the regiments? No, sir; I am compelled, in behalf of the Administration, to protest against it. True, they have not requested me to do so, [laughter,] but I stand up for those that have no friends, anywhere and everywhere. [Laughter.] That is what made me an anti-slavery man, because the slaves had nobody to speak for them. The Administration have nobody to speak for them here, and I would say, for them, we do not want this volunteer bill; we want the whole or nothing; we want the regiments with the right of appointing all the officers—"lieutenants, captains, majors, lieutenant colonels, and colonels." I tell you, these plumes and epaulets will do more to quell insubordination than the bayonets; and they will quell it in the right place, where it is a great deal more difficult to deal with than it is in Utah or India.

For these reasons, while I am glad that the honorable Senator from Virginia has introduced his proposition, I cannot go for it. I shall vote for the amendment of the Senator from Tennessee, but I shall only vote for it as an amendment. If it be adopted, and it shall come up on its passage as the bill, I shall vote against it, because I believe with him, this whole movement is unnecessary—utterly so. I believe with him, that there will be no war in Utah. I would send a schoolmaster there instead of an army. I would send a commissioner there instead of an armed force. It is not wanted. You may read the history of the world, from the beginning of time down to this moment, and you will find in that history that fanaticism, of whatever kind it may be, to use the classical phrase of my friend from New York, however "leprous" it may be, has never been put down by the sword. It never has been, it never will be, and it never can be put down by arms. That is not what is wanted in Utah.

I must protest again before the Senate and before the country against the argument which is repeated so many times, that if gentlemen do not satisfy anybody else they will by-and-by satisfy themselves that they are in earnest when they talk about this increase of the Army being wanted for the present emergency. What emergency? Has not the chairman of the Committee on Military Affairs, who represents—no, sir; he ordinarily represents the Administration, but he does not on this occasion—has he not told you that they do not want it for an emergency. They do not want it for a temporary purpose. They want it for all coming time, and for that reason I am opposed to every amendment. I hope somebody will go with me; but if not, I will go alone—it will not be the first time. I am opposed to every amendment which undertakes to fix limitations on this bill, telling the country that it is only to be used for two years. If the amendment of the honorable Senator from Virginia be adopted, I will go against that, because I know it is illisitory and deceptive. I do not mean that the Senator is deceptive. I know that he could not practice deception if he tried to do so, such is the integrity and the straightforwardness of his character; but the measure is deceptive. It will go out to the country to quiet their distrust against an increase of the standing Army, and in that way may lull the public suspicion and disarm the public jealousy against this obstinate and persevering attempt to increase the

standing Army of the United States. I tell you these amendments are not worth the paper on which they are written. Vote three regiments now, and when the time comes to disband them, they will ask for three more; and if there is no emergency, people will get up and talk of an emergency just as if one actually existed.

Let us meet this question fairly. If we must persist in the illusion, the deception, the legislative fraud, of saying that there is an emergency requiring an increase of the military force of the country at this time, let us adopt the measure of the honorable Senator from Tennessee, which treats it as an emergency, and looks at it as an emergency. But, sir, do not let us, under any such appeals, be led into the support of this measure, which, if it be not a permanent increase of the standing Army of this country, would not have been asked for—would not have been presented; and we should not have been here to-day debating it, if it was only a temporary emergency that was looked for. It is no such thing; and I am grieved and surprised that gentlemen will insist upon calling it and treating it as an emergency, when they are told, over and over again, that that is not it. There is no emergency. True there are Indians in our Territories, and there always have been; there are fanatics—

Mr. TOOMBS. They are on the decrease.

Mr. HALE. My friend from Georgia says they are on the decrease. Well, take it at that, and show your faith by your works. Show that you believe fanaticism is on the decrease. Combat it as fanaticism ever ought to be combated, by reason, and argument, and persuasion.

Now, sir, I say that this attempt to send out an army to put down Mormonism in Utah makes the crusades of the middle ages a prudent and sagacious expedition. Then all Christendom turned out to redeem the holy sepulcher from the profanation of the infidel; and that was a prudent and wise measure compared with the attempt of this country, at this time, to raise an army of six or seven or four or five thousand men to be marched over the mountains and plains of the western wilderness to put down this fanaticism in Utah. We are insisting upon it that that is the object, when the Administration tells us all the time, when the chairman of the Committee on Military Affairs tells us always, that that is not what they want it for. We are dealing with the Administration as a conceited quack would deal with a healthy man, trying to persuade him that he is sick of a certain complaint, and that we have an excellent nostrum to cure him, when he says all the time, "I am not sick, and want none of your medicine." So the Administration, speaking through their organ on this floor, tell us that they do not recognize the existence of an emergency in Utah calling for an increase of the Army; but we tell them, "Very well; we will give it to you, and you may keep it until after the emergency is over." It is over now; it is over this minute; it was over before you began to talk.

But it said "just let these Mormons know that the President has a force sufficient to put them down, and they will listen to reason." Good Heaven! do they not know it now? Do they not know that the President has the whole Army and Navy at his command? Do they not know that he has all the money of the nation at his command, and all that you can borrow besides? Do they not know that he has an organized Army to-day of fifteen thousand men? Do they not know that the whole gigantic power of this nation may be wielded against them? If they do not know that, if they have not read it by what lies patent upon the face of the world, are you, by the passage of this act, recognizing an emergency going to convince them that there is a great military power which can put them down, notwithstanding they have not found it out yet? It might be said, as was said in olden time, that if they hear not Moses and the Prophets, they will not be convinced though you vote that there is an emergency.

For these reasons I shall vote for the amendment of the honorable Senator from Tennessee as an amendment, and then go against the bill, let it be amended as it may.

Mr. GWIN. Some days ago I offered as an amendment to this bill a substitute to add five regiments to the regular Army. My object was to ascertain whether or not the Senate preferred

the proposition of the Secretary of War, as embodied in the substitute I offered, or the bill reported by the Committee on Military Affairs. If my substitute had been adopted, I should have moved various modifications, as it was the bill sent to the Military Committee by the Secretary of War. I was not in favor of increasing the Army as had been proposed by the Secretary of War in the form that he wished it to be increased. I do not believe the military force of the United States, as it is organized at present, is adapted to the wants of those sections of the Confederacy where their services are most needed. I do not believe that the present military establishment, extensive as it is, meets the wants and emergencies of the section of the country where those Indians are located whom they are intended to keep in subordination. If the proposition I moved had been sustained I should have offered a further amendment to make three of the five regiments mounted rangers, as proposed by the Senator from Texas, for the purpose of having that kind of force which is adapted to Indian warfare in his State and on the Pacific coast. I have no doubt, carrying out the statement of the Senator from Texas, that if we could have two thousand such troops as he suggested, commanded by such men as General Joe Lane and Jack Hayes, the whole Army might be withdrawn from that coast, with the exception of artillerymen from the fortifications. Give Lane and Hayes the selection of their officers for two such regiments, and you would have in the saddle such a force as never has been seen in this country, taking into consideration their numbers and the efficient service they would perform.

The Senator from New Hampshire thinks there is no emergency for raising any troops, volunteers or regulars. It is well known that we have a large force in Utah already. There certainly is an emergency to relieve that force. It is not of sufficient strength to meet the Mormons if they intend war. They cannot be conquered with such a force. It is utterly impossible for the United States to retreat from its position; and that is to bring the Mormons to subordination to the laws of the United States. The latest intelligence we have is, that they are in open collision with the authorities of this Government, and it is impossible for the President to retreat from his present position without disgrace and dishonor. The emergency exists. We have a portion of our Army there, and they must be relieved. The President must go on, unless Congress, by refusing to give him the proper aid, puts it out of his power to progress in bringing the Mormons to subordination.

I am in favor of giving the President this aid; but I prefer to give volunteers according to the proposition of the Senator from Tennessee, instead of the proposition of the Senator from Virginia, which will presently be offered as an amendment. My reason is that we ought to relieve Colonel Johnston in the speediest manner that is possible. I know that we cannot get soldiers to enlist in the regular Army in the State I represent. The people of that State will not enlist, but they will respond to a call for volunteers. The President ought to have power to call out a force of either volunteers or regulars. We ought to give him the power, or censure him for sending that portion of the Army now in Utah to that Territory. I think a volunteer force would be more efficient, for the reason that if you intend to relieve Colonel Johnston, you must do it in the most speedy manner; and I believe by raising volunteers nearest to the country where those troops are, and marching them expeditiously, you will sooner bring the war to a conclusion.

I have made some examinations in regard to the manner of approaching this Utah Territory, and I have made comparisons from official documents to show that you can get from the Pacific coast to Salt Lake forty-five days sooner than you can by starting from Fort Leavenworth. All the troops on this side have to meet at that point and march from there. I have official documents to prove this fact; and hence I say we ought to have volunteers who can be called into the field with more rapidity, and relieve the Army now in Utah more speedily, if mustered into service from the Pacific coast, than by any regular troops or volunteers marched from this side of the Continent. I base this statement upon the following facts, carefully compiled from official documents.

Hitherto all troops that have been sent into and through this Territory, have been assembled from the departments of the East and West, at Fort Leavenworth on the Missouri, and begun their march from that post. Prior to the present year, two marches of this kind have been executed, one by the rifle regiment in 1849; the other by a command under Brevet Lieutenant Colonel Steptoe in 1854-55. The route of the former diverged at Green river to the northward, and entered Oregon by the way of Fort Hall and the Snake river; that of the latter was from Fort Leavenworth three hundred and eleven miles, twenty-one days, to Fort Kearny; thence three hundred and thirty-six miles, twenty-three days, to Fort Laramie; thence two hundred and ninety miles, twenty-four days, to Pacific Springs, the west extremity of South Pass of the Rocky Mountains; and thence two hundred and thirty-two miles, twenty days, to Great Salt Lake City.

The command left Fort Leavenworth 1st June, and arrived at Salt Lake City 31st August, 1854. It is believed that the stoppages were no more than necessary to accomplish this march of one thousand one hundred and sixty-nine miles in ninety-two days, without breaking down men and animals; and that this is a pretty fair measure of the minimum time in practice that it would be proper to spend on so long a march, over a similar country by a body of troops of a respectable number. It seems to me that the actual number of marching days was sixty-four, making the average distance per marching day a little more than eighteen miles, or if we include the stoppages to rest, twelve and two third miles per day from the beginning to the end of the march.

Now, this rate of marching, which was in the department of the West, being applied to the department of the Pacific, will give us the times for the marches, including stoppages to rest the command, as follows: From Sacramento to Salt Lake City, forty-seven days; from San Pedro to Salt Lake City, fifty-four days.

It takes twenty-five days to transport a regiment by steam from New York, and twenty-two days from New Orleans, via Panama, to San Francisco; thence one day to Sacramento and two days to San Pedro, including all necessary delays for transhipment; and it is obvious the regiment could be assembled from various posts in or east of the valley of the Mississippi, at New York or New Orleans quite as expeditiously as at Fort Leavenworth.

Hence, if it be an object with the War Department to dispatch troops in the least possible time from posts so located, regardless of other considerations, to Salt Lake City, the quickest way is to assemble them either at New York or New Orleans, and embark them by steam for San Francisco; thence to Sacramento, and from there march them to Salt Lake City. If embarked from New York, the saving would be nineteen days; if New Orleans, twenty-two days, in the time that would be consumed in marching them from Fort Leavenworth to the same point. If sent by steam from San Francisco to San Pedro, and marched thence to Salt Lake City, the saving would be eleven or fourteen days in the time required to march them from Fort Leavenworth.

From the journal kept by Major C. Cross of the quartermaster's department, of the march of the rifle regiment from Fort Leavenworth, via South Pass and Fort Hall, to Fort Dallas on the Columbia, in 1849, I am enabled to present some practical information in reference to the march of a command, if required, from northern Oregon to great Salt Lake City.

From Fort Dallas to south extremity of Grand Rond Prairie, the march would be one hundred and eighty-seven miles, which could be accomplished in fourteen days; from Grand Rond to Fort Boise, one hundred and thirty miles, in ten days; from Fort Boise to Fort Hall, two hundred and sixty-eight miles, in twenty-two days; from Fort Hall to great Salt Lake City, one hundred and eighty-three miles, in fifteen days.

A regiment leaving Fort Dallas with its train, could reach Salt Lake City in sixty-one days; the proper time for starting would be from the 1st to 15th of June.

A regiment could be dispatched from New Orleans, by steamer, via Panama, and conveyed to San Francisco in twenty-three days; thence to Fort Dallas in seven days; thence, if the train

were held in readiness there to start immediately, the same regiment could start the following day, and march to Salt Lake City in sixty-one days, after arriving at Fort Dallas, making ninety-one days from New Orleans, by the way of the Atlantic, the Pacific, and Columbia river, to great Salt Lake City.

Lieutenant Colonel Steptoe's command were ninety-two days marching from Fort Leavenworth to Salt Lake City in 1854.

This is assuming that the regular troops are to be sent from New York; but if volunteers are raised on the Pacific coast, there will be a difference of forty-five days in favor of the advance from that coast, and you can march troops thence to Utah every day in the year. I am utterly opposed to shipping troops to California. I was told by an officer of one of the regiments sent to Oregon that the transportation cost \$450,000. The expense of sending regular troops on this, the most expeditious route, to relieve Colonel Johnston, would be enormous, when, by calling out volunteers on that coast, you would save this expense of transportation, and have equal dispatch in relieving Colonel Johnston. From California is the most expeditious and shortest route to Utah, and it can be approached by the San Pedro route at every season of the year with facility. There is no snow nor mountain passes near Salt Lake on that route that can obstruct the march of an army of relief to Colonel Johnston. And by the time this bill can pass Congress, the route from Sacramento city (the shortest) will be clear of snow, and volunteers could be immediately raised, and, with such regular troops as could be spared on the Pacific coast, would reach Colonel Johnston's camp weeks, and perhaps months, before such relief could reach him from the Atlantic States.

I believe there is an emergency calling for an increase of the Army, either by regulars or volunteers, though the Senator from New Hampshire thinks otherwise. The President has dispatched troops to Utah, and they must be sustained and supported. He must carry out his policy; but he cannot do it unless an addition is made to the military establishment of the country. Give him power to call out volunteers. When it is known on the Pacific coast that he can exercise that power, where there are two hundred thousand persons who have emigrated over the plains, and one hundred and fifty thousand through the Salt Lake country, who know all the difficulties they will have to encounter on the march, he can get a force of one thousand or four thousand men to march to the relief of Colonel Johnston. I do not believe there will be war, because then the Mormons will cease to resist the authority of this Government with such a force in the field; but if you do not give the President the power to put down this insurrection, there may be war, and a bloody one. I think the better plan is to give the President discretion to call out volunteers to meet this emergency; and if we intend to increase the Army permanently, as the Secretary of War recommends, let us take it up at a time when there is no such necessity like the present, and deliberately ascertain whether or not we cannot so change the force now in use in the Army of the United States as to better adapt it to service in the border States. For these reasons, I am in favor of the proposition of the Senator from Tennessee, and shall vote for it.

Mr. SIMMONS. I think the proposition of the Senator from Tennessee, which is now before the Senate, requires some amendment; and I wish to ask him whether he will be willing to accept a modification reducing the number of men proposed to be raised from four thousand men to three regiments—the same number proposed by the Senator from Tennessee. I name three regiments, because I presume these men, under the volunteer system, are to be mustered into the service by regiments.

Mr. WILSON. Companies, battalions, or regiments.

Mr. SIMMONS. Well, say not exceeding three regiments, as the proposition of the Senator from Virginia is for the regular Army, and I think these troops cannot cost more than those under his measure. I hope the Senator from Tennessee will accept the modification which I suggest.

Mr. JOHNSON, of Tennessee. I will accept the amendment of the Senator from Rhode Island

on one condition; and that is, that the Senator from Virginia shall support my proposition as thus amended. I understand, from what the Senator from Virginia has said, that with him this is only a question of economy. He is opposed to the proposition I have presented, because it leaves it discretionary with the President to call out more troops than his proposition contemplates. I will accept the modification of the Senator from Rhode Island, on condition that the Senator from Virginia will vote for my amendment as thus modified.

Mr. HUNTER. Why should the Senator suppose that I will vote for it, when I have just told him that I believe that volunteer troops are more expensive than regulars?

Mr. JOHNSON, of Tennessee. I am aware that the gentleman told me so; but I had supposed that the facts to the contrary would have satisfied him.

Mr. HUNTER. I trust more to the facts presented by the War Department than those presented by the Senator from Tennessee. I think they have more experience and knowledge on such subjects.

Mr. JOHNSON, of Tennessee. I rely on the same sources of information.

Mr. SIMMONS. If the real objection to the amendment of the Senator from Tennessee be a pecuniary one, I suggest to him whether it would not be proper to so modify it as to entirely remove that objection. I cannot, for my life, see how the Senator from Virginia can make it out that volunteers will cost more than the same number of regular troops under a bill which says they shall receive precisely the same pay, rations, and allowances as the regular Army.

Mr. HUNTER. If the Senator had attended to the chairman of the Committee on Military Affairs—the Senator from Mississippi—when he referred to documents and reports of persons who had experience, he would have seen.

Mr. SIMMONS. I did attend to all that.

Mr. HUNTER. He would have found that a great many reasons for this were given. One is, that, according to the statistics of mortality, a much larger number of the volunteers sicken and die than of regulars, and thus their ranks must be filled oftener. It is found that volunteers do not take the same care of their property, arms, and clothing, as the regulars. Then there is a difference in their equipments. However, I shall not go into that subject. The Senator from Georgia [Mr. IVERSON] is prepared on it, and I think can satisfy the Senate.

Mr. SIMMONS. Do I understand that the Senator from Tennessee is willing to accept the modification suggested by me without the condition that the Senator from Virginia shall vote for his amendment, as thus modified? I suppose he is satisfied now that there is no modification of his proposition which can get the vote of the Senator from Virginia; but certainly it might place others in a position to vote for his amendment if they could see clearly to their satisfaction that it would not involve the expenditure of more money than would be the cost of the same number of regulars.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Rhode Island that this proposition having already been amended, is entirely in the possession of the Senate, and is not in the control of the mover so far as to accept any modification without the consent of the Senate.

Mr. SIMMONS. Well, sir, I shall draw up an amendment to the effect I have suggested, and offer it at the proper time. I have a word or two to say, however, on the question of expenditures. When the chairman of the Committee on Military Affairs was talking about the greater cost of volunteers over regulars, I supposed he was speaking of the expense of a regular army which had been disciplined and in service for a long period of time, so that the men knew how to take care of their arms and munitions; but I should like to ask any man what difference there can be, in this respect, between volunteers for two years and regulars enlisted for two years? They would be raw recruits, whether called by either name. A volunteer, if he is a more intelligent man, will learn more quickly than the lower material about whom the chairman of the committee spoke. No one can make me believe that men enlisted for two years, and called regulars, are more intelligent and more

capable of taking care of their arms and munitions than volunteers enlisted for two years; but I agree, if you have them in service for a long time, if you insure them to discipline for ten or fifteen years, you may drill them into such habits that they will work like automats, and do what you please; but you cannot do that with any kind of human beings I ever saw without some training. In my opinion, there will not be a dollar's difference in the expense of the troops now proposed to be raised for two years, whether you enlist them as regulars or as volunteers.

Mr. IVERSON. I had not expected to make any additional remarks on this bill; for my views were presented some two or three weeks ago on the general merits of the proposition contained in the bill before the Senate. I feel it incumbent on me, however, to say something to-day on this question, inasmuch as the chairman of the committee is absent, and the charge of the bill is, to some extent, put on my shoulders, as a member of the Committee on Military Affairs.

The Senator from Tennessee [Mr. JOHNSON] made a very desperate onslaught on this bill yesterday—no, not on this bill; I take that back; not upon the bill now under the consideration of the Senate, but upon the bill which was reported by the Committee on Military Affairs. That is the bill which he fought. It is a very easy matter for a gentleman to build up a man of straw, to show his prowess and skill in knocking him down. The bill, as first presented by the committee, is very different from the bill now under consideration; because the committee agreed to strike out what seemed to be the most obnoxious feature, which was pointed out by Senators who opposed the bill. That was the second section, which proposed to increase the rank and file of the companies in the field, and at distant posts, to ninety-six men; and if all the companies in the Army were filled up to that maximum number, there would be an addition of about six or seven thousand men to the present military establishment. That section, however, has been stricken out, and now the bill provides simply for adding thirty companies to the existing regiments; these companies to be organized with the number now regulated by law—that is, fifty-two when in certain positions, and not more than seventy-four when they are in the field, or stationed at distant frontier posts.

The whole increase at present authorized by the bill, as well as by the substitute of the Senator from Virginia—for the three regiments which he proposes to add are equivalent to thirty companies—is but two thousand two hundred and twenty men. This is the whole addition to the rank and file of the Army proposed by the bill, upon the presumption that every one of the thirty companies will be in the field, or at distant posts, and be kept filled up to the maximum number of seventy-four. That, however, is an impracticability. That never has existed since the formation of your Army. There never has been a time in the history of this Government, and probably never will be, when the companies have been filled to the maximum number. From causes which every gentleman understands, although a company may be filled up to-day, it becomes lessened in the course of a few months by desertions, by deaths, by discharges from one cause and another. As a general rule, the companies never contain more than two thirds of the maximum number authorized, under any circumstances. I presume that the addition of thirty companies, with the ordinary number of men composing them, will not increase the Army more than two thousand men. That is the ultimate limit. I venture to assert that the thirty companies, if they last from now to the day of judgment, will never have more than two thousand men in them. That is the whole increase of the Army which the bill proposes to make.

Besides, another very important amendment has been added to the bill since it came from the Committee on Military Affairs; and that is a limitation as to the term of service. The bill, as reported by the committee, contemplated the permanent organization of thirty companies, as a regular portion of the military establishment. An amendment has been adopted by the Senate, on the motion of the Senator from North Carolina, [Mr. BIGGS,] which has been modified, at the suggestion of other Senators, limiting the service of the companies to two years; and the bill, as it now

stands, declares that at the expiration of two years, unless Congress shall intervene, and prolong the existence of the companies, they shall be absolutely dismissed from the service. It thus appears that the only addition which this bill contemplates, as it now stands before the Senate for its vote, is an addition of about two thousand men to your regular Army, for the term of two years, and no longer.

The Senator from Tennessee says that this is not an Administration measure; and he takes the Committee on Military Affairs to task for having reported a measure not in conformity with the recommendations of the Executive. Sir, what did the Executive ask for? The President asked for an increase of the regular Army, and so did the Secretary of War; but the Senator says the Secretary asked for regiments, and not for companies. Well, sir, this is the first time in my life I ever heard that regiments were not composed of companies. I thought it took companies to make regiments. When the Secretary of War called for an addition of five regiments, I supposed that he wanted fifty companies; and that if we gave him fifty companies, it was a matter of no consequence in what shape they were granted. The President wants an increase of the regular Army, and it is a matter of no consequence to him in what form you give the increase. He wants the men, the bone and muscle, to do the service of the country. That is what he has called for. To be sure, he put his request in the form of asking for regiments; he prefers that particular organization. The committee differed from him on that point, and proposed to give him the increase for which he asked, but in another form of organization, to wit: by adding thirty companies to the existing regiments. Is not that in conformity with the recommendations of the Executive? The Executive asked for an increase of the regular force. The committee respond by proposing to give an increase of the regular force.

But the Senator says this is not an Administration measure, because the President has declared that he wants the five regiments for the Mormon war, and the committee propose a permanent increase. It is true, the President in his annual message brings forward the Mormon war as the ground of the present increase; as the particular motive for increasing the Army at the present time; but he does not say that he will not want them beyond the Mormon war. He says no such thing. The commanding officer, Lieutenant General Scott, in his report to the President, desires an increase of the permanent military establishment. He calls for five regiments, as a permanent increase of the Army, and so does the Secretary of War. The President has sent to Congress the reports of the General-in-Chief and the Secretary of War with his approbation and indorsement; and we must take it for granted, although the President does not say so in terms, that he does want this increase as a permanent establishment, and not as a mere temporary one, to answer the purpose of the Utah war. This bill, therefore, is an Administration measure, if you call anything an Administration measure.

The committee, however, were not regulated by the mere wants of the Executive, although the other members of the committee and myself believed that the President, the Secretary of War, and the Commanding General, knew better what the public service demanded than we did. The President, the Secretary of War, and the commanding officer of the United States Army, are the persons intrusted by the Constitution and laws with the duty of looking into the condition of this department of the public service, and they better understand what is wanted for the public service than any Senator on this floor. I was willing to trust something to the faith of those officers, and to their recommendation that the Army ought to be increased by the addition of five regiments.

But whether the bill of the committee or that of the Senator from Virginia be an Administration measure, I can tell the Senator from Tennessee one thing—that his proposition is not an Administration measure. The President does not want volunteers; the Secretary of War does not want volunteers; General Scott does not want volunteers. When that gentleman takes us to task for not conforming to Executive recommendation, I commend to him the old maxim: take the beam

out of your own eye before you attempt to extract the mote out of your neighbor's."

The Senator from Tennessee has attacked this bill on the score of extravagant expense. Now, let us compare the two propositions—that of the Senator from Tennessee, and that now under the consideration of the Senate from the Committee on Military Affairs. The bill proposes to add two thousand two hundred and twenty men to the regular service for two years, and no longer; that is to say, two thousand two hundred and twenty provided every company shall be filled up to the maximum point. It proposes to add no field officers; it proposes nothing but the addition of thirty companies to the Army, with company officers, without a solitary additional field officer. What is the proposition of the Senator from Tennessee? He proposes that for these two thousand two hundred and twenty regular soldiers, without any field officers, there shall be substituted four thousand volunteers, with a whole mass of field officers—the field officers of four regiments—and they are to be selected by the troops and appointed by the President. Who ever heard of the President appointing the officers of the militia? The gentleman confounds the idea of volunteers with regular troops. Volunteers are not regular troops. Volunteers are nothing but militia. There are but two characters of soldiers known to your Constitution and your laws: one, regulars, and the other, militia. Volunteers are nothing but militia; and when the militia are called into the service, the Constitution requires that they shall be officered according to the laws of the States from which they are called, and the President has no power to appoint officers to those regiments.

But the Senator says that although his proposition authorizes the raising of four thousand volunteers it leaves it discretionary with the President not to call out four thousand if he does not want them. The Senator cries out against the expense of twenty-two hundred regulars for two years; and yet he is willing that four thousand volunteers shall be called out. Is not that his proposition? Although they may not all be called out, it does not alter the fact that he expresses his willingness that they shall be called out. While he objects to this bill because of the expense of twenty-two hundred regular troops for two years, he consents that the President shall call out four thousand volunteers with all their field officers, not only for twelve months, but for all time, as long as the President may think proper to call them into service and keep them there. The service of these volunteers is to be limited to twelve months; but the moment the twelve months expire the President can, if the exigency of the service requires it, call another four thousand into the service.

Let us look at the proposition of the Senator further. It is not only for the Utah war that these men are to be called out, but they are to be called out to protect the citizens on the routes of emigration to the Pacific; so that these four thousand volunteers are not only to be kept in the field as long as the Mormon war exists, but when that is over they are to be kept by the President on the emigrant routes, to protect your emigrants going to the Pacific coast. When is that emergency, if you call it an emergency—I beg pardon of the Senator from New Hampshire for using a term so obnoxious to him—to end? When will your emigrant routes be in such a condition that they will require no protection from the military arm of the United States? This proposition of the Senator authorizes the President not only to call out the volunteers for the Utah war, but to keep them in service, to change them at the expiration of every twelve months, and call others into service as long as the necessities of the emigrant routes shall demand their maintenance in the Army. Is not that so? And yet the gentleman talks about economy, and about the danger of standing armies!

On the subject of economy, as a comparison between the cost of these two arms of service, I desire to make a statement to the Senate to which I trust they will listen. From authentic documents in the Government offices at Washington city, it appears that for the last twenty-two years the difference between the cost of the employment of volunteer troops and that of the same number of regular troops for the same time has been over thirty million dollars. Here in black and white, in the official documents, we have the difference

between the same kind of troops employed as volunteers and the same kind of troops employed as regulars for the same time twenty-two years past; and I say from these documents the additional expense of the volunteers has been \$30,000,000. Let us see how this is. The Adjutant General in this report says:

"If we go back beyond the Mexican war, as far as the year 1835, we shall find that in the intervening time not less than fifty thousand two hundred and ninety-three volunteers were mustered into the service of the United States for periods varying from one to twelve, but usually of three or six months."

During the last twenty-two years over fifty thousand volunteers have been mustered into the service of the United States, costing this enormous amount and why has it been? It is because you have not had regular troops to perform the service which the country demanded, and you were necessarily driven to call volunteers into the service at this enormous additional expense to the country.

Now, sir, I will put an instance or two to show how your system has worked. In 1836 a portion of the Indians inhabiting the State of Alabama broke out into open insurrection, and there was a very great sacrifice of individual property as well as of blood attendant upon that insurrection. My colleague [Mr. Toombs] well remembers it, as he stated the other day—for he figured there, I think pretty largely; almost as largely in that extraordinary enterprise as he does on the floor of the Senate. He was a captain, if I am not mistaken, in that army. On that occasion, to save the lives and the property of the people, there were some four or five thousand volunteers called out from the States of Alabama and Georgia; and even from the "volunteer State of Tennessee" there came down a whole brigade of mounted volunteers.

Mr. JOHNSON, of Tennessee. Whenever there is any fighting to be done, our folks are on hand.

Mr. IVERSON. I will touch on your prowess before I get through; and my opinion is that you will not have much to brag of, if you look at the circumstances impartially and properly. Because you had not regular troops there to protect the people, that outbreak occurred, and it involved the Government in an expense of more than a million dollars for the volunteer troops carried there for the purpose of protecting the frontiers of Alabama and Georgia, and suppressing that Indian outbreak. I remember that once there was an encampment of two thousand five hundred men under a brigadier general in the State of Georgia, not one mile from where I now reside, besides others on the frontiers below Columbus, Georgia, and over on the Alabama line. The necessity of calling out those volunteers resulted from the fact that you had no regulars there to protect the lives of your people. The Government had one company at Fort Mitchell on the frontiers, but that was not more than forty or fifty men. If the Government had stationed in that country, as it ought to have done and was bound by every principle of propriety and honor to the people there to do, a sufficient military force, that Creek outbreak never would have occurred; there would have been no necessity for calling out this large force of volunteers, and the expense which it involved would never have been visited on the Government.

Again, look at Florida. For the last fifteen or twenty years, and more than that, you have called out the militia and volunteers in Florida every year, to prosecute the Seminole war. Why have you done this? Where the necessity for it? Because you had not regular troops to perform the duty which volunteers were called upon to perform. In the State of Texas, large numbers of volunteers have been called out for war purposes. Why? Because you have not had a regular army to put there to protect the frontiers of Texas. And so it has been on the Pacific, in the country represented by the Senator behind me, [Mr. GWIN], who has just made such an eloquent speech in favor of volunteers. No wonder that he should be in favor of volunteers; it is not at all surprising, for it has not been two years since we passed a law appropriating a million of dollars, to be refunded to the State of California for expenses incurred by that State in employing volunteers to suppress incursions of hostile Indians. It gives the woolly-hatted boys of the Senator from Cali-

fornia and the Senator from Tennessee employment—very good employment. They want it; they are anxious to get it; and the Senator is but doing his duty in trying to accommodate the "boys," upon whom he perhaps depends, to some extent, for his seat in this body. That is all very well; but what does it show? It shows that if you had regular troops there to defend the frontiers of California, this immense expense of a million of dollars, which the Government has had to refund to California, never would have been incurred.

How much has the Rogue river war cost, so far as the volunteers are concerned, and the recent Indian war in Oregon and Washington Territories? I presume when that bill is footed up, you will see what volunteers cost. I apprehend that if we get clear of the expenses of those wars for something less than six or eight million dollars we shall be very fortunate. It has been the absence of your military force and the small amount of the Army of the United States that has rendered it necessary to call out a large volunteer force; so that, as exhibited in the document before me, in twenty years fifty thousand volunteers have been mustered into the service of the United States.

Now, sir, there is a requisition on your Treasury for \$385,000 just come in from Florida to pay the volunteers in the service of the United States in Florida, and the Secretary of War says that if they are to be retained another year in the service \$385,000 more must be appropriated, making in all \$770,000 to pay the volunteers now in the service of the Government in the State of Florida, fighting the Seminole Indians.

A SENATOR. Not fighting them!

Mr. IVERSON. The ostensible object is to fight them, or, at least, to defend the frontiers; and I have no doubt they are quite as efficient as volunteers ever are. I do not consider volunteer militia, raw militia, very effective under any circumstances, or anywhere. I do not think they proved very effective in the Mexican war; for I think that one of the regiments from Tennessee, that vaunted State of volunteers, ran at the very first fire at the battle of Cerro Gordo. That is my reading of the history of that battle. You cannot expect raw militia to stand fire like regulars. Although they had somewhat the advantage of discipline before they went into that engagement, yet the very first fire from the Mexican batteries behind the intrenchments drove the Tennessee regiment from the field, commanded by Colonel Haskell, and under the charge of General Pillow, of Tennessee. They left the field in disgust, if not in disgrace.

One reason why I favor a bill to increase the regular Army, and to increase it permanently, is to obviate the necessity for calling militia into the service of the country at the enormous expense which is always attendant upon militia troops. Here is a statement, which was read the other day by the Senator from Mississippi, the chairman of the Military Committee, showing the comparative expense of a company of regulars of dragoons and infantry, mounted and foot, &c., and precisely the same description of volunteer troops for six months. Whilst regular infantry cost \$4,662 a company for six months, the same description of foot soldiers of volunteers cost \$7,287—nearly double. Does the Senator desire to know how that occurs? It is considered extraordinary. General Towson, the late Paymaster General, states how it occurs. He says:

"This enormous disparity in the expenses of the two forces is not owing to the extravagant allowances made to volunteers; for, except in the article of clothing, they are not better paid than regular troops, and altogether insufficiently compensated to reimburse them for the pecuniary sacrifices they make in leaving home and employment, to say nothing of the danger and hardships they encounter. It is caused principally by expenses for traveling to and from the place where the services of the volunteers and militia are required; to the hire, maintenance, and indemnity for horses; and to furnishing them a full supply of clothing as a bounty, without regard to length of service. The statements also show the expense of volunteers serving on foot, and of militia. The term of service of the latter never exceeds three months, unless specially provided for.

"There is one comparison that would place the contrast between the expenses of regular and irregular troops in a much stronger light, if I had the data to enable me to state it in figures; and that is, the comparative loss and destruction of military stores and public property by the two forces. The immense importance attached to this subject by European Governments, as a principal means of sustaining war, has led to the most rigid economy and the strictest accountability in everything connected with the material of an

army. We have profited by their experience, and it is probable a more perfect system of accountability is nowhere to be found than in our little Army; but it requires the study of years to understand, and the exercise of martial law to enforce it."

There is the ground for the difference of expense. Let us take the substitute of the Senator from Tennessee; and suppose the volunteers for this service should be selected from Tennessee, which, *par excellence*, is the State of volunteers, according to the statement of the Senator. I am not disposed to dispute that statement, because I believe the Tennessee boys are ready for a fight, any time and anywhere, and they will go where ever they can be put on a horse to ride, but I never heard of any of them being very anxious to go on foot into engagements; they are great hands for riding. Take these four thousand volunteers from Tennessee, and carry them away up to Salt Lake, keep them in service there twelve months, and then discharge them. Many of them will be discharged long before that time. In the Mexican war it is a fact, that out of all the irregular troops that were sent to Mexico, of all the regiments of volunteers who went into that service, not three months passed over their heads before one half of them died or were discharged and sent home on account of sickness. There was not a volunteer regiment in the whole Mexican war that went into battle with more than two hundred and fifty or three hundred of its original number, and long before the twelve months expired, the regiment had been reduced down to a mere omnibus full—two or three hundred men. The Palmetto regiment, one of the best organized and regulated regiments of volunteers in the service of the United States in that war, went into the battles in Mexico with only two hundred and fifty men, although they started from South Carolina with a thousand.

This is the character of volunteer troops; but the expense is increased every time, it is doubled every time, you have to call new troops into service. They serve for the stipulated time, and are discharged. Then new troops are called into the service, and all the transportation, all the clothing, and all the necessary outfit and expenses of beginning a campaign of this sort have to be gone over again.

Then look at the excesses of volunteers, and how improvident they are. The reason why regulars are more economical than volunteers while in service, is this: regular troops are under the command of regular officers, who make their men mind them, but volunteer troops are always in command of men selected by themselves, members of their own household, their own fraternity, their own neighborhood; men dependent for their offices on the suffrages of the company, and hence they do not enforce order and obedience, but let the volunteer troops do just as they please.

When some of the volunteer regiments were marching up from Vera Cruz to Mexico, as an evidence of their improvidence and want of subordination, and the excesses to which they have a tendency, I will state a fact. In going up, one of the volunteer regiments stopped at the private residence of General Santa Anna, near the city of Jalapa. They stopped on their way and went into the hacienda, the walls of which, with his magnificent and elegant taste, were covered with costly and extensive paintings—paintings that would have done honor to any age and any country; but these volunteer troops went in there and cut, and slashed, and stuck their bayonets into every one of those beautiful works of art, because they belonged to the President of Mexico! Why, sir, such a proceeding as that outraged the country and disgraced the nation from which they came. Would regular troops have done that? No, sir; not a regular soldier in the Army of the United States would have attempted to do such a thing as that. They would have been punished instantly if they had attempted it. But the volunteers cared about nothing; they were not to be punished; they paid no respect to their officers, and probably the officers were quite as bad as the men. They performed an act there which disgraced them, and disgraced the country from which they were sent.

Mr. PUGH. Where does the Senator say that happened?

Mr. IVERSON. At Santa Anna's hacienda, above Vera Cruz—I do not remember the name of the place. I was not there, and do not speak from personal knowledge, but I have been in-

formed of the fact by a number of gentlemen who saw the pictures mutilated after the regiment passed along. I cannot say what regiment did it, but it was a regiment of volunteers. The regular Army would not have done such a thing.

The Senator from Tennessee proposes to raise volunteers. I object to volunteers. I do not think they are the right sort of troops to send to Utah. The Senator thinks the Mormons of Utah will not fight, and other gentlemen have expressed that opinion. That is not the opinion of the President, or he would not call for the additional regiments. It is not the opinion of General Scott; it is not the opinion of the Secretary of War; it is not the opinion of Colonel Johnston, who has now command of the Utah army, and who certainly has better means of information, and whose judgment is more to be relied upon than that even of the Senator from Tennessee, or mine, or any other Senator on this floor. Those men all believe the Mormons are prepared to fight; and I believe they will. There is only one contingency in which they will not fight. If you increase your Army and send a respectable force into Utah, a force that will strike the Mormons with the idea of the uselessness of resistance on their part, they will not resist; but my word for it, if you send a small force, such as Colonel Johnston now has, and such as it is proposed to reinforce him with, so far as we have any indication of the reinforcement to be sent to him, they will fight, and, in my opinion, fight desperately, and probably fight successfully. If, however, you send four or five thousand well disciplined troops, it is possible that the Mormons will give way and not fight, and then the effusion of blood will be spared; but if you send a small army even of regulars, and more especially if you send raw militia from Tennessee or elsewhere, I give you my word for it they will fight, and then fight successfully. Of what effect are raw troops, undisciplined militia, in the field? Of what use will they be against the Mormon army, an army that has able officers, that is well armed and equipped, and that will be by the coming June, at the time our troops are to enter the Territory, as well disciplined as any members of your regular Army? Are these people to be despised? Are they to be overcome with raw militia taken from their homes without discipline, with officers without experience, who go there to fight these men intrenched behind barricades and fortifications; men who pick their own ground, who select their own battle-places? Do you suppose that troops like these, even valiant Tennesseans, can withstand the Mormon forces under such circumstances? No, sir; nothing but disgrace and disaster will attend them.

If you want to put down the Mormon rebellion without bloodshed, you must send to Utah a large and imposing army of regular troops, who will overawe the Mormons and drive them into obedience. If you do that they will not fight. If you do not do it they will fight, and we know the advantage possessed by troops who select their own fighting ground. In the battle of Buena Vista, General Taylor, with four thousand American troops, overcame an army of twenty thousand Mexicans; and why? If he had been out on the open field he would have stood no earthly chance to win that battle; but he selected his own ground, and the advantage of his position was equal to more than three times the number of troops which he commanded. So with the Mormons. Send your troops to Utah, and you have to fight under the greatest disadvantages. You have to meet fresh disciplined troops; men well armed and equipped; men who are fighting for their firesides, for their country, for their religion; men who will fight bravely and desperately, in my opinion; and if you do not take great care, will fight successfully. I would not intrust this war to volunteers. I believe the result will be nothing but disaster and defeat to your army if you intrust it alone to volunteer forces.

But, sir, the Senator from Tennessee proposes to send volunteers, and to make a contract to whip the Mormons for one half of what it will cost the Government. We heard yesterday a long dissertation from the Senator from Tennessee on the subject of Mormon morality; and judging from the tone and temper of his remarks on that occasion, I should say that he has not the most exalted objection to the Mormon practices. He entered into a somewhat labored defense of Mormon morality.

Well, sir, that is a matter of taste, and *de gustibus non est disputandum*. I shall make no point with the gentleman on that subject; but I will take occasion to say this: that if I understood the sentiments of the Senator, and if his constituents entertain similar opinions, they are the last men in the world who should be sent to quell the Mormons; for, instead of whipping the Mormons, they would be very apt to join them—especially if Brigham Young should be able to offer them half a dozen wives apiece. [Laughter.] I apprehend it will be a long while before the Mormon rebellion will be crushed if Tennesseans are sent there with the sentiments which seem to have been elicited from the mouth of the Senator yesterday. I do not pretend to say that these are his genuine sentiments; I only infer them from the tenor of his remarks. I want to put down the Mormon rebellion. I want to crush this impudent and infamous insurrection which has raised its crest in Utah. As long as you have a Government, the laws enacted under the Constitution ought to be enforced everywhere; and, if necessary, at the point of the bayonet, if you cannot do it in any other way. I am one of the last men who would attempt to enforce an unconstitutional law anywhere; but a law that is borne out by the Constitution—a legal enactment of Congress—ought to be enforced everywhere where the Constitution authorizes it to go. The dignity of your country, the honor of your Government is broken down, destroyed, and worthless, unless you enforce your laws. The Mormons, we know, have put at defiance the laws of the United States; they have driven your officers from the Territory; they say that they will not obey the laws of the United States; and they have an armed force now for the purpose of vindicating the position which they have taken. They have set up an *imperium in imperio*—a government within a government; they say that their government shall rule, and that the President of the United States shall not enforce the laws of the United States within their Territory. I am for putting down this rebellion; but not by the employment of volunteers—not even by the employment of the valiant and brave volunteers from Tennessee.

Why, sir, from the way the Senator from Tennessee talks about his Tennessee militia, one would suppose that a few regiments of Tennessee militia could go to Utah and swallow the Mormons at a single mouthful: eat them up at once. Sir, I should have no earthly objection to that. I should have no objection to the Tennesseans going there, and eating up all the Mormons—the women as well as the men; provided, however, that they do not eat up the Treasury; but my opinion is, that in eating up the Mormons, they will eat up the Treasury, and instead of an annual expense of seventy millions, we shall have a bill of a hundred millions a year, if we send four thousand volunteers to Utah. That is my opinion.

Mr. President, I am opposed entirely to the use of volunteers. I believe they are much more expensive and infinitely less efficient than regular troops. If you wish to diminish the expenses of the Army, if you wish to keep down the extraordinary expenses of your military operations against which gentlemen have so much cried out in this debate, you must increase your regular forces and cut down the volunteer force you are driven to call into the field; you must increase the regular Army and obviate the necessity of calling for militia. When you do this, the expense of your military establishment will be diminished; but until this is done, until the necessity for volunteers is entirely obviated by a sufficient increase of your Army, the extraordinary expenditures for your Army must go on increasing every year of your national existence; because you must have your frontiers protected; you must have your garrisons and your fortifications manned; you must have the lives and property of your people protected in passing from one portion of the country to the other. These are necessary things which the Government cannot do without; these are duties which the Government is compelled by every sense of obligation, of honor, and of duty to itself and its people, to perform.

These are my opinions. I did not intend to occupy the attention of the Senate so long as I have; but, believing as I do, that this is the very worst form in which you can send troops anywhere for the service of the Government, I trust

the motion to substitute a volunteer force for a regular force will not be adopted.

While I am up, I will make a remark in relation to the proposition of the Senator from Virginia. That proposes to add three regiments, and with a subsequent amendment which he will present, and which has been drawn up by the chairman of the Committee on Military Affairs, it will obviate the necessity of adding any new field officers to the regiments. The only difference then between that bill and the one of the committee will be that the committee propose to add thirty companies to the existing regiments, and his proposition is to add three regiments without additional field officers because he proposes to take field officers from the line of the Army. That amendment has not yet been presented, but the Senator from Virginia has it in his possession to offer. I am authorized to say by the chairman of the Committee on Military Affairs that he will yield to that amendment of the Senator from Virginia. I am also willing to take it. Although I believe that the proposition of the committee to add thirty companies to the existing regiments is a better one, yet for the sake of harmony and conciliation and to get the increase of the Army which I think is absolutely necessary for this occasion at least, if not for future time, I am willing to waive my predilections as the chairman is willing to waive his, and I accept the proposition of the Senator from Virginia. We shall vote for that when it comes up, and if that does not pass we shall insist on the passage of our original bill as amended by the Senate.

MR. SEWARD. Mr. President, if there ever was a bill that was well debated, I think this must be that one; and if there is anything in the art of war, or the art of peace, or any question of civil government, or even ecclesiastical organization, that could have any relation to the subject, and has not been presented, I am entirely unable to specify the omission. I therefore do not intend to detain the Senate with any further debate upon the subject, than simply to state, as briefly as I can, the votes I shall give in the present aspect of the case, with the reasons upon which they are founded. In doing so, I shall not stop to answer the reflections which have been made here upon the positions which I have assumed. It is a long time since I found out that if I took good care to state my own positions and views accurately, I had very little reason to apprehend that I should be misunderstood, by allowing misapprehensions of my positions to go uncorrected. On the first day of the session of Congress, the President of the United States informed us, in regard to the Territory of Utah, that—

“Brigham Young was appointed the first Governor on the 20th September, 1850, and has held the office ever since. Whilst Governor Young has been both Governor and superintendent of Indian affairs throughout this period, he has been at the same time the head of the church called the Latter-Day Saints, and professes to govern its members and dispose of their property by direct inspiration and authority from the Almighty. His power has been, therefore, absolute over Church and State.”

“The people of Utah, almost exclusively, belong to this church; and believing with a fanatical spirit that he is Governor of the Territory by Divine appointment, they obey his commands as if these were direct revelations from Heaven. If, therefore, he chooses that his government shall come into collision with the Government of the United States, the members of the Mormon church will yield implicit obedience to his will. Unfortunately, existing facts leave but little doubt that such is his determination. Without entering upon a minute history of occurrences, it is sufficient to say that all the officers of the United States, judicial and executive, with the single exception of two Indian agents, have found it necessary for their own personal safety to withdraw from the Territory, and there no longer remains any government in Utah, but the despotism of Brigham Young. This being the condition of affairs in the Territory, I could not mistake the path of duty. As Chief Executive Magistrate, I was bound to restore the supremacy of the Constitution and laws within its limits. In order to effect this purpose, I appointed a new Governor and other Federal officers for Utah, and sent with them a military force for their protection, and to aid as a *posse comitatus*, in case of need, in the execution of the laws.”

Sir, I never knew what was to be in that message; but so soon as I heard it pronounced, I rose in my place, and said that I should sustain to the utmost of my ability and judgment the President of the United States in restoring the supremacy of the laws in Utah. I have thus far maintained the position which I then assumed, which I think was loyal, and which I think was dictated by a due regard to the ultimate preservation of this Union. I deem the question thus important. I apprehend little disturbance hereafter in the States. The troubles in every extended empire are in the prov-

inces and dependencies. Authority overthrown there, is to be not long maintained in the Capitol. At the same time that I assumed this position, I also took another, that I would on no occasion, if it could be avoided, unnecessarily increase the standing Army of the United States.

These are the positions on which I have stood thus far throughout the session on these questions. I stand upon them now. It is not necessary to deny or repel the charges made here that I am for persecuting the Mormons on the ground of their religious faith. It is sufficiently apparent that there is no United States Government in Utah; that there is a despotism there maintained by Brigham Young. My simple object is to restore the Government of the United States. That is the sole object of the measure under consideration. It is not an open question whether this effort shall be made. We have had intimations that we might send commissioners to Utah to treat; that we might send schoolmasters and missionaries to convert the Mormons. That is all well. I see no objection to sending commissioners to treat, and schoolmasters and missionaries to teach, preach, and convert the Mormons; but there is no Government in Utah except that of Brigham Young, and that is a despotism, existing in defiance of the authority of the United States, which has been supplanted. Therefore it is necessary to display the power of the United States in that Territory, in order to open the way for any effective communication with the Mormons in any other manner.

However, this may be, as I have said, it is not an open question whether the demonstration shall be made. The President of the United States, in the month of October, I think, dispatched a new Governor to replace Brigham Young, in Utah, and with him a military force. Then that force must be displayed in the Territory, in order to produce the result, or it must be recalled, so that it cannot be displayed there. Congress has only these alternatives, because the President informs us, because all military men assure us, because we all know that that small force, consisting when it was dispatched of only fifteen hundred men, and now reduced probably to twelve hundred or thirteen hundred, is locked up in the mountains, between the settled parts of the United States and Utah, and is incapable of proceeding to the capital of Utah. It must be reinforced, so that it may pursue its journey and effect its object, or it must be recalled.

Thus, those who say that nothing shall be done must have made up their mind to let that force perish, or to recall it. What, then, is to be the condition of the United States in that Territory? Defied, supplanted, overthrown; the force dispatched by the President of the United States to reduce it to subordination, retracing its steps, and abandoning the effort to establish Federal authority in the Territory. The responsibility for this would fall on me if I should support that policy. Increasing or reinforcing this small force is necessary for its own preservation. Whatever may be our feelings, and the sentiments of humanity in regard to the Mormons, as a religious society, we are interested in every way in the fate of that small portion of the Army which is thus exposed. We must send it forward, with reinforcements, or we must recall it immediately. It seems to me, then, it devolves on those who will do nothing to reinforce it, to take some measures to induce the recall of the troops, and to announce to the President of the United States that Congress is of opinion that Federal authority ought to be abandoned in Utah. Thus much as to the merits of the question.

Having made up my mind that that body of men was to be reinforced, I have been of opinion that it ought to be reinforced with such additions as would enable it to accomplish its object without the effusion of human blood. If you increase it by fifty men it is no augmentation, and it will be as ineffectual as it was before; if you increase it by a thousand it will be too small; if you increase it by two thousand, it may be enough and it may not. It is impossible, under the circumstances of the case, to adopt any other rule but that which you always adopt in military operations; and that is the prudent one of always dispatching, if you can, a force certainly large enough to effect the object. Now, the object is to effect the restoration of authority in Utah peacefully—without war,

without bloodshed. If that is to be done at all it is to be done by an imposing demonstration.

Having arrived at that conclusion, I was willing to trust, as I am now, those who have charge of the military power of the United States with the designation of the amount of force which is necessary. I was further willing to trust them with the designation of the kind of force, leaving to them the responsibility which the country has devolved on them. But, on behalf of the President, very soon was sent into Congress a recommendation for five regiments, and this recommendation, which was made by the Secretary of War, was based on the necessity of a permanent increase of the Army, by the addition of five regiments. I do not know what was the fate of that proposition in the House of Representatives; it is no matter what it was. But it had no sooner come here, and been presented by the Senator from California, [Mr. GWIN,] than I then submitted to that honorable Senator, that if we were to add new regiments to the United States Army, and permanent regiments, we must give up the project of a Pacific railroad for as long as he or I should live; because there are two antagonistical systems for maintaining the power and carrying on the operations of Government in the United States, between the Atlantic States and the Pacific. The one is a railroad, which is pacific, and the other is an armed power or police. For that reason, without hesitating one moment, I voted against the five regiments. It was distinctly an addition to the standing Army of the United States, unnecessary in this emergency of Utah.

Precisely the same reason obliges me to say now, that in any shape in which the organization shall be, or shall appear to be, in the nature of permanent additions to the Army, I shall vote against it. Now I understand from the honorable Senator who last addressed the Senate, who belongs to the Military Committee, that the chairman of the Committee on Military Affairs has agreed to accept the proposition of the honorable Senator from Virginia, to substitute regiments in place of companies. I am then thrown back on the question of what other description and amount of force can be supplied consistently with the principles which I have maintained, and on which I intend to stand.

The amendment offered by the honorable Senator from Massachusetts, revised and perfected by the honorable Senator from Tennessee, proposes to raise within certain limits so large a number as the President of the United States shall, in his discretion, think it necessary to call out. It may be four thousand men. The number is not too large, in my estimation, for a contingency which may happen. It may be too large in contingencies which may happen. The provision leaving it to the discretion of the President of the United States, therefore, seems to me to be wise. Only one other thing remains in relation to it. This will be a force of volunteers; the other one, proposed by the committee, would be a part of the regular Army. This, however, is a distinction without a difference. The men proposed by the amendment of the honorable Senator from Tennessee, will be men who are enlisted to serve two years, and to serve in Utah. They will be dragoons and infantry. They are to have rations, and clothing, and arms exactly like those which the regular Army has; they are to receive precisely the same pay; while the men who shall be enlisted under the proposition of the Senator from Virginia, will be men who are raised for two years; they will have just the same clothes, the same rations, the same pay, the same term of service, as the men who might be enlisted under the name of volunteers, under the proposition of the honorable Senator from Tennessee. There is no real difference; and in both cases they are to be disbanded at the expiration of two years, peremptorily, and without the intervention of Congress.

I see no difference between them except this: if the troops to be raised shall belong to the regular Army, and are attached to it, the President will appoint officers; and if they are called volunteers, they will elect their own officers. Such is my faith in the capacity of the American citizens who will be volunteers in this case, that I am quite willing to trust them with the election of their regimental officers as well as of officers of the line. I find myself brought to prefer this proposition, again, by the remarks which have been

made by the honorable Senator from California; for at the beginning of this session, when I declared my intention to support the President in this movement, I also submitted and suggested for his consideration, as well as that of the public, that volunteers from the California side might probably be employed more readily, more speedily, and with better effect, than to take an armed force from this side of the mountains.

I have tried hitherto so to act with regard to this bill as to come into no serious conflict with the duty which I owe in regard to the Territory of Kansas. I am happy to say that this bill, in its present shape, will do something towards relieving the question of that embarrassment. I do not think that the Army ought to be retained in Kansas. If I had the power, I would direct that all troops now in Kansas should be transferred to Utah. I have no power to do that. These volunteers are to be used only in Utah. If they are insufficient, the President must choose to send the Army from Kansas to Utah, or bear the responsibility of disasters that may occur.

I may be allowed to say that what has happened is already a disaster. It redounds to the discredit—I will not say the disgrace—of the Government of the United States, that with the Territory of Utah in rebellion, with no Federal authority there whatever, a small band of twelve or fourteen hundred soldiers, with a civil Governor, are left in the mountains, to perish on their way there. I think this is humiliating to the country. I should have said so earlier, if it had not been that, inasmuch as the whole subject involves the reestablishment of Federal authority now overthrown in Utah, it did not seem to me wise, it did not seem to me patriotic, to take that time to arraign the Government for the blunders by which this singular state of things had happened. It seemed to me that, if I meant to restore Federal authority in that Territory, I must defer criticisms on the management of the relations of the Territory until that is done.

But we have arrived at that pass when the President of the United States will not, otherwise than by his declaration I have read from his message, maintain or acknowledge that the object of the reinforcement of the Army which he seeks is for the especial purpose of this emergency in Utah. Therefore I have taken occasion to say that I think we are already arrived at a point where the national power is in abeyance, and the national arm paralyzed. The movement of Colonel Johnston's command was too early or too late, and the force is too small in any case. I wish to give it efficiency. I know that if it is not done by reinforcement it cannot be done at all; and then the expedition must end, not merely in this dishonor, but in disaster, and in suffering of brave and innocent men. I cannot conceive it possible that this small body of men can be marched to Utah without danger from the Mormons and from the Indians to whom they will be exposed; and I cannot conceive it possible that it can be marched back again to the settled parts of the United States and put into garrison, without a disgrace which will consign this Administration to the contempt of the whole country, and expose the country to the scorn of the world. Still it looks to me as if that was to be the *finale* of all these debates. It looks to me very much, with the reluctance I see on the part of Congress to grant any reinforcements, that just this disaster is to happen. If so, I wish barely to say, that by the votes I shall give I shall manifest my determination to bear no part of so painful a responsibility.

Under these circumstances, carrying out the same principles which I have applied hitherto in this matter, I shall vote for this amendment of the honorable Senator from Tennessee; not as some say they shall vote for it, for the purpose of defeating the bill; but in good faith, and for the purpose of relieving the command of Colonel Johnston, and of sustaining the authority of the United States in the Territory of Utah. If that shall be overruled, whatever may be the proposition, however obnoxious on the ground of theory or otherwise, I shall then vote for such a military power as will accomplish the end if it be possible. Content with having advised a better way, I shall acquiesce in any other if overruled.

Mr. BIGGS. Mr. President, after the protracted debate which we have had on this question, it is with extreme reluctance that I rise to submit any remarks to the Senate; but in order to put

myself right, I think it proper for me to say a few words in regard to my position, and the difficulties I have encountered in coming to a conclusion on this question. In the first place, I understand, from the indications we have had in the Senate, that it is the settled judgment of this body that there ought to be some increase of the military force. In the next place, I believe it to be the settled judgment of the Senate that that increase of the military force should be temporary in its character, and intended to meet the emergency that has now, as we all think; arisen on account of the necessity of maintaining the Constitution and the laws of the United States in the Territory of Utah. I have arrived at the conclusion that we need no additional force, except of a temporary character, to suppress the insurrection in Utah.

The first inquiry that presents itself is, from what authority have we the best information as to the kind of force we ought to raise? The President has suggested the raising of four additional regiments of regulars; and the Secretary of War has suggested the raising of five regiments. These propositions were referred to the Committee on Military Affairs of the Senate, who must be presumed to have the best information on the subject. That committee has reported a bill which has undergone revision in the Senate, and has been cut down to almost nothing. They differ in opinion from the President and the Secretary of War as to the character of the force that ought to be raised. The bill before the Senate, the proposition of the Committee on Military Affairs, is now reduced to a simple measure for raising thirty companies—two additional companies for each of the fifteen regiments of the Army. The Senator from Tennessee has proposed an amendment in the nature of a substitute, striking out the whole of the bill and inserting a measure which provides for raising a larger force, in the shape of volunteers, than the bill proposes, and to that our attention is invited. Behind that is another proposition which has not yet been offered, but has been suggested by the Senator from Virginia; and that is to raise three additional regiments of regulars.

I confess that I have some difficulty in my mind because of the different shapes the question has assumed in its progress through the Senate. In the first instance, the Committee on Military Affairs, in whom I confide with a great deal of confidence as to the best mode of raising a force for this emergency, reported the original bill with two sections, each of which provided for increasing the Army. The committee then retired the second section of the bill—the section which I had thought of voting for in preference to the first; but after the remarks of the honorable chairman of that committee last week, I concluded that he had better information on the subject, and that as the committee wished to retire the second section, I would vote for the first section with a proviso, making the increase proposed by it temporary in its character; but now I understand from the Committee on Military Affairs that after the debate, and in consequence of the information which has been elicited from all sides of the Chamber, they are willing to adopt in place of their bill the proposition of the Senator from Virginia.

I am brought, then, to the conclusion that I must vote either for the proposition of the Senator from Tennessee, or for that of the Senator from Virginia; and to enable me to get at the proposition of the Senator from Virginia, I must of course vote against the substitute offered by the Senator from Tennessee, which is now pending. I do this, expressing at the same time my entire confidence in the militia, the volunteer force of the country, to do any military service that may be required of them. But the point is, whether, for the particular service for which a force is now needed, volunteers will be the most effective, or whether it is better to adopt the suggestion of the Senator from Virginia to raise a temporary regular force?

It has occurred to me, on a comparison of the two propositions, that that of the Senator from Virginia is to be preferred. Both provide only for a temporary increase; and now nobody goes for a permanent increase of the Army. At any rate, the judgment of the Senate is against a permanent increase. Some individual Senators may prefer a measure of that kind; but I am looking at the question in a practical point of view. The increase is to be temporary merely. Then, if I

understand the proposition of the Senator from Tennessee, there is to be by it, not only an increase of four thousand men, organized in regiments, but there is to be an increase of all the officers necessary to officer those regiments. This is to be done by the men themselves electing their officers. The proposition of the Senator from Virginia, instead of providing for four thousand men, provides only for raising upwards of two thousand, and they are to be put in regiments, and the officers to take command of those regiments are to be detailed by the President of the United States from the present regular Army; so that, if his proposition prevails, we are to have no increase of officers, but an increase of privates only, and an increase of privates not to exceed two thousand four hundred men. The proposition of the Senator from Tennessee, however, is to increase the Army four thousand men, and to have a sufficient number of additional officers to officer four regiments.

Mr. HUNTER. I will state to my friend that my proposition will be that there shall be no new field officers, but that they shall be detailed; and that the President may, if he chooses, detail all under field officers, from captain down; but not necessarily constraining him to do so.

Mr. BIGGS. That is what I understand, and that is one difficulty I had in my mind; and on that point I desire to obtain information from the Committee on Military Affairs, or any gentleman who can give me the information. I desire to know whether or not we have in the Army at the present time a sufficient number of officers to officer three more regiments? If we have, it seems to me that the proposition of the Senator from Virginia is much to be preferred to the amendment now pending. It is to be preferred for several reasons. So far as the question of efficiency is concerned, it is to be preferred; for it must be evident that officers who have gone through a regular military training are much more competent to take charge of new regiments than volunteer officers just coming into the service.

But there is another and very important consideration which, it seems to me, makes the proposition of the Senator from Virginia preferable to that of the Senator from Tennessee. It is, that we get rid of the payment of the officers of the three regiments, so far as the expense of raising the regiments is concerned, which is a very important item. I understand (though on this point I may be in error, and, if so, I desire to be corrected) that the greater portion of the expense of raising regiments results from the payments we have to make to the officers. The Senator from Virginia proposes to officer the new regiments by detailing persons now in the service, and now in the pay of the Government.

Then, it being intended to be a temporary measure only, and it being suggested by the President of the United States, by the Secretary of War, by the Committee on Military Affairs, by all who have the best means of knowing how this force ought to be raised, and how it will be most efficient for the service required, that it is proper to raise regulars, I shall most unquestionably vote for the proposition of the Senator from Virginia in preference to that of the Senator from Tennessee. To enable me to do so, I shall have to vote against the amendment of the Senator from Tennessee, although originally I was for the proposition of the Military Committee, to raise additional companies.

It is a matter of vast importance, while we obtain an efficient force, that it be such a force as will cost as little as possible to the country. I am not one of those who will count dollars and cents where the necessities of the Government require that the honor of the country or the laws of the country shall be vindicated; but I apprehend the settled judgment of the Senate, after hearing all that has been said on this subject, is that an additional force of three regiments is sufficient for all the present exigencies of the public service; and if in doing this we can get the best force at less cost to the Treasury, I think the time has arrived in the present situation of the public Treasury when we should adopt that which shall cost the Government the least.

I am gratified at one portion of this debate which contemplates some little reduction in the public expenditures. From what I had seen in the Senate and the Congress of the United

States, I had supposed that discussions on retrenchment and economy had become rather obsolete. I am gratified to find that the Senator from Tennessee has introduced that question here; and I ask him maturely to consider the two propositions before the Senate in an economical point of view, so far as expenditure is concerned. Until I heard the remarks of the Senator from Georgia, it was my intention to move to recommit this bill to the Committee on Military Affairs with a view of obtaining from them the lights of their experience and their military knowledge as to these various propositions. Now I understand the Senator from Georgia to say that the Committee on Military Affairs prefer to adopt the proposition of the Senator from Virginia.

I am glad that we are to have some assistance from the Senator from Tennessee, who has just come into the Senate, in restoring the reign of economy in this Government. I entirely adopt one maxim which he has laid down for his guidance, that "the revenue of the State is the State." I wish to make that impressive, so far as I can, upon the Senator from Tennessee himself, for future reference and future action; because, if I understand the Senator's position, he proposes to violate that cardinal maxim in an important point in which my constituents are deeply interested. I refer to it now, so that we may stick a pin there for future action in the Senate of the United States. "The revenue of the State is the State in effect;" and I hope that will be remembered when the celebrated measure which has been pressed so earnestly in Congress heretofore, and which at the present time is in the special charge of the Senator from Tennessee, and which proposes to take away a very large branch of the public revenue for the purpose of distributing it to individuals throughout the country, shall come up for consideration.

Mr. WILSON. I understand the Senator from North Carolina to state that the Committee on Military Affairs have assented to the proposition of the Senator from Virginia. Am I right?

Mr. BIGGS. I understood the Senator from Georgia, in the remarks which he made to-day, to say that the Committee on Military Affairs preferred that proposition to the amendment of the Senator from Tennessee, and were willing to acquiesce in it in place of the bill reported by them.

Mr. IVERSON. The Senator from North Carolina is somewhat mistaken as to the purport of my remark. I did not say that the Committee on Military Affairs had agreed to the proposition of the Senator from Virginia, but I said the chairman and myself had. I stated that I had consulted the chairman on the subject, and that he was willing, as a matter of conciliation and compromise, to agree to the proposition of the Senator from Virginia. He believes, as I do, that the bill of the committee is better than that of the Senator from Virginia. We believe it is better to add thirty companies to the existing regiments, than to form three new regiments; but as the chairman understood from the Senator from Virginia that there were several gentlemen opposed to the original bill who were willing to take his proposition, we were disposed to consent to it in order that we might obtain as large a support for the measure as possible. We still, however, entertain the opinion that the bill reported by the Committee on Military Affairs for the addition of thirty companies, is better than the proposition of the Senator from Virginia; but we do not consider it of any great importance whether there be three regiments of ten companies each, or thirty companies added to the existing regiments, more especially if one provision of the proposition of the Senator from Virginia be adopted, that no new field-officers shall be created, but that the old officers of the line shall be assigned to duty in the new regiments.

Mr. WILSON. I am satisfied with the explanation made by the Senator from Georgia; but I wish it distinctly understood that the Committee on Military Affairs, as a committee, have taken no action on that proposition, and the members of the committee are divided in the Senate.

Mr. IVERSON. I will also add that another gentleman, a member of the Committee on Military Affairs, the Senator from Arkansas, [Mr. JOHNSON,] accords with the chairman and myself. The PRESIDING OFFICER. The Chair feels

called upon to state the position of the questions before the Senate, particularly in reference to the relative position of the two propositions: the one pending, and the one proposed to be offered by the Senator from Virginia, in consequence of a suggestion from the honorable Senator from North Carolina, indicating his impression that it would not be possible to reach a vote on the proposition of the Senator from Virginia unless the proposition of the Senator from Tennessee were first voted down. The position of the question is this: the pending question before the Senate is on the bill offered as a substitute for the original bill of the committee by the Senator from Tennessee, and accepted by the Senator from Massachusetts in lieu of the one that he himself had proposed; that is open to modification before the vote on substitution shall be taken. It is competent, therefore, for the Senator from Virginia to move his bill as an amendment, or a substitute, which is in the form of an amendment, for the bill pending presented by the Senator from Tennessee. It is a motion to strike out and insert, so that the sense of the Senate can be taken between the proposition pending and that proposed to be offered by the Senator from Virginia, before the vote on the substitution in place of the original bill shall be taken.

Mr. IVERSON. The Senator from Virginia not having been present when the remarks of the Chair were made, I will take occasion to say, that on consultation with him he came to the conclusion to permit the vote to be first taken on the substitute of the Senator from Massachusetts before he offered his; and then, if that be voted down, he will present his proposition.

Mr. JOHNSON, of Tennessee. I regret, Mr. President, to find myself situated as I am, to be compelled to make a reply to the Senator from Georgia, in consequence, as I think, of some unkind allusions that have been made to my State. But before I approach that portion of the subject—and I shall look at some one or two, or perhaps more, of the positions assumed by the Senator from Georgia—it occurs to me, that perhaps I had better answer a single point to which the Senator from North Carolina has called my attention. He, in the conclusion of his remarks, stated that I had, in the *debut* I had made in the Senate yesterday, laid down as a text, or called the attention of the country to the great fact enunciated by Edmund Burke, one of England's greatest statesmen, that "the revenue of the State is the State." I now promise and assure that Senator that I intend to act on that principle; and when the measure comes up, to which he has alluded, I pledge myself now, in advance, if there is truth in figures or sound argument, that I will demonstrate that the measure to which he alludes, instead of being a waste of the public revenue, is a revenue measure, and will increase the revenues of the country instead of diminishing them. I will demonstrate to him, also, that it is not my intention gratuitously to give away the public lands. I do not believe that the Government has the power to make gratuities in the general acceptance of the term; but I will show, when the time comes, that the man who takes one hundred and sixty acres of land under the homestead bill, and goes to a frontier country to cultivate it, pays the highest consideration in reclaiming the land and reducing it to cultivation.

I will demonstrate still further, that if we grant one hundred and sixty acres of land to a man on condition that he occupy and cultivate it for a period of years, in the process of time it will yield twenty times the revenue to the Federal Government that it will while you permit a man to enter it and let it lie without cultivation for a series of years, or while you permit it to remain uncultivated without being entered at all. I will redeem every intimation of principle or position that is given out in what I stated yesterday in reference to the revenue of a State being the State. But I will let that pass.

The Senator from Georgia, it seems to me, has manifested more feeling than he has displayed sound argument and judgment on this occasion. I remarked yesterday, and I repeat now, that it is natural for a parent who has a deformed offspring to feel concerned for its fate; and his sensibilities are easily touched when there is an unkind remark made about the deformity. I did not intend that any allusions I made to the bill reported by the Military Committee should have this effect. My reference was to it as a measure.

The gentleman congratulates me upon indicating some distinguished ability in the assault I have made upon the bill reported by the Military Committee, and then he qualifies and corrects that by saying, no, it was not upon that bill. He says the argument I have made was against the bill which they reported, and not against the measure before the Senate. What is the illustration he gives of the great ability I manifested? It was that I had manufactured a man of straw, and then, to show my extraordinary gladiatorial powers, physical or intellectual, had crushed the man I had created. To what man of straw is it that the gentleman alludes? The bill reported by the Committee on Military Affairs? If I have demolished a man of straw, it is a man of your manufacture, not mine. If I have not shown any very great ability in the assault I have made on this man of straw, I have shown all that I could show in a contest with such an adversary as I had to contend with. It was at least sufficient for the occasion. I think I have nailed this man of straw, torn him to pieces, and exposed him to the country and the Senate. So much for the gentleman's man of straw.

But the Senator seems to pride himself on some calculations he has made, and he speaks sneeringly and disdainfully of volunteer forces. He says they are not the proper force to use for the service required by the Government. He reads from documents furnished by the War Department to prove that volunteer forces cost more than regulars. I imagine that if the gentleman will analyze that report, (and sometimes it is best for us to analyze documents that we use, and go into their details before we use the aggregate figures,) he will find that it embraces the additional expense incurred by calling out the militia for short periods, and then dismissing them. I imagine the great item of increase has been brought about by calling out the militia for very short periods of time.

Mr. IVERSON. The Senator is mistaken there. The report is in relation to volunteers. That term is used, not militia. I do not know an instance named in the report from the War Department to which I alluded, in which the militia have been called out; volunteers have been.

Mr. JOHNSON, of Tennessee. General Washington called them out. They were called out on various occasions. They were called out in the last war, I think.

Mr. IVERSON. No.

Mr. JOHNSON, of Tennessee. I thought there were a great many militia in the last war.

Mr. IVERSON. I spoke of the last twenty-two years—from 1835 to the present time. That is the period the report embraces. I did not go back beyond that.

Mr. JOHNSON, of Tennessee. But while they can make estimates and calculations at the War Department, we can lay down data here that will enable us to reach something like a correct conclusion, or a conclusion that will promise accuracy, as well as they can at the War Department. I propose now to put a question to every Senator here, and to the distinguished gentleman who reported this bill. If two thousand volunteers be called out for two years, to receive the same pay, the same clothing, and to be disbanded at precisely the same time as two thousand regulars, I ask, in the name of common sense, I ask in the name of all mathematical calculations, how it can be demonstrated that they will cost more than two thousand regulars?

Mr. IVERSON. I will ask the Senator a question. The bill before the Senate proposes to enlist the soldiers for two years. He wants to know how much more expensive it will be to bring volunteers into the service for two years? There might not be a very great disparity between the mere pay of the two forces for that time, but his substitute does not provide for keeping the volunteers in service two years. They are to be accepted for twelve months. Then, if you wish to run out the comparison, the first portion must be discharged at the end of twelve months, and a new set put in for the next twelve months. How much will that cost? We can all calculate how much the new outfit would cost.

Mr. JOHNSON, of Tennessee. The Senator's explanation shows that he has not made himself familiar with the provisions of my substitute. It provides expressly that the volunteers shall be re-

ceived into the service of the United States during the pending difficulties of the Mormons, and in no event shall they be continued in service longer than two years.

Mr. IVERSON. I will read the amendment of the Senator, if he will allow me:

To serve for twelve months, unless they be sooner discharged, after they shall have arrived at the place of rendezvous, or been mustered into the service of the United States.

Mr. JOHNSON, of Tennessee. What bill is that?

Mr. IVERSON. Yours.

Mr. JOHNSON, of Tennessee. I reckon not.

Mr. IVERSON. Here it is.

Mr. JOHNSON, of Tennessee. Read it.

Mr. IVERSON. "Substitute to be proposed by Mr. WILSON;" and that is the same thing.

Mr. JOHNSON, of Tennessee. Ah! that is another matter. So the Senate will discover that the Senator from Georgia has made a speech without a subject. He has missed the subject entirely. He shows that his argument was made upon another amendment. If a certain number of volunteers, say two thousand, be called out to serve during the pending difficulties in Utah, and in no event to serve longer than two years, can they cost more than two thousand regulars called out for two years specifically? In no event can they cost more, but they may cost less. It strikes me that that is just as clear as that two and two make four. What, then, becomes of the Senator's argument? what becomes of all the feeling he manifested? The feeling manifested was as unnecessary as the argument was absurd.

But the Senator, in another portion of his speech, said there were only two kinds of troops known to this Government—militia and regulars. I wish to refresh the Senator's recollection on that point. No longer ago than 1846, we passed a law providing that, "for the purpose of enabling the Government of the United States to prosecute said war to a speedy and successful termination, the President be, and he is hereby, authorized to employ the militia and naval and military forces of the United States, and to call for and accept the services of any number of volunteers, not exceeding fifty thousand." It seems to me that that looks as if we had had volunteer service. I do not know anything about the technicalities of military affairs, for I know but little about military matters; and I am free to say that if I belonged to any party as a general thing, I should belong to the peace party. As Lucius exclaimed when consulted, in the play of Cato, I must confess that about this time "my thoughts are turned on peace." I am not quite so belligerent in my nature as some other gentlemen. My thoughts are turned upon the arts of peace. I want the energies, the talents, the physical power of this country directed to developing the resources of the nation. I want the power of the Government employed in adding to its wealth, instead of being wasted in armies, whether in the shape of volunteers or regulars.

After having met these positions of the gentleman, let me refer to the President's message. Certainly if the President had any distinct description of troops in his mind when he penned his message, we shall answer the purpose by placing volunteers at his discretion, to be used by him in suppressing the rebellion that is existing, or that is anticipated in Utah. It most clearly meets his idea. Why, then, this great resistance to volunteer service? Why these sneers at volunteers? If I had time to gather up the many gallant incidents of the brave volunteers of the many wars we have had, and to present them in regular train before the gentleman, I think he would be almost horror-stricken with regret at what he said to-day in reference to the volunteer service of the country. In the war of 1812, where is there a battle-field in which volunteer ability was not displayed, and volunteer blood shed? Go from Maine to Louisiana, go from the Atlantic coast to the golden shores of California, where is there a battle-field on which volunteer blood has not been poured out as an evidence of their high appreciation of their country? Are these men, who have rallied to your country's standard in all her perilous conflicts, and upon whose efforts victory has uniformly perched, to be regarded as occupying an inferior position to the regular soldiery, composed out of this lower, "cheaper material," of which you want your Army composed?

Let me ask the Senate, let me ask the country, if the destinies of this Government were at issue upon a single military contest, what service would you most rely upon? Would you not rely upon the volunteer who went at his country's first call; who responded to the first sound of the tocsin; who went to fight his country's cause; who went to fight for wife, for children, and for home? Would you rely upon the man that has an interest in his country, that has somebody to care for, and somebody to care for him; or the rabble soldier, that has no home, that has no country, whose highest ambition is a few sixpences and a little grog? These are the men that are eulogized and extolled, in comparison with the volunteers of these United States. God save the mark!

But, not content with that invidious comparison between regular and volunteer troops, the State which I represent must be arraigned; she must be attacked. It is true that I am not her native son, but I am her adopted son. She took me by the hand, and that generous, that brave, that patriotic people, have made me all that I am, be that much or little. Having placed me here, I intend to stand by her through evil and through good report. Come weal or come woe, I will be found standing by her interests, her honor—her sacred honor—let the consequences be what they may. Yes, I love her. The tenderest sympathies of my soul are entwined with her. There is where I live; there is where I hope to die; and beneath the clods of some of her valleys I hope my remains will be deposited. It is the home of my children; it is the home of all that is sacred to me. There, upon her soil, and beneath her sky, the infant vision of those that are bone of my bone and flesh of my flesh, first saw the light; and I will stand up and defend her.

The gentleman being hard pressed, must needs lug in an unkind allusion. I will not be invidious to the citizens of the different States. I will not go to Georgia and arraign her prowess. I feel that my position is too elevated for that. I love Georgia; I love her people, and I admire many of her institutions; and if I should be hard pressed here or elsewhere in discussion, by way of covering a retreat, even were it in my power to do so, I would make no unkind allusion to her as a State, or to her people. The prowess, the valor of Tennessee is arraigned; and it is said that I, speaking in behalf of the volunteer State, have indicated some predilections for Mormonism. I ask those who heard me yesterday, the first time I attempted to make a little effort in this Chamber, whether that inference can fairly be drawn from what I said. Perhaps I spoke hurriedly and crudely, and I may have said something by inadvertence; but take the tenor and scope of what I said, and can the gentleman, even with magnifying glasses, discover the slightest hint or word that favored the institution of Mormonism? He says that if that is my theory and if my people entertain the same views, they might, when they got to Utah as volunteers, unite with Young and desert the standard of their country. So far as the honorable Senator's allusion is concerned, I am willing to compare theory with him on the subject of Mormonism, and I would not care much to compare practice. I will take him in theory or in practice, just which ever dilemma suits him best. I spurn the imputation as being unfounded and untrue in reference to my State or myself.

I remarked in the little speech I made yesterday, that we need not be so squeamish, or have our tender sensibilities so extraordinarily shocked at the Mormons, when the honorable chairman of the Committee on Foreign Relations, (and I intended it as no imputation on him,) had just reported a resolution—doing what? Providing for receiving, entertaining, and conferring extraordinary privileges upon the representative of the Grand Turk of Constantinople. History informs us that polygamy exists in Turkey to a very great extent, but because I alluded to it, did I say I justified it? I alluded to it as a palliating circumstance, and to show why we should not be so eager, in hot pursuit of the Mormons, either in reference to their religion or the institutions which they may have among them.

I intended to say then what I shall say now, that we have a striking illustration of the doctrine of our fathers, in regard to religious freedom, by the provision which is ingrafted in every constitution of the States of the Federal Union, that all

men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. I act upon this great principle of civil liberty. Charles V., the Emperor of Germany, when he became tired of the cares of State, resigned his vast possessions to his son, and, to amuse the evening of his life, retired to a monastery, and there undertook to regulate the movement of watches; but finding it impossible to make any two of them keep precisely the same time, he was led to reflect on the crime, the folly, the wickedness he had committed in attempting to make men think alike. I am willing to be tolerant. Standing upon those great principles laid down and inculcated in the constitutions of all the States, I think that we should adopt other means, we should act towards the Mormons as Christians ought to act—go with the Bible in one hand and the torch of reason in the other, and dissuade them if we could from their course.

I might refer to the various instances of impostors who have sprung up from the body of mankind, and raised organized communities, from the beginning of the world to the present time. They have had their day; they have risen and fallen. They are past and gone. But how do the honorable Senator and myself compare in practice? When the vote came up on the proposition to appropriate money to entertain, I suppose in magnificent style, the representative of the Turk, by way of expressing our high appreciation of the institutions of Turkey, how did the Senator vote? My recollection is, he will correct me if I am wrong, that he voted for that resolution, which is to take out of the Treasury the money of the people of the United States, who have such a great abhorrence of Mormonism, to be spent in entertaining the representative of the Grand Turk?

Mr. IVERSON. Does the Senator allude to me?

Mr. JOHNSON, of Tennessee. Yes, sir; I ask whether the Senator voted for that resolution?

Mr. IVERSON. I am sorry to spoil the eloquent rhapsody the Senator has delivered by saying that I voted in the negative on that proposition.

Mr. JOHNSON, of Tennessee. I am very happy to hear it; that is some evidence that the Senator is getting right. I referred to it to show why we should not run into extremes on questions of this kind. As to "rhapsody," that is a thing I do not know anything about. When I deal with figures, they are not figures of speech, but the figures used in the arithmetic; and as far as we have gone in this matter, I think we have shown that the gentlemen who urge this bill here are wholly wanting and at fault in their figures.

But, sir, the Senator has referred to my State. I ask the Senate, I ask the people of this nation, if it is any part of Tennessee's history that her people have ever been wanting in prowess or in courage. She needs no vindication from me. It exists in her own history. I could recite many of her military deeds that would be ample, if her reputation was not beyond the assaults of the Senator. I could begin with the battle of King's Mountain, which was fought before Tennessee was a State. It was then a portion of the territory of North Carolina, but the people went from the eastern counties of Tennessee to the battle of King's Mountain; and there, amidst the din and the dust and the heat of battle, they showed themselves to be brave men. Is it necessary to allude to the Seviers, the Shelys, the Hardings, and the long list of those gallant patriots who participated in that battle? When you examine the history of the country carefully, you will find that it was that battle which turned the tide of the Revolution. The country had been laid waste; disaster had attended our arms; but from the battle of King's Mountain down to the surrender of Cornwallis our troops triumphed everywhere.

How was it in the war of 1812? Go to the cold regions of the North, and do you not find Tennessee soldiers, in connection with their compatriots in arms, traversing the frozen ground, and pouring out their blood freely in defense of the northern frontier? Go to your southern campaigns, in an inclement climate, beneath a burning sun, where disease and death cut them down; and were not Tennessee's sons there? Go through your Indian campaigns, and were they not there? Go to the battles of Talladega, Emuckfau, Horse-shoe, and Hickory-ground, and wherever it was necessary to make a display of bravery and gallantry, were they not there? I could hardly un-

dertake to name her gallant sons who have distinguished themselves in your military service, because they are so numerous that their names do not now occur to me. Where is your Carroll? Where is your Houston, that was wounded in the battle of the Horse-shoe? I claim him as a Tennessean.

How was it in the Mexican war? Go to Monterey; go to any point where there was fighting to be done, and were not Tennesseans there? Where was your Campbell? Where was your Anderson? Were they not at Monterey, leading on their gallant followers in the thickest and the hottest of the fight? On what occasion is it that the sons of Tennessee have faltered? Was it at the battle of New Orleans? There were Jackson and Carroll, and a long list of others. On the 23d of December, 1814, they were gallantly engaged in the contest with the enemy, in the swamps and the lagoons; and on the memorable 8th of January, 1815, the sons of Tennessee, in connection with those of Kentucky and other States, distinguished themselves. When the embattled host was advancing, when the rockets were going up, indicating the commencement of battle, Tennessee's gallant leader, her own noble and glorious Jackson, who stands in this great forest of men the admiration of the American people—where was he? In the thickest and hottest of the battle his stern voice could be heard rising above the roar of artillery, urging his men on to the encounter.

Is this the State, is this the people that is to be taunted? Are taunts to be thrown out upon her volunteer forces? And now to be more direct and pointed, I ask does the Senator from Georgia intend to impute cowardice either to Haskell or General Pillow, or the gallant men who were led on to that bitter, to that desperate, to that fatal charge which was made on Cerro Gordo?

Mr. IVERSON. I will take this occasion, perhaps it may save me a speech in reply to the Senator, to say that I did not intend to impute cowardice either to those gentlemen, or to Tennessee troops, or to the Tennessee people in general. I accord to the people of Tennessee as much bravery and personal courage as any people in the United States. I believe they are at all times as ready for a fight as almost anybody, and from my observation are more anxious than most people. But the Senator seemed yesterday to vaunt a great deal about the prowess of Tennessee people; and he told us how easy it would be for them to take a contract from the Government to whip the Mormons at half price; and he seemed to lay so much stress really on the invincibility of Tennessee raw troops, that I took occasion to refer to an incident in history which showed that raw troops, although they may come from Tennessee, a brave State—and I mean to accord to them as much bravery as anybody—even Tennessee raw troops cannot stand fire like "mercenary" regulars who are drilled into obedience. I referred to the battle of Cerro Gordo, where General Pillow himself, in his report, states the fact, that the first and second Tennessee foot regiments, who were engaged in that battle, faltered and retreated from the ground on the first fire of the Mexican batteries. He does not say the "first" fire; but on the fire of the batteries they retreated from the ground, and went to a position where he stood with his troops, and did not make another attack until a message was sent to him stating the surrender of the main army of the Mexicans, and then he marched over to the main road.

I merely cited this as an evidence of the inferiority of raw troops, undisciplined militia. Those troops were not altogether undisciplined, for they had been in service some months; but they had been on the march all the time, and had probably very little opportunity of discipline. I cited it as an instance of the danger of depending on raw troops, militia, volunteers, who are just taken from the plow-handle and organized into companies and regiments. They cannot stand fire. It is not one time in a thousand that they can do it, if the fire is such a one as was received from the Mexican batteries, and such a one as I apprehend they will receive from the Mormons if they go there. I make no imputations on the courage of the Tennessee people. I accord to them, I say again, as much courage and personal bravery as any people. Still, I do not think Tennessee people, brave as they are, can stand fire like regulars.

Mr. JOHNSON, of Tennessee. I am very glad to hear the Senator make the explanation, disclaiming any intention to impute cowardice either to General Pillow, Colonel Haskell, or the men whom they led up to this masked battery. There are no troops on the face of the earth who could have stood it. Those who are familiar with the position say that the only alternative was to fall back or to be mowed down where they stood. It was the most impregnable point of the whole Mexican line. There is no man, taking the history of Tennessee and the facts connected with this particular transaction, who is disposed to be impartial, who can entertain, for a moment, the belief that there was a want of bravery on the part of the officers or men at this particular part of the battle of Cerro Gordo.

I will now say, what I was going to state in the absence of the gentleman's explanation, in which he has entered a disclaimer, that if his intention was to pass an imputation of cowardice on the people of Tennessee, or her officers or men, I must pronounce the imputation as wanton, unjust, and unfounded in truth; but I am not reduced to that alternative. In the absence of the explanation in which he has entered his disclaimer, and which I was proud to hear, I should have pronounced the imputation as false, absolutely false; and then as to the bravery of General Pillow and Colonel Haskell and others who were engaged in that contest, should have turned the Senator over to them for demonstrations that might have taken place in the future entirely satisfactory to him.

Yes, Mr. President, I am proud of my adopted State; and while here, or elsewhere if need be, I will vindicate her interest and her honor, let the consequences be what they may. I love her institutions; I am devoted to her people; and I will speak in strong language and upon high authority that "Whither thou goest, I will go; and where thou lodgest, I will lodge; thy people shall be my people, and thy God my God." I will stand by her here, I will stand by her at home, as I have already said, come weal or come woe.

I now offer the Senate an apology for the remarks I have made on this subject; but I have felt, under the circumstances, that I was called upon to say this much in reference to the character, the reputation, and the military renown of the people of Tennessee.

Mr. FESSENDEN. I move that the Senate adjourn. We cannot get the vote to-day.

Mr. IVERSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Collamer, Dixon, Donnell, Douglas, Durkee, Fessenden, Foot, Foster, Green, Hamlin, Harlan, Houston, King, Mason, Seward, Simmons, Stuart, Thomson of New Jersey, and Wade—22.

NAYS—Messrs. Allen, Bayard, Biggs, Bigler, Bright, Brown, Clay, Crittenden, Evans, Fitch, Hale, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Pearce, Polk, Pugh, Sebastian, Slidell, Toombs, Wilson, Wright, and Yulee—25.

So the Senate refused to adjourn.

Mr. BROWN. I am very glad that the Senate has refused to adjourn, because it must be evident that this question has detained the Senate quite as long as it ought to do. I am not particularly tenacious that we shall have a final vote to-day; but certainly, in view of what lies before us, we ought to come to a conclusion as to when we are going to settle this Army question. If we can adjourn with the full understanding that to-morrow we are to conclude it and then adjourn, as we shall do, to Tuesday, beyond all question from to-morrow, I am satisfied; but if we adjourn now, it will be to Monday, to meet simply to adjourn again.

Mr. FESSENDEN. If we adjourn now, it will be to to-morrow.

Mr. BROWN. But you will meet to-morrow, and will go on the same way, and do nothing. You will meet to-morrow and have the same thing over again, and adjourn without settling the question. If we meet to-morrow to settle the question—if it be the determination that we shall have no further adjournment after to-day until we dispose of the Army question—I am willing to adjourn; but if we are to go on from day to day in this way, the bill will consume the whole session.

I beg Senators to consider that every day wasted

in the winter is a day of detention here during the summer. We are wasting away now the pleasant season, when we can legislate and transact public business with comfort, to be detained here when the hot days come. I do not want to do it. For one, I am tired of adjourning over from Thursday to Monday every week, when business lies in our way undisposed of.

Here we have had this Army question for more than a month. Let us get clear of it. If we are going to increase the Army let us do it; but if we are not going to do it, let us determine that we will not, and take up something else. There is no propriety in it, and the judgment of the country will not sustain this mode of doing business. When the Administration is appealing to you to say whether you will grant or refuse an increase of the Army, you devote but four days a week to the consideration of the question; give up two entire days, and pass the subject over from week to week until the spring, when it will be too late to get these recruits for any practical or useful purpose. The chairman of the committee has said to the Senate time and time again, if you mean to grant the additional troops, do it, and do it now. If you do not mean to grant them, say so, so that the Government can dispose of the force now provided for by law in the best possible manner. If you mean to say that there shall be no additional regiment, let them make the best they can of what they have; but if you mean to grant others, do it at once.

I do not mean to say anything to my honored friends from Tennessee and Georgia, but I do think their speeches to-day would have been much better suited to the latitude of Georgia and Tennessee than here, in the present aspect of the question. They were eloquent and able speeches—such speeches as would have taken Georgia and Tennessee perfectly captive; but I beg leave to say to them that I think this boasting about the chivalry of Georgia and the prowess of Tennessee, is a little out of place here.

I am prepared to vote, and I dare say every other Senator is, if you just give us a chance to do it. ["Question, Question." "Let us do it."] I am going to say but one word more. I am utterly opposed to your volunteers. I am not going to vote for volunteers in any form. If that is the only way in which you are to have an increase of the Army, I will have no increase of it. Now allow me to state one or two reasons for it.

Mr. JOHNSON, of Arkansas. Will the Senator allow me to interrupt him for a moment? I wish to see him advocate a distinct proposition on this matter, and I suggest that we fix an hour to-morrow when we shall have a vote, with the understanding that the bill shall then be disposed of. But, if gentlemen wish to continue the debate further, let them go on this evening. I believe it is the general sentiment of the body, that there is no necessity for debating the measure farther. Let us fix on one or two o'clock to-morrow for taking the vote. Then the Senate will be full; at present I believe the Senate is not full.

Several SENATORS. Let us vote now.

Mr. JOHNSON, of Arkansas. I would prefer to have the bill disposed of now, if that is the disposition of the Senate. If it is the disposition of the Senate to reject the bill, let them do so, and take the responsibility.

Mr. BROWN. If we can have a vote without further debate, I shall give my vote without assigning a reason for it, because I do not believe the world is going to be much influenced by my reasons. My reasons are satisfactory to myself, but I do not care a sixpence whether the world knows them or not. Just let us come to a vote, and get clear of this bill. If the Senate will do that, I have nothing to say. I will not insist on a vote this evening, but I am opposed to an adjournment, unless it be with the understanding that when we meet to-morrow we shall adjourn no more until we have disposed of the Army question. I see that Senators shake their heads. Very well. If others can go on and give their reasons why they are for this proposition and for that, against this or against that, I shall claim the privilege of doing the same thing.

Mr. HALE. Allow me to remind the Senator that more than ten days ago, upon the suggestion of the chairman of the Committee on Military Affairs, we adjourned, with an express understanding that we were to take the vote on the next

day at two o'clock. If we do not get a vote now, we shall not get it for ten days to come.

Mr. BROWN. Shall we sit it out this evening? ["Yes, yes."] Then I will stop speaking, and sit here until we settle the bill and dispose of it.

Mr. IVERSON. I think we ought not to take the question now, because one or two gentlemen, to my knowledge, have left the Senate and gone home, with the understanding that the question would not be taken to-day.

Mr. BROWN. To-morrow somebody else will be away, and the next day somebody else, and so we shall be kept during the whole winter debating this miserable Army question, and get at nothing else. If the Senate will agree to it, let us say that we will take the vote to-morrow. ["Now, now."] Other Senators say no; and it seems to be springing an issue on the Senate that I am not willing to make myself a party to. Senators on the other side, who oppose this measure, can come to-morrow as well as those who favor it. Some others, I am told, have gone away.

The PRESIDING OFFICER. (Several Senators being on the floor making suggestions.) The Senator from Mississippi has the floor. These interruptions are not in order. The Chair is unwilling to be obliged to call Senators, who understand the rules and the decorum of the body, to order.

Mr. BROWN. Senators on one side say they are not ready to take the vote, because certain of their friends have gone away, expecting that the vote would not be taken to-day. On the other side there is an anxiety to take it to-day. Why not adjourn until to-morrow with the understanding on all sides that when to-morrow comes we are to have a vote and dispose of this question.

Mr. HUNTER. Name an hour: say two o'clock.

Mr. BROWN. Very well; say two o'clock.

Mr. TOOMBS. I rise to a question of order. The Senator from Mississippi is out of order. He has no right to make such a proposition here. We are kept here to hear propositions which it is out of order to respond to. I submit that it is out of order to name a day or time, in this way, for closing debate, and make such contracts. It seems we had one the other day, but it amounted to nothing.

Mr. BROWN. Such propositions have been submitted during my four years in the Senate, one hundred times; and during my service in the Senate I have never heard that it was out of order. I think I have heard the Senator from Georgia make the proposition that we have an understanding that we take the question at a particular day or hour. I know it is not strictly according to parliamentary order.

Mr. TOOMBS. Can I have the question of order decided?

The PRESIDING OFFICER. The Senator from Georgia rises to a question of order. Will the Senator repeat the question?

Mr. TOOMBS. I say it is not in order for a Senator to rise and occupy the floor with propositions to one or the other side of the House—not for the purpose of debating questions, but with a view of making contracts or agreements. That is out of order; and besides, they are not likely to be agreed to, as the gentleman himself has attested for ten or fifteen minutes.

Mr. BROWN. I know it is not in order, and I withdraw the proposition; but understand hereafter, that if any such proposition comes from anybody, upon any point whatever, I shall consider myself at liberty to interpose the same point. ["Certainly."] With that understanding, I know that it is not strictly in order; I knew it before; but the practice has been indulged in ever since I have been in the Senate. I have never heard it objected to before.

Now, sir, I am not going to vote for any proposition to call out volunteers. If that be the only means of increasing the Army, the Army, so far as I am concerned, may go unincreased; and I put it on two points: the first is, that the volunteer service is the most expensive you can get. Gentlemen may argue as they please, but the records of the country, from the days of the Revolution down to this hour, show the proposition to be true, that your volunteers are more expensive, by fifty per cent., than regulars.

I was amazed to hear the Senator from Tennessee read us a homily an hour and a half long about economy, and then proposing the most extra-

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gant proposition that had ever been made in reference to this particular matter. Why, sir, when you call out volunteers, you never get done paying them. In the first instance, you have a more expensive recruit than you have in any other way. While you pay them no more per month, you dismiss them at stated periods, and you are to pay them for marching back to their homes, to the place from which you got them. And then you are to take others in their places; and I have seldom ever known them to be dismissed without getting two or three months' extra pay; and then the practice has been established according to which they come in for bounty land. Every one of them will claim and will get his one hundred and sixty acres of bounty land, and the whole thing will sum up in paying them about twice as much as it will cost you to employ regulars for the same time.

But, sir, I am opposed to it on another and a stronger ground. I am free to say, that I do not particularly sympathize with the Senator from Tennessee in reference to his doctrines of economy. I love economy, but I never preach it. I have no particular fancy for making a reputation as an economist in the expenditure of the public money. Whatever the nation requires to maintain its honor, its dignity, and at the same time to pay every man fairly and justly for his services, I am willing to vote. I was not sent here to calculate pounds, shillings, and pence; to say that we will pay a sixpence for this, and twelve and a half cents for that; I am willing to pay liberally for whatever we get. I do not sympathize with this eternal outcry about economy.

The point on which I place my chief objection to the employment of volunteers is this; if you send volunteers to fight the Mormons you will have civil war beyond all question. It is very well known that these people have had their disturbances in Illinois and Missouri before they left the States. They left enemies behind. Those enemies thirst for vengeance to-day. Call for the volunteers, and the old enemies of the Mormons will be the first to come forward and offer their services, and say "we will take the field; we will go and fight these Mormons." They go with a view of shedding blood; they go for vengeance, and they will have it. Send a volunteer force against the Mormons from Missouri and Illinois, and you will have war as certain as that a God reigns in Heaven. No human agency can prevent it. The volunteer soldier will have volunteer officers. They will all be of a piece and all be of a party, and all thirst for vengeance on account of old scores.

The extract from Colonel Johnston's letter, read by the Senator from Massachusetts yesterday, had attracted my attention before; and if I felt perfectly sure that the extract was authentic, I should demand from the Executive that Colonel Johnston should be deposed from the command; and whoever goes there in command of your troops, saying you ought to have war, and that war is the best thing for the United States, is certain to bring on war. I say that theman who goes there thirsting for blood, who wants to shoot down these poor, deluded people who are following Brigham Young, will bring war, disgrace, and dishonor on your country. I want no war. I want no bloodshed. If you will send no volunteers to Utah you will have no war. There is no necessity for it. Brigham Young and his followers do not mean to fight. They will not fight you unless you force war on them. That is my judgment. I am told by gentlemen sitting around me that if I quit talking you will get a vote. I will see how that will turn out. I stop.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Tennessee as a substitute for the original bill.

Mr. HOUSTON. Mr. President—

Mr. CLAY. I understand the Senator wishes to address the Senate, and he yields to me for a moment. I shall move an adjournment. It is evident that we are not to get a vote here under several hours, and I would suggest this reason why I

think we should adjourn until to-morrow. The chairman of the Committee on Military Affairs, who introduced the bill to the Senate is absent on account of sickness. Probably on to-morrow he will be able to get into the Senate, and I know he is anxious to be here when the vote is taken. I think if we adjourn until to-morrow he will probably be here.

Mr. SEWARD. Will the honorable Senator allow me to state that I saw the chairman of the committee yesterday, and that he was very anxious to be here? but at the same time he would not at all suggest that he desired the Senate should adjourn or delay the consideration of the question. I thought it would be agreeable to him, and therefore I suggested it.

Mr. CLAY. I move an adjournment.

Mr. BROWN. I ask the Senator to delay an instant.

Mr. HALE. I ask for the yeas and nays on the motion.

Mr. CLAY. I withdraw the motion, and I am willing to sit here as long as anybody else.

Mr. MASON. If the Senator from Texas will yield me the floor, I will make the motion to adjourn; and on that I ask the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 27, nays 16; as follows:

YEAS—Messrs. Allen, Bayard, Bell, Chandler, Clay, Crittenden, Dixon, Douglas, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, Houston, King, Mason, Pearce, Polk, Seward, Simmons, Stuart, Thomson of New Jersey, Toombs, Wade, Wilson, and Yulee—27.

NAYS—Messrs. Biggs, Bigler, Bright, Broderick, Brown, Fitch, Gwin, Hale, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Pugh, Sebastian, Slidell, and Sumner—16.

The Senate thereupon adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 18, 1858.

The House met at twelve o'clock, m. Prayer by Rev. F. SWENTZEL, D. D.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATIONS.

Mr. CAMPBELL. I ask the unanimous consent of the House to make a personal explanation. There was no objection.

Mr. CAMPBELL. Mr. Speaker, some days since the House was engaged in the discussion of a proposition reported from the Committee of Elections, to allow further time to the parties interested in taking testimony in the Ohio contested-election case. That committee reported my application, in which there are sundry allegations made. They also reported to the House the answer of the contestant. The following is an extract from my application:

"I am informed by him [my attorney] that when he served notice, (p. 138,) contestant claimed that he had no right to do so, because his notices, previously served, covered the residue of the 'sixty days,' and refused to appear and cross-examine the witnesses."

The answer of the contestant is as follows:

"It is asserted, or insinuated, upon the authority of *justidem ignoti*, that my purpose, in serving the notice in this contest, was to prevent the returned member from taking any testimony at all. I meet this by a flat denial."

Mr. Speaker, I did not participate in the discussion on this subject, because I regarded it as indecible for me to do so, notwithstanding there were many things said to which I desired to reply, particularly in the remarks of the honorable gentleman from Georgia, [Mr. STEPHENS.] I ask the Clerk to read that portion of the debate which I have marked.

The Clerk read as follows:

"Mr. WILSON. I understand the gentleman from Georgia [Mr. STEPHENS] to challenge the minority of the Committee of Elections, individually and collectively, to answer his questions; and he refers to the argument of Mr. Vallandigham, as read from the Clerk's desk, to show that the contestant here does not give the construction to the statute which we say he did. That, Mr. Speaker, is not the question."

"Mr. STEPHENS, of Georgia. I do not yield the floor, unless the gentleman rises to answer the question I put. My question is this: I ask the minority of the committee to show to this House and to the country, one particle of evidence on which their statement is predicated, that it is clear that both parties gave the law this construction, or that either of them did."

"Mr. WILSON. I will do so. It is not material what the contestant's construction of the law may be now. That letter just read is a mere matter of argument. But I refer the gentleman to page 6 of this report, where Mr. Campbell states:

"I am informed by him [his attorney] that when he served notices, contestant claimed that he had no right to do so, because his notices, previously served, covered the residue of the 'sixty days,' and refused to appear and cross-examine the witnesses."

"Where was this? In Ohio. Not here in the committee room. Not since the commencement of this Congress. There it was that the contestant denied that Mr. Campbell had a right to take further testimony."

"Mr. STEPHENS, of Georgia. Does the gentleman read that to me as evidence?"

"Mr. WILSON. It has not been denied."

"Mr. STEPHENS, of Georgia. It is denied flatly. It is denied in the statement of the gentleman [Mr. Vallandigham] in his own paper, which I have just read. It is denied by his acts; denied by those documents that I hold, and read from a while ago, which show that he acted inconsistently with any such construction. What the gentleman [Mr. WILSON] has read is the statement of the sitting member, that his lawyers told him that Mr. Vallandigham put such a construction on the law, in the very teeth of the acts of Vallandigham and of the acts of Campbell. I ask for the evidence. Do you, as a lawyer, give me that as evidence? I want the evidence upon which that statement was made."

"Mr. WILSON. Do I understand the gentleman from Georgia as stating that the contestant denies that he informed the attorney of Mr. Campbell that he had no right to take this evidence?"

"Mr. STEPHENS, of Georgia. I understand the contestant distinctly to deny it."

"Mr. WILSON. Will the contestant rise in his place and deny it?"

"Mr. VALLANDIGHAM, (contestant.) I have denied, and do deny making the statement alluded to."

The "flat denial," as repeated, seems to be indorsed by the gentleman from Georgia. I do not rise with any desire, nor do I intend, to make any assault upon the veracity of any person. I appear for the purpose of vindicating my own character for truth.

After that debate, inasmuch as my own opinion was predicated upon a conversation which I had with my attorney nine months ago, I did not know but that I mistook him, and, in making the statement I did, might have done the contestant injustice. I wrote to him for the purpose of ascertaining the facts in order that I might repair speedily any injury I might have done on the one hand or on the other, vindicate my own character, and substantiate the truth of my statement. It will be observed by the printed testimony in the case, (Mis. Doc. No. 4,) that Fletcher C. Cuppy was my attorney, and served my notices before my return to Ohio. I send to the Clerk's desk his response to my interrogatory.

The Clerk read as follows:

State of Ohio, Montgomery county, ss:

Fletcher P. Cuppy, of lawful age, being first duly sworn, deposed and said that he acted as attorney for Hon. Lewis D. Campbell in taking testimony, in Montgomery county, Ohio, in relation to the contest between him and Clement L. Vallandigham, for the seat in the Thirty-Fifth Congress, as Representative of the third congressional district of Ohio; that while acting as attorney as aforesaid, affiant served a notice by copy upon said Clement L. Vallandigham, personally, apprising him of affiant's intention to commence taking depositions at the time and place in said notice mentioned; that said Clement L. Vallandigham refused to accept the copy of said notice handed to him by affiant, because he (as he then said) had served a notice upon Hon. Lewis D. Campbell of his intention to take depositions in his own behalf, during a part of the time which would be occupied in taking depositions under the notice so served as aforesaid by affiant. Said Clement L. Vallandigham then and there claimed that affiant, as attorney for said Campbell, had no right to take depositions at the same time that he (said Vallandigham) was taking depositions at another place, in his own behalf; and thereupon gave affiant notice that for that reason he would not appear or cross-examine any witnesses examined by affiant under said notice, in behalf of said Campbell. Said notice, with the time and manner of the service of the same appended thereto, was filed, with the depositions taken before Hon. D. W. Jiddings, Mayor of the city of Dayton, in the said county of Montgomery; and further this deponent saith not.

FLETCHER P. CUPPY.

Sworn to before me by Fletcher P. Cuppy, and by him subscribed, in my presence, this 13th day of February, A. D. 1858. Witness my hand and seal of office on the day and year last aforesaid.

LUTHER B. BRUEN,

Notary Public, Montgomery county, Ohio.

Mr. CAMPBELL. The statement of Mr. Cuppy is corroborated, to some extent, by the testimony which he took. The contestant never did appear, in person or by attorney, to cross-ex-

amine my witnesses. I will only add that Mr. Cuppy is a member of the bar, of good standing, and enjoys the confidence of the community in which he resides.

I thank the House for its indulgence, and dismiss the subject.

Mr. STEPHENS, of Georgia, obtained the floor.

Mr. ZOLLICOFFER. I hope the gentleman will yield to me for a personal explanation.

Mr. J. GLANCY JONES. Although it was my intention, I did not object to the personal explanation of the gentleman from Ohio. I will not object now to anything the gentleman from Georgia may have to say in reply, as a member of the Committee of Elections. But I wish it understood that I shall object to the matter going any further.

Mr. STEPHENS, of Georgia. I stated, in the discussion of the preliminary question referred to, that I understood the contestant distinctly to deny the allegation of the minority of the Committee of Elections. The gentleman has read the deposition of his attorney controverting that denial. All I ask is, that a statement from the contestant be read in reply to what has been said by the sitting member.

The Clerk read as follows:

It would have been more man-like had the returned member waited till I had an equal right to the floor.

But this whole matter is upon a false issue. There is no question of veracity on this point between him and myself. I did not deny that his attorney had made the statement to him.

I did tell his attorney that I would not attend at the taking of his testimony, because my own notices were out, in part, and I should attend to them, and to my own case, as there would be but ten days left. Nor did I appear at his examinations, either in person or by attorney. But I did not, whatever his deductions may have been, say or intend one word to him then, or at any time, about the law or its construction as to taking testimony, or his rights within the sixty days, nor upon any other point. He was a person with whom I was not on terms of speaking, or even recognition.

Upon this statement I submit the matter without comment. CLEMENT L. VALLANDIGHAM.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. DAVIS, of Maryland. I rise, sir, to ask the indulgence of the House in a matter analogous to that in which the gentleman from Ohio has just been indulged.

Mr. SAVAGE. I object.

Mr. DAVIS, of Maryland. I appeal to the fairness of the House to allow me to make a personal explanation.

Mr. BOWIE. I hope my friend from Tennessee will withdraw the objection.

Mr. CLEMENS. The gentleman from Tennessee did not rise in his seat and object.

The SPEAKER. The Chair hears no objection.

Mr. SAVAGE. I object.

Mr. DAVIS, of Maryland. The Chair had announced the result before the gentleman objected.

Mr. ATKINS. I hope my colleague will withdraw his objection.

Mr. SAVAGE. I will withdraw my objection upon the request of my colleague.

Mr. DAVIS, of Maryland. The decision was made by the Chair before any objection was heard.

The SPEAKER. But the gentleman rose from his seat and objected.

Mr. ATKINS. My colleague withdraws his objection.

The SPEAKER. The objection is withdrawn.

Mr. DAVIS, of Maryland. I desire the Clerk to read from the Globe the marked passage which I have sent to him; and I beg the attention of the gentleman from Maryland, [Mr. BOWIE,] who spoke the day before yesterday, relative to my election, to that passage.

The Clerk read as follows:

"Won by the siren songs of the sitting member in this case, they are ready for a street fight at any time. I will not say how they hold their elections; but, at all events, they let every native vote, and shut out all the foreign voters. Do you deny it? Dare you deny it? And such men as that now appeal to us! Sir, Robespierre was a coward; yet Robespierre counseled death and destruction. You may be unlike him for aught I know."

"I have no spur
To prick the sides of my intent."

I counsel death and destruction only that it may come back upon the head of the offender. Yes, I tell you, you have a day of reckoning to come, gentlemen, in the city of Baltimore. There will be a war there, and it will be a war of the people against clubs and mobs. I only hope that, in the providence of God, I may live to counsel, advise, and direct you. I will not advise anything which I am not ready to take the foremost rank in executing. You may be a

Robespierre to counsel death, but always absent yourself. I will put you under my foot. You shall not live an hour. There is a day of reckoning for you. You must either fight or escape it by flight, in your wickedness, your malice, your malignity, your utter disregard of all the rights of a great city—yes, sir, a city that ought to be, and I hope will be, the southern emporium of this blessed and glorious Union."

Mr. DAVIS, of Maryland. Mr. Speaker, I desire politely and respectfully to ask my colleague whether those words are applied to me personally; and, if so, whether he has anything to say with reference to them.

Mr. BOWIE. I personified the American party when I used that language. When I said "you," I addressed myself to the American party, and did not mean personally to apply any portion of it to my colleague; but personifying the American party, which has struck down the Democratic party of the city of Baltimore, by force and bloodshed, I meant to say that a day of reckoning would come, and that in that day of reckoning there would be war.

I did not say how far the gentleman counseled those things; but if he did counsel them, I thought he ought to be, as I would be, willing to take all the personal responsibility for it.

Mr. Speaker, it grieves me to think that I have wounded any man's personal feelings. I have no unkind feelings towards my friend—my friend heretofore; I have no unkind feelings towards him personally; but I tell him, I tell this House, I tell this nation, that from my inmost soul I abhor the principles of the Know-Nothing party; I believe they will lead to bloodshed and revolution; and believing it, I counsel those whom they have trampled under foot to resist when the proper time comes. To that extent I meant to address myself, without in any particular personal sense applying it to my colleague, and I hope he will not consider that I desire any personal war with him.

Mr. DAVIS, of Maryland. In reference to the opinions of my honorable colleague touching the American party, this House is not the appropriate place to speak. It has not been my habit, at any time, to bring here any mere question of party principle or party discipline, which properly belongs to the canvass before the people. I rose merely to ascertain whether the language, which might be applied to me, or might not be applied to me, was intended to be personally applied. His response, in that respect, is satisfactory to me, and I am glad that our personal relations will not be disturbed.

Mr. J. GLANCY JONES. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HOPKINS in the chair,) and resumed the consideration of the

INDIAN APPROPRIATION BILL,

on which the gentleman from Alabama [Mr. SHORTER] was entitled to the floor.

Mr. SHORTER. Mr. Chairman, on the question of the admission of Kansas into this Union as a sovereign State under the Lecompton constitution, and of the position of the South thereon, I shall speak to-day. I bring no elaborate argument to be read to the House, because the points involved in the controversy are, to my mind, clear and well-defined. Neither do I bring with me to the task a blind idolatry for the Union nor an unreasonable attachment to any national party at the sacrifice of principle. I do not, Mr. Chairman, regard the preservation of the one as the "primary object of patriotic desire." My attachment for the other ceases whenever it fails to redeem its public pledges. Those who have preceded me in this debate have discussed this question chiefly in reference to its effects on the political parties of the country. I shall consider it in a higher light, and speak of its effects on the Union of these States and the destiny of the South.

What I have witnessed in this Hall, since the receipt of the President's able special message on Kansas affairs, has satisfied me that, unless there is a remarkable change in public sentiment in certain quarters, the recent position assumed by the State of Alabama on this question will result in a convention of her people, representing the sovereignty of the State, to determine what shall be her future relations towards the Federal Government.

Resolutions have been adopted unanimously by both branches of the Legislature of my State, affirming the legality and regularity of the Lecompton constitution, and demanding (not as a threat, or for the purpose of intimidation) the unqualified admission of Kansas under that constitution as a State of this Union. They demand this as a right guaranteed to the people of Kansas by the Federal Constitution, and by the organic act establishing the territorial government. They demand it, also, as an act of justice to the South, and as the legitimate consequence of the supposed triumph, in the last presidential election, of the principle of non-intervention by Congress with the question of slavery in the Territories. The resolutions also reaffirm the determination of the people of my State to resist, even to a dissolution of this Union, the refusal by Congress to admit as a State any Territory hereafter applying, "because of the existence of slavery therein." The resolutions are too long to be read in full to the House. One portion, however, of the preamble, and the whole of the first resolution, I ask the indulgence of the House to read now, as they indicate the sentiment of our Legislature on the question of the remedy which they propose adopting in case Kansas is refused admission into the Union. They say:

"While this General Assembly will not assume in advance to dictate the course to be taken by the State of Alabama in the event Kansas should be refused admission into the Union, they nevertheless feel constrained by a high sense of duty, in the firm conviction that she will redeem her pledges and take no steps backward, to provide the means by which her people, in convention assembled, may determine their course of action: Therefore,

"Be it resolved by the Senate and House of Representatives, in General Assembly convened, That in the event Kansas should apply at the present or any future session of Congress for admission into the Union as a State with and under the constitution heretofore framed and adopted by her, and commonly known as the Lecompton constitution, and shall be by Congress refused admission, the Governor of this State is respectfully instructed, by proclamation, to assemble the qualified voters of this State, at the usual places of voting in their respective counties, to elect delegates to a State convention on a day to be by him appointed, within ninety days from the time when he shall receive satisfactory evidence of such action by Congress."

Cordially indorsing, as I do, both the preamble and the resolution, as passed by the Legislature of my State, I deem it not inappropriate to the present occasion, that the voice of one of her humblest Representatives on this floor should be heard in defense of her position, and in vindication of the policy foreshadowed as the probable action of her convention. It is not my purpose to-day to discuss the right of Alabama to secede from the Union. With us the argument on that question is exhausted. I am aware that the Republican party deny that we have such a right; and that they threaten coercion whenever we shall undertake to exercise it. But let Alabama, in her sovereign capacity, once declare that she is no longer a member of this Union—I care not whether you call it a constitutional or a revolutionary right—her sons will be prepared to defend it in the forum or in the field.

Mr. Chairman, the passage of what were called the compromise measures of 1850, effectually destroyed, for a time, the old party organizations in many of the southern States, and divided the people thereof into two new parties—the Southern Rights or Secession, and the Union party. The Secessionists, with whom it was my pleasure to act, believed that the South ought not quietly to submit to the injustice done her by those compromise measures, and seeing no other adequate remedy, favored an immediate dissolution of the Union. Their opponents, while they did not wholly approve those measures, were nevertheless willing to acquiesce in them as a final settlement of the slavery question, and adhere to the Union.

The struggle for supremacy between these two contending parties enlisted on both sides the ablest intellects of our land. The contest was bitter in the extreme. It excited political and personal prejudices among our people that time has not even yet fully removed. The State of Georgia called a convention, and in her sovereign capacity decided that she would not secede from the Union for the then existing causes; but, at the same time, Georgia expressly declared to the world that, upon the happening of certain events, all of which were specifically enumerated, she would resist even to a dissolution of the Union. Among the causes which, in the opinion of that convention, would

justify the adoption of such an extreme measure, was the refusal by Congress, at any time thereafter, to admit a State into the Union because its constitution recognized slavery. The southern States finally united upon this Georgia platform; and they stand to-day pledged to sustain Georgia, and to resist to a dissolution of the Union the refusal by Congress to admit Kansas because of the existence of slavery in her constitution.

When the Kansas and Nebraska bill was passed, this doctrine of the right of the people in the Territories to establish a slave or a free State, and be admitted into the Union free from all congressional interference, was adopted as a fundamental principle. That bill declares that Kansas, as well as Nebraska, has the right of admission into the Union as a sovereign State, with or without slavery, according to the legally-expressed will of the majority of her people. Kansas to-day presents herself at the door of this Hall with her constitution, and demands admission into the Union. Examine that constitution, Mr. Chairman, and you will find it *republican in form*. It has been legally adopted, and in the usual way. Why, then, this violent opposition to her admission into the Union as a sovereign State? It is because her constitution recognizes slavery as one of her domestic institutions. We have no right to go into any investigation in reference to that constitution, further than to inquire whether or not it has been legally adopted, and whether it be republican in form.

To one acquainted with the history of congressional legislation upon the admission of new States into the Union, it is not at all surprising that this opposition should be manifested to the admission of Kansas as a slave State. Objections have been interposed by the Republican party, and, strange to say, by a portion of the national Democracy.

Mr. HARRIS, of Illinois. Will the gentleman allow me to interrupt him?

Mr. SHORTER. No, sir; I do not intend to yield the floor to-day to friend or foe.

Mr. HARRIS, of Illinois. I supposed the gentleman was willing to be corrected.

Mr. SHORTER. I know the point the gentleman wishes to make. I am fully aware of the special pleas that have been interposed by the honorable gentleman himself, and those Democrats who cooperate with him on this floor against the admission of Kansas. They pretend that they do not base their opposition to its admission upon the institution of slavery. But, looking to the past history of the country, I say I was not at all surprised at the manifestation of this feeling in the House. Why, sir, when the State of Missouri offered herself for admission into this Union with a pro-slavery constitution, we find that her application was violently opposed by the North. What was the special plea interposed then? A portion of the Free-Soil or Abolition party came out manfully and avowed their opposition to the admission of any more slave States. I respect them for their candor at least. They occupied no doubtful ground. I know where the Republican party now stands, and I cast down at their feet my glove of defiance, and bid them

"Lay on, Macduff!"

But when Missouri applied, the objection urged by many northern men to her admission, was, as is well known to this House, not because her constitution tolerated slavery, but because it was contended that it was *not republican in its form*. Why was it not republican in its form? Turn to the debates upon this question, and you will discover that there was a clause in that constitution which conferred upon the Legislature of Missouri power to prevent the immigration into that State of free negroes. The North then urged that as a special objection to the admission of Missouri into the Union, and contended that for that reason the constitution was not republican in its form. I merely allude to this in order to show that there is always some special plea interposed against the admission of a slave State into the Union. Now what has been the history of the North upon this question of free negro immigration since Missouri came in? In perhaps a majority of the northern States to-day, you will find laws upon their statute-books, excluding the immigration of free negroes, and yet the Representatives in Congress from those very States, when Missouri applied for admission, opposed and voted against it on the ground that the power to pass such a law was

vested in her Legislature; and, therefore, they contended the constitution was not republican in form. It is well known that the State of Rhode Island refused at first to adopt the Constitution of the United States, and to come into the Union. She afterwards applied, and was admitted. She presented no constitution at all, but a mere charter granted by the Crown of Great Britain, by King Charles II., in which her people are spoken of as "subjects," and he himself as their "sovereign." And yet there was no special objection interposed to the admission of Rhode Island because her constitution was not republican in form. Rhode Island was a northern, and Missouri a southern slaveholding State!

Before I undertake, Mr. Chairman, to answer some of the objections which have been interposed to the admission of Kansas into the Union with her present constitution, let me, for one moment, propound to this House the inquiry, what will be the effect of the rejection by Congress of the application of Kansas for admission into the Union? Can you demand her to a territorial condition? I contend not. Kansas is either to-day a sovereign independent State, or she is a Territory. If a Territory, Congress has not the power under the Constitution to admit her into the Union. The Constitution limits that power to the admission of new States; Congress has no power to create States; it must be a sovereign State before it can be admitted into the Union. When the Kansas-Nebraska bill was passed, you conferred upon the people of those Territories the legal right to form a constitution and to be admitted into the Union. The law embraced two distinct propositions: one in favor of the people, giving them the right to make a constitution and become a sovereign State; by the other, you pledged the faith of Congress to admit them into the Union. If the organic act, establishing a territorial government for Kansas, was, as I contend, an enabling act, then she is to-day a sovereign independent State, and the Federal territorial officers should be instantly withdrawn. She is a free, independent, sovereign State, outside of the Union, and by the consent of Congress.

Is the organic law in fact an enabling act? Does it confer upon the people the right to form a constitution to become a State? I say that it does most clearly. It expressly gives them the power "to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." That is the position all parties in the country have taken, until within a very recent period. The President so construes that law in his instructions to Governor Walker; that is the construction given to it by Walker himself in his inaugural address in Kansas. The same construction was given it by the Republican party in this House, because, at the last session of Congress they voted for Kansas under the Topeka constitution, thereby recognizing the right in her people to form a constitution and to become a State. The members of the Republican party lately in the Territorial Legislature of Kansas, the Legislature known as the Stanton Legislature, by resolutions, expressly affirmed this doctrine. I will read from these resolutions:

"Whereas, in the spring of 1855 the first Legislative Assembly of the Territory of Kansas was by force and violence seized upon by people foreign to our soil, and a code of laws enacted highly unjust and oppressive, and calculated to drive off or enslave the actual settlers of said Territory, and to fix upon them an institution revolting to a large majority of the bona fide citizens of the Territory; and whereas, to avoid civil war, and as the only peaceful alternative, asserting as they did, that the principle formally enunciated in an act organizing the Territories of Nebraska and Kansas would fully authorize and sustain them in their movement, the people of said Territory did proceed to call a convention to frame a State constitution."

There it will be seen that the Republicans in Kansas admit that the people have the power, under the organic act, to call a convention and frame a State constitution. The prominent men of all parties have uniformly given that construction to the Kansas-Nebraska bill. Even the father of it, (as the Senator from Illinois [Mr. Douglas] is sometimes called,) in his Springfield speech, delivered only a short time before the election of delegates to the constitutional convention, indorsed that construction, and went further, and stated that the law under which the delegates were about to be elected was "just and fair in all its objects and provisions." He said:

"Kansas is about to speak for herself through her dele-

gates, assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every bona fide inhabitant the free and quiet exercise of the elective franchise.

"If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the free-State Democrats in a minority, and thus securing a pro-slavery constitution, in opposition to the wishes of the majority of the people living under it, let the responsibility rest on those who, for partisan purposes, will sacrifice the principles they profess to cherish and promote. Upon them, and upon the political party for whose benefit, and under the direction of whose leaders, they act, let the blame be visited of fastening upon the people of a new State institutions repugnant to their feelings, and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the Constitution of the United States imposes. The Democratic party is determined to see the great fundamental principle of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just. The rights of the voters are clearly defined, and the exercise of those rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine tenths of the people of that Territory are free-State men,) there is no obstacle in the way of bringing Kansas into the Union as a free State by the votes and voice of her own people, and in conformity with the great principles of the Kansas-Nebraska act; provided all the free-State men will go to the polls and vote their principles, in accordance with their professions. If such is not the result let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy, and bloodshed in Kansas, that their party may profit by slavery agitation in the northern States of this Union."

Mr. MARSHALL, of Kentucky. I wish to file a caveat for my party. It gave no such construction to that act—

Mr. SHORTER. I cannot yield the floor to the gentleman from Kentucky, as my time is short. I do not hear, from my position, what he says.

This, Mr. Chairman, is no new theory of mine. Let me refer to the past history of the country on this question. It is well known that the State of Indiana, after an enabling act was passed authorizing her to form a constitution, preparatory to her admission into the Union, went on to form that constitution; and prior to the assembling of Congress she absolutely nominated her electors. The presidential election came on, and she voted for a presidential candidate before she was admitted into the Union under any declaratory act. Her votes were received and counted in this Hall. Mr. Hendricks, a Representative from that State at the time, took his seat in the House, and voted as a member prior to the passage of any declaratory act formally bringing her into the Union. Many of the ablest statesmen in Congress, at that day, took the ground that the enabling act itself brought her into the Union whenever they complied with its provisions, and adopted a constitution which was republican in form. The State of Ohio is a member of the Union to-day. Under what law? Can any member from that State point his finger to an act of Congress declaring Ohio to be a State of this Union? Was there an act passed formally admitting her as a State? None, sir. It was only when Louisiana, a southern State, applied for admission into the Union, that the doctrine was advanced that it was necessary to have a declaratory act passed to bring her in. Why was that done? Louisiana had a constitution republican in form. No objection was made to it upon that ground. But the North wanted to prohibit that State from ever levying taxes on the commerce of the Mississippi river; and Congress, therefore, for the first time passed a declaratory act, admitting Louisiana, and securing to the North the free navigation of the Mississippi.

Let us look at the debates on the question when Missouri applied for admission. Mr. Lowndes, and Mr. Clay, the distinguished father of the member from Kentucky who sits near me, took the same ground on the admission of Missouri into the Union. Speaking on this very identical question, and contending that Missouri was a sovereign independent State outside of the Union, Mr. Lowndes said:

"If you look at the course which Congress has pursued hitherto, it will be found that, on elevating Territories from the grade and dependence of a territorial government, Congress has done no more than emancipate them from its control. On doing this, said Mr. L., you have reserved nothing like an authority to remand them to their colonial condition. You have determined, in such case, by the act of allowing

the Territory to form a constitution; that, for certain purposes, she is an independent State."

"Although the mere act for the admission of a Territory into the Union does not make her a State, inasmuch as her acceptance of the offer is required, yet, at the moment that she declares that it is expedient to form a constitution—at that precise moment she acquires all the rights of a State."

"The people of Missouri, as of every other admitted State, at that moment acquired rights which it is not competent for the Legislature of this country—which it is not competent, upon the principles which we hold sacred, for any Legislature under Heaven to divest them of."

"But there was still stronger proof, in the case of Indiana, of his position. In counting the votes for President and Vice President a few days after the above date, those of Indiana, given before the passage of the declaratory resolution, were received and counted. If a people may rightfully, and even without objection, elect a Governor, Legislature and judges; may elect and send to Congress Senators and Representatives; and, finally, may vote for President and Vice President; upon what principle will it be said that a people enjoying and exercising all these rights, are not a State; or that to constitute them a State, requires the further interposition of this House? He could not admit it, he repeated."

Now, sir, I quote from Mr. Clay. He took an active part in that discussion, and I will read a short extract from his speech. He said:

"As to the condition of Missouri, he himself thought her a State, with a perfect moral right to be admitted into the Union, but kept out for the want of a cormonious act which was deemed by others necessary to entitle her to admission. Though, in his opinion, a State in fact, yet not being so in form, her votes could not be counted according to form."

The question upon which Mr. Clay was speaking, was whether or not the electoral vote of Missouri should be received and counted. She had undertaken, in imitation of the example set by Indiana, to cast her vote for President and Vice President before a "declaratory act" was passed formally bringing her into the Union. The vote of Indiana, a northern State, was received and counted. But when Missouri offered her vote, under similar circumstances, it was ruled out and was not counted.

It is for these reasons, Mr. Chairman, that I contend this Government has no right to remand Kansas back to her territorial condition. You can reject her application for admission if you choose; you have the naked power to do it. But when that deed is done, the important question will arise, whether Kansas is not an independent sovereign State outside of this Union? I contend that she would be.

Mr. Chairman, as I said before, this opposition to the admission of Kansas from the Republican party does not take me by surprise at all. Honorable members of that party, when interrogated upon this floor, boldly tell us that they would not vote for the admission of Kansas as a slave State into this Union if all her people desired that institution. Why, I ask, if that be their position, do they come upon this floor, and interpose special pleas, mere technicalities, to the admission of Kansas? They are arguments, I suppose, not addressed to their own party friends here, for they stand as a unit upon that question, but addressed to a certain wing of the northern Democracy on this side of the Hall. While the opposition from the Republican party does not astonish me in the least, I must confess that I was taken somewhat by surprise when I saw, at the beginning of this session, in the Senate Chamber, the father of the Kansas-Nebraska bill—the man who, above all others in the North, the people of the South had been accustomed to look to as the defender of their constitutional rights, and whom they desired to honor with the highest evidence of their confidence—I say, I was amazed to see him abandon our cause before the first gun was fired in the great struggle now going on here over the application of Kansas for admission into the Union. Not satisfied with deserting his old party allies, like the ancient Parthians, he threw his poisoned arrows backwards as he fled. I repeat that I was surprised to see him lead off in that direction, and after him following a large portion of the northern Democrats. That party had pledged itself solemnly by the Kansas-Nebraska bill; had pledged itself solemnly by the resolutions of the Cincinnati platform, that they would vote for the admission of Kansas as a free or a slave State, according as its constitution might prescribe at the time of application.

I have no time now to take up *seriatim* the special arguments urged by the northern wing of the Democratic party as justifying them in their present opposition to the admission of Kansas. If they truly represent the sentiments of their constituents by the course they are pursuing in array-

ing themselves against the South and the administration of Mr. Buchanan, let them stand where they are. I do not want their votes unless they reflect the opinion of the North.

In my judgment, Mr. Chairman, it was never intended from the outset to give the South a fair chance to make Kansas a slave State.

Mr. ADRAIN. Will the gentleman allow me to interrupt him? Is the gentleman speaking of northern Democrats?

Mr. SHORTER. I am speaking of the Republicans, and also of those northern Democrats who are opposed to the admission of Kansas as a slave State, and who resort, as I think, to divers "special pleas" to defend their unnatural position.

Mr. ADRAIN. I, as a northern Democrat, am opposed to the Lecompton constitution, not upon the ground of slavery, but upon the ground that the right of the people to self-government, as guaranteed to them by the Kansas-Nebraska bill, has not been respected, as I intend to show the first opportunity I can get.

Mr. SHORTER. I fully understand the defenses the gentleman will set up for himself, and those anti-Administration Democrats who act with him. They have a number of objections against the Lecompton constitution: that there was no enabling act; that the whole constitution was not submitted to the people; that the convention itself was not fairly constituted; and that the question of slavery was not fairly submitted to the people of the Territory. But none of those objections did I hear urged by any Democrat from the North until it was ascertained that the Black Republicans of that Territory, refusing to vote, had rendered it a moral certainty that a constitution would come here tolerating slavery. But, sir—to resume where I left off when the gentleman interrupted me—I say it was never the intention of the North to give the South a fair chance to make Kansas a slave State. They organized emigrant aid societies immediately after the bill was passed, and emptied their surplus vagrant population into the Territory to "shriek" and vote for free-soil. Look to the appointment of the several Governors for that Territory. I shall not attempt to screen the party with which I usually cooperate, for I do not consider it to be entirely blameless in this matter. So far as the national Democratic party is concerned, I will support it when I think it is right, and oppose it when wrong. I fear neither the frowns, nor court the favors of the Administration, though I contributed, to the best of my humble ability, to swell the majority which was given to Mr. Buchanan in the State of Alabama.

Look at the appointment of the Governors of that Territory, five in number, all from the North, and, from the first to the last, all in favor of making Kansas a free State. They took a southern man and sent him as Governor to Nebraska, where we stood no earthly chance to make a slave State. The whole power of this Government has been exercised in Kansas to crush out southern rights, break down the institution of slavery there, and sacrifice the South upon the altar of party. I have not the time, though I would like to do it, to review in detail the administration of all those Governors of Kansas, and to devote half an hour, at least, to the administration of that great southern traitor, Robert J. Walker. Why, sir, he was against us from the first day he went into the Territory; he went there with the avowed policy of making Kansas a free-soil State. He admits this fact in his letter of resignation, where he says that when he entered upon the duties of his office, he regarded the slavery question as of "little practical importance." His correspondence with the Secretary of State and his inaugural address both indicate his preference for a free State, provided the convention would protect the slave property then in the Territory; and he pledged himself, if the convention would carry out his views, to canvass the Territory, and make speeches every day to secure the ratification of such a constitution. In his letter to General Cass, under date of the 15th July, 1857, he writes:

"After much conference with a majority of the delegates elected to the constitutional convention which meets in September next, my opinion is that they will in all probability pursue this course, namely: to adopt a State constitution very similar to that of some of the southern States, securing the right to the slaves now in the Territory, numbering probably from two to three hundred, but prohibiting the introduction of any more slaves; excluding all free negroes,

enforcing, by most stringent provisions, the execution of the fugitive slave law, securing the right of appeal, in all constitutional cases, to the Supreme Court of the United States, and requiring all officers of the government, legislative, executive, and judicial, the judges and inspectors of all elections, and the attorneys of all courts, to take an oath to support the constitution of the State and of the United States. Such a constitution, if submitted to a vote of the whole people, would, in my opinion, be adopted by a very considerable majority, for I think the great mass of the free-State Democrats and of the pro-slavery men would unite in its support, as the best that could possibly be done under existing circumstances. Such a constitution would meet my most cordial approval, and I should devote my whole time in addresses every day, to the people of every county of the Territory, to insure its adoption. Indeed, I greatly prefer this plan to any other, if it should be practicable."

It will thus be seen, by his own admission, that he labored to make it a free State, and now is found opposing the President and his old party friends, in trying to keep Kansas out of the Union, when his new allies themselves believe that if Kansas is admitted with her present constitution, the South will gain only a barren victory! Perhaps he dreamed that such a course might elevate him to the presidential chair! Well, I admit that his administration in Kansas has immortalized him. But we should remember that there are different kinds of immortality. The person who fired the Ephesian dome immortalized himself. Washington achieved an immortality of fame—Arnold an immortality of infamy!

Mr. Chairman, another objection has been interposed in both branches of Congress against the admission of Kansas into the Union, as proposed by the President, and that is, that her admission would not restore peace to her people; but, on the contrary, it would light the fires of civil war in the Territory. I am not to be deterred from demanding here all the rights to which my section is entitled by such an argument as that. In the defense of a great principle, I will discharge my duty, regardless of consequences. Civil war is, I grant you, a great evil, and cannot be justified if it can be honorably avoided. But there are greater evils, gentlemen, than those which follow in the path of civil war. Those evils would be experienced by the southern States, if they continued to remain in the Union after it had become the established practice of the Government to admit no more slave States. If, therefore, it be true that the admission of Kansas now, with her pro-slavery constitution, which the North says will not last six months, would indeed light the fires of civil war, I, for one, say—let the deed be done; let the fires burn, and flame up, if need be, as high as heaven itself; let them burn, even though the Union may fall in the general conflagration. I would rather see the South, my native land, as much as I honor her, and as willing as I am to lay down my life in her defense—I would rather, I say, see the South, with all her people, forever

"In the deep bosom of the ocean buried!" than have her remain in the Union on terms of inequality with the North, her constitutional rights denied her, her civilization slandered, her institutions perpetually warred upon, and her progress in territorial expansion checked. In the Union on such terms, we should no longer be the brave and gallant people that the world has ever been taught to regard us; but would become mere captives bound to the chariot wheels of the victorious North. If such a fate should be reserved for us in the future—which may Heaven forbid—if we are to be vassals at all, I would for myself prefer, a thousand times, to be a vassal of Old, than of New England.

But is it true, in fact, that the admission of Kansas, under the Lecompton constitution, will light the fires of civil war? I think not. But on the contrary, I believe its rejection would be more likely to produce civil war than would its admission. Peace now smiles on the people of that State. If you had the power to remand her to a territorial position, and were to exercise it by referring the slavery question back to the people, you would invite civil war. The tramp of armed men would again be heard on the virgin soil of Kansas. Her streams would be crimsoned with human gore, and Lawrence might again become a smoking ruin.

Mr. Chairman, after all the wrongs done to us in Kansas by the Federal Government, through some of its territorial officers; by the Abolition emigrant aid societies of the North; after all the assurances from the northern Democrats of their

willingness to vote for the admission of Kansas as a slave or a free State, according to the legally expressed will of a majority of her people, we are now told by some of that party, high in authority here, that if Kansas be admitted into the Union under the Lecompton programme, it must be on condition that her constitution shall again be subjected to the ordeal of a popular election. In other words, that the judgment already rendered by the people of Kansas in favor of the South shall be set aside, and a new trial granted to the Abolitionists. The advocacy of such a proposition by a northern Democrat is evidence that he values the temporary success and harmony of party at home more highly than he does the preservation of its principles or the constitutional rights of my section. The southern man who assumes such a position, or favors the reference back by Congress of this question of slavery to the people of Kansas, under any form whatever, is, in my judgment, false to the South; and has a heart

"Fit for treason, stratagem, and spoils."

No, sir, we demand that Kansas shall be either admitted or rejected, unconditionally, with the Lecompton constitution. I have no longer any respect for that temporizing policy that

"Palters with us in a double sense;

That keeps the word of promise to our ear,
And breaks it to our hope."

The southern States want no more compromises on this question of slavery. We have had enough of them in the past to satisfy the most ambitious of our Union-savers. We have often listened to the voice of that siren, and as often have we been betrayed. But, thank God, the spell is at last broken. We remember the first great compromise that was made between the North and the South, when this Union was formed. By it, the North agreed to surrender our fugitive slaves on demand of their owners. How has she fulfilled that obligation? Ask Massachusetts. Ask New Hampshire. Ask all the northern States which have nullified the Constitution which they were sworn to maintain and support. I do not believe, Mr. Chairman, that the fugitive slave law can to-day be peaceably and quietly executed in a single State north of Mason and Dixon's line. If there is any place where it can be done, it is in some isolated location, and is an exception to the general rule.

We remember the compromise of 1820. The brand of inferiority was then stamped deep on the brow of southern manhood and southern honor; and there it remained, a burning disgrace, till the Kansas-Nebraska bill wiped it out and restored us to our long lost rights. We remember the days of nullification in South Carolina, and the compromise tariff of 1832. The North then agreed to abandon the protective system gradually for the period of ten years. At the expiration of that time, the tariff of 1842 was enacted, more odious and oppressive in many respects to my section of the Union, than the black tariff of 1828. We remember, again, and will ever proudly remember, the brilliant triumphs achieved by southern arms in the Mexican war. We cannot, if we would, forget how the North robbed us of all the fruits of our victories. We cannot forget that compromise of 1850—that southern surrender of 1850! Mr. Chairman, we need no other battle-cry to arouse the spirit of southern men hereafter in resistance to northern usurpation, or in driving forever from these Halls any number of southern Representatives who shall hereafter dare, even to save the Union, to make further concessions to the demands of New England fanaticism. The compromise of 1850, indeed!

Mr. Chairman, when the gallant little band of Texans was drawn out in battle array, on the plains of San Jacinto, and in front of the overwhelming forces of Santa Anna, it is said that the magic words, "remember the Alamo," sent an electric shock along the line, and inspired the heart of every Texan soldier to fight for victory or death. So, hereafter in the South, if, in self-defense, we are driven out of this Union, and if this sectional contest is forced upon us by the North, the words "remember the compromise of 1850" will be emblazoned on a thousand banners, and will fire the zeal of southern patriots in defense of their invaded rights by the recollection of past wrongs. I despise, Mr. Chairman, with my whole heart, the very word "compromise." It has become offensive to my sight. If I had the power I would

strike it forever out of the English vocabulary, and would make it a penal offense for a southern man ever again to pronounce it in public. It is suggestive to my mind of dishonor, surrender, and base submission. In the language of McDuffie, "it sounds to my ear like the bugle blast of the robber band." Then away with this idea of another compromise! We will not entertain it for a moment. Well has it been said that the time for compromising this slavery question between the North and South has indeed passed away forever. We offered you the olive branch in 1850, and asked you to extend the Missouri line through to the Pacific ocean. The proposition was indignantly rejected. As an act of partial justice to the South, but after the North had appropriated every foot of the territory acquired from Mexico, the northern Democrats assisted us in repealing the Missouri restriction, and pledged themselves by the Kansas-Nebraska bill, and again by the Cincinnati platform, to vote for the admission of Kansas as a slave State, if her constitution recognized that institution at the time of her application for admission into the Union.

I repeat, then, let Kansas be admitted or rejected unconditionally with the Lecompton constitution. If admitted, the South gains nothing but what she is clearly entitled to under the law. If rejected, it is a declaration upon the part of the North that no more slave States shall be admitted into the Union; the sun of your national Democratic party will go down to rise no more; the constitutional rights of my section will be sacrificed; and I pray Heaven, in that event, that the State of Alabama will indeed take "no step backwards," but will become the nucleus around which shall instantly spring into existence, like Minerva from the brain of Jove, a great and powerful southern confederacy. Then, sir, but not till then, I fear, will we in the South be able successfully to defend ourselves. Then we shall be in a position that will enable us to regard those who are opposed to our institutions as "enemies in war; in peace, friends."

Mr. Chairman, it is impossible to disguise the fact, however much honorable gentlemen may evade it, that the great objection at the North to the admission of Kansas into the Union under the Lecompton constitution, is because it recognizes and establishes slavery as one of her domestic institutions. This opposition to African slavery originated with, and is still fostered and encouraged by, the spirit of religious fanaticism in New England. It is the same spirit which has nearly divided the people of these States into two great sectional parties; sowed the seeds of strife and civil war throughout the land; separated the churches in the South from those in the North; and which, if unchecked in its mad career, will soon work out a dissolution of the Union. It is the same spirit which recognizes a higher law than the Constitution, and commits grand larceny upon the South in the name of religion!—a religion, too, pure and undefiled, as transmitted to them by their illustrious Pilgrim fathers! The Pilgrim fathers, indeed! Sir, I have a sovereign contempt for the memory of the Pilgrim fathers. The religion of Plymouth Rock is the religion of fanaticism, of intolerance, of infidelity, of bigotry, and hypocrisy. It is the religion of the Boston clergymen, who violate the seventh commandment in going to, and returning from, their evening lectures; and who, when exposed to the indignation of a virtuous community, are lionized and fêted by the fairer portion of their flocks! In my judgment, Mr. Chairman, the greatest calamity that ever befell our country was that event which clothed Plymouth Rock with its historic associations. To it I look as the "liad of all our woes." If Millard Fillmore, during the last presidential canvass, had declared that the landing of the Mayflower, instead of the repeal of the Missouri compromise, was the "Pandora's box from which escaped all the evils which now afflict the country," the sentiment would have found a responsive echo in the hearts of millions of American freemen, and might possibly have resulted in elevating him to the presidential chair!

Mr. Chairman, the gentleman from Massachusetts—the honorable member who seems to have made the discovery that Yankee colonization is to be the fulcrum, and he himself the lever of Archimedes, by which hereafter the destiny of the world is to be controlled—told us the other day,

upon this floor, that "the descendants of the Pilgrims are in a tight place." I rejoice to hear it, sir, upon such high authority, and cannot refrain from expressing the hope that they will always remain where they are. The cause of good morals, genuine religion, and the permanent advancement of the peace and prosperity of the whole country, will be greatly promoted thereby. The allusion to that honorable gentleman reminds me of another portion of his speech, in which, if he is reported correctly, he uttered a slander upon the South, and her social institutions. I read from the speech of the gentleman as published in the Globe, that I may do him no injustice. He said:

"If a man goes from Boston into Louisiana, and nobody will speak to him unless he has a slave; nobody will invite him to a social entertainment unless he owns a negro; and if he cannot get a wife unless he has a negro; then, sir, very likely he may make up his mind to own a negro. [Laughter.] But I tell you that he will repent of it every day while he has him."

And again:

"The Yankee has never become a slaveholder unless he has been forced to it by the social relations of the slave State where he lived."

That is his exact language, as reported in the Globe. The gentleman here charges directly that the "social relations" of the southern States "force" a man to become a slaveholder, on penalty of exclusion from society. Sir, the gentleman did the South very great injustice in making such a charge, because there are thousands of his own countrymen scattered all over the South, who own no slaves, and yet they enjoy the confidence and respect of the communities in which they live. Many are honored, too, with high positions of public trust. Notwithstanding the assertion of that gentleman, we have in the South but one aristocracy, and that is the aristocracy of color—the aristocracy of the white over the black man—the Caucasian over the African race. It matters not whether a man is rich or poor, whether he is a slaveholder or non-slaveholder, the people of the South recognize the "honest man" as the "noblest work of God."

[Here the hammer fell.]

Mr. TOMPKINS obtained the floor.

Mr. BURROUGHS. I rise to a point of order. I believe that by the rules of the House, which prevail in Committee of the Whole, a gentleman wishing to get the floor must address the Chair from his seat. I rose and addressed the Chair from my place, but the gentleman from Ohio addressed the Chair, and obtained the floor, when he was out of his place.

The CHAIRMAN. The universal practice of the House has been to give the floor to any member rising in any part of the Hall. For that purpose, any part of the Hall has been regarded as the place of the member.

Mr. MORRIS, of Illinois. I desire to know whether a member has the right to leave his seat and go down in front of the Chair to get the floor when other gentlemen remain in their seats, rise, and address the Chair?

The CHAIRMAN. The Chair would suggest to the gentleman that the same point has been raised already and decided. It has been the practice in the House for twenty years past to permit a member to rise in any part of the Hall, and any part of the House has been regarded as his place for that purpose.

Mr. MORRIS, of Illinois. It may have been the practice, but it must be admitted that it is a bad one.

Mr. ZOLLICOFFER. Having risen simultaneously with the gentleman from Ohio, to whom the Chair has assigned the floor, while I take no exception to the right of the Chair under the rules of the House to give him the floor, I ask that the gentleman will indulge me with a personal explanation which will occupy not more than five minutes.

Mr. TOMPKINS. I yield for that purpose.

Mr. ZOLLICOFFER. I wish to correct a statement made day before yesterday by the gentleman from New York, [Mr. HATCH,] which is prejudicial to myself and other members.

Mr. BURROUGHS. If the floor is to be farmed out, I want to come in as well as others.

The CHAIRMAN. The time occupied by the remarks of the gentleman from Tennessee will be taken out of the time of the gentleman from Ohio.

Mr. TOMPKINS. I hope the gentleman will be brief, and will be allowed to go on uninterruptedly.

Mr. WARREN. I will not object, if there has been a reflection upon the gentleman, directly or indirectly; but if there has been a general charge against a party, I must object to the explanation. I entertain for the gentleman the highest respect.

Mr. ZOLLICOFFER. My explanation will be short, and concerns myself. I hope the gentleman will not interrupt me.

Mr. WARREN. I withdraw my objection.

Mr. JOHN COCHRANE. I do not see my colleague [Mr. Hatch] in his seat, and I suggest that the gentleman withhold his explanation until my colleague is present.

Mr. ZOLLICOFFER. Is not the member in the House?

Mr. JOHN COCHRANE. I do not see him. I only make the suggestion. The gentleman will act on his own sense of propriety.

Mr. ZOLLICOFFER. Allow me to say in explanation to that point, that I dislike exceedingly to say anything which has the appearance of personality in the absence of the member to whom it refers. But when the member from New York made his speech, there were passages in that speech which I did not distinctly comprehend. Yesterday I was too unwell to occupy my seat here. I saw a report of the member's remarks in the Globe, which satisfies me that he saw proper to indulge in a spirit and strain of remark prejudicial to me and other members of the House of Representatives. He can do as I have done. He can read my statement in the Globe. It may be difficult again to get the floor. I would much prefer he were here.

The member from New York read certain obligations which he alleged were the obligations of the American, or "Know Nothing" party, as he termed it. I was a member of the American party when it had its organization, under obligations in the State of Tennessee. I have to say that that which he read as its obligation is not identical with anything I have a knowledge of. It is materially different from the obligation which I recognize, in spirit and in letter. But the member from New York characterizes the obligations of the American party as "*treasonable and unconstitutional*." This language is not justly applicable either to what he read as the obligations, or to what were really the obligations, of the American party. It is manifest to any gentleman who will read his speech, that the purpose of the member from New York was to stigmatize the members of the American party. Now, sir, I am satisfied that, in order to indulge the *animus* which pervades his speech of excited hostility to the American party, the member from New York has uttered a falsehood which was dishonoring to him, and with which I brand him, and am responsible for what I say. That is all I have to say.

Mr. TOMPKINS. Mr. Chairman, I avail myself of this opportunity to discuss what is familiarly known as the Kansas question; and, in connection with that, the exciting question of slavery. If these subjects are disagreeable to a portion of this committee, I nevertheless feel it to be my privilege—my imperative duty—as one of the representatives of the people of the great State of Ohio, to speak my opinions to-day upon these subjects. That they are here now for discussion is no fault of mine, or of those whom I have the honor to represent; and if the country is rent with dissensions; if this Government is ultimately overthrown and destroyed—I can certainly quote the great master of nature with as much propriety as did the distinguished member from New York, on this floor, a few days since:

"Thou canst not say, I did it; never shake
Thy gory locks at me."

Twice the free States of this Union have submitted to the unreasonable demands of slavery, and humiliated themselves for the sake of peace. But to the repeal of the Missouri compromise they never have submitted quietly, and I know they never will. The contest has now begun, and I say,

"Lay on, Macduff!"

And damn'd be him that first cries hold! enough!"

I am opposed to the admission of Kansas as one of the States of this Union with her present constitution. The paramount reason is, this constitution establishes and sustains slavery. I shall oppose her admission with her present constitution. It is wholly immaterial to me whether that constitution has been submitted to the people of the Territory for their sanction or not. I will not

at this time stop to inquire whether it meets the approbation of the present inhabitants. The time was when I would have felt justified in voting for the admission of a State with a slavery constitution, if it was formed out of territory south of 36° 30' north latitude, that belonged to this Government at the time the Missouri compromise was adopted. I think it was the understanding of the parties to that compact that such States should be admitted; if not expressed, it was certainly implied, that such States should be admitted. If this was the understanding, national faith would have required their admission.

But by the repeal of the Missouri compromise the obligation ceased. I feel that every man in this country is free to act as his conscience may dictate. By the repeal of the Missouri compromise, the gauntlet is thrown at once. The Republican party have accepted the gage, and the contest is between freedom and slavery. The contest is an unequal one. The Republican party is unaided by Government patronage, or Government influence. For the last four years the slavery party in this country has had the countenance and support of the President of the United States. The Army of the nation, and not only that, but the judicial department of the Government has prostituted its powers, and is willing to "grind in the prison house" at the behest of this political Delilah. The Supreme Court certainly has shown itself quite as willing to enter the service of slavery as the most ultra friend of the institution could desire.

It is true, however, that the late decision of the court has changed the opinions of no man upon the rights of the slaveholder. It has only changed the opinions men may have entertained in regard to the individuals who constitute that court. Some persons may have supposed that they were too independent and upright to shape their legal opinions to suit any political party; but if there were any such persons prior to the decision of the Dred Scott case, there are none such now. It is a melancholy reflection for freemen, that the department of this Government that we looked to as the rock of safety, and that we expected to stand as a wall of fire between freedom and slavery, has shown itself more subservient to slavery than any other department of the Government.

The other departments have usually waited, I believe, until an opportunity offered—until there has been a show of pretense for their aid. They have not rendered their services without being requested to do so. But the judicial department, in this instance, voluntarily stepped out of its way, in violation of all precedent, and on the hill-tops it now shamelessly proclaims its prostitution to the world.

I have said there is now to be a contest between freedom and slavery; and I am proud to say that the great Republican party of the country, of which I am but a humble member, stands forth as the champion of freedom and the rights of man. I will say now, that I claim no right to interfere with slavery in the States where it exists; neither does the Republican party, as a body, claim any such right. I do not desire to interfere with it in the States. But I avow that I have a legal, constitutional right to resist the extension of slavery into any free territory belonging now to this Government; and no earthly power in existence can deprive me of it. I have already said that I am free from all national obligations to vote for the extension of slavery into any of the territories belonging to this Government; and I will resist its extension whenever and wherever I choose to do so. This is the doctrine, I believe, that was inaugurated three years ago, and is now contended for by a very large majority of anti-slavery men in this country. I avail myself of this opportunity to say that there really are but two parties in this country. There is the slavery party and the anti-slavery party. There really is no Democratic party. There is a party that, out of personal respect and courtesy, we call the Democratic party. But it is this day has no separate and distinct existence. It has been swallowed up—utterly absorbed by the slavery party. I do not say this by way of insult, or to make myself offensive to any one, but I say it because truth and candor require it—because things that are transpiring every day before our eyes carry this conviction home to the heart.

Before proceeding to state the reasons why I

am opposed to the extension of slavery, I desire to refer to one charge that is made against the Republican party of this country. That is the charge of Abolitionism. I care nothing about the charge personally, neither do I presume that any member of the party does; but I refer to it because some honest men may be drawn away from us because this charge is made. I refer, also, to another charge that is made against us—that is, that we contend for negro equality. I say now most emphatically that the Republican party is not an Abolitionist party; that we have never at any time made any attempt to raise the black man to an equality with the whites. There may be men that now vote with the Republican party that were called Abolitionists, but they have not indoctrinated it with their opinions or their creeds.

These charges are not made because any intelligent man believes them. There is no intelligent man but knows them to be utterly false and without any foundation whatever. These charges are made by designing demagogues to mislead the ignorant and to excite a prejudice in the minds of the vulgar and the depraved. The black man nowhere has such fierce and deadly foes as in the wretched, ignorant, and depraved of earth. The more wretched and degraded a white man may be, the more deadly he hates and despises a negro; for the reason, he is fearful the negro is better than himself, and therefore comes in competition with him for the esteem of respectable white men. Hence you will hear the detestable wretch, with bloated face, blood-shot eyes, scared and blistered lips, with ragged and tattered garments, screaming at the top of his voice, "Abolitionists!"

This charge has had the effect to drive all the ignorant away from us; and many well-meaning men refuse to vote for our candidates, because they think we are really Abolitionists, in the full sense of the term. We have also been unable to hold another class of men—men who regard themselves as the aristocracy of the North. They found that the industrious yeoman, the skillful mechanics, and the hardy sons of toil, who constitute a very large proportion of the Republican party, had no sympathy and feelings with them. They have gone to the only aristocracy there is in this country. The Republican party may rejoice that it is freed from such dead weight—they would be worse than a millstone about its neck. In resisting the extension of slavery I make no appeals to the slaveholder to excite their sympathy in behalf of the enslaved and oppressed. This has been done so frequently, and without any effect, that they have become hardened; so that nothing but the "bursting of volcanoes or the crush of the riven world" could move them. I indulge in no sentimentality for the slave; I can do him no good. While I say this, I say that I believe slavery to be the greatest moral evil that can exist. "It is the monarch of crimes, and the jewels that adorn its crown are tears and blood." I oppose it because of the great wrong that it does to the white race. It deprives white labor of its just reward. It builds up no middle class of intelligent farmers, artisans, and mechanics, who constitute the real strength, who make the real wealth, and are justly the pride and glory of the free States. Where slavery is, there will, of course, be a class of well-educated, refined, and accomplished men—there will be refined society; and so there is, in many of the despotisms in Europe.

But the proportion of educated men in the slave States, I presume, is not by any means equal to those in the free States. The South has produced some great statesmen—men of whom the country may justly be proud; but, as a general thing, they were to "titles born, reputation and luxurious life." I do not denounce slaveholders as a class. There are many honest and just men among them—men of benevolence and kindness of heart; but the system is demoralizing, and must, to a greater or less degree, demoralize the country where it exists. I oppose it, because it oppresses the poor; because it deprives labor of its just reward; it deprives the poor of the means of education; it degrades labor, the only means of producing wealth in this or any other country. Where slavery exists, the road to honor and fame is hedged up from the poor, and they never can free themselves from those "twin jailers of the daring heart, low birth and iron fortune." There is nothing "to lure them on to those inspiring toils by which man masters man."

I oppose the extension of slavery into the Territories of this Government because, if this institution is permitted to go there, the intelligent free laborers of this country never will consent to live with slaves; the free States will be deprived of their just and equal rights in the Territories; these Territories never will add anything to the real greatness of the country. But I believe if these Territories are occupied only by freemen, a great people will ultimately grow up in them, surpassing in power and glory anything the world has ever seen. I am opposed to slavery, because the white inhabitants where it exists live in constant dread and alarm. They know not but they are slumbering on a volcano that, in a moment, may overwhelm them with destruction.

Who has not heard with horror—whose blood has not curdled in his veins—whose heart has not sickened at the recital of the butcheries of Nat Turner, and his murderous crew, when the blood of tender and innocent children drenched the soil of the Old Dominion? Then, orators and statesmen awakened from their long lethargy, and hurled their denunciations at the institution until they shook its very foundation. But the cry of the murdered innocents has passed away upon hollow winds. Their pure spirits have ascended to the throne of God. Their mortal bodies have moldered away in the silent tomb. The learned statesmen and eloquent orators are now silent; and the people of the Old Dominion are to-day nursing the viper in their bosoms with more tender solicitude than they ever did before. I oppose slavery because it advocates and justifies the fitting out of military expeditions, and makes war upon weak and defenseless people, with whom we are at peace. Although it was said on this floor, since the commencement of the present Congress, that the Nicaraguan question had no negroes connected with it—that there were no negroes in that country—with all due respect for the persons who entertain that opinion, I say, there would have been no discussion on this floor about the capture of Walker, had it not been for the question of slavery. The members on this floor who condemn the President, and sustain Walker, are, I believe, the advocates of slavery. They want Central America, because they want to extend the dominions of slavery. I presume no man believes that if Walker had been engaged in making war upon Canada, that the slavery advocates would have justified him in his lawless adventure! The walls of this Hall would have trembled under their denunciations against him.

But there is still a greater reason than these, than any, or all of them, against its extension. There can be no freedom for white men, where black men are held as slaves. In the slave States of this Union men are to-day deprived of the liberty of speech and the freedom of the press. You may boast of your Constitution guarantying to every man this right; but the Constitution has not the strength of a rope of sand. It is trampled under foot by the mob. In the southern States of this Union no man can exercise the freedom of speech unless the mob will permit it. I saw a man last winter in Columbus, Ohio, who was a man of education and refinement, who had been a professor in a literary college, (as I was informed,) who was driven out of the State of North Carolina because he declared that he desired the election of Fremont as President of the United States. Because he exercised the freedom of speech—a right “inestimable to freemen, and formidable to tyrants only,” for declaring his sentiments upon one of the great political questions of the day, an infuriated mob collected together and compelled him to flee for his life; he was driven from his native State, from his kinsmen, his friends, and his home; he had to go forth a wanderer in the earth. Well might he say, with Bertram—

“I have no country; that dear name
Comprises home, kind kindred, fostering friends,
Protecting laws! But none of these are mine.”

It will be recollected that a respectable minister of the Gospel from the State of Virginia attended the Republican convention held in Philadelphia in 1856; and for doing this never was permitted to return to his home, and was compelled to seek refuge from violence in one of the free States. Such things are, I presume, of frequent occurrence in the slave States; if they are not, it is because no man there has the temerity to associate with Republicans, or to attend their conventions.

I saw a man within the last six weeks, who resides in the State of Virginia. He said that he had no doubt but that if Fremont had been elected President of the United States, the country would have been quite as well off as it is with the present incumbent. “But,” said he, “I dare not say that at home.” Thus it is the mouths of freemen are stopped; yet those that do it will taunt the Republican party with being a sectional party, when they know no man entertaining free sentiments and free opinions would be permitted to live amongst them. How long has it been since we saw an account of a bookselling establishment being broken up in the South, the property destroyed, the owners compelled to fly for personal safety? Why was their property destroyed? Why were they driven from the country? The public prints of the day said it was because they had a book for sale that was written by a negro. No man will be safe to read the Declaration of Independence in the State of Virginia, if their statute should be enforced. Dare any man proclaim “that all men are created equal, endowed by their Creator with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness?” Dare any man say that God “hath made of one blood all nations to dwell upon the face of all the earth?”

It is made a crime by statutes in some of the slave States to say that man cannot hold property in man, or that man cannot hold property in a slave. If by word or deed, yea, “by invisible thought, or unuttered wish,” any man should attempt to inculcate the doctrine that slaves are not property, or that man cannot hold property in man, he will be forced to leave the country. You men of the slave States must burn the Declaration of Independence; you must expunge from the records of your court the will of Washington; you must proscribe the writings of Jefferson, and the free and glorious sentiments of Randolph; you must erase from the memory of man the teachings of the conscript fathers of the Republic; you must blot from the history of your country the glories of Lexington and Bunker Hill. Why was John Adams born? or why did Washington live? The heroes of the Revolution died in vain. They waded through rivers and seas of blood to establish independence. But there is a despotism to-day reigning over the minds of men in parts of this country as absolute as there is in any Christian country in the world.

I take no pleasure in repeating these things. I would be glad to avoid it if I could, but I would not be a proper representative of a free people if I did not this day declare the truth.

It will be said, no doubt, that these statutes are necessary for the safety of the white race where slavery exists. I do not doubt that these laws are deemed absolutely necessary to the very existence of the white population; but I say it is the most grievous misfortune that could befall any people. Where these statutes exist “freedom can only be a name.” If these statutes are necessary for the personal safety of the white race in the slave States—and it is declared by men of truth they are—then I say I am furnished with an argument against the extension of slavery that is incontrovertible and conclusive upon the subject. If the press has to be muzzled; if there has to be a clasp upon the mouth and a seal upon the lips; if free and glorious thoughts have to sicken and die unuttered; why try to extend this, the most terrible of despotisms? Let me say, in the eloquent language of Kotzebue—

“Let what is within, molder and decay. Why—why strive to open the wretched charnel-house, and spread the pestilence around?”

The spirit of slavery has not only subdued and stopped the mouths of men in the slave States, but there are men in the free States that yield their independence and forfeit their manhood at the dictation of the task-masters at the South. It has affected, in a greater or less degree, a proportion of the Democratic party at the North. In the language of an eloquent writer—

“The spirit of slavery has passed upon the power of the party like a thing of necromancy, winning them to its command and bowing them to its will, until they have stood stricken and panting before it like cornered deer before the inexorable hunter.”

They have forfeited their manhood and their independence. They have sacrificed their opinions and principles at the command of the southern slaveholder. Who was more clamorous for the

Wilmot proviso than many of the Democracy of the free States? who denounced the fugitive slave law more fiercely and terribly than the Democracy of Ohio? but who is now more subservient to the slave power than they? It is true we have seen some signs of insurrection and rebellion in this House since the sitting of the present Congress. I am glad to see it; and, if any of those who manifest this independence should feel symptoms of spinal disease, I hope they will receive such remedies from their constituents as will remove all complaints. I have not the least doubt that the advocates of slavery this day feel more respect for those members of the Democratic party from the free States who refuse to aid slavery, than they do for the man who gives them his support. When the inquiry is made why these men humble themselves at the command of the task-master, the reply is, they are national men, and they fear the Union will be dissolved. I have no such apprehension, and I have no patience with the man that talks about it; and, without meaning disrespect to any one on this floor, I say, if there is any man who is the object of scorn and contempt, it is the northern man who can be frightened from his propriety by the slavery “raw-head and bloody-bones.”

It is not my prerogative to give advice to my Democratic friends; but I caution them against becoming Union doctors. It always kills the doctor, but the patient survives. The fate of the great Webster should be a warning to all northern men not to sacrifice themselves in any such way. Mr. Webster turned Union doctor; he cut loose from his friends at the North, the men that had stood by him in all his troubles and trials—men, whose respect for him amounted almost to adoration. He turned from them; he threw himself into the arms of the South. On the 7th of March, 1850, he made his great speech in favor of the fugitive slave bill. He aided, by his great powers, to pass that measure. A little more than two years thereafter, a convention was held by the Whig party to nominate a candidate for President. The few remaining friends that Mr. Webster had were represented in that convention. They expected the Whig delegates from the South would support him. The whole country knew what services he had rendered them—the mighty efforts he had put forth to aid in passing their favorite measure. But not one single vote could be had for him from the slave States. No appeals that could be made could bring a single man to his support. I believe it is conceded that his days were shortened by the action of that convention. Webster died; but the Union lives, and will live for generations yet to come.

There has been a series of acts perpetrated recently by the pro-slavery party in this country that would astound the world, if mankind had not ceased to be astonished at any act, however outrageous, they might commit. I refer to the recent election frauds in Kansas and Minnesota. I take but one specimen in Kansas. I take the Oxford precinct in Johnson county. There was a Democratic majority of fifteen hundred returned from a place where everybody that knows anything about it, knows that there were not three hundred voters. These names that were returned as being voters in that precinct, were copied from the Cincinnati business directory. The return showed upon its face that it was a fraud. At the time of the return no man in the Territory pretended that it was genuine. Nobody pretended there was any such number of voters there. Nobody pretends any such thing now—the evidence of the fraud being so complete and overwhelming that it could not be resisted. Under these circumstances, Governor Walker rejected the return; no honest man could have done anything else. After doing this, he published a statement of the facts and circumstances, justifying himself for what he had done.

In the face of all this evidence, the papers in the South have raised a yell over it more terrible than would be raised if a lighted torch had been thrown into a den of wolves. For doing this act of justice the Governor forfeited the confidence of the party, and we have strong reason to believe for this act has been compelled to resign his office. What kind of a sight is this for honest men to look upon? An American statesman, for refusing to become a party to the most infamous fraud the world has ever seen, is branded as a traitor to his party and driven from office. This, perhaps, is

enough upon this one case. I will now refer to Minnesota. There is a county there called Pembina; and from the best information I can obtain, has but a very small population, that part of it which properly belongs to Minnesota not having more than fifteen or twenty voters. This county, we are informed, returned a majority of six hundred for the Democratic candidate for Governor. This district of country had six delegates in the constitutional convention. How many representatives in the Legislature, now I cannot tell; but I presume quite as many as it had delegates in the convention. Other places in that country where there were but very few white settlers, there were large numbers of votes returned. We have an account in one place of a hundred savages that were led to the polls to vote; not one of them could tell their names, or could speak a word of our language. They were bedaubed with their war-paint, armed with bows and arrows, and war-clubs; dressed in their breechcloths, if they were dressed at all; led on and directed how to vote, no doubt, by some individual, who was probably appointed nominally, as an Indian agent, but made it his business to manufacture bogus votes for his party.

How long is the country to submit to this? If we can believe the statements that are made in regard to these frauds, we are bound to believe that in the last election held in Minnesota, hundreds of degraded savages that could not speak a word of our language, that have no possible conception of our form of government, went to the polls; and every one of them, by the direction of somebody—because they could have no mind of their own—voted the Democratic ticket, and the vote of each and every one counted as much as the vote of the most intelligent man in that Territory. Thus it is a Democratic Governor is elected—members of the Senate and House of Representatives. These statements have been before the country for months; I have not seen them disputed; I believe them to be true, and what is more I have not heard a word of condemnation from any paper of the party, or from any member of the party, either public or private; and from all the information I have, I am reluctantly led to believe that the party justify these wrongs. The question may be asked: why does it justify these wrongs? There is but one solution to the question. Slavery has done it; slavery has taken possession of the party, and debauched it. These are the legitimate fruits of a system that teaches that one class of men have no rights that another class is bound to respect. It is founded in wrong, it is a matter of force, and the same principle and spirit that teaches that black men have no rights that white men are bound to respect, will defraud white men of their rights whenever ambition or interest demands it. It is a part of the plan of the slave party in this country to hold the entire control of the Government, and to appropriate to themselves its emoluments and its honors; where there are ruffians and robbers that can be brought from adjoining States with revolvers and bowie-knives to drive honorable men from the polls, and stuff ballot-boxes with fraudulent votes, and elect dishonest men to office, that plan is adopted; where ruffians, revolvers, and bowie-knives cannot be obtained, hideous savages bedaubed with their war paint and armed with their war clubs, are made to do the voting. But when neither border ruffians nor savages can be obtained: what then? The Cincinnati business directory is brought up, and casts fifteen hundred votes. But when there are neither ruffians, savages, nor business directories to be obtained: then what? then they resort to the imagination, and the pure bogus votes are furnished. Because slavery has done all these things, I oppose its extension into any free territory.

There are other and special reasons why slavery should not be admitted into Kansas. The first, and one which I deem entirely conclusive, is: Thirty-seven years ago a solemn compact was entered into between the North and the South, whereby it was agreed upon sufficient consideration, that there never should be any slavery north of 36° 30' north latitude. This compact was strictly observed on the part of the North. The South got everything that they contemplated, and the States of Florida and Texas, with territory sufficient to make four States in addition to what was originally contemplated, she received and appropriated them to her own use. The North submitted quietly to it, because she believed the

national faith required it. But just as the North got ready to appropriate her part of the consideration for this compact, the South demanded its abrogation. The Missouri compromise was repealed, in violation of national faith and honesty, in violation of the principles that should govern the intercourse of all honorable men. But notwithstanding the repeal of the Missouri compromise, it was promised that the future inhabitants should be perfectly free to govern themselves. The act repealing the Missouri compromise contained this very anomalous provision, the like of which was probably never seen in any act of any legislative body before, and I presume never will be seen again. I quote the provision:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people perfectly free to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States."

The people of Kansas were not only to be free, but they were to be perfectly free. It has been said frequently, by metaphysicians, that no human being is perfect—no human laws are perfect; but the people of this Territory were to approach nearer divinity than any other created beings; they were to be perfectly free, subject only to the Constitution of the United States. This part of that act I believe has been justly denominated a stump speech. This organic act went forth to the world containing this pledge, that the people of these Territories were to be perfectly free. The Territory of Kansas was organized in pursuance of that act. The people of the free States having this solemn assurance of perfect freedom, emigrated there. But since the organization of the Territory, to this day, there has reigned therein the most terrible despotism the world has ever seen. The wrongs and outrages that this country suffered before the Revolution were nothing compared with the wrongs suffered by the people of Kansas, ever since its organization. I have known of no reign of terror that has existed anywhere in modern times, that has equaled the reign of terror that existed there during the last three years, unless it was the reign of terror in France, 1791. The murders in France were more numerous, but those that were put to death were charged with being aristocrats, despots, foes to the rights of man; while in Kansas, if a man was known to be in favor of the establishment of a free State in that Territory, he was a mark for the assassin's dagger.

Since the organization of that Territory, every right that freemen hold dear has been taken from them. At the first election that was held in the Territory, the actual settlers and residents were driven from the polls by ruffians, villains, and murderers from Missouri and other States of this Union. The rights of the people of the Territory were trampled in the dust. Their ballot-boxes were stuffed with fraudulent votes. Men were elected to the Territorial Legislature who were not residents of the Territory; and if we are to judge of the character of men who constituted that body by the laws that were passed by them, there certainly never has been a meeting of any such fiends in any other place except Pandemonium.

This ruffian band, calling themselves legislators, were no doubt sustained by the Administration. The Army of this great nation was there to back and protect them in trampling upon the rights of the people of that Territory. I say now, that if the actual settlers there had possessed the power to have driven them from the legislative halls by force and violence, they would have been justified in so doing. I would not justify force and violence, and mob law, when there is any legal mode of redressing wrongs; but here there was none. These usurpers obtained their places by force and violence, and if the actual settlers had no other means of defending themselves against the acts of these tyrants, they would have been justified in the sight of God and man if they had taken them from the legislative halls, and hanged them by their necks until they were dead. This legislative body passed the most odious and oppressive laws, laws that would almost rival in cruelty the code of the most absolute despotism now in existence. The Administration appointed wicked and depraved men to office, while this band of usurpers were enacting laws to crush the hearts and lives of the free-State men. The courts of the Territory were running their course of in-

famy. In a court held there by a judge appointed by the President of the United States, the grand jury, under the charge of the court, presented a hotel as a nuisance. On an order issued from that court, the building was destroyed, the order being executed by a sheriff appointed by the bogus Legislature. The building was first fired upon with cannon, but being too strong to be destroyed that way, it was blown up with powder; and why was this done? for no other reason but because it belonged to free-State men. The house of Governor Robinson was burned because he was a free-State man. These free-State men had wronged no one—they had attempted to wrong no one.

In the mean time Dow, a free-State man, from the State of Ohio, was shot down dead in the public highway, in open day, by a man named Coleman. Dow was guilty of no offense whatever—had given no provocation. It was a cold-blooded, premeditated murder. Yet the murderer has never been punished, or even tried, to this day. But, if I am correctly informed, was rewarded for it, by an appointment as an officer in the Kansas militia. Barber, another free-State man, from the State of Ohio, was murdered by a man named Clark, who, it is said, at the time of committing the murder, was holding the office of Indian agent, under the appointment of the Administration, and is now in the land office in the Territory. Brown, another free-State man from the State of Ohio, was chopped to death with hatchets, and his mangled, bloody, and dying body was taken to his house and thrown into the presence of his wife. The murderers of Brown, I believe, have never been punished, and never even been tried. I have it from a source that I can rely upon, that the town of Osawatimie was burned, a part of the inhabitants were murdered, and the remainder were driven out, houseless and homeless, into the world. Women and tender infants were compelled to lie on the cold, damp ground, and nothing to protect them from the rain and storms but tents made of thin cloth. When this town was burned and destroyed; when its inhabitants were either murdered or driven away from their homes—the Army of this great nation was in sight, the witnesses of these deeds of horror, but did not interfere. Why did it not? Because the power that controlled it did not desire to do so. The Army was not there for any such purpose. It was to protect the slavery party.

But why multiply these cases? Crimes enough have been perpetrated by the slavery party in that Territory, since 1854, to condemn a world. Its path has been marked by crimes the most horrible, and red with human blood. If I believed in special judgments of God, I should expect to hear of sweeping tornadoes, wide wasting earthquakes, deadly plagues, and scathing lightning hurling the perpetrators of these crimes to swift destruction. The crowning act of all these wrongs is now presented in the form of a constitution, to be forced upon the people without their consent. To admit Kansas with a slavery constitution would be a palpable violation of one of the best-established principles of the common law; that is, that no person shall take advantage of his own wrong. The Missouri compromise was repealed to put slavery into Kansas. This was a great wrong, and one for which this nation may yet repent in dust and ashes. To admit Kansas as she is to be presented, this great principle that I have stated, would be violated. I never will consent to do any such thing. The repeal of the Missouri compromise I regard, as I have already said, a great wrong to the North, when there was no necessity for it. I am determined, while I have the honor to hold a place upon this floor, that by no act of mine, shall you ever reap any benefit therefrom.

Before this was done, the South had more territory than the North—they have a decided advantage in soil and climate; more than this, they had therein what they call a heaven-born institution, one that they believed has received the sanction of the Most High—with their rich and productive soil, with their warm and genial sun, with their patriarchal institution of slavery, that has descended in a direct line from Abraham to the people of Georgia, with collateral branches into Missouri and other slave States, they must multiply and become as the stars of the firmament and shine forever and ever. With this institution you will grow up a great and powerful people. When

the Yankees come to invade your rights, (as you say they are doing now,) these men that you hold as bondmen, that cannot say their lives are their own, not even if they say it "subject to the Constitution of the United States;" these beings, that are not the owners of the wool that grows on the top of the head—

"The place where the wool ought to grow;"

these persons that we have been so eloquently and vehemently told are so well clothed and so well fed and so joyous and so happy, will no doubt feel sensible of the mighty blessings you have conferred upon them; will be ready to go out to battle for you. These men will, no doubt, willingly lay down their lives; will rejoice in the glorious privilege of suffering martyrdom, in defense of this Heaven-born institution.

But to return to the Lecompton constitution. I will not stop to inquire whether the Territorial Legislature had any power to call a constitutional convention or not. I will deal in no such abstractions. It is sufficient for me to know that it has slavery in it, and that a large majority of the people of the Territory had no part in making the constitution. By the despotic acts of tyrants they were deprived of all power; and as a full and entire refutation of the assertion made upon this floor and elsewhere, that the people of the Territory had a fair opportunity to take a part in framing that constitution. I adopt an extract from the letter of Robert J. Walker, resigning his office as Governor of that Territory, and use it as an argument. On this point, the Governor says:

"On reference to the territorial law, under which the convention was assembled, thirty-four regularly-organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken and the voters registered; and when this was completed the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and, therefore, there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters. These fifteen counties, including many of the oldest organized counties in the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give, a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges, in all these counties, to whom was assigned the duty, by law, of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and, therefore, they were entirely disfranchised, and could not give, and did not give, a single vote at the election for delegates to the constitutional convention.

"And here I wish to call attention to the distinction, which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties, where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry, and no vote was given or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced, for wherever they endeavored by a subsequent census or registry of their own to supply this defect, occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention. I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census constituted a majority of the counties of the Territory, and these fifteen counties in which there was no registry, gave a much larger vote at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th November last."

This must put the question forever at rest. It is unanswered, and is unanswerable. The people of that Territory are now lifting their imploring hands and streaming eyes, and calling upon the Congress of this great nation for relief. It would be no violence to truth to say, that for the last three years the people of that Territory have suffered.

"The spurn of menials:

A despot's vengeance, a false country's curse."

I ask you this day, will you relieve them; or will you enforce this constitution, when you know it will have to be done at the bayonet's point and the cannon's mouth? In such a contest, do you believe that a God of justice, of love, and of mercy could be on your side? As gentlemen on the other

side are in the habit of quoting Scripture for their purpose, I will quote some for their consideration: "Reason takes up the language of Scripture, and repeats with earnest conviction," "Though hand join in hand, the wicked shall not go unpunished." "The curse of the Lord is in the house of the wicked, but he blesseth the habitation of the just."

If this Government persists in its crimes against Kansas, it must suffer the penalty of these national sins. It is one of the irrevocable decrees of God, that for every violation of his laws there is a penalty; and this penalty will come just so certain as the sound of the thunder follows "the lightning's fiery wing." I tell you the day of settlement approaches. If you pass this Lecompton constitution, the low muttering thunder that was heard three years ago in the North and West will break out with tenfold fury. The fires that were then kindled will sweep over the country "like red tongues of demons, to blast and devour." I say to you that the tyrants in Kansas that have trampled the rights of freemen in the dust, whose hands are red with innocent blood, will receive the just reward of their wickedness and their crimes. A weak and wicked Administration may throw its shield around them; but

"Neither men, nor devils,
Nor sheltering angels, can protect them."

Mr. CLEMENS. Mr. Chairman, the evening before the battle of Talavera, in Spain, the armies of England and France encamped on the opposite banks of a river which, guiltless of human blood, still flowed between them; and the soldiers of each, as the shades of evening hastened on, came quietly down to the brink of the water and filled their canteens in preparation for the gory work of the morrow. Sir, we who have hoped there was to be, and would be, some cessation to fratricidal strife; that we had reached at last the palm tree and the fountain in the great Sahara of political life; and that, in the great principles of the Government as established by law, Patriotism would intrench itself so strongly that we might well bid defiance to a world in arms now find ourselves, as erewhile, ranged along each side of a belligerent line of opposing camps, marked out as distinctly as that gleaming river in Spain which divided the conquerors and the conquered. While the white flag of Peace still flaps in the breeze, let us go down to the limpid stream and quietly drink together, whatever may be the fate of the country.

Sir, I am not here to indulge in any sentiment of obijuration or of reproach. The Representative of a larger white population than any member from Virginia, coming, as I do, from a part of the State jammed up like a wedge between Ohio and Pennsylvania—my people having many precious connections with both—finding amongst my immediate constituents a large mass of northern men, who have built up manufacturing establishments, and devoted their enterprise, energy, and capital to the development of the resources of my native city and State—I profess to speak on all questions here which apparently wear a sectional phase, without one particle of acrimony, but at the same time with the emphasis which is due to the time and the occasion.

Sir, a venerable man, weary with the cares of State; who has been for forty years in the service of his country, at home and abroad; who has illustrated her history in every political department by the high emprise of his statesmanship; with no child to inherit his well-earned fame, but giving to a still united people all his love; with no ambition before him, except to discharge honestly the high functions pertaining to the most majestic position upon earth—is now upon his political trial! On the steps of yonder portico, but a few fleeting months ago, in the presence of assembled thousands of his countrymen, he took a solemn oath to support the Constitution of the United States; under which it was his imperative duty to take care that the laws shall be faithfully executed. At the very outset of his administration the difficulties which surrounded him seemed almost insuperable. Poison, in the covered dish; internecine war; civil strife; geographical prejudice; treason, with its bold, brazen, and defiant front; ambition, with its cool, plotting, unscrupulous schemes; bankruptcy, with the hands of Briareus; throwing curses in his path; sedition, with its ear-kissing arguments; sharp-toothed unkindness, tied as a vulture to his heart, until, like

Lear, deserted by his own kin in the midst of the pitiless storm, he might well say—

"Close pent-up guilts,
Rive your concealing continents, and cry
These dreadful summoners grace. I am a man,
More sinn'd against, than sinning."

Sir, I am not here as his unreasoning advocate. I am not here to prate of blind loyalty to him, or to any other man; but as one of the humblest of those who stood by him in a fiercer trial than this; I shall not submit, come what may, to see him wounded in the house of his friends.

Pass with me, then, sir, from the petty consideration of who shall be Earl of Durham, or who shall be Vicar of Bray—from the heated arena, where mingle the exacerbations and prejudices and passions of the hour—back to the earlier and better days of the Republic, and let us see how far the President can be sustained, either by precedent or by existing law, which he would have been recalcitrant to himself if he had not faithfully enforced.

First, then, of the case and the law. On the 30th day of May, 1854, the Congress of the United States organized the Territories of Nebraska and Kansas, both of which did not then contain, exclusive of the aboriginal inhabitants, two hundred human souls. It was provided, "that the State or States created within the same, should be received into the Union, with or without slavery, as their constitutions may prescribe at the time of their admission;" and to that end it was expressly stipulated, "that nothing in the act contained should be construed to legislate slavery into any Territory or State, nor to exclude it therefrom; but the people thereof should be left perfectly free to form and regulate their domestic institutions in their own way, subject only to the Federal Constitution," and all of us know that the only requirement by that instrument is, that the State constitution shall be republican. That no obstacle might be interposed by Federal authority, and that these ends might be completely attained, the Congress of the United States abnegated the power of making laws for said Territories by anomalously stipulating "that the legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Federal Constitution, and the provisions of the organic act." Congress even went further than this; for while the right of suffrage was conferred on every actual resident white male inhabitant above the age of twenty-one years, it still further anomalously stipulated that "the qualification of voters, at all subsequent elections, shall be prescribed by the Territorial Assembly."

Up to this period, the practice of this Government, without being uniform, had been, in a majority of cases, first, to create a territorial government; then, to authorize a census of the inhabitants, by Federal authority; and finally, to empower the inhabitants, by what was generally termed an enabling act, to hold a convention for the purpose of forming a constitution preparatory to admission into the Union; and the time, place, and manner of holding the convention, with the qualification of voters in the election of its delegates, were all specifically prescribed. They became a people only when they organized as a State; before, they were under the legislation of Congress, and were called inhabitants. Their political rights as a people remained, therefore, in abeyance, until they passed into the condition of a State. The passage of this act, apparently changing the territorial policy of Congress, but in reality adopting an old principle, awakened unprecedented opposition. The whole country was convulsed. The dread of Madison was upon us, when he declared with almost prophetic solemnity:

"Should a state of parties arise founded on geographical boundaries, and other physical distinctions, which happen to coincide with them—what is to control those great repulsive masses from awful shocks against each other. If novelties are to be shunned—the most alarming of all novelties, the most wild of all projects, the most rash of all attempts, is that of rending us in pieces, in order to preserve our liberties, and promote our happiness."

The extremes of the Union attempted to influence the future fate of the nascent State. Instead of having, as heretofore, a peaceful emigration to a common Territory, we witnessed the sad spectacle of organized efforts, outside of the Territory itself, to foist into it a population with swords in their hands instead of plowshares and pruning hooks; and intent upon cultivating the enmity of each other instead of tilling the soil that lifted its

rich lips up to the husbandman. In the midst of embittered contests the election for members of the Territorial Legislature took place. The result created intense strife, for the stake was too deep to be quietly acquiesced in by either struggling party, and, from that day to this, it has known no cessation. A portion of the people of Kansas have always refused to acknowledge the laws; have always refused to exercise the power of changing them, by voting at the regular elections, until, when the President came into office, he found this fatal inheritance upon him; rebellion actually existing, and advocated, not only against the territorial laws, but against the Federal authority itself, and every effort made to bring about acts of lawlessness and anarchy. Whatever difficulties exist at this hour; whatever may be the complications of the Kansas question, they have all resulted from the systematic and premeditated refusal of a mass of the people to vote at any election, except one established by the territorial laws. An act was passed, submitting to the people whether or not a convention should be called to form a constitution for the State of Kansas; a portion of the people refused to be registered; threw every obstacle in the way of taking a full census; and finally refused to vote at all. The convention met and framed a constitution, and although, by the organic act, that body possessed the power of ordaining and establishing it, it was submitted, in its most material part, to every free white male inhabitant; and for the fifth time a mass again withheld their votes. If those, who thus refused to rest upon their privileges, constitute a majority of the people of Kansas, they cannot now avoid the issue which they have voluntarily and persistently made.

On the one side, therefore, we have a portion of the people of Kansas and the Territorial Legislature, by resolutions now on file among the proceedings of this House, setting up the Topeka constitution, formed by a voluntary assemblage, without law, without even the semblance of law, and against the consent of the established authorities; on the other, we have the Lecompton constitution, created under legal sanction, and supported by a regular succession of legal authority. Both constitutions were submitted to the people; but in each case there was a vast difference in the mode of submission. The Topeka constitution, without permitting a vote on the subject, forever prohibited slavery; and it was presented to the people with the alternative of either voting for it as it stood, or having no State government at all. The Lecompton constitution—embodying all the material parts of the Topeka constitution, constitutional privileges, bill of rights, and all, including the clause prescribing the mode of making amendments after 1864, and affirming merely the decision of the Supreme Court in the *Dred Scott* case—was submitted to the people as a constitution with slavery or without slavery, as they might themselves determine. The mere manner of the submission, therefore, specified in the schedule, could not fix upon the people of Kansas a constitution in any essential particular different from the Topeka constitution, except upon the single, isolated question of slavery, which was left to their free decision, so far as they could control it, under the Federal Constitution as expounded by the highest judicial tribunal in the land. On the one side, therefore, we have a legal movement, carried out to a practical result, in deference to judicial authority. On the other side we have the embodiment of loose masses, acting upon what they choose to term organic sovereignty, not only without the sanction of law, but in open defiance of all established authority. We have legality on one side, and lawlessness on the other.

The then existing Legislature of Kansas having empowered a convention of delegates to form a government, with the single condition that the same should be republican, it may become essential to inquire whether, in that view, it is necessary to submit the same to the people for ratification, to give it validity. Can such a constitution be formed by the people of any Territory in defiance of all law, and all existing legal authority? Can they, in primary meetings, without law, by the simple power of numbers, frame a government within an already established government, and, without express legal sanction, overthrow it? Sir, under the principles of our Government, this,

whether in a State, or in a Territory, is not reform, it is revolution; and the Federal Government is armed with express power to suppress it, not only by the Constitution, but by the act of 1795. Our fathers anticipated just such questions, from the prevalence of unsound doctrines, as we have had to meet; and it was first proposed in the Federal convention "that a republican constitution, and its existing laws, ought to be guaranteed to each State by the United States;" but it was finally modified to guaranty to each State a republican form of government. Now, as the Constitution specifies that the only condition which shall be required of a State, preparatory to admission into the Union, is that her constitution must be a republican one; and as the Constitution specifies the same condition for the continuance of a State in the Union as is required for her admission into it, let us see what that term "republican" means.

Sir, under our system of government everybody knows that the people are the original source of all political power; yet there is no mode for a majority to manifest their will except in conformity with and in subordination to established law. The very objects of constitutions are to limit and define the powers to be exercised by the officers to whom the people may commit the different departments of the government; and the people, by both constitutions and laws, impose restraints upon their own rapacity, violence, and passions; and the majority, not less than the minority, are bound by all, until a legal and constitutional change is made. It was well said by Madison, in the debates in the Virginia Convention, on the adoption of the Federal Constitution, that—

"The turbulence, violence, and abuse of power by the majority trampling on the rights of the minority, have produced factions and commotions, and these, in republics, more than any other cause, have produced despotism. If we go over the whole history of ancient and modern republics, we shall find their destruction to have generally resulted from those causes. If we consider the peculiar condition of the United States, and go to the sources of that diversity of sentiment which pervades its inhabitants, we shall find great danger to fear that the same causes may terminate, here in the same fatal effects which they produced in those republics."

Sir, according to the principles of our Government, it is the majority of votes given at any prescribed election, and not the votes withheld by the people, which must determine the result. The Constitution of the United States might have been adopted and put in operation by a minority of the whole people. A minority of the people of the United States may elect a President. A minority of the people may forever prevent all amendment to that instrument. A minority of the people of any State may adopt the constitution if a majority prove derelict to their duties and refuse to vote. Not less than seven States of this Union, whose constitutions have been submitted to the people within the last twenty years, are now organized by a minority; and I call the attention of the gentleman from Pennsylvania to this pregnant fact, for, as in the case of that State, if the care is taken to compare the vote cast against the constitution, and then estimate and add to it the vote which was not given at all, it will be found in every instance that the aggregate outnumbers the vote which was given in the affirmative. The last constitution of Pennsylvania was adopted in the year 1836 by a minority of the whole people of Pennsylvania. And yet you talk to me of popular sovereignty. Such was the case in Virginia. The last constitution of Virginia is the act of a minority of the people, if you estimate the number of votes cast in the regular State election. All our experience proves that the vote given upon the ratification or rejection of any State constitution is relatively smaller than the vote cast at any excited political election. The reason possibly may be that the fundamental principles of our Government are so well settled that one State constitution is merely the reflex or transcript of another; and the people feel stronger the necessity of selecting proper men to carry out those principles, than they do in the mere elemental enunciation of the principles themselves.

Sir, the whole theory of our Government proceeds upon the assumption that the people cannot be in default, or derelict to themselves, because the power, subject to legal restrictions, is always in their own hands. After a constitution has been put in operation, they are estopped from resorting to any means to disturb it, except the legal means;

and using these, and these alone, they can only remedy the consequences of their own folly in abstaining from voting, or in absenting themselves from the polls. These undeniable truths have a direct application in the case now before us; and for that reason I ask that three editorials from the *Herald of Freedom*, the organ of the Republican party in Kansas, may be published herewith as appendix No. 1.

The great American idea—that which distinguishes this from all other Governments which have ever existed—consists in the exercise of the powers of the people by delegation or representation. While popular sovereignty, acting by majorities, must act under the laws, it is precisely because the people cannot act in mass that the right to choose a representative is each citizen's portion of organic sovereign power. Before the will of the people be ascertained, the law must prescribe the mode and the manner in which that will shall be designated and expressed. If any portion of the people, it boots not why, do not choose to avail themselves of their own rights under the law, they must necessarily and unavoidably be governed by those who do. Any other liberty than this is not American liberty; it is Parisian liberty; it is Mexican liberty. The operation of our system under these restrictions becomes harmonious and beautiful; and the ballot-box with us becomes as infallible as the magic box of the enchanter, which healed every wound and cured every disease.

The American distinction between a convention and a Legislature implies only a difference in power and authority. A Legislature can act under a constitution; and it is the only competent body to call a convention to change it. Through these mediums the whole power and majesty of the people are as fully exercised as if each man were present as an active participator. It is, indeed, the percolation of the will of the people through the Legislature, and thence through a convention, that, like the filtration of water through porous stones, clears and purifies it. The people can exercise no act of supremacy or legislation at all, except by assembling all in a mass convention of the whole State, and taking the vote by the head, or by chosen representatives. As the first is impossible, the last became here the grand advanced idea in politics; and the exercise of individual sovereignty was made to consist in the choice of representatives, with such powers as the people decided to give them. The very power competent to bind the people in other respects is competent to bind them in the formation of a constitution. The idea of resubmission to the people themselves of a constitution for ratification or rejection, or legislative acts which they had expressly authorized, was not the idea of republicanism at the era of the Revolution, nor at the time the Federal Constitution was formed. That great instrument, the most majestic product of intellect in the world, is not the work of the people of the Union, as a whole or as an aggregate mass. There is no provision anywhere in it, nor no law passed under it, nor no stipulation by the Federal convention, by which it was possible to ascertain whether a majority of the whole people of the United States, counted by numbers, were in favor of it or not. John Adams, in one of his letters to Jay, says if it had been submitted directly to the people, it would have been voted down. It came very near being defeated in several of the State conventions by the delegates of the people who were empowered to consider it. It was the discussion and scrutiny of deliberative bodies which saved it, to throw its broad blessings over this continent. Four of the present States of this Union, containing a majority of the whole population, could have rejected the Constitution, and yet it would have been binding as a Constitution of the United States upon the nine States which ratified it, containing a minority of the people.

The Declaration of Independence itself, was not the act of the people, counting by the head. That great deed which changed our relations to the whole world, never was submitted to the people. It was the work of delegates appointed by a convention in each of the colonies, each colony acting for itself. They were vested with a general grant of power, "to consent and agree to all measures which said Congress shall deem necessary to obtain redress for American grievances." They announced themselves as acting as the represent-

atives of the United States, in general Congress assembled, when they appealed to the Supreme Judge of the world for the rectitude of their intentions. Rhode Island existed from the Revolution up to 1842, under a royal charter from Charles II., granted in 1663. But from the first colonial constitution, formed by Virginia 5th July, 1776, down to the last of the original Thirteen, not one of them was submitted to the people; but their delegates, in convention assembled, ordained and established them, in compliance with the plenary powers granted to them by the people themselves, or the Legislature. In the case of Maryland, whose constitution was adopted on the 14th of August, 1776, it was expressly provided that nothing in this form of government which relates to the eastern shore particularly, shall at any time hereafter be altered, unless for the alteration and confirmation thereof at least two thirds of all the members of each branch of the General Assembly shall concur.

But the principle for which we are contending may be made at once apparent by the case of Rhode Island, the merits of which were brought before the Supreme Court, in the trial of Luther vs. Borden. Voluntary meetings of the people, without the consent of the existing charter government, or any law for the purpose, were held, and resulted in the choice of delegates to form a new constitution to be submitted to the people for their ratification or rejection. Those who were opposed to the mode took no part in the proceedings, and *refused to vote*. The delegates thus chosen met in convention, and submitted their work to the people under voting qualifications and officers prescribed by themselves. Those who were opposed to the proceedings, again *refused to vote*. On the returns of the election, however, the convention declared that the constitution was adopted by a majority of the people of the State, and attempted to put it in operation by elections for all officers to serve under it, and the new government was accordingly organized, and came in direct conflict with the old one, which had never received the sanction of the people by a direct vote, although they had lived under it for two hundred years. The convention proceeded upon the general principles that the sovereignty of the people is supreme, and may act in forming government against an already existing government without law; and that they are the sole judges of the form of government best calculated to promote their own happiness. The result was, the two governments were brought into the necessity of deciding the contest by arms, as must be the case in every instance of the kind. The charter government was sustained, and the Legislature under it—the only competent body—called a convention, and a constitution was formed by it which is now in operation.

A republican constitution, then, means a system of fundamental rules, principles, and ordinances, for the government of a State or nation, formed and adopted under legal restraints and with legal sanction. This was the idea of our fathers. This is the idea embodied in the Federal compact.

Sir, this doctrine of the people acting in mass upon primary organic sovereignty, is found practically exemplified nowhere, on the face of this globe, but in the single canton of Appenzel, in Switzerland, where, in the midst of the eternal glaciers, all the males over twenty-one years meet semi-annually to legislate, each with arms in his hands! France, in the wildest, bloodiest, period of her revolution, had it; and it found its fittest exemplification when its great prototype and advocate, Marat, proposed a Dictator, with a cannon ball chained to his leg, that he might always be in the power of the people; or, when the infuriated mob gathered at the foot of the guillotine, and like human ghouls and vampires, lapped up the warm blood which streamed beneath the glittering blade! Our system was expressly formed to guard against these dire results. Shall we countenance a principle which must inevitably leave it in ruins? Shall we, shall this Union, countenance a principle which will plunge us into all of the excesses of the wildest period of the French revolution?

On the adoption of the Federal Constitution by the States, their constitutions remained the same; and they were changed from time to time only in the mode therein prescribed. Sir, the very principle of the Kansas and Nebraska bill, and the issue now presented to the country by the Le-

compton constitution, was embodied in the case of Vermont, before the Constitution of the United States was formed, and under the old Articles of Confederation. Vermont was the first State admitted into the Union. Her present existence dates back to the year 1791. Ten years before, in June, 1781, the existing Legislature of Vermont proposed terms of union to the American Congress. She was, at that time, and for many years afterwards, involved in contests with New Hampshire and New York, in regard to jurisdiction and boundaries of land; for then, as now, increased empire brought, as it always brings, multiplied perplexities. Congress refused the proffer, without the consent of the coterminous States, and assumed the prerogative of legislating upon the rights of Vermont, and controlling her local government, without her consent. On the 9th day of January, 1783, Governor Chittenden replies, on the part of the Legislature, in one of the most characteristic State papers on record. As it is not generally accessible, I beg leave to append hereto an extract from it, and from the address of the General Assembly of Vermont, in the form of an appendix, marked No. 2. In both of these documents the ground is taken that Congress cannot exercise any other than delegated authority; that they have no right to interfere in the internal police or government of any Territory or State; that they have not the right to make or unmake States, within or without the Union. They avow that such a power involves the whole doctrine of Great Britain in regard to the Colonies; and they declare, when they are called upon to abrogate the laws of Vermont, reverse the solemn decisions of her courts of justice, and overthrow the whole civil government, they think themselves justified to God and the world when they say they cannot comply with such requisitions!

Sir, these bold words come down to us from the most northern State of this Union; from the turmoils and carnage of the Revolution, to act as a talisman of safety in the very arena of fratricidal bitterness and geographical strife. It is well, therefore, to go back to the spirit and sentiments of these pioneers of the Green Mountains, who, in the midst of an American war with Great Britain, the dependency of Canada on their northern border, and thus, with the strongest motives to make common cause against the Confederacy which formed her southern lines, and with which then there was a subsisting controversy, yet had enough of enduring valor to maintain untainted the true republican principle in the face of almost irresistible temptations. Honor, all honor, sir, to such heroism wherever it may be found, and come from what quarter it may! It has in it the soul of Ethan Allen!

Sir, considering the position of that State this moment, so far as the policy advocated by her on this floor may be indicative of her sentiments, I point back to her earlier and better era with peculiar exultation. The principle to which she adhered then, carried out by her now, would make her—

"As glorious as the British Queen renowned,
Who sucked the poison from her husband's wound!"

Mr. MORRILL. I have no objection to the course of remark the gentleman is pursuing; but I desire that he shall mark this great difference between Vermont and Kansas: that Vermont was never a colony of Great Britain, nor was she ever a Territory of this Union.

Mr. CLEMENS. Vermont belonged to the existing colonies of New Hampshire and New York. What is the record? The record is, that this claim, set up by the people of Vermont, was never acknowledged by this Government, and she came into the Union only with the consent of New Hampshire and New York. I am glad the gentleman has made the interruption. I was endeavoring to show that the whole action of this Government, in regard to its territorial policy, maintained the doctrine that the legally existing powers at the time were acknowledged, that their rights were maintained, and I was bringing this result to a practical exemplification in the case of Kansas. I thank the gentleman for his opportune interruption.

Sir, I take the doctrines of Vermont, laid down before, long before, her native son, now the cynosure of the great West, was born, and find, in her example, a sufficient rebuke to the vagaries of the hour. It required no enabling act to bring

her into the Union. Her constitution was established in 1777 by a convention authorized "to form a government." But the act was silent as to the ratification of the same by the people; and the convention, therefore, under the plenary power given, ordained it at once, without submission. The gentleman from Vermont sits this very moment upon this floor under the action of that convention. He is bound by it to this hour, because there has been, from that day to this, a regular succession of legal authority recognized by the Federal Government. In 1791 a convention was called by the Vermont Legislature to decide upon the expediency of her entering the Federal Union. The convention determined favorably the question. They ratified the Constitution of the United States, and applied to Congress by petition for admission. On the presentation of the constitution, which had been adopted in 1777, thirteen years before, on the 4th day of March, 1791, Vermont was admitted into the Union.

Sir, what was the case with Kentucky, which came next in order? Previous to 1789, nine different conventions had been held in Danville, to determine upon the contest between the mother, Virginia, and the daughter, Kentucky; and each one seems to have been attended with a bitterness more and more intensified. While this strife was still going on, the Federal Constitution was adopted, and Kentucky was placed in new relations to the existing Government. Great ferment prevailed. Discord among the people ran riot. Four conventions were held in quick succession. Separation from Virginia by violent means was openly proposed; partisan leaders, with their bands of marauders, devastated the Territory; all law was set at defiance, and civil war seemed almost inevitable. If those who conceive the scenes in Kansas for the last few years have been without a parallel, will not investigate the intestine feuds in Kentucky—the combinations against the laws and rightful authority of Virginia—and the same state of things in what is now Tennessee, against the Government of North Carolina, it will be found, that, *now as then*, human nature is still the same; and that when bodies of men determine to place themselves in rebellion against existing forms of society, specious pretenses will always be found to delude the people. In the face of all efforts to the contrary, the rightful authority of Virginia was maintained by herself and the Federal Government, till, on the 18th day of December, 1789, Virginia, as the only competent legal authority, passed a law so remarkable in its provisions that I must now be content with the briefest possible abstract, and affix the whole hereto in an Appendix, as No. 3.

The law provides for two conventions; one a provisional convention to determine on the expediency of separating from Virginia, with authority to fix upon a day after the 1st day of November, 1791, when the laws of the State should cease to operate. The authority, however, to supersede the jurisdiction of Virginia was made dependent upon the assent of the United States to the erection of said State, which was required to be given after the 1st day of November, or some convenient time thereafter. This convention was armed with power to take measures for the election of another convention, on some day before the authority of Virginia should cease, and after the 1st day of November, 1791, "with full power to frame and establish a fundamental constitution of government." Congress, by an act passed February 4, 1792, recite the act of Virginia and refer to the fact that a convention of delegates have petitioned Congress to consent that on the 1st day of June, 1792, Kentucky should be formed into a new State and received into the Union; and in conformity thereto, the act provides that Kentucky shall at that time be admitted. Here was a case in which the consent of Congress was given without any State constitution having been formed at all, at the time the act was passed; for, in compliance with the law of Virginia and the authority given to the second convention, the constitution of Kentucky was not formed till the 19th of April, 1792, after the act of Congress had been passed. The authority given by the Legislature of Virginia was construed by its terms to be plenary and complete, and the convention which formed the constitution of Kentucky, established the same without submitting it to the people. In this case, as in every other, since the foundation of the Gov-

ernment, the lawful authorities were maintained and supported by actual legislation.

The admission of California, even, with an inadequate population, under a convention called together by a general of the Army of the United States, surrounded by his officers and his camp, and who might have carried out the congruity, and written his civil proclamation, calling a constitutional convention, on a drum-head, was not an exception, although, as the gentleman from Mississippi has so well intimated, the wild cattle of the plains were lassoed and brought into the Union under *quasi* legal authority; for it was claimed that the right to govern was correlative to the right of acquiring territory, and the government under conquest and military authority was, for the time being, from the very necessities of the case, competent and lawful. Sir, this whole question was presented in the self-styled Republic of Frankland, now the State of Tennessee. In 1784, a convention of delegates elected by the people, without law, and without the consent of North Carolina, (within whose jurisdiction the territory was,) met at Jonesborough and formed a constitution. Under this, an Assembly met and elected John Sevier, Governor, together with judges, and all other State officers, civil and military. This constitution was the Topeka constitution of the time. All dependence upon North Carolina was denied, and they absolved themselves from her sovereignty and jurisdiction. In 1785, Governor Martin, of North Carolina, issued his proclamation and protested against all these proceedings. The contest continued, and like the Isallicon, which flows through laurel, grew bitter as it ran. William Cocke was sent to the Continental Congress, with a constitution adopted by a convention of the people of Frankland, and applied to have the same admitted into the Union. Congress utterly disregarded the application. Why, gentlemen upon this side of the Chamber, why? Because it was made against all legal authority, and without the sanction of North Carolina, the only competent authority to act. Two empires were then exerted over the same unhappy people at the same time, as in Kansas now. Double courts were held in each county, one by judges appointed by the State of Frankland, the other by North Carolina. The stoutest, most resolute, and courageous man was appointed sheriff; taxes were levied by both Governments, and paid to neither; courts were broken up; records stolen; and anarchy and civil war disturbed all the relations of society. This fearful strife continued for two years, till September, 1787, when the people, by delegates sent to the General Assembly of North Carolina, at Tarborough, were glad to resume their allegiance to North Carolina. She pursued towards her prodigal sons a noble policy; and on the 25th of February, 1790, ceded to the United States all her territory west of the eastern boundary of Tennessee; and Congress, by the act of the 2d of April, 1790, accepted the grant, and agreed to place the territory under the operation of the ordinance of 1787, with the exception of a primary stipulation in the deed of cession from North Carolina, that the slaves in the State should not be emancipated. On the 11th of February, 1795, the Territorial Legislature authorized a census to be taken, and directed the Governor to recommend to the people, upon a day to be fixed by him, to elect in the manner prescribed by law five persons in each county as delegates to a convention "for the purpose of forming a constitution and permanent government." In conformity with the power thus given, the convention ordained and established the constitution, and it was never submitted to the people as that was not required by the organic act. The Governor, William Blount, certified to Congress, that the number of inhabitants exceeded the quota fixed by the ordinance of 1787, and submitted, by a special messenger, the constitution which had been formed, and claimed the right to be admitted as a State. Washington committed the whole subject, in a special message, to Congress, in which he inferentially accedes to the right, without making any substantive recommendation; and on the first day of June, 1790, Tennessee was admitted into the Union.

How was it with Ohio, referred to by the gentleman from Alabama [Mr. SHORTER] this morning, but not fully stated? Congress, by the act of April 30, 1802, authorized the inhabitants of the eastern division, northwest of the river Ohio, "to

form for themselves a constitution and a State government." Here, for the first time, Congress took the initiative, and usurped power heretofore exercised by the Territorial Legislature; established the qualifications, time, and mode of electing delegates to the constitutional convention; fixed Chillicothe as the place for the meeting; and offered to the convention certain propositions in regard to the public lands, which, if accepted by it, were to be obligatory upon the United States; thus distinguishing between the convention and the people. This act occasioned extreme opposition, not only from these terms, but because Congress disposed of the territory lying north of a line drawn east and west through the southern extreme of Lake Michigan, and contrary to the ordinance of 1787. As the people of Michigan were opposed to this policy, and could have defeated the convention if they had been retained, to render congressional usurpation effectual, Michigan was united to Indiana Territory, and subsequently was separately organized.

The opposition to these measures was deep and implacable; and the whole spirit and principles which were involved, may be seen by the remarks, in the House of Representatives, by Mr. Fearing, the then Delegate from the Territory; by Mr. Griswold, of Connecticut, and by resolutions unanimously passed at Dayton, Ohio, in September, 1802, all of which I hereto affix for publication, as Appendix No. 4. As one of the Dayton resolutions embodies and states the whole question with remarkable clearness and precision, I must here give it, as a complete enunciation of the very law of Kansas which is now in controversy:

"We consider that the late law of Congress for the admission of this Territory into the Union, as far as it relates to the calling of a convention and regulating the election of its members, is an act of legislative usurpation of power properly the province of the Territorial Legislature, bearing a striking similarity to the course of Great Britain imposing laws on the Provinces. We view it as unconstitutional; as a bad precedent, and unjust and partial as to the representation in the different counties."

In the face of these protestations, the convention met, and, in the exercise of the plenary power "to form a constitution and State government," ordained and established the constitution, and absolutely refused, by a vote of 27 yeas to 7 nays, to submit the same for ratification. The official action of the convention, taken from its journals, will be published herewith, as Appendix No. 5.

By the provisions of the Kansas bill, as heretofore referred to, Congress transferred to the Territorial Legislature whatever powers it possessed, and expressly stipulated that the authority of that Legislature should extend to all rightful subjects of legislation. Is not the act of taking a census a rightful subject of legislation? Is not the law submitting to the people the question of calling a constitutional convention a rightful subject of legislation? Is not the calling of the convention itself a rightful subject of legislation? Are not the qualifications of its members, and the powers to be intrusted to them, and the place of meeting, rightful subjects of legislation? Is not the punishment of frauds upon the elective franchise, a rightful subject of legislation?

If, then, Congress has abnegated all these material matters, and left them to territorial legislation, no power remains to pass an enabling act, or to interfere with the mode fixed by law, for the people to govern themselves, because Congress cannot resume the exercise of the renounced authority, without intervening, defeating, and by its very act, repealing the law organizing the Territory itself. If frauds have been committed, the territorial authorities are the proper tribunals to investigate and punish them. Congress possesses no power, by the Constitution, to act as an inquisitorial body upon the exercise of the right of suffrage, either upon the part of the people of a State or a Territory; except so far as it relates to the qualifications and returns of its own members. Any other doctrine than this is the doctrine of the Republican party, as enunciated in their Philadelphia platform, that "the Constitution confers upon Congress absolute, unrestricted, and sovereign power, over the Territories, for their government, and not upon the people." But, if anything were wanting to corroborate this view of the question, it can be supplied by another section of the Kansas act already quoted, and so ably referred to by the gentleman from Mississippi, which looks

beyond the existence of the Territory as a Territory, and anticipates its existence as a State. By the operation of a fundamental stipulation, no further proceedings on the part of Congress are rendered necessary, than the simple recognition of the State itself, and the admission of the same into the Union, with a republican constitution. This is non-intervention—this is the very gist of the Kansas act, and any other policy will be found to be beset with difficulties, not only formidable but insuperable.

Sir, whence comes it that the submission of a constitution to the people for ratification or rejection, is considered necessary to its republicanism? Our fathers did not act upon that doctrine; and I have felt curious to ascertain under what circumstances the policy was inaugurated. After very considerable research, I have found the first example, and like all novelties in American politics of late years, it comes from a State that has always been a leading power in the North—from Massachusetts—a State that has never been without a majestic share of the political control of this Government, wielded sometimes for good and sometimes for evil. From the commencement of the Government there has been a struggle between the principles of Virginia and the principles of Massachusetts; the first, confining the Federal authority to the sphere of delegated powers; the last, dilating that authority beyond proper scope and limits, and ending in legislative usurpations and legislative despotism. In the State of Maine, (then a part of Massachusetts,) on the 5th day of October, 1785, thirty-three delegates appeared at Falmouth, elected by the people without authority of law, and organized themselves into a convention for the purpose of considering whether they would erect themselves into a separate State. The Governor of Massachusetts protested against these proceedings, precisely as the Governor of North Carolina had done, and which we have already explained; but notwithstanding this, three more conventions were held. The last ordered a vote to be taken of the people, for or against the movement; the returns to be made to the president of the convention. A vote was taken; the people pronounced in favor of separation; but from 1785 up to 1819, no action resulted from it, until the rightful authority of Massachusetts was exerted. In that year, on the 19th of June, the Legislature passed an act for the separation of Maine, and for forming the same into a separate State. The act prescribes the qualification of voters; provides "that a majority of the votes returned to the president of the convention shall determine the question of the adoption or rejection of the constitution;" for while it was made the duty of the convention to form a constitution of government, the delegates were required to submit it to the people; and all those authorized to vote for delegates were required "to give a vote in writing," expressing approbation or disapprobation of the constitution so prepared. The act went further than this; for it conferred on the president of the convention all the powers of the Governor and Council of Massachusetts, until a new Governor could be chosen. It will be found in full, in the second volume of Massachusetts laws.

This was the first example in American politics, so far as my researches have gone, in which a constitution was directly submitted to the vote of the people. It proceeded upon the correct and unquestionable principle that it is competent for the people to limit the authority of their own agents and representatives in electing them; and it is for this very reason they are bound when plenary powers are given. In this sense, the Leecompton convention having full authority to ordain and establish a constitution by the organic act, it was not necessary to submit the constitution to the people at all; and the mode of submission adopted in the schedule is therefore free from all the objections which have been urged against it, because, in submitting it to the people as a constitution with slavery, or as a constitution without slavery, the convention in effect ordained and established it as a fundamental form of government, which they had by law a right to do, and left the only element of distraction to be decided at the polls. In every constitution since that of Maine, submitted to the people for ratification or rejection, no discretion has been left to the delegates to the convention; but they have been required, by the act creating them, to refer their

work to popular supervision. Louisiana herself is not an exception; for although the law calling her last convention embraced the power only of proposing amendments to the constitution, the new one was submitted as a whole, because the convention, instead of remodeling, revolutionized the whole structure of the government.

[Here the hammer fell.]

Mr. BURROUGHS obtained the floor.

Mr. CLEMENS. I beg leave to ask the unanimous consent of the House to finish what I have to say.

Several MEMBERS. Go on; no objection.

Mr. JONES, of Tennessee. I insist on the observance of the rule.

Mr. STANTON. I move that the gentleman from Virginia have leave to publish his remarks.

Mr. CLEMENS. I appeal to the gentleman from Tennessee to let me have five minutes longer. My argument is incomplete, and it is but an act of justice that I should be allowed to complete it.

Mr. JONES, of Tennessee. The committee has no right to suspend the rules.

The CHAIRMAN. The Chair has so decided.

Mr. BURROUGHS. I am entirely willing that the gentleman shall be allowed to finish his speech out of my time.

Mr. CLEMENS. I thank the gentleman from New York; and I will remember his courtesy another time.

In Pennsylvania, by act of the 29th March, 1836, a convention was called to propose amendments to the constitution, to be submitted to the people thereof, for their ratification or rejection. Wisconsin, by an act calling a convention, January 31, 1846, required the constitution to be submitted; and Congress carried out this fundamental condition, in admitting the State into the Union, by exacting the assent of the qualified electors, as prescribed by the organic law of the Territorial Legislature. This was not, therefore, a precedent on the part of Congress, but a simple affirmation of the restraints imposed on the convention by the representatives of the people. Iowa presents a case precisely similar. By the act of the Territorial Legislature, passed January 17, 1846, the convention were authorized to submit the constitution to the qualified voters of the Territory; and Congress, in the act admitting Iowa, required a compliance with this cardinal provision. In Virginia, by act of March 18, 1850, it was made the duty of the president of the convention to certify a copy of the constitution to the General Assembly, that a law might be passed for taking the sense of the good people of the Commonwealth thereon. The act in regard to Minnesota—passed February 26, 1857, under the patronage of a prominent Republican, and a present member of this House—was the first instance in the history of the Government where Congress required a constitution to be submitted to the people of a proposed State, where they, through their Territorial Legislature, did not themselves exact it.

The act in question was passed by the Republican party, and was a violation of the established principle of leaving the people of a Territory perfectly free to form their government in their own way, because they might have preferred to vest that power in delegates or representatives. But they were deprived of that liberty, and compelled to test the constitution by a vote at the polls. The result has been, that we have had two separate conventions in Minnesota, and each one endeavored to outstrip the other in the radicalism of its enactments, with a view to a popular triumph. Here, then, we find the true line of demarkation between Republicanism of the Revolution and that of our day; and instead of forming, by high-minded men, stable governments for posterity, we have had constitutions changed like the horns of the moon, and whole States gravely proposing to determine, by the vote of a mere majority at the polls, whether a white man was not in every respect equal to an African negro. Sir, we are verging every hour into the excesses of an unbridled popular licentiousness, which, in the hallowed name of the people, is repudiating the judgments of the highest courts in the land; breaking through all constitutional restraints, and destroying all the checks and balances our fathers formed, and which they presumed would be sufficient to protect the rights of every citizen. When the greatest city on the American continent can be convulsed with the cry of a starving people for bread, lifting up their

parched lips in despair to the dull skies for life and nourishment, how far are we off from that Parisian liberty which takes blood when it cannot find a bone? Sir, in this respect, the people can act in mass, and in such cases they always act from their worst instincts and passions. The law is the barrier which keeps both back; and the President has occupied, in this respect, a position which has tested the Spartan heroism of his character. If for one single day he had faltered in the stern discharge of his duty; if he had for a single day countenanced the violence and outrage and anarchy of those who set every duty of the good citizen at defiance, to attain their reckless ends, we should at this hour have been at the mercy of a promiscuous mob, headed by a lawless, profligate militia general in buckram, with all the temerity of Bob Acres, without any of his convenient virtues.

But to drop this digression, and to resume the argument. In all those cases where constitutions have not been submitted, the organic act, authorizing the election of delegates and defining their powers, did not require it. The same feeling, however, which has been displayed in favor of popular submission, has found vent in another direction, and a few years ago came very near transforming State Legislatures into mere tribunals to propose laws, instead of bodies to make and enforce them. The theory that it was necessary to give validity to State laws by submitting them to the people at the polls, was at one time so popular that it became part of the policy of a score of States in this Union. It was at its fullness about the time the temperance reform first became a political question. The first case I have found is that of Rice vs. Foster, (4 Harrington's Delaware Reports, 479,) a full abstract of which will be found in Appendix No. 6. The case arose under a law of Delaware authorizing the people to decide by ballot whether license to retail liquors shall be permitted among them. The court decided that the law was unconstitutional; that, as the legislative power was vested in a General Assembly, the people had divested themselves of all legislative authority; and that they can resume it only in the forms of the constitution, or by revolution. The same principle, arising under similar laws, will be found decided in Pennsylvania, 6 Barr's Reports, 507; in Indiana, in *Maise vs. the State*, 4 Porter, 343; and in a very able *obiter dictum* by Judge Spalding, in *Griffith vs. the Commissioners of Crawford county*, 20 Ohio Reports, by Lawrence, 609. So far, indeed, did this grave error proceed, that the great State of Ohio had to insert a substantive inhibition against it in her last constitution.

Now, I have endeavored to show that a convention and a Legislature were almost convertible terms; one making the supreme law, the other making laws subordinate to it, and enforcing the means to carry them into practical operation. If, therefore, after the people have vested their power of making laws in a Legislature, they are incompetent to resume the authority they have delegated, except according to the ordinary routine of government, on what principle, pray, does the doctrine rest, that, after authority has been given to form a State government to a convention, the work of that convention must be submitted to the people for ratification or rejection?

Sir, I would gladly elaborate this point, as well as enlarge on others which press themselves on my attention; but the inexorable, Procrustean hour rule of this House forbids it, and I must unwillingly draw these remarks to a close.

Sir, we are in the very Thermopylae of this Republic. Evil signs and portents are around us. Patriotism has grown to be a timorous feeling, clinging like an unfledged bird to the nest of twigs where it was born. Broad, comprehensive statesmanship, heroic political daring, the courage to face the buffalo herd rushing blindly on to the precipice, when an iron hand and arm might have turned all back, has given place to the covert chicanery of the Hindoo Brahmin, hugging to his bosom his blind idols at home; or to the pitfalls and corrals of the Sooders in the jungle, who capture the elephant by low stealth, rather than by open prowess. The President has done his duty fearlessly. What the country wants is some man who can, in the future, dare defeat on principle; and who, in the immortal declaration of Clay, "would rather be right than be President;" and

not the facile trimmer that, like a small pennant on the top of a mast, always shows which way the prevailing wind blows.

Men of the North! Democrats of the North! the power is in your hands! How do you intend to use it? How many of you can afford to stand forth at this dark hour, as muezzins upon the watch-tower, and cry out that "all is well?" Oregon is yours; Minnesota is yours; Washington is yours; Nebraska is yours; Utah is yours; and Kansas and Dacotah must be yours! While I speak, the line of your advancing population is filing along the gorges of the Rocky Mountains, and planting in the midst of the wilderness new empires. For you, there is the full fruition and the triumphant result. For us, there only lingers a naked principle:

"A barren scepter in our gripe,
Thence to be wrenched with an unlineal hand,
No son of ours succeeding!"

Remember the language of Napoleon to one of your own countrymen:

"As a citizen of the world, I would address your country. Every man, and every nation, is ambitious; and ambition grows with power, as the blaze of a vertical sun is the most fierce. Cherish, therefore, a national strength. Fortify your political institutions. Remember that armies and navies are of the same use in the world as the police in London or Paris, and soldiers are not made like potter's vessels, in a minute. Cultivate union, or your empire will be, like a colossus of gold fallen on the earth and broken to pieces, the prey of foreign and domestic Saracens. If you are wise, your Republic will be permanent, and perhaps Washington will be hailed as the founder of a happy and glorious empire, when the name of Bonaparte shall be obscured by succeeding revolutions!"

Shall we have this, or shall we have that other picture so powerfully delineated in the Bible:

"The trees went forth on a time to anoint a king over them. And they said unto the olive tree 'reign thou over us.' But the olive tree said unto them, 'should I leave my fatness, wherewith by me they honor God and man, and go to be promoted over the trees?' And the trees said to the fig tree, 'come thou and reign over us.' But the fig tree said unto them, 'should I forsake my sweetness, and my good fruit, and go to be promoted over the trees?' Then said the trees unto the vine, 'come thou and reign over us.' And the vine said unto them, 'should I leave my wine, which cheereth God and man, and go to be promoted over the trees?' Then said all the trees unto the bramble, 'come thou and reign over us.' And the bramble said unto the trees, 'if in truth ye anoint me king over you, then come and put your trust in my shadow; and if not, let fire come out of the bramble, and devour the cedars of Lebanon!'"

[APPENDIX. No. 1.]

Extracts from the Herald of Freedom.

"THE KANSAS ELECTION.—In order to show the fallacy of the allegation that there will be civil war in Kansas, should the State be admitted under the Lecompton constitution, we clip the following articles from the Herald of Freedom, of the 16th, the leading Republican paper of the Territory. It will be seen that so far from resistance, the better class of the Republicans expect and desire admission under that instrument:

"THE SLOTS RESPONSIBLE.—Mr. Pugh, from Ohio, has introduced a bill in the Senate for the immediate admission of Kansas into the Union, under the Lecompton constitution, and providing that the Legislature of the State may make provision for submitting a vote on the slavery clause again to the people. It is believed that this bill, or that of Mr. Stephens, of Georgia, will become the law. Indeed, nearly all our friends writing us from Washington, say there is but little doubt of the result that our admission into the Union under the Lecompton constitution has become a fixed fact; that the result is almost as certain as if we were now within the Union. If Kansas does come into the Union in this manner, and is made a slave State, as a consequence, the Slots, and the dogs in the manger who would not vote, nor let their friends vote, shall bear the censure."

"Had the Free-State party consulted their best interests instead of standing on etiquette, as they did in June last, they would have 'pitched in' and elected every delegate to the constitutional convention. Then, if they had wanted the Topeka constitution as their fundamental law, they could have clothed it with legal sanction, so far as appearances are concerned, and now we could have been half way out of the woods, instead of being surrounded with difficulties, which, at times, seem insurmountable. We have a long chapter to write on this subject, some day, that will put a different face on this statement from that now seen by many of our readers."

"During the last week several gentlemen have inquired what we would advise, in case we have been so fortunate as to obtain possession of the government by the election of the Legislature, and Congress should admit us into the Union under the Lecompton constitution? We have replied, in each instance, that as soon as the Legislature is convened under that instrument, without stopping to make any other enactments, or doing any other thing than to organize the law-making power, we would have them pass a law, enabling the people to elect delegates at an early day, to a new constitutional convention, throwing every necessary guard around the ballot-box, to insure fairness in the elections. This done, the people should elect delegates, and a new constitution, such as the people desire, should be framed, and submitted to them for adoption or rejection."

"If adopted, State officers should be immediately elected under it, and they should be permitted to enter at once upon

the duties of their respective offices. This, we are happy to say, was the position of the convention which put in nomination the Anti-Usurpation State ticket at the late election, and agreeably to the request of which nominations were made in the various legislative and senatorial districts all over the Territory. In proof of this, we copy the third resolution of the convention, in the following words:

Resolved, That the candidates nominated by this convention, on accepting such nomination, will be considered as pledged, should the constitution be adopted by Congress, to adopt and execute immediate measures for enabling the people, through a new constitutional convention, to obtain such a constitution as the majority shall approve."

No. 2.

Governor Childsden.

"Congress, it is presumed, will not pretend to unlimited power, or to any other than what has been delegated to them from the United States; nor will they pretend that their Articles of Confederation will warrant them in interfering with or controlling the internal police of the United States. Whence did they obtain any rightful prerogative over the internal police of this State, from which they have never received any delegated power? The same argument against the right of Great Britain to tax the American Colonies at pleasure without representation, will apply against the right of Congress to control the civil authority of this State; for if they may in one instance do it, they may in another, till they suppress the whole."

The General Assembly of Vermont, through the Speaker, to Congress.

"By the resolutions of August, 1781, Congress have acknowledged the right and independence of the State of Vermont, on a preliminary condition; and all and every act of Congress which interferes with the internal government of Vermont, or tends to prevent a general exercise of her laws, are unjustifiable in their nature, and repugnant to every idea of freedom. We conceive that the several States in the Union do not owe to Congress their existence; but that each State was formed by the association and civil compact of its inhabitants. Through this medium they derive their separate rights to jurisdiction, and Congress the different powers they are vested with; and have, of course, neither the power nor the right to make or unmake States within or without the Union, or to control their internal police, without a power delegated to them for the purpose. We are still ready to comply with every reasonable requisition of Congress; but when they require us to abrogate our laws, reverse the solemn decisions of our courts of justice, and overthrow our civil government in favor of insurgents and disturbers of the public peace, we think ourselves justified to God and the world, when we say we cannot comply with such requisitions."

No. 3.

The law of Virginia of the 18th of December, prescribes the qualification of voters, and the election of members to a convention to erect an independent State, out of the district of Kentucky. It gives the said convention "full power and authority to frame and establish a fundamental constitution of government," for said State, upon certain conditions, specified in said act. It provided that a convention should be held at Danville on the 26th day of July, 1790, with power to choose officers, &c., and to determine whether "it be the will of the people" to create an independent State. Five members assembled were sufficient to adjourn from day to day, and had power to issue writs of election to supply vacancies from any cause. Two thirds of the whole number of members to be elected were required to determine on the expediency of creating an independent State. In the event of determining upon a separation, the convention were authorized to fix upon a day posterior to the 1st day of November, 1791, on which the authority of Virginia and its laws should forever cease and determine; but that authority was made dependent upon the contingency that the Government of the United States should, prior to the said date, assent to the erection of said State, and should agree that the proposed State shall, immediately after the day to be fixed posterior to the 1st day of November, 1791, or at some convenient future time thereto, be admitted into the Federal Union. To avoid anarchy, authority was given to the convention to take the necessary provisional measures for the election and meeting of a convention, at some time prior to the day fixed for the determination of the authority of Virginia, and posterior to the 1st day of November, 1791, "with full power and authority to frame and establish a fundamental constitution of government, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the legislative authority acting under the constitution, so to be framed and established." The representatives of Virginia in Congress were instructed to obtain a speedy act in conformity with these provisions.

No. 4.

Mr. Fearing, the Delegate from the eastern division of the Northwest Territory, on the 31st

March, 1802, on the report of the select committee respecting the admission of the said division as a State into the Union, said:

"He should oppose this resolution, but not on the ground of expediency. He opposed the resolution on constitutional principles. He conceived Congress had nothing to do with the arrangements for calling a convention."

"Can Congress exercise power given exclusively to the people? He conceived it would be as great an encroachment upon their rights to say they should meet together in convention and form a constitution, as it would be to say so to any State in the Union."

Mr. Griswold, of Connecticut, said:

"What is the condition of the people of the Territory? They are not, it is true, as to every purpose of government, a State, but they have a complete Legislature, as fully competent to legislate as the Legislature of Maryland, or any other Legislature in the Union. They are fully competent to the making of all laws to regulate the internal concerns of the government. Now these resolutions go to interfere with these internal concerns, and to regulate them by law. When the gentleman from Kentucky undertakes to decide the terms on which the members of the convention shall be chosen, I ask him, where is the power? Are not the powers of the Territorial Legislature as full as those of the Legislature of Maryland? And have we not as good a right to interfere with the State concerns of Maryland as to interfere with the concerns of this Territory? We have the determination of the Legislature of the Territory that it is not desirous of forming a constitution at this time. If, then, we go abreast of the determination of one Legislature, why not of another? If we go abreast of that of the North-western Territory, why not go abreast of that of Maryland? If, too, you may legislate for the people before they are admitted into the Union, you may also legislate for them afterwards. If you do not like the constitution they now form, you may pass a law for another convention."

"By a parity of reason you may force down a constitution on Connecticut and say that you will give them one. Acting on such a principle there can be no stopping place; you may go to any length. If you interfere with the authority vested in others, you may go to any length, and that the consolidation of the States, which some gentlemen affected, will be accomplished. I am, therefore, on constitutional grounds opposed to those resolutions. Let us turn to the third resolution, which is calculated, in express words, for calling a convention, by law of the United States, and taking the population of the last census as the basis of representation. How are the opinions of the people upon the calling of a convention to be obtained? How is their consent to elect delegates to be obtained? I answer, in no other way than by an act of the Territorial Legislature, or by going around to every man in the Territory and obtaining his opinion. You must obtain the consent of the Territorial Legislature before you take the step of calling a convention."

The proceedings of Congress gave rise to a public meeting of the citizens of Dayton, Ohio, on the 26th of September, 1802. The following, among other resolutions, was adopted unanimously:

"We consider the late law of Congress for the admission of this Territory into the Union, as far as it relates to the calling of a convention, and regulating the election of its members, as an act of legislative usurpation of power properly the province of the Territorial Legislature, bearing a striking similarity to the course of Great Britain imposing laws on the Provinces. We view it as unconstitutional, as a bad precedent, and unjust and partial as to the representation in the different counties. We wish our Legislature to be called immediately to pass a law to take the enumeration to call a convention, and to regulate the election of members, and also the time and place for the meeting."

No. 5.

In regard to the submission of Ohio Constitution of 1802.

Friday, November 12, 1802. "Leave was given to lay before the convention a resolution for submitting the constitution or frame of government, now preparing, to the people of the eastern division of the Territory, northwest of the Ohio, for their acceptance or disapprobation; which resolution was received and read the first time: Whereupon,

"Ordered, That the said resolution be committed to a committee of the whole convention to-morrow."—*Med. N. C.* 101.

Saturday, November 13, 1802. "The convention, according to the order of the day, resolved itself into a committee of the whole convention on the resolution of submitting the constitution or frame of government, now preparing, to the people of the eastern division of the Territory, northwest of the Ohio, for their acceptance or disapprobation. Mr. Byrd in the chair; and, after some time spent therein, Mr. President resumed the chair, and Mr. Byrd reported that the committee had, according to order, had the said resolution under consideration, and directed him to report to the convention their disagreement to the same."

"On the question that the convention do agree with the committee of the whole, it was resolved in the affirmative—yeas 27, nays 7."

Yeas—Abbott, Abrams, Baldwin, Bair, Brown, Byrd, Caldwell, Carpenter, Darlington, Donaldson, Donlay, Gatch, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, Massie, Milligan, Morrow, Paul, Sargent, Smith, Wilson, Woods, and Worthington.

Nays—Cutler, Gilman, McIntire, Putnam, Reilly, Updegraff, and Wells."—*Journal, published in Med. N. Constitution.*

No. 6.

The case of Rice against Foster (4 Harrington Reports, 479) arose under an act of the Legislature of Delaware, of the 19th of February, 1847, authorizing the people to decide by ballot whether

license to retail intoxicating liquors shall be permitted among them. The constitutionality of the act was contested, and the case carried to the highest court of appeal for decision. The court decided the law in question to be unconstitutional; that as the legislative power in the State was vested in a General Assembly, consisting of a Senate and a House of Representatives, the people have divested themselves of all legislative power and vested it in this body, and that they can resume it only in the forms of the constitution or by revolution. That the General Assembly cannot delegate this power even to the people at large, nor can they make it depend upon the votes of the people at the polls. Booth, the chief justice, in delivering the opinion of the court, said:

"We have been taught by the lessons of history that equal and indeed greater dangers resulted from a pure democracy than from an absolute monarchy. Each leads to despotism. Wherever the power of making laws, which is the supreme power in a State, has been exercised directly by the people under any system of polity, and not by representation, civil liberty has been overthrown. To guard against these dangers, our republican government was instituted by the consent of the people. The characteristic which distinguishes it from the mis-called republics of ancient and modern times is, that none of the powers of sovereignty are exercised, but all of them by separate coordinate branches of government, in whom those powers are vested by the constitution. These coordinate branches are intended to operate as balances, checks, and restraints, not only upon each other, but upon the people themselves, to guard them against their own rashness, precipitancy, and misguided zeal, and to protect the minority against the injustice of the majority."

The CHAIRMAN. The gentleman from New York [Mr. BURROUGHS] is entitled to the floor.

Mr. MORRIS, of Illinois. I rise to a question of order. I want to know if the gentleman from New York has any vested rights to the floor?

The CHAIRMAN. The Chair recognized the gentleman from New York.

Mr. MORRIS, of Illinois. But has the gentleman from New York the right to monopolize the floor, and yield it to any gentleman and then take it again?

The CHAIRMAN. A gentleman holding the floor has the right to yield it to another gentleman, but the time occupied by him is taken out of the time of the gentleman holding the floor.

Mr. MORRIS, of Illinois. I understand that when a member yields the floor he yields it absolutely.

The CHAIRMAN. Such has not been the practice in committee.

Mr. UNDERWOOD. If the gentleman from New York who is entitled to the floor does not desire to occupy it this evening and will yield it, I will submit a motion that the committee rise.

Mr. BURROUGHS. I will yield for that purpose.

On motion of Mr. UNDERWOOD, the committee then rose, and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union, had, according to order, had the Union generally under consideration, and particularly the bill of the House No. 5, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1859, and had come to no conclusion thereon.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by JAMES BUCHANAN HENRY, his Private Secretary, informing the House that he had this day approved and signed a joint resolution making appropriation for the payment of expenses of investigating committees of the House of Representatives.

RESOLUTIONS OF TEXAS.

Mr. BRYAN, by unanimous consent, presented joint resolutions of the Legislature of Texas relative to the impeachment of Judge Watrous; which were referred to the Committee on the Judiciary, and ordered to be printed.

Mr. JONES, of Tennessee, moved that the House adjourn.

Mr. FLORENCE demanded tellers.

Mr. CLAY demanded the yeas and nays.

Mr. JONES, of Tennessee. What will be the business in order if the House refuses to adjourn? The SPEAKER. The call of committees for reports.

Mr. JONES, of Tennessee. If the House re-

uses to adjourn, then I shall insist on the regular order.

The yeas and nays were not ordered.

Tellers were ordered; and Messrs. WRIGHT of Georgia, and BUFFINX were appointed.

The House divided; and the tellers reported—ayes 48, noes 69.

So the House refused to adjourn.

Mr. JONES, of Tennessee. I insist upon the regular order of business.

Mr. GIDDINGS. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BURROUGHS. I demand the yeas and nays.

Mr. STEPHENS, of Georgia. If the gentleman makes his motion with a view to have a night session for general debate, I am willing to vote for it.

Mr. GIDDINGS. I do not. There are gentlemen upon the other side of the House who seem to have been assailed to-day, and who have sought the floor, and, with all my heart, I desire to afford them an opportunity to reply. The gentleman from New York [Mr. BURROUGHS] had the floor but yielded it to the gentleman from Virginia, [Mr. CLEMENS,] who opposes this side, and now seeks an adjournment. When we go into Committee of the Whole, if the gentleman from New York does not wish to occupy the floor this evening, there are others who will be ready to speak.

Mr. STEPHENS, of Georgia. I move that the House adjourn.

On a division of the House, there were—ayes 81, noes 70.

Mr. KNAPP demanded tellers.

Tellers were ordered; and Messrs. KNAPP and STEVENSON were appointed.

The House divided; and the tellers reported—ayes 72, noes 50.

So the motion was agreed to; and thereupon (at ten minutes to four o'clock, p. m.) the House adjourned.

IN SENATE.

FRIDAY, February 19, 1858.

Prayer by Rev. JULIUS E. GRAMMER.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. PUGH presented a petition of citizens of Ohio, praying for the improvement of the harbors of Mackinaw City, in the Straits of Mackinaw, in the State of Michigan; which was referred to the Committee on Commerce.

He also presented two petitions of citizens of Cincinnati, Ohio, praying that a quarter section of land in the proposed Territory of Arizona may be granted to each actual settler, reserving to the United States the right to the minerals therein; which was referred to the Committee on Public Lands.

He also presented the petition of Shirlock & Sherley, contractors for carrying the mail from Louisville, Kentucky, to St. Louis, Missouri, praying to be relieved from certain fines alleged to have been unjustly imposed upon them; which was referred to the Committee on the Post Office and Post Roads.

Mr. THOMSON, of New Jersey, presented the memorial of Douglass Ottinger, praying compensation for the labor and expense attending his invention of an apparatus for rescuing passengers from sinking vessels in the open sea, called the life or surf car; which was referred to the Committee on Commerce.

He also presented the memorial of J. & R. Kingsland, praying payment for paper for printing ordered by the Thirty-Third and Thirty-Fourth Congresses; which was referred to the Committee on Finance.

He also presented a petition of S. Van Sickell, J. R. Bellerjeau, and George C. Leidy, route agents conducting the mail from New York to Philadelphia, praying an increase of their compensation; which was referred to the Committee on the Post Office and Post Roads.

Mr. JOHNSON, of Tennessee, presented a petition of Apollo Herold and others, citizens of the United States, praying that the public lands may cease to be considered a source of revenue, and that they be subject to entry by actual settlers and cultivators only; which was ordered to lie on the table.

Mr. GREEN presented the memorial of Joseph C. Irwin & Co., praying for indemnity for losses suffered while transporting merchandise to Great Salt Lake City, in consequence of orders of Colonel Johnston, commanding the United States troops in Utah; which was referred to the Committee on Military Affairs and Militia.

Mr. JOHNSON, of Arkansas, presented a paper relating to the claim of J. E. Peay and C. Ayliffe, contractors on mail route No. 7503, to additional compensation; which was referred to the Committee on the Post Office and Post Roads.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. WADE, it was

Ordered, That the petition of John R. Nourse, on the files of the Senate, be referred to the Committee on Claims.

REPORT OF A COMMITTEE.

Mr. STUART, from the Committee on Public Lands, to whom was referred the petition of John L. Allen and Asa R. Carter, submitted a report, accompanied by a bill (S. No. 162) for the relief of John L. Allen and Asa R. Carter. The bill was read, and passed to a second reading; and the report was ordered to be printed.

ADJOURNMENT TO TUESDAY NEXT.

On motion of Mr. HALE, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Tuesday next.

COMPENSATION OF JUDGES.

Mr. DIXON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any legislation is necessary to provide for the compensation of any district judges of the United States, who may be designated and appointed under and by virtue of the act entitled "An act to provide for holding the courts of the United States, in the case of sickness or disability of the judges of the district courts;" and that they report by bill or otherwise.

POST ROUTE CONTRACTORS.

Mr. JOHNSON, of Arkansas, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the claim of the contractors on route No. 7503, from Little Rock to Washington, in Arkansas, and to report by bill or otherwise.

PRIVATE CALENDAR.

Mr. WADE. I move that the Senate proceed to the consideration of the Private Calendar.

The motion was agreed to.

TENCH TILGHMAN.

The first bill on the Private Calendar was the bill (S. No. 60) for the relief of Tench Tilghman, which was considered as in Committee of the Whole.

It appropriates to Tench Tilghman \$1,000, for losses sustained by him in consequence of his appointment to a consulate, which was abolished by the Spanish Government while he was on his way to take charge of it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JONAS P. KELLER.

The next bill on the Calendar was the bill (S. No. 67) for the relief of Jonas P. Keller; which was read a second time, and considered as in Committee of the Whole.

It proposes to make an allowance of \$750 to Jonas P. Keller, in full, for his services as a watchman or overseer of the Executive Building at the corner of F and Seventeenth streets, from April 1, 1849, to September 30, 1850.

In 1849 the Executive Building at the corner of F and Seventeenth streets was occupied by various bureaus of the Treasury, War, and Interior Departments; but no legal provision existed for the superintendence and care of the building. Under these circumstances, the Secretaries of those Departments authorized Mr. McPherson, a clerk in the War Department, to take charge of the building as acting superintendent, who immediately devolved the duty of the care and the oversight of the daily police of the place upon the memorialist, who performed the service (as Mr. McPherson and others certify) until the act of 27th of February, 1851, which provided watchmen for the building, took effect.

From the appropriation made by that act, Mr.

Keller received a compensation for his services at the rate of \$500 per annum, subsequently to 1st October, 1850; but no means were provided for paying for the service rendered between 1st of April, 1849, when his duties commenced; and the 1st October, 1850; and it is for this period that compensation is now claimed.

The act of 1850, (9 Stat., 542,) which prohibits the accounting officers from allowing to one individual salaries of two different offices, expressly provides that "this prohibition shall not extend to the superintendents of the executive buildings;" so that there can be no objection to the claim on that ground.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ELIAS HALL.

The bill (S. No. 68) for the relief of Elias Hall, of Rutland, Vermont, was read the second time, and considered as in Committee of the Whole.

It provides for the payment to Elias Hall of the sum of \$516 52, in full, for the balance due him for his services as superintendent of repairs of small arms, and for subsistence, expenses, and losses while engaged in the service of the United States, during the last war with Great Britain, with interest from the 29th of April, 1834, when the account was properly presented for payment.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DR. CHARLES MAXWELL.

The bill (S. No. 69) for the relief of Dr. Charles Maxwell, a surgeon in the United States Navy, was read the second time, and considered as in Committee of the Whole.

It is a direction to the accounting officers to allow and pay to Dr. Charles D. Maxwell the difference of pay between that of the grade of a passed assistant surgeon and a surgeon, from the 22d of December, 1845, to the 7th of July, 1848, being the period during which he performed the duties of surgeon and assistant surgeon on board the United States ship Cyane.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN DICK.

The bill (S. No. 70) for the relief of John Dick, of Florida, was read a second time, and considered as in Committee of the Whole.

By its provisions the Commissioner of the General Land Office is to cause a patent to be issued to John Dick for certain lots containing one hundred and fifty-three acres, situate in East Florida, being a portion of the lands subject to sale at St. Augustine; but the patent is only to operate as a relinquishment of title on the part of the United States, and not to affect the rights of any third person.

Under the provisions of the act of Congress for the armed occupation and settlement of the unsettled part of the peninsula of East Florida, approved August 4, 1842, the petitioner filed his notice with the register of the land office at St. Augustine for a "permit" to settle upon one hundred and sixty acres of land south of the line dividing townships numbered nine and ten, and described as follows: Lot No. 10 in section twenty-nine, lot No. 1 in section thirty-one, fractional section thirty, and the northwest of the northwest quarter of section thirty-two, all of township ten, range twenty-seven south and east, containing in the aggregate 153.20 acres. On the 16th of April, 1843, the register of the land office issued "permit" No. 43 to the petitioner, giving him permission to settle upon the lands solicited, under the conditions of the act; one of which was, "that no right or donation shall be acquired under this act within two miles of any permanent military post of the United States, established and garrisoned at the time such settlement and residence was commenced."

This permit was canceled by the General Land Office, on the ground that the land embraced in it had been reserved in 1841 for military purposes. The petitioner proves, however, that prior to his permit being canceled, he had complied with the requisitions of the act, and that his settlement was not within four miles of any military post established and garrisoned at the date of his settlement,

or at any time subsequent thereto; that he was compelled to relinquish and abandon his settlement by virtue of the cancellation of his "permit," and that, since that period, he has continued to reside south of the line specified in the act of Congress, and has not received lands under the act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

DANIEL WHITNEY.

The Bill (S. No. 72) for the relief of Daniel Whitney was read a second time, and considered as in Committee of the Whole.

It provides for the confirmation of the title of Daniel Whitney, assignee of Francis Lavonture, to a certain tract of land at Green Bay, Wisconsin, confirmed to Lavonture by the commissioner appointed under the act of Congress approved February 21, 1823, entitled "An act to revive and continue in force certain acts for the adjustment of land claims in the Territory of Michigan," and directs the Commissioner of the General Land Office to cause the tract of land to be surveyed in the same manner as other private claims to lands at Green Bay have been surveyed, and to issue a patent to Daniel Whitney, as assignee of Lavonture, so soon as Whitney shall produce to the Commissioner of the General Land Office a certificate of the register of deeds for the county of Brown, in the State of Wisconsin, that he is the actual assignee of Lavonture, and present legal owner of the land, certified to by the clerk of the circuit court of that county, under his hand and the seal of the court, as in other cases, and according to the provisions of the fifth section of the act of 1823.

On the 15th of September, 1823, Francis Lavonture presented to the commissioners appointed under the act of 1823 to hear and determine the claims of persons to tracts of land occupied and cultivated by them in the Green Bay settlement, on the 1st of July, 1812, his claim, and the testimony to support it, to a tract of land, "commencing at low-water mark on Fox river, and running west eighty arpents, or so far as to make said claim contain six hundred and forty acres, as confirmed by said commissioners; and bounded on the south by a certain tract occupied by the United States garrison; west and north by wild or uncultivated lands; and east by Fox river, being sixteen arpents in breadth." The commissioners decided that the claim be confirmed, and that it was not in conflict with any confirmation before made, and they gave their certificate to the correctness of the proceedings had before them.

The Secretary of the Treasury, instead of executing or carrying into effect the law of 1823, and selecting the doubtful and uncertain claims from those which were confirmed, decided to lay all the claims before Congress, and submit all the decisions of the commissioners to it for supervision, refusing to cause the claims actually confirmed by law to be surveyed, and patents to be issued to the claimants. On the 17th of April, 1828, Congress passed an act to confirm certain claims passed upon by the commissioners, excluding those in the county of Michilimackinac, and also certain lands occupied by the United States for military purposes. About the time of the passage of this act, the President of the United States (upon erroneous representations) was induced to make a large military reservation of land, in the vicinity of Fort Howard, at Green Bay, amounting to five or six thousand acres. In this tract was included the land of Francis Lavonture. The confirmatory act of 1828 was, therefore, of no benefit to him in procuring him the evidence of his title, as the Secretary, after its passage, refused the patent because his land was thus embraced in the reservation. The title to the land continues in this condition, although the post, as a military station for troops, has been abandoned, and every part of the reservation has ceased to be occupied for military or Government purposes. The lands are not now required for such purposes, notice having been given during the year 1854, by the Secretary of War, for their sale; and no compensation was ever made to Francis Lavonture for thus taking his land.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

MRS. JANE SMITH.

The bill (S. No. 73) authorizing Mrs. Jane Smith to enter certain lands in the State of Alabama was read the second time, and considered as in Committee of the Whole.

It is an authority to Mrs. Jane Smith to enter, at the proper land office, the west half of the southwest fractional quarter and the west half of the northwest fractional quarter of section thirty-three, in township six north, of range five east, situated in the State of Alabama, upon payment to the receiver of \$1 25 per acre, with a proviso, that the entry shall be made within six months from the passage of the act.

Mrs. Smith is the owner of these tracts, which were formerly held as an Indian reservation for Peter Randon, but were abandoned by him in 1836. In consequence of being held as a reservation, the lands are not subject to private entry. The memorialist, therefore, prays to be allowed to enter them at the minimum price of Government lands.

The bill was reported to the Senate, ordered to be engrossed for a third reading, was read the third time, and passed.

J. WILLCOX JENKINS.

The bill (S. No. 74) for the relief of J. Willcox Jenkins was read a second time, and considered as in Committee of the Whole.

It directs the proper accounting officers of the Treasury to pay to J. Willcox Jenkins the difference between the pay of captain's clerk and a purser of a first class sloop-of-war, from the 1st of January to the 30th of April, 1856, during which time he was the acting purser of the sloop-of-war Jamestown.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

INDIANA MEETING OF FRIENDS.

The VICE PRESIDENT. The next bill on the Private Calendar is a bill (S. No. 46) to grant the right of preemption in certain lands to the Indiana Yearly Meeting of Friends. The Chair doubts whether it is a private bill or not.

Mr. STUART. I have no doubt that it is a private bill. That is the corporate name of the society asking the privilege of entering certain lands.

The VICE PRESIDENT. The Chair will submit it to the Senate. The Secretary will read the bill for information.

The bill was read. It provides that the Indiana Yearly Meeting of the Society of Friends, by such committee or agent as it may appoint for that purpose, shall be authorized to select and locate three hundred and twenty acres of the lands within that portion of the Shawnee country, in Kansas Territory, situate between the Missouri State line and a line west thereof, thirty miles distant and parallel thereto, as described in the treaty with the Shawnee Indians of the 10th of May, 1854, in addition to the three hundred and twenty acres set apart to the Friends' Shawnee Labor School or Mission by the treaty. This location is to be made upon any of those lands which will belong to the United States, after the Indians shall have made their selections, as provided by the treaty. The committee or agent appointed to make the location may at once designate the tract or tracts selected to the proper land officer in Kansas Territory, or to the Commissioner of the General Land Office at Washington, who is, upon payment to the United States of \$1 25 per acre, to issue a patent to such trustee or trustees as the Yearly Meeting may nominate for the land thus selected.

It further provides that the Yearly Meeting, by such committee or agent as it may appoint, may designate to the proper land officer in Kansas Territory, or to the Commissioner of the General Land Office at Washington, the tract of three hundred and twenty acres set apart by the treaty for the Friends' Shawnee Labor School or Mission, and thereupon it shall not be offered to sale; but upon payment to the United States of \$1 25 per acre, a patent shall issue for this tract to such trustee or trustees as the Meeting may nominate.

The lands granted by the act are not to be sold, or otherwise alienated, by the Yearly Meeting, or its trustee, or trustees, without the previous consent of Congress.

Mr. CLAY. Does a single objection carry the bill over?

The VICE PRESIDENT. The Chair is inclined to think, after hearing the bill read, that it is not strictly a private bill.

Mr. CLAY. I do not so regard it, and I shall object to its consideration at this time.

Mr. PUGH. It was passed through the Senate at the last Congress, on private bill day—the same bill identically.

Mr. CLAY. If so, it escaped my observation. It cannot pass now. We should have an opportunity to look a little further into it.

Mr. PUGH. I do not understand the objection of my friend from Alabama. Does he object that it is not a private bill?

Mr. CLAY. It is not a private bill, in my opinion; but furthermore, as I understand the rule, a single objection will carry it over.

The VICE PRESIDENT. This bill has been read twice before, and it comes up regularly now on its third reading, and then on its passage.

Mr. CLAY. I object to it at this time. I want to look into it.

The VICE PRESIDENT. The Chair hardly knows what the practice has been; but doubts whether this can strictly be a private bill. He caused it to be read for information on the suggestion of the Senator from Michigan.

Mr. STUART. I do not wish to detain the Senate or have the Senate now detained in the consideration of this subject. I am very clear, however, that if the Senator from Alabama understood the facts he would not object to the bill for an instant, nor would any Senator who understood the circumstances of the case. It is clearly a private bill. This is a corporation, and stands in every respect like an individual; it can sue and be sued like an individual; its property is individual property.

This is a society of Friends, which has been organized for the purpose of educating the Shawnee Indians, and they moved to that Territory with them. The effect of the bill is simply to give them an opportunity to enter some woodlands for the purposes of the school. It restricts it to that, as the Senator will see by the last section; they cannot dispose of it. It is simply for the convenience and sustaining of that school, which it is conceded has been one of the best among the Indians. It has the recommendation of the Commissioner of Public Lands, and I think of everybody who has examined the subject.

Mr. CLAY. How many acres does it give?

Mr. STUART. Three hundred and twenty; but the Senator will see that the bill reserves all the rights of the Indians; it does not conflict with them. Indeed its whole object is one of charity to aid this charitable institution in a very friendly and very Christian work.

The VICE PRESIDENT. The Chair would be very much obliged to any Senator, as the question has been made whether this is a private bill or not, who would state what has been the practice of the Senate touching bills relative to associations or corporations of individuals. It is purely a question of practice. The Chair has no knowledge of the practice of the Senate on this point.

Mr. SLIDELL. I think these bills have been considered private bills. This one may be objectionable on principle; I do not know anything about it; but I consider it to be a private bill, according to the practice of the Senate.

The VICE PRESIDENT. The Chair, then, will regard it as a private bill, if such be the understanding of the Senate.

Mr. CLAY. I do not think it is a private bill, and I do not understand such to be the practice of the Senate.

Mr. SEWARD. What is the bill?

The Secretary read the title of the bill.

Mr. CLAY. I well remember that the consideration of a bill in which I felt deep interest, as well as the Senators from Georgia, providing for the payment of certain claims for losses sustained by citizens of the States of Alabama and Georgia, from Creek Indian depredations in 1836, was objected to on a Friday during the last Congress, on the ground that it was not a private bill. It was so ruled by the Senate, and its consideration was excluded on private bill day. If a bill for the relief of a small number of citizens of those States, who were named, was not a private bill,

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it seems to me that a bill for the benefit of a corporation, which may include an illimitable number of persons, should also be excluded as not being a private bill. If my objection will carry it over, I shall object, at any rate, to its consideration, because I wish to look at it. I am not satisfied to let it pass without examination.

The VICE PRESIDENT. The objection of the Senator will not carry it over, unless it be not a private bill. Whether it is considered a private bill or not, by the practice of the Senate, is what the Chair wishes to understand. It is a matter purely of practice, and he has no experience on the point.

Mr. WADE. This bill will undoubtedly give rise to debate. I had hoped that this would be considered objection day, as it is called, when we should take up no other bills than those which should not give rise to debate. I presumed that was the intention of the Senate—not to take up those bills which any gentleman wished to debate, but to proceed to pass those about which there was no dispute. There are many such on the Calendar, and I hope we shall dispose of them. I hope this bill will be passed over, as it is to give rise to debate.

Mr. PUGH. If that is the general understanding I do not object to the suggestion of my colleague; but if gentlemen are to go on and have their bills considered, I certainly shall insist on this, because it is one of the most meritorious bills before Congress. If, however, this is to be considered objection day, and the bill is to go over because it is objected to, very well.

Mr. IVERSON. I do not understand that this is a private bill in the ordinary sense of that term. A private bill is a bill which affords relief to an individual for some claim he has on the Government. For instance, a man has a money claim on the Government which he is not enabled to enforce by law, but he comes to Congress on equitable considerations to have it allowed to him. If a widow has an equitable claim on the Government for a pension, and she cannot get it under the rules and regulations of the Department, she applies to Congress, and Congress waives the strict letter of the law and allows her, on equitable considerations, the pension for which she prays. An individual has a claim against the Government for money which the accounting officers refuse to allow for some technical or legal difficulty, and he presents his case to Congress and asks that the legal difficulty shall be waived and his equitable claim allowed.

These are what I understand to be private claims. But this is not a private claim; these individuals have no claim on the Government, except on its mere bounty, its mere generosity, its mere liberality. They have no claim under a contract, no claim under a treaty, no claim under a law, no claim for services rendered, no claim on the Government. This is not a private claim, according to my understanding of the term, and it ought not to be so considered.

The VICE PRESIDENT. The question is, whether it is a private bill?

Mr. STUART. The Senator from Georgia has given a wrong definition to the character of the subject. It is not confined to private claims; it is confined to private cases. The Senate and House of Representatives have decided, again and again, that a bill presented on behalf of a State is a private bill; and a general bill is one which affects the whole public—a public law. Look at your statutes; you find there public acts and private acts published. What is this? Here is a bill before the Senate for the relief of a corporate body of persons. Suppose it were a bank, or any corporate society, or anything else of a private character: would not a bill affecting it be a private act, as contradistinguished from a public act? That is the distinction. Every species of legislation that is a public act goes on the general Calendar, and is considered upon the general Calendar; but everything that is a private act is considered as a private bill, and goes upon the Private Calendar. This is most certainly a bill of a private charac-

ter, relating to this individual school. It is no more nor less than a society of Friends asking for the privilege of entering three hundred and twenty acres of land for the benefit of their school.

Mr. PUGH. They are asking to enter a specific tract of land set apart by the Indian council and confirmed by the Land Office and the Indian department, but which is not subject to actual preemption under existing law. It is just waiving that condition of the law.

Mr. STUART. Certainly.

The VICE PRESIDENT. Did the Chair understand the Senator from Ohio to say that at the last session this bill was passed on the Private Calendar?

Mr. PUGH. I was mistaken; it was on the Private Calendar, but it was taken up in the morning hour, on my motion, and passed.

Mr. SEWARD. A private bill, as I have always understood, is a bill for payment to an individual who presents some claim against the Government, founded either in law or in equity. A private person, in this sense, may be one individual, or several individuals associated as partners, or a corporation aggregate. Corporations aggregate are simply private persons, in this view. However, for the purpose of removing any question about it, I move to lay the bill on the table, in order that we may proceed with other business.

The motion was agreed to.

JOSEPH CHASE AND OTHERS.

The next bill on the Calendar was the bill (S. No. 78) to authorize the Secretary of the Interior to issue land warrants to Joseph Chase, James Young, and Alexander Keef; which was read a second time, and considered as in Committee of the Whole.

It provides for issuing to Joseph Chase, James Young, and Alexander Keef, of the State of Rhode Island, respectively, a land warrant for one hundred and sixty acres of land, in consideration of their detention as prisoners in the Dartmoor prison during a portion of the years 1814 and 1815.

Mr. PUGH. I do not object to this bill, but it is evidently of the same class as the one just laid on the table. I think it is a private bill. I shall offer no objection to it, but I wish to show the Senate how completely Senators are wrong in their definitions of private bills.

The bill was reported to the Senate without amendment.

The VICE PRESIDENT. Shall the bill be engrossed and read the third time?

Mr. TOOMBS. I object to it.

The VICE PRESIDENT. The bill will be passed over.

LAURENT MILLAUDON.

The bill (S. No. 81) for the relief of Laurent Millaudon was read a second time, and considered as in Committee of the Whole.

Laurent Millaudon will, by this bill, be confirmed in his title to two tracts of land lying on the east side of Mobile bay, in the State of Alabama, being the two tracts of land known as the De Feriot claims, as surveyed in the year 1830, and approved of by the surveyor general in the year 1835, with the exception of so much off of the north end thereof as has heretofore been surveyed and confirmed to William Patterson, and included within what is known as the Patterson claim, as now located. This, however, is only to be construed as a relinquishment of any title the United States may have to these lands; and the confirmation is to inure to the benefit of any other persons, if such there be, as may be entitled to any part of the De Feriot claims under conveyances from him.

Under the provisions of the act of 1812, authorizing the investigation of land titles south of the thirty-first degree, and east of the Mississippi, an individual, without any authority for so doing, filed two alleged Spanish permits for lands on the east side of the Mobile bay, in favor of J. B. Lorendine, in the behalf of the Baron de Feriot; these claims were favorably reported upon by

Commissioner Crawford, and communicated to the House of Representatives on the 5th day of January, 1816. Subsequent to this report, but before any action by Congress, Arthur L. Simms became the purchaser of the right of De Feriot. On the 3d of March, 1819, Congress passed an act confirming all the claims favorably reported by the Commissioner; and, under that act, the claims were regularly surveyed by the proper officers in 1830, and confirmed by the Surveyor General in 1835. On the 20th of March, 1837, Laurent Millaudon, relying upon the representations made to him of the genuineness of the claims, and upon all the previous action of the officers of the Government and of Congress, by which they were declared to be valid and good titles, and as covering lands to which the Government had no claim, became the purchaser of certain portions of them from Simms. Doubts having afterwards arisen as to the justice of these claims, with a view of securing the lands, preemption floats were laid thereon. Under the titles thus purchased by Mr. Millaudon, and believed by him to be most unimpeachable, he went on in making the most extensive preparations to establish a city upon those lands, and it appears that in this enterprise he actually expended upwards of one hundred thousand dollars. The validity of the De Feriot titles being brought before the General Land Office for consideration, in 1837, that office required a report from the land officers at St. Stephens, upon all the facts and evidence in the case; and it satisfactorily appears, from that report and accompanying documents, that the claims of De Feriot were fraudulent in themselves, and the De Feriot titles, being fraudulent, conveyed no title to the present holders under them. Besides, as the lands were represented upon the plats as private claims, and have not been surveyed into sections, as public lands, they were not subject to be floated on under the provisions of the preemption law, and no right to the land was acquired by those floats being placed thereon.

From these decisions it results that Mr. Millaudon, an innocent purchaser of title, which he had every reason to believe, from all the previous action of the Government thereon, was a perfect one, after an outlay of upwards of one hundred thousand dollars upon the land, now finds that that title, if not void, is at least questionable, and that all his expenditure is upon lands, perhaps, belonging to the United States.

In view of the fact that these claims were reported for confirmation by the commissioner, confirmed by the act of Congress of 1819, surveyed and confirmed by the Surveyor General of the United States, and reserved and set apart by the General Land Office for a satisfaction of these claims, together with the further fact that the claimant is an innocent purchaser, for a valuable consideration, the committee are of opinion that Congress ought to confirm the title.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

LANDS GRANTED TO LA FAYETTE.

The next bill on the calendar was the bill (S. No. 71) to amend an act entitled "An act to authorize a relocation of land warrants three, four, and five, granted by Congress to General La Fayette."

Mr. SLIDELL. I prefer that that bill be passed over in the absence of my colleague. I move to postpone its consideration until to-morrow.

The motion was agreed to.

GEORGE M. GORDON.

The bill (S. No. 83) to vest the title for certain warrants for land in George M. Gordon was read the second time, and considered as in Committee of the Whole.

By it the Commissioner of the General Land Office is directed, under such regulations as he may prescribe, to recognize the assignment made to George M. Gordon, on the 21st of January, 1852, by Edmund Hugill, sergeant in Captain Gordon's company, third regiment of United States in-

fantry, and James McIntyre, a private of the same company and regiment, to whom warrants Nos. 78,402 and 78,403 respectively, issued on the 13th of July, 1853, so as to vest the legal title in and to these warrants in George M. Gordon, his heirs or assigns, according to the intention of the parties.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

WIDOWS' REVOLUTIONARY PENSIONS.

The next bill on the Calendar was the bill from the Court of Claims (S. No. 87) for the relief of Jane Smith, in the county of Claremont, and State of Ohio; which was read the second time, and considered as in Committee of the Whole.

It provides for the payment to Jane Smith, widow of John Smith, a soldier in the army of the Revolution, of the sum of \$393 84, being for arrears of her pension at the rate of eighty dollars per annum, from the 4th of March, 1848, to the 3d of February 1853, to which she is entitled under the second section of the act of February 3, 1853, entitled "An act to continue half pay to certain widows, minors, and orphans."

Mr. STUART. I move that this bill be postponed. The Senate will remember that it involves a very large amount of money growing out of the construction of certain acts of Congress in regard to which the Court of Claims and the Departments differ. There are three or four hundred thousand dollars, more or less, involved in the question. It is one which will necessarily involve a good deal of debate. I move, therefore, to postpone it until to-morrow.

Mr. CLAY. I ask the Senator to let me give it the proper direction. I think it ought to go to the Committee on Pensions. I do not understand the exact nature of the bill, but I suspect from the terms of it that it is one of very considerable importance. The Committee on Pensions have had a great many applications for what are termed arrears of pensions before them, and they have instructed me to make a general report on them adverse to all such claims. The claims to which I allude are of this character; they are the claims of children and grand children of revolutionary soldiers, who ask the amount of pensions which the father or grandfather might have received if he had made application for it.

Mr. HAMLIN. That is not this case.

Mr. STUART. This is a different thing. This grows out of the construction of a law. The point is, whether a law passed in 1853 had a retroactive effect, or whether it took effect from the date of its passage? The Department, as I remember—I may not be speaking with entire correctness—decided that the law took effect from the date of its passage, and gave pensions from that time. The claimants contended that it had a retroactive effect, sending them back four or five years. The Department decides one way and the Court of Claims the other. This question was discussed at great length at the last Congress.

Mr. CLAY. Then I hope the bill will lie over.

Mr. WADE. I hope this case will not be delayed any longer. At the last session the decision of the court came up, and was argued at great length. It does turn on the construction of the statutes. The court, on great consideration, have decided the question. The Committee on Claims of last year unanimously reported in favor of the decision of the court, and I believe they have done so over again this year. If a deliberate decision of that court, and two decisions of the Committee on Claims, on the same question, unanimously made, are not enough to carry a case through the Senate, then we might as well dispense with the court at once. I do not wish to enter into the discussion of this question. I think it ought to be regarded as settled. The matter turns entirely upon a question of law; and the construction on that point, made by such authority, ought finally to settle it.

Mr. HAMLIN. I think I can state to the Senate precisely what is involved in a settlement of this question. The law originally granted pensions to the widows of those soldiers who were married during the revolutionary war. There was a very good reason for that limitation, because the husbands engaged in the war, and who were married during the war, were necessarily taken

away from their wives and their families. Subsequently, however, a law was passed giving pensions to the widows of those who were married prior to 1786 or 1790. Then another law was passed, granting pensions to all those who were married previous to 1794; and still another law was passed, granting pensions to those who were married previous to 1800. In 1853 I drew up the amendment myself, and it was attached to some bill, providing that all widows of persons who served in the revolutionary war who were married subsequent to 1800, should receive a pension in the same manner—that was the word—as those who were married previous to 1800. I took that section, and went with it myself, and submitted it to the Commissioner of Pensions, and to the Secretary of the Interior, then a Virginia gentleman, Mr. Stuart; and they both told me that, if it should pass Congress, the widows would be entitled to a pension commencing in 1848, going back five years, that being the time when the restriction was removed from those widows who had been married between 1794 and 1800. The Senate adopted it, and it became a law.

A new Administration came in, and Mr. Waldo, of Connecticut, a very excellent and good man, and a good lawyer, gave it a construction that it should take effect only from its passage. I had a conversation with him when I returned here the next year, and I am very clear in my own mind that if he had to make the decision over again, he would never decide as he had done. He intimated as much to me, but he said it was a matter which Congress could easily remedy. That is the statement of the case.

On that statement of the case these persons who were entitled to a pension, as they thought, these widows who were married after 1800, applied to the Court of Claims. The Court of Claims have adjudicated the matter; and they say, in so many words, that a fair construction of the law required that it should have taken effect from 1848, as was designed by Congress. Indeed, at the time the amendment was passed, my recollection is very clear and distinct that it was modified at the suggestion of the then colleague of my friend from South Carolina, Judge Butler. He suggested that it was so indefinite that it might go back to 1831; and, at his suggestion, I modified it so that we all understood, and it was so stated in the Senate, that we expected it would go back to 1848, and stop there. It was designed to go back to 1848.

I think, in justice to these widows, in justice to the previous action of Congress, in justice to what is but a fair construction of this law, we ought to make an appropriation to carry it out. If the passage of this bill involves that, I am ready to vote for it; and I am ready to vote for it even as a single case, if you will drive parties to the Court of Claims, and compel all these individuals to go there and prosecute their rights, and obtain the decision of that tribunal. It would be the wiser way, I know, to make an appropriation. I apprehend, if Congress should pass this claim, they would then come to the conclusion to make one general appropriation, covering all the cases. The amount, I think, would be some three hundred thousand dollars—at all events, at the last Congress, according to my recollection, it was about two hundred thousand dollars up to that time.

Mr. CLAY. The passage of this bill is objected to to-day, and it must go over.

The PRESIDING OFFICER. (Mr. Foor.) The Chair is informed that there is no rule in force making a single objection decisive against the consideration of a bill. The Senate being in Committee of the Whole on the bill, it is now pending for consideration until disposed of by the Senate.

Mr. STUART. I suppose the effect of the objection will be to stop the third reading of the bill to-day. Inasmuch as this is a debatable subject, and one which, perhaps, will occupy the whole day, I suggest that we had better postpone it, and proceed with the Calendar, taking up those cases which shall not involve discussion, and thereby dispatch a great deal of business. I move that this bill be postponed until to-morrow.

Mr. POLK. The bill comes from the Committee on Claims; but if the gentlemen wish to inquire into it, as the member of the committee who had the honor to report the bill, I have no objection to its being postponed for the purpose of examination.

The motion to postpone was agreed to.

INCREASE OF THE ARMY.

The hour of one o'clock being arrived, the unfinished business was announced to be next in order, being the bill (S. No. 79) to increase the military establishment of the United States.

Mr. IVERSON. I will state to the Senate that the chairman of the Committee on Military Affairs has sent a message to me to-day, requesting that this bill be postponed until he can have an opportunity of being present in the Senate. He thinks great injustice has been done to him in the remarks of some Senators, and he desires to vindicate himself from some imputations which have been cast on him. I therefore move that the bill be postponed until Tuesday next, at one o'clock.

Mr. CLAY. The remark of the honorable Senator from Georgia is susceptible of some misconstruction, I think. He refers to me, I presume, as the person who communicated to him the wishes of the chairman of the Committee on Military Affairs. His remark was, that he wished to reply to some statements which had been made on the floor that he thought did injustice to him and to the public service—no personal imputation, of course. He did not object to the debate going on to-day, however; but he thought that it was due to him, by the parliamentary practice, to be allowed to close the debate, and he wished to be heard on it before the final vote was taken.

Mr. HALE. According to the suggestion just made, if there are any motions short of the final passage, we may go on with them to-day.

Mr. CLAY. I suggest that those who desire to speak should be heard to-day, and that the Senator from Mississippi be permitted to conclude the debate.

Mr. IVERSON. I will state the reason why I do not desire the debate to go on to-day. If we progress with the debate to-day, it may be concluded then, and we shall have to take the vote on Tuesday. I do not want to take the vote on Tuesday, because I know several Senators are going to Richmond, and will be absent on Tuesday. I shall therefore object to taking any vote on any question involving the merits of the bill, before Wednesday. If we postpone the bill until Tuesday, we can debate it on Tuesday, and that will afford ample time for debate on the subject. I would rather postpone it, and go on with the Private Calendar to-day.

Mr. KING. We might go on with the discussion, but not take the vote to-day.

The motion to postpone was agreed to; there being, on a division—ayes 18, noes 14.

LUCINDA ROBINSON.

At the suggestion of Mr. STUART, the Senate resumed the consideration of the private bills, the next one on the Calendar being the bill from the Court of Claims (S. No. 88) for the relief of Lucinda Robinson, of the county of Orleans, State of Vermont.

Mr. STUART. That bill involves precisely the same question as the bill which has been postponed. I move to postpone this until to-morrow. The motion was agreed to.

GEORGE ASHLEY.

The bill from the Court of Claims (S. No. 89) for the relief of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, was read a second time, and considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, the sum of \$996 01, being in full for certain planks and boards and other property of Holgate, seized by Commodore McDonough on Lake Champlain, in 1814.

Mr. SLIDELL. Let us hear the report in that case.

The Secretary read the following report, made by Mr. WADE, February 20, 1857:

The Committee of Claims, to whom was referred the opinion of the Court of Claims in the case of George Ashley, administrator *de bonis non* of Samuel Holgate, deceased, report:

This is a claim for compensation for a quantity of lumber taken on Lake Champlain, and converted to the use of the American forces under the command of Commodore McDonough, in 1814.

The committee concur in the unanimous opinion of the court, that "it is a case in which the constitutional provision, that private property shall not be taken for public use without just compensation, is strictly applicable;" they therefore recommend the passage of the accompanying bill.

"George Ashley, administrator de bonis non of Samuel Holgate, deceased, vs. the United States.

"Judge Blackford delivered the opinion of the court.

"This claim was originally presented to the House of Representatives by one Samuel Holgate, of Milton, State of Vermont, in 1825. There have been several adverse reports in this case, by Committees of Claims of the House of Representatives.

"The said Samuel Holgate having died, Harvey Holgate, stating himself to be the heir and legal representative of the decedent, filed the present petition in this court. Since the cause was submitted to this court for decision, the said Harvey Holgate has died, and George Ashley has been appointed administrator de bonis non of said Samuel Holgate, deceased.

"On the 30th of January, 1839, the Committee of Claims of the House of Representatives reported the facts to be as follows:

"That the claim of the petitioner has been frequently submitted to the Committee of Claims, and has been uniformly rejected. Your committee have again examined the same, and it appears from the evidence accompanying the petition that about the 1st of July, 1814, the petitioner was the owner of a quantity of lumber at Milton, in the State of Vermont; that he agreed with Ira Hill to deliver to him at Vineyard, in the State of Vermont, in the course of three or four weeks, lumber to build a house and barn. About the same period the petitioner engaged to deliver at Alsbury, in Vermont, some lumber to Ephraim Mott; and Amos Ransom of Chazy, in the State of New York, about the same time agreed to receive lumber, to be delivered by the petitioner at the latter place, and to dispose of it for him. The petitioner procured from C. P. Van Ness, collector of the customs of the district of Vermont, a written permit to transport lumber from Milton, in Vermont, to Chazy, in the State of New York. The raft of lumber, together with ten barrels of tar, and some other property, was taken off the south end of Isle La Motte, or Vineyard, sixteen or eighteen miles south of the Canada line, on the waters of Vermont, by a row galley belonging to the squadron commanded by Commodore McDonough, on the charge of being bound for Canada, and brought to Plattsburg, in the State of New York. The petitioner exhibited his permit to Commodore McDonough, and, on a second interview with him at Plattsburg, produced a letter from Collector Van Ness, a copy of which is among the papers accompanying the petition, expressing his disbelief of an intention on the part of the petitioner to traffic with the enemy. Commodore McDonough, however, notwithstanding these representations, delivered the property to Peter Saily, collector of the district of Champlain, who caused it to be libeled in the district court of the State of New York. In due course of law it was condemned, no defense having been made. Boards and planks being required by the commanding officer of the United States at Plattsburg, the lumber libeled was delivered to the quartermaster general at that place, who paid the marshal, or his deputy, for the same, \$416 80. From this sum he deducted \$84 55, the costs of suit, leaving a balance of \$332 29; for one moiety of which the collector accounted to the United States, and the other was equally divided between Commodore McDonough and himself. The tar and other articles were not delivered to the collector, or libeled. The value of the property taken, according to the estimate of the petitioner, was \$1,187 51.—See *Report of Committee of House of Representatives, first session Twenty-First Congress, vol. 1, No. 78.*

"The facts stated in that report, except as to some immaterial matter, appear from the evidence in the case.

"It further appears, that soon after the raft arrived at Plattsburg, the boards and plank were conveyed by the teams of the United States to the camp-ground at that place, and were made use of, by order of the proper authority, for the benefit of the United States, in the erection of the military works there.

"There is an account, filed by Samuel Holgate, the original claimant, of the quantity and price of the lumber. The sum there charged for the lumber is \$996 01; and that charge for the lumber is believed to be correct.

"It also appears that Commodore McDonough, by whose order the lumber and other goods were seized, was sued for the seizure in a State court in Vermont, by said Samuel Holgate, senior; that the suit was removed to the circuit court of the United States in that State, and was there tried on the plea of not guilty; and that a verdict and judgment were rendered for the defendant.

"The suit against Commodore McDonough is proved by a copy of the record. The other facts are proved by a certificate and affidavits not objected to.

"We will first consider the case as respects the boards and plank.

"The first objection made to the suit is, that the lumber, seized as aforesaid, was regularly libeled and condemned in the United States district court in New York, and purchased by the Government at the marshal's sale under the decree.

"This objection is not well founded. There is an act of Congress which provides 'that the district courts [of the United States] shall have exclusive cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under laws of impost, navigation, or trade of the United States, where the seizures are made on waters which are navigable from the sea by vessels of ten or more tons burden, within their respective districts, as well as upon the high seas.' (1 Stat. at Large, 76.) That statute applies to this case. The seizure of the raft was made on waters navigable from the sea by vessels of ten or more tons burden, and was made within the district of Vermont; so that the United States district court of Vermont had exclusive jurisdiction of the case. The condemnation of the property by the New York district court was *coram non iudice* and void.

"Another objection made in the case is, that a verdict and judgment had been previously rendered in favor of Commodore McDonough, in a suit against him by said Samuel Holgate, for the aforesaid seizure of the goods in question. But that objection is not tenable. In this case, the Government of the United States, and not Commodore McDonough, is the defendant. It is decided, even in the case of joint trespassers,

that a judgment in favor of one of the trespassers, in a suit against him alone, is no bar to a suit against the other trespasser. To render a former judgment in favor of the defendant a bar to a subsequent suit, it must appear that the former suit was against the same defendant, or his privy; which is not the present case.

"Another objection to the suit is, that the Government purchased the property *bona fide* at the marshal's sale, and paid the purchase money. There is nothing in this objection. The marshal's sale depends for its support upon the decree of condemnation rendered by the district court in New York. But, as we have already shown, that decree was rendered by a court having no jurisdiction of the subject matter; and the sale was consequently void.

"The whole case, as to the lumber, is this: during the last war with Great Britain, when the town of Plattsburg was in danger of attacks of the enemy, the said lumber was required, by the commanding officer of the United States army there, for the use of the military works at that place.

"The lumber was accordingly made use of by the proper authority in erecting or strengthening the said military works. The case, therefore, seems to be clear. It is within the principle, that, in time of war, a military officer, charged with a particular duty, may take and use private property for public use, when his doing so is necessary for the public service, and the necessity is urgent. The Supreme Court of the United States uses the following language:

"There were, without doubt, occasions in which private property may be lawfully taken possession of or destroyed, to prevent it from falling into the hands of the public enemy; and also where a military officer, charged with a particular duty, may impress private property into the public service, or take it for public use. Unquestionably, in such cases, the Government is bound to make full compensation to the owner; but the officer is not a trespasser. But we are clearly of opinion that, in all these cases, the danger must be immediate and impending, or the necessity urgent for the public service, such as will not admit of delay, and where the action of the civil authority would be too late in providing the means which the occasion calls for. It is impossible to define the particular circumstances of danger or necessity in which this power may be lawfully exercised. Every case must depend upon its own circumstances. It is the emergency that gives the right, and the emergency must be shown to exist before the taking can be justified.'—*Mitchell vs. Harmony, 15 How., 134.*

"We have no doubt, from the history of the time, (which it is proper to notice,) and from the evidence, that the making use of said lumber for the public benefit was justifiable, and that it ought to be paid for by the Government. It is a case in which the constitutional provision, that private property shall not be taken for public use without just compensation, is strictly applicable.—*Const. U. S., Amendments, Art. 5.*

"For the other property—namely, the tar, hawsers, and anchor—the Government does not appear to be responsible. No emergency has been shown which required the use of those articles for public purposes; nor is it proved that they were used for any such purpose. They were seized by order of Commodore McDonough, on the charge that the owner was engaged with them in an illegal trade with Canada. If that charge was true, the seizure was lawful, and the owner has no reason to complain. But if, on the contrary, the owner was pursuing a lawful business—that is, if he was only on the way to places in New York or Vermont, as alleged—the commodore might be a trespasser, and personally liable for the seizure; but there would be no legal liability, on the part of the Government, for such seizure.—*Mitchell vs. Harmony, above cited.*

"We give judgment in favor of the claimant for \$996 01, that sum being the value of the boards and planks, as proved by the evidence.

"The claim for interest is refused, on the ground that the well-established usage of the Government is, not to pay interest in such cases.—*Todd vs. the United States, and White vs. the United States, in this court.*

Mr. SLIDELL. I can only understand this case very imperfectly, from what I have heard read; but it appears to me that this man is now claiming from the United States damages for the seizure of property which was condemned by a court, on the ground that the court had no jurisdiction. His defense is purely a technical one. We have a right to presume that if the proceedings had been instituted against these planks and boards in a court having jurisdiction of the case, a condemnation would have followed. I am very unwilling to express an opinion about a case which I have heard so very indistinctly as I have heard this; but it seems that to pass this bill would be compensating a man for property which he lost in consequence of its being seized in illicit commerce; and the only plea which is set up is that of want of jurisdiction on the part of the court which made the decree of condemnation. I move to postpone it until to-morrow.

Mr. IVERSON. I shall not object to its going over. The Senator has a right to put it over by an objection; but I do not wish the case to be postponed with the impression which the remarks of the Senator from Louisiana may have made on the Senate. I think, when the Senate comes to investigate the case, they will find it not obnoxious to the objection of the Senator from Louisiana.

The motion to postpone was agreed to.

JOHN ERICSSON.

The bill from the Court of Claims (S. No. 90) for the relief of John Ericsson was read a second

time, and considered as in Committee of the Whole.

It directs the Secretary of the Treasury to pay to John Ericsson the sum of \$13,930, in full for the balance due him for his services in planning the United States war steamer Princeton, and planning and superintending the construction of the machinery of said steamer.

Mr. PUGH. I should like to hear the report in that case.

The Secretary read the following report, made by Mr. Brodhead on the 13th of February, 1857:

The Committee of Claims, to whom was referred the report of the Court of Claims in the case of John Ericsson, report:

This claim is for services of Captain Ericsson in planning and superintending the construction of the steamer "Princeton" and its machinery.

The court is unanimous in opinion that the sum of \$13,930 is due to Captain Ericsson, for the payment of which they resubmit a bill, in which the committee concur. The opinion of the court is hereto annexed.

"IN THE COURT OF CLAIMS.

"John Ericsson vs. the United States.

"The opinion of the court was delivered by Scarburgh, J. "By an act of Congress approved March 3, 1839, it was made 'the duty of the Secretary of the Navy, under the direction of the President, to make preparations for, and to commence, the construction of three steam vessels of war, on such models as shall be most approved, according to the best advices they can obtain, or to complete the construction of one such vessel of war, upon a model so approved as, in the opinion of the President, shall be best for the public interest, and most conformable to the demands of the public service;' and to enable the Department to carry into effect this requirement, an appropriation of \$300,000, subject to certain restrictions, was made.—5 Stat. at Large, ch. 95, § 2, p. 364.

"By an act of Congress, approved July 20, A. D. 1840, a similar appropriation of the further sum of \$340,000 was made, for the purpose of completing the two steam vessels which had been commenced.

"By an act of Congress approved March 3, A. D. 1841, an appropriation of the further sum of \$400,000 was made, to be expended in building and equipping war steamers of medium size.

"On the 11th day of September, A. D. 1841, the Secretary of the Navy, by a letter of that date, addressed to the president of the Navy board, directed the board of Navy commissioners to cause to be built two steam vessels of war—one on Captain Stockton's plan, not exceeding six hundred tons; and one on that of Lieutenant Hunter, not to exceed three hundred tons. Afterwards the acting Secretary of the Navy, by a letter dated the 22d day of September, A. D. 1841, addressed to Captain R. F. Stockton, United States Navy, informed him of the direction which had been given to the board of Navy commissioners, and ordered him to superintend the building of the steamer of six hundred tons, under the direction of the commandant of the navy-yard at Philadelphia, making to him, from time to time, during the progress of the work, such suggestions as he (Captain Stockton) might think proper.

"Captain Stockton, in a letter addressed by him to the petitioner, dated October 2, A. D. 1841, expressed a wish to see and converse with him on the subject of the construction of the steamship, the building of which he had received orders to superintend. An interview took place between them, and Captain Stockton, in a letter to the petitioner, dated the 8th day of October, A. D. 1841, requested the petitioner to make the drawings of a ship with the dimensions they had previously spoken of. In subsequent letters, marked in the printed document ('Exhibit A') on file in this case, 'No. 16,' 'No. 17,' 'No. 18,' and 'No. 19,' Captain Stockton gave the petitioner further and more particular instructions in regard to the drawings which he desired him to make. The petitioner complied with the request of Captain Stockton in all respects, and, in conformity thereto, made the drawings and performed the services specified in 'Schedule A,' to be found in the printed document above mentioned.

"The ship Princeton was constructed according to these drawings, and the result was entirely satisfactory to Captain Stockton, and highly advantageous to the United States. Captain Stockton reported her to the Secretary of the Navy as 'a full-rigged ship' of great speed and power, able to perform any service that can be expected from a ship of war.—See 'Schedule M' of 'Exhibit A.'

"On the 14th day of March, A. D. 1844, the petitioner presented his claim ('Schedule A' of 'Exhibit A') for compensation for his services to the Secretary of the Navy; and on the 11th day of May, A. D. 1844, it was rejected, on the ground that Captain Stockton, in a letter to the Secretary of the Navy, had stated as follows: 'In regard to Captain Ericsson's bill, which was sent to me at the same time, I must say that, with all my desire to serve him, I cannot approve his bill; it is in direct violation of our agreement, as far as it is to be considered a legal claim upon the Department.'—See 'Schedule F' of 'Exhibit A.'

"In a subsequent letter from Captain Stockton to the Secretary of the Navy, he further stated: 'That it has given me great pleasure to acknowledge, upon all proper occasions, the services of Captain Ericsson's mechanical skill in carrying out my well intended efforts for the benefit of the country.' * * * 'I have invariably given him to understand, in the most distinct manner, whenever the subject was alluded to, that I had no authority from the Government to employ him; and that if he received anything, that it must be altogether gratuitous on the part of the Government; that, considering the great opportunity that he, as an inventor, would have to introduce his patents to the world by the aid of the funds of the Government, I did not think it proper for him to make a charge for their application to the Princeton; in all of which he has

concurrent, as far as I know, up to the time of the presentation of this extraordinary bill.—See 'BB' of 'Exhibit A.'

"In a letter from Captain Stockton to the petitioner, written in July, A. D. 1841, he says: 'In making up the estimate for the cost of the ship, it will be necessary to consider what must be put down for the use of your patent right. It will be necessary, therefore, for you to write me a letter stating your views on that subject. As a great effort has been made to get a ship built for the experiment, I think you had better say to me in your letter that your charge will hereafter be (if the experiment should prove successful) ; but, as this is the first trial on so large a scale, I am at liberty to use the patents, and after the ship is tried, Government may pay for their use in that ship whatever sum they may deem proper.' In reply to this letter, the petitioner, in a letter to Captain Stockton, dated the 28th day of July, A. D. 1841, said: 'I have duly received your communication on the subject of my patent right for the ship propeller and semi-cylindrical steam-engine; in reply to which I beg to propose that, in case these inventions should be applied to your intended steam frigate, all considerations relating to my charge for patent right be deferred until after the completion and trial of the said patent propeller and steam machinery. Should their success be such as to induce Government to continue the use of the patents for the Navy, I submit that I am entitled to some remuneration; but, considering the liberality that thus enables me to have the utility of the patents tested on a very large scale, and the advantages which cannot fail to be derived in consequence, I beg to state that whenever the efficiency of the intended machinery of your steam frigate shall have been duly tested, I shall be satisfied with whatever sum you may please to recommend, or the Government see fit to pay for the patent right.'—See 'No. 12' and 'No. 13,' of 'Exhibit A.'

"In a letter from Captain Stockton to the Secretary of the Navy, dated February 7, A. D. 1853, he refers to this letter of May 20, A. D. 1844, and, amongst other things, says: 'In that letter I stated the nature of Captain Ericsson's services and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to.'

"Time and reflection have not diminished, but rather increased, my estimate of the nature of Captain Ericsson's services, and I have now the honor to reiterate my former opinion, and further to say, that the Government should make him a fair and reasonable compensation for his time and expenses while engaged in superintending the construction of the Princeton's machinery." &c.

"The services rendered by the petitioner were reasonably worth the amount charged by him, to wit: the sum of \$15,080.—See the deposition of Charles W. Copeland.

"The question now presented for our consideration is, whether, under these circumstances, the petitioner is entitled to relief. He has shown that it had been determined by the proper authority, in pursuance of law, to build the steamer Princeton, and that, to effect that object on the plan proposed, and on which she was in fact constructed, the very services rendered by the petitioner, to be performed either by him or some other person, were indispensable. It is insisted, however, that the services of the petitioner were rendered gratuitously. If this be true, then the petitioner's claim cannot be sustained.

"In support of the proposition that the petitioner's services were rendered gratuitously, it is urged, first, that he was not employed by any person duly authorized to employ him; and, second, that the testimony of Captain Stockton is direct and positive that they were thus rendered. *Nemo presumitur donare*; and this maxim applies with great force to a case like the present, where the object on which the bounty to be bestowed is a great and powerful Government, in possession of abundant means for all its legitimate purposes.

"That the determination to build the steamer Princeton, precisely on the plan on which she was built, was made by the proper authority, under an adequate appropriation, is not disputed, and is, in fact, indisputable. It is equally clear that it was not expected that her construction could be effected without an outlay of money. In order to carry out the object contemplated, it was necessary to employ proper agents, and to invest them with the authority requisite for the purpose. Accordingly we find the Secretary of the Navy giving orders to Captain Stockton to superintend the building of the steamer under the direction of the commandant of the navy-yard at Philadelphia, and to make to him, from time to time, during the progress of the work, such suggestions as he might think proper. If, then, this order was obeyed, she was lawfully built, and everything done in connection with her construction was lawfully done.

"That the petitioner rendered the services for which he claims compensation is undisputed; but it is insisted that Captain Stockton had no authority to make such a request so as to entitle the petitioner to compensation, except under the direction of the commandant of the navy-yard at Philadelphia. If this be true, and Captain Stockton made the request without the direction of the commandant of the navy-yard at Philadelphia, he was guilty of a violation of duty. And, moreover, if this direction was essential to the validity of such a request, then it was also essential to authorize Captain Stockton to accept the services of the petitioner, though tendered to him gratuitously. But it is to be presumed that Captain Stockton, in all that he did, acted in the line of his duty, and not in violation of it. No complaint has ever been made against him by the Government, whose agent he was; but, on the contrary, the payment of the petitioner's claim was made by the very authority under which Captain Stockton acted to depend upon his report. It must be intended, therefore, that, in making the request on which the petitioner's services were rendered, he acted by proper authority. If the direction of the commandant of the navy-yard at Philadelphia was necessary, it will be presumed. The Secretary of the Navy himself, in rejecting the petitioner's claim, recognized Captain Stockton as the trusted and duly authorized agent of the Government in the premises. There is, then, no room for question that what the petitioner did was lawfully done, and that his services were rendered at the request of an officer duly authorized to make it. He did not officiously intermeddle with the great public work which was going on. It would, indeed,

be a most offensive imputation upon the characters of the honorable men under whose superintendence and direction it was carried on and completed, even to suppose that he could have done so if he had desired. The only point of inquiry, therefore, is, did the petitioner render his services gratuitously?

"The letter from Captain Stockton to the Secretary of the Navy, of the 20th May, A. D. 1844, is explained by his letter to the same officer, of the 7th February, A. D. 1853. If we take the former according to its strict literal interpretation, Captain Stockton may be understood not only as having denied that he had any authority to employ the petitioner, but also as having asserted that the petitioner volunteered his services, and rendered them gratuitously. But he did not mean either the one or the other, as is apparent from the consideration that if he did, the two letters would be in conflict with each other. In his letter of the 7th February, A. D. 1853, he expressly says, that in his letter of the 20th May, A. D. 1844, he stated 'the nature of Captain Ericsson's services, and the extent of the Department's obligation to him, and admitted his claim to such compensation from the Government as, under the circumstances, he may be entitled to.' He meant, therefore, in his letter of the 20th May, A. D. 1844, not only to state an obligation of some kind on the part of the Navy Department to the petitioner, but also to state the extent of that obligation, by admitting that he is entitled to a reasonable compensation for his services. But this is wholly inconsistent with the idea that those services were rendered gratuitously. The first letter, therefore, is not to be literally interpreted. It may not be improper here to add, that the letter of the 7th February, A. D. 1853, was obviously designed to be explanatory of the former letter; and to remove all doubt as to his meaning, he, in conclusion, says: 'Time and reflection have not diminished, but rather increased, my estimate of Captain Ericsson's services; and I have now the honor to reiterate my former opinion, and further to say, that the Government should make him a fair and reasonable compensation for his time and expenses, while engaged in superintending the construction of the Princeton's machinery.' &c.

"With the first letter thus explained, the whole case is relieved from difficulty. If the Secretary of the Navy, when he received that letter, had understood it according to this explanation, he would not have rejected the petitioner's claim. When Captain Stockton wrote the letter of the 20th May, A. D. 1844, he was manifestly under an impression that the plaintiff was asserting a special contract for specified services at fixed prices; and he meant to state not only that no such contract had been made, but that he had no authority to make it. It is to such a contract that the whole of the first letter refers. We can very well understand that the petitioner would gladly have availed himself of such an opportunity 'to exhibit to the world the importance of his various patents,' and that to secure it he would have permitted his compensation to depend on the contingency of their success; but we do not suppose that Captain Stockton, or any one else, desired, that, if the result should be entirely successful, the United States should receive the benefit of the petitioner's services without compensation. Taking the two letters of Captain Stockton together, we have no difficulty in coming to the conclusion that the understanding between the petitioner and Captain Stockton was, that the petitioner should be permitted 'to exhibit to the world the importance of his various patents' in his own way and according to his own plans, and that he should receive just such compensation for his services as should be justified by the result. The petitioner agreed to accept a *quantum meruit*, dependent on the success of his labors.

"The petitioner admits the receipt of \$1,150. He claims \$15,080. We shall report to Congress a bill in his favor for the sum of \$13,930."

Mr. STUART. If I have understood this case correctly, from the reading of the opinion of the court, it seems to me that the Senate ought to reject the bill as unanimously as the court have reported it. The case seems to show a few facts in connection which, to my mind, are conclusive. Congress made an appropriation for the construction of certain ships, and directed, of course, the Secretary of the Navy to order them to be built. He ordered one of them to be built under the superintendence of Captain Stockton, at a particular yard. Captain Stockton, it seems, consulted this petitioner; at the same time he said in his letter to him that whatever he did must be done gratuitously, for he had no authority to bind the Government at all. He but stated then what everybody knows, that an officer of the Navy, acting under the direction of the Secretary of the Navy simply to superintend the construction of a vessel, has no authority to make contracts without the consent and direction of the head of the Department.

It also appears that the petitioner had an object personal to himself in view, which was to advertise the efficiency of certain patents that he owned. The correspondence shows that it was regarded highly important to him, individually, that his patents should have an opportunity of being exhibited and tested on so large a scale as would be done by the construction of this vessel and their use in it. Now, he comes in, not to ask pay for his patents, but to ask pay for his services in superintending the construction of the machinery, which placed his patents in the ship and thus tested them and exhibited them to the world. If successful, he might well afford to pay the Government a large sum of money; if the result should be a failure, nobody but the Government was to

suffer. The case, so far as regards his patents, presents exactly that state of things: that the Government tested his patents at its own expense, and at an enormous expense. If successful, it demonstrated to the world the usefulness of the patents, and was the best advertisement the owner could possibly have; if unsuccessful, the Government footed the bill; it cost him nothing but the time he spent in the superintendence.

The doctrine of a *quantum meruit* due to individuals who act under the request of an officer of the Navy or Army, without any authority, certainly will not do to establish in this Government. The Navy Department has rejected this claim, and rejected it upon the distinct proposition that there was no authority on the part of Captain Stockton to call on this individual at all; and the additional fact is presented that Captain Stockton stated in his first letter, that he gave the petitioner to understand that he had no authority to make contracts, that whatever he might do must be regarded as gratuitous, leaving it, it is true, to the discretion of Congress at any time to make him any compensation they might choose. On that state of facts, as I understand from the reading of the report, this court has decided that as a matter of law, the Government is under an implied obligation to pay this man, upon the principle of a *quantum meruit*. It seems to me that it is a case where Congress ought unanimously to reject the claim upon general principles in the first place, and in the next place, from the nature of the facts incident to the very case itself. He has been benefited largely, it seems, by using the Government as the means of advertising his patents to the world. I may, perhaps, not have understood the case; but I paid as close attention as I could to the reading of the opinion, and it seems to me that the opinion develops precisely the state of facts which I have stated. If so, I beg leave to conclude with the repetition of the remark that the principle of the claim is unsound as a legal proposition; and as applied to the facts of this particular case, there is no equity against the Government of the United States.

Mr. IVERSON. I wish to ask for the postponement of the case, because the Senator from Florida, who is a member of the Committee on Claims, [Mr. MALLORY,] and takes some interest in the bill, and understands the matter, is sick today.

Mr. STUART. Very well.

Mr. SIMMONS. I think the Senator from Michigan cannot have distinctly understood the reading of the opinion, or he would not have come to the conclusion to which he has come. There was some confusion and noise, and I think he must have misunderstood some part of the evidence.

The motion to postpone was agreed to.

CHRISTINE BARNARD.

The bill (S. No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army, was read a second time, and considered as in Committee of the Whole.

It is a direction to the Secretary of the Interior to continue upon the pension roll, at the rate of thirty dollars per month, from and after July 4, 1857, when her pension expired, the name of Christine Barnard, widow of the late Brevet Major Moses J. Barnard, captain in company H, regiment of volunteers, who was twice wounded in planting the American colors upon the parapet of Chapultepec, while storming that fortress, and who died from disease contracted in, and greatly enhanced by hardships and fatigue of, the Mexican campaign. This pension is to be held by her, or by her children, in accordance with existing laws in reference to the widows and children of those who died from wounds or disease received or contracted during the Mexican war.

Mr. PUGH. I should like to know if this bill is continuing a pension to this lady, and then to the children. If so, it is carrying the pension laws beyond anything I have known. May I inquire of the chairman of the Committee on Pensions what it means?

Mr. JONES. The bill does not come from the Committee on Pensions, but from the Committee on Military Affairs.

Mr. PUGH. Let the last clause of the bill be read.

The Secretary again read it.

Mr. PUGH. I understand that when pensions are granted for five years the first time, there is a provision by which children, in a certain event, may get the benefit; but I am not aware of any case in which, where we have continued the pension beyond the first five years, we have made the same provision. Wherever we have continued a pension beyond that time by an act of Congress, we have continued it simply to the widow during her life or widowhood. I think this a new precedent, and should like to have the bill lie over.

Mr. IVERSON. I think the Senator from Ohio is mistaken. The bill only provides for the continuance of the pension for five years, if I understand it, and not during her life, or for all time to come.

Mr. PUGH. But it is a continuance of a former pension. The general law gives a five years' pension, and a right to have that pension renewed at the Pension Office.

Mr. IVERSON. But this does not come under the general law. This lady is not entitled to a pension under the general law now existing. This is an exceptional case altogether. Her pension expired on the 1st of July last, and this is to continue it for five years longer, on account of the peculiar circumstances of her case. It is not a case in which she can get a pension by going to the Pension Office. It appeals to the equitable consideration of Congress, to the bounty and generosity of Congress, to continue her pension.

Mr. KING. There are several cases like this before the Committee on Pensions; and a member of that committee, to whom those applications have been referred, is in communication with the Commissioner of Pensions, with a view to some general proposition on the subject, if a reasonable one can be had; and therefore I move that this bill lie over. It is desirable that a uniform rule should be adopted.

Mr. WILSON. I think this is a very hard case, and that the bill is a just one. Why not pass it? If any general law is necessary, as I suppose it may be, we can pass it without delaying this bill. If it goes over, it is possible no action may be taken at all. The lady has been left a widow with helpless children, one of whom is paralyzed. Her husband rendered important service to the country, and lost his life in consequence of it. I think it a very hard case, and we ought to pass the bill. It only extends the pension for five years, as I understand. I do not know the widow or her children. Some fifteen or twenty years ago I knew Mr. Barnard. At that time he was a resident of Philadelphia. I hope that the case will not be put over, but that the bill will be passed.

Mr. KING. I know nothing, of course, of this case in particular; but there are a great many of these cases that address themselves very strongly to the sympathy of the Senate, and it was deemed desirable by the Committee on Pensions to obtain some general rule if they could.

Mr. HOUSTON. I am not acquainted with the merits of this case particularly, but I hope the bill will not be passed over lightly. It may be to us an unimportant matter, but to the individuals it is very important. Not only their comfort, but their lives may depend upon it; and I sincerely hope the Senate will pass the bill. For my own part, I shall vote for it cheerfully.

Mr. IVERSON. I am very sure that if the Senator from Ohio and the Senator from New York understood the merits of this case, they would not ask for the postponement. I see no reason for the postponement. Senators can as well understand the merits of the case to-day, as if they were to investigate it for a thousand years. Major Barnard was an officer during the Mexican war, of exceeding merit. The bill states some of his merits. He was wounded in planting the colors on the parapet of Chapultepec. He was one of the storming party at Chapultepec, and was the first to place the American colors on the parapet of that fortress, and in doing so he received a very severe wound. Perhaps there was no more gallant man in the whole service of the United States than Major Barnard. He has died, leaving a widow and three or four helpless children perfectly dependent. They are not worth a dollar in the world; they have nothing to support them except the mere bounty of the Government and the charity of friends. One of the children, a boy now of some fourteen or fifteen years of age, is

paralyzed, and is as helpless as an infant, and depends entirely on the nursing of his mother for his support and protection. She is a penniless widow; and, under the circumstances, I think the case appeals very strongly to the generosity of Congress. She was originally allowed a pension by a special act of Congress. She was not entitled to it under the rules and regulations which pertain to pensions generally at the Pension Office, because her husband was not killed in battle, though he died in the service. He died from the effects of wounds, but not in battle. She appealed to Congress for a pension; it was granted by a special enactment which expired last year; and now we only ask that it shall be continued to her for five years more. I trust the objection will be withdrawn.

Mr. JONES. I have no objection to the passage of this bill; but on the contrary I am decidedly in favor of it, as I am in favor of nearly all the bills for the widows and orphans of those who have died in fighting the battles of the country. Almost every day appeals are made to me by widows to report bills and make special cases for them. I am certain the Committee on Pensions have at least a dozen or more such cases before them. They have been referred to a member of the committee, the honorable Senator from Connecticut, [Mr. FOSTER.] He is investigating the matter thoroughly; and the committee desire, if possible, to frame a general bill which will embrace the widow and children of officers and soldiers who have died in consequence of wounds received in the service. I would prefer to have this bill postponed, or referred to the Committee on Pensions, in order that it may share the same fate as the other cases, and that we may deal with all alike.

Mr. PUGH. This bill was read a second time to-day, I understand, and cannot pass to a third reading if there is an objection made. I can see nothing in this bill to distinguish it from others, and I think it may as well lie over.

The PRESIDING OFFICER. The question is on the postponement.

Mr. HOUSTON. This bill is now ready for its passage through the Senate, and I do not see any necessity for postponing it to suit the convenience of a general bill, when in reality we may pass this bill in a short time; so that, if the general bill does not pass, this widow may yet receive the pension. The honorable Senator from Iowa proposes to embrace the widow in the general bill. To that I see no objection, but I am for embracing the children also in the provisions of the bill. I hope this bill will pass.

Mr. KING. As a more brief disposition of this matter, I will waive the motion to postpone. The Senator from Ohio objects to its third reading, and it goes over as a matter of course.

The PRESIDING OFFICER. That point is not yet reached. The bill is before the Senate as in Committee of the Whole, and open to amendment. If no amendment be proposed, the bill will be reported to the Senate, and then the question will be on ordering it to be engrossed. If that be carried, the third reading can be objected to, and that will postpone it.

Mr. PUGH. It will not be in order, I understand, to commit this bill after it has been ordered to its third reading. ["Oh, yes."] I do not doubt that this is a very proper case for a pension; but there are twenty other cases equally proper, equally meritorious, which have been referred regularly to the Committee on Pensions. We have not had any report on them. The committee say they are maturing a general proposition, and that they decline acting in individual cases. The only difference is, that this bill has traveled through the Committee on Military Affairs, instead of the Committee on Pensions. If we have a Committee on Pensions, this subject belongs to them; and I say, without meaning to detract from this case, that on reading the bill, I do not find that this gentleman died from his wounds; I do not find that he died during the Mexican war. It is said that he died from disease contracted during the war, but his death was afterwards. It does not say that he died in consequence of those wounds. I do not doubt that it is a proper enough case for a pension; but I see no reason why it should be preferred to other cases equally meritorious. I want the Committee on Pensions either to report back all these bills, and let us go on with them,

or else to bring up a general bill, and let us pass it. I see no reason why one petitioner should be placed in advance of the others, simply by referring her petition to the Committee on Military Affairs. That is my reason for objecting to the progress of the bill.

Mr. IVERSON. I will say to the Senator from Ohio, that this bill was introduced at the last Congress, and referred to the Committee on Military Affairs, and reported back by that committee, and it then passed this body, but failed in the other House for want of time to consider it. It is no fault of the petitioner that the bill has come from the Committee on Military Affairs. The fact that an improper direction has been given to it ought not to prejudice her case.

The whole argument of the Senator is, that because his cases do not come up, this one shall not come up. Is that generous? This case, by order of the Senate, not by the committee or at the instance of the petitioner, has been referred to the Committee on Military Affairs; and the Committee on Military Affairs has acted promptly—perhaps more promptly than the Committee on Pensions—and reported the bill back. Is that any fault of the Military Committee? Is it any fault of the petitioner? When her case is brought up, is it to be postponed because the Committee on Pensions do not act promptly and report other cases? I do not think that is a very fair mode of proceeding. If there are merits in the case; if this party has this question up in its order when she has it before the Senate by legitimate means—and certainly it is not illegitimate to send it to the Committee on Military Affairs—I ask if it would not be hard now to postpone it? Why should you postpone it? Merely because there are other cases that have not been presented to the Senate! Let each be decided on its own merits as it comes up before the Senate, according to the rules of the body. I can see no reason why this bill should be postponed until other cases shall also have a chance to be heard. The other cases are before the appropriate committee, and that committee are acting on them. They will act on them in due time; but because they do not act as promptly as Senators desire, that is no reason why the business of another committee which does act promptly shall be postponed and put down in its progress through this body.

Mr. PUGH. It seems to me the Senator has failed to comprehend the point of my objection. We all understand how matters are referred to a committee. A petition is presented, or a bill brought in on notice or without notice, and it is always referred to the committee to which the Senator presenting it proposes to refer it. The question is what jurisdiction the Committee on Military Affairs has over pensions? None at all. Two thirds of our pensions are granted to the widows of officers, either of the Army or of the Navy. If the Committee on Military Affairs, merely because the gentleman who is deceased was an officer of the Army, is to take jurisdiction of military pensions, and the Committee on Naval Affairs on the same ground to take jurisdiction of navy pensions, what is the use of the Committee on Pensions? We had better abolish it; and therefore, without meaning it in any disrespectful sense, I say the bill is not legitimately before the Senate. It has not come through the proper committee. I do not ask that this lady's case shall be kept back because other cases have not been heard; but I say the Committee on Pensions have notified us, through two of their members, that they design to report a general act for all these cases; and why, then, should not this lady's case come under the general act?

I do not dispute that it is a meritorious case so far as I can see from the bill; but I do not see any special merit there stated above twenty other cases. I have interposed, I am sure, not from any lack of generosity, but from a disposition to have justice done to all parties. I am satisfied that if we let one and another of these special cases go through, we shall never have a general law passed; but if you keep them back you will have a general law matured on sound principles, and you will get meritorious cases passed. If you let one and another go through specially, it will be cited as a precedent the next day, and you will never see your general bill.

Mr. CLAY. I concur fully in what has been said by the Senator from Ohio; but he did not

make the motion which I thought he would make, to refer the bill to the Committee on Pensions. I now make that motion; and I hope it will prevail. That committee, as has been suggested, have had under consideration a general bill to embrace all such cases. They have not matured the bill because they have not been satisfied whether it would be better to renew all such pensions for five years or to make them life pensions, as is the case of the widows of Navy officers; but I do not intend to commit myself to either of those propositions.

As to there being any peculiar merits in this case, or any of them, I cannot see it; it is all a pure gratuity. They have no claim whatever upon the Government; and if I understand the Senator from Georgia aright, this lady has already enjoyed a pension for five years, which is more than has been accorded to many other petitioners before this body; and inasmuch as she has enjoyed the bounty of the Government for five years, she now comes and predicates upon that a claim, as of right, to a continuance of this bounty.

One great objection I have to the whole pension system is that there is no consistency, no symmetry, no form, no method about it. It is all a system of pure favoritism. One person, perhaps less meritorious than many others, who can secure the support of some active friend in this body, and who may divert her petition from the proper committee to which it belongs, and carry it to the Committee on Naval Affairs, or the Committee on Military Affairs, may get a bill reported in her behalf, and it may pass; while many others, which are subjected to the severer scrutiny of the Committee on Pensions, are disappointed. I wish to see some system preserved; I wish to see some general legislation, instead of this continual private legislation for individuals, adopted. If this bill be referred to the Committee on Pensions, I think it probable that a majority of them will report some general bill which will embrace this case. At all events, it should not be made an exception to the general rule of referring all such bills and petitions to the Committee on Pensions. I trust that reference will be given to it. I move so to refer the bill.

Mr. WILSON. I do not know who presented this case; I do not know how it went to the Committee on Military Affairs; but it was taken up in that committee, carefully considered, and the report made, I think with the unanimous concurrence of the committee, as a just case. It is here, and I think legitimately here. I think it a good case—a just one; and I see no reason why it should be recommitted, and the bill lost, because Senators desire a general law. Let us pass this bill; and let the Committee on Pensions report a general bill, or make special reports in the several cases. If they report a general bill, we shall give it a fair consideration. It may or may not pass. I doubt very much whether any such bill will pass this body or the other House. If they report on the special cases referred to them, I hope we shall consider each and all those cases on their merits; but it seems to me that no stronger case can be brought before the Senate than the present one, and I hope the Senate will pass it; and then that the committee, at some future time, will report the other special cases which are meritorious, or report a general bill covering them all.

Mr. IVERSON. I can see no reason why this bill should be recommitted to the Committee on Pensions. I do not see that the Committee on Pensions can do it any more justice than has been done to it by the Committee on Military Affairs. The Committee on Military Affairs have reported all the facts in the case, and they are before the Senate. The Committee on Pensions may have more ability to elucidate the facts than the Committee on Military Affairs. I am willing to yield them superior claims in this respect; but I do not know that even with their superior ability, if they have it, they can present the facts in a clearer light than has been done by the report of the Committee on Military Affairs.

What is the object of referring it to the Committee on Pensions? If the object is to let it stand until a general bill is brought in, that object can be accomplished by simply laying this bill on the table for the present, or postponing it until the Committee on Pensions introduce a general bill. If the object be to investigate the facts to enlighten the Senate more than it is already enlightened, I shall object to that, because I do not think it is

in the power of the committee to do it; and I think it would be a useless waste of time.

The Senator from Alabama has somewhat rebuked the Committee on Military Affairs, and other gentlemen have done the same thing, for taking jurisdiction of this case. The fact is, that jurisdiction was imposed on the committee by the Senate. But let us see how far the Committee on Pensions is itself entitled to be exempt from rebuke. I have before me a petition relating to the claim of Robert Dixon, of the Kentucky volunteers, for an increase of pension. We should suppose that that properly belonged to the jurisdiction of the Committee on Pensions. It is an application for an increase of the pension of a Kentucky volunteer, precisely the same as the bill under consideration. What was done with that petition? It is very extraordinary that this Committee on Pensions, which wants to draw within its jurisdiction all these cases, should have acted as they did in this case. I find this entry on the petition:

"1857. December 22.—Referred to the Committee on Pensions, with bill S. No. 23.

"1858. January 25.—Committee on Pensions discharged, and the case referred to the Committee on Military Affairs and Militia."

You refer these cases to the Committee on Pensions and they will not take jurisdiction, but come back and ask the Senate to be discharged from their consideration, and that they be referred to the Committee on Military Affairs; and now they rebuke the Military Committee, because they have taken jurisdiction, under an order of the Senate, of a bill granting a pension to a widow. I hope the motion will not be sustained.

The PRESIDING OFFICER. The motion is to refer the bill to the Committee on Pensions.

Mr. STUART. I fear we shall be without a quorum. I ask for the yeas and nays, so that we may know whether there is a quorum here.

The yeas and nays were ordered; and being taken resulted—yeas 13, nays 24; as follows:

YEAS—Messrs. Biggs, Bigler, Clay, Collamer, Evans, Fessenden, Johnson of Tennessee, Jones, King, Pugh, Thomson of New Jersey, Toombs, and Wright—13.

NAYS—Messrs. Allen, Bright, Broderick, Brown, Chandler, Crittenden, Dixon, Doollittle, Durkee, Foot, Foster, Hamlin, Harlan, Houston, Iversen, Mason, Pearce, Polk, Seward, Simmons, Slidell, Stuart, Wade, and Wilson—24.

So the motion to refer the bill to the Committee on Pensions was not agreed to.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading.

The PRESIDING OFFICER. It requires the unanimous consent of the Senate to have the bill read the third time to-day.

Mr. CLAY. I object.

The PRESIDING OFFICER. The bill will go over.

GEORGE A. O'BRIEN.

The bill (S. No. 92) for the relief of George A. O'Brien was read the second time, and considered as in Committee of the Whole.

It provides for the payment of \$549 33 to George A. O'Brien, for his services as clerk in the office of the Second Auditor, from the 5th of July, 1845, to the 3d of March, 1846.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading; was read the third time, and passed.

NAHUM WARD.

The PRESIDING OFFICER. The next bill on the Calendar is the bill (S. No. 94) for the relief of Major Benjamin Alvord.

Mr. IVERSON. I see on the Calendar, before that, an adverse report by the Committee on Claims, on one of the cases from the Court of Claims—that of Nahum Ward. I ask that that case be considered, and the judgment of the Senate taken on it. The law establishing the Court of Claims requires that all the bills reported by it shall go on the docket, and remain there until disposed of. This bill was reported by the Court of Claims for the relief of this individual; but the Committee on Claims have made an adverse report. I desire that that adverse report shall be considered by the Senate, and passed upon. In order to do that, at the suggestion of the Senator from Michigan, I move that the bill be indefinitely postponed.

Mr. MASON. What is the bill?

Mr. IVERSON. The bill for the relief of Nahum Ward.

Mr. PUGH. Let us hear the bill. What is it? The Secretary read the bill (S. No. 93) for the relief of Nahum Ward.

It provides for paying to Nahum Ward, of Marietta, Ohio, the sum of \$67,678 27, in full for that amount due on forty-three loan office certificates of the United States, dated December 23, 1777.

Mr. PUGH. I have never looked into the bill, and know nothing about it; but a constituent of mine has desired me to look into it, and if there be no objection, I ask that the bill may lie over. I have not had an opportunity to examine it.

Mr. IVERSON. I withdraw my motion to postpone indefinitely.

Mr. PUGH. I move that it be postponed until to-morrow.

The motion was agreed to.

MAJOR BENJAMIN ALVORD.

The bill (S. No. 94) for the relief of Major Benjamin Alvord, paymaster United States Army, was read a second time, and considered as in Committee of the Whole.

It will be a direction to the Secretary of War to ascertain and pay the value of the property lost by Major Benjamin Alvord, paymaster in the United States Army, who was on board the steamship Southerner, on the 27th of December, 1854, when she was wrecked near Cape Flattery, in Washington Territory; but no allowance is to be made for any property except such as was necessary and proper for, and is usually carried by, such officers while on such voyages, and ordered on distant service.

The bill was reported to the Senate, ordered to be engrossed for a third reading; was read the third time, and passed.

CREEK DEPREDACTIONS.

The next bill on the Calendar was the bill (S. No. 26) to provide for the examination and payment of certain claims of citizens of Georgia and Alabama, on account of losses sustained by depredations of the Creek Indians.

Mr. STUART. I suppose it is of no use to consider that bill to-day.

Mr. CLAY. Do you not call that a private bill?

Mr. STUART. I move to postpone it until to-morrow. Let us consider those bills which are not contested.

The motion was agreed to.

DEMPEY PITTMAN.

The bill (S. No. 95) explanatory of an act entitled "An act for the relief of Dempsey Pittman," approved August 16, 1856, was read a second time, and considered as in Committee of the Whole.

It provides that the act of August 16, 1856, shall be so construed as to direct the Secretary of War to pay to Dempsey Pittman the compensation and allowances of a colonel of infantry for five months, in full consideration for his services in Florida in 1838.

Mr. KING. I should like to hear the report in that case.

The Secretary read the following report, made by Mr. Weller on the 7th of February, 1857:

The Committee on Military Affairs, to whom was referred the petition of Dempsey Pittman, having had the same under consideration, report:

At the last session of Congress an act was passed (approved August 16, 1856,) authorizing the Secretary of War "to pay Dempsey Pittman such compensation and allowances as may be found to be justly due him for his military services in Florida in the year 1838: *Provided*, That the amount shall in no case exceed the pay of a colonel of infantry for five months." The evidence then before the committee was satisfactory that the petitioner had served as a colonel of infantry in Florida in 1838, from May to November—five months or more. It is of record in the War Department, that Dempsey Pittman served as colonel of infantry during October, 1838, and the affidavit of Quartermaster Thomas M. Brush shows that the petitioner also served the residue of the time for which he claims payment; that the pay-rolls were lost by him (the said Brush,) and also that Pittman was never paid for any period of his service. With this proof before the committee, and other testimony corroborating it, the bill for the petitioner's relief was reported to the Senate, and subsequently passed by both Houses of Congress.

The petitioner states that, on the passage of said act, he applied for settlement and payment of his accounts as a colonel of infantry for five months, as provided for in the act. The Second Auditor of the Treasury, the proper accounting officer in the premises, allowed and passed his account as such colonel from 20th May to 19th October, 1838—a period of five months; but the Secretary of War, to whom this decision was referred for confirmation, decided that the petitioner was not entitled to pay and allowances for any longer period than was shown by the evidence in the War Department, viz: for the month of October, 1838. An appeal is therefore taken from the Secretary's

decision. The committee are aware that no legislation was necessary to pay the one month's services as shown by the rolls; and they intended, in passing the act referred to above, to allow the petitioner the pay and allowances of a colonel of infantry for five months; and, having reexamined this case, are fully satisfied with their former decision, and consequently report an explanatory act as prayed for, and recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading; was read the third time, and passed.

SUSANNA T. LEA.

The bill (S. No. 96) for the relief of Susanna T. Lea, widow and administratrix of James Maglenen, late of the city of Baltimore, deceased, was read a second time, and considered as in Committee of the Whole.

It is a direction to the Secretary of the Treasury to pay to the legal representatives of James Maglenen \$130, being the value of a horse and equipments belonging to him, which were impressed in September, 1814, for the purpose of sending an express to North Point, and lost in that service.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DEAF, DUMB, AND BLIND.

The bill (S. No. 99) to amend the "Act to incorporate the Columbia Institution for the instruction of the Deaf and Dumb and the Blind," approved February 16, 1857, was read a second time and considered as in Committee of the Whole.

It provides that, in addition to the provision made in the act of February 16, 1857, for the maintenance and tuition of pupils in the institution, the sum of \$3,000 per annum, payable quarterly, shall be allowed, for five years, for the payment of salaries and incidental expenses of the institution; and the bill appropriates \$3,000 for the present fiscal year.

It is further provided that the deaf and dumb and the blind children of all persons in the military and naval service of the United States, while such persons are actually in the service, shall be entitled to instruction in this institution on the same terms as deaf and dumb and blind children belonging to the District of Columbia. All receipts and disbursements under this act are to be reported to the Secretary of the Interior, as required in the sixth section of the act to which it is an amendment.

The bill was reported to the Senate without amendment.

The PRESIDING OFFICER. The question is, "Shall the bill be ordered to be engrossed?"

Mr. IVERSON. It is with some reluctance that I make any opposition to this bill, and I do not intend to make a speech on the subject; but it appropriates money out of the Treasury for an unconstitutional purpose. If it was a mere act of incorporation, I should not object, but I do not think Congress has the constitutional power to appropriate money in this way. I wish to record my vote against it, and I ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. HAMLIN. I have the materials before me in relation to this institution throughout, but I do not think it necessary to trouble the Senate with them. The action of the Government, I think, has very satisfactorily settled this matter in relation to the insane. We have appropriated several hundreds of thousands of dollars to create an insane asylum in this District, and it was for a noble and benevolent purpose—one clearly within our power. I voted for that with great pleasure, and I shall vote for this upon the very same grounds. The people of this District stand in relation to Congress as the people of the States do to their Legislatures; we exercise the same power and control over them that the State Legislatures do over their people. I hope the bill will pass. I shall not take up the time of the Senate.

The question being taken by yeas and nays, resulted—yeas 27, nays 10; as follows:

YEAS—Messrs. Allen, Bayard, Bright, Broderick, Brown, Chandler, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Hamlin, Harlan, Houston, Jones, Kennedy, Pearce, Seward, Simmons, Stuart, Thomson of New Jersey, Wade, Wilson, and Wright—27.

NAYS—Messrs. Biggs, Clay, Green, Iverson, King, Mason, Polk, Pugh, Sebastian, and Slidell—10.

So the bill was ordered to be engrossed for a third reading. It was read the third time.

Mr. BIGGS. I should like to inquire from some person familiar with this matter, whether this is a private or public institution; whether it is under the direction of the Government, or the direction of private individuals?

Mr. HAMLIN. Private individuals.

Mr. BIGGS. And this is an appropriation of money for the purpose of assisting private individuals, I understand, in carrying out the charity of this institution.

The bill was passed.

ELIZABETH MONTGOMERY.

The bill (S. No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery, was considered as in Committee of the Whole. It was reported from the Committee on Revolutionary Claims, with an amendment to add,

And that the said sum be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

So that the bill will read:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, directed to pay to Elizabeth Montgomery, daughter and sole heir of Captain Hugh Montgomery, of the ship Nancy, of Wilmington, in the State of Delaware, the sum of \$5,000, as a full compensation for his successful efforts in saving the powder and munitions of war belonging to the United States on board the said ship, and for his interest in the value of the said ship, which he blew up to prevent her and her cargo from falling into the hands of the enemy during the war of the Revolution; and that the said sum be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

Mr. SLIDELL. I move that that bill be postponed until to-morrow.

Mr. BAYARD. I see no reason why it should be postponed, unless some Senator desires to debate it. It is a bill of extraordinary merit; the services of the father of the party in whose favor the bill is, were of an extraordinary character, and, I think, if any Senator will read the details of the testimony he will be perfectly satisfied that the bill ought to have passed long ago. It was reported at the last session.

Mr. SLIDELL. I have some recollection of having examined it then, and I am not prepared to vote for it. I prefer that it should go over.

The motion to postpone was agreed to.

JOHN M'NIEL.

The bill (S. No. 100) releasing to the legal representatives of John McNiel, deceased, the title of the United States to a certain tract of land, was read a second time, and considered as in Committee of the Whole.

It provides that the title of the United States to island No. 4, of section nineteen, in township seven north, of range five west, and the islets adjacent thereto, situated in Michigan, shall be released to the legal representatives of John McNiel, deceased, the island having been in the occupancy of him, and of those from whom he purchased it, since 1832; but this is not to be construed so as to interfere with the rights of third parties.

The bill was reported to the Senate, ordered to be engrossed, read the third time, and passed.

BENEVOLENT CHRISTIAN ASSOCIATION.

On motion of Mr. BROWN, the Senate as in Committee of the Whole, proceeded to consider the bill (S. No. 97) to incorporate the Benevolent Christian Association of Washington City.

It provides that each of the Christian churches in the city of Washington, without distinction of sect or creed, may, on or before the last day of August of each and every year, appoint one person, and that the person so appointed, and their successors, shall be a body-politic and corporate, under the name and style of "The Benevolent Christian Association of Washington City," with the usual powers incident to a corporation. The purpose of the association is to relieve the wants of the suffering poor.

The Committee on the District of Columbia reported an amendment providing that the corporation should not hold property of more than two hundred thousand dollars in value, and also proposed the following additional sections:

Sec. 3. *And be it further enacted,* That nothing in this act shall be so construed as to authorize the said corporation to issue any note, token, device, scrip, or any other evidence of debt, to be used as a currency.

Sec. 4. *And be it further enacted,* That each of the corporations in said corporation shall be held liable, in his individual capacity, for all the debts and liabilities of said corporation, however contracted or incurred, to be recovered by suit, as other debts or liability, before any court of competent jurisdiction.

Sec. 5. *And be it further enacted,* That Congress may, at any time hereafter, alter, amend, or repeal the foregoing act.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole, were concurred in. The bill was ordered to be engrossed for a third reading, was read a third time, and passed.

PERSONAL EXPLANATION.

Mr. HOUSTON. I rise for the purpose of making a statement which, I presume, is to be regarded as in the nature of a personal explanation. I notice, in the official journal of yesterday, a publication signed "Texas," in regard to which I have a few words to say. My political and personal character is open to animadversion by anybody; but of my official acts I have a particular care.

The PRESIDING OFFICER. The Senator from Texas asks the consent of the Senate that he may proceed to make some remarks on the subject indicated by him. This requires the unanimous consent of the Senate. If no objection be made, the Senator will proceed with his remarks. The Chair hears no objection.

Mr. HOUSTON. On Monday last I presented joint resolutions adopted by the Legislature of Texas during the past month. For the better understanding of the remarks which I have to make, I will read the resolutions:

"SECTION 1. *Be it resolved by the Legislature of the State of Texas,* That whereas, divers charges have been made against John C. Watrous, district judge of the United States for the eastern district of Texas, before the House of Representatives of the United States, with a view to his impeachment, and a committee of said House have reported the following resolution: 'Resolved, That John C. Watrous, United States district judge for the district of Texas, be impeached of high crimes and misdemeanors;' and it is required for the honor of the State of Texas, and is due to the accused, that all of said charges be promptly and fully investigated and finally acted upon: that without intending to express any opinion as to the guilt or innocence of Judge John C. Watrous, the representatives in Congress from this State are hereby requested to take such steps as may be necessary to cause a full investigation to be made by the House of Representatives of the United States, during the present session, of all the charges that have been made against said John C. Watrous, and to use their best exertions to cause definite action to be taken thereon.

"Sec. 2. *Be it further resolved,* That the Governor is hereby requested to forward to each of the Senators and Representatives in Congress from this State, and also to said John C. Watrous, a certified copy of this joint resolution."

These resolutions having been transmitted to me, in pursuance of the direction contained in them, I presented them to the Senate. I made no remarks upon them; I presented them in the ordinary course of business. Unless it was intended that I should make some disposition of them, there was certainly no use in sending them to me; and the only course left for me was to submit them to the Senate. I did so, without expressing any opinion, or giving any intimation, as to the guilt or innocence of the accused. The article in the official paper, to which I have alluded, says:

"In presenting these resolutions in the Senate, Mr. Houston must have misapprehended their purport. Under the Constitution, the Senate is the body to try an impeachment when one is preferred by the House of Representatives."

That I was fully aware of.

"In this instance, the Legislature of Texas did not instruct their Senator to seek to have the charges against Judge Watrous investigated, or to do anything else inconsistent with the delicacy of his position as the contingent judicial trier of the accused."

Did I do anything derogatory to my position, as one of the triers of the accused, in simply discharging the duty of presenting the resolutions to the Senate of the United States, without expressing any opinion as to his guilt or innocence? I think not. The article continues:

"They requested their Representatives in Congress to use their exertions to have these accusations investigated during the present session, without intending to express any opinion as to the guilt or innocence of Judge J. C. Watrous, in the very words of their resolutions."

I cannot see that it was necessary to call in question, and bring before the notice of the public, an act performed by me, in the discharge of my official duty in this body, as if I had done anything that could prejudice the individual to whom the resolutions refer. I think I acted with propriety and with delicacy. The subject is an important one, and the people of Texas desire to have it determined. I know not that this officer has been guilty of any offense, nor have I charged him with any; but the subject has caused excitement and

agitation in Texas for the last ten years. It has claimed the attention of the Legislature of that State, and is of impressive interest to her people. At the recent session of the Legislature, when one House was about acting on the subject, the accused addressed a letter to that body, expressing his desire to have an investigation; and therefore, if, by presenting these resolutions, I sought to give forwardness to the investigation, I was only acting in accordance with the wishes of the Legislature and the views of the accused, as submitted to that body.

Judge Watrous is a high judicial functionary, whose jurisdiction controls the interests and the lives of the citizens of Texas under the Federal aegis. It is due to him and the people of Texas that he should have an opportunity of vindicating his character before the world; so that, if the charges against him be false, he may be restored to that confidence which is so necessary to a high judicial magistrate. If, on the contrary, the people have suffered under judicial tyranny, redress should be afforded. But, sir, in presenting the resolutions of the Legislature, I forbore the expression of any opinion, if I had one, in relation to his guilt or innocence. I intend that, in presenting them, I was only discharging my duty. I presume that the person who penned this article is not very favorable to an investigation. All that is desired is a hearing—not a condemnation in advance of that hearing.

EXECUTIVE SESSION.

On motion of Mr. SLIDELL, the Senate proceeded to the consideration of executive business; and after sometime spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 19, 1858.

The House met at twelve o'clock, m. Prayer by the Rev. J. L. ELLIOTT.

The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. J. GLANCY JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; but before that motion is put I wish to offer a resolution that all debate upon the Indian appropriation bill be terminated tomorrow, at two o'clock, p. m.

Mr. HOARD. I rise to a question of privilege. I have received a letter, which, if read to the House, I suppose will explain that question. I desire to have it read at the Clerk's desk.

The Clerk read the letter, which is as follows:

WASHINGTON CITY, February 18, 1858.

SIR: You took occasion, on last Friday, in the House of Representatives, from the Clerk's desk, to report to said House, from the New York Tribune, a false and foul slander against me, the tenor of which you know without a repetition from me.

The charges therein set forth, if true, would disqualify me from a seat on the floor of this Congress.

You reported the slander without any provocation on my part. I knew nothing of you, said nothing about you, nor of any member on your side.

The paragraph had no name to it, and you refused to indorse it. I pronounced it then, as I do now, a falsehood of the foulest kind. If you suspicion that I am guilty of the crime of being bribed, as set forth, I ask you to examine into the truth or falsity. If you find I am innocent, it is most certainly due to me that you rise in your place and set me right.

I await your response.

Yours,

JOS. BURNS.

Hon. C. B. HOARD.

Mr. HOARD. I desire to respond to that letter.

Mr. STEPHENS, of Georgia. That is no question of privilege to be brought before the House. I object.

The SPEAKER. Objection is made.

Mr. J. GLANCY JONES. I insist upon my motion.

Mr. HOARD. I desire the Speaker to decide if this is not a question of privilege—if I have not the right to respond to that letter?

Mr. FLORENCE. The gentleman can respond by writing another one. I object.

The SPEAKER. As the matter is presented to the Chair now, he does not perceive that a question of privilege is raised by the letter at all.

Mr. HOARD. Is it not a letter threatening in its character? Is it not a letter calculated to intimidate?

The SPEAKER. The Chair thinks not.

Mr. J. GLANCY JONES. I now insist on my motion.

Mr. CRAWFORD. I ask the gentleman from Pennsylvania to yield to me a moment while I report to the House a bill to pay the deficiencies in the printing, lithographing, and engraving, the failure to provide for which is a matter of very great complaint upon the part of the men to whom we are indebted.

Mr. HOARD. I object.

Mr. J. GLANCY JONES. I cannot yield.

Mr. HOARD. I desire, if the House will not give me consent to make a personal explanation, to take a respectful appeal from the decision of the Chair. I however first ask the House to grant consent as a matter of courtesy.

Mr. FLORENCE. I call the gentleman to order.

Mr. BURNETT. I object, because the gentleman can make his response in another way.

Mr. HOARD. I withdraw my appeal.

Mr. GIDDINGS. I wish to know if it is a friend of the author of that letter who makes objection to a response?

Mr. FLORENCE. I object, except in the way—

The SPEAKER. Debate is not in order upon either side of the House.

Mr. HOARD. Another word, if you please.

The SPEAKER. Debate is out of order.

ADJOURNMENT OVER.

Mr. DAVIS, of Indiana. I rise to a privileged question. I move that when this House adjourns, it adjourn to meet on Tuesday next.

Mr. BILLINGHURST demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 82; as follows:

YEAS—Messrs. Adrain, Anderson, Atkins, Blair, Bliss, Boccock, Bowie, Boyce, Burnett, Campbell, Caskie, Chapman, Ezra Clark, John B. Clark, Clay, Clemons, Clingman, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Collins, Coming, Corde, Burton, Craig, Crawford, Curtis, Davidson, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dodd, Edie, Edmundson, English, Faulkner, Penton, Florence, Garnett, Garrett, Gillis, Gooch, Groesbeck, Lawrence W. Hall, Hatch, Haykins, Jackson, Jewett, Keitt, Kellogg, Kelly, Kilgore, Landy, Macfarlane, McKibbin, McQueen, Samuel S. Marshall, Mason, Miles, Millson, Oliver A. Morse, Pendleton, Pettit, Phillips, Pottle, Quinlan, Ready, Ricard, Ruffin, Seales, Scott, Searing, Shorter, Spinner, Stephens, Talbot, Thayer, Underwood, Israel Washburn, White, Whiteley, Winslow, Woodson, Augustus K. Wright, and Zollacofer—86.

NAYS—Messrs. Abbott, Andrews, Avery, Bennett, Billingham, Bishop, Brayton, Buffinton, Burlingame, Case, Chaffee, Cobb, James Craig, Curry, Damrell, Davis of Mississippi, Dean, Dewart, Dick, Doyell, Durfee, Foley, Foster, Giddings, Gilman, Goodwin, Granger, Robert B. Hall, Harlan, Hoard, Hopkins, Houston, Howard, Huyler, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Knapp, John C. Kunkel, Leach, Leiter, Lorejoy, Humphrey Marshall, Maynard, Morgan, Merrill, Edward Joy Morris, Isaac N. Morris, Mott, Murray, Niblack, Nichols, Palmer, Parker, Phelps, Pike, Potter, Purviance, Reagan, Reilly, Ritchie, Robbins, Royce, Sawdage, Henry M. Shaw, Judson W. Sherman, Samuel A. Smith, Stanton, Tappan, George Taylor, Miller Taylor, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Wilson, Wortendyke, and John V. Wright—82.

So Mr. DAVIS's motion was agreed to.

Pending the call of the yeas and nays,

Mr. WASHBURN, of Wisconsin, stated that Mr. WASHBURN, of Illinois, was detained from the House by severe indisposition.

ORDER OF BUSINESS.

The question recurred upon the motion of Mr. J. GLANCY JONES to terminate debate in committee on the Indian appropriation bill to-morrow, at two o'clock.

Mr. J. GLANCY JONES called the previous question.

Mr. PHELPS. At two o'clock to-morrow, when the House has agreed to adjourn over until Tuesday!

Mr. J. GLANCY JONES. Yes, sir.

Mr. CLINGMAN. It is all right.

Mr. J. GLANCY JONES. I demand the previous question, and decline to modify my motion. Two o'clock to-morrow will answer my purpose.

Mr. CLARK B. COCHRANE. I ask the gentleman from Pennsylvania to modify his motion, and say two o'clock on Tuesday.

Mr. CHAFFEE. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The SPEAKER. That motion takes precedence.

Mr. STANTON. I ask the gentleman to withdraw that motion, and allow the committees to report private bills. Let us consume the morning hour in that way.

Mr. J. GLANCY JONES. Is this question debatable?

The SPEAKER. It is not.

Mr. J. GLANCY JONES. Then I object to debate.

Mr. CHAFFEE. There is now more upon the Calendar than we can dispose of in two weeks, and I must insist upon my motion to go into a Committee of the Whole.

Mr. CHAFFEE's motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. STANTON in the chair,) and proceeded to consider bills and reports upon the Private Calendar.

JOSEPH STOKELY AND OTHERS.

The first case upon the Calendar, which was taken up, was an adverse report (C. C. No. 109) upon the petition of Joseph Stokely and others, heirs of Nehemiah Stokely.

Mr. COVODE. I move that that report be laid aside, to be reported to the House with a recommendation that it be referred to the Committee of Claims.

Mr. JONES, of Tennessee. I ask to have the opinion of the committee in that case read.

Mr. PHELPS. This being objection day, I will object to that bill.

Mr. JONES, of Tennessee. The gentleman is mistaken. This is only the third, and not the fourth Friday of the month.

The opinion of the court was read, and is as follows:

"This claim is presented by the heirs-at-law of Nehemiah Stokely, who is alleged to have been a captain in the army of the Revolution. It should have been prosecuted by the administrator of Stokely; but we shall at present examine the case in relation to the statutes of limitation.

"The following facts are stated in the petition: Nehemiah Stokely died in the year 1792. He was commissioned by Congress a captain in the eighth Pennsylvania regiment, in the continental service, in the war of the Revolution, and served as such until the end of the war, or until he was reduced or retired. By the resolution of Congress of October 21, 1780, it was provided that the officers who should continue in service to the end of the war should be entitled to half pay during life, to commence from the time of their reduction. By the resolution of March 22, 1783, it was provided that officers then in service, and who should continue therein until the end of the war, should be entitled to receive the amount of five years' full pay in money, or securities on interest at six per cent. per annum, as Congress should find most convenient, instead of the half pay promised for life by the resolution of October 21, 1780. By the resolution of March 8, 1785, it was provided that the officers who retired under the resolve of December 31, 1780, are equally entitled to the half pay or commutation with those officers who retired under the resolve of the 3d and 21st of October, 1780. The petitioner states that neither the half pay nor commutation provided for in the foregoing resolves has ever been paid, but remain still due; and that the claim was presented to Congress in the year 1848.

"The question in this case is, whether the claim is not barred by the resolutions and statutes of limitations. We have already made two decisions upon this point: one in the case of Chamberlain vs. The United States, and the other in the case of Marnay vs. The United States. This case is identical in this particular with those two cases; and as the resolutions and statutes upon this subject were stated at length in the opinions delivered in those two cases, it is unnecessary now to recapitulate them. It is not alleged or proved that the claim in this case was presented at the Treasury before the 1st day of May, 1794. In accordance with the decisions in the cases mentioned, this claim is now barred by the statute of limitations, and the claimant has no cause of action against the United States."

Mr. COVODE. I wish to call the attention of the committee to the fact that the merits of this case were not considered before the court, but that the plea of limitations was applied to it. Now, Mr. Chairman, the claimant, who is a constituent of mine, is debarred by the action of the Court of Claims, simply because his father never put in his claim; nor did he do so while he was in circumstances to dispense with it. I send to the Clerk's desk a paper, which I ask to have read.

The paper was read, as follows:

"Mr. STANTON, from the committee appointed to inquire whether, and if any, what, description of claims against the United States are barred by the statutes of limitation which, in reason and justice, ought to be provided for by law, made the following report:

"That all claims for services rendered and supplies furnished or done, prior to the 4th of March, 1789, are barred by sundry resolutions of Congress, passed in the years 1785 and 1787, and by laws of the United States passed 2d February, 1793, and on the 3d March, 1795, and on the 9th July, 1798. Your committee are of opinion that justice and sound policy require that all just and equitable claims against the United

States, which are thus barred, should be fully paid and satisfied; we therefore recommend the following resolution: "Resolved, That all just and equitable claims against the United States, for services rendered and supplies furnished during the revolutionary war with Great Britain, and for loan office certificates, final settlement certificates, indents of interest, and balances credited on the books of the Treasury, which are now barred by any law of the United States, ought to be provided for by law."

Mr. COVODE. Now, Mr. Chairman, I only ask that this case shall be decided on its merits. I want to see whether the Government will establish the principle of pleading the statute of limitation against just claims. There appears to be no question as to the justice of this claim, and the only difficulty about it is as to the limitation. I wish to have the case reported back to the House with the recommendation that it be referred to the Committee of Claims.

Mr. TAYLOR, of Louisiana. I ask to have read the decision of the Court of Claims in the other case referred to in this report. The decision does not refer to the laws or recite the facts, but only states that it is based upon the grounds set forth in another decision. I ask that that decision may be referred to and read, in order that the committee may be in possession of the facts and understand the principles involved.

The CHAIRMAN. The gentleman from Louisiana will please indicate the case that the report is in.

Mr. TAYLOR, of Louisiana. The decision itself states it.

The CHAIRMAN. The Clerk advises the Chair that the report is not before the House.

Mr. TAYLOR, of Louisiana. Then I suggest the propriety of having the case laid over till we have the other report before us, because this decision does not state the facts or grounds on which the ruling is made.

Mr. DAVIDSON. What is the proposition?

The CHAIRMAN. That the report of the Court of Claims be reported to the House, with a recommendation that it be committed to the Committee of Claims.

Mr. DAVIDSON. I have a suggestion to make to my friend from Pennsylvania. If he desires to have anything done with that claim he had better not send it to the Committee of Claims; because he would want to have the evidence, the law, the equity, and the inspiration of Almighty God to get anything from that committee. [Laughter.]

Mr. MOORE. Mr. Chairman, those who know my worthy friend from Louisiana, [Mr. Davidson,] will probably appreciate his remark as a mere jest; but it will go to the country as a reflection on the members of the Committee of Claims; and, as a member of that committee, I must protest against his remark as unjust. It is too severe a charge to make in jest, and there is nothing to justify any such remark in respect to that committee. I take it that every member of it acts from the same motive as the gentleman from Louisiana does, and acts conscientiously; and if they see proper not to have so loose a hand as to grant every claim presented, I think that that is no just cause to stand up and charge that committee as the gentleman from Louisiana has done.

Mr. DAVIDSON. It is time enough for the gentleman to take offense when any reflection is made upon him. I have made none. This is the judgment of the Court of Claims against this claim; and if I have made any charge against the Committee of Claims, I am myself as much implicated in it as is the gentleman from Alabama, [Mr. Moore.] It shows too much sensitiveness on his part to appropriate all the action of the committee to himself.

Mr. MAYNARD. I do not understand the remarks of the gentleman from Louisiana [Mr. Davidson] in the same light in which they seem to have been understood by the gentleman from Alabama, [Mr. Moore.] I belong to the same Committee of Claims; and I supposed that the remarks of the gentleman from Louisiana would be understood by the country in a highly complimentary sense; in the sense that we were the vigilant and faithful watch-dogs, the Cerberus of the Treasury; that we would allow no claim to pass unless it came before us with the highest authentication. I hope that the remarks of the gentleman from Alabama [Mr. Moore] will not be understood by those who will read them as meaning that

any such intimation could possibly be displeasing to any member of that committee.

Mr. WRIGHT, of Georgia. I consider the remarks of the gentleman from Louisiana in the same light in which the gentleman from Tennessee [Mr. Maynard] has been pleased to consider them. I think them complimentary to the Committee of Claims, as showing that that committee is not disposed to report favorably on claims unless compelled to do so from the evidence submitted to the committee.

I presume that the members of the House generally have observed the number of claims on the Private Calendar. It is one of the surest evidences of the corruption of our Government and of the times in which we live; of the disposition to live on the Government in one way or another. These private claims run up by hundreds, and I think it probable that before Congress adjourns they will have run up to thousands. It obstructs the business of the Government; it dams up the channels of legislation, and great and grave questions of national importance are postponed for the consideration of private claims of from one dollar to thousands. Now, sir, I will admit that there is a certain class of claims against the Government which are just and equitable. Occasionally such a case presents itself, but such cases are comparatively rare. It does seem to me that if you once permit a man to get his hands into the Treasury, he never will be satisfied.

Now, sir, it seems to me that it is the duty of the Committee of Claims, when a petition is presented to them, to consider it and examine the evidence upon which it is predicated, and, if it is just and equitable beyond controversy, to make a favorable report. But I hold, that whenever a claim is presented under a statute, that statute should be applied rigidly to that claim.

If, in cases in issue between individuals, the statute of limitation is to be applied, much more should it be applied to individuals in their demands upon the Government. When a party applies to the Government for relief, the statement of the case is always *ex parte*. He makes out his claim with no one to represent the other side; and all professional men know how easy it is, if there is no party to present the opposite view, to make out your case. It must be a very poor case that cannot be made out *prima facie* in this way. And, sir, in cases like this, coming up long after the men are dead, when all the facts are forgotten, it is impossible for human ken to tell what were the circumstances. I, therefore, insist on applying the statute of limitations with strictness, and I stand here to say that I for one will never vote for a claim that is old and stale.

Mr. SEWARD. Do I understand the gentleman from Georgia to say the Government is to plead the statute of limitations against a just debt?

Mr. WRIGHT, of Georgia. A just debt! No, sir. But where is the evidence of that? It is not to be presumed that persons would slumber for years and years over a just claim. Men are not so negligent of their rights. If the gentleman from Georgia had a claim against the Government, I venture to say he would not allow it to slumber.

Mr. SEWARD. I never have any dealings with the Government in that way.

Mr. WRIGHT, of Georgia. I rather think a requisition for the gentleman's pay comes very soon after it is due.

Mr. COVODE. I hope we shall get rid of this difficulty. The suggestion has been made that this report should go to the Committee on Revolutionary Claims; and, inasmuch as objection has been made to referring it to the Committee of Claims, I move that it be reported back to the House, with the recommendation that it be referred to the Committee on Revolutionary Claims. I would suggest to the gentleman from Georgia, [Mr. Wright,] that I propose to test this case upon its merits. If the claimant cannot show that the money has never been paid, it ought to fail. All I wish is, that the case shall be tested upon its merits.

Mr. MARSHALL, of Illinois. I do not propose to detain the House for more than a moment or two. I do not know in what manner this discussion has arisen in regard to the conduct of the Committee of Claims, this morning. I think it has not legitimately arisen. But, sir, as it has arisen, I wish merely to make a remark in regard

to the conduct of that committee, because it is very important that its credit and character, in the investigation of the cases which are submitted to it, should not be invalidated or destroyed before this House.

Mr. CHAFFEE. I rise to ask a question of the Chair. The question is upon reporting this case back to the House, with a recommendation that it be referred to the Committee on Revolutionary Claims. I ask whether, upon that motion, it is in order to discuss it upon its merits?

The CHAIRMAN. If the question is raised, the Chair supposes he should be compelled to rule that it was not.

Mr. MARSHALL, of Illinois. Debate has been allowed by others, and I hope I shall be allowed to saw a word.

Mr. WINSLOW. The motion, as I understand it, is to refer to the Committee of Claims; and I suppose, of course, it is in order to discuss the character of the committee upon that.

Mr. MARSHALL, of Illinois. I suppose the line of remarks I propose to pursue will be strictly in order. I will detain the committee but a few moments. As the conduct and the mode of proceeding in the Committee of Claims have been arraigned before this House, it is very proper that that committee should be heard in its defense. There is no committee acting under the direction of the House which has more onerous, more delicate, or more laborious duties to perform than the Committee of Claims; or more thankless, as has been suggested. They have to perform labor for which they can gain no reputation. The Committee of Claims, or a majority of them at least, have acted upon the principle that they are not to consider this Government a great almshouse for distributing relief to all the unfortunate persons in the country, who, by misfortune, or by the wrong of others, have been reduced to poverty and want. There may be one or two of my colleagues on the committee who consider that every person who brings forward a claim against the Government is *prima facie* in the right; and that if the Government cannot bring forward evidence to show that the claim is wrong or fraudulent, it ought to be allowed. The liberal and charitable gentleman from Louisiana [Mr. Davidson] probably honestly takes that view.

Mr. DAVIDSON. The gentleman, I presume, expects to be judged by his own acts, and he must allow me the right to be so judged. He has no right to make such an imputation as that upon me.

Mr. MARSHALL, of Illinois. I have no doubt that my colleague acts upon what he deems to be upright, honorable, and correct principles. But, sir, there are others on the committee, constituting the majority, who believe that the House ought to look with scrutiny into every claim presented for our consideration; and who believe that no claim ought to be allowed, unless substantiated by proof satisfactory and conclusive. Certain it is, that the adoption of a different principle would bankrupt the Government in less than four years. There is no Government on earth that can stand up with a loose mode of allowing claims against it. The Committee of Claims, this House, and Congress, must act upon legal principles, well established in the administration of the Government since its foundation.

There are, sir, growing up out of the late war with Great Britain, claims from those along the Canadian frontier, who, by the ravages of war, were reduced to poverty. The whole Canadian frontier, it will be remembered, was swept at the time with the besom of destruction. The individual sufferers have come forward under one pretext and another, and presented claims against the Government of the United States.

The CHAIRMAN. The Chair will suggest to the gentleman that, on the motion to report this bill to the House, with the recommendation that it be referred to the Committee on Revolutionary Claims, it is scarcely in order to discuss the general policy of the Government.

Mr. MARSHALL, of Illinois. I am satisfied that the Chair is right in his ruling, and I will confine myself to the point of reference.

The question is, should this bill be laid aside to be reported to the House with the recommendation that it be referred to the Committee of Claims. As the principles by which that committee is governed in its action, and the *modus operandi* pursued by it have been attacked and discussed, I

have deemed it proper, occupying the position I do upon that committee, that it should be vindicated from any attempt made to prejudice it before the House. I will say, at this time, that a majority of that committee, upon any case before it, endeavor to act justly and right, according to well-established legal principles. We do not attempt, in a loose way, to dole out alms to citizens who, by misfortune or otherwise, have been made to suffer. Such, I conceive, is neither the purpose of the committee nor the object of the Government.

Mr. MONTGOMERY. I am interested in this bill. The applicant in this case comes from my section of the country—from Western Pennsylvania. So far as I have looked into the claim, I conceive it to be just and fair. It seems that no objection is urged against it but the statute of limitation—an ungracious objection, that ought never to be tolerated for one single moment by an honest man.

Mr. WASHBURN, of Maine. I rise to a question of order. I feel obliged to do so. It is now nearly the first of March, and I believe that the House has not acted on the report of a single committee on a private claim. My point of order is, that the merits of the case are not debatable on the motion to report this bill to the House for reference to the Committee of Claims. Let us dispose of these reports at once, and leave discussion until they shall come up for passage.

The CHAIRMAN. The point raised by the gentleman from Maine is that the merits of the claim are not up for discussion on the motion to report to the House, with a recommendation that the bill be referred to the Committee on Revolutionary Claims. The Chair is inclined to the opinion that the point is well taken, but he would not hold gentlemen strictly to the rule that they cannot show reasons why the motion should not be passed, or why it should. But the motion does not strictly involve the merits of the case.

Mr. MONTGOMERY. With all deference to the judgment of the Chair, I think the question before us is this: Is there a claim before the committee that need be referred to a committee for investigation? The merit of the claim is the basis upon which the House acts, and therefore it is indispensable that I should discuss the merit of the claim in order that I may show the ground for my desiring to have it referred. Here, sir, is the claim of an old revolutionary soldier. It is just or unjust. If it is unjust, that can be proved. If it is just, it ought to be paid. If it has been paid, the records of the Government will show that fact beyond dispute.

Mr. WASHBURN, of Maine. I must insist on my point of order. There should be a good precedent established in this case. If hereafter, on motions to refer, the whole merits of claims are to be opened for discussion, we certainly ought to know it. I think it is important that there should be an established rule on the question of reference, and that the discussion on the merits of the claim should be withheld until the committee have made their report and the whole subject is up on the passage of the bill. The question now before the committee is, whether this case shall be reported to the House with the recommendation that it be referred to the Committee on Revolutionary Claims? and to that point I think the debate ought to be confined.

Mr. EDIE. I call the gentleman to order. He is discussing his point of order.

Mr. WASHBURN, of Maine. I am merely stating my point of order.

The CHAIRMAN. The Chair is of the opinion that the same latitude of debate is allowable in Committee of the Whole on this motion that is allowable in the House on a motion to commit. In every case, however, it will be a question whether the remarks made are relevant to the propriety of the reference. The merits of the case can hardly be said to be open to controversy, still it is difficult for the Chair to draw the distinction, whether the remarks made are such as to show that the case ought or ought not to be referred.

Mr. WASHBURN, of Maine. Then that opens the whole debate.

Mr. TAYLOR, of Louisiana. With the permission of the gentleman from Pennsylvania, I will make a suggestion. I think that the decision of the Court of Claims which has been referred

to, presents a valid and sufficient reason for reporting this matter back to the House with the recommendation that it should be referred to some committee. The House will observe by a reference to the decision just read, that the grounds of the decision are not stated, and that it is necessary to refer to another decision of the Court of Claims, in order to ascertain the grounds upon which the question was disposed of. Under these circumstances, it seems to me to be proper and right that the matter should not be acted on at this time, but reported to the House with the recommendation that it be referred to one of the committees.

Mr. MONTGOMERY. All I desire to get before the House is the fact that the Court of Claims predicated their action against the claim set up in the present case upon the statute of limitations. The simple question is, whether the same rule which regulates the conduct of a court should control the action of this House?—whether, sir, the Congress of the United States should set up the statute of limitations as a defense against the claim of an old revolutionary soldier, whose time was given and whose life was risked to secure the liberties which we now enjoy? This to me is a monstrous doctrine. It is an ungracious defense, and rarely set up by any honest man. That it should be set up by Congress is an anomaly and a monstrous outrage against a brave old soldier who has defended his country. If he has been paid, the records of the Government will show that fact; but if it is a debt due now, it ought to be paid. I ask that it be sent to the House for reference to a committee to test its merits, and to report it to the House for its decision.

Mr. COX. I rise to a point of order. It is that, where a case has come from the Court of Claims reported upon adversely, it cannot again be referred to the Committee of Claims?

Mr. COVODE. The motion is to refer the matter to the Committee on Revolutionary Claims.

Mr. COX. I do not wish it to be referred to any committee, and especially not to the Committee on Revolutionary Claims, of which I am a member.

The CHAIRMAN. The opinion of the Chair is, that the gentleman cannot take the floor from the gentleman from Pennsylvania, in order to raise that point.

Mr. DAVIDSON. Will the gentleman from Pennsylvania allow me to make an explanation?

Mr. MONTGOMERY. Certainly.

The CHAIRMAN. Does the gentleman yield the floor absolutely, or only for explanation?

Mr. DAVIDSON. He yields to me simply for explanation. I regret exceedingly that the remark which I made, and which was intended only to signify to the House the principle which the committee had unanimously adopted, should have been construed by the chairman as a charge made against the committee. It is well understood by the committee, and I among them, that the committee are not willing to undertake to revise all the claims which have been decided against by the Court of Claims. Hence it was that I made the remark. When the gentleman undertakes to assert that I feel disposed to consider every claim made upon the part of any person as a just claim against the Government, he goes further than any action of mine authorizes him to go. The only thing which has occurred—

The CHAIRMAN. The Chair has held all such discussion to be out of order. The pending question is on the motion to recommend to the House that the report be referred to the Committee on Revolutionary Claims.

Mr. DAVIDSON. Then it is not to refer to the Committee of Claims?

The CHAIRMAN. It is not.

Mr. DAVIDSON. Then I am satisfied.

Mr. GIDDINGS. If I can obtain the attention of the committee for one minute, I will not trouble them longer. If I understand the motion in this case, it only proposes that this claimant shall have the same justice meted out to him as has been meted out to every other claimant for the last thirty years; that it shall be referred to a committee; that the same rule shall govern this case which has governed all other cases for the last thirty years—a thing which cannot be done if we take the decision of the Court of Claims as correct, when it may be opposed to the whole practice of this House. The whole question is, shall

it go to that committee? The only question to decide at this time is, shall it be sent to a committee and receive from their hands the same consideration, be governed by the same rules, be construed by the same principles, and controlled by the same laws which have governed all other cases for the last thirty years. If there is anything lovely in justice in a legislative body, it is to deal out justice with an even hand. The same justice should be dealt out to this man, which has been dealt out to all others heretofore. I am in favor of referring the case to the proper committee, either the Committee of Claims or the Committee on Revolutionary Claims, in order that we may have their judgment in regard to its merits. I do not enter into a discussion of its merits.

Mr. PALMER. I simply rise to express my surprise that the gentleman from Georgia, [Mr. WRIGHT,] speaking on behalf of the Committee of Claims, should make the declaration to this House that that committee has come to a determination, as an invariable rule of action, to reject all claims which are not substantiated by legal evidence beyond all controversy. Sir, I take it that there are few claims presented to the consideration of Congress which do not meet with more or less controversy, and I suppose that the very reason why these cases are reported back by the Court of Claims to this House is, that we may examine and review them. I reaffirm what has been said by the gentleman from Ohio, [Mr. GIDDINGS,] that it has been the practice of this Government for thirty years, and ever since its organization, to pass claims similar to this, notwithstanding the statute of limitations may be pleaded against them. There are upon this Calendar many such cases coming from the district which I represent in this House.

As was said by the chairman of the Committee of Claims, the country lying along the Canada frontier includes among its citizens the descendants of many revolutionary soldiers, and particularly of those two regiments which, you remember, were raised in Canada, which encountered all the hardships and dangers of the revolutionary army, and, in addition to that, incurred the risk of confiscation of their property, and which confiscation did take place in almost all cases. After the Revolution, these men, in many cases, failed to present their claims previous to 1794, and, therefore, were technically cut off, if this statute of limitations is to be enforced here. I hope the House will reject that doctrine, and that the Committee of Claims, this committee, and the House will feel it to be their duty to act upon all claims upon principles of equity and justice, without reference to the statute of limitations.

Mr. MILLSON. I feel reluctant to take part in a discussion upon a private claim, and especially upon a motion to refer to a committee; but it is proper that I should inform the House that this is not the first time that this claim has been before it. Some eight years ago it became my duty, as one of the Committee on Revolutionary Claims, to make a report upon this very case, by the instruction of that committee. That report I now have before me. The Committee on Revolutionary Claims were unfavorable to this demand, and in making the report, the grounds of their unfavorable opinion were not that the claim was barred by the statute of limitations, but that there never was any merit in it; that the claimant received in his lifetime all that he was entitled to receive for the services he had performed as an officer of the continental line.

I merely rose to call the attention of the House to that simple fact, in order that the Committee on Revolutionary Claims, when this case may be referred to them, may have the opportunity of examining the facts as presented by the former Committee on Revolutionary Claims.

Now, I do not oppose the reference at all to that committee. I think it proper that it should go again to that committee to be considered; for it may be that the present committee may come to a different conclusion from that which the former committee, eight years ago, came to. I thought it proper to make these remarks, because it seems to be insisted, upon all hands here, that there never was any better reason for rejecting this demand than that the claim was barred by the statute of limitations.

According to the report which I made on this case, eight years ago, it appears that this man

Stokely received, in his lifetime, from the Government of the United States, all he was entitled to for his services in the revolutionary army, and that he never was entitled to commutation pay by reason of his continuance in the army, because of becoming a supernumerary officer.

Mr. CURTIS. I rise to interpose an objection to the gentleman's line of remark, and I do it upon the ground that he is making the most potent argument which can possibly be made against the claim, while it is not in order to do so upon this motion of reference, or in order for me to advocate it, as I desire to do. I therefore hope the gentleman will not oppose it now, or enter into a discussion of its merits.

Mr. MILLSON. The gentleman from Iowa ought to be aware that, if I pleased to do so, it is entirely competent for me to make an argument against the claim, and to move that the committee concur in the adverse report of the Court of Claims. But I am not disposed to do so, for I have intimated already, with, I think, becoming modesty, that the present Committee of Claims may possibly differ in their conclusions from those arrived at by the committee of which I was a member some eight years ago. But I state these facts, because it has been alleged on all hands that this was a meritorious claim, to which no other objection was made than that it was barred by the statute of limitations. I do not even wish to have my report on that occasion read to the committee; but I deem it proper (if I had not so deemed, I would not have said what I have said) that I, who am, perhaps, the only member of this House cognizant of the fact, should state to the committee that this is not a case presented for the first time, or a case rejected simply because of the lapse of time, but one which has already received a deliberate examination by a committee of this body.

Mr. COVODE. I wish to ask the gentleman from Virginia a question. I ask him whether he does not know that this claim has been twice reported on favorably by this same Committee of Claims of two successive Congresses?

Mr. MILLSON. I do not know the fact, but I am certainly not disposed to question the accuracy of the gentleman's statement.

Mr. COX. When I was on the floor a while ago, I raised a question of order, whether or not, after a claim has been reported upon adversely by the Court of Claims, and placed upon the Calendar under the law constituting that court, it can be again referred to a committee of the House, to be again reported upon? I do not know whether that question has ever yet been decided in the House. Perhaps it has been. Perhaps the Chair can inform me whether it has been or not; for it is of some importance to the committee to know whether or not claims, which have been passed upon by a court constituted by Congress for this purpose, are again to be thrown into the House, and again to be thrown into the committees; whether the committees are to be choked up with business of this character, so that it will be utterly impossible for them to attend to the ordinary business of the country in the House? I should like to know whether or not this question has ever been decided. I do not want to raise a question of order captiously, but I raise this question for the purpose of saving the committees from extra labor.

The CHAIRMAN. The Chair is not aware that the question has been ever decided. He thinks it has not been.

Mr. COX. Then I present the question of order.

The CHAIRMAN. The gentleman from Ohio [Mr. Cox] raises the question of order, that the motion now before the committee is not in order under the rules and the law. The Chair overrules the point of order, because the law and the rules of the House evidently contemplate the power on the part of the House to reexamine the decision of the court. There is nothing in the rules, so far as the Chair understands them, to prevent such reports being referred to committees.

Mr. COX. All that I have to say in conclusion is simply this: that, so far as I am concerned, as a member of this Committee on Revolutionary Claims, to which it is proposed to refer this case, I will never sanction the course of reexamining claims that have been adjudicated upon on proper legal evidence, with the statute of limitations, too, operating on that evidence. I think that the rule

applied to private persons in courts of justice should be applied with more force and cogency to claims brought against the Government. It may be dishonest for a man who knows that he owes a just debt to plead the statute of limitations; but the Government, in these *ex parte* cases, should set up some limit to these claims that are vamped up, and revamped up, year after year. It has appeared, in the course of this discussion, that this case has been carefully examined by the gentleman from Virginia, [Mr. MILLSON,] and yet we are to have it here again. We are to go over the same thing; and if any defects are found in the claim, evidence may be supplied, and the committee will have to go over the same old work, so that there will be no end to the labors of the committees.

I, for one, will say, as chairman of the Committee on Revolutionary Claims, that we have already enough to do in examining these claims, so musty, so stale, and so worthless, and can hardly attend to our ordinary business in the House. I think that the statute of limitations should be applied; and I know that I speak the sentiments of other members of that committee, who will rigidly apply that rule if this claim be referred to them.

Mr. COVODE. If the statute of limitations is to be applied, I have only to say that I am perfectly satisfied that it should be applied in this case, and carried out for all future time. That is what I want to get at. The claimant is not a friend of mine; he is a political opponent of mine. But I am ready to meet the question, and let the decision of the committee be persisted in.

Mr. MAYNARD. This matter turns on the law organizing the Court of Claims. By an examination of that statute, it will be seen that the practice of that court is, in the first place, to have presented to it the facts of the case, in the form of a petition, which is to be considered by the court, and, for the purpose of that consideration, is to be taken as true. If, on the facts disclosed in the petition, the court decides that the claimant is entitled to relief, it directs that the testimony be taken to establish the facts. If, however, on examining the petition itself, as on a demurrer to a bill in chancery, the Court of Claims consider that the petitioner is entitled to no relief, then an adverse report is made on the case, and referred to this House. The fourth section of the statute prescribes the proceedings which are then to be taken. It is as follows:

"In all cases where it shall appear to the court that the facts set forth in the petition of the claimant do not furnish any ground for relief, it shall not be the duty of the court to authorize the taking of any testimony in the case until the same shall be reported by them to Congress, as is hereinafter provided: *Provided, however, That, if Congress shall in such case fail to confirm the opinion of said board, they shall proceed to take testimony in such case.*"

I understand that in the case now before us—the facts in the petition being taken as true—the court held that the petitioner is entitled to no relief, solely and simply on the ground that his claim is barred by the effect of time, the statute of limitations—the staleness of his case, or whatever term you please to use to designate the neglect to file it at the Treasury prior to May, 1794. And the only question now presented for the committee to decide—sitting as a revising tribunal, passing on the correctness of the decision made by the Court of Claims—is, whether this claim shall be so barred? And, sir, I must dissent most seriously from the position taken by the honorable gentleman from Ohio, [Mr. Cox.] While I am honored with a seat on this floor, I shall never, with my present views of duty, be found turning from this Hall an old revolutionary soldier, or his widow, or his child, because their claim is barred by the lapse of time, when, in all probability, they have been here from the very foundation of the Government, soliciting their just right—a right which ought to have been admitted and liquidated years ago.

This is a question of importance, affecting not merely the interest of this individual claimant, but establishing a general principle of action which is to affect the whole class of demands against the Government that come up from this deep recess of times long gone by. I think it one that we ought to consider carefully and deliberately before we determine it; and in order to do that, I think, with the gentleman who made the motion now before us, that this case should be referred to the appropriate committee; either

to the Committee on Revolutionary Claims, or to the Committee on Claims. Being a member of one of those committees, I shall not make even a suggestion as to which it should be referred. Let the committee examine it upon the facts disclosed in the record, and report to the House. Upon their report, as printed, we can determine what action we ought to take. From the limited knowledge of the claims presented against our Government which I have gained in the last three months as a member of the Committee of Claims, I must be permitted to say that many of them are of the most frivolous character; but that should not deter us from considering and allowing those which are well founded and just.

Mr. TAYLOR, of New York. I did not intend to occupy the time of the House on this or any other matter to-day. Nor should I now have risen had it not been for the remarks of the honorable gentleman from Ohio, [Mr. Cox.] As a member of the Committee on Revolutionary Claims, I deem it my duty to repudiate the doctrines advanced by him as the chairman of that committee. The plea of the statute of limitations has never been favored in the courts of law. It is looked upon in a very unfavorable light, if not characterized as a dishonorable plea. In this case perhaps there may be more excuse; but so long as the Government is able to pay its just debts, and more especially the debts which it owes to our revolutionary sires, so long should they be paid without reference to the time they have remained unpaid. Whatever the chairman of the Committee on Revolutionary Claims may think on the subject, or whatever principle he may adopt, I, as a member of that committee, will never allow the plea of the statute of limitations to interpose so far as any action of mine is concerned. Sir, these debts are of the most sacred character. So long as we feel pride in the institutions of our country, so long as we feel honored in defending those institutions, so long as we look back to our revolutionary sires with pride, so long as we cherish their memory, so long should we be willing to render them some return at least for the many sacrifices which they made in achieving our liberties, and establishing our free institutions. I believe that it is the duty of patriotism—a duty too long neglected by Congress, and by the country—to provide for the payment of the debts due our revolutionary fathers; and to see to it, that this injustice to them should not be longer continued.

Mr. WRIGHT, of Georgia. I take it for granted that the gentleman assumes all the claims presented to be for just debts.

Mr. TAYLOR, of New York. I am compelled to take it for granted, because I presume that our revolutionary sires and their descendants, being patriots, are just in making their claims; and I presume further, that no person will present a claim for a debt due by the Government that has not, at least, some justice in it.

Mr. WRIGHT, of Georgia. Upon what ground is the statute of limitations predicated?

Mr. TAYLOR, of New York. The statute of limitations, if I understand it, is predicated upon the fact, that after a certain period of time, evidence could not be had; from a rule of evidence, that lapse of time prevented a fair investigation of claims.

Mr. WRIGHT, of Georgia. Will the gentleman permit me to tell him what I understand to be the ground for the statute of limitations?

Mr. TAYLOR, of New York. I shall be happy to hear the gentleman?

Mr. WRIGHT, of Georgia. Either that the debt at its inception was not just, or, if just, that it has been paid; and it is predicated on the nature of man, and his proneness to look after his rights.

Mr. TAYLOR, of New York. That may have been one reason. But, I do not desire to detain the House. In my opinion, the business before the Committee on Revolutionary Claims is not so onerous as the gentleman from Ohio [Mr. Cox] supposes. I am satisfied that, as members of that committee, we could transact our business in one tenth of the time, if we would only give our attention to that business, and if members would attend the meetings of the committee, and not absent themselves on other business—attending, probably, to Kansas, or some other exciting political topic, to the neglect of just private claims, which we, as an honorable nation, ought to pay.

Mr. COX. Will the gentleman allow me a

single word? I merely wish to correct him in relation to one matter. I will say that if the gentleman had been more punctual himself in his attendance on the meetings of the committee, he would have known more as to the amount of business to be transacted. I believe that I have missed but one meeting of the committee, and the gentleman has missed at least half a dozen.

Mr. DAWES. As the members of the Committee on Revolutionary Claims are defining their positions, I desire to say a word. I do not understand the gentleman from Ohio [Mr. Cox] to say that the Committee on Revolutionary Claims has come to any such conclusion as he has announced, as to what effect shall be given to the statute of limitations, or that the matter itself has been before the committee at all; but I understand him to express his opinion as an individual, and to assume to speak for some other members of the committee. To what particular members of the committee he alluded, I do not know.

Mr. COX. I will tell the gentleman; I alluded to the gentleman from Georgia and the gentleman from Alabama.

Mr. DAWES. I presume those gentlemen will speak for themselves.

Mr. JOHN COCHRANE. I rise to a question of order. I wish to make the question of order that this debate has wandered entirely from the question of reference under consideration.

The CHAIRMAN. The Chair sustains the point of order, and rules that the character or conduct of committees is not in issue before the committee.

Mr. CHAFFEE. The other members of the committee have been filing caveats here.

The CHAIRMAN. The Chair is aware that a good deal of irrelevant discussion has been indulged in; but he has sustained an objection whenever it has been raised.

Mr. DAWES. I understand it to have been urged in this committee as a reason why this bill should not be referred to the Committee on Revolutionary Claims, that some members of that committee are disposed to enforce the statute of limitations, and therefore I think it is in order for me, as a member of that committee, to say that if a just demand were presented against me, I should be ashamed to plead the statute of limitations in bar of it; and I should be just as much ashamed to set up the statute of limitations in bar of a just claim against the United States.

Mr. JOHN COCHRANE. I have but a few words to address to the committee on this subject. I presume that I am entitled to discuss the question before the committee. It is simply a question of reference whether the report now before the committee shall be reported to the House for reference to the Committee of Claims, or whether we are now prepared by the material which we have before us upon the Clerk's desk to discuss and decide the entire question. I am of the opinion that, under the law and the rules we have made for ourselves, how is the time, and that we are amply prepared—quite as much so as we ever shall be—to dispose of the point whether the statute of limitations shall run against a claim which, in all other respects, has been pronounced by the committee of this House, and the Court of Claims, to be a just one. It is to that point that I will direct the attention of the committee for a few moments. We have established by law a Court of Claims. The duty of this Court of Claims is to report to this House these claims, together with the evidence submitted to them, and upon which they have passed. Not only are they to submit the reasons for their decision and their report, but, in addition, are to submit the briefs of the solicitor and of the counsel for the claimant. They present their logical reasons upon which they base their decision. What more can you procure from the Committee of Claims? Can you procure as much? Are they constituted with reference to judicial examination?

Mr. COVODE. I must say to the gentleman from New York that the Court of Claims has not sent in these reports, as he says that it is their duty to do. They refer to other cases in which the statute of limitations was made to run against the claimants, and decide upon that without sending in the other papers.

Mr. JOHN COCHRANE. If they have sent no papers here, then they have decided within the purview of the law. The case does not re-

quire, for its elucidation and the purposes of justice, that any papers should be sent. In fact, it may be that there are no papers. The question arises, whether, having a report from a judicial committee—a committee authorized by law, and not simply under the rules of the House—a report declaring, over the signatures of the court, that there is no reason or foundation for this claim, because of the running of the statute of limitations against it—the question is, I repeat, whether that decision is proper or not? If you send it to another committee, and to another committee after that, and so on for a series of Congresses, you will never have arrived at a point in your inquiry where you will be more capable of determining the fact whether the statute of limitations should run against this claim, than the present time. I put it to the committee, whether they are not prepared, at this time, to pass on this question in the negative, that this case shall not be reported to the House with the recommendation that it be referred to the Committee on Revolutionary Claims?

Mr. ADRAIN. Mr. Chairman, quite an interesting discussion has arisen here this morning. An old revolutionary soldier presents his claim. It is a claim which touches every patriotic heart. It is a claim which ought not to be thrown lightly aside. It is a claim which ought to be considered calmly, dispassionately, and patriotically; and the question comes up here this morning, whether we are to refer his petition to another committee, or whether we are to reject his petition, and to accede to a report which has been made by the Court of Claims adverse to the claim? Mr. Chairman, I know nothing about the facts of the case. I do not know the old petitioner; but it is stated here, by the gentleman from Pennsylvania, [Mr. MONTGOMERY], that this claim is a just one; that there is no just ground against it, except what is set up by the statute of limitations. I presume the gentleman from Pennsylvania, when he made the statement, made it after an investigation of the case. But the gentleman from Virginia [Mr. MILLSON] has said that there is no merit in the claim. Whether that is so or not, I cannot determine; but the fact that he states that there is no merit in it, and the fact that the gentleman from Pennsylvania states that there is, and the further fact that the only objection is the statute of limitations, throw doubt upon the question. I am not ready to decide on the point now. It shows, then, the necessity that this matter should be referred to the Committee on Revolutionary Claims.

The gentleman from Ohio, [Mr. Cox,] the chairman of the Committee on Revolutionary Claims, asks why is his committee to be clogged up with these old stale claims? Yes, sir, his committee ought to be clogged up. He ought to investigate every claim, I care not how old it is, if it be the claim of an old revolutionary soldier who has fought, and was ready to die, in the service of his country. I do not suppose, when this matter is referred to the Committee on Revolutionary Claims, or any other committee, that it will be reported except upon the true state of the facts in the case. If this old gentleman is not entitled to his claim, it will not be admitted. I understand that there have been but five cases reported to this House from the Committee of Claims, showing that there is no disposition on the part of that committee to report in favor of any claim unless it be just and honest.

I do not wish to occupy the time of this House further than this; we must recollect that our old revolutionary soldiers are fast passing away from the stage of action. There are but few of them remaining with us; but while they do remain, while they still linger upon earth, and connect the present with the past, I hope we will smooth their path to the grave, and do all in our power to return the debt of gratitude which can never be paid to the brave and illustrious men who fought out so gloriously the American Revolution which has given us the civil and religious liberty we enjoy now, and which makes us the greatest and freest nation upon the face of the earth.

Mr. MARSHALL, of Kentucky. I agree with the honorable gentleman from New York, who addressed the House a few moments ago, that this is an important subject; and, for one, I am ready to vote upon its merits. I do not think that they deserve much discussion. The case is simply this: according to the organization of the Court of Claims, when a petition is filed there and

they find a legal bar to the claim, then they do not go into the proof at all, but, deciding on the legal bar, send the claim here. This petition was filed in the Court of Claims, and that court very properly decided that the claim was barred by the statute of limitations. They therefore refused to take proof upon its merits, and sent it to us. The question is, whether we should bar the claim by the statute of limitations? I am ready, as a member of this House, to say that we should not. Why? Do gentlemen in this Hall understand what that limitation was?

The statute of limitations which is attempted to be applied here, is a statute which ran out upon the claim in one year from the date of the act. The class of claims to which this belongs is one which arises under the resolution of 1780. In 1783, the Congress of the United States passed an act, that whoever presented a claim belonging to this class, prior to one year after the passage of the act, should receive a money commutation, in lieu of full half pay for life, which had been promised him by the resolution of 1780. Afterwards, another act was passed in reference to this commutation claim. One year's limitation was placed upon those claims, and they were to be barred, unless presented at the Treasury within that time. And then, again, Congress gave that statute a sweep down to 1794; so that if you take the time from the date of the first act, to the date of the last act—from 1783, the time of the peace, down to 1794, the time to which the last act was limited—you would have upon your revolutionary claims a statute of limitations running through seven years.

Here is a claim which was not presented at the Treasury within those seven years; a case where the heirs of the party deceased present it to your Government, and you send it to the court. The court say to us, and say properly, "this claim is barred by the statute of limitations arising under a law of Congress, and we do not choose to go further to put this party to the trouble to take proof, but we apply the statute." The man comes here for that claim; and it is for us now to say whether we will act upon the principle upon which we direct the court to act; whether we will here say that we will carry out the law as it existed in 1794, and bar all claims against the Government which were not settled at the Treasury before 1794. Prior to the organization of this Court of Claims, this rule has been violated so often that I think it would be monstrous in the House of Representatives now to attempt to apply it. I do not choose to sing any song of praise to the memories of those who fought in the Revolution. When one of these claims comes here that is founded in no equity, that presents no particular call upon me to do justice, I would as soon reject it as I would the claim of any other citizen in the Republic.

But my friend from Ohio, [Mr. Cox,] a member of the Committee on Revolutionary Claims, rises here and asks us not to refer revolutionary claims to his committee, because it interferes with his duty in the House. I will say to him, that if his committee is not strong enough we will strengthen his arm by putting more gentlemen upon the committee; but I cannot listen to excuses coming from that committee, that they are required to handle the musty claims of those old revolutionary soldiers.

Mr. COX. The gentleman from Kentucky, as did the gentleman from New Jersey, [Mr. ADRAIN,] seems to proceed upon the idea that these claims are presented here by those old revolutionary men themselves. That is quite a mistake. This very claim, I am informed, is presented by the heirs of an old gentleman who has been dead for sixty-five years; and the gentleman from New Jersey wished that the Committee on Revolutionary Claims should pass upon it in order to smooth his way down to the grave. [Laughter.]

Mr. ADRAIN. I was speaking generally of old revolutionary soldiers, and not of him specifically.

Mr. MARSHALL, of Kentucky. The explanation of the gentleman from Ohio may go to the country for what it is worth. I would suggest to him, however, that it would be better for him to retract his former proposition, than to attempt to carry it off upon the idea which he now suggests.

Mr. COX. If the gentleman will permit me, I

will finish my explanation. I wish to say to the gentleman, that to all cases properly brought into this House, and properly referred to us, there has been, and there will be, proper attention paid; but this is a claim which has been referred to the Court of Claims, and adjudicated there upon legal principles. Now, I hold that the proper way to act upon the matter is to repeal the statute of limitations, if you are not going to carry it out. The statute, so long as it remains, is for our guidance.

Mr. MARSHALL, of Kentucky. I think the gentleman's remark is entitled to great consideration; in fact, that his remark indicates the proper direction we should take.

Mr. WRIGHT, of Georgia. It appears, from the statement of the gentleman from Ohio, who is a member of the Committee on Revolutionary Claims, that these claimants are heirs of a revolutionary soldier. Has it not been decided by the Supreme Court of the United States, or was it not the opinion of the Attorney General, that the heirs of revolutionary soldiers who did not claim a pension, are not entitled to it; that it was personal in its character?

Mr. MARSHALL, of Kentucky. This is not the case of a pension. A pension is a gratuity. This is a debt which is prosecuted here, and you are asked to plead the statute of limitations against it.

Mr. WRIGHT, of Georgia. It was for services rendered as a soldier in the war.

Mr. MARSHALL, of Kentucky. This man was entitled to half pay for life, under the resolution of 1780. After he had rendered the service, after he had become entitled to the pension of half pay for life, Congress passed an act giving him a certain commuted legal amount in lieu of that half pay, agreeing, if he presented that claim to the Treasury within one year from the passage of the act, to acknowledge the claim and pay the money. It is a debt, then, and no gratuity. This man, in his lifetime, did not present the claim. You may say it was not a debt. If it was not, then the heirs of this man are entitled to a pension equal to half pay for life.

I agree with the gentleman from Ohio that while a law exists upon the statute-book, the law should be enforced. Hence I say that the Court of Claims could do no less than to apply the law, and therefore properly turned the claim over to us. But we are not bound by the law. We are a high court, and make a law for ourselves. The man comes here with his claim, and I say that it rests upon the same equity upon which we have heretofore allowed thousands of claims. Why not allow it to this man? Does it lie in our mouths to say that we intend to be bound by the statute of limitations—that we intend to observe the statute of limitations—that we intend to shelter ourselves under the statute of limitations of 1774, while we have been acting on another practice from the foundation of the Government down to the present time?

I will answer, in another observation, one of the remarks of the gentleman from Ohio, [Mr. Cox,] and the same answer will apply to the gentleman from Georgia, [Mr. Wright.] He says that the old man died sixty-five years ago, and that the applicants here are his heirs. Do not the people of his part of the country pay heirs or administrators the debts they honestly owed to the man when he was alive? This is a debt, or it is not anything.

This applicant does not come here for a pension. He does not ask a gratuity. He is claiming your bond; and you are attempting to intervene between your bond and its payment—to intervene a plea which no man in this House would set up in a court of justice.

Mr. PHILLIPS. I am not sure that I understand the resolution; whether it is to refer the report to the Court of Claims or to a committee.

The CHAIRMAN. The matter pending before the House is a report of the Court of Claims on a case decided in that court; and the motion is, that the committee report it to the House, with a recommendation that it be referred to the Committee on Revolutionary Claims.

Mr. PHILLIPS. I think that a very improper reference. You are going to refer to the Committee on Revolutionary Claims the decision of a court, the propriety and legality of which decision has not yet been assailed by any one on this floor.

Mr. TAYLOR, of New York. I understand that this motion also carries the case—not the report alone, but the whole case—to the committee.

The CHAIRMAN. The Chair certainly understands that the reference of the report carries with it all the papers in the case; but the report is the matter on which the House is called to act.

Mr. TAYLOR, of New York. The motion refers the whole case on the merits to the committee.

Mr. PHILLIPS. I suppose that the report carries with it all the matter of law. I do not understand that it carries with it anything beyond what accompanies the decision of the Court of Claims. The act of Congress prescribes what shall accompany their decisions.

Mr. Chairman, I think that the object which the friends of the measure have in view can be better reached by them in another way. I suppose that the Court of Claims acted right in this matter; and I understand gentlemen to acknowledge that, under the law, the court could come to no other conclusion. If we concur in the report, this memorialist can apply again to Congress, and not to the Court of Claims. He can apply where he will not be fettered by legal restraints—such as the statute of limitations. He can have his petition referred to the Committee on Revolutionary Claims, or Revolutionary Pensions, or some other committee; and he can then have it considered on its merits, free from the difficulties connected with the adverse report from the Court of Claims.

I do not understand any gentleman to assert that the action of the Court of Claims precludes, in any manner, the action of Congress. On the contrary, the act of Congress establishing the Court of Claims prohibits a reconsideration by that court on the same evidence originally before it; but any attempt of a prior Congress to impede the action of a future Congress would be inoperative, and is not attempted here. I appeal, then, to my friend from Pennsylvania, [Mr. Covode,] who seems to take an interest in this claim, to consider whether or not the best method of having this question considered on its merits is not to let the report of the Court of Claims be concurred in, the correctness of the decision being uniformly admitted to be correct. Let this memorialist come to-day to Congress with another application, and it can then be considered on its merits.

Mr. COVODE. I have been informed that, if Congress confirms the decision of the Court of Claims—that court not having examined the case on its merits, but referred to the Marnay case—the claimant will not be permitted to come here again. That would settle the business.

Mr. FLORENCE. Let me ask a question of both my colleagues. Do not all of these papers go from this House, without special reference, to the Court of Claims? Was this case not referred at the end of last session of Congress? or was it referred by resolution, and with the consent of the party, to the Court of Claims?

Mr. PHILLIPS. The application was made directly to the Court of Claims. I have the petition in my hand. My colleague is mistaken in supposing that it was referred to the Court of Claims by the House.

Mr. FLORENCE. That was my recollection of it; and I supposed it had gone without the consent of the party.

Mr. PHILLIPS. The recollection of my colleague seems to be in error. I hold in my hand the original application, and it is directed to the judges of the Court of Claims. Now the court did not consider the merits of the case. It did not stop to inquire whether the claim was well-founded or not; because it found a stubborn principle of law in the way—the statute of limitations; and the court expressly says so.

Now, I hold that, if we concur in the report, that does not prevent the memorialist from applying again. I hold in my hand the act of Congress establishing the Court of Claims; and my colleague [Mr. Covode] will find from it that the restraint is only on action by the court itself. I think that, with the adverse report on the merits made by the honorable gentleman from Virginia [Mr. Milson] on a former occasion, and with this adverse report from the Court of Claims on a legal point—the correctness of which no one questions—we ought not to reverse this report, or to refer it to any committee with a view to its reversal,

on grounds other than those on which the report itself is based.

Mr. WASHBURN, of Maine. I understand that in this case the petition was addressed directly to the Court of Claims. I believe that, under the law, petitions are referred, by order of the House, to that court; so that petitions come before them, in some instances, by direct application, and in others by reference from either House. When an application is made to the Court of Claims, and a report thereon, either favorable or unfavorable, is sent to the House, I understand that to be equivalent to the presentation of the petition to the House, with the recommendation or report of the court, either for or against.

Now, sir, in this case of Stokely, I understand that it is, in substance and in effect, before us here as the petition of Stokely. And, sir, I hold that he has a right to bring before Congress proper matter for its consideration; that he has a right, through the Court of Claims, to present his petition here; that he has a right to have it acted upon by the House; and that the House is bound, morally bound, to act upon it. It is a rule which should be always observed, to have his petition referred to a committee of the House; otherwise, you substantially deny his right of petition. That is what it comes to. If we say that, by the intervention of the Court of Claims, and by the effect of the law precluding claims from coming a second time before Congress, individuals shall not have their measures presented to a committee, and developed and presented to the House to be acted upon, we do substantially deny the right of petition, and deny to individuals the right to come before Congress with their claims for relief.

Now, sir, with these views, and I believe they are correct, I hold that if any one individual member of the House moves to refer one of these adverse reports to a committee of the House, the House is bound to make the reference; and the only question is as to which is the appropriate committee; and that question is only debatable as to the propriety of the reference. All other debate is out of order. I hope the Chair will so rule in this case, and in all other cases which may arise in the disposition of these adverse reports of the Court of Claims. If we go on to discuss this case upon its merits, without the evidence before us, we shall either be compelled to decide against the petitioner without evidence, or else we shall refer it to a committee; and when they have reported it back, this discussion must be had over and over again.

Now, sir, the only just and reasonable ruling, and the only ruling which will secure early action upon the Private Calendar, is that these adverse reports shall only be regarded as petitions, and as such, shall be referred, as a matter of right, if any gentleman desires it, to one of the committees of the House, to be by them reported back to the House.

Mr. POTTLE. I know that this question has been discussed at such great length that the House is tired of it, and that whatever may be said will meet with but little favor. But, sir, it is an important question, establishing the law not only for this case, and for all the cases which we now have before us, but establishing a precedent for all cases of the same class that shall be reported by the Court of Claims to this House. In regard to the merits of this particular claim, I know nothing whatever, and I do not consider that its merits are legitimately within the scope of this debate. It is simply a question whether, upon a report from the Court of Claims that they have been prevented from an examination into the merits of the case by the statute of limitations, whether, upon such a report sent back to this House, we are to consider it an end of the claim, or whether it shall be referred to some committee of this House for investigation? Sir, I consider, as I said before, that the whole question is to be settled by our deliberations in reference to this particular case, and that it shall not be settled without deliberation.

I think that several of the gentlemen who have addressed the committee upon this subject—and I refer particularly to the gentleman from Ohio [Mr. Cox]—have entirely misunderstood the position of the House. If I understand it, if we are to be confined strictly to technical rules of law in the decision of these cases, we should have nothing to decide, for the cases that may be settled

under the law, as strictly construed, are settled at the Departments. It is only those cases which are technically defective, and which cannot be decided at the Departments, which come before Congress. I understand that this House stands in reference to the applications that are made here for relief precisely in the relation of a court of equity, sitting to do right in reference to the claims presented against the Government, and to administer justice upon principles of equity, and not upon the naked technicalities of law that may be set up.

It has been said by the gentleman from Ohio that in all courts of law this statute of limitations is considered a defense against a claim. That is true; but in no court of equity would it be allowed to be set up as a defense. Surely this Government would allow no man to set up the statute of limitations against itself, and if the Government is willing to enforce its equitable claims against others, I trust the time has not yet come when it may be said that the statute of limitations shall bar the enforcement of an equitable claim against the Government.

Mr. WRIGHT, of Georgia. Do I understand the gentleman from New York to state that the statute of limitations cannot be set up in a court of equity?

Mr. POTTLE. I understand that the statute of limitations is of itself an inequitable defense, always and everywhere.

Mr. WRIGHT, of Georgia. Do I understand the gentleman to say that the right to set up the statute of limitations as a defense in a court of equity is not recognized?

Mr. POTTLE. I mean to say that the statute of limitations is in itself an inequitable defense upon the face of it. It is clearly apparent that when justice demands that you should give relief the statute of limitations never should, under any circumstances, prevent it.

Now, sir, I do not know what are the merits or demerits of this claim. I trust that it will be referred to a committee where it may receive a proper investigation. We have no means of knowing here, and we have no right to prejudice it. We have nothing to do but to send it to the proper committee where it will be investigated, and upon the report of that committee we may decide it upon its merits, and upon its merits alone. But I protest against the merits of this case being dragged into this discussion. The precedent should here be established that the Government is not to take advantage of the statute of limitations. The establishment of the other ruling would destroy hundreds of equitable claims against the Government. I believe in the entire truth and entire justice of the remark of the gentleman from Georgia, [Mr. WRIGHT], that there are a very large number of inequitable claims sought to be enforced against the Government. That is a necessary part of our system, and forms no good reason why we should refuse to consider other claims which are equitable.

Sir, let us examine this claim, let us put it in a position where we can understand it. If inequitable claims are presented, let us reject them; but do not set up the statute of limitations to prevent their examination.

Mr. CURTIS. I merely wish to place myself right in regard to this particular claim. When I stated to the gentleman from Virginia [Mr. MILLSON] that I wished to say something in favor of this claim, I supposed it was one of a class of claims for commutation of revolutionary officers.

Mr. WRIGHT, of Georgia. So it is.

Mr. CURTIS. Then I wish to say that I did not speak of the merits of this particular claim. I do not know that I shall vote in favor of it, but I spoke of a class of claims relating to revolutionary officers which I desired to have fairly investigated. If this case is included in that class of claims, then I go for its reference to the proper committee of the House, which I suppose to be the Committee on Revolutionary Claims.

I refer to the class of revolutionary claims that were committed, as the gentleman from Kentucky [Mr. MARSHALL] has explained. This claim now before us purports to be of that class, but it may fall on its merits, and as the gentleman from Virginia [Mr. MILLSON] suggests, for the want of merit on other grounds. I therefore wish that it may be referred to the proper committee, to be considered without regard to the time elapsed

since it accrued, and without regard to statutes of limitation. The proper committee is that of Revolutionary Claims; and I am sorry to hear the chairman repel the submission because the claim is old. All the revolutionary claims are old claims, and the very purpose of the committee is to investigate that description of obligations. I am satisfied that such claims ought to be fairly investigated, and I hope the chairman of the committee will himself see the propriety of taking them up notwithstanding they may be old, neglected, oft-deferred revolutionary claims. Otherwise, I submit that the committee itself ought to be abolished.

I hope, under the circumstances, that this bill will be referred and fairly considered. I hope that the statute of limitations will not be pressed. We are not here merely for the purpose of taking into consideration such matters as are not barred by the statutes of limitation. We are here for the purpose of making laws as well as to expound them; and it is our duty to remove all those obstructions to justice and equity which ancient rules and laws seem to intervene, for the purpose of securing to citizens their just rights. If the statute of limitations cuts a man off from his rights, and there is merit in the claim, then that is a reason why we should act, and not an excuse for refusing to do so. We have sovereign power; and it is in such cases that we ought to exercise that power. We have sovereign power under the Constitution, a gentleman near me remarks; and I, of course, accept that limitation; and certainly the Constitution gives us the power to pay all well-established revolutionary soldiers. If we find, after investigation, that their claims are meritorious and just, we will allow them, although they have been barred by a thousand laws. If the statutes of limitation were always enforced, as in courts of common-law jurisdiction, it would cut off most of the claims which come before Congress; because, as everybody knows, it takes many years before a claim can be brought to the final consideration of Congress. Many of the claims which now come before the committee of which I am a member, are more than twenty-one years old. I do not consider myself bound there or here by the statutes of Henry VIII., or Queen Elizabeth, or any other statutes which may have served as a means to retain and transmit these ancient rules of law. We have a right to consider the equity of the claim, and relieve it from the strict rules prescribed for courts of law. I hope that the report will be referred to the Committee on Revolutionary Claims; and I know the chairman of that committee will, after full consideration, report that Congress has the power to go into the merits of the claims, and to decide on them.

Mr. COVODE. I have prepared a substitute for the proposition before the House, which will authorize the court to decide the case upon its merits. I move to lay the bill aside, to be reported to the House with the recommendation that the House pass this order:

Ordered, That the report of the court be referred back to the Court of Claims, with directions to take the proof on the merits of the claim.

Mr. DAVIS, of Indiana. Mr. Chairman, is it not in order, at this time, to move that the committee rise, with a view to submit a resolution closing this debate?

The CHAIRMAN. It is.

Mr. DAVIS, of Indiana. Then I submit that motion.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STANTON reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and more particularly adverse report (C. C. No. 109) upon the petition of Joseph Stokely and others, heirs of Nehemiah Stokely, and had come to no conclusion thereon.

Mr. DAVIS, of Indiana. I move that the debate in the Committee of the Whole House on the adverse report just stated to the House, be closed in five minutes after its consideration shall be resumed; and on that motion I call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. STANTON. This motion only cuts off the hour debate.

The SPEAKER. It is only general debate that is precluded under it. Special provision is made in the rules for five-minutes' debate on amendments. The motion does not cut off that debate.

Mr. STANTON. I want the motion modified, so as to cut off all debate or amendment.

The SPEAKER. The Chair could not entertain a proposition of that kind unless by unanimous consent.

Mr. DAVIS's motion was agreed to.

Mr. DAVIS, of Indiana. I move that the rules be suspended, and the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. STANTON in the chair.)

The CHAIRMAN stated the business before the committee to be the adverse report of the Court of Claims on the petition of Joseph Stokely and others.

Mr. TAYLOR, of Louisiana. I wish to understand the motion now made in reference to this question. If I remember rightly, the proposition of the gentleman from Pennsylvania is not to report this back to the House, to be referred to a committee, but to report it back with the recommendation that it be again referred to the Court of Claims, with instructions that they shall take evidence upon the merits of the case.

The CHAIRMAN. That is the motion pending.

Mr. TAYLOR, of Louisiana. I will make this inquiry: whether it is not incompetent for the House to do that, as it will have the effect to amend an act of Congress by the action of one House? It would have the effect to change the jurisdiction of the Court of Claims; to change the character of the action which it is compelled to take under the provisions of the law. I am inclined to think that it would be better to modify the proposition, and simply refer the case to a committee of this House.

Mr. COVODE. If my proposition will produce any difficulty, I will withdraw it.

Mr. MARSHALL, of Kentucky. I object to withdrawing it, for I think the proposition is exactly right. The fourth section of the act declares that

"In all cases where it shall appear to the court that the facts set forth in the petition of the claimant do not furnish any ground for relief, it shall not be the duty of the court to authorize the taking of any testimony in the case, until the same shall have been reported by them to Congress as hereinafter provided: *Provided, however*, That if Congress, in such case, fail to confirm the opinion of the board, they shall proceed to take testimony in the case."

Mr. TAYLOR, of New York. I understand that that section requires the action of Congress, and not of one House only.

Mr. MARSHALL, of Kentucky. If this House fail to confirm the opinion of the court, the duty of the court is then established by the law. If Congress shall fail to confirm the opinion of the court, then this is a case finally disposed of, or it is a case where they have failed to take proof on account of a legal bar. That is the question. The court have come across the statute of limitations, and they refuse to take proof, refuse to hear it, and send the case to us. What is to be reported to us? The petition, the petitioner's proof, the brief of the counsel for the United States, and the decision of the court. There has been no proof taken, because they found the statute of limitations in their way. It comes to us; what shall we do with it? We fail to confirm the opinion of the court. Is that enough? What are we going to do with the bill? I say their decision is correct, and that we should recommend to the House that they send the case back to the court with directions to hear the case upon the merits. If the court has finally decided the case, and the decision is conclusive upon us, then the court occupy a new position under the law, which, by its jurisdiction, cuts off the plenary power which this House has to consider the case.

Mr. CRAIGE, of North Carolina, moved an amendment *pro forma*, and said: do I understand the gentleman from Kentucky to insist that the proper course for this House to take, after a bill comes here from the Court of Claims, would be to send it back, by an order of this House alone, without the concurrence of the other branch of the national Legislature?

Mr. MARSHALL, of Kentucky. I do.

Mr. CRAIGE, of North Carolina. It strikes me from reading the fourth section of the act, that such a construction cannot be placed upon it. It provides that—

"In all cases where it shall appear to the court that the facts set forth in the petition of the claimant do not furnish any ground for relief, it shall not be the duty of the court to authorize the taking of any testimony in the case until the same shall have been reported by them to Congress as hereinafter provided: *Provided, however, That if Congress shall in such case fail to confirm the opinion of the board, they shall proceed to take testimony in the case.*"

It seems to me that this act contemplates the action of both branches of the Legislature, before a case can be sent back to the Court of Claims. I do not see how any other construction can be placed upon it. The word "Congress" is used in the body of the section, and also in the proviso, and I have no doubt that that was what the framers of the law meant at the time the law was framed. It strikes me, therefore, that it would be premature for this House to undertake to decide this matter in that way. I think the best direction to be given to this matter, would be to send it to a committee of this House for investigation.

Mr. MARSHALL, of Kentucky. If we fail to confirm the opinion of the court, Congress cannot confirm it.

Mr. TAYLOR, of New York. Would it be in order to move a substitute for the motion and the amendment?

The CHAIRMAN. There is an amendment pending.

Mr. CRAIGE, of North Carolina. I withdraw my amendment.

Mr. TAYLOR, of New York. I offer the following amendment:

Resolved, That the report of the Court of Claims in this case, together with the papers therein, be referred to the Committee on Revolutionary Claims for a report upon the merits of the case.

I have only to say that I think we would sooner reach the case in this mode than in the other, and probably save much expense to the parties now presenting their claims for consideration.

The CHAIRMAN. The Chair would state that the gentleman's amendment, in the form in which it is presented, is not in order. It would be, if modified so as to provide that the committee report back the papers in the case with a recommendation that the case be referred, &c.

Mr. TAYLOR, of New York. I will modify it in that way.

The question being on the amendment,

Mr. FLORENCE demanded tellers.

Tellers were ordered; and Messrs. WRIGHT of Georgia, and COVODE were appointed.

Mr. CRAIGE, of North Carolina. The gentleman from Pennsylvania [Mr. COVODE] had withdrawn his proposition; and this is the same thing.

The CHAIRMAN. The gentleman from Pennsylvania withdrew his proposition, and the question arises on the resolution offered by the gentleman from New York, as an original proposition.

Mr. CRAIGE, of North Carolina. I submit, if the gentleman from Pennsylvania withdraws his proposition, whether the proper question to be taken is not on the reference of this matter to the Committee on Revolutionary Claims?

The CHAIRMAN. That is the proposition now pending, offered by the gentleman from New York.

Mr. CRAIGE, of North Carolina. The proposition of the gentleman from New York is to refer to the Committee on Revolutionary Claims, *with instructions*. The original proposition of the gentleman from Pennsylvania was to refer it to that committee, *without instructions*. That is the only difference between the two.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania to adopt the proposition of the gentleman from New York in lieu of his own.

Mr. CRAIGE, of North Carolina. I did not understand that.

Mr. COVODE. I have withdrawn my proposition.

Mr. CRAIGE, of North Carolina. I move to strike out that portion of the motion of the gentleman from New York relating to instructions. I make that motion because I do not think that the House ought, at this early stage of the proceedings, to hamper the committee at all. It ought

to be referred to the committee, and let them act upon it in such a way as they may think proper, and report to the House. We will then have all the facts to enable us to decide the case. But, by the action now proposed, we undertake to pre-judge the case; we undertake to say they shall report in a particular way—to report that if the facts justify it this claim should be allowed, notwithstanding the grounds which the Court of Claims has interposed under the statute of limitations.

The court may have interposed the statute of limitations for reasons that would be satisfactory to those gentlemen who are opposed, as a general rule, to the Government pleading the statute. Therefore, I think that the action proposed would be embarrassing to the committee, and embarrassing to the House.

Mr. MARSHALL, of Kentucky. I would like to know of the gentleman who made the motion, what would be its effect? Will this case remain pending in the Court of Claims until we send word back whether we approve of its decision or not?

The CHAIRMAN. The Chair supposes that every gentleman may determine that for himself.

Mr. MARSHALL, of Kentucky. I ask the gentleman who has charge of this business whether it is his proposition that this case remain pending in the Court of Claims until we decide whether we approve or disapprove of its decision?

The point that we are to decide upon is: we are to confirm the decision as it is rendered to us, or we are to reject it. The case pends in the court till we do one or the other. But without giving the court any notification we overslaugh the court, treat it with disrespect, and undertake to hear the case ourselves on its merits.

The question was taken on Mr. CRAIGE's amendment; and it was rejected, there being, on a division—ayes twenty, noes not counted.

The question occurred on Mr. TAYLOR's proposition, on which tellers had been ordered.

The committee divided; and the tellers reported—ayes ninety-five, noes not counted.

So the adverse report of the Court of Claims was laid aside, to be reported to the House with a recommendation that it be referred to the Committee on Revolutionary Claims, with instructions.

JEREMIAH M. WILLIAMS, AND OTHERS.

The case next on the Calendar was an adverse report from the Court of Claims (No. 110) in the case of Jeremiah M. Williams, and others.

Mr. THOMPSON. This case is precisely the same as that which we have just disposed of; and I submit the like motion, that it be laid aside, to be reported to the House, with a recommendation that it be referred to the Committee on Revolutionary Claims, with instructions to report on the merits of the case.

Mr. JONES, of Tennessee. I ask for the reading of the report and of the testimony in the case. I am inclined to the opinion that a motion that it be reported to the House, with a recommendation that the House agree to the report of the Court of Claims, would take precedence of that just submitted. The affirmative would be on agreeing to the report of the Court of Claims. If it be in order, I make that motion.

The CHAIRMAN. The Chair thinks it would be in order to move to amend the motion of the gentleman from New York by substituting that.

Mr. JONES, of Tennessee. Would not the motion that I have indicated take precedence of the other?

The CHAIRMAN. The Chair is not aware of any rule that gives it precedence.

Mr. JONES, of Tennessee. That would be the question submitted to the committee, if there was no motion made. That is the standing motion.

Mr. THOMPSON. I insist on my motion.

Mr. JONES, of Tennessee. The reading of the report has been called for.

The report was read, as follows:

"This is a claim for commutation money or half pay, for depreciation on certain pay certificates, and for bounty land. The first two claims should be prosecuted by an administrator. The claim for bounty land may, according to the rules of the department, be prosecuted by the descendants of the person entitled; but that claim is abandoned.

"The petition states that Thomas Williams, now deceased, was commissioned by Congress as a quartermaster and lieutenant in the continental service in the war of the Revolution; and served as such until the close of the war, or until reduced or retired. The claim for commutation or half pay is founded upon the same resolutions of Congress

upon which the claimants relied in the case of Marnay vs. the United States, and Stokely vs. the United States. It is not alleged or proved that the claim was ever presented at the Treasury before the 1st day of May, 1794; and in accordance with the decision in the cases mentioned, the claim is now barred by the statute of limitations, and the claimant has no cause of action.

The second claim is for the sum of '\$604 38, depreciation on pay certificates due May 30, 1779, and interest.'

"On the 10th of April, 1780, Congress resolved that 'when Congress shall be furnished with proper documents to liquidate the depreciation of the continental bills of credit, they will, as soon thereafter as the state of the public finances will permit, make good to the line of the army and the independent corps thereof, the deficiency of their original pay occasioned by such depreciation.' * * * 'It being the determination of Congress that all the troops serving in the continental army shall be placed on an equal footing. Provided that no person shall have any benefit of the resolution, except such as were engaged during the war, or for three years, and are now in service, or shall hereafter engage during the war for three years, and are now in service, or shall hereafter engage during the war.'

The question now is, whether Thomas Williams was in service at the date of the passage of the resolution.

The resolution of the Assembly of the State of New York, of March 20, 1783, provides for bounty land to persons belonging to several different classes, of which it is necessary only to enumerate the following:

"The officers, non-commissioned officers, and privates of the two regiments of infantry, commanded by Colonels Van Schaick and Van Cortlandt.

"Such officers of the regiment of artillery commanded by Colonel Lamb, and of the corps of sappers and miners as were, when they entered the service, inhabitants of the State, and such of the non-commissioned officers of the two last-mentioned corps as are credited to this State, as part of the troops thereof.

"All officers deranged by any acts of Congress subsequent to the 16th day of September, 1776.

"All officers recommended by Congress as persons whose depreciation on pay ought to be made good by this State, and who may hold military commissions in the line of the army at the close of the war."

The claimant has produced in evidence the book, well known as the New York Balloting Book, containing a list of the persons entitled to bounty lands under the resolution of the New York Legislature. In this book the name of Thomas Williams occurs but once, and that is on page 67, where he is put down as lieutenant in the third regiment, which was commanded by neither Van Schaick nor Van Cortlandt, but by Colonel Peter Gansevoort. He does not therefore come within the class first mentioned; nor within the second class composed of certain officers of Colonel Lamb's artillery, &c. He might have come within the class of officers deranged by any acts of Congress subsequent to the 16th day of September, 1776, or he might have belonged to the class of officers recommended by Congress whose depreciation in pay ought to be made good, &c., but there is no evidence showing that he belonged to either of these classes. He might have been entitled to bounty land from the State of New York, as belonging to one of the two classes last mentioned, without having been in service on the 10th of April, 1780. The Balloting Book, therefore, is not evidence to show that he was in service at that date. It is only evidence to show that he was at some time a lieutenant of the third regiment.

The claimant has produced in evidence an original commission, dated March 2, 1776, signed by Colonel Wynkoop and Lieutenant Colonel Cortlandt, field officers of the fourth New York regiment, appointing Thomas Williams quartermaster to that regiment. He has also produced a commission, signed by John Hancock, dated November 21, 1776, appointing Thomas Williams 'quartermaster to the third battalion of the New York forces.' This commission is expressed 'to continue in force until revoked by this or a future Congress.'

Upon the first organization of the army the various corps were styled battalions, and the quota of New York was four battalions. (Res. September 16, 1776.) Subsequently, upon a reorganization of the army, the various corps were styled regiments. (Res. May 27, and November 24, 1778.) This accounts for the fact that in the Balloting Book the corps to which he belonged was called a regiment, while in his commission it is called a battalion. In the New York resolution before referred to, no officer below the rank of captain is specifically mentioned, but every subaltern and surgeon's mate is entitled to one thousand acres; a lieutenant being a subaltern, was also entitled to two hundred acres, by a resolution of Congress. The course pursued was, that an officer entitled to bounty land under the New York resolution, and also entitled under the resolution of Congress, assigned to the State the land to which he was entitled from Congress, and received the amount of both bounties from the State. This was the reason why Thomas Williams is set down in the Balloting Book as entitled to one thousand two hundred acres of land.

Now there is evidence to show that he was at one time a quartermaster and at another time a lieutenant, but how long the different commissions remained in force does not appear. By the resolution of May 27, 1778, the quartermasters were to be taken from the subaltern officers, and he might at the same time have been both lieutenant and quartermaster, as the quartermaster, being a staff officer, received a certain pay in addition to his pay in the line. As he held the lineal rank of lieutenant, he is properly so designated in the Balloting Book.

Now his commission was to continue until revoked by Congress, and there is no evidence of its revocation. In the return by Lieutenant Connolly, in the Balloting Book of officers resigned, &c., his name is not returned as resigned. From the small number of officers contained in this list, it would appear to be incomplete; but there is no evidence in the case anywhere tending to show that he resigned. In the absence of all evidence to the contrary, the presumption may perhaps be that he continued to hold his commission in the army on the 10th day of April, 1780, which would entitle him to the depreciation on his pay under the resolution of Congress of that date.

"The claimant has produced in evidence a paper, of which the following is a copy:

Liquidation of the account of Thomas Williams, Jr., late quartermaster third New York regiment.

	Months of service.	Wages per month.	Amount of wages paid.	Depreciation of the four eastern States, averaged at several periods, as below.	Real value of one dollar at said time, in decimals.	Real value of pay received.	Real value of pay due.
To my pay as quartermaster, to the 31st of December, 1777.....	12	\$27 50	\$330 00	2.065	.433	139.590	205.410
To my pay as quartermaster, to the 31st of December, 1778.....	12	27 50	330 00	5.882	.170	56.100	273.900
To my pay as quartermaster, to the 30th of May, 1779.	5	27 50	137 50	15.45	.0542	7.452	130.048
							604.358

"This paper we cannot consider as competent evidence against the United States. It is not proved to be in the handwriting of Thomas Williams. If it be in his handwriting, it is a mere statement of his claim, and as such is not proof of a debt. It is not authenticated in any way or in any manner, and is not even signed by him. It is entitled to no more weight than if it had been copied into the petition as part of his claim, and of course, without additional proof, we cannot come to the conclusion that he has made out any cause of action against the United States.

"But, even if the claimant had made out a cause of action, it is barred by the resolutions and acts of Congress which have been so distinctly stated in the cases *Chamberlains vs. the United States*, and *Marnay vs. the United States*, that a repetition of them is unnecessary."

Mr. JONES, of Tennessee. It seems, from the reading of that opinion of the court, that they have decided this case upon its merits. If the claimant is barred by the judgment of the court, it is not in consequence of the application of the statute of limitations.

Mr. THOMPSON. The gentleman is mistaken entirely in regard to this case. If he will read carefully the opinion of Judge Gilchrist, he will see that the first claim is alleged to be a good claim, but barred by the statute of limitations. He says "it is not alleged or proved that the claim was ever presented to the Treasury before the 1st day of May, 1794, and in accordance with the decision in the cases before mentioned, the claim is now barred by the statute of limitations, and the claimant has no cause of action." Now, sir, he does not base his rejection of the claim upon the ground that it is inequitable, but simply upon the ground that it was not presented in time, and is, therefore, barred by the statute of limitations. In relation to the second claim, it relates to depreciation on pay certificates which the claimant took. The judge says the amount of those certificates does not appear, and still he admits that the calculation which was made is evidence against the United States. If, then, it be evidence against the United States, it would be the foundation of a valid claim based upon it unless barred by the statute of limitations in that case as well as the other. But the judge says, in that part of his opinion, that if this were taken as evidence and the case made out, the statute of limitations would bar it. Both these claims are therefore upon precisely the same footing as that which has just been laid aside to be reported to the House to be referred to the Committee on Revolutionary Claims, and it seems to me equitable and just that this case should take the same course.

I understand, as a matter of fact, that this claim has been frequently presented to Congress, and that other claims of the same description have been allowed; and there is no reason why the course of the Government should be changed in this respect, and the statute of limitations set up to bar just claims.

Gentlemen have said, in reference to other claims, that they delayed the action of Congress

upon more important matters. Now, sir, if such is the fact, why not dispose of these claims, and not have them brought here session after session for our consideration, time after time, and Congress after Congress, with no redress or relief? But, sir, while upon what are denominated important matters, such as Kansas, every gentleman is willing to express an opinion, it is almost impossible to secure the attention of Congress to a private claim, concerning which members are to get no reputation here or standing at home. I hope, therefore, that the statute of limitations will not be set up in this case, but that it will be referred to a committee for investigation, as the last case has been.

In my judgment, sir, it would be illegal to send this back to the Court of Claims, because when it goes back there your statute of limitations stands as a valid law upon your statute-book, and they have no right to disregard it. They would send it back here with the same report, as often as it was referred to them. I hope it will take the same course as the other case has taken.

The question being on laying the bill aside to be reported to the House with the recommendation that it be referred to the Committee on Revolutionary Claims, with instructions,

Mr. FLORENCE demanded tellers.
Tellers were ordered; and Messrs. WALDRON and CLEMENS were appointed.

The committee divided; and the tellers reported—ayes 78, noes 55.

So the motion was agreed to; and the bill was accordingly laid aside.

Mr. JONES, of Tennessee, moved that the committee rise.

Mr. FLORENCE demanded tellers.
Tellers were ordered; and Messrs. MARSHALL, of Illinois, and HAWKINS were appointed.

The committee divided; and the tellers reported—ayes 41, noes 61; no quorum voting.

The roll was accordingly called; and the following members failed to answer to their names:

Messrs. Adrain, Ahl, Anderson, Arnold, Barksdale, Bingham, Bonham, Boyce, Branch, Burns, Burroughs, Campbell, Caruthers, Chapman, Horace F. Clark, Clingman, John Cochrane, Burton Craige, Davis of Massachusetts, Dick, Edie, Edmundson, Elliott, Eustis, Gillis, Gooch, Goode, Greenwood, Gregg, Grow, J. Morrison Harris, Hickman, Hill, Horton, Hughes, Jenkins, Keitt, Kellogg, John C. Kunkel, Landy, Lawrence, Leidy, Letcher, Maclay, McKibbin, Mason, Matteson, Moore, Oliver A. Morse, Nichols, Olin, Pike, Powell, Roagan, Roberts, Russell, Savage, Seward, Aaron Shaw, John Sherman, Samuel A. Smith, William Smith, Stephens, Talbot, Thayer, Trippie, Warren, Ellihu B. Washburne, Watkins, Wilson, Wood, and Woodson.

The committee then rose; and the Speaker having resumed the chair, Mr. STANTON reported that the committee, having found itself without a quorum, had caused the roll to be called and the absentees to be noted, and had directed him to report the names of the absentees to the House.

One hundred and sixty-two members having answered to their names, which is more than a quorum, the committee resumed its session.

The question recurring on the motion to rise, it was put, and was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. STANTON reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and particularly an adverse report (C. C. No. 109) upon the petition of Joseph Stokely and others, heirs of Nehemiah Stokely, and an adverse report (C. C. No. 110) upon the petition of Jeremiah M. Williams and others, heirs of Thomas Williams; which he was directed to report to the House, with the recommendation that they be referred to the Committee on Revolutionary Claims, with instructions to inquire into the merits of the cases.

Mr. STANTON moved that the House concur in the report of the committee; and on that motion called for the previous question.

The previous question was seconded; and the main question ordered.

Mr. JONES, of Tennessee, moved that the report be laid upon the table.

The motion was disagreed to.
Mr. STANTON's motion was agreed to.

PERSONAL EXPLANATIONS.

Mr. HATCH. I ask the unanimous consent of the House to make a personal explanation.

Mr. GIDDINGS. I object to all explanations

upon that side of the House, since they objected to a similar request by the gentleman from New York [Mr. HOARD] this morning.

Mr. FLORENCE. Oh, I hope not. [Cries of "Go on!"]

The SPEAKER. Objection is made.

Mr. GILMER. I ask the unanimous consent of the House to introduce a bill, of which previous notice has been given, simply for reference. It is a bill to prevent the accumulation of an unnecessary surplus in the Treasury, [laughter,] and to equalize the grants of lands to the several States.

Objection being made, the bill was not introduced.

Mr. GIDDINGS. I objected to allowing the gentleman from New York [Mr. HATCH] to make a personal explanation, solely because objections were made upon that side this morning to allowing the gentleman from New York upon this side [Mr. HOARD] to make a personal explanation. Being assured that that objection will be withdrawn, I withdraw my objection.

Mr. HATCH. Mr. Speaker, when I was absent from the House yesterday, I learn from the report in the Globe that the gentleman from Tennessee made a personal allusion to me. I desire to say it is my right, as a member of this House, to discuss any questions of public interest. No power on earth can deter me in the faithful and fearless discharge of that duty. The other day I spoke of a large party in this country, and their alleged oaths. These oaths, of course, can only be known to the members of the secret societies who compose that party. I did not, and do not propose to, go into questions of veracity with any member of this House, as to their existence, or make my opinions, as to their reasonableness or unconstitutionality, questions of veracity.

In reference to them I sought to bring before the House the most accredited authority for their existence that I knew of, and that was a respectable journal in my State. I do not vouch for their genuineness. The gentleman from Tennessee pronounces these allegations false. If he is right, then he takes issue with my authority, which I have given him.

When I make a personal issue with any gentleman in this House, or out of it, I hold myself personally responsible; but I cannot consent to be diverted from my purpose in meeting an issue of a public nature and character before the whole country, as it is known and understood in my section, involving questions of the constitutional rights of its citizens, by a gentleman rising in his seat and giving to it a personal and local application. It may be true, as the gentleman has stated, that such oaths are not known in Tennessee. I made no such assertion. I did not allege that the gentleman from Tennessee, or any other gentleman, had taken or knew of such obligations. My purpose was simply to express the belief that a party or society exist in it who have taken oaths and obligations, in my judgment, directly in conflict with the Constitution of the United States and the rights of citizens, and cite the authority upon which this opinion is founded.

I feel it to be my duty, Mr. Speaker, to say thus much in order that the country may understand that I have made no personal issue with the gentleman from Tennessee, or any other member of this House; and with this statement I close.

Mr. ZOLLICOFFER. Mr. Speaker, it may be possible that I misapprehended the spirit which animated the member from New York, [Mr. HATCH.] I will say to him, that whilst I felt it due to myself to state to the House that the obligations which he read were not, in letter or in spirit, identical with the obligations I had knowledge of as a member of the American party in Tennessee, yet that that particular point in his speech which attracted my attention, and induced me to feel that I owed it to myself to throw off the imputation, was the charge (taken in connection with the animus which it seemed to me pervaded his speech) that the obligations of the American party were "treasonable and unconstitutional."

I have been in the habit of treating political opponents, and everybody else, with courtesy and respect. All that I ask of them is to treat me with like courtesy and respect.

Mr. GILMER. Permit me to say a word here. I thought my friend from Tennessee would have done well not to have answered the gentleman from New York at all. I thought, when he boast-

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, FEBRUARY 24, 1858.

NEW SERIES....No. 51.

ed in this House that he came here as the representative of foreigners mainly—

Mr. BURNETT. I rise to a question of order. I desire to know by what right the gentleman from North Carolina is speaking?

Mr. GILMER. By the leave of my friend from Tennessee.

The SPEAKER. The gentleman from North Carolina is not in order.

Mr. ZOLLICOFFER. I will say in conclusion—

Mr. GILMER. When the gentleman from New York—

Mr. BURNETT. I call the gentleman to order.

The SPEAKER. The gentleman from North Carolina will suspend; he is out of order.

Mr. GIDDINGS. I must hold gentlemen upon the opposite side of the House strictly to the terms upon which I withdrew my objections.

Mr. BURNETT. I have no objection to the gentleman from Tennessee speaking, and I will listen to him with great pleasure; but I do object to the gentleman from North Carolina speaking.

Mr. ZOLLICOFFER. Mr. Speaker, I will say in conclusion, that it has never been my purpose to make a personal issue with any member, upon any question, if I could well avoid it. But I felt that an exigency had arisen in this case in which I owed it to myself as a man to make a personal issue; but if I misapprehended the gentleman from New York, I have nothing more to say upon the subject.

Mr. GARTRELL. I move that the House do now adjourn.

Mr. DAVIS, of Mississippi, called for the yeas and nays.

The yeas and nays were not ordered.

Mr. GARTRELL. I withdraw the motion.

Mr. BURNETT. I rise to a privileged motion. I renew the motion that the House do now adjourn.

Mr. MORRIS, of Pennsylvania. I beg to remind the gentleman from Kentucky that the objection made on this side of the House, to the personal explanation of a member on the other side, was withdrawn on the understanding that gentlemen on this side were to be at liberty to exercise the same privilege.

Mr. PHELPS called for the yeas and nays.

The yeas and nays were not ordered; only eighteen members voting therefor.

The question was taken; and the motion was not agreed to; there being, on a division, yeas 57, noes 87.

Mr. HOARD. I desire the consent of the House to follow up the reading of the letter this morning, with a few remarks in the shape of a personal explanation.

Mr. JONES, of Tennessee. I call for the regular order of business.

Mr. FLORENCE. I object to the personal explanation. I have not withdrawn my objection.

Mr. J. GLANCY JONES. I ask whether my resolution for the close of debate on the Indian appropriation bill is not pending?

Mr. WASHBURN, of Maine. Does the gentleman from Pennsylvania [Mr. FLORENCE] object to the gentleman from New York making a personal explanation?

The SPEAKER. The Chair so understands. The pending question is on the proposition of the gentleman from Pennsylvania, [Mr. J. GLANCY JONES,] that all debate in Committee of the Whole on the state of the Union on the Indian appropriation bill, terminate at two o'clock to-morrow; and on that the previous question is demanded.

Mr. WALBRIDGE. I move that the House do now adjourn.

Mr. SICKLES called for tellers.

Tellers were ordered; and Messrs. KELSEY, and CRAIG of North Carolina were appointed.

The House divided; and the tellers reported—yeas 44, noes 82.

So the House refused to adjourn.

The question recurred on the motion of Mr. J. GLANCY JONES to close debate.

Mr. J. GLANCY JONES. The motion made

by me this morning was to terminate debate in Committee of the Whole on the state of the Union on the Indian appropriation bill, to-morrow at two o'clock. I propose now to fix Wednesday at two o'clock. That will allow the whole of Tuesday and part of Wednesday. On that I demand the previous question.

Mr. WASHBURN, of Maine. I move to lay the resolution on the table.

Mr. J. GLANCY JONES. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SICKLES. I ask the gentleman [Mr. J. GLANCY JONES] to withdraw the call for the previous question, and I will renew it.

The SPEAKER. The question is not debatable anyhow.

Mr. SICKLES. I want to make a statement to the House, which will not occupy a moment.

Mr. DEAN. I move that the House do now adjourn.

The question was taken; and the motion was not agreed to; there being, on a division—yeas 59, noes 87.

So the House refused to adjourn.

Mr. SICKLES. I ask permission to make a statement, in reference to the misunderstanding under which my colleague [Mr. HATCH] was allowed to make his explanation.

Mr. BURNETT. I object.

Several VOICES. Withdraw your objection.

Mr. BURNETT. I have reasons satisfactory to myself for making the objection, and I do not withdraw it.

Mr. SICKLES. I desire to state that the terms on which the gentleman from Ohio [Mr. GIDDINGS] withdrew his objection to the personal explanation of my colleague, [Mr. HATCH,] were that objections should be withdrawn to the personal explanation of my colleague, [Mr. HOARD.] I desire to see that arrangement honorably carried out by this side of the House. I therefore ask that the same courtesy shall be extended to one gentleman as was extended to the other.

Mr. JONES, of Tennessee. I ask for the regular order of business.

The SPEAKER. Objection being made, the gentleman cannot proceed with his personal explanation.

Mr. HOARD. Then I only wish to say that I am surprised that this small courtesy should not be allowed me.

Mr. JONES, of Tennessee. I object.

Mr. HOARD. Then I rise to question of privilege. I submit the following resolution:

Whereas, a statement has been made by a member of this House, importing that the Hon. Mr. BURNS, of Ohio, had stated to him, in a conversation on the subject of his vote on the resolution of Hon. Mr. HARRIS, of Illinois, to commit to a select committee the President's message on the Kansas investigation, that he was to have certain official patronage, or appointments to office, at his disposal; and whereas, the Hon. Mr. BURNS had previously been free in his avowal of sentiments, with which his vote on that subject was in conflict, thus furnishing ground to suspect that some improper influence had been exerted to bias the said member's official action as a member of this House: Therefore,

Resolved, That a committee of five be appointed by the Speaker to inquire and investigate whether any improper attempts have been or are being made, directly or indirectly, by any persons connected with the executive department of this Government, or by any other person, with their advice or consent, to influence the action of any member of this House upon any question or measure upon which the House has acted, or which it has under consideration, with power to send for persons and papers, and with leave to report at any time, by bill or otherwise.

Mr. Speaker, the letter which was read at the Clerk's desk this morning, though dated yesterday, was received by me night before last.

Mr. BURNETT. I rise to a question of order. Is the private letter to which the gentleman refers a matter of privilege to which the gentleman can speak, and has he a right to answer that private letter in a speech upon this floor?

Mr. HOARD. I am explaining my resolution.

Mr. SICKLES. Under the precedent of the other day, it will be for the House to decide whether it is a question of privilege or not.

Mr. BURNETT. I have not asked the gentleman from New York for his opinion about the matter. I make the question that the resolution presented by the gentleman is no question of privilege. There is no charge contained in the preamble or resolution whatever against any member. It cannot be made a question of privilege unless a direct charge is made.

The SPEAKER. The Chair, following the precedent which was adopted the other day, and which he finds, upon examination of authorities, is fully sustained by the precedents of the House, will submit the question to the House in this form: "Shall the resolution be received and entertained upon the ground that the privileges of the House are involved?" The Chair is of opinion that the question is debatable, and the gentleman from New York is entitled to the floor.

Mr. HOARD. Mr. Speaker, the letter read this morning by the Clerk, although dated yesterday, was received by me night before last, and I endeavored, yesterday, to obtain the floor to reply to it. I take the earliest opportunity to respond to it.

I am informed that the Hon. JOSEPH BURNS, of Ohio, had been open in his condemnation of the Lecompton constitution, and that, after the vote upon raising the select committee for investigation upon that subject, on which occasion he voted against the friends of the resolution, he [Mr. BURNS] said that certain executive patronage, or appointments to office, were to be at his disposal. This is the substance, according to my information, of the admission made by Mr. BURNS to an honorable member of this House, upon being inquired of how he came to give such a vote.

In calling the attention of the House, the other day, to the subject out of which this letter has grown, I was actuated by no feelings of personal unkindness towards any one, and especially toward Mr. BURNS, whom I do not know by sight.

The charge that I made on Friday last, was, that I believed the executive department was attempting to influence the votes and action of members of this House, by improper offers of the patronage of the Government; and I cannot consent that attention shall be diverted from the real and important questions to any incidental side issue that may spring out of it. This opinion was founded upon various circumstances which had transpired, and some of which I stated when the resolution was offered for a committee of investigation. For reasons then expressed, I thought these circumstances and reports involved the dignity, prerogatives, and independence of this House, and that it was essential that the House should institute an investigation, in order that those who had been implicated might have the opportunity to clear themselves of suspicion, if innocent, and that this House might assert its constitutional rights and independence.

So far as I had given any currency or countenance to these reports by bringing them to the attention of the House, I should have felt myself bound to make the most ample reparation in my power, if the charges contained in those reports had been found to be groundless. But so far as I have been able to investigate the case of Mr. BURNS, the information justifies the charge made here on Friday last.

The honor of this House, and justice to its members, in my opinion, now demand an investigation of the facts in this, and in every other case of a similar character that may come to light; and in the hope that the House will concur in that opinion, I have offered this resolution.

Mr. Speaker, the Administration have the majority in this House; and it is for that majority to decide whether these charges shall be investigated or smothered.

Mr. TAYLOR, of New York, moved that the House adjourn.

Mr. BURNETT. If the gentleman will yield to me for a moment, I will renew the motion to adjourn.

Mr. TAYLOR, of New York, withdrew the motion to adjourn.

Mr. BURNETT. I do not intend to occupy the time of the House but for a moment or two. The reason why I objected to a personal explanation by the gentleman from New York was, that I well understood what was to follow—it. I am opposed to gentlemen bringing their personal difficulties upon the floor of this House. If a man denounces me as a slanderer, and charges that I have traduced his character, I know how to meet that sort of charge; I will never seek to stab him indirectly. I will meet him face to face, to settle it as all such questions ought to be settled by honorable men.

I knew this thing was to come up under the guise of a privileged question. I knew that an effort was to be made, under the pretense of a question of privilege, to raise a committee to investigate a charge made against a member of this body, who, in a private letter, addressed to the member from New York, told him: "Sir, the charge you made on last Friday is false and slanderous in its character, and I hold myself responsible for what I say." The gentleman who wrote that letter is absent. The gentleman from New York, instead of responding to the letter addressed to him as an individual, as it should have been replied to, brings it into this House; and, without any action on the part of the gentleman from Ohio, and without his consent, makes it public. It was a private letter to the gentleman from New York, who made the charge, declaring that that charge was false and slanderous, and that for so branding it the writer was responsible. Instead of responding to that letter, the gentleman from New York comes here and spreads it upon the record, and makes it a part and parcel of our proceedings. Then, he claims the right to make a personal explanation to meet that private letter. I am always ready to give every man a fair and full opportunity to vindicate himself from charges of a public character. I will never hesitate, by my vote, to vindicate the character and reputation of any member upon this floor; but I will never permit any man, by my vote, to raise a committee, without good cause, to blast and ruin the character and reputation of one of my peers.

In the response read by the gentleman from New York to this House, what is the charge? The charge is, that in a private conversation with some honorable member upon this floor, (I do not know who,) the gentleman from Ohio admitted that he was to have the control of some executive appointments. Admit that the member understood the member from Ohio to make such an admission: it is a well known rule of law that such testimony is of the weakest character. In what can it result? Here stands the assertion of one member upon one side, who is entitled to credit, that the charge is false and slanderous; and on the other, the gentleman from New York does not take the responsibility of saying that he has any knowledge of the fact charged. He does not come here and say that he knows this man to be guilty of these things, and for that reason demands an investigation. No, sir; he says no such thing; but he becomes the accuser. So long as I have a seat upon this floor I will never give any aid or countenance to such a system of warfare against any man.

This much I wanted to say in vindication of my position in objecting to the personal explanation of the gentleman from New York. I did not want these private matters between the gentlemen brought here. I knew that it was not with the consent of the gentleman from Ohio that it was done. In fulfillment of my promise to the gentleman from New York, I renew the motion that the House adjourn.

The motion was agreed to; and thereupon (at ten minutes after four o'clock, p. m.) the House adjourned until Tuesday next.

IN SENATE.

TUESDAY, February 23, 1858.

Prayer by Rev. J. R. Eckard.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. FITCH presented the petition of Jane Ransdell, widow of James Ransdell, a revolutionary soldier, praying to be allowed the pension due her under the act of 1838; which was referred to the Committee on Revolutionary Claims.

Mr. HAMLIN presented a petition of Grinnell, Minturn & Co., and numerous other merchants and ship-owners of New York, remonstrating against the passage of the bill before the Senate to repeal the laws allowing fishing bounties; which was ordered to lie on the table.

Mr. BROWN presented a memorial of mechanics of the District of Columbia, praying for the enactment of a law for the enforcement of mechanics' liens on buildings in the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. HAMMOND presented additional papers in support of the claim of Richard W. Meade, for the repayment of expenses incurred by him in consequence of the refusal of the commander of the Pacific squadron to allow him to take command of a vessel, in obedience to an order of the Secretary of the Navy; which were referred to the Committee on Naval Affairs.

Mr. KING presented the petition of E. G. Spaulding and others, citizens of the United States, praying that the public lands may hereafter be held for the use of actual settlers, at the lowest possible rates; which was referred to the Committee on Public Lands.

Mr. IVERSON presented an additional paper in relation to the claim of Richard G. Dove, to compensation as messenger in the office of the Third Auditor; which was referred to the Committee on Claims.

He also presented the memorial of Edward Merritt, late an army express rider, in the Mexican war, praying to be allowed a pension or other compensation, for services rendered and injuries received in public service; which was referred to the Committee on Pensions.

Mr. JONES presented a memorial and joint resolution of the Legislature of Iowa, in favor of additional mail facilities in that State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of Iowa, praying for a grant of land to aid in the construction of the McGregor, St. Peters, and Missouri River railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. YULEE, it was

Ordered, That the memorial of Isaac Varn, sr., and the petition of David L. Palmer, of the firm of Palmer & Ferris, on the files of the Senate, be referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Eliza A. Merchant, submitted a report, accompanied by a bill (S. No. 163) for the relief of Eliza A. Merchant, widow of the late First Lieutenant and Brevet Captain Charles G. Merchant, United States Army. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of Mrs. Jane M. McCrabb, submitted a report, accompanied by a bill (S. No. 164) to provide for the settlement of the accounts of the late Captain John W. McCrabb. The bill was read, and passed to a second reading; and the report was ordered to be printed.

KANSAS—LECOMPTON CONSTITUTION.

Mr. HALE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Ordered, That two thousand additional copies of the report of the Committee on Territories on the message of the President communicating a constitution for Kansas, with the views of the minorities of the said committee, be printed for the use of the Senate.

MAP OF FLORIDA.

Mr. YULEE submitted the following; which was referred to the Committee on Printing:

Ordered, That five thousand extra copies of the map of Florida, accompanying the report of the Secretary of War, illustrative of the recent surveys for a canal in that State, communicated to the Senate the 11th of June, 1856, be printed.

BILL INTRODUCED.

Mr. JONES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 19) to extend the limitations of the act en-

titled "An act for the relief of citizens of towns upon lands of the United States, under certain circumstances," approved March 23, 1844; which was read twice by its title, and referred to the Committee on Public Lands.

INDIANA YEARLY MEETING OF FRIENDS.

Mr. PUGH. On Friday, on the motion of the Senator from New York, [Mr. SEWARD,] Senate bill No. 46 was laid on the table, instead of being postponed. I move that it be taken up, and restored to its proper place on the Private Calendar, simply that it may not lose its chance. I suppose the Senator intended to move to postpone it until the next private bill day. It is a bill to grant the right of preemption in certain lands to the Indiana Yearly Meeting of Friends.

The motion to take up the bill was agreed to; and its further consideration was postponed until to-morrow.

LAKE PEPIN RESERVATION.

On motion of Mr. STUART, the bill (S. No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land in the Territory of Minnesota belonging to the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854, was read a second time, and considered as in Committee of the Whole.

It proposes to amend the act of July 17, 1854, so that the body of land known as the half-breed tract, lying on the west side of Lake Pepin and the Mississippi river, in the Territory of Minnesota, and which is authorized to be surveyed by that act, shall be subject to the operation of the laws regulating the sale and disposition of the public lands, with a proviso that, when any of these lands are claimed by preemption, under settlement and cultivation, heretofore made, proof and payment shall be made within three months after the passage of the act; and when any of the lands come within the provisions of the act of 23d May, 1844, "for the relief of citizens of towns upon lands of the United States, under certain circumstances," such proof and payment shall be made within three months after the passage of the act; and, in either case, if the entries are not made at that time, the claim shall be forfeited.

The provisions of this law are not to extend to any tract or subdivision which may have been settled upon, in good faith, by, and is in the occupancy of, any of the half-breeds or mixed bloods, which lands, so settled upon and occupied by the half-breeds, are expressly declared to be subject to no other disposition than location by the "certificates" or "scrip" authorized to be issued by the act of 1854, for the benefit of these Indians.

Mr. STUART. I am instructed by the committee to offer two or three small amendments. The first is in line fourteen, to strike out "three" and insert "twelve" so that it will read, "proof and payment shall be made within twelve months." Then, in line two of the second section, I move to strike out the word "law" and insert "act." I also move to add at the end of the second section the following:

Nor shall the provisions of this act extend to any lands located prior to its passage on half-breed scrip, without the consent of the settler or settlers thereon.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in. The bill was ordered to be engrossed and read a third time. It was read the third time, and passed.

LIABILITY OF SHIP-OWNERS.

Mr. STUART. I ask the Senate to take up another bill of an important character, reported from the Committee on Commerce. It is the bill S. No. 77.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 77) to amend an act entitled "An act to limit the liability of ship-owners and for other purposes," approved March 3, 1851.

Its object is to declare that the provisions of the "act to limit the liability of ship-owners, and for other purposes," approved March 3, 1851, shall be applicable to the owner or owners of steam-boats, sail vessels, and propellers used in the nav-

igation of the great northern lakes, in the same manner and to the same extent as the owners of such vessels upon the ocean.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DISTRICT JUDGES.

Mr. PUGH. I move that the Senate proceed to consider the first bill on the Calendar—Senate bill No. 64. It is a bill that ought to be passed promptly.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 64) to equalize the salaries of certain judges of the courts for the District of Columbia, and for other purposes.

Mr. PEARCE. I desire to have that bill postponed for a while. I wish to move an amendment to it. I am exceedingly unwell to-day, and unable to attend to it. I should like to have it passed over. I move that it be postponed until to-morrow.

The motion was agreed to.

GENERAL LA FAYETTE'S LAND WARRANTS.

Mr. SLIDELL. The first bill on the Private Calendar was postponed on Friday last at my instance, on account of the absence of my colleague. It is the bill (S. No. 71) to amend an act entitled "An act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845. I ask the Senate now to consider that bill.

The motion was agreed to, and the Senate proceeded as in Committee of the Whole to consider the bill.

It proposes to amend the "Act to authorize the relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845, that the legal holders or assignees of the warrants Nos. 4 and 5 may relocate them upon any of the public lands of the United States subject to entry at private sale at the sum of \$1 25 per acre; but such location is to be made in accordance with the legal divisions and subdivisions of the public surveys.

Mr. SLIDELL. The reason why I asked for the postponement of this bill when it was last before the Senate, was, that I desired to offer an amendment. I do not think the bill in its present shape does justice to the merits of the application. It is to enable the present holders of land warrants that were granted to General La Fayette, and which were entered on lands that proved not to be subject to entry, to relocate them. The Committee on Private Land Claims have reported a bill giving relief; but not to the extent to which I think it ought to be carried. They confine the locations to lands subject to private entry at \$1 25 per acre. I think the same privilege ought to be accorded to the present holders of these warrants as were given to General La Fayette; and that the right of location ought to be extended to all public lands not subject to some special reservation. I have consulted with my colleague, and he agrees with me as to the amendment I now propose to offer; and I presume there will be no objection to it on the part of the Senate. The faculty of entering his warrants on any land was given to General La Fayette in 1804; and these men, after having made various attempts to locate their lands, find themselves now, after having paid a large price for these warrants, if this bill be passed in its present form, with the simple privilege of entering lands at \$1 25 per acre. My colleague, on a further examination of the case, assents to the amendment. I move to strike out the words "subject to entry at private sale at the sum of \$1 25 per acre," and insert "not specially reserved." I presume that will be sufficient.

Mr. PUGH. That seems to me a very important amendment, changing the character of the bill, and I think the Senate ought to hesitate before agreeing to it. I am not aware that such warrants have been heretofore entered except on lands subject to private entry.

Mr. SLIDELL. I suggest to the Senator from Ohio that if he hears the report read, he will be satisfied.

Mr. BENJAMIN. I might perhaps satisfy the gentleman from Ohio with a word or two. These land warrants were originally issued in favor of General La Fayette. He was authorized to locate

them on any lands of the United States, to have them surveyed to suit himself anywhere, and to locate the warrants anywhere, without reservation, even on unsurveyed land. He was also authorized to sell his warrants. He sold his warrants for a price largely exceeding \$1 25, for which public lands subject to entry can be obtained; and these warrants were located under the act of March 27, 1804. The location of warrants numbered three, four, and five, was found to be on lands which were claimed by private individuals, and their claims were subsequently confirmed. The location was therefore null.

Subsequently, in 1845, Congress authorized a relocation. The warrants were again located; but on application for a patent the locations on two of the warrants were canceled by the Commissioner of the General Land Office, because the lands were covered by live-oak timber, so that here again was a special reason for not allowing the location. This is a third attempt to locate these warrants; and now instead of giving the entire privilege allowed General La Fayette originally, which was to select lands anywhere, we confine these holders of his rights to the location of lands which have been already surveyed and that are not reserved, but we allow them to select lands which have not yet been offered for sale. We limit the right of General La Fayette's assignees, but we give them something more than the right to enter the lands offered for sale at \$1 25, because that, in reality, would only give them ninety to one hundred cents an acre for their rights—the price at which a land warrant can be bought. These parties paid large sums, much exceeding the ordinary price, in consequence of the privilege given to General La Fayette to locate them anywhere. In fact the words which my colleague proposes to strike out, were inserted as the usual formula from our Committee on Private Land Claims without any special intention so to limit the right of the parties making the application. I think their equity is a very clear one, and I have no objection to my colleague's amendment.

Mr. PUGH. Will the Senator tell me the date of the land warrants and the acts?

Mr. BENJAMIN. The first was in 1804 and the second act was in 1845.

Mr. PUGH. But what was the date of the original warrant which could be located on any land?

Mr. BENJAMIN. 1803.

Mr. PUGH. Since that time most of the public lands have been surveyed.

Mr. COLLAMER. I wish to ask the Senator from Louisiana whether the bill as proposed to be amended, will extend the privilege of locating these land warrants on the alternate sections reserved in the railroad grants. They are not reserved after a certain time, but they are put at \$2 50 an acre. Would not this authorize the parties to locate on those lands?

Mr. BENJAMIN. I think it would, and I think it is far less than the rights originally intended to be granted to General La Fayette. I happen to be familiar with this subject from the fact that I was the counsel in the litigation for many of these land warrants which were originally located by General La Fayette and his agents immediately around New Orleans, on city lands. Many of these locations held good, and the land which was covered by them is worth thousands of dollars per acre, instead of hundreds of cents. Three or four of the warrants were placed on land which ultimately was confirmed to private claimants. The land thus located would have been worth probably one hundred thousand dollars or more on these three warrants. The location failed by reason of private claimants making good their title under the former French or Spanish Governments. The relocation, if made by General La Fayette, would have been made under the statutes of the United States upon any land in the United States belonging to the Government which he had a right to select himself, to have surveyed, and to ask a patent for. It was a special favor granted to him. When the relocation was made in 1845, the Commissioner of the General Land Office decided that live-oak timber being especially reserved by statute from entry, he would not permit the location to be on such land. This is now a third attempt at the location. These parties have all the rights of General La Fayette and I think that the amendment proposed by my

colleague restricts them within much narrower bounds than he himself would have if he were still owner of the warrants, because he or his heirs could select any land, but his assignees were not allowed this benefit by the General Land Office, on what ground I am not able to state. I think, however, their equity is a very clear one.

Mr. PUGH. I should like to look into this bill. I prefer to have it postponed. It is not usual for the Committee on Private Land Claims, I believe, to report a bill allowing warrants to be located on public lands; that subject rather belongs to the Committee on Public Lands; but I make no objection on that score. It is very evident this is claimed to be an exceptional case; and under the bill as proposed to be amended, these land warrants may be located on alternate sections, which we have reserved in the railroad grants. I believe my friend from Louisiana acknowledges that the bill does go to that extent.

Mr. BENJAMIN. After those lands become hereafter subject to entry.

Mr. PUGH. But the amendment is to strike out that, and to authorize them to be located on any public lands not specially reserved; so that, if we to-morrow pass a bill which we had up at the last Congress to authorize the Secretary of War to abolish certain military posts, these claimants may locate on the lands occupied by those posts the next day after the Secretary of War finds the posts to be unnecessary. I do not fully understand it; but it seems to me we are leaping in the dark by conferring a power as great as this. I am sure I would do almost anything for the heirs of General La Fayette; and I would go as far as any Senator to give the purchasers the full consideration, and even more than they have paid for these warrants; but I am apprehensive it will interfere sadly with the general system of surveying and exposing the public lands to sale. My own State has been harassed by the Virginia military titles, where every man was his own surveyor, and located to suit himself; but I think the owners of that property have paid for it in the amount of litigation they have had to undergo in order to establish anything like a rule of possession. I am very much disinclined to allow any holder of a warrant to locate it on his own survey. I prefer that it should be confined to public lands which have been surveyed; and I prefer also that some of the public lands should be excepted out of the grant; for instance, the alternate sections of railroad lands.

Mr. SLIDELL. I will state to the Senator from Ohio that the bill confines the entry expressly to lands that have been surveyed.

Mr. PUGH. I was under the impression that that had been stricken out.

Mr. SLIDELL. No, it is not. If the Senator from Ohio has any special reservation to make, I have no objection that it should be embodied in the amendment, if he fears there will be any abuse.

Mr. PUGH. I suggested two cases. I think it ought not to be applied to alternate sections on railroads. I think they ought not to have the privilege of locating on any site that has been a military post, or anything of that sort. They might have taken up the Fort Snelling property, before it was sold, and located the warrants there, under this provision.

Mr. SLIDELL. Of course I am not as familiar with the sale of public lands as the Senator from Ohio; I believe he is a member of the Committee on Public Lands; but as I understand it, neither of the cases to which he alludes will come within the purview of this bill. The alternate sections on lines of railroads are already entirely exempted by the operation of law. When that reservation ceases, this faculty will apply to them. As regards military posts, I am satisfied that under no circumstances can they ever be brought into market or be subject to entry or location except under the authority of the War Department, and perhaps by the legislation of Congress. I am quite sure that his apprehensions are imaginary as regards these two cases; but if he wishes to guard the bill against any possible abuse, I have no sort of objection to any amendment that he may propose. In order to afford time to the Senator from Ohio to do that, let the bill be postponed until to-morrow, and then he can offer such amendment as he thinks necessary.

The motion to postpone was agreed to.

TENNESSEE RESOLUTIONS.

Mr. BELL. I desire to present a certain preamble and resolutions, passed by the Legislature of the State of Tennessee; and I ask that they may be read.

The Secretary read them, as follows:

Whereas, the act of 1820, commonly called the Missouri compromise act, was inconsistent with the principles declared and laid down in the acts of 1850, better known as the compromise acts of that year; and, whereas, the Missouri compromise act was a palpable wrong done to the people of the slaveholding States, and should have been repealed; and whereas, the principles of the Kansas-Nebraska bill meet our unqualified approbation, and should have received the cordial support of our Senators and Representatives in Congress. Whereas, one of those Senators, Hon. JOHN BELL, in a speech delivered against the Kansas-Nebraska bill, May 25, 1854, said: "A noble, generous, and high-minded Senator from the South, within the last few days before the final vote was taken on the bill, appealed to me in a manner which I cannot narrate, and which affected me most deeply. The recollection of it affects and influences my feelings now, and ever will. I told the honorable Senator that there was one feature in the bill which made it impossible that I should vote for it, if I waived all other objections. I said to others who had made appeals to me on the subject, that while it would afford me great pleasure to be sustained by my constituents, yet, if I was not, I would resign my seat here the moment I found my course upon this subject was not acceptable to them." As for my standing as a public man, and whatever prospect a public man of long service in the councils of the country might be supposed to have, I would resign them all with pleasure. I told that gentleman, that if upon this, or any other great question affecting the interest of the South, I should find my views conflicting materially with what should appear to be the settled sentiment of that section, I should feel it my imperative duty to retire. I declare here to-day, that if my countrymen of Tennessee shall declare against my course on this subject, and that shall be ascertained to a reasonable certainty, I will not be seen in the Senate a day afterwards." Therefore,

Be it resolved by the General Assembly of the State of Tennessee, That we fully concur with the Hon. JOHN BELL, as to the duty of a Senator, when the voice of his constituency has decided against him on a question materially affecting their interest.

Be it further resolved, That in our opinion, the voice of Mr. BELL's countrymen of Tennessee, in the recent elections, has declared against his course on the Kansas-Nebraska bill, a question of vital importance to the South.

Be it further resolved, That our Senators in the Congress of the United States are hereby instructed, and our Representatives are requested, to vote for the admission of Kansas as an independent State, under what is termed the Lecompton constitution, transmitted to the Senate and House of Representatives in Congress assembled, by President Buchanan in his message to them, dated the 2d of February, 1858.

Be it further resolved, That the Governor of this State forward a certified copy of these resolutions to our Senators and Representatives in the Congress of the United States. Adopted February 10, 1858.

DANIEL S. DONELSON,
Speaker of the House of Representatives.
JOHN C. BURCH,
Speaker of the Senate.

Mr. BELL. Mr. President, the novel and, as I think, extraordinary character of these resolutions will, I trust, be a sufficient apology for me, if I should extend my remarks somewhat further on them than, under other circumstances, might seem appropriate and meet for such an occasion.

The first thing which I think will strike the attention of every gentleman who has listened to the reading of the preamble, and the two resolutions of the series which have been presented to the Senate, will be the time or date of their adoption by the Legislature of Tennessee, which was on the 10th of this month, nearly four years after the passage of the Kansas-Nebraska act. You know, sir, that it has been usual, in the past history of this country, when the constituents of a representative in either branch of Congress feel themselves aggrieved by his course or vote upon a question materially affecting their interests, to express their displeasure and declare their censure promptly, or within some reasonable space of time after the knowledge of the obnoxious course or vote has reached them. This is sometimes done by calling public meetings of the people for that purpose; in other instances, by resolves of the Legislature, when it shall be assembled, if it be not in session when the political transgression occurs. In this case, in regard to my vote on the Kansas-Nebraska bill, there was no public meeting of the people called to censure or disapprove my course, nor was there the least excitement among the people on the subject; nor has there been any resolve of the Legislature of my State upon the subject until the present month; nor am I aware that I have lost a political friend on that ground since the passage of the Kansas-Nebraska act.

The next thing which will be apt to strike the attention of those who have listened to the read-

ing of the first clause of the preamble of these resolutions with some surprise, is the uncommon hardihood manifested by the majority of the Legislature of my State to indorse and approve, unconditionally, the repeal of the Missouri compromise, after the mischievous results of that measure have become so patent and unmistakable in the developments of the last four years. They cannot plead ignorance of those results, particularly after the President had duly and frankly informed them, in his late special message, that one of those results has been the convulsion of the Union, and has shaken it to its very center; that it has lighted up the flames of civil war in Kansas, and produced dangerous sectional parties throughout the Confederacy—(I use the language of the President.) The question whether Kansas shall become a slave State or a free State, has riveted the attention of the whole people to such a degree that no person has thought of anything else. Those who supported this preamble and resolutions may have had some reason to ignore the statement of the President, which they do not care to give to the public in express terms. That purpose may be easily conjectured. But I pass on.

The majority of the Legislature say, in the first resolution of the series—

"That we fully concur with the Hon. JOHN BELL as to the duty of a Senator when the voice of his constituency has decided against him on a question materially affecting their interest."

The second resolution declares—

"That in our opinion the voice of Mr. BELL's countrymen of Tennessee, in the recent elections, has declared against his course on the Kansas-Nebraska bill, a question of vital importance to the South."

I agree that the Kansas-Nebraska bill was a question of the deepest importance to the South; but I disagree with the majority of the members of the Legislature of Tennessee in the opinion expressed by them that the people of Tennessee have declared against my course in the recent elections. I take it for granted that by the "recent elections" referred to in the second resolution—the three general elections which have taken place in Tennessee since the passage of that act, are included under the descriptive adjective "recent;" and I proceed briefly to notice those elections in the order in which they occurred.

The first election which occurred in Tennessee after the passage of the Kansas-Nebraska act, was in August, 1855, about fifteen months after the passage of the Kansas-Nebraska act. The staple of the discussion in the canvass which preceded that election was Americanism, or the principles and formula adopted by the party which had recently sprung up in the country. This was so on both sides, *pro* and *con*. The Kansas-Nebraska bill may have been adverted to to some extent, but I never heard during the pendency of that election, that the Kansas-Nebraska question was made one of any interest except in those districts the former representatives of which had voted against that bill. The result of that election was that the party in opposition to the Democracy, in other words the Americans and Whigs who did not belong properly to the American party, but who stood in opposition to the Democracy, carried the majority of the members of both Houses of the Legislature; but the Democratic candidate for Governor defeated the American candidate by some three thousand votes. I have not recently referred to the statistics on this subject, and state them from my present recollection. I will not go into the particular causes which led to the defeat of the American gubernatorial candidate in that election, considering it inexpedient under the circumstances, because to do so might lead to a discussion between my colleague and myself, who was the candidate of the Democratic party in that election.

In the canvass of that election I did not participate, even to the extent of making a single speech, not feeling called upon to do so by any attack upon my course upon the Kansas-Nebraska bill. Nor was I called upon by the leaders of the American party to say anything in their support, they feeling the utmost confidence in their strength to carry the election without any aid from me.

If I were technically minded on such a subject as this, I might bar all further proceedings against me as to any pledges I may have made by pleading that, upon questions of political transgression, after so great a lapse of time, there ought to be no reckoning; but I disdain such a protection.

The next election which came off was in November, 1856—two years and six months after the passage of the Kansas-Nebraska bill. In that election, as you know, sir, Mr. Fillmore was the candidate of the American party; Mr. Buchanan of the Democratic party. In the canvass which preceded that election, Americanism, as in 1855, was the principal subject of controversy. The Kansas-Nebraska bill, however, was occasionally introduced in the public discussions, and, to some extent, debated; but, in the progress of the canvass, both these subjects, on the part of the leaders of the Democracy, came to be but little dwelt upon; and, towards the close of the canvass, they may be said to have been superseded altogether. The strong indications developed in the canvass at the North of the probable success of Mr. Frémont, the candidate of that formidable Republican party which has had such potent effects in the elections of the South, furnished a more powerful and effective argument for the Democratic leaders; and they availed themselves of it. Both Americans and Whigs were appealed to, in the most forcible and pathetic strains, to waive all party prejudices, past and present, to discard all prejudices and party predilections, and rally to the support of Mr. Buchanan, who, it was insisted, could alone defeat the election of Mr. Frémont. It was declared that Mr. Fillmore had no chance to be elected; and that, if it should happen that Mr. Frémont should be elected, the probability was that the Union would be dissolved; or, at all events, that the interests of the South, particularly in relation to the subject of slavery, would be sacrificed.

I make these statements without the fear of contradiction from any quarter. After the result of the State election of Pennsylvania was known in Tennessee, thousands of Whigs and Americans, influenced in part by the fears inculcated by the leaders of the Democratic party, and in part by their own reflections on the subject, lost heart, lost confidence in the election of Mr. Fillmore, and went over to the support of Mr. Buchanan. The result was that Mr. Buchanan carried the State of Tennessee; and it was the first time in a period of twenty years that that party had succeeded in a presidential election in that State. It is a significant fact, connected with the subject of these resolutions, that Mr. Fillmore, who had declared that if he had been a member of Congress he would have voted against the Kansas-Nebraska bill, received sixty-six thousand votes from the freemen of Tennessee, under all the apprehensions which had been excited of the election of Mr. Frémont, and that his election would be the signal for the separation of the southern from the northern States. Mr. Buchanan had a majority of only about seven thousand votes. I allude to the fact merely to show how little weight the result of such an election as that could have in determining the question whether my constituents had decided against my course on the Kansas-Nebraska bill.

The next election which took place in Tennessee came off last year, in August, 1857—more than three years after the passage of the Kansas-Nebraska act. It is true that, in that election, the Democracy carried both branches of the Legislature, and that their Governor was elected by a largely increased vote. The fact was, that the American party, and the Whigs who united with them in the recent contests in Tennessee, discouraged and depressed by the unexpected defeat in the fall of 1856, only some six or eight months before, could not be incited to make an active canvass except in a few counties, while in numerous others great numbers of them did not even go to the polls. That I state as a fact notorious in the section of Tennessee in which I reside.

As to the extent to which the Kansas-Nebraska bill assisted the results of that election, I have to state that, so far as I am informed, that subject was made a topic of discussion wherever on the part of the Democracy they believed capital could be made out of it; but only in a single congressional district, that of my late colleague in the House, Mr. Etheridge, was that the main or exclusive question discussed in the canvass. The result of the contest in his district was that he was defeated by a very small vote, according to my present recollection, derived from the public prints; by no more than one hundred and forty-two, or not exceeding one hundred and fifty votes, and

that in consequence of the apathy or over confidence of his friends in one or two counties of a district which embraced seven or eight. What effect it ought to have I will not say; but I will say that, in 1855, eighteen months after the vote given by that gentleman against the Kansas-Nebraska bill, he carried his district and was reelected by an increased vote; getting at that time a vote exceeding his proper party strength in his district. In 1855, I ought to have stated in fairness, that two of the members of Congress who had voted against the Kansas-Nebraska act, were defeated; but from the inquiries I made at the time, I came to the conclusion, which I have not since changed, that their defeat was not the result of their course on the Kansas-Nebraska act as upon the question of the American principles and formula, which was the main point on which that election turned.

From this review of the three several elections in their order which have taken place since the passage of the Kansas-Nebraska bill, I think I am warranted in saying that upon no fair rule of interpretation applicable to such questions, can it be said that my countrymen of Tennessee have declared against my course. But I pass on, sir.

In one of the garbled extracts quoted in the preamble of these resolutions and taken from a speech I made in the closing debate on the Kansas-Nebraska bill, in the Senate, in 1854, and in which I stated the circumstances under which I should feel bound to resign my seat in the Senate, I said, that "if, upon this, or any other great question affecting the interest of the South, I should find my views conflicting materially with what should appear to be the settled sentiment of that section, I should feel it my imperative duty to retire;" implying clearly that to such a sentiment, fixed and settled in the way which I must have had in my mind when I made that declaration, I ought to defer, holding that it was more likely to be sound and correct than my own individual judgment, however well considered; and that if I could not conscientiously conform to such sentiment, I ought to retire. Now, as to the question whether at any time since the passage of the Kansas-Nebraska act there has been any settled sentiment in the South in relation to the wisdom of the Kansas-Nebraska act, I venture to say that at no time since the passage of that measure has there been any settled sentiment of the people of the South in its favor. If you take the result of the several elections which have taken place during the last two or three years in the South as a test of the sentiment of the people on this question, I grant you that a large majority would appear to have been in favor of it; but what are those elections in general, and in almost every instance, but a trial of strength between parties in which many other questions are mixed up with this, both in the South and in the North, so that they show nothing conclusively as to the number of citizens anywhere who approved or disapproved of such a measure? Besides, in several States of the South, it may have been that the sentiment in favor of the repeal of the Missouri compromise appeared too strong to be resisted, and that the opposition, upon principles of expediency, might not choose to make any issue with them upon that subject.

Again, there is another consideration, entitled to great weight, in showing whether these elections afford any proof whatever of a settled sentiment on the part of the people in relation to the Kansas-Nebraska act. There is, in every State of the South, in every community, a large class of quiescent citizens, who follow their party leaders, and vote with them in all elections, and who cannot be moved to investigate or take any interest in questions having only remote consequences. Whatever may have been the sentiment of a majority of the people of the South in the last two or three years on this subject, I venture the assertion now, that if they were all polled, and their free opinions, uninfluenced by party considerations, or interest, or associations, ascertained, an overwhelming majority would pronounce the repeal of the Missouri compromise the most unfortunate measure ever sanctioned by Congress.

I said that the extracts quoted in the preamble from my speech in 1854, were garbled. They are so, as every gentleman will find who will take the trouble to read the whole of that speech. In that speech I said, in reply to the charge of the Senator from Georgia [Mr. Toombs] that I was misrep-

resenting my constituents—I do not refer to it with any displeasure now, but I speak of it as a fact; I stated then that I had but little doubt—I am not certain that I did not state that I believed—that the impressions of the people of Tennessee, my constituents, were at that time in favor of the measure which I was then opposing. In several other passages of that speech I stated in substance that I took my course, relying on the intelligence of the people when time could be allowed them to exercise their judgment in relation to the subject, in the confidence that when they came to understand the provisions and probable objects of that bill, and to see its mischievous consequences, they would sustain me in my course, whatever their impressions might be at that time. There were parts of the context that ought to have been quoted or referred to in the preamble to those resolutions, as furnishing the true interpretation of the extent of what I said in relation to resigning my seat in Congress; but it did not suit the purposes of those who got up this proceeding to do so. I do not wish to speak of any portion of the members of the Legislature with disrespect; but I must say that the preamble and the first two resolutions of the series were got up for the purpose of disparaging me with the public, by giving the solemnity of a legislative declaration to the charge of violated pledges. But, sir, I thank God that neither my character nor my honor is in the keeping of such men. I regard the preamble and first two resolutions as a gratuitous insult in all its circumstances, entirely characteristic of those who plotted it. I do not say this of all who voted for or supported those resolutions.

Now, sir, it gives me pleasure to advert to the third resolution, instructing my colleague and myself to vote for the admission of Kansas under the Lecompton constitution, because I can speak of this with all the respect and consideration with which I would desire to speak of all the acts and proceedings of the Legislature of my State. I have been for a long period of years in the public service as a representative of the people in one or the other branch of Congress; but I have never had occasion to speak publicly of my sentiments on the subject of the right of the Legislatures of the States to control the course or vote of their Senators upon all or any of the questions which may arise in that body, nor shall I enter into the subject at large now. I will not so far trespass on the indulgence of the Senate. This doctrine had its origin, as those who are intimately acquainted with its history well know, under the Confederation, when the States not only claimed, but had the power, to instruct their representatives in Congress, and to recall them too, they being nothing more than ambassadors from independent sovereignties attending a general Congress of the States. That is the origin of the popular notions which have prevailed on this subject. Practically, we know that this doctrine has long ceased to be of any great use in protecting the public interests of the country. I believe (I speak without perfect knowledge on the subject) that this doctrine is incorporated as an article of faith in the creed or political platform of none of the political parties of this day. The late Whig party discarded it altogether. The Democratic party, I believe, still profess the doctrine, particularly in some of the States; but from my observation here, I beg leave to say that I find Democratic Senators obeying or disobeying instructions at their discretion. The truth is, that its general use may be aptly termed an abuse. It is resorted to for the most part as an engine of party and to promote party ends, instead of protecting the public interests of the country. This doctrine, so far from having any support in the Constitution, in my judgment is directly at war both with the spirit and literal provisions of the Constitution as I interpret them. A principal aim of the framers of the Constitution, in giving to the Senate its peculiar structure and organization, was to secure greater stability to the policy of the Government, and greater consistency to the national legislation, than could be expected were both branches of Congress so constituted as to admit an entire change of its members every two years.

The advocates of this doctrine have contended that the right of instruction springs naturally from the relation which exists between the constituent and the representative—a plausible argument; but Senators do not represent the Legislature of their

States. They represent, it is true, the sovereignty of their States—all that portion which is reserved to them after carving out that portion which is conferred on the Federal Government; but, on fundamental principles, that reserved sovereignty does not exist in the Legislature: it is in the people of the State. From my observation of the use which is made of this doctrine of instruction, I should say that the people would be, in general, a much safer depositary of the right of instruction than the Legislature; especially in times when the Legislatures become but little more than political juntas to manage the interests of a party, and to promote party ends.

Then, again, if the position that the right of instruction follows from the relation of constituent and representative, and that the Legislature, having the power to appoint Senators under the Constitution, must be regarded as their constituent, be well founded, it would follow, upon the same principle, that the electoral colleges of the States ought to have the right to control the policy and the measures of the President. They are as much the constituents of the President as the Legislatures are of Senators.

Again, the Constitution expressly provides that all the legislative powers granted by that instrument are vested in a Congress of the United States, to be composed of a Senate and House of Representatives. If the Legislatures of the several States have the rightful power to control the votes and the course of their Senators upon all questions which may arise in the Senate, that provision of the Constitution ought to be amended, so as to read that all the legislative powers herein granted are vested in a Congress of the United States, to be composed of the Senate and House of Representatives, and in the Legislatures of the several States. That would follow as an inevitable corollary. The true theory of the Constitution upon this subject, I think, is, that the Legislatures have been selected as the most convenient and proper instruments, by the framers of the Constitution, to appoint or choose the representatives of the States in the Senate; and that when they have performed that duty, they have no longer any control over them.

From these views it will be seen that I do not acknowledge the instructions of my Legislature as carrying with them any obligation of obedience; nevertheless, there is no member of this body who would be less willing to detract from, or to disparage, or to treat with indifference or disrespect, any expression of the opinions of a legislative body, in whatever form such opinions may be addressed to their Senators and Representatives, whether in the language of instruction or that of recommendation, or any other form which they think proper. Their views and opinions, in all cases, are entitled to respect; and when their opinions, expressed in the form of instructions, or any other form, appear to have proceeded from convictions springing from a full understanding of the subject in hand, in all its bearings and consequences, I would say they were entitled to great weight and influence with the Senator in deciding upon his course in relation to it—nay, sir, in whatever case the expression of the opinions of the Legislature should come to me, formed upon such an understanding of its bearings and consequences as I have described, and involving no constitutional difficulty, I should shape my course in deference to, and in conformity with, that opinion.

But, sir, that is not the present case; and it is unnecessary to inquire under what circumstances of knowledge or of influence this instructing resolution has been adopted by a majority of the members of the Legislature of Tennessee. I know, we all know, that we have not full and satisfactory knowledge of many material and important facts connected with the Lecompton constitution and its presentation here; and I have no reason to suppose that the members of the Legislature of Tennessee had more light or better information than we have here. But if, after availing myself of all the information within my reach, I should find myself constrained, by a sense of duty, to take a course adverse to that recommended by a majority of the members of the Legislature of Tennessee, it will be some consolation to me to know that when the proposition to instruct their Senators in Congress was first debated and brought to a vote in the House of Representatives of the Legislature

of my State but a few weeks ago, it was voted down; and it will still be greater consolation to me to know, under all the circumstances, that at least three fourths, so far as I am informed, of my political friends in the Legislature, and perhaps even a greater proportion to the last, manifested their confidence in me by deciding that, on a question so great and involving such consequences as the present, and in the absence of full information upon the subject, I should be left free to take whatever course, in my judgment, should be best and safest for the protection of all great interests of the country. This they did under circumstances which warrant me in declaring that, by their conduct, they furnished an example of moral courage rarely, if ever, equalled and never surpassed, in the political history of the country.

They represented slaveholding communities; they were themselves at the same time sensitively alive to the consequences of any error they might fall into, which course might compromise southern rights. They sat as members of the Legislature, in the midst of a slaveholding community; and any one can appreciate the embarrassments and obstructions which they had to encounter from the sensitiveness of the owners of slaves, engendered and created by the long-continued agitation of the subject of slavery, to every step or movement of their representatives on a question touching even remotely their rights and interests. To add to the embarrassments arising from this cause, private advices and assurances from persons in Washington, said to be well informed and reliable, were circulated, to the effect that the admission of Kansas, with the Leocompton constitution, would not only make it a slave State for the present, but that it could be maintained permanently as such. Meanwhile, one of the most influential and leading journals of Tennessee, in the interest of the American and Whig parties, took decided ground in favor of the admission of Kansas under the Leocompton constitution, announcing that the time had come when the South must stand up against the North, come what might, and at the same time pointing its battery on every southern man who should dare to take an opposite course; and, in effect, denouncing them as recreants to southern rights, and allies of northern Abolitionists. Sir, it is not surprising that under such a fire there should be some faltering in the ranks of the minority of the Legislature; but yet the great body of that minority moved steadily on in their course of opposition to the policy of instruction.

I will endeavor not to disappoint their generous confidence in me, and as the best assurance I can give of my gratitude and my high appreciation of their noble daring, I will try to imitate it; and I now declare that, whatever might have been done under other circumstances, when I behold the angry storm cloud which now lowers over my country and theirs, if I should cower to it, and desert my post, I should consider myself self-abased—unworthy the confidence of such friends, and false to the great trust confided in me by my constituents. I move that the resolutions be printed.

Mr. JOHNSON, of Tennessee. I regret, sir, that the remarks which have been made on this occasion compel me to say a few words in vindication of the State which I have the honor, in part, to represent. It is a very delicate thing to be compelled to make an issue with a colleague, on this floor or elsewhere; but I do not feel that I should be doing justice to what is commonly denominated the Democratic party of the State of Tennessee, if I were to remain silent and abstain from any reply to, or explanation of, what has been said by my colleague.

In making his remarks, my colleague has taken a course by which he intended to justify himself; and the conclusion of it was that he felt that the instructions of the Legislature of Tennessee were not binding upon him. He acknowledges no obligation of obedience to their instructions. He endeavored to prove, by a history of parties and events there, that the Legislature was not reflecting the popular sentiment. When we come to examine the history of parties in Tennessee, going no further back than 1854, we find that the Kansas-Nebraska question was then a matter of discussion throughout the State of Tennessee. I again repeat that I regret that this discussion has been imposed upon me; but, painful as it may be, I shall not shrink from a duty when it is imposed upon me. But for the remarks made by the Sen-

ator himself on the resolutions which have been presented, I should have been spared the performance of this painful duty.

The honorable gentleman undertakes to show that the Legislature of Tennessee, or the people of the State through their Legislature, have slept too long; that the Kansas-Nebraska bill was passed in 1854, and that it is strange, remarkably strange, that they should have waited until the present period of time before they instructed him. When we go back to the proceedings of the Legislature in 1854, we find that the subject was then before the Legislature prior to the passage of the bill in this House; and the Senate of Tennessee then passed the following resolution:

"Resolved by the General Assembly of the State of Tennessee, That the bill now pending before Congress, called the Nebraska bill, the leading principle of which is that Congress has no right to legislate on the subject of slavery, but that the same is an institution over which the people alone, in forming their organic law, have full power and control, meets our cordial approval and is sanctioned clearly by the principles of the bills creating territorial governments for New Mexico and Utah, and we earnestly request our Senators and Representatives to give it their hearty support."

This resolution passed the Senate with but only one dissenting voice: it went to the House of Representatives; and there Mr. Lamb, a member of the Legislature, introduced a resolution in substance the same. Mr. McKnight, a representative from the county of Rutherford, moved a resolution in lieu of Mr. Lamb's, as follows:

"Resolved by the General Assembly of the State of Tennessee, That we cordially approve of the amendment proposed by the Hon. Archibald Dixon, of Kentucky, to the bill reported to the Senate of the United States by the Committee on Territories, for the organization and government of the Territories of Kansas and Nebraska. That we believe the principle involved in said amendment—that is, the extension of the principles of the compromise to those Territories—just and equitable in itself, and that it is in conformity with the Federal Constitution, with the treaty by which those Territories were acquired, and with the compromise of 1850."

This was introduced by a Whig member of the House of Representatives, and voted for by every Whig in that body. In 1854, while the Kansas-Nebraska act was pending before Congress, the instructing resolution which I first read was passed in the State Senate. The resolution went to the House of Representatives, and there a substitute was offered by Mr. McKnight, who was a Whig member, and every Whig in the Legislature voted for that amendment, which expressed approval of the proposition of Mr. Dixon, of Kentucky, to repeal the Missouri compromise. When we take these two resolutions together, one passed by the Senate of Tennessee in 1854, and the other voted for by every member of the Whig party, to which my honorable colleague belongs, in the House of Representatives of Tennessee, can there be any mistake about public opinion there? Can we pause, for a single moment, in reference to public opinion on that question? It seems to me not.

But my honorable colleague spoke of the contest of 1855. He will pardon me for making the allusion, but I was engaged in that contest. I was one of the candidates for Governor. I canvassed the State from the mountains of Johnson county to the Chickasaw Bluffs in Shelby county. I was in nearly every county in the State; and well do I recollect the exciting events that took place during that canvass. I had a competitor who was eloquent, who is known to many members of this House, who was with me on every stump in the State. One of the leading issues in that canvass was the Kansas-Nebraska bill. I pressed my competitor upon it before every audience, and there were scarcely ever such turn outs in the State as during that canvass. It was one of the main issues between him and me. I pressed him upon it in every single speech I made in the State; and he uniformly declined to take ground. He was afraid to take ground against it or for it, as was then believed, for fear it would injure him in the canvass. He was afraid of coming in conflict with my honorable colleague and others in the State. There was no doubt, in fact, that he harmonized and agreed with the Democratic party on this point; yet he shrank from the responsibility with a view of getting many votes by taking a non-committal course. If he had taken bold ground against the Kansas-Nebraska bill, with the other issues pending in that canvass, he would have been beaten thousands and thousands throughout the State; but from the fact of his taking a non-

committal position on the Kansas-Nebraska act, he was enabled to get many votes which he would not have received if he had taken bold ground on that question.

So far as the canvass of 1855 is concerned, can there be a doubt as to what the popular sentiment was? Can there be any mistake about it? After one of the most bitter and vindictive, and I may say malignant canvasses ever conducted in any State of this Confederacy, the Democratic party were triumphant throughout the State of Tennessee; the popular vote decided that the Democratic party was right. Then there can be no mistake in the history of the question thus far.

In November, 1856, we had another election. Prior to that election, however, the respective parties laid down a platform, and they took ground upon that platform. At Cincinnati, in June, 1856, upon the Kansas-Nebraska question, the Democratic party passed the following resolution:

"Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents; and whenever the number of their inhabitants justifies it, to form a constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

This was laid down as one of the tenets in the Democratic creed. Mr. Buchanan, in his letter accepting the nomination, referred to this question, and placed himself upon that precise issue. In the fall of 1856 the canvass came on, with this as one of the main issues discussed in every district, in every county, in every town throughout the State. Mr. Buchanan's committal to the resolution adopted in 1856, in the Cincinnati convention, was well known, and it was the main issue throughout the State. We had carried the State in 1855, by a handsome majority under the circumstances; and with this the main issue in the canvass of 1856, the electors in the fields, and hundreds of other speakers throughout the State, Tennessee was carried for Mr. Buchanan, on the Kansas-Nebraska issue, by 7,500 votes. In our elections which took place last summer, following the popular impulse, and the decision made by the people of the State in the preceding year, the majority of the Democratic party was increased, and our present Governor, after canvassing the State from one extreme to the other, was elected by a majority of 10,000 votes.

Then can there be any sort of doubt, can there be the slightest semblance of a doubt, as to the opinion of the people of Tennessee on the Kansas-Nebraska question? Can we hesitate for one moment? Can we hesitate as to the opinion on this great question that has distracted and divided the public mind from one extreme of the country to the other? Can we believe for a moment that the people of Tennessee have not made up their minds on this subject? In addition to that, after the recent election for Governor, in which the Democratic candidate triumphed by ten thousand majority, we find both branches of the Legislature reflecting that popular sentiment, and sending it here in the shape of resolutions.

It is of this that my honorable colleague seems most to complain. The Legislature, having a majority of Democrats in both Houses, have by resolutions undertaken to reflect what they conceive to be the will of the people; and to this he objects. Can the Legislature be mistaken as to the will of the people? Have they misrepresented the people? Have they done any injustice in declaring that the will of the people of Tennessee is in favor of the Kansas-Nebraska act, and the admission of Kansas into the Union under the Leocompton constitution?

But my honorable colleague states that these resolutions contain a garbled extract of his speech, and he complains of that. Whether he intends it or not, his remarks are calculated to make the impression that there has been some portion of his speech taken from its context, and that by the separation of some material part he has been represented as meaning something that he did not mean. When we turn to the speech and examine it, we find that no injustice has been done to the honorable Senator. I have before me a pamphlet copy of his speech on the Kansas-Nebraska bill, revised and corrected by himself, I presume, and circulated all over the State of Tennessee, in which I find this declaration:

"I was told, by some of my friends, that if I opposed the bill, such a course would be utterly destructive to me; that

it would lead to a disruption of the Whig party in Tennessee, and furnish a plausible ground for imputations upon my motives. And those friendly warnings were given me up to the time of the final vote in the Senate. I said to some of those who thus kindly interposed their counsel frankly, that if my course, whatever it should be, was not approved by the Whigs of Tennessee, I was not ready to retire from the Senate—that I would do it most cheerfully."

On referring to the resolution introduced by Mr. McKnight, in the House of Representatives of Tennessee, we find that it was introduced by a Whig, voted for by Whigs, and that party as a party in the House of Representatives declared that they approved of the gist, the main point incorporated in the Kansas-Nebraska bill. That is no garbled extract. They did not recite this in the resolution. They did not go as far as they might have gone. But what they did recite will be found in the speech which has been read by the honorable gentleman, and I think the Legislature have done him no injustice in the extract they have quoted:

"A noble, generous, and high-minded Senator from the South, within the last few days before the final vote was taken on the bill, appealed to me in a manner which I can not narrate, and which affected me most deeply; the recollection of its effects and influences my feelings now, and ever will. I told that honorable Senator that there was one feature in the bill which made it impossible that I should vote for it, if I waived all other objections. I said to him, and I said to others who had made appeals to me on the subject, that, while it would afford me great pleasure to be sustained by my constituents, yet if I was not, I would resign my seat here the moment I found that my course upon this subject was not acceptable to them. As for my standing as a public man, and whatever prospects a public man of long service in the councils of the country might be supposed to have, I would resign them all with pleasure. I told that gentleman that if, upon this or any other great question affecting the interest of the South, I should find my views conflicting materially with what should appear to be the settled sentiment of that section, I should feel it my imperative duty to retire."

My honorable colleague said, in another portion of his speech, that he would not be seen in the Senate another day after it was ascertained that his course was not acceptable to the people of Tennessee. Why, then, should the Legislature be complained of? The honorable gentleman says he looks upon the resolutions as an insult. An insult to recite his own language and address it to him in respectful terms, and present it to the Senate of the United States! That is no garbled extract. It is the speech as it is in its context, and reads just as it is. There is the fair, unequivocal declaration, that if his course came in conflict with the views of the people of Tennessee, he would not be seen in the Senate another day. Where is there anything wrong or insulting in reciting that? It seems to me that it is an improper construction put upon the resolutions, and great injustice has been done to those who passed them.

I have shown that the Whigs in the Legislature of the State of Tennessee, in 1854, voted to instruct their Senator to go for Mr. Dixon's amendment, or in other words, the repeal of the Missouri compromise. Now, the honorable gentleman says that repeal has produced agitation and confusion and strife throughout the country; has led to those mischievous influences that have been exerted from one end of the country to the other. As that subject has been introduced, I think we may just as well go into it understandingly and put it right. The query comes up, who is responsible for the passage, in the language of my honorable colleague, "of this most unfortunate act," as he says to-day "that was ever passed by the Congress of the United States?" If its consequences have been mischievous and dangerous, if it has caused a sectional division of parties, and if, as some infer, it may lead to a dissolution of the Union, I ask who is responsible? Where did the repeal of the Missouri compromise begin? In 1850 there was a bill passed establishing a territorial government in New Mexico. One of the provisions of that bill declared that New Mexico, "when admitted as a State, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of admission." In what condition was New Mexico at that time? New Mexico ran up to the forty-second degree of north latitude. You went on to fix the southern boundary, and embraced a certain area as the Territory of New Mexico. Prior to the establishment of the territorial government in 1850, what was the condition of that Territory between 36° 30' and 42°?

In 1845, on the motion of the honorable Senator from Illinois, [Mr. DOUGLAS,] the Missouri com-

promise was extended to the western boundary of Texas, along the line of 36° 30'. The Missouri compromise was in existence to the western boundary of Texas in 1850, when we passed the bill establishing a territorial government for New Mexico. When was the Missouri compromise repealed? Without the incorporation of that provision in the bill establishing a territorial government for New Mexico, the people north of the line of 36° 30' would have been excluded from the introduction of slavery; but in the bill, you say that when they are admitted into the Union, they shall be admitted with or without slavery, as they may prescribe in their constitution. This is clearly a repeal of the Missouri compromise restriction, and enables the people, if they think proper, in the formation of their constitution, to establish slavery in that Territory. The Missouri compromise extended to the western boundary of Texas, along the line of 36° 30', and excluded slavery in the Territory between 36° 30' and 42°. The incorporation of that provision into the New Mexico bill, providing for their admission into the Union with or without slavery, removed the slavery restriction from 36° 30' up to 42°. That is the gist, that is the point, that is the great thing which was gained in 1850; that is what was understood to be the pivot on which all the compromise measures of 1850 turned. It was the removal of the slavery restriction, in fact, from New Mexico, and the establishment of a principle on which all future Territories were to come into the Union as States. We cannot misunderstand this.

Then, who voted for that repeal in 1850? And was not the Missouri compromise then repealed? It was to that extent, and the principle was established of admitting all future States into the Union on the policy of non-interference with slavery, allowing the people to have it or not, as they might prescribe in their constitution. Who voted for the repeal—that most unfortunate act? Who voted for the repeal—a measure which has resulted in bringing on the country so many mischievous consequences? Did not my honorable colleague stand up in 1850 and say "repeal it?" Then we get a beginning-point. Now what extent of territory was that? Some may think there was none there; but what extent of territory is there between 36° 30' and 42° in New Mexico, from which the restriction was removed in 1850? I have taken the trouble to look at the map, and I find that there is enough of territory from which the slavery restriction was removed in 1850 by the repeal of the Missouri compromise to make eight States: in other words, there is enough to make a State larger than eight States in this Confederacy. There are 20,050 square miles in New Mexico, above the line of 36° 30', from which the slavery restriction was removed by the act of 1850, for which my colleague voted. New Hampshire has only 9,280 square miles; Vermont, 10,212; Rhode Island, 1,306; Connecticut, 4,674. Even the State of Massachusetts has only 7,800 square miles; New Jersey, 8,320; Maryland, 11,120; Delaware, 2,120. This Territory was ten times larger than some of these sovereign States of the Confederacy. In 1850 the slavery restriction was removed from this, extent of territory; for it was free territory then, and it was made discretionary with the people to have slavery or not afterwards in forming their State constitution.

Then we come to 1854. The Kansas-Nebraska territorial bill was first reported by the chairman of the Committee on Territories, the Senator from Illinois, and it came before this body. It was then sent back to the committee, and they reported it with a provision—doing what? Making no new law, but simply interpreting what was meant by the act which was intended as a repeal of the Missouri compromise, for they refer to the act of 1850, and establish that as a principle. Then they incorporate another provision in the following words, which are familiar to every member of the Senate:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Another provision of the Kansas-Nebraska act is in identically the same words as are contained in the bill establishing the territorial government of New Mexico. What are they? That when they are admitted into the Union as a State they

shall be admitted with or without slavery as the people may prescribe in their constitution. The words are the same in the New Mexico bill as in the Kansas bill. All you did in 1854 was simply to interpret what you meant by the act of 1850, and that was that the people should come into the Union as a State with or without slavery as they might prescribe in their constitution; that it was not the intention of the act to legislate slavery in or out of the Territory, but to leave the people free to act upon the subject, and it is nothing more nor less than an interpretation of the act of 1850. In this body this identical proposition came up on a motion to strike out a portion of the bill. Mr. Dixon's amendment substantially was incorporated into the bill and perfected a little more by the chairman. A motion was made to strike out that clause, and upon it the yeas and nays were taken. That involved the very measure that my honorable colleague says has resulted in so much mischief, has produced agitation, and may bring about a dissolution of the Union; but he, under the solemn sanction of an oath, with all the lights before him, said "no; let it remain in the bill; repeal the Missouri compromise; that is the correct interpretation of the act of 1850; that is what I voted for then, and that is what I affirm now." If this has been the most unfortunate act, if it has produced agitation, if it has produced distraction, and in the end should bring about a dissolution of the Union, my worthy colleague voted to put that very thing in the bill which has brought about all this agitation throughout this country.

But when the bill was put on its passage, after this provision was incorporated in it, it is true my honorable colleague voted against it; but the point, the gist of the thing, was voted for in 1850, and retained in the act of 1854. On a naked, clean proposition to exclude it from the bill, my honorable colleague said "no, let it remain there;" and now he tells the country that the repeal of the Missouri compromise was an unfortunate act—the most unfortunate that ever passed the Congress of the United States!

I know that, in my own State, and I have no doubt it is the case in most of the States of the Union, there is one party who deny obedience to popular sentiment, and who are always ready and willing, when they can do so plausibly and successfully, to evade the popular sentiment, especially when it comes in conflict with their peculiar notions. I know that there is a party in this country who have a great dread of popular sentiment; and hence many assume the position that the Senate of the United States is placed beyond the reach of the popular will, and should be so. I hold to no such doctrine. I hold that the popular sentiment, when fairly and fully expressed, should be obeyed by public agents in this Government. We assume here that all power is in the people, that they are sovereign; and when the sovereign expresses his will the agent is bound to obey. I know, as well as my honorable colleague, that there is nothing in the Constitution which requires or compels a Senator or Representative to obey instructions, further than what is acknowledged by the respective parties of the country. The Democratic party, as I understand, lay down the doctrine that their public servants are always bound to obey the popular will when it is fairly and fully understood and expressed. Take the expression of the Legislature of Tennessee in 1854; take the expression of the people in 1855; take the expression of the people in 1856; take their expression in 1857; and in every step we find that the popular sentiment is directed to one unerring point; and the people are in favor of the great principle laid down in the Kansas-Nebraska bill. What principle is that? That the people are the source of power; that when they come to form their organic law, it is for them to determine the nature and character of their institutions, without interference on the part of the Federal Government. The Democratic party hold that Governments are instituted for the good of the people; that a Government derives all its just powers from the consent of the governed; that government is made and organized and established for the people's convenience, and not the people for the Government; that the Government should always feel itself under the control of the popular sentiment, instead of the people feeling that they are under the control of the sentiment of the Government; that the Government should always be dependent on the peo-

ple for support, instead of the people looking up to the Government to be protected and supported by it.

There are two parties in this Government, as there have been in all Governments, since men were organized into communities, and the Kansas-Nebraska bill tests the fundamental principle of the two parties in this country. The Kansas-Nebraska bill proclaims the great principle which was incorporated into the Declaration of Independence in 1776, when it issued forth from the old Congress Hall in Philadelphia, as a blaze of light and as a beacon to the patriots of the Revolution. It asserts the great principle which was established by the successful Revolution of our fathers. What was that? That these Colonies are free and independent, and have a right to form their own constitutions, to regulate their own domestic institutions; that they are not dependent on Parliament; that they are not dependent on the Crown. Reversing the old notion of the divine right of kings; reversing the notion that an aristocracy, or a particular class of the community, has a right to govern contrary to the popular sentiment, they established the great principle that the people are sovereign; that the people are the source of power; that all government must be derived from the consent of the governed.

What, however, is the principle set up by those who opposed the Kansas-Nebraska bill? It is that sovereignty must reside somewhere; that it must have a lodgment; that it must have an abiding place; and they say this sovereignty resides in Congress. If Congress, by the passage of an organic law, can determine the nature and character of the institutions of the Territories in the formation of their State governments, do not the Territories occupy, towards the Congress of the United States, the same relation that the Colonies occupied to the Crown and Parliament of Great Britain? The Kansas-Nebraska bill proclaimed, in unmistakable language, that sovereignty resides in the people. That is the difference between the principles of the friends and opponents of that measure.

Nowadays we hear men talk about enabling acts on the part of Congress, as it would seem to develop sovereignty; and some tells us that Congress has sovereignty over the Territories vested in it as a trustee. I say this is reasserting the old doctrine which our fathers repudiated, and on account of which the separation of this Government was brought about from the mother-country. What, sir, an enabling act to authorize those who are sovereign to make a State? Opposition to the Kansas-Nebraska bill is a denial of the exercise of the great principle that man is capable of self-government and has a right to make his own government. My honorable colleague, while he voted to incorporate the mischievous and unfortunate part in the bill, then turned round and recorded his vote against it, thus denying the exercise of that great principle by the people in their original, organic character.

Some gentlemen who argue this question do not seem to be aware of the conclusions that naturally result from their premises. I have laid it down as a rule for myself that where I cannot see results clearly, where I cannot see all the collateral issues that may be brought up; where there is a principle involved, in the language of that philosopher and statesman, Mr. Jefferson, in all doubtful questions I will pursue principles. In the pursuit of correct principle, you can never reach a wrong conclusion. In this discussion there is involved a great principle—a principle of free government. We started in the revolution on the great idea that the people are sovereigns, that the people are capable of self-government, that the people have a right to originate their governments and determine the nature and character of their own institutions. When men get into Congress, however, removed from the people, their view becomes circumscribed; their vision is not quite so acute; they do not discriminate so nicely in reference to the power of the people; they become timid; they dread popular sentiment; they do not discover the true location of sovereign power. A distinguished gentleman of this body has informed us that Congress holds the sovereignty of the Territories as trustee, that it is here in a state of abeyance. The idea of a man who can reason from cause to effect, who can discover the relation and dependencies of one thing on another, who

understands something of that great law which observes the relation of things, talking about sovereignty being vested in the Congress of the United States, strikes me as very singular. What is this Federal Government? It is a government of derived, of limited powers, not possessing a single original power. Can we by any process of reasoning convert the derivative into the primitive? Can we convert the creature into the creator? Whence does this Government derive its power? From the States. It is the agent of the States, exercising delegated but not sovereign power. Where do the States derive their power? From the people. The people are the source, the original lodgment of power. Power is inherent in man now as in the Revolution. When a State is to be formed you must go back to this original power. Congress cannot impart it.

We are told by some that when a Territory has assumed the shape of an inchoate State, it may petition. I am noticing these objections in connection with the bold position taken by my colleague in opposition to the people making their own government, and in opposition to the Kansas-Nebraska bill. It is said that after the people of a Territory have organized themselves, not as a State, but in somewhat of an embryo condition, as a State in incipency, an inchoate State, they may come here with a constitution in the shape of a petition, and that Congress, by a subsequent act, may cure the defects, may overlook the informalities or irregularities, and admit them.

Now, when we come to examine this proposition, it seems to me its absurdity is so striking, that those who wish to be right cannot fail to see it. What can Congress do on this subject? The Congress may—it is not compelled to do so—admit new States. The grant of power to admit a State does not confer on Congress power to make a State. The Congress may admit new States, but it has no power to make one. The idea of a community coming before Congress as petitioners, and Congress, by an act of admission overlooking irregularities and converting that community into a State, is an absurdity; it is a contradiction of terms that cannot be reconciled. Congress cannot admit anything but a State; and it must be a State in the technical and proper sense of that term before Congress can admit it; so that it is not the act of admission that makes it a State. The simple act of admission merely makes it a member of this Union of States. It must be a State before. Congress cannot admit anything but a State; and it is not the act of admission that makes the State.

I see that some of the opponents of the Kansas-Nebraska bill, when hard pressed, when hunting for power in the Constitution in reference to legislation by Congress in regard to new States, abandon that old clause they used to rely upon that "Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States," and consequently can pass laws in reference to territorial governments. They have given that up; they have abandoned that idea; and when hard pressed, they now say that Congress, under the power to admit new States, may make a State. That is reversing all the rules of construction. It is making the incident a much greater power than the express grant. The argument is that the power to admit a State implies that you may make it; but it must be a State before you can admit it, so that there is nothing in that argument.

When we get back to the original meaning of the Constitution, properly speaking Congress has no right to legislate in the Territories, beyond making laws for the disposition of the public lands; but precedent and custom have gone on from time to time, until we have worn into it, and come to regard it as a part of the Constitution. My colleague, with others in taking their stand against the Kansas-Nebraska bill, did so against that great principle which lies at the foundation of this Government, that the people are the true source of power, that the people have the right and ought to determine the nature and character of their institutions in the formation of their constitution. Suppose an honest emigrant goes from the State of North Carolina, or Tennessee, or any of the older States, to Kansas, or any other Territory; he was a source of power in the State from which he emigrated, and the State derived all its

legitimate functions from him as an item or part of the aggregation. I should like to know, when he goes into a Territory, if he does not carry sovereignty with him? Sovereignty is inherent in man. Man carries sovereignty into the Territories with him. Congress may give its assent that a certain number of individuals may erect a government upon its soil—the fee being here, the power existing on the part of the Federal Government to expel or eject intruders and trespassers. That is all the assent they need have from Congress. Man carries sovereignty with him; and sovereignty is the essential necessary to constitute a State. When the people in a Territory come to form their organic law, it is for them to combine their will in the shape of a constitution; and when they get there, I might say each is a part of one entire whole—the people's will the sovereign and soul.

Government emanates from them. They are the source of power. A government might be itinerant; yet it would be with the people though it might have no abiding place. All that is necessary is the assent of Congress, the fee being here and Congress having the power and the right to eject and expel intruders from its public domain; but that which is essential and necessary to constitute a government and make a State. Such a State as should be admitted into this Confederacy, must emanate from the people—not from enabling acts, not from laws curing defects. Sovereignty is inherent in man. He carries it with him as an item or part of the aggregate community that forms an organic law.

"What constitutes a State?"

Not high-raised battlement or labor'd mound,
Thick wall or moated gate;
Not cities proud with spires and turrets crowned;
Not bays and broad-arm'd ports,
Where, laughing at the storm, rich navies ride;
Not starry'd and spangled courts,
Where low-brow'd baseness waits perfume to pride.
No!—men, high-minded men,
With powers as far above dull brutes endued,
In forest, brake, or den,
As beasts excel cold rocks and brambles rude;
Men, who their duties know,
But know their rights, and knowing dare maintain,
Prevent the long aim'd blow,
And crush the tyrant, while they rend the chain:—
These constitute a State."

Not your enabling acts, not your acts curing defects, not authority from Congress, but authority from the people; and the voice of the people, when it comes up here, even to the Senate, this august, dignified, and intelligent body, far removed from the people as it is, through their Legislatures, should be potential, and should be observed and obeyed.

Where does resistance to the Kansas-Nebraska act and to the principles laid down in it carry us? Let me address Democrats from the South on this question; we may as well come up to it like men. Some of us are a little timid and afraid when the sentiments of our hearts are known and understood, to trust the people on this great question of slavery. If we concede on the one hand that sovereignty is here, and that Congress has absolute control over the Territories, where is the South? Have not your opponents got the power both as to States and numbers of Representatives, and if you concede that sovereign power is lodged here to control, and that sovereignty emanates from the Federal Government, have you any hope? None. But according to the principle laid down in the Kansas-Nebraska act, the principle established in 1850, of leaving the people perfectly free to determine the nature and character of their own institutions, let us take our chances as to this institution of slavery as the people may determine. Here it is against us; there is some chance for us if we leave the question to the people. If they say "no slavery," exclude it from every Territory in the Union; but if they say "slavery," in the organic law which they may form, and come here for admission, let it remain; it is no business of Congress. It is for the people, and not the Congress of the United States, to decide. Where, I ask, does opposition to this principle lead? Where are those of you that deny this power and say it shall be exercised by Congress instead of the people in the formation of their constitutions, going? I find a resolution, adopted in Philadelphia, in June, 1856, which declares—

"That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government, and that in the exercise of this power it is both

the right and the duty of Congress to prohibit in the Territories those twin relics of barbarism—polygamy and slavery.”

I ask our southern friends as well as our northern friends, where does this principle carry us? I know those in hot pursuit of the slavery question are willing to assume, and have assumed, because they have the power, that Congress is sovereign, and therefore has jurisdiction of the question of slavery in the Territories; but the time will come when negroes get out of the way, when a large portion of that party will abandon that principle, and deny that any such power is conferred on the Congress of the United States as sovereignty over the Territories. Every man who denies the exercise of power by the people, and claims it on the part of the Federal Government, is led naturally to the platform of the Black Republicans adopted in 1856, in the nomination of Mr. Fremont. Where else does it carry you? It carries you back to that position which was maintained and exercised by the Parliament and Crown of Great Britain in reference to the colonies. We might as well get right in reference to first principles. The time will come when a large portion of the Republican party, when negroes get out of the way, when the question of slavery is removed, and they begin to analyze the great principles of free government, will repudiate the doctrine that Congress is sovereign in the Territories. I deny it wholly. It comes in conflict with the first principles of free government. I care not whether it is exercised or claimed by the Black Republicans of the North, or any other description of party, North or South, East or West.

I have said more than I intended, Mr. President, but I have been induced to speak at this length because we have before us the subject of the admission of Kansas under the Lecompton constitution, and the doctrine of instructions, which together embrace the first principles of this Government. I did not hear my honorable colleague state what would be his position as to the last resolution. He will not understand me as improperly asking the question, what is his position in regard to it?

Mr. BELL. I will answer my colleague with precision. After stating the grounds on which I thought the doctrine of instruction was not solidly founded, I said that it would be perceived that I did not acknowledge the instructions of the Legislature of my State as imposing on me the obligation of obedience; but, nevertheless, I would defer greatly to the sentiment of my Legislature on any subject in regard to which I believed their views to be founded on a knowledge of the subject in all its bearings and consequences; and in such a case as that, unless there was some constitutional difficulty in the way, I would defer to their sentiments. My colleague, I hope, is now thoroughly informed of my true position on this subject. I say the sentiments of the Legislature should be treated with respect in all cases where they appear to have been founded on a full knowledge of the subject on which they instruct their Senators, in all its bearings and consequences; and I would be disposed to conform my course according to them.

Mr. JOHNSON, of Tennessee. I do not wish to travel out of the way to interrogate my colleague; for, if I know myself, it is my intention to cultivate those relations which should always subsist between men who occupy places on this floor; but I confess that I do not know whether I understand my honorable colleague now or not. It may be my fault, though, and not his. It may be my misfortune, and not his fault.

Mr. BELL. I ask my colleague to state any difficulty, and I will answer him with frankness.

Mr. JOHNSON, of Tennessee. Throwing in a good many contingencies, he says that if there were no constitutional difficulties in the way, he would be inclined to defer to the will of the Legislature; but there are so many conditions—“ifs,” and “ands,” and “buts”—that I am at a loss to understand his true meaning.

Mr. BELL. But I will take all conditions away, except the question of constitutional right. Now understand me.

Mr. JOHNSON, of Tennessee. Then do I understand my colleague as saying there is any constitutional difficulty in the way of the present question of the admission of Kansas?

Mr. BELL. Not at all. My colleague now understands me.

Mr. JOHNSON, of Tennessee. I am very much gratified at that.

Mr. BELL. I do not go into details. There might be questions which I should suppose the Legislature did not understand. I have predicated the course which I should adopt under instructions, upon the idea that their instructions should appear to be in pursuance of convictions founded upon a thorough understanding of the subject on which they undertake to instruct, in all its bearings and consequences. Now I hope my colleague understands me.

Mr. JOHNSON, of Tennessee. Not quite.

Mr. BELL. I will explain further. I do not mean anything equivocal at all.

Mr. JOHNSON, of Tennessee. As we have got into this colloquy on this question, and as it is going on pleasantly, and nothing unkind is meant or intended, I wish to know whether my colleague will vote for the admission of Kansas into the Union under the Lecompton constitution in consequence of the instructions, or will vote for it without regard to them. I want to get at the precise point of the extent to which the instructions bear on his course.

Mr. BELL. I will gratify my colleague in any reasonable wish or desire he can have. I will answer that I would not, in consequence of any instruction of the Legislature of my State, act as the Legislature desired, unless I should be convinced or believed that those instructions were founded on a full understanding of the subject in all its bearings and consequences. Now, I hope my colleague understands me. If he does not, and will state his difficulty, I will answer it or explain it. I say this with a perfectly friendly feeling.

Mr. JOHNSON, of Tennessee. The position of my honorable colleague, if I understand it, is this: in the first place, to the instructions as to the will of the people, expressed in 1854, and repeated in 1855, and again in 1856, and in 1857, he does not acknowledge obedience.

Mr. BELL. Will my colleague allow me to explain that?

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. BELL. He understands that I say I would not defer to any opinion of the Legislature expressed in 1854, while that bill was pending before the Senate. Do I understand him to say that he wants to know that?

Mr. JOHNSON, of Tennessee. Yes, sir.

Mr. BELL. I assuredly would not, upon the ground that I considered then, as I consider now, that they had no such knowledge, or reflection, or understanding, of the tendencies of that measure, as could authorize them to instruct me under such circumstances as to make me feel morally bound to defer to their opinion, independent of any question as to the right of instruction. I would respect the resolutions of my Legislature, when not only passed by my friends, but even by my opponents. I should not wish to treat them with disrespect; but when I came to act on the subject I should treat them with reference to the foundations on which I supposed their opinions to have been expressed and their instructions given. I should inquire whether they understood the subject properly or not.

Mr. JOHNSON, of Tennessee. I understood my colleague then to state, that the instructions in reference to his course in 1854 have no influence upon him whatever.

Mr. BELL. I do not say so, and I do not authorize my colleague to say so.

Mr. JOHNSON, of Tennessee. I understood my colleague to say he would disregard them.

Mr. BELL. No, sir; I do not mean to say that I shall disregard them. Whatever I have uttered on this subject, and whatever I propose to utter, I do not mean shall be misrepresented in this body. I have said that there is a certain respect due to the expression of the opinions of a Legislature in all cases and under all circumstances. I have expressed that opinion heretofore, and I do not mean to take any ground inconsistent with it. I do not think my colleague can misunderstand me, if he is disposed to understand me. I do not say this with any unfriendly feeling, but I have stated distinctly the ground on which I act in this case. When the Legislature of Tennessee express their views, or wishes, or instructions, or recommend-

ations, to me as the representative of the State which they represent, I feel bound to treat them with a certain degree of respect in all cases; and when I perceive that those instructions have proceeded from convictions founded on a full examination of the subject in all its bearings and consequences, I ought to defer to them, and I suppose that I ought not to set my individual opinions against them.

But the case is different as to opinions such as those hastily formed when the Kansas-Nebraska bill was under consideration in the Senate; and although every friend I had in that Legislature voted in favor of such a measure as that, under the circumstances under which I presume they must have voted, without reflection, from sudden impulse, on the question being proposed to them suddenly, and never having been mooted or considered by the people before the moment when it was introduced into this body; though I should respect my friends in the Legislature, and my political opponents, and should not speak harshly of them, I should say that these were not expressions of opinion founded on such examination and investigation of the question, in all its bearings and consequences, as ought to induce me to defer to it. I acknowledge a moral obligation to act reasonably on all questions of this kind—not to act merely on my opinions, which may be formed upon prejudice. I ought not to be bigoted and obstinate in setting up my own judgment against the deliberately formed opinion of a whole community, or of all my political friends, as would seem to be the case in the instance referred to by my honorable colleague, in regard to the amendment offered by Mr. McKnight. I feel great kindness and respect for their views in all things; but I should utterly disregard them in the formation of my opinion as to the course to be pursued in reference to the great interests which I should know they wanted to advance and protect as well as myself. Without treating them with the least disrespect, I would not be governed by their opinions, formed under such circumstances, particularly in relation to the question of slavery in a community.

I have already expressed my thanks to those friends who stood by me in the very breach, and said, “We will leave our Senators to decide as in their judgment they shall think best, with confidence: those Senators are as much interested in protecting the great rights of the South on the question of slavery as we are.” My colleague probably knows that a great many men in the South are more deeply interested than I am in the protection of that peculiar slave interest; but I presume he knows that I am largely interested myself. If he does not, I now inform him so; and I inform him further, that I have suffered in my property by the continued and eternal agitation of the question; by the very course pursued by the party to which he belongs, in consequence of the declarations and the declamation and the announcement of the leaders of his own party in the election of 1856. The result of their course then was, that the prospect of freedom was discussed in every kitchen and every slave cabin in the State of Tennessee, and, I presume, in most of the other slave States of the Union.

I stand here unimpeachable on that ground. What I contend for, as the great interest of the owners of slave property in the South, is peace. The hinge on which my course will turn as to the question of which my colleague has inquired of me, is whether or not the admission of Kansas under the Lecompton constitution will give peace and quiet on the subject of slavery? I am deeply interested in the question.

My colleague has spoken about the principle of popular sovereignty, and I congratulate the gentlemen from the South who have listened to him with so much attention. I think he has made the strongest argument against the admission of Kansas under the Lecompton constitution, that I have heard in this body; but that is not the point which I make now. I say that the pivot on which my whole policy turns, is to have peace on this question. If I can be made to believe that the admission of Kansas, under the Lecompton constitution, will give peace, I am for it. My great object is to have peace and quiet on the subject of slavery, between the North and the South. I know very well that I take a totally different view from some of my southern friends in reference to

the objects to be secured in this matter. I choose to call them friends, for there has been no breach in our social intercourse, though with some there may have been a tendency to it. If they can satisfy me on any ground that the admission of Kansas with the Lecompton constitution will give peace, I shall go with them most cordially; but, if its tendencies and consequences are not to give peace, I am against it now, firmly, and forever. I want this question settled. I am not sure that the proposition before the Senate and the country will give peace; and indeed, so far as the information I have derived extends, I am inclined to think that it does not tend to give peace.

I think peace can be given on this question, and no intelligent man can doubt it. Peace can be given and insured; but passion, resentment, pride of consistency, may, perhaps, prevent the adoption of a course which will secure it.

I am much obliged to my colleague for allowing this interpolation of my views. I think he has made the most powerful argument on principle, that I have ever heard on the floor of the Senate against the admission of Kansas under the Lecompton constitution; but perhaps he can explain it.

Mr. JOHNSON, of Tennessee. I am very much obliged to my colleague for the courteous and lucid manner in which he has some two or three times defined his position; and I must conclude that there is nothing wanting on his part, but it is obtuseness on the part of myself that I cannot comprehend clearly and distinctly all his positions.

Mr. BELL. I am sorry for it.

Mr. JOHNSON, of Tennessee. It is an unfortunate condition to be in. In the first place I understand my competitor—

Mr. BELL. I am no competitor of my colleague.

Mr. JOHNSON, of Tennessee. I accept the correction, and respect the motive which prompts it. I understand him, first, to say he disregards the instructions given in the first resolution in reference to his former course on the Kansas question.

Mr. BELL. I beg to correct my colleague again. I pray that he will do me justice. I said that I begged to differ in opinion with the Legislature on that subject, in the most courteous language that I was capable of using—not to disregard them.

Mr. JOHNSON, of Tennessee. Without being egotistical or vain, I sometimes believe that I know when I have an issue, and when I know that I have one which will hold. Now, to save the multiplication of words, or any further explanation on this subject, I will try to make myself understood. The resolutions of the Legislature declare:

"Be it resolved by the General Assembly of the State of Tennessee, That we fully concur with the Hon. JOHN BELL as to the duty of a Senator when the voice of his constituency has decided against him on a question materially affecting their interest."

"Be it further resolved, That, in our opinion, the voice of Mr. BELL's countrymen of Tennessee, in the recent elections, has declared against his course on the Kansas-Nebraska bill, a question of vital importance to the South."

Here are two resolutions about which there can be no mistake; but the point of my honorable colleague is, that in reference to these two resolutions there has not been sufficient time to mature public opinion. Let us look at this point in a proper spirit, and see whether we cannot come to a full understanding of the matter. In 1854, the Legislature, in both branches, expressed an opinion on the course he took at that time. He seems to think they then did not understand the question. Well, sir, in 1855, an election came off in the State, which was canvassed from one extreme to the other. This identical question was discussed, and a majority of the people, by their vote, decided against him.

Mr. BELL. May I ask my colleague to say whether any resolution was passed by the Legislature in relation to the subject, while the Kansas-Nebraska bill was pending?

Mr. JOHNSON, of Tennessee. One resolution passed the Senate, giving instructions on the question. Another resolution was passed by the House of Representatives, for which a majority of all your own party voted, in lieu of Mr. Lamb's resolution, approving of that part of the Kansas-Nebraska act which repealed the Missouri compromise.

Mr. BELL. My own party voted for Lamb's resolution.

Mr. JOHNSON, of Tennessee. They are a portion of the people of Tennessee.

Mr. BELL. Undoubtedly; but I want to understand my colleague. Does he mean to say that my friends in the Legislature voted for Lamb's amendment?

Mr. JOHNSON, of Tennessee. It is understood of course that the Democrats were all for it; but we only wanted to make the moral power of the thing still more forcible. A large majority of both parties voted for it.

Mr. BELL. Will my colleague state what was the result of all that?

Mr. JOHNSON, of Tennessee. It resulted that there was no joint resolution passed.

Mr. BELL. Very well.

Mr. JOHNSON, of Tennessee. But a majority of both bodies expressed their opinion emphatically and unequivocally. This was the Legislature of 1854. Then, in 1856, in the presidential election, the State was carried upon this identical issue by a majority of seven thousand votes. One of the electors, General Harris, who discussed this identical Kansas-Nebraska question as an elector for the State at large, succeeded by a majority of seven thousand five hundred, and in 1857 he was elected Governor by ten thousand majority. In 1856 the majority was seven thousand five hundred, and in 1857 it was ten thousand; but still the honorable gentleman cannot understand that the views of the people of Tennessee on this subject have been matured. I do not wish to be unkind or personal, for if I know myself I have the kindest feelings for my colleague. The Legislature have merely recited his own language, which he used in the Senate Chamber. He declared in the speech which they quote, that if any respectable portion of the people of Tennessee disagreed with him he would not be seen in the Senate a day longer. That is the substance of what he said. In the name of common sense, what process could be adopted to ascertain the popular sentiment of Tennessee on this great and important question if it has not already been ascertained? The Legislature, in 1858, has passed these resolutions. There have been four years for deliberation and consideration, and at the end of that time they come to the honorable Senator in his own language. He considers it as gratuitous, and as having originated with plotters. There may be plotters there; I know not; I know it is the voice of the people of Tennessee, and they have spoken on this subject in language not to be misunderstood; yet the honorable Senator says to that portion of it he acknowledges no obligation of obedience.

But, then, in the colloquy that has taken place here, he gives us to understand that the last resolution, instructing him to vote for the admission of Kansas into the Union, under the Lecompton constitution, he will obey; but I wish to test whether he feels the moral force and power of instructions emanating from the people, through their State Legislature. I think I understand him. He tells the Senate and the country, after repudiating the doctrine of instruction, and refusing to acknowledge obedience to it, that if left to himself he would vote against it; but as the same Legislature instructed him on this point which instructed him on the other, he will obey. If an honorable gentleman were disposed—I will not insinuate it—to play a bold game for the Presidency, I think he would want to play a bolder game than that. "I am going to vote for Lecompton; but I give you to understand the reason why I do it. It is because my Legislature has instructed me; I am against it; I am with you North; but the Legislature is at the South."

We find a very similar course to this on the passage of the Kansas-Nebraska bill; and what is that? When the very gist of the bill, the point that is agitating the whole country, was in 1854 incorporated into the Nebraska bill, he stands his vote to retain it. "That will do in the South for my Whig friends in the Legislature who are for the amendment of Mr. Dixon, of Kentucky. I voted to put in that; and when the bill came to its passage I voted against it. Hence I can say to the South, I stood for the repeal of the Missouri compromise; I can say to the North, I resisted the passage of that act which has been so mischievous in its consequences to the country!" That

looks a little like going North and a little like going South. I allude to it in no disparaging spirit—and only for the sake of illustrating my idea—but it is a good deal like the language we used to hear when I was a boy; and I suppose most of us heard it:

"He wires in and wires out,
Leaving the people all in doubt
Whether the snake that made the track,
Is going North or coming back."

We can understand that. To one set of resolutions passed by the Legislature, he acknowledges no obedience; repudiates and denies the right, the great doctrine of instruction; and in the next place says, "I will vote to let Lecompton in; yet I will tell the North I am against it"—in the one instance disregarding instructions, in the next instance acknowledging and obeying them. The reason why this great doctrine of instruction is to be disregarded is, that his own language has been couched in the resolutions and presented to him. Here I must disclaim, on the part of the members of the Legislature who passed the resolutions, any intention to insult the honorable Senator, or wound his feelings by using his own declaration, which is strong language, that if his course here should fail to meet the approbation of the people of Tennessee, he would not be seen here one day longer. I do not refer to this in the spirit of boasting or demagogism. I know that with some it is considered to be the great error of my life that I stand forth the advocate of popular sovereignty, and of the lodgment of power being with the people. If I err in this, I shall err where I have always been, and wish always to be. I have become too old, I have gone too far in the advocacy of this great doctrine of free government, and man being the source of power and capable of governing himself, now to retrace my steps. Whenever that great principle is attacked, if it comes within my sphere, or involves my duty in the slightest degree, humble and poor as my ability may be, the people shall have the benefit of this great principle to the extent of my power.

We see, in this instance, and there may be others, honorable Senators and members of Legislatures setting themselves up, and bidding defiance to popular sentiment. Would to God the voice of the people could be heard and felt more than it is throughout the land. If it could, we should be relieved from a great deal of improper, improvident, and extravagant legislation; and a large portion of it is fixed upon them in violation of their will. I know there are many who are brought up, raised in a sphere far removed from the mass of the people—men who have no confidence in the great mass. I think I know their prejudices; I think I know their points of honor; I think I know the leading principles that control the great mass of the people; and they are far higher, far more honorable, than those that actuate the leaders and rulers. I do not say it out of disparagement or disrespect; I speak of it as a fact. It is the interest of the mass of the people to do right in all governmental affairs; and they are more to be relied upon than those whose interest it is to violate great principles. This being so, they can be trusted and relied upon. Hence, as far as I am concerned, I always feel anxious to see popular sentiments, when fairly and fully expressed, obeyed and complied with.

But my honorable colleague, some how or other—I was going to say in covering a retreat on this subject, and apologizing or excusing his position—lugs in the idea of slavery, and makes the remark (I will not infer that he intends anything by it) that he has a great and deep interest in slaves, and intimates that he may be relied upon more than one who has not quite such a deep interest in slaves. I can only speak for myself, Mr. President. I will not say that his insinuation or his allusion was to me. I have not got many slaves; I have got a few; but I made them by the industry of these hands. Can the Senator say as much? What I own cost me more labor and toil than some who own thousands, and got them because they were the sons of moneyed people. Upon the question of slavery, I should like to compare notes to discover who is the soundest in principle and in votes on this great question? Who is it that has cooperated with the North in the inroads and advances they have made on this institution which is so vital to the South? Who is it that has been constantly

throwing out, as it were, tubs to the whale, lures to the North? holding on to the South with one hand and throwing out inducements to the North with the other? Have I ever done that? Have I ever given any vote or made any speech in the Congress of the United States that indicates any such thing?

Pardon me if I am inclined to be egotistical. Though I may not own quite so many slaves as some others, though I may not have quite so deep an interest in the subject as some others when you measure interest by dollars and cents, yet I claim to understand the philosophy and the basis of the institution of slavery as well as, and I do not know that it would be very vain in me to say better than some who own their hundreds. My position is more defensible, if it required defense. I think it is the most unfortunate thing that ever befel Senators here that they become candidates for the Presidency. Whenever a Senator fixes his eyes upon the presidential mansion as the acme of his ambition, nineteen times out of twenty he falls by the way side. It has been so with the most distinguished men that have ever gone before us, who have participated in the most trying scenes and struggles of the country—bidding for northern and southern votes. I avow my sentiments here; I have avowed them in the other end of the Capitol; I have avowed them at home in reference to the great question of slavery; and I will say, as my honorable colleague has lugged it in, or thrown it in, that I think I understand the basis on which the institution of slavery rests. We may make our speeches to please the North, or please the South, as may suit us best, and subserve our interests most; but just so long as men are organized as they are, physically and mentally, one having more brains and more intellectual power than another, there will be different classes in society. Take the physical man alone, without reference to the intellectual, and force him in contact with the principles of production, and you will see that, under certain circumstances, one is enabled to produce more than another. This results from our organic structure.

Let me illustrate my meaning by an example: Here are two men, one of whom has double the physical strength of the other. Let us talk about things plainly and homely. I know this may be considered in bad taste by some; but sometimes the simplest similes best explain a subject. Take these two men, the one having twice the physical strength of the other, and put them to making rails. I know that is not a senatorial term, but it is a common thing in this country. The man of double physical strength will make twice as many rails in the course of a day as the other. Is not that a difference between men? The man of double the physical strength will increase in wealth, in anything to which you apply his labor, twice as rapidly as the other man. So it is with the exercise of his brain. This grows out of the organic structure of mankind. When you form a community out of individuals, they commence the work of production, intellectual and physical; and, as society moves on through time, we find some occupying the lower places and some occupying the higher places. I do not care whether you call it slavery or servitude; the man who has menial offices to perform is the slave or the servant, I care not whether he is white or black. Servitude or slavery grows out of the organic structure of man. All the talk which we hear in deprecation of the existence of slavery is idle, and a great portion of it mere twaddle. Slavery exists; it is an ingredient of society, growing out of man's mental and physical organization; and the only question for us to discuss is, what kind of slavery we shall have; not the existence of slavery, for it is in society; it is an element, an ingredient that you cannot get rid of so long as man's organic structure is what it is. Will you have white or black slavery? Shall it be voluntary or involuntary? These are the only questions. As to the great thing itself, about which there seems to be so much difficulty, it exists beyond the reach and the control of man, unless he can reconstruct society, and, after he has done that, reorganize the material of which society is composed.

I know where I stand on this question. I know what I could have done if I had been disposed to pander and appeal to the fanaticism that exists on this question, even in my own State. Shall it be given out here to the country that, because I do

not own quite so many slaves, because my interest in the institution is not quite so deep as that of some others, my position is not as sound on the question as that of any other member of the Senate? Where has my honorable colleague been on the question of slavery? He assaults the Democratic party and charges it with being the cause of the agitation that has occurred on this subject. Who has been looking in that direction; the Democratic party or my honorable colleague? Go back to his course in reference to abolition petitions, and where does he stand? Looking North. Who that lives at the South has ever gone further North than my honorable colleague on this subject? I should like to know the man who has ever bid higher? I want the North to know what a good candidate they would have had if they had been disposed to select my honorable colleague. On all questions connected with slavery, beginning with the abolition petitions, his leaning has been to the North; and in 1850, when the compromise measures were before the country, I ask my friend from Alabama to read a few paragraphs of what he then said.

Mr. CLAY read the following extracts from a speech made by Mr. BELL on the 14th of September, 1850:

"With regard to the constitutional power of Congress over this subject, I would say that the only doubt I have of the existence of the power either to suppress the slave trade or to abolish slavery in this District, is inspired by the respect I have for the opinions of so many distinguished and eminent men, both in and out of Congress, who hold that Congress has no such power. Reading the Constitution for myself, I believe that Congress has all the power over the subject in this District which the States have within their respective jurisdictions."

"But, however great my respect may be for the opinions of others on the question of power, there are some considerations of such high account as, in my judgment, to make it desirable that, unless by common consent the project of abolition shall be wholly given up and disbanded, the remnant of slavery existing in the District should be abolished at once; at the present moment, however, the excited state of public sentiment in the South, growing out of territorial questions, seems to forbid such a course. For myself, if the sentiment of the adjacent States and of the South generally were less inflamed, I would prefer that course to keeping it an open question. Slavery in the District of Columbia is now the only remaining ground of contention, the only remaining point of objection and assault, on the part of the anti-slavery North. I do not include the fanatics. They will be satisfied with nothing short of the extinction of slavery in the States; but all others at the North disclaim any intention, or design, or any constitutional power, to interfere with slavery anywhere but in the District of Columbia. I would be glad to see all cause of disturbance and contention in the District wholly removed; but let me say that this can never be done by the abolition of slavery, unless it be accompanied by some adequate provision for the removal or the effective control of the slaves after they shall have been emancipated. With this qualification, and in order to test the determination of the North in regard to any further and continued aggression upon southern feelings and the security of southern property, I would be content to see slavery in the District abolished to-day. In one aspect of the subject, I am not sure that it would not be a great conservative measure, both as regards the Union and the interests of the South: this District once relieved of all sources of dissension, we should be speedily enlightened upon the question whether the North would stop there, or raise new and more dangerous issues?"

Mr. JOHNSON, of Tennessee. Connecting that speech, which was made on the bill before the Senate to abolish the slave trade in this District, with his uniform course on the reception of petitions on the subject of slavery, we find that my colleague makes greater concessions than I know of any other southern man ever having made. After throwing in a good many conditions and provisos, and *ifs* and *ands*, he concludes that he would be willing to see the institution of slavery abolished in the District of Columbia to-day. First, he would concede the power to abolish slavery in the District of Columbia; and second, he was willing to see that power exercised, and then he could test how far the North would go in reference to southern institutions. You concede the abolition of slavery in the District of Columbia for the sake of making a test how far the North will go; you will concede the constitutional power for the sake of seeing how far they will go! If he concedes it here, would it not be reasonable to infer that he would favor the abolition of slavery in the Territories? Most clearly.

Who then has been compromising with the North? Who has been holding out inducements to the North to encroach upon the South? Is it the Democratic party? Have they been doing it? Have not southern men been catering for northern strength until the whole northern wing of their own party has been abolitionized? I have no unkind things to say towards the Abolitionists. I

am speaking of them as a party. Who has held out inducements? Who has invited them to encroach? My honorable colleague. Then he talks about the deep interest, the great interest that men feel in slaves. Who has been throwing his banner to the North to get northern votes and northern strength, and then talks about the Democratic party producing all this agitation? The bill to abolish the slave trade in this District was one of the compromise measures of 1850. I voted for most of those compromise measures; but I want it understood now, as it was then, that I did not vote for them because they were compromise measures. Those for which I voted (for I voted for each measure by itself) I voted for because they were right in themselves; those I voted against I voted against because I believed they were wrong in themselves. Compromise! Ah, yes; compromise with the North, and abolish slavery in the District of Columbia, and exercise the constitutional power in the Territories, and all for what? In the language of my honorable colleague—to see how far the North will go!

I was no compromise man then. I was for each of those measures which I sustained because I believed it to be right. I think it is time for the North and the South to abandon the idea of compromise. You have a Constitution which guarantees certain rights to all the States composing this Confederacy. Stand by the Constitution. Make no compromise by which the North will concede its rights to the South, or the South concede its rights to the North, but maintain the Constitution as it is, and thereby secure to each and all the States of this Confederacy their constitutional rights. Was there ever a compromise made in which some one was not wronged, in which some one of the parties did not lose? There is a great principle of right somewhere; let us ascertain where the right is and let the North and the South maintain it, neither making concessions.

What has been the history of compromises in this Government? In 1820 we had a compromise. The nation was agitated; dissolution was threatened before the compromise was made; and after the compromise was made, it became a fixed, permanent subject of contention and agitation and discussion, until it was repealed. You get up a great agitation, and settle it by a compromise; and then you keep up an agitation as to what the compromise means, or what is the extent of its obligation. I think it is time to quit compromising. In 1850 several measures were passed as compromise measures. They produced a great agitation. A dissolution of the Union was threatened; and in 1851 some great pacificators came forward—men who were willing to be sacrificed upon the altar of their country on another compromise. That compromise has since been a continual and unceasing source of agitation. Is it not time for the North and the South to quit compromising? There is a great principle of right somewhere. Let us find out what is the right, and abide by it.

Whenever there is a difficulty between vice and virtue, vice can get up an agitation, an issue with virtue, and of course vice is always ready to compromise; but whenever virtue compromises with vice, vice obtains the ascendancy. Whenever there is a contest between truth and falsehood, and it is settled by a compromise, truth gives way and falsehood triumphs. Is it not time to stop compromising? I think we have compromised enough, and I will say here in my place to-day, that I believe the agitation which has taken place, first, in getting up compromises, and then upon the compromises after they are made, has done more to make the institution of slavery permanent than all the other action of the Federal Government. The constant outside pressure, the agitation of the question in the free States, has done more to give the institution of slavery strength and solidity in the southern States than anything else that has taken place in the country. Among southern men the philosophy, the nature, the character of the institution of slavery are better understood than formerly. The southern mind, to-day, is more reconciled to the institution of slavery, and better satisfied with it, than it ever has been since the institution has existed. This is the fact, and it is not worth while to disguise it.

Then let us agree, North and South, to abide by the Constitution of the country, and have no

more compromises. We have been compromised and conserved until there is hardly any Constitution left. We first compromise and settle a question wrong, and then we must all turn conservatives and stand by the wrong that has been accomplished by the compromise. Compromise! I almost wish the term was stricken out of the English language. Conservatism! It is the argument of despots and tyrants, one that entails an existing institution in its present form, whether it be right or wrong. We must compromise, and inflict great wrong on the country; and then all are to turn conservatives, and stand by the wrong that has been inflicted on the country. So we see where this compromising spirit has carried us. We see the lure that has been thrown out by my honorable colleague and others, to induce northern men to encroach on the South. Notwithstanding his allusions to his deep interest in slavery, and all that, we see where he stands.

The Legislature of Tennessee have manifested no disrespect in these resolutions. They have exercised the privilege and power that has been exercised by most of the States of this Confederacy.

But, my honorable colleague would seem, in his concluding remarks, to have a desire to draw me off from his pursuit by throwing out a compliment, with the remark that I had made one of the most powerful arguments against the Lecompton constitution he had heard. I am at fault here again. It is my misfortune, I presume, not his fault. I did not understand myself that way, and how he can make such an application of my argument is a matter of profound astonishment to me. What was it, I said, that could convey, in the slightest degree, the idea that I was against the Lecompton constitution; or what position did I take that would demonstrate that I was against the Lecompton constitution? It would require a man with magnifying glasses, it would take a microscope that would multiply millions of times, to discover anything in the remarks I have made to-day which would seem to indicate opposition to the admission of Kansas under the Lecompton constitution. No, sir; and in continuation of what I was saying on that point—I will occupy the Senate but a few moments longer, for I have spoken three times as long as I intended—I shall vote to let Lecompton in; not because my Legislature has instructed me to do so, but because I believe it is right, and the most effectual means to settle and put down the agitation that is now pervading the whole country.

What is it that I have said which would come in conflict with my going for the admission of Kansas into the Union as a State? Because I argued that power was with the people? Does that make an issue with the admission of Kansas? Not in the slightest degree. The only question for Congress to determine when Kansas applies for admission is, is it a State? Whether it has got to be a State by a regular process or by irregular process, so the end is reached that it is a State and has a republican form of government, it is entirely competent for Congress to admit her without reference to her irregularities or informalities. Many States have been admitted into the Union in this way, and the chances are that others will be.

What is there that I have said as to sovereignty abiding with man that comes in conflict with the admission of Kansas now? Go to the organic law and you find that the power is conferred on the people of Kansas to legislate. Was the passing of a law under the territorial government in conflict with the Constitution of the United States, which provided for the calling of a convention? Go back to the bill reported to the Senate during the last Congress, omitting the provision that the constitution should be submitted to the people. Who reported that bill? The honorable Senator from Illinois, chairman of the Committee on Territories. He reported a bill to the Senate authorizing the adoption of a constitution without being submitted to the people. That bill when it first went to the committee had in it a clause providing that the constitution should be submitted, and it was reported back without that clause. Was it not intended by this enabling act, or whatever name you may properly call it, that the people may meet in convention, and when in convention may form a constitution, and may or may not, as circumstances may require, submit it to a popular

vote at the polls, or adopt it as a constitution, without submission? That is what the committee must have intended. We find the Minnesota enabling act requiring the constitution to be submitted to the people. That bill came from the same committee. The committee must have understood the subject. They reported one bill requiring it to go to the people; the other bill came back from the committee with that clause out of it. The bill was lost in the other House, and then Kansas proceeded, through her Legislature, to pass a law authorizing the convention to be called, and the people elected delegates. I know the question is to come up here, and when it does, I will show gentlemen who make these insinuations, whether there is any conflict with my position.

Whence does the convention derive its power? Some say from the Legislature, and some trace it to one source, and some to another. I say the Legislature took the regular steps, in an orderly, peaceable manner, for the election of delegates to the convention. The people elected delegates. The delegates being elected, met in convention, deriving their power from the people that elected them, and not from the Territorial Legislature. The convention was the representative of the sovereignty of the people; it was, in fact, the people assembled in their highest political attitude, acting in convention to prescribe the nature and character of their institutions. That convention being the people assembled in their highest political attitude, had the power to submit a constitution back to the people for ratification, or the power to adopt it at once, or to submit part of it. This was discretionary with them. If I had been a member of that convention, I am free to say I should have been in favor of the submission of the whole constitution to the popular vote; but the people were present in convention, and they determined this point for themselves. In that constitution they have made an express reservation of the right to alter or amend. In my judgment, without that reservation, they would have, in the language of the Declaration of Independence, the power to alter, amend, or abolish, their form of government at any time, in such manner as they may prescribe. But to make the point clear, the constitution of Kansas, in the bill of rights, expressly reserves to the people the right of alteration.

Then I should like to know how anything I have said conflicts in the slightest degree with the admission of Kansas into the Union as a State? I contend that the only question for Congress to determine is, whether a State has been formed, and whether it has a republican form of government. That being settled, Congress is either to admit it or keep it out. If Congress can assume as cause for sending the constitution back to the people, that the proceedings have been irregular and informal, Congress may assume as a cause that this provision, or that provision, or the other provision, is not right, and send it back to the people; and the result is, that Congress makes the constitution; Congress, not the people, exercises the power. When the State is admitted, the subject of her local policy belongs to her people. There may perhaps now be a majority of the actual persons in Kansas against some of the provisions of the constitution; but, if so, they have power, at any time they may think proper, to change that constitution, and change the institutions established by it. Here I desire to inquire what will be gained by keeping Kansas out of the Union? Do you thereby expedite the proceedings of the people there in reforming or altering the constitution? Can they not proceed as readily and as speedily after they are admitted into the Union to change the constitution if it is wrong, as they can proceed before its admission? The idea of Congress forcing a constitution on the people of a State is an absurdity. Congress does not force it on them at all; Congress does not make it; Congress takes the constitution as an evidence that a State has been formed, and says to her, "Walk in with your constitution, and afterwards change it in your own way, and at such time as you may select and prescribe."

What can be the objection to the admission of Kansas? This question is more clear as to a State than as to a Territory. No one has right to interfere with the people of a State in regard to their in-

stitutions; but now the idea is suggested that when the people of a Territory have taken the necessary steps towards becoming a State, the constitution they may make is to be regarded as a petition, and that they do not become a State until Congress gives its assent. What does this imply? If it is not a State until Congress gives its assent, is not this an admission that sovereignty is here? If it cannot be a State until assent is given by Congress, Congress has the sovereignty, and must impart it to the State. I say it does not reside here; I say Congress cannot make a State; Congress cannot impart sovereignty, for it does not possess it. A State must emanate from the people; and whether they act regularly or irregularly, all that is necessary for us to do is to ascertain that a State has been formed, and has a republican constitution, and then to admit it into the Union, or keep it out.

I am as unfortunate in understanding gentlemen's notions in this respect as I was in not understanding precisely the definition which my honorable colleague gave of his position; but I think I understand myself. There is a principle in this matter; and if you will pursue principle, you will arrive at a proper conclusion.

Mr. President, I have said all that I intended to say upon the resolutions of the Legislature of Tennessee, and a great deal more on other matters. I did not intend to take the range which I have taken; but I have been led off into saying thus much without great order or method. I think I understand the principle which lies at the bottom of this controversy. I wish to act on that great principle. I desire to admit Kansas and allay agitation and strife. I want the North and the South alike to stand upon the Constitution. Let us make no compromises; but let us stand by the Constitution as it is. Though we may differ in reference to a local institution here and another there, let us act as lovers of the Constitution, in the North and in the South, neither conceding its rights, but both standing by the great principles of free government. Let us admit States into the Union, recognizing the great source of power by which States are made. Let us admit Kansas and Minnesota, whether they come hand in hand or separately, I care not. I stand ready to receive them both. I shall vote for the admission of Minnesota because I believe it is right in principle, because I believe it is for the interest of the Confederacy. I shall vote for the admission of Kansas because I believe it is right to do so. As other States may be formed in the progress of this Government, I shall vote for their admission when I am satisfied that States have been formed, and that their constitutions are republican. I hope that I have succeeded in making myself understood by my competitor.

Mr. BELL. No competitor in any respect or in any way.

Mr. JOHNSON, of Tennessee. My colleague says he is not my competitor in any respect. When we are in the habit of particular kinds of discussion we are accustomed to use certain remarks; and by a slip of the tongue we sometimes use them inadvertently. Having had a good many competitors to contend with, the term has become familiar to me in speaking in opposition to another; and when one gets in the habit of using such terms, they are repeated sometimes unconsciously.

Mr. BELL. I excuse it.

Mr. JOHNSON, of Tennessee. My colleague says he is not my competitor in any respect.

Mr. BELL. I do not mean it in any offensive sense.

Mr. JOHNSON, of Tennessee. When the Democratic State convention met in our State the gauntlet was thrown out, and we could have had a fuller demonstration, if one was needed or could be had, of the opinion of the people of Tennessee on these questions. My honorable colleague, with all his power, with all his information, and all his tact as a debater in Congress and out of it, was invited to participate in that struggle; and if public opinion was wrong, the opportunity was tendered to him to go before the people and make public opinion right. Here, as it occurs to me, I will remark that when the convention nominating the opposition candidate for Governor sat, it was given out that he had made a speech in that convention, in which he declared that he was going forth, trident in hand; that he was going to

put down everything that came in contact with him—yes, that the Hon. JOHN BELL was to be in the field, and the smaller aspirants had better get out of the way.

He was to be in the field with his armor on; and it was given out in a boasting and taunting manner that it made no odds whom he met, whether it was Richard or Saladin, whether it was Saxon or Saracen; if he came in contact with the Hon. JOHN BELL, his casque was sure to be crushed. These things were all given out; public opinion was to be set right. The gauntlet was taken up; contests were solicited and sought, and, in fact, the Democracy tried to provoke their opponent so as to get him into a fight. How many Democrats did he meet before the people of Tennessee in that canvass to set public opinion right? We have not many Richards and Saladins, or Saxons, or Saracens there. We have some few who try, and I think most of them do understand most of the questions that are discussed generally, and can take care of themselves. Who was crushed? I know some that were anxious to meet the honorable Senator on the stump in regular set-tos, if necessary, though they would have been crushed in the first tilt, but they were never afforded that opportunity. I have had competitors again and again, and many of them not inferior in ability and reputation even to the honorable Senator's own conception of himself. I will not refer to the result of the issues that took place between those competitors and myself. I leave that for the history of the country to tell. I have had competitors who were foemen worthy of my steel, and they have met their fate like honorable men, and recognized me as such. A gentleman and well-bred man will respect me, and all others I will make do it:

"Upon what meat doth this our Cæsar feed,
That he is grown so great?"

Is he beyond the reach of popular sentiment? In rather a taunting and sneering manner he says he is not my competitor in any sense. If you have never been my competitor, you equals have; and in the conclusion of their contest they adjusted their robes and prepared themselves for their fate; and, I repeat again, fell like honorable men. I stand here to-day not as the competitor of any Senator; but I stand here, in a senatorial sense, the compeer of any Senator. I know my rights, and I intend to try to learn the proprieties of the Senate; and in compliance with those proprieties, my rights, and the rights of the State which I have the honor in part to represent, shall be maintained (to use terms very familiar with us) at all hazards and to the last extremity. So much for "competitors."

In the first place, we have gone over these instructions; in the next place, we have gone over the proper lodgment of sovereign power; and in the third place, we have gone over the idea thrown out about "competitors." I must say, in conclusion of these desultory remarks, that I have been forced before the Senate more and oftener than I intended to have been, under any reasonable circumstances, for the first twelve months or two years of my service here. My intention was to come here and pass through that probation which older and more experienced men and Senators more talented than myself should assign and prescribe for me. I have, however, been forced thus often before the Senate. It has been contrary to my inclination; but I believe that duty to myself, duty to my State, duty to principle, required me to do so; and acting under this impression I have ventured to trespass on the patience and time of the Senate. I have come here to vote and act, and shall try to do so. I thank the Senate for the attention they have paid me.

Mr. BELL. Mr. President—

Mr. PEARCE. Will the Senator allow me to move an adjournment?

Mr. BELL. I cannot yield the floor now. It must be obvious to the whole Senate that I could not have expected this course of remark from my honorable colleague from Tennessee. I am taken wholly by surprise, but I ask for no time. I feel fully prepared and competent now to answer all that he has said, so far as I can remember it; and if he has said anything which I do not now remember I am willing that any gentleman shall suggest it to me.

I must be permitted to say, that the course of my colleague has been wholly inconsistent with the sentiments and feelings he has professed towards me since I have met him in the Senate. I confess, sir, that I have formed a very different opinion of him. He said to me, in express terms: "If I could have understood you, and you could have understood me, there never was any occasion for any unfriendly feelings between us." He will not deny that. I dare him to deny it. I further said, that whatever differences there might be between him and me—and I said it in mild and courteous terms—though they might be radical differences, yet, as colleagues, as Senators from the same State, we should not exhibit those scenes which have sometimes been exhibited between colleagues from the same States. I have the utmost abhorrence for this species of collisions between Senators representing the same sovereignty, the same State. I have always regarded it as a principle that I would endeavor to conciliate, and act with Senators opposed to me in this body in a courteous and friendly spirit. I have always thought that we should never exhibit our States in an unfriendly attitude, although we maintain firmly our own opposite sentiments. I had trusted never to witness this sort of collision and contention, which, I beg my colleague's pardon for saying, I think degrading alike to both. I thought, from my conversations with my colleague since he has been here, that he concurred with me, that if there was anything on earth that ought to be avoided, it was the collisions and contentions that have taken place, sometimes perhaps necessarily, between Senators from the same State. I have the utmost abhorrence for violent—I will not say vulgar—collisions and passages between Senators from the same State, on the floor of the Senate of the United States; but I must express to you now, sir, and to the Senate, my deep mortification to see that I have been misled.

I believe there were no two men between whom there could be a more determined opposition of opinions and sentiments in regard to the principles by which this Government is regulated and controlled, than Mr. Turney, my late colleague in the Senate, and myself. He was a self-educated man, a man of naturally great powers of intellect. He had no academical education, no education at all except that which he derived from his intercourse with society, his observation of men, and his own reading. When he came into the Senate, there are some here now who will bear witness that, although he was one of the most decided men in opposition to my course and views on this sectional question that I have ever met with, although he united with the extreme ultraists of the South in their protest against the compromise measures of 1850, yet there was never one word from him to disturb the courteous relations which ought to exist between Senators from the same State in this body, in my opinion. Other gentlemen may have different views on this point, but I cannot alter mine.

I must further say that it is apparent, from the course and tenor of my colleague's argument and the time which he occupied, fully three hours, in answer to what I supposed was a very temperate, moderate, inoffensive exposition of my course and a review of the action of the Legislature in relation to me, that he was carrying out a preconceived purpose. I studied what I should say in presenting the resolutions; although I could not speak in the language my own mind would have dictated, because I was anxious to do nothing inappropriate to the subject or inconsistent with the feelings and principles I have felt, and was particularly desirous of not going beyond such declarations of opinion as I thought my colleague would not feel himself bound to reply to. But, sir, notwithstanding my conservative feelings, and, as I thought, courteous tone, (and I beg to say again, with a disposition not to conflict in any way or trespass on the feelings of my colleague in the slightest degree,) in expressing my sentiments in relation to the preamble and resolutions which have been presented to-day, he has most unexpectedly made one of the bitterest, one of the most insulting, and most personal replies in every respect, that malice, premeditated malice, and determination could invent. My colleague has replied to me to-day with books all marked down, with their ear-marks accompanying them.

As he continued in a three hours' speech, occasionally throwing in the most insulting personal allusions, the assignment of motives, that any man could possibly conceive; no one who heard his enunciations on this floor in regard to me could doubt the feeling which prompted them. Wholly unexpected are they to me. I regret it, deeply, sincerely, not only with reference to my own self-respect and the respect which is due to this body, but on every other ground I regret it deeply. Some of the gentlemen around me have said: "Defer this until to-morrow; think of it, and see what you will do." Sir, I am ready now to go on. I ask no time to consider the replies which are due to such assaults as have been made on me by my colleague or any other member of the Senate who chooses to support him and back him. Now or at any other time, I am ready to meet him. It requires no reflection.

Mr. SEWARD. I hope the Senator will allow me—

Mr. BELL. No sir; if you please, allow me.

The PRESIDING OFFICER, [Mr. Briggs.] The Senator from Tennessee is entitled to the floor.

Mr. BELL. I am ready now, and I will proceed, if it is the wish of the Senate that I shall.

Mr. SEWARD arose.

Mr. BELL. No, sir; I will have no intervention in regard to the course of my colleague on this subject.

Mr. SEWARD. I wish to move an adjournment.

Mr. BELL. I am bound to vindicate my honor.

Mr. FOOT. I hope the Senator from Tennessee will, on a moment's reflection, yield to the general desire of the Senate to adjourn, and stop this discussion for to-day right here.

The PRESIDING OFFICER. Does the gentleman from Tennessee yield the floor?

Mr. PUGH. With the permission of my friend from Tennessee, as he can speak to more advantage to-morrow, I will move that the Senate proceed to the consideration of executive business.

Mr. BELL. I will yield, on condition that I have the floor for to-morrow.

Several SENATORS. Of course.

Mr. GREEN. Will the Senator withdraw his motion for half a minute, with the same understanding, to permit me to make a motion which I think will meet the unanimous consent of the Senate?

Mr. PUGH. With the understanding that the Senator from Tennessee shall have the floor to-morrow.

Mr. GREEN. That is the understanding. I wish merely, before we go into executive session, to make a motion, by unanimous consent, to take up the bill for the admission of Kansas, and make it the special order for Thursday next, at one o'clock. It is important to get that question out of the way. We talk on the question, whether it is before us or not; and it is best, therefore, to discuss the subject explicitly and directly. I make that motion.

Mr. GWIN. Does that precede the other special orders on the Calendar?

Mr. STUART and Mr. GREEN. It leaves them under the rules.

The PRESIDING OFFICER. The motion cannot now be entertained except by unanimous consent.

Mr. KING. I object.

Mr. GREEN. Does the gentleman from New York object?

Mr. KING. Yes, sir.

The PRESIDING OFFICER. The pending question before the Senate is on printing the resolutions introduced by the Senator from Tennessee, from the State of Tennessee, and upon that the Senator from Tennessee is entitled to the floor. It is moved by the Senator from Ohio that the Senate now proceed to the consideration of executive business.

Mr. CRITTENDEN. I hope not. At this hour of the day it is hardly proper to go into executive session for the purpose of doing business. ["Adjourn!"] I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, February 23, 1858.

The House met at twelve o'clock, m. Prayer by the Rev. P. D. GURLEY, D. D.
The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The SPEAKER, by unanimous consent, laid before the House the following communications; which were laid on the table, and ordered to be printed:

A communication from the War Department, transmitting the official Army Register for the year ending the 30th of June, 1857; and

A communication from the same Department, transmitting a statement of the expenditures during the year 1857, from the appropriation for the contingent expenses of the military establishment.

PRINTING DEFICIENCY BILL.

Mr. CRAWFORD. I ask the unanimous consent of the House to allow me to introduce a bill to pay for the printing, binding, paper, lithographing, and engraving, which is due to the various persons who have furnished materials or done the work under contracts which have been made with their various departments. The House will remember that a bill for this purpose was introduced some three weeks ago, and that it was defeated by the House. I have in my hand the memorials of the various parties to whom this money is due, asking that Congress will pay the amount now owing to them by the Government. I ask that the bill may be read, and referred to the Committee of the Whole on the state of the Union.

The SPEAKER. Does the Chair understand that the bill is reported from the Committee of Ways and Means, or is it introduced by the gentleman himself?

Mr. CRAWFORD. It is reported from the Committee of Ways and Means.

No objection being made, the bill appropriating money to supply deficiencies in the appropriations for paper, printing, binding, and engraving ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed, was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

Mr. CRAWFORD. I ask, in this connection, to offer a resolution, not from the Committee of Ways and Means, but from myself, individually.

Mr. FOSTER. I object, and call for the regular order of business.

QUESTION OF PRIVILEGE.

The SPEAKER. The regular order of business is the consideration of the following resolution offered by the gentleman from New York [Mr. HOARD] on Friday last:

Whereas, a statement has been made by a member of this House, importing that the Hon. Mr. BRUNS, of Ohio, had stated to him, in a conversation on the subject of his vote on the resolution of Hon. Mr. HARRIS, of Illinois, to commit to a select committee the President's message on the Kansas investigation, that he was to have certain official patronage, or appointments to office, at his disposal; and whereas, the Hon. Mr. BRUNS had previously been free in his avowal of sentiments, with which his vote on that subject was in conflict, thus furnishing ground to suspect that some improper influence had been exerted to bias the said member's official action as a member of this House: Therefore,

Resolved, That a committee of five be appointed by the Speaker to inquire and investigate whether any improper attempts have been or are being made, directly or indirectly, by any persons connected with the executive department of this Government, or by any other person, with their advice or consent, to influence the action of any member of this House upon any question or measure upon which the House has acted, or which it has under consideration, with power to send for persons and papers, and with leave to report at any time, by bill or otherwise.

And the pending question is, "Shall the resolution be received and entertained on the ground that it is a question of privilege?"

Mr. PHELPS. The pending question is one which may involve a question of privilege, or not, according to the decision of the House on the resolution. Now the House is not full to-day, and if we proceed to the consideration of this question we cannot have a proper expression of the sense of the House upon it; and if we proceed to the call of committees for reports, the committees will not exhaust themselves in making reports, by reason

of the absence of a large number of the members of the House; and, therefore, I submit to the House whether it would not be better to allow the question to go over until to-morrow? Being of that opinion, I submit a motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of proceeding with the discussion on the Indian appropriation bill.

I understand, in connection with that matter, there was a resolution submitted by my colleague on the Committee of Ways and Means, [Mr. J. GLANCY JONES,] whom I do not now see in his place, to terminate debate on this bill, and that he called the previous question upon it; but I have the impression that the House did not order it. I have no power to withdraw that demand at this time, and I do not purpose to press that resolution.

Mr. CLINGMAN. I hope the gentleman will move to close debate to-morrow.

Mr. McKIBBIN. I ask the gentleman from Missouri to withdraw his motion for a moment.

Mr. PHELPS. I would yield to my friend, but the regular order of business has been called for, and I presume it will be insisted on if I yield.

The SPEAKER. The gentleman from Maine called for the regular order of business.

Mr. CLINGMAN. If the motion to go into Committee of the Whole be withdrawn, I will move to postpone the pending business a day or two.

The SPEAKER. The Chair thinks that such a motion would be in order.

Mr. PHELPS. I withdraw my motion, then.

Mr. CLINGMAN. I now move that the pending question, arising on the resolution of the gentleman from New York, [Mr. HOARD,] be postponed until the day after to-morrow. By that time, I presume, absent members will have returned.

The motion was agreed to.

CLOSE OF DEBATE.

Mr. CLINGMAN. I now call for the regular order of business.

The SPEAKER. The first business is a motion to lay upon the table the resolution of the gentleman from Pennsylvania [Mr. J. GLANCY JONES] to terminate debate on the Indian appropriation bill at two o'clock to-morrow; upon which the yeas and nays have been ordered.

Mr. PHELPS. I submit to the gentleman who made the motion to lay the resolution on the table, that he withdraw it, and move to amend the resolution, so as to close debate on Thursday at two o'clock.

The SPEAKER. The motion was made by the gentleman from Maine, [Mr. WASHBURN.]

Mr. CLINGMAN. The gentleman from Maine is not present. If that motion is voted down, then an amendment can be offered.

The SPEAKER. The yeas and nays have been ordered.

Mr. CLINGMAN. By general consent the yeas and nays can be withdrawn, and then we can vote down the motion.

Mr. HARRIS, of Illinois. I have no objection to allowing the call for the yeas and nays to be withdrawn, if it is the understanding of the gentleman who made the proposition that he will move to extend the time for debate upon the bill.

Mr. PHELPS. The gentleman who submitted the resolution is not in the House, and I have no control over it; but I hope the House will vote down the motion to lay the resolution on the table; that they will not sustain the call for the previous question; and that then they will amend the resolution, so as to close debate at two o'clock on Thursday. I trust that will meet the approbation of the gentleman from Illinois.

Mr. HARRIS, of Illinois. I have no objection to make, if that is done.

The SPEAKER. The Chair would suggest to the gentleman from Illinois that it is entirely competent for him to renew the motion to lay upon the table, if his views are not carried out, and upon that motion he could demand the yeas and nays.

No objection being made, the demand for the yeas and nays was withdrawn.

The motion to lay the resolution on the table was then disagreed to.

The House refused to second the demand for the previous question.

Mr. PHELPS. I now move to amend the resolution, by striking out "Tuesday at two o'clock," and inserting "Thursday at two o'clock;" and on that I demand the previous question.

Mr. HARRIS, of Illinois. I wish the gentleman to modify it still further, for I think it probable that a privileged question will intervene between this time and the time indicated for the close of debate, which will occupy a day, or a part of a day. I refer to a case of a contested election. I should therefore prefer that the gentleman would modify his amendment, so as to give at least another day for debate on this bill; and if Friday is to be occupied with private business, I should prefer having still another day.

Mr. PHELPS. The objection to the modification suggested by the gentleman from Illinois, is that Friday next is private bill day, and objection day, and I think that the House ought to proceed to the consideration of private business. To continue this debate until next week would be encroaching too far on the time of the House; and it is not necessary to do so, for the purpose of debate, because this bill will be followed by other appropriation bills, on which debate can be continued. Besides, as has been remarked by the chairman of the Committee of Ways and Means, this bill contains nothing but the appropriations necessary to carry out existing treaties, and necessary for the administration of the Indian department.

Mr. HARRIS, of Illinois. My object is to have the bill submitted to a little more scrutiny than such bills have been accustomed to receive in this House. For this purpose alone I desire to have time for investigation. I have given notice to the gentleman, [Mr. PHELPS,] that the House and himself might be apprized of business which will probably intervene within the time to be allowed for this debate. The fact that Friday next is private bill day is not a reason why we should not have proper time for the examination of this bill. I hope the House will give such proper time. I am not going to enter into the discussion of this question, but I think the House is aware of the importance of this bill.

Mr. PHELPS. If it be any accommodation to the House to fix Friday, I am willing to say Friday at two o'clock. I offer that as an amendment to the resolution, and call the previous question.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the amendment was agreed to; and the resolution, as amended, was adopted.

Mr. PHELPS moved to reconsider the vote by which the resolution, as amended, was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. PHELPS. I now submit the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. MARSHALL, of Kentucky, called for the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and the motion was agreed to; there being, on a division, yeas 88, noes 42.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. GREENWOOD in the chair,) and resumed the consideration of the Indian appropriation bill, on which Mr. BURROUGHS was entitled to the floor.

KANSAS AFFAIRS.

Mr. BURROUGHS. It is with a good deal of diffidence and embarrassment, Mr. Chairman, that I rise now to address the committee, because I have seen a number of gentlemen on my side of the House attempting in vain, within the last twenty-five or thirty days, to obtain the floor—gentlemen who would have discussed the question, which I propose to consider, with much more ability than I can hope to bring to the subject.

Sir, I have felt myself exceedingly mortified, from time to time, in this House, at the remarks that have been made on the left side of the Hall, to the effect that the Republican party was a sectional party. We have not unfrequently been

charged with the grossest selfishness. We have not unfrequently been charged with having attempted to carry measures that were calculated to break the lastties which bind together the States of this Union.

Sir, from my earliest days I have learned to love this Union. I have learned that it was my first duty as an American and as a citizen, if need be, to lay down my life for the Union which was purchased at the cost of so much blood and treasure, and I had hoped that the ties which bound us together, and which taught us the great doctrine of brotherly love and fraternity, would not so soon have been forgotten by Americans. Now, it is part of my purpose this morning to introduce some few reasons here to satisfy those gentlemen that they ought to take back these unjust charges. Well, sir, what are they? In the first place, sir, the great doctrine which lies at the foundation of our Republic, I understand to be this, that we are all of us as Americans, in all our acts and in everything that we do, to consult the greatest good of the greatest possible number. That is Democratic doctrine. Yes, sir, it is Democratic doctrine as our fathers taught it. It is the doctrine for which our fathers fought, and it is the doctrine by which I hope the Republic of America will ever stand.

Now, sir, let us look into this subject. We have at the North a population of something over thirteen million, most of them white men; you have at the South, gentlemen, but a little over six million white men. I do not take slaves into account, because they have been denominated property. You have, in the fifteen slave States, eight hundred and thirty-eight thousand square miles of land; we have, in fifteen States, four hundred and forty-seven thousand nine hundred and ninety square miles of land. We have got more than double your population, but we have got only less than half the amount of land that you have. I tell gentlemen that this is not a sectional question. It is simply a question whether we shall have homes for our children; and I propose to address myself to that view of it. You have in the South, or had in 1850, a population of six million four hundred and twelve thousand six hundred and five; we have in the North, or had in 1850, a population of thirteen million three hundred and forty-two thousand and eighty-nine. I say nothing about the slaves. You, gentlemen, have your negroes, who till and cultivate your soil; but we have our cattle on a thousand hills, and an industrious yeomanry who cultivate our soil. I propose now to ask who paid for the land we have, and how we came by it, and what would be a fair, honest, and equitable division of it? Why, sir, I recollect that that little strip of land upon your southern coast, Florida, was bought at an expense of something over three million dollars, if not over five million. You recollect, also, sir, that we purchased Louisiana at a cost of \$15,000,000, besides what we have paid for the extinction of Indian titles. The gentleman from Alabama, [Mr. SHORTER,] who spoke the other day, and who is one of those who made this charge of sectionalism and injustice, lives in a State upon which we have expended untold millions—yes, sir, and northern blood, too—in her Indian wars. I hope the gentleman will be magnanimous enough, when he looks into the facts, to take back the charge of sectionalism and bad faith. We profess to be friends of the Union, and friends of every human being in the Union, black as well as white; and we do not like to be charged with bad faith and illiberality.

But again, we got into a war about Texas. Do gentlemen know how we got into that difficulty? We admitted Texas into the Union, and took upon ourselves the war with Mexico, and in carrying on that war we expended nearly two hundred million dollars, to say nothing of the precious blood which men of the North and men of the South shed upon the battle-fields of Mexico. All the wars in which this country has been engaged for the last twenty-five years have been mainly with the Indians on our southern border, though, to be sure, the Black Hawk war was not a southern war. If gentlemen will take the pains to examine into the subject, they will find that since the purchase of Florida we have expended on the purchase of lands from foreign Governments, from Indians by treaty, and in various other modes of expense, over eight hundred million dollars—a sum which would purchase some

of the States of this Union, with all the property within them, real and personal. Now, sir, I propose, in a spirit of all kindness, to ask gentlemen who make this charge of sectionalism against us, to tell us where this money—this eight hundred millions—came from? Where did the money come from? I have facts and figures here to satisfy any gentleman where it came from. Look to the importing and tax-paying States of this Confederacy. In the State of New York we have a population of over three million, nearly half as much as the population of the whole southern States.

Now, sir, I have not time to-day to present the careful calculations by which I arrive at the fact that the northern fifteen States of this Confederacy have paid three fourths of the entire amount expended for the purchase of these lands. Six hundred million dollars have been paid in the form of indirect taxes for that purpose. I make this now simply as a general statement; and I tell gentlemen that if they doubt the correctness of the statement, I will, at a future time, present the facts and estimates in careful detail.

Well, sir, I now come here with the complaint that the northern States have not quite half the territory you of the southern States have; and I say further that our land is not as good as yours. I know it, for I have been upon your southern soil; I have been over most of the States of this Union, and gathered the means of forming a correct opinion, and believe that, with the exception of the mountain ranges of the South, you have much better land than we possess.

And now I see over the way a gentleman who made some remarks the other day, to which my attention is called by seeing him in his seat. I do not propose, however, to talk about Kansas, except as it is connected with the point to which I have just adverted. We do not claim Kansas solely upon the ground that we are entitled to it as a matter of equity, and upon the ground that we paid for it, but we want it also upon the ground that we do not like your kind of civilization. The gentleman [Mr. LAMAR] said the other day:

"If I could do so consistently with the honor of my country, I would plant American liberty, with southern institutions, upon every inch of American soil. I believe that they give to us the highest type of civilization known to modern times."

Well, sir, the gentleman from Georgia, [Mr. GARTRELL,] a few days afterwards addressed the committee, and not satisfied with resting the question upon its mere ground of civilization, went into the consideration of patriarchal usage. He said that the time had gone by for making apologies for slavery; that the time had come for defending it upon high grounds. I listened to his remarks with pleasure, and I have ever since felt to appreciate the ability, the skill, and the genius with which he managed the subject. I was pleased with his speech for its frank and manly tone; he went back to earlier times to find arguments and a foundation for the peculiar institution which exists in the South—he might have found examples, also, of another institution, which exists in Utah Territory. But we live in an age when we have in some portion of the country been led to cultivate a different degree of civilization. I do not propose, in running a parallel between northern and southern civilization, to offend the most sensitive feelings of any man. I introduce it simply for the purpose of illustration, and in order that gentlemen looking over the subject candidly may see whether our views deserve their consideration; whether we are right or wrong. Not intending to go over the whole field, I find myself with a mass of figures, which I shall not be able to present to-day. I shall bring only a few of them to the notice of the House. When the gentleman from Georgia [Mr. GARTRELL] addressed the House about the patriarchal institution, and the gentleman from Mississippi [Mr. LAMAR] in reference to those existing at the South, as presenting the highest form of civilization known to modern terms, I felt called upon, as a student of civilization, to look into the facts and ascertain the basis upon which they rest that high claim.

I took the census report of 1850, and I beg the attention of the gentleman while I introduce a few facts, and ask gentlemen themselves to draw the contrast.

I desire to call the attention of the House first to public schools. The district represented by the gentleman from Georgia [Mr. GARTRELL] has one

hundred and eighty-eight public schools, one hundred and eighty-nine teachers, and five thousand five hundred pupils. In the counties which compose my district we have three hundred and six public schools, three hundred and seventy-five teachers, and nineteen thousand seven hundred and seventy-eight pupils. This, in my poor judgment, is some evidence of the comparative civilization of our respective districts.

Now let us turn our attention to the district of the gentleman from Mississippi, [Mr. LAMAR.] In that district there are one hundred and forty-four public schools, one hundred and forty-seven teachers, and two thousand nine hundred and sixty-six pupils. I have already told you how many of each my district contained—I refer, of course, to the public schools as classified in the census report.

I next turned my attention to another item—school libraries, not libraries in academies and colleges, but school libraries, accessible to all the people. In my district there are two hundred and eighty-five school libraries, containing thirty-six thousand three hundred and twenty volumes. In the district of the gentleman from Georgia there is one school library, only containing five hundred volumes. In the Mississippi district referred to, not one library of this class.

Again: I, in the next place, looked a little to the value of church property in the respective districts. The total value of church property in the district of the gentleman from Mississippi, is \$118,285; in that of the gentleman from Georgia, \$127,520; and in my own district, \$276,850. In one county of Mississippi, constituting a part of the gentleman's district, I found but one single church, which church was worth one hundred dollars. This county, Tunica, has a population of three hundred and ninety-six whites, and nine hundred and seventeen slaves.

Running this parallel a little further, I propose to call the attention of gentlemen to some other facts.

Mr. QUITMAN. Will the gentleman from New York state what district in Mississippi he refers to?

Mr. BURROUGHS. I do not know the number of the district. It is that represented by the learned and eloquent gentleman on my left, [Mr. LAMAR,] who addressed the committee a few days ago.

Mr. QUITMAN. If the gentleman from New York will permit me, I will state, for the correction of the statistics, that in our section of the country we act individually; and I will venture to say, that if the gentleman and myself occupy seats on this floor at the next session of Congress, I can show him then that there are more books in the libraries of private individuals, in my district, than there are in those of private individuals in his district.

Mr. BURROUGHS. I cannot extend any more of my time to the gentleman, though no one respects him more than I do. I wish, sir, that the gentleman could point me to libraries for the use of the people.

I have already given the number of the white population of the fifteen southern States. The slave population is three million two hundred thousand. The number of public schools in the fifteen southern States I find to be nineteen thousand four hundred and eighty-eight. In my own State alone the number is ten thousand eight hundred and two. The number of persons—*native white population*—in the fifteen slave States who cannot read and write is five hundred and sixty-eight thousand two hundred and forty-eight. The number of native population in the fifteen free States who cannot read and write is two hundred and seventy-eight thousand three hundred and seventy-five.

Now, passing these figures, I desire to call the attention of the committee for a moment to some other facts; and in passing, I wish to make a reference to the State of Texas. I hold in my hand a paper characterized certainly by very great simplicity of language, and no doubt entitled to receive the consideration of every member of the House. Here is a State which came into the Union in 1844.

Mr. REAGAN. In 1846.

Mr. BURROUGHS. In 1846. I had 1844 in my mind, because I recollect very well that I labored on the stump for "Polk and Texas" that year. I expected, when Texas came into this Union, that she would have had the kindness to

bear with our section of the Union a little. Twelve years ago, when Texas was young, and needed our help, we bought her lands and fought her battles; but now she has grown to be a Hercules, and says that, unless we admit slavery into Kansas under the Lecompton constitution, she will not live with us any longer. That would be a nice job for her, to get us to expend \$200,000,000 on her account, and then to back out—

Mr. REAGAN. Will the gentleman allow me?

Mr. BURROUGHS. I would be glad to oblige the gentleman, but I cannot yield. I have no time to spare. Texas, I was going on to say, has passed resolutions; I will not say they are defiant, I will not say they are threatening, I will not say that Texas will not come down on us with an avalanche of some sort, if we do not admit Kansas into the Union under the Lecompton constitution. Texas will do—I know not what. Certainly, she has adopted resolutions, and is going to be represented in the southern convention, (if held.) What that southern convention is to do, I do not know.

I did not intend, Mr. Chairman, to have made a long speech to-day. I intended to present some few facts on which to base the justice of our cause. I intended to present these few facts, and to claim for them magnanimous consideration. We have got twice the amount of population that you have, and have got but half the quantity of land. This land was bought by the common treasure, North and South; and it should be fairly divided. I might rather say that the earth belongs to the people on it; and that no one section has a right to monopolize and keep it to the exclusion of every other class. You have in the single State of Texas territory equal to six times that of the State of New York. On that territory you can support no less than fifteen million human beings. You have got there territory large enough for four States, on which there are comparatively no white settlements; and yet you now stand in your place in the halls of your Legislature and say that you cannot live in the Union with the North unless we consent to let Kansas come in as a slave State.

I cannot make any comment on this. It does not tally with my notions of justice and propriety, and I believe that when you come back to the sober second thought you will agree with us in our opinion, and you will say that we are entitled to these lands.

Proceedings of the Democratic State Convention.

AUSTIN, TEXAS, January 8, 1853.

"On motion of Colonel L. T. Wigfall, the following platform was adopted:

"Resolved, That the Democratic party of the State of Texas heartily concur in, and unanimously reaffirm, the principles of the Democratic party of the Union and the Constitution, as embodied in the platform of the national Democratic convention, held in Cincinnati, in June, 1856, and the State convention of Texas, at Waco, on the 4th of May, 1857, as a true expression of their political faith and opinion, believing them to embrace the only doctrines which can preserve the integrity of the Union and the equal rights of the States.

"Resolved, That recent events in the United States Senate create in our minds a serious apprehension that the great doctrine of non-intervention, as set forth in that platform, is in danger of being repudiated by Congress through the instrumentality of members of the national Democratic party, distinguished alike for their political influence over the public sentiment of the North, and their past declarations in favor of said doctrine; and that we now consider it our duty to set forth to the country the course that we shall be compelled to take in that serious and deplorable emergency.

"Resolved, That we request the representatives of the people of Texas, in Legislature assembled, to provide, at the present session, for the Executive of the State appointing suitable delegates to a convention of the southern States, which may be hereafter assembled for the purpose of consultation and advice for the general welfare of the institutions of the South.

"Mr. Brown offered the following resolution:

"Resolved, That the chairman appoint one member from each judicial district as members of the State Democratic committee.

"Pending which the convention, on motion of Mr. Britton, adjourned to Monday, three o'clock, p. m."

MONDAY, three o'clock, p. m.

"Convention met—roll called—quorum present.

"The Chair announced that the question before the convention was the motion of Mr. Brown appointing the State Democratic committee.

"Mr. Rainey moved to amend by adding, 'the chairman of which shall reside in the city of Austin.' Adopted.

"Mr. ——— moved that each judicial district meet and designate the name of the party they wish to act for their respective districts; which motion, it was moved, should lie on the table; but the president, informing the convention that he wished that course pursued, it was adopted.

"General T. J. Chambers offered the following resolutions:

"Be it resolved by the Democratic Convention of Texas, now assembled in the Capitol of the State, That whereas, the integral parts of the Federal Government of the United States of America, are free, independent, and sovereign States, which, for special purposes, have delegated to that Government a portion of their sovereignty, reserving to themselves, or to the people, all rights and powers not specially delegated; and whereas, one of their reserved rights is that of resuming the power delegated to that Government whenever they may be perverted to the injury or oppression of any of the States, or whenever any of the States may consider that their happiness, their prosperity, or their safety may require it; and whereas, that Government, in the admission of new States, has no power to interfere in any manner with the domestic institutions or internal organization of such States, except to guaranty to them a republican form of government; and whereas, the people of Kansas have formed and adopted a State constitution, securing to themselves and to their posterity the blessings of a republican form of government, with the domestic institution of slavery; therefore this convention solemnly declares that any action upon the part of the Congress of the United States tending to embarrass, delay, and defeat the admission of that new State as a member of the American Union, under any pretext whatever, referable to the question of slavery, would be a usurpation of power, and a violation of the compact of the Union; and in such event, our Senators and Representatives in the Congress of the United States, are requested to give notice of our intention to take the necessary steps to prepare the free, independent, and sovereign State of Texas to resume the powers delegated by it to the General Government, and to withdraw from the Union, as being no longer productive of the great objects for which it was established; and we invite our sister States, attached to the benign domestic institution of slavery, to join with us in this important measure, so that we may present to the enemies of our institutions an unbroken and defiant front, and thus secure our safety, our liberties, and our independence, by prompt and united action.

"Be it further resolved, That the president and secretary of this convention be instructed to communicate these resolutions to the legislative and executive departments of each of the States of the American Union, and to the President and Congress of the United States.

"On motion, the convention adjourned until eight o'clock, p. m."

I have similar resolutions from the States of Florida and Alabama, but have not time to read them. If I had time I would say something about Kansas as a justification for myself and for every northern man who votes against and opposes the admission of Kansas into the Union as a slave State.

A gentleman now in my eye has several times asked members on my side of the House whether they would vote to admit Kansas as a slave State if it was well ascertained that a majority of her people were in favor of slave institutions. I can answer that question without any difficulty. I would not vote to admit Kansas as a slave State under any possible circumstances, and I place my justification on the ground that that country belongs to the North. Slavery has got all the genial climate of the United States, and by what right? There is hardly a non-slaveholding State where we can settle and find a genial climate. Will you allow us no spot for our invalids, for our consumptives? Perhaps you will point us to Cuba for relief; but if it were ours you would insist upon establishing your "institution" there also.

Now, I want to say here to gentlemen from Missouri—and I want them to recollect it, and carry the fact home to their constituents—that, if the people of that State would give away every negro they have got to-day, and adopt a free constitution, they would enhance the value of their lands thirty per cent. within two years. If you are successful in making Kansas a slave State, we shall look upon it as depriving us of the only country which has a genial climate suitable for northern labor.

Now, I need not tell you that northern men do not like your sensitive property. They are seriously prejudiced against it, and cannot help it. We cannot settle in a country where this "sensitive property" is allowed to exist. And here let me, in this rambling way, ask the gentleman from South Carolina to remember that some of our people would like to settle in his State; but not in that part where you may travel five, ten, and fifteen miles, among the sand-hillars, and not find a man or a woman who can read and write. Northern men do not like institutions productive of such civilization.

Mr. McQUEEN. If the gentleman will allow me I will say to him that I would rather have the lowest of them than the Mormons and many others educated, probably, in the public schools of which he boasts so much in his own State.

Mr. BURROUGHS. The gentleman must excuse me; but I cannot give him any portion of my time. I have no doubt the gentleman has his

preference, but he must pay some respect to his twin sister—that "twin relic."

But, sir, besides these grounds of justice and equity upon which I put this question, the manner in which this Kansas affair has been managed from the start must be taken into consideration. I think I might well claim and insist that, from the beginning to the end of this whole Kansas matter, there has been committed a series of frauds and violence such as have never been seen in any civilized country upon the globe. This is a broad assertion, sir; but I make the charge. I charge it because I believe it. I charge that Franklin Pierce, from the commencement of his administration, in connection with this Kansas matter, acted upon a system of fraud and villainy, and I believe that James Buchanan is following up the same track, and has "out-Heroded Herod."

Mr. SMITH, of Virginia. I rise to a question of order. I consider such language unworthy the place that the gentleman occupies. To denounce a coördinate branch of this Government I hold to be out of order. [Cries of "Oh!" "Oh!" and laughter.]

Mr. BURROUGHS. I hope I shall not be interrupted in this way. The gentleman and I differ in opinion no doubt upon some subjects. Sir, it would be a source of the highest pride and greatest gratification to me if I could stand here in my place to-day and say that I honored the President as the President of the Union. I should be glad if I could stand here to-day and say that I approved his acts. I should be glad if I could say, as I could at the close of the eight years of General Jackson's administration, that I honored and approved everything that he had done. I feel humiliated before God and my country that I am obliged on the floor of Congress to denounce the President.

Now, sir, I do not intend to-day to enter into the facts which go to prove the statement which I have made. They will be presented in a few days, I doubt not, by the committee appointed to investigate the subject. But I desire to call the attention of northern Democrats back to 1820. I would remind them of the sacrifice which northern Representatives in this Hall were then called upon to make. I might point them to men throughout the North, from Maine to Ohio, who occupied seats in Congress then, and voted to admit Missouri into the Union as a slave State, and who went back to their constituents to stay away from Congress forever, because they had disregarded the interests and will of those they represented.

Now, sir, what is the true representative principle? Suppose that a gentleman from the North is elected by a constituency that is nearly equally divided, and takes his seat here by virtue of the Governor's certificate: what is his position here? Is he at liberty to disregard the will of his constituents, and vote against their interests, because he has been sent here by some accidental majority? No, sir; I deny it. I maintain—and I put it to the consciences of gentlemen representing northern constituencies—I maintain and insist that it is their duty, when they record their votes here, to consult the interests, the rights, and the future well-being of every man, woman, and child in their districts; and the man who falls short of this fails to discharge his duty to the country.

I see upon the other side of the House a neighbor of mine, [Mr. HATCH,] whose vote, I know, was counted upon in favor of freedom, and permit me to address to him a few observations just here. A few days ago, in this Hall, the gentleman boasted that he had a larger foreign constituency than perhaps any man in Congress. What are your constituents doing? You will tell me, perhaps, that they are digging your wells and cellars, carrying your hods, and building your stores. What will their children do, twenty-five or fifty years from now? That is a pertinent question. There will not be room and employment for them and their children in your city. Where will they go to find homes? If the gentleman permits slavery to spread itself over the whole of the northern Territories, they will find no homes there. I can point the gentleman to hundreds in his district to-day, who, perhaps, thirty years hence will be walking over the fields of Kansas, to see there probably the richest soil in the world, but to find, perhaps, that country occupied by an institution which crowds out

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northern free labor. I can point the gentleman to hundreds in his district who, fifty years hence, in walking over those beautiful fields, will say, "If my father had not voted for a Democratic Representative from Buffalo, and given him a seat in Congress, these fields would perhaps have been mine; but here is no home for freemen; no home for my countrymen."

Now, I ask of no man here anything which is not entirely in keeping with justice, and in accordance with high equity. The gentleman from Alabama, [Mr. SHORTER,] the other day, said that we placed upon them, in 1820, the burning mark of inferiority. That is not so. The position of the South is every way equal in advantages with us. Our northern men will not settle in a country where slavery exists. I need not make an argument to prove this. On the other hand, gentlemen cannot prove to us that southern men will not go into free territory. I remember facts which I may safely address to you. Go to the State of Illinois, and you will find not less than thirty-five thousand of her inhabitants were originally from either Kentucky, Tennessee, Virginia, South Carolina, or far off Georgia. They will go to free territory and settle there, if you will permit them. As representatives of the South, if you would consult the interests of a large portion of your country, you will help to make Kansas a free State, and thereby promote the greatest possible good of the citizens of the South who would gladly find homes there.

I regret to have said anything in the course of my remarks which should wound the sensibilities of the gentleman from Virginia, [Mr. SMITH;] but I could not refrain from expressing the true sentiments I entertained in regard to the course of the President of the United States. I know there was a time when it was unlawful to say anything against the King; I know there was a time in England when penalties and chains were visited upon the man who dared to speak against the King—the Tower of London has contained many such. I know there was a time in America when a law was proposed, making it an offense punishable by fine and imprisonment to speak disrespectfully of the President. Now, sir, if such a law was in force at the present day, half our freemen would be in prison or exile. I should be obliged to find some refuge, some secure spot in Canada, or in the southern islands, because of the language I have used in regard to the President, or become the tenant of a Democratic jail. I am a peaceable man, and would treat with proper respect everybody; yet, when I am asked to call the President of the United States an honest man, I must falter. When I am asked to say that he has conducted himself before the people, with respect to this Kansas matter, as a prudent and candid man, I must decline.

Mr. SMITH, of Virginia. What I said when I rose to a question of order was, I trust, founded in proper sentiment of feeling. It is the policy of the Government for all of its branches to indulge in language of courtesy and respect towards each other, and the rules of this House prescribe it in reference to one branch. When I heard the gentleman from New York—a traveled gentleman, as he tells us—get up and denounce a coordinate branch of the Government, I did feel a degree of indignation for the moment which I could not repress. I may regret that I expressed myself so strongly, but I more regret that the gentleman should have used such bitter language towards the President of the United States.

Mr. BURROUGHS. I have no doubt that I should receive instructions in matters relating to politeness from the gentleman from Virginia.

Mr. GIDDINGS. I wish to ask the gentleman from New York whether he does not demand a corresponding respect from other branches of the Government towards this body, which they demand from us?

[Here the hammer fell.]

Mr. CURRY. Mr. Chairman, the Kansas bill contains three distinct features. First, it denies to Congress the power to legislate slavery into a

Territory, or exclude it therefrom; and, without lifting the unconstitutional Missouri restriction to the dignity of a formal repeal, simply declares it "inoperative and void." Second. It transfers the powers of Congress to the Territorial Legislature, and vests in it full jurisdiction over all rightful subjects of legislation, leaving the people *perfectly free* to regulate their domestic institutions in their own way, subject only to the Constitution of the United States. Third. It guarantees to the people of the Territory admission as a State into the Union, with or without slavery, as their constitution may prescribe at the time of such admission.

The passage of such a bill was an era in political science, and a monument marking its advancement. Founded on the principle of local self-government, keeping a strict separation between "local and Federal interests," it avoided sectional collisions, limited northern supremacy, and protected a distant people against the fluctuating and oppressive legislation of a geographical majority, plethoric with power, intent on its purposes, ignorant of local wants, and incapable, because acting out of the sphere of intelligence and observation, of promoting domestic happiness and security. Prior to its adoption, Congress had arrogated a despotic, because unlimited, power over the Territories, fixing their normal condition, regulating their institutions, prescribing their civilization, and controlling their destiny. The Kansas bill reversed this practice, confined the Federal Legislature within the scope of its limited jurisdiction, and withdrew the vexed question of slavery from congressional consideration, and transferred it to the arbitration of those interested, and who were most intimately affected by the existence or non-existence of slave labor. It acknowledged the inability of Congress to legislate for the local and domestic interests of a remote people; refused to subject them to Federal dominion, and threw them upon their own resources, to develop their own system of culture, and contend for all the prizes of life. The measure was intended to stop the flowing of the bitter waters of Marah; to stop agitation in Congress, to stop discord and strife and fraternal hate, and accomplish a permanent settlement, in principle and in substance. It was not a mere temporary adjustment, contingent on popular caprice, or controlled by paltry considerations of policy or expediency, but a final, conclusive, and irrevocable settlement, for all time to come, and for every territorial organization. As such, it was accepted by the people of the United States; and as such, a common patriotism of all sections rejoiced in its consummation. It violated no principle of justice, conflicted with no constitutional prohibition; but in it truth and justice met together, freedom and the Constitution embraced each other. It antagonized centralization, and was a happy illustration of local self-government.

Under the practical application of the law, in October, 1856, "the sense" of the people of Kansas has been taken "upon the expediency of calling a convention to form a State constitution." An affirmative vote being given, the Territorial Legislature passed a law for the election of delegates to the convention by popular suffrage. The delegates were legally chosen at a fair and public election. The convention, thus rightfully summoned by a popular vote, and the Legislature, assembled and framed a republican constitution, and submitted so much of the instrument as related to slavery, to a direct popular vote on the 21st of December last; and now, all the initiatory steps having been taken, in accordance with, and subordinate to, the territorial authorities, which have been recognized by the executives and judiciary of Kansas, the President and people of the United States, she knocks at the door for the privilege of admission into this Confederacy, and to be recognized as a peer. From beginning to end, *ab ovo usque ad malum*, the forms of law have been observed; and while occasional excesses have been committed, the constitution and the convention have been the work of conservatives and the law abiding, in opposition to those who have been

guilty of faction and disorder; and, in the language of Governor Walker, a rebellion so iniquitous, and necessarily involving such awful consequences as has never before disgraced any age or country.

Compared with California and Michigan, the action of Kansas has been sober, methodical, and blameless; and but for its action on slavery, but for the fact that, in her high discretion she has cast her lot with the South, scarce a word of other than simulated dissent would have been heard from any quarter. Attracting the attention of all sections; being the arena of a fierce and uninterrupted contest; subject to unnatural and stimulated immigration, Kansas has slowly and regularly and publicly and voluntarily taken every step, the successive processes of which have led her from the wilderness, through the intermediate organizations, up to her present attitude of a sovereign State, desiring admission into the great sisterhood of sovereign States. She is met with cold rebuffs and refusals, and to sustain the project of remanding her back to territorial pupillage, the most singular pretexts are alleged, the most monstrous doctrines are avowed, the most glaring injustice is proposed to be done, the most reckless inconsistency is practiced.

Several positions have been assumed in both branches of Congress by those who were classed heretofore as friends and advocates of the Kansas bill to justify their present hostility to her admission, and their failure to allow her the guaranteed privilege of coming into the Union, with or without slavery, as the constitution may prescribe. The most prominent objection, most earnestly urged, and most confidently insisted upon, is, that the convention did not submit the *whole* constitution to popular ratification or rejection. I fear, Mr. Chairman, this is an after-thought, trumped up for the occasion. What was, a short while ago, the curse of the age, the foul blot upon our national escutcheon, the aggregation of all ills, has suddenly become the most insignificant and unimportant part of the constitution. I will not use harsh terms in characterizing such conduct, but to me it is singularly unaccountable. What was the bone of contention in the Kansas bill? Slavery. What was the obnoxiousness of the Missouri restriction? The localizing and proscription of slavery. What was the burden of Abolition accusation? The extension of slavery. What was the theme of song, and lecture, and sermon, and speech, and petition, and clerical protest, but slavery? Every intelligent man must feel and know that if the constitution of Kansas had been, in the language of my friend from Ohio, [Mr. COX,] "an emanation from the pit," and had excluded slavery, it would have been tolerated and defended by the greater portion of those who are now so rampant and hostile; while, on the contrary, if it had been perfect as inspiration, and, like inspiration, recognized the existence of slavery, it would have been assailed and condemned. The whole controversy and agitation, for four years, on the Kansas bill, have grown out of slavery.

The President, in his recent admirable message, says:

"This was the question which had convulsed the Union and shaken it to its very center. This was the question which had lighted up the flames of civil war in Kansas, and had produced dangerous sectional parties throughout the Confederacy. It was of a character so paramount in respect to the condition of Kansas as to rivet the anxious attention of the people of the whole country upon it, and it alone. No person thought of any other question."

And the submission, separately of the slavery clause of the constitution, was the fairest and most equitable way of ascertaining the public sentiment and of allowing "the people to regulate their own domestic institutions." I go further, Mr. Chairman, and assert that such was the public declaration of its prominent advocates and of him for whom is claimed the paternity of the measure. In a speech on the 3d of March, 1854, Mr. DOUGLAS said that the doctrine of the report, explanatory of the bill, was: "First, that the *whole* question of slavery should be withdrawn from the halls

of Congress and the political arena, and committed to the arbitrament of those who are immediately interested in, and alone responsible for, its existence. Second, the applying this principle to the Territories and the new States to be formed therefrom. *All questions pertaining to slavery* were to be referred to the people residing therein."

The same sentiment, that the people were to decide the question of slavery for themselves, that it was to be determined according to their wishes, is repeated, over and over again, in the same masterly speech, and in other speeches on the same side, by men who "were in the country at the time," and active participants in "the controversy and discussion" growing out of the measure; and some of whom could truthfully say, *quorum magna pars fui*. Secretary Stanton, in his inaugural address "to the people of the Territory of Kansas," while conceding the fairness and fullness of the expression of the will of the people, through the delegates to the constitutional convention, expresses the conviction, and advises—

"That, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great, disturbing question regarding their social institutions, which has so long agitated the people of Kansas, to a fair vote of all the actual, bona fide residents of the Territory, with every possible security against fraud and violence."

In accordance with these declarations of the intent of the measure and the advice and suggestion of the Secretary, "the question of difference," the "great disturbing question regarding their social institutions," has been submitted to a fair vote of the people, and been decided by them. But now, forsooth, the constitution is void and unrepublishable, because, *as a whole*, it has not been submitted to the people. It appears perfectly plain to my mind, that a people can select agents or representatives, and invest them with authority to make a fundamental law which will be obligatory upon them. The constitution, in my opinion, is perfectly valid, and is an authoritative and conclusive expression of the will of the people of Kansas, without such submission. The convention had plenary power over the matter. It had been invested with it by the people of Kansas. In the act summoning the convention, no restrictions were imposed, no limitations required. The convention had the perfect right—being the highest embodiment of the will and political power of the people—to submit the constitution or not, in whole or in part. It rested exclusively in its discretion; and in exercise of that discretion it submitted the vexed, agitated, and paramount question of difference to a popular vote. It exhibits sublime impudence in the advocates of the Topeka constitution to be objecting to the Lecompton constitution for want of submission, when, a little more than a year ago, they essayed to force that thing, called a constitution, through Congress, which was adopted by an illegal mob, without authority of the General Government; "without the assent of the Territorial Legislature; without a vote of the people authorizing the convention;" and accompanied by a memorial, which was not the same document when presented to Congress, that it was when it came from the hands of that motley and rebellious assemblage of fanatics convened at Topeka. Besides, by participating in the elections held under the Lecompton constitution, as was done on the 4th of January, the Topekaites have abandoned their opposition to it, "recognized its existence in the most solemn and authentic manner," practically and truthfully declared that their past conduct was indefensible and rebellious, and morally bound themselves to obedience and allegiance. The distinguished Senator from Illinois, and many northern Democrats, are estopped from objecting, because they insisted upon the power and right and duty of a Territorial Legislature even, to introduce or exclude slavery. On the 3d of June, 1850, Mr. DOUGLAS declared, in the Senate, his opposition to any provision in the bill organizing a territorial government in California which prohibited the people of that proposed Territory from legislating in respect to African slavery. He announced his belief that this was one of the rights conceded to the Territories the moment they have governments and Legislatures established for them. Here is a high sovereign power—the right to establish or abolish slavery; to determine what shall and what shall not be property; to mold domestic institutions; to

fix social polity—which inheres in a Territorial Legislature, and can be exercised without subversion to the people, and in contravention of the popular will. But a convention, the highest sovereign authority, the impersonation of delegated power, is hampered in its action, and compelled to submit its ordinances—"the organic institutes of sovereignty," as Mr. Dallas calls them—to a popular vote. I was aware that Noah Webster and kindred Federalists held to the doctrine that a legislative body was a standing convention, invested with the whole power of their constituents; but it has been reserved for the discussion of this Kansas question to develop the fact that there are persons of distinction and ability, claiming, too, to be State-rights Democrats, who, to accomplish a purpose, would sink and degrade a convention below the dignity of a Legislature of squatters.

To give plausibility to the singular course pursued by some gentlemen, and to relieve the case of all its complications and embarrassments, the action of the Territorial Legislature convened by Stanton, and the vote on the 4th of January, as ordered by that Legislature, are relied upon. This interposes no real obstacle to those who do not entertain erroneous views in reference to a convention. A convention, possessing the attributes of political sovereignty, can do all that the people *en masse* can do. Regularly clothed by them with authority and power, it represents the whole people; its acts become their acts, and bind their obedience. In the case of Kansas, the question of "convention," or "no convention," was submitted to a popular vote, and a convention was authorized. Being assembled, it becomes the supreme authority, and between it and the Legislature there is a difference, not merely in name and form, but in function and power. The one enacts laws with the assent of the executive; the other ordains constitutions, which import something beyond and above ordinary legislative power. A convention in a Territory must necessarily, so far as its power to make a constitution is conceded, be as independent, as powerful, as unimpeded, as a convention in a State; and this results, *ex necessitate rei*, from the nature of the duties to be performed, and from the equality which must exist between the new and the old States of the Confederacy. No other power can make a constitution or ordain a fundamental and organic law. A Legislature cannot do it; Congress cannot; nor authorize it by any immediate or subordinate agency. The action of the convention is the declaration of sovereign will, the authoritative "pronunciation of sovereign pleasure." The Territory becomes a State through and by virtue of its constitution, which must be the action of the sovereign. As Secretary Stanton says—

"It is true that a Territory cannot become a State of the Union without the assent of Congress. But this discretion on the part of Congress does not imply the power to dictate institutions to the people of the Territory, or in any way to restrain or limit or force their sovereignty in the exercise of its high function of framing its own State government."

The convention in Kansas elected to submit the slavery clause of the constitution to the people on the 21st of December. This it had the perfect right to do. That was its way and manner, and its action is final; and it is absurd that an ordinary Legislature can interfere with the proceedings of its superior, alter its action, change the mode of submission, fix a different day for a vote, or make a new constituency. An act of the Legislature could not repeal the constitution, or a single article or word of it—could not affect its validity, or change the distribution of power, or authorize a new submission. Its action in requiring a vote on the constitution is nugatory—no more obligatory than the resolution of a party meeting; and the vote, therefore, which was given on the 4th of January, is nothing more than the voluntary, unauthorized act of a promiscuous congregation of men. Nor does it present any logical difficulty in the determination of this question that the result of the vote on the 4th of January, as ordered by the Legislature, was different from the result in December, and that a larger number voted on the latter day than on the former. One is regular, legitimate, authoritative; the other is factious, anarchical, Dorrish. It is a universally recognized law of our elections, indispensable to order and right, that those who remain away from the polls, even though a majority of the legal voters, consent to be bound by the action of those who do

vote. That some, that a majority, voluntarily and "with malice aforethought," absented themselves from the polls, does not invalidate the election, or militate against the authority of the convention or the obligatoriness of the constitution. The votes given, if legal and proper, are just as controlling, just as constitutionally conclusive of the will of the people, as if all had participated and voted in the election. To hold otherwise would be to produce discord and confusion, to unsettle existing things, to encourage Dorrism, and allow a mob to become the ruling power under our free institutions.

If the right of a Legislature, Territorial or State, subsequent and in antagonism to a convention, be admitted to submit a constitution, in whole or in part, on the same or a different day, changing or reversing what had been ordained by the convention, it follows inevitably that a Legislature may, from any sudden whim or caprice, submit an objectionable clause of a constitution to a popular vote, and make that vote the determining power. Forms of amendment, tedious and dilatory, adopted by those who deprecated sudden and facile changes in the organic law, or the slow process of a convention, will be dispensed with as too cumbersome for this progressive age. All prescribed forms would soon become intolerable restraints upon popular impatience and zeal, and "the will of a numerical majority"—the physical force of numbers, would take the place of constitution and laws, and become the "sole and absolute power." Sir, those are dangerous tendencies, elevating the individual above the sovereign, lowering the constitution-making power, and removing restraints, without which freedom is but a name and democracy a despotism. Intoxicated with this new possession of power, the legislation would be overawed, as in France, by a frenzied multitude, and representatives would be but vassals in a reign of misrule and terror.

A plan has been proposed to free us from the disagreeableness of admitting Kansas as a slave State, which some of its friends facetiously term a compromise; (I hate the word, Mr. Chairman, it has been so often used for the betrayal of the South;) which is, for Congress to order a submission of the constitution to a vote of the people, to ascertain the will of the majority. While this is a violation of the organic act, it is also a proposition for direct intervention in the affairs of Kansas, and to coerce a submission to congressional dictation. In the teeth of the constitution, the Kansas bill, and every principle of justice and State equality, a compulsory requisition is to be made. It is the old, exploded doctrine of congressional supremacy; a revival of the unlimited power to control the Territories; because, if Congress can change the action of the convention, can prescribe a different mode of submission, interfere in her internal affairs, reverse what the convention has done, it can abolish or establish slavery, or do anything else that the most latitudinous constructionist can claim. Congress is concluded by what has been done in Kansas. The constitution being republican, and framed by the people, "in their own way," under the forms of law, there is no option. At all events, the action of the convention cannot be referred back, by Congress, to the people for ratification. The supposed necessity and indispensableness of submission is a fallacy—an off-shoot of Red Republicanism, worse than Black Republicanism, proposed to be ingrafted on the vigorous stem of American republicanism. If the will of the people can only be ascertained by a direct appeal to them, then every clause in the constitution must be wrested from its context and submitted to a separate vote. The Constitution of the United States is the full, just, and perfect voice of the people, the highest expression of popular will in this country; and it has never been submitted either to the aggregate vote of the whole people, (if such a solecism be allowed, for there is really no such people as the people of the whole United States,) or to the separate vote of the people of each State; and who will pretend that it is not as republican, as paramount and supreme a law, as authoritative an exposition of the popular sentiment, as any of the modern constitutions? I utterly deny that the majority has the inherent and unalienable power of governing, without limitation and without restraint. I deny that there are no other means of ascertaining the will of the people in relation to a constitution than

by submitting to a direct popular vote. The distinguishing principle and excellence of our American system of government, as contradistinguished from other systems, is what Webster called "the marvelous felicity of its representative system." The regular action of the people is not *per capita*, or by the aggregated mass, but through representatives. So jealous are the people of a dominant majority that they have tied their own hands, controlled their action, and limited their power. While the people are the source of all political power, yet that power must be manifested by authority of law, through prescribed forms, in obedience to previous direction. Elections are to be held at particular times and places; suffrage is controlled and limited; and the persons to be elected agents or representatives must possess certain qualifications and requisites. The whole history of our Government shows that the greatest wisdom and caution and prudence were to be exercised in altering the constitutions, and ample securities were provided against the rashness and uncertainty of bare majorities.

To illustrate the difference between a regular convention and the action of the people *en masse*, in their primary capacity, outside of constituted authority, let us suppose a bare majority of the people to meet in the aggregate and adopt a constitution: would that be the organic law of the body-politic—of the entire community as a unit? No; it would be a government forced by one half of the community upon the other half, less the difference in numbers; and is but little, if any, more authoritative and obligatory than if it had been adopted by the lesser half and imposed upon the greater. Government, on such principles, would be a mere resort to physical force. On the other hand, a convention, like that in Kansas, is called in obedience to laws, both territorial and Federal, to which every man in the community, except rebels, has given his assent, and the constitution is the resultant of the wills of many local organizations.

If the convention had the right to form and ordain a constitution, as I have proved, then the action of the Territorial Legislature was irregular, inoperative, and void, and Congress has no right to prescribe a different mode of adopting the constitution, or send it back to find out the opinion of a majority of the voters of the State. This would be concentrating alarming power in Congress, giving it ample authority over the constitutions of the States, and allowing it to make decisions as to the extent of the elective franchise; for, if it can look behind a republican constitution, regularly framed and presented, to find out whether a majority voted for it, it can decide who shall constitute that majority and who should vote in the election. The States, inchoate and complete, will become mere provincial dependencies upon a central satrap, and this Confederacy be converted into a national dictator. This is the creed of Federalism, of the New England school of politics, making individuals and States subservient to the General Government; finding freedom and power and development through artificial organizations and in unreserved obedience to them; accustoming men and States to look to Government for strength and direction; drawing aliment and stimulation from it, and therefore confiding to it the care of their consciences and expecting a resort to all its means to enforce their convictions and remedy their supposed ills. There is no surer way of converting Congress into a huge instrument of centralization and despotism than by enlarging its powers and inculcating the doctrine of looking to Government for support and subsistence and guidance.

Mr. Chairman, if the history of our country were read by the light of the Constitution alone, these constant slavery agitations and discussions in Congress, the hot and eager haste manifested to introduce non-slaveholding States into the Union, and the embarrassments and delays and obstacles thrown in the way of the admission of slaveholding States, would be absolutely incomprehensible. To dedicate California to hiring labor, to swell the political preponderance of the North, the most gigantic and unparalleled fraud and robbery are unblushingly committed, and the Constitution and the rights of the South are ruthlessly trampled under foot. To destroy forever the equilibrium in the Senate, and deprive us of that necessary protection and safeguard,

new States are carved out of the Territories, and acquisitions of land, contiguous to the South, and adapted to slave labor, are persistently opposed and prevented. And now, when Kansas, under a solemn stipulation, and in spite of the mischievous opposition of her Governors, forms her domestic institutions in her own way, to defeat her admission, there are to be found prominent men, who violate their antecedents, disown and disinherit their own offspring, break up cherished political associations, form unholy alliances, and sit "cheek by jowl" and become as loving as Damon and Pythias with those, for whom, but a few moons since, the English language was found inadequate to furnish sufficient invectives and reproaches. The statesman and philosopher and patriot may well pause to inquire into the cause of this singular spectacle. Other causes may be assigned; timid but well-meaning men may search after pretexts in the apparent irregularities in Kansas; but to the mind of the South, to the public conviction of that people, there is but one satisfactory solution of the problem, and that is the recognition of slavery in the constitution, the difference of social relations, the implacable and inveterate hostility of her enemies. I do not refer, in this classification of opponents, to those who denounce slavery as the sum of all villainies and abominations, and, following out their depraved instincts and sentiments, would pursue a phantom of speculative liberty and equality, and reconstruct government, not in submission to the word of God, but in defiance of His decrees and prophecies and providence, and in contemptuous disregard of those first and everlasting principles which are necessary to preserve freedom from licentiousness, and self-government from anarchy; but I allude to that class, not given over to judicial blindness and atheism, who profess a reverence for God, who worketh all things after the counsel of His own will, and a love for the Constitution, with all its grants, guarantees, and prohibitions. And what has been done to merit or justify this exclusion from common territory, and this denial of constitutional equality? In the past, whenever perils have environed us, and a common foe invaded our land, interrupted our commerce, or injured our citizens, the South has been lavish of her money and her treasure. In the tented field, in the councils of the Republic, at home and abroad, *everywhere*, her sons have reflected luster on the American name, and furnished materials for immortal history. Infringing the rights of no section, sharing none of the bounties of the Government, bearing, through Federal legislation, an undue proportion of its burdens, she has never asked anything but severe constitutional justice, and she only asks that now. To-day, although in a minority, she is recognized and admitted, by all right-thinking men, as the conservative portion of the Union, and the only effectual breakwater against social, moral, and political innovations. Are false interpretations of the Scriptures, and corruptions of religion, as manifested in Millerism, Mormonism, and spirit-rappings, prevalent in the northern States? and do laws, higher than the Bible and the Constitution, regulate conscience and prostitute morals? At the South, a pure Christianity, as developed in its fruits, and simple as the teachings of its Divine Author, is more generally recognized and practiced. Do socialism and agrarianism and Fanny-Wrightism find foothold at the North and threaten destruction of private property and endanger vested rights? At the South, every man is secure from mobocratic misrule and plunder. Are there northern laborers who, grinding under the oppression of power, eke out a miserable existence, or, suffering from the terrible pecuniary crisis upon us, gaze at the gorgeous palaces and splendid equipages and costly apparel around them, and with hungry mouths cry out, with startling and terrific emphasis, "Bread or blood!" The southern laborers, in contentment and plenty, are scarcely aware of any financial pressure, because labor and capital are there harmonized, and there is no conflict between them.

Mr. Chairman, I tire of these contrasts, and I assert that the present issue is one of fearful import to the South. The rejection of Kansas, with the Lecompton constitution, speaks the dissolution of, or sectionalizes, the Democratic party, which is the strongest ligament that binds this Union together. It will be the unmistakable an-

nunciation that no more slave States are to be admitted into this Union; that the South is to be degraded and reduced to inferiority; that there is to be no extension of her limits, no enlargement of her boundaries; that slavery shall be restricted within constantly narrowing confines; that for her, within this Union, there is to be no future but bleak, gloomy, hopeless despair. And why is this hostility to be evinced on every occasion? And what will the North gain by abolishing Kansas, by preventing the expansion of slave institutions, by paralyzing slave labor? Is northern prosperity to be favorably affected or enhanced by it? Quite the reverse. Her industry and well-being depend in an eminent degree on southern productions, which, beside the domestic consumption, constitute three fifths of our whole exports. A writer in the Democratic Review for 1850 estimates the annual earnings of the North from the South at \$250,000,000. Strike the products of her labor from the trade of the Union, and what would fill the streams of commerce, give employment to northern artisans, furnish freight for vessels, propel the wheels of machinery, and fill the coffers of the Treasury? No wonder the gentleman from Massachusetts [Mr. THAYER] declared it to be the settled conviction of the North that no foot of this broad domain should pass out of their possession. To use his own characteristic language, "the profit of the thing" will not justify them in giving up the South.

But is it not "passing strange," when there is such dependence of the North on the South, when our great staples are the aliment of commerce, when our peculiar civilization is the conservative element of the Republic, that such persistent efforts should be made to limit our growth and productions, to destroy our property, and annihilate our people? When the prospective results of emancipation in St. Domingo were exhibited in the French Assembly, Moreau de St. Méry exclaimed: "Perish the colonies, rather than that one principle be sacrificed;" and Robespierre scoldingly chimed in, "Perish the colonies rather than let them, by their menaces, compel us to do what is most loudly called for by their interests." With a like spirit, in total disregard of human suffering, John Quincy Adams, with all the fervor of hate and fanaticism, on the floor of the House, in 1844, gave utterance to the sentiment: "Let the abolition of slavery come; by whatever means—by blood or otherwise—let it come." If it did come, commerce would languish, factories would stop, banks would suspend, credit would expire, and universal woe would brood over this land. The fearful panic now upon us has impaired confidence, produced ruin and distress, bankrupted individuals and corporations, diminished trade, and inflicted losses from which twenty years will not recover us; and yet these consequences are trivial and insignificant compared with the sudden destruction of two thousand millions of property, the uprooting of social institutions, and the perishing of a nation. The sirocco's blast, the tornado's sweep, the earthquake's heavings, the ravages of the pestilence, faintly foreshadow the appalling desolation which would ensue upon such a catastrophe.

Mr. Chairman, we are unfortunately not left to conjecture as to what would be the lamentable results of abolition in the South. In 1791, slavery was abolished by France in St. Domingo. It was hailed with bonfires and illuminations, and the *amis de noirs* were jubilant with ecstasy on account of their triumph. But mark the rapid and disastrous change! "From being," says Alison, "the greatest sugar plantation in the world, the island has been reduced to the necessity of importing that valuable produce." The blacks, profligate, idle, disorderly, vicious, have declined in number and happiness; the flourishing aspect of the island has disappeared; its agricultural wealth has ceased; and the inhabitants have relapsed into the indolence and inactivity of savage life. From the same author, I derive the following table, showing the ruinous effects of emancipation on the population and trade of St. Domingo:

	1789.	1832.
Population.....	600,000	280,000
Sugar exported, (pounds).....	672,000,000	None.
Coffee exported, do.....	86,769,000	32,000
Ships employed.....	1,680	1
Exports to France.....	£6,720,000	None.
Imports from France.....	9,850,000	None.

And this is the country, part of which Massa-

chusetts advises to be received into the great family of nations, as a free and independent republic!

In 1834, Great Britain abolished slavery in her West India possessions, and paid near one hundred million dollars to indemnify the owners of the emancipated slaves. The result has been a sad disappointment, a disastrous failure; so much so, that Mr. Calhoun, in his celebrated letter to Mr. King, our Minister to France, asserted that the fixed capital of Great Britain, vested in tropical productions, estimated at the value of nearly five hundred million dollars, is said to stand on the brink of ruin. The produce of Jamaica, in three years after the emancipation, decreased one third; and in ten years, that of the whole British West Indies had fallen off one half. The exports of coffee from the West Indies ran down from 27,466,000 pounds in 1830, to 9,927,000 in 1841. The exports of British West Indies were—

	Sugar, cwt.	Coffee, tons.	Shipping, tons.
1831.....	4,163,809	20,030,802	249,079
1841.....	2,131,217	9,927,689	174,975

While this diminution of trade with the emancipated colonies had been going on, there was, in consequence of the enhanced demand for their products, a proportionate increase with those colonies, which, as Mr. Calhoun said, had had the good sense to shun the bad example. A tabular statement of the exports from Great Britain to the British West Indies, (non-slaveholding,) and to Cuba and Brazil, (holding slaves,) will make this fact very manifest:

	British West Indies.	Cuba and other West Indies.	Brazil.
1831.....	2,581,949	663,531	1,233,371
1849.....	1,821,146	1,036,153	2,444,715

The produce of sugar in Cuba, in 1831, was eighty-two thousand tons, and in 1851, two hundred and thirty-five thousand tons. To leave no "loop to hang a doubt upon," I have prepared, from the report on commerce and navigation for 1857, a table showing the value of imports and exports between the United States and Hayti, San Domingo, British West Indies, and French West Indies, where slavery has been abolished, and Cuba and Brazil, which retain African slavery:

Year.	Country.	Value of Imports.	Value of Exports.
1831.....	Hayti.....	1,580,578	1,215,375*
1857.....	Hayti.....	2,290,242	2,535,644
1831.....	San Domingo.....	109,874	44,349
1857.....	San Domingo.....	1,303,301	1,441,353
1831.....	British West Indies.....	2,285,248	4,484,652
1857.....	British West Indies.....	671,842	717,877
1831.....	French West Indies.....	56,133	475,144
1857.....	French West Indies.....	8,371,797	4,893,842
1831.....	Cuba.....	45,243,101	14,923,443
1857.....	Cuba.....	2,375,829	2,076,095
1831.....	Brazil.....	21,469,733	5,545,207
1857.....	Brazil.....		

The gentleman from Missouri, [Mr. BLAIR,] when interrupting the gentleman from Georgia, [Mr. GARRELL,] the other day, committed a grave error in setting down the export commerce of the United States to Hayti as \$350,000 greater than the entire trade with Mexico. It is only \$4,935,276 less.

Deplorable as these results are, they are, says Alison, from whom I have obtained most of these facts and much of this language, nothing to the heart-rending results of the change on the African. While real estate, in some instances, has depreciated five hundred per cent., the character of the blacks for industry, sobriety, and honesty, has depreciated to a like extent.

A recent correspondent of the New York Herald quotes from a Kingston paper the observations of a resident of over twenty years:

"What do we see? Idleness, drunkenness, concubinage, adultery. And need we wonder at all this, when we find senators, magistrates, planters, merchants, clerks, attorneys, overseers, book-keepers, government officials, and even clergymen, practicing and encouraging these vices?"

The history of emancipation in the northern States, which was not a sudden and revolutionary change, but the gradual sloughing off of the institution, as "the profit of the thing" failed, corresponds, in a modified degree, with the ill effects produced upon the negroes in the West Indies. The number of blind and deformed and idiotic and criminal and pauper negroes in the North is proof of this, and the stringent prohibitions against their residence and immigration are confirmatory evidence of the want of "profit" in supporting a free negro population.

Emancipation in the West Indies has increased

the slave trade; and so great is the demand for African labor in the tropical regions, that England and France, under the guise of their coolie and apprentice and emigrant systems, are endeavoring to repair the fatal mistake committed heretofore under false pretenses of philanthropy, and to break down the cotton and sugar interests of the United States.

The London Times acknowledges the mishap and failure of the emancipation movement, ridicules the tenderness of those who shed tears over the Tomitides of literature, and boldly declares that the colonies are perishing for want of sufficient labor. The hopes excited by Brougham and Wilberforce have been disappointed, predictions have been falsified, and the advocates of negro equality and emancipation have lost the prestige of success. Says the Thunderer:

"Negroes are necessary to raise the cotton, sugar, coffee, and tobacco, which the world wants. The white man cannot work under a tropical sun; and unless the African be used as a laborer, the fairest regions of the New World must remain a desert. In time, negroes must be had at any cost; and no nation has a right to impose its own scrupulosity on other free communities. If England has ruined her own colonies, that is no reason why she should check the progress of the whole American continent."

True, the Times puts this reasoning in the mouth of others, but does it with complacency, and without censure. It insists that the colonies must have additional labor, and proves it by reference to a "Report of the Council on Immigration for Trinidad," which shows how a British colony may decay, while all around it is flourishing. "If Trinidad had remained under Spanish sway," that is, a slave colony, "it might, in spite of tyranny and misrule, be the wealthy island which its position and fertility would naturally make it. But although the island contains one million two hundred and fifty thousand acres, yet the extent of all the land now under cultivation is only about fifty-two thousand eight hundred and seven acres, and of this area the sugar plantations cover only thirty-four thousand and fifty-nine acres. The entire number of agricultural laborers working for wages, in the cultivation of sugar and cocoa, is only fourteen thousand, of whom nearly eight thousand are immigrants from India and China, introduced at the public expense."

The Paris *Constitutionnel*, of 29th December, in vindicating the recent policy of France, holds this language:

"Our colonies have suffered from lack of hands as well as the English colonies, and it cannot be any longer endured. If our neighbors choose to submit to the consequences of their abolition theories, the rest of the world is not obliged to adopt them as its rule of conduct. Their code of philanthropy is not a law for us. Thus, our Government having recognized emigration as at once useful and moral, has authorized traders to engage laborers in Asia and Africa for the French colonies."

These facts betray the impoverishment inseparable from abolition in the tropics, and I leave it to an Exeter Hall casuist, or a strong-minded female novelist, to discover the difference between African, and Chinese, and Indian laborers.

If "absolute necessity" induced the original transportation of the Africans to this continent, and a like imperious necessity requires African compulsory labor to produce tropical productions in the islands; and the cotton, tobacco, sugar, and rice of the southern States be dependent upon slave labor, I press the irresistible conclusion, that we need an extension of slave territory and the Americanization of Central America, by the establishment of our peculiar institutions. Clayton-Bulwer and such like treaties are alike to be rejected, and all assumptions of power, afloat or ashore, interfering with the great law of our manifest destiny, putting swathes on the limbs of our progress, should meet with prompt and successful resistance.

Mr. Chairman, the South is not alone to suffer from abolition, and from confining her institutions within present limits. The act itself would bring untold ruin on the North, while the causes of the act will be but fruitifying seeds of ever-recurring evil. It is idle, however, for me to forewarn gentlemen of the North of the Iliad of woes to be unloosed upon them by the prevalence of this abolition, agrarian, and Red Republican spirit. In the streets of your cities already have been heard the terrible cries of vengeance. Secret watchwords pass readily from mouth to mouth; organized bands wait but for an occasion to despoil and divide; burglaries and garroting and assassination

fill the columns of the newspapers. When the slaves of want and hunger, with destitute homes and starving families, pass along your streets, and cursing the Providence and the society which doomed them to poverty and inequality, shall, with franticness of superadded hunger and revenge, seize and appropriate that which is spread out so enticingly before them, it will be too late to parley with them, and argue that the natural, absolute, inalienable, and indefeasible right of a majority to govern, meant in conformity with established law, and that a denial of right of property in man did not mean that all property was a crime, and that men were entitled to receive out of the profits of capital in proportion to their wants. As Macaulay forcibly said: "Men are not apt to stop to reason when they have had no breakfast and know not where they shall get their dinner."

Calmly and distinctly I have endeavored to express my conviction of the importance of this question, and the magnitude of the interests involved. In this I have but echoed the sentiment of my State, as authoritatively expressed through the resolutions of her General Assembly. The utterance has not been the uncertain sound of hostile parties or distracted counsels, but the clear, intelligible, and unmistakable announcement of the solemn conviction of an undivided people. If the contingency provided for in her resolutions, which are but the re-adoption of what had been the previous action of Georgia and Mississippi, shall occur; if the issue shall come, I will not anticipate her course; but, recognizing to its fullest extent the right of secession, and owing to her my allegiance and fealty, when she calls I will respond; where she goes I will go; her people shall be my people; and her destiny my destiny.

Mr. MORRIS, of Illinois. Mr. Chairman, it was not originally my intention to have said anything on the question of the admission of Kansas into the Union under the Lecompton constitution. I was aware that other gentlemen on this floor were ready and anxious to occupy the field of debate; and I had made up my mind to perform my duty by giving a silent vote. But representing, as I do in part, a State that has always kept her Democratic banner flying, and never supported any other than Democratic candidates for President and Vice President, it is perhaps incumbent on me, as the humblest of her Representatives—certainly not amiss—that I should give utterance to her voice in common with my colleagues. I have, sir, heard it said by members of Congress favorable to receiving Kansas under the constitution which has been presented, that Illinois led off in opposition to it; and if it had not been for her, they would have had no trouble in consummating their wishes. If this statement is true, it is certainly a compliment to that gallant State of which she may well feel proud. That her unfettered and fearless Democratic press, numbering some fifty-four, moved forward simultaneously and in solid column in hostility to it, before the meeting of Congress, and as soon as they were aware the monster was born, is undeniably true; that her people, with scarcely an exception, and her delegation in Congress, are fixed and unalterably opposed to it, is no matter of doubt; but, sir, they only claim they are contributing equally with others in defeating a measure which proposes to subvert a fundamental principle of self-government; and they ask no more credit for themselves than they are willing to extend to those who stand shoulder to shoulder with them.

It is not to be denied, sir, that Illinois has a Senator who has an intellectual capacity equal to any emergency, and a patriotism coextensive with the Republic; and when a great wrong was proposed to be perpetrated on Kansas, he met it at the threshold, and held it up to the withering scorn and rebuke of the people. For this performance of duty he has been denounced by the extremists of the South, who only seem to calculate present advantages without any reference to future consequences, and the miserable swarm of sycophants and dependants who crowd around power for the crumbs which may fall from the public table. "He has gone over to the Black Republicans," says one. "He is a traitor," adds another. "He is a Burr, or an Arnold," chimes in a third. "He has abandoned his principles," echoes a fourth. And these groundless accusations seem to be rolled as sweet morsels under the tongues of our southern friends. What, sir, call

*From 1831 to 1850 a decrease.

Stephen A. Douglas a traitor! Compare him to a Burr, or an Arnold! Read him out of the Democratic party because he stands by the Kansas-Nebraska act, and refuses to sanction your Lecompton swindle! Away with such folly—away with it! Why, you might as well undertake to make the people believe that General Jackson was an enemy to his country; that Paul was not of the Apostles, as that he has abandoned his political faith. And let me say that that faith has known, and now knows, no sectionalism; and that it will be a long time before the South will have a better friend in Congress from the North than he has shown himself to be. Not that he has done any more than his duty, but he has had the moral courage and manliness to do that, when the most fearful storms of fanaticism were beating about him, and pouring the full volume of their fury upon his head. Regardless of this, you forget the past, and propose to blot out his record; to obliterate from memory his devotion to the Constitution and the Union, and to cast him off because he will not sanction fraud, and consent that a minority in Kansas shall rule! And who, pray, are these new northern allies you now so cordially embrace? Some of the more prominent of them are men who, in the darkest hour of your need, forsook you—men who opposed the compromise measures of 1850, voted against the fugitive slave law, and are scarcely out of their abolition swaddling clothes. Like all new converts, these gentlemen are now loud in their devotion to your "peculiar institution;" and for fear you will suspect their fidelity, in imitation of Peter when he denied his Savior, they have "to curse and to swear." The Illinois Senator, however, maintains a calm, conservative position, conscious of the rectitude of his intentions and the justice of his cause; and looking only to the right, relies upon that, and that alone, to sustain him. When this excitement shall pass away, and the "sober second thought" do its office, when peace shall again settle upon the country, the people will say "Well done, good and faithful servant; you have been faithful over a few things, and we will make you ruler over many." Though political aspirants who thread their way through the dark labyrinths of intrigue, and only hope to rise on the ruin of others, and not their own merit, desire it otherwise, it will never be said of him—

"A falcon, towering in her pride of place,
Was by a mousing owl hawk'd at, and kill'd."

But, Mr. Chairman, it is not only proposed, by some gentlemen here, who set themselves up as judges in Israel, to read out of the Democratic party all who refuse to support the Lecompton swindle—and they are nearly the entire people of the North—but to dissolve the Union if Kansas is not admitted under it. If the declarations of gentlemen are to be accredited, the Union has been dissolved at least twenty times a day during the present Congress; and yet, when we look out upon it, it seems still moored to its firm foundations, its grand proportions rising up before the world, challenging its admiration, and its strong arm of protection still stretched over us. This talk, sir, about its dissolution, has lost its terror. It has not power longer to frighten old women or boys. You cannot dissolve this Union on a mere abstraction. It is anchored in the hopes and hearts of millions of freemen, and they will take care of it. If you turn your backs upon it and leave this Hall, they will send other men here in your place. He who shall raise his paria hand to sever the ligaments which bind it together, will be hung higher than Haman before he can strike the fatal blow. Talk about dissolving the Union! Why, it is worth more to you, Mr. Chairman, and to your southern friends, and your posterity, than all the negroes you ever owned; and you know it better than I do. Break it up to-day, and you would have an internal enemy in your own borders that would be all you could manage—an enemy which it would be our pride and duty to help you suppress in case of an insurrection. It is worth more to the South than to the North, but is a priceless gem to us all. Away, then, with this useless talk about its dissolution! It falls as harmless as the gust upon the mountain. To tell us that you will break up the Union, if we refuse to assist in covering up and sanctifying the most barefaced and shameless frauds and outrages; to tell us that you will destroy it because we object to dragging into it, in violation of the popular will, a State whose

pretended constitution is repudiated by an overwhelming majority of its citizens, is to insult our judgment, and cause us to smile at your folly. If we differ upon the Kansas, or any other question, let us reason together as men; as members of the same great republican household, living under a common Constitution, and having a common destiny; and settle it as patriots, and not keep eternally talking about dissolving the Union. This Hall is not the place where threats should be made, reason dethroned, and the furious passions of the human heart turned loose. We have a high and holy mission intrusted to us; and if we fail to discharge it, we left an honest constituency at home who will discharge us.

While, Mr. Chairman, the utmost caution and prudence should be observed, and the proprieties of debate strictly adhered to, the occasion demands that the words of boldness and truth should be spoken. I do not stand here as the Representative of an enlightened and independent people to approach the subject of Kansas with a fearful and trembling step. They would despise me if I did.

The Constitution provides that "Congress may admit new States into the Union;" not the President, not his Cabinet, but Congress; yet the strange anomaly is presented, for the first time in the history of our Government, of the executive department using its influence, its patronage, and its power, to force the legislative department into submission to its will. Cabinet meeting after Cabinet meeting is held to effect the object. Cabinet officers write letters to public assemblies on the subject; and not satisfied with this, some of them come into this Hall during the hours of our session to subdue free and independent thought here, and this conduct is afterwards imitated by Senators and Public Printers, who appear among us at a moment when an important vote is being taken, to induce members to violate their oaths, and vote contrary to their duty, to their conscience, their country, and their God. Sir, for one, I repel such unwarrantable interference; and this House owes it to its own dignity and character to do it. I honor and respect these gentlemen in their places; but when they attempt to usurp mine, I will resist them.

Almost the first political lesson I ever learned from the writings of Mr. Madison, and the wise and good men who were cotemporaneous with him, was that the legislative, executive, and judicial branches of the Government should be kept as separate and distinct from each other as the nature of the case will admit, or as is consistent with that chain of connection which binds the whole fabric of the Constitution together in the bond of amity. Never was there wiser or sounder political doctrine taught. It is the business of Congress to pass laws, and of the President to see they are "faithfully executed." The executive department must not be allowed to virtually unite with the power of executing the power of passing laws. The moment it has that power over Congress, that moment the purse and the sword are united, and the legislative department sinks into disgrace, inefficiency, and abasement. That the most strenuous efforts are being made to force Kansas into the Union at this session by the Administration is not to be disguised. Not the least toleration is extended to those who differ from its policy on that question. Southern gentlemen may differ with the President on almost every recommendation in his message. They may differ from him on the neutrality question, on the Pacific railroad, on the bankrupt law, on his Army policy, on everything, every great measure, but Kansas, and it is all right. They seem to have a dispensation, authorizing a difference of opinion; but if any one dares to think for himself, in opposition to the Lecompton constitution, that difference is regarded as radical and vital, and he must be proscribed for it. Let others do as they may, I will never bow the knee to power to bask in the sunshine of its favor, at the sacrifice of principle; and if proscription must come of it, let it come. I repeat it, let it come.

Sir, the President has had bad advisers. He has been made to believe that it was necessary to lay Kansas upon the altar as a bleeding sacrifice to appease the wrath of the South. No man has told him the truth. The southern extremist whispers in his ear, "courage, all is well;" and the northern sycophant, who follows in the wake of trouble, as the shark the vessel, to lash it to pieces if not

satisfied, tells him the North will submit. These creatures, who have sloughed off from the moral face of society, are now congregating in this city to seize upon the "loaves and fishes," pretending to be the President's best friends, when, in reality, they are his worst enemies; for power never had a worse enemy than the miserable courtier who pours the words of flattery and delusion in its ear. Sir, the President has no better friends than those Democrats who differ with him on the Kansas question; but it is their duty to speak to him the truth. If they loved the smiles of power better than their country, they would nestle under the shadow of the throne. He is wrong; and the sooner he finds it out the better. Let his Kansas policy be adopted, and his Administration will be in a hopeless minority in the next Congress. The northern Democracy have gone as far as they can go and live, because they have gone as far as is right. I doubt whether there is a single northern Democrat on this floor who is sustaining the Lecompton outrage, that does not feel he is stepping into his political grave, and that a fearful retribution awaits him at home. Certain it is, that not one of them has yet opened his mouth upon the subject, except the gentleman from Indiana, [Mr. HUGHES,] whom our southern friends placed at the outermost sentinel-post to be shot down. Relieve the question to-day of the pressure of the Administration, which has marked upon it the imprint of its power and its favors as plainly as the sun is marked upon the heavens in a cloudless day, and I have no idea that three Democrats from the North could be found willing to admit Kansas under the circumstances. If the South has lashed itself into a rage, there is a cool, unyielding determination in the North not to submit to the wrong. We seek no controversy with the South; but it does seem they have suffered themselves to be swept away by delusion and folly, and are acting on the principle that "whom the gods intend to destroy, they first make mad."

How far will they have us to go? Is there no stopping-place to their demands? The history of the past ought to convince them that the Democracy of the North, which constitutes the conservative element of the Government, and upon whose sense of justice they can alone rely for the protection of their rights, cannot yield to their demand now without utter ruin to themselves. Admit Kansas under the Lecompton constitution, and you get a serpent, instead of a fish, that will hiss its long, forked tongue at you, and coil itself about your interests; while the northern Democracy would be met with the declaration that the Kansas-Nebraska bill was designed as a swindle from the first; that it was never intended to be kept in good faith; that the people of Kansas were for a free State, but the moral traitor, Calhoun, and his confederates, backed up by a Democratic Administration, had crushed out their hopes, or, if successful in making it a free State, they were not indebted to the Democracy for it. They would tell us more; they would tell us we did all in our power to crush out the popular will; that we had violated all our promises; that we had sacrificed to the demands of slavery the great principle of self-government, and that we could not be trusted. Sir, we cannot give our consent to the measure; and we ought not to do so; nor should the South demand it of us. It is unreasonable and unfair.

The Democracy of the North were overthrown after the passage of the Kansas bill; but that measure being eminently just and wise, they rallied again; and now, just as they have fairly gotten upon their feet, you propose to force them into the support of a measure that both their conscience and sense of duty condemn. But you tell us that the admission of Kansas under the Lecompton constitution does not violate the principles of its organic act. Deceive not yourselves in supposing you are deceiving the people. They discriminate closely, and understand this matter as well as you do; and it will be well for you if you do not underrate their intelligence. Persistence in preaching one doctrine and practicing another will very soon convince them that—

"Principles in Roderick's mind
Were baseless, vague, and undefined;
His soul, like bark with rudder lost,
On passion's changeful tide was tossed;
Nor vice nor virtue had the power
Beyond the impression of the hour.
And oh! when passion rules, how rare
The hours that fall to virtue's share!"

Mr. Chairman, I have never, with slate and pencil, figured up the political indebtedness of the South to the North, or the North to the South. I have never struck a balance-sheet between them of favors given and favors received. But I imagine, if that was done, the South would be found indebted to the Democracy of the North. They assisted you to reduce the tariffs of 1828 and 1842 to what was believed to be a revenue standard; they opposed equally with yourselves the Wilmot proviso, as being unfair and unjust in its operation; they stood by the fugitive slave law of 1850; voted for and sustained provisions in the Utah and New Mexico organic acts, giving the people of those Territories the right to determine for themselves whether they would or would not have slavery. In 1853, when Washington was taken off the north part of Oregon and erected into a separate Territory, they relieved it from the operation of the Wilmot proviso, which had in 1848 been inserted in the Oregon bill. In 1854, when the time had arrived to erect territorial governments in Kansas and Nebraska, you insisted that the Missouri compromise line was an unjust and oppressive restriction, and ought to be removed. The northern Democracy thought so too, and stood by you breast to breast, when you had nothing to fear, public sentiment being all one way in the South, and they had everything to fear in the North, as there was a powerful counter-current there. You have always received a vastly greater proportion of Government patronage than you were entitled to on the basis of your population. Your men swarm these Halls and the Departments here; they tread the decks of our vessels; they officer our armies, and fill posts of profit almost everywhere.

Notwithstanding your population is much less than that of the North, you have all the Departments of the Government under your control, except, perhaps, there may be a little doubt of your success in this House. Up to within a short time you were in a very decided minority here; and if you now have the majority, as you claim, but which I cannot believe, how did you get it? The country would like to be informed on this point. They would like light upon it. I know you have the President of the Senate and the Speaker of this House. You have the committees. Not a Democrat opposed to the Lecompton swindle was placed on the Committee on Territories—four of them being from slave and one from a free State, Mr. HUGHES, of Indiana, who is zealous for Lecomptonism. Seeing the cast of that committee, the members of this House opposed to crushing out the will of the people in Kansas and sanctioning frauds, voted for and passed a resolution introduced by my distinguished colleague, raising a select committee of fifteen to inquire into those frauds; and strange to say, when that committee was announced by the Speaker, a majority was found on it, in contravention of parliamentary law, opposed to the object of the resolution. Yet, after all this, you do not appear to be satisfied, but propose to drive northern Democrats still closer to the wall. You now tell us if you can get Kansas you will be perfectly happy. Are you right sure of it? How long would it be, if we should surrender Kansas as a sacrifice, before the doctrine boldly avowed by your organ, the Washington Union, that slavery, by virtue of the Constitution of the United States, may be carried into all the States, would be avowed on this floor?

There must, gentlemen, be an end to your unjust exactions. There must be a little more toleration of sentiment on your part. In almost all the other controversies you have been right; but in this one you are clearly wrong, and are going too far. Let me beseech you to pause before it is too late. You are rousing the whole North, and striking a more fatal blow at your interest than you have ever before struck, because you are settling, deep and immovable, a conviction in the northern mind that you seek to perpetuate your power at the sacrifice of every principle of right. If you push that monstrous measure of injustice, the Lecompton constitution, through Congress it will be a fatal move to you, and one that the North will not soon forget. With what grace could you thereafter charge that the North was sectional? First cast the beam out of thine own eye. Every member on this floor from the South, with one or two exceptions, are for the Lecompton constitution, and if they were not

swept along by sectional feeling, nobody doubts but there would be some more division of sentiment among them; a few, at least, who would see something to condemn on the part of Calhoun and his confederates; something wrong in not submitting an organic act to a vote of the people. But not so. Kansas must be dragged into the Union, *vi et armis*, contrary to the entreaties and expostulations of its citizens against it. No means are to be left untried to effect it. In the Senate it is virtually announced that illegal votes are to be retained to consummate the object. All efforts to inquire into frauds are voted down there. Here the friends of the Lecompton constitution struggled with its opponents to prevent an investigation of these frauds, from four o'clock in the afternoon until seven o'clock next morning, making all kinds of dilatory motions, and, when finally overcome, and a committee is ordered to be raised, the victory is a barren one—the majority of the committee are against the investigation.

Well, Mr. Chairman, the Lecompton constitution is here. It seems no man could be found to bear it to the capital of the nation but a Government office holder. Stringfellow and Whitfield, and other violent pro-slavery men, have abandoned it as base born, and only Mr. Calhoun follows in its train, to graciously tell us:

"I leave you here a little book,
For you to look upon;
That you may see its father's face,
When he is dead and gone."

To one who knows Mr. Calhoun well, his conduct in Kansas is no matter of surprise. Since his arrival in this city, the fraud of the Delaware Crossing poll-book, the original of which was dug up under a wood pile near his office, has alarmed him, and he has proclaimed he will give the certificates of election to the free-State men from Leavenworth. He may do it, but I doubt it. According to a late publication, he is hesitating what he will do. Somebody is bound to be cheated. Who will it be? He is holding back and refusing to declare the result until the Kansas question is disposed of in Congress. If Kansas is admitted, he is in the market to the highest bidder. Going! Going! How much, gentlemen, will you give? Was there ever before such a humiliating spectacle as a public officer of the General Government neglecting his official duties, and hanging around the Capitol with the poll-books of a distant Territory in his breeches pocket, ready to be knocked down to the best bidder? Going! Going! How much, gentlemen, will you give? Going! Gone! Who is the buyer? Ah! there's the rub. I throw the veil of charity over the balance of his life.

Mr. Chairman, I have listened with no ordinary interest to the discussions in this House on the Kansas question. The South has put forth her ablest champions; but their speeches are more a defense of slavery in the abstract than of the Lecompton constitution. They tell us of its civilizing and refining effects; of its tendency to rub off the rugged and vulgar points of human character; and to create a daring and manly chivalry; of its Divine origin, and socializing effects upon society. Sir, I do not stand here to debate these points with them. They have nothing to do with the subject, in reality. The question is, shall Kansas be admitted: not as a slave State, not as a free State, but under a fundamental law that a majority of her people utterly repudiate, spawned into existence by corruption and fraud? That is the question we are called on to decide, and you may disguise the matter as you will, the people will so understand it.

What reason is offered why this thing should be done? The President tells us it will "localize" the difficulty. I cannot agree with him in that opinion. The people are already too much exercised on the subject to lose all their interest in it by the bare act of admission. Indeed that act, under the circumstances, would only increase the excitement. You cannot, in this country, oppress one portion of the people without the hearts of millions sympathizing with them. This is a characteristic of our nature which it is fatal to an American statesman not to understand. When Great Britain oppressed one of our colonies the shock was equally felt and resisted by all. And it is idle to talk about a fraud being palmed off on Kansas without the whole country feeling the indignity and outrage, deeply, intensely. He has studied

human nature to little advantage who supposes that those upon whom an organic act is attempted to be imposed will not resist it to the last. Men may be coerced but they cannot be driven. The iron-heel of power may crush them for the time being, but they will rise Phoenix-like from the ashes. Truth may be subdued, but it will never be conquered. Pass your Lecompton constitution, and a standing army in Kansas will not be sufficient to enforce it or put the local government in operation under it. The people there (and they have given unmistakable evidence of their determination) will never recognize its binding force or validity. To talk, then, about localizing the excitement on Kansas affairs, until the people are allowed fair play and the will of the majority prevails, is idle. By suppressing that will and yielding to the demand of the minority you only add fuel to the smouldering embers, and kindle a fire that will burn with an intenser heat—a fire that will blaze on every hill top and in every valley from the Atlantic to the Pacific. The very fact, sir, that the Constitution of the United States provides that Congress may admit new States into the Union, presupposes that that admission is to be made on the application of the people of such proposed State, and the additional fact that Congress is required to *guaranty* to each State "a republican form of government," which means a government founded on the will of the governed, is conclusive, in my judgment, against the admission of Kansas under the Lecompton constitution. For no man in this House, or out of it, has yet had the hardihood to assert that a majority of the citizens of that Territory were for it. Its friends steadily ignore this point, and sweep along with a general shout, and hope to cover up in the dust and smoke of battle the great issue upon which it is fought. To talk, under these circumstances, of localizing a controversy involving the republican vitality of the Constitution and the right of self-government, will not satisfy the public mind. "Let justice be done though the heavens should fall." But some gentlemen tell us in way of palliation that if the people of Kansas are opposed to the Lecompton constitution, they can change it at any time, and therefore she should be admitted under it. The point is this, that she should be imprisoned that she may be allowed the privilege of suing out a writ of *habeas corpus*, to be discharged under it; that you will place shackles upon her limbs that she may knock them off; that you will do an unjust and unlawful thing, that justice may come out of it. Paul said "God forbid that I should do evil that good may come of it;" and this doctrine is sound whether applied to moral, legislative, or religious duties.

Suppose, Mr. Chairman, that your Kansas Legislature was a legally constituted body; suppose they had an undoubted right to call a convention to frame a constitution; suppose that convention had a legal right to refuse to submit that constitution when formed to a vote of the people, would you, when it was presented for your action, and you were invested with a *discretionary* power to receive or reject it, receive it if it was ascertained beyond all doubt or cavil that it did not embody the will of the people? Sir, this is precisely the Kansas case, if your view of the law is correct. I believe that the constitution of one of the States (Florida) was pending before Congress several years before she was admitted into the Union. Who doubts but the people who framed it could have met at any time before the final act of admission, formed another and different constitution embodying their *last will*, and sent it here as a substitute for the first, and been taken into the Union under it? This is virtually the case with Kansas. Everybody knows that her Legislature passed an act to enable the people to determine, in March next, whether they will call another convention and frame another constitution; and you propose to pay no regard to their action. It is true, the law, according to late dispatches, has been temporarily defeated by the Governor; but that does not destroy the evidence of its being the legitimate offspring of the popular will, or its moral force. All at once gentlemen become great sticklers for legal forms. They grasp eagerly at the shadow, and not at the substance. They stick in the bark. Sir, the honest, free-thinking, independent people of this Republic will sweep your technical objections and arguments to the

winds, and look at the great question of right. They will tell you, if you had a legal advantage—which I do not admit—you should not have used it to the oppression of a distant people. It will be idle to say that other constitutions were not submitted to a popular vote admitting its truth where there was no controversy or difference of opinion in regard to them. They will tell you it is right when a difference does exist, and, I may add, in all cases, and that neither a constitutional convention or Congress should violate this sacred right, which is inborn and inbred in the people, and is the essence of popular government. The President tersely and eloquently remarks, in his annual message:

"I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State," may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded, as it is, on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms."

Here the President tells the country that his instructions in favor of submitting the constitution to the people "were expressed in unqualified terms," and no one, in reality, had any other expectation than it would be done in compliance with the Kansas bill and the Cincinnati platform; but it was not done. If the principle avowed is correct, why not make it of universal application? Why should Kansas be an exception to the general rule? To exclude that Territory from its benefit would be to adopt a system of partial legislation, and prescribe one rule for it and another for another Territory. Would this be carrying out the principle of equality among the States? No, sir; it would be a mockery of the very forms of justice. Admit that wrongs and outrages have been committed there—and I have no question but they have been by free-State and pro-slavery men—is that any excuse why we should lend our aid to strike down the popular will? Two wrongs never made a right; and such an argument is as unsound as its morality is rotten. If we are seeking to know the popular wish let us look at the facts. There is no question of our right to go behind what is claimed to be the record to ascertain them. Suppose, to reverse the Kansas case, that the free-State men had a majority, and that, by a species of fraud and ledgerdom, or by the pro-slavery men remaining from the polls, upon the supposition they would not have a fair chance, or from any other cause, the free-State men had got the Legislature, and the convention—made a free-State constitution and refused to submit it to a vote of the people. Suppose, further, that afterwards the pro-slavery men had rallied, carried the Legislature, called another convention to express their wishes, and protested, before Congress, that the constitution, presented by the free-State men, was not a fair embodiment of the public voice, and they asked us to delay action until another constitution, recognizing slavery, could be presented: what think you, Mr. Chairman, would be the tone and feeling of the South? If the North intimated a refusal, such notes of indignation and violence, such threats of dissolution of the Union and bloodshed never rang through these Halls as would ring then.

But now it is our bull that has gored their ox; and with them, the case being altered, alters the case. We know, sir, as a matter of public record, that, counting all the votes, legal and illegal, only 5,574 were given for the Lecompton constitution with slavery, and 569 for it without slavery, on the 21st of December last. We know further; we know that on the 4th of January following, according to the proclamation of Governor Denver, that 10,226 votes were cast against the constitution—138 for it with slavery, and 24 for it and against slavery; and yet, in the face of these startling facts, we are asked to receive and baptize it, to give it the high sanction of our approval, as the people can hereafter change it! If they have a right to do it hereafter, why not now? If they can hereafter act without legal forms, why have they not that right now? If the doctrine of popular sovereignty is recognized, why is it not supreme at all times; and why do you undertake to stifle or curb it? I imagine, sir, it will be hard to give any reason for it, if the view is correct that the people can change it. Sir, southern statesmen are not agreed on that point.

I have heard some of the ablest of them say they did not believe the constitution could be changed until after 1864, as one of its own provisions declares it shall not be; and in this they differ with the President, and should, I suppose, be read out of the Democratic party for it. The right of revolution may exist, but that is a severe and dangerous remedy, and has never, so far as my recollection now serves me, been resorted to in this country but in one instance—that of Rhode Island; and in that case it was put down. The declaration in the schedule, that the people have at all times a right to alter their constitution, will be construed as meaning they have a right to do it in conformity to its provisions. They will be told, as they are now by the Lecomptonites, that, having surrendered to a delegated body the right and power to speak for them, they have no right or power to speak for themselves except through their legally constituted agents, or except in the manner provided in the constitution. And how are they to speak? As members of the Council and House of Representatives, before they can act or enter upon their duties, they must take an oath to support the constitution. That constitution provides they shall not do anything to change or alter it until after 1864, and then only by a two-thirds vote of both branches of the Legislature; and, if they do it, they are perjured men. Is it, then, expedient or wise, when we can prevent it, to place a local or State government in a condition where a people have to resort to revolution to get rid of it? It does seem the question only need to be asked to be answered. Controversies in courts would grow out of the act that would not be settled in your day or mine; and they could not be localized; and the political contest would be fierce and bloody.

Mr. Chairman, another argument in favor of the admission of Kansas now, is that it is necessary to keep up a Senatorial equilibrium between the free and slave States. I had supposed that the faintest hope of such a thing had long since been abandoned. You might as well undertake to poise a beam upon a pivot with three million pounds on one end and nothing on the other. A few facts will illustrate this. At the conclusion of peace, in 1783, (I quote from a speech of a distinguished southern Senator,) there was only 164,081 square miles of territory north, and 647,202 square miles of territory south, of Mason and Dixon's line. Of course the South then had the great bulk of the population. Now there is 882,245 square miles of slave, and 1,903,204 square miles of free territory, showing that while slave territory has increased less than fifty per cent., free territory has increased nearly eleven hundred per cent. At the last census, the population of the free States was 13,434,788; of the slave States, 6,412,508; slaves, 3,200,412; Territories, 140,274; showing the fact that the population in the free States is more than double greater than the white population of the slave States. But this is not all. In 1811, the free States had 93 Representatives in Congress; in 1822, 123; in 1831, 141; in 1842, 135; and in 1852, 144. During the same periods, the slave States had a representation of 78, 79, 99, 87, and 90; difference in favor of the free States, 15, 35, 42, 48, and 54; and after the next census that difference will be more strongly marked. During the greater part of this time, the Government has been in the possession of, and controlled by, the slave States. At its organization, there was only one free, while there were twelve slave States; and we now have sixteen free and fifteen slave States. The slave States had all the advantages of a start, and why have they fallen so far behind, and are they destined to fall still further? It has not, sir, resulted from the action of Congress. No State has ever been kept out of the Union because her constitution recognized slavery; and no serious effort was ever made to keep one out, except Missouri. No restrictive line was ever run between freedom and slavery except the Missouri compromise line, and no one is silly enough to believe that that line made Iowa and Minnesota free territory.

We must, then, Mr. Chairman, find some other reason than the legislation of Congress for the free States so rapidly outstripping the slave States in prosperity and numerical strength. Where will it be found? The answer is in the operation of laws natural, moral, and physical; and until you can reverse their operation no different result will

be produced. In reply to this argument of the South, in his great compromise speech of 1850, that man of matchless power and eloquence, Mr. Clay—whose voice has so often resounded through the old Halls of Congress, enchainning and delighting his auditory; and it is only necessary for me to quote his language to sustain fully the views I have expressed on this point—remarked:

"I know it has been said, that with regard to the Territories, and especially has it been said with regard to California, that non-legislation upon the part of Congress implies the same thing as the exclusion of slavery. That we cannot help; that Congress is not responsible for. If nature has pronounced the doom of slavery in these Territories; if she has declared by her immutable laws that slavery cannot and shall not be introduced there, who can you reproach but nature and nature's God? Congress, you cannot. Congress abstains; Congress is passive; Congress is non-acting; south and north of the line, or rather intending no line. It leaves the entire theater of the whole cession of these Territories untouched by legislative enactments, either to exclude or admit slavery."

These noble sentiments of the departed statesman should find a ready response in every beating pulse. He shows the folly of Congress undertaking to change the operation of the laws of nature, and at the same time lays the corner-stone of that policy which led to the adoption of the Kansas-Nebraska bill, transferring the question of slavery, as well as all others of a domestic character, from Congress to the people of the Territories, and allowing them and each of them to settle such questions for themselves—fairly and in good faith, without being swindled by unprincipled knaves, who might pledge before the election, as did Calhoun and his confederates, to submit the constitution to the people for ratification or rejection, and then, with shameless effrontery, violate their promises. And yet, when we speak of these things here, we are gravely told we have nothing to do with them; that that matter is between the delegates and their constituents. Sir, the Lecompton constitution is nothing but a petition, asking that Kansas should be admitted into the Union; and as honest men it is our duty (no one doubts our right) to inquire into all the circumstances connected with it, and if it is found fraudulent, reject it.

It is useless for gentlemen to tell us that we are opposing it because it recognizes slavery. I am satisfied that not one Democrat on this floor—I am sure it is so with myself—would hesitate a single moment to vote for the admission of Kansas as a slave State, if it was the will of a majority of her people to have it so; though I am free to confess, that if I were a citizen of Kansas, I would be in favor of making it a free State; as I am not, I recognize fully the right of the people there to do as they may think best about it. Those who say the question is, "Shall any more slave States be admitted into the Union?" seek to present a false issue. That is not the point of controversy. The real point is, will you admit Kansas under a constitution which every one knows does not reflect the popular will—a constitution against which an overwhelming majority of the people who are to be governed by it are protesting in the most earnest manner? This is what we are called on to decide, and not whether we will admit a slave or a free State; and it is idle—it is worse than idle, it is ridiculous—to endeavor to make the people believe anything else. You cannot throw dust in their eyes, and blind them. They will draw a line of separation, broad and distinct, between the great principle of self-government involved, and a mere shift, a mere evasion of the issue. There is no man, Mr. Chairman, in this House, who will go further than myself to protect the South in all her constitutional rights; but it is not one of those rights to trample in the dust the sovereign power—the people—of a Territory. If we yield this as a southern right, the North may be placed hereafter in a situation where she will exact similar submission; and if she should be, the South never would yield it.

The Lecompton constitution may pass; its friends tell us it will; but if it does, evil consequences will follow it. I know that just now the South has the power everywhere but in this Hall, and they claim it here; that just now they are the zenith and the North the nadir; but perpetrate the outrage of admitting Kansas under the Lecompton fraud, and at the next election the scepter will have departed from Judah never more to return.

The gentleman from Virginia who so eloquently

addressed the House the other day on this subject, appealed with great emphasis to the North, especially to the Democracy of the North, to go over and help him. Help him do what, sir? Help him trample down the public will; help him cover up wrong; help him stifle justice; help him overturn the fundamental principle of self-government on which our free institutions are based; help him drag a State into the Union in violation of the Constitution, and against the most solemn protestations of its people; help him destroy the measure upon which Mr. Buchanan was elected; help him consummate an act which would stultify ourselves, brand with falsehood and shame the expressions of our public meetings, and disgrace us as the betrayers of our constituents? No, sir; we will never help him do that. Come what will, weal or woe, the northern Democracy will stand firm by their integrity and the Union; and if for this they are to fall under the executive guillotine, which is already reeking with the blood of some of its noblest sons, let it be so. The base creatures who succeed them only lick the dust from the foot of power, to betray it in turn when they are no longer fed at the public crib.

But we are told this is a pet measure with Mr. Buchanan; the only one on which he has staked the success of his Administration. I should regret to think this was so; I should regret to think that the admission of Kansas into the Union under the Lecompton fraud was to shed the only luster on the official life of the Executive. If he depends upon that—if the Lecomptonites depend upon that—to hand his name and fame down to posterity, they will find the blackness of darkness hanging over his memory. But, sir, I must believe that injustice has been done to the President in this; that the bravest of his knights who have entered the tournament for him on this point do not flourish their swords in the sunlight of his approbation.

I have not, Mr. Chairman, entered into an analytical examination of the election outrages and wrongs in Kansas. They are familiar to the whole country; and when the special committee we have appointed shall report, if they are ever allowed to, I may say something in regard to them. At present, I will only notice one point, and that is in reference to the disfranchised counties. Nineteen were not represented in the Lecompton convention for the want of the registry law and census being taken and executed in them, and without fault of their own. Governor Walker tells us so; Mr. Stanton tells us so. The Territorial Legislature, in their memorial presented to this House some days ago, tell us so; and these men would not venture such a statement when, if it were not true, they could be so easily discredited by the record. Two of the counties got up a registry of their own, and elected delegates to the convention; but they were refused seats in that body. Gentlemen, however, say that these nineteen counties were not disfranchised; and they have the word of one H. Clay Pate, the Kansas correspondent of the St. Louis Republican, for it. I would not believe his statement in opposition to those of Walker, Stanton, and the Legislature; nor will the country, though he seems to be a great pet just now with the Lecomptonites. But let us for a moment analyze that statement, which my friend from Missouri, upon my right, has appended to his speech, as though it was of great importance, and see what he does say. Here are his words; and I call the particular attention of the House to them:

"It is well to observe that, of the nineteen counties spoken of as not represented, the census was not taken in four for the reasons stated; the other fifteen were, for civil purposes, attached to organized counties, as follows:

- "Two, Richardson and Weller, to Shawnee;
- "Three, Madison, Butler, and Wise, to Breckinridge;
- "One, Coffee, to Anderson;
- "One, McGee, to Bourbon;
- "Six, Greenwood, Hunter, Dorn, Wilson, Woodson, and Gregory, to Allen;
- "One, Brown, to Doniphan;
- "One, Davis, to Riley.

"The counties of Brown, Washington, Clay, and Dickinson were organized at the last session of the Legislature; in the last named three there were no inhabitants.

"The registry law was executed, and voters were registered in the following counties: Johnson, Lykins, Lynn, Bourbon, Douglas, Shawnee, Doniphan, Atchison, Leavenworth, Jefferson, Nemaha, Calhoun, Marshall, and Riley."

Four counties, he admits, were not represented, but insists the other fifteen were attached to other counties for "civil" purposes. That word "civil"

is a strange one to use in connection with election purposes; but I will not cavil about that. Admit these fifteen counties were attached to others, as he asserts; and what does that amount to, or prove? Nothing. There was no census taken, or registry made, of the voters in these counties; and unless these prerequisites were complied with, they could not vote. While, therefore, they were attached to other counties, whose voters are claimed to have been registered, that attachment was a mere mockery of justice—they were merely dead bodies tied to living forms; thus showing that H. Clay Pate, while he is a good special pleader, has not the ability to overshadow truth. If the Lecomptonites desire to march under his banner, on which is inscribed the miserable insignia "Lecompton," they can do so. I prefer to train under the flag on which is floating the motto "anti-Lecompton;" and under that flag the people of this nation will form a funeral cortege and follow the Lecompton constitution to its grave. They never will, and never should, be satisfied until they bury the vile monster away from their sight. Then, and only then, will the foul breath it has breathed upon the land be swept away by the purifying winds of justice, and peace and good will restored.

But let us examine the statement of Mr. Pate a little more closely. I have before me a copy of the Kansas laws, in which is found the one calling the convention, and I propose to test the worth of his publication by that law. He says Richardson and Weller were attached to Shawnee. The law attaches Richardson and Davis (not Weller) to Shawnee. Shawnee is in the eleventh, and Weller in the fourteenth district. He says Madison, Butler, and Wise, were attached to Breckinridge. The law attaches Weller, Breckinridge, Wise, and Madison, together. Breckinridge is in the fourteenth, and Butler in the fifteenth district. He says Coffee was attached to Anderson. The law puts Coffee in the fifteenth, and Anderson in the seventeenth district. He says Greenwood, Hunter, Dorn, Wilson, Woodson, and Godfrey, (or Gregory, as he has it), were attached to Allen. The law attaches Bourbon, McGee, Dorn, and Wilson, together. Dorn is in the eighteenth district, and the other counties in the nineteenth. He says Brown was attached to Doniphan. The law constitutes Doniphan the first, and Brown and Nemaha the second districts. He says Davis was attached to Riley. Davis is in the eleventh, and Riley in the eighth district. This, however, is not all, though amply sufficient to show what credit should be given to his word.

He concedes that the registry law was only executed and voters registered in the counties of Johnson, Lykins, Lynn, Bourbon, Douglas, Shawnee, Doniphan, Atchison, Leavenworth, Jefferson, Nemaha, Calhoun, Marshall, and Riley; in all, fourteen—not half of those in the Territory. The first section of the act of the Legislature providing for taking the census and electing delegates to the convention, requires the census to be taken by the officers specified in each county, and a registry made of the *bona fide* citizens, and a corrected list be filed in the office of a probate judge in the county or election district. The eighth section provides that, "at such election" (that is, for delegates to the convention) "no person shall be permitted to vote unless his name shall appear upon said corrected list." I quote the precise language of the law. The eleventh section further provides that no person shall be entitled to vote unless he "shall have resided three months next before said election in the county in which he offers to vote;" and the fourteenth section provides that "every person not being a qualified voter, according to the provisions of the act," who shall vote at said election, shall be judged guilty of a misdemeanor, and punished by a fine not less than \$100 or more than \$200, or imprisoned not less than three or more than six months. Now I would like to know, as the census was only taken and a registry of voters made in fourteen counties, according to Mr. Pate himself, how the citizens living in the balance of the counties could vote? They could not vote, sir, and it is idle to talk about it. They were disfranchised by the most corrupt and monstrous act of villainy which ever stained the annals of our country, and which ought to make the cheek of the most hardened blush for human nature.

I do not attach any importance to Mr. Pate's statement, but gentlemen here seem to, and I

thought it best to expose its falsity and give the facts. Pate is evidently Calhoun the second, and in the event of his death would be entitled to the succession. I observe from a subsequent publication of his that he is manufacturing testimony to order for the use of his Lecompton friends here.

I have chosen, Mr. Chairman, to discuss the Kansas question in my own way; to present a general view of it and the points which have arisen in the debate, without dwelling too much in details which have been spread before the country, and everybody understands, and without entering into an argument touching the legality or power of the Lecompton convention, as that part of the subject has been already elucidated. In what I have said I have endeavored "nothing to extenuate, or set down aught in malice." Duty to the known will of my constituents forbids I should have said less. They are a justice-loving people, and desire fair play. They are conscious that this controversy, as presented, is an unfortunate one for the country, and especially for the Democratic party; but no considerations of expediency can induce them to trample on a sacred right. They are unalterably opposed to the Lecompton constitution.

What a contrast, sir, does this day present to the one, when millions of freemen went with cheerful hearts and joyful voices to the polls and voted for James Buchanan for President! Returning to their respective homes at night, they slept more soundly from a consciousness of having discharged a patriotic duty. They had unfurled their banner on the proud old Democratic ship, and manned her with officers who they supposed would keep her clear of breakers; but she is now driven upon them by a furious storm; her sails are rent and torn; her spars are bending; her ribs are cracking; her deck is washed by high waves; and it may be she will go down into the depths of the sea. God avert it! but if she should, I will cling to her topmast rigging, and "if I perish, I perish." Whatever the result, whether the triumph of power or right, Heaven give me the consolation of knowing, as my eyes shut upon the last glimmering sunlight of earth, that the Republic is safe; and may the last sound which salutes my ear, coming up from every where all over the land be, "all is well."

Mr. ANDREWS. Mr. Chairman, while difference and conflict of opinion prevails on most, if not on all other questions submitted to the consideration of Congress and the country, there is one sentiment in the President's message which will be very generally concurred in, but in a sense entirely different from that entertained by the President. He says, in regard to the agitation growing out of Kansas affairs: "They have for some years occupied too much of the public attention; it is high time that attention should be directed to other subjects." And in the recent message accompanying the Lecompton constitution, the President repeats that this agitation has continued "too long." In my judgment, this statement will not be disputed.

From the beginning of the agitation, four years ago, the whole country has been convulsed from Canada to the Gulf of Mexico, in every hamlet and every family. Kansas has furnished the fire-side talk and the engrossing topic of discussion in public assemblies and political debates. No question since the war of 1812 has occupied the public attention so generally, or excited the public mind so deeply.

Within that Territory a struggle has been intense on the part of the settlers to secure a free vote on the question of forming their own organic law, the law under which they and their descendants are to live, and in which they and theirs are vitally interested. For this they had the solemn pledge of the Government, embodied in the very act of Congress which brought their Territory into being. The Kansas-Nebraska act guaranteed to them the right to form and establish their institutions by such a vote; and yet their very first election was carried against them by the incursion of lawless inhabitants of a neighboring State, who proposed to and did form their institutions for them, usurp their government, and elect a Legislature, whose laws and enactments were pronounced by partisans of those aggressors, upon this floor, to be "a disgrace to civilization." Citizens of Missouri did overawe, imprison, and murder those settlers, and enact upon their persons

and property outrages unparalleled in the history of the country.

Those settlers were mainly the freeborn sons of New England; the men who build churches and school-houses; who scatter the blessings and benefits of civilization wherever they go. "They went out from their father's house to their own inheritance, to 'make the solitary place rejoice;'" to nurture the graces of moral life and beauty in the wilderness. They were murdered on their prairie hearth-stones, and their wives and children were compelled to fly to a deeper solitude for security against greater outrages. The arm of the Government, their natural protector, was withheld from their defense and protection. On the contrary, an armed force was kept in requisition to overawe, and withhold them from resistance to their invaders. The Government, bound to shield them, in point of fact aided in drowning the popular voice, by fraudulent votes and returns of elections, with the concurrence of its own sworn officers. I beg leave to annex an extract from a report of the Hon. J. COLLAMER, of the Senate, submitted at the last session of Congress, which presents, very graphically, the then existing state of affairs in Kansas:

"I state, from information which I regard as entirely reliable, and as facts which I believe capable of the most unquestionable proof, which can at any time be presented, that of the six thousand three hundred and thirty one votes cast in March, 1855, for the election of the Legislative Assembly of Kansas, four thousand nine hundred and twenty-one of them were cast by armed bands of the inhabitants of Missouri, who invaded Kansas for that purpose, on that occasion; that only one thousand four hundred and ten legal votes were cast, and a majority of those were for the free-State candidates, though most of the free-State voters were driven from the polls. This invasion extended to all the representative districts but one, and elected and controlled a large majority of both Houses. The people of the Territory have not been left free, but have been invaded and subjugated, and they are, and their institutions have been, controlled by the people of Missouri, through and by the tyrannical laws enacted by that Assembly, and more tyrannically enforced by the officers by them appointed. These laws, so made by usurpation, the Executive of this Government has aided to enforce, and in Congress no relief has been granted. The complaints and representations of this usurpation and perversion of the organic act have been represented here as complaints of a mere irregularity, and been treated by the Senate with apparent indifference and neglect, as no measure even of inquiry into their truth has been instituted.

"Abandoned to their oppressors, the free-State people of Kansas have been pursued by them in the same spirit which made the invasion. The acts of said Assembly have by their officers been made the cover for all forms of political persecution and oppression. Indictments for constructive treason and pretended nuisances deprive them of liberty and destroy their property. Under the form of sheriff's posse, armed bands of people from without the Territory prowl over it and take and destroy property and lives, and intimidate and drive off the free-State people. These people have thus, for several months past, been harassed and scattered, and any attempt at self-defense has been repressed by the Army of the United States, or been declared *constructive treason*, and treated accordingly. The settlers have thus in large numbers been driven from their settlements and from the Territory. This is but a brief and feeble statement of the facts. A full picture of the public atrocities and private violence which have been committed with impunity upon the free-State people of Kansas, would excite and arouse the deepest sentiment of indignation."

Well, sir, the agitation still continues; there is no abatement of it, here or elsewhere, in Kansas or out of Kansas. Recently, on the floor of this House, has its continued intensity been exhibited, by acts of personal collision and violence. Who, then, will gainsay or deny the President's assertion that this agitation has continued "*too long*?"

There is one other proposition deducible from the whole facts in the case, which is not referred to in the message, but upon which, nevertheless, the like unanimity of sentiment must prevail, namely: that there has been no moment of time during this four years of violence in Kansas and disorder out of it, when the President could not have terminated the difficulty and ended the agitation by a *dash of his pen*. The former President could have done so, as could his successor, now as then; and at any time can he give the country quiet in this matter, in the very easy manner in which the plighted faith of the Government was pledged to do from the first. There can, therefore, be no more difference of opinion in regard to the responsibility than of the "*too long*" continuance of this difficulty. The Government is responsible for the beginning and continuance of the agitation, and for all its consequences; and this must be patent to the country and mankind. Had protection been given to the people in their efforts for free government;

had their right of suffrage been secured to them; had the arms of the United States been employed for them—as alone the Government has authority to employ them, "to suppress insurrection and repel invasion"—instead of against them, and in defiance of the Constitution, then there would have been no agitation in Kansas, but she would have been long ago a State of this Confederacy, under the quiet operation of her own lawful authority.

There has been no mystery in either the origin or continuance of this agitation; the same thing would happen whenever popular rights were invaded or abridged, under any Government but an extreme despotism; wherever the people were fit to govern themselves, or possessed "rights to be respected," they would be impelled to such a struggle by the patriotic consideration suggested by Mr. Jefferson in his first inaugural: "Jealousy of the right of election is the vital principle of Republics." Why, sir, no such instance of paternal desertion and barbarity in any Government stands of record, and a parallel with the struggling heroism and forbearance of the people of Kansas remains to be recorded.

The persistence in the determination to force slavery upon this Territory in the face of the evidence and remonstrance of the chosen officers of the Government, is most remarkable. It is seeking slavery under all the stern difficulties which men are usually willing to encounter only to secure freedom.

First, Mr. Reeder, an unwavering Democrat, was selected for Governor; he was compelled to protest against the invasion of Missourians to control the elections and subjugate the Territory, and he was displaced. Governor Shannon was alike unsuccessful in his mission, and went into retirement. Governor Geary returned also, with bitter protests against the course of procedure, and the insane policy of the Government. The protests of these successive functionaries were disregarded, and their advice as to the course which justice and fair dealing directed was rejected by the former Administration. The present one gained no lessons of wisdom, justice, or humanity, from the course and failure of the former; followed the same line of policy, with more settled purpose, and resolved to make an end of the controversy at once. For this object a man of tried political character and great experience in public affairs was selected, a chosen champion of southern interests, and one of the leading statesmen of the Union—Robert J. Walker; having associated with him, as Secretary, Mr. Stanton, scarcely less favorably known to the Democracy for his devotion. These gentlemen began the work in earnest; they proceeded immediately to Kansas and found the same denial of right; the same prostitution of the ballot, bold and shameless; "a light shone round about them," and their conversion was complete; they also expostulated with the Government, and finally protested against the action of the Lecompton convention, and for this met the fate of their predecessors.

The testimony of these chosen witnesses had no effect to change or modify the settled purpose of the Administration, but was wholly rejected; and a constitution thus denounced, neither authorized by Congress, nor elected by the people, nor having the essential basis of a legal census, and against the popular voice by over ten thousand majority in a voting population of about twelve thousand, comes here backed with the same executive determination for our ratification. Upon what ground of justice or propriety should it be ratified?

The honorable gentleman from Alabama, [Mr. SHORTER,] and from Virginia, [Mr. CLEMENS,] hold that the Kansas-Nebraska law was an enabling act, and that when the people voted under it, and adopted a constitution, they became, *ipso facto*, a State, in or out of the Union. Now, no Territory can become a State unless Congress admit it as such; its elections are merely provisional; it has Congressmen or not, and Senators or not, according as Congress shall determine; it remains a Territory until Congress admit it as a State. Besides, sir, if Congress enabled anybody by that law, it was the people of Kansas; and they refused to act under it, and did not act. It is not at all material whether the law was an enabling act or not; the people have the same right, with or without one, to organize a State provisionally, and

to apply to Congress for admission. This was the fact in the cases cited by the gentlemen; but California and the others were no States until Congress admitted them as such; nor can any State be except by a successful rebellion.

The question here is, whether the people of Kansas did adopt this constitution, and desire to be admitted under it? They did no such thing. Their first proceeding under it was the election held to decide whether there should be a Lecompton convention or not, and the election itself was ordered by a Territorial Legislature in which the people never did acquiesce. The law was a fraud, and the people refused to attend the election of delegates to that convention, which was also fraudulent, because half the people were not registered as required by law; they therefore refused to vote or take any part in the election. When the territorial election came on, a Legislature and members of Congress were elected upon a distinct issue of repudiation of the convention which had formed the constitution, and refused to submit it to the people for the openly avowed reason that it would be voted down. When, on the 21st of December, the election was held under it, they refused to participate in it, because the question of its acceptance or rejection was not submitted; and at the same time State officers were elected under protest, in the name of the people of Kansas, which protest is now here before Congress. Do the gentlemen hold that Kansas can be forced into the Union "against the consent of the governed," because Congress had enabled them, when, even according to the showing of the President himself, the people of Kansas are, at this moment, in a state of armed rebellion against this very constitution? Therefore, and for these reasons, whether this law was an enabling act or not is of no sort of consequence.

But for the obstinate determination to force the Territory into the Union as a slave State, in the face of facts and evidence, she would have presented a constitution here long ago, of her own choice and adoption. I am bound to avow, however, sir, that I could not have voted for any constitution sanctioning property in man, by any of its provisions, framed at Lecompton or elsewhere, for that or any Territory. Such is my abhorrence of slavery and oppression, whether in Hungary, or Poland, or Ireland, or South Carolina, and in all lands or continents, and on all the islands in the limitless seas, that under no conceivable circumstances would I vote for the addition of one foot of slave territory to this Confederacy, though the application came here with the sanction of every vote in the proposed State; for, under the Constitution which I am sworn to support, as "I understand it," such could not be a "republican constitution." I should, on that question, exercise my reserved right to vote, as one of the people, if I need be, against any number, or all others; holding, as I do, that "republican" means the equality of all men.

Mr. Chairman, although the President could have terminated the Kansas agitation by the easy means already indicated, for which omission and dereliction he, like his predecessor, may be so unfortunate as to live long enough to follow as chief mourner at the funeral of his own reputation, nevertheless he could not have quieted what is called the slavery agitation—that he is not responsible for; it is beyond the jurisdiction of his high office; that will not down at his bidding, though you were to admit into the Union any number of slave States. When that shall appear ordered and settled upon compromises firm as was the Missouri; when everything on the surface of affairs is tranquil and serene, "calm as a summer sea," it will be found a deceitful calm, an unnatural tranquillity, for the depths are vexed, and every slight disturbing cause will create agitation afresh. In the midst of profound quiet, a cry will come from the very clouds, "there's a negro in the fence!" to startle and alarm, and the agitation will be at once renewed, freshened, and invigorated from its very rest, and this will be but the repetition of the thing until the last negro is out of the fence. The counter forces of freedom and slavery are at work, and they will ever be until one shall triumph; if the records of faithful history are reliable, if the parallels of the past are to be regarded, it is not difficult to augur the result of that controversy; it may be determined by

peaceful means, or by forcible means—Heaven grant that it may prove a peaceful triumph, for it pains me to imagine such an event as masters availing themselves of the underground railroad to escape from the indignant and retributive pursuit of their own slaves; or that more fearful alternative of Providence, some Moses raised up to lead the bondmen through the Red sea. Ay, sir, the Red sea! No, I will not suffer myself to contemplate a triumph such as that, even for freedom.

The honorable gentleman from Georgia speaks plainly. I thank him for his free speech. That is what we hold to. He would be no doughface, were he of the North; his rebuke of that unfortunate class of persons must be keenly felt. The gentleman differs widely, however, from Mr. Jefferson, Madison, and all the great founders of the Republic. They regarded slavery as more than a misfortune, "an evil, and a crime."

"The principle is this, and will ever remain in force, that men, by nature, are free."—*Continental Congress, 1779.*

"It is conceded, on all hands, that the right to be free can never be alienated."—*Continental Congress.*

"It is among my first wishes to see some plan by which slavery in this country can be abolished by law."—*Washington.*

"Slavery is contrary to the law of nature and of nations."—*William Wirt.*

"Slavery is repugnant to the principles of Christianity; it prostrates every benevolent action of the human heart."—*Patrick Henry.*

"The way, I hope, is preparing, under the auspices of Heaven, for a total emancipation."—*Jefferson.*

And, as the honorable gentleman has opened this slavery question for discussion, I desire to look for a moment at his line of argument. In an unenlightened age slaves may have been honestly acquired, and an honest inheritance, according to the received opinion of the time—conquest gave title, and men were the spoils of the vanquished; capture of enemies in war was, however, the only ground of title then. In that darker age slavery was regarded against natural law; then, kidnapping and man-stealing could not give one man a title to the person or service of another man; the same disability must exist in this more enlightened age. A stream can rise no higher than its source. What was bad in its inception cannot be cured, though it obtain the indorsement of a multitude of responsible names. No succession of bargain and sale can give validity to a corrupt title; running out this legal principle to its proper conclusion and application, the propriety of the old maxim, touching "the partaker," will be apparent. Men held by right of conquest may, and always might, reconquer themselves, their persons and their rights whenever they can; it is always regarded the noblest ambition of men and of subjugated nations to rise with whatever power they may, and wrest themselves from their oppressors. The whole world sympathizes in every such struggle; and every heart of the most remote inhabitant of civilization is animated by a feeling of common interest with all who strike for freedom. The people of our country have often exhibited their sympathy with oppressed nations in such struggles, and have on several occasions rendered material aid to the efforts of nations striving to redress and free themselves.

But, sir, I hold that men are not property even by right of conquest, which is the only right ever contended for anywhere. I hold that no being possessing physical and moral faculties common to human beings, can, by any constitution or laws, be goods and chattels: the Constitution of the United States admits this fact by treating persons held in slavery as "persons not property,"—"persons held to labor," is the language; and this holding is incompatible with the idea of property. The declaration to which the Constitution is referable for explanation, declares that all men are created equal and are entitled to certain rights; the Constitution was never held to impair, by any construction, that declaration; the Constitution of the United States knows nobody under any other name or style than persons. Where is the right given in that instrument to a party as owner of a man as property? I know of none, and I should like any strict constructionist, here or elsewhere, to inform me.

The framers of the Constitution have used language having an opposite meaning, quite another and different signification, than owner, property, and the like; "persons;" they say persons legal-

ly held to labor; and certainly no chattel can be the subject of law. Every member of Congress, the honorable gentleman from Georgia included, is described in that instrument by the same term, and by no other term.

These arguments for slavery are gathered from that remote age when bondmen were the captives of "a man's sword and his bow"—a sanguinary period. Even then kidnapping and man-stealing met the death penalty by Divine command. The gentleman quoted the tenth commandment for our reflection; but the eighth comes before it, and carries equal sanctions. Let that be reverently considered also. I do not know, sir, that anybody at the North "covets or desires" to meddle with these "men servants or maid servants." Our southern friends have them all and entirely to themselves. Nor do I know that we have ever claimed the right to interfere with that domestic institution in the States—certainly not unless the Missouri compromise repeal might authorize the war to be carried into Africa. The gentleman claims for slavery a greater exemption from crime than prevails in a free community, and produces the police records of New York in proof. I am forced to admit that we have no exemption from crime in New York to boast of; yet let me say we have few crimes of greater enormity than selling wives and children at the auction block.

In regard to this argument drawn from antiquity, I reply that its fields have all been reaped, gleaned, and garnered. The accumulated wisdom of past ages is, at the present time, to be shone upon and sanctified by Christianity, which teaches the fulfillment "of all the law and the prophets" in the higher injunction of universal brotherhood. The world moves, and "the ignorance that was winked" at, "becomes monstrous in the light of that great Christian obligation.

The ingenious Doctor Franklin has anticipated all these arguments for slavery of the African, "a heathen race," as the gentleman terms them, in his account of a report of the Divan of Algiers, one hundred and seventy years ago, upon a petition to abolish the slavery of white Christian men in that State.

A petition was presented to the Divan of Algiers, praying for the abolition of piracy and slavery, as being unjust, and the report of a member of the Divan is as follows:

"Have these persons considered the consequences of granting their petition? If we cease our cruises against the Christians, how shall we be furnished with commodities so necessary for us? If we forbear to make slaves of their people, who in this hot climate are to cultivate our lands? Who are to perform the common labors in our families? Must we not, then, be our own slaves? Is there not more favor due to us than to these Christian dogs? We have about fifty thousand slaves; this number, if not kept up by fresh supplies, will gradually be annihilated; our lands will become of no value for want of cultivation; the rents of houses will sink one half: for what? To gratify the whims of a whimsical sect, who would have us forbear making more slaves not only, but even manumit those we have.

"But who is to indemnify their masters for this loss, and would they, to do what they think justice to the slaves, do greater injustice to their owners? And if we set our slaves at liberty, what is to be done with them? Few would return to their own country. Must we maintain them; for men accustomed to slavery will not work when not compelled; and what is there so pitiable in their present condition? Is their condition made worse by falling into our hands? No; for they have only exchanged one slavery for a better; they have the opportunity of saving their immortal souls. They are too ignorant to establish a good government. While serving us we take good care of them; provide them everything, and treat them with humanity. The laborers in their own country are worse fed, worse lodged and clothed; the condition of many of them is, therefore, already mended, and requires no further improvement. Here their lives are in safety. If some of these mad bigots who tease us with their petitions, have freed their slaves in their blind zeal, it was not humanity.

"How grossly are they mistaken who imagine that the Alcoran disallows slavery! are not the two precepts—to quote no more—'Masters, treat your slaves with kindness,' 'Slaves, serve your masters with cheerfulness and fidelity'—clear proofs to the contrary? Let us hear no more of this detestable proposition, the adoption of which would be depreciating our lands and depriving so many good citizens of their properties."

The Divan passed this resolution:

"The doctrine that plundering and enslaving Christians is unjust is at least problematical; but that it is the interest of the State to continue the practice is clear; therefore, let the petition be rejected."

Men's interests are operated on with surprising similarity in all countries and climates. These were white men slaves in Africa.

That gentleman and others threaten a dissolution of the Union if this so-called Lecompton con-

stitution be not treated with favor here; that, let me say, is beating upon the same old parchment around this Hall, giving forth the same monotonous sounds, provoking only weariness. For my own part, sir, I am disgusted with that maimed, bloated, bandaged old form, that has hobbled on crutches and staves by day, and been set up with, watched and nursed on his miserable couch by night, so long; I desire to see the hale and stalwart personification of Union which the fathers sketched and left us, sound, reliable, cordial, and of hearty cheer; I desire to see no other representation or reality. If the gentleman's State is impatient of parental and wholesome restraint, rather than these threats, complaints, and heart-burnings, I would vote to-day to divide to her her share of the common inheritance, with an additional and liberal outfit to enable her to set up housekeeping on her own account, and let her go, and no more words about it; when she comes back suppliant for readmission, knocking at our door, as she must do in about ninety days, we will then consider the question of annexation; yes, sir, we will think of that.

I desire to tell the gentleman a story illustrative of the position of his State, and the consequence to follow the execution of these threats of dissolution. A son of the Emerald Isle, employed in digging a well, was let down about half way, some twenty feet, when the rope by which he was suspended became entangled in the machinery. He became impatient of his position, and, thoughtless of consequences, he cried out, "if you don't let me up, or let me down, I'll cut the rope." So would these gentlemen cut the rope. The Administration reason justly, no doubt, that as a question of party policy its reliance must be upon the southern Democracy, it has abundant reason, from the past, for confidence in northern compliance. The annexation of Texas and the repeal of the Missouri compromise had both the one object, the extension of slavery. The success of those measures involved the political ruin of northern adherents who voted for them, and threw the Democratic party at the North into a minority, but the North returned to its allegiance in due time. That result authorizes further exactions by the South, and confidence in further and future compliance on the part of the North. They have every reason to assume that they can treat their northern allies—

"As a huntsman his pack,

For when he pleases, he can whistle them back."

There may come a time when the northern wing of the party will perceive that the Government has become a great southern agency, with the President of the United States its chief clerk; and may be disposed to yield to interest or to patriotism what is now given to party. Has that time now come? The President deprecates the effect of the defeat of this measure, upon the fourteen slave States, and says a "keen sensibility will be felt by them at so untoward an event." His sympathy appears in no degree awakened to any violence to the sensibility of fifteen northern States. With an equal show of propriety might the President fear for their sensibility at the "untoward event" of any northern State having been permitted to flourish under free constitutions; and so far as that reason goes they might be exhorted to yield those to blunt the "keen" edge of southern sensibility. They will not yield themselves or Kansas to that appeal—it is quite too sectional.

The gentleman from New York, my honorable colleague, very frankly foreshadows the policy of the Government, with a view to the settlement of all these exciting questions. When he went for "wholesale appropriation" of foreign territory by the Government—acquisition by conquest, instead of by predatory incursions and petit occupation by individuals in arms; robbers on their own account—the gentleman indicated the humane view of that subject, one that will direct the public mind to serious reflection thereon; and at the same time he promulgated to this House and the country the policy of the Government quite distinctly; as by authority. The basis of that policy is to be the Ostend circular.

Walker, hitherto supposed to be a secret agent of the Government, is to be abandoned to his fate, as was his ancient prototype, Robert Kidd, in whose enterprises the British King is said also to have shared. The transit route is to be guaran-

tied to the satisfaction of England and France; war is to be made, or threatened, upon Spain, on some pretense; Cuba is to be our indemnity for claims against her; and the consideration to the South for the loss of "FREE KANSAS" as well. That is the programme. The extreme of Cuba, sir, is nearer the coast of Guinea than is our southern main; and even though the slave trade may remain prohibited—as it will ever remain—it will be quite as easy for slavers to slip through the Gulf squadron as it was for Walker and his "cankers of a calm world and a long peace," especially if its future commander be less a matter-of-fact man than was Commodore Paulding—one who understands that *words of instructions* are intended to cover and conceal orders.

But, sir, such an argument, plausible as it may appear, will not settle these questions; the idea is delusive; it will protract the agitation rather. The field of action will be widened and extended; it will have more verge and scope; there will be more land for freedom to possess, and the tropics may become the theater of its highest achievements in the ascendancy of liberty and law.

For freedom throughout this Union, and over all this vast continent, is MANIFEST DESTINY.

Mr. CRAWFORD obtained the floor, but yielded to

Mr. PHELPS, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. GREENWOOD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 5) making appropriations for the service of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1859, and had come to no resolution thereon.

Mr. JOHN COCHRANE moved that the House adjourn.

KENTUCKY RESOLUTIONS.

Mr. UNDERWOOD. I ask the gentleman to withdraw that motion for a moment, to enable me to introduce certain joint resolutions from the Legislature of Kentucky.

Mr. JOHN COCHRANE. I will withdraw it for that purpose.

Mr. UNDERWOOD then, by unanimous consent, introduced joint resolutions of the Legislature of the State of Kentucky, in relation to the soldiers of the Revolution, and of the war of 1812; which were referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM HOWELL.

Mr. READY, by unanimous consent, in pursuance of previous notice, introduced a bill for the relief of William Howell, of the State of Tennessee; which was read a first and second time, and referred to the Committee on Invalid Pensions.

ANDREW J. FLEMMING.

Mr. REILLY, by unanimous consent, in pursuance of previous notice, introduced a bill for the relief of Andrew J. Flemming, of Gettysburg, Pennsylvania; which was read a first and second time, and referred to the Committee on Public Lands.

WASHINGTON RESOLUTIONS.

Mr. STEVENS, of Washington, by unanimous consent, introduced a joint resolution of the Territorial Assembly of Washington Territory, relative to the Territories of Washington and Oregon; which was referred to the Committee on the Territories, and ordered to be printed.

Also, the joint resolution of the same body, relative to a geological survey by Dr. John Evans; which was referred to the Committee on Public Lands, and ordered to be printed.

COURT-HOUSE, ETC., AT TYLER, TEXAS.

Mr. REAGAN, by unanimous consent, in pursuance of previous notice, introduced a bill to provide for a building for the accommodation of the courts of the United States and post office at Tyler, in the State of Texas; which was read a first and second time, and referred to the Committee on the Judiciary.

And then, on motion of Mr. JOHN COCHRANE, (at four o'clock,) the House adjourned.

IN SENATE.

WEDNESDAY, February 24, 1858.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

* The VICE PRESIDENT laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, a statement showing what officers of the Army, belonging to the several regiments in service in the field, or at remote or frontier stations, are now absent from duty, and the cause of such absence; which was, on motion of Mr. Wilson, ordered to lie on the table; and a motion by him to print it, was referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. FOSTER presented the petition of Franklin Kelsey, praying that an appropriation may be made for building, equipping, and testing a steamboat on a scientific model invented by him; which was referred to the Committee on Naval Affairs.

Mr. CRITTENDEN presented the memorial of Alexander B. Hagner and Daniel R. Hagner, guardians of the infant children of the late Major J. R. Hagner, United States Army, praying that they may be allowed a pension; which was referred to the Committee on Pensions.

Mr. BIGLER presented the petition of Joseph E. Cole, praying the establishment of a line of mail steamers between Baltimore and St. Thomas, in the West Indies; which was referred to the Committee on the Post Office and Post Roads.

Mr. DOOLITTLE presented the petition of Henry Cordier and others, citizens of the United States, praying that the public lands may cease to be regarded as a source of revenue to the Government, and that all entries thereof may be confined to actual settlers; which was ordered to lie on the table.

Mr. KING presented a remonstrance of citizens of Buffalo, New York, against the granting of public lands to corporations, and praying that they may be retained for actual settlers; which was referred to the Committee on Public Lands.

Mr. GREEN presented a memorial adopted at a meeting of citizens of Clark county, Missouri, remonstrating against the diversion of the lands granted by Congress for the improvement of the Des Moines river from that object, and the application of those lands by the State of Iowa to any other purpose than that for which those lands were granted; which was referred to the Committee on Public Lands.

Mr. BENJAMIN presented a petition of the city of New Orleans, praying that the title to certain lands bequeathed to that city and the city of Baltimore may be confirmed by the United States; which was referred to the Committee on Private Land Claims.

He also presented a memorial of the city of New Orleans, praying Congress to relinquish to that city the interest of the United States in certain lands bequeathed to the cities of New Orleans and Philadelphia, by the late Stephen Girard; which was referred to the Committee on Private Land Claims.

Mr. JONES presented the memorial of John Frink, praying for the remission of certain fines and forfeitures imposed under his contract for carrying the mail; which was referred to the Committee on the Post Office and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, in relation to the Pacific railroad and in favor of a donation of land to the Territory of Nebraska for the construction of railroads; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa, in favor of a grant of land to aid in the construction of the Prairie du Chien and Man-kota railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa, in favor of a grant of land to aid in the construction of the Lansing, Northern Iowa, and Southern Minnesota railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial and joint resolution of the Legislature of Iowa, in behalf of James B. Thomas and his family, who were sufferers by Indian depredations; which were referred to

the Committee on Indian Affairs, and ordered to be printed.

Mr. HOUSTON presented a resolution of the Legislature of Texas, in favor of a weekly overland mail route from some point in Texas to San Diego, in California; which was referred to the Committee on the Post Office and Post Roads.

He also presented a resolution of the Legislature of Texas, in favor of the establishment of mail coaches from Tyler to Waco, in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented a resolution of the Legislature of Texas, in favor of adopting measures for having the Indians of Texas, west of the Pecos river, collected upon the reserve provided for them; which was referred to the Committee on Indian Affairs.

He also presented a resolution of the Legislature of Texas in favor of the establishment of a military post, at or near the junction of the larger Wichita and Red rivers, and the adoption of other measures for preventing Indian depredations on the frontier of Texas; which was referred to the Committee on Indian Affairs.

He also presented a resolution of the Legislature of Texas, in favor of the erection of buildings for post offices and the use of the United States courts in that State, and also the establishment of another judicial district therein; which was referred to the Committee on the Judiciary.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. STUART, it was

Ordered, That the petition of James Baldwin, on the files of the Senate, be referred to the Committee on Pensions.

On motion of Mr. HOUSTON, it was

Ordered, That the papers on the files of the Senate relating to the private land claim of B. E. Edwards, be referred to the Committee on Private Land Claims.

On motion of Mr. SIMMONS, it was

Ordered, That Edward Harte have leave to withdraw his petition and papers.

On motion of Mr. BENJAMIN, it was

Ordered, That J. R. St. J. Gregory have leave to withdraw his petition and papers.

POSTMASTER GENERAL'S REPORT.

Mr. BIGLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be authorized to cause to be printed, for the use of the Post Office Department, twelve hundred copies of the report of the Postmaster General with the appendix, and three hundred copies of the same report without the appendix.

WASHINGTON CITY POLICE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of providing by law for the establishment, under the authority and control of the Government of the United States, of an efficient police in the city of Washington.

NOTICE OF A BILL.

Mr. POLK gave notice of his intention to ask leave to introduce a bill in relation to conflicting land claims.

BILLS INTRODUCED.

Mr. MALLORY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 165) authorizing the construction of a dry-dock for the naval service; which was read twice by its title, and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. IVERSON, from the Committee on Claims, to whom was referred the memorial of David Gordon, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the memorial of Eleazer Williams, submitted a report, accompanied by a bill (S. No. 166) for the relief of Eleazer Williams. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (S. No. 42) to provide for the construction of a custom-house, court-house, and post office in Trenton, in the State of New Jersey, reported it without amend-

ment, and that it ought not to pass; and submitted a report on the subject, which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 49) to provide for the construction of a court-house, post office, and custom-house in Appalachicola, in the State of Florida, reported it without amendment, and that it ought not to pass; and submitted a report on the subject, which was ordered to be printed.

WHITEMARSH B. SEABROOK.

Mr. IVERSON. The Committee on Military Affairs, to whom was referred the bill from the House of Representatives (H. R. No. 81) to amend the "Act for the relief of Whitemarsh B. Seabrook and others," have instructed me to report it back with a recommendation that it pass. I ask, if it be not inconsistent with the views of the Senate, that the bill be taken up and put on its passage immediately. I will make a brief explanation of it.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. IVERSON. At the last Congress, a bill passed both Houses, appropriating a certain amount of money to Seabrook and others, who belonged to a military company in South Carolina, that was engaged in the late war with Great Britain. It gave them pay and emoluments according to their rank in the service; and it directed the money to be paid to the persons, if alive; and if dead, to their heirs-at-law. It has been found impracticable to execute the bill, because a great many of the heirs-at-law are scattered all over the country, and some of them are minors, and it is impossible to pay the money to them. It is now proposed that, instead of the money being paid to the heirs-at-law, it be paid to the executors and administrators of the parties. The House of Representatives has passed this bill: it is proper to have the matter adjudicated, for the money belonging to the parties is in the Treasury; and the bill ought to be passed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GONZAGA COLLEGE.

Mr. BROWN. I ask the consent of the Senate to take up the bill (S. No. 76) to incorporate Gonzaga college, in the city of Washington, in the District of Columbia. I will make a brief explanation of it.

Mr. BELL. Will it consume time?

Mr. BROWN. I think not.

Mr. BELL. I do not know what my rights are on the question before the Senate. It may be that the Presiding Officer may feel it his duty to stop the debate on the question that was up yesterday, at one o'clock.

The VICE PRESIDENT. The Chair will state, that at the hour of one, if the Senator does not take the floor before, the Chair will call up his motion to print the resolutions of the Legislature of Tennessee, which comes up as unfinished business at the head of the special orders. The Senator will be entitled to the floor at the hour of one o'clock on the question to print.

Mr. BELL. Then I have no objection.

The bill (S. No. 76) to incorporate Gonzaga college, in the city of Washington, in the District of Columbia, was considered by the Senate as in Committee of the Whole.

Mr. HALE. Is there any report accompanying this bill?

Mr. BROWN. I will say to the Senator that there is no written report. It is a bill to incorporate a college, and it is drawn up in the usual form, with all the guards around it that are common to such measures. They have a common seal; they are prohibited from issuing notes or scrip as a currency, and the bill contains the individual liability clause.

Mr. HALE. I confess I am unwilling to see the bill pass. I do not know but I am superstitious about it; but I have a different idea of a college from some gentlemen. I recollect meeting a friend out West, and I was inquiring about a young man whom I used to know, who was engaged as a teacher. The friend said he had been doing very well; he had bought a farm with a college on it, and was carrying on the business. [Laughter.] We have but one college in New Hampshire, and that was incorporated before the

Revolution, and is an institution of some considerable merit. I think this matter of making colleges has been carried to a very great and ridiculous extent. I have looked over the American Almanac, and I saw, I think, some forty or fifty colleges in the United States without a professor or a student; and I am opposed to increasing them. I wish the bill to lie over, if there is no objection.

Mr. BROWN. I will say, in reply to the suggestion of the Senator from New Hampshire, that the object of incorporating this college in Washington by those who are at the head of the college in Georgetown, is this: that there are large numbers of boys here who would go from the houses of their parents to a college in Washington who cannot go so far as Georgetown college, and hence there is a necessity for boarding them. This the proprietors, owners, trustees, or faculty of that college think they can avoid by simply establishing a college here. They have the means of doing it. They ask for no assistance from the Government in any shape or form. They simply ask us to give them a corporate name, with the usual franchise belonging to colleges, and then they agree that you may alter, repeal, or amend their charter at pleasure. The bill makes every man connected with it liable for all its debts. It prohibits the issuance of any scrip, and throws around it all the guards that Congress has ever thought proper to impose in matters of this sort.

I disagree with my friend from New Hampshire as to the impropriety of multiplying the number of colleges. I wish, instead of thirty-eight or forty, as the Senator finds in the American Almanac, that we had five hundred and thirty-eight. If they have the name of colleges, and yet are nothing more than high schools, I do not, for the life of me, see that there is any harm in it. Suppose you call this Gonzaga college, and it does not rise above the dignity of an ordinary high school: certainly it is not going to do any harm. It grants degrees of Master of Arts and Bachelor of Arts; but, I take it, a man, when he gets out into the world, will be neither greater nor less on account of having graduated at this college. I hope the bill will be allowed to pass without any amendment.

Mr. ALLEN. Will the Secretary be good enough to read the clause limiting the amount of property that may be held by this corporation?

The Secretary read the bill, as follows:

A bill to incorporate Gonzaga College, in the City of Washington and District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Burcard Viliager, Charles H. Stonestreet, Daniel Lynch, Edward X. Hand, and Charles Jenkins, and their successors, be, and they are hereby, made a body-politic and corporate forever, by the name of the President and Directors of Gonzaga College, for purposes of charity and education; and by that name may sue and be sued, prosecute and defend; may have and use a common seal, and the same alter and renew at pleasure; may adopt rules, regulations, and by-laws, not repugnant to the Constitution and laws of the United States, for properly conducting the affairs of said corporation; may take, receive, purchase, and hold estate, real, personal, and mixed, not exceeding in value the sum of \$500,000 at any one time, and may manage and dispose of the same at pleasure, and apply the same, or the proceeds of the sales thereof, to the uses and purposes of the said corporation, according to the rules and regulations which now are, or may hereafter be, established.

SEC. 2. *And be it further enacted,* That the said corporation shall have and enjoy the power and faculty to confer and confirm upon such pupils in the institution, or others, who, by their proficiency in learning or other meritorious distinctions they shall think entitled to them, such degrees in the liberal arts and sciences as are usually granted in colleges.

SEC. 3. *And be it further enacted,* That the president and directors of Georgetown College be, and they are hereby, authorized and empowered to convey to the said president and directors of Gonzaga College, and their successors forever, who are hereby authorized and empowered to receive the same, such lands and property, and such estate, real, personal, or mixed, as the said president and directors of Georgetown College may receive, or may have received, for the use or benefit of said president and directors of Gonzaga College.

SEC. 4. *And be it further enacted,* That nothing in this act shall be so construed as to authorize this said corporation to issue any note, token, device, scrip, or other evidence of debt, to be used as a currency.

SEC. 5. *And be it further enacted,* That each of the corporations in said corporation shall be held liable, in his individual capacity, for all the debts and liabilities of said corporation, however contracted or incurred, to be recovered by suit, as other debts or liabilities, before any court of competent jurisdiction.

SEC. 6. *And be it further enacted,* That Congress may at any time hereafter alter, amend, or repeal the foregoing act.

Mr. HALE. I move to strike out the word "college," and insert "academy."

Mr. BROWN. An academy could hardly confer degrees.

The amendment was rejected.

Mr. FOSTER. My attention was turned to the same subject to which the attention of the Senator from Rhode Island was directed when he inquired in regard to the amount of property which might be held by the corporation. I notice that the amount they may receive at any one time is restricted to the sum of \$500,000; but there is no restriction in regard to the amount which the corporation may finally hold. It strikes me that there had better be a restriction in regard to the amount which the corporation may lawfully hold. I see no particular necessity for restricting the amount which they may receive at any one time; but if there be any such a necessity, there certainly ought to be a restriction as to the gross amount.

Mr. BROWN. That I understand to be the restriction now; but if the Senator will suggest any amendment to make it more certain, I have no objection.

Mr. FOSTER. I was about to inquire of the chairman of the committee if that was the meaning, when the Senator from Rhode Island asked for the reading of that clause.

Mr. ALLEN. I think there may be a doubt on that point, and the section ought to be amended so as to limit the amount which may be held.

Mr. BROWN. I think the bill in its present form accomplishes the object of Senators. If there be no suggestion of an amendment, I hope the bill will be passed at once.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

KANSAS—LECOMPTON CONSTITUTION.

Mr. GREEN. I move to take up the bill (S. No. 161) for the admission of the State of Kansas into the Union, for the purpose of then moving to make it a special order.

The motion was agreed to; and the bill was read a second time.

Mr. GREEN. I move that it be made the special order for to-morrow at one o'clock, if it meets general approbation. [Say Monday.] My object is, to get the question out of the way, for it impedes the progress of all other subjects. It will be discussed for some considerable time, and everybody will have a fair opportunity to discuss it before final action.

Mr. SEWARD. My vote on that motion will depend somewhat on what we can ascertain as to the probable course of debate. I beg leave to ask, if the Senator has no objection, whether he intends to take the floor, as I suppose is his right, at the time appointed, and whether there is any understanding that the members of the committee are to go on with the debate, or whether it will devolve on somebody else. I want to speak on this question on such a day as I can consistently with the rights of the members of the Committee on Territories.

Mr. GREEN. In reply to the Senator's question, I can inform him that, so far as I am concerned, I shall desire to do nothing but to make a little statement, reserving my right to answer whatever may be said against the principles of the report. I believe the majority of the committee have no desire to push themselves forward in the debate, hastily, at any time. Of course they reserve their right to be heard during the progress of the debate. What the minority may desire to do, I am not able to say. The friends of the measure generally are not disposed to prevent a fair hearing on all sides, so far as the Senate may desire, and will not undertake to crowd it through, unless a factious opposition be set up, which we do not apprehend.

Mr. DOUGLAS. I rise to make a remark on another point. I have observed, in a very large number of newspapers, of various political complexions, that have come to me within the last few days, that during the ten days I was confined to my house in consequence of illness, reports went out from here in which it was stated that it was believed a caucus of Democratic Senators had formally read out of the party my friend from Michigan, [Mr. STUART,] my friend from California, [Mr. BRODERICK,] and myself. I rise for the purpose of asking my friend from Rhode Island, [Mr. ALLEN,] who was the president of that cau-

cus, whether there is any truth in those statements?

Mr. ALLEN. I was the presiding officer of that caucus; but I heard nothing of reading out any member of the Democratic party from that caucus.

Mr. DOUGLAS. I supposed such was the case, and yet I thought it was proper to call on the chairman of the caucus to make this statement, as I was absent and had no means of knowing what was done, except on the informal inquiries I have made, to which I received the same answer. I will take occasion to remark, that during the fourteen years I have been here, no caucus has ever yet been held by which the right was claimed to make any measure a party measure. It was not done on the Nebraska bill; it never has been done on any other bill. I understand it has not been done on this Leecompton question. The friends of the Nebraska bill met—men of all parties; and the opponents of the Nebraska bill met—men of all parties. The friends of the Leecompton constitution may meet, and its opponents also; but no party caucus has ever yet taken jurisdiction of a measure to declare it a party measure, much less have they undertaken to read anybody out of a party for differing from them.

Mr. IVERSON. At the suggestion of my friend from Indiana, [Mr. FITCH,] I will take occasion to make a response to the inquiry of the Senator from Illinois; and it is proper I should do so, inasmuch as the only action of that caucus was on a resolution which I offered.

Mr. TOOMBS. I will take the liberty with my colleague, which I do in the kindest manner possible, and probably I would not have done it to any other Senator; but I can take the liberty with my colleague on account of our relations, to object to these explanations in the Senate of what took place in caucus. I hope my colleague will let it drop. I say it in the kindest spirit. Those gentlemen who choose to bring it forward here may do so.

Mr. IVERSON. My only object was to disabuse the mind of the Senator from Illinois.

The VICE PRESIDENT. The Chair must rule that these explanations are not in order.

Mr. DOUGLAS. I trust the Senator from Georgia may be permitted to make his statement. It is informal, but I trust there will be no objection to it. As he says he offered the resolution, I think it is proper he should now have an opportunity of explaining.

The VICE PRESIDENT. The Chair did not arrest the remarks which have been made, though they were none of them strictly in order.

Mr. BENJAMIN. I shall renew the objection. I do not think this is in order.

Mr. DOUGLAS. I do not wish to push this question any further. It has gone far enough. I understand the resolution which was offered was to the effect that it was conceded on all hands that the caucus disclaimed such right, intention, or power.

Mr. GREEN. I wish, in further response to the interrogatory of the Senator from New York, to remark that, on consultation with one of the minority of the committee, I shall waive my right to make any opening remarks at all, but let the debate go on and take its fullest range.

Mr. COLLAMER. I understand that, by the ordinary usage of the Senate, the gentleman who presents the report of the committee has the privilege, and it is expected of him generally, that he should open the debate, that we may be possessed of the views he proposes to present, and the arguments which he calculates to rely upon in support of his position. It is also his privilege to close the debate. We understand that; but we understand generally in law, and certainly in propriety, that if a gentleman waives his opening, he waives his close. If that is understood, it is all very well.

Mr. GREEN. That is not understood.

Mr. COLLAMER. Then I understand the gentleman means to close, though he does not mean to make an opening. According to that view, the gentleman is distinctly to understand that I must close upon his closing; for it is the only time I shall have to answer. I take it, there can be no objection to that.

Mr. GREEN. Under ordinary circumstances it might be insisted on with a little more pertinacity that I should open the debate on this matter; but I have made one elaborate speech on this sub-

ject, I have made my report; and I shall not, in my remarks, deviate from the principles and from the facts as therein set forth. My object will be to vindicate them as assailed and attacked, not to restate principles, positions, and facts that I have heretofore stated. He can reply to that, and then I will respond, if I see proper to do so.

Mr. COLLAMER. It is my privilege, also, to have made a report, in which I have stated my views, in common with my associate on the committee who agreed with me in opinion, the Senator from Ohio, [Mr. WADE;] but I do not consider that that in any way precludes me from enlarging upon those views, nor does it relieve me from the duty, perhaps, of elaborating and sustaining them. So it is with the Senator from Missouri; but the view I have is very obvious from general usage.

Mr. GREEN. I am willing to do it, or to waive it.

Mr. COLLAMER. I do not mean to urge the gentleman to open the case; but I do not wish him to close a debate which he has not opened. I want it distinctly understood that he is not to close it if he does not open it. If that is understood, it is all very well.

Mr. GREEN. If the Senator desires me to open it, he shall be gratified. I supposed I was gratifying them by waiving my right to open; but if it is insisted upon, he shall be gratified to his heart's content.

Mr. COLLAMER. I have distinctly stated, and I now restate, as the gentleman does not choose to understand me, that I do not request him to open it, but I request that, if he will not open, he will not close it.

Mr. GREEN. I do not think he need have so much apprehension about my ability in closing.

Mr. HALE. Before the question is taken, as I feel a little responsibility about the Army bill, I wish to know what is the intention as to that? Is this subject to supersede it?

Mr. IVERSON. I take this occasion to say what I desired to say, and should have said some time during the progress of the morning, that, as soon as the personal discussion between the two Senators from Tennessee shall have ended, I shall ask the Senate to proceed to the consideration of the Army bill, with a view to press it as rapidly as possible to a conclusion. The chairman of the Committee on Military Affairs is so unwell that he will not be able to be here for some days, perhaps a week or ten days. It is useless, therefore, to keep the Army bill back in consequence of his indisposition, and we ought to get rid of it as soon as possible. I shall endeavor to press the Army bill to-day, and, if it is possible, to get a vote of the Senate upon it.

Mr. SEWARD. What is the motion now?

The VICE PRESIDENT. That the bill for the admission of Kansas be made the special order for to-morrow, at one o'clock.

Mr. SEWARD. We may have the Army bill before us, and the present day is mortgaged. I would suggest the day after to-morrow, or Monday.

Several SENATORS. Say Friday.

Mr. GREEN. Well, Friday will do. I move to make it the special order for that day.

Mr. DOOLITTLE. I move to amend the motion by striking out Friday and inserting Monday. To-day is undoubtedly to be occupied, and the Army bill cannot be disposed of very soon. ["No, No!"] I withdraw the motion with the understanding that the Army bill is to be first disposed of.

Mr. COLLAMER. It is a matter of accommodation with gentlemen to fix the time when it can be taken up. Putting it for to-morrow, or the next day, leaves the matter in perfect uncertainty. Those of us who feel it to be our duty to participate in the debate, perhaps early, should like to know what is the certainty. If you say Monday we shall know that there is something certain.

Mr. TOOMBS. Let us take it up on Friday if we can get to it after disposing of the Army bill.

Mr. COLLAMER. But that leaves us in uncertainty as to the time when it will be taken up.

The VICE PRESIDENT. The motion is to make the bill the special order for Friday next at one o'clock.

Mr. COLLAMER. I move to amend the motion by saying Monday.

The amendment was adopted; and the motion, as amended, was agreed to.

LA FAYETTE'S LAND WARRANTS.

Mr. SLIDELL. A bill amendatory of an act permitting the relocation of certain land warrants granted to General La Fayette, was postponed yesterday in order to enable the Senator from Ohio to offer an amendment, which I presume will meet with the assent of the Senate. I have no objection to it myself. I move to take up that bill.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 71) to amend an act entitled "An act to authorize a relocation of land warrants Nos. 3, 4 and 5, granted by Congress to General La Fayette," approved February 26, 1845; the pending question being on the amendment offered by Mr. SLIDELL yesterday, in lines nine, ten, and eleven, to strike out the words "subject to entry at private sale at \$1 25 per acre," and insert "not specially reserved;" so that it will read:

"Shall be authorized to relocate the said land warrants on any of the public lands of the United States not specially reserved."

Mr. PUGH. I cannot perfect the bill to answer my idea exactly as I am disinclined to it; but the best I can do is to offer this substitute for the amendment of the Senator from Louisiana. It is to strike out the words "subject to entry at private sale at the sum of \$1 25 per acre," and insert:

Subject to public or private sale, and not reserved in pursuance of any act of Congress for the construction of railroads or other public works, or reserved for military or other special purposes.

Mr. STUART. That will do.

Mr. SLIDELL. I have no objection to the amendment.

Mr. POLK. I wish to ask the Senator from Ohio the meaning of the words "public or private sale." Is it to cause the holder of these warrants to take lands at such prices as they will bring at public sale?

Mr. SLIDELL. The warrant calls for no price. General La Fayette, in 1804, was authorized to enter so many sections of land—I do not remember the exact number—wherever he might think proper. He located one section in the immediate vicinity of New Orleans, on land not surveyed and not claimed by the city. From that property he realized probably two hundred thousand dollars. Other entries were made in Florida; some in Louisiana. There appear to have been adverse outstanding titles, and these entries failed. He then disposed of his right to enter lands to individuals, who entered lands under a law passed in 1845, which proved to have been reserved, because they were live-oak timber lands. Now the privilege is asked by these men, who paid many years ago to General La Fayette probably eight or ten dollars an acre for these warrants, and, for aught I know, a much higher price, that they shall be permitted to enter any lands that are not specially reserved, where there is no price at all, of course. That is the whole amount of the matter.

Mr. POLK. I did not understand the amendment as it was read. What is the meaning of the word "public," as inserted in the amendment of the gentleman from Ohio?

Mr. STUART. I will say to the Senator that the effect of this amendment is to allow entry on any lands subject to entry at \$1 25 per acre, or less; but not to allow entry on lands that are reserved sections in railroad grants, or other grants, or reserved specifically for any other purpose. That is the effect of the amendment.

Mr. POLK. But I ask the Senator from Michigan if the land may not be had, at public sale, at a price greater than \$1 25?

Mr. STUART. Undoubtedly; but he cannot use those warrants at a public sale.

The amendment offered by Mr. PUGH was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed; was read the third time, and passed.

CHRISTINE BARNARD.

Mr. IVERSON. I ask for the third reading of the bill to continue a pension to Christine Barnard. It was under consideration on Friday last, and was then postponed on account of objections that were made by the Senator from Ohio and the chairman of the Committee on Pensions, who have now kindly waived their objections. I think

it will now pass without opposition. As the lady is here, and in great distress, I trust the Senate will indulge me in taking up the bill. The bill is on its third reading.

Mr. CLAY. I must object to the consideration of that bill at this time. I want to say something on it.

Mr. IVERSON. I waive it.

The motion was therefore withdrawn.

TENNESSEE RESOLUTIONS.

The Senate resumed the consideration of the motion to print the resolutions of instruction of the Legislature of Tennessee, which were presented yesterday.

Mr. BELL. I feel under great obligations to the Senate for doing me the favor of adjourning last evening; for when I come to reflect on it, knowing the circumstances and the excitement of the occasion, I think that perhaps I might have demeaned myself in a manner which, at a subsequent time, I should have great reason to regret. As I said yesterday evening, it must be obvious to the whole Senate that the course of my colleague was uncalled for, and was entirely unprovoked by anything I had said.

Mr. JOHNSON, of Tennessee. By the permission of my colleague, I wish to make a single remark in this connection. The introduction of my colleague seems now about making to his speech, and the manner in which he concluded his remarks yesterday evening, and what he said in the commencement of his speech then, have made the impression on my mind that he supposes it was my intention to attack his motives or his private character. I want to state to my colleague, so that we can proceed understandingly, that my intention was to have nothing to do with, and to make no reference to, his motives as a man. My business with him was as a Senator, as an agent of the people, representing a State, and not with his personal integrity or his private character. I am inclined to think that when the gentleman's feelings subside, and he looks over my speech, he will find that there is nothing in it that makes any assault upon his integrity personally, or his private character. I want to comply with the courtesies of the Senate. I have said thus much for the purpose of making this discussion proceed understandingly. My business is not with him in any other character than as a Senator and an agent of the people.

We have many cases of this kind in the history of the British Parliament. I do not pretend to understand much about parliamentary law, but I have tried to make myself familiar with it to that extent which would enable me to conduct myself here with reasonable propriety. On one occasion, Colonel Barré in the British Parliament, declared the conduct of Lord North to be indecent and scandalous, to which Lord North replied with great severity, denouncing it as brutal and invidious. The British Parliament called him to order, and made him observe order. It led to an explanation that Colonel Barré had the right to arraign him as a minister; that he might be arraigned as a minister, and his conduct denounced as indecent and scandalous when it was no attack on his personal integrity or his private character.

It has not been my intention to make use of anything that would impugn the motives of my colleague. It has not even been my intention to make use of language that was disrespectful even in relation to his course as a public man, and a public servant. If I can, I intend to keep myself in the right; I do not intend to be thrown in the wrong; and if, upon examination of my speech, there is anything that impugns the integrity or private character of my colleague, I disclaim it. I have not had time to read it. I did not even visit the reporters last night. I find it here on my table. I have not had time to examine it. I have felt it due to my colleague, seeing that he was laboring under some misapprehensions of this sort from his manner and one or two expressions that escaped him, to say thus much so that we could proceed understandingly hereafter.

Mr. BELL. Mr. President, I am reduced to this alternative, since the remarks which my colleague has now made: either to suppose that he is entirely ignorant of the tenor of his own argument and the language he used, or that he does not understand the import of charges which are made against Senators or persons out of the Sen-

ate. Did he not intend to assail my motives and my character as a public man when he said I was influenced by a want of principle (which I hope I am not an example of) not equaled anywhere? Did he not describe me from a long period anterior to this as having looked to the North and shaped my course so as to have the support of the North in my political aspirations, and now and then giving a vote that indicated (I do not remember my colleague's language) that I was holding on to the South with one hand and grasping the North with the other?

Now, sir, I consider that the most offensive and insulting charge that can be made against me or any other member of the Senate. My colleague should look over his speech, and see how far he has gone. He may not be conscious of the length to which he has gone. He deprecated the idea that a Senator should ever get into his head an aspiration for the Presidency; he told us how unfortunate it has been to the country, and how unfortunate it must continue to be. All this was not pointed directly to me, but every gentleman who heard his speech and who will read it will understand that it was pointed at me. If he will disclaim these imputations, I shall accept his explanation of what he meant, and I will even give him time to read over that speech.

Mr. JOHNSON, of Tennessee. I am as ready now to make a reply as I shall be at any time.

Mr. BELL. I understood my colleague to say he had not had time to read his speech. If he wants to go on, I should like to call his attention to some other statements in his speech in relation to me.

Mr. JOHNSON, of Tennessee. Perhaps it would be better for me to decline saying anything until my colleague gets through with his remarks, and I shall make my reply accordingly.

Mr. BELL. Very well, sir. After all this, I shall not proceed to-day in the manner I intended yesterday evening. I am restrained by respect for myself, to say nothing of the Senate.

Mr. JOHNSON, of Tennessee. I understood that my colleague preferred that I should decline to make an explanation now and take another time.

Mr. BELL. Go on at any time you please; but I shall proceed with some points I wish to notice, without regard to what I considered the offensive remarks of the Senator. I propose to review some of the positions he took in the outset of his speech which will not involve any feeling on either side.

In my observations on the resolutions I presented yesterday morning, I endeavored to show that there had been no disapprobation expressed by the people of Tennessee against my course on the Kansas-Nebraska act of 1854, in such a form that I could feel in any degree bound to notice it, and that there had been no such reasonable certainty expressed as to the opinions of that people on the subject. I said that now I considered it very late to bring forward the subject. In his reply to this, my colleague referred, in the first place, to resolutions which he states, and states truly I believe, were pending in the Legislature of Tennessee when the Kansas-Nebraska bill was under consideration. I paid but little attention to those resolutions because I knew that neither the Whig nor Democratic members of that Legislature had considered or contemplated the probable consequences of that measure. Again, from the resolutions quoted by my colleague in his speech, which I now hold in my hand, there is apparent on the face of them the very contest, or something approaching it, which was manifested between the Whigs and Democrats in the Senate of the United States when the Kansas-Nebraska bill was first presented. It is evident that the idea of the Whig members was, that if the Democratic party really meant to force such a measure as that through Congress, they should do it in terms that no man could misunderstand. He has spoken of two resolutions, one of which was voted for by his own friends in the Legislature, the Democratic party, very well expressed. That resolution is:

"Resolved, That the bill now pending before Congress, called the Nebraska bill, the leading principle of which is that Congress has no right to legislate on the subject of slavery, but that the same is an institution over which the people alone, in forming their organic law, have full power and control, meets our cordial approval and is sanctioned clearly by the principles of the bills creating territorial governments for New Mexico and Utah, and we earnestly re-

quest our Senators and Representatives to give it their hearty support."

I do not even find the word "instruction" there; but that is of no consequence in my view of the validity of instructions; but what was done by the Whigs in the Legislature? Understanding that the measure was intended to proceed on the principles of the New Mexico and Utah bills; and, at the same time, to furnish the foundation for a contest in Kansas, and also in Nebraska, if there should be any temptation to it there, as to the establishment of a slave State, without repealing the Missouri compromise in express terms, what did the Whigs do? Before they could have any advice, any information, any knowledge of the motives and feelings prevalent here, they urged a resolution of this kind:

"Resolved, That we cordially approve of the amendment proposed by the Hon. Archibald Dixon, of Kentucky, to the bill reported to the Senate of the United States by the Committee on Territories, for the organization and government of the Territories of Kansas and Nebraska."

That amendment proposed a direct repeal of the Missouri compromise. This reminds me of a conversation I had with one of my late colleagues in the Senate as to that bill, and the equivocal language in which it was presented, which was unexpected by me altogether; for, though I was a member of the committee, I had not reached Washington in time to attend the first meetings of the committee. He told me he was not willing it should stand in that way; and I agreed with him that, if the intention was to create an agitation on this subject, to make a question before the country for the purpose of uniting the whole South with the Democracy of the North, it should be done openly. The next thing I heard was the introduction of Mr. Dixon's amendment. I do not say that it was dictated by me; but I am speaking of a private conversation, in which I declared that, if the Missouri compromise was to be repealed, it should be done openly and palpably, so that the people of the North and South could see it. But it was not exactly so at the last. I am sorry to allude to, or review the discussions on any one of these points. I have never considered them creditable to our Government, nor creditable to the principle of popular rights and popular sovereignty so much dwelt on yesterday. I do not like the idea of getting up a parcel of words, syllables, and lines of such equivocal and uncertain import in the nature of the worst sort of clap-trap that was ever used in legislation. I did not approve of it then. That is the character of those resolutions introduced into the Legislature during the pendency of that bill. I thought it was perfectly right myself that the party in the ascendancy here should be required to act in such a manner that their action should be understood. I am sorry to talk so much about party. I respect the largest portion of all parties, for the largest portion of the public is honest and patriotic. I dislike to say anything that would seem to characterize one party as less worthy than another; but I never could have conceived, and did not conceive, when the proposition of Mr. Dixon, of Kentucky, was introduced in the Senate, that it would be embraced by the honorable Senator who had charge of that bill.

Let me do him the justice to say, not from my direct personal knowledge, but from circumstances and evidence that are equally satisfactory to me, that the honorable Senator from Illinois was sincere in the course he took finally after he had made a report against the repeal of the Missouri compromise, and depicted its consequences in a manner which was calculated to strike the whole country. He yielded. The Administration you know, sir, pronounced against the measure through its ordinary organ. It was understood that the Administration was decidedly opposed to Mr. Dixon's amendment. He was charged with attempting to stir up all those mischievous and dangerous agitations on the question of slavery, which had before shaken the Union to its center, in 1820 and 1850. Nevertheless, in a few days afterwards the Administration came into the support of the measure, simultaneously, I believe, with the majority of the Senate.

There is nothing, then, in the resolutions of 1854, which can be taken as of binding force. There was the sort of game played there that was attempted here. I did not know the heart of Mr. Dixon, or what his purposes were; but I did not believe at the time the amendment was introduced,

that he had any such purpose. I need not go into a detail of how the contest waxed warmer and warmer. Angry debates took place between members who represented the northern feeling and the southern feeling on that subject. A man had to take his position on one side or the other on all questions which arose. There was no opinion among the people of Tennessee, at the time these resolutions were introduced. They were ready to follow their friends and leaders on both sides. It was a question on which they had no assured and confident convictions that the measure was very right or very wrong. They were ready to act, as is usual in such communities, in the South particularly, when anything is presented that looks as if it would add to the strength or security of that institution which they all consider to be one which needs all the guards against the growing power of the North that can be thrown around it. I say nothing of their disposition, but the growing power and preponderance of the population of the North. Every sensible man in the South has those feelings. I have them myself. The people understood that their leaders in Congress, both Democrats and Whigs, were going for the measure, and it would be natural, under such circumstances, to suppose that it must be right.

I now come to the next point my colleague made in opposition to my remarks on the second resolution of the series before us, which expresses the opinion that the people of Tennessee had pronounced against my course in "the recent elections," which I presumed to include the election of 1855. I have my doubts whether they meant to include it or not, but I infer it. The late election would afford them better ground than the presidential election, because everybody knows that Mr. Buchanan carried the State by seven thousand five hundred majority. I doubt whether they meant to include the election of 1855 at all, which came off fifteen months after the passage of the Nebraska bill. How does my colleague attempt to bolster up the idea that that election settled this question? He does not deny that at that time both branches of the Legislature were carried by the party in opposition to the Democratic party in the State, but he says this question was in issue, and he knows it, because he was in the canvass, as the candidate of the Democratic party for Governor. He says that this was one of the main questions in the canvass. I stated the contrary of that yesterday and I state it now, not meaning to impugn his opinion on the subject. I reaffirm that it was not the principal subject of controversy in 1855. I was in Tennessee during a considerable part of that canvass at all events, and know something about it.

The declaration of my colleague on this point is in these words:

"But my honorable colleague spoke of the contest of 1855. He will pardon me for making the allusion, but I was engaged in that contest. I was one of the candidates for Governor. I canvassed the State from the mountains of Johnson county to the Chickasaw Bluffs in Shelby county. I was in nearly every county in the State; and well do I recollect the exciting events that took place during that canvass. I had a competitor who was eloquent, who is known to many members of this House, who was with me on every stump in the State. One of the leading issues in that canvass was the Kansas-Nebraska bill. I pressed my competitor upon it before every audience, and there were scarcely ever such turn-outs in the State as during that canvass. It was one of the main issues between him and me."

I said that Americanism was the main issue, and almost the exclusive issue; for I had a perfect recollection that the canvass was opened on the part of the Americans with the most assured and confident feeling that they would carry the State off by an overwhelming vote. So confident were they, that they asked aid from nobody, I believe, as a general proposition, who did not belong to the order, and had not been regularly initiated. I remember the alarm manifested by the opposite side. I affirm that I was a looker-on in that contest, though not engaged in it. My colleague said this was the main issue between him and his opponent for Governor, and added:

"I pressed him upon it in every single speech I made in the State, and he uniformly declined to take ground."

He uniformly failed to make the issue with him. They had no issue on that subject. He went from Johnson to Shelby with his eloquent opponent, the main issue being the Kansas-Nebraska act, and yet that eloquent gentleman did not open his mouth on the subject! My colleague is a little

incautious as to what language he uses, and how he frames and gets up his arguments. He must do it with a little more skill than that, if he wants to succeed in questions of this sort. Speaking of the contest between himself and Colonel Gentry, he said:

"I pressed him upon it in every single speech I made in the State; and he uniformly declined to take ground. He was afraid to take ground against it or for it, as was then believed, for fear that it would injure him in the canvass. He was afraid of coming in conflict with my honorable colleague and others in the State. There was no doubt, in fact, that he harmonized and agreed with the Democratic party on this point; yet he shrank from the responsibility with a view of getting many votes by taking a non-committal course."

My colleague must excuse me if I cannot take his statement on that point. He may speak what is true, but in speaking what is true he contradicts a gentleman as well known for his honor and integrity as any man in the State of Tennessee. Colonel Gentry told me himself that he would have taken the course I did, and all the censure he had to pass on me in relation to it was that I ought to have taken the ball at the first hop. Again, I heard from as honorable a gentleman as anywhere existed that in the very opening of the canvass of 1855, Colonel Gentry did declare in a public speech, at Murfreesboro', I think, that if he had been a member of Congress when that bill was before the body, he would have voted against it. It is incredible to me that he flinched and shrank from the contest during the canvass of 1855 on that point.

This statement is made by my colleague after my declaration that I did not feel called upon, by any opposition made to me throughout the State, to make a single speech or explanation of my course on that bill before the people of Tennessee, during that whole canvass. There were reasons that might have restrained Colonel Gentry from setting forth and explaining to the people the probable mischiefs of that measure, and how wrong it was to disturb this ancient compromise, which had for thirty years been the bond of harmony between the North and South. He might have been restrained by the consideration that two of my respected and honored Whig colleagues in the House of Representatives voted in favor of the bill; and they were still highly esteemed and popular gentlemen, representing two of the largest districts, one adjoining, and one including, my own residence—the town of Nashville. I undertake to say that my lips would have been sealed even if there had been attacks to a great extent on the subject; and wherever I have spoken on the subject since, I have always had to do it with the greatest delicacy and forbearance in regard to the course of my distinguished colleagues in the House. Mr. Zollicoffer and Mr. Ready are the gentlemen to whom I allude; and Mr. Gentry may have been restrained in their districts, or anywhere else in the State, from discussing that question. But my colleague speaks of its being one of the main issues before the people. I take it he did not discuss it alone. If he found that his opponent could not be brought up to the issue, I presume he would employ himself on more profitable topics, as he had a right to do.

I do not know; I cannot speak from personal knowledge; but I have inquired over and over again at home; I have looked for the speeches of my colleague, if he had printed any; I have sought from his leading friends to know what were his principles on the Kansas-Nebraska bill, which, he says, in 1855, was one of the principal topics of debate in Tennessee. I never heard from his lips his views on the subject, until I heard him speak yesterday, and the drift of his remarks then can be well understood. He then took a view of the subject that, in 1855, would have been very distasteful, I know, to many of the leading men of his party. I never could trace in any speech or any letter of his, nor could I hear from any respectable gentleman with whom I associated, or in the Whig ranks, that he had taken ground in favor of that bill, except in his usual course of declamation in behalf of the fundamental right of the people always to govern themselves, and to ride down and overslaugh all who should pretend to smother their voice, and level all who should have any pretensions as "aristocrats"—"slaveholding aristocrats." In that way he may, perhaps, have sanctioned the bill. I do not deny that he discussed that subject sometimes by himself. He must have done it alone, accord-

ing to what he says in his speech yesterday, for Mr. Gentry does not seem to have met him on that question, and made no discussion about it. When I wanted to know last year what had been the course of my colleague on the subject, I found a speech of his, made in the canvass of 1856, in the presidential election—a speech written by himself, I understood, and said to have been delivered at a public meeting in Broad street, Nashville. My colleague will understand me that as to what he said on that occasion I have nothing to say, except on the information of others, for I was not there. I was directed to his printed speech by a friend, when I desired to see what Governor Johnson's course had been, because Governor Johnson has a potent influence in Tennessee, even if you have not heard of him before, and in his own party particularly. He controls his party on many questions. If their opinions and views do not correspond with his generally, he lets them understand that they shall conform to his views. This is magnifying him greatly; but not unduly.

Looking over that speech I found that his own doctrine about popular sovereignty was partly limited to a State coming into the Government, and he partly relied on the fundamental principle of the people having a right to do as they pleased; but in the very next sentence he quoted a clause from Mr. Buchanan's letter of acceptance, or some letter he had written connected with this subject, which recognized the broad principle of popular sovereignty and the right of the people to govern themselves, independent not only of Congress, but of all other authorities, on the great principle that has been heralded forth as the discovery of this very recent age. They say it is as old as the Revolution, the right of self-government existing in the people at all times, which the President has ratified and confirmed by his recent message, in which he says that no restrictions, no trammels, no fetters, can be imposed even by an organic act or constitution of a State which they cannot override whenever they please by amendment or abrogation.

When I pointed to my friends the result of my labors, on looking over that strongly written and plausible speech, I said to them, this does not furnish me the information. I had been told that squatter sovereignty and popular sovereignty was his hobby. They said, "Well, then, that speech is not written out in conformity with what he said at a large public meeting at a certain time on Broad street." I asked them if they could be satisfied of that in any way. They replied, that probably hundreds could testify, if I felt any interest in prosecuting the subject, that he illustrated the doctrine of the right of the people before they came into the Union, and while in the condition of a Territory—the doctrine of popular or squatter sovereignty—by asking, "Does a man that squats down have any less right of self-government and sovereignty than when he is erect and standing up?"

Mr. JOHNSON, of Tennessee. By permission of my honorable colleague, I will say that he seems to be predicating a position from which, I presume, he expects to draw some conclusions, on a conversation that he had had with some individuals, either Democrats or somebody else, in reference to a speech I made at Nashville. My views as delivered at that meeting are published and printed in that speech, and I am responsible for them as there. I would prefer my colleague to make a quotation from the speech, and not a quotation from his memory of what somebody said about it. It is very easy, we all know, for persons on both sides to misrepresent a speech. Sometimes one understands it one way, and sometimes another. A sentence is quoted, and a particular expression is left out. My speech was published in that same community, and circulated by thousands. For that speech I am responsible.

Mr. BELL. I understand, then, that speech was a *retraxit* of any former opinions he had, if he had any such former opinions. I mean it was a withdrawal, a change of opinion from any he had entertained in the canvass of 1855.

Mr. JOHNSON, of Tennessee. That speech contained the opinions I expressed that night, written out and published—no withdrawal, no alteration.

Mr. BELL. I will not on such an occasion ask

my colleague—I have no right to ask—whether he did not explain that the great principle of the right of the people to govern themselves, and settle their own domestic institutions, applied to their condition while a Territory as well as when they should be a State. Did he not put it in this form: whether, when they were squatting down, they had any less power than when they were standing up? But I will not ask him that.

I do not wish to hold up my colleague for this; but I allude to it for the purpose of asking what right he has to arraign any Senator's course on this subject, and with this view I have alluded, and shall allude to his course. I have understood, since the passage of the Kansas-Nebraska act, that he concurred, in regard to it, with my respected colleague in the House of Representatives, GEORGE W. JONES, the most honest Democrat I think I ever knew. I do not concur with him at all in his views, but he does honor to his kind by the uniform consistency of his course. I do not think his principles are of a very enlarged character in reference to the operations of this Government, and the great questions of public policy involved in its administration; but, nevertheless, in my opinion, the views which he holds, he holds conscientiously. I will not say what he has stated to me, but I will say what he is understood to avow, and to have the boldness to avow everywhere—that he was against the whole Kansas-Nebraska bill, except for that one feature of squatter sovereignty; that whatever others might say about it, and however much they might deride it, that, and that alone, could induce him to give a vote for such a bill as that repealing the Missouri compromise. I have understood that my colleague agreed with our mutual colleague now in the House of Representatives on that subject. If I have misstated what his doctrine was, I have done him injustice, and shall be ready to correct it.

Here let me remark that in the canvass of 1856, the people of the State of Tennessee began to have some idea of the true bearings and tendencies of the Kansas-Nebraska bill, and not before. I mean that they had not before a full and adequate idea of them. The majority of the people who favored that bill in Tennessee, gave their support to it on the ground that the people of a Territory, while in the territorial state, were powerless as to the question of slavery; and that it was only when they came to form a State constitution that they had the right of sovereignty to exclude it; and therefore, I suppose it is, that my colleague, in 1856, not thinking proper to break his head against what appeared to be something like a stone wall, rather modified his principle. I infer that, and I think, under all the circumstances, I have a right to speak a little by conjecture in relation to the motives of his course. Mind you, sir, I am not imputing it to corrupt motives. There was a powerful reason why, at that particular time, it should be understood that his opinions were in conformity with the general views of his party in relation to the construction of that act. Great difficulties had arisen in Kansas, and the question debated was, whether the people of a Territory, while in the territorial condition, could exclude slavery. On this point there was a difference of opinion manifested in the Senate between the friends of that bill. But I have not time now to dwell on that subject, and I shall not comment upon it.

I have spoken of the election of 1855, and I have asserted that Americanism was the main, and almost exclusive, ground of that contest. It was just such a question as was pending in the State of Virginia at the time Mr. Wise took the field in opposition to the American party, and they acted so foolishly as to let him traverse the State without a competitor to meet him. A similar contest was going on in Tennessee, and that State was counted on as certain for the Americans by a large majority. They could tell, as they said, and I believe it is the fact, the number they had in their councils. I think it was upward of one hundred thousand, and no person doubted the election of Colonel Gentry, when he became a candidate. Colonel Gentry, however, with all his powers of debate, and all his eloquence, had not the strength in that contest which it might be supposed such a man would possess, and which, in previous political contests, he himself had possessed. He had voted for General Pierce against General Scott in the

preceding presidential election, and that withdrew from him the support of a great number of the old Whigs, and he was weakened by that. I reaffirm what I stated yesterday, without going over all the details, that the State of Tennessee did not declare against me in that election.

I ought to state another fact in this connection. Before I left Washington in the spring of 1855, I stated to all who inquired what my course would be, that I would vote for the American ticket. Several old Whigs consulted me, by letter and personally, and I said, "We had better support the American party. Although its platform is too exclusive for the success of a great national party, yet it may contain a germ from which we can ultimately develop a great national party." I advised my friends to support it on that principle. I recollect now, when I think on the subject, that the present Postmaster General, during the canvass of 1855, either in a speech or a pamphlet which he published, attempted to make capital out of the fact that I did not belong to the American party—that I had not gone into its councils and taken its oaths. I was cited as an example of the course of experienced public men in reference to that party. Near the close of the canvass in Sumner county—my colleague well knows where that was—an attempt was made, I think by the Postmaster General, to state that I would not support the American party; or if he did not say it, some other public speaker did. A gentleman who was present, and who had seen me within a few days, declared that he could state to the contrary; and "that although Mr. Bell was not a member of the party, he would support its ticket." You may judge, sir, from this whether there was any war upon me during that canvass as to my vote on the Kansas-Nebraska bill, or any excitement or great interest on that subject. The interest which the Democratic party felt at that time was to put down Americanism, which seemed to threaten to overwhelm them in that section.

The next point which I shall notice is the citation by my colleague of the Cincinnati platform to show the grounds on which he will support the admission of Kansas under the Lecompton constitution; or perhaps he quoted it for the purpose of showing that no enabling act on the part of Congress was necessary prior to the admission of a State. I do not allude to this in reference to the tenor of his address to the Senate so much as to show the principle to the support of which my colleague is driven by party considerations. He quotes a resolution of the Democratic platform, from the first part of which it would seem that it acknowledges full power in the people of a Territory to control this subject, but then in the latter part of it comes the limitation "whenever the number of their inhabitants justifies it." The Cincinnati platform is an indorsement of the popular-sovereignty feature of the Kansas-Nebraska bill when a Territory contains a sufficient number of inhabitants to form a State.

I allude to that for the purpose of showing what is the evil of these controversies that now beset us. They engender new, before unheard of, disorganizing, anarchical doctrines. Here is the Democratic platform referred to as making constitutional law for the Democratic party, or as having the force and effect of constitutional law. This was referred to for the purpose of showing that Kansas had a right to admission into the Union under that platform without any enabling act from Congress whenever she had a sufficient number of inhabitants to justify it. My colleague says the people must first make a State, and then it is for Congress to say whether it shall be admitted or not. I shall not, however, comment on that point.

My colleague comes next to speak of the complaints which he supposes I made of the injustice of the Legislature of Tennessee, in regard to the extracts taken from one of my speeches in 1854, and which I said were garbled. I did not allude to this in any spirit of complaint toward the Legislature. These acts were incorporated in the resolutions, and are printed in them, and yet my colleague took the pains to read them *verbatim*; and then he said "these are no garbled extracts; they carry their context with them; they are taken *verbatim* from his own speech, which he is presumed to have read and revised, and printed in pamphlet form and circulated over the country." I did suppose that my colleague, who has

studied so profoundly the principles on which all Governments must stand, the philosophy of government as well as the philosophy of slavery, would understand that an extract from a speech may well be objected to as a garbled extract when it leaves out the context remaining in the speech which is not quoted or referred to. I never said that these extracts were not taken *verbatim et literatim* from my published speech; but that they misrepresented what I said in the Senate. I said they were garbled because the preamble did not refer to other passages in my speech which would explain the meaning of the circumstances which I would require before I would consider such a question to have been decided against me by the people, and that was after they should come to understand the principles and objects of that bill, and see its consequences.

My colleague asks what time do I want? I said in my first remarks that the first election which took place in Tennessee was fifteen months after the passage of the Kansas-Nebraska bill, and then they did not debate against me. He says they did, according to his construction of the result, and they decided against me again in 1856 and 1857, and he says that this is surely time enough for the people to understand the question. I beg leave to say that it is understood only to a very limited extent, indeed. In the resolutions introduced into the Legislature in 1854 the idea of restoring the *status* of the Territory to what it was under the treaty with France before the passage of the Missouri compromise, was one of the grounds on which they predicated their course. He might have stated still further that many of the members here, some Whigs from the South of whom I have a knowledge, vindicated their course before that bill passed, on the ground that it was a blotting out of the charge of a breach of national faith which the world might bring against the Congress of the United States under an article of the treaty with France by which the Territory was acquired.

In this respect I cannot say that I was surprised, because I know that these discussions proceed generally upon party grounds and party interests, and the people vote on the one side or the other, according to the party to which they belong. The question was not considered so vital to them that it was important that they should construe and criticize nicely the provisions of the bill. I asked a gentleman very high in position, a lawyer who takes an interest in all questions of this kind, and who has taken an active interest in the Kansas-Nebraska bill, if he was certain that he understood all its provisions, and whether his friends did. He inquired of me to what points my inquiry was specially directed? I asked him if he understood what was the effect of the Badger proviso, for example? He did not remember it by that name, and had never heard of it. I pointed out to him what it was, and showed that, after all, there was direct and positive intervention by Congress in the passage of that bill. You did not leave Kansas Territory as you had left New Mexico and Utah, subject to the local law then existing, and the effect that law might have under the treaty in the opinion of the Supreme Court of the United States; but by the Kansas-Nebraska act you removed the *status*, which was a slavery one, that existed in that Territory before the passage of that bill. He said his attention had never been turned to it, and he had never heard it suggested in any of the debates on the subject. In my own intercourse with the people, I have yet to find the first man who understood that question properly. It may have been talked about from the stump, but it was not understood generally. I do not mean to say that the people have not intelligence; I do not mean to say that the large portion of them are not reading people and thinking people; but I say the fact is as I have stated; and it is so because they generally follow the lead of the leaders of their party, and vote with them. I undertake to say that at this day, there are not five hundred men in Tennessee who understand that bill perfectly, particularly in relation to that point and the dispute between the North and the South as to its proper construction—whether the people can decide the slavery question for themselves in the territorial condition, or whether they can only do it when they come to form a State. We can hardly expect that that subject will be viewed by the North and the South in the same light. Probably the decision

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of the Supreme Court alone can bring them together, if indeed, the North recognizes the authority of that decision. That may reconcile them, but nothing else can. I am sure that up to last year the people of Tennessee did not understand whether the measure was to be viewed as giving to the people of Kansas, while under territorial government, a right to decide the question, or whether they could do it only when they come to form a State constitution.

But my colleague has arraigned me as having been prepared, at all times, to make concessions to the North. He has spoken of me, and he has made allusions to me, and directed at me, as if I had, from an early period in my career in Congress, fixed my eye on the Presidency, and adopted a policy which was calculated to conciliate the North. He has referred to my public acts, and speeches, and votes, for the purpose of sustaining him in the position that I have been at all times ready to make concessions to the North with the motive which I have indicated.

Mr. President, I have seen it stated somewhere, and I regard it as the greatest compliment which has ever been paid to me as a public man, that I was constitutionally conservative; that this feeling was ingrained in my very nature. From the time I was old enough to form some opinion or judgment of my own, as to the probable duration of this great Union, I saw, or thought I saw, that the question of slavery coming to be concentrated or localized in a section in the South, having no existence in the North, was the greatest peril to which it was exposed. My whole policy in relation to that subject has been to keep down unnecessary agitation, to dry up its sources, to make no false or imprudent issues on the subject, to take no indiscreet steps to precipitate a contest between the North and the South, or even a hostile collision of sentiment. The question on the reception of abolition petitions came up in Congress when I was quite young, and when it would hardly be expected that I could have those aspirations to which my colleague alluded, at so early a period in my public life, when there was such a vast host marching far in advance of me. This was at a period when it cannot fairly be presumed that anybody of my age could have any pretensions to the highest honors in this country. I feel myself called upon to review, somewhat, my course in reference to the charges of my colleague, made yesterday.

I was called upon to act on the question of the proper reception and disposition to be made of the petitions for the abolition of slavery in the District of Columbia, which began to come in rapidly upon us as the emancipation policy seemed to advance and approximate to its consummation in England. It was an off-shoot from abolition societies in England. When these petitions were first presented they did not attract much attention; but by-and-by they multiplied to such a degree as to attract notice. The unanimous course of the southern delegation, taken without much consideration or reflection, was to vote against the reception of such petitions, considering the subject to be one on which Congress had not the power to act. I gave one or two, or it may be three, votes against the reception of these petitions, with other southern men. In a year or two I found that this course on the part of southern members tended to multiply the numbers, the power, and the influence of the abolition societies of the North. Then, speaking only to my colleagues, the Representatives of my own State, I pointed out to them the mischievous tendency of making a question on the right of petition—an old, traditional, and popular right, which I thought it dangerous to interfere with, particularly when it could do no possible harm to receive those petitions, refer them to a committee, and have a report on them at the end of each session. I thought there was no danger, at that period, but that a report would uniformly be made against them.

Mr. Adams, at the time of which I speak, was chairman of the Committee for the District of Columbia. He contested strongly for the right of

petition; and from his looks and his manner and the spirit he manifested, it was evident that he would be chopped into mince pieces before he would surrender that right. At that very time he told me privately that if those petitions were sent to him he should report against them, not on the ground that he did not think Congress had power to abolish slavery in the District of Columbia, but because he would consider its abolition as a breach of the good faith which was pledged by the North when this District was selected as the seat of Government, surrounded by two large slaveholding States. I had taken my course before that time, and as the question progressed in heat I became more deeply interested in it. I saw the mischief it was doing. We were warned by the North that we were giving a strength to the Abolitionists which it was not possible for them ever to attain of themselves. We were warned that they were gaining strength by urging on the people that the South would not even hear petitions on the subject. So strong were my convictions on this point, that in 1839-40, in the presidential canvass between Mr. Van Buren and General Harrison, when my own friends in my section of the country wished to take decided ground against Mr. Van Buren on account of his anti-slavery tendencies and propensities, as evinced by his vote in the New York Legislature, to instruct the Senators from that State to vote against the admission of Missouri, and other acts of his, I took this ground distinctly: this is a delicate question; here is a great national contest; the parties are both national; you see what has been the effect of the rejection of abolition petitions up to this time; it has been to give a strength to the Abolitionists of the North which they never could have, otherwise attained; we ought to suppress the agitation in all cases where, from party considerations, there is any inducement whatever to bring it to bear on the elections; and I held aloof. I told them that they must excuse me on that ground; I was conscientious in relation to it, and while I would not oppose this course on their part if they thought proper to pursue it, I could not cooperate with them in it. That was a period long anterior to the present, but not so far back as when the question first arose in the House of Representatives.

When I commenced voting for the reception of abolition petitions, I was assailed at home on the same grounds, in substance, which were urged by my colleague yesterday. I was charged with being an Abolitionist; but when I came before the people I never had occasion to make more than two or three speeches in vindication of my course. To be sure, I had not the whole State to canvass, but I was sustained by the people of my district. During the whole period of our contests in Tennessee, the Democracy have denounced the Whig party as Federalists, as aristocrats, as monarchists in principle. They have held themselves up as being the missionaries of freedom throughout the world, as friends of the extension of the area of freedom, as friends of mankind; and they assailed me as an Abolitionist because I voted to receive abolition petitions on the ground that by their policy they had created Abolitionists by thousands every year they had persisted in it. I went before the people on that issue and I never had occasion to make more than two or three speeches upon it. After that time I never heard of it in my State—certainly I never heard of it in my district, nor when I canvassed the State as I have done twice, I believe, as elector.

I dislike to detain the Senate on such a matter as this; but the assault which has been made on me by my colleague, I think justifies me in pursuing the subject further, and I mean to do it with the indulgence of the Senate. I have before me a letter written by myself in the contest between Van Buren and Harrison, in 1840. I do not know the date of the letter, but it was published in the *Intelligencer* of the 8th of August, 1840. The letter was in defense of General Harrison against whom a prejudice was attempted to be raised in the South. Here let me say that no greater patriot, no greater friend of the Union of these States, and

no greater friend, on just principles, to the protection of slavery ever lived in this country than that gallant old hero. This letter was addressed to the Hon. George R. Gilmore of Georgia, an old and intimate political, and, I flatter myself, a personal friend, with whom I was associated for many years in the House of Representatives; and I believe he is yet living, a respected and venerable citizen of Georgia. I beg leave to read a few paragraphs from this letter, and if it were not too great a tax on the Senate, I think in these times it would not be unprofitable to read the whole of it, because I claim it to be prophetic to a great extent. In that letter, I declared:

"The deliberate and persevering obstinacy with which the supporters of the Administration, in the slave States, persist in making Abolition one of the issues between the two great parties which now divide the country, I consider wicked and mischievous in the highest degree. That all the apprehensions of an accession of strength to the abolition movement in the event of Whig success, and the consequent alarms for the safety of the South, so incessantly proclaimed by the partisans of Mr. Van Buren in that section, are utterly groundless; no careful observer of the circumstances of the times, and of the state of the abolition question, can for a moment doubt. If any guarantee for the security of southern institutions were wanting, in addition to those of the well-known feelings and opinions of General Harrison, and the great body of his northern supporters, it can be provided in the decided, generous, and united support which the whole South and Southwest may accord to his pretensions. If there is one gentleman in the South who really feels the alarm he professes, he will perceive that the only safety, in the present aspect of parties, is for the slave States to rally as one man upon General Harrison. Such a manifestation of confidence in the great Whig majority in the North and East, could not fail to increase the existing good feelings among them towards their southern brethren; while the ties of party associations and interests would be superadded to those of constitutional obligation in sustaining southern rights. But what ought to be the measure of indignation and punishment which should be dealt out to those hollow and false guardians of southern interests, who will, for the sake of a trifling party advantage, put everything to hazard by perpetual agitation?"

Of course I meant this to apply to nobody now in public life:

"For there is, and always has been, quite as much to be apprehended on this subject from those who agitate the question on political account in the South, as from the Abolitionists themselves.

"I have been a member of Congress, as you know, from the commencement of the agitation upon this subject. I have witnessed all that has taken place in Congress in relation to it. I saw, and I think I fully understood the game that was playing by some gentlemen, but I was not inclined to take part in it, because I thought the stakes too high."

I meant that I had no desire to take part in it as a party man. The stakes were too high—the Union, and the interests bound up with the Union.

"It was the common impression that the first movements of the Abolitionists at the North were not looked upon with any deep regret by a portion of our fellow-citizens at the South."

I have the evidence to prove it.

"Their fanatic spirit was rather provoked than deprecated. The North, without distinction, was freely charged with a settled feeling of hostility to southern interests and institutions; and many injurious reflections were cast upon their motives calculated to give strength to the cause of the fanatics, by uniting with them a more rational and calculating class of the northern people. The motive to this policy in the South, to whatever extent it was adopted, was, beyond all doubt, to combine the South and Southwest more closely in their political movements and preferences. I then thought the experiment a dangerous one, regarding it in a political view only; for it struck me that if the ambitious aspirants of the North should take it into their heads to play the same sort of game in retaliation, the South would soon be thrown into a settled minority, and forthwith deprived of political power. Nothing, in that event, would be left for them but unconditional submission or disunion."

I do not charge my colleague with having, by the course of argument he has thought proper to pursue in relation to me, entertained any such views as I charged then existed at the South—the views of goading, and insulting, and denouncing the people of the North in a body as Abolitionists. I never considered this as likely to result in anything else than the greatest mischief and perhaps most unfortunate catastrophe that could befall the country. In this letter I go on to quote the sentiments of some gentlemen on the subject, at that period:

"In confirmation of what I have written upon this point, permit me to refer you to a debate in the Senate of the United States, in 1836, which may have escaped your recollection. I desire your attention particularly to the evidence to

be found in that debate, that there was then a strong conviction at the North of the existence of some sinister management in the South connected with this subject. I will first quote a few passages from the speech of the Hon. Isaac Hill, of New Hampshire, the reputed author of the address put forth by the late Baltimore convention, and circulated extensively in the extra Globe:

"Now, sir, as much as I abhor the doings of weak or wicked men, who are moving this abolition question at the North, I yet have not as bad an opinion of them as I have of some others who are attempting to make of these puerile proceedings an object of alarm to the whole South.

"Of all the vehicles, tracts, pamphlets, and newspapers printed and circulated by the Abolitionists, there are no ten or twenty of them who have contributed so much to the excitement as a single newspaper printed in this city. I need not name this paper, when I inform you that for the last five years it has been laboring to produce a northern and southern party; to fan the flame of sectional prejudices; to open wider the breach; to drive harder the wedge which shall divide the North from the South.

"It is the newspaper which libels the whole North by representing the almost united people of that region to be insincere in their efforts to prevent the mischief of a few fanatical and misguided persons who are engaged in the abolition cause."

Then I quote Mr. Niles's authority, quite as strong as Mr. Hill's, and perhaps stronger, and add:

"My opinion was, that, whether the petitioners had strict right on their side or not, sound policy dictated the reception and reference of their petitions. I believed that any unusual course in regard to them would give undue importance to the movements of the Abolitionists, furnish new ground for agitation, and rather increase the existing excitement than allay it. In my opinion, a report from a committee at each session—temperate, yet firm, and unqualified in its conclusion—would have been well calculated to correct false impressions at the North; to dispel prejudices, and prevent that ferment and angry feeling at the South which, at that stage of the question, was calculated to do mischief. Whether right or wrong, and without pretending to censure those friends who differed from me, I have uniformly held these opinions; yet I will add, that few gentlemen in the South would be more prepared for prompt and decisive measures of resistance and protection, should the rights and interests of the South connected with this subject ever be invaded through Congress, or otherwise, than myself.

"This question was very fully discussed in the Senate in 1836. I will extract a few passages, relating to this point, from the speeches of several gentlemen of the Administration party, who took part in that debate. I will first present you with a short extract from the speech of the Hon. Isaac Hill, whose opinions have already been referred to on another point:

"Deny (said Mr. Hill) the right of petition to the misguided men and women who are induced, from no bad motive, to petition for the abolition of slavery in the District, and you do more to increase their numbers than will thousands of dollars paid to the emissaries who traverse the country to distribute abolition tracts, and to spread abolition doctrines."

"I will next request your attention to the sentiment of the Hon. Mr. Wall, Senator from New Jersey:

"Sir, we all, North and South, abhor Abolitionism and incendiarism. But what is it? It is the criminating the religion of peace with the blood of our fellow-men. It is setting fire to the whole edifice, in order to purify it from the stain of a single spot. This, sir, is monomania; it is fanatical. How, sir, can this be put down? By persecution? No, sir; it is its life's blood, its aliment. Sir, the only way of putting down fanaticism is by infamy or ridicule. The history of fanaticism, in all ages, and in all countries, teaches us this lesson."

This was in support of the policy of receiving abolition petitions. Now, hear the strong language of Mr. Buchanan, of Pennsylvania, on the subject of receiving abolition petitions; and I trust I shall have the attention of honorable Senators, while I read the opinion of Mr. Buchanan:

"Let it once be understood that the sacred right of petition and the cause of the Abolitionists must rise or must fall together, and the consequences must be fatal. I would therefore warn southern gentlemen to reflect seriously in what situation they place their friends to the North by insisting that this petition shall not be received.

"We have just as little right to interfere with slavery in the South as we have to touch the right of petition. Whence is this right derived? Can a republican government exist without it? Man might as well attempt to exist without breathing the vital air. No government, possessing any of the elements of liberty, has ever existed, or can ever exist, unless its citizens or subjects enjoy this right."

I am assailed by my colleague on the ground that I voted to receive abolition petitions; and here are many of the most leading men of the country and of the age pursuing the same course. Mr. Clay took that course. Mr. Calhoun said no free government could exist without the right of petition. The passages which I have read were from a debate in 1836. In 1839, Mr. Clay made a speech, in which he reviewed the whole ground, and announced his opinions very clearly. I remember it very well, for I lived in the same mess with him at that time. He took extraordinary pains to lay down what he considered to be the true doctrine. He believed that Congress had the power under the Constitution to abolish slavery in the District of Columbia; but he urged with great force the inexpediency of adopting such a

measure. So satisfactory were the sentiments announced by Mr. Clay on that occasion, that Mr. Calhoun (who, the year before, had introduced resolutions seeming to take the position that the admission of the right of petition, or the acknowledgment of the power to abolish slavery in the District, was synonymous with a grant of power to abolish slavery in the States) came forward and acknowledged that the abolition movement was at an end; that there was no longer any danger; that it was smothered and stifled by the declaration of these sentiments from the great leader of the Whig party. It continued stifled until that election was over, and how long after I do not know, when it was revived again in the South. The fact was, I believe, that Mr. Calhoun had then come over to the support of Mr. Van Buren, who had recognized the power of Congress to abolish slavery in the District of Columbia. I referred to it in this letter, but forbore to state the principle or motive on which this change was made. I alluded to it in corroboration of the idea that the interests of party, the ambitious and mischievous views of aspirants for public honors, had fomented a division between the North and the South, and made so much difficulty about it with no regard either for the interests of the South or the maintenance of the Union. Those times have passed. I am not holding this language in regard to the present, but I am explaining the course I took under the circumstances which were referred to by my colleague to show that I had long been looking to the North.

I do not care to refer to the paragraphs which my colleague read from a speech made by me in 1850, on the compromise measures of that period, because I do not at all repent them, as I understand them. There may, perhaps, be an accidental misprint; I have not had time to examine; but I do not wish to retract any sentiment I then uttered. My colleague holds me up as an advocate of the policy of abolition in the District of Columbia, as conceding the power of Congress to abolish slavery in this District. I have just shown how many others admitted the power. Mr. Van Buren and Mr. Clay admitted it; and even Mr. Calhoun, who had two years before pronounced it destructive to the Union, then considered the doctrines announced by Mr. Clay to be settled. My sentiments in relation to that subject are cited against me to show my abolition tendencies, or my disposition to court the North. What did I say in those extracts which my colleague read yesterday? I said that even if I doubted the power, I felt bound to defer to the opinions of the many eminent men who had entertained these sentiments, to such an extent as not to place any confidence in my own judgment. I said it was a desirable object, if it could be done on safe principles, to remove that apple of discord between the North and the South, which had given rise to so much excitement in relation to the question of the reception or rejection of petitions; that if it could be done satisfactorily to both sides, it would be a happy event; but I said at the same time it could not be done unless you made some provision for removing the emancipated slaves. I declared that on no other condition would it be safe to the surrounding States, Maryland and Virginia, to abolish slavery in the District of Columbia. I hold the same sentiments now. I do not find the least occasion to change them.

My colleague, passing over my votes on the compromise measures of 1850, alluded to my votes on the repeal of the Missouri compromise by the Kansas-Nebraska act of 1854. He said that act was only an interpretation of the compromise measures of 1850, for which I had voted. He contends that those acts repealed the Missouri compromise, inasmuch as they gave to the people of the Territories power, control, and jurisdiction of the whole subject while in the territorial condition, and provided that when they came to be admitted into the Union as States, they should be admitted with or without slavery, as their constitution at the time might prescribe. I voted for the compromise measures of 1850. They were not satisfactory to me in all respects, but under the circumstances in which the country was placed, I thought it my duty to sustain them. I did not hesitate to vote for them without regard to the ground stated by my colleague, as to the right of the people of a Territory to legislate on the subject of slavery. I

wanted the whole question permanently settled; and if we had had such a statement then as I supposed was possible to be made, and as it seemed to me there was a prospect of making, we should never have heard of this question again. But "sufficient unto the day is the evil thereof;" and on this maxim the friends of the Union acted in 1850. We said, "let us do the best we can; let us make such enactments as will be most likely to settle this question between the North and the South; and we did it.

But my colleague says that I voted for the repeal of the Missouri compromise, of which I complain so much as the origin and source of all the mischiefs and disturbances that have taken place in Kansas, and the fearful agitation that exists in the country. Let us see what I actually did vote for. I have before me the Journal of the Senate for 1854; and when the bill to organize the Territory of Nebraska was taken up, it appears that the Senator from Illinois offered an amendment to strike out, in section fourteen, the words: "Which was superseded by the principles of the legislation of 1850, commonly called the compromise measures," and to insert:

"Which being inconsistent with the principle of non-intervention, by Congress, with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void, it being the true intent and meaning of this act not to legislate slavery into any Territory or State nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

The section which it was proposed to amend was in these words:

"That the Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which was superseded by the principles of the legislation of 1850, commonly called the compromise measures."

The vote on this amendment was merely a choice between two different forms of expression; but I presume this is the vote upon which my colleague commented yesterday, when he said I had voted for this obnoxious measure, which I now declare to be the source and origin of the mischiefs that have afflicted the country during the last four years. He asserts that by voting for this amendment, I gave my sanction to that measure, and I have heard other gentlemen assert the same thing.

I voted to strike out one form in which that principle was announced and insert another. The form which I voted to strike out was that introduced by the Committee on Territories, after their first report and bill had been recommitted. The question was on striking out the language in which the Missouri compromise was proposed to be repealed by the second bill introduced into the Senate after the committee had agreed to incorporate Mr. Dixon's proposition in some shape, and to insert the language which I first read. I voted for that motion. The clause of repeal was in the bill before, and if the honorable Senator from Illinois were here I would call upon him to say that I did not give my assent to that provision in the reported bill. On the simple question whether the repeal should be couched in the form in which it was reported, or in the other form proposed, I voted with the South and with the Democratic party.

I announced to my old associates of the South, to my Whig and my Democratic friends, when I made up my mind to go against that measure, that I would still go with them to perfect the bill in any way they thought proper. I said that I would not vote with the gentlemen standing in opposition to it, on the questions which they might present to harass its friends; but I would go with them on the amendments to the bill. That is not the only instance in which I voted in conformity with their wishes as to the shape in which they intended to put the bill.

Mr. JOHNSON, of Tennessee. It is always proper to have the facts right, and after we get the facts right we can draw our own conclusions from them. By turning to the Journal of the Senate for 1854, page 162, we find that Senate bill No. 22, with the amendments submitted by Mr. DOUGLAS, from the Committee on Territories, was under consideration; and then:

"On motion by Mr. CHASE, to amend the same by striking

out, in section fourteen, the words ' was superseded by the principles of the legislation of 1850, commonly called the compromise measures.'

"It was determined in the negative—yeas 13, nays 30.

"On motion by Mr. DAWSON,

"The yeas and nays being desired by one fifth of the Senators present.

"Those who voted in the affirmative are—

"Messrs. Allen, Cass, Chase, Everett, Fish, Foot, Hamlin, Seward, Smith, Stuart, Sumner, Wade, Walker.

"Those who voted in the negative are—

"Messrs. Adams, Atchison, Badger, Bayard, Bell, Benjamin, Bright, Brodhead, Butler, Clay, Dawson, Dixon, Dodge, of Iowa, Douglas, Evans, Fitzpatrick, Geyer, Hunter, Jones of Tennessee, Mallory, Mason, Norris, Pettit, Sebastian, Shields, Slidell, Thompson of Kentucky, Toucey, Welles, Williams."

Here the motion was to strike out that portion of the bill which declared that the Missouri compromise was superseded by the compromise measures of 1850; and my colleague voted against striking it out. If it had been stricken out, the clause repealing the Missouri restriction would not have remained in the bill; but my colleague said no.

Mr. BELL. My colleague can correct me in facts if he pleases.

Mr. JOHNSON, of Tennessee. I state what is on the Journal. At page 188 of the Journal of the same year, we find, the same bill being under consideration, another amendment was offered:

"On motion of Mr. DOUGLAS, to amend the amendment by striking out, in section fourteen, the words ' which was superseded by the principles of the legislation of 1850, commonly called the compromise measures,' and inserting, ' Which, being inconsistent with the principle of non-interference by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.'"

My colleague voted against striking out that clause of the bill which repealed the Missouri compromise; and on this amendment offered by the Senator from Illinois, he recorded his vote to retain in the bill the repeal of the Missouri restriction.

Mr. BELL. It was not at all inconsistent with my views for me to vote in both these instances precisely as I did. When Mr. Chase made his motion, I did not choose to be diverted from the course I had marked out for myself, which was to go with the friends of the bill to perfect it. If the history of the bill be examined, it will be found that I voted to give it such a shape that I thought it could never pass the House of Representatives, and possibly not the Senate. I did not suppose, I could not have supposed that such a measure could be forced through the House of Representatives, if put in a definite shape, so far as we were able to do so, consistently with the views of a majority of the gentlemen who supported it. I think that on parliamentary principles I was perfectly justified in voting as I did on the amendments to the bill, but I voted according to the dictates of my feelings connected with my associations with the South. Many of my southern friends had my assurance that I would not disturb the bill while they were putting it in shape. The vote to which my colleague alludes was on the 6th of February, 1854, when the question first came up for decision by the Senate as to the shape the bill should assume. I gave that vote conscientiously with regard to the views which I had. It was my feeling at the time to make the bill as explicit as possible. That bill went forth a repeal of the Missouri compromise; but even at last it did not go forth in that explicit and direct manner which it seemed to me at the time and since, it ought to have done in justice to the legislation of Congress on such a question. But I shall not stop now to notice that point.

My colleague points to my vote on the retention of that clause as extending my hand to the South for the purpose of keeping them firm, while I voted against the bill to conciliate the North, thus seeking to unite the two sections in my support when I should come before the people of the United States for higher honors than I now enjoy. That is the view my colleague has presented as to my course on this subject, and his language imports deliberation and calculation.

I would only desire to ask one question on this point: is the whole South to be considered so ignorant and credulous as to be imposed upon by such a vote as that, when I voted against the bill

itself? Again, could any sensible or rational man, any human being of the least intelligence, who had such aspirations as my colleague imputes to me, ever suppose that they could be realized under such an obviously double, fraudulent course as he indicates mine to have been? Whoever expects success in this country without the confidence of his own section, to a large degree, at all events? My colleague must suppose that I have very little knowledge, very little power of observation on a question of this sort, when he chooses to impute to me motives of that description, if he supposes I could cheat the South into the opinion that I was really intending to protect their interests by such trickery as this. If I could suppose myself to have the character pictured by my colleague—

"Wiring in and wiring out,
Leaving the people all in doubt
Whether the snake which made the track
Was going North, or coming back;"

—if I could believe that such imputations could attach to my character, I would hold myself as infamous in my own estimation of myself, and I should trust that all mankind would fix the brand of infamy on me. But take my conservative course in regard to the reception of abolition petitions; take my course on the compromise measures of 1850, and on the Kansas-Nebraska bill in 1854, the developments of which I think have shown my sagacity fully; and who ever could conceive that all this deserved such imputations as my colleague has heaped upon me? Perhaps he is the only man in the country who could be capable of such a thing. I do not say that he is; but from the course of that Senator yesterday, and his whole bearing, imputing to me trickery, fraud, premeditated purpose, aspirations for the highest honors of the country, if there is a man here capable of it, it is him, not me; and if he is capable of it, he ought to be consigned to the same infamy that I prescribe for myself if I were capable of it.

Now, sir, I will trace the course of my colleague a little, in reference to the elections of which he spoke. He said, in his speech of yesterday:

"I know where I stand on this question. I know what I could have done if I had been disposed to pander and appeal to the fanaticism that exists on this question, even in my own State."

What could he have done? He could have done probably what I have supposed him capable of doing whenever the time comes when he shall be tempted to it—carry the torch of domestic discord from Johnson county in the east, to Shelby county in the west whenever he shall be tempted by his ambition to do it. Since meeting with my colleague here, in the friendly passages I have had with him out of the Senate, I began to correct my opinion of what I supposed might be his disposition whenever he should be tempted to it by being thwarted in his career, to become the incendiary on this question in my own State. I have looked to the possibility of what I must believe to be a proposition seriously entertained in the South—a dissolution of the Union in certain contingencies; and I have looked to what must inevitably happen in that event in some of the slave States; and I have looked upon my colleague as a man with that sort of temper, disposition, and principles who would not hesitate to bring the question home in Tennessee, whatever might be the consequences. Since my intercourse with him here, however, I began to have somewhat different views in regard to him. From the casual conversation which I have had in society where I have met him, I began to form a more favorable opinion of him.

But to what does he allude, when he speaks of what he could have done? He has told you that the Kansas-Nebraska act was one of the main subjects in issue between himself and his opponent, Colonel Gentry, in 1853, which was discussed every day all over the State, in every county, with but few exceptions. When he says what he could have done, may I not ask what has he done on this question in the promotion of ambitious aspirations? The very first time he took his seat in the Legislature of Tennessee, if I am not misinformed, he signaled himself by bringing forward a proposition to alter the apportionment of representation in the State of Tennessee, contending that the existing basis of apportionment was unjust to East Tennessee, which had but few slaves as compared with the middle and

western sections of the State. In the election of 1855, my colleague, I presume, will not deny that he continued to hold that doctrine, and that he expressed it in the most inflammatory language. He did not forbear to avow his doctrine. He was too proud; he felt too conscious of his power, to yield to any interest there might be in Middle or Western Tennessee to induce him to change his opinions. He has been consistent and persevering in them, though I understand that, since this agitation has risen to such a height, or since 1850, according to the vindication I have heard from his friends, he has ceased to urge his doctrine upon the people, though he has not abandoned it. In the election of 1855, unless I have been falsely informed from numerous respectable sources, when he was called upon to avow or disavow the sentiments attributed to him on this point, his appeals were as inflammatory as ever.

In the course of the canvasses in Tennessee, the female population usually come out to hear the champions on both sides in their debates, at barbecues and other occasions got up for the purpose of hearing them declaim on the subject of politics; and he asserted a doctrine which placed the delicate females among his auditory upon a level with the black wenches of the middle and western portions of the State—the property of the slaveholding lords or aristocrats.

My colleague says his election as Governor by a plurality of three thousand, in 1855, was decisive of the Kansas-Nebraska question. I heard none of the debates in that contest. I have only seen these statements in the public newspapers, and I have seen certificates of them. I have seen a statement of a debate, which I have not before me now, when Mr. Gentry called upon him, before a large audience in East Tennessee, to say whether he had not said so and so, having it written down and presented to him to say yea or nay, and he recognized it as what he said and thought.

Now, sir, if there is any "wiring in and wiring out," I should like to know who it is that has been guilty of such double conduct? Who has imitated the windings of the snake? I had no wish to allude to these things. I made my remarks on the presentation of the resolutions of the Legislature of Tennessee with the greatest caution. I even asked my colleague, as it was not usual on such occasions to make remarks, that he would allow them to pass, unless he should feel himself imperatively called upon to say something. He did not say that he would pursue the course which I suggested; but he said that his course would depend on the character of my remarks. He gave me no notice whatever of the course he intended to pursue, which was in a three-hour speech to bring forward ornamental passages which he has been in the habit of reciting on the stump, from Johnson to Shelby, when canvassing the State—all his studied views of the philosophy of government and the philosophy of slavery—all his notions of the rights of the people, and squatter sovereignty, and what not. He has brought them all up as an answer to my speech, to hold me up as an unprincipled and profligate statesman, which he in substance and effect represented me to be; and, after all, he concluded with some strikingly offensive remarks in relation to my pretensions as compared with his. He spoke of my self-conception, and said he had met gentlemen of more ability than I possessed, even with my own conception of my powers; and he asked,

"Upon what meat doth this our Caesar feed?"

that he claims such superiority over everybody with whom he may come in collision?

Did I pretend to claim any superiority over anybody? Did I claim that he was not my peer? The pretext for such remarks was that I had stated that I was not his competitor. I really did not mean much by that remark; but as he had called me competitor twice, I thought it proper, from the tenor of his remarks, to disavow that I considered myself his competitor; not that I did not regard him as the peer of myself or any Senator on this floor; not that I claim any superiority over him in any form.

He recites the common-place lines commencing "What constitutes a State?" Men, of course; and I ask, what constitutes a man as he should be? such men as make up a State? A man of principle, who, in public life particularly, will be

governed by high principles. I have claimed no superiority over him as a member of Congress.

He has said that there was a boasting by myself or my friends in the convention which nominated the late candidate of the American party for Governor in Nashville, that I would go forth with my trident, and that I would crush the casque of any one whom I should encounter, whether he was Saxon or Saracen, Richard or Saladin. I disclaim having made any such arrogant pretensions.

Mr. JOHNSON, of Tennessee. My statement was this, that it was said in the Patriot, one of their papers, that the Hon. John Bell, in their convention, had indicated his willingness to enter the canvass; and that he would go into the canvass, and he would meet Saxon or Saracen, Richard or Saladin, and that whoever came in contact with him his casque would be crushed. It was never contradicted. It was taken up and republished in the newspapers, and the Democratic party sought through their papers, and in fact attempted to provoke the honorable Senator into a discussion in the canvass then going on throughout the State.

Mr. BELL. I heard in the Senator's speech the statement that it was a boast of my own; that he understood I had said so, and it is treated accordingly; and then he goes on to quote:

"Upon what meat doth this our Cæsar feed,
That he is grown so great?"

He says:

"I have had competitors who were foemen worthy of my steel, and they have met their fate like honorable men, and recognized me as such."

He speaks of my conception of myself in another sentence. What does this language indicate? I might ask him upon what meat he hath fed that he has assumed a position of superiority far above anything I ever pretended to? I should like to know upon what meat he hath fed that he has grown so great on his own self-conception. But he said further that "a gentleman and a well bred man will respect me, and all others I will make do it." May I not exclaim,

"Upon what meat doth this our Cæsar feed?"

"A gentleman and a well bred man will respect me." I will not set myself up to claim that rank or position. "And all others I will make do it," he says. I say to my colleague that, after his speech of yesterday, I cannot respect him until he gives proper explanations of it; and now, or at any time, let him attempt to make me respect him.

There are many points which I have left unnoticed in tenderness and forbearance to the Senate. I shall leave for a future occasion anything I may find it necessary to discuss.

Mr. JOHNSON, of Tennessee. Mr. Presiding—

The PRESIDING OFFICER, [Mr. BIGGS.] Will the Senator from Tennessee indulge the Chair a moment? I was called to the chair yesterday by the Vice President to preside while he was temporarily absent on private business, when this discussion commenced. I regret very much the character of the debate. The remarks made yesterday by the Senator from Tennessee [Mr. JOHNSON] I did not deem at the time strictly in order, but I felt too much embarrassed to interpose as the Presiding Officer under the circumstances. The Senator, therefore, was permitted to proceed, the Chair relying on the usual course that has been pursued in the Senate of observing courtesy in debate. I have been called to preside to-day by the Vice President, and it was due to the Senator from Tennessee [Mr. BELL] that he should have a full opportunity to reply to the remarks made by the other Senator from Tennessee, [Mr. JOHNSON.] The remarks in reply are of a character well calculated to excite personal feeling, not strictly in order according to the opinion of the Chair, but I now state—

Mr. BELL. I put everything on a condition, the President will understand. It is conditional, predicated on my colleague's withdrawal of those charges made in his speech of yesterday.

The PRESIDING OFFICER. The Chair will remark to the Senator that in his opinion on the pending question now before the Senate—the motion to print the resolutions of the Legislature of the State of Tennessee—a discussion of the character that has been indulged in is not strictly in order, and that as Presiding Officer of the Senate it will be his duty to interpose and prevent further pur-

suit of this character of discussion unless by the unanimous consent of the Senate.

Mr. BELL. Well, sir, I give my consent if my colleague wants to say anything.

Mr. JOHNSON, of Tennessee. I merely wish to say to the Senate that I have no disposition to continue a discussion out of order. I stated this morning in the explanation I made, that my intention was to confine myself strictly within the rules of the Senate, and that if I had traveled beyond them, so far as the Senate was concerned, I was prepared to make any apology that was necessary. I felt it due to place the allusions I have made to my honorable colleague on the proper ground. It was the furthest thing from my purpose or intention to violate any rule of this body or the common courtesies of private life. My colleague made an opening speech on these resolutions, and the allusions which he made to the Democratic party, and the connection I have with them, and the Legislature I have the honor to represent here, I thought made it my duty to reply as I did. In consequence of the announcement made by the Chair, I shall not persist in going on unless by the consent of the body. My colleague has made a speech of two hours, prepared and conned and got by rote, going off this morning in the most advantageous manner, as he believes, to himself and his party. All that I ask is to be heard within the rules of the Senate and the rules of common courtesy and propriety.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee [Mr. BELL] to print the resolutions.

Mr. JOHNSON, of Tennessee. I am in hopes the Presiding Officer will put the question. I understood I was ruled out unless by the unanimous consent of the Senate.

The PRESIDING OFFICER. Does the Senator from Tennessee desire to proceed?

Mr. JOHNSON, of Tennessee. Yes, sir.

The PRESIDING OFFICER. The Senator has a perfect right to proceed in order. There can be no opposition to the Senator's proceeding in order; and if there be no objection, the Senator can proceed without interruption from the Chair at all. The Chair hears no objection. The Senator from Tennessee will proceed.

Mr. JOHNSON, of Tennessee. I shall occupy the attention of the Senate but a short time. I will not make a long speech on this occasion, for I do not deem it necessary; because when the reply made by my honorable colleague, this morning, is reviewed, it will be found that he has not controverted a single fact that I stated yesterday; he has not answered a single argument that I presented. He has, in the run of his remarks, attempted to extenuate or apologize for some of the facts I presented, and some of the arguments I urged; but there has been no answer, and his speech furnishes the most conclusive evidence of the correctness and force of what I stated yesterday. In the little reply that I intend to make on this occasion, perhaps I had better invert the order of proceedings, and commence where my colleague concluded.

He seems, in the conclusion of his remarks, to work himself up into somewhat of an excitement. I thought the remarks I made this morning, when he commenced his speech, would place this matter upon proper grounds. I said that my business was with him as a Senator, as a public agent, that I did not attack his personal integrity or his private character as a man and a gentleman. The conduct of the agents of the people can be scrutinized, and it is parliamentary to scrutinize it with severity, without reference to their course as private citizens, or their integrity as gentlemen. I made no allusion to him as a private man; I made no assault on his personal integrity. I attacked him as a public man, and as a public agent.

But my colleague has said that his statements, just made, will stand until I take back what I have said in reference to him as a public man and as a Senator. I made the distinction here clearly this morning. I have stated facts in connection with the course of my colleague. From those facts I have drawn some conclusions and expressed some opinions. Those opinions as given, and those conclusions as drawn from the facts I stated in connection with his course as a public man, stand now just as they stood then. I have no other apology to make than the one I made this morning. That apology, I believe, and I know, accord-

ing to my understanding of parliamentary law, makes the true, proper distinction, and brings what I said within the courtesies and proprieties of this Chamber.

My honorable colleague, however, has thought proper to introduce into the discussion here private conversations. I never lug in private conversations with an individual with whom I may be in contest, in addressing the people or in a deliberative body. Since the honorable gentleman and myself have met here as Senators, we have occasionally, without design, I presume, on the part of either, fallen in with each other; we have had casual conversations, and in those casual conversations it has been said that we were here as Senators representing the same State, and though we might disagree fundamentally in reference to the principles upon which the Government should be administered, yet personally we should cultivate those relations that should characterize representatives of the same State. I responded to my colleague. I told him I had no disposition to be on other than friendly terms, in a personal point of view; that it was always my pride and pleasure to cultivate relations of personal friendship with those amongst whom I lived, who differed with me politically in sentiment; and that, so far as I was concerned, in social intercourse he would find that I would not depart from these principles. I think I have not done so. It was my intention not to depart from them. In reference to the question now before the Senate, my colleague attempted to elicit from me, as I thought, a statement as to what my course would be when these resolutions were introduced. I replied to him, frankly, that I did not know; that it would depend on circumstances; and that I should be controlled by the tenor of his remarks and the circumstances that came up on their presentation. Was there any violation of that courtesy and comity which should subsist between gentlemen, in this? He presented the resolutions; he made his speech; he attacked the party with which I am associated; he spoke about their mischievous course in putting these measures upon the country; and hence I deemed it right and proper to show that he had been instrumental in doing this precise thing which he attributed to the Democratic party, and thence his inconsistency.

But in the conclusion of his remarks, he tells the Senate and the country that until I withdraw certain expressions in reference to his public course or opinions, he will not respect me. I repeat that in all that intercourse that brings man in contact with man, I will make him respect me. I will leave that right there, making a full period.

I quoted some lines that the boys sometimes repeat, and about which my colleague seems to have been thinking somewhat; for they appear to have made an impression on his mind. I did it in the sense applied to a politician. How common is it to speak of politicians being wily? While they seem to be with one set of interests South, they are playing a game for strength at the North. It is an every-day expression. It is found in all your newspapers. Is there anything personal in that? I undertook to show from my colleague's course on the Kansas-Nebraska bill, in connection with his course in 1850, that he had voted for the repeal of the Missouri compromise; that he had voted for its confirmation and correct interpretation in 1854. I then showed that when the bill was put on its passage, he voted against it. I thus sought to show that on the main proposition in the bill his vote identified him with the South; but he voted against the whole bill, thereby identifying himself with the North; and then I drew the conclusion: might not a politician taking a course of this kind, look a little to the North and a little to the South?

If I were disposed to enlarge on this subject, (but I intend to be brief,) I could go back to 1850, and refer to the proceedings in the Senate when the compromise measures came up. We all remember the part taken by the distinguished statesman of Kentucky on that occasion. Notwithstanding it had been part of my teaching and a part of my education to oppose that distinguished man, yet I always looked upon him as a gallant, talented, and daring leader. In 1850, when I witnessed his efforts here in the Senate, when he was struggling for what many believed to be the peace and harmony of the country, when he threw himself into the breach, when he was standing here receiving assaults from all quarters, and de-

fending those measures, where did my honorable colleague stand? Up to the time when God, in the exercise of his inscrutable Providence, called General Taylor to—

"The undiscovered country, from whose bourn
No traveler returns,"

and Mr. Fillmore was called into power, where did my colleague stand? Was it not understood that he was in opposition to the course taken by the distinguished statesman of Kentucky, whom I came here to listen to with delight and pleasure every day? The gallant bearing, the noble sentiments uttered by that great man during that contest, brought me up nearer to him and removed many of the prejudices I had contracted in early life, in reference to him. General Taylor, with all the patronage of the Administration, took his stand in favor of what was called the non-action policy, leaving the country and the questions to take care of themselves, though dissolution might come, though the country was bleeding. He was for letting in California, and leaving all the other questions unsettled. Have we forgotten that strong simile that was presented in the Senate, by Mr. Clay holding up his hand, extending his fingers, and saying that there were five bleeding wounds, and that the Administration only proposed to stop one, leaving the other four bleeding profusely?

In this condition of things, and when that man was appealing to the country, where did the great compromiser—I mean my honorable colleague—stand? He stood here sustaining the Administration, and against Mr. Clay. Until General Taylor died, in July, 1850, here he stood, opposing all those measures, giving the weight of his reputation, and the benefit of his talents, in opposition to that distinguished man who has acquired some reputation as a compromiser, and deservedly so. Where did he stand while those five wounds were bleeding? After the President passed from time to eternity, and Mr. Fillmore came in, and action must ultimately be had, and his leader was gone then he came up to support the compromise. When you take my honorable colleague's course on all the measures with which he has been connected, you find a disposition rather to go along on both sides. It is his history. Take his speeches, with all his power to refine and double-distill, and they run along carrying arguments on both sides; it is hard to tell where he will locate until his vote is given.

My honorable colleague yesterday evening, in the midst of his excitement, (which was so great that he refused to allow anybody to move an adjournment,) in referring to what I had done, said that I had my documents dog-eared; and I had made a terrible onslaught. Why, sir, a portion of the things that were used by me were gotten up after the discussion commenced. In the very same remarks he told the Senate that he had studied his speech; that he had conned it; that he had memorized it; but that he had not delivered it in the Senate as he had prepared it; that he was careful in selecting the terms he used. I have no fault to find with that; but where is the force of the objection that I should have had a document ready to quote? I did have some references. I can inform my honorable colleague, if he does not know it, that I try to imitate; sometimes I am an imitator; and I remember reading the old maxim "always keep your powder dry." It was a great maxim with Cromwell. I did not know but that he might come in here on the presentation of these resolutions, or on some other occasion, and make an onslaught on Democracy and the principles I advocated, and I wanted to be prepared, come when he might, to meet his assaults; for I knew they could be met and answered successfully. Dog-eared! I think if my colleague had dog-eared some of his documents a little more than he has done, he would have been more fortunate in some particulars than he has been.

The most of the speech that has been made to-day has been an attempt to show that public opinion in Tennessee has not come in conflict with his. He repeats what I stated yesterday, that I had canvassed the State from Johnson to Shelby, and that I made the issue upon every stump. That is true. I did make the issue with my competitor, Colonel Gentry, who was a man popular in manners, of fine personal address, and as fine declamatory powers as any man in the country, and I pressed it upon him every day, with scarcely an

exception. I pressed upon him to know how he was on the Kansas-Nebraska question? My honorable colleague's course was known. It was known that a portion of the delegation here had voted against him, and the inference was, that Colonel Gentry, if he had taken ground, would be with those colleagues in the other House who voted for the bill. That was the opinion; I will not say it was the fact; but it is well known that if he had taken ground against it, he would have been beaten many more thousand votes in the State than he was. He saved himself, and tried to save some of his friends, by withholding an avowal of his sentiments on the subject; but even with Know Nothingism on hand, with all their plans and the appliances that were brought to bear on that contest, the State was carried by a decisive Democratic majority. Look at the election of members of Congress, if you want to see how public opinion has been expressed. I see some of the members not far from me. The issue was made on this identical question, and every man who voted against that bill has been consigned to the tomb of the Capulets. My honorable colleague is holding on to his place by the tenure of a six-years' term.

He says that the American party commenced the canvass of 1855 in the State of Tennessee with the confident hope of carrying the State by an overwhelming majority. That is very true. They did set out with the belief that they would carry it by a large majority. What they believed, and what they set out with, is one thing; but what they did, is another and a very different thing. The result turned out differently from their anticipation. They were disappointed, and we carried the State by an overwhelming majority. How is it possible, then, that my honorable colleague can be deceived in reference to public opinion there?

Then, in 1856, followed another contest, with identically the same issues involved, discussed by the electors throughout the State; and what was the result of that canvass? An increase of the popular majority for Democracy to seven thousand five hundred votes. In 1857 the same issues were before the country, and one of the electors who was on the ticket for the State at large the preceding fall was the candidate for Governor, and he carried the State by a majority of ten thousand votes. Yet my honorable colleague, in the face of all this, gets up here and tells the Senate that he does not believe there are five hundred men in the State of Tennessee who understand the question. That is very complimentary to the people of Tennessee! In 1854 the question was before the Legislature; it has since been discussed in two gubernatorial elections, in congressional and presidential elections; and yet my honorable colleague has the hardihood to give it as his opinion here that there are not five hundred men in the State who understand the question.

Now, when the Legislature are in session fresh from the people, elected at the same time with the Governor, who received ten thousand majority, they pass resolutions, after discussing the subject, in which they instruct their Senators to do certain things, in which they express their opinions, and in those resolutions they recite the language of my honorable colleague, in which he declared in substance, that if public opinion was against him in his own State he would not be seen one day longer in the Senate. Yesterday he declared that these extracts were garbled. What do we mean by a garbled extract? It is an extract taken from a paragraph, or a writing, or a speech, which taken by itself, means something different from what it would when read in connection with the whole context. Is not that so? He said it was garbled, thereby making him mean something that he did not state. Did my honorable colleague show to-day that by reading these paragraphs in connection with anything else, they meant anything but just what the Legislature has stated? He did not; and he leaves them untouched with the simple declaration that the extracts are garbled. How? They are there; every part that would make them mean just what they are; and what does he say? In his place here he declared that if the voice of the people of Tennessee was against him, he would not be seen in the Senate another day. How does he stand? Go to Mr. Etheridge's district, now represented by General Atkins, and to Nathaniel G. Taylor's district,

now represented by the honorable Albert G. Watkins, and how does the matter stand? In Mr. Etheridge's district, where it was stated by my colleague the issue was directly made, and upon this question the election turned, and how does it stand there? Take the isolated case he presents. Mr. Etheridge, a man of talent and ability, was borne down by public opinion, and General Atkins sent here in his place. If all this evidence, when summed up and presented to my honorable colleague, is not a proof of popular sentiment, in the name of high Heaven, what will convince him as to the opinion of the people of Tennessee! If these proofs will not convince him, one rising from the dead would not convince him.

He says, though, that recently in arguing the question of squatter sovereignty, the people have begun to understand the subject. Then you see, that just in proportion as they began to understand the question, the Democratic majority increased. In the first race, we had say two thousand; in the next, seven thousand five hundred; in the next, ten thousand, carrying the Legislature by an overwhelming majority. Just as we understand it more and more, in the very same proportion the majority increases, running up, where they will continue to go until this question is settled.

He speaks of his course on the right of petition, and says I have referred to his course in reference to petitions. I did, and he does not controvert what I said. That stands just as it did before. The first speech I ever made in the Congress of the United States was on the right of petition. I do not look upon that right in the light some do. I do not assume that the people of this Confederacy should approach the Congress of the United States in the humiliating and humble attitude of petitioners. It is not in accordance with the genius of the Government. It will do in monarchical and kingly Governments. It is true, we have in the Constitution a provision that the people have the right peaceably at all times to assemble and petition for redress of grievances; but we assume here that the people are sovereign. When the sovereign, the great mass of the nation, expresses its will, it is the duty of Congress to obey their master, not to receive their master in the humble character of a petitioner. That is the difference between us on that point.

But by way of making a set-off and exonerating himself from the position that I had assigned him, when, going upon inference, I gave it as an opinion, that he might, if he were disposed, play a game for strength at the North and at the South; he says that I stated yesterday that I knew on this question of slavery what even I, humble as I am, could have done in my own State. I did not state it to show that I was actuated by principle. I understand the principles on which this great institution of slavery stands; and in the section of the State of Tennessee where I live, where there are but few slaves, I took the bold ground which I stated yesterday, in reference to the nature of the institution itself, and have continued to maintain it. But the gentleman here, has attempted to lug in on this occasion some things, that are understood at home, in an under-current. It was the reason and cause of my reply to his remarks yesterday on the subject of slavery. The idea with some is, and it is industriously cultivated—"Oh, he lives in Eastern Tennessee; there are not many slaves there; he does not own many," and hence the inference is "that he is to be doubted, and we will try to array all the slave feeling in the strong slaveholding counties against him." That is the game they play.

I wish he would bring here the speech he refers to, instead of relating it on some kind of conversation picked up from itinerants here and there, and read the speech itself, which he says was made on Broad street, in which I threw out some strange doctrines about squatter sovereignty and in reference to slavery. In that very speech my views are laid down on the question of slavery, and I argued on the principle upon which slavery stands. If I had been disposed to play the demagogue, I might have done so; but is there any evidence of it? In regard to my speech on Broad street, he says that his friends, or somebody else, told him so and so, and gave him this version or that version of it. Now, if you let a man go about privateering, and picking up a little scrap of information here, a loose remnant there, and a sen-

tence somewhere else, and put all this together and make a position of it, you can demonstrate anything on the face of the earth. I disclaim and deny that sort of process of reasoning. It is not legitimate; it is not according to the rules of the logician; it is far from the character of a statesman.

I did make a speech in Broad street, and I published it all. It was read, and I thought, when I got it down, to speak rather in the language of the schoolmaster, that there was some right good reading in it. It took pretty well; it was read, and sought for. My colleague made a speech in the market-house. He made one of those moving speeches; he commenced with a good large crowd, and he spoke it all away. [Laughter.] A few days afterwards he published half of it, but the other half has never been published yet. That is what he did.

But he refers to my course in the Legislature by way of relief; but in all that he has said, has he shown that I was inconsistent in anything? I do not claim to belong to the stiff-necked family that never change an opinion; but has he shown any inconsistency? Not the slightest. But take my competitor's course, before I come to the negro idea involved in this reference to my course in the Tennessee Legislature, and what is it? The lines I presented yesterday are a clear and good illustration of it. He was for the compromise awhile and then for the non-action policy; for the repeal of the Missouri compromise and against it. He voted to repeal it in 1850, and voted against its repeal in 1854. Take his course and his speech. We are getting to be sort of poetic here, and I think of two other little lines; they are from negro melodies, and they may be pardoned, as negroes seem to be the great subject in these times, like Aaron's rod, swallowing up all other questions. What is his speech? Here is one point and there is another point; here is one inconsistency and there is another inconsistency, and I know nothing better to illustrate it by than the negro's melody:

"There's Point Look-out and Point Look-in,
There's Point-no-Point, and Point Agin."

That is about a good illustration and representation of his speeches here and elsewhere, and of his course, speaking on both sides, seeming to be with both parties, going along between wind and water. I am speaking of him as a politician. Has he shown my inconsistency? Not at all. What was the main thing he relied upon? That, in the Legislature, I had been somewhat strange in my proceedings or course in reference to the question of slavery. I dislike, in a discussion with an honorable colleague, to follow him along, step by step, and remove his arguments or statements piece by piece; and after having removed them all, when we march up to this last position, it is almost painful to me. I see him standing like a cripple, resting upon a crutch; and it appears to be somewhat unkind, after having driven him to his crutch, to walk up and kick the crutch from under him; and I am almost inclined, on this point, to let the cripple go.

But what is it that I did in the Legislature? He thinks it is the first Legislature I was ever in. It seems to be all conjecture, a mysterious, incomprehensible, indefinable sort of mass that is floating along through his cranium. There is nothing distinct or tangible; but it is all confusion, somehow or other—I cannot exactly tell how. You have seen that illustrated in the effort to-day to extricate himself from the votes I pinned upon him in the Journal; and even after he got the document and was reading from it, I showed that the position I assumed yesterday was true to the letter. But in the Legislature I introduced some resolutions; and what were they? Did he show that I was inconsistent? Did he show that I had backed out from them, that I had disavowed any opinion I had ever entertained? I was a member of the Legislature in 1842, after Congress had made the apportionment of the number of representatives to which the several States were entitled according to the existing ratio. Tennessee was entitled to eleven members in Congress under that ratio. The number was settled. Three fifths of the slaves were added to the whole number of whites. In making the apportionment under the Constitution, to whom is it made? Is it made to particular districts? Is it made to particular localities, or is the apportionment made to the States? The apportionment is made to the States; and Ten-

nessee, under the Constitution, received eleven members, getting the benefit of three fifths of the slaves. That point was settled; that was over; that was done.

In the Legislature of 1842, I introduced two resolutions. There seems to be a contrariety of opinion about them; and I will state just what occurred, so that my colleague can readily remember it the next time he undertakes to tell it. What were those two resolutions? Some said elect by general ticket, some by districts, some one way, and some another. I said: "Gentlemen, if you elect by general ticket, the qualified voters will elect all the members. How do you elect members, now? Do you not elect by general ticket? and who does elect them? The voting population. Your State, in making up this electoral college, has the benefit of three fifths of the slaves, because that college consists of a number of electors equal to the whole number of Senators and Representatives. That is the basis of the college." Then in the Legislature of 1842, after my State had the benefit of the three-fifths principle in the apportionment of members of Congress, I introduced a resolution, that if the State were laid off into districts, the districts shall be composed of the several counties in the State, without regard to slave population. Another resolution was that the one hundred and twenty thousand qualified voters of the State should be divided by eleven, and that each eleventh of the qualified voters of the State should elect one Representative. I was for it then, and I am for it now. It is right, and it is correct. In the States, we hold that slaves are property. We hold, in laying our States off into senatorial and representative districts, that property is not an element of representation. These resolutions were substantially in the words of the constitution of the State, that the representatives shall be apportioned according to the number of qualified voters.

Is there any abolition in that? Coming back to the idea I have ever entertained since I formed an opinion in reference to sovereignty, what is it that constitutes a State? Is it not the qualified voters? Is it not the thinking, living, active, producing, intelligent, portion of the population who have the right of suffrage? If they constitute the State, are they not all equals? And where do you derive the right, in apportioning your representatives, to discriminate between sovereigns in the same State, and to give one a larger representation than you do another?

Does the Senator show any inconsistency in this? I was attacked upon it, and it was discussed from one extreme of the State to the other. I had to discuss the question in the strongest slaveholding county in the State of Tennessee—Fayette. I discussed it with Augustus Henry, who is called the eagle orator—the lineal descendant of the forest-born Demosthenes, Patrick Henry. He, with all his eloquence and the attachment and devotion the Whig party had for him, pressed the question with all the power that was in him; and in the strongest slaveholding county in the State I increased the Democratic vote; and the State, which was understood then to be directly Whig in its complexion, was carried by the Democracy by a handsome majority.

Do none of the other southern States do what I proposed then? I think some of them do. I believe Louisiana has incorporated, to some extent, the same principle into her policy; and so have Mississippi and Alabama. Where is the difference between this principle and electing the members by general ticket? Suppose you put all your members on one ticket: do not the whole number of qualified voters elect them? Suppose you divide the State into districts: does not each division elect its own member? So we see what that amounts to; but the gentleman has relied upon it as the main thing, as a set-off.

I know the Senate are tired of this dish of politics relating exclusively to the State of Tennessee, and I have no disposition to press it upon them. If my colleague, on introducing these resolutions, had made such remarks as I thought would not have called for reply, not one word would have been uttered by me.

But, Mr. President, in conclusion, how does this matter stand? I repeat again, by way of asking the question, has my honorable colleague refuted, or successfully met one single fact stated by me, or one single argument I have made?

Does not my position stand untouched in the slightest degree? I feel now that I have pursued my colleague almost too far; for, from the contortions and restlessness manifested by him, I am not mistaken about the result. I know (and I say it not in the spirit of boast) when I have issues that will hold; I know when I have my victim that I can grip; I know when I have got the argument, and the fact that will sustain me, and upon which I can rely; and I have no disposition to pursue my colleague still further. I could enumerate many other inconsistencies of his; but, if I know myself, I am humane. I look, politically speaking, on my honorable colleague as now being down. He is now out of power, and he that is down can fall no lower. I am a humane man. I look upon him in his prostrate condition with all the tender sympathies of humanity. I have no disposition to pursue my colleague further. I will not mutilate the dead, nor add one additional pang to the tortures of the already-condemned.

Mr. BELL. Mr. President, I do not mean to say anything ill-natured except this one thing, which, perhaps, my colleague may so regard: I would rather be myself dead than that man living. Notwithstanding his professions, he has pursued a course indicative of the boiling over within him of that feeling of malice with which he pursued me before. I may be dead, politically speaking; but that is the position of honor when the times turn up such members of the Senate as he is.

He has mistaken my position on the compromise of 1850. He alleges that I was opposed to the great commoner, Mr. Clay, in his attempt to heal those bleeding wounds, and that I stood with President Taylor, on the non-action policy. Now, I wish merely to state the facts. I suppose my colleague does not really know very well what they are. I will tell you, sir, and the Senate, that I contended from the very first, that the best thing the South could do would be to admit California with certain boundaries, even before she sent her constitution here. There are some here, perhaps, who may remember my contest with Judge Berrien, of Georgia, on the subject, whether that could be done. They had a provisional government, with no constitution formed; and I took the position that the Congress of the United States could admit States—not merely in conformity with the language or on the condition always implied in our enabling acts; but that we could admit societies, bodies politic, formed by common consent or voluntary arrangement and agreement, with defined boundaries, when we believed there was population enough to justify it, and the population was not prescribed by the Constitution. I thought that by pursuing such a policy as that, the South would get a slave State in California; but I was voted down by southern gentlemen. Mr. Calhoun, among others, would not admit the idea that any State could be admitted into this Union under the circumstances under which California presented herself. My proposition got only a few votes; but I will state here, in my own vindication, that I had the promise and expectation of a large vote from both sides of the Chamber.

My colleague says that I acted with General Taylor in 1850. I had the greatest respect and veneration for his patriotism and for his sound practical sense. I vindicated him as the head of the administration of the Government, against what I considered the unjust assaults of leading men of his own party, and Mr. Clay among them; but that very committee of thirteen, which has been so often spoken of, was ordered by the Senate, in 1850, on my resolution. I brought in several resolutions signifying the basis of a compromise which I thought expedient and practicable. These resolutions were the basis of a proposition to refer the subject to a select committee of thirteen, made by the honorable Senator then from Mississippi, Mr. Foot. I departed from the policy of General Taylor, who was then President of the United States. My propositions were not consistent with his plan. What I suppose my colleague alludes to is the vindication by me of the honest motives of General Taylor when he proposed to defer the subject, stating his own views of the proper mode of disposing of the Territories; which was to leave them as they were until they should form State constitutions and ask for admission into the Union, which he supposed would heal the whole difficulty; and then they would

have a right to come here either as free States or slave States, as they should think proper.

I disagreed with that policy so far as to make the propositions which I did, and so far as to support the compromise measures in the shape in which they were finally reported from the committee of thirteen, though they were not such propositions as I had presented to the Senate myself in the first instance. I presume that is a mistake on the part of my colleague as to the position I occupied then.

My colleague has spoken of my remarks as to the understanding of this question by the people of Tennessee. I said before that I did not believe five hundred people in the State of Tennessee understood the question at this day; and how could they, when we do not agree upon it ourselves? The fact that we here disagree as to the construction of the Kansas-Nebraska bill is notorious and palpable.

Then in regard to my colleague's remarks on the quotations from my speech of 1854, incorporated into the preamble of these resolutions which I said were garbled, I acquit my colleague from any intention to do injustice to me in that respect; for he does not appear to understand what is a garbled extract. He says these extracts are full; they are whole paragraphs or whole sentences taken from my speech; and he asks, how are they garbled? He says, part of a paragraph is not torn from the context, leaving another part which, if it had been quoted, would explain the meaning. Why, sir, what I said at first and say now, is that the whole speech is the context. I asked that the whole speech should be taken into consideration. I predicated my declarations, which are quoted by the Legislature in the preamble to these resolutions, on the ground that the measure should first come to be well understood by the people, and its consequences seen, and I did not doubt that they would be soon seen. My colleague does not take this distinction. He considers that if there is not an actual perversion and misquotation, there is no garbling. I excuse him for taking that position, for I do not think he sees it.

My colleague seemed to manifest the same disposition throughout. He spoke disparagingly of a speech made by me in the Nashville market-house, and said that the audience was good at the commencement but very small at the close, and that I only published one half of it and never published the other half. My colleague is mistaken. The speech which I published was a speech delivered to a very small assemblage called together without preparation, made in merely a conversational tone. I made two speeches afterwards to large audiences, filling the whole space around me as far as I could be heard; and until now I never heard that they had fallen away from me during the progress of my speech. I bring this in merely as a rebutter to that sort of passion which my colleague seems to have; but how small it is! He said I made a speech to a large audience at first, but that it dwindled down to a very few at the close; that I published half of it and never published the rest. This is not at all true. The speech which I published was made to a very small audience, only some forty, or fifty, or sixty, in the market-house, towards dark, when I could hardly see to read a paper of any sort, and when there was no preparation for a meeting, the market not being lighted up. This is a trifling matter, but I advert to it only because I think it is indicative of the whole feeling which has inspired my colleague. I cannot comprehend it at all.

My colleague states that he and I had a conversation in relation to the debate which might take place on the presentation of these resolutions. He tells that I had memorized the speech I meant to make in regard to them. I did not tell him so; and I believe he admits that I had not spoken it as he says it was memorized. How did he get the knowledge that I memorized it?

Mr. JOHNSON, of Tennessee. I always like to get facts right; and with the permission of my colleague, I will give what was my understanding. I understood him in his remarks yesterday evening to state that he had studied it. Perhaps he did not make use of the word "memorized," but he said he had studied his speech. That is what I understood.

Mr. BELL. My colleague is apt to make such mistakes. I said I had studied it, and I did it par-

ticularly to avoid any severe terms in commenting on the proceedings of the Legislature, so that my colleague might not feel called upon to reply. I told him, in advance, the severest thing I should say, which was that I considered this preamble and the first two resolutions gotten up by those who plotted them as a deliberate insult, and characteristic of the men. That is all I said that I think could call for any remarks. I spoke with respect of everything else, except that I disagreed with them. He came forward, however, with a regular set speech. Whether it was conned or not, I cannot say, and I do not know whether, yesterday evening, I said it was; but it looked very much like it. It was a translation here of one of the speeches he has been accustomed to make in Tennessee on the stump, including the philosophy of government and the philosophy of slavery.

What does he say in his recent remarks? That he kept in view the maxim of Cromwell, "keep your powder dry;" and he did not know but that I would take him by surprise. That is the foundation of the whole thing. If he had regarded me as a gentleman, he could not have had such a conceit in his mind. If he did not, where did he derive the idea? When did I ever deceive a gentleman, or prove false to pledges or obligations? There is the foundation of this whole difficulty between my colleague and myself. We have different ideas and different conceptions of what belongs to a man of principle and honor.

Mr. POLK. I move that the Senate proceed to the consideration of executive business.

Mr. IVERSON. Will the Senator allow me to ask a question of the Chair? I wish to know whether, if the Senate goes into executive session now, the Army bill will have priority of other business to-morrow as unfinished business?

The PRESIDING OFFICER. The pending question has not been disposed of. It is the motion to print the resolutions of the Legislature of Tennessee.

Several SENATORS. Let us dispose of that question.

The motion to print was agreed to.

INCREASE OF THE ARMY.

Mr. POLK. I renew my motion for an executive session.

Mr. IVERSON. Will the Army bill come up to-morrow in preference to other business?

The PRESIDING OFFICER. Not except by motion to which the Senate shall agree.

Mr. IVERSON. I ask the Senator from Missouri to withdraw his motion, to allow me to move to take up the Army bill, simply that it may be postponed until to-morrow, or left as unfinished business.

Mr. POLK. I withdraw my motion for that purpose.

Mr. IVERSON. I now move that the Senate proceed to the consideration of the bill (S. No. 79) to increase the military establishment of the United States.

The motion was agreed to; and the bill was taken up as in Committee of the Whole.

EXECUTIVE SESSION.

Mr. POLK. I now renew my motion for an executive session.

The motion was agreed to; and the doors were closed. After some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 24, 1858.

The House met at twelve o'clock, m. Prayer by Rev. T. H. Bocock, D. D.

The Journal of yesterday was read and approved.

PENSIONS TO OFFICERS OF WAR OF 1812.

The SPEAKER stated that the business first in order was the consideration of House bill (No. 259) granting pensions to the officers and soldiers of the war with Great Britain of 1812, and to those engaged in Indian wars at that period, the consideration of which was postponed till this day.

Mr. CLINGMAN. I do not see in his place the gentleman from Tennessee, [Mr. SAVAGE,] who has charge of this bill; but he informed me yesterday that he desires to have it still further postponed.

Mr. CURTIS. At the time this bill was postponed, it was understood that the Committee on Military Affairs should have time to consider it.

Mr. JONES, of Tennessee. I suggest that it will be found, on examination of this bill, that it makes continuous and indefinite appropriations for all pensions created by the bill, whatever they may be; and, under the rule, it must, as a matter of course, have its first consideration in the Committee of the Whole on the state of the Union.

Mr. SAVAGE. I have consulted the friends of the bill and some of its opponents, and I find that those persons who have been desiring to oppose the bill have not yet got the information asked from the President in relation to this matter of pensions. I do not know whether it has been yet sent to the House; but at all events it has not been printed, so as to come to the knowledge of members. It is not my desire to take any unfair advantage of gentlemen, or to make use of any artifice for the purpose of securing the passage of this bill. I desire that it shall have the fullest and most ample consideration. I do not believe that it would be just towards the opponents of this bill to press its consideration at this time, or until the information asked for shall have been supplied. I therefore ask of the House to have this bill placed in such a position as to insure it a full consideration at a proper time hereafter.

Mr. DAVIS, of Indiana. What question is pending before the House?

The SPEAKER. A motion to recommit the bill.

Mr. DAVIS, of Indiana. Is that debatable?

The SPEAKER. It is.

Mr. SAVAGE. I am not going to discuss it. I am stating to the House the reasons why I shall not press the consideration of the bill at this time. The Army bill, which will be reported by the distinguished chairman of the Committee on Military Affairs, will require, I think, immediate consideration. There is another subject of great national importance which is pressing upon the consideration of the House. For these reasons, I ask the unanimous consent of the House to postpone this bill till the first Tuesday in April, and that it be made a special order, and be considered from day to day till disposed of.

Mr. JONES, of Tennessee. I submit the question of order, whether this bill, making an appropriation, can be debated here?

The SPEAKER. As this bill contains a continuous and permanent appropriation, the Chair is of opinion that it must be first considered in the Committee of the Whole on the state of the Union.

Mr. SAVAGE. The order that I ask can be made by unanimous consent of the House. If unanimous consent be not given, then I shall have another motion to make in relation to this bill. But I now ask unanimous consent to have it made a special order for the first Tuesday of April, and that it be considered from day to day till disposed of.

Mr. FENTON. I have an amendment to propose to this bill, in the nature of a substitute, which I wish to have accompany the bill, that it may be taken up at the same time for consideration.

The SPEAKER. It cannot be received as a substitute pending the motion to recommit; which motion precludes an amendment.

Mr. JONES, of Tennessee. What is the proposition of my colleague, [Mr. SAVAGE?]

The SPEAKER. The proposition of the gentleman from Tennessee is, as the Chair understands, that the further consideration of the bill be postponed till the first Tuesday in April, on which day it shall be a special order, and shall be continued from day to day, as a special order in the House, until disposed of.

Mr. JONES, of Tennessee. I understood my colleague to ask unanimous consent to make this bill a special order in the Committee of the Whole on the state of the Union. There is no objection to that. But if he asks to have it made a special order in the House, I must interpose an objection.

The SPEAKER. Does the Chair understand the gentleman from Tennessee [Mr. SAVAGE] as desiring the unanimous consent of the House to have the bill made a special order in the House, or in the Committee of the Whole on the state of the Union?

Mr. SAVAGE. In the House.

Mr. JONES, of Tennessee. I must object to that.

Mr. CRAIGE, of North Carolina. This is a

very important bill, and I think it should take the direction of all other bills. Let it go to the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from New York [Mr. FENTON] offers the following substitute for the bill.

Mr. CRAIGE, of North Carolina. I call for the regular order.

Mr. PHELPS. This bill is not now before the House. If the gentleman proposing the substitute desires to have it printed, I have no objection to an order being made to print it. But there is no use in having the time of the House consumed by its reading.

Mr. FENTON. My object will be accomplished in having it printed.

There being no objection, it was ordered to be printed.

The SPEAKER. The gentleman from Tennessee [Mr. SAVAGE] asks the unanimous consent of the House to postpone the further consideration of House bill No. 259 till the first Tuesday in April, and that the same shall be considered from day to day in the House until disposed of. Is there any objection?

Mr. HARLAN. I object.

Mr. SAVAGE. I am willing to accept the proposition of my colleague, if the day to be fixed be changed to the third Monday in March. I therefore ask the unanimous consent of the House to have this bill made a special order in the Committee of the Whole on the state of the Union for that day; and that it shall be considered from day to day till disposed of.

Mr. JONES, of Tennessee. I shall interpose no objection to its being made a special order in the Committee of the Whole on the state of the Union.

Mr. CRAIGE, of North Carolina. I prefer that this matter should go to the Committee of the Whole on the state of the Union, and take the regular course.

Mr. SAVAGE. I move to postpone the further consideration of the bill until the third Monday in March.

Mr. JONES, of Tennessee. I submit the question of order, that the bill contains an appropriation and must, under the rule, have its first consideration in the Committee of the Whole on the state of the Union.

Mr. CRAIGE, of North Carolina. The Speaker has already decided that question.

Mr. JONES, of Tennessee. The motion to postpone involves the consideration of the bill.

The SPEAKER. The Chair does not think it is such a consideration as is contemplated by the rule. The Chair is of opinion that the bill must have its first consideration in the Committee of the Whole on the state of the Union, unless there be unanimous consent given for its first consideration in the House.

Mr. JONES, of Tennessee. I submit to the Chair whether he has ever known a bill postponed to a day certain, when the question of order was raised that, containing an appropriation, it must, under the rules, have its first consideration in the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair does not remember having ever heard the question raised before.

Mr. JONES, of Tennessee. This must be the effect of the motion to postpone: this bill is postponed to some Monday, and then, when it comes up, the motion will be made to suspend the rules in order to get clear of the consideration in the committee.

Mr. SAVAGE. That is precisely what I desire. I wish to place the bill beyond the technicalities of the rules of the House. I only want the bill to be considered upon its merits.

Mr. JONES, of Tennessee. I will say to my colleague that, if this bill goes to the Committee of the Whole on the state of the Union, he can have it brought into the House on any Monday if he can get two thirds to suspend the rules for that purpose, and to have it made the special order.

Mr. SAVAGE. That is what I expect to do on the third Monday in March. My motion is, to postpone the further consideration of the question until the third Monday in March.

The SPEAKER. The Chair thinks the motion is in order.

Mr. JONES, of Tennessee. From that decision I take an appeal.

Mr. CRAIGE, of North Carolina. I thought the Chair had already decided that the bill must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair holds that the bill must have its first consideration in the Committee of the Whole on the state of the Union. The bill cannot be ordered to a third reading until it has been considered in the Committee of the Whole on the state of the Union.

Mr. CRAIGE, of North Carolina. And that cuts off all debate at this time.

The SPEAKER. The Chair thinks not.

Mr. CRAIGE, of North Carolina. Must not the Chair send the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. He does not send it there.

Mr. CRAIGE, of North Carolina. I understood that to be the Chair's decision.

The SPEAKER. The pending motion is to commit. There may be other incidental motions previous to its being sent to the committee. The Chair will feel himself called on to prevent any violation of the rule which requires that the bill shall have its first consideration in the Committee of the Whole on the state of the Union. He would, therefore, restrain the engrossment and third reading of the bill until it had that consideration, unless the rule was suspended by unanimous consent, or on Monday by a vote of two thirds.

Mr. STANTON. If the motion of the gentleman from Tennessee be voted down, what will be the next motion in order? Will it not be on the engrossment of the bill?

The SPEAKER. It will not. It will be on the motion to recommit. That motion failing, and no other motion being made, the Chair would send the bill to the Committee of the Whole on the state of the Union.

Mr. STANTON. Without a motion?

The SPEAKER. Yes, sir, without a motion.

Mr. STANTON. I submit, then, whether a motion to postpone is not such a consideration as ought to send the bill to the Committee of the Whole on the state of the Union? It is a process in the consideration of the bill.

The SPEAKER. The Chair does not think it is the consideration contemplated in the rules. A motion to postpone does not bring the merits of the bill before the House. The only debate which can be entertained, would be on the question of postponement.

Mr. BOGOCCK. The 133d rule is the one under which I presume the Speaker is acting. It does not say that bills making appropriations shall be first considered in Committee of the Whole on the state of the Union. It only says that they shall be first discussed there. The rule was formerly, as the notes show, that all motions made must be first made in the Committee of the Whole on the state of the Union. That portion of the rule was stricken out; and the rule says now that all bills making appropriations of money shall be first discussed in the Committee of the Whole on the state of the Union, leaving motions to be made in the House.

The SPEAKER. The gentleman from Tennessee [Mr. SAVAGE] moved to postpone the further consideration of the bill until the third Monday in March. The Chair entertains that motion as legitimate, and in order. From this decision the gentleman from Tennessee [Mr. JONES] takes an appeal.

Mr. JONES, of Tennessee. The rule says that the bill shall have its first consideration in the Committee of the Whole on the state of the Union. The Chair says the motion is to postpone the further consideration of the bill to a day certain. If it is postponed to that time, will it not be to consider the bill? And if so, then it will not have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The pending question would be a motion to recommit. That is the question the House would have to consider.

Mr. JONES, of Tennessee. I submit that when a bill makes an appropriation, it ought, without motion, to go at once to the Committee of the Whole on the state of the Union.

The SPEAKER. If the motion to recommit had not been made, it would have taken that direction.

Mr. JONES, of Tennessee. Does not the rule take it to the Committee of the Whole on the state of the Union without a motion?

The SPEAKER. In the opinion of the Chair the bill could not go to its third reading, unless by unanimous consent, without having been considered in the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. The rule does not say a word about the third reading of the bill. It says its first consideration.

The SPEAKER. The gentleman appeals from the decision of the Chair.

Mr. GARTRELL. I move that the appeal be laid on the table.

Mr. JONES, of Tennessee. I demand the yeas and nays.

The yeas and nays were not ordered.

The appeal was laid upon the table.

The question recurred on the motion to postpone till the third Monday in March.

Mr. CLINGMAN. I demand tellers.

Tellers were ordered; and Messrs. BRYAN and BURFINTON were appointed.

The question was taken; and the tellers reported—ayes 102, noes 30.

So the further consideration of the bill was postponed until the third Monday in March next.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had passed a bill of the House of the following title:

An act (No. 81) to amend "An act for the relief of Whitemarsh B. Seabrook and others."

And that they had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 77) to amend an act entitled "An act to limit the liability of ship-owners, and for other purposes," approved March, 1851;

An act (S. No. 82) to amend an act entitled "An act to authorize the President of the United States to cause to be surveyed the tract of land, in the Territory of Minnesota, belonging to the half breeds or mixed bloods of the Dahcotah or Sioux nation of Indians, and for other purposes," approved July 17, 1854;

An act (S. No. 71) to amend an act entitled "An act to authorize a relocation of land warrants Nos. 3, 4, and 5, granted by Congress to General La Fayette," approved February 26, 1845; and

An act (S. No. 76) to incorporate Gonzaga College, in the city of Washington and District of Columbia.

Mr. CLINGMAN. I call for the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports, commencing with the Committee on Accounts.

KENTUCKY RESOLUTIONS.

Mr. MASON, by unanimous consent, presented resolutions of the Legislature of the State of Kentucky, in regard to granting bounty lands to the soldiers of the war of the Revolution and the war of 1812; which were referred to the Committee on Military Affairs.

REGULATION OF THE HOUSE OFFICERS.

Mr. MASON, from the Committee on Accounts, reported a bill fixing the number and compensation of clerks, messengers, pages, and laborers of the House of Representatives; which was read a first and second time.

Mr. MASON. This is a bill regulating the officers of the House of Representatives, to which the Committee on Accounts have given a great deal of attention; but, instead of making a long and elaborate report, they have contented themselves with simply reporting a bill.

Mr. KUNKEL, of Pennsylvania. Has this bill been printed?

Mr. MASON. It has not.

Mr. KUNKEL, of Pennsylvania. I do not wish to be called to act upon such a bill, until it has been printed. The gentleman can postpone it and have it printed. I ask that the bill be read.

The bill was read *in extenso*.

Mr. MASON. Mr. Speaker, it seems that some gentlemen want to have this bill printed before it is acted on. We had supposed that, as this matter of regulating the officers of the House was a very small one, the House might have trusted the Com-

mittee on Accounts with it even without a report. But if it be the pleasure of the House that it shall be printed and made the special order for some day certain, I have no objection to it.

Mr. CAMPBELL. I desire to suggest to the gentleman from Kentucky that he should have this bill recommitted to his committee and ordered to be printed; and then, when the committees are again called, he can, after reasonable debate, put it on its passage. I think that will be a more certain way of securing its consideration than to fix a particular day. I make that suggestion.

Mr. MASON. The resolution directing us to examine into this matter authorized us to report at any time.

Mr. RUFFIN. With the permission of the gentleman from Kentucky, I desire to make a suggestion. It is now near the end of the month, and the offices of this House are in very great confusion. We have found them so all the session. We have found great difficulty in settling the accounts and keeping the pay-rolls correct, and I think it is very essential that the matter should be settled as speedily as possible. For the last two or three years, everything of this kind has been carried on in a very disorderly and illegal manner. When we took this matter in charge, we found upon the floor of this House over thirty pages. The Doorkeeper had authority of law to appoint fourteen. We have recommended that hereafter there shall be twenty. The committee came to the conclusion that that was a proper number. You will recollect, sir, that during the last Congress, although the law authorized the appointment of but fourteen pages, there were a number of boys on the floor throughout the whole Congress who had not been legally appointed; and upon the very last day of the last session a gentleman got up in his place and offered a resolution, containing the names of eleven extra pages, to pay them the same allowance, with the extra compensation, that was paid to the other pages. Well, sir, this thing is in confusion yet. There are now upon this floor some twenty pages, and only fourteen are authorized by law. There are more messengers than are authorized by law. We found, also, some twenty-eight persons employed in the folding-room, at a compensation of two dollars and fifty cents per day. We thought that entirely wrong. We took the responsibility, as we had authority to do, of reducing that force. We authorized the Doorkeeper to employ four persons at two dollars and fifty cents a day, and two laborers, at one dollar and fifty cents a day, and to have the rest of the work done by the piece, as it was done in former Congresses. We wish to have the matter of the authority of the committee over the folding-room settled beyond all doubt; and we have embodied a provision in this bill to that effect, giving that authority to the Committee on Accounts. It is necessary that all these things should be settled in some definite form; for the members of the committee are constantly annoyed, and have been, every day this session, by persons sending for us out of this Hall to speak about their accounts. Everything is in confusion, and I, for one, am opposed to this thing being put off. I am willing that the bill shall be postponed until tomorrow, or the day after, or long enough for it to be printed; but I am decidedly opposed to postponing it from week to week, so that it will not be arranged for another month, and I trust the chairman of the committee will not agree to it.

Mr. LOVEJOY. I would like to have that clause of the bill read which prescribes the number of persons to be employed in the post office of the House during the recess of Congress.

Mr. SEWARD. Is this bill up for consideration?

The SPEAKER. It has been read a first and second time.

Mr. LOVEJOY. I now ask to have that clause read.

The Clerk read, as follows:

Provided, That during the recess of Congress the Postmaster be, and he is hereby, required to reduce the number of persons employed in his office to the actual requirements of the same.

Mr. LOVEJOY. I suggest that that leaves the matter entirely too indefinite. It certainly cannot be necessary to have more than one person here during the recess of Congress, simply to forward letters.

Mr. MASON. If the gentleman will inquire

particularly into the duties of the Postmaster, he will find that he has a large mass of matter to distribute immediately after the adjournment of Congress, and he cannot do without this force. As soon as ever that labor is done, we have a right to calculate that the Postmaster will act according to the law, and reduce the number of his employes. If he does not, we can reach him by discharging him.

Mr. LOVEJOY. Would it not be better to specify the number he shall employ?

Mr. MASON. The number is specified. The Postmaster is authorized to employ five messengers and four mail boys and assistants. He can employ five messengers at three dollars a day.

Mr. KELSEY. I rise to a question of order. What is the question before the House? and is it debatable?

The SPEAKER. The question is, Shall the bill be engrossed and read a third time?

Mr. LOVEJOY. I hope the bill will be printed before we are called to vote upon it.

Mr. STEPHENS, of Georgia. I move that the bill be recommitted to the Committee on Accounts, and printed. The committee can report at any time; and hence there is no necessity to set it down for a particular day. I ask the previous question.

Mr. STANTON. What will be the effect of seconding the previous question?

The SPEAKER. The House will be brought to vote first on the motion to recommit.

The previous question was seconded, and the main question ordered; and under its operation the bill was recommitted to the Committee on Accounts, and ordered to be printed.

Mr. SEARING, from the minority of the Committee on Accounts, presented a bill on the same subject, in the nature of a substitute for the bill of the majority.

Mr. STEPHENS, of Georgia. I make the same motion in regard to the substitute: that it be recommitted, and ordered to be printed.

The motion was agreed to.

Mr. WARREN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WASHBURN, of Maine. I hope the House will proceed with the call of committees.

The motion was not agreed to.

CHANGE IN MARINE HOSPITAL SYSTEM.

Mr. CAMPBELL, from the Committee of Ways and Means, introduced a bill to authorize the Secretary of the Treasury to change the present system of providing relief for sick and disabled seamen; which was read a first and second time.

Mr. CAMPBELL. I move to recommit the bill to the Committee of Ways and Means, and that it be printed. I desire to call the attention of the House to this bill, as it proposes a radical change in the present system of marine hospitals—one which has been recommended by three successive Secretaries of the Treasury. I desire to have the bill printed and recommitted, because, when the committee is again called upon to report, we may see fit to ask to have it put upon its passage, after reasonable debate. It is not necessary that it should go to the Committee of the Whole on the state of the Union, because it embraces no appropriation. I desire to call the attention of members to the bill, and particularly the attention of those who represent districts where there are marine hospitals.

Mr. SMITH, of Virginia. I ask the gentleman whether he does not propose to allow some opportunity for discussion?

Mr. CAMPBELL. I have already suggested that when the bill is again brought before the House, we may propose, after reasonable time for discussion, to put it on its passage. I move the previous question.

The previous question was seconded, and the main question ordered, and under its operation the bill was recommitted to the Committee of Ways and Means, and ordered to be printed.

RICHARD C. MURPHY.

Mr. CRAWFORD, from the Committee of Ways and Means, presented an adverse report on the letter of the Secretary of State in reference to the claim of Richard C. Murphy, late consul at Shanghai; which was laid on the table, and ordered to be printed.

JAMES MARKS, AND OTHERS.

Mr. MAYNARD, from the Committee of Claims, presented an adverse report upon the petition of James Marks and others; which was laid on the table, and ordered to be printed.

WINNEBAGO RESERVATION CLAIMS.

On motion of Mr. MAYNARD, it was

Ordered, That the Committee of Claims be discharged from the further consideration of the petitions in reference to the Winnebago reservation claims, and that the same be referred to the Committee on Indian Affairs.

Mr. HARRIS, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FLORENCE called for tellers.

Tellers were not ordered.

The motion was agreed to; there being, on a division, ayes 86, noes 51.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. GREENWOOD in the chair,) and resumed the consideration of the Indian appropriation bill, on which Mr. CRAWFORD was entitled to the floor.

KANSAS AFFAIRS.

Mr. CRAWFORD. Mr. Chairman, I propose, in the hour allotted me, to examine the causes and to explain the reasons why it is that the public peace has been so much disturbed, and the apprehensions of law-abiding citizens aroused lest civil war should break out upon the borders of our western States, and spread its desolating influences throughout the entire Republic.

In so doing I cannot hope to bring anything new before the country; but I do hope to show whence originates this dangerous spirit, and to whom we are indebted for all the confusion, disorder, and rebellion with which we have been threatened.

I propose to show, further, that the opposition to the admission of Kansas originated here, and is not the result of any action whatever of the Le-compton convention, but of a fixed and settled determination upon the part of the anti-slavery men of the North to repudiate the pledges of 1850, and to defeat the very object accomplished by the passage of the Nebraska act.

The Territory of Kansas has attracted more of public attention, and excited more bitterness of feeling among the statesmen of the country and the people of the United States, than any other subject since its first introduction into national politics.

The question very naturally and properly arises, why is this so? The answer lies in the hatred which exists with the Republican party of the country to slave labor, and the doctrine of self-government as is provided for the people of Kansas by her organic act. The area over which this act extends, differs in no material respect from other portions of the public domain, for which similar legal provisions have been made. The soil, climate, and productions differ but little from those of the adjacent country, which skirts her borders. Nature has made no great change in her gifts toward this and other surrounding territory; then why, we repeat, this struggle—this conflict over Kansas? Nothing, except that she permits her citizens to employ slave labor, wherever they may prefer it to white labor, and has embodied that provision in her constitution.

This clamor is not new to this House, nor to the country. For a quarter of a century we have listened to it before this Territory was known to the people; and had it not been seized upon by a great and powerful party to carry the popular elections, not a hostile gun would have been heard on the plains of Kansas. The torch of the incendiary and the bloody knife of the assassin would have been unseen within her peaceful limits, and the military tread of American soldiery would have been known only to protect the hardy settler in his quiet home from the depredations of the savage Indian.

The worst passions belonging to humanity were excited and put in action by these party influences, and manifested themselves in acts of arson, robbery, murder, and treason. Why, let us inquire, should these results have occurred in Kansas? All the territory of the United States had been provided for except Nebraska and Kansas.

Governments had been given to the territory acquired from Mexico, and in them the greatest and most alarming question in American politics was considered and settled. The enemies of our Constitution, at home and abroad, looked upon the question of slave labor as the rock upon which this Union would split, and leave our country divided and distracted, as they hoped it would be, a fit and proper subject for the cupidity and avarice of the commercial nations of the earth. And whilst we had hoped that this danger had passed, and that this question had been forever closed by the Congress of the United States, in having placed it beyond the reach of its own intervention, and in the hands of each separate community when it becomes sovereign; yet we are well convinced that if it shall ever be settled, it must be when we have yielded to every demand which fanaticism makes, or cease to live in a common Government where it prevails.

In the above simple, easy, practical and constitutional manner was this perplexing question disposed of, and, as it was hoped, forever; and if in good faith it had been kept, peace and harmony would now prevail between the North and South, and this new sister would be welcomed into the family of States upon the ascertainment that her constitution was republican in form. But, sir, when we attempted to apply this principle to the organic act of Kansas, and to give the people the right to form and regulate their domestic institutions in their own way, it became necessary to repeal a law which was in direct conflict with the exercise of this prerogative. Northern and southern patriotism was equal to the task, and in pursuance of a principle which was just, as well as constitutional, American statesmen repealed the law, and put Kansas where she had a right to be—free to determine her questions of domestic policy, limited only by the Constitution.

When this act, securing these rights, was first reported in the other end of the Capitol, the enemies of slave labor and self-government manifested their opposition in every possible form; and from that hour to this, the peace of the country has been disturbed, and Kansas made a scene of bloody strife, almost amounting to civil war, and all done alone to destroy the rights which had been secured to the citizens of one half our States by a law of Congress regularly enacted.

That it may be seen that I charge no man wrongfully, I will read a part of "an appeal to the people of the United States," put forth by the leading opponents of slavery in the Senate and House of Representatives at that time. They say:

"At the present session a new Nebraska bill has been reported by the Senate Committee on Territories, which, should it unhappily receive the sanction of Congress, will open all the unorganized territory of the Union to the ingress of slavery."

Will open the territory to the ingress of slavery! And for this encroachment upon the rights of the free States, they conclude their appeal with the following words:

"We implore Christians and Christian ministers to interpose. Their Divine religion requires them to behold in every man a brother, and to labor for the advancement and regeneration of the human race."

"Whatever apologies may be offered for the toleration of slavery in the States, none can be urged for its extension into territories where it does not now exist, and where that extension involves the repeal of ancient law, and the violation of solemn compact. Let all protest, earnestly, emphatically, by correspondence, through the press, by memorials, by resolutions of public meetings and legislative bodies, and in whatever other mode may seem expedient, against this enormous crime."

"For ourselves, we shall resist it, by speech and vote, and with all the abilities which God has given us. Even if overcome in the impending struggle, we shall not submit. We shall go home to our constituents; erect anew the standard of freedom, and call on the people to come to the rescue of the country from the domination of slavery. We will not despair, for the cause of human freedom is the cause of God."

In this appeal we find that the opponents of slavery, and the enemies of self-government, were determined to resist the passage of this measure by vote and speech, and all the abilities which God had given them; fearing lest these should prove ineffectual, they invoke the aid of the men of God, and call upon Christian ministers to interpose, and especially seek their interposition, upon the ground that in each slave they saw a brother; and this, sir, to some extent, is true, for whilst the one is a slave to his master, the other is a slave to his own fanaticism and folly. This

appeal had its desired effect, and thousands of deluded clergymen—men upon whom holy hands had been laid—stepped from their high and divine mission, and united with these Abolitionists in endeavoring to prevent an American Congress from allowing the men in Kansas the same rights and privileges which they themselves enjoyed. To this appeal, and these efforts, they did add a pledge of resistance to the law, should it be passed, and called upon the people, in that event, to rescue Kansas from the domination of slavery.

These anti-Kansas men were in sober earnest in all they said upon this subject; and they have, with a devotion worthy of a better cause, contested every inch of ground over which this question had the slightest bearing. The developments of the Kansas investigation of the last Congress, brought to light the fact that, upon the passage of the bill, the enemies of slavery and of self-government formed a society to defeat the very objects secured by the enactment.

The Hon. Mr. Mace, a member of that and the next succeeding Congress, swears that—

"Immediately after the passage of the Kansas act, I, together with a number of others, who were members of Congress and Senators, believing that the tendency of that act would be to make Kansas a slave State, in order to prevent it formed an association here in Washington, called, if I recollect aright, the 'Kansas Aid Society.' I do not remember all who became members of that society, but quite a number of members who were opposed to slavery in Kansas, of the lower House, and also of the Senate, became members of it, and subscribed various sums of money. I think I subscribed fifty or a hundred dollars—I am not prepared to say which."

"My recollection is, that generally those members of the House and Senate who were opposed to the Kansas-Nebraska act became members of this society, and contributed to it."

"I think no other object was mentioned or specified, except the prevention of slavery in Kansas. I think that was the sole object of the movement. My impression is, that a majority of those who voted against the bill were members of that organization. I do not remember the total amount of money raised."

Under this testimony we find that the members generally who voted against the act, joined this society, and contributed money to prevent slavery in Kansas, and to defeat the very object which Congress had in view in its passage, that of removing the restriction against slavery, and allowing the people who were to be affected by it to establish or prohibit the same as they thought best. This fund thus raised was used in the transportation of men and guns from the eastern States to the Territory of Kansas, that they might by powder and ball prevent the people there from the enjoyment of a right which Congress by law had conferred upon them. Congress had said, "form and regulate your domestic institutions in your own way, so that you do not violate the Constitution;" but these men, who had determined to resist the law by speech and vote and all the powers which God had given them, armed their people and sent them out to accomplish on the battle-field what they had lost in the council chamber. Boxes of rifles, marked "Revised Statutes," had been shipped to Kansas to arm the free-State men who were to prevent, by their bloody use, the people from establishing slavery should they desire it.

Thus from the Capitol to the soil of this new Territory was transferred the same spirit of resistance to law and order which originated within its walls. The fiat of a great and powerful party in this country had gone forth that "no more slave States should be added to the Union," and it must be obeyed. True, the Constitution said no such thing; that the law of Congress had declared that this, as well as other Territories, might be admitted as States, either with or without slavery; yet these are not regarded; for the day has yet to come when Abolitionists are found observing the Constitution or obeying the laws of the land. Instead of allowing Kansas peaceably to populate itself, they organize here, in the heart of the nation, a society for the purpose of preventing the ordinary process of settlement, and to throw into Kansas a class of men who were to take possession of the "Revised Statutes," and shoot down or drive out of the Territory the slaveholder, when his Government no longer interposed by legal enactment to restrain him from its use and occupation with whatsoever was property. They had received, under the official signatures of their great captains, a written statement that if Congress consented to allow slaveholders to settle in the Territory, they never would submit to such an enormous crime. In pursuance of

this feeling of insubordination, we find introduced into, perhaps, the first convention they ever held in Kansas, the following significant resolution:

"Resolved, That every reliable free-State man in the Territory be furnished with a rifle, a brace of pistols, and a sabre, gratis; and that he be required to take an oath to come when called upon, and muster into service under his superior officer, and to sacrifice his life, if necessary, to rescue the person and property of any person who would be brought under the jurisdiction of the present laws of the Territory."

These men had been advertised that if southern men should be permitted by law to occupy this Territory, then they would be called upon to "rescue the country from the domination of slavery." In obedience to this command, we see that the free-State men are to be armed with a rifle, pistols, and a sabre, gratis, purchased, perhaps, with the funds referred to by the Hon. Mr. Mace in his testimony. To what immediate use were they to be applied? In resisting the laws enacted by the Legislature of Kansas. Why? Because they protect the slaveholder in his rights of property. Admit that they were unconstitutional: then why not appeal to the courts to declare them so? Because theirs was not a mission of law and peace, but of blood and treason; else, why ship the rifle and the revolver, instead of the Bible and the prayer-book?

These men neither regarded the law of Congress nor the law of the Territory; they were opposed to all law, and to its enforcement; hence, in pursuance of the above resolution, they swear their men to resist the laws, and to sacrifice their lives, if need be, to rescue the person or property of any who might be brought under their jurisdiction. Here is the oath:

"I, of my own free will and accord, in the presence of Almighty God and these witnesses, do solemnly swear that I will always hail, forever conceal, and never reveal, any of the secrets of this organization, to any person in the known world, except it be to a member of the order, or within the body of a just and legal council. I furthermore promise and swear that I will not write, print, stain, or indite them on anything movable or immovable, whereby the least figure or character may become intelligible to myself or any other person. I furthermore promise and swear that I will, at all times, and under all circumstances, hold myself in readiness to obey, even to death, the orders of my superior officers. I furthermore promise and swear that I will, at all times, and under all circumstances, use my influence to make Kansas a free white State. I furthermore promise and swear that, all things else being equal, I will employ a free-State man in preference to a Missouri man, or a pro-slavery man. I furthermore promise and swear that all business that I may transact, so far as in my power, shall be transacted with free-State men. I furthermore promise and swear that I will, at all times, and under all circumstances, hold myself in readiness to take up arms in defense of free-State principles, even though it should subvert the Government. I furthermore promise and swear that I will, at all times, and under all circumstances, wear upon my person the regalia of my office and the insignia of the order. I furthermore swear that I will, at all times, and under all circumstances, wear on my person a weapon of death. I furthermore promise and swear that I will, at all times, and under all circumstances, keep in my house at least one gun, with a full supply of ammunition. I furthermore promise and swear that I will, at all times, and under all circumstances, when I see the sign of distress given, rush to the assistance of the person giving it, even where there is a greater probability of losing my own life than of saving his. I furthermore promise and swear that I will, to the utmost of my power, oppose the laws of the so-called Kansas Legislature. I furthermore promise and swear that, when I hear the words of danger given, I will repair to the place where the danger is. I furthermore promise and swear that, if any part of my obligation is at this time omitted, I will consider the same as binding when legally informed of it. I furthermore promise and swear that, at the first convenient opportunity, I will commit this obligation to memory. To all of this I solemnly swear, without equivocation or self-evasion, binding myself under the penalty of being declared a perjurer before Heaven and a traitor to my country."

This oath expresses, more fully than anything which I could say, the object of this bloody and treasonable organization. They were to keep their secrets from every person in the known world, except members; they were to obey, even unto death, the orders of their superior officers; to be in readiness to take up arms in defense of free-State principles, although it should subvert the Government; to wear at all times upon their persons a weapon of death; and to oppose to the uttermost the laws of the Kansas Legislature. Never were orders more strictly obeyed than were those issued from the headquarters of this revolutionary party in this city. It is proclaimed from this Capitol, by Senators and Representatives, that although Congress may open territory to the ingress of slavery, yet we will never submit to such an enormous crime. Instantly the Free-Soilers of the eastern States caught up the cry, and they, too, declare that we never will submit. And all

along the lines of the great Republican party, stretching from Boston to the plains of Kansas, is reëchoed the same determined spirit of insubordination and resistance to law, that was first heard from those who ought to have been the last men in the Government to stir up insurrection, and to excite the people to acts of incipient treason. These men have faithfully kept their pledge, and the "Kansas regulators" their oath; for soon we see another convention at Topeka forming a constitution without law, without authority, and in direct opposition to the regular territorial government authorized by Congress.

Under this constitution they attempted to subvert the local government, for the next movement of these armed and sworn "regulators" was to place themselves in the attitude of resistance to the laws, and by force of arms to prevent their execution by the officers. The dispatch of Governor Shannon to the President explains the condition of the country immediately after the formation of this constitution, and proves the assertion which we have made. He says:

"Affairs in this Territory are daily assuming a shape of real danger to the peace and good order of society. I am well satisfied that there exists in this Territory a secret military organization, which has for its object, among other things, resistance to the laws by force. Until within a few days past, I have looked upon the threats of leading men and public papers, who have placed themselves in an attitude of resistance to the laws, as not intended by those who made them to be carried into execution. I am now satisfied of the existence of this secret military organization, and that those engaged in it have been secretly supplied with arms and munitions of war; and that it is the object and purpose of this organization to resist the laws by force. The strength of this organization is variously estimated at from one to two thousand, but I have no satisfactory data from which to estimate its real strength; and I do believe they can command, for any given purpose, more than one thousand men. They are said to be well supplied with Sharpe's rifles and revolvers, and are bound by an oath to assist and aid each other in the resistance of the laws when called upon so to do."

He further says:

"On Monday last a warrant was issued against one of this band of men for threatening the life of one of his neighbors, and placed in the hands of the sheriff of the county for execution, who, with a posse of some ten men, arrested him on Tuesday night; and as he was conveying the prisoner to Leecompton, he was met about two o'clock in the morning by a band of these men, consisting of between forty and fifty, all armed with Sharpe's rifles and revolvers, who forcibly rescued the prisoner out of his hands, and openly proclaimed that there were no officers or laws in this Territory."

Here, we see, sir, before the Topeka constitution was ninety days old, that these sworn "regulators" rescue prisoners, destroy property, burn houses, and force helpless women and innocent children, terrified by fear and threats, to flee their homes and seek shelter in Missouri. It is to prevent all this the Governor calls upon the President to send the Army of the United States to aid in the preservation of life and property. I will not fail just here to pay to the late President of the United States the high compliment which he so richly deserves for his manly and patriotic reply to Governor Shannon, by inserting the same, that the country may honor him for his devotion to law and order, and give him the high position to which he is so justly entitled, but which the party bitterness of the hour denied him. He says:

"Your dispatch is received. All the power vested in the Executive will be exerted to preserve order and enforce the laws."

Notwithstanding this, the sworn "regulators," continuing their rebellious opposition to the local government, go forward, elect all their officers, both State and Federal, declare certain persons Governor, Senators to Congress, judges and sheriffs, with the avowed purpose of destroying that government which Congress had authorized. This new one was put in operation; but very soon sufficient arrests were made to temper the spirit of rebellion which had broken out among these "regulators," and forced the immediate parties to acknowledge that theirs was only a mere "fancy" government, and existed only on paper; understanding full well that no man could be punished because he imagined himself a Governor, a judge, or a sheriff.

No sooner, however, were these men discharged, than they attempted to set up their State government, and put at defiance the laws of Kansas, and it became necessary for the President of the United States, by proclamation, "to command all persons engaged in unlawful combinations against the constituted authority of the Territory of Kansas, or of the United States, to disperse and retire peacea-

bly to their respective abodes; and to warn all such persons that any attempted insurrection in said Territory, or aggressive intrusion into the same, will be resisted not only by the local militia, but also by that of any available forces of the United States."

This proposed use of "villainous saltpeter" had a very happy, though temporary effect; for, although no forcible attempt was made to set up the Topeka government, yet every other method was adopted to weaken and destroy that which was lawfully established. Failing to accomplish their purposes in Kansas, these "regulators" came before Congress and demanded admission for her into the Union as a State under their government; but she was rejected by the votes of every member of Congress except those who were determined never to act in obedience to a law which opened our common territory to the ingress of slavery, and whose party had planted itself upon the doctrine that no more slave States should be added to this Union.

The Democratic party, upon that occasion, stood by the law of 1854 organizing the territorial government, and in which law was recognized the right of a people in forming their constitution to adopt or reject slavery, as they might choose; and, without regard to that subject, such State might be admitted into the Union. Upon the rejection of this revolutionary State government by Congress, the imprisonment of certain "regulators" in Kansas, and upon the great principle of self-government contained in the act itself, these "regulators," through their chiefs and head men, appealed for justice, as they called it, to the American people in the popular elections of 1856. They stood with "bleeding Kansas" and the Topeka constitution emblazoned upon their banners, and called upon the people to hurl from power the oppressor, and to drive from these Halls all who had refused to redress the wrongs of Kansas. But even here they appealed in vain, for a majority of the people decided to stand by the law, and to sustain those men only who lived in obedience thereto.

Thus our present Chief Magistrate came into the executive chair instructed to enforce the laws as they had been made, and as they had been construed by his predecessor.

The people of Kansas who were obeying the laws of the Territory, seeing that a majority of the people of the States would not justify rebellion even there, and desiring to satisfy the wishes of those who sought admission as a State for her into the Union, through their Legislature pass a law in January, 1857, authorizing the election of delegates to a convention, which was, in pursuance of the same, to form a State constitution. So much had been said and written upon the subject of Missouri voters, and of their having forced the laws of the Territory upon an unwilling people, that the Legislature provided against fraudulent voting in the election for delegates, by requiring a registry of the names of such persons in each county, as were authorized to vote, to be made three months prior to the day set apart for the election.

The "Kansas regulators" at that time as well as at this, claimed for themselves a majority in the Territory. Yet under this fair and proper mode of ascertaining who were legal voters, and who were not, in some counties they refused to be registered, whilst in others, as for instance Franklin, the sheriff who was authorized to discharge this duty had been killed; and the probate clerk, who in the absence of the sheriff had the same power, utterly refused to obey the law.

This preliminary duty, however, was executed as far as possible, and wherever the people would submit to it; and at the regularly appointed time the election was held and delegates chosen for the purpose of forming a State constitution. The elective franchise is a right or privilege which is to be enjoyed or not by the citizen; if he chooses, he exercises it; and if not, he delegates to others the authority and power of acting for him. By his own refusal, therefore, he is estopped from complaint at results which his own act might have prevented. Thus, in Kansas, those men who refused to obey the law by withholding their names from registry, and subsequently from voting, are foreclosed from objection by their own deed. This, of itself, is a sufficient argument against them; but how much more so it becomes when we remember that, in this matter as in all

others, they stood outside the Government, and obstinately refused to participate in the rights secured to them, or perform the duties required of them. They had the assurance of both territorial and Federal Governments that they should be protected in all their rights. Instead, however, of accepting these proffered offers, and by way of manifesting their purpose to disregard all law, they undertake, by the authority of a municipal election, to exercise certain chartered rights given to the town of Lawrence, in known violation of territorial law, and in direct conflict therewith. So palpably rebellious was this new movement that Governor Walker, who had made himself obnoxious to the charge of intervention in their behalf, thus writes to General Harney, commander of the troops in Kansas:

"I have received authentic intelligence that a dangerous rebellion has occurred in the city of Lawrence in this Territory, involving an open defiance of the laws and the establishment of an insurgent government in that city."

"This movement, if not speedily arrested, I am also assured, will be extended throughout the Territory and must result in the renewal of civil war."

"It becomes my painful duty, under my instructions from the President of the United States, to request you to furnish a regiment of dragoons to proceed at once to the immediate vicinity of Lawrence, to act as a posse comitatus in aid of the civil authorities, in due execution of the laws and for the preservation of the public peace."

General Harney obeys the order and marches with his command upon Lawrence; but before any act of hostility by the troops upon this population, Governor Walker issues his proclamation, in which he charges them with the following crimes:

"You are inaugurating rebellion and revolution; you are disregarding the laws of Congress and of the territorial government, and defying their authority; you are conspiring to overthrow the Government of the United States in this Territory. Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason."

General Harney's troops and this proclamation had a most "soothing effect" upon the "regulators" of the city of Lawrence; for although many were for bringing on the conflict, yet the more prudent counsels prevailed, and a bloody issue was avoided. Still no obedience was given to the laws, and no participation was taken in the affairs of government other than such as would tend to break up and destroy it. The law-abiding citizens, however, had chosen their delegates to the constitutional convention, and were only awaiting their action to ask admission into the Union. This body met at the time and in the manner provided by law, framed a constitution, and prepared Kansas for taking her place as one of the great family of States. And now, sir, she stands before Congress claiming admission. Yet, strange to say, she is met with opposition, and that, too, upon the ground that these same "regulators" had not participated in the formation of her constitution; that their names had not been registered; that they had not voted in the election for delegates to the convention; nor had the constitution been referred to them for ratification; and that they do constitute a majority of the legal voters of the Territory. What unblushing effrontery! After having obstinately refused to recognize the laws of the Territory; after having refused to register their names; after having refused to vote for delegates; and after having refused to vote for or against the constitution; they stand here at the doors of your Capitol and demand that Kansas shall not be admitted—and that, too, because of their factious and rebellious conduct. Others are found opposing her admission, not only on these accounts, but for the reason that Congress had no power to repeal the law which made an unconstitutional discrimination against the slaveholder; and although the Supreme Court has decided that the law of 1854 was constitutional, yet this opposition still exists, and the decision is met by the charge that the court making it, as well as the law-making power, both here and in Kansas, are all corrupt. Yes, sir; the Senator who introduced the bill and the President who approved it, have both been burnt in effigy more than once for their offenses; the one for bringing forward, the other for signing, a constitutional law.

The great and paramount question now is, however, shall Kansas be admitted? In answer to this question, I am pained to say that recent developments have shown that new and more dangerous foes are added to the list of those who have hitherto clamored against her admission. Who

are they? and whence do they come? They are the early friends of the Kansas act; men who stood by it whilst it was theoretic, but who do not now sustain it in its practical results. They are of the few northern Democrats who withstood the shock of the political elements after the passage of the Nebraska act. But they are the last men in the world who ought to have bowed their heads after the violence of the storm had passed. It is only another convincing proof that the great ties which bind us together are one by one being snapped asunder.

But, sir, to the question—why is it that Kansas is to be rejected? Because her constitution is not republican in form? No man has yet made such an objection. Because there is not a sufficient population? That is not urged. Then why is it? First, because there is a pro-slavery clause contained in the constitution; and second, because it is asserted that there is a sufficient number of "Kansas regulators" to vote it down. For the sake of the argument let us admit that those who advocate the Topeka constitution have a majority. Who are they, and by what right do they come before us to ask admission under their constitution? They are the men who never did, and do not now, recognize our law providing them with a government; they are the men who went out to take charge of the "Revised Statutes," and who, in obedience to the great "Appeal" issued from this Capitol, settled in Kansas with a fixed determination never to submit to your law, nor to any other that might be made under it. They are those who entered into solemn league and covenant, under oath, to resist the laws of Kansas, though that resistance should subvert your Government; they are the men who set at defiance all law, human and divine, and committed the grossest acts of violence and wrong upon helpless and unoffending people; they are the men against whom Governor Shannon marched with the forces he could command to quell their insurrectionary movements; they are the men who came to Congress asking admission into the Union under the Topeka constitution, and whose very petition, I believe, the Senate decided to be a forgery. These are the men against whom General Harney was ordered to march to subdue their rebellion in the city of Lawrence, and the same who refused to qualify themselves as voters by registering their names; who refused to vote for delegates, or upon the constitution; and who now, for these reasons, ask you to reject Kansas because they did not choose to exercise their franchises according to law—and more than all, these are the men who now say to an American Congress, that, if you dare to admit Kansas, civil war will be the consequence: we never have recognized this government of yours in Kansas, and you must not; we have never lived under it, for we have uniformly resisted its laws. We have an inherent right to make a government without your authority, and we have made it; under it we have officers and we have citizens—under none other have we lived; and under this (the Topeka government) we ask admission into the Union.

How different with those who represent the Lecompton constitution. In 1854 you passed an act organizing this Territory; the grant which you gave was accepted. Under it, a Legislature was chosen, and laws enacted for the protection of person and property; and as the population increased, they, under a recommendation of the late Chief Magistrate to Congress, suggesting that a State government should be formed, submitted that matter to the sense of the people; a majority of the voters indorsed the recommendation, and the Legislature ordered an election for delegates to a constitutional convention. All this was regular and lawful; what else was done? In order that only the actual residents should vote, they provide that no person should be permitted to vote unless he had been a resident inhabitant for three months prior to the election; and to make assurance doubly sure, they required that the names of all persons living in the Territory be registered, so that the armed bands of Missourians should be excluded. Congress had extended to them the power to legislate upon all rightful subjects, and to determine who should, at all elections after the first, constitute the voters. In the exercise of this grant of power, they prescribed who should be voters and who should not. This law was constitutional and valid—therefore binding. Those who qualified themselves under it

could exercise the elective franchise; those who did not, were, by their own act, properly excluded, and must accept the fruits of their own obstinacy without complaint. The convention therefore was in pursuance of law, and, as a necessary consequence, its action was binding and irrevocable, except in the proper and legal mode. The constitution upon your table, sir, is the result of their labors; and, with it, Kansas asks you to admit her.

Just at this point she is met with the objection that her entire constitution was not submitted to the people for ratification; her answer is, that eighteen of your thirty-one States did not submit theirs to the people, and that eight of the new States now in the Union have been admitted without this requirement, and that it is unjust to put upon her a restriction never before required of others. It is then urged that the voters were compelled to vote for the constitution in voting for or against slavery. How plausible soever this objection may be, we insist that it should have been made before the convention of Kansas as a reason for submitting the whole instrument; but it is a question that comes not properly before us. The delegates were authorized and instructed by the law, calling the convention, to frame a State constitution, but upon the subject of submitting their work to the people, they were left untrammelled and uninstructed, therefore free.

Being thus clothed with sovereign powers to make a constitution, they were clothed with the right to submit the whole, or a part, or none of their labors as they might determine; and these are questions not for us to inquire into or decide. That convention, unlimited as it was by legal enactment, possessed all the power that it would have had if every man in Kansas had been a member, and voted upon each article and section until the whole was complete; this being true, when that constitution was made it expressed the voice and will of the people as though they had been present, and from that judgment of the sovereignty of Kansas there lies no appeal. If this be not a sufficient answer, she points you to your own act of 1854, where you expressly secured to her the right to form and regulate her institutions in her own way, and conferred upon her the power to legislate upon all rightful subjects. She has, by your permission and under your authority, exercised these grants of power, and now presents to you a republican form of government and asks you to receive her as a State. There can be and is but one objection to her admission, and that is, her constitution recognizes and protects slavery; but even upon this point she is guarded, for she refers you to the pledge made in advance, that she might be admitted either with or without slavery as her own people might determine.

But it is urged that although the charges made be true, and that a majority of the people did not vote at all former elections, yet the Lecompton constitution was voted upon legally and decided against by the people on the 4th of January last. This demands consideration, but is easily overcome. The question made is, that the Legislature of the Territory, called by Secretary Stanton, directed that a vote should be taken against the constitution, and that this Legislature was legally assembled, and possessed power to send to the people the Lecompton constitution for adoption or rejection. Our answer is, that the Legislature calling the convention and clothing it with power might have limited it in its action, and required the whole constitution to be submitted to the people; but as it failed to do so, then the convention was free to act as it thought proper, and no subsequent Legislature could trammel or direct its action. To hold otherwise would be to hold that the Legislature was superior in power and sovereignty to the convention, for if it could direct and control this subject and thus defeat the constitution, it would be the higher power, and in possession of attributes unknown to legislative bodies. This Legislature could pass any law within the scope of its jurisdiction, but nothing more; the power once enjoyed by the Legislature had passed away from it, and the subject was above and beyond its reach; the door was closed; the act was nugatory; and the election was as much without effect as though it had been upon the Kansas act, instead of the constitution. It only remains to be seen whether Congress will redeem its pledge, or whether it will offer a reward to the

rebellious spirit which has existed in Kansas from the passage of the organic act to this time.

The great question underlying all this controversy is slavery; the Republicans of the North have determined that no more slave States shall be added to the Union. The American Democracy has pledged itself to sustain each sovereign community in the right to determine for itself whether it will have slavery or not, and that in the admission of new States this right will be recognized in its fullest sense. Whenever this doctrine shall be repudiated by the northern Democracy then a majority in the Government ceases to recognize our equality, and the American Union must necessarily become our bitterest foe, and all will see that though there may be a Union on paper, there will be none in sentiment nor in affection. Already is the southern mind awakened to the inquiry, "of what great service to the South is the Union?" She sees that within her borders her productions are of the annual value of near two hundred million dollars; that a very heavy per cent. of this sum passes into the hands of northern men, who merely act as our agents in the shipment and sales which are made for us abroad; they see that the importations into the United States are principally paid for by the products of the South, and that these too pass again through northern hands, and another heavy per cent. charged thereon, all of which must be taxed upon the people of her section. The well-informed men of the North understand full well the bearing of this subject upon their interest. We call attention to the remark, in this connection, of the leading journal in the North in reference to this matter. The Herald says, in one of its issues:

"We believe that the Union, southern niggers, and southern cotton have paid, and continue to pay, such handsome dividends to the North; that we cannot do without them; and we think, too, in consideration of the heavy profits which the North thus 'realizes' from the South, that an adherence to the practical compromises of the Constitution, with an occasional concession in behalf of southern slavery, can be no very violent stretch of northern reciprocities or northern magnanimity."

We ask you for no concessions in our favor, we only demand the "practical compromises of the Constitution," nothing more; and so far as my voice, my vote, and my influence may go, I will never be satisfied with anything less than these. We therefore call upon northern Democrats to "stand by the flag;" it is borne aloft by the strong arm and patriotic heart of one of your own gallant chieftains; and under this same leader, and with this same banner, you have met and driven back the cohorts of northern Republicans in their strong and steady march towards the nation's Capitol; will you now, when this last conflict is upon us, let the columns waver, or will you fire the last shot which secures a perpetual triumph to law, to order, and the Constitution?

Mr. GOODWIN. Mr. Chairman, I avail myself of this opportunity to express my views as to the policy of the President in relation to the Territory of Kansas and its admission into the Union as a State under the Lecompton constitution, set forth both in his annual and special messages. While I am reluctant to ask for myself the attention of the committee, I find a sufficient apology for so doing in the fact that this is the subject, with the issues of vital importance connected with it, which rivets the public attention, and fills and stirs to the uttermost depths the hearts of the people of the whole country. Believing, sir, that candid and fearless discussion opens the way to the chambers of truth, I shall speak with that sincerity and freedom which become a representative of constituents accustomed to read, think, and decide for themselves, and to fearlessly utter and maintain their sentiments—always the characteristic of a free people. I desire, at the same time, to treat with due respect the opinions and even prejudices of all, and can only ask for my own views the same measure of attention which I shall always be happy to extend to others.

Sir, Congress is the great tribunal that is to pass upon those issues of unutterable magnitude made up and presented for its decision by the great body of the people of a Territory on the one side; and by those on the other, who, as it must be conceded—for it is impossible to disguise it—have usurped the rights of that people, and are endeavoring to force upon them a government against their will, and institutions they abhor. The parties, with their supporters—both the op-

pressors and the oppressed—stand, as it were, at the threshold of this body; their cause is before us. With the one is the "slave power," with its dark incantations, and the President and his Cabinet, with their powerful spells of executive patronage and party discipline—fearful odds! but with the other are, and will be whenever and wherever they can reach the question, the masses of the people, with their instinctive sympathies, their love of justice and humanity, and, more than all, that spirit which was with our fathers at the nation's birth, and first breathed into its free institutions the breath of life.

I have said that Congress was to render its decision; but we should also remember that there is another and higher tribunal before which that decision will go for adjudication and review under our form of government—the last resort, the source of power—the real sovereigns of the land, who make and unmake Presidents, Senators, and Representatives, and with whom the right will eventually triumph.

Sir, to apply the Ithuriel spear of truth to the President's special message, and expose the grave errors of statement, the strange suppression of leading facts, the partisan perversions and monstrous fallacies with which it abounds, and to have a full appreciation of the real issue before us, it will be necessary to trace back the history of events for the last few years; and, although it may fall upon our ear like a thrice-told tale, I will hastily glance at them.

1. The 30th of May, 1854, the Territories of Kansas and Nebraska were organized, and the prohibition that excluded slavery therefrom, and which had stood, ever since the admission of Missouri into the Union as a slave State, an insurmountable, and as was supposed eternal, barrier to the extension of slavery into the territory west of the Mississippi, and north of 36° 30', was repealed. By this legislation, Congress, in violation of good faith and honor—trampling upon the compromise and compact by which this broad domain, rivaling kingdoms and empires in extent, fertility, and natural resources, had, in consideration of the yielding of other territory to slavery, and the admission of Missouri as a slave State, been solemnly pledged to freedom by the legislation of the nation—disregarding the fact that the South had reaped the full measure of benefits—appropriated the entire consideration for this concession to the rights of liberty, and, as I believe, against the will of a large majority of the people of the Union, overthrew this barrier, and under the pretense of allowing "the people to govern themselves" and "form their own institutions," opened wide the portals of this vast Territory—the mother of future States—to the entrance of slavery.

It was charged at the time that the professions of "popular sovereignty" and "non-intervention" with which that measure abounds, would prove to be "false pretenses," by which a rightful heritage was to be wrested from free labor. The people were warned that the pretext put forth to cloak this monstrous wrong, to wit: that "the people of Kansas should be left perfectly free to form their own institutions in their own way," to make their own laws and constitutions, was a fraud and delusion; that the whole scope and palpable effect of this "new invention" was to open the door to the aggressive spirit of slavery, and enable it, through fraud and violence, its legitimate offspring, to plant its destroying and oppressive system upon that "land of promise," to the exclusion of free and honest industry. The startling events that have followed in rapid succession, and the action of the past Administration, and the policy and avowed purpose of President Buchanan and his Cabinet, afford confirmation strong as "holy writ" of the truth of those predictions, (so far, at least, as the Administration and its abettors are concerned,) and justify the verdict of popular condemnation that followed the consummation of this opening scene in the fearful drama of wrongs which are now sought to be crowned by an act unparalleled save in the worst despotisms the world has ever seen. When the present shall have become merged in the past, history will affirm and record this verdict of condemnation in characters that will never die.

2. At the very first election held in the Territory, under the provisions of this act, that sacred source of popular power, the ballot-box, was dis-

honored and perverted by a horde of ruffians who thronged the Territory from the bordering slave-holding States, controlled the election, and sent a Delegate to represent, not the real inhabitants of this Territory, but the interest of slavery in the halls of Congress.

3. The 30th of March, 1855, the so-called Territorial Legislature, (the Council and Assembly,) the first under the organic act, was elected by an armed invasion from the slave State of Missouri. Some five thousand men in martial array, with arms and munitions of war, marched into this devoted Territory, distributed themselves through the different election districts, and, with a ruffian boldness that scorned concealment, openly avowed the purpose of their invasion to be to vote, control the election of delegates, and make Kansas a slave State. Everywhere the people of the Territory—American freemen—were robbed by force of the dearest rights; the elective franchise utterly usurped; the laws defied; and these reckless invaders, wielding the powers and franchises they had plundered, without a show of authority, elected the delegates to that Legislature. So complete was the subjugation of Kansas, that not a member of that pretended Territorial Legislature, save one, was elected by the votes of the actual inhabitants of the Territory.

4. The Legislature thus imposed upon the people enacted the most tyrannical and barbarous laws, worthy only of the darkest ages; the freedom of the press and of speech was cloven down; the slave code of Missouri was adopted; and it was made a felony for one to write, print, or speak against the right to hold slaves in the Territory—a State's prison offense for an American citizen to deny or question its rightful existence there. By odious test oaths and enactments, a vast majority of the people were disfranchised, and the inhabitants of other States allowed to vote. Under its sway, crime, rapine, and murder, stalked abroad at noonday unrebuked; the property, liberty, and lives of freemen, our own people, were at the mercy and sacrificed at the will of the banded ruffianism that had inaugurated a "reign of terror," and established its iron rule for the sole purpose of fastening slavery upon an unwilling and outraged people. The then Administration, for the same purposes, threw the whole power and influence of the Federal Government on the side of the oppressors and against the oppressed. The President declared that the Army and militia of the country should be used, if necessary, to enforce the laws of that Legislature—the mere creature of fraud, violence, and usurpation; and United States soldiers were so used, to the everlasting shame and disgrace of our country.

5. The people, oppressed by this insufferable tyranny, and following the example of Michigan and California, by their chosen delegates in convention assembled, formed a constitution and government, and asked to be admitted into the Union as a State, without slavery. Their action was denounced by the Administration as treasonable and revolutionary, and their petitions spurned with insults and contempt.

6. Subsequently, this illegitimate Legislature, upheld by Federal bayonets, but repudiated by a vast majority of the people of Kansas as an "unlawful tyranny," established over them by force and fraud, passed an act providing that, in October, 1856, the people of the Territory should vote whether a convention for forming a constitution should be called or not. The people refused to acknowledge, by voting on this question, the authority of this body that had, with a strong hand, seized upon their rights. The masses stood aloof; and but a small minority, composed principally of the abettors of these flagrant wrongs—less, I believe, than one sixth of the people of the Territory—participated in the election. Upon their votes, and by the exercise of powers it had usurped, the Legislature—composed of the upper House, elected by the armed invasion of March 30, 1855, and the lower House, elected in October, 1856, while the free-State men were disfranchised by the infamous test oaths and enactments of the "body of usurpers" who had trampled down their rights—on the 19th of February, 1857, passed an act providing for the election of delegates to a convention, to meet on the first Monday of September of the same year, to frame a constitution for Kansas preparatory to her admission into the Union as a State. This mockery of an election was held on

the third Monday of June, 1857, under the regulations prescribed by the Legislature thus established, and to which the people of Kansas had delegated no powers, and the very existence of which was but a continued usurpation. In this election of delegates to the convention a great majority of the people refused to engage. They would not consent to sanction, by voting, that assumption of authority which, not content with the tyranny already exercised, sought to perpetuate itself by controlling the formation of the State constitution, and thus force and fasten the institution of slavery upon the people against their will. There were but some one thousand seven hundred votes cast at this election, while the voters of the Territory numbered from nine to twelve thousand; thus did the electors of Kansas repudiate this election of delegates to a convention they did not, and could not, upon any principle of right, law, or free government, be required to recognize.

7. But further, half of the Territory of Kansas, or rather more of her electors than there were votes cast for the Lecompton convention, were by the acts of the Legislature and the officers it had appointed, absolutely deprived of the right of voting at the election of delegates to this convention. By the law providing for the convention and the election of delegates, thirty-four counties were recognized as election districts, and it was by law provided that in all of these counties a census should be taken and the voters registered. This duty was to be performed by the sheriffs and probate judges already appointed by the Legislature. After this was done the delegates were to be apportioned accordingly. In nineteen of these thirty-four counties there was no census taken, and in fifteen of the thirty-four counties there was no registry of the voters. In more than half of the counties of the Territory, there being no census, there could be no apportionment as required by law, and in fifteen counties where there was no registry of voters, not a vote was cast, and not one could be cast for delegates to this convention; the people were utterly disfranchised. These fifteen counties, Governor Walker says in his letter of resignation, comprise many of the oldest organized counties in the Territory, and contain more voters than there were votes cast in the whole Territory for delegates to the Lecompton convention. The sheriffs and probate judges were the creatures of the Legislature, and neglected or refused to take the census or register the voters in these counties. A majority of the inhabitants were free-State men, and to show conclusively that it was the intention to disfranchise them, it appears that when the people in these counties made a census and registry to supply this omission of the officers appointed by the Legislature, and proceeded and elected delegates; those who were thus chosen were refused seats in the convention. Thus did this convention place the seal of its approbation upon this disfranchisement of the people.

8. This wholesale destruction of the elective franchise, the President, in his last message, attempts to ignore, by speaking of it as a mere "omission to register the comparatively few voters who were inhabitants of certain counties of Kansas in the early spring of 1857," concealing the fact that those "certain counties" were nearly half of the counties of the Territory, and that the "few voters" residing there outnumbered the votes cast in the whole Territory at the election of delegates to the Lecompton convention, as shown by the vote of these counties at the October election, held but a little more than three months afterwards. The President also suppresses the fact that the free-State men offered to waive their rights, and submit to the humiliation of engaging in this election, if the notoriously fraudulent and partial registry of voters for the Territory could be corrected and completed, and the ballot-box protected from violence and fraud, but were informed by acting Governor Stanton that he had not the power to comply with these conditions. If the President, in this message, had stated these important facts, which no one on this floor will attempt to deny, it would have shown the fallacy of his statement that "this was the propitious moment for settling all difficulties in Kansas," and exhibited the gross injustice of the President's charges against the people of Kansas for not engaging in this election.

9. Both before and at the time of the election of

delegates to the Lecompton convention, it was understood by the people of Kansas that the convention was only to frame a constitution and submit it to the people for their ratification or rejection. Both the national Administration and territorial government represented that it was to be so submitted. Many, if not a majority, of the delegates, at the time of their nomination, were instructed to vote for a full submission of the constitution to the people. The leading delegates to the convention, including John Calhoun, its president, gave written pledges to the same effect. President Buchanan, in his annual message, states "that he took it for granted that the convention would submit the constitution to the people," and says, "hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms." Mr. Walker only accepted the appointment of Governor of the Territory on the understanding, with the President and his Cabinet, that the constitution should be fairly submitted to the people for their decision. He says, and his statement is not questioned by General Cass, in his reply, nor by the President in his last message:

"With these views, well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas. My instructions from the President through the Secretary of State, under date 30th March last, sustain the regular Legislature of the Territory in assembling a convention to form a constitution, and they express the opinion of the President that 'when such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence.' I repeat, then, as my clear conviction, that unless the convention submit the constitution to a vote of all the actual resident settlers of Kansas, and the election be fairly and justly conducted, the constitution will be, and ought to be, rejected by Congress."

This was, in effect, a pledge made by Governor Walker to the people of Kansas, with the sanction of the President and his Cabinet, that the constitution should be fully submitted to the people; and that if it was not, the conclusion is implied—nay, direct—that the Administration would not favor the admission of Kansas under it as a State. How has this understanding and these pledges been fulfilled by the convention and the President? On this point the message is silent. Let the facts answer.

10. After the October election of 1857, in which the free-State men achieved an overwhelming victory, and the people pronounced most emphatically against slavery in the Territory, the delegates previously elected to the Lecompton convention, by a meager pro-slavery minority, representing in fact less than one sixth of the people of the Territory, assembled, pursuant to adjournment. So well did these delegates understand that they were not the representatives of the people, and were but the mockery of a convention, that it was with the utmost difficulty a quorum could be kept in session, and to protect them from the indignation of the people, for whose government they were assuming to frame "this constitution," they were furnished, by the direction of the President, with a body-guard of United States soldiers. Thus that convention, originated and forced upon the people of Kansas by "unlawful authority," and there held and sustained by Federal bayonets, proceeded to produce this "misshapen monster," the Lecompton constitution; and then, with shameless effrontery and a defiant disregard of the rights of the people—in the face of pledges and representations—refused to submit the constitution to the people, but, by a partial and dishonest submission of one clause, sought by trickery and fraud to rivet slavery upon Kansas.

The conditions of that submission were that no one should vote upon the question of slavery or no slavery, in the territory, unless he would also vote in favor of the constitution, and if challenged, take an oath to support it if adopted—thus disfranchising those who were opposed to the constitution, and who, as it was well known, and as was declared by the delegates who opposed the submission, constituted a large majority of the people of Kansas; for the submission of the constitution was objected to on the ground that the people who were to live under it, if adopted, would vote it down. The enormity of these conditions are the better appreciated, when it is understood that whether the vote was "for the constitution with slavery," or "for the constitution without slavery," it was a vote for slavery in Kan-

sas, as I will show by-and-by; and this pretended submission of the slavery clause to the decision of the people was but a mockery and fraud.

Further, this convention provided for the election of State officers and a Legislature, and ignored the officers, ministerial and legislative, just elected at the territorial election, and also the powers of the executive appointed by the President; and, by an unprecedented and unjustifiable exercise of power, gave to its presiding officer, John Calhoun, (a chief among the border ruffians,) the sole power to appoint commissioners in each county; and they were to appoint the inspectors of elections in each district, who were to hold the elections, and make their returns to him, and he was to count the votes, and declare the result. Thus this convention vested its president with these unheard of powers, and held the entire control of the machinery of the elections it had ordered—a significant fact, when we also learn that this same body, in its apportionment of representatives among the several counties, indorsed the infamous Oxford and McGee frauds, by which thousands of votes were returned that were never given; and after they had been thrown out by Governor Walker, gave representatives to these counties, based on these fraudulent returns, and elected the author of these frauds a clerk of the convention by acclamation. On the last night of its session, the convention also amended the schedule, by striking out the word "citizen," and inserting "inhabitant," in the clause defining who should be entitled to vote—all prophetic of the frauds practiced at the election of the 21st of December, when the slavery clause was voted into the constitution, and large numbers of Missourians were allowed to vote for the constitution with slavery, by swearing that they were for the instant, while offering their votes, inhabitants of the Territory.

Mr. Chairman, this instrument, thus originated and presented, which upon its face establishes the bondage of labor in Kansas, and if sanctioned by Congress will drag her an unwilling victim into the Union, as a slave State, is "the Lecompton constitution with slavery," which has received the approval of President Buchanan and his Cabinet, and which, by his special message, he urges upon Congress. The people thus wronged and outraged are charged in this extraordinary document with disloyalty, and with being "in a state of rebellion against Government;" while the usurpers and conspirators, guilty of high crimes and misdemeanors against the rights and liberties of the people of Kansas, are represented by the President to be the "loyal" and "law-abiding people of the Territory." He, in speaking of their proceedings, (which the whole country knows were conceived in, and marked at every step by, fraud and violence,) says: "It is impossible that any people could have proceeded with more regularity in the formation of a constitution than the people of Kansas have done." Sir, I submit that the friends of the Administration can offer no apology that will avail the President, unless they claim and insist that the "great delusion" with which the message opens "pervades" the mind of the Executive, instead of seeming to pervade the minds of the people, as modestly charged by the President. The issue is thus made and pressed by the Administration, and it must and will be met.

I have thus hastily recalled the brief but eventful chapters of this history, yet fresh in the public mind, and presented a plain record of startling but unquestionable facts, that they may, with voices multitudinous and irrepressible, plead "trumpet-tongued" against this threatened act of fearful injustice and oppression—against the peril and strife, shame and guilt, the Administration will bring upon the nation, if it persists in this attempted, and, if successful, utter subversion of the rights of the people of a whole Territory, insuring the triumph of usurpation and slavery over our own brethren—American citizens.

Sir, in the light of the facts I have presented, leading to conclusions no logic can resist, and in view of the issues that cluster around this great question, it rises to a magnitude far above all party considerations, and appeals to all with a voice it would be criminal to disregard, to come upon the common ground it opens, of stern resistance to the infliction of this overshadowing wrong upon the people of Kansas—this impious denial of the vital principles of human rights, which underlie and uphold our entire system of

free government. With overwhelming force does it appeal to the supporters of the "Kansas-Nebraska act." They struck down the barrier against which the waves of slavery had dashed, only to be broken and hurled back. The barrier that held this Territory, with its broad prairies and rich fields, its luxuriant productiveness and resources, a home for the children of free-toil farmers, mechanics, and laborers, who would make it nature's workshop for free and honorable industry—the Titan architect of national wealth and greatness—was by them demolished to make room, as was claimed, for the application of a principle, "popular sovereignty," "that the people of Kansas should be left perfectly free to form their own institutions in their own way. That the people of Kansas should be left free to decide whether they would have slavery or not; free to make their own constitution."

They who comprise the party that elevated this Administration to power, pledged their faith, the nation pledged its faith, and by the Nebraska-Kansas act guaranteed to the people of this Territory the right to exclude slavery, and the right to frame and decide upon the constitution under which they are to live. Shall this faith be violated and these pledges broken? The Lecompton constitution establishes slavery in Kansas; but this constitution has never been ratified, but is condemned and repudiated by the voters of the Territory. It is not the people's handiwork; and the convention that framed it derived no powers from the great body of the people of Kansas. They, by the election of October last, decided against slavery, and in reality against the constitution; and, at the election on the 4th of January ultimo, the people branded it with their disapprobation and abhorrence.

Sir, although I was opposed to and still condemn the "Kansas-Nebraska act" for its repeal of the "Missouri compromise," believing that the freedom of these Territories should not have been thus periled; but since it is the law, the supporters of that measure are required, by the clearest teachings of honor and good faith, and by the strongest dictates of justice, to redeem their pledges, and see that the people of Kansas are secured the right of excluding slavery and of deciding upon the adoption of the constitution under which they are to live. For them to aid in forcing slavery and the Lecompton constitution upon Kansas, against the expressed will of the people, would furnish an example of shameless treachery to professed principles, hardly equaled in the political annals of our country. Therefore I respect the distinguished Senator from Illinois and others, for maintaining against their party and the Administration the rights secured to the people of Kansas by this act. But, sir, the people cannot respect, but will condemn, an Administration, and the party which supports it, that thus in the face of the nation, standing upon broken pledges and forfeited faith, wields its powers to force upon a portion of our people an oppressive form of government, and institutions at war with the humanity, civilization, and Christianity of the age.

The President says in his annual message:

"I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota 'should be subject to the approval and ratification of the people of the proposed State,' may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded as it is on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms."

Congress, by its action, required the constitutions formed for Wisconsin, Minnesota, and Oregon to be submitted to the people for their ratification or rejection. This practice, the President says, is founded on "correct principles," and trusts it may be adopted on "future occasions." If this be so, then is not he acting, and would not Congress be acting, on incorrect principles to force, or even admit, Kansas into the Union under the Lecompton constitution, without submitting it to the people for their decision; and if he trusts this practice will be followed on future occasions, why does he not favor its application to this occasion; if it is proper and desirable for the future, it must be for the present. There never can be a case where all of the facts and circumstances, together with justice and right, will more imperatively demand the application of the "example set by the last Congress, requiring that the constitution of

Minnesota should be subject to the approval of the people of the proposed State," than is now presented by this attempt to force the Lecompton constitution upon the unwilling people of Kansas in the very face of these "correct principles."

It cannot be denied but that every step in the proceedings by which this constitution was produced has been accompanied by fraud and violence. The people protest against it; they demand the right of deciding for themselves as to the constitution they will present to Congress. And yet the President and his Cabinet would deny them this right—withhold from the present and reserve for future occasions the application of these "correct principles," that Kansas may come into the Union bound and ironed with the Lecompton constitution with slavery. The action of the President is at war with his precepts. The truth is, the people of Kansas have already decided against this constitution, and it should not be received nor considered by this body.

The reasoning of the President, in his special message, against requiring conventions to submit their work to the people, comes in conflict with the sentiments of the foregoing extract from his annual message, and with the now universal practice of all the States; for not a single State of the Union is now governed by a constitution that has not been submitted to, and received the approval of, the people who live under it. Why should Kansas be made an exception, against the wishes of her people? No answer can be given, except that the Administration is determined Kansas shall be a slave State.

The Lecompton convention, by section seven of the schedule, provides that "before this constitution shall be sent to Congress, asking for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory for approval or disapproval;" and then the strange provision follows in the schedule that all of the ballots cast shall be for the constitution with slavery, or for the constitution without slavery; allowing the people to vote to approve of the constitution, but refusing to allow them to disapprove of it; permitting the people to vote if they will vote as the convention desire. This is, indeed, a new form of submission—an invention worthy of border ruffianism. But again, the President says in his annual message, and repeats it in his special message, without even alluding to the objections that show the utter "folly of his statement," that the slavery question has been (by this schedule) "fairly and explicitly referred to the people." It is indeed strange that the chief Executive of the nation should, in the face of facts known to the whole country, commit this grave error, for it is perfectly clear that this issue is not "fairly and explicitly submitted to the people." The constitution contains provisions for banks, for grants of lands to railroad corporations, the qualifications of officers, and the perpetuity of slavery even though it is decided against—each a matter of the first importance, in regard to which people hold different opinions; and yet, in order to vote upon the slavery clause, they must, as a condition precedent, vote to approve of the constitution in all of these respects; whether they are opposed to these provisions or not, they are compelled to vote against their views upon other points in order to vote upon this one point. It is an abuse of terms to call this a fair and explicit submission of the slavery question.

But it is a still stronger, and an unanswerable objection, that whether the vote was given for the constitution with slavery, or for the constitution without slavery, it was still a vote to establish slavery in Kansas. If the "constitution with slavery" was adopted, then of course slavery was established. If the "constitution without slavery" is adopted, it still exists, for section seven provides that the "rights of property in slaves now in the Territory shall not in that event be interfered with," and section fourteen, which provides that the constitution shall not be amended until after 1864, also provides "that no alteration shall be made to affect the rights of property in the ownership of slaves," and in order to have voted for the "constitution without slavery," the person thus voting would have had to vote for these two clauses, which make slavery perpetual in Kansas. It was so regarded by pro-slavery men, as appears by an extract from a violent pro-slavery paper.

"It is clear that the pro-slavery party have completely

outwitted Walker and Stanton and the whole Black Republican party; and that, after all, Kansas will apply to Congress for admission as a slave State, with a pro-slavery constitution." * * * "But suppose they (the Black Republicans) do vote, and by their vote exclude the article concerning slavery from the constitution, will slavery be abolished in Kansas? The Times contends that it will, and quotes to prove it the following clause in the constitution providing for this contingency." * * *

"The Times prints in large capitals the words, 'And no slavery shall exist in the State of Kansas,' and then continues the words, which follow in small italics, 'except that the right of property in slaves now in this Territory shall in no manner be interfered with.' Now, if the right of property in slaves now in this Territory shall in no manner be interfered with, how is slavery abolished? It not only exists, but here is a guarantee that it shall be in no manner interfered with. We have not a doubt that the first part of the clause seemingly abolishing slavery was inserted for the benefit of just such people in the North as the editors of the Washington Union. It will give them a small plank on which they may stand in practicing the juggling feats of humbuggery, whilst the prohibition in the latter part of the clause secured to the pro-slavery party substantially Kansas as a slave State."—*Charleston (South Carolina) Mercury, November 26.*

Thus have I shown the unfairness and injustice of this pretended submission, and I ask how could freemen be expected to indorse it by voting upon a proposition thus presented? The Constitution of the United States provides, that Congress may admit new States into the Union. It vests Congress with a discretionary power in this respect, full and unlimited save by the restriction contained in the same instrument. And, although proceedings taken in a Territory for the formation of a constitution may not have been authorized by an enabling act, but have emanated from an actual Territorial Legislature, or directly from the people themselves, yet Congress may, notwithstanding their invalidity, receive and entertain the application and grant or refuse the petition as the circumstances may require; but it is the imperative duty of Congress, especially when there has been no enabling act, to see that the people are consulted and that the constitution proposed has received their sanction. To use the words of Attorney General Butler, in his opinion in the Arkansas case, "And as the power of Congress over the whole subject is plenary and unlimited, they may accept any constitution, however formed, which, in their judgment, meets the sense of the people to be affected by it."

No one will claim that the Lecompton constitution meets the sense of the people of Kansas. It is apparent that it was contemplated that the new State was to ask for admission, and that it was for Congress to act on the proposal, consent to or refuse it, as should be most proper. But it never was intended that Congress, on the application of a small minority, without an enabling act, or with one, should drag a Territory into the Union as a State, under a constitution against the will of the majority. It is well known that this constitution is repudiated by the people of Kansas; they protest against admission under it. What an abuse and usurpation of power, then, would it be on the part of Congress, to approve of the Lecompton constitution, by compelling the admission of Kansas under it as a State! The proposition should be met and repudiated at the very threshold.

It has been claimed by some, and is now asserted by the President in his message, that the "organic act" for Kansas contained provisions which made it equivalent to an enabling act. This is too palpable an error to need refutation. The language of the organic act, the action of Congress in reference to it, and the fact that very similar provisions (except as relates to slavery) are contained in the acts that established the Territories of Minnesota, Michigan, &c., show that it is impossible to construe it into an enabling act. Hence it follows that the Territorial Legislature, if valid, had no power to call a convention to form a constitution, or do any other act destructive of its territorial organization; and in this respect, therefore, it must be admitted that this was an illegitimate convention, and without authority. It is now asking Congress to clothe its unauthorized acts with authority, notwithstanding the indignant protests of the people whose rights it has usurped. Mr. Buchanan, speaking in reference to the application of Michigan to be admitted as a State, and of the powers of Territorial Legislatures, says:

"No Senator will pretend that their Territorial Legislatures had any right whatever to pass laws enabling the people to elect delegates to a convention for the purpose of

forming a State constitution. It was an act of usurpation on their part."

In this connection there is another view of the subject which, of itself, should be conclusive. There has been no enabling act. It must be admitted that the Lecompton constitution has not been ratified by the people. The results of the elections show, and it is well known to the whole country, that a large majority of the people are not only opposed to it, but abhor and detest it; and will, if forced upon them, openly resist it. The admission of Kansas under this constitution is asked for but by a small minority. All of the proceedings from which this constitution originated (even if they had not been forced upon the people) have no validity only as Congress shall clothe them with authority. The issue is thus presented: whether Kansas shall be by Congress forced into the Union with this constitution? Whether Congress will give the minority authority over the majority? These issues must be determined in deciding this question. There cannot be found an instance in the history of our Government, where there has been no enabling act, and the constitution has not been approved by the people, that Congress has admitted a State into the Union under a constitution to which it was even alleged that the people to be affected by it, were opposed, much less when it was ascertained and known that the people had condemned and repudiated it by a large majority. And shall this practice be now departed from, and this new and dangerous precedent established for the purpose of fastening a constitution with slavery upon Kansas? Sound policy and patriotism, and the spirit of our free institutions, alike forbid it.

Sir, the President in his message says that Kansas is now "as much of a slave State as Georgia or South Carolina;" and then gravely argues, that if Kansas is admitted under the Lecompton constitution, the people can immediately thereafter, by the Legislature submitting the question to them, call a convention, change the constitution, and prohibit slavery. If this were true, it would not justify Congress in compelling the people of the Territory to submit to wrong and oppression; but none should be deceived by this pretense of the President. The Lecompton constitution declares that the right of property in slaves "is before and higher than any constitutional sanction." It also provides that it shall not be amended until after 1864; and also declares "that no alteration shall be made (in the constitution) to affect the rights of property in the ownership of slaves." If those provisions which make slavery perpetual could be disregarded, still it would be impossible for the people to alter the constitution, and prohibit slavery, for many years to come, except by force and revolution; for section fourteen provides that the constitution can only be amended by the Legislature submitting, by a two thirds vote of each House, the question of calling a convention, to the people. The members of the Senate are elected for four years, and of the Assembly for two years. According to the latest reports, Calhoun will, through the grossest frauds—by false returns and manufactured votes—declare the pro-slavery Governor and State officers, and also more than a third, if not a majority, of pro-slavery delegates, elected to both branches of the Legislature; but a minority of more than one third in either House, or the Governor's veto, can defeat all attempts to submit the question of a convention to the people. It is therefore clear that nothing can be done within the pale of this constitution to throw it off or prohibit slavery for the next four years; and then, in addition to the way having been opened for the introduction of more slaves, a perpetuation of the frauds hitherto successful would insure the same result, and Kansas would lie prostrate at the feet of slavery.

The President asserts that the rejection of this "constitution with slavery" would be keenly felt by the fourteen slave States of this Union; but that the speedy admission of Kansas under it would restore peace and quiet to the whole country; and that he could then withdraw the army from that Territory. Sir, the army is now there without right; the people do not require it; and the President should at once withdraw it. The maintenance of a United States army in Kansas, which has been used to suppress the rights and liberties of the people, and to support the usurpations of their oppressors, who had in view the

establishment of slavery in Kansas, against the will of the people, has cost the Government nearly five million dollars; and although the people have been loyal to the Constitution and laws of the United States, yet the President has now there, for the same purpose, two thousand four hundred soldiers, at the yearly expense of more than two million five hundred thousand dollars; while against the Mormons of Utah—a Territory containing more inhabitants, and in a state of open rebellion—the President has sent an army of but eighteen hundred men. Sir, to force this constitution and government upon the people of Kansas, would be to require a whole community of our citizens to bend to usurpation and tyranny as insufferable and degrading as that against which their fathers and ours, at the threshold of the Revolution, pledged their fortunes, lives and sacred honors; and I believe, sir, it would meet with a like resistance and fate. Instead of peace and quiet, it would produce strife and discord. It would involve a contest which I hope the wisdom and patriotism of Congress will avert, by allowing the people of Kansas to frame their own laws and constitution.

Sir, at the election of the 21st December, the slavery clause was voted into the constitution, not by the people of Kansas, but by illegal votes and false returns. Legal investigations have shown that at Oxford, from which there were returned some one thousand votes, there are but forty-two voters. Shawnee, from which there were returned twelve hundred, has but forty legal voters. From Delaware Crossings there were returned some four hundred votes, and it has only forty-three voters. All of those frauds, and others, were for the constitution with slavery, and were reëlected on a more extended scale at the election for State officers and members of the Legislature, on the 4th of January last. Is it claimed that the free-State men should have voted for the constitution without slavery? I have already shown they could not, without voting for slavery and taking an oath to support it if required; for, in either shape, the constitution would establish slavery in Kansas. The people were only allowed the privilege of deciding whether the master should raise or import his slaves. It would have been folly and madness for the people to have bowed to this tyranny, and thrown themselves into the power of those who had destroyed the security of the ballot-box and the sanctity of the laws—who sustain their authority by fraud, violence, and crime.

Sir, at the election held on the 4th of January last, ordered by the Territorial Legislature, and recognized by the President, as appears by his orders to Governor Denver, the people, by an admitted majority of nearly five thousand over the vote for the constitution of the 21st of December, but throwing out the three thousand fraudulent votes then returned, by a real majority of more than eight thousand, pronounced against this constitution, and it now stands a thing *condemned and repudiated* by the electors of Kansas. They have spoken through the ballot-box, and their verdict of *rejection* is branded upon this instrument in characters as ineffaceable as the mark that was placed upon the brow of Cain.

In view of these facts and results, Congress should at once pass an enabling act, providing for a convention, and the formation of a constitution by the people of the Territory, subject to their approval. This is the only true and wise course, and would be but an act of simple justice to the deeply-wronged people of Kansas. Let her not be dragged into the Union, crushed by oppression, and compelled to wear the symbols of bondage and shame; rather let her come of her own free will, and be welcomed into the sisterhood of States, arrayed in the white robes of freedom, and chanting the sublime hymn of liberty.

I had hoped that the Administration would recede from its position, and refuse longer to sanction the appalling frauds and wrongs that have thus far produced and accompanied these proceedings which had in view the subjugation of Kansas to slavery; but the policy avowed by the President in his special message forbids this hope. Unmindful of the disapprobation of the people, and their fast gathering indignation, the Administration and its supporters bow in abject obedience to the mandates of the colossus of slavery, that seeks to bedevil the nation.

Sir, the honorable member from Georgia, [Mr.

GARTRELL,] and the honorable member from Mississippi, [Mr. DAVIS,] while claiming for slavery a Divine origin, and in speaking of it as a social and political blessing, said that the constitutional rights of the South must be maintained at all hazards, and that to do this, Kansas must be admitted under the Lecompton constitution as a slave State, or the Union would be endangered. Sir, does the maintenance of the constitutional rights of the South, and the preservation of the Union, require that we shall, by Executive intervention and congressional legislation, force upon the great body of the people of a Territory a constitution and rulers they repudiate and institutions they loathe? Does it involve an atheistical denial of the common and God-derived heritage of freemen? This is not the maintenance of rights, but the exercise of attributes which belong to tyrants and despots only; and as such will be resisted until the love of liberty and all reverence for the faith of our fathers shall be extinguished. The Constitution and the Union can never be made the dishonored instruments for the accomplishment of such objects without destroying the high purposes for which they were established.

Sir, in the very midst of this discussion, and in the face of these arrogant claims, the great fact stands boldly forth, breaking through and towering above all artifice and sophistry, too clear and plain to be denied or even questioned, that the people of Kansas, in the most solemn manner, and with the forms prescribed by law, have, by an overwhelming majority, declared against this constitution, and against the system of slavery it seeks to rivet upon them.

Notwithstanding all this, the Administration, unavailing to the gaze of the nation its devotion to the interests of slavery, hastens, with the power and influence of the Government it controls, to complete this daring and infamous conspiracy; and urges Congress, at the risk of civil strife and bloodshed, to force not only this constitution, but State officers and the institution of slavery upon the people of Kansas against their *expressed and recorded will*. Sir, this attempt will awaken a just spirit of retribution; its success would arouse the whole land, and call forth a response from the ballot-box, compared with which the uprising of the people of the free States at the presidential election of 1856, would be but as the whispering of the summer winds to the loud wail and fearful blasts of the awakened tempest.

Sir, I will not further detain the committee on a question when the path of duty is so plain; the real issue from which there is no escape, and the admitted facts on which that issue stands, together with every consideration of right and patriotism, all demand justice for Kansas.

Mr. Chairman, I have uttered my convictions in no spirit of unkindness. None would rejoice more than myself to see the harmony and brotherhood of the olden time restored; but it can never be done through injustice and oppression, nor by bending the powers of the Government to the extension of the institution of slavery—the “bondage of labor,” the palpable evils and destructive tendencies of which are written in legible characters on every soil darkened by its presence, and which was against all of the vital ideas and great truths that are embodied in, and uphold our free Government. It can only be accomplished by returning to the *principles* which secured that unity of feeling and concord of action; the *policy*, in this respect, of the very founders of our free institutions, the fathers of the country—Washington, Jefferson, Madison, and their associates—who, as if inspired with wisdom from on high, laid strong and deep the foundations of our civil superstructure. They all endeavored to limit and restrict this system of bondage, and looked forward to its final extinction. Their teachings and their voices entreat us not to throw from the nation's heart the worship of freedom, but to maintain in the action and policy of the Government the integrity of the principles they inaugurated, and which alone can give us success and perpetuity as a nation.

Let us, then, return to the policy and keep the faith of our fathers, and clinging to the “wealth of glorious memories” that brighten the pages of our country's history, and the still greater “wealth of more glorious hopes” that crown her future with a beaming and radiant bow of promise, we may hopefully invoke the guidance and protection of a kind and beneficent Providence for our com-

mon country. “Length of days be in her right hand; and in her left, riches and honor; may her ways be the ways of pleasantness, and all her paths be peace.”

Mr. MILLSON. Mr. Chairman, since the passage of the Nebraska bill, I have sought no opportunity here to enforce the views, respecting the power of Congress over the Territories, which I then took occasion to express. I have had inducement, and even provocation, enough to do so. My arguments have been repeatedly replied to, and, indeed, the whole subject has been almost incessantly discussed by gentlemen whose views differ from mine. To be sure, this has been done with uniform courtesy and kindness to me. In my somewhat isolated position, I appreciate it, and I shall return it. But I have been content to be silent. I knew that the time would soon come when the correctness of my views would be shown by results. That time has come already. It was fully accomplished in the late decision of the Supreme Court; and now, sir, standing here, in the midst of predictions fulfilled and forebodings realized, I can look back on the events of the past two years, and feel that no part of the responsibility for the disturbed state of the country rests upon me; and that, if my views and opinions have had any effect at all, they could have none but to allay the discontent of the North, and to moderate the too hasty exultation of the South.

The defense of the Nebraska bill has sometimes betrayed southern gentlemen into the expression of what I deem very erroneous views and opinions. I regret that even the clear and excellent speech of the gentleman from Alabama, [Mr. CURRY,] yesterday, is not altogether free from exception in this respect. Some of these views I propose to notice and to combat, as not merely erroneous, but mischievous. The subject is likely to be one of great practical importance in our proposed legislation for Utah, as well as for Kansas and the other Territories.

It is pleasing to me to know that my difference with my colleagues, and many others of my southern associates, has never been one of doctrine or principle. All that they approved, I approved. All that I disapproved, they also disapproved. The question between us simply was, whether what we approved or what we disapproved was contained in the bill? It was, for the most part, a question of interpretation or construction; and upon this, almost the sole point of difference between us, I take leave to remind them that a large majority of the Democratic party agree with me and differ from my colleagues.

I know, sir, that scarcely anything could have reconciled them to the support of the Nebraska bill but the promised repeal of the Missouri compromise. But what was the course of Congress upon it? That compromise was denounced, on the one hand, as unconstitutional and invidious; it was defended, on the other, as constitutional and right. It would seem, then, that the only thing that Congress could properly do, was either to repeal it, or let it alone, as the one or the other sentiment prevailed. But, strange to say, Congress would do neither.

Either, sir, would have avoided the mischiefs which followed the passage of the Nebraska bill. Had Congress simply repealed its own law of 1820, the former state of things would have revived. It would have fixed the condition of the Territory by its own solemn act, and have left nothing to be determined by the inhabitants. It is true that some violence would have been done to the prejudices and sentiments of the majority of the northern States. Perhaps, sir, their processes would have been lavish of complaints, and an anathema would have been now and then hurled against the authors of the act. But, Mr. Chairman, from the constitution of our nature, men never quarrel long or fiercely upon mere points of speculation and theory. They may differ ever so much, but their differences are harmless when they are confined to matters of abstract opinion. A controversy about the existence of an atmosphere around the moon will hardly ever lead to blows. It is only when opinion is to control conduct, when something is to be acted upon as well as talked about, that contention becomes eager and fierce.

This, then, was the grave and fatal error into which Congress fell. They apparently believed the Missouri prohibition to be unconstitutional;

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yet their legislation, as I shall presently show, was shaped rather upon the idea of its validity. They declared this prohibition inoperative and void; but they would do so only upon conditions, to which we were required to submit. One was, that slavery, as a legal relation, should not be revived by force of their law, but should depend upon the will of the people who might go into these Territories. The other was, in effect, that no law or regulation relating to slavery, which might have existed prior to the act of 6th March, 1820, should be revived or put in force.

But for this unfortunate fluctuation—I will not call it trimming—the country would have been spared the calamities which afterwards befell us. Kansas and Nebraska would have been settled, quietly and gradually, by peaceable emigrants from the North and the South. If Abolitionists or anti-slavery men had been urged to go quickly to Kansas, that they might outnumber the men of the South, the answer would have been, “why, what can we effect by a superiority of numbers? Has not Congress fixed the condition of the Territory, and can we deprive the southern emigrant of his legal privilege?” And so, had southern men been urged to anticipate the arrival of northern emigrants and prevent a hostile majority of anti-slavery settlers, their answer would have been, “what should we care about that? Shall we not hold our slaves under a higher warrant than the mere will of a majority of the inhabitants? Can they alter the established order and renew a prohibition which Congress has removed?”

But instead of pursuing this wise and salutary course, Congress adopted one which was alike inconsistent with the grounds on which the bill was to be defended at the North, and with the views previously entertained by almost all classes of politicians at the South. It said—of course not in words, but in effect—“the prohibition of 1820, which transformed a slaveholding into a non-slaveholding Territory, was wrong, and it shall not stand. But we will not restore the Territory to the condition in which we found it. We will revoke our interdiction; but whether it shall be renewed or not—whether slavery shall be allowed or not—shall depend upon the people who may go to take possession of the government we are now providing. Run, then, men of the North and of the South. Let us see which shall go first and in greatest numbers. To the swift and to the strong shall the prize be given.”

Sir, is it to be wondered at that, after thus referring such a controversy to the people, there should have been an immediate rush of emigrants to the scene of strife? In a contest to be settled by numbers, was it strange that each party should seek to swell its forces? Was it likely they would be very scrupulous in the employment of means? For what purpose did they go to Kansas? Why, to determine whether slavery should be allowed or prohibited. From the very nature of their mission, it must needs have been that those who went were the zealots and bigots of their respective sections. They went not to confer upon subjects of common interest, but to proclaim a mutual opposition and defiance; and that, too, upon a question so irritating, so associated with rancorous recollections, as hardly to admit of temperate discussion, even in the Halls of Congress. Sir, it ought to have been foreseen, that when they met, they would meet not only as opponents, but as enemies.

Had the Territory been inhabited before a government was made for it, even these mischievous provisions would not have produced the deplorable results that followed. The intercourse of the inhabitants would have brought them into relations of friendship and familiarity. The daily commerce of life, the customary interchange of good offices, a thousand ties, would have bound together men of opposite political opinions; and when, at last, they came to give expression to these differences of opinion, in the making of laws and the regulation of their domestic affairs, they would have differed as neighbors and friends who

knew and esteemed and loved one another. The most extreme party antagonism would have been perfectly consistent with personal good will.

But unhappily we did not wait till the country was inhabited. As I said on a former occasion, when opposing the bill, we planted a government in the wilderness, and then drove a people to take possession of it. Those who went to engage in the strife to which we invited them, met one another, not merely as opponents and enemies, but as strangers. There was nothing in their past intercourse to soften the fierce animosities which stirred them to violence and bloodshed. They recognized each other only as foes; and the rifle and the bowie-knife were, naturally enough, the first arguments used by men whom the law set so far apart that they could not reach one another by the softer appeals of reason. Mr. Chairman, the civil war which followed was the necessary, I may almost say the logical, consequence of these provisions of the Nebraska bill. That civil war was the Nebraska bill in action. Sir, at the instant that these fatal changes were made in the bill, though I had voted with the friends of the measure up to that time, I sprang forward and moved to lay the bill upon the table. From that moment it had no more earnest opponent than I was.

Sir, these objections were such as ought to have been common to all parts of the country and to every variety of political opinion. But let not the northern opponents of the measure take credit to themselves for their course upon it. Let them not boast that they voted against a bill which produced these calamitous results; for it was in deference to their views and wishes, and to conciliate their favor, that the provisions were inserted which caused these results. To them, the sole point of objection was the abrogation of the Missouri compromise; and I have already said that that would have occasioned only a brief and comparatively harmless agitation. The gentleman from New York, [Mr. GOODWIN], who has just taken his seat, could see nothing in the bill which met his disapprobation except the repeal of that compromise. Yet for this cause alone they opposed the bill with warmth and bitterness. Their opposition only stimulated the zeal and ardor of its friends. It should not have been so; but, in the violence of party strife, we too easily persuade ourselves that what our opponents condemn, we ought for that very reason to approve. There are some who, in the words of Iago, “will not serve God if the devil bid them.”

This transfer to the people of the Territories of the entire control and regulation of the slavery question, while it produced convulsions which, at one time, threatened the safety of the Union, was also liable to the very constitutional objections which applied to the Missouri compromise itself. If Congress had no power to prohibit slavery in the Territories, how could it grant such authority to the people of these Territories? How could it delegate to others what it did not possess itself? The government of a Territory is the mere creature of Congress. It is not a self-existent, independent power; it can do nothing which we have not authorized; it can establish nothing which we forbid. In the late decision of the Supreme Court, in the case of Dred Scott, it is decided that—

“Congress may establish a territorial government, and the form of this local government must be regulated by the discretion of Congress, but with powers not exceeding those which Congress itself, by the Constitution, is authorized to exercise over citizens of the United States, in respect to their rights of person or rights of property.”

The northern advocates of the Nebraska bill justified the repeal of the Missouri compromise upon the ground that Congress had no power to pass such an act; and yet they compelled or persuaded us to accept a substitute which, while it was even more mischievous in its practical effects, was as palpable a violation of the Constitution as the act which it supplanted.

It will be seen, sir, that I adopt the construction given to the bill by its northern advocates as the just and true interpretation of its meaning and objects. I know that some of my southern friends

and associates, and particularly my colleagues, are unwilling to admit this construction. They say that the bill gives no power to the people of these Territories to prohibit slavery, as long as they remain in the condition of Territories, but only authorizes them to do so in forming a State constitution, or after they have become a State.

Indeed, sir! Is this, then, all that is included in that great doctrine of “popular sovereignty,” which is said to be the distinctive feature and the chief excellence of the Nebraska bill? Is this the new article of faith which has been adopted with so much ceremony, and with such an air of resolute defiance, into the creed of caucuses and conventions? Why, sir, if this is all that is meant by popular sovereignty, there is hardly a man in the country, and surely not one in this House, that will dispute it. Who has ever denied that a State may establish or prohibit slavery? And what more is involved in the idea that the people of a Territory may exercise this power in forming a State constitution, than that a State itself may do so? When a Territory becomes a State, it is only as a State that its inhabitants can form a constitution. If they are admitted into the Union, the recognition of them by Congress as a State relates back to the time when they formed their constitution. It is a sort of acknowledgment of their independence, and of their independence at the time of making their constitution. If they are not admitted, why then all their acts were simply void, and they formed no State constitution at all, but only something which they wanted Congress to recognize as a constitution. A State cannot make a constitution for a Territory; nor can a Territory make a constitution for a State. Nothing in our political system is more unlike than a State and a Territory. A State gives power to Congress; but a Territory receives it from Congress. A Territory is the creature of Congress; while Congress is the creator of the States. Congress, then, is not the source of any of the powers exercised by a people in forming a State constitution; but it is the only source of all the powers exercised by the people of a Territory. The exclusion of slavery, therefore, by a State, does not imply any such power in Congress; while its exclusion by a Territory would necessarily imply the possession of the power by Congress.

If it be true, then, that the Nebraska bill concedes to the people of Kansas and Nebraska nothing more than the right to exclude slavery when they form their State constitutions, it would, as I said before, only be the concession of a principle which nobody has ever disputed. And yet many of our southern presses stoutly maintain that this is all Congress ever intended to do; they have diligently impressed this idea on the southern mind; and they quote in support of their views two clauses of the Nebraska bill, one in the first section, which provides that—

“When admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.”

The other from the sixth section, providing that—

“The legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act.”

Now, sir, if these were all the provisions of the bill applicable to this question, there would be much force in their conclusions. There is, however, nothing in these two provisions distinguishing the Nebraska bill from other territorial bills. The first may be found in the acts organizing territorial governments for Utah and New Mexico, in the very words used in the Nebraska bill. The intent and meaning of this provision are obvious enough. It was simply designed to pledge the faith of Congress that these future States should not be refused admission into the Union merely because of their allowing or prohibiting slavery in their constitutions. The other may be found not only in the Utah and New Mexico bills, but, I believe, in every other bill establishing a territorial government.

But there is a further provision in the Nebraska bill, to be found nowhere else. It distinguishes that bill from every other territorial enactment. It is impossible to escape the force of its language. We cannot give it a special application to the forming of a State constitution; for the first section provides for that. We cannot regard it as a description of the general legislative power of the Territory; for the sixth section provides for that. It can be viewed in no other light than as a license or permission to the people of the Territory, *while a Territory*, to establish or prohibit slavery; and as I shall presently show, if this power cannot be properly exercised by the people of a Territory, it is not because it was not granted in the bill, but only because, under the decision of the Supreme Court, you had no right to grant it. This is the clause to which I refer:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

It was "the true intent and meaning of the act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but"—but what?—"to leave the people thereof"—what people? Why, the people of any Territory or State—"perfectly free to form and regulate their domestic institutions in their own way." What domestic institutions were here intended? Why, among others, that institution which we of the South are accustomed to speak of as our most important domestic institution—the institution of slavery. Who will deny that slavery was one of the domestic institutions which the people of any Territory or State were left perfectly free to form and regulate in their own way?

Ah! but I am sometimes told that this power, as expressly stated in the bill, was granted "subject only to the Constitution of the United States;" and that if its exercise is not consistent with the Constitution, why, then the grant was void; that such a power is not consistent with the Constitution, and, therefore, the grant was not operative or effective; and that Congress, waiving any decision of the constitutional question, intended to submit it to the courts of justice.

Mr. Chairman, every act of Congress is subject to the Constitution. If Congress expressly declare that it shall not be subject to the Constitution, it will be so nevertheless. If they say it shall be subject to it, they do not make it more so than if they said nothing about it. To suppose that such a declaration has any effect at all, is to imply that on some occasions Congress may properly direct that their acts shall not be subject to the Constitution. The expression, therefore, in the most favorable view we can take of it, was wholly without meaning or operation. To me it appears absolutely childish. It reminds us of Dr. Johnson's conditional prayer for the soul of his deceased wife—"if it were lawful."

But, sir, the doctrine involved in this excuse is as mischievous as it is unsound. What right have Congress to waive the consideration of their constitutional authority to do what they propose? Are not our powers defined and limited by the Constitution? And are we not required to take an oath to support it? Are we not as much bound to keep ourselves within the limits of the Constitution as the courts of justice are to keep us there? Are the courts themselves under greater obligations to support the Constitution than we are? I protest against this doctrine that an assumption of ungranted power may be innocent, and even laudable, if we express a willingness that our acts may be annulled when declared unconstitutional. Upon such a principle, what might we not do? We could charter a national bank, subject only to the Constitution; we could lay a duty on exports, subject only to the Constitution; we could grant a title of nobility, subject only to the Constitution. What an easy method for indolent legislators! How much labor and anxiety would be saved in the examination of difficult questions of constitutional law! But, sir, it was the very object of the Constitution, in requiring of us the oath we take, to confine us within the limits marked out for us, and restrain us from going beyond them whenever we might have a mind to do so.

But, Mr. Chairman, let me dwell a little longer on this branch of the question. It is admitted

that if Congress has this power, it is granted by the bill. If not, then it is said it is not granted. Then it follows that the words or terms of the law make this grant to the people of these Territories; and if it is not a valid grant, it is only because it is an unconstitutional one. But, sir, how is it ever to be known whether it is a constitutional grant or not? Why, sir, that can never be determined unless these people should undertake to exercise the power delegated to them. If they never claim it, or use it, no opportunity would ever be afforded for testing the question; and thus the very object attributed to Congress by the friends of the bill would be defeated—which was, to submit the question, in the last resort, to the courts. The Territorial Legislatures, then, the inferiors of Congress, were to decide upon the extent and constitutional validity of the grants made by Congress—a subject of too much difficulty and magnitude for Congress itself—and to exercise powers which Congress could not satisfy itself of its own right to use. If they should pass laws excluding slavery, and no question were raised as to the validity of such laws, why, then judgment would go against the South by default, and Kansas and Nebraska would be free-soil Territories. But, of course, such legislation might be contested. The owners of slaves might bring their claims before the courts. But is it certain that they would do so? How many would be willing to carry slaves to Kansas, and brave the hazards and vexations, and the great expense of a protracted law-suit? Why, sir, more than thirty-five years elapsed after the passage of the Missouri prohibition before its constitutionality was contested before the courts of justice.

But suppose a case properly made up and submitted to the judges. From my observation of the judicial character, I think they would decide it, and decide it upon all the views that belong to the subject. But, should they refuse to sift the authority of Congress, under the Constitution, to delegate the power in dispute, and, from deference to the legislative body, affirm the validity of the law; should they too "waive" the constitutional question, would you have any right to complain? You may tell me they have sworn to support the Constitution, and that it is their duty to decide the question. But have we not also taken this oath? And if we may refuse to inquire how far we are laid under restraints by the Constitution, in the discharge of our duties, why may not they?

But, Mr. Chairman, it is a novelty in legislation to make laws with express intent that their meaning and validity shall be canvassed by the courts of justice. Who ever heard before of laws being framed with a view to drive the people into the courts? It should be the object of all laws to keep them, if possible, out of the courts. To attain this end, the most exact and precise language should always be employed, and the legislative intent clearly expressed. Courts are designed for the punishment of those who, either from willfulness or ignorance, disobey the law; and it is the duty of the law-maker to take away any excuse for this disobedience, by a clear expression of his meaning, and, above all, by refraining from the exercise of doubtful and illegal powers that may tend to provoke resistance.

This notion that the courts have an exclusive or superior power to determine all constitutional questions, if not ancient Federalism, was certainly not a part of the creed of ancient Republicanism. If it is intended to ingraft it on the faith of the Democratic party of the present day, I can only enter my humble protest against it. President Jackson properly said that he must administer the Constitution as he understood it; and the duty of Congress is not less imperative.

I have thus, Mr. Chairman, attempted to show that the construction given to this bill by its northern supporters, and, indeed, by many of its southern advocates also, is the only one that its language will admit. But in denying, as some of the southern members have done, that it authorizes the Territorial Legislatures to exercise the powers in question, do they not see that they deprive themselves of all excuse for having voted for the bill? For if the Territories cannot legislate for the establishment or exclusion of slavery, how can slavery ever go there, so long as they remain Territories? Congress, in annulling the Missouri compromise, expressly declares that it is

not to be understood as legislating slavery into any Territory or State, or excluding it therefrom; but as leaving the whole subject to the people, in the words I have just quoted. Now, if this only authorized them to act upon this subject when they frame a State constitution, and not before; and if, by the clause known as the "Badger proviso," no law or regulation which may have existed prior to 1820, establishing or protecting slavery, is to be revived or put in force, how is it possible that slavery can ever get there, until, as States, they may choose to establish it? Congress will not introduce it. So far from it, they disclaim any such intent, and provide that the former laws shall not be revived or put in force. Don't tell me that the constitution establishes slavery there, for I am speaking of the effect and operation of the Nebraska bill, not of the constitution. I say, that if slavery exists there now, it is in spite of all that the Missouri compromise and the Nebraska bill have done to prevent it.

But how can gentlemen deny that the bill delegated the power to establish or exclude slavery, when it is known to almost every man in the country that the people of Kansas have been in the open exercise of this power ever since the passage of the law? If, in their territorial condition, they had nothing to do with the subject, for what purpose were men sent out from Massachusetts and other northern States, and from Virginia and other southern States? What was the meaning of those earnest appeals and those contributions of money to quicken the emigration to Kansas? Was there nothing to be done? Were no votes to be given? Was there no contest to be decided? Ah! but gentlemen may tell me that the people of Kansas might pass laws, as they have done, in favor of slavery, but could not make any against it. Indeed! Then, when these people were authorized to form and regulate their domestic institutions in their own way, it was intended that they were to do it only in one way, and that was to be not their own way, but our way—the southern way.

No, Mr. Chairman, it is vain to deny that the construction I have given to this clause in the Nebraska bill is the only one it will bear. The force of its language was fully appreciated by southern statesmen only a few years ago. Sir, are you curious to know the origin of this language? We need not go far to find it. It is covered with none of the venerable rust of a remote antiquity, although it has come to be regarded with so much reverence as to be a test of political orthodoxy. It was only in June, 1850, that Mr. Douglas, of Illinois, in opposing the clause in the compromise bill which provided that the territorial governments should not legislate respecting African slavery, and urging that it should be stricken out, because, as he said, he did not want "to perpetuate any institution against the will of the people," uttered this sentiment: "I wish to leave them free to regulate their own institutions in their own way."

To be sure it was a very terse and pointed remark; but we did not then know that this part of Mr. Douglas's speech was a few years afterwards to be enacted into a law. When it was the private sentiment of a single Senator, it did not command the approval of his southern associates. Nay, sir, it was resisted with extraordinary earnestness, and almost with virulence. They insisted on retaining the clause which expressly forbid the Territorial Legislatures to pass any law establishing or prohibiting African slavery. This clause he moved to strike out, and only two southern Senators, Mr. Clay and Mr. Underwood, voted for his motion, while twenty-five voted against it. I cannot resist the desire to read their names. They are Messrs. Atchison, Badger, Bell, Benton, Berrien, Borland, Butler, Clémens, Dawson, Downs, Foote, Houston, Hunter, King, Mangum, Mason, Morton, Pearce, Pratt, Rusk, Sebastian, Soule, Spruance, Turney, and Yulee. What a proud reflection it must be for the Senator from Illinois that he should, at last, have succeeded in stamping his pithy little saying upon the statute-book of his country, not only in spite of the opposition of the most eminent statesmen of the South, but with their approval, and by their help; and still more, that they should be now so charmed with it as to insist on making this newborn truth a touchstone of fitness for public station. It was proper that General Cass, too, should

partake of this triumph; and it was not strange that, denounced as he had been in the South for the utterance of similar sentiments in his Nicholson letter, he should seize the opportunity presented by the debate on the Nebraska bill to tell us of his perseverance, and exult over his success. He said:

"These bills organizing governments for Nebraska and Kansas grant full legislative power to these Territories over all questions of human concern, including slavery, unless restrained by the Constitution of the United States." *

"This doctrine of the right of the people to legislate for themselves, was, what more than any other, provoked denunciation. It was pronounced by Mr. Calhoun to be the most monstrous doctrine ever advanced by any American statesman."

"Another able and eminent southern Senator considered my opinions so extreme on this point that he said I was the only man who entertained them in this Chamber, or almost beyond it; and in the compromise committee of thirteen it met with little favor, though zealously urged." *

"I am gratified at this occasion of rendering justice to the consistent course of the Senator from Illinois, [Mr. Douglas], upon this momentous topic. He was found on the right side, and his opinions were expressed with equal firmness and clearness. 'I have always held,' he said, 'that the people have a right to settle these questions as they choose, not only when they come into the Union as a State, but that they should be permitted to do so while a Territory.'"—February, 1854.

Sir, if I, too, did not yield to the influences which produced such changes in the minds of those whose authority I have been accustomed to respect, it may be only an argument of my own insensibility. I do not question the sincerity with which they were submitted to by others. All that I say is, that I simply retained the views which, before that time, we seemed to hold in common. If, considering the force of the mighty wave which then swept over us, I may feel surprise at my own steadfastness, I yet feel no regret. I rejoice, indeed, at the course I pursued; while I acknowledge the pain with which I differed from so many of the representatives of the South.

It may be that, in my humble position, overshadowed by loftier intelligences, the light of this doctrine, so lately risen above the horizon, has not yet reached me. But I protest against the attempt to take from Congress its proper control of the Territories of the United States. Call it by what name you will, territorial sovereignty, popular sovereignty, or squatter sovereignty, I oppose and resist it. What belongs to all the States cannot be withdrawn from their management by any body of emigrants who may go from any of them. Territory may be acquired by the Union for high purposes of State. The general welfare may demand that it be reserved for uses wholly different from those to which the inhabitants might wish to apply it. Must the national will be defeated? Must the public interest, and, it may be, the public safety yield to the caprice or selfishness of those who can claim no other right to govern us than that we have suffered them to dwell upon our lands? No, sir. It is both the right and the duty of the States, acting, as they can only act, through their representatives in Congress, to restrain and govern them. We may concede to them some of the powers of government, and allow them to provide for their own welfare. But they take them only as a grant from Congress. They can do nothing which we are not authorized to do; and it is not always fit that they should be allowed to do what the Constitution may not restrain them from doing. We cannot tell what sort of people may inhabit these Territories. Bad men may pass laws to give a sanction to their own vices; and depraved women may call their wickedness religion. Licentiousness the most disgusting, blasphemy the most daring, crime the most atrocious, may impudently demand to be tolerated and protected as established domestic institutions. What are we to do in this case? Must we regard these evil-doers as separately possessed of his distributive share of the general sovereignty, and therefore free to do as he pleases? Must we let the reputation of our country be tarnished in the sight of the world? Must we become a byword and a reproach among the nations? No, sir; we should, at once, exert our authority and apply the correction. This is the principle which has always been acted upon. In every act establishing a territorial government it is expressly provided that the laws of the Territorial Legislature shall be submitted to Congress for revision, and if disapproved, shall be null and void. But in the Kansas-Nebraska bill we may look in vain for such a clause. It might once have

been seen there, but, on the motion of Mr. Douglas, it was stricken out. When these Territories were authorized to form and regulate their domestic institutions in their own way, it was doubtless very consistent that they should be relieved of their subjection to Congress, and made "subject only to the Constitution of the United States."

Having considered, Mr. Chairman, and at greater length than I intended, the character and consequences of the first of the two conditions upon which Congress consented to annul the Missouri compromise, I propose to notice, more briefly, I hope, the other condition, the objections to which belong more particularly to the South. I refer, of course, to what is commonly known as the Badger proviso. It provides—

"That nothing herein contained shall be construed to revive, or put in force, any law or regulation which may have existed prior to the act of 6th of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

The effect of this provision I discussed, at some length, before the passage of the Nebraska bill, and I do not intend to repeat the arguments which I then used. But the late decision of the Supreme Court, in the case of Dred Scott, has given a point and significance to my objections, which they were not admitted to have before; and I wish to view this proviso in the light of that decision.

The territory ceded to the United States by France, in 1803, was, as we all know, a slaveholding country throughout its whole extent. The institution of domestic slavery was recognized and established by law before we acquired it. It was confirmed and sanctioned by the treaty with France, at the moment we acquired it, and was protected by several congressional and territorial enactments afterwards. It would have continued a slaveholding country to this hour—a country in which slavery or involuntary servitude was a fixed and legal relation between persons—but for the passage of the act of the 6th of March, 1820, known as the Missouri compromise, by which it was enacted that in so much of it as lay north of 36° 30', slavery and involuntary servitude should be forever prohibited.

This simple prohibition is all that Congress then thought it necessary to do to exclude slavery from that country. It is all that was ever done until the passage of the Nebraska bill. If, then, slavery was ever abolished there, it was by that act of 1820, and nothing else. If it was not, and could not be, rightfully and constitutionally abolished by that act, then it never was abolished at all; for that was the only act which undertook to prohibit it.

Now, sir, the Supreme Court of the United States has lately decided that the prohibition in that act was unconstitutional, and utterly null and void; that it was wholly nugatory, and without any valid force or effect. This being so, the territory continued to be a slaveholding country; slavery, or involuntary servitude, continued to be an established and legal relation between persons; and would have so continued to this day, but for the passage of the Kansas-Nebraska bill in 1854. If the Nebraska bill had never passed, then, as soon as the judgment of the Supreme Court was made known, declaring null and void the Missouri compromise, which was the only impediment that had ever been thrown in the way of the slaveholder, the right to hold slaves would have been secured by existing laws to the same extent precisely as before the passage of that act. But the Nebraska bill undertakes to annul those laws, by providing, in the language I have just quoted, that they shall not be revived or put in force. In other words, the effect of the judgment of the Supreme Court was to annul the Missouri prohibition absolutely, and without any conditions; while the Nebraska bill imposes upon the South very hard and unfavorable conditions. And yet this bill has been supposed to flatter southern opinion and advance southern interest.

Why, sir, now that the Supreme Court has decided the Missouri compromise to be unconstitutional, their decision is of no practical value to us whatever. If we go to Nebraska and say, "here, under the judgment of the Supreme Court, may we hold our slaves in security and find adequate laws for our protection?" we shall be told, "softly, gentlemen; it is true that that judgment has annulled the original prohibition which legislated slavery out of the Territory; but you forget that your own Nebraska bill expressly declares that

it was not your intention to legislate slavery back again into the Territory. You forget that your own Nebraska bill, to put that intent beyond all doubt, prevents the revival or putting in force of those very laws whose protection you are now counting upon. You forget that your own Nebraska bill leaves it to us, the inhabitants of the Territory, to say whether those laws, or any other laws, for your protection, shall be revived or put in force; and we have not thought it proper to revive them, or put them in force. We shall let them sleep on."

If we go to Kansas we shall find that there—yes, there, after a fierce and desperate struggle, involving the most deplorable sacrifice of property and life, estranging the people, and threatening even the destruction of the Union—we have succeeded in getting back to the position which we voluntarily abandoned a short time before; but only to find ourselves surrounded with such circumstances of embarrassment, uncertainty, and danger, that our very victory has almost undone us.

Gentlemen may tell me, as some gentlemen have told me, "how could we know that the Supreme Court would decide the Missouri compromise to be unconstitutional?" Gentlemen may tell me that I am attempting to justify my vote against the Nebraska bill by relying upon events which had not then happened, which were not then known, and which could not be then foreseen. I know, sir, that it is no uncommon thing to excuse a false step in statesmanship by seizing upon an unexpected accident which converts the blunder into a happy stroke of policy. But, fortunately, I am enabled to show that it was not the decision of the Supreme Court which first suggested to me those objections to the Nebraska bill which I am now presenting; that these very objections formed a part of the considerations which influenced my course; and that they were, in public and open debate, communicated to the House. On the 10th day of May, 1854, the gentleman from Georgia, [Mr. SEWARD], now before me, in the course of a very candid speech upon the bill, in which, while he pointed out with great clearness and force many objections to it, yet declared his purpose to vote for it, made this request of me:

"I ask the gentleman from Virginia, [Mr. MILLSON], who spoke the other day in opposition to this bill, to tell me, and tell the committee, how the passage of this bill could work an injury to the South?"

"Mr. MILLSON. Does the gentleman wish a reply?"

"Mr. SEWARD. I do."

"Mr. MILLSON. As the gentleman desires that I should reply to his inquiries, I will, with pleasure, accede to his request; of course, I can now say but a few words. In the remarks to which the gentleman alludes, I commenced by showing that the South had always been in opposition to the organization of a government in Nebraska. I explained, to some extent, the reasons which had induced southern gentlemen to oppose the establishment of a territorial government there. I then stated that inducements were found necessary to be held out to us to overcome these objections. It was supposed that a repeal of the Missouri compromise would remove them. I undertook to examine into the real weight and value of the inducements held out. My purpose was to show that, under the operation of the Badger proviso, the seeming repeal of the Missouri compromise would be nullified, and that the restriction would still be in operation. And now I will state how, as I understand it, the South will be injured by the passage of this bill with that proviso, to a greater extent than by the continuance of the Missouri compromise itself."

"Mr. SEWARD. That is what I want to know."

"Mr. MILLSON. I will tell the gentleman. The Missouri compromise simply prohibited slavery in the territory north of 36° 30', but did not undertake to repeal any law, either of Congress or of the Territorial Legislature, by which slavery had, before that time, been protected there."

"Now, sir, if this Missouri compromise act should be declared to be unconstitutional, as many gentlemen maintain it is, then these laws protecting slavery would immediately be put in force again, because nothing now interferes with them but a law which, by the supposition, is unconstitutional and void. But the Badger proviso, in effect, keeps up the Missouri restriction, and repeals the preexisting laws by which slavery was protected in that territory, by providing that they shall not be put in force. Whatever may be thought of the constitutionality of the Missouri compromise act, no one can doubt the constitutionality of the Badger proviso, to the extent of its application to the legislation of Congress and the territorial government. No man can doubt that Congress have the power of repealing laws already made by themselves, or by their authority. In this state of the case, therefore, the Missouri compromise, if declared unconstitutional, would leave the laws protecting slavery in full force, while the Badger proviso would repeal those laws, and therefore operate more injuriously to the South."

Sir, is it not strange that the advocates of the Nebraska bill, who excuse all that is unconstitutional in their own measure, by saying it was intended to refer it to the decision of the courts, should not have seen that the easiest way of set-

ting the question of the power of Congress over slavery in the Territories, was to subject the Missouri compromise itself to the decision of the courts? What was the use of passing a new law for the purpose of raising a question for the courts, when the very same question was presented by a law already existing? If southern gentlemen supposed that this question would be decided against us, what did they expect to gain by the Nebraska bill? If they believed it would be decided in our favor, as they say they did, and as it lately has been, how could they overlook the disadvantages of the new bargain they entered into, in annulling all the laws which had protected slavery, and in surrendering the institution itself to the hazards of a popular majority? Well might Mr. Hunter, of Virginia, say, in his letter to Mr. Leake, last October, that the "bill was not such as would have been framed by the delegates from either section, if it had been submitted to them alone." Yes, sir, it was a **NEW COMPROMISE** to supplant an old compromise. It was the Missouri compromise superseded by the Nebraska compromise; and I trust I have shown that the new was even more disadvantageous to us than the old. How long it will be before this will, in its turn, be superseded by some more modern contrivance for making everybody support what nobody is in favor of, of course I cannot tell.

[Here the hammer fell.]

Mr. CHAFFEE. Mr. Chairman, my constituents have grave objections to the admission of Kansas under the Lecompton constitution; and they expect at my hands, as their Representative, an honest expression of their views. This must be my excuse for trespassing upon the time of the House on this occasion.

The history of the Territories of the United States that have passed through the period of their gristle and growth to maturity, and become sovereign States, forms an important study for the statesman of the present day. When we reflect that since the present organization of our Government, now but sixty-nine years, we have added more to our territorial limits than they then possessed; and that from it have grown eighteen sovereign States, with a population now of fifteen or more millions, and whose wealth reaches the enormous sum of two thousand million dollars, their importance becomes apparent; and especially is this importance enhanced and exalted when we reflect that the peopling of our present Territories, to say nothing of our future acquisitions, is not half accomplished. We have now remaining more territorial space unorganized by any government than as yet occupied; and yet the American mind and heart seems not to grasp these future commonwealths in their importance or their destiny.

At the present hour, there are three of our Territories ready for admission into the family of States, on the same terms of exact equality with the original thirteen. Why do they ask this, and why should we, the Representatives of the American people, admit them within the pale of this Union? They ask this, because of their affection toward the people from whom they emigrated, when they exchanged the refinements and cultivated society of the older States to seek to better their condition among the sturdy sons of the frontier; and because such, they understand, is the fulfilling the compact made with the inhabitants of the Territories, even before the adoption of our present Constitution, and guaranteed and indorsed by the makers of that instrument in the first session of Congress held under it. They have kept the compact on their part, and they come back to us, the Representatives of the whole American people, and ask us to keep ours.

I have intimated that the history of our territorial possessions and governments was an important study to the statesman of to-day; and I have hinted at the reasons for this importance. And yet the President, in his message to this House on the 2d day of February, has apparently never read the early history of the Territory of Kansas! The earliest date of his historic facts goes no further back than the formation of the Topeka constitution. All that preceded this instrument was in *black letter*, and hence antiquated, and so unsuited to the dignity and genius of this "Young America" Administration, or of so little importance as to escape recollection or notice of the Chief Magistrate. With all due deference, and with pardon, I cannot agree with the President

that this history is of no consequence; on the contrary, I think it is of such vast importance that there can be no right appreciation or understanding of the affairs and true condition and aspect of its interests and hopes, unless these facts, that to the President's mind lie buried in oblivion, are continually held up to the public gaze, that their light may help us to interpret all subsequent facts.

Why, I ask the President of the United States or his friends who sustain his message—why did the people of Kansas adopt the Topeka constitution? Was it to "organize rebellion," as the President intimates? Was it the result of a fixed and settled determination to live the lives of lawless freebooters, in violation of all law, human and divine? Was it a feverish restlessness impatient of wholesome restraint, with a desire to live, on the part of a *whole* people, Ishmaelitic lives, with their hands against every man, and every man's hand against them? Surely this cannot be true. The belief would, if possible, be more monstrous than the document that insinuates it. Men who desire to lead lives of lawless violence do not commit the folly of placing themselves voluntarily and by choice under written law. They ignore all law, and treat with contempt its officers. I respectfully submit that such has not been the fact with the people of Kansas, who constructed and adopted the Topeka constitution.

The bill organizing the Territory of Kansas became a law May 30, 1854; and has proved the author of "all our woes." In the month of October following, Governor Reeder arrived in the Territory, and ordered an election for a Delegate to Congress. This election was held on the 29th day of November of the same year. At this election General Whitfield received 2,258 votes, 1,729 of which were found to be illegal; or, in other words, were placed in the ballot-boxes by persons not residents of the Territory, but by persons living in an adjoining State, who kindly volunteered their sovereignty to their friends in the Territory for the purpose of the franchise. Here, then, it seems, we have a beginning; and I respectfully commend to the perusal of the President House Document No. 200 of the first session Thirty-Fourth Congress. In January and February, 1855, the then Governor of the Territory caused a census of its inhabitants to be taken; and, as its result, it was found that 2,905 men were qualified to vote for a Territorial Legislature; and, on the 30th day of March, the election for members was held. The result of that election showed, not that the whole 2,905 voters had deposited their votes, or that a large portion of them had done so, but that, within one month of the completion of the census, the vote was swelled to the number of 6,309—pro-slavery votes, 5,429; free-State, 791; with 89 scattering, in all, 6,309: legal votes cast, 1,410; illegal votes, 4,900. Now, where did these illegal votes come from, and how did it happen that they were cast? I answer, they came from the border counties of Missouri, and were forced into the ballot-box by *violence and fraud*. I have not time to quote the proof on this subject, but must beg the President and his admirers to consult the document above quoted, and I will promise them they will find it rich in historic lore, and that it sheds a flood of light on this dark era in the history of Kansas. Why, sir, if we are to believe this document—and who can disbelieve it?—Kansas has already a history crowded with events that will pale the ineffectual lights of many of the old States.

The men, thus elected, assembled in the place indicated by the Governor and proceeded to business, and without stopping to characterize the result of their labors as history will do when she comes, after the passion and excitement consequent upon the questions of the times shall have subsided, but simply remarking in passing that the Code of Draco were mild in comparison, we come at once to the Topeka convention and the Topeka constitution. This reserved right of all free people was not resorted to till all expectation of obtaining a recognition of their just claims, by the usurpers of their government, had been hopelessly abandoned. So far from allowing them to redress their grievances through the ballot-box, they were systematically and persistently shut out from this means of redress. Test oaths were required of them, and even if they had possessed the meanness and cowardice to submit to their

imposition, they had no guarantee from the usurpers that violence should not again be brought into requisition, nor that the inhabitants of the border counties would not again be emptied upon them. In this condition, and from this exigency sprang the Topeka convention, which produced the Topeka constitution.

I call especial attention to the fact that this constitution, which marks the era of the President's historical knowledge on the subject of Kansas affairs, was entirely *provisional* in its character—*wholly and absolutely provisional*; that it has never *assumed or exercised* any of the powers of an actual government, but has simply held its organization in readiness, in case of its being sanctioned by Congress; or, failing in that, in the alternative of the people being driven to a forcible resistance to the foreign usurpation and despotism designed to crush them out, and which might become too intolerable to be submitted to. This is the whole of this Topeka constitution. True, officers were elected under it—a Governor, a Legislature, &c.—but if they ever attempted the functions of these offices, where is the proof of it? I deny the charge, and demand the proof. What act is overt here? None. Nor can the President specify.

The complaint of the President against the people of the Territory, for the formation of the Topeka constitution, is not without its parallel in the history of this country. The same complaint was once made against the colony of Massachusetts, by George III. He had attempted to bring that colony to terms of submission by repealing the charter, and thus destroying the colonial government. But to his utter surprise and consternation, with that of British statesmen generally, the colony did not seem to be affected in the slightest degree. Her voluntary associations, through her committees, commanded and received the *obedience* of the people, to a degree to which the hitherto colonial government was a stranger; and this without the bustle and bloodshed of a revolution, but springing spontaneously from the people. And, sir, it is *obedience* that makes a government, and not the formalities by which it is instituted, or the name by which it is called. Do the people prefer, and will they yield a more cheerful obedience to, the Topeka constitution? Then it is the best constitution for the people of Kansas. And yet the President characterizes this whole Topeka movement as a *rebellion*; and all objection to the rule and reign of the usurpers as "open defiance of the Constitution and laws." What constitution? What laws? But here is what the President says of the message of the Governor under the Topeka constitution:

"The very first paragraph of the message of Governor Robinson, dated on the 7th of December, to the Topeka Legislature, now assembled at Lawrence, contains an open defiance of the Constitution and laws of the United States."

Well, what does that wicked Governor say, in such a *defiant tone*, against that palladium of our liberties—that hope of the struggling millions of earth's imbruted sons—our glorious Constitution? And here the President quotes him in all his diabolism of purpose and language, as a warning to the froward, and an encouragement to the faithful:

"The Governor says: 'The convention which framed the constitution at Topeka originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote, and also indirectly through two elections of State officers and members of the State Legislature. Yet it has pleased the Administration to regard the whole proceeding revolutionary.'"

Here, then, we have the Governor's wicked, treasonable, and rebellious "defiance of the Constitution and laws of the United States;" and it is "open!" Not secretly, as if the grace of shame, and some slight compunctious visitings of conscience, were left him; but "open" and exposed to the gaze of an astonished world, and the President of the United States. But this is not all, nor indeed the worst feature in this Topeka movement; for the Governor, under this constitution, not only "openly" defies the Constitution and laws," but they—that is, the Governor and his friends—"adhere" to it. The President says:

"This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government prescribed and recognized by Congress."

Now, Mr. Chairman, the President has made a discovery of one of two things—either a new kind of "treason," or of "pertinacity." To adhere to the Topeka government with some kind of "pertinacity," I suppose would not be incompat-

ible with its running parallel with "the existing government prescribed and recognized by Congress;" but to adhere to it with such "*treasonable pertinacity*!" brings it into "direct opposition" to it. But what government has "Congress prescribed" for Kansas? I had thought that under the *new, improved patent* for governing the territories, they (the Territories) "were to be left perfectly free to form their own institutions;" that Congress had no *prescriptions* to make, and if they did, the patient was under no obligations to swallow them. So that these men are standing upon their reserved rights and the "organic law." They have simply taken the Government at its own words, and proceeded to "form their own institutions in their own way," and not in the way of any other men, or *body* of men. But the President argues in his message that *their way* is "illegal," "revolutionary," "rebellious," and "treasonable." I answer, if the people of the Territories are to be left "*perfectly free*," whose office is it to interfere to prevent them from exercising that "*perfect freedom*?" Such interference is a violation of the spirit and letter of the Kansas act, that was passed as a great "*pacificatory measure*," that was to bring peace to a distracted country! that was to be the harbinger of good will throughout the Republic! the angel of that political millennium that would bring healing upon his wings! And he who should intervene to arrest or disconcert the people in their freedom in "adjusting their institutions in their own way," would be held justly responsible for all the discord and ill feeling that might follow by that great party of patriots, sometimes known as the African Democracy of the country.

Sir, I am aware that the gentleman from Indiana, the other day, filed a *caveat*, on the principle of popular sovereignty—or upon his "improvement," and I hardly know which. The improvement, if that is what is intended, the committee will recollect, was, that the people of his State did not understand popular sovereignty till after the last presidential election. I question whether this is patentable, for I doubt both its novelty and utility; and I think he might have saved himself all trouble in the premises, so far as this side of the House is concerned, for I know of no one here who has any ambition to be the champion of such a monstrosity as this popular sovereignty has shown itself to be, as defined and illustrated by the Democratic party for the last four years. No, sir, we are none of us, I trust, "ambitious for ridicule," none of us "absolutely candidates for disgrace," as we should most assuredly attain, were we to attempt the championship of this hybrid. No, sir; but we propose to hold you to the letter and spirit of the *bond*. Give to these people what you promised, for the contract canceled in which they were to be benefited. "Give them the bond."

But, Mr. Chairman, the whole argument of the message seeks to establish the *wickedness* of the people of Kansas in resisting the usurpers of her government; but it attributes their wrongheadedness to their devotion to the Topeka constitution, and not to a fixed and settled determination not to submit to be ruled by a foreign, invading force. This drift of the message is easily accounted for by the fact that its author was ignorant of the history of events in the Territory prior to the Topeka convention. Had he been as well versed in that history as the members of this House, he would never have fallen into this "grave error;" but he would have seen in their action much to admire, and less to condemn. It has been suggested, by one who believes in "compromises," that the statute of limitation should, by common consent, be allowed to expire on the President's recollection of facts prior to the Topeka convention. But the President's remedy for the existing difficulties is not only a remedy, but a punishment, upon these offending citizens of Kansas; and, sir, I respectfully suggest that the punishment is vastly disproportionate to the crime alleged. To force upon an unwilling and patriotic people a constitution that they loathe and abhor in all its details, for the crime of loving another as much as they loathe this, is cruelty, is tyranny, is despotism.

Sir, the President does not seem to realize that he charges a *whole people* with crime. If it be true that the people of Kansas are rebels against the Constitution and laws of the United States, why

has he not crushed it out? Has it been for want of a disposition? He has certainly shown a zeal worthy of a better cause, in sustaining the government of the usurpers. Has it been for want of means? He tells you himself that he has detained the United States troops in Kansas, as a *posse comitatus*, to put down rebellion, and we all know he has exposed a small number of the bravest men that ever bore arms to the frosts and famine of a Rocky Mountain winter, as well as to annihilation by the Mormons of Utah. He has not attempted it simply because he could find no circumstance upon which to hang a *spectious justification* of such action. Why does not the President bring them to trial for their treason? Sir, I am here reminded of a passage which occurs in the speech of Burke on the conciliation of the colonies, delivered in the British House of Commons, March 22, 1775. George III. made substantially the same complaint against the people of the colonies that the President now makes against the people of Kansas. One of the modes proposed by the Ministry, in the name of the King, to dispose of this spirit of rebellion, was, to prosecute it in its *overt acts*, as criminal. In answer to this proposition, Mr. Burke said:

"At this proposition I must pause a moment. The thing seems a great deal too big for my ideas of jurisprudence. I should seem, to my conceiving of such matters, that there is a very wide difference in reason and policy, between the mode of proceeding on the irregular conduct of scattered individuals, or even of bands of men, who disturb from time to time the State, and the civil dissensions which may, from time to time, on great questions, agitate the several communities which compose a great empire. It looks to me to be narrow and pedantic to apply the ordinary ideas of criminal justice to this great contest. I do not know the method of drawing up an indictment against a *whole people*. I cannot insult and ridicule a whole people. I am not ripe to pass sentence on the gavel public bodies intrusted with magistracies of great authority and dignity, and charged with the safety of their fellow citizens upon the same title that I am. I really think that for wise men this is not judicious; for sober men, not decent; for minds tinctured with humanity, not mild and merciful."

Sir, I commend these views, so sound, so just, so patriotic, so statesmanlike, to the President and his advisers; to the great party with a hitherto invincible name, I commend these sentiments, and I warn them not to push these people till endurance shall cease to be a virtue. The people of Kansas are called *rebels and traitors* by those high in authority, with a readiness that seems to argue but slight obliquity of political action. So were the men of the colonial period, and they were attempted to be dragooned into submission. On the 1st of October, 1768, two regiments of British regulars were landed in Boston: to do what? To protect the royal Governor, to aid him in executing the laws. For two years, now, the regulars of the United States have been in Kansas to protect—not a royal Governor, but a presidential Governor; to aid him in executing the laws. What laws? In the first instance, the laws forced upon the colonies, against their consent, and without their representation, in the last laws passed by a *usurping Legislature*, elected by fraud and violence, and in which the people of the Territory were not represented.

Sir, the people of Kansas are termed a lawless, and order-hating people, because they refuse submission to the government of a foreign invader; but, to me, their quiet, their patience, their hoping on and hoping still, amid all their discouragements, are amazing. There is but a single instance in our country's history that affords a parallel, and that instance is found in the patience, endurance, fortitude, and indomitable courage, of the people of Boston, from the landing of the British soldiery in her streets to the firing of the first gun that ushered in the morning of the Revolution. The people of Kansas can well afford to be both patient and long-suffering in the cause of great constitutional and inalienable rights; for their fathers have covered their names with immortal glory in the same cause; and it is but right and natural that the children should imitate the parents and share their glory.

Sir, the national Administration has arrayed itself against the people, and with their invaders, usurpers, and tyrants. Against a *people* always patient, patriotic, and peaceful; and with their invaders always rapacious, domineering, and insolent. Not only has the Chief of this national Administration taken this ground in his recent message, but practically in his appointments to territorial offices. What man, sympathizing with

the great mass of the citizens of Kansas, has ever received a commission at the hands of the Executive? Not one. What *penalty* has been meted out to the invaders of their soil, and that great palladium of popular liberty, the ballot-box? They, sir, have been the recipients of Executive favor and patronage! Their usurped authority and power have been confirmed by the Executive edict, enforced by the cannon and bayonets of the Federal troops: all this has been done on the soil yet wet with the blood of the martyrs of the Revolution—on the only soil consecrated to popular liberty, and sealed by the death of its heroes. And, sir, the President fully *indorses and defends* the shameless frauds against the people, by promptly discharging from office the men who expose them.

In a controversy of this character—involving, as it does, all that honest liberty-loving men hold dear—I plant myself on the side of the people, and join them in their "holy war" against this giant iniquity, against this high-handed wrong; on the side of a *whole people*; a people of free white men, highly intelligent, cultivated, and patriotic, going from all the States of the Union to plant the institutions of peace for themselves and their children, and desiring only to be secured in the simple enjoyments of peace and tranquility in their domestic pursuits. With these people I choose to cast my lot. I know that against me and them is arrayed the colossal power of the State; but I also know that had not the Chief of the Administration been smitten with a judicial blindness, this could not have occurred.

To propitiate the genius of slavery propaganda, the Government is now engaged in the hopeless and fruitless effort, not alone to fasten slavery upon an unwilling people, but in accomplishing this to strike out the very foundation stones from the edifice of republican liberty.

Sir, what is the President's argument upon which he relies, to meet and silence the *actual existing facts*, as touching the *will* of the people of the Territory; the *returns of elections*, and these *returns* made by whom? by whom? I ask you, sir, do you believe one word of their report? do they not stand before you perjured in the foulest manner? does the civilized world credit for a moment the atrociously fraudulent returns made by these men? Does the President believe it? Nay, sir, I will not do him this injustice; and yet upon these *election returns* he relies for a justification of the great wrong he is now pressing upon this House to consummate against this people. Nay, he is not even content with this, but demands that the people shall be made *slaves*, to it and by it; and sorry am I to say it, but it appears to me that his partisans in this House, are only too anxious to second the demand, and carry out the high behests of the President. Sir, the President knows—none better than he—that this whole base progeny was conceived in *fraud and unscrupulous violence*; that being shapen in sin, and brought forth in iniquity, the child justifies its parentage, though it does not justify the President in attempting to force its paternity upon a people whose rights have not only been violated but trampled under foot by this Executive bantling.

Sir, it is not true, as the President and his friends hold, that the ballot-box is more sacred than the rights it guards; it is not true, as the friends of the Administration would have us believe, that the formal papers, that place bad men in office—whether these papers are true or false, whether by usurpation or by fair dealing—are more sacred than the dearest and most cherished rights of man; and yet the President so reasons in his message. Nay, more; that obedience to these formal papers, whether true or false, is "law and order;" and disobedience and opposition he characterizes as "rebellion" and "treason against the Constitution and laws of the United States." A *whole people* to rebel: against what? Why, against themselves, the sovereigns, of course! Nine tenths of the people guilty of treason: treason against what? Why, treason against the government, of course. What government? Why the *usurped government*—a government of *invaders and marauders*, against which the people have always protested, and to which they never will yield obedience.

But, Mr. Chairman, the present aspect of the questions before the country to-day is significant in another point of view. The national Administration, by its present position, not only seeks to

fasten slavery upon the Territory and future State of Kansas, but it also seeks to make slavery a permanent element in our national politics.

All understand that two different systems of labor prevail in this country, and that the division is entirely sectional—the South alone employing unpaid black slave labor, and the North employing paid white labor. Between these two systems there is a natural and eternal antagonism; and as labor is the source of all wealth—national and individual—each of these two systems is struggling for ascendancy, and for the fostering care of Government. It has been somewhat frequently observed of late, that “this Government was made for white men;” but, sir, there is a large number of persons in this land to-day that would like some better proof of this than *naked* assertion. So thoroughly has the African Democratic party committed itself to the interests of slave labor, and against free labor, that there has come to be a prevailing sentiment that no other interest can gain a respectful *hearing*, even at the hands of this Administration.

For what purpose has the President sanctioned the frauds and wrongs committed against the people of Kansas, but to force the institution of African slavery upon them? Why, but to give that vast domain to be tilled and cultivated by men possessed of “no rights that white men are bound to respect,” and with no motive, but one *six feet long*, with a cracker attached to the end of it? Sir, I dislike to arraign the motives of men, but upon no other hypothesis can I account for the action of this Administration. The white laborers of this country have an imperishable interest in this question; it is nothing less than whether the unoccupied territories of this country shall be given over for the benefit of a *class* of men who own the laborer and the fruits of his hands, or whether it shall be developed by the skill and toil of the free laborer, and shall be an inheritance to him, and his children after him, for an everlasting possession?

Nor is this all; for, involved in this issue, is the great question of the *rights and dignity* of labor, as a part of the political economy of the country and of the world. None better know than the present Administration, that the fastening of slavery upon Kansas would diminish the cash value of its real estate one half, and from this depression she would never recover; and that giving the people the rights guaranteed to them by the organic act, would double its value. Nor is this all. The *wealth and power* of any nation is measured by the value of its productive industry; and none can doubt, who has paid the slightest attention to the statistics on this subject, that free labor is more than twice as productive as slave labor. If any doubt this, I commend to them the statistics of the census returns of 1850.

Notwithstanding this array of reasons and facts, which should be a guide to prudent statesmen, we find this Administration fully committed to the policy of *forcing* the institution of slavery, with all its attendant evils, against the remonstrances of its people, against their direct vote at the ballot-box to the contrary, against all the forms of reputable supplication, even against the admonitions and warnings of those best qualified to judge in the matter, that civil war will follow the despotic act, and the plains and prairies of Kansas will smoke with the warm blood of our fellow-citizens, shed by their brothers' hands; in spite of all this, the Administration rushed madly upon this policy. What infatuation! What madness! What folly! And for what is all this to be hazarded? To give Kansas to slave labor, and thereby shut out free labor from the State. Is this an object worthy of a great statesman—one who has spent a large portion of a long life in the public service?

Does this Democratic party know that labor has rights which it is bound to protect? Does this party know that there is such a principle as a democracy of wealth, and that *it* is labor?

It was a remark of Samuel Adams, if it is not incendiary and sectional to quote him here, that “where private rights were infringed, there tyranny began.” By applying this rule to the treatment bestowed upon the people of Kansas by this Administration, some light may be thrown upon the character of the executive intervention. The Administration have systematically trampled upon every right of this people; and whenever and wherever its agents have refused to carry out its

mandates, “the decree, remorseless as death, has gone forth, “off with his head;” so much for Reeder, so much for Shannon, so much for Geary, so much for Walker, and so much for Stanton; and unless this bill passes before the next session of Congress, I predict you will see General Denver trudging home with his head in a basket. Why, sir, Kansas has become a *Golgotha* of Democratic Governors; for the head of each of those sent there, is, without an exception, left to bleach and whiten on the plains of Kansas. To such an extent is this carried, and so true is it, that it has become the bourn from whence no political traveler returns; and for aught that appears to the contrary in the President's message, this may be one strong reason in his mind for urging the admission of Kansas—thus preventing the decimation of the party by destroying its Kansas Governors to such an extent that the Republicans will have an easy victory over it in 1860.

But, sir, this is foreign to my purpose; for the subject, in this free land, of arraying a great party, and that party the reigning one, against the free labor of the country, and fostering in its stead slave labor, thus rearing an hereditary aristocracy, is too serious in its consequences to be trifled with, but is one to be treated with solemnity commensurate with its importance. Its consequences are not confined to to-day, or to this generation of men; but they are to be far-reaching and absorbing, and in the end overwhelming. It is nothing less than to *Africanize* the Government in all its relations. Gentlemen who make wry faces at the Lecompton constitution, admitting it to be an atrocious outrage and fraud upon the people, but conclude to shut their eyes and swallow it, for the purpose of ending all further controversy, will have ample time for repentance before the agitation ends.

And now, I ask of the conservative men of the South if they are willing that the institution of slavery shall take this additional load upon itself, in this day and generation? Is it not enough that it has concentrated upon itself the world's unmitigated scorn, but it must needs take upon itself the additional burden of seconding the Administration in its crusade against the free labor of the country? Are you, the conservative slaveholders of the country, willing to allow the institutions of your section to become the *cause and instrument* of the further aggrandizement of this Administration—of building up and further extending the power and rule of the African Democracy of this country, who seek by their policy to Africanize the productive industry of the country? I tell gentlemen plainly, that while chivalry once had a *name and a prestige*, yet in these African-Democratic hands its gold has become dim and its luster is faded; and unless it is speedily rescued, its glory will have departed forever. Sir, the civilized world cannot, and will not, look on complacently, and see this great and monstrous wrong consummated upon this people; and their anathemas and execrations will be hurled against the institution in whose name and in whose behalf it is perpetrated.

The disposition of this and the past Administration has been clearly manifested in regard to the affairs in the Territory of Kansas, by the historical fact, shown by special messages and public documents, as well as its secret intrigues, that it has at all times taken sides with the usurpers of its Government, and against Governors of its own appointment. And, Mr. Chairman, it is a remarkable fact, that every sober, decent man, who has gone out to Kansas in behalf of the Government, has been sustained by the people, and as uniformly destroyed by the national Executive. Look at another fact upon the very surface of the late message of the President. The complaints against the people by Governor Walker, on his arrival in the Territory, before he had had any opportunity to become acquainted with the disturbing causes in operation there, are all elaborately quoted by the President; while his maturer views, his riper judgment, made up against his prejudices and his preconceived opinions, but forced from him by stubborn facts, that transpired under his own vision—these are all suppressed; to these the President is oblivious.

But, sir, the President goes further in his efforts to sustain the usurpers of the government in Kansas, and in their aid to drive out the free laborers of that Territory, to make way for slave labor;

thus seeking to Africanize the Territories, and drive out the free man. Not satisfied with throwing the entire weight of his influence and patronage into the scale against the rights of the people, he invokes the aid of the Federal judiciary, hoping thereby to seal the conclusion and arrest the argument. The very manner with which he brings it forward in his message, reveals the inward satisfaction in which he indulges in having at his hand so potential an auxiliary. He says:

“It has been solemnly adjudged, by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States.”

And his feeble echoes here and through the country, have reiterated the same grave charge against the Supreme Court of the United States. Sir, I am no lawyer, but some of my constituents are; and with the argument of one of them, I reply that I utterly deny that any such question has ever been adjudicated by the Supreme Court. No such question has yet been presented to that court for its consideration; and I respectfully submit whether it is competent, nay, whether it is possible, for any tribunal to decide any question not presented; or is it possible and competent for a court of law to decide upon any question that may suggest itself to any of its members during its sittings, whether of law or politics? I take it, sir, and to my poor comprehension it is entirely clear, that the court will travel from its jurisdiction and functions when it attempts to consider or decide any other question than that presented by the case; and I respectfully submit that the existence of slavery in the Territories, by “virtue” of our Constitution, has never been presented to the court. I do not deny, nor doubt, but the court have given an *opinion* that such is the fact; but that *opinion* is not a *decision*, and is worth just as much—and no more, under the circumstances—as the opinion of the same number of respectable lawyers touching the same fact. The *dictum* of the court is a very different affair from a *decision*—the one is binding until it is reversed, the other simply an intimation of what their decision would be were the question before them in a legal condition to be adjudicated.

Mr. Chairman, this is not the first time the President has quoted this court to sustain him in his position, in taking sides with the usurpers against the people of Kansas. He refers to it in nearly the same language in his letter to some gentlemen in Connecticut, last September; and this, to me, constituted one of the characteristics of that remarkable letter, for I believe it is the first time in the history of the Government, when a President of the Republic has deemed it expedient to reply to a petition of the citizens, and to improve the occasion to deliver them a lecture on patriotism in general and their duties in particular. But *de gustibus non est disputandum* is as true now as when uttered for the first time.

The doctrine of the President, as drawn from his message, and I believe of the whole African Democratic party to-day is, that slavery exists in all our Territories until they are organized into States. This doctrine has the merit, at least, of being *novel and entirely contrary* to the views of all *American statesmen* till within a very recent period.

And, sir, I must be allowed to inquire by what law slavery exists in our Territories? and what consequences are to flow from this doctrine? Slavery is not an abstraction, but, as the logicians say, is a thing in the concrete. The institution exists in this country by virtue of local law. All its powers are given and all its features are molded by municipal law. The master has no power over his slave but what the law gives him. Slavery exists nowhere by the laws of Congress; and in our slave States the local laws confer but very limited powers upon this species of property. The *general* right of property in an animal implies the right to take its life for the convenience or luxury of its owner; but in none of the States of this country has the master of a slave the right to take his life for such reasons. In various other respects this right of property in the slave is limited by the local law. Nor do any two of the slaveholding States perfectly agree in this limitation; for in some, while the power of the master is nearly absolute, in others it is contracted, and the slave enjoys more freedom. Hence slavery is a very different thing in some of the States from what it is in others; and the Legislature of any State has power to make the difference still greater.

Property, or what the master claims as such in his slave, consists of the aggregate of the powers which the law of the State gives him over the slave.

If such is its nature, by what law does it exist in the Territories "by virtue of the Constitution?" Of course it does not by virtue of the territorial laws; for it is a part of this doctrine that the powers of the Territory have no control over it whatever. It cannot be interfered with till the Territory becomes a State; and, if the territorial authorities could interfere with it at all, they could abolish it altogether, and thus annul the Constitution! Nor, either, does it by virtue of any law of Congress; for it is another part of this doctrine that Congress has no power over it, and this is equally necessary to the principle or notion; for, if Congress can increase or diminish the aggregate of the master's powers over his slave, it may abolish them altogether; and then what becomes of the "virtue of the Constitution?"

The question, then, comes back, by what laws the relation of master and slave is established and regulated in the Territories? Does the President mean that, "by virtue of the Constitution" of the United States the laws of the several slaveholding States on this subject extend all over the public domain? Indeed, he can mean nothing else, for there is no other horn left to the dilemma. The doctrine of the President will be better understood and appreciated by stating a case. Suppose a slaveholder, say from South Carolina, removes with his slave to the Territory of Kansas. He there, in the exercise of the right over his slave given him by the law of the State from which he emigrated, whips his slave, and is prosecuted for assault and battery. If the trial takes place in Lawrence, most likely some northern man will preside upon the bench, and New England men will fill the jury panel. The whipping with a slave whip is admitted, and he makes his defense. He states no law of Congress, or of the Territory, that authorized him in this act; but he refers the court to the law of South Carolina.

By the President's theory this law of South Carolina is to prevail, for the reason that it is one of the constituent elements of his right of property; and it must follow him into the Territory, and be administered there. If he take the life of his slave he may be punished for it; but the reason is, not because of the prevalence of any territorial law, for that would be unconstitutional, but because the law of South Carolina does not confer this power upon a master. He may compel his slave, though a member of the Christian church, to live with him in open violation of a special command of the Decalogue; and yet no territorial law can prevent it. His slaves may live in open violation of the laws of Christian marriage in spite of the laws of the Territory—for, by the laws of his State, this institution is forbidden them, or practically denied them. Even Christian law-makers hold that that is a Christian law which takes away the rite of Christian marriage from members of the same church with themselves. And this is the complexion to which we have come at last; and judges and jurors from the free States are bound to administer these laws brought to the Territories from the slave States.

If a master from Maryland buys a slave of a master from Alabama, and he in turn sells to a man from Kentucky, the law of which State shall regulate his right of property in the Territory; and if, further, after the master left the State, the law is changed so as to abridge or otherwise alter his right of property in his slave, how would it affect his powers over him? Or is the will of the master the only limit of the master's power in the Territory? These questions might be multiplied, did time permit. The country will recollect that when the Territorial Legislature (so called) passed laws abridging the freedom of speech, it was approved here by the Democratic members of Congress. Possibly this doctrine of this "virtue of the Constitution" was then in process of incubation, and their instincts led them to the conclusion that this law was necessary for the protection of this species of property, and was carried there by virtue of the Constitution. The President is only explicit on the laws of slavery being carried into the Territory, and here he is gratuitously so. Whether the laws regulating the sale of lottery tickets in Maryland are also carried into the Territories, the President does not inform us;

probably, however, it is only those relating to slavery.

But, sir, if this is true, then, in its most offensive sense, is it true that slavery is national and liberty sectional and local; for this doctrine goes beyond the Territories? It is the doctrine by which Virginia is to-day attempting to establish the right of her slave-traders to drive their chained gangs through the city of New York on their way to Texas; and she expects the court to establish that right. It is the doctrine on which Passmore Williamson was imprisoned in Pennsylvania for telling a slave woman, whom her master had brought into the State, that she was free. Under this doctrine slavery exists as much on the ocean as on the land. Wherever our flag floats there slavery is "by virtue of the Constitution." Under this doctrine of the President, the slave may be sent not only from Virginia to Texas by sea, by way of New York, but may be sent to any of the ports of the free States as a sailor, without impairing the rights of the master. And if this be so, why not import them direct from Cuba as well as Virginia? and why not from Africa as well as either? Give the master property in a slave on ship-board in any southern port, and, no matter where he came from, any law that should interfere with it would be as invalid as the Missouri compromise.

This I understand to be the practical working of the doctrine announced by the Administration; and to establish this absurdity, they are not only willing to trample under foot the rights of the people of Kansas, but to make them slaves to their despotic will. Nay, sir, to accomplish this he invokes the prompt and efficient aid of the faithful, backed by all the blandishments of official power and patronage, and threatened with excommunication from the pale of the Democratic party, in case of a refusal to comply. Who can hesitate under such circumstances? None, who can

"crook the pregnant hinges of the knee,
Where thrift may follow fawning."

But the President assures us that the admission of Kansas as a State, under the Lecompton constitution, will allay the agitation of the country! I did not understand that the question of "allaying the agitation" was the one on which we, as the Representatives of the people, were called upon to act. I had supposed that the question was, whether the people of Kansas should be allowed "to form their own institutions in their own way." And besides, I have not forgotten, nor has the country, that for this very purpose the Missouri compromise was repealed. We were told then, that after ninety days' clamor all would be peace and quiet; that this step only was needed to allay the storm of agitation and fanaticism that was sweeping over the North. This was the prophecy of 1854. Look at the facts. In 1852, the distinguished Senator of New Hampshire received some hundred thousand votes, more or less, for the Presidency; and at the inauguration of the man from New Hampshire, who was elected by an almost unprecedented unanimity, we were told that the questions that had so long agitated the public mind were happily put to rest, and that nothing should be tolerated, during his term of office, that should tend to rouse them into action. But what was the number of the vote that tells of agitation, as recorded in 1856? One and a half million. How wonderfully the prophesy is fulfilled! Verily, "he who ventures to prophesy should have an army at his command," if he intends to sustain the character of a prophet.

The President, in conclusion, invokes the admission of Kansas, because he fears a dissolution of the Union if this is refused. This, sir, has been so often threatened that it has lost its terrors, even to the "old ladies of both sexes." Why, sir, this warning falls "like a thrice-told tale upon the dull ear of a drowsy man;" there is no longer terror in these threats. Besides, if any portion of this Union feel so much aggrieved because the Congress of the United States refuses to force a Territory into the Union against the expressed wishes of a large majority of its inhabitants, and under a constitution that can never command popular respect—not popular obedience—then I, for one, say let them go. So far from allowing this menace to influence us in adjusting this question, I, for one, would insist upon its withdrawal; and, in case of a refusal, act in direct contravention of it. Sir, I can endure anything better than consent

to act in my representative capacity under the influence of a menace. If the President fears these threats and menaces, it may be proper that he allow them to influence him; but the immediate Representatives of the people must occupy loftier ground.

Mr. DAVIS, of Mississippi, obtained the floor.

Mr. PHILLIPS. If the gentleman will give way for that purpose, I will move that the committee rise.

Mr. DAVIS, of Mississippi. I have made a promise to go on to-night, and, of course, I cannot violate my promise.

Mr. UNDERWOOD. There are many gentlemen absent who, I am sure, would be glad to hear the gentleman from Mississippi, and I hope, therefore, he will not go on to-night.

Mr. BOCK. I believe, from certain indications and certain motions of the gentleman's head, that I am the individual to whom he alludes when he says he has made a promise to go on to-night, and, under the circumstances, I will not hold the gentleman to his promise, if he prefers to speak to-morrow.

Mr. DAVIS, of Mississippi. I will go on to-night, sir.

Mr. Chairman, when I was compelled to conclude my remarks the other day, by the expiration of the hour allowed me under the rules of this House, I was assuming that the real object the Free-Soil party have in view, was the destruction of the equilibrium in the balance of power between the free and slave States of this Union; and that, beyond that object, was another, far more objectionable to the South than the mere destruction of the balance of power—and that is, the unfair employment of the General Government ruinously to the South. I then said the New England and middle States made commerce, manufacturing, and the mechanic arts, the avocation of their people; all of which interest, they desired to advance by legislative aid, derived at the expense of that portion of our people now engaged in agriculture. I am sustained in this position by the ancient doctrines of the Whig party, by the recent opinions of Webster, and the still more recent demands, by all those States engaged in the pursuits above mentioned, for protection; the doctrines of the national Democratic party being directly adverse to this system of class legislation, and in favor of leaving every pursuit of man to its own intrinsic capability to sustain itself; denying to the Government any other rights than those expressly delegated in the Constitution, and leaving each State, by its own legislative action, to regulate, by law, all questions involving the interest of her people—and especially denying to Congress the right to impose, in any form and in any manner, upon the agricultural industry of the country, a tax in the nature of a bonus for the benefit of other pursuits. And the Free-Soil party, seeing that this party was composed of those mainly engaged in the cultivation of the soil, and that the slave States stood almost a unit, they have combined every party element in this country under the name of Black Republican, for the overthrow of the Democratic party. The most effectual manner to do this is, to prevent the expansion of slavery, and with it the agricultural interest, and restrict its quantum of power in the councils of the nation. Hence the doctrine of Free Soilism.

The first and main object of this party, as avowed by them, is to throw a cordon of free States around the slave States, and this they have well nigh effected—and should they, in the contest now pending in regard to Kansas, succeed, the work is done, the struggle is finished, the wall is erected, and we of the South lie bound at the foot of an avaricious and merciless oppressor; and although we are justly and fairly entitled to Kansas by the action of her people and the doctrine of popular sovereignty, yet captious objections are being interposed by bad men to defeat us, by bad men even of our own party; and when it is done, and the cordon is completed, then will immediately be put into execution the system of preferences—such as protection of American labor, as it is called. And this American labor, by Webster and others North, is denominated free labor, and is to be protected against the competition of European labor at the expense of slave labor.

The North tells us, openly and defiantly, that

those engaged in manufacturing, in commerce, in mechanic arts, and maritime pursuits, must have wages, and high wages, that they may live well, and lay up something for old age, and they are even now demanding it. And from what source, what branch of industry are these wages to be obtained? Agriculture, of course. No other pursuit of man produces that which actually adds to the material and permanent wealth of a nation. It is the great foundation of all prosperity, and from it every other pursuit of man derives its support. This, I admit, is the necessary result of pursuits, and to it I do not object, if each is left to its intrinsic capabilities for success; but this will not be done when the Free Soilers and Abolitionists get the ascendancy—and therefore it is, that the struggle is conducted on their part with such untiring perseverance.

Never, in the past contest of parties, have they resorted to a strategy more indicative of success than their present opposition to the admission of Kansas, and the reason they give therefor. They see and know, if they can induce northern Democrats to agree with them upon this question, they succeed in the destruction of the nationality of that party and the completion of the cordon of free States; and with the Democratic party rent asunder, and the equilibrium between the free and slave labor destroyed, they will be able then to force their system of oppressive measures upon the country. I ask northern Democrats to-day, if they will allow the overthrow of our party by such strategy—if they will split with the South upon the question of Kansas? There are no good reasons why you should; and of this I shall endeavor to convince you in the course of my argument to-day.

Mr. Chairman, members say they cannot consent to force upon the people of Kansas a form of government to which they are opposed. Like them, sir, I would not force the people to accept a constitution prepared by Congress for the Territory, against their known wishes; but in a contest like this, when they are divided into two parties, each struggling for the ascendancy, and each resorting to strategy for success, I would not interfere against one and in favor of the other; and this is what those who oppose the admission of Kansas propose to do. It is said a majority, a large majority, of the people of Kansas condemn the present constitution, and invoke the aid of the Government to protect them. How has the majority been defeated, if such is the fact? This majority is composed of men who went to Kansas for the purpose of resisting its constituted legal authorities, and have been in rebellion to the territorial government from the commencement, and have allowed those who respected law and order to control matters in the Territory; while they, at every step, have been endeavoring to make that the ground of rebellion and war, and would have done so, only for the presence of United States troops in their midst; and now they come, with their past hideous conduct reeking upon their garments, and ask members upon this floor to become parties with them in resisting those who have acted in strict obedience to law, national and territorial. But, sir, what is it we force upon them? The admission of Kansas under her Lecompton constitution will effect no change in the present condition of interests in the Territory, or in the powers and sovereignty of the people of that Territory. Slavery exists there now, not by virtue of the Lecompton constitution; but by virtue of other laws. It existed there at the time we purchased the country from France, and has never been abolished. It exists there by virtue of the common law of the Territory. That common law is made up of the laws of all the other States in this Union, and has the sanction of the Constitution of the United States. The laws of the slave States and free States unite and blend, and mingle and commingle in the Territory of Kansas, and make the common law, *in part*, of the Territory. When a person moves from Mississippi to Kansas, he carries with him so much of her laws—not inconsistent with the Constitution of the United States—as is necessary to determine his right to the property he takes with him. The same thing happens in the case of a citizen from Ohio. The Mississippian takes his negro to Kansas, and is entitled to his services there, he having a property right in him, vested by the laws of Mississippi, and not being incon-

sistent with any law in Kansas. The Constitution of the United States recognizes and respects his rights thus vested, and is bound to protect him in the enjoyment thereof.

I admit, no greater portion of the law of Mississippi follows the removed citizen than is necessary to establish and maintain his title to the property taken by him. The Constitution of the United States does not take property to any place, but protects it everywhere it may be found, not inconsistent with the local law.

Now, the Lecompton constitution does not take from the people of Kansas a single right that belongs to them as a people, nor does it deprive them of a single power they now have to regulate their own institutions in their own way. Although the State may be admitted into the Union, the right to regulate their institutions hereafter in their own way will not be taken from them, but really will be the best enabling act in the world, and will give them the absolute control over all their institutions, with full power to change, alter, and modify, in their own discretion, without interference by Congress, President, Governors, Missourians, or any one else. We simply say to the people, take the Territory absolutely, and regulate your own institutions, according to the will of the majority, in your own way. This localizes the question in dispute there, and restores harmony to this distracted country, and disperses the cloud, red with wrath, which now hangs over us.

But, sir, has there been any irregularity in the formation of the Lecompton constitution, for which this Government can interfere? To determine this question, we must first look to the powers of this Government. They are, at this day, by all classes of politicians, admitted to be limited to specific objects. Now, what may the General Government do in regard to Territories belonging to it? The third section of the fourth article of the Constitution authorizes Congress to admit into the Union new States. From this clause of the Constitution Congress cannot derive authority to create new States. The word *admit* limits the powers of Congress, and presupposes the already existence of a State created by competent power, which can only be an original, independent, and inherent sovereignty—a power only to be found with the people, and to be exercised by them, in their own way.

All the powers of Congress are legislative, and conferred by the States in the constitutional compact, and are, therefore, inferior to, and incapable of, performing the great sovereign act of making a State. The formation of a State constitutes and erection of a State, is a sovereign creative act, and can be exercised by the people only. It is the compact—agreement entered into by the people, creating a government and authorizing the exercise of legislative powers. The same article of the Constitution authorizes Congress to make all needful rules and regulations respecting the Territories of the United States. From this, authority to create cannot be derived; it only authorizes legislation. By this clause Congress is authorized to sell or give away the public lands, for the object had in view in creating the trust. Also, when a proper number of persons, forming a society sufficiently large to authorize it, have settled in the Territory, Congress may pass needful rules and regulations for their government; which rules and regulations must be such as emanate from its powers. Congress may adopt a “rule.” A rule is a law or regulation to be observed by the society to whom it is given, and its particular members. The word “regulation” in the Constitution, then, is embraced in the word “rule,” and restricts and limits the range of the word “rule” in this clause of the Constitution. Then Congress may enact a law, a regulation for the observance and convenience of the people who compose the society while it continues in that state. But, sir, these rules and regulations confer no independent sovereignty upon the people of the Territory. Congress itself possesses no such power. It only enacts laws for the benefit of the people. Mark, Mr. Chairman, Congress may pass needful rules and regulations for the government of the Territory. This clause authorizes Congress to pass the “rule,” as already stated. A question might arise as to whether it can delegate that power to the society occupying the Territory. However, the practice of the Government for sixty years sanctions it, and it need not now be controverted;

but, sir, when that power has been delegated, Congress no longer has any more control over the territory and people than she has over a State; because the right to legislate is blended with the original creative sovereignty inherent in the people, and to be exercised by them when the society becomes constitutionally competent to make a State.

The very act of the Government giving to the people of Kansas a charter, authorizing them to pass laws for themselves, enables them to do anything and everything necessary to make a State government, when their numbers will justify it. This being the case, the people of the Territory can only determine for themselves when it suits them to change their political status, and when they will exercise the full sovereign act of making a State. Having come to this determination, they can, for the first time, incorporate in the compact between themselves, an agreement as to what shall be property and what not; and they may also agree that certain things, recognized as property by other States in the Union, shall not exist with them as such, and can only be exercised in convention, by which the compact is made—because it is only in the exercise of the highest act of sovereignty that this decision can be made. It is the result of the agreement made by each of the members who compose the society, with each other—whereby everything held as property may be divested of that attribute, and invested with the elements of other property not previously so existing.

When the people have thus agreed, the legislative power cannot change the condition of things, or alter their decree in relation thereto. It is this reasoning which prohibits the Territorial Legislature from divesting anything, taken to the Territory as property, of that element. Congress, having no powers but legislative, cannot do it herself, and of course cannot authorize it to be done.

The people of the Territory, in a state of society, cannot determine whether slavery shall exist or not, as in that condition they cannot exercise any legal control over the rights of persons or things—nor can they do so in their legislative character, they having derived from the Government power only to enact rules and regulations, which is inferior to the power inherent in the people to form a compact between themselves. To my mind, then, it is most clear that the only period at which the question of slavery can be determined is in the convention.

But suppose, Mr. Chairman, in all this I am wrong, and that an enabling act by Congress is necessary. I shall now proceed to show the existence of such an act in the Nebraska-Kansas bill. The Nebraska-Kansas act of 1854 not only adopts the compromise act of 1850, but also declares “that when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission;” and this is declared to conform to the cardinal principle of self-government. Now, the cardinal is, slavery shall or shall not exist, as their constitutions may prescribe at the time of their admission. From whom is this constitution to emanate? The people. Why? Self-government is the cardinal, and unless the people make the constitution, the cardinal is disregarded and abandoned.

Another portion of this act determines how the State is to be made, and the question of slavery settled, and is in this language:

“It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States.”

Hence, self-government is the cardinal, in obedience to which the people of that and all other Territories are to form and regulate their domestic institutions, and in their own way, of which they of course must be the judges; and that way is subject only to the Constitution of the United States. Acting upon the authority thus conferred, the people of Kansas have formed their constitution in their own way; and “that way” has the sanction of all the past acts of this vast Government, State and National. Through the ballot-box they authorized the Legislature to make provisions for the election of delegates to a convention. This duty the Legislature performed. Delegates were

elected, who met in convention as directed by law, and framed this Lecompton constitution. Now, all this, by the Kansas-Nebraska act, is subject "only to the Constitution of the United States;" and it in nowise invades that Constitution. Yet, in direct violation of the provisions of the act, it is, however, proposed to make it subject to our will. This course of reasoning certainly violates both the letter and spirit of the Kansas act, and shows a turbulent determination to dedicate it to free soil, and complete the cordon of free States around the slave States at the hazard of civil war, and in disregard of the asserted cardinal. But, sir, you have given them the power of self-government in express terms, which is an enabling act. More than that, sir. When you gave a political organization to that Territory, (authorizing the convention to pass all needful rules and regulations,) you parted with all the power you had over it, which you never can regain.

Your power, under the Constitution of the United States, extended only to passing rules and regulations. This power you have parted with, having transferred it to the people of the Territory; and all you can now do, is to subject their constitution to a comparison with that of the United States. Now, sir, how dare you, in the face of that act, interpose to prevent the people of the Territory from enjoying the work they have done in their "own way," by shutting out the State they have created; at the peril of the peace of this great nation, and the prostration of human liberty; at the peril of making it the theater on which American shall encounter American in deadly strife, and pour out the blood of freemen in deluge profusion, to gratify the ambition of the meanest and worst of mankind. In this view of the Kansas-Nebraska act I am entirely sustained by the world-wide-known "Little Giant." Hear him, ye Black Republicans and white; you, who sneeze when he takes snuff; you who, when you stand in his presence and catch the dropping of his distilled wisdom as it falls from his lips, and exclaim, "Mighty gods, do you hear that!" hear him:

"I say the construction put upon it has been this: by the sixth section of the Kansas-Nebraska act, we conferred on the Territorial Legislature authority to legislate upon all rightful subjects of legislation, not excepting slavery. Then, another clause declares it to be the true intent and meaning of this act not to legislate slavery into the Territory, or to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their institutions in their own way, subject only to the Constitution of the United States; therefore, all power which it is competent or possible to confer on the Territorial Legislature is conferred by that act."

This, sir, is strong language. *Competent or possible.* And these were the views of that gentleman, uttered at a time when no unhallowed ambition influenced his judgment; no dazzling crown played before his distempered imagination, luring him from the paths of patriotism; no White House, in the green room of which he shall stand and greet the vast throng of the passing multitude, and feel, beneath their gaze, "how mighty am I."

These views of Judge DOUGLAS show me to be right when I assume the Kansas-Nebraska act to be an enabling act, if one was necessary, which I have denied. And how he, without the most shameless effrontery, will now deny the validity of the act of the Legislature done under it, and by its authority, I cannot see. His language is, "all power which it is competent or possible to be conferred," has been done. And to-day he denies them all power, and repudiates their acts. "A second Daniel come to judgment!"

I fear he has determined to bring himself within the range of the severe and pungent criticism contained in another portion of the same speech from which I have made the extract. That is:

"When the time has arrived, and I think it now at hand, that the cardinal principles of self-government, non-intervention, and State equality, shall be recognized as irrevocable rules of action, binding on all good citizens who recognize and are willing to obey the Constitution as the supreme law of the land, there will be an end of the slavery controversy in Congress, and between the two sections of the Union. Then the occupation of political agitators, whose hope of position and promotion depend upon their capacity to disturb the peace of the country, will be gone."

Now, the operation of this rule of self-government has produced a constitution in Kansas, and, if received by Congress, will forever put an end to the slavery agitation. And this Judge DOUGLAS well knows; and, therefore, he himself becomes—what he has denounced so bitterly—the

"agitator," as the only means of position and promotion with him; and many others are, in this hour of delusion, inclined to follow him in his wickedness.

Again, in his report made to the Senate, as chairman of the Committee on Territories, in 1855, he says:

"The compromise measures of 1850, which it will be remembered were made a part of the Kansas-Nebraska act, affirm and rest upon the following propositions: first, that all questions pertaining to slavery in the Territories, and in the new States to be formed therefrom, are to be left to the decision of the people therein, by their appropriate representatives, to be chosen by them for that purpose."

Then he thought, as I now think, that the question of slavery should be settled, not by a direct vote of the people, but by representatives chosen for that purpose. And who are the appropriate representatives? They are delegates chosen to a convention appointed to form a constitution. I think now I have established, by my argument, two propositions: first, that under the Constitution of the United States, and from the very nature of our institutions, the people of a Territory, after having once organized by authority of Congress, have the right to make a constitution without express authority of Congress; and secondly, if an enabling act is necessary, it is embraced in the Kansas-Nebraska law.

I think, Mr. Chairman, I have now shown that the people of Kansas have advanced from a dependent to an independent political condition; that they have, in the exercise of due legal rights, ascended from a territorial to the highest political condition—a State—and all which has been done in the exercise of such powers as belonged to them of right; and having reached this position and taken their stand amidst the States in this Confederacy, panoplied with full sovereignty, she is now beyond the control of Congress, and must, by us, be received into this Union. And if that right is denied her, she can still exercise, out of the Union, full sovereign powers, and will exercise them in defiance of the Federal Government. And should the Government undertake, by force or otherwise, to reduce her again to a territorial condition, the whole South will interpose and forbid it—aye, prevent it by the sword, if necessary. Kansas is now a State, and of lawful birth, and that *status* she is determined to maintain, in the Union or out of it; and it is for Congress this day to decide which it shall be. Out of the Union all the affection of the South will be thrown around her. Her dignity will be defended with our arms. And, although repudiated by the mother, her sister southern States, adorned with the habiliments of sovereignty, and crowned by the glories they have won, in council and in battle, will receive her as not unworthy for companionship, and permit her to enjoy an equal share in their rich heritage of fame.

But, sir, what is the argument interposed to the just claims of Kansas for admission? It is, that her constitution, in all its parts, was not, by the convention which framed it, submitted to a vote of the people. This, certainly, is not necessary to the validity of the constitution. It is, on the contrary, in direct conflict with the practice of our States, and the nature of our political institutions, which are strictly representative. No instance has occurred in this country, where the people have assembled in mass and formed a constitution; nor has it ever been done through the ballot-box; nor yet would it be in accordance with our past practice. No case can be referred to, either in the States or the Federal Government, where political power may be exercised in any other mode than by representatives. The only act which our people ever perform, in their democratic character, is to petition for redress of grievances. But this is not the exercise of political power, but a mere incidental right. This being true, the people of Kansas could not make a constitution except by representatives in convention. And when they act in convention, they bind themselves, and impart absolute validity to the constitution thus formed; and the submission to the people afterwards has the effect simply to elicit an expression of satisfaction or dissatisfaction. If this is not the true doctrine, the people could meet in mass at any time and change their constitution every week, deranging the harmonious operations of their government, and reducing everything to anarchy. If this reasoning is not correct, then the Topeka constitution is valid, and

the State should have been admitted under it. But the champion in opposition to the Lecompton constitution says the Topeka convention was an unlawful assembly, having for its object the subversion of the territorial government of Kansas; but that the Lecompton convention was lawful. Why? It must be because the Topeka convention was composed of persons not chosen in the usual mode known and recognized by our institutions, while the Lecompton convention was instituted in accordance with law and custom. But why the acts of the Lecompton convention are invalid, I cannot, myself, determine; nor have any arguments been furnished me which sustain that position. Both, the Topeka and Lecompton conventions, looked to the same object—the subversion of the territorial government, and if that could render the one an unlawful assembly, the other must have been so also.

But, sir, the Topeka was unlawful, because it was the act of the people in an unorganized state; and the Lecompton was lawful, having the sanction of usage, precedent, and law. Then, if the latter was lawfully organized, both in manner and object, its acts are bound to be valid, and are the true expressions of the will of the people, in the only legal mode known to us, and are obligatory upon this Government.

But, to avoid the force of this conclusion, it is said it was legal only for the purpose of petitioning Congress for a change from the territorial to a State government. This cannot be correct, because both the manner and the object of the call of the convention must be taken into consideration in determining its legality; and if either is found to be improper, then the convention would be illegal. Now, the object was to make a State, and not to petition Congress for a change of government. And with the admission that it was legal, how can you pronounce against the acts done? But, if the Legislature of Kansas could not authorize a constitution to be made by its people without an enabling act from Congress, how could the Lecompton convention be valid, having been called by a body which had no power to do so? I insist that it was valid, and was rendered so by virtue of inherent power in the people, and also by authority conferred by the Kansas-Nebraska act. The Kansas Legislature did not call the convention to petition Congress for a change of government, but to make a State; and if it had not the power to call the convention for this purpose, the act was void, and so the convention, and both the Topeka and Lecompton stand upon the same footing. But Judge DOUGLAS says, for the purpose of petitioning it was legal. That was not its object, and that it did not do. That the people of Kansas had the right to petition is not questioned; but, then, in the act of petitioning they only exercise an incidental and not a sovereign right. A petition binds nobody, while a constitution does. Desperate diseases, it is said, require desperate remedies, and in this instance has called forth this monstrous heresy, that when the petition of the convention is presented, Congress may or may not grant the prayer of the petitioners. That is, they may change that which is now a mere petition into a constitution, thus making a State with all the powers and attributes of sovereignty.

Who, then, according to this doctrine, makes the State—the people of the Territory, or Congress? The Constitution of the United States confers no power on Congress to make it. But, if Congress can do it, then the people of the Territory cannot, because the jurisdiction is not concurrent. Now, admit the power in Congress to make a State, then you must admit in it full power over every subject and object of the constitution, and it alone can determine the subject of slavery. Thus have I traced this non-intervention Democrat to the support of doctrines worse than any put forth by the oldest Abolitionist in the nation.

But how do these views of the gentleman compare with his vaunted doctrines of non-intervention? The Cincinnati platform is—

"That we recognize the right of all the people of the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and, whenever the number of their inhabitants justify it, to form a constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

And this is non-intervention, and applies to the

question of slavery, and to no other part of the constitution. It leaves the people to decide for themselves whether slavery shall exist or not; and they did decide in the first election of delegates, and again when the slavery clause was referred, by the election on the 21st of December. It authorizes the people, by their Legislature, when they have the requisite number of inhabitants, to form a State government without further aid; and when required, that it shall be submitted in whole or in part to a vote of the people for ratification. Yes, sir, the question of slavery is to be determined at the time and in the act of making a constitution, and by those who frame it. It is the only time and place when it can be decided, because it is then that the people agree and contract with each other; then it is that they can mutually consent that the elements of property may or may not exist in certain things with them. And when this agreement is reduced to what we call a constitution, it becomes complete, and binds the whole people of the Territory, until annulled by another convention of equal dignity. But, sir, how absurd is that other proposition, that "to make a constitution valid it must be referred to the people!" What additional sanctity does it derive from that act? They are not more sovereign at the ballot-box than when assembled in convention. Through the ballot-box they only consent to meet in convention to make a compact in the nature of a constitutional agreement. And until they meet in convention, no act is done which is in the nature of a contract, or which decides any question of property. How circumstances change the opinions of men! During his whole life, Judge DOUGLAS has been the advocate of popular sovereignty, the pretended champion of the people. But now he repudiates his former doctrines by denying to the people of Kansas the sovereign power to make a State for themselves. If the people cannot frame a constitution, then they can do no act of sovereignty. To petition is not such an act. It is the exercise of a mere incidental right guaranteed by the Constitution of the United States.

Now the doctrine of Mr. DOUGLAS, and which is to convulse this country, is, "that the people may petition and Congress grant." In this case, who exercises the act of sovereignty—those who petition, or Congress, who grants? This is the doctrine of monarchy, and is derived from the practice of Great Britain in the settlement of her colonies. One or more persons petition the King; he grants a charter, which represents somewhat our State constitutions. The King there is the fountain of power, not the petitioners. Very like to this is the doctrine that the people of Kansas can call a convention, which can petition Congress to become a State, and their prayer may be granted. Now, where before was this absurd doctrine advanced? When before was the power to create a State, and then receive it into the Union, claimed for this Government? This doctrine, sir, does degrade the people of this great nation from sovereigns to slaves. The great Pitt was more liberal in his sentiments when he asserted that Great Britain could not interfere with the internal affairs of her American colonies, her power only extending to matters external. Yet Judge DOUGLAS claims the right to keep the people of the Territory always in a state of vassalage—to direct them what they shall and shall not do, and ultimately dictate their charter of liberty. The assertion of these doctrines in Europe, at this day, would bring the head of the most powerful potentate to the block.

Mr. Chairman, what will be the effect of the rejection of Kansas? Can any good to the country result from it? Suppose it has been procured in part by fraud: will its rejection prevent frauds hereafter, and will not the same complaint be made next winter which we have now? But who makes the charge of fraud? Men who were sent to Kansas as hired myrmidons, are maintained there as rebels, scorning and defying your territorial law, and resisting your Government, and who, with the blood of innocent men and women on their hands, come to you this day invoking your aid in their treasurable conduct. And against whom is this aid invoked? Those who have respected your laws, territorial and national; those whose whole course has been in conformity to our free institutions, and have been worthy and obedient citizens; and this you know.

These men you are called on by rebels to punish

and rebuke, that those very rebels may enjoy the fruits of their rebellion. Do it, sir, and you encourage treason, and discountenance obedience to your laws. Do it, sir, and you dedicate Kansas to blood and to vengeance—it will become the fated spot on which the eyes of all nations will be turned in melancholy gaze, as the fiery spirits of the South shall encounter the steady coldness of the North—the spot over which the eagle of liberty shall rest upon her spread wings, and gaze with shivering emotion, until the first drop of blood shall be shed, when shall go forth her scream—the wail of the nation's fall. And is human liberty so valueless that we shall thus carelessly peril it? Sir, I appeal to members on this floor, by the remembrances of the past, the deeds of northern and southern men in the memorable conflict of the Revolution, in which was won the imperishable monuments of glory everywhere erected to their memory; by our present greatness as a nation; by the bright and green wreaths, civic and military, interwoven by beams plucked from the North and West, South and East—which hang so gracefully on our country's brow, to pause and contemplate, and by their votes save the country, and rely upon the justice of the people, and anticipate the thanks of generations unborn. The equilibrium in the balance of power is already lost—the scepter is already transferred; reject Kansas and the cordon is then completed, and the South forever degraded, and that by the act of this House and not the people of Kansas. Against this final act of degradation I believe the South will resist—resist with arms—resist to the dis severing of the last tie that binds these States together—resist to the pulling down this grand political fabric of ours to its foundation. And I believe this from the general excitement felt and expressed over the whole South, which burns now, suppressed, but will, the moment Kansas is rejected, break forth in a flame that no power in this Government can subdue. Gentlemen may think this a fancy sketch—would to God I could believe it. From what I have learned from the history of man writhing under the influence of conscious wrong—and from what I know of the state of public opinion at home, and from the indignant emotions I feel in my own bosom, I am bound to believe the danger imminent. He who will trouble himself to look impartially, for a moment, at the political heavens, may see the indignation of the South as it flashes above the southern horizon—even hear her murmurs like the muttering of thunder afar off. But receive her, and our honor is saved; the pledge contained in the Cincinnati platform is redeemed, and the national Democracy is cemented by renewed confidence, and will stand intact when the sun shall rest upon her bed of cloud for the last time on the western horizon, witnessing the flag of our country still floating without one star exiled or one stripe rent.

In the course of Mr. DAVIS's speech,

Mr. MORGAN said: I rise to a question of order. My point of order is that there is not a quorum in the House, and that we cannot proceed with business without a quorum.

Mr. MAYNARD. There is no evidence of the fact that there is not a quorum here.

The CHAIRMAN. No question of that character can arise. No vote can be taken while the gentleman from Mississippi is upon the floor, and the fact that there is no quorum here cannot, therefore, be ascertained.

Mr. MORGAN. I think this thing is all wrong, and I respectfully appeal from the decision of the Chair.

Mr. KUNKEL, of Maryland. The gentleman cannot take the floor from the gentleman from Mississippi.

Mr. DAVIS, of Mississippi. I have not yielded it.

Mr. LOVEJOY. The floor can always be taken for a question of order.

Mr. PHELPS. I hope the gentleman from New York will withdraw the question of order. It can only compel the committee to have a call of the roll.

Mr. MORGAN. Well, I withdraw it.

Mr. DAVIS, of Mississippi, then resumed and concluded his speech.

Mr. FENTON obtained the floor.

Mr. PHELPS. If the gentleman will give way for that purpose, I will move that the committee do now rise.

Mr. FENTON. I understand that a privileged question will probably occupy the attention of the House to-morrow, and I therefore prefer to go on this evening.

Mr. PHELPS. Very well, sir.

Mr. FENTON. Mr. Chairman, a little over four years ago, it was proposed in the national councils to destroy the line limiting the northward tread of slavery, and inaugurate measures of pacification upon the issues growing out of the slavery question, which had, at intervals, all along our country's history, distracted its peace and embittered its councils. It was said that this measure of abrogation was not only necessary to carry out the principles of non-intervention and popular sovereignty, embraced in the legislation of 1850, but was supremely a measure of adjustment, settlement, harmony, and peace; that in this respect it would have the magic power of the sage, who stretched his body across the frightful chasm that interposed against the progress of the Oriental gods, and that we, like them, should behold the abyss close up, presenting a beautiful valley, enchanting and lovely; and yet, years have passed, and we have not peace; the angry conflict has not only tenure in this Hall of the nation's Representatives, but it rages with unabated violence upon the plains of Kansas; and the allies of the combatants upon that bloody field fill with civil dissension, arising from cause of quarrel common to the whole people, the entire circuit of our land.

I was one of those who believed the measure fraught with all the mischief which has flowed from it, and declared my convictions from my place in the Thirty-Third Congress that it was "the true intent and meaning" of that act to carry slavery not only to Kansas, but to open the door for its introduction into all the other territory of the United States. How far subsequent events have verified this view, let the flame of civil war and the martyr blood crying from the ground once dedicated to freedom, and shed in defense of its birthright, the barbarous doctrine of the Dred Scott decision, the servility to slave extension by the President, and the tyranny of usurped power in Kansas, answer!

So rapid, so startling, and so unblushing, have been these assaults upon freedom, that some who joined in the attack are now seen rallying with patriotic zeal upon the outposts, for its preservation and defense. I hope the succor is so timely and powerful, that the calamity with which our country is threatened may be averted.

The present crisis, whatever may be the result, will be referred to hereafter as one of the greatest magnitude that could possibly have arisen in the Republic. It is not merely a struggle of the slave power for the extension and perpetuation of negro slavery, but for dominion, with premeditated determination to array one section of the Confederacy against the other in unmitigable hostility—a contest which involves the principles of our Government, the integrity of the Union, and the undisputed sacredness of the Constitution.

Underlying this slavery question, the assumption of its advocates that the Congress cannot, or shall not, determine upon matters needful and proper for the government of the Territories stands forth prominently—false in theory and untrue in fact, tested by the light of constitutional history. Our fathers wisely understood that slave labor and free labor could not flourish side by side upon the same soil, that they were antagonistic; hence they adopted a line of separation; and, while condemning the former as repugnant to the spirit of liberty, and an invasion of the rights of man, made provision, as it was then hoped, for its gradual circumscription and extinguishment.

Through the legislation culminating in the repeal of the Missouri compromise, this principle, solemnly inaugurated by our fathers, was overthrown, and these two elements of labor and settlement were invited to an encounter upon the same soil—elements so opposed that their contact was strife, bloodshed, recession of one or the other, or extinction of one or the other. This you have witnessed in all its fearful horror, running through four years of eventful and mournful history. The chilled blood of patriotism calls for the remedy. How and when are you to find it? Our early statesmen clearly noted the necessary prescription, and even at the threshold of the Constitution defined the boundaries of slavery by saying that freedom should have what slavery then

had not; and I may safely allege, that the effort to produce a Constitution was imperiled in the convention of its framers, and was only rescued and brought forth, clothed with the garments of liberty, after this decree of freedom had been made for the Territories by the Congress of the Confederation, then in session in the city of New York.

In 1820 this principle was reaffirmed, notwithstanding slavery had, from 1803 up to this period, insidiously extended itself over large fields of the Louisiana purchase, while the people of the free States were in the quiet of repose upon this question, or were engaged in the conflict of arms with a foreign Power. I say the principle was then reaffirmed; and the only remedy, in my judgment, for the present alarming condition of affairs, is to return to this principle, decreeing for all the Territories freedom now, freedom forever.

I need not trace arguments in support of its constitutional authority; it is sufficient to remark that the very proposition, separate and distinct from others in relation to territory, was submitted to the committee on details in the constitutional convention, by Mr. Madison, but was supplanted by the general proposition of Gouverneur Morris, that the Congress have power to make all needful rules, &c., embracing, as was supposed, the whole ground in relation to Territories. Even if this was otherwise, which I do not concede, the power under the Constitution to acquire territory involves a corresponding power to govern, and the duty to govern in such manner as would conduce in the greatest degree to the welfare and happiness of the people—the decision in the Dred Scott case to the contrary notwithstanding.

But, to return: I said it was the design of this repudiation and abrogation scheme to extend the dominion of human slavery. I do not say that all who participated, or were known as supporters, had such a purpose in view; but that the slave power which mainly controls and directs a large party in this country—now being made less through its monstrous and revolting exactions—did then and do now, is clear to my mind. It was not in defense of an abstract principle, as then insisted, about which they did not then, and do not now, agree. No, sir, the hazard to the peace of the country, and the permanence of political organization was too great for such cause. The purpose is ingeniously set forth in the following article in the New Orleans Delta, a leading advocate of the election of Mr. Buchanan:

"We have wanted Kansas for the South, and have contributed men and money to the object of securing it. So far, we have failed. It is true the constitution of that Territory is not decided, and it is possible that it may admit of slavery, and if so, a step will have been gained; for if, under such a constitution, the Territory be admitted as a State, it will give two Senators to the South, and will hold the door still open for the admission of slaves into that country."

"The foreign slave trade, therefore, will add directly to the population of the South; it will give a wider basis to slavery, and thus add indirectly to the population of the South. Ten thousand slaves would take Kansas with her seventy thousand people; ten thousand more would take another State in Texas; ten thousand more, a State in New Mexico; ten thousand more, a State in Lower California; while one or two thousand more would embrace the States of Delaware, Maryland, Western Virginia, and Missouri, to the firmest possible fidelity to the peculiar features of the South. Under the influence of such a measure, therefore, there can be no question as to the ultimate preponderance of political power between the sections—and the foreign slave trade is the certain road to power for the South, and the only road to power within the Union."

Did time and investigation permit I might multiply extracts from their journals, and the sayings of their leading men, in support of my declaration. But the tragic scenes of fraud, usurpation, and tyranny in Kansas, are vivid with proof. If not for this, why was the territorial government usurped by invading, violence, and fraud at the first legislative election in March, 1855, and why did the government thus usurped become the instrument of oppression, iniquity, and wrong, such as slaves only could be expected to endure? Why were test oaths imposed, and laws framed to facilitate and give license to fraud and violence? For what other reason have men been chased from the soil of Kansas, incarcerated in prisons, assassinated by day, murdered by night, and their property pillaged, destroyed, or confiscated, under the strong arm of the slave power, made stronger by the criminal support of the Federal authority? Man has fled from man as from the savage beasts of that frontier region, and the rights of the many

have been wrested from them by the strong arm of invasion and usurpation, and for what? Because, battling for the rights of man; for breathing out the inspiration of an education in the pure air of freedom; for sustaining the principles evolved from the Constitution; ay, for all this, and to plant upon the ruins and in the waste, trackless by freemen, the institution of human bondage. They had no apology to be found in the Constitution, or in precedent; none, sir, in patriotism, in justice, or in humanity. They arrayed themselves against all these, and volunteered to become the instruments of aggression against the long conceded rights and vital interests of the *freemen* of this country. They prostituted themselves to the promotion of the schemes of slavery, pointing to the Territory which had been surrendered, and seizing it from the possession of those to whom it had been given over by the terms of formal compact, and for a consideration, which the slave-power had received in full. This soil was the heritage of free labor—for the men who go forth at the call of their country to uphold its standard and vindicate its honor; the pioneer of civilization and settlement, who goes out to contest for the supremacy with the wild beast and the savage, and prepare it as the home of civilization and the heart of empire.

You propose now to force upon this people a constitution against their will—a constitution with slavery—with the poor chance of power to change short of revolution. It is obnoxious to them; they have already destroyed it by an emphatic popular verdict; it truly has no legal life; it has no vitality. Congress cannot galvanize it into healthful being; it is beyond the skillful mendacity of the Executive, with all his unfairly exercised power, to give it peaceful reign. The people say they will not have it. They mean what they say; and they will have the sympathy and aid of three-fourths of the people of this Confederacy in resisting so foul an oppression. Will Congress attempt to force it upon them? The responsibility is great; and it seems to me that the people of the North will hold their agents, who mock at their entreaty, to a strict and fearful account.

You are told by the organ of the Administration in this city, that nearly all the nationalities of the Republic have disappeared, one by one. The great religious denominations and religious cleemosynary and charitable societies, which once flourished under national organizations and bound our people together in bonds more endearing, if less strong than a common constitution, common laws and common institutions, a common language and history, have almost all been sundered in twain. Why is this? Is it not because the aggressions of the slave power are at war with the pure spirit of Christianity, and its civilizing and elevating tendencies? You have driven them off, and your line of policy will drive off and unite the great body of the American people against you.

Our forbearance has been remarkable in times past. It is within the recollection of gentlemen present, how the people, after being outraged and excited over the legislation of 1850, laid down to quiet and repose upon the solemn assurances of peace made in 1852, at Baltimore, and throughout the country; and yet the promise turned to ashes upon the lips of those who made it, and the people awoke as from a dream, just in time to see their cherished hopes swallowed up in wanton agitation and renewed aggression—like the "Arabian shepherd who, in wandering into the wilderness, caught a glimpse of the gardens of Iram, and then lost them again forever." Mr. Chairman, I hope the people have not forever lost the peace and the quiet our fathers sought to establish, and which is the just fruit of free institutions.

Will it not be said, however, not only by the North, but by all good people throughout the civilized world, that by consummating this act the responsible parties were madly intent on extending the empire of slavery at whatever hazard to the peace of the country; that they forged the weapons of fratricidal strife and civil war; and in this light hold them accountable for every drop of blood that is shed in the clash that may quickly follow? Sir, I should deeply lament a renewal of strife in Kansas. I am for peace, not war; yet I would not have peace purchased at the expense of the rights of man and the liberties of my country. Such peace—the peace of Hungary, powerless and bleeding under the heel of Austrian des-

potism—is not the peace for me, or those I represent.

Gentlemen on the other side of the House tell us that if the Lecompton constitution is not indorsed by Congress the Union will be dissolved. As much as I love the Union and cherish its hallowed recollections; as much as I reverence the memory of its founders and their living and last wish for its perpetuation; as much as I hope from its mission in the field of liberty, I would try the experiment, if I had the power, to defeat this usurpation, this cheat, this fraud upon the rights of the people of Kansas. But, sir, I have no fear of a dissolution from this cause. I scarcely believe there are fifty thousand men in all the South that would rally under the black standard of dissolution. The Union is not to be dissolved. I fear vastly more in the consummation of this great wrong—commotion, strife, and bloodshed, and a reproach, if not a blot, upon the great experiment of self-government.

To avert this I appeal to gentlemen upon this floor. I expect nothing from him who asserts that Kansas is as much a slave State to-day as Georgia or South Carolina. The language of the President's message before us gives us to expect from him no liberation to liberty for those who bleed in her cause.

"You may as well go stand upon the beach,
And bid the main flood bate his usual height;
You may as well use question with the wolf,
Why he hath made the ewe bleat for the lamb;
You may as well forbid the mountain pines
To wag their high tops, and to make no noise,
When they are fretted with the gusts of heaven;"

as to expect, from one thus committed, any abatement of his purposes. I know very well that many in the North who gave Mr. Buchanan their support, will witness with pain this subversion of expectation and promise, and turn away with indignation and disgust.

The career of many great men furnishes painful evidence of an inglorious termination. Cæsar was assassinated for attempting to overthrow the liberties of Rome; Brutus fell on his sword when unable to attain power by its means; and Bonaparte, not content with binding his temples with the chaplets wrenched from the many thrones of Europe, sought to climb still higher the heights of unchastened ambition, and thus cast himself, a lonely, forsaken exile, upon a sea-begirt and desolate island.

Nor is the history of our own country wanting in memorable examples of men of supposed incorruptible statesmanship, wrecking their own fame, and disappointing the hopes of a confiding people; and from causes, if possible, less justifiable than has worked the overthrow of heroes and statesmen of ancient and modern times, in countries beyond the sea. There is a power in our midst, which—in the graphic description of the Senator from Massachusetts, who is unable through its violence to now occupy his seat—may be likened to the black magnetic mountain upon the face of the deep, mentioned in the Arabian story, which drew, one by one, the strong iron bolts of the stately ship, until she fell a disjoined wreck. So with this. The principles of earlier years instilled in the land of freedom, with too many of our public men, as they approach this power, one by one are withdrawn until they fall a disjoined wreck. And it would seem that this power was grateful for no service, except as the basis of increased exactions, and is reckless of the number or standing of the victims.

Not only this, sir, but the method of accomplishing these purposes is full of warning and shame. To the doubting and timid, hope of reward is promised; while the courageous and bold are cast off at pleasure. In proof of the latter, I need but to call the attention of gentlemen to the action of the late Cincinnati Democratic National Convention, in selecting for its standard-bearer one who had been in no sense an advocate and defender of the great doctrine for which others had periled so much; and, in support of the former allegation, I subjoin from the Washington Union, the organ of President Pierce's administration, the following article, which made its appearance pending the struggle upon the Kansas-Nebraska bill, and which is, in substance, repeated in a late number of the same paper upon the eve of this great contest upon the Lecompton constitution, and at a time when a few more votes seem as important to the success of this measure, as they

were deemed then important to the success of that:

"If a Democratic member of Congress is led by his judgment and his conscience to vote for the bill, as we hope all Democrats will be led to do, and he returns to his constituents to encounter the clamor of Whigs and Abolitionists, together with disaffected men of his own party, no sensible man, at least no man who understands and appreciates the character of the Executive, will believe that the President will allow such factious men to wield *public patronage* to overthrow him."

If the promise was sacredly kept, others will defend its good faith.

Thus it is, sir, that we have come to have two parties in this country with interests, feelings, and purposes diametrically opposed—I might say almost geographically divided—the one now wielding the power of the Government for the extension and perpetuation of slavery, whether this be accomplished by the support of the dogma (as applied) of popular sovereignty, or in defiance of it; whether, with regard to the rights of the States and the security and welfare of the people of the Territories, or in utter violation thereof, with the monstrous intention of carrying slavery with the marching banner of our country's expanse. The other, the Republican party, committed to the support of freedom, and sworn to its defense in whatever form and from whatever quarter attacked. The first, sir, are subject to the charge of guilty complicity in the atrocities that fill every page of the history of Kansas, and are now engaged, in violation of all rules known to self-government and in utter disregard of the usages and rights of civilized people, in forcing a constitution with the perpetual imposition of slavery upon an unwilling community.

But, sir, the issue has wider range—this is only the theater of its present rioting, its immediate, pressing aspect. Beyond this, I have just reason to charge not only upon this party the purpose of overriding all the anti-slavery covenants of the people, and all the anti-slavery guaranties of the Constitution, to break down and crush out the anti-slavery sentiment of the North, and to plant slavery in the Territories; but to reopen the foreign slave trade, and ultimately to carry slavery into the States where it is not, in defiance of the powers of Congress or of the States to prevent it. The object of the repeal of the Missouri compromise is proclaimed, by one of its supporters, to have been—

"To put the slavery question upon some common ground where a party could be rallied strong enough to administer the Government justly upon other than purely sectional ideas; to remove the ban under which the domestic institutions of the South had been placed by Federal legislation; and, although not all the South was entitled to, it was a great advance upon the old order of things, because it removed an unjust and odious discrimination against her domestic institutions from the statute-book—a moral triumph which was of vast importance to the South, and to the institution of slavery itself."

The present purposes of the slave power are frankly disclosed in the following article, which appeared in the Union of the 17th of November last:

"The Constitution declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.' Every citizen of one State coming into another State has, therefore, a right to the protection of his person, and that property which is recognized as such by the Constitution of the United States, any law of a State to the contrary notwithstanding. So far from any State having a right to deprive him of this property, it is its bounden duty to protect him in its possession.

"If these views are correct—and we believe it would be difficult to invalidate them—it follows that all State laws, whether organic or otherwise, which prohibit a citizen of one State from settling in another, and bringing his slave property with him, and most especially declaring it forfeited, are direct violations of the original intention of a Government which, as before stated, is the protection of person and property, and of the Constitution of the United States, which recognizes property in slaves, and declares that 'the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States,' among the most essential of which is the protection of person and property."

And this but corroborates the evidence daily swarming around us, of the design of this power to subjugate the country to the sway of African barbarism. Not only shall slavery be carried to the Territories, under the protecting folds of the Constitution; that it shall be protected there by the power of the Federal Government; but that no power, not even the Congress nor the people of the Territories, can prevent or remove it, and not even State sovereignty is a barrier to the blighting curse.

To this have we come; and do you, sir, and gentlemen, think that the people of the North will

submit? You might as well expect the hand, with fiendish malevolence, to pluck from the body all that is vital and lovely, as well, I was about to say, expect Heaven to cast off the redeemed and give place to the damned.

To this, sir, have the Democracy come—that party so successful in its achievements, under a Jefferson and a Jackson, that its trophies embellish the political history of our country. But, sir, it is not the Democracy of past days—it is the Administration Democracy, the Democracy of the slave power, or whatever you please to call it—that, it was not. True Democracy—the Democracy of earlier and better days—would not engage in ravaging the sacred interests of freedom.

The doctrine of the Supreme Court, that slavery is above all laws, all constitutions, and all power to dislodge it, and that black men have no rights that white men are bound to respect, is to be, it is feared, if it is not already, made their basis of action and the rule of faith. And in paving the way, gentlemen are impelled to resort, with impotent sophistry, in defense of this institution they thus seek to extend, and to invest with political umirage over a free people, to the superseded practices of early Bible record, forgetting the Divine injunction, the duration of which is as the universe of God, saying that "whatsoever ye would that men should do to you, do ye even so to them." The Bible teaches the heaven-born equality of man, the great fundamental principles of justice and morality that underlie all law that dictates the formation of the jurisprudence of any great and just nation; and upon this basis our people and all other people must plant themselves, that hope and expect to advance the cause of right, and elevate the character and condition of man.

Suppose our land with no human being upon its wide-extended surface, and suddenly thereon should arise twenty-five million of blacks and three hundred and fifty thousand of white men, the black men possessing, as they would, the physical power to make the others their bondmen—I suppose the scriptural argument of gentlemen would not be deemed pertinent, for I believe their doctrine is founded on the right of the stronger to subject and enslave the weaker, rather than upon the alleged inferiority of the black race, or a special designation of omnipotent law that the black man in our midst is doomed to perpetual bondage.

I do not rise, however, to discuss the merits of slavery in the abstract, nor its suitableness or adaptation to the local communities where it exists by peaceably enacted law, but to speak of it in another character, a different field, where it affects us as a political community, our welfare and happiness, the durability of our institutions; whether these cherished hopes and privileges of our people shall be brief and volatile, the charm of a day, or whether they shall remain firm in the hearts and political action of this great people for all time to come.

I need not speak of the invidious discrimination that this power makes to favor its purposes in nearly every measure of general legislation and of executive action; of the appointment to offices of power and trust of no person under your Government who is not orthodox upon the question of slavery; of the large appropriations made for objects of doubtful expediency in the South, while the same class North are rejected wholly or supported meagerly—as instanced in the improvement of Cape Fear river, while, at the same time, an appropriation for St. Clair flats was rejected—the latter having more tonnage and shipping pass its channels and ways in a year than the former in a generation of men; and the expenditure at Richmond, Virginia, of a quarter of a million dollars for a custom-house, with comparatively little commerce, while the port of Buffalo, with more than quadruple the commerce (see Com. and Nav. Rep., 1857) is turned away with about an equal sum for like purposes. Yes, sir, the latter, with a foreign and home shipping and tonnage that the former, however much she may strive to emulate, will never be likely to attain. These are instances; the investigation might be pursued, exhibiting equal intolerance in politics and unfairness of governmental protection.

But it is not for this we now complain; it is in behalf of order, justice, and freedom. We appeal to the love of right and the patriotism of our opponents, and ask them to join us in maintaining

those principles which are the law of national virtue and peace and the basis of liberty. In vain do we arrange in this way or that way for the financial depletion of the Treasury; that we adopt this or that mode of foreign policy; that we build ships of war sufficient to repel upon the ocean the combined naval armament of the world, or multiply our military forces upon land garrisoned at every point of accessible attack; while we misunderstand, or, if understood, misapply the great principles of republican freedom.

All other questions sink into insignificance beside the paramount question of human rights and the inalienable political equality of man, the substratum upon which the whole fabric of American independence was reared. Disturb the superstructure, and the edifice is imperiled; remove it, and the whole of its beautiful proportions, reared by the patriotism and cemented by the blood of our fathers, will fall a shapeless ruin.

If you resist this appeal, made by the people of Kansas and the popular heart of the North through their presses, their immense assemblages, and their Representatives in Congress, and its thousand other ways, too plain to be misunderstood, may not this people with whom you have broken the bond of common humanity and brotherhood and again trampled under foot the honor and justice they had a right to expect at your hands, demand redress? They will say, they now say, that that "one blood," of which God has created all the people that dwell upon the face of the earth, demands an audience at the court of power, where they may not plead as heretofore, but declare in the name of the Congress and the people, that *no more soil* shall be given over to slavery; that the Government *shall* be administered so as to secure the ends of liberty and justice, instead of despotism and wrong. *Here they will take their stand, and while aiming with steady purpose to effect these objects with peaceful means, within constitutional limits, yet should these fail, effect them they will.* They propose no innovation upon the established policy of the Government; they only insist upon following in the path illumined by Jefferson and Madison and their compeers in the earlier and better days of the Republic; they claim that this Government shall be marched in the forefront of civilization and Christianity, like the pillar of cloud by day and fire by night before the Israelites, leading our people to prosperity, greatness, and peace. This is the law of American duty; it was taught by our pilgrim fathers, enjoined by the heroes of the Revolution, and the immortal authors of our independence and constitutional Union; it is commanded by the noblest system of civil and religious freedom that man has ever founded, by the voice of patriotism and the genius of liberty.

Mr. SMITH, of Tennessee then obtained the floor, but yielded it to

Mr. MAYNARD, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. GREENWOOD reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 5) making appropriations for the service of the Indian department, and for fulfilling treaty stipulations with the various tribes of Indians, for the year ending June 30, 1859, and had come to no resolution thereon.

And then, on motion of Mr. COMINS, (at fifteen minutes to six o'clock, p. m.) the House adjourned.

IN SENATE.

THURSDAY, February 25, 1858.

Prayer by Rev. H. N. SIPES.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE PRESIDENT laid before the Senate a letter of the Secretary of War, communicating copies of two maps to accompany the report of Lieutenant Colonel J. D. Graham, transmitted to the Senate on the 10th instant, in compliance with the resolutions of the 4th, 5th, and 20th of January; and, on motion of Mr. STUART, the letter and accompanying maps were referred to the Committee on Printing.

PETITIONS AND MEMORIALS.

Mr. BROWN. I am requested to present the petition of Robert A. Wainwright, a captain in the ordnance department of the Army, for the reimbursement of a sum of public money which was stolen from him in Boston, while acting as commandant of the arsenal at Watertown, Massachusetts, for which he has accounted to the United States. It was designed that my colleague should introduce this memorial, for the reason that he is more familiar with the usages of the Government in matters of this kind than myself; but he being detained from his seat by indisposition, I introduce it; and when he comes back into the Senate, he will take charge of it. I move that it be referred to the Committee on Claims.

The motion was agreed to.

Mr. THOMSON, of New Jersey, presented a petition of citizens of Woodbury, New Jersey, praying for the adoption of some measure by which the southern States shall receive a fair compensation out of the public Treasury or public domain for their slaves, when they shall think proper to emancipate them; which was ordered to lie on the table.

Mr. GREEN presented the memorial of J. & R. H. Porter, praying for remuneration for losses sustained while transporting merchandise to Great Salt Lake City, in consequence of orders of the commander of the United States troops in the Territory of Utah; which was referred to the Committee on Military Affairs and Militia.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. KING, it was

Ordered, That the petition of Jacob Washington Morse, on the files of the Senate, be referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. HAMLIN, from the Committee on Commerce, to whom was referred the petition of John M. Chase and others, owners of the bark Attica, reported a bill (S. No. 167) for the relief of the owners of the bark Attica, of Portland, Maine; which was read, and passed to a second reading.

Mr. STUART, from the Committee on Public Lands, to whom was referred the joint resolution (S. No. 19) to extend the limitations of the act entitled "An act for the relief of citizens of towns upon lands of the United States, under certain circumstances," approved March 23, 1844, reported it without amendment, and that it ought not to pass.

He also, from the same committee, to whom was referred the papers relating to the claim of B. E. Edwards, asked to be discharged from their further consideration, and that they be referred to the Committee on Private Land Claims; which was agreed to.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the memorial of the Corporation of Georgetown in relation to the expenses of county roads in Washington county, submitted a report, accompanied by a bill (S. No. 168) to relieve the Corporation of Georgetown from the expense of making and repairing roads west of Rock Creek. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 152) to incorporate the Washington National Monument Society, reported it without amendment.

Mr. POLK, from the Committee on Claims, to whom was referred the memorial of Anthony S. Robinson, submitted a report; which was ordered to be printed to accompany Senate bill No. 158.

BILL INTRODUCED.

Mr. POLK, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 169) relating to conflicting land claims; which was read twice by its title, and referred to the Committee on Private Land Claims.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the Speaker of the House had signed an enrolled bill (H. R. No. 81) to amend "An act for the relief of Whitmarsh B. Seabrook and others;" which thereupon received the signature of the Vice President.

NAVAL HISTORICAL RECORDS.

Mr. MASON. I offer the following resolution; and, as it is one of inquiry, I ask that it may be considered now:

Resolved, That the Secretary of the Navy be directed to furnish to the Senate, in tabular form, a statement showing the names, force, and other appropriate description of all vessels of the Navy of the United States which have been captured, lost, or destroyed, since its organization or restoration in 1798; who commanded them at the time; for what cause they were so captured, lost, or destroyed; when and where it occurred; whether the causes which produced these results were ascertained by investigations by courts-martial, courts of inquiry, or otherwise; the finding of such courts-martial, and the opinions of such courts of inquiry, (if either or any were held,) in each case; how far those findings and opinions were carried into effect by those on whom devolved the duty of executing them: and, further, to state the name, character, and force, of all prizes of enemies' vessels-of-war captured by the United States Navy, which were retaken by said enemies in neutral ports, by which the captors were deprived of a right to property therein, which right was conferred upon them by the law regulating the apportionment and distribution of prize money arising from captures made by equal or inferior forces; whether prizes so retaken have been reclaimed from the enemy or from any neutral Power, which has thus, in violation of international law, permitted prizes so situated to be carried from its port or ports by our enemy; and, further, how, or whether, the said captors have been compensated, or sustained in their right to property thus acquired; and, so far as the records of his Department may not supply the information, that he cause the same to be compiled from other sources, (if such there be,) worthy, in his judgment, of reliance, distinguishing, in such cases, the one source from the other.

Resolved, That the Secretary of the Navy be directed to furnish to the Senate a statement giving the names, character, and force of any and all ships of war, or other armed vessels, captured by our Navy, and subsequently taken into the service of the United States, failing a condemnation by our courts, or without a just or regular valuation of them having been made; and whether in such cases, if any, a fair or equitable remuneration has been made to the captors for the transfer of their prizes to the Government; and further, where any merchant vessel has been justly captured by the United States Navy, which has not been sent home for judicial examination or condemnation, but which has, from motives dictated by State policy, been taken from the captors and restored to previous owners, whether any, and if any, a fair and equitable remuneration has been made to the captors for restoration thus made.

Resolved, That the Secretary of State be directed to furnish to the Senate copies of any and all correspondence which may have occurred with any foreign Government relative to prize vessels belonging to the Navy of the United States, which have been taken from their ports by the enemy, for reclamation of them, or their value; and also copies of any reports or correspondence of and with the captors of such vessels as have been taken from them in neutral ports.

I will only say that the resolutions, as their tenor imports, are intended to draw from the Navy Department materials for correct history in reference to the career of the American Navy for many years past, and at the same time to do justice, if it shall appear that injustice has been done, to the officers of the Navy making captures during the late war. I have presented them after a good deal of conference and consultation, and at the suggestion of one of the oldest and most distinguished officers of the Navy.

The resolutions were considered by unanimous consent, and agreed to.

CHRISTINE BARNARD.

Mr. IVERSON. I ask the consent of the Senate to take up the bill which I moved to take up yesterday. It is a bill on its third reading, and it will not take any time, I presume. It is the bill (S. No. 91) to continue a pension of Christine Barnard, of the United States Army, widow of the late Brevet Major Moses J. Barnard, of the United States Army.

Mr. BIGGS. The Senator from Alabama, [Mr. CLAY,] who is a member of the Committee on Pensions, signified yesterday that he expected to make some opposition to this bill. I do not see him in his seat now, and I hope the Senator from Georgia will waive this motion until he comes into the Chamber.

Mr. JOHNSON, of Arkansas. I suggest that if we have leisure to take up this private bill, even if there were no objection to it, I do not see why we might not as well take up the Army bill. It has been upwards of a month under consideration, and it ought certainly to be concluded to-day. It has been often at its conclusion hitherto, but yet seems far from its end. In fact, for one, as a member of the Committee on Military Affairs, I would beg leave to say that I shall never cast a vote here for an adjournment again, and I trust a majority may be of the same opinion, until we have disposed of that bill.

Mr. IVERSON. I withdraw my motion.

Mr. JOHNSON, of Arkansas. Then I move that we proceed to the consideration of the bill to increase the military establishment of the United States.

ADMISSION OF MINNESOTA.

Mr. CRITTENDEN. Before that is done, I wish to make to the Senate a motion relating to a subject peculiarly and indisputably one of privilege in this House, which I suppose is entitled to precedence; if so, I will proceed with it.

The VICE PRESIDENT. The Chair will hear the Senator.

Mr. CRITTENDEN. I have received, Mr. President, a letter from my friend General Shields, who claims in that letter a right to a seat in this body, and has felt it his duty to his constituents, as well as to himself, to press that claim upon the attention of the Senate. The letter contains a brief and very perspicuous exposition of his claim, and the reason upon which it rests. I beg that that letter may be read, as affording as brief a view as can be presented of the merits of the case. I shall conclude with a motion that the oath of office be administered to him, and that he be admitted to take his seat; of which I trust the Senate will approve. I desire that the Secretary will read that letter to the Senate.

The Secretary read as follows:

WASHINGTON, February 24, 1858.

SIR: I beg leave to offer a few reasons to show that Minnesota is one of the sovereign States of this Union. My first proposition is, that there are only two forms of political organization under which a community of American citizens can legitimately exist within the jurisdiction and under the Constitution of the United States. The one is the organization of a Territory of the Union; the other, that of a State of the Union. These are the only determinate shapes into which political communities can be molded under our Constitution. Each has its appropriate place in our federal system. A community of American citizens living under a territorial organization is in direct and legitimate connection with the Federal Government. That same community, transformed into a State, is also in direct legitimate connection with the Federal Government. In the transition from a Territory to a State, there is no point of time at which this connection can by any possibility be broken. The territorial government continues in full force until it is superseded by a State government; and whenever the people constitute themselves lawfully into a State, it is, *eo instanti*, a State of the Union. There is no such political anomaly as a State out of the Union, or not yet in the Union. These erroneous terms have been applied so vaguely to communities whose condition is not easily determined, that the public begin to think there must be some intermediate provisional, probationary state, in which communities are sometimes kept on their passage from the condition of Territories to that of sovereign States of the Union. California was denominated, not many years ago, a State out of the Union. Minnesota is, I suppose, at present considered by some a State not yet in the Union, or, perhaps, a provisional State. Certainly the representatives of Minnesota are at present in a provisional dilemma, not knowing whether they represent a State in the Union or out of the Union.

I now beg leave to refer you to the law of 1857, authorizing the people of Minnesota to form a State government. The first section contains the following language: "The inhabitants of Minnesota are hereby authorized to form for themselves a constitution and State government by the name of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution." Here the authority is absolute and unconditional—first, to form a constitution and State government; secondly, to come into the Union on an equal footing with the original States. Authority to make a State and authority to come into the Union. No language could be more positive; no authority could be more plenary; no act could be more determinate. The people have performed their engagements in good faith, and they have a right to expect a like compliance on the part of Congress. These engagements, too, affect the most sacred of all political rights—the constitutional rights of a sovereign State. The third section of the Minnesota enabling act strengthens and corroborates this position. It provides that a convention of delegates shall assemble at the capital of said Territory on the second Monday of July next, (1857,) and first determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union "at that time." Mark the language: not thereafter; not upon the happening of any future contingency; but "at that time," to wit: on the second Monday in July, 1857; "and if so," that is, if they shall so determine, "shall proceed to form a constitution, and to take all necessary steps for the establishment of a State government in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State."

Here two things are to be specially observed: first, the determination to become a State at that time; not the determination at that time to become a State, but a State at that time. Second, the submission to the approval and ratification of the people. When was Minnesota to become a State? At that time. How was her constitution to be ratified? By submission to the people. She has complied with every requirement. She entered the Union at the time prescribed; her constitution is ratified in the manner prescribed; and yet she is now as completely postponed and ignored as if she had disregarded all her obligations. Permit me to cite two precedents, which, I hope, will prove conclusive in this case. In 1802, an enabling act was passed for Ohio, somewhat similar to, but not so decisive as, the Minnesota act. The authority given was to form a constitution and State

government; and then follows this language: "The State, when formed, shall be admitted into the Union on the same footing with the original States." This was then considered an authorized admission of the State, and the only act of admission that ever took place in the case of Ohio; and that State is now in the Union under and by virtue of the authority of that enabling act.

The enabling act in the case of Indiana contains the following language: "The State, when formed, shall be admitted into the Union." Mark the difference in the two acts. In the case of Minnesota, authority is given to come in at the present time. In the case of Indiana, a promise is given for her admission at some future time; under the law, Indiana adopted a constitution and elected representatives, as Minnesota has done.

On the 2d December, 1816, Mr. Hendricks, Representative from the new State, presented his credentials in the House of Representatives, was sworn in, was appointed on a committee, and was allowed to vote and act as a member of that body; and yet it was not until ten days afterwards (on the 12th of the same month) that a joint resolution was passed by both branches of Congress, formally admitting Indiana. This kind of resolution was then considered form—nothing but mere form—something which Congress has the power to observe or omit at pleasure, but something with which the State has no concern, and which cannot affect its right. This was then the opinion of John C. Calhoun, at that time a member of the other House; and this, we may fairly presume, would be his opinion if he were a member of the Senate now. When the precedent was established, Daniel Webster was also a member of the House, and gave it the weight of his authority. But Minnesota stands upon far stronger grounds than Ohio or Indiana—the ground of congressional authority. If this authority is good, Minnesota cannot fail. This is a great question—a question of constitutional right, of national faith. Congressional faith, I sincerely hope, will be held sacred and inviolate in the case of Minnesota by the prompt admission of her representatives. My sense of duty to my constituents compels me, through you, to make this appeal to the Senate.

I have the honor to be, your obedient servant,

JAMES SHIELDS,
Senator from Minnesota.

HON. JOHN J. CRITTENDEN.

Mr. CRITTENDEN. Mr. President—
Mr. JOHNSON, of Arkansas. Will the Senator allow me a moment? I think I ought to raise a question of order on this subject, though certainly with every respect to the Senator from Kentucky; and I therefore make the point of order, that this is not a question of privilege. If not a question of privilege, it does not supersede the motion which has already been made by me. There is no such State recognized in this body as the State of Minnesota. Upon our records here there is no evidence of the existence of such a State, and consequently no foundation whatever upon which the applicant for a seat here, by this method, can stand. I raise the question of order, and I do it so that the public business may be carried on, and that we may escape irrelevant and immaterial issues upon these subjects.

Mr. CRITTENDEN. I am perfectly satisfied that the decision of the Chair shall be given on the question of order. I wish to state, furthermore, that I intended to show that the records of this country do show that there is such a State as Minnesota, and that I will present the credentials of General Shields.

The VICE PRESIDENT. The Chair will make a statement in reference to the question of order. The Senator from Kentucky rose to what he deemed a question of privilege, and presented the evidence to the Senate upon which he based the question of privilege. The Chair thought it proper that the evidence so presented should be read, in order that the Senate may determine whether the case is one of privilege. The Senate have now the grounds before them on which to determine the question; and, under the authority conferred on the Chair by your rules, he will submit to the Senate the question whether they will take up this subject as a question of privilege. That is the question which the Chair will submit to the Senate. Will the Senate take up this subject as a question of privilege?

Mr. MASON. I understand the exact posture of the question to be this: The Senator from Arkansas moved to take up the Army bill; which motion was pending, when the Senator from Kentucky interposed, and claimed that his motion would have precedence as a question of privilege. If it be not a question of privilege, it cannot take precedence of the motion of the Senator from Arkansas.

The VICE PRESIDENT. The Chair so understands.

Mr. CRITTENDEN. I wish to have the question fully presented to the Senate. I desire, therefore, that the paper I now present to the Senate may be read. It is the official evidence of the election of General Shields as a Senator.

The Secretary read as follows:

HALL HOUSE OF REPRESENTATIVES,
ST. PAUL, MINNESOTA, December 19, 1857.
This is to certify that, at an election held in the Capitol of the State of Minnesota, at St. Paul, by the Senate and House of Representatives of said State, in joint convention on the 19th day of December, 1857, James Shields was duly elected to represent the State of Minnesota in the United States Senate.

R. G. MURPHY,
President pro tempore, Senate.
J. S. WATROUS,
Speaker House of Representatives, State of Minnesota.
S. MEDARY, Governor.
Attest: A. C. DUNN, Secretary of the Senate.
[L. S.] A. F. CHAMBLIN,
Chief Clerk House Representatives, State of Minnesota.

Mr. HUNTER. Do I understand the President of the Senate to submit it to the Senate to decide whether this be a question of privilege or not?

The VICE PRESIDENT. The Chair will submit to the Senate the question, whether it will suspend the motion made to take up the Army bill with a view to take up this question on the motion of the Senator from Kentucky as a question of privilege. The Senate will decide whether it is a question of privilege which supersedes the pending business.

Mr. HUNTER. I hope the Senate will not decide that this is a question of privilege which shall override all others. I am willing to admit that a question may be made out of it. There have been cases on such applications as this when those claiming to be Senators have been admitted to take seats on the floor by courtesy. I believe there was something of that sort in the case of Michigan, on motion of Mr. Benton, but they have never been admitted as Senators; and I believe there is no decision of the Senate which would go to the length of admitting that they could claim any right to raise a question of privilege. There can be no right to a seat in the Senate until the State is admitted, and none can raise this question of privilege except those who are members from some State. It cannot, therefore, be a question of privilege. I admit that a question in some shape may be raised. That is, they may submit a motion to receive this gentleman by courtesy, as was done in the case of Michigan, and I believe in the case of Tennessee; but I apprehend that there can be no question of privilege, unless it is raised by some member of the Senate, or by some person who has a *prima facie* claim to membership. There can be no *prima facie* claim to membership of a Senator from a State which is not admitted; from a Territory, for instance. If the object be to take up the application, to allow them seats by courtesy, I should have nothing to say; but I object to receiving this petition as one which has precedence over all other business, on the score of privilege; and I hope the Senate will not so decide.

Mr. PUGH. I understand it is proposed to submit the question to the Senate, whether the application of General Shields, to be sworn in as a Senator on these credentials, be, or be not, a question of privilege. If it be a question of privilege, it does take precedence of everything else, whether we like it or not. My opinion is, that it is a question of privilege. It is undoubtedly true, as General Shields has stated, that the first enabling act, which was passed by Congress in the case of Ohio, was an act of admission; there never was any other. After the constitution had been formed, when the Senators from that State, or rather the agents from the State, presented the constitution to the Senate, it was referred to a select committee to consider what further steps were necessary; and a very able committee it was. I believe one of the predecessors of my honorable friend, the Senator from Kentucky, (your namesake, sir,) was chairman of that committee. After very full consideration, the committee reported to the Senate that nothing more was necessary for the reception of Ohio into the Union, except the establishment of a district court; and a bill was passed to establish a district court, to extend the laws of the United States into the State of Ohio, as a State. There never was any resolution of admission, or any law at all on the subject, and her Senators were sworn in on the presentation of their credentials. I need not go into any other case. There are other cases which illustrate the principle, but that is the first enabling act ever passed by Congress.

Mr. HUNTER. Will the Senator allow me to ask him a question? Does he mean to maintain

that, by virtue of the enabling act, Minnesota is already a State in the Union?

Mr. PUGH. I shall come to that question by and by. I shall have occasion, when I come to speak of the Kansas question, to elaborate it. I say that an enabling act was justified when it was first proposed, on the ground that it was an act of admission, a conditional act of admission, and when the State to be formed complied with the conditions, she was in the Union without anything else. That is the beginning of all the enabling acts; and that is the only excuse Congress ever had for passing one. That is one reason why, in my judgment, it is not necessary for Kansas, or any other new State, when she presents herself, to have any enabling act. Nothing is requisite but an act of admission.

But cases have arisen where both Houses of Congress have been obliged to consider whether the proposed State has complied with the conditions in the previous act of admission; and that is the question in relation to Minnesota. I have read the report of the Committee on Territories with very great care, and examined the documents submitted with that report; and, although I acknowledge there is no error which we may not heal by a joint resolution of admission, I do not think Minnesota has complied with the terms of the enabling act. I do not think she ever held a convention of delegates as required by that law. I do not consider the breach healed by the subsequent vote that was taken in October. If we object to the form of the vote that was taken in Kansas on the 21st of December, the form of the vote that was taken in Minnesota is just as objectionable; but I agree that these are not fatal defects. They are defects which we can heal by a joint resolution, or a subsequent act of Congress. Therefore, whilst I do believe that this is a question of privilege, that when this gentleman presents himself here, and claims to be a Senator from a State which we have so far recognized as to authorize her to become one on the performance of certain conditions, his claim is a question of privilege. I do not agree that Minnesota has so far complied with the terms of admission as to entitle her Senators and Representatives to be sworn without some waiver by Congress, in the shape of a joint resolution. Therefore, whilst I shall vote to consider it a question of privilege, I cannot, on the facts stated by the Committee on Territories, vote that Minnesota is entitled to have her Representatives and Senators here.

Mr. MASON. I think that the position taken by my colleague is one that is impregnable. This is presented only as a question of privilege. Now, what is a question of privilege? Does a privilege on this floor belong to any other than a Senator? There can be but one answer to that. If he be not a Senator, what privilege can he have as a Senator? Now, is the gentleman who writes the letter which has been presented by the honorable Senator from Kentucky a Senator? Has he taken the oath of office? Is he endowed with one single power conferred on a Senator by the Constitution? Can he exercise any power conferred on a Senator by the Constitution until he has taken the oath to support the Constitution in the presence of the Senate? Is he a Senator to any intent whatever? I do not now speak of his right to become a Senator. That is another and totally different question. Is he one? If he be not one, what possible privilege can he have on this floor other than that of any other American citizen? I have said not a word about his right to become one; but until he is one *de facto*, and not *de jure* only, which he claims; but until he is one *de facto* by taking the oath prescribed by the Constitution, he is endowed with not one single power conferred on a Senator by the Constitution.

Now, one word as to his right. In the letter addressed to the honorable Senator from Kentucky, which was read at the table, there is quoted, and I have no doubt correctly quoted, the act authorizing Minnesota to form a constitution and State government. The first section of the act authorizing the people of Minnesota to form a State government contains the following language:

"The inhabitants of the Territory of Minnesota are hereby authorized to form for themselves a constitution and State government, and to come into the Union on an equal footing with the original States according to the Federal Constitution."

They are authorized to form a State govern-

ment, and to come into the Union on a footing with the original States according to the Federal Constitution. Now, what does the Constitution say? In section three of article four, we find:

"New States may be admitted by the Congress into this Union."

The law says they shall have authority to form a State constitution, and to come into the Union according to the Federal Constitution. What does the Federal Constitution prescribe? That they shall come into the Union when admitted by Congress. It may be, but it is not necessary to go into that question, that in the instance of Ohio, cited by the honorable Senator, Congress, in the law giving power to the people of the Territory to erect themselves into a State, at the same time by anticipation, declared that they should be admitted into the Union when their constitution should be formed. It might have given its assent in advance. I have not examined that law. I should think it would be a very improvident exercise of the power of Congress to do it, but that is not the case here. Here authority is given to them to come into the Union according to the Federal Constitution, remitting them in express language to the power conferred by the Constitution on Congress to admit, and requiring an act of admission. Then as to the right set up as a Senator *de jure*; if he were a Senator *de jure*; if this were like the law to erect Ohio into a State, and if the assent had been given in advance; still the question of privilege remains behind. He is not a Senator; he is endowed with no power, immunity, or franchise of a Senator until he has taken the oath to support the Constitution, and is thus admitted as a member of the body. A question of privilege, I say, clearly, cannot attach to one standing in the condition in which the honorable gentleman is.

Mr. CRITTENDEN. Mr. President, it seems to me that my friend from Virginia has very hastily adopted inconsiderate opinions on this subject. He says the person in whose behalf this application is made, must be a Senator before any question of privilege can arise respecting his rights, and he seems to suppose that taking the oath is essential to the constitution of his character as a Senator.

Mr. MASON. Will the Senator allow me to ask him a question? Can the alleged Senator who has written the letter exercise any power upon this floor until he has taken the oath to support the Constitution? Until he is endowed with the authority conferred by the Constitution is he a Senator of the United States?

Mr. CRITTENDEN. I will say this to my honorable friend, that although it may be exceedingly right and proper, and he is required by law to take the oath before he acts, yet it constitutes no part of his senatorial character. If he acts without taking the oath, I would ask the Senator if his acts are not valid? If a judge goes upon the bench without taking the oath of office, and sentences a man to death, is not the sentence valid, and is it not pronounced by a judge? That judge, to be sure, has failed to perform one of the conditions which the commission under the law imposes on him, which is to take an oath. Was not my honorable friend from Virginia a Senator by the election of the State that sent him here before he took an oath? If he was not a Senator before, could your administering any oath to him make him a Senator? No, sir. That authority which constitutes him a Senator, and confers upon him its privileges, is one thing, and the oath required by the United States, as a further sanction and security for his fidelity, is an additional safeguard; that is all.

But suppose I came here, or my honorable friend from Virginia came here, as he has done, with his credentials, and presented them, and you refused to administer to him the oath, can you imagine a more flagrant breach of privilege than that would be? Suppose he stood here now, with the credentials of another election in his hand, demanding to be sworn in, and that you refused to do it, I ask him if that would not be a question of privilege—the highest possible question of privilege? I think he will, on further consideration, agree with me that it is; and this answers completely the reply of my other honorable friend from Virginia, his colleague. It does not seem to me that there is anything in the argument. I am entitled to my seat as a Senator; you refuse to administer to me the

oath required by the Constitution, and you therefore exclude me from my seat. If this is not a breach of privilege I am unable to comprehend what it is.

Sir, this is not a new question. We are told that the Senators from the State of Ohio were permitted to take their seats, and did act here without any regular formal act of admission on the record. Now, what does the Constitution say? The gentleman has told us that its provision is, that new States may be admitted into the Union by the Congress; that is all. It is in these general terms, leaving so much to the discretion of Congress, that this whole power is given. These are the general terms of the grant of power. Will the gentleman undertake to prescribe the only mode in which this power shall be exercised? Are not the modes various in which it may be exercised? The Constitution, in general terms, has given the power, but the Constitution has not prescribed the particular modes of action in which you are to exercise that power.

New States may be admitted into the Union by Congress. How? By acts subsequent, or by acts previous, or by acts cotemporaneous. Is there any restriction as to the one mode or the other? May it not be done by a previous act as well as by a subsequent act? Is not Congress competent to say to the people of a Territory do thus and so; make a republican constitution, and having done that you shall be regarded at once as a member of the Confederacy, as a member of the Union? Would not that be an admission of the State? Would that contradict anything in the Constitution? Would it be any extension of the powers granted by the Constitution, or any encroachment upon the Constitution to say beforehand, comply with such and such conditions; place that acceptance of those conditions in your constitution, and you shall thereby and from that instant be a member of the Union and an independent State? May not Congress say that? I do not see why they may not. They may reserve the question if they please. The Constitution having prescribed and limited no particular mode, Congress might, for convenience and expediency's sake, prescribe a mode in which the power shall be exercised; but Congress having made no prescription of that sort as a general law, we are at full liberty as a Senate to act on the subject and to judge of the condition of that population whether it is still a State or Territory. We may by a previous act, as well as by a subsequent one, if I can understand the subject, exercise the power vested by the Constitution in the Senate.

This is not without precedent. But let me remark first, before I come to that, that there is scarcely any of the enabling acts, as they are called, authorizing Territories to convert themselves into States, that are exactly alike. In the case of Louisiana, the act of Congress authorizing them to establish a State government and form for themselves a constitution, provided that that constitution should be sent to Congress and submitted here, and that thereafter it was to become a State if Congress did not disapprove of it. Was that a constitutional act? Louisiana was authorized to make a constitution, to submit that constitution to Congress, and if Congress did not disapprove of it at the next session after its reception, then the State was declared by law to be admitted as a member of the Union. According to that act, she could not become a State until her constitution had been submitted; but no act of admission was necessary for her according to the law: but if Congress did not positively disapprove, she was to become a State.

What becomes, then, of the gentleman's doctrine that after a State is formed, and her constitution presented, we must act upon a view of the constitution, and pass an act of admission? In no other enabling act that I know of does this provision occur. The language of some would induce us to believe that Congress intended by that act to enable the people of the Territory to convert themselves into a State at once, and Congress has so considered it. The case of Indiana, though not quite so strong in the language of its act as this case is, presents a remarkable precedent on this subject. It was in the year 1816, and in the summer of that year, that the people of the Territory of Indiana, acting under an enabling act, authorizing them to form a constitution and State government for themselves, did so. They elected Representatives to

Congress before there had been any meeting of Congress, or they had been admitted into the Union. Those Representatives appeared at the beginning of the next session of the Congress to which they were elected, and were received without any act being passed admitting the State into the Union.

Again, sir, it happened that in that fall there was a presidential election. They elected electors for President and Vice President. Their election, as we all know, took place before the meeting of Congress. When the votes were counted in the following February, the question was at once made in the House of Representatives whether those votes could be counted. It was said that States alone had a right to participate in the election of a President of the United States, through the agency of electors, and that Indiana was not a State, for she had not been formally admitted by an act of Congress until after the time she had chosen electors. But the vote of her electors was counted, after a discussion and consideration of the subject, and attention particularly drawn to it in the House of Representatives. The Senate retired from the joint conference, then holding, in order to enable the House of Representatives to settle the question.

There was Mr. Calhoun, and there were various other men whose names have since become eminent, and particularly eminent as constitutional lawyers. Mr. Calhoun said the votes were proper, and ought to be counted; yet they were the votes of electors who had been elected between the time when the people had formed a State government, and the time of the formal admission of the State by Congress. If William Hendricks could be admitted there to take his seat in Congress before any act of formal admission subsequent to the formation of the constitution of Indiana; if electors could have their votes entitled to be counted for that State before any formal admission of her by Congress, why not the Senators elected to this body from Minnesota be permitted to take their seats and act before the formal admission?

The point that is made on the part of the individual applying to take his seat as a Senator is, that Minnesota is a State in virtue of the enabling act; that that act enabled her on certain terms and conditions to be at once a State, and to come into the Union as such under the Federal Constitution. She has performed those conditions. She has become a State, according to his view and his argument, and is entitled to be represented on this floor as a State. As Mr. Hendricks was permitted in the other House to take his seat, and to vote, and the votes of electors for President and Vice President were allowed to be counted, although they were elected before any formal admission by Congress, I see no reason why the gentleman in question has not a just, constitutional, and lawful privilege to take his seat here; and, if it be denied to him, to appeal to you and to this body as upon a question of privilege to maintain and vindicate his right.

The allowing him to take his seat here is one thing, and a formal admission of the State another. There may be, and are, certain purposes for which it is very convenient to pass an act of formal admission into the Union. That may be done; but it does not follow because that may be done that the Senator shall not be permitted, before this formal act be done, to take his seat and represent his State. You know that the constitution has been made; you know, and the Senate know, that that constitution is of the character required by the enabling law, and by the Constitution of the United States we know the capacity of the principal to appoint such representatives; we know, however, that in transactions of such consequence as the admission of States, it may be well enough for us to adhere to the principle of giving a subsequent consent, and admitting the State by subsequent act. We can retain that; but where is the reason why this State shall be unrepresented in either House, until you can have passed that act? The forms require delay. Here is a State entitled to admission; and if it is entitled to admission, it is entitled to representatives on this floor. It is the privilege of the State to require it; it is the privilege of the person she elects to represent her to require it, and that is all that is done.

The first question required by the enabling act, in respect to Minnesota in forming her constitution,

tion, to be decided, is whether the people of the Territory described, desire to be formed and admitted as a State into the Union at once? That question was put, and that question was decided in the affirmative. The people of Minnesota said, "We desire to be admitted at once; it is not now our wish hereafter to be admitted, but it is our desire, our determination, to be admitted now, at once, into the Union." That is the question which Congress directed to be put. That is the question which was decided, and every other condition required by Congress was fully complied with, as the constitution now before you shows.

What evasion then is it, Mr. President, to decline to receive her representatives on this floor on an equal footing with those of the other States of this Union. I confess it seems to me they have as perfect a right as I have to a seat here, and if I might come from my State, with all the legally required authentications of my right, and present them to you, and from negligence, from apathy, from opposition; or from any other cause, you were to refuse to administer to me the oath, the argument of the gentleman from Virginia would apply—"Oh, this is no breach of privilege; you are not a Senator; your State has certified you to be a Senator; the Legislature has declared you to be a Senator; but the Federal authorities require you to take an oath, and that oath is necessary to make you a Senator." No, sir; I am as much a Senator before I take the oath as I am afterwards. It contributes nothing to make me a Senator. If I fail to take that oath, and presume to act without it, I am guilty of an offense; but I am a Senator before. Can you treat any gentleman elected to this body in this manner—refuse to administer to him the oath, and then tell him, "For that cause I have annulled you as a Senator, and you can make no question of privilege in regard to it? one must be a Senator before a question of privilege can attach to him; you are not one, because I have not sworn you; and I will not swear you, because I do not intend that you shall act as a Senator." If that is not a breach of privilege, it is utterly incomprehensible to me what can be. It is a breach of privilege—a flagrant one; and it is not less a breach of privilege because there is the power in those who commit it to avoid responsibility for it.

It is not my wish to trespass on the Senate a moment longer than the necessity of this case seems to require.

Mr. JOHNSON, of Arkansas. It must be apparent that, if this subject is to be considered, to-day will certainly be consumed by it. I do not believe that the Senator from Kentucky himself has a doubt in regard to that. It is plain that this discussion must carry us through the whole Kansas and Nebraska affair. It is kindred to that; and if it is to be discussed, I am sure there is in the Senate a vast amount of metaphysical, legal, and ancient lore on all this subject, certainly sufficient to carry us through the whole of this day.

In this direction the Senate has already gone. My honorable friend, who meets me with a smile, [Mr. PUGH,] was the first to open it in that direction, and to announce questions which would come up in the discussion of the Kansas matter, as to the admission of States into the Union. I see no limit to the field now before us. I know that for a month we have been considering the Army bill, and that we have often felt that we were at the very point of taking the final vote on the question, either granting relief to the Government or rejecting it altogether; but still for some petty question, or petty irritation, or petty courtesy if you please, it has been laid over and deferred, until now we have the most serious question of the session pressing right upon us. I think it is desirable to dispose of the Army bill.

I cannot but feel that the honorable Senator from Kentucky must know that the question which he has presented is in a great measure an irrelevant issue. It seems so to me. I will not go into a discussion of the merits of the case. The whole subject must come up at no distant day; and I believe, in fact, that the bill for the admission of Minnesota was made the special order for to-day. It is certainly contemplated to take up the whole subject on Monday next. There is but little time left us to dispose of the Army bill; and the public exigency calling for its passage has been urged upon us as imminent, important, and almost vital.

I would appeal to the Senator, in this view of the facts, to withdraw his present motion, or to postpone it. I make this appeal to him now without saying anything more; for I do not believe that he wishes to impede the public business, or delay the disposition of the Army bill.

Mr. CRITTENDEN. I did not hear the gentleman.

Mr. JOHNSON, of Arkansas. I appeal to the gentleman from Kentucky, believing that he does not wish to impede the public business, and that the question which he has raised is irrelevant, and can result in no immediate action, to withdraw his proposition, which it must be palpable to him will consume the whole day.

Mr. HUNTER. Will my friend allow me to suggest that we agree to refer this matter to the Committee on the Judiciary at once. We can do that without debate, if the Senator from Kentucky will consent to it, I imagine.

Mr. CRITTENDEN. That would be sending it a long ways off—sending it to the grave, rather.

Mr. JOHNSON, of Arkansas. I would not embarrass the Senator from Kentucky by making any unreasonable request of him. Certainly with no disrespect to him, I move to lay the question on the table. I think that will end the discussion. I have said nothing in a spirit which could provoke reply, and I must insist on my motion.

Mr. SEWARD. I appeal to the honorable Senator to allow me to say one word in explanation of my vote?

Mr. JOHNSON, of Arkansas. The Senator knows so well that I would do almost anything to oblige him, that I am sure he will not take it unkind if I decline to withdraw the motion.

Mr. IVERSON. I ask for the yeas and nays on the motion.

Mr. HOUSTON. I wish to suggest that perhaps the Senator from Kentucky is prepared on the subject; and as he seems to have examined it thoroughly, he may cast some important light on it; and I was in hopes he would be permitted to proceed without interruption, and that the matter would rest there, without any further discussion. I am anxious to hear his views. I really think we should permit him to go on.

Several Senators. He has concluded.

Mr. JOHNSON, of Arkansas. I must raise a question of order. I declined to withdraw my motion for the Senator from New York, and I certainly cannot withdraw the motion now for any one else.

Mr. CAMERON. I desire to say that, at the request of my colleague, [Mr. BIGLER,] who has been called away, I have paired off with him on this question.

Mr. STUART. I should like to inquire of the Chair what it is proposed to lay on the table? As I understand it, the Presiding Officer has submitted to the Senate, for decision, this point: "Is this a question of privilege?" If that is the pending question, I should like to be informed how you can lay that on the table.

Mr. HUNTER. This question grows out of the memorial; and if we lay that on the table, everything connected with it goes on the table.

Mr. CRITTENDEN. It does not grow out of a memorial. I informed the Senate that I intended to make a motion in relation to a subject peculiarly one of privilege. I desired, as the ground of the motion I intended to make, that the letter be read. I presented another document afterwards, and I had some remarks with which to follow it up, and to conclude with a motion.

Mr. SEWARD. It seems that everybody else has a right to speak on this question except myself. I desire now either to have a vote taken upon it, or else that I may be heard. The point of order is raised by the Senator from Michigan, whether this is a question that can be laid on the table?

The VICE PRESIDENT. The Senator from New York is correct, and the Chair will state the question. The Senator from Kentucky submitted the application of James Shields to be now sworn in as a Senator from Minnesota, accompanied with his credentials, which he desired to be read, and brought it to the attention of the Senate as a question of privilege. The Chair submitted to the Senate the determination of the point, whether it be a question of privilege. The Senator from Arkansas moves to lay the whole

subject on the table. The Chair supposes he must entertain that motion. Upon this question the Senator from Georgia asks for the yeas and nays.

The yeas and nays were ordered.

Mr. BENJAMIN. I shall vote "nay" out of courtesy to the Senator from New York, whose remarks I wish to hear.

Mr. SEWARD. I hope the Senator will not put it on any such ground.

Mr. COLLAMER. I wish to ask a question. What will be the effect of laying this matter on the table? Cannot the Senator from Kentucky, the moment he gets the floor, call it up again?

The VICE PRESIDENT. The Chair does not think it proper for him, at this time, to enter into any suggestions on that subject.

The question being taken by yeas and nays, on the motion of Mr. JOHNSON, of Arkansas, resulted—yeas 22, nays 26; as follows:

YEAS—Messrs. Allen, Biggs, Bright, Brown, Clay, Evans, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—22.

NAYS—Messrs. Bell, Benjamin, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Fitch, Foot, Foster, Gwin, Hamlin, Harlan, Houston, King, Pugh, Seward, Simmons, Sumner, Trumbull, and Wilson—26.

So the Senate refused to lay the subject on the table.

Mr. SEWARD. I wish to ask what the question before Senate now is?

The VICE PRESIDENT. The question is whether the Senate will take up this subject as a question of privilege.

Mr. HALE. I rise to a point of order. I understand that the President, when he stated the question, said that by an express provision of the rules, he would submit this matter to the Senate. I suppose he referred to the 6th rule, the last part of which is:

"And every question of order shall be decided by the President, without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order."

I take it that means that a question of order is to be decided, without debate, by the Chair; and if the Chair takes the sense of the Senate on it that does not open a license to debate, but the prohibition against debate still continues.

The VICE PRESIDENT. The Chair does not act on that rule. When a proposition is made by any Senator to take up a question as a matter of privilege, the Chair thinks it is hardly a question of order; but it is for the Senate to determine whether the question is one of privilege under the general parliamentary law. The Chair thinks that properly he can put that question to the Senate without any regard to the written rules of the body.

Mr. HALE. I understood the Chair, but my ear may have deceived me, to say that he referred it to the Senate, and that he did so under an express rule of the Senate.

The VICE PRESIDENT. The Chair may have said so; but if he did say so, it was an error.

Mr. SEWARD. Mr. President, I regard this question as addressing itself to our considerations, in the first place on the ground of expediency; and in the next place to our judgment upon the nature or character of the question involved. I am quite desirous for the admission of the State of Minnesota into the Union as soon as it can be done. I have on every occasion voted to take up the bill for that purpose and to pass it. In giving a vote against this motion, I might seem to be unwilling to favor an occasion for the admission of the State of Minnesota into the Union. Whatever may be the condition of Minnesota now, whatever may be her character, whatever stage she may have arrived at in her growth from a Territory towards that of a State, I am very clear in one thing: that if the Senate of the United States, after all that has been done here, and all that has been done in the Territory of Minnesota, should admit the applicant, General Shields, and his associate to be Senators on this floor, and if the House of Representatives should also admit one or more Representatives from Minnesota, on the floor of the House of Representatives as Representatives of that State, I think the act of the admission of Minnesota would thereby be completed and finished. If there is no other way in which this can be done, no more formal or tech-

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nical manner, I am willing to admit the State in this way, and to do it now, and anxious to do it now.

But the proceeding instituted by the petitioner requires explanation, which I should be glad to hear; and that is, why he alone of two Senators makes an application to be admitted to the Senate, when the State is entitled to two Senators, and we are informed unofficially that two have been appointed; whether the other person who has been elected a Senator accepts the trust, or whether he disclaims or renounces it; and whether he proposes to bring the State into the Union in this way; or whether he proposes to stay out, and so leave the community half Territory and half State? I assume this application, however, to be an act in good faith on the part of both the Senators who have been elected from that State. I suppose there is a concert between them, and that this is merely an accidental omission to which I have called the attention of the Senate. I will very cheerfully vote for taking up this question, because it affords one way in which proceedings may be adopted by which the State of Minnesota can be brought into the Union legally, constitutionally, and properly.

Then, as to the other point, I think that it is clearly a question of privilege; and I agree with the honorable Senator from Ohio on that subject. The rule which has been given out to us by the Senator from Virginia seems to me too narrow in its range to embrace all the questions of privilege which must necessarily arise. He says that a person must be not merely elected a Senator, and his term of service have commenced, but also that he must have been qualified to act as a Senator by the Chair, or by some competent authority, before he can claim or exercise the privilege of a Senator on this floor, or before any question of privilege can be raised by him, or in his behalf. I think not, sir. I think a Senator appointed by his State, when his term of service has begun, is a Senator in Congress; and if he shall come into this Hall, he is entitled to be here against everybody that may be in or out; and that while he stands here and asks that you will administer to him the oath, he is a Senator; and that he exercises the privilege of his office in claiming to be sworn; and that you award to him the oath on the ground of his privilege as a member of this body.

If that be so, then this is a question of privilege, if the Territory or State of Minnesota stands in such a relation to send a Senator here to claim a seat or to ask to be recognized by the Senate of the United States. There, again, the question, whether Minnesota is a State or Territory, involves the whole question. Privilege is merged in the greater question, whether Minnesota is a State or not, which has been presented by the gentleman from Kentucky, and that greater question necessarily involves the question of privilege. On that question I am willing to be instructed; I am willing to be enlightened; and I see no such peremptory conclusion against the claim set up for Minnesota, namely, that she is actually a State in the Union now. That has been announced by the Senator from Virginia, as his deduction from the premises.

The Constitution of the United States says that new States may be admitted by Congress. There is no form, no method, no rule, no system of practice, no formula, by which the admission of a State must be conducted. It may be done in one way, or it may be in another. It requires but two things independent of the qualifications of a State in its constitution; one is, that the State shall consent to come in; and the other is, that Congress shall admit her in. Whatever form Congress shall adopt is sufficient, if the State is in a position to entitle her to admission. I admit that this letter of General Shields may be fairly read as a petition on the part of Minnesota, saying, "we have complied with the conditions which were prescribed to us; we have organized ourselves as a State; we are here, and we ask you to admit us by swearing in our Senators." As I said before, if you will only swear the Senators and Repre-

sentatives, the State will then be here beyond all manner of doubt. It is on this ground that I shall vote.

Mr. HAMLIN. Will my friend allow me to make an inquiry of him? Suppose the Senate should, on examination of the matter, conclude to administer the oath of office to the Senators elect, and the House of Representatives should refuse to admit the members: what then?

Mr. SEWARD. I have already anticipated that, by saying that I found that difficulty in the case, and I wanted an explanation why it is the other Senator did not ask to be sworn in? because the State would not be but half admitted if only one Senator should be sworn; and if the Representatives were not admitted into the House of Representatives it would be less than that; nevertheless, I am willing to take the question up, and consider it, trusting that the other Senator from Minnesota and the Representatives may unite in the movement. But I propose to go no further now in this debate than to take the subject up as a matter of privilege. That is the question, and the only question, before the Senate; to that question, and no further, shall I speak.

Mr. STUART. I desire to say a very few words directly to the point propounded to the Senate by the President—is this a question of privilege? The claimant contends that Minnesota is a State in the Union without any other action of Congress whatever; and that, being in that condition, he is entitled to his seat on this floor. Whether he is entitled or not is a question for our determination; but the only point to be considered, as now presented to the Senate by the Presiding Officer, is, is that matter a question of privilege? Well, sir, I have no hesitation in saying that it is; and if the Senate decide that it is, they do not decide that the claimant is entitled to his seat. They may consider the subject and decide against him. They may determine that the ground on which he predicates this claim is wrong; that it is unfounded; that it requires subsequent legislation before Minnesota is a State in the Union; but whether that legislation be necessary, or whether he is now entitled to his seat without any further act of Congress, is certainly a question of privilege—a question of whether he has the privilege of a seat on this floor or not. He claims that he has. To say that because a Senator thinks the ground on which the claimant presents his claim is unfounded, therefore it is not a question of privilege, is to beg the whole question. We decide here, almost every session, that a Senator is not entitled to his seat; but is it not a question of privilege whether he is or not? I never heard it doubted before.

The Senator from Virginia argues that Minnesota is not in a condition to entitle her Senators to take seats on this floor, and therefore it is not a question of privilege! The Senator from Ohio says, that if she had pursued precisely the course laid down in the enabling act, she would have been in that condition; but he thinks she has not pursued it. Are not both of these matters of opinion? The Senator who sends the memorial here takes the ground that Minnesota is in the Union in virtue of the enabling act, without any other legislation on the part of Congress; and being thus in the Union, he asks to be sworn in, and to take his seat as a Senator. Whether he has a right to make that demand or not, is a question of privilege. How I may decide on a consideration of this question of privilege, is quite another subject. I may come to the conclusion that the basis upon which this memorial is founded is wrong. I may come to the conclusion that further legislation is necessary on the part of Congress, before the Senators elected by the State of Minnesota are entitled to their seats, and thus refuse to grant the privilege which is presented by this Senator; but that does not strip it of its character as a question of privilege. Whenever a Senator, elected by a State, comes here and claims a seat on this floor, it is a question of privilege. That is its character. If it is not that, what is it? It seems to me that, viewed in this light, it is of no consequence what the ultimate judgment of the Senate on the subject may

be, in order to decide the character of this question. If you admit the claim of the memorialist, if you say that he is right, then I take it everybody will concede that it is a question of privilege.

Now the point is, is he right? That is the question presented; and it is a question of privilege. Why? Because the right of any gentleman to a seat on this floor is a question of privilege. It affects the organization of the body, and falls within that class of cases denominated, under parliamentary law, questions of privilege. In my humble judgment, that is the only question to be decided at present, upon the suggestion that has been made from the Chair—is it a question of privilege? The Senate say "yes." Having said that, they can postpone it; they can do with it what they can with any other question.

I did not vote at all on the motion to lay this subject on the table, because I submitted, and I certainly think that the question as propounded by the Chair—will the Senate take this up and consider it as a question of privilege?—is not a subject which can be laid on the table. But, being regarded as such a question, it is before the Senate; and then it may be postponed for the Army bill; it may be laid on the table; it may be disposed of like any other question which is before the Senate; and that, in my humble judgment, (I say it with respect to all others,) is the best way to get rid of this subject. When the preliminary point is once decided, we can lay it on the table, and go on with the Army bill, or do anything else that a majority of the Senate choose.

But, sir, I shall not detain the Senate, but shall conclude by a simple restatement. Here is an individual elected by the State of Minnesota in virtue of an act of Congress, as he claims; and he claims that, in virtue of that act of Congress and of his election, he is entitled now to take his seat in this body. It is not necessary to decide that he is entitled to it in order to say that this is a question of privilege. The Senate may decide against his claim, but it is no less a question of privilege, and it falls within that class of parliamentary questions denominated questions of privilege.

Mr. HUNTER. I merely desire to state the point I took in relation to this matter. I say that, to make it a question of privilege, it must be necessary for the petitioner to show at least a *prima facie* right or title to a seat. Suppose some one should come here and claim to be a Senator from Arizona: would that be a question of privilege which we should have to consider in preference to all other business? Clearly not; because it would be manifest he had no *prima facie* title to a seat. I say there can be no such title, because, in order that there may be a Senator, it is necessary that there should be a State to elect him. It is obvious that Minnesota is not a State. There can be no dispute about that.

The Senator from Ohio says it may be brought in under an enabling act. Clearly not. The enabling act is only passed to allow the Territory to form a constitution, and present its constitution preliminary to admission. You cannot admit it beforehand, because Congress has to judge whether the constitution is republican. To make it a State requires the assent of both parties. This case stands a little different from the ordinary case of contested elections, and the questions of privilege which arise out of them. This is a case in which you have to decide the preliminary question as to the admission of the State. To say that this is a matter of privilege, would be to allow any petitioner to come here and claim a seat, and to decide that you must give precedence to that question.

Mr. STUART. The Senator will allow me to present to him a supposed state of things. The Senator from Virginia is endeavoring to show that Minnesota is not in a condition to entitle this gentleman to a seat here as her Senator. The Senator from Kentucky, who presented the credentials, contends that it is. Now, sir, it is not a case of common consent like Arizona, or Kamtschatka, or some other case where the applica-

tion would be a mere sham. The Senator will see that, taking his own position and that of the Senator from Kentucky, it is a question.

Mr. HUNTER. Senators may make a question of anything. It is for the Senate to say whether it is a question. It seems to me to be no more of a question than the case I have supposed of Arizona. It is sought to be made a question on the ground that this petitioner has made the question by claiming to be a Senator. I say if that be admitted, we should have to allow a petitioner who claimed to be Senator from Arizona, to raise such a question; for, clearly, no State can be brought into the Union until there is an assent by both parties—until the Territory claiming to be admitted, and the Congress which acts for the Federal Government, agree to its admission. To claim otherwise would be to say that this is a State at any rate, and that if we did not admit her, she is a State out of the Union—an entirely anomalous relation, for which our constitution has not provided. But, I believe, to settle this question, it would be better to refer it to the Committee on the Judiciary. I am willing to have it inquired into. All I object to is admitting it to be a question of privilege which is to take precedence of all other business.

Mr. TOOMBS. I think that the gentlemen who have spoken have argued this question very well, and that we all understand it; and I propose to dispose of it in a way which I think will meet their views. I concur with the Senator from New York, and other gentlemen, that this question depends entirely on whether Minnesota be or be not a State in this Union. Under the Constitution Congress admits new States. Has Congress admitted this new State of Minnesota? I simply want to make that inquiry, and therefore I propose this resolution to dispose of the case:

Resolved, That the question of the admission of James Shields to a seat in this body as a Senator from the State of Minnesota, be referred to the Judiciary Committee, with instructions to inquire whether or not Minnesota is a State of the Union under the Constitution and laws.

That covers the whole question. If she is a State, this is a privileged question, unquestionably. The privilege of a Senator, for many purposes, commences from the time of his election, and not from the time of his induction here. Senators have privileges given in the Constitution, to be free from arrest in coming to, and returning from, here. If he was arrested on the wayside for debt, and pleaded privilege, the exhibition of his commission would be a sufficient answer to the action; and, therefore, swearing him in in this body is not at all necessary to his character of Senator. In this case, the whole matter is dependent on the question, whether Minnesota is a State of the Union, or not?

In 1802, when Ohio, under an enabling act, had made a constitution, and went on, under the regular forms, to constitute a State government, a committee of this body was appointed. You will not find it in the printed Journals, but it is now in manuscript in the Secretary's office. The committee were to inquire whether or not Ohio was a State. They said Congress had passed an enabling act, that Ohio had complied with the conditions, and that nothing else was necessary, but to extend the laws of the United States over her. They did that, and swore in the members. They decided that she had complied with all the conditions, and was a State. Now, if it be decided that Minnesota is a State without further legislation, this is a question of privilege, and the gentleman ought to be admitted to his seat. If she is not a State, he ought not to be admitted. The consequences to which the Senator from New York very properly referred cannot exist, because we can never presume that the other House would do wrong. If she be a State, we are bound to presume that the House of Representatives will admit her Representatives to take their seats at once; if she is not a State, it is our province to admit her in the terms of the Constitution, and until that is done, she cannot be represented here.

Mr. CRITTENDEN. I shall occupy the attention of the Senate but a very few minutes. This is, to some extent, a new subject, well worthy the consideration of the Senate, and more consideration, perhaps, than I have been able to bestow on it in forming my own opinions. But it seems to me that, in transforming the people of a Territory into a State, there are various stages of

progress, and there are various effects resulting in the course of that progress. You regard the Territory, long before its admission, in many respects, as a State. It has, in obedience to your law enabling it to become a State, formed a government for itself. It is not yet formally admitted by Congress, but Congress always recognizes various acts, done by it before admission, which none but a State could do. For instance, if the State were admitted, I presume no gentleman here would hesitate to receive the Senators already elected; but yet, in a very technical and strict sense, none but States can elect Senators. If she is not a State until a formal act of admission is passed and put on record here, then her election of Senators is null; yet, by the constant practice of the Senate, from the moment her constitution has been formed, and her Legislature have assembled who are competent to elect a Senator, you recognize the validity of her election of a Senator. The other House, in the presidential election of Mr. Monroe, recognized Indiana, before her admission as a State, so far as was necessary to enable her to elect electors of President and Vice President. This was not done without a reason.

So, sir, you recognize her as a State in her election of a State Legislature, whose powers are to come from her own constitution, and not from your organic law. You recognize her as a State in her election of Governor, under the contemplated State organization. In all the preliminary acts you recognize her as a State, though she has not been admitted. You recognize her election of Senators as a valid one, unless the State be afterwards rejected. If you recognize their election as valid, how can you refuse them seats here? Can you say it is because she is not yet formally admitted? The same argument, if it avails against their right to take seats, avails against her right to elect them. You recognize the principle, and you refuse the necessary consequence—so it seems to me.

After all these preliminary acts which are partial recognitions (they are recognitions in these particulars of it as a State) to cover all, to be more comprehensive, to embrace all, you put upon the record, in the most formal manner, as you ought to do, a formal admission of the State into the United States. All that you have done before, in those acts to which I have alluded, is a partial recognition. The House of Representatives, with the concurrence of the Senate, did it in the case of the electors of Indiana, to which I have alluded, because there the vote was counted after attention had been called to it, after objection had been made, and Mr. Calhoun and others, strict guardians of the Constitution, said "right;" and that same Congress permitted William Hendricks to be sworn in and take his seat as a member from Indiana, before the formal admission of the State. It seems to me that, notwithstanding these imperfect—as I consider them—and partial recognitions of it as a State, it would be competent for Congress, when the great comprehensive question of admission as a State came up to be decided, if they discovered any insuperable objections on grounds of constitution or otherwise, to say, "This State is rejected; its constitution is not accepted; the State is not admitted." That would put an end, to be sure, to all the partial and preliminary recognitions which had been made.

That has been the course of Congress; that is the convenient course; that, it seems to me, is the sensible course. It leaves everything in the power of Congress. It gives due effect to every step taken in the progress of a Territory towards the official consummation of her becoming a State. The formal admission afterwards makes assurance doubly sure; rejection annuls it because all that preceded it were but partial and imperfect recognitions. So it is with the recognition of the validity of this election of Senators, if you will esteem it as such, whenever the State is admitted. You have, in various other instances, regarded such an election as valid and admitted the Senators after the formal admission of the State, thus acknowledging the validity of an election made before; and it seems to me inconsistent to say that the validity of the election is not disputed, but the right to take a seat here under that election is no question of privilege and no right at all.

Mr. BROWN. Mr. President, I quite concur with the Senator from Georgia that this whole

question turns on the point whether Minnesota is a State of the Union. If she is, then it was clearly the right of the Senator from Kentucky this morning to move, as he did, to swear in her Senators, as much so as it would be the privilege of the Senator from Texas to rise to-morrow morning and move to swear in his absent colleague who has not yet taken the oath. It is not technically a question of privilege; it is rather what we call, in parliamentary law, a privileged question. The distinction is not worth drawing here, perhaps, but still there is a distinction.

Now, is Minnesota a State of the Union? I shall vote for the resolution proposed by the Senator from Georgia; but I do it in deference to the judgment of other gentlemen, and to get clear of the question now, and not because there is one single shade of a shadow of doubt on my mind on the subject. Minnesota is not a State of the Union. If she is, she must have been made so by the enabling act. There is no pretense that she has become a State in any other way. Who knows? How has it been congressionally ascertained that she has complied with the enabling act? Where is the judgment on that subject? How has it been ascertained that her constitution does not infringe or violate the Constitution of the United States? When was it ascertained, and put upon the record, that her constitution is republican in its form? All these things may be true, but they have not been ascertained. There is nothing on the record to show that they are true. Where is the evidence, that in fixing her boundaries, she has not run into the adjoining States, and cut off a part of Iowa and Wisconsin? Has it been ascertained that that is not true? Suppose, without inquiry, just by virtue of the enabling act, she is now in the Union, and it turns out that her constitution is not republican in form, that her boundaries violate the boundaries of the adjoining States, that she has in other respects violated the Constitution of the United States: then what? Is she out of the Union? Do you break up the Union by turning her out to-morrow as soon as you ascertain that these things are true? If she is in the Union, she is in from the day her constitution was passed by the members of the convention which made it, for you have done nothing to give sanction to it since that. If she is in by virtue of the enabling act, she is in from the very hour when the convention made the constitution; and then I suppose the very instant you find out that her constitution is in violation of the Constitution of the United States, she goes out. That is an act of dissolution.

I speak of these matters simply to show what strikes me to be the absurdity of declaring a State in the Union in this sort of informal way. If she cannot be in the Union with a constitution anti-republican; if she cannot be in with boundaries which infringe the boundaries of other States; if she cannot be in because her constitution provides for orders of nobility, stars, and garters, and all that; if she cannot be in for any one of the hundred reasons which I could name, then there must be a necessity for ascertaining that these objections do not exist before she is in at all. Who has ascertained it? It is the duty of Congress under the clause of the Constitution, which authorizes it to admit new States, to ascertain all these points. When they have done it, and put that ascertainment in the form of a judgment on the records, the State is in, and not till then. About this I have no doubt, and I am astonished to find that anybody else has; but still in deference to the opinion of other gentlemen, and to get clear of the question, I will vote for the resolution of the Senator from Georgia.

Mr. SIMMONS. I desire to make a few inquiries before I vote on this question, if there is any question to be voted upon. I should like to ask the Senator from New York if he has examined this question, as I suppose he has, whether the admission of a State into the Union, as he understands it, cannot be made by an act of Congress to depend on a future act of that State, complying with certain conditions; and whether, if they are complied with, the State is not in from the time they are complied with? I think Minnesota is a little nearer in the Union than Rhode Island was from the time the Constitution of the United States was adopted until we accepted that Constitution and adopted it ourselves. Rhode Island, from 1787 to 1791, was without the jurisdiction of the United States. You could enforce

no law upon them, and collect no revenue from them. They kept without the Union for four years. The condition of their coming into this Union was, that they should have a convention and accept the constitution of the United States. They did accept it, and they were in. They not only did not elect a new Legislature, but the Legislature that was chosen before they were within the Union elected Senators and sent them here, and they took their seats, and had a right to take them, in my opinion.

I say that it does not depend on any particular form of admission. If they agree according to the Constitution and according to the law of the United States and comply with all its provisions, they are in the Union practically. Suppose, as the Senator from Mississippi says, their constitution does not conform to the Constitution of the United States; then it is invalid from the outset, it is good for nothing from the beginning; but it is said you must go through the form. The first Senators from Rhode Island would have thought it very singular, and I dare say the first Senators from North Carolina would, for they did not come in for three years, if they should be questioned whether their Legislature was elected after the adoption of the constitution or before. They came in according to the provisions of the Constitution, and a State can come in to-day according to the provisions of the Constitution and the provisions of a law of Congress.

This Territory has been within the jurisdiction of the United States ever since the Constitution was formed. We can prescribe, as I understand, the mode of their coming here and the mode of their making preparation for admission. I hold that that is a very different thing from what it is for a Territorial Legislature to undertake to usurp authority and send Senators here. We have given them authority to become a State; and the question is, are they a State? I agree there must be steps in this proceeding; there must be step after step, but does anybody contend that any validity could be given to this election, and to the credentials of the Senators which are presented, by anything we can do here formally admitting Minnesota as a State? If it was not a State when they were elected, their election is good for nothing. In the routine of business, it is not so material which point you take up first.

The Senator from Kentucky says Louisiana was admitted in the same way; that they were authorized to frame a constitution, and that they had a right to send members here. Did I so understand?

Mr. CRITTENDEN. Louisiana was authorized to form a constitution, and did so; and was required by the same act to send her constitution here, and if that constitution was not rejected by Congress, she was declared by the enabling act to be a State of the Union, without any vote of admission.

Mr. SIMMONS. There was no vote of admission; that is what I understand. It was perfectly competent, then, for Congress to have said so in regard to Minnesota. If they did not say so, it does not follow that the people of Minnesota must go back and elect their Legislature over again, and that we must exclude them because we did not think of that, and turn them adrift with no territorial or State government. In my opinion we must recognize these things as having taken place. I believe the Senator from Minnesota comes here with his credentials; I did not happen to be in the Chamber when they were presented; but it seems to me this question, if properly made, is as much a question of privilege, as if I or any other Senator in this body were to present credentials, and our taking a seat should be resisted.

I think there is no such practical difficulty as the Senator from Virginia imagines. He seems to suppose that you have to go into all the matters from the foundation, and that this State, if we do not admit her, would exist as a State out of the Union. There is no such thing. Our jurisdiction extends over Minnesota now as much as over any State of the Union.

Mr. HUNTER. The Senator should not understand me as saying that it is a State out of the Union. I say that seems to me to be the legitimate consequence of the doctrine on the other side.

Mr. SIMMONS. That was the answer of the Senator from Virginia to the argument of the Senator from Kentucky that, if we admitted the Sen-

ators from Minnesota and afterwards turned them out, if there was any informality in the proceedings, they would be a State out of the Union. I cannot so understand it. I think they would be in the Union anyhow. I do not believe they can get out of it. I do not believe there is so much facility in getting out of the Union as some do.

The VICE PRESIDENT. The question before the Senate is, whether the application of James Shields is a question of privilege. The Senator from Georgia proposes to refer that question by the following resolution:

Resolved, That the question of the admission of James Shields to a seat in this body, as a Senator from the State of Minnesota, be referred to the Committee on the Judiciary, with instructions to inquire whether or not Minnesota is a State of the Union under the Constitution and laws.

The resolution was adopted.

INCREASE OF THE ARMY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 79) to increase the military establishment of the United States, the pending question being on the motion of Mr. SIMMONS to amend the substitute offered by Mr. JOHNSON, of Tennessee, by striking out in the first section the words, "four thousand," and inserting, "three regiments, or thirty companies."

Mr. SIMMONS. The object of the amendment is to leave it optional with the President to muster into service three regiments, or thirty companies of volunteers. I propose this as an amendment to the proposition of the Senator from Tennessee, to raise volunteers instead of regulars. Objection was made a week ago, when we had this bill up, that four thousand volunteers would cost more than the proposition of the Senator from Virginia, for three regiments of regulars. The amendment of the Senator from Tennessee was objected to on the ground that it called for more men, and, therefore, it would be more expensive. I propose to raise the same number of companies suggested by the Senator from Virginia, and to give the President authority to accept them by regiments or companies, as the public service may require. I think myself that if volunteers are accepted, it may be more convenient for the Government to employ them in companies than in regiments; but that will depend on their mode of organizing them. I think, if I understood the Senator from Tennessee, he was willing to accept this modification, and put it down to the same number proposed by the Senator from Virginia; and then the question will come up simply in the preference between the two kinds of forces—regulars or volunteers.

Mr. JOHNSON, of Tennessee. I think by a reference to the first section of my substitute the Senator will find it proposes to raise them in regiments, battalions, or companies. All that it will be necessary for the Senator to do will be to move to strike out "four thousand" and insert "three regiments."

Mr. SIMMONS. They must be raised by companies. Thirty companies make three regiments.

Mr. JOHNSON, of Tennessee. Perhaps the Senator does not understand me. I will state again that the first section of the substitute authorizes the President to receive into the service of the United States companies, battalions, or regiments of volunteers to any extent not exceeding four thousand men. The Senator will attain his object by striking out "four" and inserting "three."

Mr. SIMMONS. Three regiments would be about two thousand two hundred men.

Mr. JOHNSON, of Tennessee. But say three thousand men, and that would bring it within the proper limit.

Mr. SIMMONS. All I want is to bring the amendment down, so that no man who is for restricting the bill can say that volunteers cost more than regulars. I want to have a fair question between regulars and volunteers. The objection I have heard urged is, that the amendment proposed by the Senator from Tennessee authorizes the President to employ a great many more men, and would require, therefore, a greater outlay than the proposition of the Senator from Virginia. I want to reduce it down to the same number of men that would be contained in three regiments of regulars; and if that can be done, my object will be attained.

Mr. JOHNSON, of Tennessee. I think striking

out the word "four," and inserting "three," will accomplish the idea of the Senator from Rhode Island.

Mr. SIMMONS. I wish to call the attention of the Senate to one circumstance. If that is the purpose of this bill, I will say that the President be authorized to accept two thousand two hundred and twenty men. That is just the number of thirty companies, or three regiments, as now authorized by law. There are seventy-four men in a company, and thirty companies would be two thousand two hundred and twenty men; or, say not exceeding two thousand five hundred men. I do not care about the exact number, so that I am within a reasonable range. I modify my amendment, so as to move to strike out "four thousand" in the substitute of the Senator from Tennessee, and insert "two thousand five hundred."

Mr. PUGH. I propose "three thousand." These companies are larger when they serve in the field than according to the peace establishment.

Mr. SIMMONS. I have no objection. I will accept that modification, if it be satisfactory. I move to strike out "four thousand," and insert "three thousand."

Mr. BROWN. I do not wish to discuss this question particularly, but I desire, in this connection, to make a very brief explanation. I find that I was represented in the western newspapers, through the telegraphic reports, as having, on a former occasion when this question was up, used this language:

"Mr. Brown said that if volunteers were sent to Utah, they would follow Brigham Young, and would not fight unless forced to."

Now, sir, Mr. Brown did not say any such thing, nor anything which even approximated to that; yet I can see how by an awkward telegraph sentence, awkwardly punctuated in the printing, I am made to say precisely what I did not say. What I did say was, that if volunteers were sent to Utah, war would follow, and that Brigham Young would not fight unless he was forced to; yet this telegraphic dispatch represents me as saying that if you sent volunteers to the Utah war they would follow Brigham Young, and that they would not fight unless they were forced to do so. See what havoc was made of my poor little speech.

That is not the worst of it. There is not a volunteer soldier, past or to come, who would not feel that he was grossly insulted by such a declaration here, that his country sends him out to fight these Mormons, and instead of doing it he follows their chief; and then when he follows the chief he is not going to fight unless you force him to it. I said the other day, that I would not vote for volunteer troops for this service for the reason I then assigned. I wanted then, and now, to impress upon the Senate that if you send volunteers there, you will have war. If you send volunteers from Missouri and Illinois, from which two States they are more likely to come than anywhere else, as I said then, and I tried to impress that idea on the Senate, (and I hope if anybody hereafter telegraphs anything I say, he will, at least, get somewhere in the neighborhood of the truth,) they will go to wreak vengeance on the Mormons, and they will bring on a war. If you send regular troops, and make a proper demonstration, I have never believed, and do not now believe that Brigham Young will fight; but I would take all the necessary steps to be prepared for battle, if you must have it. I do not seek it; I would avoid it by all fair and honorable means. There never has been an American musket fired against the bosom of an American citizen by order of the Government, or under the sanction of law. I shall deplore the hour when the first blood is shed in a fratricidal war. These Mormons are all wrong. That they must be required to obey the laws of the country, I am as ready to admit as anybody else; but I would send no volunteer force there, that would go to wreak vengeance for past wrongs, and thus precipitate you into a conflict whether you would or not.

Sir, if you had an actual existing war with a foreign Government, with the Indians, with the Mormons, or with anybody else, I would prefer volunteers to all other kinds of force. Why? Because when the war is on hand they will pitch in and fight it out more valorously, more daringly,

than any other troops. They fight by the job; they fight quick, with a design to end the contest as soon as possible. There is where my friend from Tennessee, [Mr. JOHNSON], the other day was mistaken in his eulogy on volunteers. Volunteers have never been called into service to garrison posts. You do not want to place them in barracks to rub up muskets and to perform the mere duties of the camp. They would not volunteer for any such service; but when war breaks out, if it must break out, and you want to fight it to a conclusion, then take volunteers. If, however, you want peace, I think you had better stick to the regular troops. When the Mexican war actually commenced, you took volunteers and sent them there; and they did good service. When the Indian war was going on in Florida, you called for volunteers and sent them there, and they did good service. They do good service in any actual existing war; but my opinion is that they will always do mischief when there is no war, because they volunteer, as I said before, not to garrison posts, not to perform camp duty, but to fight, and if there is no fight on hand, they will be confoundedly apt to get up one.

Mr. SIMMONS. I understand the Senator from Tennessee is willing to accept my amendment.

The PRESIDING OFFICER. (Mr. Foor in the chair.) At this stage of the proceedings, it is not competent for him to accept a modification of his amendment. It has already been modified and can be further modified only by a vote of the Senate.

Mr. JOHNSON, of Tennessee. I will accept it by the general consent of the Senate.

The amendment was agreed to.

Mr. BELL. I have not taken much part in this discussion. I said a few words when the bill was first brought up, under the expectation that a vote would be immediately taken—

Mr. PUGH. With the permission of my friend, the Senator from Tennessee, I wish to offer one or two amendments, which I hope will be accepted by the other Senator from Tennessee, and after we have perfected the substitute, then, if gentlemen wish to speak to the question at large, it would be better. If they speak to the question at large now, and we then go on to perfect the substitute, we shall debate it to the end of time. I will suggest to the Senator from Tennessee [Mr. JOHNSON] the same amendment which I suggested to the Senator from Massachusetts, [Mr. WILSON.] He requires the President to employ these troops alone in the Territory of Utah. I do not think we have any power, by act of Congress, to limit his authority as Commander-in-Chief, and I propose to the Senator to strike out of the substitute the provision restricting these troops to service in Utah.

The PRESIDING OFFICER. The Chair will again state to the Senator from Ohio that when a proposition is before the Senate, offered by any member, it is competent for the mover of it to accept any modification before it has been amended by the Senate; but after it has been amended by the Senate, it is no longer competent for the mover to accept a modification. The Senator from Ohio can offer his proposition by way of amendment.

Mr. PUGH. I move, then, as an amendment, to strike out of the substitute the words "the citizens on," the words "in the Territory of Utah, and to be employed in said Territory," and to insert "to the Pacific coast," so that the clause will read:

"That the President, for the purpose of enforcing the laws of the United States, and protecting the routes of emigration to the Pacific coast, be, and he is hereby, authorized to call for," &c.

The amendment was rejected.

Mr. PUGH. I move, after the word "infantry," in the first section, to insert:

"And one regiment of mounted rangers or cavalry."

The substitute now provides only for infantry; but I understand it is desirable to have one regiment of mounted rangers or cavalry to protect the frontier of Texas. I understand the Committee on Military Affairs, in the House of Representatives, have come to the conclusion that it is advisable to station a mounted regiment there—I may be in error as to that—and let the troops now there be sent on the expedition to Utah; and I think it would be a better disposition of the force.

Mr. HUNTER. Is it proposed to add a regiment of cavalry, so as to provide for four regiments altogether; or is it intended to have two of infantry and one of cavalry?

Mr. PUGH. It will make four regiments—three of infantry and one of cavalry.

The amendment was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the substitute of the Senator from Tennessee [Mr. JOHNSON] in place of the original bill.

The substitute, as amended, is as follows:

That the President, for the purpose of enforcing the laws of the United States and protecting the citizens on the routes of emigration in the Territory of Utah, and to be employed in said Territory, be, and he is hereby, authorized to call for and accept the services of any number of volunteers, not exceeding in all three thousand officers and men, who may offer their services as infantry to serve for and during the pending difficulties with the Mormons in said Territory, and no longer; and that the sum of — dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

SEC. 2. *And be it further enacted*, That the volunteers so offering their services shall be accepted by the President in companies, battalions, or regiments; and that each company shall consist of the same number of officers and men as now prescribed by law for the infantry arm of the Army; and that the companies, battalions, and regiments, shall be each respectively authorized to elect their own officers, and when so elected shall be commissioned by the President of the United States.

SEC. 3. *And be it further enacted*, That said volunteers, when mustered into the service, shall be armed and equipped at the expense of the United States, and, until discharged therefrom, be subject to the rules and articles of war, and shall be organized in the same manner and shall receive the same pay and allowances as the infantry arm of the Army of the United States.

SEC. 4. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred upon persons wounded or disabled in the service of the United States.

SEC. 5. *And be it further enacted*, That the said officers, musicians, and privates, authorized by this act, shall immediately be disbanded at the termination of the pending difficulties with the Mormons in the Territory of Utah, and in no case shall the force created by this act continue in service more than two years.

Mr. BELL. I understand that the original bill in its present shape, according to the amendments which have been made to it, provides for the raising of three regiments of regulars.

Mr. SIMMONS. Thirty companies.

Mr. BELL. I thought the amendment of the Senator from Virginia [Mr. HUNTER] had been agreed to, providing for three regiments.

The PRESIDING OFFICER. The amendment suggested by the Senator from Virginia has not yet been offered for the action of the Senate.

Mr. BELL. It will make very little difference when I submit my remarks, as my only wish is to put myself right on the whole subject. In the unpremeditated remarks which I made on a former day, when I understood that the bill was to be passed through immediately, on the first or second day when it was pending in the Senate, I said that I thought twenty thousand regular troops were not too many to be authorized as the nominal military force of the United States. I think so still. The present organization of the Army seldom furnishes an effective strength of more than fifteen thousand rank and file, although nominally the number of troops is eighteen thousand, when all the companies and regiments are full. If we were to provide a regular military force of twenty thousand men, I should think it would not be too great a number for the extent of the territory and dominions of the United States. I have not the least fear or alarm of any danger to which our liberties would be subjected by such a force. I concur entirely in many of the sentiments expressed on that point by the chairman of the Committee on Military Affairs. I also concur in the sentiment that standing armies may be justly feared in a republic when enlarged beyond that extent which is necessary, and must always be necessary in every country for the protection of its principal fortifications and frontier defenses on its borders, where it is exposed to attacks from Powers that may become inimical. In this country it is necessary to have an army to guard the fortifications on our extensive Pacific and Atlantic coast, and our double line of frontiers in the interior, where we are liable to be assailed by hostile tribes of Indians.

I have no objection on that ground to some increase of the Army; but when I addressed the

Senate on this subject before, I stated that, in the present circumstances of the country, I thought there was no necessity for an increase of the regular military force of the United States. When the bill was first presented, not having examined it thoroughly myself, I supposed that perhaps it would be proper to make the increase called for by the Secretary of War, and by the President; but after hearing the arguments on both sides of the Chamber, and particularly what was said by the chairman of the Committee on Military Affairs, I came to the conclusion there was no necessity for this increase now. Our military force, which in ordinary times, perhaps, ought not to be rated at more than twelve thousand effective men, rank and file, may now, owing to the peculiar circumstances of the times, be properly rated at fifteen thousand; and from this fact I inferred that not only was there an ample regular force authorized by law, but that there was an effective force, estimating it by the present strength of the regiments of the regular Army, to answer all the exigencies of the time in relation to what is called the Mormon war. So believing, I stated that in my view the proposed increase could properly be deferred until a subsequent period, when we could consider it with more deliberation, and when the finances of the country would be in a better condition to justify an expenditure for this purpose. I made up my mind on this ground to vote against this bill for an increase of the Army.

It has been urged that the increase is necessary to be made for the prosecution of the Mormon war, as it is called. I have heard nothing yet to satisfy me that the three regiments proposed to be raised by the Senator from Virginia can be available to answer the purposes of the prosecution of that war, if war there be, within the time when it will be necessary for the troops under Colonel Johnston to move upon the Mormons. I do not believe they can be raised and organized in due time for that purpose.

What, then, is the exigency, or the pressure of the circumstances, under which we are asked to vote this increase now? I have great respect for the views of the honorable Senator from Virginia; and I trust that whatever passages we may sometimes have, he will always understand me as entertaining the greatest respect for his views and opinions. He thinks there is an exigency at the present moment for raising three regiments; but can they be organized in time to answer the purposes of that exigency, even if it exists? The force now employed against the Mormons cannot wait for the organization of these three regiments. Then, again, look at the expense attending the recruiting of three regiments; the time that will be lost; the extra expense that will be incurred by moving them from various points in the Atlantic States and concentrating them on the frontier, so as to send them to the relief of Colonel Johnston, and then, probably, they will fail in effecting a union with him. Will the great expense that will be incurred be justified by the utility of raising these regiments, seeing that they are likely to fail to be an effective force, in addition to that now employed against the Mormons? Besides, they are only to be employed for two years, which I understand is the condition upon which my honorable friend (if he will allow me to call him so) from Virginia proposes that they shall belong to the regular Army.

Under these circumstances, would it not be better to pass no bill at all, either for volunteers or regular forces, than to adopt this measure at this time, when it will involve great expense, and when it will probably fail altogether to answer the present exigencies? And besides, the force is to be disbanded in two years. I have no idea that the Senator from Virginia means to take this step with a view to increase the Army permanently. His proposition is to add three regiments to the Army for two years. If any Senator thinks it is important to increase the Army permanently to this extent, it is of course parliamentary for him to take the first step by getting it now for two years, with a view on his part to make it permanent at the end of two years. I make no such insinuation in regard to the Senator from Virginia; but for myself, I hardly think I should object at that time to making this permanent addition to the Army. I understand that the recruiting service is more successful now than is apt to be the case in times of prosperity, when every

branch of business is active and flourishing. If we had a regular Army with twenty thousand as the authorized maximum number, I do not think that in ordinary times of prosperity and peace, (or I will say prosperity, whether there were peace or not,) it would furnish us an effective force of more than fifteen thousand of rank and file. That is my judgment; from my observation and consideration of the subject. If the Senate should now adopt this proposition to add three regiments to the Army as a temporary measure, I do not know but that I should rather be disposed to make it permanent if the finances of the country justified it, particularly if there be a military necessity for such an accession of force.

The whole question now presented to us is whether we shall provide for raising volunteers or regulars. If the service is to be a temporary one; if it is the Mormon war that creates the necessity for an increased force, would it not be cheaper and better resort than to attempt the raising of three regiments of regulars? They can be more readily raised and organized; and in times like these particularly, you will soon have them swarming to your standard on the frontier, and in the interior too. You will have volunteers flocking to your standard from my own State of Tennessee, sometimes called, I believe, emphatically, the volunteer State; and I think she is entitled to that *sobriquet*. So it is with Kentucky, standing alongside of us. I think the most convenient and ready organization would be obtained on the western frontiers of Iowa, Missouri, and Arkansas, and perhaps above all in California.

The objection is made, however, that the volunteer forces are not subject to regular discipline, and that they might create mischief in an invasion of the Mormons, or that they might not be sufficiently under control to enable us to avail ourselves of the disposition of the Mormons to submit to the regular authority of the Government, if there should be such a disposition on their part. It is said that the use of volunteers might lead to thwarting the Government in a sound and humane policy in reference to the Mormons. In answer to that, I say that if you send out volunteers, there will be nearly or quite as large a force of the regular Army, commanded by veteran and experienced officers; and it seems to me they would have it in their power to restrain any of those excesses to which volunteer forces, suddenly raised, without time for discipline or learning the habits of war and obedience to superior officers that regular forces have, might be inclined.

I do not want to talk about the militia of the country being a proper resort in any war with disciplined veteran forces. The history of the country furnishes the proper conclusion in regard to all questions of that sort. But in the outset of every war we know that we have to depend mainly on the militia. They must be our main dependence in the first instance. Even if we were engaged in a war with Great Britain, we could not suddenly recruit a force sufficient to encounter the legions whom we should have to meet. We must depend on the volunteer spirit, in the outset particularly; but when we come into competition in regular warfare, under distinguished military leaders, we know that nothing will be so efficient to encounter them as veteran disciplined forces on the other side. But still this is no disparagement to volunteers. We must depend upon volunteers. In the last war with Great Britain we know how it was. I need not go into an explanation of that.

My friend from Georgia, [Mr. IVERSON,] if he will allow me to call him so, made some very hard hits at the volunteer system, and he thought volunteers should never be resorted to when we could get any other force for purposes of war, defensive or offensive. I understood him finally, however, to withdraw any declaration which he made as to the want of gallantry in the volunteers of any State.

Mr. IVERSON. Will the Senator from Tennessee allow me to say a word in explanation?

Mr. BELL. Certainly.

Mr. IVERSON. The Senator says I withdrew the imputations. I did not withdraw them. I simply disclaimed having made any.

Mr. BELL. It amounts to the same thing.

Mr. IVERSON. I made no imputation on the courage of the volunteers of Tennessee. I have been charged, in a paper of this city, with having made an apology. I made no apology. I made a disclaimer.

Mr. BELL. I understood the honorable Senator to disclaim the design to make any such imputation; and with the estimate I have of his good sense and judgment, I could not, from anything that he said, draw the conclusion that he really felt any disposition to disparage the volunteers of Tennessee, or any other State. He spoke, however, of the rapid retreat of a volunteer regiment at the battle of Cerro Gordo. I thought that was the most disparaging remark which he used, and he made use of another expression which I shall not mention in the Senate, but will call to his attention privately.

As I understand the orders of General Scott, and the programme of the battle of Cerro Gordo, the force to which the Senator from Georgia alluded was sent to the position of which he spoke to hold in check a formidable line of defense of the Mexicans. It was the route which our Army would naturally have taken to turn the flank of the Mexican position on our left. The Mexicans had a considerable wall built up of stone, wood, and logs, with an immense battery, and a formidable force in the rear in order to defend it effectively. General Scott's policy was to send a sufficient force to keep in check the men who were stationed in the rear of that battery, and to prevent them from being added to the force which he expected to encounter in other positions under the command of Santa Anna. Every one understands that that battle was concluded in an effective and successful manner, by making a *detour* that was not expected by the enemy, and taking them by the flank. The Tennessee volunteers were sent forward for the purpose of holding in check the forces of Santa Anna behind the line of defense of which I have spoken, so as to show them the necessity of maintaining their position, and not changing it in any event that might occur. As gallant a man as ever lived led that regiment—General William B. Campbell of Tennessee. Nobody, who has ever heard of his character or who has ever known him, will doubt his courage. He was the man who led the charge against the black battery of Monterey in an open plain, when his men were armed only with muskets and bayonets, under a well-directed fire of a well-managed Mexican battery, for several hundred yards where there was not a tree or a shrub to protect them. His column marched on, though mowed down as it proceeded. He went on in company with General Anderson. Colonel Campbell was the leader, riding in front of them, and telling them: "Boys, this is the fate of war when your comrades fall by your side; march on, and show yourselves to be Tennesseans." They marched up under a discharge of grape and ball that was sweeping down their comrades and dear friends by their side.

That was the sort of men who commanded one of those regiments at the place alluded to by the Senator from Georgia. Colonel Haskell was the commander of the regiment who took the initiative in marching up in front of such a battery as I have described without a single cannon—not even a four-pounder—to storm the most formidable battery that Santa Anna had provided for the check of General Scott's advance. I do not know who gave that order, but according to my present recollection, when the attempt was made to make this advance at a distance of three or four hundred yards, our troops were subjected to the sweep of the direct and cross-fire of all the Mexican guns mounted in that long line of defense. It is a wonder that any of them escaped. Can that be said to be a manifestation of any unusual timidity? It was impossible for men to reach the wall they were to storm with muskets and bayonets alone, without, I believe, even a single fascine to protect them.

I have said this much in explanation and defense of those gallant gentlemen—as gallant as ever were created—the late Governor Campbell himself leading the regiment. Where the fault was for making such a charge I do not pretend to say, or make any controversy about.

As to the efficiency of volunteers, I do not care to go over the grounds which were stated by my colleague the other day when the subject was un-

der consideration. The views presented by him do not require any addition from me. I remember the battle of New Orleans, though I was but a youth at the time. New Orleans would have been taken, and sacked and burned, or laid under contribution, but for the volunteers who were suddenly raised in Tennessee and Kentucky, and descended the river in a few weeks from the time the call was made. I have not had time to look into the history of the battle of New Orleans; but I believe there was not more than a regiment and a half or two regiments of regulars engaged on that occasion. They were undoubtedly very useful and essential in directing the artillery; but the main body of the force was rapidly assembled without any means of discipline except what they got descending the Mississippi river on the flat-boats. The efficiency of Tennessee volunteers was displayed on that occasion. I believe that, in the celebrated battle of the 23d of December, 1814, there was not a single company of regulars; and perhaps the British received on that occasion their most important check.

I shall not, however, go into that subject now. I only mean to say, and I wish to say it distinctly, that I think we ought to defer any increase of the Army at this time, on account of the peculiar circumstances in which the country is placed, and the embarrassed condition of its finances. It may be proper enough to authorize the President to accept the services of a volunteer regiment or two, or even three regiments, if, contrary to our expectations, there should arise an exigency demanding it, so that the country may not be without an adequate defense; but beyond this I cannot consent to go at this time. If the Mormon war, as it is called, should create any real difficulty, that might be proper. I wish, however, at the same time, to have it distinctly understood that, under other circumstances, if the finances of the country and the condition of our people were different, I would not object to a permanent increase of the Army to the extent proposed by the honorable Senator from Virginia. Having had at one time some reason to inquire into the military necessities of the Government, my opinion is that twenty thousand regular troops would not exceed what we ought to have, because we do not know what year, what half year, what month, we may not be involved in a foreign war that might call for some more effective force than we have.

Now I desire to say a word or two with regard to the Mormon difficulties. I notice that some of my friends with whom I have had communication, have supposed that I entertained very different ideas on this subject from those which I really possess. I think the policy of this Government in relation to the Mormons has been wholly erroneous and mistaken—the most unfortunate and impolitic that could have been adopted. It is lamentable that it should have been pursued. I do not wish to boast of any sagacity of my own, for I desire above all things not to be considered egotistical; but in 1850, when the compromise measures were proposed and adopted, it became us to consider what should be done in regard to Utah, not only for the purpose of answering the then existing exigency, but as to what might be the consequences in the future. I said then, as I say now, that that people ought not to have a separate organized Government of their own under our authority. My propositions, made in 1850 on that subject, are on record. I stated then that I regarded these people as fanatics, standing in pretty much the same character in which I regard the Abolitionists of the North. I do not see a great deal of difference in principle between them, and I would no more vote to confer on them the powers of separate government than I would vote to organize an assembly of Abolitionists as a Territory, finally to become a State of the Union. My opinion was, that being led away by a religious imposture which was extremely fanatical, and one of the most preposterous that had arisen in modern times, if we would let them alone, divisions would arise amongst them; they would be dispersed in different detachments, and offer no formidable resistance to this Government. I said then, however, that if you placed them in a Territory and gave them a separate organized Government, the chances were that we should either have to exterminate them or drive them out of the limits of the Union. Upon that ground I voted against that one of the compromise measures of

1850, and, I believe, the honorable Senator from Maryland [Mr. PEARCE] voted against it, too, on what grounds I do not know, but I suppose on the same ground which actuated me. Our course then was thought very strange, but I think subsequent events have shown its correctness.

Again: I think it was a capital error ever to have appointed Brigham Young Governor of the Territory, though it is probable I voted for his confirmation. It was contrary to my original ideas and views in regard to the proper treatment of that people, to give them a separate government, and then appoint their own leaders officers of the Territory, particularly the Governor. This was well calculated to inspire them with the ambition of building up a great community there. Even persons who were not fanatics would be inspired, under such circumstances, with such a desire to obtain power. It was a dangerous policy, which ought not to have been adopted.

Next, let me inquire what has the legislation of this country inculcated for the past four years? I have seen it unequivocally and boldly announced, even in the Charleston Mercury, that, under the principles recognized by the Congress of the United States, the Mormons had as much right to form a constitution, and demand admission into the Union, as the people of any other Territory. What Congress has done has not been hidden under a bushel. These are not smothered lights. They are circulated among the Mormons. Some of them are exceedingly learned and able men. They are perfectly aware of the principles which have been inculcated in this country, if they have not been actually established, which give them the power to control their own domestic institutions; and they have been led to understand that, whatever prejudice might exist against them, Congress had no right to undertake to prescribe their domestic institutions or their religion. Why, sir, the attempt of the American party to proscribe freedom of opinion in matters of religion, as it was said they did, was proclaimed throughout the country to be inconsistent and incompatible with the maintenance of free government. Do you suppose these sentiments and doctrines have not gone forth? I do not speak this with any reference to party. I do not know that the American party, who were charged with having sustained such a sentiment, ever did entertain such a principle. At any rate, if they did once entertain it, they have abandoned it under the more enlightened and more deliberate counsels of those who have succeeded the persons who organized that party originally. I do not feel warranted in stating anything on this point; but I can easily see how the Mormons might have been misled. Their leaders are not ignorant, but the masses are profoundly so, though honest and fanatical.

Under these teachings, what could we expect? What have they been taught to demand of us by our avowed principles of legislation? Gentlemen may suppose that what I am now saying is an attack upon the Administration. Not at all. When we trace back the original error, it was first the adoption of the territorial bill for Utah in 1850, and next the appointment of Brigham Young; and that was done by the head of the party to which I belonged, and an Administration which had a great degree of my confidence. I will say here, that I have not unlimited confidence in any Administration. I did not, however perceive in that policy an error so great as to induce me to take a stand against an Administration to which in the main I adhered. I do not mean to impute any willful error of course to the present Administration in the views they have recently taken on this subject, but I think the idea of a Mormon war is monstrous. We may have an internal war, a domestic war, but it will come, I trust, only after every means have been exhausted to prevent it. To make a war upon the Mormons, and denominate it a Mormon war, I say, is horrible to my feelings.

It is said, however, that in order to enforce the execution of the laws, it is necessary to send a large and expensive army to Utah. I have no desire to speak of the circumstance under which that army was dispatched. I said before, when I expressed some sentiments on this subject, that I thought the time at which that advance was directed, and those gallant men were ordered to go to Utah, was entirely too late; and that the prospect was extremely hazardous from the ex-

perience we have of the difficulty of the passages in the mountains through which they would have to make their way. It ought not to have been considered a practicable project. They ought to have waited until another season, and employed the meantime in negotiations to see whether these people could not be brought to their senses, whether we could not convince them that it would be better for them not to engage in a resistance to the power of this Government. I think that movement was a very erroneous one, costing millions of money to the Government; and Colonel Johnston and his forces are this day practically no nearer to Salt Lake than they would be if they were stationed in the city of New York.

But I pass over all the errors that may have been committed, supposing them to have been committed under such circumstances as would naturally impel any Secretary of War, or any Administration to commit them. Now, is it likely that there will be any serious war in Utah? I have received information on this subject from various gentlemen with whom I have spoken, and who seem to have some knowledge of that community; I have conversed with gentlemen from California and others, who know something of Utah and its people; and I am told that there is no disposition among them to come into hostile collision with the forces of the United States. I have been induced to favor a policy of peace. I am inclined to think that it would have been sufficient to send Governor Cumming alone with a small escort, without making any public declarations or proclamations of a hostile disposition. I have great confidence in Governor Cumming; and from what I have heard of Colonel Johnston, I should suppose he would be a proper associate in such an expedition. I think there need not have been \$100,000 expended for this purpose. The leaders of the Mormons have enough intelligence to know that they cannot resist the power of the United States. I am told they would be ready to go to any island which might be assigned them in the Pacific ocean, rather than do that. But what does history teach us as to the consequences of demanding absolute submission from men possessed of fanatical feelings and determination? If they were like some of our Puritan ancestors, what should we expect to be the consequence? Perhaps I may speak of my own ancestors, as they were of that order, and not of the Cavaliers in the civil wars in England. They would die first, without much fanaticism either. They would die for their opinion, a great deal less preposterous and absurd than these; and I have observed that, in these enlightened days, the more absurd and more preposterous are the new doctrines started up, like those of the Mormons, the more likely they are to have multitudes of followers. Nobody can comprehend them; and for that reason people embrace them, particularly if they contain things that strike their fancy and imagination. I think anybody, who has noticed the history of the progress of religious impostures and religious fanaticisms, will have seen that that is very apt to be the case. The greater the absurdity the more likely they are to succeed, if they involve certain principles and ideas which strike the imagination.

This is an attempt to force such a people to absolute submission, to make them take judges, governors, and other officers from us, to compel them to have their laws administered in the spirit of our institutions. I do not think the masses there can be made to do that. I hope there will be no actual collision.

I know it is said that the Mormons have instigated the Indians on their frontiers to mischief upon emigrants and other American citizens passing through that country. I doubt that very much. I do not give full confidence to the reports we receive on that subject; but even if that were true, I have indulged the hope that all could be calmed and mitigated by negotiation.

Sir, I do not wish to continue this discussion. On the whole, I merely wish to say that my mind inclines me to vote in favor of allowing the President to call out volunteers if he thinks them necessary, so that the Government may not be left without the proper support which ought to be given to the force now marching on Utah. If the question cannot be peaceably settled, I think it better to raise a volunteer force because they can be more speedily and promptly organized than

the regular regiments proposed to be formed. I do not believe there will be any demand for them. I do not think there will be any necessity for calling out volunteers, but I am willing to give authority to allow them to be raised.

Mr. JOHNSON, of Arkansas. Mr. President, it has not been my habit to consume the time of the Senate; but I desire, on this occasion, to say a few words in explanation of the vote I shall give. I have listened to the speech which has just been delivered by the Senator from Tennessee, and I believe it represents quite fairly the opposition which has hitherto been made to the passage of this bill. Some gentlemen base their opposition on the conviction that there will be no Mormon war. He goes still further, and is quite severe in his comments on the Administration. He has made remarks which, to me, clearly imply that he is of opinion that they have determined to force a war.

Mr. BELL. I did not say that. Mr. JOHNSON, of Arkansas. If the Senator will review his remarks to-morrow, I think he will find that that is the natural conclusion from what he has said.

Mr. BELL. I tried to guard against that. I said that if an error had been committed by this Administration, the circumstances were such that any other Administration might have committed it, and that I did not impute it to any purpose on their part to have a war. I thought it could be avoided by the adoption of pacific measures, and that is the hope I expressed. I did not say they were determined to wage a war whether it was necessary or not. I disclaim that.

Mr. JOHNSON, of Arkansas. The sincerity of the Senator from Tennessee, which I believe I may say is time-honored, will never be questioned by me; and I have no doubt, from what he now says, that it was not his intention to make any imputation of that character. He said, however, that he did not believe there would be any Mormon war, and, as a consequence, he does not believe that these troops will be really necessary. There are considerations beyond these, which it seems to me ought to address themselves to the consideration of the Senate on this occasion; and some of them I feel very sensibly myself. The impression of the Senator from Tennessee evidently is, that there will be no war or no serious difficulty with the Mormons.

Mr. BELL. I said I hoped there would be none.

Mr. JOHNSON, of Arkansas. I ask the Senator now, if he believes there will be no contest with them?

Mr. BELL. I do not think there will be any such contest as will make it necessary to call out volunteers or additional troops; but, nevertheless, I would provide them, for fear it might be so.

Mr. JOHNSON, of Arkansas. Then I suggest to the Senator that he should admit at once that the Administration sincerely believe the contrary.

Mr. BELL. I should not hesitate to admit that. I do not feel myself called upon to say that I do not think they are sincere. I think they are.

Mr. JOHNSON, of Arkansas. The declarations of the Administration, which are before us in the message of the President and in the reports of the proper Departments, can leave no doubt on our minds that it is their earnest conviction that we shall have serious difficulties in Utah; and, if I may use the term as applicable within the limits of the United States, a war there. If they believe so, the Senator from Tennessee will of course admit, that in the discharge of the functions which have been confided to them, it is their duty to use all the powers they may have at their command to achieve the object they have in view in Utah; and we have their declaration that the force they can now use for that purpose, the existing Army of the United States, is very limited.

I am free to say that, in my opinion, the force which this Government has already transmitted, and is about to transmit, to Utah, will prove itself sufficient to give us peace in that Territory; but I do not believe that peace will be secured without a battle and bloodshed. I was not here when the Committee on Military Affairs reported this bill, and I have not taken part in the debates upon it; but I must confess that my course in regard to it is not influenced by the Mormon war so much as by a regard for the consequences to ourselves at

home. I have not been so much affected by the apprehension of a Mormon war as by the fact that, in order to send troops to Utah, the Government has been compelled to withdraw them from our fortifications and frontier defenses. If the Administration do not take the Army of the United States to those points where the greatest danger exists, of course they do not discharge their duty, which they are sworn to discharge, and which, we must believe, they are willing and anxious to discharge.

Mr. BELL. They have an effective force of fifteen thousand men now.

Mr. JOHNSON, of Arkansas. I do not dispute that; but I say that the War Department has withdrawn the forces from the Indian frontier west of the Mississippi. Troops have been withdrawn from stations west of Missouri, in consequence of the belief of the Administration that the danger in Utah is much greater than to be apprehended from the Indians immediately west of Arkansas. In the country west of my State five forts have been abandoned. I believe there are not ten soldiers left upon that whole frontier.

Mr. BELL. I ask my friend if he fears anything there?

Mr. JOHNSON, of Arkansas. I do.

Mr. BELL. From the Choctaws and Cherokees?

Mr. JOHNSON, of Arkansas. I apprehend that consequences may result there which will be of very serious import, and which may be very expensive to this Government. I believe that the result of the withdrawal of the troops there may be to inflict on that region not only present evils, but evils which will last for many years to come. I believe this Government has hitherto guarded against them; but those evils may now be the consequence of the withdrawal of the troops. Senators undoubtedly are familiar with the history of the Creeks, the Seminoles, the Cherokees, and the Choctaws. They are savages, barbarians. Remove the troops from amongst them, and you give them an opportunity to go to war with each other; you will have no power to compel them to keep the peace, or to apprehend those who violate the peace. Let this be known, and discord will be the result. Habits of disobedience are easily acquired. This Government has felt the power of these Indians. When they formerly occupied the States of Tennessee, Mississippi, Alabama, and Georgia, they were engaged in long-continued wars, which cost the Government a great deal of money. No Senator is better aware than the honorable Senator from Tennessee, of the bravery, the courage, the desperation manifested by these Indians throughout those wars. These powerful tribes have been transplanted to the country west of Arkansas. You have peace in the old States which they formerly occupied, and you have cast these tribes on the frontiers of Texas and Arkansas. They have been for twenty-five years past kept in peace and obedience and good order by the presence of troops among them, and the maintenance of military posts. The Indian governments themselves have been sustained in some measure by your troops; schools have been established amongst them; and they have become in some measure civilized. They have been partially trained to habits of obedience; but yet it is not to be denied, and the executive department of this Government know, if Senators here do not, that in each of these Indian nations there are bad men, and not a few of them. The records of our courts show the difficulty which has been experienced in apprehending and subjecting to punishment men who are still prowling about amongst these Indians, breeding difficulties and engendering private feuds, leading to bloodshed and to violations of the laws of the United States in many respects.

At present there is no great difficulty in enforcing our intercourse laws with these Indians. The marshal is now able with a few men to go through these nations and apprehend offenders; but even at the present time, occasionally, prisoners who are apprehended are rescued by force, and battles take place among the Indians in which men are injured and the law set at defiance. Heretofore, however, in consequence of the system of this Government in keeping up forts, and having an armed force close by, the damage has never been great, the wrong has never been extensive, but it

has been early righted, and penalty has been early imposed.

All these Indians, having some twenty-five thousand warriors, are located west of my State; and immediately beyond them are the genuine wild savage tribes, who live by incursions on the more peaceful Indians, and by every species of predatory warfare, and particularly by robberies committed upon white men wherever they may find them, and especially emigrants crossing the continent. They have been partly restrained and kept back heretofore by our troops; but the Government has been compelled to withdraw them, and in that region, occupying many thousands of miles, I believe the Government has now only a hundred men, and they are stationed at Fort Belknap, in Texas. We established an Indian agency some two or three years ago in that region, and sent an agent there; but he cannot live among them; he cannot stay there with any safety; he must lose his life if he remains there, unless the troops of the United States are near by.

That being the state of the case, what is to be the consequence of the withdrawal of these troops? Suppose a war should once be commenced with these Indians, what is to be the cost of it? It will undoubtedly be very great—much greater than the expense of affording proper protection to your citizens. We have a right to claim that this Government shall give us on that frontier the security which they have disturbed by putting those Indians there. Certainly gentlemen will not deny that if this Government is compelled by its convictions of duty to take away the troops located there and send them to Utah, it ought to put others in their place, if they can be obtained by this bill. I do not believe there is any doubt that the troops which may be raised under this bill will be placed on that frontier.

I have referred to the frontier of the State of Arkansas because I am more familiar with that; but I know that our frontier forts and defenses generally are abandoned. My object in rising, was to present to the Senate the necessity for an increase of the military force, in order to furnish men to replace those who have been taken away from the defenses of our frontiers. I will say to Senators now, that petitions and remonstrances are constantly transmitted to us here and to the Department against the removal of the military force on that frontier.

Mr. BELL. I will ask my friend whether, if there was any appearance of difficulty with the Creeks, Cherokees, or Choctaws, it is possible anything could take place before the Government would have time to call out the militia?

Mr. JOHNSON, of Arkansas. At present, the intercourse laws are respected, and they are but seldom violated, comparatively speaking; but whilst I am now addressing the Senate, I have no doubt that men are carrying whisky into the Indian territory contrary to the laws of the United States, and to the disturbance and destruction of the peace of those Indians and the security of the whites. They are carrying whisky and other forbidden articles into the Indian nation, and there is no efficient means to arrest them. The officers of the courts can do nothing unless they are supported, and you have taken away the troops on which they have heretofore relied for support.

One of the main objects that has dictated the establishment of forts in the Indian country, has been to preserve peace within their own nations; to enable the arm of the law to be rigidly and effectively enforced. Their governments are but weak. They are not very well organized and they need support; the Choctaws I believe are the best; and I think it is unjust to them to leave no troops there.

After we have been attempting to establish the habit of obedience on their part to the laws of the United States, by a long course of care and guardianship, which has been effected mainly through the Army of the United States, I do not think it is wise or just for us now to throw away at once what it has taken twenty-five or thirty years to establish. I am satisfied that we ought to have troops on the frontier, and I am free to say further that if the Senate conclude to give us volunteers in place of regulars, it will be an error. The volunteers will not answer our purpose. If you place volunteers on that frontier now, all they will have to do will be to occupy the forts, and then their duty becomes nothing more than the routine

duty of an ordinary soldier. They will not stand it. They are an irregular class of men at best. They are inclined under such circumstances to a good deal of dissipation and wildness. They are not trained; and if you transmit even a detachment of them to aid the officers of the law, they will almost invariably commit some violence which will lead to consequences far from good, and sometimes to the saddest and most unfortunate consequences. I do not believe volunteers to be the proper force to accomplish an object of this kind. This is not the kind of service which I would have them do.

It is said that there will be a difficulty in raising these troops in time to do any good in Utah. That may be a very good reason for voting against the bill, on the part of those gentlemen who believe there can be no other object in view than the transmission to Utah of the troops which may now be raised by act of Congress; and if I thought there was no other object, I should not care if the entire bill failed. But, sir, in my judgment the objects are other and widely different. I know that our frontiers are not protected. I know that the peace and good order which have heretofore existed there are liable to be broken up, and I know that when once broken up, it will be most difficult to reestablish them.

I do not think the three additional regiments now asked for ought to be denied. I have no idea that there is any real, well-founded apprehension to be entertained of standing armies in the United States, particularly when they are limited to so small a number as our present Army, even with the addition of the little increase we now propose to make, if it were to become permanent. I hardly think that gentlemen here can possibly have any serious apprehension on such a ground. I am satisfied that the Administration is not wrong in recommending even a permanent increase of the Army by the addition of four or five regiments. I sincerely believe they are necessary. Certainly we ought not to abandon all the good we have done among the Indians. We ought not to ignore the fact that the Government, in the discharge of its duty, endangers the peace by taking away the troops from our frontiers. I say to the Senate now, that so far as the frontier of Arkansas is concerned, I know the troops have been withdrawn. Only a few days ago I saw in the newspapers, under such circumstances that I could not doubt its correctness, a statement of an incursion made by Indians upon the territory of Texas, when five men were killed, and the settlements were driven into the forts. The capital was communicated with at once, and the Legislature of Texas appropriated as much as \$75,000 to raise volunteers to repel those incursions. Texas will not sit still and see her borders thus ravaged, and make no effort to protect them. Texas will appropriate the money needful; and the same thing will take place in Arkansas, if it shall become necessary to protect our frontier. Who is to pay them? The Government of the United States must refund to Texas the amount she thus expends, because it is the duty of the Government of the United States to protect her, and place ample means there for that purpose. Is it better for the Government to undertake the expense in which it may thus be involved, or to station the requisite number of men to insure protection to the frontier? I know now, as I have said, of only about a hundred men stationed on that whole frontier, and they are at a single fort. That is not the only frontier that has been deserted. Troops are withdrawn in every direction. I believe the frontiers of California, and Oregon and Washington Territories, are in as bad a condition, or indeed in a worse condition, than the borders of the States immediately west of the Mississippi, and in a worse condition even than Texas.

Upon these grounds I shall support this bill; and I think the opposition to it can scarcely be considered proper.

Mr. FITCH. Mr. President, the debate on this subject is about to close, I presume, and all, or very nearly all, the arguments, *pro* and *con.*, must have been adduced. I have listened to the debate, knowing very little about military matters, with a sincere wish, from motives of economy, to be convinced that there is no necessity for placing at the disposal of the Executive an increase of our land forces. Thus far that wish has not been gratified; and there is yet one view of the subject

I have expected would be presented, to which no allusion, or but a slight one, has been made.

The discussion thus far, relative to the necessity and object of the Army increase asked for, has been limited to a domestic view of the matter; it has been limited to our domestic relations, our relations to each other, and to the Indians within our borders. All, or nearly all, essential to this view, has been said, and in my estimation well said, by those favoring the measure; and if I were disposed to look not beyond the reasons within ourselves, I should vote for the increase in some shape. Our difficulty with Utah is an existing fact; it is one before us—a difficulty which those who have charge of the executive department of our Government deem one of such serious character as to require more troops than have yet gone to that Territory to bring it to an honorable adjustment.

There is another difficulty which, if not present, is as much a fact, in my estimation, prospectively, as the existing one in Utah. That difficulty is one to occur next summer with our western Indians. It is known that Mormon emissaries, red and white, have been among those Indians. They have, within three or four weeks, been as far east as the Dacotah territory. They have been seeking to "smoke" that powerful tribe, the Sioux, into an alliance with them, and induce them to lift the tomahawk against us next spring. This is the case throughout our western, and especially our northwestern tribes. Efforts are making to induce them, if not to combined, to simultaneous hostilities against our people. We cannot, it is manifest from the Indian character, know what the success of these efforts will be, until the moment for action arrives. If they determine to strike, the first intimation we will have of their determination will be the blow.

But, sir, as I have already said, there is another aspect of this subject—one more comprehensive, one not looking simply to the enforcement of some domestic law, however important that may be; not looking simply to the prevention or suppression of some local riot, to the punishment of some local rebellion, or the protection of some frontier settlement; yet a view intimately connected with the honor and prosperity of our country, and indeed with the interests of our people. I have no respect for the "manifest destiny" doctrine, which has been but a pretense for armed forays from our country into the territories of other nations, with whom we are at peace. But if there is any one tradition of our people more cherished than another, it is that we are to become Americans in the most enlarged sense of the term; that this entire continent is to be, if not under one Government, and that Government our own, yet controlled in a measure by our enterprise and our institutions; that it is to be united to us by a community of interest and feeling, and a common opposition to European interference with our affairs. If there is any one policy of our Government more firmly fixed than another, relative to other nations, it is that while we will not create causes of quarrel with neighboring nations, neither will we permit difficulties within themselves, or between them and European Powers, to result in the transfer of their territory to any Government inimical to ours, or to the interest of our people.

This policy is not a mere selfish desire to enlarge our boundaries, and by adding new fields of enterprise to add to our individual and national wealth. It is, in my estimation, a wise policy of self-preservation. We cannot forget, and we ought not to forget, that we are in a position of political antagonism to most of the world. It is true, there are other nations on this hemisphere who are seeking to imitate the example of our institutions; but the often recurring struggles within themselves, between freedom on the one part, and centralization or arbitrary power upon the other, results as frequently in the triumph of the latter as of the former; and wherever that power exists, and under whatever shape it exists, our progress under our institutions is watched by it with a jealous eye.

Should we not be equally watchful and equally jealous of its approach to us? Events are at this moment transpiring, and others rapidly approaching, having a direct bearing on this policy. Since our war with Mexico, during which Santa Anna was our most active and inveterate foe, that country has been gradually approximating anarchy.

The last step in its downward progress is about to be taken. It must either very soon crumble to pieces, and a considerable portion of it, like over-ripe fruit, fall into our hands, if we are prepared to avail ourselves of the opportunity to receive it, or its government must undergo a radical change, and, under new auspices, become a more powerful and a more permanent one, although that change may make it anything but desirable to us as a neighbor. It has recently banished one President, and has now at least two, with divided authority. Pronunciamientos are put forth on all sides, each one adverse to all others; each backed by a body of armed men. Santa Anna is in the distance, ready to combine and direct these armed movements for the overthrow of the power of any other man, with the purpose of reestablishing his own.

And Spain evinces no unwillingness to invade that country. For what purpose? The declared object is to collect a debt, or receive satisfaction for some affront. Neither of those objects can be attained, as any person acquainted with the present and past condition of Mexico knows, while such a condition continues. The invasion by Spain, therefore, must contemplate possession of the country, either by placing Santa Anna in power, and ruling Mexico through him, or by creating a monarchy and putting one of its own royal family on the throne.

Under these circumstances, may not the future of Mexico attract our most earnest attention? If Santa Anna is again to become its ruler, with or without the aid of Spain, he can overcome the northern States of that Republic, and force them into submission to a central government, from which they are at this moment evincing a disposition to separate, and form an independent North Mexican Republic. His power would then be brought in direct proximity to our territory. Is this a desirable result? If he is to be established again at the head of the Mexican nation, and possesses any active power for aggression, we cannot expect a long continued peace with him; and I do not know that we should desire it. He deems us his natural enemy. He has many disasters, from San Jacinto to his hasty and narrow escape from General Lane, to avenge against us. Even if he has no powers for active aggression, if placed in position by Spain, he will have power to maintain himself in a position toward us of jealousy, antagonism, and non-intercourse. And if a monarchy is to be established, we know too well the jealousy upon the part of such Governments toward our own; and we know too well their mutual sympathy and mutual aid against a free people, or a people aspiring to freedom, to expect any long peace with one in our immediate neighborhood, or to expect any future contest between us and monarchical Mexico will be long confined to us and that country. We would soon find ourselves engaged with more or less of monarchical Europe, and Mexico be but the avenue through which its armies would reach us.

I have said that the northern States of the Mexican Republic are evincing a disposition to create an independent North Mexican Republic. Averse as they manifest themselves to being brought under the control of Central Mexico, and desirous of establishing an independent Republic, interposed between us and that center, will it be sound policy on our part to permit them to be coerced into submission to that central Power? If independent of Central Mexico, they will become dependent upon us, and almost entirely dependent upon us for the men and munitions to maintain themselves in a condition of independence from that Power.

Let us look beyond Mexico to another country, which prospective events are very likely to connect with it. It is said that Cuba, as we know from its geographical position, and from its ownership, must be the case, is about to be the point from which armed expeditions will start for the invasion of Mexican territory contiguous to ours, the freedom of which is essential to our freedom. If this be the case, it may well become a question of grave debate for us whether some expedition other than a filibustering one shall not visit that island from our shores. I am opposed to individual filibustering. I desire its prevention, its suppression, its punishment; and would, if necessary, give the Executive greater powers than he now possesses for this purpose; but if the Government,

when a good reason for it exists, and an occasion offers, will undertake some filibustering on national account, I will cheerfully vote the call for volunteers and the necessary supplies for the enterprise. The purchase or annexation of any portion of Mexico I should not deem desirable, with a condition that every class of its multi-colored population should become our fellow-citizens. We can cheerfully welcome its intelligent white population, but not its colored masses of ignorance and depravity. Yet it may be desirable to prevent these masses from being used by some other Power as an instrument against us, and to our injury. If, to prevent such use, we find it necessary to take possession of any portion of the Mexican territory, we should segregate its Indian and negro population, as we have our Indians.

How other than by an increase of our regular Army are the difficulties from passing and prospective events, to which I have alluded, to be met and overcome? If to be met and overcome only by bodies of armed men, we have them not now in an organized form for that, and scarcely for any other purpose. Our Government cannot now, nor within six months, nor within a year, remove from positions where danger or necessity has placed them, to concentrate on our southwestern frontier a solitary brigade of our Army, however necessary such a movement might become. Then let us increase the skeleton of that Army—I am not particular as to the form of increase—let us increase the skeleton, leaving to the martial spirit of our countrymen to fill it up on call.

I would favor no such increase as could make that Army, in the ordinary signification of the word, a standing army. We do not desire it. An increase to any such extent I should oppose and regret. But we can, at least, so increase the skeleton as to make it a nucleus around which our volunteers, if the necessity for calling them into the field exists, can rally. If the increase, to the fullest extent asked by any of the propositions before us, was granted, the Army would still not be large enough for active field operations. We should still be dependent on volunteers whenever such operations became necessary.

The events I have mentioned are palpable. No one can be ignorant of them.

We may be told that no difficulty to us can arise from these events. Who of any sagacity would be willing to stake his reputation on any statement of that kind? That difficulty to us may not arise from them, is quite true; but that no difficulty can arise, no man dare say. When the events are traced, not merely to their possible, but their very probable result, the manner in which the difficulty can occur is easily seen. Even if no difficulty, an opportunity may be presented by these events, for great benefit to us, if we are prepared to avail ourselves of it. Shall we, then, take our risk, run our chance of the approach and advent of the difficulty or the opportunity, finding us unprepared? Chance is but a poor general, and a worse statesman. Incidents may be left to chance; results never! We may be told, it will be time enough to meet the difficulty, or avail ourselves of the opportunity, when it occurs. When the atmosphere is calm and the sky clear, not to prepare for a storm is only to be careless; but when the clouds and the lightning are seen, a want of preparation becomes folly. Like an individual, the nation which will not prepare for a storm when its approach is seen, merely because of a listless hope that it will pass by, deserves, and too often suffers, disasters. We should keep the fact in view, that if the difficulties will not necessarily, they very probably may, occur from these events. We should be prepared, as the Senator from Tennessee well said, to meet foreign war, not knowing what year, what month, nor scarce what week, it may be visited upon us.

I shall favor the increase of the regular Army in some form. If the proposition was not for a temporary, but for a permanent increase, I can see no objection to that, to the extent to which it is proposed to make the increase. If, at the expiration of the period of service for which this temporary increase is asked, it is proposed to make it permanent, I shall have no hesitation in assenting to it. We have these difficulties presented to us—Utah, the Indians, and the probable difficulties—or, at all events, if not difficulties, a probable opportunity to benefit ourselves—on our southwestern frontier; and, in my estimation,

it will be extremely unwise not to prepare for either one of those contingencies.

Mr. HOUSTON. Mr. President, I was entitled to the floor this morning on the subject before the Senate. I do not know but that it would be respectful and proper, as it is now four o'clock, to move an adjournment until to-morrow. If I thought the Senate desired it, I would do so.

Mr. TOOMBS. I hope not. I think the general disposition of the Senate is to take the vote on this bill before we adjourn. I think a month has been long enough for its consideration. I believe we all understand it. Those of us who wanted to speak have had an opportunity of making five or six speeches apiece, and I think we are ready to vote. I do not believe all the talking we can do will change any gentleman's opinion. I think we ought to sit out the bill. I do not know any other way of stopping the interminable debate, than sitting it out; and I am prepared to do it until to-morrow morning.

Mr. HOUSTON. Inasmuch as I have paired off with a gentleman who is indisposed and wished to leave the Senate, it will make no difference to me whether you go on with the bill now or not. I do not intend to speak long, and I am content to proceed now.

Mr. President, I believe the subject has assumed rather a new phase, and that this is now understood to be a proposition to increase the regular Army permanently, by this addition to the present peace establishment of the standing Army. If I apprehend the views of some gentlemen, I think I am right in saying so. The honorable Senator from Indiana [Mr. Fitch] challenges any gentleman to say that certain contingencies are not probably to result to Mexico in her present condition; and he says that, we being her immediate neighbor, it is necessary for us to be prepared for those contingencies. I will not undertake to refute his prediction on that subject, but I will add another to it—that if difficulties do arise, they will never be adjusted by the regular Army of the United States, but will be, as they have always been done, by volunteers.

I am not disposed to controvert anything he has said in relation to that point, but I deny the principle upon which he proceeds. As for the signification of those indications in the northern portion of Mexico, I think I understand them perhaps as well as most persons, that being rather in the neighborhood of my home. The fact is this: patronage and spoils in Mexico are divided differently from what they are in the United States; and when a man with some influence, either military or civic, in the northern States of Mexico, or indeed in any of the States, thinks that it is necessary to replenish his coffers, he issues his pronunciamiento, makes a fuss, robs for a while, and threatens the Federal Government. They want peace, because they know their imbecility and powerless condition; and the consequence is, that after some filibustering of this character, a proposition is made to this leader or chieftain, and it results in a purchase of him by the Federal Government, and then the whole revolution is at an end. It is for the purpose of procuring a bid, and levying black-mail on the Federal Government, that these revolutions take place. They have no ulterior design as to the establishment of a permanent confederacy in the northern States of Mexico; but the purpose is what I have stated. I apprehend no danger resulting from our vicinity to Mexico, that would require the increase of our regular Army.

I apprehend, as I have already stated upon the subject, no danger from the military influence or martial character of a regular army. It is the indoctrination of this Union with false sentiments that I fear; and the political influences brought to bear on the legislation and institutions of the country I wish to guard against, because, in proportion as the Army is increased and persons of influence, of family, or of wealth, obtain situations in it, they exercise indirectly or directly an influence on the legislation of the country not only in this body but in the other branch of Congress. That is what I am warning against, not that I would not foster a military spirit to a certain extent, but we are a nation of civilians, we are an agricultural, we are a farming, we are an independent people; we know the value of liberty, and you cannot find a man in possession of an estate but what knows how to defend his liberty and is willing to do it as

a volunteer. But of what material will you compose your regular army? Of "cheap material." I am not in favor of that cheap material. Is it that you wish to send them out to Utah to get destroyed? Do you think it is a speculation on the part of the nation to get that material because it is cheap? I am for economizing the public Treasury of this nation, but I wish to do it on some rational principles. I wish to do it by the employment of volunteers.

We are told that there is a costliness about volunteers; that they are more expensive than regular soldiers. That may be true; but I doubt it. At all events, volunteers are generally paid after they render their service; regular troops are paid in advance. Volunteers furnish their own horses, if they are cavalry or dragoons, and they are paid for after they have performed the deed. But, in advance of the organization of the regular corps, the United States purchase and pay for the cavalry and dragoon horses that they use. There is the difference. You can make any calculation, show anything you please from the War Department, if there is a desire on the part of the Government to increase the regular Army; but they do not stand investigation when you come to test them. Would three thousand volunteers, employed for one or two years, cost more than the same number of men added to the regular Army for five, ten, or any number of years? It is said that each regiment costs about a million a year. Suppose volunteers should cost two millions a year, and you keep them but two years in the field: the expense would be four millions. If you were to keep the same number of regular troops four years in the field, besides fastening them on the country as a perpetual expense, you would exhaust the same amount of the public Treasury.

I do not believe, notwithstanding all the calculations that have been made, that volunteer troops are more expensive than regulars. I could show this by the celerity of volunteers. If there be an emergency, such as is stated by gentlemen, how is it to be met? Is it not by present action? Is it not to be promptly done? Are we to protract the war from year to year? Are we to take more than a year to fill up these three regiments, and are all operations to remain suspended until we raise this additional force? If it is necessary, if this is the purpose, you cannot move those already advancing on Utah. They must be supplied there; each ration will cost at least a dollar, and the expense of each man there, instead of being \$1,000 or \$1,500, according to the estimate made, will amount to \$2,000, at the rate at which provisions will have to be supplied there. I cannot, for the life of me, see what advantage is to result to the Government, on the score of economy, by taking regulars instead of volunteers.

The troops that will volunteer their services will be healthy, active, efficient men, of suitable age and connections for the benefit of the country. I would infinitely prefer them to men who have been unaccustomed to toil or exercise, or frontier service, such as you would recruit for the regular Army. Men who have been reared in houses, who have had comforts around them, who have hardly ever been exposed to a blighting wind or shower in their lives, are not to be compared in efficiency, for such service as this, to men who have been reared on the frontier, and who understand border life and know something of Indian character.

I cannot, I will not, assent to the allegation that regulars are cheaper than volunteers, or that when in the field they are more efficient than volunteers. You need not tell me that, if you give volunteers the requisite implements, they will not march up in column or in line with their bayonets as well as regulars, and that they will not meet veteran troops as well as regulars. Wherever the American militia have been brought into a charge, they have never been repelled by regulars unless they were aided by a teeming shower of artillery balls. I believe you can charge as well with volunteers as with any troops on earth. How did they acquit themselves at Monterey, under a most galling fire of artillery? How did they ascend the heights of the Bishop's Palace, at Monterey? How did they act at Buena Vista? How did they act at Cerro Gordo? There they were driven back by a fire of artillery, and not in a hand-to-hand encounter, with bayonets crossed. I deny that

they are not as good as regulars. I say that they have an aptitude for a charge, for a conflict of the most deadly character, and they can be prepared for it in half the time regulars can be, because they are half drilled when they go into service. I think I may safely say that they can be drilled in the platoon, the company, the battalion, and the regimental or field evolutions, in half the time that regular raw recruits can be.

If you want efficient troops, you must take volunteers. If you want the true national reliance in time of need and emergency, you must take volunteers. If you wish to carry on this war immediately, and to an effectual termination, you will have to take volunteers. If you wish to save the Treasury of the United States, you must take volunteers. If you have a higher and holier object, to preserve the institutions of this country, you must rely on volunteers at last.

The framers of the Constitution thought that they were the description of troops that were to stand for the defense of the country. I have no quotations to make from the various bills of rights of the States, which declare that standing armies are dangerous in time of peace, but I will simply read one short paragraph from the Constitution of the United States. In the enumeration of the powers of Congress, I find that authority is conferred—

"To provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions."

This excludes the idea of a standing army for such purposes. One cause of the great convulsion which separated us from the mother country was the billeting or stationing of troops on private families without their consent. That was one of the most odious features of that phase of things that menaced our liberties, and it grated on the ideas of the freemen of this country. This provision was made in the Constitution on the supposition that none but the militia would be necessary for these purposes; that in any emergency there was not to be a standing army to be called out; and that that odious feature of despotism would not be obtruded before the public eye. It was not intended to use a standing army composed of mercenaries, of men of other countries, picked up at random, to operate upon the citizens of this country. No, sir; it was supposed that if the American people had to be subdued, it would be done by their peers, whose presence would rebuke them for insubordination or insurrection; and not by a regular force made up of mercenaries whose only resource was their employment in the Army, and who had none of the endearments of life to fall back upon when they had executed the orders of their officers.

This is the spirit in which the Constitution was framed. These were the feelings that animated its authors, who declared their open detestation of anything like the employment of a Federal force to control citizens, and reduce them to subordination to the laws. Therefore, sir, I am opposed to the increase of the regular Army; and if it is intended for the Mormons, I tell you that we cannot wait two years to raise troops to subdue them. If they have to be subdued—and God forbid us from such a result—and the valley of Salt Lake is to be ensanguined with the blood of American citizens, I think it will be one of the most fearful calamities that has befallen this country, from its inception to the present moment. I deprecate it as an intolerable evil. I am satisfied that the Executive has not had the information he ought to have had on this subject before making such a movement as he has directed to be made. I am convinced that facts have been concealed from him. I think his wisdom and patriotism should have dictated the propriety of ascertaining, in the first place, whether the people of Utah were willing to submit to the authority of the United States. Why not send to them men to whom they could unbosom themselves, and see whether they would say, "we are ready to submit to the authorities of the United States, if you send to us honest men and gentlemen, whose morals, whose wisdom, and whose character, comport with the high station they fill; we will surrender to them; we will give up our authority, and act in obedience to the laws of the United States." If this course had been taken by the Executive, I am sure he would never have recommended war; and if the facts had been before the Secretary of War, I am

sure he never would have made the recommendation which he has submitted to us.

But, sir, there is never a pretext wanting here when it is proposed to increase the regular Army, so as to give promotion or to create new appointments. The Department had been for years calling for additional regiments, and in 1855 we granted them. We got along very well for many years without them. Indian depredations have not been diminished by the employment of those four regiments. More depredations have been committed since their organization, I believe, on the Indians, and by the Indians on the white people, than for five or six years previous. Whenever it is considered necessary to increase the Army, or to raise a disturbance, bad men will go on the frontier, who expect to profit by such things, or stimulated by such influences, and they commit depredations on the Indians or on the whites, so as to provoke a contest. Men have been detected in Texas stealing horses and committing depredations, and running to the Indian country for the purpose of inducing depredations on the Indians, when they would profit by that, or so to confuse the public mind that the people could not tell whether the depredators were Indians or white horse thieves.

How does Texas stand in relation to the Army? There are three thousand troops there, and we are told Texas is complaining that she wants protection. It is not regular soldiers that she wants; she has had three thousand of them there; they have done no good; she does not want them; she wants a regiment of rangers that she can rely upon; she does not want a force that will be inert and inactive until depredations are committed; and then, when the people get to a fort at some distance and give information that such and such depredations have been committed, some infantry, or perhaps some dragoons or cavalry, are sent out on the march; but by that time the Indians are far in advance of them. The troops march on; they do not meet that portion of Indians who committed the depredations; but they come across others who are hunting, unprepared for attack, without any hostile designs or thievish intention towards the property of the whites, and slaughter them indiscriminately, men, women, and children. That is the way in which the frontier has been protected. But if you give to Texas one thousand rangers, they will scour the frontier; they will be continually moving; the war parties of the Indians or horse-thieving parties will not know when they are to fall on them. These men are adepts; they know the country; they understand the necessity of guarding the frontier, they have some sympathy with the settlers; their friends are to be secured by their exertions. They are men residing on the frontier who go into this service; it is their interest to give protection to the frontier; but those who are sent there as regular troops may consult their convenience or their ignorance of Indian service, leaving the people on the frontier to be butchered and massacred.

That is the reason why I am opposed to any force but rangers in Texas. I do not intend to reflect on the troops of the United States, on the officers, or the men who compose the rank and file; but I am stating facts and history, that I wish to be understood. Would that I could impress the Senate with the necessity of giving that kind of force to Texas that is indispensable to her protection. I want a force that will be useful, and not one that will lock the door after the horse is stolen. That is done now. As I said before, Indians can pass within one mile, or half a mile, or two hundred yards, of your forts, and pass down inside of the line of the fortress, steal horses, and return without danger, from forts some fifty or sixty or two hundred miles apart. Do you think they cannot pass and repass their guns in perfect security? No one can doubt it. You do not give protection to the people now by your Army. But if there were a thousand rangers continually on horseback, on animals accustomed to the range, and who require no forage, you would find that country in a very different situation. The horses used by the rangers are very different from the fine American horses, as we call them, that have been pampered and reared and nursed and fed extravagantly. They are inured from their very birth to the time they are taken into the service, to subsist on grass. If they can find that on the prairies they are always ready for

action. They do not become useless if they are not fed, or forage is scarce. It is no calamity to them, because their forage is every day where they are.

Insist that Texas does not want regular troops. If you will give her rangers you may withdraw every one of the three thousand soldiers that have been stationed there if you please, or you may leave them to take care of the permanent forts along the Rio Grande. You should leave artillery enough for the purpose of keeping the arms and ordnance in order; but you may withdraw the three thousand infantry, cavalry, and dragoons, and appropriate them to the necessities of the Mormon war, or whatever service you please. The more men you send to the Mormon war the more you increase the difficulty. They have to be fed. For some sixteen hundred miles you have to transport provisions. The regiments sent there have found Fort Bridger and other places, as they approached them, heaps of ashes. They will find Salt Lake, if they ever reach it, a heap of ashes. They will find that they will have to fight against Russia and the Russians. Whoever goes there will meet the fate of Napoleon's army when he went to Moscow. Just as sure as we are now standing in the Senate, these people, if they fight at all, will fight desperately. They are defending their homes. They are fighting to prevent the execution of threats that have been made, which touch their hearths and their families; and depend upon it they will fight until every man perishes before he surrenders. That is not all. If they do not choose to go into conflict immediately, they will secure their women and children in the fastnesses of the mountains; they have provisions for two years; and they will carry on a guerrilla warfare which will be most terrific to the troops you send there. They will get no supplies there. You will have to transport them all from Independence, in Missouri. When the fire will consume it, there will not be a spear of grass left that will not be burnt.

In addition to that universal desolation, they have cañons, they have ravines, and they have turbulent rivers to cross. A hundred men on the sides of these cañons can roll down rocks enough to keep the army engaged a week in getting them out of the way, and there is no place to put them. I am told by persons who have traversed it, that the passway is a mere space between precipitous and high mountains barely sufficient for the passage of a wagon. In times of rain a little rivulet courses its way through, and there they have made a road of width sufficient for the passage of one wagon only. How long would it take to throw obstructions there that would render it impassable? How long could they delay your army in that way? and when they arrived at Salt Lake, exhausted, worn down, without supplies and munitions, in what situation would they be to take to the mountains and to pursue these men in their fastnesses where ten men could resist a thousand? When the troops are in these cañons the rocks could be hurled down on them; and it could easily be done, for they are now in almost a quivering condition, and the least exertion will cast them down. With five hundred, or even fifty men, they could destroy an army of ten thousand, if they were in one of these gorges, and they chose to hurl down the rocks upon the troops. I am told there is a road for fifty miles which you have to pass, that is very difficult under the most favorable circumstances. Then, after you strike the margin of Salt Lake, there again is a precipitous mountain of several hundred feet high and perpendicular, on which an enemy could stand and act.

But this is not all. The rivers are impassable except by ferry-boats. Do you think the Mormons will let the ferry-boats remain? Will they not destroy them? There are no means there of making them; there is no suitable timber. How are they to carry the army and the supplies across? To reach Salt Lake City would require a march of many days from where the army are now, if they had no obstacles to encounter, no impediments in their way, and no enemy to encounter. I received the other day from a very intelligent Mormon whom I knew in Texas, and a very respectable man he was, once I believe the United States district attorney for Utah, a letter of seven pages. In that letter he takes a comprehensive view of this subject. He protests most

solemnly that there never would have been the least hostility to the authorities of the United States if the President had sent respectable men there. He says that Governor Brigham Young has been anxious to get rid of the cares of office, and would freely have surrendered it and acknowledged the authority of the United States; but that men have gone there, who have made threats that they would hang them, and even threats of a character that renders them more sensitive in relation to their families, and that they expect nothing but rapine and destruction to ensue on the advent of those troops if they should ever arrive there.

I know not what course will be taken on this subject. I hope it will be one of conciliation. As for troops to conquer the Mormons, fifty thousand would be as inefficient as two or three thousand; and in proportion as you send troops in that vast region, without supplies, and without the hope of them, with no means of subsistence after a certain period, unless it is transported to them, the greater will be your danger. Consider the facilities these people have to cut off your supplies. I say your men will never return, but their bones will whiten the valley of Salt Lake. If war begins, the very moment one single drop of blood is drawn, it will be the signal of extermination.

Mr. President, in my opinion, whether we are to have a war with the Mormons or not, will depend on the fact whether our troops advance or not. If they do not advance; if negotiations be opened; if we understand what the Mormons are really willing to do; that they are ready to acquiesce in the mandates of the Government, and render obedience to the Constitution; if you will take time to ascertain that, and not repudiate all idea of peace, we may have peace. But so sure as the troops advance, so sure they will be annihilated. You may treble them, and you will only add to the catastrophe, not diminish human suffering. These people expect nothing but extermination, or abuse more intolerable than even extermination would be, from your troops, and they will oppose them.

We have a clear manifestation in a letter that was read here the other day of the course proposed to be taken by the commanding officer there, against whom I wish to say nothing. I shall animadvert, however, as I may think fit, on the circumstances that were there disclosed. I believe I saw the letter; but I am not certain yet that I fully comprehend it. An act of civility was tendered by Brigham Young, and you might, if you please, construe it, under the circumstances, rather as an act of submission on his part. He sent salt to the troops, understanding that it was scarce there, and was selling at seven dollars a pint. As an act of humanity, thinking at least that it could not be regarded as discourteous, he sent a supply of salt requisite for the relief of the encampment, intimating to the commander that he could pay for it, if he would not accept of it as a present. What was the message the military officer sent him back? I believe the substance of it was that he would have no intercourse with a rebel, and that when they met they would fight. They will fight; and if they fight, he will get miserably whipped. That was a time to make peace with Brigham Young, because there is something potent in salt. With the Turk, who has similar habits and religion to the Mormons, it is the sacrament of perpetual friendship. Why may not the Mormons have incorporated that into their creed? But, instead of that, he sent him a taunt and defiance. Why could he not have said: "I will accept it as a present, or I will recompense you for it according to its value? I would rather see Brigham Young; and if he chooses to come to my encampment, I pledge him the honor of an officer that he shall go away unscathed if we come to no understanding; but if he wishes to acknowledge the authority of the United States, I am ready to receive that acknowledgment; and if the Government of the United States bids me, I will withdraw my troops." If he had sent that message, it would have been worthy of a magnanimous, generous soldier's mind and heart. As it was, he sent a message I would not have sent, and I do not think it is calculated to conciliate Brigham Young. He is too proud a man, I take it; a man of too much sense to have sent such a message as that, after an act of civility was tendered.

What is to be the consequence of that act? We must have supplies. I presume the troops have cattle; and they must slaughter them in order to have fresh supplies. They will be very fresh supplies, indeed, if they have no salt to use with them. Placing men upon diet of that kind is calculated to produce the most fatal of all epidemics in the world—the cholera. Exposed in tents in that inclement region at this season, I should not be astonished if two thirds or three fourths of his forces were swept off by cholera. Humanity ought to have induced him to accept the salt and make a fair recompense for it, if he did not receive it as a courtesy; but an opposite course was taken. If there be any disastrous consequences resulting, his message was calculated to bring them about.

Mr. President, I shall not longer occupy the precious time of the Senate. My idea is, that volunteers are the cheapest and most reliable troops, because they have more physical energy and activity; and, as a mass, more intelligence than regulars. Though their officers may not be as educated, yet the mass of the rank and file are of that character that they embody the average intelligence generally of the citizens of the United States. They are, therefore, more efficient. They will arrive at the scene of action before the regular troops, that are contemplated in this bill, would be half raised. They would be raised cheaper, for you would take them at the instant; whereas, years will roll round and incidental expenses will accumulate before you obtain the regulars you contemplate raising. If the Mormons are to be conquered, volunteers can conquer them immediately; the regulars, never.

Volunteers being the cheapest force, and my principles being opposed to an increase of the regular Army, I shall vote for the proposition of the Senator from Tennessee, which authorizes the President, according to the contemplation of the Constitution, to call out the militia in the character of volunteers for this service. They are tendering their services. Let him accept them; let him march them to the scene of action; and then you will meet the contingency contemplated in the Constitution of the country by using the militia to suppress insurrection and rebellion; but if you call out regulars, you get outside of the Constitution. I think it was not contemplated by the spirit of the Constitution. I am perfectly satisfied that volunteers who are taken from the militia are the persons contemplated by the framers of the Constitution to perform duties of this character.

It is said that regulars are necessary to protect the frontier. Did they protect the frontier of Georgia in old times? Have they protected the frontier of Florida? Have they protected the frontier of Texas? Have they protected the frontier of any portion of the United States on any occasion, or given security to frontiers that would not without their aid have been peaceful? I say not; or if so, it is beyond my reading or historical knowledge. Never have they done it. They cannot in the nature of things do it, whilst Indians have legs to run or horses to ride. They cannot do it, because Indians can go around their forts, and unless there is continual vigilance kept up along the border you cannot protect the frontiers by regulars. There is no sense in saying that a fortification gives protection to the people when an Indian can go within a mile of it and pass down and butcher the inhabitants. Then you start and run after the Indian, but he laughs at you. But if you have rangers continually traveling from point to point, the Indian will not know when he is to fall in with them, or when they will come across his trail and pursue him and take present vengeance. Do this, and you will protect the frontier. Take away the regulars and employ them where you please. They may be useful, as I have said before, in taking care of permanent fortifications and preserving arms.

It is said, however, that discipline is to be maintained with a nucleus on which to form a regular Army in time of need. This amounts to declaring that you must have an adequate force for all emergencies. I was astonished the other day to hear the Senator from Georgia [Mr. IVERSON] say that certain massacres had taken place because there were no regular troops stationed at a particular point. I wonder, if they had been stationed there and the Indians had gone around them, what they would have done. The theory

is that you must have regular troops enough to meet every emergency that is called for. If the difficulties contemplated in the speech of the Senator from Indiana should arise, he imagines it will be necessary to have a force of regulars on hand for the purposes he indicated. If you do that, you must have two or three hundred thousand men, for that number might be employed perchance. If England, France, and Russia, as I have heard it suggested, were all to combine for the purpose of subjugating the United States, it would require three hundred thousand men, perhaps, and you must raise these three hundred thousand men to meet that contingency, for we do not know what will take place! Something dreadful may happen, and we must have regulars to put it down, and we must have a standing Army?

Sir, there is but one true army in the country, and that is the army of volunteers. There is but one class of men who, by the spirit of our institutions, are imbued with that heart which will perpetuate our liberties when called into the field, and they are the volunteers. Whenever you come to rely upon them, they will not deceive you; they will not desert. I heard of a case where four hundred regulars deserted from one station in a year—half the troops there. If you are to keep up the Army by replacing the four or five thousand who desert every year, it will be rather an expensive business. I think they will be more expensive than volunteers. Volunteers never desert their banners. I am determined, while I live, unless some emergency requires it, not to vote to increase the regular Army. While I occupy a place on this floor, I will oppose the increase of the regular Army. Thank God, my period of service here is drawing to a close, and I rejoice at it, for it will relieve me of responsibility. In the utterance of my opinions and sentiments in private life, as an American citizen, if I shall be spared, and in the little circle around my hearth, at least, I will inculcate the doctrine that a standing army is dangerous to liberty, and that volunteers are the true army of a Republic, and the only means of preserving its liberties.

The PRESIDING OFFICER. The question is on the substitute proposed by the Senator from Tennessee, in place of the original bill.

Mr. JOHNSON, of Tennessee. I see in the last line of the second section of the substitute what I expect is an omission in the printing, and, perhaps, in the copy. I move, after the words "shall be," to insert "appointed and" before the word "commissioned." It is merely a verbal correction.

The amendment was agreed to.

Mr. BRODERICK. As a member of the Committee on Military Affairs, who has voted steadily with the friends of the original bill which was reported from the committee, I desire to state briefly why I shall not support the proposition which has been introduced by the Senator from Virginia. When this question was first agitated in the Military Committee, I was induced to give my support to this measure on the information I derived from the chairman, [Mr. Davis,] who is not now in his seat. I became committed to the bill, and have, as I have said, voted steadily for it. I am free to confess, that if I had had the information at that time that I now possess, I should not have voted for any increase of the Army. I am inclined to favor the proposition of the Senator from Tennessee, believing that if there is any necessity for an increase of military force, it will be better to allow the President to call out volunteers.

I make this statement at this time that Senators may understand why I have changed my position. Without this explanation, some curiosity, which I desire to satisfy, may be found in some minds in regard to the motives which induced it. I therefore now state that I am opposed to the proposition of the Senator from Virginia, and that I shall vote for that of the Senator from Tennessee.

Mr. JOHNSON, of Tennessee. I am in hopes that, before the question is taken, the substitute will be read. As I think it covers the whole idea of the Administration, and will meet the wants of the country, I ask that it be read, so that we can act on it understandingly.

Several SENATORS. We all understand it.

Mr. CAMERON. Before the vote is taken, I

desire to say a very few words in explanation of my course on this bill. When a vote was taken some days ago on striking out the first section of this bill, as reported by the Committee on Military Affairs, I voted with the friends of the bill, under the impression that we were engaged in a war which required the support of every patriotic citizen. I understood the President to say that an increase of the Army was necessary for the protection of the troops already sent to Utah. In conversation with distinguished Army officers, I got the opinion that our Army there was in danger of entire destruction, unless reinforcements were sent immediately; and in accordance with my uniform course in public life, I have considered it my duty, when the country needed troops for the protection of its honor, or for the protection of any portion of my fellow-citizens who were in distress, to vote them; and I made up my mind to vote for granting such an increase of the forces as the President might ask for. With this view, I voted in favor of retaining the first section of the bill reported by the committee, with the condition that the troops to be raised should be disbanded as soon as the war was over. If I still believed that the same necessity existed, I should now pursue the same course; but I cannot think so when I consider the time which has been consumed by the Administration itself. The delay which has taken place convinces me that there can be no such emergency as we were some time ago told existed. The friends with whom I act, have indicated a disposition to furnish the Administration with volunteers for this service; but they are declined; and there seems to be a determination to force upon the country an increase of the regular standing Army, to which I can never consent. All former republics have been destroyed by mercenary troops, and such will be the fate of this Government if the same course be pursued. I desire to put off that day as long as possible.

I have said that there appears to be no emergency to justify the passage of this bill. If we were to pass it now, probably months would be occupied before any troops could be sent to Utah. The time which would elapse before these troops could be sent there, renders it impossible that they can be of any use there during the present season; in fact, we are now told that they are not wanted for that service. This being the case, I cannot vote for this bill which I look upon as proposing an addition to the standing Army of the country without regard to the emergency which we have been asked to supply. I shall vote, however, for the amendment of the Senator from Tennessee, which proposes to place volunteers at the service of the President to be used only in case they shall be necessary for the troubles in Utah.

Mr. IVERSON. I ask for the yeas and nays on the substitute.

The yeas and nays were ordered.

Mr. JOHNSON, of Arkansas. I hope the communications we have heard around the Chamber will not prevent any one from insisting on an immediate vote on this measure. If it will not carry here, it ought to be defeated. I trust and hope it will be defeated if there is not a majority for it, and I think the responsibilities that may occur hereafter will rest where they belong. I sincerely hope we may have a vote to-night. ["Vote!" vote!"]

Mr. PUGH. I wish to say five words only. I am in favor of the employment of volunteers; but I regard the substitute of the Senator from Tennessee as comprising two propositions which, in my judgment, are in violation of the Constitution of the United States: first, interfering with the power of the President as Commander-in-Chief of the Army; and second, dictating how the officers of the militia shall be elected. One of those provisions I endeavored to correct, but I was voted down, and therefore I did not attempt to correct the other. I shall be compelled, therefore, reluctantly to vote against that proposition.

Mr. JOHNSON, of Tennessee. I want to say a single word. I am satisfied there was a misapprehension of the provision in reference to the President appointing the officers. It is just the same as was in the ten-regiment bill.

Mr. PUGH. The ten-regiment bill was an increase of the regular Army.

Mr. JOHNSON, of Tennessee. It prescribed whom he should appoint as officers.

Mr. IVERSON. The Senator from Indiana

[Mr. BRIGHT] has paired off with a gentleman on the other side, I think the Senator from Ohio, [Mr. WADE.]

Mr. GWIN. I have been requested to pair off with the chairman of the Committee on Military Affairs, who is confined at home by dangerous illness; and I have agreed to do so.

The question being taken by yeas and nays, resulted—yeas 23, nays 26; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Seward, Simmons, Sumner, Toombs, and Wilson—23.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Crittenden, Evans, Fitch, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Slidell, Stuart, Thomson of New Jersey, Wright, and Yulee—26.

So the substitute proposed by Mr. JOHNSON, of Tennessee, was rejected.

Mr. HUNTER. I now move to strike out the whole bill after the enacting clause, and insert this substitute:

That, in addition to the military establishment of the United States, there shall be raised and organized, under the direction of the President, one regiment of dragoons and two regiments of infantry, each to be composed of the same number and rank of commissioned and non-commissioned officers, buglers, musicians, and privates, and so forth, as are provided for a regiment of dragoons and infantry, respectively, under existing laws, and who shall receive the same pay, rations, and allowances, according to their respective grades, and be subject to the same regulations and to the rules and articles of war. *Provided*, That it shall be lawful for the President of the United States alone to appoint such of the commissioned officers, authorized by this act, below the grade of field officers, as may not be appointed during the present session.

SEC. 2. *And be it further enacted*, That the said officers, musicians, and privates, authorized by this act, shall immediately be discharged from the service of the United States at the expiration of two years from and after the passage of this act.

SEC. 3. *And be it further enacted*, That regular promotions to vacancies occurring in the grades of commissioned officers, in the regiments hereby authorized and required to be raised, shall be by regiments, instead of by arms of service, as now regulated and provided in certain cases.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he is, authorized to select such officers of the Army as he may think proper, and assign them to command with temporary and increased rank in the regiments hereby authorized, and who, whilst exercising the temporary rank thus conferred, shall receive the pay and emoluments of the commands to which they have been assigned, and be entitled to no other pay or allowances whatever during the period of such detached service. The officers so employed shall succeed to vacancies in their own corps according to the ordinary rules of promotion, and, if not previously ordered to do so, shall, upon the disbandment of the regiments to which they have been assigned, rejoin their own regiment, corps, troop, or company, as the case may be. The field-officers of the regiments herein authorized and provided for, shall be selected from the officers of the Army, and appointed by the President, with the advice and consent of the Senate, to temporary commissions, the effect of which will cease and determine with the disbandment of the corps to which they may be assigned.

Mr. BIGGS. I believe, by these substitutes which have been proposed, it is well understood this service is to be temporary merely. It is the opinion of many of the Senators that there will be no necessity at all for raising this force, and that some arrangement may be made rendering it unnecessary, so far as peace negotiations may be concerned in Utah. This amendment makes it imperative on the President of the United States to raise the force. I desire to suggest a modification for the consideration of the Senator from Virginia, which I have already submitted to him, and to which he has no objection. It is, to insert after the word "President," in the fifth line, the words, "if, in his opinion, the exigencies of the public service shall require it."

Mr. HUNTER. I accept that amendment.

Mr. BIGGS. The second section provides:

"That the said officers, musicians, and privates, authorized by this act, shall immediately be discharged from the service of the United States, at the expiration of two years from and after the passage of this act."

I move to amend that section by adding the words, "or sooner, if the public service will permit."

Mr. HUNTER. I accept that.

Mr. PUGH. Is it in order to move a substitute for that?

The PRESIDING OFFICER. It is.

Mr. PUGH. Then I offer a substitute for the employment of volunteers, leaving out the two propositions to which I objected in the amendment of the Senator from Tennessee. My motion

is to strike out all after the word "that," and insert:

The President is hereby authorized to call for and accept the services of any number of volunteers, not exceeding in all three thousand officers and men, who may offer their services as cavalry or infantry, to serve for twelve months, unless sooner discharged, after they shall have arrived at the place of rendezvous, or been mustered into the service of the United States; and that the sum of — dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of carrying the provisions of this act into effect.

SEC. 2. *And be it further enacted*, That said volunteers, when mustered into the service, shall be armed and equipped at the expense of the United States, and, until discharged therefrom, be subject to the rules and articles of war; and shall be organized in the same manner, and shall receive the same pay and allowances as officers and soldiers of the like grade or arm in the Army of the United States.

SEC. 3. *And be it further enacted*, That the volunteers so offering their services shall be accepted by the President in companies, battalions, or regiments, and that each company shall consist of the same number of officers and men as may be prescribed by law for companies of the regular Army. The captain and lieutenants of the said companies shall be elected or appointed, according to the laws of their several States; and the President, in the appointment of the staff and field-officers shall apportion them to the States wherein the companies are accepted.

SEC. 4. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefits which may be conferred upon persons wounded or disabled in the service of the United States.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 26, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Pugh, Seward, Simmons, Sumner, Toombs, Trumbull, and Wilson—26.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Evans, Fitch, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Mallory, Mason, Pearce, Polk, Sebastian, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—25.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the substitute of the Senator from Ohio as a substitute for the original bill.

Mr. IVERSON called for the yeas and nays; and they were ordered.

Mr. GWIN. I had, on the preliminary votes and test questions in regard to the amendment of the Senator from Virginia, agreed to pair off with the Senator from Mississippi, [Mr. DAVIS.] Being in favor of volunteers, I mean now to vote in favor of the proposition.

The question being taken by yeas and nays, resulted—yeas 27, nays 25; as follows:

YEAS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Gwin, Hale, Hamlin, Harlan, Houston, Johnson of Tennessee, King, Pugh, Seward, Simmons, Sumner, Toombs, Trumbull, and Wilson—27.

NAYS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Clay, Evans, Fitch, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Mallory, Mason, Pearce, Polk, Sebastian, Slidell, Stuart, Thompson of Kentucky, Thomson of New Jersey, Wright, and Yulee—25.

So the substitute was adopted.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. HALE. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and, being taken, resulted—yeas 16, nays 35; as follows:

YEAS—Messrs. Bell, Biggs, Broderick, Cameron, Crittenden, Douglas, Green, Gwin, Houston, Johnson of Tennessee, Mallory, Pugh, Seward, Stuart, Thompson of Kentucky, and Toombs—16.

NAYS—Messrs. Allen, Bayard, Benjamin, Bigler, Brown, Chandler, Clark, Clay, Dixon, Doolittle, Durkee, Evans, Fessenden, Fitch, Foot, Foster, Hale, Hamlin, Harlan, Hunter, Iverson, Johnson of Arkansas, King, Mason, Polk, Sebastian, Simmons, Slidell, Sumner, Thomson of New Jersey, Trumbull, Wilson, Wright, and Yulee—35.

So the bill was rejected.

Mr. HALE. Having voted with the majority, and wanting to give what time there is for deliberation, I move to reconsider the vote by which the bill was rejected.

Mr. TOOMBS. I move to lay that motion on the table.

The motion to lie on the table was agreed to.

ADJOURNMENT TO MONDAY.

Mr. CLAY. Having achieved a great work to-day, I think we may rest on our labors until

Monday next. With that view, I move that when the Senate adjourns to-day, it be to meet on Monday next.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. BELL. I desire to make an explanation which I think important to myself, and I trust I shall have the forbearance of the Senate in making it. In the debate which took place yesterday between my colleague and myself, I find one passage reported which is an error; and it is due to my colleague that I should make an explanation. The report contains this paragraph, as having been said by me:

"In the course of the canvasses in Tennessee, the female population usually come out to hear the champions on both sides in their debates, at barbecues and other occasions got up for the purpose of hearing them declaim on the subject of politics; and he asserted a doctrine which placed the delicate females among his auditory upon a level with the black wenches of the middle and western portions of the State—the property of the slaveholding lords or aristocrats."

It is due to my colleague to declare that I said no such thing; but I do not mean this as a censure on the reporters, for I am utterly amazed at the general accuracy with which they report my remarks, which are not premeditated in general. What I said was, that my colleague charged that the policy of the State, in the apportionment of representation, was such that it placed that portion of his auditory in that position—not that he advocated a doctrine which placed them in that position. I think it due to my colleague to say this much, in justice to him.

There is another point which I desire to notice. I had not time yesterday morning, before I commenced my remarks, to read the speech of my colleague made on the day before, as reported in the Globe of yesterday morning. I had no time to do more than run over it cursorily; but I understand from a friend that my colleague is reported to have stated that I had declared my determination to vote for the admission of Kansas with the Lecompton constitution. I have not had time, since that intimation was given me, to examine the speech so as to find that paragraph.

Mr. JOHNSON, of Tennessee. I do not remember precisely the language of the report, but I certainly understood my colleague as saying that he would vote for the admission of Kansas as a State under the Lecompton constitution.

Mr. BELL. I should like to know on what expression of sentiment by me that is based. When that was told to me by a friend, I said that I would not stand any imputation of that kind; but I recollected that my colleague had pressed on me several interrogatories in reference to the instructions of the Legislature, and I saw how he could mistake my position. If I remember rightly, he asked me whether I meant to disregard the instructions of the Legislature, and I replied that I did not. What I meant was, that I would give them all due consideration and deference; that I did not mean to say that I would disregard them, because that might be construed as treating them with contempt. I excuse my colleague, if he inferred what I understand he asserted; but I desire to say now that I did not declare that I would obey the instructions of the Legislature on that point. I rather intimated the contrary; but I never said anything so disrespectful as that I would disregard or treat with contempt the instructions of the majority of my Legislature; I said that I would defer to them where they were formed upon a full consideration of the subject, in the manner I stated in my first remarks on the resolutions.

While I declared that I would not be bound to obey the instructions of the Legislature, I think my language could not be construed as saying that I intended to vote for the admission of Kansas with the Lecompton constitution. While I do not mean to say that in all circumstances that may occur my mind is made up to vote in a certain way, I do say that my inclinations are rather against the course proposed by the instructions. I think from the whole tenor of my remarks on presenting the resolutions, it would be inferred that my impression was that I should vote against the admission of Kansas under the Lecompton constitution, unless some new developments should be made, or some new information received; but still I held myself open to be convinced, either by arguments or new developments, or any considerations of sufficient weight that might be presented to induce me to go for it. I think it doubtful

whether anything is likely to occur to induce me to change my mind.

I censure not my colleague. He asked me whether I would disregard the instructions of the Legislature, and I answered distinctly that I would not in that sense; but I explained the ground on which I made that answer. It was that I did not mean to treat with disrespect or contempt any expression of opinion by my Legislature. I have thought this much was due to myself, my friends, and my opponents. I have an honorable Senator now in my eye who really thought I had expressed a determination to vote for the admission of Kansas on the Lecompton constitution; and he was so confident of it that until he looked into the debate he would not be satisfied that I had not expressed such a sentiment. I do not mean to say that my colleague may not have been misled; but I trust what I have now stated will be sufficient to prevent any further discussion on this subject between him and myself.

Mr. JOHNSON, of Tennessee. I presume the Senate is sick and tired of this dish of Tennessee politics which we have had; but as my colleague has introduced the question again, I feel bound to say a word or two in justice to the reporters, though I do not know exactly what they have reported.

Mr. BELL. I say I have not seen it either. I do not know what it is.

Mr. JOHNSON, of Tennessee. In justice to the reporters I wish to state what was my understanding of what I replied to when I made my speech. My colleague commented on the two first resolutions of the Legislature of Tennessee, and as I understood him, indicated very clearly and distinctly that he would not regard them or obey them. The third resolution instructed him and myself to vote for the admission of Kansas under the Lecompton constitution, and when I asked him the question he stated that he would vote for the admission of Kansas under the Lecompton constitution. That is the way I understood him, and I think the run of the debate will so show it. Then I asked the further question, whether he would vote for the admission of Kansas under the Lecompton constitution, in obedience to his instructions, or upon his own judgment and reflection; to which he replied that on his own account he should vote against it, but in consequence of the instructions he should vote for the admission. That is the way I understood him, and I think the current of the debate will show it to be so. But of course the honorable Senator has a right to explain his position, if there be any misunderstanding about it, and so far as I am concerned his explanation is satisfactory to me. When he said that he would vote for the admission of Kansas, I stated, according to my recollection, that I was gratified to hear that. I do not know what my reply is as printed, but if the papers have given it that way, they are right.

Mr. BELL. There was not the slightest necessity for my colleague to interpose at all. I said before that I remembered the question which he put to me, and the answer I made, which might have misled him; but I did not hear his statement as to the inference he drew, that I would vote for the admission of Kansas under the Lecompton constitution, or I should have corrected it at the time. I never approximated to such a sentiment. I did not mean to express any such sentiment. What I meant was, to show a due respect to the views of my Legislature, as evinced by resolutions expressive of the opinion of the majority of that body. I have not read the report of my remarks on that point, because I supposed I was clear and explicit in regard to it. I expressed my opinions in reference to the right and power of the Legislature to control my vote. I said that I did not feel bound by their instructions, but yet when I perceived that there was an expression of opinion on the part of the majority of the Legislature, that seemed to proceed from convictions founded on a full understanding of the subject, in all its bearings and consequences, I should always be disposed to defer to them, if there was no constitutional difficulty in the way; and, without acknowledging the obligations of the instructions, I would shape my course accordingly; but I said expressly, "that is not the present case." I think nobody who heard me, much less who has read what I said, could misunderstand me.

When my colleague pressed me on the subject as to what course I intended to pursue, I remember that one question was, "do I understand my colleague to mean that he disregards the instructions of the Legislature?" How it is reported I do not know, but I remember very well what I said, and I recollect the reason that actuated me at the moment. If I had answered in the affirmative, that I would disregard them, it would be ground sufficient on which to predicate columns on columns, speech after speech in Tennessee, that I had a perfect contempt of a majority of the Legislature. I had, by that time, come to a full understanding as to what I had to meet and contend with, and I said "no." Then I rose and stated what I did mean, that I intended to treat, with all proper respect, the sentiment of the majority of the Legislature of my State; and I did not intend to disregard it, but I did not mean to say I would obey it. My first speech on the resolutions I presented was sufficient to show that I did not feel bound to do any such thing.

When I made this explanation, I excused my colleague, and said perhaps there was enough to mislead him. I did not notice the inference which he drew, or of course I should not have allowed it to pass without comment at the time. I did not see it yesterday morning in his printed speech, because, as the Senate knows, the Globe is not laid on our desks until the meeting of the Senate. I obtained one, half an hour, or a quarter of an hour, before the meeting of the Senate, by sending a special messenger for it, and that was the only time I had to give to an examination of my colleague's speech of three hours. Of course I could only glance over it hurriedly. This point escaped me then, or I should have noticed it yesterday. I do not mean to say that my colleague may not have been honestly and candidly misled. I do not mean to say that there was any want of candor on his part. What I mean is, that I said no such thing. I think everybody who heard me must have been impressed with the idea that I should probably vote against the admission of Kansas with the Lecompton constitution, and yet I did not mean to commit myself positively, so as to shut out any light which I might derive from information to be received in the progress of the subject. I only state what I think would have been inferred by anybody who heard me, that I was inclined, with my present impressions, to go against it; and yet I did not mean to commit myself. There might be modifications of the proposition, there might be such provisions introduced that I should feel myself bound to vote for it. I avowed then, as I had all along, that my policy was to go for that which promised, with the greatest certainty, to terminate the eternal agitation on the question of slavery, which has been productive of so much mischief.

I have made this statement, because I desire that neither friends nor opponents shall misunderstand my course on this subject. My friends at home are advised of it. There is no withholding it. As the case now presents itself to me, unless I shall receive further information or further developments, I shall vote in opposition to the course recommended in the instructions of the Legislature of Tennessee; but still I do not mean to be bound by that. I await further developments, further argument, and any further light that may be thrown on the subject.

Mr. JOHNSON, of Tennessee. Mr. President—

The PRESIDING OFFICER. The Chair must remind the Senate that there is no question pending.

Mr. BELL. I asked leave to make a personal explanation. There is no objection to my colleague's proceeding. I have no objection.

Mr. JOHNSON, of Tennessee. I have a single word to say on the same principle that the explanation has been made by my colleague. I replied to my colleague as I understood him at the time and as I think many Senators understood him. If I misunderstood him and others misunderstood him, of course he has a right to explain and define his position and tell what it was; but my reply was made to his speech just as I understood it.

In reference to apportioning the State, counting the whites against the blacks, and all that sort of thing, I merely wish to say that so far as that statement of my colleague, about what he has heard of what occurred in East Tennessee, is con-

cerned, I was gratified that he stated it, for I intended at a proper time to call his attention, and that of the Senate, to it. That is all gratuitous, and has no foundation whatever; and I was gratified to hear him make the explanation.

Mr. BELL. I meant to do justice to my colleague as well as myself.

Mr. SEWARD. Will the honorable Senators from Tennessee allow a stranger to interpose a word? I heard very carefully all that was said by the honorable Senator from Tennessee on this side, [Mr. BELL,] and I paid very particular attention, as I always do, to what was said by the honorable Senator from Tennessee on the other side, [Mr. JOHNSON.] I saw when the honorable Senator from Tennessee on the other side misapprehended and thereupon assumed that the honorable Senator here had pledged himself to vote for Lecompton. I observed it at the time, and thought he had misapprehended his colleague. I noticed it at the time, and I think when you come to read the debates you will find that the misapprehension occurred very much in the way it has been described. I did not fall into the error which the honorable Senator did.

Mr. JOHNSON, of Tennessee. The honorable Senator from New York proceeds on the idea that I misapprehended my colleague; but does he not remember that when I replied to my colleague, I said I was glad to hear that?

Mr. SEWARD. Exactly.

Mr. JOHNSON, of Tennessee. I went on to make my comments, supposing that he had committed himself to voting for the admission of Kansas under the Lecompton constitution, at which I was gratified.

Mr. SEWARD. Exactly; that is so. That was the misapprehension.

Mr. BELL. I could not have heard that, or if I was here, I was not attending to it. From the course of his debate afterwards, in which he still pursued the same bitter strain of denunciation of my course, I could not suppose he would be gratified at anything I had said.

Mr. PUGH. As we have agreed to adjourn until Monday, it will gratify me if the Senate would devote a few moments to the consideration of executive business.

Mr. CLARK. I move that the Senate adjourn. The motion was agreed to; and the Senate adjourned to Monday.

HOUSE OF REPRESENTATIVES.

THURSDAY, February 25, 1858.

The House met at twelve o'clock, m. Prayer by Rev. B. N. BROWN.

The Journal of yesterday was read and approved.

The SPEAKER stated that the business first in order was the consideration of the resolution of the gentleman from Illinois, [Mr. HARRIS,] proposing the expulsion of ORSAMUS B. MATTESON.

MARYLAND CONTESTED ELECTION.

The SPEAKER, by unanimous consent, laid before the House evidence in the contested-election case from the third congressional district of Maryland.

Mr. HARRIS, of Illinois, moved that said evidence be referred to the Committee of Elections, and printed.

Mr. JONES, of Tennessee. I suppose, sir, it would be better to refer that evidence to the committee without printing. There is a good deal of it, and if it is necessary to have it printed it can be done afterwards.

Mr. HARRIS, of Illinois. I think we had better take the order to print without further delay. Mr. HARRIS's motion was agreed to.

THE PATENT OFFICE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Treasury Department, respecting an appropriation for repairing the saloon of the old portion of the Patent Office; which was referred to the Committee of Ways and Means, and ordered to be printed.

PUBLIC LANDS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, containing replies to a resolution of the House of Representatives, adopted 4th January, 1858, calling for certain information in relation to the sales

and other disposal of the public lands; which was laid on the table and ordered to be printed.

BUSINESS IN UNITED STATES COURTS.

The SPEAKER also laid before the House a communication from the Department of the Interior, in reply to a resolution of the House of Representatives, of 19th of January, 1857, in respect to the number of suits on the dockets of the respective clerks of the United States courts in 1857.

Mr. STANTON. That is in answer to a resolution which was passed on my motion at the last session of Congress, with a view to a reorganization of judicial districts. I move that the communication be referred to the Committee on the Judiciary, and ordered to be printed.

It was so ordered.

ENROLLED BILL.

Mr. DAVIDSON, from the Committee on Enrolled Bills, reported as correctly enrolled an act to amend an act for the relief of Whitemarsh B. Seabrook, and others; which thereupon was signed by the Speaker.

ROBERT KIRKAM.

Mr. STEPHENS, of Georgia, asked and obtained leave to have withdrawn from the files of the House the papers in the case of Robert Kirkam, for reference to the Court of Claims.

INCREASE OF THE ARMY.

Mr. QUITMAN. If the gentleman from Illinois [Mr. HARRIS] will yield the floor, I desire to ask the unanimous consent of the House to present a report from the Committee on Military Affairs.

Mr. HARRIS, of Illinois. I will yield for that purpose. I understand that the bill to be reported is an important one, and that it ought to be reported immediately.

Mr. QUITMAN. The Committee on Military Affairs has instructed me to make a report on those portions of the President's message, and on the resolutions from the State of Texas, which were presented for their consideration.

As this is an important matter, I wish to have it brought before the House, and to have its consideration fixed for a particular day.

No objection being made,

Mr. QUITMAN reported a bill to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers; which was read a first and second time.

Mr. QUITMAN. If the House will indulge me for but a few minutes, I will give the reasons why I think the immediate passage of this bill is demanded by the interests of the country—

Mr. GROW. What is the matter before the House?

The SPEAKER. A report from the Committee on Military Affairs.

Mr. GROW. To be considered at this time?

The SPEAKER. The gentleman from Mississippi does not ask its consideration at this time.

Mr. GROW. If it is to be considered at this time, I will object; but not otherwise.

The SPEAKER. It would be too late now to object.

Mr. GROW. Did the Chair state to the House that it was to be considered at this time?

The SPEAKER. The Chair did not. The Chair does not so understand it.

Mr. QUITMAN. I do not desire to press this bill immediately on the consideration of the House. I merely desire to have it printed, and its further consideration postponed till a particular day. I believe that this bill embodies the public sentiment of the country and of both Houses of Congress, more than any bill that has yet been presented. The House is aware that this subject was not referred to the Committee on Military Affairs until several weeks ago, on account of the delay in referring particular portions of the President's message; and that the same subject has been elaborately discussed in the other branch of Congress. It is time that this House should also present its views, and it is time that some reply should be given to the recommendation of the President in his annual message, and to the Legislature of the State of Texas. It is time that it should be

decided whether there is to be proffered to the President any volunteer force, or any additional military force. Every man in the country, whether a military man or not, knows that action should be immediately taken in the matter. The bill is a simple one. I ask that it may be printed, and taken up for consideration on Wednesday next.

Mr. FAULKNER. I desire to present the views of the minority of the Committee on Military Affairs, in the shape of a substitute for the bill reported; and ask that it may take the same direction.

There being no objection, the bill and substitute were ordered to be printed, and their consideration postponed till Wednesday next.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. PHELPS. I ask that unanimous consent may be given to take up the bills upon the Speaker's table, in order that those to which there will be no objection may be referred to the appropriate committees.

Mr. CLINGMAN. I object. I want to get at all the bills regularly.

Mr. PHELPS. By this means we will do so. Mr. CLINGMAN. No, sir; I want the gentleman's help, and the help of other gentlemen, to get at these bills regularly.

Mr. PHELPS. A privileged question interposes to prevent the call of committees for reports. No objection is made to my proposition, except by the gentleman from North Carolina, [Mr. CLINGMAN.]

Mr. CLINGMAN. Well, I object. I want to get at these bills regularly.

Mr. JONES, of Tennessee. I suppose the gentleman from North Carolina would not object to their being all taken up. I hope they will be taken up regularly.

Mr. CLINGMAN. No; sir; the gentleman said those not objected to. I do not mean that a single member of the House may prevent action on a bill which the House may wish to reach.

Mr. PHELPS. The reason I made the modification of my request was this: the gentleman from Illinois [Mr. HARRIS] has the floor on a question of privilege. There is a private bill upon the Speaker's table, on which the gentleman from Ohio [Mr. GRIMES] is entitled to the floor. That was the only bill I had in my mind when I made the modification.

Mr. SEWARD. I object to further debate.

Mr. CLINGMAN. I do not object to the proposition of the gentleman from Tennessee, that we proceed to the business upon the Speaker's table.

RESOLUTIONS OF GEORGIA.

Mr. GARTRELL, by unanimous consent, presented the following resolutions of the Legislature of the State of Georgia; which were referred to the Committee on Public Lands, and ordered to be printed:

Resolutions of the Legislature of Georgia, asking for the passage of a law fixing the rules of evidence regulating the granting of bounty lands to certain officers and soldiers therein mentioned.

Resolutions of the Legislature of Georgia, asking that bounty lands be granted the officers and soldiers of the several companies of mounted volunteers called into the service of the State of Georgia, under the provisions of an act assented to December 26, 1837.

ORSAMUS B. MATTESON.

Mr. BLISS. I ask the unanimous consent of the House to present a bill for reference.

Mr. HARRIS, of Illinois. I can yield the floor no further. If I yield to one gentleman after the other, the whole day may be taken up in this way. I must stop it at some time.

The Clerk read the resolutions pending, as follows:

Whereas, at the last session of Congress a select committee of the House reported the following resolutions, to wit:

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, did incite parties deeply interested in the passage of a joint resolution for constraining the Des Moines grant to have here and to use a large sum of money, and other valuable considerations, corruptly, for the purpose of procuring the passage of said joint resolution through this House.

"Resolved, That ORSAMUS B. MATTESON, in declaring that a large number of the members of this House had associated themselves together, and pledged themselves, each to the other, not to vote for any law or resolution, granting money or lands, unless they were paid for it, has falsely

and willfully assailed and defamed the character of this House, and has proved himself unworthy to be a member thereof.

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and is hereby, expelled."

And said committee also reported the facts upon which said resolutions were predicated, which are published with the reports of the House.

And whereas, the first of said resolutions was adopted by the House of Representatives on the 27th of February last, by a vote of 145 yeas to 17 nays, and the said second resolution was adopted by the House on the same day without a division: and whereas, the said MATTESON had, prior to any vote being taken on the last resolution, resigned his seat in this House, and thus avoided the effect of the same had it been passed: and whereas, the said MATTESON is a member of this House, with the imputations conveyed by the passage of the first two of the foregoing resolutions still upon him, and without having been subsequently reelected by his constituents: Therefore,

Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and is hereby, expelled from this House.

Mr. SEWARD. If the gentleman will allow me, I will make a motion.

Mr. HARRIS, of Illinois. I will hear the gentleman's suggestion.

Mr. SEWARD. I desire to make a motion to submit this question to a special committee, for the reason that I do not believe this House has jurisdiction over this question. I think I can show that fact upon the law of the case and the Constitution of the United States. I desire to make that motion, that I may present my views, because I shall feel compelled to vote against the resolution, however much I may believe in my own private judgment the member from New York may deserve the censure contained in it.

Mr. HARRIS, of Illinois. I cannot yield the floor at this time for the gentleman to make his motion.

Mr. Speaker, the resolution under consideration was introduced by me in the fervent belief, not only that this House had the power to pass it, but that it was the duty of the House to pass it. I do not know that I should have introduced it had it not been that the House had previously decided to go into an investigation which related to transactions of members of the last House, and determined to raise a committee and to prosecute inquiries in the remote parts of the country to ascertain what had been done by members of the last House implicating them in improper legislation. But when the House had so determined, I thought the cause already upon the docket here ought to be disposed of before new causes were set down for trial. For my own part, I have no doubt as to the entire power of the House to pass the resolution. The House may, by a majority of its members, inflict punishments upon any of its members, and with the concurrence of two thirds, may expel a member—not for disorderly conduct alone—but may expel a member. The power is given in the broadest sense. It is a power that the House ought to possess, and it is a power which it can exercise only by the concurrence of two thirds of its members. The very necessity of requiring two thirds of its members sufficiently guards the power granted from any abuse of it.

When I first introduced the resolution, I proposed to myself simply to have the Committee on the Judiciary inquire into the power of the House; not that I entertained any doubt of the power myself; but knowing very well that some gentlemen did, I was willing that the Committee on the Judiciary should examine and report to the House, that we might have their authority and sanction for the passage of the resolution, if the House were determined to pass it. Subsequently, however, to the introduction of the original resolution, gentlemen upon the other side, colleagues of the member implicated, desired me to modify it in the manner in which it is now before the House. Supposing them to be equally interested in what concerned their colleague with any upon this side of the House, I modified it in accordance with my own view and the suggestions they made. In that form it now stands before the House. I shall not enter into an argument to satisfy the House of the necessity or propriety of the passage of the resolution. All the facts are in the form of depositions, and now exist upon the records of the House. They were published with the reports of the last session, and are accessible to, and I have no doubt have been seen and examined and weighed and canvassed by, members of the House. I do not propose, therefore, to take up any time

whatever in discussing the resolution. If it shall be necessary to say anything in defense of myself, or in vindication of the resolution, I shall endeavor to do so; but I do not propose now to occupy the time of the House, or to take it from the important business before it for the purpose of further discussion.

I am willing that the question may be taken on the motion of the gentleman from Georgia, [Mr. SEWARD.] I am not pertinacious as to the course which the House shall pursue. I deemed it my duty to bring the question before the House; and having done that, I shall not be disturbed or elated with any action which the House may take.

Mr. KEITT. I only desire to occupy the floor a moment for the purpose of making a statement, in consequence of my connection with the postponement of the consideration of the resolution for a month, when it was up before. I propose to make no argument upon any branch of the resolution.

The gentleman from Illinois, [Mr. HARRIS,] the House will remember, a little more than a month ago, offered his resolution, and it was then stated by a colleague of the member against whom the resolution is moved, that he was kept at home by sickness in his family. The gentleman from Illinois then postponed its consideration until the succeeding Monday. On Sunday night a gentleman from the town, I believe, in which Mr. MATTESON resides—at least from his congressional district—called upon me and asked me to move the further postponement of the resolution in consequence of the serious illness of Mrs. Matteson. I told him I did not move the resolution, and had no control whatever over it; that he must go to the gentleman from Illinois, [Mr. HARRIS,] who had moved it. The next morning the gentleman called upon me at my committee-room; said he had called upon the gentleman from Illinois and made a statement to him; that the gentleman from Illinois was ill, and could not attend the House that day, but that he readily concurred in the motion to postpone its consideration for a month; and asked me, as I had no personal or political relations with Mr. MATTESON, as an act of justice to him, to make that motion. He said to me that Mr. MATTESON was kept at home by the serious illness of his wife—an illness from which, in the judgment of her physicians, she probably never would recover. I made the motion because it was an act of justice to him under the circumstances.

Since that time I have received letters informing me that the excuse was fabricated; that Mrs. Matteson has not been sick. I have seen it so stated in an editorial article in a newspaper published at the gentleman's place of residence and sent to me. I have been informed by gentlemen upon the other side of the House that she is sick, and I had a newspaper, published at the gentleman's place of residence, sent to me, in which it was stated, editorially, that she is sick; and I have received half a dozen letters stating that she has not been for years as well as now.

This morning Mr. Moulton, who six years ago was a competitor of Mr. MATTESON, placed in my hands a letter from the physician of Mr. MATTESON, which I will read to the House. I do not know to whom it is directed as there is no direction upon the envelop. It is as follows:

"UTICA, February 15, 1858.

"I am in receipt of your letter of this morning. I have been Mrs. Matteson's physician for more than a year. She is subject to severe attacks of illness, and she has scarcely seen a well day for the last six months, and for the past few weeks she has been suffering more than usual."

Now, sir, these are the facts as they are in my possession. Upon them I have no comment to make, and no feelings to gratify.

Mr. SEWARD. In my opinion this is one of the gravest questions that has been presented to the House of Representatives for their decision; and while I condemn, as much as any man, the conduct of the member to be affected by our decision, yet I presume to stand here to respect the laws and the Constitution of my country, and, if need be, to defend this man in his constitutional rights. This House has not only civil jurisdiction, but criminal jurisdiction over its members; and I lay down the proposition, sir, without fear of contradiction, that unless some law can be shown, or some provision in the Con-

stitution that attaches a personal and perpetual disqualification to its members, this House, by its action during the last session, exhausted its entire constitutional power over the question. In many of the States, in Tennessee, in Mississippi, in Georgia, and a number of other States, disqualifications perpetual in their nature are attached to certain crimes committed by members of Legislative Assemblies.

Now, sir, I ask any member of this House, who is willing to vote for a second expulsion, for a second punishment, to show me any law of the United States which disqualifies the people of the district represented by this gentleman from reflecting him after his expulsion from this House. The only instance known to our Constitution in which a perpetual disqualification attaches to an individual, is where a conviction has been had upon an impeachment.

Now, sir, I have before me Cushing's Law and Practice of Legislative Assemblies, in which this whole question is reviewed, not only in regard to the powers of the General Government, but in regard to the powers of State governments depending upon their local laws and their constitutions; and the conclusion to which the author comes, upon the laws and constitutions reviewed, is found in these words:

"Expulsion from a former or from the same Legislative Assembly cannot be regarded as a personal disqualification, unless specially provided by law."

This power has been exerted in the British Parliament; but it was under a statute of Parliament annexing a disqualification to a member expelled, and who had been convicted of bribery; and some of our States have the same provision incorporated into their constitutions.

Now, sir, I voted at the last session of Congress for the expulsion of this member. I did so, sir, because I thought it was due to the dignity of the House. I did so, sir, because I thought that the punishment was just and righteous. I believe it yet. But, sir, I am not going to undertake to set up the doctrine that by reason of that expulsion, with no constitutional disqualification upon him—with no legal disqualification upon him—the people of his district had no right to reelect him and send him back.

Now, let me suppose a case. We had during the last Congress a case involving the reputation of a member from your State, [Mr. Brooks.] Suppose that a two-third vote could have been obtained for his expulsion from this Hall: would the Representatives from South Carolina, or any other State, affirm the doctrine that the expulsion, in the absence of a constitutional or legal disqualification, would have prevented the people of his district from sending him back here to represent them?

I do not regard myself, sir, as defending the member. I am defending the laws of this country. I am defending the Constitution. I am defending the popular rights of the people—their right to select their own Representatives when the Constitution gives them a right to do so. And to act upon this case again, and to resort to a process by which a second expulsion is to be made, would be, in my opinion, a most outrageous act of tyranny. I have no respect for the member; none whatever. But while I say this, I have respect for the Constitution and for the power of this House; and when I am called upon to give my vote, I shall give it regardless of consequences, and respond to the honest convictions of my own judgment, without regard to the meanest criminal that ever disgraced human nature.

Now, sir, it is said that if the election of this member had taken place subsequent to his expulsion, then, the people having passed upon it, the House would have been ousted of its jurisdiction. Why, sir, such a doctrine as that is absurd. Does the time when an election takes place change the law or affect the Constitution? No, sir; it cannot change the principle. But even if that were true, the letter upon which the conviction took place here, at the last session of Congress, was published and used in the canvass at which he was elected, prior to the last Congress.

But, as I have said, this whole question rests upon the fact of the qualification or disqualification of this member under the Constitution, or under some known law of the land.

Mr. HOUSTON. I think there is much force in some of the views which the gentleman from

Georgia [Mr. SEWARD] has presented; but I desire to call his attention to a point that is made in opposition to the views he has submitted. It is this: the offense having been committed by the member from New York after he was elected as a member of this House, does not that give the House jurisdiction? I do not suppose that the mere fact of the people passing upon the qualification of the member after the offense has been committed—by a reelection—changes the power or the duty of this House; but the fact that the member had been elected a member of this House before the offense (as is alleged) was committed, is claimed as giving jurisdiction to the House. I would like to hear the gentleman upon that precise point.

Mr. SEWARD. The question of jurisdiction is not affected by what the people may do, or by the time at which the election took place. The House of Representatives had jurisdiction over the question. They assumed that jurisdiction; they acted upon it; they applied the remedy; they administered the punishment; they expelled the member, and exhausted all their constitutional power. I ask the gentleman to show me some law of the United States, or some clause in the Constitution, which prohibits the people of that or any district in the United States from electing any man they may choose as their Representative in this House. I am looking to the law of the question. We do not know what questions may arise here hereafter. Some member of the House in the future may be expelled for some disorder, or for some act of personal violence committed on a member, and not affecting his honor at all; and if an expulsion is to attach as a permanent and perpetual disqualification, where will this doctrine lead to?

Mr. WINSLOW. I desire to ask my friend whether this member was expelled?

Mr. SEWARD. It is the same thing whether the resolution of expulsion passed or whether he resigned his seat to avoid it, and simply a resolution of censure was passed. He was convicted of the offense by the first resolution, and having disincumbered the House, if you will allow the expression, by his resignation, the House, I believe, did not vote to expel him, because it would have been an absurdity in itself.

Mr. STANTON. I think the gentleman will find, by reference to the Journal, that the House voted upon the resolution of expulsion, and passed it notwithstanding the resignation.

Mr. SEWARD. In one of these cases—I do not know which—a resolution of expulsion was passed, and not in the two other cases. But that does not affect this question.

Mr. MARSHALL, of Kentucky. I have before me the Congressional Globe. There were two branches of the resolution. The first was as follows:

"Resolved, That ORSAMUS B. MATTESON, in declaring that a large number of members of this House had associated themselves together, and pledged themselves each to the other, not to vote for any law or resolution granting money or lands unless they were paid for it, has falsely and willfully assailed and defamed the character of this House, and has proved himself unworthy to be a member thereof."

The second branch of the resolution was:

"That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and he is hereby, expelled therefrom."

Upon a motion to lay upon the table, it seems that a division was called for. The yeas and nays were called upon the first branch. The question was taken; and it was decided, upon the first branch, in the negative. So the House refused to lay that branch of the resolution upon the table. The question was then stated on the second resolution; and it was agreed to without a division. Mr. ORR moved to lay the final resolution on the table; which motion was agreed to. The House voted on the second resolution, and *pro forma* expelled him, and then laid the whole resolution on the table.

Mr. SEWARD. I believe the gentleman from Kentucky has correctly stated what occurred; but that does not affect the question at all.

I call the attention of the House to the law in relation to the power of legislative assemblies:

"This description of disqualifications results either from the doing of some act of a criminal nature, as, in Tennessee, dueling and bribery, and in Mississippi, denying the being of a God or a future state of rewards and punishments, or, from the conviction of some crime or offense, which by the Constitution alone, or the constitution and laws of a

State, is declared to be a ground of exclusion from a seat in the Legislature. In some of the States it is the commission of the crime which disqualifies; in others and the greater part, a conviction is also necessary. The offense which, more commonly than any other, is made a disqualification, is that of bribery in obtaining an office or appointment.

"Expulsion from a former or from the same legislative assembly cannot be regarded as a personal disqualification, unless specially provided by law."

Mr. MARSHALL, of Kentucky. I will now read from the Journal. It seems that there were three resolutions in the case. I begin with the second resolution.

"Resolved, That ORSAMUS B. MATTESON, in declaring that a large number of the members of this House had associated themselves together, and pledged themselves each to the other, not to vote for any law or resolution granting money or lands unless they were paid for it, has falsely and willfully assailed and defamed the character of this House, and has proved himself unworthy to be a member thereof.

"And the question being put, Will the House agree thereto?"

"It was decided in the affirmative.

"So the second resolution was agreed to.

"Mr. WARNER moved that the votes by which the first and second resolutions were agreed to, be reconsidered, and also moved that the motion to reconsider be laid on the table; which latter motion was agreed to.

"The third resolution was then read, as follows:

"Resolved, That ORSAMUS B. MATTESON, a member of this House from the State of New York, be, and he is hereby, expelled therefrom.

"Pending which, on motion of Mr. ORR,

"Ordered, That the said resolution be laid on the table."

Mr. SEWARD. The law which I have laid down as being in force in this country was regarded as law in Great Britain up to the time of the passage of the British act of Parliament which now governs the matter. If gentlemen will take the trouble to look at Rogers's Law of Elections, they will find that the same principles are laid down as I have read from this book. But an act of Parliament was passed attaching permanent disqualification to members of the British Parliament who have been convicted of crime.

Now, if there is any trouble about this question, the fault is in our legislation. When this offense took place, and when the House of Representatives felt called upon to vindicate itself by arraigning those members before it for trial, if the crime was considered sufficient for their expulsion, and if their entire exclusion was intended to be carried out in the future, they should have passed a law classifying the crimes conviction for which should work perpetual disqualification. I now move to refer the preamble and resolution to a select committee of five.

Mr. STANTON. I am not yet prepared, Mr. Speaker, to vote for the expulsion or censure of a member for an offense committed against a former Congress. Although committees of the present House have been raised, with a view to inquire into the conduct of members of the past Congress, still I consider that their whole authority is limited to developing and disseminating before the public such corruptions as may have been practiced in that Congress. I do not consider myself bound, if any such developments are made, to vote for the expulsion of a member for offenses against a past Congress. I regard that as really a matter of secondary importance. The great object to be attained in all these congressional investigations is, that the public may be informed of the acts of their Representatives in their official capacity. But, sir, whether that be within the rightful power of the House or not, there is one thing to my mind perfectly clear. That is, that the House should keep within the spirit of the Constitution and the rule of the common law, and that no man should be twice tried and punished for the same offense. Now, whatever offense Mr. MATTESON may have been guilty of against the House of Representatives, he has already been arraigned, tried, convicted, and punished for it. Although we may not be strictly bound by the constitutional provision which is applicable to the courts of law, yet it seems to my mind that the spirit of that rule, and the principles of abstract justice, applicable to all proceedings, criminal and penal, of this character, are appropriate to the case before the House.

Therefore, for the purpose of testing the sense of the House on the question as to whether it will take jurisdiction of it, as to whether it will inquire into an offense that has been once inquired into, investigated, tried, and decided, I move that this resolution be laid on the table.

Mr. HUGHES. I wish to suggest to the gen-

tleman from Ohio that those who are not prepared to vote on the resolution can hardly be prepared to vote on that motion.

Mr. TAYLOR, of Louisiana. Will the gentleman withdraw that motion, and allow me to have the floor?

Mr. STANTON. If the gentleman from Louisiana will renew it, I will yield.

Mr. TAYLOR, of Louisiana. If the gentleman from Ohio desires me to renew his motion to lay on the table, I will do so; as, under the rules of the House, the gentleman from Illinois [Mr. HARRIS] will be entitled to make the closing speech.

The SPEAKER. The motion is to lay on the table, which would preclude any further debate.

Mr. STANTON. I will withdraw my motion unconditionally, and let the gentleman from Louisiana take the floor.

Mr. TAYLOR, of Louisiana. Mr. Speaker, the subject now presented for the consideration of the House is a grave one. It is one which has attracted the attention of the House at various periods during our national existence; and circumstances which are fresh in the recollection of all who were members of the last Congress, had the effect of directing the attention of many of us in a peculiar manner to it during the sessions of that Congress.

I happen to be one of those individuals who occupied such a position, that I was induced to investigate the subject for the purpose of arriving at a satisfactory conclusion in my own mind as to the power of the House. The conclusion which I then arrived at, the principles which I recognized in my own mind, and which I determined should be for the future the rule of my conduct, all operate upon me now; and before saying anything on the question, before entering into any argument on the principles involved, I wish simply to refer to the fact that in the proceedings had before the last Congress, in reference to the particular individual whose conduct is now before us, and in reference to other individuals, I was not to be found among those who voted for the expulsion of a member for any cause that was then set forth.

Mr. Speaker, the case before us is one of a character eminently fitted to secure a proper and fair decision upon this important question. The facts in it have long since transpired. The excitement which grew out of their disclosure has passed away. We are called upon in our legislative capacity to act on that question when our judgment is no longer clouded by the mist of passion, and when it can no longer be disturbed by the temporary excitement of the moment. I imagine there can be no doubt about the conduct of the person with respect to whom this question grows up. It is the universal opinion of the members of this House, as I presume it is of the citizens of the country, that he was guilty of conduct disgraceful to an American citizen, and which could not be for one moment tolerated in one who is to act as a representative of his fellows in the discharge of high legislative functions. But as important questions are often involved and often settled when action is invoked in respect to individuals whose conduct is admitted upon all hands to be unworthy, I propose now to pass away from the conduct of this person for the purpose of considering the question as to the right and the power we have, and the expediency of exercising any power over the subject-matter.

Mr. Speaker, legislative assemblies, according to my notion, have no inherent powers. There never was, nor can there be, a body which exercises, from its mere constitution, any power. The powers exercised by legislative bodies, with a view to enable them to discharge their appropriate functions, have in all instances been the result of convention. They have been conferred on them by law. That was the case in Great Britain, where we have the first instance of the existence of parliamentary bodies. It is true, sir, that when you attempt to examine into the historical records of Great Britain, you cannot go back to a period when you find the legislative enactments which conferred those powers; but you find, scattered through the whole system of British jurisprudence, unmistakable evidence that the decisions in relation to those subjects were, in all instances, the accustomed decisions of their judicial tribunals, and of their parliamentary assemblies, found-

ed upon powers granted by the express will of the people, or governing power.

While it is not possible for us to reach the origin of those powers in the Parliament of Great Britain, while the origin of those powers is involved in darkness—the darkness of the ages of ignorance, the darkness of that period when there were no historical records which have come down to us—the process has gone on, if I may use the expression, under our own eyes in this Republic. When our fathers settled upon American soil, they brought with them the notions, the views, the principles, which had filled their bosoms while they were members of the political community which then occupied the island of Great Britain. What was the spectacle presented when they did settle and organize new political communities? If you refer to the history of the individual colonies, will you find that, when legislative assemblies were organized, those legislative assemblies proceeded to exercise the powers which are now believed to belong to legislative bodies? Did they exercise any power for protecting their members against violence, for the purpose of giving them security while they were transacting public business, as necessarily inherent in them? Not at all; but when you refer to the colonial records, you will find, in every instance, in proportion as the necessity for any particular protection was discovered, that protection was extended by legislation. In the various colonies, (and I have taken a great deal of pains to trace their history,) it will be found that, within a very few years after the organization of these different legislative assemblies, they provided the means of punishing individuals who should attempt to interfere with members in going to and returning from legislative assemblies. They provided means for punishing individuals who disturbed them for what they did in the course of the discharge of their public duty. This was universal with all of the colonies. The powers were the result of convention. They were the result of particular and special grants.

Now, the States which came into existence on the separation of the American colonies from the mother country, adopted constitutions, in which they embodied the then existing provisions of law in respect to these matters. When you refer to the first constitutions adopted by the States, you will discover that there was great diversity in the powers conferred by them upon the various legislative assemblies; as, for example, you will find that the State of Pennsylvania, under the constitution adopted at the time of its becoming a sovereign State, conferred upon its Legislature the power to expel for disorderly conduct alone. You will find the constitution of Maryland conferred the same power; and, in addition to it, conferred the power to expel for a great misdemeanor, but not a second time for the same offense. You will find that the constitution of the State of Georgia conferred the power to expel for disorderly conduct, or on conviction of an individual for an infamous crime. The constitutions of Massachusetts and New Hampshire contained no provisions giving the power to expel.

And now I would ask gentlemen who are to decide on the construction to be given to those great instruments of government, whether it will be pretended by any individual that the power to expel was the same in Pennsylvania, when the constitution gave the power to expel for disorderly conduct, that it was in Maryland, when, in addition to that power, the power was given to expel for a great misdemeanor? Will it be pretended that the same power existed in the State of Maryland which was conferred upon the Legislature of Georgia, when, in the constitution of Georgia, the power was given to expel for disorderly conduct, and in case of a conviction for an infamous crime? According to my notion, the plainest rules of construction make it certain that the provisions contained in the different constitutions, which were of various characters, gave different powers, and that each legislative assembly was restricted to the power which was specially conferred. Any other conclusion than this would stultify the framers of constitutions.

Mr. DAWES. I will refer the gentleman to a late decision of the supreme court of Massachusetts which may throw some light upon the subject. The constitution of Massachusetts contains no such provision.

Mr. TAYLOR, of Louisiana. I was speaking

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of the former constitution of Massachusetts, and not of the present one.

Mr. DAWES. The present constitution of Massachusetts contains no such provision. Within a few years the Legislature of Massachusetts has exercised that power, and their power has been contested before the supreme court of Massachusetts. I was interested in the gentleman's argument, and it may be a matter of curiosity to him to refer to the record of that matter. By referring to the opinion of the supreme court of Massachusetts, he will find that power fully discussed, and I think he will find that the opinion of the supreme court of Massachusetts conflicts somewhat with the opinion which the gentleman has now given.

Mr. TAYLOR, of Louisiana. In respect to political questions, the people of the United States, in the various departments of the Government in which they exercise power, are supreme. The judicial authorities decide in regard to rights brought into contest in individual cases. Whatever might have been the decision of any court might be a matter of curiosity, and within the sphere of judicial action it would be entitled to and receive my respect; but it would not determine my course upon a question of this nature. This is a political question, and it must be decided by political bodies with reference to the great principles which regulate public rights.

I have referred to many of the provisions contained in the various constitutions of the various States directly after they ceased to be members of the great British Empire. I have alluded to the diversity between them; and I have insisted that it was in consequence of differences in their provisions; and that the powers existing in the various Legislatures were to be determined by the grants made to them by the people when they adopted these different State constitutions.

When the Constitution of the United States was framed we had these various constitutions in existence, and the people, who through their representatives were about to engage in the great work of constructing a new Government, were perfectly aware of the character of legislative assemblies; were perfectly aware of the accidents to which they were subjected, to the embarrassments and trammels which might be thrown about the members; of the importance of purity of conduct in members, as well as of giving them security and independence of action; and when they framed the Constitution, and determined the character of the legislative bodies to which the legislative power of the country was intrusted, they laid down in specific language the power which they vested in the two legislative bodies with respect to their own members. The Constitution of the United States, in section five, contains this clause:

"Each House may determine the rules of its proceeding, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

My own opinion is, that all the power which was conferred on this House, or the other House of Congress, is to be derived from that particular clause, and that no other power exists but what is given directly in that clause, or results from it by necessary implication. Now, sir, the first thing which strikes us is the absence from the Constitution of the United States of any provision giving the right to expel for any other cause, except that growing out of disorderly conduct on the part of its members. This Government is one of limited powers. There is no power in the Constitution of the United States which is not the result of express delegation or which does not result necessarily by implication from some delegated power. In determining upon the power which should be vested in the two Houses of Congress, the representatives of the people, who were engaged in framing that great instrument, were jealous of conferring any more power than was necessary to attain the end aimed at. The only power really necessary was that of controlling its members, and compelling them to submit to the rules which the Houses, in their judgment, might find necessary for the proper prosecution

of the public business. With respect to protecting themselves against external violence, that protection was to be derived from the legislative power of the two Houses, or from the action of the House, through its own officers to resist intrusion within its limits or to put an end to physical violence or disorder in its presence.

Now the question is as to the power to expel. It is said that legislative bodies have the power, in all instances, of expelling members who have disgraced themselves by infamous conduct, who have been guilty of conduct incompatible with the honest discharge of the trust confided to them, or who have committed criminal offenses. That is true with respect to the Parliament of Great Britain, because they have so declared it by their laws. That is true, too, in regard to the Legislatures of many of the States, because the power has been expressly conferred by their constitutions.

Mr. STANTON. I wish to inquire of the gentleman from Louisiana if he holds that the power to expel, with the concurrence of two thirds, includes no other cause of expulsion than disorderly behavior, which he has mentioned?

Mr. TAYLOR, of Louisiana. That is my conviction; and I will refer to something which shows that there has been previous action in one of the Houses of the American Congress that indicates the existence and recognition of that principle, and I will then proceed to show the necessity for acting upon it now.

Mr. STANTON. If I understand the gentleman correctly, he claims not only that the power does not exist by virtue of the Constitution to expel for any cause except disorderly conduct; but that Congress has no power under the Constitution to pass any law making any offense, except simply disorderly behavior, a cause for expulsion.

Mr. TAYLOR, of Louisiana. I go to that extent. I am perfectly persuaded that Congress cannot create any other cause of expulsion. I say it is not within the power of Congress to make any other rule. Now it is competent for this body to adopt any rules which it sees fit for the government of its proceedings. It can make those rules and prohibit its members from doing any act which, in their judgment, is of a character inconsistent with legislative purity, or which, in their judgment, is inconsistent with the propriety of legislative conduct, and make the violation of such rules a reason for expulsion.

The power of the House over this subject, in my view, is unlimited. They adopt the laws which are to govern in relation to that matter, and whatever, in the judgment of the House, would be a proper ground of expulsion, that they can determine for themselves and embody in their rules; because, so far as relates to the existence and action of this body, by the Constitution of the United States, the power of legislation over its members, as members, and to regulate and govern their conduct as members, is vested in the House, and that that power is exclusive.

Now, sir, with the permission of the House, I will proceed to show how I conceive that power is to be exercised, how it has been limited, and why it should be so.

Mr. STANTON. Does the gentleman hold that the term "disorderly behavior" excludes offenses committed beyond the halls of legislation, such as bribery, or an offense that may have been committed when Congress was not in session?

Mr. TAYLOR, of Louisiana. No, sir.

I will now proceed to show why the different States have adopted different rules, so far as relates to the devolving of power upon legislative bodies to expel. The reason is that the power to expel is a delicate power. Under the theory of our Government, each constituency is to judge for itself of the qualifications and character of the individuals they may select to represent them; and, therefore, in different States they have looked upon this power as an extremely delicate one, and they have not conferred this power upon their legislative assemblies. If that power be a delicate one when it is to be applied to individuals belonging to the same

State, members of the same political sovereignty, how much more delicate does it become when it is a power to be applied in respect to individuals who come here, not merely as citizens of the United States, but who come here as the representatives of constituencies making a portion of communities possessed of sovereign power in their separate capacities as States?

Now, sir, I said that the sole power was vested in each House, that they were possessed of the exclusive power of determining upon what grounds this power should be exercised, because they were possessed of the exclusive power of establishing rules for the government of their members. I will, with the permission of the House, refer to one instance that is remarkable—one, perhaps, that may not have attracted the attention of the gentleman from Ohio, [Mr. STANTON,] or any other individual who now hears me.

The Senate of the United States has as great power as the House of Representatives of the United States. They have power to expel in the same manner. That provision of the Constitution applies in the same degree to them. Now, it is known to all that the Senate of the United States is a body that not only exercises legislative functions, but that it discharges certain functions that are connected with the executive power of the country, and whilst they are engaged in the transaction of executive business, by the rules of the Senate, there is an injunction of secrecy. The rule prohibits any individual from making public anything that transpires in an executive session; and that injunction of secrecy exists, not only with respect to communicating anything which passes in executive session, but to the communication of any fact brought to their knowledge by executive communication made to them. A few years ago, when an important treaty was before the Senate, and whilst the Senate was still engaged in discussing questions growing out of the consideration of that treaty, surreptitiously, and in violation of the rules of the Senate, some member communicated a copy of that treaty to a person connected with one of our newspapers. That was an offense of as grave a character as could be perpetrated by any man discharging the functions of a Senator of the United States. What was the conduct of the Senate upon that occasion? Did they proceed to exercise the power of expulsion, which was given to them in the Constitution, for violating the rules of order? Not at all, sir. And the reason was, that although there was a rule of the Senate which prohibited any such disclosure, there was no rule of the Senate which declared that the penalty of such disclosure should be expulsion. But immediately after the occurrence of that case, immediately after the excitement had passed away which was consequent upon it, the Senate adopted rule 51, for the purpose of meeting that very contingency; they took the action which this House ought to take, and adopted a rule declaring what should be a ground of expulsion. I refer the House to rule 51 of the Senate, which was adopted upon that occasion, and which prescribes that—

"Any officer or member of the Senate convicted of disclosing for publication any written or printed matter, directed by the Senate to be held in confidence, shall be liable, if an officer, to dismissal from the service of the Senate, and in the case of a member, to suffer expulsion from the body."

Now, Mr. Speaker, any other course of proceeding than that adopted by the Senate would, in my view, be in violation of every principle of good government; it would be a violation of every principle recognized in a republican system; it would be a violation of the most sacred rights of man and of the sacred right of the Representative. That the power exists of laying down rules, of prescribing laws, and of expelling members if they violate them, is perfectly certain; but that right, vested in the House, is to be exercised by established rules. The disorderly conduct, for which a member may be expelled, is the violation of the rules of order. Adopt any other construction than that, and you establish a tyranny; adopt any other construction than that, and you give to

this House and to the other House an arbitrary power, depending upon the mere will of the majority—and that is tyranny; you give them power to create an offense after it has been committed, and to inflict punishment before the law has been laid down. The Apostle says that where there is no law there is no transgression; and that is a principle which obtains in politics and in the action of civil society, as it does in morals and religion.

Now, sir, I have detained the House longer than I had intended, but to my mind it seems clear, that this is a question of the greatest importance. It seems to me that it would be wrong—that it would be more than wrong; that it would be in violation of all true principle—for this House to proceed to act upon any such question until it has, by its rules, provided for the cases before they arise.

Now, what is the position of this person? So far as I know he has not been in his seat during this session. If he has been, he certainly has not placed himself within the public gaze. He has withdrawn himself because, so far as I can judge, from the manner of those around me, he is looked upon as a moral Pariah. If the House should act in the direction proposed in the resolution, what public advantage would be secured? The constituents of this gentleman will have an opportunity, in November next, of passing sentence upon him for themselves. I have no doubt that they will visit him with the most exemplary punishment. I have no doubt that when the month of November shall have passed by, it will be found that he will have died a political death. Then, I ask, what public advantage is to be obtained in taking the action proposed? According to my view it would be a dangerous precedent, because it would imply a determination on the part of this House to punish as a crime over which the House has jurisdiction, an act which the House had not before declared should be considered a crime; because it would be visiting with a penalty an act which, when it was done, was not by the House regarded as an offense against its rules of order.

Under these circumstances I, for one, am opposed to all action. I, for one, am in favor of laying the resolution on the table, with a view to have the House, hereafter, embody in its rules a provision which will provide for cases of this kind.

Mr. GIDDINGS. For the reasons assigned by my friend from Louisiana, [Mr. TAYLOR,] for delay in this case, I desire immediate action upon it. I desire that the House shall act to-day efficiently and conclusively on the resolution. The people of that district have a right to be represented on this floor. I speak not of the guilt or innocence of the accused; but his absence from this Hall, as noted by the gentleman from Louisiana, shows to me conclusively that he ought not to be here. Neither the sickness of a wife, nor the death of a partner, nor the illness of children or family or friends, can exempt a man elected by his constituents from the duty of attending in his place here.

Now, I desire that the majority of the House should act one way or the other. I am opposed to the motion of my friend to refer this case. Let it be decided at once. I will not argue the law. I do not believe that it would be prudent for me to enter into such argument. I only wish to say, I desire that the majority shall take this case into their own hands; and I hope that no member on this side of the House will throw himself in the way of executing judgment, or of delaying the establishment of a precedent which will govern us all, and our successors in coming time. I invoke the majority to establish just such a precedent as they desire, and we will carry it out.

I merely rose to say that I rejoice that this portion of the House commenced a system of purifying this body which was never introduced into it before the Republicans obtained possession of it. I rejoiced most heartily that my friend [Mr. KELSER] brought in his resolution of investigation. He did so after consultation with me. It was because we then had the power over our own friends. I rejoiced when I saw my own intimate friends coming up to the work and letting the ax descend upon their own particular associates. It was one of the proudest moments of my life. I now implore them to maintain the position which

they have taken; and now upon the opposite party rests the responsibility.

Mr. HUGHES. I do not propose to enter at length into a discussion of the expediency of voting the expulsion of the member from New York whose name is mentioned in the resolution. But I do propose to submit a few observations in regard to the power and the jurisdiction of the House. The proposition before the House is to expel that member. I conceive, sir, that over him the House has absolute jurisdiction. But such is the importance of the question involved, that it is meet and proper that the House should approach it with due deliberation, and in a frame of mind eminently judicial. I am gratified to perceive from the remarks of the gentleman from Georgia, [Mr. SEWARD,] and of the gentleman from Ohio, [Mr. STANTON,] that they are opposed to the assumption of any doubtful power by this House; and, sir, I regret that the action of the House during the present session has not in all cases been characterized by that deliberation. I allude to the fact that at this moment a citizen of the United States, who has no right to be heard on this floor, is now incarcerated in a dungeon over the votes of a respectable minority of this body, and put there under a gag; the proceedings against whom I avail myself of this opportunity to enter my solemn protest.

Mr. STANTON. I would inquire of the gentleman from Indiana whether he thinks the minority should have the power to put the gag on the majority?

Mr. HUGHES. I did not say that the minority had that power. I say that this man was imprisoned over the vote of a respectable minority of this body, and that it was done under the previous question, moved by the gentleman from Ohio. Permit me to say that the motion to lay this resolution upon the table, and thereby cut off all discussion on this important question, was inappropriate and in ill-keeping with the remarks which the gentleman from Ohio himself submitted to-day.

This resolution has been before this House for more than one month. It is the special order for this day. Every member of this body must have had his attention more or less directed to this question. I presume that almost every member of this body has some opinion on the subject, as to the power of the House to expel a member. For my part, I desire to say here that my opinions on that question are fully made up; but I am not prepared to vote for the resolution in its present form; and, therefore, I hope to see it modified; and for that purpose, before I close my remarks, I will submit a motion to refer it to what I conceive to be the proper committee—the Committee on the Judiciary.

But as to the power of the House. Why have we not the power to expel the member from New York? Because it is alleged that he committed offenses which were passed upon by a previous Congress. There is a very memorable instance bearing, to some extent, on this question—"the Middlesex election," where Mr. Wilkes was expelled by one Parliament, reelected, and refused permission to take his seat in following Parliaments.

Mr. SEWARD. Did the gentleman ascertain that that was done on an existing British statute, which affixed a permanent disqualification?

Mr. HUGHES. I did not.

Mr. SEWARD. That is the fact.

Mr. HUGHES. The result of that controversy was, and the precedent was fully established, that an expulsion from one Parliament did not render a man ineligible to a seat in another. That was the point which was decided. It was never decided that a subsequent Parliament had not the power to expel a man, in its discretion. It was maintained that the vote of expulsion absolutely disqualified the member from sitting in a subsequent Parliament; and it has never been decided, to my knowledge, that a man may not be expelled by two legislative bodies for the same offense, though it would be unjust, and in contravention of the settled principles of jurisprudence in this country.

Sir, what are the facts in this case? The member whom it is proposed to expel, was charged with certain offenses by a Congress of which he was a member. After a full investigation, he was found sufficiently implicated to justify a commit-

tee of that House in reporting a resolution for his expulsion. He evaded that resolution by a voluntary resignation. Whether the resolutions were subsequently passed, at a time when he was no longer a member of that body or not, I humbly conceive has little to do with the question before the House, because the bar of a former conviction technically does not interpose itself if he had voluntarily severed his connection with Congress and evaded the resolution. He placed himself beyond their reach voluntarily. He did it, no doubt, purposely. He withdrew himself out of the jurisdiction of the body. The punishment, then, except in a moral aspect, was never visited on him. The legal bar, then, does not exist; and the question which presents itself to this House is simply this: ought he to sit as a member of this body? Has his conduct been such as, in the judgment of this House, acting judicially, disqualifies him for a seat upon this floor? Then when it comes to that question, judging from the expressions of opinion which have been made by gentlemen on both sides of this House, I apprehend there will be great unanimity. It seems to be a conceded fact, a matter beyond controversy, that the member from New York is regarded as having forfeited his right to the respect of his associates, and his usefulness as a member of this body. No legal bar interposes itself between him and the action of this House.

I say, then, that the question of power is clear. The question of expediency alone remains on the question whether he ought to be expelled or not. I do not know what opinions others may entertain; but for my part, I believe, if the proposition were before me, unexceptionable in its form, I would vote, as a matter of justice to the House, and the constituents of that member, in favor of his expulsion. But, sir, I will not vote for that resolution in its present form, because I do not think it places the case upon its true ground, or upon as strong ground as it can be placed upon. For that reason I desire to see this resolution go to the Committee on the Judiciary, that they may examine the subject, report their views on the question of power and the question of expediency, and that they may present the proposition in a proper form. The gentleman from Ohio, [Mr. GIDDINGS,] who last addressed the House, feels disposed to dedicate himself to the work of purification; and he boasts that that work has been inaugurated by the party with which he acts. I wish to make no issue with the gentleman on that question; but, sir, I leave it for history to declare which party upon this floor has created the necessity for that work of purification. I am in favor of purification in reference to those matters concerning which this House has jurisdiction. I believe this House has jurisdiction of this matter, and therefore the appeal of the gentleman from Ohio [Mr. GIDDINGS] comes with full force to the majority of this House, to define their position upon this question, and to take the responsibility of action here.

Mr. GIDDINGS. I desire to explain what I said. I meant nothing more than to allude to the fact that they have the power, and that they should feel the responsibility of disposing of this case.

Mr. HUGHES. I say the appeal was just.

Mr. GIDDINGS. I meant nothing offensive.

Mr. HUGHES. I approve of the gentleman's remark, and I hope the majority will take it home to themselves, and will not evade the question.

Mr. SEWARD. Have the Administration a majority in this Hall?

Mr. HUGHES. I suppose the Administration have a majority upon all questions but one; and I rather think, sir, that when the final vote is taken, they will have it upon that.

The SPEAKER. The gentleman will confine his remarks to the question before the House.

Mr. HUGHES. I was only answering the question propounded by the gentleman from Georgia.

But, sir, I say that when this House is so careful to proceed prudently, and with a due regard to the Constitution, in this matter, I hope they will not proceed so slowly as to present the spectacle to the people of this country of permitting a member, convicted of corruption, over whom we have jurisdiction, and whom self-condemnation has banished from a seat in this Hall, without the judgment of the House, to sit in this Hall, and that, too, while the House proceeded, in hot haste,

to incarcerate a private citizen upon a question of very doubtful jurisdiction. While we have a citizen of this country in jail for having been, perhaps, a collaborer with the member from New York in the work of corrupting legislation in the last Congress, this House, sir, owes it to itself to act with all becoming speed that is consistent with justice in dealing with that member himself. I move that the resolution be referred to the Committee on the Judiciary.

Mr. SMITH, of Virginia. I propose, Mr. Speaker, to submit a few remarks to the consideration of this House; and I take occasion to say that I trust that there will be no parties in the consideration of this question. I trust that members from all sides will come up to its consideration with candor and judgment, and will pass upon it in a manner that becomes their duty to themselves and their country. I mean not to know party; and so meaning, I shall have no reference to parties in the views I shall present upon this subject.

Mr. GIDDINGS. If the gentleman will allow me for a moment, I wish to say that in the remarks I made, I only intended to take the ground that the postponement of this matter depended upon the majority; that they having the majority could act one way or the other, as they choose. I had no idea of embarrassing any one. On the contrary, I shall vote unhesitatingly.

Mr. SMITH, of Virginia. During the last Congress, when this body was engaged in the consideration of a question connected with this matter, I will say that the House evinced a most commendable earnestness in purging itself of those who appeared to be obnoxious to the proper judgment of the House. I will say that neither party evinced any hesitation in doing what became them. It was my fortune, upon that occasion, to offer a resolution as a substitute for the report of the committee in reference to one member, which substitute was happily adopted; and I must express my surprise, therefore, that in the face of such conduct upon the part of the last House, the gentleman from Louisiana, [Mr. TAYLOR,] who was a member then, should have intimated to the country and to this House that we acted under the influence of passion and prejudice.

Mr. TAYLOR, of Louisiana. The gentleman will remember that in that Congress we acted not only upon this class of cases, but upon the cases of Brooks, Kerr, and Edmundson.

Mr. SMITH, of Virginia. We are dealing now with this particular question. The question is, what was the conduct of the House upon this case, and this particular class of cases? I say the House evinced no passion and no unbecoming prejudice whatever. My opinion is, and I say it with pleasure, without reference to anybody, that there was a prompt and decided disposition to expel from this Hall men who were shown to be unworthy of association here. As to those other cases to which the gentleman referred, they are not before us, and I did not imagine they were in the mind of the gentleman while indulging in remarks upon this class of cases. The question, it seems to me, is a very simple one. The last Congress did pass a resolution such as that which I have before me now, bearing upon this particular member to whom the resolution of the gentleman from Illinois refers; and he acknowledged the truthfulness, as I conceive, of that report of the committee, by resigning his seat with a view to avoid the judgment of the House. Such was the strength of the conviction of that House against him, and so unwilling were they, even after his resignation, to permit him to go free, that they took up and passed the resolution which is referred to in the preamble to the resolution offered by the gentleman from Illinois. And the question comes up now, whether a member thus expelled from this Hall, by his own confession of his guilt, and by the actual judgment of this House upon one of the resolutions they adopted, and which was reported against him, can come here and take his seat with us, as his peers, and represent a portion of the sovereign people of this country.

The learned gentleman from Louisiana has given us an argument upon this subject which I must respectfully submit is of a curious character. The gentleman says that no legislative body has inherent powers. I am opposed to the whole doctrine of inherent powers beyond what is clearly and indispensably legitimate, and I beg leave to call

the attention of the House to that clause of the Constitution which bears upon this subject:

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

Does not that clause of the Constitution imply, necessarily, inherent powers? Can, sir, that grant of power be executed by this House without the necessary investigation, without the necessary examination?

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member."

Does that not imply that this House has a right to exercise all of that class of inherent powers requisite to give effect and influence to this clause of the Constitution? But the gentleman says that there is no power to expel a member, except for disorderly conduct; that, no matter what may be the debasement of the conduct of members of this House, no matter what its atrocity, the Constitution gives power to expel for disorderly conduct, but does not give power to expel for murder, felony, or other misdemeanor. Such an argument, it seems to me, is utterly unsound, and proves itself so by the very curiosity of the conclusion to which it leads. I will not, of course, use a discourteous term; but the gentleman says that the power to expel for these graver offenses is to be found in the first clause of this section; that each House may determine the rules of its proceedings; and that, under that power, you may provide for the expulsion of members who are guilty of these enormous offenses. The Constitution, according to that gentleman's argument, specifies that you may expel a member for disorderly conduct, but leaves it to the rules of the House to provide for expulsion for graver offenses. That argument, sir, is not sound, it seems to me, and cannot seriously command the attention of this House.

This clause of the Constitution is divided into three parts. "Each House may determine the rules of its proceedings." That is an independent power, embracing, manifestly, independent subjects, having no reference whatever to the conduct of members. It then goes on as follows: "may punish its members for disorderly behavior." I say that it was not contemplated by the Constitution that a member should be expelled for disorderly behavior. He is to be punished in such manner as such conduct deserves, according to the judgment and discretion of the House.

But the clause goes on: "and with the concurrence of two thirds may expel a member." It does not require two thirds to punish a member for disorderly behavior. No, a majority may do that, but you cannot exercise so grave a power as that of driving from this Hall the Representative of a portion of the sovereign people of this Union, unless it commands the concurrence of two thirds of this House. I mention these things for the consideration of the House. And now the question comes up: what ought to be our course in reference to this subject? The gentleman from Ohio, over the way, [Mr. GIDDINGS,] who, I believe, is the oldest member upon this floor, has rightly said that the people of Mr. MATTESON's district have a right to be represented here. I say so too, and if they are not represented it is our duty, if we can properly do so, to give them an opportunity to be represented. It is now within our power to do so.

The gentleman from Louisiana [Mr. TAYLOR] said very strangely, as it seemed to me, that he would not act in this case because the member has not shown his face here during the present session. I cannot understand the weight of that argument, and so have no power to answer it. It seems to me the fact that being a Representative of the people, this member has totally neglected the duty of attendance here, only aggravates the offense.

What, then, sir, ought we to do? As I understand this doctrine, it is the right and power, and duty of this House, to expel a member for proper cause. The power is unqualified, and it would seem to be absolute, but it is controlled by those high and commanding considerations which are presumed to surround the action of this House. We will expel, but only expel for good and sufficient cause; not because there may be an arbitrary majority here in favor of it, but because it is right that it should be done. In this particular case, this member retired from his seat

in this Hall during the last Congress, but he did not do so until after he had been reelected a member of the present Congress. Whilst it is our duty to keep ourselves from improper association with impure and unworthy men, as far as we can legitimately do it, it is, sir, a right which, once asserted, will be asserted until the people whose Representative the member may claim to be, shall have had an opportunity to pass upon his conduct. What was the fact in this case? After Mr. MATTESON was expelled, you may say, from the House, he did not go home and get the judgment of his people upon his conduct. No, sir; he had been previously elected to this Congress. The people reelected him in utter ignorance of the conduct which caused him to be driven from this floor, and they have had no opportunity whatsoever, to manifest their opinion of that conduct; and, sir, we are not to presume that a portion of the sovereign people of this Union would elect a member to this House whom this House would unite in expelling from it. At any rate, until they have had an opportunity to do so, it does seem to me that it is due, not to ourselves alone, but due to the people who are more immediately interested in this matter, that we should act upon this case.

I understand it to be the doctrine of the parliamentary law—the doctrine which has been settled in England—that until the people have had an opportunity to pass upon the conduct of the obnoxious member, the body of which he is a member have power to expel him, and should exercise it. He is, by the judgment of this House at least, unworthy to be associated with us here.

Mr. SEWARD. Will the gentleman allow me to ask him a question?

Mr. SMITH, of Virginia. I will, sir, certainly.

Mr. SEWARD. Can the people, by electing at a subsequent election, a man who has been expelled, deprive this House of its constitutional power to act in the case; or would the subsequent election cure the defect in the man's character so that we should admit him?

Mr. SMITH, of Virginia. Mr. Speaker, I have already said enough upon that subject. I say that when this House drive from their association an unworthy member, whose unworthiness has been developed by a proper investigation, they manifest their sense of the character of the member upon whose case they act; and when he goes home to the people, if the people choose to reelect him, they purify him so far as we are concerned. Such are the English precedents, and such is the reason of the thing. If you can suppose it possible that a hundred thousand of the American people will reelect a man who is obnoxious to the moral sense of the House of Representatives; will reelect a man whose guilt has been manifested to the country; then, sir, if they do that, theirs is the immediate interest. We can keep him from affiliation with us; we can keep him away from us as we would leprosy, or anything else profoundly obnoxious; but if they choose to have such a Representative, theirs is the immediate responsibility. This has been the construction in England, as I understand, though I have not looked into this question for years. It is the proper construction here. It is bowing to the will of the sovereign people in the untrammelled exercise of their right to select a Representative. It would be dangerous doctrine, indeed, that would undertake even to trammel the right of the people to a fair election after they knew all the objections to the individual whom they elected to represent them. I have no passion on the subject; none in the world. I have no purpose to gratify or subserve, except such as is connected with my duty. We are bound to take notice of the public action of Congress; we are bound to take notice of the popular action in elections; we know the facts that are referred to; we know that our predecessors in effect expelled this man; we know that his reelection took place before such expulsion; we know that his constituents acted in ignorance of his conduct; and I say that it is our duty to our predecessors and to the country to drive from our midst this individual. If the people choose to reelect him, I shall be willing that he shall take his seat, because it is their right to have a Representative here.

I repeat, this is the election doctrine that has been settled in many cases. It is the one that im-

poses necessary restrictions on our action under the broad power given by the Constitution. This is not restriction, to be sure. It is the moral rule; and has the force of authority and precedent which we must recognize.

These are the views that I entertain, and having submitted them, I cheerfully leave the question. I would add, however, before I take my seat, that I am for the most deliberate inquiry. I will go cheerfully for its reference to a select, or to any other committee. I will not act in hot or indecent haste. It is due to our dignity, it is due to the people whom we are bound to suppose this man does not properly represent, to act definitely and calmly on this subject, in order to settle the matter, and fix a precedent to control the House in future.

Mr. NICHOLS. When this resolution was submitted, a few weeks ago, I made up my mind that there were questions involved in it which required careful consideration on the part of those who are to act as judges. At that time the gentleman from Georgia, [Mr. SEWARD,] whose this morning made his motion to refer the whole matter to a select committee, moved to refer the resolution to the Committee on the Judiciary, with instructions to inquire and report on the power of the House in this particular case. In my judgment, sir, that motion should have prevailed. I believe now that the motion of the gentleman from Indiana, [Mr. HUGHES,] to refer it to the Judiciary Committee, should prevail. I am not clear in my own mind that this House has the power again to expel. I use the term "again to expel," because every gentleman who has discussed the question assumes that the resolutions adopted by the last House were virtually an expulsion of the gentleman from New York; and, Mr. Speaker, who doubts it? After the two first resolutions had been adopted, and when it was apparent that the third would be adopted, the gentleman from New York voluntarily withdrew from the jurisdiction of the House to evade its adoption. After all that, does any gentleman doubt that the action of the House of Representatives of the Thirty-Fourth Congress was virtually an expulsion of the gentleman from New York.

The gentleman from Virginia who last spoke, [Mr. SMITH,] has said that it was a virtual expulsion. I was not able to catch all that fell from the lips of the gentleman, but I understood him to invoke the action of the House on the resolution, and to ask it to again proceed to expulsion. He acknowledged that we have expelled the gentleman from New York, in effect.

Mr. SMITH, of Virginia. I did say that he resigned to evade the judgment of the House, and that that was equivalent to expulsion. But allow me to say to the gentleman from Ohio, that he had better go upon the record than upon my inferences.

Mr. NICHOLS. I do not think that I misrepresented the gentleman from Virginia. I understood him to say that the action of the last House was equivalent to expulsion. I so deemed it. I so construed the action of the House. I believe that the moral effect on the country was the same as if the House had passed a deliberate resolution of expulsion. But I do not think that I misapprehended the argument of the gentleman, when he spoke so feelingly and so eloquently of the virtue that should be cultivated here; and of the action which the House should take in reference to the member from New York, whose case is now before us. I understood his argument to point to another expulsion.

Mr. Speaker, it was well said by the gentleman from Georgia this morning, that this House exercised a double jurisdiction over its members. It exercises a civil jurisdiction and it exercises a criminal jurisdiction. Which was the jurisdiction exercised in the last Congress over the gentleman from New York? It was the criminal jurisdiction of the House. It was the power of the House, conferred by the Constitution, to punish a member—not only to punish, but it was the cumulative power conferred in the same section of the Constitution, that the House might not only punish in a particular form, but that it might, for cause, expel a member. Sir, we had that cause stated. We had the case in court. We had a trial by a fair and impartial committee of investigation. We had a discussion on their report and on the testimony, in the House itself.

I believe the trial was a fair one, and on it punishment was awarded, precisely as the gentleman from Virginia says it was awarded—in effect, the expulsion of the member. Now, what does expulsion involve? I know not what consideration other men may place upon it, but before God and man, I would rather be arraigned, and condemned to any physical punishment than be subjected to that.

If my apprehension of the question be correct, then expulsion is the highest punishment that can be inflicted on an honorable man. And yet, the gentleman from Virginia, by his argument, indicates that, having tried, having judged, and having punished, we should carry retribution further and punish again for the same offense. I protest against it in the name of justice; I protest against it in the name of fairness. I ask gentlemen, whether, after the power of the House to punish for an offense has been exercised, they are prepared to go further, and violate a fundamental rule of the criminal law of the land by again punishing for the same offense? Gentlemen may flatter themselves that it is shielding and vindicating the dignity of the House. Let us examine that question, Mr. Speaker.

The gentleman from Indiana, [Mr. HUGHES,] submits a case which he declares to be a case in point. I have that case now before me, and I have strangely misconceived the action of the British Parliament in the matter, or the gentleman from Indiana has. I understand him to say that the power of the people to reelect, or that the rights of sovereign power, lying behind the representative capacity, are held in a sort of abeyance here; that the British Parliament, or rather the House of Commons, had never decided in any case, that they had no power to expel a member twice for the same offense; or, in other words, after an expulsion and reelection of the party expelled, that they did not declare that they had not the power to again expel him for the offense for which he had been originally expelled. The decision to which the gentleman alluded does not bear the interpretation which he has placed upon it. If it does, then I misapprehend the force of the English language. I will read the decision. It is as follows:

"In the case of *Middlesex*, 1769, the proceedings were as follows:

"3d February.—Mr. Wilkes was expelled for being the author of a libel on the House. A new writ was issued, when he was reelected.

"17th February.—Upon this return, the House resolved that, inasmuch as he had been, in that session, expelled the House, he was incapable of being elected to serve in that Parliament; that his election was void; and they ordered a new writ.

"17th March.—Mr. Wilkes having been again elected without opposition, the House avoided his election, ordering a new writ as before.

"Mr. Wilkes was a third time elected, and returned.

"14th April.—Upon this last election and return, the House resolved that both were null and void.

"And on the 15th April they resolved that Mr. Luttrell ought to have been returned, he having been a candidate with Mr. Wilkes at the last election.

"25th April, a petition was presented; on the 8th May it was heard; after the hearing it was resolved that Mr. Luttrell is duly elected.

"But, on the 3d May, 1782, the House ordered the above-mentioned vote of the 17th February to be expunged, as unfit to remain on their journals."

Being subversive of what? Of the privileges of members sitting upon that floor? No, sir; but referring to a higher tribunal than that: "Being subversive of the rights of the whole body of electors of this kingdom." That is the point. Now, Mr. Speaker, I look upon the action of the Commons in that particular as decisive of the one great question, that when the power of the people is exercised, that when they return a member to this floor, the action is theirs. The right to be represented by that member is theirs, absolutely, unqualifiedly. Unless for some reason then preferred against him, or some cause then set down for trial against him, the House cannot, under the power which has been granted to it, expel him—not for a reason which occurred in any other House; not for a reason which occurred at an antecedent period, and which had already been determined; but for a reason to be presented against him *there, then, and at that time, tried and adjudged.*

This is the view, sir, which I take of this question. I am in favor of the reference to the Judiciary Committee—not believing, however, that the report from that committee will change the view I entertain on this question—not at all, sir; but in order that some law may be framed, which may define the limits and jurisdiction of this

power—this power conferred by the Constitution upon Congress, and which needs to be administered in justice and in mercy. I wish the rules of law to prevail, the manner of punishment to be pointed out, and its duration limited by a fixed rule. I do not choose, sir, that it shall rest with the arbitrary will of a majority.

Mr. SMITH, of Virginia. I desire to put a question to the gentleman from Ohio. Will he allow an obnoxious member of this House to escape its judgment and the judgment of subsequent Houses by a ruse, by resigning his seat? The gentleman will see that it would make it probable for the vilest malefactor to obtain a seat here in that way.

Mr. NICHOLS. I will answer the gentleman's question. He says to me: "Will you allow a member, by a ruse, by resigning his seat on this floor, to evade expulsion?" I will reply to the gentleman in his own language. He has said: "You have virtually expelled this man, and his resignation was no ruse by which he evaded the punishment of the House, for he has been subjected to all the disgrace of an expulsion." I hope the gentleman is answered.

I have but one word further to say. I desire some law on this subject further than the simple provision in the Constitution. I desire that this power may be limited by legislation, that it shall be exercised in a particular manner. I wish it placed upon the statute-book, so that members may know at once what are their rights. I find it declared in the Constitution that this House may punish its members for disorderly behavior; and, with the concurrence of two thirds, expel a member. Let me put a case to the gentleman from Virginia. He says that, after a member has been virtually expelled, we may again turn him from this floor. Without any law on this subject, without the jurisdiction of the House being pointed out, or anything of the kind, I will ask whether we may not have the same power the gentleman claims to turn him from the floor because his political opinions are not in accordance with those of a majority of this House? It is the naked exercise of power that the gentleman claims shall be applied to the member from New York to-day.

Mr. SMITH, of Virginia. I trust the gentleman does not, and will not, impute to me any such unworthy mode of action. I would not drive any man from this floor as a question of power, that was not also a question of justice. Let this man give the people a chance to decide. He would not give our predecessors a chance to pass on him, and he will not give his constituents a chance to pass judgment on him.

Mr. NICHOLS. The gentleman from Virginia and I will have no quarrel about that. I can only say, (and it is not for me to control the conduct of any other member,) that were I in the place of the member from New York, notwithstanding the opinions I have stated on the legal status of the case, I would have stood the test of the resolution of expulsion. If I believed myself innocent, I would have gone before the people for justification. That would have been my course. That he is not here now with their approval, is not for me to inquire into. I argue as to the power of the House to do a particular thing which we propose to do. My only view has been as to the power. I am not the advocate of the member from New York; I do not justify the course which he has deemed it his duty to pursue in this case. A man, whether right or wrong, when he has made up his mind, should do that boldly which he is resolved to do, and not shufflingly.

A word now in reference to one other point, and I have done. I want this question referred. I want a report on it from some responsible committee of this House, which shall point out the line of policy to be pursued in this respect hereafter. And why? Sir, the gentleman from Indiana [Mr. HUGHES] has told us why. You have now a citizen of the United States confined in the jail of this District, herding, perhaps, with common criminals—I cannot say as to that, nor do I propose to say anything about the abstract justice of his condemnation; but I say this: that hereafter, when a man goes to jail for a contempt, or a violation of any law, I want to see a rule prescribing the offense on which he goes.

Mr. HARRIS, of Illinois. I think, perhaps, there has been as much of the time of the House

consumed upon this subject as a majority of its members desire.

Mr. JONES, of Tennessee. If the gentleman from Illinois intends to move the previous question, I ask him to allow me to make a single remark or two upon this subject.

Mr. HARRIS, of Illinois. I will hear what the gentleman has to say.

Mr. JONES, of Tennessee. I wish to make a remark in consequence of the position in which this matter has been placed. The gentleman from Illinois moved a resolution to expel the gentleman from New York. A motion, I understand, is now pending, to refer that resolution to a select committee. Now, sir, I wish to vote against that reference, and to vote for the resolution introduced by the gentleman from Illinois to expel the gentleman from New York, not as a punishment to that gentleman, but as a justification and purification of this House. And, sir, I would vote to expel him every Congress as long as I may be here, if his constituents, or those in his district, should reflect and send him back. I believe the proof taken and reported at the last Congress has demonstrated that he is disqualified to sit as a member of the American Congress; and I will always, when it is in my power, vote to exclude him from this House.

Mr. HARRIS, of Illinois, resumed the floor.

Mr. READY. I ask the gentleman from Illinois to yield me the floor a moment.

Mr. HARRIS, of Illinois. I will.

Mr. READY. I desire to say that I regard this as a very important question, involving not only the rights of the member in question, but those of his constituents, whose interests he represents upon this floor. It is desirable that the early action of this House should be had upon the question of his right to continue a member of this body, and that such a course should be pursued as would bring about the earliest possible action upon that subject. Now I want to say, in connection with this remark, that the proposition made by the gentleman from Indiana, [Mr. HUGHES,] if adopted, is not likely to produce as speedy action of the House as I think is desirable. The Committee on the Judiciary is now, and has been for a considerable length of time, daily engaged in the examination of a subject of paramount importance to this, or any other question which will probably come before that committee during the present Congress. The whole of their time, when the House is not in session, has been, and will continue to be for almost an indefinite period, occupied with that investigation; and hence it will be impossible, as I conceive, for that committee to give this subject the careful, deliberate, and speedy investigation which its importance demands. Believing that a reference to a select committee will be likely to produce the desired result with as much satisfaction to the House as a report from the Judiciary Committee would, I think it would be wisdom upon the part of the House to vote down the proposition of the gentleman from Indiana to send it to the Judiciary Committee, and send it to a special committee, or make such other disposition of it as they may deem proper.

Mr. CURTIS. I ask the gentleman from Illinois [Mr. HARRIS] to allow me to put my position right before the House, as I am a new member, and had no part in this matter in the last session.

Mr. HARRIS, of Illinois. I do not myself expect to occupy much time, and as I intend to call the previous question and close the debate, I will allow the gentleman five minutes of my time.

Mr. CURTIS. This whole matter comes before Congress at this time, as the proceedings of a former Congress. It seems to be conceded on both sides of this House, by all parties, that the member whose case is before us has been considered unworthy of association with a former Congress. He has not removed the taint which rests upon him. It was in his power to have gone before his constituents, to have appealed to them, and to have obtained from them, so far as lay in their power, a release from the odium which rests upon him. He has not seen proper to do that. He escaped, perhaps, a portion of the blow intended for him at the last Congress, by a resignation. He has done nothing since to relieve himself of that odium; and as a member of this Congress, and not of the other, if he was unworthy of asso-

ciation there, he is unworthy here. Taking this matter as conceded, that he was unworthy, as a member of this Congress, I conceive it my duty to vote against him here; and notwithstanding the legal argument of the gentleman from Ohio, that we are punishing a man twice for the same offense, I shall vote to exclude the member from New York from this Hall, solely upon the ground that he is considered as unworthy of associating with us. And also, for self-preservation, self-consideration, and self-respect, I shall vote against him.

Mr. HARRIS, of Illinois. It is very easy, Mr. Speaker, to start objections to any proposition that may be made here; but in this case it is quite as easy to sustain the proposition that is advanced as it is to make objection to it.

One gentleman objects to the resolution which I introduced because it is not drawn in language that suits him exactly; its points are not presented in that strong, terse, expressive manner which meets his approbation; by a better adjustment of the nouns and verbs, and pronouns and adverbs, it could be placed in a shape that would meet his approbation and induce him to vote for it; he is for the principle enunciated in the resolution, for the object which it seeks to accomplish, with all his heart; but the arrangement of the language does not meet with his approbation, and therefore he cannot vote for the resolution.

Another gentleman is extremely anxious to do justice; thinks the member was properly expelled from the last Congress; but he is opposed to punishing a man twice for the same offense. He starts divers objections to this mode of proceeding, and thinks that it would be a great outrage upon the constituency of the member, and the exercise of injustice on the part of the House.

Now, sir, in the first place, if this were a punishment, it is not a punishment twice for the same offense; but in no sense is it a punishment for a crime. The Constitution allows us to punish a member by a majority vote; but when you come to expel a member, it is not looked upon in the light of a punishment; it is looked upon as an act which is to be performed for the purification of the House; for the vindication of its honor and its purity, and to drive an obnoxious member from the Hall. The punishment of a member does not drive him from the Hall. He can remain here if he chooses to do so, and continue in the performance of his duties. But when you come to exercise the great function of expelling a member, you refer him back to his constituents, and he has no longer any powers to exercise here. The act is performed, not in a spirit of vengeance against the party, but for the high purpose of purifying the body and removing any imputation which might rest upon its action and upon its character, if parties tainted with crime and reeking with corruption should be allowed to retain their seats here.

Mr. OLIN. I desire to ask the gentleman a question, the answer to which will, to some extent, control my vote upon this matter. Can the gentleman point the House to any case in which a legislative assembly has punished one of its members for an offense committed against a prior legislative assembly?

Mr. HARRIS, of Illinois. Mr. Speaker, if that question was involved in this case, I would answer it. But the party did not simply commit an offense against this body. I received no personal offense. You, sir, received no personal offense. The members composing the body received no personal offense. But there was a great public outrage perpetrated. It was not the House, but it was the majesty of the people of the country that this House represents, which was assailed. It was not the function of the House punishing its member for having been guilty of corrupt practices here; but the House was purifying itself from a loathsome excrement which did not deserve a place here. It was not simply the punishment of an offense. I thought I had disposed of this question of the punishment of an offense before. You may, by a majority vote, punish a man for an offense; but here was a great public outrage committed.

Mr. OLIN. Allow me one further remark. It seems to me that the gentleman does not answer my question at all. I do not understand that this House has general jurisdiction over offenses at large. It must be an offense against this House—

against its dignity or interfering with its legislation—and not an offense against the country generally, that this House can take cognizance of. And therefore, if it was not an offense against a former House, why, we certainly have no jurisdiction of it.

Mr. HARRIS, of Illinois. Mr. Speaker, I think I understand the object of the gentleman. His inquiry is based upon his own opinion, which I consider entirely erroneous. He says that the House cannot expel a member except for offenses against its own dignity and character; and starting off with that as his proposition, then it follows, of course, that if a member has not offended against the dignity of the House, the House cannot expel him.

Mr. OLIN. I made the inquiry of the gentleman from Illinois. I supposed that, as he had the matter in charge, he would communicate to the House information showing that we have authority to act.

Mr. HARRIS, of Illinois. I will endeavor to do so, if the gentleman will let me do it. The gentleman puts the inquiry to me, whether I have ever known a case where a member was punished in one Congress for an offense committed in a prior Congress? I cannot state to him that I do know of any such case, because I do not know that there has ever been a case like this presented. If there had ever been such a case presented, and action had been refused, on the ground that the offense was committed against a prior Congress, that could be cited as a precedent against me; but there is merely the absence of a precedent.

Now, I will tell the gentleman what I can prove to him. He will find, in the case of the expulsion of Mr. Blunt, of Tennessee, from the Senate, that it was for an offense committed in the State of Tennessee, for certain letters written. It was not an offense against the dignity of the House of which he was a member, committed either in its presence or in its place of session; but it was for an offense committed in a remote part of the country. That case was decided in 1799, and was decided mainly upon a letter written by him on the 21st of April, 1797, in the State of Tennessee. He was expelled from the Senate by a vote of 25 to 1. The offense was not even committed during the session of Congress—I am not sure that it was even committed during his term; but it was certainly committed before he had taken his seat in the Senate, before he had been sworn in as a member of that body, and before he was amenable to its jurisdiction. That case, I think, is near enough to satisfy the gentleman, if the decision of the Senate is any authority with him, that there is power to punish for corruption.

Mr. OLIN. Will the gentleman inform the House whether that was not a case of an offense—to wit, an attempt at bribery—committed against the Senate that undertook to punish the member?

Mr. HARRIS, of Illinois. It was so alleged; and this is just such a case. The resolutions that we passed in this case in the last Congress put it expressly on the ground that he attempted to corrupt members of this House.

Mr. OLIN. Of the last House.

Mr. HARRIS, of Illinois. The gentleman need not balk on the position. I will bring him to the junction directly. The resolution directly stated that as one of the grounds for which the resolution of expulsion was introduced—for corrupt practices in connection with the legislation of Congress.

I see the point where all this opposition rests. It is contended that this occurred at a prior Congress, and that therefore you have not the power to punish. Gentlemen mistake this thing altogether. We are not acting here as executive officers for punishing crimes. We are not a Congress of factots, punishing a member for what he has done. We stand here to vindicate the character of our body, not to inflict punishment, either unusual or unheard of, or twice for the same offense. They mistake entirely the character of the proceedings.

Mr. SEWARD. As I desire to be correct about this matter, I hope the gentleman will pardon me if I ask one question. I should like to hear the gentleman in regard to the effect of the action of the last Congress on the qualifications of the member; whether that action is a personal disqualification, which continues and attaches to him, and

which disentitles him to a seat? I have really no feeling about this; but I would like to hear the gentleman, as I know that what he says will be to the point.

Mr. HARRIS, of Illinois. With me it is a personal disqualification, which half a century would not work out. I do not know that it could be called an unpardonable sin; but I believe that if a member was capable of committing such a sin, it ought to be so considered.

Mr. SEWARD. If the gentleman will pardon me: I did not desire to know what objection might strike him, as an individual, with so much force, but whether there is a constitutional or legal personal disqualification to this individual? That is what I want to know.

Mr. HARRIS, of Illinois. I will endeavor to answer any question which any gentleman may ask me, in the course of my remarks. And I reply to the inquiry of the gentleman from Georgia, that so far as anything connected with the action of last Congress goes to work personal disqualification, it is a matter for the House to determine. I do not undertake to say that there has been any offense committed here which would, *per se*, disqualify the member. But when he comes and offers himself here, he places himself within our purview, and we have a right to look into his character. I am not to be compelled to sit here with felons and scoundrels, day by day, and to have no power of redress, if I can find it under any instrument under which I am acting.

Mr. SEWARD. I agree with the gentleman; but I want the law. If there be no law, the fault is with the legislative body for not passing one. What I want to get at is this: as I said this morning, the Constitution, in cases of impeachment, affixes a personal and permanent disqualification on the person thus convicted. In reference to the expulsion of members, and punishing them, the framers of the Constitution omitted to put any disqualification of that sort upon them. Now, I understand the gentleman's position to be, that in his own private discretion he attaches a disqualification to the member because he thinks that the member is not fit, on account of some moral defect in his character, to occupy a seat with him. Now, I want some law to define that, and I will be satisfied.

Mr. HARRIS, of Illinois. I hardly dare presume to think that I can succeed in satisfying the gentleman. But I will come very briefly to the points he has presented. The gentleman says, that in the case of impeachment, the Constitution would give us a right to expel the party. Well, he is mistaken in that respect, according to his own argument, if he goes by the Constitution. Impeachment only works disqualification for the office the party holds, according to the gentleman's construction, if you cannot go beyond the time. According to his own doctrine, it would work no disqualification except as to the office which the party might hold at the time.

But before I get there, I must touch more extensively on the point on which he seems to dwell so much.

Now, sir, as to this question of power, which has been so much talked about, and about which gentlemen have felt under such great apprehensions lest we might exercise doubtful power. The gentleman from Ohio [Mr. NICHOLS] said that he was not clear on that subject; that he wanted the matter referred to a committee, that they might brush away these cobwebs of doubt that seem to hang about his mind, and might enable him to see clearly what his duty in the premises is. I think that the remarks made by the gentleman from Virginia [Mr. SMITH] on this point were exceedingly pertinent. The remarks themselves were clear, and I think that if the gentleman from Ohio had observed them, they would, perhaps, have aided somewhat in clearing his mind. The gentleman from Georgia, [Mr. SEWARD], when he inquires after this power, will find it in the fifth article of the Constitution, which has just been read. It declares, all in one sentence, that each House shall determine its rules of proceeding, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member—not for disorderly behavior.

Mr. SEWARD. I wish to have an understanding in reference to this matter of impeachment. The Constitution says that judgment in cases of impeachment shall not extend further than re-

moval from office, and disqualification to hold or enjoy any office of honor, trust, or profit, under the United States. That is the disqualification.

Mr. HARRIS, of Illinois. According to the gentleman's own construction, the provision which he quotes would extend only to the office which the party held. That is the gentleman's construction, not mine. I hold no such thing. I am dealing with his position. If he wants to mend that he can have full liberty to do so.

Now, as I was remarking, each House has, under the Constitution, the unquestionable power to expel a member for any cause or without cause. The gentleman contends that it has no such power. Suppose that the House should by a two-thirds vote expel you, Mr. Speaker, from the House, and order the Doorkeeper to keep you outside: I want to know what remedy you have got? There is no power on earth to place you back in your position. You might denounce the act as unconstitutional, and might say that we had violated the instrument we had sworn to support. But all this would not relieve you. It does not relieve you. But there is a power in the Constitution. It is intended that it should be there for great and important public purposes.

Before I pass from this branch of the case, I want to refer the gentleman from Ohio [Mr. NICHOLS] to a case that I think ought to be some authority with him. There was a case presented in the tenth Congress—the case of Senator John Smith, of Ohio. It was referred to a select committee, of which Mr. Adams was chairman. The committee was composed of Messrs. Adams, Maclay, Franklin, Smith of Maryland, Pope, Thurston, and Anderson. The charge against Mr. Smith was that he had been guilty of a complicity with the Burr conspiracy. It was referred to that committee for investigation. Mr. Adams at that time was the leader of Mr. Jefferson's administration in the Senate of the United States. After mature deliberation that committee made a report. The following is so much of it as refers to the power of Congress. I think it applies the matter in so clear a light that the gentleman from Ohio, even, will be able to see it.

"The power of expelling a member for misconduct results, on the principle of common sense, from the interest of the nation, that the high trust of legislation should be invested in pure hands. When the trust is elective, it is not to be presumed that the constituent body will commit the deposit to the keeping of worthless characters. But when a man, whom his fellow-citizens have honored with their confidence, on the pledge of a spotless reputation, has degraded himself by the commission of infamous crimes, which become suddenly and unexpectedly revealed to the world, defective indeed would be that institution which should be impotent to discard from its bosom the contagion of such a member; which should have no remedy of amputation to apply until the poison had reached the heart.

"The question upon the trial of a criminal case, before the courts of common law, is not between guilt and innocence, but between guilt and the possibility of innocence. If a doubt can possibly be raised, either by the ingenuity of the party or his counsel, or by the operation of general rules in their unforeseen application to particular cases, that doubt must be decisive for acquittal, and the verdict of not guilty, perhaps, in nine cases out of ten, means no more than that the guilt of the party has not been demonstrated in the precise, specific, and narrow forms prescribed by law. The humane spirit of the laws multiplies the barriers for the protection of innocence, and freely admits that these barriers may be abused for the shelter of guilt. It avows a strong partiality favorable to the person upon trial, and acknowledges the preference that ten guilty should escape rather than that one innocent should suffer. The interest of the public that a particular crime should be punished, is but as one to ten, compared with the interest of the party, that innocence should be spared. Acquittal only restores the party to the common rights of every other citizen; it restores him to no public trust; it invests him with no public confidence; it substitutes the sentence of mercy for the doom of justice; and to the eyes of impartial reason, in the great majority of cases, must be considered rather as a pardon than a justification.

"But when a member of a legislative body lies under the imputation of aggravated offenses, and the determination upon his cause can operate only to remove him from a station of extensive powers and important trust, this disproportion between the interest of the public and the interest of the individual, disappears; if any disproportion exists, it is of an opposite kind. It is not better that ten traitors should be members of this Senate, than that one innocent man should suffer expulsion. In either case, no doubt, the evil would be great. But, in the former, it would strike at the vitals of the nation; in the latter it might, though deeply to be lamented, only be the calamity of an individual.

"By the letter of the Constitution, the power of expelling a member is given to each of the two Houses of Congress, without any limitation other than that which requires a concurrence of two thirds of the votes to give it effect.

"The spirit of the Constitution is, perhaps, in no respect more remarkable than in the solicitude which it has manifested to secure the purity of the Legislature by that of the elements of its composition. A qualification of age is made necessary for the members, to insure the maturity of their

judgment; a qualification of long citizenship, to insure a community of interests and affections between them and their country; a qualification of residence, to provide a sympathy between every member and the portion of the Union from which he is delegated; and to guard, as far as regulation can guard, against every bias of personal interest, and every hazard of interfering duties, it has made every member of Congress ineligible to office which he contributed to create, and every officer of the Union incapable of holding a seat in Congress. Yet, in the midst of all this anxious providence of legislative virtue, it has not authorized the constituent body to recall in any case its representative. It has not subjected him to removal by impeachment; and when the darling of the people's choice has become their deadliest foe, can it enter the imagination of a reasonable man that the sanctuary of their legislation must remain polluted with his presence, until a court of common law, with its pace of snail, can ascertain whether his crime was committed on the right or on the left bank of a river; whether a puncture of difference can be found between the words of the charge and the words of the proof; whether the witnesses of his guilt should or should not be heard by his jury; and whether he was punishable, because present at an overt act, or intangible to public justice, because he only contrived and prepared it. Is it conceivable that a traitor to that country which has loaded him with favors, guilty to the common understanding of all mankind, should be suffered to return unquestioned to that post of honor and confidence, where, in the zenith of his good fame, he had been placed by the esteem of his countrymen, and in defiance of their wishes, in mockery of their fears, surrounded by the public indignation, but inaccessible to its bolt, pursue the purposes of treason in the heart of the national councils? Must the assembled rulers of the land listen with calmness and indifference, session after session, to the voice of notorious infamy, until the slugging step of municipal justice can overtake his enormities? Must they tamely see the lives and fortunes of millions, the safety of present and future ages, depending upon his vote, recorded with theirs, merely because the abused benignity of general maxims may have remitted to him the forfeiture of his life?

"Such, in very supposable cases, would be the unavoidable consequences of a principle which should offer the crutches of judicial tribunals as an apology for crippling the congressional power of expulsion. Far different, in the opinion of your committee, is the spirit of our Constitution. They believe that the very purpose for which this power was given, was to preserve the Legislature from the first approaches of infection. That it was made discretionary because it could not exist under the procrastination of general rules; that its process must be summary, because it would be rendered nugatory by delay."

Mr. NICHOLS. I have to confess to the gentleman from Illinois my ignorance that the illustrious family of Smith had ever represented the State of Ohio on the floor of the Senate, and that the particular, individual John had a case there in point. But I conceive the gentleman did not meet the case that the House has the power to punish twice for the same offense.

Mr. HARRIS, of Illinois. The gentleman is determined to be blinded. He is determined not to see, and returns to his old point. He says that this does not touch the old question whether we have the power to punish a man twice for the same offense. I give him up, and will pursue him no further in that connection.

Here is a document elaborately prepared by one of the ablest committees of the Senate, considering a case that, in some of its aspects, is precisely like this. The affair occurred outside of the Senate. It was not in violation of its rules of order. It was an offense, however, which the Senate deemed it its duty to take cognizance of. The committee reported on it that the Senate had full power, as we claim here. The vote stood in the Senate—19 to 10; one vote lacking the two thirds required to expel. I cannot conceive that any member, after that decision, can desire any authority stronger than that cited. Now, sir, if the gentleman's argument is sound, we may be compelled to associate here daily with felons; men who have been guilty of treason; men who have been convicted of treason, if you please, and we cannot reach back to the session of Congress in which we passed upon their conduct. It is utterly impossible for us to reach a man, no matter how gross his offense may be, unless we have this power given in this clause of the Constitution; and, if it is given at all, it is given in the whole breadth of its language. And the result would be, that though the last Congress had power to purify itself of an obnoxious member, yet, although we are as well satisfied as they were that he is unfit to be a member, we are compelled, from this lack of power, to sit here from day to day and endure the odium on account of our inability to purify ourselves of a member whom the unanimous vote of the preceding Congress might have decided was unfit to a seat at all.

Now, gentlemen have talked about his constituents indorsing him. I submit that that does not change the power of the House. The House have the same power after his constituents have

indorsed him, that they had before; but until his constituents have indorsed him he has no claim to a seat in this House. In this case, as the gentleman from Virginia well remarked, he dodged a vote of the House, prevented an expulsion here, has refused up to this time to allow his constituents to pass upon his course; and now it is claimed that it would be an outrage, a wrong, a cruelty for the House to pass judgment upon him here. The case of Wilkes has been cited, and the gentleman gave us a syllabus of that case. He stated that the House of Commons subsequently rescinded the resolution which they had passed, upon the ground that it was an outrage upon public liberty. In that case his constituents had passed upon his case four or five times, and had returned him to the House of Commons. What was the expulsion for? For a libel upon the House, the language of which would have been pronounced a libel by nobody except the corrupt administration in power. The charge was not true in the outset, and the punishment was repeated over and over and over again, for the same offense, and after he had been indorsed by his constituent body. The Journal was expunged, not because the House of Commons had expelled him again and again, but because there was originally no cause for his expulsion.

Mr. SEWARD. The House of Commons acted upon the presumption that a personal disqualification attached to him, and he was not allowed to take his seat. There was an old British statute which fixed the disqualification of members, and a proposition was made to change the law.

Mr. HARRIS, of Illinois. The gentleman is still splitting hairs. It is one of those refined arguments I have been compelled to allude to from the beginning. The great difference is, that gentleman cannot see that there is any power. If the gentleman will, and I have no idea he ever will, place himself in the position of the gentleman from New York, I trust he will have occasion to feel the power, if he cannot see it.

Mr. SEWARD. I hope it will be applied to me; and I hope the same rule will be applied to the gentleman from Illinois.

Mr. HARRIS, of Illinois. I would make no complaint. I had no allusion to Blythe Island in the world.

Mr. SEWARD. Nor did I refer to that Illinois Central Railroad project. [Laughter.]

Mr. HARRIS, of Illinois. Now, sir, the gentleman from Louisiana [Mr. TAYLOR] had another very remarkable refinement, to which I must pay my respects. The gentleman argued that we had power to expel for the cause enumerated in the Constitution—disorderly behavior; that we must first make the rule of the House, and determine what was disorderly conduct; and after we had made the rules of the House and determined that, then, if a member violated that rule, we could expel him; and that, upon the ground that the House "could determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member." Well, sir, I think the argument is exceedingly unfortunate for the gentleman, because this House, by its two-third action, makes the rule when it expels a member. Is it enough to say to me that the House has got to proceed and make a catalogue of offenses to include all which have ever been perpetrated, in order to include one which, by any possibility, could work the disqualification or expulsion of a member; and then, perchance, if some grander villain than we have ever had before, could discover an offense greater in enormity than those enumerated, we therefore could not expel him because our rules did not happen to include the offense?

Sir, we make the rule when we apply the remedy. I am talking now about the reasoning of the gentleman. I do not, however, admit his argument. If it be true that the House, by first fixing the code of rules, can then punish a member for a violation of those rules, then it can make a rule, and, in five minutes thereafter, punish a member for violating it.

Mr. TAYLOR, of Louisiana. Will the gentleman allow me to ask him if the principle that he advocates is not exactly that of the rule which is familiarly known as the Irish rule—a word and a blow, and the blow first? [A laugh.]

Mr. HARRIS, of Illinois. Exactly so; and

there is no better rule in the world than the Irish rule for this case, and I am very sorry the gentleman does not think so too. It is the very rule that I would apply to all such cases as this. I was only testing the gentleman's argument; if it does not fit it is not my fault. I deny the whole ground of the argument; but I say that if it is in the power of the House to fix a rule which shall work the disqualification of a member, and say that any member who shall be shown to be guilty is unfit to hold a seat here, we can apply the remedy now. It does not come under the condition of an *ex post facto* law. It is merely providing a rule of qualification for those who are to sit here; and if, after providing the rule, we find any members here who do not come within the rule, they are excluded. I think the argument, if it is like the Irish one, is sufficient to answer the gentleman's argument.

Now, sir, I am not disposed to continue this discussion. I think it must be apparent to the House, both by the reason of the case and by precedents, too, that the power exists to expel a member for any cause which by the House is deemed sufficient. I am, therefore, willing to submit the question as it now stands. I do not think that we should gain any more information than we now possess if we were to refer this question either to a standing or to a special committee. If, however, the House thinks otherwise, I shall not object; but I, for one, shall vote against the reference. I think the House is prepared now to decide the question. The country desires that it should be decided. From every quarter of the country but one voice comes up, saying that this man is not worthy to be a member of this body; and there will be no act of the session which will more strongly commend itself to the good sense of the people than that which exhibits a determination, on the part of this body, to purify itself from such members as have shown themselves to be unworthy to sit here.

Mr. MORRILL. I desire to ask the gentleman a single question. He says that the country expects and demands of us this act. I desire to know of him whether any portion of the constituents of the accused member have asked any action of this House?

Mr. HARRIS, of Illinois. I will answer that question, Mr. Speaker, with the greatest cheerfulness. I did not intend to have alluded to that at all. The gentleman from South Carolina [Mr. Kerr] alluded to it. I did not intend to do so, but I do it in response to the gentleman from Vermont. Why, sir, I have received batches of letters and newspapers from the district of the member involved, requesting and demanding that this should be done.

Mr. MORRILL. I want to know whether any petitions have been presented to this House on the subject?

Mr. SEWARD. I rise to a question of order. Newspaper communications and outside letters have nothing to do with this matter.

Mr. HARRIS, of Illinois. The gentleman from Georgia is himself out of order, and I desire that he shall take his seat. The gentleman from Vermont is as well aware as I am whether there have been any petitions presented on the subject. I do not know and do not care whether the member's constituents have petitioned for this action or not. We are not acting in regard to the constituents of the member. We are acting here for our own purposes, for the purposes of the country. The House, at the last session of Congress, declared almost unanimously that this member, in declaring that a large number of the members of this House had associated themselves together, and pledged themselves each to the other, not to vote for any law or resolution granting money or lands unless they were paid for it, had falsely and willfully assailed and defamed the character of this House, and had proved himself unworthy to be a member thereof. They also decided, by a vote of 125 to 17, that ORSAMUS B. MATTESON, a member of the House from the State of New York, did incite parties deeply interested in the passage of a joint resolution for construing the Des Moines grant to have here and to use a large sum of money and other valuable considerations corruptly, for the purpose of procuring the passage of said joint resolution through the House.

Sir, the member stands convicted, first, of defaming the character of the House of which he

was a member; and, secondly, of corruption in endeavoring to effect the passage of a law by the use of money among the members of the House. I need, sir, only to state the counts of the indictment upon which he was convicted, and the verdict of the House, to satisfy every member that this man is not fit to occupy a seat here. I demand the previous question.

Mr. GROW. I appeal to the gentleman from Illinois to yield me the floor for a moment, to state some facts which are directly pertinent to this case. I will renew the call for the previous question, if he desires it.

Mr. HARRIS, of Illinois. There is other public business which demands our attention; and I must decline to withdraw the previous question.

Mr. GROW. I appeal to the gentleman to allow me a few moments, to say a word as to the facts. I appeal to him, as a personal favor, to withdraw the previous question, and allow me ten minutes.

Mr. HOUSTON. Is there a motion pending to refer this resolution to a committee?

The SPEAKER. There is; to a select committee, and also to a standing committee.

Mr. GROW. I ask the gentleman to allow me a few moments. I will renew the demand for the previous question, if he desires it.

Mr. HARRIS, of Illinois. If the gentleman has any facts in his possession, of which the House and the country are not aware, I will do so. If he will state that he has anything new in the way of facts to present to the House, I will withdraw the previous question.

Mr. GROW. I desire to call the attention of the House to facts which have not been adverted to to-day, in this discussion.

Mr. HARRIS, of Illinois. Well, that opens up a field as wide as the corruption itself. If the gentleman has any new facts to present, I will withdraw the previous question. If not, I cannot do it.

Mr. MORRIS, of Pennsylvania. My colleague does not wish to debate the question, but simply to present facts.

Mr. GROW. I do not wish to involve myself in any controversy with any one.

Mr. MORRIS, of Pennsylvania. He does not wish to debate the resolution.

Mr. GROW. I ask the gentleman from Illinois if he will not allow me to make my statement.

Mr. HARRIS, of Illinois. I yield to the solicitations of the gentleman; but I request him to renew the demand for the previous question when he is through.

Mr. GROW. I can say all I desire to in a few minutes. I propose to speak upon this point only, whether the House should attempt to expel a member for facts which existed at the time that he was elected a member of Congress.

Mr. SMITH, of Virginia. That is not so.

Mr. GROW. Wait till you hear me before you contradict it. The letter which was the basis of this whole charge against Mr. MATTESON was known to his constituents when he was elected a member of this Congress.

Several MEMBERS. Oh, no!

Mr. GROW. Gentlemen had better wait, before they deny my facts, till they hear the evidence. It will be time enough when I get through. Mr. MATTESON was a member of the last Congress. The committee of this House, in making their investigation, introduced a letter sent by him to William C. Johnson. That was the basis of the charge. It was the principle allegation of corruption. When Mr. Johnson was on the witness-stand, he was asked when he received that letter, and he replied in July or August.

"Question, (by Mr. ORR.) When did you first have a conversation with Mr. MATTESON on the subject of that letter?"

"Answer. It was after I had returned to Utica, when Congress had adjourned."

"Question, (by Mr. ORR.) The existence of the letter had at that time become public?"

"Answer. Yes, sir."

That is the testimony of the witness, and do gentlemen dispute it? A member elected to the last Congress, passed under the censure of the House? And for what was he censured? Because, as was alleged, he slandered the last House. You said in your resolutions that it was a libel on that body. How was it a libel? Because he had said to Mr. Reverdy Johnson that twenty or thirty members had combined together, and would not vote for any measure unless they were paid for

their votes. Is that any slander on this body? or was it any slander on the last Congress? Who knows whether it was true or not?

The committee of investigation did not summon Mr. MATTESON before them, and ask him who were these twenty or thirty men, and whether the understanding of Mr. Johnson was correct. But I do not propose at this time to review the action of that committee. I pass that by. I thought at the last Congress that the mode of proceeding was unfair, and that it broke down all the barriers thrown around innocence when accused of crime. I think so still, but I am not going back to that question; for I know the House is already weary of this discussion.

Now to the point. The gentleman from Illinois [Mr. HARRIS] says he will not sit here and associate with rogues and thieves and felons. Mr. Speaker, the constituencies of the respective congressional districts of the country select our associates on this floor, and not we ourselves. If we had the selection ourselves we should probably make a very different selection in many cases. Yet it is not for this House to erect itself into a judge of the personal merits of its members after they have been passed upon by the constituency? Are the majorities of the respective congressional districts of the country to choose their Representatives on this floor of such persons as they please, or are you to say that because of the moral derelictions of character which you may suppose a member possesses, or because of some erroneous opinion of his which you may think destructive to the welfare of the country, he must not be elected, or if so, he must be driven from this Hall?

The gentleman from Illinois says a member may have been convicted of treason. Suppose he was convicted of treason, or of murder, or of anything else, and a majority of his congressional district choose to send him here: is it for a majority on the floor to expel him from the Hall? If so, then the theory of this Government is a fallacy. If there is any disqualification under the Constitution of the country, that of course bars the choice which the people might otherwise make. Disqualification under the organic law of the country is, of course, paramount to all majorities. But where there is no disqualification under the Constitution; and where the majority of voters of a congressional district send a member here, it is a strange doctrine that would deprive such man of his right to a seat in this House; and it is to protest against such an assumption of power by the House that I have sought the floor.

I think we have made rapid strides in this Congress in trampling down the individual rights of citizens, in our treatment of contumacious witnesses. The ruin of liberty begins when personal rights are violated. This new doctrine that a majority of this House, because they may not like the moral character of a member, or may not like anything pertaining to him personally, shall have the right to expel him, when the question on which the charge is based was known to the constituents who elected him, is a doctrine highly dangerous to personal liberty, and strikes at the vital principle of free government.

Mr. SMITH, of Virginia. May I ask the gentleman this question?

Mr. GROW. I cannot yield the floor. It was with great difficulty I obtained it myself. The gentleman has been talking all day, while I have kept my seat in silence. But I do not propose to weary the patience of the House. By the structure of your Government, a majority of the voters of each congressional district are entitled to elect whom they please as their Representative. If you do not like the Representative whom they send, you can take the seat furthest from him, and withhold all personal intercourse; but he has the right to enter this Hall as your peer in legislation. Is it for any gentleman to set up a claim that there is greater purity of character in the people of his congressional district than in the people of any other congressional district? It is not for this House to inquire what is the moral character of one of its members, so far as legislation on this floor is concerned, so long as he violates none of its rules of order or decorum. He comes here the Representative of an independent constituency of one hundred thousand people, and stands, in view of his constitutional rights, the equal of all other members.

Now, I have read from the evidence to show that the very letter which was made the basis of this whole charge was known to the constituents of Mr. MATTESON when he was elected a member of this Congress.

You passed sentence upon him last Congress for libeling that House. And now I ask, what authority is there in this House to expel a man for a libel on a past Congress? I can say what I please of a preceding Congress. It may be true or false; that is none of the business of this House. And should they attempt to arraign me for it, it would be but a renewal of the odious doctrine contained in the sedition laws of the old Federalists. For what I say of the House in which I may occupy a seat, it can pass judgment upon me; and my conduct during the existence of the Congress to which I am elected may be subjected to its action; but when the next Congress comes, I deny its authority to inflict any punishment for declarations that I may have made in regard to this House. To assume such authority would be to trample down the rights of the constituency which I represent on this floor, and which is entitled to be represented, no matter what may be the moral character either of the constituency or its Representative. Now, in accordance with my promise, I renew the call for the previous question.

Mr. RITCHIE. I appeal to the gentleman to withdraw it, to permit me to correct my colleague on a question of fact.

Mr. HARRIS, of Illinois. I am not disposed to cut off any legitimate debate on this subject. If anybody wants to speak in Mr. MATTESON's defense, I will withdraw the call for the previous question.

Mr. RITCHIE. I do not want to speak in his defense. I merely wish to say that my colleague [Mr. GROW] is not correct in stating that Mr. MATTESON was not called before the investigating committee of last Congress. He was asked repeatedly to come there, and he declined to attend.

Mr. GROW. Was he summoned as a witness?

Mr. RITCHIE. No, sir.

Mr. GROW. That is it; what is the use in evading?

Mr. HARRIS, of Illinois. As the gentleman from Pennsylvania, [Mr. GROW,] to whom I yielded the floor, has raised a question of fact to which his colleague wishes to reply, I withdraw the call for the previous question.

Mr. GROW. It is no question of fact with my colleague; he admits what I claimed.

Mr. RITCHIE. I merely wish to say that Mr. MATTESON repeatedly received notice to appear before the committee—as a party, of course; because he was not a witness. We gave him notice to attend as a party, and he declined to attend. He was notified that the committee would be glad to hear anything he had to say. I wish to add further, with the permission of the gentleman—

Mr. GROW. Was Mr. MATTESON summoned at any time to give evidence before the committee in reference to this matter of Mr. Reverdy Johnson?

Mr. RITCHIE. He stated in his letter to the committee—

Mr. GROW. Was he sent for or notified to attend and give evidence on that point?

Mr. RITCHIE. Yes; he had notice to attend.

Mr. GROW. The gentleman is evading the question.

Mr. RITCHIE. He was not subpoenaed as a witness; but he was cited to attend as a party.

In reference to the question of constitutional power, I have no doubt as to the power of the House to expel a member whenever it may think fit. No limits are placed to that power by the Constitution, but its exercise is left to the discretion of the House. The Constitution, however, furnishes us, in its provisions with reference to criminal trial, with a rule by which I think we ought to be guided in analogous cases, unless there should be strong reasons to the contrary. The Constitution provides that no person shall be twice put in jeopardy of life or limb for the same offense. This member was before the last House; that House tried and condemned him. Now, much as I condemn the action of that member, I think we had better follow the rule laid down by the Constitution in other cases. In other cases,

men cannot be tried and punished twice for the same offense. I do not say that we cannot do it in this case. On the contrary, I think we can. But I think the better course in this case is to refer the matter to a committee for consideration. I renew the call for the previous question.

The previous question was seconded, and the main question ordered.

Mr. SHERMAN, of Ohio. I move to lay the whole subject upon the table.

Mr. MILES. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 61, nays 122; as follows:

YEAS—Messrs. Abbott, Bennett, Billingshurst, Bliss, Brayton, Buffinton, Burlingame, Campbell, Case, Chaffee, Ezra Clark, Clawson, Colfax, Covode, Cragin, Davis of Maryland, Davis of Iowa, Dean, Dick, Dodd, Durfee, Edie, Farnsworth, Giddings, Goodwin, Granger, Grow, Harlan, Horton, Howard, John C. Kunkel, Lamar, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Oliver A. Morse, Murray, Parker, Pettit, Potter, Purviance, Ritchie, Robbins, Royce, John Sherman, Stanton, Stephens, William Stewart, Tappan, Miles Taylor, Thompson, Tompkins, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, and Wood—61.

NAYS—Messrs. Adrain, Ahl, Atkins, Avery, Barksdale, Bingham, Bishop, Boccock, Bonham, Bryan, Burnett, Burns, Burroughs, Caskie, Chapman, John B. Clark, Clay, Clemens, Clingman, Cobb, Clark B. Cochrane, John Cochrane, Cockerill, Comins, James Craig, Crawford, Curry, Curtis, Darnell, Davis of Indiana, Davis of Mississippi, Dawes, Dinmick, Dowdell, Edmundson, English, Eustis, Faulkner, Fenton, Florence, Foley, Foster, Garnett, Garrett, Gillis, Gilman, Gilmer, Goode, Greenwood, Gregg, Groesbeck, Thomas L. Harris, Hawkins, Hill, Hoard, Hopkins, Houston, Hughes, Huyler, Jackson, Jewett, George W. Jones, Owen Jones, Keitt, Kelly, Kilgore, Knapp, Jacob M. Kunkel, Lawrence, Maclay, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Milson, Montgomery, Moore, Morrill, Edward Joy Morris, Isaac N. Morris, Mott, Olin, Palmer, Pendleton, Peyton, Phelps, Phillips, Pike, Pottle, Powell, Quitman, Ready, Reagan, Reily, Ricard, Rufin, Russell, Sandidge, Scales, Seward, Henry M. Shaw, Shorter, Sickles, Singleton, Samuel A. Smith, Spinner, Stevenson, James A. Stewart, George Taylor, Thayer, Underwood, Ward, Israel Washburn, White, Whiteley, Winslow, Woodson, Wortendyke, Augustus R. Wright, John V. Wright, and Zollieoffer—122.

So the motion was disagreed to.

Pending the above call,

Mr. WOODSON stated that his colleague, Mr. ANDERSON, was detained from his seat by illness.

Mr. BISHOP stated that his colleague, Mr. ARNOLD, had been called home by sickness in his family.

Mr. WINSLOW said: Mr. Speaker, my colleague, Mr. BRANCH, has gone home. He was very sick for some time before leaving. He has paired off with Mr. HALL, of Ohio.

Mr. SHERMAN, of Ohio, stated that his colleague, Mr. COX, was detained at his room by sickness.

Mr. TAYLOR, of New York, stated that his colleague, Mr. CORNING, had been called home by sickness in his family; and that his colleague, Mr. CLARK, was still confined to his room by severe indisposition.

Mr. COCKERILL stated that his colleague, Mr. HALL, had been called home by illness in his family.

Mr. DAWES stated that his colleague, Mr. HALL, had been unexpectedly called from the House, and had paired off with Mr. SMITH, of Illinois.

Mr. FLORENCE stated that his colleague, Mr. J. GLANCY JONES, had been confined to his room for four or five days, by a severe indisposition.

Mr. MOORE stated that his colleague, Mr. STALLWORTH, was confined to his room by sickness.

Mr. BURNETT stated that his colleague, Mr. TALBOTT, was detained at his room by indisposition.

Mr. STANTON stated that Mr. WASHBURN, of Illinois, was confined to his room by sickness.

Mr. COLFAX stated that his colleague, Mr. WILSON, having been called home, had informed him that he had paired off with Mr. KEITT on the Kansas question and on the contested-election cases.

Mr. NICHOLS stated that he had paired off with Mr. DAVIDSON, who was detained from the House by sickness.

The SPEAKER stated that the question recurred on the motion to refer to the Committee on the Judiciary.

Mr. SHERMAN, of Ohio. If the resolution be referred to the Committee on the Judiciary,

will that committee have the power to report at any time?

The SPEAKER. The Chair thinks that, as this is a question of privilege, the committee would have the right to report at any time.

Mr. SHERMAN, of Ohio. Then I hope the question will be disposed of now.

Mr. JONES, of Tennessee. I call for the yeas and nays.

Mr. FLORENCE. I demand tellers.

The yeas and nays were not ordered.

Tellers were ordered; and Messrs. EDIE and WHITE were appointed.

The tellers reported—ayes 81, noes 89. So the motion to refer was lost.

Mr. PHILLIPS moved to reconsider the vote just taken.

Mr. HARRIS, of Illinois, moved to lay the motion to reconsider upon the table.

Mr. REILLY moved that the House adjourn.

The House refused to adjourn.

Mr. HOUSTON. Is there not a motion pending to commit this matter to a select committee?

The SPEAKER. The pending question is the motion of the gentleman from Illinois to lay upon the table the motion of the gentleman from Pennsylvania to reconsider the vote by which the House refused to refer the resolution to the Committee on the Judiciary.

Mr. FLORENCE. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. FLORENCE demanded tellers.

Tellers were not ordered.

The motion to reconsider was laid upon the table.

The question then recurred upon the motion to refer the resolution to a select committee.

Mr. JONES, of Tennessee, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. KEITT (at fifteen minutes past four o'clock) moved that the House adjourn.

The motion was not agreed to.

The question was then taken; and it was decided in the affirmative—yeas 93, nays 87; as follows:

YEAS—Messrs. Adrain, Andrews, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bingham, Bocoek, Bryan, Burroughs, Campbell, Ezra Clark, Clemens, Clingman, Clark B. Cochrane, John Cochrane, Cockerill, Comins, Covode, Cragin, Crawford, Curry, Dimmick, Dodd, Dowdell, Edmundson, Eustis, Florence, Foster, Garnett, Gartrell, Gillis, Gilman, Gilmer, Goodwin, Greenwood, Hawkins, Horton, Houston, Hughes, Huyler, Jackson, Jewett, Keitt, Kelly, Jacob M. Kunkel, Lamar, Landy, Maclay, McQueen, Mason, Maynard, Miles, Millson, Montgomery, Morgan, Mott, Murray, Olin, Pendleton, Phelps, Phillips, Pike, Ready, Reagan, Ricard, Ritchie, Ruffin, Russell, Seales, Seward, Shorter, Sickles, Singleton, Samuel A. Smith, William Smith, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Thompson, Underwood, Walbridge, Waldron, Israel Washburn, White, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—93.

NAYS—Messrs. Abbott, Abt, Bishop, Blair, Bliss, Bonham, Brayton, Buffinton, Burlingame, Burnett, Burns, Case, Caskie, Chaffee, Chapman, John B. Clark, Clawson, Clay, Cobb, Colfax, James Craig, Curtis, Danrell, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Durfee, Edie, English, Farnsworth, Faulkner, Fenton, Foley, Giddings, Goode, Granger, Gregg, Grow, Harlan, Thomas L. Harris, Hill, Hoard, Hopkins, Howard, George W. Jones, Owen Jones, Kelsey, Kilgore, Knapp, Lawrence, Leach, Leiter, Lovejoy, Humphrey Marshall, Samuel S. Marshall, Miller, Moore, Morrill, Freeman H. Morse, Palmer, Parker, Pettit, Peyton, Potter, Pottle, Powell, Purviance, Quitman, Reilly, Robbins, Royce, Sandidge, Henry M. Shaw, John Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Walton, Cadwalader C. Washburn, and Whiteley—87.

So the resolution was referred to a select committee.

Pending the call of the roll,

Mr. JOHN COCHRANE stated that Mr. WARD had paired off with his colleague, Mr. MORSE.

Mr. CRAWFORD stated that Mr. STEPHENS, being ill, had paired off with Mr. MORRIS of Illinois, upon the pending question.

Mr. FLORENCE moved to reconsider the vote by which the resolution was referred to a select committee, and also moved to lay the motion to reconsider upon the table.

Mr. BENNETT moved (at four o'clock and thirty-five minutes) that the House adjourn.

The motion was not agreed to.

Mr. HARRIS, of Illinois, demanded the yeas and nays upon the motion to lay the motion to reconsider on the table, and called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion to reconsider was laid on the table.

And then, on motion of Mr. ADRAIN (at four o'clock and forty minutes) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, February 26, 1858.

The House met at twelve o'clock, m.

The Journal of yesterday was read and approved.

EXECUTIVE INTERFERENCE.

The SPEAKER. The business first in order is the consideration of the following resolution, offered by the gentleman from New York, [Mr. HOARD:]

Resolved, That a committee of five be appointed by the Speaker to inquire and investigate whether any improper attempts have been or are being made by any person connected with the executive department of this Government, or by any person acting under their advice or consent, to influence the action of this House, or any of its members, upon any questions or measure upon which the House has acted, or which it has under consideration, directly or indirectly, by any promise, offer, or intimation of employment, patronage, office, or favors under the Government, or under any department, officer, or servant thereof, to be conferred or withheld in consideration of any vote given or to be given, withheld or to be withheld, with power to send for persons and papers, and leave to report at any time, by bill or otherwise.

The pending question is, "Shall the resolution be received and entertained, on the ground that the privileges of the House are involved?"

Mr. J. GLANCY JONES. The general debate on the Indian appropriation bill terminates at two o'clock to-day. If it suits the gentleman from New York to take any other day for the consideration of this matter—and I presume it will—I hope he will give way to me, to make a motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOARD. If the gentleman desires to postpone the matter until a day certain, I have no objection.

Mr. DAVIS, of Indiana. I move to postpone its consideration until Thursday next.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message, in writing, was received from the President of the United States, by Mr. J. B. HENRY, his Private Secretary.

Mr. J. GLANCY JONES moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANTON moved that the House resolve itself into a Committee of the Whole on the Private Calendar.

MARYLAND CONTESTED-ELECTION CASE.

The SPEAKER, by unanimous consent, laid before the House testimony in the matter of the contested-election case from the third congressional district of Maryland; which, on motion of Mr. RICAUD, was referred to the Committee of Elections, and ordered to be printed.

RAILROAD TO THE PACIFIC.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in response to the resolution of the House of Representatives of the 26th January, 1858, requesting him to furnish the House with any information which may have been communicated to him by F. W. Lander, Esq., engineer of the wagon road, as to the practicability of a railroad through the South Pass, and the best method of constructing the same.

On motion of Mr. PHELPS, the communication was referred to the select committee on the Pacific railroad, and ordered to be printed.

ADJOURNMENT OVER.

Mr. SHORTER moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. KELSEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 62, nays 91; as follows:

YEAS—Messrs. Anderson, Andrews, Bowie, Bryan, Burlingame, Burroughs, Case, Chapman, Ezra Clark, John B. Clark, Clay, Clingman, Clark B. Cochrane, Colfax, Comins, Burton, Craigie, Davis of Indiana, Davis of Iowa, Dick, Dimmick, Edie, Eustis, Faulkner, Fenton, Florence, Goode, Gregg, Groesbeck, Grow, J. Morrison Harris, Haw-

kins, Hickman, Horton, Hughes, Kellogg, Jacob M. Kunkel, Maclay, McQueen, Mason, Edward Joy Morris, Pottle, Powell, Quitman, Reagan, Ricard, Ritchie, Ruffin, Russell, Searing, John Sherman, Shorter, Samuel A. Smith, Stanton, Stephens, William Stewart, George Taylor, Thompson, Underwood, Winslow, Woodson, Augustus R. Wright, and Zollicofer—82.

NAYS—Messrs. Adrain, Avery, Billingshurst, Bingham, Bliss, Bocoek, Brayton, Buffinton, Burnett, Burns, Chaffee, Clawson, Clemens, Cobb, Covode, Cragin, James Craig, Crawford, Curry, Curtis, Danrell, Davidson, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dowdell, Durfee, English, Foley, Foster, Gartrell, Giddings, Gilman, Granger, Greenwood, Robert B. Hall, Harlan, Hoard, Hopkins, Houston, Howard, Jackson, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Samuel S. Marshall, Maynard, Millson, Montgomery, Moore, Morgan, Morrill, Isaac N. Morris, Nichols, Parker, Pendleton, Pettit, Peyton, Phelps, Pike, Potter, Purviance, Ready, Robbins, Royce, Seales, Seward, Judson W. Sherman, Stallworth, James A. Stewart, Tappan, Miles Taylor, Thayer, Tompkins, Wade, Walbridge, Waldron, Walton, Warren, Cadwalader C. Washburn, and Whiteley—81.

So the motion was disagreed to.

The question recurred on Mr. STANTON's motion.

NOTICE OF A BILL.

Mr. GROW. I give notice to the House that I will on to-morrow, or some subsequent day, ask leave to introduce a bill to permit the Government to be sued by its creditors in the district courts of the United States. I give the notice in open House, because the bill is of general interest in its character, and I desire to call the attention of members to the subject.

PERSONAL EXPLANATION.

Mr. POTTER. I rise to a question of privilege. Mr. Speaker, under ordinary circumstances, I should not deem it my duty to bring to the attention of this House any aspersions which the correspondent of a newspaper might make upon me through the public press. I most cheerfully acknowledge the fullest right of the press to comment upon the public acts of officers of the Government, and especially of those acting in a representative capacity. But, sir, when the personal conduct of a member of this House, upon its floor, and during its session, is misrepresented, and unfounded charges, reflecting upon his conduct in his intercourse with other gentlemen occupying seats on this floor, are publicly made against him by newspaper correspondents, it is then the duty, as well as the right, of the member thus assailed to call the attention of the House to the matter. My attention was called this morning to such an article in the Baltimore Clipper, of the 25th February, copied from the Southern Argus.

Mr. BURNETT. I rise to a question of order. What is the gentleman's question of privilege?

Mr. POTTER. The gentleman will ascertain what my question of privilege is, if he will listen.

Mr. FLORENCE. We would rather that you should state it first.

Mr. BOCOCK. This is not a question of privilege. I must call the gentleman to order.

Mr. POTTER. Then, sir, I send up the paper to the Clerk's desk, and ask that the passage which I have marked may be read.

Mr. BOCOCK. I do not know that I should object to the gentleman proceeding, but I do protest against this being acknowledged by the House to be a question of privilege. I protest against gentlemen being allowed to rise here and read newspaper articles, and proceed to comment on them at length, on the ground that they involve questions of privilege. This is no question of privilege. The gentleman must appeal to the House to allow him to make a personal explanation. I shall not object.

Mr. POTTER. I then ask the unanimous consent of the House to make a personal explanation.

Mr. KUNKEL, of Pennsylvania. Well, Mr. Speaker, I should like to hear the article read first, that we may know what is the character of it.

The Clerk read as follows:

"KICKING SCENE IN CONGRESS.—A correspondent of the Norfolk Argus, signing himself 'Delta,' gives the following particulars of a scene in the House of Representatives, generally overlooked by the Washington letter writers:

"Whenever a call of the House is ordered, the doors are locked to prevent those that are absent from coming in the mean time and answering to their names. Mr. WRIGHT, of Tennessee, and Mr. ELLIOTT, of Kentucky, after answering to their names, had occasion to leave the hall a few moments, and on returning beckoned to one of the officers of the House through the glass door to admit them, who was proceeding to unbar the door, when POTTER, of Wisconsin,

told him not to admit them. The officer being a subordinate, and not understanding the rules of the House, obeyed POTTER. POTTER then amused himself by mockingly and derisively laughing at the situation of Messrs. ELLIOTT and WRIGHT.

"In the mean while ELLIOTT procured a brick-bat, and holding it up to the view of the officer, told him if he did not unbar the door he would smash it and his head too. This frightened the officer, who ran and brought the principal Doorkeeper to the scene of action, explaining, meanwhile, the circumstances of the case. The principal Doorkeeper acknowledged the right of ELLIOTT and WRIGHT to admittance and unbarred the door. Whereupon Mr. WRIGHT made a very brisk application of his pedal extremity to the person of POTTER, for his impudent interference.

"The future valorous leader received his chastisement in humility and meekness, until WRIGHT, after kicking to his heart's content, turned to go to his seat. POTTER then ran his hand in his bosom, as if to draw a weapon. WRIGHT remarked, 'Do you have the impudence to feign drawing a weapon on me?' POTTER nodded assent; whereupon WRIGHT returned to the former application of his foot. In the mean time, two of POTTER's allies came to his rescue, and attempted to interfere. ELLIOTT immediately seized both of them, holding one in each hand as with the grip of a vice, and calling to WRIGHT to let the d—d rascal's friends see him kicked well, since they chose to interfere. WRIGHT, with two spectators to stimulate him, returned to the attack with renewed vigor, and only desisted when, through exhaustion, he could kick no longer, and then left the 'kicked future leader' to the condolence of his spectator allies."

The reading of the above article created much merriment upon all sides of the House.

Mr. HUGHES. I object to the time of the House being occupied about this matter. I consider that publication a hoax.

Mr. POTTER. Mr. Speaker, I have only to add, that the article is false in every particular, and without the least shadow of foundation. I have never spoken with either of the gentlemen named in that article, and I pronounce the writer of the article, or whoever dictated it, guilty, with malignant, deliberate, and willful falsehood.

The question recurred upon Mr. STANTON's motion.

BILLS INTRODUCED AND REFERRED.

Mr. BRYAN, by unanimous consent, and in pursuance of previous notice, introduced bills of the following titles; which were severally read a first and second time, and referred as indicated below:

A bill to amend an act to divide the State of Texas into two judicial districts, approved February 21, 1857. Referred to the Committee on the Judiciary.

A bill to provide a building for the accommodation of the courts of the United States, and the post offices at Austin and Brownsville, in the State of Texas. Referred to the Committee on the Post Office and Post Roads.

A bill to alter and create certain collection districts in the State of Texas. Referred to the Committee on Commerce.

RESOLUTIONS OF TEXAS.

Mr. BRYAN, also, by unanimous consent, presented the joint resolutions of the Legislature of Texas, relative to Indian spoiliages; which were referred to the Committee on Indian Affairs, and ordered to be printed.

EFFICIENCY OF THE NAVY.

Mr. SEWARD. I rise to a privileged motion. I desire to call up the motion to reconsider the vote by which a resolution (S. No. 3) to extend and define the authority of the President under the act approved January 16, 1857, was committed to the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of opinion that the gentleman cannot call up a motion to reconsider until the two pending questions to suspend the rules are disposed of.

Mr. SEWARD. The rule declares that motions to reconsider shall take precedence of all motions except motions to adjourn.

The SPEAKER. And these two motions are to suspend that and the other rules.

Mr. SEWARD. Yes; but my motion takes precedence of all except motions to adjourn.

The SPEAKER. The Chair thinks not.

Mr. SEWARD. Well, I will call the attention of the Chair directly to the rule.

MOTIONS TO GO INTO COMMITTEE.

Mr. SMITH, of Tennessee. I call for tellers on the motion to go into a Committee of the Whole House on the Private Calendar.

Tellers were ordered; and Messrs. SMITH, of Tennessee, and BUFFINTON were appointed.

The House divided; and the tellers reported—ayes 72, noes 74.

So the motion was disagreed to.

The question recurred on the motion to suspend the rules and go into the Committee of the Whole on the state of the Union.

QUESTION OF ORDER.

Mr. SEWARD. My object in calling up the motion to reconsider the vote by which the resolution in reference to the act to promote the efficiency of the Navy, was referred to the Committee of the Whole on the state of the Union, was that the House might fix some particular day next week for its consideration. If gentlemen will allow me, I will submit a motion to make this resolution a special order for next Tuesday.

The SPEAKER. The Chair cannot entertain it.

Mr. SEWARD. Then I shall appeal from the decision of the Chair.

The SPEAKER. Some time since, the gentleman from Georgia [Mr. SEWARD] made a motion to reconsider the vote by which a joint resolution, reported from the Committee on Naval Affairs, was referred to the Committee of the Whole on the state of the Union. The motion was entered. This morning, he proposes to call up that motion while a motion is pending to suspend the rules and go into the Committee of the Whole on the state of the Union. The Chair decides that the question on the motion to suspend the rules must be first put and decided, inasmuch as that is a proposition to suspend all the rules, including that under which the gentleman claims his right.

Mr. SEWARD. Would any remarks be in order? I should like to be heard on the question for about two minutes.

The SPEAKER. The Chair thinks that the question is not debatable. The question is one relating to priority of business, and no debate is in order on any appeal growing out of that question.

Mr. DAVIDSON. I move to lay the appeal on the table.

Mr. SEWARD. I call for the reading of the 55th rule.

Mr. FLORENCE. Is the question of appeal debatable?

The SPEAKER. It is not.

Mr. FLORENCE. I object to the reading of the rule, which is in the nature of debate.

The SPEAKER. The Chair would be very glad if the House would indulge the gentleman from Georgia.

Mr. SEWARD. I want to know if I have not a right to have a rule read which must control both the Presiding Officer and the gentleman from Pennsylvania?

The rule was read, as follows:

"55. When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or succeeding day; and such motion shall take precedence of all other questions, except a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House; and thereafter any member may call it up for consideration."

The SPEAKER. The Chair would make a suggestion to the gentleman from Georgia which is conclusive: If this matter had been regularly pending, and under the consideration of the House, it would be superseded by a motion to suspend the rules to go into the Committee of the Whole on the state of the Union, or into a Committee of the Whole House on the Private Calendar.

Mr. SEWARD. The Chair and myself differ about that. But as it seems to embarrass the House, I shall withdraw my appeal, though I am satisfied that I am right.

The SPEAKER. The Chair is very willing that the gentleman should entertain his opinion.

Mr. SEWARD. I have no doubt that the Speaker is equally satisfied that he is right.

Mr. STANTON. Is it now in order to move to go into a Committee of the Whole House on the Private Calendar?

The SPEAKER. The Chair thinks not, pending the motion to go into the Committee of the Whole on the state of the Union.

Mr. STANTON. Has not business intervened so as to make it in order?

The SPEAKER. The Chair thinks that the motion to suspend the rules and go into the Committee of the Whole on the state of the Union must be first put. The two motions were pending. The motion of the gentleman had precedence. It has

been disposed of. The question now recurs on the motion to go into the Committee of the Whole on the state of the Union.

The question was taken; and the motion was agreed to—ayes one hundred and five, noes not counted.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, Mr. HOPKINS in the chair.

INDIAN APPROPRIATION BILL.

The CHAIRMAN stated that the question before the committee was the consideration of the bill (H. R. No. 5) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending 30th June, 1859; upon which the gentleman from Tennessee [Mr. SMITH] was entitled to the floor.

Mr. SMITH, of Tennessee. Mr. Chairman, I feel somewhat embarrassed in addressing the committee to-day on a subject foreign to the bill which is now under consideration; and yet I feel justified in so doing, because the prominent topic of discussion in this House and before the country is one of so much importance, one fraught with such consequences to the Union, that any member of this House is justified in departing from the subject under consideration to lay before the country his views, or to make whatever argument he may which may have a bearing or an influence upon the public mind or upon this House in reference to the admission into this Union of the State of Kansas, with all the rights and privileges of the original States of the Confederacy.

For the last few years, important events have precipitated themselves in such rapid succession upon Congress and the country, that the statesman and the patriot are lost, as it were, in bewilderment, contemplating the consequences of the settlement of these questions, which come before us as the Representatives of the people. This is an important one, because it involves the conclusion of the agitation, which commenced in 1820, against the domestic institutions of one half of the States of this Union. The first serious agitation which occurred in this country in reference to the question of slavery was in 1820, and from that time until the present, in some form or other, it has been a fruitful theme for politicians, statesmen, demagogues, and those who were disposed to inflame the public mind, that they might live for a time, at least, in the public estimation. It was used for those excitements, inflammatory in their character and injurious to the interests of the country, which these men might create in the minds of their constituents, and thus enable them to hold on to power, which is one of the leading and controlling motives of those who have not the merit to come here upon a political creed right in itself, and just to every section of the Union. I do not care whether the disturbance comes from the North or the South. I say, sir, that there is a spirit of revolution abroad in the land, which, if not checked, may some day result in inaugurating the train of circumstances referred to by the gentleman from Illinois, [Mr. HARRIS],—a train of circumstances which would destroy the fairest fabric of government upon earth. It is not so much the slavery question; it is not so much the right of southern men to hold negroes as our servants, as it is that spirit of revolution which I am prepared to show the people of Kansas are not responsible for. I relieve them, sir, from the responsibility which I am prepared to show rests upon the Representatives of the people. This is a Government of law and order; and, unless maintained upon such principles, cannot be maintained at all. I am no disunionist; I wish not to talk about disunion; yet, sir, if the idea shall go abroad that the dissolution of the Union is an impossibility, it only arms those who would create revolution with an additional incentive to commit aggressions upon the rights of those who may be weaker, who may be in the minority; to commit aggressions upon the rights of sections of this Union, either South or North, East or West, which would bring about a dissolution of the Union. I do not wish, sir, to see the measure of which we have heard so much, forced through under a threat of disunion. I make no such threat; I have not the power to make any such threats. I tell gentlemen on all sides of this House that, if the day shall ever come when this Union shall

be dissolved, it must not be done by me, not by Congress, but by the act of the States whose servants we are. If that time shall ever come—which Heaven forbid!—I shall be the last man to leave my post upon the floor of the House of Representatives. If the time shall come—which I do not look for—that any portion of the Representatives from the North or the South shall deem it proper to leave this Hall, I say, for one, that I shall consider it my highest duty to remain here, until recalled by the people of my State, and prevent those who are here from doing harm to the country.

But, Mr. Chairman, I do not look to these consequences. It is true, sir, that when we lose our equality in this Union, when that is gone, when the General Government becomes the oppressor of the States, there then can be no Union; because the very fact of union implies equality among all the members thereof. A General Government was formed and a more particular Union was formed for public safety, and public defense, and public justice; and when it shall cease to accomplish those ends, and becomes the oppressor of any section of this Union, or any State of this Union, then I say the Union itself is at an end by its own operation and by the action of the Federal Government. I hope never to see that time come. I do not believe it has ever been, and, without prediction as to what may occur, without indicating what course I shall pursue in reference to the future, if Kansas shall be or shall not be admitted under the Lecompton constitution, I content myself with acting upon the principle of the immortal bard, who

"Sees what befall, and what may yet befall,
Concludes from both; and best provides for all."

Sufficient, then, "unto the day is the evil thereof." Without going into a discussion of what I may do, what my State may do, or what she ought to do under the circumstances, I shall address myself to the question which I have selected for discussion to-day, and that is the admission of Kansas under the Lecompton constitution.

The first question which arises here is, have we the power to admit Kansas into the Union? the second is, do the people of Kansas desire to be incorporated as a State? and the third, ought we, in view of all the circumstances and all the facts, to admit her as a sovereign State of this Union?

I do not wish to indulge here in remarks which reflect upon the Representatives of any section of this Union. I know that I have more to make at home, by making an inflammatory speech here, harrowing up imaginary wrongs which have been done to my section of the Union. Those which have been done heretofore are imaginary; but if the admission of Kansas shall be refused, they then will become real, so far as this question is concerned. If Kansas shall be refused to them it will not be because her constitution tolerates slavery; it will not be because it prohibits slavery; it will not be because the constitutional convention did not submit the whole constitution to the people; nay, sir, nor will it be because a large minority of the citizens refused to participate in making this constitution. If Kansas be refused admission into this Union, it will be on account of that revolutionary spirit which overrides all law, and all constitutions, which, as I before remarked, was started in this House immediately after the passage of the Kansas-Nebraska bill. I do not intend here to enter into a discussion of that measure; I do not intend to construe it. It construes itself. But before entering upon that, or attempting to speak in reference to the operation upon the people there, so far as authorizing them to form a State constitution, I can go behind that and find an enabling act, if gentlemen desire it. I have stated heretofore that I doubt the power of this House or of Congress to pass an enabling act; and as an original question, I should unhesitatingly vote against any such proposition. The Constitution of the United States provides that "Congress may admit new States into the Union with all the rights and privileges of the original States." That is the only word in the Constitution in reference to the admission of new States into this Union. Congress has no power to create, no power to alter their constitution, has no power to authorize them to make a constitution, because that must proceed from the people themselves, and be the representation of the sovereign will.

I need not enlarge upon this, because, as I before stated, there is an enabling act for the formation of a State government for the Territory of Kansas, dated anterior to the passage of the Kansas-Nebraska bill. I know, sir, that some, who heretofore belonged to the Democratic party, are of opinion that there ought to have been an enabling act—such as the distinguished Senator from Illinois, [Mr. Douglas]—but at the same time admit that an enabling act is not necessary to the formation of a constitution. Upon examination I find that the treaty between the United States and France, of the 30th of April, 1803—that treaty which is the supreme law of the land—provides: what? That Congress shall pass an enabling act? No, sir; but it provides that the people of the Territory of Kansas, which is a part of the Louisiana Territory, shall be admitted into the Union as a State or States, as soon as practicable.

The following is the article of the treaty referred to:

"That the inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

There, sir, is the enabling act, which this Congress has no right to annul, even if it were necessary to have an enabling act. I merely mention this, because it binds Congress to admit this territory into the Union as States, and there is not a word in the treaty which provides that Congress shall take preliminary steps to authorize them to form a constitution and ask admission into the Union. I voted during the last session of Congress to authorize Minnesota to form a constitution and ask admission into the Union. I was one, I believe, of only thirteen southern men who did cast such a vote. And, Mr. Chairman, I believe that all those who have served with me here for the last five years will bear me witness, that in all the votes I have given here, I have given them without reference to any prejudice which may exist in my section of the country in reference to the principles of men north of Mason and Dixon's line. I voted for that act because it had been established by precedents, and not because I believe, as an original question, that we had power to pass an enabling act authorizing Minnesota to form a constitution and ask admission into the Union. We did pass the act. Minnesota has formed a constitution, and in forming that constitution she has departed from the law of Congress. She had a right to depart from it. She had a right to go contrary to it, because when you admit that Congress can prescribe the mode and manner in which States may form their constitutions, you admit that Congress can control the domestic institutions of States before and after they shall be formed. Well, sir, Minnesota has formed her constitution and presents it here; and, notwithstanding that, in forming that constitution, she has gone directly in the teeth of the law of Congress, I expect—I do not say now that I shall do it, because I have not looked into the question—but I expect to vote to admit the State of Minnesota into the Union. What patriotism I have is not bounded by a southern State, or by a northern State, or by a county, or by a district.

But, Mr. Chairman, so far as Kansas is concerned, the convention of the people have formed a constitution, and ask admission into the Union as a sovereign State. It is said by some that the delegates to this convention were not fairly elected. It is said by others that the convention did not redeem its pledges. It is said again that the constitution was not submitted to the people, and that the convention had no authority to make a constitution; but that they had only authority to present to the people a constitution for their ratification.

Sir, I deny this assumption. The convention, in making that constitution, exercised the authority delegated to it, and it exercised it in the only mode in which it could do it with justice and fairness. I call your attention to the law under which the convention was organized and the delegates were elected. Section sixteen provides, that—

"The delegates thus elected shall assemble in convention at the capital of said Territory, on the first Monday of September next, and shall proceed to form its constitution and State government, which shall be republican in its form, for admission into the Union, on an equal footing with the

original States in all respects whatever, by the name of the State of Kansas."

That section makes it the duty of the convention to form a constitution and State government; and, sir, it is a fact, which is known perhaps to every member of this committee, that that law was vetoed by the Governor of the Territory of Kansas upon the ground that it did not require the constitution to be submitted to the people; and was passed by a two-third vote over that veto, and thus became a law. It was under that law that the convention acted. The convention formed a constitution, and have presented it here. Will any one say that the constitution is not republican in its character? I have heard no one say so yet; and, on looking over it, any man must see that it is not only republican in its character, but that it is couched almost in the same language and in the same terms as the most approved constitutions of the other States of this Union. There is nothing irregular in it; and I ask, where was the irregularity in forming it? Before it was formed, an election was held to take the sense of the people as to whether they would form a constitution; and they decided that they would. After that election, and after that popular vote, the Legislature passed the law, of which I have read a part, providing for an election of delegates. Delegates were elected; those delegates assembled in convention; they made a constitution; and now it is said that, because they submitted the slavery clause only, and did not submit the whole constitution to the people, we should refuse to admit the State of Kansas into the Union, although her constitution is republican in form, and correct and proper in every respect.

I ask you, sir, from whom does this objection come? The people of Kansas have been in an unfortunate position; and why? Because, as soon as the Kansas-Nebraska bill passed, there were a hundred members of this House, in the Thirty-Third Congress, who determined that that bill should not have its proper and legitimate effect. It is not the people of Kansas who are to blame. The revolution started here, in the attempt to annul and destroy the effect of a law passed in pursuance of the Constitution, by a majority of both Houses of Congress, and approved by the President. If we are to have laws passed by all the legislative branches of the Government thus overturned by fraud and force, such as has been witnessed in Kansas, and their effect defeated and destroyed by any party in this country, our Government will very soon be brought to an end. Repeal these laws, if you disapprove of them, in the legitimate forum; but instead of that, members of this House, some of whom are still here, openly declared that the Kansas-Nebraska bill should not have its legitimate effect, and that slavery never should go into the Territory of Kansas. We ask if the law was not constitutional? Gentlemen admit that it was constitutional; but, say they, we are so much opposed to slavery that we will defeat the action of the law, we will destroy its effect, even if we do it at the expense of our once glorious Union. Such was the spirit which sent these men to Kansas.

Now, what do we see? At the very first election held in the Territory we find disorders; we find a large number of northern men there, not for the purpose of settlement, but for the purpose of shaping the institutions of Kansas. They refused to go into the election; they refused to go into any election affecting the organization of the Territory into a State government.

Mr. Chairman, I have always acknowledged that principle of law which says that no man shall take advantage of his own wrong. These people went into Kansas for the purpose of shaping its institutions, peaceably if they could, forcibly if they must. When they failed, they refused to go into an election, although they were invited to do so. They refused to go into the election when the people were called on to declare their wishes on the subject of framing a State government. They refused to vote in the election of delegates. They refused to vote when the article of the constitution in regard to the question of slavery was submitted to them. And now they come here, and ask us to reject the admission of the State. And why? The reason is obvious; they do not desire to have this question settled; they desire to keep it open. If you go to Kansas, you will

find a small party there—not belonging to the respectable portion of the Free-Soilers or of the Abolitionists—headed by Lane, with his marauders, his murderers, and his house-burners. They do not number more than eight hundred. Take them out of the way, and the whole people of Kansas are in favor of the admission of the State under the Lecompton constitution.

I know it has been said here that a great fraud is about to be committed on the people of Kansas. I am not astonished at the course of the Republican party. They have determined that no State shall ever be admitted into the Union, the constitution of which tolerates slavery. Such is the character of the speeches here. The gentleman from Ohio, [Mr. TOMPKINS], and divers other gentlemen who have spoken upon this subject, have declared most unequivocally that no State shall ever be admitted into the Union by their votes that tolerates the institution of slavery. I therefore say that I am not surprised at the course of the Republican party. They act on a principle of their creed. It is on that they live. And yet their course is founded on a revolutionary principle, under which no government can last. I am not astonished at them, for they never professed anything else. They have always operated on the prejudices of the people. They hold their seats here by such means. But I am astonished at another class of members of this House, who have heretofore acted with the Democratic party. In looking at this question, and considering the effect of its result on either the North or South, I am almost led to exclaim—

“What shadows we are! What shadows we pursue!”

I hold that the admission or rejection of Kansas can be of no benefit either to the North or to the South. It is a principle that lies at the bottom of this question; and, if Kansas be rejected, it will be a triumph of that revolutionary spirit which originated all the difficulties in Kansas, which has maintained them, and which will keep the State out of the Union. It will show to the country that that revolutionary spirit is strong enough to oppress one section of the Union.

Now, Mr. Chairman, I regret exceedingly that the Democratic party of the North should be divided on this question of the admission of Kansas. I had hoped to see the termination of the excitement and agitation on this slavery question. I know, you know, every considerate man knows, that the only way peace can be attained is by concluding the Kansas question. The only way to conclude that question is to admit Kansas into the Union as a State, and then let her people settle their own difficulties in their own way. I care not whether she be a slave or a free State. I care not whether her Legislature is pro-slavery or free-soil. I want the question settled, because it is undermining the Union of these States.

Mr. FOSTER. May I ask the gentleman a question?

Mr. SMITH, of Tennessee. Yes, sir.

Mr. FOSTER. The gentleman says that the only way to settle the question is by the admission of Kansas, and allowing her people to settle it themselves. The question I put is, whether, in that case, the gentleman is prepared to have the United States Army withdrawn?

Mr. SMITH, of Tennessee. Yes, sir; I answer that question. I have stated my position on that subject heretofore. I say, admit Kansas as a State; withdraw the Army of the United States; and then, if there are any outlaws there who have gone there on account of excitement, let them cut their own throats in their own way, subject only to the Constitution of the United States and of the State of Kansas. [Laughter.] Now, sir, small considerations sometimes lead to important results. Here we are, talking about a question in which, I confess, there is but little except that which looks to the protection of the rights of a great section of the Union.

Mr. GIDDINGS. I wish to propound an interrogatory to the gentleman in the way of compromise. Will the gentleman and his party, in case Kansas is admitted into the Union, vote for a law requiring the President to withdraw the military force from Kansas?

Mr. CRAWFORD. For one, I will say that I wish the army had been taken from there long ago. I would have voted two years ago for their withdrawal.

Mr. SHORTER. And so would I.

Mr. SMITH, of Tennessee. I would vote for such a law. I informed the President that I would recommend the withdrawal of the army from Kansas. More than that, I can tell the gentleman that the President, in his message, stated to Congress that the admission of that Territory would enable him to withdraw the army, and to send it to Utah.

Mr. GIDDINGS. I am aware of that. The gentleman will understand me as putting the question to him in good faith. I will introduce a bill to-morrow, or some subsequent day, directing the withdrawal of the United States Army from Kansas.

Mr. SMITH, of Tennessee. I will put a question to the gentleman. If I vote to withdraw the troops, will he vote for the admission of Kansas?

Mr. GIDDINGS. Under the Lecompton contrivance, never!

Mr. SMITH, of Tennessee. I regret, sir, to see this division in the Democratic party in the northern States, because I see no necessity for it. If you admit Kansas, this question must be settled. The people of Kansas are ready, as I am prepared to show, to settle it upon just and honorable terms, satisfactory to themselves and to the whole people of the country. I regret to see these gentlemen from the North, with whom I have heretofore been proud to act, differing from the Democratic party. I do not speak of them now because they are northern men. I find some here from the South who are opposed to the admission of Kansas. I am gratified that there is no Democrat from the South with them. If the Lecompton constitution were irregular in its formation, yet, as it is republican in its character, such is the importance of the settlement of the question, that I hope every man who belongs to the Democratic party will rise above petty considerations, admit her as a State, and thus preserve the integrity of the Democratic party. It is the only means of preserving the Union. I see no means of preserving the Union except through the agency of the Democratic party. I say it not as a partisan. Call me a party man, or what you please; but I say that that party has alone the power to resist that revolutionary spirit which would trample down the laws of the United States, and particularly the law passed in 1854, providing for the organization of the Territories of Kansas and Nebraska.

I do not charge this upon the people of the North, for the people of the North are as patriotic as the people of the South, talking the masses of them, and giving them a correct understanding of the questions before the country. What can it be but a revolutionary spirit which attempts to destroy the effect of a law? The gentleman from Ohio [Mr. TOMPKINS] says that, since the repeal of the Missouri compromise, he is determined never to vote for the admission of any State, the constitution of which tolerates slavery. He is determined in his mind that the law repealing the Missouri restriction shall have no effect. Such was the substance of declarations made here; and it was in such mood that the eastern societies were organized, which sent these men to Kansas with Sharpe's rifles and Colt's revolvers to shape the institutions of the Territory. Such a spirit as that must be put down. Such a spirit must not rule, or this Union cannot exist.

I said that there was no cause for a division of the Democratic party in the North on this question. If those who have chosen to differ from the great body of the party upon this question will look to the past history of the country, if they will look to the records which they have made in this House, they will find that every objection made to the admission of Kansas has been previously answered by themselves. The principal ground of objection here is, that there has been fraud in the elections in the Territory. Not only so: they say that the people have not participated in these elections. I ask gentlemen to calmly review their statements. The reason why these people have not engaged in the elections in Kansas is because of their wanton, willful, and revolutionary spirit, which prevented them from participating in any election held under any law of Congress, or of the Territorial Legislature. They openly defied the laws of the country. They openly rebelled against the law organizing their territorial government.

The gentleman from Illinois, [Mr. HARRIS], who introduced the resolutions referring the Pres-

ident's message to a special committee of fifteen, remarked truly, that we were now entering upon a duty which, no matter how discharged, might inaugurate a train of circumstances of more serious consequence to the country than any that had ever before occurred. I will ask the gentleman, when we have seen all this to be the result of non-action on the part of the free-State men in Kansas, if he is ready to allow them to take advantage of their own wrong, and to keep this country excited on this question for the next four years, or at least until after the next presidential election?

Mr. HARRIS, of Illinois. Does the gentleman want an answer?

Mr. SMITH, of Tennessee. After a while, when I have read some authorities on the subject, to show how these difficulties originated. I always listen to the gentleman with pleasure. When he investigates a subject, free from prejudice or any influence which could bias his judgment, he goes into the facts with an earnestness which carries conviction with it. I find that the gentleman, on the 13th of March, 1856, in discussing the question of the origin of the difficulties in Kansas, stated that they were easily traceable to their proper sources. He said:

“The origin of this difficulty can be very easily traced, and its history understood. When the Kansas-Nebraska bill was passed by the last Congress, it was at once proclaimed by those who had been most bitterly opposed to its passage, including many of the three thousand clergymen, that, as they had been unsuccessful in their efforts in Congress, they would transfer the battle ground to Kansas. The Black Republican press of the North, and the Black Republican preachers, with that reverend fireman—Henry Ward Beecher—at their head, have declared from their pulpits that they will carry freedom into Kansas by means of revolvers and Sharpe's rifles, and that these implements of death are more effective agents for that purpose than the Bible and the sword of the Spirit.”

He also states that the cause of these difficulties was, that the North had sent, by these Abolition societies, men to Kansas to shape and form their institutions with Sharpe's rifles; that they had incorporated large companies with a large amount of capital for that purpose; and that whatever the people of Missouri had done, they had done in self-defense. And not only that, but after that committee had gone to Kansas, after they had reported, and after that question had been discussed, the gentleman from Illinois again took up the subject and discussed Kansas affairs in general. He said:

“The ink was not dry upon the signature of the bill, before the slavery agitators commenced plotting to prevent a quiet and peaceful settlement of Kansas. Combinations of capital were formed, under the auspices of the Abolitionists, to carry bodies of settlers of their own stripe into that Territory. They passed on through the State of Missouri, and there made their threats and boasts that they intended, after shaping affairs in the Territory, to run off the slaves in that State. The people of Missouri, living upon the immediate border of Kansas, attracted to its soil from their avocations, also pressed into the Territory. Still no difficulties occurred; and even the correspondents of their papers lauded the kindness of the Missourians. [See Evening Post, June 15, 1854.] This would not do; strife is the subsistence of this kind of fanaticism, and strife must be engendered. A change of tactics became necessary. The New York Tribune, the Post, and Times, and all the leading papers of that sort, began to threaten and boast what their free State organization would do with the Missourians and the pro-slavery men. On the 1st of August, 1854, the Post declared that ‘slavery will be overlad and smothered by freedom, if the PLANS ALREADY FORMED BE HALF EXECUTED.’

“Now, let it be borne in mind that no outbreak had occurred; everything was going on smoothly; the Territory was filling up, and all were willing to leave future legislation to a fair expression of the popular will. But here came the announcement of plans and plots ‘already formed,’ which, if but ‘half executed,’ were to overlay and smother out slavery; not by a fair expression of the people, but ‘by plans already formed.’ On the 3d of August, the same print had an article headed, ‘When and where the first blood will be shed!’ showing that there was a determination then to have bloodshed in Kansas, and making a prediction with the sole view to accomplish that result. Then began the arming of emigrants—the organization of secret and sworn lodges—all under the general management of Robinson, who, it is stated in the Tribune of November 3, 1854, ‘was a Garrison Abolitionist.’ Now, I put it to any candid man to say, if with these movements, so begun and so heralded, the people of Missouri would not, nay, ought not, to have become deeply interested, if not excited, in the movements of these crusaders? They commenced a counter emigrant movement, and being near the spot, they sent in the largest number, and the plans were not ‘half executed.’ Then the cry began of outrages, border ruffians, arson, robberies, murders—all charged upon the pro-slavery men, or the Missourians, while their own people were perfectly honest, pious, and harmless. No prejudiced mind believes these statements; and whatever has subsequently occurred, or whoever may be to blame, the beginning and cause of it all is clearly traceable to the emigrant aid societies of Massachusetts and New York, and to the Abolition organs who were acting with them, to promote disorder and outrage, and then turn it to political effect. This was the origin of

all the trouble in Kansas; and it has no just or legitimate connection with any particular feature of the Kansas-Nebraska bill."

But he went further in that speech of the 9th of August, 1856, and, in speaking of the Abolitionists, said:

"But they not only went there for the purpose of controlling the legislation of the Territory, but they have organized forces, and marched into the Territory for the exclusive purpose of shaping the institutions. This is proof sufficient that all these difficulties have arisen from the actions of those who act with my colleague in the settlement of that Territory."

That, sir, was the position which the gentleman occupied; and now he comes here in this Congress and votes against his party, for reasons no doubt satisfactory to himself. I do not charge him with voting against the admission of Kansas on the ground that its constitution tolerates slavery; and indeed I think it will be hard for those northern Democrats who have heretofore acted with us, to find a reason for voting as they have done, unless it is—and I do not charge it—that they desire to follow the lead of the distinguished Senator from Illinois. But after taking this ground; after showing the plots and plans of the Abolitionists, and having shown that they had set the day upon which the first blood should be shed; after tracing the schemes of this revolutionary party, which started in the House of Representatives, and doing it with that effect with which he can always do anything he undertakes; we now find him coming here, and taking a position which I contend allows this same people, who had formed their unlawful combinations, who had arranged their plots and plans, and fixed the day on which the first blood was to be shed, to take advantage of their own wrong, and thus to keep this question open until after the presidential election of 1860.

Mr. HARRIS, of Illinois. The gentleman quotes some remarks I had the honor to make last Congress in reference to the affairs of Kansas. By every word and every sentiment I then uttered, I now abide. I have nothing to add to, or to take from them. The convictions of my mind when I made those remarks remain as they were then; but it is not for the gentleman to put an inference upon those remarks tending to show that I have changed my position, and have now become a defender of those whom I then assailed. The condition and position of parties have changed; and I stand now as I stood then, defending a portion of the people from all assaults from those who have no right to assail them. I said that they were not allowed to manage their own affairs, as they ought to be. I contend now, as then, for the rights of a majority of the people of Kansas. Then I maintained that legitimate emigration to Kansas would have given a certain direction to public opinion; that that opinion had been overthrown by organizations at the North. I defended the people of Kansas from the effect of what I considered to be a forced organization, gotten up to the prejudice of the best interests of the country. Now the condition of things is reversed; and I stand now, as then, advocating the rights of the people of Kansas.

Mr. SMITH, of Tennessee. Be short.

Mr. HARRIS, of Illinois. I have no disposition, as the gentleman is asking for his time, to go into a discussion of this matter now, but I trust I shall have an opportunity to do so hereafter, fully.

The gentleman undertakes to intimate that I am following the lead of somebody else, in the positions I occupy. I follow no man's lead. I can state here that I came to this city without having had a word of consultation with any one of my colleagues, either in this body or in the other, either verbally or in writing. I had no more knowledge of their position upon this question than I had of yours. We came here representing the sentiments of our people, and found ourselves alike in sentiment. I could take no other position. But the gentleman is urging me for his time, and I will say no more here, but will take some future occasion to place myself right in this matter.

Mr. SMITH, of Tennessee. I will now proceed to show and to prove that the people of Kansas, of all parties, desire to be admitted into the Union under the Lecompton constitution. After all we have heard here in those papers which have correspondents in Kansas from the northern States, after all the shrieks of these shriekers, as

they are called, in reference to this question of slavery—and if there is any man in this House who can speak upon that subject disinterestedly, I can—what, I ask, is the condition of Kansas? They want peace and quiet, and they want to be admitted into the Union, because they know it would destroy the only element upon which Abolitionists there can feed; because they know that this is the only way by which they can be permitted to pursue, in peace and quiet, the common avocations of life. They have wives and children to provide for and protect, and a large number of them, as I can show, are in favor of the settlement of this question; while gentlemen here are opposed to it, because, they say, the constitution is an outrageous fraud upon the people of Kansas. Fraud, where? Nowhere. The Abolitionists did not vote, because they would not vote; notwithstanding they had a fair opportunity to do so, as the record shows.

I suppose it will be admitted that the pro-slavery party in Kansas is anxious to have the State admitted under the Lecompton constitution. I hold in my hand the Herald of Freedom, a Republican paper published in Kansas. [A Voice. It has just been bought up.] Gentlemen say it has just been bought up by patronage. Well, the article I shall read is found in that paper before it could have been bought up. Hear what that paper says, speaking of the New York Tribune and all those northern papers which have correspondents in Kansas:

"The whole tendency of these croaking papers, from first to last, has been to make Kansas what those journals have professed a desire to avoid. Our only hope of saving Kansas to freedom lay through emigration. Their croakings, instead of encouraging emigration, as has been our policy by presenting a gilded future, such as we have full confidence to expect, has only discouraged it by thousands."

"And we know that if any attempt is made to prevent the people from ruling in this matter, they will not be foiled; but, by peaceful means, through legal forms, and without the shedding of a drop of blood, they will take possession of the government, and immediately proceed to institute measures for supplanting it with another."

This does not look as if it had been bought up. That, sir, is one item from the Kansas papers. I ask the gentleman, now, if the Leavenworth Ledger has been bought up?

Mr. HARRIS, of Illinois. If the gentleman asks me, I tell him that I know nothing about what papers have been bought up. They are being bought up so fast that I can hardly keep the run of them. But if the Legislature of Kansas represents the public opinion of the Territory, the gentleman is entirely at fault in his position.

Mr. SMITH, of Tennessee. I have here the Ledger, the leading Free-Soil paper in the Territory, and that, too, of the 15th instant, and it confirms the information I have received from all the respectable men I have seen from the Territory of Kansas, and those who are not respectable are not to be believed on any occasion. I read now from the Ledger:

"Let the Lecompton constitution pass, and let the representatives elected be called together and elect the two United States Senators; and the agony is all over."

I read these extracts to show the wrong impression which has been produced by members here, who desire to keep Kansas out of the Union, even though the Union falls. The article goes on:

"True, there may be a faction [referring to Jim Lane's party] in the free-State party, who will not be successful, and may endeavor to keep up this infernal nigger agitation, from the fact that they have been 'ruled out' from a participation in the 'spoils'; but that's nothing; they can be easily choked off and made to bite the dust by the stern will of the people."

Now, sir, the Territorial Legislature is Free-Soil; and there is a circumstance connected with its action that this House ought to know. Notwithstanding all the complaints which have been made of the laws passed by the first Territorial Legislature, the present Legislature have adjourned without repealing those laws when they had the power to do so. They passed an act to repeal them, and the next day reconsidered it, and adjourned *sine die* without passing it, thus leaving in force the laws of the original Territorial Legislature. But, sir, this paper goes on to say:

"Demagogues and fanatics of both parties are no longer in the hearts and affections of the people, and their 'rantings' and 'roarings' will avail nothing. The people are sick, tired, and disgusted with them, and will listen to their madness no more. We want peace, for that brings us happiness and prosperity."

Here, sir, are the people of Kansas begging to be admitted into the Union, and to be relieved

from the control of this revolutionary spirit, led on by the New York Tribune and by members of this House, and we refuse their application, notwithstanding that we have a perfect knowledge that, unless we admit them into the Union, the slavery agitation must go on until, in all probability, it may affect the integrity of the Union itself.

But, sir, a portion of the people of the Territory of Kansas have been in a state of rebellion. There is no question of that; and that rebellion was promoted by that spirit which advised the people of the Territory to repudiate the territorial government. I have here the statements of Governor Walker and Mr. Stanton, from the time they entered the Territory up to the 26th of September last. Governor Walker states that the Territory was in a state of open rebellion against the laws of Congress and of the territorial government. Are you not to believe Mr. Walker? If you do not believe Walker, cannot you believe Stanton? But it is said that these statements were made before Walker and Stanton knew what the people of Kansas were doing. Now, sir, I have here the speech made by Mr. Stanton, in the city of New York, a few days ago, in which he says that when he got to the Territory he found the people in open rebellion; in which he says, also, that the free-State party prevented the sheriffs and other officers from taking the census and a registration of voters; and in which he says that they refused to obey any laws passed by the Territorial Legislature, but repudiated them all from the beginning to the end. This was said in his speech, made in the city of New York a few days ago, in which he confirmed all the statements made by Walker and by himself while in the Territory of Kansas. Now, if he was not to be believed while he was in the Territory, is he not to be believed now that he is out of it? I confess, sir, that I have but little confidence in Mr. Frederick P. Stanton. I remember that he was the member who threw the first firebrand into the Democratic party during the administration of President Pierce, in the caucus of the party, and repeated it afterwards in the House of Representatives. My Democracy can never be gauged by that of Frederick P. Stanton, as is proven by the fact that he has turned abolition lecturer, and has gone to the northern States; and I think he had better stay there.

Now, Mr. Chairman, there is one clause in the Kansas constitution to which I wish to refer, but I find that I must do it in a minute or two; it is in reference to the change of the constitution. I do not want to see any conditions put upon the bill for the admission of Kansas. I want her to come in free and untrammelled. I hold that the people of Kansas have the right, under their constitution, to amend, alter, or abolish it in any manner they may see proper, by a majority vote, up to 1864. The Topeka convention, the House will recollect, asked for admission as a State; the Lecompton convention also asked for a State; and that settles the question that the people of Kansas want to be admitted as a State. The Topeka convention provided, in their constitution, that no amendment should be made to that constitution until after 1865. The Lecompton constitution omits that prohibition, but provides that after 1864, whenever the Legislature see proper to change the constitution, they may do it by a two third vote. It is perfectly clear that whatever rights the people have not granted away they have reserved to them; and therefore, until 1864, they have a right to amend their constitution by a majority vote. This right is inherent in the people, and they have expressly reserved it in the Lecompton constitution. Why, then, shall we annex any condition or declaration to the law admitting the State into the Union. It would be a novelty in legislation, and an unsafe precedent, as all who will vote for the admission of Kansas will agree that Congress has no power to control the future action of the people or Legislature of any old or new State of the Union.

I repeat, then, let Kansas be admitted into the Union with her constitution as it is, with no conditions, with no declarations, by Congress. Her people will then have the peace and quiet which they so much desire. The excitement which has been so great a curse to her will cease, and prosperity and happiness will reign throughout her borders.

Mr. J. GLANCY JONES. Mr. Chairman, this appropriation bill has now been before the committee for a little over a week. In the few remarks which I made in opening the debate, I stated that this bill was one which could not be amended without the change of a treaty or the repeal of an existing law. The committee seems to have taken the same view of the subject; for, after a delay of nearly ten days, as far as I have been informed, there has not been one word said in relation to the bill. I therefore—though entitled to one hour in which to close debate in defense of the bill—have no occasion to occupy the time of the committee; for, during the whole pendency of the bill in the Committee of the Whole, as I have remarked, there has not been one word said about it. Inasmuch, therefore, as no exception has been taken to the remarks I made in opening the debate, I shall ask the Clerk to proceed with the reading of the bill by clauses, and hope the committee will take action on it, and that it may be reported to the House, and passed to-day. After the bill has been read by clauses, I shall ask that it may be laid aside, and that another appropriation bill shall be taken up.

The bill was then read by paragraphs for amendment.

Mr. J. GLANCY JONES asked that the bill be laid aside to be reported to the House, with a recommendation that it do pass.

There being no objection, the bill was so laid aside.

Mr. BOCKOCK. I do not like to make a point of order on my friend from Pennsylvania, who has charge of these matters; but this may grow into a precedent. I therefore raise the question of order that it is not competent for the committee to lay aside this bill and proceed to take up another. The language of the resolution terminating debate on the bill is, that general debate shall close at a particular hour, and that after that, the committee shall proceed to act on such amendments as may be proposed, and report the bill to the House. I believe that the ruling heretofore under such resolutions has been, that the committee having consummated its work, was bound to report it to the House.

Mr. J. GLANCY JONES. My object in taking that course was to expedite business, and save time. I know this same course has often been taken in committee, although it may have been by unanimous consent, or because a point of order was not raised. My object is to take up another appropriation bill, which it is very important should be passed immediately by the House.

The CHAIRMAN. The Chair understands that the precedents are both ways. But this bill has been laid aside by unanimous consent, to be reported to the House.

CAPITALIZATION OF SOUND DUES.

Mr. J. GLANCY JONES. I now propose to take up House bill No. 271, which is a bill to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the Sound dues.

Mr. MILLSON. I rise to a point of order. Has the Chair decided that the gentleman can make a motion to lay aside the other bill?

The CHAIRMAN. The Chair thinks the ruling has been both ways.

Mr. MILLSON. Well, there must be a vote upon it in committee before the bill is laid aside.

The CHAIRMAN. It has been laid aside; and the motion now is to take up another bill.

Mr. MILLSON. But I do not understand that this second bill can be taken up before the committee has acted on the motion to lay aside the first bill. My object is to move that the committee rise and report this bill to the House, in order that we may then go into a Committee of the Whole House on the Private Calendar, and use the hour that we have yet left before adjourning; this being objection day.

Mr. J. GLANCY JONES. I rise to a point of order. I object to the gentleman from Virginia assigning reasons why the House should go into a Committee of the Whole House. The other bill was laid aside by unanimous consent before the gentleman from Virginia raised his point of order. And the Chair decided on the point of order raised by the other gentleman from Virginia [Mr. Bo-

cock] that, even if the point of order were well taken it came too late, as the bill had been already laid aside by unanimous consent, and as the committee had proceeded to take up another bill. I am now entitled to the floor to make an hour's speech upon it if I please.

Mr. STANTON. Is it understood that the other bill has been laid aside and that this has been taken up by unanimous consent?

The CHAIRMAN. The other bill has been laid aside by unanimous consent.

Mr. MILLSON. The question was not put by the Chair.

Mr. STANTON. If it had been, I should certainly have objected.

The CHAIRMAN. The Chair expressly stated to the committee that unless objection was made the bill would be laid aside to be reported to the House, and stated that the Chair heard no objection.

Mr. BOCKOCK. Well; I have a right to supersede my friend from Pennsylvania for the purpose of raising a point of order.

The CHAIRMAN. The gentleman from Pennsylvania rose to a point of order.

Mr. BOCKOCK. Yes; but now he says he has a right to make an hour's speech. I want to interpose a point of order between him and his hour's speech.

Mr. J. GLANCY JONES. I did not by any means say that I would make it.

Mr. BOCKOCK. The point of order which I now raise, Mr. Chairman, is, that the committee has not the right, by unanimous consent, to lay aside that bill, and to proceed to the consideration of another. A committee is the creature of the House. We are acting here by order of the House; and we cannot, by any action of ours, set aside the order of the House. Suppose the House orders us to terminate debate at two o'clock: can the committee fix another hour?

Mr. J. GLANCY JONES. If my friend will allow me, it is not in order to debate a point of order.

Mr. BOCKOCK. I am not going to debate it.

Mr. J. GLANCY JONES. Nor is it in order to raise it again after being decided.

Mr. BOCKOCK. I am just stating it. My point of order is, that the House has directed us to proceed to the consideration of the bill and amendments, and report them to the House; and we are bound to carry out that order of the House, and have no right, by unanimous consent, to do anything else.

The CHAIRMAN. The Chair thinks that the precedents may have been both ways. The very convenience of the body would require frequently this course to be pursued. The Chair knows of no rule which prevents the committee, when it has concluded one subject, from passing to another.

Mr. BOCKOCK. The resolution terminating debate requires the committee to report the bill to the House.

Mr. JONES, of Tennessee. I wish to inquire of the Chair whether there was a resolution really adopted terminating this debate? If so, let it be read, and it will determine the whole question.

The CHAIRMAN. A week ago this day, when the House was in a Committee of the Whole House on the Private Calendar, it acted on one bill, laid it aside to be reported, acted on another, and so on.

Mr. GREENWOOD. I understand, then, that the bill has been laid aside by unanimous consent, to be reported to the House with the recommendation that it do pass?

The CHAIRMAN. It has been so laid aside.

Mr. GREENWOOD. I move that the committee rise.

Mr. J. GLANCY JONES. The gentleman cannot take the floor from me for that purpose. I move that the committee proceed to the consideration of a bill (H. R. No. 271) to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th April, 1857, for the discontinuance of the Sound dues.

The bill was read *in extenso*.

Mr. J. GLANCY JONES. Mr. Chairman, it is important that this bill should be laid aside, to be reported to the House, before the committee rises. It provides for the payment of \$393,000,

in fulfillment of the treaty entered into between this Government and the King of Denmark in relation to the Sound dues. That treaty has been ratified, and the ratifications of the two Governments have been exchanged. It is the highest law of the land. It took effect on the 1st of April, 1857. The sum provided for in this bill is a capitalization of the Sound dues as set forth in articles three and six of the treaty. The money is stipulated to be paid in London on the 11th day of April next; and unless this bill be passed immediately it will be impossible for our Government to comply with that stipulation. It is a measure which, under the circumstances, can admit of no delay. It is a mere appropriation of \$393,000 in fulfillment of treaty stipulation entered into between the United States and Denmark. The money must be paid in London on the 11th day of April next. I hope, therefore, there will be no disposition to put off action to-day. I propose to occupy the time of the committee no longer. I cannot now suggest the time to close debate; but I hope the bill will be passed without the necessity of resorting to any such measure.

Mr. GIDDINGS. I have some written remarks which I desire to submit, and I hope there will be no objection to my doing so in the ordinary tone of voice. I am unable to pitch my voice and sustain it higher.

The CHAIRMAN. The bill is not yet before the committee.

Mr. SMITH, of Virginia. I understood the chairman of the Committee of Ways and Means to argue the propriety of passing the bill. Are the merits of the bill debatable on a motion to take up?

The CHAIRMAN. The gentleman from Pennsylvania spoke by the indulgence of the committee. He gave the reasons why it should be taken up.

Mr. MILLSON. I move that the committee rise. I want to get into the House, that we may resolve ourselves into a Committee of the Whole House on the Private Calendar.

The committee refused to rise.

The question recurred on the motion to take up the bill for consideration; and it was agreed to.

Mr. GIDDINGS. Mr. Chairman, questions of mere economy, those which relate to banks, to internal improvements, or protective tariffs, no longer occupy the public mind. These subjects have given place to questions of more transcendent importance, to those which relate to the rights of mankind, to the religious, moral, and political elevation of our race. The discussion of these rights, which are common to our race, has in all past time been attended with agitation and excitement. It brings the rights of the people into conflict with despotism, whatever may be the form of government under which the discussion takes place. Such is now the condition of this mighty nation; our Union is shaken to its very center by the agitation of great and undying truths. Our Government is vibrating between freedom and despotism, and it becomes us thoroughly to examine the religious basis on which we found our political action.

The late message of the President in relation to Kansas is without precedent in the history of executive communications to this body. Its tone of contempt for the people of that Territory finds no precedent in our Government, or even in the fulminations of European despotism; while the language of the people of Kansas, expressed by her Legislature, is most extraordinary for sovereigns to use towards a servant already arraigned before the tribunal of the popular mind for high crimes and misdemeanors.

Under these circumstances, I have thought that the best service I can render the people on the present occasion would be to analyze the subject which now absorbs the popular mind; and, so far as able, to define the issue now pending before the nation.

That issue is founded upon fundamental religious truths, which are maintained by one political party and denied by the other.

Immediately after the last Congress adjourned, the men who wield the judicial and executive powers of Government publicly denied the great primal doctrine of our Government, "that all men are endowed by their Creator with inherent, equal, and inalienable rights." They essayed to obliterate

ate the line of demarkation drawn by our patriot fathers between the despotisms of a darker age, and the rights of mankind as understood in this nineteenth century.

The annual message of the President, in its leading positions and in its details, wholly disregards those rights of human nature, and speaks of men created in the image of God, with undying spirits, with eternal destinies, as transformed into *property*, in direct contradiction to those truths which the American people have long regarded as "self-evident."

It will be my object to render this issue more distinctly obvious. Its importance is transcendent; and, however fully other gentlemen may have appreciated it, I feel constrained to admit that I have failed to comprehend its vastness, or set bounds to the consequences naturally resulting from its decision; yet every member of society is bound to examine and to act upon his own responsibility.

Our fathers, recognizing God as the author of human life, proclaimed it a "self-evident" truth that every human being holds from the Creator an inalienable right to live, to sustain and protect life, attain knowledge, elevate his moral nature, and enjoy happiness.

These prerogatives were recognized as "*gifts of God*," lying behind and above human legislation; and the founders of our institutions proceeded to declare that governments are instituted among men to secure their enjoyment. Thus our Republic was founded on religious truth, and it was thus far emphatically a religious Government. It has ever been sustained by the religious sentiment of the nation; and it will only fail when this element shall be discarded by the people. The attempt now made to overthrow these religious truths demands the severest scrutiny.

There are but few men who openly deny the existence of a Supreme Being, or that He is clothed with the attributes of infinite wisdom, truth, and justice; or that men are religious in degree as they bring themselves into harmony with those divine qualities, make them their own, and assimilate their characters to that of Deity. This is the sense in which I use the term "religion." I do not speak as a sectarian. Indeed, sectarians do not regard membership as religion, but merely as the evidence of religious feeling on the part of the individual. All admit that those who are wise, truthful, just, and pure, of all denominations, and men who, possessing these attributes, belong to no particular sect, are the truly religious men of earth.

I will here remark that I am conscious this examination of the religious character of our Government will subject me to the criticisms of all who deny the existence of man's inalienable rights: they will insist that an examination of the religious character of our institutions is unsuited to this forum; that laymen should not tread on this holy ground; but I assert, if there be a place on earth where religion, where wisdom and truth and justice and purity of purpose, should be observed and practiced, this Hall constitutes that place. If there be a class of men on earth who ought to be religious, who ought to be wise and truthful and just and pure of purpose, the members of this body ought to sustain that character.

I repeat, we all acknowledge the existence of a Supreme Being; that he is the Creator; that we are brought into life by His will. At this point, the American people separate into two great parties—one holding that sovereignty dwells alone with the Creator, and not with men; that kings, potentates, and all human governments, are subjected to the "higher law" of the Creator, and authorized to legislate only for the protection of the rights which God has conferred on mankind; another portion deny the existence of this "higher law," and insist upon the perfect and unlimited sovereignty of human Governments over the lives and liberties of the people. To be more explicit on this point, I will remark that the religious portion of our people hold, that, as God gave life to the human race, He conferred on each a right to that liberty which is necessary to become wise, truthful, just, and pure; to bring himself into harmony with the law of God, and enjoy the happiness resulting therefrom; that these rights are equally self-evident as the existence of our race; that they are *inherent, inalienable*, and common to all men; that they constitute the great moral liga-

ment which binds man to his Creator, connects earth with heaven, and unites the human race in one common brotherhood, bound by the most sacred obligations to love, revere, and obey our Universal Father. Of the possession of these rights every sentient being is conscious. When God created man, and breathed into him the breath of life, when man became a living soul, this consciousness formed a part of his moral nature; and never, in any age or in any clime, has man, even in his rudest, his most barbarous state, been unconscious of his right to live, to nourish, and protect life, and seek his own happiness.

These rights constitute an element of the human soul; they cannot be alienated by the individual; nor can any association of men, or any earthly power, separate the humblest of the human race from them. Men may rob their fellow-man of the food which he gathers for his own support; they may deprive him of the power of self-defense; they may bind his limbs and scourge his body; they may prevent him from attaining knowledge; but his *right* to the food which he gathers, to defend his person, to attain knowledge, will remain unchanged. Their *crimes* will in no degree affect his *right*.

This relation of man to the Creator is repudiated by a portion of the American people. They deny that man holds any inalienable rights from God. They deny that the right to live, to protect life, and to attain moral elevation and happiness, is derived from Heaven, or is superior to human enactments. The denial of these fundamental religious truths I can characterize by no other term than "*American infidelity*." This first and primal issue literally separates the religious from the infidel portion of our people. In using this language, I do not seek to cast opprobrium upon those who honestly disbelieve the religious truths which Jefferson and Adams and Franklin and their associates termed "self-evident." I have no unkind feeling towards them. I regard them as brethren, entitled to my best wishes, my earnest prayers; and I apply the term "infidel" to them as the only expression by which I can characterize them as a class.

The outworking of this great primal issue is witnessed in almost every important question that comes before Congress. One portion of the members adhere to the central proposition, that man holds natural and inalienable rights from the Creator, which are not to be invaded by human enactments; that they cannot be violated except by incurring the penalties of that law which was ordained by Him who bestowed them upon our race; that every individual who invades these rights of his fellow-man is guilty of crime, and should be punished accordingly; that all human enactments professing to authorize the invasion of these rights are outside the just powers of human governments, are impious invasions of God's prerogatives, are despotic in their character, impose no moral obligation upon any individual, but involve those who enact them in the same degree of guilt with those who perpetrate the crimes; that such statutes can in no degree modify the moral guilt of those who trample upon the rights which God has bestowed upon their fellow-men. The other portion of the American people maintaining a corresponding infidelity, deny the existence of these rights, deny that God has bestowed them upon mankind; they claim unlimited sovereignty for human governments over human rights.

But I desire to call attention to some of those specific rights which are regarded as inalienable and common to all men. Christians and patriots hold life to be the *gift of God*. They regard it sacred; they look upon its invasion as a crime; that, as the Creator bestows existence upon those who bear His image, it becomes the duty of individuals, of associations, and of governments, to protect each and every human being in the enjoyment of life; that at this point human legislation commences, limited in its appropriate powers to the protection of life, and not to its destruction; that human governments hold no other rightful powers in regard to life than to protect its enjoyment; that the execution of pirates and murderers, and those who invade our country, is allowed only for the purpose of protecting society; that these powers are ordained of God, sanctioned by religion, by philosophy, by the common sense of mankind. They believe that that command which was proclaimed from Sinai in tones of

thunder, saying to every human being, "*THOU SHALT NOT KILL*," was truly the voice of God; that it is repeated in all His works and in every revelation of Himself, and is binding on all our race. This commandment of God, this entire doctrine, is denied by the President and by all American infidels.

In our slaveholding communities enactments have been passed, and are now supported, professing to authorize masters to murder their slaves in certain cases. For instance, in those States the slave is denied the right of self-defense; the right to protect his life or his person. If he attempt to defend himself against the master, the master is authorized to slay him in any manner he may be able; if he run from the master, after being ordered to stop, the master is authorized to shoot him; if he die under the scourge, the master is not held responsible. American infidels believe that no moral turpitude attaches to these statutory murders; while Christians hold that God's moral law remains unchanged by such human enactments; that the guilt of the murderer is in no degree modified by such statutes; that the perpetrator stands unveiled before God and all good men, guilty as he would be if no such laws existed; that all who enact, and all who support such enactments, make themselves accessory to the crimes committed under them, are guilty as such, and ought to be subjected to the same punishment with those who murder their slaves.

But this power of the master over the life of the slave constitutes the vital element of the institution, without which slavery could not exist. It is exercised wherever slavery is maintained. Every master exercises the privilege of driving his slave, in sickness or in health, just so severely as he thinks will best subserve his own interests. It is on this principle that slaveholders openly declare it profitable to work their slaves so hard as to produce the death of the whole gang on an average of five years upon sugar plantations, and of seven upon cotton plantations; and to supply their places by other victims imported from the slave-breeding States. From official documents, it is estimated that thirty thousand human victims are thus sacrificed annually within the United States and Territories.

In the slave States it is not uncommon to see advertisements in the public papers offering a bounty for the head of a particular slave, who has absconded from his master. Even in Ohio, during the past year, a Government official deliberately murdered an absconding slave, and is yet protected from the gallows by those who administer the State laws in the county where the murder was perpetrated. Our Federal troops are often employed in the work of murdering those who are supposed to be fugitive slaves. A signal instance of this character occurred many years since. In a time of profound peace, General Jackson directed our Army to invade Florida, at that time a province of Spain, for the purpose of murdering a people who were born free, but whose ancestors had been slaves; and in one day nearly three hundred men, women, and children, were barbarously and wantonly murdered by American troops.

This system of murder is encouraged and maintained by the present Executive, and by all who support his Administration. They insist that the people of a State or Territory may rightfully enact laws giving to one man power over the life of his fellow-men who have committed no offense; that popular sovereignty is not limited by God's higher law; that it extends with propriety over the life, the liberty, and the happiness of a portion of the human family; that the whites may, with moral impunity, subject the colored people of a State or Territory to degrading servitude, close up the windows of their souls, shut out knowledge from their understanding, hold them in ignorance, and murder them if they assert the rights which God has given them.

This infidelity, within the last half century, has consigned more than a million of innocent and unoffending victims to untimely graves. The number is far greater than has perished under the infidelity of France in all past time. But this comparison of American with French infidelity does great injustice to the latter. In France the victims were uniformly sent to the guillotine under pretense that it was necessary for the *public safety*. They suffered but little: there was no flogging, no torture. But American infidelity consigns its vic-

times to years of torture and suffering, and finally to death, for no higher purpose than to gratify the sordid passions of their individual oppressors.

These wholesale murders are but the outworkings of that infidelity which denies that God has endowed all men with the inalienable right to live. The enactments referred to, and their results, clearly demonstrate the views of those who sustain them, and are laboring in this Hall, and elsewhere, to extend them over our Territories, and wherever Congress holds exclusive jurisdiction. It is most obvious, that while the present Administration openly lends its influence to such crimes, every intelligent man who sustains and upholds its policy, or fails to oppose it so far as able, becomes involved in the guilt of the murders which it sanctions.

But I shall be told that these enactments are confined to the slave States, and that Congress holds no power to repeal or modify them. I reply that the people and statesmen of our southern States insist that slaveholders may carry their slaves, and all privileges which they hold of flogging and murdering them under State laws, into our Territories; and the President, and those who sustain him, declare that the Constitution extends and protects these crimes wherever Federal authority exists. They declare that this system of murder is established by the Federal Constitution, and that neither Congress nor the people of the Territories have the right to punish those who perpetrate such crimes under Federal jurisdiction. Not content with this avowal of doctrine, however, we are at this time sustaining a code of laws for the government of this District which holds to the blasphemy that men may become the property of their fellow-men—may be bought and sold like swine. In these, and in a thousand other modes, is the transcendent question of Christianity, or slaveholding heathenism, made the absorbing political issue in the nation.

But I shall be told that the Supreme Court of the United States have decided that our fathers did not intend to avow those self-evident truths which they solemnly proclaimed; that they really held to the doctrines of slavery which they did not avow. Our fathers could no more change the law of eternal right and wrong than we can. The ordained will of Heaven has existed through the eternity of the past, and will continue through all the future. Men may conform to this law, but they can never modify it or make it conform to the human will nor to human governments. Our fathers sought to make no such modification of the Creator's will.

Had such infidelity characterized their action, it would have imposed no obligation upon the present generation to sustain this system of murder. They have passed to that tribunal which will do them justice. They must answer for their conduct; we must account to God and posterity for our own stewardship, and not for theirs. God, through all his works, in all his laws, by every revelation to man, has prohibited us from murdering our fellow-beings; and woe to the nation, to the statesman, the legislator, the despot, the oligarch, the murderer, who disregards this law of the Most High! I feel humbled and mortified when I see statesmen, ministers, teachers of religion, in this land of bibles and Sabbaths and churches, maintain the doctrine that human authority can repeal this law of Heaven. To me, it is downright blasphemy; derogatory to the character of the Creator and offensive to the religious sense of mankind. Yet, this absurdity is the legitimate outworking of that infidelity which denies "that God has endowed all men with inalienable rights." If He has endowed our race with any right whatever, it surely is the right to live. If this right be denied, no other can be acknowledged. If there be exceptions to this central, this universal proposition, that *all* men, without respect to complexion or condition, hold from the Creator the right to live, who shall determine what portion of the community shall be slain? And who may perpetrate the murders? The Executive and his supporters say that white men may murder black men. The blacks deny this; God and Christianity and nature, and all religions, all patriotic, all moral men, deny it.

Yet this denial of the right of men to live, constitutes the mildest and least offensive phase of American infidelity. No intelligent person would desire to have the life of his body prolonged for

the purpose of being subjected to physical torture, while his intellect shall be paralyzed, his soul enshrouded in ignorance, and his moral nature brutalized. Therefore the right to enjoy liberty, physical, moral, civil, and religious, is regarded even more important than life. Indeed, it is obvious to every mind that life itself cannot be protected unless the individual be permitted to support and defend the physical existence with which God has endowed him.

Religious and patriotic men regard the body as merely the temporary habitation of the spirit, the soul which constitutes the *man*; to be occupied during its infant state of existence, and used for the purpose of developing the mental faculties extending the sphere of thought and elevating his moral nature, thereby preparing him for a higher and holier state of existence. And when the body shall have performed this service, it is laid aside to mold and return to its mother earth, while the spirit shall live on and on while God himself exists. No injury to the body can, therefore, bear any comparison to the enslavement of the intellect, the degradation of the moral nature of man.

By the established laws of our existence, the body requires food, raiment, and habitation. To each individual are given limbs to bear him forth from place to place; hands to cultivate and gather the fruits of the earth, to feed the body, provide raiment and habitation for its protection; eyes to guide him, and ears to detect danger. These are all held in subjection to the mind, and are put in operation by the will of the individual. The mind itself is constrained to action by an inflexible law which God has ordained for its early unfoldment. Its first care is to nourish, and feed, and clothe the body, to render it a comfortable and pleasant habitation during occupancy. The spirit is constrained, in seeking food, to put the limbs, and hands, and all the physical faculties into operation to satisfy the hunger and thirst of the body, to provide raiment and habitation for its protection. That God has endowed each member of the human family with the inherent and inalienable right to use his own limbs and hands and bodily faculties for these purposes is, literally, a "self-evident truth." It is a truth that cannot be rendered more clear by argument; it cannot be enforced by logic, or made more beautiful by eloquence. But this care of the body constitutes the first lesson, the lowest exercise of the intellect, and is introductory to that eternal unfoldment which was designed by the Creator as the means of elevating man to higher and still higher happiness; for I lay it down as a religious axiom that in degree as man becomes wise, just, pure, and truthful, he approximates that happiness which constitutes the ulterior design of his existence.

That God has endowed every human being with the right thus to enlarge this sphere of thought, and elevate his moral nature, is so obviously, so self-evidently true, that he must indeed be a most arrant infidel who denies it. It constitutes a part of the fundamental proposition that "all men are endowed by their Creator with inalienable rights." Its existence is, however, denied by "American infidels;" and this constitutes the second issue between the religious and irreligious portions of our people. This enslavement of the soul presents infidelity in its most revolting features. It paralyzes the moral nature of man; renders the soul sterile and unprepared for heaven. We must wait the day of final retribution to disclose the extent of its enormities.

Yet the body can only be held in bondage by enslaving the spirit, by surrounding it with mental darkness. Permit a man to understand the duties which he owes to himself, to mankind, and to God, and he cannot be a slave. Hence, the whole policy of slaveholding governments is arranged and adapted to the purpose of first enslaving the minds of their bondmen. In most slaveholding communities it is a statutory offense, punishable by fine and imprisonment, to teach slaves to read the gospel. They are not permitted to read the words of "Him who spake as never man spake;" who declared His mission on earth "to proclaim liberty to the captive;" to raise up the bowed down; enlighten the ignorant; who taught His disciples and followers "to do unto others as they would have others do unto them." A distinguished jurist of North Carolina, while discharging official duties, declared, "a slave is one doomed in his own person and posterity to live without knowl-

edge." He is not permitted to understand the object of human existence. He can have no conception of *justice*, or *wisdom*, or *purity*, or *truth*. Slaves can have no correct idea of the duties which children owe to their parents; nor of those which are due from parents to children. The parent is not permitted to teach or govern his child; nor is the child permitted to honor or obey his parent.

It follows that the freedom of speech must be restricted among the free people of slaveholding communities. The public mind must be enslaved, in order to maintain the institution. No man is permitted in slaveholding communities to assert the doctrines I have referred to. They are not permitted publicly to utter the truths which lie at the basis of our Government. The policy of those communities is to circumscribe human thought, prevent a knowledge of the duties which men owe to themselves and to their fellow-men. This policy was for many years enforced in this body. Members were prohibited from speaking of the crimes and iniquities of slavery, lest the people should understand the subject, and refuse to sustain such infidelity.

The right of legal marriage is unknown among the slaves. They are not permitted to understand the relation nor the duties of husband and wife. The master sells him who is called *husband*, or her who calls herself *wife*, while he retains the other. He sells the parent, and retains the child; or he sells the child, and retains the parent. These separations are but the practical workings of that infidelity which denies to parents and children those inalienable rights which God and nature have bestowed upon them.

Slaves can have no proper conception of the rights of property. Robbed of their own earnings, told they have no claims to the food which they gather, it were impossible for them to conceive of any such right in others. Nor is it possible that such a state of society could exist among our southern population without greatly affecting the morals of the free people. Indeed, the existence of three millions of slaves among six millions of free people must, of necessity, characterize the morality of the entire population. One of the prominent vices of slaveholding communities is the rapid amalgamation of races. The evidence of this vice meets the eye of the traveler at every step in his progress through our southern States.

The legitimate heir of a plantation, on coming into possession of his estate, often sells the children of his father—his brothers and sisters of the half blood—denying that they "have any rights which white men are bound to respect." This infidelity denies the right of six hundred thousand females of our land to protect their own virtue and consigns them to practical prostitution. This state of society is but the outworking of that infidelity which denies the existence of man's inalienable right to liberty and to moral elevation.

It would be in vain for us to say to the Christians of Europe, or even the Mohammedans of Turkey, that *religious* men of our country support such a system of pollution. Yet thousands of church members, in the slave States, impiously charge Deity with authorizing these crimes, and sacrilegiously endeavor to pervert the holy Scriptures to the support of this infidelity. Newspapers professedly religious lend a silent, and some an active, support to these crimes; while others, even in our free States, openly oppose and denounce all who resist the extension, or expose the enormities, of slavery.

The number of heart-broken mothers, and the torture which they suffer on being separated from their children, the physical suffering from floggings, thumb screws, and all the various means of torture practiced in slaveholding communities, are matters of which we can speak, but of which we can form no estimate. This degradation and suffering constitute the legitimate sequence of American infidelity. If these God-given prerogatives of our race be abandoned, the mother can have no right to the child of her body; no right to the food which she gathers by her toil; no right to the intellect which God has given her; no right to be virtuous, pure, wise, and good; no right to live. I repeat that the religious men of our nation insist that these rights of human nature shall be held sacred, and their enjoyment secured to every individual; while the supporters of American infidelity deny their existence, and proclaim the duty

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of human governments to disregard them; and each party will, of course, carry their views into all their moral, social, and political conduct. Mr. Jefferson well exclaimed: "*Can the liberties of a nation be thought secure when we have destroyed their only firm basis, a conviction in the minds of the people that they are the gifts of God?—THAT THEY ARE NOT TO BE VIOLATED BUT WITH HIS WRATH?*"

I now pass to the third important issue—the right of all men to enjoy happiness. I need not repeat that the ultimate beatitude of the race constituted the evident design of Deity in creating mankind. Such I understand to be the instinctive conviction of all men. This purpose, this hope, this intuition, is found in every human heart. Men in all ages, in all countries, of all languages, have regarded this as the ultimate object of their toils and labors, the great design of their existence. This beatitude can only be attained by moral culture; by extending the sphere of thought; by understanding the laws of nature, and of nature's God; by attaining a knowledge of His attributes, and conforming to them. To be wise, truthful, pure, and just, is to insure happiness in this life, and in the life to come; and it is a most beautiful feature in the law of our being, that to attain this happiness ourselves, we must respect the right of others to enjoy it; that, as we elevate our own moral natures we necessarily influence others; and as we labor for the welfare and the happiness of others, we most rapidly promote our own. The religious man delights in doing good; he seeks to instruct the ignorant, to elevate the degraded, to relieve the oppressed, to enlighten those who sit in moral darkness, to give to all that elevation of soul which alone can qualify them for happiness. For this purpose schools and academies are established, colleges are founded, tract and Bible and missionary societies are organized, teachers and ministers are employed; indeed, this work of elevating our race constitutes the highest and holiest employment of mankind. For success in this work, prayer is daily made at every family altar; and on the Sabbath our pulpits resound with the solemn, fervent supplication, that God will aid this work; that He will, by the irresistible power of His grace, convert the irreligious, enlighten those whose minds are enshrouded in the darkness of infidelity; that He will relieve the oppressed, comfort the afflicted, and hasten the day when all shall know His will, obey His law, and enjoy His approving smiles.

The infidelity which denies the right of men to attain happiness, that dooms a portion of our race to degradation and torture, to vice and crime and misery, which shuts out hope from the human soul, shocks the conscience and awakens the sensibilities of all religious men.

While Government legislates for the protection of these natural, these God-given rights, they will receive the approval, the support, of all good men, and their laws will be respected and obeyed; but when they legislate for the invasion of these rights, they call up the hostility, the resistance of those whom they seek to oppress. The just and wise and pure of all parties, sects, and denominations, feel the outrage and sympathize with the down-trodden. The great heart of Christendom now beats in sympathy with the enslaved of our land. We feel that sympathy in this Hall; and when we speak for justice and for freedom, we utter the voice of nature; we proclaim the law of Heaven, written in letters of living light upon the tablet of the moral universe. The curse of the Almighty against oppression is equally manifested in the moral and physical condition of every slaveholding community.

The difficulties respecting Kansas, which now shake our Union to its very center, constitute the legitimate outworkings of this infidelity. The right of all men in Kansas to live, to nourish and protect life, attain moral elevation and happiness, had been asserted by congressional law; and under this enactment peace blessed our nation. Infidels, however, said this was wrong; that such

rights did not pertain to man; that one portion of the people there hold the power, and may if they choose rightfully enslave another, rob them of their toil, their intelligence, their hopes, their manhood, and murder them if they refuse to obey their masters. And this law of liberty was repealed, and men were enslaved, brutalized, sold like swine. The public conscience was outraged, and all good men sympathized with the oppressed. Usurpation and brute force were resorted to for the purpose of extending and supporting slavery; civil war, devastation and bloodshed followed, and will continue until justice be done, and the rights of human nature enjoyed in that unfortunate Territory.

This line of demarkation, which separates the natural rights of all men from human legislation, was clearly drawn by the founders of our Republic. They established the point at which the appropriate, the just powers of all human governments commence, whatever may be their form. They defined the boundaries of human authority; they acknowledged God as the author of life, the donor of liberty, the fountain from which human happiness is derived. On the denial of these religious, these self-evident truths, American slavery is founded. The slaveholder denies the right of his slave to cherish and protect his own life, to gain intelligence, to unfold his moral nature, to understand God's attributes, and enjoy that happiness for which he was created. To those primal truths he is infidel. To the rights of his fellow-mortal he is infidel. To God's higher law he is infidel. Against these he wages unceasing war. He seeks to rob Deity of His attributes, and man of his God-given prerogatives. He claims for human legislation that supreme sovereignty over the life, the liberty, and the happiness of mankind, which belongs only to the Creator. He thus places himself in hostility to Christianity, to civilization.

This contest is not confined to the United States. These truths are operating upon the hearts of the Russian people. Their Government is in advance of ours. Measures have already been taken for the emancipation of the serfs of that vast Empire, although their condition is far better than that of American slaves. Holland is also moved by these doctrines, and is giving freedom to her oppressed people in her West India islands. England and France have abolished slavery, regarding it as an institution unsuited to the age in which we live. We assert the rights of man wherever he exists. Ours is the cause of Christian civilization throughout the world. Our doctrines apply with equal force to other Governments, to other nations and people. The most illustrious monarch who sways the scepter of human power is really as much bound to respect the inalienable rights of every individual as is the President of the United States. Kings, potentates, and emperors, become despots whenever they invade the rights of the most humble to life, liberty, property, or happiness; kings, potentates, or emperors, who deny the existence of those rights, are as really infidels as are the slaveholders of our Government.

The mere name of "republicanism" gives us no claim to respect, so long as one sixth part of our population is held in degrading bondage. I assert, without fear of contradiction, that if the liberty enjoyed by one portion of our people, and the slavery suffered by the other, could be brought into common stock, and each individual constrained to take his aliquot proportion of each, ours would be regarded as the most perfect despotism among civilized nations. The only advantage which we possess over other nations consists in that feature of our Government which vests all political power in the people. They may, by use of the ballot-box, so modify and shape the administration of Government as best to secure the inalienable rights of each and of every individual.

It is with emotions of gratitude to God, and profound respect for the memory of those who established our Republic, that we refer to the pe-

riod when, at the very font of our national baptism, our fathers vindicated their claims to national independence, solely upon the religious truths which constitute the central proposition referred to at the commencement of my remarks. They claimed for themselves no special privileges. They spoke, they fought, they bled to establish this universal, this eternal principle of man's inalienable right to live, to nourish his body, protect his life, to elevate his moral nature, and attain happiness. This they proclaimed the basis, the corner stone, not merely of our Republic, but of human Governments generally. The Constitution was framed and adopted upon this then universally admitted principle; but such was the anxious solicitude of our early patriots that, in two years after its adoption, it was amended, by declaring in explicit language: "*That no person shall be deprived of life, liberty, or property, except by due process of law;*" that is, except on trial and conviction before some judicial tribunal. In accordance with these truths one half of the States of our Union proceeded to give liberty to all their people, to protect the inalienable rights of all; but the other States embraced and cherished this infidelity which at length infused itself into our Federal Government, and spread among all classes of our people. Our teachers, our politicians, our statesmen, became unwilling to offend those who had embraced this infidelity. They were received into churches, elected to civil office, and finally obtained control of the Government. All classes of men became affected by this disbelief in God's law and in human rights. It was regarded as disreputable to examine the crimes which this system of oppression upheld; social and political ostracism awaited the man who dared speak disrespectfully of its iniquities.

Eventually individuals appeared who were willing to encounter odium in order to arouse the religious and moral sensibilities of the nation, and in 1856, a national convention met at Philadelphia to devise means for overcoming this moral and political scourge. It embraced as great a degree of talent, as much moral and religious worth, as great political intelligence, as any that ever convened upon the American continent. The members pledged themselves to each other and to the world, to maintain the truths to which I have alluded. These truths now constitute the platform of a large and increasing party.

That day was the dawning of a reformation more deep, more radical, more important in its religious, its moral, its social and political effects upon mankind, than has occurred since the sixteenth century. It is more deep and radical than that commenced by Calvin and his collaborators. It asserts the right of man to religious and moral elevation as superior to the just power of kings or potentates or of human Governments. The great reformers of that age dared put forth no such doctrine. Their lives would have constituted the price of such an avowal. They were constrained to admit the divine right of kings over the liberties of their people, and many of the usurped powers of the church.

The Philadelphia convention will be remembered in coming time as first in the history of the political parties of our nation to make religious truths the basis of its political action, and first to proclaim these rights of mankind as universal, to be enjoyed equally, by princes and people, by rulers and the most humble. It was the first to proclaim the fatherhood of God and the brotherhood of man. The result of the presidential election of 1856 showed the advocates of oppression that there was but one alternative for them to pursue. They were constrained to take distinct issue with the advocates of liberty by denying these religious truths, or disband their party in every free State.

The Supreme Court was selected as the instrument for officially avowing this undisguised infidelity. That tribunal was favorably constituted for such a purpose; a majority of its members were slaveholders. Other members had been appointed to office apparently on account of their

uniform servility to the slave power; and every circumstance combined to render it the appropriate instrument for performing this work. The time, too, was a matter of importance. No sooner had the Thirty-Fourth Congress adjourned, than a majority of that tribunal, in violation of its own declared rules, digressed from the question before them, to utter its denial of those doctrines of the republican fathers.

But this decision, opposed as it is to the self-evident truths of our Declaration of Independence, to the letter and spirit of the Constitution, to the intelligence and conscience of the American people, is emphatically repudiated by them. The vanity and arrogance exhibited by a majority of the court in charging Hancock and Adams and Jefferson and Franklin, and their illustrious co-peers, with proclaiming doctrines which they did not intend to express, and of failing to utter principles which they intended to avow, has called forth from the popular mind indignant pity for the court, rather than doubts as to the intelligence and Christianity of those savans who founded our institutions.

I shall not argue the absurdity of this decision. Its falsehood is as self-evident as the truths which it denies. Arriving at the conclusion that the distinguished sages who signed our Declaration of Independence meant precisely the opposite of that which they solemnly proclaimed, the court proceeded to declare—in contradiction to the letter and spirit of the Constitution, to the history of the age, to the conscience and judgment of all Christian people—that black men were regarded as having no rights which white men were bound to respect; and on this basis founded their conclusion that Congress holds no constitutional authority to protect the lives, liberties, and property of the people in our Territories where it holds exclusive jurisdiction. This atrocious decision attempts to outlaw one fourth part of the human race; to place them without the pale of legal protection; it affects to authorize any and every crime to be perpetrated against them. Under this decision they may be robbed and murdered; their females violated and murdered with impunity; in short, this decision would extend American infidelity, with all its attendant crimes, wherever Federal jurisdiction exists. Thus has the issue been made between the religious portion of the community and those who maintain this heathenism. This issue involved the entire American people. All denominations of men are now constrained to cast their influence on one side or the other. To sit silent, would merely aid the cause of infidelity and despotism. He who refuses to act, by such refusal, casts half his influence in favor of the crimes which I have enumerated. The functions of our Government for the time being, are prostituted to sustain and extend this infidelity. The Prophet of Mecca, nor his followers, ever sanctioned doctrines so barbarous as those which now rule the Administration of our Government. The Turk will be constrained to unite with the Christian in the maintenance of those rights which are sanctioned by the religion of Mohammed, as well as of Christ. Civilized and semi-civilized nations must feel a common interest in the overthrow of this infidelity, which aims a fatal blow at human rights, wherever the image of God is found.

I greatly rejoice that Christians in Europe are sensible of the existence of this war upon human nature. American Christians, patriots, and philanthropists feel the warmest gratitude toward the religious men of Scotland, of England, of France, and Germany for the kind sympathy which they express in this cause, for the very catholic remonstrances which they have addressed to our American Christians against this infidelity. Every lover of truth, every religious heart in our land, must have glowed with gratitude to God and love to man, as he read the eloquent and truthful address of the Christians of Geneva, once the home of Europe's great Reformer, to the Christians of the United States on this subject. And whose heart was not moved when noticing the action of the Protestants of France in relation to it? Nor is this Christian feeling confined to Protestants. The African Institute of Paris, formed for the purpose of maintaining the rights of the African race, embraces among its members distinguished laymen, ministers, bishops, and archbishops, belonging to the Papal Church. My own humble efforts

in behalf of our common brotherhood, caused my name to become known to its directors, who placed it on the roll of its honorary members. I take this occasion to thank them for this honor. A Protestant by education, by feeling, I greet those Catholic Christians most cordially as good and worthy laborers in this holy work. Heartily do I thank them for all that they have done, and are yet doing, for the down-trodden of our race.

Could I hope that my remarks would meet the eye of British ministers, I would in an especial manner invoke their official influence against this infidelity. I would beseech them no more to sanction, by their action, that blasphemy which seeks to transform the image of God into property; which degrades man, with his undying aspirations, his eternal destiny, to the level of the brute.

I acknowledge that our Government was dishonored in the eyes of all Christians, when its Executive became the agent and solicitor of those pirates who claimed to own the fathers, the mothers, and children on board, certain slave ships wrecked on British islands, where, thanks to Christian civilization, no slavery exists. The President, espousing the cause of men who deserved the halter and the gallows, demanded compensation from the British Government for their loss of human flesh. Our representative at the court of St. James appears to have misled and deceived the British ministry. In one of his official communications he declared that, "our Government had determined more than once, in the most solemn manner, that slaves killed in the public service of the United States, even in a state of war, were to be regarded as property, and not as persons, and the Government held responsible for their value."

When referring to this assertion of our minister fifteen years since, I pronounced it unfounded and untrue. I said this in the presence of the delegation from Virginia, the State of which our minister, Mr. Stevenson, was a citizen, and I called on them, as his friends, to sustain his assertion by showing some one instance in which this Government had paid for slaves killed in the public service. I declared the whole history of Congress showed that we had in every instance refused such payment, and I defied them to show an exception to such practice. No man met the challenge. I now repeat the assertion. I pronounce the statement of Mr. Stevenson untrue, a libel upon our Government, and a slander upon the American people. I not only declare his assertion untrue, but I declare the opposite to be true. The British ministry, by complying with this demand, tacitly admitted that phase of American infidelity which seeks to degrade the human soul to the level of swine. More recently they paid the slave-dealers the estimated value of the fathers, mothers, and children, on board the Creole, who obtained their own liberty by gallantly taking possession of the vessel and landing on British soil.

The money—the dollars and cents—are of no importance; but concessions to this infidelity, at the present time, are important. It was an object with the slave power to obtain from the British ministry the admission that men are property. I would entreat the British Government, and all other Governments, to maintain the dignity of our common nature. In the language of one of the most eloquent of England's orators, I would say, "He who gave us the forms demands that we shall maintain the rights of men." The Christians of the United States and of other nations would rejoice to learn that the British ministry now, as in 1820, refuse even to correspond with our Executive on the subject of property in human flesh.

I would also warn the Spanish Crown and other continental Powers, that our present Executive is seeking, by all the various means and arts of diplomacy, to detach Cuba from its allegiance, to annex it to the United States in order to increase the influence of the slave power, and add strength to this American infidelity.

I hope and trust that this conspiracy may be defeated; that all Christian Governments may exert their power against the further extension of this scourge of our race. I would most earnestly invoke the Christians, philanthropists, and patriots of this and of every nation and kindred and language, to exert their moral influence, their legitimate powers, for the overthrow, the final

eradication of this infidelity from the earth, for upholding the natural, Heaven-endowed rights of man, for the progress, the moral elevation of our race, until all shall understand the will and obey the laws of our common Father, and attain that happiness which constitutes the ultimate object of human existence.

Mr. BOCKOCK obtained the floor; but yielded to Mr. J. GLANCY JONES. Mr. Chairman, debate is not limited, and the gentleman from Virginia, who has the floor, is willing that I shall press the pending bill to its passage to-night provided it is the understanding he shall have the floor on the next bill taken up in committee.

Mr. SMITH, of Virginia. I desire to submit some remarks on the present bill.

Mr. BOCKOCK. Mr. Chairman, I desire to address the committee on matters which have been debated before it by gentlemen on both sides of the House. At this late hour, and under the circumstances, I do not care to go on now. The gentleman from Pennsylvania tells us that he is desirous of having action on the pending bill this evening, and I am perfectly willing to yield for that purpose, with the understanding that I shall be entitled to my hour on the next bill which will come up for consideration in the committee.

Mr. J. GLANCY JONES. The appeal I have to make is similar to the one I made a short time ago. It is very important that this bill should pass immediately. It appropriates \$393,000 in fulfillment of the treaty between the United States and Denmark, the ratifications of which have been exchanged. The bill is not susceptible of amendment unless the House designs refusing to pay money agreed to be paid by the treaty-making power of this Government. I move that the committee rise, and report the bill to the House with the recommendation that it pass.

Mr. SMITH, of Virginia. I wish to submit a few remarks on the question. I will not occupy five minutes. I do not care to go on now and I am willing that the committee should rise with a view to an adjournment.

Mr. J. GLANCY JONES. Will the gentleman from Virginia be content to take five minutes in the House?

Mr. SMITH, of Virginia. No, sir; I will take it in committee. ["Go on! go on!"] My purpose is not to delay action upon this bill.

Mr. NICHOLS. I rise to a question of order. There is no amendment pending, and debate is not in order.

The CHAIRMAN. Remarks are not in order unless to an amendment.

Mr. SMITH, of Virginia. Then, if it is necessary to have an amendment pending, I move to strike out \$350,000 of the appropriation in the bill.

The honorable chairman of the Committee of Ways and Means, in the few remarks he made upon this subject when the question was whether we should take up the bill, laid down a doctrine which I cannot approve, and in reference to which I wish to say a word. He assumed that as this bill was the result of the treaty-making power, it was the duty of this House, as a matter of course, and without consideration, to appropriate the money called for by the bill. Sir, it is against that doctrine that I enter my protest.

Mr. J. GLANCY JONES. I must insist that my friend from Virginia confine his remarks to the amendment, unless he will allow me to say that he misunderstood me if he understood me to deny the power of this House to the extent that he represents. I will remind the gentleman that in a speech I delivered some three or four years ago, upon the bill to carry out the Mexican treaty, I took the same ground that I have taken to-day. I urged that as it was a bill to carry out a treaty stipulation, unless there was objection to the bill, the House should act speedily upon it. I did not mean to say that if the gentleman from Virginia had serious objection to the bill he had not the right to delay it.

Mr. SMITH, of Virginia. The gentleman says that he uttered the same sentiments three or four years ago. Three or four years ago! Is that to be regarded as settling the state of the gentleman's opinion now? Look around this House. Are the sentiments of gentlemen to-day the same that they were three or four years ago? I mean no disrespect, of course.

Mr. J. GLANCY JONES. I am an exception to that rule.

Mr. SMITH, of Virginia. I have no doubt the gentleman's whole course is consistent. I hold, however—and we have very melancholy evidence of it here—that the sentiments of to-day do not, by any means, harmonize with the sentiments of yesterday. But, without dwelling upon that branch of the subject, I will simply say that I recognize it as a clear constitutional right upon the part of this House, or any other branch of the Government, to exercise an independent consideration of every question requiring their official action. If the Senate, if the treaty-making power, if the judiciary, can get along without the aid of the other coordinate branches of the Government, very well. They are supreme within their respective spheres; but whenever this House is called upon to cooperate, and without whose cooperation a measure is inoperative and practically void, we have the right, under the Constitution, to exercise as independent a judgment as any other branch of the Government which calls for our action. Such was the doctrine I was taught by Mr. Jefferson, and such I understand to be the doctrine now.

There is another remark, Mr. Chairman, which I desire to make. This treaty is the first of a class which is wholly new in the action of this Government. We have, by this treaty, purchased the right of Denmark to the navigation of her waters—a right which inures to the advantage of one branch of industry of our people, and the whole people are called upon to pay for it.

Independent of that—independent of the question of justice and equality, it may be the inauguration of a new policy which, once established, will know no limit and no bounds, except that found in the limits of the globe itself. If we have the right to bargain with Denmark for a privilege which she claims as her own in the use of those waters, what prevents our making similar treaties with all the Powers on earth? Ought such a doctrine as that to find favor with the American Congress and the American people?

I make these remarks that it may not be considered hereafter that this policy is inaugurated now without any objection being made to it upon the part of any member of Congress.

I withdraw my amendment.

Mr. J. GLANCY JONES. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. HOPKINS reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly a bill making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1859; and a bill to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark of the 11th April, 1857, for the discontinuance of the Sound dues; and had directed him to report the same to the House, with a recommendation that they do pass.

INDIAN APPROPRIATION BILL.

The question being on ordering the Indian appropriation bill to be engrossed and read a third time,

Mr. J. GLANCY JONES demanded the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and under the operation thereof, the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

CAPITALIZATION OF SOUND DUES.

The question now being upon ordering the bill

to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th April, 1857, for the discontinuance of the Sound dues, to be engrossed and read the third time,

Mr. J. GLANCY JONES moved the previous question.

The previous question was seconded, and the main question ordered.

The bill was ordered to be engrossed, and read a third time; and being engrossed, it was accordingly read the third time.

Mr. J. GLANCY JONES demanded the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the bill was passed.

Mr. J. GLANCY JONES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

UTAH AFFAIRS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I herewith transmit to the House of Representatives the reports of the Secretaries of State, of War, of the Interior, and of the Attorney General, containing the information called for by the resolution of the House of the 27th ultimo, requesting the President, if not incompatible with the public interest, to communicate to the House of Representatives the information which gave rise to the military expeditions ordered to Utah Territory, the instructions to the Army officers in connection with the same, and all correspondence which has taken place with said Army officers, with Brigham Young and his followers, or with others, throwing light upon the question as to how far said Brigham Young and his followers are in a state of rebellion or resistance to the Government of the United States.

JAMES BUCHANAN.

WASHINGTON CITY, February 23, 1858.

The message was referred to the Committee on Territories, and, with the accompanying papers, ordered to be printed.

Mr. SMITH, of Virginia, moved that one thousand extra copies of the message and accompanying documents be printed.

The motion was referred, under the rule, to the Committee on Printing.

ADJOURNMENT OVER.

Mr. FLORENCE moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. JONES, of Tennessee, demanded the yeas and nays.

Mr. CURRY called for tellers on the yeas and nays.

Mr. JONES, of Tennessee, withdrew the demand for the yeas and nays, and called for tellers.

Tellers were ordered; and Messrs. DEAN and AVERY were appointed.

The House divided; and the tellers reported—ayes 77, noes 46.

Mr. WHITELEY demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 60; as follows:

YEAS—Messrs. Ahl, Andrews, Barksdale, Bingham, Bishop, Blair, Bliss, Bowie, Bryan, Burlingame, Burnett, Burroughs, Case, Caskie, Ezra Clark, John B. Clark, Clay, Clark B. Cochrane, John Cochrane, Colfax, Comins, Cragin, Burton Craige, Curtis, Davis of Maryland, Davis of Indiana, Davis of Iowa, Dinmick, Dodd, Durée, Edmundson, Farnsworth, Fenton, Florence, Gooch, Gregg, Groesbeck, Grow, Hawkins, Hill, Hoard, Hopkins, Horton, Hughes, Kellogg, Jacob M. Kunkel, Lamar, Landy, Lawrence, Mason, Miles, Edward Joy Morris, Niblack, Nichols, Peyton, Potter, Purviance, Quitman, Reagan, Ricard, Ruffin, Russell, Seales, Singleton, Spinner, Stanton, Stevenson, Miles Taylor, Thompson, Underwood, Waldron, Ward, Cadwalader C. Washburn, Israel Washburn, Watkins, White, and Winslow—78.

NAYS—Messrs. Abbott, Avery, Bockock, Brayton, Bufington, Burns, Chaffee, Cobb, Cockerill, Covode, Curry, Davis of Mississippi, Dawes, Dean, Dowdell, Foley, Foster, Gartrell, Gilmer, Greenwood, Harlan, Houston, Howard, Buyler, Jackson, George W. Jones, J. Glancy Jones, Owen Jones, Kelsey, Kilgore, Knapp, Leach, Leiter, Lovejoy, Maynard, Miller, Millson, Montgomery, Morgan, Mott, Olin, Parker, Pendleton, Pettit, Phelps, Pike, Ready, Reilly, Robbins, Royce, Sandidge, Henry M. Shaw, James A. Stewart, George Taylor, Thayer, Tompkins, Walton, Warren, Whiteley, and Wortendyke—60.

So the motion to adjourn over was agreed to.

And then, on motion of Mr. UNDERWOOD, (at twenty minutes to five o'clock, p. m.) the House adjourned till Monday.

IN SENATE.

MONDAY, March 1, 1858.

The Journal of Thursday last was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, their Clerk, announced that the House had passed the following bills; in which he was directed to ask the concurrence of the Senate:

A bill (H. R. No. 5) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending 30th June, 1859; and

A bill (H. R. No. 271) to enable the President of the United States to fulfill the treaty stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the Sound dues.

On motion of Mr. HUNTER, the bills were severally read twice by their titles, and referred to the Committee on Finance.

CREDENTIALS.

Mr. CLAY presented the credentials of Hon. JAMES PINCKNEY HENDERSON, chosen by the Legislature of Texas a Senator to fill the vacancy occasioned by the death of Hon. Thomas J. Rusk, for the term ending the 31 day of March, 1863; which were read; and, the oath prescribed by law having been administered to Mr. HENDERSON, he took his seat in the Senate.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a resolution of the Legislature of the Territory of Washington, relative to the proclamation of martial law over the counties of Pierce and Thurston, by Isaac I. Stevens, late Governor of that Territory; which was ordered to lie on the table, and be printed.

Mr. JONES presented the memorial of the Legislature of Iowa, in favor of restricting the sale of the public lands to actual settlers; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented the memorial of the Legislature of Iowa, praying for a donation of land to the Territory of Nebraska to aid in the construction of a railroad from the Missouri river, via the South Pass, to some point in Washington Territory; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. GWIN presented resolutions of the Legislature of California in favor of the establishment of a mail route from San Bernardino to Fort Yuma, from Marysville to Forest City, from Auburn to Nevada City, from Sacramento City to Cacheville, from Sacramento City to Stockton, from Union to Orleans Bar, and from Union to San Francisco, in that State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. MALLORY presented additional papers in relation to the claim of Fanny Tyler to a pension; which were referred to the Committee on Pensions.

He also presented the memorial of James H. Frost and Eliza A. Johnson, legal representatives of John A. Frost, deceased, late a boatswain in the South Sea exploring expedition, praying to be allowed the extra pay granted to the forward officers of that expedition; which was referred to the Committee on Naval Affairs.

Mr. WILSON presented a petition of citizens of Barnstable county, Massachusetts, praying to be allowed bounty land for military services during the war of 1812; which was referred to the Committee on Claims.

Mr. BENJAMIN presented the petition of the heirs and representatives of Christoval and Miguel De Armas, praying for the confirmation of certain land titles; which was referred to the Committee on Private Land Claims.

He also presented a memorial of John C. F. Salomon and George W. Morris, inventors and patentees of certain improvements in the construction and fitting up of sailing vessels and steamers, by which the perils of oceanic navigation will be greatly lessened, praying that an appropriation may be made for a practical test of their inven-

tion; which was referred to the Committee on Commerce.

Mr. SEWARD presented three petitions of citizens of New York, praying that pensions may be granted to the soldiers of the war of 1812, and the widows of those who have died; which were referred to the Committee on Pensions.

Mr. PUGH presented two petitions of citizens of Sandusky county, Ohio, praying that a pension may be granted to each of the surviving officers and soldiers who have been in the regular or volunteer service of the United States prior to January, 1848; which were referred to the Committee on Pensions.

He also presented a petition of citizens of West Elkton, Ohio, praying that the land system may be so changed as to secure the public domain to actual settlers; which was referred to the Committee on Public Lands.

Mr. BIGLER presented the memorial of the board of marine underwriters of the city of Philadelphia, praying that the act of August 31, 1852, under which the light-house board was established, may not be altered; which was referred to the Committee on Commerce.

Mr. STUART presented the memorial of the Michigan State Agricultural Society, praying that a grant of land may be made for the endowment of the agricultural college of that State, and similar institutions in each State in the Union; which was referred to the Committee on Public Lands.

Mr. POLK presented the petition of Radford, Cabot & Co., praying indemnity for losses sustained in consequence of orders of the commander of the United States troops in Utah; which was referred to the Committee on Claims.

Mr. BRODERICK presented a resolution of the Legislature of California in favor of the establishment of a territorial government in Carson Valley; which was ordered to lie on the table, and be printed.

He also presented a resolution of the Legislature of California in favor of the enactment of a law granting land to actual settlers in that State; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin in favor of the erection of a light-house at the mouth of Keweenaw river; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a petition of citizens of Wisconsin, praying for the erection of a light-house at Keweenaw, in that State; which was referred to the Committee on Commerce.

Mr. CLAY presented a memorial and remonstrance of the marine insurance companies of the city of New York against the repeal of the act of Congress of August 31, 1852, establishing the light-house board; which was referred to the Committee on Commerce.

Mr. JOHNSON, of Tennessee, presented the petition of citizens of West Manchester, Pennsylvania, praying that the public lands may no longer be held for purposes of public revenue, and that hereafter they may be reserved for actual settlers only; which was ordered to lie on the table.

He also presented four petitions from citizens of Wisconsin, praying that the public lands may no longer be held for purposes of public revenue, and that hereafter they may be reserved for actual settlers only; which were ordered to lie on the table.

He also presented a resolution of the Legislature of Tennessee, in favor of such an amendment of the postage laws as will allow persons sending public documents or newspapers to indorse upon them their names; which was referred to the Committee on the Post Office and Post Roads.

Mr. HARLAN presented a resolution of the Legislature of Iowa, in favor of the erection of a post office, United States court-house and custom-house at Burlington, in that State; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a resolution of the Legislature of Iowa, in favor of a grant of lands to aid in the construction of a railroad from the northern boundary of Iowa, at or near its intersection by the St. Paul and Minneapolis railroad, to Sioux City, on the Missouri river; which was referred to the Committee on Public Lands, and ordered to be printed.

STEAMERS TO BRAZIL.

Mr. BIGLER. I present a memorial of the Board of Trade of the city of Philadelphia, setting forth at considerable length what I think is a very powerful argument as to the importance of establishing mail facilities between the United States and the Empire of Brazil and the South American Republics. They regard such facilities as an important agency in advancing our commerce and improving our political and other relations with those people. They refer to an application which has been made to the Government by Dr. Thomas Rainey, for an allowance from the Treasury for the transportation of the mails in steamships between the cities of Philadelphia and Savannah in the United States, and Para in Brazil, touching at St. Thomas, Barbadoes, and Demarara; and they say that the proposed line of steamers is a recognized necessity, not only to the city of Philadelphia and the Commonwealth of Pennsylvania, but to the nation at large, and to the industrial interests of the whole American people; they therefore urgently recommend to the Postmaster General, and to the two Houses of Congress, that the application for a contract and mail pay be granted, and that the line may be speedily established, according to the terms of the petition.

They go on to show that the commerce of the United States with the countries which such a line of communication would accommodate, now constitutes one seventh of the whole foreign trade of the country, reaching the sum of \$100,000,000 annually, and that it is not accommodated or aided by a single line of steamers, or a single mail, except that to the city of Havana, Cuba; and that the trade with those countries would, if fostered, rapidly increase and ultimately become richly remunerative to American enterprise. They argue that our country occupies a geographical position, which, but for the absence of facilities of correspondence and communication, would enable our merchants, producers, and manufacturers, to obtain the control of the markets of the West Indies, Brazil, La Plata, the Spanish main, and of northern and eastern South America; and that, while the trade of our country is not rapidly increased with those regions except in our imports, that of Philadelphia, once large and remunerative, has positively greatly declined; and, as the board believe, in consequence of the total absence of business facilities. They regret that letters and passengers from our cities to Brazil, La Plata, and the Amazon, are compelled to go by way of England, Portugal, and the coast of Africa, from two to three times the distance required by the American line proposed, to reach the countries named, and by these means European merchants and manufacturers have an undue advantage of the enterprising classes in this country. The Board feel deeply impressed with the fact that the great city of Philadelphia has no line of ocean steamers; and that, while such lines are evidently essential to the producing, commercial, and manufacturing prospects of the whole country, it would be just to Philadelphia that she should enjoy at least a portion of the steam facilities essential to commercial cities, such as the one which is now proposed to be established. They believe that the plan which Dr. Rainey has proposed, to give equal mail facilities to the Atlantic and Gulf sea-board cities, making Savannah, in Georgia, an indispensable touching point, well calculated to promote the prosperity of the whole country; and they therefore earnestly recommend its adoption. I regard this subject as one of very great importance, and I commend it to the attention of the Committee on the Post Office and Post Roads, to which I move that it be referred.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. GWIN, it was

Ordered, That the memorial of Cranston Lammie, on the files of the Senate, be referred to the Committee on the Post Office and Post Roads.

CHART OF WAGON ROAD.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and he hereby is, requested to communicate, for the use of the Senate, any information within his reach concerning the late expedition of Lieutenant E. N. Beale, to open a wagon road from

a point near Fort Defiance, in New Mexico, to the western borders of California; and that he be requested to furnish a map or chart of such road.

PAY OF DEPUTY POSTMASTERS.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be requested to inform the Senate the amount which has been allowed and paid to postmasters of distributing and separating offices, out of the postages collected at such offices, under the two provisions of the act entitled "An act to regulate the pay of deputy postmasters," approved June 22, 1854, authorizing the Postmaster General, in his discretion, to make extra allowances to such officers.

REPORTS OF COMMITTEES.

Mr. CLAY, from the Committee on Commerce, to whom was referred the bill (H. R. No. 14) to authorize the Secretary of the Treasury to issue a register or enrollment to the vessel called the James McIndoe, now owned by Thomas Coatsworth, of Buffalo, New York, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of commissioners of emigration of the State of New York, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. FOSTER, from the Committee on Pensions, to whom was referred the petition of Joseph Dowd, submitted an adverse report; which was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to whom was referred the memorial of Otway H. Berryman, submitted a report, accompanied by a bill (S. No. 171) for the relief of Otway H. Berryman. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of William B. Mosely, submitted a report, accompanied by a bill (S. No. 172) for the relief of William B. Mosely. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of Mary Petery, submitted a report, accompanied by a bill (S. No. 173) for the relief of Mary Petery. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. PEARCE. Some days ago, a number of reports and bills from the Court of Claims were submitted to the Senate, and referred to the Committee on Claims. Among them was a report on one claim which is strictly a revolutionary claim. With the consent of the chairman of the Committee on Claims, I move that that committee be discharged from the further consideration of the case of Joseph Bigelow, administrator of Francis Cazeau, and that it be referred to the Committee on Revolutionary Claims.

The motion was agreed to.

INCREASE OF THE ARMY.

Mr. BRIGHT. My name does not appear among the votes taken on Thursday on the Army bill. I desire to state the reason. It is due to myself that I should do so. The Senator from Ohio [Mr. WADE] being indisposed, I agreed to pair off with him, he being against the bill and I for it.

Mr. HARLAN. In justice to my colleague, [Mr. JONES,] I desire to state that I had promised him last Thursday, when the Army bill was pending, to state, if the vote should be taken, that he had paired off with the honorable Senator from Vermont, [Mr. COLLAMER,] which I at the time neglected to do.

ROME ARSENAL.

Mr. KING. The Committee on Military Affairs and Militia, to whom was referred a memorial from commissioners appointed by the Legislature of the State of New York, in relation to their arsenals and armories, have instructed me to report a bill to grant Rome Arsenal to the State of New York on certain conditions. I should like to have it put on its passage now.

The bill (S. No. 170) was read a first time, and ordered to a second reading.

Mr. KING. There is a letter from the Secretary of War recommending it.

Mr. BIGGS. I should like to hear the bill read in full, for information.

The bill was read a second time, and considered as in Committee of the Whole. It grants Rome arsenal and the grounds adjoining it, at Rome, in Oneida county, New York, to the State of New York, to be used as an arsenal, with the condition that they shall revert to the United States whenever they shall cease to be so used by that State.

Mr. KING. There is a letter from the Secretary of War, making a recommendation that this grant be made, which I will ask to have read. It is a very brief letter.

The Secretary read it, as follows:

WAR DEPARTMENT,

WASHINGTON, February 17, 1858.

SIR: In reply to your note of the 28th ultimo, relative to the propriety of turning over the Rome arsenal to the authorities of the State of New York, I have the honor to submit the following views:

The Rome arsenal is no longer needed by the United States for military purposes, and has been, therefore, abandoned; but it is well situated for an arsenal for the State of New York, and for which use she now desires it. I think the general interests of the country would be subserved by turning all the property over to the State authorities, to be held as an arsenal, but to revert to the United States when no longer used by them for that purpose.

Very respectfully, your obedient servant,

JOHN B. FLOYD,

Secretary of War.

Hon. JEFFERSON DAVIS, Chairman of the Committee on Military Affairs and Militia, Senate.

Mr. KING. The bill, it will be perceived, is in entire accordance with the recommendation of the Secretary of War.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ABSENCE OF KANSAS OFFICIALS.

Mr. WILSON. I submitted, some days ago, a resolution of inquiry concerning the absence of Government officials from the Territory of Kansas. The Senate ordered the inquiry, but a motion was subsequently made for reconsideration. I should like to have that resolution taken up and disposed of at this time, in one way or the other. I move to take up that question.

The motion was agreed to; and the question was stated to be on reconsidering the vote agreeing to the resolution.

Mr. BIGGS. I cannot exactly see the object to be attained, or any practical benefit that is to result to the country, by calling on the President for this information. It occurs to me, with due deference to the Senator from Massachusetts, that we are instituting an inquiry of the Executive about which there is some doubt of our constitutional power. This resolution calls on the Executive to ascertain what civil officers are absent from their posts in Kansas, and the reasons for their absence. Now, what practical good is to result from an inquiry of this kind? I inquire whether, in the present state of the question, a motion to lay on the table will be in order?

The VICE PRESIDENT. The Chair thinks it will.

Mr. BIGGS. I move to lay the subject on the table.

Mr. MASON. Will the Chair direct the resolution to be read?

The Secretary read it, as follows:

Resolved, That the President of the United States be requested to inform the Senate whether any officers in the civil service of the United States in the Territory of Kansas are absent from their posts in said Territory, and if so, the reasons therefor.

Mr. WILSON. Do I understand that the Senator from North Carolina moves to lay the whole subject on the table?

Mr. BIGGS. Yes, sir. If the Senator from Massachusetts desires to be heard, I will withdraw that motion.

Mr. WILSON. I cannot see any reason why the Senator from North Carolina, or any other Senator, should object to a call for this information. It is rumored that nearly all the Government officials in the Territory of Kansas are now absent, and have been absent for weeks from their posts of duty, to the neglect of the public business and to the injury of the people of that Territory. The surveyor general has been absent for weeks, if not for months. I learn that there are sixteen persons employed in his office; and, with one solitary exception, they are all absent from their posts of duty; and I understand that the interests of the people of that Territory are suffering by this neglect. I learn that the district attorney, one

of the judges of the court, the mail agent between St. Louis and Leavenworth, the postmaster of Leavenworth—in fact, that nearly every officer in the Territory of Kansas has been absent for weeks, to the neglect of his official duties. I see no reason for this, and I wish to know what is the cause of their absence. I think the Senate and the country have a right to know this.

Mr. BIGGS. It seems to me the Senator from Massachusetts has given no reason why, for any practical use, this resolution should pass. I cannot see any benefit to be derived from it, so far as the public are concerned. It seems to me to be calculated, if not intended, to bring into the Senate of the United States the reasons that control certain officers, or the President, in the execution of his official duties. I do not propose to argue the question, but as the Senator from Massachusetts has now been heard, I renew my motion to lay on the table.

Mr. WILSON. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. STUART. I rise to a question of order. I intended to make a point of order when the motion was made to lay on the table the motion to reconsider the passage of the Army bill. That is the first time, within my knowledge, when such a course has ever been attempted in the Senate, and I submit that it is entirely out of order. You cannot lay a motion on the table. It is not a thing that can be laid on the table, according to parliamentary law. To show the fallacy of it, let me ask what is its effect? This is a privileged question, and a motion to reconsider may be called up at any time when a member can get the floor. Suppose the Senate lay this motion on the table; any Senator can rise the next instant and move to take it from the table. It is a privileged question and will have precedence over everything else before the Senate. You may lay a resolution, a bill, a memorial, or any other such subject, on the table; but the effect of laying it on the table is simply to pass it by for the instant. The next instant, or at any time when there is nothing before the Senate, you may move to take it from the table, and proceed to its discussion. Can you lay a motion to adjourn on the table? I take it, no gentleman will say you can; nor can you lay on the table any other motion. If there is a subject that can be laid on the table, that is another thing. It is in order to move to lay this resolution on the table; and at any time when a Senator pleases, he can move to take it up on the motion to reconsider, that being a privileged question; but to lay the motion itself on the table is not within parliamentary law.

This is a proceeding which has grown up in the other House according to a usage and custom of their own, by which they defeat a measure. If it be moved to lay a subject on the table in the House of Representatives and the motion carries, it is fatal to the question. To move to reconsider a vote and lay that motion on the table is what is denominated clinching it; it can never afterwards be moved.

Mr. SEWARD. Why not?

Mr. STUART. Because the rules of the House of Representatives and the practice of that body prevent it.

Mr. SEWARD. Is it not because it requires two thirds?

Mr. STUART. No sir; it can never be moved; it is fatal to the bill. But, sir, in this body, where there is no rule on the subject except that which makes a reconsideration a privileged question, there certainly can be no such proceeding as moving to lay it on the table. I make the suggestion because the Senate will, I apprehend, find themselves involved in a great deal of difficulty if such sort of proceeding can gain a place here.

The VICE PRESIDENT. The Senator from Michigan raises a question of order, that the motion of the Senator from North Carolina is not in order. This resolution was agreed to, and a motion was made to reconsider the vote by which it was agreed to. That brings up the resolution; the two adhere together in such a manner that they cannot be separated, and are before the Senate. The Senator from North Carolina moves to lay the motion to reconsider on the table; that is to say, the Senate may not desire to dispose of the question to-day, and they have a right to lay it on the table with power to take it up. The two

adhere together, and if the motion carries, the subject lies on the table, and is under the control of the Senate. The Chair does not doubt that that is the correct practice.

Mr. DOUGLAS. Does the Chair decide it to be in order to move to take it up again?

The VICE PRESIDENT. The Chair decides that it will be in order for any Senator to move to take up the subject again when there is no other special business before the Senate, as in any other case. That is in order, in reference to any business, at any time when there is no question before the Senate.

The vote being taken on Mr. Biggs's motion by yeas and nays, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bright, Broderick, Brown, Clay, Evans, Fitch, Green, Hammond, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Polk, Pugh, Sebastian, Slidell, Thomson of New Jersey, Toombs, and Wright—26.

NAYS—Messrs. Cameron, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Foot, Foster, Hamlin, Harlan, King, Seward, Simmons, Stuart, Trumbull, Wade, and Wilson—20.

So the motion to lay on the table was agreed to.

KANSAS—LECOMPTON CONSTITUTION.

The VICE PRESIDENT. The first business before the Senate is the motion to refer so much of the President's annual message as relates to the affairs of the Territory of Kansas to the Committee on Territories.

Mr. GREEN. I move to postpone all prior orders, and that the Senate now proceed to the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. GWIN. The special order which has just been announced by the Chair, I believe, has passed away long ago. The first special order is the bill reported by the select committee on the Pacific railroad; and inasmuch as that is the regular order of business before the Senate, I shall vote against any motion to postpone it.

Mr. DOUGLAS. I desire to say that I am rejoiced to find that the time has come when I can act with my friend from California in favor of his Pacific railroad bill. Some time ago I endeavored to get up the bill for the admission of Minnesota, and have that acted upon in advance of the railroad bill. I did that for reasons which I stated to the Senate at the time, and which are well understood. As between this question now and the Pacific railroad, I consider the Pacific railroad far the paramount question, and I firmly believe, unless that bill is first acted upon, it will be swamped during the whole session, and therefore the friends of the Pacific railroad bill ought to insist on its being taken up.

Mr. GREEN. I do not believe that questions concerning the order of business are debatable; but I beg leave merely to remark that the great question in which the whole country is deeply interested, affecting the peace and harmony of the entire Union, is the question of Kansas, and not one of mere policy with reference to railroads. I hope, therefore, that, according to the common understanding when the Kansas bill was made the special order for to-day, we shall proceed with it, and by so doing it will prove the means of expediting all other business.

Mr. GWIN. I ask for the yeas and nays on the motion of the Senator from Missouri.

The yeas and nays were ordered.

Mr. BENJAMIN. I will merely recall, on this subject, to the attention of the Senate the facts that occurred last Wednesday. I am perfectly willing to take up the Pacific railroad bill when the time shall come; but we had the Kansas bill before us last Wednesday, and were about to proceed with it, and the Senator from Missouri was to take the floor. There was a discussion between him and the Senator from Vermont as to who should open, and who should close, the debate; and finally, by common consent, (I did not hear a dissentient word in the Senate,) we were to go on to-day with the Kansas bill, the Senator from Missouri opening the debate; and I cannot conceive how we can, without violating the tacit pledge given by the Senate then, now reverse that order of business.

Mr. STUART. I had some informal participation in the circumstances referred to by the Senator from Louisiana. It was in my understanding at that time, that this bill, being made the

special order for to-day, at one o'clock, the Senate would proceed to its consideration. In consequence of what I said, as I remarked, informally on that subject, I shall feel myself in honor bound to vote now to proceed to the consideration of that question. I think I may be pardoned for making another suggestion: that no matter what the other subjects are, just so long as the Kansas question stands here, just so long, in my judgment, you will do nothing else; and, therefore, it is good economy to dispose of it.

Mr. GWIN. I was not here when the arrangement was made to which Senators have referred. If I had been, I should have objected to it, as I do now, because I am in favor of proceeding with the regular order of business as it is on the Calendar.

Mr. DOUGLAS. I must say that I did not consider there was any common consent, or ever could be a common consent given by the Senate, by all the members of it, that the Kansas bill would be taken up at any particular day, or have priority over any other business. I certainly understood no such thing. The Senator from Missouri moved to make it a special order for this day, as we have made innumerable special orders previously. We all understand, however, that the last special order does not override one before made, but it takes its place on the Calendar behind other special orders before made. There was no objection to the Kansas bill being made a special order for to-day; but certainly I never consented, and never intended to consent, that a proposition to put a constitution on a people against their will should override all other public business, and take priority to the exclusion of everything else. I do not agree with my friend from Missouri, that the peace of the country depends on this question. Every opponent of the Lecompton constitution in Kansas is now at peace, supporting the territorial government. There is no rebellion there, except by the Lecomptonites. Put them down, and peace will reign in Kansas. I shall vote with my friend from California for taking up the Pacific railroad bill.

Mr. BRODERICK. When the Kansas bill was made the special order for to-day, I did not understand that it was to take precedence of the Pacific railroad bill reported by my colleague. When the motion was made to give this bill precedence to-day, I saw that it created a general laugh on this side of the Senate. I expected my colleague to state the importance of his bill to California; I did not expect that he would take his seat quietly, after the laugh that I heard on this side of the Chamber. I recollect very well that in 1854 we should have had a Pacific railroad bill if it had not been for the Kansas-Nebraska act, which was then before the other House of Congress. The railroad bill was laid on the table for the purpose of taking up the Kansas-Nebraska bill; it remained on the table; it has been on the table ever since. I think if the Senate intend to pass any Pacific railroad bill this session, they had better consider the bill introduced by my colleague, and proceed with it at once.

Mr. SEWARD. I do not think there is any ground for serious complaint or misunderstanding about what has been done in regard to this question. It is understood certainly on this side of the House, that to a large extent the determination on the precedence of measures must originate on the other side of the Chamber to which majorities of the committees belong, and which furnishes the chairman of every committee. It is of very little value for us on this side of the House to propose a special order which involves debate, and we practice only a necessary modesty in abstaining from doing so, because there is always on the other side of the House a chairman to represent the views of the committee to which we belong.

Now, when this proposition to make a special order of the Kansas question for to-day was made by the gentleman who represents the Committee on Territories—the Senator from Missouri—no adverse or rival proposition was made, and therefore it would have seemed factious, as I think, on my part; at least, it would have seemed to indicate an unwillingness to meet the Kansas question, for which I certainly have no affection, if I had said, "No, we will not make it a special order for that day." No person having proposed any other special order for that day, I cheerfully con-

sented that the Kansas question might be assigned for consideration to-day, and asked for myself an early place in the debate. But the honorable Senator from California, the chairman of the select committee on the Pacific railroad, [Mr. GWIN,] to which committee I belong, and whose business it was to interpose and claim precedence in behalf of the railroad, on whom the responsibility rests, and who only can speak to a majority of the Senate on that subject with any effect, seems to have been out of his place when the Kansas question was assigned for to-day; he comes now, however, and asks to have the railroad reinstated in the position to which it was entitled. I think that he is entitled to be heard, and I think that if the question is raised we are brought necessarily to substitute the railroad question, unless we are willing that our votes shall be misunderstood by the country, and unless we are willing to sacrifice a greater interest to a less on some principle of comity, or some idea of informal obligation contracted. I think those who are in favor of a Pacific railroad, are bound to support the chairman in bringing it up.

I quite agree in all that has been said—that if there is to be a Pacific railroad law passed by Congress this year it has got to have precedence; and I shall therefore not feel that I am at all bound to withhold my vote from sustaining the chairman in bringing up that question and in giving it precedence, if we have strength enough in the Senate to do so. At the same time, I hope it will not be considered that I am guilty of any discourtesy or any breach of honor and obligation towards the Senator from Missouri. It is a question on which we must vote according to our convictions, according to our sense of duty to the whole country.

Mr. GWIN. I am not so sensitive as my colleague is to any laugh that may occur in the Senate on a motion I make. I go on the principle that those may laugh who win, and I expect the Pacific railroad bill to pass. When he has been here as long as I have been, and will press the Pacific railroad bill so long and so frequently as I have done, he will find that speeches are not wanted on the subject. Every man, woman, and child in California is in favor of this project. It has been so announced here for six or eight years. That fact is well known. I was not here when the arrangement was made to take up the Kansas question to-day, or I certainly should have interposed; but it is well known to the Senate that when the Senator from Illinois proposed to take up the Minnesota bill, and put aside this special order, I then notified him and the Senate that I would fight him on that question; and it has been known all the time that I would insist on the regular order of business. It was not necessary for me to be present in order to have it known where I stood on this point, because it was known to the whole Senate that I intended, after the Army bill should be disposed of, to call up the Pacific railroad bill. If I had been in the Senate then, I should have given the notice; but I was not here at the time.

Mr. BRODERICK. I am very glad that my colleague is not so sensitive to a laugh that may occur on this side of the House; but I was present in my seat the other day when the Senator from Illinois moved to take up the Minnesota bill, and my colleague sprang to his feet at once, and objected to it, saying that he wanted the Pacific railroad bill to be considered first. If my colleague had allowed the two Senators from Minnesota to take their seats on this floor, he would have had two more votes for the Pacific railroad bill. I have discovered, Mr. President, by conversing with gentlemen on this side of the House that the Pacific railroad bill will receive very few votes on this side of the Chamber. I think it is the duty of my colleague, if he expects to pass this bill at the present session, to use every means in his power to take it from the table at an early day, particularly before the Kansas bill shall be considered; for I suppose that bill will occupy fifteen or twenty days of the session, and it will be idle after that to think of taking up the Pacific railroad bill and passing it through this body and the other House before the adjournment of Congress.

It is very true that I have not occupied a seat in this body as long as my colleague; and perhaps, when I have been here a few years, I shall not be

so sensitive as I am at the present time. I am very thankful to my colleague for reminding me of that fact.

Mr. GREEN. I surely could not anticipate anything like opposition to the motion I made, because it is well known to every Senator present that there is no business affecting the public interests that can progress until we get the Kansas question out of the way. I expected to see the Senator from California [Mr. Gwin] interpose his objection to put himself right on the record; to be upright in court. That is well enough. I have no objection to that; but serious objection to the consideration of the Kansas bill to-day, according to the order made on last Thursday, is what I did not anticipate. I trust the vote will be taken, and that we shall see whether this question is to be gotten rid of or not.

Mr. POLK. I feel it due to my position in regard to the Pacific railroad bill to say that when the time comes to act on that subject, I trust I shall be found as warm a friend of that enterprise as any gentleman in this Chamber, on either side of the House; but I am well satisfied that the best and speediest way of obtaining the sense of the Senate on that measure, is to get out of its way the question of Kansas, that has stood in the way of every important measure that has been before the Senate at this session up to the present time. I hope, therefore, that the general understanding of last week, that the Kansas bill should be taken up to-day, will be adhered to; and when that is disposed of, we will go on with other important measures that have been defeated hitherto by that question.

The question being taken by yeas and nays, resulted—yeas 32, nays 20; as follows:

YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Bright, Brown, Clay, Collamer, Crittenden, Evans, Fitch, Green, Hammond, Henderson, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Jones, Mallory, Mason, Pearce, Polk, Pugh, Sebastian, Sidel, Stuart, Thomson of New Jersey, Toombs, and Wright—32.

NAYS—Messrs. Bell, Broderick, Cameron, Chandler, Clark, Dixon, Doolittle, Douglas, Durkee, Foot, Foster, Gwin, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—20.

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 161) for the admission of the State of Kansas into the Union, which is as follows:

Whereas, the people of the Territory of Kansas, by their representatives in convention assembled at Lecompton, in said Territory, on Monday, the 4th day of September, 1857, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, in virtue of the treaty of cession by France of the province of Louisiana, made and concluded on the 30th day of April, 1803, and in accordance with the act of Congress approved on the 30th of May, A. D. 1854, entitled, "An act to organize the Territory of Kansas and Nebraska," did form for themselves a constitution and State government, republican in form; and the said convention has, in their name and behalf, asked the Congress of the United States to admit the said Territory into the Union as a State, on an equal footing with the other States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas shall be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever; and the said State shall consist of all the territory included within the following boundaries, to wit: beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning: *Provided,* That nothing herein contained respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territories shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until said tribe shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed.

Sec. 2. *And be it further enacted,* That the State of Kansas is admitted into the Union upon the express condition that said State shall never interfere with the primary disposal of the public lands, or with any regulations which Congress may find necessary for securing the title in said

lands to the *bona fide* purchasers and grantees thereof, or impose or levy any tax, assessment, or imposition of any description whatever, upon them, or other property of the United States within the limits of said State; and nothing in this act shall be construed as an assent by Congress to all or to any of the propositions or claims contained in the ordinance of the said constitution of the people of Kansas, nor to deprive the said State of Kansas of the same grants which were contained in the act of Congress, entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to admission into the Union on an equal footing with the original States," approved February 23, 1857.

Sec. 3. *And be it further enacted*, That until the next general census shall be taken, and an apportionment of representatives made, the State of Kansas shall be entitled to one representative in the House of Representatives of the United States.

Mr. GREEN. Mr. President, the bill before the Senate is in the usual form of bills admitting new States, without any peculiarity; and it does not require any extended explanation. The object designed to be accomplished is shown by its title to be to admit the State of Kansas into the Union as one of the sovereign States of this Confederacy. The bill is predicated upon a state of facts embodied and presented in the report of the Committee on Territories. These facts justifying the bill, make out a case themselves, and render any elaborate argument, or any extended explanation, wholly unnecessary. Indeed, so far as I am concerned, I should be perfectly willing to trust this question to the present judgment of the Senate. There are those, however, opposed to it, who would take it perhaps as rather unkind not to give them some pretext of justification for their speeches, by some opening remarks; and I therefore avail myself of the present occasion to do so, more out of deference to those who desire to reply to me than from any wish on my part to occupy a single moment of the time of the Senate.

I trust I shall never shrink from duty or shun responsibility; and if duty demands of me to make any explanation of the report further than it explains itself, I am ready to do so; but I do not conceive it to be necessary. It stands unassailed, the leading, controlling facts stated in it cannot be successfully controverted, though some of them have been evaded in publications, not by authority, but in the shape of minority views. I say they have been evaded; but I still think the positions assumed by the report of the committee stand unassailed, and it would look like a work of supererogation to add anything to what has been said in that report. I may, however, be permitted, on the present occasion, to make a personal explanation; and I do it because I do not like to obtrude myself on the attention of the Senate, except when I legitimately have the floor for debate.

I find in the New York Tribune some very severe strictures and some very false statements with regard to the action of the Committee on Territories. It is assumed that the majority of the committee made a positive promise to the Senator from Illinois and the Senator from Vermont not to report until the succeeding Monday after the report was actually made; but that, in violation of this agreement, the report was precipitately hurried through, and those gentlemen were compelled to present their views without having had a fair opportunity, in violation of the agreement. I take this occasion to state what the understanding was. On Monday the committee met, and I was not quite ready with the majority report. We had been at work on it, but had not succeeded in completing it, though I had just added the last words of the first draft. I desired to have it copied. I had been urged to be ready. Not being ready, I desired a meeting on the succeeding Tuesday. On Tuesday the committee met. My report was ready; the Senator from Vermont had his ready; the Senator from Illinois said he was not ready, and he asked for a postponement. He said that we should have a meeting on Thursday, and he would, if he possibly could, be ready on Thursday; but he asked no extension of time beyond Monday, even if he should not be ready on Thursday. The Senator from Vermont made this remark immediately: "That is like the old preacher giving out a notice of his sermon. 'I will preach next Wednesday, the Lord willing; but on Sunday, whether or no.'" [Laughter.] I relate that matter here, because it will bring the circumstances to mind, showing this: the report will be made on Thursday, if possible; but on Monday, whether or no. The majority of the committee assembled to-

gether, and consulted the matter over. There was no positive postponement to Monday; there was a positive postponement to Thursday, when it was to be ready, if possible. We resolved that we would, if possible, report on Thursday. To stimulate the Senator from Illinois, and to keep him from being taken by surprise if we should insist upon a report, on that day, I voluntarily wrote him a note, after he had gone not over fifteen minutes, and had it sent to him by the first mail that went out. I did this, as I thought, out of extreme courtesy. I know I am sometimes censured for the extremes to which I go on that subject; but still, I think I did right then.

Having done so, to allow these garbled and false statements to go out that we violated agreements, took him by surprise, and perpetrated a fraud, is an injustice under which I am not willing to labor, or to submit to. That Senator was ready on Thursday morning; he was not only ready but he had sent off a copy of his report six hours before the committee met, and yet when the committee did meet, he voted against making a report on that day. I do not think we perpetrated any very serious wrong on him. I did not notify the Senator from Vermont. That, too, is commented upon. The reason of it was that he announced that his report was ready.

Mr. DOUGLAS. With the permission of the Senator from Missouri, I should like to put myself right on this point, if he has said all he intends to say on it.

Mr. GREEN. Yes, sir.

Mr. DOUGLAS. On the Tuesday to which the Senator refers, the question arose whether we should or should not be able to report on Thursday. I stated that I did not believe it would be possible for me to be ready at that time, and I referred to the circumstances that had prevented my attendance at the Senate, and had kept me up for many preceding nights. I said that I was worn out, and did not believe it was possible to go through the mental labor and be ready at that time, but that by Monday I should be, and that I would guaranty that the committee might report then, if sickness or any other cause should prevent me being ready before Monday. We agreed that we would meet on Thursday, and read over our reports so far as they might be completed. I stated that I thought I could have my argument blocked out, but still I should wish to go over and revise it, and be ready by Monday to make a report. My understanding when we separated was that we were not to report until Monday. I so stated to all who asked me, that we should meet on Thursday to read what we had prepared, but not to make a report until Monday. It is true, I received the notice from the Senator, as he states, on the evening of Tuesday.

Mr. COLLAMER. Please state that notice.

Mr. DOUGLAS. I will state it.

Mr. GREEN. I requested you to get a copy of it.

Mr. DOUGLAS. I know; but I could not lay my hand on it. I believe I recollect the words. It was: "It is the unanimous opinion"—

Mr. GREEN. "Desire."

Mr. DOUGLAS. "Desire of the majority of the Committee on Territories"—underscoring the word "unanimous"—"to report finally on Thursday morning"—underscoring the word "finally"—"I deem it proper to give you this notice that you may not be taken by surprise." I think those are about the precise words.

Mr. GREEN. Very nearly.

Mr. DOUGLAS. I saw at once that a change had taken place since the adjournment of the committee that day—first, it was the unanimous opinion of the majority; second, they were to report "finally" on Thursday, the word "finally" underscored; third, the notice was given to me that I might not be taken by surprise. I think it is very clear that this would not have been necessary, unless it had been the understanding of the committee that very day that we were not to report until Monday.

Mr. GREEN. Do you say it was the understanding not to report until Monday?

Mr. DOUGLAS. It was my understanding that we should not be able to report on Thursday, and I so stated when I came out of the committee room, to all persons who inquired of me. That was my understanding; others have their understanding. I do not understand it for anybody but myself. I

was asked if I could be ready by that time. I stated that I did not believe it was possible for me to be ready then. I said I would be ready, if possible; but I did not suppose it would be possible. On receiving this notice from the Senator, I went to work and labored night and day. I was at work on Tuesday night, and until about four o'clock on Wednesday morning. Again, on Wednesday night, and until between three and four o'clock on Thursday morning, when I stopped writing. I was not able to read it over to see if there were incongruities or not; for I had not time to revise it. There were two clerks, who followed me with each sheet as I wrote it; and between three and four o'clock in the morning of Thursday, I stopped. There were, however, three or four points omitted, that I had intended to discuss; and the report was left unfinished. I had worn myself out by writing a day and two nights constantly, without more than three hours' sleep, till I could not bear the fatigue; and I closed there, and said to those clerks, "I must send this; let it go in its rough state, if I cannot be permitted to revise it." I did want to read it over, and revise it. I did desire also to discuss one or two other points that were not noticed in the report. I stopped several pages short of where I intended to stop in the report, because of the notice from the Senator from Missouri. In regard to the article of which he speaks, I have not seen it. I know not what it contains.

When I came out of the committee room, I stated these facts in regard to the understanding that we should report the next Monday. I was coerced to report sooner, and I performed the duty as well as I could. The report was not exactly what I should wish it to have been. When the committee proposed to report, I voted against it. Being out-voted, I submitted, of course, as I was compelled to do. I saw, too, (what I did not know before,) that a new member of the committee had been appointed, so as to be sure to have a majority that could overrule me if I was not ready. That being the case, I brought my report to a conclusion, submitted it imperfect as it was, and allowed a clerk to follow me sheet by sheet, and take a copy for the press at the same time that I wrote it; but I had no time to run it over, and read it over again; and hence it went in the imperfect condition in which it was before the committee.

Mr. GREEN. Mr. President, there is not much difference in the statement of facts between the Senator from Illinois and myself, except on one point: his understanding was that we should report on Monday; the mere relation of the anecdote repeated by the Senator from Vermont disproves it. It was that we would report, if possible, on Thursday, but if not possible, on Monday anyhow. That was really the agreement. My note to him was extremely guarded. I did not say it was resolved by a majority; I did not say it was the opinion of the majority; but it was "the desire." It was to hurry him, if possible; and if he could not be ready, we should take no advantage of him. He having got ready, and sent off his report to the Tribune six hours before, still voted against presenting it to the Senate, in order to have a chance to read it over and smooth it off. I wonder who would examine the proof-sheet at the Tribune office, of the copy which had already been sent, and smooth that off? But enough of this. I have made a statement sufficient to show that no unfairness was practiced towards the Senator. I know that we were more anxious to report to the Senate, and get the subject up before this body, than he was; but I think he will do me the justice to say that I have extended to him every right that I would ask him to extend to me under similar circumstances.

The bill, however, is before us. I have a substitute to propose for the entire bill. I will now merely give notice of it; for, like the Senator, I desire to read it over, and see that it is what it purports to be; but I shall lay it on the table before the Senator from Vermont, who is to follow me, gets through. I will state now its purport and object. It is for the admission of Kansas, as the bill before us is; and, in conjunction with it, for the admission of the State of Minnesota. The two being united together, we shall have the consideration of both at once, and see if we cannot progress and expedite the business that has heretofore retarded the other business of the country.

Now, Mr. President, why need I detain the Senate with any explanation in regard to the po-

sition of affairs in Kansas? The Senator from Illinois, even on a motion affecting the priority of business, has to travel so far out of his way as to speak of Kansas, and to speak of our action as an attempt to force a constitution on her people against their will. It may be his opinion. When he undertakes to make a speech in opposition to it, or write a report in opposition to it, let him use such expressions if he chooses; but to travel out of his way, and voluntarily to thrust before our attention expressions like that, I take to be unpardonable. This is a Senate of equals, I trust; equal States represented, and equal men to maintain the rights of their respective States; and I do not like to be characterized with a side blow as attempting to exercise tyrannical power in forcing a constitution on a people against their will. It is a misapprehension of the power and duty of Congress. Congress forces no constitution upon Minnesota; Congress imposes no constitution upon Minnesota; Congress forces no constitution upon the people of Kansas; Congress imposes none upon them. Their constitutions are matters with themselves; and when presented here, we are not adopting a constitution for either one of those two States; and nothing but the most egregious error with regard to the political policy and constitutional rights of the Federal Government and the States, could lead one into the use of such language. Impose a constitution upon them! Adopt! Accept! These terms, too, have been falsely used in debate by Senators who know they are inapplicable to the subject, and inappropriate to convey the proper idea. Constitutions are presented; States make application for admission. In each case the question is, is this a State? Conceding our sovereignty, giving our assent, will it be a State? If a State, is the constitution republican? These questions being answered, we neither approve nor disapprove the constitution; we neither condemn, nor accept, nor adopt; we do not impose a constitution upon that people in any case whatever.

It is important to keep this distinction before our minds in the discussion of this subject. If the constitutions of all the States in the Federal Union should be brought before us to undergo our scrutiny, there would not be one but would have some provisions in it to condemn. But the constitution of Kansas is republican. That is not controverted. With regard to the sufficiency of her population to entitle her to a State organization, it is a conceded fact that the Constitution of the Federal Government stipulates no particular number. The ordinary practice of the Government is, to have a population equal to the ratio of Representatives in the House of Representatives; but I believe it will not be controverted that the population of Kansas is now sufficient to entitle her to a State organization. There are other reasons, strong and powerful and overwhelming, enough why, even if the population should not amount to the number of ninety-three thousand, we should depart and relax from the ordinary rule, for the sake of the peace and harmony of the country.

It is not, as the Senator from Illinois said, all peace and quiet in Kansas now. There are strifes and contentions, there are difficulties that are enough to harrow up the feelings of the human soul. There are perplexities besetting them on every hand; and without some action which will give them an organism of their own and prevent a reliance on external aid, either from Massachusetts, Missouri, the Federal Government, or elsewhere, these difficulties will be perpetuated. Even so late as this morning, I received information of murders and assassinations led on by the party favoring opposition to the Lecompton convention; and when the Senator from Massachusetts made his inquiry about the absence of officers there, I could hardly restrain myself from giving him a little piece of information which I received this morning. General Whitfield is a Federal officer there. This morning I learned the fact, and I state it in the Senate, that he received notice from the anti-Lecompton men to depart the Territory or they would assassinate him. This might give some little reason to account for the absence of some of the Federal officers.

It is useless to cry peace, when there is no peace; but there is an easy way to solve this difficulty. As their boundaries are not exceptionable, as the constitution presented is republican, as the pop-

ulation is sufficient, is it then a legal constitution? I say, yes. In the first place, it emanated from the people. The people are the source of power in all government; but the people, although they are the source of power, cannot, except through the forms of law and equality, exercise their power so as to make a constitution. It does not follow, because the people are the source of power, that they can abrogate all the forms of law. They can only exercise their power in and through the forms of law; and hence, in the State of Kansas, the people directed the first vote to be taken. To place this in contrast with what the Senator from Michigan [Mr. STUART] has said, will, I think, turn the scale in favor of Kansas. He made use of these remarks:

"The people of a Territory which is about to be formed into a State, have a right, and so far as my examination has gone, Congress never violated this right, to say in the first place whether they desire to form a State government now or not."

This has been uniformly decided. Mark, he says the people have a right to decide it. I make this broad assertion—for I have, in the course of my examination on this subject, discovered nothing to the contrary—that in no single instance, except in Kansas, did the people first decide that question for themselves in the process of the change from a territorial to a State organization. In Ohio, Indiana, Illinois, and Minnesota, and all the other States where they had enabling acts, the enabling act said this preliminary question, as to whether they would have a State organization or not, should be decided by the convention. The Senator from Michigan assumes that to be of vital importance. If so, Kansas, in that respect, has consulted the people more fairly (if it be more fair to consult them in person than through their representatives) than any other Territory ever did before. This source of power thus deciding in favor of a State organization, the form of law had to be made use of to make it effective, equal, uniform, and just. The form of law was therefore given by the Territorial Legislature, their agents, and representatives. A convention act was passed providing for a registry of the voters, for a census of the people, and for the election of delegates to a convention to form a constitution. The registry was had. Complaints are now made that the registry was not fair. I have shown that nine thousand two hundred and fifty-one votes were registered. I have shown that less than three thousand votes remained unregistered. I have shown that the officers were driven out of some of the counties and prevented from executing the law. I have shown that many of the voters refused to permit themselves to be registered. I have shown that the whole wrong in the failure of a complete registration is with the anti-Lecompton party—the opposition to the admission of Kansas under the constitution adopted by the convention at Lecompton.

These are facts; but it is said, and said by the Senator from Illinois, and even by the Senator from Vermont, [Mr. COLLAMER,] who is usually so very fair that I seldom have anything to do with him except to differ in judgment, and not about facts, that nineteen counties were represented in the convention, and nineteen unrepresented. I hold it to be the duty of Senators, in the presentation of any case, not to make an impression to the prejudice of what might be the true state of facts when they are drawn out. When the remark is made simply that nineteen counties were represented, and nineteen unrepresented, what would the public think? That half were unrepresented; but that is not so. Of all the votes in the Territory, less than three thousand were not registered. The counties not registered, and the counties not represented, contain less than fifteen hundred votes. I state that in the report of the majority, and I adhere to it, for it is true. If you will take the list of counties in which no registration was had, and compare it even with the last vote returned on the 4th of January, you will find there were only one thousand four hundred and twenty-three in all of them together. On that occasion there was a different elective franchise for voting—no residence was required; the requirement was simply that they should be *bona fide* inhabitants, including citizens and aliens; whereas, under the convention law, under which this registration was made, the persons registered must be *citizens* of the United States, and they

must have had their residence in the Territory from the 15th of March preceding. For the election of the 4th of January no qualification was required, except simply the fact of residence; you required them to be inhabitants; you did not even require them to be citizens of the United States, owing allegiance to our Government; you let all in, and with this increase brought to swell your numbers, you got but one thousand four hundred and twenty-three votes in these counties.

Thus I say, first, whatever wrong was done resulted from the misconduct of the opposition; second, that wrong is magnified by representing so many counties. Why, sir, I assert here to-day that Clay, Dickinson, and Washington counties have not a single inhabitant up to this hour. You include them in the nineteen, and they are to swell this equality in the comparison of registered and unregistered votes. Not one single inhabitant this day have these counties, nor did they ever have, according to my information. They were created at the close of the session of 1857. That fact will be found in the volume of Kansas laws before me, if it is desired to look at it. Then several other counties were attached to other counties that were represented, and had the privilege if they chose to make use of it. Weller county was attached to Shawnee; Anderson and Franklin counties had their officers driven off by Abolitionists; and Allen had attached to it Greenwood, Hunter, Dorn, Wilson, and Godfrey. (See page 183 of the statutes of 1855.) Breckinridge county had attached to it Wise. (See page 90, session acts of 1857.) So you will discover that but few districts were unrepresented, that many counties were attached to those which were represented, and that, whether this was so or not, only about one thousand four hundred and twenty-three votes could be mustered up in the counties which it is said were unrepresented, when under the loose, broad provision to which I have alluded, double the number voted that possessed the regular qualification to be registered.

These are facts. I am only stating them to counteract the false impression this loose statement is calculated to make on the public mind abroad, that nineteen counties were unrepresented, being half the Territory. That is not correct; the number is less than I have stated it. Whether this, however, were so or not, I say the law provided the legal means of registration. The law says the registration shall first be by the sheriffs, and in case of vacancy in that office, it shall be by the probate judge; and in case of vacancy of all these officers of the county, in the first instance, for the discharge of this duty the Governor has a right to appoint others. The then Governor of the Territory was not friendly to the party calling this convention; and surely if the other officers had declined to act, he had power to cause a full registration of his friends by the appointment of his own partisans to perform the duty of registration; but when the forms of law have given them the right, and they stand aloof and refuse to make use of that right, if law is to be respected, if rule is to be regarded, if system is to be consulted, we must turn a deaf ear to the complaints of those, who, from their own wrong, stood aloof, and afterwards raise the cry of injustice.

When this registration was completed the Governor of the Territory, who was then Mr. Stanton, made the apportionment. This apportionment, of course, was fair. He would hardly stultify himself, and of course his friends here will hardly take a position that would be dishonorable to Mr. Stanton. I take it, therefore, to have been done honestly and fairly. The whole sixty members of the convention were parceled out to the registered counties and those attached to them. The election was legally conducted; the members were legally elected; they assembled under legal authority; they met in convention.

Here, it is said that, from Anderson county, three members were elected and sent up, and they were refused admission. I answer, first, that the registration was not legal; second, if it had been legal, Mr. Stanton had omitted that county in parceling out the representatives, and the law limiting the number to sixty, beyond that number it would be impossible to go by the admission of others; and thirdly and finally, they were not refused admission. The application of these delegates were presented by Judge Elmore, I believe;

it was referred to a committee of five; they reported in favor of admitting them, although the convention act had limited the number to sixty; they subsequently withdrew their application, and it was never passed upon by the convention. There was no expulsion, no refusal of seats.

One other fact, as I am giving a historical account of this matter, should not be overlooked. The law provided that, after the registry had been made, it should be copied, and put up in a number of public places in each precinct. The whole list, as made out by the officials, was open to public inspection; every man could go and examine it. If he himself was omitted, he had a right to go before a court, prove the fact, and have his name inserted. If any man was improperly listed, who ought not to be listed, who was not entitled to rights under the law, on proof of that fact before the court, his name would be stricken off. For one whole month there was an open court in every county where they desired to avail themselves of the benefits of this law. So far as I have examined, I have never seen a law that made more ample provisions for fairness, for justice, for equality.

As to the manner in which it was executed, of course we have differences of opinion; but the law itself was good and just. The convention, then, when it met, formed the constitution; they adopted it for themselves; they submitted it not to the vote of the people for ratification. It will be remembered that one of the causes of complaint against the convention is, that they did not submit the constitution to the popular vote. When the convention act was passed, Governor Geary vetoed the bill, because it did not require the convention to submit the constitution to a popular vote. Hence the public were notified; the public knew what to expect. It is of no use to tell me that the convention was under an obligation to submit the constitution to a popular vote; for the facts and the law are directly to the contrary. Governor Geary had vetoed it, and yet two thirds of both Houses passed it over his veto. What had the people a right to expect from this? The convention was under no obligation; it was a matter for the convention to consider; and, as I have heretofore said, I repeat, if the legislative authority of the Territory could dictate to the convention on one point, they might undertake to dictate as to other points; they might undertake to tell them what the constitution should be; and that would defeat the whole purpose of appealing to the people to elect a convention, in order to form a constitution. It must emanate from the people, not the Legislature. They, however, deemed it proper to submit the slave question. It was submitted. I know that the views of the minority represent this submission as being unfair and unjust—saying that each man was compelled to vote for the constitution, and was not allowed to vote against the constitution. That is incorrect; and it is a little surprising to me that the Senator from Illinois should so misunderstand the position of his own friends. He quotes largely from the subsequent action of the present dominant party in the Territorial Legislature of Kansas. He even sends up the preamble and resolutions passed by them; one of which resolutions disproves the position taken by that Senator, as well as by the Senator from Vermont. It is this:

"And whereas, the members of said convention have refused to submit their action for the approval or disapproval of the voters of the Territory, and in this acting have defied the known will of nine tenths of the voters thereof."

The complaint here is that they submitted it unfairly. The complaint there is that they refused to submit it. They did not submit it. The constitution was finally adopted, save and except one clause—that sanctioning African slavery. The article on the subject of slavery was submitted to a direct vote of the people. Here let it be borne in mind, that when the clause on the subject of slavery was submitted to a vote of the people, it was submitted to the whole people, whether they were registered under the registry law or not. There can be no complaint that nineteen counties, having no inhabitants, were disfranchised at this vote; there can be no complaint that any individual in the Territory was disfranchised. All had the unrestrained privilege of coming up and giving utterance to their thoughts and their wishes on this subject; and if any one did not choose to avail himself of that privilege, it is no reason why we

should illegally undertake to correct what they have illegally been the cause of consummating. If the men opposed to slavery have the majority, as they assert, they could have voted out slavery; but it seems to me their object was to let it be voted in by the pro-slavery party, and then, if possible, defeat the whole constitution, and keep up turmoil and confusion, to answer the ends of wild speculation appealing to the fanaticism of the East. Speculation in Kansas, aided by fanatical societies in the East, the one feeding the other, is the mode of procedure on the part of this party in Kansas.

It is not my purpose and object to put a check to legitimate speculation. I have no objection to it. What is done fairly, without endangering the peace of the country, and without injustice to fellow-citizens, let it be done; but when town sites and the locations of capitals of new States are to be parceled out, and a wild *furor* is raised to rush in a population on the pretext of excluding slavery, and yet they will not exclude it when they have the power, but will keep the question open, this discloses the object with which the whole movement was undertaken, to wit: to fan the flames of excitement for political ends, for pecuniary reward, for speculation. To accomplish this, Governor Walker says they could not succeed simply by appealing to the common sense and judgment of the people, but they had hired mercenaries sent out there. When the legal authorities have extended the privilege of voting, of registering, of acting, of deciding, even to mercenaries; when they have had that privilege, and, by the dictation of their superiors, did not exercise it, shall we stay our action and perpetrate a still greater wrong? I trust not.

It has been said, however, that the vote of the 4th of January for State officers remains yet in doubt. Why, Mr. President, I should like to see the Senator who would rise in his place and say before the country that we have a right here, individually or collectively, to inquire what the vote of any State is for its State officers. Where is the man who will give utterance to such a fallacy as that? He cannot be found. Why, then, make a complaint over a subject with which you have nothing to do? The vote on the 4th of January, on the constitution, was an illegal vote. Why? The constitution was perfected, complete before. Can the Legislatures of New York, Pennsylvania, or Virginia, annul their constitutions by submitting them to a vote of the people? They cannot. If the prior steps of the Lecompton constitution be binding, be legal, be such as we can sanction by admitting them into the Union, all the proceedings subsequent to the 21st of December last, when it was completed, are null and void.

It is, however, said that the vote on the 21st of December was an illegal vote. It is so said in the statement of the Senator from Illinois; and he says it is illegal for two reasons: one is, because the Territorial Legislature, on the 17th, had passed a law postponing it. Could the Territorial Legislature, on the 17th, interfere with the people? A convention of delegates is equal to the people, and it is just the same as if the people themselves were acting. They act not in their own name; they act as mere agents. The people cannot be interfered with by a Legislature. Neither can the people's agents be interfered with by a Legislature. The people had delegated special authority to the convention. No subsequent proceeding can annul it, until it is exhausted in its exercise. Then subsequent proceedings may be instituted, growing out of the like authority, conducted in like orderly, legal manner, for changing that constitution. That is another point.

But his other objection is, that the Lecompton convention had no right to pass an election law. I had supposed it was well settled and well understood by every Senator here, that a convention of the people, if a legal body at all, was clothed with power to perfect the ends for which it was brought into being. There can be no question about this. Hence, it had power to pass an election law, and every convention that has ever met in this Union has passed such laws. Even the Minnesota convention passed laws. It said, all laws of the Territory, not inconsistent with this constitution, shall be continued until altered, amended, or repealed, under the State government. Is not that legislation? Do you not, in the schedules of all the constitutions made by all the conventions in this

whole Union, uniformly find the same provision? They are clothed by the people with the same power to perfect their work. The people have a right to continue in existence old laws under the new organization. The people delegate that power to the convention. It is invested with full power to perfect the end for which it was brought into being, and no other authority on the face of the globe can interfere with them. Not the whole Federal power brought together can stay their hand or check them in their career, when they legitimately proceed to the consummation of the end for which they were called into existence.

I know it is said, however, that this constitution does not embody the will of the people of Kansas; and this is made the great pretext for the opposition to the admission of that State. What is the public will, as contradistinguished from the making known of that will in the forms of law? I know no public will except as that public will comes through the channel of the law. Then it falls upon the ear with its commanding influence, and none of us can be deaf to its commands; but the wild cry of the infuriated mob is not the people's voice, and we can never in this method ascertain the people's will. It is through the channels of the law, purified, kept chaste, kept holy, that we are to ascertain the people's will. When the people go to the ballot-box and deposit their votes, the people's will is known—not always perfectly. Imperfection stamps all that is human; but, according to the common consent of the human race, it has been found by the wisest statesmen on the face of the earth that this approximates to the best method of certainty in ascertaining the people's will.

Here we have had first an opportunity in voting whether there should be a convention or no convention, and the people's will said, yes, there shall be a convention; second, there was an opportunity for the people to elect delegates to a convention, and the people elected their delegates, clothed with power unrestricted and unrestrained; third, the people had power to vote whether they would have slavery or no slavery, and we hear the voice of the majority again, six thousand seven hundred and ninety-five voting on that question. It may be, for aught I know, though I am not willing to concede it, that there are more opposed to it than six thousand seven hundred and ninety-five. There is one thing I am satisfied of, that the vote of the 4th of January, at which they pretend they had a large majority—ten thousand against the constitution—is not only void, as I before remarked, but that it is spurious; they have not the number in the Territory. The reason why I think so, I shall postpone until a future period, and present it in a more tangible shape, if it should be necessary.

Thus the people's will has been made known. The constitution, so far as we have a right to know anything legally on the subject, is the people's constitution, and embodies their will. The power of amendment I have heretofore spoken of. I have not a single doubt on that subject. The people have the right; but, mark, the people must exercise it in an orderly, legal manner. I know that some say it is an anti-republican constitution because the people's hands are tied up until the year 1864. When Indiana was admitted, that complaint was not made. Indiana said no change in her constitution should be made for twelve years after its adoption, and then after that, only once in twelve years thereafter, [Mr. JONES. Iowa said so, too,] and yet they were admitted. Why is it we cannot have as much liberality on these subjects towards Kansas—"bleeding Kansas," if you please—to heal her wounds and restore peace? Why not be just? Why not extend the same rule to her, and say it is a matter with the people, and with the government of that State, and not a matter for the supervision of Congress?

But look at the hypocrisy—I must use a harsh word, and apply it to those to whom it properly applies in Kansas—of those who say that is evidence of its being anti-republican, when their own Topeka constitution, in favor of which the honorable Senator from Vermont made an elaborate report, and thought the good of the country required the Topeka constitution to be here regarded as the constitution of the State of Kansas, and the State admitted under it, with a population then less than twenty-five thousand, said there should be no change in that constitution until the year

1863, one year longer than this of Lecompton. That was all right, proper, just, republican—peculiarly republican—and was supported not only by Republicans, but by those who have a Christian name (black) attached to them. Now, however, when Kansas comes up with a constitution which does not say it shall not be changed until 1864, what do we find? The constitution of the Topeka convention said no change should be made until the year 1865; the constitution of Kansas says after the year 1864 changes may be made in a certain method. Some argue that before the year 1864 they may be made in other methods than those mentioned in the constitution; but after the year 1864, they can be made only in a certain manner, as therein stated; but I care nothing about these legal quibbles. I have ever held this to be the true doctrine: that whenever a government undertakes to reform itself, it must comply with the constitution which prescribes the mode; but whenever the people, through their legal organization, choose to call a convention and exercise their original rights, they may disregard the constitution altogether.

The constitution does not consist of one clause only, but you must harmonize it all. One clause says the people have an inalienable right at all times to alter, change, amend, or abolish their constitution. Another clause says after the year 1864 the Legislature may do so, taking the initiative towards an amendment of the constitution. Give force and effect to these two provisions, and to what point do you arrive? That if the Government itself undertakes to change the constitution, it must follow the mode pointed out in the constitution; but if the people instruct their Legislature to call a convention, it is an exercise of original power declared sacred in the constitution. You must give force and effect to that provision as well as to the other, and giving force and effect to both those provisions, we necessarily come to the conclusions I have stated.

But again, the people cannot be cheated out of their original right by incorporating into the constitution the only mode in which the people can change it. I will illustrate: some constitutions say two thirds of each House, at two successive sessions, may make changes in the constitution. If the governing power undertakes to make a change, they must have two thirds of each House at two successive sessions, to comply with the constitution; but while this may be the mode in which the government may change itself, the Legislature can pass a law, at the instance of the people, saying the people may elect members to a convention representing themselves, and make their own constitution in their own way. This original right is clear and indisputable when I state it in this way; and they cannot be cheated out of it by incorporating into it the only mode in which the people can act; for their right is older than the constitution, anterior to the constitution, and cannot be tied up or conveyed away by the constitution. The right of self-government is not the right of a mob; but it is the right of change, of improvement, of amendment, to be exercised in a legal, orderly way. I cannot recognize the right of a body of men, gathered in a tumultuous assemblage, and disregarding the lawful authorities, undertaking to change their constitution; but, through their members in the Legislature, they have the right to call a convention, and in that convention they have the right to a voice that shall reform every provision which they deem obnoxious.

Mr. President, I have said all I desire to say on these subjects. I have discussed them fully before, and I have only said this much now, because I wish to treat the Senator from Vermont with no discourtesy, and he insisted that I should make some opening remarks; in other words, say something which should constitute a hook upon which he might hang his speech. Having done that, I shall wait further discussion, and before the close of the debate I may have occasion to meet objections that may be brought up in the further continuation of the debate. I ask leave to have printed the amendment I shall propose, and which I have already indicated.

Mr. COLLAMER. Mr. President, the Senator from Missouri has said that he very seldom has occasion to disagree with me in matters of fact. That may, perhaps, be somewhat complimentary; but I desire to ask him to turn to that

portion of my report in which, as he says, I speak of nineteen counties not having been registered. I am indeed somewhat particular in relation to my asseverations of fact; and on that point I am a little sensitive, perhaps unnecessarily so. I think the gentleman must have confounded some other thing with that. In my report I said nothing about nineteen counties. I wish to put that statement right before I proceed with the case. What I did say on that point will be found at page 84 of the document containing the reports in this case.

Mr. GREEN. Here it is on page 66.

Mr. COLLAMER. That is not my report.

Mr. GREEN. I find, on examination, that page 66 is part of Judge DOUGLAS's report.

Mr. COLLAMER. That is another man's work. I said no such thing in my report.

Mr. GREEN. On page 84, in the report of the Senator from Vermont, I find this statement, in regard to the census and registration:

"This was, by accident or design, very imperfectly done in many counties; and in almost half of the counties, some of which were among the most populous of the Territory, it was entirely neglected."

This is still more objectionable than as I presented it.

Mr. COLLAMER. The gentleman said that I had stated that nineteen counties were not registered. I have made no such statement.

Mr. GREEN. The idea is there.

Mr. COLLAMER. I said nothing about any number. I said that the census and registration which was ordered to be made in Kansas was very imperfectly done in many counties, and that in almost one half the counties it was neglected entirely. That is not a matter of dispute. The gentleman says that I have declared that some of these counties were among the most populous counties of the Territory. They clearly were, some of them; and if the Senator will turn to the catalogue of votes which is quoted in the report of the Senator from Illinois, he will find that the counties not registered had some fourteen hundred votes. This point, however, is rather a digression; but I wished to set it right before proceeding with my remarks.

Mr. President, I am fully aware that a large part of the members of the Senate, and probably a considerable number of the community, regard this as a very worn out and threadbare subject; and they desire to have even the Lecompton constitution adopted, so that it may be ended. They desire that they may get rid of being troubled with this matter, not to examine into it carefully and see what they should do, but to avoid the examination of it at all. I must acknowledge that I participate a little in that species of feeling myself. I am, I will not say exactly lazy, but naturally a little tired; and I do not like long, tedious investigations; but, after all, I do not feel disposed to shove them aside merely for my ease. I remember an instance of that kind in a book which we all ought to know. A certain judge made a resolution that he would avenge a certain widow of her adversary, for a certain reason: that is, because by her much coming she troubled him. Some may say, "we will end this subject of Kansas in this way, because, by its much coming here, it will trouble us." Who was that character? He was called the unjust judge, that neither feared God nor regarded man. A just judge should proceed to the examination of the subject, though by much coming it wearies him.

Mr. President, there are, in the progress of nations and of men, occasional points of time, and occasional hill-tops of the journey, which present to us contrasts so very striking that they will command the attention even of a very indifferent observer. These hill-tops in our journey which thus arrest our attention and present their contrasts, afford us an opportunity to look back upon the progress we have made, and upon the footsteps by which we have advanced to it, and to look forward, too, from the same point to the progress which we may calculate upon in the future. The contrast which is presented to us in relation to the action of Congress on the subject of slavery in the Territories is between the present time and four years ago. How stood this subject on the 1st of March, 1854; and how stands it now? The contrast is a very great one; and it should command the attention even of an ordinary and casual observer. In order to have that contrast presented with some distinctness to the mind,

and to enable us to view how we have obtained this difference of position, and to look forward from it to the degree of progress which we are calculating to make in the future, would require some considerable length of time; but still I think it ought to be presented.

Prior to the year 1854, Congress had, by acts of legislation at various periods, settled the subject of slavery in every inch of territory that this country owned. I do not say it was all done at one time, by one act; but by a succession of acts, making together an entire complete arrangement. How stood it then? In the territory which we acquired from France, all that portion of it south of the line of 36° 30' north latitude was open to slavery or not, as the people who might inhabit it should choose. In relation to all that country which we had acquired by our treaty with Mexico, it was arranged that the States formed out of that territory should be admitted as free States or slave States as their constitutions might prescribe at the time of admission. The condition of Oregon was settled and declared to be against slavery, and all the territory acquired from France in the Louisiana purchase north of the line of 36° 30' was dedicated to freedom, and had been for a third of a century.

Occupying that stand point, could any man, looking at it in its then condition, have anticipated that in four brief years the whole of this adjustment would be utterly destroyed, all these arrangements of peace obliterated, and that north of 36° 30', then almost utterly uninhabited, he would find what the President tells us is this day the State of Kansas, a slaveholding State, as absolutely such as South Carolina or Georgia? Is not that a very striking contrast? Is it not a contrast that must command the attention even of a casual observer, and demand of us that we should inquire how this has been effected?

In order to understand the nature of the arrangement of which I have spoken, we have to inquire who made it? from what authority did it spring? who exercised that authority? and how long had it been exercised? It was the action of Congress legislating on the subject of slavery in the territory beyond the limits of particular States. When did it begin? It began with the Government; and it was exercised at every stage of its existence, under the administration of almost every President that occupied the chair, by every political party that has ever been in power. I do not say that it has been exercised in any one particular way, but the power has been exercised; and it becomes us a little to ascertain how, in what manner, and at what period. I shall not go into any very great detail on this point; I have had occasion heretofore to do so. Beyond the Ohio, all things were settled according to the arrangement of the ordinance of 1787. That ordinance was ratified by Congress; and as new Territories were formed, in consequence of new States being admitted from that region, the ordinance was reënacted, and slavery was prohibited in every Territory formed northwest of the Ohio river. This was an exercise of the power of Congress over the subject of slavery in the Territories.

When they came to legislate in relation to a country where slavery existed to any appreciable extent, did Congress leave it to the people there to be a topic of discord and contention among them in their infancy, and in the gristle of their youth? Not at all. To say nothing now about the case of the cession by North Carolina of that which now makes Tennessee, let me take the case of the Mississippi Territory ceded to the United States by Georgia. Slavery existed in that Territory, and did not Congress legislate about it? Certainly they did. Let it always be remembered that no principle on earth is better settled than this: that the power to regulate a thing includes the power to prohibit it. The power to regulate commerce includes the power to lay an embargo, and to lay an embargo unlimited in time: it has so been decided. Congress legislated on the subject of slavery in the Mississippi Territory in 1798, during the Presidency of the elder Adams. In forming the territorial government for Mississippi, where slavery existed, and where Georgia had ceded it on the condition that it should not be abolished, Congress regulated the matter and prohibited the importation into that Territory of slaves from abroad. Congress could not consti-

tutionally do that in the States until 1808; but ten years before that time they prohibited it in that Territory. That was legislating directly and expressly on the subject of slavery in the Territories; regulating it.

In 1803, after the acquisition of Louisiana, Congress, in the formation of the Territory of Orleans, made three leading provisions on this subject. Slavery existed in that Territory. It existed extensively in the lower part of the Territory—extensively, I mean, in proportion to the population. Congress provided, in the first place, that no slaves should be taken into that Territory, except in families for settlement. Did they dream that they had no power to prohibit the introduction of slaves into that Territory? They never dreamed of it at that day; for it was further provided, that if slaves should be taken into that Territory for sale, they should be thereby freed, and the men bringing them in should be subject to penalties. Was not that directly regulating and prohibiting the importation of slaves into that Territory? Clearly. They went on further to provide that no slaves should be taken there even in the families of their masters for settlement, if they had been imported in the United States since 1798. The meaning of that was this: "We told you when we formed the Mississippi Territory, that we, the General Government of the United States, where we could lay our hands on the importation of slaves, would prohibit it; you understood that; and we now tell you that if you have brought any slaves into any of the States after that expression of our opinion, you shall not take them into this Territory of ours."

Little of trouble, little of controversy, between the different parts of the United States, arose on those occasions. They went on quietly by a sort of common consent until the admission of Missouri, in 1820. Then a difficulty arose; then there was a controversy; and what was done? Congress found great difficulty in settling it; but they followed a very early example. "Abraham said unto Lot, let there be no strife, I pray thee, between me and thee, and between my herdmen and thy herdmen, for we be brethren; if thou wilt take the left hand, then I will go to the right; or, if thou depart to the right hand, then I will go to the left." A line was drawn through where they stood, and Lot looked out upon the great plain—then a great and rich plain of Jordan—and he journeyed to the east and occupied it, and the controversy ceased. How did our fathers do in 1820? There was a controversy between their herdmen; and they said, let there be no strife between our children, for we are brethren. They ran a line and the strife ended. All was peace from that time until we got some more territory, which we acquired by the treaty of peace with Mexico. There had, however, in the mean time, been another acquisition—Texas—about which I do not propose to speak at large now; but on that occasion the same line was run, and no controversy existed on that point.

In regard to the acquisitions from Mexico, some difficulty arose; and it is said now, and much insisted upon, that on that occasion a principle was established which required the repeal of the Missouri compromise in 1854. I have even heard it repeated this session, that the reason why the Missouri compromise was ultimately repealed, by the exertions of the South and the northern friends who joined them, was because they proposed to extend that line through the territory acquired from Mexico, and the northern people would not agree to it. What a strange excuse is this! The question we are discussing in these days is, had Congress power to prohibit slavery in any part of any Territory? because, if they had, they could prohibit it in all. Did not those men who made the proposition to extend the Missouri compromise line to the Pacific, thereby agree that north of that line slavery should be prohibited? Certainly they did. They then granted and tried to exercise that very power. They seem to talk now, however, as if there were no reasonable excuse for the northern people not agreeing to the extension of that line. I do not know that they really desire to disguise the truth about that; but the whole truth should be told, if any is, because I hold that the truth half told is a lie.

In California and New Mexico—which were acquired from Mexico by the treaty of Guadalupe Hidalgo—slavery had been abolished. The law

existing there was the law of freedom. In a conquered country all laws, except those which cannot be enforced on account of political relationship, remain; all those laws that describe, guide, fix titles to property of any kind. The country which we acquired from Mexico, including California, New Mexico, and Utah, was all dedicated to freedom. Can it be possible that gentlemen of the South can say there was anything unreasonable in the representatives of the free States declining to vote to dedicate it to slavery, when it was already free, and would remain so unless its status was changed? I observe that the Senator from Louisiana is making a suggestion; perhaps it is a very important one.

Mr. BENJAMIN. I did not mean to interrupt the Senator's remarks in the slightest degree. I was merely suggesting to his colleague that his argument might be turned the other way. If he will reflect for a moment, he will see that we got Louisiana, all slave territory, and they took half of it; and it was not a very unreasonable thing for the South to ask for half of the Mexican acquisitions, that he says were all free.

Mr. COLLAMER. I have no doubt that the gentleman's ingenuity can turn any argument against any man. The suggestion was more loud, perhaps, than was intended; and I did not know but that the gentleman was somewhat in the condition of the lawyer who kept talking loud after the decision of the judge. The judge told him there was no use of arguing after the decision had been made. He said he was not arguing, he was only *cussing* the decision. [Laughter.] The gentleman, it seems, does not like my argument. Suppose two men buy a field, and divide it by an east and west line; and they afterwards buy another field: does it necessarily follow that the same line should run through the second field, without regard to its locality, or the circumstances attending the case? Not at all. But that is not the main point. The point is this: because they could not agree upon the further extension of this line, does that furnish any reason why one side should say it would take back all that it ever agreed to give? Did that afford any reason to the South to say, "we agreed to the division of the Louisiana purchase; we have had our share; we have had Missouri, Arkansas, and Louisiana admitted as slave States; we have used up pretty much all our share; and now we tell you of the North that if you will not divide the new acquisitions in the same way, we will keep all we have got, and break up the old settlement too?" This constitutes no reason at all; there is nothing in it.

But, Mr. President, though there was controversy in relation to the territory acquired from Mexico, that was settled before we came to that point of time when the contrast of which I have spoken, as contradistinguished from the present time, is presented. In 1850, after various controversies, the disputes in reference to the territory acquired from Mexico were settled and arranged. California was admitted as a free State; and territorial governments were formed for Utah and New Mexico, declaring that, whenever the people of those Territories should be admitted into the Union as States, they should be received with or without slavery, as their constitutions might provide. These acts of 1850, with some coordinate acts passed at the same time, were insisted upon as a finality. The great point of that arrangement, its great virtue, consisted in the fact that it settled everything that had not been settled before. Though it might not be satisfactory to all the northern people, yet after all it was upon the whole reconciled to the people, because it was said it settled the matter, because it ended the controversy; because there was to be no more strife "between thy herdmen and my herdmen, for we be brethren."

There we stood in 1850; there we stood in 1854; all was peace, all was quiet. But, sir, in May, 1854, the Missouri compromise line was declared to be inoperative and void; not because it was unconstitutional, but because it was said to be inconsistent with the compromise measures of 1850. We are not left to imagine the reason for the declaration that the Missouri compromise line was inoperative and void, because the reason of the act was put into the belly of the act, and it was declared that it was repealed because it was inconsistent with the compromise measures of 1850, when the fact really was that the existence of that

line was one of the compromises; it was the basis of them; it was that without which there could be no finality. I thought then, and I think now, that, to say the least of it, this act was a great blunder; and Tallcyrand said that in politics a blunder is worse than a crime. I have various reasons for thinking so; but the controversies which have resulted from it, the condition of the country ever since, and the condition of the country to-day, speak in a language more potent than any I could use, to show that it was a blunder. It is deeply to be regretted; but I suppose it cannot be corrected.

The essential qualities which enter into the objection to that act consist in this: there was a *quid pro quo* for the contract called the Missouri compromise. It was of the essence of a contract. The South received their part, and have kept it; they have got their cake. The North had barely entered on the wilderness which they took in the first place; they had formed a single State, Iowa, from it, and the rest yet remained a wilderness. It was the disregard of that agreement; it was saying, "we will get more, and not restore what we have had," which constituted the apparent immorality of it, and which leads the people of the North to view it as a breach of contract, a breach of faith. I know there was constitutional power to repeal it; and I have heard it argued sometimes by those in high authority, that, because Congress had power to repeal that compromise, nobody ought to complain when they did repeal it. A man who can reason in that way is a man who seems to have no moral sense, no standard of right and wrong, except that of the legal power to do anything. There is no reasoning with such a man. A moral sense so blunted as his cannot be reasoned with.

All the measures of which I have spoken were southern measures. The Missouri compromise particularly was essentially a southern measure. The way to decide whether any measure is the measure of any party, or any section, is to ascertain whether a majority of that party, or section, vote for it. A very large majority of the southern Representatives voted for the Missouri compromise line. It obtained a small minority from the North, enough to secure the requisite majority in Congress to pass it; but the majority of the southern Representatives supported the measure. That made it a southern measure, and it was clearly such. The compromise measures of 1850 were of a similar character; but they are now both disregarded, both broken up.

What was proposed in 1854 as a substitute for this legislation? All these measures were acts of Congress on the subject of slavery in the Territories, begun and continued from year to year, and from Presidency to Presidency, at different epochs, through the whole period of our political history. All this was to be set aside; and what was to be substituted in its place? We had had a great deal of difficulty on this subject in Congress; and it was not deemed advisable to agitate it in Congress any more; but instead of that it was proposed that the subject should be turned over to the people who might settle in the Territories, and that they should be left perfectly free to regulate their institutions in their own way. That was the substitute. It is sometimes called popular sovereignty and sometimes squatter sovereignty; but, at any rate, it was the substitute for the previous course of proceeding. From the words in which that principle was couched in the Kansas-Nebraska bill at the time it was passed, how did the world understand it, and how was it intended that the world should understand it?

It was declared that the Missouri compromise line, being inconsistent with the compromises of 1850, was inoperative and void, and that by this declaration it was not intended to legislate slavery into the Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form their institutions in their own way. How should the world understand that? How was it intended that it should be understood? Clearly, words cannot make it any plainer than those employed. It was that the people who go there to settle shall be left free as people of a Territory, to regulate their institutions in their own way. That was the version put upon it throughout all the free States, and by the Democracy. It was insisted everywhere that it commended itself particularly to the acceptance of a republican community, that that people should regulate their own affairs just

as they pleased. It was said, "we do it here in Massachusetts, in Vermont, in Illinois, and why cannot the people of Kansas do it just as well as we?" Mr. Cass assured the people of Michigan that, as he understood it, slavery could not go into Kansas unless the people of Kansas made a law authorizing it. Not only do the words of the act imply that the question was to be left to the people, while a Territory, to settle for themselves, but that was the version put upon it everywhere, and the community were commanded to receive it with acceptance and delight, because of that principle.

Then what did it amount to? It was an invitation to the world, to all men everywhere, "come ye into this Territory of Kansas and there act together as a people, and arrange, discuss, and settle the condition of your domestic institutions as you please." That was the invitation. It was to leave it to be adjusted by the progress of emigration. Could any man seriously suppose that an agitating topic which had disturbed Congress until they were so tired of it that they must brush it off and get rid of it, would be quietly and peaceably settled by the people of the Territory? Could it be reasonably supposed that if that subject was to be left to those who should emigrate to that Territory, emigration would not be prompted by this very motive? It was a stimulus to emigration. It was saying to all the people of the East who were fond of the institutions of freedom and regard the institution of slavery as a great evil, "it is for you now to go there; here is an open, fair field for you; make your exertions; prosecute your emigration; exercise your legal powers; make the Territory, as a reward for all your exertions, a free Territory and a free State legally." At the same time it said to all those who regard the institution of slavery as a divine blessing, "go ye there, and prosecute your exertions; push forward your enterprise; stimulate your emigration; and as the reward of your exertions, lawfully put forth there, sanctify it if you can to the holy cause of slavery." That was the invitation given forth to the world, and after that invitation is given can any man fairly find fault because the people did go in accordance with it? Can he find fault that people associated themselves together, rendered aid and assistance to each other, material aid and comfort, in prosecuting that enterprise? It has been done in every quarter of the country—the North and the South. It was to be expected; it was invited.

What might a man further have calculated? It seems to me it required no very great length of foresight for a man to have calculated with certainty what would have been the result. Where lie the elements of emigration? Who have inducements to emigrate? What are their purposes? What is their character? What sentiments actuate them? The people of the South, especially those who are owners of slaves, are people of property, men who own land. The South, with six millions of white people, has not more than one person to every eight or ten square miles. They have no occasion to emigrate; they have not the elements of emigration; they have land enough where they are, unless, indeed, their system is of such a kind that they have to keep culling over new land all the time, because they have exhausted the old; but even for that purpose, they have enough for hundreds of years. No, sir; the material of emigration lies east.

I cannot but say, at times, that if we look at the subject of African slavery on a broad and liberal scale, and with reference to great periods in the progress of the world, it is after all a very small subject, a very little affair. I think from the foot-prints they have left behind, it is obvious that the family of man makes around this earth great cycles of revolution. They follow the setting sun. The human family are prompted by reasons which they cannot control and which they hardly understand. Their progress is from the East westward. At the present moment the great exodus of Europe which is throwing its avalanche on this continent, joined with the emigrants from the northern and eastern portions of this country, go to swell the great tide of emigration. The family of man is led out to possess its great patrimony. It is going around the earth; and the little, accidental colonization of a few Africans here, compared with this, is nothing but small edges along the margin of the great stream. It is a

small matter in the long run; but it seems to be enough to agitate our day and our time, though I can hardly consider it worthy of the great attention and deep regard of philosophic statesmen.

But, sir, as I was saying, the emigration thus passing from east to west, the great current of the family of man going out in each cycle of revolution which it makes, partakes of the degree of civilization which in that period exists. The family of man now coming to this continent, and going out from our eastern and northern States, is deeply impressed with the love of individual independence, the love of freedom; the idea, too, that man, as a laboring being, having his destiny in his own hands, shall have his labor guided by the light of his own intellect; that we need no such formations of society as to require a hierarchy in the Church, or a lordship and aristocracy in the State; that labor and intellect shall be together; the laborer shall work by the light of his own intellect, guide his own destinies, participate in all the actions of his Government by his vote, and then he will appreciate the majesty of that system of which he is a member. Such people can never look upon the subject of slavery but with regret at least, and generally with displeasure. That is the kind of material that furnishes the emigration in this continent. It is of such elements that it is composed, and it is by such principles that it is actuated. Could any man, knowing this, when Kansas was open and the world invited to possess it and to mold its destinies, doubt what those destinies would be? Nothing could prevent it being free, if it was left to the ordinary course and operation of the laws that govern emigration. It could hardly have been imagined that those people living right along the border were going to possess the whole of it. That would be to suppose that it must suffer violence, and violent men must take it by force, because they were nearest to it. That would have been a violation of the promised principle and of the plighted faith which the words of the act contained, that the people of the Territory should be left free to form and regulate their institutions in their own way.

Mr. President, much has been said in relation to the motives and improper purposes with which some people went to Kansas. There can be no reasonable doubt that a very large portion of the emigrants who went there, among other purposes, to push their fortunes as emigrants, were invited there, many of them by this very assurance which the act of Congress contained. They went there not unlawfully, not with a view to make it a free State unlawfully, or by any force or violence; but because they understood they had a right to make it free lawfully; and that is the very reason they went there. I am of course aware that, when you enter upon an enterprise of this kind, many disturbing geninses, men who are fond of trouble and commotion, and who might naturally have anticipated there would be much of it there, may have been invited there on both sides—men of violence. There was indeed a great deal of truth contained in the remark of the man who was journeying through Arkansas, before we acquired Texas, with his family and cart. He was asked, "Where are you going?" "To Texas." "What for?" "To settle on land." "Well," said the Arkansas man, "there is land enough here; it is all around you; you can have as much of it as you want." That was rather a poser. Various views were started, until the man, finding himself much cornered, at last came to the point: "I am going," said he, "where I can fight for my rights." [Laughter.] There are some men who can never value rights they cannot fight for. To have them peaceably and lawfully is in no way satisfactory. Some such men, I have no doubt, have gone to Kansas; they have gone to fight for their rights. But that this sentiment pervaded any considerable portion of that community, is utterly without foundation.

Again, it is suggested that some of these people went from Massachusetts and other States, to do voting on a particular occasion, and go away. Where is the evidence of that? I know it is said, in the report of the committee here, that a man who was a candidate for Delegate to Congress, when he found that he lost his election, went away. I think they are apt to do that all over the country, particularly where a man is so badly beaten that there is no chance for him at all, he

is likely to go and try his luck somewhere else. The people went there to make that a free Territory and a free State; and nothing would answer that purpose but to go there and vote, and to stay there to vote. There can be no foundation for the suggestion that they went there simply to vote, and then come away. It is utterly inconsistent with their purposes.

Such, sir, was the plighted faith of this country contained in the Kansas act. The next point we have to inquire into is, how far has that been carried out; how far has that plighted faith been redeemed; how far have that people been left free to form and mold their institutions in their own way? Why, Mr. President, we come now to a point which has been made a great point of issue from the beginning to the end of the controversy since the passage of this act. The formation of a Territory by Congress, is really nothing more nor less than passing an act of incorporation for a city, or borough, or town. A territorial government is nothing more nor less than a mere municipal corporation created by Congress. Congress are sovereign, I take it, in all territory beyond the limits of any particular State. They have jurisdiction of it; they are sovereign in it. I do not agree to a suggestion made in the report of the Committee on Territories two years ago, that Congress have a sovereignty over the Territories in abeyance. A sovereignty in abeyance is a paradox; it is no sovereignty at all; it is a sovereignty with no power. Even in the Dred Scott case the Supreme Court came to this conclusion: they say nothing about the country which fell within the old ordinance of 1787; but in the newly acquired territory they say Congress have plenary power for its government and are entirely sovereign over it within the limitations of the Constitution; they cannot, of course, violate any of the prohibitions of the Constitution; they cannot establish trial without jury, and so on.

When we held the whole of the Louisiana purchase, from the sources of the Mississippi down to the Gulf of Mexico, and from the banks of the river Mississippi to the Rocky Mountains, was this Government under obligations to create a territorial government in any particular part of it? We were under no obligation to make a Territory at all. What I mean by Territory now is the technical sense of Territory—a municipal corporation incorporated by law for the purpose of internal government. Congress had a perfect right to legislate for that whole country, keep it altogether as a body, make such laws as were necessary for it without calling in the instrumentalities of second means, and delegating power to them for this purpose. How, then, can people talk so much about the right of the people of a Territory to make a State? You might as well say that the people of a county in Virginia can make themselves into a State. They are organized for certain municipal purposes. This territorial incorporation is only for internal government and municipal purposes. Being a Territory is not an incipient stage to being a State; it vests no such power in them. It is only for present convenience, and for the administration of justice, and the preservation of peace in the easiest way. When this act of incorporation for Kansas was passed, and the terms and conditions were stated in it, and especially on this topic of which I have spoken, how was it organized? How did it go into effect? Laws, good laws, no matter how good they are, furnish no security to men, nor to the rights of men. It is only in the execution of the laws that that security can rightly be found.

How did they organize that corporation? Suppose an act of incorporation for a bank, a railway, a toll-bridge, a turnpike, is granted by any State to Messrs. A, B, C, D, and their associates, and it is provided that they may organize themselves at such a time and place, the first meeting to be called by the Secretary of State; and suppose that when the Secretary of State issues his notice for the meeting of the members of that corporation for the purpose of organization, instead of the Messrs. A, B, C, and D, mentioned in the charter, there should come Messrs. E, F, G, and H, and, impersonating them, take possession of the meeting and make themselves the corporation: that would be an attempt at organization under the act; but would it not be an entire usurpation? Would it be that corporation which the State created? Clearly it would not.

That was the case here in the very first meeting of the people to make an election of a Legislature for the Territory of Kansas. As authorized in the act, the Governor issued his proclamation to the people. He shaped out their districts; took a census of them; he called on them to make their election; and he appointed judges to preside over them and make returns to him—all according to the act. What then? We allege, and have always alleged, and have proved, that on that very occasion, with the then comparatively thin people, with only about two thousand voters, between four and five thousand people of Missouri went on the day before, encamping out on the previous night, and spread themselves, armed, over all that Territory, took possession of every voting precinct in it but one, drove the people from the polls, and made the organization. It was an utter, absolute, entire usurpation and military conquest, and the Territory never was organized according to the provisions of the act of Congress.

Now, sir, what sort of excuses have been made for this? How is it attempted to be got rid of? The actual residents of the Territory have, over and over again, insisted on having this wrong redressed or corrected in some form; but what have been the answers? President Pierce, in his message to Congress, said he could not correct it, because the Executive had no power to correct the laws made by the Legislature under the forms of law. I do not say that he could. Some have said that the courts could correct it. Sir, whatever is law for the Executive to carry into effect, is law for a court to administer. They cannot go behind the regular authentication. But when the President seemed to concede that there had been violence there, and said he had no power to correct it, why on earth did he not tell Congress to inquire into it and correct it? There can be but one answer—because he was gratified to take the possession and keeping of the stolen goods. The House of Representatives, however, did investigate it, and their committee examined under oath the very persons who carried on this invasion. The results of that examination are before the world, matters of history and certainty.

What did the Senate do? Did it pass the bill which the other House passed for a reorganization of the Territory? Nothing of the kind. It was said here that the invasion only extended to the few districts where the people entered protests to the Governor. The people had been driven off, scattered, and intimidated by force and arms; and, sparse as the population was in the largest part of the Territory, they gave it up; that is to say, they did not know how to take proceedings to correct it. In some portions they did, and in three or four districts they filed protests with Governor Reeder against these violent proceedings; but did they get redress? Not at all. Governor Reeder, to be sure, set them aside and ordered new elections; but the moment the Legislature which had been elected by means of this invasion came together, they set aside all the proceedings of his, and ratified the original invasion. Now it is said, that, inasmuch as all of them did not protest, and the Legislature passed upon that point, every defect is cured, and we are stopped from making complaint.

Here I cannot avoid noticing another thing. When the present President talks of anything of that kind, he says that the territorial government, which we say was never legally inducted there, has been recognized by the different departments of this Government, and it cannot be corrected or looked into. The same point is now insisted upon by the majority report in this case. That, to my mind, is a very extraordinary answer. What do you mean? "We cannot correct it and will not correct it." Why? "Because we never would. We will not now, because we told you we would not before." That is the very ground of complaint. It is nothing but one continued, protracted outrage, never examined into, never corrected by this body.

Mr. FOOT. Mr. President, it is known probably to the Senate that my colleague very recently has been suffering under somewhat severe indisposition, and that he has not yet even entirely recovered his ordinary degree of strength. He has been, in a measure, exhausted by his efforts thus far. He has not concluded the remarks that he desires to submit to the Senate. In the present condition of my colleague, therefore, in order to give him the rest which will be afforded by the

time between now and our meeting to-morrow, I move that the Senate adjourn.

Mr. MASON. If the Senator will withdraw that, I will move for an executive session.

Mr. FOOT. At the suggestion of Senators, I withdraw my motion, in order that the Senate may proceed to the consideration of executive business.

EXECUTIVE SESSION.

On motion of Mr. MASON, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, March 1, 1858.

The House met at twelve o'clock, m. Prayer by Rev. B. N. BROWN.

The Journal of Friday last was read and approved.

APPOINTMENT OF SELECT COMMITTEE.

The SPEAKER announced that he had appointed the following gentlemen as the select committee to whom was referred the resolution of the gentleman from Illinois [Mr. HARRIS] in reference to Mr. MATTESON:

Messrs. SEWARD, HARRIS of Illinois, GROW, CURTIS, and BISHOP.

Mr. HARRIS, of Illinois. Do I understand that I have been placed upon the select committee on the resolution of the gentleman from Georgia?

The SPEAKER. The gentleman has been placed upon the committee to which his own resolution was referred on motion of the gentleman from Georgia.

Mr. HARRIS, of Illinois. I desire to be excused from serving upon that committee.

The question was taken; and Mr. HARRIS was excused.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by JAMES BUCHANAN HENRY, his Private Secretary, informing the House that he had this day approved and signed a bill for the relief of Whitmarsh B. Seabrook and others.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by ASBURY DICKINS, their Secretary, notifying the House that that body had passed an act (S. No. 170) to grant "Rome Arsenal" to the State of New York, on certain conditions; in which he was directed to ask the concurrence of the House.

MARTIAL LAW IN WASHINGTON TERRITORY.

The SPEAKER laid before the House resolutions of the Legislature of the Territory of Washington, relative to the proclamation of martial law over the counties of Pierce and Thurston, by Isaac I. Stevens, late Governor of the Territory of Washington; which were laid on the table, and ordered to be printed.

EXPENSES OF KANSAS LEGISLATURE.

The SPEAKER stated the question first in order to be a motion to suspend the rules for the purpose of introducing the following resolution, offered by the gentleman from Ohio, [Mr. SHERMAN:]

Resolved, That the Secretary of the Treasury be requested to inform this House whether any money has been paid out of the Treasury of the United States, during the fiscal year ending June 30, 1857, for the expenses of any Legislature, or alleged Legislative Assembly, of the Territory of Kansas; and if so, under what act or provision of law, and from what fund, said money has been paid.

Mr. SHERMAN, of Ohio. This is a mere resolution of inquiry, and should be adopted. I trust that whoever made the objection will withdraw it.

The SPEAKER. The Chair does not recollect who made the objection.

The question was taken, and the rules were suspended.

The question recurred on the resolution; and it was adopted.

OFFICERS OF THE HOUSE.

Mr. MASON, from the Committee of Accounts, reported back, without amendment, a bill fixing the number and compensation of clerks, messengers, pages, and laborers, of the House of Representatives.

Mr. RUSSELL. I object.

The SPEAKER. The committee has leave to report at any time.

Mr. MASON. I have no desire, Mr. Speaker, to detain the House with a statement of the reasons why the bill should pass just as it is. I will remark, however, that in 1842, some seventeen years ago, the same subject was examined by a committee of this House, which was then a Whig House. That select committee was raised for the purpose of investigating the extravagances of the former Democratic House. They reported at great length, and offered resolutions reducing the force. There had been previously twelve messengers employed by the Doorkeeper, at the rate of two and a half dollars per day. The committee considered that number too large, and reduced it to ten. There had been twelve pages previously employed. The Whig committee reported in favor of the dismissal of four of them, and directed that eight should be the number employed thereafter. The committee also regulated the list of clerks. In 1804 there were but one chief clerk and two assistants. In 1842 the number of assistants had largely increased. But the committee reduced the number to eight, and fixed the salary at \$1,500 per annum. The number of these officers has largely increased since then. The Doorkeeper does not know how many messengers are employed under him. No member of the committee could find out. There are so many of them that the Doorkeeper was ashamed to present a regular list of them for the first six weeks after the session. There were twenty-eight in the folding-room, appointed in the place of five, drawing pay with nothing to do; and, as a gentleman remarked, only half doing that. The number of appointments authorized by law were made, and to others certificates were given that they had been appointed.

When the committee commenced to investigate this subject, we found everything in confusion. There was a joint resolution passed by both Houses some years ago, placing the officers of both Houses on the same footing as regards salary. By another act, the salaries of officers were increased twenty per cent. Some are paid one way, and some another; until it has become absolutely necessary to reorganize the whole thing. We want to have the matter fixed so definitely that the Clerk may know the number and pay of his assistants, and that the Doorkeeper and Postmaster may know the number and pay of theirs. It may be that the committee have come to a conclusion that the House may not agree to, in regard to the salaries to be paid and the number to be employed. But they certainly, if they know anything about it, or will listen to those who do know anything about it, must be aware of the fact that it is absolutely necessary to have a general act upon the subject, so that the officers who may be hereafter elected may know the number of their appointees and their salaries.

Now, sir, owing to the increased labor incident to removing from the old Hall to the new, the committee appointed specially to consider the subject have more than doubled the number of doorkeepers. Instead of twelve, which the committee of that Whig Congress thought were too many, and reduced to ten, this special committee have seen fit to increase to twenty-five. The Committee of Accounts, after a thorough examination of the duties to be performed, although many will think it too large, have concluded to recommend that number. We had some difficulty in fixing the prices which these messengers and doorkeepers are to have. That is a subject which gentlemen may differ about. Some of the members of the Committee of Accounts hesitated in putting these prices into operation during the present session of Congress. One member of the committee proposed—and if he is not present I will offer it for him—to offer a proviso to the bill, that it shall not take effect until the next session of Congress. As to the time when the bill shall go into operation, we are not particular. That the whole system needs reorganizing, no one doubts.

As to the prices which these employes should be paid, it is with me a matter of principle. It is a matter of principle, I presume, with other members. The question is, whether you will put their salaries at prices sufficient to command the services of good and reliable men, or whether you will put them at prices much higher than that, which shall have the effect of patronage. If you put

them at too high prices, you will have hundreds of men coming here from a distance of five hundred or a thousand miles, and demanding of their members in the House that these positions shall be secured to them, not for the services they are to render, but for political services which they have already rendered. It is for this reason that these officers obtain their positions, and not for the labors they are to perform, or the duties they are to discharge.

Mr. BLISS. In relation to this point upon which the gentleman is speaking, I desire to ask him to state to the House the prices that these clerks and other officers have heretofore received, and the changes which it is proposed to make by this bill. Some of us here do not understand it.

Mr. MASON. The Clerk which the House elects receives, under this bill, just what he did before—\$3,600 a year. The first and second clerks receive just what they did under the law of 1854—\$2,160 each; and it gives to five other clerks just what they have been receiving—\$1,800 each. We then give them three miscellaneous clerks, at \$1,400 each, per annum; and we give them four copying clerks, at \$1,200 each.

Now, the question is, whether these are salaries which will command the services of fair, competent men, who will discharge the duties attaching to the respective offices? If they are, then is it necessary to raise them any higher; and if so, for what purpose?

Mr. UNDERWOOD. I desire to know whether these three \$1,400 clerks, and the four \$1,200 clerks, are an increased force; and, if not, whether the salary is increased? Have we these officers now, or does this bill create them?

Mr. MASON. I will explain. Some years ago, in the Clerk's office, there used to be a few clerks, and a good many messengers, at \$2 50 per day. Some of these messengers performed clerical duties. In the course of time, this latter class grew into clerks, with salaries at different prices. Now, sir, we have provided for a number of officers, sufficient to perform the duties to be performed, at salaries quite sufficient to command the services of fair, honest, and competent men—men who would be glad to obtain the positions in order to obtain a living. Now, sir, the clerical force which we have provided is ample to carry on the business of the clerk's office. No man who has any knowledge of the subject will deny it. It may be well enough to postpone the time when the bill shall take effect until the next session of Congress. It may be necessary at the close of the session for the Clerk of the House to obtain some additional clerical services, for the purpose of completing the index, and in bringing up the business of the session; and it may be well enough for a few days' labor to be authorized at the close of the session.

I see that my friend over the way has off red an amendment to increase the salaries of the first and second clerks to \$2,500 per annum. Now, sir, it has been urged that salaries should be raised in particular instances for the purpose of continuing the services of particular officers who have been found to be competent. Now, sir, the effect of raising these salaries is to turn these men out of their offices. Their superior officers will turn them out, and put men in their places who come here and demand the places as perquisites for political services, and who will be found not to be qualified to discharge the duties attaching to the offices. Then it will become necessary for them to employ the old clerks to do the work at half the salary.

I say to gentlemen: If you have friends here or at home, who need money or want help, in the name of God, give it to them; but do not interfere with the regular duties of the House. I ask the House to let us put the matter in such a shape that the business of the House will be done.

I recollect, some years ago, there was a little messenger at \$2 50 per day in the library. He had an almanac memory, and could remember where every book was. He was very useful in his place; and members having some feeling for him, raised his salary to \$1,500, and the next time a Clerk of the House was elected, this man was turned out of his \$1,500 place, and another man was put there who could not remember the name of a book, and the place has been a sinecure from that day to this. I venture to say that I never saw the Librarian of the House of Representa-

tives, although I have had occasion frequently to refer to acts of Congress, and resolutions, and orders of the House; nor do I know that I could tell the clerk of the Librarian. The Librarian's place is a sinecure; you might as well give him \$1,800 a year for doing nothing. And, sir, this affords irrefragable evidence of what takes place in these positions when the salaries are increased beyond the sum necessary to secure the service of useful men. The successor of the Clerk during whose term the increase was made, finding places commanding a salary of \$1,400 or \$1,800 a year, appoints those who are prominent political friends, above the discharge of the duties of their offices. I will relate an anecdote which was told me: A gentleman from Maine came to Washington, and while in the city visited a citizen of his own State, who was in one of the Departments holding a clerkship. He inquired how his friend was getting along? "Badly," was the reply, "for by the time I have paid for board and the services of the tailor, washerwoman, &c., and then thirty dollars the month for a fellow to do my work, I have not enough left out of the salary of \$100 a month to take a buggy ride." [Laughter.] He could stand every charge except that of the thirty dollars a month for "a fellow to do his work."

Put the salaries of the subordinate places up to a higher figure, and they will attract office hunters from all sections of the country; and those who are appointed will get fellows to discharge their duties, and will, in the end, probably get the House to pay for these substitutes besides. Take an instance: A resolution was passed authorizing the Postmaster of this House to employ four persons as mail messengers, at a salary of \$2 50 a day. This price at the time was deemed amply sufficient. These men learned the avenues and streets of Georgetown and Washington, and promptly and accurately discharged their duties. Members got their mails as soon as possible after their arrival in the city. The salaries of these mail-messengers were raised to \$1,440 a year each. Immediately, applicants for these places were attracted from various sections of the Union, and men obtained them who knew nothing of the city, its avenues, or its streets. They got above handling documents and the mails of the House, and five mail boys were voted to them. Instead of paying these little fellows who discharge their duties, they are saved the expense, by having them paid by the House, out of the contingent fund. You might as well pay these men for doing nothing. If you want such officers to discharge nominal duties, why not station them in the old Hall. Let them be compelled to attend there in a body, and listen to the essays on every imaginable subject which, hour after hour and day after day consume the time of this House. [Laughter.] Their places would then no longer be sinecures, for if they were bored with the lectures on slavery, Abolitionism, Mormonism, and like subjects, as we are almost daily, few would deny that they earned their money. [Renewed laughter.]

Mr. Speaker, the committee have labored diligently at the investigation which was confided to them. Their conclusion is that the employés of this House should be fixed in number, and paid according to the service rendered. We do not object to a fair and liberal compensation to those who perform the duties of the offices; but we do object to that extravagant increase of salaries that attracts applicants here by hundreds and thousands at each session of Congress. So numerous have these applicants grown at this day that members are unable to remain at their rooms without incessant annoyance by these parties. The members of the other side had their share of this annoyance at the last session. And, sir, why should not these places be reduced to the service required with a fair salary attached to them? Why not get rid of this annoying patronage which is of so much annoyance to us all?

The Doorkeeper of this House gives it as a reason why the best pages are not employed in the House, that he has to take those which are forced upon him by members. He cannot say whether they are smart and active and capable. Some come here from other cities, who know nothing of Washington. They do not know that it is their business to go to member's houses and to the committee rooms; and most of them who are here could not, if sent on a message, probably find their way to either. It is not their fault. I

am not against the boys. They are fine, sprightly, little fellows. They have not yet been taught what they ought to do. Some of them, brought from other cities, probably never will learn, before their successors are appointed, what they ought to know.

Those members of the committee who were charged with the investigation of this matter, concluded that they would authorize the employment of twenty pages—double the number that I supposed would be necessary; for, according to my experience, when you get one boy you have a boy; when you get two, you have half a boy; and when you get three boys, you have no boy at all, for they go to playing. [Laughter.] I have no objection, however, to increasing the number of pages at two dollars a day. But the messengers are to have, by this bill, three dollars a day. There are now fourteen of them, permanently employed, at ninety dollars per month, all the year round; and you can get plenty of men, during the session of Congress, to perform these duties temporarily at three dollars a day.

But, Mr. Speaker, the Committee of Accounts, in reporting this bill, sought to accommodate the House, to some extent, in the desire which has been evinced here for economy. The House passed a resolution in favor of economy, some time since, almost unanimously, showing that members were nearly all in favor of being set down on the yeas and nays as in favor of economy. We want now to give them a fair chance of carrying their theoretical notions into practical effect. I know that the kindness of many gentlemen here—I mean what they call kindness—towards these employés, will induce some of them, for the present, at least, not to carry those theoretical notions into effect. I have some friends here myself, and I wish them all possible success, and a large share of the goods of this world; but the House required us to put this matter on a proper footing, and we have tried to do it, regardless whether it affects one employé or another. You will find plenty of men who will be willing to perform the duties of messengers for three dollars a day, or for ninety dollars a month.

Now, there are some gentlemen who will probably oppose this bill, who are not willing to give the poor old soldier, who is tottering to the grave, thirty cents a day to keep him out of the poor-house. You pay each of these messengers here three dollars a day, which would provide for ten of those poor old soldiers who have done good service heretofore in defense of the country; and yet you will not give these poor old soldiers enough to keep them out of the poor-house!

Now, sir, there are other matters of reformation needed, not only about this House, but in other departments of the Government. The Committee of Accounts have taken on themselves to discharge what they conceive to be their duty in their department. I hope the Military Committee, and the Naval Committee, and the Committee on Expenditures, and all the other committees will set their departments to rights. If they will do that, I will say, with all due deference to the chairman of the Committee on Military Affairs, there will be plenty of money to spare to pay all the poor old soldiers of the country. Let us do these officers justice, and give them fair pay and compensation for all the duties they have to perform; that is all we propose; and there is no probability that there will be a stampede of the officers of this House, if this bill should go into operation to-morrow. But, as I remarked before, if gentlemen think this unfair, and that the bill should not go into operation until the commencement of next session, I have no objection. The gentleman from New York, [Mr. SPINNER,] who is a member of the committee, proposes to offer an amendment to that effect, and I have no objection to it, although I do not conceive that any of these officers have any vested rights in their salaries. They are subject to be turned out at any hour by their superiors. In the judgment of the majority of the committee, these changes ought to go into operation at once; but it is for the House to say whether they shall do so or not. I hope the bill will be put upon its passage.

Mr. SPINNER. I move to amend the bill by adding to it the following:

And be it further enacted, That the reduction in the compensation of any of the employés mentioned in this act shall commence on the 1st day of December next; and that all

the remaining provisions shall take effect at the end of the month in which this act shall become a law.

Mr. MORRIS, of Illinois. I move to lay that amendment upon the table.

Mr. SPINNER. What would be the effect of that motion?

The SPEAKER. It would carry the bill with it.

Mr. MORRIS, of Illinois. I withdraw the motion.

Mr. SPINNER. Although I agree in the general provisions of the bill as reported by the committee, still I gave notice to the committee that I should offer the amendment which I have sent up. I think it due in fairness to those employes who have come here, some of them from a great distance, that they should not be cut off instantly. I think they should be allowed to complete their terms of office, and then let the provisions of this bill go into operation.

Mr. WARREN. It is not my purpose, Mr. Speaker, to enter into anything like a lengthy argument in regard to the proposition before the House. I desire simply to enter my protest against some positions taken by the honorable gentleman from Kentucky, [Mr. Mason.] I have no hesitancy, however, in saying that I am opposed to the bill as reported by this committee. But before I give any attention at all to the bill, I desire to notice a suggestion which fell from the lips of that gentleman, simply because I am not willing that a sentiment of such a character should go forth from the Congress of the United States to the people of this country.

The gentleman tells you that, in order to get incompetent, inefficient men into position, it is but necessary to increase the salaries attached to their offices. Now, it has been held in the country from which I hail, and I have understood it to be the policy of the country generally, that if you want to get efficient, competent men to discharge the duties of any position, you must give them something like adequate compensation. That gentleman, however, tells you that, as to positions here, under the Federal Government, if you want to have them filled by inefficient men, you must give them adequate pay—I mean high pay. That is a new doctrine. It may attach to the State of Kentucky, but I am sure it cannot attach to any other place than Kentucky.

Mr. MASON. Will the gentleman allow me to correct him? I said “extravagant pay.”

Mr. WARREN. Well, extravagant, if the gentleman prefers it. I hold this to be the truth—and the history of all States and all countries sustains me in the declaration—that the higher the pay, the more efficient officer you can get to discharge the duties. Hence, I hesitate not to announce that, if I had been in the Thirty-Fourth Congress, I would have voted for the bill increasing the compensation of members. Doubtless, if the gentleman from Kentucky had been here, he, too, would have voted for that bill. And yet, sir, while we would increase our pay, and while we are all willing to increase the pay of functionaries of the Government, we would now strike—at whom? Strike at those whose very bread depends upon the little salary they get for the performance of their arduous duties—more arduous duties than we and higher functionaries perform.

Now, if the gentleman is really sincere about this system of retrenchment and reform, I am willing to go with him and other gentlemen in their efforts, and go as far as he who goes furthest. Let him go around and see the committee rooms, and notice the gorgeous manner in which they are furnished. Let him see the clerks employed by committees, at four dollars per day, and not a single thing to do. Let him strike at them, and not at the little boys on this floor, many of whom are sustaining their widowed mothers, and their little orphan brothers and sisters. Strike at a man who is able to live within himself, if you are for retrenchment and reform. But now you strike, by this bill, at those subordinate offices that are filled by poor men, and poor men's children, and widows' children; and some of them are to be turned off, and others to have their salaries reduced so low that they will not be able to pay their board, much less help to support their widowed mothers and orphan brothers and sisters.

Mr. RUFFIN. I wish to remind the gentleman that the committee does not propose to decrease the pay of pages. They propose to leave

their salaries at two dollars a day, and, instead of decreasing, to increase their number.

Mr. WARREN. The position I take is right. If gentlemen wish it to go from the American Congress that they are in favor of retrenchment and reform; that they are in favor of strict economy, let them strike at what will pay. Now, sir, suppose that forty or fifty or one hundred thousand dollars would be saved by this bill, what is that in comparison with the enormous amount of money expended by this Government in the payment of various sinecures, and of thousands of officers whom you might possibly call inefficient, and who have been promoted simply because they have been pulled? I say, let us strike at the proper place; let us get up a system of retrenchment and reform. I am as much in favor of that as anybody; but I am in favor of beginning at the right place. Let us strike at game that is worthy of us. The pay given to clerks and messengers and pages is not much in comparison with what we receive. Suppose a bill were introduced reducing the salary of members of the American Congress, would the gentleman have voted for it? Not so.

Mr. RUFFIN. I will.

Mr. WARREN. Well, let the gentleman bring in such a bill. I am glad to see so much patriotism evinced by gentlemen; I have not so much patriotism. I frankly confess that I am proud to represent my constituents on the floor of the American Congress; but if you take away the pay attached to the position, you will take with it such a portion of my patriotism as will force me to return to my constituents in Arkansas, and work again there as an humble citizen as I have been wont to do. But I say, if gentlemen want reform, they ought to commence at head quarters. Let them strike the first blow at members of Congress, and then I will possibly assist them in striking at the small fry, if I may use such a term. But as it is, I shall vote against this bill. I shall vote against any measure that does not propose first to reduce the salaries of higher officers, of those who perform less service. There is no member on this floor who performs as arduous services as many of these clerks do, and even as these little pages do. There is a kind of physical labor which any of us would shrink from performing.

And now, sir, as this is a matter which is to go to the country, a matter out of which political capital is to be made—as there is nothing like a cry of retrenchment and reform for popularity among the masses of the country; as it sounds well in the ears of the dear people to swear in favor of strict economy and retrenchment—I move, for the purpose of giving gentlemen an opportunity of expressing their views on the subject, to refer it to the Committee of the Whole on the state of the Union.

Mr. RUFFIN. I propose to make only a few remarks in the discussion of this question. I do not propose to go into the subject of patriotism, or of the service of pages. But I do propose to say something in reply to what has been said by the gentleman from Arkansas [Mr. Warren] in reference to high pay. It seems to think that it is absolutely necessary we should pay high salaries so as to get persons to fill the offices of messengers about the Hall. Now, I do contend that the gentleman from Kentucky [Mr. Mason] laid down the correct principle on this subject—and that is: that if you give large salaries you will not get the men who are appointed to these messengerships to perform their duties, to attend the committee rooms, sweep them out, make the fires, carry water, and do work of that kind. As the gentleman from Kentucky has well said, there are persons who come here in quest of foreign missions, in quest of consulships, in quest of high offices in the Departments, and not getting them they fall back on messengers' places in the House, but are not going to perform their own duties. The consequence is, that, in many instances, they are not well performed. If this bill reported by the Committee of Accounts is passed, I, for one, have no doubt that we can find a plenty of persons who will be glad to take these places and perform the duties at three dollars per day. When it was the custom to only give them two dollars and fifty cents per day there was no difficulty about it, and the duties were just as well performed as they are now. Since you have adopted the high-salary system, I have never seen a Doorkeeper

who would carry out the rules of the House. How is it now? Persons are admitted into this Hall every day, from about the city here, who have no shadow of right, while the Lieutenant-General of the United States, as I understand, was the other day turned back. Sir, I say that the Doorkeeper, and every one under him, ought to enforce the rules rigidly. We have tried the high-salary system and it does not accomplish that object, and now let us try some other system. What reason is there for paying one doorkeeper who stands at that door \$1,500 a year, and another, who stands by his side, only \$1,200? What justice is there in it? I should like gentlemen to answer that question.

But the gentlemen from Arkansas [Mr. Warren] says, “Start the reform somewhere else.” Why, sir, so far as I am concerned, I am willing to begin anywhere. I will go with the gentleman in his reform to any department of the Government—to high salaries and to low ones. I consider the Democratic party of this country as pledged to reform. As a member of the Committee of Accounts, I am ready to stand up to the recommendation we have made here. I voted against the increase of the pay of members of Congress in the last Congress, and I will vote to reduce it now, if the gentleman will introduce a bill for that purpose. I voted against increasing the pay of the clerks of the Departments, and I will vote now to cut it down to the point where it stood before that increase was made. I think their services were performed then quite as well as they are now.

The gentleman says, “Go to the committee rooms, and see the splendid furniture there.” Sir, with that I have had nothing to do, and know nothing in relation to it. But if he will go down into committee room No. 10, where the Committee of Accounts hold their meetings, he will not see any splendid furniture there. That committee room is furnished with plain, cheap furniture, and nothing more. If other gentlemen have had their committee rooms furnished in a different style, it is their lookout, and not mine.

But the gentleman from Arkansas next presents to this House the argument of sympathy, in reference to the pages. Why, sir, as I suggested to him at the time, we do not propose to decrease the pay of the pages on this floor one cent; but propose that they shall be paid in future the same as they have been paid heretofore—two dollars per day during the session of Congress—and we propose that the number shall be twenty. I think that number is amply sufficient; some gentlemen think it is too great. In relation to this matter, however, I will state that the greatest number of pages ever allowed, I believe, was eighteen. I think it was then reduced to fourteen, and kept at that a number of years. But the system has grown up of members bringing boys upon the floor in addition to the number provided for by law, and of allowing them to remain upon the floor during the session, and then, at the close of the session, offering resolutions to pay them the same per diem and extra compensation as the other pages. At the last session of Congress, the number of these outside pages was increased to eleven, so that instead of having the regular number of pages authorized by the House, there were really twenty-five. And the last day of the session a gentleman got up here and offered a resolution to pay those eleven boys two dollars per day and the same extra compensation as the other pages for the session. The regular number of pages authorized by the House at present is fourteen; but as the Hall is much larger than the old one, and as the cost of some additional pages at two dollars per day is very trifling, and as six more would add to the convenience of the members, we saw no impropriety in fixing the regular number at twenty.

Mr. UNDERWOOD. I desire to know of the gentleman, if he or the committee has made any calculation, so that he can give the House any estimate of the amount that will be saved to the Government, as between this bill and the existing law?

Mr. RUFFIN. In reply to the question of the gentleman, I have to say that it would be difficult to make any estimate that would approximate to the truth—I suppose fifty or seventy-five thousand dollars. We propose now that there shall be twenty-five messengers, under the Doorkeeper, to be paid three dollars per day. Fourteen out of

that twenty-five are permanent officers, and are to work in the folding-room during the recess. The others are temporary, and are to be paid three dollars per day for the session of Congress.

In the same way, four of the laborers are permanent, at \$1 50 per day; and the other five are only employed and paid at that rate during the session of Congress. The pages are, of course, paid only during the session of Congress; and the six additional ones will involve very little additional cost, as gentlemen can very easily see by making a calculation.

I wish now, sir, to make some explanation of the bill. It is almost impossible to tell what is the number of employes heretofore authorized to be employed. There is no authority of law for the appointment of many of these officers. They have generally been appointed during some Congress for that Congress; and then the appointment has been kept up. A great many of these offices have been established by some provision incorporated in an appropriation bill. In the last general appropriation bill I find an appropriation for the pay, for instance, of the Doorkeeper, the superintendent of the folding-room, the messenger in charge of the Hall, the superintendent of the document-room, and the assistant superintendent of the document-room; five messengers, at \$1,500 each, and eight messengers at \$1,200 each. A resolution passed at the commencement of this Congress gives five additional messengers, who, of course, will be paid \$1,200 each. We now propose that the Doorkeeper's salary shall remain the same as it has been, for it is a responsible position; we also propose that the superintendent of the folding-room shall receive the same salary as heretofore—\$1,800 a year. The messenger in charge of the Hall we class as any other messenger, at a salary of three dollars per day. We class the superintendent of the document-room as a messenger. Heretofore he has received \$1,752 a year; and the assistant superintendent has received the same salary. We propose that each of these shall be put upon the same footing with the messengers, and paid three dollars a day: so that the whole number of messengers provided for by the bill is twenty-five—three more than the number now employed. The number of laborers heretofore authorized was three during the session of Congress. The committee which reported early in this session added six to that number, making nine in all. We have concurred in that recommendation.

I wish to direct particular attention to the condition of the folding-room. It is important that it should be understood by the House, because we are as likely to get into difficulties there as in relation to the extra number of messengers. The appropriation for carrying on the folding-room for the fiscal year ending June 30, 1858, was \$7,282 88. Of this amount there has been already expended the sum of \$6,479 56; leaving a balance for carrying on the operations of that room, from this time until July next, of \$803 32. This account was rendered some time since. We found in the folding-room some twenty-eight folders, at \$2 50 a day. The Committee of Accounts having that matter in charge, reduced them in number some weeks ago to four, at \$2 50 a day, and two laborers at \$1 50 per day to carry books; and provided that the remaining work should be done and paid for by the piece, as had been done, before the plan of employing twelve, fifteen, and twenty-eight men, at \$2 50 a day each, had been adopted. These persons have been employed and paid during the recess of Congress, when the duties ought to have been discharged by the messengers of the House; and it is this which has caused the fund for the folding-room to be exhausted.

This bill, Mr. Speaker, proposes to reorganize the matters intrusted to us. We have said nothing about the Speaker's messenger or the Sergeant-at-Arms' employes, because we are not charged with them. This includes every one under the Clerk except what are called the land map clerks.

The employment of these land map clerks is a matter to which I shall more fully call the attention of the House when the proper time arrives. It is a gross imposition upon this Government to keep nine men employed, at over sixteen thousand dollars a year, in the General Land Office, making maps for this House, not worth a red copper. When the Committee on Public Lands makes its

report, which will be in a few days, I intend to offer a resolution to abolish this whole force. Their employment has grown up within the last ten years. It is wrong from the beginning to the end. They are of no benefit to anybody but a few land speculators who obtain information from them. The Committee on Public Lands of the last House derived no benefit from their work. Their work does not extend to the Territories; and it is known that the appropriations of land at the last session for railroad purposes were for the Territories.

It is high time, sir, that we should commence with this reform. I am in favor, like my colleague on the committee, [Mr. Mason,] of putting the bill on its passage at once. I want it settled what shall be the number of the employes of the House. If, however, the House is disposed to accede to the request of my colleague on the committee, [Mr. SPINNER,] and refer this bill for amendment to the Committee of the Whole, I do not know that I will have any serious objection to it. All we want is to know how many of these men are to come before the Committee of Accounts. We want the rolls made out in regular form. We want them to be so stated that every member can understand exactly what they mean. We have the right to ask this much of the House.

Mr. JONES, of Tennessee. Mr. Speaker, I think it is very important that we should have some legislation on the subject now under consideration. It is important to determine the compensation of the different employes in and about this building. It is important that we should fix the number of these employes; but it is more important that we should determine the compensation which each one should receive. How is it now? Can you turn to the statute-book and ascertain what any one of the officers of this House is entitled to receive from the Treasury? In 1842, after the memorable contest which resulted in the defeat of the Democratic party and the triumph of the Whig party, the latter party came into this House and created a committee on this subject. That committee took up the subject of the employes of this House, and their compensation. They gave it a thorough investigation. They made a report, specifying the number to be employed, and the compensation of each. And, sir, I believe that so long as the Whig party continued in power, they executed the provisions of the measure they had passed. On the return of the Democratic party to power, there was commenced this uncertain system of increasing offices and salaries in the Capitol. When the Whig party fixed the number of employes and their compensation, they also provided that there should be no extra compensation voted by the Senate or the House. They made this provision in the law, and in one of the rules of the House. Soon afterwards, at the end of a session, the rule would be suspended, and extra compensation voted to the clerks, messengers, &c. A bill was passed, giving twenty per cent. to the employes of the House and Senate upon the amount of their salaries, where the twenty per cent. would exceed \$200; and where the twenty per cent. would not amount to \$200, by some rule or other, \$200 was given to each of this class. In some cases the extra compensation actually amounted to more than the compensation which the employes received under the law for their services.

At that time, sir, the number of clerks was fixed by law; but in the progress of time, when all the clerkships were filled and there were not quite enough to supply the demand, a messenger would be appointed to discharge the duties of a clerk; and, at the end of the session, it would be said, "why, certainly you will not receive that gentleman's services as a clerk for a messenger's pay;" and the House would give him, at the end of the session, the salary of a clerk. And then the Clerk of the House, regarding that as authority to appoint an additional clerk, would go on and appoint one under that resolution, and an appropriation would be made in the general appropriation bill to give him the salary of a clerk. Thus, sir, when you now want to ascertain under what laws the officers of this House appoint their assistants, you have to go to the Journals of the House to find the resolution under which a clerk has been paid, or an additional messenger, or an additional page, has been paid; and those resolutions are construed as authority to continue the employ-

ment of all such persons until otherwise ordered. The object of the bill now before the House is to fix and determine the number of employes, and also their compensation.

Mr. Speaker, I think, myself, that the committee have reported a very liberal bill, both as to the number of employes, and as to the compensation they are to receive. I think that you could get competent officers and competent assistants for even less than the committee have reported. But, sir, if a majority of the House think that the committee have not been sufficiently liberal, that the compensation which they propose is not sufficient, let them amend this bill, or take the substitute proposed by the minority of the committee; but let them pass a bill to fix the compensation of all these officers, even though they fix it at double what the committee propose to fix it at. I shall not vote for any such bill, but if a majority of the House think that the compensation proposed is not sufficient, in the name of common honesty and common justice, fix it at what you think is right. Pass a law and cut off all this latter-day legislation. Under the present system no proposition is made during a whole session of eight or nine months to increase the number of officers, or to increase their compensation, but in the last hours of the session, when banquets have been prepared and kept ready for days and nights in rooms about this Capitol, to which members have resorted, and have eaten and drank, I believe, without money and without price, then propositions are brought in here and passed to give extra pay, and to give pay to persons who have been employed about the building without authority of law. I believe that in many cases which have occurred, but few of those who acted upon those propositions really knew the effect of those propositions. Sir, I will refer to some of the propositions of this kind which were passed at the last session; and it is to protect the House against itself in the last days of the session, that I think they should pass a law defining the number of employes, and prescribing the amount of compensation. I read now from the Congressional Globe of the 2d of March last:

"Mr. DUNN. Mr. Speaker, I ask the general consent of the House to introduce a resolution, which has been usual at the close of our sessions, in regard to the clerks and employes of this body."

"Mr. SMITH, of Virginia. I call for the regular order of business."

"Mr. DUNN. I presume that all know, who are at all conversant with the compensation of persons in the employ of the Government, that there is no class of public servants who are harder worked, and less paid. I hope no gentleman will object to the resolution."

"Mr. JONES, of Tennessee. I call for the regular order of business."

"Mr. DUNN. If objection is made, I move to suspend the rules."

"The SPEAKER. The gentleman from Tennessee objects."

"Mr. DUNN. I move to suspend the rules; and I ask that the resolution be read."

"The resolution was read, as follows:

"Resolved, That there be paid out of the contingent fund of the House a like amount of additional compensation to the same officers, clerks, messengers, and other employes of the House, and others, as was directed to be paid at the first session of the present Congress by the resolution of the House of August 15, 1856."

Now, sir, I ask gentlemen of this House if they know how much was proposed to be added by that resolution to the compensation of the employes of the House? But the report goes on:

"Mr. JONES, of Tennessee. I call for the yeas and nays upon the motion to suspend the rules."

"Mr. HUGSTON. Will the gentleman from Indiana accept an amendment?"

"Mr. HOUTSON. I object. I call for tellers on the yeas and nays."

"Tellers were not ordered."

"Mr. STANTON. Will it be in order to have the names of those who vote for the yeas and nays recorded?"

"The SPEAKER. It is not in order."

"The question was taken on Mr. DUNN's motion; and there were, on a division—yeas 131, nays 24."

"So (more than two thirds voting in favor thereof) the rules were suspended; and the resolution was introduced."

"Mr. DUNN. I move the previous question on the resolution."

"Mr. SMITH, of Virginia. I ask the gentleman to withdraw the call, to allow me to amend the resolution. There are five or six pages here for whose payment no provision is made—"

"The SPEAKER. Debate is not in order."

"Mr. DUNN. I consent that the resolution may be modified so as to include these extra pages."

"Mr. JONES, of Tennessee. The resolution cannot be modified after the rules have been suspended. That is not the question before the House for which the rules were suspended."

"The SPEAKER. The rules having been suspended for the consideration of the resolution, it cannot be modified by the gentleman from Indiana."

THE CONGRESSIONAL GLOBE.

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THIRTY-FIFTH CONGRESS, 1ST SESSION.

WEDNESDAY, MARCH 3, 1858.

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"The previous question was seconded; and the main question ordered.

"Mr. JONES, of Tennessee. I ask for the yeas and nays on that resolution; but before that question is put, I move to lay the resolution on the table.

"The motion was not agreed to.

"The yeas and nays were not ordered, (only fourteen members voting therefor.)

"The question was taken on the resolution; and there were, on a division—yeas 116, noes 29.

"So the resolution was adopted.

"Mr. DUNN moved to reconsider the vote by which the resolution was adopted, and also moved to lay the motion to reconsider on the table; which latter motion was agreed to."

That resolution proposed to give to your Clerk twenty per cent. upon a salary of \$3,600; it proposed to give to your Sergeant-at-Arms, to your Postmaster, and to your Doorkeeper and two or three of the clerks at the desk, twenty per cent. on salaries of \$2,160; it proposed to give to other clerks, to your Librarian, and the superintendents of the document-room and folding-room, twenty per cent. of \$1,800.

Mr. TAYLOR, of New York. I rise to a question of order. My point of order is, that the bill giving extra pay to employés in the last Congress is not now before the House for consideration.

Mr. JONES, of Tennessee. I am showing reasons why this bill should be passed, and that is legitimate.

The SPEAKER. The Chair thinks the gentleman from Tennessee is in order. The Chair understands the gentleman from Tennessee as showing the necessity for the passage of the bill defining the salaries of officers of the House.

Mr. JONES, of Tennessee. I think the Speaker will bear me testimony that, although I may have the appearance of trespassing on the House frequently, I never attempt to make speeches unless I think they have some relevancy to the subject under consideration.

Mr. TAYLOR, of New York. I wish to justify my call to order, from the fact that we have now a bill and substitute before the House for consideration, and it can certainly not be material to the House to know what the last Congress or any previous Congress did, in allowing compensation or extra compensation. Therefore, as we are spending much time on this very trivial matter, at a sacrifice of more important business of the country, I certainly think that gentlemen ought to be confined to the point.

Mr. UNDERWOOD. A call to order is not debatable; and this has been already decided by the Chair.

The SPEAKER. The Chair is of opinion that the gentleman from Tennessee is strictly in order.

Mr. JONES, of Tennessee. Well, Mr. Speaker, that is one resolution; and although the money may not have been paid out at the Treasury, or may not have been passed in the Clerk's accounts, because the resolution is in conflict with the law passed by Congress prohibiting either House from giving this extra compensation, yet it shows what this House thought it had done. And, sir, I suppose that there will be an attempt to appropriate the thirty or forty thousand dollars, granted by this resolution, before the termination of the present session. That, sir, is one of the propositions of the last days of last session.

Here is another, introduced on the 3d of March—the Congress terminating on the 4th, at twelve o'clock:

"Mr. MOORE asked unanimous consent to offer the following resolution:

"Resolved, That there be paid out of the contingent fund of the House of Representatives, to J. C. Walker, its reading clerk, for his past services, and until otherwise ordered, a sum sufficient to make his regular annual salary equal to that now received by the reading clerk of the Senate.

"Mr. JONES, of Tennessee. I object. The compensation of these clerks is fixed by law, and the House has already given them extra compensation.

"Mr. MOORE. I move to suspend the rules.

"The question was taken; and the rules were suspended."

I believe, sir, that when the person named in that resolution was first employed here, it was as a messenger, at \$2 50 a day. He was employed by the then Clerk of the House to read; and at the end of the session a resolution was

passed giving him the salary of a clerk; that salary has been continued from that time till this—although I believe there is no authority for it other than this resolution—and has been included in the appropriation bills. What was the salary then?—\$1,500. But now, when it has gone up to \$1,800, here is a resolution offered, not only to increase the salary of that clerk for last session, but to go back to the time when he commenced his service in this House as a clerk at \$1,500 a year, and to pay him from that time, and until otherwise ordered, \$2,160 per annum; which is the compensation of the clerk in the Senate, whose salary is referred to in the resolution.

Now, what was the amount claimed under that resolution? Mr. Walker's receipt to the Clerk of the House, as presented to the Treasury for settlement, was for \$1,748 67, going back some eight or ten years; going back after the salary had been increased twenty per cent. permanently. And this was to be paid out of the contingent fund of the House. Was it a contingency?

Here, sir, I am not arguing or trying to show what the compensation of any one of these employés should be. I am only contending that their compensation should be fixed by law at whatever figure a majority of the people's representatives think it should be. Let the law fix the salaries, and I will vote cheerfully to pay them.

Well, sir, to this resolution Mr. Trafton offered the following amendment:

"And that the Clerk be directed to pay to Henry Douglass, for the period he was paid, \$1 50 per day, in consideration of his additional services as laborer, and in accordance with the resolutions of the House of May 4, 1846."

This Henry Douglass, I believe, was one of the laborers who had been for years employed by the House, and who had received his pay—for how many years I do not know. But here is a resolution proposing to go back, and to pay him an additional dollar and a half a day, for the time for which he had been already paid. Then, I say again, fix the number of laborers and their compensation.

"Mr. COLFAX. Every gentleman here can testify to the qualifications of our Journal clerk. I move to amend the resolution, so as to put him upon an equal footing with the Journal clerk of the Senate, by adding the following:

"And to John M. Barclay, its Journal clerk, what will make his regular annual compensation for his past services, and until otherwise ordered, equal to that now paid to the chief clerk under the Secretary of the Senate.

"Mr. MOORE. I now demand the previous question.

"The previous question was seconded; and the main question ordered.

"The amendments were agreed to; and the resolution, as amended, was adopted."

The amendments were agreed to; and the resolution, as amended, adopted. Well, sir, now let us see what is the effect of the resolution in regard to the Journal clerk. I am not speaking of the individual in that position, but of the compensation affixed to that position. I believe, sir, that some ten years ago, when the present incumbent first entered upon the discharge of the duties of that position, the salary was \$1,500 per year. It was afterwards increased to \$1,800, and subsequently to \$2,160, at which it stood when this resolution was passed.

But, sir, it will be seen, by the wording of the resolution, that it carries with it back pay for ten years. It dates back to December, 1847. You have thus increased the salary of the Journal clerk from what it was in 1847, to that of the chief clerk in the Senate in 1857. The salary, as I have stated, was \$1,500 in 1847, and the salary of the chief clerk in the Senate was \$2,500. Then this resolution goes back to 1847, and gives the Journal clerk of the House \$2,500 a year, from 1847 up to the time of the passage of the resolution, including the Thirty-Fourth Congress, and until otherwise ordered. The claim presented and receipted for in the office of the Clerk of the House, and the receipt presented at the Treasury, was for \$5,760 97.

Now, sir, gentlemen understand very well under what circumstances these resolutions were passed. The House had been in session all night. They had been in continuous session for thirty hours. Otherwise, how many men do you sup-

pose, understanding the effect of the resolution, would have voted to suspend the rules, or for the previous question upon the resolution?

Now, sir, if the House, by legitimate legislation, will say that it is right to pay the officer who keeps the Journal \$2,500 a year, I say amen to it, and will appropriate the money to pay the salary. If they say \$5,000 a year, I will vote the money to pay it, when it shall have been first provided by law that that shall be the amount.

But, sir, these accounts have not been and cannot be paid at the Treasury, the accounting officers say, without a violation of a law upon the statute-book which they cannot disregard; and therefore they have been suspended and cannot be paid, I presume, without a special law making the appropriation.

Mr. BURNETT. I desire to ask the gentleman from Tennessee a question. I agree with him that there ought to be a law to protect the House against the passage of such resolutions as he has referred to; and in his remarks which he submitted, regarding it as a great outrage. But the point I desire to call his attention to is this: will the bill proposed by the Committee of Accounts protect us from the passage of just such resolutions as he has referred to at the close of each session of Congress?

Mr. JONES, of Tennessee. I think it would, beyond question; because, when you have fixed by law the compensation of those officers and employés, then, when their accounts are presented at the Treasury, the accounting officers will look at the law, and see whether they are authorized by law. But if there is any doubt upon the question, it is easy to incorporate a clause there prohibiting the voting any extra compensation where a regular compensation is provided by law.

Mr. BURNETT. My recollection is, that there was a law passed in 1854, the object of which was to protect the House against the passage of these resolutions giving extra compensation. But that law has been violated almost every session since, by the passage of resolutions giving extra compensation.

Mr. JONES, of Tennessee. I think the gentleman will find that the law or joint resolution to which he refers does not cover the character of cases I have been referring to. It covers the first resolution which I read, giving the usual extra compensation to the clerks, messengers, pages, and employés about the Capitol. If the gentleman will look to the law passed on the 20th of July, 1854, he will find that it provides that the salaries of these officers and employés about the House and Capitol shall be permanently increased by the amount of usual extra compensation, which was twenty per cent., with a proviso, however—

Mr. NICHOLS. I will ask the gentleman whether, in the cases of Mr. Walker and Mr. Barclay, just commented on, the Secretary of the Treasury has not recommended to Congress that these resolutions be paid, and whether payment was not suspended on the same principle that arrested the payment of the other extras?

Mr. JONES, of Tennessee. I think the Secretary of the Treasury has suspended this increase of salaries of the officers last referred to, on the ground of a proviso to an old appropriation bill. But the law of 1854, to which my friend from Kentucky [Mr. Mason] referred, increasing the compensation of the employés of this House twenty per cent., provides that such of them as have received the benefits of the act, shall not hereafter receive the usual extra compensation. Those who would get as much, by taking the permanent increase of twenty per cent., as the extra compensation would be, took the twenty per cent.; and those who would not get as much as the extra compensation declined to take the twenty per cent., and took the usual extra compensation.

There is another resolution which caused a good deal of objection at the time. It is as follows:

"Resolved, That the Clerk of the House is hereby directed to pay out of the contingent fund of the House to William

Judge the usual extra compensation allowed to laborers of the House; that the Clerk of this House be directed to pay out of the contingent fund to Daniel Buck the sum of \$360 for each session of Congress that he has or shall collate, make out, and prepare for publication the list of appropriations made, new offices created, &c., as required by the act approved July 6, 1836; and that Phin. B. Tompkins, tally-clerk and assistant reader, be paid for his service during this Congress, and until otherwise ordered, the same compensation which the reading clerk receives or shall receive under any resolution of this House; that the clerk to the Committee on Invalid Pensions be paid out of the contingent fund of the House, the same per diem and extra compensation allowed other clerks to standing committees of the House of Representatives, during the time employed by said committee for this Congress; that the Committee of Accounts be directed to examine the account of B. F. Hall for services rendered by order of this House, and if anything shall be found due him the same shall be paid from the contingent fund of the House."

This was a resolution embracing many provisions. Let us look at one of them:

"That the Clerk of this House be directed to pay out of the contingent fund to Daniel Buck, the sum of \$360 for each session of Congress that he has, or shall, collate, make out, and prepare for publication, the list of appropriations made, new offices created, &c., as required by the act approved July 6, 1836."

The Clerk of the House, under that law, was required to have made out at the end of each session, a list of the appropriations made at that session, the new offices created, with the salaries attached to them, and of those offices the salaries of which were increased during the session. This was very easy of performance. The appropriation acts had only to be taken up, and the clauses embracing the matter desired had only to be marked and sent to the printer. In the instance of the appropriation of \$1,900,000 for mileage, per diem, &c., of members of Congress, the amount had only to be extended out; and this is the service which Mr. Buck had been performing for years. He was getting a salary of \$1,800. This clause of the resolution I have read proposed to give him, in addition to that salary, \$360 every year he had performed this service which was required of the Clerk, and every year he should perform it. What was the sum, in gross, voted to Mr. Buck? Four thousand three hundred and twenty dollars. His receipt for that amount was presented at the Treasury Department and payment refused by the auditing officer, because the law did not authorize any such appropriation. Let these things take the form and body of law, and you will no longer hear of such appropriations being refused allowance at the Treasury by the auditing or accounting officers.

The resolution covers many other cases; but I have not time to refer to each one of them.

My friend from Arkansas [Mr. WARREN] was eloquent in behalf of the pages. I think we can get just as competent pages for two dollars, as those we have here now. My experience satisfies me that we have always had more of them than was necessary. How many had we at the last session? There were fourteen recognized by resolutions of the House, and they were paid two dollars a day, each. And the pages were a class of employes who did not accept of the twenty per cent. increase under the joint resolution of 1854, because under the extra compensation resolution they were in the habit of receiving \$200 each as extra compensation at the end of each session, and the twenty per cent. would not amount to that much by a great deal. They reserved the right to take the usual extra compensation. That was granted to them; and, if I mistake not, it was allowed at the Treasury Department on that ground.

Here is another resolution about pages:

"Mr. SMITH, of Virginia, asked the unanimous consent of the House to offer the following resolution:

"Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay to Samuel Miller, Richard K. Evans, George Hewett, Frank Dufour, Thomas P. Graham, Charles P. Hopkins, William M. Clarke, Edmund Burke, James H. Souder, George Miller, and Moena G. Porter, extra pages, the sum of two dollars each, per day, from the commencement to the close of the present session of Congress, with the extra compensation allowed by the House to the other pages thereof."

That resolution was to pay at the rate of two dollars a day eleven extra pages, brought into the Hall at the first of the session, and continued there without authority, or without any resolution or money appropriated to pay them: their compensation. That made the number of pages employed last session twenty-five. This resolution gave them two dollars a day during the session, which, I believe, lasted ninety-three days, which would

make \$186; and the same resolution gave them \$200 extra compensation. Now, if the House thinks that this number is right, or that a larger number is necessary, let them so provide by law. Let your law fix the number, and fix the compensation, and then cut off all this extra compensation. That is what I think is demanded. Your Committee of Ways and Means, when they come to report an appropriation bill, should know how many employes are authorized, what amount of compensation they are entitled to under the law, and what amount it is necessary to appropriate in order to pay them. I hold that these, sir, are not, properly speaking, contingencies of the House. Contingencies are such expenditures as cannot be anticipated, or which you cannot make specific appropriations in your laws to meet. They are such expenses as cannot be foreseen. But here is another case:

"Mr. PENNINGTON. I ask unanimous consent to offer a resolution, which is necessary to give construction to the resolution giving extra compensation to the employes of the House. It is as follows:

"Resolved, That the resolutions of the House during the present Congress, giving the usual extra compensation to its employes, be construed, as heretofore, to include the reporters of the House.

"Mr. McMULLIN. I would ask the gentleman if the reporters of the House have not already been provided for?

"Mr. PENNINGTON. No, sir; and the object of this resolution is to construe the compensation resolution so as to give them the extra compensation.

"Mr. McMULLIN. I appeal to the chairman of the Committee of Ways and Means if the reporters have not already had \$800 appropriated for them in one of the appropriation bills? If that be so, of course I cannot vote for this resolution.

"Mr. PENNINGTON moved the previous question.

"Mr. McMULLIN. The chairman of the Committee of Ways and Means has just answered my question in the affirmative.

"Mr. THORNTON. I object to this discussion.

"Mr. McMULLIN. I ask the chairman of the Committee of Ways and Means if we have not already voted the reporters \$800 over and above what they receive from Mr. Rives? If we have, of course this House will not pass this resolution.

"Mr. PENNINGTON. It is true that the House allows \$800 a year to the reporters. That allowance has been made for several years in succession, and is considered as a part of their regular compensation. This resolution is to give them the same extra that we give to the other officers of the House. I move the previous question.

"Mr. PERRY. I ask the gentleman from New Jersey to withdraw the demand for the previous question to allow me to offer an amendment, so as to include the chief clerk in the Globe office.

"Mr. PENNINGTON. I cannot withdraw it.

"The previous question was seconded; and the main question ordered.

"Mr. McMULLIN. I call for tellers on the resolution.

"Tellers were ordered; and Messrs. PRINGLE and BROOM were appointed.

"Mr. LETCHER. Have the rules been suspended to allow this resolution to come in?

"The SPEAKER. The Chair understood there was no objection.

"Mr. LETCHER. My colleague [Mr. McMULLIN] was objecting all the while.

"The SPEAKER. The question will be submitted, then, on suspending the rules.

"The House divided; and the tellers reported—ayes sixty-one, noes not counted.

"So (two thirds not voting in favor thereof) the rules were not suspended."

In that case, the rules were not suspended, but an appropriation had been made in one of the appropriation bills of an amount sufficient to pay \$800 to each one of these reporters, that bill became a law, and under it the money was paid over. Now, if you will provide for whatever compensation you think is right and proper, embody it in a law, let it pass both Houses and receive the sanction of the President, then it will be right and proper that it should be paid, no matter what the amount may be. I contend that it is important and necessary that we should pass some law upon the subject so that we may know how many employes we have and what compensation they are to receive.

I would make one remark here, sir, in answer to a portion of the remarks of the gentleman from Arkansas, [Mr. WARREN.] The gentleman says that in his country the rule is that, the larger the compensation the greater the certainty of getting a competent man to discharge the duties of an office. That may be, sir, in many cases. But I take it that you can get men who will discharge the duties of many of the persons employed about this Hall as faithfully, as promptly, and as efficiently for the compensation provided by the bill reported by the Committee of Accounts, and now before the House, as you can if you give them \$5,000 each, a year.

Mr. Speaker, there is such a thing as giving a

compensation for a certain position which is beyond the services required; and men will seek those positions because of the compensation who would feel themselves humbled, if not degraded, in performing the duties required of them. I, sir, would have this Government pay a fair, adequate, liberal compensation for all public services that may be required; but I am opposed, as I ever expect to be, though I may stand solitary and alone, to the creation of what I believe to be unnecessary offices, or to the giving of what I believe to be extravagant salaries, far beyond what will command the services of competent, qualified, and faithful persons to discharge the duties.

Mr. SEARING. Mr. Speaker, I do not wish it to be understood that, in offering a substitute for the bill now pending, I am opposed to economy in the expenditures of the Government. But this bill contemplates the cutting down of the salaries of all the assistant doorkeepers now in the employ of this House; and I, for one, am not prepared to vote to cut down the salaries of gentlemen who have come from every portion of the country and accepted positions as assistant doorkeepers of this House, in the expectation that they would receive the salaries already fixed by law. It may be that if these men had known that their salaries were to be reduced, they would never have accepted the positions at all; and I do not believe that, if it had been known that the House was going to take such a step as the one now proposed, half of them would have accepted the positions they hold under the Doorkeeper. The majority bill proposes to reduce the salaries of these officers—five of which are \$1,500, and the residue \$1,200—to three dollars a day to a certain number, and to fix the pay of the residue at three dollars a day for the session only. That is one of the principal objections I have to the bill reported by the majority of the committee. The bill which I offer as a substitute proposes to increase some grades of salaries. It proposes to increase the salary of the chief clerk from \$2,160 to \$2,500. Now, I am told that by resolution this officer already receives, in point of fact, that sum, through the percentage which he receives as disbursing officer, and I desire only to fix that salary so as to make it equivalent to what is now paid him. It proposes to increase the salary of the file clerk from \$2,160 to \$2,500. These salaries are the same in amount as those received by similar officers in the Senate; and I am confident that the duties of our officers are quite as arduous, and as well performed, as are those of the officers of the Senate. I desire to offer the following as a substitute for the bill.

The SPEAKER. The proposition of the gentleman to amend cannot be entertained, inasmuch as there is pending a motion to commit, made by the gentleman from Arkansas, [Mr. WARREN.]

Mr. MASON. There was another amendment, offered by the gentleman from New Jersey, [Mr. SPINNER.]

The SPEAKER. That is pending. If the motion to commit be withdrawn, the amendment can be received, and that motion renewed.

Mr. WARREN. I desire to say that my object in making that motion was to get this bill before the Committee of the Whole on the state of the Union, where amendments can be offered to it. I will withdraw the motion to commit, if the gentleman promise to renew it.

Mr. SEARING. I will renew it; and now I offer this as a substitute.

The substitute was read, as follows:

That the officers of the House of Representatives, hereinafter mentioned, shall be, and hereby are, entitled to receive, in lieu of their compensations as fixed by law, the following sums—that is to say:

The Clerk of the House of Representatives, \$3,600 per annum.

The chief clerk, the Journal clerk, and the clerk in charge of the files of the office and of the House of Representatives, each \$2,500 per annum.

The reading and assistant reading clerk, and the clerk in charge of the printing, each \$2,160 per annum.

The nine assistant clerks, \$1,850 each per annum.

The chief messenger in the Clerk's office, \$1,500 per annum.

The messenger in the library to the Hall of the House of Representatives, \$1,500.

The five assistant messengers, each \$1,300 per annum.

One laborer, \$750 per annum.

One assistant laborer, \$600 per annum.

Two laborers at \$50 per month during the session.

Sec. 2. And he further enacted, That the Doorkeeper of the House of Representatives shall be, and hereby is, entitled to receive \$2,160 per annum; the assistant doorkeeper, \$1,750 per annum; five messengers, each \$1,500

per annum; fifteen messengers, each \$1,200 per annum; superintendent and assistant superintendent of the document room, each \$1,750 per annum; superintendent of the folding room, \$1,800 per annum; assistant in the folding room, \$1,500 per annum; four laborers, each \$600 per annum; four laborers, at \$50 per month during the session; and twenty pages, between the ages of ten and sixteen years, each at \$2 per day during the session: *Provided*, That the messengers of the House of Representatives shall, during the recess of Congress, be liable to perform labor in the folding room of the House.

Sec. 3. *And be it further enacted*, That the Postmaster of the House of Representatives shall be, and he is hereby is, entitled to receive \$2,160 per annum; the assistant in the post office, \$1,750 per annum; four messengers, each \$1,500 per annum; three mail boys, each \$900 per annum; two mail boys, each \$50 per month during the session of Congress.

Sec. 4. *And be it further enacted*, That the Clerk of the House of Representatives be, and he is hereby, authorized to employ two clerks at a salary of \$1,800 per annum, each, to continue the alphabetical index of private claims: *Provided*, That such clerks shall be employed only for such time as may be actually required to complete the work to the close of the present Congress.

Sec. 5. *And be it further enacted*, That the Doorkeeper of the House of Representatives be, and he is hereby, authorized to employ in the folding-room, during the session of Congress, under the direction of the Committee of Accounts of the House of Representatives, such number of folders, not to exceed twenty-five in number, as may be deemed necessary to perform the work, at a compensation not to exceed \$2 50 per day; and also, that he may employ, under the direction of the said committee, two horses during the session of Congress, and that he may receive a suitable allowance for expenses in sending messages and dispatches by messengers and pages.

Sec. 6. *And be it further enacted*, That the messengers employed in the post office of the House of Representatives shall each furnish a horse and carry-all at a price not exceeding two dollars per day.

Mr. SEARING. I hold that we have literally made a compact with these men, holding the position of messengers, at a certain fixed rate; and that we are bound, in common honesty, to allow them to be recipients of that compensation, at least during the present session. I agree with the gentleman from Arkansas, [Mr. WARREN,] who told the House that, if we are to begin a system of reformation in the expenses of the Government, we should begin at a point where we could make important savings. Let us aim at higher game than the clerks and messengers of the House, and those holding other subordinate positions around it. It is scarcely a year since the salary of every member of the House was raised; and I have not heard, during the present winter, a single objection, on the part of a member of this House, to his being the recipient of that increased compensation. I believe that all are well content with it. Therefore, I desire that, in all common honesty, those men, who are here in the discharge of their duty as clerks, or other employes of the House, may retain their salaries at least during the present Congress.

I now renew the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. SMITH, of Illinois. I want to define my position in regard to this matter. I want to say that I will go as far as any gentleman on this floor in reducing the expenses of the Government. Sir, I will not commence upon the pages, clerks, and employes around this Capitol.

Mr. RUFFIN. I want to say that this bill does not reduce the pay of the pages one cent.

Mr. SMITH, of Illinois. I understand that; but they are included in the bill. The bill, as I understand it, is to affect the salaries of all the men who are connected with this House. I do not believe in the policy of commencing the work of retrenchment in the expenses of the Government in that branch of the public service.

I do not concur with the chairman of the Committee of Accounts, [Mr. MASON,] nor with the honorable gentleman from North Carolina, [Mr. RUFFIN,] in regard to the difficulties which arise from giving high salaries. If I understood them, they argued that, to fix high salaries, brings men here from a distance, who are appointed and paid for work which they do not perform. Well, sir, that is not the fault of the law, but it is the fault of the head of the department having the matter in charge. I would censure any officer of this House who would give an appointment to such men. Employments should be given to men who come here to work, and who feel an interest in the prosperity and welfare of the country. And, sir, when they come here and perform a service, they should be paid for that service. They should be paid in the same proportion with the members of the House and the clerks in other de-

partments of the Government. From the knowledge I have of the duties performed, and the compensation paid the clerks and officers in the various departments of Government, they receive a higher compensation, in consideration of the work done, than the clerks and messengers of this House, under any law regulating their pay. This I believe; and I believe an examination will prove these facts to be correct.

Now, sir, I conceive that it is the province of the committee which reported this bill, when they state to this House that we pay our clerks and messengers here higher for the service performed than is paid any other officers of the Government, to state the facts upon which they base their statement. Whenever they shall present facts which will show that, I will vote for reducing the salaries of the pages, messengers, and clerks. Until I am convinced of that fact, I will not vote for such a reduction. How could I go home to my constituents and acknowledge that I am receiving double the compensation I received when I had the honor of representing the people of my district in Congress some years ago, while at the same time I voted to reduce the pay of the laborer who works as many hours a day as we do, and many of them more.

I say again, I am for retrenchment and reform, but I want to begin at the right place. I want, when that reform is made, that it shall extend to all branches of Government. I do not want it said that we have reduced the expenses some few thousand dollars by cutting down the salaries of our officers—clerks and messengers—while we are throwing out money by millions broadcast over the land, upon the merest pretext, and while there is danger that we shall corrupt and injure the country by the profuse and lavish manner in which we have expended it.

I shall vote for referring this bill to the Committee of the Whole on the state of the Union and there let it undergo a rigid examination. If it shall be found that there are officers who are not needed, I am for striking them off, for I do not like drones. If there is one who is not needed, I will vote for turning him off and dispensing with his services. I am for an honest, fair, and equitable reform, and I will go as far as any member of this House in accomplishing it.

Mr. NICHOLS. I do not propose to consume the time of the House for more than five or ten minutes in the discussion of this question, nor do I wish to enter into a full discussion of the merits of the particular bill before us. During the past Congress it was my good fortune, or misfortune, to be somewhat intimately connected with the organization of this House through its employes, as a member of the Committee of Accounts, and I state from the knowledge which I obtained, that in some branches of its organization it is highly necessary that some limitation should be fixed by law to the number of employes which the respective officers of the House shall have the right to employ. I believe, during the last Congress, in reference to one or two which the Committee of Accounts had control over, I had the honor to move resolutions and secure their passage, for discharging supernumeraries. I say, sir, that a limit ought to be placed, and carefully placed, upon the discretion which officers of this House have heretofore exercised. And I believe that the clause of the bill which gives the Committee of Accounts the right to authorize the number of employes in certain parts of the organization of the House, is right and proper, and ought to pass.

When the Thirty-Fourth Congress entered upon its session there was no necessity, in the folding-room, for the employment of any more men than are now employed under the authority of the Committee of Accounts. For the first four months I believe there was no necessity for more men there than are authorized by this bill; but you will recollect that, after four or five months of the session had expired, we entered upon an excited political campaign; and gentlemen here know, as well as I, how all political parties crowded their documents into the folding-room, creating a necessity for a large additional force. More than four fifths of those documents were for political purposes purely. There was no let up at all; there was no escape. The Committee of Accounts, from the pressure brought to bear upon them from all parts of the House, were compelled to authorize a large

additional force to be employed. But I protest against the temporary act of any committee being construed into any authority to employ officers which are not necessary under the present organization. I think that portion of the bill which more fully gives to the Committee of Accounts the control of this department is just and proper, and ought to be passed by the House.

I propose to state my own experience. I have been here for the best portion of five years. During the first session I had the honor to occupy a seat upon the floor of the House, I found the members of this body and of the Senate disposed to increase the salaries of the clerks. They did increase them. At the next session Congress, you will recollect, increased the salaries of the Judges of the Supreme Court of the United States. At the next session they increased the pay of the rank and file of the Army and the pay of the Navy. And at the last session of Congress the pay of another useful branch of the Government was also increased, and not improperly. I say in respect to the measure pending, that I do not believe that a decrease of the salaries of the necessary employes of the House is at all necessary. If you pass this bill, it is limited, in its direct effect, to men who have been employed by this body, and it reaches nowhere else. If it be the desire of the House, Mr. Speaker, to inaugurate a general system of restriction of the number of employes of all the departments, and to decrease their salaries—a general system instead of a measure providing only for one department—then the motion to refer to the Committee of the Whole on the state of the Union is a proper one. When such a bill is perfected in committee, let it extend its provisions to all who are receiving salaries under the Government, and let us meet the question like free and independent Representatives of the people. Let us consider and act on all the interests involved with justice and equality. If the proposition were to reduce the salaries of the Government officers all round twenty per cent., I would say, consider it now, give it proper consideration, and then fairly decide on it. But if the pending bill be passed, have we any assurance that the Senate will meet us half way by concurring in our action and reducing the salaries of their employes? Suppose they should not do so, what would be the result? In one branch of the legislative department of the Government there would be one grade of salaries, and in the other a higher grade, although the officers of both discharge the same duties. I say, let us perfect this bill, send it to the Committee of the Whole, and let us provide in one bill a general system in reference to all the employes of the Government.

I have a few words to offer concerning the subject of extra compensation, which has been alluded to by several gentlemen who have preceded me. I have heard some dozen, and perhaps more, instances cited where this House has passed resolutions for extra compensation. They have been brought prominently before the House and held up to it as singular examples of legislation. They are not singular at all. I think I can go behind the examples presented by the gentleman from Tennessee, [Mr. JONES,] and show, if it were necessary, that from the year 1800 down to this present time, it has been an almost uniform custom of this House to pass resolutions giving extra compensation, and that these resolutions have been uniformly responded to by the Treasury Department. Here is an example which occurred at the last Congress, and which is against the limitation pleaded in bar of the action of the House. You remember a resolution was offered at the first session of the last Congress to pay certain gentlemen who are now before me, gentlemen connected with the official paper of Congress, \$300 each as extra compensation for their service as reporters of our debates. It was passed, and as much as has been said of objections, I do not recollect that a single member of this body objected to it. Not one. Even the gentleman from Tennessee [Mr. JONES] did not object to it. The resolution was passed, and the money appropriated under it was paid at the Treasury Department. Now what difference exists between the case of the reporters for the Globe and those held up to the House by the gentleman from Tennessee?

Mr. JONES, of Tennessee. I think it is a little hard that the gentleman from Ohio should

hold up one case to which I did not object. [Laughter.]

Mr. NICHOLS. There were five hundred cases, I have no doubt, to which the gentleman did not object, and they could be shown if anybody would take the trouble to hunt them up. I have only alluded to this one case for effect upon the other side of the House, and with no invidious purpose whatever. I have voted for some of these extra-compensation resolutions, and against others, but from a full deliberation of the subject, I believe that the principle is wrong. Hereafter I think that I shall vote against them all. I asked the gentleman from Tennessee [Mr. JONES] whether the Secretary of the Treasury had not recommended the payment of the appropriations in the way of extra compensation to which he alluded? His answer was a general negative. I do not know to what extent that negative answer goes. A provision of the act of 1841 and the joint resolution of 1854, are relied upon at the Treasury Department to defeat all these appropriations. I do not see any distinction between these extras which are referred to and the separate and independent extras. I will read the conclusion of the report of the Secretary of the Treasury, and with that shall conclude what I have to say:

"I have no doubt that these officers have so acted, and in refusing to settle their accounts no imputation is intended to be thrown upon their official conduct.

"In paying these accounts, they have only done what they were required to do, and what long established usage justified them in doing. Under such circumstances they should be protected from any loss or injury, and I have no doubt Congress will do it. The accounts must be suspended, however, until the meeting of Congress, when I will recommend the passage of a law authorizing the Department to pass them.

"In this way these officers can be amply protected, a wise and good law vindicated, and a bad practice corrected."

Mr. HASKIN. I desire to move an amendment as an additional section.

The SPEAKER. Amendment is not in order pending the motion to refer to the Committee of the Whole on the state of the Union.

Mr. HASKIN. I ask that my amendment may be read for information.

The Clerk read the amendment, as follows:

Sec. 10. *And be it further enacted*, That the act providing for the compensation of Representatives in Congress, passed during the year 1853, be, and the same is hereby, repealed, and that Representatives in Congress, after the passage of this act, in lieu of the salary now received, be paid a per diem allowance of eight dollars a day."

Mr. HASKIN. My motive in offering that amendment—

The SPEAKER. The amendment has not been entertained by the Chair.

Mr. HASKIN. Well, I desire to say, Mr. Speaker, that at the proper time I shall offer that, and insist upon its being adopted as an amendment to the original bill.

Mr. GREENWOOD. Perhaps the gentleman who made the motion to refer the bill to the Committee of the Whole on the state of the Union will withdraw that motion to allow this amendment to be got in. I hope it will be got in. The motion to refer can then be renewed.

Mr. HASKIN. If that course is pursued, I shall be satisfied.

Mr. RUFFIN. I am willing to vote for the proposition of the gentleman from New York, [Mr. HASKIN,] but I do not want it tacked on to this bill. The bill would be killed in that way. The proposition to refer the bill to the Committee of the Whole on the state of the Union is an indirect way of killing it. Every member who has served in Congress heretofore knows that the success of that motion would kill the bill as effectually as if you were to vote it down here. I want members to come up here boldly, and vote upon this question. I, for one, as a member of the Committee of Accounts, do not intend to go into the committee room and act in the dark—vote to pay accounts which I know nothing about, and probably reject just ones whilst I allow unjust ones. We want this question settled one way or the other, and the Committee of Accounts have a right to ask this much of the House.

Mr. GREENWOOD. I want the committee to have a fair hearing. I am quite ready to meet the question fairly.

Mr. HASKIN. The statement of the gentleman from North Carolina, that the effect of my additional section will be to kill the bill, proves that the bill cannot stand upon its own merits.

Sir, a great deal has been said here upon the subject of retrenchment and reform. It is a hobby which men mount in every legislative body in this country, and they ride it to death. I am sincerely in favor of retrenchment and reform; but the retrenchment and reform sought to be enforced by the bill now before us, by cutting down the pay of the poor assistant doorkeepers and laborers about this building—men who have come here from States remote from the capital, and who have to pay heavy board here in addition to supporting their families at home, and of these little boys, who are supporting their mothers and brothers, is a species of picayune reform which I am not in favor of. Sir, when the responsible majority in this House will initiate a system of retrenchment and reform, striking at the enormous printing system which has led to the payment of millions by this Government, and striking at the excessive publication of books and documents which are printed and thrown away, and by which the printer alone is benefited, I will go for it. Why, sir, there is a proposition, I understand, before the House that the custom-house officers throughout the country—the paid agents of the Government, who are now creating public opinion in the North in favor of a monstrous and stupendous swindle—shall have their salaries increased to four dollars a day. I am against this kind of "reform," sir. I hope that if this bill is to be adopted, it may be so amended as to cut down our own salaries at the same time that it cuts down the pay of those who are as much entitled to it, if not more, than we are to ours.

Mr. SMITH, of Virginia. Mr. Speaker, I must be allowed to say, and I say it with all respect, that I am surprised beyond measure that gentlemen who avow themselves in favor of retrenchment and reform should resort to a contrivance or a policy obviously designed in its effects to defeat all reform. Sir, the bill under consideration has been matured with great caution and care, as every man will admit who knows the materials of which the committee which has prepared it is composed. They have considered the subject confided to them, and now, when it is up for consideration, gentlemen seek to defeat action upon it, first by referring it to a Committee of the Whole, and then by introducing other subjects of reform, that it may be equally important to consider as the one now before us. And, sir, the gentlemen who take this ground, the effect of which must be to defeat the bill, are the loudest thunderers on the subject of reform. I want the country to understand that there is a deliberate effort to strangle this bill under the pretense of including within it action upon other branches of public expense.

Sir, let me say to this House and the country, that the influence of those around us is felt in the action of members upon this floor. The very few who are to be affected by this bill, run around this Hall, and, by "soft impeachments," appeal to members to save them from the effects of that reform which is indispensable. The effect is recognized and felt, and many a good-hearted man has yielded to influences of this kind, without properly looking to the duty he owes to the country. If you multiply and enlarge the operation of this bill by including the general reforms in the executive Government, to which reference has been had; if you multiply the outside influences that operate more or less upon every member, what chance have you of achieving any reform at all? Sir, you can only accomplish reform by striking in detail. The aggregation of reforms is death to it.

Mr. Speaker, having said thus much upon that subject, allow me to call the attention of the House to the two points involved in this bill, as I understand it. The first object of the bill is to limit the number of officials requisite to attend to the duties in connection with this House, to define by law the number of subordinates who shall be called into our service by those whom we appoint to office. Is there a gentleman upon this floor who can object to that? I ask, is there a single gentleman upon this floor who will hesitate to agree to a proposition to define the number of employes that our head employes shall call into the service of the House? Is there a member here who would say that the Clerk of this House should not be restricted in the number of assistant clerks he shall employ, or that the Doorkeeper of this House should not be restricted in the number of messengers he shall employ? Not one, I presume. That,

is one of the features of this bill, to limit the number and thereby to simplify the accounts and to restrain that discretion which has been greatly abused heretofore, as we suppose.

Then, sir, the next question is: of those to be retained and recognized by this bill, are the salaries fixed in it reasonable and proper? I was very much amused at my friend from Arkansas, [Mr. WARREN,] and at the gentleman from New York, [Mr. HASKIN,] and a little at the gentleman from Illinois, [Mr. SMITH,] when they talked so feelingly about the boys. Let me say to the honorable chairman of the Committee of Accounts that it is a great pity he did not introduce in his bill some change in regard to the pages, so as to give these gentlemen an opportunity of seizing upon it—

"To point a moral and adorn a tale."

But, sir, the only effect the bill has upon the pages is to increase their number, and to consecrate to them a legal, definite rate of compensation, the same as they have heretofore received. The chairman of the committee looked with pitying eye on these little infant petitioners, and increased their number, that more of them might have an opportunity of carrying out the ideas of gentlemen, in helping to support their widowed mothers and orphan brothers and sisters. And yet, in view of that, gentlemen get up a cry here about these little boys.

But let me call the attention of the House, really, in a candid and dispassionate spirit, to this bill; and I do it with the more confidence because I am sincerely desirous of seeing a sound and healthy reform effected. One side of the House can certainly have no objection to the reform. The other side of the House (I allude to the Democratic portion of it) are bound by every obligation—they owe it to duty and to their professions—to go on and do this work.

Look at this bill. Its first section reads as follows; and I want gentlemen to listen to it, in order that they may see—as I propose to treat this subject *seriatim*—the propriety of adopting the particular sections as I read them:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers of the House of Representatives hereinafter mentioned shall be, and are hereby, entitled to receive, in lieu of their compensation, the following sums, that is to say: the Clerk of the House of Representatives, \$3,600; the chief clerk, \$2,160; the Journal clerk, \$2,160; five clerks, each \$1,800; three clerks, each \$1,400; and four clerks, each \$1,200 per annum."

Mr. HILL. Will the gentleman state the compensation of these clerks at the present time?

Mr. SMITH, of Virginia. I will come to that. Here, Mr. Speaker, is an enumeration of such a number of clerks that it would be difficult, for one uninformed in regard to it, to suppose they could possibly be necessary. Yet the honorable chairman of the committee having the subject in charge has carefully considered the matter; and on that examination, regularly instituted and carried out, has come to the conclusion that this number is necessary. I bow to his judgment and let it pass, because he has done what I have not—looked into the subject and carefully analyzed it. Then the question may be asked—and it is what the gentleman from Georgia [Mr. HILL] refers to—what are the present salaries? And (I will add) why these peculiar amounts?

The present salaries are the same as here specified. I believe it was under the resolution of 1854, to increase the salaries then allowed, that these figures were reached. For instance, the Clerk of the House was entitled to \$3,000 a year. The twenty per cent. additional made his salary six hundred dollars more. This bill provides for giving to the Clerk, as a working man, what is now allowed him by the existing law—\$3,600 a year. So likewise with the chief clerk. So likewise with the Journal Clerk. So likewise with all the other clerks. But the gentleman from New York, who reports a substitute, [Mr. SEARING,] is not satisfied with giving to this batch of clerks what they have heretofore received according to law, but is in favor of giving to one of them—the Journal clerk, I believe—\$2,500 a year.

Mr. HILL. Does not the original bill increase the salaries?

Mr. SMITH, of Virginia. No increase at all, as I understand it. It allows the present number of clerks and the present compensation. These clerks are, as we know, gentlemen occupying highly responsible and important positions. The

Clerk of the House has a laborious duty to perform, and a highly responsible one; and I have faith in him that he will perform that duty. There is required of him not only skill, diligence, intelligence, but a high degree of integrity. The position of the reading clerk is also a highly responsible one. So likewise with the others. I ask the House whether it is prepared to go for the amendment, which increases the compensation of any of the clerks enumerated in the first section? I ask them if they will not vote for the bill as reported, in preference to any substitute proposing to swell the compensation of any one, or all of them?

The only difference between the substitute proposed and the bill reported by the committee is, as I understand it, in regard to a single clerk, whose salary the substitute proposes to raise from \$2,160 to \$2,500.

The second section reads as follows:

"And be it further enacted, That the Clerk of the House of Representatives be, and he is hereby, authorized to employ three messengers at a compensation of \$3 per day each during the year, and not exceeding eight messengers at a compensation of \$3 per day each during the session of Congress; and two laborers at a compensation of \$1 50 each during the year, and not exceeding six laborers at a compensation of \$1 50 each during the time employed."

Sir, I pause here; and I ask the House with confidence whether the compensation here provided is not liberal? I ask the gentleman from Illinois, [Mr. SMITH,] where they sell corn at ten cents a bushel, and where the salary of \$1,000 is deemed enough for the chief magistrate of the State—

Mr. SMITH, of Illinois. Will the gentleman allow me—

Mr. SMITH, of Virginia. Certainly.

Mr. SMITH, of Illinois. I wish to say that when Illinois adopted her constitution she was not able to pay the interest on her debt, and there was patriotism enough in her citizens to work for simply enough to pay their expenses, and even for less. The salaries of the governor and judges were fixed; not because we did not believe that their services were worth more, but we thought it more honorable to pay our debts, and to work for nothing at all, if necessary, so as to be able to do that. I trust that is a satisfactory explanation.

Mr. SMITH, of Virginia. I know the gentleman has a glorious people; but I reckon they are not disposed to work for love and glory alone, any more than are other people. Their chief magistrate, as I understand, gets \$1,000 a year; and their chief justice, who has to expound the laws of the country, \$1,200. And is it to be supposed that a messenger of this House—respectable to be sure, but from whom no high degree of intelligence or learning is to be expected—cannot put up with a salary equal to what the governor or chief justice of Illinois receives?

Again, here are laborers provided for at \$1 50 a day. How many men are there in the country who would be glad, especially at the present time, to get fifty cents a day? But these men get \$1 50 because we are told that Washington is an expensive place to live in. I ask this House, and ask it with confidence, to look back to the sources of their power, and to inquire how many there are among their constituents who would not take a hop, skip, and jump, at these places, at the compensation provided for in the bill?

The third section reads as follows:

"And be it further enacted, That the Clerk of the House of Representatives be, and he is hereby, authorized to employ one clerk at a salary of \$1,800, and one clerk at a salary of \$1,400 per annum, to continue the alphabetical index of private claims: *Provided*, That such clerks shall be employed only for such time as may be actually required to complete the work to the close of the present Congress."

Mr. HILL. I ask the gentleman from Virginia to answer me the same question with reference to the second section, whether it authorizes an increase or diminution of pay?

Mr. SMITH, of Virginia. This is not a reduction in the number of employés, as I understand it, but a reduction in the rate of pay.

Mr. HILL. I now repeat the same question in reference to the third section.

Mr. SMITH, of Virginia. I presume this is no reduction of compensation; but of this I am not advised. The chairman of the committee can inform the gentleman better than I can.

Mr. MASON. I understand, from a gentleman who has had long experience in performing that

business, that he is willing to take this work at \$1,800, and that another gentleman is willing to take the other place at \$1,400. There is no difficulty at all in getting competent men to fill the offices at the prices we have named.

Mr. HILL. Do I understand the gentleman from Kentucky to say that these are as competent men as the ones now in office?

Mr. MASON. One is a man who has been carrying on this business, and is willing to go on until the end of the present Congress, at \$1,800.

Mr. HILL. Is he the present incumbent?

Mr. MASON. No, sir; but he is here in town, and ready to take the position.

Mr. SMITH, of Virginia. The fourth section is as follows:

"And be it further enacted, That the compensation of the Doorkeeper of the House of Representatives shall hereafter be \$2,160 per annum."

That is the present salary, being twenty per cent. advance on the original salary; and it very properly has not been reduced. The fifth section reads:

"And be it further enacted, That the Doorkeeper of the House of Representatives be, and he is hereby, authorized to employ a superintendent of the folding-room at a compensation of \$1,800 per annum; and that he may employ, under the direction of the Committee of Accounts of the House of Representatives, such number of folders and laborers as may be deemed necessary to perform the work; and also, that he may employ, under the direction of the said committee, two horses during the session of Congress; and that he may receive a suitable allowance for expenses in sending messages and dispatches by messengers and pages."

For the reasons stated by the gentleman over the way, [Mr. NICHOLS,] a large number of employés were in the folding-room during the last Congress; and it is one of the unhappy consequences of employment here, that when a man once gets his finger into the public service, he never takes it out. He appeals to the good nature and forbearance of his employers, and manages to work along. I suppose the gentleman from Kentucky, who is the chairman of the Committee of Accounts, has found it necessary to regulate this matter by a law. A great abuse always has existed, and always will exist, unless the supervising eye of some committee is to control it.

Mr. HILL. I wish to ask the gentleman from Virginia a question. If I understand him right, he says that when a man once gets his hand into the Treasury he never takes it out. Now, I should like to know whether there is not a new set of clerks in some of these offices, and what has become of the old ones?

Mr. SMITH, of Virginia. The old ones were compelled to go with tears in their eyes, and the new ones think it very hard indeed, as they have not had a taste for a long time, that Democrats should cut them down. But, sir, I care not for that. As a Representative of the people, I seek to advance the cause of the particular party with which I am happy to cooperate. I should be very happy in dividing up fat places, *cateris paribus*, to give a friend the preference; but I will not violate the principles of that party to pander to the interests of a friend.

Section six of this bill reads:

"And be it further enacted, That the Doorkeeper of the House of Representatives be, and he is hereby, authorized to employ not exceeding fourteen messengers, at a compensation of three dollars per day each per annum; and not exceeding eleven messengers at a compensation of three dollars each per day during the session of Congress; and not exceeding four laborers at a compensation of \$1 50 each per day during the year; and not exceeding five laborers at a compensation of \$1 50 per day each during the session of Congress; and not exceeding twenty pages, between the ages of ten and sixteen years, at a compensation of \$2 per day each during the session of Congress."

He is to have fourteen messengers at three dollars per day—Sundays included. There are no intervals as in private employment. The employés are paid, and paid without interruption, when in the employment of Uncle Sam. Three dollars per day—more than one thousand dollars a year—and nothing to do a good part of the time. Now, sir, I have been reading this bill *seriatim*, section by section, so that, if the people of the country do me the honor to read my remarks, they will understand the subject and see how the public Treasury is run away with and squandered. Under the former system the service was performed quite as well as now, and this bill proposes a compensation of three dollars per day, which is an increase on the former compensation. I now read the seventh section:

"And be it further enacted, That the compensation of the

Postmaster of the House of Representatives shall hereafter be \$2,160 per annum."

Mr. HILL. I desire to say that I have no feeling whatever upon this subject—not the least in the world. I am seeking merely for information. I do not even know how I shall vote on the bill. I desire to know of my friend from Virginia whether he has made an estimate as to the results of this measure; how much it would save to the public Treasury?

Mr. SMITH, of Virginia. I do not know. A member of the Committee of Accounts, when the same question was propounded to him, stated that he presumed it would save fifty or seventy-five thousand dollars. That is the opinion which has been expressed on this floor. I know nothing about it.

Mr. MASON. Will the gentleman allow me to make a single remark?

Mr. SEWARD. I object to this farming out the floor in this way.

Mr. SMITH, of Virginia. I am entitled to the floor, and I yield it to the gentleman from Kentucky for explanation.

Mr. MASON. I wish to say in reply to the gentleman from Georgia, [Mr. HILL,] and to other members of the House, that we did not go into this matter for the purpose of retrenchment and reform only. We found everything in an unsettled condition; we found everything in confusion, and we thought it due to the House to settle for itself what number of officers should be in its employ, and at what compensation. We thought that as committees had been appointed to investigate the frauds of the last House of Representatives, this body had better set its own House in order before it found fault with others. We have done what we have done with reference to having competent officers, and with reference to having the duties discharged, and not with a view of punishing one or rewarding another.

Mr. SMITH, of Virginia. I have thus submitted my views upon this subject. I can assure the House that I have hesitated in the performance of this duty. I have been pressed by gentlemen around me to forbear. I have been appealed to to let the present system alone; and I was at one time almost disposed to yield to that appeal. But, sir, it has been my habit, when my affections are appealed to against a sense of duty, to resist that appeal. I believe that the compensation allowed here is liberal; I believe it is ample. I might indulge in a train of remark to show that this course is safer. At any rate I will strike where I can, to prevent every hungry and needy eye from turning towards this Government as the Mahommedan does towards Mecca for support. I will not encourage men to come up here in crowds and cluster round this Hall at the organization of every Congress. I will not recognize by my action or influence that great element of consolidation which is involved in the compensation of our officials of every kind.

Mr. TAYLOR, of New York. The gentleman says he will not encourage parties to come up here from every section of the country for offices. Will he tell me how many from his district alone are now in official positions under the Government?

The SPEAKER. The Chair is of opinion that that is not a pertinent question.

Mr. SMITH, of Virginia. Allow me to say that it does not become the member from New York—

The SPEAKER. It is not competent for the gentleman to discuss that matter.

Mr. ZOLLICOFFER. Mr. Speaker, I feel that, if I were called to decide on this question now, I must necessarily vote in the dark. We have a bill here which proposes to fix the number of the employés of the House, and also to fix their compensation. I infer, from the debate which has taken place, that the object of the bill is to reduce the expenditures of the Government. I am disposed to do what I can to reduce the unnecessary expenses of the Government, and, if the debate which has ensued is a correct indication, I sympathize with this bill. But, sir, I have not the information I desire; and I am inclined to the opinion that the members of this House generally do not know how many clerks, doorkeepers, and other employés of the House there are now existing under the law, and what is their compensation. Therefore, I am in favor of giving

that direction to this bill which will enable the Committee of Accounts to do what I conceive to have been their duty in the first place; and I move that the bill be recommitted to the Committee of Accounts, with instructions to report to the House how many clerks, doorkeepers, and other employes now exist under the law, and what is the compensation allowed to each. I think it would be better for the Committee of Accounts to make a report, to place before this House, with the bill, information as to the number of employes at present, and their compensation, so that we may determine whether we are economizing or not in voting for this measure.

Mr. SMITH, of Tennessee. If the gentleman will allow me, I will make a suggestion in reference to his motion to recommit. I have sought the floor on two points. I have taken some trouble to investigate the amount that this bill would save to the Government, and I find that the difference between the pay under the old law and that proposed by the Committee of Accounts, as well as I can ascertain it, to be nearly twenty thousand dollars. Perhaps, however, the sum is not so large. Another suggestion to which I will call the attention of the gentleman is this: the Committee of Accounts, as I understand, propose to do away with the land-map clerks employed under the House.

Mr. RUFFIN. The Committee of Accounts have nothing to do with these clerks.

Mr. SMITH, of Tennessee. It is said that these clerks have nothing to do. I understand that a requisition has been made upon these clerks today to do work which will take them six months. It is in reference to the unsold lands in the State of Illinois. I refer to these things, that my colleague may see the propriety of referring this bill to the Committee of the Whole on the state of the Union.

Mr. WARREN. I suggest that this bill has nothing to do with these land-map clerks at all.

Mr. ZOLLICOFFER. The question in my mind when my colleague rose to give me this information, was whether I could safely rely upon his conclusion. I feel that I want to examine myself the data upon which he comes to this conclusion. It seems that in his first premise he has fallen into an error. I am unable to tell, unless I have the information before me, whether his conclusion is correct or not. I deem that it is eminently proper in a bill like this that the Committee of Accounts should make a report, placing the facts upon our tables that every gentleman may examine for himself, and see whether there is a reduction, and if so, what is its extent, and also, whether the reduction is made at the proper point. These are matters of detail which ought to have examination. I move that the bill be recommitted to the Committee of Accounts, with instructions that they report the number of present clerks and other employes of the House, and the compensation which is now paid to each of them under the law.

Mr. STANTON. There is a class of economists who will never support any measure except it is perfect in every respect. They do not support any, for the reason that it does not begin at the right place, or affect the proper officers, or some other reason. Although they are very decided economists in all kinds of expenditure, yet there is some special reason why this bill does not meet their approbation. I always have a great sympathy for this class of economists, because they are so difficult to please. Now, sir, if I find a proposition which is in itself a legitimate and proper measure of economy, I shall not stop to see whether there may not be something else done in addition. I will take what is presented, and whatever else I can lay my hand on, as a separate and distinct proposition.

Mr. Speaker, I do not understand the bill now before the House to be in substance a bill to reduce anybody's salary. I do not understand it to be a proposition to reduce anybody's compensation. That is not the question. I understand that there is no definite and distinct legislation, no explicit law limiting the number of the employes of this House. That I understand to be the difficulty. The Committee of Accounts, as we learn from its members, are pressed for the payment of claims by persons who say that they are employes of this House. The committee have no

means of ascertaining who are legally, properly, and legitimately employed. They have no means of ascertaining the precise rate of compensation to which the various officers of the House are entitled. They present this bill here that there may be a law which will definitely and distinctly fix the number of the employes, and the compensation to which each shall be entitled.

I confess my utter inability to comprehend any reason upon which an objection to such a bill can be founded. No gentleman says that the employes are not sufficiently numerous. No gentleman says that there ought to be more clerks or more messengers. They do not say there are too few. They do not say that the compensation is not sufficient. Then, I ask, what objection can there be to the bill? There seems to be a general suspicion that some of these officers will be cut off. Nobody knows who will be reached, and some of the members are afraid that it will cut off some of their appointments and *protégés*, and remove them from feeding at the public crib. There is one thing certain—I have no friends at the public crib, and I am not troubled by any considerations like those I have mentioned; and I think that my friends on this side of the House have no need to be troubled on that score. If it is a legitimate and proper measure of economy, they certainly can have no personal objection to voting for it. Permit me to make another remark. I, for one, regard the course of the gentleman from Virginia, [Mr. SMITH,] the Representative of an adjoining district, as an evidence that he is operated upon by patriotic motives, and not by personal considerations. As regards the number of employes there may be here from his district, the greater the number the stronger is the evidence of his patriotism in the course he pursues in advocating this bill. Gentlemen around me say the bill will not reach them. That is a question for those who have charge of these appointments to settle. If there is too large a proportion of the gentleman's constituents employed, they can be removed any day; and because of that too great proportion he is in greater danger than any other gentleman upon this floor of having his constituents suffer from the operation of this bill.

But, Mr. Speaker, the evil that this bill seeks to remedy must be apparent to every gentleman who has served in former Congresses. Every one knows that, just at the close of the session, persons who have been employed by the officers of this House in various subordinate capacities, as clerks, or messengers, or pages, without authority of law, come here and appeal to the equity of the House, or to the good nature of members, for compensation for the services they have rendered. That is where the difficulty arises. There come up here, on the 3d of March, at a short session, or on the last day of a long session, resolutions reciting that A, B, and C have been employed in this, that, and the other capacity, and have rendered very valuable services to the House; and that, therefore, they be paid the same rate of compensation that is paid to other employes performing similar services. Men engage in these various employments about the House with the expectation and the confident belief that at the expiration of the session their services will be compensated, although there is no law by authority of which they can be employed, and although they are serving without any actual employment.

Now, I take it that this bill is intended to cut off all that description of uncertainty about the employes of the House which exists under the present law. There is another thing that I should be exceedingly glad if the gentleman from Kentucky [Mr. MASON] would adopt as an amendment to this bill, which I am very much afraid would not be reached by the provisions of the present law; and that is, that this House shall not, by resolution, at the close of its sessions, authorize any increased compensation to any employe of the House, to be paid out of its contingent fund, or from any other source. Let us fix all the salaries at what is liberal, adequate, and sufficient, so that every man shall know how much he is to have, and not at the end of the session add twenty, twenty-five, or fifty per cent. to the compensation of our employes.

Mr. MASON. I have no objection at all to such a provision being incorporated into this bill; but I understand that that is the law now.

Mr. STANTON. It is suggested to me that

this subject has been sufficiently discussed, and I demand the previous question.

Mr. SEWARD moved that the House do now adjourn.

Mr. DAVIS, of Mississippi, demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. FLORENCE called for tellers.

Tellers were ordered; and Messrs. FLORENCE and WALDRON were appointed.

The House divided; and the tellers reported—ayes 82, nays 40.

So the motion was agreed to; and thereupon (at twenty-five minutes to four o'clock, p. m.) the House adjourned.

IN SENATE.

TUESDAY, March 2, 1858.

Prayer by Rev. GEORGE D. CUMMINS, D. D.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. BAYARD presented the memorial of Robert Hale, praying for compensation for his improvement in war rockets, and for his stand for firing them; which was referred to the Committee on Military Affairs and Militia.

Mr. MALLORY presented the petition of Francis D. Pons, for himself and Peter Pons, late partners in trade, praying that he may be allowed to prove his claims for losses in Florida, in 1812 and 1813, before the judge of the northern district of Florida; which was referred to the Committee on the Judiciary.

Mr. SLIDELL presented two memorials of citizens of New Orleans, praying that a system of instruction may be introduced on board our vessels of war for the improvement of the personnel of the Navy; which was referred to the Committee on Naval Affairs.

Mr. BENJAMIN presented the petition of the heirs-at-law of S. Girard and others, praying for the confirmation of their title to certain lands in the State of Louisiana; which was reported to the Committee on Private Land Claims.

Mr. CLARK presented the memorial of William A. Vaughan, John Smith, William D. Little, and others, praying for compensation for services as inspectors at the port of Portsmouth, New Hampshire; which was referred to the Committee on Commerce.

Mr. IVERSON presented the petition of J. W. Brown, praying Congress to purchase his patent for the manufacture of fire-arms, which will greatly lessen the cost of their manufacture; which was referred to the Committee on Military Affairs and Militia.

He also presented a petition of assistant engineers in the Navy, praying that their pay may date from their promotion, and not from the issue of their warrants by the Navy Department; which was referred to the Committee on Naval Affairs.

Mr. GWIN presented papers relating to the claim of S. W. Holladay and others; which were referred to the Committee on Private Land Claims.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of Lewis F. Tasistro, on the files of the Senate, be referred to the Committee on Claims.

On motion of Mr. BROWN, it was

Ordered, That the memorial of Charles A. Kinkead, in behalf of Livingston, Kinkead & Co., on the files of the Senate, be referred to the Committee on Indian Affairs.

PAY OF DEPUTY SURVEYORS.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Private Land Claims be instructed to inquire into the expediency of increasing the compensation now allowed by law to the United States deputy surveyors in the State of California, for surveying private land claims in that State.

LAND LAWS.

Mr. IVERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of causing to be prepared, under their supervision and control, a continuation of the compilation of the laws and decisions of the Departments of Treasury and Interior pertaining to the public lands, accompanied by the opinions of Attorneys General, and decisions of the Supreme Court relating to said laws,

with a full and copious index, so as to bring the work heretofore published, under the authority of a resolution passed by the Senate on the 28th day of February, 1857, down to the present time.

REPORTS OF COMMITTEES.

Mr. DURKEE, from the Committee on Private Land Claims, to whom was referred the petition of William Marvin, submitted a report, accompanied by a bill (S. No. 177) to confirm to William Marvin title to lands in East Florida. The bill was read, and passed to a second reading; and the report was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of Thomas Henderson, submitted an adverse report; which was ordered to be printed.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom was referred the bill (S. No. 80) for the relief of the heirs and legal representatives of Olivia Landry, of the State of Louisiana, reported it without amendment, and submitted a report on the subject; which was ordered to be printed.

Mr. EVANS, from the Committee on Patents and the Patent Office, to whom the subject was referred, reported a bill (S. No. 180) to amend the several acts now in force in relation to the Patent Office; which was read, and passed to a second reading.

Mr. FITCH, from the Committee on Indian Affairs, to whom was referred the memorial of Anson Dart, submitted a report, accompanied by a bill (S. No. 181) for the relief of Anson Dart. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. MASON, from the Committee on Foreign Relations, to whom was referred the petition of George Frasier, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Foreign Relations be discharged from the further consideration of the petition of George Frasier, and that the petition and papers be referred to the Court of Claims.

Mr. BIGGS, from the Committee on Private Land Claims, to whom was referred the memorial of Camille St. Amant, submitted an adverse report; which was ordered to be printed. He asked to be discharged from its further consideration; which was agreed to.

Mr. POLK, from the Committee on Claims, to whom was referred the petition of Miles Devine, submitted an adverse report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. SEWARD, in pursuance of previous notice, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 174) to amend an act entitled "An act to regulate the carriage of passengers in steamships or other vessels," approved March 3, 1853; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. GWIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 175) for the relief of S. W. Holladay and others; which was read twice by its title, and referred to the Committee on Private Land Claims.

Mr. BROWN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 176) to acquire certain lands needed for the Washington aqueduct, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. HOUSTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 178) to provide for the organization of a regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers; which was read twice by its title, and referred to the Committee on Military Affairs and Militia.

Mr. HOUSTON also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 179) to extend the provisions of section twelve of the "act making appropriations for the naval service for the year ending the 30th of June, 1853," which was read twice by its title.

Mr. HOUSTON. I wish to remark that this bill would have been introduced before the present time had it not been that I was waiting for information called for from the Navy Department some time since, which has not yet been received,

and hence I am induced to delay no longer. I move its reference to the Committee on Naval Affairs.

It was so referred.

STURGES, BENNETT AND CO.

On motion of Mr. MALLORY, it was

Ordered, That the bill (S. No. 121) for the relief of Sturges, Bennett & Co., merchants of the city of New York, be recommitted to the Committee on Claims.

SOUND DUES TREATY.

Mr. HUNTER. I am directed by the Committee on Finance, to whom was referred the bill of the House of Representatives, No. 271, to report it back without amendment. I ask the general consent of the Senate to pass the bill now. There is a necessity for it, and I imagine there is no objection to it. It is simply to carry out a treaty.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill (H. R. No. 271) to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the Sound dues.

The bill appropriates, in order to carry out the stipulation contained in the third article of the treaty, \$393,011; and to carry out the stipulation contained in the sixth article, \$15,720 44, or so much of that sum as may be necessary to pay the interest provided for in it.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COMMITTEE SERVICE.

Mr. BIGLER. I ask the Senate to excuse me from further service upon the Committee on the District of Columbia.

The question being put, the Senator was excused.

Mr. THOMSON, of New Jersey. I ask the permission of the Senate to be relieved from serving upon the Committee on the Post Office and Post Roads. My name was placed on the committee merely for the purpose of holding a position until some of the gentlemen who had not taken seats in the Senate at that time had arrived. That having taken place, I now ask to be relieved.

The motion was agreed to.

Mr. BIGLER. I desire to state, in reference to the Committee on the District of Columbia, that I accepted the place with the understanding that when the Senator from Texas [Mr. HENDERSON] should make his appearance I should retire from that committee. I move that the Vice President be authorized to fill the vacancy in the Committee on the District of Columbia.

The motion was agreed to; and Mr. HENDERSON was appointed.

Mr. THOMSON, of New Jersey. I move that the Chair fill the vacancy in the Committee on the Post Office and Post Roads, caused by my being excused.

The motion was agreed to.

HENRY HUBBARD.

Mr. WADE. I move to take up the bill (S. No. 123) for the relief of Henry Hubbard. It is a small private bill which passed the Senate at the last session. It has received the unanimous sanction of the Committee on Claims, who recommend its passage. I hope the Senate will permit it to pass now. I think there can be no objection to it.

The bill was read the second time, and considered as in Committee of the Whole.

It provides the payment to Henry Hubbard of the sum of \$672 75, for his services as United States agent charged with the safe-keeping of the public property at the harbor of Ashtabula, Ohio, as certified by the bureau of topographical engineers, with interest at the rate of six per cent. per annum from the 11th of June, 1856, from which time payment is shown to have been delayed for want of an appropriation.

Mr. POLK. I will say to the Senate in reference to this claim, having had the duty of investigating it before the Committee on Claims, that there is no question about the services having been performed, and the rate of compensation. The account was regularly presented, and was approved at the proper Department, but it was not

paid for the reason that there was no appropriation for its payment. The committee, therefore, unanimously were in favor of reporting a bill to the Senate for the payment of the claim, and also for allowing interest from the time at which it was made known to the claimant that there was no appropriation for his payment. Interest is only allowed from that day.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CUSTOM-HOUSES IN IOWA.

The VICE PRESIDENT announced that the next business before the Senate was the following resolution, reported by Mr. BENJAMIN from the Committee on Commerce:

Resolved, That it is inexpedient to provide for the objects referred to in said resolution.

This resolution was reported by the Committee on Commerce who had been instructed by the following resolution, which was adopted by the Senate:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of making an appropriation for the construction of a custom-house at Keokuk, in the State of Iowa; also as to the propriety of making Sioux City, in said State, a port of delivery, and of making an appropriation for the construction of a custom-house at the latter place.

The resolution reported by the Committee on Commerce was agreed to.

STEAMBOAT INSPECTORS IN FLORIDA.

The next business before the Senate was the report made by Mr. BENJAMIN from the Committee on Commerce who were instructed by a resolution of the Senate to inquire into the expediency of providing for the appointment of inspectors of the hulls and boilers of steamers in Florida; and to whom were referred a petition of citizens of Franklin county, Florida, and the presentment of the grand jury of the United States district court of the northern district of Florida on the same subject. The committee reported the following resolution:

Resolved, That for the reasons expressed in the annexed communication of the Secretary of the Treasury, it is inexpedient to make the appointments suggested in the resolution.

The resolution of the Committee on Commerce was agreed to.

J. ROSS BROWNE'S REPORT.

The Senate next proceeded to consider the following resolution, submitted by Mr. SEBASTIAN on the 26th of January:

Resolved, That the Secretary of the Interior be requested to communicate to the Senate the report of J. Ross Browne, special agent of the Indian department, on the Indian affairs of Oregon and Washington Territories.

Mr. SEBASTIAN. That resolution was, by order of the Senate, laid on the table because a similar one, offered by the Senator from Mississippi, now absent, [Mr. DAVIS], had been adopted a few days previous. The report has long since been communicated to the Senate. I move, therefore, the indefinite postponement of the resolution.

The motion was agreed to.

KANSAS-LECOMPTON CONSTITUTION.

The business in order was the following resolutions, submitted by Mr. DOUGLAS on the 4th of February:

Resolved, That the President be requested to furnish all the information within his possession or control on the following points:

1. The returns and votes for and against a convention at an election held in the Territory of Kansas, in October, 1856.
2. The census and registration of votes in the Territory of Kansas, under the provisions of the act of said Legislature, passed in February, 1857, providing for the election of delegates and assembling a convention to frame a constitution.
3. The returns of an election held in said Territory on the 21st of December, 1857, under the schedule of the Lecompton constitution, upon the question of "constitution with slavery" or "constitution without slavery."
4. The returns of an election held in the Territory of Kansas on the 4th day of January, 1858, under the authority of a law passed by the Legislature of said Territory, submitting the constitution formed by the Lecompton convention to a vote of the people for ratification or rejection.
5. The returns of the election held in said Territory on the 4th day of January, 1858, under the schedule of the Lecompton constitution, for Governor and other State officers, and for members of the Legislature, specifying the names of each officer to whom a certificate of election has been accorded, and the number of votes cast and counted for each candidate, and distinguishing between the votes returned

within the time and in the mode provided in said schedule, and those returned subsequently and in other modes, and stating whether, at either of said elections, any returns of votes were rejected in consequence of not having been returned in time, or to the right officer, or in proper form, or for any other cause, stating specifically for what cause.

6. All correspondence between any of the Executive Departments and Secretary or Governor Denver relating to Kansas affairs, and which has not been communicated to the Senate.

Resolved, That in the event all the information desired in the foregoing resolution is not now in the possession of the President, or of any of the Executive Departments, he be respectfully requested to give the proper orders and take the necessary steps to procure the same for the use of the Senate.

Mr. DOUGLAS. I trust there will be no objection now to the adoption of these resolutions. I regret that they were not adopted when they were first brought in; because, if they had been, we should probably have received by this time all the information which they call for. I desired, at that time, to have those facts, in order that they might be used before the Committee on Territories, as well as in the Senate. The resolution calls for facts which I consider material. Some of these facts are alleged to be embodied in the report of the majority of the Committee on Territories; and I see the report states that Mr. Calhoun, before the committee, furnished statements in regard to a few of the facts here called for. I see, by a communication in the newspapers, addressed by Mr. Calhoun to the people of the United States, that he says he has communicated to the Committee on Territories fully the facts in regard to the history and origin of the Lecompton convention. I can only say that, as a member and as chairman of the Committee on Territories, I was present at every one of the meetings of the committee; but I never saw Mr. Calhoun there; I never heard that he was there; I never heard of a proposition to invite him there; I never saw a communication from him addressed to the committee; I never had one from him, directly or indirectly, touching affairs of Kansas as a communication to the committee. It is true, that, having seen these statements in the newspapers on that Thursday morning when the report was made, when I had not time to read the report, I inquired of a member of the committee whether any communication had been received from Mr. Calhoun; and I was told that one had been shown to a member of the committee, and taken back by Mr. Calhoun to be corrected and copied; but still it has never come to the committee. The committee, as a committee, have not been permitted to see the facts which are put forth to the world as having been furnished by the president of the convention to the committee. Now, I want to know whether or not communications are to be made by President John Calhoun to a majority of the committee, and withheld from the minority, who are deprived of the opportunity of cross-examining him, or testing his knowledge of the facts, he not putting them in such a form as to make himself responsible for the truth of the statements thus made?

Sir, Mr. Calhoun is in this city. He is a Government office-holder; he is the surveyor general of Kansas Territory, and is held for his good conduct by his commission. He is absent from his duties in Kansas, and is here, as it is supposed, to favor the project of the admission of Kansas with the Lecompton constitution. Why is it that the President tolerates him in being here, and in withholding the facts which are essential to an enlightened judgment on this question? Mr. Calhoun does not hesitate, and has not hesitated, to say, and authorize newspapers in St. Louis and other places to publish the fact, that the pro-slavery, or Democratic ticket, as he calls it, was elected for the Legislature and State officers in Kansas on the 4th of January. He does not hesitate to say to other individuals here, that his present opinion is that the free-State ticket has been elected; but he does not hesitate to say, also, that he never intends to issue certificates to anybody until Congress admits Kansas into the Union with the Lecompton constitution; and if we refuse to admit it, then he never will declare the result.

I wish to know whether there is not some way of ascertaining the facts of the case? Are we to be required to act blindly here, one part of the country being given to understand that they have got it all their own way—the other part of the country understanding that the certificates are to go the other way? Each one here is called upon to give a vote on his expectations or private as-

surances that it is this way or that way, and then to wait and find who is to be cheated after the act is consummated. Sir, I no not think it becomes the Senate of the United States thus to be trifled with by one of the Government office-holders. The only law under which Mr. Calhoun professes to act—the schedule to the Lecompton constitution—provided that the returns shall be made to him within eight days. He gave notice on the ninth day to the Speakers of the two Houses of the Kansas Legislature that he would count the votes. The votes were counted; and then he refused to declare the result; and we are to understand one day that the result is one way, and another day that it is the other way. It will not do to say it is immaterial which way the result is. It is material; and why?

Mr. SEWARD. Will the Senator allow me to ask him a question?

Mr. DOUGLAS. Certainly.

Mr. SEWARD. Was there any day limited, or appointed by law, on which the results of these elections should be ascertained?

Mr. DOUGLAS. By implication, I think, it is fairly to be deduced. The schedule provided that the vote on the constitution should be taken on the 21st of December, and returned within eight days thereafter, and it should then be sent to Congress. It provided that, for State officers, the election should be held and regulated in the same manner as the vote on the constitution, thus carrying the clear implication that the returns should be made, and the result counted, at the end of eight days from the day of election. There is no escape, then, from the conclusion that it was his duty to make the count at the end of eight days. He acknowledged that this was his duty, by giving notice to the Speakers of the two Houses to be present and witness the counting of the votes on the ninth day. They opened the votes, and added them up; but still we are not permitted to know whether that adding up is to stand. We hear one day that the assurance is given that the pro-slavery ticket is to be declared elected; we hear the next day that the assurance is given that the free-State ticket is to be declared elected.

Let me state the importance of this point. The President tells us that this constitution may be amended by the first Legislature. Now, if the Lecompton ticket is elected to the Legislature, and a majority of that Legislature is opposed to any change, it is important to know the fact; because it shows that the expectation held out, that the constitution may be changed, is a delusion and a deception. To hold out the idea that the first Legislature may provide for a change, and then pack a Legislature hostile to a change, is only practicing a deception. Let us know whether there is a Legislature elected that is in favor of a change, and then we can listen to the argument whether that Legislature, under the constitution, can provide for a change of the constitution.

It is important, also, to know what State ticket is elected, for this reason: suppose the free-State or anti-Lecompton ticket is elected to the Legislature, and there is a majority of that party, yet there is not two thirds; and then the question is whether the Lecompton candidate for Governor is elected, in order to veto any bill that the majority of the Legislature might pass, providing for an amendment of the constitution. These facts become important, unless we are to be called upon to vote in the dark; unless a trick is to be played upon us; unless one party or the other is to be cheated.

It is important to have this result known; and why is it that gentlemen here are not willing to have the facts settled? Why do southern men desire to be called upon to vote in doubt? Why do northern men desire to be called upon to vote in doubt? ["It is none of our business."] I am told it is none of our business. I will tell the Senator who said so why I think it is both his business and mine. We are called upon here to put this constitution in force, and recognize the State government that may be organized in Kansas under the Lecompton constitution, and give it operation; but every day evidence comes here of fraud after fraud, and forgery after forgery, in the returns. It is not confined now to the Delaware Crossing, which is admitted to have been a forged return; but the testimony has been taken, and is conclusive, that there was a forged return also, to the amount of some nine hundred votes, at

Shawnee; that the returns were taken from Shawnee down into Missouri, and there for two days. Two men were adding names, one man calling off the names from the poll-book that had been made out at the election of the 21st of December, and the other adding those names by the hundred to the poll-book of the election of the 4th of January. On the day after the election, the testimony is, that in the State of Missouri some nine hundred names were added. There were only about one hundred and sixty votes on the book before this addition, when the poll-book left the Territory; but, after it got into Missouri, it swelled up to eleven hundred votes. These facts are proved; they were testified to by the men who were present, and by the men who transcribed the names.

So it is with regard to Oxford; so it is with regard to Kickapoo. The testimony as to Kickapoo is, that, although there had been vast numbers of illegal votes during the day, young Thomas Ewing, son of the late Secretary of the Interior, voted next to the last; only one man voted after him, according to the testimony; yet the poll-book shows some five hundred names added subsequent to his. The certificate was cut off; five hundred names were added; and then the certificate was pasted on after these names. The testimony is equally conclusive as to Shawnee, where seven hundred or nine hundred votes were added. A man by the name of Bailey was the last man who voted, according to the testimony. The proof is conclusive that he was the last man who voted; and then they cut off the certificate, put on seven hundred or nine hundred names, and pasted it on again; and they call that a return!

These facts are well known to the world; they are proven before the officers of the law; they are known to Mr. Calhoun, the president of this convention. He is here in this city under the protection of the President of the United States, and held by his commission. He withholds the facts and the Senate refuses to permit the information to be extracted, and we are told that it is none of our business. We are called upon—

The VICE PRESIDENT. Will the Senator pause for a moment? It is the duty of the Chair to call up the special order at this hour.

Mr. DOUGLAS. I never knew a debate to be cut off in its midst; but if that is the rule, I must yield.

The VICE PRESIDENT. The rule is positive. The Chair has cut off debate fifteen or twenty times since the commencement of the session.

Mr. GREEN. I insist upon the enforcement of the rule, for I intend to reply to this fully.

The VICE PRESIDENT. It is the duty of the Chair to call up the special order. My duty is imperative, and has been exercised repeatedly during the session. If there is no motion to postpone the special order, it will now be taken up.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. COLLAMER. Mr. President, when I yielded the floor yesterday, I was speaking of the first attempted organization of the territorial government of Kansas under the organic act. I endeavored to show that it was made by force of an invasion from Missouri, spreading itself all over the Territory, and overawing and over-voting, in an unlawful manner, the people who inhabited the Territory.

There have been attempted some excuses for this act. They have been mainly found in what has been alleged to be the conduct of the Emigrant Aid Society in sending out to Kansas persons from Massachusetts, though nothing is said at the same time about the Blue Lodge associations which had been formed in the vicinity for the purpose of taking possession of the Territory at the first bound. But, sir, I do not wish to be led off, as I think the community has been attempted to be led off, from examining into the true character of that invasion, by directing their attention and exciting their prejudices against some other people. I can merely say that the act of the Emigrant Aid Society, in aiding persons who wished to go to Kansas for the purpose of settling, and, if you please, making it a free State also, had nothing unlawful in it; it was laudable and desirable. There was no single feature of illegality in it, and the purpose which they entertained, though it may call

for anathemas and vituperation, really, after all, is not censurable.

But, sir, there has been an infinite deal of unnecessary labor expended about that point, for if you examine truly into what the aid society did, you find that it amounted to very little. In the month of February, 1855, before this invasion from Missouri, and the first election, which was in March, 1855, a census was taken of the people of the Territory; the name of each person was put down, and the State from which he came. That census has been returned by the Governor and is in the archives of the State Department here. It was made for the purpose of partitioning out the Territory, and apportioning the representatives to the Legislature amongst the different districts, which was done. On a careful examination of that census, and of the places from which the people came, I have made a little table which is before me. No persons were ever aided by that Emigrant Aid Society except from New England, and, I say, but a very small portion of those. In the month of February, 1855, there were in that Territory only one hundred and eighty-three men from all the New England States. I say not one-half of them had any connection with the society in any way, or knew anything about it; but it is the fact that only one hundred and eighty-three men in all were in that Territory from New England; and this is undertaken to be made the foundation of an excuse for the military invasion from Missouri of between four and five thousand men going in armed, with banners flying, drums beating, and marching with all the array of war. If it were true that those people had gone there, even, if you please, with the horrid notion of abolitionizing Kansas—an awful idea!—can it be made the foundation for any sort of justification for this invasion, conquest, and subjugation of that country?

Did that act of invasion, that mode of attempting to organize the government, leave the people of Kansas "free?" Certainly not. Has the Senate of the United States—has the Government of the United States done anything on earth to redeem the pledge of "perfect freedom?" Have they endeavored to redress these people? Have they endeavored to correct that wrong? As I said before, we are told that if there was any objection to those persons who were elected members of the Legislature, the people could go to that Legislature and have it corrected. What a mockery is this! You may go to the usurpers in order to pass on the legality and correctness of their own usurpations! I fancy that gentlemen here, and especially those who are lawyers, understand the distinction between a challenge to the array of a jury, and a challenge for favor of particular members. When the challenge is to the array, how idle it would be to undertake to call upon those very jurors thus collected, to pass on the question whether they were legally brought together. I know that in challenges to favor, the good old practice of the common law was this: if an individual is challenged, triers are appointed, and they pass upon his case; and when they have passed upon three of them, they become so many members of the jury; the triers are dismissed; the jury go on passing upon the challenges to individuals, until you fill up the jury box; but you see they are expurgated, and persons are called that are not obnoxious to the objection. But how could that Legislature thus usurped, thus put into power by an invasion from abroad, aiding and assisting a very small minority of that people, pass upon the challenge of the array? And yet we are told that we are estopped from going into that matter, because the Legislature passed upon it! No, sir, there was no mode of correcting this wrong but by an act of legislation, and that has been denied.

Now, sir, in order to trace how it is that the constitution which we have now before us is the child, the result, the ultimate fruit and consequence of that usurpation, it is necessary to see how it was that those who were thus inducted into power perpetuated that power, how their action operated to produce this constitution in its present form. That can be done briefly. When that Legislature assembled they proceeded to pass laws, as they called them. Among those laws was one which required that every person who might be permitted to vote at all, should, if challenged, take an oath to support the fugitive slave law. In the next place they passed an act which declared

men subject to penalties and imprisonment if they should publish or declare anything which questioned the right of a man to hold slaves in the Territory of Kansas. That is a topic that they were not permitted to discuss at all; that was put under the ban. Then provision was made that men might vote on paying taxes, but no time of residence was required—of course intending that all those who lived near there could come in, settle for a day, pay a tax of fifty cents or a dollar, and vote, so that they might be saved the trouble of military expeditions afterwards. The purpose, the object, of those laws is perfectly obvious. No man in the exercise of ordinary discernment can possibly avoid seeing what it was. It was to drive the free-State people out of that Territory; it was to disfranchise them.

Is it possible that any State or Territory, when Congress have passed a law and fixed the penalties for breaches of that law, can go on and absolutely disfranchise men if they will not swear to support it? Did the Congress of the United States, in passing the fugitive slave law, ever declare or intimate that they supposed people could be disfranchised as citizens unless they would swear to support it? Has any State or Territory a right to add new sanctions, new penalties and new consequences to the breach of a congressional act? Again, it is said now that the slavery question is the question which, above all others, was intended to be left to the people there, and to regulate which they were to be left "perfectly free;" and the Missouri compromise, we are told, was repealed in order that they might be left to act freely upon it. Can it be possible that they were to be gagged on that subject, and were to be absolutely prohibited from discussing it altogether? Yet that was the legislation. It is perfectly certain that they not only intended this to be the effect, but they carried it out accordingly; for when they undertook to put these laws in operation we know what was the result. Printing presses were destroyed and declared nuisances. Bills were found against them as a nuisance, and the nuisance was abated without a verdict! A bridge, across which free-State people could pass, was a nuisance, and that was abated! The types and presses were thrown into the river. The city of Lawrence was to be abated; and if any man made any sort of a defense it was constructive treason! The people were imprisoned; they were hunted out; and if the officers whom the minority appointed at any time and place wanted assistance they called in a posse—who? Persons from Missouri. They overrun the country; the people were hunted out. I will not attempt to describe the ravages, the violence and blood which followed this in all its tracks. That was the season of 1856.

One thing, however, must be perfectly certain—that the free-State people then there, and who should go there while these test oaths and this gag law continued in force, were disfranchised people; they could take no participation in an election. The circumstances under which they were permitted to vote were such as utterly forbade their exercising the right of suffrage. How long did these laws continue in force? Until the 20th of February, 1857. That date becomes important.

What took place while these laws were in operation, and while these people stood thus disfranchised? An act was passed by the Territorial Legislature by which the people were asked to vote whether they would have a convention to form a State constitution. That question was put to the people. The free-State men could not legally participate in that election, and did not participate in it; and yet they are found fault with because they did not, and it is said they are estopped because they did not. What next? The second election of a Legislature took place in October, 1856. The same laws were then in force, and the Legislature which met in January and February, 1857, was elected by the same minority. The whole body of the free-State people of that Territory were utterly excluded from that election, in the manner I have stated. They had nothing to do with it; they could have nothing to do with it—not merely that they did not desire to have anything to do with it, but the very forms of the law were made to deprive them from having anything to do with it, and did deprive them. It ill becomes men who are now trying to take advantage of that, to say to them, "you could have voted." "Did you

mean we should?" Evidently you did not. Certainly nothing was put to these people but this: you shall have slaves or you shall be slaves—one or the other. The men who made these laws did not expect them to vote; and they did not mean them to vote. The laws were made to prevent it, and did prevent it; and they cannot find fault now that men did not vote, whom they meant to prevent from voting.

The second Legislature was elected under the influence of these laws. It met in January, 1857. That was the Legislature which passed the act that called the convention. Now, Mr. President, bear in mind that Governor Geary, who was then there when that Legislature passed the act calling the convention together, disliked it, because it did not provide for a submission of the constitution to a vote of the people. He communicated with them on that subject, and he says that they told him they could not agree to put into the act a provision that the constitution should be submitted to the people; that they had had communications with their southern friends on the subject, and they could not do it. He vetoed the bill for that reason. So says the Senator from Missouri; and he says they passed it by a two-thirds vote over him. Yes, they did. What would you expect them to do? Who made them? What were they made for? They were put into power by a minority of the actual residents, aided by an invasion from abroad, for a distinct, particular purpose. They went on to carry out that purpose, and shape their course accordingly, to make a slave State there. They meant to make it so despite the opinions of the people there, or they would have submitted the constitution to a fair vote. They would not submit it to the people, because their southern friends disliked it. When the Governor vetoed the bill they persisted in it; they would have a convention, and would make no provision for submitting the constitution to the people. Why? Because the people would vote against them. Is that making a constitution by the people, and for the people? Was that a convention elected by the people? Were they acting for the people? Clearly not.

An election of delegates was made, and they met together in convention. They met in the beginning of September. They adjourned because a general election for the Legislature of the Territory came on in October, 1857. From April, 1857, the Territory had been presided over, first by acting-Governor Stanton, and afterwards by Governor Walker, who, when they had been there long enough to ascertain the real condition of the people of that Territory, gave out assurances to them that they should have a chance of voting at the October election, fairly, under the United States laws—not under the territorial acts. The people on those occasions frequently said to the Governor, as he tells us, "you cannot control these men; you have not the appointment of the judges of election; you have no control over them; if you knew them as well as we do, you would know that we could have no fairness in an election from them."

There were some other men sent there, to whom I might allude—Governor Geary and Governor Reeder. When Governor Geary was sent there, he was sent upon a strange errand. I remember I saw the man when he was here about to go, and I looked at him thinking what an errand he was sent upon; and so it is of the officers who have been sent there. They were told, "now you must execute those laws; it shall be done by the whole power of this Government; but you are to see that there is fair and ample justice done to all that people." The thing involved a palpable inconsistency, a gross impossibility. You might as well have told these men "you are to go out, you understand, to do all kindness and equity and justice to the children of Bethlehem, but you are at the same time to carry out the decree of Herod." The thing was impossible. I knew it was impossible when the man started away. I knew he would be involved in difficulty, and necessarily must be. I knew, indeed, that he made some little effort himself to get the acts which had been passed in the Territory repealed before he went, but he did not succeed; he could not get it done; the Senate would do nothing about it.

When the October election of 1857 was about to come off, Mr. Stanton first, and Governor Walker afterwards, endeavored to persuade the

people to go into the election. Before that time, however, the election of delegates to the convention came on. That was soon after the arrival of Governor Walker in the Territory. He went out beset with that delusion which seems to be cherished so much about here, that there is but a little factious disturbing minority of the people of Kansas who make all the trouble—that they are in a state of rebellion! Governor Walker went there with that notion, and at first he could smell rebellion in everything. If the people associated in Lawrence to light and clean their streets, or build a bridge by common consent, he could see nothing in it but treason. He wanted a great army to environ that town; but after all, I do not know that he succeeded in shooting anybody, or that he found out any treason. He became disabused of this. So did Stanton, and so did Geary. They ascertained what the condition of the country really was when they had been there long enough to have a personal acquaintance with it, and then they began to see it in its true light, and they began to try to carry out the direction they had received, that they should do justice to the people. I say, in regard to the election for delegates to the convention, that Governor Walker and Secretary Stanton tried to persuade the people to go into it, but all the time gave them the most direct assurances, coming from the President himself, that whatever constitution the convention might form should be submitted to their vote for ratification or rejection. That was the assurance they had.

There was another element which entered into the election of delegates. The Legislature had ordered a census to be taken, and the delegates to be apportioned to the districts according to the census. A census was taken; and what I have to say of it is that in all the counties it was very imperfectly done; in many counties, and some of them very populous, it was not done at all. I know the Senator from Missouri says that the people prevented it; but how could the people prevent men from taking a census, where there was no officer to take it? Nor do I see how it is possible to prevent a man taking a census. He can inquire of the neighbors, or of anybody, who lives here? who lives there? who lives in this house? and who in that house? It seems to me a strange thing to say that you cannot take a census, cannot count the people. It is very much like the boy who could not tell how many pigs there were in a certain lot; he had counted all that were there but one, and it was a spotted one, and kept running about so that he could not count it. [Laughter.] I do not see any difficulty in counting. Where there were officers, they could have taken the census truly. Where there were no officers, the people were not to blame; but in some counties where there were officers, they did not try to take a census at all. There were some fifteen counties that were nominal counties, that did not have any census. Some of those were populous counties—populous for that country. You will perceive that that people as a body, as a mass, had no opportunity to be represented by delegates in the convention.

In the next place, it is true that the mass of the people had no confidence in the officers who were to conduct the election of delegates. They had no participation in the selection of those officers; and they were not appointed by the Governor. In the third place, the assurances which they received directly and expressly from the organs of the Government, authorized by the President himself, were such that the people said to themselves, "really we do not care very much about the convention; we do not much care about their constitution; we do not care who writes it; we do not much care what it contains; because we are assured that we shall have the opportunity to vote directly upon it; that we shall have the opportunity to reject it if we do not like it; to approve it if we do like it: that is what we are told, and therefore we need not trouble ourselves about the election of members of the convention." Were not such the assurances given? It will hardly be denied, I apprehend; but to make it perfectly clear, let me make a few quotations. The President, in his instructions to Governor Walker through the Secretary of State, on the 30th of March, 1857, said:

"When such constitution should be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and

the fair expression of the popular will must not be interrupted by fraud or violence."

Can any thing be more explicit than this? Governor Walker, in an official dispatch to the State Department, dated June 2, 1857, said:

"On one point the sentiment of the people is almost unanimous—that the constitution must be submitted for ratification or rejection, to a vote of the people, who shall be bona fide residents of the Territory next fall."

In his inaugural address to the people of Kansas, Governor Walker declared:

"With these views well known to the President and Cabinet, and approved by them, I accepted the appointment of Governor of Kansas. My instructions from the President, through the Secretary of State, under date of the 30th March last, sustain 'the regular Legislature of the Territory in assembling a convention to form a constitution.' And they express the opinion of the President, that when such constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interfered with by fraud or violence. I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the election be fairly and quietly conducted, the constitution will be, and ought to be, rejected by Congress."

These were the assurances which the people received. Might they not, then, very well have said, "when the time comes for us to vote, when we may vote under these assurances, we will vote, if that fair opportunity be presented to us; but we know these men, Governor, better than you do; we doubt whether that time will ever come; but, as you say it shall come, and that the constitution will be rejected unless it does come, we will trust it; we will not make war; we will exercise no violence about it; we will trust to the assurances we have received from you as the organ of the Government, coming, as you tell us, from the head of the Government."

Is it not strange to talk of that people having been estopped? What is the doctrine of estoppel? Among lawyers it is understood to be taking some objection, by which you prevent testimony from being taken; you estop a man from examination into the truth. It is said in the books to be odious even in the law; but it is absolutely intolerable in legislation. But, sir, the doctrine of estoppel is pushed a little beyond this, and with great moral propriety, in courts of law. Wherever one man gives to another man assurances of facts upon which he knows that man is to act, and the man does act upon them, the man who gave such assurances is never permitted to dispute them. If the honorable Senator from Maine, who sits beside me, [Mr. Fessenden,] is about to buy a horse of A B, and asks me whether that is A B's horse, he knowing I once owned him, and I tell him it is A B's horse, and he buys it, the doctrine applies. How? Knowing that he was about to buy it, and giving him that assurance and permitting him to act under it, I am estopped afterwards from claiming that horse to be mine. If I could prove it to be mine I should not be permitted to do it; and this commends itself to the acceptance of every man. It is called estoppel *in pais*.

What was done to these people? They were told, as an assurance coming from the President of the United States, "if the convention was elected when you could not vote, or if it was called for by a vote in which you could not participate, no matter about the constitution it may make; it is to pass under your sanction, if it is ever adopted at all—then let it go." Now, sir, I ask, in all moral propriety, by the application of any sound ethics, are not this Government, this community, this Senate, as an integral part of this Government, now estopped from telling that people that they should have voted in the first place? Have we not led them into this security? Have we not given them, through our organ, these direct assurances, and induced them to act on them? Yes. Then we should be estopped from saying that they have not done as they should. It is we who should be estopped, not they. This should be the end of the complaint that the people ought to have gone and voted for the delegates.

It is very observable, Mr. President, that as long as that unscrupulous minority there, who had been installed into power by an invasion, retained power, we heard constantly in the Senate, "let there be no intervention in the Territory; we cannot interfere at all in any way; they must work it out themselves; we have turned it over to them, and they must work out their own salva-

tion, for through much tribulation you must enter into the kingdom of Heaven; we cannot interfere at all." "Well, but," it was said, "they stole that power; and do you calculate to sustain them, and make yourselves receivers of stolen goods?" "Oh!" it was replied, "there is an estoppel; we cannot inquire into it." That went on for some time; no relief could be obtained. The people endured it. They, to be sure, made some little effort. They did what they could. They could not make any effort according to territorial law. They kept reading and reading over the assurances which their organic act contained, under which they went there. Congress told them that the people of the Territory should be left perfectly free to form their institutions in their own way. The people said: "That is English; it is all vernacular; we can read that as well as a learned man; we have not been left free thus far; we have been invaded, conquered, and subdued, passed under the yoke, and that condition of things is attempted to be perpetuated by the very laws these men have made; in short, they have us here as absolutely as ever the Samnites had the Romans in the Caudine Forks. What shall we do? Well, we will get together, inviting all to participate with us, and we will make a constitution; we will let the people vote on that; we will send it to Congress, and see if they will not accept it, for we do not despair of the justice of our country." They made the Topeka constitution. But what if they did? They made it, not organizing any government under it to be put in force, but making a Legislature, and choosing the necessary officers for an organization, altogether subjunctive, altogether conditional and preliminary, subject to the action of Congress. The House of Representatives accepted it; the Senate rejected it. They have, from time to time, continued that organization, not yet despairing but that they would be enabled to show Congress what was their true condition, and that they would obtain relief. They had nothing but vituperation and abuse from this Government. They were called by every possible name of vituperation—I was going to add, that the language of billingsgate could present. I shall spend no more time about the Topeka constitution, but pass on in the history of events.

In October, 1857, so strong were the assurances from Governor Walker and Secretary Stanton to the people, that they should have a fair election of a Territorial Legislature under the congressional law, that they finally concluded to go into it. Though they had been thus far all the while cheated and deceived by the assurances of the Government; though they had been told they should be left free and had not been; though they had often been told that they might go to Congress for redress, and did go and did not get it; though they had received assurances of fairness but did not have it; yet after all, with great forbearance, they concluded once more to make an effort, and they went into the territorial election last October. What did it disclose? The Governor received the returns. It is not necessary that I should go over them. Hundreds, thousands of fictitious names were added to the returns coming up from places where there were known to be not even a hundred voters. Then we are told—"estoppel, you must not touch it." The Governor did indeed find a way to realize in some way his assurances. He said these returns were not certified in legal form—not that he could set them aside for any corruption of substance, corrupt as he said they were. Even if every name was copied out of the Cincinnati Directory and he knew it, he said he could not touch that; but he did find in the form of the returns a chance to get rid of this fraud. But for that act of his, what would have been the effect? That people, with three to one, four to one, or five to one against the party in power, would again have been subjected to the same intolerable oppression which they had suffered for years.

That is what the election of October disclosed. It disclosed that the view of that people in relation to the tricks and frauds which would be practiced on them, and which they told the Governor would be practiced on him, were verified, and came very near being successful, too. But the election was declared. Now has come the time in October, 1857, after all this trouble, going through this chapter of suffering and of shame, when the people of that Territory have, for the first time,

be come organized under their territorial act, and it is in the hands of the free-State men.

What takes place next? Immediately on that appearing, and appearing very clearly and distinctly, a part of the delegates to the convention, a bare majority of the whole number that were elected, assembled. All looked upon it that that election had settled the *status* of Kansas; but these men, in a spirit of desperation, apparently come together, a bare majority, enough to make a quorum, and their handiwork is before us. What was necessary to be done? To make a constitution, and to have it a State constitution. They must not submit it to the people, because the people would vote against it. So says the President. Now, who authorizes the President, or the Senate, or anybody, in the formation of a constitution, to say that the majority are factious, and therefore the minority shall govern; that the majority are rebellious, and therefore the minority shall govern? It is a violation of the very first principle of popular government. Nobody can be authorized to say that. These delegates formed this constitution but they would not submit it to the people. We all know why. It is vain and idle for a man to undertake, by special pleading, to blink the question at all. We all know why. Every man open to conviction at all, in the exercise of any moral sense and common discernment, knows the reason perfectly well, and the President does not attempt to disguise it.

In order to effect the purposes they had to do several things. In the first place, they had themselves given assurances that it should be submitted. In the next place, the Governor had given assurances that it should be submitted. Then it would not do entirely not to submit it. It must be submitted to the people in some form in order to redeem these pledges. Again, they must take care to submit it in such a form as to secure the effect they wanted any way, and at the same time keep up the appearance of having submitted it. Another point was to be effected. It would not do to submit this constitution in such a way that the legal officers of the Territory should have anything to do with the election. If the legal officers for superintending the elections, the territorial judges of election, were allowed to superintend the election on the constitution, it was known they would reject unlawful votes. They have just been appointed by the people who elected the Legislature in October; they were free-State people. They would not allow cheating and false returns, and therefore they could not be the instruments of these men; they must avoid using them.

It was also obvious that the Governor would not allow his office to be used to bolster up false returns. The old game was blocked; and they must have a new pack; the old one was known by the backs of the cards; the game could not be played any longer. Governor Walker would not allow cheating. They had tried it in the October election, and he would not let it succeed. Now, they must avoid him; there must not be any return made to him any way.

Another thing was to be done. The Legislature elected in October were to meet in January, they might meet earlier, and they might possibly pass a set of laws so that if the convention permitted the laws in operation at the time of the admission of the State under the constitution to be operative, these men might not be able to succeed in any of their purposes.

To avoid all this, they went on to provide that the constitution, as they said, should be submitted to the people for their adoption or rejection, in the manner following to wit: each man was to vote "the constitution with slavery," or "the constitution without slavery;" and if a majority voted for it with slavery, it should all be adopted as it was; if a majority voted for it without slavery, then the clause which provided for the perpetuation of the existing slavery in the Territory should be continued, but no more slaves should be introduced. What is the English of all this? "Nobody is to be permitted to vote to reject this constitution. It is not to be submitted to the people for their ratification or rejection, as we say, but it is to be submitted for ratification or rejection in such a manner that it cannot be rejected. In the next place, this shall be a slaveholding State in any event, in either alternative, on either horn of the dilemma, vote as the people may." Was that submitting a constitution to

the vote of the people for ratification or rejection? Was that submitting even the question of whether it should be a slaveholding State or not? It clearly was neither. It was a cheat and a delusion.

Again, they provided that, instead of having the elections conducted by the regular judges of election, the lawful officers, men should be appointed by Mr. Calhoun, removable by him, and should make their returns, not to the Governor, but to Mr. Calhoun. After the convention adjourned, had finished its business, and he was thereby out of office, the votes were to be returned to him—a man who was not an officer known to the law. He cannot be impeached for his conduct in this matter; he is under no legal sanctions whatever. These instrumentalities are resorted to for the first time in the history of the country, as far as I know. I am not aware of any previous example of the appointment of officers, making returns, and supervising elections by men not known to the law, not amenable to law. I know they state, in the schedule to their constitution, that these persons should be subject to the same penalties as legal officers under the laws of the Territory. It happened that there were no laws of the Territory on the subject at that time; but if there were, these men could not be subjected to them, for that would be an act of legislation, and the convention had no power of legislation.

It will be observed that these proceedings were after the last October election. A vote was taken on the 21st of December, as ordered by the convention in their schedule. They have returned some six thousand votes as having been cast on that day; but the gentlemen who inspected them, and were present on the occasion of the opening of these votes, tell us there could not be more than two thousand of them genuine. They knew the country, knew the people, and state that fact.

Now, sir, what is Congress asked to do? We are asked to take a constitution so made, this child and result of original violence and continued fraud, and put it upon that people against their will. When they complain of fraud it is said they are estopped; and now you propose to cram this constitution into the mouths, and stuff it down the throats of the people; you will not permit them to say anything; they are estopped! That is what we are asked to do, and various reasons are given for it; but should we do it? Ought we to do it because we may find the sanctions and forms of law thrown around this proceeding? There never was a usurpation, there never was a tyranny imposed on a people which was not under the forms of law. The forms of law are the last things to give way; but should we try to shrink behind those forms, and refuse to know the truth?

The first claim on this ground, the first argument in support of this measure, is that this constitution was made lawfully. That word has various senses and applications. It may be said that anything is lawful that is not directly unlawful. If a thing is not unlawful, you may say it is a lawful act. There was nothing unlawful in the people assembling at Topeka to make a constitution. There was nothing unlawful, I take it, in the Cincinnati convention. It was a lawful meeting; that is, it was not unlawful; but that is not what we are after. The question we should be upon, and that alone which should justify the proceeding is, is it authoritative? That is the question. Suppose the convention which assembled there, waiving all other points, was assembled by a vote of all the people; it was not unlawful; but was it authoritative? That entirely depends on this question: had that convention any such authority from the source of power in the Territory, that is, the Government of the United States, as enabled them authoritatively to proceed? I insist that they had none at all.

Something is said, and more alluded to, about the treaty with France; and it is intimated that as to the country which was within the Louisiana purchase, the treaty with France gave some sort of authority for making a State. I should like to know what it is. I know that treaty provided that the people then in the ceded Territory, the French subjects who were there, (for they had no right to provide for others,) should be protected in their property. Kansas was an utter wilderness then, with no people in it. The treaty said further that they should have the privileges of citizens of the United States, and be admitted into the Union at the proper time. That is the substance of the

provision. Did that authorize them to form a State constitution? There was that whole region of Louisiana, from the mouth of the Mississippi to its head, and extending west to the Rocky Mountains, all included in this purchase. Suppose there had been fifty thousand or one hundred thousand people in that vast region: would any man say that people had a right to make it into a State and that their taking proceedings by a convention for that purpose would have been authoritative? It is not true that either the whole or any part of that region, whether shaped into a Territory or not, has any such inherent power, or any such authority derived from that treaty. I undertake to say there is not a single word in that clause of the treaty but would have been equally good law if it had not been there. It was well enough to provide in the treaty that the inhabitants of the ceded country should be protected in their rights and property. That is said from abundant caution, but it is in the law of nations even if it were not in the treaty. No authority was derived from that.

Then, where did they get authority to make this constitution? Have they had any enabling act? Not at all. Did they need any under that treaty? The people of Louisiana had one; the people of Missouri had one; the people of Iowa had one. They were all within the limits of the country acquired by that treaty. If Kansas did not need any enabling acts, over what part of the ceded country did that requirement extend? Did it take in much or little? I supposed all portions had the same right. There is nothing in that treaty which tends at all to intimate that there was any such power given to that people, nor has the conduct of the Government shown any cotemporaneous construction like that, but it is directly the other way.

There is a very great importance in knowing whether a thing is done authoritatively or not. When any election is holden, or any proceeding taken by authority of law, it is totally immaterial how many people vote or how many stay at home. When the law is passed by competent authority, the vote thus given is conclusive; it is not permitted to be rebutted; no fact can be admitted against it; all the world is informed "there is the law; go and vote under that law, because you are to be bound by it at any rate; if you do not like what is to take place, go and by your vote prevent it if you can." If an election is held in any district, in any city, in any State, or in the Union, by authority, the vote passed under that authority is conclusive. I insist, however, that the Territory of Kansas never had any authority for proceeding to form a State constitution. Congress has never passed any enabling act for Kansas. I know that the President seems disposed now to say (and some gentlemen here seem disposed to affirm) that there is something to be found in the act organizing the Territory of Kansas, which amounted to an enabling act. I should like to have the words pointed out somewhere. Is an enabling act to be found in those very important words which declared that the people of the Territory should be left perfectly free to form and regulate their domestic institutions in their own way? Is that it? If that is it, they might have formed a State constitution as soon as they got twenty men there. Kansas has not sufficient population for one Representative in Congress now; nor is it put on any ground of that kind; but it is said the act organizing the Territory is itself an enabling act. If so, it was an enabling act the next day after a man went there. Congress, however, never understood it as an enabling act; and the President, who signed it, never understood it so. When these difficulties arose, President Pierce recommended to Congress to pass an enabling act for the Territory of Kansas, to be put into operation whenever it should have the proper number of inhabitants. An attempt to pass an enabling act succeeded in this body during the last Congress. If Kansas already had such an act, why was that attempt made; why was that bill passed by this body? Most clearly it is left to this late day to discover, and that, too, without saying where you can find it, that the territorial act is an enabling act. I do not know but that it may be referred to some other words in the act, those which declare that the Legislature shall have power to legislate on all rightful subjects of legislation; but those words are

in all the territorial organic acts. If the Kansas act was an enabling act because of those words, every territorial act Congress have ever passed was an enabling act, and they never needed any other. The practice of the Government shows that this idea is entirely without foundation. It is a mere assumption.

Then I say this proceeding was without authority; but the President and the friends of this measure keep repeating that it was done according to law. I admit that it was not unlawful; but is everything that is not unlawful, therefore authoritative? Certainly not. I do not deny that delegates may assemble in a convention to form a constitution, and the people may even vote for it, and ratify it, and organize a government under it, subjectively, conditionally, and present that constitution to Congress as a petition for admission as a State; and if Congress choose to ratify it, it is all very well. But what is the effect in such cases? Congress admit States in their discretion—I do not mean caprice—I mean a judicious discretion. When a constitution comes here formed by authority, we have simply to see whether the conditions on which that authority was granted have been complied with. There is a sort of plighted faith, "if you do so and so, we will admit you," as in the case of Minnesota; and if we find that they have done so, we ought to admit them. When, however, the act is done, as I may say *in invitum*, done by the people themselves without authority, then before Congress ratify it they should inquire into all the circumstances.

Arkansas came with a constitution made by a convention under the authority of the Territorial Legislature. The case was fully examined, and it was decided during General Jackson's administration, by his proper legal officer, that that had no binding force; but after all it was not unlawful; Congress might ratify it if they chose; it was a mode of petitioning. Michigan came pretty much in the same way. After a full examination those two States were admitted.

Then how does the matter stand? If a proceeding of this kind is taken in any form, it may be that *prima facie* we should consider that it is all right. If it is not disputed, we should receive it. If it has been fairly conducted, we should take it. If nobody objects to it, the case is *prima facie* good. There is a great deal in that *prima facie*. I have always thought it was a pretty good definition of a young lawyer who, when called upon to explain what he meant by a *prima facie* case, said he meant a case good in front and bad in the rear. [Laughter.] That is a true definition. This *prima facie* case, not made by authority, is a matter to be examined into, especially when it is questioned. On this occasion question is made. When Arkansas presented her constitution, nobody questioned it; the people there were satisfied with it. When Michigan presented her constitution, the people there were satisfied with it. When this case, however, is presented here, got up in the manner I have stated, (without my finding any other fault with it now, without going over what I have previously said,) the people do find fault with it; and we are asked to look into it and see if it is really what it purports to be. Will you look into it? will you examine whether it is fair? Resolutions were offered to this body to enable the Committee on Territories to examine it, but the Senate refused to clothe the committee with power to obtain the means of examination. I take it this is a pretty good indication of what is to be done. I am aware that the Senate do not mean to inquire. What do you mean to do? "To insist that this is authority at any rate; we will stick to it; and as to the point whether the proceeding was done fairly or not, we will not know; we are afraid that if we undertake to inquire, we shall ascertain that it is not fair, and therefore we do not mean to inquire." To my mind, this is making a very extraordinary use of the doctrine of estoppel.

There is another topic running collaterally with this to which I wish to allude. During the last four years there has run along with this proceeding another pretty important point connected with it, and that is what I call the political dogma that slave property, if you call it property, is precisely the same in legal character as any other property; being such that its owners have a right to carry it into the Territories, by virtue of the Constitution of the United States. That idea began, I be-

lieve, with Mr. John C. Calhoun; and for some time after he started it, it was almost universally scouted. There were very few men found anywhere in this country who received it. It has been presented, however, on plausible grounds. It has been asked, "cannot the people of every State go to the Territories with their property all alike? Cannot a man go there from Virginia with the same property as a man from Massachusetts; and a man from Vermont go there with the same property as a man from Georgia? Certainly, all can go alike; but the property of one may perhaps be of such a kind that it cannot be carried there at all; but that is not the fault of the law. If there is any difficulty of that sort, it results from the nature of the property. It may be, if you please, tropical fruit, that would perish before you could get it there. That is the misfortune of the owner if he undertakes to carry it there; it is not owing to the law."

I come back to the question whether slave property is such as can be carried out of its State—whether it is the same as other property? Here I cannot avoid, because it is thrust continually in the way, speaking in some measure of what is called the Dred Scott decision. As I have said, the dogma of the right to carry slave property, like other property, beyond the limits of the States, at first was not received at all. Did anybody suppose that it was the correct doctrine when Congress passed laws fixing certain lines, and saying slavery should not go north of them? Did they dream of anything of that kind then? No. Even in modern times, since we obtained the territories acquired from Mexico, was it adopted as a correct doctrine? I believe in the compromise of 1850, when Congress made the law that New Mexico should be admitted, with or without slavery, when they came to form a State constitution, the honorable Senator from Georgia [Mr. TOOMBS] opposed that, because it did not go far enough. He insisted that Congress should go on and repeal the existing law of Mexico, in order to let them fairly in. I am right, I believe, in that.

Mr. TOOMBS. Yes, sir.

Mr. COLLAMER. I am certain as to that. An honorable member of the other House from Georgia [Mr. STEPHENS] took the same ground; and when what was called the Clayton compromise was offered in the House of Representatives, it was laid on the table, on his motion, on that very ground. This doctrine was not considered good then. It has grown up and reached its present elevation since that time. I do not propose at this time to go into a critical examination of the Dred Scott decision; I do not propose a review of it. I shall simply speak now as to this particular point. What is that decision? Is there anything authoritative in it? The Supreme Court had a case before them. The court decided, on a full hearing, that they had no sort of jurisdiction of the case, and ordered it to be dismissed, or sent to the court below to be dismissed. How came they, then, to have authority to make a decision? They had no authority, no jurisdiction, of the case. They said they had not. Clearly, whatever else they said was extra-judicial. I do not say that the Supreme Court should never pass on any political question; but I do say that it would be very much to be regretted that they should be obliged to do so. If we desire that that court shall sustain its position and command the confidence of the country, it certainly ought to be kept clear and steered clear of being obliged to break down that confidence by running across a political question which agitates the whole country. They should avoid it if they can; but it may be that a case before the court involves a question in deciding which they must pass upon it. When they must, they must. I cannot but say, after all, I should apply to such a case the words of the Prince of Denmark to the ghost:

"Thou com'st in such a questionable shape,
That I will speak to thee."

If it comes in such a shape, involved in the question that they must speak to it, very well; but nothing else can excuse it. I think it is very much to be regretted that the judges of that court, or any of them, should have thought proper to employ their extra-judicial lucubrations in putting forth *ex cathedra* indorsements of a political dogma. The indorsers of accommodation paper very seldom find that it is a profitable business.

They either fail to give currency to the paper, or else they have to meet it themselves.

In examining the question whether the Constitution of the United States recognizes and protects slave property, as it is claimed, the same as other property, I cannot but say that I think, in the first place, it has been disposed of by very cheap logic. Most of it is a mere assumption—an assumption, in my judgment, exceedingly arrogant in some of its forms; but I wish to give it what I believe to be a candid and honest examination; and I will not be tedious about it. I do not say that slaves are never property. I do not say that they are, or are not. Within the limits of a State which declares them to be property, they are property, because they are within the jurisdiction of that government which makes the declaration; but I should wish to speak of it in the light of a member of the United States Senate, and in the language of the United States Constitution. If this be property in the States, what is the nature and extent of it? I insist that the Supreme Court have often decided, and everybody has understood, that slavery is a local institution, existing by force of State law; and of course that law can give it no possible character beyond the limits of that State. I shall no doubt find the idea better expressed in the opinion of Judge Nelson, in this same Dred Scott decision. I prefer to read his language. He declares:

"Every State or nation possesses an exclusive sovereignty and jurisdiction within her own territory; and her laws affect and bind all property and persons residing within it. It may regulate the manner and circumstances under which property is held, and the condition, capacity, and State, of all persons therein; and also, the remedy and the modes of administering justice. And it is equally true, that no State or nation can affect or bind property out of its territory, or persons not residing within it. No State, therefore, can enact laws to operate beyond its own dominions; and, if it attempts to do so, may be lawfully refused obedience. Such laws can have no authority extra-territorially. This is the necessary result of the independence of distinct and separate sovereignties."

Here is the law; and under it exists the law of slavery in the different States. By virtue of this very principle, it cannot extend one inch beyond its own territorial limits. A State cannot regulate the relation of master and slave, of owner and property, the manner and title of descent, or anything else, one inch beyond its territory. Then you cannot, by virtue of the law of slavery, if it makes slaves property in a State, if you please, move that property out of the State. It ends whenever you pass from that State. You may pass into another State that has a like law; and if you do, you hold it by virtue of that law; but the moment you pass beyond the limits of the slaveholding States, all title to the property called property in slaves, there ends. Under such a law slaves cannot be carried as property into the Territories, or anywhere else beyond the States authorizing it. It is not property anywhere else. If the Constitution of the United States gives any other and further character than this to slave property, let us acknowledge it fairly and end all strife about it. If it does not, I ask, in all candor, that men on the other side shall say so, and let this point be settled. What is the point we are to inquire into? It is this: does the Constitution of the United States make slaves property beyond the jurisdiction of the States authorizing slavery? If it only acknowledges them as property within that jurisdiction, it has not extended the property one inch beyond the State line; but if, as the Supreme Court seems to say, it does recognize and protect them as property further than State limits, and more than the State laws do, then, indeed, it becomes like other property. The Supreme Court rest this claim upon this clause of the Constitution:

"No person held to service or labor in one State under the laws thereof, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due."

Now the question is, does that guaranty it? Does that make it the same as other property? The very fact that this clause makes provision on the subject of persons bound to service, shows that the framers of the Constitution did not regard it as other property. It was a thing that needed some provision; other property did not. The insertion of such a provision shows that it was not regarded as other property. If a man's horse stray from Delaware into Pennsylvania, he can go and get it. Is there any provision in the Con-

stitution for it? No. How came this to be there, if a slave is property? If it is the same as other property, why have any provision about it?

Again, you will observe that this provision relates only to those who may escape. The horse escapes and runs away into another State, and the owner can pursue him there. Can he pursue him any better there because he escaped, than if he rode him there? If the owner rode the horse from Delaware into Pennsylvania, he could still, I take it, go home on him. He would not need any provision of the Constitution for that. But here they seemed to find it necessary to make provision that the slave should go home with the master, if he escaped. They provided only for those who escaped; and therefore, if a man takes his slave over voluntarily, this provision of the Constitution is that he cannot take him back, because it only covers those that escape. Then it is not like other property. It not only does not put it on the ground of other property, but it absolutely abnegates the idea of its being like other property. Other property he could bring away, whether it ran off or was carried off. With slaves it is different. Then it is not like other property. That recognition does not put it on the ground of other property.

In the next place, what do you mean by guarantying property to be the same as others? How is others? I take it that guarantying rights over property means, to enable the owner to take it and use it, and sell it to others to use anywhere and everywhere. But, even in relation to escaped slaves, does this provision of the constitution enable the owner of those slaves to go where they have escaped, to a free State, and there take them and keep them, and hold them, and sell them? No such thing. It only authorizes him to take them home, into and under that law where he is entitled to their service. Property he can take, keep, hold, sell, and use, anywhere. The Constitution, I repeat, only enables him, as to escaped slaves, to take them home—not to sell them and use them in the free State where he finds them.

It seems to me, on this slight view of the subject, the strangest thing in the world that anybody can say that this provision of the Constitution (and it is the only provision under which the claim is made) actually guaranties this property absolutely, makes it the same as property generally, puts it on the same footing, and guaranties ownership over it in the same degree. Obviously, clearly, and plainly, it does not; but what is it? Nothing more nor less than a recognition of the idea that one man may have interest in another man's labor under the law of a State, and that if the man owing the service escapes from that State, the person to whom he owes the service may take him back, there to be entitled to receive the advantage of that right. In short, it recognizes slavery, if property at all, to be property local within the State whose laws made it such, not an inch beyond it; and all it does is to enable a man from whom a person owing service has escaped against his will, to reclaim him. It can be carried no further than a recognition of slavery in those States where the laws make it so, to be used there and taken back if it runs away, but leaving it still precisely as it stood before. The law that makes it, makes it such only within the territory where that law exists. The moment you willingly pass out of that limit with what you call the property, it ceases to be property altogether. How, then, can you take it to a Territory? This seems to me to be an end of the assumption that it is made the same as other property by the guarantees of the Constitution. It is an assumption without any sort of foundation.

Mr. MASON. If it would not derange the Senator's line of argument, while he is on that topic, I desire to put an inquiry to him. As I understand the basis on which his present argument rests, it is the assumption that slavery exists only as the creation of positive law. I hold the very opposite; and if he has any authority on which to base his position, I should be gratified to hear it. I hold, on the contrary, that slavery is a condition only, the condition of property; that property is a condition which the slave brought from Africa, a condition recognized by the common law of this country, and therefore property ever afterwards unless abrogated by positive law.

Mr. COLLAMER. Mr. President, I did suppose, though I did not know exactly whether the

honorable Senator from Virginia was of that school, that it was claimed even on a higher ground; that it was not the accidental condition of the man in Africa, brought here, but that it was a Divine right, begun by authority from on high, and sanctioned by revelation. This has been claimed. I do not know that I am competent to meet these arguments and these claims of right; but when an occasion presents itself, when I have time to do so—I have other topics to advert to now—I should desire to be heard on that point. I merely desire now to say to the Senator, that if he will turn to the Dred Scott decision he will find what I have already read, and the court put this right on the ground of its local authority. Chief Justice Taney, in his opinion, says that it has been claimed and argued before the court that this condition of things is recognized as a part of the law of nations, and he utterly repudiates that whole idea. If the Senator will look at the decision of the Supreme Court in the case of Prigg vs. the Commonwealth of Pennsylvania, he will find that the Supreme Court decided that the local law of the States where it exists, is the true foundation of the right to hold slaves; and the same decision has been made repeatedly in the State courts, even in the slaveholding States themselves; and the Supreme Court of the United States have repeatedly taken that ground. I shall not, however, notice this point now, but proceed with my argument.

In my view, the security, the safety, of the institution of slavery essentially depends, in all time, on holding it to be a local institution, the creature of local law. If the time shall ever come when this is attempted to be made a national question, to be passed upon by the people of America, it must be perfectly obvious to the very extensive discernment of the slaveholding community itself what the result must be. In this country there are less than a third of a million of slaveholders; there are nineteen millions of free white people. If it ever is to be made a national question, so that the nation may pass upon it, no man can doubt what will be the result. That can be determined by the simplest rules of arithmetic; it is a mere question of numbers. If it is intended to keep within the pale of the Constitution, to preserve the unity of the States, to sustain this Government and remain one people together, there is no way in which this institution can by possibility be preserved, but by holding it at all times to be entirely a local matter, and having its origin and existence in local law. This is the only way it can ever be protected.

It seems to me, with that view of the subject, that those gentlemen, especially from the southern States, who seem to be trying to precipitate this issue, to push on this point, to extend this institution beyond its local limits by the action of the General Government, are endeavoring to push this question upon the people as a national matter, in which they must participate, and shall participate. The decision to which I have alluded is of that kind; all these proceedings are of that kind. What result does that bring about in my mind? These men know what I have said to be true as well as I do—they know that slavery cannot be made national in this country, if you keep it together; and every effort made to precipitate an issue of that kind is not to abide by that issue, but it is when sufficient excitement has been made, when a collision has been produced, that a separation shall ensue. I can see nothing else to be the design; I do not believe in the want of discernment of those statesmen. They must look at it as I do.

But that is not all; another step is connected with it. You desire to make Kansas a slaveholding State—that is, to have the constitution so formed and adopted. You will not submit it to the people, from a consciousness that the people are opposed to it. What do gentlemen mean by such a proceeding? Suppose you were to have a constitution providing for and perpetuating slavery in Kansas? You know that the majority of that people are against it. Is that any benefit to the cause of slavery? Is it desirable to you to irritate a community by having forced on them such a state of things against their will? Are you going to get any good from that irritation? Can you have slavery there by virtue of that constitution? We all know you cannot. Suppose you have a slave-State constitution—I care not how strong

and how perpetual and how incapable of change it may be—do we not know that at the very first fair election by that people a Legislature will be chosen who, when they get together, will utterly refuse to pass any laws for the protection of slave property? They will pass no act for punishing a man who may entice a negro to run away. They will declare that no master shall administer stripes and correction to a slave, except by judgment of a court, and if he does he shall be guilty of assault and battery, and the negro shall be a witness against him. What is your slave property worth if you do not pass any law for the protection of it, though the constitution provides for the right of slavery? I take it that it cannot be unconstitutional to pass such laws. They could not pronounce the failure to pass them unconstitutional. How, then, will you get along? We see there is nothing in it; and when this is pushed as it is, it must be for some other purpose, some other object.

We are told what the purpose is of pushing this constitution on that people against the will of the majority. We are told it from authority. I do not wish to quote things from mere recollection, but I will read some of the words of the President himself on that topic. The President says, in his message:

"It has been solemnly adjudicated by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States, and that Kansas is therefore at this moment as much a slave State as Georgia or South Carolina.

"Slavery can, therefore, never be prohibited in Kansas except by means of a constitutional provision, and in no other manner can this be done so promptly, if a majority of the people desire it, as by admitting it into the Union under the present constitution.

"The people will then be sovereign, and can regulate their own affairs in their own way. If a majority of them desire to abolish domestic slavery within the State, there is no other possible mode by which this can be effected so speedily as by prompt admission, and the Legislature already elected may, at its very first session, submit the question to the vote of the people, whether they will or will not have a convention to amend their constitution."

I would not intimate that, from so high authority as this, there was really intended to be any practical duplicity about that; I do not believe it; I do not intimate it; but I would ask southern gentlemen do they mean to admit Kansas, under this constitution, for that purpose—for the purpose of making it a free State in the most speedy manner? If they do not, if that is not what they mean to do, I think common candor would require them to disclaim it. Certain it is, that these remarks could never be expected to extend to those gentlemen. Who are these remarks intended for, then? As the common saying is, they are for the marines; they are to afford an opportunity, an excuse for men who professedly represent a free-State people to vote for it, and to get themselves intentionally deluded, as the man said he expected to be disappointed. [Laughter.]

There is some other purpose for this. No object of that kind is seriously intended, for amongst other things you will observe, that if Kansas be admitted with the Leocompton constitution, we have to adopt the State election which took place under it. "Oh! that is to be settled by their Legislature." It is? Who is to be the Legislature? Can anybody answer me? The amount of it is, whoever Mr. John Calhoun gives certificates to, will be the Legislature; whoever he elects, are elected. Can any man tell me who they will be? He knows, and will not tell. It may indeed be that, after all that has happened, and especially after the recent investigations by the committee of the Territorial Legislature, Mr. Calhoun will not think it advisable, in aid of the great purpose which he serves, to give the slaveholders, the minority there, after all their frauds and all their deceptions, the election certificates. It would be too gross, too palpable. It would not only be receiving the stolen horse, but it would be conclusive evidence of who had stolen him. Suppose he does give the free-State men the Legislature, he will give them a bare majority. Now, who shall be Governor there? Generally it is said, you cannot tell who is Governor until after the election; but here you cannot even tell after the election; no man can tell now who is to be Governor; Calhoun cannot tell himself, or if he can, he will not.

We understand distinctly that one side or the other is to be cheated. I do not intend to aid in taking that position of things by which either my opponents or myself are to be cheated; but if we

adopt this constitution, we take that position. You may say that the candle-box was discovered full of votes in the wood pile back of Calhoun's office, and we can count out the votes there. But will he give certificates according to those votes? Who has any authority to decide. The returns were to be made to Mr. Calhoun. Mr. Calhoun is to decide. There is the end; there commences the estoppel. We are to be estopped now—that is the end of it. He splits the difference, as is commonly done by men who do not know how to decide either way; he gives a majority of the Legislature to the free-State people because there are most of them; and he gives the Governor to the other side because they need him. I should like to know how any constitution can ever be amended in that state of things. The Legislature undertakes to pass a law to call a convention; the Governor vetoes it. Calhoun will not certify the election of two thirds of the free-State candidates to the Legislature. They cannot overvote the Governor, and there is the end of it.

But the President says that if they are made a State, then indeed they will become an independent people, and can manage their affairs in their own way. Ah! well, that is another step in the progress of popular sovereignty. In the first place, they were to go there as people of a Territory, to manage their affairs in their own way. In the next place, they were not to do it then; but when the version given by the Cincinnati convention came out, it was that they were to be perfectly free in making a State constitution. Now they have got to that point; and you say a majority of the people shall not make a constitution at all; because, if they do, they may be likely to make the Topeka constitution, or some one that they choose. They cannot do it, then; but at last the President has got to the point, that the only way a people can form a State constitution, is to be first made into a State; and the most solemn and correct way is to pass them through the furnace of slavery, make them a State in that form, and they will then just be fitted to turn free. Besides, they can never manage their affairs in their own way, though you have told them so over and over and over again, until they can get out of the clutches of this Government. He says, when you admit them as a State, then they may manage their own affairs. Ah, indeed! that is another step in the progress of popular sovereignty. Never, while a Territory, can they manage their affairs, nor in making a State constitution, nor until they can get, somehow or other, out of the guardianship and beyond the tyranny of this Government over them, and be formed into an independent State; and then they can do as they please. It is peculiarly an advantage to them if you can make a slave constitution for them, because that will permit the people to do what they have all desired to do, and that is, make it free!

Inasmuch as this constitution was not made by authority, as I have shown, it presents itself to us as a thing done by the act of this convention, not unlawfully, and is presented here for our consideration. Now it is insisted upon at great length, that that is not an expression of the will of the people. On the face of it, *prima facie*, it may be so. If you stopped with the vote on the 21st of December, you might, *prima facie*, say, "I presume it is all right;" but when it is suggested, when it is pleaded, when it is directly alleged in the pleadings, that this is not the expression of the will of the majority of the people of Kansas, then comes the question for us to examine. Had it been by authority, it would have been conclusive. Not being by authority, but by the voluntary proceeding of the people who went into that convention, it is for us to examine into the truth of it, to ascertain whether it is the will of that people or not.

I shall not enlarge on the points I have heretofore made, but simply come to this one: on the 4th day of January last, under an act of the Territorial Legislature, a vote of the people was taken on the very question of the adoption of this constitution by authority of law, and under the sanction of the Legislature, and they voted, by ten thousand majority, against it. Whenever proceedings are taken that are not authoritative, and they present themselves to Congress for our action, how are we to act in our discretion? If it is done by authority, it is conclusive; but if not done by authority, and it presents a *prima facie*

correct case, as was the case in Arkansas and Michigan, admit it; but when it is disputed, then it becomes a substantive fact, to be approved affirmatively. The fact to be proved is, that it does present the view of the majority of the people; not only *prima facie* so, but that it is in fact so, and that is to be ascertained by examination. The moment we touch this examination it shows us not merely that this is not the will of the people, and is not the desire of the majority, but it abnegates it, and shows conclusively that it is contrary to the desire of that people—not only that they are not for it, but that they reject it altogether. Why, then, do you not examine it? We are estopped, it is said; we cannot get at the truth; there is an estoppel. We, as Senators, are willfully to shut our eyes to the true condition of the people of that Territory.

I have a word now to say in relation to the report of the committee, presented by the honorable Senator from Missouri, and his remarks upon it. I cannot go into a detailed examination of its parts, but I wish to group together its leading points. It consists of three essential elements. In the first place, it is assumed that this proceeding was done by law, and is, therefore, authoritative, and that there is an end of the question. I have said all that I wish to say on that point. I say it was not done by authority; it is, therefore, not conclusive, and, of course, that leaves the subject open to our examination.

The report insists next, that the people of Kansas ought to be bound by it because they did not vote against the calling of the convention. I have explained that. The laws disfranchised them at the time that vote was taken. It is said they are estopped because they did not participate in the election of delegates to the convention. They did not choose to vote then, because of the nature of the census; because of the want of confidence in the officers who were to conduct the election; and more especially because they were assured by the Governor that whatever constitution the convention might make, they should have a right to pass upon it. They have been cheated out of that.

In the third place, the report insists that these people should be estopped and bound by this proceeding, because they did not vote on the 21st of December on the question then submitted to the people. I have explained how that submission was made. The people did not choose to be the dupes of that trickery. There is a good reason why they did not vote on that occasion. Besides, their own Territorial Legislature met before the 21st of December, and directed them to vote upon the constitution on the 4th of January. They then did vote upon it, and voted it down. They had been repeatedly assured by this Government, by its officers, that they should have that right, and they exercised it on the 4th of January. The Government should be estopped from saying that they have not acted properly in doing so.

The next ingredient in the composition of the majority report is, that everything operates by way of estoppel. Each one of these acts estops the people. I need not repeat or add to what I have already said on that point. There is nothing in the nature of the acts which could operate as an estoppel.

There is one other element, an essential one. We complain that the people of Kansas were subjugated by military force; that they have been kept in thralldom and oppression until last October; and that then proceedings were taken to make a constitution in the manner I have described. For what purpose? To frustrate the territorial government going on, when it is now, for the first time, in fair legal operation. When it was in the hands of the usurpers there could be no intervention. The moment it is in the hands of the majority of the people, intervention is loudly called for, and Congress must help it through. For what purpose? To put down a people who have taken possession of their true rights; and in order to do that, make a great deal of complaint in relation to those people. I cannot go over the report in its details; but I will state a few of the terms of reproach and vituperation employed in order to excite prejudice and get up animosity against the majority in Kansas. I find such expressions as these in the majority report: "They went there the worst of a spurious population;" "hired mercenaries of Abolition societies, trying to do what Congress had no right to do;" "committing most

revolting outrages;" "creators of strife, excitement, wrangling, and disputation;" "turbulent spirits encouraged by restless fanaticism;" "Abolition agitators and disturbers, habitually setting all law at defiance;" "contumacious." I extract these few epithets from the report. This is one of the elements which is interwoven with, and enters into, the warp and woof of the whole of this report. I have no answer to make to such charges. I simply present them.

I think, Mr. President, that for the reasons which I have already given, this constitution ought not to be received by us, and enforced upon an unwilling people. It is a violation of the very first principles of our Government. If we do it, we directly give countenance to all the violence and fraud out of which it has grown; we crown them with success; we encourage their repetition. But that is not all. In a popular Government like ours there are two very important points to be considered in the transaction of all public business. One is to do everything right, and the other is to do it in such a way that the community can see it is right, so that public confidence may be preserved. Our Government is based on public confidence. The moment we lose it, we lose our hold on the people; we lose our support; we are without foundation. The object of a great many is to make peace. Make peace by doing what? Doing injustice. Can any man suppose that peace is to be obtained—I mean satisfactory quiet, such as an intelligent people may be satisfied with—by acts of violence and injustice, or by giving countenance to, and crowning with success, acts of violence and injustice? If we make a peace in that coercive manner, we make it at quite too dear a rate. We may buy it at too dear a price. We buy it at the price of forfeiting the confidence of every man who desires to see justice in the councils of his country.

Such men lose confidence in us when they see the highest departments of this Government taking advantage of and snatching at an opportunity to make peace when they have done it without regard to the true justice of the case and the true principles of our Government. When such things are done in high or low places no final peace can be secured by them; or if it is, it is secured at too great a sacrifice, at too high a price. It will stir the whole community who fairly examine this matter, and excite in them different emotions as men are differently constituted. But, sir, one thing is clear, that if we do it we weaken the allegiance of the people of this country to ourselves; they can no longer see in us the impersonation of justice and truth and right. I say its effect on a Government conducted like ours is that prayers and tears and secret curses sap its moldering base and steal the pillars of allegiance from it.

Mr. SEWARD. Mr. President, I desire to address the Senate upon this subject, but I shall not be able to finish to-day what I propose to say.

Mr. BENJAMIN. If the Senator from New York will permit me, I will move to go into executive session, in order that he may have the floor for to-morrow morning.

Mr. GREEN. I desire first to present the amendment of which I gave notice yesterday, and to move that it be printed. At the same time I wish merely to remark on the criticism of the Senator from Vermont as to the terms used in the report, that he will find they are all justified by extracts taken from Governor Walker and his friend Governor Stanton.

Mr. COLLAMER. I should like to reply to that, but I can merely say now that when those men made those remarks, they were in the "gall of bitterness and in the bond of iniquity."

Mr. GREEN. That may be true; but they were fit subjects to go over to that side.

Mr. PUGH. I ask the Senator from Missouri to accept an additional section to his amendment.

THE VICE PRESIDENT. The amendment of the Senator from Missouri will be read.

The Secretary read: "A bill for the admission of the States of Kansas and Minnesota into the Union"

Mr. STUART. The reading of the whole amendment is objected to by gentlemen around me. Let it be printed.

Mr. WADE. Let it be read.

Mr. DOUGLAS. I should like to hear the amendment of the Senator from Ohio read.

Mr. DOOLITTLE. The amendment of the Senator from Ohio is what we desire to hear.

The Secretary read Mr. PUGH's amendment as follows:

Sec. — *And he it further enacted*, That the admission of the States of Minnesota and Kansas into the Union by this act shall never be so construed as to deny, limit, or impair the right of the people of the said States, with the assent of their Legislatures severally, and at all times, to alter, reform, or abolish their form of government in such manner as they may think proper, so that the same be still republican and in accordance with the Constitution of the United States.

The amendments of Mr. GREEN and Mr. PUGH were ordered to be printed.

EXECUTIVE SESSION.

On motion of Mr. BENJAMIN, the Senate proceeded to the consideration of executive business; and after some time consumed therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 2, 1858.

The House met at twelve o'clock, m. Prayer by Rev. GEORGE D. CUMMINS, D. D.

The Journal of yesterday was read and approved.

OFFICERS OF THE HOUSE.

The SPEAKER stated that the business first in order was on seconding the demand for the previous question upon House bill No. 311, fixing the number and compensation of clerks, messengers, pages, and laborers, of the House of Representatives.

Mr. CLARK, of Missouri. Before we proceed to the consideration of the regular order, I ask the consent of the House to introduce a bill, of which I have given notice, for reference only. It is a bill of very great interest to a large portion of the State of Missouri.

Mr. CLINGMAN. I do not object to that; but after it is disposed of, I shall insist on the regular order of business.

Mr. CLARK, of Missouri. It is a bill to continue, temporarily, certain land offices in the State of Missouri.

Mr. EDIE. If objection is going to be made, it may as well be made now, and I object.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, one of its assistant clerks, informing the House that the Senate had passed, without amendment, the bill of the House to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the Sound dues.

Mr. J. GLANCY JONES. I wish to inquire of the Chair whether the unfinished business of yesterday is not the business in order to-day?

The SPEAKER. The Chair has so announced.

Mr. J. GLANCY JONES. I wish, if it be in order, to move to postpone that business till Monday next, with a view to call the committees for reports; and after the call shall have been concluded, I wish to move to go into the Committee of the Whole on the state of the Union.

The SPEAKER. It would not be in order, pending the call for the previous question.

Mr. FLORENCE. I hope the gentleman from Ohio [Mr. STANTON] will withdraw the demand for the previous question.

Mr. J. GLANCY JONES. If the demand for the previous question be withdrawn, will my proposition be in order?

Mr. CLINGMAN. I think this bill may be postponed by general consent.

Mr. J. GLANCY JONES. Well, then, I hope that by general consent this business will be postponed until Monday next, so that we may get at the reports of committees.

Mr. JONES, of Tennessee. As a matter of compromise, I propose to refer the bill to the Committee of the Whole on the state of the Union, with the amendments, and to make it a special order.

Mr. MASON. I do not want to object to anything that accords with the wishes and suits the business of the House. But the Committee of Accounts conceive that they have made a practical report, not one for Buncombe, and that the bill which they have reported should be acted

upon, so that we may know the views of the House, and be able to guide our future action thereby.

Mr. FLORENCE. The gentleman had the floor yesterday, and made a speech on this bill. I object to his occupying the floor again.

Mr. MASON. Have I not a right to do so under the rule?

The SPEAKER. The gentleman will have a right to close the debate after the previous question shall have been seconded and the main question ordered.

Mr. DAVIS, of Indiana. I object to the postponement of the consideration of the question.

Mr. MASON. Then I want the floor now.

Mr. GARNETT. I ask whether there is now pending a motion to recommit to the Committee of Accounts with instructions to report the facts; and to let us know whether it is proposed to employ more or less than are now employed; and what salaries are proposed to be reduced?

The SPEAKER. There is such a motion pending.

Mr. BOCOCK. I understand that, under the decision of the Chair, it would be too late to ask for a division of the question after the previous question is seconded. I believe that this is a bill of various sections; and I desire, if the House sustains the previous question, and if the bill be not recommitted, that we may be able to have a vote on each separate section of the bill.

The SPEAKER. The Chair thinks that it would not avail the gentleman from Virginia to ask a separate vote.

Mr. BOCOCK. I thought that under the decision of the Chair a separate vote could be had on each section, if it was called for before the previous question was seconded.

The SPEAKER. Not on a bill. The question is, whether it shall be engrossed and read a third time?

Mr. JONES, of Tennessee. Was there an objection to making this a special order in the Committee of the Whole on the state of the Union?

The SPEAKER. There was. The gentleman from Indiana [Mr. DAVIS] asked that the regular order be enforced.

Mr. J. GLANCY JONES. If the previous question be seconded, will not the first question be on referring to the Committee of the Whole on the state of the Union?

The SPEAKER. It will be.

The previous question was seconded, and the main question ordered; which was first on referring to the Committee of the Whole on the state of the Union.

Mr. MASON. I hope, Mr. Speaker, that this bill will be disposed of now. I do not desire to make a long speech, or to answer all the objections that have been raised; but simply to state some plain facts on which the House can form its own judgment. The House heard yesterday the statement of the gentleman from Tennessee, [Mr. JONES] showing how the last House of Representatives was managed by the clerks, messengers, and other employés of the House, through a feast of oysters, and wine, and other good things. They got up this feast in order that they might get voted to each of them from \$200 to \$5,700. I want to know whether the House will consent to be governed in this way, or whether it will support the Committee of Accounts in the reform they have proposed?

Now, sir, I have no objection to the prosperity of Mr. Barclay, your Journal clerk; but there are sixteen thousand constituents of mine who have as much right to get \$5,700 out of the Treasury of the United States as Mr. Barclay has—who have as much right to the \$360 extra as these other clerks. And there are thousands of little boys at home who have an equal right to be voted \$200 out of the Treasury as the boys on this floor have. But they cannot get here, and cannot get up feasts of oysters and wine for the purpose of influencing men who should scorn such considerations. I take it, sir, that the statement of the gentleman from Tennessee [Mr. JONES] is correct; and that the resolutions in question were passed in that way. But the accounts under them have been rejected at the Treasury. And why? Because they were in conflict with a law of Congress prohibiting the payment of extra compensation. I was told by one of my colleagues from Kentucky that he asked for the yeas and nays on

one of these resolutions, and could not get them ordered.

Now, if the Committee of Accounts is to be defeated in their effort to carry out this measure, I ask that I may be replaced on that committee by some other gentleman who will carry out the present order of things more willingly than I. I do not profess to be better than other men, or to be governed by purer or better motives than other men are. But no matter what my motives are, I have a regular system and course of conduct; and under it, if I cannot succeed in enforcing common honesty, I will not, at all events, tolerate common thieving. If this is the definition of common honesty—to give every person what he wants—and it is the view and wish of the majority of this House to carry this system out, then I am content that the House should carry it out through some other organ than me.

I will now answer the gentleman from Virginia, [Mr. SMITH] who has asked for a synopsis of the number of clerks employed, and their salary. Some gentlemen seem to have got the idea into their heads that we have gone this whole business blind. Here, sir, is a statement from the Clerk's office of the number of persons employed there. Is there any use in printing it when I find that three fourths of those who spoke yesterday had not read even the bill reported by the Committee of Accounts, which has been printed for some days? for they charged directly that we had reduced the price paid to the pages. I know from that they had not read the bill. What, then, is the use of having this statement printed for the benefit of the Public Printer or any one else? And when gentlemen who have not taken the trouble to read the bill charge that we went it blind in reporting this bill, I tell them that we have examined this subject, not with a view of punishing or rewarding anybody, but for the purpose of giving such officers and such compensation as, upon consultation with the officers of the House, we have found sufficient for carrying on the business of the House.

Mr. FLORENCE. If the gentleman from Kentucky will allow me, I desire to ask whether the list he has is of the employés under the present Committee of Accounts since the force has been reduced, or the force under the old Doorkeeper?

Mr. MASON. This list is of the persons employed by the Clerk of the House. The gentleman from North Carolina [Mr. RUFFIN] has examined particularly into the employés under the Doorkeeper and in the folding-room. We divided out the different branches of the subject among the different members of the committee, and have examined the whole matter minutely. The statement before me relates exclusively to the employés in the Clerk's office.

Mr. FLORENCE. I thought the statement of the gentleman had reference to the force in the folding-room. I understand that the Committee of Accounts have greatly reduced the number of persons employed there, and have reduced their compensation, or at least have changed the system of their compensation, to a great extent; and I desired to know whether the comparative statement from which I supposed the gentleman was about to read would not show, which I understand is the fact, that the reforms suggested here have already been accomplished by the reduction of the force employed, and the reduction of compensation.

Mr. MASON. I understand the object of the gentleman from Pennsylvania, and I will refer him to the gentleman from North Carolina, who is prepared to answer him fully, as I understand. I yield to the gentleman from North Carolina, if he desires to answer.

Mr. RUFFIN. I will state the alterations which it is proposed to make in the force employed by the Doorkeeper—what number of employés have been in office there, and the number it is proposed to employ hereafter.

Mr. FLORENCE. That does not answer my question. I desired to know what was the force employed under the Doorkeeper of the last Congress, and the number employed since the Committee of Accounts have reduced it.

Mr. RUFFIN. That is exactly what I propose to do.

Mr. FLORENCE. I understand what this bill proposes to do. I have read the bill. I am not obnoxious to the charge of the gentleman from

Kentucky against members of this House, that they did not know on what they were acting. I understand the whole thing thoroughly and intimately.

Mr. MASON. The gentleman from North Carolina will answer the gentleman's question, if he will allow him to go on.

Mr. RUFFIN. We propose to allow the Doorkeeper to remain at his present salary of \$2,160 a year. We propose to allow the superintendent of the folding-room to remain at his present salary of \$1,800. There was an appropriation made on the 3d day of March, 1857, for an officer not known to the law, under the title of "messenger in charge of the Hall," at \$1,740 per annum. We propose to reduce the salary of that messenger to three dollars per day, and put him upon the same standing with the other messengers. There was an appropriation in the general appropriation bill at the same session, of \$1,752, for a superintendent of the document-room, and the same amount for the salary of an assistant superintendent of the document-room. These officers are unknown to the law; but have crept in under former appropriation bills. We propose to reduce the compensation of each to three dollars per day. There were then five messengers for which an appropriation was made in the same bill at a compensation of \$1,500 a year each. We propose to reduce these to three dollars per day. There were eight messengers appropriated for in the same bill, at a compensation of \$1,200 a year each. We propose to reduce these to three dollars per day each.

The resolution reported by the chairman of the special committee appointed in the early part of the session, authorized the Doorkeeper to employ six additional messengers at a salary of \$1,200 a year. All these, Mr. Speaker, the superintendent of the folding-room, the superintendent and assistant superintendent of the document-room, the messenger in charge of the Hall, the messengers at \$1,500 a year, and all the messengers at \$1,200 a year were permanent messengers to be continued through the entire year. We propose, in lieu of this, to employ these twenty-five messengers, fourteen of whom are to be employed during the entire year at three dollars per day, and the others to be employed during the session of Congress at three dollars per day.

I will say that we have put down the number of messengers as large as it is, because this Hall is a large one, and the number of doors in it requires a larger force than when the House sat in the old Hall; and yet the decreased salary which we have recommended will reduce the aggregate expenses of that department.

We found fourteen lawful pages on the floor and thirty-one actually here. We propose in this bill that the number to be employed shall be hereafter fixed at twenty. The law authorizes the employment of three laborers, two of whom shall continue through the year, and the other during the session only. The special committee of which the gentleman from Virginia [Mr. FAULKNER] was chairman, authorized the appointment of six additional laborers, (making nine in all,) of whom four were permanent and five during the session. We propose to allow these to remain as at present.

As for the folding-room, about which the gentleman from Pennsylvania inquired, there is a superintendent appointed at his present rate of salary. The other employes are classed as messengers; but the Doorkeeper is allowed to employ one or two of the twenty-five messengers authorized to be appointed, to assist in keeping the books and perform clerical duties, during the session, under the supervision of the Committee of Accounts. We found as high as twenty-eight men employed in that room, at \$2 50 a day each. Most of them were regular appointments. We reduced the number to four men, at \$2 50 a day each, and two laborers, at \$1 50 a day each. The four men are to get the books together, after having marked them, and to send them to members' rooms. They are to superintend the work, and to see that it is done properly. When at leisure, they go into the folding-room, and assist to put up books. The folding is to be done by the piece, and exactly as it was done before the existing system was adopted—a system adopted two years ago, and adopted, no doubt, for the purpose of conferring patronage. The twenty-eight men there now are in each other's way. The whole work of the room

was formerly done by four men; and, on very pressing and busy occasions, by eight. Now persons are continually coming before us with accounts certified, some by the old superintendent, and some by the new one—for there have been two or three in the last twelve months—and it is impossible for us to tell exactly who is, and who is not, entitled to compensation. One will say that he is entitled to the pay, for he did the work; another man has got the appointment, and he wants the pay, although he may never have done any work. A man applied to us for pay, and got it, although he was sick all the time. These are the abuses in the folding-room. We have reduced the force to what we deem to be proper.

I have stated the force employed here by the Doorkeeper, and I hope the thing is understood. The names of six messengers were sent before the committee, but we did not pay them. We did not think it was right, and put the matter off. We did not act on it. I am ready to answer any questions on the subject.

Mr. LOVEJOY. I did not hear the number the committee recommended.

Mr. MASON. They recommend twenty-five messengers under the Doorkeeper; fourteen permanent and eleven temporary.

Mr. LOVEJOY. How many are there in the folding-room?

Mr. MASON. Four messengers and two laborers permanent, and the remaining work is to be done by the piece, as it has been done heretofore. As suggested by the gentleman from Ohio, [Mr. NICHOLS,] addition to this force is left to the discretion of the committee. Sometimes, as he remarked, there is a necessity for a much larger force than that provided. At a session before a presidential election there is a great deal more work to be done than at any other time. Then, in the discretion of the committee, the force may be increased. It was increased at the last session, and the Doorkeeper continued it at this session, when the necessity for it had ceased to exist. The committee has done away with it.

The gentleman from Tennessee has inquired as to the clerical force of the House. Before replying, I will make the remark that as yet no member has objected that officers could not be employed here at the salaries we have agreed upon. Some members object that it will cut down the salaries of some of the clerks. None object that men could not be employed at the price fixed. It is certain that if you take the prices we have fixed, then there will not be a surplus sufficient to enable the clerks to employ substitutes; and it is a good system wherein they are prevented from doing so. The salaries fixed in this bill are adequate to employ men who are anxious and capable of discharging the requisite duties. We can obtain men at these salaries with steady hands and willing hands, who will not be above the work confided to them. I give my own experience as well as that of other gentlemen. I was chairman of the Committee of Accounts, commencing eight years ago. I was then acquainted with almost every employe about this Capitol. The messengers then received \$2 12½ a day, and they were in number then not one half what they are now. They did five times as much work, and they did it well and to the satisfaction of members. There was no trouble or complaint of them. I never heard, when the salaries were at the price I have named, that our committee rooms and our document rooms were robbed of the public property. When the officers are paid high salaries, high enough to employ substitutes, and they go off and leave the public property in charge of these substitutes, we can hardly expect anything else. We have five committees looking into the doings of the last Congress. My opinion is that we should set our own house to rights, and be pure ourselves, before charging evil practices upon others.

Mr. SMITH, of Virginia. I would inquire whether our own Doorkeeper is not unjustly and falsely before a committee of this House, under the charge that he is selling places here—places that are so desirable that people are willing to buy them?

Mr. MASON. I know nothing of the charge.

Mr. FLORENCE. It strikes me that to prevent men from stealing, we should pay them enough to live upon.

Mr. MASON. I will answer the gentleman.

Let us pay our officers enough to live upon, but not enough beside to enable them to employ substitutes, who are not to be depended on.

Mr. BURNETT. By the fourth section of the bill I see that it is proposed to give five clerks \$1,800 a year, three clerks \$1,400 a year, and four clerks \$1,200 a year. I understand that the duties of these clerks, except the enrolling and engrossing clerks, are precisely similar. If they are, then why the necessity for this classification of \$1,800 clerks, \$1,400 clerks, and \$1,200 clerks?

Mr. MASON. Well, the gentleman says that he has understood that these clerks do the same or similar services, and have the same responsibility, and are paid different prices; and he asks why that is done? In the first place, I can tell him that he is misinformed as to the services they have to render. There are eight clerks here who are left by the bill at the salaries which they have heretofore received. We do not reduce them at all. They remain as heretofore; but I understand that none of them have resigned because the pay was too small. I understand, on the contrary, that one of them who was discharged has been very glad to get back again.

Mr. FLORENCE. On the principle, I suppose, that half a loaf is better than no bread.

Mr. MASON. No, sir; but because the salary, which was \$1,500 under Whig rule, and was raised to \$1,800 under Democratic rule, has been subsequently raised to \$2,160. But having answered the gentleman from Pennsylvania, I desire now to answer my colleague. We place five of the principal clerks in the Clerk's office at \$1,800, and two at \$2,160. That was the rate at which they have been heretofore paid. Their salaries were increased to that rate by adding twenty per cent. to their salaries several years ago, in consequence of the advanced prices of living in Washington. Sir, the price paid would command the best services in the country in this department; and they, and you, and I, and everybody, may be well assured of that. If you put the pay at a rate which will command the best services in the country, is not that high enough? If you put it higher than that, what is the consequence? You put the pay at patronage prices. You put the prices so high that a Clerk is elected here, like the President, to administer patronage and dispose of high-salaried offices. And so it is with the Doorkeeper. Members of Congress go to the Doorkeeper to ask patronage for their friends. I do not know that they bow obsequiously to him to obtain appointments, but I know that the Doorkeeper is almost as much beset as is the President himself in distributing the loaves and fishes that come under his care. You put the Clerk and the Doorkeeper in the position of distributors of patronage, instead of fixing the salaries at a rate that will command the best services in the country. The gentleman from Illinois [Mr. SMITH] objects to this bill, and to any decrease of these salaries. Why, sir, the Governor of his own State—a gentleman who has been a member of this House, one who has a high reputation for military achievements, a true and honest man—gets only \$1,500 a year. The chief justice of the supreme court of his State gets only \$1,200; for all the mental and physical labor of presiding over the court of last resort of the State of Illinois, he gets only \$1,200 a year; whilst you give your common messengers here \$1,500 or \$1,750.

But my colleague asks me why we put three of these clerks at \$1,500 and the others at higher salaries? We do it because the other five have the direction of the three; and those who have the direction of others are certainly entitled to a higher rate of compensation for the additional care and responsibility entailed on them. Then, there are four other clerks who were formerly messengers, but were sometimes employed as copying clerks. The Clerk told us that he should prefer that they should be called clerks, because he said that he could employ their services better as clerks than messengers; so we put them down as clerks and gave him three additional messengers. If we have not understood the Clerk of the House upon the subject, it is because he has not chosen to be communicative to us. We asked him privately to aid us in this thing, and he made some suggestions. We supposed that we had given him a sufficient force, and that he could command the services necessary in his department for the prices fixed in

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this bill. And no one will doubt that that is the case; he will not dare to dispute it.

Mr. BURNETT. The reason why I asked my colleague why this classification of clerks had been made, is this: I am opposed to the classification of clerks, and I have been opposed to it ever since I have seen the operation of it in the Departments in this city. You may go into the various Departments here and you will find that the clerks who receive \$1,200 actually do more labor and perform more service than those who are in the classes above them. The clerkships in the Departments are divided into four distinct classes, at \$1,200, \$1,400, \$1,600, and \$1,800. Now, I am opposed to this system, for the reason that, if you put some of these clerks at \$1,400 and others at \$1,800, those at the lowest rate of pay will render services of a similar character and do the same amount of labor as those who receive the higher rate of pay.

Mr. MASON. I yielded to the gentleman for a question, and not for an argument.

Mr. BURNETT. Well, I desire to ask another question. What direction have the five clerks who are placed at \$1,800 over the three clerks who are to be paid \$1,400?

Mr. MASON. It is too long an explanation to make now; but I will refer the gentleman to the report of the Whig investigating committee, made in 1841, in reference to the duties of all these clerks; and now I will proceed to something else. This is one of the very few sessions of Congress that members have had their attention called to the employés of the House. There was one committee appointed at the beginning of the session to report, among other things, as to appointing extra messengers. These messengers were allowed by the House; but the Doorkeeper was not satisfied with the number. He did not think he was allowed exactly enough, or given enough of patronage. As to these \$1,200 clerks, I will say to my colleague, that, for the duties which they are called upon to perform, there can be had perfectly competent men, who will be glad to get that salary. As to the five superior clerks, their duties are of a higher order, and require higher abilities.

Mr. RUSSELL. I want to know from the gentleman from Kentucky what employés under the Doorkeeper have farmed out their places? I have asked the Doorkeeper whether any such system exists in his department, and he says there does not. I have asked Mr. Allen, the Clerk, whether any such system exists in his department, and he says, no.

Mr. MASON. I did not say that they farmed out their places. I say that it is a common thing for persons employed about the Capitol to go home, and draw their pay, and get others to do their work, giving them half a dollar a day to take care of the rooms.

Mr. RUSSELL. Will the gentleman say who these employés are, and I will go for their removal.

Mr. MASON. I have no charge to make against the Clerk or Doorkeeper, or anybody else. It is the system that I allude to. It is a common thing, as is known to many members of the House. Now, the only question is, whether we shall employ messengers at salaries which will make the offices objects of patronage, which will induce members to look for them for their brothers-in-law, nephews, and other relatives; or whether we will affix such salaries to the offices as will induce none to seek them who do not intend to perform their duties faithfully? As it is, we hold out inducements to office-seekers in all parts of the country to come here and seek these petty offices.

Gentlemen say why do you not commence the reform at other and higher offices? Why do you not go to the public printing system, the Army, the Navy, and the Indian department, where millions are expended, and reform them? Sir, I tell you to-day that if I were on the Committee on Printing, I would, in some contracts, effect a saving of more than a million dollars. You have had here this session a deficiency bill for printing

of \$790,000. But the opposition to this measure does not rise from the feeling in favor of those holdings subordinate offices. It has another source.

Mr. NICHOLS. I understand the gentleman to say that if he were on the Committee on Printing he could make contracts which would save the Government a million dollars? I now ask him what contract he would make under the law by which he would do so?

Mr. MASON. I will tell you.

Mr. NICHOLS. Allow me one word more; and then answer all together.

The SPEAKER. The Chair does not perceive the pertinency of the point to this bill, No. 311.

Mr. NICHOLS. Inasmuch as the question has been started, I simply desire to put an interrogatory. I say that the Committee on Printing has but one contract to let, and in this Congress they have let it at least fifty per cent. below that at which it was ever let before.

Mr. MASON. I answer the gentleman that I would, every time that a motion to print was brought up here, examine it.

Mr. NICHOLS. Certainly. So we do.

Mr. MASON. And I would see who got it up, and for what reason it was got up; whether it was to give patronage to the printer or to give information to the country. You have now got a million of dollars added on to the contingent fund, in the form of a deficiency for printing, lithographing, and engraving, done at double and treble prices.

The SPEAKER. The Chair thinks that the gentleman from Kentucky had better confine himself to the discussion of the bill.

Mr. MASON. I am an old soldier on this Committee of Accounts, and I know the source from which this opposition comes. In the face of examining committees, with regard to the late Committee of Accounts and others, we determined to keep our tracks clear. And how? Why, we refer the accounts of Democratic printers to the Republican members, so that these accounts may have a full and impartial examination. We do this, even at the risk of falling out with our Democratic friends. We believe that the Republican members of that committee have a right to look at the accounts of Democratic officers. We have a Democratic Superintendent of Public Printing, appointed by the President and confirmed by the Senate, and we do not mean to prevent the full investigation of his accounts. We have intrusted that duty to members of the committee who stand high, not only in the estimation of their own party, but of the Democratic party also. If the Superintendent of Public Printing cannot stand the test of such examination, let him suffer the consequences.

So it is with the accounts of the Clerk. I do not intend to insinuate anything against the Superintendent of Public Printing. I am confident that he will be able to stand the test of a strict examination. I do not know him, but I have confidence in the President that he would not appoint a dishonest man. It is a position that requires honesty, ability, and integrity to fill. In making these contracts for millions for printing, paper, and lithographing, they are exposed to temptations which would try the honesty of any man. But, sir, if by any chance any suspicion should fall upon his conduct, let his accounts be carefully and rigidly examined by men of the opposite party in this House, and you will have no need hereafter for future committees of investigation. If the Committee of Accounts do their duty properly, and examine those accounts fairly, there can be none. It is true that some incorrect accounts may slip through, but they will be found out sooner or later. But if you want your Committee of Accounts to be governed by a caucus of employés, who shall act upon the principle of passing upon every man's accounts, then appoint some more supple tools on the committee, who will put their demands into effect, and will not allow friend or foe to look into their accounts.

The gentleman from Arkansas [Mr. WARREN] spoke of splendid committee rooms. Well, sir,

who furnished them so splendidly? I cannot tell. We have their accounts coming before us occasionally. It is the duty of the Clerk of the House to bring them before us. At the proper time, they have all to be scanned by our committee, by men of all parties. If they are right, they will pass; if they are not right, they will not pass. And so with all the other accounts. It is his duty to make contracts, and to purchase all the stationery and materials for the use of the House. So far as I know, he has so far performed every duty efficiently and honestly. But, sir, for some reason the Superintendent of Public Printing has not shown a disposition for carrying on a proper investigation by the committee. The gentleman from New York [Mr. SPINNER] can testify that we have undergone an amount of labor in the investigation of the contracts which have been made for printing, lithographing, and almost everything else, which few members of the House would be willing to undergo.

Mr. Speaker, so much for the clerks and messengers. Now for the post office department. I have in my hands a report from the Postmaster of the House, which is too long to read. It would take an hour to do it. But, sir, he gives the committee his views, and asks for some more employés. He says that more employés are wanted to discharge the duties of that office. Since the salary of these messengers has been raised to \$1,440 per annum, their number has been increased. When these men were employed at \$2 50 per day, they did their work without difficulty with a less number. But when their salary was increased to \$1,400, they employed men to do their work at \$900. It is said that, in the condition of the city, they want protection in carrying the mail to the residences of the members. Well, sir, we have given them two messengers at three dollars per day to go with the mail-boys.

But, sir, the Postmaster, in his communication asking for another messenger at \$900 a year, furnishes an argument against the whole system. He says the authority to make the appointment would give rise to so much competition that he would rather the appointment would be given to another. Well, sir, if there would be so much competition with the salary of \$900 a year, what would it be with a salary of \$1,440? The \$540 must be, then, regarded as extra. Mr. Speaker, each of your constituents and mine are as much entitled to a gratuity of \$540 as these men who are required to do public service. But, sir, I promised to yield the floor to the gentleman from Tennessee.

Mr. ZOLLICOFFER. I merely wish to remind the gentleman of a question I propounded, believing that the knowledge involved in its answer is necessary to enable gentlemen to vote intelligently upon this bill. I desire to ascertain what changes this bill makes? What is the reduction it proposes in the number of employés, and in their compensation? It strikes me that this information is necessary to enable us to vote understandingly.

Mr. MASON. I will answer the gentleman with pleasure, so far as I can. There is no change made in the number of the clerks now authorized by law. In some instances where messengers have, without authority of law, come to be recognized as clerks, we have put them back where they were before. We added one more to the Postmaster's force. We gave to the four men under him the pay that we have allowed messengers upon this floor. We put doorkeepers and all upon the same footing of three dollars a day. Heretofore, in previous sessions, the salary was two dollars and a half a day. The twenty per cent. increase made it three dollars, and this we have allowed them. We make the compensation such as intelligent and faithful working men in this country would be glad to obtain. We patiently inquired into the subject, and gave the force and the pay that we thought each portion of the service of the House was entitled to. We gave a compensation which we thought would insure faithful service.

We gave the Postmaster one more than he has now, for this reason. The southern men wanted

a mail delivered in addition to the mails now sent to them. The Postmaster said that his force was equal only to the present service, and that it would take another wagon and horse to perform this service. After an examination, we thought that this service was necessary, and we allowed another messenger at three dollars a day, and a horse and wagon at \$2 50 a day during the time of service.

The gentleman from North Carolina has explained fully in reference to the Doorkeeper's employes.

I would not have this bill put upon its passage, were it not that I know gentlemen have not read the bill which was printed and laid before them. They will not go through these long reports any more a week hence than they will now. I am not obnoxious to the charge of the gentleman from Arkansas, [Mr. WARREN,] that this measure is pressed to make capital at home. I need no such capital. I do not wish to put the Government to the expense of publishing a large amount of these reports. They have been already published. Gentlemen who may desire it will get whatever of knowledge there is on the subject from the report in the Whig House of Representatives, made in 1841. The principles set forth in that report are as good now as they were then. Under that report, the men who were appointed discharged the duties of their offices themselves, and did not allow them to be discharged by substitutes.

Why should this question be postponed? Is it of such magnitude and importance? Does it involve millions? Is it of such character that it should not be considered now? Let it be done now. If it works badly, why next December we can change it again. If it works well, then we shall have discharged a simple duty, and in doing this, we may set an example to the other departments of the Government. It may induce them also to pursue a system of economy. And who can doubt that unless we have virtue and economy in our republican system of Government we shall lapse into corruption and ruin at no distant day? Let us take the beam out of our own eye before we look to the mote in the eye in another branch of the Government. When we have set our own house right, we will be in better condition to look into the affairs of other branches of the Government.

The question recurred on the motion that the subject be referred to the Committee of the Whole on the state of the Union.

Mr. RUFFIN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 85; as follows:

YEAS.—Messrs. Adrain, Ahl, Arnold, Avery, Billinghurst, Bishop, Blair, Bowie, Brantly, Buntin, Burlingame, Burns, Burroughs, Caskey, Chapman, John B. Clark, Clawson, Clemens, Clingman, John Cochrane, Cockerill, Colfax, Comins, Cox, James Craig, Burton Craig, Curry, Danrell, Davidson, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Dawes, Dean, Dewart, Dinwiddie, Dowdell, Durfee, Edmundson, English, Florence, Foley, Foster, Giddings, Gilman, Grainger, Greenwood, Gregg, Groesbeck, Grow, J. Morrison Harris, Haskin, Hatch, Hawkins, Hickman, Howard, Huyler, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Kelly, Kelsey, Jacob M. Kunkel, John C. Kunkel, Lamar, Lawrence, Leidy, Leiter, Lovejoy, Matteson, Maynard, Miles, Montgomery, Mott, Nichols, Phelps, Pottle, Reilly, Russell, Scott, Searing, Seward, Aaron Shaw, Robert Smith, Samuel A. Smith, Stallworth, James A. Stewart, William Stewart, Tappan, George Taylor, Thompson, Ward, Warren, Watkins, White, Whiteley, Winslow, Woodson, and Wortendyke—100.

NAYS.—Messrs. Abbott, Anderson, Andrews, Atkins, Bliss, Boeck, Bonham, Boyce, Bryan, Burnett, Case, Clay, Cobb, Codde, Cragin, Crawford, Curtis, Davis of Maryland, Dick, Dodd, Elliott, Faulkner, Fenton, Gartrell, Gilmer, Gidd, Goodwin, Robert B. Hall, Harlan, Hill, Hoard, Hopkins, Horton, Houston, Jackson, Jenkins, George W. Jones, Keitt, Kilgore, Knapp, Lenoir, Letcher, McQueen, Mason, Miller, Millson, Morgan, Morrill, Isaac N. Morris, Freeman H. Moss, Niblack, Parker, Pendleton, Peyton, Pike, Potter, Quintman, Ready, Reagan, Ritchie, Robbins, Royce, Ruffin, Sandidge, Scales, Henry M. Shaw, John Sherman, Shorter, William Smith, Spinner, Stanton, Stevenson, Miles Taylor, Thayer, Tompkins, Underwood, Wade, Walbridge, Waldron, Walton, Cadwalader C. Washburn, Wood, Augustus R. Wright, John V. Wright, and Zollcoffer—85.

So the bill was referred to the Committee of the Whole on the state of the Union.

Pending the above call,

Mr. PETTIT stated that he had paired off with Mr. STEPHENS, of Georgia.

Mr. J. GLANCY JONES stated that Mr. TALLOR, of Kentucky, was detained at his room by illness.

Mr. FLORENCE. I move to reconsider the vote just taken.

Mr. WARREN. I move to lay the motion to reconsider upon the table.

Mr. FLORENCE. Is not the motion to reconsider debatable?

The SPEAKER. It is not.

Mr. SMITH, of Virginia. I desire to know whether it is in order to move that the Committee of the Whole on the state of the Union be discharged from the consideration of the subject, and that it be recommitted to the Committee of Accounts with instructions?

The SPEAKER. It is not.

Mr. JONES, of Tennessee, demanded the yeas and nays on the motion to lay the motion to reconsider upon the table.

The yeas and nays were not ordered.

The motion to reconsider was laid upon the table.

EFFICIENCY OF THE NAVY.

Mr. CRAWFORD. If the House is desirous to receive reports from committees I will not make the motion that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. We are anxious to make reports. I call for the regular order.

Mr. CRAWFORD. I will not make the motion to go into Committee of the Whole on the state of the Union until the morning hour has expired.

Mr. SEWARD. I call up the motion to reconsider the vote by which the House referred Senate resolution No. 3, to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to promote the efficiency of the Navy in respect to dropped and retired naval officers," to the Committee of the Whole on the state of the Union.

Mr. Speaker, at the time I made the motion to reconsider I did so to accommodate some gentlemen of the Naval Committee, who were at the time absent from the House.

Mr. BLISS. Let us hear the resolution.

The SPEAKER. The joint resolution of the Senate was taken up some time since, read twice, and referred to the Committee of the Whole on the state of the Union. The gentleman from Georgia moved to reconsider the vote by which the bill was so referred. He now calls up that motion to reconsider.

The joint resolution was read.

Mr. SMITH, of Virginia, obtained the floor.

Mr. SEWARD. If the gentleman from Virginia desires to debate the resolution, let the reconsideration take place, and let it be made the special order for some day certain. I shall then be happy to hear the gentleman. I do not desire to force this measure upon the House. The joint resolution has not yet been printed; and in order that members may understand it, I desire that it shall be printed and made the special order for some day certain.

Mr. SMITH, of Virginia. I will state that I am entirely disposed to arrange this matter in any manner that may be convenient to the gentleman or to the House. I think the joint resolution is in a very proper position in the Committee of the Whole on the state of the Union. There it can be amended, and I have a substitute which I desire to offer. I rose, therefore, for the purpose of moving to lay the motion to reconsider upon the table. That will leave the measure in the Committee of the Whole on the state of the Union. I will send my substitute up so that it can be printed with the joint resolution, and then the gentleman from Georgia can fix any day he chooses for the consideration of the propositions.

Mr. SEWARD. I have no objection to that. I hope the House will make the joint resolution the special order for Tuesday next, and order it, together with the substitute, to be printed.

Mr. SMITH, of Virginia. What is the motion of the gentleman from Georgia?

The SPEAKER. The Chair does not understand the gentleman from Georgia as making any motion.

Mr. SMITH, of Virginia. I move to lay the motion to reconsider upon the table, and that the bill and substitute be printed.

Mr. SHERMAN, of Ohio. I trust the gentleman will withdraw that motion. I will renew it.

Mr. SMITH, of Virginia. I withdraw it.

The SPEAKER. As a matter of course, the

substitute of the gentleman from Virginia cannot now be received, inasmuch as the joint resolution is in the Committee of the Whole on the state of the Union.

Mr. SEWARD. I appeal to the gentleman from Virginia to withdraw the motion to lay the motion to reconsider upon the table.

The SPEAKER. It has been withdrawn.

Mr. SHERMAN, of Ohio. I desire to say but a few words upon the pending question. I am opposed to the motion to reconsider. I think the joint resolution was properly referred to the Committee of the Whole on the state of the Union. It ought not, in my judgment, to pass this House.

Mr. SEWARD. I desire to say that I made the motion to reconsider, to accommodate the chairman of the Committee on Naval Affairs, supposing that I could control it at any time.

Mr. J. GLANCY JONES. I understand that the gentleman from Ohio desires to discuss the pending question. I understand that the gentleman from Georgia desires its postponement. If the gentleman will allow me, I will move to postpone this subject until Monday next, or some other day, so that the committees may now be called for reports.

Mr. SHERMAN, of Ohio. I have no objection to the motion to reconsider being postponed.

Mr. SEWARD. The gentleman does not understand my proposition. I ask the House to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union. After the reconsideration shall have taken place, I propose to make the joint resolution the special order for Tuesday next, and to have it printed. The gentleman from Virginia can get his substitute in, and have it printed also.

Mr. SHERMAN, of Ohio. I cannot accede to the request of the gentleman from Georgia, that the vote shall be reconsidered, because I think the contest should be made on the motion to reconsider. I think that the joint resolution has been properly referred to the Committee of the Whole on the state of the Union, and that it should be discussed on its merits on the motion to reconsider. I do not wish to discuss the question now; and if the motion to reconsider is to be laid upon the table, I do not wish to enter into the discussion at all; and for the purpose of testing the sense of the House, I move to lay the motion to reconsider upon the table.

Mr. MILLSON demanded the yeas and nays.

Mr. KELSEY called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. MILLSON called for tellers on the motion to lay on the table.

Tellers were ordered; and Messrs. EDIE and LETCHER were appointed.

The House divided; and the tellers reported—ayes 65, noes 67.

So the House refused to lay the motion to reconsider on the table.

Mr. DAVIS, of Maryland. The question is now, I suppose, before the House on reconsideration.

Mr. JONES, of Tennessee. The question is on referring to the Committee of the Whole on the state of the Union. That is the motion that was reconsidered.

The SPEAKER. The vote just taken was on the motion to lay on the table the motion to reconsider. The question on reconsideration is still pending.

Mr. DAVIS, of Maryland. That, I believe, opens the merits of the proposition for consideration. I desire to submit a few observations on the measure itself—and a very few.

Mr. J. GLANCY JONES. I wish to appeal to the gentleman from Maryland to allow me to make a motion to postpone the question to some other day. The committees are all, or many of them, ready to report; and I have a great desire, after the call of committees, to go into the Committee of the Whole on the state of the Union.

Mr. DAVIS, of Maryland. I will not detain the House long; and I prefer, if my friend from Pennsylvania will allow me, to submit now the very few observations that I desire to make; and then the gentleman can make any motion he may desire.

Mr. Speaker, the Congress before the last passed what was in my judgment a very wise bill, for

the purpose of purging the Navy of the United States of its rotten material. That bill was one which originated with the Secretary of the Navy, of all men the person most conscious of the necessity of reform. That bill was passed by the lower House by an overwhelming majority. It was passed by the Senate, likewise, by a very great majority. The lower House added to the bill, as it came from the Secretary of the Navy, what is ordinarily termed the drop clause—that portion of the bill which directed, not authorized, the board to drop from the list of the Navy not only all persons who were incompetent to perform their duties, but all who had rendered themselves incompetent by their own default. The last Administration organized the board, whose duty it was—not to be performed or disregarded at their pleasure—honestly and fearlessly to carry out the provisions of that law. The last Administration, with a discernment which, in my judgment, did it the highest credit, selected from the officers of the Navy a board of fifteen, as much above impeachment as any fifteen gentlemen who could have been selected from the active list of the service. These gentlemen met to discharge their duty, and on their honor and their conscience so discharged it that the President of the United States, the Secretary of the Navy, and the whole Cabinet, approved of what the board did, recommended that the Senate should acquiesce in it, and there left the matter. A great cry was raised in the country the moment it was found how deep the knife had gone into the materials of which the personnel of the Navy is composed.

A great cry was raised that injustice had been done; that men had been stricken down without an opportunity of being heard; that small personal considerations presided at the performance of the high duty which these gentlemen were ordered to perform, and which they dared not to refuse to perform, under penalty of losing their commissions for disobedience of orders.

The result of that clamor was, that the last Congress organized, not another board of inquiry, but a series of courts of inquiry, which proceeded according to a different method, and which might, therefore, naturally be supposed likely to reach a different conclusion. The first board was an administrative board, and proceeded according to an administrative method—not concluding the case of any man by its judgment, but simply intended to advise the Administration, on their honor as gentlemen, and by their knowledge as officers, of what it was proper for the President to do in the premises. That board added no power to the President's existing authority. He already had the power, at his mere will and pleasure, to strike from the active list of the Navy any officer whom he saw fit. The only operation of that bill was to relieve the exercise of high executive discretion of its harshest features; to provide a salary for those who might thus be removed from the active list; to secure to meritorious men who, without their own fault, were no longer competent to perform their duties, an honorable retired pension, on which they might live respectably and comfortably the remainder of their lives, though no longer competent to discharge their duties as active officers.

That board proceeded in an administrative and not in a judicial method. It proceeded as the President proceeds when he makes appointments, and when he removes from office: not by summoning witnesses, not by the formalities of pleading, not with all the forms of judicial procedure, but upon the knowledge of the men who have to pass judgment, on that best of all knowledge—the knowledge of men of the profession, of the standing, the ability, the character, and the fitness of the men of their own profession.

The men composing this board were called by law to advise the President, and give him the knowledge which he could not otherwise have, in order that upon their advice, just as to-day on the advice and consent of the Senate, the President makes appointments without a judicial investigation of the facts. So here, on the advice of this board, who knew their brother officers, the President might remove from the active list those whom they might advise, and whom he, on his own knowledge and on their advice, should think were incompetent to discharge their high duties to their country.

That, sir, was the theory of that board in its

original inception. That was the high purpose which it was intended to accomplish, and in my judgment, that was the purpose that it did, with perfect honesty and perfect uprightness, and with great efficiency accomplished. It accomplished it in the judgment of the Administration, for they confirmed the proceedings of the board, and removed from the active list all the officers whom the board recommended should be removed. That board removed no responsibility from the last Administration. The board afforded them the benefit of the experience of naval officers of high grade and low grade, and it was upon their advice that the Government acted, and not upon their judgment.

It is these proceedings which have called down upon the heads of the late naval board so much vituperation in Congress and out of it; when properly, if it belonged anywhere, it belonged to the Administration which sanctioned their proceedings—to the President, who removed from the active list; to the Secretary of the Navy, who advised to remove from the active list, men whom the board simply said ought to be removed.

There is no ground for the imputation of Star-Chamber proceedings on these gentlemen. They did what the law directed them to do. The law did not direct them to call witnesses; the law gave them no coercive process of law required in the examination of witnesses; the law required no record to be kept; it simply required, as has been required more than once in the history of the country before, when it was necessary to reduce the Army, and to reduce the Navy, that officers of high grade should advise the President, and that the President should act or not act upon their advice, as he should see fit.

The last Congress thought it was an unjust mode of procedure, and it passed a bill to remedy the evil. Whether it has remedied then or not, only the future can determine. I rather think that Administration will have a grave account to settle with the country which shall place over any American fleet, in time of war, any man whom these fifteen officers of the Navy, confirmed by the Cabinet and ratified by the President, have said was unfit to discharge the duties of active service. I rather think any Administration that shall commit the honor of the United States, the lives of her sailors, the safety of the country, and the protection of our commerce to any man who stands so condemned, will have a heavy responsibility to incur. It will require the spirit of a bold man to encounter the clamor that will be raised against that Administration under the auspices of which the flag of our country shall go down in dishonor upon the ocean under the charge of any man who was found deficient by that board. The last Congress has authorized the Administration to place itself in a position to encounter that responsibility. Sir, it was not by my vote.

But now we are called upon to go a step further. We have given an opportunity of restoring to the active list of the Navy, men whom fifteen of their peers, the President and his Administration, have said were unfit for active service; not by any means because of their individual personal characters; not by any means because they were dishonorable men; not because there was any taint upon them of any kind—without the assignment of a reason; some because of progress of age, some because of premature infirmity, some, it may be, for lack of official training, but in all cases without assigning a reason, leaving it in every case to the charitable inferences of the country to judge. But, sir, this House and the Senate have determined that that proceeding should not rest there, but that the men so removed should have an opportunity of being heard by their counsel, should be heard by evidence as to whether they were fit to command a ship in time of war or not. What was the result? Has the result of that inquiry justified the clamor on which the bill of the last Congress was passed?

The courts organized by the last act have not reinstated, I believe, one fourth of the men who were removed from the active list. Well, sir, if one will investigate the number of judgments in a court of appeals that are reversed, and compare that with the number of judgments passed by any lower tribunal, they will find that the courts of inquiry have not changed the findings of the naval board in anything like the proportion of instances

in which a court of appeals reverses the judgments of the inferior courts. The one pursuing judicial methods has confirmed the other pursuing administrative methods in a greater proportion than ordinary courts of appeal confirm the judgments of inferior tribunals proceeding by the same method. I say that no results could come out more honorable to the gentlemen who formed that naval board than these results from the courts of inquiry. Then there is no ground for the imputation that it was a Star-Chamber proceeding; that unworthy motives actuated the gentlemen of the naval board, that men were stricken down without an opportunity of defense. It shows the eminent propriety of that mode of aiding the Administration by an administrative tribunal, with the free advice of gentlemen of high rank in their profession, to help them in the performance of an administrative act purging the Navy of material which, from one cause or another, was incompetent to discharge its duty.

What have the courts of inquiry done? They have shifted some of the officers who had been put upon the furlough list to the leave-of-absence list, and they have restored to the active list a small proportion only of those who were removed from it. The great mass of those who fell under the decision of the President, the Cabinet, and the board, rest where they were. They rest there either by their own judgment in not having sought a reversal of the decision of the naval board, or by the judgment of the courts of inquiry, which, on their application, have refused to restore them to the active list. The proposition now before this House is not only to disregard the judgment of the naval board, the Administration, and the former Cabinet, but likewise to disregard the judgment of those gentlemen upon themselves—to disregard the judgment of the courts of inquiry, and to refer again to the President to take out of these thrice condemned men who shall be placed again in high command in the Navy of the United States. I have not one word to say against the officers who have been so unfortunate as not to have obtained a favorable report from the courts of inquiry. There are many of them gentlemen of high position, high standing, and fair ability. They may be all of them men of the highest character, for aught I know; but we are not here, Mr. Speaker, dealing with matters which are to be decided by our private sympathies. We are now placing in the hands of the Administration a power to put men in high command who have been determined by two successive tribunals, organized in two different methods, or by their own judgment upon themselves, to be unfit for that command to which we are to restore them. I may have every confidence in the judgment and the wisdom of the Administration. I have some confidence likewise in my own judgment, and I have some respect for my own responsibility.

Mr. SEWARD. I will inquire of the gentleman from Maryland whether, in the absence of this legislation, the President, under the Constitution of the United States, has not the right to restore any or all of these men?

Mr. SMITH, of Virginia. Why, then, the use of this legislation?

Mr. DAVIS, of Maryland. If he have that power, he will do it without a vote of the House of Representatives sanctioning it.

Mr. SEWARD. That is not answering my question. Does not the President possess that power?

Mr. DAVIS, of Maryland. I cannot answer that question, because I have not examined the law minutely. It is possible that he may have the power. My impression is that he has not the power. He can appoint anybody that he chooses as an original appointment, but he cannot reinstate these men in their original rank without, I presume, affirmative legislation on the part of Congress, unless they go through the formality of an appointment *de novo*.

Mr. SEWARD. Of course.

Mr. DAVIS, of Maryland. It is not at all likely that any President is going to take men, who stand thus condemned, and appoint them to their respective grades and to their former rank, unless he shall have the sanction of both Houses of Congress for violating the ordinary rules of appointment. So, whatever the law may be, it still comes, Mr. Speaker, to this: that they will rest where they are unless we incite the Administra-

tion by authorizing the President to do it, unless we give the Administration our opinion that it is a thing which it may be right to do. And for my single self, whatever confidence and respect I may have for the Administration, I will not remove any obstacle against the reinstatement of gentlemen who have been found incompetent for the discharge of their duties by a succession of inquiries, such as they have been submitted to. I am unwilling to take my share of the small, remote, contingent responsibility of having hereafter, when some great naval disaster shall have befallen us, and some great dishonor shall have marked the American name, any man point to my vote here and say, "you, sir, authorized the Administration to place that man in high command, who has now brought down death and destruction upon your fellow-citizens and a stain upon the hitherto untarnished honor of the American name." If other gentlemen are willing to act to that extent, be the responsibility theirs.

I only desire, in these few words, to enter my protest against the proceeding; to show wherein injustice has been done to as honorable a body of men as ever met under any order of the naval service; and to show how completely the findings of the courts of inquiry, under a different form of process, has been to confirm the general propriety of their proceedings; and also, to enter my protest against this dangerous precedent of allowing the President to restore men that three several courts of investigation have pronounced to be incompetent to discharge their duties.

Mr. MILES. Mr. Speaker, I rise to speak in favor of the resolution which is pending before this House. In common with the whole country, I have watched the proceedings of the courts of inquiry with deep interest, and a close and exacting scrutiny. I have not felt prepared, as, perhaps, few of us have, to pronounce upon every case that came before these courts; but I have felt prepared, I feel prepared now, to show that the findings of these courts are in some instances absolutely repugnant to every sense of justice and fair dealing. But I will say in advance that I utterly repudiate any intention or disposition to reflect upon the character of either of these naval courts of inquiry. I have no doubt, sir, that they were composed of high-minded, honorable gentlemen, and most efficient officers. For the president of the first board I have the deepest and strongest personal regard. I am proud of him, sir, as a citizen of my own State, and, in some sense, one of my immediate constituents. Without any special knowledge of the character of the individuals composing the board generally, I have no hesitation in saying that I believe they were actuated by pure, patriotic, and conscientious motives. But, sir, "to err is human." No court can be so constituted that its judgment shall be infallible. And to say that any tribunal is to pronounce definitively upon that which is to stamp the character of a man, to fix a blot upon the reputation of an officer in a distinguished arm of the public service, is to assign it more power than I am willing to grant to any court, however composed or constituted. Sir, the meanest criminal who receives the sentence of a judge, may yet look to executive clemency; may yet look to the pardoning power which all constitutions and the laws of all civilized nations have vested somewhere, if not for justice, at least, that it shall be tempered with mercy, if the particular case calls for mercy.

But, sir, where is the mercy that these boards have shown? I will not go into particulars, for there would be no propriety, at this time and in this place, in doing so; but I know, and other gentlemen around me know, of cases in which men have been stricken from the roll of honorable service without, as the gentleman from Maryland [Mr. Davis] has well said, any taint, any imputation upon their character, but where they have been left to go down to the grave with the gnawing consciousness that the finger of scorn is pointed at them, and that they cannot stand out in the light of God's day either to disprove or to have proof of the charges against them.

Sir, is not this true? Is it not known to many honorable gentlemen upon this floor? The gentleman from Maryland spoke feelingly about the delicate task of committing the honor of the American flag to the hands of those who have been pronounced by their brother officers incompetent

and unworthy to uphold it. Sir, does the history of our Navy, does the history of our Army, show that on any field either branch of the service has ever been found wanting? Show me the record that goes to prove that our Navy has ever been found unequal to grapple with any foe.

I have now in my mind's eye a distinguished officer whom the action of this board has removed from his proper rank and position, who won laurels, great and lasting, only a very short time before the board pronounced upon his case, an officer, who, for his gallantry—and that not simply gallantry displayed against a national enemy, but gallantry displayed in defense of humanity, gallantry shown in fighting against a common foe of humanity—who, for his brave deed in sweeping from the waters a horde of pirates, ten times more numerous than his own force, has received the thanks of three of the great Powers of the world, and has had the highest honors that they could offer tendered to him. And yet, sir, he was removed from the Navy, which he had adorned: and for what? We cannot learn from the first board for what cause any one removal took place; for they met here in secret conclave, with no stenographer to take down the proceedings, with no journal in which they were to be preserved; but without record, and without note or comment, they came to their conclusions. But when the second board, giving up something to the public sentiment and to public opinion, and in accordance with the recognized feeling of the civilized world in favor of fair play, just dealing, and an open trial, arrayed the facts and the witnesses before us, what do we find was the black record which was to wipe out the brilliant services of that officer? That, upon two occasions, he yielded to over-indulgence, and was overcome by wine! Sir, I, perhaps, might be considered by many, in this age of temperance societies, and other isms, lax in my notions. I know not. I hope I have as proper a horror as any one of the bestiality which would degrade a man from his noble prerogatives as a rational being, and approximate him to the brute; still less would I overlook it in one in high office, occupying a responsible and honorable position; but, sir, I would be the last to say here openly to the world that I would deprive a gallant soldier or sailor of his position and of his bread, or what is far dearer than these, his honor, because he may have indulged in an occasional weakness. It is too unjust, too harsh, to be justified gravely by reasonable men.

Now, sir, what does this resolution propose? It simply proposes to vest in the President that executive clemency which, as I said before, the meanest malefactor under all laws is entitled to hope for. It does not propose to instruct the President; it does not propose to hamper or embarrass him in any way. It is simply to enable him to do an act of justice; or it may perchance be, in some particular cases, an act of mercy. Are we prepared, gentlemen, to say that our Navy is in so rotten a condition, so unsound to the core, that an operation so terrible as this must be performed—that we are to lop off, limb after limb, even those that have given strong and sturdy and hearty blows for the honor of the country? Are we prepared to say that it is in such a condition that this is its only hope of cure, its only chance of salvation? I, for one, am not prepared to say it. Without any professional or technical knowledge of the Navy, I, as an American citizen, feel too proud of our Navy, too well assured that it will on every occasion be found equal to any emergency, to believe that it is necessary to resort to measures so extreme, and working, as I believe, in many cases, such individual injustice. No, sir; though our Navy may have inefficient officers, though it may have men who have grown gray and decrepit in the service, and who are entitled to be put gently aside without reproach; though there may be, moreover, men in it who have faults and vices which in some degree may impair their individual efficiency, I still believe that it is composed of men as brave and as good seamen, as intelligent and patriotic, as the navy of any country upon the face of the earth.

I do not believe that it is necessary to its efficiency to resort to a method which has not been found necessary before in any civilized country. I believe the true method of purging the Navy, and of rendering it absolutely efficient, is that those

who have the guidance and direction of it should give it such duties to perform, should use its discretion so as to sift it and show up those officers who were unequal to their work, and those who were equal to it. The deficiencies and shortcomings of officers would be thus exhibited before the country, and it would be published to the world that, for such and such reasons, these men were punished. But let us not strike in the dark. I cannot agree with the gentleman from Maryland, [Mr. Davis.] His notions and mine differ very materially on that particular point. I cannot believe in secret associations or secret bodies, that may use the weapon of destruction without the one assailed knowing exactly from what quarter the assault comes. I believe that everything that the public good demands can be done by freemen, openly and manfully, in the face of day, and without the necessity of any concealment.

With regard to the particular point, whether authority to replace these officers is vested in the President, I would say that, so far as I could learn, it is not considered merely a doubtful point. As I understand, the conclusion that has been come to, after deliberate consultation and thorough investigation, is, that he has not the power. Hence this resolution is not supererogatory. It is one that is absolutely called for. Believing that this action ought to be taken, that the resolution is a just one, and an absolutely necessary one, I shall support it with all my heart.

Mr. CHAPMAN. The honorable gentleman from Maryland [Mr. Davis] has passed a high panegyric on the members of the board. Against these gentlemen, personally, I have nothing to say. They may be all honorable men and gallant officers. I will not charge them, as they have been charged in other places, with having, previously to their organization, engaged in a conspiracy to strike from the roll officers whose distinguished merit they envied. I will not charge them with corruption; but I will say that they were surrounded by influences of the most dangerous character, utterly at war with everything like fair dealing; and if their action were allowed to operate, it would result in nothing else than wrong. There was not a man among them against whom a cause of challenge did not exist, sufficient to force from the panel any juror in any court in the country.

In the first place, they constituted a tribunal which decided the cases of its own members; and, although under the regulation prescribed by the Secretary of the Navy, an officer did not sit precisely on his own case, still, by sections, they determined the cases of one another. And, besides, they were directly and immediately interested in the decisions that they gave, for whatever vacancy was created by disrating a senior officer, was filled from among those who were left. When Captains Stewart, Read, Zantinger, Ramsay, and others, were disrated, those who were left were advanced. Consequently these judges were benefited by every vacancy that was created. They must have been more than human to have been above and beyond the reach of the temptation to do wrong. There is not a judge in the country who would for a moment occupy his place on the bench if he discovers that he has an interest in the event of the suit. He will either retire from it, or will change the venue. And there is not a juror that will be allowed for a moment to sit in the box if it be discovered that he has an interest in the event of the suit.

But, aside from the objections that might be urged against the constitution of that tribunal, there are objections of still more force to be raised against the manner in which the trials were conducted. In no country, save where the darkest despotism has extinguished every impulse of generous men, can a parallel be found for it. When and where, before, has a man been tried without a summons, without a hearing, and even without the chance of being heard, and with the cause of his condemnation forever smothered? And when we remember that there were some seven hundred cases to be investigated by that board, and that but six weeks were occupied in the investigation; and when we find, making even a liberal allowance for working hours each day, that but a few minutes could have been appropriated to each case, we need not wonder at the havoc that has been made.

But, sir, the great and overwhelming condem-

nation of the action of the board has been since recorded. Out of one hundred and eight decisions of that naval board, sixty-two have been reversed—reversed, too, by the naval courts organized under the act of 1857. Here is a long list of gallant men—men of honor, who feel the stain upon their reputations, who have been stigmatized and impoverished, who feel like outcasts from the Navy and outcasts from society. Many of them have families, who share deeply in their deprivation and humiliation. They are men dishonored, condemned, without a hearing; and this is in a republican land! This is a commentary which will forever rest upon this dark deed, illustrating its iniquity.

I listened to the remarks of the honorable gentleman from Virginia, [Mr. BOGOCK,] chairman of the Committee on Naval Affairs, the other day, and I believe I understood him to say that those officers who had not applied for an investigation before the naval courts, are presumed to have approved the action of the naval retiring board. In this I beg to differ with the honorable gentleman.

Mr. BOGOCK. I did not say exactly that.

Mr. CHAPMAN. That is the position I understood the honorable gentleman to take, and I differ with him entirely in it. I believe that these officers were actuated by far other considerations. If there be any one of them who approves the action of that board, I can only account for it upon the supposition that the blow has dethroned his reason; for, however degraded he might esteem himself, and however just he might consider his expulsion from the Navy under other circumstances, he never, as a sane man, could approve the merciless, the inquisitorial process, by which himself and two hundred others were condemned to poverty and disgrace.

Sir, out of the more than two hundred officers who then fell under the ban of proscription, there is not one of them who can tell the cause of his expulsion. There was no trial; there were no charges; there were no specifications; there was no record; there was nothing save the simple decree of condemnation, that fell upon him like the blow of the midnight assassin. It came to some while they were far from home, upon distant seas, sedulously engaged in the service of the country, maintaining the honor of its flag. It came to others unlooked for, turning into bitterness the peace and happiness of a household as with a curse. Who can tell for what offense Commodore Stewart was stricken from his high place in the Navy? Was it for decrepitude? Was it for mental infirmity? Was it for some great crime, for which he ought to suffer incarceration in the penitentiary? Can these fifteen executioners answer the question? They have sealed their lips by a self-imposed obligation of secrecy. They dare not tell. And I believe it was the only obligation they took upon themselves. Yet here is a man, whose name is associated with the most brilliant deeds of the American Navy and heroic achievements recorded in the brightest pages of our naval history, whose whole life has been devoted, and successfully devoted, to the service of his country, securing a world-wide fame and universal respect, surrounded with mystery. No man can tell for what that officer was stricken from the roll. It was his fortune, however, in early life, to have achieved for himself and his country imperishable renown; and he has so filled up the interval since, that not a leaf has withered on his brow, not a blot has fallen upon his good name.

It is not so with the younger members of the service—men who came upon the stage of action long after opportunities presented themselves to enroll their names upon the scroll of fame. They have yet the battle of life to fight. Who can tell me for what this officer was dropped; or for what that officer was retired? Was it for drunkenness? Was it for insubordination? Was it for any of the infamous vices that degrade society? Who can tell? No man on earth, except the fifteen members of that board, and they dare not tell. I have heard it said that it was a matter of forbearance upon the part of this board, that it was a mercy these disclosures were not made. Was it merciful to Commodore Stewart? Was it forbearance to him, that he—a man of his distinction and his service—should have been thrown pell-mell into a crowd of men who are charged with the vilest crimes, with all that is infamous? Was that just? was that fair? was that humane? They

throw him into such company and leave him there. And why leave these companions of his in the predicament in which they have been placed? No one can remove the charge. Every mouth is stopped and every tongue is silent except that of slander, and it may utter anything. Let me say that this man was dropped for larceny, that that man was dropped for piracy, or for some atrocious offense; for cheating or something of an infamous character, and who can contradict it? The only tongue that moves is that of slander, and it may block the way of every one of them to any success in civil life. There they stand with mystery around them, the objects alone of slander.

Now, sir, I beg to say that the gentleman from Virginia is in error when he supposes that any of these officers approved the proceedings of this board. There were other reasons which operated upon their minds. The veterans of the service would not humiliate themselves by seeking an investigation into their moral, mental, physical, and professional fitness before courts, the officers constituting which were but recently sweeping the decks about their heels. There were others who were crushed and broken down in spirit, brought to the earth, who had not confidence enough in themselves, much less in the courts, to seek an investigation. And there were others so far impoverished that they did not possess the pecuniary means to defray the expenses of a trial without encroaching upon the comforts of their families. These are the reasons, I apprehend, which influenced the officers who did not apply for an investigation by the naval courts so recently dissolved.

The resolution under consideration I understand to propose that the President shall have power to examine the record in each case where unfavorable reports have been made by the naval courts of inquiry; and on such investigation, if he is satisfied that injustice has been done, to reverse the decision of such courts, or to nominate for restoration the officers against whom such reports have been made. It is a misfortune that the act of 1857 did not confer upon the President the authority that is now contemplated; and it seems to me somewhat strange that that authority was not then conferred, because it does appear to me that the President is just as competent to decide that an adverse report is erroneous, as to decide that a favorable report is erroneous. It seems to me that it would have been but reasonable to have given him the power at the time to determine in either case. It is just as likely that these naval courts would err where they have rendered adverse reports, as where they have rendered favorable reports; and especially considering the position they occupy towards these officers. For, Mr. Speaker, I say that the several judges of these naval courts were surrounded by precisely the same influence which surrounded the members of the naval retiring board. Whenever an officer who had been dropped or disgraced came before them, if he were a senior officer, they necessarily felt an interest, or at least they were in the way of temptation. I will not charge them with corruption. I will not say they were biased by any consideration of the kind. I have no doubt that they are honorable men and gallant officers. But that they occupied such a position as this is beyond dispute; and I ask whether it can be conceived that it was safe to trust the fortunes and destiny of gallant men to tribunals who were surrounded by such influences?

The first court that was organized under the act of 1857, was convened shortly before the close of the last Administration. It is most unfortunate, I think, that the Secretary of the Navy deemed it his duty to make his selection from the Navy altogether. I have examined that act, and I am not able to discover that such a duty devolved upon him. I believe it was competent for him to have selected partly from the Army, partly from the Navy, and partly from civil life; and if he had done so, some of the objections raised against these tribunals would not have existed. But he thought proper to take a different course. I do not say anything in condemnation of him. Perhaps I err in judgment, in my construction of the act. He may have erred in his construction of it.

It was thought proper on his part to call for the advice and counsel of the Attorney General, and the Attorney General did perfectly right when

he gave his instructions to the Secretary of the Navy in regard to his own duties. But when the Attorney General chose to instruct the judges of the courts as to the manner in which they should conduct these trials, as to their duties, as to the rules of evidence, and as to what should constitute evidence proper for condemnation, then he encroached upon their prerogative; then he marked out a line for them to pursue which resulted unfortunately for those officers who made the application for an investigation. He says in that letter of instructions, that the officer who applies to these courts for investigation into his moral, mental, physical, and professional fitness is to be considered the actor and not as a defendant against whom the Department makes a charge. In that, of course, he was perfectly correct. But when he proceeds to say that after the officer has laid all of his testimony in regard to these particulars before the court, the Department may turn round and assail him with almost every description of evidence; may assail him in regard to every period of his professional life without latitude, without limit, and when he says that they may go into the region of opinion to defeat an officer's restoration, then I say that he was encroaching upon the prerogative of these courts, and then he was marking out a line of duty to be performed by the judges which was fatal in many instances to these officers.

It appears to me that the same objections which were urged against the naval retiring board may be urged against these courts. An impression was made upon them by the example which was set on the score of secrecy from which they could not depart. In the first place, the reporters for the press—the gentlemen who are admitted into this Hall freely, who are admitted into every court in this country—were utterly excluded, and the decisions to which the courts arrived were sealed up, and many months of mental torment were added to the sufferings of these officers before the seals were broken. I see no reason why, after the report was made favorable to an officer, he should not have known his fate at once; and yet that harrowing suspense, notwithstanding the favorable report, was continued from that time up to the meeting of Congress. And more than that: an officer who was to be the actor, who was to be the applicant to these courts for investigation, was required by the judge-advocate, if he desired to subpoena witnesses, to present the names of those witnesses to him, and not only to present their names, but he was required to state what it was designed to prove by them. And yet, while the officer was disclosing these facts, disclosing what he expected to prove by this witness and by that witness, he had not the advantage of the Department or of the Government; because, when he came before the court and the investigation was entered into, while the Department was acquainted with all his testimony and with what he expected to prove, the officer was entirely at the mercy of the judge-advocate; he did not know at what moment in the progress of the trial something might be sprung upon him which he would be entirely unable to disprove; some trivial circumstance which he himself had utterly forgotten, but which might be explained if he had witnesses here that were upon the distant sea. There were many instances of this kind, where officers were taken by surprise, and had not witnesses here for the purpose of disproving charges made against them. Thus an immense advantage was given to the Department over the officer. He was unable to anticipate what would be brought against him.

It seems to me, sir, that instead of making these courts simply courts of inquiry, and the judge-advocate an officer to record the testimony which should be adduced before them, it was designed to convert them into great Crown criminal courts, and the judge-advocate into a prosecuting attorney, and, as was said by the gentleman from South Carolina, the poor officer was placed in the position of a felon in the dock.

Mr. Speaker, I have said nothing against the integrity of the officers who composed these courts—nothing against their honor. I do not mean to do so. I have spoken of the circumstances by which they were surrounded, and the temptations which were in their way to do wrong. The witnesses who were called on the part of the Government, in many instances, came there with all the prejudices and all the passions that the bickerings,

disputes, and rivalries that exist in the Navy could generate. Whether they subdued and smothered them I cannot say. Considering the fallibility of human nature, although I will not charge them with having been influenced by those considerations, it is impossible for me to say that in all instances they were not influenced by them. They had a direct interest in defeating the restoration of every senior officer. I do not say that they were influenced by it; but that was their position—that was the predicament in which they were placed. The fleet was scoured, the bureaus were scoured, the docks were scoured, for the purpose of bringing forward witnesses, in order to defeat the success of applicants for reinstatement.

Well, sir, under all these circumstances, what are we to say? That there have been fair trials, and that justice has been done in all instances? For my part, I am not prepared to say so. Gentlemen need not be apprehensive that, under the operation of this resolution, the Navy will be unnecessarily increased beyond the limits provided by the act of 1842. We are all aware that vacancies are constantly occurring by death or resignation. And besides that, it would take the President necessarily some time to investigate those cases in which unfavorable reports have been rendered. It would necessarily take the Senate some time to make the investigation. It has been alleged here to-day by the gentleman from Maryland, [Mr. DAVIS,] I believe, that the President has no power to restore officers against whom unfavorable reports have been rendered. Well, sir, if that be the case, are we to say that we have among us a set of unfortunate men, who are outlawed? who do not stand on the same footing and on the same platform as their fellow-citizens? Are they beyond the reach of executive clemency? Are they beyond the reach of mercy? If they are, then the sooner they leave this country the better. The object of this resolution is to put these men on the same footing with their fellow-citizens. The President has the power to take any man now engaged in the civil service and place him in the front rank in the Navy. Why not, then, give him the power to call these men back into the service? If he has the one power, he ought to have the other, or else we have different classes of men among us. And these men have not only been disgraced; they have not only lost their swords, but they have lost their rights as citizens.

I do not contend, sir, that an officer of the Navy has a fee-simple in his commission—no such thing. I admit that the President may strike from the roll of the Navy any man he chooses, without assigning any cause for it. He may strike from the roll Commodore Shubrick, without assigning any cause. But let it be remembered that many of these men went into the service when they were but boys; that the naval profession is the business of their lives; that they have been stricken down in middle life, and are now turned ashore to seek for civil employment, with a brand upon them which will prevent them from succeeding. I ask whether this country is not now under a moral obligation to give these officers a fair chance, and under a moral obligation to sustain every man in the Navy in his place, unless sufficient cause is assigned why he should lose it?

Mr. SHERMAN, of Ohio. Mr. Speaker, if I were to consult my own feelings, I should vote for this resolution. Several gentlemen, who are friends and acquaintances of mine, have been affected by the action of the naval board; and, therefore, if I were to be guided by my feelings, I should at once give those officers another chance to save their positions. But, sir, I am satisfied, from the examination I have made of this question, as a member of the Committee on Naval Affairs, that this resolution ought not to pass. There is no good reason why it should pass. These officers have already had the benefit of two trials. The first trial was before the naval board, where they had no opportunity to examine witnesses; where they were not able to confront their accusers; where they had had none of those safeguards which the law wisely secures to every citizen, and therefore I would give to the action of the first naval board no weight whatever. So far I agree with the gentleman from South Carolina, [Mr. MILES.] A tribunal organized like the first naval board, however pure may be the character of its members, and however great and glorious their achievements, should not finally affect the rights

or impair the position of any officer; but their action may justly be regarded in the light of an accusation or indictment, to be subsequently tried by a tribunal fairly organized. And therefore, Mr. Speaker, I do not base my action at all on what was done by the naval board of fifteen. I think that too much weight has been given to its action by the gentleman from Maryland, [Mr. DAVIS,] and that such action ought not to have affected the condition of any member of the Navy. The life, the conduct, the services, of seven hundred and odd officers of the Navy were brought before that board, and it was physically impossible that it should give to each a full and impartial hearing; but it might properly, and it did, report that two hundred officers should be either retired from the Navy or placed on leave-of-absence pay, or furlough pay.

Mr. PENDLETON. My colleague says that the characters of seven hundred officers were examined by that board.

Mr. SHERMAN, of Ohio. Yes, sir.

Mr. PENDLETON. How long was that board in session?

Mr. SHERMAN, of Ohio. It was not in session a sufficient time to give these men a fair trial.

Mr. PENDLETON. Was it not in session from the 20th of June to the 26th of July only?

Mr. SHERMAN, of Ohio. Perhaps the gentleman is correct. I say that I do not place any reliance on the action of the first naval board, although that board was constituted of the most distinguished officers of the Navy—of men who were placed beyond the reach of accusation themselves. I look upon it as simply a board of inquiry to present such officers of the Navy as they deemed unfit for active service. Therefore, my vote will not depend on the action of the naval board. But gentlemen seem to have forgotten the act of the last Congress, and subsequent proceedings under it. These officers came before the last Congress with their complaints. They charged that they had been hardly dealt by; that they had not been confronted with the witnesses against them; that they had had none of the elements of a fair and just trial. Their complaints were recognized as just. Congress, after mature deliberation, passed the law which I hold in my hand. This act provided that, if any of the officers affected by the naval board had any cause of complaint in regard to the action of the board, they should have leave to have their physical, mental, professional, and moral fitness inquired into by a naval court, to be organized and governed by the laws and regulations which govern courts of inquiry.

Now, Mr. Speaker, when every one of these officers had a fair trial secured to him by law, and had an opportunity to go before a court fairly organized and fairly constituted, he, as an officer of the Navy, should be willing to abide by the judgment of his peers.

Mr. HARRIS, of Maryland. Can the gentleman from Ohio tell me who pays the expenses of the officer demanding inquiry under that law? Does he himself pay the expenses of witnesses, as well as of counsel, or does the Government pay the expenses of the proceedings?

Mr. SHERMAN, of Ohio. I am not able to give the gentleman the information he seeks, as to the expenses; but I have examined the law, and I find that it provides for each one of these officers a fair and just mode of trial, according to the rules and regulations of the Navy; and these, I presume, are, in the main, similar to the ordinary rules of civil courts.

Mr. DAVIS, of Maryland. If the gentleman from Ohio will allow me, I will suggest, for the information of my colleague, that all witnesses before naval courts-martial are summoned by the judge-advocate, and their expenses are paid by the United States.

Mr. SHERMAN, of Ohio. Then, Mr. Speaker, this law of the 16th of July, 1857, treats the action of the first court as an indictment, as an accusation made against an officer, that he was either physically, mentally, professionally, or morally, unfit for his position. So regarding it, the law gave to each one of these officers an opportunity to have a fair, just, and impartial trial. If any citizen is accused of murder, he could have no more impartial trial than was extended by this law. A grand jury of fifteen find against him an indictment; so this first naval board found against these officers an accusation that each of them was

either mentally, morally, physically, or professionally unfit to perform active service as an officer of the Navy. This accusation is referred to a naval court, composed of the peers of the accused. If any one pleads not guilty; if any one says that the accusation is not true; if he says that he has not had a fair trial; this law secures the benefit of such a trial by his fellow-officers. It secures him the benefit of witnesses, of an open accusation, and a fair hearing. What more can be asked?

Mr. SEWARD. The gentleman from Ohio attempts to analogize the case with proceedings before a grand jury. I ask him if there was a witness sworn before this grand jury of fifteen? And then I propose to ask him, if witnesses were sworn, what are the charges, and where is the issue on which these parties were tried before the courts of inquiry? That is what I want to get at.

Mr. SHERMAN, of Ohio. The gentleman from Georgia studiously evades my point. I say again that I do not place any stress on the action of the first board, except as an allegation, or accusation, or indictment.

But I insist that every one of these officers had a fair trial secured to him before the second court. He had power there to call witnesses, to have these witnesses sworn and examined in his presence, and to cross-examine them. Every witness examined before this second board was examined in the presence of the accused officer; and he therefore has no ground of complaint.

Any officer of the Navy, or any officer of the Army, or any officer of this House, or of the Government, ought to be willing at all times to abide by the judgment of his peers, when that judgment is guarded by all the constitutional rights secured to other citizens. Therefore, if I am accused before this House of being mentally, morally, or physically unfit to hold a seat here, I will not demand a second trial if a majority of my peers say that that accusation is true. So, sir, with officers of the Navy. If a fair court of inquiry say of an officer that he is morally, mentally, or physically unfit to hold his position, it would be improper for him to attempt to thrust himself into a service, to perform the duties of which his associates and peers have, on full examination, pronounced him unfit.

Mr. CHAFFEE. Had these naval courts of inquiry the power of revising and setting aside the action of the first court?

Mr. SHERMAN, of Ohio. Undoubtedly, under the law of 16th January, 1857, to which I have adverted, every one of these officers whose cases are now pressed upon us had a right to demand a fair and just trial; and if it resulted in his favor, the law restored him to his full rank and pay. If gentlemen here can show me why these officers have not had the trial provided by law, I will be willing to give them a second, third, fourth, or tenth trial.

Mr. HARRIS, of Maryland. I desire to suggest that there are two classes of cases in which, under the remedial process of this law, officers have not been able to have the fair trial that the gentleman from Ohio speaks of. One of these classes is composed of cases in which the witnesses of the parties have been without the process of the court at the time the inquiry was held. Some of these witnesses were drowned at sea, and others absent on service at foreign stations; and there are other cases where, as I know, the parties were unable to avail themselves of the provisions of the law because of the cost of the proceedings.

Mr. SHERMAN, of Ohio. The cases referred to have been provided for. The Committee on Naval Affairs reported the other day a resolution which gives to every officer who, by reason of any circumstances, could not avail himself of the benefit of the law of the last Congress, one year within which to avail himself of the benefits of that law. So that, if there are any exceptional cases of men who could not avail themselves of those benefits, Congress has already given those officers an opportunity of a fair trial at a future time. So the gentleman from Maryland will see that my proposition stands good, that not a single one of the two hundred officers affected by the action of the naval board but will have had a full, fair, and adequate trial by the judgment of his peers; and, therefore, these officers do not stand in a favorable attitude when they desire to push them-

selves into the active list of the Navy, when their brother officers, who have served with them afloat and ashore, have pronounced them physically, mentally, and professionally unfit for active service. I want that the same rule should be applied to them that is applied to other citizens. I am so much accustomed to obey and respect the decisions of the courts, and the rules which guide those decisions, that I do not see any reason why an officer of the Navy should have advantages and opportunities of defense which are denied to every other citizen charged with the highest crimes known to our law.

Now, Mr. Speaker, there are more than two hundred cases which have been acted on by the first naval court. One hundred of them—I speak in round numbers—have never complained of the action of the first naval court. That, in my mind, is conclusive that so many, at least, had no cause of complaint, and never had any wish to have their cases examined or investigated. They may be regarded as having plead guilty to the charges of the first naval court.

About one hundred others demanded a trial under the provisions of the law of the last Congress, and the second court sustained the charges of the first in nearly all the cases. The gentleman from Pennsylvania [Mr. CHAPMAN] said that the decision of the first court was reversed in sixty cases. In this, the gentleman is mistaken. There are four lists provided for by this law. One is the retired list, where the officer leaves the service with one year's pay. Another called the leave-pay list. Another is the furlough list. Now, this second court of inquiry changed the position of some of those officers from one class to another. Some on the retired list were changed on to the leave-pay list, and others on the leave-pay list were transferred to the furlough list. Many changes of this kind were made, but there were very few cases in which the decision of the first board was entirely reversed; and that, in my judgment, shows that the action of the first board was not as unjust as was supposed during the last Congress. But, sir, whatever may be said as to the action of that board, the second trial has not been impeached, and these officers stand before the House demanding a third trial.

The first board brought the accusation. The second one was a court of trial, before which witnesses were examined, and the whole examination reduced in writing. Now, these officers are still unsatisfied, and demand a third trial before the President and Senate of the United States. I think there is no good reason in law or in equity why this trial should be granted. Suppose we pass this resolution: you throw upon the President an enormous labor. You convert him into a court of errors; you would have to give to him a new lease of life. The President has not the physical power to examine the evidence in all these cases. I have heard it said that the President, if you pass this law, intends to devolve this labor upon the Senate. I do not know whether this is true or not, and I do not care. It is certain that if you pass this law you devolve upon the President a labor which it is impossible for him to perform. He will throw the burden and the responsibility of the trial upon the Senate of the United States; and we all know what kind of a body this House or the Senate is to act as a court of errors, to review the decision of a naval, or any other court. In the State of New York they once undertook to make their upper House or Senate act as a court of errors; but that has long since been abolished.

It may be that injustice has been done in some cases. That I know nothing about, and I am not here to determine it; and I will not constitute myself a judge to determine whether the naval court acted right or wrong in particular, for I am unfit for such an inquiry. A naval court is the proper tribunal for such a trial, and no reason is shown why substantial justice has not been done.

Mr. MILLSON. I do not see the propriety of entering upon any discussion of the merits, or the demerits, of the old naval board; but, sir, the gentleman from Maryland [Mr. DAVIS] has undertaken it. To defend the judgments of that board is indeed a labor and a task; but the gentleman from Maryland has ventured upon it. But his defense has been made after trial and condemnation. The proceedings of that board have been condemned by the voice of the public press, by

the general sentiment of the American people, by resolutions of State Legislatures, by the solemn judgment of the Congress of the United States, and by the deliberate, though unconscious, testimony of these courts of inquiry themselves.

Congress, in passing the law organizing these courts, and in subjecting the decisions of the naval board to their revision, acknowledged the errors which existed, and intended to provide a means for correcting them; and these courts, in reversing the judgment of the naval board in a majority of the cases brought before them, have given the strongest testimony to the rashness, haste, and inconsideration which marked the proceedings of that board. Sir, I did not vote for the law of the last session of Congress. I felt so much indignation at the proceedings of the naval board as to be prompted to introduce into this House a bill for the purpose of reversing all of their proceedings, and annulling all of their judgments. I would have restored to the active list all officers of the Navy who had been injuriously affected by it. No opportunity was offered for invoking the opinion of the House on the propriety of passing such a law; and it was only when these officers, impatient of the long delay, believed there was no hope of securing the justice which they so ardently desired, that they urged members here to vote for the bill of the last session—a bill which I then regarded, and still regard, as an unfortunate one for them. I was unwilling to send these officers again to be examined before those whose interests strongly prompted them to look unfavorably upon their applications. I did not think worse of, nor had I less confidence in, those men, than I had in all other men in like circumstances; but, sir, I knew that human nature was too weak to resist the temptations to which they would be exposed.

The gentleman from Pennsylvania [Mr. CHAPMAN] referred to a remark made some time since by another gentleman in debate, in which he assumed that those who did not make their appearance before these courts acknowledged the justice of the proceedings against them. I know many of these officers well; and I can assure the House that they were animated by far different motives and sentiments. They felt it to be a sort of humiliation that they should be compelled to appear before these courts for the purpose of establishing their professional, physical, mental, and moral fitness for the naval service.

Now, what is it that is asked? The gentleman from Ohio [Mr. SHERMAN] says that these men have had two fair trials before their peers, and that they now ask another. I tell the gentleman that these officers have never had one trial. I repeat with emphasis, that they have never had one. Do you call the deliberation of the conclave of fifteen, acting in secret, without witnesses, without notice to the accused, without even an accusation, without opportunity for defense—do you call that a trial?

The gentleman from Maryland [Mr. DAVIS] said that the proceedings of that board were subject to the revision of the Executive; and he stated that the President and his Cabinet had deliberately approved their judgments. Has the gentleman from Maryland forgotten that so far from the proceedings of the board having ever been confirmed or sanctioned by the deliberate judgment of the President or the Navy Department, the late Secretary of the Navy, in an official report—I think it was an official report to Congress—admits that he urged the President to confirm all the proceedings and findings of that board, upon the ground that it was to the board, and not to the President or the Secretary, Congress committed the delicate task of examining into the fitness of officers of the Navy, for the positions they occupied? The Secretary admitted that there were some of the judgments of the board in which he did not concur; but he urged the President to confirm them without examination. It has never been denied that they were confirmed without examination. Then there was no trial before the original board of fifteen.

The gentleman from Ohio [Mr. SHERMAN] asks whether they had not full opportunity for defense and vindication before the courts of inquiry? He wants to know whether that was not a trial? The gentleman from Ohio, who is a member of the Committee on Naval Affairs, ought to know that from the foundation of the Government to the present time, no officer of the Army or the Navy

has been tried by those he calls his peers. No officer of the Navy or Army can be tried except by the President of the United States. It is the President who, in confirming or annulling the sentence of the court, determines upon the character of the proceedings. What, then, does this resolution ask? Simply that these officers shall be placed upon the footing on which officers of the Army and Navy have heretofore stood, from the beginning of the Government to the present day; that they shall not be cut off from the opportunity of having the proceedings of the court revised by the Executive; and that in these cases, as in all others, the President shall have the power to determine as to the fairness and correctness of the proceedings of the court. Can the gentleman assign a reason why a different course should be pursued in the present case, from that adopted in other cases? Why is it that these officers should be left to the uncontrolled judgment of their brother officers, some of whom may be their juniors, and who may have, in that regard, a strong interest to sustain the decisions of the board, while all other officers of the Navy are entitled, by law, to maintain their positions in the service until they are driven from it in disgrace by the judgment of the President? Why, sir, it was a defect in the law, and perhaps an unintentional one, that all the decisions of the board were not subject to the revision of the President. I did not vote for the law; but I took it for granted that this provision was there. I took it for granted that the President was to revise all the decisions of the courts of inquiry; not only those favorable to the applicants, but those adverse to them. Can any reason be assigned for the distinction?

Now, sir, this resolution does not ask that anything unusual shall be done. It only asks that the uniform practice of the Government shall be adhered to in these cases, and that these officers of the Navy, first aggrieved by dismissal from the active service of the country by the secret judgment of the board of fifteen, shall now, at least, have an opportunity of laying their cases before the President, upon the records taken by the courts themselves. The gentleman from Maryland [Mr. DAVIS] laid much stress upon the fact that President Pierce had had an opportunity of approving the judgments of the first board, and had actually availed himself of that opportunity; and yet, with strange inconsistency, he objects to giving President Buchanan the opportunity of revising the proceedings of the courts of inquiry. If there was anything of force in the argument of the gentleman from Maryland—and there would have been much force in it, if the fact were as he states it—then, sir, the gentleman will find it difficult to explain why the very same privilege should not be afforded to the officers who are to be affected by the joint resolution which we are now considering of presenting their cases to the President.

The gentleman from Ohio [Mr. SHERMAN] objects that this resolution, if passed, will make the Senate a court of appeals. And when, sir, has the Senate been any other than a court of appeals, in respect to all the nominations of the President? Does not the gentleman from Ohio know that the appointing power, under our Constitution, does not rest with the President? Does not the gentleman from Ohio know that the President of the United States has no further right than to nominate an officer for appointment, and that it is the Senate that makes the appointment? When has the Senate been aught else than a court of appeals on the nominations of the President? Why, sir, they have exercised the functions of a court of appeals, in considering the nominations lately made to them, and founded upon the judgments and recommendations of these very courts of inquiry.

Mr. SHERMAN, of Ohio. I would ask the gentleman from Virginia whether he can tell me of any case in the history of our Government, where the Senate has been called upon to review the decision of a court, and the grounds on which the decision was made?

Mr. MILLSON. Yes, sir; many such cases. The gentleman need not go further back than to the records of the Senate for the last session to assure himself that upon a nomination made, on a dismissal from the Army of an officer by the sentence of a general court-martial, all those proceedings were brought under review; and that the Sen-

ate then acted with reference to their disapproval of those proceedings. Sir, I marvel at the gentleman's inquiry. How is it possible to divest the Senate of this prerogative—to deny them the privilege of considering all the reasons that may apply to any case where an officer is nominated for appointment to any situation? It is incident to them, as the council of the President, making appointments to office.

I say, then, that the simple object of this joint resolution is to give to the President, in these cases, the right which he has exercised in every other case, from the earliest period in our political history to the present time. I repeat that no officer of the Army or Navy has ever been tried by his peers; and there are just reasons for it. I do not mean to speak disparagingly of the officers of the Army or Navy; but I have had some experience of the mode in which they discharge their judicial duties. It has been my fortune to appear in a professional capacity before naval courts-martial, quite as frequently, perhaps, as any other gentleman in my neighborhood; and, from that experience, I say, without intending disparagement to those gentlemen, that their occupation, their habits of life, their course of study, everything, unfits them for the discharge of judicial functions. It is right, then, it is prudent and wise, that their decisions should be subjected to the examination of some revising power, without passion, without prejudice, without partiality, to weigh the testimony, and come to a just result. I said that I was not in favor of the law which passed at the last session of Congress. I do not believe that the naval officers themselves were in favor of that law. They knew very well the disadvantages to which they would be subjected by it; but they were like most men in extreme peril, clinging to the frailest and weakest supports; they believed that if Congress adjourned without passing any law for their relief, they would never have the opportunity of obtaining that justice which they ardently desired, and to which they considered themselves entitled; and they said, "at least, give us the opportunity of appearing publicly before the courts, of producing our evidence, and making up our records before the country; and whatever may be the judgments of the courts, however prejudice, or partiality, or any other unworthy motives may operate upon our judges, still we shall have secured the opportunity of coming before the public with this record in our hands; we will show the testimony on which we have been condemned, and we will appeal from those courts to that tribunal which is never deaf to the appeals of justice."

Now, Mr. Speaker, it may be supposed that the passage of this resolution will increase the expenses of the country; but that is not so. These officers are now in the service; they are receiving pay; some may be upon the reserved list; some on the furlough list; but I believe, of all those who would have an opportunity of making this appeal to the President, not more than three or four have been dropped from the naval service. They are, then, already in the service of the country. All they ask is, that they may be put upon the active-service list. I should rather say that all they ask is, that they may be enabled to submit the opinion of these courts to the judgment of the President, who may determine from their records whether they deserve to be placed on the active-service list or not. It involves no increase of expense. It puts these men in the position that, if not wanted for active-service, they will not be called into active service. It interferes with no promotion, and does not displace any officer now in the Navy. All that they ask is, that their cases may be tried on the principles that have governed the decision of all former cases. And, sir, is this reasonable request to be rejected by Congress? Do we find so much in these men to condemn that we will deny to them the small boon that has been heretofore freely extended to every man in like condition? I trust not; and until I am forced to a contrary opinion, I will continue to believe that Congress will do them the little justice that is asked.

Mr. WHITELEY obtained the floor; but yielded to

Mr. SEWARD, who moved that the House adjourn.

The motion was agreed to; and thereupon (at forty-five minutes after three o'clock, p. m.) the House adjourned.

IN SENATE.

WEDNESDAY, March 3, 1858.

Prayer by Rev. THOMAS SEWELL.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

A message was received from the House of Representatives, by Mr. ALLEN, their Clerk, announcing that the Speaker had signed the enrolled bill to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the Sound dues; and it was signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. HAMMOND presented the memorial of R. Smith, administrator of Arthur Middleton, praying to be allowed the outfit of charged affairs, the duties of which office were discharged by him while secretary of legation at the Court of Madrid; which was referred to the Committee on Foreign Relations.

Mr. MASON presented the petition of John Mason and others, heirs of Jeremiah Gilman, an officer of the revolutionary army, praying to be allowed half pay; which was referred to the Committee on Revolutionary Claims.

Mr. DURKEE presented the memorial of the Milwaukee and Rock River Canal Company, praying that the State of Wisconsin may not be released from its indebtedness to the United States, for moneys received from the sale of the canal lands, without provision being made to protect the rights of the company; which was referred to the Committee on the Judiciary.

Mr. SIMMONS presented the memorial of Catharine Denny, widow of John W. Denny, praying that her pension may be continued; which was referred to the Committee on Pensions.

Mr. PEARCE presented the memorial of the owners and conductors of the flouring mills at Georgetown, District of Columbia, and others, praying that the bill restricting the issue and circulation of bank notes in the District of Columbia may not become a law; which was ordered to lie on the table, and a motion by him to print it was referred to the Committee on Printing.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. PEARCE, it was

Ordered, That the petition of Walter M. Gibson, on the files of the Senate, be referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred a memorial of mechanics of the District of Columbia, reported a bill (S. No. 182,) for the enforcement of mechanics' liens upon buildings, &c., in the District of Columbia; which was read and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Thomas Halenan, for compensation for injuries to his property by the grading of New Jersey avenue, Washington, District of Columbia, submitted an adverse report; which was concurred in.

Mr. HAMMOND, from the Committee on Naval Affairs, to whom were referred papers relating to the claim of Lieutenant W. F. Lovell, and others, of the expedition in search of Dr. Kane, to extra pay, submitted a report accompanied by a joint resolution (S. No. 20) authorizing the Secretary of the Navy to pay to the officers and seamen of the expedition in search of Dr. Kane, the same rate of pay that was allowed the officers and seamen of the expedition under Lieutenant De Haven. The resolution was read and passed to a second reading, and the report was ordered to be printed.

JUDICIAL DISTRICTS.

Mr. PUGH. The Committee on the Judiciary, to whom was referred the bill (S. No. 36) further to amend an "Act to divide the State of Illinois into two judicial districts," approved February 13, 1855, have had the same under consideration, and have instructed me to report a general act as a substitute for that bill. I ask, if there be no objection, that it be now put on its passage.

The substitute was read. It provides that all suits, not of a local nature, hereafter to be brought

in the circuit and district courts of the United States, in a district in any State containing more than one district, against a single defendant, shall be brought in the district in which the defendant resides; but if there be two or more defendants, residing in different districts in the same State, the plaintiff may sue in either district, and issue a duplicate writ against the defendants directed to the marshal of any other district within the State in which any of the defendants reside, on which duplicate writ the clerk issuing it shall indorse that it is a true copy of a writ sued out of the court of the proper district, and the original and duplicate writs so issued shall, when executed and returned into the office from which they issued, constitute one suit, and be proceeded on accordingly; and upon any judgment rendered in a suit so brought, process of execution may be issued and directed to the marshal of any district in the same State. In suits of a local nature, where the defendant resides in a different district in the same State than the one in which the suit is brought, the plaintiff may have original and final process against such defendant, directed to the marshal of the district in which he resides.

The second section provides that in all cases of a local nature, at law or in equity, where the land or other subject-matter of a fixed character lies partly in one district and partly in another district in the same State, the plaintiff may bring his action or suit in the circuit or district court of either district, and the court in which any such action or suit shall have been commenced shall have jurisdiction to hear and decide the same, and to cause mesne or final process to be issued and executed as fully as if the land or other subject-matter were wholly within the district for which such court is constituted.

Mr. STUART. It seems to me, if the Senator is going to move a substitute entirely different from the bill which was referred, he had better have it printed, so that we can see it.

Mr. PUGH. I will say to the Senator it is hardly worth while. In the case of Illinois, and in one or two other cases, we find, on examination, that in dividing the State into two districts, Congress did not make provision for process to run from one district to the other. In some cases, as in Ohio, a special provision of that sort has been made. Our object is to make it a universal rule, and not to pass special acts in each case. These are the provisions; they are relative to the subject-matter where the defendants reside in different districts of the same State. It does not go beyond that.

Mr. STUART. I understood the bill to change the general practice in the courts. If it is only to apply to special cases where a State is divided into judicial districts, I shall not object.

Mr. PUGH. It makes no change in the general practice. It is simply to apply the provisions of law relative to the division of Ohio, to Illinois, and other States which have been divided.

Mr. STUART. Where States are divided into two districts.

Mr. PUGH. Or more than two.

The Senate, as in Committee of the Whole, proceeded to consider the bill, and the substitute of the committee was agreed to. The bill was reported to the Senate as amended, and the amendment was concurred in. The bill, as amended, was ordered to be engrossed for a third reading, read the third time, and passed. The title was amended so as to read, "A bill to provide for the issuing, service, and return of original and final process in the circuit and district courts of the United States, in certain cases."

COAST SURVEY REPORT.

Mr. JOHNSON, of Arkansas. Some time since, by order of the Senate, the following resolution was referred to the Committee on Printing:

Resolved, That, in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for the year 1857, there be printed ten thousand copies, five thousand copies for the use of the Senate, and five thousand copies for distribution from the Coast Survey Office; and that the same be printed and bound, with the plates, in quarto form; and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

The committee have instructed me to report, in place of that resolution, the following:

Resolved, That, in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for

the year 1857, there be printed five thousand copies for distribution from the Treasury Department; and that the same be printed and bound, with the plates, in quarto form; and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

This, it will be perceived, changes the course which has hitherto been adopted by the Senate in regard to the printing of this report. By the resolution of the Committee on Printing, we decline to recommend the printing of any of the Coast Survey reports for distribution by members of Congress. We do this upon the ground that it is a work entirely of a scientific nature, connected with commerce and navigation; and all the numbers which are transmitted by members of Congress to the interior States are lost to the public service. For these reasons, the committee think that the proper distribution of a work of this character should not be made in this way, and that the only proper point from which they can properly be distributed at all is from the executive department of the Government.

The committee propose that this distribution shall be made under the authority and direction of the Secretary of the Treasury. Heretofore, in a number of instances, Congress has chosen to deal directly with the subordinate bureaus of the Departments, thus building up an immediate connection on their part with Congress, and relieving the Secretaries from that responsibility which they owe to the public, and passing it to parties over whom we have no immediate jurisdiction. We have authorized, by the practice hitherto adopted, the distribution of five thousand of these documents by the Coast Survey Office. The Treasury Department is the Department to which the Coast Survey Office or bureau belongs. There should be some regular system established for the distribution of these documents, if they are to be distributed. The Department itself being made responsible, can always be reached by Congress, and the method it may adopt for the distribution of the reports of the Coast Survey can always be controlled, and can be corrected by Congress, and it will be the proper subject of animadversion in these Halls whenever the distribution may be unsatisfactory.

The committee are very well satisfied that, if the Secretary of the Treasury be made responsible for the distribution of these documents, he will take counsel with the Coast Survey Office, so that there will be a regular system adopted, and there will be an existing responsibility throughout the whole year on the part of the Superintendent of the Coast Survey, and an authority in operation all the time—that of the Treasury Department—to see that this public business is properly conducted. Although documents hitherto have been printed by Congress, and furnished for the use of subordinate bureaus, yet the committee do not believe that to be the correct practice; but think that, if any copies are to be distributed in that way, they should be furnished to the heads of the Departments, who will naturally consult with those bureaus, and require them to adopt regular systems, and the Departments themselves will be liable to us for the proper discharge of the duty of distribution.

It is under these circumstances that I am directed to report, that in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for the year 1857, there be printed five thousand copies for distribution from the Treasury Department; and that they be printed and bound in quarto form, with the plates; and that the printing of the plates shall be done to the satisfaction of the Superintendent of the Coast Survey. Hitherto these publications have extended to ten thousand copies. The committee regard the five thousand copies heretofore distributed by the members of the Senate, as little better than thrown away. There is a great and general outcry against the extent to which the public printing has gone; and the committee think it appropriate that we should cut off that portion of it which seems to be comparatively of no consequence. If the Senate shall believe that ten thousand copies should be printed, the committee think those ten thousand copies should all go for distribution to the Secretary of the Treasury's Department, so that they may be carried directly and properly into the channels of business which they are calculated to facilitate or affect. I ask that the resolution, as reported by the committee, may be adopted.

The VICE PRESIDENT. The resolution will be read.

The Secretary read it, as follows:

Resolved, That in addition to the usual number of copies of the report of the Superintendent of the Coast Survey for the year 1857, there be printed five thousand copies for distribution from the Treasury Department; that the same be printed and bound with the plates, in quarto form; and that the printing of said plates shall be done to the satisfaction of the Superintendent of the Coast Survey.

Mr. PEARCE. If the Senate desire to trench in the matter of printing, they will find me very zealous in coöperation with them on that subject; but I am not desirous of reducing the number of copies of the Coast Survey report, as proposed by the Senator from Arkansas. I know that there is an immense demand for them. I know that that demand is not wholly confined to the Atlantic coast, or that portion of our country which is watered by rivers flowing into the Atlantic or the Gulf. I know that even in the interior States there is some demand for these documents. I know that in every report, I think I may say, which comes from that Coast Survey Office, there is very valuable information, even to those residing in the interior. I believe we nowhere find such data for the correction of the magnetic variation as we do in the Coast Survey report, particular attention having been paid to that subject. As for the rest, I suppose it is not so immediately interesting to those in the interior as to those on the coast; but there is very great demand for them, as I said before. I know that the demand on me is very great for them. Still, I am very willing, if the Senate think we should not be the distributors of a document like this, that it shall be referred to others; but I know that there are nearly ten thousand names of persons connected with our navigation, and deeply interested in all the matters of which the Coast Survey report treats, to whom the documents are distributed by the Superintendent of the Coast Survey.

Now, sir, how shall we effect a better distribution of these documents by referring it to the Secretary of the Treasury? Every one knows that that officer is so burdened already with the business which is devolved upon him inevitably, that the vast portion of that which is the proper business of his Department is performed by other heads and hands than his own; and if you were to assign him this duty of distributing the Coast Survey reports, he would turn it over to some subordinate clerk. It is likely the distribution would be better effected by him than by the intelligent head of the Coast Survey Office, who is acquainted with mercantile men and persons engaged in the navigating interest all through the country—who has no motive on earth to distribute these documents partially and where they will be of no use, but every motive to put them in the hands of those to whom they will be useful? Even his own reputation would induce him to do that. He is well acquainted with that class of persons throughout the country; probably better acquainted with them than the Secretary of the Treasury we now have, or any we are likely to have. At all events, he is much more likely to give his personal attention and superintendence to that matter than the head of the Treasury Department, who must, as I have said before, turn it over to a subordinate clerk. What better guarantee can you have for the performance of that duty by some subordinate clerk than under the intelligent gentleman at the head of the Coast Survey?

I trust, whatever we shall do, we shall not, at all events, assign it to the Secretary of the Treasury; because, in effect, that will be giving to a subordinate clerk of the Treasury Department the distribution of these documents. I know they are of great interest—and I am sure the whole Senate is aware of it—at all events to the commercial and navigating interest. They contain vast numbers of maps in advance of the finished maps which it is the business of the Coast Survey to complete. They publish every year skeleton maps, which, though they are not complete, furnish very important information to the navigator.

I have had occasion, heretofore, to speak on the subject, and to point out the numerous dangers of our navigation, long unknown, until they were discovered by the operations of the Coast Survey, even in the most frequented parts of the waters of the United States. For example: in Delaware bay, and in my own Chesapeake bay, and in the

neighborhood of Boston, there were dangers to navigation concealed from view, and never found out, except by some wreck, until their exact position had been indicated and fixed by the operations of the Coast Survey. All these discoveries are immediately made known through these skeleton maps, and the small quantity of text which accompanies them, and which make up the Coast Survey report. I trust, therefore, that the resolution will not be passed.

Mr. HAMLIN. I am myself satisfied, Mr. President, from the information which we have received, that there is an expenditure in printing which is not justified by any just wants of the country, and I will cheerfully go with the chairman of the Committee on Printing to correct any of the evils which may exist in that department. I have some knowledge of the question. I served long upon that committee; I know the manner in which that printing has accumulated upon us. Notwithstanding all that, sir, I regard this as the last document printed by the Senate at which the ax should be laid. I hold, in importance, it is not equaled by any other document that emanates from Congress.

Mr. JOHNSON, of Arkansas. The Senator will allow me, as we wish to get along with this subject, to say that the utility of the publication is not questioned by the committee. If the Senator wishes to bring that point into the debate, I think he will find many here who are disposed to abridge this whole bureau. There are forty-four or forty-five thousand dollars to be expended for printing this report alone, if we adopt the resolution as introduced in the first place; but the utility of the work is not brought in question by the committee. They have brought in question no more than the method of distribution, and the number of documents to be printed.

Mr. HAMLIN. I did not understand from the report of the committee that the utility was brought in question, but it was as to the number which it is proposed to print that I was speaking; and the importance of the thing is certainly a very good reason why the usual number should be printed. I, with the honorable Senator from Maryland, would not abridge this work in number; I would not change the mode of distribution. If, however, it is wiser and better to allow any department of the Government to distribute either the number reported or any other number which shall be ordered, then the Senate can so order. I would prefer, if there are five thousand printed, that a portion of them should be appropriated to Senators. In all the Atlantic States, more perhaps at the North, where there is most of navigation, but in all the Atlantic States at least, there is no work published by Congress which measures in importance with this.

But, sir, if the report of the committee should be adopted as to the number, I then object to taking the distribution from Professor Bache, and transferring it to the Secretary of the Treasury. It is reversing the order in which we have always proceeded; and, in my judgment, it is not necessary to be adopted at this time. I know it is suggested that we have a right to hold the Secretary of the Treasury to an accountability, and that a subordinate officer is not within our control. That is all very true; but when this matter goes to the Secretary of the Treasury, it passes from the hands of the Secretary into the hands of a subordinate clerk, who has no interest, who has no feeling, perhaps, beyond that which is measured by the simple consideration of his compensation. How is it with Professor Bache? It is the work of his life—it is the pride of his life. He and his employes are all along the coast; they are better acquainted with the commercial men; they are better acquainted with the points where the work may be appropriately distributed, than any other men in the country, save those who live in the localities. I say this is a proposition reversing the usual order. We direct a large number of the Patent Office reports to be printed, and out of that number we appropriate a certain quantity for the use of the Commissioner of Patents. Why not divert them, for the same reason, to the Secretary of the Interior?

Mr. JOHNSON, of Arkansas. I will say to the Senator that that is the intention of the committee; and I am instructed to make that report.

Mr. HAMLIN. Very well. I only say this proposes to change the usual course, and to take

the distribution of this work away from a man who has the deepest interest and the best knowledge on the subject, and transfer it to a clerk who has no interest in it at all. So in relation to the Land Office report; additional numbers are ordered, and they go to the Commissioner of the General Land Office. All these things are appropriate; they are best; in my judgment they are wisest, because the person into whose hands they go is the head of that bureau, which has the best knowledge of the manner in which they should be distributed, and will direct them in those channels where they will do the most good.

Now, sir, I hope, first, that the Senate will not conclude to abridge the number; and I hope, secondly, that they will not change the mode of distribution; and that they will appropriate, of whatever number they may print, a portion to the members of the Senate for distribution by them. I know very well—I am sensible that to the commercial and Atlantic States this report is more important than to the interior States; I grant that. It is also true of almost any and every document you print, that you may find some locality of the country to which it is more appropriate, in which a deeper interest is felt in the question to which it relates, than in others; but still, because that may be the case, I infer there are no Senators on this floor who do not find many of their constituents who are interested directly in this work, and a number vastly beyond that which they can supply. My friend from New York [Mr. KING] suggests that it should go to colleges and universities, as containing scientific information, to be preserved in their libraries. They want a portion of that information as much in the interior as they do in the Atlantic States. I hope, sir, that the Senate, in its wisdom, will not adopt this report.

Mr. JOHNSON, of Arkansas. The Senator from Maine and the Senator from Maryland have spoken in opposition to the report of the committee. I submit to the Senate that each of those gentlemen may be very excellent agents for the distribution of works of this character; I do not pretend to dispute it; but I can say for myself—and there are many Senators around me who, I presume, will frankly acknowledge the same thing for themselves—that I am wholly unfit to make any distribution of this document; and, if I were fit to make a distribution of it, I know I have no place within my State to which I could transmit it profitably, unless to a college, or some institution of learning. This, undeniably, is the general feeling of the Senate. I know it is so; and gentlemen utter it around me as I stand here speaking to you. It is a fact; yet, to enable the Senator from Maine, and my honorable friend from Maryland, and a few other gentlemen, to distribute, out of the five thousand, what would be their proportion—eighty copies each—there are five thousand to be printed, the great mass of which will be wasted.

Mr. PEARCE. Will the Senator allow me to interrupt him for a moment?

Mr. JOHNSON, of Arkansas. Certainly.

Mr. PEARCE. So far as I am concerned, I do not care about five thousand copies being printed for the use of the Senate. I wish ten thousand printed, because I think the navigating and commercial interests of the country require that many to be printed. I think the vast number of vessels, to all of which these Coast Survey reports are of great value because of the maps they contain, are so many that ten thousand will by no means overstock them; but I am perfectly willing to reduce the number printed for the use of the Senate. A thousand or fifteen hundred would be enough, so far as I care anything about it. The rest I should like to have distributed by the Coast Survey Office.

Mr. JOHNSON, of Arkansas. Hitherto ten thousand copies have been printed, five thousand of them going to the members of the Senate for distribution. You call on us to curtail that portion of the public printing which it is possible to curtail. As a general allegation, I find no one who disputes that the public printing is becoming an extravagant and vicious system, wasteful to the last degree. So pointedly and permanently is this idea fixed on the public mind, that the abuses of the system are condemned from the lips of every gentleman in the Senate who says anything in regard to it. Each Senator who speaks of it vies with the other, whoever he may be, to see who

shall, with the greatest bitterness, and in the broadest manner, denounce, totally, the vicious system of public printing we now have.

Here is the first effort made to reduce it. Here is a proposition that involves the expenditure of \$40,000, which we propose to reduce. We do not cut it off altogether because of its inutility, but to reduce it and to alter the manner of distributing the work. We feel that the present mode of distribution is vain and a waste of the public means; and to that extent we propose to cut it off. The honorable Senator from Maine cannot bring himself to sustain a proposition which will relieve him from the crying sorrow that oppresses his heart in regard to the vicious nature of our public printing.

The honorable Senator from Maryland says, he does not care about the five thousand copies for distribution by members of the Senate. He knows how to make a proper disposition of these works. He has been long connected with this particular branch of service, so far as his duties on this floor are concerned, and is more familiar, I believe, with it, than any member of this body. I appreciate that declaration on his part. But mark you, at the very moment that he makes that declaration, he calls for an increase of this printing over and above what it ever has been heretofore; for I hold that there has never heretofore been any enlightened or intelligent distribution of more than one thousand copies of this document out of the five thousand given to the members of the Senate. Let us have the same amount now that heretofore has been distributed intelligently—namely, the five thousand delivered to the Coast Survey Office, and the one thousand distributed properly by this body; and that will be six thousand copies. The Senator from Maryland wishes to add four thousand copies to that number. I want to cut off those four thousand. That is precisely the difference between him and myself on that point.

Now, as to the utility of the work; it is not for the Committee on Printing to take up that question. That is a question which belongs to the Senate, and should be brought before the body by some other committee. Whenever the utility of the work shall be debated here, on a proper occasion, I shall express my doubts as to its great utility. I am satisfied that an institution, a bureau, has been growing from the moment of its establishment, until it has become a concern that I think ought to be looked into, to speak frankly about it. It has grown incessantly and constantly. From the inquiry I can make—it is true, it is not official, or not of that character upon which I can place great reliance—I learn that it has been growing steadily from year to year, and I can see no period when there will be a cessation of the survey of the waters along the coast of the United States; no period at which the information will all have been obtained, and the work completed.

The Senator from Maine speaks of the necessity of the distribution. I believe I have said enough about the distribution by the members of the Senate. I will speak now as to the manner of distribution, wherein the committee propose to confer the power on the Secretary of the Treasury. The Senator from Maine says we propose to take it away from the gentleman at the head of that bureau, the object of whose life it has been to perfect this system, and to whom it is very dear. I should like to know whether, because particular branches of the public service are dear to the hearts of the gentlemen who have them in charge, the Senator will ask us to base our action on that ground? What have we to do with that? That is not a legitimate matter to be presented here. Whatever may be the affection of any public officer for any particular work, I see no occasion for us to pay any respect or regard to it in our action. The public service is the subject to be considered by us, and nothing else.

The Senator from Maine dwells upon the fact that we propose to take this distribution from the office containing, in such an eminent degree, the intelligence and capacity of which he spoke, and put it into the hands of some clerk under the Secretary of the Treasury, as he said. I would ask if the Secretaries of the Treasury, who have held that position under any past Administration in this Government, are justly entitled to a criticism of that character, especially in connection with a branch of service deemed by the honorable gentleman himself to be of so much public importance?

What would be the course that would be taken in this matter? I submit to Senators that the Secretary of the Treasury would proceed at once naturally to perform this public service in the very best and most effective manner possible. What step would he take, in the first place, in order to do so? His very first step would be to call on that bureau to inform him as to the manner in which they have hitherto distributed these documents; his next step, I take it, would be to request the head of the bureau to submit some regular system upon which the distribution should be conducted, so that rules and regulations might be made in regard to it, and so that it would not be left discretionary with a subordinate head of a bureau. Those regulations, of necessity, would allow the whole distribution to go into the hands of that subordinate head of a bureau. The Secretary, as a wise officer, would take that course, and there would exist some responsibility over that officer; for, with all his pride in and regard for the service, Professor Bache may not live always. We are not legislating for men, but for the service. The service would at once go into the hands of the subordinate, subject to responsibility to the head of the Department, who is responsible to us, and who can be made accountable for the discharge of his duties. The fact is, that what we propose is nothing more than an additional accountability, on the part of a subordinate head of a bureau, to his superior officer, the Secretary of the Treasury; and the Secretary of the Treasury is responsible here. Through him the Government is made responsible. If Congress keeps it in the hands of a bureau, every Administration may reply: "we are not responsible for that bureau; you have not given us charge of that business; you have chosen to give it to a bureau that is beneath us, it is true, in point of dignity, but you leave it to their discretion entirely." The system is vicious, and there is an absence of that responsibility which undoubtedly ought to exist.

I really speak of this subject from some calm consideration, and from conversation with those in whose judgment I have very great confidence. The distribution in this instance, I am sure, will not be taken from Professor Bache—not that the Secretary of the Treasury has ever expressed such a wish, because I have never heard of his doing so; but the natural course of things is, that the Secretary of the Treasury would adopt a system for him to carry out. Then, if the present head of that bureau, or any future one that may be appointed, shall fail to comply with that system of distribution, the Department will be the first to find it out and rectify it, and it will not depend on the uncertain watchfulness of Congress to ascertain what abuses may be there. I believe it is absolutely essential that we should put all these officers in a position to be as early, as immediately, and as precisely held to a rigid responsibility as it is possible by the legislation that may be had here to render them, on this subject as well as on all others.

Mr. FESSENDEN. Before the Senator from Arkansas closes his remarks, I wish to ask him a question or two, with his permission.

Mr. JOHNSON, of Arkansas. Certainly.

Mr. FESSENDEN. The first question is, what is the whole amount that the printing of these ten thousand copies will cost?

Mr. JOHNSON, of Arkansas. I shall not state the sum to a cent, but I think it is over forty-four thousand dollars.

Mr. FESSENDEN. Then suppose you deduct one half—five thousand—how much will that deduct from the whole amount?

Mr. JOHNSON, of Arkansas. I cannot give you the exact sum, but it costs about one third less.

Mr. FESSENDEN. As much as that?

Mr. JOHNSON, of Arkansas. My belief is about one third less; but I cannot state precisely.

Mr. KING. What is the cost of the five thousand?

Mr. JOHNSON, of Arkansas. The cost of the printing of what is called the usual number, in which all the heavy expense is included, will be \$7,425 30. We are now acting upon the propriety of printing extra numbers. It is estimated that each thousand extra copies afterwards will cost \$3,452; multiplying that by ten would give \$34,520; one half of \$34,520 is precisely the

amount that will be saved by cutting off the extra five thousand copies. Seventeen thousand two hundred and sixty dollars is the amount which will be saved by the adoption of the resolution reported by the Committee on Printing.

I shall not detain the Senate longer on this matter. I will only say that the committee sincerely believe that the action which they propose, not only in this case but in similar ones, is the best policy which can be adopted. They are satisfied it will not change the nature of the distribution; except, perhaps, to correct some vices that may have grown up. I am very certain that in some of the other bureaus there have been very considerable vices growing up from the system of irresponsibility. That there have been any in this particular instance I cannot say. I am satisfied in regard to the Patent Office report, that the system of distribution, irresponsible to any head other than Congress, has been distinguished by improper action—I will not say such as is dishonorable, at all; but certainly improper and improvident action and conduct. I feel satisfied of that in the history of the past. I see no reflection that would be cast on the head of this particular bureau, if this resolution should be adopted.

Then passing that by, I appeal to the Senate, on the first effort we make, where I think we show a very plain case, in regard to this public printing, for their support, that we may begin somewhere to curtail a system which all men unite in declaring the most vicious, the most extravagant, and most outrageous that has grown up in this Government.

Mr. MALLORY. I presume the Senate will fully concur with the honorable Senator from Arkansas in the last assertion which he has made; and I presume that a general desire exists in the Senate to curtail our expenditures for public printing. With somewhat of that view, we have raised a very able committee—a committee in whose judgment I have the most entire confidence; and whenever they come in here and deliberately recommend a curtailment of any particular article of printing, I shall with great pleasure support the committee; but I differ from my friend from Arkansas in relation to the distribution of these books. Whatever number may be printed, I respectfully contend that the Coast Survey office, having an immediate interest in the production of the work, an *esprit du corps* and a pride, having already made its arrangements during past time for the best distribution of this work, and being a permanent body, improving its system from time to time, is the most appropriate body for its distribution; and that the works distributed by the Coast Survey will reach those channels where they will do the most good. I also contend that, whatever number may be printed, the members of the Senate should have an opportunity of distributing them—a portion of them, at least. I say nothing for the States that have no seaboard.

Mr. JOHNSON, of Arkansas. Will the Senator allow me to interrupt him?

Mr. MALLORY. Certainly.

Mr. JOHNSON, of Arkansas. I desire to say that it is not proposed by this resolution to deprive the bureau of the distribution of this work; it only proposes to place it in charge of the Department under which the head of this bureau is employed. It does not take it away from him, but it renders him responsible to his superior, the head of the Department, who is immediately responsible to us.

Mr. MALLORY. I was going on to observe that, for those who come from the Atlantic seaboard, I may safely say that no document which is distributed by Congress is more acceptable to a large number of their constituents than this work, the report of the Coast Survey. It is very eagerly sought for, not only by those immediately engaged in navigation, but by those remotely connected with it. I will make no particular point on my friend from Arkansas, as to the distribution between the Coast Survey office and the Treasury Department, for I am willing to concede that the Secretary of the Treasury would probably follow the system which he found already in existence, and perhaps I may yield to my friend from Arkansas, that he is better versed on that point than any of us; but so far as the distribution is concerned by the Senate, although the Senator from Arkansas, having no seaboard in his State, may not feel able to make a proper distribution of this

work, I know that those who come from the Atlantic seaboard earnestly desire the opportunity of doing so. [Question.]

Mr. CAMERON. Mr. President—

The VICE PRESIDENT. The Chair must call up the special order at this hour.

Mr. JOHNSON, of Arkansas. I desire to ask, as a matter of information in regard to the business before the Senate, what becomes of this resolution? May it be called up to-morrow in the morning hour?

The VICE PRESIDENT. It may be called up to-morrow at any time after petitions and reports. If not called up, it takes its place on the Calendar.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the special order, the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. SEWARD. Mr. President, eight years ago we slew the Wilnot proviso in the Senate Chamber, and buried it with triumphal demonstrations, under the floors of the Capitol. Four years later we exploded altogether the time-honored system of governing the Territories by Federal rules and regulations, and published and proclaimed in its stead a new gospel of popular sovereignty, whose ways, like those of wisdom, were to be ways of pleasantness, and all of whose paths were supposed to be flowery paths of peace. Nevertheless, the question whether there shall be slavery or no slavery in the Territories, is again the stirring passage of the day. The restless proviso has burst the cerements of the grave, and striking hands here in our very presence with the gentle spirit of popular sovereignty run mad, is seen raging freely in our Halls, scattering dismay among the administration benches in both Houses of Congress. Thus an old and unwelcome lesson is read to us anew. The question of slavery in the Federal Territories, which are the nurseries of future States, independently of all its moral and humane elements, involves a dynastical struggle of two antagonistical systems, the labor of slaves and the labor of freemen, for mastery in the Federal Union. One of these systems partakes of an aristocratic character; the other is purely democratic. Each one of the existing States has staked, or it will ultimately stake, not only its internal welfare, but also its influence in the Federal councils, on the decision of that contest. Such a struggle is not to be arrested, quelled, or reconciled, by temporary expedients or compromises.

Mr. President, I always engage reluctantly in these discussions, which awaken passion just in the degree that their importance demands the impartial umpirage of reason. This reluctance deepens now, when I look around me, and count the able contestants who have newly entered the lists on either side; and shadowy forms of many great and honored statesmen who once were eloquent in these disputes, but whose tongues have since become stringless instruments, rise up before me. It is, however, a maxim in military science, that, in preparation for war, every one should think as if the last event depended on his counsel; and, in every great battle, each one should fight as if he were the only champion. The principle, perhaps, is equally sound in political affairs. If it be possible, I shall perform my present duty in such a way as to wound no just sensibilities. I must, however, review the action of Presidents, Senates, and Congresses. I do indeed, with all my heart, reject the instruction given by the Italian master of political science, which teaches that all men are bad by nature, and that they will not fail to show this depravity whenever they have a fair opportunity. But jealousy of executive power is a high practical virtue in Republics; and we shall find it hard to deny the justice of the character of free legislative bodies which Charles James Fox drew, when he said that the British House of Commons, of which he was at the moment equally an ornament and an idol, like every other popular assembly, must be viewed as a mass of men capable of too much attachment and too much animosity; capable of being biased by weak, and even wicked, motives, and liable to be governed by ministerial influence, by caprice, and by corruption.

Mr. President, I propose to inquire, in the first

place, why the question before us is attended by real or apparent dangers.

I think our apprehensions are in part due to the intrinsic importance of the transaction concerned. Whenever we add a new column to the Federal colonnade, we need to lay its foundations so firmly, to shape its shaft with such just proportions, to poise it with such exactness, and to adjust its connections with the existing structure so carefully, that instead of falling prematurely, and dragging other and venerable columns with it to the ground, it may stand erect forever, increasing the grandeur and the stability of the whole massive and imperial fabric. Still, the admission of a new State is not necessarily or even customarily attended by either embarrassments or alarms. We have already admitted eighteen new States without serious commotions, except in the cases of Missouri, Texas, and California. We are even now admitting two others, Minnesota and Oregon; and these transactions go on so smoothly, that only close observers are aware that we are thus consolidating our dominion on the shores of Lake Superior, and almost at the gates of the Arctic ocean.

It is manifest that the apprehended difficulties in the present case have some relation to the dispute concerning slavery which is raging within the Territory of Kansas. Yet it must be remembered that nine of the new States which have been admitted expressly established slavery, or tolerated it, and nine of them forbade it. The excitement, therefore, is due to peculiar circumstances. I think there are three of them, namely:

First. That whereas, in the beginning, the ascendancy of the slave States was absolute, it is now being reversed.

Second. That whereas, heretofore, the national Government favored this change of balance from the slave States to the free States, it has now reversed this policy, and opposes the change.

Third. That national intervention in the Territories in favor of slave labor and slave States, is opposed to the natural, social, and moral developments of the Republic.

It seems almost unnecessary to demonstrate the first of these propositions. In the beginning, there were twelve slave States, and only one that was free. Now, six of those twelve have become free; and there are sixteen free States to fifteen slave States. If the three candidates now here, Kansas, Minnesota, and Oregon, shall be admitted as free States, then there will be nineteen free States to fifteen slave States. Originally, there were twenty-four Senators of slave States, and only two of a free State; now, there are thirty-two Senators of free States, and thirty of slave States. In the first constitutional Congress, the slave States had fifty-seven Representatives, and the one free State had only eight; now, the free States have one hundred and forty-four Representatives, while the slave States have only ninety. These changes have happened in a period during which the slave States have almost uninterruptedly exercised paramount influence in the Government, and notwithstanding the Constitution itself has opposed well-known checks to the relative increase of representation of free States. I assume, therefore, the truth of my first proposition.

I suggested, sir, a second circumstance, namely, that whereas, in the earlier age of the Republic, the national Government favored this change, yet it has since altogether reversed that policy, and it now opposes the change. I do not claim that heretofore the national Government always, or even habitually, intervened in the Territories in favor of the free States, but only that such intervention preponderated. While slavery existed in all of the States but one, at the beginning, yet it was far less intense in the northern than in some of the southern States. All of the former contemplated an early emancipation. The fathers seem not to have anticipated an enlargement of the national territory; consequently, they expected that all the new States to be thereafter admitted would be organized upon subdivisions of the then existing States, or upon divisions of the then existing national domain. That domain lay behind the thirteen States, and stretched from the Lakes to the Gulf, and was bounded westward by the Mississippi. It was naturally divided by the Ohio river, and the Northwest Territory and the Southwest Territory were organized on that division. It was foreseen, even then, that the new

States to be admitted would ultimately overbalance the thirteen original ones. They were, however, mainly to be yet planted and matured in the desert, with the agency of human labor.

The fathers knew only of two kinds of labor, the same which now exist among ourselves—namely, the labor of African slaves and the labor of freemen. The former then predominated in this country, as it did throughout the continent. A confessed deficiency of slave labor could be supplied only by domestic increase, and by continuance of the then existing importation from Africa. The supply of free labor depended on domestic increase, and a voluntary immigration from Europe. Settlements, which had thus early taken on a free-labor character or a slave-labor character, were already maturing in those parts of old States which were to be ultimately detached and formed into new States. When new States of this class were organized, they were admitted promptly, either as free States or as slave States, without objection. Thus Vermont, a free State, was admitted in 1791; Kentucky, a slave State, in 1792; and Tennessee, also a slave State, in 1796. Five new States were contemplated to be erected in the Northwest Territory. Practically it was unoccupied, and therefore open to labor of either kind. The one kind or the other, in the absence of any anticipated emulation, would predominate just as Congress should intervene to favor it. Congress intervened in favor of free labor. This, indeed, was an act of the Continental Congress, but it was confirmed by the first constitutional Congress. The fathers simultaneously adopted three other measures of less direct intervention. First, they initiated in 1789, and completed in 1803, the absolute suppression of the African slave trade. Secondly, they organized systems of foreign commerce and navigation, which stimulated voluntary immigration from Europe. Thirdly, they established an easy, simple, and uniform process of naturalization. The change of the balance of power from the slave States to the free States, which we are now witnessing, is due chiefly to those four early measures of national intervention in favor of free labor. It would have taken place much sooner, if the borders of the Republic had remained unchanged. The purchase of Louisiana and the acquisition of Florida, however, were transactions resulting from high political necessities, in disregard of the question between free and slave labor. In admitting the new State of Louisiana, which was organized on the slave-labor settlement of New Orleans, Congress practiced the same neutrality which it had before exercised in the States of Kentucky and Tennessee. No serious dispute arose until 1819, when Missouri, organized within the former province of Louisiana, upon a slave-labor settlement in St. Louis, applied for admission as a slave State; and Arkansas was manifestly preparing to appear soon in the same character. The balance of power between the slave States and the free States was already reduced to an equilibrium, and the eleven free States had an equal representation with the eleven slave States in the Senate of the United States. The slave States unanimously insisted on an unqualified admission of Missouri. The free States, with less unanimity, demanded that the new State should renounce slavery. The controversy seemed to shake the Union to its foundations, and it was terminated by a compromise. Missouri was admitted as a slave State. Arkansas, rather by implication than by express agreement, was to be admitted, and it was afterwards admitted, as a slave State. On the other hand, slavery was forever prohibited in all that part of the old province of Louisiana yet remaining unoccupied, which lay north of the parallel of 36° 30' north latitude. The reservation for free labor included the immense region now known as the Territories of Kansas and Nebraska, and seemed ample for eight, ten, or more free States. The severity of the struggle, and the conditions of the compromise, indicated very plainly, however, that the vigor of national intervention in favor of free labor and free States was exhausted. Still, the existing statutes were adequate to secure an ultimate ascendancy of the free States.

The policy of intervention in favor of slave labor and slave States began with the further removal of the borders of the Republic. I cheerfully admit that this policy has not been persistent or exclusive, and claim only that it has been and

yet is predominant. I am not now to deplore the annexation of Texas. I remark simply that it was a bold measure, of doubtful constitutionality, distinctly adopted as an act of intervention in favor of slave labor, and made or intended to be made most effective by the stipulation that the new State of Texas may hereafter be divided and so reorganized as to constitute five slave States. This great act cast a long shadow before it—a shadow which perplexed the people of the free States. It was then that a feeble social movement, which aimed by moral persuasion at the manumission of slaves, gave place to political organizations, which have ever since gone on increasing in energy and extent, directed against a further extension of slavery in the United States. The war between the United States and Mexico, and the acquisition of the Mexican provinces of New Mexico and Upper California, the fruits of that war, were so immediately and directly consequences of the annexation of Texas, that all of those events, in fact, may be regarded as constituting one act of intervention in favor of slave labor and slave States. The field of the strife between the two systems had become widely enlarged. Indeed, it was now continental. The amazing mineral wealth of California stimulated settlement there into a rapidity like that of vegetation. The Mexican laws which prevailed in the newly-acquired Territories dedicated them to free labor, and thus the astounding question arose for the first time, whether the United States of America, whose Constitution was based on the principle of the political equality of all men, would blight and curse with slavery a conquered land which enjoyed universal freedom. The slave States denied the obligation of these laws, and insisted on their abrogation. The free States maintained them, and demanded their confirmation through the enactment of the Wilmot proviso. The slave States and the free States were yet in equilibrium. The controversy continued here two years. The settlers of the new Territories became impatient, and precipitated a solution of the question. They organized new free States in California and New Mexico. The Mormons also framed a Government in Utah. Congress, after a bewildering excitement, determined the matter by another compromise. It admitted California a free State, dismembered New Mexico, transferring a large district free from slavery to Texas, whose laws carried slavery over it, and subjected the residue to a territorial government, as it also subjected Utah, and stipulated that the future States to be organized in those Territories should be admitted either as free States or as slave States, as they should elect. I pass over the portions of this arrangement which did not bear directly on the point in conflict. The Federal Government presented this compromise to the people, as a comprehensive, final, and perpetual adjustment of all then existing and all future questions having any relation to the subject of slavery within the Territories or elsewhere. The country accepted it with that proverbial facility which free States practice, when time brings on a stern conflict which popular passions provoke, and at a distance defy. This halcyon peace, however, had not ceased to be celebrated, when the new-born necessities of trade, travel, and labor, required an opening of the region in the old province of Louisiana, north of 36° 30', which had been reserved in 1820, and dedicated to free labor and free States. The old question was revived in regard to that Territory, and took the narrow name of the Kansas question, just as the stream which Lake Superior discharges, now contracting itself into rivers and precipitating itself down rapids and cataracts, and now spreading out its waters into broad seas, assumes a new name with every change of form, but continues nevertheless the same majestic and irresistible flood under every change, increasing in depth and in volume until it loses itself in the all-absorbing ocean.

No one had ever said or even thought that the law of freedom in this region could be repealed, impaired, or evaded. Its constitutionality had indeed been questioned at the time of its enactment; but this, with all other objections, had been surrendered as part of the compromise. It was regarded as bearing the sanction of the public faith, as it certainly had those of time and acquiescence. But the slaveholding people of Missouri looked across the border, into Kansas, and cov-

eted the land. The slave States could not fail to sympathize with them. It seemed as if no organization of government could be effected in the Territory. The Senator from Illinois [Mr. Douglas] projected a scheme. Under his vigorous leading, Congress created two Territories—Nebraska and Kansas. The former (the more northern one) might, it was supposed, be settled without slavery, and become a free State, or several free States. The latter (the southern one) was accessible to the slave States, bordered on one of them, and was regarded as containing a region inviting to slaveholders. So it might be settled by them, and become one or more slave States. Thus indirectly a further compromise might be effected, if the Missouri prohibition of 1820 should be abrogated. Congress abrogated it, with the special and effective coöperation of the President, and thus the national Government directly intervened in favor of slave labor. Loud remonstrances against the measure on the ground of its violation of the national faith were silenced by clamorous avowals of a discovery that Congress had never had any right to intervene in the Territories for or against slavery, but that the citizens of the United States residing within a Territory had, like the people of every State, exclusive authority and jurisdiction over slavery, as one of the domestic relations. The Kansas-Nebraska act only recognized and affirmed this right, as it was said. The theory was not indeed new, but a vagrant one, which had for some time gone about seeking among political parties the charity of adoption, under the name of squatter sovereignty. It was now brought to the front, and baptized with the more attractive appellation of popular sovereignty. It was idle for a time to say that, under the Missouri prohibition, freemen in the Territories had all the rights which freemen could desire—perfect freedom to do everything but establish slavery. Popular sovereignty offered the indulgence of a taste of the fruit of the tree of the knowledge of evil as well as of good—a more perfect freedom. Inasmuch as the proposition seemed to come from a free State, the slave States could not resist its seductions, although sagacious men saw that they were delusive. Consequently, a small and ineffectual stream of slave labor was at once forced into Kansas, engineered by a large number of politicians, advocates at once of slavery and of the Federal Administration, who proceeded with great haste to prepare the means so to carry the first elections as to obtain the laws necessary for the protection of slavery. It is one thing, however, to expunge statutes from a national code, and quite another to subvert a national institution; even though it be only a monument of freedom located in the desert. Nebraska was resigned to free labor without a struggle, and Kansas became a theater of the first actual national conflict between slaveholding and free-labor immigrants, met face to face, to organize, through the machinery of republican action, a civil community.

The parties differed as widely in their appointments, conduct, and bearing, as in their principles. The free laborers came into the Territory with money, horses, cattle, implements, and engines, with energies concentrated by associations and strengthened by the recognition of some of the States. They marked out farms, and sites for mills, towns, and cities, and proceeded at once to build, to plow, and to sow. They proposed to debate, to discuss, to organize peacefully, and to vote, and to abide the canvass. The slave-labor party entered the Territory irregularly, staked out possessions, marked them, and then, in most instances, withdrew to the States from which they had come, to sell their new acquisitions, or to return and resume them, as circumstances should render one course or the other expedient. They left armed men in the Territory to keep watch and guard, and to summon external aid, either to vote or to fight, as should be found necessary. They were fortified by the favor of the Administration, and assumed to act with its authority. Intolerant of debate, and defiant, they hurried on the elections which were to be so perverted that an usurpation should be established. They rang out their summons when the appointed time came, and armed bands of partisans, from States near and remote, invaded and entered the Territory, with banners, ammunition, provisions, and forage, and encamped around the polls. They seized

the ballot-boxes, replaced the judges of elections with partisans of their own, drove away their opponents, filled the boxes with as many votes as the exigencies demanded, and, leaving the results to be returned by reliable hands, they marched back again to their distant homes, to celebrate the conquest, and exult in the prospect of the establishment of slavery upon the soil so long consecrated to freedom. Thus, in a single day, they became parents of a State without affection for it, and childless again without bereavement. In this first hour of trial, the new system of popular sovereignty signally failed—failed because it is impossible to organize, by one single act, in one day, a community perfectly free, perfectly sovereign, and perfectly constituted, out of elements unassimilated, unarranged, and uncomposed. Free labor rightfully won the day. Slave labor wrested the victory to itself by fraud and violence. Instead of a free republican government in the Territory, such as popular sovereignty had promised, there was then and thenceforth a hateful usurpation. This usurpation proceeded without delay and without compunction to disfranchise the people. It transferred the slave code of Missouri to Kansas, without stopping in all cases to substitute the name of the new Territory for that of the old State. It practically suspended popular elections for three years—the usurping Legislature assigning that term for its own members, while it committed all subordinate trusts to agents appointed by itself. It barred the courts and the juries to its adversaries by test oaths, and made it a crime to think what one pleased, and to write and print what one thought. It borrowed all the enginery of tyranny, but the torture, from the practice of the Stuarts. The party of free labor appealed to the Governor (Reeder) to correct the false election returns. He intervened, but ineffectually, and yet even for that intervention was denounced by the Administration organs; and, after long and unacceptable explanations, he was removed from office by the President. The new Governor (Shannon) sustained for a while the usurpation, but failed to effect the subjugation of the people, although he organized as a militia an armed partisan band of adventurers who had intruded themselves into the Territory to force slavery upon the people. With the active cooperation of this band, the party of slave labor disarmed the free-State emigrants, who had now learned the necessity of being prepared for self-defense, on the borders of the Territory, and on the distant roads and rivers which led into it. They destroyed a bridge that free-labor men used in their way to the seat of government, sacked a hotel where they lodged, and broke up and cast into the river a press which was the organ of their cause.

The people of Kansas, thus deprived, not merely of self-government, but even of peace, tranquillity, and security, fell back upon the inalienable revolutionary right of voluntary reorganization. They determined, however, with admirable temper, judgment, and loyalty, to conduct their proceedings for this purpose in deference and subordination to the authority of the Federal Union, and according to the line of safe precedents.

After due elections, open to all the inhabitants of the Territory, they organized provisionally a State government at Topeka; and by the hands of provisional Senators, and a provisional Representative, they submitted their constitution to Congress, and prayed to be admitted as a free State into the Federal Union. The Federal authorities lent no aid to this movement; but, on the contrary, the President and Senate contemptuously rejected it, and denounced it as treason, and all its actors and abettors as disloyal to the Union. An army was dispatched into the Territory, intended indeed to preserve peace, but at the same time to obey and sustain the usurpation. The provisional Legislature, which had met to confer and to adopt further means to urge the prayers of the people upon Congress, were dispersed by the army, and the State officers, provisionally elected, who had committed no criminal act, were arrested, indicted, and held in the Federal camp as State prisoners. Nevertheless, the people of Kansas did not acquiesce. The usurpation remained a barren authority, defied, derided, and despised.

A national election was now approaching. Excitement within and sympathies without the Territory must be allayed. Governor Shannon was

removed, and Mr. Geary was appointed his successor. He exacted submission to the statutes of the usurpation, but promised equality in their administration. He induced a repeal of some of those statutes which were most obviously unconstitutional, and declared an amnesty for political offenses. He persuaded the Legislature of the usurpation to ordain a call for a convention at Lecompton, to form a constitution, if the measure should be approved by a popular vote at an election to be held for that purpose. To vote at such an election was to recognize and tolerate the usurpation, as well as to submit to disfranchising laws, and to hazard a renewal of the frauds and violence by which the usurpation had been established. On no account would the Legislature agree that the projected constitution should be submitted to the people, after it should have been perfected by the convention. The refusal of this just measure, so necessary to the public security in case of surprise and fraud, was a confession of the purpose on the part of the usurpation to carry a constitution into effect by surprise and fraud. The Governor insisted on this provision, and demanded of the President of the United States the removal of a partial and tyrannical judge. He failed to gain either measure, and incurred the displeasure of the usurpation by seeking them. He fled from the Territory. The free-State party stood aloof from the polls, and a canvass showed that some two thousand three hundred, less than a third of the people of the Territory, had sanctioned the call of a convention, while the presence of the army alone held the Territory under a forced truce.

At this juncture, the new Federal Administration came in, under a President who had obtained success by the intervention at the polls of a third party—an ephemeral organization, built upon a foreign and frivolous issue, which had just strength enough and life enough to give to a pro-slavery party the aid required to produce that untoward result. The new President, under a show of moderation, masked a more effectual intervention than that of his predecessor, in favor of slave labor and a slave State. Before coming into office, he approached or was approached by the Supreme Court of the United States. On their docket was, through some chance or design, an action which an obscure negro man in Missouri had brought for his freedom against his reputed master. The court had arrived at the conclusion, on solemn argument, that inasmuch as this unfortunate negro had, through some ignorance or chicanery in special pleading, admitted what could not have been proved, that he had descended from some African who had once been held in bondage, that therefore he was not, in view of the Constitution, a citizen of the United States, and therefore could not implead the reputed master in the Federal courts; and on this ground the Supreme Court were prepared to dismiss the action, for want of jurisdiction over the suitor's person. This decision, certainly as repugnant to the Declaration of Independence and to the spirit of the Constitution, as to the instincts of humanity, nevertheless would be one which would exhaust all the power of the tribunal, and exclude consideration of all other questions that had been raised upon the record. The counsel who had appeared for the negro had volunteered from motives of charity, and, ignorant of course of the disposition which was to be made of the cause, had argued that his client had been freed from slavery by operation of the Missouri prohibition of 1820. The opposing counsel, paid by the defending slaveholder, had insisted, in reply, that that famous statute was unconstitutional. The mock debate had been heard in the chamber of the court in the basement of the Capitol, in the presence of the curious visitors at the seat of Government, whom the dullness of a judicial investigation could not disgust. The court did not hesitate to please the incoming President, by seizing this extraneous and idle forensic discussion, and converting it into an occasion for pronouncing an opinion that the Missouri prohibition was void; and that, by force of the Constitution, slavery existed, with all the elements of property in man over man, in all the Territories of the United States, paramount to any popular sovereignty within the Territories, and even to the authority of Congress itself.

In this ill-omened act, the Supreme Court forgot its own dignity, which had always been main-

tained with just judicial jealousy. They forgot that the province of a court is simply "*jus dicere*" and not at all "*jus dare*." They forgot, also, that one "foul sentence does more harm than many foul examples; for the last do but corrupt the stream, while the former corrupteth the fountain." And they and the President alike forgot that judicial usurpation is more odious and intolerable than any other among the manifold practices of tyranny.

The day of inauguration came—the first one among all the celebrations of that great national pageant that was to be desecrated by a coalition between the executive and judicial departments to undermine the National Legislature and the liberties of the people. The President, attended by the usual lengthened procession, arrived and took his seat on the portico. The Supreme Court attended him there, in robes which yet exacted public reverence. The people, unaware of the import of the whisperings carried on between the President and the Chief Justice, and imbued with veneration for both, filled the avenues and gardens far away as the eye could reach. The President addressed them in words as bland as those which the worst of all the Roman Emperors pronounced when he assumed the purple. He announced (vaguely, indeed, but with self-satisfaction) the forthcoming extra-judicial exposition of the Constitution, and pledged his submission to it as authoritative and final. The Chief Justice and his associates remained silent. The Senate, too, were there—constitutional witnesses of the transfer of administration. They, too, were silent, although the promised usurpation was to subvert the authority over more than half of the empire which Congress had assumed contemporaneously with the birth of the nation, and had exercised without interruption for near seventy years. It cost the President, under the circumstances, little exercise of magnanimity now to promise to the people of Kansas, on whose neck he had, with the aid of the Supreme Court, hung the millstone of slavery, a fair trial in their attempt to cast it off, and hurl it to the earth, when they should come to organize a State government. Alas! that even this cheap promise, uttered under such great solemnities, was only made to be broken!

The pageant ended. On the 5th of March the judges, without even exchanging their silken robes for courtiers' gowns, paid their salutations to the President, in the Executive palace. Doubtlessly the President received them as graciously as Charles I. did the judges who had, at his instance, subverted the statutes of English liberty. On the 6th of March the Supreme Court dismissed the negro suitor, Dred Scott, to return to his bondage; and having thus disposed of that private action for an alleged private wrong, on the ground of want of jurisdiction in the case, they proceeded, with amusing solemnity, to pronounce the opinion that if they had had such jurisdiction, still the unfortunate negro would have had to remain in bondage, unrelieved, because the Missouri prohibition violates rights of general property involved in slavery, paramount to the authority of Congress. A few days later, copies of this opinion were multiplied by the Senate's press, and scattered in the name of the Senate broadcast over the land, and their publication has not yet been disowned by the Senate. Simultaneously, Dred Scott, who had played the hand of *dumny* in this interesting political game, unwittingly, yet to the complete satisfaction of his adversary, was voluntarily emancipated; and thus received from his master, as a reward, the freedom which the court had denied him as a right.

The new President of the United States, having organized this formidable judicial battery at the Capitol, was now ready to begin his active demonstrations of intervention in the Territory. Here occurred, not a new want, but an old one revived—a Governor for Kansas. Robert J. Walker, born and reared in Pennsylvania, a free State, but long a citizen and resident of Mississippi, a slave State, eminent for talent and industry, devoted to the President and his party, plausible and persevering, untiring and efficient, seemed just the man to conduct the fraudulent inchoate proceedings of the projected Lecompton convention to a conclusion, by dividing the friends of free labor in the Territory, or by casting upon them the responsibility of defeating their own favorite policy by impracticability and contu-

macy. He wanted for this purpose only an army, and full command of the Executive exchequer, of promises of favor and of threats of punishment. Frederick P. Stanton, of Tennessee, honorable and capable, of persuasive address, but honest ambition, was appointed his Secretary. The new agents soon found they had assumed a task that would tax all their energies and require all their adroitness. On the one side, the slave-labor party were determined to circumvent the people, and secure, through the Lecompton convention, a slave State. On the other, the people were watchful, and determined not to be circumvented, and in no case to submit. Elections for delegates to that body were at hand. The Legislature had required a census and registry of voters to be made by authorities designated by itself, and this duty had been only partially performed in fifteen of the thirty-four counties, and altogether omitted in the other nineteen. The party of slave labor insisted on payment of taxes as a condition of suffrage. The free-labor party deemed the whole proceeding void, by reason of the usurpation practiced, and of the defective arrangements for the election. They discovered a design to surprise in the refusal of any guarantee that the constitution, when framed, should be submitted to the people, for their acceptance or rejection, preparatory to an application under it for the admission of Kansas into the Union. The Governor, drawing from the ample Treasury of the Executive at his command, made due exhibitions of the army, and threatened the people with an acceptance of the Lecompton constitution, however obnoxious to them, if they should refuse to vote. With these menaces, he judiciously mingled promises of fabulous quantities of land for the endowment of roads and education. He dispensed with the test oaths and taxes, lamented the defects of census and registry, and promised the rejection of the constitution by himself, by the President, and by Congress, if a full, fair, and complete submission of the constitution should not be made by the convention; and he obtained and published pledges of such submission by the party conventions which nominated the candidates for delegates, and even by an imposing number of the candidates themselves. The people stood aloof, and refused to vote. The army protected the polls. The slave-labor party alone voted, and voted without legal restraint, and so achieved an easy formal success by casting some two thousand ballots.

Just in this conjuncture, however, the term of three years' service which the usurping Legislature had fixed for its own members expired, and elections, authorized by itself, were to be held, for the choice, not only of new members, but of a Delegate to Congress. While the Lecompton convention was assembling, the free-labor party determined to attend these territorial elections, and contest, through them, for self-government within the Territory. They put candidates in nomination, on the express ground of repudiation of the whole Lecompton proceeding. The Lecompton convention prudently adjourned to a day beyond the elections. The parties contended at the ballot-boxes, and the result was a complete and conclusive triumph of the free-labor party. For a moment, this victory, so important, was jeopardized by the fraudulent presentation of spurious and fabricated returns of elections in almost uninhabited districts, sufficient to transfer the triumph to the slave-labor party, and the free-State party was proceeding to vindicate it by force. The Governor and Secretary detected, proved, and exposed, this atrocious fraud. The Lecompton convention denounced them, and complaints against them poured in upon the President, from the slaveholding States. They were doomed from that time. The President was silent. The Lecompton convention proceeded, and framed a constitution which declares slavery perpetual and irreversible, and postpones any alteration of its own provisions until after 1864, by which time they hoped that slavery might have gained too deep a hold in the soil of Kansas to be in danger of being uprooted. All this was easy; but now came the question whether the constitution should be submitted to the people. It was confessed that it was obnoxious to them, and, if submitted, would be rejected with indignation and contempt. An official emissary from Washington is supposed to have suggested the solution which was adopted. This was a submission in form, but not

in fact. The president of the convention, without any laws to preserve the purity of the franchise by penalties for its violation, was authorized to designate his own agents, altogether irrespectively of the territorial authorities, and with their aid to hold an election, in which there should be no vote allowed or received, if against the constitution itself. Each voter was permitted to cast a ballot "for the constitution with slavery," or "for the constitution with no slavery;" and it was further provided that the constitution should stand entire, if a majority of votes should be cast for the constitution with slavery, while, on the other hand, if the majority of votes cast should be "for the constitution with no slavery," then the existing slavery should not be disturbed, but should remain, with its continuance, by the succession of its unhappy victims by descent forever. But even this miserable shadow of a choice between forms of a slave-State constitution was made to depend on the taking of a test oath to support and maintain it in the form which should be preferred by the majority of those who should vote on complying with that humiliation. The Governor saw that by conniving at this pitiful and wicked juggle he should both shipwreck his fame and become responsible for civil war. He remonstrated, and appealed to his chief, the President of the United States, to condemn it. Denunciations followed him from the Lecompton party within the Territory, and denunciations no less violent from the slave States were his greeting at the national capital. The President disappointed his most effective friend and wisest counselor. This present Congress had now assembled. The President, as if fearful of delay, forestalled our attention with recommendations to overlook the manifest objections to the transaction, and to regard the anticipated result of this mock election, then not yet held, as equivalent to an acceptance of the constitution by the people of Kansas, alleging that the refusal of the people to vote either the ballot for the "constitution with slavery," or the false and deceitful ballot for the "constitution with no slavery," would justly be regarded as drawing after it the consequences of actual acceptance and adoption of the constitution itself. His argument was apologetical, as it lamented that the constitution had not been fairly submitted; and jesuitical, as it urged that the people might, when once admitted as a State, change the constitution at their pleasure, in defiance of the provision which postpones any change seven years.

Copies of the message containing these arguments were transmitted to the Territory, to confound and dishearten the free-State party, and obtain a surrender, at the election to be held on the 21st of December, on the questions submitted by the convention. The people, however, were neither misled nor intimidated. Alarmed by this act of connivance by the President of the United States with their oppressors, they began to prepare for the last arbitrament of nations. The Secretary, Mr. Stanton, now Governor *ad interim*, issued his proclamation, calling the new Territorial Legislature to assemble to provide for preserving the public peace. An Executive spy dispatched information of this proceeding to the President by telegraph, and instantly Mr. Stanton ceased to be Secretary and Governor *ad interim*, being removed by the President, by and with the advice and consent of the Senate of the United States. Thus the service of Frederick P. Stanton came to an abrupt end; but in a manner most honorable to himself. His chief, Mr. Walker, was less wise and less fortunate. He resigned. Pæus Thrasæa (we are informed by Tacitus) had been often present in the Senate, when the fathers descended to unworthy acts, and did not rise in opposition; but on the occasion when Nero procured from them a decree to celebrate, as a festival, the day on which he had murdered his mother, Agrippina, Pæus left his seat, and walked out of the chamber—thus by his virtue provoking future vengeance, and yet doing no service to the cause of liberty. Possibly Robert J. Walker may find a less stern historian.

The new Secretary, Mr. Denver, became Governor of Kansas, the fifth incumbent of that office appointed within less than four years, the legal term of one. Happily, however, for the honor of the country, three of the recalls were made on the ground of the virtues of the parties disgraced.

The pro-consuls of the Roman provinces were brought back to the Capitol to answer for their crimes.

The proceeding which the late Secretary Stanton had so wisely instituted, nevertheless went on; and it has become, as I trust, the principal means of rescuing from tyranny the people whom he governed so briefly and yet so well. The Lecompton constitution had directed, that on the 4th of January elections should be held to fill the State offices and the offices of members of the Legislature and member of Congress, to assume their trusts when the new State should be admitted into the Union. The Legislature of the Territory now enacted salutary laws for preserving the purity of elections in all cases. It directed the Lecompton constitution to be submitted to a fair vote on that day, the ballots being made to express a consent to the constitution, or a rejection of it, with or without slavery. The free labor party debated anxiously on the question whether, besides voting against that constitution, they should, under protest, vote also for officers to assume the trusts created by it, if Congress should admit the State under it. After a majority had decided that no such votes should be cast, a minority hastily rejected the decision, and nominated candidates for those places, to be supported under protest. The success of the movement, made under the most serious disadvantages, is conclusive evidence of their strength. While the election held on the 21st of December, allowing all fraudulent votes, showed some six thousand majority for the constitution with slavery, over some five hundred votes for the constitution without slavery, the election on the 4th of January showed an aggregate majority of eleven thousand against the constitution itself in any form, with the choice, under protest, of a Representative in Congress, and of a large majority of all the candidates nominated by the free-labor party for the various executive and legislative trusts under the Lecompton constitution.

The Territorial Legislature has abolished slavery by a law to take effect in March, 1858, though the Lecompton constitution contains provisions anticipating, and designed to defeat, this great act of justice and humanity. It has organized a militia, which stands ready for the defense of the rights of the people against any power. The president of the Lecompton convention has fled the Territory, charged with an attempt to procure fraudulent returns to reverse the already declared results of the last election, and he holds the public in suspense as to his success until after his arrival at the capital, and the decision of Congress on the acceptance of the Lecompton constitution. In the mean time, the Territorial Legislature has called a convention, subject to the popular approval, to be held in this month, and to form a constitution to be submitted to the people, and, when adopted, to be the organic law of the new State of Kansas, subject to her admission into the Union. The President of the United States, having received the Lecompton constitution, has submitted it to Congress, and insisting that the vote taken on the juggle of the Lecompton convention, held on the 21st of December, is legally conclusive of its acceptance by the people, and absolute against the fair, direct, and unimpeachable rejection of it by that people, made on the 4th of January last, he recommends and urges and implores the admission of Kansas as a State into the Federal Union, under that false, pretended, and spurious constitution. I refrain from any examination of his extraordinary message. My recital is less complete than I have hoped, if it does not overthrow all the President's arguments in favor of the acceptance of the Lecompton constitution as an act of the people of Kansas, however specious, and without descending to any details. In Congress, those who seek the admission of Kansas under that constitution, strive to delay the admission of Minnesota until their opponents shall compromise on that paramount question.

This, Mr. President, is a concise account of the national intervention in the Territories in favor of slave labor and slave States since 1820. No wonder that the question before us excites apprehensions and alarm. There is at last a North side of this Chamber, a North side of the Chamber of Representatives, a North side of the Union, as well as South sides of all these. Each of them is watchful, jealous, and resolute. If it be true, as

has so often been asserted, that this Union cannot survive the decision by Congress of a direct question involving the adoption of a free State which will establish the ascendancy of free States under the Constitution, and draw after it the restoration of the influence of freedom in the domestic and foreign conduct of the Government, then the day of dissolution is at hand.

I have thus, Mr. President, arrived at the third circumstance attending the Kansas question which I have thought worthy of consideration, namely, that the national intervention in the Territories in favor of slave labor and slave States is opposed to the material, moral, and social developments of the Republic. The proposition seems to involve a paradox; but it is easy to understand that the checks which the Constitution applies, through prudent caution, to the relative increase of the representation of the free States in the House of Representatives, and especially in the Senate, co-operating with the differences of temper and political activity between the two classes of States, may direct the Government of the Federal Union in one course, while the tendencies of the nation itself, popularly regarded, are in a direction exactly opposite.

The ease and success which attended the earlier policy of intervention in favor of free labor and free States, and the resistance which the converse policy of intervention in favor of slave labor and slave States encounters, sufficiently establish the existence of the antagonism between the Government and the nation which I have asserted. A vessel moves quietly and peacefully while it descends with the current. You mark its way by the foam on its track only when it is forced against the tide. I will not dwell on other proofs—such as the more rapid growth of the free States, the ruptures of ecclesiastical federal unions, and the demoralization and disorganization of political parties.

Mr. President, I have shown why it is that the Kansas question is attended by difficulties and dangers only by way of preparation for the submission of my opinions in regard to the manner in which that question ought to be determined and settled. I think, with great deference to the judgments of others, that the expedient, peaceful, and right way to determine it, is, to reverse the existing policy of intervention in favor of slave labor and slave States. It would be wise to restore the Missouri prohibition of slavery in Kansas and Nebraska. There was peace in the Territories and in the States until that great statute of freedom was subverted. It is true that there were frequent debates here on the subject of slavery; and that there were profound sympathies among the people, awakened by, or responding to, those debates. But what was Congress instituted for but debate? What makes the American people to differ from all other nations, but this: that while among them power enforces silence, here all public questions are referred to debate—free debate in Congress. Do you tell me that the Supreme Court of the United States has removed the foundations of that great statute? I reply that they have done no such thing; they could not do it. They have remanded the negro man Dred Scott to the custody of his master. With that decree we have nothing here, at least nothing now, to do. This is the extent of the judgment rendered, the extent of any judgment they could render. Already the pretended further decision is subverted in Kansas. So it will be in every free State and in every free Territory of the United States. The Supreme Court, also, can reverse its spurious judgment more easily than we could reconcile the people to its usurpation. Sir, the Supreme Court of the United States attempts to command the people of the United States to accept the principles that one man can own other men; and that they must guaranty the inviolability of that false and pernicious property. The people of the United States never can, and they never will, accept principles so unconstitutional and so abhorrent. Never, never. Let the court recede. Whether it recedes or not, we shall reorganize the court, and thus reform its political sentiments and practices, and bring them into harmony with the Constitution and with the laws of nature. In doing so, we shall not only reassume our own just authority, but we shall restore that high tribunal itself to the position it ought to maintain, since so many invaluable rights of citizens, and even of States

themselves, depend upon its impartiality and its wisdom.

Do you tell me that the slave States will not acquiesce, but will agitate? Think first whether the free States will acquiesce in a decision that shall not only be unjust, but fraudulent. True, they will not menace the Republic. They have an easy and simple remedy, namely, to take the Government out of unjust and unfaithful hands, and commit it to those which will be just and faithful. They are ready to do this now. They want only a little more harmony of purpose and a little more completeness of organization. These will result from only the least addition to the pressure of slavery upon them. You are lending all that is necessary, and even more, in this very act. But will the slave States agitate? Why? Because they have lost at last a battle that they could not win, unwisely provoked, fought with all the advantages of strategy and intervention, and on a field chosen by themselves. What would they gain? Can they compel Kansas to adopt slavery against her will? Would it be reasonable or just to do it, if they could? Was negro servitude ever forced by the sword on any people that inherited the blood which circulates in our veins, and the sentiments which make us a free people? If they will agitate on such a ground as this, then how, or when, by what concessions we can make, will they ever be satisfied? To what end would they agitate? It can now be only to divide the Union. Will they not need some fairer or more plausible excuse for a proposition so desperate? How would they improve their condition by drawing down a certain ruin upon themselves? Would they gain any new security for slavery? Would they not hazard securities that are invaluable? Sir, they who talk so idly, talk what they do not know themselves. No man, when cool, can promise what he will do when he shall be inflamed; no man inflamed can speak for his actions when time and necessity shall bring reflection. Much less can any one speak for States in such emergencies.

But, I shall not insist, now, on so radical a measure as the restoration of the Missouri prohibition. I know how difficult it is for power to relinquish even a pernicious and suicidal policy all at once. We may attain the same result, in this particular case of Kansas, without going back so far. Go back only to the ground assumed in 1854, the ground of popular sovereignty. Happily for the authors of that measure, the zealous and energetic resistance of abuses practiced under it has so far been effective that popular sovereignty in Kansas may now be made a fact, and liberty there may be rescued from danger through its free exercise. Popular sovereignty is an epic of two parts. Part the first presents freedom in Kansas lost. Part the second, if you will so consent to write it, shall be freedom in Kansas regained. It is on this ground that I hail the eminent Senator from Illinois [Mr. DOUGLAS] and his associates, the distinguished Senator from Michigan, [Mr. STUART,] and the youthful, but most brave Senator from California, [Mr. BRODERICK.] The late Mr. Clay told us that Providence has many ways for saving nations. God forbid that I should consent to see freedom wounded, because my own lead, or even my own agency in saving it, should be rejected. I will cheerfully coöperate with these new defenders of this sacred cause in Kansas, and I will award them all due praise, when we shall have been successful, for their large share of merit in its deliverance.

Will you tell me that it is difficult to induce the Senate and the House of Representatives to take that short backward step? On the contrary, the hardest task that an executive dictator ever set, or parliamentary manager ever undertook, is to prevent this very step from being taken. Let the President take off his hand, and the bow, bent so long, and held to its tension by so hard a pressure, will relax, and straighten itself at once.

Consider now, if you please, the consequences of your refusal. If you attempt to coerce Kansas into the Union, under the Lecompton constitution, the people of that Territory will resort to civil war. You are pledged to put down that revolution by the sword. Will the people listen to your voice amid the thunders of your cannon? Let but one drop of the blood of a free citizen be shed there, by the Federal Army, and the countenance of every Representative of a free State, in

either House of Congress, will blanch, and his tongue will refuse to utter the vote necessary to sustain the Army in the butchery of his fellow-citizens.

Practically, you have already one intestine and territorial war—a war against Brigham Young in Utah. Can you carry on two, and confine the strife within the Territories? Can you win both? A wise nation will never provoke more than one enemy at one time. I know that you argue that the free-State men of Kansas are impracticable, factious, seditious? Answer me three questions: Are they not a majority, and so proclaimed by the people of Kansas? Is not this quarrel, for the right of governing themselves, conceded by the Federal Constitution? Is the tyranny of forcing a hateful government upon them, less intolerable than three cents impost on a pound of tea, or five cents stamp duty on a promissory note? You say that they can change this Lecompton constitution when it shall once have been forced upon them. Let it be abandoned now. What guarantee can you give against your own intervention to prevent that future change? What security can you give for your own adherence to the construction of the constitution which you adopt, from expediency, to-day? What better is a constitution than a by-law of a corporation, if it may be forced on a State to-day, and rejected to-morrow, in derogation of its own express inhibition?

I perceive, Mr. President, that, in the way of argument, I have passed already from the ground of expediency on which I was standing, to that of right and justice. Among all our refinements of constitutional learning, one principle, one fundamental principle, has been faithfully preserved, namely: That the new States must come voluntarily into the Union; they must not be forced into it. "Unite or Die," was the motto addressed to the States in the time of the Revolution. Though Kansas should perish, she cannot be brought into the Union by force.

So long as the States shall come in by free consent, their admission will be an act of union, and this will be a confederacy. Whenever they shall be brought in by fraud or force, their admission will be an act of consolidation, and the nation, ceasing to be a confederacy, will become in reality an empire. All our elementary instruction is wrong; or else this change of the Constitution will subvert the liberties of the American people.

You argue the consent of Kansas from documentary proofs, from her forced and partial acquiescence under your tyrannical rule, from elections fraudulently conducted, from her own contumacy, and from your own records, made up here against her. I answer the whole argument at once: Kansas protests here, and stands, by your own confession, in an attitude of rebellion at home, to resist the annexation which you contend she is soliciting at your hands.

Sir, if your proofs were a thousand times stronger, I would not hold the people of Kansas bound by them. They all are contradicted by stern fact. A people can be bound by no action conducted in their name, and pretending to their sanction, unless they enjoy perfect freedom and safety in giving that consent. You have held the people of Kansas in duress from the first hour of their attempted organization as a community. To crown this duress by an act, at once forcing slavery on them, which they hate, and them into a union with you, on terms which they abhor, would be but to illustrate anew, and on a grand scale, the maxim—

"Prosperum est felix scelus, virtus vocatur."

Mr. President, it is an occasion for joy and triumph, when a community that has gathered itself together under circumstances of privation and exile, and proceeded through a season of territorial or provincial dependence on distant central authority, becomes a State, in the full enjoyment of civil and religious liberty, and rises into the dignity of a member of this imperial Union. But, in the case of Kansas, her whole existence has been, and it yet is, a trial, a tempest, a chaos—and now you propose to make her nuptials a celebration of the funeral of her freedom. The people of Kansas are entitled to save that freedom, for they have won it back when it had been wrested from them by invasion and usurpation. Sir, you are great and strong. On this continent there is no Power can resist you. On any other,

there is hardly a Power that would not reluctantly engage with you—but you can never, never conquer Kansas. Your power, like a throne which is built of pine boards, and covered with purple, is weakness, except it be defended by a people confiding in you, because satisfied that you are just, and grateful for the freedom that, under you, they enjoy.

Sir, in view once more of this subject of slavery, I submit that our own dignity requires that we shall give over this champerty with slaveholders, which we practice in prescribing acquiescence in their rule as a condition of toleration of self-government in the Territories. We are defeated in it. We may wisely give it up, and admit Kansas as a free State, since she will consent to be admitted only in that character.

Mr. President, if I could at all suppose it desirable or expedient to enlarge the field of slave labor, and of slaveholding sway in this Republic, I should nevertheless maintain that it is wise to relinquish the effort to sustain slavery in Kansas. The question, in regard to that Territory, has risen from a private one about slavery as a domestic institution, to one of slavery as a national policy. A every step you have been failing. Will you go on still further, ever confident, and yet ever unsuccessful?

I believe, sir, to some extent, in the isothermal theory. I think there are regions, beginning at the north pole, and stretching southward, where slavery will die out soon, if it be planted; and I know, too well, that in the tropics, and to some extent northward of them, slavery lives long, and is hard to extirpate. But I cannot find a certain boundary. I am sure, however, that 36° 30' is too far north. I think it is a movable boundary, and that every year it advances towards a more southern parallel.

But is there just now a real want of a new State for the employment of slave labor? I see and feel the need of room for a new State to be assigned to free labor, of room for such a new State almost every year. I think I see how it arises. Free white men abound in this country, and in Europe, and even in Asia. Economically speaking, their labor is cheap—there is a surplus of it. Under improved conditions of society, life grows longer, and men multiply faster. Wars, which sometimes waste them, grow less frequent and less destructive. Invention is continually producing machines and engines, artificial laborers, crowding them from one field of industry to another—ever more from the eastern regions of this continent to the west; ever more from the overcrowded eastern continent to the prairies and the wildernesses in our own. But I do not see any such overflowing of the African slave population in this country, even where it is unresisted. Free labor has been obstructed in Kansas. There are, nevertheless, fifty or sixty thousand freemen gathered there already; gathered there within four years. Slave labor has been free to importation. There are only one or two hundred slaves there. To settle and occupy a new slave State anywhere is, *pari passu*, to depopulate old slave States. Whence, then, are the supplies of slaves to come, and how? Only by reviving the African slave trade. But this is forbidden. Visionaries dream that the prohibition can be repealed. The idea is insane. A Republic of thirty millions of freemen, with a free white laboring population so dense as already to crowd on subsistence, to be brought to import negroes from Africa to supplant them as cultivators, and so to subject themselves to starvation! Though Africa is yet unorganized, and unable to protect itself, still it has already exchanged, in a large degree, its wars to make slaves and its commerce in slaves for legitimate agriculture and trade. All European States are interested in the civilization of that continent, and they will not consent that we shall arrest it. The Christian church cannot be forced back two centuries, and be made to sanction the African slave trade as a missionary enterprise.

Every nation has always some ruling idea, which, however, changes with the several stages of its development. A ruling idea of the colonies on this continent, two hundred years ago, was, labor to subdue and reclaim nature. Then African slavery was seized and employed as an auxiliary, under a seeming necessity. That idea has ceased forever. It has given place to a new one. Aggrandizement of the nation, not, indeed, as it

once was, to make a small State great, but to make a State already great the greatest of all States. It still demands labor, but it is no longer the ignorant labor of barbarians, but labor perfected by knowledge and skill, and combination with all the scientific principles of mechanism. It demands, not the labor of slaves, which needs to be watched and defended, but voluntary, enlightened labor, stimulated by interest, affection, and ambition. It needs that every man shall own the land he tills; that every head shall be fit for the helmet, and every hand fit for the sword, and every mind ready and qualified for counsel. To attempt to aggrandize a country with slaves for its inhabitants, would be to try to make a large body of empire with feeble sinews and empty veins.

Mr. President, the expansion of territory to make slave States will only fail to be a great crime because it is impracticable; and, therefore, will turn out to be a stupendous imbecility. A free republican Government like this, notwithstanding all its constitutional checks, cannot long resist and counteract the progress of society. Slavery, wherever and whenever, and in whatsoever form it exists, is exceptional, local, and short-lived. Freedom is the common right, interest, and ultimate destiny, of all mankind. All other nations have already abolished, or are about abolishing, slavery. Does this fact mean nothing? All parties in this country that have tolerated the extension of slavery, except one, have perished for that error already. That last one—the Democratic party—is hurrying on irretrievably toward the same fate. All administrations that have avowed this policy have gone down dishonored for that cause, except the present one. A pit deeper and darker still is opening to receive this Administration, because it sins more deeply than its predecessors. There is a meaning in all these facts, which it becomes us to study well. The nation has advanced another stage; it has reached the point where intervention by the Government for slavery and slave States will no longer be tolerated. Free labor has at last apprehended its rights, its interests, its power, and its destiny; and is organizing itself to assume the government of the Republic. It will henceforth meet you boldly and resolutely here; it will meet you everywhere—in the Territories or out of them—wherever you may go to extend slavery. It has driven you back in California and in Kansas; it will invade you soon in Delaware, Maryland, Virginia, Missouri, and Texas. It will meet you in Arizona, in Central America, and even in Cuba. The invasion will be not merely harmless, but beneficent, if you yield seasonably to its just and moderated demands. It proved so in New York, New Jersey, Pennsylvania, and the other slave States which have already yielded in that way to its advances. You may, indeed, get a start under or near the tropics, and seem safe for a time, but it will be only a short time. Even there you will find States only for free labor to maintain and occupy. The interest of the white races demands the ultimate emancipation of all men. Whether that consummation shall be allowed to take effect, with needful and wise precautions against sudden change and disaster, or be hurried on by violence, is all that remains for you to decide. For the failure of your system of slave labor throughout the Republic, the responsibility will rest, not on the agitators you condemn, or on the political parties you arraign, or even altogether on yourselves, but it will be due to the inherent error of the system itself, and to the error which thrusts it forward to oppose and resist the destiny not more of the African than that of the white races. The white man needs this continent to labor upon. His head is clear, his arm is strong, and his necessities are fixed. He must and will have it. To secure it, he will oblige the Government of the United States to abandon intervention in favor of slave labor and slave States, and go backward forty years and resume the original policy of intervention in favor of free labor and free States. The fall of the castle of San Juan d'Ulloa determined the fate of Mexico, although sore sieges and severe pitched battles intervened before the capture of the capital of the Aztecs. The defeats you have encountered in California and in Kansas determine the fate of the principle for which you have been contending. It is for yourselves, not for us, to decide how long and through what further mortifications and dis-

asters the contest shall be protracted, before freedom shall enjoy her already assured triumph. I would have it ended now, and would have the wounds of society bound up and healed. But this can be done only in one way. It cannot be done by offering further resistance, nor by any evasion or partial surrender, nor by forcing Kansas into the Union as a slave State, against her will, leaving her to cast off slavery afterwards, as she best may; nor by compelling Minnesota and Oregon to wait, and wear the humiliating costume of Territories at the doors of Congress, until the people of Kansas, or their true defenders here, shall be brought to dishonorable compromises. It can be done only by the simple and direct admission of the three new States as free States, without qualification, condition, reservation, or compromise, and by the abandonment of all further attempts to extend slavery under the Federal Constitution. You have unwisely pushed the controversy so far, that only these broad concessions will now be accepted by the interest of free labor and free States. For myself, I see this fact perhaps the more distinctly now, because I have so long foreseen it. I can therefore counsel nothing less than those concessions. I know the hazards I incur in taking this position. I know how men and parties, now earnest and zealous, and bold, may yet fall away from me, as the controversy shall wax warm, and alarms and dangers, now unlooked for, shall stare them in the face, as men and parties, equally earnest, bold, and zealous, have done, in like circumstances, before. But it is the same position I took in the case of California, eight years ago. It is the same I maintained on the great occasion of the organization of Kansas and Nebraska, four years ago. Time and added experience have vindicated it since; and I assume it again, to be maintained to the last, with confidence that it will be justified, ultimately, by the country and by the civilized world. You may refuse to yield it now, and for a short period; but your refusal will only animate the friends of freedom with the courage and the resolution, and produce the union among them, which alone are necessary, on their part, to attain the position itself simultaneously with the impending overthrow of the existing Federal Administration and the constitution of a new and more independent Congress.

Mr. President, this expansion of the empire of free white men is to be conducted through the process of admitting new States, and not otherwise. The white man, whether you consent or not, will make the States to be admitted, and he will make them all free States. We must admit them, and admit them all free; otherwise, they will become independent and foreign States, constituting a new empire to contend with us for the continent. To admit them is a simple, easy, and natural policy. It is not new to us, or to our times. It began with the voluntary union of the first thirteen. It has continued to go on, overriding all resistance, ever since. It will go on until the ends of the continent are the borders of our Union. Thus we become collaborators with our fathers, and even with our posterity throughout many ages. After times, contemplating the whole vast structure, completed and perfected, will forget the dates, and the eras, and the individualities of the builders in their successive generations. It will be one great Republic, founded by one body of benefactors. I wonder that the President of the United States undervalues the Kansas question, when it is a part of a transaction so immense and sublime. Far from sympathizing with him in his desire to depreciate it, and to be rid of it, I felicitate myself on my humble relation to it; for I know that Heaven cannot grant, nor man desire, a more favorable occasion to acquire fame, than he enjoys who is engaged in laying the foundations of a great empire; and I know, also, that while mankind have often deified their benefactors, no nation has ever yet bestowed honors on the memories of the founders of slavery.

I have always believed, Mr. President, that this glorious Federal Constitution of ours is adapted to the inevitable expansion of the empire which I have so feebly presented. It has been perverted often by misconstruction, and it has yet to be perverted many times, and widely, hereafter; but it has inherent strength and vigor that will cast off all the webs which the ever-changing interests of classes may weave around it. If it fail us now, it will, however, not be our fault, but because an

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inevitable crisis, like that of youth, or of manhood, is to be encountered by a constitution proved in that case to be inadequate to the trial. I am sure that no patriot, who views the subject as I do, could wish to evade or delay the trial. By delay we could only extend slavery, at the most, throughout the Atlantic region of the continent. The Pacific slope is free, and it always must and will be free. The mountain barriers that separate us from that portion of our empire are quite enough to alienate us too widely, possibly to divide us too soon. Let us only become all slaveholding States on this side of those barriers, while only free States are organized and perpetuated on the other side, and then indeed there will come a division of the great American family into two nations, equally ambitious for complete control over the continent, and a conflict between them, over which the world will mourn, as the greatest and last to be retrieved of all the calamities that have ever befallen the human race.

Mr. THOMSON, of New Jersey. Mr. President, I shall vote for the bill for the admission of Kansas as a State into the Union, and I shall ask permission, very briefly, to state some of the reasons which induce me to do so.

I am aware, sir, that this subject has been so fully discussed in this Chamber that nothing new can be added to it by any one, least of all by me; and I therefore owe an apology in advance to the Senate for repeating, as I shall be obliged to do, what has been said before so much better than I can possibly hope to do. But the section of the Union from which I come, with the views I entertain, render it proper, if not necessary, that I should ask your indulgence for a few minutes.

For the last four years our country has been kept in a state of fearful excitement by the agitation of a question which has threatened the existence of our Union, and, if much longer continued, must at no distant day inevitably dissolve it.

An opportunity, in my opinion, is now presented to settle it—an opportunity by which this question, which can never be discussed with profit or safety in Congress, may be removed forever from its Halls.

An opportunity is now presented to localize an institution within the limits of the States which are interested in it, and to carry out the great principle of the Kansas-Nebraska act of "non-intervention by Congress with slavery in the States and Territories." Shall we embrace the opportunity thus presented, or shall we, by neglecting it, put in peril, as we will do, the peace, if not the existence, of the Union?

A Territory of the United States asks admission as a State into the Union, and presents to you a constitution in every respect—in form and in substance—legal and republican; a constitution framed and put into operation in precisely the same manner as ten out of the new States of the Union; a constitution whose validity is recognized by the acts of the people, and substantially ratified by their election, under its provisions, of a member of Congress to represent them in your House of Representatives, a Governor, and members of the State Legislature.

But, notwithstanding this perfect conformity with law and usage, this application is resisted on the ground of its constitution not being in accordance with the will of the people, and its not having been submitted as a whole to them for ratification or rejection.

Now, Mr. President, from the great stress which has been laid in certain quarters upon the necessity of such a submission, one would be apt to suppose that such had always heretofore been the rule as a prerequisite to the admission of a State into the Union; and that the case of Kansas, in which the whole constitution was not submitted to the people, was a fatal exception to that rule, and on that account should be rejected by Congress.

But in the investigation which I have made into the history of the formation of the constitutions of the different States of the Union, I have arrived at a very different result; and am satisfied that, so

far from submission being a rule, it has been a marked exception to it. Now, although I do most heartily approve of the submission to the people of a State of all great questions affecting their interests, not only their forms of government, but also legislative acts involving the creation of debt and the faith of the State, yet, sir, the submission of a constitution, after having been framed by a convention of delegates duly elected for that purpose, has certainly not been considered necessary by a large number, if not by a majority of the States of this Union. If the people desire to act directly by their votes upon the adoption of a constitution, they have the undoubted right to do so. But they have an equal right to delegate their power to a convention to act for them, and to make and put in operation a constitution without submitting it to them for their further action.

And if it be true, as has recently been said, that a submission to the people, and their adoption of a constitution, is necessary to give it validity, then, upon the same principle, legislative acts should in like manner be submitted before taking effect; for the people are more interested in, and frequently more seriously injured by, bad laws than by bad constitutions.

I have said that a large number, if not a majority, of the States of the Union, have not considered this submission as at all necessary. The constitutions, now in force, of the following named States, were not submitted for ratification to the people, but adopted in convention.

Vermont adopted her constitution July 4, 1793, in convention at Windsor. (Compiled Statutes of Vermont, page 15.)

Connecticut, by convention, in 1818. (See Compilation of Statutes of Connecticut, 1854, pages 29 and 45.)

Delaware, by convention, in 1831. (See Acts of 1831, page 49; and Revised Code, page 43.)

Pennsylvania, by convention, in 1838, with a provision for future amendments to be ratified by the people. (See Purdon's Digest, page 17, section 10.)

North Carolina adopted her present constitution in 1776, by convention; amendments in 1835.

South Carolina, in 1790, by convention.

Georgia, by convention, on the 23d of May, 1798.

Alabama, in 1819, by convention under enabling act. (See Code of Alabama, page 26, section 5, page 28.)

Mississippi, by convention, in 1817; and revised in like manner in 1832.

Tennessee, by convention, in 1836.

Kentucky, by convention, in 1799.

Arkansas, by convention, without enabling act. (See Revised Statutes of Arkansas, pages 17-48.)

Missouri, by convention, in 1820; and not submitted to the people.

Illinois, by convention, in 1818; also appears not to have been submitted to the people.

The following were compelled by statute to submit the constitutions framed by the conventions to the people:

New York, constitution adopted in 1846. Section 9, act of 1845, providing for the convention, required its ratification by the people.

New Jersey, act of 1844, approved February 23. Section nine required its submission to the people. It was submitted and ratified in 1844.

Maryland, formed in 1851, and ratified by the people, in accordance with previous act of Legislature. (See Acts of 1849, chapter 346, section 8.)

Virginia, formed in 1851. Act of March 13, 1851, required its ratification by the people.

Indiana, formed in 1851, ratified by the people, as required by the law authorizing the convention. (See act of 1850, approved January 18, sections 14 and 15.) The section relative to the exclusion and colonization of negroes was submitted as a distinct proposition. (See Revised Statutes, volume 1, page 72.)

Wisconsin, 1848. Section nine of schedule required its ratification by the people. (Revised Statutes, 1849.) In April, 1847, the constitution was defeated by over seven thousand majority. (Niles's

Register, volume 72, page 114.) A new constitution was then formed, and the State admitted under it May 29, 1848.

Iowa, formed in 1846. Previous laws of June 10, 1845, (over the veto of the Governor,) and of January 17, 1846, required ratification by the people.

Ohio, the first constitution, formed under an enabling act of Congress, adopted 29th October, 1802, was not submitted to the people; that of the 10th March, 1857, was submitted to the people and approved by them.

Louisiana, formed 1852. The constitution was, by previous enactment, required to be submitted, and was ratified by the people.

Michigan, formed 1850. Act of March 9, 1850, required it to be submitted to the people. (See Laws of 1850, No. 78, section 6, on page 66.)

Maine, formed in 1819, by convention, (page 432 Hickey's Constitution;) amendments submitted to the people 1834, 1837, 1839.

New Hampshire, formed 1792. (See Compiled Statutes, page 15.) Approved by the two-third vote of the people, and established by convention September 5, 1792.

Rhode Island, formed 1842. Ratified by vote of the people in pursuance of act of the Legislature.

Massachusetts, formed 1780. Convention adjourned till constitution was ratified by two-third vote.

Texas, formed 1845. Submitted to and ratified by the people.

The constitutions of the following States were submitted by conventions to the people, without their being required by law to do so:

Florida, formed in 1838. Territorial act of 1838 (see act of 1838, page 5) did not require the ratification of the constitution by the people. There was no authority of Congress. The convention (see Digest of Laws of Florida, page 9) required ratification by the people.

California, formed in 1849. Convention required the ratification of the constitution by the people. There was no authority of Congress or legislative act to frame a constitution. (See Statutes of California, page 24, sections 5, 6, and 7.)

From this statement it will be seen, sir, that in fourteen States constitutions were formed by conventions, and went into operation without any submission whatever to the people.

In fifteen States conventions, in obedience to the law convening them, directed the submission of their constitutions to the people; and in only two States, viz., Florida and California, conventions submitted their constitutions to the people, without being required by law to do so.

But, considering the very peculiar circumstances attending the formation of the constitutions and State governments of these States, Florida and California, they can hardly be regarded as exceptions to the rule and practice of conventions, viz., submitting constitutions only when they were expressly required by law to do so.

In the case of Florida the constitution was submitted to Congress February 20, 1839, and it was not admitted as a State until March 3, 1845. This delay was occasioned by the great diversity of opinion which existed in the Territory, as to whether application should be made at that time for the admission of the Territory as a State, or to postpone the application until their population would authorize them to ask admission for two States, East and West Florida, into the Union. It was this difference of opinion, as appears from the proceedings of Congress from 1839 to 1845, which postponed its admission for so long a time. The submission of the constitution to the people was not intended merely (if at all) for the purpose of securing their ratification of its provisions; but for the purpose of ascertaining whether they desired, at that time, to make application, under the constitution submitted to them, for admission into the Union. The vote on this question was very nearly equal. The difference between Florida and Kansas, in this respect, is a very marked one. In Kansas the sense of the people as to whether

they desired admission into the Union, was taken before the assembling of the convention, and in Florida, in a different form, after it had framed a constitution.

And with regard to California the same necessity of submission existed in an equal, if not greater degree. At the time of the formation of the constitution of that State, California was not an organized Territory of the United States, but a conquered country, under military government. The convention of delegates to frame a constitution was called not by any legal or any duly authorized body, but by order of the military governor. And under such circumstances it became an indispensable necessity, that a constitution, so framed, should be ratified by the people, in order to impart validity to it. Congress could not otherwise be expected to entertain their application for admission.

In the case of Kansas, also, it must be observed, that so far from the convention being instructed by the Legislature to submit the constitution they might frame to the people for their sanction, the very reverse may fairly be inferred from the fact that the act "to provide for the election of delegates to the convention" was vetoed by Governor Geary, because, as he says in his message returning the bill, "it failed to make any provision to submit the constitution, when framed, to the consideration of the people for their ratification or rejection." And yet, sir, the act was passed over this veto, by a two-third vote. Certainly then, after this expression of the Legislature of Kansas, and the long line of precedents to which it might refer, the convention might fairly consider itself justified in submitting or not submitting the constitution to the people, as in its judgment at the time might be considered most expedient. From these facts is not, I ask, the inference plain and irresistible, that when the people, speaking through their representatives, desire such a submission, they provide for it, and that when they do not provide for it, a convention may consider it unnecessary for it to do what the law which called it into being did not require or expect it to do. It cannot be said in any case where this was not required, that it was an oversight. That would be doing great injustice to the Legislatures of the States, and to the learned men who participated in the formation of their several constitutions.

Again, sir, I will ask the attention of the Senate to the "joint resolutions of Congress for annexing Texas to the United States," approved March 1, 1845, for the purpose of showing the opinion entertained by that body of this question of submission. This "joint resolution" declares that—

"Congress doth consent that the territory properly included within, and rightfully belonging to, the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said Republic, by deputies in convention assembled; with the consent of the existing government, in order that the same may be admitted as one of the States of this Union."

Not one word is here said about submission to the people, notwithstanding there was at that time probably as much difference of opinion, on some subjects, in that Republic, as now exists in Kansas on others.

Again: in the resolution providing for the admission of the State of Missouri, "on a certain condition," approved March 2, 1821, such a submission was not deemed necessary. This condition was accepted, not by the people of Missouri, but by the Legislature of the State, by a solemn public act, declaring the assent of this State to the "fundamental condition contained in the resolution of Congress," and approved June 26, 1821. This act of the Legislature, accepting the "fundamental condition," which then became a part of the constitution of the State, was deemed an acceptance by the State; and the President of the United States, on the 10th of August, 1821, issued his proclamation, declaring the admission of Missouri complete, according to law, and it became one of the States of the Union.

We have now seen that an equal number of the States of the Union, the Congress of the United States, and the President, Mr. Monroe, have not regarded submission of a constitution to the people for their approval, as necessary to give it validity. Let me now ask attention to the action of the territorial committee of this body and the

Senate on this very question. The distinguished Senator from Georgia, [Mr. Toombs,] on the 25th of June, 1856, submitted to the Senate a bill for the admission of Kansas as a State; which was referred to the Committee on Territories, of which the distinguished Senator from Illinois [Mr. Douglass] was chairman. The third section of this bill contained the following provision:

"That the propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection; which, if accepted by the convention, and ratified by the people at the election for the adoption of the constitution, shall be obligatory upon the United States and the said State of Kansas."

But, sir, when this bill, known as the "Toombs bill," was reported back to the Senate, the words "*and ratified by the people at the election for the adoption of the constitution,*" were stricken out, and the bill as amended passed the Senate, every Democratic member present voting for it except one.

And, Mr. President, in view of these facts, may I not say that, if the convention of Kansas did err in the respect of not submitting their whole constitution for popular approval, it has, nevertheless, done more to propitiate the spirit of popular sovereignty, by submitting an important provision in it, than fourteen States of the Union, whose constitutions, in whole or in part, have never received, by vote, the sanction of the people; and I submit that its rejection on that account at this day would be most cruel and unjust.

If misguided men in Kansas neglected the opportunity presented by such a submission to exhibit their majority, and, by their refusing to vote, gave an easy victory to their opponents, (by which an obnoxious provision in the constitution has been retained in it, which they might have stricken out,) they have no one to complain of but themselves, and the bad advisers who directed and controlled their action.

The Territorial Legislature afforded them, in the first instance, an opportunity, if they were a majority, as they claim to be, to elect delegates, who would have represented their views, not only on the slavery, but on all other questions in the convention; and the convention afterwards gave these an opportunity of striking from the constitution it had framed the only provision on which any difference of opinion existed in the Territory; yet, neglecting both opportunities, these men, or rather this party, now complain of injustice and wrong having been done them in the formation and adoption of the constitution, and insist upon its rejection. Appearing upon the record, in all the votes cast for delegates to the convention, and afterwards in the vote on the constitution, as a minority, they still insist that they are a large majority of the people of the Territory, and have been defrauded of their rights by a small minority.

And, sir, if it be true that the free-State party, as it is called, with a majority of three to one, as compared to the so-called pro-slavery party, suffered itself to be oppressed, wronged, and down-trodden by so small a minority, they, sir, are not entitled to our sympathy for their sufferings, but, on the contrary, deserve our contempt for their cowardice and imbecility. They claim to be a large majority, and it may be true; but there is no evidence of it in any election returns with which Congress can have any concern. They refuse to give the proof of this in the only way in which it can be given—by their votes—and then modestly ask us to take their word for it that they are a very large majority, and that the constitution framed at Lecompton is not in accordance with their will.

In the election for delegates to the convention, and the vote on the slavery clause of the constitution, the majority was very large against this party. No doubt it was so very large because in a factious spirit, they refused to vote on these occasions. But this was their own act, and they have no right to ask Congress to give them relief from the consequences of their own misconduct, by setting aside the elections in which they refused to participate. Congress can only judge of the result of an election by votes delivered, and not by votes withheld.

In this case, it seems to me that the only questions which Congress can properly consider (with reference to its admission) are not, whether every man in the Territory voted or not, nor into every irregularity which occurred in the elections; nor whether more frauds were committed by one party or the other party in the Territory, in their local

elections. With these things Congress has nothing to do. But they may inquire into the legality of the body which framed the constitution, and as to the vote by which the constitution, or that part submitted to the people, was adopted. And in regard to the legality of the one, and the fairness of the other, there ought to be no dispute.

The Territorial Legislature, elected by the people, recognized by Congress, by the President and late President of the United States, by all the Governors of the Territory, including Governor Walker, were fully authorized in assembling a convention to frame a constitution, preparatory to its application for admission as a State into the Union. The sense of the people of the Territory had been taken as to whether they desired to be admitted into the Union, and a large majority were in favor of it. The Territorial Legislature then, in conformity with their wishes thus expressed, passed an act providing for the election of delegates to a convention to frame a constitution. The legality of this act is fully maintained by Governor Walker. He says:

"The Territorial Legislature, then, in assembling this convention, were fully sustained by the act of Congress; and the authority of the convention is distinctly recognized in my instructions from the President of the United States. Those who oppose this course cannot aver the alleged irregularity of the Territorial Legislature, whose laws in town and city elections, in corporate franchises, and on all other subjects but slavery, they acknowledge by their votes and acquiescence. If that Legislature was invalid, then are we without law or order in Kansas; without town, city, or county organization; all legal and judicial transactions are void; all titles null; and anarchy reigns throughout our borders."

The whole people are then invited and urged to vote for their delegates.

Mr. Stanton, in his address of the 17th of April, 1857, says:

"The Government especially recognizes the territorial act which provides for assembling a convention to frame a constitution, with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention."

And Governor Walker, on the 27th of May, in his inaugural address, says:

"The people of Kansas, then, are invited by the highest authority known to the Constitution, to participate freely, and fairly, in the election of delegates to frame a constitution and State government."

And in the same address he warns them of the consequences which may result from their refusal to exercise the right of suffrage. He says:

"You should not console yourself with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution." * * * "Why incur the hazard of the preliminary formation of a constitution, by a minority, as alleged by you, when a majority, by their own votes, could control the framing of that instrument?"

But notwithstanding these invitations, appeals, and solemn warnings, a portion claiming to be a majority of the people refused to take part in the election, and thus suffered a minority to elect their delegates and frame a constitution in accordance with their own views.

The convention of delegates then, thus fairly elected, met and framed a constitution; and among its provisions is to be found one recognizing the institution of domestic slavery within the State. All the disturbances in Kansas, from the establishment of the territorial government, had their origin in this distracting and dangerous subject; and as it was a provision of paramount importance, the convention submitted it to the people for them to determine whether it should be retained in the constitution or stricken out. The question was thus ordered by the convention to be submitted to the people to be decided by their votes: "constitution with slavery," or "constitution without slavery." At the time and places ordered, polls were opened and the votes were received on this single question.

The convention was not bound, as I have before stated, by the act of the Territorial Legislature to submit the whole or any part of the constitution for ratification; but they did submit that part of it which related to this question, and the factious and revolutionary party, in like manner as they refused to vote for delegates to the convention, refused to vote upon this submission. It was accordingly retained, and is now a part of the organic law of Kansas as presented to Congress.

It seems to me, sir, that these people, being in a state of rebellion against the territorial government and the United States, were determined to resist from the beginning everything tending to a quiet settlement of the disturbances in the Territory, and the organization of a State government; and that I may do no injustice to them, I ask leave to insert what Governor Walker says to them in his proclamation of the 15th of July:

"You have, however, chosen to disregard the laws of Congress, and of the territorial government created by it; and whilst professing to acknowledge a State government rejected by Congress, and which can, therefore, now exist only by a successful rebellion, and exact from all your officers the perilous and sacrilegious oath to support the so-called State constitution; yet you have, even in defiance of the so-called State Legislature, which refused to grant you a charter, proceeded to create a local government of your own, based only upon insurrection and revolution. The very oath which you require from all your officers, to support your so-called Topeka State constitution, is violated in the very act of putting in operation a charter rejected even by them.

"A rebellion so iniquitous, and necessarily involving such awful consequences, has never before disgraced any age or country."

And I will here express a strong doubt, judging from the turbulent and rebellious character of these men, whether, if the whole constitution had been submitted to them, and had been rejected, they would have called a convention to make another one. I think it extremely doubtful. Pretending, as they do, to regard the Topeka constitution as a valid one, they would adhere to it. For the sake of consistency they would maintain the validity of their own constitution, and would hardly vote for anything which would destroy the work of their own hands, and expose the iniquity of their own conduct. Besides, sir, a large number of these men do not want a settlement of this question. That would bring peace not only to Kansas, but to the Union; and their vocation would be gone. It is not peace that they seek or desire. It is agitation. Did they seek peace—did they honestly desire to change the constitution by peaceful and speedy means—they would be here, sir, advocating the admission of Kansas as a State, at the earliest possible day, that they might then take its government into their own hands, and make such a constitution and laws as would suit themselves. There can be but one of two reasons why they do not pursue this course: either they know they are not, as they claim to be, a majority of the people; or, if they are a majority, they prefer strife, agitation, civil war, and bloodshed, to a peaceful settlement of this question. And all this can, and I fear will, be brought about by the rejection of the Lecompton constitution.

In this spirit, and with this end in view, they pretend that no change can be made in the constitution until the year 1864, and that the curse of slavery will be fixed upon them until that time, if not forever. And this is done in the face of the Bill of Rights, which provides, in article two, that—

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

And also, in the face of the plain meaning of the article in the schedule which provides, that the constitution, after the year 1864, cannot be altered except in a manner prescribed; but says nothing whatever in regard to it between the time of its adoption and the period above named, 1864:

"Sec. 14. After the year one thousand eight hundred and sixty-four, whenever the Legislature shall think it necessary to amend, alter, or change its constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the representatives: said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution; but no alteration shall be made to affect the rights of property in the ownership of slaves."

The report of the territorial committee of the Senate, presented on the 18th of February last, in reference to this question, says:

"The Lecompton convention has provided a full, lawful, and perfect remedy for every conceivable grievance, and placed the remedy in the unrestricted hands of the majority of the people, by inserting in the constitution the following distinct and unequivocal recognition of power."

That is in the second article of the bill of rights, to which I have just referred.

Again, Mr. President, if all change were prohibited until 1864, it seems to me that it comes with an ill grace from the especial advocates of the doctrine of popular sovereignty to deny to the people the right to make a change in their organic law, in spite of any prohibition whatever, whenever they see fit. And it is not at all consistent for them to maintain that the sovereigns of to-day may frame a constitution which cannot be changed without revolution by the sovereigns of to-morrow. If this be true, sir, then have the people of these United States passed through a great many revolutions without their knowing it; for nearly every old State in the Union, and some of the new States, have changed their constitutions within the past half century. But, on this point, I will take the liberty to refer to very high authority—the distinguished Senator from New York, [MR. SEWARD.] In his speech, delivered in the Senate on the 2d of July, 1856, on the admission of Kansas as a State, under the Topeka constitution, he says:

"I take the constitution, as we must all take it, for better or for worse—just as it is—or we cannot admit the State at all. The people in the new States make their constitutions. Our power is limited to the admission or rejection of a State, whatever its constitution may be. Again, it is not clear that the provision complained of by the Senator from Georgia will prevent the people of Kansas from subverting this constitution, and establishing a new one at any time short of the expiration of nine years. The constitution of the State of New York, established in 1821, provided for alterations to be made with the consent of two successive Legislatures. A party desiring radical innovation, and finding it impossible to obtain that object in the form prescribed in the constitution, secured a majority in the Legislature; and, without any constitutional authority, carried through a law by which proceedings were instituted for calling a convention, which was subsequently held, and which framed a new constitution. This new constitution, being submitted to the people, and approved by them, in derogation of the old one, became, and it yet remains, the supreme law of the land."

And so in the State of New Jersey. The constitution of 1776, which was abolished by the substitution of that of 1845, declared it "firm and inviolable, unless a reconciliation between Great Britain and the colonies should take place, and the latter taken under the protection of the Crown of Britain;" or, in other words, it was declared to be firm and inviolable forever. Yet a majority of the Legislature of that State passed an "act to provide for the election of delegates to prepare a constitution of the State, and for submitting the same to the people thereof for ratification or rejection." And this convention met and framed a constitution, which in due time was submitted and approved, and is now in full force in that State. During all which time, from the passage of that act until the new constitution went into operation, the people of that State were entirely unconscious that they were passing through a revolution.

I think, therefore, we need be under no concern in reference to the ability of the people of Kansas, both under the provisions of the constitution and the higher law of popular sovereignty, to change their constitution whenever they see fit.

Mr. President, the present opportunity of settling the dangerous question of slavery, and binding together with new and strong bonds of affection the different sections of our common country, should not pass unimproved. Bad as things have been in Kansas for the last few years, I feel very confident they will be rendered infinitely worse if we refuse to admit the State into the Union at this time. Frauds, iniquities, and acts of violence without number, have been perpetrated, perhaps, in an equal degree by both parties. They are painful in the extreme, and I am impatient that we should be relieved from their consideration, and that these people should be left to settle their own difficulties in their own way. "*Non nostrum tantas componere lites.*" It is not for Congress to assume the duty of settling their domestic difficulties.

The evils to arise from the rejection of Kansas appear to me so great and fearful, and those which may arise from its admission so slight and transitory, that I cannot hesitate to plead for its admission. Reject it, and you reopen with increased ferocity the intestine war which has been raging for years past, but which at the present moment has nearly ceased. The strife, then, will not be confined to the inhabitants of that region, but auxiliaries from free States on the one side, and slave States on the other, with arms in their hands,

will rush to the seat of war, thirsting for each other's blood. And, sir, if the Union should survive the rejection, which I doubt, (for the united South would consider it a declaration that hereafter no slave State shall be admitted into the Union,) who can fail to see that war cannot be confined to the locality of Kansas? It will go into bordering States. It will be a sectional war, and the knell of the Union will then be rung. At present there is a calm in Kansas. For the sake of the Union, do not disturb it; do not raise another storm which, in its fury, may sweep away not only Kansas, but yourselves. Leave the people of Kansas free to fight their own battles for supremacy, under their own State government and laws. They will soon settle down as the citizens of all the other States have done, and we shall hear no more of bleeding Kansas or of bordering ruffians. More than all, the slavery agitation, banished from the Halls of Congress, will cease to distract us, and our beloved Union will be established on a basis which, I trust in God, may never be overthrown.

MR. HAMMOND. Mr. President, I move that the Senate adjourn.

MR. GWIN. I hope the Senator will allow us to have an executive session. This subject may be postponed until to-morrow, and he will then have the floor upon it.

MR. BIGLER. I will state that the Senator from South Carolina moved an adjournment in order that he might be entitled to the floor to-morrow. If it is understood that he will have the floor, then he will have no objection to an executive session.

THE PRESIDING OFFICER, (MR. STUART.) Does the Senator from South Carolina withdraw the motion to adjourn?

MR. HAMMOND. Yes, sir.

MR. GWIN. I move that the Senate proceed to the consideration of executive business.

MR. CRITTENDEN. I move that the Senate adjourn.

The motion was not agreed to.

EXECUTIVE SESSION.

On motion of Mr. GWIN, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 3, 1858.

The House met at twelve o'clock, m. Prayer by Rev. G. S. DEAL.

The Journal of yesterday was read and approved.

ENROLLED BILL.

MR. DAVIDSON, from the Committee on Enrolled Bills, reported as truly enrolled an act (H. R. No. 271) to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th of April, 1857, for the discontinuance of the Sound dues; when the Speaker signed the same.

EFFICIENCY OF THE NAVY.

The SPEAKER stated the business first in order to be the reconsideration of the vote by which Senate joint resolution No. 3, to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to promote the efficiency of the Navy in respect to dropped and retired naval officers," was referred to the Committee of the Whole on the state of the Union; on which Mr. WHITELEY was entitled to the floor.

MR. QUITMAN. Was not the Army bill postponed to this day?

The SPEAKER. The consideration of the Army bill was postponed to this day; but the pending proposition is a question of higher dignity than the consideration of the Army bill. That will be the first business in order after the pending joint resolution shall have been disposed of.

MR. PHELPS. If the gentleman from Delaware will yield the floor, I desire to ask the unanimous consent of the House to introduce a bill of which previous notice has been given. My object is to have the bill referred to a committee.

MR. HARLAN. I want to make a proposition

of the same kind. If the privilege extend all round the House I will not object.

Mr. BLISS. I have been trying for several days past to get the floor for the same purpose.

Mr. PHELPS. Well, then, I hope a few minutes will be allowed for the purpose of introducing bills.

Mr. HARLAN. I object to all this favoritism.

Mr. EDIE. I call for the regular order of business.

PRINTING OF DOCUMENTS.

Mr. J. GLANCY JONES. With the permission of the gentleman from Delaware, I desire to submit a motion to have printed, for the use of the House, reports of the balances of appropriations on the 22d of January, 1858, for the several Executive Departments.

The motion was agreed to.

PROPOSITIONS FOR CALL OF STATES, ETC.

Mr. KINGSBURY. I ask to have taken from the Speaker's table Senate bill No. 82, that it may be referred to the Committee on Public Lands.

Objection was made.

Mr. BURNETT. I have no objection to gentlemen offering resolutions and bills if there be an understanding that all shall have an opportunity of doing the same.

Mr. PHELPS. I ask that consent may be given to the submitting of this proposition to the House, that half an hour be set apart for the calling of States for the introduction of bills for reference.

Mr. BLISS. Say for bills or resolutions.

Mr. PHELPS. There is some objection made to the introduction of resolutions.

Mr. GROW. Then I shall object to the introduction of bills.

Mr. PHELPS. I will modify my proposition. I propose that half an hour shall be set apart for the introduction of bills for reference, and of resolutions to which no objection shall be made.

Mr. SHERMAN, of Ohio. Extend the time, so that all the States may be called. Half an hour may not be sufficient.

Mr. LETCHER. I should like to make a suggestion to my friend. I ask him to make another limitation—that bills are not to be brought back here on motions to reconsider.

Mr. PHELPS. I am very willing to do that.

Mr. SEWARD. I entirely object to any arrangement of that sort. Let us progress regularly with the business.

EFFICIENCY OF THE NAVY.

Mr. WHITELEY. In rising to express my views on this resolution, I wish simply to state my reasons for voting for it, and for entering my protest against the original bill, establishing the naval board, passed in February, 1855. The proposition now before the House, coming from the Senate, is a simple one. On the 28th of February, 1855, the bill establishing what is generally called the naval board was passed, and under its decisions, some two hundred naval officers were displaced, and, I should call it, disgraced. Finding themselves thus disgraced and disgrated; deprived of rank and position, they came back, asking the last Congress to do that little act of justice that was left to them: to give them naval courts of inquiry, before which they could go and state their cases, and see if they could not procure justice from men who were promoted over their heads; and could not convict this first board of an act of injustice toward them.

Congress passed such an act on the 16th of January, 1857, and under its operation one hundred and eight officers went before the court; and out of that number, the court was compelled, by the record and by the evidence which these disgraced officers brought before it, to replace some sixty-seven. This resolution asks that the balance of these officers—from sixty-seven to one hundred and eight—whom this court decided to be unfit, either mentally, physically, or professionally, for the naval service, should be allowed to go before the President, and that the President should say, not as the executive, but as the judicial officer, revising the records of this court, whether any of these forty-odd officers should be renominated to the Senate for their old rank and position in the Navy. That is the proposition before this House, as passed by the Senate.

I could have much to say against this original

bill, but I do not consider it either important or pertinent to the question before us. The deed is done, and its effect is stamped upon the Navy and upon the country. All this resolution asks, is that we shall remedy the injustice of that act as far as we can.

There was a remark made by the gentleman from Maryland [Mr. DAVIS] yesterday, which I regretted that he made. It was that the object of the act of 1855 was to purge the Navy of rotten material. Mr. Speaker, if the material of which the Navy was at that time purged was rotten, God defend the country from the sound material of the American Navy.

Is the gentleman willing to stigmatize such men as Stewart and Bartlett, Morris, Gilliss, and others, whose heads have been stricken off by that iniquitous act, as rotten material? Men who first made, and then defended, the Navy? Men who have shed glory on the Navy by their practical, as well as their scientific, seamanship—men who have given reputation to our Navy in every land and upon every sea, rotten material? Why, sir, who were the sound material in the war of 1812-15? If they are to be called by the gentleman from Maryland rotten material, then the whole thing is rotten, and the sooner we break up the Navy the better. If these men are rotten material, then I call upon the gentleman from Maryland to answer me this question: why did not this secret board—this board which covered up its acts with the dark cloud of silence—keep a record, and let us know in what the rottenness of these officers consists? The gentleman says it was not the fault of the board; it was the fault of the Secretary of the Navy that he did not give them instructions to keep a record. I differ with the gentleman from Maryland in that opinion. It may be so; I have not read the instructions of the Secretary of the Navy. It may be that he never ordered them to keep a record. But if he did not, I ask this House why these men, when they were sitting as judges, nay, when they were sitting as so many attorneys general and judges-advocate, when they were to put out of their places their fellow-officers, why is it that they did not keep a record, even if it was not ordered by the Secretary of the Navy? They owed it to themselves as judges; they owed it to themselves as officers; they owed it to themselves as men, to give the world the reasons on which they acted.

Now, Mr. Speaker, so much for that branch of the subject. This Senate resolution is merely, in my opinion, a confirmation of the power which the President possesses. I hold that the President, after the passage of this resolution, has the constitutional power and the legal right to inspect these records, and nominate to the Senate any officer whom he may think has been unjustly dealt with by these courts of inquiry. But as a matter of assurance, to make the matter perfectly sure, it is desirable that this resolution should be passed so that there should be no doubt as to the power of the President.

Now, sir, another reason: I call the attention of the House to the fact that the men composing the courts of inquiry under the act of the last Congress, were, I believe, all of them, men who had been promoted in consequence of the action of the first board. Sir, I have no complaint to make against these men; I have no charge to make against them; I believe, not knowing them personally, that they were men of honor. But believing this fact, I know this further fact, that they were human beings, and the epaulets on their shoulders and the military coats on their backs did not prevent their feelings as human beings from operating upon them. They were acting upon the cases of those who, if replaced in office, would affect themselves in their chances for promotion; and I know that such considerations will have their effect upon men whether in military or civil life. And it is upon this principle alone that I can account for the strange and curious findings of these courts of inquiry to which I shall call the attention of the House.

The law of 1857 said that these courts should investigate the physical, mental, professional, and moral fitness of these officers for the naval service, who having been dropped, retired, or furloughed, under the act of 1855, should choose to claim a trial. Now sir, let me refer to the findings of that board in one case just to convince the House of the strangeness of these judgments.

I do not give the names because, although this paper has been printed, it has not been made public:

"1. That the said Captain —, is morally and professionally fit for the naval service.

"2. That the evidence shows no unfitness from a want of bodily health or strength.

"3. That his mental and physical temperament is shown to be of such a character as to unfit him for active service in his present rank."

Now, what strikes me as peculiar in this third clause, and the one which ostracised the officer, is that his mental and physical temperament unfitted him *not* for the Navy, but for his rank in the Navy.

He is sane enough to be a midshipman. He is sane enough to be a lieutenant, or commander, but his mental temperament unfits him from holding the rank of captain. He stood in some one's way, and must therefore be displaced.

I want the gentleman from Maryland, or anybody else, to justify such a finding upon law, equity, or common sense. I can understand the expression mental or physical temperament, but taken in connection with the subsequent portion of the finding, I confess it is beyond my comprehension. They say that he is professionally fit, but his mental temperament unfits him. They say that he is morally and professionally fit for the naval service. Well, sir, does not that give the contradiction to the third finding, that his mental temperament disqualifies him? I defy any man in reason to say that I am professionally fit in whatever is my business, and then that my mental temperament makes me unfit. There is a contradiction in terms. The second finding is, that the evidence shows no unfitness for a want of bodily health or strength. Does not that give a contradiction to the third finding, that his physical temperament disqualifies him? I want this finding dispassionately considered. Will gentlemen tell me that this is not a case where the President ought not to have taken up the ridiculous verdict to which I have referred, set it aside, and sent this man's name to the Senate to be recommended in his rank, from which he has been thus rudely and wrongfully dismissed? Just think of a board of captains of the Navy, who may understand the temper of iron, turning themselves into mental philosophers, to decide on the mental and physical temperament of their fellow-officers! I would as lief refer to them such a question for decision, as to refer to jack-tars of the fore-castle a question of theology. Think of this board, after having declared a man professionally fit, being driven to the miserable subterfuge of saying that his mental temperament unfits him. This involves a study of abstract questions of philosophy which I say without disrespect to any one, very few of the officers of our Navy are competent to decide. There is no reflection intended upon their education; but, sir, it is beyond denial that the finding of the board I have alluded to involves flat contradictions in terms.

Another case is that of a passed midshipman. The charge against him was, that he was unhealthy, physically unfit. The court found him physically unfit, because he had been previously in ill health; and that, too, when the certificate of a board of surgeons had been laid before it that his health had been entirely restored. He had been in ill health at one time; and, in 1857, this court decided that this man was physically incapable for the naval service of the country, although it had, staring it in the face, the certificate of physicians that his health had been perfectly restored. Who, under the canopy of heaven, could wish such a verdict to stand? Is not that such a case where the President ought to interfere?

I must hurry over these cases. There are many of them, and would consume three days in referring to them. The strangest case is the one to which I shall call the attention of the lawyers of this House. It is the case of a lieutenant whom the court certified one day that he was morally, mentally, and physically fit for the naval service, and directed the verdict to be entered by the judge-advocate; and yet, the next day, without any action of the President, the supervising power, came in and moved a reconsideration, and declared that he was unfit. Is not that a case where the President ought to interfere? Was not that court "*functus officio*" so far as this man was concerned, the moment they directed their clerk to enter a verdict upon their proceedings? I put it

to any man to say whether a court of inquiry, after finding that an officer is fit, and having put that finding upon the record, it can immediately afterwards make another finding? Because, forsooth, a motion to reconsider was not made, and that motion laid upon the table, is the officer's right to be affected?

There is another case still stronger. Because an officer did not "meet certain charges with the dignity and spirit of an officer and gentleman," because he did not challenge his assailant, the court found him unfit for the naval service. Whatever the members may have individually thought of dueling, they had in justice no right as a court to make such a finding. They had no right to condemn a man because he refused to violate the laws of his country. It is in every way the most iniquitous verdict ever rendered from any body of men wearing the appearance of a court. They find that he did not meet the charges with the dignity and spirit becoming a gentleman. He repelled the charges, and asked for a trial. The commodore would not give it to him. This court, I do not know which one it was, thought that he might have been innocent, but he ought to have challenged his assailant. They decided that because he did not so challenge his assailant he must be condemned. Is not this one of the cases where the President ought to interfere? I ask whether any fair man taking up that verdict on appeal, would not in justice turn out the court, and recommit this officer? They put him upon his trial on many charges, for being engaged in business, smuggling, &c., but they acquitted him from them all, and found him guilty because he refused to fight a duel.

Then again, sir, these courts gave themselves great latitude under those four qualifications of mental, physical, moral, and professional fitness. I am told that in one case they absolutely inquired into the relations subsisting between the officer and his wife. They went, or wanted to go, into the secrets of the bed-chamber, to know whether this man and his wife had ever quarreled. Now, is it not outrageous, is it not too bad, in this boasted free and enlightened country, that when you are trying a man upon his fitness as a sailor, you should inquire whether he and his wife ever had any little quarrels in the whole course of their connubial life? And yet that was done, and it is upon this record. Not only that, sir; but I am told by one of the counsel—and I may be permitted to say here, that these applicants had as able counsel as this country could produce, in their defense—that in some of these courts, when testimony was attempted to be given on the part of the United States, and counsel for the applicants objected, they overruled the objection before they even heard what it was. Now, is not that a case in which the President should at least see that proper evidence was received by the courts? Not only did they do that, but I am told that they would receive hearsay evidence, and did receive it; that they would receive opinions of and concerning facts, instead of having the facts themselves; that they would receive parol evidence of the contents of official documents and records; that they would receive allegations of acts and declarations of others not made in the presence of the applicants; that they would receive opinions of motives or intentions, without specific facts, and even the motives of the witnesses' opinion as to legal obligations and duties; they did everything else that no law under the canopy of heaven authorized them to do.

Now, Mr. Speaker, I put it to the House whether we will deny these people, who have been treated so illegally, (I use the word in its application to law,) the poor boon of letting the President, as a judge under the Constitution and laws, inspect these records; supervise them; not send every one of them to the Senate, but, in those cases where he sees that injustice has been done, ask the Senate, because of that injustice, to reinstate the officers? That is the proposition; that is its sole effect. Let the President take up the records; read them; see what has been done towards these naval officers; and recommit, by and with the advice and consent of the Senate, those whom he thinks have been unjustly dealt with. It was said by the gentleman from Maryland, [Mr. DAVIS,] if I understood him correctly, that the Executive would scarcely dare to assume the responsibility of recommitting men who

have been removed by the action of this board, and put them in charge of our national ships. Now, Mr. Speaker, I may have strange notions upon this matter; but my belief is, that many as brave and honorable men were turned out of the Navy by the action of that board as any two hundred who were promoted by it. I know some of them, and I know them to be such. It is true, some of them are not remarkable for particular refinement or courtesy of manner; but they are what our country wants when storms and enemies approach. They are sailors, and know what to do without running to the fore-castle for information. They are fine, rollicking Jack tars; and, when the danger approaches, they know their duty, and dare do it. Keep them in the service, and our Navy will have such a reputation, if we ever have the misfortune to be engaged in another war, as our Navy acquired in 1812-15.

I do not mean to mention the names of any of these men; nor do I mean to detain the House much longer upon this question. My object has been, by reading some four or five of the findings of these courts, to convince the House that they ought at least to do this simple act of justice—not to restore all of these officers, but simply to give the President power to revise the records himself, and let him and the Senate decide whether any of them, and if so, which of them, shall be restored. Prior to the passage of the act of February 28, 1855, we had a Navy which, in my opinion, could have stood against the world; but since then there is scarcely any one "so poor as to do it reverence." Why, sir, why is this? In my opinion, Mr. Speaker, it has been the direct and immediate result of the act of 1855. There was a time, sir, when, in the darkest hour of our national trials, our people naturally turned to the Navy for protection. There was a time, sir, when we all considered our national honor in the special keeping of our Navy. But, sir, that time is past and gone; and it will be irrevocably past and gone unless this simple act of justice is done to these disgraced officers, or unless these censors of the Navy, these men who set themselves up as judges in *that Israel*, are displaced by younger, if not, perchance, by better officers. The whole *esprit de corps* of the Navy is now gone; and the only way in which we can effect its salvation, in my opinion, is by doing justice, simple justice, to men who have been most unjustly treated.

Mr. BOCOCK. Mr. Speaker, I have to say to you, and to the members of this House, that it is to me no labor of love to rise to address the House upon the question now under consideration. I do it simply from a stern and a solemn sense of duty. I have seen enough, Mr. Speaker, and heard enough, since I have been giving my attention to naval affairs—and indeed I have seen and heard enough during this discussion in the House—to make me feel that he who rises here, as I rise here now, has an ungracious task to perform. I come not forward, sir, here, on this occasion, to plead the cause of any friend, or of any man. No blood of mine runs through the veins of any officer in the American Navy. I come not here, I say, to plead the cause of individuals. I rise here to raise one solemn, earnest voice in behalf of our country and our country's service. I know that he who does that has an unwelcome task to perform.

And now, Mr. Speaker, while gentlemen, friends of mine and men of ability, have spoken upon both sides of this question, permit me, in the beginning of my remarks, to call the attention of members to the difference in the tone and manner of the speakers.

Here was my eloquent friend from Charleston, [Mr. MILES]—and I speak it in no language of compliment—who did himself honor and distinguished credit by the opening speech which he made on this occasion; and, sir, what was the tone and tenor of his remarks? He appealed for mercy, for mercy and executive clemency, for men and friends. On the other side, there was the distinguished gentleman from Maryland, [Mr. DAVIS,] who opened this debate; and what were the tone and tendency of his remarks? He, sir, spoke for the service of the country; and that was the only appeal he made to the House.

Mr. MILES. Will the gentleman allow me to say a word?

Mr. BOCOCK. With great pleasure.

Mr. MILES. I think, Mr. Speaker, that the

gentleman has misunderstood me. I spoke yesterday without any sort of preparation, and without the least previous attention to the subject. I spoke simply from the impulse of the moment, and of my own heart. I was not aware that the matter was to come up, and therefore I had no intention to have spoken at all. But I did not mean to put my argument in favor of the resolution on the ground of mercy or clemency alone, solely, or even specially and particularly. I put it upon the ground of justice to those to whom I thought injustice had been done by the action of these boards. But I did say that there might be cases of old men who had worn themselves out in the service, who, perhaps, were no longer capable of discharging active duties—men who had worn themselves out in the service of their country, who had covered themselves and the country with glory; and that these men ought not to be, like a worn-out battle steed, turned adrift in their old age to scorn, to contumely, or, still worse to a brave and generous heart, to the pity of the world.

Mr. BOCOCK. I accept the explanation of my friend; and I need nothing more than the speech just made by him to show from what ground he views this subject. Permit me here, as I intended to do in another part of my remarks, simply to say, that from all the gentlemen of the House who have debated the question on his side, you have heard the same thing about turning out old and valiant and time-honored naval officers, with disgrace upon them. I deny it. This is beautiful in poetry and very eloquent in delivery before the House, but it lacks one thing to make it impressive and powerful; and that is, that it is not the fact.

Sir, the gentleman from Delaware [Mr. WHITELEY] told you this morning (and I take this a little out of the order in which I had intended to treat it) that before the assembling of the board under the act of 1855, the Navy was in a beautiful condition. In the hands of that plastic master, a beautiful picture of the condition of the Navy, prior to the act of 1855, was spread out before us. And now, said he, all that is gone. This *esprit de corps* of the Navy is lost. An eloquent and beautiful picture he drew; but it needs one thing, and that is, that it is not the fact. I call upon any gentleman to show me any proof that the Navy has not as much *esprit de corps*, as much spirit, as much gallantry, as much devotion to the country's service, as it ever had in the history of this land.

Now, Mr. Speaker, I desire to approach this subject a little more regularly, and I hope not to detain the House very long. The gentleman from Delaware and other gentlemen who have spoken on that side of the question, have stated pretty distinctly what the object of the resolution is. After having this naval reform board acting on the cases of these gentlemen, and after their having an appeal from that naval board to a special court of inquiry, and after their having been considered by both these tribunals unfit further to continue on the active-service list, they make this application to Congress to permit them to go to the President and ask him to restore them to the active-service list. That is all. Now, what course would the President take? I would be the last man in the House, Mr. Speaker, to indulge in the slightest imputation against the present President of the United States. I am his political supporter; and—if I may venture to say so in this assembly without having the appearance of arrogance or presumption—I am his personal friend. How are such matters as this usually conducted? And how will this thing be done, provided the resolution passes? Has the President of the United States, already burdened with duty, the time to take up the records of these courts of inquiry, examine into them, and determine whether injustice has been done, or whether justice has been done? Does any man who knows the ordinary operation of such things believe it for a moment? Let this bill pass, and what will you see? You will see these gentlemen going to their friends and getting them to enlist their friends, and going with their troops and trains to the executive mansion, beseeching the President to put them back into the Navy.

Mr. SEWARD. I want to understand whether the gentleman, while he concedes that injustice may have been done, will refuse to do justice because the President will be burdened with appli-

cations, and because he will not have time to do them justice?

Mr. BOCOCK. I will see, in the end, whether injustice has been done or not. I am examining what the nature of the operation of the thing will be. I trust, Mr. Speaker, that it will turn out otherwise. I trust that the executive officers of this country will have time, and will command the time, to examine these records, if sent to them. If so, I think that many of these gentlemen who expect to get in will find themselves unsuccessful.

Well, sir, how is this case in the view of it which I have presented? In 1855, previous to the passage of the act commonly called the act to promote the efficiency of the Navy, applications had come up from every quarter of the country, from almost every officer of the Navy, from everybody who took an interest in the Navy, asking the Congress of the United States to pass some act to give efficiency and energy to the Navy. As far back as I have any recollection of the action of the Naval Committee, a distinguished citizen of Ohio, who was then a member of this House, directed his attention, and the attention of the committee, to an attempt to create an efficiency board, to get rid of officers of the Navy who were, not rotten, not corrupt, but inefficient. The proposition failed at that time.

At a subsequent session of Congress, a distinguished gentleman from Tennessee, who is now quite much talked of in the land, and who talks a good deal in the land himself, and who was then in the position of chairman of the Naval Committee, directed his attention to the subject, and prepared a bill for the reorganization of the Navy, so as to promote its efficiency by retiring disabled and inefficient officers. That, too, failed. But the attention of the country was directed to the subject, and the effect was to bring back a response from all parts of the country, asking that this bill might be adopted. What state of things was then found in the Navy? We found the Navy stocked with officers, very few of whom—not one fifth—were employed. We found men lingering in the rank of midshipmen at the age of forty. We found men lieutenants, not entitled to command, at the age of fifty odd, and promotion entirely cut off. We found in the highest grades of the Navy men who had not seen service, some of them for sixteen or twenty years. There they stood, incompetent to serve, inefficient, worn out, or whatever you choose to call it, blocking up the way of promotion against younger and more efficient officers. Let me read, in this connection, what the late Secretary of the Navy (Mr. Dobbin) said in regard to this subject:

"And yet, such was the condition of the Navy—as urged by Secretaries and conceded by statesmen, officers, and citizens—such the loud cry for prompt reform, echoed and re-echoed through the country—that Congress, in its wisdom, failing to pass the general and more comprehensive bills originally reported by the committees, instituted this summary tribunal with signal majorities."

Now, sir, permit me to say that this bill was not the elaborate bill framed by the committee, of which I was a member, during that session; but a bill originating in the Senate, which passed the Senate by an overwhelming majority, and which passed this House by a large majority. The Secretary of the Navy, who had been some little time in office, and was well acquainted with the mental and physical character of the officers of the Navy, by reputation, impaneled a board of the very first men in the Navy—a board of men who, but for the clamor raised by those interested in and affected by their action, would have been to-day universally acknowledged to consist of the first men in the naval service. In reference to the character of the men composing this board, the Secretary of the Navy says:

"The officers selected to compose the board were, in terms highly laudatory, pronounced fit men for the delicate task. Indeed, when their names were announced, there was a warm and general expression of favor and gratification, rarely exhibited."

I know that to be the fact, and can confirm this statement of the Secretary of the Navy from my own personal knowledge; for at that time my attention was particularly called to the subject. What was the nature of that board? Gentlemen entirely misinterpret it, or misunderstand it. It has been characterized by gentlemen upon this floor, as a Star Chamber, as a secret inquisition. It has been said that this board sat with closed doors to try their brother officers, without giving

them an opportunity to be present to examine witnesses, or to be heard by counsel. Sir, this was no such board. It tried no man. It did not sit in trial of any officer. It was not a judicial board by any means. What was the nature of it? It was conceded and generally known that there were in the naval service a large number of men who ought not to be on the active list. But gentlemen say, if they ought not to be on the active list of the Navy, why not try them by court-martial, or court of inquiry, and drop them? I answer, in the language of Secretary Dobbin, that these courts-martial and courts of inquiry have been in existence all the time, and yet the evils still existed in spite of them. Something else, then, was wanted. The courts-martial and the courts of inquiry then in existence would not do. Let me suggest here that the courts-martial and courts of inquiry, as then organized, might pronounce a man innocent, and yet he ought not to be on the active list of the Navy. Many of these officers entered the Navy very young, as midshipmen; and though the poet says,

"The child's the father of the man,"

yet you cannot always tell, from what the boy is, what the man will be. His qualifications as a midshipman when a boy may be good enough, and yet, when he comes to be developed as a man, and his character expands into manhood, you may find that he wants something or other to fit him for an officer in command. He has committed no offense. He has done nothing which could bring down upon him the sentence of a court-martial.

In another case, a man may have acquired habits and a reputation such that the Secretary of the Navy may be satisfied in his own mind that he is unfit for active service. There are many such men, who, the Secretary of the Navy knows, are unfit to have control of the Navy; and although they may sometimes apply for service, he will not trust the flag of the country in their hands, because it would be disgraced. They have no opportunity, therefore, of doing anything for which a court-martial could try them; and yet it may be apparent to every one acquainted with the circumstances, that they are unfit to be on the active list of the naval service; and a judicious man would say that such men ought not to stand in the way of those who are competent and efficient, and who would add to the glory of the country.

Mr. MAYNARD. I should like to know whether this board called the officers whose cases they acted on, before them; whether they took any testimony to prove their unfitness as officers; or whether they acted on their own knowledge?

Mr. BOCOCK. I understand that they acted upon the latter only, and that was the intention. But, sir, I was about to explain more fully the purposes for which this court was organized. I contend, as I contended when the measure was before the House, that it conferred no new power upon the President. The President had already power to put any officer of the Navy upon the leave-of-absence list if he chose. He had power to put him upon furlough pay if he chose, and he had power, and actually exercised it, of striking a man from the rolls of the Navy altogether. But the object of the law was to provide him with a board of advisers, leading men of the Navy, who should furnish him the information on which he might exercise that power. No man was condemned by that board, because no man was tried by it. It was a board of advisement only. It acted upon the knowledge of the officers of the Navy, and not from evidence of any particular transaction.

Mr. SEWARD. If the gentleman will allow me to interrupt him, I want to know where the gentleman gets authority for saying that this board of fifteen acted from their own personal knowledge of the character of the officers of the Navy who were affected by their own decision?

Mr. BOCOCK. I say that such is my belief.

Mr. SEWARD. Then the gentleman states it simply as a mere matter of belief, without any information on which to base his statement.

Mr. BOCOCK. Yes, sir; I made the statement as my belief, and I never heard that they acted upon any other information. But, sir, I was going on to say that if the President of the United States, in the exercise of the power which was

vested in him before the formation of this board, had, upon his own motion, put men upon the furlough list, or dropped them from the rolls of the Navy, you would have heard a clamor raised against the exercise of this one-man power. It is true, sir, that he had the power to make a general reform in the Navy upon his own motion; but it would have required a bold man to have done it. But, sir, this law granted to the President of the United States the right to call around him a cabinet of advisers of fifteen of the most efficient men of the Navy. The action of that board did not compel the removal of any man. It made recommendations to the President, upon which he acted in purifying the Navy.

Now, Mr. Speaker, I have heard it all round here that these men have been disgraced and degraded by the action of the President, upon the recommendation of this board. How gentlemen can arrive at such a conclusion, in reference to some of these men, I cannot understand. Gentlemen have, in their places upon this floor, been eloquent in praise of Commodore Stewart. No man thinks more highly of Commodore Stewart than I do; no man appreciates more highly the service he has rendered to the country than I do. I only differ with gentlemen as to the action of the naval board and of the President. Instead of believing that action as being a stigma and disgrace upon Commodore Stewart, I believe that it was an act of clemency. What! a man eighty odd years old; a man who had braved the battle and the breeze for years, and who had worn himself out in the service of his country, still being allowed to remain upon the active-service list, liable to be called upon at his time of life for the discharge of active duty! No, sir; it would either have been unjust to him, or else your record would have pronounced a falsehood. Your record holds these men forth, to the Secretary of the Navy and to the country, as men ready for the service. Those upon the active-service list the Secretary of the Navy and the President had power to command into service. The board steps in here, with this wise and beneficent action, and takes that old man and shelters him from the danger of being called into active service. Disgrace! Why, sir, he receives every cent he did receive and would have received under any circumstances. He is upon the leave-of-absence list, and receives all he would have received if this board had never acted.

Mr. BURROUGHS. Upon what list was he placed?

Mr. BOCOCK. He was retired upon the legal leave-of-absence pay of a senior captain, which, I believe, is \$4,500 a year. The action of the board has not affected his pay at all. Every man upon the leave-of-absence list gets precisely the same pay he did before.

The commodore considers it a disgrace, says my friend. As my attention is called to the subject, gentlemen will pardon me for making a remark which, I fear, will be considered unkind. Any unkindness is the furthest thing from my intention. I would not have made the remark if the gentlemen from Delaware [Mr. WHITELEY] had not provoked it. The fact that Commodore Stewart, with his intelligence, has held himself forth to the country as a disgraced and injured man, is the strongest proof to me that, at the age of eighty, he has not the possession of those strong and vigorous powers of mind for which he was formerly noted. The fact that he considers himself disgraced by the action of the naval board is the strongest argument against him. What, sir, merely to say that a man of eighty years is not able to discharge, physically if you choose, mentally if you choose, the duties required of a naval officer! Call that disgrace? That is the whole thing.

Mr. CHAPMAN. Has not Commodore Stewart been in active service at the Philadelphia navy-yard ever since the board was in session?

Mr. BOCOCK. I was about coming to that point. I want to say that the action of the naval board, by some clemency on the part of the executive power, has not affected Commodore Stewart in the least. It interposed, and has kept him in his pay of \$4,500 a year. I have believed, however, that it was not done from any conviction that Commodore Stewart was fully competent, at his age, to discharge the duties required of him in that office; but simply because the Executive

wished, in the exercise of the power confided to him, to put balm upon the supposed wound of Commodore Stewart. I shall not pursue the course of argument pursued by the gentleman from Delaware. He stated a great many things from hearsay. I have heard things said in regard to the physical efficiency of Commodore Stewart; but on this point I have nothing further to say.

Mr. FLORENCE. I am in almost daily intercourse with Commodore Stewart at home. I know, of my own knowledge, that he is entirely equal to the performance of every duty required of a person stationed at a navy-yard; and further than that, I believe, sir, that he is equal to the discharge of every duty required of a captain of the Navy. I think it due to Commodore Stewart, and to truth and justice, that I should say this much. I trust that I may have an opportunity to speak more at large.

Mr. BOCKOCK. It seems to be due to truth and justice for almost every member to interrupt me. [Laughter.]

Mr. FLORENCE. The gentleman will do me the justice to say that I have not interrupted him before, and that I have interposed no objection to action on the part of this House.

Mr. BOCKOCK. Will the gentleman tell me how old a man Commodore Stewart is?

Mr. FLORENCE. I think he is seventy-eight years of age.

Mr. BOCKOCK. Not older than that?

Mr. FLORENCE. I do not think he is. It was a matter of conversation between one of my colleagues and myself. Though seventy-eight years old, so far as ability to perform naval duties is concerned, he is not more than fifty.

Mr. JOHN COCHRANE. I would ask the gentleman from Pennsylvania, what is the moral, mental, physical, and professional fitness of Commodore Stewart for naval service?

Mr. FLORENCE. So far as my judgment is concerned, I think he is morally, mentally, physically, and professionally equal to the performance of any duty required of a captain in the Navy.

Mr. BOCKOCK. This is the opinion of my friend from Pennsylvania, but not that of the board. I put it to gentlemen whether it was any very great mistake of judgment if the board came to the conclusion that, because of the great age at which Commodore Stewart had arrived, he might not be fully competent for efficient service on board a ship? Was that a grievous error? I doubt whether it is an error or a mistake when they have attributed to him nothing but the fact of his age. I understand from a gentleman near me that he is eighty-three years of age. There is, then, a difference of opinion between the gentleman and the gentleman from Pennsylvania. In that point of view, I put it to the House whether it is a great cause of condemnation of this board that they were of opinion that a man at the age of eighty-three was not fully competent, physically, to discharge all of the duties required of a naval officer? The Government came in at that point and says that it will not longer hold that officer upon the active list; that it will take him under its beneficent care, and to the end of his life will not ask him to engage in active service, though it gives him leave-of-absence pay.

A large number of men were affected by the action of this board; they were scattered all through the country; many of them were perhaps estimable and worthy gentlemen, and they were greatly outraged in their feelings because they were not kept upon the active-service list. They enlisted their friends here and elsewhere in their behalf, and the country was very much agitated in relation to this question. Perhaps, too, Mr. Speaker, in some few instances, the board had acted unwisely. It is human to err. That court may not have been accurate in all its decisions. I ask if it could have been otherwise? I ask if it could have been expected that it would have been otherwise? If you find a human being with an unsound limb, can you take off the unsound limb without taking a little sound flesh too? The difficulty is to know, in all such cases, where the line of demarcation exists. The difficulty exists everywhere in the physical and natural world. Who can draw the dividing line, in the regular succession of night and day—where the light ends and the darkness begins? So in this case; in undertaking to remove men who were not exactly suited for the naval service, some may have been removed

who ought to have been left in the service. The great question, however, ought to be, has the thing done good, or has it done harm? Has it improved the naval service, or has it injured the naval service? Now, sir, permit me to ask who that sits in judgment upon this matter, what Secretary of the Navy, what other officer in charge of naval affairs, who occupies an impartial position, has come and told the House of Representatives that this thing has done harm, and that it ought to be obliterated? Who has done it? Secretary Dobbin did not. Secretary Dobbin held exactly the contrary opinion—that it had done unspeakable good to the naval service. He has left that opinion on record in his report. After saying that nothing ought to be done to interfere materially with the operations of the board, he goes on:

“I have an abiding conviction that history will prove that this work of reform reinvigorated the Navy; imparted to it a robust and active health; inspired the hearts of the young and gallant officers, hitherto drooping with hopeless despondency, with fresh energy and contentment with the service, warned the thoughtless and idle to quit the haunts of idleness and seek the path of duty leading to honor, and caused the country to repose with the more pride and confidence in the belief in the invincibility of this right arm of the service.”

That was the opinion of Secretary Dobbin. Who that knew him and was daily associated with him does not remember how he delighted to dwell upon the beneficial effects of this measure upon the condition of the Navy? He used to say, formerly when an order was issued to make out a complement of officers to take charge of a vessel, and an order was sent to an officer in any part of the country, he would send back word that his family were in very delicate health and he wished to be excused; in another case the officer would send word that somebody had died and left an estate upon his hands to manage, and he wished for a little longer indulgence; in another case that he had not been long enough with his family and friends, and that others had been longer out of employment, and he wished to be excused; but that after that law passed, as soon as he issued his orders the officers came without hesitation or delay; they were prompt in obedience to orders, anxious for the service and active in the discharge of their duties; and that by the new impulse given to the naval service, robust and vigorous health had been restored to that which was before a languishing and enfeebled body. So said Secretary Dobbin. What says Secretary Toucey? The naval service of the country is now under his charge, and it is to be presumed that he has the interests of that branch of the public service at heart. Has he presented to you in his report this gloomy picture of the effects of the Navy efficiency bill? I have not seen it. I have not heard it. Eye hath not seen, nor hath ear heard, what it has entered into the minds of gentlemen upon this floor to represent. Why, then, all this clamor? I do not wish to indulge in any harsh suspicions. I only know this, that the purloins of this Capitol have been haunted by the good friends of good men, who wanted their help in this matter.

[A message was received from the Senate by Mr. WILLIAM HICKEY, one of its assistant clerks, informing the House that the Senate had passed an act for the relief of Henry Hubbard, in which he was directed to ask the concurrence of the House.]

Mr. BOCKOCK. I have heard some gentlemen say that they would like to pass a sweeping resolution, and put all of these officers back. All I have to say in relation to that matter is, that if you are going to put all these men back you will sink the vessel of the Navy, and you ought first to provide some means of escape for good and efficient officers.

But, sir, when this law was originally passed, it was conceded on all hands that there were some inefficient men in the Navy who ought to be out of it; every officer of the Navy you met said there was somebody in the Navy who ought not to be there, who was blocking the way to the promotion of others, and that the law ought to be passed to get rid of those men. Well, the law was passed; the ax fell, and each man who felt the smart condemned the law. There is an old distich which I might repeat here, but as I do not wish to pass reflections upon any one, I will let it pass. All were in favor of the passage of the law. Each one was willing to take his chance of being struck

off for his chance of being promoted; but when the ax fell on him instead of on some other man, why each one was terribly affronted with the law—it was the most egregiously wicked law that had ever been passed in the world, and now no man can be found who should have been turned out.

I have said, Mr. Speaker, that the board did not try any man or inflict disgrace upon any man. I intended to have said a few more words upon that point, but I have been so interrupted in the regular course of my remarks that it seems now almost out of place.

I will say, however, in regard to those who have been placed on the leave-of-absence list, that the fact of their having been so placed is the best proof that they were considered incompetent for some cause that did not affect their standing. Those placed on that list were men advanced in years, and who, like Commodore Stewart, had rendered distinguished service to their country, and it was thought proper to give them a higher rate of pay as a reward for the distinguished services heretofore rendered. Those placed upon the furlough list are men who have become incompetent earlier in life, and have had no chance of rendering distinguished service to the country; they are given pay for life, but not as high a rate of pay as those who have done more service. The only question about stigma being attached to anybody was, as to those whose inefficiency was the result of their own fault. The language of the law was, that if a man became inefficient by his own fault, by dissipated habits, or by any cause over which he had control, he should be left out altogether, on a year's pay. The Government did not think that if a man had rendered himself incompetent he had any good claim upon the Government for an annual pension for life. He had become inefficient by his own fault, not by his own crime.

That was the action of the first board. It removed two hundred and one men from the active-service list. Forty-nine, I think, were dropped. A great clamor was immediately raised against the action of the board, and forthwith the subject was introduced into the two Houses of Congress. Much agitation took place on the subject. Editors and letter-writers appealed to the public mind, and some members of Congress were very soon found undertaking to subvert the action of the board. After long discussion in the Senate, a law was passed at the last session. It came here, and was passed without discussion. What did that law allow? It allowed any officer who thought himself aggrieved by the action of the former board to apply to the Secretary of the Navy, within a limited time, to have his case reexamined by a court of inquiry, before which he could appear, examine witnesses, and be represented by counsel. As has been said, these gentlemen had the services of the very highest and ablest counsel that the land afforded. These courts of inquiry, after full examination, came to the conclusion that the action of the former board might have been, perhaps, too harsh in a good many cases. In some of the cases they came to the conclusion that the action of the former board was right. Let me state to the House the statistics on the subject, for they have been greatly misunderstood here. Gentlemen have declared that in sixty-two out of one hundred and eight cases the action of the first board was shown to be egregiously wrong, and that the courts of inquiry proceeded to restore these men to the active service list of the Navy. That is all a mistake, sir.

“Question. How many officers were dropped, furloughed, or retired, by the naval board?”

“Answer. Two hundred and one, to wit: forty-nine dropped; eighty-one furloughed, and seventy-one retired.”

Now, out of the one hundred and eight cases where application was made for a reexamination by the courts of inquiry, only thirty-three officers were restored to the active-service list.

I know that the action of the former board was modified in sixty-two cases. Many officers who had been put by the former board on furlough pay, were put on leave-of-absence pay, and the decisions were altered in some such respects; but only thirty-three men out of the whole one hundred and eight, were restored to the active-service list, and only ten of the dropped officers were replaced on the active-service list in the three highest grades of the Navy. Others did not apply. Now when

they had an opportunity to apply for a hearing, and did not do so, I draw the inference of their acquiescence in the decision of the first board. I do not say they approved it. I say they acquiesced in it. Is it not a fair presumption? They had, I believe, ninety days to make their application, if they were in the country. If they were out of the country, they had ninety days after their return, provided they returned within the year. There happened not one single case in which a man desired to appeal, and did not have an opportunity to do so. There is no such case on record. All that those had their cases revised by the court of inquiry. I have not examined the records of that court, but if I were to judge of them by the criticism which has been made upon them this morning by the gentleman from Delaware, [Mr. WHITELEY,] I should come to a precisely different conclusion on them from that which he has reached. The gentleman was startled at the idea that a man could have mind enough to be a commander in the Navy, could have physical strength enough, and yet not have a temperament that would qualify him to be a commander in the Navy. That does not strike me as being such egregious folly as the gentleman from Delaware supposes. I can conceive a man of robust body, strong mind, well informed in his profession, to be yet unfit for command, because liable to excessive gusts of passion.

There was another case, Mr. Speaker, to which the gentleman referred. He says that a particular officer—I do not know his name—was turned out of the service because—that is the gentleman's inference—he did not challenge a person to fight a duel. Now, was the inference of my friend from Delaware correct? Is there no other way to resent an insult than by a challenge to fight a duel? Does the gentleman from Delaware take that position? Mark you, there is not a word said in the finding of the court about not challenging a man to fight a duel. They only say he did not resent an insult in a manly and proper spirit. And I put it to the gentleman from Delaware; I put it to my enthusiastic and gallant friend from Charleston, [Mr. MILES;] I put it to every man of manly temper on this floor to say, would he see an officer of the American Navy, a man whose profession is arms, permit himself to have a gross personal indignity inflicted upon him, and not resent it? And because the court thought that he did not show a proper spirit in resenting the insult, the gentleman from Delaware says that he was condemned because he did not challenge the offender to fight a duel.

Mr. WHITELEY. I am very sorry to interrupt the gentleman from Virginia, seeing that he has been so much interrupted; but I wish to state this case properly. The gentleman whose case I alluded to, I do not know; I never saw him until he was pointed out to me within a minute in the gallery. He is no friend of mine in any way or shape; but having no acquaintance with him, he cannot be an enemy. The charge against him was a charge of misconduct as an officer in certain dealings. He repelled the charge, as the records of the court show, denied it, branded it as false, and asked for a trial. When this court of inquiry tried him, they found that he was innocent of the charge, but implied, by the declaration, that he did not repel the charge as they thought he should—that he ought to have challenged his accuser. I admit that that is my deduction; and I tell the gentleman from Virginia that when the record is submitted to him, he can come to no other deduction from it. It was some mercantile transaction.

Mr. BOCK. I would not willingly do injustice to any officer of the Navy; I know nothing of the case; I do not know who the officer is; and I say, as I said before, that the case was only a supposed case to illustrate my position. I say that a man may resent an injury in a proper and manly spirit, without resorting to a challenge to fight a duel. It is not a fair inference, in a general way, from the declaration that a man did not resent an insult in a proper and manly spirit, that he was condemned for not fighting a duel.

I was going on to state the objections which are made to this bill. The board only restored thirty-three men to the active-service list. Ten men were restored from the dropped list to the active-service list in the three highest grades. Twenty-nine were changed on the reserved list from one place

to another, or else were removed from the list of dropped to the reserved, and forty-six were left as they were. The others did not apply.

Now, sir, after all that has been done, after these two boards have thus acted, these men want another chance before the President. Sir, gentlemen around me were not all here during the last Congress. I was; and those who were here will bear me out in what I say. I did not vote for the law authorizing these courts of inquiry. The officers of the Navy desired that that law should pass. When it was suggested that the President then in place, and the Secretary of the Navy then in place, who were familiar with the whole matter, should have authority to restore some of them, they said, "No; it is not a place in the Navy we desire—we can find a living elsewhere; but we want the stain taken off from our skirts; we want to be tried and acquitted by a jury of our peers, and nothing else will satisfy us." Now they have had a trial by a jury of their peers; but when that does not suit them, they come and ask for executive clemency. I ask you what place they will occupy in the Navy if they get there? The gentleman from Maryland [Mr. DAVIS] has portrayed that matter so well that I will not touch the picture lest I might mar its truthful lines. I now only will ask, does the Navy need them? Is it for the good of the Navy to place them back? The evils in the Navy have already arisen from having too many officers upon the list. There was not employment for them, and they were left to rust in retirement. Now the number of officers in the higher grades of the Navy has already been much increased. The number of captains allowed by law is sixty-eight. Of these sixty-eight captains, according to the Naval Register of 1857, only thirty were employed. How many of these were upon sea duty? Thirteen. The action of these boards has already put back enough to make the number seventy-five. Then you have seventy-five captains already. There are fewer now upon duty than there were then. There are probably twenty-five employed upon all services: about thirteen upon sea duty.

I wish to call the attention of the gentleman from Virginia to one point. He said that these would not interfere with the promotion of other men. I take issue with him. You have now seventy-five captains, and you may by this resolution increase it to eighty. There cannot be another captain made by the law as it now stands, until that number is decreased below sixty-eight.

Now let us look to the list of commanders. According to the Naval Register of 1857, the number of commanders of the Navy was ninety-six. Of these only fifty-nine were employed upon all services; on sea duties nineteen, coast survey two, mail steamers two. And yet this has been swelled up to one hundred and five already, and you propose to increase it still more. And when you have done that, no man can be promoted to that position until the number is reduced below ninety-six.

I wish to show you how it is that the action of these naval courts has increased the expenses of the American Navy—already too great—by some fifty thousand dollars a year; and you propose to increase it still more. I have here a tabular statement, showing the amount of expenses already added to the Navy. You will understand readily how that increase has been made, without my reading the statement. Gentlemen have been taken from the dropped list and put upon the active-service list, and other changes of a similar nature have been made. I make the difference of pay from fifty to sixty thousand dollars a year, and you propose to make it greater.

But I see that my time has nearly expired. I wish just to read an extract from a London paper. Gentlemen have said that no such proceeding as this is known in any other country. It is the constant practice in England for the Queen, by order in council, upon the recommendation of the Board of Admiralty, to put men upon the retired list whenever she pleases. A gallant admiral was placed upon the retired list, and he complained. The first lord of the Admiralty, (Sir C. Wood,) in reply, said:

"The honorable and gallant admiral opposite [Admiral Walcott] complained of having been placed on the reserved list; but unless some measure of that kind were adopted, it would be impossible to get rid of that enormous list of captains and admirals, which he agreed with his honorable friend [Mr. Williams] appeared in one sense a deceit. He did not like using a hard word, but he must say that the

public were disgusted when they saw on the active list a number of officers who they knew could not be employed. He thought, therefore, that though the arrangement might be grating to the feelings of some gallant gentlemen, it was on the whole a wise measure; for without some such step, it would be impossible ever to reduce the number of officers to a proper amount. What was done was this. All officers of the rank of captain, rising from the head of the list, who had served for a certain number of years specified, received the rank of reserved rear-admirals, with the half-pay of admirals, rising in rank, but having no additional pay; and this had had the effect of gradually reducing the list of captains."

[Here the hammer fell.]

Mr. CLINGMAN. I do not rise to take part in this debate at any length. I desire to bring this debate to a close, and I rose for the purpose of calling the previous question; but nevertheless, inasmuch as I am upon the floor, I will barely say that I do not agree with the gentleman from Virginia, [Mr. BOCK,] who seems to think that no further legislation is necessary. I voted for the original law, and I have no doubt it was a good one. I think, however, that the manner in which it was carried out was highly objectionable. I never should have voted for it if I had supposed that the persons retired or dropped would not have had a hearing. I think the action of that board required, for its defense, all the able and ingenious gentlemen from Maryland [Mr. DAVIS] could say in its behalf.

I was one of the three-fourths majority of the last Congress which passed an act to review the decisions of that court. The gentleman from Maryland thought proper, the other day, to pass a eulogy upon that board, and to say that the courts of inquiry, organized under the law of the last Congress, confirmed the wisdom and justice of the decisions of the first board. I thought proper to look into the correctness of that statement, and I find there were one hundred and eight cases of appeal to those courts of inquiry, all of which were reviewed by them. Of these one hundred and eight cases, sixty-two were reversed.

The gentleman says that they have been generally sustained as are the judgments of inferior courts in a court of appeal, and that we ought to be satisfied. I do not know what the course of judiciary proceedings may be in Maryland; but in my State, if a judge was overruled in a majority of the cases taken up from him on appeal, it would not be considered a matter of great congratulation on his part. Rabelais's judges used to throw once for the plaintiff and once for the defendant. That gave each party an equal chance. If the board of fifteen had pursued this course, they would have been right much oftener than they were. It turns out that their decisions have been overruled in nearly two thirds of the cases which were taken up on appeal. I do not propose, however, to discuss the proceedings of the board, or of the courts of inquiry. I think that, under the circumstances, both the laws were right. The first law was necessary; but having been so bunglingly executed, the second law became proper.

How stands the case before us? I find, in looking into the resolution, that the action of the President is limited to the forty-six persons whose cases have been examined. I have no objection to that. The only objection I really see to it is, that it will impose upon the President a large amount of labor; but the probability is, that, of the forty-six, there will not be a great number who will apply to him. If it be thought advisable to intrust him with that discretion, I am willing it shall be given to him.

I rose, Mr. Speaker, not to discuss the question, but to ask the House to terminate this discussion. We are debating the question whether we shall reconsider the reference to the Committee of the Whole on the state of the Union. If the motion to reconsider be carried, then we shall have the resolution for discussion in the House; and if not, then we can go into committee, and debate it there. I appeal to gentlemen, then, inasmuch as the Speaker's table is crowded with business, and the committees have not been called for reports for weeks, that the House will close this debate at this time. I took the floor to call for the previous question; but my colleague [Mr. WINSLOW] expresses a wish to address the House, and I refrain from doing so in courtesy to him. I hope, when he has concluded, the House will take some course to bring us to a vote.

Mr. WINSLOW obtained the floor.

Mr. SEWARD. I reported this resolution from the Committee on Naval Affairs, and I have been anxious to hear every gentleman who wished to speak on the question, before I made any remarks myself. I hope the House will take no action that shall cut me off from making the remarks I desire to present.

Mr. CLINGMAN. I hope my colleague will call for the previous question, when he has concluded. If the gentleman reported the resolution, he will be entitled to his hour.

Mr. WINSLOW. Mr. Speaker, I think that if anybody is entitled to courtesy for the floor it is myself, who so seldom intrude upon the attention of the House, as gentlemen round me in this Hall will testify. I desire to make a few remarks upon this resolution. Happily for the House, the remarks I shall make upon it shall be brief. And, in the outset, to prevent misunderstanding, I will say that I favor the resolution, and shall vote for it. Nevertheless, justice to the late Secretary of the Navy, to the late board, and to the courts recently assembled, demands that I should say a word in their defense, so far as the transactions under consideration are involved. The reasons which prompt me to vote for the resolution are entirely different from those I have heard advanced in the arguments to which I have listened. I have not heard all the speeches which have been made; and it may be that I will cover ground which has been occupied already.

Mr. Speaker, it has not been denied that some reform was needed in the Navy of the United States. In twenty successive years the successive Secretaries of the Navy have brought the matter to the attention of Congress and entreated its action. I think my friend from Maryland [Mr. DAVIS] was in error when he said that the plan of reform which was finally adopted emanated from the late Secretary of the Navy. The Secretary did urge upon Congress that it was imperatively necessary there should be some reform in the Navy; but that proposed by him was of a different character from that which Congress fell upon. To show this necessity, gentlemen will bear with me while I refer to the then existing condition of the Navy. There was always a power in the hands of the President to dismiss from the Navy any officer who was deemed incompetent, or an improper person for the service. There was always in his hands, or that of his Secretary, also the power to furlough any officer whom he thought ought to be furloughed. But when a man was put upon the furloughed list, although permanently relieved of duty, he was not taken from the active list. He remained there to block up the way for promotion for younger and efficient officers. Hence, when a man behaved badly in the Navy, when it was shown that he was incompetent for the discharge of his duty, there was a power in the Secretary of the Navy and the President to set him aside. After he was set aside his junior could not rise to his rank. He would have to perform the duty of the superior rank, without getting either the honor or the emoluments attached to it.

I regret to have to state what really was the condition of the Navy at the period of time of which we are speaking. Gentlemen will be startled when I tell them that, from 1840 to 1854, a period of fourteen years, one hundred and fourteen officers were court-martialed for charges ranging from drunkenness to scandalous conduct, unworthy of the public service and destructive of good morals. One tenth of the post captains, one tenth of the commanders, and one sixth of all your lieutenants, were, during that period, put upon their trials; and of the one hundred and fourteen accused, there were only eighteen acquittals. The condition of the Navy at that time truly called for reform. The reform asked for by the late Secretary of the Navy was, that Congress should intrust the President and himself, with the concurrence of the Senate, with power to dismiss or to furlough, and to set aside the furloughed, so that the juniors and efficient officers might be entitled to promotion. That was the plan which ought to have been adopted. Congress fell upon another plan, which led to the organization of the naval retiring board. I had not the honor of a seat here when that bill was under consideration. It is probable that I might have voted for it. I would have voted for it with great hesitation. A board of proscription I will always distrust. I have some historical reminiscences,

and remember to have read of a board which met upon the Island of Mutina, in Italy. There were Octavius, Antony, and Lepidus. There was much of giving and taking—what in backwood parlance, in North Carolina, is called *log-rolling*. When it was said to Lepidus, “your brother, too, must die—consent you, Lepidus?” he replies, “on the condition Publius shall not live, who is your sister’s son, Mark Antony.” To which Antony amiably replies: “He shall not live; look, with a spot I damn him.”

Now, sir, I do not mean to say that this board of fifteen did anything of this kind. I believe they were gentlemen of very high character. I believe they were selected by as pure a man as God ever made—one to whom Nature had been prodigal of all those gifts which adorn our nature—the late Secretary of the Navy, who, I believe, had but one purpose during all his administrative career, and that was to reform the Navy, and make it indeed what it ought to be—a Navy worthy of the Republic. But, sir, the fact that such things might take place, owing to the frailty and weakness of poor human nature, gave occasion to the captious and malevolent to insinuate bad motives and impure purposes; and the course of the debate which took place in the Senate last year, and which has taken place here to-day, the crimination and recrimination which have been indulged in show that this occasion was seized upon and these insinuations were indulged in.

Well, sir, the board met under the law. Two hundred and one persons were removed entirely, or ordered from the active-service list to the retired or to the furlough list. This has produced a great clamor throughout the country. Are you surprised at it? All reforms produce clamor, and all great reformers fall victims to their reformations, until the unerring judgment of time does them tardy, but ultimate, justice. The ax of reform, in this case, fell deep, and so many felt its keen edge, that a clamor was raised throughout the country. There is no doubt that the board had committed errors. Of all men in the world, the officers of the Navy are the least qualified to discharge judicial functions. There is no position in the world that so contracts the mind. With them, contempt of law and lawyers is proverbial. They scorn and condemn anything like the technicalities and formalities of the law, the safeguard of the citizen, and set up their own weak, erring judgment as an infallible guide. Had this thing been done by a board composed of civilians, probably not half the clamor would have been raised about it. But the thing was done, and it is not in view of arguments drawn from the conduct of the board, either good or bad, that we are to pass upon the merits of this resolution. When the bill to organize courts of inquiry came before the Naval Committee of the House last session, it was opposed by my colleague, the distinguished chairman of the Naval Committee, [Mr. BOCKOCK,] and myself, and we introduced a substitute for it, which was almost in the very words of this resolution. The Secretary of the Navy said there had been errors. The President said there had been errors. It was admitted on all hands that there had been errors. In the nature of things, there could not have been a great many, for of the two hundred and one cases upon which the board passed, the judgments in one hundred and fifty were unanimous, in thirty-three cases the judgment passed by a majority of more than two thirds, and in the residue by majorities ranging from a plurality to two thirds. But everybody admitted that there had been errors. I thought then that the best mode of settling the matter would be to put the whole power in the hands of the President and the Secretary of the Navy, and let them ascertain where injustice had been done. There had been twelve or thirteen vacancies in the Navy, and the Administration had not filled those vacancies because they were prepared to nominate to the Senate for reinstatement, gentlemen who had been dropped by the board. In order to show that such were the views of the late Secretary of the Navy—views which are confirmatory of the propriety of the present resolution—I ask to have read a short extract from his letter to the Committee on Naval Affairs.

The Clerk read as follows:

“The first is to let the vacancies occurring by deaths, resignations, or dismissals, be filled by such of the reserved or dropped officers as the Executive, by and with the advice

and consent of the Senate, may deem it just and proper to restore, instead of making promotions from the active list, which have been very considerable under the law, and may well be temporarily suspended by the Executive until such restorations are made as may be adjudged just, and for the good of the service. There are vacancies now. No nominations have been made to fill these, and I may venture to say none will be made for others that may occur, until the President has calmly considered the suggestions presented in regard to some of the officers reserved and dropped. By this means, unless the errors are far more numerous than anticipated, they may be corrected without disturbing the operation of the law, for the President can renominate them to the positions they would have attained had they not been displaced.

“But it may, perhaps, be urged that vacancies may not occur within a reasonable time, so as to make the restorations as prompt as desirable. This, of course, will depend upon the number to be restored. To meet this view, I present for your consideration another plan, which has once been adopted in a case not entirely analogous, but much of the same character. This would require legislative, as well as executive, action. It is to authorize the temporary increase of the number of officers to such a point as will enable the President at once to nominate to the Senate such as it may be considered just and proper to restore; with the proviso, however, that no more commissions be hereafter granted until by deaths, resignations, or removals, the number of officers shall have been reduced to the present number allowed by law.”

Mr. WINSLOW. Now, sir, that was the policy proposed by the chairman of the Naval Committee and myself; that we should pass a law giving power to the President and Secretary of the Navy to fill the vacancies that had occurred by nominations to the Senate, from among those persons who might, in their opinion, have been aggrieved by the action of the board. And in order to do ample justice, we went still further; we did not desire to confine him to the filling of vacancies, but provided that the Navy might be temporarily increased for this purpose. The majority of the Naval Committee took a different view of the matter, and although they gave us an opportunity of introducing the substitute, they moved the previous question, and would not allow us to argue it; and so we declined to introduce it. And now this resolution comes in in almost the same language. The whole influence of the officers of the Navy was brought to bear last session in favor of the bill which was passed. They then refused to accept the measure of relief which we thought was the best remedy, but now, dissatisfied with the action of the courts of inquiry, they come here and ask for the very measure we then proposed. The question with me is, whether I am to be driven by this course into refusing now to do what I thought ought to have been done then. But believing it to be proper then, I believe it to be proper now. I believe that no man in the naval or military service of the country ought ever to be deprived of his position except by a solemn trial by his peers. I have been much struck with a remark upon this subject made by a great writer, himself well acquainted with the Navy, and once an officer in that branch of the service. “I do not think,” said he, “that any military man ought to be deprived of his commission, except under very extreme circumstances, unless by solemn trial and judgment founded upon the finding of a court of his peers. His profession is the business of his life, and his conduct is at all times subjected to a severe and searching ordeal, and dismissal always implies disgrace.”

It may be said that courts composed of their peers have passed judgment upon the cases of these officers; but, Mr. Speaker, it has always been understood, under our Government, that the record of judgment of no court sitting under authority of law should ever be final, unless it has the approval of the Commander-in-Chief. And it ought to be so, sir. No man ought to be subject to the judgment of a court composed of his brother officers, for they are but human, and subject to all the weaknesses and frailties of our nature. Interest, misguided judgment, warped and biased feelings, may sometimes induce them to do wrong; and there ought to be some higher tribunal to pass finally upon their judgments.

Now, sir, how was it with this law? Whenever the court found in favor of an officer, there the law compelled his case to go before the President for approval. But where the court found against the officer, that finding was conclusive upon him. This is not even-handed justice. I think that the case of the man in whose favor judgment was found, and that of the man against whom judgment was found, should both have gone to the great fountain of justice, the Commander-in-Chief.

These are some of the reasons which determine me to vote for the resolution; not that I think that great injustice has been done. I do not think so. But if any injustice, however small, has been done, let us redress it. Let the measure of justice be full, pressed down, and overflowing. No matter how humble a man may be in the service of his country, let justice be done to him. I fear very much, however, that the notion has got out among naval gentlemen that the Government was made for the Navy, and not the Navy for the Government. I remember that before the naval committee, last session, there came in a memorial from some gentleman whose name I fortunately do not recollect, and cannot, therefore, state it if asked, who based his claim to be restored to office on the ground that when he joined as a midshipman, he made a contract with the Government to be binding during life; that he was to serve the Government during his life, and that the Government was to pay him during his life; and that, having performed his part of the contract, the Government was bound to perform its part. I repeat, that I would do him and every man justice; but I would so do it as to give every officer of the Navy, from the senior captain at the head of the service to the meanest cabin-boy, to understand that the Government was not made for the Navy, but the Navy for the Government.

This resolution, in all its scope, can do very little mischief, and may be productive of some good. It may bring some worthy men back, and it may also bring back some unworthy men. There were two hundred and one persons retired from the active list of the Navy by the action of the first board. About one half of those applied to be reinstated. Of those who so applied, not two thirds were restored. This resolution only affects the other one third, on whose cases the second board acted unfavorably. It may increase the list of Navy officers somewhat, for a while at least; but I fear nothing can ever renovate or reform the Navy until it be entirely reconstructed. I fear wounds have been dealt upon it which will never cicatrize. Still, if injustice has been done to a single man, let us give him redress.

Sir, I confess to a great sympathy for the Navy. I feel a lively concern in everything that touches its honor or affects its interest, and I would cheerfully do everything in my power to advance the one and maintain the other. I can never forget that Preble and Paul Jones, and Hull and Decatur, and Morris and Stewart, and their compatriots, illustrated the glory of our arms upon the seas, and gained for themselves imperishable renown. I read the history of our country during the war, in which, for the second time, it dared the might and strength and power of England; and I turn with pride and pleasure from those pages which record our early misfortunes on the western frontier, where defeat followed disaster in quick succession, from the page which records that the foot of the enemy polluted the sacred precincts of the very Capitol, to the leaves which tell of the brilliant exploits of our seamen on the ocean. To this day no man can tell the moral effect of those victories which broke the *prestige* of England's invincibility on the waters, revived the desponding and drooping energies of the people throughout the country, and dispersed the clouds which had gathered around our early military organization. From that time forth the stars have brightly burned, undimmed and lustrous, in their steady progress to the meridian of their glory. Under the administration of these men the flag of the Republic has been carried in every quarter of the civilized world, and to the icy barriers of the circumpolar seas; and wherever it has gone, they have gained respect for themselves and admiration for your institutions. The red cross of England has blushed deeper, and the white lilies of France have paled beneath their prowess. Sir, we cannot be too grateful to those men; and though this measure may allow half a dozen unworthy men to be restored to the Navy, still it may allow one worthy man to be restored; and although it may impose upon the Treasury some additional burden, still, in memory of their past services, which have shed such luster and glory on our flag, which have raised our country in the estimation of the world, I would not let that interfere with my support of this resolution. I base my support of it on the simple naked question that no military board in the country ought to pass final judgment, unless

that judgment is to be reviewed by the Commander-in-Chief. The bill that was passed last session took away from officers this right. Gentlemen in favor of the bill, and the chairman of the Naval Committee himself, saw the omission, but were deterred from amending the bill through the fear that by the amendment the bill might be lost in the last hours of the session.

While I do not defend altogether and throughout the action of the board, still I think that a reform was necessary. While I think they have cut too deep, still I think it is better than if they had not cut at all. I support now the position that I supported then, and that I will under all circumstances support; and that is, never to give power to any board, either Army or Navy, to take final action, unless such action be referred to the Executive for approval or rejection.

Mr. SEWARD. I give notice now, at the commencement of my speech, that I shall move the previous question.

Mr. SMITH, of Virginia. What is the gentleman's notice?

Mr. SEWARD. I would say, with all due respect to the gentleman from Virginia, that he having been for a great many years on the floor, and having been heard very frequently, he ought not to claim that I should withhold a motion for the previous question to allow him to speak, although other young members on the floor, who have not been heard on this subject, might be entitled to such courtesy.

Mr. SMITH, of Virginia. It was out of courtesy to the gentleman that I lost the floor yesterday. I gave way that he might submit a motion which he expressed a desire to submit, to postpone action. I will profit by the precedent hereafter.

Mr. SEWARD. I did not understand the gentleman as extending to me that courtesy; but I will let the House settle the question in regard to the previous question, if I call it at all.

Mr. Speaker, I desire to have, if possible, the attention of the House in regard to this question; because the principles themselves, disconnected from the effect of it upon the complaining officers of the Navy, ought to be settled, and settled correctly, by this House. In the Thirty-Third Congress, the bill which they call the reform bill was passed by this House, under the previous question, without discussion. It was introduced by the gentleman from Virginia, [Mr. Bocock,] who has made a speech to-day in opposition to the position which I shall endeavor to maintain. It was warned into existence by him; it is his own creature; and I do not wonder that the gentleman should stand by it.

I do not complain of the sensitiveness of the gentleman from Virginia on this subject, because the condemnation of this country upon the act of 1855 was a condemnation of the legislative conduct of that gentleman, who introduced that bill into this House, and had it passed under the previous question.

Now, Mr. Speaker, it would be a curious matter of information to myself if the honorable gentleman would enlighten me as to how and in what manner that bill was manufactured; whether it emanated from the committee itself, whether it was manufactured in the Navy Department, or whether it was the creature of this very board of fifteen which applied the knife to two hundred of their brethren in the Navy? Well, sir, the work has been done. The gentleman from Virginia says it was not a judicial act of theirs. Now, I ask the gentleman from Virginia whether it was not, in fact, a judicial act by which two hundred men were displaced from the public service? Such was the action of that board, that Congress found itself absolutely incompetent, under any power possessed by them, under the Constitution, to afford full and adequate relief to the parties who had been condemned. Hence the necessity of the act of 1857; and that act in itself shows that the Thirty-Fourth Congress thought it did not have the power, in defiance of the Executive, to remedy the mischief.

Now, sir, how did these two hundred men who had come under the condemnation of the naval board present themselves before these courts of inquiry? I beg to call the attention of gentlemen to the opinion of the Attorney General upon this subject, to show that these men, when they came before these courts of inquiry, came there as their

own accusers, and put their own reputations in issue, and that they were called upon, not to defend their own reputations when assailed, but to establish the affirmative proposition that they were morally, mentally, physically, and professionally competent to discharge all the duties required of them. So that the judgment of the board of fifteen was a judicial decision which put them out of the service, and put upon them the burden of coming into court and establishing their own character—that character which they had torn from them in advance. The Attorney General, in giving his opinion in regard to the manner in which these trials should be conducted before the courts of inquiry, says:

"I apprehend, however, that the necessary course of proceeding on the part of any officer, whose case may undergo investigation, will dispose of most of the debatable points in this relation. He must begin by producing evidence, of some sort, to the point of his alleged fitness; and thus, according to all the authorities, he will open the inquiry, not only of character as a personal fact, but also as a fact in estimation, that is, reputation. In the evidence which he offers there cannot fail to be some of this nature."

Why, sir, I submit that there is not a member of this House, I care not how pure his character may be, if you will subject him to the same test, and impose upon him the same obligations to establish that character which were imposed by these courts, who will not that instant find persons having interests in conflict with his, who can hunt up, in social life, some charge, some accusation made by some enemy, to strike down his character. He, being placed upon the affirmative, to build up his character, is placed at a disadvantage which he cannot overcome by reason of the character of the evidence on which he must rely. Why, Mr. Speaker, this was a sort of spiritual court. Why, they investigated the moral character of these men. In one of the records which I have looked into, I find that a high character was absolutely stricken down for taking round a social board, six or seven years ago, a glass of wine punch, by which he became to some extent intoxicated. I refer to Lieutenant Harrison. The only charge against him was the one I have named, and which he admitted. His subsequent life and his prior life was as spotless—I venture the assertion—as that of any gentleman in the Navy. If the members of this House were tried by the same rule, it is likely that some of us might suffer from a similar investigation, for it is a weakness under which some of us may fall. [Laughter.]

Now, Mr. Speaker, this has been called a great work of reform. We have been told that the Navy has been immensely benefited by it. Admit it. It may be said that more good than mischief has been done. Well, sir, if that be true, the gentleman from Virginia admitted that there were some errors committed in carrying it out, which were corrected partially by the legislation of the last Congress. Then, why not, under this resolution, carry out the work, and correct the balance of the mischief, and allow full justice to be done to these parties? Who is to be injuriously affected by this resolution? None but those in high places, and in the enjoyment of high compensation. And that, sir, is what has given rise to all the mischief. It has been a struggle to displace some men in the Navy that others might be promoted. The whole difficulty began at that particular point, and has been continued from that particular time. Well, sir, the act of 1857 looked to curing the mischief which, as I said, grew out of the decisions of the naval board under the act of 1855. The act contemplated the relief of the Navy from the difficulties in which it had found itself in an increase of officers, and provided for the restoration of such of the officers displaced under the act of 1855 as the courts of inquiry might recommend. The second section of the act is as follows:

"Sec. 2. And be it further enacted, That the operation of the present law limiting the number of officers of the Navy shall be suspended so far as to authorize the restoration, within one year from the passage of this act, by the President, by and with the advice and consent of the Senate, of officers reserved or dropped under the operation of the act of the 28th of February, 1855, entitled 'An act to promote the efficiency of the Navy.' *Provided*, That there shall be no further promotions or appointments in any grade, after said restorations shall have been made thereto, until such grade in the active service shall be reduced to the limit now prescribed by law. That when any such officer shall be restored to the Navy, by and with the advice and consent of the Senate, the officer so restored shall occupy that position and rank in the Navy which he would have held had he not been retired, furloughed, or dropped, by the order of the President, on the report of the naval board: *Provided*,

further. That any dropped officer who may be, in the opinion of said court, entitled to be placed on the retired or furloughed list, may be thus placed by the President, by and with the advice and consent of the Senate."

There were one hundred and nine applications for relief to the courts of inquiry; nine of these were withdrawn. On the final verdict thirty-three were restored to the active list; and from the furloughed list, thirty-nine were advanced to the reserved list; leaving only forty-nine of the number where they were under the decision of the naval board. Thus, nearly two thirds of the decisions of that board were overruled, and we have more than cause to suspect that even a greater number of errors were committed. Why, sir, when these men were sent before the courts of inquiry, they were looked upon as if they had been applicants for place in the Naval Academy, or at West Point, and their characters were put in issue as though they never had been connected with the Navy. Notwithstanding this, however, two thirds of the decisions of the naval board were reversed.

What does the resolution contemplate? The resolution upon your table, Mr. Speaker, proposes to allow the President of the United States to examine the records made up by the courts of inquiry; and that where, in his opinion, the record presents a case which entitles a party suffering from the decision of a court to relief, that the President may recommend his appointment, subject to the ratification of the Senate of the United States. What mischief can ensue from the resolution? In the first place, the President of the United States revises the record, looks into all of the facts, and, if he believes the judgment of the court of inquiry was wrong, then he may nominate the party to the Senate. There the character of the party undergoes an investigation; and if he is morally, mentally, physically, or professionally unfit, he will not be confirmed by the Senate. No man pretends to vindicate the action of the naval retiring board in trying these parties by no law except that existing in their own bosom, and resulting from their own imagination. There is no record showing that action; and the only living witness that such a board ever existed, is that some two hundred and one men are abroad in the land, branded with infamy by it.

It was said by the gentleman from Virginia [Mr. BOGOCCK] that since the introduction of this measure into Congress, persons affected by the board of fifteen, under the act of 1855, or by the courts of inquiry, had haunted this Capitol, and asked for the passage of this resolution. The gentleman should remember that when the original act was passed, the officers who have been benefited under it were daily flocking around the Hall, and they were not kept out. They took seats upon the floor of the House of Representatives. They constantly pressed the passage of the measure. After they had polled the House, and ascertained their strength, and knew that they could carry the bill, it was passed without debate, under the previous question. I happened to watch the machinery then at work, and it was operated by some who wished to get rid of some honorable men, that they themselves might be promoted. They succeeded; and from that day to this, Mr. Speaker, there has been a struggle here, and a struggle in the Navy, and in every department of the Government, to correct the evil which followed. We have been doing it, step by step, in changing the act of 1855. We passed the act of 1857; but it was inefficient to accomplish the entire work designed. If we pass this resolution, then these parties may have justice done them; and justice may be done to them without injury to the public service.

Gentlemen have talked about putting these men upon ships and sinking them with sound men. Is it believed that the President of the United States and the Senate, which is a coördinate branch of the executive Government in regard to appointments, would indorse men with bad characters? Is it believed that they would advise the restoration of unsound men to the naval service? Why, sir, the Senate is as competent to look into the character of these men as a court of inquiry, the members of which did not understand the first principles of evidence—a fact which I could demonstrate if I had the time to go into the records. If a court examine into the skill of a medical man, they will take the evidence of medical men; and the only competent evidence of the skill or un-

skillfulness of a naval officer is that of men in the same profession. But here rumors were taken hold of, and old letters and charges were raked up. The rubbish of ten or twenty years was dragged into court to assail the character of these men before the courts of inquiry. The courts of inquiry numbered one, two, and three. What were they? How do they stand? Will gentlemen say that they were competent to decide these questions? No, sir. Some of them (I do not know how many) were the recipients of the benefits of the act of 1855; and to restore any of these men was to affect themselves. They were incompetent, according to every principle of law; and the great error, in my opinion, was that the Secretary of the Navy selected men from the Navy, instead of civilians having no personal interest in the matter, to pass upon these questions.

But, Mr. Speaker, Secretary Dobbin, upon whose report the gentleman from Virginia [Mr. BOGOCCK] relies for authority, absolutely insisted upon some remedial measure at the hands of Congress for the benefit of these men. The gentleman from Virginia, however, did not have the liberality to read what was said upon that subject; but, lawyer-like, contented himself with reading such portions of the report as suited his views, and omitting to read the residue. What did Secretary Dobbin say upon this subject? He said:

"And while I can by no means recommend the adoption of any measure of repeal, or any course of proceeding in conflict with the general action of the board, I have no doubt that there should be, and will be, found a remedy for any mistake or error of judgment, if the service has been deprived of a meritorious and capable officer, either by reservation or dropping."

Now, sir, there was no record that the President could review of the two hundred and odd cases that were determined by the first board; there was no evidence that the Secretary of the Navy could look to to ascertain whether the board had acted justly or not—none, sir; so that by necessity, from the very character of the law, and the very character of the examination, the President of the United States had either to approve the entire action of the board, or to reject it *in toto*. The President could not lay his finger upon one of those two hundred and odd men, and say that he had been unjustly treated. There was no record, no evidence; so that, as I said before, the President had either to approve or to reject the entire action of the board; and he took the first of these alternatives, and approved it, without knowing what he did approve. The law compelled the President, in order to carry out this work of reform, to approve of the decision of the board of fifteen upon the characters of all these men, without knowing the basis of the action of that board.

But, sir, we have now got this thing in a tangible shape. We have had a court of inquiry, bad as it was—a court that allowed these men to come in and put their own reputations in issue, on the assumption that they had been disgraced, and called upon them to bring in proof to prop up those reputations. The ordinary legal rule is, that every man is presumed to be innocent until the contrary appears; but these men were, from necessity, brought before the court upon the assumption that they were all incompetent, from moral causes, or from some mental defect, or some physical infirmity, or because they had disgraced themselves professionally. Well, now, from this court we have a record—a record in sixty-nine cases—and I submit, in fairness and justice, to this House, if it is not right and proper and sound legislation that we should allow the President to review these records, and wherever, in his opinion, injustice has been done, to recommend the restoration of the officer, subject to confirmation by the Senate, even though it may increase the expenses of the Government? We have been told by the gentleman from Virginia [Mr. BOGOCCK] that \$50,000 has been added to the expenses of the Navy by the restorations which have already taken place under the action of the courts of inquiry of 1857. Now, sir, the gentleman ought to have turned to the other side of the account. How much money, I would ask, has been spent in trying to redress the wrongs of these men? I venture to assert that the misstep of the Naval Committee, and the improper action of the Thirty-Third Congress, under the, in my judgment, very bad recommendation of the Secretary of the Navy, has cost this Government millions of dollars. It will not do for gentlemen to say

that it was sound legislation, and that the Navy required reform. The action of the naval board, the recommendation of the Secretary of the Navy, and the legislation of the Thirty-Third Congress, have been put on trial before the American people, and they stand condemned, and will so stand to the end of time. Millions of the public money have been spent in order to redeem the broken reputations and crushed spirits of these men who have thus been trampled upon by unjust legislation, and by the interference of officers in the Navy who desired to make way for their own future promotion.

I believe, Mr. Speaker, that this Navy bill of 1855 was the result of a fundamental error in the legislation of this whole country. This, sir, is a Government of clerks. Edicts are issued at the Departments; and, through the rules of this House organizing your committees, the legislative power of this country is paralyzed, and the true representative character of members upon this floor is stricken down. You are trampled at every step in your legislation by the complication of your rules. Under the custom and habit which prevail here, the members of the committees write to and receive letters from the Departments, which are manufactured by clerks there, no one knowing what outside influences are brought to bear upon them; and the edicts of these clerks are carried out here sometimes by the force of party drill of whichever party may be in power; and hence our legislation has become vitiated at every step. It is a great evil in this country; and this act of 1855 will stand as a monument of the error, of the wrong, and of the mischief done by looking to the Departments to see what is our duty to the country. Sir, I hope the time will come when the attention of the people of this country will be called to it, and that they will see to it that this iniquitous system of legislation is broken down.

We have got too many bureaus. This bill of 1855 emanated from some bureau or other. But the mischief has been done. Shall we apply the remedy? The patient is sick; we want the medicine applied; and it is found in the resolution. I know but one or two officers in the Navy. I do not want to know officers; all I want to know is that they do their duty. So long as I have a seat on this floor, I shall not stop to inquire who or what a man is, or where he came from. I will put him on trial upon the same process as I claim for myself. I will try him by no other rule; and as I would have justice measured out to me under the law, so I will give it to the humblest member of society, in any part of the Union. Talk about the Administration! I do not look upon this as an Administration measure or as an anti-Administration measure. I do not know what political feelings any of those men who seek to be restored have. I do not want to know. But I want to give all of them the right to go before the court of appeals—as it has been termed—before the President of the United States, and have their cases reviewed. And if injustice or wrong has been done to them, let the remedy be applied; let their name and reputation be relieved from the curse and odium put upon them, and let the men be restored to their position.

Men who have been educated in the Army or Navy are, as we all know, from their training and habits, entirely unfit for other business. What do they know about any other business than that which they were taught to understand from their youth up? Gentlemen say, if we pass this resolution, we may restore forty-nine officers to the Navy. Suppose we do, Mr. Speaker? If it is right, put the whole of them back, though it should cost the Government fifty or one hundred thousand dollars. If forty-nine of these men stand condemned unjustly by the unrighteous decision of a court, organized as these courts were organized, under the acts of 1855 and 1857, let them be restored to their good name and to their former position. But I take it for granted that there are very few of these men who will be restored. I have seen the applications of two or three, that have been prepared, in the event of the passage of this resolution. I know but few who intend to apply; and, looking at the records of their particular cases, I am satisfied that they are entitled to the remedy provided by this resolution, and that an act of injustice will be done by Congress if it does not pass it. In the other branch of Con-

gress, it was passed by a majority of sixteen. There were, I think, thirty in favor of the resolution, to fourteen against it. That is pretty decisive, especially when the Senate committee had examined into the matter, and investigated some of these cases, and the evidence on which they were decided.

Now, Mr. Speaker, the gentleman from Virginia [Mr. SMITH] said he wanted to make a speech. I think that enough has been said on this subject; and I believe that I should call the previous question. If the House is not willing to sustain it, I do not care. I therefore demand the previous question on the motion to reconsider.

Mr. JONES, of Tennessee. Is it in order to move to lay the motion to reconsider on the table now?

A MEMBER. What for?

Mr. JONES, of Tennessee. To bring the resolution before the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of opinion that it would be in order.

Mr. JONES, of Tennessee. Well, I make that motion.

Mr. SEWARD. That motion was made yesterday, and decided in the negative.

The SPEAKER. Debate has intervened since. The gentleman will perceive that the reason of the rule is this: debate having been held on the main proposition, the House may change its determination with regard to the matter.

Mr. STEPHENS, of Georgia. I want to know what the motion to reconsider is? Is it to bring the bill out of the committee before the House?

Mr. SEWARD. Yes.

The SPEAKER. The first question is on reconsidering the vote by which the House referred the joint resolution to the Committee of the Whole on the state of the Union. If that motion prevails, the question will then recur on the motion, shall the bill be committed to the Committee of the Whole on the state of the Union?

Mr. STEPHENS, of Georgia. And if voted down, the vote will be directly on its passage.

The SPEAKER. The vote will be on the resolution before the House.

Mr. STEPHENS, of Georgia. I hope the motion to reconsider will not be voted down.

Mr. BOCKOCK. I hope it will.

Mr. SMITH, of Virginia. I hope it will, with a view to having the resolution amended.

Mr. SEWARD. I beg leave most respectfully to suggest to the Chair, that, the motion to reconsider being a privileged question under the rules of the House, the vote having been taken on the motion to lay on the table, and it having been decided in the negative, the same motion to lay the motion to reconsider on the table cannot now be entertained a second time by the Chair.

Mr. MILLSON. As a question of order, I ask whether the Chair has not already decided, this session, that a motion to lay on the table, or a motion to reconsider, cannot be repeated when the subject to be laid on the table is in the same legislative condition?

The SPEAKER. Debate has been held.

Mr. MILLSON. Does that affect its legislative position?

The SPEAKER. The Chair would dislike to rule in such a way as to preclude the House from voting on a proposition to terminate a question, after debate had been had upon it.

Mr. MILLSON. As the House is thin, I move a call of the House before the question is put.

Mr. J. GLANCY JONES. If the House resolve itself into the Committee of the Whole on the state of the Union at this time, would not this matter come up to-morrow as the regular business?

The SPEAKER. The resolution would come up the first business in order.

Mr. J. GLANCY JONES. Well, in order to save the time of calling the House, I hope the gentleman will give way to allow me to move to go into the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. This being a question of reconsideration, if the House adjourn it can be called up at any other time.

Mr. MILLSON. I withdraw, for that purpose, my motion for a call of the House.

Mr. J. GLANCY JONES. Then I move that the rules be suspended, and that the House re-

solve itself into the Committee of the Whole on the State of the Union.

Mr. SEWARD. I rise to a question of order. There is a privileged motion already before the House. That is a motion to reconsider the vote by which Senate resolution No. 3 was referred to the Committee of the Whole on the state of the Union. I want to know how, after the previous question was called, the gentleman from Pennsylvania got the floor to move a suspension of the rules?

The SPEAKER. The Chair does not perceive any difficulty at all in the way of the motion made by the gentleman from Pennsylvania. Such a motion has been constantly entertained ever since I have occupied a seat on this floor.

Mr. SEWARD. Very well. I know the decision has been often the other way.

Mr. QUITMAN. I want to present this question of order to the Chair: whether, when the consideration of a bill was fixed for a particular day, as the Army bill was fixed for to-day, can the rules be suspended without general consent? If I am permitted, I object to the suspension of the rules, as proposed by the gentleman from Pennsylvania.

Mr. MILLSON. As the motion to lay the motion to reconsider on the table will involve two additional votes by the House, I appeal to the gentleman from Tennessee to withdraw the motion, and allow the previous question to be seconded.

Mr. JONES, of Tennessee. Very well; I will withdraw it.

Mr. SMITH, of Virginia. I renew it.

Mr. LETCHER. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 127; as follows:

YEAS—Messrs. Abbott, Bingham, Bliss, Bockock, Brayton, Case, Cobb, Clark B. Cochrane, Cragin, James Craig, Burton Craige, Curry, Curtis, Davis of Maryland, Davis of Mississippi, Dodd, Durfee, Edie, Faulkner, Fenton, Foley, Garnett, Gilman, Gilmer, Greenwood, Harlan, Hopkins, Houston, Howard, Jenkins, George W. Jones, Keitt, John C. Kunkel, Letcher, Mason, Miller, Morgan, Olin, Pettit, Quitman, Reagan, Ritchie, Ruffin, Sandidge, Savage, Aaron Shaw, Henry M. Shaw, John Sherman, Samuel A. Smith, William Smith, Spinner, Stanton, William Stewart, Miles Taylor, Tompkins, Wade, and Zollicoffer—57.

NAYS—Messrs. Adrain, Ahl, Anderson, Andrews, Arnold, Atkins, Avery, Barksdale, Bennett, Billingshurst, Bishop, Bonham, Bowie, Buflinton, Burlingame, Burnett, Burns, Burroughs, Caskie, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Clingman, Cockrell, Covode, Cox, Crawford, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dewart, Dick, Edmundson, Elliott, English, Eustis, Farnsworth, Florence, Gartrell, Goode, Goodwin, Granger, Robert B. Hall, J. Morrison Harris, Hatch, Hawkins, Hickman, Hill, Horton, Huyler, Jackson, Jewett, J. Glancy Jones, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Matteson, Maynard, Miles, Milton, Montgomery, Moore, Edward Joy Morris, Mott, Niblack, Nichols, Parker, Pendleton, Peyton, Phillips, Pike, Potter, Pottle, Powell, Ready, Reilly, Robbins, Roberts, Royce, Russell, Seales, Scott, Searing, Seward, Judson W. Sherman, Shorter, Singleton, Robert Smith, Stallworth, Stephens, James A. Stewart, Tappan, George Taylor, Thayer, Waldron, Walton, Ward, Warren, Cadwalader C. Washburn, Israel Washburn, White, Whiteley, Winslow, Woodson, Wortendyke, and John V. Wright—124.

So the motion to reconsider was not laid on the table.

The question then recurred upon the motion to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union; and, being taken, the motion was agreed to.

The question then recurred on the motion to refer the bill to the Committee of the Whole on the state of the Union.

Mr. SEWARD. I withdraw the motion to refer, and demand the previous question on the third reading of the bill.

Mr. SMITH, of Virginia. I suggest to the gentleman, that before he moves the previous question, he allow me to put in an amendment; and allow the sense of the House to be taken upon it.

Mr. SEWARD. I cannot withdraw the demand for the previous question.

Mr. SMITH, of Virginia. I ask that my amendment may be read for information.

Mr. SEWARD. Debate is out of order, and I object.

Mr. SMITH, of Virginia. I do not want to debate it.

Mr. SEWARD. I insist on the demand for the previous question.

Mr. SMITH, of Virginia. Well, sir, I hope the House will vote down the demand.

The previous question was seconded—ayes 85, noes 44; and the previous question ordered to be put.

The bill was ordered to a third reading; and was accordingly read the third time.

Mr. SEWARD called for the previous question on the passage of the resolution.

The previous question was seconded, and the main question ordered.

Mr. BLAIR demanded the yeas and nays.

The yeas and nays were ordered.

The resolution was again read.

The question was taken; and it was decided in the affirmative—yeas 122, nays 51; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Avery, Billingshurst, Bonham, Bowie, Buflinton, Burlingame, Burnett, Burns, Burroughs, Caskie, Chaffee, Chapman, Ezra Clark, John B. Clark, Clawson, Clay, Clemens, Clingman, Clark B. Cochrane, Cockrell, Covode, Cox, Cragin, James Craig, Crawford, Damrell, Davis of Indiana, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dick, Edmundson, Elliott, Eustis, Farnsworth, Florence, Gartrell, Goode, Granger, Robert B. Hall, J. Morrison Harris, Hawkins, Hickman, Hill, Horton, Huyler, Jackson, Jewett, J. Glancy Jones, Owen Jones, Keitt, Kellogg, Kelsey, Knapp, Jacob M. Kunkel, Lamar, Landy, Lawrence, Leach, Leidy, Leiter, Lovejoy, McKibbin, McQueen, Humphrey Marshall, Maynard, Miles, Milton, Montgomery, Edward Joy Morris, Isaac N. Morris, Mott, Niblack, Nichols, Parker, Pendleton, Peyton, Phillips, Potter, Pottle, Powell, Purviance, Quitman, Ready, Reagan, Reilly, Robbins, Roberts, Royce, Russell, Savage, Scott, Searing, Seward, Judson W. Sherman, Shorter, Singleton, Robert Smith, Spinner, Stanton, Stephens, James A. Stewart, Tappan, George Taylor, Thayer, Waldron, Walton, Ward, Warren, Cadwalader C. Washburn, Israel Washburn, White, Whiteley, Winslow, Woodson, Wortendyke, and John V. Wright—122.

NAYS—Messrs. Abbott, Andrews, Atkins, Bingham, Blair, Bliss, Bockock, Brayton, Cobb, Colfax, Burton Craige, Curry, Curtis, Davis of Maryland, Davis of Mississippi, Dodd, Durfee, English, Faulkner, Fenton, Foley, Garnett, Gilmer, Greenwood, Harlan, Hopkins, Houston, Howard, Jenkins, George W. Jones, John C. Kunkel, Letcher, Mason, Miller, Moore, Morgan, Pettit, Phelps, Ritchie, Ruffin, Sandidge, Aaron Shaw, Henry M. Shaw, John Sherman, Samuel A. Smith, William Smith, William Stewart, Miles Taylor, Tompkins, Wade, and Zollicoffer—51.

So the resolution was passed.

Mr. SEWARD moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NEW REGIMENT BILL.

The SPEAKER. The business next in order is the consideration of House bill No. 313, to provide for the organization of a new regiment of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers.

And then, on motion of Mr. CLARK B. COCHRANE, (at three o'clock and forty-five minutes p. m.) the House adjourned.

IN SENATE.

THURSDAY, March 4, 1858.

Prayer by Rev. B. F. BITTINGER.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a memorial and joint resolution of the Council and House of Representatives of the Territory of Nebraska, in favor of an appropriation for the purpose of bridging the Great Platte or Nebraska river at some point within fifty miles of its mouth; which was referred to the Committee on Commerce and ordered to be printed.

Mr. CAMERON. I have received a number of petitions from persons engaged in the iron business in Pennsylvania, who state that that business is very much embarrassed. The petition I have in my hand is signed by the workmen of a single iron establishment in the county of Huntingdon. They say that more than two million dollars are invested in the business immediately in their neighborhood, and that it is all prostrated now in consequence of the legislation of the country; and they desire some relief. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. CAMERON also presented a petition of citizens of Montgomery county, Pennsylvania,

praying that sufficient protection may be extended to that branch of American labor engaged in the manufacture of iron; which was referred to the Committee on Finance.

Mr. STUART presented a petition of citizens of Lockport, New York, and two petitions of citizens of Michigan, praying for the construction of a harbor of refuge at New Buffalo, Michigan; which were referred to the Committee on Commerce.

Mr. ALLEN presented a resolution of the Legislature of Rhode Island and Providence Plantations, in favor of an act granting public lands to the several States and Territories, to aid and encourage scientific education in agriculture and the mechanic arts; which was ordered to be printed.

Mr. BIGLER presented the petition of John Wightman, praying that the Postmaster General may be authorized to vary the terms of his contract for carrying the mail in conformity with the principles of equity and justice; which was referred to the Committee on the Post Office and Post Roads.

Mr. HAMLIN presented the petition of Ebenezer Ricker, praying to be allowed a pension on account of a wound received in the military service of the United States; which was referred to the Committee on Pensions.

He also presented a resolution of the Legislature of Maine, in favor of the distribution of a portion of the public lands among the several States for educational purposes; which was ordered to lie on the table, and be printed.

Mr. THOMSON, of New Jersey, presented the petition of Jeremiah Pendergast, praying to be allowed additional pay for services as a night-watchman at the Patent Office building; which was referred to the Committee on Patents and the Patent Office.

Mr. JONES presented a memorial of the General Assembly of Iowa, praying for the establishment of a tri-weekly mail from Des Moines, in that State, to White Cloud, in the Territory of Kansas; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. ALLEN, its Clerk, announcing that the House has passed the resolution of the Senate (No. 3) to extend and define the authority of the President, under the act approved January 16, 1857, entitled "An act to amend an act entitled 'an act to promote the efficiency of the Navy,' in respect to dropped and retired naval officers."

BANKRUPT LAW.

Mr. TOOMBS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That so much of the annual message of the President of the United States as relates to the subject of "a uniform bankrupt law," be referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES.

Mr. STUART, from the Committee on Public Lands, to whom was referred two petitions of citizens of Cincinnati, Ohio, in relation to grants of land to actual settlers in Arizona, asked to be discharged from their further consideration, and that they be referred to the Committee on Territories; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 139) amendatory of the act entitled "An act in addition to certain acts granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," approved March 3, 1855, reported it without amendment, and that the bill ought not to pass.

He also, from the same committee, to whom was referred the bill (S. No. 157) to provide for the payment to the State of Missouri of two per centum of the net proceeds of the sales of the public lands therein, heretofore reserved under a compact with said State, reported it without amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred a bill reported from the Court of Claims, December 10, 1857, for the relief of Charner T. Scaife, administrator of Gilbert Stalker, with the opinion of the court in favor of

the claim, reported the bill (S. No. 183) without amendment, and submitted a report; which was ordered to be printed. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred a bill reported from the Court of Claims, the 12th of May, 1856, for the relief of John Robb, with the opinion of the court in favor of the claim, reported the bill (S. No. 184) with an amendment, and submitted a report; which was ordered to be printed. The bill was read, and passed to a second reading.

He also, from the same committee, to whom was referred the joint resolution (S. No. 2) to authorize the Secretary of the Treasury to audit and settle the accounts of the contractor for the erection of the United States marine hospital at San Francisco, California, reported it with an amendment.

Mr. CLAY, from the Committee on Commerce, to whom was referred a paper relating to the claim of C. J. Fox, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

He also, from the same committee, to whom was referred the memorial of John C. F. Salamon and George W. Morris, asked to be discharged from its further consideration, and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. BAYARD, from the Committee on the Judiciary, to whom was referred the bill (S. No. 4) to authorize writs of error in all cases prosecuted by indictment, reported it with an amendment.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire whether or not Minnesota is a State of the Union under the Constitution and laws, submitted a report accompanied by the following resolution:

Resolved, That Minnesota is not a State of the Union, under the Constitution and laws.

The report was ordered to be printed.

THOMAS AP CATESBY JONES.

On motion, by Mr. MASON, the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 122) for the relief of Captain Thomas Ap Catesby Jones. It directs the proper accounting officers to allow to him the pay of which he was deprived by the decision of a court-martial, in the year 1851, with a proviso that this is not to be construed as an expression of opinion on the organization, conduct, or decision of the court.

Mr. STUART. I ask the Secretary to read the memorial which will present this case.

The Secretary read as follows:

To the Senate and House of Representatives of the United States of America in Congress assembled:

The memorial of Thomas Ap Catesby Jones, a captain in the Navy of the United States, respectfully sheweth, that in the winter of 1850-51, shortly after his recall from command of our squadron on the Pacific and California coasts, he was tried by a naval court-martial, which held its session at the navy-yard, in this city; and that the sentence was "five years' suspension, the first two and a half years without pay or emolument." This severe sentence was passed, as your memorialist verily believes, and is well assured by several distinguished jurists familiar with court-martial practice, on testimony essentially defective, even to the admission of "ex parte" evidence, as the official record of the court attests; and on which your memorialist was justly entitled to full and honorable acquittal. For these and other good and substantial reasons your memorialist prayeth that your honorable body will take his case of great hardship into favorable consideration, and authorize restitution of the pay of which he has been wrongfully deprived, through the mistake of the court, from the 18th day of February, 1851, to the 22d day of February, 1853.

Your memorialist most respectfully begs leave to refer your honorable body to the accompanying letter, (No. 3) which may be considered as the first direct action of his Excellency President Fillmore, on his sentence. This action was voluntary on the part of the Executive; and the kind terms used by the Hon. Mr. Kennedy, Secretary of the Navy, in communicating the President's remission of the unexpired term of the sentence, affords just ground for supposing that the President, as well as Mr. Kennedy, considered the sentence of your memorialist as one of unmerited severity.

And your memorialist, as in duty bound, will ever pray.
THOS. AP C. JONES.

No. 3.—Letter referred to in the foregoing petition:

NAVY DEPARTMENT, February 23, 1853.

SIR: It gives me much pleasure to inform you that the President, upon a consideration of your case as represented to him by the Department, has been pleased to direct that the residue of the term of your suspension, to which you were sentenced by a naval general court-martial, in February, 1850, be remitted, and that you be "restored to the service."

This remission will take effect from the 22d instant, from which date you will consider yourself as waiting orders.

I am, respectfully, your obedient servant,
JOHN P. KENNEDY.

Commodore THOMAS AP CATESBY JONES, *United States Navy, Prospect Hill, Virginia.*

The foregoing is an exact copy of the original memorial presented late in the second session of the Thirty-Third Congress, but not acted on till the first session of the Thirty-Fourth Congress, when, after full debate, the Senate passed bill No. 481, which, although it received the sanction of the Committee on Naval Affairs in the House of Representatives, was not acted upon by the House of Representatives, for the want of time.

THOS. AP CATESBY JONES.

All the papers to which reference is made in the foregoing memorial, are now on file in the House of Representatives.
JONES.

WASHINGTON, December 2, 1856.

Mr. STUART. It certainly affords me no pleasure to oppose a claim of this character, here or elsewhere; but, sir, my convictions are perfectly clear that the relief which is asked for by the memorialist in this case is beyond the constitutional authority of Congress to give; and I shall ask the attention of the Senate for a very few minutes, while I present the considerations which occur to me.

The memorialist states that by a court-martial held at the navy-yard in this city some years ago, he was tried upon certain charges, and by that court-martial convicted. He sets out that that court-martial received improper evidence, even extending, he says, to *ex parte* testimony; that they rendered an unnecessarily severe judgment against him, which judgment was that he should be suspended five years, two years and a half of which were to be without pay. He says that on the case being reviewed by the President, in virtue of his constitutional authority, (in which review it will be conceded by all he had the power to remit the entire sentence if he chose,) he decided to remit one half of the suspension, or the remaining term of suspension. The memorialist, for the reasons which he assigns, in the first place, that the court received improper evidence, and in the next place, that they visited on him too severe a judgment, asks Congress to interpose. The President having remitted one part of the judgment, he asks that Congress shall remit the remainder, by allowing him two and a half years' pay.

There I make the point that Congress has no authority whatever to interpose and modify this judgment of the court-martial, and that it would have no such authority if the President had not acted at all, the Constitution being clear that all power to pardon, or to remit fines or penalties, belongs to the President, and the President alone. But, sir, here is a case where the President has been called upon to exercise this constitutional authority; and he has exercised it, and decided that he will do no more than remit the residue of the suspension. It seems to me that this case is too clear for argument. I know that it has been presented before—presented in the hurry of legislation. I know the difficulty there is in considering a question of this kind in the Senate, at any time. That difficulty exists now, and always will exist; but if there be any one thing under this Government more important than another, it is that each department shall keep itself clearly and distinctly within its own jurisdiction; that the legislative department shall not encroach, in the least degree, upon the duties which belong appropriately to the executive or judicial departments, and so of them.

I am aware that it is sought to be said that we merely pay this man the money; that we do not undertake to interfere with the judgment of the court; and that the bill has got a very mild proviso attached to it, declaring that this act shall not be construed as passing any opinion whatever on the propriety of the decision of the court-martial; but the bill itself is a direct interference with the judgment of the court—overruling it. Can this be disputed? What is it, I ask—and I call the attention of Senators to it—that prevents Captain Jones from receiving this two and a half years' salary now? It is the judgment of the court-martial depriving him of it. If Congress passes a bill to pay it to him, does not Congress interfere with the judgment? Can this dilemma be escaped by any sort of reasoning, or attempt at reasoning? It seems to me not. I repeat, the only thing that stands in the way of his claiming at the Treasury Department now this two and a half years' pay,

is that he has been deprived of it by the judgment of a court-martial. Then, when Congress directs it to be paid to him, it certainly is a direct interference with, and overturning of, that judgment. Is that within our power? I think not.

I submit, Mr. President, that the very fact that this is not a large amount constitutes a reason for the careful consideration of the subject to-day. You may settle a great principle much better when the amount involved is small than when it is large. A court, of competent jurisdiction, by its judgment deprives a man of his pay for two years and a half on account of offenses against the service. Congress steps in and refunds him the money. What has been the effect of the trial? Suppose the only judgment that had been passed was to deprive him of two and a half years' pay, and Congress refunds it, I ask, again, what is the effect of the judgment? Nothing. The President had the power to remit the entire sentence. Upon a careful consideration of the case, he decided that he would do no more than remit the remainder of the sentence, and shorten the time of suspension; that that was all that mercy required at his hands. Now Congress is called upon to remit the remainder, and it is sought to modify it sufficiently by declaring that this is not to be construed as passing any opinion upon the propriety of the judgment. Why, sir, you cannot attach to it any such condition. You are obliged to say that the judgment was wrong; or else upon what ground do you remit the sentence and pay the money?

These are, as briefly as I could state them, the insurmountable objections which occur to my mind on the reading of this bill. So far as this officer is concerned I do not desire, even by inference, to be understood as saying aught against him. Personally, to me he is an entire stranger. His history in his younger days is not a stranger to me, nor I to it. He has done good service to his country; but so has many another man, who finally committed an offense against the laws of his country, and been punished for it. That seems to be this case, and it appears to me to be beyond our power to furnish him any remedy.

Mr. MASON. Mr. President, I am glad to find that the honorable Senator from Michigan has, on one occasion at least—I do not know that it has been my good fortune, since I have been associated with him, to know of any other—exhibited an inclination of his mind to a strict construction of the Constitution; because I understand it is on constitutional grounds altogether that he opposes this bill. I have known instances where it has been the conviction of my mind that the Constitution has been subjected almost to lawless violence under construction placed upon it by that honorable Senator. But I think, in the present instance, he has failed to show, to any extent whatever, that the proposed action of Congress in appropriating this money for the purpose designed by this bill, interferes even in a technical form with the requirements of the Constitution.

The honorable Senator says that the court having competent authority imposed, as a part of the punishment upon the officer, that he should be suspended from active service for five years, and deprived of pay for half that time. The Senator reasons upon the Constitution, that none but the President, having the pardoning power, can, in any manner, directly or indirectly, affect that sentence. I do not trace the intervention of the President to the pardoning power at all; but if I did, I should think the honorable Senator would equally be at fault in his argument. The Constitution of the United States declares only that the President shall have power to grant reprieves and pardons; and so far as clemency is concerned, the whole power is embraced in that phrase, "to grant reprieves and pardons." But the Constitution also says that Congress shall have power to prescribe rules for the government of the Army and Navy, of which the President is made Commander-in-Chief. The exact language is, "to make rules for the government and regulation of the land and naval forces." Congress has exercised that power; Congress has declared the mode in which military offenses committed in either branch of the military service, the Army or Navy, shall be examined into by military courts; and Congress has vested in the President the power of reversal over their judgment, as the Commander-in-Chief of the Army and Navy. The sentence of the court, be it what it may, has no effect at all under that law

until it is approved by the President. If the President approves it, it is to go into effect; if he disapproves it, it is null. That power is under the law, as I should take it, prescribing rules for the government of the Army and Navy.

Now, what is the present case? The court martial upon Commodore Jones decided that he should be suspended for five years, and two years and a half of that time without pay. I have not examined the law prescribing the mode in which courts-martial shall be constituted, nor the whole question of the power that is given to the President to affect the sentence of the court; but I am very confident that part of the power is to declare the judgment null if he shall think proper, and it has no effect until he approves it; but in the present case the President approved the sentence of the court, and it went into effect.

Perhaps I am wrong (for I have been presenting this case only as it occurred to my mind) in supposing that the power to remit the sentence resulted from the rules prescribed by Congress for the government of the Army and Navy, and it may be that it is to be traced to the pardoning power. But, be that as it may, that the President possessed the power which he interposed in this instance, I presume even the honorable Senator does not question; he has not questioned it in his argument.

Mr. STUART. I stated that he had it.

Mr. MASON. Very well. He possessed the power. How did he exercise it? He approved the sentence in the first instance, and allowed it to go into effect; and the officer was deprived of his command and his pay. After the sentence had gone into effect, and had its operation for a certain period—I do not remember exactly what, nor is it very material—the President interposed the power which he undoubtedly possessed from some quarter—not to set aside the judgment of the court; he had approved that; the day had gone by in which he could declare the sentence null and void; but he interposed the executive power to remit the further execution of that sentence as far as the executive power extended. How far could it extend? The judgment of the court was a part of the law of the land; and under that law of the land the money, which would have been payable to the officer for his compensation, was withheld at the Treasury and remained there; unappropriated money, beyond all question. Whether it was for one year or two years, or the whole term of two years and a half, I do not now recollect, nor is it material; but, for whatever period, the money withheld by that judgment of the court was withheld by lawful authority, and remained in the Treasury unappropriated, and remains there now. Why? Because, by competent, lawful authority, any previous appropriation of it to pay this officer was repealed and revoked by the sentence. It remained in the Treasury, therefore, unappropriated money.

Now, the honorable Senator says it was in the power of the President, if he thought proper to do so as the only revisory power of a court-martial, to remit the whole penalty. If he means by that assertion that it would be in the power of the President to make his interposition retroactive, and by that to require of the Treasury to pay out this unappropriated money to the officer, I question it entirely. He could not make it retroact; he could not affect money that remained in the Treasury unappropriated; he did all that he could do in revising the judgment of the court; he had before approved it; he had allowed it to take effect; but from considerations which operated on his mind as the Commander-in-Chief of the Army and Navy, and for the good of the public service, it is to be presumed—I doubt not properly exercised in this instance, without revising or annulling the judgment of the court—he remitted the penalty in favor of the officer. Now, I should think the President, in doing that, has shown that, to the extent of his power, this act of interposition was called for by the circumstances of the case. He exhausted his whole power in remitting the unexpired term; but he could not call back the money which had been cut off from the officer by the sentence of the court-martial which became a part of the law of the land.

The honorable Senator says that to pass this bill would be to disapprove and to annul, by the action of Congress, the sentence of the court. Why, Mr. President, would it not be competent

for Congress to remit a fine which had been imposed by a court of justice on any offender against the laws? Suppose an offense is committed to which a pecuniary penalty is annexed, as is often the case—the laws frequently punish offenses by pecuniary fines, mulcts. Suppose, under such a law, a fine is imposed; it is collected from the delinquent, and paid into the Treasury; the law has had its full effect; the whole penalty has been paid: does anybody doubt the power of Congress, if circumstances are presented showing that there were reasons, either in regard to former character or public considerations, that should lead them to remit that penalty by refunding the money, to do it, leaving the judgment of the court utterly unaffected, standing precisely as it did before such an act was passed? Is not that the same proposition here? The sentence of the court has been carried into effect, except so far as the President remitted it; it has made its visitation on this officer, and a very heavy visitation it was. What is asked by the officer now is, that Congress will interpose to do what the President was unable to do—to refund to him the money withheld and now in the Treasury unappropriated, and which would have gone to his pay, but for the sentence of the court. The terms of the bill, I think from abundant caution, and abundant caution only, provide that there shall be no misconstruction of it to be drawn into precedent hereafter. It directs that the accounting officers of the Treasury shall allow to Captain Jones the pay of which he was deprived by the decision of a court-martial in 1851. In my judgment, that could never be drawn into precedent as an assumption of authority in Congress to revise or disapprove the judgment of a court; but to save that, the committee have introduced this proviso:

"That this act is not to be construed as an expression of opinion upon the organization, conduct, or decision of said court."

Mr. President, the officer (Captain Jones) for whom this bounty is intended—for it is a bounty on the part of Congress; it is a gratuity on their part; he can derive it only from the interposition of Congress, which has the power of appropriating money—as is known to the history of the country, was amongst the gallant and distinguished naval officers of the last war with England, who rendered services to his country that will carry down his name to posterity as one of the gallant and brave defenders of their country in the war of 1814, when he was a very young man, a lieutenant or a midshipman, I do not know which. We all know the impression that was made on the popular mind by his gallant defense of New Orleans with the gun-boats under his command, on the occasion of the attack on that city. It is a part of the history of the country, recorded on the page of history, that the British were delayed in their landing for several days by Jones and those gun-boats, until General Jackson had completed his military preparations. I speak of that only as an evidence of his gallantry, his courage, and his enterprise, as a young man. It was there he received a wound, which physically disabled him, to a very great extent, in all after life.

Mr. President, we have been in the habit, not only from consideration for the officer himself, but public considerations, to invite, to encourage those who are always ready and prompt to imperil their lives in the cause of the country, by our action here. What is the condition of this officer now? He was set aside by the late board of inquiry for physical disability only—the very wound that he carried upon his person. He is now, as I happen to know, for he has been a cherished and valued friend of mine from my earliest youth, and a native of my own State, lying hopelessly ill within a short distance of this Capitol, very infirm of health from the wound which he has carried about him for a long while; and when he dies, will die, if not leaving his family destitute, under very heavy and very serious embarrassments. That, I confess, has been my reason for taking the bill up out of its order, and in the absence of the honorable Senator who reported it from the Committee on Naval Affairs, [Mr. HALE.] But this bill has twice passed the judgment of the Senate, not in a hurried manner, as suggested by the honorable Senator from Michigan, but after debate, certainly in one instance, if not in both, in which that honorable Senator and myself participated. The honorable

Senator from Vermont [Mr. COLLAMER] has suggested what, perhaps, may be better—that the bill should contain the usual words, that the money shall be paid out of any money in the Treasury not otherwise appropriated. I ask that informal modification be made, and I shall not trouble the Senate longer.

Mr. STUART. I confess, sir, I should have been much better pleased if the honorable Senator from Virginia had consented to discuss this question without undertaking to pay me a very doubtful compliment. He did not allude to the occasions in which he supposed I was making dangerous onslaughts on the Treasury against constitutional authority, and hence has not afforded me an opportunity to show that I was justified. I think if he had specified them, perhaps it would have been found that they were cases in which two thirds and more of the Congress of the United States, after full discussion, agreed with me, so that I might find a justification in that. But I wish to do equal justice to the honorable Senator and to say to him that the only men it has ever been my fortune to meet in Congress whose constructions of the Constitution were so broad that I could not go with them, have been the men who have claimed to be strict constructionists *par excellence*.

It will be conceded, I think, that the Senate is not the very best place in the world to discuss a question of law, and I am not certain but that it might be equally well conceded that Senators while in their seats here are not the best prepared to discuss them. At all events, in what I am about to say, while I think I am right, I may be in error. I speak from recollection. My recollection of the law is, that a pardon successfully pleaded leaves the case as if the judgment had never been passed. That, I think, is the law. If this be true, then if the President in the exercise of his constitutional authority had remitted the entire judgment, the case would have stood as if the judgment had never been rendered, and Captain Jones could have gone to the Treasury and demanded his pay. Such, I think, upon an examination of the books, will prove to be the case. But, as I said, I speak only from recollection, and therefore do not wish to state it with too much assurance.

Then, sir, it turns out that the history of this case was properly stated by me. There was a judgment of a court of competent jurisdiction; that judgment was approved by the President; it was subsequently reviewed by him, under his authority to exercise the pardoning power, and a portion of the judgment remitted, to the extent of the last two and a half years of the suspension. It is, therefore, a case executed and complete under that department of the Government having constitutional authority, and having in its possession the entire facts. The Senate is bound to believe that the President has exercised all that clemency which the nature of the service would permit in remitting two and a half years of the judgment of suspension.

Confident as the Senator from Virginia seemed to be that Congress possesses the power to cancel a judgment imposing a fine by a court of competent jurisdiction, I feel it my duty to interpose a respectful denial of that power.

Mr. MASON. I never said Congress could cancel a judgment; but they certainly could repay a fine after it had been paid; the judgment would remain.

Mr. STUART. I certainly desire to state the argument of the Senator as he made it himself. He did say that Congress possessed the power to refund the money. Then what is the effect of the judgment? Of what sort of avail is it for the courts, civil and military, of the United States, under the Constitution, to pass judgments imposing fines and penalties, if Congress possesses the power next day to refund the money? Can it be said that that does not interfere with the judgment? You might as well adopt the argument of the Quaker—that he would not kill the man, neither would he injure him; but he would hold his head under the water until the breath was out of his body. You render the judgment of no possible avail. A judgment pronounces a penalty of \$1,000; you refund the money; and that, it is said, does not affect the judgment!

Let us see whether you have the power to refund the money. The Constitution provides that money may be appropriated by Congress out of

the Treasury to pay the debts of the Government. I know of no authority that exists, under the Constitution, on the part of Congress to make donations of the public money outright. That seems to be the ground on which the Senator from Virginia puts the bill; but I desire the Senate to remember that the memorialist does not put it on the ground that Congress shall make him a donation of this two and a half years' pay, but he puts it on the ground that the court pronounced an unnecessarily severe judgment against him on *ex parte* testimony. That is the position on which he bases the claim; but if it be placed on the ground of a donation, I ask the Senator to point me to the clause of the Constitution of the United States which authorizes Congress to make a donation of the public money. I do not deny that there may be great and meritorious services of a citizen which Congress may say authorize them to make compensation; but that is to pay a debt. A man has furnished to the country eminent services of immense value, and Congress may appropriate money out of the Treasury to pay him for this service thus rendered to his country. That is not a donation. It is for a consideration full, valuable, complete. But to appropriate a dollar out of the Treasury as a matter of donation, I emphatically, though respectfully, deny the power to do.

THE VICE PRESIDENT. The Senator from Michigan will suspend his remarks. The hour has arrived for the consideration of the special order, which is the bill for the admission of the State of Kansas into the Union.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

The pending questions are as follows: Mr. GREEN submitted the following substitute for the original bill, of which the title is, "A bill for the admission of the States of Kansas and Minnesota into the Union:"

Whereas, the people of the Territory of Kansas, by their representatives in convention assembled at Lecompton, in said Territory, on Monday, the 4th day of September, 1857, did form for themselves a constitution and State government; and whereas, the people of the Territory of Minnesota, on the 29th day of August, 1857, by delegates elected for that purpose, form for themselves a constitution and State government, which was ratified and adopted by the people at an election held on the 13th day of October, A. D. 1857, for that purpose, both of which said constitutions are republican; and said conventions having asked the admission of their respective Territories into the Union as States, on an equal footing with the original States: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the States of Minnesota and Kansas be, and are hereby, declared to be States of the United States of America, and are hereby admitted into the Union, on an equal footing with the original States, in all respects whatever.

Sec. 2. *And be it further enacted,* That the said State of Minnesota shall have the same boundaries as are prescribed in the act of Congress passed February 26, 1857, entitled, "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to their admission into the Union, on an equal footing with the original States."

Sec. 3. *And be it further enacted,* That the said State of Kansas shall consist of all the territory included within the following boundaries, to wit: beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning: *Provided,* That nothing herein contained respecting the boundary of said State shall be construed to impair the rights of person or property now pertaining to the Indians in said State, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with such tribes, is not, without their consent of said tribes, to be included within the territorial limits or jurisdiction of any State or Territory; but such territory shall be excepted out of the boundaries, and constitute no part of the State of Kansas, until such tribes shall signify their assent to the President of the United States to be included within said State, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to make if this act had never passed.

Sec. 4. *And be it further enacted,* That the said States of Minnesota and Kansas are admitted into the Union upon the express condition that said States shall never interfere with the primary disposal of the public lands in said States, or with any regulations which Congress may find it neces-

sary to make for securing the title to said lands to the bona fide purchasers or grantees thereof, or levy any tax, assessment, or imposition, upon them or other property of the United States within the respective limits of said States; and nothing herein contained shall be construed as an assent by Congress to all or any of the propositions or claims contained in the ordinance annexed to the constitution of the people of Kansas, nor to deprive the said State of Kansas of the same grants which were contained in the act of Congress entitled "An act to authorize the people of the Territory of Minnesota to form a constitution and State government, preparatory to admission into the Union on an equal footing with the original States," approved February 26, 1857.

Sec. 5. *And be it further enacted,* That until the next general census shall be taken, and an apportionment of Representatives made, the said State of Minnesota shall be entitled to one Representative, and such additional Representatives in Congress as the population of said State, according to the census authorized by the act approved February 26, 1857, and returned at the time of admission, shall show it to be entitled to according to the present ratio of representation, and no more; and the said State of Kansas shall be entitled, until said apportionment, to one Representative in the Congress of the United States.

This, Mr. PUGH proposes to amend by adding, as an additional section—

Sec. —. *And be it further enacted,* That the admission of the States of Minnesota and Kansas into the Union, by this act, shall never be so construed as to deny, limit, or otherwise impair, the right of the people of the said States, with the assent of their Legislatures, severally, at all times, to alter, reform, or abolish their form of government, in such manner as they may think proper, so that the same be still republican, and in accordance with the Constitution of the United States.

Mr. CLARK proposes to offer the following as a substitute for Mr. PUGH's amendment, when he can do so in accordance with the rules. He submitted it, and it was ordered to be printed for the information of Senators:

Sec. —. *And be it further enacted,* That the State of Kansas is admitted into the Union upon the further express condition that nothing contained in the fourteenth section of the schedule of the constitution of said State of Kansas, "done at Lecompton on the 7th day of November, 1857," shall be so construed as to prevent the Legislature of said State, if they shall think necessary to amend, alter, or change said constitution, from recommending, prior to the year 1861, by a majority vote, to the electors of said State to call a convention for that purpose, nor the electors from electing such a convention, nor said convention from making such amendments, changes, or alterations whatever, as they may deem proper. And upon the further express condition that neither the admission of said State with said constitution, nor said constitution itself, shall be construed, or have force to revive, or reenact after said admission, any law or regulation repealed by the Legislature of the Territory of Kansas before the passage of this act, without a reenactment by the Legislature of said State of Kansas after its admission.

Mr. HAMMOND. Mr. President, in the debate which occurred here in the early part of the last month, I understood the Senator from Illinois [Mr. DOUGLAS] to say that the question of the reception of the Lecompton constitution was narrowed down to a single point. That point was, whether that constitution embodied the will of the people of Kansas. Am I correct?

Mr. DOUGLAS. The Senator is correct, with this qualification: I could waive the irregularity and agree to the reception of Kansas into the Union under the Lecompton constitution, provided I was satisfied that it was the act and deed of that people, and embodied their will. There are other objections; but the others I could overcome, if this point were disposed of.

Mr. HAMMOND. I so understood the Senator. I understood that if he could be satisfied that this constitution embodied the will of the people of Kansas, all other defects and irregularities would be cured by the act of Congress, and that he himself would be willing to permit such an act to be passed.

Now, sir, the only question with him is, how is that will to be ascertained? and upon that point, and that alone, it is probable we shall differ. I think the Senator fell into a fundamental error in his report dissenting from the report of the majority of the territorial committee, in saying that the convention which framed this constitution was a creature of the Territorial Legislature; and from that error has probably arisen all his subsequent errors on this subject. How can it be possible that the convention should be the creature of a Territorial Legislature? The convention was an assembly of the people in their highest sovereign capacity, about to perform their highest possible act of sovereignty. The Territorial Legislature is a mere provisional government; a petty corporation, appointed and paid by the Congress of the United States, without a particle of sovereign power; and yet, shall that interfere with a sovereignty—inchoate, but still a sovereignty? Why, sir, Congress cannot interfere; Congress

cannot confer on the Territorial Legislature the power to interfere. Congress is not sovereign. Congress has sovereign powers, but no sovereignty. Congress has no power to act outside of the limitations of the Constitution; no right to carry into effect the supreme will of any people if it has not been expressed in their constitution; and, therefore, Congress is not sovereign.

Nor does Congress hold the sovereignty of Kansas. The sovereignty of Kansas resides, if it resides anywhere, with the sovereign States of this Union. They have conferred upon Congress, among other powers, the authority of administering their sovereignty to their satisfaction. They have given Congress the power to make needful rules and regulations regarding the Territory; and they have given Congress power to admit a State. Under these two sovereign powers, Congress may first establish a provisional territorial government merely for municipal purposes; and when a State has grown into sovereignty, when that sovereignty which has been kept in abeyance demands recognition, when a community is formed there, a social compact created, a sovereignty born as it were upon the soil, then Congress is gifted with the power to acknowledge that sovereignty; and the Legislature, only by mere usage, oftentimes neglected, assists at the birth of it by passing a precedent resolution assembling a convention.

But, sir, when that convention assembles to form a constitution, it assembles in the highest known capacity of a people, and has no superior in this Government but a State sovereignty; or rather the State sovereignties of all the States alone can do anything with the act of that convention. Then if that convention was lawful, if there is no objection to the convention itself, there can be no objection to the action of the convention; and there is no power on earth that has a right to inquire whether the convention represented the will of the people of Kansas or not. I do not doubt that there might be some cases of such gross and palpable frauds committed in the formation of a convention, as might authorize Congress to investigate them, but I can scarcely conceive of any; and I do not think that Congress has any other power, when a State knocks at the door for admission, but to inquire if her constitution is republican.

If what I have said be correct, then the will of the people of Kansas is to be found in the action of her constitutional convention, and it is not safe to look for it anywhere else. It is immaterial whether it is the will of a majority of the people of Kansas now, or not. The convention was, or ought to have been, elected by a majority of the people of Kansas. A convention, elected in April, may well frame a constitution that would not be agreeable to a majority of the people of a new State, rapidly filling up, in the succeeding January; and if Legislatures are to be allowed to put to a vote the acts of a convention, and have them beaten down by a subsequent influx of emigrants, there is no finality. If you were to send back the Lecompton constitution, and another was to be framed, in the slow way in which we do public business here, before it would reach Congress in another year perhaps the majority would be turned the other way.

Sir, whenever you go outside of the regular forms of law and constitutions to seek for the will of the people you are wandering in a wilderness—a wilderness of thorns. If this was a minority constitution I do not know that that would be an objection to it. Constitutions are made for minorities. Perhaps minorities ought to have the right to make constitutions, for they are administered by majorities. The Constitution of this Union was made by a minority, and as late as 1840 a minority had it in their hands, and could have altered or abolished it; for, in 1840, six out of the twenty-six States of the Union held the numerical majority.

The Senator from Illinois has, upon his view of the Lecompton constitution and the present situation of affairs in Kansas, raised the cry of popular sovereignty. The Senator from New York [Mr. SEWARD] yesterday made himself facetious about it, and called it "squatter sovereignty." There is a popular sovereignty which is the basis of our Government, and I am unwilling that the Senator should have the benefit of uniting squatter sovereignty with popular sovereignty. Sir, in all countries and in all time, it is well understood

that the numerical majority of the people could, if they chose, exercise the sovereignty of the country; but for want of intelligence, and for want of leaders, they have never yet been able successfully to combine and form a popular government. They have often attempted it, but it has always turned out, instead of a popular sovereignty, a populous sovereignty: and demagogues, placing themselves upon the movement, have invariably led them into military despotism.

I think that the popular sovereignty which the Senator from Illinois would derive from the acts of his Territorial Legislature, and from the information received from partisans and partisan presses, would lead us directly into populous sovereignty, and not popular sovereignty. The first organization of popular sovereignty on a proper basis took place in this country. The first gun of the Revolution was a salute to a new organization of popular sovereignty that was embodied in the Declaration of Independence, developed, elaborated, and inaugurated forever in the Constitution of the United States; and the true pillars of it were representation and the ballot-box, the legal and constitutional ballot-box ordained by the people. In the division of power, in distributing the sovereign powers among the various departments of the Government, the people retained for themselves the single power of the ballot-box; and a great power it was. Through that power they were able to control all the departments of the Government. It was not for the people to be exercising political power in detail; it was not for them to be annoyed with the cares of government; but, from time to time, through the ballot-box, to exert their power to control the whole organization, and sovereignty remained with them. This is popular sovereignty, the popular sovereignty of a legal, constitutional ballot-box; and when spoken through that box, the voice of the people, for all political purposes, is the voice of God; but when it is outside of that, it is the voice of a demon, the doctrine of the reign of terror.

Permit me to say, that in passing I omitted to answer a question that the Senator from Illinois has, I believe, repeatedly asked; and that is, what were the legal powers of the Territorial Legislature after the formation and adoption of the Lecompton constitution? That had nothing to do with the Territorial Legislature. They moved in totally different spheres. The Territorial Legislature was a provisional government almost without power, appointed and paid by this Government. The Lecompton constitution was the act of a people, and the sovereign act of a people. They moved in different spheres and on different planes, and could not come in contact at all without usurpation on the one part or the other. It was not competent for the Lecompton constitution to overturn the territorial government and set up a government in place of it, because that constitution, until acknowledged by Congress, was nothing; it was not in being. It could well order the people of Kansas to pass upon it; it could do whatever was necessary to perfect that constitution, but nothing beyond that, until Congress had agreed to accept it. In the mean time the territorial government, a government *ad interim*, was entitled to exercise all the sway over the Territory that it ever had been entitled to. The error of assuming, as the Senator did, that the convention was the creature of the territorial government, has led him into the difficulty and confusion of uniting and disuniting these two governments according as it may suit his argument. There is no government in the convention until after the adoption by Congress of its constitution; and there is no interference at any time with the Territorial Legislature, as there is no actual power in the Territorial Legislature even to call a convention, but what is derived from usage and permission, and by an enabling act sometimes from Congress.

If the Senator from Illinois, whom I regard as the Ajax Telemon of this debate, does not press the question of frauds, I shall have little or nothing to say about that. The whole history of Kansas is a disgusting one, from the beginning to the end. I have avoided reading it as much as I could. Had I been a Senator before, I should have felt it my duty, perhaps, to have done so; but not expecting to be one, I am ignorant, fortunately, in a great measure, of detail; and I was glad to hear the ac-

knowledge of the Senator from Illinois, since it excuses me from the duty of examining it.

I hear, on the other side of the Chamber, a great deal said about gigantic and stupendous frauds; and the Senator from New York, yesterday, in portraying the character of his party and the opposite one, laid the whole of those frauds upon the pro-slavery party. To listen to him, you would have supposed that the regiments of emigrants recruited in the purlieus of the great cities of the North, and sent out, armed and equipped with Sharpe's rifles and bowie knives and revolvers, to conquer for freedom in Kansas, stood by, meek saints, innocent as doves, and humble as lambs brought up to the sacrifice. Think of them; General Lane's lambs! They remind one of Colonel Kirk's lambs, to whom they have a family resemblance. I presume that there were frauds; and that if there were frauds, they were equally great on all sides; and that any investigation into them on this floor, or by a commission, would end in nothing but inflicting almost unendurable disgrace on the United States.

But, sir, the true object of the discussion on the other side of the Chamber, is to agitate the question of slavery. I have very great doubts whether the leaders on the other side of the House really wish to defeat this bill. I think they would consider it a vastly greater victory to crush out the Democratic party in the North, and destroy the leaders of the Kansas-Nebraska bill; and I am not sure that they have not brought about this imbroglio for the very purpose. How strange is it that they tell us that year after year the majority in Kansas is beaten at the polls? They have always had a majority, but they always get beaten! How could that be? It does seem, from the most reliable sources of information, that they have a majority, and have had a majority for some time. Why has not this majority come forward and taken possession of the government, and made a free-State constitution, and brought it here? We should all have voted for its admission cheerfully. There can be but one reason: if they had brought, as was generally supposed at the time the Kansas-Nebraska act was passed would be the case, a free-State constitution here, there would have been no difficulty among the northern Democrats; they would have been sustained by their people. The statement made by some of them, as I understood, that that act was a good free-State act, would have been verified, and the northern Democratic party would have been sustained; but its coming here a slave State, it is said, will kill that party, and that is the reason they have refrained from going to the polls; that is the reason they have refrained from making it a free State when they had the power. They intend to make it a free State as soon as they have effected that purpose of destroying the Democratic party at the North, and their true reason here is to agitate slavery. For one, I am not disposed to discuss that question here in any abstract form. I think the time has gone by for that. Our minds are all made up. I am willing to discuss it—and that is the way it should be and must be discussed—as a practical thing, as a thing that is, and is to be; and to discuss its effect upon our political institutions, and to ascertain how long those political institutions will hold together under its effects.

The Senator from New York entered very fairly into this field yesterday. I was surprised, the other day, when he so openly said the battle had been fought and won. Although I knew, and had long known it to be true, I was surprised to hear him say so. I thought that he had been entrapped into a hasty expression by the sharp rebukes of the Senator from New Hampshire; and I am glad to see that yesterday he has come out and shown that it is a matured project of his, that these words mean all that I thought they meant; that they mean that the South is a conquered province, and that the North intends to rule it. He said that it was their intention to take this Government from unjust and unfaithful hands, and place it in just and faithful hands; that it was their intention to consecrate all the Territories of the Union to free labor; and that, to effect their purposes, they intended to reconstruct the Supreme Court.

Yesterday, the Senator said, "suppose we admit Kansas with the Lecompton constitution; what guarantees are there that Congress will not again interfere with the affairs of Kansas?" meaning, I suppose, that if she abolished slavery, what

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guarantee there was that Congress would not force it upon her again. Sir, so far as we of the South are concerned, you have, at least, the guarantee of good faith that never has been violated. But what guarantee have we, when you have this Government in your possession, in all its departments, even if we submit quietly to what the Senator exhorts us to submit to—the concentration of slavery in its present territory, and even to the reconstruction of the Supreme Court—that you will not plunder us with tariffs; that you will not bankrupt us with internal improvements and bounties on fish; that you will not restrain us with navigation laws, and other laws impeding the facilities of transportation to southern produce? What guarantee have we that you will not create a new bank, and concentrate all the finances of this country at the North, where already, for the want of direct trade and a proper system of banking in the South, they are ruinously concentrated? Nay, sir, what guarantee have we that you will not emancipate our slaves, or, at least, make the attempt? We cannot rely on your faith when you have the power. It has been always broken whenever pledged.

Now, sir, as I am disposed to see this question settled as soon as possible, and am perfectly willing to have a final and conclusive settlement now, instantly, and after what the Senator from New York has said, I think it not unimportant that I should attempt to bring the North and South face to face, and see what resources each of us might have in the contingency of separate organizations. If we never acquire another foot of territory for the South, look at her. Eight hundred and fifty thousand square miles; as large as Great Britain, France, Austria, Prussia, and Spain. Is not that territory enough to make an empire that shall rule the world? With the finest soil, the most delightful climate, whose productions none of those great countries can produce, we have three thousand miles of continental shore line, and so indented with bays and crowded with islands, that, when their shore lines are added, we have twelve thousand miles of shore line. Through the heart of our country runs the great Mississippi, the father of waters, into whose bosom are poured thirty-six thousand miles of tributary streams; and beyond we have the desert prairie wastes, to protect us in our rear. Can you hem in such a territory as that? You talk of putting up a wall of fire around eight hundred and fifty thousand square miles so situated! How absurd.

But, sir, in this territory lies the great valley of the Mississippi, now the real, and soon to be the acknowledged seat of the empire of the world. The sway of that valley will be as great as ever the Nile knew in the earlier ages of mankind. We own the most of that valley. The most valuable part of it belongs to us; and although those who have settled above us are now opposed to us, another generation will tell a different tale. They are ours by all the laws of nature; slave-labor will go over every foot of this great valley where it will be found profitable to use it, and those who do not use it are soon to be united with us by such ties as will make us one and inseparable. The iron horse will soon be clattering over the sunny plains of the South to bear the products of its upper tributaries to our Atlantic ports, as it now clatters over the ice-bound North. There is the great Mississippi, a bond of union made by nature's law. She will forever vindicate her right to the Union. On this fine territory we have a population four times as large as that with which these colonies separated from the mother country, and a hundred, I might say a thousand fold as strong. Our population is now sixty per cent. greater than that of the whole United States when we entered into the second war of independence. It is twice as large as the whole population of the United States was ten years after the conclusion of that war, and our exports are three times as great as those of the whole United States then. Upon our muster-rolls we have a million of men. In a defensive war, upon an emergency, every one of them would be available. At any time, the

the South can raise, equip, and maintain in the field, a larger army than any Power of the earth can send against her, and an army of soldiers—men brought up on horseback, with guns in their hands.

If we take the North, even when the two large States of Kansas and Minnesota shall be admitted, her territory will be one hundred thousand square miles short of ours. I do not speak of California and Oregon; there is no antagonism between the South and those countries, and never will be. The population of the North is fifty per cent. greater than ours. I have nothing to say in disparagement either of the soil of the North, or the people of the North, who are a brave, intelligent, energetic race, full of intellect, but they produce no great staple that the South does not produce; but we produce two or three, and those are the very greatest, that she can never produce. As to her men, however high they may be, they have never proved themselves to be superior to those of the South, either in the field or in the Senate.

But, sir, the strength of a nation depends in a great measure upon its wealth, and the wealth of a nation, like that of a man, is to be estimated by its surplus production. You may go to your trashy census books, all of which is perfect nonsense, and they will tell you that in the State of Tennessee, the whole number of house-servants is not equal to one half those in my own house, and such things as that. You may ascertain what is made throughout the country from these census books, but it is no matter how much is made if it is all consumed. If a man is worth millions of dollars and consumes his income, is he rich? Is he competent to embark in any new enterprise? Can he build ships or railroads? And could a people in that condition build ships and roads and go to war? All the enterprises of peace and war depend upon the surplus productions of a people. They may be happy, they may be comfortable, they may enjoy themselves in eating what they make; but they are not rich, they are not strong. It seems, by going to the reports of the Secretary of the Treasury, which are authentic, that last year the United States exported in round numbers \$279,000,000 worth of domestic produce, excluding gold and foreign merchandise reexported. Of this amount \$155,000,000 worth is the clear produce of the South; articles that are not and cannot be made at the North. Here are then \$80,000,000 worth of exports of products of the forest, animal provisions, and breadstuffs. If we assume that the South made but one third of these, and I think that is a low calculation, our exports are \$185,000,000, leaving to the North less than \$95,000,000.

In addition to this, we send to the North \$30,000,000 worth of cotton, which is not counted in the exports. We send to her \$8,000,000 worth of tobacco, which is not counted in the exports. We send naval stores, lumber, rice, and many other minor articles. There is no doubt that we send to the North \$40,000,000 in addition; but suppose the amount to be \$35,000,000, and it will give us a surplus production of \$220,000,000. The recorded exports of the South now are greater than the whole exports of the United States in any year before 1856. They are greater than the whole average exports of the United States for the last twelve years, including the two extraordinary years of 1856 and 1857. They are nearly double the amount of the average exports of the twelve preceding years. If I am right in my calculations as to \$220,000,000 of surplus produce, there is not a nation on the face of the earth, with any numerous population, that can compete with us in produce *per capita*. It amounts to \$16 66 per head, supposing that we have twelve million people. England, with all her accumulated wealth, with her concentrated and intellectualized energy, makes under sixteen dollars of surplus production per head.

I have not made a calculation as to the North, with her \$95,000,000 surplus; but, admitting that she exports as much as we do, with her eighteen millions of population it would be but little over

twelve dollars a head at the outside. She cannot export to us and abroad exceeding ten dollars a head against our sixteen dollars. I know well enough that the North sends to the South a vast amount of the productions of her industry. I take it for granted that she, at least, pays us in that way for the thirty or forty million dollars worth of cotton and other articles we send her. I am willing to admit that she pays us considerably more; but to bring her up to our amount of surplus production, to bring her up to \$220,000,000 of surplus production, the South must take from her \$125,000,000; and this, in addition to our share of the consumption of the \$333,000,000 worth introduced into the country from abroad, and paid for in part by our own exports. The thing is absurd; it is impossible; it can never appear anywhere but on a census statistic book.

With an export of \$220,000,000 under the present tariff, the South organized separately would have about \$40,000,000 of revenue. With one fourth the present tariff she would have a revenue adequate to all her wants, for the South would never go to war; she would never need an army or a navy, beyond a few garrisons on the frontiers and a few revenue cutters. It is commerce that breeds war. It is manufactures that require to be hawked about over the world, and give rise to navies and commerce. But we have nothing to do but to take off restrictions on foreign merchandise and open our ports, and the whole world will come to us to trade. They will be too glad to bring and carry for us, and we never shall dream of a war. Why, sir, the South has never yet had a just cause of war. Every time she has seized her sword it has been on the point of honor, and that point of honor has been mainly loyalty to her sister colonies and sister States, who have ever since plundered and calumniated her.

But if there were no other reason why we should never have a war, would any sane nation make war on cotton? Without firing a gun, without drawing a sword, when they make war on us we can bring the whole world to our feet. The South is perfectly competent to go on, one, two, or three years without planting a seed of cotton. I believe that if she was to plant but half her cotton, it would be an immense advantage to her. I am not so sure but that after three years' cessation she would come out stronger than ever she was before and better prepared to enter afresh upon her great career of enterprise. What would happen if no cotton was furnished for three years? I will not stop to depict what every one can imagine, but this is certain: old England would topple headlong and carry the whole civilized world with her. No, sir, you dare not make war on cotton. No power on earth dares make war upon it. Cotton is king. Until lately the Bank of England was king, but she tried to put her screws as usual, the fall before last, upon the cotton crop, and was utterly vanquished. The last power has been conquered. Who can doubt it that has looked at recent events? When the abuse of credit had destroyed credit and annihilated confidence, when thousands of the strongest commercial houses in the world were coming down, and hundreds of millions of dollars of supposed property evaporating in thin air, when you came to a dead lock, and revolutions were threatened, what brought you up? Fortunately for you it was the commencement of the cotton season, and we have poured in upon you one million six hundred thousand bales of cotton just at the crisis to save you from sinking. That cotton, but for the bursting of your speculative bubbles in the North, which produced the whole of this convulsion, would have brought us \$100,000,000. We have sold it for \$65,000,000, and saved you. Thirty-five million dollars we, the slaveholders of the South, have put into the charity box of your magnificent financiers, your cotton lords, your merchant princes.

But, sir, the greatest strength of the South arises from the harmony of her political and social institutions. This harmony gives her a frame of society, the best in the world, and an extent of

political freedom, combined with entire security, such as no other people ever enjoyed upon the face of the earth. Society precedes government; creates it, and ought to control it; but as far as we can look back in historic times we find the case different; for government is no sooner created than it becomes too strong for society, and shapes and molds, as well as controls it. In later centuries the progress of civilization and of intelligence has made the divergence so great as to produce civil wars and revolutions; and it is nothing now but the want of harmony between governments and societies which occasions all the uneasiness and trouble and terror that we see abroad. It was this that brought on the American Revolution. We threw off a Government not adapted to our social system, and made one for ourselves. The question is, how far have we succeeded? The South, so far as that is concerned, is satisfied, content, happy, harmonious, and prosperous.

In all social systems there must be a class to do the mean duties, to perform the drudgery of life. That is, a class requiring but a low order of intellect and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, refinement, and civilization. It constitutes the very mud-sills of society and of political government; and you might as well attempt to build a house in the air, as to build either the one or the other, except on the mud-sills. Fortunately for the South, she found a race adapted to that purpose to her hand. A race inferior to herself, but eminently qualified in temper, in vigor, in docility, in capacity to stand the climate, to answer all her purposes. We use them for the purpose, and call them slaves. We are old-fashioned at the South yet; it is a word discarded now by ears polite; but I will not characterize that class at the North with that term; but you have it; it is there; it is everywhere; it is eternal.

The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; and all the powers of the earth cannot abolish it. God only can do it when he repeals the fiat, "the poor ye always have with you;" for the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market and take the best he can get for it; in short, your whole class of manual laborers and operatives, as you call them, are slaves. The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most deplorable manner, at any hour, in any street in any of your large towns. Why, sir, you meet more beggars in one day, in any single street of the city of New York, than you would meet in a lifetime in the whole South. Our slaves are black, of another, inferior race. The status in which we have placed them is an elevation. They are elevated from the condition in which God first created them, by being made our slaves. None of that race on the whole face of the globe can be compared with the slaves of the South, and they know it. They are happy, content, unaspiring, and utterly incapable, from intellectual degradation, ever to give us any trouble by their aspirations.

Your slaves are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than an army with bayonets, and could combine, where would you be? Your society would be reconstructed, your government reconstructed, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot-box. You have been making war upon us to our very hearthstones. How would you like for us to send lecturers or agitators North, to teach these people this, to aid and assist in combining, and to lead them?

Mr. WILSON and others. Send them along.

Mr. HAMMOND. You say, send them North.

There is no need of that. They are coming here. They are thundering at our doors for homesteads of one hundred and sixty acres of land for nothing, and southern Senators are supporting it. Nay, they are assembling, as I have said, with arms in their hands, and demanding work at \$1,000 a year and six hours a day. Have you heard that the ghost of Mendoza is stalking in the streets of your big cities; that the inquisition is at hand? There is aloft a fearful rumor that there have been consultations for vigilance committees. You know what that means already. Transient and temporary causes have thus far been your preservation. The great West has been open to your surplus population, and your hordes of semi-barbarian emigrants, who are crowding in year by year. They make a great movement, and you call it progress. Whither? It is progress; but it is progress towards vigilance committees. The South have sustained you in a great measure. You are our factors. You bring and carry for us. One hundred and fifty million dollars of our money passes annually through your hands. Much of it sticks; all of it assists to keep your machinery together and in motion. Suppose we were to discharge you; suppose we were to take our business out of your hands; we should consign you to anarchy and poverty.

You complain of the rule of the South: that has been another cause that has preserved you. We have kept the Government conservative to the great purposes of the Government. We have placed her, and kept her, upon the Constitution; and that has been the cause of your peace and prosperity. The Senator from New York says that that is about to be at an end; that you intend to take the Government from us; that it will pass from our hands. Perhaps what he says is true; it may be; but do not forget—it can never be forgotten; it is written on the brightest page of human history—that we, the slaveholders of the South, took our country in her infancy; and, after ruling her for sixty out of the seventy years of her existence, we shall surrender her to you without a stain upon her honor, boundless in prosperity, incalculable in her strength, the wonder and the admiration of the world. Time will show what you will make of her; but no time can ever diminish our glory or your responsibility.

Mr. DOOLITTLE. Before entering, Mr. President, upon the discussion of the merits of this important controversy, I feel called upon to notice, in brief terms, some considerations thrown into this debate which partake less of argument addressed to our judgments and consciences than of appeals calculated to alarm the apprehensions of patriots devoted to the Constitution and the Union.

It has been more than intimidated by the honorable Senator from Delaware, [Mr. BAYARD,] and again by the honorable Senator from Virginia, [Mr. MASON,] that unless Kansas be admitted at once into the Union as a slave State under the Lecompton constitution, the Union of these States is to be broken up, and the Constitution overthrown; and the whole speech of the honorable Senator from South Carolina [Mr. HAMMOND] seemed to be based on the same idea. Sir, if I could be brought to believe that any such national calamity would follow, or that there were any well-grounded apprehensions that it might follow, I am free to confess these appeals would be entitled to great consideration. I cannot, like the honorable Senator who has preceded me, coldly calculate the value of this Union, and compare the strength, power, and resources of the southern and northern confederacies into which he is prepared to divide it, and determine which shall hold the mastery. That is not the school in which I have been reared. Love for the Union, earnest, intense, undying love for the Union of these States, was instilled into my bosom in my earliest childhood. Next to the God of heaven, I was taught to love, honor, and defend it under all circumstances and against all enemies, from without and from within. That sentiment has grown with my growth, and strengthened with my strength; and now, in the full vigor of manhood, it is my deep and sacred conviction to-day, that, as a nation, we are indebted to that Union for all we have been, for all we are, and for all we may hope to be. By that Union this nation, in its past history and its present position, and, if true to itself, in its future destiny, is to be the highest, the greatest, and most

divinely favored the sun ever shone upon. In that Union, under God, as a nation in all that constitutes national greatness and makes us a Power among the nations upon the earth, we live and move and have our being. The great orator of New England, on this floor, more than a quarter of a century ago, gave utterance to this sentiment, so dear and so sacred to every American heart, in words too striking and too forcible ever to be forgotten: "Liberty and union, now and forever, one and inseparable." Cherishing as I do this sentiment, in common, as I believe, with the great mass of the American people, I am free to confess, sir, that I can never hear the dissolution of that Union suggested from any respectable quarter as an event that may happen, without profound emotion; and I have deemed it my first duty to consider well whether there are any reasonable grounds to apprehend such a result before I enter upon a discussion of the merits of the controversy now going on. I have duly considered that question, as I believe, in all its bearings, and have arrived at the conclusion that there is no just foundation for any such apprehensions; and I will briefly state my reasons.

First of all, Mr. President, the union of these States is the most sacredly cherished object of the patriotic devotion of all the people of the several States, with very few exceptions, North, South, East, and West. There are a few individuals, both North and South, to be found, who would, if they could, break it up; but, I doubt not, that arises from some peculiar constitution of their minds; while, with the great mass of the people of the United States, the men of sober judgment and good common sense, they are regarded as impracticable men, with morbid or diseased imaginations, who are entitled to very little weight. There have been times when, from newspaper reports thrown out in the heat of political excitement, some of the prominent men of Mississippi and South Carolina have been said to favor a dissolution of the Union; but the warm and devoted attachment declared by both the Senators from Mississippi—the one, [Mr. BROWN,] in his recent speech on Kansas affairs; the other, [Mr. DAVIS,] in his reply to the question of the honorable Senator from Maine, [Mr. FESSENDEN,]—satisfies me that loyalty to the Union is still the sentiment of the people of that State. From the same source, (newspaper reports,) the position of the members of Congress from South Carolina upon this subject has been questioned. I am informed that a certain newspaper published in South Carolina, called the Charleston Mercury, in 1856, in reply to an article in the New York Herald, declared that—

"Upon the policy of dissolving the Union, of separating the South from her northern enemies, and establishing a southern confederacy, parties, presses, politicians, and people, are a unit. There is not a single public man in her limits, not one of her present Representatives or Senators in Congress, who is not pledged to the lips in favor of disunion."

Notwithstanding this statement of a paper published in Charleston, South Carolina, I have been led to believe, and I do believe, that it is but the heated declaration of a newspaper editor, thrown out in the midst of a political canvass, and similar to some threats against the Union we saw in the Richmond Enquirer during the presidential canvass; which, we were afterwards informed, were made as the only means of saving the Union! Notwithstanding what has just fallen from the Senator from South Carolina, with all due respect I must still be permitted to say, that, in my opinion, ninety-nine in a hundred of all the people of the United States are, in their very heart of hearts, loyal to the Union; and that it is not in the power of Congress, in this or the other branch, or both together, to dissolve this Union, if they were to undertake it. Members of Congress are sent here to support the Constitution and the Union. They are sworn to support them; and any attempt to overturn either would not only bring the crime of treason and perjury upon themselves, but it would prove wholly futile.

The resolutions of State Legislatures, passed under the political excitement of the hour, we have all seen before. Vermont it was whose Legislature resolved that, in case Texas was annexed, the Union was dissolved *ipso facto*. I believe some one or more of the extreme southern States passed similar resolutions in case California was admitted as a free State. But the Union

still stands; and, in my humble opinion, with all due deference and respect to the resolutions of the Legislature of Alabama, it will still stand, though Kansas should be admitted under the Topeka or Lecompton constitution, or admitted under neither; and it will stand forever. Sir, the people of these United States, upon their sober second thought, will not only not dissolve this Union themselves, but they will not suffer it to be dissolved. Any man, or set of men, or any party, who may undertake it, will, in my opinion, in the end be utterly overwhelmed and buried beyond the hope of political resurrection.

Mr. CLAY. Will the Senator allow me to interrupt him at this point? The remark which he has just made has frequently fallen from the other side of the Chamber; and as it is somewhat ambiguous and oracular, I should like to have a clear explanation of it. I wish to know whether the Senator means that the power of this Government would be exerted to coerce a State into the Union?

Mr. DOOLITTLE. The ground which I take is, that the great mass of the people in all the States are pledged to maintain the Union, and they will maintain it; and it is not in the power of any politicians or any set of politicians in the States to dissolve the Union, if they were to undertake to do so. The people will not only not dissolve it, but they will not suffer it to be dissolved. When the question comes to be discussed and understood and brought home to the hearts and the hearthstones of the people, there is, in my opinion, no State where the party that shall undertake to accomplish disunion will not be utterly annihilated and overwhelmed beyond the hope of political resurrection.

Mr. CLAY. The Senator does not seem to comprehend my question. I have heard it said on this floor—I need not allude to what has been said in the papers—that the North would not permit any State to secede from the Union. What I wished to understand from the Senator was, whether he meant to say that the physical power, the military and naval force of the Government, should be exerted to coerce any State back into the Union after she had chosen to separate herself?

Mr. DOOLITTLE. When cases arise, it will be time enough to meet them. I do not say what possibly might arise. I am only speaking of what I believe cannot arise. I say that, in my opinion, no State in this Union will secede, or attempt to secede, and no set of men in any State can persuade the people to undertake to secede—not even in South Carolina—whether Kansas be admitted as a State under the Lecompton or the Topeka constitution, or not admitted under any constitution at all, for five years to come. I do not believe that I underestimate the power of politicians, or overestimate the good sense and intelligence of the American people, when I say that I do not believe it to be in the power of all the politicians in Washington to break up the union of these States, if they were to undertake it. Whenever the hour of trial shall come, the deep, the devoted, the intense, the undying love of the great mass of the American people for the union of these States will prove itself to be stronger and more abiding than the power of any political organization. I know that in ordinary times, and upon questions of ordinary interest, public opinion may be swayed, molded, and, to a certain extent, controlled, by men in office, by party machinery, and political organizations; and then public opinion would seem to be the mere voice of the politicians; but there are other times and other questions—great emergencies—times that try the souls of men, when the deep fountains of the human heart are broken up; and then it is as true to-day as it was in the days of the Revolution, the voice of the people is the voice of God. At times, it is true public opinion is a gently flowing stream, to some extent easily diverted in its course, upon whose smooth, tranquil surface, politicians and office-seekers may float upon their platforms into place and power; but there are other times when the heavens are darkened and the storm is gathered, when the rains have descended and the floods have come, that it rolls along, fit emblem of Almighty wrath and power; resistance but maddens its fury and increases its strength; when mere politicians and platforms and party organizations are all swept away, to become mere

floodwood upon the surface of the rushing current. Sir, there can be no mistaking the fact that a great emergency is now upon us. We are in the midst of a revolution not altogether bloodless, in which, for the first time in the history of the American Government, the Administration at Washington, by an armed intervention, is endeavoring to force a State into the Union against the will of its people. The President may ignore the true condition of affairs; he may honestly suppose that there is a great delusion in the public mind, instead of his own; but he will learn, and the politicians will learn, that the people of these United States are about to take this matter into their own hands. From Maine to Kansas, we hear their voice demanding in thunder tones that this Lecompton constitution shall not be forced upon that people against their will. And, sir, if you will listen to the voice of the great majority of the people, even from the southern States, you will soon hear coming up, from their very heart of hearts, now in whispers, now in plain, out-spoken words, curses, not loud, but deep, and none the less bitter, against this whole Kansas policy, from the beginning to the end.

But, sir, to return to the point from which I have digressed. Pray, sir, what political party desires the dissolution of this Union? Is it the American party? Its whole existence is staked upon its Americanism and its nationality. Is it the party which claims, *par excellence*, to be the National Democratic party?—strange as the misnomer may seem to me, applied to a party to which, at this day, neither Jefferson, Madison, Monroe, nor Jackson, could consistently belong. But, however it may have lost sight of the principles of that party in its earlier days, it still claims to be national in its character, the champion of the Union, of law and order. All its professions—and I am bound to believe, for I yield to others the same patriotism and sincerity of purpose which I claim for myself—all its convictions and aspirations are to sustain law and order, and to maintain the perpetuity of the Constitution and the Union. Is it, then, the Republican party which is in favor of a dissolution of the Union? Sir, I know it has been sometimes charged that the Republican party is sectional in its purposes and disloyal to the Union; that it aims to trample down the constitutional rights of the States, and thus, indirectly, undermine the foundations of the Union. This charge is utterly groundless. That party commenced its organization at Pittsburg on the 22d of February, 1856; and in its address and resolutions there was not a doctrine, not a syllable, which conflicts in any degree with the doctrines of the old Republican party of 1798; and in the State which I have the honor in part to represent, in the resolutions passed almost unanimously by the Republican members of the Legislature of Wisconsin upon my nomination to a place in this body, they expressly adopted and incorporated, as a part of their very platform, the resolutions passed by the Kentucky and Virginia Legislatures in 1798-99 in relation to the reserved rights, sovereignty, and independence of the several States. While, upon the one hand, there will be found no State more loyal to the Union and the Constitution than Wisconsin, upon the other hand there will be found no State ready to maintain in full vigor, with greater energy or more devotion, the reserved rights, sovereignty, and independence, of each and every member of the Confederacy. In answer to this oft-repeated charge as to the disloyalty of the Republican party to the Constitution and the Union, I beg leave to read a brief extract from the address which was put forth at its organization in Pittsburg in February, 1856:

“We declare, in the first place, our fixed and unaltered devotion to the Constitution of the United States—to the ends for which it was established, and to the means which it provided for their attainment.

“We declare our purpose to obey, in all things, the requirements of the Constitution, and of all laws enacted in pursuance thereof. We cherish a profound reverence for the wise and patriotic men by whom it was framed, and a lively sense of the blessings it has conferred upon our country and upon mankind throughout the world. In every crisis of difficulty and of danger we shall invoke its spirit, and proclaim the supremacy of its authority.

“In the next place, we declare our ardent and unshaken attachment to this Union of American States which the Constitution created and has thus far preserved. We revere it as the purchase of the blood of our forefathers, as the condition of our national renown, and as the guardian and guarantee of that liberty which the Constitution was designed to secure. We will defend and protect it against all its en-

emies. We will recognize no geographical divisions, no local interests, no narrow or sectional prejudices, in our endeavors to preserve the union of these States against foreign aggression and domestic strife. What we claim for ourselves, we claim for all. The rights, privileges, and liberties, which we demand as our inheritance, we concede as their inheritance to all the citizens of this Republic.”

The Republican party was hardly organized when the campaign of 1856 came on. Its organization is still going on, preparatory to taking possession of this Government in 1860. Its purposes are not to trample upon the rights of the South; not to strike down any of the institutions of the South; but simply to restore the administration of the Federal Government to the policy of the early republican fathers. It asks for nothing more; it will be satisfied with nothing less. The cardinal point upon which this party is gathered, the flag which it bears at the head of its column, is the Constitution, the Union, the rights of the States, and the rights of the Federal Government. With very few exceptions, every resolution, every well-considered speech of every prominent member of the party, from its organization at Pittsburg on the 22d of February, 1856, to this hour, breathes the spirit of ardent loyalty to the Union; and if ever a political party can be “pledged to the lips” in favor of maintaining the Constitution and the Union at all hazards, against all enemies from abroad, and against all traitors at home, it is the Republican party. I know that in the campaign of 1856 this charge was made against the Republican party, with tremendous effect, in Ohio, Indiana, Illinois, and Pennsylvania, and also throughout all the southern States, where scarcely any newspaper could be found to give utterance to its doctrines, where its speeches and addresses were prevented from circulation, and where the great mass of the people could neither understand nor appreciate its purposes and motives. I know that during that canvass it was sometimes threatened, even in the northern States, that in case Colonel Fremont should be elected President of the United States by the legal votes and suffrages of the American people, he should never be inaugurated; that Colonel Fremont, though legally elected, though he stood pledged before the American people to maintain the Constitution, the Union, and the rights of the several States, should never be permitted to take the oath of office in Washington city, but that the Union would be dissolved. I never heard but one reply from the Republicans: “If Mr. Buchanan is elected, we will stand by the Union; if Mr. Fillmore is elected, we will stand by the Union; and if Colonel Fremont is elected, we will stand by the Union; ay, we will fight for the Union to the very death; and if any man, high or low, attempts to overthrow it, we will indict him for treason, try him for treason, and, if the jury do not acquit him upon the ground of insanity, and if the President do not interfere to pardon him, we will hang him as sure as there is a God in heaven.”

If that be disloyalty to the Union, then, sir, the Republican party plead guilty to the charge, but not otherwise. This oft-repeated charge against the Republican party is utterly groundless. They are pledged, not only not to dissolve the Union themselves, but not to suffer it to be dissolved; to use every power which God has given them to prevent its dissolution! The Union of these States was formed in that struggle which gave American liberty its birth; the same struggle which brought to man upon earth the glad tidings of political redemption. Although it cost the treasure, the agony, and the blood of our ancestors to achieve it, I trust the time will never come, which seems to be anticipated by the honorable Senator from Alabama, [Mr. CLAY,] when it will cost the blood, the agony, and the treasure, of their sons to maintain it. But, sir, let me tell that honorable Senator, that the same spirit which shaped the destiny and guided the deliberations of our forefathers in the formation of the Union, still lives—not in one section alone, but in every section and in every State; and that same spirit will be ever ready to cement again, if it be necessary, in the blood of the sons, the eternal Union made by the fathers. There is a spirit in the American people which, on board the ship of State, as it may occasionally seem to ride over the breakers, needs but to be awakened from apparent slumber to arise, and say with a Savior's voice to the storm and the raging sea, “Peace, be still!” and that voice will be obeyed.

It will never be forgotten by the American

people, that the bonds of the Union were sealed with the blood of a common ancestry, with common sacrifices, heroism, and suffering. Whatever politicians may say in hours of excitement, when the day of trial comes the American people will be ready to imitate and to emulate the example of their forefathers. They gathered around Washington from the North and from the South. Like a band of brothers, ready to endure every sacrifice and every hardship, together often they shared their scanty meal, and on the cold winter night together shared their thin and tattered covering; shoulder to shoulder, indeed, they stood in the day of conflict, freely baring their bosoms in each other's defense; together, often their very life-blood gushed and mingled; and side by side their ashes still rest upon that soil which their united valor defended. The Union is still consecrated by holding those ashes—those sacred ashes. To any man who proposes to dissolve the Union, I desire to put this question: where will you draw the line of separation—upon which side of Mount Vernon shall it fall?

Sir, I know not how others may feel; I know not how our brethren of the southern States may feel; but this one thing I know: there is no power on earth can hold the tomb of Washington upon a soil and within a jurisdiction foreign to the twenty millions of people who inhabit the northern and western States of this Confederacy; and I believe the same may be said of the great mass of the people of the middle States, if it be not true to the same extent of the extreme southern States. And as for Wisconsin she was born of Virginia—born in the days of her revolutionary heroes and statesmen; in the days of her youthful vigor; in the days, too, of her true republican principles. Like Ohio, Indiana, Illinois, and Michigan, Wisconsin, though the youngest of the sisters, takes equal pride in tracing her parentage to the Old Dominion, the mother of States and of statesmen. She takes pride in the great names of the statesmen of Virginia; she claims them as part of her inheritance. If the day shall ever come—which may God in his mercy avert!—when treason shall raise its head against the Constitution and the Union, and undertake to sever Virginia from her offspring, be assured, sir, that the teeming millions who inhabit those northwestern States, as well as all the northern and eastern States, and the untold millions of their descendants, will continue to bear the same flag which Washington bore, and they will belong to the land that holds his ashes, though the peaceful Potomac, which flows by his tomb, shall run red with the blood of traitors. They will never surrender their birthright, and it shall never be taken from them. This Constitution is their Constitution; this country is their country; the flag of the Union is their flag; and they will never desert it, never surrender it. "What we claim for ourselves, we claim for all. The rights, privileges, and liberties, which we demand as our inheritance, we concede as their inheritance, to all the citizens of this Republic."

The union of these States is cemented by another bond no less strong—the bond of a common interest in the great valley of the Mississippi. I agree with the honorable Senator who preceded me, that the valley of the Mississippi will bind the Union together in bonds which can never be broken. Situated as Wisconsin is, with her whole eastern boundary upon the great lakes, whose waters flow into the Atlantic, she has a common interest and sympathy with all the northern and eastern and Atlantic States. Bounded upon the west by the Mississippi, with her navigable waters flowing into it, by nature and geographical position she has a common interest with all those States whose waters flow into the Gulf of Mexico from the great valley of the Mississippi, to maintain forever the free and uninterrupted commerce of the Mississippi and the Gulf, which the Constitution of the United States secures.

The proposition by Spain to cede to England or France the Island of Cuba would arouse the opposition of the whole American people almost as one man; and why, sir? Simply because, in the hands of a strong naval power, from its geographical position and harbors it would command the commerce of the valley of the Mississippi; in short, because Havana is the Sebastopol of the Gulf. Do you suppose, sir, that the people of the Mississippi valley, to say nothing of the great commercial States, who furnished the money to purchase

Louisiana, will ever consent that the mouths of the Mississippi shall be held in a foreign jurisdiction? No man doubts the chivalry or bravery of Louisiana, or of any portion of the people of the southern States; but there is an irresistible logic in overwhelming numbers, and numbers, too, constantly augmenting in almost geometrical progression under the operation of the laws of emigration and population with an unerring certainty as the revolutions of the earth. To suppose that even now, and more especially when, within the next thirty years, there shall be a free white population of more than fifty millions with an identity of interest in the commerce of the Mississippi and the Gulf of Mexico, they will suffer the outlet of that commerce to be held by a foreign State, on account of negroes held in slavery by a few hundred thousand citizens of some of the States of this Union, would be as idle as to undertake to dam the waters of the Mississippi, to chain the lightning, or, like Xerxes, the Hellespont itself. It is one of those things which cannot be done, sir; no line of separation can be made to divide the valley of the Mississippi. You cannot cut that river in two. As all that vast, and as yet but comparatively undeveloped region, drained by that river, embracing all your territories between the Alleghenies and the Rocky Mountains, shall become filled up with untold millions of the most hardy, brave, intelligent, and enterprising people, they will bind this Union together in bonds of common interest, language, and sympathy, which no power on earth can sever. Like its eternal, ever-flowing waters, the commerce of the Mississippi shall flow ever and onward uninterrupted to the Gulf. Divide the valley of the Mississippi? No, sir; never, till those waters cease to flow, and those fertile valleys cease to yield the necessities for human life. This Union rests upon a foundation more enduring than any mere human enactments. It rests upon the laws and the necessities of our population and geographical position; upon the laws which govern the growth of ages in the history of mankind. The same Almighty Being who watched over its infant colonization, its revolutionary struggle for the independence of the soil and its second struggle for the freedom of the seas, its struggle for the independence of its Treasury from the domination and control of associated wealth, still watches over every step of its growth and progress; and, in spite of parties and platforms, presses and politicians, is carrying it onward, and right onward to the high destiny to which He has called it.

Another set of stockholders, in another kind of institution than a national bank, but compared with which all the power of a national bank was a mere pigmy, undertake to seize hold of this Government, and commence offensive, aggressive operations against the people of the North and their free institutions; but the same Providence will watch over us in our struggles with this power.

Statesmen may see and appreciate the causes that are in operation around us. They may see and feel the mighty current of emigration, the power of population which is bringing upon this continent the bravest, the best, and the most enterprising of the whole human family, by millions upon millions. It would be wise for statesmen to see and appreciate these causes, which they can no more control than they can control the currents of air or of ocean. This vast continent was reserved in the providence of God for the very purpose of giving full scope for the development of man under the influence of modern and Christian civilization. Our system of government is but the outgrowth of that civilization. It is adapted to it and based upon it. It has no precedent; it has no compeer. All that has preceded it has but prepared the way for its coming; and its whole grand object, end, and aim, is to work out for man upon earth a better, higher, and more divine life. The prophets foresaw it; the good men of all ages have longed and prayed for its approach; and, in my opinion, Heaven, with all its omnipotence, stands pledged for its success. This Union, this Constitution, this form of government, this wonderful development, this position among the Powers of the earth, is not a thing of accident or of chance. No, sir, "there's a divinity that shapes our ends."

My confidence in the perpetuity of the Union rises in its character to be a strong and abiding faith—a faith based upon the devoted patriotism

of the great mass of the American people; upon identity of language, sympathy, and interest; upon a common history, common recollections, common hopes, and a common destiny. It rests, moreover, in a great measure, upon the promises revealed in that volume which all Christians accept as Divine. It is a faith with me which never wavers; which no idle threats can disturb for a moment; which every reason addressed to the understanding confirms, and which every sentiment of patriotism approves; and which, under the sanction of a deep religious conviction, leans upon the Almighty for its strength.

Mr. KING. As my friend from Wisconsin will not be able to conclude to-day, I ask him to give way to a motion to adjourn, or for an executive session, if that be the disposition of the other side.

Mr. DOOLITTLE. I yield the floor.

Mr. KING. Unless there is a disposition on the other side to have an executive session, I shall move that the Senate adjourn.

Mr. FITCH. I should like to have an executive session.

Mr. KING. I make that motion.

EXECUTIVE SESSION.

The motion was agreed to, and the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

ADJOURNMENT TO MONDAY.

Mr. BRODERICK. I move that when the Senate adjourn, it be to Monday next.

Mr. BIGGS called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 20, nays 19; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, King, Pugh, Seward, Simmons, Trumbull, Wade, and Wilson—20.

NAYS—Messrs. Allen, Biggs, Bigler, Bright, Clark, Clay, Fitch, Green, Houston, Hunter, Iverson, Johnson of Tennessee, Kennedy, Mallory, Mason, Polk, Stuart, Toombs, and Wright—19.

So the motion was agreed to.

Mr. BRODERICK. I move that the Senate do now adjourn.

Mr. MASON called for the yeas and nays, and they were ordered; and, being taken, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Bell, Broderick, Chandler, Clark, Collamer, Crittenden, Dixon, Doolittle, Douglas, Durkee, Fessenden, Foot, Foster, Hamlin, Harlan, King, Seward, Simmons, Trumbull, Wade, and Wilson—21.

NAYS—Messrs. Allen, Biggs, Bigler, Bright, Clay, Fitch, Green, Houston, Hunter, Iverson, Johnson of Arkansas, Johnson of Tennessee, Kennedy, Mallory, Mason, Polk, Pugh, Toombs, and Wright—19.

And thereupon the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, March 4, 1858.

The House met at twelve o'clock, m. Prayer by Rev. J. C. GRANBERRY.

The Journal of yesterday was read and approved.

IMPROPER EXECUTIVE INFLUENCE.

The SPEAKER stated the first question in order to be a resolution of the gentleman from New York, [Mr. HOARD,] in reference to alleged attempts of the Executive to improperly influence the action of members of the House. The pending question is, shall the resolution be received and entertained, on the ground that the privileges of the House are involved?

Mr. MAYNARD. I ask the unanimous consent of the House for leave to introduce a bill to extend the provisions of certain acts granting bounty lands to certain officers and soldiers in the military service of the United States, for reference only.

Mr. HARLAN. I object, unless there shall be an understanding that we all shall have equal opportunity to introduce bills.

Mr. HOARD took the floor.

Mr. HOUSTON. Has not the gentleman from New York addressed the House once already? Immediately after the Chair submitted the question the other day, the gentleman made his speech, and then the gentleman from Kentucky [Mr. BURNETT] replied to him. If the Chair decides in favor of my point, I claim the floor.

Mr. HOARD. What I said was in response to a letter which had been introduced. I send a modification of my resolution to the Clerk's desk.

The Clerk read the modification, as follows:

Insert the words in the preamble: "And further, to show the propriety of adopting the following resolution, I, CHARLES B. HOARD, a member of the House of Representatives, state that common fame charges the President of the United States with endeavors to control the action of members of this House on the question of admitting Kansas into the Union under the Lecompton constitution, by offers of executive appointments, to be subject to their control."

Mr. LETCHER. Let the resolution be read as it now stands.

The resolution was read, as follows:

Whereas, a statement has been made by a member of this House, importing that the Hon. Mr. BURNS, of Ohio, had stated to him, in a conversation on the subject of his vote on the resolutions of Hon. Mr. HARRIS, of Illinois, to commit to a select committee the President's message on the Kansas question, that he was to have certain official patronage or appointments to office at his disposal; and whereas, the Hon. Mr. BURNS had previously been free in his avowal of sentiments with which his vote on that occasion was in conflict, thus furnishing ground to suspect that some improper influence had been exerted to bias the said member's official action as a member of this House: Therefore,

Be it resolved, That a committee of five be appointed by the Speaker to inquire and investigate whether any improper attempts have been or are being made, directly or indirectly, by any person connected with the executive department of this Government, or by any other person acting with their advice or consent, to influence the action of any member of this House, upon any questions or measure upon which the House has acted, or which is now under consideration, with power to send for persons and papers, and leave to report at any time, by bill or otherwise.

The SPEAKER. The recollection of the Chair is, that the gentleman from New York made the remarks which he submitted before the question of order was raised. The Chair thinks that the gentleman from New York is entitled to the floor.

Mr. HOUSTON. No, sir; if the Chair will look to the minutes of that day's proceedings on the Journal, he will see that he is mistaken; and if the gentleman from Kentucky [Mr. BURNETT] were in the House I know he would sustain my recollection, which is very distinct, that when the resolution was first presented the gentleman from New York asked permission to make a personal explanation; it was objected to; he then introduced the resolution as a question of privilege; the gentleman from Kentucky made objection, and the Chair then decided that the House must determine whether it was a question of privilege or not, and awarded the floor to the gentleman, and he made his remarks, which were immediately replied to by the gentleman from Kentucky, [Mr. BURNETT.] I am satisfied that the Journal will show these to be the facts.

The SPEAKER. The gentleman from Alabama is aware that the Journal would not show whether there was debate or not.

Mr. HOUSTON. I am aware of that. The gentleman from Kentucky [Mr. BURNETT] is now in his seat, and I desire his attention for a moment.

The SPEAKER. The Chair is of opinion that the gentleman from New York is entitled to proceed. The gentleman from New York had the floor some days since, and no objection was made to his proceeding. He yielded the floor that a motion might be made to postpone the resolution.

Mr. HOUSTON. Is the Chair not in error about the facts of the case?

Mr. LOVEJOY. Is debate in order?

The SPEAKER. The gentleman from Alabama is stating a question of order.

Mr. HOUSTON. I ask the attention of the Chair to this point.

Mr. GROW. Has an appeal been taken from the decision of the Chair?

Mr. HOUSTON. The gentleman addressed the House after the question was submitted.

Mr. GROW. I insist on my question. Does the gentleman appeal?

The SPEAKER. The Chair does not know whether the gentleman from Alabama intends to appeal from the decision of the Chair.

Mr. GROW. I object to debate unless there is an appeal taken.

The SPEAKER. In addition to what the Chair has already stated, the Chair thinks that the modification which the gentleman from New York submits entitles him to the floor.

Mr. HOUSTON. I desire to raise a question of order; and if the Chair decides against me, I shall appeal from the decision of the Chair. It is a difficult and embarrassing matter to take an appeal about, because it depends upon a proper recollection of the facts of the case. But there are gentlemen here who will remember, I have

no doubt, what I now propose to state. When the resolution was originally presented by the gentleman from New York, the Chair submitted it to the House to determine whether it was a question of privilege, and decided that that question was debatable. The gentleman from New York, under those circumstances, made his speech, and finished it to his own satisfaction. He was replied to by the gentleman from Kentucky, [Mr. BURNETT,] and then the question went over. Now, I never intended to allow the gentleman from New York to take the floor and make another speech upon this subject without objection.

Mr. JONES, of Tennessee. Perhaps the Chair will recollect that when the gentleman from New York was attempting to make a speech I objected to his proceeding until the Chair should have decided whether it was a question of privilege or not. The Chair then said, that following the precedent set a day or two before, he would leave it to the House to determine that question, and that the question was debatable. The Chair also said that he had looked into the precedents and found that they sustained the decision made some days before. The gentleman from New York then made a speech, and the gentleman from Kentucky [Mr. BURNETT] replied to it.

Mr. MARSHALL, of Kentucky. If the gentleman from New York will give way for that purpose, I will move to postpone this resolution.

Mr. BURNS. I do not want it postponed. I want it considered now.

Mr. MARSHALL, of Kentucky. Well, sir, there are a couple of thousand men out among the snows of Utah that must be assisted. The House has set the Army bill for this day. I regard that as a much more important question than this, and I move to postpone it for one month.

The SPEAKER. The gentleman cannot make that motion pending the appeal.

Mr. MARSHALL, of Kentucky. Is my motion not in order?

The SPEAKER. It is not.

Mr. MARSHALL, of Kentucky. Well, I will make it as soon as it is in order.

Mr. SAVAGE. Is it in order to move to lay the whole subject upon the table?

The SPEAKER. The Chair thinks not. The effect would be to deprive the gentleman from New York of his right to speak, in case the decision of the Chair should be sustained. The Chair decides, according to his recollection of the facts, and in consequence of the modification of the preamble, that the gentleman from New York is entitled to the floor. The gentleman from Alabama appeals from the decision of the Chair upon the ground that the gentleman from New York has already once addressed the House upon this question, and is not entitled to address it again upon the same subject until every other gentleman who desires to speak shall first have been heard. The question is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. STEVENSON. May I ask the Chair in what the modification of the gentleman from New York consists?

The SPEAKER. The modification is to the preamble of the resolution.

Mr. HOUSTON. I desire to say, in regard to that part of the grounds for the decision of the Chair, that I do not think it good, for this reason: that as soon as the Chair awarded the floor to the gentleman from New York I at once rose, and before the modification was read I objected to his speaking, and claimed the floor.

Mr. LEITER. I move to lay the appeal on the table.

Mr. HOUSTON. On that question I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MARSHALL, of Kentucky. I desire to know whether it is not in order to postpone the whole subject in order to get at the bill in reference to the Army?

The SPEAKER. The Chair thinks not.

Mr. HOUSTON. If, by the withdrawal of my appeal, the Chair will then entertain the gentleman's motion to postpone the whole question, I will, for the present, withdraw it.

The SPEAKER. The gentleman from New York [Mr. HOARD] is entitled to the floor. If he yields the floor to the gentleman from Kentucky, [Mr. MARSHALL,] the motion can be made.

Mr. HOUSTON. I do not wish to deprive

myself of the right to make the point of order hereafter.

Mr. MARSHALL, of Kentucky. I ask the gentleman to yield me the floor to make the motion to postpone the subject.

Mr. HOARD. If it be the desire of the House, I have no objection.

Mr. MARSHALL, of Kentucky. I move to postpone the subject for a month from to-day.

Mr. SAVAGE. I ask the gentleman to withdraw that motion.

Mr. BURNETT. Is the motion debatable?

The SPEAKER. To a limited extent.

Mr. BURNETT. Then I have this to say: that I do hope that the House will not postpone the consideration of the subject, for this reason: it is due to the member against whom an imputation has been made that he should have a hearing. It is due to him that this question should be disposed of in some way; and, in my judgment, it is not treating that member with justice for the House to postpone the matter against his wish. It is due to him that he should be heard, and that this thing should be disposed of by the House finally in some way or other. The postponement of it from time to time is not dealing with him justly. Hence, I ask the House not to postpone the question, but to dispose of it at once.

There is another reason why it should not be postponed. The charge that has been made by the gentleman from New York, in which he places himself as the prosecutor, has gone forth to the country. His resolution has been published throughout the extent of the country. Comments have been made upon it by the newspaper press prejudicial to the gentleman from Ohio. His reputation will not suffer in the estimation of those who are fair men, and who understand the facts. Still, the gentleman from Ohio ought to have the benefit of having the entire question disposed of. I have no doubt myself, from facts within my knowledge, that the charge is as baseless as it is possible for a charge to be; and, if I were permitted to give my opinion in regard to it, I would say that the charge was not only baseless, but was as contemptible a charge as could be made. It could have been prompted by no desire—

The SPEAKER. The gentleman from Kentucky must confine himself strictly to the question of postponement.

Mr. BURNETT. I say, sir, that the postponement of the charge will result in doing injustice to the gentleman from Ohio, because it will enable the member who, in my judgment, was prompted by malice—

Mr. HOARD. I call the gentleman to order.

The SPEAKER. The gentleman from Kentucky is not in order.

Mr. BURNETT. The postponement of the question would enable the gentleman who made the charge to have the full benefit of it, in breaking down and destroying the reputation of the gentleman from Ohio, who is, in my judgment, fully his equal in every respect.

Mr. HOARD. Will the gentleman allow me to say a word?

Mr. BURNETT. Yes, sir.

Mr. HOARD. I have twice disclaimed having any personal hostility or unkindness towards the member from Ohio.

Mr. BURNETT. Yes, sir; the gentleman has a right to make the disclaimer, and I give him the benefit of it.

The SPEAKER. The gentleman from Kentucky must confine himself strictly to the question of postponement.

Mr. BURNETT. It is somewhat embarrassing, but I will endeavor to do so. The gentleman says that he disclaims anything like personal feeling in the matter. That may be so; I will not say that it is not so. But I do say, that the manner and mode in which the charge was made, and the circumstances attending it, will not make any bad impression on the mind of any man acquainted with the facts. I hope that this House will not postpone the matter, but will dispose of it at once, and give the gentleman from Ohio a full and fair hearing. Would that I had been permitted to notice some other matters, not exactly connected with the postponement of the question.

Mr. MARSHALL, of Kentucky. Certainly nothing was further from my intention than by my motion to operate any injustice to the party whose conduct is called in question by the proceedings.

My only object is to get the matter out of the way, so as to get at the Army bill. I have nothing to do with this charge. I know nothing about the facts, and have no correspondence or connection with the person who made the charge. I would not do any injustice to the gentleman from Ohio; and since I understand, from his action and from the remarks of my colleague, [Mr. BURNETT,] that there is a desire, on the part of the gentleman from Ohio, that there should be an investigation under this resolution, I hope that, when I withdraw the motion for postponement, members on all sides of the House will, without going into a debate that is to consume another day or two unprofitably, vote the resolution and have the investigation.

Mr. BURNS, (in his seat.) I do not want it in that form. I want to offer a new proposition myself.

Mr. MARSHALL, of Kentucky. All I ask is that the House will take this thing, in some form, out of the way.

Mr. BURNS took the floor.

The SPEAKER. The Chair is of the opinion that the gentleman from New York is entitled to the floor.

Mr. BURNS. The gentleman from New York made a speech the other day in my absence, and I want the permission of the House to rebut it.

Mr. WRIGHT, of Georgia. Is there not a motion to postpone pending?

The SPEAKER. The gentleman from Kentucky [Mr. MARSHALL] withdrew it.

Mr. WRIGHT, of Georgia. I renew the motion to postpone.

Mr. J. GLANCY JONES. If the gentleman from New York gets the floor and makes his speech, the gentleman from Ohio will be then entitled to the floor. I hope the matter will not be postponed, but will be allowed to go on.

Mr. WRIGHT, of Georgia. I shall renew the motion to postpone this question before the House. I do it upon the principle that one is a national question of great importance; and the other is purely a personal one in its importance; and it is better that the gentleman from Ohio should suffer personally, than that two thousand men, locked up in the mountains, shall take their chances, and strong chances, of being cut off by an enemy. This question ought to be considered and acted upon by the House; but, sir, it is wholly in reference to the fact that one is a national question in its character and the other personal, that I renew the motion to postpone.

Mr. COX. I hope the gentleman from Georgia will withdraw his motion to postpone, and allow my friend from Ohio [Mr. BURNS] to speak for a few minutes upon the merits of the question.

Mr. WRIGHT, of Georgia. But the gentleman from New York [Mr. HOARD] is then entitled to the floor.

Mr. COX. Then I hope the gentleman from New York will yield the floor to my colleague.

Mr. HOARD. I will, with great pleasure.

Mr. BURNS. Mr. Speaker, it will be remembered that on last Friday was a week, the member from New York [Mr. HOARD] mounted the Clerk's stand in this House, and read a paragraph from the New York Tribune, insinuating collusion between the President and myself. I pronounced it then, as I do this day, a base slander. The slang had no signature to it, and he refused to indorse it; there was no defendant to the action of course. The House refused to take cognizance of it.

I had hoped that members of Congress, if they should differ in politics or otherwise, would endeavor to act towards each other as gentlemen; if they should happen to do each other an injury at the impulse or through misinformation, they would retract. Under that belief, I addressed a note to the member from New York, desiring him to examine into the truth or falsity of the insinuations; if he found me innocent, to rise in his place, and set me right before the House. I was in my seat all day on Thursday, after I had addressed him the card, and he did not make a motion in regard to it.

But on last Friday, whilst I was confined to my room, and out of my seat, the member saw fit to bring my card into this House, and, instead of complying with the request contained in my note, he reported it to this House, as the proceedings show, and made it the basis of his second privileged question; instead of endeavoring to fasten,

or make good the insinuation against the President and myself, as set forth in his Tribune paragraph, he introduced a new charge or insinuation against me alone, "by a statement made by a member of this House that I was to have certain official patronage or appointments in consideration," &c.

Again: making a running insinuation, *guerrilla fashion*, without giving the member's name, or indorsing the truth of the insinuation himself.

Mr. Speaker, when I addressed the note to the member from New York, I did not intend to have it come into this House. It was addressed to him with the understanding on my part, that if he did not agree to set me right, he should drop me a note to that effect, and not run into this House with it, to be screened by the rules of this House.

It must be manifest to this House that the member intended from the start to make a false and slanderous record against me, to stab my private character—being all the time cautious to avoid the responsibility or punishment of this House that might ensue had he made direct charges. I therefore, Mr. Speaker, dismiss the member from New York. And I say to this House, that from this date he is at liberty to say or publish anything he may choose against me, on this floor. I shall, in the future, treat him and his slang with the contempt that he and it merit in the estimation of honorable members.

Mr. Speaker, I will state to this House, but not in the way of a reply to the member from New York, that there has been no collusion between the President, nor any of his Cabinet, and myself, in regard to the promise of office, or official patronage in consideration of any vote I have given, or have to give. Nor have I asked him for an appointment for myself, or any connection on earth, since I have taken my seat in this Congress. Nor did the President, or any of his Cabinet, or any person for them, either directly or indirectly, promise me an appointment for any friend.

It is true, that I filed an application ten months since, for a gentleman in my congressional district, for the office of marshal in the northern district of Ohio. I called on the President but once in his behalf since I have taken my seat, and that in company with my friend. But the President made no promise that he would appoint him, but did promise to give his claim a favorable consideration when the vacancy would occur, which will be in this month.

I now renew the question of privilege, and move the adoption of the following resolution:

Whereas the gentleman from New York, the Hon. Mr. HOARD, read from the Clerk's desk the following paragraph from the New York Tribune, of the 11th of February, to wit:

"WASHINGTON, Wednesday, February 10, 1858.

"I learn that until Monday morning it was expected that BURNS, of Ohio, would vote against the Leecomptonites. On the morning of that day, however, he came to another perception of his duty, on the understanding with the President that his son-in-law should retain the valuable place of post-master at Keokuk, Iowa, and that he himself should be gratified with the office of marshal of the northern district of Ohio, when his present term in the House is completed."

Resolved, That a committee of five persons be appointed by the Speaker, to inquire if there was any collusion or bargain made between the said Mr. BURNS and the President, that if he, BURNS, would vote to refer the President's Kansas message to the standing Committee on Territories, that the said BURNS's son-in-law should retain the position of post-master at Keokuk, Iowa, and also that he, the said BURNS, should be gratified, or appointed marshal of the northern district of Ohio, after his present term in the House expired; and to further investigate whether improper attempts have been, or are being made, directly or indirectly, by any person connected with the Executive Departments of this Government, or by any other person with their advice and consent, to interfere with the action of any member of this House, upon any question or measure upon which the House acted, or which it has under consideration, with power to send for persons and papers, and with leave to report at any time, by bill or otherwise.

Mr. LAWRENCE. I rise to make an inquiry as to what is the question pending before the House?

The SPEAKER. The question is, "Shall the preamble and resolution be received as a question of privilege?"

Mr. LAWRENCE. The gentleman from Georgia, I understand, has renewed the motion to postpone. I have something to say on that motion.

Mr. WRIGHT, of Georgia. I did renew the motion to postpone this question for one month.

The SPEAKER. The Chair desires to state, in reference to the question raised a moment ago by the gentleman from Alabama, that it appears from the Globe of the 29th of February, which

has been placed in the hands of the Chair, that the recollection of the gentleman from Alabama is correct, and that of the Chair incorrect. The report in the Globe shows that the gentleman from New York did address the House after the question was propounded, "Shall the resolution be received as a question of privilege?"

Mr. HOARD. But there has been a modification proposed since that.

The SPEAKER. The gentleman from New York himself proposed the modification.

Mr. STANTON. I hope the gentleman from New York will withdraw his proposition, and accept the proposition of the gentleman from Ohio, and let it be adopted by general consent.

Mr. GROW. Let the investigation be a general one, and not confined solely to the particulars named in the resolution of the gentleman from Ohio.

Mr. SAVAGE. I rise to a question of order. The gentleman from New York has not the right to address the House, having addressed the House once already on this question.

The SPEAKER. The Chair overrules the question of order. The gentleman from New York has modified his resolution. The Chair was not in order in awarding the floor to the gentleman when the gentleman from Alabama claimed it. The Chair has since discovered that the gentleman addressed the House when his resolution was submitted.

Mr. JONES, of Tennessee. I submit a question of order. In the first place it is not the gentleman's resolution that is before us. The question is whether the resolution is privileged or not, which is a question submitted by the Speaker and not by the gentleman. The gentleman from New York has made a speech on that question, and the rule provides that no member shall address the House more than once until every member who desires to speak shall have spoken on the question pending. Secondly, I hold that if the gentleman's resolution is before the House he cannot so modify it as to give himself an opportunity for an additional speech or speeches. If he is now entitled to speak under this modification he may speak fifty-nine minutes, make another modification, claim the floor and speak another fifty-nine minutes, and so on *ad infinitum*.

Mr. LOVEJOY. Has not the Chair decided the question? If so, and the gentleman is dissatisfied, let him appeal.

Mr. JONES, of Tennessee. The proposition before the House is identical with the one on which the gentleman made his former speech.

The SPEAKER. The Chair thinks not. The proposition, as now submitted to the House by the Chair, is different from that submitted before.

Mr. LAWRENCE. I understand the motion before the House to be a motion to postpone the whole subject. If that is the motion, is the gentleman, then, entitled to the floor to make an argument on the general merits of the case? The gentleman from Georgia renewed the motion to postpone, I am sure.

Mr. WRIGHT, of Georgia. I did renew the motion to postpone the subject for one month.

Mr. GROW. It seems that everybody is entitled to the floor, except the gentleman from New York; and the Chair decides that he has the floor.

The SPEAKER. The Chair is of the opinion that unless the gentleman from New York yielded the floor for that purpose, the gentleman from Georgia had no right to move to postpone.

Mr. WRIGHT, of Georgia. The gentleman from Georgia understood at the time that he had the floor to make the motion. The gentleman from New York has been recognized by the Chair since the motion to postpone was made.

Mr. SAVAGE. The gentleman from Kentucky withdrew the motion to postpone, and the gentleman from Georgia renewed it.

Mr. LAWRENCE. Then, if the gentleman from Kentucky had the floor to withdraw the motion to postpone, certainly the gentleman from Georgia had the floor to renew it.

The SPEAKER. When the gentleman from Kentucky made the motion to postpone, he did so with the permission of the gentleman from New York, who yielded the floor for that purpose.

Mr. HOARD. I feel it due to myself to repeat what I have stated twice already. In the motion I have submitted I was not actuated by any partisan spirit, or any feeling of unkindness to any

man. What I read was as a part of the evidence going to make up common fame. I did not know the gentleman from Ohio [Mr. BURNS] at the time. At the first opportunity which presented itself, I disclaimed any personal hostility to him.

There seems to be a disposition on the part of certain gentlemen to turn the attention of the House from a matter of great general interest to one of personal concern between the gentleman from Ohio and myself. The gentleman from Kentucky [Mr. BURNETT] is reputed to have made some offensive remarks to me, which were, I believe, predicated upon a mistaken understanding of the facts. Certainly this is not a time when there should be a studied effort to incite difficulties and hostilities between members. I see no reason why there should be any unkindness. Let me say to the gentleman, that while I will pray not to be led into temptation, I hope the gentleman from Kentucky will pray to be delivered from evil.

I will, as briefly as I can, endeavor to present this case to the House. In passing, I will say to the gentleman from Ohio [Mr. BURNS] that, before I had taken my seat at the time I offered the first resolution, word came to me that a gentleman from Illinois had twice tried to get the floor, to confirm some of the statements of the article from which I quoted. It was because of this, and other facts which had been communicated to me, that I took the action afterwards which I did. I am not here to wound the reputation of any gentleman. I hope no man is here desiring to wound my reputation.

I will further say to the gentleman from Ohio, [Mr. BURNS,] that before I take my seat I will give to him and to the House the name of the gentleman from whom this comes. It is due to the gentleman that he should know that the reason why I could not retract when he asked me to do so, was because of information which I had received. When I first offered the resolution calling for a committee, I knew that two committees had been raised by this House for the purpose of investigations upon common newspaper reports, and I therefore thought it proper to move for a general investigation into a matter in which every gentleman here is certainly as deeply interested as I am. In the case of Lawrence, Stone & Co., in which a committee was raised, no name had been mentioned, either in the House or out of it, in connection with that matter. It was a mere newspaper statement that \$87,000 had been charged upon the books of the firm as having been used to procure the passage of a bill through Congress. That simple statement, sir, was considered a sufficient ground for raising a committee of investigation. Having this example before me, the House having shown a disposition to take care of its character and to refute all charges affecting its dignity and purity, I did not suppose, when I introduced the resolution, that any resistance or opposition would be made to it. I stated to the House what I knew, and what I have never since heard disputed, that common fame charged that political influences would carry the Leocompton measure through the House, and that fears were expressed on the other side that such would be the case. I introduce the following authorities to show that common fame is good ground of inquiry:

"MR. MONTAGU. It was not for want of zeal that I did not trouble you the last debate. I am sensible of the miseries we lie under through the loss of our bill in the Lords' House. It has been always the privilege of the House of Commons to use common fame as an information of things. The best of Parliaments have done it, and the best of Kings have granted it. Common fame says that 'Lord Halifax advised,' and since, he has owned, the dissolution of the last Parliament. I think, therefore, that in justice you can do no less than vote him an enemy to the King and kingdom, and address his Majesty that he would be pleased to remove George, Earl of Halifax, from his councils."

"You are told 'it is not fit to accuse a man barely upon common fame.' There is a great difference between common fame and rumor. Rumor is *vox plebis*, (the vulgar;) but common fame is *vox populi*—everybody is convinced of it, and in his own mind he bears the conviction of it to be true. He is suspected not only by common characters but actions. In the best and most sedate times, Parliaments have always proceeded upon this of common fame. Henry IV. was no weak prince, and not much in awe of his subjects; but the Lords and Commons represented to the King their desires that he would remove an abbot from him, and another of his bedchamber. The King said 'he knew no fault in them; but because they were odious to his people, he would remove them.' In Henry VI.'s time, De La Pole, Duke of Suffolk, upon common fame that he was not a true man, came in to justify himself; and though some were of

opinion he should not be committed; yet no man but that he should be removed. In the late King's time, all the knowing men of that time—Lord Strafford, Mr. Mason, &c., were of opinion that common fame was a sufficient ground to address the King for the removal of a person. I am afraid that, in the case of this Lord, common fame is in the right, and, therefore, my opinion is, to address the King, that he may be removed."

"SIR FRANCIS WINNINGTON. I think those words, 'clandestine and private,' are liable to objections. But I am surprised that gentlemen should be so rigorous to-day, when the address is resolved. I thank God I have this quality, and I hope I ever shall keep it, to speak my mind plainly; and if we speak not now, we are all undone. Though I have a great honor for this Lord, to alter our minds by the intermission of one Sunday, is a great reflection upon us, to be unsettled in our mind. It was the defamation of the House of Commons the last twenty years, that they did neither consider the interest of God, nor of their country; but now to see a tenderness, when a great person is concerned! (Though he has many good qualities, yet I am sorry to see so much cooling in this, when all is at stake.) But this address is not a 'judgment' upon this Lord, (as is said.) I say it is no judgment at all; but the House, upon common fame, believes that Lord Halifax did advise the dissolution of the last Parliament, though he said he was against the prorogation. This is no judging him; he has given ill counsel to the King, and we are going to give him good. As for impeachment, though common fame is no ground to convict, yet it is to accuse. If you cannot relieve yourselves upon common fame, where you can have no witness, you will never remove any man. You have a ground for this address, though not for judgment. We come from all parts of the kingdom, and must hear the opinion of the people. I am for leaving out the words 'clandestine and secret,' because it has been open. We are the great council of the kingdom; when we see ill counsel given, and we give good! I am uneasy for a friend, but easy for the kingdom. I would have the words 'clandestine,' &c., left out, and the words 'of dissolution of the last Parliament' in, and I hope you will not reverse your address."

Now, sir, here was a common report, certainly as definite and as full as in the case of Lawrence, Stone & Co., and I supposed that the course which I proposed was well calculated to further the desire of the House to remove the charges resting upon it, and to vindicate its rights and privileges.

Sir, I believe, that in the wandering of the executive department from its constitutional path of duty, is to be found the very germ of all the wrongs which now justly alarm the country. Sir, what is the sum of \$87,000 to be expended upon this House in comparison with the millions that may be expended by the Executive? If personal considerations are offered to the members of this House to control their action here, what is the difference whether it be in dollars and cents, or patronage and place?

It seems to me, Mr. Speaker, that this is a legitimate question of privilege. What are the privileges of this House? I suppose the privilege of the House to cover the right to legislate freely, without restraint, without interference, and without external influences of any kind; and I suppose that any measures taken with a view to bias or sway the action of this House by considerations other than of a public nature, are breaches of the privileges of the House, no matter whether they come from a manufacturing company or from the executive department of the Government. This, sir, is a representative Government, and when an individual or an officer of the Government induces a Representative to misrepresent the will of his constituents, he strikes a vital blow at the privileges of the House. I have some authorities here to show that common fame is a sufficient ground for an investigation.

I know it will be said that in the cases reported, common fame charged an offense against a single individual. But I say here, sir, that it is common fame that the Executive now and in years past has operated upon this House to influence its action, and that state of things cannot exist unless some individual has been operated upon. And when it is thus proven that the Executive is influencing this House, it cannot be necessary, it seems to me, for us to take proof as to the man upon whom the effort has been made, or to whom the corrupt proposition has been made, before we have a right to investigate. The investigation is for the very purpose of bringing out that proof.

Now, sir, there are numerous authorities in parliamentary debates to show that there shall be no interference on the part of the Executive to influence, or sway, or bias, the action of the legislative department.

From Gray's Debates, volume I, page 4, I quote:

"SIR THOMAS LITTLETON said: They procure royal assent to a bill before its time—a violation of our privileges."

At that time it was a violation of the privileges

of the Commons to procure the royal assent to a measure before its passage.

"SIR THOMAS GOWER said: The Commons took notice that the proceedings were told the King before the time."

"Resolved, *nemine contradicente*. That no member of this House shall accept of any office or place of profit from the Crown, without the leave of this House, or any promise of any such office or place of profit, during such time as he shall continue a member of this House; [and that all offenders herein shall be expelled this House.]"

But, sir, it is said that there is no precedent for this proceeding. Well, if that be so, it is for the House to establish a precedent, otherwise corruption must go on, and the House will never be able to stop it, I suppose, for want of a precedent. If we depend on precedents, we can never move in a new case, no matter of what magnitude. I hold that we are here to judge of the fitness of things; and that if a new question is presented to-day, we are as competent to decide it as the House of Commons was two hundred years ago. I hold that it is the high duty of this House to investigate this question with all deliberation; and if there is no precedent by which we can arrest the intermeddling of the executive department of the Government with the legislative department, let us establish the precedent now; and do so with all deliberation.

Now, sir, the question presented to the House and to the country is not the narrow, personal question that has been unfortunately sought to be raised between the gentleman from Ohio and myself; but it is the question whether this House has power to redeem and vindicate its power, its rights, and its independence. I trust that no gentleman will be disposed to throw aside that question until the House shall have said to the executive department, "take off your hands;" until the House shall have rid itself of the incubus that has pressed upon it for the last eight years. Are we to say, by our action to-day, that we cannot relieve ourselves of it? Are we to say to the Executive, "Go on; corrupt all you can with the vast Government influence; carry your measures by the power of your patronage; prostitute the Legislature; absorb the Government?" Are we to do that, or are we to establish this as a question of privilege—that this House will, in vindication of its integrity and of its independence, institute the necessary investigations?

If there is no precedent, let us approach this as an original question. Let us weigh it, and let us consider it with the candor and deliberation due to its importance as an original question. If this be not a question of privilege, and one of the highest magnitude, I would like gentlemen to tell me what would constitute such a question? If this is not now technically within the rule of questions of privilege, let us make it one. It is said that no person is named here. Well, the fact being established by common fame that the Executive does intermeddle with the House, brings suspicion upon every opponent of the Administration in the House.

Sir, in moving in this matter, I was not in pursuit of the victim, but of the offender. I was not in pursuit of, nor did I desire to expose or wound the feelings of any man who might be acted upon; but I desired to expose to the country any matter of corruption that might have been perpetrated.

Now, sir, is it possible that we are not to arrest the robber until we can name the person who has been robbed? Is it possible that we may not arrest the assassin until we have named the person who has been assassinated? Sir, I protest that this is a question of privilege, within the fair scope of the authorities, and that it ought to be so settled and determined by this House. I insist that the House owes it to its dignity to declare and establish such rule in this case as will enable investigations to be instituted in all similar cases, as questions of privilege in the future.

Mr. Speaker, will it be competent for me to go into an examination of the consequences of this intermeddling in the legislation of the country, in order to show why an investigation should be had? I desire to present to the House, then, in connection with this general subject, some startling facts, which I hope gentlemen will notice, to show that the House owes it to itself to make this a question of privilege, if it is not already one, in order that it may be saved from further demoralization.

I will state that in 1826 the subject of executive patronage engaged the attention of the Senate;

and a committee was very promptly raised to investigate the subject, with the Hon. Thomas H. Benton at its head. In 1834 another committee was raised upon the same subject, with Hon. John C. Calhoun at its head. Now, I propose to state to the House what was the condition of the country, in regard to its expenditures, when Mr. Benton made his report, and how that executive patronage has progressed since that time. When the first report was made upon this subject, by Colonel Benton, in 1826, it contained alarming statements as to the dangerous nature and extent of executive patronage at that time. Mr. Calhoun's report, in 1834, was equally alarming in its statements, and expressed gloomy forebodings. Now, sir, I find that the expenses of the Government, for civil and miscellaneous purposes, in 1800, was seventeen and eight tenths cents per head for the population of the country; and those two items constituted the whole corrupting fund of the Government. In 1810 the same expenses amounted to fourteen and one tenth cents per head; in 1820, twenty-four and five tenths cents; in 1826, when this committee was organized, the expenses had grown to twenty-nine and two tenths cents per head; in 1834, when Mr. Calhoun's committee was raised, the same expenses amounted to twenty-eight and eight tenths cents, something less than was the fact when Mr. Benton's committee reported, showing the effect of the first investigation had been to check the increase of that patronage. But, sir, I go on. In 1840, no action to check this patronage having since been taken, the expenses for civil and miscellaneous purposes had swollen to thirty-one and one tenth cents per head. Now, mark you, in 1850 it had grown to fifty cents; and in 1857, to ninety-three and five tenths! Now, sir, this miscellaneous-expenses account of the Government in 1857—just for pin-money, just for sundries—this corrupting fund, in 1857, exceeded the whole expenses of the Government in 1840 for the support of the Army and Navy, and for civil and miscellaneous purposes.

[A message was here received from the Senate, by Mr. HICKER, assistant clerk, informing the House that the Senate had passed a bill to provide for the issuing service and return of original and final process in the circuit and district courts of the United States in certain cases; in which he was instructed to ask the concurrence of the House.]

Mr. HOARD. I repeat, that for the miscellaneous expenses of the Government alone, in 1857, the amount of money paid was greater than for the Army, Navy, the civil list, and miscellaneous purposes in 1840!

Mr. QUITMAN. I call the gentleman from New York to order. I am disposed to indulge the fullest discussion upon the subject; but, sir, from the important business that is to come before the House to-day, I make the point of order, that I do not see what a general discussion on the expenses of the Government has to do with the question under consideration.

Mr. HOARD. I had finished what I had to say upon that subject.

The SPEAKER. The Chair thinks the question of order has been well taken. He thinks the gentleman from New York has wandered off from the direct question before the House.

Mr. HOARD. I promised before I took my seat to give the names of the gentlemen from whom I received the information alluded to at the commencement. I do it for the purpose of relieving myself from any imputation or suspicion of being actuated from malice, or by any improper motive, which I had previously disclaimed. I was informed before I took my seat on the day when I first offered my resolution, and read from the New York Tribune, that Mr. MORRIS, of Illinois, had twice endeavored to obtain the floor—and I see by the reported proceedings of that day that he did endeavor to get the floor—to make some confirmation of the truth of the facts alleged, which the gentleman from Ohio [Mr. BURNS] denied.

Mr. HOUSTON. State what the gentleman from Illinois was going to say.

Mr. HOARD. Mr. MORRIS, of Illinois, tried to get the floor to make the explanation I have referred to. The gentleman from Ohio will remember that the first sentence in the article I read from the Tribune stated that, until a certain day,

he was supposed to be against the Lecomptonites. His denial before the House was full against the statements of the Tribune, from the beginning to the end. Mr. HARRIS of Illinois, Mr. MORRIS of Illinois, and Mr. SMITH of Illinois, all of them had informed me, before I received his letter, that, so far as the first statement in the letter to the Tribune was concerned, it certainly was not false. They stated that the gentleman from Ohio had been reckoned to go with them; that he had counseled with them. I only refer to this to show that I am not guilty of the malice which has been charged. Mr. MORRIS, of Illinois, did not state to me that he tried to get the floor to make that statement; but I was informed by a member that it was for that purpose he sought the floor.

Mr. BLAIR. I think it due to the gentleman from New York [Mr. HOARD] to say, that I stated to him what Mr. MORRIS, of Illinois, had told me in relation to this matter. My recollection of what Mr. MORRIS stated is substantially what the gentleman alleges. Mr. MORRIS, after Mr. BURNS voted against Mr. HARRIS's resolution, approached Mr. BURNS and inquired about that vote. It had been previously understood that he would vote for the resolution, and against the Lecompton constitution. Mr. MORRIS told him that he was surprised at the vote he had given. Mr. BURNS gave the reason for that vote, substantially as the gentleman from New York has alleged. I consider it due to the gentleman from New York to make this statement publicly before the House. I stated to him what Mr. MORRIS had told me was the conversation which had occurred between Mr. BURNS and himself.

Mr. HOUSTON. The gentleman, I understand, states what the gentleman from Illinois had told him. It is not the gentleman's statement of what took place between himself and the gentleman from Ohio.

Mr. BLAIR. No, sir; I only undertake to state what the gentleman from Illinois told me.

Mr. HOUSTON. If I had known that, I would have objected. I would not have allowed the House to have dignified the statement by receiving it.

Mr. BLAIR. What was the gentleman's remark?

Mr. HOUSTON. My remark was this: that if I had known the statement was not of the gentleman's own knowledge in the matter, I would have objected.

Mr. BURNETT. I wish to ask a question of the gentleman from Missouri, to fix the time of the conversation which he has detailed. Did that conversation which the gentleman from Illinois [Mr. MORRIS] had with the gentleman from Ohio [Mr. BURNS] occur after the vote of the latter had been given?

Mr. BLAIR. Yes, sir. I think the gentleman from Illinois stated that it occurred several days subsequently.

Mr. HOUSTON. If the gentleman has a statement of his own to make, I shall not object; otherwise, I shall. If we are to hear of this conversation between the gentleman from Illinois and the gentleman from Ohio, let us hear it from one of the parties involved.

Mr. HOARD. I think it due to myself and the gentleman from Ohio, to make the statements which are now before the House. I believe I have said all I desire to say. As I understand the resolution of the gentleman from Ohio, I do not object to it. On the contrary, I accept it as a modification of my own.

Mr. NICHOLS. Mr. Speaker, I do not know that I shall favor the investigation which has been asked. I apprehend that this House should have something to say as to the propriety of this investigation. Investigations are asked almost every day, and committees allowed almost as a matter of course. Gentlemen refrain from objecting to them from what I conceive to be a false sense of delicacy. It may barely be possible that I shall differ from most of the gentlemen surrounding me on this side of the House. I do not think that I shall favor the proposition of my colleague. If I vote against it, and differ from those around me, I only say that, while I mean no disrespect to them, I shall follow the dictates of my own judgment.

When the resolution was originally introduced by the gentleman from New York, [Mr. HOARD,] I thought it was ill-timed. The reason I thought

it ill-timed was, that it was based alone on this extract from a letter to the Tribune:

"WASHINGTON, February 10, 1858.

"I learn that until Monday morning it was expected that BURNS, of Ohio, would vote against the Lecomptonites. On the morning of that day, however, he came to another perception of his duty, on the understanding with the President that his son-in-law should retain the valuable place of postmaster at Keokuk, Iowa, and that he himself should be gratified with the office of marshal of the northern district of Ohio, when his present term in the House is completed."

The common fame to which the gentleman refers is founded upon reports that such and such things are being done round this House; and it is upon these reports he bases the call for an investigation. I shall vote against the investigation upon any such basis. When a question is brought into this House, upon an irresponsible paragraph like this, with the statement appended that common fame says so and so, it is below the dignity of this body to notice it, or to make it the subject of serious action. Why, sir, take up the partisan press of the day. Something was said against it by the gentleman from Maryland, [Mr. DAVIS,] much of which was just and proper. There is not a day but that each and every member of this body is arraigned in an offensive manner. Men are made patriots of, who have no virtue; and men are called rascals, who have virtues. Motives are conjectured by correspondents, and their conjecture is given with a verity that too often induces the public to swallow it as a truth, in regard to the action of this body.

But I desire, Mr. Speaker, to refer to the latter part of the extract from the New York Tribune; and it gives me pleasure, differing with my colleague politically, as I do, and regretting the vote which he thought proper to give here the other day—it gives me pleasure to bear testimony here in my place, as his political opponent, that the latter part of this paragraph is, within my own knowledge, false and unjust to my colleague.

I know, sir, that he never looked to be marshal for the northern district of Ohio. I do know, as he has very frankly stated, that long before this Lecompton question came before the House in its present shape, he was the friend, and the honest friend, of another gentleman for that position.

Now, Mr. Speaker, knowing this fact as I do, am I, as a Representative, acting under my oath of office to come here, and, for a purpose which it is not necessary for me to speak of, to say by my vote that I will sanction an investigation into the conduct of my colleague based upon a statement, one half of which I know to be false? I never will.

Now, Mr. Speaker, this question has been pending for some time, and it has been discussed in this House in connection with the action of the Executive in reference to questions pending here. If I transcend the limits of debate in referring to this Lecompton matter, I hope I shall be corrected. I do not wish to do it. I say that the fact that the President is in favor of this Lecompton measure is patent. You have the evidence of that fact upon your desk. What else do we know? We know that when political parties have the control of this Government, and when they marshal themselves in favor of a political measure, the Executive of the nation, the representative of the great controlling party, seeks to accomplish a national purpose. We know, without investigation, that the power and patronage of this Government are brought to bear to effect that object, not, perhaps, in a direct and offensive manner, but the recognized doctrine that "to the victors belong the spoils" is carried out in practice, and an Administration prefers none but its friends. Who does not understand this? Was it ever otherwise in the history of political parties since the days of Jefferson?

Mr. GIDDINGS. With the permission of my colleague, I will tell him of one instance. I once heard my old friend, John Quincy Adams charged with having perverted his patronage to the support of his party. He rose here, in the presence of this body, and declared that he had never advised the appointment of any man in any Department of this Government save one, and that was when his honor, Judge McLean, was Postmaster General of the United States. An old friend of Mr. Adams, and a friend of his father, called on him, and he wrote a note to Mr. McLean, saying that he should by very much gratified to have this friend appointed a deputy postmaster. Mr. McLean returned, for answer, that the man was unfit

for the position, and refused to appoint him; and that was the end of it.

Mr. NICHOLS. Mr. Speaker, I know there are solitary exceptions. My colleague's recollection goes further back than mine, but I can give him a fresher instance than the one he has referred to—an instance where a dominant majority of this House retained in office a political opponent. But such instances are like springs of water in the desert, to which the traveler resorts when thirst impels him to seek relief; the general rule is the other way.

Mr. GIDDINGS. So much the worse.

Mr. NICHOLS. Who expects otherwise? I do not, for one, certainly. When my colleague says so much the worse, I respond heartily to it. I say, Mr. Speaker, so much the worse. It is this principle, this disposition to reward the victors with the spoils, which is doing more to corrupt this Government than anything else which affects its interests. I have no quarrel with my friend about that. But the point I make in this case is this: is there sufficient in the charge itself to warrant this House, a grave, deliberative body, in ordering an investigation based upon a newspaper paragraph, even though my colleague [Mr. BURNS] desires it? I say, for one, that I will act upon nothing of the kind.

But other things have been said here. It is said that my honorable colleague was opposed to this Lecompton measure. In common with others, sir, I did not anticipate the vote which he saw proper to give upon the resolution of the gentleman from Illinois, [Mr. HARRIS.] But far be it from me to impute to him in that vote a corrupt exercise of political power upon this floor. I have no desire or disposition to do it. But I believe my colleague has since put it upon record that he did not regard the vote which he cast at that time as decisive of the course which he should pursue upon the final question.

Sir, I recognize the right of my colleague to change his opinion upon any question. Let him do so. How does he hold his seat here? By a tenure of power over which we have no control. He is the responsible Representative of over one hundred thousand freemen. To them he is responsible; and, when the final vote shall be taken upon this question, if the vote of my colleague be against the sentiments of those he represents, rest assured—the political history of the past two or three years is fruitful in suggestions of such things—rest assured that retribution will follow as surely as sunshine follows the night.

Mr. Speaker, I should have had my position somewhat affected by things which have taken place in this discussion to-day, but for one single fact. We have heard it stated by the gentleman from New York, [Mr. HOARD,] that he has been informed so and so; that certain gentlemen upon this floor have said that they understood the position of my colleague to be in favor of the motion of the gentleman from Illinois, against which he gave his vote the other day. Now, sir, I was unable to ascertain the peculiar reason that the gentleman from New York imputed to my colleague for the change; and I desire to hear it.

Mr. HOARD. I read the paragraph which the gentleman from Ohio [Mr. BURNS] declared to be false from beginning to end; and one of the assertions in that paragraph was, that he had been opposed to the Lecompton constitution till a certain day. On instituting the inquiry which the gentleman from Ohio desired me to make, I learned from three gentlemen with whom I talked, that that particular part of the statement was not false.

Mr. NICHOLS. True, Mr. Speaker; I can very well understand that. But it seems to me that we are fighting about terms. True, my colleague pronounced the whole of the statement false; but I ask any honorable and reasonable gentleman if that statement, made in the midst of excitement, cannot apply and would not apply, if not solely and exclusively, almost exclusively to the corrupt imputation contained in the paragraph? Now, it matters not to me whether the gentleman was against Lecompton, or is so at this time. I take it upon my own personal responsibility to brand a portion of the charge on which this investigation is asked, as untrue. I find no man here saying anything against my colleague, except that he at one time entertained anti-Lecompton sentiments. Now, what next? Is there a responsible name to the charge implicating him with any cor-

ruption; or is it settled to this House that my colleague has changed his sentiments on this question at all? No, sir.

Now, sir, order an investigation; and what have you to inquire into? Take the proposition of the gentleman from New York, and pass it on common fame, on common rumor! "Common Rumor!" Where is she? Sitting in your reporters' gallery; squatting like a toad under your desks; lurking about this Hall to catch an unguarded word of a gentleman, and to spread it in the shape of a newspaper paragraph, and send it, like a deadly poison, throughout the land, blasting the reputation of honorable men. Common fame! What is not common fame doing for the country now? Why, it is maligning the fairest fame, and striking down the fairest reputation, as it exalts the worst.

I have spoken of the proposition of the gentleman from New York. Now to the proposition of my colleague. He, after some days and weeks of deliberation and of conversation with members, has allowed himself to be persuaded that an investigation is necessary to relieve his character from the imputation. And he now comes before the House with a proposition for an investigation. I shall vote against it: and why? Because it recites the very paragraph on which the resolution of the gentleman from New York is based. And what does it propose? That a committee shall inquire whether the President of the United States and my colleague ever had any corrupt collusion, or whether the President has ever promised to make him any reward for a certain course which he was to pursue, for a vote which he was to give on a pending question—a question not yet determined. Now, I imagine that I see that committee going to work. What witnesses will it call? My honorable colleague. Who rises in his place and says, on his responsibility as a member, that the charge is not true? The President of the United States? Will it call him and ask him: "Did you, Mr. President, ever promise the gentleman from Ohio to appoint him marshal of the northern district of Ohio, or to give him any other selection? or did you hold out to him any hope of reward for his pursuing a certain course on the Lecompton question?" What do you imagine would the answer be? Where else will the committee go for proof? What will come of the investigation, except the general conclusions of the committee as to the exercise of executive power, and the impropriety of employing it to carry political questions, or affect the legislation of the country? Can you effect anything more? I say, Mr. Speaker, that this investigation will be an anomaly in our Government; an anomaly because resting only on common fame; an anomaly because the peculiar mode of investigation pointed out by my colleague is a very incongruous and singular thing.

I will go as far as the furthest in limiting executive patronage and power. That is the proper direction to give to the matter; and if gentlemen are disposed to employ their time that way, I am willing to join with them. Now, on my own responsibility, I move to lay the whole subject on the table.

Mr. GROW. I appeal to the gentleman to withdraw that motion.

Mr. NICHOLS. The gentleman from Pennsylvania well understands that I would extend to him any courtesy that I would extend to any member of this House. But I will not withdraw this motion to accommodate any one.

Mr. GROW. I call for the yeas and nays on the motion to lay on the table.

Mr. LAWRENCE. I appeal to my colleague to withdraw his motion.

Mr. NICHOLS declined to withdraw it.

Mr. PHELPS called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HALL, of Massachusetts, and MILLSON were appointed.

The House divided; and the tellers reported—ayes forty-six, noes not counted.

So the yeas and nays were ordered.

Mr. STANTON. I desire to know whether my colleague [Mr. BURNS] desires to have it laid on the table, or not; and I will vote just as he wants.

Mr. BURNS. I want the investigation, of course.

Mr. JONES, of Tennessee. Is it in order to move a call of the House?

The SPEAKER. The Chair thinks it is.

Mr. JONES, of Tennessee. I think it would be right to have a call of the House; and I make that motion.

The motion was not agreed to.

Mr. JONES, of Tennessee. I wish to vote understandingly upon this subject. This resolution has not been received by the House, and I wish to know whether the question is upon laying on the table the question on receiving the resolution, or upon laying on the table the resolution itself?

The SPEAKER. The question presented to the House was, "Shall the resolution be received and entertained upon the ground that the privileges of the House are involved?" The gentleman from Ohio [Mr. NICHOLS] moves to lay that question on the table.

Mr. LAWRENCE. If my colleague, who made that motion, were in the Hall, I should appeal to him as a personal favor, to my colleague behind me, [Mr. BURNS,] to withdraw his motion. The country will not understand the matter if this question is laid on the table, as the House understands it.

Mr. STANTON. I wish to know if the question of privilege is not disposed of by the application of my colleague [Mr. BURNS] for a committee? I suppose there is no question as to the privilege if he demands an investigation.

The SPEAKER. That is the very question the House is to determine by its vote upon the motion to lay on the table.

Mr. LAWRENCE. I hope the House will, in justice to my colleague, vote down the motion to lay on the table.

The question was taken; and it was decided in the affirmative—yeas 92, nays 80; as follows:

YEAS—Messrs. Adrain, Ahl, Anderson, Arnold, Atkins, Avery, Barksdale, Bishop, Bowie, Boyce, Bryan, Burnett, Caskey, Chapman, John B. Clark, Clay, Cobb, Cox, James Craig, Crawford, Davidson, Davis of Indiana, Davis of Mississippi, Dewart, Edie, Edmundson, Elliott, Faulkner, Florence, Foley, Gartrell, Goode, Greenwood, Gregg, Hill, Hopkins, Houston, Hughes, Huyler, Jackson, Jenkins, Jewett, George W. Jones, J. Glancy Jones, Owen Jones, Kelly, Jacob M. Kunkel, Landy, Leidy, Letcher, Humphrey Marshall, Mason, Maynard, Miller, Moore, Niblack, Nichols, Peyton, Phelps, Phillips, Powell, Quitman, Ready, Reagan, Reilly, Ruffin, Russell, Sandidge, Savage, Scales, Scott, Searing, Seward, Henry M. Shaw, Shorter, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, James A. Stewart, George Taylor, Miles Taylor, Ward, Warren, Watkins, White, Whiteley, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—92.

NAYS—Messrs. Abbott, Andrews, Bennett, Billingshurst, Bingham, Blair, Bliss, Brayton, Buntinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, Cockerill, Colfax, Collins, Covode, Cragin, Curtis, Damrell, Dawes, Dean, Dick, Dodd, Farnsworth, Fenton, Foster, Giddings, Gilman, Gilmor, Gooch, Goodwin, Granger, Grow, Robert B. Hall, Hartman, Haskin, Hatch, Hickman, Hoard, Horton, Howard, Kellogg, Kelsey, Kilgore, Lawrence, Leach, Leiter, Lovejoy, Millson, Montgomery, Morgan, Morrill, Edward Joy Morris, Olin, Parker, Pendleton, Pettit, Pike, Potter, Potte, Purviance, Ritchie, Robbins, Roberts, Royce, John Sherman, Judson W. Sherman, Spinner, Stanton, William Stewart, Tappan, Thayer, Tompkins, Wade, Waibridge, Waldron, Walton, Cadwalader C. Washburn, and Israel Washburn—80.

So the question, "Shall the resolution be received and entertained on the ground that the privileges of the House are involved?" was laid on the table.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by J. BUCHANAN HENRY, his Private Secretary.

CORRECTION OF THE JOURNAL.

Mr. STANTON stated that he was reported in the Globe as having voted in the affirmative on the bill relating to the Navy. If he was so recorded in the Journal, he desired it to be corrected. He voted in the negative.

The Journal was accordingly corrected.

INCREASE OF THE ARMY.

The SPEAKER stated that the business in order was the consideration of the special order for the day; it being the consideration of the bill of the House (No. 313) to provide for a temporary increase of the Army of the United States.

Mr. QUITMAN. If I could, without an apparent neglect of duty, postpone my remarks to a day of better health, I would do so cheerfully. But, sir, under every disadvantage, I feel myself bound to press the consideration of this bill to-day, and I shall make a few explanatory remarks upon the bill now before the House.

Without any further preface, I proceed at once to state that the President of the United States, in his annual message delivered to this House some months ago, has given us information of a state of things in the condition of the country which requires, in his opinion, an additional military force. To that, Mr. Speaker, it is due, in the regular discharge of our duties, to make some response. The President has further, in giving that information, informed us of all the circumstances which render it necessary that we should act upon his recommendation before the spring campaign, if we desire to conform to his wishes and opinions upon the subject.

Now, Mr. Speaker, it is the constitutional right of the President of the United States, not to raise armies, but simply to act as Commander-in-Chief of those armies when raised. The constitutional right to raise armies belongs exclusively to Congress. It is our constitutional power, and ours alone, and also to prescribe the regulations by which they shall be governed. The President of the United States can only recommend to Congress, and present considerations showing the propriety of adding to, changing, or improving the military establishment of the United States. His right consists alone in being Commander-in-Chief of those armies after they are raised, and their regulations prescribed, by authority of Congress. The general delegation of power by the Constitution shows what are his duties, and what powers are excluded from the President. Section eight of the first article of the Constitution of the United States gives to Congress power "to raise and support armies, to make rules for the government and regulation of the land and naval forces, and to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions."

Now, the President of the United States has no power to call out the militia, except in pursuance of the rules and regulations laid down by the Congress of the United States. He has no authority to call out volunteers unless authorized by the Congress of the United States. It is consequently the duty of the President and other executive officers of the Government, when, in looking abroad, they find the condition of the country to require an additional force, to present the facts to Congress; and then for Congress to say what shall be the character of that force, and for how long a period it shall be mustered into service. Congress has also to say what shall be the rules and regulations by which that force shall be governed. It is the duty of the Executive to present these matters to Congress. It is our duty to act upon that presentation; and especially is it our duty, when there exists such a state of facts as is now presented, to give him a prompt answer; because, whatever opinions may exist as to the propriety of the military operations of the country, now that they have been entered upon, they should be sustained by an adequate force.

Well now, Mr. Speaker, there are two or three modes in which Congress can raise armies—can create a military force, if they deem it proper that such force shall be authorized. The first is, by increasing the regular military forces which are generally known as the regulars. Secondly, by calling out the militia—the great armed force of the country—the great, mighty power of the citizens, required by the Constitution to be always embodied and armed, subject to be called into the service of the United States in cases of great emergencies when necessary, under the peculiar limits of power conferred by the Constitution. The third mode of raising an army is to call out volunteers—a force which, when used under proper regulations, is as effective as any that can be called into the field.

I now desire to make a few very brief remarks upon the several descriptions of force which may thus be called out. In the first place, I state, as every man will admit, that a regular military power of some kind is necessary for every Government. The idea which sometimes exists among philosophers, that moral force alone can sustain government, is utopian. There must be somewhere an armed force subject to the control and intended for the support of every Government. Where the military establishment is intended to be permanent, where it constitutes an indispensable defense, there, I admit, it should be composed of regulars. Such an establishment

may also be regarded as indispensable to preserve an accurate knowledge of the military science and practice essential to a successful prosecution of war.

But, sir, it should in no case exceed that which is demanded as the permanent policy of the country in conducting its military affairs. I was one of those, Mr. Speaker, who believed that, in consequence of the largely-extended lines of our Indian frontier, and the probability that disturbances from this cause would continue for a long time, we might with propriety make some increase to the regular Army. When, however, the service demanded is temporary, it is not necessary, perhaps improper, to increase the regular establishment.

I will turn now to the question of the employment of militia for the service proposed in the communication of the President. The act of 1795 still controls the President's action in respect to the calling out of the militia. It is extremely restrictive in its terms; and to show that it does not provide for the present case, I will read from it:

"That whenever the United States shall be invaded, or be in imminent danger of invasion, from any foreign nation or Indian tribe, it shall be lawful for the President of the United States to call forth such number of the militia of the State or States, most convenient to the place of danger, or scene of action, as he may judge necessary to repel such invasion, and to issue his orders, for that purpose, to such officer or officers of the militia as he shall think proper. And in case of an insurrection in any State, against the government thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the Executive, (when the Legislature cannot be convened,) to call forth such number of the militia of any other State or States, as may be applied for, as he may judge sufficient to suppress such insurrection."

"Sec. 2. And be it further enacted, That whenever the laws of the United States shall be opposed, or the execution thereof obstructed, in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and to cause the laws to be duly executed; and the use of militia so to be called forth may be continued, if necessary, until the expiration of thirty days after the commencement of the then next session of Congress."

The President, under the Constitution of the United States, is Commander-in-Chief of the Army and Navy; but he is Commander-in-Chief of the militia only when they are called into service. And, sir, they are to be called into service only in case the United States shall be invaded, or in imminent danger of invasion from any foreign nation or Indian tribe, in case of an insurrection in any State against the government thereof, and in case the laws of the United States shall be opposed or the execution thereof obstructed in any State by combinations too powerful to be suppressed by the ordinary course. The law further says:

"Sec. 4. And be it further enacted, That the militia employed in the service of the United States shall be subject to the same rules and articles of war as the troops of the United States. And that no officer, non-commissioned officer, or private, of the militia, shall be compelled to serve more than three months after his arrival at the place of rendezvous, in any one year, nor more than in due rotation with every other able-bodied man of the same rank in the battalion to which he belongs."

Now, Mr. Speaker, will the power conferred by this act answer the purposes of the present emergency? In Utah there is a rebellious spirit which opposes the Federal officers in taking possession of their offices in order that they may discharge their lawful duties. The President desires that an adequate and efficient force shall accompany these officers. For this purpose he cannot call out the militia. They can only be called out for three months; and they would, if called out, be entitled to their discharge before they arrived on the field of active service.

Much has been said, in other places, about the great expense of the volunteer and militia systems. I admit that this applies to the militia system; but I will presently endeavor to show that it does not apply to the volunteer system. It applies to the militia system, for the simple reason that the President of the United States can only call them into the service for three months, in which the short period of service, outfit, and expense of calling them out, would swell the cost to that of more than one year's service. And besides that, they must be called out as found organized in the States. You do not get picked men, not volunteers, not officers selected for the occasion, who have come forward ready to serve in the emergency; but you

must take them as they are organized in the States, under officers selected in time of peace and when there was no expectation of war. I acknowledge that the expenses of the pure militia system are much greater than those of any other system. But, even if that were not so, and you were disposed to give the President power to call out the militia, it is utterly impracticable to do so under the law which governs the President in calling them out. We cannot, therefore, refer him to the militia of the country. Important as that service is, under every republican system, it was not intended for emergencies of this kind.

Having shown that it is unwise and impolitic to increase the regular Army for temporary purposes, I might say further, that it has been our policy, and is the policy of all nations that have a regular permanent military establishment, to preserve it in its skeleton form; and if we were to fill up that skeleton now, we should be obliged to adopt some other system in case of a war with some great Power. I believe, therefore, that the system of increasing the permanent military establishment of the country—the regular service—ought not to be resorted to for temporary objects, when it is anticipated that at the close of the campaign we shall be able to dispense with any extra force and return to our present limited establishment.

I come now, Mr. Speaker, to examine what is the proper mode of putting in the possession and under the control of the President a sufficient force to carry out what I see, and what every man must see, to be necessary, whether he approves or disapproves of the course of the Administration or of the War Department—whether he considers the Utah expedition as well and skillfully planned, or faulty as a military enterprise. Whatever we may think of these things, I feel confident that every member of this House will at once see that the exigencies of the country require us to place at the disposal of the President some kind of military force. It would be a disgrace to the whole country to leave Colonel Johnston and his men unsupported at a distance from the settled portions of the country. How, then, are we to furnish the President with the additional force that is demanded? Why, sir, there is but one mode, and I am proud to say that it is one which is peculiar to the people of our country, and which has ever proved itself to be effective—I mean a resort to the volunteer system. When the first bugle sounded on the breaking out of the Mexican war, when the people of this country were looking with intense interest to General Taylor's position on the Rio Grande, there sprang up at once, upon the first call of the President, three hundred thousand men from all portions of the country, ready to volunteer and to incur the perils of an unhealthy climate, as well as the hazards of war upon the battle-field.

Now, sir, great men may sometimes mistake the genius and character of our people. I recollect very well having spoken once to Mr. Calhoun upon the subject of a speech delivered by him just prior to the breaking out of the Mexican war, in which he said that he thought it would be extremely difficult for Congress to raise the necessary force to prosecute the war. Even his great mind did not comprehend the adventurous military spirit of the people, nor imagine that upon the first call of the President, ten times the number of men needed would volunteer for that war. Such a thing is unknown in other countries. It shows, in the first place, the devotion of freemen to the honor and the institutions of their country. It shows, further, what has been noted by political philosophers, that republican institutions are best calculated to nourish the military spirit of a people. While Rome was a Republic, she was invincible. While the States of Greece were Republics, they, too, were invincible against all Powers, and against all odds. A republican form of government nourishes that military spirit which, I trust, will ever exist in our own country. It exists here to an extent never known before in any country in the world. We have here this peculiar system; why should we not avail ourselves of it? Who doubts now that the President, on his requisition, could get ten times the number of regiments this bill authorizes him to employ in the service of the United States?

But, Mr. Speaker, it is said by some that volunteers are an inferior description of military force.

Let us examine this charge for a moment. Where do you enlist your regular troops? The statistics show that enlistment is entirely carried on in your great cities. Is it possible that you can there get a class of people for your Army equal to the class of volunteers? The volunteer presents himself from a spirit of military pride. He seeks to gain a reputation in arms. He is ambitious; and looks for an opportunity to elevate himself. He is actuated by a high ambition to distinguish himself. Can you tell me, then, that the recruit from your large cities, and the volunteer, are equal? Compare their intelligence, their spirit—that spirit that impels a man forward in battle; compare their innate courage; compare their knowledge of the use of arms; and who will not, after such a comparison, decide in favor of the material from which is composed the volunteer force of the country? I hold in my hand a paper showing the number of men enlisted in the year ending July, 1857. Out of 5,420 men enlisted in that year, there were enlisted in New York city, of infantry, 649; and of mounted men, 295. In Boston, of infantry, 294; of mounted men, 175. In Philadelphia, of infantry, 633; of mounted men, 156. In Buffalo, 172 infantry. In Baltimore, 126 infantry, and 95 mounted men. This will make 1,876 infantry, and of mounted men, 721; summing up in all to 2,597, raised in the large cities to which I have referred.

This table shows whence the men composing your regular Army are drawn. They are nearly all drawn from the great cities. I am aware, sir, that there is not the same difference between the relative efficiency of military corps, as such, that may be observed between the individuals composing such military bodies, because, in the action of masses of men, discipline constitutes an element of their efficiency; but show me what reason is there why volunteer troops should not, and do not act in large masses as well as regular troops? The very fact that the volunteer will not enlist, but will cheerfully volunteer, shows the spirit that animates him, and the object and purpose under which he acts. There is another objection, however, made to volunteers, and that is that they are much more expensive than regular troops; and estimates have been presented from the Adjutant General's department to show that the volunteer force is much more expensive than the regular. In fact it has been reported that the expense of the volunteers called out in 1846, under Mr. Polk's administration, was six times as great as that of the regular troops. I have slightly examined the data on which these estimates are all founded, and while I have not time to dissect them fully, I have seen enough to convince me, that the system of calculation pursued in the matter is wrong, and the deductions not borne out by the facts. How could it be otherwise? The volunteer receives the same pay, receives precisely the same rations as the regular soldier—no more. His expense, when he once gets actually into service, is not one particle greater. He is paid through the regular administration officers of the United States. From the time he is received into the service, therefore, his expense is precisely the same as that of the regular soldier.

How does it happen, then, that the calculations referred to should make out this vast difference in the cost of the two systems? There are gentlemen around me who are conversant with military affairs. There are four or five gentlemen here present in my eye who have been in the service as commanders of regiments, both as volunteers and afterwards as regulars. And I will ask all of them whether they are acquainted with any facts which would justify the conclusion to which these singular and obscure reports have come as to the great difference between the cost of volunteer and regular troops? While I do not feel disposed to attribute to the authors of these reports a disposition to disparage volunteer soldiers, I find the calculations all against them. For instance, they have based their calculations on three-months' men—taking the volunteers and militia together; and then compared the mounted militia man, or the mounted volunteer, with the regular infantry. Is that fair? I believe that the difference between the expense of an infantry regiment and that of a cavalry regiment is as one to five or six. In other words, a cavalry regiment costs five times as much to support it as does an infantry regiment. Why, then, compare the mounted

volunteer with the regular infantry-man? Why not compare mounted volunteer regiments with the regular dragoon regiments? I repeat, that I do not attribute to the War Department, or its officers, any intention of misrepresenting this thing to the country; but there exists in all professions some disposition to disparage those who have not reached their science or art by the regular channels. I doubt not these calculations can be shown to be wrong, and that the expense of the volunteer does not, in fact, exceed the expense of the regular soldier, except where the former is called into service for only a very short period of time. It cannot be fair to compare the expense of three-months' men with that of the regular troops who have been enlisted for years.

Now, in the bill which I have before me, reported by the Committee on Military Affairs, we propose to give the President authority to accept the services of an efficient military force, to be raised, not for three, but for eighteen months. And with the material which exists in the country—that which was left from the Mexican war, officers and privates—I will predict that the regiments, if called out by the President of the United States, will be as well officered, and the ranks as well filled, if not better, than by any other mode. But, sir, there is another objection, to which I will briefly allude, made to the use of volunteers or militia, which is, that they suffer more from sickness, and are therefore more expensive. The fact that during the Mexican war, in every instance, the first six months' service has been a period of more sickness than any subsequent one, among the volunteers, as brought out in the report of the surgeon general, is an illustration—a fact which, in my opinion, if properly understood, proves nothing. It is not to be denied that the first six months' service of our volunteers during that war was one in which they suffered especially from sickness; but that may be satisfactorily accounted for in the fact that the great body of them were left in the unhealthy and miasmatic climate of the valley of the Rio Grande, inactive and dispirited, while the regular troops were carried forward to participate in the excitement and glory of the campaign in a hilly and mountainous country.

I had the honor to be selected to command a brigade of volunteers on that occasion. I remember well that while the men were left in the low lands of the Rio Grande, much disease prevailed; and even when the march to Monterey commenced, many of them fell sick on the march, and had to be carried in wagons until, at last, so large a number had contracted disease from their halt in the valley of the Rio Grande that it became necessary to make room for them in the wagons by throwing away our tent poles and other bulky articles.

But no sooner had we ascended into a mountainous country, and excitement increased, than the soldiers began rapidly to recover; and when the first gun on our approach to Monterey boomed in the distance, scarcely a man was to be found in the wagons, but all hastened with life and alacrity to buckle on their equipments, seize their rifles or muskets, and fall into the ranks. After the battle of Monterey scarce a man was reported on the sick list from disease. It was the long detention of so large a body of volunteers in the fatal climate of the Rio Grande that was the cause of so much sickness of the volunteers. In such a climate, measles, and other diseases which are considered very light at home, become in the Army epidemics of the most fatal character. I am ready to admit that during the first few months of service, volunteers are more subject to disease than are regulars generally; but I question whether the period spoken of furnishes a proper comparison between the condition of the volunteer and regular forces in the Mexican war. Most of the volunteer force, amounting to, I believe, about twenty-five thousand men, were left on the Rio Grande, while the regulars were, without any exception, marched forward immediately to Monterey. The volunteer force carried forward consisted of a thousand men who were under my command, and another thousand men under the command of General Hamar.

But, Mr. Speaker, there are other objections which are sometimes made to the volunteer system. I would gladly relieve myself from making any comparisons if they had not already, as I think very injudiciously, been made by others. I think they are very injurious to both arms of

the service. I know from personal experience, having commanded both volunteer and regular forces, that a mixture of the two descriptions of troops makes the most formidable force in the world. You have that systematic science which exists in the Army, together with that implicit obedience that exists in the ranks, mixed with that intelligence which is picked up from civil life, with that ambition, spirit, and life which are infused into the regular Army by this conjunction with volunteers. You have that bold standard of courage which, being infused through the whole Army, made our force in Mexico such as the world has rarely seen—the army that under the gallant Taylor went forward and achieved victories from Palo Alto to Buena Vista, and that army which marched under the banner of Scott from Vera Cruz and fixed the standard of our country upon the imperial halls of the Montezumas, and performed military exploits which in the history of the world have rarely been equaled and never surpassed.

And why was it? It was because in that army were infused and mingled together system and high military science, with that genius and courage of which our country has so much to boast. Why, sir, the country boy volunteers for the field, knowing that if a blot or stain falls upon his character as a man of courage or honor, he dare never go home. Even the girls would never permit him to associate with them. He knows, therefore, that death is far better than the disgrace which will fall upon him if he should show the white feather. I see around me comrades who can bear me witness that these volunteers went into the service knowing that defeat would bring disgrace upon them and the country. This, then, is the spirit which pervaded the Army, connected with the science and steadfastness of the regular troops, and this it was that gave the results brought about by the different campaigns. I therefore deprecate that there has ever been introduced into these Halls comparisons, unjust comparisons, between the two. I am a friend of both. I am disposed to do justice to both, and I would not have said one word in disparagement of either, or even to introduce a comparison, but for the remarks which have elsewhere been made upon the subject.

It is said that the volunteers are more wasteful. It may be where they have property under their control; but during the whole war, after the volunteers were called out, the administrative department of the army was generally administered by regular officers. I will ask my friends who were in the Mexican war, whether the good things which came to the commissary's and quartermaster's department were more accessible to the volunteer than to the regular soldier? I ask them whether the volunteers had not even more difficulty in obtaining medical stores? There was, then, no opportunity afforded for waste. The stores were dealt out by the administrative officers of the army, and no men watched the property of the Government with more fidelity than they did.

It is said that the volunteers are inadequate for the service. I regret that I have to notice certain charges in the speech of an honorable Senator. He certainly was in error when he stated that the Tennessee regiments fled on the first fire at Cerro Gordo. The strongest position attacked was that against which the troops under General Pillow were marched. It was a position which the Mexicans had prepared for defense, to prevent our troops turning any portion of their works. They were better prepared for defense there than at any other part of the field. The underbrush had been cut down for three or four hundred yards in front of their batteries; and the obstructions which were occasioned by the trunks and limbs of trees which had been felled, were left on the ground to impede the advance of an assailant. No troops on earth could have reached those batteries, unless with a loss of more than three fourths of their force.

For such a failure, I do not think that volunteers, or any other troops, should be held responsible. I was an eye-witness, on another field, of the efficiency, steadiness, and gallantry of volunteers. The gallant Mississippi and first Tennessee regiments, under Colonel Jefferson Davis and Colonel Campbell, marched for two miles under an unceasing fire, and carried the works upon the east side of the city of Monterey, from which—

and I say it without desiring to reflect upon the regulars—the regular force, superior in numbers, had been repulsed. I say they were repulsed, because the fact is true. They were repulsed; but it was with immense loss. They fought long and well; a great number of officers fell. No troops could have fought better than Colonel Garland's; yet they were repulsed, and the batteries were carried by my brigade of volunteers. Tell me, then, about the volunteers running on the first fire! The whole conduct of the volunteers does not warrant the charge.

Another charge is, that they are destructive of public property. It is my duty, of all other men, to deny this charge. I commanded volunteers during the whole period of my service in Mexico, and I have some experience in the matter. I can express my confident belief that never was there an invading army to whose charge could be laid so few depredations upon private property. So far as my observation extends, wherever they marched, the volunteers left behind them smiling villages and a happy people. In the first portion of my service, I commanded a field brigade of volunteers, and in the latter portion a division of volunteers; and I will say, what I am ready to stake my character on, that \$100 would cover all the injury to private property uncompensated, except in battle.

It is said that when they occupied Santa Anna's palace, they cut and slashed pictures, and other furniture. This may be so, but I do not know it, and do not believe it. On the 21st of April, 1847, I established my headquarters in the parlor of Santa Anna's palace at Encero. I see before me an officer then under my command, General Moore, of Alabama, who was present on that occasion. An agent of Santa Anna had abandoned the place out of fear of these terrible fellows, "*Los Voluntarios!*" The house was plainly furnished. When the troops were about leaving it, the younger officers left a note hanging from the chandelier, directed to Santa Anna, informing him that on that anniversary of the battle of San Jacinto, they had availed themselves of his hospitality, and thanking him for it. The rear guard had scarcely got off the ground when the agent returned. He looked about, and saw that nothing had been injured. Immediately he came in post haste, and addressing me thanked me for having left everything as we had found it.

The amount of injury done depends very much, if not altogether, on the amount of restraint which an officer imposes upon his men. But there is a high moral restraint resting upon the volunteers, because they are of our own people. Some of them may brag very largely, and even assume an air of ferocity; but you will find in almost every man of them a heart that bleeds at woman's sorrow, and abhors the infliction of any cruelty. The charge that the volunteers are less humane, and are disposed to do more unnecessary injury than others, is altogether contrary to my experience; and I pronounce it an unjust imputation upon the American character.

Mr. Speaker, I had no intention, when I rose, of trespassing so long upon the attention of the House. I must pass, now, to a brief detail of the provisions of the bill reported. The bill contains, first, a positive provision that a regiment of mounted men shall be raised in Texas for the defense of the frontier of that State. It then goes on to give authority to the President of the United States, should he deem it proper, to call out four regiments of volunteers in any of the adjoining States, or elsewhere, as he may see fit—

"For the purpose of quelling disturbances in the Territory of Utah, for the protection of supply and emigrant trains, and the suppression of Indian hostilities on the northern and northwestern frontiers."

They are to be raised for the specified purposes only—purposes which I believe will be approved by all parties. We all know that the defense of the Texas frontier is necessary. The Governor of Texas has sent information to the Senators and Representatives from that State, and has called upon General Twiggs, commanding that department, to protect the frontier from Indian depredations. General Twiggs has replied that he has no troops for that purpose, a part of his command having been ordered out with the Utah expedition. It is proposed to provide a regiment for that purpose, to be called into the service for eighteen months. They will then pass through two sum-

mer campaigns before they are disbanded, and will probably accomplish the purpose for which they are required. We propose, then, to authorize the President, in his discretion, to call for four regiments of infantry or mounted men, as he may prefer, for the purpose of putting an end to the difficulties in Utah, suppressing Indian hostilities, and protecting the emigrant trains across the western plains.

The bill has been matured with great care under the eye of my associates on the committee, four or five of whom have seen service in Mexico, and know what provisions are proper for the organization of this description of force. These details, I believe, meet with the entire approval of the whole committee. Many of the features of the bill have been contained in other bills that have preceded it. The pay is the same as that of the same arm in the regular service, and no more, with the exception that in the case of the Texas regiment the mounted men shall furnish their own horses, and the United States shall pay the hire of those horses. I will not discuss the details of the bill now, but if I am well enough to make any remarks at the close of the debate, I shall endeavor to do so. I think the details of the bill will be satisfactory when they become known.

There is one remark which I omitted to make in reference to the comparison between the policy of relying for temporary purposes upon the regular force and that of accepting the services of volunteers or of the militia, and it is this: during the last year, the regular Army of the United States lost three thousand men by desertion—

[Here the hammer fell.]

Mr. UNDERWOOD. I trust the gentleman from Mississippi will have the unanimous consent of the House to proceed. I am sure no gentleman will object.

Mr. KEITT. I trust the House will grant the leave.

Mr. JONES, of Tennessee. It must not be considered as a precedent.

No objection was made.

Mr. QUITMAN. Mr. Speaker, I did not ask for this extension of time, and am, therefore, the more grateful to the House for giving it to me. I merely desire to conclude the remark I was making. It may be that the volunteer service, which I regard as the proper one for temporary purposes, is a little more expensive than the employment of the regular Army, but there are two things to be considered in regard to it. In the first place, it disseminates throughout the country some military knowledge, and places it in the hands of the citizens generally, instead of confining it to the small class of men who are devoted to the profession of arms. Even though it may involve an expense of a few thousand dollars more, this extension of military knowledge and experience will be a benefit to the country in time of need.

But, again, this evil of desertion is a matter worthy of consideration. It is increasing in our Army, and I do not see how it is to be prevented. It cannot be prevented by the infliction of heavier penalties; for no punishment short of death could possibly prevent it, and I doubt very much if even that would; and it would be painful to resort to it when the soldier is not in the presence of the enemy. Never, I believe, has the habit been more rife.

It has been said that Colonel Sumner's regiment lost, in less than three months, four hundred men by desertion. Now you do not hear of volunteers deserting. When did you hear of a single volunteer becoming a deserter, and subjecting himself to be branded as such? They never desert.

But with the regular troops the evil has increased to such an extent as to attract the attention of the country. How is that evil to be remedied? It must be by moral influence; by infusing the regular troops with the spirit that animates the volunteers. The evil may arise, in a great measure, from the fact that the men who compose our regular Army are irresponsible men, who care nothing for the country, or their own characters. Many of them enlist, perhaps, for the purpose of getting the bounty, and with the intention to desert whenever they get to the West; and they do desert, wherever they get into sparsely-settled countries, where there is little chance of being arrested as deserters.

So, Mr. Speaker, taking all these things into

consideration, it seems clear to me that we want the volunteers. If we desired to have a permanent force, it might be better to enlist men; but if it is merely wanted temporarily, let us make use of the best force a nation ever had—American volunteers.

MESSAGE FROM THE PRESIDENT.

The SPEAKER laid before the House a message from the President of the United States, transmitting communications from the Secretary of War and the Secretary of the Interior, in answer to a resolution of the House of the 5th ultimo, requesting certain information in regard to the number of troops, whether regulars, volunteers, drafted men, or militia, engaged in the service of the United States during the last war with Great Britain; which was referred to the Committee on Military Affairs.

COURT OF CLAIMS REPORTS.

The SPEAKER also laid before the House a report from the Court of Claims.

The adverse reports were ordered to be placed upon the Calendar, and the bills referred to the Committee of Claims; being considered read a first and second time.

ORDNANCE OFFICERS, ETC.

The SPEAKER also laid before the House a letter from the Secretary of the Navy, transmitting statements of the Fourth and Fifth Auditors of the Treasury, in compliance with a resolution of the House of Representatives of 14th June, 1848; which was laid on the table, and ordered to be printed.

MEMORIAL OF NEBRASKA LEGISLATURE.

The SPEAKER also laid before the House the memorial and joint resolutions of the Legislative Assembly of the Territory of Nebraska, praying appropriations for that Territory; which were referred to the Committee on Territories.

MARYLAND CONTESTED ELECTION.

Mr. HARRIS, of Illinois, by unanimous consent presented the reply of Mr. J. Morrison Harris to the memorial of Mr. Whyte, contesting his seat; and asked that the same be ordered to be printed.

It was so ordered.

ORDER OF BUSINESS.

Mr. BISHOP. I move that the House do now adjourn.

Mr. GARNETT. On that I call for the yeas and nays. It is only half past three o'clock.

Mr. GREENWOOD. I understand that the gentleman from Virginia [Mr. FAULKNER] desires the floor to speak on this bill. I hope, therefore, that the motion to adjourn will be withdrawn, and that the gentleman will be heard on the proposition to increase the Army.

Mr. KEITT. I wish to make an inquiry of the Chair: whether, if the House adjourn at this stage of the proceedings on the Army bill, that will necessarily be the first question to-morrow? and second, whether the gentleman from Connecticut, [Mr. BISHOP,] having obtained the floor and made the motion to adjourn, will have the floor on the Army bill?

The SPEAKER. The Chair will decide the latter question when the contingency arises. As to the first question, the Chair states that the first business in order in the morning will be the call of the Committee of Claims for reports from the Court of Claims.

Mr. KEITT. Then the first business to-morrow will be, not the Army bill, but the regular course of proceedings on private-bill day?

Mr. JONES, of Tennessee. Will it not be the first question on Monday or Tuesday? The reason it will not be the first question to-morrow is because it will be private-bill day.

The SPEAKER. It will come up the first business in order when the morning hour is reached.

Mr. WASHBURN, of Maine. Is there a motion to recommitt pending?

The SPEAKER. There is.

The yeas and nays on the motion to adjourn were not ordered.

The motion was agreed to; and thereupon (at twenty-five minutes to four, p. m.) the House adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 5, 1858.

The House met at twelve o'clock, m. Prayer by Rev. P. D. GURLEY, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER announced the business first in order to be the call of the Committee of Claims for reports in reference to business from the Court of Claims.

Mr. BLISS. Before the House proceeds to the regular order, I ask permission to introduce a bill for reference. The subject-matter of the bill has been already referred to the Committee on the Judiciary, namely, the reorganization of the Supreme Court. It was referred, I believe, in the shape of a portion of the message of the President of the United States, on the motion of my colleague, [Mr. STANTON.] I have drawn a bill expressing my views on the subject, and I desire to have it referred to the same committee.

Mr. HARLAN. I object. I think it is a great deal better to pursue the regular order of business.

Mr. CLINGMAN. I hope there will be no objection to calling the States for bills and resolutions.

ISAAC S. SMITH.

Mr. WADE, from the Committee on Commerce, reported a bill for the relief of Isaac S. Smith, of Syracuse, in the State of New York; which was read a first and second time, and, with the report, ordered to be printed.

ANNE DUDLEY.

On motion of Mr. MILES, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the memorial of Anne Dudley, keeper of the light-house at St. Marks, Florida, and that it be laid on the table.

JOHN DAVIS.

Mr. COBB. I am instructed by the Committee on Public Lands to report a bill recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid. It is a very small matter, but to the poor man for whose benefit it is, it is of importance. The land warrant in question was issued to John Davis. He died, and the administrator proceeded to dispose of it under the act of the Legislature of Alabama which treats land warrants as personal property. The administrator proceeded to wind up the estate, sold the warrant, and got the pay for it, to the full amount of the value of the land. Afterwards, it was discovered that, by the decision of the Land Office, land warrants are regarded as real estate, and the title of the party purchasing the land is not recognized.

Mr. BLISS. Is this in order? The rules were applied to me strictly this morning, and I object.

Mr. COBB. Well, sir, I am instructed by the Committee on Public Lands to report a bill, recognizing the assignment of land warrant No. 35,956, issued to John Davis, as valid.

The bill was read a first and second time.

Mr. COBB. Now, sir, I hope the House will pass this little bill. I have stated all the facts in relation to it.

Mr. MORGAN. I desire to know of the gentleman if there is a report in this case?

Mr. COBB. Here is the bill, and I have stated the facts.

Mr. MORGAN. I want something more than that.

Mr. GIDDINGS. I rise to a question of order. I ask whether it is in order in calling committees for reports on private bill day to put bills on their passage as they are reported?

The SPEAKER. The Chair thinks it is—bills of a private nature.

Mr. GIDDINGS. I was under the impression that on private bill day the rules provided that the bills reported from committees should be referred and not put on their passage. I do not remember any particular construction on this point; but that has been the practice of the House.

The SPEAKER. It is the opinion of the Chair that when a bill of a private nature is reported from a committee, it stands upon the same footing as bills reported from committees on any other day. The restriction of the rule only requires that the bills reported shall be of a private nature.

Mr. CHAFFEE. Does that rule apply on objection day?

The SPEAKER. The Chair thinks it does.

The bill was read *in extenso*.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Alabama that he should amend the bill, so as to specify under what act this forty-acre warrant was issued. Warrants of the same number, I presume, have been issued under other acts.

Mr. COBB. I am not very particular about this bill. I submitted it to the Commissioner of Public Lands, and he said it was satisfactory. If there is any objection to it, send it back, and let me put it in my drawer; and let the poor man suffer.

Mr. JONES, of Tennessee. I have no objection to the bill; but it should state under what law the warrant was issued. The warrant shows under what act it was issued, and let that be inserted in the bill.

Mr. COBB. Well, here is the warrant.

Mr. JONES, of Tennessee. Well, then, why not amend it, as I have suggested?

Mr. COBB. Very well; I will accept the amendment of the gentleman from Tennessee.

The SPEAKER. In the opinion of the Chair, the gentleman from Alabama cannot accept an amendment, the bill being a report from a committee. A vote of the House must be taken upon it.

Mr. MORGAN. I would inquire of the gentleman from Alabama if there is not now before the Committee on Public Lands a general bill, which covers this very case? As I understand it, there are a large number of cases of this kind.

Mr. COBB. No, sir. There is a bill before the Committee on Public Lands, proposing to recognize land warrants that have been issued upon application by parties who have applied at the Land Office, but who have died before the action of the Land Office upon them. Under the present law such warrants are worthless. We propose to report a bill recognizing the validity of such warrants, and that they shall descend to the heirs of the applicant. But, sir, this is not a case of that kind; this was issued and in the possession of the party before he died; it was administered upon as his property, and the money distributed among the heirs. But they now find that the Land Office does not recognize land warrants as personal property. That is the whole of it. If you send it back to Alabama it costs thirty-eight dollars to get a legal transfer; that is all of it.

Mr. GIDDINGS. If I can get the ear of the House I desire to say, that I have no knowledge of this bill; I presume it to be as meritorious as the gentleman from Alabama states it to be. I presume it is as meritorious as a hundred others reported months ago, and placed upon the Private Calendar, and I therefore rise to move that this bill be referred to a Committee of the Whole House and placed upon the Private Calendar. I object to this bill taking precedence of others which have been on the Calendar for months.

Mr. COBB. I am sure, if it is the pleasure of the House to refer this little bill to a Committee of the Whole House, I have no objection.

Mr. GIDDINGS. I object to it further, because it has been the practice of the House to refer bills reported on private bill days.

Mr. COBB. Well, just let it go.

The SPEAKER. The Chair would suggest to the gentleman from Alabama that the gentleman from Ohio is entitled to the floor.

Mr. COBB. I do not know how the gentleman from Ohio could be entitled to the floor. I had not yielded the floor, and I do not know how the Chair could have inferred that I had, unless it is from my slow way of speaking.

The SPEAKER. That may have misled the Chair. [Laughter.]

Mr. COBB. Well, sir, I move to put the bill on its passage; and I have nothing further to say.

The bill was referred to a Committee of the Whole House, and ordered to be printed.

Mr. TAYLOR, of Louisiana, asked leave to make a report from the Committee of Claims, he having been absent in the committee room when that committee was called.

Mr. LEITER objected.

PERSONAL EXPLANATION.

Mr. MORRIS, of Illinois. I wish to make a single remark. I do not propose to interrupt the

proceedings of the House at this time by a speech; but, sir, on yesterday—

Mr. PHELPS. What is before the House? Mr. MORRIS, of Illinois. I ask the unanimous consent of the House to make a personal explanation.

Mr. CLEMENS. I object.

Mr. MARSHALL, of Illinois. When the Committee of Claims was called it was in session in its committee room on the business of the House. They have several reports to make, and I ask that they be allowed to make them now.

The SPEAKER. The gentleman from Louisiana made the same request, and it was objected to.

Mr. MARSHALL, of Illinois. We make the request only to facilitate the business of the House. It is a matter of no interest to the members of the committee individually.

There was no objection to the reception of reports from the Committee of Claims.

ADVERSE REPORTS.

Mr. MARSHALL, of Illinois, from the Committee of Claims, reported adversely upon the following petitions; which were laid upon the table, and the reports ordered to be printed:

The petitions and papers of Cole & Barr; and The petition of the heirs of Michael Johnson.

Mr. TAYLOR, of Louisiana, from the Committee of Claims, reported back a bill (C. C. No. 44) for the relief of James Smith, of the county of Clermont, State of Ohio, with the recommendation that it be rejected; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. TAYLOR, also, from the same committee, made a similar report on the following Court of Claims bills; which were referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill for the relief of Lucinda Robinson, of Orleans county, Vermont;

A bill for the relief of Hannah Weaver, of Wayne county, Pennsylvania;

A bill for the relief of Ann Clark, of Madison county, Tennessee;

A bill for the relief of Mary Burt, of Scioto county, Ohio;

A bill for the relief of Esther Stevens, of Van Buren county, Michigan;

A bill for the relief of Mercy Armstrong, of Gloucester county, Rhode Island;

A bill for the relief of Nancy Madison, of Fairfield county, Ohio;

A bill for the relief of Anna Parrot, of Clinton county, Ohio;

A bill for the relief of Margaret Taylor, of Putnam county, Tennessee;

A bill for the relief of Lavinia Tipton, of White county, Tennessee;

A bill for the relief of Lucretia Wilcox, of Wayne county, Michigan;

A bill for the relief of Mary Robbins, of Westmoreland county, Pennsylvania;

A bill for the relief of Tempy Connelly, of Johnson county, Kentucky;

A bill for the relief of Rosamond Robinson, of Belknap county, New Hampshire;

A bill for the relief of Melinda Durkee, of the State of Georgia;

A bill for the relief of Sarah Weed, of Albany county, New York;

A bill for the relief of Mary Pierce, of Cortland county, New York;

A bill for the relief of Ann B. Johnson, of Henrico county, Virginia;

A bill for the relief of Hannah Menzies, of the State of Kentucky;

A bill for the relief of Rebecca P. Nourse, of the State of Kentucky;

A bill for the relief of Anna Hill, of Monroe county, New York;

A bill for the relief of Polly Booth, of Madison county, New York;

A bill for the relief of Sarah Eaton, of Worcester county, Massachusetts;

A bill for the relief of Temperance Childress, of Virginia;

A bill for the relief of Elizabeth King, of Virginia;

A bill for the relief of Elizabeth Morgan, of Rensselaer county, New York;

A bill for the relief of Phebe Polly, of Otsego county, New York;
 A bill for the relief of Nancy Ittig, of Herkimer county, New York;
 A bill for the relief of Mary Ann Hooper, of Virginia;
 A bill for the relief of Almira Reniff, of Pennsylvania;
 A bill for the relief of Sarah Loomis, of New London county, Connecticut;
 A bill for the relief of Mary Grant, of South Carolina;
 A bill for the relief of Jane Martin, of Harrison county, Virginia; and
 A bill for the relief of Lydia Clapp.

Mr. DAVIDSON, from the Committee of Claims, submitted a minority report on the adverse reports just made; which was referred to a Committee of the Whole House, and ordered to be printed.

Mr. JONES, of Tennessee, moved to reconsider the vote by which the adverse reports from the Committee of Claims were referred to a Committee of the Whole House; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HORACE S. CAMPBELL.

Mr. DAVIDSON, from the Committee of Claims, submitted an adverse report in the case of Horace S. Campbell; which was laid upon the table, and the report ordered to be printed.

BENJAMIN SAYRE.

Mr. GOODWIN, from the Committee of Claims, reported a bill for the relief of Benjamin Sayre; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

PANAMA RAILROAD COMPANY.

On motion of Mr. KELLY, it was
Ordered, That the Committee of Ways and Means be discharged from the further consideration of the memorial of the president and directors of the Panama Railroad Company, praying compensation for furnishing supplies to General Walker's men, and that the same be referred to the Committee on Naval Affairs.

GEORGE W. HOPKINS.

Mr. DAVIS, of Mississippi, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of George W. Hopkins; which was laid upon the table, and ordered to be printed.

WILLIAM MOSS.

Mr. DAVIS, of Mississippi, from the same committee, made an adverse report on the petition of William Moss, for additional compensation for mail services; which was laid upon the table, and ordered to be printed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by J. B. HENRY, his Private Secretary, notifying the House that he had this day approved and signed an act (H. R. No. 271) to enable the President of the United States to fulfill the stipulations contained in the third and sixth articles of the treaty between the United States and the King of Denmark, of the 11th April, 1857, for the discontinuance of the Sound dues.

A. M. PETTENGALL.

Mr. DAVIS, of Iowa, from the Committee on the Post Office and Post Roads, made an adverse report on the petition of A. M. Pettengall; which was laid upon the table and ordered to be printed.

PHARMACEUTICAL SOCIETY.

Mr. BURNETT, from the Committee on the District of Columbia, made an adverse report on the petition of the Pharmaceutical Society of the District of Columbia, praying for an act of incorporation; which was laid upon the table, and ordered to be printed.

JAMES W. NYE.

Mr. BURNETT, from the same committee, reported a bill for the benefit of J. W. Nye; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

Mr. LETCHER moved to reconsider the vote by which the bill was so referred, and also

moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN B. ROPER.

Mr. ENGLISH, from the Committee on the Post Office and Post Roads, reported a bill for the relief of John B. Roper; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HEIRS OF REV. JAMES CRAIG.

Mr. DAWES, from the Committee on Revolutionary Claims, reported a bill for the relief of the heirs of Rev. James Craig, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM WALKER.

Mr. COX, from the same committee, reported a bill for the relief of William Walker; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REPRESENTATIVES OF SAMUEL JONES.

Mr. LOVEJOY, from the same committee, reported a bill to allow the legal representatives of Samuel Jones five years' full pay, in lieu of half pay for life; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

GUSTAVUS B. HORNER.

Mr. CRAGIN, from the same committee, reported a bill for the relief of the legal representatives of Gustavus B. Horner, deceased; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

THE REVOLUTIONARY ARMY.

Mr. CRAGIN also, from the same committee, reported back House bill (No. 234) to provide for the settlement of the claims of the officers and soldiers of the revolutionary army, and of the widows and children of those who died in the service; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

LIEUTENANT BARTLETT HINDS.

Mr. CLAWSON, from the same committee, reported a bill for the relief of Lieutenant Bartlett Hinds; which was read a first and second time, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

REPRESENTATIVES OF MARIE MALINES.

Mr. SANDIDGE, from the Committee on Private Land Claims, reported a bill for the relief of the legal representatives of Marie Malines; which was read a first and second time, and referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

CLERK TO COMMITTEE.

Mr. SANDIDGE. It was with great hesitancy and reluctance that the Committee on Private Land Claims, having observed the indisposition of the House to authorize other committees to employ clerks, instructed me to apply to the House for authority to appoint a clerk. The reason for the necessity is simply this: we have now before us a mass of documents, coming from the Territory of New Mexico alone, which, if printed, would make a large volume. It is utterly out of the power of that committee even to read these documents, although we should give to them every leisure hour that we expect to have during the session. We ask for the appointment of a clerk who will make a brief of these papers for the committee. I offer the following resolution:

Resolved, That the Committee on Private Claims be authorized to employ a clerk at the usual rate of compensation.

Mr. LETCHER. Is that a private claim?

The SPEAKER. The Chair thinks not, and thinks that the resolution cannot be reported today.

Mr. SANDIDGE. It is a report from a committee.

The SPEAKER. That is true, but reports of a private nature only are called for.

CYRENIUS GLASS.

Mr. FENTON, from the Committee on Private Land Claims, reported a bill for the relief of Cyrenius Glass; which was read a first and second time, referred to the Committee of the Whole House, and, with the report, ordered to be printed.

W. K. GREENWOOD.

Mr. GREENWOOD, from the Committee on Indian Affairs, presented an adverse report in the case of W. K. Greenwood's appraisal and affidavit; which was laid on the table and ordered to be printed.

JOHN FRANCIS AND OTHERS.

Mr. GREENWOOD also, from the same committee, presented an adverse report on the petition of John Francis and others; which was laid on the table and ordered to be printed.

MENOMONEE INDIANS.

Mr. GREENWOOD, from the same committee, reported a bill to authorize the Commissioner of Indian Affairs to adjudicate and settle certain claims against the Menomonee Indians; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

GEORGE CHORPENNING, ETC.

Mr. LEITER, from the same committee, reported a bill for the relief of George Chorpennning and Elizabeth Woodward, widow of Absalom Woodward, deceased, and the children of said Elizabeth Woodward; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

DENT, VANTINE AND CO.

Mr. SCOTT, from the same committee, reported a bill for the relief of Messrs. Dent, Vantine & Co., for provisions furnished to Indians in California, during the years 1851, 1852, and 1853; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CECILE COMPARE.

Mr. SCOTT, from the same committee, presented an adverse report in the case of Cecile Comparé; which was laid on the table, and ordered to be printed.

WILLIAM P. PAFF.

Mr. QUITMAN, from the Committee on Military Affairs, presented an adverse report in the case of Captain William P. Paff, for leave to enlist a rifle regiment; which was laid on the table, and ordered to be printed.

RICHARD B. ALEXANDER.

Mr. QUITMAN, from the same committee, reported a bill for the relief of Richard B. Alexander; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MAJOR JAMES DASHIELL.

Mr. QUITMAN, from the same committee, reported a bill for the relief of Major James Dashiell, paymaster in the United States Army; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SIMEON STEADMAN.

Mr. BUFFINTON, from the same committee, reported a bill for the relief of Simeon Steadman; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

SUSANNAH REDMOND.

Mr. BUFFINTON, from the same committee, reported a bill for the relief of Susannah Redmond; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JONAS P. LEVY.

Mr. BUFFINTON, from the same committee, made an adverse report in the case of Jonas P. Levy; which was laid on the table, and ordered to be printed.

JOHN G. CLAYTON.

Mr. BUFFINTON, from the same committee, made an adverse report in the case of John G. Clayton, for a horse lost by said Clayton in the service of the Government; which was laid on the table, and ordered to be printed.

E. W. PALMER AND OTHERS.

Mr. HAWKINS, from the Committee on Naval Affairs, reported a bill for the relief of E. W. Palmer and others; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

HIRAM PAULDING.

Mr. SEWARD, from the Committee on Naval Affairs, reported a bill for the relief of Hiram Paulding; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

BLYTHE ISLAND.

Mr. SEWARD proposed to report back House bill No. 89, relative to the continuation of the United States works at Blythe Island, with an amendment in the nature of a substitute.

Mr. KELSEY. Is that a private bill?

The SPEAKER. It is not, and cannot be received.

JOHN M. BROOK.

Mr. WINSLOW, from the Committee on Naval Affairs, reported a bill for the relief of John M. Brook; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

FRANCIS DAINESE.

Mr. BURLINGAME, from the Committee on Foreign Affairs, reported a bill for the relief of Francis Dainese; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CHARLES L. DENMAN.

Mr. CLINGMAN, from the Committee on Foreign Affairs, made an adverse report in the case of Charles L. Denman, United States consul at Acapulco, Mexico; which was laid on the table, and ordered to be printed.

Mr. CLINGMAN stated that he had been requested to make a report for the gentleman from New York, [Mr. SICKLES.] He could not now obtain possession of the bill, and hoped that leave would be given to make the report any time in the course of the day.

PETER VAN BUSKIRK.

Mr. HALL, of Massachusetts, from the Committee on Revolutionary Pensions, reported a bill providing an increase of pension for Peter Van Buskirk, of Washington, in the District of Columbia; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

JOHN HARRIS.

Mr. SEARING, from the Committee on Revolutionary Pensions, reported a bill for the relief of John Harris, of Warren county, Kentucky; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and, with the report, ordered to be printed.

JEMIMA DAMON.

Mr. SHAW, of North Carolina, from the Committee on Revolutionary Pensions, made an adverse report on the petition of Jemima Damon, widow of Jedediah Damon; which was laid on the table, and ordered to be printed.

W. P. RATHBONE.

Mr. SHAW, of North Carolina, also from the same committee, reported back the petition of W. P. Rathbone, in behalf of the widow and children of Caleb Wood, deceased; which was referred to the Committee on Invalid Pensions.

JOHN CAMPBELL.

Mr. ROBBINS, from the Committee on Invalid Pensions, reported a bill for the relief of John Campbell; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

CAPTAIN STANTON SHOALS.

Mr. BURNS, from the Committee on Invalid Pensions, reported a bill for the relief of Captain Stanton Shoals; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

MARY BLATTENBERGER.

Mr. ROBBINS, from the Committee on Invalid Pensions, reported a bill, granting a pension to Mary Blattenberger; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

NANCY MAGILL.

Mr. BURNS, from the same committee, reported a bill for the relief of Nancy Magill; which was read a first and second time, referred to a Committee of the Whole House, and, with the report, ordered to be printed.

ADVERSE REPORTS.

Mr. BURNS, from the same committee, made adverse reports in the cases of Mary Thompson, John Ketchum, and John K. Tucker; which were laid on the table, and the reports ordered to be printed.

SAMUEL HAMILTON.

Mr. CASE, from the Committee on Invalid Pensions, submitted an adverse report in the case of Samuel Hamilton; which was laid upon the table, and ordered to be printed.

GEORGE MIDDLETON.

On motion of Mr. CASE, the Committee on Invalid Pensions was discharged from the further consideration of the petition of George Middleton; and the same was referred to the Committee of Claims.

WILLIAM SUTTON AND JOSEPH WEBB.

Mr. CASE, from the Committee on Invalid Pensions, reported the following bills; which were severally read a first and second time, referred to a Committee of the Whole House, and, with the accompanying reports, ordered to be printed:

A bill for the relief of William Sutton; and

A bill for the relief of Joseph Webb.

EDWIN M. CHAFFEE.

Mr. EDIE, from the Committee on Patents, reported a bill for the relief of Edwin M. Chaffee; which was read a first and second time by its title, referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

HOUSE PRINTER.

On motion of Mr. SMITH, of Tennessee, the Committee on Printing was discharged from the further consideration of the petitions of James B. Stedman and Major Knapp; and the same were referred to the Committee of Ways and Means.

POLICE REGULATIONS OF WASHINGTON.

Mr. GOODE, from the Committee for the District of Columbia, reported a bill granting certain additional powers to the corporation of Washington; which was read a first and second time by its title.

Mr. GOODE. This is a bill in which we all feel an interest, and I move that it be recommitted to the Committee for the District of Columbia, that it may be printed before it is taken up for consideration. I move that it be ordered to be printed.

The bill was ordered to be printed.

JAMES PHELAN.

Mr. DAVIS, of Mississippi, by unanimous consent, introduced a bill for the relief of James Phelan; which was read a first and second time by its title, and referred to the Committee of Claims.

PRIVATE CALENDAR.

Mr. CHAFFEE moved that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The motion was agreed to; and the House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. WASHBURN, of Maine, in the chair.)

The CHAIRMAN stated the first question in order to be the consideration of adverse report

(C. C. No. 111) upon the petition of Arnold Harris, administrator of Robert Armstrong.

On motion of Mr. CHAFFEE, the report was laid aside to be reported to the House, with a recommendation that the recommendation of the Court of Claims be concurred in.

AUGUSTINE DEMERS.

An adverse report (C. C. No. 116) upon the petition of Augustine Demers and others, administrators of Francis Chaudonet.

Mr. CHAFFEE. I make the same motion in reference to that case.

Mr. PALMER. The Court of Claims in this case—

The CHAIRMAN. The Chair will state that debate is not in order, this being "objection day."

Mr. PALMER. I desire to have that case take the same direction that was given to cases the other day—that it be reported to the House with a recommendation that it be referred to the Committee on Revolutionary Claims.

The CHAIRMAN. Does the Chair understand the gentleman as objecting to the consideration of the case now?

Mr. PALMER. Yes, sir.

JOSHUA R. JEWETT.

An adverse report (C. C. No. 123) upon the petition of Joshua R. Jewett, heir of Joseph Jewett.

Mr. PALMER. I object to that case also.

JAMES THOMPSON.

An adverse report (C. C. No. 126) on the petition of James Thompson, surviving partner of C. M. Strader & Co.

Mr. MARSHALL, of Kentucky. I move that that case be reported to the House with the recommendation that it be referred to the Committee of Claims.

The motion was agreed to.

ROBERT HARRISON.

An adverse report (C. C. No. 127) upon the petition of Robert Harrison.

Mr. HAWKINS. I make the same motion in that case as was made in the last case by the gentleman from Kentucky.

Mr. JONES, of Tennessee. I ask for the reading of the report.

Mr. LEITER. I object to the case.

ABRAHAM KING.

An adverse report (C. C. No. 130) upon the petition of Abraham King, administrator of John Mandeville.

Mr. PALMER. I move that that case be reported to the House, with the recommendation that it be referred to the Committee on Revolutionary Claims.

Mr. SMITH, of Virginia, objected to the consideration of the case.

ROBERT C. THOMPSON.

An adverse report (C. C. No. 135) upon the petition of Robert C. Thompson, administrator of William Thompson. [Objected to by Mr. SMITH, of Virginia.]

ELLEN MARTIN.

An adverse report (C. C. No. 139) upon the petition of Ellen Martin, heir-at-law of Francis Martin. [Objected to by Mr. PALMER.]

FRANCIS NADEAU.

An adverse report (C. C. No. 140) upon the petition of Francis Nadeau, heir of Basil Nadeau. [Objected to by Mr. PALMER.]

ABRAHAM R. WOOLLEY.

An adverse report (C. C. No. 141) upon the petition of Abraham R. Woolley.

Mr. MARSHALL, of Kentucky. I hope that no one will object to this case. I move that it be reported to the House with the recommendation that it be referred to the Committee of Claims. I could explain the merits of the case if I had a right to do so.

Mr. SMITH, of Virginia. I am willing to give the gentleman the right.

Mr. CHAFFEE. Oh, no; that will not do.

Mr. SMITH, of Virginia. Then I must object.

NATHANIEL WILLIAMS.

An adverse report (C. C. No. 145) upon the petition of Nathaniel Williams.

Mr. CHAFFEE. I move that the report be laid aside to be reported to the House, with a recommendation that the decision of the Court of Claims be confirmed.

The motion was agreed to.

JOHN HAMILTON.

A bill (H. R. No. 8) for the relief of John Hamilton.

The bill provides that the Secretary of the Treasury pay out of any money in the Treasury not otherwise appropriated, to John Hamilton, of Ohio, the sum of \$200 in full compensation for time and services during imprisonment with the Indians during the war of 1812.

There being no objection, the bill was laid aside to be reported to the House, with the recommendation that it do pass.

CYRUS H. M'CORMICK.

An adverse report (C. C. No. 11) upon the petition of Cyrus H. McCormick. [Objected to by Mr. HOARD.]

CASSIUS M. CLAY.

An adverse report (C. C. No. 21) upon the petition of Cassius M. Clay. [Objected to by Mr. LEITER.]

WILLIAM NEILL.

An adverse report (C. C. No. 30) upon the petition of William Neill and others. [Objected to by Mr. BURNETT.]

Mr. MARSHALL, of Kentucky. It must be perfectly palpable to every gentleman of the committee that we are not going to do anything with this Calendar. I move that the committee do now rise.

Mr. JONES, of Tennessee. There are but two more of these adverse reports, and then we will come to other bills.

Mr. MARSHALL, of Kentucky. A single objection stops everything.

Mr. JONES, of Tennessee. We have to get at them some day.

Mr. MARSHALL, of Kentucky. Well, we will take them up some day that is not objection day.

The motion was not agreed to.

THOMAS PHENIX, JR.

An adverse report (C. C. No. 31) upon the petition of Thomas Phenix.

Mr. UNDERWOOD. This case of Thomas Phenix has been acted on in the Senate, where a bill was passed in favor of the claimant; and at an early day of this session a bill was introduced here, and referred to the Committee on Military Affairs; which committee has it now under consideration. Although this case comes to us as an adverse report, it is not, in fact, an adverse report from the Court of Claims. But, without discussing the question, I desire to have the report referred to the Committee on Military Affairs, which has the case now under consideration.

Mr. PALMER. I am constrained to object. I have no doubt that the case has all the merits which the gentleman claims for it; but my cases have merits also.

DAVID MYERLE.

An adverse report (C. C. No. 81) upon the petition of David Myerle.

Mr. CHAFFEE. I move that the report be laid aside, to be reported to the House with a recommendation that the report of the Court of Claims be concurred in.

Mr. FLORENCE. I object.

RICHARD H. WEIGHTMAN.

A bill (H. R. No. 64) for the relief of Richard H. Weightman.

Mr. ZOLLICOFFER. I move that the bill be laid aside to be reported to the House, with the recommendation that it do pass.

Mr. BURNETT. Read the report.

Mr. JONES, of Tennessee. I object to the case.

THOMAS SMITHERS.

A bill (H. R. No. 65) for the relief of Thomas Smithers.

The bill was read. It authorizes the Secretary of the Interior to place the name of Thomas Smithers upon the invalid pension roll of the Army of the United States, and cause to be paid to him

eight dollars per month, commencing January 1, 1855, to continue during his natural life.

The report was read. It appears that, from certificates and documents presented to the committee, the petitioner was an enlisted drummer in Captain Thomas O. Jennings's company of Virginia militia, in the regiment commanded by Major Stapleton Crutchfield; that he entered the service 30th March, 1813, and was discharged with his company on the 11th of October, 1813; that during an engagement at Hampton, Virginia, with the British forces, he received a wound on both legs, between the knees and ankles, caused by a splinter from a baggage wagon, which was shattered by a cannon shot, and that said wound has caused him severe physical suffering during all the time since he received it; and that now, in his extreme old age, (ninety-four,) he applies for that relief which his country guaranteed to him when he entered her service.

There being no objection, the bill was laid aside to be reported to the House with a recommendation that it do pass.

CHARLES J. INGERSOLL.

A bill (H. R. No. 197) for the relief of Charles J. Ingersoll. [Objected to by Mr. KELSEY.]

GEORGE W. BISCOE.

A bill (H. R. No. 203) for the relief of George W. Biscoe. [Objected to by Mr. MORGAN.]

Mr. DAVIS, of Indiana. It is obvious that nothing will be done in committee. I move that the committee rise.

The motion was not agreed to.

JAMES MACM'INTOSH.

A bill (C. C. No. 80) for the relief of Captain James MacMcIntosh, of the United States Navy. [Objected to by Mr. LETCHER.]

BARCLAY AND LIVINGSTON.

A bill (H. R. No. 204) to refund to Barclay & Livingston and others, duties on certain goods destroyed by fire in the city of New York on the 19th day of July, 1845. [Objected to by Mr. PHILLIPS.]

HENRY LEEF AND JOHN M'KEE.

A bill (H. R. No. 206) to indemnify Henry Leef and John McKee for illegal seizure of a certain bark. [Objected to by Mr. LOVEJOY.]

ALEXANDER STEVENSON.

A bill (H. R. No. 208) for the relief of the heirs of Alexander Stevenson.

The bill directs the Treasurer of the United States to pay to the legal representatives of Alexander Stevenson, a soldier of the revolutionary war, in trust for the heirs of Stevenson, \$654, being the amount of money due him from the time of his enlistment, January 1, 1776, until the time of his discharge, in 1783.

The report states that Alexander Stevenson, a soldier in the Revolution, enlisted as such in the month of February, in the year 1776, was in the battle of the Three Rivers, in Lower Canada, where he was taken prisoner and detained as such till the year 1783, when he was discharged in an enfeebled state of health. It appears from the records of the War Department that he enlisted for one year, and not for during the war; but having served till the end of the war, his case comes within the spirit and meaning of the law providing relief for those who enlisted "for and during the war." From the papers and accompanying testimony it appears he received but one month's pay from the Government, owing to the fact that he was a prisoner from 1776 till 1783. The claim, was presented in 1837, and had the favorable action of two committees; passed the House of Representatives at the last session, with a clause allowing interest upon the arrears of pay, and was objected to in the Senate on the ground that the Government ought not to pay interest, on the presumption that she is always ready to pay all her just debts upon demand. The committee refused to allow interest, even from the time demand was made, although there are precedents to be found justifying such allowance.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

WILLIAM SMITH.

A bill (H. R. No. 209) for the relief of the rep-

resentatives of William Smith, deceased, late of Louisiana.

The bill and report were read.

Mr. LETCHER objected.

JAMES LAWRENCE.

A bill (H. R. No. 410) for the relief of the legal representatives or assignees of James Lawrence.

The bill provides that the assignees or legal representatives of James Lawrence, to whom was issued donation certificate No. 306, under the eighth section of the act of May 24, 1828, entitled "An act to aid the State of Ohio in extending the Miami canal from Dayton to Lake Erie, and to grant a quantity of land to said State to aid in the construction of the canals authorized by law, and for making donations of land to certain persons in Arkansas Territory," shall be authorized to relocate the same upon any of the public lands in Arkansas, subject to entry at a minimum of not more than \$1 25 per acre: provided, that said certificate shall be found to have been issued in conformity with the eighth section of the act of May 24, 1828, and shall be located upon legal subdivisions of land of not less than one quarter section.

The report states, that by treaty between the United States and the Cherokee Indians west of the Mississippi, ratified the 23d of May, 1828, a portion of the then Territory of Arkansas was ceded to said Indians; and the settlers resident thereon, and who should remove from such settlement according to the terms of the treaty, were, by the eighth section of the act of 24th May, 1828, entitled "An act to aid the State of Ohio in extending the Miami canal from Dayton to Lake Erie, and to grant a quantity of land to said State to aid in the construction of the canals authorized by law; and for making donations of lands to certain persons in Arkansas Territory," authorized to enter with the proper register of the land office in Arkansas a quantity of land not exceeding two quarter sections. Under this law of Congress, as appears from a communication from the Commissioner of the Land Office, a certificate was issued to James Lawrence, number 306, on claim number 213, which was located at the Little Rock land office, on the 24th July, 1851, on certain lands, and that the location was afterwards set aside because of a prior claim, not shown by the books of the local land office at the date of location, as stated by Mr. Hall, the memorialist, who asks permission to relocate on other lands, he being the assignee of James Lawrence. The time given by the law authorizing the previous location expired before its cancellation.

The bill was laid aside to be reported to the House, with the recommendation it do pass.

PIERRE BROUSSARD.

A bill (H. R. No. 211) for the relief of the heirs and legal representatives of Pierre Broussard, deceased.

Mr. TAYLOR, of Louisiana. I do not object to that bill myself; but inasmuch as my colleague, [Mr. SANDIDGE,] now absent, has received some new communication on the subject, I ask that it be passed over.

N. C. WEEMS.

A bill (H. R. No. 212) for the relief of N. C. Weems, of Louisiana.

The bill provides that the entry of the section sixty-eight, of township two north, of range one east, in the southwestern land district of Louisiana, by N. C. Weems, of that State, and patented September 1, 1849, be confirmed; and that the Commissioner of the Land Office shall cause to be refunded any excess of money paid into the land office in its purchase from the Government.

The report states that on the 1st of September, 1849, a patent (No. 1,341) was issued to N. C. Weems, on receipt numbered 1,280, for section sixty-eight of township two north, of range one east, containing one hundred and eighteen acres and thirteen hundredths of an acre, sold at the Opelousas land office, Louisiana. An excess of money having been paid on this entry, and Mr. Weems applying therefor, he was, after several years' delay, notified that the whole entry would be canceled, on the showing made by the surveyor general of the State, in a communication addressed to the Commissioner of the Land Office in January, 1857, that the land in question (being a back concession) was not on a navigable stream; the right of concession entry being allowed only

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to the owners of tracts fronting on a navigable stream. Mr. Weems having purchased this land in good faith, and cultivated it for many years, without suspicion of the rightfulness of his ownership—holding the patent of the Government since 1849—it is believed that no claim more just could be presented for the intervention of Congress.

The bill was laid aside to be reported to the House, with the recommendation that it do pass.

WILLIAM CONWAY.

A bill (H. R. No. 100) to revive an act entitled "An act for the relief of the heirs, or their legal representatives, of William Conway, deceased." [Objected to by Mr. KELSEY.]

FRANCIS WLODECKI.

A bill (H. R. No. 213) for the relief of Francis Wlodecki.

By the bill, Francis Wlodecki, of Lake county, Illinois, is authorized to locate one hundred and twenty acres of the public lands of the United States, to be selected from any of the public lands subject to private entry, at the rate of \$1 25 per acre; and upon return being made to the General Land Office of such location, the President is directed to issue a patent therefor to Francis Wlodecki, provided that the same shall be in full discharge for all claims which Wlodecki has on the Government, arising under the act of Congress, approved June 30, 1854, entitled "An act granting land to certain exiles from Poland."

There being no objection to the bill, it was laid aside to be reported to the House, with a recommendation that it do pass.

REGIS LOISEL.

A bill (H. R. No. 214) for the relief of Regis Loisel, or his legal representatives. [Objected to by Mr. UNDERWOOD.]

CHARLES D. MAXWELL.

A bill (H. R. No. 216) for the relief of Doctor Charles D. Maxwell, a surgeon in the United States Navy.

The bill requires the accounting officers of the Treasury to allow and pay to Doctor Charles D. Maxwell, surgeon in the Navy of the United States, the difference of pay between that of the grade of a passed assistant surgeon and a surgeon, from the 22d of December, 1845, to the 7th of July, 1848, being the period during which he performed the duties of surgeon and assistant surgeon on board the United States ship Cyane, and that the same be paid out of any money in the Treasury not otherwise appropriated.

The report states that on the 22d of December, 1845, Charles D. Maxwell, a passed assistant surgeon, United States Navy, on board the United States ship Legaré, Captain William Mervine commanding, was required to perform not only his own duties, but those also of surgeon of the ship, in consequence of the detachment from the ship of the surgeon. And the certificates of Captain Mervine and Commander Dupont, both in command of the ship at different times during the period of his extra service, show that he performed all the medical duties of the ship from the 22d of December, 1845, to the 7th July, 1848; and one of them certifies that these duties were of the most arduous character. The committee are satisfied that the petitioner did perform the duties of his own grade, and also those of the grade above him, or double duty, and that, though his labors and responsibilities were thereby greatly increased, under existing laws he is restricted to the compensation of the subordinate grade. Under similar circumstances, but with inferior claims to increased compensation, Congress, on the 1st of August, 1854, passed "An act for the relief of Dr. S. R. Addison, passed assistant surgeon in the United States Navy." The committee, therefore, think the petitioner equitably entitled to the difference between the pay of a passed assistant surgeon, which he has already received, and the pay of a surgeon; and they report a bill accordingly.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

CAPTORS OF THE BRITISH BRIG CALEDONIA.

A bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia, in the war of 1812.

The bill authorizes the Secretary of the Treasury to pay \$25,000 to the captors of the British brig Caledonia, on the 8th of October, 1812, on the Niagara river, near Fort Erie, or to their legal representatives. The payment to be made to the legal representatives of the late Captain Jesse D. Elliott, to the legal representatives of the late General Nathan Towson, then a captain of artillery, and to the officers and men engaged in the capture aforesaid, or their legal representatives, in such proportions as each may be found to be entitled to, according to the usages of the naval service.

The report states that it appears from the official account of Lieutenant Jesse D. Elliott, dated October 9, 1812, and other documents, that being in command of the public armed vessels at Black Rock, he conceived the idea of capturing two British brigs, the Detroit and Caledonia, which had just come down Lake Erie and anchored, the first about two miles above the fort, on the British side of the river, and the latter immediately under the guns of the fort. That being short of force, Lieutenant Elliott applied to General Smyth for volunteers from the Army. The artillery companies of Captains Towson and Barker were allowed to furnish part of the quota, whilst another portion was taken from the infantry. These artillery companies belonged to Colonel Scott's command. Captains Towson and Barker being of equal rank, the command was decided by lot, and the privilege was assigned to Captain Towson. About thirty of the artillery were thus assigned to Captain Towson.

Two boats went off during the night of the 8th of October, 1812, on the expedition thus planned by Lieutenant Elliott—the lieutenant himself commanding one, (with the infantry on board,) and the other being in charge of Sailing-master Watts, with Captain Towson in charge of the artilleryists. After getting near the Caledonia, some hesitation was expressed by the sailing-master as to the possibility of reaching the brig, whereupon Captain Towson at once assumed the command of the boat, and ordered the men to pull alongside. In a few minutes, after a severe conflict, in which one of his men was killed and eight others wounded, (one of them mortally,) Captain Towson succeeded in boarding and capturing the Caledonia, with her valuable cargo, valued by Lieutenant Elliott in his official dispatch at \$200,000. Soon after this the Detroit surrendered to Captain Elliott. The Detroit was afterwards burned by order of Lieutenant Elliott, to save her from falling into the hands of the enemy; and a similar order was given by him in regard to the Caledonia; but Captain Towson, not perceiving the necessity for this, took the responsibility of saving the latter, with her rich cargo, and she afterwards formed a part of Commodore Perry's fleet on Lake Erie, and rendered good service, under Lieutenant Turner, in the brilliant action of the 10th September, 1813. David R. Whitely, one of the artillerymen, whose opportunities of knowing all the circumstances seem to have been good, states that he is confident the success of the enterprise, so far as the Caledonia was concerned, was owing to the energy and unflinching courage of Captain Towson, who had the faculty of inspiring all his men with his own resolution and spirit.

On referring to the legislation of Congress on this subject, it does not appear that any allowance has ever been made for the Caledonia or her cargo. On July 13, 1813, Congress included in "An act to reward the officers and crew of the sloop-of-war Hornet, &c., a provision "to Lieutenant Elliott, his officers, and companions, &c., the sum of \$12,000 for the capture and destruction of the British brig Detroit." It appears, by a certificate from the Fourth Auditor, that of the

prize money awarded by the act of July 13, 1813, Captain Towson received \$400 as his distributive share, but that the Caledonia was not included, although the pay-roll was headed for both vessels. The act only appropriated \$12,000 for the capture and destruction of the British brig Detroit, and no provision has ever been made for the capture of the Caledonia.

The bill was laid aside to be reported to the House, with a recommendation that it do pass.

WILLIAM HEINE.

A bill (H. R. No. 219) for the relief of William Heine, artist in the Japan expedition.

The bill and report were read.

Mr. JONES, of Tennessee, objected.

ELIPHALET BROWN, JR.

A bill (H. R. No. 220) for the relief of Eliphalet Brown, jr.

The bill and report were read.

Mr. JONES, of Tennessee, objected.

MARY BAINBRIDGE.

A bill (H. R. No. 221) for the relief of Mary Bainbridge.

The bill and report were read. [Objected to by Mr. LETCHER.]

ELIZABETH E. V. FIELD.

A bill (H. R. No. 222) for the relief of Elizabeth E. V. Field. [Objected to by Mr. LETCHER.] Mr. HUGHES moved that the committee rise. The motion was not agreed to.

KATHARINE K. RUSSELL.

A bill (H. R. No. 223) for the relief of Katharine K. Russell. [Objected to by Mr. LETCHER.] Mr. HUGHES. I move that the committee do now rise.

Mr. FLORENCE called for tellers. Tellers were ordered; and Messrs. BUFFINTON and HAWKINS were appointed.

The committee divided; and the tellers reported—ayes 37, noes 84.

So the committee refused to rise.

STEPHEN BUNNELL.

A bill (H. R. No. 224) for the relief of Stephen Bunnell. [Objected to by Mr. MAYNARD.]

CHARLOTTE BUTLER.

A bill (H. R. No. 226) for the relief of Charlotte Butler. [Objected to by Mr. JONES, of Tennessee.]

JOHN RICHMOND.

A bill (H. R. No. 225) to increase the pension of John Richmond.

The bill raises the two-thirds pension of John Richmond, a private in the war of 1812, to a full pension, to commence 1st of January, 1855, and to continue during his natural life.

There being no objection, the bill was laid aside to be reported to the House, with a recommendation that it do pass.

Mr. DEWART moved that the committee do now rise.

Mr. FLORENCE called for tellers. Tellers were ordered; and Messrs. CHAFFEE and MILLSON were appointed.

The committee divided; and the tellers reported—ayes thirty-six, noes not counted.

So the committee refused to rise.

JOSEPH M. PLUMMER AND OTHERS.

A bill (H. R. No. 227) for the relief of Joseph M. Plummer and Mary R. Plummer, minor children of Captain Samuel M. Plummer.

Mr. RITCHIE. There is a report in this case, and a long one. If the committee will allow me, I will state the facts in half the time it would take to read it. This bill proposes to give these children a pension, under the usual practice of the Government by which pensions are allowed to the minor children of persons who have died of wounds received or disease contracted in the service of the United States. This bill, in conformity with uniform precedent, merely fixes the pen-

sions until the children arrive at the age of sixteen years.

Mr. JONES, of Tennessee. The uniform practice of the Government, as I understand the general law, is, that where a soldier or an officer has been killed in battle, or died in the service, or in consequence of wounds received or disease contracted in the service, leaving a widow and minor children, they receive a half-pay pension for five years, provided that the pension shall not continue to the children beyond the age of sixteen years.

Mr. RITCHIE. Precisely this case.

Mr. JONES, of Tennessee. By the act of February 3, 1853, you continue the pension of that class five years longer.

Mr. RITCHIE. Well, this provides a pension up to sixteen years of age, and stops there.

Mr. JONES, of Tennessee. There are thousands of others in the same condition. If you relieve one, there should be a general law for all.

Mr. MARSHALL, of Kentucky. I would suggest to the gentleman from Tennessee that we put a section in this bill extending this provision so as to make it general.

Mr. JONES, of Tennessee. The committee had better prepare a bill for that purpose.

Mr. MARSHALL, of Kentucky. It may be done in a very few moments.

Mr. JONES, of Tennessee. I object to the bill.

HENRY TAYLOR.

A bill (H. R. No. 228) for the relief of Henry Taylor.

Mr. LETCHER. I should like to inquire of the gentleman who reported that bill why he cannot obtain relief at the Pension Office.

Mr. ROBBINS. I do not know exactly.

Mr. LETCHER. Was there ever application made there?

Mr. ROBBINS. Yes, sir.

Mr. LETCHER. What was the report made at the Pension Office?

Mr. ROBBINS. I have not seen the report.

Mr. LETCHER. Well, I think we had better inquire into this case a little. I object to the bill.

Mr. SHERMAN, of Ohio, moved that the committee rise.

The motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. WASHBURN, of Maine, reported that the Committee of the Whole House had, according to order, had the Private Calendar under consideration, and had directed him to report to the House a recommendation that the House concur in the following adverse reports: an adverse report (C. C. No. 111) upon the petition of Arnold Harris, administrator of Robert Armstrong; an adverse report (C. C. No. 145) upon the petition of Nathaniel Williams; also, that the following adverse report be referred to the Committee of Claims: an adverse report (C. C. No. 126) on the petition of James Thompson, surviving partner of C. M. Strader & Co.; also, that the House had directed him to report back the following bills, with the recommendation that they do pass:

A bill (H. R. No. 8) for the relief of John Hamilton;

A bill (H. R. No. 65) for the relief of Thomas Smithers;

A bill (H. R. No. 208) for the relief of the heirs of Alexander Stevenson;

A bill (H. R. No. 210) for the relief of the legal representatives or assignees of James Lawrence;

A bill (H. R. No. 212) for the relief of N. C. Weems, of Louisiana;

A bill (H. R. No. 213) for the relief of Francis Wlodecki;

A bill (H. R. No. 216) for the relief of Doctor Charles Maxwell, a surgeon in the United States Navy;

A bill (H. R. No. 218) for the benefit of the captors of the British brig Caledonia in the war of 1812; and

A bill (H. R. No. 225) to increase the pension of John Richmond.

JOHN HAMILTON.

Mr. STANTON. Mr. Speaker, I will ask that the report of the committee be agreed to *en masse*, after I have moved an amendment to House bill No. 8, for the relief of John Hamilton. I propose

to add to the bill after the word dollars, "with interest from the first day of June, 1852." The bill appropriates \$200 to an old soldier, and the amendment proposes that he shall receive interest on that sum from the time he perfected and presented his proof to Congress, which was on the day I have named. The bill has twice passed the House, and each time only failed of becoming a law by want of time. The simple question is, whether the House will allow this poor old soldier interest since he perfected his proof and presented it to Congress? The Committee on Military Affairs declined to recommend that the interest should be allowed. I call for the previous question on the amendment, and on the engrossment of the bill.

Mr. LETCHER. I demand the yeas and nays on the amendment.

ADJOURNMENT OVER.

Mr. HICKMAN moved that when the House adjourns it adjourn to meet on Monday next.

Mr. KELSEY demanded the yeas and nays.

Mr. MORGAN demanded tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion was agreed to; there being on a division of the House—ayes 108, nays 36.

Mr. HICKMAN moved that the House adjourn.

The motion was disagreed to.

JOHN HAMILTON AGAIN.

Mr. HUGHES. I understand the gentleman to say that the failure in this case was in Congress to act upon the bill.

Mr. STANTON. Yes, sir; the old soldier only asks for interest from the day he perfected his proof. The interest will not amount to more than fifty dollars.

Mr. NICHOLS. Is it usual to allow interest?

Mr. STANTON. It has been done more than a hundred times.

Mr. JONES, of Tennessee. How does this bill take precedence of the others?

The SPEAKER. Bills are taken up before reports. If the gentleman insists on the point the Chair will begin with the Court of Claims reports.

Mr. JONES, of Tennessee. I do insist upon it.

ARNOLD HARRIS.

An adverse report (C. C. No. 111) upon the petition of Arnold Harris, administrator of Robert Armstrong.

The SPEAKER. The Committee of the Whole recommend a concurrence in the report of the Court of Claims rejecting the claim.

The recommendation of the Committee of the Whole House was concurred in.

JAMES THOMPSON.

An adverse report (C. C. No. 126) on the petition of James Thompson, surviving partner of C. M. Strader & Co.

The SPEAKER. The Committee of the Whole recommend that this report be referred to the Committee of Claims.

The recommendation of the Committee of the Whole House was concurred in.

NATHANIEL WILLIAMS.

An adverse report (C. C. No. 145) upon the petition of Nathaniel Williams.

The SPEAKER. The Committee of the Whole recommend a concurrence in the report of the Court of Claims rejecting the claim.

The recommendation of the Committee of the Whole House was concurred in.

JOHN HAMILTON.

The next bill taken up was House bill (No. 8) for the relief of John Hamilton, reported from the Committee of the Whole House, with the recommendation that it do pass.

Mr. STANTON moved to amend the bill by inserting after the word "dollars" the words "with interest after 1st June, 1852;" and demanded the previous question.

Mr. FLORENCE called for tellers.

Tellers were ordered; and Messrs. FLORENCE and WALDRON were appointed.

The House divided; and the tellers reported—ayes 94, nays 28.

So the previous question was seconded.

The main question was then ordered to be put, being first upon Mr. STANTON'S amendment.

Mr. LETCHER demanded the yeas and nays. The yeas and nays were ordered.

Mr. STANTON. In order to save time, I will withdraw the amendment.

Several MEMBERS. Oh, no.

The SPEAKER. The gentleman can withdraw it by unanimous consent.

Mr. CLARK, of Connecticut. I object.

Mr. HARRIS, of Maryland, (at eighteen minutes after three o'clock, p. m.,) moved that the House do now adjourn.

The motion was disagreed to—ayes 51, nays 89.

The question recurred on Mr. STANTON'S amendment.

Mr. LETCHER. Was not the amendment withdrawn?

The SPEAKER. Objection was made to its withdrawal by the gentleman from Connecticut, [Mr. CLARK.]

Mr. JONES, of Tennessee. There has been no vote on the amendment.

The SPEAKER. The previous question has been ordered.

Mr. JONES, of Tennessee. That was not a decision on the amendment.

Mr. HOUSTON. Not at all.

The SPEAKER. The Chair thinks that the gentleman cannot withdraw the amendment after the previous question has been ordered; it has passed from under his control.

Mr. JONES, of Tennessee. The previous question was ordered upon the engrossment of the bill.

The SPEAKER. It brings the House, as the gentleman is aware, first to vote upon the amendment.

Mr. JONES, of Tennessee. Exactly; the rule is express that a gentleman can withdraw a proposition at any time before it is acted on.

The SPEAKER. The amendment may have been the very reason why the House seconded the previous question.

Mr. HOUSTON. Is it not the practice of the present organization of the House, and has it not been all the while the practice, if a motion be pending for the commitment, or recommendation, or reference of a bill, that the person making that motion has a right, after the seconding of the previous question, to withdraw it?

The SPEAKER. Never, in a single instance, that the Chair recollects.

Mr. HOUSTON. My recollection is, that it has been done within the last two or three days.

The SPEAKER. The Chair would be glad if the gentleman from Alabama would point to the page on the Journal where it may be found.

Mr. STANTON. If there be any difficulty about the question of order, I will not withdraw the amendment.

The question was taken; and it was decided in the affirmative—ayes 84, nays 71; as follows:

YEAS—Messrs. Abbott, Ahl, Andrews, Arnold, Atkins, Avery, Bingham, Blair, Bowie, Brayton, Buffinton, Burlingame, Burroughs, Chaffee, Chapman, Ezra Clark, Clawson, Cobb, Cockerill, Colfax, Comins, Covode, Cox, Cragin, James Craig, Curtis, Damrell, Davidson, Davis of Massachusetts, Davis of Iowa, Dawes, Dean, Dodd, Durfee, Farnsworth, Foley, Foster, Gooch, Goodwin, Granger, J. Morrison Harris, Hawkins, Hoard, Horton, Howard, Hughes, Owen Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Landy, Humphrey Marshall, Edward Joy Morris, Isaac N. Morris, Mott, Olin, Palmer, Pike, Purviance, Reilly, Ricard, Ritchie, Robbins, Roberts, Royce, Russell, Sandidge, Aaron Shaw, John Sherman, Singleton, Robert Smith, Spinner, Stanton, James A. Stewart, William Stewart, George Taylor, Thayer, Thompson, Tompkins, Wade, Ward, and Israel Washburn—84.

NAYS—Messrs. Bliss, Boocock, Bonham, Bryan, Burnett, Case, Caskie, John B. Clark, Clay, Burton Craigie, Crawford, Curry, Davis of Indiana, Dewart, Dowdell, Edmundson, Fenton, Florence, Gartrell, Giddings, Goode, Greenwood, Gregg, Groesbeck, Harlan, Hickman, Hopkins, Houston, Huyler, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Keitt, Lamar, Leach, Leidy, Leiter, Letcher, Lovejoy, McQueen, Samuel S. Marshall, Maynard, Miles, Millson, Montgomery, Morgan, Freeman H. Morse, Niblack, Parker, Peyton, Phelps, Phillips, Quitman, Ready, Reagan, Ruffin, Scales, Scott, Searing, Henry M. Shaw, Stallworth, Stevenson, Tappan, Miles Taylor, Waldron, Cadwalader C. Washburn, Watkins, Whiteley, Wortendyke, and John V. Wright—71.

So the amendment was agreed to.

Mr. GIDDINGS. I move to reconsider the vote just taken.

The SPEAKER. The Chair is informed that the gentleman voted with the minority.

Mr. RUSSELL. I move that the House do now adjourn.

The motion was not agreed to.

Mr. STANTON. I move to reconsider the

vote by which the amendment was agreed to; and also move to lay the motion to reconsider on the table.

Mr. GIDDINGS. Will my colleague allow me the floor for a few minutes? This is a principle which overthrows the former practice of the Government.

Mr. STANTON. If my colleague will permit me, I can show him several hundred instances of where interest has been paid.

Mr. HUGHES. I object to debate.

Mr. GIDDINGS. I call for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

Mr. STANTON. I withdraw the motion to reconsider.

Mr. PHILLIPS. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at a quarter to four o'clock, p. m.) the House adjourned till Monday, at twelve o'clock, m.

IN SENATE.

Monday, March 8, 1858.

Prayer by Rev. Jabez Fox.

The Journal of Thursday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDING OFFICER (Mr. BRIGHT in the chair) laid before the Senate a letter of the Secretary of the Navy, accompanied by one hundred copies of the Navy Register for the current year for the use of the Senate; which was read.

COURT OF CLAIMS.

He also laid before the Senate, reports of the Court of Claims, made in pursuance of law, adverse to the claim of Charles D. Arfwedson; the claim of Nathaniel and Benjamin Goddard, executors of Nathaniel Goddard; the claim of Samuel D. Cozzens, trustee of Mary S. Cozzens, wife of Benjamin Cozzens; and the claim of Jacob Bigelow, administrator of Francois Carzeau; and a report of the Court of Claims in favor of the claim of Peter Parker, accompanied by a bill for the relief of Peter Parker; which were referred to the Committee on Claims.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented a petition of citizens of Kansas, praying for the establishment of a mail route between Lawrence, in Kansas Territory and Nebraska City, in Nebraska Territory; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented the petition of Richard W. Clarke, praying for additional compensation for services rendered while a messenger in the Pension Office; which was referred to the Committee on Claims.

Mr. KENNEDY presented a memorial of the association of the defenders of Baltimore in 1814, praying that pensions may be granted to the officers and soldiers of the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. WRIGHT presented a resolution of the Legislature of New Jersey, in relation to the erection of a building at Trenton, for the accommodation of the United States courts and the offices of the collector and postmaster in that city; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. THOMSON, of New Jersey, presented a petition of citizens of Trenton, New Jersey, praying for the enactment of a law to change the name of the port of Lamberton to that of Trenton; which was referred to the Committee on Commerce.

Mr. GREEN presented a petition of Thomas D. W. Yonley and others, citizens of Missouri, praying to be protected in their location of certain lands in the Plattsburg land district, in that State; which was referred to the Committee on Public Lands.

Mr. JONES presented a resolution of the Legislature of Iowa, in favor of the erection of a marine hospital, custom-house, and post office, at Muscatine, in that State; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. DOOLITTLE presented the memorial of E. D. Hills and others, praying the erection of

a light-house at the mouth of Kewanee river, Wisconsin; which was referred to the Committee on Commerce.

Mr. BIGLER presented a petition of James Foster, James Craig, and others, for the establishment of a mail route from Oregon, Missouri, to White Cloud, in Kansas; from White Cloud to Marysville; from Fort des Moines, Iowa, to Fort Riley; and from White Cloud to Iowa Point; which was referred to the Committee on the Post Office and Post Roads.

Mr. STUART presented the petition of Caleb Sherman, praying to be released from liability for public money received by him as collector of the customs for the district of Paso del Norte, Texas, which was stolen while in his custody; which was referred to the Committee on Finance.

He also presented the memorial of James Bawden, praying that a patent may issue to him for certain lands embraced in the light-house reservation of Eagle harbor, Lake Superior, upon which he has made valuable improvements; which was referred to the Committee on Public Lands.

Mr. HAMLIN presented additional papers in support of the claim of the Bangor City Greys to bounty land; which were referred to the Committee on Public Lands.

Mr. BROWN presented the memorial of Polard Webb, offering to sell to the United States a place in the District of Columbia known as "Meridian Hill," for a summer residence for the President of the United States; which was referred to the Committee on Public Buildings and Grounds.

He also presented the petition of William R. Brownlee, a soldier in the war of 1812, praying to be allowed a pension, which was referred to the Committee on Pensions.

He also presented the memorial of a committee of the levy court of Washington county, for the passage of a law to simplify the mode of conveyancing in the District of Columbia; which was referred to the Committee on the District of Columbia.

He also presented the memorial of a committee of the levy court for the county of Washington, District of Columbia, for an appropriation for certain roads in that county upon certain conditions; which was referred to the Committee on the District of Columbia.

Mr. CLAY presented a memorial of underwriters of Boston, remonstrating against the repeal of the law creating the light-house board; which was referred to the Committee on Commerce.

Mr. JOHNSON, of Arkansas, presented a petition of citizens of Arkansas, for the establishment of a mail route from Little Rock to Hungary post office in that State; which was referred to the Committee on the Post Office and Post Roads.

He also presented papers in relation to the claim of Edward Ingersoll, paymaster and military storekeeper at the Springfield Armory, for the reimbursement of money paid for hack hire for the Army commission of 1853; which were referred to the Committee on Military Affairs and Militia.

Mr. BRODERICK presented the memorial of William Cruickshank and others, praying for permission to prosecute their claim to a certain tract of land in California, before the United States district court for the northern district of California; which was referred to the Committee on the Judiciary.

Mr. FOSTER presented resolutions of the Legislature of Connecticut, instructing the Senators and requesting the Representatives of that State in Congress, to vote against the admission of another slaveholding State into the Union; which were ordered to lie on the table and be printed.

Mr. DOOLITTLE. I present the memorial of the Milwaukee and Mississippi Railroad Company, praying for an act to confirm their title to a small piece of land in the Mississippi river, opposite the lands which they own at Prairie du Chien. It is accompanied by a map setting out the line of their railroad. I beg leave to state that the railroad company have built a railroad from Lake Michigan to the Mississippi river, without any aid whatever from the General Government. They own the title to the lands adjoining the river, and they claim to own this piece of land which is in the river, and is subject to overflow; but some question has been raised about it, and as it can really be of no service to any other per-

son or company, it is desirable that it should be confirmed in them. I move the reference of the memorial to the Committee on Public Lands.

The motion was agreed to.

Mr. KING. I have received a memorial, very numerous signed by citizens of New York, stating that the great disasters in trade and commerce throughout the country for the last year have rendered necessary some legislation which will enable creditors and debtors to meet and adjust their difficulties, and they apprehend that a considerable period of time must elapse before business shall be restored. The memorial does not state that the memorialists ask for a bankrupt law; they ask for a relief law; but I take it it must be in the nature of a bankrupt law. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. SEWARD, it was

Ordered, That the memorial of Alfred G. Benson, on the files of the Senate, be referred to the Committee on Claims.

RECOMMITTAL OF A REPORT.

Mr. STUART. The memorial of the Bangor City Greys was referred to the Committee on Public Lands at this session, and reported back adversely. It has since been ascertained that certain evidence, which they desired to have considered in connection with their memorial, and which was not then received, has now been received. I move, therefore, to recommit the memorial, in order that the evidence may go with it, and the case be reconsidered.

The motion was agreed to.

RESOLUTIONS.

Mr. SEWARD submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be printed, for the use of the Senate, the usual number of copies of the letter of the Secretary of the Treasury of February 26, 1858, with the accompanying report of J. Ross Browne, special agent of that Department, on the Pacific coast; and the letter of the Secretary of the Navy of January 4, 1858, with the report of offers for supplies for bureau of docks and yards.

Mr. KENNEDY submitted the following resolution; which was referred to the Committee on Military Affairs and Militia:

Resolved, That the Committee on Military Affairs be instructed to inquire into the eligibility of Weverton, in Maryland, as a site for a national foundry.

Mr. KENNEDY submitted the following resolution; which was referred to the Committee on Naval Affairs:

Resolved, That medical officers and pursers of the Navy shall be, in relation to rank, on the same footing as officers of similar grades in the Army; provided, that no medical officer or purser shall exercise command over any navy-yard or vessel of the United States.

Mr. GREEN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to furnish the Senate with a copy of the correspondence, reports, and other papers on file in his office or the General Land Office, having relation to the cancellation of the locations which were made at the Plattsburg (Missouri) land office, in the month of March, 1857, by Thomas D. W. Yonley and others, and the subsequent location of the same land by Messrs. McClaughlin and Felix, of Pennsylvania; adding thereto the letter or report of the register and receiver, of the 3d of March, 1857, in the contested case of Hardin and Jackson, and the Commissioner's ruling and concurrence therein on the 21st of April thereafter; together with any other letter or paper which the Secretary may deem material to the proper understanding of the relative rights of the parties herein firstly alluded to.

Mr. CLAY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate any papers on file in the War Department connected with the military topographical memoir and report of Captain T. J. Cram, called for by the resolution of the Senate of the 15th of February.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to consider the expediency of amending the laws for the punishment of persons enticing or carrying away any soldiers of the Army of the United States.

Mr. CHANDLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be instructed

to request the Court of Claims to return to the Senate the papers of A. Weeks.

REPORTS FROM COMMITTEES.

Mr. BENJAMIN, from the Committee on Private Land Claims, to whom were referred the papers relating to the claim of B. E. Edwards, submitted a report, accompanied by a bill (S. No. 186) to confirm the title of Benjamin E. Edwards to a certain tract of land in the Territory of New Mexico. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Printing, to whom was referred a resolution directing the printing of twenty thousand copies of the opinions of the judges of the Supreme Court in the Dred Scott case, asked to be discharged from its further consideration; which was agreed to.

Mr. COLLAMER, from the Committee on the Judiciary, to whom was referred the bill (S. No. 58) to authorize and direct the settlement of the accounts of Ross Wilkins, James Witherell, and Solomon Sibley, reported it without amendment.

Mr. IVERSON, from the Committee on Claims, to whom was referred the petition of A. W. Macpherson, submitted a report, accompanied by a bill (S. No. 187) for the relief of A. W. Macpherson. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 176) to acquire certain lands needed for the Washington aqueduct, in the District of Columbia, reported it with amendments.

HEIRS OF DAVID A. RING.

Mr. BENJAMIN. The Committee on Private Land Claims, to whom was referred the petition of Anna M. E. Ring and others, has instructed me to report in favor of the petitioners, accompanied by a bill, and to ask for its immediate passage. I will say in support of this motion a single word. These petitioners are the only daughters of a gentleman to whom a land warrant was issued for services in the war of 1812. Finding himself at the point of death, he executed an assignment in favor of his daughters. That assignment, under the general law, is null and void, because it was executed before the land warrant had actually been issued, and the bill is for the purpose of obviating that difficulty. These are the four daughters of the soldier to whom the warrant was issued, and in whose favor it was issued, dated after his death.

The bill (S. No. 185) for the relief of Anna M. E. Ring, Louisa M. Ring, Cordelia E. Ring, and Sarah J. Launoy, was read twice, and considered as in Committee of the Whole. It proposes to vest in them all the right, title, and interest of David A. Ring to a land warrant, No. 3,172, for one hundred and sixty acres of land, issued on the 18th of July, 1855.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PATENT OFFICE REPORT.

Mr. JOHNSON, of Arkansas. I am instructed by the Committee on Printing to report a resolution in regard to the Patent Office report. It is important that this matter should be disposed of at once, if the printing is to be done at all. We all know that it will be printed and distributed. The committee have considered the subject until they are perfectly satisfied of the character of the report they should make, and have instructed me, instead of providing for twenty-seven thousand extra copies which have hitherto been voted by this body to be distributed by the members of the Senate, being divided amongst them *per capita*, to report the following resolution:

Resolved, That there be printed, in addition to the usual number, ten thousand copies of the annual report of the Commissioner of Patents on arts and manufactures for the year 1857; eight thousand of which shall be for the use of the Senate, and two thousand for the Interior Department, for the purposes of official distribution.

I ask for the consideration of the resolution at once. The facts in regard to it I will state in a few words.

Mr. STUART. I should be very glad to hear the Senator's statement; but I shall object to the passage of the resolution to-day, while so many gentlemen are absent from the Senate. I shall

be glad to hear the statement, and then let the subject go over until some time when the Senate shall be full.

Mr. JOHNSON, of Arkansas. Of course I shall not object to that. I would very much prefer that the Senate should be full when this subject is acted upon. I believe, however, it would be well to put this statement at once before the body.

The PRESIDING OFFICER, (Mr. BRIGHT in the chair.) It requires unanimous consent to consider the resolution to-day. Does the Senator from Michigan object?

Mr. STUART. I do not object to its consideration, with the understanding that it shall go over. I shall be glad to hear the statement.

There being no objection, the Senate proceeded to consider the resolution.

Mr. JOHNSON, of Arkansas. Then the report of the Superintendent of Public Printing on this point may as well be given now and appear in print. I will send it up to the desk and ask that it be read. I desire every Senator, of course, to have an opportunity of understanding the question.

The Secretary read the following report from the Superintendent of Public Printing:

OFFICE SUPERINTENDENT PUBLIC PRINTING, WASHINGTON, January 21, 1858.

Sir: The Mechanical Patent Office report for 1857 (the copy of which is herewith returned) will somewhat exceed in size that of the preceding year. It is estimated that this report will make two volumes of letter-press of 672 pages each, and one volume of illustrations of 690 pages. The estimated cost of printing and binding is as follows:

Cost of the usual number (1,420 copies) of volume one, \$1,705 95.

Cost per thousand, for extra copies, (in addition,) \$607 02.

The cost of the second volume will be about the same.

Cost of the usual number (1,420 copies) of volume three, \$7,994 69.

Cost per thousand, for extra copies, (in addition,) \$719 95.

Or, if the same number of copies are ordered as last year, (27,000, in addition to the usual number,) the aggregate cost for the complete work will be about \$59,000.

Very respectfully, GEORGE W. BOWMAN, Superintendent.

Hon. R. W. JOHNSON, Chairman Committee on Printing.

Mr. JOHNSON, of Arkansas. This portion of the work, the report on arts and manufactures, or, as it is called, the mechanical portion, has reached three volumes. Originally it was but one volume. It has gone on, gradually increasing every year, and this year it has gone beyond all former years. I had an idea of a serious attempt, during the last Administration, to extend it to a series of quarto volumes: whenever it shall have reached that, the expense will be greatly beyond what it is at the present time. Even as it is now, the expense is much more than was ever contemplated at the inception of this system. These three volumes are made up of what formerly constituted but one volume. The cost of the usual number, which is fourteen hundred and twenty copies, of volume one, is \$1,705 95. The cost of the usual number of volume two, is \$1,705 95, the same amount. The cost of the usual number of volume three, which is a volume entirely filled with plates and drawings of the various inventions which are to be found in that office—a vast number of which are of no use on the face of the earth, and never will be, and are not worth putting into the book, and are a source of confusion and difficulty to him who may be a searcher after the truths to be found in it—will be \$7,994 69.

One thing which I do not like is observable in these estimates; somehow or other they seem always to fall a few dollars short of a hundred, or a few dollars short of a thousand. I have no question on earth but that the cost of volume three will be over eight thousand dollars, and I do not know but that it will be \$9,000. The addition of \$5 31 would certainly make it \$8,000 for the printing of that single volume. The whole cost, then, of the printing of the usual number, which originally would not have been more than seven hundred or two thousand dollars, is now \$11,406 59. You can then multiply the copies as much as you please, up to a million. The cost of the extra copies, per thousand, is \$1,934; the cost of ten thousand extra copies, which is the number the committee at present instruct me to report, counting the cost at \$2,000, is \$20,000. The cost of twenty-seven thousand extra copies would, therefore, necessarily be \$54,000. The committee have instructed me to report in favor of printing ten thousand copies only.

The cost per volume of the work is over seventy cents a copy. If you throw out of consid-

eration the cost of the original fourteen hundred and twenty, and only consider what it costs to multiply the extra copies after the first numbers are printed, it would be sixty-six and two thirds cents for each volume; but adding the cost of the usual number, it must necessarily go beyond seventy cents, and the fewer the number printed the greater is the cost of each volume. Ten thousand extra copies will give to each Senator about one hundred and sixty copies for distribution. The twenty-seven thousand extra copies which have hitherto been ordered, gave to each Senator about four hundred and thirty-five copies. Almost every committee-room is filled up with these documents for the greater part of the session, and some of them lie over until the next session after that at which they are printed. I know there is not a single committee on which I serve in whose room there are not large numbers of volumes of Patent Office reports of former years, not distributed. A great many Senators, I believe, abandon them altogether; and where they go, or how they go, I do not know; but they are to be found in great quantities throughout the city. I will advertise to Senators and others who may wish to buy them, that I have seen certificates showing that they have been purchased by the hundred at fifteen cents apiece; and they cost us upwards of seventy cents. Something is wrong in this matter, it is evident. The Government pays for publishing at this rate over seventy cents; and yet if you go into the city at proper places you certainly can purchase them at fifteen cents a copy. I have seen the certificates and receipts for it.

* The eight thousand copies, which is the real number which the committee propose to be distributed by Senators, gives one hundred and twenty-nine copies to each Senator to be distributed amongst his constituents, and a few over. The resolution also gives to the Interior Department two thousand copies for official distribution in such quarters as it may be deemed beneficial to the public that these reports should be sent.

This is a succinct statement of the facts in regard to the matter. I will now assent to the proposition of the Senator from Michigan, that the subject shall lie over until the Senate shall be more full than it seems to be at present.

Mr. WILSON. Before the subject passes over, I wish to submit an amendment to the resolution proposed by the Committee on Printing:

And that the Secretary of the Interior be, and he is hereby, directed to cause the annual report of the Commissioner of Patents on mechanics, hereafter to be made to Congress, to be prepared and submitted in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted in their proper places in the text, so as to comprise the entire report in one volume.

The further consideration of the resolution was postponed until to-morrow.

COURTS IN VERMONT.

Mr. COLLAMER. I am instructed by the Committee on the Judiciary to report back the bill (S. No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont, without amendment; and as it is one of those bills which never encounter opposition, I desire that it may be passed at once.

The Senate proceeded, as in Committee of the Whole, to consider the bill. It directs that the circuit court of the United States, now held at Windsor, on the 21st of May, shall, after the 1st of July next, be held on the first Tuesday of July annually at that place; and that the district court of the United States for Vermont, instead of being held on the 27th of May, shall, after the first of July next, be held on the Monday next after the fourth Tuesday of July annually. All indictments, information, suits, or action and proceedings of any kind, whether civil or criminal, now pending in those courts are to be heard, tried, and determined on these days, in the same manner as if the courts were held on the 21st and 27th days of May respectively.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY PETERY.

On motion of Mr. CAMERON, the bill (S. No. 173) for the relief of Mary Petery was read a second time, and considered as in Committee of the Whole.

It directs the proper accounting officers to pay to Mary Petery, widow of Peter Petery, seventy-

five dollars, in full compensation for a horse, lost while in the military service of the United States.

Mr. CAMERON. I hope the Senate will pass this bill at once through all its forms. It is a meritorious case.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHRISTINE BARNARD.

Mr. IVERSON. I ask the Senate to take up the bill, which is on its third reading, for the relief of Christine Barnard. It proposes to renew a pension which has been heretofore granted.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army.

The PRESIDING OFFICER. (Mr. BRIGHT.) The question is, shall the bill pass?

Mr. CLAY. Is it too late to move an amendment to the bill?

The PRESIDING OFFICER. Yes, sir; it has had its third reading.

Mr. CLAY. I had proposed to move to amend the bill by striking out the amount proposed to be paid as a pension, and reducing it to the maximum which is allowed in such cases; but if it is too late to make the motion, I shall simply content myself with voting against the bill.

The bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. ALLEN, its Clerk, announced that the House of Representatives had passed the following bills:

A bill (H. R. No. 307) to appropriate money to supply deficiencies in the appropriations for paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed.

A bill (H. R. No. 8) for the relief of John Hamilton.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed an enrolled joint resolution (S. No. 3) to extend and define the authority of the President under the act approved January 16, 1857, entitled "An act to amend an act entitled 'An act to promote the efficiency of the Navy,'" in respect to dropped and retired naval officers; and it was thereupon signed by the Vice President.

HOUSE BILL REFERRED.

The bill (H. R. No. 307) to appropriate money to supply deficiencies in the appropriations for paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed, was read twice by its title, and referred to the Committee on Finance.

ELIZABETH MONTGOMERY.

On motion of Mr. BAYARD, the Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 30) for the relief of Elizabeth Montgomery, heir of Hugh Montgomery.

It directs the Secretary of the Treasury to pay to Elizabeth Montgomery, daughter and sole heir of Captain Hugh Montgomery, of the ship Nancy, of Wilmington, Delaware, \$5,000, as a full compensation for his successful efforts in saving the powder and munitions of war belonging to the United States on board that ship, and for his interest in the value of the ship, which he blew up to prevent her and her cargo from falling into the hands of the enemy during the war of the Revolution.

The bill was reported back from the Committee on Revolutionary Claims, with an amendment to insert:

And that the said sum be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

The PRESIDING OFFICER. The question is on concurring in the amendment reported from the committee.

Mr. KING. Is there any report in this case, or any information about it?

Mr. ALLEN. I should like to hear the report read.

The Secretary read the report, from which it appears that Captain Hugh Montgomery, formerly of Wilmington, in the State of Delaware, was employed as captain of the brig Nancy, of that port, belonging to himself and others. In the latter part of the year 1775, the brig, chartered by Robert Morris, then a member of Congress, was dispatched to the West Indies with a cargo of flour to be sold, and the proceeds returned to the United States in gunpowder and munitions of war. The cargo was sold at Porto Rico, and the Nancy then proceeded to St. Croix, where she was privately loaded with her return cargo, consisting of four hundred and sixty barrels of gunpowder, six long four-pounders, four chests of small-arms and other munitions of war, and with sundry articles of merchandise, belonging to Montgomery. After the reception of his cargo, by means of the cannon and some swivels, and other arms, Captain Montgomery converted his ship into a vessel-of-war, and sailed for the Delaware, in order that he might deliver his cargo at Philadelphia, according to his directions. When he approached the Delaware capes he was intercepted by two British ships-of-war. He succeeded in beating off the boats sent to capture him; but finding it impossible to escape capture, he ran his ship into shoal water, and commenced removing the powder and munitions of war to the shore, and securing them from capture, leaving the private property to its fate. He kept off the enemy's boats whilst he landed two hundred and forty-four barrels of the powder, the cannon, small-arms, and other munitions of war, with the aid of Captain Weeks, who commanded some American vessels-of-war within the capes. When he had so far succeeded in saving the cargo, one of the enemy's vessels approached within three hundred yards, cast anchor, and opened a destructive fire, whilst several boats filled with men approached for the purpose of boarding the Nancy. Finding it impossible to save more of the powder and private property, he left the vessel, having laid a train and match communicating with the powder, preferring to destroy both his vessel and the rest of her cargo rather than it should fall into the hands of the enemy. The boats' crews had scarcely taken possession of the vessel, when she was blown up with all on board, and, with the remains of her cargo, was destroyed. That part of the cargo which had been saved was transported to Philadelphia, and safely delivered to the agents of the Government. Subsequently, Captain Montgomery went to sea in a private armed ship, was captured by a British cruiser, imprisoned for a long time, and treated with great harshness, on account of the destruction of so many British sailors, by blowing up his vessel, as before stated. During his long imprisonment his mind became disordered, and during his voyage homeward, after his release, he leaped overboard in a fit of insanity, and was drowned, leaving a widow, who has been long dead, and the petitioner, his only child, then a small girl.

The petitioner prays that Congress will make her some compensation for the losses of her father, sustained in the destruction of his vessel, and for his patriotic conduct in saving the public property, then so much needed, to the neglect of his own, which he might have saved, instead of that which belonged to the public. A claim is set up for the value of this private property, shipped on board the Nancy on his own account. But of this no satisfactory evidence has been given, and the committee have been unable to form any estimate of its value. As to the other part of the claim, the main facts are fully proved by an affidavit of Captain Mendenhall, who was one of the crew of the Nancy, and cognizant of all the facts of the voyage, and the safe landing of the greater part of the munitions of war. The blowing up of the vessel and the saving of the gunpowder are stated in an original letter, filed with the evidence, from George Read, one of the signers of the Declaration of Independence, to his wife, dated the 6th of July, 1776, a few days after the occurrence. And, on the whole, the committee are of opinion that the facts before set forth are satisfactorily proved. If, as is alleged, the vessel was chartered for the purpose set forth, it is presumed no doubt could exist that the Government ought to pay; the destruction being beneficial to it, and inevitable under the circumstances, to prevent the vessel and her cargo from falling

into the hands of the enemy. Many claims of this kind have been paid.

The great difficulty in allowing this claim is its antiquity; but in this case the delay is satisfactorily accounted for. On a review of the whole case, the committee have come to the conclusion that the petitioner ought to be liberally remunerated to the extent of any loss sustained in the destruction of the vessel by her father. But, after the length of such a time, no evidence could be furnished of the value of the vessel. Any estimate would be conjectural; but as the claim is a just one, they have come to the conclusion to give her \$5,000, as a full and final satisfaction of her claim.

Mr. GREEN. The hour for the consideration of the special order has almost arrived. The Kansas question is occupying our time; and I have been instructed to notify the country and the Senate that on next Monday the friends of the bill will insist on coming to a direct vote, so that the intervening time had best not be wasted on any other subject. It has been discussed, to a greater or less extent, for three months; and, with two weeks direct discussion, we believe it can be fully investigated, so as to be ready for a vote full and fair.

The PRESIDING OFFICER. The hour for the consideration of the special order, which is the bill for the admission of the State of Kansas, has arrived.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. DOOLITTLE. Mr. President, the announcement just made by the Senator from Missouri, who is in charge of the bill reported from the Committee on Territories, that the majority of this body have determined upon Monday, one week from to-day, as the day upon which the final vote is to be taken, I confess, places me in a state of embarrassment. I look around me, upon this floor, and I see many men more able than myself to do justice to the question now before the Senate. I see many of them, almost all of them, more experienced than I am; and this announcement, I confess, as it comes home to my heart, raises within me a struggle which I had hoped not to have experienced. It is a struggle whether, in consequence of this announcement, I must restrict the utterance of all I would desire to say, or be compelled to trespass upon the time of others, who could do more justice to the question than is within my power. Mr. President, it is a subject which weighs me down; it is a subject upon which I feel most deeply; a subject upon which I can hardly find language to give utterance to all the emotions that rise within me; and yet, in duty to myself, in duty to the State which I have the honor in part to represent, in duty to the great mass of the free white laboring men of the North, I feel called upon to speak, to open my heart, on this floor, and on this question, and not to refrain from the utterance of my sentiments as they may arise.

Mr. President, before coming to the discussion of the direct question pending, I must be permitted to notice, in brief terms, some of the extraordinary doctrines announced by the honorable Senator from South Carolina, [Mr. HAMMOND,] who preceded me in the debate. Conscious of the strength of our own positions; conscious of the devoted patriotism which we bear towards the Constitution and the Union ourselves, we shall be drawn into no recriminations against the people or the institutions of South Carolina; although the honorable Senator was pleased, in the course of his remarks, to say, in speaking to the representatives and people of the northern States: "We cannot rely upon your faith when you have the power; it has always been broken whenever pledged." Does the honorable Senator from South Carolina, in serious earnest, intend to charge upon the great body of the people of the northern States all that this language implies? If he does, it is impossible for me to remain silent without giving him a passing answer. I ask the honorable gentleman when, and where, and on what occasion, have the people of the North broken their pledged faith, when given to the people of the South, or any other portion of the people of this Confeder-

acy? Was it in the passage of the ordinance of 1787? Who passed that ordinance? It was passed by the unanimous vote of Congress. Every vote from South Carolina was in its favor; every vote from every State within the Confederacy was in its favor, with the exception of a single vote, and that was cast by a gentleman from New York. Who, let me ask you, has ever sought to violate the pledged faith given by the ordinance of 1787? Has it been the people of the North or the representatives of the North?

Again, sir, who was it that passed the Missouri compromise? It was passed by the votes of the representatives of the southern States, against the votes of a majority of the representatives of the northern States. Who sought to break down the pledged faith which was given by the Missouri compromise? Was it the people of the North or the representatives of the North? Was it not the representatives of the southern States, with very few exceptions? But few of the representatives from the States of the North could be found who were ready to break down that, as one of the compromises of this Confederacy.

But again, how inconsistent is the charge made by the honorable Senator from South Carolina, when he claims, in the same breath, that for sixty years the slaveholders of the South have controlled the policy of the Government of the United States. Holding the Government in their power, controlling its administration, what right have they to complain of violated pledges and violated faith? They have made the pledges and they have broken them at their pleasure, having the power of the Government in their hands.

Mr. President, this wholesale and sweeping denunciation upon the good faith of the people residing in the northern States, and their representatives in Congress, is a denunciation which calls upon me, for one, to repel it. The truth of history, in my humble judgment, not only does not sustain the charge, but it furnishes not the slightest foundation upon which it can rest.

But the Senator from South Carolina makes some more specific charges, he asks some more direct questions, and says, when we, the representatives of the North shall take possession of the administration of the Government what guarantee have the South that "you will not plunder us with tariffs?" This, too, comes from South Carolina, which for years has studied in the school of its great master, a man of great intellect, of great purity of personal character, John C. Calhoun, the representative man of South Carolina, and the very man who was foremost among the advocates of the tariff policy, of which the gentleman now complains. I hold in my hand a volume which records the fact that Mr. Calhoun not only made an earnest and eloquent speech but gave his vote to establish, for the first time in the history of this Government, a tariff whose avowed object was the protection of the manufactures of this country. I quote an extract from the speech of Mr. Calhoun on the occasion of the passage of the tariff bill of 1816:

"When our manufactures are grown to a certain perfection, as they soon will, under the fostering care of Government, we will no longer experience these evils."—*Benton's Abridgment of Debates*, vol. 5, p. 641.

In April, 1816, it came to a final vote, and among others, Mr. Calhoun is found voting in the affirmative:

"And thus," says Mr. Benton, "was inaugurated a new policy with respect to the imposition of duties on imports." * * * "Protection became the object, and revenue the incident, and to such a degree as often to disregard revenue altogether, and a surplus of nine millions was actually created."

I do not stand here as the advocate of a high tariff; I do not stand here as the advocate of any protective tariff, except so far as a tariff for revenue may give incidental protection to the manufacturing interests of the country; but, sir, does it not come with an ill grace from the State of South Carolina to ask us, when we take possession of the Government, whether we will not plunder them with tariffs, when the great representative man of South Carolina, Mr. Calhoun, himself, was the early author and advocate of the very tariff policy of which the Senator complains?

Again, the Senator asks the question, what guarantee have the South that we will not create another national bank? This, too, comes from South Carolina! Sir, it was John C. Calhoun who, in 1814, introduced the resolutions of inquiry

in relation to the establishment of a national bank, and it was John C. Calhoun, in 1816, who, with others, brought forward and passed the very United States bank bill of which the gentleman complains. I am no advocate of a national bank. I have opposed that institution and its creation in every form within my power for twenty years of my manhood. I oppose it now. The question of a United States bank is no more a question of discussion before the American people, than the question of the revolutionary war, or the question of the last war with Great Britain. The battle has been fought, the victory won, the policy of the Government forever settled on that question, and the Republican party is no more in favor of the establishment of a national bank than the honorable Senator himself. But with what grace does it come from the Senator from South Carolina to raise the question whether, when we take possession of the Government, we may not establish a national bank, when it was the leader from South Carolina who introduced the very bank bill which cost us such a struggle to put down?

What guarantee have they, he asked again, that "we will not bankrupt" them "with internal improvements?" Sir, Mr. Calhoun, in the same speech from which I have already quoted, in 1816, advocated this very doctrine of internal improvement. In language, forcible, and in no way to be mistaken, he said:

"To give perfection to this state of things, it will be necessary to add, as soon as possible, a system of internal improvements."

I stand here as no advocate of a general system of internal improvements by the Government of the United States. I stand here as the advocate of the doctrine laid down by General Jackson in his veto of the Maysville road bill; but, at the same time, I am ready, so far as I am able, to oppose the pretense that the whole expenditures of public money in relation to the protection and regulation of our commerce must be upon the seashore; where the water is salt, and the tide ebbs and flows; and at the same time no money is to be expended upon the great lakes, over which more commerce floats than the whole value of the cotton crop of which the honorable gentleman spoke in such eloquent terms. Against any such distinction, I, for one, am prepared to give my vote, my voice, and my influence.

The honorable Senator, in coolly looking upon the division of this Union into two great confederacies, North and South, and in comparing and in calculating their strength, their greatness, and their resources, dwelt at very great length upon the value of the cotton crop produced in the slaveholding States. I do not stand here to disparage any one of the southern States. I know their greatness, and I take pride in it. I claim the southern States as a part of this glorious Confederacy to which I myself belong. I acknowledge the greatness of the cotton crop produced there as an article of export. I acknowledge the great influence which it exercises throughout the manufacturing and commercial world; but while I acknowledge all that, the gentleman will not regard it unkind in me if I remind him of the fact that the cotton crop, with all its boasted value, is not worth as much as the hay which the farmers of the United States put into their barns.

Again, the honorable Senator said, in comparing the southern with the northern States, that we have our slaves, and that our slaves are white. I will quote his precise language:

"Your whole class of manual laborers and operatives, as you call them, are slaves." * * * "Your slaves are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than an army with bayonets, and could combine, where would you be?"

I do not deny that in the large cities of the North, or in the large cities of the South, or where ever large cities are found on the face of the whole earth, where riches in abundance, and poverty in its degradation, are brought together face to face, and concentrated; where all that attends upon vice, poverty, and crime, is developed to the greatest extent, the children of misfortune, vice, poverty, beggary, and crime, may be found. They may be found in the streets of the city of New York. Are they not also in the streets of Baltimore, in

the streets of Charleston, in the streets of New Orleans? The reason why there are more in the city of New York than in any other of the cities of the Union, is because it is the great commercial center of this continent, open to the commerce of the world, receiving the influx of population from every portion of the globe.

If the honorable Senator had confined his remark to those specimens of misfortune which are to be found in the large cities of the North, I should have given it no notice whatever; but he says a majority of our people, a majority of the voters in the northern States, are slaves. This remark compels me to notice it. I could not do otherwise if I would. In behalf of the great State which I now in part represent upon this floor, four fifths of whose population earn their daily bread by their own labor, all of whose population regard labor as dignified and honorable, and not as a degradation, I repel the imputation. I should be false to them if I did not repel it now and here. I should be false to myself, false to my own education, and false to my own parentage, if I failed to do so. Sir, the very blood that courses in these veins rises up to repel any such charge. Am I to be told on the floor of the Senate that, because my own father was a poor laboring man when he commenced the great battle of life, I am to be regarded as the son of a slave? There are others around me who will feel as deeply as I feel, the full import of this declaration, and who cannot suffer it to pass unnoticed.

As one of the representatives of the free white men of the non-slaveholding States, I tell the honorable Senator they are not slaves now, nor will they be made slaves. They understand full well their power and their position and their future destiny upon this continent. They know no masters; they acknowledge no dictators. They kneel to none but God, and not even then unless in their own way.

When I last addressed the Senate, Mr. President, I said all that I desired to say in relation to the often-repeated intimation which we hear upon this floor and elsewhere, that unless Kansas be admitted into the Union at once under the Leecompton constitution, the Union is to be dissolved. Sir, this is but an appeal to our weakness, to our apprehensions; it is not an appeal to our judgment and our understanding. I propose, as briefly as I may, to go into an examination of the merits of the question now pending before the Senate. In the first place, and admitting for the present the legality and authority of the Legislature of the Territory of Kansas which was elected, or claims to have been elected, in the spring of 1855: standing for the present upon the ground assumed by the friends of this measure, the question which I now propose to examine as a legal question is this: whether the Leecompton constitution is of binding authority on the people of Kansas? Has it the force of a law upon that people, binding upon them, and binding also upon the States, and the people of the United States?

This involves some other questions. The first among them is, whether the people of a Territory can, of their own voluntary motion, without any enabling act by Congress, without any act by the Territorial Legislature, independent of all existing legal authorities, form and establish a system of government to overturn an existing Government, and make it legitimate, authoritative, and binding upon the people? As an American citizen, maintaining the doctrines of the American Revolution, I admit that, as an abstract right, any people possesses the right to change the form of their government and make that government conform to their own will; but that is a revolutionary, not a legal right. It is a right which rests not upon the law, but a right which is above and before and beyond the law itself. It rests upon the higher law of the absolute sovereignty of the people, if there is any absolute sovereignty in human affairs. But it is a right to be exercised only as a revolutionary right. When the evils of an existing government become intolerable, and there is no peaceable mode of redress, or when there is a people existing without any government at all, they may exercise, and properly exercise, this abstract revolutionary right to commence and take incipient steps from the beginning to form and to establish the government under which they are to live. There is another qualification to the exercise of this right; and that is, that there should

be a moral certainty of success. Whoever undertakes to revolutionize a government, to disturb the existing state of things, to supersede the established government and make it give place to another, must carry the revolution through; he must carry it to victory, to success, or he must pay the penalty for producing a rebellion.

If it be conceded that in the Territory of Kansas any such state of things has existed as to justify the exercise of this revolutionary right by the people themselves, independent of any enabling act by Congress, or any act of the Territorial Legislature—what follows? It follows that the Topeka constitution, established by the people of Kansas, by their own voluntary action, twice submitted to that people, twice ratified by that people by overwhelming majorities, is the true revolutionary constitution for that State, and not the Lecompton constitution. If, therefore, you are to throw yourselves back upon the abstract right of revolution, you prove conclusively, not that Kansas should be admitted into the Union under the Lecompton constitution, but that it should be admitted into the Union under the Topeka constitution.

But, sir, I shall not dwell any longer upon that point, for that is not the ground which is assumed by the advocates of the Lecompton constitution. They place themselves upon the ground that the Lecompton constitution is not a revolutionary constitution, but that it is a legally authorized constitution, of binding authority itself; that it has the force of a law binding upon the people of Kansas. Those who advocate it do not choose to inquire whether it has been ratified by the actual majority of the people of Kansas, nor whether it embodies their will. They do not inquire, is it fair? is it just? but, is it authoritative? is it "in the bond?" As a legal question, therefore, the first point which I desire to examine is, upon what do you rest the legal authoritativeness with which you seek to clothe the Lecompton constitution? The President rests it upon the Kansas-Nebraska act, as an enabling act, and upon the act of the Territorial Legislature, passed in pursuance of it, as he alleges, which gave it the authority of law. The honorable Senator from South Carolina [MR. HAMMOND] derives it from altogether a different source. He says "there is no government in the convention until after the adoption by Congress of its constitution." "How can it be possible that the convention should be the creature of a Territorial Legislature?" he asks; and again he says, speaking of the Territorial Legislature:

"Shall that interfere with a sovereignty—inchoate, but still a sovereignty." "The sovereignty of Kansas resides, if it resides anywhere, with the sovereign States of this Union."

He places the sovereignty of the Territories in the States, and says the sovereign powers to be exercised over them while Territories, are to be exercised by Congress, and by Congress alone. The Senator from Tennessee [MR. JOHNSON] traces the authority of this convention, and places its sovereignty not in Congress, not in the United States, not in the Territorial Legislature, but in the people of the Territory of Kansas, independent of the Territorial Legislature, and independent, also, of an enabling act by Congress; while, upon the other hand, the Senator from Georgia, [MR. TOOMBS], derives its authority from another source altogether. You will remember that in the course of his speech, on the 2d of February, I put this question to him, "From what source do you derive the legal authority of the convention to form a constitution at all? From the Legislature of the Territory?" He answered:

"Entirely from the Legislature of the Territory. If the authority came from Congress we should be bound by any propositions we made. If it comes from the Territorial Legislature, we may accept or reject the propositions."

Now, Mr. President, when we come to examine this question as a legal question, does it not strike you that there is some strange conflict of opinion among the friends and advocates of this Lecompton constitution. One placing the source of its authority entirely in Congress as the representative of the sovereign States; another placing it in the people of the Territory independent of Congress, and independent of the Territorial Legislature; and a third deriving its authority entirely from the Legislature of the Territory. Where is this vagrant power? In examining a legal question, the mind desires to be brought right up to the point, to meet it squarely, face to face. Where

is it to be found? Where shall we seek the fugitive? Now here, now there, now somewhere else. Now it hides itself in Congress; now in the Territorial Legislature; and then again it is found hiding itself among the people of Kansas, to be exercised by them independent of the Territorial Legislature, and independent of the act of Congress.

I have already said that if it resides in the people, to be exercised as an abstract revolutionary right, the Topeka constitution is the true constitution of Kansas; but I propose to examine a little more particularly the ground which has been assumed by the honorable Senator from Georgia, for that is the ground on which the President places himself, and upon which the advocates of this Lecompton constitution must stand, or not stand at all; and that is upon the authority derived from the Territorial Legislature of Kansas.

The Legislature of a Territory derives its powers from the organic act. The persons who may be elected to the Legislature are chosen by the people of the Territory under the provisions of that organic act, but every power which may be exercised must be found in the organic act, or it cannot be found at all. If it be not within the organic act, it is nowhere; and it therefore necessarily involves the question: whether in the organic act under which the Territory of Kansas was organized, any such power was given by the Congress of the United States? If it be not in the organic act, the action of those gentlemen who happened to sit in the Legislature that called the convention is of no more binding authority than the action of the same number of gentlemen sitting at Topeka or anywhere else in the Territory of Kansas. That which goes beyond the authority given is of no force. It is void; and void things are as no things; and that is the language of all the books in speaking upon this subject.

The same doctrine was expressly affirmed in the case of Arkansas, by the administration of General Jackson. The opinion of the Attorney General was taken, and it became a subject-matter, undoubtedly, of consultation by the Cabinet; and it received the sanction of that illustrious man. The same thing is true in the case of Michigan; and the present Chief Magistrate of the United States, Mr. Buchanan himself, declared on this floor, when Michigan applied for admission, that, if a Territorial Legislature, without an enabling act first passed by Congress, should attempt to call a convention and form a State constitution to supersede the territorial government, it was a downright usurpation—I use his very words—it would be "a downright usurpation on the part of the Territorial Legislature."

Does the Kansas-Nebraska act itself confer any authority upon the Territorial Legislature to call a convention to form a constitution and State government? In what language of that act do you find it? Is it in that language which confers all rightful powers of legislation upon the Territorial Legislature? That is just such language as is found in all the organic acts, commencing with the organization of Mississippi and Orleans; and in the organic act for the Territory of Missouri the same language is used. Is it to be found in those often repeated words:

"It being the true intent and meaning of this act not to legislate slavery into any State or Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States?"

Do these words contain it? I shall not go over this ground at length. The argument contained in the speech of the honorable Senator from Vermont, [MR. COLLAMER], and the argument contained in the report of the honorable Senator from Illinois, [MR. DOUGLAS], are perfectly conclusive upon this point, that the Kansas-Nebraska act of itself did not contain a provision authorizing the Legislature of the Territory to call a convention; and the fact that the men who sat in that Legislature called it, gives it no more force than if an equal number of clergymen sitting at Lecompton had done the same thing.

I will briefly state three reasons which have occurred to my mind, and which are equally binding on all sides of this Chamber: First, the Kansas organic act contains no express grant of power to the Legislature to call a convention; second, no such power can be implied from the circumstances under which the act was passed, or from the his-

tory or condition of the Territory at the time it was passed, for there were not, I believe, over five hundred white inhabitants in the whole of the Territories of Nebraska and Kansas at the time of the passage of that bill; and, third, if you claim that this language contains an enabling clause, it is utterly void for uncertainty. It mentions no time, prescribes no mode, in which the initiative; the incipient step may be taken towards the formation of a constitution. A portion of the people of that Territory, represented by delegates, assembled at Lecompton, have undertaken to form and regulate their domestic institutions in their own way; and a certain other portion, and a still larger portion—a majority of three, yes, five to one—of the people of the Territory, represented by their delegates at Topeka, have undertaken to form and regulate their domestic institutions in their own way. Now, which is the legal way? Which is the way pointed out by the statute? There is no legal way pointed out. You cannot see what is not to be seen. There is no such thing contained in it.

I have one other additional reason which I wish to urge upon those who advocate the passage of the bill admitting Kansas with the Lecompton constitution. In these days, when estoppels are being pleaded upon political questions; when it is insisted that, by some technical rule of the law, the people of Kansas are to be estopped by this Lecompton constitution; I desire to plead an estoppel in behalf of that people upon some honorable Senators upon this floor. On the 2d of July, 1856, upon their official oaths as Senators in this body, Messrs. Allen, Bayard, Bell of Tennessee, Benjamin, Biggs, Bigler, Bright, Brodhead, Brown, Cass, Clay, Crittenden, Douglas, Evans, Fitzpatrick, Geyer, Hunter, Iverson, Johnson, Jones of Iowa, Mallory, Pratt, Pugh, Reid, Sebastian, Slidell, Stuart, Thompson of Kentucky, Toombs, Toucey, Weller, Wright, and Yulee, by their votes here, declared that the Kansas-Nebraska bill was not an enabling act; for on that day they voted to create an enabling act for the people of that Territory. If estoppels are to be pleaded against the poor down-trodden people of Kansas, when they have been tyrannized over by a meager minority, backed up by the Army, and the whole force of the Government of the United States, I beg leave, also in their behalf, to plead an estoppel against those gentlemen who are pleading this Lecompton constitution as an estoppel against them. As against the President of the United States, or rather as against this Administration, I will also plead an estoppel. This Administration claims to be estopped by the action of the last Administration from raising any question as to the legality of the Legislature of 1855; that the people of Kansas are to be estopped from saying anything about the usurpation which then took place in that Territory; that they must submit to that Legislature, and to all that follows as the consequence of that submission. The last Administration officially declared, (and the present Administration should be bound by it,) in effect, that there was no enabling act then in existence for Kansas, and that it was necessary that Congress should intervene to pass an enabling act for that Territory. President Pierce said, in a special message to Congress, in January, 1856:

"This, it seems to me, can be best accomplished by providing that when the inhabitants of Kansas may desire it, and shall be of sufficient numbers to constitute a State, a convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution, and thus prepare, through regular and lawful means, for its admission into the Union as a State. I respectfully recommend the enactment of a law to that effect. I recommend, also, that a special appropriation be made to defray any expense which may become requisite in the execution of the laws or the maintenance of public order in the Territory of Kansas."

It follows of necessity, if there is no enabling act contained in the organic act of Kansas Territory, the whole pretended authoritativeness of this Lecompton convention necessarily comes to the ground, and the constitution of necessity must fall with it. But, sir, I go one step further. Still standing on the grounds assumed by its advocates, conceding, for the moment, that such a power is contained in the organic act as an enabling clause, what follows? The power thus given, is given to the Territorial Legislature, and it just as much belongs to the Legislature of 1857, as to the Legislature of 1855. The powers of the present Legislature are equal to the powers of the Legislature which called the convention to frame this consti-

tution; and what that Legislature failed to do, this Legislature would have the power to do. If, when Governor Geary vetoed the bill passed by the Legislature of the Territory, instead of overriding his objections, they had provided, as he desired, that the constitution, when formed, should be submitted to a vote of the people for their ratification or rejection, does any person doubt that such a provision would be legal and binding on the convention? The Legislature is to have the power, if it have any, to prescribe for the authentication of the proceedings of the convention; for the mode of calling it; for the mode of certifying it. I do not say that the Legislature would have the right to prescribe what the convention should declare as the will of the people of Kansas in the formation of their government: not that the Legislature could declare properly what the constitution should or should not contain; but the Legislature, if it is to have any power, has power to give authenticity to the act of the convention; the mode of proving it; the mode in which the will of the people is to be expressed. The authority which one Legislature could exercise, another Legislature could exercise, and exercise at any time before the constitution framed by the convention, and the rights of the citizens under it, become fixed and vested; before it takes effect as a binding instrument. At any time before it becomes like a deed, executed, sealed, and delivered, the Legislature of the Territory have the right to intervene, to require an additional authentication, before it shall go forth as the expressed will of the people of Kansas. I know it will be urged that the convention might at once, under the law as it stood, have declared the constitution to be in force from the moment of their adjournment. But if they had that power, they did not exercise it. Instead of exercising the power of declaring that constitution to be in force, they referred it back, or a portion of it at least, for revision by the people before it should take effect. They declared "this constitution shall take effect and be in force from and after the ratification by the people, as hereinbefore provided." From and after the ratification it is to take effect; not before. When was that ratification to take place? On the 21st day of December. Before the 21st of December the Legislature of the Territory, then in session, passed a law requiring the constitution to be submitted to the people for their ratification or rejection entire; and that law passed and took effect four days before the constitution took effect. Under that law, the constitution was submitted in fact to a vote of the people of the Territory, and was rejected by a majority of over ten thousand. If the constitution could not take effect until the 21st of December, it was still an unexecuted instrument; it was still like a deed undelivered, or a will, if you please, while the testator is still living; the time had not arrived when it was to take effect. Before that time arrives, the law-making power intervenes, and requires an additional certificate to its authenticity. Why, sir, take the simple case of a deed: you give a power of attorney to an individual to execute a deed; under that power he would have the absolute right to execute it, acknowledge it, and deliver it; and it would take effect against you. But suppose, instead of executing it and delivering it, he may have some doubt about some clause contained in it—the description, perhaps—and he sends it back to you to take advice on that question; and while the deed is being sent back, while the deed is in your hands still undelivered, the law-making power intervenes, and provides for an additional authentication; that instead of one, there shall be two witnesses, and instead of acknowledging it before one commissioner, you shall acknowledge it before a judge, to give it effect: what effect would that law have upon this instrument? It would prevent its taking legal effect as an instrument, because it was not in fact executed, sealed, and delivered, when the law intervened, and you refused to give it the additional authentication. The law of principal and agent is the same, from the simple servant-boy sent upon an errand by his master, his authority resting in parol, in mere word of mouth, to the envoy extraordinary and minister plenipotentiary from Great Britain, commissioned by letters patent under the great seal of the Crown. It is just as true as to the one as the other, that at any time, at any moment before the authority is executed, the power may be re-

voked or modified, or rescinded altogether by the principal.

On this point, then, I maintain, in the first place, that no authority has ever been conferred upon the Territorial Legislature to call a convention to form a constitution for the people of Kansas; but if any such authority is anywhere to be found within the clauses of the organic act, the Legislature of that Territory lately elected, clothed with all the power which was given to the first, before the constitution became an executed thing, having force and effect, according to its own language, passed an act by which it was required that there should be an additional authentication of that instrument. I know that the gentlemen on the other side may say that this is a technical objection; that it is standing upon technical grounds. Is it not upon legal technicalities alone that they rest their defense of this constitution? Do they rest upon its justice or its fairness, because it is binding upon that people in honesty and good faith? No, sir. They rest upon it because they say it is technically the legally expressed will of the people of Kansas. If they choose to stand upon technicalities, it is just that they should fall by technicalities. If they will plant themselves upon the harsh rigor of the law, though it shall trample truth and justice and liberty under the iron heel of despotic power, let them remember that the same rigor of the law may bring that policy to the block. Take your "pound of flesh" if you will, because it is written in the bond; but not "one drop of Christian blood," because it is not written in the bond; "for, as thou urgest justice, be assured thou shalt have justice."

But, Mr. President, waiving these technicalities, advancing one step further in the examination of this important question whether Kansas should be admitted into the Union under the Lecompton constitution, I desire to examine whether, in a more enlarged or liberal sense, the Lecompton constitution is binding in equity upon the people of Kansas, even if you go upon the ground that the Legislature of 1855 was the legal Territorial Legislature of Kansas. I shall not controvert the doctrine which is assumed upon the other side; for I believe it to be true, that if a fair opportunity to vote be given, and a majority of a people choose to refrain from exercising that franchise, and stay away from the polls, they cannot complain of those who may choose to exercise that prerogative. They, by staying away, silently acquiesce in whatever the majority may do who choose to vote.

Now I come to the all-important question so often put upon this floor, and repeated in public newspapers and in private conversation, why did not the free-State people of Kansas, if they are in a majority, as they claim to be so largely, go to the polls and vote for delegates to the convention which framed this constitution? There are, in my judgment, good and sufficient reasons why the election which took place for delegates should not be pleaded as an estoppel upon the people of Kansas—why they should not be concluded by its results; and I will briefly state some of them. The first is, that nearly one half of all the organized counties of that Territory were disfranchised, and without any fault of their own. They could by no means whatever take any part in the election of delegates, if they would. Mr. Walker, in speaking on that subject, says:

"That convention had vital, not technical defects in the very substance of its organization under the territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly-organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken, and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates based upon such census. And in fifteen of these counties there was no registry of voters.

"These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention."

Mr. Stanton, the acting Governor of Kansas, under whom this registry was made and this census taken, says:

"There are thirty eight counties, gentlemen, in the Ter-

ritory of Kansas, including the distant county of Arapahoe, In nineteen of these counties an imperfect register was obtained, giving a vote of nine thousand two hundred and fifty-one. In the other nineteen counties there was no census and no registration."

Now, I should like to know if this of itself is not a sufficient answer to the claim that the people of the Territory of Kansas are to be concluded by the action of that convention, that nearly one half, or quite one half of all the organized counties of the Territory, by no fault of their own, were entirely disfranchised? What reply is there to this?

But, again: in the other nineteen counties the census taken and registry made were so notoriously false and fraudulent, both in the omission of resident voters and in the insertion of the names of non-resident voters, that the people of the Territory could not be called upon, and in justice ought not to be called upon to place any confidence whatever in the fairness of the election to which they were invited. As this is the important point involved in this case, I must ask the indulgence of the Senate while I read some authority for the truth of what I now state. The Leavenworth Times, a paper published at the city of Leavenworth, in an article published directly after this census was completed, said:

"Instead of reporting to the probate judge the names of all the legal voters of that county," he has omitted by fraud, accident, or mistake, at least one hundred free State voters in this town alone, many of whom are among the first settlers of the Territory, and are now among the most prominent men of the county. C. F. Currier, M. J. Parrott, H. J. Adams, (since chosen Mayor of Leavenworth by a large majority,) H. Miles More, E. Ross, H. P. Johnson, Jared Phillips, and many others who might be named, are men well known to the officer who took the census, and have a bona fide residence in this town, and have lived here longer than one half of the persons whose names have been registered."

All of these gentlemen were prominent men living in the city of Leavenworth, well known to the officers who took the census. It further says that there were three printing offices in the city of Leavenworth; two of them free-State printing offices, and one a pro-slavery printing office. In taking the census not a man belonging to either of the free-State printing offices was placed upon the registry.

Again, sir, I read an extract from the history of Kansas and the administration of Governor Geary, by Dr. Gihon, the private secretary of Governor Geary. In speaking of this law and the taking of the census under it, he says:

"It provides for the taking of a census preparatory to an election to be held in June, 1857, for delegates to a convention to frame a State constitution, to be presented to the next Congress for its approval. At the election no citizen is allowed to vote who was not in the Territory on or before the 15th of March. The census takers and judges of election are the sheriff and other officers appointed by the pro-slavery party, and bound to its interests.

"Agreeably to this regulation, hundreds of free-State men who had been forcibly driven from their claims and homes during the past year's disturbances, and who, in consequence of the difficulty of travel, could not return until after the 15th of March, were disfranchised, as were also the thousands of emigrants that were expected to arrive after that period, and prior to the day fixed for the election. Whilst on the other hand, thousands of Missourians could simply cross the border into the Territory, register their names as voters, and return to their homes to await the election. But even that trouble was at length considered unnecessary, for the sheriffs and census takers found it more convenient to carry their books into Missouri and there record their names. Although 'this was really done, the names of many of the most prominent and oldest free-State residents of the Territory were never registered.'"

To what kind of an entertainment were the people of Kansas invited when they were invited to take part in that election under such a registry and such a census as that?

There is another reason why the people of that Territory should not be concluded and estopped by the election of delegates to the convention. It is this: by the written pledge of honor given by several of its members previous to their election, the people of Kansas were assured, and they had reason to believe, that the constitution to be formed at Lecompton should be submitted to them for their approval or rejection. I read the pledge:

To the Democratic voters of Douglas county:

It having been stated by that abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolution, which was adopted by the Democratic convention which placed us in nomination, and which we fully

and heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN, A. W. JONES,
W. S. WELLS, H. BUTCHER,
L. S. BOLING, JOHN M. WALLACE,
W. T. SPICELY, L. A. PRATHER.

LECOMPTON, KANSAS TERRITORY, June 13, 1857.

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas, and to mold the political institutions under which we, as a people, are to live, unless he pledges himself, fully, freely, and without reservation, to use every honorable means to submit the same to every *bona fide* actual citizen of Kansas, at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers of this Territory, as the majority of voters shall decide."

The "slander" was, that they were not about to submit the constitution, to be formed by the convention at Lecompton, to the people for ratification or rejection!

Mr. GREEN. If the Senator will permit me, I desire to ask him the question, how those gentlemen voted in the convention on the question of submitting the constitution or not submitting it? I desire, also, to call his attention to this other fact: if the law calling them, or the proclamation of the Governor, or any other common understanding of the country, created a just expectation that the constitution would be submitted, why was it deemed necessary to exact a special pledge in the county of Douglas? How did they vote? I will answer, that they all voted in favor of submission; but they were overruled by the delegates of other counties.

Mr. DOOLITTLE. The Senator from Missouri asks the question, how these gentlemen voted in the convention? They may have voted, as he alleges, for the submission of the constitution. I am not at this moment advised, of my own knowledge, of the fact, but it, in no respect whatever, varies the inducements which were held out to the people of Kansas to believe that the constitution would be submitted for their ratification or rejection. This pledge was signed by Mr. Calhoun and the leading men of the convention; and the pledge was given under such circumstances that it affected not merely the electors of Douglas county, but affected the action of the electors throughout the whole Territory.

Here I will notice a point which was taken by the honorable Senator from Mississippi, [Mr. Brown.] He claims that these men were released from their pledge by those persons who elected them—by their political friends. He felt the force of the blow and endeavored to parry it, but the answer which he gives is, in my judgment, just no sufficient answer. A pledge given by a public man before an election may just as well affect the action of those who oppose his election as those who sustain it. It may induce them not to vote against him. It may induce them not to take any part to prevent his election. But there is another reason why the people of the Territory of Kansas should not be estopped by the result of that election, and that is this: the Administration at Washington, in every form in which an Administration can be bound in honor and in good faith, gave the people of Kansas to believe, and to understand, that it was a part of their policy on which they would insist, that the constitution about to be formed at Lecompton, in Kansas, should be submitted to the people of that Territory for their ratification or rejection. I maintain that by the action of the President himself, by his own inaugural address, in which he declared it to be "the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant the free and independent expression of his opinion, by his vote;" by his instructions to Governor Walker, in which he declared in his official capacity, "when such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or against that instrument, and the fair expression of the popular will must not be interrupted by fraud or violence;" by the often repeated declarations of Governor Walker himself to the people of Kansas, that he accepted of the appointment of Governor of Kansas upon the express condition that he should advocate the submission of the constitution to the people of Kansas, for their ratification or rejection; by his declaration to the people of Kansas, that it was so understood by the President, and every mem-

ber of his Cabinet, that it was acquiesced in by them, that in that respect, he and the President, and the Cabinet were united, that the constitution should be submitted to the people for their ratification or rejection; by all these assurances the people of Kansas had the right to believe, and they did believe, that the Administration stood pledged to the submission of the constitution to a fair vote of the *bona fide* actual settlers of the Territory, without being interrupted by fraud or by violence. How could they think otherwise? How could there be two opinions about it? Has it, indeed, come to this that no meaning is to be given to the inaugural address of the President of the United States while his oath of office is yet warm upon his lips? What a spectacle do we present to the whole civilized world! Have we indeed descended so low in the depths of official demoralization, that the people of the United States can no longer place any reliance upon the official messages, proclamations, and declarations of their highest functionaries?

Sir, I maintain that the people of Kansas had the right to believe, and they did believe, that the Administration, through its chosen organs in Kansas, Governor Walker and Secretary Stanton, as well as by the inaugural address of the President, and the letter of instructions to Governor Walker, stood pledged—pledged in honor, pledged in good faith—that the constitution to be formed at Lecompton should be submitted for their ratification or rejection. They had a right, not only to believe it, but to insist upon it; and the people of these United States, who are about to take this whole Kansas policy into their own hands, have a right to insist that the Congress of the United States shall see to it that every pledge and assurance thus given shall be, in letter and in spirit and in perfect good faith, fulfilled to the people of Kansas; that no such instrument, formed as this Lecompton constitution was, shall be forced upon that people against their will.

The President insists that the whole opposition of the people of Kansas to the Lecompton constitution grows out of the slavery question, and further, that the slavery question has been fairly submitted to the people of Kansas, and they should be concluded by the result of the election upon that submission. With all due deference to the President of the United States, I shall maintain that the slavery question was more important than any other one question which agitated the people of Kansas, yet there are many other grounds of opposition to the adoption of the Lecompton constitution by the people of Kansas, upon which they had no opportunity to vote whatever. Governor Walker says:

"I state it as a fact, based on a long and intimate association with the people of Kansas, that an overwhelming majority of that people are opposed to that instrument, and my letters state that but one out of twenty of the press of Kansas sustains it. Some oppose it because so many counties were disfranchised and unrepresented in the convention. Some who are opposed to paper money, because it authorizes a bank of enormous capital for Kansas, nearly unlimited in its issues, and in the denomination of its notes, from one dollar up and down. Some because of what they consider a Know-Nothing clause, by requiring that the Governor shall have been twenty years a citizen of the United States. Some because the elective franchise is not free, as they cannot vote against the constitution, but only on the single issue, whether any more slaves may be imported, and then only upon the issue by voting for the constitution to which they are opposed. They regard this as but a mockery of the elective franchise, and a perilous sporting with the sacred rights of the people. Some oppose because the constitution distinctly recognizes and adopts the Oxford fraud in apportioning legislative members for Johnson county, upon the fraudulent and fictitious returns, so falsely called, from that precinct, which recognition of that fraud in the constitution is abhorrent to the moral sense of the people. Others oppose because, although in other cases the presidents of conventions have been authorized to issue writs of election to the regular territorial or State officers with the usual judges, with the established precincts and adjudication of returns, in this case unprecedented and vice regal powers are given to the president of the convention to make the precincts, the judges, and to decide finally upon the returns."

"From the grant of these unusual and enormous powers, and from other reasons connected with the fraudulent returns of Oxford and McGee, an overwhelming majority of the people of Kansas have no faith in the validity of these returns, and therefore will not vote."

But I maintain that the slavery question in no just sense was submitted to the people of Kansas at all. The only question submitted to them was the constitution with slavery under the slavery article; or the constitution with slavery under the slavery schedule. It was to be a slave State in any event. So it was understood by all the politicians and presses who are to be regarded as

among the leaders of the slavery extending policy. The Charleston Mercury says:

"We do not think that the question of slavery or no slavery is submitted to the vote of the people. Whether the clause in the constitution is voted out or voted in, slavery exists and has a guarantee in the constitution that it shall not be interfered with."

It is expressly provided in the constitution that if the slavery article be stricken out, the property in the slaves then existing in the Territory shall never be interfered with. So far as the slaves then-existing in the Territory are concerned, it is much more severe under the schedule than it is under the slavery article. Under the slavery article it is provided that you can emancipate the slaves in the Territory upon making compensation. Under the slavery article, it is provided that you can prevent the importation of slaves even into the Territory after you have abolished slavery within the State of Kansas.

But let us look a little more closely into the provisions of this constitution, as to the question whether slavery was actually submitted at all to the people of Kansas. I call your attention, and the attention of any person accustomed to the consideration of legal questions, who has a seat on this floor, and I put home the question to him: how, if the slavery article were stricken out of the constitution of Kansas, could a free negro, by whatever means taken into the Territory of Kansas, assert his freedom? If a slaveholder living in Missouri should embark his slaves on board a boat to cross the river into Kansas, and land with his slaves upon the soil of Kansas, with your slavery article stricken out, how could they obtain or assert their freedom? One provision in this constitution declares that "free negroes shall not be permitted to live in Kansas, under any circumstances." There is another provision which declares that no freeman shall be exiled from Kansas. A negro, therefore, if free, shall not live in Kansas; and a negro, if free, shall not be exiled from Kansas. How can he assert his freedom? Can he go into any court in Kansas and assert it? If he apply for a *habeas corpus*, if he bring a suit for his freedom, he is estopped by the constitution from saying that he is a freeman—a free negro in Kansas.

Sir, under the provisions of the Lecompton constitution, a free negro could not enter the courts of Kansas alive, and be permitted to say, "I am free." He is estopped from saying that he is a free man anywhere on the soil of Kansas, under that constitution, even with your slavery article stricken out. Under that constitution, no matter by what means a negro is taken there, but one alternative is presented. The courts of Kansas will not suffer him to enter alive, and say that he is free; the courts of the United States are closed against him because of his African descent. There is, therefore, under that constitution, but one dread alternative presented to a negro in Kansas, by whatever means he goes there—slavery or death. He has no remedy whatever. Take it all in all, the greatest mistake—I ought to say, the boldest and the most unfounded of all assumptions by which it is sought to bolster up the Lecompton constitution—is the assumption that the question of slavery was ever submitted at all to the people of that Territory. I know of but one bolder and more unfounded assumption, and that is, that it was fairly submitted to the people of the Territory.

For one moment I should like to go with one of the honorable Senators upon the other side of the Chamber, back in imagination to the 21st of December. Let us suppose that we placed ourselves at the polls in Kansas, desiring to exercise rights as citizens of Kansas. From our position and education and convictions, it would be very reasonable to suppose that we might differ entirely as to the policy of the introduction of the institution of slavery into that State. I should desire to vote against it. He might desire to vote in its favor. We present ourselves at the polls. He challenges my vote; I challenge his. Before either of us can deposit our ballots, we are required to take an oath to support this constitution when it is adopted, and as there can be no vote whatever against it, it must of necessity be adopted. We look into its provisions. We find incorporated into the body of that instrument, and as a part of its very essence, its representation based upon the fraudulent votes and returns from Johnson

and McGee counties. I wish to put this question to him: could you take that oath and swear to support such a constitution, embracing within its provisions what is known to all the world to be infamously fraudulent?

But again, sir, I will go one step further. If the slavery article is adopted, it contains the following clause:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever."

I put the question home to the honorable Senator from Louisiana, [Mr. BENJAMIN.] suppose the schedule had provided that, in case this slavery article should be stricken from the constitution, the following should be substituted:

"No right of property exists or can exist in man or his offspring; slaves are the fruit of the slave trade, which is declared to be piracy, and punishable with death; slaveholding under all circumstances is a felony, and shall be punished as a crime."

I ask the honorable Senator, could he conscientiously take an oath to support a constitution containing such a provision? Sir, I know not how others may feel, but I would not take an oath to support a constitution which declares the right of property in man to be higher and above any constitutional sanction, and that in that respect the constitution should never be altered. I would not take an oath to support such a constitution under any circumstances—no, sir, though the grave should open before me in one single hour.

The oath which I have supposed to have been put to the Senator from Louisiana was not put to the pro-slavery voters in Kansas to compel them to remain absent from the polls and take no part in the election; but precisely that oath, which I have supposed to be put to myself, was put to every free-State man in Kansas who would offer to vote upon the constitution—an oath, against which his whole early education, every principle which he maintains, revolts. It produced precisely the effect which was intended—it drove the free-State men from the polls *en masse*. It effected precisely that, and that only, for which it was deliberately contrived and intended. I ask the honorable gentleman, is it just or fair to say that the people of Kansas, the free-State men of Kansas, have had an opportunity to vote on this question, when, as a precedent to their voting, you compel them to take an oath which they cannot take without bringing moral perjury upon themselves? If it had provided that a pro-slavery man, who desired to vote for the introduction of slavery, should take an oath that it was a crime and a felony under all circumstances, would that be a fair submission to a pro-slavery man? When it is contended and maintained by the President of the United States that the question of slavery has been fairly submitted to the people of Kansas, I assure you, sir, it must be based upon some logic which I cannot understand, which the people of the United States do not understand, and cannot be made to understand. There must be a "delusion" somewhere.

But, to return, the election was soon to come off in Kansas. The constitution itself was not submitted to the people; they were to have no fair opportunity to vote upon the slavery question; what was to be done? Let Mr. Stanton, acting Governor of the Territory, under these circumstances, speak for himself. Speaking of the condition of the people of the Territory, under these circumstances, and as this vote was about to be taken, he says:

"You may well imagine they were deeply excited; they were stirred to the very depths of the popular heart."

Mr. GREEN. Let me ask the Senator when he said it.

Mr. DOOLITTLE. In his speech in New York.

Mr. GREEN. Ah.

Mr. DOOLITTLE. He is speaking since the event.

Mr. GREEN. Not while he was Governor.

Mr. DOOLITTLE. No, sir. I read from his speech in New York, speaking of the condition of affairs which existed in the Territory:

"You may well imagine that the people of the Territory were deeply excited; they were stirred to the very depths of the popular heart. Their murmurs were loud, their outcries were boisterous, their threats were strong and violent. I could not much blame them for almost anything that they might have been disposed to do under the circumstances. They called upon me, in the absence of Governor Walker, as acting Governor of the Territory to give them what relief I could. What was I to do? What could I do under

the circumstances? I saw the iniquity that had been perpetrated before my eyes in spite of my efforts, in spite of the authority and of the resistance of Governor Walker and myself, in spite of the threats and murmurs of the people; I saw the thing done before my eyes, in the face of the world; the vilest wrong that had ever been perpetrated against any people. I learned, what to me was not at all astonishing, that in their great meetings they had ever contemplated the destruction of General John Calhoun, and every man who, by the terms of that constitution, they regarded as participants in carrying it into effect. I saw John Calhoun afterward, on the result of that state of feeling, under the necessity of going into the Territory after his own office—the most important, or at least the most profitable, office in the whole Territory, the occupant of which is clothed with more patronage than any other officer; I saw him guarded by dragoons of the United States, to protect him against the just indignation of the people. Well, gentlemen, as I, in the simplicity of my heart, thought that the people were entitled to such relief as I could give them, I thought that they asked me simply to call a Legislature of their own election, in order to give them some relief; I thought it was my duty to do what they asked. I called that Legislature together; and if again I should hear the murmurs of that distracted people, if again I should look into their glaring eyes, if again I should hear the despairing cries coming upon my ears, calling upon me for assistance—I say, if the President, with all his Cabinet, were standing in my path, frowning and threatening discredit, dismissal, death, anything, I would do it again."

Thus speaks out a noble and a generous heart. Though he went to that Territory prejudiced against the free-State men of Kansas; though, to use his own language, he went there as a border ruffian; though he went there desiring to make it a slave State by every means which he could honorably use; yet when he came to go over that Territory and to learn the true state of the affairs of its people; when he saw them trodden under foot by an insolent and tyrannical minority, backed up by the Army and the Administration at Washington, he could no more refrain from giving utterance to the truth, and the whole truth, than he could hold coals of fire in his own bosom.

But what were the actual results of this election on the 21st of December? There were nominally six thousand one hundred and forty-three votes given. Of those, three thousand and twelve were given in Johnson and Leavenworth counties, at Oxford, Shawnee, and Kickapoo; and the Speaker of the Assembly and the President of the Council declare, "from our personal knowledge of the settlements in and around the above places we have no hesitation in saying that the great bulk of those votes were fraudulent."

By this morning's paper it is announced that in this very city is a Mr. Green, direct from Kansas, with the proof in his hands to show that there were but two thousand five hundred legal votes cast on the 21st of December in that Territory. What great men voted in Kansas at Kickapoo on that famous day? James Buchanan, President of the United States, William H. Seward, Thomas F. Marshall, George W. Brown, John C. Fremont, John Herndon, and Thomas H. Benton, are among the voters recorded at Kickapoo on the 21st of December!

What was the vote which took place on the 4th of January? The Lecompton constitution was submitted to the people of Kansas, and was rejected by a majority of over ten thousand votes. No question has been raised as to the legality of the votes that were given on that day.

Do you ask any more witnesses to prove the truth of what I say? I do not propose to call witnesses who were friendly to the Republican party at the time they became acquainted with the facts. I will call the witnesses whom you yourselves have sent to the Territory of Kansas—five Governors in succession, one after another; and what is their united testimony? Governor Reeder, Governor Geary through his private secretary, Governor Stanton, Governor Walker, and even Governor Shannon; and, if you will delay your action upon this Lecompton constitution for three months longer, until Governor Denver can become well acquainted with the situation of affairs in Kansas, my life upon it, we shall be able to call him as the next witness to prove the same truth. Strip this question of all its disguises, and express it in one single word; and what is it, and what has it been from the beginning? Simply whether the minority of the people in that Territory, backed up by the Administration at Washington, shall form a constitution establishing slavery in Kansas, and bring it into the Union against the will of the majority; or whether the majority of that people shall be permitted peacefully to form their own constitution, and come into the Union as a free, independent, and sov-

ereign State? That is the question now; it was the question in 1856; it was the question in the beginning, and from before the beginning; and there has been no other question from the fall of 1853 down to the present hour.

I desire not to trespass upon the patience of the Senate; but I wish to state briefly some facts only, to justify the declaration which I have now made. In the spring of 1853, when Congress adjourned, it left undisposed the Nebraska bill. No person at that time entertained the idea of a repeal of the Missouri compromise. Mr. Atchison, who up to that time had opposed the passage of the bill, came to its support. He declared that he was prepared to submit to the compromise, as there was no longer any hope of repealing it. He returned to his home in western Missouri. During the fall of 1853, months before the Kansas-Nebraska bill was agitated in Congress, or in the country, Mr. Atchison attended some meetings in the border counties of Missouri; and to one of those meetings, an account of which was extensively published through the country at the time, I beg leave to call your attention. It was a meeting at which Mr. Atchison himself made a speech, an account of which was given in the "Platte Argus."

In one of those resolutions it was declared that they were opposed to opening the Territory for settlement; in another, that, if it were open for settlement, the Missouri compromise should be repealed; and a third resolution was that, "if it be open for settlement, we pledge ourselves to each other to extend the institutions of Missouri over the Territory, cost what it may of blood or treasure." This meeting and these resolutions, though extensively published throughout the country, attracted but very little attention; but from the history of subsequent events there has been given to those resolutions a deep and momentous significance. From his home in Missouri he returned here to his place in the Senate. On the 16th of January, 1854, the proposition first appeared from the then Senator from Kentucky [Mr. Dixon] to repeal the Missouri compromise. I shall pass over that session of Congress when this great matter was discussed. The bill became a law on the 30th of May following. Mr. Atchison returned from his place here to his home in Missouri. The election which was first to come off in Kansas was to take place on the 29th of November following for the choice of a delegate to Congress. I read from the history of Kansas by the private secretary of Governor Geary:

"Several weeks previous to this election, General B. F. Stringfellow, ex-Vice President David R. Atchison, and other prominent citizens of that State, addressed large meetings in Missouri, urging the people 'to enter every election district in Kansas, in defiance of Reeder and his vile myrmidons, and vote at the point of the bowie-knife and revolver.' The cause, it was urged, demanded it, and 'it was enough that the slave holding interest wills it, from which there is no appeal'; and, if the pro-slavery party should be 'defeated, then Missouri and the other southern States will have shown themselves recreant to their interest, and will deserve their fate.'"

The issue was distinctly stated by Mr. Whitfield himself, in a speech shortly after that election, as follows:

"We can recognize but two parties in the Territory—the pro-slavery and the anti-slavery parties. If the citizens of Kansas want to live in this community at peace, and feel at home, they must become pro-slavery men; but, if they want to live with gangs of thieves and robbers, they must go with the Abolition party. There can be no third party—no more than two issues—slavery and no slavery in Kansas territory."

At that election there were two thousand eight hundred and seventy-one votes given, of which one thousand seven hundred and twenty-nine were found to be illegal, every one of which illegal votes was cast for Mr. Whitfield. But this election, which took place on the 29th of November, was a very small affair compared with what was to come off when it was to be determined who should hold the legislative power of the Territory. At that time, (and it is a fact beyond all dispute; I have authorities before me going to demonstrate it,) nearly five thousand men, non-residents of Kansas, entered into the Territory, took possession of every council district, and every assembly district but one in the Territory, and chose every member of the Legislature with a single exception. After that election was over, from the same newspaper to which I have referred, the Platte Argus, jubilant expressions of victory were heard. The declaration was made. "They (the Missourians) have conquered Kansas. Our ad-

vice to them is, let them hold it or die in the attempt." I shall not pursue the history of that transaction. The report and speech of my honorable friend from Vermont [Mr. COLLAMER] are conclusive to show that from that usurpation, from the moment that armed body of men took possession of the Territory of Kansas, down to the time when the Leecompton constitution was framed, there never has been a moment that the power of the usurpers has not reigned supreme in that Territory, sustained by the Administration at Washington.

But one thing remained, and that was to induce the Administration at Washington, after they had accomplished this result, to acquiesce in the usurpation. Then commenced the most memorable struggle in the Congress of the United States which this country has ever witnessed; the President upon the one side, with a large majority of the Senate and the House of Representatives with a small minority on the other. The whole question which underlay that controversy was simply this, nothing more and nothing less: shall the Congress of the United States, by law set aside or acquiesce in this usurpation. That struggle was a long one. For a long time it was a doubtful one; it was an earnest one; but at length the Executive by the power of the Administration brought to bear, succeeded. From that hour to the present moment, the Executive has declared and insisted that the laws passed by that Territorial Legislature should be enforced by the whole power of the Government and at the point of the bayonet. From that moment there has been no relaxation in the grasp of that usurpation. They feel it now; it is resting upon them still, and the crowning object of the whole, the ripened fruit of that usurpation, and for which it was done, is this Leecompton constitution. Yes, sir, as it was resolved before the Kansas-Nebraska bill was passed, in western Missouri, at the meeting at which Mr. Atchison made his speech, that they would carry the institutions of Missouri into Kansas at whatever cost of blood or of treasure, they did organize, they did take possession of Kansas by force of arms, they did elect the Legislature of Kansas, by which, in three short weeks of a session they did extend the whole code of Missouri over the Territory, adding to it some provisions of their own, so atrocious and damnable in their character, that no member of Congress in either House has ever yet dared to stand up and defend them.

But, Mr. President, I fear that I have trespassed upon the time and the patience of the Senate already. I desire to say but a very few words more and I shall have done. It was during that struggle in Congress, and while it was pending, that the Republican party proper commenced its organization at Pittsburg, on the 22d of February, 1856. During that struggle, as the presidential election was coming off, I admit there were many individuals for whose intelligence I have the highest respect, and whose patriotism and integrity of character I have no reason to doubt, who not only did not believe, but whom no evidence which could then be produced could make believe, that any such state of things in fact existed. It was denounced as mere political exaggeration got up for political purposes for the advancement of a political party. They closed their eyes; they closed their ears; they did as the honorable Senator from South Carolina says that he has intended to do—they chose to remain ignorant of the facts transpiring in Kansas. They could not be made to believe that such a state of things could possibly exist in this country as that there should be a deliberate and an organized invasion, and actual subjugation of one of the Territories of the United States by force of arms for the purpose of establishing slavery in the Territory against the will of the people.

But the veil has now been drawn aside. It has been drawn aside under such circumstances, it has been drawn aside by such hands, that they can no longer disbelieve. The witnesses who now stand before the public to prove the truth of the transactions in Kansas, are not a committee sent out by the House of Representatives. They are not the political friends of the Republican party. No, sir; they are the witnesses whom you have chosen to send out as your own chosen agents—the witnesses to whom I have already referred—five Governors in succession, who, though they

have gone out there prejudiced against the people, with prejudiced eyes, not prepared to see the truth, yet have been conquered in spite of their prejudices, and have been converted by the people of Kansas from political enemies into warm self-sacrificing friends. They are the men of your own choice. I ask, by what miracle of power is it that the people of Kansas have conquered all these Governors that have been sent out there to administer their affairs. The secret of their power consists in the simple fact that what they say, and what they have said from the beginning, is true in relation to that Territory.

Mr. President, I have gone over the history of this transaction much more rapidly than I could have desired; but I have done. There stands the fact. It can no more be doubted that there was a regularly organized invasion and subjugation of that Territory, and the imposition of that Legislature, than there can be a doubt that Cæsar crossed the Rubicon, or that Cornwallis surrendered to General Washington. There stands the indisputable, the overwhelming, the appalling truth, recorded upon the page of our history. No sophistry can obscure it; no special pleading, dictated by partisan blindness or mad ambition, can withdraw it from the sight. Though it sear the eye-balls, it will not down at your bidding. There it stands, and will continue to stand, when you and I and all of us shall have gone to render an account of our stewardship, and the part we may have borne in these transactions, to the Lord of lords and the King of kings, when all that is mortal of us shall long since have moldered into ashes. Though centuries shall have passed away, American liberty, as she looks upon that page, may strive to obliterate it, but in vain. No mantle of her shame will be broad enough to cover it. No tears of her anguish can wash it away. The blood of her sons, though it flow in torrents, cannot drown it out of sight.

But one more act remains to make the page of infamy complete. Pass this bill, and it is done. Pass this bill, and the historian will record upon the page of history, for after generations, there to remain forever, that in the same year in which Russia proclaims freedom to her bondmen, and the whole civilized world is exultant with rejoicing at the act, republican America, trampling under foot its own Declaration of Independence, and every principle of self-government, by force of arms established a State government in Kansas for the purpose of extending the institution of slavery into that State against the will of its inhabitants.

Mr. HAMLIN obtained the floor.

Mr. GREEN. Will the Senator from Maine permit me to interpose a remark? Does he desire to proceed to-night?

Mr. HAMLIN. The Senator from Connecticut [Mr. FOSTER] suggests to me—I suppose there is no impropriety in my saying what the suggestion is—that he would like to occupy a very short time this evening. It will be very agreeable to me to yield the floor to him for that purpose.

Mr. GREEN. Very well.

Mr. FOSTER. Mr. President—

Mr. YULEE. I ask the Senator, if agreeable to him, to give way for a motion for an executive session.

Mr. FOSTER. I prefer not. I wish to be heard a short time, and prefer going on now.

Mr. YULEE. Very well.

Mr. FOSTER. Mr. President, after the intimation which was given us by the honorable Senator from Missouri, representing the majority of the Territorial Committee, that the vote on this question is to be taken on Monday next, it struck me that those who proposed to be heard on this subject had better be prompt in their action. I certainly received it as kind in the honorable Senator to give us this early notice, for I was one of those who had been making some preparation to address the Senate upon the subject now pending. I have made some few notes and memoranda on the subject, but I had not expected to speak upon it to-day, and I have not those notes or memoranda here; but, sir, I have before me the constitution which it is proposed to impose on the people of Kansas by this body, and I desire to call the attention of the Senate for a few moments to that constitution, and to urge a few of the reasons why I, as a member of the Senate, can never vote

to admit Kansas under that constitution, and with the provisions and principles which it contains, though everything else in regard to the subject was as I could wish it to be.

In the first place, I cannot vote to admit a State into this Confederacy which lies north of 36° 30' north latitude, having slavery as a provision of its constitution. I recognize the Missouri compromise of 1820 as still binding upon the people of this country, notwithstanding the passage of the Kansas-Nebraska bill in 1854. I am one of those who mean to be bound by that compromise, to act upon it here, at least so far forth as never to vote for the admission of a State lying north of that line, which State proposes to establish African slavery. I believe that compromise was entered into in good faith. I believe that it conducted to the peace of the country for a long course of years. I believe there was no necessity for its repeal. I believe that its repeal was a violation of plighted faith. I believe it was an outrage upon the moral sense of the nation, and it ought not to have been done. I therefore will recognize the old compromise, and will never recognize the repeal.

Inasmuch as this constitution proposes to establish slavery in the future State of Kansas, and to establish it in a most offensive and obnoxious form—if that were all, I could not vote for its admission. The article to which I call the attention of the Senate is the seventh article of the Leecompton constitution, which is before us. The first section of that article reads thus:

"The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave, and its increase is the same, and as inviolable as the right of the owner of any property whatever."

That section contains a principle which, in my judgment, is false in morals, false in politics, and false in law. I will never vote for the admission of a State into this Union with a provision so obnoxious as that. If we were admitting a State lying far south, there would be no necessity for the enunciation of a doctrine like that. Even although the State might tolerate and establish slavery, it need not do it in that most offensive form. It is flying in the face of Christendom in a manner which I cannot justify or tolerate. I do not believe that here, in the latter half of the nineteenth century of the Christian era, it is to be laid down as a fundamental principle in a constitution which is required to be republican in its form, that the right of property by man in man is prior to all constitutional law, and is as inviolable as the right to any property whatever. I believe that the enunciation of a principle so glaringly false as that, is a reproach and a shame to the age in which we live. It is going backward in a very rapid manner to barbarism, rather than forward to a higher civilization and greater freedom.

The other provisions in the same article of the constitution in regard to the manner in which slavery shall be controlled by the Legislature, are exceedingly obnoxious to me. It is, however, particularly to the principle which is enunciated in the first section that I make more immediate objection.

I shall not, at this late hour of the day, go over all the provisions in this constitution to which I make exception; but I will call attention to some few, besides the one to which I have already alluded. I find laid down, as a part of the bill of rights of this incipient State, this proposition:

"Free negroes shall not be permitted to live in this State under any circumstances."

I do not believe that a provision like that should be in a constitution which we are about to approve, or that such a constitution can be called republican in its form.

Mr. GREEN. I would remind the Senator that the Topeka constitution has a similar provision in it.

Mr. FOSTER. So far as I am advised, the Topeka constitution has never been adopted by the Senate, has never brought a State into this Union, and if it has any such provision in it as that, I apprehend it will never obtain my vote. I do not believe that the Topeka constitution has any such provision in it; but whether that constitution, or any other has, it makes no difference with me on this occasion.

Whether free negroes are citizens, or whether they can be citizens of the United States or not, it is admitted, this constitution admits, that they are men. The very clause of this constitution

which creates slavery, and other portions of it, provides how slaves may become emancipated and be free men. Another provision of this instrument is, that no free man shall be exiled from the State. Under this constitution, a man who is a slave may be emancipated by the laws of the State in a constitutional manner, and he becomes then, of course, a freeman—a negro, it is true, but free by the constitution and the laws of the State of Kansas. That negro cannot be exiled from the State, because he is a free man. He cannot live in the State, because he is a negro and a free man. What is the result? He must be put to death. There is no question about the result at which we arrive. A slave may be emancipated and become a free negro, and he is then to be offered a sacrifice. The manner is not provided in the constitution, but he is to be offered a sacrifice. At all events he must be killed, for we must abide by the constitution; the Legislature can make no law which shall give the free negro a right to live a day, because there can be no law violating the constitution. The negro, when made free under the constitution and the laws of the State which originally made him a slave, is to be put to death. He is to be put to death because he has been made a free man, as it may be, against his will.

Is a constitution having provisions like these in it, republican in its form? If it be, it is certainly not republican in its spirit, and I am for going behind forms and looking at the substance. Where a constitution has such gross, barbarous provisions as those to which I have called attention, I can never vote to add to the constellation of American States one that recognizes such principles.

Will it be said that no doubt the intention was that the negro could go out of the State? Why, sir, if the will of certain men is to control public affairs for the next twenty or fifty years, Kansas may be surrounded with slave States, and those slave States will each and all of them have the right, if this may be recognized as rightful and legal, to provide that no free negro shall ever come within their limits; and what will be the result? The negro, after he becomes free in Kansas, cannot get out of the State; he cannot pass beyond the line of the State. If he goes to Missouri, the law of Missouri may condemn him to death the moment he comes within its jurisdiction; so may the Territory of Nebraska, if that should become a State with this "blessing" of slavery attached to it, and it should be disposed to keep out free negroes. So of all other States beyond the line of Kansas.

Mr. GREEN. Let me make one remark, with the Senator's permission. More of the non-slaveholding States in the Union than of the slaveholding States, have provisions of law prohibiting free negroes from coming into their borders. I assert that here, and am responsible for the assertion. If the slave should even go through the State of Missouri, and get into Illinois, there is a prohibition—the very thing he is complaining of in Kansas.

Mr. FOSTER. So much the worse for the free negro. Should Kansas then be surrounded with free States, and the disposition of which the Senator speaks be carried out in those free States, there is no possible salvation for this negro; he must be killed. The gentleman does not help the constitution out of the difficulty.

Mr. GREEN. Does the Senator undertake to intimate that the law of Illinois, or any other of the non-slaveholding States, requires the free negro to be killed? If so, it is not correct; and I only mention this fact to show that the Senator's argument is an absurdity.

Mr. FOSTER. It may be to the honorable Senator an absurdity. I have not asserted that any of the States have made the penalty death for a free negro to enter. I have only been arguing that if a free negro attempts to stay in Kansas, the constitution, in so many words, requires him to be put to death. I have alluded to the fact that if that provision of the constitution be one rightful and proper, all surrounding States would have a right to pass a similar law, making the penalty death for any free negro to come within the State; and if they should do so, I say there could be no possible escape for the negro; and if they should not do so, still, inasmuch as under this constitution no free man can be exiled from the State, he has therefore a right to remain; and if he should remain he must be put to death. While that con-

stitution stands, the absurdity of the argument simply is this: that a black man shall not be permitted to live in the State free, under any circumstances. He may be made free, and there is no power known to the constitution to put him out; on the contrary, the constitution provides that he shall not be put out. Now, I beg the honorable Senator, who seems keen on the subject of absurdity, to point out what possible mode there is for a free black to live in the State of Kansas under these two provisions—that he shall not live in the State free, under any circumstances, and yet that there is no power known to the constitution to get him out?

Mr. GREEN. Do you want an answer?

Mr. FOSTER. Certainly, if the honorable Senator wishes to answer.

Mr. GREEN. If the Senator desires an answer, he shall have it. I answer that the same provision in Kansas for getting him out exists, independent of law, as exists in Illinois, to get him out of Illinois, and other non-slaveholding States; and yet prohibition is as positive in those non-slaveholding States as it is in the State of Kansas; and more than that, it is not to be expected that a constitution will provide all the means to execute itself. There are a thousand provisions in the State constitutions, and in the United States Constitution, which require the aid of the legislative power to provide the means to execute and carry them out.

Mr. FOSTER. The honorable gentleman has failed to give an answer that at all meets the exigencies of the case. He refers me to the State of Illinois and other States where the provision, he says, is equally positive that free blacks shall not live, as it is here. There is no particular mode provided for getting the black out of the State. The answer simply removes the difficulty across the river; but if the difficulty exists there, it is just as great. I apprehend, however, that the constitution of Illinois does not contain exactly this same provision.

Mr. GREEN. It is the law of Illinois, not the constitution.

Mr. FOSTER. But here is a constitution which makes a man a slave and allows him to be made free, and then says when made free he shall not live in the State, and it contains another provision that no free man shall be exiled.

Mr. TRUMBULL. I do not wish at all to interfere in the discussion between the honorable Senator from Connecticut and the honorable Senator from Missouri, but I wish to say that there is no law in the State of Illinois providing that a free negro shall not live in the State.

Mr. GREEN. But there is a law that he shall not come in. Suppose he comes in: what do you do with him?

Mr. TRUMBULL. We have a provision for disposing of him if he comes into the State. We have a statute law on that subject.

Mr. GREEN. How do you dispose of him? You set him up and sell him.

Mr. TRUMBULL. Under our statutes we hire him.

Mr. GREEN. You sell him for a time.

Mr. TRUMBULL. He is hired out for a particular length of time.

Mr. GREEN. Kansas will do the same thing.

Mr. TRUMBULL. It is a different provision.

Mr. FOSTER. If Kansas does the same thing, she will break her constitution.

Mr. BRODERICK. Will the Senator from Connecticut yield me the floor for a moment?

Mr. FOSTER. Certainly.

Mr. BRODERICK. I understand that it is the desire of the majority on this side of the Chamber to have an executive session; and that being the case, I ask the Senator from Connecticut to suspend his remarks until to-morrow. It is now four o'clock.

Mr. FOSTER. I would give way with great pleasure to the request of the honorable Senator from California, but for the fact that I shall occupy only a short time longer.

Mr. BRODERICK. I hope the Senator will suspend his remarks until to-morrow.

Several SENATORS. Oh, no! go on now.

Mr. FOSTER. I shall not occupy longer than ten minutes. I am exceedingly sorry to disoblige the Senator from California, if my going on now does disoblige him; but as I have only a few words to say, I may as well say them now.

Mr. BRODERICK. I would rather hear the

Senator at greater length, and therefore I hope he will consent to postpone his remarks until to-morrow.

Mr. FOSTER. The honorable Senator from Illinois, I have no doubt, has stated correctly the law of that State; but, in reply, the honorable Senator from Missouri says the State of Kansas would take the same course as the honorable Senator from Illinois says is provided under the law of Illinois in regard to free blacks. If so, I repeat, the State of Kansas would violate the provision of her constitution. Although hiring a man to service, as a penalty for the violation of the law, is unquestionably a severe penalty, yet it is less severe than death; and here the penalty, if it is anything, is and must be death. They have no more right to hire the man out, or to sell him and make him a slave over again, than they have to do any other possible act that the constitution has prohibited; for it is provided, in express terms, "free negroes shall not be permitted to live in the State under any circumstances." Besides, the difficulty is greater than the Senator from Missouri seems to suppose, comparing the provisions of this inchoate State with the State of Illinois, because the law of Illinois, as I understand the honorable Senator from that State, simply prohibits under penalties the coming into the State of a certain class of persons. That is not the case here. This constitution provides for a man's being created, so to speak, a free black on the soil of the State, who was there lawfully as a slave; it may be against his will, and we are to presume against his will. Being there on the soil of the State against his will, under the law he is made free, as it may be, against his will; and the penalty for being free is death. I say that is an arbitrary, despotic, outrageous principle—one which can never be tolerated in a country that has any idea of genuine liberty; and this is to be on a soil of all others in the United States blessed with perfect freedom.

Mr. MASON. Will the Senator allow me to ask him a question, not for my information alone, but for the information of my people?

Mr. FOSTER. Certainly.

Mr. MASON. I understand him to make objections to the constitution of Kansas, because of what he alleges is contained in that constitution: as to the policy of the people of Kansas in regard to the condition of those who are slaves. Does the Senator understand that the Congress of the United States can look into a State constitution to see what the policy of the people of that State is in regard to the condition of service, whether for life or for any other time, and to reject a State because a Senator may disapprove its policy?

Mr. FOSTER. I do understand that the Congress of the United States when called upon by a Territory to admit that Territory into the constellation of States, as one of the members of this Federal Union, if it has in its constitution principles at war with those which underlie our Constitution, at war with the principles of our Declaration of Independence, at war with the plainest principles of liberty, that such a constitution cannot be Republican even in its form, and is therefore objectionable distinctly on that ground—that we cannot permit a State with such a constitution to become a member of this Confederacy.

Mr. MASON. Will the gentleman indulge me a moment?

Mr. FOSTER. Certainly.

Mr. MASON. I am glad to hear his answer. It will throw a flood of light on this question before the people where there is this condition of African slavery. I understand the Senator to say that, conceding that Congress can look into the constitution of a State applying for admission only to see that it is republican in form, it is his judgment that where the condition of slavery is recognized, it is not republican in form, and therefore not to be admitted.

Mr. FOSTER. I have not asserted such a principle.

Mr. MASON. I understood that to be the conclusion at which the Senator arrived.

Mr. FOSTER. The gentleman may have drawn that as an inference, and if the language implies that, it is a fair inference; but that is not my understanding of the language, and with entire deference to the honorable Senator from Virginia, I do not think my language is fairly susceptible of that construction.

Mr. MASON. I hope the Senator, then, will restate it. I should like to be disabused of the inference I drew.

Mr. FOSTER. I may not restate it in the precise terms in which I stated it before, but I will do so as nearly as my recollection will enable me. My statement, in substance, was this: that where a constitution contained principles that were at war with the principles of our Federal Constitution, at war with the principles of our Declaration of Independence, at war with the plainest principles of freedom and liberty, recognized the world over, we could not call such a constitution republican in its form; and it would, therefore, be obnoxious to that objection, and the State would, therefore, not be entitled to admission.

Mr. MASON. Because it is not republican.

Mr. FOSTER. Because it is not republican, and because it is not recognizing the principles of freedom on which our Government is based. I by no means assert that, because a State constitution, or the constitution of an incipient State, in some form may recognize the existence of African slavery on its soil, that constitutes an insurmountable reason why we cannot admit it as a State. I should greatly prefer that all States would come in free; but I by no means go to the extent of saying that, under all circumstances, if that provision were wanting, for that reason alone a State should be kept out. I think it would be impolitic for a State to come in with a provision recognizing slavery in any form; but very clear am I that, where a State lays down a provision of the sort which I have read, it goes far beyond any exigency in regard to establishing African slavery. If it merely said what various State constitutions may at present say, in regard to the right of the master to hold slaves, under certain circumstances, within that State establishing, creating the "peculiar institution," it might not be obnoxious to the exception I am making to this provision. This lays down a principle, a fundamental principle, a radical principle, which is either false or true. I say it is false; and I say it without regard at all to the right of the several States now in the Union, or the right of those that may hereafter come in, to hold slaves. This principle is independent of that. It goes over and beyond it, and that is what I object to. I am not for interfering with the relation of master and slave in the honorable Senator's State. The trampling of this principle under foot does not at all affect the right of any State in this Union, in my judgment, to hold their slaves under their State constitutions. I meddle not with those relations, and would do nothing whatever to disturb them; but, sir, when a State comes here with a principle of this sort in its constitution, it challenges either my assent or denial; and I am compelled to deny its truth. A constitution containing such a principle is neither republican in form nor in spirit.

Mr. BRODERICK. Will the Senator from Connecticut yield for a moment? It is evident, from the interrogatories which have been put to the Senator, that he will occupy a great deal more of the time of the Senate this afternoon than he imagines; and therefore I ask him again to give way, for the purpose of going into executive session, so that he can have the floor to-morrow.

Mr. FOSTER. I think I should have been through in this time if the honorable Senators had not interrupted me. I shall be through in five minutes.

Mr. BRODERICK. A great many Senators on this side of the House may put questions to the gentleman, and to answer would occupy more time than he imagines.

Mr. FOSTER. If such a case should happen, I assure the Senator I will take occasion at another time to answer them.

Mr. BRODERICK. I would consider it a favor if the Senator would give way for an executive session.

Several SENATORS, (to Mr. FOSTER.) Go on. The PRESIDING OFFICER, (Mr. STUART.) The Chair considers that the Senator from Connecticut declines to yield the floor.

Mr. FOSTER. I do so, I assure the Senator from California, with every disposition to oblige him, and I shall disoblige him but for a few moments longer.

There is another provision in this constitution,

which is the fourteenth section of the schedule, providing—

"After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and, if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the House of Representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that chose the Representatives; said delegates so elected, shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves."

That is an exceedingly obnoxious feature in this constitution, in my judgment. It is enough to condemn the whole instrument. I by no means agree with gentlemen who adopt the principle that a State constitution may be changed with such surprising facility as they argue that it may. I understand the honorable Senator from Missouri (for whose opinion and judgment as a lawyer, I certainly have respect) to say that the people of a State may change their constitution in "any legal way." It is a most indefinite expression. No doubt a State may change its constitution in any legal way. The question is, what is a legal way? The way pointed out in the constitution is the legal way in which the constitution of the State of Kansas, should it become a State, may be changed; and that, I assert, is the only legal mode in which that constitution, if it be adopted, can be changed. Granting that it may possibly be changed in some other way, and there be no bloodshed, it will still be revolution.

But, sir, it provides that "no alteration shall be made to affect the rights of property in the ownership of slaves;" that is to say, slavery shall be a perpetual institution in the State that is to be the State of Kansas; it shall exist there through all time. That is the distinct and direct provision of this constitution. Now, I apprehend the honorable Senator from Missouri will not say that the Legislature of the State may call a convention of the people of that State, and if the people come together in that convention and vote to abolish slavery, or rather make a constitution containing an article which abolishes slavery, slavery would then be abolished in the State of Kansas. I apprehend the honorable Senator from Missouri will not say that can be done.

Mr. GREEN rose.

Mr. FOSTER. I have promised the honorable Senator from California to be brief, and if I were to be interrupted now it would prevent me from keeping my promise. If the gentleman will answer categorically, yes or no, it will take no time, and he can answer. Unless his response amounts to that I might not understand it. If the question is capable of being answered by yes or no, I shall understand it; but if it takes more words I might misunderstand it; and therefore perhaps it is not worth while now for me to give way to the Senator.

I agree that there have been States in this Confederacy which have changed their constitutions in a manner not provided for in the Constitution, and those States have been alluded to at various times to prove what is claimed to be an inalienable right of the people to alter, amend, or abolish their form of government whenever they please; but does it prove it? Because the State of New York, or any other State, has made an alteration, or has actually abolished an existing constitution, in a manner not provided for in that constitution, does it prove that such a change is legal—is not revolutionary? No, sir; it does not. It simply proves that those portions of the people who did not agree to that alteration, if there were any such, acquiesced in the change. Does anybody believe that the slaveholders in Kansas would acquiesce in the abolition of slavery in that State by a convention called by the Legislature emanating from the people? No, sir; nobody can believe it. If it be not within the power of the people under these circumstances to abolish slavery except according to the terms and provisions of the constitution, neither can they do anything else contrary to the provisions of the constitution without the acquiescence of the people. With that acquiescence it makes a bloodless revolution, but nevertheless a revolution.

In the Territory of Kansas, we know that the

people are exceedingly divided in their sentiments in regard to government. We know that a very large portion—nineteen twentieths of the people of that Territory, as I believe—are in favor of having it a free State. One twentieth may be in favor of having it a slave State. Here, however, is a constitution which establishes slavery in it forever. Now, I say, establish this constitution, and it can never be lawfully abolished, except by consent of every slaveholder in the State of Kansas. If it can never be lawfully abolished except by the consent of every slaveholder in the State, it simply recognizes this principle, that where a right is secured under a constitution, and a mode is provided in that constitution for amending or altering it, that right can never be affected or taken away, except in the manner provided in the constitution itself. The acquiescence of every one whose right is to be affected has, no doubt, the same effect. And this principle is applicable not only to the owner of property, but the holder of office, as the judge of a court, a sheriff, or any other officer who might be holding an office under the old constitution. If the people, under this inalienable right that is talked about, should make a new constitution, elect new officers, ordain and establish new courts of justice, and set up a new State government, all those who are holding offices under the former constitution and under the old government, unless they chose to give up their positions and acquiesce in this revolution of their government, would be lawfully in the places to which they had been appointed under the original constitution and under the original law, and could call upon the Executive of the United States if they were about to be forcibly removed from their offices, or if their legal behests were not obeyed, and the Executive of the United States would be bound to call in the physical force of the country, the militia—the Army of the United States—to carry out and to execute the mandates and judgments of the original and lawful legal tribunals under the old constitution, and never allow those tribunals or those officers legally in power to be overthrown and displaced by the new claimants. Would the Supreme Court allow what gentlemen here call "property" to be disposed of by the will of the majority in any other manner than as provided in this constitution? No, sir; nobody believes it; and that is a test of the question, because there are other rights as dear as the right to property; and if that may not be done there is an end of this loose talk, as it seems to me, about the inalienable right of the people to govern themselves.

I believe in that right, Mr. President, as religiously as any other man; and I believe that when the people come together and make a compact of government, under which they agree to live, and prescribe how they may change it, it is their will and pleasure so to make it, and they are bound by it. And it is because they have this inalienable right that they are bound by it. It is their government; they have a right to make it as they please, and it is made to protect the rights of the minority. That is the object of a constitution. The very purpose of the instrument is to protect the rights of those who, aside from the constitution, would not have the power to protect themselves, and not to allow their rights to be taken away at the will of the majority. Here is a compact. Under that compact, laws are to be made and administered: under it; not outside of it; not over it; otherwise there would be no safety. We should all live under a despotism if we had not a constitution limiting the powers of Government. If that constitution is a nose of wax in the hands of those who may abolish it when they please, where is liberty at all? It is one of the modes in which the rights of men are perverted when we talk about their right to abolish their form of government. It is a right to abolish forms of government which have been imposed upon them, which are distasteful to them, which they have had no hand in making; but when they have made a constitution, they ought to live under it or change it in the manner in which they have agreed to change it. Such have always been the decisions everywhere, so far as I have known, and I trust they always will be.

I have now stated, Mr. President, in a very desultory and a very imperfect manner, my objections to some features, not to all, of this constitution. These, of themselves, if there were no

others, would constitute a conclusive reason why I could never vote for the passage of this bill. I have other reasons, equally satisfactory, equally strong, to my own mind; and I have made some preparation, as I intimated in the early part of my remarks, to be heard on those points at some time before the vote be taken in the Senate. I may forego, or I may avail myself of that opportunity. If it comes to be a question of endurance here, and we are to sit at nights, until the physical power of the one party or the other shall yield, I shall probably, if God spares my life and health, take an opportunity to be heard on certain other questions connected with the admission of Kansas under this constitution; but, not knowing what might befall me before the vote may be taken, I wished to be heard now, even in this very imperfect manner, on these patent objections to the instrument before us, lest by possibility the vote might be taken here, and my voice never be uplifted against this most atrocious, high-handed act of usurpation. Such will be the character of the act when consummated; the consummation will be when we impose this constitution upon the people of Kansas. I say "impose" it upon them, because I take great pleasure in saying that this constitution—obnoxious, outrageous, infamous as it is—was never made, and has never been assented to, by the people of the Territory of Kansas. They loathe it as I do. They scorn its very name. They detest its principles, its details, its origin; and so do I. I should regret that the people of any Territory within the limits of these United States could, of their own free will, come before the Congress of the United States with a constitution of this description, and ask to be admitted as a member of this Confederacy under it. I should regret it, because I should be compelled to believe that a people who really could, in this age of the world, willingly submit to, and sit down under, a constitution like this, were not fit for free government, and ought not to become members, as a State, of the great Confederacy, called the United States of America.

Mr. HAMLIN. Mr. President—

Mr. GREEN. Will the Senator yield to me the floor for a moment? I desire to move an executive session; but before I do I move to postpone the further consideration of this bill until to-morrow, at half past twelve o'clock, so as to give the fullest time.

Mr. JOHNSON, of Arkansas. I wish to ask if this is done by an interruption of the speaker?

The PRESIDING OFFICER, (Mr. STUART in the chair.) The Senator from Missouri has moved to postpone the bill until half past twelve o'clock to-morrow; that is the pending question.

Mr. JOHNSON, of Arkansas. Is the object to override the morning hour to-morrow? [Yes.] Will the Senator state some reason why he wishes to override the morning hour? There is public business of importance that ought to be considered, and we have no time for it but during the morning hour. I ask the Senator from Missouri to give some reason for his proposition.

Mr. GREEN. I do not desire to make any motion to interfere with the ordinary proceedings of the Senate. I made the motion in order to afford the opponents of the Leecompton constitution the fullest opportunity of debate. If they do not desire it, I will move to postpone the further consideration of this subject until one o'clock. [That will do.] If I understand them they do not wish additional time. [Oh, no.]

The PRESIDING OFFICER. The Chair would suggest to the Senator from Missouri that his motion is unnecessary if the object is to go into executive session. That motion can be entertained without any proposition for postponement.

EXECUTIVE SESSION.

On the motion of Mr. CLAY, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, March 8, 1858.

The House met at twelve o'clock, m. Prayer by Rev. WILLIAM CHAUNCEY LANGDON.

The Journal of Friday last was read and approved.

MEMBER OF SPECIAL COMMITTEE.

The SPEAKER appointed Mr. SHAW, of North

Carolina, in lieu of Mr. HARRIS, of Illinois, (excused from service,) member of the special committee to which was referred the resolution in reference to the expulsion of Mr. MATTESON.

JOHN HAMILTON.

The SPEAKER stated the business first in order to be on ordering House bill (No. 8) for the relief of John Hamilton to be engrossed and read a third time.

Mr. CLINGMAN. I find, on inquiry this morning, that we have neglected to appoint a committee on rules. I think that, by the amendment of the rules, a little business might be facilitated. I hope that, by general consent, the Speaker will be authorized to appoint a committee on rules, such as we formerly had; and for that purpose I send up a resolution—

Mr. GROW. I object.

Mr. CLINGMAN. Is it in order to move to suspend the rules for the purpose I have indicated?

The SPEAKER. It is not, pending the demand for the previous question.

Mr. ATKINS. An amendment to this bill, offered on Friday last, by the gentleman from Ohio, [Mr. STANTON,] was adopted, allowing interest to the claimant from the time his claim was perfected, in 1852. I desire now to enter a motion to reconsider.

Mr. STANTON. I ask the gentleman how he voted?

Mr. ATKINS. I voted in the affirmative.

Mr. STANTON. I move to lay the motion to reconsider on the table.

Mr. JONES, of Tennessee. On that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 89; as follows:

YEAS—Messrs. Abbott, Andrews, Avery, Bennett, Bingham, Blair, Bowie, Buffinton, Burroughs, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clingman, Clark B. Cochrane, Cockerill, Colfax, Comins, Covode, Cragin, Curtis, Dammell, Davidson, Davis of Maryland, Davis of Massachusetts, Dawes, Dean, Dick, Dodd, Durfee, Fenton, Foley, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, J. Morrison Harris, Haskin, Hatch, Hawkins, Hoard, Horton, Howard, Owen Jones, Kellogg, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leiter, Humphrey Marshall, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Nichols, Olin, Parker, Pendleton, Pike, Pottle, Purviance, Ritchie, Robbins, Royce, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Spinner, Stanton, James A. Stewart, Thayer, Tompkins, Walbridge, Waldron, Israel Washburn, Wood, Woodson, and Zollicoffer—92.

NAYS—Messrs. Ahl, Atkins, Billingshurst, Bliss, Bocoek, Bonham, Boyce, Bryan, Burnett, Clay, Clemens, Cobb, John Cochrane, James Craig, Burton Craige, Crawford, Curry, Davis of Indiana, Davis of Mississippi, Davis of Iowa, Dimmick, Dowdell, Edie, Edmundson, English, Faulkner, Florence, Garnett, Gartrell, Giddings, Goode, Greenwood, Gregg, Groesbeck, Harlan, Thomas L. Harris, Hill, Hopkins, Houston, Huyler, Jackson, George W. Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Leach, Letcher, Lovejoy, McQueen, Mason, Maynard, Miles, Millson, Niblack, Peyton, Phelps, Phillips, Potter, Powell, Quitman, Ready, Reagan, Kelly, Ruffin, Seales, Scott, Searing, Henry M. Shaw, Sickles, Samuel A. Smith, William Smith, Stallworth, Stephens, Stevenson, William Stewart, Talbot, Tappan, Miles Taylor, Underwood, Wade, Waldron, Cadwalader C. Washburn, Watkins, Whiteley, Winslow, Wortendyke, Augustus R. Wright, and John V. Wright—89.

So the motion to reconsider was laid upon the table.

Pending the vote,

Mr. OWEN JONES stated that his colleague, Mr. CHAPMAN, was unexpectedly called away from the city on Saturday.

Mr. PHILLIPS stated that Mr. HICKMAN was detained at his rooms by indisposition.

Mr. DAVIDSON made a like statement in reference to Mr. SANDIDGE.

Mr. GREENWOOD made a like statement in reference to Mr. WARREN.

Mr. WORTENDYKE stated that his colleague, Mr. ADRAIN, was detained from the House on account of sickness in his family.

The question recurring on ordering the bill to be engrossed and read a third time, the bill was ordered to be engrossed; and being engrossed, it was read the third time.

Mr. STANTON moved the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. LOVEJOY called for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 120, nays 60; as follows:

YEAS—Messrs. Abbott, Ahl, Andrews, Avery, Bennett, Bingham, Bishop, Blair, Bliss, Bowie, Brayton, Buffinton, Burlingame, Burroughs, Case, Chaffee, Ezra Clark, John B. Clark, Clawson, Clingman, Cobb, Cockerill, Colfax, Comins, Covode, James Craig, Curtis, Dammell, Davidson, Davis of Mississippi, Davis of Iowa, Dawes, Dean, Dewart, Dick, Dimmick, Dodd, Durfee, Edie, Edmundson, Farnsworth, Foley, Foster, Gilman, Gilmer, Gooch, Goodwin, Granger, Grow, Robert B. Hall, J. Morrison Harris, Haskin, Hawkins, Hoard, Horton, Howard, Hughes, Huyler, Owen Jones, Kellogg, Kelly, Kelsey, Kilgore, Knapp, Landy, Lawrence, Leach, Leidy, Leiter, Maynard, Montgomery, Morgan, Morrill, Edward Joy Morris, Isaac N. Morris, Freeman H. Morse, Mott, Murray, Olin, Palmer, Parker, Pendleton, Pike, Pottle, Powell, Purviance, Quitman, Reilly, Ricard, Ritchie, Robbins, Royce, Russell, Savage, Seward, Aaron Shaw, John Sherman, Judson W. Sherman, Robert Smith, Samuel A. Smith, Spinner, Stanton, Stephens, James A. Stewart, George Taylor, Thayer, Tompkins, Underwood, Walbridge, Waldron, Walton, Israel Washburn, Whiteley, Winslow, Wood, Woodson, Wortendyke, John V. Wright, and Zollicoffer—120.

NAYS—Messrs. Atkins, Barksdale, Bocoek, Bonham, Boyce, Bryan, Burnett, Clay, Clemens, John Cochrane, Burton Craige, Crawford, Curry, Davis of Indiana, Dowdell, Faulkner, Florence, Garnett, Gartrell, Giddings, Goode, Greenwood, Gregg, Groesbeck, Harlan, Thomas L. Harris, Hill, Hopkins, Houston, Jackson, George W. Jones, J. Glancy Jones, Keitt, Jacob M. Kunkel, John C. Kunkel, Lamar, Letcher, Lovejoy, McQueen, Mason, Miles, Millson, Niblack, Peyton, Phelps, Phillips, Potter, Reagan, Ruffin, Seales, Scott, Searing, Henry M. Shaw, Stevenson, Talbot, Miles Taylor, Wade, Cadwalader C. Washburn, Watkins, and Augustus R. Wright—60.

So the bill was passed.

Mr. STANTON moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AMENDMENT OF RULES.

Mr. CLINGMAN. I hope there will be no objection to the resolution which I alluded to a few minutes ago. It is to supply an omission made at the beginning of the session, and which omission I was not aware of till the Committee on Accounts called attention to it. I offer the following resolution:

Resolved, That a select committee of five be appointed by the Speaker to revise the rules of the House and recommend such amendments as they may deem necessary to facilitate business, and that they have leave to report at any time.

Mr. BURROUGHS. I object.

Mr. CLINGMAN. I move to suspend the rules.

The rules were not suspended; only sixty-three members—not two thirds of a quorum—voting in favor thereof.

STENOGRAPHER TO JUDICIARY COMMITTEE.

Mr. HOUSTON. I am instructed by the Committee on the Judiciary to report a resolution which it is important to have acted upon immediately:

Resolved, That the Committee on the Judiciary be authorized to employ a stenographer at the usual rate of compensation, whilst engaged in the examination of witnesses in the investigation of the official conduct of Hon. John C. Watrous, district judge of the eastern district of the State of Texas.

Mr. JONES, of Tennessee. I ask whether this is in order?

The SPEAKER. It is, if not objected to.

Mr. JONES, of Tennessee. If it is in order, I do not object; if it is not in order, I do object.

Mr. HOUSTON. I move to suspend the rules; and I would state to the House that it is utterly impossible for the committee to discharge its duties without the services of a stenographer.

The question was put; and the rules were suspended, two thirds having voted therefor.

Mr. HOUSTON. I demand the previous question upon the passage of the resolution.

The previous question was seconded, and the main question ordered to be put.

The resolution was then adopted.

Mr. HOUSTON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW JERSEY RESOLUTIONS.

Mr. ROBBINS. I ask the unanimous consent of the House to present joint resolutions of the State of New Jersey for the purpose of reference.

Mr. WRIGHT, of Georgia. I think it would be better to go on and call the States for resolutions regularly. I object.

Mr. ROBBINS. I move to suspend the rules. The rules were suspended, two thirds having voted in favor thereof.

Mr. ROBBINS then presented joint resolutions of the Legislature of the State of New Jersey, relative to the erection of public buildings in the city of Trenton by the General Government; which were referred to the Committee on the Judiciary, and ordered to be printed.

ENROLLED BILL.

Mr. PIKE, from the Committee on Enrolled Bills, reported as correctly enrolled "An act to amend an act entitled 'An act to promote the efficiency of the Navy in respect to dropped and retired officers;'" when the Speaker signed the same.

THE BARK ADRIATIC.

Mr. TAYLOR, of Louisiana. I ask the unanimous consent of the House to introduce the following resolutions:

Whereas, the American bark *Adriatic*, Captain Dunham master, in the night time, on the 2d day of September, 1856, came in collision with the French steamer *Lyonnais*, on the high seas, about sixty miles to the north of the Nantucket shoals, on the American coast, by which collision the said French steamer *Lyonnais* was sunk, and the said steamer and her cargo became a total loss, whilst the said American bark sustained little injury, and continued her voyage to its termination in Massachusetts bay; and whereas, the said American bark, under the same master, some time after the said collision, made a voyage to the port of Marseilles, in France, when the said bark, it is said, was libeled by the owners of the said French steamer *Lyonnais*, to make her responsible for the damages occasioned by the said collision, on the ground that it was caused by the neglect and want of care of the officers in charge of the said American bark *Adriatic*; and whereas, it is also stated that the court of the first instance, in France, decided that the said claim for damages was unfounded, and that, upon appeal, the said decision was reversed, and the said American bark *Adriatic* was condemned, and held to pay the damages occasioned by the said collision, on the ground, as it is reported, that the said American bark was in default because she carried no lights set, whilst the said French steamer had lights set above her deck, so as to show her position and course she was steering; and whereas, by the commercial law of nations, sailing vessels are not required to carry lights set in the night time, on the high seas; and whereas, there is no law of the United States requiring sailing vessels on the high seas to carry lights set in the night time, to show their position and the course they are steering; and whereas, it is believed that the laws of France make it obligatory on sailing vessels belonging to the French merchant marine to carry lights set as aforesaid, in night time, upon the high seas; and whereas the condemnation by a French court, of an American vessel, to pay the damages occasioned by a collision between her and a French steamer on the high seas, and beyond the territorial jurisdiction of France, upon the ground that the American vessel and her officers were in fault, and guilty of negligence and want of care, because there were no lights set on the said vessel, to make her presence known, and show the course she is steering, as required by the laws of France, is a wrong done to the owners of the said American vessel in their capacity of American citizens, and is also an invasion of the sovereignty of the United States, and an infringement of her rights as a member of the great family of nations, inasmuch as it subjects American citizens and American property navigating the high seas, under the exclusive jurisdiction and authority of their own country, to the provisions of the laws of France, which are obligatory only on her own people: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be requested to inquire into and ascertain the facts involved in the said alleged seizure of the said American bark, and the grounds on which the said reported condemnation of the said American bark to pay the said damages was based, and whether there is any law of France requiring sailing vessels on the high seas to carry lights set in the night time.

And be it further resolved, &c., That if it shall appear, upon proper inquiry, that the said condemnation was based upon the ground that the American bark and her officers were guilty of neglect and want of care because there was no light set on the said American bark, as required by the laws of France, then, and in that case, the President of the United States is hereby requested to bring the said fact to the notice of the French Government, with a view to obtain redress for the wrong sustained by American citizens in this instance, and to prevent similar wrongs in the future.

Mr. OLIN. I object to the consideration of the resolutions at this time.

Mr. TAYLOR, of Louisiana. I move to suspend the rules.

Mr. J. GLANCY JONES. I wish to know what disposition the gentleman from Louisiana proposes to make of the resolutions?

Mr. TAYLOR, of Louisiana. I wish to take the sense of the House upon the resolutions at this time, or on some future day.

Mr. OLIN. I have no objection to the resolutions, if the gentleman will move their reference to the Committee on Foreign Affairs.

Mr. TAYLOR, of Louisiana. Very well. If the House will receive the resolutions, I will move that reference.

Mr. BURROUGHS. I object.

Mr. MILLSON. I desire to inquire whether they are joint resolutions, or simply House resolutions?

Mr. TAYLOR, of Louisiana. They are joint resolutions.

Mr. MILLSON. I would say to the gentleman from Louisiana, if he will make them mere resolutions, unincumbered with a preamble, I think there will be little or no objection. I think the gentleman will see that some statements in the preamble involve not very clear principles of international law.

Mr. MORRIS, of Pennsylvania. I would inquire of the gentleman from Louisiana if they are joint resolutions?

Mr. TAYLOR, of Louisiana. They are.

Mr. MORRIS, of Pennsylvania. If the gentleman from Louisiana will make them mere resolutions of the House of Representatives, I shall have no objection to them.

Mr. TAYLOR, of Louisiana. I prefer the resolutions as they are. It is a matter of great importance, and if the rules are suspended I will move to refer the resolutions to the Committee on Foreign Affairs.

The question was taken, and the rules were suspended.

Mr. TAYLOR, of Louisiana. I prefer to say something on this subject at this time, and if it is in order, I will do so. [Cries of "No!" "No!"]

Mr. EDIE. That was not the bargain.

Mr. TAYLOR, of Louisiana. There seems to be a disinclination to have anything said upon the subject at this time.

The SPEAKER. The gentleman will suspend until the resolutions are read a first and second time.

The joint resolutions were read a first and second time.

Mr. TAYLOR, of Louisiana. If it be in order, I desire to say a few words, and a few words only in relation to the resolutions. [Cries of "Go on!" "Go on!"]

Mr. HARLAN. I object.

The SPEAKER. The gentleman from Louisiana is in order.

Mr. TAYLOR, of Louisiana. The House of Representatives, and indeed Congress, during the present session, have been occupied for a great length of time in relation to matters which are of little public importance. I mean that the time of the House and of the Senate has been taken up in discussion which will probably lead to no practical result. The question now presented is one of great public moment, and it is one that is connected with the great interests of this nation. It is known that these United States of America have become the greatest commercial nation of the world. It is of public importance to all engaged in commerce, it is important to all citizens of the United States, that those who are engaged in that commerce, whether it be as ship-owners or as navigators, should be assured of the position which they occupy. The preamble to the resolutions, which I have had the honor to submit, lays down what I conceive to be a settled principle of law. It is known to all that until the application of steam to ocean navigation, there were very few collisions upon the high seas. While the navigation of the ocean was confined to sailing vessels, vessels going in opposite directions scarcely ever pursued the same route. The result was, that collisions were very unfrequent. But since the application of steam as a motive power, steamers pursue the shortest and most direct track between the port of departure and the port to which they are destined; and, therefore, when there is a favorable wind for sailing vessels coming from the port of the steamer's destination, and bound to the port from which the steamer departed, those vessels going in opposite directions, go upon the same track, and are extremely liable to come into collision with each other. Owing to this fact, two of the greatest commercial nations of the world—England and France—have legislated on the subject. In 1850 or 1851, England enacted a law by which sailing vessels, when in the route of, or approaching a steamer, were bound to show a light, in order that their position might be discovered at a distance. The penalty for not complying with that regulation was a deprivation of the right to recover damages, in the event of the sailing vessel being injured by a collision with a steamer.

Mr. BURROUGHS. I would inquire of the gentleman from Louisiana, whether it is his intention to encourage sailing vessels to navigate the high seas in the night time without carrying lights? That seems to be the intention of his resolution.

Mr. TAYLOR, of Louisiana. No, sir. In 1853 or 1854, an act of Parliament was passed in England, making it obligatory upon sailing vessels to carry lights upon the high seas, in particular situations, when the Admiralty determined that lights on such seas were proper or necessary.

The French Government, I believe, has acted in the same direction. Up to this time the American Congress has not acted upon the subject. The only statute enacted by the American Congress, making it necessary for sailing vessels to carry lights, has reference to the northern lakes. Our vessels now upon the high seas are precisely as they formerly were, under no obligation by the commercial law of nations to show lights. Under the law of nations, in the event of a collision occurring between a steamer and a sailing vessel, or between two sailing vessels, the absence of lights placed in a conspicuous position on either of the vessels has not heretofore, nor can it now, enter as a constituent element in determining whether or not the vessel was in fault.

If, under those circumstances, an American vessel, which is under no obligation, by any law of her own country, to carry a light, fails, in consequence of there being no municipal law requiring it, to carry one in the night time, and comes into collision with a vessel, as the *Adriatic* came into collision with the *Lyonnais*—if, I say, when that vessel is found in a French port, it be liable to condemnation, if it be subject to be declared in fault for that failure, and is therefore made responsible for the damages occasioned by such collision, merely because of a failure to comply with the municipal regulation of the empire of France—if, when its owners and its master have violated no law of their own country, and have failed to do no one thing which the commercial law of nations requires, it is to be condemned, according to my opinion the citizens of the United States are subjected to a great wrong. And not only is that so; but the Government of the United States suffers a great wrong, because, if the courts of a foreign country can proceed to condemn American vessels, and make them responsible, because of such a failure, then you subject the commercial marine of the United States, you subject American citizens, to the laws of France upon the high seas, and you destroy the equality of the United States with the other nations of the world. Until the Government of the United States sees fit, in pursuance of what I conceive to be a proper policy, to adopt such a municipal regulation, and makes it the duty of the owners of vessels, and those charged with their navigation, to carry lights, no such obligation exists; and it would be an unwarrantable submission on the part of the Government of the United States to injuries done to her citizens, and to the violation of her rights as a nation, if it were patiently to submit to any such condemnation.

Now, for myself, upon a proper occasion, I shall certainly vote for a statutory provision making it obligatory upon American sailing vessels to carry lights in the night time. Such propositions have heretofore been made and negatived. Such a proposition is embraced in a bill now before the House, and which seems not to be regarded with especial favor by a large portion of our fellow-members. But whether we do or do not hereafter adopt such a rule, until we have adopted it I insist upon it that it is a plain principle of right, that our citizens, when not required by the laws of their own country to do so, are not bound to comply with any such regulation adopted by a foreign country.

Mr. MARSHALL, of Kentucky. I would like to ask the gentleman from Louisiana if the owners of the *Adriatic* have ever made any representations to the Government in regard to this matter?

Mr. TAYLOR, of Louisiana. I am not aware that they have; but from a discussion upon the subject which took place a few days since in the Chamber of Commerce of New York, I imagine there has been little opportunity to do so; for we all know from the public newspapers that the *Adriatic* is at this time probably upon the ocean, a fugitive from the French port.

Mr. MARSHALL, of Kentucky. The reason I asked the question was this: I understand the law as the gentleman does; but I suppose the President of the United States would, through our minister in France, upon such representation, proceed without any resolution of Congress.

Mr. TAYLOR, of Louisiana. There have been a great many wrongs perpetrated upon the high seas upon our citizens and upon American property, that have even been complained of to the Executive, with respect to which no efficient action has been taken. I, for one, think that the time has arrived when the Representatives of the people should demand that, where public interests are involved, steps calculated to be efficient should be taken; and this is one of those instances, in my opinion. I will not detain the House longer, but move that the resolution be referred to the Committee on Foreign Affairs.

Mr. CLINGMAN. I move the previous question.

Mr. PHILLIPS. I ask the gentleman from North Carolina to yield me the floor for a moment to make a suggestion.

Mr. CLINGMAN. I will hear the suggestion. My object is to save time.

Mr. PHILLIPS. I wish to inquire of the gentleman from Louisiana if he would not be satisfied with a simple resolution instructing the Committee on Foreign Affairs to inquire into and ascertain and report the facts connected with the alleged seizure and condemnation of the American bark *Adriatic* by the authorities of France, together with the law relating thereto? and what steps, if any, ought to be taken by the United States Government in regard to the matter?

Mr. CLINGMAN. The resolutions, as they now stand, will give the committee jurisdiction over the whole subject.

Mr. PHILLIPS. Facts are assumed in the preamble of which we know nothing.

Mr. TAYLOR, of Louisiana. It is only stated that they are so reported.

The previous question was seconded, and the main question ordered; and, under the operation thereof, the joint resolutions were referred to the Committee on Foreign Affairs.

Mr. RITCHIE moved that the vote by which the joint resolutions were so referred be reconsidered; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. CRAWFORD moved that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Houston in the chair.)

Mr. CRAWFORD moved to take up House bill No. 307, to appropriate money to supply deficiencies in the appropriations for paper, printing, binding, and engraving, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed.

The motion was agreed to; and the bill was taken up.

The bill appropriates, for the purpose of defraying the deficiencies in the appropriations for the paper for the printing, for the printing, and for the binding, engraving, and lithographing, ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, the following sums of money, out of any money in the Treasury not otherwise appropriated: to pay for paper, \$104,000; to pay for the printing ordered by the Senate and House of Representatives, during the Thirty-Third and Thirty-Fourth Congresses, \$57,619 94; to pay for the binding, lithographing, and engraving, ordered by the Senate during the Thirty-Third and Thirty-Fourth Congresses, \$179,569 64.

Mr. CRAWFORD. This is a bill for the purpose of supplying certain deficiencies that are now due for printing, lithographing, &c. I desire to have read a letter from one of the gentlemen to whom some portion of this money is due; and I would say to the House that this money has been due for some two months and more, and those to whom it is due are suffering exceedingly from its non-payment. I hope, therefore, that the House will take the matter under its consideration, and

determine what direction it will give this bill. We owe this money. Those to whom it is due are suffering for it, and there is no question in the world that it ought to be paid. I propose, in order to give gentlemen an opportunity to read the bill and inform themselves in reference to its provisions, that some two or more speeches may be made in committee on the important question of the session, and then I shall ask the committee to rise, that I may offer a resolution in the House to close debate on this bill in five minutes after the Committee of the Whole on the state of the Union shall have resumed its consideration.

Mr. SMITH, of Tennessee. I wish the gentleman to state to the committee, in reference to this bill, that he and I have made a personal examination of the affair, and have been convinced of the correctness of his statement. I also want to suggest to him, that before he takes his seat he shall move that the committee rise, with the understanding that he will offer a resolution to terminate debate at the time he proposes, giving members time to read the bill. I know the fact that the men to whom this money is due are suffering from its not being paid, are paying large interest for money, and are having their bills protested almost every day. The gentleman from Georgia [Mr. CRAWFORD] and myself have taken the trouble to make a personal examination of the matter, and have ascertained the amount due to these gentlemen. I therefore hope that before he takes his seat he will move that the committee rise, with a view of offering a resolution to close debate within the time he proposes.

Mr. CRAWFORD. What my friend from Tennessee says in regard to this matter is true. We went out and made a personal examination as to the amount of indebtedness on the part of the Government to these gentlemen. This bill covers the amount that is due to them up to the time the bill was introduced.

I have before me a statement of the Superintendent of Public Printing, in which he says that there is \$104,000 due for paper, and \$47,619 94 due for printing. The gentleman from Tennessee, [Mr. SMITH], who is chairman of the Committee on Printing, and myself, have examined and found that that is so. The bill proposes to appropriate \$57,619 94 for printing—\$10,000 more than was shown to be due in the statement of the Superintendent of Public Printing, because that statement was made a month ago, and further indebtedness has accrued since.

The next item in the bill is \$179,569 64 to pay for the binding, lithographing, and engraving, ordered by the Senate. We have added some fifteen thousand dollars to bring it up to the present time. These gentlemen are pressing us to call upon the House to settle their claims; and so far as I am individually concerned, I am anxious, on account of the solicitude which they manifest, that this bill should be passed. No other interest than that have I in the subject-matter. If, therefore, the suggestion of the gentleman from Tennessee meet the views of the committee I shall move that the committee rise for the purpose of closing the general debate on this bill within two hours after its consideration shall have been resumed in the Committee of the Whole on the state of the Union.

Mr. BOCK. I think it would be best to allow this day to be consumed in speaking; and to-morrow morning, before going into the Committee of the Whole on the state of the Union, the gentleman can move the resolution.

Mr. CRAWFORD. If it is desirable that this day should be occupied in general debate—

Mr. MORGAN. I see by this bill that it appropriates \$340,000.

Mr. CRAWFORD. Yes.

Mr. MORGAN. What has become of the \$700,000 or \$1,000,000 that was to be appropriated in the printing deficiency bill a few days ago?

Mr. CRAWFORD. This \$790,000 is the amount estimated to be necessary to complete all the printing, lithographing, &c., ordered by Congress; but as there is some division of opinion in the House in reference to the payment for what work is not yet done, the committee has deemed it proper to report a bill for the amount actually due, and leave the question as to the work not done to the future decision of the House. All acknowledge that we now owe \$341,000. We therefore propose to have that sum paid, and let us

quarrel over the balance hereafter. This sum is less than the amount proposed by the gentleman from Kentucky, [Mr. BURNETT.] I hope, therefore, that the House will find no difficulty in having this amount of the public debt settled at as early a day as practicable. I therefore move that the committee do now rise, with a view of introducing a resolution to close debate.

The motion was agreed to.

So the committee rose; and Mr. Houston reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 307, to appropriate money to supply deficiencies in the appropriations for paper, printing, binding, and engraving ordered by the Senate and House of Representatives of the Thirty-Third and Thirty-Fourth Congresses, and which has been executed; and had come to no resolution thereon.

Mr. CRAWFORD. I move the usual resolution to close debate to-morrow at two o'clock, upon the bill which the Committee of the Whole on the state of the Union last had under consideration.

Mr. CAMPBELL. I would suggest to my colleague on the Committee of Ways and Means, that he modify his resolution so as to close debate to-day. There can be no controversy about this bill. It is simply to pay for work that has actually been done, which members have received and sent home to their constituents. The Printer is suffering for want of the means due him, and has been for a long time. I hope the gentleman will move to close debate in half an hour.

Mr. CRAWFORD. Upon the statement of the gentleman from Ohio, I will modify the resolution so as to close debate in five minutes after the committee shall resume the consideration of the bill. I will then move that the committee rise, with a view of passing this bill, and going again into committee, when we can take up another appropriation bill, and go on with the general debate. I hope the House will aid me in carrying out what I propose.

Mr. HOUSTON. If the House is willing that the bill which was last up in committee shall pass upon five minutes' debate, we may as well discharge the committee at once, and pass the bill. It has been once considered in committee, and it is perfectly competent for us to bring it at once into the House, and pass it.

Mr. CRAWFORD. I think myself, from what has been said by the gentleman from Ohio, [Mr. CAMPBELL,] and from the general inclination which seems to be manifested to pass the bill, that the course suggested by the gentleman from Alabama is the best one; and, to test the sense of the House upon it, I move, if it is in order, to discharge the Committee of the Whole on the state of the Union from the further consideration of the bill.

Mr. LOVEJOY. I thought it was the understanding, when the committee rose, that the bill was to go over until to-morrow, before it was to be acted upon.

Mr. CRAWFORD. I ask whether the motion I have made is in order?

The SPEAKER. It is, by unanimous consent.

No objection being made, the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill, and the same was brought before the House for consideration.

Mr. CRAWFORD. I move that the bill be engrossed and read the third time.

Mr. BURNETT. Is a motion to amend in order to that bill?

Mr. CRAWFORD. The gentleman has not the floor to offer an amendment. I move the previous question.

Mr. BURNETT. I understood the gentleman from Georgia to close with his motion that the bill be engrossed, and read the third time. I then rose and asked whether it was in order to move an amendment to the bill.

The SPEAKER. The Chair did not understand the question of the gentleman from Kentucky. The gentleman from Georgia states that he had not relinquished the floor.

Mr. BURNETT. Well, sir, I hope the gentleman from Georgia will yield the floor and allow me to introduce an amendment. I will state that my object is to offer a proviso to this bill, by which we shall suspend the printing of Gilliss's

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report, Emory's report, and the report on the Pacific railroad surveys.

Mr. RITCHIE. Is debate in order?

The SPEAKER. It is not.

Mr. RITCHIE. Then I object to it.

Mr. CRAWFORD. I do not propose to debate this bill.

Mr. RITCHIE. I object to debate.

The previous question was seconded, and the main question ordered to be put.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. CRAWFORD demanded the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. MORGAN demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. JONES, of Tennessee. I hope the bill will be voted down. If they will cut off the balance of the appropriation, I am willing to give them this; but not without.

The question was taken; and it was decided in the affirmative—yeas 128, nays 47; as follows:

YEAS—Messrs. Ahl, Andrews, Atkins, Bishop, Bliss, Bocoock, Bonham, Bowie, Boyce, Bryan, Burns, Burroughs, Campbell, Chaffee, Ezra Clark, John B. Clark, Clawson, Clay, Clark B. Cochrane, John Cochrane, Cockerill, Colfax, Comins, Cox, Cragin; James Craig, Crawford, Curry, Darnell, Davidson, Davis of Maryland, Davis of Indiana, Davis of Mississippi, Davis of Massachusetts, Davis of Iowa, Dean, Dick, Dimmick, Dowdell, Durfee, Edie, Edmundson, Eustis, Farnsworth, Fenton, Florence, Foster, Garrett, Giddings, Gilmer, Gooch, Goode, Greenwood, Gregg, Groesbeck, Robert B. Hall, J. Morrison Harris, Hatch, Hawkins, Hill, Hopkins, Houston, Howard, Hughes, Huyler, Jackson, J. Glancy Jones, Owen Jones, Keitt, Kelly, Kelsey, Lamar, Landy, Lawrence, Leidy, Letcher, McQueen, Samuel S. Marshall, Mason, Miles, Miller, Millson, Montgomery, Edward Joy Morris, Mott, Murray, Niblack, Parker, Peyton, Phelps, Phillips, Pottle, Powell, Quitman, Reagan, Reilly, Ritchie, Robbins, Russell, Savage, Scott, Searing, Seward, Henry M. Shaw, Judson W. Sherman, Samuel A. Smith, Spinner, Stallworth, Stephens, Stevenson, James A. Stewart, William Stewart, Tappan, George Taylor, Miles Taylor, Thayer, Underwood, Waldron, Israel Washburn, Watkins, White, Whiteley, Winslow, Wood, Woodson, Wortendyke, Augustus R. Wright, and John V. Wright—128.

NAYS—Messrs. Abbott, Bingham, Blair, Brayton, Bufington, Burlingame, Burnett, Case, Cobb, Covode, Curtis, Dawes, English, Gilman, Goodwin, Grow, Harlan, Hoard, Horton, George W. Jones, Kellogg, Kilgore, Knapp, John C. Kunkel, Leach, Leiter, Lovejoy, Humphrey Marshall, Maynard, Morgan, Morrill, Isaac N. Morris, Palmer, Pendleton, Pike, Potter, Ready, Ricard, Ruffin, Scales, Aaron Shaw, John Sherman, Tompkins, Wade, Walton, Cadwalader C. Washburn, and Zolliecoffer—47.

So the bill was passed.

Mr. CRAWFORD moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. J. GLANCY JONES moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SHERMAN, of Ohio. I hope the gentleman from Pennsylvania will give us a little time to introduce bills and resolutions. I demand the yeas and nays on the motion, and ask for tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The question was then taken; and the motion was agreed to—yeas 80, nays 58.

The rules were accordingly suspended, and the House resolved into the Committee of the Whole on the state of the Union, (Mr. Houston in the chair,) and proceeded to the consideration of the

DIPLOMATIC AND CONSULAR BILL.

Mr. J. GLANCY JONES. This is a bill which certainly does not require to be read at length; and if I have the consent of the committee, I move to dispense with the first reading.

The motion was agreed to.

The Clerk then commenced to read the bill by clauses for amendment.

Mr. J. GLANCY JONES. The bill now before the committee, called the consular and diplomatic appropriation bill, merely provides for the

payment of the salaries of the consuls and those employed by the Government in the diplomatic service abroad; and it embodies nothing but provisions for appropriations according to existing law. It belongs to that class of bills which does not fairly admit of amendment. There is no occasion for me to occupy the time of the committee in debating it, unless objection be raised. And I hope the committee will, at as early a period as convenient, rise and report the bill to the House. I will detain the committee no longer.

Mr. BOCOOCK. I prefer always to address myself to the subject before the House, but I know the difficulty which a gentleman encounters here in obtaining the floor, especially on so important a proposition as the one which I design to discuss. I therefore resolved some days, I may say weeks, ago, to avail myself of some suitable occasion in the Committee of the Whole on the state of the Union, to deliver to this committee some views which have presented themselves to my mind in relation to a question which has taken up so much of our time, and which has attracted so much of the public attention.

It was originally my intention, Mr. Chairman, to take but a brief glance, by way of preface and for the purpose of completing the view which it was my purpose to submit, at the original Kansas-Nebraska bill; but a speech delivered by my respected colleague from the Norfolk district, [Mr. MILLSON,] a short time ago, makes it incumbent upon me, in my judgment, to devote a larger portion of my time to a discussion of this preliminary question. I regret this very much; because I know that, in the brief hour allotted to us here, I should scarcely have been able to elaborate and enforce the views which I design to present upon the great and leading question. As the matter now is, I shall be able to touch but briefly the points I expected to make, both in reply to the speech of my colleague, and upon the main question itself.

And I wish to say here, that feeling confident that I shall not be able to get through all I have to say, I hope no gentleman will feel called upon to interrupt me, unless I say something which calls for personal explanation from him, individually.

Allow me one more word, by way of introduction. In what I may say in relation to the speech of my colleague, I desire to reciprocate most cordially the kind and friendly tone in which he expressed himself in relation to his colleagues, with whom he has heretofore differed on this Kansas question. And I am the more anxious to do so, because I know that I have not command of that accurate and precise phraseology which the gentleman himself commands, and which is necessary to give one's precise meaning.

The speech of my friend and colleague, like all his performances, and, perhaps, in a greater degree than any of them heretofore, was able and ingenious. The onward sweep of his logic was as regular and as graceful as the charge of the light brigade at Balaklava; but I say, with all respect, that, in my humble judgment, it led to no more useful or valuable result. What, sir, was the great lesson taught by the speech of my colleague? One might have supposed for a moment that his design was to enforce upon the attention of the House the fact that in accepting the Kansas-Nebraska bill in 1854, the South did not get all to which it was entitled. If I had been satisfied that this was the purpose and intention of my colleague, I should not have felt called upon to reply to it. But in view of the entire speech, and all the circumstances which surrounded it, that supposition cannot be maintained. Then, Mr. Chairman, could it be that my worthy friend and colleague felt himself called upon to expend so much ingenuity and ability, and to give us so fine a display of dialectics, for the purpose of proving that he foresaw all the evils which have occurred in Kansas, and that they are the legitimate and proper results of the Kansas-Nebraska bill? Sir, he who claims for himself the character of a prophet of the past, or a foreteller of woe, seeks a reputation which,

in my humble judgment, is by no means desirable. One who felt deeply and thought strongly, and who knew well how to wreak his thought upon expression, has said:

"Of all the horrid, hideous notes of human woe;
Worse than the owl songs or the midnight blast,
Is that portentous phrase 'I told you so!'
Uttered by friends, those prophets of the past,
Who, instead of telling what you now should do,
Own that they thought that you would fall at last,
And solace your slight lapse 'gainst 'bonos mores,'
By a long memorandum of old stories."

A prophet of the past! Why, sir, it can avail but little in this case, at any rate; for if the evils which have occurred in Kansas are to continue; if the strife which has occasionally manifested itself there is to break forth anew and with increased violence, until the roar of battle and the fury of the storm shall fill the land with uproar, it will be but a poor privilege to come upon the stage, like the chorus in the ancient Greek tragedy, and in the lull of the tempest and the pause of the battle to sing a dirge of doom. If, on the contrary, Kansas is speedily to be admitted into the Union, and under the benign and genial influences of State independence and State sovereignty, all these evils are to be first localized, and then banished forever. If "all the clouds that lower o'er our house," are to be "in the deep bosom of the ocean buried," then, in the panorama of contentment and prosperity which will follow, there will be no place for this wail of woe. The memory of Cassandra has but the greenness of the lichens and ivy that cover the ruins of Troy. It is mingled in the memory with the recollection of a falling city and a scattered people. Had Troy not fallen, it would long ago have perished like

"The fat weed that rots on Lethe's wharf."

I desire now, Mr. Chairman, to notice particularly, but briefly, the leading points made by my colleague in his speech against the original Kansas-Nebraska bill. They appear to me to have been twofold. He objected to it upon the ground that in its legal and necessary construction, it sustained the idea of territorial sovereignty; and he also objected to it on the ground that it contained what is called the Badger proviso. Permit me to consider those objections *seriatim*.

Mr. Chairman, I desire to say here, in the commencement of the remarks that I shall make upon this question of territorial sovereignty, that if that bill, in its legitimate and necessary construction, did tolerate the idea of territorial sovereignty, I should prefer it, both being constitutional, to the doctrine of congressional restriction; for under congressional restriction, if you have peace it will be the peace of admitted inferiority of rights on the one side, and admitted superiority of rights on the other. Under the doctrine of territorial sovereignty you might have strife and conflict; you would probably have a struggle among men of clashing interests and conflicting views to gain the ascendancy; but poor as it would be, we would still have our chance, and we would have the consolation, at any rate, to know, if the question were decided against us, it would be decided by those who were to be most interested in the question at issue.

But, sir, I contend that the legitimate and necessary construction of that act does not sustain the idea of territorial sovereignty. The clause to which my colleague alludes is this:

"It being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

Now, it will be remembered that my colleague ridiculed the idea that the Congress of the United States intended gravely to abrogate the power to prohibit slavery in States of the Union already existing; but whatever this provision does not mean, it certainly does mean to do that. That is precisely what it does mean, most emphatically. No other construction can be given to it; and, perhaps, the reason for inserting such a provision in the bill was, that in the restriction of 1820 the power was clearly and distinctly assumed by the

Congress of the United States to prohibit slavery in the States. Here is that restriction:

"Sec. 8. *And be it further enacted*, That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of 36° 30' north latitude, not included within the limits of the State contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited."

And in the joint resolution for the annexation of Texas to the United States, we find this more distinct and emphatic clause:

"And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited."

There is the power distinctly claimed; and in the Kansas and Nebraska bill it is distinctly surrendered. I do not contend that the Constitution afforded any pretext for such an assertion of power. Far from it. The claim had been made, however, and the surrender should follow.

But the gentleman says that the insertion of the words "Territory or," before the word "State," makes that clause applicable to Territories in their territorial condition, as well as to States; and that the necessary construction of it is, that the people of Territories, as such, shall be left free to regulate their domestic affairs, including the subject of slavery, in their own way.

Now, Mr. Chairman, I do not contend—I would not be guilty of the want of candor to contend—that the language is not susceptible by possibility of such a construction. What I contend for is, that it is not the necessary construction of the clause. Now, sir, you will bear in mind, that the Territories of the United States often act in a somewhat anomalous manner. Consider, if you please, the case of the Territories of Florida, of Michigan, and of Iowa. You will bear in mind that, without any enabling act, without any authority whatsoever from the Congress of the United States, those Territories proceeded to form State constitutions, and presented them here, asking admission into the Union. What was their condition then? I admit the doctrine that this was a sort of declaration of independence on the part of these Territories, and that their subsequent admission into the Union was an acknowledgment of that independence. Congress was not bound to admit them, however; and if it had not, they would have remained in a territorial condition. Their status was then subject to the action of Congress. It might have been, then, in reference to this anomalous, or, if I may so express it, hermaphrodite condition, that the words "Territory or State" were used.

Now, sir, I submit that if the phraseology employed was applicable to the Territories in their territorial condition, the grant was made "subject to the Constitution of the United States." This proviso followed the grant, and controlled it. Whatever power we constitutionally had we gave up, and no more. The gentleman says that the Congress of the United States ought to interpret the Constitution for itself, and in passing a law should look to the constitutional limits and not surpass them. I admit, that when the Congress of the United States proposes to pass an ordinary act that is to be a rule of conduct for individuals, it ought to determine for itself, as far as it can, whether it be constitutional or unconstitutional; but this was no such act: this, following the manner of a deed, was a grant of power from the Federal Government to the Territorial Legislature; all that was done was to say, whatever power we have in relation to this subject, we surrender it to the Territorial Legislature. I contend, sir, that however the words "Territory or State" be construed, we were not called upon to give an unconstitutional vote, for the limitation followed the grant wherever it went. As is frequently done in deeds from one man to another, we conveyed whatever power we had, subject to adjudication.

I submit now, whether we were not right in our action? The question of territorial sovereignty being a matter in dispute between northern and southern Democrats, then if we had required it to be adjudicated by Congress, it would have resulted that while we were wrangling upon this question, the opportunity to carry the more important point of repealing the Missouri restriction, would have been lost, perhaps irretrievably.

Now, sir, comes in the decision of the Supreme

Court of the United States to determine the question. It says that this doctrine of territorial sovereignty has no countenance in the Constitution; and whatever evils my colleague may think arose before that time, from the doubt which existed on the subject, or whatever evils he might have apprehended from this cause, afterwards, from the time of the decision of the Supreme Court in regard to this case, the doctrine of the Kansas-Nebraska bill stood vindicated and redeemed from all suspicion or taint of encouraging territorial sovereignty. And I would say to my colleague that perhaps others may have foreseen the decision of the Supreme Court as well as himself. Since that decision, all his fears and all his troubles on this subject may be forever quieted.

I shall consider now, for a few brief moments, the other objection of my colleague. It is the objection to what is called the Badger proviso; and permit me to say here, Mr. Chairman, that when that proviso was introduced in the other wing of the Capitol, by the distinguished Senator whose name it bears, I regretted it. I regretted it because I thought it was a concession, in form at least, from the weaker and oppressed interest in the land, and that which had been so long suffering under the injustice of this Missouri restriction, to the stronger and aggressing interest. But I did not attribute to it that importance which my colleague does; and I desire to examine for a while into its true meaning and effect. What is that proviso? This is its language:

"Nothing herein contained shall be construed to revive or put in force any law or regulation that may have existed prior to the act of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

Now, Mr. Chairman, I wish to consider that proviso in two points of view. The Missouri restriction, which the act of 1854 was intended to repeal, was constitutional or it was unconstitutional. I wish to look at it under both these suppositions. Suppose, now, that the Missouri restriction of 1820 was constitutional, what did it do? Why, sir, there were some old French or Spanish laws, recognizing slavery, which existed in the Territory of Louisiana when it was acquired from France, and which were, by tolerance, continued in existence. Here comes then the restriction of 1820, and, by implication, suspends these old laws, and makes the ground an open field; and after making it an open field, it next advances and takes possession of the field, and erects on it a barrier, a positive prohibition against the introduction of the peculiar property of the South. The effect of the restriction then was twofold. Now, by the repeal of the restriction by the act of 1854, what did we do, in that supposition? We, at least, removed the positive prohibition, and left again the open field of which I have spoken. In that supposition, did we not gain something?

Well, take the other supposition! Say, now, that the restriction of 1820 was unconstitutional! What, then, was the consequence of the restriction? Then it was null and void *ab initio*. It had no effect or force whatever. It did not repeal the old French or Spanish laws. They were not, in legal contemplation, suspended. Well, sir, what does this Badger proviso say? It says, "nothing herein contained shall be construed to revive or put in force," &c. But these laws did not require to be revived by that act of 1854. They were in existence *aleunde*—not by virtue of the act of 1854, but by virtue of their previous existence never having been suspended. The proviso says that the act of 1854 shall not put them in force. It does not say that they shall not be in force. I could enlarge on this idea, which I consider strictly legal and tenable; but I prefer, in the little time allowed me, not to dwell longer on this point. I wish to rise to a higher and more comprehensive, and, in my opinion, a more statesmanlike conception of this entire question. What is it, sir? Here, Mr. Chairman, had been a conflict in the land as to the question whether the Constitution of the United States, *proprio vigore*, extended or did not extend to the Territories of the United States.

The mighty intellects of Calhoun and Webster had met in stern conflict on this question on the floor of the Senate Chamber, and their followers throughout the country had ranged themselves on the one side and on the other. Not only that, Mr. Chairman, but there was also a contest whether this Government of the United States should be allowed to exert its power to discourage and limit

the property of one section of the Union, and to extend and enlarge the property of the other section. The Kansas-Nebraska bill of 1854 comes in and decides both these questions. It declares the Constitution of the United States expressly extended to these Territories; and it further declares that the Government of the United States shall not exert its power or authority to limit or restrain the property of one portion of the Union, and to stimulate and encourage the interest of the other portion.

Here, then, we have the Government of the United States surrendering its authority over this question and expressly declaring the Constitution of the United States extended to these Territories. Then comes the decision of the Supreme Court in the Dred Scott case, declaring that the Constitution, so operating in the Territories, shall stand as a tower of strength and a monument of defense for the property and interests of all sections of the Union—of the one section as well as the other. What now do you want with your wicker-work of Spanish and French laws? You have in the place of them the supreme power, the mighty influence, the permanent protection of the Constitution of the United States—the highest American law. You have in that a shield stronger than the shield of Achilles. You have a tower of strength more impregnable than twenty Cronstads. And still you talk about your French and Spanish laws! This, sir, was a great era in the history of American legislation. It was the era of an abdication, of a surrender of usurped power on the part of the Congress of the United States, and of a restoration of the Constitution to its true control and supremacy. It is an abdication and restoration more important, and grander in every point of view, than any abdication or restoration of "prince, potentate, or power," recorded in the history of the world. The Congress of the United States gives up its usurped power to limit the property of the South. The Constitution of the United States is restored to its former rule. And while all are rejoicing at this great era in American legislation, at this great abdication and restoration, my colleague chooses to stand by and complain that the usurper, in going out, takes with him a little of the dirty linen of the establishment.

But, sir, I wish to look at this subject as a subject of prophecy. There were more predictions made than one. There were more prophets than my colleague in the land at that time. The nation was then rather plethoric of prophets. It was declared, on the other hand, that if we did loose these French or Spanish laws, our property would enjoy the protection of the Constitution, and also such protection as might be given by the Territorial Legislature. And did we not have it? Herein was prophecy fulfilled. My colleague seems to think that the evils that have arisen in Kansas were the necessary and the logical results of the Kansas-Nebraska bill. Now, sir, I submit to him, whether, if they are the natural and legitimate results of the principles of the Kansas-Nebraska bill, the same consequences would not follow wherever the cause exists? But, sir, the principles of the Kansas and Nebraska bill were applied to the Territory of Nebraska; they have been applied also, in effect, to New Mexico; and why have not the same evils resulted there, if they follow necessarily from the principles of that bill?

If the principles of the Kansas-Nebraska bill had been adopted long years ago, before the public mind had become so distempered and diseased, no trouble would have followed; but, in my judgment, everything would have gone off smoothly and quietly under them. The settlement of Kansas would have been left to the ordinary laws of settlement; men would have gone there from the ordinary causes, to select their homes and work out their fortunes; all would have gone off well. It was because the public mind had become distempered and diseased; it was because the wranglings here on the floors of Congress had produced such heart-burnings and bad feelings between the two sections of the country, that these results followed. The extraordinary means adopted to settle Kansas; your *emigrant aid associations*, and the characters of the men whom they sent there; your Jim Lanes, and your Sharpe's rifles; these must bear the blame for the troubles which have arisen in Kansas.

Mr. Chairman, these evils are upon us, and it is proposed to settle them by the admission of Kansas into the Union as a State. The President of the United States has sent a message to the Congress of the United States, communicating to us the constitution adopted at Lecompton, and recommending that Kansas shall be admitted into the Union as a State under that constitution. I stand here to-day to take my position in favor of such admission, and I shall now proceed to give the reasons upon which I base my action.

Now, sir, I am free to admit that when this constitution comes to us we have the right to inquire, first, whether there is a sufficient population in Kansas to entitle her to come into the Union as a State. Well, sir, I believe there is no difference of opinion upon that subject. All parties are agreed upon that point. The Topeka men seem to have acted all along upon the supposition that there was population enough there to justify a State constitution. The Lecompton men have done the same, and those who sustained the measure proposed by the distinguished Senator from Georgia, during the last Congress, seem never to have objected on that ground.

Then, sir, I admit that you have the right to inquire whether the form of Government proposed is republican. I believe there is no difficulty upon that subject. All are agreed upon that point.

There is another and very important inquiry which we have a right to make. We have the right to inquire whether the constitution sent here is in fact the constitution of the State of Kansas or not; and it is to that point that I propose now to direct my remarks.

Now, sir, I wish to say in the beginning, that I design to argue this point with all fairness and candor if I can. I shall make certainly very liberal admissions to the gentlemen on the other side. I admit that all republican constitutions "derive their just powers from the consent of the governed." I admit the doctrines that "sovereignty makes constitutions;" that "sovereignty rests exclusively with the people of each State;" that "sovereignty cannot be delegated;" that it is "inalienable, indivisible," &c. I also admit fully the doctrines of the Kansas and Nebraska bill, that the people, when they come to form their constitution, should be left free to form and regulate their own institutions in their own way.

Now, sir, if I can maintain the propriety of the admission of Kansas into the Union upon those principles, gentlemen ought to acquiesce; if not, I lose my proposition, and I fail in the effort I am here to make.

In the first place, then, I admit that governments instituted among men derive their just powers from the consent of the governed. That is the first admission. But I deny that it is a necessary corollary from this principle that the constitution of a State shall be submitted to the votes of all the governed. On the contrary, no constitution that was ever framed, either in this or any other country, was ever submitted to the vote of all the people who were to be governed by it. How many of the States of this Union allow the African race to vote? I think New England and New York alone aspire to that "bad eminence." Yet the African race are among the governed. How many States in this Union allow a citizen just landed upon its soil from any other State, or from a foreign country, to vote? Not one, I believe. In most of the States in the Union, they require a man to have resided in the State for twelve months, even if a citizen of the United States, before he is allowed to vote. And yet, sir, they are among the governed. How many of the States of this Union allow females and children to vote? Not one; and yet, are they not in the list of the governed? Then it is a clear proposition, that the fact that a form of government derives its powers from the consent of the governed, does not require the constitution to be submitted to all who are to be governed under it. I will show, in the sequel, that the consent of the governed is given on the representative principle.

The next concession which I make is to be found in a certain letter written by the late Governor of Kansas, upon the occasion of his resignation of office. He says that—

"Sovereignty makes constitutions; that sovereignty rests exclusively with the people of each State; that sovereignty cannot be delegated; that it is inalienable, indivisible, a unit incapable of partition."

Now, sir, I admit all that; but I will not concede for a moment, because sovereignty is inalienable, that acts of sovereignty cannot be exercised through some medium, organism, or representative agency; far from it. I think that the celebrated letter to which I refer affords a remarkable instance of how a really able man, when sustaining a heresy, may entangle and overthrow himself in the mazes of his own metaphysics. Robert J. Walker declares:

"It will not be denied that sovereignty is the only power that can make a State constitution, and that it rests exclusively with the people; and if it is inalienable, and cannot be delegated, as I have shown, then it can only be exercised by the people themselves."

And again, in reference to the Constitution of the United States, he says:

"Each State acted for itself alone in acceding to the Articles of Confederation in 1778, and each State acted for itself alone in framing and ratifying, each for itself, the Constitution of the United States. Sovereignty, then, with us, rests exclusively with the people of each State."

Here, sir, he assumes that each State adopted the Constitution of the United States for itself, and that the Constitution of the United States, being so adopted, has become the constitution of each particular State. Yet he seems not to have borne in mind that that very fact upsets his whole theory. Sir, the Constitution of the United States is not to-day binding in the State of Virginia, or in any other State of this Union, or else the doctrine is erroneous that it requires the people in their primary capacity to ratify it. Why, sir, the Constitution of the United States was framed by a convention and ratified by conventions and Legislatures in the several States; not in any one case was it referred to a direct vote of what Mr. Walker calls the sovereign people.

Sir, to declare war and to make peace—are they not acts of sovereignty? And are they not done by representative agencies? Why may not a constitution be formed in like manner? Mr. Chairman, a great deal of confusion exists in the public mind in relation to the question, who are the people in whom the sovereignty resides? I accord with the doctrine of Robert J. Walker, and say it resides in the masses. Every man and every citizen who has rights and power in the community is a part of the sovereign mass. All of the citizens together constitute the original fountain and source of all power in a community. They are the *sovereignty*. Now, sir, if sovereignty is a unit and indivisible, the whole sovereign mass must act together. If one citizen be wanting, the unity is broken and the sovereignty destroyed. It is clear, then, that if sovereignty resides in the mass, and is indivisible, it cannot be carried out into acts without a medium, an organism, or a representative agency, as the free mind cannot act except through the agency of the body. This results from the fact that it is impossible ever to get all the citizens together in consensaneous action. If this sovereignty is a unit, can a majority exercise that sovereignty? Those who do not act with the majority have a part of the sovereignty in themselves, and their dissent breaks the unity.

I wish now to inquire upon what principle the majority acts for a community, and what results from that fact? I say that the majority does not act for the community upon any principle of natural right. Let us suppose that the whole framework of Government could by some mighty convulsion be struck from existence in any State of the Union: what would follow? A primary meeting of the people would be held, to put into operation some rude structure of government. Would all the people assemble? By no means. That is always impossible. A great many would stay away, and those who stayed away would have a part of the sovereignty in themselves. But according to the principle declared by Governor Walker, those who came would be the representatives of those who stayed away. Each man who should attend the primary meeting would represent his absent neighbor and family; and, upon the principle of representation, that primary meeting could act for the whole. If the community left without government should consist of one hundred thousand people, not more than eighty thousand could assemble in primary meeting. How would they act? The eighty thousand would not agree upon all questions, or perhaps upon any question; and from necessity, a majority would control their decisions, unless a different rule were agreed on. Then forty-one thou-

sand, being the majority of the eighty thousand, would speak for the whole community. Upon what principle of natural right or undivided sovereignty, I ask, can forty-one thousand declare the opinion of one hundred thousand? Again, take the case of the voters of a community. Upon what principle do they act for the whole? Are they the sovereign mass? No, sir, by no means. Take the case of Kansas itself; and allowing that there are one hundred thousand people in that territory, then say that the constitution is to be submitted to the voters. According to statistics, the number of votes would be about one fifth of the entire mass. Take the census of 1840 or 1850, and then the vote at the intervening and succeeding presidential election, and you will find that the votes are rarely, if ever, more than one fifth of the entire number of the people. Then if there were one hundred thousand people in Kansas, the number of voters might have been as high as twenty thousand. Of that twenty thousand, a majority would control, and eleven thousand would constitute that majority. Now, I ask, upon what principle of natural right, or of indivisible sovereignty, can eleven thousand voters declare the voice of one hundred thousand people? They are the organism or representative agency merely, through which the whole body speaks, just as a convention is the mouth-piece of the people.

Chief Justice Taney, in giving the opinion of the court in the *Dred Scott* case, says:

"Undoubtedly, a person may be a citizen—that is a member of the community who form the sovereignty—although he exercises no share of the political power, and is incapacitated from holding particular offices. Women and minors, who form a part of the political family, cannot vote; and when a property qualification is required to vote or hold a particular office, those who have not the necessary qualifications cannot vote or hold the office, yet they are citizens."

There are a number of the citizens in every community who constitute a part of the body politic, who have a portion of the sovereignty in themselves, but who are not allowed to vote. The voters, then, only represent the people. They are not, in fact, the sovereign people. So I show the universality of the representative principle. A primary meeting, as usually constituted, is a representative agency. A convention is a representative agency. The voters are a representative agency, and any question between them is a question between different representative agencies. Each one speaks the voice of the people in its sphere, just as the agent when acting within his power speaks the voice of his principal. Talk about appealing from the convention to the sovereign people! I say, if you appeal to the voters, you only appeal from one representation to another representation. Perhaps broader, perhaps better, but still a representative agency. You deny the voice of one organism through which the people speak, and take the voice of another organism. When there is no law to determine who shall declare the voice of the people, the people are a law unto themselves, and necessity and circumstances determine. When you have an organized society, the law declares who shall speak for the people in each particular case.

Now, apply these principles to the case of Kansas. Who was authorized to speak the voice of the people of Kansas in relation to the constitution? The convention, and the convention only. Sir, the convention was the organism through which sovereignty spoke. Its voice was the voice of the people. The Constitution of the United States, framed, as I have said, by a convention, and ratified in each State by a convention, nevertheless announces itself as the act of the people. In its preamble it says: "We, the people of the United States, &c., &c., do ordain and establish this Constitution." So in Kansas, the convention was merely the mouth through which the people were presumed in law to speak. The constitution adopted by them was, therefore, the act of the people. You may think that another agency would have been better, but you cannot properly interfere, for this is that which was spoken when we said that we would "leave the people thereof (of Kansas) perfectly free to form and regulate their domestic institutions in their own way."

I have not undertaken to inquire whether the Legislature which called this convention was a legally-authorized Legislature. I do not think it necessary to stop to argue that question. I do not believe any lawyer in this House will, upon legal principles, deny the proposition. Though

the first Legislature may have been elected originally by fraud, it was the government *de facto*, and was never set aside by any competent authority. We are bound to recognize its acts. The whole jurisprudence of Kansas rests upon the legality of the two last Legislatures—the one of which took the sense of the people whether there should be a convention, and the other of which passed the law calling the convention. Mr. Walker himself told them that all the usages and rights of the people of Kansas hung upon the legality of the Legislature of Kansas. He says:

"If that Legislature was invalid, then we are without law or order in Kansas—without town, city, or county organization; all legal and judicial transactions are void; all titles null, and anarchy reigns throughout our borders."

Permit me to illustrate this matter. You remember that a great complaint was made in regard to an election in a sister State not long ago. I am not here, upon this occasion, to decide whether those complaints were well or ill-founded. I can make any supposition I please by way of analogy. Let me say, then, for the sake of the argument, that the vote in the city of Baltimore was illegal, and that the vote of that city controlled the gubernatorial election, and the election of members of the Legislature enough to control the complexion of that body. Will gentlemen say that because that is so, the present Legislature of Maryland has no authority in the State, and that its acts are null and void? That body is the Legislature of Maryland. The Legislature which has the forms is the Legislature which has the power.

So it is in Kansas. Its Legislature passed a law which is admitted on all sides to be a fair law, for the assembling of a convention. Gentlemen contend that there has been a radical defect in the manner in which this law was carried out. Why, Mr. Chairman, I think that objection has already been very fully answered, and I shall occupy but little time upon it. It is a legal principle in law, which all these gentlemen around me understand, that nobody can take advantage of his own wrong, or of his own laches. If the law passed by the Legislature of Kansas for the assembling of that convention had not enabled them to have had a fair election, by which they could send up delegates who reflected the voice of the people, I say there might be something in the objection. But the law was sufficient. It was the fault of the people themselves if they were excluded; and that I will prove by the record. I say, if the people themselves had a chance to be represented in the convention, and would not be represented, it is too late for them to come now and complain; they cannot take advantage of their own laches. Here is what Mr. Stanton said in his message to the Legislature of Kansas at its called session on the 8th of December, 1857:

"The census therein provided for was imperfectly obtained from an unwilling people, in nineteen counties of the Territory; while, in the remaining counties, being also nineteen in number, from various causes, no attempt was made to comply with the law. In some instances, people and officers were alike averse to the proceeding; in others, the officers neglected or refused to act; and in some there was but a small population, and no efficient organization enabling the people to have a representation in the convention."

He declares here that the "people and officers were, in some cases, alike averse to the proceeding;" yet these people, or their friends, now complain.

But Mr. Stanton gives a fuller explanation of this matter in a speech recently delivered in New York. There he says:

"Well, now, gentlemen, shortly after I arrived in the Territory the process of taking the census was completed, and the returns were made by the sheriffs of the different counties to the probate judges of those counties, in order that the census returns might be corrected. That law which had been passed at the previous session of the Legislature of the Territory had provided that every voter in the Territory should be registered, and no man should be entitled to vote for delegates to the convention unless he was registered. Going through the Territory, I heard, on all sides, charges of great wrong and injustice; I heard the great mass of the people proclaiming that the officers of the Territory had utterly disregarded right and justice in the performance of this duty; in fact, they had not performed the duty at all. They said in many instances men of high character, residents of long standing, men whose residence could not possibly have been unknown to the officers, had been left off the register. I said to them, Gentlemen, you might have gone to the probate judges, and had those names put on the lists. But they said it was not their duty to go, it was the duty of the officers to register their names. Now it is useless for any of us to disguise the truth. The great mass of the free State people didn't care a fig whether their

names were registered or not. They were opposed to the convention; they were opposed to all the laws, and all the proceedings under it."

The law ordered the sheriff in the month of March to make a census and registry, but to provide against any defect in the action of the sheriff it directs that the probate judges should afterwards sit and hear applications for a correction of the sheriffs' lists. Mr. Stanton, it appears, advised those that complained to go to these probate judges, but they refused, saying it was not their duty to go. If they might have gone and done themselves justice and refused to do it, I say it is altogether too late for them to come now and complain. But, sir, this is a most mysterious subject; there is much mist and confusion about it. Mr. Stanton says the number of counties deprived of representation in the convention was nineteen, while Governor Walker says there were fifteen. But look, if you please, and see what those gentlemen thought of it before the late singular turn in their political fortunes. Remember that this act for the taking of the census was passed long before Mr. Walker was appointed Governor of Kansas. The census was to be taken between the first and last of March; the probate judges were to sit from the 10th of April till the 1st of May; to make corrections in the sheriffs' lists, and the election was to take place in June. Now, Mr. Walker reached Leecompton on the 25th of May. At that time the whole matter was completed, and if there had been wrong done, it had been done before that, and he should have known it. Mr. Stanton was his *avant courier*—the John that went before to make his path straight. He had been in the Territory a considerable time, and according to his own account had received information on this subject, and doubtless communicated it. It cannot be presumed that Governor Walker failed to confer freely with him. What did he say on the 27th of May, in his inaugural, about the people being excluded from voting, and counties being disfranchised? Did he say, then, that there was any cause in existence that would prevent the people from voting for representatives in the convention? Here is what he said:

"I see in this act calling the convention no improper or unconstitutional restrictions upon the right of suffrage. I see in it no test oath or other similar provisions objected to in relation to previous laws, but clearly repealed, as repugnant to the provisions of this act, so far as regards the election of delegates to this convention. It is said that a fair and full vote will not be taken. Who can safely predict such a result? Nor is it just for a majority, as they allege, to throw the power into the hands of a minority, from a mere apprehension (I trust entirely unfounded) that they will not be permitted to exercise the right of suffrage."

He believed then, it appears, that there might be a full and fair vote, and urged the people to make the experiment. Then, sir, on the 27th of May, long after these errors were committed, (if they were committed at all,) Mr. Walker believed that no cause existed which should prevent a fair and full vote, according to his own inaugural. I say, then, that the legality of the Legislature is to be considered incontestable; and the law passed by that body for a convention being a fair law, under which no man was prevented from voting except by his own fault or neglect, and the voters having previously ordered a convention, that convention is a fair mouth-piece for the people in its own proper sphere. What was that sphere? It was to make and proclaim a constitution. So I think the law of its formation shows. It was the mouth-piece of the people in this respect, and the people spoke through it. It had the right, so far as Kansas was concerned, to proclaim the constitution, and did proclaim the constitution. I have seen it argued that they had the right to proclaim the constitution, but chose to submit it, and did not submit it fairly for ratification. Though I have seen great names vouching for this idea, though I have seen it held forth from the capitols of States and from the Capitol of this Union, yet, in my humble judgment, it hardly rises to the dignity of special pleading. It seems rather to be the merest quibble, sir. Did not the convention proclaim the constitution? Did they not say in the seventh section of their schedule: "This constitution shall be submitted to the Congress of the United States at its next ensuing session?" Were there any terms or conditions on which the constitution was not to come here for acceptance? None whatever. That was a certain and fixed fact, with which nothing should interfere. The constitution, then, so far as Kansas was concerned, was a thing accomplished, except

as to one single clause upon which a vote was to be taken. When they talk about submitting it for ratification or rejection, they always say, by way of qualification, "as follows," or "in the following manner or form," &c., under which phrase the extent of submission is always explained. They may not have used the most elegant phraseology; they may not have used the language best adapted to convey their ideas; but to say, because of this awkward phraseology, that they did not proclaim the constitution, but did actually submit it, seems to resemble very much the course of the young practitioner at the bar who demurs to a declaration on the ground that some word is spelt badly or that some phrase is ungrammatical. It is what is sometimes called pettifoggery. The constitution being proclaimed, it was to be considered the act of the State of Kansas, and could not afterwards be affected by the action of the voters of the Territory; because you are to consider the thing in the relation in which it will stand when the constitution is admitted. The act of admission will relate back and raise the act of adoption to the dignity of sovereignty. It is to be considered as having been a State at that time. This is always the operation of the act of admission. Congress can only admit States, not Territories. States only can form constitutions, not Territories. The Territory declares its independence and asserts its sovereignty as a State, and Congress, by admission, recognizes its claim. This is the mode in which many, if not all, the new States have come into the Union. If, then, you would try the question whether this is the constitution of Kansas or not, you must try it by legal testimony as you would try the question as a juror whether a prisoner were guilty or not guilty. If the legal testimony acquitted, and you from some hearsay rumors should find the accused guilty, you would commit a great outrage. So here; if the legal evidence, which is the voice of the people speaking through the convention, says that this is the constitution of Kansas, you have no right to look elsewhere for proof. All else is illegal testimony. The voters are not authorized to annul the former action of the people in this particular.

Gentlemen may say that this is a legal and technical view of the question. All I have to say about that is, that if we have the law upon our side, how can the other side come and ask for equity? He who asks equity must do equity. He who comes into court in such a capacity must come with clean hands. In what condition do the Topekaites come before us to make complaint? The last President, the present President of the United States, Governor Walker himself, all have said that these men come not with clean hands. It is proclaimed on all sides that they were combining and consorting together to overthrow the existing government; that they were guilty of moral treason, of sedition, of everything except actual treason; and for them to come now and ask equity against those who have the law upon their side, is, it seems to me, making a most unheard of demand. When an alien comes here, you do not allow him to vote till he has renounced his allegiance to his own Government, and proclaimed his allegiance to this, because you have not evidence of his attachment to this Government. We require a citizen of another State to remain some time in our own State, in order to give evidence of attachment to our institutions. These men have heretofore not only given no evidence of attachment to the institutions of Kansas, but every evidence of malignant hate. Let Governor Walker tell their spirit and temper. In his proclamation to the people of Lawrence, he says:

"Permit me to call your attention, as still claiming to be citizens of the United States, to the results of your revolutionary proceedings. You are inaugurating rebellion and revolution; you are disregarding the laws of Congress and of the territorial government, and defying their authority; you are conspiring to overthrow the Government of the United States in this Territory. Your purpose, if carried into effect in the mode designated by you, by putting your laws forcibly into execution, would involve you in the guilt and crime of treason. You stand now, fellow-citizens, upon the brink of an awful precipice, and it becomes my duty to warn you ere you take the fatal leap into the gulf below. If your proceedings are not arrested, you will necessarily destroy the peace of this Territory, and involve it in all the horrors of civil war. I warn you, then, before it is too late, to recede from the perilous position in which you now stand."

And these are the men who ask for a relaxation of law in their behalf!

I intended to have said a few words further in

reference to this point, but I have not time. I want to say to gentlemen on the other side of the Hall, who have sought to establish the Topeka constitution, and who, nevertheless, come here and complain of irregularity—I want to say to those who talk about subverting the will of the people and popular sovereignty, and who, at the same time, boldly declare that if every man, woman, and child within the limits of Kansas were to ask for a slave-protecting constitution, they would not allow it—I want to say to them: “Oh, for a forty-parson power to chant your praise, hypocrisy!” I make no appeal to them. But there are gentlemen on this side of the Hall, Mr. Chairman, who do imagine, at least, that they follow their doctrines to their logical and natural results in opposing the admission of Kansas. There are men who do believe that the principles of popular sovereignty lead to this conclusion. To them I appeal. Think again, and trust your friends a little more. A more patient and confiding examination may yet show, that by logical and fair deduction, that doctrine leads to the conclusions which I have spoken.

I have seen in reference to some of them, and particularly to a distinguished gentleman in the other wing of the Capitol, that he has left the standard under which he so long fought; has parted from friends whom he has proved and found faithful; and has turned away to join the ranks of his life-long enemies. It is true, too, that he carries many with him. When the archangel rebelled in heaven, he carried a tenth part of the heavenly hosts with him. If the gentleman continues in his defection, he can find neither his interest nor his pleasure in the bosom of his new allies. He cannot in his heart approve their principles or purposes. They have too many of their own, older, and more tried leaders, to reward, to do ought for him. They have on their bodies too many scars inflicted by his stalwart arm to love him overmuch. If it is not yet too late for him to hearken to the voice of one whom he knows to have been for long years, and truly, his friend, I would call upon him to come back and take his position again in the ranks of that party whose triumphs and whose successes have been the dream of his boyhood and the glory of his manhood. I know that that would require some sacrifice of personal feeling. A great man can make that sacrifice; a little man cannot. Convince a small man, and he hates you forever. A great man sees the error of his ways, and retraces his steps. He will have the consolation of restoring harmony to the only national party left in the land; and what is higher, and holier, and better, he may restore peace to a torn, an exasperated, and an endangered country. Stern truth requires me to say that, whether he returns or does not return; let whoever may choose turn against us or turn for us—our course is onward. If, as I trust, it is onward to victory, then whoever may throw himself in our path will be but crushed beneath the wheels of our conquering chariot. But whether the course of the Democratic party is onward to victory or to defeat, still for us of the South there is no retreat. We are the weaker and the endangered section. We cannot yield our ground. The stronger may, and yet be strong and mighty, and greatly preponderant. We strike for safety and self-protection: they for accumulated power. I do not know what will be the effect of a refusal to admit Kansas under the Lecompton constitution. I am not authorized to speak the views of Virginia. She has not spoken for herself. But I will say this: that, in my judgment, wherever a true and enlightened view of her own honor leads, there she will go; and when she speaks, there is not a true son of hers in all the land, wherever he may be, who will not follow her command. And this, too, I will say: that, although hand join in hand to prevent, the destiny of Virginia, for once and for all, for now and forever, is indissolubly united with that of her sister States of the South.

Mr. DAWES. Mr. Chairman, the increase of population has been so rapid in the Territories of the United States, that in three out of the seven now organized, constitutions have already been framed with a view to their admission into the Union, on an equal footing with the other States of the Confederacy. The President, in the discharge of the obligation which the Constitution imposes upon him to recommend for our consideration such measures as he may judge necessary and expedient has not found it in the line of that

duty to urge upon us any special reasons why more than one of these should be admitted, and that the Territory of Kansas, under and subject to the Lecompton constitution. He has seen fit to accompany this recommendation with an elaborate argument, which, if it has failed to convince the American people of the soundness and justice of the positions assumed, or of the allegations made, has nevertheless left them in no doubt as to what has been the origin, and what are to be the consequences of that policy which makes this Territory and the Lecompton constitution the peculiar objects of a solicitude not shared in by any other Territory, or any other constitution framed within its limits.

I desire to call attention at this time, as briefly as may be, to two points only, to the consideration of which the late special message of the President challenges our attention. The one is a question of law, the other a question of fact:

1. Does the Lecompton constitution come here clothed with the authority of law?
2. Does it come here as the choice of the people to be affected by it?

I propose, at this time, to argue the first of these questions as one of pure law; and, therefore, for the sake of the argument and for the present, to yield all questions of fact; and to say that, if we admit the entire absence of fraud in the creation of the Territorial Legislature of Kansas, still the Lecompton constitution comes here without the slightest authority of law, and has no higher sanction or just claim than merely the expressed wish of those who framed and sent it here. A reference to the message will show that the President has made his whole argument to rest and turn upon what he calls the legality of the Lecompton convention, and its work—the Lecompton constitution. He puts aside all other agency than that of the law, and in this matter knows no people outside of this legal channel. He declares that a great portion of the people of Kansas have, for a long time, been in open rebellion against the Government under which they live; that nothing but military force has kept it down and prevented its assuming and discharging the functions of government. This rebellion, he says, has taken on the form of the Topeka constitution, and has assumed a revolutionary type. Over against these the President sets another party, which he calls law-abiding and law-loving people of Kansas, who have been, according to him, carrying on the unequal contest of maintaining the law against rebellion and revolution, by the aid of Federal bayonets. And, in reference to this condition of things in the Territory, he asks these questions:

“Such being the unfortunate condition of affairs in the Territory, what was the right, as well as the duty, of the law-abiding people? Were they silently and patiently to submit to the Topeka usurpation, or adopt the necessary measures to establish a constitution under the authority of the organic law of Congress?”

And he answers approvingly, that the Territorial Legislature passed a law creating a convention to frame a constitution; and that the convention thus created did, by virtue of the authority vested in them by that act, frame the Lecompton constitution. And he concludes in these words:

“From this review it is manifest that the Lecompton convention, according to every principle of constitutional law, was legally constituted, and was invested with power to frame a constitution.”

And that the constitution and State government, the work of that convention, has been framed “in strict accordance with the organic act.”

This proposition is the foundation of the President's whole argument; and all the other considerations urged by him are built upon this. If, therefore, this proposition be not true, then the whole foundation of the message fails, and it falls baseless to the ground. The inquiry, therefore, becomes a pertinent one, whence comes this legality? and from what source does this constitution derive the authority of law?

The Lecompton convention is the creature of the Territorial Legislature. It derived all its authority and power from that Legislature. No one ever claimed for it that it derived any power from the people outside of the form of territorial law; for to do that, would be to go to the same source from which the Topeka convention derived its authority. And if it be “reasonable” for the one to drink at that fountain, it cannot be “legal” for the other to partake of the same poisonous draft. If, then, the Lecompton convention derived all its power

and authority from the Territorial Legislature, the question next arises, had the Legislature itself the power to clothe this convention with authority to form a constitution and State government? Now, the Territorial Legislature derives all its power from the organic act. It can derive power from no other source; else it, too, will find itself going for authority to that reasonable source, the people, where the men of Topeka were debauched. In the organic act will be found both the creation and the measure of all legislative power in the Territory. And that act has defined and set limits to the power of the Legislature which it creates in express terms, beyond which it cannot go, in these words—section twenty-fourth of the act:

“The legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act.”

I observed some time since, that the gentleman from Mississippi, [Mr. LAMAR,] in an otherwise able argument which he addressed to us upon this point, when quoting this section, omitted the clause limiting the power of the Legislature by the provisions of the organic act, as well by the Constitution—an omission, in my opinion, fatal to his whole argument. This is his language in the Globe:

“In section twenty-four, it is further enacted that the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution.”

But, sir, this section not only limits the power of the Legislature by the Constitution, but it imposes the further limit that all legislation shall also be consistent with the provisions of the act that created the Legislature. The one is just as clear, just as express, as the other. Every legislative act which conflicts with the organic law, is here made void for want of power in the Legislature; just as much, and for the same reason, that it would be void if it conflicted with the Constitution. The organic act is here made a part of the constitution of the Territory, and is supreme over its Legislature. And this must have been so in the nature of things, in the absence of any provision in the organic law upon the subject. For either the organic act, or the Legislature, must be supreme; both cannot be. But the organic act created the Legislature, and could not therefore clothe it with greater power than itself had, and could not make it supreme over itself. But enough for us is the express limit found in so many words, and entirely overlooked, not only by the gentleman from Mississippi, [Mr. LAMAR,] but by the President himself.

Now, the organic act nowhere provides for its own subversion or for the substitution of another government in its place. It is the charter of the Territory, and is to be annulled only by the power which created it, acting upon it directly by repeal or modification, or indirectly by the admission of the Territory into the Union with a State constitution, which is itself a repeal. It needs no argument to show that the Legislature could not delegate to a convention powers which it did not itself possess. Nor does it admit of any greater doubt that to form a constitution and State government is to act inconsistently with the organic law. It is an attempt to transfer the executive and legislative power, the whole machinery of the government into new hands, and if put in operation would subvert all territorial authority. I have the authority of the President for this position, if there were room for question. He says an attempt has been made to set up a Topeka constitution which is *revolutionary and subversive* of the territorial government; and adherence to it is on that ground called “reasonable pertinacity.” And the only reason why he does not find the Lecompton constitution in the same category is, that in his opinion it has legislative sanction. I am inquiring whence that authority comes, and I deny its existence; for the Legislature is expressly prohibited from its exercise.

There is another clause in the organic act, often quoted, from which it is thought by some that authority is derived to form a constitution and State government without any further enabling act. That clause is the celebrated one which “leaves the people thereof perfectly free to form and regulate their domestic institutions in their

* Since the delivery of this speech, Mr. LAMAR has informed the speaker that the above omission was entirely a clerical one.

own way, subject only to the Constitution of the United States." Those who claim that, under this clause, the Legislature has authority to create a convention clothed with power to form a constitution and State government, claim for the Legislature nothing less than power unlimited save by the Constitution of the United States, and forget that by a subsequent section the power of the same Legislature is restricted to consistency with the organic act precisely as it is to the Constitution. If the Legislature has power, under this clause, to initiate a State government subverting the organic act itself, then it would have authority, under the same clause, to provide for the election of a territorial Governor by the people, or to dispense with the presence of such a functionary altogether, or any of his official duties like the approval of an act of the Legislature. All this would be "their own way" of doing business, and would certainly be no more subversive of the organic act than the formation of an entirely new government. Does any one claim that if the Territorial Legislature of Kansas should declare that its acts should be valid without the approval of the Governor, or a vote of two thirds, such acts would be of any binding force? And why not? That would be "their own way." The answer is, that the organic act has taken this power away from the Legislature, and clothed the Governor with a veto upon all their acts, to be overridden only by a vote of two thirds. So, too, has it taken away, or, rather, never granted, the power to make a constitution. If the organic act has created a Legislature supreme over itself, it is a *felo de se*. It was but at the beginning of this session, and in his annual message, that the President himself claimed that the full intent and force of this clause was exhausted by an offer to the people of a vote upon the question of slavery merely, without, at that time, the slightest pretence that it had the force of an enabling act.

Whatever else, after all, may be "the true intent and meaning" of this clause of the organic law which has so puzzled the brains of politicians, it was never intended to make the Legislature "perfectly free;" for the power of that body is limited elsewhere, in express terms. And the perfect freedom here created is for "the people thereof," not in or through their Legislature, which by the same law is not perfectly free, but limited and restricted. If, therefore, the Lecompton convention gets legal existence and lawful authority from this clause, it is not through the limited powers of the Legislature which created it, and the forms of their law which they had no power to enact, but through that perfect freedom of "the people thereof," outside of and above any territorial enactment, which has been vouchsafed to that people by this clause of the organic act. And thus Lecompton, like Topeka, is driven, for its authority to make a constitution, to the people, outside of territorial enactment. In this particular, these two constitutions stand their stand side by side. If the one be "rebellious," "revolutionary," "treasonable," so is the other. Under and by virtue of any authority imparted to either by the organic act, or any of its agencies, they must stand or fall together. They are both nothing more nor less than manifestations to some extent—what that extent, as to each, may be, I shall inquire hereafter; but to some extent—of the popular will in the Territory, permitted by the organic act, as everywhere else under our free institutions, so long as they do not assume the functions of government in subversion of established laws.

I have inquired, not whether this constitution comes here under the forms of law, but, rather, whether it is here clothed with the majesty and authority of law. I do not question any man's power to use the forms of law; but they are empty words, a dead letter, until the constituted authorities, with creative power, breathe into them the breath of life. The Kansas Legislature, as well as an individual, may put upon paper what it pleases; but whatever of its decrees conflict with the organic act, fall still-born; for it is forbidden by the hand that created it from impairing one jot or tittle of that charter. Nor do I question that the people of Kansas may form a State constitution without further legislation by Congress, and be admitted into the Union under it, if that constitution shall be "the sense of the people to be affected by it;" but not by means of any enactment of the Territorial Legislature having any force as law, for the Le-

gisature is forbidden to speak authoritatively on that subject. The conclusion, therefore, is inevitable, that just so far as the Lecompton constitution claimed from legislative enactment authority to form a State constitution, just so far it is without foundation. The attempt, therefore, in the message to commend the Lecompton constitution as the creature of law, and as an emanation from the lawful authority of the Territory, utterly fails; and the hideous deformities of that instrument stand forth in their nakedness, uncloaked and unsupported by legal sanction. The law, thank God, has as yet refused to lend its instrumentality to this work—has, as yet, given no aid or comfort to this undertaking; and it must stand, if at all, on some other foundation.

But, sir, I have not quite done with this point. If further argument were necessary to show the utter failure of the attempt on the part of the President to bolster up this sickly instrument with legal sanction, it is furnished us in the means to which he resorts to maintain his position. An honest argument is based upon an honest foundation. Reason and logic, as well as honesty, hold us to the truth just so long as the truth will serve our purposes; and when we turn our footsteps aside from her rugged pathway, we make proclamation to the world that we cannot reach our journey's end under her guidance. Now, by what process does the President undertake to convince us and the country that the Kansas-Nebraska act authorized the Legislature of Kansas to create the Lecompton convention clothed with power to frame a constitution and State government? Here are his words in quoting from that law to sustain his position:

"That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress 'to leave the people of the Territory perfectly free,' in framing their constitution, 'to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States,' and then to say that they shall not be permitted to proceed and frame a constitution in their own way without an express authority from Congress, appears to be almost a contradiction in terms."

Now, I agree with the President, that there appears in this paragraph, as thus quoted, "almost a contradiction in terms." But something else appears in this paragraph, less excusable than a contradiction in terms—and that is an interpolation into the organic act. The words, "in framing their constitution," which I have quoted from this message, are not to be found in the Kansas-Nebraska act, and have been here foisted in between the words of that act by the President himself. I will not stop to characterize such a proceeding in the terms which honesty and truth and justice demand—for I have to do, at this moment, merely with the legal argument of the President. And I say that the necessity of that argument required that something for its support should be put into the organic act not there before. Such a reading, unparalleled as it is in the history of official communications to Congress, would never have been resorted to but from the conviction of its author that there was nothing in the text without it to support the assumption of the message. It is a proclamation, made in the fore-front of that remarkable document, that it cannot stand upon the statute as it is. I summon the President himself upon the stand, and in this communication, which he has made to us, I produce his confession that he can find no law of the land upon which, as it is upon the statute-book, can this Lecompton constitution be maintained.

And now, sir, I pass to the second subject of inquiry. If, then, the Lecompton constitution does not come here recommended by the authority of law, I desire to know whether it comes here as the choice of the majority of the people of that ill-fated Territory? I desire to know if the want of legal authority to frame this constitution is cured, as it may be, by the fact that it is the voice of the people whose rights it assumes to regulate and control? Or, whether we are not called upon to force upon an unwilling, a protesting, and resisting people, a frame of government founded neither upon the law under which they live, nor the will of those on whom it lays its fetters?

This is a question of fact, and must depend upon the testimony. It is a question, too, which underlies all the others. To every one who believes that all governments derive their just authority from the consent of the governed, no

question can be raised in this controversy of greater magnitude than whether the frame of government about to be fastened upon the people of Kansas has their assent, and embodies their will. All informalities may be waived, if it be but the people that speak. Compared with this question, it matters little where this constitution originated—whether in the city of Washington or in the office of the surveyor-general of Kansas. But it does matter, unless we care to forego and forget the fundamental principle of all free government, whether the people of Kansas, who are to live under this constitution, desire it or not. One would suppose that, before recommending the admission of Kansas under and subject to this constitution, the Executive would have spared no pains, nor omitted any effort, to have made certain, and communicated to this House, the one grand transcendent fact, before which all opposition should have paled and cowered—that the people of the Territory *desire* to take upon themselves this as their organic law. Yet, sir, when we turn to the message for information upon this point, we find that the President has none to give. There is a great deal else in that document, but not one word on the question whether the people of Kansas really do or do not want this government. There is much special pleading in it as to how a people may seem to want what they really do not want—how they may be estopped from saying what they do want, and as to whose fault it is that this or that has been done, or has not been done; but not one word, from the beginning to the end of the message, which would indicate the President's own opinion upon this, the one great fundamental question in the controversy, whether the people of Kansas themselves have breathed the breath of life into this instrument—whether it stands forth clothed with the popular will, quickened by the pulsations of the popular heart, and speaking the popular voice. Nor has the President lifted his finger to ascertain from Kansas what is the popular will. He has communicated to the call of the Senate his correspondence with the Governors of that Territory, and the orders and instructions which have been issued to them. And there is not to be found among them all the desire expressed, on his part, to know what is the real popular will in that Territory in reference to this instrument. In communicating this constitution to us, with his recommendation that Kansas be admitted under and subject to it, he nowhere tells us that it is an emanation of the popular will, or that it is submitted to us in obedience to that will. On the contrary, he says he has received it from John Calhoun, and that John Calhoun hopes he will submit it to us. Here is his compliance with Calhoun's request:

"I have received from J. Calhoun, Esq., President of the late constitutional convention of Kansas, a copy, duly certified by himself, of the constitution framed by that body, with the expression of a hope that I would submit the same to the consideration of Congress, 'with the view of the admission of Kansas into the Union as an independent State.'"

It is fit that such a man should be the bearer of such an instrument. "Fit head for fit body." The man who has been compelled to flee from the just indignation of the people he is betraying, guarded by United States dragoons; the man who dare not to-day show his head an hour in that Territory, except it be within a hollow square of soldiers, comes as near as any one man can of personifying the true relation between the people of Kansas and that constitution. They hate him as the chief instrument chosen by their oppressors to do their work, and they detest and loathe and hate this, the workmanship of his hands. Now, is it not a little remarkable that the Chief Magistrate of a people which achieved its national existence in the assertion of the principle that all authority over freemen obtains its life from the consent of the governed, should have had his mind so turned away from this, the true issue, as not even to have raised the inquiry, whether the people who are to live under this constitution do themselves actually choose it or not? Is it not stranger still that the ear of the President has become so dull to the key-note of that grand old anthem sung in Independence Hall, that he has never heard that while we have been discussing this subject in this body, the freemen of Kansas have walked up to the ballot-box, ten thousand strong, and set the seal of their condemnation upon the very instrument he is urging us to impose upon the necks of the very people who have thus rejected it with

scorn and contempt? I cannot stop to criticise the President's excuse for not having heard of this judgment entered up against the Lecompton constitution—that he “had received no official information” of it; nor to reconcile that excuse with what he does communicate that he has heard, transpiring at the same election: of a large majority of the opponents of this constitution voting under it for State officers. Can he not hear of the one vote, as well as the other, happening on the same day? If he have any other ears than official ones, it may well be asked why they have not caught the thunder tones of the ten thousand majority against the Lecompton constitution, as well as the insignificant inconsistency with which he has troubled himself of free-State men at that same election, in voting first against the constitution, and then for officers under it. If this can reach him from unofficial sources, has he no ears to hear that other solemn, all-controlling adjudication of the whole people against this instrument?

But another chapter in this history here opens, as marvelous as any which have preceded it, and in perfect keeping with them all. In the profound silence of the message upon the expressed will of the people, in the strange revelations of the executive documents that not a finger has been raised nor an ear opened to learn that will; and in the presence of that other fact, which has traveled here without executive aid, and in spite of executive documents piled up to wall it out, that the people have written on that instrument in letters which will burn through it that by ten thousand majority they have registered their vow that they will never submit to it; and have driven the guilty perpetrators of this outrage upon their rights in ignominious flight from their borders; amid all these facts, and allegations more serious, the friends of the Administration rush to the aid of the Executive in attempting to stifle all inquiry as to what all these things mean; and whether we are not called upon to fasten, by the strong arm of power, a constitution which they loathe and hate, upon a people who have a sacred right themselves to make the law they are called upon to obey. There was a time when the Representatives of the people would have been as sensitive to such a touch as the apple of the eye. Now they are quick only to conceal it. But no subterfuge can change or blot out these facts. The solemn judgment of the people of Kansas is written on this constitution, and will be known and read of all men. We may wrangle as long as we please, with dictionaries and tomes at our elbow, as to the effect of this vote upon the *legality* of the constitution; but the proposition that the Legislature of Kansas cannot provide for “taking the sense of the people” upon that instrument, and that that sense when taken cannot be known, has neither foundation in law nor common sense. The constitution may, nevertheless, stand. So will the “sense of the people” stand, and it will be known as the sense of the people. Whatever investigation you may resist or stifle here, it will in no way alter or wipe out these truths. This charge of attempting to force, at the point of the bayonet, a constitution upon an unwilling people is branded upon your brow, and the blood spilt in the work will be found on your hands. It will be of very little use for you to cry,

“Out, damned spot!”

The potency of that party Shibboleth—Democracy—may be again, for the thousandth time, invoked; the cry of popular sovereignty may be unceasingly rung; but the truth will remain unaltered, that, in the name of all these, liberty has been trampled in the dust, and fetters forged for her unwilling limbs. In olden time, the philosopher was persecuted and beaten and cast into prison till he was compelled to deny himself; but the earth moved on, nevertheless, and the great truths he had enunciated took upon themselves immortality, regardless of his own puny efforts to call them back. There is an immortality of infamy as well as of glory. No matter by what party thumbscrew you may subject the refractory, or by what arts you may ply the supple, till, by your votes, the record shall show no evidence of the foul wrong within this Hall; still it will work no change on these truths, and the outrage remains, nevertheless, bald and naked, never to pass out of sight till avenged or redressed.

This very attempt to stifle investigation and

choke inquiry, is itself a confession. It is not because investigation will refute, but because it will sustain, these charges, that it is resisted. The reason why men love darkness rather than light is made no more certain by the pen of inspiration than by the course of the Administration upon this question. The very message under consideration contains ample proof, not only in what it takes vain care to conceal, but also in what it makes haste to communicate, of the truth of the charge of attempting, through the Lecompton constitution, to crush out popular sovereignty and the right of self-government in Kansas, which is now laid at the door of this Administration. The President cannot state his case but he states himself out of court. When he tells us that the people of Kansas are in a state of rebellion, and acknowledges the difficulty of making the American people realize the fact, attributing it to a great delusion, let him show what the people of Kansas have to rebel against, if they have been left “perfectly free to form their own institutions in their own way,” and he will remove the delusion. Men do not rebel against themselves, nor the work of their own hands. When he tells us that the established order of things in Kansas “would have been long since subverted” by any portion of the people sufficient to subvert it, had it not been protected by United States bayonets, he proclaims, in the same sentence, that the power which created, as well as the power which sustains, that order of things, never emanated from the people of Kansas. For men do not pillage, nor pollute, nor pull down the temple of their own rearing. When he announces that a form of government, twice ratified by the people, “is in direct opposition to the existing government,” and that it requires, to keep it down, the constant presence of United States dragoons in a Territory “left perfectly free” to manage its own affairs in its own way, he confesses, in the same breath, that the standing Army has been used to crush out the exercise of that right of self-government, the struggle to achieve which commenced in blood at Concord, and ended in triumph at Yorktown. Why is it that this home Government of ours does not require the constant presence of a standing Army to preserve and protect it? Why is it not necessary for the Chief Magistrate of the nation, when he goes forth upon the avenue, to surround himself with gensd'armes, bristling with steel, to protect and rescue him from the deadly missives of the populace? Why is it that the approaches to this Hall are not guarded by soldiers, between whose bayonets we might march in and out from our deliberations here, shielded from the passions of men without? Why is it that the judiciary, from the highest tribunal at the Capitol to the humblest magistrate in the remotest hamlet, sits secure in the seat of justice, calmly deliberating and fearlessly pronouncing decrees to which all the people bow in silence? Why is it that a standing Army, equal in numbers and power to the extent and greatness of this Government, is not spread over the land, from this center to the outermost borders, to uphold, by its strong arm, the authority of law, and to awe, by its imposing presence, the people into submission? The answer to all this is apparent; and I invoke its application to Kansas. The strength of this Government is in the consent of the governed. Without this all-pervading element it could not survive an hour. The fair fabric would tumble in ruins over our heads, and the bonds which bind us together would part like smoking flax. No matter in what garb this constitution comes here, nor from what authority it professes to emanate, if it requires the continual presence of the Army to preserve and protect that authority among the people of Kansas; then, I say, it never came from that people. When, therefore, the President declares, in this message, that the Army is necessary to maintain that authority, he confesses that the people never breathed into it the breath of life, and the world will enter up judgment upon that confession.

The Lecompton constitution, therefore, comes to us without the sanction of legal authority; and equally without that other sanction—the will of the people—which, under the circumstances, is higher and more sacred than all the forms of law. Without this seal, I cannot take it; without this baptism, I can hold no communion with it; without this anointing, I eschew it.

Now, sir, the real reason why this constitution

is thus urged upon us is just as manifest as the falsity of the pretended one. It banishes free institutions and forever fastens slavery upon that virgin soil. No man who has eyes to see, or ears to hear, need fail to understand whether it be to justify or to condemn. No man can longer doubt, but at the expense of his common sense. I can understand and appreciate the zeal of southern men for the consummation of this work. It is the legitimate fruit of slavery. That institution can bear no better. And when a man has lived all his life among slave institutions, and has never seen the effect of freedom upon the whole man—physical, intellectual, and moral—never himself breathed the invigorating atmosphere of free institutions—I can understand how such a man may come to actually believe that the forms of “a republican government, surrounded by slave institutions, would be the highest type of civilization.” And I may respect him for the frankness of the avowal, however much I may regret the misfortune of his life which has led to such convictions. I can even hear from the lips of a man of such an education and life [Mr. SHORTER] that he has “a sovereign contempt for the memory of the Pilgrim Fathers,” with no other emotions than, the one of pity for him, and the other of gratitude to God, as one of the descendants of that immortal band, that their memory *does merit* the contempt of the lords of the lash and the founders of a colored aristocracy. But I fail to comprehend how it is possible for a man now in the decline of a life which had its origin in one of the noblest of the free States—who was reared under the shadow of free institutions—has watched their growth in all that makes a State great and glorious—has witnessed, under their expanding influence, commonwealths spring out of the wilderness into the full maturity of manhood, guarantying to all the people thereof the God-given rights of freemen, all the branches of industry taking life and bearing fruit in their soil, and comfort and competence smiling on every hearth-stone in all their borders—I say I cannot understand, it is utterly incomprehensible to me, how such a man, false to all these noble affinities, can undertake, from high position and power, to crush out free institutions, and force in their stead upon an unwilling and resisting people slavery with all its attendant train of curses and woes and misery.

The gentleman from Virginia, [Mr. CLEMENS,] in an effort to turn public attention away from the astounding doctrines of this message by eloquent personal eulogy, told us imploringly that the President “is now upon his political trial.” I wish this were so, and this were all. But, sir, you put the President on his political trial for years before you clothed him with power to do this work. And he long since gave indubitable proof that he could be trusted for the accomplishment of any work that slavery should demand at his hand. And then it was, and not till then, that he was permitted to wear the imperial purple. There is, nevertheless, a trial of quite another sort. More than one hundred thousand freemen in Kansas, and the institutions under which they and their children are to live till the remotest generation, and till millions shall people that fair land, making it, for good or for evil, a Power upon the earth, are this day on their trial. And yet we are told in the message that this trial is of “not the slightest importance,” to them, and is a “cause, so far as the interests of Kansas are concerned, more trifling and insignificant than has ever stirred the elements of a great people into commotion.” The answer of the President, when it is shown that half the counties of that great Territory have been disfranchised, is that they were only “a comparatively few voters.” And the cool reply from the same high source to all opposition is, that “the affairs of this Territory have already engrossed an undue proportion of public attention;” and the people whom this decision affects are only “a few thousand inhabitants of Kansas!”

And in betrayal of this people the message bids us, who are bound by the high behests of duty, let the consequences be what they may, to take counsel of our fears. It tells us that, unless we now consummate this outrage which has been ripening under the fostering care of the Executive for years, “no man can foretell the consequences;” that “agitation upon this dangerous subject will be renewed in a more alarming form than it has ever yet assumed;” that just in proportion as

this question is insignificant to the few thousand people of Kansas, who detest this constitution, "for this very reason"—that is, because it is an insignificant question—

"The rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union where slavery is recognized under the Constitution of the United States."

I wish, in passing, to inquire which of the fifteen slave States it is whose people have been counted out here, and have determined not only not to dissolve the Union, but not even to "feel keenly" if this foul scheme shall fail. Perhaps the Representatives of that State here can inform the country. And, lastly, we are told by the President, that unless this bald crime against human rights shall be perpetrated, "dark and ominous clouds," which he seems to see already "impending over the Union," are to "become darker and more ominous than any which have ever yet threatened the Constitution and the Union." I do not share these fears of the President. I do not see these clouds. I shall be slow to believe that the perpetuity of this Union requires the sanction of this fraud. But if I did share these fears, I should be derelict of duty if I took counsel of them. If I saw these clouds, I should still find no justification for the abandonment of right in the apprehension that else they might break over my head. This doctrine has been preached to us quite too often already; it was never sound; and has begotten many a peril without ever averting a single one. It can answer no further ends.

The President's hopes, too, are as vain as his fears. How empty the expectation that "domestic peace will be the happy consequence of this admission," or that it "would restore peace and quiet to the whole country," or that the troops of the United States could then be withdrawn from Kansas. Peace comes not of schemes thus founded in wrong and carried out by fraud and force. Commotion and conflict more terrible than those which have already shamed and shocked the country, will be the fruit gathered of such a sowing. He that "soweth the wind" shall most assuredly "reap the whirlwind." You may cry peace! peace! but to you who daub with this untempered mortar there can be no peace.

Does the President hope, before the bar of inexorable justice, to escape the just condemnation of one who, with full knowledge of fraud, aids in its consummation—of one who feeds and fattens and hugs to his bosom the perpetrators of robberies, of rapes, and of murders, while their hands are still reeking with crime? He knows the foul wrongs which gave birth to this constitution, and the infamous outrages upon which it has fed; and with full knowledge, by this message he adopts and makes them all his own. Thus, voluntarily taking upon himself the responsibility of all the black and damning plots and schemes and frauds and crimes which have brought the Lecompton constitution here, he goes for trial before that august tribunal, the American people, and I patiently await the verdict.

Mr. KEITT obtained the floor.

Mr. ENGLISH. If the gentleman from South Carolina yields the floor, I move that the committee do now rise.

Mr. LETCHER. I should like to have an understanding of this. There seems to be a great many speeches on this subject to be got out yet. Why should we not, as we did last Congress, hold evening sessions for the purpose of general debate? If we do not, we will not be able to adjourn the session before August.

Mr. DOWDELL. If the gentleman from South Carolina does not desire to go on this evening, there are a good many who desire to speak who would be glad to go on now. If the gentleman will allow me, I will speak this evening.

Mr. KEITT. I will very cheerfully yield the floor to the gentleman from Alabama to allow him to speak, and to any other gentleman who may desire to speak this evening, if I can have the privilege of the floor to-morrow.

Mr. DAVIS, of Indiana. I object to any such arrangement.

Mr. KEITT. The indulgence which I ask, and which I know has been repeatedly extended to gentlemen, is this: I do not want to go on to-night. There are many gentlemen who do wish to speak. I say, then, that I will not ask now that the committee rise, but am willing that the

gentleman from Alabama [Mr. DOWDELL] shall make his speech to-night, and that I shall be allowed the floor when the committee meet again.

Mr. LOVEJOY. The proposition is a very reasonable one, and I hope it will be assented to.

Mr. REAGAN. I object.

Mr. WASHBURN, of Maine. I object to any arrangement. Let us have the speeches regularly, as usual.

The question was taken; and the motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. Houstoun reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and especially House bill No. 6, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1859, and had come to no conclusion thereon.

Mr. ENGLISH. I ask permission of the House to introduce a bill, of which previous notice has been given, to provide for erecting a building in the city of New Albany, in the State of Indiana, for a post office and custom-house.

Mr. LETCHER. I object.

Mr. ENGLISH. I move to suspend the rules.

Mr. BURNETT. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at half past four o'clock p. m.) the House adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

TUESDAY, March 9, 1858.

Prayer by Rev. WILLIAM CHAUNCEY LANGDON. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. WILSON presented additional evidence in support of the claim of Eliza G. Townsend to a pension; which was referred to the Committee on Pensions.

Mr. FOOT presented a petition of citizens of Minnesota, for the enactment of a law giving each actual settler a homestead of one hundred and sixty acres of land; which was ordered to lie on the table.

Mr. FITCH presented the memorial of F. W. Lander, praying for compensation for a reconnaissance made by him of a railroad route from Puget Sound, via the South Pass, to the Mississippi river; which was referred to the Committee on Military Affairs and Militia.

Mr. BIGLER presented the memorial of James McCutchen, an invalid pensioner, praying for an increase of his pension; which was referred to the Committee on Pensions.

TEXAS ON KANSAS.

Mr. HOUSTON. I present joint resolutions of the Legislature of Texas, in response to the Governor's message on Kansas affairs; and I ask that they may be read.

The Secretary read them, as follows:

Joint resolutions in response to the Governor's message on Kansas.

Whereas, there exists, and has existed, a violent determination on the part of a portion of the inhabitants of the Territory of Kansas to exclude, by force, the citizens of the slaveholding States from a just, equal, and peaceful participation in the use and enjoyment of the common property and territory of the members of the Confederacy; and whereas, this determination, owing to the state of political feeling in the northern States of the Confederacy, operating upon the Federal Government, may become effectual and the exclusion perpetual: Therefore,

1. Be it resolved by the Legislature of the State of Texas, That the Governor of this State is hereby authorized to order an election for seven delegates, to meet delegates appointed by the other southern States in convention, whenever the Executives of a majority of the slaveholding States shall express the opinion that such convention is necessary to preserve the equal rights of such States in the Union, and advise the Governor of this State that measures have been taken for the appointment of delegates to meet those of Texas. And that the sum of \$10,000, or so much thereof as is necessary, be, and the same is hereby, appropriated out of any money in the treasury not otherwise appropriated, to pay the mileage and per diem of such delegates, which shall be paid at the rate paid to members of the United States Congress, according to the law in force in the year 1854.

2. That, should an exigency arise, in the opinion of the Governor, in which it is necessary for the State of Texas to act alone, or by a convention representing the sovereignty of the State, he is hereby requested to call a special session of the Legislature to provide for such State convention.

3. That the Governor is requested to transmit copies of these resolutions to the Executives of each of the slaveholding States, and to our members of Congress.

Approved, February 16, 1858.

DEPARTMENT OF STATE,

AUSTIN, TEXAS, February 23, 1858.

I, the undersigned, Secretary of State of the State of Texas, do certify that the above and foregoing is a correct copy of the original joint resolutions on file in this Department.

Given under my hand, and the seal of the Department of State, this day and year first above written.

[L. S.] T. S. ANDERSON,
Secretary of State.

Mr. HOUSTON. I move that the resolutions be printed.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on Public Lands, to whom was referred the petition of citizens of Taylor county, Iowa, praying to be allowed to enter, at the minimum price, certain lands on which they have entered, submitted an adverse report, on the ground that no legislation on the subject is necessary. The report was ordered to be printed.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the petition of Edward N. Kent, submitted a report, accompanied by a bill (S. No. 188) for the relief of Edward N. Kent. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS, from the Committee on Claims, to whom was referred the petition of Rufus Dwinel, submitted a report, accompanied by a bill (S. No. 189) for the relief of Rufus Dwinel. The bill was read, and passed to a second reading; and the report was ordered to be printed.

Mr. SIMMONS. I am instructed by the Committee on Claims to report back the bill and report formerly presented in the case of Sturges, Bennett & Co., and to state that the committee unanimously concur in all that part of the former report which disposes of the claim itself. Some of the members reserve the right of dissenting from some of the subsequent reasoning. I do not see any of them now in their seats. I ask that it lie on the table for the present.

The report was laid on the table.

HOUSE BILL REFERRED.

The bill (H. R. No. 8) for the relief of John Hamilton was read twice by its title, and referred to the Committee on Military Affairs and Militia.

ROCK ISLAND.

Mr. TRUMBULL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inform the Senate whether the island of Rock Island, in the State of Illinois, is longer needed for military purposes; and if not, whether any steps have been taken for a disposition of the same.

THOMAS AP CATESBY JONES.

On motion of Mr. MASON, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 122) for the relief of Thomas Ap Catesby Jones, the pending question being on the amendment offered by Mr. MASON, to insert after the word "pay," the words "out of any money in the Treasury not otherwise appropriated."

Mr. MASON. I offered that amendment at the suggestion of the honorable Senator from Vermont, [Mr. COLLAMER.] It is a mere formal matter. The bill was very fully discussed the other day, and I am not disposed to trouble the Senate any further about it.

The amendment was agreed to.

Mr. STUART. When the Senate passed from the consideration of this subject the other day, I had so nearly concluded all that I designed to say on the bill, that I do not deem it necessary now to recapitulate my argument. I sought to show that the proposition was not within the constitutional authority of the Senate; and, as a test vote on that subject, I move the indefinite postponement of the bill.

Mr. COLLAMER. I did not propose to say anything on this subject until I heard what fell from the honorable Senator from Michigan. I listened to him very carefully. He seemed to start the idea that we were without constitutional power to pass this bill. I understood him at first to found his objection on the fact that this was like a forfeiture which had been declared by the judgment of a court, and that the attempt to allow this officer to receive the pay of his rank while he was sus-

pended, was really to overrule the decision of the court. I have been unable to see the force of that argument. If this were the case of a penalty which had been adjudicated by a court of competent jurisdiction, and the money had been paid and was in the Treasury, I do not see why we are without power to remit that money. Certain it is that that money cannot, by any action of the Executive in pardoning the offender after his conviction, (for that is the only power he has—the power to pardon,) and after the money had been paid into the Treasury, be returned to the man. It is in the Treasury; it must be taken out by an appropriation bill for the purpose. Now, the effect of suspending an officer's pay for a certain period of time is the same thing. It leaves so much money in the Treasury; and it seems to me, if the case is one which, on its merits—and I have nothing to say particularly on the merits of this claim—requires our attention, this is the only way to attain the object.

It appears to me further that there is another reason. The appropriations which are made for the Navy and Army under the provisions of our Constitution fall at the expiration of two years, and then go into the surplus fund. If there was an appropriation for paying officers in those years when this money was withholden, that has passed by, and not having been paid in those years, it falls, and of course, if any provision is to be made for paying this officer there must be a new appropriation.

So much for the necessity of this law, provided this is one of those cases which, on their merits, require our attention. The honorable Senator from Michigan, in his last remarks in answer to the honorable Senator from Virginia, does not seem to think there is so much difficulty in this bill, on the ground that it interferes with the result of the judgment of a court; but he falls back on another ground, and he says it is not to pay a debt. He says we have power to appropriate money simply for the purpose of paying our debts; and that this is not a pecuniary debt. That seems to me to be going back to grounds which it is hardly worth while now, at this late day of our practical construction of the Constitution, to undertake to debate. If that idea be correct, we cannot give a man a pension; it is not a debt. We cannot give a man a sword; it is not a debt. We cannot give La Fayette land; it is not a debt. We cannot make any bounties of any kind; they are not debts. Mr. President, it seems to me that it is quite too late to undertake to debate that point. We have a right, I apprehend, to pay our debts of gratitude. If we can liquidate such calls, I think we should meet them. I have felt bound to say thus much simply because of the constitutional point which has been introduced into the discussion.

Mr. STUART. It seems that the exact position which I occupied on this subject is not very well understood, at least by the Senator from Vermont. I took the ground the other day, that the suspension of this officer's pay was a result produced by the judgment of a court-martial. He sets forth in his memorial that he was arraigned and tried by a court-martial, and a judgment rendered against him; that judgment was, that he should be suspended from service in the Navy for five years, two and a half years of that time without pay. The ground upon which he puts his memorial is, that that judgment was improperly rendered against him; that it was improper, even to the reception of *ex parte* evidence, and therefore he asks to have the money refunded. That being the case, I took the position that for Congress to interpose on that ground, was a direct interference with the constitutional authority of the President.

Mr. MASON. The bill puts it on a different ground altogether.

Mr. STUART. The Senator is mistaken. The bill provides that this money shall be paid to him, and couples with it a proviso that this act shall not be construed as expressing any opinion on the correctness of the judgment. Now, sir, I ask the honorable Senator from Vermont, what is the groundwork of this bill? Does it assume that the Government of the United States owes a debt of gratitude to this individual? Not at all. I conceded the other day that the United States undoubtedly had authority to pay such obligations; that they are as much debts as any others,

but that it is not within the power of Congress to assume an indebtedness, and then assume the payment of it. Congress cannot say of their own accord, "we owe A B, and we vote A B a hundred thousand dollars." I grant you, sir, that the bill which was passed for the relief of General Jackson was within the constitutional authority of Congress, because the United States owed him an immense debt of gratitude, and had a right to pay it like any other debt.

You may vote a man a sword for eminent services; but I would ask where is the authority to vote a man a sword who never did anything at all for his country? That would be a mere pretense. Is any gentleman prepared to say that we have a right to vote just as much money out of the Treasury as our discretion dictates, by way of a donation? Where do you get the authority? The authority of Congress is defined in the Constitution. If there is any such authority as that, gentlemen can put their finger on the place in which it is defined. I do not find it; but the authority to raise money to pay the debts of the Confederacy is what I alluded to the other day. Is this bill put upon that ground? Does this bill proceed on the ground that we owe this individual the money? Certainly not.

Is there any specification in his memorial, in the preamble to the bill, in the testimony in the case, that he falls within that class of persons to whom the country owes a debt of gratitude? Not a word of it; but, as I said, he puts his case upon the ground that he asks us to reverse the decision of the court *pro tanto*. If Congress act upon his case at all, they act upon his statement of the case. He claims that he shall be paid these two and a half years' pay, because he was improperly deprived of it by a court-martial. Now, I ask where is the authority to interpose? I took occasion, the other day, to say, so that there should be no ground for misapprehension, that doubtless we could pay a debt of gratitude, as well as any other debt; but I say again that we cannot assume that there is a debt, when the individual himself does not assume it, and then go on to pay it by legislation.

If Congress can interpose now, and pay these two and a half years' pay, why could they not interpose by law to reverse the judgment, so far as the suspension of service was concerned? Where is the difference? Suppose this individual had asked Congress, immediately after the judgment was pronounced against him, to pass a law reversing the suspension and restoring him to active service in the Navy, could it be done? If not; why not? Where is the distinction between such an effort and this one? It does seem to me that the distinction does not exist, and that it is impossible to define it. The ground that I took, the only ground I have occupied is, that this is asking Congress to do what the President of the United States by the Constitution is himself authorized to do. The authority rests there, and nowhere else. The President, in this case, has exercised the authority, and refused to do anything more than to relieve the individual of the remaining two and a half years of suspension.

Mr. BAYARD. Mr. President, I differ from the honorable Senator from Michigan in the construction he gives to the authority of Congress in reference to the right to order money to be paid out of the Treasury to any individual where we suppose it has unjustly or prejudicially to him come into the Treasury. It is his money. I do not care whether you call it a debt, or an equitable claim, or what you please. If, in the judgment of Congress, there is money in the Treasury which ought to be in the hands of an individual, there is no other mode in which it can go to him, (not even by executive pardon,) after it once gets into the Treasury, than by the action of the Legislature. The Legislature certainly would not have the right, where a man was convicted of an offense punishable by death, or in any other mode, to interpose by law and say that he should not be punished, because that power belongs to the Executive; but if, as part of the punishment, a fine is inflicted which is paid into the Treasury, and it requires the action of Congress to pay that money out, it does not follow that Congress have not the right to restore to him the money, if they think it has been unjustly exacted.

Congress have exercised this right in a great variety of cases. I will instance a case, between

which and the principle of this bill I cannot see any difference. During the operation of the non-intercourse laws of 1809, there were a great variety of importations from St. Domingo and other West India islands, which, according to the letter of the law, subjected the cargo to seizure and confiscation. It was, in many instances, seized and confiscated, and the money paid into the Treasury, without remission by the Secretary of the Treasury. There was some doubt about the extent of his power; but he undoubtedly had a power of remission in certain cases. To my own knowledge, in many of these cases, Congress passed laws to repay to the parties the money which had been paid into the Treasury as the result of the sentence of a court of justice, where no remission had been made by the executive authority, to whom the power was given to make remission. Congress thought that such cases were not within the policy and intent of the law; that there had been nothing prejudicial to the country in the act of the parties making those importations, and that it was a hardship to them to keep their money in the Treasury; and they therefore, in the only mode in which it could be done, ordered it by act of Congress to be repaid.

I have known several cases of that kind. I cannot distinguish between a case where money which had been paid into the Treasury, under a sentence of a court was repaid, and a case where, in consequence of a sentence, the party could not receive the money, and therefore the appropriation which would be applicable to pay him, has fallen through lapse of time. We then simply renew the appropriation, conceiving that the party ought to have received the money before, though a court-martial may have thought differently. So in the other case, the sentence of the court brought the party within the letter of the law, and he had to pay the money. I cannot distinguish between the cases. I think there is merit in this application, and I see no constitutional objection to the bill.

Mr. FOSTER. After what fell from the honorable Senator from Virginia the other day, in regard to the present condition of the memorialist, it seems exceedingly hard, almost cruel, to vote against the passage of this bill, and yet, sir, I feel compelled to vote against it, and I will give my reasons for so doing in a word. The memorialist set forth that he was tried by a naval court-martial, and after that trial, was sentenced to five years' suspension from the service, and for the first two and a half years without pay or emolument. He then says:

"This severe sentence was passed, as your memorialist verily believes, and is well assured by several distinguished jurists familiar with court-martial practice, on testimony essentially defective, even to the admission of *ex parte* evidence, as the official record of the court attests, and on which your memorialist was justly entitled to full and honorable acquittal."

For these and other reasons, he prays relief. If the facts set forth in the memorial are true, he is entitled to relief, and this bill ought to be passed; but if they are not true, and the court-martial did justice in the premises, what right have we to say that the sentence was too severe, and to remit the penalty so far as the money is concerned? Do the committee, in their report, tell us that the facts stated in this memorial are true, and that the court-martial committed injustice? If they told us so, I should cheerfully vote for the bill; but they do not. On the contrary, the proviso to the bill contains these most significant words:

"Provided, That this act is not to be construed as an expression of opinion upon the organization, conduct, or decision of said court."

The organization, the conduct, and the decision of the court are, by the committee, untouched, and are to stand as having been as they ought to have been. Now, sir, in that state of things, can we find the facts alleged in this petition to be true? I certainly cannot; and if they are not true, and if this memorialist has not had injustice done him, and he was tried by his peers, why should we now remit this penalty and pay back the money, which is his money, it is true, if he was wrongfully deprived of it? but if it did not belong to him, surely it is not his money, and ought not to be paid to him. If the proviso be stricken from the bill, or if the committee will say that the court-martial did injustice to Commodore Jones, I will cheerfully go with the Senator from Virginia in voting this amount—nay, I will go further. If

the bill be amended so as to make this a payment to Commodore Jones for gallant services rendered to his country in former days, I will vote for that; for I know enough of the past history of Commodore Jones to vote such an appropriation most cheerfully. But, sir, I want to do a right thing in a right way, and not in a wrong one. I therefore, with the proviso in the bill, and with the allegations in this memorial, cannot vote for the passage of the bill in its present form.

Mr. MASON. Commodore Jones was in command of the Pacific squadron on the coast of California, before California was admitted into the Union, and while that Territory existed in the anomalous state that it maintained for a considerable time; and we all know that not in the Navy alone, but in the Army, it was supposed in many quarters that very great irregularities had taken place in the conduct of the military government, and by many in the conduct of the naval government. I was one of those who thought there were many and great irregularities in the conduct of the military rule in California. The charges against Commodore Jones, which were investigated by the court-martial, related to irregularities that were charged on him in his conduct of the naval service. The court found him guilty of the charges, and suspended him for five years, one half of the time to be deprived of his pay. It was a very severe sentence. The President, after the lapse, I think, of two and a half years, remitted the suspension from active service, which exhausted the power of the Executive, as the President believed. That was done by President Fillmore. Commodore Jones now applies to Congress to remit so much of the sentence, for it is a substantial remission, as deprived him of his pay for the two and a half years. In his memorial, which has been read, he places it upon the ground that in his judgment, and, as the memorialist alleges, in the judgment of eminent counsel, the court did err in admitting *ex parte* evidence, and committed other informalities and irregularities which were charged upon the court.

"The honorable Senator from Connecticut says the committee have not found that that is true, because they have put a proviso to the bill which excludes such a conclusion; but it does not follow, by any means, that that involves a question of veracity between the petitioner and the committee that acted upon his petition. It is certainly very natural that one, goaded as Commodore Jones was by the proceedings of that court, and by the censure of the court, advanced in years, conscious, as doubtless he was and had a right to be, of a great deal of self-reliance from his great experience in the public service as a sailor and in command of our ships, should take a different view of the action of the court; and he says—and I have no doubt with truth, for he is a man of truth—that counsel sustain him in it. But when he makes that the groundwork of his petition, it does not follow, that because it may not be the case, he has departed from the truth. There is a difference in the judgment of the two parties.

Mr. FOSTER. I certainly did not mean to make an issue of veracity at all—not by any means.

Mr. MASON. I did not so understand, in its strictest sense. There is a difference in the judgment of the two parties, and, as an impartial observer, I should say, without having a knowledge of the facts, that the court is far more probably right than Commodore Jones; for the court is to be presumed to be impartial, and Commodore Jones not, it being his own case. But it is very natural, and not only pardonable but commendable, that an officer of his service, of his age, and of his condition before the country, in asking redress, should place it on such a ground that, if relieved at all, would, in his judgment, relieve him, and all who came after him, from the implied censure of the court.

That is all he has done; but the committee and the bill place it on a totally different ground. I was surprised, therefore, to hear the honorable Senator from Michigan insist that if we pass this bill, we effect the judgment of that court. I need not say to that honorable Senator that when you look into the reasons of a law, you look to the law itself, and no further. If this bill should pass and go on your statute-book, none can know what induced the passage of the law, either in fact or legally, but what appears on the face of the law.

What will appear there? Nothing more than that the accounting officers are directed to restore to Commodore Jones the pay of which he was deprived by the judgment of the court; and lest it should be considered that that was any implied censure on the court, or any purpose to revoke, or in any manner to affect the action of the court, the proviso excludes that conclusion.

I will not argue the legal right, so strongly enforced by the honorable Senator from Vermont, and the honorable Senator from Delaware, but I will put a case—one which was passed over the other day—in regard to which such a ground, as far as I recollect, was never suggested, and, I presume, not entertained. Congress passed a law, some three or four years ago, appointing a board to revise the Navy. Under the action of that board a number of officers were deranged from their positions in the Navy, and by the law assigned to inactive service, and the pay of those officers was, by that law, not suspended, but actually reduced. They were put upon reduced pay by the terms of the law. Some two years afterwards, Congress passed another law authorizing those officers to appear before courts of inquiry, and giving authority to the President to reinstate on the active list all such as might pass those tribunals. And that law did—what? That law required that all who were thus replaced should have paid to them the difference between the pay they were receiving when they were deranged, and the pay they were receiving on the retired list. No objection was made then that Congress had not the constitutional power to do it. It was done, and, as I am informed, those officers who were thus retired have received under that law, not only the arrears of pay, but they have received the increased pay, which was the difference between the pay they were receiving when they were retired, and the pay they received afterwards.

I shall not detain the Senate further. I hope the vote will be taken.

Mr. CRITTENDEN. I was not here in the beginning of this debate, but I wish to refer the Senate to another instance in which this power has been exercised, and a very strong one, in the case of Matthew Lyon, a case I well remember. Judgment was passed against him by a court. He was fined, the fine paid, and went into the Treasury of the United States. Congress passed a law ordering it to be repaid to him with interest. I have not been able to find the case, though I have the statute-book before me; but that is the fact. It is exceedingly difficult to find anything of the laws in the Statutes at Large. It is the worst book I ever saw.

Mr. SIMMONS. I am sorry that I cannot on this occasion agree with my friend from Connecticut, as I almost always do. I do not know that it is of any consequence; but I will tell him why I am going to vote for this bill. Commodore Jones, I believe, is the man who took the Peacock.

Mr. FOSTER. That was Jacob Jones.

Mr. BENJAMIN. This Commodore Jones, I will inform the Senator from Rhode Island, was the captain of the fleet of gun boats that defended the city of New Orleans in the war of 1812.

Mr. SIMMONS. I believe I know them both; they are gallant men.

Mr. BENJAMIN. Undoubtedly. Commodore Jones was wounded in battle there.

Mr. SIMMONS. These men have done meritorious service. They have been deprived of their pay. They stand up to be shot at for our benefit. We do not mean to deprive them of their money. If they do not act properly in another capacity, we may censure them for that, but let us give them their pay. I do not think it is any reflection on the court. I think the proviso to the bill is very proper. When we come to pay a man, I do not want to reflect on those who judged him. This man places his claim on different grounds from those on which we can afford to place it. I place it on the ground that he is a gallant man; but he does not want to say that himself when he petitions here.

Mr. FOSTER. I said before, and repeat again, if the honorable Senator will move to amend the bill by striking out all after the enacting clause and inserting a provision paying this amount to Commodore Jones for gallant services, and no more than this, I will vote for it with great cheerfulness.

Mr. SIMMONS. So far as I am concerned, I

will agree to put in the preamble that he is a gallant man, and let the rest of the bill stand as it is.

The VICE PRESIDENT. The question is on the motion to postpone the bill indefinitely.

Mr. STUART called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 11, nays 29; as follows:

YEAS—Messrs. Biggs, Broderick, Foster, Green, Hamlin, Harlan, King, Slidell, Stuart, Trumbull, and Wade—11.
NAYS—Messrs. Allen, Bayard, Bell, Benjamin, Bigler, Brown, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Gwin, Hammond, Houston, Iverson, Jones, Kennedy, Mallory, Mason, Polk, Seward, Simmons, Toombs, Wilson, and Yulee—29.

So the motion was rejected.

Mr. BIGGS. I am unwilling that the vote shall be taken on this bill without stating, and I propose simply to state, the reasons which influence my own vote. I deeply regret that I cannot vote for it conscientiously on a principle involved in the bill. A court-martial of competent authority suspended Commodore Jones from his command for five years, and from his pay for two and a half of those years. A portion of that sentence, two and a half years suspension, was afterwards remitted by the President, and this bill is to allow to Commodore Jones two and a half years' pay as commodore; to allow him compensation as an officer, while he was suspended from command. I do not put it on the ground assumed by some gentlemen—I do not think the case presents that—that this is compensation for meritorious services, for gallant services as an officer. That is ignored by the bill itself. It cannot be put on the ground assumed by the Senator from Delaware, that the money has been paid into the Treasury and we have a right to pay it back; for, if I understand the case, during the time we now propose to pay him, he was not engaged in the public service at all.

The VICE PRESIDENT. The Chair must ask the Senator to suspend his remarks. The hour has arrived for the consideration of the special order.

Mr. BIGGS. I will not trespass on the Senate.

Mr. MASON. I hope the Senate will, by unanimous consent, allow the vote to be taken.

Mr. BIGGS. I have no idea of interfering with the vote on the bill. I merely desire to put myself right, and regret that I am under the necessity of voting against the bill. I will not extend my remarks further. I hope the vote will be taken.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered to be engrossed for a third reading, read the third time, and passed.

KANSAS—LECOMPTON CONSTITUTION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 161) for the admission of the State of Kansas into the Union.

Mr. HAMLIN. Mr. President, I do not often trespass on the patience of the Senate: I do so now from no personal inclination of my own. Indeed, but for the obligation which is imposed upon me by the people whom I represent, I would forego, on the present occasion, any suggestions which I might deem it proper to make, and give a silent vote upon the views which have been presented, and shall be presented, by other Senators, upon the question now pending. The importance of the question, however, is such as imposes an obligation upon me to speak in vindication of the rights of the people I represent. The magnitude of the question is a sufficient apology.

Since I have held a seat in this body, indeed in the history of the whole country, I think no question has been presented to us for our deliberation and consideration, equal in importance and magnitude to that which is now before us. I regret, sir, I deeply regret, the aspect in which it is presented. In all this body, were I to put the question, "how many are there who approve the act, which is about to be consummated here, in their judgment?" how many of all that hold seats here, could give an affirmative answer? The tyranny of party, the despotism of party, comes in to the rescue; and men here are about to do an act which in their judgment and in their hearts they disapprove. There is no despotism on earth like the despotism of party and party associations. I once felt its bonds, but thank God I am a freeman now.

What is the act which a firm and settled majority in this Senate have determined shall be done? In all the history of time, in all the records of the past, no act of equal political turpitude, in my judgment, can be found, save one to which I may allude.

Mr. President, I have no laudations to bestow on this Union. It needs none. Its eulogy is written in the history of the past. I choose that my acts shall speak for me, rather than the words I utter. I would, sir, that it should remain a monument forever to guide the nations of the world. I would, sir, that this Government should be perpetuated for all coming time; and no act of mine, no instrumentality of mine, shall be exerted or given except for that perpetuation. I would that our nation should stand a moral monument to enlighten other nations; but I cannot resist the conclusion that if we are to bow to the unlimited power of party despotism, if we are to do acts which in our judgments and in our hearts we reprobate, the day, the hour, of our downfall is as certain as that of other nations which have preceded us. I do not mean that it will come now, or even within my day, or the day of the youngest of us. Great as may be the wrongs which you may perpetrate, the recuperative energies of our country may overcome them; but, in the course of time, this incessant arrogation of executive and governmental power must produce its effect; and the institutions which we have reared, when their foundation shall have been subverted by executive power, must crumble and decay. That act which is before us, that bill upon which we are to vote, is one of the measures which is calculated, if not designed, to produce that event. Who that believes that nations, like individuals, must answer to a higher power for the wrongs they perpetrate—who that believes that the sins committed by a nation are to be answered for as are the sins of an individual—can doubt that, if the present course of things be persisted in, a fearful retribution must follow?

Mr. President, it is my purpose upon the present occasion to confine myself principally to a reply to the suggestions which have been made by the honorable Senator from South Carolina, [Mr. HAMMOND.] I may, after reviewing some of the remarkable doctrines which he has presented, say something on the question which is directly before us; but it is my object now to review some of the positions which he has assumed, for the purpose of testing their accuracy or their inaccuracy, and to answer some of the assaults which he has made upon the people I represent. The doctrines enunciated by that Senator are remarkable. The frankness with which they were expressed is commendable. It is my purpose to speak particularly to three distinct points: first, the faith of the South, and the manner in which she has kept it; second, the capacity of the South as a distinct and separate Government, as presented by the Senator from South Carolina; and third, the character of the people whom I represent—the laboring masses of the North. I may say incidentally something in relation to some other points which he suggested, but to these three points I propose mainly to confine myself. These points I propose to discuss, though I may not do so in the order in which I have named them.

First, as to the faith of the South. I will not stop to quote the Senator's language; but he asserts broadly that the North have uniformly violated their faith, but that we may rely with unlimited confidence upon the unbroken faith of the South. I have no answer to his allegation as to the faith of the North. When he shall make his specifications, I will give the answer that justice shall demand. On what point have we at the North been faithless to our constitutional obligations? Upon what point have we at the North been faithless to the South? Sir, when I speak of the South, I am only using the terms the Senator from South Carolina has placed in my mouth. In my heart, I know no North, no South, no East, no West. We are the people of one common country. Whatever relates to the prosperity and the welfare, whatever pertains to the rights of the South, as an American citizen, as an American Senator, I stand here to vindicate and maintain. What are their rights are my rights. What belongs to them belongs to me, as a citizen of a common country.

But the Senator from South Carolina has seen fit, in the course of the argument which he has pursued, to arraign the North for the want of fidelity, and has vaunted here the unbroken plighted faith of the South. I ask again, in what have we violated our constitutional obligations? I tell you, sir, you mistake us. We regard our country as a whole. We are willing to stand by it as a whole; nay, in the Union, we mean to stand by it as a whole. You can neither drive us out of it, nor shall you go.

But, sir, to proceed to the consideration of the points which I make. The facts of history show to my mind conclusively, that while we have been a Union, the faith of the South, of which the Senator from South Carolina so vauntingly boasted, has hardly been kept. I would not pursue this line of argument but for the manner in which the allegation was made. No single instance in which we of the North have violated our constitutional obligation has been cited. I think, in the absence of any specifications, I may clearly come to the conclusion that none can be successfully made. I hardly know what the Senator means by southern faith. I am therefore left to grope my way, and to draw my own conclusions.

Mr. President, the Senator from South Carolina deplored the restoration of a tariff policy upon the South; but I think I may cite it as one class of cases in which the South has not kept its legislative faith to the North. Who were the authors of the tariff policy? From whom did it spring? Read the messages of Thomas Jefferson; read the messages of James Madison; quote the language, as the Senator from Wisconsin [Mr. DOOLITTLE] did yesterday, of the distinguished son of South Carolina, Mr. Calhoun, and from all the records of the past we have the undisputed and indisputable history, that it was the South that tendered its aid to the North in what was called a protective policy. I am here no defender of that policy; I am here no advocate of a protective policy; but when the South had inaugurated such a policy, and had induced the North to invest its capital under a policy which itself had inaugurated, I ask—I think I may ask with triumph—with what kind of propriety can the South call on us now to change it? They hardly keep their legislative faith, when they seek to ruin the men who have invested their means under that system which they themselves have created. Is not that true? Is it not historically true? We of the North were a commercial people; we had no genial suns of the South to shine on our heads; we had no bright and stretching savannas that invited the cultivator of the soil. It was said, and said truly, that our country was cold and barren, though God knows we have made it "bloom and blossom as the rose." We had no natural advantages like those that God had given to the South. But placed as we were, and judging that the fiat of the Almighty was no curse upon man, that he should earn his livelihood in the sweat of his own brow, we have toiled on our hill-sides; we have gone into our machine-shops; we have delved in our mines; and we have made the North, under all the circumstances in which we have been placed, what she is. I insist that, when a policy which was calculated to divert the industry and the capital of the North from commercial to manufacturing purposes was inaugurated by the South, and after the capital of the North had been diverted to those sources, it was a want of legislative faith, on the part of the South, ruthlessly to break them down.

But, sir, the Senator complains again that the South have no guarantee that we shall not fasten on it a national bank; and that, too, comes from the Senator from South Carolina. Whose policy was that? Who imposed the system upon us? The Senator from South Carolina, Mr. Calhoun, distinguished as the representative of that State, and as the exponent of the South, himself offered, in 1814, in the House of Representatives, a resolution to inquire into the expediency of incorporating a national bank; and then, in 1816, himself voted for it. If the Senator from South Carolina [Mr. HAMMOND] was in his seat, I would ask him what guarantee have we that you will not turn back to the maxims that you first practiced, and again seek to impose upon us a national bank? I think I am right when I say that upon this side of the Senate, and among our friends in

the country, there is no disposition to return to that system.

But, in relation to the system of protection to domestic industry or the manufacturing interest, let me say here, in passing, that while I am no prophet, I still predict, young as I am, or old as I am, that I shall live to see the day when the South will come into these Halls and clamor for protection. Why so? You are wearing out your lands in agriculture; you must go back to the manufacture of the articles that you consume for yourselves, your families, and those dependent upon you. It is one of the necessities of a nation; and as you depart from agriculture you will go to manufactures; you will come here to seek protection from the North, as well as protection from foreign Governments. I have no doubt that I shall live to see that day if I survive to the common age of man. If I do live to see it, and if I have power to exert, or a vote to give, I will give it for what is just and right to that people.

I pass from the consideration of these two questions to one of a broader character. I pass to the consideration of what was the original design of our Government in its foundation, and what was the action of the South at that period of time. I know the South has changed her views. I do not know that I complain of it. I know the effect of habit, association, companionship, and interest, upon the lives, the conduct, and the opinions of men. I can be more charitable to those men of the South than I can be to their allies in the North; and God forbid that I should say one word to or of them, when we have such a class existing in the North as we have all around us. No, sir; I might say that I love them in comparison with the class of men at the North who are faithless to all the instincts of humanity, of association, of education, and all their surroundings. I know the force and the power of those influences. God knows what might be our opinions if we were born and educated at the South; I do not. Had I been born in Turkey I do not know that I might not have been a Mussulman. But it is humiliating to us, it is mortifying, but it is an admission to be made, that you train our politicians at the North, and make them subservient to all your behests. It is a humiliating admission to make, but still it belongs to the frailty of humanity, and I hope, in the progress of time, we shall be compensated for the admission by finding, when the Government is restored to its original position, that that class of people do not live entirely at the North. While it is a matter of regret, and of deep regret, that we have such a class of men among us, while I mourn over it, I am consoled with the reflection that light is dawning in the distant South; that the patriotic, the noble men of that region are coming to the rescue, and telling us that they have hearts and sympathies that beat in unison with our own, and that they, with us, ask only that this Government shall be administered upon the principles on which our fathers founded it.

But, sir, what was the early action of the Government to which I have referred and upon which our Government was based? It was the principle of freedom. I know too well, and I confess I feel somewhat embarrassed under the circumstances, that I can utter no new truth here; but what, I ask, is the history of this Government in relation to the principles upon which it was founded? I say that it was founded, and it was designed to be based, on the principles of free government. When our Constitution was formed, nobody doubted, everybody expected, that the institution of slavery, so deleterious in its effects, would fade away. Times have changed. The invention of the cotton-gin made the production of cotton profitable; and, with that power which belongs to the pocket-nerve, public sentiment has changed in the South, and too much in the North. The production of cotton became profitable, and with that profit came the change. A temporary and evanescent benefit has led to this change, not a permanent benefit. Madison told us in the convention which framed the Constitution, that it was wrong to admit that man could hold property in man; that he would not incorporate that idea into the Constitution. We had the maxims and the teachings of Jefferson and all the wisest and best statesmen of the South against slavery. I have no time to stop now to quote authorities. They are

"Thick as autumnal leaves."

They all concurred in the doctrine that it was an

institution that carried along with it blight and mildew; and your eloquent Pinckney, of Maryland, told you that it scorched the green earth upon which its footsteps fell.

Under that view of the case, the ordinance from the brain of Thomas Jefferson was adopted. In the precise form in which it passed into a legal enactment, I know it came from Nathan Dane, of New England; but the idea was that of the South; the principle was originated by Thomas Jefferson; and the only distinction between the restriction of Jefferson in 1784 and Dane in 1787 was this: Jefferson proposed that slavery should be prohibited from all your territories then belonging to the United States, and all that should be acquired. The proviso of Dane restricted it in the territories then belonging to the United States, and provided that fugitives from service should be surrendered. If the doctrines of Jefferson had been maintained as presented in 1784, there would have been quiet in the country, and none of the agitations which we have witnessed would have occurred.

This was the doctrine of the South, then; she presented it to us for our approval and our adoption. How stands the South to-day? She has repudiated the doctrines of her fathers, and comes here asserting that our Government is founded on the great principle of human servitude—a system that degrades the white man who labors beside the slave. Who have kept their faith? "The South has never violated its faith; we can repose on that faith which has never been violated," we are told by the Senator from South Carolina. But, sir, as I travel along in this record, I want to bring it home a little more direct to South Carolina. I say, up to 1841, South Carolina had recognized these positions. In 1841 what had been the long practice of the Government was not only recognized but indorsed by South Carolina, and through her own distinguished Senator on this floor, Mr. Calhoun. We all remember what was the position which that State had assumed prior to that period of time. They had gone off and worshiped false gods. They had attempted to inculcate the doctrine of nullification; but when Mr. Van Buren was elected President of the United States they gave to him their adhesion; and upon what ground? Upon the ground that he had pursued a policy which was satisfactory to the South—a policy which recognized the rights of the South.

What was the history of the time? Mr. Van Buren had addressed a letter, preceding his election, to citizens of North Carolina, which I have by me, in which he laid down the doctrine that it was inexpedient to abolish slavery in the District of Columbia, and that it ought not to be done without the consent of the slaveholders; but that the power of the United States over the District of Columbia was precisely that which originally belonged to Virginia and Maryland. Mr. Van Buren, in his inaugural address—I will not quote his language—declared that he would not approve any bill for the abolition of slavery in the District of Columbia, without ample remuneration to the slaveholders, and that the Government of the United States had no power over slavery in the States. That is the doctrine of Mr. Van Buren, and upon that doctrine South Carolina comes into the Senate and gives to him an earnest and a generous support. The doctrines of nullification were forgotten. Mr. Preston, who was then a member of the Senate, I think, did not quite come up to the progress of South Carolina in these events; and in the resolutions which the Senate of South Carolina saw fit to adopt on that occasion, they applauded John C. Calhoun; they had no words of approval for William C. Preston. I will read one of the resolutions adopted by the Legislature of South Carolina, in 1841:

"Resolved, That the general principles and policy of the administration of Martin Van Buren are approved by this Legislature, and are well calculated to preserve the perpetuity of the Union, by an equal and just protection of the rights of every section; thus avoiding the necessity of any State resorting to her own means of self-defense, to secure unimpaired her institutions and her rights."

Now, what is the fair deduction to be drawn from the language used by Mr. Van Buren, to which I have alluded? He denied that the Government of the United States had any right to interfere with slavery in the States: so say we all. He denied the expediency of abolishing slavery in the District of Columbia, except by the consent of the slaveholders, and compensation made.

Now, by fair deduction, will any lawyer say that he did not hold to the power to abolish slavery in this District? His own language is before me, in his answer to the letter to which I have alluded, that it was not expedient to do the thing. Consequently, I say that we cannot avoid the conclusion that he held to the power. He held, also, that Congress had no power to interfere with slavery in the States; so we hold; but he is perfectly silent in relation to the power of Congress in the Territories. The inclusion of the power named is the exclusion of the power not named. Is it not a matter of fair inference, is it not an inference from which we cannot escape, that while he undertakes to limit the power of Congress, and to prohibit it in the States, we have a right to exercise it in the Territories, taking along with it the fact that for more than sixty years that power has uniformly been exercised? I think it is irresistible.

Here, then, if I am right in my conclusions, is the indorsement of the sovereign State, as it is sometimes called, of South Carolina, approving of the Administration of Mr. Van Buren, whose policy was clear and distinct, to wit: that we should not interfere with slavery in the States; that we should not abolish slavery in the District of Columbia without the consent of the slaveholders; but that we had the same power to do it that Virginia and Maryland had; and leaving irresistibly the conclusion that we had a right to exercise our power over the Territories of the country. In 1841, then, the State of South Carolina comes up to a recognition of the doctrines that we demand. Now we are told by the Senator from that State that the plighted faith of the South has never been broken.

Mr. President, I come now to another point which, in my judgment, implies vastly more than legislative faith. I come to the repeal of the Missouri compromise. Whose measure was that? From what section of the country did it come? By whose votes was it imposed upon the country? Every man knows—it is historical—that the Missouri compromise was a southern measure. Its passage was celebrated by public meetings all over the South. They held it as their peculiar measure. It was, in truth, the suggestion of Mr. McLane, from a southern State; and it was adopted finally upon the suggestion of Mr. Pinckney, a Senator from a southern State. His life shows the fact. The letter which he wrote upon the occasion states that, in the committee of conference between the two branches of Congress, he suggested it. Upon his suggestion it was adopted; and then public meetings were held through all the South, and they were jubilant over its success. Now, sir, one of their own men declared that it should be an act irrepealable. I do not contend that it was such except in good faith. The Missouri compromise line was, therefore, the act of the South; and in that act the North had always acquiesced. Who abrogated the restriction? It was adopted by almost all the votes of the South; and only here and there a man from the North to support it, and who were known no more forever, as will be those at the North who support this measure. It was a southern measure in essence and in substance. The North did not vote for it. Why? Because it was a partial departure from the original design of the Government; because it did not come up to the doctrine of 1787. But after it had been adopted the North, for more than a third of a century, acquiesced in it. After the South had secured, under that compromise, all the advantage that could accrue to her and her peculiar institutions, she comes into this Hall, and she asks, she demands, and she obtains, a repeal of all that was beneficial to the North. We are told by the Senator from South Carolina that we can rely upon the South; that her plighted faith has never been broken! Sir, I will not quote what is so familiar upon my lips in relation to the South, but I will quote it as to what they call the Democratic party: "their faith is Panic, and branded to a proverb."

But, sir, it is not in a party aspect alone that I propose to view this question. A broader and a wider view is before me. It is not the South as a party, and in a party aspect, that has violated this time-honored compact, and I say has violated her faith; but she has extended her power to the court below. I think, on the whole, "the court below" is an appropriate term. She seized

upon the Executive and bound him in her manacles. She holds the Government in all its departments. You have got the legislative power in your control; you have got the executive in your control; you have got the judiciary in your power. How you got the two latter I do not precisely undertake to say—by political complicity and collusion anyhow. Search all the records of your country, examine all the messages that have ever been presented to us, and not one can be found where an Executive has undertaken to foreshadow the opinions of the judiciary, until you come to the inaugural address of the present President of the United States—not one; and in that political collusion and complicity, I affirm that the object was to rob the people and the States of the rights that belong to them.

Now, sir, with how much grace, or with how much truth, can the Senator from South Carolina affirm that the plighted faith of the South has never been broken? This opinion of the court—mark the word I use; I do not call it the decision of the court, for I regard it only as the opinion of the judges individually—is given upon a question which they tell us gravely is not before them. They erect a structure for which they have no foundation. They gravely and judicially tell us that they have no jurisdiction of the matter, and then they volunteer an opinion as to what they would decide, if the question was before them. That is all there is of it; there is nothing more. I concur with Justice McLean, who said that he would treat it as no decision at all. There is not a lawyer in this body, there is not a lawyer in the country, who does not know that when the court determine that they have no jurisdiction in the matter, they have no right to determine the question which lies behind the issue of jurisdiction. I regret, sir, I deeply regret, that that court should have gone outside of its appropriate jurisdiction for the purpose of seeking an occasion on which to issue or make public their private opinions. I had before looked at that court with high respect; but I hold that they had no more right to decide upon that question than we have to decide for them. It was a political question purely; and it is one of those questions, in regard to which Thomas Jefferson so early and so ably warned us against judicial interference. But why quote Thomas Jefferson? He is obsolete on the other side of the Chamber.

They had no more authority to decide a political question for us, than we had to decide a judicial question for them. Keep each branch of the Government within the sphere of its own duties. We make laws, they interpret them; but it is not for them to tell us what are the limits within which we shall confine ourselves in our action; or, in other words, what is a political constitutional right of this body, any more than it is for us to tell them what is a judicial right that belongs to them. Of all despotisms upon earth, the despotism of a judiciary is the worst. It is a life estate. When that court shall make the decision foreshadowed in this opinion, they will be regarded on the pages of history as exceeding in infamy the famed Jeffreys, of England. His decisions did not undertake to grasp the liberties of a people, but were confined to individuals. Our court, broader in their grasp, undertake to usurp the rights of a nation. Jeffreys will be forgotten when the opinions of this court shall have grown into a judicial decision. Sir, that will never be. There is a peculiar fact that belongs to that court: I have been unable to find a decision contravening the party in power. While I am no prophet, I can read when "coming events cast their shadows before." We are to have the power; we are to restore the Government to what our fathers made it; we are to place it upon its original basis; and the court will come back to the original basis.

When Texas was admitted into this Union, I was a member of the other House of Congress. I think I have a just appreciation of the influences that operated at that time. I see other men here, not members of this body, who, if they could speak, I am satisfied would corroborate what I am about to say. Texas was admitted by no vote of mine. I was willing to admit her; I so stated; but I wanted a fair compromise between the North and the South. I wanted a just and equitable division of that territory. We had adopted the Missouri compromise of 1820 as an equitable

division of the territory acquired from France. I was willing to admit Texas upon the same basis. I voted for a line which made a fair and equitable division of that territory. There were some thirty or forty or fifty—I do not remember precisely how many—of the members from the North who went for it. The South laughed us to scorn. Texas was admitted, and it was admitted upon the basis of the Missouri compromise line. The territory which we acquired from France, known as the Louisiana Territory, embraced a certain area. Congress in its wisdom saw fit to run a line through it on the parallel of $36^{\circ} 30'$ as a fair division of that territory. Was it a fair division of another territory which might lie all south of that line? An arbitrary line, as a matter of just equity between the parties, could not apply to different territories. We of the North asked only that there should be a just, a fair, and equitable distribution, and we would go for it. They would not give it to us, and we went against the measure; but Texas was admitted, and it was admitted upon the basis of the Missouri compromise; and without it, I affirm here to-day, it could not have been admitted. That line as a compromise was offered. The amendment which finally prevailed in the House of Representatives, was offered by Mr. Brown, of Tennessee. He incorporated into that amendment, I think at the suggestion of the Senator from Illinois, [Mr. DOUGLAS,] that all the Territory of Texas lying north of the parallel of $36^{\circ} 30'$ should be admitted as free States, and all south as slave States. Then we were told, gravely told, that north of that line we could have two free States, while south of it there would be three slave States. On that basis it was introduced, and the bill was passed. What is the state of the case to-day? In 1854 you obliterated every right which the North had to secure free States north of that line, and you come up here to-day and tell us that slavery is the basis of this Government, and while it remains a Territory (citing the opinion of the court) we have no right by act of Congress to exclude slavery, or to authorize the people of a Territory to exclude slavery.

Was it good faith—ay, sir, far above legislative faith—was it good faith on the part of the South having asked of the North to admit Texas in that way, (Mr. Calhoun, in his famous letter to Mr. King, then our Minister at the Court of France, affirming that it was done for the sole purpose of securing the interests of slavery,) to obliterate that line which you said gave us two free States? You did it by the act of 1854. I do not deny that the act of 1820 was legislatively repealable; but there is a sense of honor, there is a sense of right, there is a sense of propriety, that ought to govern men, which ought to rise superior to the mere exercise of power. You repealed that line, and for what purpose did you repeal it? I may discuss that proposition in another branch of the suggestions which I propose to make. You repealed it for the sole purpose of extending human slavery. I do not mean to accuse Senators individually with that motive. I mean to speak of public acts; and I form my opinion of those public acts from that which is their necessary and inevitable result. The faith of the North has never been broken; where are your specifications? The faith of the South is inviolate; has always been kept! So says the Senator from South Carolina.

Mr. President, in all parties there is some particular interest that controls their action. In other words, while party associations are formed, there is in the association, whatever it may be, a controlling influence and direction to that party as it exists. What are the influences that control what is called the Democratic party—I say called—yes, sir, called; and it is a burlesque indeed to speak of that party which controls upon the other side of the Chamber, as a Democratic party. It adopts none of the maxims of Democracy, none of the maxims which we suppose belong to a Democratic party—a free Government, a liberal Government, in which the rights of the people are to be paramount. No, sir, it does no such thing; and it is therefore a burlesque. Besides, it is a party in the leading-strings of its old political opponents. Here is the Senator from Louisiana, [Mr. BENJAMIN,] whose social relations with myself are, I think, kind, at least; there is the Senator from Georgia, who sits on his right, [Mr. TOOMBS]—old, tried, and trained warriors in the Whig party, when there was a Whig party, able

and eloquent. What you call the Democratic party to-day in this Senate is under their lead. The other side of the Chamber bows to their behests, and well it may. They are the brains, as well as the eloquence of the party. Go to the other Chamber, and you will find the distinguished member from Georgia, [Mr. STEPHENS,] and another member from North Carolina no less distinguished, [Mr. CLINGMAN,] as the leaders of modern Democracy there. Trained in the school of the ancient Whig party, they come up each as an Ajax Telamon of modern Democracy. Indeed the Senator from Georgia says that the Whigs at the South, with generosity, came in, in great numbers, to the support of the Democratic party. I repeat that it is a burlesque; it is supremely ridiculous to talk about a Democratic party as being the present organization of a party known by that name. What is it? That is my purpose to show. It is, I think, clear and demonstrable that the Democratic party to-day is the embodiment, the refinement of what comes from South Carolina.

All parties, I have said, are directed more or less by certain influences within their organization. The Democratic party, so called, is in the control of South Carolina. I remember when Mr. Calhoun offered his resolutions here, only a few years ago, in relation to the powers of Government over slavery in the Territories—I refer to the resolutions which he offered about the days of the compromise. The Senator from New York [Mr. SEWARD] remembers how they were laughed and scouted from the Senate. They are in the Senate to-day; they are the basis of your Democratic party; they are now triumphant in every branch of the Government; they are triumphant here; they are triumphant in the other branch of Congress, one of its very worthy and distinguished members being its Presiding Officer. They are here by your action, and you fasten your power upon the Executive at the other end of the avenue. Democracy in 1858 means the nullification doctrines of South Carolina in times gone by. It is so. I say you have the Senate, and you have the Congress. I have no earthly doubt as to what is to be the fate of this measure in this branch of the Government. I have no doubt as to what will be its fate in the other House. I affirm, therefore, that you have got this branch of the Government. That you have the Executive is clear. While he told his subordinate, the Governor of Kansas, that he must insist upon the submission of the Lecompton constitution to the people for their vote of approval or rejection, he has yielded all, and tells you now that you must adopt the constitution, notwithstanding there is ten thousand majority against it. You have the Supreme Court, because they say in their opinion that—

“For more than a century before the adoption of the Constitution they had regarded negroes as beings of an inferior order, and possessed of no rights”—

mark the words—

—“which a white man was bound to respect.”

Is there a beast that toils in any State—I speak of beasts—where legislation has not thrown around it a protecting care that it shall not be abused by its owner? Is there a slave State where slavery exists intensified, where your Legislature have not protected the rights of person in the slave? It is an inhuman expression. It is historically untrue besides.

But, sir, what you call the Democracy have improved upon that doctrine. If you pass this bill, (and who doubts that you will?) they come to the same conclusion; and they go further; for, while the court decide that colored men have no rights that you are bound to respect, they affirm that majorities of white men in the Territories have no rights that the Democratic party are bound to respect. That is the conclusion. It is the logical conclusion from your acts. The court, I thought, went a great way. It is a revolting—I repeat once more—it is an inhuman expression. They said that was the sentiment of the revolutionary times; I mean to quote them correctly. I say it is historically incorrect. But improving on that doctrine, that black men, for a century before the Constitution, had no rights that a white man was bound to respect, modern Democracy claims that a majority of free white men in your Territories have no rights that it is bound to respect.

Mr. DURKEE. That is the doctrine of progress?

Mr. HAMLIN. That is the doctrine of progress, as my friend says. Yes, sir, it is the doctrine of progress; but such a progress! I think it is that kind of progress that the boy made in going to his daily toils at school. There had been snow and rain, and the ground was very slippery, and he arrived at a very late hour. On being reprimanded by his instructor for not getting there earlier, he said that on taking a step forward he always fell two steps behind. “Then pray, sir, how did you ever arrive?” “Why, after struggling a long while I turned around and went backwards.” [Laughter.]

This doctrine, I think, is modern Democracy, intensified and explained by the Senator from South Carolina. I pass now to the discussion of another position which he has assumed. He told us, “the poor ye always have with you.” That is true; there is no denial of the fact. There is, however, another maxim of the same good book, which he might have quoted with just as much propriety, and just as great truth: “Do ye unto others as ye would that others should do unto you, for this is the law and the prophets.” Does poverty imply crime? Does poverty imply servitude? Does poverty imply slavery? I join issue with the Senator there. In all climes, in all countries, and in all ages, there are poor. Because men are poor, does that imply that they are to be placed on the same basis with persons who are subjugated, and who toil in the chains of slavery? I deny it. There is a prompting of the heart, there is a principle of Christian benevolence, that tells you, and tells me, and tells us all, that if there are poor, it is our duty to alleviate their poverty, and to remove their distress—not, because they are poor, to class them in the same condition with negro slaves. I grant that poverty necessarily produces a greater degree of dependence of the poor upon other classes, than would exist in another state of circumstances; but because a man is poor, does that discharge you from the obligations which you owe to him as a fellow-citizen? Because he is poor, does that relieve you from the obligation which you owe to him as a citizen of the community, and as a Christian? Surely not; and that dependence does not create slavery. Look over the world, and you find that poverty is produced from a variety of circumstances. It may be by misfortune; generally, I think, by improvidence. It may be by devastating elements. It may be by causes over which the individual has no control. No matter what are the causes, if they operate upon the individual he is entitled to your sympathies and to your Christian benevolence; and God forbid that you should class him with the slave that toils only to live, and lives only to toil. It may be, sir, that the influence of slavery is calculated, if not designed, to produce that state of things; but if its tendencies are to produce that state of things, still, to place the poor on the same basis with the negro slave, who does not own himself, is unjust and illogical.

But, sir, while the Senator charges us with having, in all our large cities, a very considerable number of persons who obtain alms from beggary; while he asserts that there are more paupers in the streets of New York than are to be found in the whole South; still, is it not true that in all cities, in all large places, you witness always the trappings of wealth, and that misery which is incident to poverty? Is it not as true of the South as of the North? While we have large hordes of that class of men in the great cities of the North, is it not true that vast portions of them come even from the South, and congregate there and ask alms at our hands?

It is true “the poor ye always have with you.” It is the fiat of the Almighty. You have them at the South, we have them at the North. I do not believe that in the North, outside of our cities, and exclusive of those who come from foreign countries, and who are poured out upon us to some extent from foreign alms-houses and prisons, there is among our people as much of poverty as there is in the South. What are the facts in relation to this matter? I have very little personal knowledge as to the state of things in the South, but I choose to quote the authority of some southern men for the purpose of showing what is the condition of their poor. I think I am justified in doing it. Go abroad amidst our rural population, and you will find that to the great mass of our peo-

ple beggars are unknown. We have them not, and we know them not. That we have objects of charity, when a devastating element may sweep away the productions of years from our neighbors and our friends—that we have such cases, where we ought to bestow, and do bestow our alms, I do not deny; but in the great mass of our countrymen among our rural population, beggary is unknown, and of those who congregate in our large cities, a fair proportion is from your own section.

I propose to read a few extracts, and among others one from a speech of the Senator from South Carolina himself, in relation to the condition of your poor at the South. I shall read first an extract from a production of Mr. William Gregg, of Charleston, South Carolina, a gentleman of whom I know nothing except that I understand him to be a man of respectability, and entitled to confidence. He says:

"From the best estimates that I have been able to make, I put down the white people who ought to work and who do not, or who are so employed as to be wholly unproductive to the State, at one hundred and twenty-five thousand."

"Any man who is an observer of things could hardly pass through our country without being struck with the fact that all the capital, enterprise, and intelligence is employed in directing slave labor; and the consequence is, that a large portion of our poor white people are wholly neglected, and are suffered to while away an existence in a state but one step in advance of the Indian of the forest."

I shall read next an extract from an address of the Senator from South Carolina himself, delivered before the South Carolina Institute, in 1850. On that occasion, speaking of the poor whites of the South, he used this language:

"They obtain a precarious subsistence by occasional jobs, by hunting, by fishing, by plundering fields or folds, and too often by what is in its effects far worse—trading with slaves, and seducing them to plunder for their benefit."

I shall read next an extract from the Review of Mr. De Bow, a man earnestly devoted to southern institutions, and, I think it may be said with truth, who publishes a periodical which is designed and calculated to advance and promote their interests. Speaking of the labor of the South, and the effect that would be produced by the establishment of manufactures, he says:

"A demand for labor in such establishments is all that is necessary to raise this class from want and beggary and (too frequently) moral degradation, to a state of comfort, comparative independence, and moral and social respectability. Besides this, thousands of such would naturally come together as residents in manufacturing villages, where, with very little trouble and expense, they might receive a common-school education, instead of growing up in profound ignorance."

"The superior grades of female labor may be considered such as imply a necessity for education on the part of the *employée*, while the menial class is generally regarded as of the lowest; and in a slave State, this standard is 'in the lowest depths, a lower deep,' from the fact that, by association, it is a reduction of the white servant to the level of their colored fellow-menials."

I doubt not the truth of that remark. Whatever may be our obligations to all mankind; whatever in truth and principle may be demanded of us toward all races, there ought at least to be in our hearts something that shall respond to the wants of our own Caucasian race. If we have no sympathy; if we have no feeling whatever for other races, we may be pardoned, at least, if we would honestly incorporate and advance in our Government that system which will elevate our own race. How degraded they are, how low they are, is to be judged only of the men whom you see when brought into competition with that very class of men. But, sir, I will read other extracts. I read from the Virginia Dispatch, a paper published at Richmond, Virginia:

"We will only suppose that the ready-made shoes imported into this city from the North, and sold here, were manufactured in Richmond. What a great addition it would be to the means of employment! How many boys and females would find the means of earning their bread, who are now suffering for a regular supply of the necessities of life!"

"The poor ye have always with you." Are the poor confined to the North? I have read authorities from southern men. I have read only from those whom I presume to be conversant with the condition of the white men who toil there, and I cannot resist the conclusion that the Senator from South Carolina has drawn his ideas of our laborers from what he sees at home. Sir, whatever may be our poverty, I think I can affirm here to-day, that for all the great and noble enterprises, for all the benevolence which distinguishes man, Boston alone contributes more annually than all the South

But I pass from the consideration of that question to still another presented by the Senator from South Carolina, and I may add, perhaps, that it is a question upon which I feel more keenly than upon any other. I pass to the consideration of that point which he has raised in relation to the character of the laborers of the North. I do not believe, with that frankness which has marked all that the Senator has said, that he has designed to rise here and utter a libel upon our working and laboring men. No, sir; I believe he has drawn his conclusions from what he has seen at home, and I do not know but that he has drawn some conclusions from the servility he has witnessed here. If he has, I desire to disabuse the Senator of what I think are his erroneous premises, and consequently, his erroneous conclusions. I want to do the Senator no injustice; surely I will not; and to be certain that I do him no injustice, I will send to the Secretary and ask him to read some paragraphs from what I suppose is the corrected speech of the Senator, commencing at the last paragraph on page 13 of the pamphlet, and concluding on page 15.

The Secretary read as follows:

"In all social systems there must be a class to do the menial duties, to perform the drudgery of life. That is a class requiring but a low order of intellect and but little skill. Its requisites are vigor, docility, fidelity. Such a class you must have, or you would not have that other class which leads progress, civilization, and refinement. It constitutes the very mud-sill of society and of political government; and you might as well attempt to build a house in the air as to build either the one or the other except on this mud-sill. Fortunately for the South, she found a race adapted to that purpose to her hand—a race inferior to her own, but eminently qualified in temper, in vigor, in docility, in capacity to stand the climate, to answer all her purposes. We use them for our purpose, and call them slaves. We found them slaves by the 'common consent of mankind,' which, according to Cicero, '*lex natura est*,' the highest proof of what is Nature's law. We are old-fashioned at the South yet; it is a word discarded now by 'ears polite'; I will not characterize that class at the North with that term; but you have it; it is there; it is everywhere; it is eternal."

"The Senator from New York said yesterday that the whole world had abolished slavery. Ay, the name, but not the thing; all the powers of the earth cannot abolish that. God only can do it when he repeals the fiat, 'the poor ye always have with you.' For the man who lives by daily labor, and scarcely lives at that, and who has to put out his labor in the market, and take the best he can get for it; in short, your whole class of manual laborers and 'operatives,' as you call them, are essentially slaves."

Mr. HAMMOND. I beg leave to interpolate a word at this point. This speech was corrected very hastily, and on looking over it I have made some other corrections. I wish to insert the word "hiring" in the clause which has just been read, so that it shall read: "Your whole class of hiring manual laborers and 'operatives,' as you call them, are essentially slaves."

The Secretary continued to read the extract from Mr. HAMMOND's speech as follows:

"The difference between us is, that our slaves are hired for life and well compensated; there is no starvation, no begging, no want of employment among our people, and not too much employment either. Yours are hired by the day, not cared for, and scantily compensated, which may be proved in the most painful manner, at any hour in any street in any of your large towns. Why, you meet more beggars in one day, in any single street of the city of New York, than you would meet in a lifetime in the whole South. We do not think that whites should be slaves either by law or necessity. Our slaves are black, of another and inferior race. The status in which we have placed them is an elevation. They are elevated from the condition in which God first created them, by being made our slaves. None of that race on the whole face of the globe can be compared with the slaves of the South. They are happy, content, unassuming, and utterly incapable, from intellectual weakness, ever to give us any trouble by their aspirations. Yours are white, of your own race; you are brothers of one blood. They are your equals in natural endowment of intellect, and they feel galled by their degradation. Our slaves do not vote. We give them no political power. Yours do vote, and being the majority, they are the depositaries of all your political power. If they knew the tremendous secret, that the ballot-box is stronger than 'an army with banners,' and could combine, where would you be? Your society would be reconstructed, your government overthrown, your property divided, not as they have mistakenly attempted to initiate such proceedings by meeting in parks, with arms in their hands, but by the quiet process of the ballot-box. You have been making war upon us to our very hearthstones. How would you like for us to send lecturers and agitators North, to teach these people this, to aid in combining, and to lead them?"

Mr. HAMLIN. I accept the modification which the Senator from South Carolina proposes to make. It is but just; it is but fair to allow it. I know very well that, in a discussion here, we may use a term which does not express precisely the meaning we intend. It is just and fair that every Senator should have the opportunity of stating precisely, and in the most accurate language, what

he does mean. I do not see, however, that the modification which the Senator has seen fit to make substantially changes the position which he assumed in his speech.

In my judgment the Senator from South Carolina—I assure him I say it in kindness—has mistaken the character of our laborers and their position. I do not think he would designedly assign to them a position to which they do not belong; and I have said that, in my opinion, he has come to the conclusion that our laborers occupy precisely the same position as those whom he sees in his own vicinity. I do not say that even that is so, but I say such is my conclusion. I am frank to admit that I know very little of the character of the laborers who toil beside the slave, but I have seen something of it. I have seen what has satisfied me that they have little intelligence; that they were poorly clothed; and that, while they felt themselves above them, they were actually in the social scale below the slaves. I remember, sir, that upon the banks of the Potomac I once heard a negro taunt a white man that he was so poor that he had not a master; and when I looked at the poor white man I confess that I thought there was some truth in the taunt of the negro.

Now, my word for it, the Senator from South Carolina has mistaken the character of our population and our laborers. I stand here the representative of northern laborers. In my own person I present a laboring man—educated at the printing case, toiling in my field, and earning with my own hands, and by the sweat of my own brow, the food on which I subsist; and I am glad to say that here sits beside me a worthy compeer, [Mr. WILSON.] It may be regarded as egotistical, and if so, I ask you to pardon me; but I think I feel something for the man that labors. I think I have something in my heart that leads me to sympathize with him. I know that my friend from Massachusetts has. From our boyhood to our manhood we have toiled in the sunshine and in the rain, and we are, though poor ones, the representatives of the men who labor at the North. I wish they had better and abler representatives here; but such as we are, they have sent us here; such as we are, we will vindicate their rights.

Mr. FESSENDEN. I understand that it was agreed yesterday that the Senate would go into executive session to-day at three o'clock; that hour has now arrived, and as my colleague will, perhaps, occupy another hour, I suppose he may as well defer his remarks until to-morrow. I move, therefore, that the Senate now proceed to the consideration of executive business. ["Four o'clock was the hour."]

Mr. FOOT. I was present, and I suppose I shall have the concurrence of all the members who were present at the adjournment yesterday afternoon, that it was understood and made a special order that the Senate would, at three o'clock to-day, proceed to the consideration of executive business.

Mr. FITCH. My recollection is not precise as to the hour; but my impression is, that the executive session was to be at the close of the remarks of the Senator from Maine.

Mr. FOOT. Three o'clock was finally named, and agreed to generally.

Several Senators. Four o'clock.

Mr. YULEE. I understood four o'clock to be the hour, and it was understood that before that time the Senator from Maine, and, probably, another gentleman, would address the Senate.

Mr. FOOT. Three o'clock was finally proposed and agreed to.

EXECUTIVE SESSION.

The motion of Mr. FESSENDEN was agreed to; and the Senate proceeded to the consideration of executive business; and after some time spent thereon the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Tuesday, March 9, 1858.

The House met at twelve o'clock, m. Prayer by Rev. Jabez Fox.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER stated that the business first in order was the consideration of House bill No. 313, to provide for the organization of a regiment

of mounted volunteers for the defense of the frontier of Texas, and to authorize the President to call into the service of the United States four additional regiments of volunteers, on which the gentleman from Virginia [Mr. FAULKNER] was entitled to the floor.

EXCUSED FROM SERVICE ON COMMITTEE.

Mr. SHAW, of North Carolina. I ask the gentleman from Virginia to yield me the floor for a moment. I understood, from the reading of the Journal yesterday, that I was appointed to serve on the Matteson special committee. I hope that the House will excuse me from serving on the committee.

The question was put, and agreed to.

PROPOSITIONS TO INTRODUCE BILLS, ETC.

Mr. MAYNARD. I ask the gentleman from Virginia to yield me the floor that I may introduce a bill, of which previous notice has been given.

Mr. PHELPS. I hope that by unanimous consent, half an hour's time may be set apart for the introduction of bills of which previous notice has been given.

Mr. CLINGMAN. For the introduction of bills and resolutions.

Mr. HOUSTON. There is a very great press for the floor in Committee of the Whole on the state of the Union, and I am anxious that we should go into committee as soon as possible, so that gentlemen may proceed with discussion there. I would be very glad if my friend from Virginia would allow me to move to suspend the rules, and go into the Committee of the Whole on the state of the Union.

Mr. QUITMAN. I object to everything except the regular order of business.

Mr. HARLAN. I am very anxious that States should be called for bills and resolutions. If that be consented to, I have no objection; but I do object to this process of individual members having special privileges.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HICKEY, one of their assistant clerks, informing the House that the Senate had passed bills of the following titles:

An act (S. No. 91) to continue a pension to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, United States Army;

An act (S. No. 111) to alter the times of holding the circuit and district courts of the United States for the district of Vermont;

An act (S. No. 173) for the relief of Mary Peters;

An act (S. No. 185) for the relief of Anna M. E. King, Louisa M. King, Cordelia E. King, and Sarah J. DeLaunoy; and

An act (S. No. 122) for the relief of Captain Thomas Ap Catesby Jones; in which he was directed to ask the concurrence of the House.

BILL TO RAISE VOLUNTEERS.

Mr. FAULKNER. It would at any time, and under any circumstances, be a matter of regret to me to find myself compelled to differ on a question of military policy with the distinguished gentleman from Mississippi, [Mr. QUITMAN,] and with that committee over which he has the honor to preside, and of which we are both members. It is especially so at this juncture when I believe that the necessities of the public service demand some increase of our military force, when I observe not only the apathy, but, I might almost say, the aversion, that has been shown by Congress, to yield to these necessities of the public service, and when it becomes all who believe that the interest and honor of the country demand some increase of the military establishment, should harmonize their views, and not frustrate a common object by divisions among ourselves. I say, therefore, sir, that if I could conscientiously support the bill that has been reported by the Committee on Military Affairs, I would do so; but I cannot give it my support. I do not believe, sir, that this bill comes up to the full ideas of the chairman of that committee of what the interests of the country at this juncture demand. I am very certain that there are at least some members of that committee who cast the weight of their influence in favor of the recommendations of that committee, and in opposition to the opposing

scheme of policy, who will be found, upon this floor, when they come to record their votes, as hostile to the one as they were to the other.

Sir, I believe that the interests of our public service at this time demand an increase of our military force. In all that the gentleman from Mississippi [Mr. QUITMAN] has said upon that aspect of the question, I entirely concur, as I do in the view that there is no power vested in the President of the United States, under the act of 1795, at all adequate to the present emergency in our affairs. But, sir, I dissent wholly from that gentleman in the conclusion which he has announced to this House, that the description of force, which is neither regular nor militia, but which partakes of some of the qualities of both—the volunteer—is the description of force which is most proper for our present service.

Mr. Speaker, I do not stand here to make any disparaging reflection upon the volunteers. My knowledge of them, and my own feelings would forbid such a course. The annals of our country have been too often illustrated by their valor and their patriotism, and, I will say, by their efficient action in the field, to justify me in any general denunciation of them as an occasional resort of our military policy. For the purpose of national defense they are invaluable. They have intelligence, patriotism, spirit, and ardor. For a quick, brilliant, rapid campaign, they surpass any other description of force. Yet, sir, they are liable to all the objections which, in the very nature of things, must apply to an untrained, undisciplined, inexperienced soldiery. There are exigencies of war to which the volunteer is the best adapted. There are other exigencies to which he is not suited; and there, sir, is the point of separation between the gentleman from Mississippi and myself. I do not regard the volunteer as the proper description of force for the exigency which has now arisen in the Territory of Utah. I do not look upon him as the proper force to send to that Territory. I think that no untrained, undisciplined, inexperienced soldiery should be sent there. It never was designed or purposed, in my conception of things, that volunteers should be sent on such service as that now contemplated in that Territory.

No military authority in this country has called upon you for a volunteer force; and I much question whether, if you place them at the disposal of the Executive, he will find use or occasion for them. Nay, sir; I may hazard the opinion, perhaps, with diffidence, that the prominence which the idea of volunteers now has in this country and before Congress, is to be ascribed more to some outside popular pressure than to the dictates of a sound military policy.

Sir, I believe that the exigencies of the country require the addition of five regiments to your regular Army. I presented that proposition to the Committee on Military Affairs, and I am sorry to say it there met but little favor or encouragement. I am still of that opinion, though I am disposed, in deference to the views that have been expressed in the other branch of Congress, so far, at least, to modify my proposition as to bring it within the range of its possible passage by Congress. I know some gentlemen will say that we should legislate without reference to the views and action of a coordinate branch of the legislature. I admit, that in every question involving principle, we should do so; but, in mere matters of expediency I am not prepared to assert that such a position is proper. I go for something practicable. I go for that which is the best I can get under the circumstances. I find that body has voted down the five-regiment bill. I find that it has, with almost equal unanimity, voted down the volunteer bill. I have therefore sought to obtain some proposition that might combine and harmonize the views of those who believe that some increase of the present military force of the country is necessary.

But, sir, I mean to throw upon this body its proper responsibility in regard to that measure. I shall bring forward that bill, and I shall ask this body to vote upon the recommendation of the Executive in regard to the five additional regiments. If that is voted down, I will then ask that the bill which I have presented, and which has been printed, may be adopted as a substitute for the bill presented by the Committee on Military Affairs.

Mr. Speaker, there is a very extensive misconception as to the true actual strength of our Army. That misconception arises from confounding the authorized strength of the Army with its actual real strength, and from a failure to consider the large size of our staffs which, under an idea suggested by Mr. Calhoun, is adapted for an army of greater magnitude than any we may expect shortly to have.

Sir, the authorized strength of our Army is seventeen thousand nine hundred and eighty-four men. Its actual strength is fifteen thousand seven hundred. From these you are to deduct the staff, embracing a large number of ordnance men, and the result is an actual strength of thirteen thousand five hundred and seventy-five men. If you deduct from that number those who, according to the statistics of the sanitary condition of our Army, are unfit for active service, you will have left less than thirteen thousand men for all the purposes for which we want this force in the field.

Now, sir, what is the field of operation of this little Army of thirteen thousand men? What are the duties which are imposed upon them? They are scattered over an area of three million square miles. It is a military police upon which you depend to guard your two Indian frontiers, the one extending east of the Rocky Mountains, from the Lake of the Woods to the Rio Grande; and the other extending on the western slope of those mountains, from the British possessions on the north to the Gulf of California, embracing within that limit, according to the report of the Secretary of the Interior, two hundred and forty-three thousand hostile Indians, or those who, at any moment, may become such, and who are in a condition and temper of feelings to become such, whenever any prospect of advantage may tempt them to aggression.

This force is also your military police to guard your line of communications between the Pacific ocean and the Mississippi valley, covering something like nine thousand miles of emigrant route. It is scattered among one hundred and thirty-eight military forts and posts, there being little more than one company to each military post, and not one soldier to two miles of your emigrant and frontier routes. And yet, sir, this is the Army which we are told is too large, and which has swelled beyond the necessities of the nation. Sir, is this Army kept in idleness? Does this Army consume the substance of the people without affording an equivalent in service? What are we told by those who have some right and some authority to speak upon a question of this kind? Winfield Scott, who has not only achieved for himself a reputation as the first captain of the age, but who has, by his whole life, shown his capacity to estimate and a heart to feel for his compatriot in arms—what does he say? Look at his report for the last two years. Not a single report has emanated from him in which he has not called the notice of Congress to the extraordinary sufferings, toils, services, and fatigues, of that small Army. Let me call the attention of this House to one paragraph in his last annual report. He tells you:

"For years they have been almost constantly in pursuit of hostile Indians, through swamps and mountains, in heats and snows, and with no inconsiderable loss of life from frequent combats, and a still greater mortality from excessive labor, deprivation, and disease. In other wars those hardships are occasionally broken by rest and comfort, now long unknown to nine tenths of our troops; and hence another great evil—the numerous desertions which daily thin their ranks."

In other services, it seems, there is a respite from toil; there is some occasional moment of repose; but in our Army, he tells you that they are under a continuing, wearing operation of fatigue and exposure, that destroys, and must break down, the small body of men who are thus compelled to endure these fatigues.

What says General Jesup, one of the best informed military men in this country? In his last report he tells you that this little Army performs more duty, and carries on more extensive operations, than any one hundred thousand men in any other service in the world.

Well, sir, look at the general orders which are issued every year, as a record of the acts of this army. You will there see that during the last year there were twenty-eight conflicts with our Indian foes, in which were exhibited an amount of suffering and exposure which troops have been

very rarely called upon to endure. Talk to me about any want of capacity in the regular Army of this country to meet the requirements of the public service, when I see in these Army orders that they have traveled more than one thousand miles in pursuit of Indians, marching in seven days three hundred and fifty miles, and in a single day eighty miles! Tell me of the want of capacity to endure the hardships of a military life, when you see them stretched, night after night, upon the frozen snows of the mountains, and feeding upon the horses they have been compelled to abandon, and suffering for days without water! Talk to me of the want of vigilance, when you find, by referring to these Army orders, that in one day a single party surprised and captured three Indian encampments!

Well, sir, do all these services of this band of men enable you to discharge that highest and holiest duty which a Government owes to its people—the protection of their lives and property? Sir, I beg to call the attention of this House to what I regard, under the circumstances, as a solemn declaration and a solemn admonition from the executive department of the Government to this body. I read from the last report of the Secretary of War:

"If there is a higher duty than another devolved upon a well-regulated Government, it is to afford perfect protection to its citizens against outrage and personal violence; yet this great obligation is not performed by the Government of the United States. For a large portion of the year, scarcely a week elapses without bringing to us intelligence of some Indian massacre, or outrage more shocking than death itself; and it most frequently happens that these acts go unpunished altogether, either from the want of troops for pursuit, or from their remoteness from the scenes of slaughter, which renders pursuit useless."

Here you have, from that branch of the Government upon which, emphatically, the Constitution has devolved the duty of protecting the lives and property of the people of the country, the startling fact announced that this Government does not perform the high duty which it owes to its citizens; and you are earnestly importuned, by every obligation which you owe to your people, to provide the means of that protection which is their right, and which you have so far failed to furnish.

I say, therefore, Mr. Speaker, that, without the slightest reference to our relations with Utah, it is the duty of Congress to increase the military force of this country. Gentlemen suppose that these recommendations which have come from the President, from the Secretary of War, and from the Commander-in-Chief, calling upon Congress to increase the military force, have reference alone to our relations with Utah. It is not so, sir. They have reference to the defenseless condition of the Indian frontier; and they have further alluded to our relations with Utah as another matter worthy of the consideration of Congress. You are, therefore, to regard the Mormon rebellion as another element to be considered in addition to the existing military necessities of this country.

Sir, I am not disposed to spend much of the time of the House in adverting to this Utah question. It has been sufficiently discussed already in the newspapers and in this House. As to the cases of individual wrong and injustice that are supposed to have occurred in that Territory, I have nothing to say. They are asserted upon the one side and denied upon the other. They are not elements in the decision of this question.

With their social and religious institutions—as abhorrent as they are to the dignity of human nature, to sound morality, and to the principles of the Christian faith—this Government has nothing to do. But there is an aspect of their relations to us, upon which we not only have a right to act, but on which it is our solemn duty to act, and to act promptly. That Territory, sir, was purchased by the blood and treasure of the people of these States. It was freely held out as a home and an inheritance to every man who chose to go there, and acknowledge the supremacy of our laws and the binding character of our institutions. It has now been settled by a population who deny their obligations to this federative system, who repudiate the authority of our laws, and trample under foot the supremacy of our Constitution. They have, by proclamation and by their acts, placed themselves in an attitude of armed rebellion against your authority. Professing some wild and treasonable ideas of the doctrine of "popular sovereignty," they assert their right to elect all their

own officers, and to manage their own affairs, in utter contempt and defiance of the authority of this Government. They are carrying out these ideas practically. It is not simply the edict of Governor Young; he is sustained by the Legislative Council recently assembled in that Territory. They have denied admission to our civil officers and employes; they deny admission into that Territory to your troops; they have waylaid your trains, and plundered and robbed them; and they stand before you now in the attitude of hostile defiance to this Government. Is there a man upon this floor who will, for a moment, tolerate such an invasion of the rights of this nation? I am sure, sir, there is not one; there is not a heart in this Hall that will not respond to the demand of the Executive to maintain the supremacy of the law and enforce the rights of our Government in that Territory.

Then, Mr. Speaker, the real question, as I apprehend it—a question upon which every gentleman here ought to desire information—is what amount of force do the necessities of the country now require, and what should be the character of that force? Should it be, as recommended by the Committee on Military Affairs, volunteer; or should it be an increase of our regular force? In the determination of this question, there are economical and political considerations as well as military considerations, to be weighed by this body. Sir, this is the 9th of March. More than three months have passed since the Executive of the United States has called the attention of Congress to this pressing exigency in our public affairs. You have known from the reports of the agents, on your table, the unsettled, unquiet, precarious condition of the Indian population. You have known for three months that Utah has been in armed rebellion against your Government. You have known that the small advance corps that was sent there last summer is now within one hundred and thirteen miles of Salt Lake City—a force so small as to invite, by your apathy, in addition to the paucity of its numbers, aggression from the overwhelming forces of the Mormons and their Indian allies. Well, sir, to give to that advance corps the assistance that the Executive felt it was his duty to give them, to deter these Mormons from the rash attempt of attacking this force because of the paucity of its numbers, he has felt compelled, under his high constitutional obligations, to converge from Texas and the northwest an army which he intends shall move from Fort Leavenworth in the month of May next for Utah. These scattered forces are concentrating at that point with a view to take up their march against the Utah Territory. That was a proper and necessary decision of the President. Hostilities from the Indian tribes were possible, nay, probable; but there was a certain, definite contingency which left the Executive no discretion. He has therefore ordered the frontier troops from along the line of the eastern Indian frontier to place themselves in a condition to march to Utah without delay. And now the question for this body is—a question which presents itself in a form that cannot be disregarded—what will you do with the Indian frontier?

Mr. MARSHALL, of Kentucky. What was the date of the President's determination to concentrate the United States troops at Fort Leavenworth?

Mr. FAULKNER. It is not in my power to state the date of the Executive action on the subject. I only state a fact which is known to me, and is sufficiently authenticated by the newspapers, speaking of the march of the Army from Texas, Arkansas, and other points, where they have been recently stationed.

Now, the question, I repeat, which forces itself on the consideration of every gentleman in this Hall is: what is to be done with the Indian frontier, thus necessarily stripped of the force essential for its protection? How is this vacuum to be supplied? Is it to be supplied by regulars or volunteers? Would volunteers engage in that service? Would volunteers be indebted to any gentleman who would place them on any such service as that? Will you refuse an addition to the regular force? Will you refuse both, and throw upon the Executive that responsibility which will devolve upon him under the law of 1795, to call out the militia for the protection of the frontiers—the most expensive and least effi-

cient force that can be applied, necessarily so on account of its short term of service?

Now, Mr. Speaker, it is obvious that volunteers would not be of any material service for the exigency to which I allude, to fill the vacuum created by the withdrawal of our troops to Utah. But, suppose it was necessary to organize an increase of your force, in addition to that army which will leave your western frontier in the month of May, to go and vindicate the laws of the land in Utah. What should it be, a regular force or a volunteer force? Sir, it is made an objection to the regular force, that it becomes a permanent addition to your Army, and a permanent source of expenditure; whereas it is said that volunteers may be disbanded at any moment when their term of service expires. I deny the force of any such argument. I say it is in your power, and it is so provided in the bill now before you, to discharge this regular force, now to be organized, at the end of two years.

But, sir, there is a military aspect of the question of more importance than that. If you bring out volunteers for the Utah service you must send them there. They volunteer for that service. It is for that that they come under contract with the Government, and untrained and undisciplined as they may be, there they must go. Whereas, if you make an addition to your regular Army, the practical operation will be, that you take these raw recruits and send them to your Indian frontier, while you can subtract just so many veteran, experienced troops, for the service in Utah. I repeat it, if you take volunteers, raw and undisciplined as they may be, you must march them on to Utah. That is where they have contracted to go; and nowhere else would you think of sending them. Well, sir, that is a march of one thousand two hundred miles at the very start. Is that a march for raw and inexperienced troops? And again, sir, for what service is it that you want them? Why, sir, for the most delicate service that has ever arisen under this Federal Government. It is to subdue a refractory Territory to obedience to your laws. So far, with all their rebellion, not one drop of human blood has yet been shed in that Territory. So far, from the foundation of this Government, not one drop of human blood has been shed in maintaining the supremacy of the Constitution and laws. And I say, God forbid the day should ever arrive when this Government is to be sustained by shedding the blood of its citizens. You want for this service a force free from passion, free from excitement—such a force as a wise Government will always resort to for the maintenance of its power. A regular soldier is an unimpassioned instrument of war. He is a machine in the hands of higher intelligence. He is the child of obedience. Obedience is the law of his existence. He is ready to march or counter-march; to go into cantonments or go into the cannon's mouth, as his superior officer may order him to do. You want a soldiery which will be under the perfect control of its officers. You want no soldiery that can or may control its own officers. You want such a force—if the prejudices of some gentlemen will excuse me for making the comparison—as this Government has had in the Territory of Kansas for the last two years; where, amidst the wildest ravings of the social and political tempest, it has succeeded in preserving law and order without shedding one drop of human blood. That is the sort of force you want in Utah. You do not want that force which a leading Virginia editor, in a paper that I received yesterday morning, says you do want. He says, recommending volunteers, that it would be best to send a body of men to that Territory who would go inspired by religious repugnances of the abominations of Mormonism. This has been too much the language of the public press. I do not condemn the sentiment of opposition to the abominations of Mormonism. I only condemn it in connection with an appeal to the military power of this country to put them down. I fear that much of the impulse given to volunteers has sprung from this sentiment of hostility to the religion of the Mormons.

Sir, too much has been urged in this country in favor of this expedition as a movement against the religion of the people of Utah. I trust there is to be no religious war stimulated from these halls of legislation. We have nothing to do with the religion of that people, repugnant and degra-

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ding as it may be. We have no license in the Constitution to "let loose the dogs of war" to hunt down any set of people for their religion, no matter how abhorrent it may be. He who goes to Utah, whether as volunteer or regular, with the intent and purpose of making war upon that people because of their religion, will, if he sheds blood on such a mission, have committed murder in the eye of the Constitution. There is but one duty which devolves upon this Government. It is to maintain the supremacy of our authority in that Territory. For all the rest we must trust to the mild influences of Christianity; we must trust to the benignant influences of our glorious form of free government, under which, as Jefferson has said, error may be tolerated with reason left free to combat it.

Sir, no man in the House will go further than I will in the performance of the proper duty which devolves upon us. I assert our full dominion over the Territories. I will go all proper lengths to put down the Mormon rebellion. I will crush it in every form so far as it has arrayed itself in opposition to the authority of this Government; but I would do it by the regular, established, cool and unimpassioned judicial, and, if need be, military energies of the country.

Sir, the gentleman from Mississippi tells us that the volunteer force is the peculiar growth of this country. If it be true that it is an American institution, and that, as such, it is to us a source of national pride, it is because of its past recollections and history. Heretofore, this appeal has never been made to the country by Congress for volunteers, except when done to defend the sanctity of our homes and of our firesides; to expel the invader of our soil, and to plant the victorious eagles of our country upon the Capitol of a foreign foe. But now, for the first time in our history, is Congress appealed to, to invoke the passions of this nation, to organize a volunteer force which is expected to mark with blood the triumph of federal power over a Territory of this Union. I look with alarm upon such a precedent. I know the intensity of sectional hate and the rancor of political feeling which too often sway the passions of this people. Establish the precedent once that Federal power may make this appeal to the passions of the country to maintain its authority, and you inaugurate a practice and a power fruitful of the most dangerous consequences in our system. From its successful application to a Territory, it will be an easy step, under the control of a reckless and dominant majority, to extend it to a State. Such precedents, once established, are not forgotten. They are seized by the hands of power, and perverted beyond the original intention. I am not willing to take any step in that direction. It is not asked by the President, nor demanded by the necessities of the country.

But I must for the present pass over this view of the subject, and proceed with the military view of this question. The gentleman from Mississippi has said that it is a duty of this House to respond to the executive recommendations which have been made to us. I agree with him, and I go one step further than he has done. I say that, while it is the unquestionable right of Congress to determine the propriety of the increase of our military force, yet, sir, inasmuch as the Constitution creates the President of the United States the Commander-in-Chief of your Army, and devolves upon him the responsibility of this arm of the public service, it is no more than a proper deference and courtesy to that branch of the Government to place at its disposal the particular character of force which it thinks most efficient for the purpose contemplated. Now, sir, there can be no mistake about the opinions of the Secretary of War upon this point. He has told us, in language too strong to be misconceived, that he does not want volunteers.

Mr. CURTIS. Will the gentleman tell me where he finds the opinions of the President or Secretary of War upon this point?

Mr. FAULKNER. The gentleman will find that I am right. The gentleman will find appended

to the report of the Secretary of War and President's message, a statement of the comparative expenses of the volunteer and regular forces of the country for the last twenty-two years. Why did he append these statistics, if it was not to admonish, and if need be to implore, Congress not to place in his hands a description of force which he does not want? I well remember in 1854, when there was a threatened outbreak of the whole Indian population in the Northwest, and when a call was made upon Congress for an increase of the regular Army, the attempt was made, as it is now, to substitute three thousand volunteers for the proposed increase of the regular Army. The gentleman from Missouri [Mr. PHELPS] and myself had very much the same discussion then which has taken place now. He then called upon the War Department for an estimate of what would be the expense of three thousand volunteers; and the Secretary, after replying to the call, and showing that the expense of the three thousand mounted volunteers would be \$3,920,485—about one million and a half more than the four regiments called for—proceeds, in the close of that report, to say that he had called upon Congress for a regular force; and if you substituted the militia for the regular force asked for, the responsibility of the consequences would not be upon him.

Well, sir, never was there a more threatening general outbreak amongst the Indian tribes; and yet the policy of an increase of the regular Army triumphed in that contest before the Thirty-Third Congress. It was accordingly sent to that frontier; a single skirmish took place, and peace was restored. Now, sir, it was the deliberate opinion of that distinguished statesman and officer, familiar as he is with all branches of the public service, regular and volunteer, in Mexican and in the Indian wars, that if those three thousand volunteers had been sent to that country at that time, there would have been a general outbreak of Indian hostilities such as it would have, perhaps, taken years to quell, and at the cost of millions of dollars.

Now, sir, it would seem that the present Secretary of War was apprehensive that Congress, from some outside pressure of popular feeling, might substitute a volunteer corps instead of the regular force asked for; and he has therefore presented to Congress, accompanying his report, documents and statistics bearing upon that subject which it ought to be the duty of every member upon this floor to read before he acts upon this bill.

The gentleman from Mississippi, [Mr. QUITMAN,] as an argument against the regular Army, brought forward the number of desertions from the regular Army. Now, sir, that there should be desertions in such an army as General Scott has described as having no repose from the toils and fatigues of the camp, is not surprising. Especially it is not surprising that desertions should occur in an army in a new country, in the new States, where labor is high; where there are no land bounties promised them to induce them to hold out until the end of their service; where they have, probably, no friends at home to cheer them on their return for their courage, or to frown upon them for their want of fidelity. The gentleman has asked, when, in the history of this country, did a volunteer ever desert? I refer the gentleman to the records of the Mexican war, and there I show him that there were three thousand eight hundred and seventy desertions from the ranks of the volunteers in that Mexican war; whereas, there were but two thousand eight hundred and forty-nine from the ranks of the regular Army. And while upon this subject of the Mexican war, I beg leave to call attention to a table now before me, presenting some interesting facts.

It appears there were in that war some twenty-six thousand regulars and seventy-three thousand volunteer troops. Of those who were killed and died of wounds in battle, there were eight hundred and sixty-two regulars, five hundred and sixty-seven volunteers. Of those wounded in battle, two thousand and seventy-five were regulars, one thousand

three hundred and eighteen volunteers. In the battles of Contreras and Churubusco, fought 19th and 20th of August, 1847, there were, volunteers killed and wounded, two hundred and thirty-nine; regulars, seven hundred and fifty-nine. In the battle of El Molino del Rey, fought 8th September, 1847, there were, of regulars killed and wounded, seven hundred and six; volunteers, none. There were, I presume, no volunteers engaged in that fight. In the battles of Chapultepec and city of Mexico, fought 12th, 13th, and 14th of September, were, volunteers killed and wounded, two hundred and seventy-three; regulars, five hundred and thirty-eight.

I do not present these facts with any view to disparage the volunteer force. They acted nobly. They did their whole duty to their country. But I present them because I believe that the regular Army has not had that justice done to it by Congress, and by the country, which its gallantry, its sacrifices, its sufferings, its perils, and its toils, so greatly entitle it to receive from them.

The paymaster's report exhibits a fact which does not seem questioned by the gentleman from Mississippi, that the mounted volunteer costs, in proportion to the infantry, six to one. But, says the gentleman, it is not a fair point of comparison to place the mounted volunteers against regular infantry. I say it is in one aspect a fair point of comparison. And why? The day has gone by, if I can read the records of this country, when you can rely upon volunteers except as a mounted force. Every man who now volunteers expects to do so as a mounted volunteer. Look at what occurred in Florida even. Of the fifteen thousand volunteers, twelve thousand were mounted men. Look at the whole volunteer force of this country since the termination of the Mexican war, and out of a force of near eight thousand only four hundred and seventy-two were not mounted. Of the volunteer force in Florida at the present moment there is not one but is mounted.

[Here the hammer fell.]

Mr. CURTIS obtained the floor.

Mr. J. GLANCY JONES. I would inquire if the morning hour has expired?

The SPEAKER. It has.

Mr. J. GLANCY JONES. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. QUITMAN. I rise to a question of order. It seems to me that there is a mistake in considering debate upon this bill as being limited to the morning hour. The report of this bill from the Committee on Military Affairs was originally made by the unanimous consent of the House, and it occurs to me, though not very familiar with the rules, that the bill is the order of the day until disposed of.

The SPEAKER. The only advantage which the gentleman from Mississippi derived from reporting the bill by unanimous consent, was that it entitled the bill to be considered during the morning hour. Unanimous consent was given, and the committee reported the bill at a time different from what it would have been reported except by unanimous consent. It is, therefore, subject to the rules which control the reports of committees.

The motion of Mr. J. GLANCY JONES was then agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. Houshron in the chair,) and resumed the consideration of the

DIPLOMATIC AND CONSULAR BILL,

upon which Mr. KEITT was entitled to the floor.

Mr. KEITT. Mr. Chairman, in considering the application of Kansas for admission into the Union, two questions legitimately present themselves: 1st, the constitutionality of her application; and 2d, the expediency of her admission. The first division of the subject distributes itself under two heads: 1. The power of Congress in the premises; and 2. The character of the procedures in Kansas.

1. The power of Congress in the premises. Whatever power Congress possesses must be derived from the Constitution. Through it the original thirteen independent and sovereign States formed a federative league or Union. All the privileges and prohibitions contained in it were imparted to, and equally obligatory upon, the States which might be admitted into the Union. The Federal Constitution is a compact between sovereignities; and Congress, being the creature of the Constitution, is endowed only with such powers as the Constitution has conferred upon it. Gouverneur Morris, in a letter to Lewis R. Morris, dated December 10, 1803, uses this language:

"The Constitution (Federal) was a compact, not between solitary individuals, but between political societies; the people, not of America, but of the United States; each enjoying sovereign power, and, of course, equal rights."

The exercise of power by Congress is limited to enumerated cases; and to exclude the general discretion which might follow grants of political power, it is also hemmed in by prohibitions. Where a general power is given, because of the inability to specify the particular and shifting exigencies to which it is intended to be applied, it is walled in, as much as practicable, by prohibitions. Whatever power, then, Congress has to initiate a new State into the Union, or inspect its application, is derived from the Constitution. What power has Congress? Only the power granted in the third and fourth sections of the fourth article of the Constitution: "New States may be admitted by the Congress into this Union;" and, "The United States shall guaranty to every State in this Union a republican form of government." When the requirements of these clauses are fulfilled, the power of Congress is exhausted.

"New States may be admitted by the Congress into the Union." What is a State? A political community, organized with all the privileges, rights, and immunities of sovereignty. The admission of a State is her admission into a Union, founded, in the language of Gouverneur Morris, upon a "compact between political societies, each enjoying sovereign power, and, of course, equal rights." The right to admit new States is a right to treat with an equal for a specific purpose, viz: her admission into the Union. It excludes the very idea of inferiority or subordination. It gives no power, as has been contended, to rear, train up, and prepare infant societies for political maturity. It gives no power to breed States out of nascent communities or territorial pupillage. This clause of the Constitution does not endow Congress with the duties and attributes of the proprietaries of antiquity, whose vocation was to breed children for the service of the State. No, sir, the genesis of States is not found in this article of the Constitution.

The distinctive feature of a Federal Union is the equality of the parties to it. The amount of power granted in our Constitution being specific, and being made up of equal contributions by all the parties to it, an exact equality must exist among them. In a constitution containing general grants of power, subject to particular limitations, the limitation on the power must be shown by those who contest its exercise. But in our Constitution, there is a delegation of powers, limited by enumeration; and the positive grant must be shown by those who exercise a disputed or doubtful power. The power, then, to admit new States, being only a power to treat with equals, is exhausted when the treaty is made.

What power, now, does the fourth section, obliging Congress to guaranty to every State a republican form of government, confer? This must be answered by solving the question, what constitutes a republican form of government? A republican form of government consists in the distribution of its powers. The central forces of a political community can only be appropriately divided between the legislative, judicial, and executive branches. This distinct division of power brings the government within the generic term republican. Impress it with this form, and Congress cannot look into the minor details of the constitution, or the character of the constituency. If the constitution impugns individual rights, the judiciary affords the redress; if it affects the political principles which have been committed to the custody of the General Government, then Congress steps in and applies the remedy.

"Congress shall guaranty to every State a republican form of government." It can inspect a constitution no deeper than its form. If the organization of a State be republican; if its machinery be similar to the political machinery of any one of the original thirteen States, the duty and the power of Congress, under this clause of the Constitution, are discharged. Is not the form of government in Kansas republican? Is not all power divided between the legislative, judicial, and executive departments? Are any of the prohibitions of the Federal Constitution violated? Defects in a State constitution, which attach to the form of the government, are within the inspection and control of Congress; defects not of this particular character are beyond its reach. Congress can look only to the political character of the constitution; beyond this it cannot look.

The form of government in Kansas being republican, the requirements of the fourth section of the fourth article of the Federal Constitution are fulfilled. The constitution of Kansas, then, amply meets and discharges the powers of Congress in the premises.

The second branch of the proposition is, the character of the procedures in Kansas. The distinctive feature of the Federal Government is, that it is a union between *political societies*. Its powers touch, and its functions apply to external objects. Municipal or interior affairs are within the jurisdiction of State authority. To the guardianship of the Federal Government are committed our general relations with foreign nations, and certain interests common to the several sovereign States, in virtue of their sovereignty, or in consequence of stipulations in the Federal Constitution or treaty. The interior relations—the relations between man and man, in the same political community—are within the absolute and exclusive control of the States.

The Federal Government acts simply upon political societies. It does not know the political rights of the mere individual; it does not know the existence of unorganized masses. The Federal Government did not create political societies; it is itself the creature of them. A treaty, or league, must be between organized communities. A State constitution may be the product of agreement between individuals. A Federal constitution is the product of agreement between preëxisting organized communities. In other words, individuals make a State; States make a confederation. Individuals are the constituents of the one, States of the other. The Federal Government, then, knows only political entities—the concrete forms through which the aggregated community acts upon other concrete forms in which other political communities are tangibly embodied. To bring a Federal Government to act upon the political rights of mere individuals; to take political cognizance of masses of men unorganized, and in their primary condition, would be to subvert its foundations and erase its federal features. It is a confusion of words. The Federal Government, then, being founded upon a compact between political societies, being limited in its jurisdiction to organized systems, we are confined in our examination of the application of Kansas for admission into the Union, to the proceedings of the legal bodies in Kansas.

What are the legal bodies there? The constituted territorial authorities? I premit any discussion of the proposition, whether Congress has power, from the Constitution, to exercise acts of legislative authority over a Territory, and say that whatever power Congress has is restrained by the distinctive and elementary character of the Confederacy, namely, the equality of the States. The fact is true, however, that Congress has initiated political society in Kansas; and our examinations now must begin from that starting point. Congress, then, organized a legal body in Kansas, and invested it with competent authority over the Territory. No act which has not the sanction of the territorial authorities is legal. The first question then is: is the constitution of Kansas the product of a legal body? That depends upon whether the convention which framed the constitution had the sanction of the regular territorial authorities. Did it not have that sanction? The Territorial Legislature, by law, submitted to the electors, at the ballot-box, whether or not they would have a convention to organize a State government. They decided that they would. A con-

vention was then called, with the usual legal forms and ceremonies. I have omitted to discuss the necessity of an enabling act by Congress, because it is contended that an enabling act is contained in the Kansas-Nebraska bill, and especially because no objection is founded by the leaders of the Opposition, upon the absence of an enabling act.

The convention, then, was the legitimate product of the legal territorial authorities. What is a convention called to frame a State constitution? It is the incarnation, the embodiment of the people. The essence of sovereignty—the metaphysical idea of sovereignty—is a unit; but sovereignty is practically exercised through its attributes, and these attributes are susceptible of delegation. In a frame-work of government, radically and essentially founded upon a representative system, the whole people are resolved into a convention called to frame and settle their organic system. It is not a committee, a subordinate instrument; but it is, in theory, *the people*, clothed with their power, their majesty, and their political omnipotence. Political society must have a starting point; it must have an initial existence. In a mere democracy it takes it from the mass; in a representative system it takes it from the representative body. A mere democracy never has existed; but if it could exist, it would be only within a city. All society is founded upon subordination; and subordination, in a political system, involves, necessarily, more or less of representation. Representation is an element in all political systems which have ever been devised and enforced; but the discriminative feature in our republican system is, that the people is a constituent element of representation. In a popular representative system, then, the whole organism rests upon the supreme representative body; namely, the convention. If this were not so, government might not begin; it might continue anarchy and confusion. It is indispensable that government be started; afterward, its amendment, modification, or abolition, is practicable. There is a fundamental difference between a mere democracy and a representative system. The first begins with the mass, and operates through the mass; the latter begins with representation, and operates through representation. The one is a coarse, the other a refined system—the one engenders society, the other frames government.

Society is the normal condition of mankind, therefore men float into it naturally; and masses of men, rough, rude, unchastened, even belligerent, engender society. Government is the concretization and culmination of society, and must pass through a refining and secreting process. Government is an instrument to preserve and perfect society; and to do this, it must collect and use in its ministrations, elements of virtue, intelligence, and wisdom, above the mass which makes up society. In a republican government, the theory of representation is the secreting and refining those elements of society, which steady, preserve, and dignify it. The very conception, then, of a representative system, the higher reaches of its ministries and munificence, rest upon the sovereignty of the convention, embodying the majesty and grandeur and power of the people. Society, in its very existence, negatives the idea of individual sovereignty. It is itself founded upon the sacrifice of the independence of the individual, and draws to itself the rights thus lost or abdicated by these various molecules. In the social system there is no organ through which this sovereignty can be expressed; and, therefore, society, culminating in government, fixes its residence somewhere in the political organization. In a representative political system, it is fixed and embodied in the highest representative body—the convention to frame a constitution.

Every political system is founded upon forms; lives, and is expressed, through forms. You might as well attempt to express an idea without a medium, as to possess the spirit of a system except through forms. We cannot clutch spiritual essences; nor can we grasp a truth utterly disembodied. Media are necessary in all the pursuits of life; and we can only know the spirit of government through its forms. Society itself is but an immense form, in which a community of individuals live together, and through which their wills are expressed. Government itself is another but higher form, in which society itself lives, and through which it is expressed. The independ-

ence of individuals is expressed through society into the forms of government, and collected into sovereignty in its supreme form.

The mischievous doctrine of referring constitutions back from the sovereign convention to popular suffrage for ratification, before they become obligatory, is the resolution of government into society, and society into the individuals that compose it. It is reversing the march of mankind, and blotting out the experience of ages. It is reëndowing the individual with the independence which he has abdicated; dissolving the ligaments of society, and trampling down government beneath the barbaric tread of unorganized masses. Could society live a day, with all the individuals that compose it invested, each, with the rights of independence? Could it live a day without law, without order, without peace, and forms? And can it have those with individuals put above society, and society elevated above government? No. Sovereignty holds all things in subjection; and the crown of sovereignty is placed in the higher reaches of virtue, intelligence, and wisdom, and embodied in the highest form of government.

But the mischievous heresy of submitting constitutions to popular ratification, not only emasculates conventions, but it abnegates forms in government. It not only puts the will of the individual above the will of the community in theory, but it seeks to attain it without the intervention of forms. It is striving for perfection through the rude agencies of barbarism. It is a humanitarian attempt to crown individuals with transcendental excellence through the prostitution of society, and the demoralization of government. It is the offspring of that spirit of insubordination which shakes down governments, dissolves society, and lives only in the congenial atmosphere of revolution. It is, in short, the development of individuality at the expense of society. It is even more demoralizing than this: it is the aggravation of individuality into extravagance, through licentiousness and the stimulation of emulous rivals.

But it is not only in its subversion of representative government, and its warfare against society, that this heresy is dangerous. It touches, with rude hands, the very foundations of property itself. It erects individuality into omnipotence over proprietary rights. It ignores the great truth that government is instituted primarily to protect property as well as person. In fact, it stabs government in its most vulnerable point. It subsidizes, through avarice, the many against the few. Property perishes in revolutions; because it is congenial only with law and order and peace. The apotheosis of individual rights, the independence of individuals in a political society, is the utter overthrow of property. Property grows up in society, and is sheltered by government. Whatever, then, impairs society, or saps the foundations of government, shakes the whole system of property.

It is affected in another way by this ominous heresy. It, in theory, gives to each individual the right to appropriate to himself what may be necessary to his support. When the individual is put above society, social stability and peace must yield to his wants. Among sovereigns, might is right; and when want steps in, property is theft. In a political society made up of sovereigns there is no law, no subordination; all is equality, and everything is common. Thus, this theory not only wars against society and government, but it reaches the very origins and mysteries of property.

Government is instituted to protect rights both of person and property. In proportion to the wealth of a community, and its civilization, must the checks and balances in its political system be delicate, numerous, and well-adjusted. In a republican government all are equally interested in the preservation of personal rights; the minority are especially interested in the protection of property. The constitutional guarantees, therefore, should be carefully and skillfully adapted to its maintenance. In a convention all interests and all feelings are judiciously refined, secreted, and weighed; and, therefore, all interests are likely to be properly estimated and decided; in a popular election, ramified through a wide community, popular caprice and popular passion are likely to prevail over cautious deliberation. All the interests of society can be best expressed through a

convention; and this is lost in the reference back of its work to popular ratification. Besides, when this element is introduced, the statesman becomes the politician; each representative becomes, not the representative of the community, but of his particular constituency—he represents, not a whole, but a fraction. The very doctrine of the numerical majority in this Confederacy sectionalizes. To this conclusion, the doctrine I am animadverting upon inevitably leads.

In examining the problems which have presented themselves in this discussion, I am not altogether removed from the aids of ancient inquiry. Aristotle has more specially examined the higher questions of speculative politics in the first three books of his great work. What are the origins of political society? Have all men an identical claim to act in political society, and are they entitled to equal rights? What is the end of power? Where does sovereign authority reside? Such are the problems which the philosopher of Stagira examines, as introductory to his exposition of a perfect government. In his view, society is not an accidental and arbitrary fact. It is the result of neither violence nor compact. Like the family, it springs from the depths of nature, which instinctively urges mankind into association to minister to their wants. "Man," he says, "is essentially a sociable being; a political animal; the sense of right and wrong engraved upon his heart marks him for a social destiny."

The end of political society, according to Aristotle, indeed its highest aim, is not merely utility and the pursuit of material advantages; but it is the consecration of justice and right which pre-exist the decisions of the judge. It is something more than these: it implies the moral improvement of its members and the guarantees of happiness, secured by the cultivation of virtue. "Virtue," he says, "commends itself to the first care of a State truly worthy of the name. Otherwise, political society is nothing more than a military alliance with remote nations; and the law brought down to the character of a simple convention, is no longer but a guarantee of individual rights, without any power or influence over the personal morality and justice of the citizen." In this connection, he treats of the distinction between the constitution and the mere laws of the State. "The constitution," he says, "is that which determines in the State the regular organism of all magistracies, and especially of the supreme magistracy. It is the distribution of powers, the attribution of sovereignty; in one word, the defining of the special end of society. The laws, on the contrary, distinct from the essential and characteristic principles of the constitution, are the rule of the magistrate in the exercise of power and the repression of wrong."

The speculations of this great philosopher of antiquity upon the foundations of society and government, are thus in unison with the views I have expressed. They discountenance the doctrine of mobocracy recently so popular under the insurgent title of "popular sovereignty," and exemplified in the Red Republican heresy of referring constitutions to popular ratification.

In this discussion allusions have been made to, and analogies drawn from, the history of Athens and Rome. These have been marked either by the perversions of ingenuity, or the misapplications of ignorance. In paying to the Athenian democracy, as it is called, the tribute which both history and justice would seem to demand, no sanction can be drawn in favor of "popular sovereignty," as it has been recently understood. There is, in truth, no assimilation between modern politics, and the politics of antiquity. Among the ancients, political unity resided in the city. With us, it resides in the people of each State, expressed through, and embodied in, their supreme organism. All the free Governments of antiquity, like those of the Italian Republics of the medieval period, were especially municipal; and they might, therefore, comport with the direct intervention of the citizens, meeting in a general assembly. Our Republic, on the contrary, is necessarily representative in its character; and, save in primary meetings, only admits the indirect action of the people, delegating their powers to their representatives. The democracy in Athens was founded upon a broad basis of slavery. Although Athens was, in antiquity, the eminently democratic city, she could not escape the normal law of class sub-

ordination—in fact, of slavery. True, that Clis-thenes, to strengthen his power, admitted within the ranks of the citizens the free foreign residents and the choice of the city slaves; but this example was not followed, and Pericles himself enacted severe laws to check the impartment of the rights of citizenship. Before his rule, it was enough to have been born of an Athenian father to exercise the rights of a citizen. But his legislation required the origin to come from an Athenian father and mother both; or from an Athenian father, and a mother born in one of the cities to which the stipulations of treaties allowed the marriage right. After the restoration of the democracy by Theseus, the Athenians passed more stringent laws. They confined the civic rights to the sons of Athenian fathers and mothers, and repealed the marriage right previously granted to the various cities by their treaties of alliance. Hence, the political rights continued to be the appanage of an exclusive class—a real nobility *de facto*. In the most prosperous days of the Republic of Athens, the census never gave more than twenty-four thousand citizens over twenty years of age; a number which answers a total civic population of some hundred thousand souls. There were, besides, some ten thousand *μετοικοι*, or free residents, not citizens, representing a population of some forty thousand denizens. Although held to military service, they possessed no political rights. They were subject to a poll-tax from which the citizens were free, and no opportunity was allowed to pass to impress them with a sense of their inferiority. Below these was the immense mass of servile population, which the best calculations put at no less than three hundred and sixty thousand. The civic population, therefore, barely constituted one fifth, and the body of citizens entitled to sit in the assemblies of the people, one twentieth, of the total population of Attica. Lastly, if we consider that the highest legislative and judiciary trusts were the exclusive province of the *Heliasts* more than thirty years of age, and these to the number of six thousand only, we readily perceive that, in Attica, about one out of every eighty persons was admitted to the full enjoyment of political rights.

Thus much for the Athenian democracy. I could easily show that the democracy of Rome, resting upon tribes and centuries, with its whole hierarchy of government founded upon wealth and patrician descent, with its ninety-eight centuries out of one hundred and ninety-three, even in the later days of the Republic, embracing but a small minimum of the people, yet absolute in their political ascendancy, was no more a democracy than that of Athens. But I will not consume time in the adduction of this further proof. I have appealed to these examples only to show that government comports neither with the independence of individuals, nor is founded upon the basis of a numerical majority.

I have thus shown, Mr. Chairman, that the power of Congress in the "admission of new States" is confined to the inspection of its "form of government," and that it is discharged when it is republican in form. I have argued that sovereignty is embodied in and expressed through some political organism; and that, in our system, that organism is the convention called to create and form a constitution. I have argued, further, that the submission of constitutions to popular ratification is violative of the theory of representative government, and that it is agrarian in its tendencies.

Before I pass from this branch of the subject, I may make a remark or two upon a topic kindred to those I have already discussed. Can the constitution of Kansas be legally changed prior to 1864? In my judgment, it cannot. There is a clause in the constitution of Kansas prohibiting the assembling of a convention prior to that time, and this inhibition precludes it. This clause is regarded by some as a nullity. I do not so regard it. Every government that is created by a written charter rests upon it as a foundation. All the agents under it are subordinate, and must act in conformity to its provisions. Whenever an agent, in its exercise of power, exceeds the power granted to it by the author of its being, such exercise of power is illegal and nugatory. A Legislature, then, which is prohibited by the sovereign authority in the organic law from assembling the sovereign authority, acts, in thus assembling it,

against, or dehors the constitution, and the act is void from lack of authority. Government presupposes society, and society fixes a residence for sovereignty in some political organism. Sovereignty is the exponent, or rather the multiple, of the united wills, power, and resources of the political community over which it presides; and it is imprisoned in this political organism by the dominant ascendancy or the controlling power of the society. Sovereignty is thus fixed and imprisoned in its political abode; it may be by force, but its first act is to substitute law for violence, and order for disorder. Society ferments, welters, tosses about, until its voice speaks calm, quiet, and consistency. In other words, sovereignty is mere domination and force compressed into a political system, and working peaceably and harmoniously. Its very existence supersedes mere brute violence. When it is organized it assumes a political character, and operates through a congeries of inferior systems and laws. Now, the sovereignty of the people, assembled otherwise than in the manner pointed out by its decrees, is an appeal to force against law, to revolution against order, to anarchy against society. It is, in fact, overthrowing the government, and beginning where the first sovereignty began in its initial attempt to educe order out of confusion. It is true, the sovereignty of to-day cannot tie up the sovereignty of to-morrow; but that of to-day can impose a prohibition upon its agent, invoking it to-morrow; and if it be invoked against the prohibition, it is not the sovereignty known to political philosophy, but a sovereignty only in virtue of brute force. This at once resolves government and society into their constituent elements, and inaugurates anarchy or despotism. The difference between a revolutionary right and a legal right, or a right under the constitution to change the constitution, is clear, distinct, and vital. The one is a political right; the other, the right of the sword. The sword may not be drawn from the scabbard; the olive may be twined around it; but it is still the sword. In government men act through and under its forms; in revolution, they act above and against these forms. These reflections I have thought it proper to make upon a point somewhat agitated in the discussions upon the admission of Kansas, both in this House and in the Senate. It is a point, however, to be settled by others, and cannot legitimately do more than exercise the ingenuity and acumen of Congress. I have touched upon it only with the view of saving myself from being classed with those who confound revolutionary with constitutional rights in a people.

I approach now, Mr. Chairman, the second proposition which I laid down in the beginning of my remarks—the expediency of the admission of Kansas into the Union. I have no threats to make, because I do not allow them to be made against me. But the sky is full of omens, and we may partially read the future through their instructive teachings. In our history, crowded with great events, no spectacle presents itself more imposing in form and outline than that which is now unmasking itself. Three States, with constitutions in their hands, are asking for entrance into the American sisterhood. One comes from the land of prairies; and though her admission swells the free-State power, her outstretched hand is readily taken by the South. Another is coming from close by the setting sun; and though she, too, has joined the free-State band, a cordial greeting is given to her by us of the South, as she sweeps on to occupy her starry place. Next Kansas comes, warm with a southern sun, and escorted by the memories of trials and troubles and sufferings passed. Comes she to widen the Federal circle and strengthen still its bands? Will you, men of the North, give to her a cordial greeting? Will you, members of the Republican party, reject her? If so, why and wherefore? Do you want an enabling act? Did you have one for the Topeka convention? And did you not lasciviously embrace the work of that rebellious mob, and offer to open wide the portals of the Union to Kansas, brought to us then under the auspices of violence and blood and insurrection? Do you demand the ratification of the constitution by popular suffrage? Did you have it for the Topeka constitution when, born of rebellion, covered with crime, stained with usurpation, it came to us trampling upon law, confiscating property, and waging war upon the constitution? Will you call

the parsimonious and attenuated contrivance for collecting the popular will, and the meager vote, even of the rebels, in favor of that sarcasm upon constitutions, a provision for, and an expression of, the public will? If so, you plant snares against the people, and strangle their will by the very machinery contrived to express it. No; you reject Kansas now, neither because of the lack of an enabling act, nor the failure to submit the constitution to a vote of the people. Why, then, do you reject her? Because she recognizes and protects slavery in her constitution. Sir, in your Philadelphia platform there are canonical words, declaring that "no slave State shall hereafter be admitted into the Union." In pursuance of this fixed and relentless policy, you reject Kansas. The leader of the Free-soil cohorts, the anointed preacher of this new evangel, [Mr. SEWARD,] has recently told us, from the other wing of the Capitol, that the battle was "already fought and won." He said, also, that an organization only a little more perfect was needed for the North to take possession of every department of the Government, and wield its power for the benefit and aggrandizement of herself. Yes, Congress, the Executive, and even the Supreme Court, were to be used by her for plunder and fanaticism. To keep the South in a fixed and hopeless minority, no slave State was hereafter to be admitted; while all the power and machinery of the Government were to be appropriated by the North to plunder and oppress her. Reject a slave State because of slavery in her constitution, and I tell you that you will shake this Federal temple from turret to foundation stone. Tell the South that you reject a slave State to keep her in a minority, that you may plunder her, and I tell you that no Federal tax-gatherer, though backed by all the legions of the North, will ever again tread her soil. The Republican party, through the power of the free States, may take possession of the Government, but I tell them they will clutch only a phantom. Whenever their work of incendiary propaganda shall begin, whenever their work of revolution shall begin, this Union will end. It may end in peace, or it may end in blood; but end it will. Sir, peace may be bought too dearly; it always is, when it is bought at the price of honor, independence, and manhood.

And how fares it with the Democrats of the North, who now oppose the admission of Kansas? Do they want an enabling act? Do they want a submission of the constitution to the vote of the people? Their great leader [Judge DOUGLAS] says that these are not indispensable. What, then, do they require? Some proof, say they, that the constitution embodies the public will. What proof can you have outside of law? How can you reach the public will otherwise than through the forms and agencies of law? Society and government are but organized forms of the public will; and this will, in the existence of society and government, is afterward reached by inferior and subordinate forms. The ballot-box itself is but a form; is but a contrivance of law in ascertaining it. The expression of the public will in any government is a legal act. The right to vote is not a natural right; it is a political right, and its exercise is not compulsory. The will of those who so vote, must stand for the will of those who do not vote. The ballot-box is but a contrivance for collecting and expressing the public will; the public will is collected in and expressed through the constitutional convention in a much higher and grander form. How, then, do you deny that the constitution of Kansas embodies the will of the people of Kansas, unless you mean to seek that will outside of the legal means? You have that will through the convention; you have it, also, through the ballot-box, in the elections on the 21st December, and those are the only legal means known to us. The votes cast on the 4th of January for and against the constitution were cast without sanction of law, and were, therefore, nullities. They cannot be known to us. In a political society no political act can be known otherwise than through law.

The tendency of the opinion I am now reproaching, is to degrade popular sovereignty into the "sovereignty of the populace," as it has been happily termed by my colleague in the Senate, [Mr. HAMMOND,] in his recent able, eloquent, and unanswerable speech upon this subject. The "sovereignty of the populace" is not only above

law, but it is against law. The moment you go outside of the forms of law to ascertain the public will, you go to revolution. If you want the public will embodied in and expressed through the forms of law, you have it; if you want more, you must go to revolution and anarchy.

In 1854, the northern advocates of the Nebraska-Kansas bill urged the passage of the bill to invest the people with the right to govern themselves. They appealed to the spirit of the Revolution, and marshaled before us, in shadowy pomp, the memories of the founders of the Republic. Their appeals stirred the blood, urged on the flagging judgment, and the bill passed. The people of Kansas became invested with the right to govern themselves. In pursuance of this right, and of the provisions of this bill, they now come to us for admission into the Union. And now how fares it with these Paladins of popular sovereignty? Their swords flash no longer against the Black Republican Saracens, but are bared in relentless fight against their own chosen doctrine. We are told that Congress must govern the Territory of Kansas; that the inhabitants of Kansas must be kept in a state of pupillage. Is it from love of law? No; for you tread law in the dust in doing this. Is it from love of liberty? No; for liberty lives only in law, and speaks only through its forms.

Sir, I will not say that these gentlemen are incited by solicitude for the torrent of fanaticism now swelling and surging behind them. I will not say that they are stirred to it by the lust of power and domination. But the one or the other may not be entirely absent. The old leaven of domination may be working now, as it worked eighty years ago. Gouverneur Morris, in a letter to Henry W. Livingston, dated December 4, 1803, says:

"I perceive, now, that I mistook the drift of your inquiry, which is, substantially, whether the Congress can admit, as a new State, territory which did not belong to the United States when the Constitution was made? In my opinion, they cannot. I always thought that when we should acquire Canada and Louisiana, it would be proper to govern them as provinces, and allow them no voice in our councils. In wording the third section of the fourth article, I went as far as circumstances would permit to establish the exclusion. Candor obliges me to add my belief that, had it been more pointedly expressed, a strong opposition would have been made."

In his view, the "old thirteen States" were to be constructed into a political hierarchy, resting upon, and governing provinces, with absolute despotism. Our eagles were to be carried as were carried the eagles of Rome, until, with the wafture of their wings, they had fanned away the pride and pomp and power of surrounding nations, and this whole continent was embraced in the meshes of our proconsular despotism. The old thirteen, like a Corinthian shaft, was to spire upward to the heavens; but it was to rest upon a dome covering blood and rapine and tyranny. Has the ghost of this murdered scheme come back unannealed and blood-boltered, to spell your gaze with its basilisk fascination? Do you want to conquer States and provinces, and send forth proconsuls covered with pomp, and backed by legions, to glut your greed upon plundered wealth, and sate your lust of power on ruined victims? Do you want a triumphal march to the Capitol, with the spoils of plundered provinces to deck your pathway, and an enslaved people gathered around your chariot wheels? If you do, the genius of the country, the spirit of the Government, will war against and war you down. If you do not, this sacrilegious end may be accomplished by your policy.

Sir, we are at a critical point in our history. Agrarianism is facing law, and disorder smiting at order. The guarantees of the Constitution are in peril, and the sanctity of that instrument is threatened with invasion. Constitutions are about to be confounded with laws, and the great partitions of power are being broken down. The doctrine of the numerical majority inaugurates the reign of brute force. It brings with it the demon of discord, fire-tongued and red-lipped, to do its work of confusion, confiscation, and blood. Sir, this doctrine can only be enthroned upon the ruins of the Constitution; it can only draw life from the corpse of the Republic; and when it is enthroned, and life imparted to it, the pestilent exhalations will smite down genius and law and order and patriotism, as the fabulous exhalations of the Avernian marsh smote down the perishing bird with its stifling vapors. There is no curse

so bitter and blasting to a political society as the rule of a mob; and, under these stimulating heresies, the numerical majority will become but a mob. Sir, against the banns about to solemnize the marriage between fanaticism and brute force, I solemnly protest. I protest in the name of the Republic, its memories and its hopes. The star of our destiny has led us from triumph to triumph, and from conquest to conquest; it still shines upon, and lures us on from summit to summit of power and renown; and from each ascending cliff we behold still broader and richer landscapes unfolding around us. Shall we pause in this more than Olympic career of greatness, hearken to the orgies of fanaticism, and then, with lowered colors and muffled drum, march back along that downward road already trodden hard by the footsteps of generations dead and buried, and still covered with the wrecks of systems barbarous and systems nascent and systems more advanced, but blindly struggling? Against this consummation, may I not appeal to those who have worn the amulets of the Democracy, to array themselves? They have carried its flag in many a fight. Will they now fly from the field, and abandon their old comrades?

Sir, events are drifting to a dissolution of the Confederacy. The slavery question, it would seem, will split it, as it has hitherto preserved it. Feud, rivalry, jealousy, class strife at the North, have been kept down by a foreign war, by that section, against the South. But for this, they would long since have risen up and shaken down the fabric of Government and society. The South, too, has been made firmer, and pressed closer together by her resistance to this war. Through it both sections are being rapidly consolidated. This consolidation has hitherto been prevented by the Democratic party. Its ranks are now being thinned by desertion, and broken through by assaults. When it gives way, the bands of this Union will be burst asunder. The President still stands firm, crowned with civic honors, covered with the love of the people, and guarded by the patriotism of the country; he still holds the citadel of the Constitution, and has planted its flag upon the topmost turret. The South sustains him, and the "old guard of the free States" have locked their shields around him. They have rejected the blandishments of local patronage and the seductions of leaders once trusted, and have stood to their duty and their colors. The "old guard" of Napoleon, which had carried his eagles all over Europe, and shaken them out only in victory, were drawn up to see the Louvre stripped of the glories and trophies they had gathered there, and to give in their adhesion to the new powers. They saw glories and trophies disappear both; and stirred no feature, and moved not a step, while these were borne away. But when their loyalty was asked to the new powers, they indignantly scorned the proposal. Like the "old guard" of Napoleon stands the old guard of Democracy in the free States; it still stands true to the traditions and testimonials and histories of its past; it scorns the advances of fanaticism; nor, without striking a blow, will it allow one of its glories to be sullied, or one of its trophies to be removed. Will you, who have been in this old guard, take your former place in its ranks; or will you go over to another standard, and swell the legions of the enemy? Your answer will be historical. Make it well, and make it wisely.

Mr. ENGLISH. Mr. Chairman, I propose submitting some remarks, at this time, upon the present aspect of the Kansas question, and the course I shall probably feel it my duty to pursue in relation to that subject.

I have thus far in the session carefully abstained from taking any part in the discussion of the vexed question, deeming the premature introduction of the subject into the debates of Congress as exceedingly unfortunate, because calculated to lead to bad feeling in the Democratic party and the country. In my judgment, it would have been far better for all concerned if the matter had been left alone until it came up legitimately for the action of Congress.

The time for action, however, has arrived; and I shall not shrink from discharging the duty which devolves upon me as one of the Representatives of the people.

Sir, it is either my good or ill fortune to have been, in some sort, a participator in the legislation

pertaining to Kansas since the subject was introduced in the Thirty-Third Congress. At that time I was a member of the Committee on Territories, which was charged with the consideration of the Kansas-Nebraska bill; and although not concurring in the propriety of bringing the measure forward at that time, I believed the principle it contained right, and gave it my most zealous and cordial support. I not only gave it the support of my vote and my voice, on the floor of the House of Representatives, but labored for its success many anxious days and nights as a member of an advisory or vigilance committee which was called into being by the friends of the bill, in caucus; and, sir, I may add, that I am not entirely ignorant of the inside history of that great, and for some time, uncertain contest.

The passage of the bill did not, as many fondly hoped, prove a termination to the struggle. It was but adjourned to another arena; and we northern supporters of the measure went home to encounter an opposition, the fierce and vindictive character of which our southern brethren have scarcely a conception; and which, I am sorry to be compelled to add, I fear they did not fully appreciate, or have too soon forgotten. We were denounced as dough-faces and traitors; our names were paraded in the papers of the day, in large type, encircled with black lines, and headed, "The roll of infamy;" we were hung in effigy, and every indignity that the ingenuity and malignity of fanaticism could devise was heaped upon us. And, sir, it should not be forgotten, that when we men of the North went forth to encounter this fearful army of fanatics, this great army of Abolitionists, Know Nothings, and Republicans combined, you, gentlemen of the South, were at home at your ease, because you had not run counter to the sympathies and popular sentiments of your people: you went with the current—we against it. We risked everything—you comparatively nothing; and now I appeal to you whether, for the sake of an empty triumph of no permanent benefit to you or your "peculiar institution," you will turn a deaf ear to our earnest entreaties for such an adjustment of this question as will enable us to respect the wishes of our constituents and maintain the union and integrity of our party at home? Look to it, ye men of the South, that you do not, for a mere shadow, strike down or drive from you your only effective support outside the limits of your own States! When your peculiar institutions are assailed, when Cuba and the countries south of our present limits get ready to come to us—as they will in God's own good time—then you will want our aid, as you have on previous occasions—as you did in the case of Texas; and then you will appreciate how unwise it was to have made a stand upon your present weak and untenable position—a position which can do you no good, but may do your northern brethren infinite evil. To save the nationality of the Democratic party, this contest, which has been going on for some time between Democratic leaders and Know-Nothing leaders at the South, to prove which was the most exclusively devoted to southern institutions, must be abandoned, otherwise the Democratic party South will become as sectional as the Abolitionists and Republicans of the North. Sir, I claim to be one of the old Democratic guard; one of those who never gave an opposition vote; never knowingly varied the shadow of a shade from Democratic principles, or pandered in the slightest degree to Free-Soil prejudices; and I tell you plainly there are some things we have not the strength to do at the North, even if we had the disposition. Sir, if defeat followed the passage of a measure which we all agreed was founded upon a just principle, what may we expect from the unconditional admission of Kansas under the Lecompton constitution, which nine tenths of the people of the free States hold to be a fraud, and at war with the plainest principles of justice and republican government?

Where are the men of the North who voted for the passage of the Kansas-Nebraska bill in this House? I look around the Hall in vain for their familiar faces. Sir, they are not here. The gentlemen from Pennsylvania [Mr. FLORENCE and Mr. J. GLANCY JONES] and myself are the spared monuments of mercy; being the only persons voting for the bill who have retained seats upon this floor. And in the Senate, I am told, but one

northern man who voted for it has been reelected. Sir, the passage of that bill was followed by overwhelming defeat of the Democracy in all the northern States; but the popular sovereignty feature of the measure was fast finding favor with the people, and, with judicious management, the Democracy would soon have been restored to its former ascendancy in the free States. It was this feature, which lies at the foundation, and is the very corner-stone upon which our political institutions are built, THE RIGHT OF THE PEOPLE TO GOVERN AND OF THE MAJORITY TO RULE, which gave the measure value in the estimation of the people of the North. That doctrine was well understood by them, and was near and dear to their hearts. It was expected that the fullest and fairest opportunity would be given to the people of Kansas to determine what should be the character of their domestic institutions, and that they would be protected and secured in the enjoyment of this right; and had this been done I am sure the Democracy of my State would have been satisfied. It is not true that the northern Democracy are opposed to the admission of any more slave States. I distinctly assert that I do not know one Democrat, in all the North, who would not favor the admission of a State with a slavery constitution if it was the fairly and legally expressed will of the people of such State; and whoever asserts or insinuates to the contrary, grossly misrepresents the position of the northern Democracy. We have no intention of preventing the just expansion of the South, holding that there is room and verge enough for all in our present wide domain; and that, if there is not, we will, at the right time, and in the right way, expand our territorial limits. Our southern brethren may rest assured we have no intention of doing them injustice, but we must firmly adhere to correct principles. I stated long ago, in my place in the House of Representatives, that if Kansas presented herself for admission with a slavery constitution, ratified by a majority of her people, I would vote for her admission. I said so before my constituents, I say so here to-day; and I believe that this is the universal sentiment of the Democracy of the free States. I should do this, not because I love the institution of slavery, for I do not, but because it is a matter which each State or Territory ought to decide for itself.

Sir, those who are familiar with my political history know that there is no stain of Free-Soilism in my record; and this is more than can be said of your Van Burens and Dixes, and many other self-constituted leaders of the Lecompton Democracy, outside as well as inside, the walls of Congress. Why, sir, I was particularly struck with the fact, that of the six speakers at two recent Lecompton demonstrations of some note, not one of them could boast of a clear and consistent Democratic record of ten years standing; and yet these are the men who assume the right to arraign those who have consistently devoted their whole lives to the service of the Democratic party!

A late number of the Indianapolis Journal, the Republican organ of my State, says:

"If there is a man in Indiana that we should have been willing to bet would follow the President and slavery to any extreme, that man is WILLIAM H. ENGLISH, of Scott county. His devotion to his party, and to the recognized leaders of his party, has been the most prominent character in his composition. His district is intensely Democratic. It was one of the two that was not quite overflowed by the freshet of 1854. His precedents and surroundings, therefore, certainly justified the belief that he would stand by the regular organization to the last. But some influence has strengthened him to do right in spite of the power and prestige of the President, who, as he is incapable of heresy, necessarily makes the party he heads the 'regular organization.' He [ENGLISH] has firmly adhered to his principles, and seen his party drift away from him without apparent concern."

Well, Mr. Chairman, I plead guilty to being devoted to the Democratic party. Regarding as I do the principles of that party as the true principles of the Government, and best calculated to secure the happiness of the people, I have clung to it with unswerving fidelity under all circumstances. I do not mean to say that the Democratic party is always right upon all subjects; but I have thought, and still think, it more nearly so than any other political organization; and that, even if wrong on an isolated measure, I could do more good by staying in that party, and laboring to get it right, than in any other position. I respect and venerate the President of the United

States; and it has been the earnest wish of my heart to sustain him *in all things*; and to that end I have waited patiently and listened attentively, hoping that some fact might be developed, or some argument presented, that would enable me to carry out his views in regard to this question, as I hope to do in reference to all others.

But, sir, all the facts and arguments presented, all the speeches I have listened to here, have only gone to show that the technicalities of the law may be on that side; not equity and justice. I thought it was the business of statesmen in the councils of the nation to look to **GREAT POLITICAL FACTS**, and that the quibbles and technicalities of law belonged to lawyers, and were mainly used to defeat the ends of justice. *Sir, the great fact which stares the whole country in the face, and which no fair man can deny, is that the Lecompton constitution does not embody the will of the people of Kansas, and that they do not wish it imposed and fastened upon them as their organic law.* Sir, this is a fact, known of all men; and all this special pleading to evade it, because the technicalities of the law are supposed to be on the other side, partakes too much of the spirit of a Shylock, who exacts his pound of flesh because "it is so nominated in the bond." The whole country knows that a very large majority of the people of Kansas are opposed to that constitution; and this being so, are we to lend our aid in fastening it upon them, because there have been some irregularities there, and some culpable failures on the part of a portion of the people to exercise the right of suffrage? This I conceive to be a substantial statement of the question.

But it is said that the delegates to the convention were fairly chosen; and that, because the free-State men abstained from voting, therefore Kansas ought to be admitted under the Lecompton constitution. Well, sir, let us see how much fairness there was in this election of delegates; and I will premise by saying that I have seen two statements touching this subject, one signed by a certain H. Clay Pate, who will be remembered by a portion of my constituents as the same *shallow Pate* who made a speech in Jeffersonville on the night preceding the congressional election in 1854, denouncing the Democracy, urging a union of the Republicans and Know Nothings, and inciting them to keep foreigners away from the polls by force, if necessary—advice which was literally carried into execution. Sir, I have no confidence in his statement. The other is the statement of the ex-Governor of the Territory, and is so entirely corroborated by other evidence, that I think it cannot be successfully controverted. In speaking of the Lecompton constitution, he says:

"That convention had vital, not technical defects, in the very substance of its organization under the territorial law, which could only be cured, in my judgment—as set forth in my inaugural and other addresses—by the submission of the constitution for ratification or rejection by the people. On reference to the territorial law under which the convention was assembled, thirty-four regularly-organized counties were named as election districts for delegates to the convention. In each and all of these counties it was required by law that a census should be taken, and the voters registered; and when this was completed, the delegates to the convention should be apportioned accordingly. In nineteen of these counties there was no census, and therefore there could be no such apportionment there of delegates, based upon such census; and, in fifteen of these counties, there was no registry of voters.

"These fifteen counties, including many of the oldest organized counties of the Territory, were entirely disfranchised, and did not give, and (by no fault of their own) could not give a solitary vote for delegates to the convention. This result was superinduced by the fact that the Territorial Legislature appointed all the sheriffs and probate judges in all these counties, to whom was assigned the duty by law of making this census and registry. These officers were political partisans, dissenting from the views and opinions of the people of these counties, as proved by the election in October last. These officers, from want of funds, as they allege, neglected or refused to take any census or make any registry in these counties, and therefore they were entirely disfranchised, and could not and did not give a single vote at the election for delegates to the constitutional convention. And here I wish to call attention to the distinction, which will appear in my inaugural address, in reference to those counties where the voters were fairly registered and did not vote. In such counties where a full and free opportunity was given to register and vote, and they did not choose to exercise that privilege, the question is very different from those counties where there was no census or registry, and no vote was given, or could be given, however anxious the people might be to participate in the election of delegates to the convention. Nor could it be said these counties acquiesced; for wherever they endeavored, by a subsequent census or registry of their own, to supply this defect occasioned by the previous neglect of the territorial officers, the delegates thus chosen were rejected by the convention.

"I repeat, that in nineteen counties out of thirty-four there was no census. In fifteen counties out of thirty-four there was no registry, and not a solitary vote was given, or could be given, for delegates to the convention in any one of these counties. Surely, then, it cannot be said that such a convention, chosen by scarcely more than one tenth of the present voters of Kansas, represented the people of that Territory, and could rightfully impose a constitution upon them without their consent. These nineteen counties in which there was no census, constituted a majority of the counties of the Territory, and these fifteen counties in which there was no registry gave a much larger majority at the October election, even with the six months' qualification, than the whole vote given to the delegates who signed the Lecompton constitution on the 7th November last."

But suppose, for the sake of argument, that the election of delegates, and everything up to that time, were all fair and proper: does it follow that the action of such delegates was to be final, without being submitted to the approval or disapproval of the people? Now, I am a firm believer in the sovereignty of the people, but I am not one of those who hold that sovereignty is inalienable, or, at least, that the people may not confer power and authority upon delegates to act for them, and bind them by such action; but, then, I hold that this is a power not to be exercised upon a mere implication; and that if it is not expressly granted, it is a power reserved by the people. A constitution is not like an ordinary act of legislation. *It is the highest political law of the State, and the most important and solemn act of human government;* and therefore the one in which the power of the people to pass judgment upon it before being put into execution, ought to be the most carefully guarded; and, if I understand the spirit which pervades the Constitution of the United States, and which underlies all our republican institutions, it is, that *powers not expressly delegated, are reserved to the people, and that they are the true source of all political power.*

Now, in this case, if we should even admit the legality of the Legislature calling the convention, and of the election of the delegates, the question still remains, what were these delegates authorized to do? If I understand the question, it is not at all as some gentlemen here seem to suppose. It is not as to the absolute necessity of an enabling act, nor as to whether the people may not delegate to representatives the power to make and put in operation a constitution, without its being submitted to a vote of the people; but it is whether they did delegate that power, and if not, whether there is satisfactory evidence that they approve or acquiesce in the assumption of that power by the convention? Admit the Lecompton delegates were authorized to form a constitution: were they authorized to give that constitution vitality, and fasten it upon the people, without their ratification and against their will? Was not the right to ratify or reject a power reserved to the people? If the members of the Lecompton convention possessed any such power as is claimed for them, show me when, and where, and how, it was conferred. Sir, the sovereign people of Kansas conferred no such power. They expected nothing of the sort; nor did the people of the States, the President, or his Cabinet. On the contrary, the President's instructions to Governor Walker, and the Governor's repeated declarations, were to the effect that "*the constitution*" (not a part of it only) ought to be, and would be, submitted to a fair vote of the people. The whole country expected it. On the 7th of July last, the Washington Union stated that—

"There can be no such thing as ascertaining, clearly and without doubt, the will of the people of Kansas, in any way except by their own direct expression of it at the polls. A constitution not subjected to that test, no matter what it contains, will never be acknowledged by its opponents to be anything but a fraud."

Many of the delegates publicly pledged themselves that it should be submitted. Here is one of the pledges published before the election. Read it, and then say whether, under all the circumstances, the refusal of that convention to submit the constitution to the people was not a trick and a fraud which just men everywhere should condemn and refuse to carry into execution?

"To the Democratic Voters of Douglas County:

"It having been stated by that Abolition newspaper, the Herald of Freedom, and by some disaffected bogus Democrats, who have got up an independent ticket, for the purpose of securing the vote of the Black Republicans, that the regular nominees of the Democratic convention were opposed to submitting the constitution to the people, we, the candidates of the Democratic party, submit the following resolutions, which were adopted by the Democratic convention which placed us in nomination, and which we fully and

heartily indorse, as a complete refutation of the slanders above referred to.

JOHN CALHOUN,
W. S. WELLS,
L. S. BOLLING,
WM. T. SPICELY,

A. W. JONES,
H. BUTCHER,
JOHN M. WALLACE,
L. A. PRATHER.

"LECOMPTON, KANSAS TERRITORY, June 13, 1857."

"Resolved, That we will support no man as a delegate to the constitutional convention, whose duties it will be to frame the constitution of the future State of Kansas and to mold the political institutions under which we, as a people, are to live, unless he pledges himself fully, freely, and without reservation, to use every honorable means to submit the same to every bona fide actual citizen of Kansas at the proper time for the vote being taken upon the adoption by the people, in order that the said constitution may be adopted or rejected by the actual settlers in this Territory, as the majority of the voters shall decide."

Sir, if the delegates at that convention were empowered to act at all, it was only to prepare the constitution, and report it to the people for their ratification or rejection, and not to fasten it upon them, without any reference to their will. We daily refer subjects to committees of this House, to be considered and matured, because it is more convenient and practical to consider a subject by a few men than by a large body of men; but we do not regard the action of such committees as final. If they report a bill, we pass it or reject it, as seems to us best for the public good. Sir, your convention is but a committee, chosen for convenience sake by the sovereign people, (and, in this instance, by only a small minority of them), and charged with the preparation of a constitution for consideration only, and not to put it into execution, unless that power has been conferred in express terms. True, if the power should be assumed by the convention, the people may acquiesce in it; and I know there are instances where constitutions have been adopted without being submitted to a direct vote of the people, and where no express power to bind was conferred upon the delegates; but in every one of these cases, the constitution clearly embodied the public will; the acquiescence of the people was notorious, or else, from their silence or other cause, their approval was fairly to be inferred. How different these cases from the one under consideration! Besides, when these examples occurred, restrictions upon the expression of the will of the people, in the shape of provisos and Missouri compromises, were much more in vogue than they are in this day of light and knowledge.

I am not aware of any such example since the passage of the compromise of 1850, which was the beginning of a new era—the overthrow of restrictive legislation, and the inauguration of the great republican principle, since adopted and confirmed in the Kansas-Nebraska act, of the sovereignty of the people of the organized Territories, and that Congress should only interfere to the extent of securing to such people the free exercise of their just rights, and of carrying into execution their will. When admission is asked into the Union, Congress should inquire whether the constitution presented is the act of the people of such Territory. If it is not the act of her people, and does not embody their will, it is not republican; for republican governments, as we are told in the Declaration of Independence, must derive their just powers from the consent of the governed. What is the correct method of ascertaining the will of the people of a Territory? The "correct principle" is embodied in the act passed at the last session of Congress, requiring that the constitution of Minnesota should be submitted to a fair vote of the people. This is the opinion proclaimed in the annual message of the President to Congress, at the beginning of the present session. The President says:

"I trust, however, the example set by the last Congress, requiring that the constitution of Minnesota should be subject to the approval and ratification of the people of the proposed State, may be followed on future occasions. I took it for granted that the convention of Kansas would act in accordance with this example, founded, as it is, on correct principles; and hence my instructions to Governor Walker, in favor of submitting the constitution to the people, were expressed in general and unqualified terms."

Now, to this sentiment of our worthy President, that constitutions "*should be subject to the approval and ratification of the people*," I give my most hearty concurrence; and I am at a loss to know why gentlemen on this floor are unwilling to apply it to Kansas, "founded as it is on correct principles." Why should not "correct principles" be applied to Kansas as well as to Minnesota and the other Territories? In what has

she offended, that she should be denied the benefit of legislation founded upon "correct principles?" Sir, I have been taught that it was wrong to abandon principle for expediency, and that, when I knew a thing to be right, I should carry it out, no matter what the consequences to myself. If gentlemen on the other side of this question agree with me that the President was right in proclaiming the true doctrine to be that constitutions, framed by a convention of delegates, "should be subject to the approval and ratification of the people," then the only difference between us is, that they hold to one thing and do another, whereas I am for carrying into execution that which I believe to be correct; and if I am to be struck down for this, I shall at least maintain my own self-respect and the approval of my own conscience, and have the high authority of the President of the United States for saying that I shall fall in defense of "correct principles."

Sir, it was wise and patriotic and just for the President to instruct Governor Walker "in general and unqualified terms," "in favor of submitting the constitution to the people" of Kansas; and had this Democratic policy been adhered to, the present bitter cup would have been passed from us. It was a departure from these instructions that has occasioned all the trouble.

Am I to be told that the submission of the slavery clause to a vote on the 21st of December was a substantial compliance with the doctrine of popular sovereignty? I am notable, Mr. Chairman, to see it in that light. Sir, the Kansas-Nebraska bill provided that the people should be left "perfectly free to form and regulate their domestic institutions in their own way." Negro slavery is not the only domestic institution, or the one, in my judgment, the most sacred. I always heard that the relation of husband and wife, parent and child, guardian and ward, and many others, near and dear to every civilized community, are "domestic institutions;" and that the people ought to have a voice in forming and regulating them; but this great right has been denied them under the Lecompton constitution. They were to vote on the slavery clause, *but nothing else*. Was that right? Suppose the constitution had expressly sanctioned polygamy, or any other monstrosity: were they to have no voice in voting the foul thing down? Were they to swallow all, and content themselves with the poor privilege of voting on slavery? Sir, this pretended submission was in reality no submission at all. In the language of the Democratic Executive of that glorious old Commonwealth which has been denominated "the mother of States and of statesmen,"

"It was *ex parte*; it was all on one side; it was, in gambling phrase, the foul 'heads I win and tails you lose'; the constitution was obliged to be adopted, with the clause or without the clause; the vote was bound to be 'for the constitution,' it was all *pro* and no *con*, and we say that was no submission to an election at all. Election is choice of alternatives, to adopt or reject; to reject as well as adopt, to adopt as well as reject.

"There was no choice in this case, and no equality of voters in the case. Three men went to the polls: A said, 'I vote for the constitution, with or without the clause;' but B and C said, 'We vote against it, with or without the clause.' A's vote was counted, B's and C's were not to be counted; and thus one was made not only to offset two, but to be sole substitute in fact for three against the majority of two to one out of three. Now, this was but the unvalued trickery and shameless fraud of a so-called schedule. There was neither right nor justice in it."

No, Mr. Chairman, it was not a submission of the constitution to a vote of the people at all, neither was it a fair submission of the slavery clause. It was a trick and a fraud from beginning to end, for, even had a majority voted against the slavery clause, the constitution was so framed that slavery would still have remained a permanent institution in the State.

I understand there are now many hundred slaves in Kansas; and from the following provisions which would have remained in the constitution, even if the slavery clause had been voted down, it will be seen that they and their descendants would have remained slaves forever:

"The right of property in slaves now in the Territory shall in no manner be interfered with.
"No alteration shall be made to affect the right of property in the ownership of slaves."

I have no doubt it was for these reasons, in part, that the free-State men declined to vote on the 21st of December. They considered the denial to them of the privilege of voting upon the whole constitution a fraud upon their rights, and

the pretended submission of the slavery question as a mockery and a cheat.

But, sir, there is another reason why they did not vote on that day, which I now propose to consider, and which I conceive to be one of the most important features of this whole case.

We are told by the President, in his message accompanying the Lecompton constitution, that "the will of the majority is supreme and irresistible, when expressed orderly and in a lawful manner; it can unmake constitutions at pleasure." Now, for the sake of argument, let us suppose that everything was regular up to the 21st of December, and that the legal inference from the vote on that day was that the Lecompton constitution embodied the will of the people of Kansas, and then let us apply the President's doctrine, just quoted, to events which have subsequently transpired, and I think we shall find not the least trouble in coming to the conclusion that the people of Kansas, "in an orderly and lawful manner," have *unmade* the so-called Lecompton constitution, and are not asking admission into the Union under it; and that the free-State men are not so censurable, after all, for not voting on the 21st of December. Sir, it is well known that, before that day arrived, the acting Governor of the Territory convened the Territorial Legislature, and that Legislature passed an act submitting the Lecompton constitution fully and fairly to a vote of the people, on the 4th day of January. The free-State men very naturally preferred voting on the 4th, when they could vote on the *whole question*, under a *fair law*, passed, without dispute, by their own representatives, rather than on the 21st, which was provided for by delegates of questionable authority, representing, at best, but a fragment of the people, and which only provided for a vote on *one clause* of the constitution, and that unfairly submitted. Still, I think it would have been better to have voted upon both occasions; but I have no doubt the free-State men were influenced, to a great extent, by the considerations to which I have alluded.

In speaking of the free-State men in this connection, I mean those who were for law and order, and not those factionists, headed by Jim Lane, and men of that class, whose chief object was to produce confusion and mischief; who live upon agitation, and who are justly responsible for most of the trouble in that Territory. The fault is not in the Kansas-Nebraska law itself; for that law, faithfully executed, would secure peace and happiness to the people, as it has done in Nebraska; all the trouble in Kansas can be traced to a violation of the letter or spirit of that Kansas-Nebraska bill, and not to the bill itself.

The election of the 4th of January was provided for by a wise and just law, emanating from the proper law-making power of the Territory; and it will be seen by reading the following section, that the whole question was fairly submitted:

"Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas, as follows:

"SECTION 1. That an election shall be held on the first Monday in January, A. D. 1858, between the hours of nine o'clock, a. m., and six o'clock, p. m., at which all the *bona fide* male inhabitants of the Territory of Kansas, over twenty-one years of age, who are citizens of the United States, or who have declared (on oath) their intention to become such, and who shall have resided in said Territory thirty days next preceding said election, and ten days in the county wherein said persons offer to vote, may vote for the ratification or rejection of the constitution adopted by the late constitutional convention at Lecompton, organized under the act of the 19th of February, A. D. 1857, entitled 'An act to provide for the taking of a census and election of delegates to a convention.' The voting shall be by ballot, as follows: Those voting for said constitution with the article entitled 'slavery,' shall cast a ballot with the words, 'For the constitution framed at Lecompton, with slavery;' and those voting for the constitution and against the article entitled 'slavery,' shall cast a ballot with the words, 'For the constitution framed at Lecompton, without slavery;' and those voting against the constitution shall cast a ballot with the words 'Against the constitution framed at Lecompton.'"

The same Legislature made stringent provisions to prevent fraudulent voting, all of which were approved by the Governor, and, *apparently*, by the Administration at Washington. On the 23d of December, General Cass, the Secretary of State, wrote to General Denver, the Governor of Kansas, as follows:

"Every person entitled to vote on the constitution ought to have safe access to the polls, and be free from all restraints whatever in the exercise of the elective franchise.
"The Territorial Legislature was doubtless convened on

the 7th instant, and while it remains in session its members are entitled to be secure and free in their deliberations. Its rightful action must also be respected.

"Should it authorize an election by the people for any purposes, this election should be held without interruption, no less than those authorized by the convention."

In accordance with the spirit of these instructions, General Denver, on the 26th of December, issued a proclamation to the people of Kansas, in which he alludes to the fact that the "constitution is also to be submitted to a vote of the people on the 4th proximo, by an act of the Legislature approved December 17, 1857;" and goes on to say that "it is the anxious desire of the President that the approaching elections shall be fairly held, and that every one shall have free access to the polls without being subjected to violence or intimidation." It will be observed that the instructions of General Cass, and the proclamation of Governor Denver, were written *after* the 21st of December, and therefore applied, not to the election on that day, but *expressly* to the one to be held on the 4th day of January.

Here, then, was an election held in pursuance of a law which all must admit was fair and just in its provisions. It was an election recognized by the President, by the Secretary of State, and by the Governor of Kansas. It was an election fairly conducted, and at which there was a large vote of the people, as will be seen from the following proclamation, made by the Governor:

In accordance with the provisions of an act entitled "An act submitting the constitution framed at Lecompton under the act of the Legislative Assembly of Kansas Territory, entitled 'An act to provide for taking a census and election of delegates to a convention,' passed February 19, A. D. 1857," the undersigned announce the following as the official vote of the people of Kansas Territory on the questions as therein submitted on the 4th day of January, 1858: Against the Lecompton constitution, 10,326; for the Lecompton constitution with slavery, 138; for the Lecompton constitution without slavery, 24.

Some precincts have not yet sent in their returns, but the above is the complete vote received to this date.

J. W. DENVER,
Secretary and Acting Governor.
C. W. BABCOCK,
President of the Council.
G. W. DEITZLER,
Speaker House Representatives.

January 26, 1858.

Now, according to Calhoun's returns, the vote cast on the 21st of December stood, for the constitution with slavery, 6,140; for the constitution without slavery, 560. Of this number over three thousand are said to have been fraudulent votes; but even admitting them all to be legal, it will still be seen that there is a very large majority of the people of Kansas against the Lecompton constitution.

I hope I shall be pardoned for saying that I conceive the attempt made to show that the people of Kansas recognized and approved the Lecompton constitution, because a portion of them voted for State officers on the 4th, is too feeble and frivolous to require comment. The free-State men who did vote, voted under protest, and for the sole purpose of covering the contingency of that constitution being forced upon them by Congress; and at the same time they voted *against* the whole constitution, by over ten thousand majority, thus expressly precluding any inference of favor, which might be drawn from the vote for State officers. It sounds strangely inconsistent to me, to hear gentlemen contend that Kansas should come in under the Lecompton constitution, because the free-State men did not vote on the 21st of December; and, in the next breath, that she should be admitted, because a portion of them did vote on the 4th of January. It is too much like the old story, "I'll take the turkey, and you may have the crow; or you may take the crow, and I'll have the turkey." There is no fairness in it.

Here, then, at this 4th of January election, we find the undoubted will of the people of Kansas "expressed orderly and in a lawful manner;" and if "the will of the majority is supreme and irresistible," and "can unmake constitutions at pleasure," it seems to me that our duty is plain in relation to this matter. I think we should regard the Lecompton constitution as "unmade," repudiated, rendered null and void; and (as in the case of Minnesota) adopt legislation based upon the "correct principles" alluded to by the President in his annual message. I believe this would be the shortest and surest and best way to settle the whole question, and secure peace and harmony to the country. I prefer this plan; but it does not follow that I may not, as a last resort

and a choice of evils, go for some other. I have heard other plans mentioned, which, under such circumstances as I have just stated, I might be induced to go for; but they all look to the ascertaining and carrying out of the will of the people of Kansas. I deeply sympathize with the President in his desire to get rid of this question, and would be inclined to make any reasonable sacrifice to secure that desirable result; but I do not believe agitation and strife will ever cease until the constitution is made to conform to the will of the people of Kansas. I do not wish to make sacrifices which, so far from securing peace, will tend to add to the discord already unfortunately prevailing.

I am not one of those who believe that unqualified admission under the Lecompton constitution will localize the agitation of the slavery question and restore peace to the country. No one will rejoice more than I, should this be the result; but my fear is, that these expectations are not to be realized. This is not the first time that I have heard there was to be an end of slavery agitation, but that point I think will not be attained by forcing the Lecompton constitution unconditionally upon the people of Kansas against their well-known and clearly expressed will. Sir, will it not be the signal for such agitation as the country has never known, and instead of withdrawing troops from Kansas for the service in Utah, will not still more troops be required to aid the two thousand pro-slavery men in Kansas to force the institution of slavery down the throats of the fifteen thousand free-State men in that Territory?

If so decided an expression of the people's will as that of the 4th of January is to be totally disregarded, what reason have we to rely upon the mere declaration that the will of the people of Kansas "is supreme," and that they "can unmake constitutions at pleasure?" I think with the gentleman from Ohio, [Mr. GROESBECK], that, "if the majority can overturn a living, binding constitution, regardless of its provisions, it would seem that the same majority have some control over a constitution not yet vitalized, and which, as yet, is but inchoate, and vests no rights."

But, Mr. Chairman, I am not going into the abstract question of the right of the people to change their organic law at any time; but I do say that the regular and proper way to do so is in the manner and at the time pointed out in the constitution itself. The Constitution of the United States points out the way in which that instrument may be amended; and what a dangerous doctrine it would be to assert, that it might be amended in some other and different way. We all remember how Governor Dorr and his followers were denounced as rebels and traitors for making some such attempt in Rhode Island.

And again, who knows what is the political complexion of the Kansas State Legislature? I have no confidence in John Calhoun; and, until it is officially proclaimed otherwise, shall believe it is his intention to return a majority of Lecompton men elected. Under this state of the case, what assurance have we that the voice of the people will not be stifled if they again attempt to declare against or alter the Lecompton constitution? Will they not be denounced as traitors and rebels, and forced to submit at the point of the bayonet? The gentleman from South Carolina, [Mr. KERR], who addressed the committee this morning, and who may justly be regarded as a southern leader and exponent of southern opinions, has frankly told us that if Kansas is admitted under the Lecompton constitution, he holds that it cannot be changed before 1864. The utter disregard paid to the vote of the 4th of January; the fact that many southern men already deny that the constitution can be changed before 1864; and, in fact, the whole past history of Kansas, lead me to distrust the efficacy of these abstract assertions, that the people have the right to change their organic law at any time.

If it is true, as I believe, that a majority of anti-Lecompton men have been fairly elected to the Kansas Legislature, let that fact be at once officially proclaimed, and then reduce your abstract assertions to a tangible and practical shape, and put it as a condition in the act of admission, securing beyond all reasonable question a fair expression of the will of the people whenever they see proper to exercise it in a lawful manner, and

providing for carrying that will faithfully into execution, no matter what it may be; and then we shall have more confidence that the public will is not to be trampled in the dust; and, for one, I shall be induced to hope that it may lead to such a solution of the trouble as will at least be acquiesced in by the Democratic party generally. I am not one of those impracticables who cling to mere abstractions; who disregard entirely party obligations and the pressure of circumstances; who pay no deference to the judgment of others, or "hate the word compromise." On the contrary, I should feel myself at liberty to choose the least of two evils, if forced to choose between them at all; and I frankly declare that I should rejoice to see such an adjustment of this question as would tend to harmonize the Democratic party, save its nationality, and prevent its defeat, North or South; and I am not without hope that this desirable result might be attained, if gentlemen here would set about it in earnest, and in the right spirit. Proscription, however, will not secure it, nor will misrepresentation or denunciation.

Sir, I know that hot-headed and indiscreet men are endeavoring to make this question override all others, and, in the most uncharitable and intolerant spirit, would, if they could, "crush out" every thing like independence of thought and action in relation to it. Sir, no course could be more unjust, more unwise, or better calculated to do serious and irreparable injury to the Democratic party and the country. You well know, Mr. Chairman, that it seldom happens that the views and opinions of a Representative of the people agree entirely, and upon all questions, with those of the Executive, and that a difference of opinion upon an isolated measure is not regarded as proof of party abandonment. To enforce a different rule would be to destroy the very essence of representative government. This Congress has been in session but a short time, and yet several marked instances have been developed where Democratic Representatives and Senators have differed with the Administration upon important questions, involving great principles too, but without for a moment having their party fidelity suspected. It is but a few days since the recommendation of the President in reference to an increase of the Army was voted down by a Democratic Senate.

It is well known that a considerable number of southern Democrats on this floor, perhaps a majority, take issue with the President's views in relation to the constitutionality and expediency of extending Government aid to the construction of a railroad to the Pacific; but I have not heard that such gentlemen are, for that reason, to be read out of the Democratic party. Neither have I heard that those gentlemen are to be read out who could not join with me in sustaining the President's policy in relation to our neutrality laws and the Walker expedition. I might mention other cases, but these will suffice. Is it intended to have one rule applicable to gentlemen from the South, and a different one for those who happen to hail from free States? I cannot believe it. I have too much confidence in the wisdom and justice of this Administration to believe that any Democrat is to be proscribed, or even allowed to lose caste, because he cannot, in justice to his own convictions of right, and in justice to the undoubted wish of his constituents, vote for the unqualified admission of Kansas under the Lecompton constitution. But we shall see.

Sir, the Democracy of Indiana have great confidence in the patriotism and prudence of James Buchanan. He was their first choice, as he was my first choice, at the Cincinnati convention. Indiana was the only northern State that gave him, at the presidential election, a decided majority over the combined enemy. She gave him a larger majority even than his own loved Pennsylvania. But notwithstanding the devotion of the Indiana Democracy to him, I believe that if his Administration should, unfortunately, be induced to make the unqualified admission of Kansas under the Lecompton constitution the paramount question and chief test of party fidelity, and should attempt to proscribe and crush out Democrats who differ with him in relation to this particular subject, and this particular subject only, that then the Democratic party, not only of Indiana, but of the great northwest, would be overwhelmed with disappointment and sorrow that the President of their choice should have been induced, by unwise coun-

sels, to adopt a policy so cruel and unjust, and so well calculated to prostrate the Democratic party in all the free States.

But, it is said the Republican members are all going to vote against the admission of Kansas under the Lecompton constitution; and I have been asked the question, with rather a triumphant air: "Are you going to vote with the Republicans?" When a Lecompton man asks me this question I answer it by asking another, "Are you going to vote with the Know Nothings?" and this, I find, brings the account to an exact balance, as that party here sustains the Lecompton constitution. Now, sir, I have no affinity whatever with Abolitionism, and just as little with Republicanism, I apprehend, as any Democrat upon this floor; but I am not going to desert a just principle because Republicans see proper to come to me in its support. A pretty doctrine, truly, that Democrats are to forsake a Democratic principle just as soon as Republicans come to its aid; thus putting it always in the power of the Opposition to place us on the wrong side of every question. Everybody knows that the Republican party, in the late canvass, was against popular sovereignty. I was for popular sovereignty then, and I am for popular sovereignty now. I have not changed. I have not got upon any new platform. I do not purpose to get upon any new one. I stand where I always have stood, upon the old-fashioned Democratic platform, and shall certainly not desert it because Republicans choose to leave theirs and come to mine.

I want neither new planks added nor old ones taken out, and especially in reference to the following resolution:

Resolved, That we recognize the right of the people of all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with the other States."

I take the platform as it came from the hands of the Cincinnati workmen, and am neither to be frightened or driven from it, no matter how great the pressure. But, sir, there is nothing in that platform, or in any article of the Democratic creed, now, or in times past, that would justify me in aiding, directly or indirectly, the unconditional admission of a State under a constitution repudiated by her people. That would not be Democracy, and never can receive my sanction. Having said thus much upon the subject in reference to its general bearing, I now propose to say a few words more particularly applicable to Indiana.

Sir, the Democracy of my State met in convention on the 8th of last January, and adopted a platform, in which I fully acquiesce, although I think it would have been well to have made an expression of opinion in reference to several matters of State policy which seem not to have been considered. One of the resolutions adopted is in the following words:

"Resolved, That we are still in favor of the great doctrine of the Kansas-Nebraska bill; and that by a practical application of that doctrine the people of a State or a Territory are vested with the right of ratifying or rejecting at the ballot box any constitution that may be formed for their government; and that hereafter, no Territory should be admitted into the Union as a State without a fair expression of the will of the people being first had upon the constitution accompanying the application for admission."

To this resolution I give my most hearty approval. An unfortunate and ill-timed attempt was made in this city and elsewhere to destroy the force and effect of this resolution, first by declaring that it was not passed at the regular convention, but at an irregular meeting held afterwards; and, then, when that was overthrown by positive evidence, the same parties endeavored to make out that it had no application to Kansas; or, in other words, that it did not mean what its language clearly expressed. This effort, on the part of the Republican press of my State, and a small portion of the Democratic party, has proven entirely fruitless. It was a popular-sovereignty resolution, in letter and in spirit, and intended to apply to Kansas; was advocated as such; was opposed as such, and as such was passed by the convention. The candidates nominated by the convention have published a card, in which they say they so construe the resolution, and stand upon it with that construction. It will thus be seen that those who advocate the doctrine of popular sovereignty and oppose the Lecompton constitution,

are within the regular, legitimate, Democratic organization of Indiana.

But I hope to think none the less of my Democratic brethren who take the other side of this question. I do not think it ought to be made a test of party fidelity; and though the intolerance of some in my State well deserves the fate of Haman, yet I am for exercising charity and forgiveness. To maintain our party in the ascendancy in Indiana, we must have harmony and concert of action. Without it, defeat is inevitable. We have no votes to spare, and must look to principles more, and to men less. We must see that our rulers are men of integrity—"honest, capable, faithful"—must rebuke immorality and corruption wherever found, and discourage the "rule or ruin" spirit, no matter in what quarter it may be manifested. There is too much talk of the party of this man and of that man. I hear much said of a Douglas party. Sir, I belong to no such party—but to the great Democratic party, whose watchword has ever been "*Measures, not men.*" Let me express the hope that it will never be in Indiana as it was said to be in Rome, when Cæsar had a party, and Antony a party, but the country no party.

In conclusion, Mr. Chairman, I repeat that I think, before Kansas is admitted, her people ought to ratify, or at least have a fair opportunity to vote upon, the constitution under which it is proposed to admit her; at the same time, I am not so wedded to any particular plan that I may not, for the sake of harmony and as a choice of evils, make reasonable concessions, *provided the substance would be secured*; which is the making of the constitution, at an early day, conform to the public will, or at least that the privilege and opportunity of so making it be secured to the people beyond all question. Less than this would not satisfy the expectations of my constituents, and I would not betray their wishes for any earthly considerations. If, on the other hand, all reasonable compromises are voted down, and I am brought to vote upon the naked and unqualified admission of Kansas under the Lecompton constitution, I distinctly declare that I cannot, in conscience, vote for it. If for this honest conviction I am to lose the favor of southern gentlemen, or of the Administration, and am to be misrepresented and abused, so be it. I shall do my duty here as well as I know how, and return to the bosom of my generous and patriotic constituents with a clear conscience. They are neither place-seekers, or time-servers, but men of principle, and in their wisdom and justice I put my trust.

Mr. PHILLIPS. Mr. Chairman, it was my intention, as it yet would be my preference, to have forborne the expression of my views on this subject until the question of the admission of Kansas into the Union as a State was regularly brought to the notice of this House. But, limited as has been my experience in this House, it has sufficed to show me that opportunities of obtaining the floor are neither frequent nor certain, and that, if I relinquish it now, I may not again have the opportunity of proclaiming the sentiments which I entertain, the knowledge of which there are many who are entitled to have.

I look upon this question as one in which the peace of the Union is involved. I do not speak of its permanence, nor do I suppose that there is any real danger of its dissolution. But when its peace is disturbed; when, from one extreme to the other, there is strife, there is contention, there is violence and tumult, where there should be quiet; it becomes, Mr. Chairman, an unwilling Union, the value of which all begin to calculate, and what may follow some day is much more easy to be anticipated than pleasant to be considered.

This subject of territorial legislation has been at all times prolific of discord. It was at the time of the attempt, and the successful attempt, at the introduction of Louisiana into the Union as a State, that an eminent gentleman from Massachusetts uttered in the Hall of the House of Representatives what I have no doubt those who hear me have read with deep regret that it was ever uttered there:

"If this bill passes, it is my deliberate opinion that it is virtually a dissolution of this Union; that it will free the States from their moral obligation, and as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation; amicably, if they can; violently, if they must."

There are some here, too, Mr. Chairman, who can well recollect the excitement and the painful anxiety occasioned, in 1819 and 1820, by the admission of Missouri into the Union. And now, when a similar boon is asked for her neighbor that was then extended to Missouri herself, no man of truth will deny that there exists, throughout the length and breadth of this land, a feeling of solicitude and excitement; and that there is amongst the extremists an almost sacrilegious joy at the recurrence of events calculated to jar and disturb the harmony of the Union, which a bold attack can never produce.

Since her organization as a Territory, Kansas has known no peace. Since the passage of the Kansas-Nebraska act, Kansas has been the theater of strife and tumult. With everything to make her people happy and comfortable, with a richness of soil and purity of climate almost unequalled, it has been the scene of discord, of riot, of violence, and of bloodshed, and it is time now that these things should be stopped; Kansas calls upon us to stop them; the people of every State in the Union expect as much from us; and, Mr. Chairman, we must consider what is the effectual way of stopping it, and when we find that, we must apply the effective means, if we can do so, constitutionally, and in obedience to the recognized law of the land. Shall peace be restored by the Federal authorities, by the bayonets of the United States troops, by the more constant vigilance and attention of the soldiers or Federal officers, or shall it be restored by the people of Kansas herself? Shall she be thrown at once upon her own resources, and shall her citizens be told: "You shall be the conservators of your own peace, and if you are a law-abiding people—if you have a population, such as it has been boasted here over and over again that you have, we appeal to you to obey the law, to support the law, and to restore peace to your people in the State of Kansas?"

I shall proceed, Mr. Chairman, to show that the admission of Kansas into this Union under her present application, and with the Lecompton constitution, is regular, is according to established principle, according to recognized precedent, and according to what some gentlemen on this floor dare not deny is good authority. If this be so, and she has a republican constitution, I say we have no right, regarding the peace and interests of our citizens, to hesitate for one moment to admit her. I shall do little more than assert the principles that I maintain, using but little argument, but referring, perhaps, to a good deal of authority that ought to be recognized here, in support of them.

Was this territorial convention regular? Who disputes it? Does it require an enabling act? If it does, it has it. No man can read the Kansas-Nebraska act without seeing that there is an enabling act there. But does it require an enabling act? I tell the gentlemen upon this floor, who oppose the admission of Kansas under the Lecompton constitution, that I will appeal to those who have on former occasions spoken for them, and by them I will judge whether it was regular or not. I will show the gentlemen who compose the majority of the Opposition that their views have been expressed in such a manner that they cannot now contradict them; while to those who compose its minority, I will cite the highest authorities recognized by any one of them.

Mr. Chairman, why should an enabling act be passed? Have the people the right to form a constitution or not? And if they have not the right, has Congress the right to bestow it upon them? I shall quote, upon this subject, my colleague from the fourteen district, [Mr. Grow;] and I cite him because, as the Republican candidate for Speaker, receiving more than eighty votes at the commencement of this session, he may be fairly considered the representative of their views and principles, as he was formerly the exponent of them. I cite him as good authority—as authority from which those who indorsed him at the commencement of the session cannot now dissent. What said he when the application was made to admit Kansas into the Union with a constitution framed without an enabling act—framed, permit me to say, by men in rebellion to the laws and with arms in their hands, to be used against the Federal authorities? When Kansas came here, with the constitution thus made at Topeka, he

eloquently pleaded for her admission as a State, as a measure of peace; and in support of the regularity of her action, he said:

"The mode and manner of accomplishing it in organized States properly belongs to the forms of law, to be prescribed by the State government; but in the Territories, Congress is the only power that can prescribe the forms; for a territorial government emanating from Congress can be changed, modified, or abrogated, only by its consent. That consent, however, can be expressed as well after as before the action of the people. If Congress, then, has prescribed no form, whatever action the people think proper to adopt, in order to secure a change of government, provided it be conducted in a peaceable manner, is lawful and constitutional; lawful, because it violates no valid law—constitutional, because article first of the amendments to the Constitution secures to the people everywhere under its jurisdiction, the right, paramount to all law, *peaceably to assemble, and to petition the Government for a redress of grievances.*"

I want no better authority than my friend and colleague; and those who voted for him for Speaker of this House voted for him because they saw in him a proper representative of popular sovereignty, according to the doctrine he had expressed and they then maintained. But I have other authority; and I shall do little else than cite authorities, to which I wish the attention of those Democrats who, like the gentleman who has just spoken, [Mr. English,] have departed from us on this question. I have for those who, I am afraid, will not have the same confidence in my colleague that I have avowed, high authorities. I have the authority of Governor Robert J. Walker and of Mr. Secretary Stanton. They have said, in words and language not to be misunderstood, that the Lecompton convention was lawful. They have said that the act of the Territorial Legislature authorizing the convention was right; and they have warned the people over and over again, that, if they did not vote for delegates when they had the opportunity afforded them, on their own heads must be the consequences.

Mr. Stanton, on arriving in the Territory, addressed the people, saying, among other things:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution with a view to making application to Congress for admission as a State into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention."

Again, in the message of the acting Governor in December last, and after what is now called the mischief had been done, he says:

"It thus appears that in the election of the 15th June last, for delegates to the convention, the great mass of the people purposely refrained from voting, and left the whole proceeding, with all its important consequences, to the active minority, under whose auspices the law had been enacted, and also executed, so far as that could be done by the executive officers, without the concurrence of the majority of the people."

"That the refusal of the majority to go into the election for delegates was unfortunate, is now too apparent to be denied. It has produced all the evils and dangers of the present critical hour. It has enabled a body of men, not actually representing the opinions of the people, though regularly and legitimately clothed with their authority, to prepare for them a form of government, and to withhold the greater part of its most important provisions from the test of popular judgment and sanction."

Governor Walker says very much the same. He says:

"The people of Kansas, then, are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage; but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency; and the absentees are as much bound under the law and constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

In many places he uses the same language. He says:

"If laws have been enacted by the Territorial Legislature which are disapproved of by a majority of the people of the Territory, the mode in which they could elect a new Territorial Legislature and repeal those laws, was also designated. If there are any grievances of which you have any just right to complain, the lawful, peaceful manner in which you could remove them, in subordination to the Government of your country, was also pointed out."

Again he says:

"In the case of Michigan, the Territorial Legislature were clothed by Congress with no authority to assemble a con-

stitutional convention and adopt a State constitution; but that, under the comprehensive language of the Kansas and Nebraska bill, the Territorial Legislature was clothed with such authority by the laws of Congress, and that the authority of such a convention to submit the constitution to the vote of the people, was as clear and certain as that of Congress itself, and that opposition to such a proceeding was equivalent to opposing the laws of Congress."

Thus cursorily, Mr. Chairman, because it is not very important, I have referred to the authority of the leading men in the Opposition, to show that the territorial convention was properly created, and was a regular and lawful body. Now, what was it to do? It did not submit its proceedings to the people. It would have been better, perhaps, that it had. It is right on all such occasions to do so. But is there any law requiring it? And if there is no law requiring it, what guarantee have we that future legislation in that Territory will be better than the past? Shall we be told that there is any obligation of law requiring the constitution to be submitted to the people? If so, I will again refer to the authority of Governor Walker, to show that he distinctly told them, in advance of the election, that there was no such obligation.

Governor Walker says:

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the convention is the servant, and not the master of the people, yet I have no power to dictate the proceedings of that body."

"The only remedy rests with the convention itself, by submitting, if they deem best, the constitution for ratification or rejection, to the vote of the people, under such just and reasonable qualifications as they may prescribe."

We find, then, that there was no recognized law requiring a submission of the constitution to the vote of the people; and the question now is, Mr. Chairman, what was done, and how far did that meet the public expectation? Mr. Walker, as I have said, told them in advance that there was no power to compel the convention to submit their work to the vote of the people. And yet, with all that before them, those who are now called the majority in that Territory, absented themselves from the polls and refused to participate in the proceedings. What was the convention to do? I agree that it did not submit the constitution to the vote of the people. They were authorized to form a constitution, and they had the right to do so. The gentleman who has preceded me, [Mr. ENGLISH], has said that some of the delegates to the convention broke their party pledges; that they pledged themselves to a certain course of conduct and did not fulfill their promises. Agreed. Does that violate the law? Does that prevent the organic law going into effect in the manner prescribed in the instrument? But what did they do? They submitted to the people, not the constitution, but the question whether they should have slavery among them; and I believe that if the people had voted, under the circumstances to which I shall by and by allude, the constitution would not now contain that clause which to many in the floor of the House is so obnoxious.

Now I propose to show, by the same authorities, that the slavery question was the only question that divided the people of Kansas. I cite again my colleague, [Mr. GROW], to show that the slavery question was then, as it always has been, the only subject of division in that Territory. He said "the existence of slavery was the only question on which the people were divided; and the vote for delegates to the convention settled that by a majority of legal votes."

Mr. GROW. Will my colleague give the dates, if he pleases?

Mr. PHILLIPS. The 30th of June, 1856, when the Topeka constitution was submitted; which constitution, by the way, received, I believe, only some seventeen hundred votes.

Mr. GROW. Twenty-three hundred.

Mr. PHILLIPS. I am reminded that my colleague was then chairman of the Committee on Territories; and that gives additional weight and emphasis to his statement. He spoke by authority. He stated this opinion on that occasion, and I do not believe he will deny it now. He has changed once, but I do not believe he will change in reference to this subject.

Mr. GROW. Whether I have changed or not is a question of fact.

Mr. PHILLIPS. I will raise no question of fact between my colleague and myself. My col-

league, on that occasion, further said, in reply to the inquiry of an honorable gentleman from Georgia, [Mr. TRIPPE]:

"I gave to the gentleman from New York the vote polled at the election immediately preceding the formation of the constitution. He knows, as well as any man, that the only question in Kansas on which the people are divided is, whether slavery shall exist there or not? That question was involved in the election of Delegate. He knows, too, that that is the only question to be settled."

It has not changed since then. If any other question has been raised since that time, I challenge any gentleman upon this floor to tell me what it is. If there is any other question on which the people of Kansas are divided, I ask any gentleman on this floor to rise in his place and tell me what it is. As it stood then, so it stands now.

Mr. GROW. If my colleague desires an answer, I will give it to him; though I do not like to interrupt him.

Mr. PHILLIPS. I yield the floor to my colleague for that purpose.

Mr. GROW. The gentleman inquires if there is any other question than that of slavery, of difference between the people of Kansas? That was at the first the great question of division between them, as he has stated; but, sir, since the invasion on the 30th of March, another question has arisen. They believed that at that time a government was forced upon them, which was illegal, by force; and since that time this question has, to a great extent, taken the place of the slavery question.

Mr. PHILLIPS. The 30th of March of what year?

Mr. GROW. It was in 1855. It was then that this invasion occurred, which forced upon the Territory of Kansas a government which the people held that they were under no moral obligation to respect. This question has developed itself more and more, as the question of slavery has subsided. I believe gentlemen will agree with me on all sides that, after a certain time, it was generally conceded that Kansas could not be made permanently a slave State.

Mr. PHILLIPS. Well, sir, my colleague's speech was made fifteen months after the invasion; and the question of slavery he then said was the only question in issue. [Laughter.] He is good authority in this particular, and I like to quote him. But, sir, I have other authority, for I see that he is not satisfied with himself as authority on this question. I will back my colleague up with so much that he will not be ashamed of the position he then took. Governor Walker said:

"The President asked me to undertake the settlement of that momentous question [that means slavery] which has introduced discord and civil war throughout your borders, and threatens to involve you and our country in the same common ruin."

He tells them in another place that—

"I cannot too earnestly impress upon you the necessity of removing the slavery agitation from the Halls of Congress and presidential conflicts."

And again:

"That in no contingency will Congress admit Kansas as a slave or free State, unless a majority of the people of Kansas shall first have fairly and freely decided this question for themselves."

Mr. MONTGOMERY. I would like to ask my colleague whether the question of slavery was ever submitted?

Mr. PHILLIPS. If the gentleman wants to know, I can tell him that it was submitted, and he cannot well deny it.

Mr. MONTGOMERY. I do deny it most emphatically. The question of the importation of slaves from other States was submitted, and was the only one submitted. The question of the existence of slavery there was never submitted. Slavery now exists in Kansas, and by that constitution is fastened upon the people of Kansas now and forever.

Mr. PHILLIPS. I am glad my colleague has defined his position. We will know where to find him hereafter.

Mr. MONTGOMERY. There is no trouble in finding me at any time.

Mr. PHILLIPS. I will show my colleague that the question of slavery was submitted to the people of Kansas. The constitution had been made, and the slavery question was the only one submitted. They were told that it would be submitted. They were told, they were warned, that if they did not vote, they delegated their rights to those who did vote. They were told by Gov-

ernor Walker, they were told by Secretary Stanton, that such would be effect of absenting themselves and withholding their votes. They were never told that the constitution itself would be submitted to the people; for the Legislature had not undertaken to direct the convention to do it, but left it to the convention itself.

Why, sir, some years ago, in Pennsylvania, when it was undertaken to change the constitution of that State, when the law was passed by the Legislature for calling a convention, one of the most distinguished lawyers living, one of those who gave the fame and name of "a Philadelphia lawyer," which I am afraid those who came after do not so well deserve, objected to the law on the ground—and I trust I may be considered as reading it now, (Appendix A.)—because it undertook to tell the convention in what form the constitution should be submitted and adopted. The law provided that, after the convention had finished their labors, they should adjourn for four months, not to submit the question to the people, but so that the members could learn the will of their constituents, by familiar intercourse between the representatives and constituents, and then act in accordance. William Lewis put upon record his dissent to this feature of the law, on the ground that the Legislature, an inferior body, had no right to undertake to control the convention, a superior body, composed of delegates just fresh from the people—a direct emanation of the people. Will my colleague tell me why an inferior body should prescribe rules for the government of a superior body? Will he, with all his ideas of popular sovereignty, tell me what body he recognizes as higher than a convention of delegates selected by the people to frame a constitution for them?

I agree that the convention of Kansas ought to have submitted the constitution which they had framed to a vote of the people. I do not believe that it would have removed the difficulty, because, from the earliest moment, it seems to have been determined by the professing majority that they would have rule or ruin. Their absenting themselves from the polls was not accidental. It was the result of deliberation and combination; and now, forsooth, when things have been regularly done, and the convention has given to the people the decision of the only question which those high in authority have pronounced as the only one upon which the people differed, they turn round and say that a majority did not vote, and ask you if you will take that as an expression of the will of the majority, when only a minority voted.

I have some instances, with which my colleagues are familiar, in which a minority have made a constitution, and have amended it; and I say to them that, on almost every occasion on which the question of amending the constitution has been before the people of Pennsylvania, a majority of the people have not voted for it; but still it has been carried by the votes of a minority of the voters. When there is a contest about men, there is an anxiety of feeling; but when the contest is one of principle, of establishing organic law—men may talk as much as they please, but I put facts against arguments—the minority seem to control, for the majority do not vote. It may be that they did not feel an interest in the question; that they had no time, and perhaps no desire, to look into the question involved; or they have had confidence in those who prepared the constitution or amendments; but certain it is, for some reason, be it what it may, they failed to vote.

In 1855, the people of Pennsylvania were called upon to vote either for or against a constitutional convention, as they pleased. The same year, upon the same day, and at the same election, there was a contest for Governor. The number of people who voted for Governor was one hundred and ninety-nine thousand seven hundred and twenty-seven—within two hundred and seventy-three of two hundred thousand. The votes in favor of calling a convention to revise the constitution were eighty-six thousand five hundred and seventy. What will gentlemen say to this. The convention was legally called. Nobody doubted the truth of the doctrine proclaimed by Governor Walker, that those who did vote controlled those who did not. Eighty-six thousand votes only, out of two hundred thousand voters, called that convention. We have another remarkable instance. When the new constitution was submit-

ted and adopted by the people of Pennsylvania, in 1838, two hundred and fifty thousand one hundred and forty-six people voted for Governor, and yet the new constitution was adopted with only one hundred and thirteen thousand nine hundred and seventy-one voting for it.

Mr. MONTGOMERY. Had all the people the right to vote in the case of Kansas?

Mr. PHILLIPS. I know of none who were excluded from voting.

Mr. MONTGOMERY. There were nineteen counties in Kansas that had not the right to vote.

Mr. PHILLIPS. That is begging the question. My colleague knows that those who do not choose to exercise their rights have no rights.

Mr. MONTGOMERY. They had no right.

Mr. PHILLIPS. It is very well to find a pretext when one wants to find fault.

Another instance has occurred in Pennsylvania, since my colleague has been a member of this Congress. While there were three hundred and sixty thousand votes polled at the election in 1857, for Governor, the highest vote polled both for and against the proposed amendments to the constitution was less than forty per cent. of that number. For one of the amendments the highest vote cast was one hundred and seventeen thousand one hundred and forty-three, and twenty-one thousand four hundred and twelve against it. One hundred and thirty-eight thousand five hundred and fifty-three out of three hundred and sixty-three thousand and eighty-one voters in Pennsylvania adopted those amendments; and under those circumstances I have no doubt my colleague will acknowledge that the amendments have been adopted and are a part of the organic law of Pennsylvania.

Now, in the case of Kansas, if the election was a legal and a lawful election, those who stayed at home, as Governor Walker says, authorized those who did go to the polls to act for them. The convention having submitted to the people the only question in issue, and the people having voted upon it, it remains a part of the constitution.

I have thus shown, I trust, that there is no law requiring the constitution to be submitted to a vote of the people. If there is any such, I have not been able to find it. All principle, precedent, and, I was going to say, very much of practice is against it.

Now, let us consider what the constitution is. In the first place, is there a doubt that the people may wipe away every provision of it as with a breath? What is a constitution? A State constitution differs very materially from the national constitution. Gentlemen who cite the Federal Constitution, though upon the side I am endeavoring to sustain, are in error. The Congress of the United States can do nothing which the Constitution does not authorize. Our powers are limited; our hands are tied; and for what we do we must find our authority in the Constitution. In regard to a State constitution, exactly the reverse is the case. The members of a State Legislature may do every act of legislation which the constitution does not restrain nor prohibit. There can be no doubt about that; and I need cite no precedent for such a plain and recognized principle. When we came to form a Federal Constitution, it was accomplished by the surrender of certain powers by the States themselves. Not so, however, with a State constitution; it is a restraining instrument; and, if the constitution of Kansas has restrained either the people at any time, or the Legislature until after 1864, I have been unable to discover it. I say, too, if the restraint does apply, as the gentleman from South Carolina [Mr. KEITT] undertook to show, the constitution would not be republican, according to my notions.

Mr. Chairman, this clause of the Constitution, so much talked about, it seems to me has not been rightly applied. There are two or three clauses in the constitution of Kansas which we must look at in this connection. The clause which prohibits an alteration of the constitution until after the year 1864, operates only upon the Legislature; and it interferes in no manner with that other clause by which the right of the people is expressly reserved and recognized. I should contend for the right of the people at all events; but when gentlemen stand here and say that they are opposed to the admission of Kansas because the constitution is not a good one; when they are willing that this strife should continue in Kansas; I want to say to them

—not that I expect to convince anybody, for I fear that we rush too blindly to conclusions on political matters for that—that there is in this constitution of Kansas an express recognition of the people's right to change their constitution when they please. Those gentlemen who undertake to say that they are restrained from doing so until 1864, fall into an error in confounding the application of that section with the section which applies solely and exclusively to the people. This right of the people is recognized every where. It is recognized in the Declaration of Independence, which declares the self-evident truth:

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

The constitution of Kansas recognizes it in the fullest possible manner, and that clause which relates to 1864 is operative only upon the Legislature, and in language so plain that no man can doubt, except those who choose willfully to do so.

Now, sir, those two clauses are not inconsistent. The one applies to the people and the other to the Legislature. This enumeration of rights says the constitution shall not be construed to deny or disparage others retained by the people.

Mr. KUNKEL, of Pennsylvania. I desire to ask my colleague a question, for I really feel some interest in his opinion upon this point. I understand him to say that the clause of the constitution forbidding a change before 1864 applies to the Legislature. I understand him to say that another provision of the constitution provides for a change by the people before 1864, or after, as the case may be.

Mr. PHILLIPS. Yes, sir.

Mr. KUNKEL, of Pennsylvania. Now, sir, what I propose to ask my colleague is in the way of a practical question: I find that the resolution of the Democratic convention of our own State, which has just adjourned, contends for this same power, and says the people have it by "regular process." Now, I want to know from him how he would propose that the people should exercise the power?

Mr. PHILLIPS. I will tell the gentleman. They shall petition the Legislature, who shall authorize them to have a convention.

Mr. KUNKEL, of Pennsylvania. But the Legislature have no power before 1864.

Mr. PHILLIPS. The gentleman is wrong. The Legislature have no power to propose legislative amendments before that time, and the restraint upon them is only of that kind. I have a number of precedents upon that point. The constitution of Pennsylvania imposes a similar restraint upon the Legislature; and yet my colleague will not rise here and tell us that the people of Pennsylvania are so restrained, and cannot have a convention.

Mr. KUNKEL, of Pennsylvania. I contend that they are not restrained. They have a high revolutionary right to change their government, just as the people of Kansas have; but it is not a right by "regular process."

Mr. PHILLIPS. Well, I contend for the right by regular process. I want to put down the exercise of these revolutionary rights in Kansas. I want to substitute regular process for the strong arm of violence, with which the Territory has been too long governed.

Now, I will refer my colleague to a precedent. In 1776, Pennsylvania had a convention, over which Benjamin Franklin presided, and they framed a constitution which contained a clause in reference to the right of the people, in similar phraseology to the clause in the constitution of Kansas. And it contained another clause ten times as strong as the one in the Kansas constitution, which provided that there should be a council of censors, two thirds of whom should propose amendments to the people. (Appendix B.) Well, the censors met and would not propose amendments to the people. A majority were in favor of it; but not the requisite two thirds. They adjourned over till another year. The people then tried again to have their constitution amended by what they supposed was the only "regular process," but the council of censors again refused.

The constitution was defective in many things. It had some good things in it, but it was imperfect, and its radical defect was that it provided for but one branch of the Legislature. Well, when the council of censors refused to call a convention to propose amendments, or to propose amendments themselves, the majority of that council addressed the people, and, speaking of those who opposed the measure, said, "Their sullen *no* in this council cannot rob you of your birthright."

They did not consider it a gift, an acquired right; they claimed it as a born-right, a birth-right, of which they could not be deprived, especially by a clause operative only upon that council and ineffectual upon the people.

Mr. KUNKEL, of Pennsylvania. That was revolution.

Mr. PHILLIPS. No, sir; it was not revolution; it was regular process. It was put upon the ground that there was a reservation in that constitution similar to the one here, and that that reservation was to be construed as I am contending that this ought to be construed now. The Legislature took the same ground. It was opposed then as it is opposed now. It was insisted that the "regular process" was the process of the council of censors. But the Legislature overruled that, and said, "You gentlemen who compose the council of censors may propose amendments, but the people have, at the same time, the right to amend or reform the constitution at their pleasure;" and the Legislature declared, and the people exercised this right. A constitution was framed in 1790; it had in it no clause providing for its change or amendment. Yet who dared to dispute the right of the people to have a change when they desired it? They have the right either to make an entire constitution or to amend the existing instrument.

Now, Mr. Chairman, what is this clause in the constitution of Kansas?

"Sec. 14. After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two thirds of the members of each House concurring, to vote for or against calling a convention; and if it shall appear that a majority of all citizens of the State have voted for a convention, the Legislature shall at its next regular session call a convention," &c.

Now, can any gentleman upon this floor contend that that section interferes with the other clause, giving to the people the right to amend their constitution?

Mr. STANTON. I wish to inquire of the gentleman from Pennsylvania whether he holds that, where a power is granted, and the mode of executing it is prescribed, it can be exercised in any other mode except that prescribed?

Mr. PHILLIPS. Of course not; but I tell the gentleman from Ohio that there is express power granted to the people, and that there is no restriction upon the Legislature until after 1864. When you undertake to restrain a legislative body, and to deprive them of rights, you say it in words that cannot be misunderstood. I have the authority here, which the gentleman will recognize, of the Topeka constitution. [Laughter.] The Topeka-ites knew how to restrict the Legislature, when they wanted to do it.

I have said that this clause is operative upon the Legislature; but I mean to show that it is not operative until after 1864. Will the gentleman from Ohio, [Mr. STANTON,] a good and eminent lawyer as he is, undertake to say that he is not familiar with law after law beginning, that after such a day such and such shall be the law? And will he rise here and assert that such will be the law until the day specified arrives? I will show the gentleman the language which is used when the object is to prohibit anything being done before or up to a given day. I read from the Topeka constitution, this Republican instrument which it is insisted shall be the basis of the admission of Kansas:

"Sec. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be, by the General Assembly, made before the year 1865, nor more than once in five years thereafter."

They recognized the difference between the two—the people and the Legislature. When conventions want to prohibit the exercise of that power they use language that cannot be misunderstood. If any one takes up the statute-books of the United States he will find hundreds of laws beginning, that from and after a particular day there shall be such law, and surely no member will argue before

this body that before the time specified the law is operative or in force. I say that this clause in the constitution of Kansas is not of any effect whatever till 1864; although it may not have been so intended. The Topeka constitution is very different. It prohibits the amendment of the constitution effectually before the year 1865. If this clause was intended to have a different effect, its framers have overreached themselves. If it was intended for good, I can very well understand the argument that, having made a new constitution, and infallibility not being allotted to man, legislative amendments should be encouraged up to 1864; so that, by that time, experience might show its merits or defects. If the motive was bad, then these men have signally overshot their mark. I say you cannot take up the statutes of State Legislatures, or the acts of Congress, without finding hundreds of laws enacted that from and after a day such shall be the law; and if that has been construed to mean that the law should not go into effect till that time, I want to see the judge who would construe differently a restriction contained in this clause upon the legislative power.

I hold to the doctrine that the Legislature of a State has all the sovereign power, except such as is for necessary purposes reserved, either expressly or by implication, to the people. It is not new doctrine that I am enunciating here; but I have been astonished at the ground taken by some members in this matter. I do not know that they want, willfully, to pervert the condition of things; but the idea is absurd that, because a certain clause in a constitution declares that the Legislature shall be restricted, after a certain time arrives, from amending it, except in a particular way, that it is to be construed so as to restrain their action before that time arrives. Until after 1864 it is inoperative, as though it had been said that the clause should not be inserted in the constitution till that time arrives.

I quarrel with no man because he differs in opinion with me. I agree with the gentleman who last spoke in not deeming it essential whether this is made a party test or not. I believe that this constitution has been framed with all the requirements of recognized law; and I, for one, will never sanction the rebellion that created resistance to it from the moment of its inception. I have given the highest authority, among the opponents of the admission of Kansas, to show that it was regular in everything, down to its submission to a vote of the people. I have pointed gentlemen to the case of the constitution of my own State made in 1790, which was not submitted to the people, and it remained unaltered for forty-eight years. I have referred them to State after State, whose constitutions were not so submitted. The State of Indiana had a provision in her constitution that it should only be amended every twelfth year; but a new constitution was made in another year, and was accepted without a murmur of illegality. The man who would attempt to restrain the exercise of sovereign power by the people, would meet that doom which every public man would want to avoid.

Now, what do we gain by admitting Kansas with this Lecompton constitution? In the first place, do we violate any principle? If we do, I will not vote for it. Popular sovereignty! A great respect the professed majority in Kansas can have for popular sovereignty when they come here with their Topeka constitution, and say that the people of Kansas cannot and shall not amend their constitution for eight or nine years! Suppose this is a bad constitution! Suppose that it admits slavery, and that the people do not want it there! I do not believe that slavery can exist there; I have not an idea that it can; and as it cannot exist there as an institution, I should rather see it out of the constitution. I do not object to the existence of slavery in a State where the people desire it. I do not want it in my State; but I do not object to the fullest enjoyment of it in a State where the people desire its existence. But whether it is the slavery or any other clause that is obnoxious to the people, I put my finger on the clause that the people may alter their constitution when they think proper; and I challenge gentlemen to point to any clause which any plain, unlettered man would read, and say that it prohibits the amendment of the constitution at any time—immediately, if the people choose it.

These are the views that I entertain. Unlike

the gentleman from Indiana [Mr. ENGLISH] who preceded me, I have no apology to offer for avowing the principles adopted by the party to which I am proud to belong—that party through which alone the harmony of the country can be preserved. To me, it is immaterial whether this act shall, or shall not, be accompanied by a declaration or condition by Congress that the people shall have, at all times, the right of altering their constitution. You might as well declare that the sun shines; the two propositions are equally plain, without the declaration of them. I will vote for such a declaration, for it asserts expressly only what is there by necessary implication; and because, if there be any room for doubt, it will remove that doubt. I will vote for it in any way; either as a declaration, a proviso, or a condition; although I believe the right is there already. Recognizing the right of the people of Kansas to alter their constitution when they please; and recognizing the right of the Legislature, at any time, to propose amendments, if the people do not wish to go through the form of having the entire constitution changed, and if they are only dissatisfied on one clause; and entertaining the belief that the admission of Kansas into the Union is a measure of national peace, and that the strife which would follow its rejection would envelop and affect every man in the country; I most earnestly trust that calm counsels will prevail, and that the matter may be put in such a shape as the gentleman from Indiana has just hoped it might be, to command the votes of himself and others. I hope there may be no dissensions in a party on which depend the success and quiet of the country; and I promise gentlemen that, if that is done, there will be no more disaffection; because I do not believe that the people of Kansas are so suicidal or so fratricidal as to continue dissensions and discords when the Federal Government shall have removed its forces from the Territory, and relieved it from territorial dependence. If that be the result, Mr. Chairman, I am sure that all will be satisfied who have contributed to bring it about. [Here the hammer fell.]

APPENDIX.

(A.)

Resolutions of the Legislature of Pennsylvania.

"Resolved, That in the opinion of this House, it is expedient and proper for the good people of this Commonwealth to choose a convention for the purpose of reviewing and, if they see occasion, altering and amending, the constitution of this State.

"Resolved, That in the opinion of this House, a convention being chosen and met, it would be expedient, just, and reasonable, that the convention should publish their amendments and alterations, for the consideration of the people, and adjourn at least four months previous to confirmation."

Protest of William Lewis.

"I dissent, because, although I admit, in the fullest extent, that it will be proper for the convention to submit to the consideration of the people the plan of government which may be formed, and, although I fervently wish that sufficient time will be afforded them to deliberate thereon, I am so far from being satisfied of the right of this House to enter into any resolutions respecting it, that I cannot but consider them as unwarrantable assumptions of power. The resolution agreed to must be intended to have some weight and influence with the convention, or it would not have been proposed; and as that weight and influence, so far as they operate, must tend to prevent the unbiased exercise of their own minds, in a matter submitted to them by the people, and not by this House, they must be highly improper. An adjournment by the convention is a thing in itself so desirable, that were its members to be appointed by this House, and to derive their authority from it, I should not only be for recommending, but directing the measure. But the convention must be chosen by the people, in whom alone the authority is lodged, and will derive all their powers from them. They will sit, and they ought to act, both as to adjournments, and in all other respects, independent of this House, and should not in the one case, any more than in others, be influenced by it. Being to be chosen by the same people with ourselves, it is rather assuming in us to suppose that their wisdom, virtue, or discretion will be less than our own, and unless we distrust their prudent exercise thereof, it does not become us, to whom the business does not appertain, to dictate to those to whom it belongs. They will doubtless receive from their constituents and duly respect such instructions and recommendations as they may think proper to give, but ought not to receive any from us, who, as a body, have no right to interfere, and who, as individuals, will have a voice with other members of the community.

"The people may think that an adjournment of four months is too long or too short, and may recommend as they may think proper; but we have no right to think or to act for them. If we have a right to resolve that an adjournment is proper, we must have an equal right to resolve that it is improper; or that any matter in the formation of the government is right or wrong, according to the prevailing ideas in this House. In our resolution respecting the election and the meeting of the convention, we are authorized by the wishes of the people, manifested to us; but we have no authority of our own, and are not warranted by

them to proceed further. When the convention meet, they will look to the source of their authority for instructions and recommendations, both as to adjourning, and as to other matters, and act with a prudent discretion therein; and as that discretion ought not to be biased by any supposed influence of this House, I dissent from the resolution, as being calculated to intrench on the rights of the people and on the free deliberations of their representatives in convention, and have recorded my reasons in justification of my conduct."

From the Constitution of Pennsylvania, of 1776.

"In order that the freedom of this Commonwealth may be preserved inviolate forever, there shall be chosen by ballot, by the freemen in each city and county respectively on the second Tuesday of October, in the year one thousand seven hundred and eighty-three, and on the second Tuesday in October, in every seventh year thereafter, two persons in each city and county of this State, to be called the Council of Censors, who shall meet together on the second Monday of November next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two thirds of the whole number elected shall agree, and whose duty it shall be to inquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the constitution; they are also to inquire whether the public taxes have been justly laid and collected in all parts of this Commonwealth, in what manner the public moneys have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the Legislature the repealing of such laws as appear to them to have been enacted contrary to the principles of the constitution.

"These powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject."

Reasons for dissenting from the call of a Convention.

"Because we are of opinion that this House is not competent to the subject. We are delegated for the special purposes of legislation, agreeably to the constitution. Our authority is derived from it and limited by it. We are bound by the sanction of our solemn oaths to do nothing injurious to it, and the good people of Pennsylvania have, in the constitution, declared the only mode in which they will exercise 'the right of a community to reform, alter, or abolish government,' as being the manner most conducive to the public weal.

"Because this measure at once infringes the solemn compact entered into by the people of this State with each other, to be ruled by fixed principles; will render every form of government precarious and unstable; encourage factions, in their beginning contemptible for numbers, by a persevering opposition to any administration, to hope for success; and subject the lives and liberties of the good people of this Commonwealth, and all law and government, to uncertainty; render everything that is dear subject to the caprice of a factious and corrupt majority in the legislature; destroy all confidence in our government; and prevent foreigners from giving that preference to Pennsylvania as an asylum from oppression which we have hitherto experienced."

Mr. FOSTER obtained the floor, but yielded to Mr. WASHBURN, of Maine, who moved that the committee rise.

Mr. STEPHENS, of Georgia. I ask the gentleman from Maine to withdraw that motion, and allow me to make a motion for an evening session.

Mr. WASHBURN, of Maine. No, sir. I am opposed to evening sessions.

Mr. STEPHENS, of Georgia. I hope that course will be pursued. There are a number of gentlemen who desire to speak upon this question.

Mr. WASHBURN, of Maine. I do not think there is any necessity of grinding out all these speeches on Lecompton in two or three days. I move that the committee rise.

The question was taken; and the motion was agreed to.

So the committee rose, and the Speaker having resumed the chair, Mr. HOUSTON reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and especially House bill No. 6, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th June, 1859, and had come to no conclusion thereon.

And then, on motion of Mr. JOHN COCHRANE, (at eleven minutes past four o'clock,) the House adjourned.

IN SENATE.

WEDNESDAY, March 10, 1858.

Prayer by Rev. J. C. GRANBERRY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a message of the President of the United States, communicating a report of the Attorney General, detailing proceedings under the act of March 3, 1855, to improve the laws of the District of Columbia, and to codify the same; which was read.

He also laid before the Senate a letter of the chief clerk of the Court of Claims, communicating the petition and papers of Aaron Weeks, heretofore referred to the court by an order of the Senate; which was read, and on motion of Mr. CHANDLER, leave was granted to Aaron Weeks to withdraw his petition and papers.

PETITIONS AND MEMORIALS.

Mr. BIGLER presented three petitions of merchants and other citizens of Philadelphia, for the establishment of a line of mail steamers between that city and Brazil, touching at Savannah and certain places in the West Indies, as proposed by Thomas Rainey; which were referred to the Committee on the Post Office and Post Roads.

Mr. KING presented the petition of John A. Pitts and Hiram A. Pitts, praying the renewal and extension of their patent for certain useful improvements in a machine for threshing and cleaning grain; which was referred to the Committee on Patents and the Patent Office.

Mr. SEWARD presented two memorials of citizens of New York, remonstrating against the repeal of the act of Congress establishing the light-house board; which were referred to the Committee on Commerce.

He also presented the memorial of citizens of Oswego, New York, remonstrating against the repeal of the act of Congress establishing the light-house board; which was referred to the Committee on Commerce.

He also presented two memorials of citizens of Portland, Maine, remonstrating against the repeal of the act of Congress establishing the light-house board; which was referred to the Committee on Commerce.

He also presented two memorials of merchants and others, citizens of New York and Brooklyn, praying for the adoption of measures for ascertaining the correctness of certain alleged discoveries of guano on Jarvis and Baker's Islands, in the Pacific ocean, the quality of the guano, and its accessibility to merchant vessels; which were referred to the Committee on Commerce.

Mr. CAMERON presented a petition of citizens of Venango county, Pennsylvania, for the establishment of a mail route from Plumer post office to Titusville, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. FESSENDEN presented a memorial of citizens of Brunswick, Maine, remonstrating against the repeal of the act of Congress establishing the light-house board; which was referred to the Committee on Commerce.

He also presented the petition of John Drout, a pensioner of the United States, praying that his pension may commence from the date of his discharge; which was referred to the Committee on Pensions.

Mr. YULEE presented the petition of Joseph H. Wheat, a clerk in the Post Office Department, praying to be allowed a certain amount of salary, of which he alleges he was deprived without justice by the late Postmaster General; which was referred to the Committee on the Post Office and Post Roads.

Mr. CLAY presented a petition of M. E. Bradley and others, citizens of the United States and residents of the country known as the "Gadsden purchase," and the southern portion of New Mexico, praying for a separate territorial organization, under the name of Arizona; which was referred to the Committee on Territories.

Mr. CRITTENDEN presented the petition of John Brest for an increase of pension; which was referred to the Committee on Pensions.

Mr. JONES presented a resolution of the Legislature of Iowa, in favor of a law granting a homestead to actual settlers upon the public lands; which was referred to the Committee on Public Lands.

REPORTS OF COMMITTEES.

Mr. DURKEE, from the Committee on Private Land Claims, to whom was referred the petition of Daniel Whitney, submitted a report, accompanied by a bill (S. No. 190) for the confirmation of a certain land claim in favor of Pierre Grignon, or his legal representative. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. BROWN, from the Committee on the District of Columbia, to whom was referred the memorial of citizens of Washington, and two memorials of the trustees of the public schools of the city of Washington, District of Columbia, submitted a report, accompanied by a bill (S. No. 191) for the benefit of public schools in the city of Washington. The bill was read and passed to a second reading; and the report was ordered to be printed.

Mr. JOHNSON, of Arkansas, from the Committee on Military Affairs and Militia, to whom was referred the petition of Horace E. Dimmick, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Alexander Hays, submitted an adverse report; which was ordered to be printed.

Mr. IVERSON, from the Committee on Military Affairs and Militia, to whom was referred the petition of Ann E. T. Eldridge and the papers relating to the claim of Nannie Denman, asked to be discharged from their further consideration, and that they be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 23) for the relief of Robert Dickson, of the Kentucky volunteers, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

COMPENSATION OF DECEASED SENATORS.

Mr. EVANS. Some time ago, a resolution to authorize the payment of their compensation to the representatives of Senators Bell, Butler, and Rusk, was referred to the Committee to Audit and Control the Contingent Expenses of the Senate. I am directed by that committee to report back the resolution, and to recommend its passage; and, at the same time, I submit a report which shows the reasons for that decision. I desire, also, that the resolution be taken up at once by the Senate, and disposed of.

Mr. JOHNSON, of Arkansas. Let the resolution be read.

The Secretary read the resolution, which was introduced by Mr. SEWARD, as follows:

Resolved, That there be paid out of the contingent fund of the Senate to the representatives of the late Senators Bell, Butler, and Rusk, who attended the special session of the Senate, convened by the President on the 4th of March last, and who have since died, compensation for the said Senators, respectively, at the rate of \$3,000 per annum, from the commencement of said session to the time of their decease.

The resolution was considered by unanimous consent, and agreed to.

PATENT OFFICE REPORT.

On motion of Mr. JOHNSON, of Arkansas, the Senate resumed the consideration of the resolution, which was reported by him on Monday last from the Committee on Printing, to print ten thousand copies of the report of the Commissioner of Patents, for the year 1857, on arts and manufactures.

Mr. JOHNSON, of Arkansas. I wish to state but one or two points in regard to this subject, and then I shall ask for the action of the Senate, which I hope we shall be able to get before the expiration of the morning hour. The whole body are familiar, at least to some extent, with the subject of public printing, and the abuses and extravagance that have attended it. The committee propose to cut down the number of copies of this document, printed by order of the Senate, from twenty-seven thousand to ten thousand. The saving that will be achieved by this reduction will be upwards of thirty thousand dollars. The number which will inure to each Senator for the purpose of distribution among his constituents will be about one hundred and thirty, supposing eight thousand to be printed for the use of the Senators; and, besides, we propose to furnish two thousand copies to the Interior Department,

which may, under a proper system of distribution, dispose of them for the public good.

There is, then, a saving proposed by the committee to this extent. Gentlemen can give it what value and what consideration they please. If they cannot support the Committee on Printing in their efforts to reduce the expenditures which have been so enormous hitherto in this branch of the public service, the committee may come to the conclusion that they may as well cease to speak of the abuses of the system. The committee think that from one hundred and twenty-five to one hundred and thirty copies to each Senator are sufficient. We are now aware that a vast number of these Patent Office reports are lost altogether to the public service. Senators are aware of the fact that they can be bought throughout this city, at least in a number of places, for fifteen cents per copy. I am assured, since I made this remark the other day, that they have been repeatedly bought at a less price than that; and yet they cost Congress some seventy cents a volume to print them in the first place.

An amendment was offered on Monday by the Senator from Massachusetts, [Mr. Wilson,] which he, at the proper time, will explain. I shall support the amendment, and I believe it ought to be adopted.

Mr. CAMERON. The cost of congressional printing has suddenly increased so largely as to be now a subject of serious interest to the whole country.

In 1847, only eleven years ago, the whole sum paid for paper, printing, and binding amounted only to \$64,691 96. This was under the contract system, when the work was given to the lowest bidder. Some three or four years later, this system was changed, at the instance, mainly, of persons interested in high prices.

The new system was a mixed one. The prices were fixed by the law, and the Government under it has become the purchaser of paper and other materials. The office of Superintendent of Printing has been established, and that officer become a functionary of the Government, in many instances irresponsible to any authority, though nominally responsible to the Committee on Printing of each House. He buys the paper, orders the engravings, and controls the expenditure of hundreds of thousands of dollars.

It is not my purpose to inquire into the manner in which the duties of that office have been fulfilled; much less is it my wish to impute willful wrong to any one connected with the management of the public printing. I desire only to draw the attention of the Senate to the enormous cost of the work, with the hope that the present committee will be sustained in their labors of retrenchment.

The cost of printing, paper, and binding, from July 1, 1856, to March 4, 1857, amounted to the sum of \$1,258,210 42. The binding, alone, for that period, it will be seen, was more than six times as much as the whole cost of paper, printing, and binding for the year 1847.

The cost for the year just ended I have not been able to obtain; but it is probably over a million and a half of dollars.

A great deal of this extravagance of expenditure has arisen from the loose manner in which Congress has ordered the printing of reports by officers of the Army and Navy, and other functionaries sent upon exploring duties. It has been common, as I am told, to direct the printing of such reports without examination, permitting the officer to complete his report while the work is progressing in the hands of the Printer. Such has been the course with the Coast Survey, the Japan expedition, the Mississippi and Pacific railroad report, and many others.

The Coast Survey report cost, for printing and materials, for the year 1856, the enormous sum of \$78,441 70.

Gilliss's report has already cost over one hundred thousand dollars; and the estimated cost of the whole work as ordered is \$149,107 97.

The Japan expedition report, which has been completed and paid for, cost the sum of \$240,486 72.

Of Emory's Mexican boundary report, one volume has been printed, and has already cost \$107,580; the second volume has been ordered, and is estimated to cost \$104,510—making, in all, the sum of \$212,000 for that work.

But the Pacific railroad report is beyond all

its associates in magnificence of price. Five volumes have been printed; four more are in the hands of the Printer. The work already done has cost \$526,117; the balance is estimated to cost \$335,300—making a total of \$861,417; but the reality in the end will probably reach over a million.

Captain Wilkes's report was the first of the series of "splendid books" ordered by Congress; and by what I have shown, it will be seen to have been a plentiful mother of costly books. Its cost I have not been able to learn. The expedition under the command of that officer, which was conducted by him with great ability, was a favorite with the country; and in their gratitude, the Congress of the United States seemed willing to let him print the book to suit himself, and, I believe, to keep the copies when printed.

The Patent Office report has been a favorite of the country; and, like all favorites, it has been permitted to overgrow its proper dimensions. Originally one small and interesting volume of well-selected facts and tried opinions, it has become three volumes; one devoted to agriculture, and the others to inventions in the mechanic arts. It should be condensed if its usefulness is to be continued. Its cost for the year 1857 was \$375,286. It cost the Government seventy cents a copy, and it can be bought in any number, I am told, in the bookstores of this city for fifteen cents—a pretty fair evidence that the number printed is much greater than the country needs.

The whole system of printing books by Congress I consider as wrong in principle, and productive of no good.

All the works which have been distributed by the Senate and House of Representatives, if they possess value, would be sought by the enterprising publishers of the country, and furnished to the people at much less expense. Beginning with Captain Wilkes's book, a rivalry has grown up for books of that class, with expensive and often worthless engravings, that no judicious private publisher would allow to incur their pages. Officers now think injustice is done to them, if Congress declines giving them authority to print and publish without control.

Until within the last few years, Congress printed only such matter as was necessary to the proper understanding of questions before them.

The new system has brought about this city and Congress a host of persons seeking this patronage; and the enormous sums expended have become an evil and an abuse which is attracting the attention of the whole country. The present Committee on Printing in the Senate propose to curtail the expenditure without at present interfering with the system; and I earnestly hope it will meet the hearty cooperation of this body.

Among the evils of this lavish expenditure for printing is one, not among the least, in the labor it imposes upon the members of Congress. It is not known abroad how much of each member's time is consumed in distributing this work. I consume hours daily in replying to letters claiming books, under the impression that they are furnished to us of all kinds, and without limit in number. All the books I have enumerated, except the Patent Office report, were distributed before I came here, and I answer twenty or more letters a day, asking for Perry's Japan, Gilliss's report, the Pacific railroad report, &c. When by accident I have procured a copy, from some friend or from the bookstores, to send among my constituents, it has been followed by many applications from other persons having claims upon my notice. No amount of printing could enable a Senator, representing any one of the larger States, to furnish each of his constituents with a copy of all the works called for, and an attempt to discriminate only gets him into trouble with his friends. The impression abroad is, that we are even more extravagant than we really are; and this impression sometimes brings an amusing letter. The other day, a good man wrote me that his son, a "smart boy," was fond of reading, and he hoped I would send him "some good story-books." [Laughter.] To-day I have a letter from a man who says he is a horse-doctor, who asks me for books to teach him his trade. [Laughter.] My inclination is to be civil to all; but no labor which I can perform will enable me to answer all the letters received asking for books. It is time the whole system should cease to exist.

Mr. FESSENDEN. I should like to hear the proposed resolution and amendment read.

The Secretary read the resolution, as follows:

Resolved, That there be printed, in addition to the usual number, ten thousand copies of the annual report of the Commissioner of Patents on arts and manufactures, for the year 1857, eight thousand of which for the use of the Senate, and two thousand for the Interior Department, for the purposes of official distribution.

The amendment of Mr. WILSON is to add:

And that the Secretary of the Interior be, and he is hereby, directed to cause the annual report of the Commissioner of Patents on mechanics, hereafter to be made to Congress, to be prepared and submitted in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted in their proper places in the text, so as to comprise the entire report in one volume.

Mr. WILSON. I propose to amend my own amendment by striking out the words "made to Congress," and inserting "made to the Senate."

Mr. STUART. It would be better to limit the number of pages also.

Mr. WILSON. I certainly have no objection to that. On looking over the mechanical report for last year, I find that it contains seventeen hundred and fifty pages. Now, I think the whole can be put in one volume not exceeding seven hundred and fifty pages.

Mr. HUNTER. And less than that.

Mr. WILSON. I concur entirely in the movement which has been made by the Committee on Printing. Members of Congress have come to be agents for the distribution of books, seeds, and documents. The Senator from Pennsylvania has told us the character of some of the communications which he receives in regard to this distribution of books in the country; and I may add that daily I receive letters asking for books, and some gentlemen are modest enough to ask for the whole list of all the works we have published for years past. This takes up a great deal of our time, to say nothing of the enormous expenses which have been incurred during the past few years in the publication of these books. I am ready to give my voice and my vote to the policy inaugurated by the committee, and I hope it will be sustained by the Senate, and by the House of Representatives. I am ready to begin here, upon a work that is probably of more interest to my own State than it is to any other State of the Union. I suppose there are more persons in Massachusetts who have an interest in this mechanical report, than can be found in any other State of this Union. The proposition is to make the reduction upon this work. I am ready to begin here, where it affects my own people. The agricultural report is of great interest in every section of the Union, and I suppose we shall be called upon from every section of the country to publish a large number of that work. That is in one volume; it is a work of great and general interest to the whole country, and we probably cannot stint that. But the interest in the mechanical report is confined generally to a few States. It is certainly a work of interest; but I think labor ought to be bestowed upon it, to condense its contents, and they will then be of infinitely more value than they now are, and the condensation will save a vast sum of money to the country.

I am in favor, therefore, of this reduction. I might have preferred that the number should be fifteen thousand instead of ten thousand; but I am ready to sustain the report of the committee, though I hope the amendment which I have proposed will be adopted by the Senate, and that the example will be followed by the House of Representatives. Then the mechanical reports, hereafter to be made, will be, by the appropriate officers, condensed and put in proper form, and we shall have a volume not exceeding seven hundred and fifty pages; which, I think, will be all that will be necessary, and be of infinitely more use, even to the sections of the country where the work is regarded as of great value.

Mr. HUNTER. I desire to return my thanks to the Committee on Printing for the judicious effort which they are making to limit the expenditures which have heretofore been so wasteful. They are striking in the right place, in my opinion, when they strike at these books, which cost a great deal not merely in printing them, but also in the agencies which are necessary to collect the materials. I think that if, in addition to limiting the number of copies printed, they would accept another suggestion which has been made, and re-

strict the number of pages, they would do a good thing; and if they will only carry out the work they have commenced, and restrain this enormous publication of books, which has entailed on us an expenditure that is now attracting the public regard everywhere, I think they will do a great service to the country. I shall vote with great pleasure for the motion of the Committee on Printing as presented by the chairman; and I hope he will accept the other suggestion that has been made, and limit the quantity of matter to be printed.

Mr. MASON. I agree entirely with my colleague in recognizing the steps taken by the Committee on Printing in diminishing the cost of printing by reducing the number; but I should be gratified to go one step further, and to print nothing at all of the Patent Office report—not one line. I do not believe we shall ever get at the true disease in this matter until we extirpate the system altogether. If we refuse to print, then it will be proper for us to take away from the Department the duties which devolve on it now to compose the matter for printing.

The Patent Office report is a paper which is much sought for in my country by the agricultural community, and it is said to contain to them, with a great deal of trash, now and then valuable matter; and it is very natural that it should be sought for, because it is not only given to them gratuitously, but carried to them without cost. I do not believe that the people of any part of the United States, who would be interested in any printed document, would not very cheerfully pay (they can well afford to pay) whatever it may cost to acquire it. I think that the public mind would not only be satisfied, but would be gratified, if this gratuity—a very strange gratuity it is—should be discontinued on the part of Congress. I do not know that the motion will carry, but I think we had better meet it at the threshold, and stop the printing altogether of the Patent Office report, and, in due time, the printing of other things that may come before us, if we should think it advisable to do so. I do not know any better mode to attain it than by moving to postpone, indefinitely, the consideration of the resolution and amendment, and I make that motion.

Mr. GWIN. This nuisance of printing books has grown to be almost intolerable; but I do not think the Senator from Virginia has struck on the right plan to accomplish a beneficial object. According to my view, this report ought to be printed; but the mode of distribution should be changed. I think it should devolve on the Departments of the Government, and not on members of Congress. I do not know how it is with others, but really I am borne down by applications for books, seeds, and things of that sort, and if I do not send them to every one who applies to me, it is a cause of personal offense. The Senator from Pennsylvania has said correctly, that if we send a book to one person in a neighborhood, those who do not get it think they are cheated out of their books. If we print this report, and have it distributed by the Departments, they will take more pains to distribute it so as to be useful, than members of Congress possibly can. I hope, therefore, that he will not insist on his motion to prevent the printing; but will frame an amendment providing that when printed, it shall be distributed by a Department of the Government. Probably, the Interior Department is the best one. I shall not vote against printing this document, for I think it valuable, and it may be useful; but I believe there is great abuse in the manner of distribution.

Mr. FESSENDEN. I differ entirely with the Senator from California in the suggestion he has made. I know there are inconveniences in reference to this matter; but there is no other mode, and he will allow me to say, no other possible mode, in which the agricultural report, and even this one, can be so understandingly distributed as by the members of Congress. It is perfectly idle to say that the head of the Department of the Interior would know how to distribute these books understandingly to the people all over the United States. The object that we seek for here—economy—would not be promoted, I think, by any such measure as that, because the result of sending the distribution to the Department of the Interior will probably be the creation of a new bureau; or, at any rate, the employment of a dozen, or fifteen, or twenty clerks for the purpose of distributing documents—a business which we

do now without charge. I admit that the whole matter is exceedingly troublesome. I admit, further, that no member of Congress gains anything, but, on the contrary, loses, so far as popularity is concerned, by this labor which he is obliged to perform; but yet, so long as Congress chooses to print these books and order their distribution, I am perfectly satisfied that there is no way in which they can be distributed for the benefit of the community so well as by the members themselves, who know the particular individuals in their districts who would be benefited by them. I hope, therefore, that that idea will not prevail at all in the Senate; and at present I am hardly disposed to go as far as the honorable Senator from Virginia [Mr. Mason] suggests, by refusing to print these books at all. I do not know but that it would be wise eventually; but I am not quite prepared to come to that conclusion. I agree, however, fully with the honorable chairman of the Committee on Printing, and with the report of the committee, that we ought to reduce the number of this particular work, and, I have no doubt, of many other books that we print. I once had the honor to belong to the Committee on Printing, and I am very well aware of the great difficulties which that committee have always met with in endeavoring to reduce the expenses of the Government in this particular. I suppose, in the ordinary course of things, I might have been a member of that committee again. I do not know that I committed any offense which would deprive me of the position; but I declined to be a member of the committee again, and for this reason more than any other: I found that whatever conclusions the committee came to, after sober investigation and careful deliberation in the direction of economy, and recommended to the Senate, they almost uniformly failed to have adopted, if a particular Senator wanted to carry a particular scheme. We made our reports, recommending economy by reducing the number of copies to be printed, changing the style of a work, or something of that kind; but it was very seldom that we could get any support from gentlemen in the Senate, who were loud, generally, upon the subject of retrenchment and economy, when we came to a practical application of their doctrines.

Now, sir, it appears that the committee are making another attempt. I am very glad of it. They shall have my support in any attempt they may make to retrench our printing expenditures, unless, in my judgment, they make it in a wrong direction; and I think they can hardly fail to find the right one—can hardly fail to find a direction of retrenchment which will be wrong. Well, sir, in regard to this particular report, I approve of the suggestion made by my friend from Massachusetts to limit the quantity of the matter; but he will allow me to say to him that he cannot carry out his amendment, as I think, in precisely the form which he has proposed. For instance, the style of printing this work, he will observe, and the Senate will observe, is different from that formerly adopted. There is a great deal more of it; the plates are expensive; they are printed from wood-cuts, as they are called. Formerly all these drawings were introduced into the text and printed in the common style. You could not have a work of that degree of perfection which is considered to be important, printed in the text in the same manner that you print the text itself, in my judgment; but I may be in error about that.

The only mode in which we can accomplish the result of reducing the quantity of matter, is to give a specific direction that a selection shall be made so as to make up a volume of only one particular description, and you must give also a particular direction with regard to the style; and that must be done probably under the direction of the committee after examination. I think, therefore, with great respect to my friend from Arkansas, the chairman of the committee, that at present the Senate is hardly in a condition understandingly to act on the proposition contained in the amendment as it is now before us. There should be some inquiries made with regard to the style in which the work is to be done—the manner in which it is to be executed. On consultation with artists and others familiar with the subject, the committee can easily ascertain what is best to be done; and any conclusion they come to in regard to limiting the extent of the work, bringing it down to the lowest possible limit, I shall sustain. I

think the object of such a selection should be to afford to the community information of what is done at the Patent Office, and the course of improvement in arts and manufactures in this country. I am satisfied that the number of copies we now print is altogether too large. From my own State, I receive letters almost every day in reference to these books, from persons, the style of whose letters show that they write for them simply because they have heard of the book, and they want to look at it. It is of no sort of benefit to them. I believe there is not one person in ten, to whom we send these books indiscriminately, who ever reads them. If you send them to intelligent mechanics, (and there are many such in my part of the country,) they read them and benefit by them, because they study them and understand them. In regard to the agricultural report, I am not so good a judge, but I believe Congress has gone altogether too far in the very large number of that report they print. However, of that I will not pretend to judge so much as of this.

I wish to say one other thing; and that is, that the large expense of printing has been incurred, in a very great degree, by these books; and if the Senate will adhere to the resolution adopted by a vote which was taken at the last Congress, that it will print no more reports of exploring expeditions, no more drawings of natural history, no more of these birds, insects, and reptiles, of which the Senator from Mississippi [Mr. Brown] spoke, we shall save more than one half of the whole expense of printing. The enormous expenditures that have been piled up during the last two Congresses, have risen almost entirely from the printing of these large books. We have now stopped that. I hope we shall adhere to that determination. If we stop all that unnecessary printing, and confine ourselves to the mere reports of our Departments, and the report of the Patent Office, which is connected with the Interior Department, and the report of the Coast Survey, which is beneficial, and have a reasonable limitation as to the number of copies, and take some little pains in reference to the contracts that are made, so that they do not cost us double what they ought to cost, we may reduce the expenses within a very short period to a reasonable limit.

But the honorable Senator from Virginia [Mr. Mason] will allow me to say that after all, when you have reduced these expenses to the smallest limit, and yet afford all the information that can be afforded by means of printing which ought to be done, you will have begun, and only begun, to stop the very great leak in the Treasury. I should like to hear Senators talk as much and feel as much in regard to, and show the same disposition to examine into, the enormous expenditures of money for useless purposes, by the creation of new offices, and the appointment of new officers, particularly in the Post Office Department. New post routes are created which are not necessary, in my judgment, and in the judgment of many others; and mail service is increased where it is not needed, and in a thousand other ways, that Department costs more than it has been, or ever will be, able to pay. I should like to have gentlemen look into the great expenditures of that Department for advertising purposes, and for every other purpose which is not looked into, simply because there are so many claimants on the Treasury.

Since I have been in Congress we have had a very important committee in name—the Committee on Retrenchment. I believe it existed for two Congresses, while I have been here; but it has now been abolished, and it might well be. Who ever heard of any movement made by that committee to do one single thing in any way in reference to decreasing the expenditure of money? I am willing to begin somewhere, and I am willing to begin here, on this printing matter. I hope those Senators who are able to reach, and can get at, the fountains of information, and control the matter, will look a little further, and see if they cannot restrain enormous expenditures elsewhere. I will go with the honorable Senator from Arkansas in his movements on this subject, I think, as far as he will go himself—to the very verge, almost, of prohibition in these matters; but I wish to reserve myself now on some particular points, in reference to books of this description, where I think the information is absolutely needed, and

where, if we refuse it, we might as well abolish the Departments themselves.

Mr. BROWN. I like very much the course that this discussion has taken; but I feel very apprehensive that it will end where all such discussions have ended heretofore—in nothing. We commence with an honest and good purpose to reform; and after we have tried it once or twice, our exertions seem suddenly to give out, and we do nothing. We had the same subject under consideration at the last session, and it is here again. Why? It is because we do not strike at the root of the evil. If you will abolish the franking privilege, you will get clear of these books, and you never will get clear of them in any other way. Supply members of Congress for the purposes of official correspondence, with stamped envelopes, have no franking privilege at all, and then you will get clear of these books; but you will never get clear of them in any other way.

The books are utterly worthless, let gentlemen say what they please about them. Take the Patent Office report; let the Commissioner say to any publisher in the Union: "Here, take the manuscript prepared, and have a copyright;" there is not a man in the whole Union fool enough to publish it with a copyright. As evidence that your books are of no account, you take no copyright for them; yet who ever republished one of them? Did you ever hear of such a thing? Nobody trespasses on your rights, and yet you do not cover them by any law. I think no argument could be more conclusive as to the utter worthlessness of these books than that they are not published by anybody but yourselves. It seems to me it is precisely because a book is of no account that Congress publishes it. If it were of any account, somebody else would want to publish it. If you were to take these volumes and send them to depots in the several States, and propose to sell them for the actual cost of the paper, they would lie there to all eternity; nobody would pay for them the cost of the paper on which they are printed.

After all, the constituent of the Senator from Pennsylvania, that simple-minded, honest-hearted old Pennsylvanian—I dare say he was a Dutchman—was not so far mistaken. Why, sir, you do publish books for children. What are all your picture books, but books to amuse children? What is the use of volumes crammed full of pictures of birds, snakes, lizards, and all manner of things of that sort, printed in the most artistic style, with pretty little stories about the habits of the birds, snakes, and reptiles, but as mere play books? They are not printed for men; because they contain no information that would be of any value to a man with a beard upon his face, or a woman who was fit to be the mother of children. They are mere playthings got up at an enormous expense to the Government. Take your books about the exploring expedition; and instead of giving a history of the expedition you find the queerest pictures, and most outlandish things meaning nothing, no historical statement that amounts to anything. There is one volume of this exploring expedition, the queerest book that ever was put inside of lids. Take a box of common shoe blacking, and a brush, and a little white paper, smear it all over, and then take a pepper-box of white sand and sprinkle it all about, and you will have as good a book as that. [Laughter.]

Mr. JOHNSON, of Arkansas. Allow me to interrupt the Senator. I do not mean to controvert what he asserts at all; but as he is merely on an argument that relates to the general subject, and, as I believe from the spirit manifested here this morning, we can dispose of the subject, I shall be exceedingly obliged to him if he will let us have a vote. I trust we shall vote, and no further discussion now.

Mr. BROWN. Very well; I give way.

Mr. WILSON. I wish to suggest an amendment to my amendment, which I believe will do away with the objection of the Senator from Maine.

The VICE PRESIDENT. The present question is on the motion for the indefinite postponement of the whole subject.

Mr. JOHNSON, of Arkansas. I hope that motion will be withdrawn.

Mr. SLIDELL. I hope the Senator from Virginia will not withdraw it. I should like to record my vote in its favor.

Mr. MASON. And I should like to record mine; but I want to get at the object in a manner that is probably attainable. I withdraw the motion on the suggestion of the Senator from Georgia, [Mr. IVERSON,] who will then move to strike out the eight thousand copies for the Senate, so as to print only two thousand for the Department.

Mr. IVERSON. I want to make that motion as soon as I can get an opportunity, but I believe it is not in order at this stage.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Massachusetts.

Mr. WILSON. I propose to amend it by striking out the words, "in their proper places," so that these illustrations can be put in any portion of the volume by themselves.

Mr. TOOMBS. There is but one remedy for this evil, which I have been endeavoring to counteract myself for the last ten years, and that is to go back to the principle of publishing nothing except what is necessary for the body. That is the only remedy, unless the one suggested by the Senator from Mississippi, which is a good one, and would be equally effective, be adopted. If you could abolish the franking privilege, that would be a desirable thing. The mails are now lumbered up by your documents to such an extent as to be an enormous inconvenience to everybody. During the recess, I know I had to send to our village postmaster a two-horse wagon all the time to get my mail. I presume that is the history of all of us. A gentleman would have to enlarge his house almost to bring in his documents. It takes almost as many rooms for my documents as it does for my small family. They are multiplied for no object but to give jobs to printers. I am glad the Committee on Printing have struck at the evil; but they do not go half far enough. Let us go back to the true principle at once.

Mr. JOHNSON, of Arkansas. The Senate will not do it.

Mr. TOOMBS. Print nothing.

Mr. JOHNSON, of Arkansas. Move it, and try it.

Mr. TOOMBS. Then I move to strike out all except what is necessary for the Senate.

Mr. SLIDELL. I am not aware that such a motion would be in order. I am altogether opposed to this printing, in every form. I desire to strike at the root of the evil. I regret very much that the Senator from Virginia has withdrawn his motion for the indefinite postponement. I renew that motion, as I wish to record, at any rate, my vote against this whole system of printing; and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PUGH. Before the vote is taken, I wish to state that the Senator from Illinois [Mr. DOWD] has left the Chamber on account of sickness, and I have agreed to pair off with him on all contested questions; but I presume he would vote with me on this question. He left the matter in my discretion.

The question being taken by yeas and nays on the indefinite postponement of the resolution, resulted—yeas 16, nays 26; as follows:

YEAS—Messrs. Biggs, Brown, Clay, Dixon, Evans, Fitch, Hammond, Hunter, Iverson, Mason, Pugh, Slidell, Thomson of New Jersey, Toombs, Wade, and Yulee—16.
NAYS—Messrs. Allen, Bayard, Bigler, Bright, Broderick, Cameron, Chandler, Clark, Collamer, Durkee, Fessenden, Foot, Foster, Green, Hamlin, Harlan, Houston, Johnson of Arkansas, Jones, Kennedy, King, Sebastian, Seward, Stuart, Trumbull, and Wilson—26.

So the motion was rejected.

The VICE PRESIDENT. It is the duty of the Chair to call up the special order at this hour.

Mr. JOHNSON, of Arkansas. With the unanimous consent of the Senate I should be glad to have the vote taken now on the resolution. I think we shall have no further debate. If we put it off until to-morrow it will consume the morning hour, perhaps, and we may not have the vote taken for a month. I hope we shall dispose of it now. ["Agreed, agreed."]

Mr. STUART. I wish to amend the amendment of the Senator from Massachusetts by striking out the descriptive part, so that it will simply direct the Commissioner to make a volume to consist of six hundred pages, and let him use his discretion as to how he will make it.

Mr. WILSON. Let the Secretary read the amendment as it now stands.

The Secretary read as follows:

And that the Secretary of the Interior be, and he is hereby, directed to cause the annual report of the Commissioner of Patents on mechanics, hereafter to be made to the Senate, to be prepared and submitted in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted so as to comprise the entire report in one volume.

Mr. STUART. I move to strike out the intermediate language and say "to comprise one volume not to exceed six hundred pages." The words I move to strike out are: "in such manner as that the plates and drawings necessary to illustrate each subject shall be inserted" and to add after the word "volume" "not to exceed six hundred pages."

Mr. WILSON. I will suggest to the Senator from Michigan that he will attain his object by letting the amendment stand as it is. I am willing to limit it to seven or eight hundred pages. The illustrations make six hundred pages of the seventeen hundred and fifty printed now. I think the whole can be included in a volume of about seven hundred and fifty or eight hundred pages. Here is the first volume of the message of the President making eight hundred pages. I think it is all included within eight hundred pages; and we want the illustrations in the volume; probably they will be put at the close of the volume. I think the Senator had better withdraw his amendment, and provide that the work shall not exceed eight hundred pages.

Mr. STUART. I will adopt that suggestion. I will withdraw my amendment if the Senator will add to his amendment a proviso that it shall not exceed eight hundred pages.

Mr. WILSON. Very well.

Mr. CAMERON. I desire to propose another amendment to the amendment of the Senator from Massachusetts; and that is that the reform commence with the present document. I want to begin this year.

Mr. WILSON. The report is written already.

Mr. CAMERON. I will show you how it can be done. Here are four hundred or five hundred pages containing a list of patents granted. That list forms a whole volume which is entirely useless. Just permit the Committee on Printing and the Superintendent of Public Printing to act together, and they will curtail it in such a way as to make a useful book without all this useless matter.

Mr. WILSON. I would suggest to the Senator from Pennsylvania that as the report has been made this year, we had better stand by the resolution of the committee and let it pass now, providing for the future. The report for this year has been written. I suppose it will amount to seventeen or eighteen hundred pages when printed. Let us print this report, but with this amendment, which will guide the Department in the future. If we undertake to do too much we probably shall do nothing. I go for the report of the committee.

Mr. CAMERON. I withdraw my suggestion.

The VICE PRESIDENT. The question is on the amendment of the Senator from Massachusetts, as modified. In order that there may be no mistake in reference to the amendment between the Senator from Michigan and the Senator from Massachusetts, the Secretary will read the amendment.

The Secretary read it as follows:

And that the Secretary of the Interior be, and he is hereby directed, to cause the annual report of the Commissioner of Patents on mechanics, hereafter to be made to the Senate, to be prepared and submitted in such manner, as that the plates and drawings necessary to illustrate each subject, shall be inserted so as to comprise the entire report in one volume not to exceed eight hundred pages.

Mr. JOHNSON, of Arkansas. I move to amend that by striking out "eight hundred pages" and inserting "six hundred and fifty pages." Eight hundred pages would make a cumbersome volume, which would be difficult to transmit in the mails.

Mr. WILSON. The first volume of the message is eight hundred pages, and it is not out of the way in size. It will be pretty hard to comprise this report in eight hundred pages.

Mr. JOHNSON, of Arkansas. Very well; let it go.

Mr. IVERSON. I rise to make an inquiry of the Senator from Massachusetts and the Senate. Is this a joint resolution? ["No."] Then the result will be that the Patent Office will send one

volume here and four to the House of Representatives. ["No."]

Mr. WILSON. The other House will follow our example, I think.

Mr. JOHNSON, of Arkansas. If our action related only to the volume before us, there might be some force in the suggestion of my friend from Georgia; but this resolution relates to reports hereafter to be made; and I think we may feel very well assured that the Interior Department, unless some intimation is given by the House of Representatives that they do not concur with us, will make but one report to each House. The one to us necessarily is restricted, and consists of material culled from the vast mass of matter before them, and that will be the only report they will make. It will be made to both branches.

Mr. CAMERON. The Committee on Printing of the House of Representatives, I am satisfied, are disposed to act with the committee of this body. The committees have met together once or twice, and talked over the subject. If we begin the reform here, they will carry it out there.

The amendment of Mr. WILSON was agreed to.

Mr. IVERSON. I move to strike out that part of the resolution which provides for printing eight thousand copies for distribution by the members of the Senate. I am willing to let the Patent Office have two thousand to distribute, because they know to whom these books will be useful better than the Senate, and two thousand can be appropriated to them for that purpose. I think it is a perfect waste of money to give Senators eight thousand copies for distribution. I have now seven hundred volumes lying in the post office at Columbus, Georgia, where I reside, and I do not know how to dispose of them. I saw, last summer, in a little trip I made to Arkansas, more than twenty large bags of books lying in a post office in the country for General Rust, a Representative from that State. It very nearly resulted in cutting me out of my trip; and I swore then, in my vengeance, that I would not vote a dollar for printing hereafter. [Laughter.]

Mr. JOHNSON, of Arkansas. I do not think the Senator ought to vote for printing these volumes, if he allows seven hundred of them to be undistributed. As to those in Arkansas, I distribute them as fast as they come to me.

Mr. IVERSON. I call for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. IVERSON. The resolution proposes to print ten thousand—two thousand for the Interior Department, and eight thousand for the Senate; that is over and above fourteen hundred and twenty, which is the usual number printed for the use of the Senate. I want to get rid of the eight thousand extra copies intended to be for the use of the Senate.

The VICE PRESIDENT. The Chair so understands the motion.

Mr. BIGLER. I rise for the purpose of asking the chairman of the committee if he can give the Senate some idea of the amount of money which will be saved by the motion of the Senator from Georgia? The printing of two thousand copies, it will be observed, will cost the entire amount of the composition. After we have paid for the composition, the cost of the additional volumes will be a very small proportion of the expenditure.

Mr. JOHNSON, of Arkansas. I will answer the Senator. About \$16,000 will be saved by that motion. The cost of the two thousand copies for the Department would be about \$4,000; the cost of the regular number would be \$11,000 more; making \$15,000.

Mr. HOUSTON. I am very sorry to disagree with my friend from Georgia; but I can suggest an expedient that, perhaps, would relieve the local post offices from the incumbrance of these documents. It has been my habit to distribute them here direct, and to send them in parcels to the State of Texas. I do not rely on their being sent to me at home, where I am surrounded by the cares of business, to distribute them. It would be inconvenient there; but here it is very convenient, if they are sent to members in their quarters, to distribute them, and they go directly to the different persons to whom they are directed. I have received from the remotest parts of Texas, bordering on the Rio Grande, acknowledgments of the receipt of the Patent Office report for last year, either the agricultural or the mechanical por-